

NORMAN BLAKE MCKENZIE  
APPELLANT

L.T. CASE NO: 06001864CFMA

H.T. CASE NO: SC20-243

VS

STATE OF FLORIDA  
APPELLEE

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# TRIAL TRANSCRIPTS RECORD ON APPEAL

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APRIL 27, 2020

TRANSCRIPT OF PROCEEDINGS FROM (08/26/19)  
BEFORE JUDGE MALTZ - JURY SELECTION

003 - 1218

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1 IN THE CIRCUIT COURT, SEVENTH  
2 JUDICIAL CIRCUIT, IN AND FOR  
3 ST. JOHNS COUNTY, FLORIDA

4 CASE NO.: CF06-01864

5 STATE OF FLORIDA APPEAL TRANSCRIPT

6 vs. (Pages 1 through 364)

7 NORMAN BLAKE MCKENZIE,  
8 Defendant.

9 \* \* \* \* \*

10 TRANSCRIPT OF PROCEEDINGS  
11 BEFORE THE HONORABLE HOWARD M. MALTZ,  
12 CIRCUIT COURT JUDGE

13 JURY SELECTION FOR  
14 PENALTY PHASE JURY TRIAL

15 \* \* \* \* \*

16 DATE TAKEN: MONDAY, AUGUST 26, 2019

17 TIME: COMMENCED at 8:40 A.M.  
CONCLUDED at 4:59 P.M.

18 PLACE: RICHARD O. WATSON JUDICIAL CENTER  
19 4010 LEWIS SPEEDWAY  
ST. AUGUSTINE, FLORIDA 32084

20 STENOGRAPHICALLY MARY GRAYBOSCH, RPR, CRR, CRC  
21 REPORTED BY: COURT REPORTER AND NOTARY PUBLIC

22 \* \* \* \* \*

23  
24  
25

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

2 THE COURT: Let's go on the record. This is  
3 State of Florida versus Norman McKenzie. I do  
4 have all parties present, State and the defense  
5 counsel and Mr. McKenzie, and we're here today for  
6 jury selection and commencement of a new penalty  
7 phase in this matter.

8 Is everybody ready to proceed? We're going  
9 to take up some pretrial motions and stuff of that  
10 sort before we begin with that process, but  
11 everybody ready to proceed this morning?

12 MR. JOHNSON: Yes, your Honor.

13 MR. BARRETT: Yes, Judge. Defense is ready.

14 THE COURT: Mr. McKenzie, how are you doing?

15 THE DEFENDANT: Fine, sir. Thank you.

16 THE COURT: Good. Let me ask you some  
17 questions. As you know, we're here for a new  
18 penalty phase.

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And we'll get started with that  
21 shortly. We're going to address some motions  
22 before we move forward, but do you understand  
23 everything going on here today?

24 THE DEFENDANT: Yes, sir, I do.

25 THE COURT: Okay. Have you had enough time

1 to discuss everything with your lawyer?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Or lawyers, I should say, plural.

4 And are you satisfied with the efforts of  
5 your lawyers and the representation of your  
6 lawyers up to this point?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Okay. Very well. Are you  
9 currently under the influence any of drugs,  
10 alcohol, narcotics, or medication?

11 THE DEFENDANT: Yes, sir. I am under some  
12 medication, but they're not a narcotic medication.

13 THE COURT: Okay. Is that medication at all  
14 impairing your ability to understand the  
15 proceedings going on here?

16 THE DEFENDANT: No, sir, it is not.

17 THE COURT: Okay. And do you suffer from any  
18 mental illness?

19 THE DEFENDANT: No, sir.

20 THE COURT: Okay. And do you understand  
21 everything going on here today?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: All right. I'm going to raise  
24 you -- have you raise your right hand.

25 Do you solemnly swear or affirm that any

1 testimony you give today will be the truth, the  
2 whole truth, and nothing but the truth?

3 THE DEFENDANT: Absolutely, yes, sir.

4 THE COURT: You can put your hand down.  
5 Thank you. And as to all the information you just  
6 provided to me a few moments ago, was that  
7 truthful?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Do you have any questions about  
10 these proceedings or anything going on today?

11 THE DEFENDANT: Could I have the handcuffs  
12 removed, sir?

13 THE COURT: When we have a jury here,  
14 absolutely, or proposed jury, they'll be removed.  
15 At no point in front of jurors or prospective  
16 jurors will you be secured.

17 THE DEFENDANT: Thank you, sir.

18 THE COURT: Very well. All right. You can  
19 take a seat, and if you have any questions, let me  
20 know.

21 THE DEFENDANT: Yes, sir.

22 THE COURT: All right. We have a couple  
23 pretrial things to take up. Let me address one  
24 thing first or a couple things first.

25 First of all, one of the county court judges

1 is going to qualify the jury panel downstairs.  
2 And as part of that qualification process, as is  
3 the normal part of the qualification process,  
4 we'll prescreen for any hardships -- scheduling  
5 hardships.

6 And then, hopefully, we'll still have 60  
7 prospective jurors remaining, at least 60. And  
8 then we'll bring 60 up here.

9 And as soon as I turn the e-mail on, then I  
10 should get notification of how that process is  
11 going down there.

12 Just bear with me for a second so I can turn  
13 the e-mail on. This isn't my normal courtroom.  
14 We'll be in this courtroom until we get a jury  
15 selected. Then we'll move to my normal courtroom  
16 upstairs, 328.

17 This one doesn't have e-mails. I'll function  
18 without e-mails for a day, I guess, which is not a  
19 bad thing.

20 THE CLERK: Do you have e-mail, Judge, or you  
21 still don't?

22 THE COURT: I have a web version of e-mail  
23 now.

24 THE CLERK: Okay. I just e-mailed them to  
25 let us know.

1           THE COURT: Okay. One of the other issues I  
2 wanted to take up before we get started is, as you  
3 all know, the rules on this type of case provide  
4 that if a jury cannot reach a decision in one day,  
5 that they are to be sequestered overnight or  
6 sequestered until they can reach a verdict.

7           In the past, particularly in penalty phases,  
8 I have had lawyers waive that. And I'm asking you  
9 now because our court staff has to make provisions  
10 in the event that a jury can't reach a verdict in  
11 one night or one day.

12           So let me ask, does the defense have a  
13 position on that?

14           MR. BARRETT: Judge, at this point we would  
15 ask that if that's the case, that they be  
16 sequestered.

17           THE COURT: Okay. That's entirely your  
18 right. I just wanted to see. Like I said, in  
19 many cases, folks waive that.

20           So we need to get a message down to the  
21 sergeant --

22           THE BAILIFF: Yes, sir.

23           THE COURT: -- so they can be lined up just  
24 in case. I haven't had it become a necessity in  
25 the past, but one never knows. As soon as I say

1           it's not an issue, it could become an issue.

2           All right. Anything else other than those  
3           pretrial motions that we need to take up?

4           MR. JOHNSON: No, your Honor.

5           THE COURT: Okay. So let's take them up. I  
6           don't really care what order, so if you all have a  
7           preference on an order, let me know.

8           MR. JOHNSON: May I suggest taking up our  
9           motion in limine that's regarding the disputed  
10          redactions?

11          THE COURT: Right.

12          MR. JOHNSON: I think I've pretty well laid  
13          that out in my motion --

14          THE COURT: Right.

15          MR. JOHNSON: -- the position of the parties.

16          THE COURT: Right. It's entitled State's  
17          Motion in Limine Regarding Disputed Redactions on  
18          Defendant's Interview on October 5, 2006. That  
19          motion was E-filed on August 13, 2019.

20          So the State did lay it out in its motion.  
21          There are lots of attachments to the motion,  
22          including the transcript of that interview.

23          And, apparently, the disputed comments are  
24          located on page 101 of that interview,  
25          particularly lines 2 through 19; is that accurate?



1           MR. JOHNSON: Three through 19, but, I mean,  
2           the dif --

3           THE COURT: Three through 19.

4           MR. JOHNSON: Pretty much, yeah.

5           THE COURT: Okay. All right. It's the  
6           State's motion. I know the defense is objecting  
7           to those portions, but it's the State's motion, so  
8           I'll hear from the State on that issue.

9           MR. JOHNSON: Yes, sir. Well, as we laid out  
10          in the motion, Judge, one of the issues in this  
11          particular trial will be the defendant's prior  
12          violent felonies, one of which involves a  
13          conviction from Alachua County, um, prior to him  
14          being brought to St. Johns County to stand trial  
15          for the double murders at issue in this particular  
16          case.

17          That -- the facts involved the kidnaping of a  
18          woman by the name of Karen Coffee from Alachua  
19          County.

20          The defendant, in his interview when he was  
21          arrested on October the 5th of 2006, and this was  
22          the day that the victims in this case were found,  
23          he gave a lengthy statement in which he  
24          essentially admitted to not only the murders of  
25          the two victims in this case, but a number of

1 prior violent felonies, including the kidnapping  
2 of Karen Coffee.

3 The disputed redactions on page 101 involve  
4 statements that he made pertaining to some of the  
5 circumstances that occurred during the time that  
6 he had Ms. Coffee held prisoner.

7 And that was that -- that he was thinking  
8 about having sex with her and, um, then at some  
9 point, um, decided not to do that.

10 This was while he was at her home, holding  
11 her at gunpoint. He later forced her into a  
12 vehicle and drove her around Alachua County, wound  
13 up dropping her off in Putnam County.

14 And so it is our position, Judge, obviously,  
15 the prior violent felony conviction is an  
16 aggravating circumstance in this case. We intend  
17 to present evidence of that.

18 This -- this -- these statements by the  
19 defendant essentially show the nature of that  
20 kidnapping, and that is that it was to facilitate  
21 a felony, and that was his intent to commit a  
22 sexual battery on her.

23 That's what he was charged with. He was  
24 charged with kidnapping to facilitate a felony.  
25 And a part of the pleading indicated that the --

1 his intent -- the felony that he intended to  
2 commit or facilitate was a sexual battery.

3 And he pled and was convicted as charged of  
4 that. So we believe that that's relevant to the  
5 circumstances of the -- of the kidnapping and the  
6 circumstances of the prior-violent-felony  
7 aggravator that we plan to present during the  
8 course of this trial.

9 THE COURT: Okay. Let me just ask you a  
10 couple questions. You attached the amended  
11 information from Alachua County, the Eighth  
12 Judicial Circuit.

13 MR. JOHNSON: Yes, sir.

14 THE COURT: Count two did, in fact, charge  
15 kidnapping. And one of the elements of kidnapping  
16 is that it's done with intent to commit or  
17 facilitate the commission of a felony.

18 It is alleged in there sexual battery and/or  
19 murder.

20 MR. JOHNSON: Right.

21 THE COURT: Correct?

22 MR. JOHNSON: Yes, sir.

23 THE COURT: And then the judgment and  
24 sentence that you attached from the Eighth  
25 Judicial Circuit, let me just double-check the

1 case numbers to make sure it matches. It does.

2 Also, the defendant was convicted of  
3 kidnapping, amongst other charges.

4 MR. JOHNSON: Right.

5 THE COURT: All right. I'll hear from the  
6 defense.

7 MR. BARRETT: Judge, the fact that  
8 Mr. McKenzie may have been thinking about sexual  
9 battery of -- or of it clearly doesn't go to any  
10 of the aggravators.

11 The aggravator is prior violent felony. The  
12 kidnapping clearly is a prior violent felony, so  
13 we have no issue with that.

14 THE COURT: But aren't they entitled to go  
15 into the -- they don't simply have to show a  
16 conviction.

17 They -- they are entitled to go into the  
18 facts and circumstances of the kidnapping for  
19 prior --

20 MR. BARRETT: Of a kidnapping, I -- I agree  
21 of a kidnapping.

22 Our contention is that the section that we  
23 are asked to be redacted -- that's our  
24 investigator, Judge.

25 THE COURT: Okay. No problem.

1 MR. BARRETT: The section --

2 THE COURT: He -- he's just going to have to  
3 have to sit over here --

4 MR. BARRETT: Yes. That's fine.

5 THE COURT: -- while we're doing jury  
6 selection, but he can sit out there now. That's  
7 fine.

8 MR. BARRETT: The section that we're asked to  
9 be redacted goes to him, um, saying that he had  
10 asked her to touch his private, his penis.

11 THE COURT: Right.

12 MR. BARRETT: That is not sexual battery.  
13 A sexual battery would have been had he had her  
14 perform some kind of an act on his penis.

15 Oral sex, for example, would be a sexual  
16 battery. That may be a lewd act in terms of the  
17 touching, but it's not a sexual battery.

18 THE COURT: Isn't a sexual battery union of a  
19 genital with anything? Couldn't the touching of a  
20 genital be -- I just tried some sex cases last  
21 week, but I don't remem --

22 MR. BARRETT: Not with the hands, Judge.

23 MS. DUNTON: No, not with the hands.

24 MR. JOHNSON: Right.

25 MR. BARRETT: For it to be --

1 THE COURT: Okay, okay. I know Ms. Dunton  
2 handled those.

3 MR. BARRETT: And I used to, for three years,  
4 did only sexual-battery cases.

5 THE COURT: Okay.

6 MR. BARRETT: So it is -- the act of touching  
7 his penis is not sexual battery, so it doesn't go  
8 to prove a sexual battery.

9 Clearly, I don't have a problem with the  
10 State as the prior violent felony that it was a  
11 kidnapping with intent to facilitate the sexual  
12 battery.

13 Whether or not it was completed would not  
14 have changed that part of it --

15 THE COURT: Uh-huh.

16 MR. BARRETT: -- but the touching itself  
17 is -- is not a sexual battery.

18 Also, in addition, our argument is that any  
19 probative value of that act is clearly outweighed  
20 by the prejudice.

21 Granted, all evidence -- or most evidence is  
22 prejudicial in some way, but I think in terms of  
23 the balancing and in terms of what's involved and  
24 the resentencing and the fact that it's -- the  
25 touch is not a sexual battery, I think the State

1 can still make its case as to the prior violent  
2 felony without the jury hearing any discussion of  
3 the thinking of having sex or the touching of the  
4 penis.

5 THE COURT: Okay. Let -- Mr. Johnson, can  
6 you address that last part --

7 MR. JOHNSON: Yes, sir.

8 THE COURT: -- that Mr. Barrett just  
9 addressed, that the touching of the genitals would  
10 not be a sexual battery, so --

11 MR. JOHNSON: Right.

12 THE COURT: -- then how does -- how is that  
13 fact relevant?

14 MR. JOHNSON: Right, Judge. And -- and the  
15 argument is, assuming that we have to prove up a  
16 sexual battery. He's not -- he wasn't charged  
17 with sexual battery. He wasn't convicted of  
18 sexual battery.

19 He was charged with kidnapping to facilitate  
20 a felony, which does not necessarily contemplate a  
21 completed felony.

22 It was his intent to commit that felony, and  
23 the kidnapping was in furtherance of that intent  
24 to commit that felony.

25 So we don't have to prove that he actually

1 committed a sexual battery. It's what was his  
2 intent, and the intent is, essentially, basically  
3 what he described here.

4 His -- the statements that he made is  
5 evidence of that intent. He -- he held her at  
6 gunpoint against her will. There were -- there  
7 was a -- he told -- told her at gunpoint to touch  
8 his penis, and then he left with her, um, by  
9 force.

10 And so, um, that -- those statements are  
11 evidence of what his intent was.

12 THE COURT: So that took place at the house?

13 MR. JOHNSON: That's correct.

14 THE COURT: Okay. And in count one of that  
15 amended information, which was the burglary armed  
16 with a firearm with assault and/or battery for  
17 which the defendant was also convicted, it did  
18 allege that the burglary was done with the intent  
19 to commit the offense of assault and/or battery or  
20 theft.

21 That touching would have been a battery if  
22 that touching occurred.

23 MR. JOHNSON: Yes, sir.

24 THE COURT: Okay.

25 Mr. Barrett, so let's address that.



1 (No response.)

2 THE COURT: Mr. Barrett, let's address  
3 that --

4 MR. BARRETT: I'm sorry, Judge.

5 THE COURT: -- that the burglary alleged with  
6 the intent to commit an offense therein, assault  
7 and/or battery and/or theft, that would have been  
8 a battery, if not a sexual battery, the touching  
9 of the genitals, but would have been a battery.

10 So does it not become relevant for purposes  
11 of that first count?

12 MR. BARRETT: Just --

13 THE COURT: Burglary is a -- is a forcible  
14 felony, but not a violent felony. So would the --  
15 is -- does the burglary come in as --

16 MR. JOHNSON: No, sir.

17 THE COURT: -- a prior violent felony?

18 MR. JOHNSON: No. I'd have to concede it  
19 doesn't. We've redacted that from the -- the  
20 judgment.

21 THE COURT: Okay. I guess I made the  
22 argument --

23 MR. BARRETT: Okay.

24 THE COURT: -- for you right there.

25 MR. BARRETT: There you go.

1 THE COURT: Okay.

2 MR. BARRETT: I -- well, I don't need to add  
3 anything, so I'll sit down.

4 THE COURT: All right. I'm going to  
5 rule that that particular portion of page 101,  
6 3 through 19, should be redacted.

7 MR. BARRETT: Thank you.

8 THE COURT: So let's get that taken out.

9 MR. JOHNSON: Thank you, Judge.

10 THE COURT: All right. There's a couple of  
11 others. There was the unopposed motion of video  
12 testimony. We don't need to deal with that.  
13 That's unopposed.

14 MR. JOHNSON: I filed that just so you kind  
15 of would know what we're planning.

16 THE COURT: Right. Remember, you got to take  
17 care of setting that up.

18 MR. JOHNSON: We -- we will, Judge.

19 THE COURT: All right. There's the State's  
20 Motion in Limine to Exclude Evidence that the  
21 Defendant Would Not Be Eligible for Parole if  
22 Sentenced to Life Imprisonment as a Mitigating  
23 Circumstance.

24 Mr. Hamburg, are you going to deal with that?

25 MR. HAMBURG: Yes, Judge.

1 THE COURT: Okay.

2 All right. Mr. Johnson, I'll let you argue  
3 that.

4 MR. JOHNSON: Yes, sir. I pretty much lay it  
5 out in -- in my motion, Judge. Um, the cases that  
6 I cite in my motion, um, Merck v. State, 975  
7 Southern Second 1054; as well as Jackson versus  
8 State, 530 Southern Second 269; King versus  
9 Dugger, 555 Southern Second 3 -- 355; and Lucas v.  
10 State, 568 Southern Second 18.

11 In those particular cases, the defense was  
12 attempting to -- um, this was back when parole was  
13 still available to particular murder defendants.

14 THE COURT: Right.

15 MR. JOHNSON: And they wanted to bring in  
16 officials to essentially testify that it was  
17 unlikely that that particular defendant was going  
18 to get parole.

19 And the Court said that that was not  
20 admissible, um, and for the reasons that I cite in  
21 my motion.

22 It wasn't relevant to the defendant's  
23 character, and so I -- it -- when I saw the list  
24 of mitigating factors that the defense had placed  
25 in, I think, its amended notice, I noticed that

1           they had their -- their intent was to present  
2           that, the fact that he was not eligible for  
3           parole, as a mitigating factor.

4           And I think these cases, while not -- they  
5           dealt with back when parole was -- was applicable,  
6           I don't think there's much difference in  
7           presenting evidence that a person may not get  
8           parole.

9           I don't think there's much difference between  
10          that and the fact that a person is not eligible  
11          for parole, 'cause it doesn't deal with the  
12          character of the defendant.

13          It pretty much deals with kind of the  
14          character of the system. It's really just a --  
15          kind of left -- you know, alleviating any concerns  
16          that jurors may have that a particular defendant  
17          may or may not get out.

18          And so I think your Honor will pretty much  
19          explain that pretty thoroughly from the jury  
20          instructions themselves where it says, you know,  
21          there's two options here, death penalty or life  
22          without the possibility of parole.

23          So the jurors will know that, and I don't  
24          think that con -- necessarily constitutes a  
25          mitigating factor under the law.

1 THE COURT: Okay. Mr. Hamburg?

2 MR. HAMBURG: Your Honor, first, we agree  
3 that the jurors are going to know that from the  
4 instructions.

5 THE COURT: Absolutely.

6 MR. HAMBURG: Every case that the State has  
7 cited in their motion does come from the time  
8 when -- when Florida had a parole system.

9 And the difference in those cases was that  
10 the defense was attempting to bring in  
11 parole-board experts or other experts to discuss  
12 that, hey, someone like this, even though they're  
13 eligible for parole, they're not going to get it.

14 That's not the case here. Obviously,  
15 every -- everyone knows that Mr. McKenzie is  
16 either going to get a death sentence or a life  
17 without parole.

18 And so it's different in this case, and the  
19 instructions on the mitigating circumstances  
20 indicate it could be anything which might indicate  
21 that a death penalty is not appropriate for the  
22 defendant.

23 THE COURT: Anything in his character,  
24 background, or the circumstances of the offense;  
25 isn't that correct? Not just anything for the

1           sake of anything.

2           MR. HAMBURG: Correct, but that -- that would  
3           go to the circumstances of the offense, that if  
4           you believe the circumstances of the offense are  
5           life without parole, that's a mitigating factor.

6           THE COURT: Do you have any authority  
7           whatsoever?

8           MR. HAMBURG: There's -- there's not  
9           authority -- there's -- there -- no. There's not  
10          authority on that, but I would say that the  
11          State's position on the authority is -- is -- does  
12          not go with the current state of the law.

13          THE COURT: I think we've been in a position  
14          of life without parole for first-degree murder  
15          since maybe 1996, 1997, somewhere in that  
16          neighborhood.

17          And I would think there would be a decision  
18          on this if the Supreme Court had thought it was a  
19          mitigating circumstance.

20          MR. HAMBURG: I understand, but I don't -- I  
21          don't -- we haven't found one, but we haven't  
22          found one that -- that -- that goes against it.

23          The State's position are -- are from prior to  
24          '96, '97, when there was parole. So I think that  
25          this is essentially a case of first impression.

1           THE COURT: Okay. The definition of  
2 mitigation is -- is pretty clear in the statutes  
3 and the case law.

4           It's anything dealing with the character or  
5 background of the defendant and/or the  
6 circumstances of the offense.

7           The fact that the -- that one of the options  
8 for the jury would be a determination that life  
9 without the possibility of parole is an  
10 appropriate sentence is not a mitigating  
11 circumstance, so I'm going to grant the motion in  
12 limine.

13           That's not to say that the defense can't  
14 argue, and I'm sure will argue, repeatedly, that  
15 life in prison means life in prison. You're in  
16 prison, and you never get out.

17           It's just not a mitigating circumstance, so  
18 I'm not going to permit it as a mitigating  
19 circumstance. So I'll grant that motion.

20           Okay. I think this would be the last,  
21 hopefully. It's the Defense Motion for Proper  
22 Procedure for Post-Challenge Questioning of  
23 Prospective Jurors.

24           Are you going to handle that, too?

25           MR. HAMBURG: Yes, Judge.

1 THE COURT: Okay. Go ahead.

2 MR. HAMBURG: Your Honor, it's pretty much  
3 laid out in the motion. The -- the defense is  
4 requesting that the Court follow the procedure in  
5 Paragraph 11 of the motion, that when a juror  
6 indicates that they have some sort of equivocal  
7 answer on whether or not they can follow the law,  
8 that rather than the typical here's what the law  
9 is, can you follow it from the Court, most jurors  
10 will answer that in the affirmative, that they  
11 will follow the law based upon that.

12 Um, and that's simply a juror's acquiescence  
13 to the Court and from the authority of the Court  
14 to answer a question that way.

15 But if you look at, specifically, Price v.  
16 State at 538 Southern Second 486, talking about  
17 the magic question is doing nothing other than a  
18 juror's prospective willingness to please the  
19 judge and shouldn't be determinative of whether or  
20 not that juror should be excused.

21 Um, and further, in Denson, a similar  
22 argument that the Court has to look at all of the  
23 evidence before it, so that juror's essential  
24 equivocal answer initially should be taken to show  
25 that there is a reasonable doubt as to whether



1           that juror can, um -- can actually perform their  
2           duties and be a juror in the case.

3           And then the second issue is when the Court  
4           begins to ask jurors that equivocate on those  
5           things in front of the 59 other jurors in the  
6           courtroom, it shows those 59 other jurors that  
7           they're going to get questioned if they question  
8           anything, and then they're just going to simply  
9           acquiesce to what the Court asks.

10          So we'd ask that when a juror has that kind  
11          of equivocal answer, the Court takes them aside so  
12          that the other jurors don't hear exactly what the  
13          questions are so we get more thoughtful answers  
14          and credible answers from the jurors during the  
15          process of voir dire.

16          THE COURT: Are you asking -- are you asking  
17          that if a challenge for cause is made, that there  
18          be further inquiry of the jury -- juror after the  
19          challenge for cause is made?

20          MR. HAMBURG: Correct. If the challenge for  
21          cause is made and there's -- and there's argument  
22          on it and it's not agreed upon amongst the  
23          parties, that there be more, um, more questioning,  
24          but with nonleading questions and outside the  
25          presence of the other jurors, as stated in the

1 motion.

2 THE COURT: All right.

3 So say the State on this?

4 MR. JOHNSON: Judge, I think this has come up  
5 before. I've done a number of death-penalty cases  
6 with you. I'm comfortable with the way you handle  
7 things. I think you handle things appropriately,  
8 so I'm going to defer to the judgment of the Court  
9 on this.

10 THE COURT: I'm going to deny the motion.  
11 The way it's going to work -- I'm sure you've  
12 experienced this a lot -- I'll ask the jurors a  
13 series of questions. Then you all have an  
14 opportunity to ask them a series of questions.

15 That is sufficient. Once we get into the  
16 actual selection process outside the presence of  
17 the jurors where you are -- you are exercising  
18 your challenges and strikes, it's your questioning  
19 that will -- and my questioning that will be  
20 determinative of whether they're challenged or  
21 stricken for cause or not, but we're not going to  
22 bring them back once we're in that process.

23 So I'm going to deny that motion.

24 MR. HAMBURG: Thank you, sir.

25 THE COURT: Is that it on the pretrial

1 motions?

2 MR. JOHNSON: I think so, Judge.

3 THE COURT: Okay. They're still talking to  
4 the jurors downstairs.

5 MR. BARRETT: Can I have a minute to talk to  
6 my investigator?

7 THE COURT: You have a lot of minutes.

8 (Court was in an informal recess from  
9 8:57 a.m. until 9:00 a.m.)

10 THE COURT: All right. So we don't -- we  
11 don't have a, uh -- the jury's not even checked in  
12 down there, so it's going to be at least be 30, 45  
13 minutes 'til they're all checked in.

14 When we start bringing them all in, your  
15 investigator is going to need to sit over --

16 MR. BARRETT: I've already explained that to  
17 him, Judge.

18 THE COURT: Yeah. That's fine.

19 Just so you all know the way I'm going to  
20 seat them, number one will be all the way over  
21 there.

22 MR. BARRETT: The deputy did a great job  
23 explaining to us.

24 THE COURT: Okay. One through 30 will go on  
25 that side.

1 MR. BARRETT: Yes.

2 THE COURT: Thirty-one through 60, it's going  
3 to be going -- once we go to this side, the left  
4 side, it's going to go left to right, primarily so  
5 they don't have to walk over each other.

6 And then if we have less than 60 that are  
7 qualified, I'll let you all know so you can modify  
8 your charts accordingly.

9 And then as soon as we have a list, we'll get  
10 you a copy of the list.

11 MR. BARRETT: And just so the Court knows,  
12 the way the Court's going to seat them just kind  
13 of messed up my app that I have. It's very  
14 beautiful, my iJuror app.

15 THE COURT: You have an app?

16 MR. BARRETT: Yeah. It's an iJuror app --

17 THE COURT: Really?

18 MR. BARRETT: -- that you can actually -- but  
19 it only goes like this.

20 THE COURT: Really. I mess --

21 MR. BARRETT: So I'm going to have to --

22 THE COURT: I messed up --

23 MR. BARRETT: -- manually --

24 THE COURT: -- your app.

25 MR. BARRETT: It's kind of neat.

1 THE COURT: Maybe you can do two --

2 MR. BARRETT: No. It won't work that way.

3 THE COURT: All right. So we'll be in recess  
4 until we hear back, and we'll let you know as soon  
5 as we're ready to go. Hopefully, it will be 30  
6 minutes or so. Okay.

7 (Court was in recess from 9:01 a.m. until  
8 9:23 a.m.)

9 THE JURY OFFICER: Judge, I've got the  
10 first 30.

11 THE COURT: First 30? Okay.  
12 Everybody ready?

13 MR. BARRETT: Yes.

14 MR. JOHNSON: Yes, sir.

15 MR. BARRETT: Judge, do we stand when they  
16 walk in?

17 THE COURT: That's up to you. I don't care.

18 MR. BARRETT: Well, since the State's gonna  
19 show us up, I guess we will.

20 THE BAILIFF: I've only got the first 30 out  
21 there, your Honor. Do you want the first 30?

22 THE COURT: Yeah. We'll do the first 30, and  
23 then by then, the next 30 will be up.

24 THE CLERK: Chia Terry.

25 THE BAILIFF: This way, ma'am.

1 THE CLERK: Deborah Shelton.  
2 Christin Belt.  
3 Jennifer Hanke.  
4 Jennifer Nutt.  
5 Brynna Roberts.  
6 Philip Lambert.  
7 Ryan Griffin.  
8 James Debruhl.  
9 Rebecca Gonzalez.  
10 Jan Derby.  
11 Deborah Canale.  
12 Shaelee Bonday.  
13 Michelle Beaty.  
14 Jairus Bone.  
15 Suzanne Suffae.  
16 Charlotte Powell.  
17 Jane Bouda or Boda?  
18 Amanda Griener.  
19 Sarah Karl.  
20 Christine Dupont.  
21 Margit Fiori.  
22 Jason Collins.  
23 Thomas Jaudon?  
24 David Siegel.  
25 Patrick Metcalf.

1                   Keesha Patterson.

2                   Beth Macklin.

3                   Bradley Cooper.

4                   And Joyce Grehl.

5                   THE COURT: Y'all can be seated in the  
6                   courtroom.

7                   Folks, make yourself comfortable. We're not  
8                   going to get started. We have a whole nother  
9                   group of 30 coming up to take up the other side of  
10                  the courtroom.

11                  So make yourself comfortable. Don't worry  
12                  about that piece of paper in your chair right now.  
13                  We'll get to that after a while, but you don't  
14                  need to worry about it, don't need to memorize it.

15                  And in just a couple minutes, we'll have the  
16                  other side of the courtroom. Thank you for your  
17                  patience.

18                  It takes a little while to get everybody  
19                  moved up here from downstairs and moved over, so  
20                  make yourself comfortable.

21                  I know those chairs aren't particularly  
22                  comfortable, but if you want to stand up and  
23                  stretch at any point, please feel free to do that,  
24                  as well. I don't want you getting too  
25                  uncomfortable.

1                   And we'll take breaks along the way. Does  
2 anybody need the rest room while --

3                   THE BAILIFF: Yes, sir. She does.

4                   THE COURT: Okay. There's some in the  
5 hallway. Just remember the seats you're in so you  
6 come back to the same seat. Take your time.

7                   (Court was in an informal recess while  
8 awaiting the arrival of the rest of the  
9 prospective jurors.)

10                  THE BAILIFF: They're ready with the next 30.

11                  THE COURT: Okay. We can start seating the  
12 next group.

13                  THE CLERK: Cynthia Simmons.

14                  Deborah Stambaugh.

15                  John Hasty.

16                  Youseline Matthews.

17                  Rosaliza Julao.

18                  Alexander Schludt?

19                  Parker Von Stein?

20                  Alex Sibbach.

21                  Janna Matkovskia.

22                  Nathaniel Bister.

23                  Sonya Mackey.

24                  Bernard Rafael.

25                  Dianna Hansen.



1 Cheryl Thomas.  
2 Robert Booth.  
3 Teresa Grigsby.  
4 Allyson Hughes.  
5 Trevor Tanner.  
6 Terry Timmermans.  
7 Laura Jones.  
8 Nicolas Bigam.  
9 Todd Robbins.  
10 John Norrid.  
11 Amber Anderson.  
12 Steven Tu.  
13 Jeffrey Kusch.  
14 Karen Raynor.  
15 Jeffrey Strait.  
16 Catherine Woolf.  
17 And Casey Stovall.  
18 THE COURT: Thank you, Madam Clerk.  
19 All right. Welcome, everybody. Does anybody  
20 on what is your right side of the courtroom need  
21 to use the rest room before we get started?  
22 (One of the prospective jurors indicated in  
23 the affirmative.)  
24 THE COURT: Okay. Remember the seats that  
25 you're in 'cause that's going to be your seating

1 assignment during this process, but if you want to  
2 go ahead and use the rest rooms now, that will be  
3 perfectly fine.

4 Everybody else, please get comfortable, as  
5 comfortable as you can get in those benches. And  
6 don't worry about that piece of paper on your  
7 seat. We'll get to that in just a little bit, and  
8 I'll explain that to you in a little while.

9 (Several prospective jurors exited the  
10 courtroom.)

11 THE COURT: I can see everybody except for  
12 Ms. Grehl. Can you hear me back there, Ms. Grehl?

13 PROSPECTIVE JUROR NUMBER 30: Yes.

14 THE COURT: Okay. I'm going to have to do  
15 this to be able to see you.

16 PROSPECTIVE JUROR NUMBER 30: I'm sorry.

17 THE COURT: No. Don't apologize. I  
18 apologize. The way they designed these  
19 courtrooms, it's just kind of tough to see you.

20 They've got me stuck in a corner here and you  
21 in a corner back there, so we'll do our best to  
22 not forget about you back there. Maybe you want  
23 to be forgotten about.

24 As soon as we have everybody back, we'll get  
25 started.

1                   (Court was in an informal recess while  
2                   awaiting the arrival of the prospective jurors.)

3                   THE COURT: So we have everybody on the left  
4                   side of the courtroom now. No one took off  
5                   running yet, so we're doing well.

6                   Just waiting on a few more folks, waiting on  
7                   one more person.

8                   (The remaining prospective juror entered the  
9                   courtroom.)

10                  THE COURT: I think that's everybody. All  
11                  right. Welcome, everybody. Welcome to jury duty.

12                  I'm Judge Howard Maltz. I'm one of the  
13                  circuit court judges here in St. Johns County.  
14                  You met Judge Christine downstairs a little while  
15                  ago.

16                  Congratulations. You meet the minimum  
17                  statutory requirements to serve as jurors in the  
18                  State of Florida, but we're glad to have you.

19                  I know you're excited to be here. I know  
20                  that when you got that summons in the mail, you  
21                  were doing back flips and saying, gosh, I've been  
22                  waiting years and years. I'm so excited.

23                  I'm obviously being sarcastic. I know that  
24                  you're not too excited.

25                  First of all, show of hands, who is excited

1 to be here?

2 (Some of the prospective jurors indicated in  
3 the affirmative.)

4 THE COURT: There's always a couple, always a  
5 couple, but that was a lot, a fair amount, but I  
6 do understand that for many of you, you would  
7 rather be doing something else, going to work,  
8 spending time with family, just about anything  
9 else other than jury duty.

10 We greatly appreciate that and understand  
11 that, but this is a very important process. Let  
12 me talk to you about the jury-duty process a  
13 little bit.

14 It is a fundamental principle in our United  
15 States Constitution that folks on trial have the  
16 right to have their fellow citizens decide their  
17 cases. It's been that way for over 240 years in  
18 this country.

19 Do we have anybody here that had served in  
20 the military before?

21 (Some of the prospective jurors indicated in  
22 the affirmative.)

23 THE COURT: Okay. Thank you for your  
24 service, folks. You probably recall that when you  
25 took an oath to serve in the military, that you

1           swore to protect and defend the United States  
2           Constitution.

3                     This is one of the fundamental aspects of the  
4           United States Constitution that you swore to  
5           protect and defend and that some people have given  
6           the ultimate sacrifice to protect and defend.

7                     It is in the Bill of Rights, the most  
8           important sections of our Constitution, that folks  
9           have the right to trial by jury.

10                    And it's not just those on trial that have  
11           the right to trial by jury, but it's also you as  
12           U.S. citizens that have the right to participate  
13           in our criminal justice system.

14                    If you are selected to serve as jurors in  
15           this case, you will be the justice system for  
16           purposes of this trial.

17                    We don't ask a whole bunch of our U.S.  
18           citizens anymore. We don't have a draft. We  
19           don't force you into military service, but what we  
20           do ask for you is that you give us a couple of  
21           days every couple of years to serve on juries and  
22           help us resolve difficult cases like this.

23                    Abraham Lincoln in his Gettysburg Address  
24           spoke of government for the people and by the  
25           people. This is the by-the-people part, so those

1 words really do have a lot of meaning.

2 And those brave folks that, over 240 years  
3 ago, got together to draft our United States  
4 Constitution, the words in that document really do  
5 have meaning, and they have meaning in this  
6 courtroom today as part of this jury-selection  
7 process.

8 In just a moment, I'm going to have our court  
9 clerk administer an oath to you. I know that  
10 downstairs they administered an oath to you.

11 We're going to administer an oath to you in  
12 just a moment. And if you are selected to serve  
13 as the jury or as jurors in this case, we'll place  
14 you under oath yet a third time.

15 So a lot of swearing going on here today, but  
16 it's the good kind of swearing today, not  
17 necessarily the bad kind. Can't guarantee it's  
18 that way every day at the courthouse.

19 But if you will raise your right hand, I'm  
20 going to have the clerk administer the oath to  
21 you. You don't need to stand.

22 THE CLERK: Do you solemnly swear or affirm  
23 that you will answer truthfully all questions  
24 asked of you as prospective jurors, so help you  
25 God?

1           (The prospective jurors answered in the  
2 affirmative.)

3           THE COURT: Okay. Thank you, folks.

4           One very important thing I want to discuss  
5 with you before we go any further is that this is  
6 not like TV. It's not like a Law and Order  
7 episode. It's not going to be over in an hour.

8           We're going to be in this process, this  
9 jury-selection process, pretty much the whole day  
10 today.

11          We're going to take breaks, but -- you know,  
12 along the way so you're comfortable, much like we  
13 did a few moments ago, but I do want you to know  
14 that it's not like TV.

15          It's not going to be over in an hour, and the  
16 judges on TV are better looking and better  
17 compensated than us real judges, but you are stuck  
18 with me for this process.

19          Speaking of process, let me explain the  
20 process to you. I'm going to -- excuse me.

21          Assuming I keep my voice, I'm going to ask  
22 you questions this morning. And then when I'm  
23 done asking you questions, the lawyers are going  
24 to have a chance to ask you questions, as well.

25          These questions that we're asking you are not

1           designed to pry into your personal lives. We're  
2           just trying to determine who can serve as a fair  
3           and impartial juror in this case and who can  
4           follow the law if they are selected to serve as  
5           jurors.

6           If at any time we ask you a question that any  
7           of you are not comfortable answering in front of  
8           60 of your -- or 59 of your fellow prospective  
9           jurors, just tell us that you would rather answer  
10          that question privately.

11          We understand sometimes there are things that  
12          we go into that you may not want to answer in  
13          front of everybody, so let us know.

14          We do fully understand that when folks come  
15          down here for jury duty, they have opinions about  
16          things, beliefs about things, and we're going to  
17          explore those a little bit this morning and this  
18          afternoon.

19          But we know you're not computers, but what we  
20          do ask of -- and what we're trying to determine in  
21          this process is if you can set aside your opinions  
22          and beliefs about things and decide this case  
23          solely on the evidence and testimony that you'll  
24          hear in the courtroom and the law that I would  
25          instruct you at the end of the case. That's what



1 we're looking for.

2 There are no right or wrong answers to any of  
3 these questions. The only right answer, if you  
4 will, is a truthful answer.

5 This process is sometimes referred to as  
6 voir dire. You may have heard that on television,  
7 or you may hear the lawyers refer to it today.

8 It's a fancy French word which means "to  
9 speak the truth." So that's what we're looking  
10 for in this process, merely that you speak the  
11 truth and -- in answering the questions.

12 Before we go any further, I do want to give  
13 you some -- read to you an instruction for all  
14 jurors and prospective jurors because we will be  
15 taking breaks along the way, so this will help you  
16 understand some of the basic rules during this  
17 process.

18 In order to have a fair and lawful trial,  
19 there are rules that all jurors and prospective  
20 jurors must follow.

21 A basic rule is that jurors must decide the  
22 case only on the evidence presented in the  
23 courtroom.

24 You must not communicate with anyone,  
25 including friends and family members, about this

1 case, the people and places involved, or your jury  
2 service.

3 You must not disclose your thoughts about  
4 this case or ask for advice on how to decide this  
5 case.

6 I want to stress that this rule means that  
7 you must not use electronic devices or cell phones  
8 to communicate about this case, including  
9 Tweeting, texting, blogging, e-mailing, posting  
10 information on a website or chat room, social  
11 media, or any other means at all.

12 Do not send or accept any messages to or from  
13 anyone about this case or your jury service.

14 In addition, your cell phones or electronic  
15 devices must be turned off completely when you're  
16 in the courtroom. Now would be a good time to do  
17 that if you haven't done that already.

18 You must not do any research or look up any  
19 words, names, maps, or anything else that may have  
20 anything to do with this case.

21 Now, of course, you don't know anything about  
22 this case yet, but as this process continues, you  
23 will learn some things about it.

24 This includes reading newspapers, watching  
25 television, or using a computer, cell phone, the

1 Internet, any electronic device, or any other  
2 means at all to get information related to this  
3 case or the people and places involved in this  
4 case.

5 This applies whether you are in the  
6 courthouse, at home, or anywhere else. All of us  
7 are depending upon you to follow these rules so  
8 there will be a fair and lawful resolution to this  
9 case.

10 If you investigate, research, or make  
11 inquiries on your own outside of the courtroom, I  
12 have no way to assure that they are proper and  
13 relevant to this case.

14 The parties, likewise, have no opportunity to  
15 dispute the accuracy of what you find or to  
16 provide rebuttal to it.

17 That is contrary to our judicial system,  
18 which assures every party the right to ask  
19 questions about and rebut the evidence being  
20 considered against it and to present argument with  
21 respect to that evidence.

22 Non-court inquiries and investigations  
23 unfairly and improperly prevent the parties from  
24 having that opportunity that our judicial system  
25 promises.

1           Any juror who violates these restrictions  
2           jeopardizes the fairness of these proceedings, and  
3           a mistrial could result that would require the  
4           entire trial process to start over.

5           A mistrial is a tremendous expense and  
6           inconvenience to the parties, the Court, and the  
7           taxpayers.

8           If you violate these rules, you may be held  
9           in contempt of court and face sanctions such as  
10          serving time in jail, paying a fine, or both.

11          If you become aware of any violation of these  
12          instructions or any other instruction that I give  
13          you in this case, you must tell me by giving a  
14          note to the court deputy or bailiff.

15          Also, as I stated, we will be taking recesses  
16          through this process. You may see the lawyers in  
17          the hallway during the recesses.

18          Those lawyers are under strict instructions.  
19          And based upon the rules that they have to follow,  
20          they are strictly prohibited from communicating  
21          with you.

22          So if they look down, look the other way,  
23          walk the other way, they're not being rude.  
24          They're just following the rules that they have to  
25          follow, so I do want to tell you all about that.

1           So, folks, this is the case of the State of  
2 Florida versus Norman McKenzie. It's a criminal  
3 case that I will describe for you in just a little  
4 bit.

5           As I mentioned to you, the first party is the  
6 State of Florida. Criminal cases in the State of  
7 Florida are prosecuted in the name of the State of  
8 Florida.

9           The State of Florida in this case is  
10 represented by two assistant state attorneys, who  
11 are now going to introduce themselves to you, and  
12 then I'm going to ask you if anybody knows them or  
13 anybody in the state attorney's office.

14           Mr. Johnson, Ms. Dunton?

15           MR. JOHNSON: Good morning. My name is Mark  
16 Johnson, and this is my co-counsel, Jennifer  
17 Dunton.

18           THE COURT: Thank you.

19           Does anybody know Mr. Johnson or Ms. Dunton,  
20 show of hands?

21           (No response.)

22           THE COURT: All right. There's no hands.  
23 Very well. Does anybody know anybody who works in  
24 the state attorney's office for the Seventh  
25 Judicial Circuit?

1           The Seventh Judicial Circuit is made up of  
2           St. Johns, Flagler, Putnam, and Volusia counties.

3           By a show of hands, anybody know anybody who  
4           works in the state attorney's office?

5           (No response.)

6           THE COURT: No hands. Okay. Very well.

7           Now, I told you that the defendant in this  
8           case is Norman McKenzie. I'm now going to have  
9           his counsel introduce him to you as well as  
10          themselves, please.

11          MR. BARRETT: Good morning. My name's Junior  
12          Barrett. Also with me is Kenneth Hamburg, and we  
13          are the attorneys representing Mr. McKenzie,  
14          Norman McKenzie.

15          THE COURT: Okay. Thank you, folks. You can  
16          be seated.

17          Does anybody know Mr. McKenzie or his  
18          counsel, by a show of hands?

19          (No response.)

20          THE COURT: All right. No hands. Very well.

21          Let me introduce to you some of the other  
22          folks in the courtroom. You see some folks in  
23          green uniforms that brought you up here. Those  
24          are our court deputies and bailiffs.

25          In addition to providing court security, they

1           serve as my liaison to the jury. So if you need  
2           to communicate with me at any time, please let  
3           them know and they'll get any information to me.

4                     Seated directly in front of me and the young  
5           lady who called your names and got you in here is  
6           one of our deputy court clerks.

7                     And her job is to assist me with the handling  
8           of evidence and paperwork during the course of the  
9           trial.

10                    And seated in the middle of the two counsel  
11           tables, the young lady there is a court reporter,  
12           also referred to as a stenographer.

13                    And you may be able to see her, or at least  
14           some of you can see that she has a stenographic  
15           machine that she is using to take down every  
16           spoken word in this courtroom.

17                    And it is important that we have an accurate  
18           record of any -- everything said. So as you  
19           answer questions today, it is important that you  
20           answer out loud as opposed to doing what I tend to  
21           do often, which is to say "uh-huh" or "huh-uh" or  
22           shake my head. So if you do that, I will try to  
23           get you to answer out loud.

24                    In your chairs, you had a questionnaire.  
25           We're going to go one by one and have you all

1 answer the questions in the questionnaire.

2 I'm going to go over it with you now. Keep  
3 in mind, the lawyers have the questionnaire. So  
4 they have the questions, so you don't have to  
5 repeat every question.

6 If you need any help when we get to you,  
7 maybe you forgot your reading glasses like I need,  
8 let me know and I'll be glad to help you.

9 I'm going to go through it with you now, and  
10 then we'll go one by one. When you answer, you  
11 don't necessarily need to stand, but please keep  
12 your voices up, especially the folks way in the  
13 back, so we all can hear you.

14 It starts with what is your name; how long  
15 you have lived in St. Johns County; where you  
16 lived before St. Johns County; the part of the  
17 county that you live in.

18 Then are you employed, and if so, who do you  
19 work for; if not currently employed, where did you  
20 last work; the type of work that you currently do  
21 or that you last did.

22 Your marital status; if married, whether your  
23 spouse is employed and the type -- if so, the type  
24 of work that he or she does.

25 Whether you have children; if so, how many



1 children; the ages of your children; whether they  
2 live with you; the type of work that they do.

3 Now, if your children are little young  
4 children, four, five, six years old, you don't  
5 need to tell us that they're not working. If they  
6 are, you probably ought to keep that to yourself  
7 anyhow.

8 If you've ever served on a jury before, we  
9 would like to know that. And if you have served  
10 on a jury before, whether it was a civil or  
11 criminal case; how long ago that was; where that  
12 was, whether that was here in St. Johns County or  
13 elsewhere; whether that jury reached a verdict;  
14 and whether or not you were the foreperson of that  
15 jury.

16 So we are going to start in the front with  
17 Ms. Terry. Good morning.

18 PROSPECTIVE JUROR NUMBER ONE: Good morning.

19 THE COURT: If you can start answering the  
20 questions on the questionnaire, please.

21 PROSPECTIVE JUROR NUMBER ONE: My name's Chia  
22 Terry and I live in St. Johns County for 38 years.

23 Um, I haven't lived anywhere else but  
24 St. Johns County, other than serving in the  
25 military.

1 I live in St. Augustine. And I'm employed  
2 with Ryder CPG Group. Um, let's see. The type of  
3 work anywhere -- I mean the type of work that I do  
4 is a export clerk for Ryder.

5 And my marital status is married. My husband  
6 is in the U.S. Army. And I have two kids, ages 18  
7 and 13. And yes, they live with me. And no, they  
8 do not work.

9 And I've never served on a jury before.

10 THE COURT: Thank you, Ms. Terry. Thank you  
11 for your service and for your husband's service,  
12 as well.

13 Ms. Shelton?

14 PROSPECTIVE JUROR NUMBER TWO: My name is  
15 Deborah Shelton. I've lived in St. Johns County  
16 for ten years. Prior to St. Johns County, I was a  
17 Jacksonville resident. I live in St. Johns,  
18 Florida, Derby Crossing area.

19 I am employed by Jacksonville Orthopedic  
20 Institute, and I am the collections supervisor.

21 I am single, um, I have no children, and I  
22 have never served on a jury before.

23 THE COURT: Thank you, Ms. Shelton.

24 Ms. Belt?

25 PROSPECTIVE JUROR NUMBER THREE: Hi. My name

1 is Christin. My actual last name now, because I  
2 just recently got married, is Williams, so my  
3 maiden name is Belt.

4 I have lived in St. Johns County for seven  
5 years. I live -- uh, before in Ohio. I live in  
6 St. Johns County.

7 I am currently employed in Jacksonville at a  
8 place called Genpact, and I do content review on  
9 the Internet.

10 I am married. My spouse works in  
11 Jacksonville, and he is a pipe layer. I don't  
12 have any children and that's it.

13 THE COURT: Ever served on a jury?

14 PROSPECTIVE JUROR NUMBER THREE: Oh, no.  
15 Sorry.

16 THE COURT: What part of the county do you  
17 live in?

18 PROSPECTIVE JUROR NUMBER THREE: St. Johns.

19 THE COURT: Northwest, okay.

20 PROSPECTIVE JUROR NUMBER THREE: Yes.

21 THE COURT: Thank you. Thank you,  
22 Ms. Williams.

23 Ms. Hanke?

24 PROSPECTIVE JUROR NUMBER FOUR: Hi. I'm  
25 Jennifer Hanke. I've lived in St. Johns County

1 off and on for nine years. And before that, I was  
2 in Texas. I currently live in St. Augustine.

3 I work at a aerospace company in Jacksonville  
4 called Made in Space. I'm an executive assistant.

5 I'm married. My spouse is employed and works  
6 at Planet Fitness. No children and never served  
7 on a jury.

8 THE COURT: Thank you.

9 Ms. Nutt?

10 PROSPECTIVE JUROR NUMBER FIVE: My name is  
11 Jennifer Nutt. I have lived in St. Johns County  
12 for 20 years. I lived in Duval before St. Johns.  
13 I live in Ponte Vedra.

14 I'm the director of the student union at UNF.  
15 I'm married. My spouse also works at UNF. I have  
16 two children, 12 and 10. They do live with me.  
17 And I've never served on a jury before.

18 THE COURT: Thank you.

19 Ms. Gonzalez?

20 PROSPECTIVE JUROR NUMBER TEN: My name is  
21 Rebecca Gonzalez. I have lived in St. Johns  
22 County for 13 years. Before that, I was in  
23 Kentucky. I live in Fruit Cove.

24 I'm an independent contractor with the  
25 Department of Defense. I'm a physician. I'm

1 married. My husband is a physician assistant.

2 We have three children, 26, 24, and 14. My  
3 oldest is a math teacher. My 24-year-old is a  
4 massage therapist, and the other's in school. And  
5 I've never been on a jury.

6 THE COURT: What type of medicine do you  
7 practice?

8 PROSPECTIVE JUROR NUMBER TEN: Occupational  
9 medicine.

10 THE COURT: Okay. Thank you.

11 Mr. Debruhl?

12 PROSPECTIVE JUROR NUMBER NINE: My name's  
13 James Debruhl. I've lived in St. Johns County for  
14 three years. I used to live in Duval County. I  
15 live in St. Johns, Fruit Cove area.

16 I'm employed with Cisco Network Systems. I  
17 do network engineering for Bank of America.

18 I'm single, no kids, and never served on a  
19 jury before.

20 THE COURT: Thank you.

21 Mr. Griffin?

22 PROSPECTIVE JUROR NUMBER EIGHT: My name's  
23 Ryan Griffin. I've lived in St. Johns County for  
24 five years. Prior to that, Duval County. I'm in  
25 the Fruit Cove area.

1 I'm self-employed as a physician, internal  
2 medicine. Prior to that, I did hospital physician  
3 work.

4 Married with four children. Um, wife is a  
5 stay-at-home mom. Um, 15 -- uh, son is 15; two  
6 daughters, 13 and 11; and a son that's eight.  
7 Never served on a jury before.

8 THE COURT: Thank you, Dr. Griffin.

9 Mr. Lambert?

10 PROSPECTIVE JUROR NUMBER SEVEN: My name is  
11 Philip Lambert. I've lived in St. Johns County  
12 for about a year and a half. Before that, I lived  
13 in Monroe County in Key West. I live in  
14 St. Augustine.

15 I'm employed by Commander Shellfish Camp.  
16 I'm the general manager. My wife is employed.  
17 She's a amenities director for a housing  
18 community.

19 I am married. I do have kids. There's five  
20 of them. They range from age from 35, oldest; the  
21 youngest is 23. One is a housewife, one's a  
22 tattoo artist, one's a mechanic, one's in  
23 construction, and the youngest is in the first  
24 year of law school.

25 I have served on a jury. It was in 2016. It

1 was a criminal case. The verdict we reached. I  
2 was not the foreman.

3 THE COURT: Was that in Monroe County?

4 PROSPECTIVE JUROR NUMBER SIX: It was.

5 THE COURT: And you've been here a year and a  
6 half; is that what you said?

7 PROSPECTIVE JUROR NUMBER SIX: That's  
8 correct.

9 THE COURT: And you're already down here for  
10 jury duty.

11 PROSPECTIVE JUROR NUMBER SIX: Didn't waste  
12 no time. As soon as I changed my license, I'm  
13 here.

14 THE COURT: Not the welcome to St. Johns  
15 County you were hoping for. Okay.

16 Ms. Roberts?

17 PROSPECTIVE JUROR NUMBER SIX: Hi. I'm  
18 Brynna Roberts. I lived in St. Johns County my  
19 whole life, so 19 years. I live in St. Augustine.

20 I work for Tadpole Crab, which is a daycare  
21 for infants to four years old.

22 I'm single, no children, and I've never  
23 served on a jury.

24 THE COURT: Okay. Thank you.

25 Right behind you, Mr. Derby?

1                   PROSPECTIVE JUROR NUMBER 11: My name's James  
2 Derby. I've lived in St. Johns County for 32  
3 years. Lived in Ft. Myers for four years. I live  
4 in St. Augustine.

5                   I work for Publix Corporation. I'm a  
6 pharmacist. My marital status, I'm married. I  
7 have two teenage children. They're both in  
8 school.

9                   My wife doesn't work. Children, of course,  
10 just go to school. I've never served on a jury  
11 before.

12                  THE COURT: Thank you.

13                  Ms. Canale?

14                  PROSPECTIVE JUROR NUMBER 12: Canale.

15                  THE COURT: Canale, sorry.

16                  PROSPECTIVE JUROR NUMBER 12: My name is Lyn  
17 Canale. I've lived in St. Johns County for five  
18 years. Before that, I lived in St. Lucie, um,  
19 Port St. Lucie, Florida, St. Lucie County. I live  
20 in Fruit Cove.

21                  I'm employed by Betty Griffin Thrift Store.  
22 Before that, I had my own business.

23                  My marital status is divorced. I have two  
24 children. One's a teacher and the other one's an  
25 engineer.



1                   And I've never served on a jury before.

2                   THE COURT: Thank you. And I do want to  
3 apologize for messing up people's names. It's  
4 going to happen as I go through, so I apologize in  
5 advance.

6                   Ms. Bonday?

7                   PROSPECTIVE JUROR NUMBER 13: Yes. My name  
8 is Shaelee Bonday. I've lived in St. Johns County  
9 a little over 18 years. Before that, I was in  
10 Orange County. I live in St. Johns, Florida.

11                   I am employed at Momentum Transportation, and  
12 I am a director of billing there. I am married  
13 and my husband does work. He's a manager at  
14 Allied.

15                   And we have two children, 14 and 18. Both go  
16 to school, and my oldest works part-time. And I  
17 have never served on a jury.

18                   THE COURT: Okay. Thank you.

19                   Ms. Beaty?

20                   PROSPECTIVE JUROR NUMBER 14: Michele Beaty.  
21 Lived in St. Johns County 39 years, Duval County  
22 before that. I live in Ponte Vedra Beach.

23                   I am retired. I was an educator for 35  
24 years. I'm married. My spouse is also retired.

25                   I have one son, 46 years old. He is also an

1 educator. I have not served on a jury.

2 THE COURT: Okay. Thank you.

3 Mr. Bone?

4 PROSPECTIVE JUROR NUMBER 15: Jairus Bone.  
5 Um, ten years. Um, Connecticut before. Um, in  
6 St. Augustine.

7 I am, uh, employed by a pharmaceutical  
8 company, senior management. I'm single, um, no  
9 kids, and I have not served on a jury before.

10 THE COURT: Thank you.

11 Ms. Karl, right behind Mr. Bone.

12 PROSPECTIVE JUROR NUMBER 20: I'm Sarah Karl.  
13 Lived in St. Johns County for 21 years. I lived  
14 in Georgia beforehand. I live in St. Augustine.

15 I'm employed at the Ice Plant Bar. I'm a  
16 bartender. I'm not married, I do not have  
17 children, and I've never served on a jury.

18 THE COURT: Thank you.

19 Ms. Griener?

20 PROSPECTIVE JUROR NUMBER 19: I'm Amanda  
21 Griener. I've lived here since 1999. Before  
22 that, various places with the U.S. Army. I live  
23 in St. Augustine.

24 I'm a physical therapist. I've been doing  
25 that since 2001. I am divorced. I have two

1 children, a daughter, 23, she's in a master's  
2 program, and my son, 14, who just started high  
3 school.

4 I have never served on a jury before.

5 THE COURT: Thank you.

6 Ms. Bouda?

7 PROSPECTIVE JUROR NUMBER 18: Bouda.

8 THE COURT: Bouda. I'm getting all the names  
9 wrong. I'm on a roll.

10 PROSPECTIVE JUROR NUMBER 18: It's all right.  
11 I'm Jane Bouda. I've lived in St. Johns County  
12 for 16 years. Before that, Duval County. I live  
13 in Julington Creek Plantation.

14 I'm employed by the City of Jacksonville.  
15 I'm a credit underwriter for major housing  
16 projects for Duval County.

17 My husband is retired. We have four children  
18 between 41 and 35, a lawyer, a sheriff at the --  
19 at JSO, a teacher, and a graphic designer.

20 And I've never served on a jury before.

21 THE COURT: Okay. Let me ask you a follow-up  
22 on a couple questions there.

23 Your child who is a lawyer, what type of law  
24 does he or she practice?

25 PROSPECTIVE JUROR NUMBER 18: Real estate

1 law. She's working for Deutsche Bank.

2 THE COURT: Okay. And you have a child who  
3 is a deputy sheriff, a Jacksonville police  
4 officer?

5 PROSPECTIVE JUROR NUMBER 18: He's -- yes,  
6 sir.

7 THE COURT: Is it a he or she?

8 PROSPECTIVE JUROR NUMBER 18: He.

9 THE COURT: Is he assigned to any specialized  
10 unit?

11 PROSPECTIVE JUROR NUMBER 18: Yeah. He's in  
12 a zone. He's a sergeant for the west side.

13 THE COURT: All right. There may or may not  
14 be law enforcement officers who end up testifying  
15 in this case.

16 In just a few moments, I'm going to have the  
17 lawyers tell you who may be witnesses, but one of  
18 the instructions you would receive if you were  
19 selected to serve as a juror in this case is that  
20 law enforcement witnesses are just like any other  
21 witness.

22 And you should weigh their testimony like any  
23 other witness. And I'll give you instructions on  
24 how to weigh the testimony and the evidence of  
25 witnesses.

1           Would you tend to give a law enforcement  
2           officer's wit -- law enforcement witness, their  
3           testimony, greater weight because your son being a  
4           police officer, or could you follow that  
5           instruction?

6           PROSPECTIVE JUROR NUMBER 18: I would hope  
7           not. I would hope I would be able to follow.

8           THE COURT: You think you could follow the  
9           instruction?

10          PROSPECTIVE JUROR NUMBER 18: Yes.

11          THE COURT: Do you have any doubt you could  
12          follow the instruction?

13          PROSPECTIVE JUROR NUMBER 18: I guess there's  
14          always doubt when your only son is a police  
15          officer, but no. I would try not to.

16          THE COURT: Okay. Thank you, ma'am. The  
17          lawyers may want to follow up on that. Thank you.

18          Ms. Powell?

19          PROSPECTIVE JUROR NUMBER 17: My name is  
20          Charlotte Powell, and I've lived in St. Johns  
21          County almost five years now. Before that, I  
22          lived in Connecticut. I live in St. Augustine.

23          I am not employed. I worked for 14 years in  
24          Connecticut for an optometrist.

25          I am married. My husband is retired. I have

1 two children. They are 44 years old and 46 years  
2 old. The 44-year-old daughter works in the  
3 restaurant industry, and my son works for Florida  
4 East Coast Railroad. And I have never served on a  
5 jury before.

6 THE COURT: Okay. Thank you, Ms. Powell.  
7 Ms. Suffae?

8 PROSPECTIVE JUROR NUMBER 16: Suzanne Suffae.  
9 I've lived in St. Johns County for three years.  
10 Before that, I lived in Maryland. I'm in  
11 St. Augustine.

12 I'm not employed. I'm retired. When I  
13 worked, I worked as the director of technology for  
14 an insurance company. My husband is retired. I  
15 do not have any children.

16 I have served on a jury before back in  
17 Maryland. It was a civil case. It was over 20  
18 years ago. I don't remember what year it was.  
19 The jury did reach a verdict, and I was not the  
20 foreperson.

21 THE COURT: Thank you. What is your husband  
22 retired from?

23 PROSPECTIVE JUROR NUMBER 16: Information  
24 technology.

25 THE COURT: Okay. Same type of work. Thank

1           you.

2                   Ms. Dupont?

3                   PROSPECTIVE JUROR NUMBER 21: Hi. I'm  
4           Christine Dupont. I have lived in St. Johns  
5           County for 32 years. Before that, I lived in  
6           Flagler County. I live in St. Augustine. I live,  
7           like, ten minutes down the road.

8                   I'm employed by Vans at the outlet mall and  
9           currently on a leave of absence because I am  
10          recently widowed. Um, no children.

11                  THE COURT: Take your time. Have you ever  
12          served on a jury before?

13                  PROSPECTIVE JUROR NUMBER 16: (Shaking head.)

14                  THE COURT: No. Okay. And I'm sorry for  
15          your loss.

16                  Ms. Fiori?

17                  PROSPECTIVE JUROR NUMBER 22: Hi. My name's  
18          Margit Fiori. I've been in the St. Johns area for  
19          13 years. Before that, I lived in Duval County.  
20          I live in St. Johns County.

21                  And I work for Mayo Clinic. I'm a surgical  
22          tech. I've been -- I'm divorced. I have three  
23          kids, 18, 15, and 11. And my 18-year-old, he  
24          works part-time while going to school. And I've  
25          never served on a jury before.

1 THE COURT: Thank you.

2 Mr. Collins?

3 PROSPECTIVE JUROR NUMBER 23: My name's Jason  
4 Collins. I've lived in St. Johns County for about  
5 five years now. Before that, I lived in  
6 Tennessee. I live in St. Augustine.

7 I work for Beaver Toyota here in  
8 St. Augustine. I'm an Internet director. I'm  
9 single, no children, and I never served on a jury  
10 before.

11 THE COURT: Thank you.

12 Mr. Jaudon?

13 PROSPECTIVE JUROR NUMBER 24: My name's  
14 Thomas Jaudon. I've lived in St. Johns County for  
15 about 27 years. Before that, I was all over the  
16 place in the U.S. Air Force. I live in  
17 St. Augustine South.

18 I'm employed as a millwright for Carlisle  
19 Technologies. I'm married. My wife is  
20 self-employed, owns an insurance business.

21 I have four kids ages 31, 28, 21, and 19.  
22 And they're employed respectively as an insurance  
23 agent, uh, Bank of America, self-employed as an  
24 auto detailer, and the 19-year-old is in nursing  
25 school.



1 I have never served on a jury before.

2 THE COURT: Okay. Thank you.

3 Mr. Siegel?

4 PROSPECTIVE JUROR NUMBER 25: Hi. David  
5 Siegel. I've lived in St. Johns for seven years.  
6 Prior to that, I lived in New York, born and  
7 raised. I live in Ponte Vedra.

8 I'm employed. I'm a portfolio manager at  
9 Sawgrass Asset Management, a local money  
10 management firm.

11 My wife -- I'm married. My wife works at a  
12 software company. I have two children, ages four  
13 and six. I have never served on a jury.

14 THE COURT: Thank you.

15 I'll move over here to see Ms. Grehl.  
16 Ms. Grehl?

17 PROSPECTIVE JUROR NUMBER 30: Joyce Grehl.  
18 I've lived in St. Johns County less than two  
19 years. I previously lived in Citrus County. I  
20 live in St. Augustine.

21 I am a self-employed fitness instructor. I  
22 am married. My husband is a retired fire captain.

23 We have three children, 44, 42, 38, two  
24 teachers and a pharmaceutical oncology manager.  
25 And I've never served.

1 THE COURT: Was your husband a fire captain  
2 here in St. Johns County?

3 PROSPECTIVE JUROR NUMBER 30: No.

4 THE COURT: In Citrus County?

5 PROSPECTIVE JUROR NUMBER 30: No.

6 THE COURT: Where?

7 PROSPECTIVE JUROR NUMBER 30: New Jersey.

8 THE COURT: New Jersey. Okay. You've only  
9 been here less than two years, and you also got  
10 the welcome-to-St.-Johns-County letter in the  
11 mail. Okay. Thank you.

12 Mr. Cooper?

13 PROSPECTIVE JUROR NUMBER 29: Hi. My name's  
14 Bradley Cooper. I've lived in St. Johns County  
15 for 17 years. Before St. Johns County, I was  
16 living in Washington, D.C. I live in downtown  
17 St. Augustine.

18 I am employed. I work for Florida Blue  
19 Insurance Company, and I am a application  
20 administrator for one of the human-resources  
21 systems.

22 I am a widower, do not have children, and I  
23 have never served on a jury before.

24 THE COURT: Thank you.

25 Ms. Macklin?

1                   PROSPECTIVE JUROR NUMBER 28: Good morning.  
2                   My name is Beth Macklin. I live in St. Johns. I  
3                   lived in New Jersey prior. I've been here two  
4                   years.

5                   I work for Watson Realty Corp. I'm a  
6                   realtor. I'm married. He works for Bank of  
7                   America.

8                   I have two children, 19 and 17. The  
9                   19-year-old works for Bank of America. I never  
10                  served on a jury.

11                  THE COURT: Okay. Thank you.

12                  Ms. Patterson?

13                  PROSPECTIVE JUROR NUMBER 27: I'm Keesha  
14                  Patterson. I've lived in St. Johns County for 46  
15                  years. I've never lived anywhere else. I live in  
16                  St. Augustine.

17                  I work for the Florida School for the Deaf  
18                  and Blind where I'm an instructional assistant.

19                  Um, I'm married. My husband is a driver. I  
20                  have one daughter, 23, and she's a manager at  
21                  Vans. And I've never served as a juror before.

22                  THE COURT: Thank you.

23                  Mr. Metcalf?

24                  PROSPECTIVE JUROR NUMBER 26: Patrick  
25                  Metcalf. I've lived in St. Johns County for eight

1 years, Tallahassee before that, then St. Johns  
2 County before that. I live in West St. Johns  
3 County. I'm employed by (unintelligible) Homes.  
4 I do land acquisition for them.

5 I'm married. My wife does not work. We have  
6 two children, ages three and six, so they are just  
7 in school. I've never served on a jury before.

8 THE COURT: Okay. Thank you.

9 If everybody on that side of the room can  
10 pass your questionnaires to the middle aisle,  
11 we'll get those gathered up.

12 And then we'll move to the other side of the  
13 room. And we'll start with Ms. Simmons. Good  
14 morning.

15 PROSPECTIVE JUROR NUMBER 31: Hi. My name's  
16 Cynthia Simmons. I've lived in St. Johns County  
17 for 36 years. Um, I live in St. Augustine.

18 I'm employed at Flagler Hospital. I'm a unit  
19 specialist. I perform EKGs, phlebotomy, patient  
20 care for critical patients.

21 I am divorced. I have two children. My  
22 youngest is five. My oldest is 13. They both  
23 live with me. They don't do any work. And I've  
24 never served on a jury before.

25 THE COURT: Thank you.

1 Ms. Stambaugh?

2 PROSPECTIVE JUROR NUMBER 32: My name is  
3 Debra Stambaugh, and I've lived in St. Johns  
4 County five and a half years. Before that, I was  
5 in Duval County. And we live in St. Augustine.

6 I retired in December of 2018. I was a  
7 customer-service manager for Verizon Business.

8 I am married. My husband works for Landstar.  
9 He's a corporate paralegal.

10 I have two -- we have two sons. The first is  
11 38. He's a electrician. And my youngest is 32,  
12 and he works, um, as a dental fraud investigator.

13 THE COURT: Have you ever served on a jury  
14 before?

15 PROSPECTIVE JUROR NUMBER 32: I have never  
16 served.

17 THE COURT: Thank you.

18 Mr. Hasty?

19 PROSPECTIVE JUROR NUMBER 33: My name's John  
20 Hasty. I've lived in St. Johns County for the  
21 past two years, previously in Duval County. I do  
22 live in St. Augustine.

23 I am employed with Fidelity Investments  
24 Finance Group. I am married. My wife is also  
25 employed with Fidelity Investments.

1           I have one daughter, who is one. She doesn't  
2 work, and I've never served on a jury.

3           THE COURT: Thank you.

4           Ms. Vil Matthews?

5           PROSPECTIVE JUROR NUMBER 34: My name is  
6 Youseline Vil Matthews. I live in St. Johns  
7 County for nine years. Before that, I live in  
8 Miami, Florida. I live in St. Augustine.

9           I am employed by SMA Healthcare. I am in the  
10 mental-health area, and I'm the assistant team  
11 leader.

12           I was divorced. I have two children, two  
13 years old and nine years old, and the  
14 nine-year-old is in school.

15           I never served on a jury before.

16           THE COURT: Okay. And you are occasionally  
17 in court because you've been in court with me  
18 before.

19           PROSPECTIVE JUROR NUMBER 34: Yeah. I come  
20 to the courtroom.

21           THE COURT: I just wanted to make sure the  
22 lawyers know that.

23           PROSPECTIVE JUROR NUMBER 34: Yeah.

24           THE COURT: I know you've had matters in  
25 front of me before where you've had to appear as a

1 result -- from your work.

2 PROSPECTIVE JUROR NUMBER 34: Yeah.

3 THE COURT: Okay. Thank you.

4 Is it Ms. Julia?

5 PROSPECTIVE JUROR NUMBER 35: Julao.

6 THE COURT: Julao?

7 PROSPECTIVE JUROR NUMBER 35: Yes.

8 THE COURT: Okay.

9 PROSPECTIVE JUROR NUMBER 35: My name is

10 Rosaliza Julao. Off and on in St. Augustine. I

11 traveled for the government. That is reason.

12 St. Augustine is the county.

13 And yes, I'm employed for the federal

14 government, 29 years. What type of work? Complex

15 tax law and many other duties as assigned.

16 Marital status, divorce. I have one child.

17 She's older than me [verbatim]. Age is 43. Type

18 of work, she retired from the federal government,

19 intelligence, and she's now a realtor.

20 Have I serve? No, I have not. That's it.

21 THE COURT: Okay. You said you do complex

22 tax law for the government. Are you a lawyer?

23 PROSPECTIVE JUROR NUMBER 35: (Shaking head.)

24 THE COURT: You're not, okay.

25 PROSPECTIVE JUROR NUMBER 35: No, I'm not.

1           Sorry.

2                   THE COURT: Mr. Bister?

3                   PROSPECTIVE JUROR NUMBER 40: I'm Nathaniel  
4           Bister. I've lived in St. Johns County for two  
5           years. Before that, uh, I was in Overland Park,  
6           Kansas. I live in Julington Creek Plantation.

7                   I'm an operations manager for Satellite  
8           Relocation and Logistics. I am married. My  
9           wife's a stay-at-home mom, and we have two  
10          children, three and 11. Um, and I've never served  
11          on a jury.

12                   THE COURT: Thank you.

13                   Ms. Matkovskia?

14                   PROSPECTIVE JUROR NUMBER 39: Yes. My name  
15          is Janna Matkovskia. I'm in St. Johns County 13  
16          years. Before that, in Duval County.  
17          St. Augustine.

18                   Um, I'm unemployed. I'm married. My husband  
19          is self-employed. I have two kids, 28, 21, um,  
20          realtor and translator. I never serve jury.

21                   THE COURT: What type of work -- you said  
22          your husband is self-employed. What type of work?

23                   PROSPECTIVE JUROR NUMBER 39: Yeah. Lawn and  
24          garden.

25                   THE COURT: Lawn and garden, okay.



1 PROSPECTIVE JUROR NUMBER 39: Yeah.

2 THE COURT: Thank you.

3 Mr. Sibbach?

4 PROSPECTIVE JUROR NUMBER 38: My name's Alex  
5 Sibbach. I lived in St. Johns County for six  
6 years. I lived in Jacksonville. North Carolina,  
7 that's where I was stationed at. I live in Fruit  
8 Cove.

9 I work for TMC Logistics. I'm a logistics  
10 coordinator. I'm married. She works with the  
11 government. I have no children, and I never  
12 served on a jury.

13 THE COURT: What does your wife do for the  
14 government?

15 PROSPECTIVE JUROR NUMBER 38: She works for  
16 NAVAIR.

17 THE COURT: For what?

18 PROSPECTIVE JUROR NUMBER 38: NAVAIR.

19 THE COURT: Oh, NAVAIR.

20 PROSPECTIVE JUROR NUMBER 38: Logistics  
21 management specialist.

22 THE COURT: Thank you.

23 Mr. Von Stein?

24 PROSPECTIVE JUROR NUMBER 37: Name's Parker  
25 Von Stein. I've lived in St. Johns County for 17

1 years. I lived in Jacksonville, Florida, before  
2 that. Live in St. Augustine.

3 Work for Publix as customer service. Um,  
4 single, um, no kids, never served on a jury.

5 THE COURT: Okay. Thank you.

6 Mr. -- is it Schludt?

7 PROSPECTIVE JUROR NUMBER 36: Alex Schludt.  
8 I've lived in St. Johns for about 13 years now.  
9 Before that, I lived in Wisconsin. Um, I live in  
10 Fruit Cove.

11 I'm currently unemployed, but my last job was  
12 making pizzas at Little Caesar's. And I'm single  
13 and never served on a jury.

14 THE COURT: Thank you.

15 Ms. Mackey?

16 PROSPECTIVE JUROR NUMBER 41: My name is  
17 Sonya Mackey. I'm here 25 years. Before that, in  
18 Illinois. I live in Hastings.

19 I work at Flagler Hospital as a processing  
20 technician. I'm divorced. I have one daughter.  
21 She's 21. She works at a preschool. And I've  
22 never served.

23 THE COURT: Thank you.

24 Ms. Rafael -- or Mr. Rafael.

25 PROSPECTIVE JUROR NUMBER 42: Yeah. My name

1 is Bernard Rafael. I've lived in St. Johns County  
2 for 11 months. I lived in Clay County prior. I  
3 live in the World Golf Village area.

4 I'm employed by Black Knight as a technical  
5 consultant. I am married. My wife's a nurse. I  
6 have no children, and I have not served on a jury.

7 THE COURT: Thank you.

8 Ms. Hansen?

9 PROSPECTIVE JUROR NUMBER 43: My name is  
10 Dianna Hansen. I've lived in St. Johns County for  
11 ten years. I lived in Leon County, Tallahassee,  
12 before that. I live in World Golf Village.

13 I am employed by Citizens Property Insurance  
14 as a project coordinator. My husband is an  
15 insurance auditor.

16 He -- we have two children, seven and three,  
17 and I've never served on a jury.

18 THE COURT: Thank you.

19 Ms. Thomas?

20 PROSPECTIVE JUROR NUMBER 44: I can't see  
21 you.

22 THE COURT: Okay. I know it's hard to see a  
23 lot of you.

24 PROSPECTIVE JUROR NUMBER 44: I'm Cheryl  
25 Thomas. I have lived in St. Johns County for 11

1 years. Before that, in Athens, Georgia. I live  
2 in Ponte Vedra Beach.

3 I'm employed with CSX in the GIS department.  
4 Yes, I'm married. My husband works in IT. I have  
5 an 18-year-old daughter who works part-time and  
6 starts college today, um, and never served.

7 THE COURT: Thank you.

8 And if any of you want to stand up, that's  
9 fine. If you want to keep your seat, that's fine,  
10 too.

11 Mr. Booth?

12 PROSPECTIVE JUROR NUMBER 45: My name is  
13 Robert Booth. I have lived in St. Johns County  
14 for 20 years. I lived in Duval County prior to  
15 that.

16 I work for Atlantic Marble Company. I own  
17 the company. I am married. My wife works for  
18 Atlantic Marble, as well, in payables and  
19 receivables.

20 I have two children, a daughter, 28, who's a  
21 hair-color specialist, and a son, 25, who also  
22 works for Atlantic Marble Company. And I have  
23 never served on a jury.

24 THE COURT: Thank you.

25 Ms. Jones?

1                   PROSPECTIVE JUROR NUMBER 50: I'm Laura  
2 Jones. I've lived in St. Johns County for nine  
3 years. Before that, I lived in Fairfax County,  
4 Virginia. I live in Ponte Vedra.

5                   I was last employed at Deerwood Country Club  
6 as a lifeguard. I'm currently taking care of my  
7 father as he recovers from a stroke.

8                   I am not married and I have no children and  
9 have never served on a jury.

10                  THE COURT: Thank you.

11                  Ms. Timmermans?

12                  PROSPECTIVE JUROR NUMBER 49: My name is  
13 Terry Timmermans. I've lived in St. Johns County  
14 for 24 years. Before that, in Duval County. I  
15 live in St. Augustine.

16                  I'm employed at Beaches Dermatology as an  
17 office administrator. I'm married. My husband's  
18 a physical therapist.

19                  We have a daughter. She's 31. She's a  
20 nutritionist. I've served as a juror twice in the  
21 past, once in St. Johns County approximately two  
22 and a half years ago. The, um, jury did reach a  
23 verdict. I was not the foreperson.

24                  Before that, was in Duval County, probably 40  
25 years ago. Um, the same, verdict was reached and

1 I was not the foreperson of that jury.

2 THE COURT: Okay. The one in St. Johns, was  
3 that a criminal case?

4 PROSPECTIVE JUROR NUMBER 49: No. They were  
5 both civil.

6 THE COURT: Both civil. Thank you.

7 Mr. Tanner, or is it Ms. Tanner? Mr. Tanner.  
8 I can't see you, so had to guess.

9 PROSPECTIVE JUROR NUMBER 48: My name is  
10 Trevor Tanner. I've lived in St. Johns County for  
11 20 years, my whole life. It's been the  
12 St. Augustine area, Switzerland area.

13 I'm not employed right now. My last job was  
14 Subway, making sandwiches. I'm not married,  
15 single, don't have any kids, and I've never served  
16 on a jury before.

17 THE COURT: Thank you.

18 As we get to the back of the room, if you all  
19 could keep your voices up, I'd greatly appreciate  
20 it.

21 Ms. Hughes?

22 PROSPECTIVE JUROR NUMBER 47: Yes. Hi. My  
23 name is Allyson Hughes. I've live in St. Johns  
24 County for 18 months. Prior to that, Charlotte,  
25 North Carolina. Um, I live in the St. Augustine

1 area.

2 I'm employed at Citibank as a senior vice  
3 president in the technology division. I'm single.  
4 I do not have any children.

5 And I have served as a juror before. That  
6 was in a criminal case in -- uh, it was roughly 22  
7 years ago in St. Clara County in the State of  
8 Illinois. They did reach a verdict, and I was not  
9 to the foreperson.

10 THE COURT: Thank you.

11 Ms. Grigsby?

12 PROSPECTIVE JUROR NUMBER 46: I'm Teresa  
13 Grigsby. I've lived in St. Johns County six  
14 years. We lived in Ohio five years before that.  
15 We live in northern St. Augustine, uh, off of  
16 County Road 210.

17 I'm employed by St. Johns County Schools as a  
18 teacher. I am married. My husband works for CSX.  
19 We have three daughters, 12, 15, and 20. They're  
20 all students. My oldest is a college student and  
21 doing an unpaid internship.

22 I've never served on a jury before.

23 THE COURT: Thank you.

24 Mr. Bigam?

25 PROSPECTIVE JUROR NUMBER 51: My name is

1           Nicolas Bigam. I've lived in St. Johns County for  
2           two years. Before that, Duval County. I live in  
3           the St. Augustine area.

4                     I currently work as an insurance adjustor.  
5           I'm married. I have three -- my wife is a  
6           stay-at-home mom. I have three children, nine,  
7           five, and two.

8                     I have served on a jury before. It was a  
9           criminal case in 2016 in Duval. And we did reach  
10          a verdict, and I wasn't the foreperson.

11                    THE COURT: Okay. Thank you, Mr. Bigam.

12                    Mr. Robbins?

13                    PROSPECTIVE JUROR NUMBER 52: Good morning.  
14          Todd Robbins. I've lived in St. Johns County for  
15          a year and a half. Previously, in Duval County.

16                    I'm employed by the United States Department  
17          of Labor as a claims examiner for workers' comp  
18          cases.

19                    My wife is employed by Social Security as a  
20          clerk for a administrative law judge, so I am  
21          married.

22                    I have four children, ranges from 32 to 24.  
23          One works at UPS, one is unemployed, one works at  
24          Starbucks, and one works for Cox Media Group.

25                    I've never served on a jury.



1 THE COURT: I missed what your wife does.  
2 I'm sorry.

3 PROSPECTIVE JUROR NUMBER 52: She's a clerk  
4 for an administrative law judge at Social  
5 Security.

6 THE COURT: Okay. Thank you.  
7 Mr. Norrid?

8 PROSPECTIVE JUROR NUMBER 53: Yeah. My name  
9 is John Norrid. I've been in St. Johns County for  
10 four years. Before that, I lived in Alachua  
11 County. I actually live in St. Johns.

12 I'm self-employed. I'm in sales. I  
13 represent about 20 companies across the U.S. I  
14 sell their products and services to industrial  
15 markets here.

16 I'm married. My wife works in the dental  
17 field. I have one daughter, 17. She lives at  
18 home and she does not work. And I have never  
19 served on a jury.

20 THE COURT: Thank you.  
21 Ms. Anderson?

22 PROSPECTIVE JUROR NUMBER 54: My name is  
23 Amber Anderson. I've lived in St. Johns County  
24 for about a year. Before that, I lived in  
25 Jacksonville. I'm in St. Augustine right now.

1 I'm not currently working. I'm a  
2 stay-at-home mom. Before that, I worked at  
3 Medtronic in sales doing consumer contracts.

4 I'm married. My husband works. He works at  
5 Medtronic. He does some type of engineering. We  
6 have one child. He's seven years old. He does  
7 live with us, and I never served on a jury.

8 THE COURT: Thank you.

9 Mr. Tu?

10 PROSPECTIVE JUROR NUMBER FIVE: My name is  
11 Steve Tu. I've lived in St. Johns County for six  
12 years. Before that, Duval. I live in Fruit Cove.

13 I work for LabTech Corporation as a systems  
14 engineer. I'm married. My spouse is a  
15 work-at-home mom -- or stay-at-home mom.

16 We have four children, seven, five, three,  
17 and one, who live with us. And I have never  
18 served on a jury before.

19 THE COURT: Thank you.

20 Mr. Stovall?

21 PROSPECTIVE JUROR NUMBER 60: My name is  
22 Casey Stovall. I've lived in St. Johns County for  
23 17 years. We lived in Chicago prior to that.  
24 We're in Julington Creek.

25 I'm a case manager for a mental-health

1 agency. Uh, married with two kids, 15 and 14,  
2 both in school.

3 Uh, I've been on a couple of juries that were  
4 as a foreman, and they were both civil matters  
5 many years ago.

6 THE COURT: Was that here or somewhere else?

7 PROSPECTIVE JUROR NUMBER 60: One here and  
8 one in Connecticut.

9 THE COURT: Okay. And how long ago do you  
10 think the last one was?

11 PROSPECTIVE JUROR NUMBER 60: About seven or  
12 eight years ago here.

13 THE COURT: Okay. Thank you.

14 Ms. Woolf?

15 PROSPECTIVE JUROR NUMBER 59: My name is  
16 Catherine Woolf. I've lived in St. Johns County  
17 for 18 years. I currently live in St. Johns.  
18 Prior to that, we lived in Sarasota.

19 I'm employed as a server at Longhorn  
20 Steakhouse. My husband -- I'm married. My  
21 husband is a computer analyst.

22 We have two children, 23 and 18. My son  
23 works at Southeast Toyota, and my daughter is just  
24 recently a high-school graduate, getting ready to  
25 attend college. And I've never served on a jury

1 before.

2 THE COURT: Thank you.

3 Mr. Strait?

4 PROSPECTIVE JUROR NUMBER 58: My name's Jeff  
5 Strait. I've lived in St. Johns County for 35  
6 years. Before that, I lived -- did a stint in  
7 Beebe County for about four month -- four years.  
8 Uh, I live in South St. Augustine.

9 I'm currently employed as a CFO at the Ideal  
10 Deals, LLC, um, CFO. That's the work I do.

11 Um, marital status is married. Um, my wife  
12 is employed for 20 years at, um, Flagler College  
13 as the accounts-payable manager.

14 Do I have children? Yes. I have two  
15 children. Uh, one is age 30, uh -- I got one 38  
16 and one 35. Don't quote me on that.

17 The oldest one is my son. He's in New York.  
18 He is a video journalist for the Wall Street  
19 Journal.

20 And my youngest is in Homer, Alaska, as a --  
21 a, um, oh, right now a restaurant manager. Let's  
22 call it that.

23 Um, have I served on a jury before? Oh, and  
24 they don't live with me, that's for sure.

25 Have I served on a jury before? Yes, two and

1 a half years ago. It was a criminal matter, and I  
2 think they reached a jury -- a -- a, um, you know,  
3 verdict, but I wasn't there because I was the  
4 first alternate, so they let me go.

5 THE COURT: Okay.

6 PROSPECTIVE JUROR NUMBER 58: Um...

7 THE COURT: Was that here?

8 PROSPECTIVE JUROR NUMBER 58: Yeah.

9 THE COURT: That was here in St. Johns,  
10 okay. Thank you.

11 Ms. Raynor?

12 PROSPECTIVE JUROR NUMBER 57: My name is  
13 Karen Raynor, and I live in St. Johns, Florida.  
14 And before that, we lived in Flagler County. I've  
15 lived in St. Johns for 14 years.

16 I am an accounts-receivable manager for  
17 Global Publishing. And I am married. Uh, my  
18 husband is a -- he works for Duval Motor Group as  
19 a director.

20 We have three children, 26, in the Army; 24,  
21 teacher; and 17, in school. Only one lives with  
22 us. I've never served on a jury.

23 THE COURT: Thank you.

24 Last, but not least, Mr. Kusch?

25 PROSPECTIVE JUROR NUMBER 56: Yes. I'm Jeff

1 Kusch. I have been in St. Johns County for three  
2 years. Prior to that, lived in Minnesota.

3 I am currently the chief operating officer at  
4 Main Street America Insurance Group. My wife does  
5 not work outside the home.

6 We have three kids, all adults. One works as  
7 an engineer. Two are still in college.

8 I have served on a jury about four or five  
9 years ago. It was a criminal case, there was a  
10 verdict, and, yes, I was the foreperson.

11 THE COURT: And where was that?

12 PROSPECTIVE JUROR NUMBER 56: Minneapolis.

13 THE COURT: Minneapolis, thank you.

14 All right. So we made it through that  
15 process. If everybody on this side of the  
16 courtroom could pass the questionnaires in, and  
17 then we'll move on.

18 Thank you, folks. So let me talk about this  
19 case a little bit. You've met all the folks  
20 involved. Let's talk about the case a little bit.

21 As I said earlier, this is the case of the  
22 State of Florida versus Norman McKenzie.

23 The defendant in this case, Mr. McKenzie, has  
24 already, in a prior proceeding, been found guilty  
25 of two counts of first-degree murder.

1           Those persons who are selected to serve as  
2 jurors in this case will not be asked to determine  
3 whether or not Mr. McKenzie's guilty of the  
4 crimes. That's not the issue.

5           You will be asked, if you're selected to  
6 serve as a juror, to return a verdict to decide  
7 what is the appropriate sentence for Mr. McKenzie  
8 for the crimes of first-degree murder.

9           In Florida, there are only two possible  
10 sentences for first-degree murder. One is life in  
11 prison without the possibility of any parole, and  
12 the other is death.

13           The State of Florida is seeking the death  
14 penalty in this case, so I will be asking you, as  
15 will the lawyers, asking you some questions about  
16 that as we progress today.

17           Before we get there, the first thing I want  
18 to do is I'm going to ask the State to read off to  
19 you a list of witnesses who may possibly testify  
20 in this case.

21           And then I'll ask the defense if they want to  
22 add to that list at all.

23           Mr. Johnson?

24           MR. JOHNSON: Thank you, your Honor.

25           Good morning. The list of witnesses who may

1 be called or whose names you may hear during the  
2 course of the trial include the following:

3 Perry Privette of St. Augustine.

4 Julie Aubrey, formerly of St. Augustine, now  
5 lives in Georgia.

6 Commander Timothy Burres of St. Johns County  
7 Sheriff's Office.

8 Deputy Dale Strickland of the Marion County  
9 Sheriff's Office.

10 Dr. Predrag Bulic, who is the medical  
11 examiner here in St. Augustine.

12 You may also hear the name of Dr. Terrence  
13 Steiner, the former medical examiner here in  
14 St. Augustine.

15 Samantha Otter, who works for the St. Johns  
16 County Sheriff's Office.

17 Charles Maguire, Port St. Lucie.

18 Clarice Polczykcki of Newberry, Florida.

19 Marquette Fredrick of Sarasota.

20 Chantel Wilson, who currently lives in  
21 Jacksonville.

22 Amanda Hughes of Lake City, Florida.

23 Julio Cesar Saldana, a former deputy with the  
24 Alachua County Sheriff's Office, also retired from  
25 the Florida Department of Law Enforcement and



1 currently lives in Tallahassee.

2 Larry Van of Leesburg, Georgia.

3 Deputy Timothy Rollins of the St. Johns  
4 County Sheriff's Office.

5 Also Kathy Whitman, Cheryl Johnson, Janet  
6 Luke.

7 Karen Coffee of Gainesville.

8 Deputy Nicholas Vickers of the Alachua County  
9 Sheriff's Office.

10 Detective Charles Beverage of the Alachua  
11 County Sheriff's Office.

12 Detective Ronald Pinkston of the Gainesville  
13 Police Department.

14 Detective Eric Dice of the Marion County  
15 Sheriff's Office.

16 And Dr. William Meadows, who is a  
17 psychologist.

18 THE COURT: All right. Thank you,  
19 Mr. Johnson.

20 Does anybody think you might know any of  
21 those people whose names were read off?

22 (Prospective Juror Number 41 indicated in the  
23 affirmative.)

24 THE COURT: All right. I see one hand, and  
25 that would be Ms. Mackey, correct?

1           Okay. Who do you think you know on that  
2 list?

3           PROSPECTIVE JUROR NUMBER 41: Perry Privette,  
4 is he from Flagler Hospital, also?

5           MR. JOHNSON: Yes. That's correct.

6           THE COURT: What was the name, Privette?

7           PROSPECTIVE JUROR NUMBER 41: Perry Privette.

8           THE COURT: Okay. How do you know  
9 Mr. Privette?

10          PROSPECTIVE JUROR NUMBER 41: He works in  
11 another department. I just know of him.

12          THE COURT: So it's just a work acquaintance?

13          PROSPECTIVE JUROR NUMBER 41: Yes.

14          THE COURT: Okay. If Mr. Privette was, in  
15 fact, to testify, would you give his testimony any  
16 more weight than anybody else's just 'cause you  
17 know him?

18          PROSPECTIVE JUROR NUMBER 41: I know of him.  
19 I don't know him --

20          THE COURT: Okay.

21          PROSPECTIVE JUROR NUMBER 41: -- personally.

22          THE COURT: So is that a no, that answer?

23          PROSPECTIVE JUROR NUMBER 41: I don't know.

24          THE COURT: What does Mr. Privette do at  
25 Flagler? Do you know?

1                   PROSPECTIVE JUROR NUMBER 41: I believe he  
2 works in respiratory.

3                   THE COURT: Okay. I would give you  
4 instructions on how to weigh the testimony of  
5 witnesses.

6                   Would you give more weight to Mr. Privette's  
7 testimony because you know of him, or could you  
8 follow those same instructions that I would give  
9 you at the end of the case?

10                  PROSPECTIVE JUROR NUMBER 41: I think I can  
11 follow.

12                  THE COURT: Any doubt in your mind about  
13 that?

14                  PROSPECTIVE JUROR NUMBER 41: I would -- I  
15 mean, I don't know.

16                  THE COURT: I understand that certain  
17 witnesses may have specialties in areas, and we --  
18 we acknowledge the specialties.

19                  Of course, you can discount it if you don't  
20 think they're qualified on those specialties, but  
21 would the mere fact that you know of him give his  
22 testimony more credibility just because you know  
23 of him?

24                  PROSPECTIVE JUROR NUMBER 41: I -- I -- no.  
25 I don't think so.

1           THE COURT: Okay. All right. Thank you.  
2           Anybody else think they know anybody that was  
3           read off on that list?  
4           (No response.)  
5           THE COURT: All right. No other hands.  
6           Mr. Barrett, did you want to add to that list  
7           at all?  
8           MR. BARRETT: Yes, Judge.  
9           We may call three additional witnesses to the  
10          ones that the State has named, two of which are  
11          doctors.  
12          There is a Dr. Steven Bloomfield. He is a  
13          psychologist.  
14          And there's also a Dr. Danziger-Skolly. She  
15          is a toxicologist pharmacist.  
16          And the third witness is a civilian. Her  
17          name is Tammy Kimball, presently living in New  
18          Mexico. At one point she lived here in Florida.  
19          THE COURT: Thank you.  
20          Does anybody think they know any of those  
21          folks?  
22          (No response.)  
23          THE COURT: All right. No hands. Very well.  
24          What I'm going to do now is read to you the  
25          indictment or the charging document for which

1 Mr. McKenzie was originally charged and has been  
2 found guilty of these.

3 The reason I'm asking -- I'm going to read  
4 this to you is to see if anybody knows anything  
5 about this case or has heard anything about the  
6 case. And then I'll follow up with that question  
7 after I read it to you.

8 Count one for which Mr. McKenzie has been  
9 found guilty is first-degree murder. It states,  
10 "In that Norman Blake McKenzie, on or about  
11 October 4, 2006, in the County of St. Johns and  
12 the State of Florida, did unlawfully, from a  
13 premeditated design to effect the death of a human  
14 being, kill and murder Randy Wayne Peacock, a  
15 human being, by striking him with a hatchet and  
16 stabbing him with a knife, contrary to Florida  
17 Statutes."

18 Count two reads as follows: "Norman Blake  
19 McKenzie, on or about October 4, 2006, in the  
20 County of St. Johns and the State of Florida, did  
21 unlawfully, from a premeditated design to effect  
22 the death of a human being, kill and murder  
23 Charles Frank Johnston, a human being, by striking  
24 him with a hatchet, contrary to Florida Statutes.

25 So my question is if anybody knows anything

1           about this case or heard anything about the case.  
2           If you raise your hand and I call on you, I don't  
3           want to know what you know or what you heard.

4                     I'm just going to ask you if you know about  
5           it, and then some follow-up questions. And we may  
6           privately meet with you to discuss what it is that  
7           you think you know or heard.

8                     So let me start on what's my right, your  
9           left. Anybody know anything or heard anything  
10          about this case?

11                    (The prospective jurors indicated in the  
12          negative.)

13                   THE COURT: All right. No hands on that  
14          side. Let me start on my left, y'all's right,  
15          anybody know anything or heard anything about this  
16          case?

17                    (The prospective jurors indicated in the  
18          negative.)

19                   THE COURT: All right. No hands. Okay.  
20          Just circling back, did we miss anybody?

21                    (No response.)

22                   THE COURT: No hands. Very well. Thank you,  
23          folks.

24                    Let me talk to you a little bit about the  
25          schedule in this case. I think Judge Christine

1 might have touched on it a little bit downstairs.

2 If you are selected to serve as a juror in  
3 this case, this case is expected to last this  
4 week. No more than this week, just one week.

5 The reason I'm throwing that out to you is to  
6 find out if anybody has any hardships that make it  
7 impossible for you to serve.

8 What I mean by hardships is you have medical  
9 appointments -- these are just some examples --  
10 medical appointments or procedures that cannot be  
11 rescheduled or friends or family, more so family,  
12 that have these procedures that cannot be  
13 rescheduled or travel plans that cannot be  
14 rescheduled, things along those lines.

15 Not that it's inconvenient. We understand  
16 it's inconvenient.

17 I do want to give you a little idea of the  
18 schedule for the week. If you are selected, we  
19 start every day at 8:45. We would end about 4:30.

20 I throw that out there because I know  
21 sometimes people have childcare issues. So we  
22 would pretty much end right around 4:30-ish, give  
23 or take a few minutes on either side of that.

24 If you are selected, you would not be  
25 sequestered overnight. You get to go home. If

1           you want to tell your friends and family that  
2           you're sequestered, that's up to you. Your secret  
3           will be safe with us on that.

4           The only caveat to that, and it's quite  
5           unusual, the only caveat to that is once you start  
6           deliberating, if your deliberations go late into  
7           the evening, you would be sequestered overnight  
8           during your deliberations, but that's very  
9           unusual.

10          And I try to schedule things so that you have  
11          a lot of time to deliberate without having to be  
12          sequestered.

13          So with that in mind, let me start with my  
14          right, your left, anybody have any hardships  
15          during this week --

16          (Some of the prospective jurors indicated in  
17          the affirmative.)

18          THE COURT: -- that we need to deal with?

19          Okay. Let me start with Dr. Griffin. Could  
20          you explain what that is?

21          PROSPECTIVE JUROR NUMBER EIGHT: I have a  
22          private medical practice with patients on the  
23          books the rest of the week, including some  
24          procedures. I'm actively on call, employed by  
25          myself with no coverage.



1           THE COURT: Okay. How do -- as a physician,  
2           you do a, as a medical doctor, you do have the  
3           option to say you don't want to serve if you don't  
4           want to. You can serve if you want to.

5           So you are exercising that option to not  
6           serve?

7           PROSPECTIVE JUROR NUMBER EIGHT: Yes, sir.

8           THE COURT: Okay. Thank you.

9           The law gives that option to doctors and to  
10          lawyers because, primarily, lawyers serve in the  
11          legislature, so they took care of themselves  
12          there.

13          And, Ms. Gonzalez, you told me you were a  
14          doctor, as well, so let me ask you that same  
15          question.

16          You do have the option to not serve if you  
17          don't want to, or you can stay with us for this  
18          process.

19          PROSPECTIVE JUROR NUMBER TEN: I'll stay.

20          THE COURT: You're going to stay? Okay.  
21          Thank you.

22          Mr. Bone, I think you had your hand up on a  
23          hardship.

24          PROSPECTIVE JUROR NUMBER 15: Yes. I have  
25          travel for business, and also that's already

1           booked.

2                   And I have an appointment at the end of the  
3           week. I was unaware this was a whole week.

4                   THE COURT: Right. The end of the week on  
5           Friday?

6                   PROSPECTIVE JUROR NUMBER 15: Yes.

7                   THE COURT: Okay. There's a possibility -- I  
8           can't guarantee it. I never really know exactly  
9           how these things are going to play out -- a  
10          possibility we'll be done by Friday.

11                   Let me first ask about the appointment. In  
12          the event we did run into Friday, is that the kind  
13          of appointment you could reschedule?

14                   PROSPECTIVE JUROR NUMBER 15: No. That's a  
15          personal appointment --

16                   THE COURT: Personal.

17                   PROSPECTIVE JUROR NUMBER 15: -- doctor's  
18          appointment.

19                   THE COURT: Okay.

20                   PROSPECTIVE JUROR NUMBER 15: And the travel,  
21          I travel tomorrow for business.

22                   THE COURT: And can that be rescheduled, or  
23          is that a --

24                   PROSPECTIVE JUROR NUMBER 15: Um, we're in  
25          business planning right now, so it's just -- I

1 can't afford a week.

2 THE COURT: Okay. We'll take that into  
3 consideration. Thank you.

4 Anybody else on that side?

5 (Prospective Juror Number 27 indicated in the  
6 affirmative.)

7 THE COURT: There is a hand way in the back.  
8 Would that be Ms. Patterson?

9 PROSPECTIVE JUROR NUMBER 27: Yes.

10 THE COURT: Okay. If you could stand up,  
11 please.

12 PROSPECTIVE JUROR NUMBER 27: I have elderly  
13 parents that live with me that I have an  
14 appointment with my father on Thursday that I need  
15 to go to.

16 He suffers from dementia, and my mom just has  
17 limitations as to what she can do. So I have to  
18 go to them with their appointments.

19 THE COURT: So you help take care of them --

20 PROSPECTIVE JUROR NUMBER 27: Yes.

21 THE COURT: -- or you do take care of them?

22 PROSPECTIVE JUROR NUMBER 27: Yeah. They  
23 live with me.

24 THE COURT: Okay. We'll take that into  
25 consideration. Thank you, ma'am.

1           Anybody else on my right, your left, that  
2 side of the courtroom?

3           (No response.)

4           THE COURT: All right. No other hands. Let  
5 me switch to the other side of the courtroom.

6           Anybody with hardships during the week?

7           (Some of the prospective jurors indicated in  
8 the affirmative.)

9           THE COURT: Okay. There's a couple of hands,  
10 so let me start with Mr. Booth.

11           PROSPECTIVE JUROR NUMBER 45: Yes, sir. Last  
12 Friday, I had -- I was bleeding internally. Uh,  
13 found that out in the morning, and I ended up  
14 going into the ER later in the day, just hoping it  
15 would go away.

16           Then they admitted me into the hospital at  
17 Baptist South. I spent the weekend there. They  
18 ran a couple tests.

19           The bleeding did stop by Sunday, so they let  
20 me out. They couldn't determine where the  
21 bleeding was coming from, so they scheduled  
22 some -- they're going to do a couple tests this  
23 week, a colonoscopy, a throat endoscopy, and then  
24 a sonogram and a CAT scan.

25           One of them is Wednesday, and the other --

1 the other three, I -- or two of them are  
2 Wednesday. The other two are Friday, so...

3 THE COURT: Okay. You just got out of the  
4 hospital yesterday?

5 PROSPECTIVE JUROR NUMBER 45: It was a  
6 week -- not last -- not yesterday.

7 THE COURT: Oh, a week before. Okay. All  
8 right. So we'll definitely take that into  
9 consideration. Thank you.

10 There was another hand in the back.

11 (Prospective Juror Number 57 indicated in the  
12 affirmative.)

13 THE COURT: Ms. Raynor, if you can stand  
14 'cause I can't really see you back there.

15 What's the issue this week?

16 PROSPECTIVE JUROR NUMBER 57: My  
17 father-in-law has stage four renal failure. My  
18 husband is traveling as of -- he's in Ohio this  
19 morning.

20 And he's been in and out of the hospital  
21 eight times this year, and so I need to be  
22 available in case.

23 Um, he's in assisted living right now, but he  
24 just got out on Friday, but in case he gets  
25 readmitted and has to go to the ER.

1           THE COURT: So that would be something that  
2 might happen, but not --

3           PROSPECTIVE JUROR NUMBER 57: It -- it could  
4 happen. I mean, he's in and out, in and out. So  
5 if I got a phone call, which I wouldn't know,  
6 so...

7           THE COURT: Right.

8           PROSPECTIVE JUROR NUMBER 57: My husband will  
9 not be home until Thursday.

10          THE COURT: All right. I'll definitely take  
11 that in consideration. Thank you.

12          Anybody else on this side of the courtroom?

13          (Prospective Juror Number 54 indicated in the  
14 affirmative.)

15          THE COURT: Ms. Anderson, is it?

16          PROSPECTIVE JUROR NUMBER 54: Yeah.

17          THE COURT: Could you stand up, please?

18          PROSPECTIVE JUROR NUMBER 54: I just have a  
19 question. I take my son to and from school. You  
20 said it would last until about four. He gets out  
21 at 1:45 on Wednesdays. I don't have anybody that  
22 could get him. My biggest concern is getting him  
23 to and from school.

24          THE COURT: So there's no one that can pick  
25 him up?

1 PROSPECTIVE JUROR NUMBER 54: No.

2 THE COURT: How old is he?

3 PROSPECTIVE JUROR NUMBER 54: He's seven.

4 He's in second grade.

5 THE COURT: Seven? Okay. And your husband  
6 works full-time?

7 PROSPECTIVE JUROR NUMBER 54: Yeah. He works  
8 all the time.

9 THE COURT: So Wednesday is really the only  
10 childcare problem?

11 PROSPECTIVE JUROR NUMBER 54: Well, he gets  
12 out at 2:45 through the week, and then on  
13 Wednesday, they get out early at 1:45.

14 THE COURT: Okay. So it would be a childcare  
15 issue?

16 PROSPECTIVE JUROR NUMBER 54: Yeah.

17 THE COURT: Okay. Thank you. We'll take  
18 that into consideration.

19 Did I miss anybody else on that?

20 (No response.)

21 THE COURT: Okay. We've been going about an  
22 hour and 15 minutes, folks. Does anybody want a  
23 break at this point?

24 (No response.)

25 THE COURT: No hands.

1           (Some of the prospective jurors indicated in  
2           the affirmative.)

3           THE COURT: Yeah. Okay. I knew there had to  
4           be a couple hands. The rest -- rest of the folks  
5           are being shy. They don't want to tell us, but  
6           we're going to go ahead and take a break at this  
7           point.

8           Before we do that, let me discuss a couple  
9           things. First of all, remember the seats you're  
10          in because myself and the lawyers are working off  
11          of seating charts so we know who you are.

12          During the break, please do not discuss this  
13          case among yourselves, first of all. Also, do not  
14          do any research of any type. Do not discuss it  
15          with anybody.

16          Do not get on social media and say, oh, you  
17          won't believe I'm down here on jury duty. I hate  
18          jury duty, whatever. Don't do anything like that.  
19          Don't do any research of any type.

20          What we'll do is -- what's the easiest way --  
21          the rest rooms are --

22          (The Court conferred with the bailiff.)

23          THE COURT: Okay. So we have rest rooms --  
24          some of you already know where it is 'cause you  
25          went earlier.



1           We have rest rooms out by the elevators. I  
2           do need everybody to leave the courtroom. Let's  
3           plan on about 15 minutes 'cause there are a fair  
4           number of you.

5           You can walk around a little bit, stretch,  
6           and then as soon as we're ready, we'll get  
7           everybody back in here and then we'll get started.

8           So see y'all in 15 minutes.

9           (The prospective jurors exited the  
10          courtroom.)

11          THE COURT: All right. Y'all can be seated.  
12          I want to address a couple things.

13          MR. BARRETT: Judge, we have a potential  
14          witness. Can we have him excused?

15          THE COURT: Is that a witness?

16          MR. BARRETT: No. That's my boss.

17          THE COURT: Throw him out. Okay.

18          Let's address a couple things before we  
19          break. Rest assured, I will give you all a  
20          comfort break. Don't worry about that.

21          I've got one doctor, Mr. Griffin, who is  
22          claiming to be exempt, and I will go ahead and  
23          excuse Mr. Griffin.

24          I've got a couple people with hardships.  
25          During break time, we'll occasionally take up

1 issues like this so we can maybe thin the herd a  
2 little bit, if you will.

3 Mr. Bone, number 15, has a hardship with  
4 travel and a doctor's appointment. Does anybody  
5 have any opposition to Mr. Bone being excused?

6 (No audible response.)

7 THE COURT: State says no.

8 Defense?

9 MR. BARRETT: No, your Honor.

10 THE COURT: Okay. Ms. Patterson, all the way  
11 in the back on the right, number 27, takes care of  
12 her elderly parents.

13 And her father, who's suffering from  
14 dementia, has an appointment this week. Anybody  
15 have any problem with Ms. Patterson being excused?

16 State?

17 MR. JOHNSON: No, your Honor.

18 THE COURT: Defense?

19 MR. BARRETT: No, your Honor.

20 THE COURT: Okay. Mr. Booth, number 45,  
21 indicated some health issues he has. He has a  
22 number of tests coming up this week, including a  
23 colonoscopy. Would not want to be here during  
24 that prep.

25 Anybody have a problem with him being



1           alternates around for, in case somebody has an  
2           emergency like that, so I'm not going to excuse  
3           her as a hardship at this point.

4           Of the questions that I've asked so far, I've  
5           covered two out of the three topics that I tend to  
6           cover.

7           Anybody have any challenges for cause of any  
8           of the people that are on the panel right now?

9           MR. JOHNSON: I don't have any.

10          THE COURT: None from the State.

11          Anything from the defense?

12          MR. HAMBURG: Judge, number 18, Ms. -- I  
13          believe she said Bouda.

14          THE COURT: Bouda.

15          MR. HAMBURG: Has a son who is a deputy  
16          sheriff. She indicated she hoped she could follow  
17          the law.

18          Your Honor asked her specifically what the  
19          instruction was, and she said she would try not to  
20          give him more weight. Those are equivocal  
21          answers, and she should be removed for cause.

22          THE COURT: All right. So say the State on  
23          that?

24          MR. JOHNSON: Well, Judge, I think we should  
25          be able to inquire further. We have not had an

1 opportunity to discuss that further with her, so  
2 we'd ask that she remain so we can do that.

3 THE COURT: Okay. I'll deny it without  
4 prejudice at this point. You can renew it later,  
5 so y'all can inquire further.

6 MR. HAMBURG: Same as to Ms. Mackey,  
7 number 41. She -- it was about Mr. Privette, the  
8 witness she knew from working at Flagler Hospital.

9 She thought -- she thinks she can follow the  
10 law. Specifically, as to doubt, she said she --  
11 she didn't know and she -- she wouldn't think so,  
12 all these equivocal answers.

13 THE COURT: State taking the same position?

14 MR. JOHNSON: Yes, sir.

15 THE COURT: Okay. So I'll deny that without  
16 prejudice at this point. Obviously, you can renew  
17 it later. We can address it later.

18 MR. HAMBURG: Yes, Judge.

19 THE COURT: All right. With that, we'll take  
20 a break. Ten minutes.

21 (Court was in recess from 11:15 a.m. until  
22 11:27 a.m.)

23 THE COURT: All right. We have all parties  
24 present, including the defendant. We can go ahead  
25 and start moving the jurors in.

1 MR. BARRETT: Judge, if we could just have --

2 THE COURT: Okay. Hold on. Hold a second.

3 MR. BARRETT: Judge, there was one juror, and  
4 we're trying to locate her name, that indicated to  
5 the Court that she was a widow and her husband had  
6 just passed recently. She was essentially tearing  
7 up. She was crying.

8 MR. HAMBURG: Ms. Dupont.

9 THE COURT: I know who you're talking about.  
10 She didn't mention if that was by homicide,  
11 natural causes, whatever.

12 So what's the State's position?

13 MR. JOHNSON: We would like to inquire,  
14 Judge.

15 THE COURT: Yeah. I'll give y'all a chance  
16 to inquire on that.

17 Okay. Now we can bring them in.

18 (The prospective jurors entered the  
19 courtroom.)

20 THE COURT: Y'all can be seated in the  
21 courtroom. That's the only way I can see if we  
22 have everybody.

23 Okay. Before we get started, there's a few  
24 of you I'm going to go ahead and excuse at this  
25 point. You will be excused from jury duty.

1           And I want to thank you for coming down here  
2           this morning, even though you didn't have much of  
3           a choice on it.

4           Dr. Griffin, you are excused. Thank you,  
5           sir.

6           Mr. Bone, you are excused. Thank you, sir.

7           And, Ms. Patterson, you are excused, ma'am.  
8           Thank you.

9           And then there's two on this side of the  
10          courtroom.

11          Mr. Booth, you are excused. Thank you.

12          And, Ms. Anderson, you are excused. Thank  
13          you.

14          (The selected prospective jurors exited the  
15          courtroom.)

16          THE COURT: All right. The rest of you are  
17          still with us for a bit, thin the crowd a little  
18          bit.

19          (Prospective Juror Number Two raised her  
20          hand.)

21          THE COURT: Ms. Williams?

22          PROSPECTIVE JUROR NUMBER THREE: Yes, sir. I  
23          just wanted you guys to be aware that my  
24          father-in-law is a St. Johns County sergeant.

25          THE COURT: Police sergeant?

1 PROSPECTIVE JUROR NUMBER THREE: Yes.

2 THE COURT: Okay. All right. So let me ask  
3 you the question I asked some of the other folks.

4 The -- his name wasn't on the list, I  
5 presume?

6 PROSPECTIVE JUROR NUMBER THREE: No, it  
7 wasn't.

8 THE COURT: Okay. If there are, and there  
9 will be, law enforcement officers, I presume, who  
10 testify, would you be able to follow the  
11 instructions that I give you about weighing the  
12 testimony and evidence of witnesses --

13 PROSPECTIVE JUROR NUMBER THREE: Absolutely.

14 THE COURT: -- or would you put greater  
15 weight to a police officer's testimony merely  
16 because he or she's a police officer?

17 PROSPECTIVE JUROR NUMBER THREE: No, sir, I  
18 would not.

19 THE COURT: Okay. Thank you. All right.  
20 Thank you.

21 All right. Folks, we're going to go probably  
22 another 45 minutes before we break for lunch, and  
23 then we'll come back and reconvene.

24 The next series of questions that I want to  
25 ask you deal with the possible penalties in this



1 case, which I alluded to a little bit earlier.

2 As I discussed earlier, the issue for the  
3 jury to decide in this case is what is the  
4 appropriate sentence for the defendant in this  
5 case for the convictions on two counts of  
6 first-degree murder.

7 As I mentioned earlier, there are only two  
8 sentences available in Florida for persons  
9 convicted of first-degree murder.

10 One is life in prison without any possibility  
11 of parole, and the other is death.

12 So in just a few moments, I'm going to ask  
13 you questions about your feelings about the death  
14 penalty.

15 Before I do that, I want to go over with you  
16 the process that the jury goes through in making a  
17 determination with regards to the appropriate  
18 sentence.

19 There will be more detailed instructions on  
20 this if you are selected to serve as a juror in  
21 this case.

22 The State and the defendant may present  
23 evidence relative to the nature of the crime and  
24 the defendant's character, background, or life.

25 That evidence would be presented in order for

1 the jury to determine, one, whether the  
2 aggravating factors alleged by the State have been  
3 proven beyond a reasonable doubt.

4 Two, whether the aggravating factors found to  
5 exist beyond a reasonable doubt, if any, are  
6 sufficient for imposition of the death penalty.

7 Three, whether mitigating circumstances are  
8 proven by the greater weight of the evidence.

9 Four, whether the aggravating factors  
10 outweigh the mitigating circumstances.

11 And, five, whether the defendant should be  
12 sentenced to life imprisonment without the  
13 possibility of parole or death.

14 So let me explain that a little more. Let me  
15 first define for you what an aggravating factor  
16 is.

17 An aggravating factor is a standard to guide  
18 the jury in making the choice between a verdict of  
19 life in prison without the possibility of parole  
20 or death.

21 It is a statutorily enumerated circumstance  
22 that increases the gravity of a crime or the harm  
23 to a victim.

24 A jury must unanimously agree that each  
25 aggravating factor was proven beyond a reasonable

1           doubt before it may be considered by the jury in  
2           arriving at its verdict in that phase of the  
3           trial.

4           In order to consider the death penalty as a  
5           possible penalty, the jury must unanimously  
6           determine that at least one aggravating factor has  
7           been proven beyond a reasonable doubt.

8           The State has the burden to prove each  
9           aggravating factor beyond a reasonable doubt.

10          A reasonable doubt is not a mere possible  
11          doubt, a speculative, imaginary, or forced doubt.

12          Such a doubt must not influence you to  
13          disregard a aggravating factor if you have an  
14          abiding conviction that it exists.

15          On the other hand, if after carefully  
16          considering, comparing, and weighing all the  
17          evidence, you do not have an abiding conviction  
18          that the aggravating factor exists, or if having a  
19          conviction, it is one which is not stable, but one  
20          which wavers and vacillates, then the aggravating  
21          factor has not been proved beyond a reasonable  
22          doubt, and you must not consider it in providing  
23          your verdict on the appropriate sentence.

24          A reasonable doubt as to the existence of an  
25          aggravating factor may arise from the evidence,

1 conflicts in the evidence, or the lack of  
2 evidence.

3 If a juror has a reasonable doubt as to the  
4 existence of an aggravating factor, they must find  
5 that it does not exist.

6 However, if a juror has no reasonable doubt,  
7 they should find that the aggravating factor does  
8 exist.

9 Before moving on to mitigating circumstances,  
10 which I'll explain to you in a moment, the jury  
11 must determine whether the aggravating factors  
12 proven beyond a reasonable doubt, if any, are  
13 sufficient to impose a sentence of death.

14 If the jury does not unanimously agree that  
15 the aggravating factors are sufficient to impose  
16 death, it would not move on to consider the  
17 mitigating circumstance, and the sentence that  
18 would be imposed is life in prison without the  
19 possibility of parole.

20 Should the jury find unanimously that  
21 sufficient aggravating factors exist to justify  
22 the imposition of the death penalty, it will then  
23 be the jury's duty to determine whether the  
24 aggravating factors unanimously found to have been  
25 proven beyond a reasonable doubt outweigh the

1 mitigating circumstances that the jurors find to  
2 have been established.

3 Unlike aggravating factors, the jury does not  
4 need to unanimously agree that a mitigating  
5 circumstance has been established.

6 Rather, whether a mitigating circumstance has  
7 been established is an individual judgment by each  
8 juror.

9 A mitigating circumstance is not limited to  
10 the facts surrounding the crime. It can be  
11 anything which might indicate that the death  
12 penalty is not appropriate for this defendant.

13 In other words, a mitigating circumstance may  
14 include any aspect of the defendant's character,  
15 background, or life, or any circumstance of the  
16 offense that reasonably may indicate that the  
17 death penalty is not an appropriate sentence in  
18 this case.

19 A mitigating circumstance need not be proven  
20 beyond a reasonable doubt by the defendant. A  
21 mitigating circumstance need only be proven by the  
22 greater weight of the evidence, which means  
23 evidence that, more likely than not, tends to  
24 prove the existence of a mitigating circumstance.

25 If a juror determines by the greater weight

1 of the evidence that a mitigating circumstance  
2 exists, they may consider it established and give  
3 that evidence such weight as they determine it  
4 should receive in reaching a conclusion as to the  
5 sentence to be imposed.

6 The jury would then be asked to decide  
7 whether the aggravating factors outweigh the  
8 mitigating circumstances.

9 If the jury finds they do, then the jury  
10 would decide whether it feels death is an  
11 appropriate sentence.

12 The jury's decision that death is an  
13 appropriate sentence must be unanimous. If it is  
14 not unanimous, then a sentence of life in prison  
15 without the possibility of parole will be imposed.

16 And, again, if you are selected as jurors in  
17 this case, you would receive detailed instructions  
18 on that.

19 So I'm going to ask you, first of all --  
20 we're going to go one by one. And we'll probably  
21 break -- we will break for lunch in the middle of  
22 this process.

23 So the first thing I'm going to ask you is  
24 what your feelings are about the death penalty.  
25 Most people have opinions, not everybody, but most

1 people have opinions on the death penalty. They  
2 either favor it, they disfavor it, whatever it is.

3 The next question I'm going to ask you is  
4 whether your feelings about the death penalty are  
5 such that you could never find a death sentence to  
6 be appropriate, regardless of the facts and the  
7 law, or if you feel it should always be  
8 appropriate in a first-degree-murder case or where  
9 somebody's been convicted of first-degree murder,  
10 regardless of the facts and the law that I would  
11 give you.

12 So we're going to start with Ms. Terry. I  
13 know you don't necessarily want to be the first  
14 one picked on, but we're going to start with you.

15 And once we've gone through a couple folks,  
16 you'll see the questions that I'm asking.

17 So, Ms. Terry, let me first ask you what your  
18 thoughts, if you have any, about the death penalty  
19 are.

20 PROSPECTIVE JUROR NUMBER ONE: Not really  
21 any, um, any thoughts on it.

22 THE COURT: So you haven't come to -- you  
23 don't have an opinion whether you believe in it or  
24 don't believe in it?

25 PROSPECTIVE JUROR NUMBER ONE: I believe that

1 if it fits the crime.

2 THE COURT: Okay. So you believe it may be  
3 appropriate?

4 PROSPECTIVE JUROR NUMBER ONE: It may be  
5 appropriate in some cases.

6 THE COURT: Do you think it should be imposed  
7 in every first-degree-murder case, or it depends  
8 on the facts?

9 PROSPECTIVE JUROR NUMBER ONE: I think it  
10 depends on the facts.

11 THE COURT: Okay. Could you fairly consider  
12 imposition of a life sentence if you felt the  
13 facts and the law supported that?

14 PROSPECTIVE JUROR NUMBER ONE: Yes.

15 THE COURT: Okay. Thank you, ma'am.

16 Ms. Shelton, we'll go to you next. What are  
17 your opinions, if any, about the death penalty?

18 PROSPECTIVE JUROR NUMBER TWO: Um, I do favor  
19 the death penalty.

20 THE COURT: Okay. And so let me ask you the  
21 follow-up question. Is it your belief that it  
22 should be imposed in every case where somebody's  
23 convicted of first-degree murder, or could you  
24 fairly consider imposition of a life sentence if  
25 you felt that the facts and law supported that?



1 PROSPECTIVE JUROR NUMBER TWO: No. I don't  
2 believe it's for every case. I would have to look  
3 at the facts.

4 THE COURT: So you could fairly consider a  
5 life sentence?

6 PROSPECTIVE JUROR NUMBER TWO: Yes, sir.

7 THE COURT: Okay.

8 Ms. Williams, do you have an opinion about  
9 the death penalty?

10 PROSPECTIVE JUROR NUMBER THREE: No, sir.

11 THE COURT: Not one way or another?

12 PROSPECTIVE JUROR NUMBER THREE: Um, no, sir.

13 THE COURT: Okay. Could you fairly consider,  
14 um, an imposition or determine -- let me rephrase  
15 that.

16 Could you fairly consider rendering a verdict  
17 that the death sentence, a death sentence, is  
18 appropriate if you felt the facts and the law  
19 justified it?

20 PROSPECTIVE JUROR NUMBER THREE: Yes.

21 THE COURT: Okay. Let me ask you the flip  
22 side of that. Could you fairly consider returning  
23 a verdict that a life sentence without the  
24 possibility of parole is appropriate if you felt  
25 the facts and the law justified that?

1 PROSPECTIVE JUROR NUMBER THREE: Yes, sir.  
2 THE COURT: Okay. Thank you.  
3 All right. Ms. Hanke, we'll move on to you.  
4 Do you have an opinion about the death penalty?  
5 PROSPECTIVE JUROR NUMBER FOUR: Um, I  
6 struggle with my opinion on it.  
7 THE COURT: Okay.  
8 PROSPECTIVE JUROR NUMBER FOUR: It's the most  
9 serious thing to ever consider, I think.  
10 THE COURT: Okay. Keep your voice up. It's  
11 hard to hear you back there.  
12 And it is serious. There's no doubt about  
13 that. This is a serious matter. You said you --  
14 explain your struggle a little bit to us.  
15 PROSPECTIVE JUROR NUMBER FOUR: Um, I believe  
16 it's above my pay grade. I don't feel like  
17 it's -- I don't know. I -- I haven't really  
18 talked about this subject with -- before, maybe  
19 ever, so it's a new thing to consider.  
20 THE COURT: Okay. So let me ask you this  
21 question: If you were on this jury, could you  
22 fairly consider a verdict determining a -- or  
23 finding that the death penalty was an appropriate  
24 sentence if you felt that the facts and law  
25 justified it?

1           PROSPECTIVE JUROR NUMBER FOUR: I don't know.  
2 I know that's not helpful.

3           THE COURT: So you would struggle with that?

4           PROSPECTIVE JUROR NUMBER FOUR: I would -- I  
5 would struggle with it.

6           THE COURT: There aren't many people put in  
7 this position. I understand that, so I appreciate  
8 how difficult this is for some folks. Thank you.

9           Ms. Nutt, let me ask you. Do you have an  
10 opinion or belief about the death penalty?

11          PROSPECTIVE JUROR NUMBER FIVE: Not a strong  
12 one either way. I think it would be  
13 circumstantial for me.

14          THE COURT: So let me follow up with the  
15 questions. If you were selected to serve as a  
16 juror, could you fairly consider a verdict that  
17 the death penalty is appropriate if you felt the  
18 facts, circumstances, and the law justified that?

19          PROSPECTIVE JUROR NUMBER FIVE: Yes.

20          THE COURT: Same question on the flip side.  
21 Could you fairly consider returning a verdict that  
22 a life sentence without the possibility of parole  
23 is the appropriate sentence if you felt the facts  
24 and law justified it?

25          PROSPECTIVE JUROR NUMBER FIVE: Yes.

1 THE COURT: Thank you.

2 All right. Dr. Gonzalez, I'll ask you the  
3 same questions. Do you have an opinion or belief  
4 about the death penalty?

5 PROSPECTIVE JUROR NUMBER TEN: I think  
6 probably most people are redeemable. I've never  
7 been on a jury to listen to evidence, so I don't  
8 know if there's something so egregious that would  
9 justify the death penalty for me.

10 THE COURT: If you were selected to serve on  
11 the jury, could you fairly consider returning a  
12 verdict that the death penalty is appropriate if  
13 you felt the facts and circumstances were such  
14 to -- and the law were such to warrant it?

15 PROSPECTIVE JUROR NUMBER TEN: Yes.

16 THE COURT: You said you felt everybody's  
17 redeemable.

18 PROSPECTIVE JUROR NUMBER TEN: Most people  
19 are redeemable.

20 THE COURT: Most people, okay. But you think  
21 there are facts and circumstances that you might  
22 think would be appropriate for a death penalty?

23 PROSPECTIVE JUROR NUMBER TEN: If I heard  
24 them. I mean, I would have to --

25 THE COURT: And we're not going to put those

1 out there now.

2 PROSPECTIVE JUROR NUMBER TEN: Right, but it  
3 would depend on the evidence.

4 THE COURT: And on the flip side, could you  
5 fairly consider returning a verdict that a life  
6 sentence without the possibility of parole was the  
7 appropriate sentence if you felt the facts,  
8 circumstances, and law supported that?

9 PROSPECTIVE JUROR NUMBER TEN: Yes.

10 THE COURT: Thank you.

11 Mr. Debruhl, let me ask you those questions.  
12 Do you have an opinion or belief about the death  
13 penalty?

14 PROSPECTIVE JUROR NUMBER NINE: If there's  
15 situations presented that it would be appropriate.

16 THE COURT: Okay. So you're not necessarily  
17 opposed to it in certain circumstances?

18 PROSPECTIVE JUROR NUMBER NINE: Correct.

19 THE COURT: Okay. Could you fairly consider  
20 returning a verdict that a life sentence without  
21 the possibility of parole was the appropriate  
22 sentence if you felt that the facts,  
23 circumstances, and the law supported that?

24 PROSPECTIVE JUROR NUMBER NINE: Yes.

25 THE COURT: Okay. Could you do the same with

1            regards to a death -- could you -- do you feel you  
2            could return a verdict finding that a sentence of  
3            death is appropriate if you felt the facts,  
4            circumstances, and law supported it?

5            PROSPECTIVE JUROR NUMBER NINE:  Yes.

6            THE COURT:  Thank you.

7            Mr. Lambert?

8            PROSPECTIVE JUROR NUMBER SEVEN:  Yes.

9            THE COURT:  Do you have an opinion or belief  
10           on the death penalty?

11           PROSPECTIVE JUROR NUMBER SEVEN:  Your Honor,  
12           I'm fine with the State of Florida having the  
13           death penalty as a possibility.

14           THE COURT:  Okay.  Could you fairly consider,  
15           if you were selected to serve on this jury,  
16           returning a verdict that a life sentence is  
17           appropriate for first-degree murder if you felt  
18           that the facts, circumstances, and the law deemed  
19           it to be appropriate?

20           PROSPECTIVE JUROR NUMBER SEVEN:  I could.

21           THE COURT:  Thank you.

22           Ms. Roberts, I'll ask you the same questions.  
23           First of all, your opinions and beliefs about the  
24           death penalty, if you have any?

25           PROSPECTIVE JUROR NUMBER SIX:  Um, I'm not



1 last part.

2 PROSPECTIVE JUROR NUMBER 11: I vacillate.  
3 I'm not sure anymore.

4 THE COURT: Okay. So --

5 PROSPECTIVE JUROR NUMBER 11: Which is worse,  
6 live a life without freedom or give peace to  
7 relatives and lost loved ones?

8 THE COURT: Okay.

9 PROSPECTIVE JUROR NUMBER 11: Don't know  
10 where I stand on that.

11 THE COURT: Okay. If you were selected to  
12 serve as a juror in this case --

13 PROSPECTIVE JUROR NUMBER 11: I don't think I  
14 could answer that. I don't think I could give --

15 THE COURT: You don't think under any  
16 circumstances you could return a verdict that --  
17 that would find the death penalty to be  
18 appropriate?

19 PROSPECTIVE JUROR NUMBER 11: Well, that's  
20 what I just said. Does the heinousness of a  
21 crime -- can -- is that enough to say we want the  
22 death penalty? Or what's worse, spending a life  
23 without the chance of parole?

24 I can't choose which is worse. On the one  
25 hand, you're giving peace to relatives of lost



1 loved ones.

2 On the other hand, we all die, so does it  
3 matter if we go to sleep now with -- with drugs,  
4 or does it matter if we die after a life behind  
5 bars?

6 THE COURT: Could you fairly consider  
7 returning a verdict that a death sentence is  
8 appropriate if you felt the facts, circumstances,  
9 and law supported it?

10 PROSPECTIVE JUROR NUMBER 11: I don't know.  
11 I don't know because I don't know if I could say  
12 the heinousness of a crime would be enough to  
13 force me to make that decision.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR NUMBER 11: I mean, I -- I  
16 do, but sitting here without seeing the evidence,  
17 without knowing anything about the crime, I don't  
18 know that I could say yes.

19 THE COURT: So do you have a doubt in your  
20 mind as to whether you could return a verdict that  
21 death is an appropriate sentence?

22 PROSPECTIVE JUROR NUMBER 11: Um, yeah. I've  
23 never been placed in that situation.

24 THE COURT: Right.

25 PROSPECTIVE JUROR NUMBER 11: I was really

1 not ready for my opinions on capital punishment.

2 When I was young, I was all for capital  
3 punishment.

4 THE COURT: Right, right.

5 PROSPECTIVE JUROR NUMBER 11: Now -- now,  
6 spending a life behind bars certainly, um,  
7 certainly may be worse 'cause we're all going to  
8 face judgment in the end.

9 THE COURT: Okay. Thank you.

10 Let me move on to Ms. Canale. Let me ask you  
11 your opinions and beliefs, if you have any, about  
12 the death penalty.

13 PROSPECTIVE JUROR NUMBER 12: I do, and I'm  
14 adamantly opposed to the death penalty. My  
15 religious beliefs, I would not be able to make a  
16 decision.

17 THE COURT: So under no circumstances --

18 PROSPECTIVE JUROR NUMBER 12: Under no  
19 circumstances. Never.

20 THE COURT: -- could you find a verdict  
21 finding death to be appropriate?

22 PROSPECTIVE JUROR NUMBER 12: Never.

23 THE COURT: Okay. Thank you.

24 Mr. Bonday?

25 PROSPECTIVE JUROR NUMBER 13: Ms. Bonday.

1           THE COURT: I can't see you all, so I  
2 apologize.

3           PROSPECTIVE JUROR NUMBER 13: I do believe in  
4 the death penalty.

5           THE COURT: Okay. Could you fairly consider  
6 a -- returning a verdict that life imprisonment is  
7 the appropriate sentence if you felt the facts,  
8 circumstances, and law supported it?

9           PROSPECTIVE JUROR NUMBER 13: I think so.  
10 Yes.

11          THE COURT: Do you have any doubt in your  
12 mind whether you could consider that?

13          PROSPECTIVE JUROR NUMBER 13: Without no --  
14 well, I would have to see, but yeah. If the  
15 evidence supported it, yes.

16          THE COURT: Okay. Thank you.

17          Ms. Beaty, let me ask you first your opinion  
18 or belief about the death penalty, if you have  
19 any.

20          PROSPECTIVE JUROR NUMBER 14: I believe  
21 that's appropriate in some cases.

22          THE COURT: Okay. Could you fairly consider  
23 returning a verdict finding a life sentence  
24 without the possibility of parole to be the  
25 appropriate sentence if you felt that the facts,

1           circumstances, and law supported that?

2                   PROSPECTIVE JUROR NUMBER 14:  Yes.

3           THE COURT:  Okay.  Thank you.

4                   Next going to Ms. Karl.  Ms. Karl, your  
5           beliefs or opinions about the death penalty, if  
6           any?

7                   PROSPECTIVE JUROR NUMBER 20:  I don't favor  
8           either way.  Depending on the circumstances.

9           THE COURT:  I'm having a real hard time  
10          hearing you.

11                  PROSPECTIVE JUROR NUMBER 20:  I don't favor  
12          either way.  Depending on the circumstances.

13                  THE COURT:  Do you feel -- if you were  
14          selected to serve as a juror in this case, do you  
15          feel you could return a verdict finding the death  
16          sentence to be appropriate if the facts,  
17          circumstances, and the law supported that?

18                  PROSPECTIVE JUROR NUMBER 20:  Yes.

19                  THE COURT:  Same question the other way.  
20          Could you fairly consider a verdict finding life  
21          in prison to be the appropriate sentence if you  
22          felt the facts and circumstances and law support  
23          it?

24                  PROSPECTIVE JUROR NUMBER 20:  Yes.

25                  THE COURT:  Thank you.

1           Ms. Griener, let me ask, first of all, your  
2           opinions and beliefs, if any, about the death  
3           penalty.

4           PROSPECTIVE JUROR NUMBER 19: I think there  
5           are circumstances where it's appropriate.

6           THE COURT: Okay. And could you fairly  
7           consider returning a verdict finding that life in  
8           prison was appropriate if you felt the facts,  
9           circumstances, and law supported it?

10          PROSPECTIVE JUROR NUMBER 19: I believe I  
11          could.

12          THE COURT: Any doubt in your mind?

13          PROSPECTIVE JUROR NUMBER 19: Without seeing  
14          the evidence, it's hard to say that.

15          THE COURT: Could you fairly consider it, or  
16          do you think the death penalty is appropriate in  
17          every case where first-degree --

18          PROSPECTIVE JUROR NUMBER 19: No. I think I  
19          could fairly consider it.

20          THE COURT: Ms. Bouda, let me first ask your  
21          opinions or beliefs, if any, about the death  
22          penalty.

23          PROSPECTIVE JUROR NUMBER 18: I think there  
24          are circumstances when it's appropriate.

25          THE COURT: Okay. Could you fairly consider

1           returning a verdict finding a life sentence  
2           appropriate if you felt the facts and  
3           circumstances and the law supported it?

4           PROSPECTIVE JUROR NUMBER 18: Yes.

5           THE COURT: Thank you.

6           Ms. Powell -- as you get further back, it's a  
7           little harder to see folks -- first, your opinions  
8           or beliefs about the death penalty, if any?

9           PROSPECTIVE JUROR NUMBER 17: I personally do  
10          not like the death penalty. It's not that I  
11          oppose it. I just don't like it. Um, I don't  
12          feel that I'm God. I don't have the right to take  
13          someone's life.

14          However, I'm not here on my personal beliefs.  
15          I'm here on the State's beliefs, on the laws of  
16          the State.

17          So I would have to put that aside because of  
18          what -- of the State and look at all of the  
19          evidence and the testimony and make a reasonable  
20          decision.

21          THE COURT: Okay. With that said and your  
22          discomfort that you shared with us -- we  
23          appreciate you sharing that with us -- do you feel  
24          that you could fairly consider returning a verdict  
25          that a -- that the death penalty is appropriate if

1           you felt the facts, circumstances, and law  
2           supported it?

3                   PROSPECTIVE JUROR NUMBER 17: I feel that I  
4           could fairly consider it. Yes.

5                   THE COURT: Okay. Well, thank you, ma'am.

6                   Ms. Suffae, let me first ask your opinions or  
7           beliefs, if any, about the death penalty.

8                   PROSPECTIVE JUROR NUMBER 16: I do not  
9           believe in the death penalty in any situation.

10                   THE COURT: So could you fairly -- if you  
11           were selected to serve as a juror in this case,  
12           could you fairly consider returning a verdict that  
13           the death penalty is appropriate, or could you not  
14           do that based upon your beliefs?

15                   PROSPECTIVE JUROR NUMBER 16: Based upon my  
16           bible-trained conscience and my beliefs, I could  
17           never put myself in a position to judge anyone as  
18           to whether even the death penalty is appropriate  
19           or life in prison was appropriate.

20                   I don't think I'm able to -- I would not be  
21           able to do that.

22                   THE COURT: Okay. Thank you, ma'am.

23                   Ms. Dupont?

24                   PROSPECTIVE JUROR NUMBER 21: Yes. I don't  
25           have any strong opinions as far as either way. It

1 would have to be a case-by-case situation.

2 THE COURT: Okay. So you fairly could  
3 consider both, a -- returning a verdict that  
4 death's appropriate or returning a verdict that a  
5 life sentence is appropriate, depending on the  
6 facts and circumstances and applying the law?

7 PROSPECTIVE JUROR NUMBER 21: Yes, sir.

8 THE COURT: Thank you, ma'am.

9 Ms. Fiori?

10 PROSPECTIVE JUROR NUMBER 22: Hi. Yeah. Um,  
11 I am against the death penalty, and also my  
12 beliefs.

13 Like, I'm not God to judge or decide what  
14 should be done, so, uh, I don't feel comfortable  
15 with that.

16 THE COURT: With that said, could you fairly  
17 consider returning a verdict that the death  
18 penalty is appropriate if the facts and  
19 circumstances supported it, or would you always  
20 say no?

21 PROSPECTIVE JUROR NUMBER 22: I would always  
22 say no.

23 THE COURT: Mr. Collins?

24 PROSPECTIVE JUROR NUMBER 23: I am for the  
25 death penalty.



1           THE COURT: Could you fairly consider  
2 imposition of a life sentence if you felt the  
3 facts, circumstances, and the law supported that?

4           PROSPECTIVE JUROR NUMBER 23: I could not. I  
5 think it's a waste of time, money, and space.

6           THE COURT: So you think the death penalty  
7 should always be imposed if somebody's been  
8 convicted of first-degree murder?

9           PROSPECTIVE JUROR NUMBER 23: If I get the  
10 two choices, yes, sir.

11          THE COURT: Regardless of the facts and  
12 circumstances?

13          PROSPECTIVE JUROR NUMBER 23: Exactly.

14          THE COURT: Thank you.

15          Mr. Jaudon?

16          PROSPECTIVE JUROR NUMBER 24: Jaudon, yes,  
17 sir.

18          THE COURT: Got the name right this time.  
19 Could you tell me your beliefs or opinions, if  
20 any, about the death penalty?

21          PROSPECTIVE JUROR NUMBER 24: I think it's  
22 appropriate in certain cases. Um, I think to  
23 impose it would require a great deal of thought  
24 and reflection.

25          THE COURT: Could you fairly consider

1           returning a verdict finding that the death penalty  
2           is appropriate if you felt the facts and  
3           circumstances supported it?

4           PROSPECTIVE JUROR NUMBER 24: Yes, sir.

5           THE COURT: And on the flip side, could you  
6           fairly consider returning a verdict that a life  
7           sentence was appropriate if you felt the facts and  
8           circumstances supported it?

9           PROSPECTIVE JUROR NUMBER 24: Absolutely.

10          THE COURT: Thank you.

11          Mr. Siegel?

12          PROSPECTIVE JUROR NUMBER 25: Yes.

13          THE COURT: Your beliefs or opinions about  
14          the death penalty, if any?

15          PROSPECTIVE JUROR NUMBER 25: I'm an opponent  
16          of the death penalty.

17          THE COURT: You're -- I'm sorry. You're --

18          PROSPECTIVE JUROR NUMBER 25: I'm an opponent  
19          of the death penalty.

20          THE COURT: Oh, I --

21          PROSPECTIVE JUROR NUMBER 25: -- against it.

22          I just believe one faulty conviction and  
23          execution, which historically has been more  
24          prevalent, I think, than we all would have liked,  
25          is enough to outweigh the rule as it stands.

1           THE COURT: Okay. If you were selected to  
2           serve as a juror in this case, could you fairly  
3           consider returning a verdict that the death  
4           penalty was appropriate if the facts,  
5           circumstances, and law supported it, or would you  
6           always vote against it?

7           PROSPECTIVE JUROR NUMBER 25: No. I believe  
8           I could. I'm against it, as I said; however, I  
9           also believe in the rule of law.

10          If the evidence supported it based on Florida  
11          law -- again, I do believe in following the law -- I  
12          believe I could.

13          THE COURT: Okay. Thank you.

14          Ms. Grehl in the back?

15          PROSPECTIVE JUROR NUMBER 30: Hi.

16          THE COURT: Could you first share with us  
17          your opinions or beliefs about the death penalty?

18          PROSPECTIVE JUROR NUMBER 30: I -- if  
19          appropriate, yes. I would have no problem with  
20          the death penalty.

21          THE COURT: Okay. And if you were selected  
22          to serve as a juror, could you fairly consider  
23          returning a verdict that a life sentence was  
24          appropriate if you felt the facts, circumstances,  
25          and law supported it?

1           PROSPECTIVE JUROR NUMBER 30: This is where  
2           it gets a little cloudy for me. I feel since the  
3           death penalty was brought up, um, the crime must  
4           have been so heinous that I don't know if I could,  
5           uh, go a -- with a life sentence.

6           THE COURT: Regardless of what the facts and  
7           circumstances were?

8           PROSPECTIVE JUROR NUMBER 30: Yes.

9           THE COURT: Okay. Thank you, ma'am.

10          Mr. Cooper, your opinions or beliefs about  
11          the death penalty, if any?

12          PROSPECTIVE JUROR NUMBER 29: Personally, I  
13          am opposed to the death penalty.

14          THE COURT: Could you fairly -- if you were  
15          selected to serve as a juror, could you fairly  
16          consider returning a verdict that the death  
17          penalty was appropriate or is appropriate if you  
18          felt the facts, circumstances, and law supported  
19          it?

20          PROSPECTIVE JUROR NUMBER 29: Yes.

21          THE COURT: Okay. Okay. Thank you.

22          Ms. Macklin, first, your opinions and beliefs  
23          about the death penalty, if any?

24          PROSPECTIVE JUROR NUMBER 28: Provided  
25          circumstantial evidence, I'm for it.

1           THE COURT:  If you were selected to serve as  
2           a juror, could you fairly consider returning a  
3           verdict finding that a life sentence was  
4           appropriate if you felt the facts, circumstances,  
5           and law supported it?

6           PROSPECTIVE JUROR NUMBER 28:  Yes, sir.

7           THE COURT:  Okay.  And on this side,  
8           Mr. Metcalf, all the way in the corner.

9           PROSPECTIVE JUROR NUMBER 26:  I believe it  
10          may be appropriate based on facts, circumstances,  
11          and law.

12          THE COURT:  So could you fairly consider both  
13          returning a verdict that death was appropriate or  
14          that life in prison was appropriate depending on  
15          the facts, circumstances, and the law?

16          PROSPECTIVE JUROR NUMBER 26:  Yes, sir.

17          THE COURT:  So you could consider both?

18          PROSPECTIVE JUROR NUMBER 26:  Yes.

19          THE COURT:  Thank you.

20          Let's switch to this side of the courtroom,  
21          and we'll start with Ms. Simmons.  Good morning  
22          again.

23          Could you share with us your beliefs and  
24          opinions about the death penalty?

25          PROSPECTIVE JUROR NUMBER 31:  I'm a little

1           uneasy with the death penalty.  However, if  
2           everything presented itself, then I could agree  
3           with it.

4           THE COURT:  Okay.  So if you were selected to  
5           serve as a juror in this case, could you fairly  
6           consider returning a verdict that the death  
7           penalty is appropriate if you felt the facts,  
8           circumstances, and the law justified it?

9           PROSPECTIVE JUROR NUMBER 31:  Yes.

10          THE COURT:  All right.  Same question the  
11          other way.  Could you fairly consider a verdict  
12          that a life sentence is the appropriate sentence  
13          if the facts and circumstances and law justified  
14          it?

15          PROSPECTIVE JUROR NUMBER 31:  Yes.

16          THE COURT:  Okay.  Thank you.

17          Ms. Stambaugh, same questions.  We'll start  
18          with your opinions or beliefs about the death  
19          penalty.

20          PROSPECTIVE JUROR NUMBER 32:  I could -- I  
21          could go either way.  Just depends.

22          THE COURT:  No strong opinion either way?

23          So if you were selected to serve on this  
24          jury, could you fairly consider returning a  
25          verdict that death is appropriate or life in

1           prison is appropriate depending on the facts,  
2           circumstances, and the law?

3                   PROSPECTIVE JUROR NUMBER 32: Yes.

4           THE COURT: You could consider both? Okay.  
5           Mr. Hasty?

6                   PROSPECTIVE JUROR NUMBER 33: Depending on  
7           the facts and circumstances, I would be okay with  
8           both.

9           THE COURT: Do you have an opinion about the  
10          death penalty one way or another?

11                   PROSPECTIVE JUROR NUMBER 33: I feel it  
12          shouldn't be used lightly and I feel it should not  
13          be used in every circumstance, but, like I said,  
14          if certain circumstances were to present itself,  
15          then...

16          THE COURT: Okay. But you could fairly  
17          consider both depending on the facts,  
18          circumstances, and the law?

19                   PROSPECTIVE JUROR NUMBER 33: Yes.

20          THE COURT: Ms. Vil Matthews, do you have an  
21          opinion or belief about the death penalty?

22                   PROSPECTIVE JUROR NUMBER 34: I don't think  
23          it's a decision that should be taken lightly. The  
24          evidence have to support it because it's a very  
25          hard decision, but based on the evidence, I can

1 fairly go either way.

2 THE COURT: Okay. You can fairly consider --

3 PROSPECTIVE JUROR NUMBER 34: Oh, yeah.

4 THE COURT: -- a death penalty or a life  
5 sentence depending on the facts and circumstances?

6 PROSPECTIVE JUROR NUMBER 34: Based on the  
7 evidence.

8 THE COURT: Thank you, ma'am.

9 Ms. Julao, do you have an opinion or belief  
10 about the death penalty?

11 PROSPECTIVE JUROR NUMBER 35: I don't have  
12 any strong opinions. It's all base on evidence,  
13 facts, and the rule of law.

14 THE COURT: Okay. Could you fairly consider  
15 returning a verdict that the death penalty is  
16 appropriate if the facts and circumstances  
17 supported it?

18 PROSPECTIVE JUROR NUMBER 35: I can fairly  
19 consider it.

20 THE COURT: Same question the other way.  
21 Could you fairly consider a life -- that a life  
22 sentence is appropriate if the facts, circumstances,  
23 and law supported it?

24 PROSPECTIVE JUROR NUMBER 35: I can.

25 THE COURT: Mr. Bister, do you have an



1 opinion or belief about the death penalty?

2 PROSPECTIVE JUROR NUMBER 40: I'm for it in  
3 certain circumstances.

4 THE COURT: Could you fairly consider a  
5 verdict that a life sentence was appropriate if  
6 you felt the facts and circumstances supported it?

7 PROSPECTIVE JUROR NUMBER 40: I could.

8 THE COURT: Thank you.

9 Ms. Matkovskia, I'm sorry if I --

10 PROSPECTIVE JUROR NUMBER 39: It's okay.

11 THE COURT: -- butcher the name. Do you have  
12 an opinion or belief about the death penalty?

13 PROSPECTIVE JUROR NUMBER 39: I'm against  
14 because of my beliefs.

15 THE COURT: Because of religious --

16 PROSPECTIVE JUROR NUMBER 39: Religion.

17 THE COURT: Okay. Could you fairly consider  
18 returning a verdict that a death penalty is  
19 appropriate if the facts and circumstances and law  
20 supported it --

21 PROSPECTIVE JUROR NUMBER 39: No.

22 THE COURT: -- or would you always vote  
23 against it?

24 PROSPECTIVE JUROR NUMBER 39: I would say no.

25 THE COURT: Regardless of the circumstances;

1 is that correct?

2 PROSPECTIVE JUROR NUMBER 39: I can't take  
3 somebody's life. I live by the bible.

4 THE COURT: Okay. Thank you.

5 Mr. Sibbach, could you tell us your opinions  
6 or beliefs, if any, on the death penalty?

7 PROSPECTIVE JUROR NUMBER 38: I love it.

8 THE COURT: You love it? Tell me why you  
9 love it.

10 PROSPECTIVE JUROR NUMBER 38: I just think,  
11 you know, if you could murder somebody else, it  
12 should be an eye for an eye.

13 THE COURT: So do you think that every person  
14 convicted of first-degree murder should get the  
15 death penalty?

16 PROSPECTIVE JUROR NUMBER 38: Absolutely.

17 THE COURT: Regardless of the facts and  
18 circumstances?

19 PROSPECTIVE JUROR NUMBER 38: Yes, sir.

20 THE COURT: Thank you.

21 Mr. Von Stein, did you have any opinions or  
22 beliefs about the death penalty?

23 PROSPECTIVE JUROR NUMBER 37: I'm against it.

24 THE COURT: Could you fairly -- if you were  
25 selected to serve as a juror, could you fairly

1 consider returning a verdict finding that the  
2 death penalty is appropriate if you felt the  
3 facts, circumstances, and law supported that?

4 PROSPECTIVE JUROR NUMBER 37: No.

5 THE COURT: You could never consider it?

6 PROSPECTIVE JUROR NUMBER 37: No.

7 THE COURT: All right.

8 Mr. Schludt?

9 PROSPECTIVE JUROR NUMBER 36: I'm strongly  
10 opposed against it because of my religion.

11 THE COURT: Could you fairly consider  
12 returning a verdict that death is appropriate, or  
13 would you always find against it regardless of the  
14 facts and circumstances?

15 PROSPECTIVE JUROR NUMBER 36: I think I'd  
16 find against it.

17 THE COURT: All right.

18 Ms. Mackey?

19 PROSPECTIVE JUROR NUMBER 41: I don't believe  
20 in the death penalty.

21 THE COURT: Would you fairly consider  
22 returning a verdict finding death to be an  
23 appropriate sentence, or would you always --

24 PROSPECTIVE JUROR NUMBER 41: Always.

25 THE COURT: -- be against it regardless of

1 the facts and circumstances?

2 PROSPECTIVE JUROR NUMBER 41: Yes.

3 THE COURT: All right.

4 Mr. Rafael, do you have any opinions or  
5 beliefs about the death penalty?

6 PROSPECTIVE JUROR NUMBER 42: I have no  
7 problem with the death penalty.

8 THE COURT: Could you fairly consider  
9 returning a verdict that death is an appropriate  
10 sentence if you felt the facts, circumstances, and  
11 law supported it?

12 PROSPECTIVE JUROR NUMBER 42: Yes.

13 THE COURT: Same question on the flip side.  
14 Could you fairly consider returning a verdict that  
15 a life sentence is appropriate if you felt the  
16 facts and circumstances supported it?

17 PROSPECTIVE JUROR NUMBER 42: I think y'all  
18 have already presented that it was two lives that  
19 was taken. I probably couldn't fairly return that  
20 verdict.

21 THE COURT: It's two counts. Correct. I did  
22 mention that.

23 If it's two counts, you would automatically  
24 vote for the death penalty regardless --

25 PROSPECTIVE JUROR NUMBER 42: I'm saying

1           there is a doubt. I would be leaning towards the  
2           death penalty.

3           THE COURT: There is a doubt in your mind as  
4           to whether you could fairly consider a life  
5           sentence to be appropriate?

6           PROSPECTIVE JUROR NUMBER 42: Yes.

7           THE COURT: All right.

8           Ms. Hansen, do you have an opinion or belief  
9           about the death penalty?

10          PROSPECTIVE JUROR NUMBER 41: I'm supportive  
11          of it if the case and evidence is there.

12          THE COURT: Okay. So could you fairly  
13          consider returning a verdict that a life sentence  
14          is appropriate if you felt the facts and  
15          circumstances supported it?

16          PROSPECTIVE JUROR NUMBER 43: Sure.

17          THE COURT: Okay. Thank you.

18          Ms. Thomas?

19          PROSPECTIVE JUROR NUMBER 44: I support the  
20          death penalty.

21          THE COURT: Could you fairly consider  
22          returning a verdict that a life sentence is  
23          appropriate if you felt the facts, circumstances,  
24          and the law supported it?

25          PROSPECTIVE JUROR NUMBER 44: Yes.

1 THE COURT: Okay. Thank you.

2 Ms. Jones?

3 PROSPECTIVE JUROR NUMBER 50: Yes.

4 THE COURT: Do you have an opinion about the  
5 death penalty?

6 PROSPECTIVE JUROR NUMBER 50: I believe in  
7 certain cases, there is a use for the death  
8 penalty.

9 THE COURT: But could you fairly consider  
10 returning a verdict that a life sentence is  
11 appropriate if you felt the facts and  
12 circumstances and the law supported it?

13 PROSPECTIVE JUROR NUMBER 50: Yes.

14 THE COURT: Thank you.

15 Ms. Timmermans, do you have any opinions or  
16 beliefs about the death penalty?

17 PROSPECTIVE JUROR NUMBER 49: I do believe  
18 that there are aggravating factors that could  
19 support the death penalty.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR NUMBER 49: And I do  
22 believe also there could be circumstances where a  
23 life sentence would be the correct verdict.

24 THE COURT: So you could fairly consider  
25 both, based upon the facts, circumstances, and the

1 law, and could return a verdict on either  
2 depending on those facts and circumstances?

3 PROSPECTIVE JUROR NUMBER 49: Yes, sir.

4 THE COURT: Is that a yes?

5 PROSPECTIVE JUROR NUMBER 49: It is.

6 THE COURT: Thank you. All right.

7 Mr. Tanner, could you tell me what your  
8 opinions or beliefs are about the death penalty,  
9 if anything?

10 PROSPECTIVE JUROR NUMBER 48: As long as it's  
11 humane, I don't have a problem with it. I  
12 don't -- I don't like the, uh, having to wait as  
13 long as a lot of people do, as I've seen --

14 THE COURT: Okay.

15 PROSPECTIVE JUROR NUMBER 48: -- but I am  
16 supportive. If -- if the -- if it's deserved as  
17 proved under law, then yes. I think I'm for it, I  
18 suppose.

19 THE COURT: Okay. Let me ask you the other  
20 side of that. Could you fairly --

21 PROSPECTIVE JUROR NUMBER 48: Yes.

22 THE COURT: Is that -- let me ask the  
23 question first.

24 PROSPECTIVE JUROR NUMBER 48: Oh, sorry.

25 THE COURT: I know you already know what your

1 answer is because you heard me ask 40 other people  
2 already.

3 Could you fairly consider returning a verdict  
4 that a life sentence was appropriate if you felt  
5 the facts, circumstances, and law supported it?

6 PROSPECTIVE JUROR NUMBER 48: Yes.

7 THE COURT: That's a yes. Okay. Thank you.  
8 Ms. Hughes, is it?

9 PROSPECTIVE JUROR NUMBER 47: Hughes.

10 THE COURT: We haven't heard much from you.  
11 Do you have a belief or opinion about the death  
12 penalty?

13 PROSPECTIVE JUROR NUMBER 47: Um, personally,  
14 I'm not in favor of it, but I do believe that you  
15 have to look at the circumstances, and you have to  
16 go by the laws of the state.

17 I think that's one of the most hardest  
18 choices a person would have to make, but I do  
19 think there are circumstances on both sides.

20 You have to consider and you have to weigh,  
21 and you have to have laws.

22 THE COURT: So you would -- I don't want to  
23 put the words in your mouth.

24 Could you fairly consider returning a verdict  
25 that a death penalty is appropriate as well as



1 that life imprisonment is appropriate --

2 PROSPECTIVE JUROR NUMBER 47: Yes.

3 THE COURT: -- depending on the facts and  
4 circumstances?

5 PROSPECTIVE JUROR NUMBER 47: Yes,  
6 absolutely.

7 THE COURT: Okay. Thank you, ma'am.

8 Ms. Grigsby, can you tell us your opinions  
9 and beliefs about the death penalty?

10 PROSPECTIVE JUROR NUMBER 46: I'm very  
11 hesitant about the death penalty, but I also do  
12 believe in the idea of separation of church and  
13 state.

14 So I think that I could render either verdict  
15 depending on the circumstances of the case.

16 THE COURT: So if you felt the facts and  
17 circumstances and law and deemed it was  
18 appropriate, you feel you would be able to return  
19 a verdict finding the death penalty to be an  
20 appropriate sentence?

21 PROSPECTIVE JUROR NUMBER 46: Yes, sir.

22 THE COURT: Okay. Thank you.

23 Mr. Bigam, do you have an opinion one way or  
24 another about the death penalty?

25 PROSPECTIVE JUROR NUMBER 51: I'm all for it.

1           THE COURT: Okay. Do you feel that you could  
2 fairly consider returning a verdict that a life  
3 sentence is appropriate if the facts and  
4 circumstances supported it?

5           PROSPECTIVE JUROR NUMBER 51: Not really.

6           THE COURT: You think you would vote for the  
7 death penalty in every case regardless of what the  
8 facts and circumstances were?

9           PROSPECTIVE JUROR NUMBER 51: Yeah.

10          THE COURT: All right.

11          Mr. Robbins, do you have an opinion or belief  
12 about the death penalty?

13          PROSPECTIVE JUROR NUMBER 52: No, sir, I  
14 don't. I don't have an opinion one way or the  
15 other. It would be based on the facts.

16          THE COURT: So you can fairly consider both,  
17 the death penalty or life in prison without  
18 parole, depending on the facts and circumstances  
19 and the law?

20          PROSPECTIVE JUROR NUMBER 51: Yes.

21          THE COURT: And you will be able to return a  
22 verdict either way depending on what those facts  
23 were?

24          PROSPECTIVE JUROR NUMBER 51: Yes.

25          THE COURT: Thank you, sir.

1                   Mr. Norrid?

2                   PROSPECTIVE JUROR NUMBER 53: Yes. It's a  
3 law in the State of Florida. I follow that law  
4 and support that law.

5                   However, I would need to listen to all the  
6 facts. And I could either vote for the death  
7 penalty or vote for life -- a life sentence. It  
8 just depends what the facts are.

9                   THE COURT: Do you have an opinion or belief  
10 about the death penalty in general?

11                   PROSPECTIVE JUROR NUMBER 53: It's the law in  
12 the State of Florida. I'd follow that law.

13                   THE COURT: Okay. Thank you.

14                   Mr. Tu, do you have an opinion or belief  
15 about the death penalty?

16                   PROSPECTIVE JUROR NUMBER 55: I think it's  
17 usually the right verdict for first-degree murder,  
18 but I also believe that if there are certain  
19 mitigating circumstances, I could vote for life in  
20 prison.

21                   THE COURT: So could you fairly consider  
22 returning a verdict that life imprisonment is  
23 appropriate if you felt the facts and  
24 circumstances and law supported that?

25                   PROSPECTIVE JUROR NUMBER 53: Yes.

1 THE COURT: Thank you.

2 Mr. Stovall, do you have an opinion or belief  
3 about the death penalty?

4 PROSPECTIVE JUROR NUMBER 60: I don't think  
5 it acts as a deterrent.

6 THE COURT: Okay. If you were selected to  
7 serve as a juror in this case, could you fairly  
8 consider returning a verdict that death is  
9 appropriate or that a life-imprisonment sentence  
10 is appropriate depending on the facts and  
11 circumstances?

12 Could you fairly consider returning a verdict  
13 on both?

14 PROSPECTIVE JUROR NUMBER 60: Yes, sir.

15 THE COURT: Okay. Would you have an issue  
16 with either one of those two, depending on the  
17 facts and circumstances?

18 PROSPECTIVE JUROR NUMBER 60: Uh, depending  
19 on the facts.

20 THE COURT: Okay. Thank you.

21 Ms. Woolf, do you have an opinion about the  
22 death penalty?

23 PROSPECTIVE JUROR NUMBER 59: I'm kind of  
24 conflicted. I'm not against it. I am for it if  
25 the crime, you know, was committed.

1           Um, either way, I think if you asked me this  
2           question in the very beginning before I already  
3           knew or heard that there were two counts, then my  
4           answer, you know, might not be as conflicted,  
5           so -- but without hearing all the evidence and  
6           hearing everything, so, you know, I don't know.

7           THE COURT: You've heard no ev -- sorry -- no  
8           evidence so far. I did read that --

9           PROSPECTIVE JUROR NUMBER 59: Right.

10          THE COURT: -- document to you. I told you  
11          there are two counts of first-degree murder that  
12          the defendant's already been found guilty of.

13          Do you automatically lean towards the death  
14          penalty because you've heard that, or can you  
15          fairly consider imposition of a life sentence  
16          depending on the facts and circumstances and the  
17          law, none of which you've heard so far?

18          PROSPECTIVE JUROR NUMBER 59: I don't think I  
19          automatically, but I still feel conflicted at this  
20          moment. I don't know.

21          THE COURT: Okay. Do you lean one way or  
22          another?

23          PROSPECTIVE JUROR NUMBER 59: No.

24          THE COURT: Okay. Thank you.

25          Mr. Strait?

1 PROSPECTIVE JUROR NUMBER 58: Yes, sir.

2 THE COURT: Do you have an opinion or belief  
3 about the death penalty?

4 PROSPECTIVE JUROR NUMBER 58: I do believe it  
5 is a deterrent to violent crime, but I also do  
6 believe that, um, there are, you know,  
7 circumstances where you shouldn't use it.

8 THE COURT: Okay. So could you fairly --  
9 could you fairly consider returning a verdict  
10 finding death is appropriate as well as fairly  
11 considering returning a verdict that life is  
12 appropriate, life imprisonment is appropriate,  
13 depending on the facts and circumstances of the  
14 case and the law?

15 PROSPECTIVE JUROR NUMBER 58: Yes, sir.

16 THE COURT: Thank you.

17 Ms. Raynor, all the way in the back there,  
18 we'll try to move so we can see each other.

19 Do you have an opinion or belief about the  
20 death penalty?

21 PROSPECTIVE JUROR NUMBER 57: I do believe in  
22 the death penalty, but I don't want to make that  
23 decision.

24 THE COURT: Okay. If you were selected to  
25 sit on this jury and were asked to make a

1 decision, could you fairly consider returning a  
2 verdict finding that death is appropriate, and  
3 could you fairly consider returning a verdict  
4 finding that life imprisonment is appropriate,  
5 based upon the facts and circumstances of the case  
6 and the law that I would give you?

7 (No audible response.)

8 THE COURT: I couldn't hear you.

9 PROSPECTIVE JUROR NUMBER 57: I'm thinking  
10 because I don't -- I -- I do not want to have that  
11 weighing on me.

12 I don't want to make the decision, um,  
13 whether he's to die or not, um, but I don't -- I  
14 also believe that if the circumstances are there  
15 that -- that he qualifies for it, then -- I just  
16 don't want to make the decision, okay?

17 THE COURT: If you were --

18 PROSPECTIVE JUROR NUMBER 57: I'm -- if  
19 circumstances say yes, that's appropriate, then  
20 I'm for it, but I don't want to be the one to  
21 decide that.

22 THE COURT: I understand you don't want to,  
23 and probably everybody in here doesn't want to,  
24 but --

25 PROSPECTIVE JUROR NUMBER 57: I -- I -- I

1 don't know.

2 THE COURT: If you were selected to serve on  
3 this jury and you went back to deliberate in the  
4 jury room, would you say, I can't make a decision,  
5 and stop there, or would you be able to make a  
6 decision?

7 PROSPECTIVE JUROR NUMBER 57: Morally, I  
8 would probably lean towards, um, life in prison  
9 because I -- I cannot -- I -- I -- I -- I -- I -- I  
10 don't want to send somebody to die.

11 THE COURT: Okay. Could you ever return a  
12 verdict or consider returning a verdict that the  
13 death penalty is appropriate if you felt the facts  
14 and circumstances and law supported it?

15 PROSPECTIVE JUROR NUMBER 57: I don't know.  
16 If -- if it means sending somebody -- I -- I don't  
17 think I could.

18 THE COURT: Okay. Thank you.

19 And last, but not least, Mr. Kusch, do you  
20 have any opinion or belief about the death  
21 penalty?

22 PROSPECTIVE JUROR NUMBER 56: Generally, I  
23 would be not for the death penalty. I believe  
24 there is a narrow set of circumstances that would  
25 make me, but in general, I'm opposed to it.



1           THE COURT: You said "in general," you're --  
2           could you fairly consider whether the death  
3           penalty is appropriate if you felt the facts and  
4           circumstances and the law supported it?

5           PROSPECTIVE JUROR NUMBER 56: Like I said --

6           THE COURT: Sorry.

7           PROSPECTIVE JUROR NUMBER 56: -- in a narrow  
8           set of circumstances, yes.

9           THE COURT: If, after I instructed you on the  
10          law in this case and you heard the facts and  
11          circumstances, you're saying there are certain  
12          circumstances you could consider it?

13          PROSPECTIVE JUROR NUMBER 56: Yes.

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

15          Thank you. I know that wasn't easy, folks.

16          We are going to go ahead and break for lunch  
17          at this point, and then I'll meet with the lawyers  
18          for a little bit.

19          Please remember the seats you're in. Again,  
20          don't discuss the case with anybody. Now  
21          you're -- you know a little bit about what we're  
22          here for.

23          You don't know anything about the case. You  
24          haven't heard any evidence or testimony, but you  
25          know what we're here for, so don't do any research

1 of any type.

2 Don't discuss this case with anybody, either  
3 amongst yourselves or with anybody else.

4 As for some lunch options, I give you  
5 options, not suggestions. I make sure I make that  
6 very clear. If you were to go south of us on  
7 U.S. 1, down to the next light where the  
8 Winn-Dixie shopping center is, there's a Wendy's  
9 in there.

10 There's a sub shop, Old City Subs, I think  
11 it's called. There's an Asian restaurant.  
12 There's an ice cream shop if you want ice cream  
13 for lunch. No one will judge you if you do that.

14 Across the street, there's Schooner's  
15 restaurant. As you go a little further down on  
16 U.S. 1, there's Brisky's Barbecue, Smokin' D's  
17 Barbecue, Zaxby's, and McDonald's.

18 And then if you go down 312, there's a lot of  
19 restaurants. If you go down San Marco, there is a  
20 Subway and a Dunkin' Donuts.

21 I would caution you against going to the  
22 historic district because we all know parking and  
23 traffic is kind of a mess down there.

24 Going north of us on U.S. 1, there is a small  
25 restaurant just north of the courthouse on the

1 right called The Spot.

2 There's also an Asian restaurant a little  
3 further up from there and a handful of restaurants  
4 up near Palencia.

5 So those are your relatively close options.  
6 You can do anything else, too, that you would  
7 like.

8 Let's plan on being back at 1:30. If you  
9 would assemble outside at 1:30, we'll get you all  
10 back in here, and then we'll continue on with the  
11 lawyers' questions.

12 Thank you. Enjoy your lunch.

13 (The prospective jurors exited the  
14 courtroom.)

15 THE COURT: All right. You all can be  
16 seated. We're outside the presence of the jury.  
17 All parties are present, including the defendant.

18 It's always an interesting dynamic --

19 MR. BARRETT: Yes.

20 THE COURT: -- when I have this many  
21 prospective jurors here. As soon as we get to the  
22 left side of the room and about number 45, I start  
23 getting the I-know-how-to-get-out-of-jury-duty  
24 answers.

25 It's always an interesting dynamic, having

1 done this a handful of times now in the last  
2 couple years.

3 Do you all want to address any challenges for  
4 cause at this point, or do y'all want a chance to  
5 ask them more questions?

6 Some people were pretty adamant. Some were  
7 not. So if you want to address some now, I'm fine  
8 with that.

9 If you want to wait until you all get a  
10 chance to question them, I'm fine with that, as  
11 well.

12 MR. JOHNSON: I'll leave it up to you,  
13 Junior.

14 MR. BARRETT: I think there's some that's  
15 obvious.

16 THE COURT: Okay.

17 MR. BARRETT: And, of course, being the  
18 defense, I'm mainly talking about the ones who  
19 would just go for death.

20 THE COURT: Yeah.

21 MR. BARRETT: The others we can wait on.

22 THE COURT: And if you want to -- don't want  
23 to agree to those now, that's fine.

24 THE COURT REPORTER: Judge, I'm going to come  
25 up there.

1 THE COURT: Okay.

2 Any chance to thin the crowd a little bit,  
3 I'm for it.

4 MR. HAMBURG: Judge, number 23 --

5 THE COURT: Twenty-three.

6 MR. HAMBURG: -- Mr. Collins.

7 THE COURT: Okay.

8 MR. HAMBURG: He said he could not consider  
9 life in any circumstance.

10 THE COURT: Any objection from the State?

11 MR. JOHNSON: No.

12 THE COURT: Okay. Mr. Collins will be struck  
13 for cause.

14 I need to make a note of this for when we  
15 come back so I remember to tell him.

16 Okay. Anybody else?

17 MR. BARRETT: I can -- just jumping all over  
18 the place a bit, Judge, Mr. -- is it Sibbach,  
19 number 38 --

20 THE COURT: Right.

21 MR. BARRETT: -- that loves the death  
22 penalty.

23 THE COURT: Yes, loves it. He knows how to  
24 get out of jury duty.

25 MR. JOHNSON: That's fine.

1           THE COURT: All right. Any objection from  
2 the State?  
3           MR. JOHNSON: Do I have one?  
4           THE COURT: If you dare.  
5           MR. JOHNSON: No.  
6           MR. BARRETT: Yeah, Rafael.  
7           MR. JOHNSON: What number?  
8           MR. BARRETT: Number 42. Because of the fact  
9 that it was a double murder.  
10          MR. JOHNSON: I thought there was some  
11 equivocation there.  
12          THE COURT: There was. So let's -- we'll  
13 hold off on him, give the State a chance to ask --  
14 well, both of y'all a chance to ask some  
15 questions.  
16          MR. BARRETT: Number 51, Bigam, life for a  
17 life.  
18          THE COURT: State?  
19          MR. JOHNSON: Yeah, agree.  
20          THE COURT: Any others?  
21          MR. BARRETT: Those are the ones that we  
22 would point at, Judge.  
23          THE COURT: State want to bring any up?  
24          MR. JOHNSON: Yes, your Honor. We would  
25 strike number four. She made comments that it was

1 above her pay grade.

2 I think you tried to inquire further, and she  
3 said she doesn't know. So she equivocated on --  
4 there is a reasonable doubt as to whether or not  
5 she actually could consider both.

6 THE COURT: What's the defense position on  
7 that?

8 MR. BARRETT: Similar to what the State  
9 pointed out in one of the ones we challenge. She  
10 said, "Not sure could decide." I would ask to  
11 further inquire.

12 THE COURT: I'll let you all ask questions of  
13 her. We're just going to get the most obvious  
14 ones.

15 MR. JOHNSON: All right. Number 12,  
16 Ms. Canale, she said that she was adamantly  
17 opposed. She could never do it based on religious  
18 reasons.

19 MR. BARRETT: Sadly, we have to agree, Judge.

20 THE COURT: Okay.

21 MS. DUNTON: Sixteen.

22 MR. JOHNSON: Same with Ms. Suffae, number 16.  
23 She said never, not even -- I think even here, I  
24 think she was -- she just simply can't make a  
25 decision because she said, I don't even think I

1           could make a decision on life.

2           MR. BARRETT: Agree, Judge.

3           THE COURT: Okay. Defense agrees.

4           Any others?

5           MR. JOHNSON: Twenty-two, she was also very  
6 adamant against it. Says she was not God.

7           THE COURT: That's Fiori.

8           MR. BARRETT: Agreed.

9           THE COURT: Okay. Defense agrees.

10          MS. DUNTON: Thirty-six.

11          MR. JOHNSON: All right. Number 36,  
12 Mr. Schludt, he would always find against it,  
13 opposes it on the basis of religion.

14          THE COURT: Thirty-six?

15          MR. JOHNSON: Thirty-six.

16          THE COURT: Right. Defense?

17          MR. BARRETT: Uh, yes, Judge. I know he said  
18 regardless of the circumstances.

19          THE COURT: So you agree with that one?

20          MR. BARRETT: Yes, Judge.

21          MR. JOHNSON: Thirty-seven, as well,  
22 Mr. Von Stein, he was against and could not  
23 consider.

24          MR. BARRETT: I agree.

25          THE COURT: Defense agrees.



1           MR. JOHNSON: Same with 39. She would always  
2 be against the death penalty on the basis of  
3 religion.

4           MR. BARRETT: Agreed.

5           THE COURT: Defense agrees.

6           MR. JOHNSON: Matkovskia.

7           THE COURT: Anybody else?

8           MR. JOHNSON: Same with number 41, who I  
9 think the defense was trying to strike earlier  
10 'cause she knew Mr. Privette, but she does not.  
11 She would always be against the death penalty.

12          THE COURT: Defense?

13          MR. BARRETT: Agreed.

14          THE COURT: Okay.

15          Anybody else?

16          MR. JOHNSON: Right.

17          THE COURT: This is not everybody's last  
18 chance.

19          MR. JOHNSON: I know, Judge. I would move on  
20 to number 57, Ms. Raynor. You had quite a bit of  
21 discussion with her.

22                 I think eventually she said she don't ever --  
23 she doesn't think she could consider it at the end  
24 of the day.

25          THE COURT: Defense?

1           MR. BARRETT: I -- I would disagree. I think  
2 further inquiry is required for her.

3           THE COURT: Okay. We'll leave her on there  
4 for now.

5           Anybody else?

6           MR. JOHNSON: I think that's all I see that's  
7 obvious, Judge.

8           THE COURT: Okay. I'm going to make a list  
9 so our bailiffs have it so when they come back  
10 from lunch, we can let folks know.

11           Ms. Canale, number 12.

12           Suzanne Suffae, number 16.

13           Margaret Fiori -- or Margit.

14           Jason Collins.

15           That's it on this side.

16           So when we come back from lunch, you all are  
17 up; State, that is.

18           MR. JOHNSON: Right.

19           THE COURT: I'll go over that list before we  
20 break just to make sure I don't have anybody on  
21 here by accident.

22           MR. JOHNSON: I have that we just struck ten  
23 for cause; is that correct?

24           THE COURT: I'll let you know in a minute.  
25 I'm trying to write them all down. Yeah. I have

1           ten.  It's Deborah Canale.  
2                    Suzanne Suffae.  
3                    Margit Fiori.  
4                    Jason Collins.  
5                    Alexander Schludt.  
6                    Parker Von Stein.  
7                    Alex Sibbach.  
8                    Janna Matkovskia.  
9                    Sonya Mackey.  
10                  And Nicolas Bigam, correct?  Everybody agree  
11                  those were the ten?  
12                  MR. JOHNSON:  Yes, sir.  
13                  MR. BARRETT:  Yes, Judge.  
14                  THE COURT:  Okay.  Okay.  You all enjoy your  
15                  lunch, 1:30.  
16                    (Court was in recess from 12:26 p.m. until  
17                    1:38 p.m.)  
18                  THE COURT:  All right.  We're going to bring  
19                  them in.  
20                    (The prospective jurors entered the  
21                    courtroom.)  
22                  THE COURT:  All right.  Y'all can be seated.  
23                  Welcome back, everybody.  I hope everybody had a  
24                  good lunch, ready to go.  
25                  I'm done with all of my questions, but --

1           yeah. I know you're excited to hear that. So  
2           what we're going to do now is the lawyers have an  
3           opportunity to ask you questions.

4           The way this works is the State will go first  
5           and then the defense when State's done. And  
6           please give them the same attention and candor in  
7           your answers that you gave me. Greatly appreciate  
8           that.

9           All right. Mr. Johnson, you may inquire.

10          MR. JOHNSON: Thank you, your Honor. May it  
11          please the Court?

12          Good afternoon. How y'all doing? How many  
13          of y'all went up here to The Spot and got one of  
14          those big juicy hamburgers, anybody? Nobody was  
15          brave enough, huh?

16          Or you went down to Wendy's and got one of  
17          those big Baconators? I was wondering if there  
18          was somebody I was going to have to keep an eye on  
19          because I inevitably have to go right after lunch.

20          And if you're like me and you've gone and  
21          you've eaten like -- you got your belly full, and  
22          you come back and then you have to sit for the  
23          next three hours, what's going to happen is you're  
24          going to start falling asleep. So it's good to  
25          hear nobody partook of the greasy hamburger at the

1 greasy spoon.

2 So I appreciate everybody's time and  
3 attention you've given to us so far. So I know  
4 Judge kind of asked some of these questions  
5 before, but how many of you, when you got your  
6 jury summons, immediately got on the computer and  
7 looked up "Top ten ways to get out of jury duty"?

8 Anybody?

9 How many are like, I know what to do next  
10 time?

11 Well, I appreciate your taking the time here  
12 today. I am -- I am going to try not to take a  
13 lot of time, but this is an important case, as you  
14 already know.

15 This involves some of the greatest decisions  
16 that a juror can be asked to make. So I hope that  
17 you will be patient with us as we kind of work  
18 through this process because this is a very  
19 important decision.

20 It's an important decision to the State.  
21 It's an important decision to the defense. It's  
22 an important decision for our community. And so I  
23 hope that you will just work with us.

24 I'm going to try to respect your time. And  
25 when I say that, what I'm going to try to do is

1 ask a lot of my questions to you as a group.

2 And what I would ask for you in return is, if  
3 I ask a question that you would have an answer to,  
4 raise your hand so we can have a conversation of  
5 that -- about that, and that will kind of speed  
6 things along.

7 As we kind of get started here, one of the  
8 things I wanted to do is just kind of go back and  
9 ask some follow-up questions from some of the  
10 questions that were asked earlier.

11 Mr. Lambert?

12 PROSPECTIVE JUROR NUMBER SEVEN: That's me.

13 MR. JOHNSON: Good afternoon, sir.

14 PROSPECTIVE JUROR NUMBER SEVEN: Good  
15 afternoon.

16 MR. JOHNSON: You mentioned that you had -- I  
17 believe one of your children's in law school?

18 PROSPECTIVE JUROR NUMBER SEVEN: Just started  
19 college in South Florida. Went to Florida State,  
20 graduated, now he's at FIU.

21 MR. JOHNSON: Okay. So is it a he or she?

22 PROSPECTIVE JUROR NUMBER SEVEN: It's my  
23 youngest son.

24 MR. JOHNSON: Your youngest son, and he just  
25 started at FIU Law School?

1 PROSPECTIVE JUROR NUMBER SEVEN: That's  
2 correct.

3 MR. JOHNSON: Does he have a particular field  
4 of practice he wants to go in?

5 PROSPECTIVE JUROR NUMBER SEVEN: Not really.  
6 Just fascinated by law.

7 MR. JOHNSON: Trying to figure it out?

8 PROSPECTIVE JUROR NUMBER SEVEN: Correct.

9 MR. JOHNSON: Okay. Well, congratulation.  
10 I'm sure you're very proud.

11 PROSPECTIVE JUROR NUMBER SEVEN: I am.

12 MR. JOHNSON: Ms. Beaty, good afternoon.

13 PROSPECTIVE JUROR NUMBER 14: Hi.

14 MR. JOHNSON: You mentioned that your husband  
15 was retired, but I didn't catch what he retired  
16 from.

17 PROSPECTIVE JUROR NUMBER 14: He was a truck  
18 driver.

19 THE COURT: Okay. And did he do that for  
20 most of his career?

21 PROSPECTIVE JUROR NUMBER 14: Yes.

22 MR. JOHNSON: Thank you, ma'am.

23 Ms. Bouda?

24 PROSPECTIVE JUROR NUMBER 18: Yes.

25 MR. JOHNSON: Good afternoon. I believe --

1 same question to you. I think you said your  
2 husband was retired, but I didn't catch what he  
3 was retired from.

4 PROSPECTIVE JUROR NUMBER 18: He was retired  
5 from the City of Jacksonville. He was in charge  
6 of sports and entertainment for the city.

7 MR. JOHNSON: And did he do that for most of  
8 his career?

9 PROSPECTIVE JUROR NUMBER 18: Yes.

10 MR. JOHNSON: Thank you, ma'am. Now, you  
11 also have a child who's a lawyer.

12 PROSPECTIVE JUROR NUMBER 18: Yes, I do.

13 MR. JOHNSON: And you may have said this, and  
14 I just didn't catch it or write it down. What  
15 type of law do they practice?

16 PROSPECTIVE JUROR NUMBER 18: She works for  
17 Deutsche Bank. She works in contract real estate  
18 law.

19 MR. JOHNSON: I do remember you saying that.  
20 Okay. Has, um -- is it a son or daughter?

21 PROSPECTIVE JUROR NUMBER 18: Daughter.

22 MR. JOHNSON: Has she ever worked in criminal  
23 defense at all?

24 PROSPECTIVE JUROR NUMBER 18: No.

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



1 Ms. Powell?

2 PROSPECTIVE JUROR NUMBER 17: Uh-huh.

3 MR. JOHNSON: Good afternoon.

4 PROSPECTIVE JUROR NUMBER 17: Hello.

5 MR. JOHNSON: I think you said your husband  
6 also was retired. What did he do?

7 PROSPECTIVE JUROR NUMBER 17: He was an  
8 engineer for United Technologies.

9 MR. JOHNSON: And did he do that pretty much  
10 his entire career?

11 PROSPECTIVE JUROR NUMBER 17: His entire  
12 career.

13 MR. JOHNSON: Thank you, ma'am.

14 Ms. Julao, did I pronounce your name  
15 correctly?

16 (No audible response.)

17 MR. JOHNSON: I wanted to ask you some more  
18 questions about what you do because I don't think  
19 it was real clear, at least to me. And sometimes  
20 I can be a little slow, but I wanted to just kind  
21 of circle back around and ask you.

22 You said that you worked for the federal  
23 government; is that correct?

24 PROSPECTIVE JUROR NUMBER 35: Yes.

25 MR. JOHNSON: And what exactly is it that you

1 do?

2 PROSPECTIVE JUROR NUMBER 35: I do a lot of  
3 things. I facilitate, I instruct, I answer  
4 complicated tax law questions. When they need me,  
5 I go to court, as well.

6 MR. JOHNSON: Okay. I know you said that you  
7 weren't a lawyer.

8 PROSPECTIVE JUROR NUMBER 35: No.

9 MR. JOHNSON: Are you an accountant?

10 PROSPECTIVE JUROR NUMBER 35: Yes.

11 MR. JOHNSON: Okay. I see. So you do kind  
12 of accounting type work for the federal  
13 government?

14 PROSPECTIVE JUROR NUMBER 35: Yes. Uh, when  
15 they need something and I have the background,  
16 they ask me.

17 MR. JOHNSON: Okay. Do you -- do you  
18 actually receive a paycheck from the federal  
19 government --

20 PROSPECTIVE JUROR NUMBER 35: Yes.

21 MR. JOHNSON: -- or are you like an  
22 independent contractor?

23 PROSPECTIVE JUROR NUMBER 35: Paycheck, 29  
24 years.

25 MR. JOHNSON: Okay. And you said that you

1           instruct. What kind of instruction do you  
2           provide?

3                   PROSPECTIVE JUROR NUMBER 35: Tax law,  
4           processing, um, rules and regulations.

5                   MR. JOHNSON: Okay. All right. Thank you,  
6           ma'am.

7                   PROSPECTIVE JUROR NUMBER 35: You're welcome.

8                   MR. JOHNSON: Ms. -- is it Stamburg?

9                   PROSPECTIVE JUROR NUMBER 32: Stambaugh.

10                  MR. JOHNSON: Stambaugh. You said your -- I  
11           believe you said your husband was a paralegal?

12                  PROSPECTIVE JUROR NUMBER 32: Uh-huh.

13                  MR. JOHNSON: And I know you probably  
14           mentioned it, but I just didn't catch it. What --  
15           what -- what company does he work for?

16                  PROSPECTIVE JUROR NUMBER 32: He works for  
17           Landstar. It's a trucking company.

18                  MR. JOHNSON: Okay. And, usually, when we  
19           think of paralegal, it's somebody who works for a  
20           law firm.

21                  What exactly kind of work does he do for that  
22           company?

23                  PROSPECTIVE JUROR NUMBER 32: He assists the  
24           attorneys there in the office, takes care of  
25           multiple tasks for them.

1           MR. JOHNSON: Okay. All right. Thank you,  
2           ma'am.

3           Mr. Stovall, good afternoon, sir. I believe  
4           you said that you were a case manager in the  
5           mental-health field; is that correct?

6           PROSPECTIVE JUROR NUMBER 60: Yes.

7           MR. JOHNSON: What company do you work for?

8           PROSPECTIVE JUROR NUMBER 60: Mental Health  
9           Resource Center.

10          MR. JOHNSON: Is that like a governmental  
11          agency or a private organization?

12          PROSPECTIVE JUROR NUMBER 60: Private.

13          MR. JOHNSON: Can you kind of explain what  
14          your role is as a case manager for them?

15          PROSPECTIVE JUROR NUMBER 60: Our program has  
16          a hundred clients that have psychiatric  
17          disabilities, and we check on them day to day and  
18          keep up with administrative paperwork.

19          MR. JOHNSON: Okay. Is it like a residential  
20          type program?

21          PROSPECTIVE JUROR NUMBER 60: It's community  
22          based.

23          MR. JOHNSON: Community based? Okay.

24          I want to ask several -- all of you, and I'll  
25          do this sort of as a group. Has anybody here ever

1           been a witness in a criminal case?

2                   (No response.)

3           MR. JOHNSON: Anybody at all, a witness in a  
4           criminal case?

5                   (No response.)

6           MR. JOHNSON: Has anybody here ever been the  
7           victim? And when I say "case," not necessarily  
8           something that was actually filed, but maybe  
9           something that happened.

10                   Sometimes people -- you know, their cars get  
11           broken into, their house gets broken into, various  
12           different situations.

13                   Whether a case was actually filed or not, has  
14           anybody here ever been the victim of a crime?

15                   (Several of the prospective jurors indicated  
16           in the affirmative.)

17           MR. JOHNSON: Okay. I'm going to start over  
18           here on the right, my right, your left.

19                   Who was -- who was it that had their hand  
20           raised?

21                   (Some of the prospective jurors indicated in  
22           the affirmative.)

23           MR. JOHNSON: Okay. We'll start with  
24           Ms. Nutt. Tell me a little bit about that. What  
25           was it?

1 PROSPECTIVE JUROR NUMBER FIVE: Can I do that  
2 privately?

3 MR. JOHNSON: You sure can. All right.

4 Thank you, ma'am.

5 And anybody that feels uncomfortable, feel  
6 free to just let us know. We'll be happy to  
7 handle that privately.

8 Thank you, ma'am.

9 Ms. Hanke?

10 PROSPECTIVE JUROR NUMBER FOUR: Same, but  
11 does it have to have gone to court?

12 MR. JOHNSON: No.

13 PROSPECTIVE JUROR NUMBER FOUR: Okay. I'd  
14 rather do it privately, as well.

15 MR. JOHNSON: Okay. Thank you, ma'am.

16 Anybody else on the front row?

17 (Prospective Juror Number Two indicated in  
18 the affirmative.)

19 MR. JOHNSON: Ms. Shelton?

20 PROSPECTIVE JUROR NUMBER TWO: My car was  
21 broken into in my driveway.

22 MR. JOHNSON: How long ago was that, ma'am?

23 PROSPECTIVE JUROR NUMBER TWO: It's probably  
24 been about 15 years or more.

25 MR. JOHNSON: Was the person ever caught?

1 PROSPECTIVE JUROR NUMBER TWO: I don't think  
2 so.

3 MR. JOHNSON: Anything about that that kind  
4 of left a bad taste in your mouth?

5 PROSPECTIVE JUROR NUMBER TWO: Well, other  
6 than, you know, someone destroying my property  
7 that I work hard to pay for, but --

8 MR. JOHNSON: Sure. Did you -- anything  
9 about the investigation that you felt, you know,  
10 kind of not -- not very happy, anything that would  
11 kind of have some impact on your decision here if  
12 you were asked to be a juror?

13 PROSPECTIVE JUROR NUMBER TWO: No. I mean,  
14 at that time it -- there was -- it was the whole  
15 neighborhood. I mean, there were several cars in  
16 the neighborhood in about a week's span that were  
17 being hit.

18 MR. JOHNSON: Okay.

19 PROSPECTIVE JUROR NUMBER TWO: They broke my  
20 window and they really didn't take anything. They  
21 tried -- they actually tried to take the radio.  
22 They had used some kind of soldering equipment or  
23 something and tried to remove the radio. And they  
24 couldn't get it out, so they went on to the next  
25 car.

1           MR. JOHNSON: Sounds like you got -- but you  
2 had some car damage, it sounds like?

3           PROSPECTIVE JUROR NUMBER TWO: I did.

4           MR. JOHNSON: Okay. Thank you.

5           Anybody on the front row here on the  
6 right-hand side?

7           (No response.)

8           MR. JOHNSON: All right. Second row,  
9 Dr. Gonzalez, I saw your hand up.

10          PROSPECTIVE JUROR NUMBER TEN: I was mugged  
11 in 1995.

12          MR. JOHNSON: Okay. I'm sorry to hear that.  
13 Where -- where did --

14          PROSPECTIVE JUROR NUMBER TEN: In Chicago, on  
15 the subway.

16          MR. JOHNSON: You're smiling.

17          PROSPECTIVE JUROR NUMBER TEN: Well, I mean,  
18 what are you going to do?

19          MR. JOHNSON: Right. Did they actually take  
20 something from you?

21          PROSPECTIVE JUROR NUMBER TEN: Yeah.

22          MR. JOHNSON: What did they -- what did they  
23 take?

24          PROSPECTIVE JUROR NUMBER TEN: My purse.

25          MR. JOHNSON: All right. I'm assuming the



1 person was never caught; am I right?

2 PROSPECTIVE JUROR NUMBER TEN: Correct.

3 MR. JOHNSON: Anything about that that -- a  
4 couple different questions. There's two sides of  
5 that question.

6 Number one, was there anything about the way  
7 the case was investigated that kind of lingers  
8 with you, or is there anything that, you know, for  
9 example, here the defendant would be concerned  
10 that you might not give him a fair trial because  
11 of your experience.

12 PROSPECTIVE JUROR NUMBER TEN: No. It was  
13 just --

14 MR. JOHNSON: You can set that --

15 PROSPECTIVE JUROR NUMBER TEN: -- stuff  
16 happens in the big city.

17 MR. JOHNSON: Okay. Thank you.

18 All right. Anybody else on the second row?

19 (Prospective Juror Number Nine indicated in  
20 the affirmative.)

21 MR. JOHNSON: Mr. -- is it Debruhl?

22 PROSPECTIVE JUROR NUMBER NINE: Debruhl, yes.

23 MR. JOHNSON: Okay.

24 PROSPECTIVE JUROR NUMBER TEN: I could talk  
25 about it privately.

1 MR. JOHNSON: Okay. All right. Yes, sir.  
2 Anybody else here on the second row?  
3 (No response.)  
4 MR. JOHNSON: Third row?  
5 (Prospective Juror Number 13 indicated in the  
6 affirmative.)  
7 MR. JOHNSON: Ms. -- is it Bonday?  
8 PROSPECTIVE JUROR NUMBER 13: Yes. I had a  
9 wallet stolen out of my purse in a restaurant.  
10 MR. JOHNSON: Okay. How long ago was that?  
11 PROSPECTIVE JUROR NUMBER 13: About two and a  
12 half years.  
13 MR. JOHNSON: Was that here in St. Johns  
14 County?  
15 PROSPECTIVE JUROR NUMBER 13: At the Town  
16 Center in Duval County.  
17 MR. JOHNSON: Okay. I'll ask you kind of the  
18 same question I've been asking everybody else. Is  
19 there anything else -- is there anything about  
20 that that lingers with you that you would not be  
21 able to set aside?  
22 PROSPECTIVE JUROR NUMBER 13: No. I don't  
23 think so.  
24 MR. JOHNSON: Okay. Thank you, ma'am.  
25 Anybody else there on the third row?

1 (No response.)

2 MR. JOHNSON: Fourth row?

3 (Prospective Juror Number 18 indicated in the  
4 affirmative.)

5 MR. JOHNSON: Okay. Is that Ms. Bouda?

6 PROSPECTIVE JUROR NUMBER 18: Uh-huh. A home  
7 burglary. Nobody was at home, but there was a  
8 robbery while we were out.

9 MR. JOHNSON: How long ago was that, ma'am?

10 PROSPECTIVE JUROR NUMBER 18: Probably 20  
11 years.

12 MR. JOHNSON: Was that here in St. Johns  
13 County?

14 PROSPECTIVE JUROR NUMBER 18: Duval County.

15 MR. JOHNSON: Same question --

16 PROSPECTIVE JUROR NUMBER 18: Never got the  
17 stuff back. Um, they did find one of the  
18 gentlemen, and they did some restitution, but it  
19 wasn't enough, obviously, to pay for everything.

20 MR. JOHNSON: Right. I know that sometimes  
21 can be a difficult thing --

22 PROSPECTIVE JUROR NUMBER 18: It's tough.

23 MR. JOHNSON: -- to have your life violated  
24 like that and not really -- somebody not be held  
25 fully accountable.

1           Is there anything about that that you would  
2           not be able to set aside?

3           PROSPECTIVE JUROR NUMBER 18: I don't think  
4           so.

5           MR. JOHNSON: Okay. Thank you, ma'am.

6           Anybody else on that fourth row?

7           (No response.)

8           MR. JOHNSON: Fifth row?

9           (Prospective Juror Number 25 indicated in the  
10          affirmative.)

11          MR. JOHNSON: Okay. Mr. Siegel?

12          PROSPECTIVE JUROR NUMBER 25: Yes. I had a  
13          car broken into, window shattered, and they  
14          took -- I believe it was just a GPS system that  
15          they took. That was about ten years ago.

16          MR. JOHNSON: All right. And where did that  
17          occur?

18          PROSPECTIVE JUROR NUMBER 25: That was up in  
19          New York.

20          MR. JOHNSON: All right. Same question I'm  
21          asking everybody else. Anything about that you  
22          wouldn't be able to set aside?

23          PROSPECTIVE JUROR NUMBER 25: No.

24          MR. JOHNSON: All right.

25          Mr. -- is it Jaudon?

1 PROSPECTIVE JUROR NUMBER 24: Jaudon.

2 MR. JOHNSON: Jaudon?

3 PROSPECTIVE JUROR NUMBER 24: Yeah. We  
4 had -- our house was broken into when we were in  
5 the process of a move, and I had five guitars  
6 stolen.

7 MR. JOHNSON: Oh, wow. Anything -- were  
8 those people ever caught?

9 PROSPECTIVE JUROR NUMBER 24: No. Nobody was  
10 ever caught, but the good news is I was heavily  
11 insured, so...

12 MR. JOHNSON: So you were made whole?

13 PROSPECTIVE JUROR NUMBER 24: Yes, sir.

14 MR. JOHNSON: By somebody. Actually, because  
15 you paid all those premiums, you kind of made  
16 yourself whole, right?

17 Anything about --

18 PROSPECTIVE JUROR NUMBER 24: Nothing's free.

19 MR. JOHNSON: Anything about that experience  
20 you wouldn't be able to set aside?

21 PROSPECTIVE JUROR NUMBER 24: No.

22 MR. JOHNSON: All right. Thank you, sir.

23 Anybody else on that fifth row?

24 (Prospective Juror Number 19 indicated in the  
25 affirmative.)

1           MR. JOHNSON: Oh, let me go back to the  
2 fourth row. Is it Ms. Griener?

3           PROSPECTIVE JUROR NUMBER 19: Griener.  
4 Sorry. I forgot. I had my car broken into, too,  
5 and no, there's nothing I couldn't set aside.

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

7           Anybody else? If I skip over you or you  
8 remember something, just raise your hand.

9           All right. Back to the fifth row, I think I  
10 saw another hand, Ms. Dupont?

11          PROSPECTIVE JUROR NUMBER 21: Yes. A man  
12 broke into my apartment when I was home alone.  
13 They didn't find him. I wasn't harmed, nothing  
14 was taken, and I have --

15          MR. JOHNSON: Did you -- tell me about --  
16 tell me -- you were actually in the apartment when  
17 that occurred?

18          PROSPECTIVE JUROR NUMBER 21: Yes.

19          MR. JOHNSON: So how did that play out?  
20 Can --

21          PROSPECTIVE JUROR NUMBER 21: I woke up and  
22 there was man in my room. And I grabbed the  
23 closest thing I could and said, why are you in my  
24 house, and he ran out.

25          MR. JOHNSON: Okay. So there was -- he

1 didn't assault you in any way?

2 PROSPECTIVE JUROR NUMBER 21: No.

3 MR. JOHNSON: Obviously, very frightening.

4 PROSPECTIVE JUROR NUMBER 21: Uh-huh.

5 MR. JOHNSON: Any idea why he was there?

6 PROSPECTIVE JUROR NUMBER 21: I -- I have no  
7 clue, but I was home alone, so I was like, well,  
8 did he know I was home alone?

9 MR. JOHNSON: Right. Was that person ever  
10 caught?

11 PROSPECTIVE JUROR NUMBER 21: No, not that I  
12 know of.

13 MR. JOHNSON: Okay. Is there anything about  
14 that experience that you would carry over into  
15 this trial and either hold against the State or  
16 hold against the defendant?

17 PROSPECTIVE JUROR NUMBER 21: No, sir.

18 MR. JOHNSON: Okay. You can set that aside?

19 PROSPECTIVE JUROR NUMBER 21: Uh-huh.

20 MR. JOHNSON: Okay. Thank you, ma'am.

21 Last row?

22 (Prospective Juror Number 30 indicated in the  
23 affirmative.)

24 MR. JOHNSON: Ms. Grehl?

25 PROSPECTIVE JUROR NUMBER 30: Yes. Home

1           burglarized. I actually came in the middle of the  
2           robbery.

3                   And, um, jewelry, money taken, and was pushed  
4           down. Um, didn't, unfortunately, get to see who  
5           it was.

6                   MR. JOHNSON: Okay. So --

7                   PROSPECTIVE JUROR NUMBER 30: He was probably  
8           found for something else down the road, um, but I  
9           didn't see who it was.

10                  MR. JOHNSON: Okay. But you -- it sounds  
11           like you were actually assaulted in that incident.

12                  PROSPECTIVE JUROR NUMBER 30: Yes.

13                  MR. JOHNSON: Okay. And you don't think he  
14           was ever caught for your -- for the crime --

15                  PROSPECTIVE JUROR NUMBER 30: Not at -- not  
16           that I know.

17                  MR. JOHNSON: Okay. Anything about that  
18           experience that --

19                  PROSPECTIVE JUROR NUMBER 30: Other than the  
20           fright? And the violation? No.

21                  MR. JOHNSON: Okay. You can set that aside?

22                  PROSPECTIVE JUROR NUMBER 30: I don't know  
23           how much I can set aside the fright.

24                  MR. JOHNSON: Okay. Well, let's talk about  
25           that a little bit, okay?



1 PROSPECTIVE JUROR NUMBER 30: Okay.

2 MR. JOHNSON: Because the judge will give you  
3 some instructions, and what's important about the  
4 trial is that your decision has to be based only  
5 on what goes on inside this courtroom.

6 PROSPECTIVE JUROR NUMBER 30: Right.

7 MR. JOHNSON: You're going to be instructed  
8 that whatever kind of life -- you're going to come  
9 to the courtroom with life experiences --

10 PROSPECTIVE JUROR NUMBER 30: Yeah.

11 MR. JOHNSON: -- to be sure, but there will  
12 be certain things that you will be asked to set  
13 aside and give the State of Florida as well as the  
14 defendant a fair trial.

15 PROSPECTIVE JUROR NUMBER 30: Right.

16 MR. JOHNSON: And part of that is to be able  
17 to set that aside and not let it affect you.

18 Can you do that?

19 PROSPECTIVE JUROR NUMBER 30: Um, honestly,  
20 I -- I probably could. I'm -- I don't know the  
21 circumstance that's going to be presented.

22 MR. JOHNSON: Okay. And that -- I think that  
23 leads into the next question. We don't know. We  
24 don't know what the case is about.

25 Obviously, your circumstance had nothing to

1 do with what happened in this case.

2 PROSPECTIVE JUROR NUMBER 30: Right.

3 MR. JOHNSON: So with that sort of further  
4 explanation, knowing that it really doesn't affect  
5 it from an evidence standpoint --

6 PROSPECTIVE JUROR NUMBER 30: I should be  
7 okay.

8 MR. JOHNSON: I'm sorry?

9 PROSPECTIVE JUROR NUMBER 30: I should be  
10 okay.

11 MR. JOHNSON: Okay. So you can set it aside?

12 PROSPECTIVE JUROR NUMBER 30: Uh-huh.

13 MR. JOHNSON: Is that a yes?

14 PROSPECTIVE JUROR NUMBER 30: Yes. I'm  
15 sorry.

16 MR. JOHNSON: That's okay. Just a little  
17 reminder.

18 PROSPECTIVE JUROR NUMBER 30: What, she can't  
19 say, "Uh-huh"?

20 MR. JOHNSON: Thank you, ma'am.

21 Anybody else on that last row?

22 (Prospective Juror Number 28 indicated in the  
23 affirmative.)

24 MR. JOHNSON: All right. Yes. Is that  
25 Ms. Macklin?

1 PROSPECTIVE JUROR NUMBER 28: Yes. I prefer  
2 to discuss it in private.

3 MR. JOHNSON: Yes, ma'am. Sure. Thank you.

4 Anybody else there on that last row?

5 (No response.)

6 MR. JOHNSON: All right. Let's go over here  
7 to my left-hand side, your right-hand side.

8 Anybody on the first row ever been the victim of a  
9 crime?

10 (Prospective Juror Number 31 indicated in the  
11 affirmative.)

12 MR. JOHNSON: Ms. Simmons?

13 PROSPECTIVE JUROR NUMBER 31: Yes. Um,  
14 assault, battery, robbed. That's it.

15 MR. JOHNSON: Was that -- were those separate  
16 cases or --

17 PROSPECTIVE JUROR NUMBER 31: Um, the battery  
18 and assault was together, and the robbery was  
19 separate.

20 MR. JOHNSON: Okay. The robbery, how long  
21 ago did that occur?

22 PROSPECTIVE JUROR NUMBER 31: This was, like,  
23 um, maybe 2009.

24 MR. JOHNSON: Okay. Can you tell me sort of  
25 the circumstances of that?

1           PROSPECTIVE JUROR NUMBER 31: Well, I was  
2 followed home, um, and some guys were, like,  
3 waiting in my house, hog-tied me to the chair,  
4 took everything they wanted, but...

5           MR. JOHNSON: I'm sorry. Did you say that  
6 you were tied to a chair?

7           PROSPECTIVE JUROR NUMBER 31: Yes.

8           MR. JOHNSON: Okay. Did you recognize them  
9 at all?

10          PROSPECTIVE JUROR NUMBER 31: Huh-uh.

11          MR. JOHNSON: Did -- what did they take?

12          PROSPECTIVE JUROR NUMBER 31: Pretty much  
13 anything of value. They just kind of, like,  
14 scoundreled [verbatim] around the house and, like,  
15 took some paintings, took some money.

16          Um, I kind of like tried to black it out, so  
17 can't really remember the -- everything that was  
18 really in the house, but mostly cash and, like,  
19 paintings.

20          MR. JOHNSON: I'm assuming you reported it?

21          PROSPECTIVE JUROR NUMBER 31: No, I didn't.

22          MR. JOHNSON: You did not report it?

23          PROSPECTIVE JUROR NUMBER 31: Huh-uh.

24          MR. JOHNSON: I'm going to ask the question  
25 'cause I think it's kind of hanging out there and

1 I need to. Why -- why not?

2 PROSPECTIVE JUROR NUMBER 31: Just scared  
3 they were going to come back.

4 MR. JOHNSON: Okay. So they were never  
5 caught?

6 PROSPECTIVE JUROR NUMBER 31: Right.

7 MR. JOHNSON: Anything about that  
8 experience -- obviously, both sides would want to  
9 know how that's going to affect this trial.

10 Is there anything about that experience that,  
11 you know, you would hold against the defendant or  
12 hold against the State or anything like that?

13 PROSPECTIVE JUROR NUMBER 31: No.

14 MR. JOHNSON: Can you set it aside?

15 PROSPECTIVE JUROR NUMBER 31: Yeah. I set it  
16 aside. I let go of it a long time ago.

17 MR. JOHNSON: Okay. What about the assault  
18 and battery?

19 PROSPECTIVE JUROR NUMBER 31: Assault and  
20 battery, um, they were caught, they were  
21 convicted, and that was the end of that.

22 MR. JOHNSON: Were you satisfied with the  
23 result in that case?

24 PROSPECTIVE JUROR NUMBER 31: Yes.

25 MR. JOHNSON: Okay. You can set that aside,

1 as well?

2 PROSPECTIVE JUROR NUMBER 31: Uh-huh.

3 MR. JOHNSON: Okay. Thank you, ma'am.

4 Anybody else in that front row?

5 And that was Ms. Simmons, correct?

6 PROSPECTIVE JUROR NUMBER 31: Right.

7 MR. JOHNSON: Anybody else in the front row?

8 (No response.)

9 MR. JOHNSON: All right. Mr. Bister, I know  
10 you're on the second row. Ever been the victim of  
11 a crime?

12 PROSPECTIVE JUROR NUMBER 40: No.

13 MR. JOHNSON: Okay. Third row?

14 (Prospective Juror Number 42 indicated in the  
15 affirmative.)

16 MR. JOHNSON: Yes, sir, Mr. Rafael?

17 PROSPECTIVE JUROR NUMBER 42: When I was  
18 working at a bank, we were burglarized, but that,  
19 you know, at the job, that -- I don't know if that  
20 really counts. I've had a car vandalized.

21 MR. JOHNSON: I would say that counts. What  
22 were you doing at the bank?

23 PROSPECTIVE JUROR NUMBER 42: I was a teller.

24 MR. JOHNSON: Were you the one that the  
25 person approached?

1                   PROSPECTIVE JUROR NUMBER 42: He actually  
2                   went to the guy next to me.

3                   MR. JOHNSON: I see. So tell me -- tell me  
4                   what happened.

5                   PROSPECTIVE JUROR NUMBER 42: Um, he  
6                   basically, you know, kind of brandished a gun,  
7                   passed him a note, asked him to give him whatever  
8                   bills, don't put a dye pack, whatever, you know,  
9                   walked off quietly.

10                  MR. JOHNSON: Did you actually see the gun?

11                  PROSPECTIVE JUROR NUMBER 42: I didn't see  
12                  the gun. I saw the guy.

13                  MR. JOHNSON: Right. Okay. Was -- now, I  
14                  know in a bank, you know, video cameras all  
15                  around, and was this person ever caught?

16                  PROSPECTIVE JUROR NUMBER 42: No.

17                  MR. JOHNSON: Okay. Tell me what your  
18                  thoughts and feelings are about that experience.

19                  PROSPECTIVE JUROR NUMBER 42: Um, I mean, you  
20                  know, to me it was kind of like, you know, it's a  
21                  little surreal.

22                  You're not -- you know, you kind of think  
23                  this is only the kind of thing that happens on TV,  
24                  but for me, it's -- it's just kind of like, oh, I  
25                  was surprised.

1 MR. JOHNSON: Kind of reality, right?

2 PROSPECTIVE JUROR NUMBER 42: It wasn't -- it  
3 wasn't brutal or anything like you would see on  
4 TV. It was, like, really quiet.

5 MR. JOHNSON: Right. Kind of a get in and  
6 get out kind of thing?

7 PROSPECTIVE JUROR NUMBER 42: Yeah.

8 MR. JOHNSON: Is there anything about that  
9 experience that would kind of bleed over in this  
10 trial if you were asked to be a juror?

11 PROSPECTIVE JUROR NUMBER 42: Nah.

12 MR. JOHNSON: Okay. You could give the  
13 defendant in this particular case a fair trial and  
14 not --

15 PROSPECTIVE JUROR NUMBER 42: I mean, you  
16 know, outside of the facts of the case, yeah.  
17 That's not a problem.

18 MR. JOHNSON: Sure, sure. And I'm talking  
19 about outside of what happens in this courtroom --

20 PROSPECTIVE JUROR NUMBER 42: Oh, yeah.

21 MR. JOHNSON: -- you could set that aside?  
22 Anybody else there on that third row?

23 (No response.)

24 MR. JOHNSON: Let me go to the fourth row.

25 (Prospective Juror Number 50 indicated in the



1 affirmative.)

2 MR. JOHNSON: Is that Ms. Jones?

3 PROSPECTIVE JUROR NUMBER 50: Someone  
4 attempted to break into my car in a parking lot.  
5 That was -- they just shoved a screwdriver in the  
6 lock and tried to get in, but they didn't get in  
7 the car.

8 MR. JOHNSON: Okay. Was that something that  
9 you witnessed, or you just found out later?

10 PROSPECTIVE JUROR NUMBER 50: No. I came  
11 back to the parking lot, and the handle of my  
12 driver's-side door fell off.

13 MR. JOHNSON: Was the person ever caught?

14 PROSPECTIVE JUROR NUMBER 50: No.

15 MR. JOHNSON: Same question I've been asking  
16 everybody else. Is that something you would be  
17 able to set aside or no?

18 PROSPECTIVE JUROR NUMBER 50: Yeah. It was  
19 just annoying to have to replace it. That was it.

20 MR. JOHNSON: Sure.

21 PROSPECTIVE JUROR NUMBER 50: They didn't get  
22 into my car.

23 MR. JOHNSON: All right. Thank you, ma'am.  
24 Anybody else on that fourth row?

25 (No response.)

1 MR. JOHNSON: Nobody? How about the fifth  
2 row?

3 (Prospective Juror Number 53 indicated in the  
4 affirmative.)

5 MR. JOHNSON: Mr. Norrid?

6 PROSPECTIVE JUROR NUMBER 53: Yes. My  
7 family's home was broken into when I was 16 years  
8 old.

9 My dad apprehended him, and he and I held him  
10 down 'til the police showed up. They carted him  
11 off, and that was the end of that.

12 MR. JOHNSON: That's a pretty brave thing to  
13 do as a 16-year-old. What happened with the case?

14 PROSPECTIVE JUROR NUMBER 53: I was 16.

15 MR. JOHNSON: You don't know?

16 PROSPECTIVE JUROR NUMBER 53: I don't know.

17 MR. JOHNSON: Okay.

18 PROSPECTIVE JUROR NUMBER 53: No one was  
19 hurt, no one was injured, so...

20 MR. JOHNSON: Okay. Any thoughts or feelings  
21 about that?

22 PROSPECTIVE JUROR NUMBER 53: No.

23 MR. JOHNSON: Is it something you can set  
24 aside?

25 PROSPECTIVE JUROR NUMBER 53: Oh, yeah,

1           absolutely.

2           MR. JOHNSON: Thank you, sir.

3           Anybody else on that fifth row?

4           (No response.)

5           MR. JOHNSON: Last row? Anybody on the last

6           row been a victim of a crime?

7           (Prospective Juror Number 57 indicated in the

8           affirmative.)

9           MR. JOHNSON: Ms. Raynor?

10          PROSPECTIVE JUROR NUMBER 57: Vandalism to my

11          car, car vandalism.

12          MR. JOHNSON: Car vandalism? How long ago

13          was that?

14          PROSPECTIVE JUROR NUMBER 57: Four years.

15          MR. JOHNSON: Was that here in St. Johns

16          County?

17          PROSPECTIVE JUROR NUMBER 57: At home.

18          MR. JOHNSON: Okay.

19          THE COURT REPORTER: I can't hear her.

20          MR. JOHNSON: Yeah. Can you --

21          PROSPECTIVE JUROR NUMBER 57: At home.

22          MR. JOHNSON: "At home," she said.

23          Can you set that aside?

24          (No audible response.)

25          MR. JOHNSON: Yes?

1 PROSPECTIVE JUROR NUMBER 57: Yes.

2 MR. JOHNSON: Okay. Anybody else on that  
3 last row?

4 (No response.)

5 MR. JOHNSON: Okay. Has anybody here ever  
6 been either arrested, charged, or accused of a  
7 crime?

8 I'll start over here on my right-hand side.  
9 I'll just ask everybody as a panel.

10 (Some of the prospective jurors indicated in  
11 the affirmative.)

12 MR. JOHNSON: All right. Ms. Karl, I'll  
13 start with you. Would you tell me the  
14 circumstances of that?

15 PROSPECTIVE JUROR NUMBER 20: I was arrested  
16 for, uh, DUI.

17 MR. JOHNSON: Okay.

18 PROSPECTIVE JUROR NUMBER 20: I was charged  
19 with reckless driving.

20 MR. JOHNSON: How long ago was that?

21 PROSPECTIVE JUROR NUMBER 20: Three years.

22 MR. JOHNSON: Okay. Did you have to come to  
23 court?

24 PROSPECTIVE JUROR NUMBER 20: I did.

25 MR. JOHNSON: How did that case resolve

1           itself?

2                   PROSPECTIVE JUROR NUMBER 20:  Um, I was found  
3           guilty of reckless driving without, um,  
4           adjudication.

5                   MR. JOHNSON:  Okay.  Is that something you  
6           pled to, or you had a trial?

7                   PROSPECTIVE JUROR NUMBER 20:  I pled to.

8                   MR. JOHNSON:  Okay.  Do you feel you were  
9           fairly treated?

10                  PROSPECTIVE JUROR NUMBER 20:  Kinda.

11                  MR. JOHNSON:  Sounds like you have some --

12                  PROSPECTIVE JUROR NUMBER 20:  A little bit.  
13           I mean, I never -- I never had any kind of issues  
14           beforehand, and I felt like I was -- it was  
15           weird --

16                  MR. JOHNSON:  Sure.

17                  PROSPECTIVE JUROR NUMBER 20:  -- being in  
18           that position.  And I felt like I was looked down  
19           upon, especially without being held for  
20           adjudication.

21                  MR. JOHNSON:  Sure.  I can imagine.  The part  
22           of it that you think, hmm, maybe I wasn't so much,  
23           where would you kind of -- whose feet would you  
24           kind of place that on?

25                  PROSPECTIVE JUROR NUMBER 20:  Um, as far as,

1           like, being upset about the adjudication not being  
2           withheld?

3           MR. JOHNSON: Yes, ma'am.

4           PROSPECTIVE JUROR NUMBER 20: I guess it  
5           would be, um, not the judge, but it was the --  
6           there was somebody else involved. I can't  
7           remember who it was.

8           MR. JOHNSON: The prosecutor?

9           PROSPECTIVE JUROR NUMBER 20: Yeah.

10          MR. JOHNSON: Okay. I'm a prosecutor. I  
11          wasn't the person. I'm a nice guy, though.

12          Is that -- is that anything that, because of  
13          that experience -- and that happens. That's  
14          not -- it's fairly common for people to feel that  
15          way.

16          And you have the right to your feelings, and  
17          I'm certainly not downplaying that in any way,  
18          but, obviously, from our standpoint and the job  
19          that we have to do, is there any reason why we  
20          would be concerned you might not be able to set  
21          that aside and give our side of the case a fair  
22          trial?

23          PROSPECTIVE JUROR NUMBER 20: I am a  
24          little -- I guess I have a little bit of a grudge  
25          about it, but I still think I would be pretty

1 fair.

2 MR. JOHNSON: Okay. You wouldn't hold that  
3 against us?

4 PROSPECTIVE JUROR NUMBER 20: No.

5 MR. JOHNSON: Okay. Thank you, ma'am.

6 PROSPECTIVE JUROR NUMBER 20: It wasn't you  
7 who did it.

8 MR. JOHNSON: Thankfully.  
9 Anybody else?

10 (Prospective Juror Number 24 indicated in the  
11 affirmative.)

12 MR. JOHNSON: Mr. Jau -- Jaudon? I'm going  
13 to --

14 PROSPECTIVE JUROR NUMBER 24: Well, I got a  
15 DUI back in 1979.

16 MR. JOHNSON: That was a long time ago.

17 PROSPECTIVE JUROR NUMBER 24: I was guilty as  
18 sin. Just being honest.

19 MR. JOHNSON: Thank you, thank you. And I  
20 appreciate your candor. Some folks don't feel  
21 that way.

22 Anything about that you wouldn't be able to  
23 set aside?

24 PROSPECTIVE JUROR NUMBER 24: No, sir.

25 MR. JOHNSON: Thank you, sir.

1 I thought I saw another hand.

2 (Prospective Juror Number 25 indicated in the  
3 affirmative.)

4 MR. JOHNSON: Mr. Siegel?

5 PROSPECTIVE JUROR NUMBER 25: Yeah. Back in  
6 college -- that was 20 years ago -- it was a  
7 misdemeanor. I don't remember the exact charge,  
8 but it was some destruction of property.

9 Trying to get into an apartment, broke the  
10 window. Not trying to break in. The door was  
11 locked, but I didn't have the key.

12 MR. JOHNSON: Usually, these stories start  
13 with, "Back in college."

14 (Laughter.)

15 MR. JOHNSON: You'd be surprised who has  
16 these stories, too.

17 Did you have to go to court?

18 PROSPECTIVE JUROR NUMBER 25: I did. It was  
19 dropped in the end, but I did actually -- there  
20 wasn't a trial, but I had a public defender and  
21 kind of went through the process.

22 MR. JOHNSON: So you never had to plea or  
23 went -- it was dropped and that was the end of  
24 that?

25 PROSPECTIVE JUROR NUMBER 25: Yep.



1           MR. JOHNSON: Anything about that that left a  
2 bad taste in your mouth?

3           PROSPECTIVE JUROR NUMBER 25: No.

4           MR. JOHNSON: Anybody else?

5           (Prospective Juror Number 21 indicated in the  
6 affirmative.)

7           MR. JOHNSON: Ms. Dupont?

8           PROSPECTIVE JUROR NUMBER 21: Yeah. I was  
9 arrested for, I guess, trespassing on historical  
10 property.

11           Basically, I was in one of the cemeteries  
12 downtown, and it wasn't open. I was taking  
13 photographs, and that was for that. And then I  
14 had probation.

15           MR. JOHNSON: There's a lot of those in  
16 St. Augustine, isn't there? Was that -- did that  
17 happen here?

18           PROSPECTIVE JUROR NUMBER 21: Yes.

19           MR. JOHNSON: I'm going to make a note of  
20 that, 'cause I like historical things, don't go in  
21 the graveyard.

22           So what happened with your case?

23           PROSPECTIVE JUROR NUMBER 21: I just had,  
24 like, six months probation or something.

25           MR. JOHNSON: Did you feel you were fairly

1 treated?

2 PROSPECTIVE JUROR NUMBER 21: Yes.

3 MR. JOHNSON: Okay. All right. You can set  
4 that aside?

5 PROSPECTIVE JUROR NUMBER 21: Uh-huh.

6 MR. JOHNSON: All right.

7 Mr. Metcalf, I saw your hand raised.

8 PROSPECTIVE JUROR NUMBER 26: Yeah. This was  
9 back in high school.

10 MR. JOHNSON: That's the second next most  
11 common way that story starts.

12 PROSPECTIVE JUROR NUMBER 26: Yeah. It was  
13 just underage possession of alcohol. It was a  
14 misdemeanor. I had a pretrial condition.

15 MR. JOHNSON: You were a juvenile, I take it,  
16 at the time?

17 PROSPECTIVE JUROR NUMBER 26: Seventeen.

18 MR. JOHNSON: And how did that case wind up  
19 resolving?

20 PROSPECTIVE JUROR NUMBER 26: I don't  
21 remember exactly other than I had to go to  
22 pretrial intervention, pay a fee, and I think I  
23 took a class.

24 MR. JOHNSON: And usually -- I know, usually,  
25 with pretrial intervention, you do some community

1 service, things like that, and the case gets  
2 dropped.

3 Is that what happened in your case?

4 PROSPECTIVE JUROR NUMBER 26: I believe so.  
5 Yeah.

6 MR. JOHNSON: All right. Anything about that  
7 you couldn't set aside?

8 PROSPECTIVE JUROR NUMBER 26: No.

9 MR. JOHNSON: Thank you.  
10 Anybody else over here on this right-hand  
11 side?

12 (No response.)

13 MR. JOHNSON: Anybody here on the left-hand  
14 side?

15 (Some of the prospective jurors indicated in  
16 the affirmative.)

17 MR. JOHNSON: All right. Ms. Simmons?

18 PROSPECTIVE JUROR NUMBER 31: Yes. I was  
19 arrested for fraud, but, um, I was not, like,  
20 prosecuted or anything that. It was dropped.

21 MR. JOHNSON: Okay. Was it actually a case  
22 that got forwarded to the state attorney's office  
23 and they dropped it?

24 PROSPECTIVE JUROR NUMBER 31: Um, I'm not  
25 sure.

1           MR. JOHNSON: And I don't know that you would  
2 really know that, so that may not have been a fair  
3 question.

4           When you say, "It was dropped," how do you  
5 know that it was dropped?

6           PROSPECTIVE JUROR NUMBER 31: Uh, my lawyer  
7 told me.

8           MR. JOHNSON: Okay. So you had to hire a  
9 lawyer in the case?

10          PROSPECTIVE JUROR NUMBER 31: Uh-huh. Well,  
11 I didn't have to, but I wanted to to make sure it  
12 was, you know, fair for me.

13          MR. JOHNSON: Sure, sure. I think that was  
14 wise.

15          Anything about that that -- that left a bad  
16 taste in your mouth?

17          PROSPECTIVE JUROR NUMBER 31: No. I was  
18 happy it was dropped.

19          MR. JOHNSON: Okay.

20          Anybody else on the front row?

21          (No response.)

22          MR. JOHNSON: Okay. Mr. Bister, you're the  
23 only one on that second row, so if I say "second  
24 row," I'm talking to you.

25          PROSPECTIVE JUROR NUMBER 40: When I was in

1 college, I had a minor in possession of alcohol  
2 and a disturbing the peace.

3 MR. JOHNSON: How did that case resolve?

4 PROSPECTIVE JUROR NUMBER 40: They were two  
5 separate, you know. One was a party. One was --  
6 I was riding in a pickup that had an empty keg in  
7 the back. So both of them I paid fines on.

8 MR. JOHNSON: I see. So kind of a good time  
9 gone awry, huh?

10 PROSPECTIVE JUROR NUMBER 40: I don't know.  
11 There was an empty keg in the back of a pickup I  
12 was riding in. I didn't really see the point in  
13 that, but...

14 MR. JOHNSON: Anything about that situation  
15 that, you know --

16 PROSPECTIVE JUROR NUMBER 40: It was a  
17 small-town cop that -- I assume he's never worked  
18 in this county, so...

19 MR. JOHNSON: Let's hope. You could set that  
20 aside then?

21 PROSPECTIVE JUROR NUMBER 40: Yep.

22 MR. JOHNSON: Thank you, sir.

23 All right. Third row there, anybody on the  
24 third row?

25 (No response.)

1 MR. JOHNSON: All right. Fourth row?

2 (No response.)

3 MR. JOHNSON: Nobody on the fourth row. How  
4 about the fifth row?

5 (Prospective Juror Number 53 indicated in the  
6 affirmative.)

7 MR. JOHNSON: Yes, sir, Mr. Norrid?

8 PROSPECTIVE JUROR NUMBER 53: Back in  
9 college, DWI. I was guilty, paid my fine, learned  
10 my lesson, thank God.

11 MR. JOHNSON: You can set it aside?

12 PROSPECTIVE JUROR NUMBER 53: Yes.

13 MR. JOHNSON: All right. Thank you,  
14 Mr. Norrid.

15 Anybody else in that fifth row?

16 (No response.)

17 MR. JOHNSON: Last row?

18 (Prospective Juror Number 60 indicated in the  
19 affirmative.)

20 MR. JOHNSON: Yes, sir, Mr. Stovall?

21 PROSPECTIVE JUROR NUMBER 60: I had a DUI 12  
22 years ago.

23 MR. JOHNSON: Okay. Here in St. Johns  
24 County?

25 PROSPECTIVE JUROR NUMBER 60: Duval.

1           MR. JOHNSON: Duval County? How did that  
2 case resolve itself?

3           PROSPECTIVE JUROR NUMBER 60: I paid some  
4 fines and took some classes. That was it.

5           MR. JOHNSON: Okay. Do you -- do you feel  
6 that you were fairly treated?

7           PROSPECTIVE JUROR NUMBER 60: Yeah.

8           MR. JOHNSON: Okay. Now, I know that's  
9 Jacksonville, so there's different prosecutors up  
10 there.

11           Anything about that case that you wouldn't be  
12 able to set aside?

13           PROSPECTIVE JUROR NUMBER 60: No. It was  
14 legitimate.

15           MR. JOHNSON: Okay. All right.

16           Anybody else that I may have missed?

17           (No response.)

18           MR. JOHNSON: All right. My next question is  
19 similar to that, only just a little different.  
20 How many of you here have ever had a close friend  
21 or family member that's been accused or arrested  
22 for something?

23           And I'll start over here on the right-hand  
24 side.

25           On the front row, Ms. Shelton?

1                   PROSPECTIVE JUROR NUMBER TWO: Yeah. My dad,  
2                   um, he was a truck driver. And, uh, he was up in  
3                   a little town up in Ohio, and a guy broke in his  
4                   truck, stole his TV, but there was another guy  
5                   with him.

6                   So he went back into the diner, and he was  
7                   eating and he saw one of the guys come in. So he  
8                   went over to say something to him, and the guy  
9                   punched him, and so they started fighting.

10                  He didn't see there was two officers sitting  
11                  in the restaurant with him, so when the officer  
12                  came over to tap him on the shoulder, he turned  
13                  around and popped the officer, not knowing.

14                  And so they -- they took him to the county  
15                  jail, but he ended up just paying a fine. They  
16                  never locked him up. He actually sat out there  
17                  with a -- until we sent his money, wired the money  
18                  up.

19                  MR. JOHNSON: I see. Anything about that  
20                  case that you wouldn't be able to set aside?

21                  PROSPECTIVE JUROR NUMBER TWO: No.

22                  MR. JOHNSON: Anybody on the front -- anybody  
23                  else on the front row?

24                  (Prospective Juror Number Three indicated in  
25                  the affirmative.)



1 MR. JOHNSON: Ms. Williams?

2 PROSPECTIVE JUROR NUMBER THREE: Yes, sir.  
3 My younger brother, he's 17. He got in trouble in  
4 Ohio, like, two years ago and was put on  
5 probation.

6 My mom and him were going through a rough  
7 time. And somebody said that he was trying to  
8 sell edibles, I guess, that he had gotten from  
9 somebody else.

10 He paid his fines, was on probation, and then  
11 got taken off, like, four months after because  
12 they realized he was a good kid and the situation  
13 at home wasn't the best.

14 MR. JOHNSON: Okay. Anything about that case  
15 that you wouldn't be able to set aside?

16 PROSPECTIVE JUROR NUMBER THREE: No. He's --  
17 he did what he did, and he had to pay what he had  
18 to do, so...

19 MR. JOHNSON: Thank you, ma'am.

20 All right. Anybody else on the front row?

21 (No response.)

22 MR. JOHNSON: Second row?

23 (Prospective Juror Number Ten indicated in  
24 the affirmative.)

25 MR. JOHNSON: Dr. Gonzalez?

1           PROSPECTIVE JUROR NUMBER TEN: My daughter,  
2           when she was 21, had a DUI -- or D -- a DWI. I  
3           don't really know anything about it 'cause it was  
4           a different state.

5           MR. JOHNSON: Ever talk to her about it?

6           PROSPECTIVE JUROR NUMBER TEN: I mean, I know  
7           she had it, but that's about it.

8           MR. JOHNSON: Okay. Any sense of whether she  
9           was fairly treated?

10          PROSPECTIVE JUROR NUMBER TEN: Oh, I'm sure  
11          she was guilty.

12          MR. JOHNSON: You can set it aside?

13          PROSPECTIVE JUROR NUMBER TEN: Yes.

14          MR. JOHNSON: All right. Thank you, ma'am.  
15          Anybody else, second row?

16          (No response.)

17          MR. JOHNSON: All right. Third row?

18          (Prospective Juror Number 13 indicated in the  
19          affirmative.)

20          MR. JOHNSON: Yes, ma'am, Ms. Bonday?

21          PROSPECTIVE JUROR NUMBER 13: My best friend  
22          was arrested for DUI, um, I think about a year and  
23          a half ago in another state.

24                   And then I have a cousin who's residing in  
25                   jail probably for the rest of his life, so...

1 MR. JOHNSON: Okay.

2 PROSPECTIVE JUROR NUMBER 13: He's been in  
3 there, in and out, for ten, 12 years for drug use.

4 MR. JOHNSON: Okay. So I have some questions  
5 about that. So you said, "for the rest of his  
6 life." And then you said "for drug issues."

7 PROSPECTIVE JUROR NUMBER 13: Well, he gets  
8 out and then violates probation and has to go back  
9 in.

10 MR. JOHNSON: Oh, I see. So he's not --

11 PROSPECTIVE JUROR NUMBER 13: He's, like, a  
12 repeat thing.

13 MR. JOHNSON: So he's not sentenced to life,  
14 but he has a sort of track record?

15 PROSPECTIVE JUROR NUMBER 13: Correct,  
16 correct.

17 MR. JOHNSON: I see. Okay. Are you close  
18 with that cousin?

19 PROSPECTIVE JUROR NUMBER 13: Um, when we  
20 were younger, but no, not anymore.

21 MR. JOHNSON: Okay.

22 PROSPECTIVE JUROR NUMBER 13: He's also in a  
23 different state.

24 MR. JOHNSON: Okay. Any thoughts or feelings  
25 about seeing that sort of happen over and over

1           again?

2                   PROSPECTIVE JUROR NUMBER 13:  Um, no.  I  
3           mean, he deserves to be in there.  I think it's  
4           the only thing keeping him alive, actually, um,  
5           but I feel bad for my aunt.

6                   MR. JOHNSON:  Sure, sure.  Is there anything  
7           about that situation that you would not be able to  
8           set aside here?

9                   PROSPECTIVE JUROR NUMBER 13:  No, I don't  
10          think so.

11                   MR. JOHNSON:  Okay.  Is there any -- it  
12          sounds like his struggles are with drugs.  Did I  
13          understand you correctly?

14                   PROSPECTIVE JUROR NUMBER 13:  Yes.

15                   MR. JOHNSON:  Can I ask you what type?

16                   PROSPECTIVE JUROR NUMBER 13:  Um, I think --  
17          I think it was, um, crack, I think, is what he was  
18          doing.  And he stole from family members in order  
19          to pay for it.

20                   MR. JOHNSON:  Okay.  Ever -- did he ever try  
21          rehab or anything like that?

22                   PROSPECTIVE JUROR NUMBER 13:  I think he's  
23          tried everything.  Yes.

24                   MR. JOHNSON:  But continued to struggle?

25                   PROSPECTIVE JUROR NUMBER 13:  Yes.

1           MR. JOHNSON: Okay. Did he ever have any  
2 issues other than, um, possession or drugs? Any  
3 other offenses that were involved?

4           I know that a lot of offenses happen, like  
5 thefts and things like --

6           PROSPECTIVE JUROR NUMBER 13: Well, yes. He  
7 had the -- he stole checks and money from family  
8 members in order to pay for that, and then they  
9 turned him in for that, as well.

10          MR. JOHNSON: Okay. Has he ever had a  
11 situation where he committed a crime of violence  
12 as a result of those -- his struggles with alcohol  
13 or drugs?

14          PROSPECTIVE JUROR NUMBER 13: No, sir, not  
15 that I'm aware of.

16          MR. JOHNSON: Okay. Thank you, ma'am.  
17 Anybody else there on that third row?

18          (No response.)

19          MR. JOHNSON: All right. Fourth row?

20          (Prospective Juror Number 19 indicated in the  
21 affirmative.)

22          MR. JOHNSON: Ms. Griener, did I get it right  
23 this time?

24          PROSPECTIVE JUROR NUMBER 19: Griener. I'll  
25 talk to you about it privately. And, no, it

1           wouldn't have any bias.

2           THE COURT: Thank you.

3           Anybody else on that fourth row?

4           (Prospective Juror Number 20 indicated in the  
5 affirmative.)

6           PROSPECTIVE JUROR NUMBER 20: Same thing,  
7 private, and I think I would be okay.

8           MR. JOHNSON: Okay. The fifth row there?

9           (Prospective Juror Number 21 indicated in the  
10 affirmative.)

11          MR. JOHNSON: Ms. Dupont?

12          PROSPECTIVE JUROR NUMBER 21: My husband got  
13 a DUI when he was, like, 25, I think.

14          Um, and when he lived in Richmond, Virginia,  
15 I don't know exactly what happened. He told me he  
16 threw a TV off a balcony, and I don't know what  
17 happened after that, but he got in trouble for it.

18          MR. JOHNSON: I'm guessing this happened  
19 before you met him?

20          PROSPECTIVE JUROR NUMBER 21: Um, no -- we  
21 weren't together. No, sir.

22          MR. JOHNSON: Okay. Any -- you could set  
23 that aside?

24          PROSPECTIVE JUROR NUMBER 21: Absolutely.

25          MR. JOHNSON: Anybody on the last row or

1 Mr. Jaudon?

2 PROSPECTIVE JUROR NUMBER 24: I had a brother  
3 that was incarcerated for eight years. Um, I  
4 prefer to discuss the circumstances surrounding  
5 that privately.

6 MR. JOHNSON: Be happy to. Thank you, sir.

7 Anybody else on the last row?

8 (Prospective Juror Number 29 indicated in the  
9 affirmative.)

10 MR. JOHNSON: Mr. Cooper?

11 PROSPECTIVE JUROR NUMBER 29: Yes. Back in  
12 the '70s, my father was arrested for DUI several  
13 times.

14 And later in the late '70s, he was arrested  
15 on a federal charge of illegal sale of firearms,  
16 spent a couple years in club fed over in Eglin Air  
17 Force Base.

18 And then my second wife was arrested for --  
19 in college, she was arrested for criminal  
20 trespass.

21 And then she was also arrested, later on  
22 after we were married, with destruction of private  
23 property.

24 MR. JOHNSON: Okay. What were the  
25 circumstances of that last one you mentioned with

1 your second ex-wife?

2 PROSPECTIVE JUROR NUMBER 29: The -- the  
3 second wife?

4 MR. JOHNSON: Yes.

5 PROSPECTIVE JUROR NUMBER 29: The second  
6 wife, the destruction of private property?

7 MR. JOHNSON: Yes.

8 PROSPECTIVE JUROR NUMBER 29: She suffered  
9 from severe bipolar depression, and we were at a  
10 Ruth's Chris' restaurant in Baltimore.

11 And she freaked out when the woman at the  
12 coat check wouldn't give her her coat. So she  
13 reached over and took a table that had a bunch of  
14 glass bowls on it and business cards and just  
15 threw it on the floor.

16 And the police got there almost by the time I  
17 got down from the downstairs table where I was  
18 waiting to pay the check.

19 MR. JOHNSON: And how did that case resolve  
20 itself?

21 PROSPECTIVE JUROR NUMBER 29: She spent --  
22 she spent overnight in Baltimore City Jail and  
23 then was released, and the restaurant dropped the  
24 charges.

25 MR. JOHNSON: The situation with your father



1 with, I think you said illegal sale of a firearm?

2 PROSPECTIVE JUROR NUMBER 29: Yes. He used  
3 to -- he was -- he was a registered firearms  
4 dealer --

5 MR. JOHNSON: Okay.

6 PROSPECTIVE JUROR NUMBER 29: -- and this was  
7 in Clay County. Um, and he -- actually, one of  
8 his workers sold a firearm to an undercover ATF  
9 agent.

10 Um, and then my dad was arrested for the sale  
11 'cause he had -- he had to approve the sale.

12 MR. JOHNSON: Right.

13 PROSPECTIVE JUROR NUMBER 29: So he had to  
14 sign the federal ATF firearms transfer form. Um,  
15 so since his signature was on it, he was the one  
16 who went to jail.

17 MR. JOHNSON: Right. And he's -- you said he  
18 served two years? That's --

19 PROSPECTIVE JUROR NUMBER 29: Served several  
20 years. I don't remember how many because I was  
21 fairly young at the time.

22 MR. JOHNSON: That's pretty tough under those  
23 circumstances.

24 What -- do you have any thoughts or feelings  
25 about him being fairly treated or not?

1           PROSPECTIVE JUROR NUMBER 29: I think he -- I  
2 think he was fairly treated. I think the case was  
3 tried well, but it was -- I always thought it was  
4 kind of a sneaky move on the feds' part to  
5 actually -- you know, because he didn't actually  
6 physically see the purchase, or even the  
7 purchaser, but it was a paperwork issue.

8           MR. JOHNSON: Is that something you can set  
9 aside?

10          PROSPECTIVE JUROR NUMBER 29: Absolutely.

11          MR. JOHNSON: Thank you, sir.

12          Anybody else on the last row?

13          (Prospective Juror Number 28 indicated in the  
14 affirmative.)

15          MR. JOHNSON: Ms. Macklin?

16          PROSPECTIVE JUROR NUMBER 28: I don't know  
17 where to start. When you asked the question, I'm  
18 like, kind of embarrassing. My brother, my  
19 nephews, and my sister.

20          My brother and my two nephews have been  
21 arrested several times many years ago back in the  
22 '80s for -- and '90s for possession of marijuana  
23 and various other drugs.

24          And my sister has a DUI on record.

25          MR. JOHNSON: Okay. Let me ask you the ones

1           about the drugs. Which family members were those?

2                   PROSPECTIVE JUROR NUMBER 29: So my brother  
3           and his two sons.

4                   MR. JOHNSON: Okay. And it's -- I kind of  
5           got the impression it was kind of an ongoing  
6           thing. Did I get that correctly?

7                   PROSPECTIVE JUROR NUMBER 29: Well, it  
8           started with my brother. Then he had kids, and as  
9           they got older, they got involved in the drugs,  
10          not be -- not because of him, I don't think, but  
11          just what happened.

12                   And, you know, to this day, and it's been  
13          five, ten years, they're all clean and safe and  
14          happy and past that.

15                   MR. JOHNSON: Well, that leads me kind of to  
16          a new question. So kind of -- do you know what  
17          happened that kind of -- they were having  
18          struggles with this, and then they got clean and  
19          sober and happy as you've kind of described it.

20                   Do you know what happened, how it kind of  
21          transitioned from bad to good?

22                   PROSPECTIVE JUROR NUMBER 29: Well, it got  
23          really bad for all three of them at different  
24          times in life.

25                   And my brother had gone to jail. My -- you

1 know, I'd taken him to court several times.

2 My nephews, I lived away in California at the  
3 time, so I wasn't involved with that, just by what  
4 I was told. Um, you know, basically, they were  
5 lucky to be alive.

6 I believe they were treated fairly through  
7 the process.

8 MR. JOHNSON: Were these family members that  
9 were close to you?

10 PROSPECTIVE JUROR NUMBER 29: Yes.

11 MR. JOHNSON: What were your thoughts and  
12 feelings kind of seeing them go through those  
13 situations?

14 PROSPECTIVE JUROR NUMBER 29: I wasn't  
15 surprised. You know, I wasn't surprised that they  
16 were involved in that because their dad -- they  
17 probably had seen their dad do it at a very young  
18 age.

19 And, you know, it was one of those, when the  
20 phone rang, I kind of anticipated them being dead.

21 MR. JOHNSON: I see. Is that something you  
22 can set aside in this case?

23 PROSPECTIVE JUROR NUMBER 29: Absolutely.

24 MR. JOHNSON: Thank you.

25 Did I -- Mr. Mackey [verbatim], I thought I

1 saw your hand.

2 PROSPECTIVE JUROR NUMBER 26: It was my  
3 younger brother. He was diagnosed with  
4 schizophrenia in college.

5 And I don't know the exact details of his  
6 charges, but he's been in and out of trouble since  
7 that time. It's probably five or six years ago.  
8 Spent some time in jail. That's about it.

9 I think he's been treated fairly the whole  
10 time. I don't know.

11 MR. JOHNSON: Have you had a lot of contact  
12 with him since he was diagnosed?

13 PROSPECTIVE JUROR NUMBER 26: About once a  
14 month.

15 MR. JOHNSON: And what are your thoughts and  
16 feelings kind of seeing him go through that?

17 PROSPECTIVE JUROR NUMBER 26: It's tough, um,  
18 'cause he was (inaudible).

19 THE COURT REPORTER: Can you speak up, sir?

20 MR. JOHNSON: Can you speak up just a little  
21 bit for the court reporter?

22 PROSPECTIVE JUROR NUMBER 26: Sure. I mean,  
23 it's just been very challenging 'cause he was a  
24 very smart, um, individual until that time.

25 And it's been life-changing for him ever

1 since then. He's just struggled ever since.

2 MR. JOHNSON: Okay. Those situations, can  
3 you set those aside?

4 PROSPECTIVE JUROR NUMBER 26: I can.

5 MR. JOHNSON: All right. Anybody else on the  
6 right-hand side?

7 (No response.)

8 MR. JOHNSON: All right. Left-hand side?

9 (No response.)

10 MR. JOHNSON: Anybody on the front row, close  
11 friend or family member been accused, charged,  
12 arrested?

13 (Prospective Juror Number 35 indicated in the  
14 affirmative.)

15 MR. JOHNSON: Ms. Julao?

16 PROSPECTIVE JUROR NUMBER 35: My  
17 brother-in-law, they were, uh, burglarized. He  
18 collected guns, but guns given by -- as a gift.

19 Uh, the insurance company were not paying  
20 them. I knew the insurance company 'cause they  
21 hired me. I was the first woman hired as an  
22 agent.

23 They were building up a case against him, but  
24 they were wrong, so I made a call. I said, that's  
25 my brother-in-law. I know what you're trying to

1 do to him. You need to stop. And I told them who  
2 I was.

3 They stopped. They did not proceed.

4 MR. JOHNSON: What was the nature of the  
5 charge that they were investigating?

6 PROSPECTIVE JUROR NUMBER 35: Uh, they were  
7 trying to make it as an insurance fraud. It was  
8 not. They knew it and I knew it.

9 MR. JOHNSON: So I know you said it wasn't  
10 true, but what were they accusing him of?

11 PROSPECTIVE JUROR NUMBER 35: That it was a  
12 fake claim, that they were trying to up the ante,  
13 but he was -- people do collect things and that  
14 was his collection.

15 MR. JOHNSON: So did a case ever get  
16 presented to a law enforcement agency?

17 PROSPECTIVE JUROR NUMBER 35: No, no.

18 MR. JOHNSON: He was never prosecuted?

19 PROSPECTIVE JUROR NUMBER 35: No.

20 MR. JOHNSON: Okay.

21 PROSPECTIVE JUROR NUMBER 35: But it's still  
22 something that they were trying to build a case on  
23 someone that's not guilty of, 'cause you don't --  
24 not everybody keep receipts.

25 Plus, some were gifts, so how do you get a

1 receipt when someone gave you a gift? Some are  
2 collectors.

3 One, two, I don't know the extent of his  
4 collection. I have not seen it, but it's almost  
5 like insurance company don't want to pay.

6 MR. JOHNSON: Sure, sure. Now, it's a  
7 different bit of a scenario --

8 PROSPECTIVE JUROR NUMBER 35: Yes.

9 MR. JOHNSON: -- because here you're talking  
10 about an insurance company versus law enforcement.

11 Is there anything about that, your knowledge  
12 of that whole situation, that would carry over  
13 into this trial and cause you not to be fair?

14 PROSPECTIVE JUROR NUMBER 35: No. It's just  
15 a common thing that people can get accused of  
16 something you're not guilty of. It's a daily  
17 occurrence.

18 MR. JOHNSON: Okay.

19 PROSPECTIVE JUROR NUMBER 35: People can say  
20 things, but it's not true.

21 MR. JOHNSON: Do you have any thoughts and  
22 feelings about that as it relates to this case?

23 PROSPECTIVE JUROR NUMBER 35: No. It's  
24 totally different, just like what you said.

25 MR. JOHNSON: Okay. All right. Thank you,



1 ma'am.

2 Anybody else here on the front row? And,  
3 again, we're talking about close friends or family  
4 members. Anybody on the front row?

5 (Prospective Juror Number 40 indicated in the  
6 affirmative.)

7 MR. JOHNSON: All right. Mr. Bister?

8 PROSPECTIVE JUROR NUMBER 40: Yeah. My  
9 brother-in-law's been locked up several times for  
10 drugs, possession, uh, breaking and entering, um,  
11 things like that.

12 MR. JOHNSON: Okay. Tell me what your  
13 thoughts and feelings are about that.

14 PROSPECTIVE JUROR NUMBER 40: I don't really  
15 associate with him anymore, so -- he's addicted to  
16 meth. I don't think he wants to get clean, so...

17 MR. JOHNSON: Is there anything about that  
18 situation with your -- is it -- you said brother  
19 or brother-in-law?

20 PROSPECTIVE JUROR NUMBER 40: Brother-in-law.

21 MR. JOHNSON: Anything about that that you  
22 wouldn't be able to set aside?

23 PROSPECTIVE JUROR NUMBER 40: No.

24 MR. JOHNSON: Thank you.

25 Next row, third row?

1 (No response.)  
2 MR. JOHNSON: Nobody?  
3 Fourth row?  
4 (Prospective Juror Number 50 indicated in the  
5 affirmative.)  
6 MR. JOHNSON: Ms. Jones?  
7 PROSPECTIVE JUROR NUMBER 50: My college  
8 roommate's father did, uh, a number of years in  
9 jail. I'm not sure. It was 25 years ago. He did  
10 this before she was born.  
11 I think it was for drugs and cars issue.  
12 I -- I have no idea what it was really for.  
13 MR. JOHNSON: Did you know that person well?  
14 PROSPECTIVE JUROR NUMBER 50: I did, yes.  
15 MR. JOHNSON: Okay. Were they ever charged?  
16 PROSPECTIVE JUROR NUMBER 50: He was. He  
17 went to jail for a number of years. And then  
18 after he got out, he had all of his rights  
19 restored.  
20 MR. JOHNSON: Anything about that you  
21 wouldn't be able to set aside?  
22 PROSPECTIVE JUROR NUMBER 50: No.  
23 MR. JOHNSON: Anybody else in that same row,  
24 the fourth row?  
25 (No response.)

1 MR. JOHNSON: Nobody?  
2 Fifth row?  
3 (Prospective Juror Number 52 indicated in the  
4 affirmative.)  
5 MR. JOHNSON: Mr. Robbins?  
6 PROSPECTIVE JUROR NUMBER 52: Yes, sir. I  
7 have five brothers. All had multiple DUIs. One  
8 served three years for arson, and one served two  
9 years for domestic violence.  
10 MR. JOHNSON: Okay. What are your thoughts  
11 about those cases?  
12 PROSPECTIVE JUROR NUMBER 52: I wasn't home  
13 during that. I was off to the military, so I  
14 didn't really have any feelings about it.  
15 I mean, they did what they did, they served  
16 their time, and they're out. You know, been out  
17 for years, so...  
18 MR. JOHNSON: You can set that aside?  
19 PROSPECTIVE JUROR NUMBER 52: Yes, sir.  
20 MR. JOHNSON: All right. Thank you.  
21 Anybody else in the last row?  
22 (Prospective Juror Number 57 indicated in the  
23 affirmative.)  
24 MR. JOHNSON: Ms. Raynor?  
25 PROSPECTIVE JUROR NUMBER 57: I have a friend

1 at work that embezzled 30,000 dollars from the  
2 company over the span of a year and basically got  
3 off with, um, restitution of a couple thousand  
4 dollars.

5 It was just -- we were a close-knit group  
6 where I worked, and she just took advantage.

7 MR. JOHNSON: Okay. It sounds to me kind of  
8 the way you're telling the story that you felt she  
9 was in the wrong; is that --

10 PROSPECTIVE JUROR NUMBER 57: Oh, she was in  
11 the wrong. She had fraudulently submitted welfare  
12 to the city, um, wrote fake checks, fake  
13 employees.

14 Yeah. She was in the wrong. We did a  
15 complete -- went back through all the records and  
16 checks and supplied everything to accounting after  
17 about two years of this.

18 MR. JOHNSON: How do you feel about how that  
19 all was resolved? You thought she was unfairly  
20 treated, she got off light?

21 PROSPECTIVE JUROR NUMBER 57: I think she got  
22 off light because we were not the first company  
23 she worked for that she did that to. However,  
24 nobody else prosecuted her, um, and so I just feel  
25 like she kind of got off.

1           Um, and we're not a large company. I mean,  
2           30,000 dollars, it may not be a lot of money to  
3           some people, but, you know, it pays payroll.

4           MR. JOHNSON: Sure.

5           PROSPECTIVE JUROR NUMBER 57: So, um, yeah.  
6           It was not -- it affected everybody at work.  
7           Again, we were close-knit, and she -- she got off.

8           MR. JOHNSON: All right. Can you set that  
9           aside, though?

10          PROSPECTIVE JUROR NUMBER 57: Um, yeah. I  
11          mean, I -- I don't know if the -- I don't know.  
12          I -- the -- her defense may have, um -- you know,  
13          they may have got a plea deal.

14          I don't know exactly how all that legal  
15          works, but somebody helped her get off. I  
16          don't -- I don't know if I --

17          MR. JOHNSON: So just -- I'm going to kind of  
18          put it in a nutshell, and you tell me if you agree  
19          with the way I characterize it or not.

20          Do you feel like her defense attorneys helped  
21          her get a sweetheart deal?

22          PROSPECTIVE JUROR NUMBER 57: She -- I think  
23          she -- she got a deal.

24          MR. JOHNSON: Okay. Can you set that aside?

25          PROSPECTIVE JUROR NUMBER 57: Yeah. I -- I

1 don't know. I --

2 MR. JOHNSON: Okay.

3 Anybody --

4 PROSPECTIVE JUROR NUMBER 57: I don't know.

5 Guilty or not guilty, I'm not, um --

6 MR. JOHNSON: Okay.

7 Mr. Strait?

8 PROSPECTIVE JUROR NUMBER 58: I've only seen  
9 the police twice in my life. First time was 50  
10 years ago when my dad fell out of a tree.

11 And the guy who came to see how he was doing  
12 was the game warden. And he was poaching deer in  
13 the state forest, and he got arrested.

14 MR. JOHNSON: Your dad was?

15 PROSPECTIVE JUROR NUMBER 58: Yep. So -- my  
16 brother squealed on him, but, you know.

17 And then the last time was -- I was doing  
18 some consulting, and I was out of town. And my --  
19 my wife told me to look at the front page of the  
20 paper.

21 And there was my kid's photograph. It said,  
22 "Ringleader of a -- of a theft operation at  
23 Staples," and found out that what he did is he  
24 bought a hot, um, burner from a kid that really  
25 did do the -- really did do the stealing, and then

1           they found it on him.

2           MR. JOHNSON: Uh-huh.

3           PROSPECTIVE JUROR NUMBER 58: And, of course,  
4           the kid that did the stealing was the canary, so  
5           he got away with a lot less charges.

6           MR. JOHNSON: What happened with your son?

7           PROSPECTIVE JUROR NUMBER 58: He plea dealed  
8           [verbatim].

9           MR. JOHNSON: What was the nature of the  
10          charge?

11          PROSPECTIVE JUROR NUMBER 58: It was --  
12          first, it was like just theft, and then he got  
13          away with -- um, as a misdemeanor or something.

14          MR. JOHNSON: Was that here in St. Johns  
15          County?

16          PROSPECTIVE JUROR NUMBER 58: Yeah.

17          MR. JOHNSON: How long ago?

18          PROSPECTIVE JUROR NUMBER 58: Oh, let's say  
19          he was about 15 or 16, so that's 20 years ago.

20          MR. JOHNSON: I'm going to ask you if you  
21          thought he was fairly treated, and what I mean  
22          specifically is, by the police, the state  
23          attorney.

24          PROSPECTIVE JUROR NUMBER 58: By the police,  
25          no. My opinion on that was the detectives were

1 lazy. They didn't do their job.

2 MR. JOHNSON: All right. What about the  
3 state attorney's office?

4 PROSPECTIVE JUROR NUMBER 58: State's  
5 attorney's office? I don't know. I -- I didn't  
6 have much -- you know, like I said, I was out of  
7 town and hard for me to follow it.

8 My attorney did a good job with it. And he  
9 just -- of course, I was -- I was saying he was  
10 innocent, of course. He was just stupid.

11 But, um, he got charged with being -- uh,  
12 some kind of misdemeanor.

13 MR. JOHNSON: Is that a situation where --  
14 you know, I work for the state attorney's  
15 office -- that, you know, that we would have  
16 reason to be concerned that you would -- you would  
17 take that situation and not be fair to --

18 PROSPECTIVE JUROR NUMBER 58: No.

19 MR. JOHNSON: -- our presentation --

20 PROSPECTIVE JUROR NUMBER 58: No. I -- I  
21 didn't mind the state's attorney. They did what  
22 they were supposed to do.

23 My only problem was the detective took the  
24 lazy way out of finding who was at fault.

25 MR. JOHNSON: And if we had police officers



1           testify in this trial -- I'm going to assume that  
2           they're not the same people -- but would you, by  
3           virtue of that case, automatically write them off  
4           and not listen to them?

5           PROSPECTIVE JUROR NUMBER 58: No. Just don't  
6           do a lazy job.

7           MR. JOHNSON: Right.

8           Anybody else in that last row there?

9           (No response.)

10          MR. JOHNSON: Okay. This -- you've already  
11          heard the judge read the indictment in this case.  
12          So you know that this is, you know, not only  
13          charged with first-degree murder -- or he's not  
14          charged, but convicted of first-degree murder.

15          You probably can imagine that there's going  
16          to be evidence that's going to be presented in  
17          this trial that's not going to be pleasant to see.

18          There will be photographs and, um, possibly  
19          statements that are presented to you which  
20          describe the events that are not going to be very  
21          pleasant to listen to.

22          Is there anybody here that would say, you  
23          know, based on -- and I can't really describe for  
24          you everything that you're going to see or hear,  
25          but you think that there are -- there are certain

1 graphic photos, depictions of death, that you  
2 would not be able to look at and consider?

3 Is there anybody here that would raise your  
4 hand and say, I would not be able to do that?

5 (Prospective Juror Number 59 indicated in the  
6 affirmative.)

7 MR. JOHNSON: I see a hand in the back.  
8 Ms. Woolf, is that correct?

9 PROSPECTIVE JUROR NUMBER 59: Yes.

10 MR. JOHNSON: Tell me your thoughts and  
11 feelings about that.

12 PROSPECTIVE JUROR NUMBER 59: I mean, even  
13 just, you know, hearing it, it makes me sick to my  
14 stomach. Um, I mean, I just -- I don't know.

15 I just -- I don't think -- you know, I don't  
16 watch shows like that. I just can't handle seeing  
17 stuff like that, you know.

18 It's real life, too, but just -- it just  
19 makes me a little queasy.

20 MR. JOHNSON: Do you understand why we might  
21 present that evidence?

22 PROSPECTIVE JUROR NUMBER 59: Yes. You need  
23 to.

24 MR. JOHNSON: Okay. And we don't -- we don't  
25 do it because we want to --

1 PROSPECTIVE JUROR NUMBER 59: Right.

2 MR. JOHNSON: -- or to be overly gratuitous  
3 about it, but it -- you agree in some cases it's  
4 important to --

5 PROSPECTIVE JUROR NUMBER 59: Absolutely.

6 MR. JOHNSON: And you still do not believe  
7 that you would be able to look at that evidence  
8 and consider it?

9 PROSPECTIVE JUROR NUMBER 59: Well, I don't  
10 know that I can look at it. I mean, it would  
11 probably make me vomit, you know, if I see it.  
12 That's what I'm saying. I would get queasy.

13 MR. JOHNSON: And that's why I'm asking the  
14 question. I appreciate you being candid about  
15 that.

16 I'm not going to force you to do it. I just  
17 want to be sure that I ask and know exactly how  
18 you feel about that.

19 Does anybody else feel similarly to  
20 Ms. Woolf, that you just simply would not be able  
21 to look at photographs of a person who may be dead  
22 and the conditions in which they died and just  
23 simply would not be able to look at that?

24 (No response.)

25 MR. JOHNSON: All right. Has anybody here

1 ever had to go to the doctor, and the doctor  
2 gave -- give you some kind of opinion of some kind  
3 of medical situation?

4 Anybody here ever done that?

5 (Several of the prospective jurors indicated  
6 in the affirmative.)

7 MR. JOHNSON: Okay. I see a lot of hands.  
8 Okay. Raise them up.

9 Anybody ever -- has anybody here ever had to  
10 go, after getting an opinion from one doctor,  
11 decided to get a second opinion?

12 (Some of the prospective jurors indicated in  
13 the affirmative.)

14 MR. JOHNSON: Okay. Mr. -- Mr. Cooper, did  
15 you get a different opinion from the second doctor  
16 than you did the first doctor?

17 PROSPECTIVE JUROR NUMBER 29: No, I did not.

18 MR. JOHNSON: Okay. Did anybody here ever  
19 get a different opinion from the second doctor  
20 than the first?

21 (Prospective Juror Number One indicated in  
22 the affirmative.)

23 MR. JOHNSON: Okay. I see Ms. -- Ms. Terry.  
24 Okay. I'm not going to get into your medical  
25 stuff, so don't worry, but were you able to listen

1 to both the first doctor and the second doctor and  
2 the different opinions they gave you?

3 PROSPECTIVE JUROR NUMBER ONE: Yes.

4 MR. JOHNSON: And after listening to their  
5 opinions, were you able to decide for yourself  
6 which doctor's advice and opinion you thought best  
7 to follow?

8 PROSPECTIVE JUROR NUMBER ONE: Yes.

9 MR. JOHNSON: Okay. And do you feel that you  
10 could do that? You are capable of doing that?

11 PROSPECTIVE JUROR NUMBER ONE: Yes.

12 MR. JOHNSON: Does everybody here believe you  
13 could do that?

14 (The prospective jurors indicated in the  
15 affirmative.)

16 MR. JOHNSON: You had a doctor tell you one  
17 thing, another doctor tell you something else,  
18 that you could decide -- you have the ability to  
19 decide for yourself what -- which doctor gave you  
20 the best advice?

21 (The prospective jurors indicated in the  
22 affirmative.)

23 MR. JOHNSON: Anybody here feel you could not  
24 do that?

25 (Prospective Juror Number 25 raised his

1 hand.)

2 PROSPECTIVE JUROR NUMBER 25: Just to  
3 clarify --

4 MR. JOHNSON: Yes, sir.

5 PROSPECTIVE JUROR NUMBER 25: -- I'm not a  
6 doctor, so it's hard for me to gauge which one is  
7 correct --

8 MR. JOHNSON: Right.

9 PROSPECTIVE JUROR NUMBER 25: -- based on --  
10 if they have a clinical diagnosis.

11 MR. JOHNSON: And you're Mr. Siegel, right?

12 PROSPECTIVE JUROR NUMBER 25: Yes. I could  
13 have -- I have no -- I'm not an expert in that  
14 field, so I couldn't necessarily say this one's  
15 correct, this one's incorrect, but I would say I'm  
16 open to hear both doctors.

17 MR. JOHNSON: Sure. How would you -- how do  
18 you think you would go about sort of resolving  
19 that?

20 PROSPECTIVE JUROR NUMBER 25: Good question.  
21 I guess it's hard to say without seeing. If one  
22 explained it in a better way or they just seemed  
23 more informative or more of an expert in that  
24 field and seemed to make more sense --

25 MR. JOHNSON: Okay.

1                   PROSPECTIVE JUROR NUMBER 25: -- I'd probably  
2 lean towards that one, but it would be hard to say  
3 that I would be correct in that assessment.

4                   MR. JOHNSON: Okay. All right. But if you  
5 did that and you listened to them and you were  
6 gauging, okay, which one sounds like they're  
7 giving the best advice, you could do that?

8                   PROSPECTIVE JUROR NUMBER 25: Yes.

9                   MR. JOHNSON: I see Mr. Tu?

10                  PROSPECTIVE JUROR NUMBER 55: Yeah. I think  
11 when it comes to most of the physical fields of  
12 medicine, I'd be okay, but I think my world view  
13 kind of biases me towards being less trusting of  
14 things like psychologists would say.

15                  And I only wanted to bring that up because I  
16 did remember earlier it was mentioned that a  
17 psychologist might be testifying. So I just  
18 wanted to mention that.

19                  I don't think I'd block it out entirely, but  
20 I would feel probably more biased towards  
21 skepticism.

22                  MR. JOHNSON: Okay. Well, let's talk about  
23 that a little bit 'cause I appreciate you bringing  
24 that up. I mean, you very well may hear from  
25 psychologists from both sides.

1                   And can you -- the big question is, can you  
2                   listen to what each of them have to say?

3                   PROSPECTIVE JUROR NUMBER 55: I could  
4                   definitely listen.

5                   MR. JOHNSON: Okay. And can you make a  
6                   judgment -- if there is a disagreement between  
7                   them, can you make a judgment as to which one is  
8                   correct?

9                   PROSPECTIVE JUROR NUMBER 55: Yes, I could.

10                  MR. JOHNSON: Okay. All right. You wouldn't  
11                  just simply, I'm not listening to anyone just  
12                  because they're a psychologist?

13                  PROSPECTIVE JUROR NUMBER 55: Oh, no, no.

14                  MR. JOHNSON: Okay. All right.

15                  Anybody else?

16                  (No response.)

17                  MR. JOHNSON: Thank you, Mr. Tu.

18                  Has anybody here -- and we -- this is for  
19                  those people we haven't already talked to about  
20                  specific ins -- uh, situations in your life.

21                  Has anybody here, other than who we've  
22                  already talked to about it, ever had either  
23                  somebody in your family or personally that had an  
24                  issue with drug or alcohol abuse?

25                  (Some of the prospective jurors indicated in



1 the affirmative.)

2 MR. JOHNSON: Okay. All right. Ms. Hanke, I  
3 saw your hand up. Can you share those -- that  
4 situation?

5 PROSPECTIVE JUROR NUMBER FOUR: I come from a  
6 long line of alcoholics. I'm in recovery myself  
7 for ten years.

8 MR. JOHNSON: Okay. Anybody in your family  
9 ever deal with drug abuse?

10 PROSPECTIVE JUROR NUMBER FOUR: No.

11 MR. JOHNSON: Okay. All right.

12 Anybody else here on the front row?

13 (Prospective Juror Number Five indicated in  
14 the affirmative.)

15 MR. JOHNSON: Okay. Ms. Nutt?

16 PROSPECTIVE JUROR NUMBER FIVE: My nephew had  
17 issues in his teens, and he has been in good shape  
18 for about eight years now.

19 And then, um, not my generation, but the --  
20 some uncles and, um, a grandparent that dealt with  
21 alcoholism.

22 MR. JOHNSON: Okay. Any -- anybody in your  
23 family that dealt with those issues, was there  
24 ever any kind of history of violence or anything  
25 like that?

1 PROSPECTIVE JUROR NUMBER FIVE: No.

2 MR. JOHNSON: Okay. Ms. Hanke, I'll ask you  
3 the same question. You said you had some family  
4 members dealing with alcohol abuse.

5 Anybody there ever have any issues with  
6 violence?

7 PROSPECTIVE JUROR NUMBER FOUR: Yes.

8 MR. JOHNSON: Okay. Who was that?

9 PROSPECTIVE JUROR NUMBER FOUR: My father.

10 MR. JOHNSON: Okay. Is that something you're  
11 comfortable sharing?

12 PROSPECTIVE JUROR NUMBER FOUR: Sure.

13 MR. JOHNSON: Okay. Go ahead.

14 PROSPECTIVE JUROR NUMBER FOUR: I mean, it  
15 was against my mom, so I was very young.

16 MR. JOHNSON: Okay. All right.

17 PROSPECTIVE JUROR NUMBER FOUR: She got  
18 sober. He did not.

19 MR. JOHNSON: Okay.

20 PROSPECTIVE JUROR NUMBER FOUR: I followed  
21 her path.

22 MR. JOHNSON: I see.

23 PROSPECTIVE JUROR NUMBER FOUR: So --

24 MR. JOHNSON: Okay. Is there anything about  
25 that that you would not be able to set aside in

1 this case?

2 PROSPECTIVE JUROR NUMBER FOUR: No. It's a  
3 separate issue, separate people.

4 MR. JOHNSON: Okay. Thank you.

5 Anybody else here on the front row?

6 (Prospective Juror Number Three indicated in  
7 the affirmative.)

8 MR. JOHNSON: Ms. Williams?

9 PROSPECTIVE JUROR NUMBER THREE: Yes, sir.  
10 My mother and my mom's ex-husband. My mom had  
11 been clean for three or four years, and she just  
12 recently passed away due to medical conditions in  
13 March.

14 Um, my stepfather, I don't really keep in  
15 contact with him, um, other than to say hi, how  
16 are you doing.

17 He's been clean, uh, two years now. And he  
18 now, um, goes to church and, uh, actually helps  
19 other people with their recovery now.

20 MR. JOHNSON: Anybody with a history of  
21 violence?

22 PROSPECTIVE JUROR NUMBER THREE: Um, I mean,  
23 my stepdad, uh, he grew up in violence in his past  
24 with his dad, but --

25 MR. JOHNSON: Okay.

1 PROSPECTIVE JUROR NUMBER THREE: -- other  
2 than that, no.

3 MR. JOHNSON: Okay. I'm going to amend my  
4 question a little bit so -- just so we can kind of  
5 move a little bit quicker.

6 For the rest of you, drug and alcohol history  
7 with some history of violence. So anybody on the  
8 front row?

9 (No response.)

10 MR. JOHNSON: Second row?

11 (No response.)

12 MR. JOHNSON: Third row?

13 (No response.)

14 MR. JOHNSON: Fourth row?

15 (No response.)

16 MR. JOHNSON: Anybody at all over here on the  
17 right-hand side?

18 (No response.)

19 MR. JOHNSON: Okay. How about the left-hand  
20 side, drug or alcohol issues with some history of  
21 violence?

22 (Prospective Juror Number 40 indicated in the  
23 affirmative.)

24 MR. JOHNSON: Mr. Bister?

25 PROSPECTIVE JUROR NUMBER 40: My

1 brother-in-law's been in -- many times for  
2 assault, things like that.

3 MR. JOHNSON: Okay. The same one we were  
4 talking about earlier?

5 PROSPECTIVE JUROR NUMBER 40: Same one, but  
6 yeah. I've had lots -- on that side of the  
7 family, there's been lots of issues.

8 MR. JOHNSON: Okay.

9 Anybody else here on the left-hand side?

10 (Prospective Juror Number 50 indicated in the  
11 affirmative.)

12 MR. JOHNSON: Ms. Jones?

13 PROSPECTIVE JUROR NUMBER 50: My friend in  
14 college, he had alcohol problems. He wasn't  
15 violent with anyone.

16 He tried to commit suicide, but that was it,  
17 'cause he was an alcoholic, but he's in recovery  
18 now and he's clean.

19 MR. JOHNSON: Thank you, ma'am.

20 Anybody else?

21 (Prospective Juror Number 31 indicated in the  
22 affirmative.)

23 MR. JOHNSON: Ms. Simmons?

24 PROSPECTIVE JUROR NUMBER 31: Um, a  
25 ex-husband had a alcohol problem and was abusive.

1           MR. JOHNSON: Okay. Anything about that you  
2 wouldn't be able to set aside?

3           PROSPECTIVE JUROR NUMBER 31: No.

4           MR. JOHNSON: All right.

5           Anybody else? Anybody that I missed?

6           (No response.)

7           MR. JOHNSON: All right. I want to circle  
8 back around to some of the questions the judge had  
9 asked you about the death penalty, and I want to  
10 follow up with some very specific individuals.

11           Ms. Hanke, let me start with you. I know  
12 that you had, if I remember correctly, if my notes  
13 are correct, you had said that you -- this is an  
14 issue that you would struggle with.

15           And you said it was kind of one of the most  
16 serious decisions someone could make. I think you  
17 also said you felt like this would be above your  
18 pay grade.

19           Did I hear you correctly?

20           PROSPECTIVE JUROR NUMBER FOUR: Uh-huh. I  
21 think I was real taken aback when the question  
22 came up. I wasn't expecting it. I don't know  
23 what I was expecting --

24           MR. JOHNSON: Right.

25           PROSPECTIVE JUROR NUMBER FOUR: -- to be

1           asked today --

2                   MR. JOHNSON:    Sure.

3                   PROSPECTIVE JUROR NUMBER FOUR:  -- but yeah.  
4           I think I just was kind of in shock when I was  
5           asked.

6                   MR. JOHNSON:    And this is one of the reasons  
7           I want to kind of circle back around --

8                   PROSPECTIVE JUROR NUMBER FOUR:  Yeah.

9                   MR. JOHNSON:    -- because to give everybody a  
10          chance to kind of let that sink in and think about  
11          it.

12                   And so the question, obviously, the judge  
13          asked is, you know, can you consider the death  
14          penalty as a verdict and -- in any kind of case,  
15          or -- or can you, on the flip side of that, can  
16          you consider life.

17                   So let me just ask you specifically.  Given  
18          the fact that it sounds like this is something  
19          that you would struggle with, at the end of the  
20          day, would you really be able to consider the  
21          death penalty if you were called upon to be a  
22          juror in this case?

23                   PROSPECTIVE JUROR NUMBER FOUR:  No.

24                   MR. JOHNSON:    No?

25                   PROSPECTIVE JUROR NUMBER FOUR:  Would not.

1           It's not -- doesn't have anything to do with  
2           religion, either. It's just a --

3           MR. JOHNSON: Sure.

4           PROSPECTIVE JUROR NUMBER FOUR: -- soul  
5           answer.

6           MR. JOHNSON: Right. And a lot of people  
7           come to different reasons to get to that point,  
8           but you would not ever be able to consider the  
9           death penalty, correct?

10          PROSPECTIVE JUROR NUMBER FOUR: I can create  
11          horrible ideas in my mind of things that people  
12          do, but then I think that that's not what we're  
13          going to be presented with here, so I don't know.

14          It's a very -- I would -- I would say I'm  
15          against the death penalty, generally speaking;  
16          however, if I was presented with something so  
17          upsetting to me personally, maybe my mind would  
18          switch gears.

19          MR. JOHNSON: Right.

20          PROSPECTIVE JUROR NUMBER FOUR: I don't know.  
21          I've never been in this situation before.

22          MR. JOHNSON: Sure. Well, I know a lot of --  
23          some people, they are okay with the death penalty,  
24          but when they themselves are the one that have to  
25          make that decision, they'll simply say, I can't do



1           it.

2                   Do you fall in that category?

3                   PROSPECTIVE JUROR NUMBER FOUR:  So I'm a  
4           little confused.  I apologize.  So if everybody on  
5           the jury was for the death penalty, and I had to  
6           say yes or no, I was in agreement, would I be able  
7           to say yes or no?

8                   MR. JOHNSON:  Well, I'm just asking could  
9           you -- could you do it?  Could you actually  
10          consider the death penalty?

11                   Let me give you kind of an example.  Now,  
12          this may sound relatively trite, but I could  
13          probably ride my bicycle to Jacksonville, but will  
14          I?  No.  I'm not going to ride my bicycle to  
15          Jacksonville.

16                   So, you know, that kind of illustrates that  
17          question.  A lot of people say, I could do it, but  
18          at the end of the day when you have to make that  
19          decision, are you going to do it, people would say  
20          no, so I --

21                   PROSPECTIVE JUROR NUMBER FOUR:  So could I  
22          make the decision to say yes, this person would  
23          go -- would have the death penalty?  That's the  
24          question?

25                   MR. JOHNSON:  Yes, ma'am.  Would you actually

1 consider the death penalty or --

2 PROSPECTIVE JUROR NUMBER FOUR: No.

3 MR. JOHNSON: -- would your struggles prevent  
4 you from being able to make that decision?

5 PROSPECTIVE JUROR NUMBER FOUR: They would  
6 prevent me.

7 MR. JOHNSON: Thank you. 'Cause at the end  
8 of the day, it's a voluntary choice. Nobody's  
9 going to be forcing you to do it.

10 PROSPECTIVE JUROR NUMBER FOUR: Right.

11 MR. JOHNSON: And with that choice, you would  
12 say you would not impose the death penalty or  
13 render that verdict?

14 PROSPECTIVE JUROR NUMBER FOUR: I don't think  
15 so. No.

16 MR. JOHNSON: All right. Thank you, ma'am.  
17 Ms. Grigsby?

18 PROSPECTIVE JUROR NUMBER 46: Yes.

19 MR. JOHNSON: Good afternoon.

20 PROSPECTIVE JUROR NUMBER 46: Afternoon.

21 MR. JOHNSON: You indicated, I think, that  
22 you were -- when the question was presented to  
23 you, you said you were hesitant, but because you  
24 believe in separation of church and state.

25 And I was kind of curious. Can you kind of

1 walk me through your thoughts about that, the  
2 separation of church and state, and kind of how  
3 that kind of plays into this decision?

4 PROSPECTIVE JUROR NUMBER 46: Yes. I mean, I  
5 think I'm -- I would -- I would have to really  
6 consider strongly the idea of sentencing someone  
7 to death.

8 But I know that's a law in our state, and I  
9 abide by the state laws. And so I think if the  
10 evidence presented, um, seemed to warrant that,  
11 that I would be able do it.

12 MR. JOHNSON: Are you personally opposed to  
13 the death penalty?

14 PROSPECTIVE JUROR NUMBER 46: No.

15 MR. JOHNSON: Okay. Are there circumstances  
16 that you would actually consider that?

17 PROSPECTIVE JUROR NUMBER 46: Yes.

18 MR. JOHNSON: Do you lean one way or the  
19 other?

20 PROSPECTIVE JUROR NUMBER 46: No.

21 MR. JOHNSON: So you could consider the death  
22 penalty if it was presented to you?

23 PROSPECTIVE JUROR NUMBER 46: Yes.

24 MR. JOHNSON: Ms. Hughes, good afternoon. I  
25 think you had said you're not in favor of it.

1 PROSPECTIVE JUROR NUMBER 47: Yes, I did.

2 MR. JOHNSON: And it would be a hard choice.  
3 Walk me through that. I'll ask you kind of the  
4 same question I asked Ms. Hanke.

5 At the end of the day, you're in the jury  
6 room, all right, and you said I can consider it,  
7 but you're faced with that choice.

8 Say the -- say the facts and circumstances,  
9 you know, as it played out in the course of the  
10 trial and as it's presented to you, is serious.

11 At the end of the day, is it actually  
12 something that you could consider?

13 PROSPECTIVE JUROR NUMBER 47: Yes, yes,  
14 because at the end of the day, we have a set of  
15 rules and laws. And in order -- just for things  
16 to run right in society, you have to have that.

17 So I really believe that you have to look at  
18 the face -- you have to look at the facts of every  
19 case, take it individually, put aside your  
20 personal views, and just look at, you know, what  
21 is before you.

22 And -- and just weigh the whole totality of  
23 the case, and make the right decision based upon  
24 what you have in front of you. And I strongly  
25 believe I can do that.

1 MR. JOHNSON: All right.

2 PROSPECTIVE JUROR NUMBER 47: Yes, it would  
3 be hard, whichever way, but I -- I can do it.

4 MR. JOHNSON: Right. And I don't think  
5 anybody up here -- I can tell you that I'm not --  
6 is suggesting that it's going to be easy.

7 PROSPECTIVE JUROR NUMBER 47: Right.

8 MR. JOHNSON: Okay? But now I'll kind of  
9 point out what I pointed out to Ms. Hanke. There  
10 is no law that says you have to give the death  
11 penalty.

12 PROSPECTIVE JUROR NUMBER 47: Right.

13 MR. JOHNSON: So you're not going to ever be  
14 forced to make that choice. The choice will be  
15 yours individually and as a jury as a whole.

16 Knowing that nobody's going to force you, the  
17 law doesn't force you, you said I can follow the  
18 law, the question is, with no -- knowing there's  
19 no restrictions on what your decision is, can you  
20 still consider it?

21 PROSPECTIVE JUROR NUMBER 47: Yes.

22 MR. JOHNSON: Thank you, ma'am.

23 Ms. Raynor? No. Actually, Mr. Kusch, I  
24 think you had indicated that you were generally  
25 not in favor, but don't -- but perhaps under a

1 very narrow set of circumstances.

2 Are there some -- when you refer to narrow  
3 set of circumstances, what kind of circumstances  
4 would you have in mind?

5 PROSPECTIVE JUROR NUMBER 56: Well, if it was  
6 a family member or, uh, involved (inaudible).

7 MR. JOHNSON: I'm sorry. I --

8 PROSPECTIVE JUROR NUMBER 56: Suppose a  
9 family member were involved as one of the victims,  
10 it would be very difficult not to be in favor of  
11 that.

12 Other than that, there's probably not a lot  
13 of circumstances where I would be in favor of it.

14 MR. JOHNSON: So just to kind of drill down a  
15 little bit, if it did not involve a family member,  
16 would you say you would not be able to consider  
17 the death penalty?

18 PROSPECTIVE JUROR NUMBER 56: I'd say it  
19 would be very difficult for me to -- to -- to be  
20 in support of the death pen -- death penalty, um,  
21 if it was not a family member.

22 MR. JOHNSON: Would there be a doubt in your  
23 mind whether or not you could do that?

24 PROSPECTIVE JUROR NUMBER 56: Yes.

25 MR. JOHNSON: Okay. All right.

1           Is there anybody here, knowing what you know  
2           now about the case, how significant this case is,  
3           is there anybody here that would say, you know, I  
4           think this case is too important, too big for me  
5           to be involved in?

6           Um, I think we had some folks earlier that  
7           kind of shared their personal feelings about being  
8           in a situation that we're asking you to be in if  
9           you were selected to be a juror.

10          Is there anybody here that would say, I  
11          really don't think I can do this, what you're  
12          asking me to do?

13          (Prospective Juror Number Six indicated in  
14          the affirmative.)

15          MR. JOHNSON: All right. So is it  
16          Ms. Roberts?

17          PROSPECTIVE JUROR NUMBER SIX: Yes.

18          MR. JOHNSON: Tell me your thoughts about  
19          that.

20          PROSPECTIVE JUROR NUMBER SIX: I just feel  
21          like I don't want to make such an important  
22          decision for somebody's life, um, because I'm not  
23          very educated on the death penalty or the life  
24          sentence.

25          And even though it's a big decision, I'd

1           rather not have it on my hands, but if I had to, I  
2           would.

3           MR. JOHNSON: Okay. So to kind of figure out  
4           exactly what you mean, if you were asked to be a  
5           juror, can you -- can you consider the death  
6           penalty in that situation?

7           PROSPECTIVE JUROR NUMBER SIX: Yes, sir, I  
8           could.

9           MR. JOHNSON: Okay. Kind of reconcile that  
10          for me. You say I don't -- I really don't want to  
11          be in the position to have to make that decision,  
12          but I can consider the death -- it's a pretty big  
13          decision.

14          PROSPECTIVE JUROR NUMBER SIX: It is. It's  
15          very big. And it makes me nervous, since I'm not  
16          very educated on the whole topic itself, that I  
17          can make that big of a decision for somebody's  
18          life.

19          MR. JOHNSON: Okay. I saw another hand.

20          PROSPECTIVE JUROR NUMBER 11: Yeah.

21          MR. JOHNSON: Mr. Derby?

22          PROSPECTIVE JUROR NUMBER 11: Yes. I said  
23          earlier that, um, we're looking for a person who  
24          can look at both sides and -- and say that I could  
25          be evenly towards one or towards the other.



1           I think that's very difficult for most  
2           people. Um, it is for me, anyway. I would have  
3           to be biased against the death penalty, as some  
4           people have already said.

5           We all have our own personal reasons for  
6           that, but I'm afraid that I myself would have to  
7           be more against the death penalty, although as the  
8           gentleman just said, if it were my relative or  
9           could I be shocked by pictures into saying, okay,  
10          you know, that shocks me. I -- I want that person  
11          off the face of the Earth?

12          Like I said, you know, we're all going to die  
13          someday. So my own personal view is we're all  
14          going to face God eventually.

15          So while the State may impose their judgment,  
16          I personally feel that, in the long run, it's  
17          immaterial, that, uh -- so I would have to be  
18          biased against the prosecutorial side.

19          MR. JOHNSON: Let me ask you this, Mr. Derby:  
20          Like I explained to a couple other panel members,  
21          the law does not require you to return a death  
22          verdict.

23          You're completely -- the law does not require  
24          it. So knowing that you're completely free to  
25          make that decision, is the death penalty actually

1 something you would consider?

2 PROSPECTIVE JUROR NUMBER 11: Um, I would be  
3 biased against it.

4 MR. JOHNSON: Would it be fair for me to  
5 interpret your answer as no, that you would not be  
6 able to consider it?

7 PROSPECTIVE JUROR NUMBER 11: Yes, yes.

8 MR. JOHNSON: Okay.

9 THE COURT: Mr. Johnson, do you have much  
10 more? We're almost to a breaking point, so if you  
11 have --

12 MR. JOHNSON: Just a couple more minutes,  
13 Judge.

14 THE COURT: Just a couple minutes?

15 MR. JOHNSON: Yes.

16 THE COURT: Okay. Go ahead then. Thank you.  
17 Then we'll take a break.

18 MR. JOHNSON: Ms. Gonzalez, Dr. Gonzalez, I  
19 ask you that same question. Knowing the law is  
20 not going to require you to render a death  
21 verdict, is -- would you actually consider the  
22 death penalty?

23 PROSPECTIVE JUROR NUMBER TEN: After thinking  
24 about it all day, I don't think I would.

25 MR. JOHNSON: Okay. Thank you.

1 Ms. Powell?

2 PROSPECTIVE JUROR NUMBER 17: Yes, sir.

3 MR. JOHNSON: How about you?

4 PROSPECTIVE JUROR NUMBER 17: I would not  
5 like to give a death penalty, but if the situation  
6 were such that all this -- you know, all the  
7 evidence, um, the mitigating circumstances, all  
8 the things we were discussing earlier point to  
9 that, then I would have to say yes. I would vote  
10 for the death penalty.

11 MR. JOHNSON: You would consider it?

12 PROSPECTIVE JUROR NUMBER 17: Yes.

13 MR. JOHNSON: Even though the law does not  
14 require you to?

15 PROSPECTIVE JUROR NUMBER 17: Yes.

16 MR. JOHNSON: Thank you, ma'am.

17 Mr. Siegel, how about you? The law does not  
18 require you to return a death verdict. Under  
19 those circumstances, could you even consider it?

20 PROSPECTIVE JUROR NUMBER 25: Um, yes. I  
21 believe I could consider it.

22 MR. JOHNSON: Mr. Cooper, how about you?

23 PROSPECTIVE JUROR NUMBER 29: Um, I -- I  
24 would be able to look at the facts and determine  
25 whether or not a death penalty was warranted.

1           MR. JOHNSON: You could consider it even  
2           though the law does not require you to?

3           PROSPECTIVE JUROR NUMBER 29: Yes.

4           MR. JOHNSON: Can I have just one second,  
5           your Honor?

6           THE COURT: Sure.

7           MR. JOHNSON: I tender the panel, your Honor.

8           THE COURT: Okay. Folks, we're going to go  
9           ahead and break in just a few moments. I know  
10          there are a few of you, seven of you, that wanted  
11          to speak to us privately.

12          So I'm going to hold those seven back, but  
13          everybody's going to get a chance to use the rest  
14          room and have a comfort break.

15          We'll have you stay out here in the hallway.  
16          Of course, you know where the rest rooms are now.

17          Let's plan on 15 minutes. It's almost  
18          exactly three o'clock, so let's plan on 3:15. If  
19          you want to step outside, get some fresh air,  
20          that's fine.

21          Let me remind you of a couple things before  
22          you go. Hang on. Remember the seats you're in.  
23          I know you're anxious to get out of those seats.  
24          Remember the seats you're in.

25          Please do not discuss this case among

1           yourselves. Don't discuss it with anybody else,  
2           and don't do any research of any type.

3                     Let me have the following people stay behind:

4                     Ms. Nutt, Ms. Hanke, Mr. Debruhl, Ms. Karl,  
5           Ms. Griener, Mr. Jaudon, and Ms. Macklin.

6                     If you seven will stay behind, and, everybody  
7           else, if you'll step outside, take a comfort  
8           break.

9                     PROSPECTIVE JUROR NUMBER 19: I have to have  
10          a break before I talk to you privately, so I'll be  
11          right back.

12                    MR. JOHNSON: Okay.

13                    (The prospective jurors exited the  
14          courtroom.)

15                    MR. JOHNSON: Ms. Griener was one -- she had  
16          to step out.

17                    THE COURT: Yeah. All right. So we're going  
18          to go ahead and talk to y'all one by one.

19                    For the other five of you -- Ms. Griener is  
20          going to come back -- if you all want to step  
21          outside, use the rest room, that's okay.

22                    If you want to wait, we're going to bring you  
23          in one by one to talk to you individually.

24                    So let's have Ms. Nutt stay behind, and then,  
25          everybody else, if you can step outside. If

1           you're not there when we call for you, that's okay  
2           if you're using the rest room. We'll swing back,  
3           circle back.

4                   (With the exception of Prospective Juror  
5           Number Five, the prospective jurors exited the  
6           courtroom.)

7           THE COURT: Ms. Nutt, we're kind of singling  
8           you out here, so bear with us for just a moment  
9           until the door closes.

10           PROSPECTIVE JUROR NUMBER FIVE: Semi-private,  
11           I'm realizing.

12           THE COURT: Yes. It's semi-private. I do  
13           have to have all the parties --

14           PROSPECTIVE JUROR NUMBER FIVE: No. I  
15           understand.

16           THE COURT: -- present and the defendant, as  
17           well.

18           So when Mr. Johnson was asking you about if  
19           you had ever been the victim of a crime, I think  
20           that's when you said you wanted to speak  
21           individually.

22           So if you could explain to us what that's  
23           about, then I'll let the lawyers follow up.

24           PROSPECTIVE JUROR NUMBER FIVE: Sure. In  
25           1985, I was 14 years old, living in Scotland with

1 my parents. And we lived in a home where the, um,  
2 owners had a -- a -- a apartment, if you will, in  
3 the back.

4 And the, um, elderly owner was very  
5 aggressive and, um, inappropriately touched me  
6 several times. And the biggest reason I wanted  
7 privacy is 'cause I did not report it to anyone.

8 And, quite frankly, at this point I feel like  
9 I'm protecting my parents from something that they  
10 would have no recourse over and that's it.

11 In no way -- although I didn't expect to talk  
12 about it today, in no way does it affect how I  
13 feel about the justice system or any -- I don't  
14 feel like any way it would cloud my judgment about  
15 anything we've talked about today.

16 THE COURT: Okay. You've sort of answered my  
17 second question. Do you think --

18 PROSPECTIVE JUROR NUMBER FIVE: I'm sorry.

19 THE COURT: -- you would have any -- that's  
20 okay.

21 Do you think it would have any effect on your  
22 ability to sit as a fair and impartial juror in  
23 this case?

24 PROSPECTIVE JUROR NUMBER FIVE: No. I'll be  
25 honest, when he first asked, I thought nope, and

1           then I went, oh, I guess there was one, but no.  
2           So I -- I don't consider myself a victim.  
3           THE COURT: Okay. Very well.  
4           Mr. Johnson, did you want to follow up on  
5           that at all?  
6           MR. JOHNSON: No, your Honor.  
7           THE COURT: Mr. Barrett?  
8           MR. BARRETT: No, Judge.  
9           THE COURT: Okay. Thank you, Ms. Nutt.  
10          PROSPECTIVE JUROR NUMBER FIVE: Thank you.  
11          THE COURT: Appreciate it.  
12          (Prospective Juror Number Five exited the  
13          courtroom.)  
14          THE COURT: Can we send Ms. Hanke in?  
15          (Prospective Juror Number Four entered the  
16          courtroom.)  
17          THE COURT: Ms. Hanke, you can sit anywhere.  
18          If you want to sit in the seat you were in, that's  
19          fine since you were in the front row anyhow.  
20          When the State -- counsel for the State was  
21          asking questions if somebody had been the victim  
22          of a crime before, I think you said that's when  
23          you wanted to speak privately with us.  
24          PROSPECTIVE JUROR NUMBER FOUR: Uh-huh.  
25          THE COURT: So could you share with us what



1 that was about?

2 PROSPECTIVE JUROR NUMBER FOUR: I was  
3 gang-raped --

4 THE COURT: Okay.

5 PROSPECTIVE JUROR NUMBER FOUR: -- 16 years  
6 ago.

7 THE COURT: How -- how many years ago?

8 PROSPECTIVE JUROR NUMBER FOUR: Sixteen.

9 THE COURT: Sixteen, okay. Do you feel you  
10 could set that experience aside for purposes of  
11 this trial?

12 Obviously, you can't set it aside, but do you  
13 think it would affect your ability to sit as a  
14 fair and impartial juror in this case at all?

15 PROSPECTIVE JUROR NUMBER FOUR: No. It's  
16 nothing to do with it.

17 THE COURT: Okay. Anybody want to follow up?  
18 Mr. Johnson?

19 MR. JOHNSON: No, your Honor.

20 THE COURT: Mr. Barrett?

21 MR. BARRETT: No, your Honor.

22 THE COURT: Okay. Thank you, Ms. Hanke.  
23 Appreciate it.

24 (Prospective Juror Number Four exited the  
25 courtroom.)

1 THE COURT: We'll next need Mr. Debruhl.

2 (Prospective Juror Number Nine entered the  
3 courtroom.)

4 THE COURT: Mr. Debruhl, you can sit  
5 anywhere. You don't have to sit in that seat you  
6 were in --

7 PROSPECTIVE JUROR NUMBER NINE: That's okay.

8 THE COURT: -- but you're going there anyway.  
9 Creature of habit. I appreciate it.

10 When counsel for the State was asking if you  
11 had ever been the victim of a crime before, you  
12 said you wanted to speak privately with us. So  
13 can you share with us what that was about?

14 PROSPECTIVE JUROR NUMBER NINE: It was  
15 several different instances. In college, I was  
16 held at gunpoint by, like, five different  
17 gang-bangers or something in, uh, Tallahassee.

18 And they -- they held us hostage for a couple  
19 hours and then, uh, left. And then -- then we got  
20 the, you know, the officers in there, and then we  
21 just moved, uh, moved back home.

22 Uh, that was pretty traumatizing at the time,  
23 but I don't think it would affect -- it won't  
24 affect this case.

25 Um, I had an issue with a Clay County -- or

1           okay. So that was one instance. I don't know if  
2           there's any feedback on that.

3           THE COURT: No. We'll -- I'll give the  
4           lawyers a chance to ask you questions after you're  
5           done going through what it was.

6           PROSPECTIVE JUROR NUMBER NINE: Okay. Uh, I  
7           was a victim of domestic abuse, but it wasn't  
8           anything, um, like -- it really -- I don't like  
9           mentioning it in front of women because I don't  
10          really feel like a victim. It was just, like, a  
11          legal matter.

12          Um, and I had an issue with Clay County, um,  
13          Police Department when my father died because his  
14          mistress was a retired lieutenant or something at  
15          the Clay County Sheriff Department.

16          And they started breaking into his stuff and  
17          stealing stuff. When I called the cops, they  
18          wouldn't -- they wouldn't, you know, respond and  
19          come there.

20          So I got the internal affairs involved and  
21          had issues with them, so I had to end up going to  
22          the courts, and then things started settling out.

23          And I got an emergency injunction on them and  
24          got them off the premises, but, you know, salty  
25          about the -- uh, the interaction with the Clay

1 County Sheriff's Department upset me, but yeah.

2 So if there's anything similar like that that  
3 would happen, that would -- that would be kind of  
4 like personal to me.

5 THE COURT: Okay. Assuming there's nothing  
6 similar like that, would -- would any of those  
7 situations have any effect on your ability to sit  
8 as a fair and impartial juror in this case?

9 PROSPECTIVE JUROR NUMBER NINE: I mean,  
10 assuming there's no malpractice, then no. It  
11 wouldn't have a effect on me having a fair  
12 response to it.

13 THE COURT: Okay. Mr. Johnson, did you want  
14 to follow up at all?

15 MR. JOHNSON: No, your Honor.

16 THE COURT: Mr. Barrett, any follow-up?

17 MR. BARRETT: Briefly, Judge.

18 THE COURT: Sure.

19 MR. BARRETT: Okay. So if you were to hear  
20 evidence about individuals being held at gunpoint,  
21 would that affect your ability to be fair and  
22 impartial, having yourself been held at gunpoint?

23 PROSPECTIVE JUROR NUMBER NINE: Oh, um, no.  
24 It -- it's -- no. I mean, I'm comfortable around  
25 guns or the idea. Just personally, I mean, it's a

1 bad situation to be in, but, um, I could still  
2 think clearly on it and make decisions clearly on  
3 that.

4 MR. BARRETT: Okay. Just to make sure I  
5 understand, I understand being around guns all the  
6 time. I'm talking about a more specific situation  
7 where if there was evidence introduced that  
8 someone had a gun pointed at them and basically  
9 was held at a location and transported while a gun  
10 was being pointed at them, would that in any way  
11 cause you to relapse to your personal experience  
12 and possibly hold that against either side if you  
13 heard that testimony?

14 PROSPECTIVE JUROR NUMBER NINE: No.

15 MR. BARRETT: Okay.

16 PROSPECTIVE JUROR NUMBER NINE: No.

17 THE COURT: Okay. Thank you, Mr. Debruhl.  
18 You can now enjoy your break for the next couple  
19 minutes.

20 PROSPECTIVE JUROR NUMBER NINE: Thank you.

21 (Prospective Juror Number Nine exited the  
22 courtroom.)

23 THE COURT: And let's send Ms. Karl in.

24 (Prospective Juror Number 20 entered the  
25 courtroom.)

1 THE COURT: Ms. Karl, you can sit anywhere.  
2 You don't have to sit where you were before.

3 When counsel for the State was asking  
4 questions about family members who have been  
5 arrested before, gotten in some kind of trouble  
6 before, you said you wanted to speak privately  
7 about that. So could you share with us what that  
8 was about?

9 PROSPECTIVE JUROR NUMBER 20: Actually, my  
10 significant other who I live with, he is a  
11 convicted felon.

12 He served a year in prison for kind of just  
13 being a young dumb kid, but nothing -- I mean, he  
14 was trying to not smoke marijuana. And he tried  
15 this spice, um, and was also intoxicated.

16 So he was trying to find somewhere to sleep  
17 and found a car that was unlocked, got into the  
18 car, fell asleep, and the owners of the vehicle  
19 actually called the cops and he was arrested.

20 He did have, um -- he was on probation, as  
21 well. Um, they were pretty intense with him as  
22 far as, like, sending him to prison.

23 THE COURT: How long ago was that?

24 PROSPECTIVE JUROR NUMBER 20: About four  
25 years ago.

1           THE COURT: Okay. Do you think that that  
2           might have any effect on your ability to sit as a  
3           fair and impartial juror in this case?

4           PROSPECTIVE JUROR NUMBER 20: No. It was in  
5           Gainesville, as well, so...

6           THE COURT: Okay. Can you -- can you set it  
7           aside if you were selected as a juror here?

8           PROSPECTIVE JUROR NUMBER 20: Yeah.

9           THE COURT: Okay. State have any follow-up,  
10          Mr. Johnson?

11          MR. JOHNSON: Just briefly, Judge.

12          There may be witnesses in this case that are  
13          from Gainesville. Does that change your answer at  
14          all?

15          PROSPECTIVE JUROR NUMBER 20: Huh-uh.

16          MR. JOHNSON: Okay.

17          THE COURT: Mr. Barrett, any questions?

18          MR. BARRETT: No, Judge.

19          THE COURT: Okay. Thank you, Ms. Karl.  
20          Enjoy the rest of the break, and we'll get  
21          everybody back in here shortly.

22          PROSPECTIVE JUROR NUMBER 20: Thank you.

23          (Prospective Juror Number 20 exited the  
24          courtroom.)

25          THE COURT: Let's have Mr. Jaudon next.

1                   (Prospective Juror Number 24 entered the  
2 courtroom.)

3                   THE COURT: Mr. Jaudon, you can sit anywhere.  
4 Any seat is good, or you can remain standing if  
5 you like.

6                   When counsel for the State was asking  
7 questions about family members that had been in  
8 trouble before, you started to mention your  
9 brother, who's -- either was in jail or is in  
10 jail.

11                  PROSPECTIVE JUROR NUMBER 24: He was  
12 convicted, and I forget the precise nomenclature  
13 of it, but it was something along the lines of  
14 sexual battery on a minor.

15                  And he spent eight years in the prison system  
16 here in Florida for that offense.

17                  THE COURT: How long ago was that?

18                  PROSPECTIVE JUROR NUMBER 24: Oh, I think the  
19 offense took place in late '99, and he got out in  
20 '07, if I recall correctly.

21                  THE COURT: So it's been a while?

22                  PROSPECTIVE JUROR NUMBER 24: Yes, sir.

23                  THE COURT: Do you feel you can set that  
24 experience aside, or do you feel like that would  
25 have any effect on your ability to sit as a fair



1 and impartial --

2 PROSPECTIVE JUROR NUMBER 24: That was his  
3 stuff. That's the best way I can describe it. I  
4 hate it. He's my brother, I love him, but these  
5 things are what they are.

6 THE COURT: Do you think it would have any  
7 effect on your ability to sit as a fair and  
8 impartial juror in this case?

9 PROSPECTIVE JUROR NUMBER 24: No, sir, it  
10 would not.

11 THE COURT: Okay. Thank you.

12 Any questions, Mr. Johnson?

13 MR. JOHNSON: No, your Honor.

14 THE COURT: Any questions, Mr. Barrett?

15 MR. BARRETT: No, your Honor.

16 THE COURT: Okay. Thank you, Mr. Jaudon.  
17 We'll call you back in in just a little bit.

18 PROSPECTIVE JUROR NUMBER 24: Thank you.

19 (Prospective Juror Number 24 exited the  
20 courtroom.)

21 THE COURT: Let's have Ms. Macklin.

22 (Prospective Juror Number 28 entered the  
23 courtroom.)

24 THE COURT: Ms. Macklin, you can sit  
25 anywhere.

1 PROSPECTIVE JUROR NUMBER 28: Okay.

2 THE COURT: Sit up front there as opposed to  
3 having to be in the back. We've had you there  
4 most of the day.

5 When counsel for the State was asking  
6 questions about folks who had been victims of  
7 crimes in the past, you said you wanted to speak  
8 about that privately.

9 PROSPECTIVE JUROR NUMBER 28: I did. So my  
10 son, in the year 2000, was a victim of a  
11 high-speed chase in Arizona and Utah and Nevada  
12 which resulted in his death.

13 THE COURT: Was he the one being pursued, or  
14 was he just an innocent driver over the roadway  
15 and someone ran into him that was fleeing from the  
16 police?

17 PROSPECTIVE JUROR NUMBER 28: Yes.

18 THE COURT: Okay. Obviously, that's a very  
19 traumatic event. Do you feel that that would have  
20 any effect on your ability to sit as a fair and  
21 impartial juror in this case?

22 PROSPECTIVE JUROR NUMBER 28: No.

23 THE COURT: Okay. You think you could set  
24 all that aside?

25 PROSPECTIVE JUROR NUMBER 28: Yes.

1 THE COURT: At least for purposes of this  
2 trial. Obviously --

3 PROSPECTIVE JUROR NUMBER 28: Absolutely.

4 THE COURT: -- you can't set it aside.

5 PROSPECTIVE JUROR NUMBER 28: Absolutely.

6 THE COURT: Okay. Mr. Johnson, any  
7 questions?

8 MR. JOHNSON: Yeah.

9 Just -- just to be clear, he was not the one  
10 being chased --

11 PROSPECTIVE JUROR NUMBER 28: That's correct.

12 MR. JOHNSON: -- but he died as a result of  
13 the person who was being chased running into him?

14 PROSPECTIVE JUROR NUMBER 28: Correct.

15 MR. JOHNSON: Any thoughts or feelings about  
16 the police in sort of engaging in that chase? Any  
17 bad feelings about the police having --

18 PROSPECTIVE JUROR NUMBER 28: How much time  
19 do we have? Um, I did, absolutely, and I went  
20 through many depositions and listened to their  
21 side of the story and understood what they went  
22 through as a result of that.

23 Um, do I think there could have been a  
24 different outcome? Um, maybe. Maybe they could  
25 have avoided it, but, um, when I met with them, I

1 had a feeling that they were young, new on the  
2 force, high-speed chase, let's do it.

3 And they weren't. They were veterans. And  
4 they were very remorseful, and I felt truly bad  
5 about that, that they had to witness something  
6 that was so horrific.

7 MR. JOHNSON: Okay.

8 PROSPECTIVE JUROR NUMBER 28: So...

9 MR. JOHNSON: In hindsight now, if you were  
10 going to place the fault for that event and your  
11 son's death, whose feet would you lay that at?

12 PROSPECTIVE JUROR NUMBER 28: I -- I would --  
13 I would lay it at two side -- twofold. The vic --  
14 the kid that they were chasing and the law  
15 enforcement.

16 MR. JOHNSON: Okay. Is that -- is that  
17 experience such that, you know, say there was -- I  
18 can't say that there is or not going to be facts  
19 presented during the course of this trial somewhat  
20 similar to that.

21 If there was, would that be something you  
22 would not be able to set aside?

23 PROSPECTIVE JUROR NUMBER 28: No, not at all.  
24 I think, if anything, I'm much clearer and more  
25 open-minded to the fact of their positions.

1 MR. JOHNSON: Okay. Thank you, ma'am.

2 THE COURT: Mr. Barrett, any questions?

3 MR. BARRETT: Just briefly, Judge.

4 Do you know what the person being chased was  
5 being chased for?

6 PROSPECTIVE JUROR NUMBER 28: Uh, he was  
7 stopped for destroying private property, like a  
8 golf course. And then he was flee -- he left the  
9 scene when they got pulled over. I don't know why  
10 he left.

11 He -- they knew him. I don't know why they  
12 were chasing him other than he took off from being  
13 stopped.

14 MR. BARRETT: Okay. Thank you.

15 THE COURT: Thank you, Ms. Macklin. If you  
16 can step outside, we'll get back with you in a  
17 little bit.

18 PROSPECTIVE JUROR NUMBER 28: Sure.

19 (Prospective Juror Number 28 exited the  
20 courtroom.)

21 THE COURT: Now Ms. Griener.

22 (Prospective Juror Number 19 entered the  
23 courtroom.)

24 THE COURT: Ms. Griener, you can sit  
25 anywhere.



1 would not.

2 THE COURT: Thank you. Oh, hold on.

3 PROSPECTIVE JUROR NUMBER 19: Oh, sorry.

4 THE COURT: Mr. Johnson, do you have any  
5 questions?

6 MR. JOHNSON: No, your Honor.

7 THE COURT: Mr. Barrett, any questions?

8 MR. BARRETT: No, Judge.

9 THE COURT: Okay. Thank you, Ms. Griener.  
10 Now you can leave.

11 PROSPECTIVE JUROR NUMBER 19: Now I can  
12 leave. Okay.

13 THE COURT: Okay. Thanks.

14 (Prospective Juror Number 19 exited the  
15 courtroom.)

16 THE COURT: Okay. Let's go ahead and take  
17 five minutes.

18 (Court was in recess from 3:20 p.m. until  
19 3:27 p.m.)

20 THE COURT: Y'all ready to bring the jurors  
21 in?

22 MR. BARRETT: Yes, your Honor.

23 THE COURT: Okay. You can bring them in.

24 (The prospective jurors entered the  
25 courtroom.)

1           THE COURT: I think that's everybody. Y'all  
2 can be seated. Okay. Should be everybody.

3           All right. So we just finished the  
4 questioning from the State, and now we'll have  
5 questioning from Defense Counsel.

6           Mr. Barrett, you may inquire.

7           MR. BARRETT: Thank you, Judge.

8           Good afternoon. Are you all still awake?

9           (The prospective jurors answered in the  
10 affirmative.)

11          MR. BARRETT: Okay. I apologize. I know  
12 it's a long process, but I would ask and hope that  
13 y'all agree that in a situation where life and  
14 death is involved, that it is important that we  
15 take the time to ask questions and to learn a  
16 little bit about you.

17          Also, I would hope you agree that even though  
18 you may be a good juror for some cases, doesn't  
19 mean necessarily you would be a good juror to make  
20 the decision in this case.

21          And so to figure out whether or not you are  
22 the best juror for this situation and this case, I  
23 need to speak to you individually.

24          I'm not going to pick on all of you or call  
25 all of you. There may be some jurors I ask



1 questions directly of, but if you have a response  
2 to it, please let me know.

3 If you haven't picked it up yet, I've been  
4 told I have an accent. And so for the purpose of  
5 this, I will assume that's the case.

6 I think you all have an accent, but the  
7 reason I'm pointing that out is that if I ask a  
8 question and you don't understand what I'm saying,  
9 just let me know.

10 I will tell you as a hint, I'm from Jamaica.  
11 And as a result, sometime we put Hs where they're  
12 not supposed to be.

13 Now, you can laugh, but, please, if you don't  
14 understand what I'm saying, just let me know.  
15 That's important. Are we good so far?

16 (The prospective jurors answered in the  
17 affirmative.)

18 MR. BARRETT: Okay. Again, I know it's a  
19 long process, so let me start by saying just some  
20 general stuff.

21 And I know some of you had some concerns.  
22 Some of you mentioned that you will follow the  
23 law, okay?

24 Let me start by pointing out to you, and the  
25 judge will also point that out to you, that the

1 law in the State of Florida never requires the  
2 death penalty.

3 Do you understand that?

4 (The prospective jurors answered in the  
5 affirmative.)

6 MR. BARRETT: Okay. Even if -- and the judge  
7 will give you instructions as to what aggravators  
8 and mitigators are.

9 And some of you, I think, are familiar with  
10 it because I've use -- heard you use the term  
11 "aggravators."

12 Okay. Even if you find that there's  
13 sufficient aggravators, the law in the State of  
14 Florida still does not require that you vote for  
15 death.

16 Do you understand that?

17 (The prospective jurors answered in the  
18 affirmative.)

19 MR. BARRETT: Not in this case, not in the  
20 worst case you can think of, not in any case. Do  
21 you understand that?

22 (The prospective jurors answered in the  
23 affirmative.)

24 MR. BARRETT: Okay. So if you decide to vote  
25 for life, you are following the law in the State

1 of Florida. The judge is not requiring you to  
2 give a certain vote, okay?

3 Also, someone had brought this up about what  
4 if I have one opinion now, and everyone else  
5 thinks differently.

6 Okay. Even though you're going to decide the  
7 case, there's 12 of you going to be jurors in this  
8 case. Your judgment is an individual one.

9 Do you understand that?

10 (The prospective jurors answered in the  
11 affirmative.)

12 MR. BARRETT: Okay. If one of you, one of  
13 the chosen jurors, decide that something in the  
14 case, the mitigators, the aggravators, something  
15 requires a vote for life and that is your vote,  
16 you have a right to let the judge know that's what  
17 you've decided.

18 Do you understand that?

19 (The prospective jurors answered in the  
20 affirmative.)

21 MR. BARRETT: The law in the State of Florida  
22 also does not require that you tell other jurors  
23 your reason to vote for life.

24 So if you have, after listening to  
25 everything, decided that life is the vote you want

1 to give, you don't have to explain it to other  
2 jurors.

3 You understand that?

4 (The prospective jurors answered in the  
5 affirmative.)

6 MR. BARRETT: Okay. That vote should be  
7 based upon your personal experience, your  
8 understanding of the evidence, and how you view  
9 and weigh the circumstances.

10 Do you all follow me so far?

11 (The prospective jurors answered in the  
12 affirmative.)

13 MR. BARRETT: Okay. Let me ask just some  
14 questions of some specific jurors, and I apologize  
15 if I mispronounce your name. I'm going to blame  
16 it on my accent because you won't know otherwise,  
17 okay?

18 Mr. -- is it Lambert?

19 PROSPECTIVE JUROR NUMBER SEVEN: Yes.

20 MR. BARRETT: Okay. And you're, just for  
21 purposes, you're in seat number seven, or at least  
22 was until some of the people disappeared around  
23 you.

24 Okay. Mr. Lambert, you said initially that  
25 you were fine with the death penalty, Florida

1           having a death penalty.

2                   PROSPECTIVE JUROR NUMBER SEVEN:   Correct.

3                   MR. BARRETT:   Explain that to me.   What did  
4           you mean when you said you were fine with it?

5                   PROSPECTIVE JUROR NUMBER SEVEN:   I'm okay  
6           with the State of Florida having a death penalty  
7           for certain cases --

8                   MR. BARRETT:   Okay.

9                   PROSPECTIVE JUROR NUMBER SEVEN:   -- to take  
10          that kind of action.

11                  MR. BARRETT:   All right.   And you said "for  
12          certain cases" -- I'm sorry to interrupt you.

13                  PROSPECTIVE JUROR NUMBER SEVEN:   Sorry.   Just  
14          that kind of decision.

15                  MR. BARRETT:   And I think several of you said  
16          for certain cases and certain circumstances, you  
17          could vote for death.

18                  Okay.   Just what cases are -- are there any  
19          cases that you think that death should be the  
20          only --

21                  PROSPECTIVE JUROR NUMBER SEVEN:   Specifically?  
22          No.   I just would want to hear the evidence of the  
23          case and the severity of the case.

24                  MR. BARRETT:   Is there certain things that  
25          you would want to hear in order to vote for death?

1 PROSPECTIVE JUROR NUMBER SEVEN: I don't  
2 think I would want to hear any of it, to be honest  
3 with you, but if I did hear it, I would have to  
4 weigh out what happened in the case, why it  
5 happened, the severity of the case, like I said.

6 MR. BARRETT: Okay.

7 PROSPECTIVE JUROR NUMBER SEVEN: Was it  
8 gruesome? Was it brutal?

9 MR. BARRETT: Okay.

10 PROSPECTIVE JUROR NUMBER SEVEN: Those kind  
11 of things.

12 MR. BARRETT: And if it was gruesome, is that  
13 something that would be automatic for death for  
14 you?

15 PROSPECTIVE JUROR NUMBER SEVEN: No. I -- I  
16 sat on a case that was pretty gruesome.

17 MR. BARRETT: Okay.

18 PROSPECTIVE JUROR NUMBER SEVEN: And we  
19 decided, unfortunately, the -- fortunately or  
20 unfortunately, the death penalty was not an  
21 option.

22 MR. BARRETT: Okay. So you have actually sat  
23 on a death-penalty situation?

24 PROSPECTIVE JUROR NUMBER SEVEN: No. It  
25 wasn't a death penalty. First-degree murder, but

1 no death penalty.

2 MR. BARRETT: Okay. You lost me a little  
3 bit. You said you decided that the death penalty  
4 was not an option, or you were told it was not --

5 PROSPECTIVE JUROR NUMBER SEVEN: The State of  
6 Florida did not pursue the death penalty.

7 MR. BARRETT: How did you feel about that?  
8 Did you think they should have?

9 PROSPECTIVE JUROR NUMBER SEVEN: Not  
10 necessarily.

11 MR. BARRETT: All right.

12 Is this -- is it Bonday?

13 PROSPECTIVE JUROR NUMBER 13: Yes.

14 MR. BARRETT: Did I pronounce that correctly?

15 PROSPECTIVE JUROR NUMBER 13: Yes.

16 MR. BARRETT: In talking about a relative  
17 that's in prison, you said he deserved it for  
18 being in prison, if I heard you correctly?

19 PROSPECTIVE JUROR NUMBER 13: Yes. I mean,  
20 that's the only thing keeping him alive is that he  
21 keeps violating parole and getting put back in  
22 prison.

23 MR. BARRETT: Okay. So he's --

24 PROSPECTIVE JUROR NUMBER 13: The drugs would  
25 kill him otherwise.

1           MR. BARRETT: So when you say he deserve it,  
2           you're not just saying because he committed the  
3           crime, but because you think --

4           PROSPECTIVE JUROR NUMBER 13: Well --

5           MR. BARRETT: -- had he been out there, he  
6           probably would die from drugs?

7           PROSPECTIVE JUROR NUMBER 13: Well, and he  
8           does -- well, he deserves to be in jail because he  
9           repeatedly is doing the crime over and over and  
10          over again.

11          MR. BARRETT: Okay.

12          PROSPECTIVE JUROR NUMBER 13: So there's  
13          consequences for that.

14          MR. BARRETT: All right. Now, you also  
15          indicated that you could vote for life.

16          PROSPECTIVE JUROR NUMBER 13: Yes.

17          MR. BARRETT: Okay. And, of course, you  
18          could also vote for death?

19          PROSPECTIVE JUROR NUMBER 13: Yes.

20          MR. BARRETT: Are there any particular  
21          circumstances where you would think death should  
22          be the appropriate?

23          PROSPECTIVE JUROR NUMBER 13: Where I think  
24          death should be appropriate?

25          MR. BARRETT: Should be, yeah.



1                   PROSPECTIVE JUROR NUMBER 13: I actually  
2 believe in the death penalty, and I think it would  
3 be very difficult for me not to vote for the death  
4 penalty.

5                   MR. BARRETT: Okay. So since you do believe  
6 in the death penalty --

7                   PROSPECTIVE JUROR NUMBER 13: Yes.

8                   MR. BARRETT: -- if you heard testimony say  
9 the person has some mental-health issues, that  
10 wouldn't really change your mind, correct?

11                   PROSPECTIVE JUROR NUMBER 13: That could  
12 potentially chang my mind. Yes.

13                   MR. BARRETT: What about if the person had  
14 drug problems? Would that change your mind?  
15 Would you be able to consider that in  
16 determining --

17                   PROSPECTIVE JUROR NUMBER 13: I would have to  
18 look at everything, but yes. I mean, that could  
19 be one of the things. Yes.

20                   MR. BARRETT: All right. But you're strongly  
21 for the death penalty and -- well...

22                   PROSPECTIVE JUROR NUMBER 13: Yes, sir.

23                   MR. BARRETT: Okay. And if you're chosen as  
24 a juror, even though you may be strongly for the  
25 death penalty, you do understand that if another

1 juror is in the room with you and disagrees with  
2 you, that juror has a right to his or her opinion.  
3 You understand that?

4 PROSPECTIVE JUROR NUMBER 13: Absolutely.  
5 Everyone has their right. Yes.

6 MR. BARRETT: Okay. And you understand, even  
7 though we expect you all to discuss the case,  
8 that, um, that juror has the right to be respected  
9 and not have her opinion basically cast out  
10 because she disagrees?

11 PROSPECTIVE JUROR NUMBER 13: Oh, absolutely.

12 MR. BARRETT: Okay. And can you assure us if  
13 you're in that jury room with that juror, that you  
14 would also protect that juror's right to speak out  
15 and give her opinion?

16 PROSPECTIVE JUROR NUMBER 13: Absolutely,  
17 'cause I would want that in return.

18 MR. BARRETT: Thank you.

19 PROSPECTIVE JUROR NUMBER 13: Yes.

20 MR. BARRETT: Okay. I think seat number 18,  
21 um, Ms. -- is it Bouda, correct?

22 PROSPECTIVE JUROR NUMBER 18: Bouda.

23 MR. BARRETT: Right. You mentioned something  
24 about you hoped you could follow the law. Do you  
25 recall saying that?

1 PROSPECTIVE JUROR NUMBER 18: I hope I could  
2 follow the law?

3 MR. BARRETT: It could be my notes --

4 PROSPECTIVE JUROR NUMBER 18: No.

5 MR. BARRETT: -- but okay. Would you have  
6 any problem -- again, like I told you, the State  
7 of Florida never requires you to vote for death.  
8 I don't care what the circumstance is, okay?

9 Do you have a problem with that?

10 PROSPECTIVE JUROR NUMBER 18: No.

11 MR. BARRETT: Okay. Are there any specific  
12 circumstances where you would believe that the  
13 death penalty is the only appropriate sentence?

14 PROSPECTIVE JUROR NUMBER 18: I think it's  
15 why most of us that are here, we've never been put  
16 in this situation, so we'd like to see the facts  
17 and hear the facts and then be able to say that we  
18 thought that whatever was presented to us was  
19 enough for us to make a knowledgeable decision.  
20 I'm not --

21 MR. BARRETT: I'm sure you all understand --

22 PROSPECTIVE JUROR NUMBER 18: I'm not -- I'm  
23 not sure what that is right now because never  
24 having sat through it.

25 MR. BARRETT: Right. And I guess what I'm

1 asking you, even though I know you don't know  
2 anything about the case other than the fact that  
3 he has been convicted, so that's not an issue we  
4 have to address. He's already been convicted, but  
5 I guess what I'm trying to get is just your  
6 opinion.

7 Are there, for you, any particular type of  
8 circumstances that you would feel the death  
9 penalty is the only appropriate sentence?

10 PROSPECTIVE JUROR NUMBER 18: Yes.

11 MR. BARRETT: What kind of cases would that  
12 be?

13 PROSPECTIVE JUROR NUMBER 18: I think it  
14 would be something that had to have been really  
15 horrific. Um, no drugs involved, no mental  
16 involve -- I mean, it had to be just really, um, a  
17 brutal, um, act with pos -- with no -- nothing  
18 shown to us that there was any remorse or any  
19 reason that it was done other than it was an act  
20 of violence.

21 MR. BARRETT: Okay. And, again,  
22 unfortunately, we've been doing this for quite a  
23 while, both the State and the defense, so we've  
24 seen different levels of gruesome.

25 What would you consider to be gruesome?

1 PROSPECTIVE JUROR NUMBER 18: I have no idea  
2 until I see it. I mean, um, particularly, um...

3 MR. BARRETT: Let me try this way:

4 Is there a particular manner of death that  
5 you would think more gruesome than others?

6 PROSPECTIVE JUROR NUMBER 18: Slow and  
7 brutal? I -- I --

8 MR. BARRETT: But if I also heard you  
9 correctly, you saying, um, that if this was a  
10 death just for the purpose of killing, if there  
11 was no other factors involved in what led to the  
12 death, then you would think --

13 PROSPECTIVE JUROR NUMBER 18: I would  
14 consider it. Yes.

15 MR. BARRETT: Okay. All right.

16 What about, um, is it -- is it Jaudon?

17 PROSPECTIVE JUROR NUMBER 24: Jaudon, yes,  
18 sir.

19 MR. BARRETT: Is it French?

20 PROSPECTIVE JUROR NUMBER 24: Yes.

21 MR. BARRETT: Okay. I thought so. So  
22 it's Jaudon. That's the only French I know except  
23 for the curse words.

24 You also indicated that you think it's  
25 appropriate in certain cases.

1 PROSPECTIVE JUROR NUMBER 24: Yes, sir.

2 MR. BARRETT: What cases?

3 PROSPECTIVE JUROR NUMBER 24: Capital murder.

4 MR. BARRETT: Okay. You do understand that  
5 any murder case that require -- where the death  
6 penalty is being considered is considered capital?

7 PROSPECTIVE JUROR NUMBER 24: Yes, sir.

8 MR. BARRETT: So does that mean that you  
9 think in all capital-murder cases, then it would  
10 become appropriate?

11 PROSPECTIVE JUROR NUMBER 24: I think the  
12 threshold for me would be did the person  
13 committing the crime understand right from wrong  
14 at the time he committed the crime. That would be  
15 the threshold for me.

16 MR. BARRETT: The threshold for what? For  
17 not voting --

18 PROSPECTIVE JUROR NUMBER 24: For life.

19 MR. BARRETT: For life? All right. Would  
20 you consider -- and, again, you've heard the term  
21 "mitigation."

22 Okay. Is that the only thing that would work  
23 for you in terms of mitigation? Are there other  
24 things you would consider?

25 PROSPECTIVE JUROR NUMBER 24: Oh, I mean, you

1 know, if there were mitigating circumstances in  
2 terms of lessening of capacity or understanding,  
3 perhaps life imprisonment is appropriate.

4 MR. BARRETT: Can you think of any other  
5 particular mitigation? What about -- several of  
6 the potential jurors also talked about family  
7 members with alcohol problem, drug problem.

8 Would you consider that to be mitigating  
9 enough for you to vote for life?

10 MR. JOHNSON: Objection, your Honor. May we  
11 approach?

12 THE COURT: Yeah. Let me see Counsel at  
13 sidebar.

14 Excuse us, folks.

15 (The following discussion was held at  
16 benchside outside the hearing of the jury):

17 THE COURT: Okay. We are at sidebar, outside  
18 the presence of the jury.

19 Okay. I think I sense your objection, but  
20 state it on the record.

21 MR. JOHNSON: Yeah, Judge. I let it go for a  
22 little bit, but I think we're getting to the point  
23 where we're asking them to commit to kind of the  
24 position when it comes to certain aggravators and  
25 mitigators.

1           I think that's not appropriate, so I would  
2           object on those grounds.

3           THE COURT: Anything you want to put on the  
4           record, Mr. Barrett?

5           MR. BARRETT: Yes, Judge. I'm not -- he's  
6           indicating that there are certain things that --  
7           certain crimes that he would consider to be, um,  
8           where the death penalty would be warranted.

9           In fact, he indicated the capital murder,  
10          which all murders with death penalty involved are  
11          capital-murder cases.

12          So then we talked about mitigation. So  
13          I'm -- part of what I'm trying to explore with the  
14          man, if he have any biases specifically to drug  
15          and alcohol.

16          I'm trying to understand whether or not this  
17          juror would be biased about hearing any evidence  
18          related to drug and alcohol.

19          THE COURT: I'm going to sustain the  
20          objection. You're getting into hypotheticals with  
21          these jurors.

22          If you ask them something along the lines of,  
23          if the Court instructs you that you can consider  
24          anything in their character, life, or background,  
25          which can include mental health, could include



1 drug abuse, would you be able to consider that,  
2 that would be an appropriate question.

3 But the way you're phrasing it, you're  
4 phrasing it as hypotheticals, so I'm going to  
5 sustain the objection.

6 MR. BARRETT: Okay.

7 (The benchside conference was concluded.)

8 MR. BARRETT: If I may just have a quick  
9 minute, Judge. I'm sorry.

10 (Mr. Barrett conferred with Mr. Hamburg.)

11 MR. BARRETT: Okay. Mr., um, Jaudon, okay,  
12 we were just talking a minute ago and still on the  
13 question as to what you would consider in terms of  
14 whether or not you would vote for life, okay?

15 The judge is going to give you some  
16 instructions, and part of the instruction the  
17 judge will give you relate to mitigation.

18 If the judge was to instruct you that a part  
19 of your responsibility, part of your consideration  
20 in determining the appropriate punishment in this  
21 case, that, uh, to consider things such as drugs,  
22 alcohol, mental-health issues, would you be able  
23 to give con -- consideration to these things, or  
24 would you just basically set them aside simply  
25 because, again, this is a capital-murder case?

1 PROSPECTIVE JUROR NUMBER 24: Oh, I could  
2 definitely take that into consideration.

3 MR. BARRETT: Thank you.

4 And I know I'm going to mispronounce names,  
5 so I apologize. Is it Ms. Grill?

6 PROSPECTIVE JUROR NUMBER 30: Grehl.

7 MR. BARRETT: Grehl? Again, you also  
8 indicated, if appropriate, you would have no  
9 problem with voting for death; is that correct?

10 PROSPECTIVE JUROR NUMBER 30: Um, not that I  
11 wouldn't have a problem. I think everybody here  
12 would have a problem voting for death, um, death  
13 penalty.

14 MR. BARRETT: But you did indicate that if  
15 appropriate --

16 PROSPECTIVE JUROR NUMBER 30: I -- I would be  
17 able to if the circumstances warranted it.

18 MR. BARRETT: Okay. And what kind of  
19 circumstances, in your mind, would warrant it?

20 PROSPECTIVE JUROR NUMBER 30: Uh, it's --  
21 it's pretty tough to answer a what-if question  
22 when it comes to somebody's life or death in your  
23 own hands.

24 I've never been in this situation, as I'm  
25 sure most of these other people have, and to have

1           it thrown, um, at you without knowing all of the  
2           details other than what this gentleman has been  
3           accused of -- or convicted of, I should say.

4           MR. BARRETT: Okay. Are there any  
5           circumstances, though, that you would --

6           PROSPECTIVE JUROR NUMBER 30: Um,  
7           premeditated, cold --

8           MR. BARRETT: Say again?

9           PROSPECTIVE JUROR NUMBER 30: -- blooded.  
10          Premeditated, cold-blooded, especially -- well,  
11          doesn't have anything to do with this case, so I  
12          guess I won't get into it.

13          MR. BARRETT: So if you heard evidence that  
14          this first-degree murder was a premeditated  
15          murder, would that be a case where you would vote  
16          for death?

17          PROSPECTIVE JUROR NUMBER 30: I would  
18          definitely consider it. Yes.

19          MR. BARRETT: Well, okay. So just consider  
20          it as opposed to you would automatically vote for  
21          death if you heard --

22          PROSPECTIVE JUROR NUMBER 30: I don't think  
23          I'd ever automatically vote for death --

24          MR. BARRETT: Okay.

25          PROSPECTIVE JUROR NUMBER 30: -- but it would

1 definitely be up there.

2 MR. BARRETT: Is there anyone here on the  
3 panel who would just, because of the fact it's a  
4 first-degree-murder case, it's a capital case,  
5 would automatically vote for death? Anyone?

6 (No response.)

7 MR. BARRETT: See no hands.

8 Um, I'm doing it this way so that -- I know  
9 you've been here a while, so this way I just pick  
10 on specific individuals just to follow up.

11 I think Mr. Thomas? Is it Ms. Thomas?

12 PROSPECTIVE JUROR NUMBER 44: Yes.

13 MR. BARRETT: Need my glasses. Ms. Thomas,  
14 um, again, you're one of those who indicated that  
15 you support the death penalty.

16 PROSPECTIVE JUROR NUMBER 44: Yes.

17 MR. BARRETT: Okay. I'm assuming that means  
18 you would have no problem voting for death if --

19 PROSPECTIVE JUROR NUMBER 44: Not I would not  
20 have a problem, but, again, I would have to hear  
21 the circumstances, the whole case. I would have  
22 to hear it.

23 MR. BARRETT: Is there any case or  
24 circumstances that would have you automatically  
25 voting for death, any particular type of cases

1           that would, for you?

2                   PROSPECTIVE JUROR NUMBER 44: I wouldn't want  
3           to, but, I mean, you know, I would -- I can't  
4           answer that.

5                   MR. BARRETT: Okay. So there are no specific  
6           type of cases that would warrant you always voting  
7           for death?

8                   PROSPECTIVE JUROR NUMBER 44: Other than just  
9           a premeditated murder that I -- I don't -- I don't  
10          know how to answer that.

11                  MR. BARRETT: Okay. So if you heard evidence  
12          that this was a premeditated murder, would you  
13          vote for death?

14                  PROSPECTIVE JUROR NUMBER 44: I would take it  
15          into consideration, but, again, that's only one  
16          piece of the puzzle.

17                  MR. BARRETT: Okay.

18                  PROSPECTIVE JUROR NUMBER 44: Have to hear  
19          all of the information.

20                  MR. BARRETT: So the fact of premeditation,  
21          premeditation would not be enough for you to just  
22          automatically vote for death; is that what you're  
23          saying?

24                  PROSPECTIVE JUROR NUMBER 44: No, not  
25          automatically. Just --

1           MR. BARRETT: Okay. Would you be able to  
2           give consideration to things in Mr. McKenzie's  
3           life, um, if you heard evidence of -- and, again,  
4           if the judge instructs you that you need to  
5           consider evidence of, um, drug use, alcohol use,  
6           um, abuse --

7           PROSPECTIVE JUROR NUMBER 44: Absolutely.

8           MR. BARRETT: -- would you be able to  
9           consider all those?

10          PROSPECTIVE JUROR NUMBER 44: Yes.

11          MR. BARRETT: Okay. Mr. Rafael?

12          PROSPECTIVE JUROR NUMBER 42: Yes, sir.

13          MR. BARRETT: Are you still with us?

14          PROSPECTIVE JUROR NUMBER 42: I'm still here.

15          MR. BARRETT: I understand being tired.

16          PROSPECTIVE JUROR NUMBER 42: Oh, yeah.

17          MR. BARRETT: I think for a short period of  
18          time, you kind of --

19          PROSPECTIVE JUROR NUMBER 42: Oh, yeah.

20          MR. BARRETT: -- knocked off a little bit.

21          PROSPECTIVE JUROR NUMBER 42: Just a little  
22          bit.

23          MR. BARRETT: I know we can get boring at  
24          times, but are we going to have a problem with  
25          keeping you awake?

1 PROSPECTIVE JUROR NUMBER 42: No.

2 MR. BARRETT: It's just long day?

3 PROSPECTIVE JUROR NUMBER 42: Yeah. Well, I  
4 worked last night.

5 MR. BARRETT: Do you always work nights?

6 PROSPECTIVE JUROR NUMBER 42: Yeah.

7 MR. BARRETT: Do you have plan to work nights  
8 for the rest of this week?

9 PROSPECTIVE JUROR NUMBER 42: No.

10 MR. BARRETT: So you're off --

11 PROSPECTIVE JUROR NUMBER 42: If I'm here,  
12 then, obviously.

13 MR. BARRETT: Well, you're here in the  
14 daytime.

15 PROSPECTIVE JUROR NUMBER 42: Yeah.

16 MR. BARRETT: Are you going to leave here and  
17 go to work?

18 PROSPECTIVE JUROR NUMBER 42: Oh, no, no, no.

19 MR. BARRETT: Okay. So if you're chosen as a  
20 juror in this case, you won't be work -- at work  
21 at night?

22 PROSPECTIVE JUROR NUMBER 42: Correct.

23 MR. BARRETT: Okay. You also indicated, um,  
24 if I heard you correctly, um, you said you could  
25 listen to both side, correct?

1 PROSPECTIVE JUROR NUMBER 42: Correct.

2 MR. BARRETT: But then you --

3 PROSPECTIVE JUROR NUMBER 42: What I said  
4 originally was I said that I could go both ways,  
5 regardless of if it's a capital murder, whatever,  
6 first-degree murder.

7 My -- my point was is that the judge had  
8 already indicated that it was two charges --

9 MR. BARRETT: And that's --

10 PROSPECTIVE JUROR NUMBER 42: -- two murder  
11 charges and also that it was premeditated.

12 My point being on that part of it is I have a  
13 hard time leaning towards a life sentence. I  
14 would be more inclined to vote for a, uh, death  
15 penalty --

16 MR. BARRETT: Okay.

17 PROSPECTIVE JUROR NUMBER 42: -- just with  
18 the facts being presented, and we're not choosing  
19 whether he's guilty or not guilty.

20 MR. BARRETT: Right.

21 PROSPECTIVE JUROR NUMBER 42: They've already  
22 done that --

23 MR. BARRETT: Right.

24 PROSPECTIVE JUROR NUMBER 42: -- so this  
25 whole argument about, you know, his previous



1 life -- his life, drug use, mental, that should  
2 have been all determined in the -- in the original  
3 case.

4 To me, the question is just life or death.  
5 And that's the way I believe I -- I would stand.  
6 I --

7 MR. BARRETT: Okay. And, again, just to make  
8 sure I understand you, first off, it is a  
9 first-degree murder.

10 PROSPECTIVE JUROR NUMBER 42: Correct.

11 MR. BARRETT: Okay. 'Cause you kind of said  
12 "if it is," and it is a capital felony, so those  
13 two things are checked off. Okay. So that's what  
14 you're dealing with.

15 And you're right. The guilt phase is over  
16 with. That decision was made before you even  
17 walked into this courtroom, okay? It is a double  
18 murder, which means two individuals are dead.

19 Okay. That, in and of itself, is that enough  
20 for you to vote for death?

21 PROSPECTIVE JUROR NUMBER 42: Yes.

22 MR. BARRETT: Okay. So since it's enough for  
23 you to vote for death, if you were to hear  
24 testimony, the judge were to instruct you to  
25 consider things like, um, drug sue, alcohol use,

1           mental health --

2                   PROSPECTIVE JUROR NUMBER 42:  I -- I would be  
3           hard-pressed because, like I said, I think these  
4           are things that would have been gone over in the  
5           original trial when he was actually convicted.

6                   MR. BARRETT:  And I understand that.  And if  
7           I understand correctly, since you believe these  
8           things should have already been gone over, then  
9           you're really -- that's -- hearing these things  
10          again, or for you for the first time, they're not  
11          going to change your mind as to your voting for  
12          death; am I understanding you?

13                   PROSPECTIVE JUROR NUMBER 42:  Correct.  I  
14          mean, there was two lives taken here.  To me, it's  
15          kind of, you know, two to one.  I mean, I really  
16          can't...

17                   MR. BARRETT:  Right.  And if I understand it,  
18          the fact that it's two murders --

19                   PROSPECTIVE JUROR NUMBER 42:  Yeah.  I don't  
20          want to seem like I'm not compassionate, but --

21                   MR. BARRETT:  Right.

22                   PROSPECTIVE JUROR NUMBER 42:  -- just, to me,  
23          it doesn't make any sense.

24                   MR. BARRETT:  And hearing anything about his  
25          childhood and all that, that's not going to change

1 your mind. You just think two lives are gone  
2 and --

3 PROSPECTIVE JUROR NUMBER 42: There's a lot  
4 of people that have these problems growing up, and  
5 I -- like I said, I'm sorry if it sounds like I'm  
6 not being compassionate --

7 MR. BARRETT: No. We want you to be honest.  
8 Like the judge told you, voir dire means to speak  
9 the truth.

10 PROSPECTIVE JUROR NUMBER 42: Yeah.

11 MR. BARRETT: So we want you to be  
12 straightforward. This is like speed dating. This  
13 is the only chance we'll talk to you. You know,  
14 so we -- in this couple minutes, we need you to  
15 tell us.

16 PROSPECTIVE JUROR NUMBER 42: I understand I  
17 don't have to give my reasoning, but I'm giving my  
18 reasoning. We're speaking freely.

19 MR. BARRETT: That's what I want you to do.  
20 In this process right here, I do want you to tell  
21 me how you feel.

22 You know, I don't know you, so I don't know  
23 anything about you. And in five, ten, however  
24 long we've been here, we're not going to really  
25 know you.

1           And, again, if I understand what you're  
2           saying, because it's a double murder, to you  
3           that's like a clincher.

4           And hearing about family problems and drug  
5           problems doesn't change your mind.

6           PROSPECTIVE JUROR NUMBER 42: Right. It  
7           doesn't.

8           MR. BARRETT: Okay. Okay.

9           Mr. Tanner?

10          PROSPECTIVE JUROR NUMBER 48: Yes.

11          MR. BARRETT: How you doing?

12          PROSPECTIVE JUROR NUMBER 48: I'm doing good.

13          MR. BARRETT: You mentioned you're okay with  
14          the death penalty. What did you mean by that?

15          PROSPECTIVE JUROR NUMBER 48: Well, I know in  
16          the past, I've seen hangings and all sorts of --

17          MR. BARRETT: Yeah. Way in the past, before  
18          my time.

19          PROSPECTIVE JUROR NUMBER 48: When I think of  
20          the death penalty, I have no idea what to expect,  
21          so as long as it's humane, I'm in support of  
22          whatever my fellow jurors and I make a decision  
23          of.

24          But if it wasn't, I wouldn't be able to --  
25          I'm in support of a humane death penalty. Yeah.

1 MR. BARRETT: Okay. And you also said  
2 something about the delays.

3 PROSPECTIVE JUROR NUMBER 48: Yeah. Like  
4 death row, like, uh, the delay.

5 MR. BARRETT: Okay.

6 PROSPECTIVE JUROR NUMBER 48: It just seems,  
7 like, unhumane [verbatim] to me. I mean, that's  
8 my -- that's one of my whole problems with the  
9 death penalty --

10 MR. BARRETT: Okay.

11 PROSPECTIVE JUROR NUMBER 48: -- for me.

12 MR. BARRETT: Would you be able to consider,  
13 again, if the judge instructs you, things about  
14 his childhood, drug use, would any of those --  
15 would you be able to consider them and --

16 PROSPECTIVE JUROR NUMBER 48: Possibly drug  
17 use.

18 MR. BARRETT: Okay. You said "possibly."

19 PROSPECTIVE JUROR NUMBER 48: And possibly  
20 childhood, too.

21 MR. BARRETT: Okay.

22 PROSPECTIVE JUROR NUMBER 48: But yeah, yeah.  
23 I would, I would.

24 MR. BARRETT: Okay. That word "possibly" is  
25 troubling to me, and let me explain to you why.

1           Imagine yourself about to take a trip, and  
2           you get around -- you're ready to get on the  
3           plane.

4           And you walk in and you see the pilot walking  
5           by, and you said to him, hey, um, is the plane  
6           good to get us to New York? And he says,  
7           possibly.

8           And you ask, are we going to make it? And he  
9           say, yeah, I hope so.

10          You wouldn't get on that flight, right?

11          PROSPECTIVE JUROR NUMBER 48: I don't know.  
12          Probably not.

13          MR. BARRETT: Probably not.

14          PROSPECTIVE JUROR NUMBER 48: I definitely  
15          would not.

16          MR. BARRETT: And we understand possibly, but  
17          this is a onetime decision. It's life or death.  
18          So I hope you can understand why just saying  
19          possibly doesn't work.

20          PROSPECTIVE JUROR NUMBER 48: Yeah. It's got  
21          to be --

22          MR. BARRETT: Okay. Would you be able to  
23          consider these things if the judge instructs you  
24          on the law?

25          PROSPECTIVE JUROR NUMBER 48: Absolutely, I

1 would be able to consider.

2 MR. BARRETT: Okay. And not just consider.  
3 Is that something that you would give real weight  
4 to?

5 (No audible response.)

6 MR. BARRETT: You're shaking your head. I  
7 don't know what you mean.

8 PROSPECTIVE JUROR NUMBER 48: Things that  
9 happened in childhood, yes.

10 MR. BARRETT: Say again?

11 PROSPECTIVE JUROR NUMBER 48: Real weight  
12 would be given to things that happened in  
13 childhood.

14 MR. BARRETT: Okay. So you would give it  
15 real weight?

16 PROSPECTIVE JUROR NUMBER 48: Yes.

17 MR. BARRETT: Okay.

18 Mr. Tu? How are you doing?

19 PROSPECTIVE JUROR NUMBER 55: Not bad. How  
20 are you?

21 MR. BARRETT: I'm doing well. I think --  
22 and, again, I may be wrong. I can't blame it on  
23 my accent, so I'll blame it on age.

24 I think I heard you say something to the  
25 effect that you believe the death penalty is right

1 for first-degree murder.

2 PROSPECTIVE JUROR NUMBER 55: I do believe  
3 that it's usually the right answer.

4 MR. BARRETT: Okay. That's -- okay. What do  
5 you mean by that?

6 PROSPECTIVE JUROR NUMBER 55: I think that I  
7 would be open to hearing arguments about  
8 mitigating circumstances as you've referred to in  
9 prior questions, um, but since we're being honest  
10 here, I think it would be a tough sell for me,  
11 just because of my understanding of the definition  
12 of first-degree murder, it being premeditated, as  
13 well as the fact that there are two counts.

14 MR. BARRETT: Okay. So, again, the fact that  
15 there are two dead people -- let's just be  
16 straightforward -- two dead people involved in  
17 this case and the fact that, obviously, he's  
18 already been convicted --

19 PROSPECTIVE JUROR NUMBER 55: Correct.

20 MR. BARRETT: -- those two things in and of  
21 itself would kind of have you voting for death; am  
22 I correct so far?

23 PROSPECTIVE JUROR NUMBER 55: They do  
24 strongly bias me in that direction. I am  
25 opening -- I am open to hearing about mitigators,



1 but I think, in honesty, it would be a tough sell  
2 for me.

3 Um, I think I do strongly believe that, um,  
4 individuals are account -- are responsible for  
5 their actions and for their decisions, um, by and  
6 large, irregardless of their environment.

7 MR. BARRETT: Okay. So, again, if you heard  
8 testimony about childhood issues, if the judge  
9 instructs you to consider testimony about  
10 childhood issues, drug use, these factors are not  
11 really going to change your mind, correct?

12 PROSPECTIVE JUROR NUMBER 55: I think, um,  
13 with the judge instructing me to explicitly  
14 consider them, um, it would open me a bit more to  
15 considering them, but I'll be honest, it still is  
16 a tough sell.

17 MR. BARRETT: So you would consider them, but  
18 most likely, you are going to vote for death  
19 because of the double murder involved in this  
20 case --

21 PROSPECTIVE JUROR NUMBER 55: Right.

22 MR. BARRETT: -- and the fact that you think  
23 it's the appropriate sentence?

24 PROSPECTIVE JUROR NUMBER 55: Right.

25 MR. BARRETT: Okay. And when you say it's a

1           tough sale, it's your opinion that the defense  
2           would have to prove to you why the death penalty  
3           should not be the sentence?

4                    PROSPECTIVE JUROR NUMBER 55: That's correct.  
5           I would -- I would personally place the burden of  
6           that on the defense to convince me that life is  
7           more appropriate than the death penalty.

8                    MR. BARRETT: Okay. Okay.

9                    If I could just have a moment?

10                   THE COURT: Sure.

11                   MR. BARRETT: Just to the group as a whole,  
12           and I talked about this earlier, even though you  
13           are going to be deciding as a group, it is an  
14           individual choice. We all clear on that?

15                    (The prospective jurors answered in the  
16           affirmative.)

17                   MR. BARRETT: Okay. The burden is always on  
18           the State. Do you all understand that?

19                    (Some of the prospective jurors answered in  
20           the affirmative.)

21                   MR. JOHNSON: Judge, I'm going to object to  
22           the --

23                   THE COURT: That objection is sustained. The  
24           Court's going to instruct you on burdens and who  
25           bears the burdens for what if you are selected to

1           serve as a juror on this case.

2                   MR. BARRETT: You are going to hear evidence  
3           about the crime itself. Um, even though he's  
4           already been convicted, you are going to hear  
5           evidence about the crime itself.

6                   You are going to hear evidence about  
7           mitigation. And, again, the judge will explain to  
8           you what mitigation is.

9                   Is there anyone here, again, other than the  
10          ones I've already talked to directly, because of  
11          the fact that this is a double murder, because of  
12          the fact that he's already been previously  
13          convicted of these murders, so as far as you're  
14          concerned, there is no issue concerning whether or  
15          not he's guilty or not guilty. Prior jurors made  
16          that decision.

17                   Is there anyone here who would automatically  
18          vote for death, hearing these things?

19                   PROSPECTIVE JUROR NUMBER 42: I mean, I think  
20          we went over it already, but yeah.

21                   MR. BARRETT: And just for the record, say  
22          your name.

23                   PROSPECTIVE JUROR NUMBER 42: Bernard Rafael.

24                   MR. BARRETT: Thank you.

25                   No further questions, Judge.

1           THE COURT: Okay. Folks, you're going to be  
2 glad to hear this. That concludes all the  
3 questioning.

4           I remember once, as a lawyer, I had about  
5 four days worth of questioning prospective jurors,  
6 and the judge finally said that was all the  
7 questions, and they all stood up and cheered.

8           What we're going to do is we're going to go  
9 ahead and take a break. I'm going to have you go  
10 down to our jury lounge, which is on this floor a  
11 little further down. There should be water, maybe  
12 some coffee, maybe some snacks back there.

13          I need to meet with the lawyers to figure out  
14 who's going to serve as jurors in this case. That  
15 process is probably going to take about 30 or 40  
16 minutes.

17          When we're done with that process, I'm going  
18 to have you all come back. And then, hopefully,  
19 I'll be able to tell you at that point who's going  
20 to serve as jurors. And then everybody else who  
21 is not selected will be excused.

22          So let me remind you again, remember the  
23 seats you're in. Please do not discuss this case  
24 among yourselves or with anybody else during the  
25 break. Don't do any research of any type, and

1 that includes electronic research.

2 And as soon as we're ready, I'll get you back  
3 in here. I know it's been a long day. If you  
4 follow the bailiff --

5 MR. JOHNSON: We have a question, Judge.

6 PROSPECTIVE JUROR NUMBER FIVE: I have a  
7 question. Can you discuss jury selection in  
8 general, just not the case, right?

9 THE COURT: I'll meet with the lawyers, and  
10 we decide who's going to serve as jurors.

11 PROSPECTIVE JUROR NUMBER FIVE: But I'm  
12 saying, I've talked to a few people about, wow, I  
13 didn't know it was going to be this intrusive or  
14 interest -- we can talk about jury selection, but  
15 not --

16 THE COURT: Don't talk about the case.  
17 Right. If you want to talk about, you know, this  
18 is great coming to the courthouse --

19 PROSPECTIVE JUROR NUMBER FIVE: Okay. Thank  
20 you for clarifying.

21 (The prospective jurors exited the  
22 courtroom.)

23 THE COURT: All right. We're outside the  
24 presence of the prospective jurors. All parties  
25 are present, including the defendant.

1 Do y'all need some time to chat?

2 MR. BARRETT: Yes, Judge.

3 THE COURT: All right. Let's not take  
4 terribly long since it's four o'clock and I don't  
5 want to keep these folks too long, but y'all want  
6 to meet privately in there?

7 MR. BARRETT: Yes, we will, Judge.

8 THE COURT: Okay. Whenever you're ready, let  
9 me know. Let's plan on ten minutes --

10 MR. BARRETT: Yes, Judge. That's fine.

11 THE COURT: -- and go from there.

12 (Court was in recess from 4:01 p.m. until  
13 4:10 p.m.)

14 THE COURT: All right. Let's go back on the  
15 record. We have all parties present, including  
16 the defendant.

17 We're outside the presence of the jury. The  
18 prospective jurors have been sent to the jury  
19 lounge while we begin the selection process.

20 Each side has ten peremptory strikes. I'll  
21 try to keep track best I can, but I have a bad  
22 habit of not keeping track well, so if I misstate  
23 something, don't hesitate to correct me.

24 The presumptive jury right now are the first  
25 12 people still seated that are still with us.

1 That is through Ms. Beaty.

2 And as you all start exercising strikes and  
3 challenges for cause, then sequentially, the  
4 jurors will move into place.

5 So when you exercise challenges for cause, if  
6 there are any, or any peremptory strikes, do it  
7 within the 12 that are currently on the panel at  
8 the time. If that doesn't make sense, I'll  
9 explain it to you.

10 We'll alternate back and forth, starting with  
11 the State. So we will start with the State right  
12 now.

13 Our jurors are number one, two, three, four,  
14 five, six, seven, nine, ten, 11, 13, and 14.  
15 That's through Ms. Beaty. That's our panel right  
16 now.

17 MR. JOHNSON: Yes, sir.

18 THE COURT: So does the State have any  
19 strikes or challenges for cause?

20 MR. JOHNSON: Yes, sir. We would strike  
21 juror number four, Ms. Hanke, for cause. She had  
22 further conversation about her views on the death  
23 penalty. She said she could not consider the  
24 death penalty, that her struggles that -- she had  
25 talked about her --

1           MR. HAMBURG: Judge, I can cut him off, say  
2 we don't object.

3           THE COURT: Thank you.

4           MR. JOHNSON: Thank you.

5           THE COURT: We all appreciate that. That  
6 will be permitted without objection. That moves  
7 Ms. Powell into the twelfth position, number 17  
8 into the twelfth position.

9           Anything further from the State on the  
10 current panel?

11          MR. JOHNSON: Number ten, Gonzalez.

12          THE COURT: Okay. Is that a challenge for  
13 cause?

14          MR. JOHNSON: It is a challenge for cause.  
15 And I could --

16          MR. HAMBURG: There's no objection.

17          THE COURT: All right. That will be granted  
18 without objection.

19          That's going to move Ms. Bouda, number 18,  
20 into the twelfth position. Anything further from  
21 the State?

22          MR. JOHNSON: Not for cause.

23          THE COURT: For any reason?

24          MR. JOHNSON: Oh, we would strike Mr. Derby,  
25 number 11, for cause.



1 THE COURT: For cause? Okay.

2 I'll hear from you on the cause unless  
3 there's no objection.

4 (Mr. Hamburg conferred with Mr. Barrett.)

5 MR. HAMBURG: He said he would consider it.

6 THE COURT: Okay. So there's an objection.  
7 So let me have the State articulate its basis.

8 MR. JOHNSON: Yeah. We had a very lengthy  
9 conversation, I think both when you were  
10 questioning him, Judge, and when I was questioning  
11 him.

12 He specifically said he would have to be  
13 biased against the death penalty, and he would not  
14 be able to consider it.

15 THE COURT: Y'all want to respond, Defense?

16 MR. HAMBURG: Judge, my notes indicate that  
17 he -- he equivocated multiple times, but he did  
18 say, ultimately, that he would be able -- what I  
19 have in my notes is that he would be able to  
20 consider it.

21 And I believe his response to Mr. Johnson's  
22 question was, I guess I could consider the death  
23 penalty.

24 And I understand he's biased against it, but  
25 he would be able to consider it.

1           THE COURT: When I asked him questions,  
2           looking at my notes, he said he was -- he was  
3           unsure if he could consider the death penalty.

4           And he said that he would have a possible  
5           doubt as to whether he could consider the death  
6           penalty.

7           Then he later said he could consider the  
8           death penalty and then said he was biased against  
9           the death penalty.

10          So there is a reasonable doubt as to whether  
11          he could, in fact, consider the death penalty. So  
12          I will grant the challenge for cause on Mr. Derby.

13          That's going to move Ms. Griener into the  
14          twelfth position. Anything further from the  
15          State?

16          MR. JOHNSON: Not for cause.

17          THE COURT: Any peremptory strikes?

18          MR. JOHNSON: Not at this time.

19          THE COURT: All right. We'll go to the  
20          defense.

21          MR. HAMBURG: Judge, for cause, number 18,  
22          Ms. --

23          THE COURT: Bouda.

24          MR. HAMBURG: Ms. Bouda. There were  
25          indications that she would have reasonable doubt

1 as to whether she could follow the law on law  
2 enforcement. She said she would hope that she  
3 could follow the instruction.

4 THE COURT: All right. So say the State on  
5 that?

6 MR. JOHNSON: I'm confused 'cause I don't  
7 recall any of that. And we don't -- I'm looking  
8 for notes, so...

9 THE COURT: Well, my notes reflect that she  
10 has a son who's a police officer in Jacksonville.

11 I asked her, if I gave her the instruction  
12 that she should treat law enforcement officers  
13 like anybody else, she said, quote/unquote, hope I  
14 could follow that instruction, but I do have some  
15 doubt, and she might give more weight to a police  
16 officer's testimony.

17 So I'm going to grant the challenge for cause  
18 on Ms. Bouda.

19 MR. JOHNSON: I do recall that. Thank you,  
20 your Honor.

21 THE COURT: That's going to move Ms. Karl  
22 into the twelfth position. Anything further from  
23 the defense?

24 MR. HAMBURG: Judge, number 13, Ms. Bonday,  
25 we would move for cause. Specifically, um,

1           when -- when given the circumstances of the -- of  
2           this case or -- and throughout the questioning,  
3           she said it would be very difficult to not vote  
4           for death.

5           So, essentially, she is mitigation-impaired  
6           and would not be able to vote for a life sentence.

7           THE COURT: Let me hear from the State on  
8           that one.

9           MR. JOHNSON: Well, Judge, our notes reflect  
10          that she did say it would be very difficult, but  
11          she said mental-health issues may change her mind.  
12          Drug issues may change her mind.

13          So she is open to considering mitigation in  
14          this particular case. And those kind of issues  
15          would change her mind from her answer from before.

16          So it seems like she would consider both a  
17          life and a death sentence and mitigation.

18          THE COURT: My notes reflect that she could  
19          consider the death penalty as well as a life  
20          sentence.

21          At one time she said it was difficult not to  
22          vote for death, but then when the defense followed  
23          up with questions about mitigation, she said --  
24          without hesitation, she answered that she would  
25          consider mitigation and, particularly, the type of

1 mitigation that was posed by the defense, mental  
2 health and drug issues.

3 I don't think there's any reasonable doubt  
4 that she could be a fair and impartial juror in  
5 this case and on the issues in this case. So I'm  
6 going to deny the challenge for cause on  
7 Ms. Bonday.

8 We're still on the defense. Anything  
9 further?

10 MR. HAMBURG: Judge, we'd exercise our first  
11 peremptory on Juror Number Two, Ms. Shelton.

12 THE COURT: Okay. All right. That's going  
13 to put Ms. Dupont into the twelfth position.

14 Anything further from the defense?

15 MR. HAMBURG: Just so I'm clear how we're  
16 doing this, we're -- at this point we're going  
17 until the -- 'til we don't want to -- 'til we have  
18 12 that are acceptable to us, and then you're  
19 going to go back to the State?

20 THE COURT: No, no. You can hold on to your  
21 peremptories.

22 MR. HAMBURG: Okay.

23 THE COURT: You can -- I'm just asking if you  
24 have anything further. You can say no and then  
25 we'll go to the State and --

1           MR. HAMBURG: Okay. All right.

2           THE COURT: Yeah. If you want to exercise  
3 some right now --

4           MR. HAMBURG: Okay.

5           THE COURT: -- and you can backstrike until  
6 the jury is sworn.

7           MR. HAMBURG: Okay. That -- I just wanted to  
8 make sure. This is a different process than I'm  
9 used to.

10          THE COURT: I do that just to confuse you.

11          MR. HAMBURG: At this point we don't have any  
12 more.

13          MR. BARRETT: What about --

14          MR. HAMBURG: No, no. We're only on this 12  
15 right now.

16          THE COURT: So, Mr. Hamburg, you have nothing  
17 further at this point?

18          MR. HAMBURG: Nothing further.

19          THE COURT: Okay. Let's go back to the  
20 State.

21          MR. JOHNSON: We are all the way to Dupont,  
22 you said; is that correct?

23          THE COURT: Dupont is our twelfth right now,  
24 number 21.

25          MR. JOHNSON: State would strike Juror

1           Number 20, Ms. Karl.

2           THE COURT: That's going to move Mr. Jaudon  
3           into the twelfth position. Anything further from  
4           the State?

5           MR. JOHNSON: Not at this time, your Honor.

6           THE COURT: All right. Back to the defense.

7           If at any time any of you need clarification  
8           as to who the 12 folks are that are on the jury,  
9           let me know and I'll be glad to go over it with  
10          you.

11          MR. HAMBURG: Judge, we'd strike number 24,  
12          Mr. Jaudon.

13          THE COURT: That's going to move Mr. Siegel  
14          into the twelfth position, number 25. Anything  
15          further from the defense?

16          MR. HAMBURG: Not at this time, your Honor.

17          THE COURT: Go back to the State. You could  
18          use more than one at a time, by the way. You  
19          don't have to. I'm just reminding you.

20          MR. HAMBURG: I'm -- yeah.

21          THE COURT: I understand the chess game.

22          MR. JOHNSON: State strikes Mr. Siegel.

23          THE COURT: All right. That's going to move  
24          Mr. Metcalf into the twelfth position. Anything  
25          further from the State?

1           MR. JOHNSON: State strikes Ms. Powell,  
2           number 17.

3           THE COURT: That moves Ms. Macklin into the  
4           twelfth position. Anything further from the  
5           State?

6           MR. JOHNSON: Not at this time.

7           THE COURT: All right. Go to the defense.

8           MR. HAMBURG: Judge, we'd strike Ms. Nutt,  
9           number five.

10          THE COURT: That's going to move Mr. Cooper  
11          into the twelfth position. Anything further from  
12          the defense?

13          MR. HAMBURG: No, your Honor.

14          THE COURT: Okay. Back to the State.

15          MR. JOHNSON: State strikes Mr. Cooper.

16          THE COURT: That moves Ms. Grehl into the  
17          twelfth position. Anything further from the  
18          State?

19          MR. JOHNSON: Not at this time, your Honor.

20          THE COURT: All right. We go to the defense.  
21          We're back to the defense.

22          MR. HAMBURG: Judge, we're going to use a  
23          strike on number seven, Mr. Lambert.

24          And, Judge, we would also use a strike on  
25          number 30, Ms. Grehl.



1           THE COURT: All right. That's going to move  
2 Ms. Simmons and Ms. Stambaugh, 31 and 32, into the  
3 11th and 12th positions respectively.

4           Anything further from the defense?

5           MR. HAMBURG: No, your Honor.

6           THE COURT: Okay. By my calculation, Defense  
7 has used five. State has used four.

8           MR. BARRETT: Correct.

9           MR. HAMBURG: Correct.

10          THE COURT: All right. We'll go to the  
11 State.

12          MR. JOHNSON: No strikes at this time, your  
13 Honor.

14          THE COURT: So State accepts that panel?

15          MR. JOHNSON: At this time, your Honor.

16          THE COURT: Okay. We go back to the defense.

17          MR. HAMBURG: Judge, we'd strike Ms. Macklin  
18 in seat 28.

19          THE COURT: Okay. That's going to move  
20 Mr. Hasty into the twelfth position. That was the  
21 defense's sixth strike.

22          Anything further from the defense?

23          MR. HAMBURG: No, your Honor.

24          THE COURT: Okay. We go back to the State.

25          MR. JOHNSON: Who is our last one? I'm

1           sorry.

2           THE COURT: Mr. Hasty, juror 33, is the last  
3           one.

4           MR. JOHNSON: No strikes at this time.

5           THE COURT: Accept this panel? State accepts  
6           this panel?

7           MR. JOHNSON: For right now, yes, sir.

8           THE COURT: All right. Back to the defense.

9           MR. HAMBURG: Judge, we'd strike number nine,  
10          Mr. Debruhl.

11          THE COURT: All right. That's going to move  
12          Ms. Vil Matthews into the twelfth position. She  
13          is number 34.

14          Anything further from the defense?

15          MR. HAMBURG: No, your Honor.

16          THE COURT: All right. We go back to the  
17          State.

18          MR. JOHNSON: State would strike Ms. Simmons,  
19          number 31.

20          THE COURT: Strike Ms. Simmons, so that's  
21          going to move Ms. Julao, number 35, into the  
22          twelfth position.

23          Anything further from the State?

24          MR. JOHNSON: Nothing at this time, your  
25          Honor.

1 THE COURT: All right. We'll go to the  
2 defense.

3 MR. HAMBURG: Judge, we'd strike number 13,  
4 Ms. Bonday.

5 THE COURT: Okay. That will move Mr. Bister  
6 into the twelfth position. Defense has now used  
7 eight.

8 MR. HAMBURG: That's all at this point.

9 THE COURT: Okay. Back to the State.

10 MR. JOHNSON: Is that eight or nine strikes  
11 for the defense, your Honor?

12 THE COURT: That is eight by my calculation.

13 MR. BARRETT: Eight.

14 THE COURT: Five for the State.

15 MS. DUNTON: We're through Bister?

16 THE COURT: Right.

17 MR. JOHNSON: State would strike number 34,  
18 Ms. Vil Matthews.

19 THE COURT: All right. State strikes 34.  
20 That's number six for the State. That moves  
21 Mr. Rafael into the twelfth position.

22 Anything further from the State?

23 MR. JOHNSON: No, sir.

24 THE COURT: All right. Go to the defense.

25 MR. HAMBURG: Judge, we would make a cause

1 challenge on Mr. Rafael.

2 MR. JOHNSON: No objection.

3 THE COURT: Okay. Because of his snoring  
4 or --

5 MR. BARRETT: A combination.

6 MS. DUNTON: He was snoring? I didn't catch  
7 that.

8 MR. JOHNSON: Yes. It was while I was up  
9 there. It was very loud. I think I kind of  
10 jumped.

11 THE COURT: That's going to move Ms. Hansen  
12 into the twelfth position. I granted that  
13 challenge for cause.

14 MR. HAMBURG: Judge, that's all we'll do at  
15 this time.

16 THE COURT: Okay. Go back to the State.

17 MR. JOHNSON: State strikes number 35,  
18 Ms. Julao.

19 THE COURT: That's going to move Ms. Thomas  
20 into the twelfth position. State's now at seven,  
21 Defense at eight.

22 Anything further from the State?

23 MR. JOHNSON: No, your Honor.

24 THE COURT: All right. Back to the defense.

25 THE DEFENDANT: What was the -- what did he

1 say --

2 MR. HAMBURG: The last one -- Thomas is the  
3 twelfth, correct, Judge?

4 THE COURT: That's correct. Number 44 is our  
5 last seated juror right now.

6 MR. HAMBURG: Judge, we'd strike number 40,  
7 Mr. Bister.

8 MR. JOHNSON: I would ask for a gender-neutral  
9 reason, Judge. There's been, I want to say -- I  
10 don't know how many men have been struck, but  
11 there seems to be a pattern.

12 THE COURT: Well, it's -- got a couple of  
13 Caucasian males struck, kind of all over the  
14 place.

15 All right. I'll ask the -- I'll find that  
16 Mr. Bister is part of a protected class. I think  
17 everybody is, but -- for the most part, but that  
18 he's a Caucasian male.

19 So I will ask the defense to give me a  
20 race-neutral, gender-neutral reason.

21 MR. HAMBURG: That his brother-in-law was  
22 drug-addicted to meth.

23 THE COURT: State have any cause as to -- or  
24 reason as to why that would not be a genuine  
25 reason as opposed to pretextual?

1 MR. JOHNSON: I'll leave it up to your Honor.

2 THE COURT: All right. I'm going to allow  
3 the strike of Mr. Bister. That's number nine for  
4 the defense.

5 That's going to move Ms. Grigsby into the  
6 twelfth position. She's number 46. Anything  
7 further from the defense?

8 MR. HAMBURG: Not at this time.

9 THE COURT: All right. State?

10 MR. JOHNSON: Who was the last one?

11 THE COURT: Grigsby.

12 State?

13 MR. JOHNSON: State would strike Ms. Grigsby.

14 THE COURT: That's eight for the State, nine  
15 for Defense, and that's going to move Ms. Hughes  
16 into the twelfth position.

17 Anything further from the State?

18 MR. JOHNSON: Not at this time.

19 THE COURT: We go to the defense.

20 MR. HAMBURG: Judge, it's -- we don't have  
21 any at this point.

22 THE COURT: All right. Accept the panel?

23 MR. HAMBURG: At this point.

24 THE COURT: Go back to the State.

25 MR. JOHNSON: State strikes Ms. Hughes.

1           THE COURT: Ms. Hughes, number 47. That's  
2           nine for each of you. That's going to move  
3           Mr. Tanner into the twelfth position.

4           Anything further from the State?

5           MR. JOHNSON: Not at this time.

6           THE COURT: All right. We go to the defense.

7           MR. HAMBURG: Your Honor, going back to  
8           Ms. Hughes, the State -- I believe every strike  
9           has been a female. I'd ask for a gender-neutral  
10          reason.

11          MR. JOHNSON: No. I -- I'm happy to --

12          MR. HAMBURG: Almost every -- let me  
13          rephrase -- almost every strike.

14          THE COURT: Mr. Cooper was one. Mr. Siegel  
15          was another.

16          MR. HAMBURG: So of the nine, seven have been  
17          females, I believe.

18          MR. JOHNSON: I will still be happy to give  
19          one.

20          THE COURT: Yeah. I'm going to ask you for  
21          one in just a moment, but I was just stating that  
22          you said all of them were. I think that's not  
23          accurate.

24          Ms. Hughes is a female, so I'll ask the State  
25          to provide a gender-neutral reason.

1           MR. JOHNSON: She said that she was not in  
2 favor of the death penalty. It's a peremptory  
3 challenge. It's not a cause.

4           THE COURT: I understand. I fully  
5 understand.

6           Let me ask the defense at this point, is  
7 there any basis to indicate that that's not a  
8 genuine reason to strike her as opposed to  
9 pretextual?

10          MR. BARRETT: Nothing is --

11          MR. HAMBURG: No, Judge.

12          THE COURT: All right. I'll allow the  
13 strike.

14          All right. So I forgot where we left off. I  
15 think we're back to the defense, and Mr. Tanner,  
16 number 48, is currently our twelfth juror.

17          Each of you have one strike left. Doesn't  
18 mean you need to use it.

19          MR. HAMBURG: Judge, I'd strike number 44.

20          THE COURT: Number 44, Ms. Thomas; is that  
21 correct?

22          MR. HAMBURG: Yes.

23          THE COURT: That is your final peremptory  
24 strike. That's going to move Ms. Timmermans into  
25 the twelfth position.



1           Do you have any additional -- or any  
2 challenges for cause, since you're out of  
3 peremptory strikes?

4           MR. HAMBURG: Not at this time, your Honor.

5           THE COURT: Okay. We go to the State.

6           MR. JOHNSON: State would strike number 48,  
7 Mr. Tanner.

8           THE COURT: Mr. Tanner? That is now your  
9 final peremptory strike. That's going to move  
10 Ms. Jones into the twelfth position.

11           Does the State have any challenges for cause  
12 for any of those 12?

13           MR. JOHNSON: Not for cause.

14           THE COURT: All right. We go back to the  
15 defense. Do you have any challenges for cause of  
16 the 12 jurors right now?

17           MR. BARRETT: Judge, the only thing, with  
18 Ms. Jones, there was an indication about the fraud  
19 situation, um...

20           THE COURT: What fraud sit -- oh.

21           MR. BARRETT: Well, she mentioned, and I  
22 think in the State's inquiry, whether or not she  
23 could set that aside and follow the law, about  
24 getting a sweetheart deal and they were thinking  
25 that because the woman who robbed her company, um,

1 was -- was getting the easy way out.

2 MS. DUNTON: No. That was 30.

3 MR. HAMBURG: That wasn't Jones.

4 MS. DUNTON: That was number 30.

5 THE COURT: Ms. Julao, wasn't it?

6 MS. DUNTON: Yes. Let me look at 50.

7 MR. HAMBURG: No. That was --

8 THE DEFENDANT: No. No. That was -- she was  
9 on the very back row.

10 MR. HAMBURG: It was Raynor, I think.

11 MR. BARRETT: I got it wrong now. I'll  
12 withdraw that.

13 THE COURT: Okay. All right. Everybody does  
14 that. The notes, after a full day, get kind of  
15 tough to read.

16 All right. So any challenges for cause on  
17 those 12, Defense?

18 Then I'll ask the State the same question.  
19 I'm not encouraging it, necessarily, just --

20 MR. HAMBURG: Judge, no challenges for cause.

21 THE COURT: State, any challenges for cause  
22 of the 12?

23 MR. JOHNSON: Yeah, Judge. We would move to  
24 strike number six, Ms. Roberts, for cause. She  
25 said -- it was one of the questions there toward

1 the end about -- she made a comment she did not  
2 think she could do this. She was not educated  
3 about the death penalty and would rather not have  
4 it on her hands.

5 Based on those comments, we have a reasonable  
6 doubt as to whether or not she would be able to do  
7 it. For that reason, we would move to strike her  
8 for cause.

9 THE COURT: So say the defense?

10 MR. HAMBURG: Your Honor, her lack of  
11 education on the death penalty, if it was a  
12 different issue, but, ultimately, the question she  
13 answered at the end was, if I had to do it, I  
14 would consider it and I could consider the death  
15 penalty.

16 THE COURT: That's exactly what she said at  
17 the end, and that's what my notes say. I'm going  
18 to deny that challenge for cause.

19 Any other challenges for cause?

20 MR. JOHNSON: No, your Honor.

21 THE COURT: So our 12 -- we'll talk about  
22 alternates in just a minute. Our 12 are going to  
23 be number one, Terry; number three, Williams --  
24 currently Williams; number six, Roberts;  
25 number 14, Beaty; number 19, Griener; number 21,

1 Dupont; number 26, Metcalf; number 32, Stambaugh;  
2 number 33, Hasty; number 43, Hansen; number 49,  
3 Timmermans; and number 50, Jones.

4 Everybody agree that's our 12?

5 MR. JOHNSON: Yes, sir.

6 THE COURT: Defense agree?

7 MR. BARRETT: Yes.

8 MR. HAMBURG: Yes, Judge.

9 THE COURT: Okay. Mr. McKenzie, you  
10 satisfied with that jury?

11 THE DEFENDANT: I mean, I think we did --

12 THE COURT: Excuse me?

13 THE DEFENDANT: I think we did the best we  
14 could.

15 THE COURT: Okay. Any issues with that --

16 THE DEFENDANT: No, sir.

17 THE COURT: -- that you want to raise? Okay.

18 Let's talk about alternates. I hope to have  
19 two alternates if we have enough people, but we'll  
20 see.

21 Each side will get one peremptory strike as  
22 it pertains to each of the alternates and,  
23 obviously, an unlimited number of challenges for  
24 cause as appropriate.

25 Currently, our alternate would be number 52,

1 Robbins. That would be our first alternate.  
2 State?

3 MR. HAMBURG: Judge, we -- we're just using  
4 one alternate?

5 THE COURT: Two.

6 MR. HAMBURG: Two? Okay. I missed that.  
7 Sorry.

8 MR. JOHNSON: No strike for Mr. Robbins.

9 THE COURT: Okay. Defense?

10 MR. HAMBURG: No strike, Judge.

11 THE COURT: Okay. So Mr. Robbins is going to  
12 be our first alternate.

13 Second alternate currently would be  
14 Mr. Norrid. State?

15 MR. JOHNSON: State would strike Mr. Norrid.

16 THE COURT: That's going to move Mr. Tu into  
17 the alternate position. State have any challenge  
18 for cause of Mr. Tu since you don't have any  
19 peremptory strikes on that second alternate?

20 MR. JOHNSON: No, sir.

21 THE COURT: Okay. So we go to the defense.

22 MR. HAMBURG: Defense would -- uh, we  
23 challenge for cause, your Honor.

24 THE COURT: Is there any objection?

25 MR. JOHNSON: I believe he said he was open

1 to consider the mitigation. And there was a  
2 comment about the burden being on the defense, but  
3 the burden is on the defense for mitigation, so...

4 THE COURT: He said while he was open to  
5 hearing mitigation, it's a tough sell for him  
6 because of the two murders or two counts.

7 I'm going to grant the challenge for cause on  
8 Mr. Tu. That's going to move Mr. Kusch into the  
9 alternate position.

10 So, Defense, I think you have a peremptory  
11 and, of course, any challenges for cause.

12 MR. HAMBURG: We have no objection to  
13 Mr. Kusch.

14 THE COURT: Okay. State?

15 MR. JOHNSON: Yes. We'd move to strike him  
16 for cause. He specifically said that if a victim  
17 was a family member, um, it would be difficult --  
18 I'm sorry. Reading the notes.

19 MS. DUNTON: The only circumstance.

20 MR. JOHNSON: Yeah. The only circumstance  
21 that he said he would consider the death penalty  
22 was if it involved a family member.

23 And, obviously, this does not, and there  
24 would -- there would be a doubt if he could do it.

25 THE COURT: So say the defense?

1 MR. HAMBURG: No objection, Judge.

2 THE COURT: All right. Then Ms. Raynor goes  
3 into the alternate position. I think where we  
4 left off, the defense still has a peremptory and,  
5 of course, challenges for cause.

6 So Ms. Raynor right now is in the second  
7 alternate slot.

8 MR. HAMBURG: She's acceptable, Judge.

9 THE COURT: State?

10 MR. JOHNSON: We would strike her for cause.  
11 In your questions, Judge, she specifically said  
12 she does not want the decision weighing on me,  
13 doesn't think she could do it, said that several  
14 times about not wanting to be the one making the  
15 decision.

16 THE COURT: All right. So says the defense  
17 on that?

18 MR. HAMBURG: Judge, I think she said she  
19 didn't want to make the decision, but she said,  
20 ultimately, she would be able to.

21 THE COURT: Couple issues here. She said  
22 that she can't -- I think her answer was she can't  
23 make such a decision. She would be unable to make  
24 such a decision.

25 She also said she could not set aside a

1 family member being arrested, that that might  
2 affect her.

3 So I'm going to grant the challenge for cause  
4 on Ms. Raynor. And that leaves Mr. Strait into  
5 the second alternate slot.

6 So back to the defense. Again, you still  
7 have your peremptory and, of course, challenges  
8 for cause.

9 MR. HAMBURG: Judge, we'd use a peremptory.

10 THE COURT: All right. So now we're down to  
11 just challenges for cause. Ms. Woolf's now going  
12 to be our alternate number two.

13 Anybody have a challenge for cause on  
14 Ms. Woolf? I'll start with the State, I guess.

15 MR. JOHNSON: Nothing, Judge.

16 THE COURT: All right. Defense?

17 I'm not necessarily encouraging it, but I do  
18 want to say she was the one who said she couldn't  
19 look at the photographs.

20 MR. BARRETT: Yes.

21 MR. HAMBURG: That's what we --

22 MR. BARRETT: We were just talking about  
23 that, Judge.

24 MR. HAMBURG: I'd challenge her for cause  
25 based on that. She went as far as it could make



1 her vomit.

2 THE COURT: We've had that in trials. So say  
3 the State on that?

4 MR. JOHNSON: Well, our notes reflect that  
5 she said that she would -- she -- she's not saying  
6 she won't look at it, so...

7 THE COURT: I have that she said she can't  
8 look at it without throwing up. I don't want  
9 anybody throwing up, so I'm going to grant the  
10 challenge for cause.

11 That leaves number 60 in the alternate  
12 position, Mr. Stovall. Anybody have a challenge  
13 for cause on Mr. Stovall? State?

14 MR. JOHNSON: No, sir.

15 THE COURT: Defense?

16 MR. HAMBURG: No, your Honor.

17 THE COURT: All right. Sixty was the magic  
18 number.

19 MR. BARRETT: Just made it.

20 THE COURT: Lot of challenges for cause  
21 there. Okay.

22 I'm going to seat them. I'm not going to  
23 give them their assigned seats today. I'm just  
24 going to leave them in the audience, swear them  
25 in --

1 Casey, you ready to go on swearing them in?  
2 THE CLERK: Yes.  
3 THE COURT: Okay. And then we'll bring them  
4 back at 8:45 tomorrow, and report to 328 tomorrow.  
5 THE CLERK: Judge, do you mind if we go over  
6 the numbers --  
7 THE COURT: Sure.  
8 THE CLERK: -- so I can do my phone-number  
9 list, please?  
10 THE COURT: Yeah. We can do a phone-number  
11 list.  
12 Number one, Mr. Terry -- Ms. Terry. Excuse  
13 me.  
14 Number three, she's on the list as Belt, but  
15 her last name is Williams now.  
16 THE CLERK: Okay.  
17 THE COURT: Number six, Roberts.  
18 Number 14, Beaty.  
19 Nineteen, Griener.  
20 Twenty-one, Dupont.  
21 Twenty-six, Metcalf.  
22 Thirty-two, Stambaugh.  
23 Thirty-three, Hasty.  
24 Forty-three, Hansen.  
25 Forty-nine, Timmermans.

1           Fifty, Jones.

2           Fifty-two, Robbins.

3           And 60, Stovall.

4           THE CLERK: Thank you.

5           THE COURT: All right. And, Mr. McKenzie, as  
6           to those last two alternates, are they acceptable  
7           to you?

8           THE DEFENDANT: Yes, sir.

9           THE COURT: Okay. Very well.

10          THE BAILIFF: They're in the hallway, your  
11          Honor. Are you ready?

12          THE COURT: Yes. Go ahead and bring them in.

13          (The prospective jurors entered the  
14          courtroom.)

15          THE COURT: I hope that's everybody. Y'all  
16          can be seated.

17          All right. Thank you for your patience,  
18          folks. I have good news. We have been able to  
19          select a jury in this case, so in just a few  
20          moments, I'm going to read off 14 names.

21          Those 14 folks will be the jurors in this  
22          case and will need to stay behind.

23          For everybody else, that will conclude your  
24          jury service. So I hope you found this to be an  
25          educational process. Most people do find it to be

1 an educational process.

2 We do greatly appreciate you coming down  
3 here, not like you had a choice. We understand  
4 that, but nonetheless, everybody was very  
5 forthright and very cooperative.

6 We greatly appreciate that. And on behalf of  
7 everybody in the courtroom, we do thank you for  
8 your service.

9 So for the 14 names that I read off, the  
10 educational experience will continue, and then  
11 I'll have some more instructions for you. So I do  
12 need the following people to stay behind:

13 Ms. Terry.

14 Ms. Williams, formerly Ms. Belt.

15 Ms. Roberts.

16 Ms. Beaty.

17 Ms. Griener.

18 Ms. Dupont.

19 Ms. Metcalf.

20 Ms. Stambaugh.

21 Mr. Hasty.

22 Ms. Hansen.

23 Ms. Timmermans.

24 Ms. Jones.

25 Mr. Robbins.

1                   And Mr. Stovall.

2                   Those 14 people need to stay behind.

3                   Everybody else is excused. Thank you.

4                   (The unselected prospective jurors exited the  
5                   courtroom.)

6                   THE COURT: All right. If y'all want to move  
7                   up, that's fine. When you come back tomorrow,  
8                   I'll have assigned seats for you in the courtroom  
9                   where we're going to be trying this case.

10                  We're not going to be trying the case in this  
11                  courtroom. We're going to try it up in courtroom  
12                  328.

13                  So I am going to ask that you come back  
14                  tomorrow at 8:45 in the morning. As soon as we  
15                  have everybody assembled in the jury lounge -- so  
16                  when you come back, we'll have you go to the jury  
17                  lounge.

18                  If you can't find the jury lounge from the  
19                  way that you come in tomorrow -- and that's  
20                  understandable; most people can't -- please ask  
21                  the court staff. They'll point you in the right  
22                  direction.

23                  If you want to bring anything to drink with  
24                  you, that's fine. Just make sure you have a lid  
25                  on it. Tell the security staff that you're on the

1 jury. They understand.

2 If you want to bring any snacks or any food  
3 for lunch or anything like that, you're more than  
4 welcome to do that. The jury lounge does have a  
5 refrigerator down there.

6 When you come back tomorrow, I will get you  
7 seated in assigned seats in a different courtroom.  
8 It's laid out much like this courtroom, but it's a  
9 little smaller. So that's why I have to use this  
10 courtroom for a jury selection of this magnitude.

11 When you come in, we'll have you seated. And  
12 then I'll give you some preliminary instructions,  
13 and then we'll get started with the trial.

14 What I'm going to do right now, though, is  
15 have you all raise your right hand. If you  
16 remember, this morning I said if you're selected  
17 as jurors, there will be a third time you're sworn  
18 in? This is that third time.

19 So if you all would please raise your right  
20 hand.

21 THE CLERK: Do you solemnly swear or affirm  
22 that you will well and truly try the issues  
23 between the State of Florida and the defendant and  
24 render a true verdict according to the law and the  
25 evidence, so help you God?

1                   (The jurors answered in the affirmative.)

2                   THE COURT: Okay. Thank you, folks. A  
3                   couple of parting instructions before you go.

4                   First off, same instruction I've been giving  
5                   you all day. Don't discuss this case with  
6                   anybody. Don't do any research of any type. That  
7                   includes electronic research. I can assure you  
8                   that when you get home in just a little bit,  
9                   everybody at home is going to ask you, tell me  
10                  about the case that you're serving on, especially  
11                  when you tell them you've got to come back  
12                  tomorrow.

13                  So please, please tell them that the judge  
14                  instructed you that you can't discuss this case.  
15                  When the case is over at the of the week, you can  
16                  talk about it with whoever you want, but until  
17                  that time, you can't discuss it with anybody.

18                  And that includes posting anything on social  
19                  media or anything like that. And, again, don't do  
20                  any research of any type.

21                  I don't think there's going to be any media  
22                  coverage, but in the event that there is, should  
23                  you see anything in the newspaper, if anybody  
24                  still gets a newspaper, should you see anything in  
25                  the newspaper or on the Internet or on television

1 news, which I don't anticipate any of that, but  
2 should you see or hear anything, immediately shut  
3 it off and do not listen to or read any of those  
4 media accounts. That is not evidence, and you're  
5 not to consider that.

6 When you come back tomorrow, you may want to  
7 bring maybe a light sweater or jacket with you.  
8 Sometimes, especially upstairs, we never know  
9 exactly what the temperatures are going to be up  
10 there.

11 We try to control it, but the building's 25  
12 years old, especially the courtrooms upstairs, so  
13 we're never sure what climate we're going to get.

14 So what we're going to do is we're going to  
15 have you come down here one by one. There's a  
16 list with your name on it.

17 In the event we need to get a hold of you for  
18 something -- I don't anticipate that to happen,  
19 but in the event we need to get a hold of you for  
20 something, if you could come down, write your  
21 phone number.

22 And then that will be kept secure. That will  
23 not be part of the public record. The clerk's  
24 office will keep that secure, only in the event we  
25 need to get a hold of you during the course of the



1 trial. And then when the trial is done, that will  
2 be destroyed, that list with your phone number on  
3 it.

4 So if you all want to come back -- come on up  
5 here. Remember, tomorrow morning, 8:45,  
6 second-floor jury lounge. And you'll be excused  
7 after you sign that for the evening.

8 So if y'all just want to come on up and form  
9 a line, and see y'all in the morning after that.

10 Everybody else remain in the courtroom.

11 (The jurors provided their phone numbers and  
12 exited the courtroom.)

13 THE COURT: All right. We are outside the  
14 presence of the jury. And the jury has been  
15 sworn. We even made it before five o'clock with  
16 three minutes to spare.

17 Anything we need to take up before we recess  
18 for the day?

19 MR. JOHNSON: I don't believe so.

20 THE COURT: Okay.

21 MR. HAMBURG: What time do you want us, 8:45  
22 also?

23 THE COURT: Well, if I've got all the jurors,  
24 we'll bring them in and start at 8:45. Usually,  
25 it's about nine.

1           The courtroom will be open at 8:30. So if  
2           y'all want to get in there and get set up, you're  
3           welcome to do that.

4           Okay. We'll see y'all in the morning. Thank  
5           you, everybody.

6           (Time noted: 4:59 p.m.)

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1 IN THE CIRCUIT COURT, SEVENTH  
2 JUDICIAL CIRCUIT, IN AND FOR  
3 ST. JOHNS COUNTY, FLORIDA

4 CASE NO.: CF06-01864

5 STATE OF FLORIDA APPEAL TRANSCRIPT  
6 vs. (Pages 365 through 673)

7 NORMAN BLAKE MCKENZIE,  
8 Defendant.

9 \* \* \* \* \*

10 TRANSCRIPT OF PROCEEDINGS  
11 BEFORE THE HONORABLE HOWARD M. MALTZ,  
12 CIRCUIT COURT JUDGE

13 PENALTY PHASE JURY TRIAL

14 \* \* \* \* \*

15 DATE TAKEN: TUESDAY, AUGUST 27, 2019

16 TIME: COMMENCED at 8:53 A.M.  
17 CONCLUDED at 4:35 P.M.

18 PLACE: RICHARD O. WATSON JUDICIAL CENTER  
19 4010 LEWIS SPEEDWAY  
20 ST. AUGUSTINE, FLORIDA 32084

21 STENOGRAPHICALLY MARY GRAYBOSCH, RPR, CRR, CRC  
22 REPORTED BY: COURT REPORTER AND NOTARY PUBLIC

23 \* \* \* \* \*

24  
25

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

2 THE COURT: I want to see if there's  
3 anything -- we'll take up jury instructions,  
4 preliminary instructions, in a moment, but I want  
5 to see is there anything else we need to take up?

6 MR. BARRETT: Yes, Judge.

7 THE COURT: All right.

8 MR. BARRETT: I assume in the State's  
9 opening, they are going to make reference to HAC  
10 as one of the aggravators, and I just want to  
11 preserve that issue.

12 We did have a hearing on the State's amended,  
13 which the Court -- I moved to strike and, of  
14 course, the Court denied my motion.

15 I just wanted to preserve that issue, so  
16 rather than my interrupting their opening --

17 THE COURT: Okay.

18 MR. BARRETT: -- I just wanted to --

19 THE COURT: Okay. So we'll note the  
20 objection, standing objection --

21 MR. BARRETT: Thank you.

22 THE COURT: -- to the State's arguments  
23 pertaining to the HAC agg -- aggravating factor.  
24 All right.

25 Let's bring the jury up.



1           MR. HAMBURG: And, Judge, we would request to  
2           invoke the rule. I don't know if the State has  
3           any witnesses in here. I'm sure they've already  
4           instructed them.

5           THE COURT: Okay. If you can instruct --  
6           both sides instruct your witnesses accordingly.

7           With regards to instructions, it is my  
8           intention to read standard jury instruction 7.10,  
9           which is the preliminary instruction in capital  
10          proceedings.

11          And then I would read 2.1(a), which is the  
12          note-taking instruction.

13          Does anybody want anything else?

14          MR. BARRETT: No, Judge.

15          THE COURT: Okay. State?

16          MR. JOHNSON: No, your Honor.

17          THE COURT: Okay. Pretty short instruction.  
18          And you all are still confident we'll get this  
19          done this week?

20          MR. JOHNSON: Yes, sir.

21          THE COURT: Wednesday is the day you have the  
22          issue, the scheduling issue?

23          MR. JOHNSON: Yes, sir.

24          THE COURT: Okay. Just so we can talk about  
25          scheduling, I'll let them know we're going to take

1 an extended lunch on Wednesday.

2 MR. JOHNSON: There is one other issue,  
3 Judge, if we could take it up when you get a  
4 chance.

5 THE COURT: Okay. Mr. Barrett?

6 MR. BARRETT: Yes, Judge.

7 THE COURT: State wanted to bring something  
8 up.

9 MR. JOHNSON: I just talked to Mr. Barrett.  
10 We have a in-life photograph of our victims. It's  
11 State's ID QQ.

12 And I talked with Mr. Barrett to see if he  
13 had any objection to us moving that into evidence  
14 through a stipulation, and he had -- I'll let him  
15 speak for himself, but --

16 MR. BARRETT: Yes, Judge. We have no  
17 objection, and we stipulate to the  
18 identification --

19 THE COURT: Okay.

20 MR. BARRETT: -- to the two victims in this  
21 case.

22 THE COURT: That was in the photograph?

23 MR. BARRETT: Yes, sir.

24 THE COURT: Okay. That was it?

25 MR. JOHNSON: Yes, sir.

1 THE COURT: All right. Is everybody ready --

2 MR. BARRETT: Is it going to be one, or do  
3 you have other photographs?

4 (The clerk conferred with the Court.)

5 MR. JOHNSON: So 39?

6 THE CLERK: Right.

7 (The above-mentioned photograph was marked  
8 into evidence as State's Exhibit 39.)

9 MR. BARRETT: What's the number?

10 THE CLERK: Thirty-nine.

11 THE COURT: It's going to start with where we  
12 left off last time so the record is --

13 MR. BARRETT: We got to try and keep track.

14 MR. HAMBURG: So just for -- so the evidence  
15 that was admitted at Mr. McKenzie's original trial  
16 is staying in evidence and those are already  
17 admitted as 1 through 38 at this point?

18 THE COURT: Correct.

19 MR. JOHNSON: And for everyone's  
20 understanding, we are sort of redoing the judgment  
21 and sentences.

22 There was actually, I think, an additional  
23 one that we discovered that was not admitted in  
24 the first trial.

25 Rather -- because we had our fingerprint

1 expert to analyze the new judgment and sentences  
2 that we got, we're going to be using those.

3 So I think probably the solution to that so  
4 not two sets are going back there is just whenever  
5 the jury's going to deliberate, just take the new  
6 ones back there.

7 It --

8 THE COURT: All right. Mr. Barrett, you okay  
9 with that?

10 MR. BARRETT: Yes, Judge.

11 THE COURT: Okay.

12 MR. JOHNSON: Same with some of the  
13 photographs, too.

14 THE COURT: Okay. Very well.

15 Is everybody ready to bring the jury in? I  
16 hate to keep 14 people cooped up in our small jury  
17 room here.

18 MR. JOHNSON: We're ready.

19 THE COURT: Okay. Let's go ahead and bring  
20 the jury in, please.

21 (The jury entered the courtroom.)

22 THE COURT: If y'all want to just stand out  
23 here, I'll give you all your seats because, as you  
24 recall yesterday, I didn't give you seating  
25 assignments yet, so don't head back there yet.

1           If y'all can come on in, just make room for  
2 everybody. We've got a lot of people.

3           Okay. Let's do this: Is Ms. Terry back  
4 there somewhere? Ms. Terry, we're going to have  
5 you take the first seat right here, front -- you  
6 can get in from either side.

7           Next -- and y'all can be seated when you get  
8 there. Don't worry about the envelopes in your  
9 chair. I'll talk about those in just a little  
10 bit.

11           Then Ms. Williams next to Ms. Terry.

12           Then Ms. Roberts next to Ms. Williams.

13           Then Ms. Beaty.

14           Ms. Griener.

15           Ms. Dupont -- no. Ms. Dupont's in that --  
16 Mr. Metcalf, you're going to be in the chair that  
17 moves. So we'll have you stay right there for a  
18 moment, and then we'll get you in that chair.

19           In the back row, Mr. Hasty, all the way far  
20 right.

21           Then Ms. Stambaugh.

22           Ms. Hansen.

23           Mr. Timmermans.

24           Ms. Jones.

25           Mr. Robbins.

1           And Mr. Stovall. Okay.

2           And then we'll -- Mr. Metcalf, you get the  
3 moving chair. It's maybe a little bit more  
4 comfortable than the others.

5           You can be seated. You'll find these chairs  
6 are much more comfortable than those benches you  
7 were in yesterday.

8           So let me explain to you how we're going to  
9 proceed today and throughout.

10          In just a little bit, I'm going to read to  
11 you some preliminary instructions. You're not  
12 going to have a copy of these instructions with  
13 you when I read them to you, but at the end of the  
14 case when I give you the instructions on the law  
15 that you have to follow in deciding your verdict,  
16 you will have a copy of those instructions with  
17 you to follow along as well as to take with you in  
18 the jury room when you deliberate your verdict.

19          After I'm done reading the instructions --  
20 and they won't take particularly long, maybe ten  
21 minutes or so -- then the lawyers will present  
22 their opening statements to you.

23          When the lawyers are done presenting their  
24 opening statements to you, we'll begin with the  
25 presentation of the evidence, which is going to

1 take a couple days.

2 When we're done with the presentation of the  
3 evidence, we'll begin with the closing arguments  
4 of the attorneys.

5 And then I'll give you your final  
6 instructions on the law that you need to follow in  
7 deciding your verdict, and then you would retire  
8 to decide your verdict in this case.

9 For scheduling purposes, we'll go to about  
10 10:15, 10:30, somewhere in that neighborhood, then  
11 take a midmorning break.

12 We'll take lunch around the normal hour,  
13 normal lunch hour, with one exception to that.  
14 Tomorrow we're going to take an extended lunch  
15 because of some scheduling issues we need to  
16 resolve.

17 So tomorrow will be an early lunch from 11 to  
18 about one, so a little extended -- so if you have  
19 more grand plans, you can plan for that tomorrow.

20 We'll take a midafternoon recess around the  
21 three, 3:15 area, and then I plan on breaking  
22 every day at around 4:30.

23 Sometimes we may be in the middle of a  
24 witness, so we may go a little longer than what's  
25 scheduled.

1           Other times we may have just finished a  
2           witness, and rather than starting one, you know,  
3           at 4:20 or 4:25, we'll break at that point.

4           That is my goal on scheduling. Sometimes  
5           that doesn't always work out, but we hope that it  
6           does.

7           So I'm going to give you these instructions.  
8           I'm going to go over what's in the envelopes. And  
9           when we're done with that, the lawyers will  
10          present their opening statements.

11          So, members of the jury, again, you have been  
12          selected and sworn to try this case of the State  
13          of Florida versus Norman McKenzie.

14          The defendant, Mr. McKenzie, has previously  
15          been found guilty of two counts of murder in the  
16          first degree in a previous proceeding.

17          The only issue before you is to determine the  
18          appropriate sentence. The punishment for this  
19          crime is either life imprisonment without the  
20          possibility of parole or death.

21          The attorneys will now have an opportunity,  
22          if they wish, to make an opening statement. The  
23          opening statement gives the attorneys a chance to  
24          tell you what evidence they believe will be  
25          presented during this phase of this trial.



1           What the lawyers say during opening  
2           statements is not evidence, and you are not to  
3           consider it as such.

4           After the attorneys have had the opportunity  
5           to present their opening statements, the State and  
6           the defendant may present evidence relative to the  
7           nature of the crime and the defendant's character,  
8           background, or life.

9           You are instructed that this evidence is  
10          presented in order for you to determine, as you  
11          will be instructed, whether each aggravating  
12          factor is proven beyond a reasonable doubt,  
13          whether the aggravating factors found to exist  
14          beyond a reasonable doubt are sufficient to  
15          justify the imposition of the death penalty,  
16          whether mitigating circumstances are proven by the  
17          greater weight of the evidence, whether the  
18          aggravating factors outweigh the mitigating  
19          circumstances, and whether the defendant should be  
20          sentenced to life imprisonment without the  
21          possibility of parole or death.

22          At the conclusion of the evidence and after  
23          arguments of Counsel, you will be instructed on  
24          the law that will guide you in your deliberations.

25          An aggravating factor is a standard to guide

1 the jury between the choice of life imprisonment  
2 without the possibility of parole or death.

3 It is a statutorily enumerated circumstance  
4 that increases the gravity of a crime or the harm  
5 to a victim.

6 You must unanimously agree that each  
7 aggravating factor was proven beyond a reasonable  
8 doubt before it may be considered by you in  
9 arriving at your final verdict.

10 In order to consider the death penalty as a  
11 possible penalty, you must unanimously determine  
12 that at least one aggravating factor has been  
13 proven beyond a reasonable doubt.

14 The State has the burden to prove each  
15 aggravating factor beyond a reasonable doubt.

16 A reasonable doubt is not a mere possible  
17 doubt, a speculative, imaginary, or forced doubt.

18 Such a doubt must not influence you to  
19 disregard an aggravating factor if you have an  
20 abiding conviction that it exists.

21 On the other hand, if after carefully  
22 considering, comparing, and weighing all the  
23 evidence, you do not have an abiding conviction  
24 that the aggravating factor exists, or if having a  
25 conviction, it is one which is not stable, but one

1           which wavers and vacillates, then the aggravating  
2           factor has not been proved beyond a reasonable  
3           doubt and you must not consider it in prove -- in  
4           providing your verdict on the appropriate sentence  
5           to the Court.

6                    A reasonable doubt as to the existence of an  
7           aggravating factor may arise from the evidence,  
8           conflicts in the evidence, or the lack of  
9           evidence.

10                   If you have a reasonable doubt as to the  
11           existence of an aggravating factor, you must find  
12           that it does not exist.

13                   However, if you have no reasonable doubt, you  
14           should find that the aggravating factor does  
15           exist.

16                   Before moving on to the mitigating  
17           circumstances, you must determine that the  
18           aggravating factors are sufficient to impose a  
19           sentence of death.

20                   If you do not unanimously agree that the  
21           aggravating factors are sufficient to impose  
22           death, you will not move on to consider the  
23           mitigating circumstances.

24                   Should you find sufficient aggravating  
25           factors do exist to justify the imposition of the

1 death penalty, it will then be your duty to  
2 determine whether the aggravating factors that you  
3 have unanimously found to have been proven beyond  
4 a reasonable doubt outweigh the mitigating  
5 circumstances that you find to have been  
6 established.

7 Unlike aggravating factors, you do not need  
8 to unanimously agree that a mitigating  
9 circumstance has been established.

10 Rather, whether a mitigating circumstance has  
11 been established is an individual judgment by each  
12 juror.

13 A mitigating circumstance is not limited to  
14 the facts surrounding the crime. It can be  
15 anything which might indicate that the death  
16 penalty is not appropriate for the defendant.

17 In other words, a mitigating circumstance may  
18 include any aspect of the defendant's character,  
19 background, or life, or any circumstance of the  
20 offense that reasonably may indicate that the  
21 death penalty is not an appropriate sentence in  
22 this case.

23 A mitigating circumstance need not be proven  
24 beyond a reasonable doubt by the defendant. A  
25 mitigating circumstance need only be proven by the

1 greater weight of the evidence, which means the  
2 evidence -- which means evidence that more likely  
3 than not tends to prove the existence of a  
4 mitigating circumstance.

5 If you determine by the greater weight of the  
6 evidence that a mitigating circumstance exists,  
7 you may consider it established and give that  
8 evidence such weight as you determine it should  
9 receive in reaching your conclusion as to the  
10 sentence to be imposed.

11 Now, I do want to remind you, as I discussed  
12 yesterday, that your phones do need to be turned  
13 off while you're here in court, so this would be a  
14 good time to do that. Off means off, not vibrate.

15 At the end of the trial, when you do  
16 deliberate your verdict in this case, you will not  
17 be permitted to have your phones with you in the  
18 jury room when you deliberate your verdict. So  
19 I'll give you some more instructions on that as we  
20 approach on that.

21 I do also want to remind you that you cannot  
22 discuss this case among yourselves or with anybody  
23 else during the course of this trial.

24 And you cannot do any research of any type.  
25 And research includes any type of electronic

1 research such as the Internet or anything like  
2 that.

3 We will take recesses during the course of  
4 this trial. During recesses, you may use your  
5 phones, of course, but you still cannot use your  
6 phones to do any research of any type.

7 And, of course, during those recesses, don't  
8 communicate with anybody about this case.

9 There may be times that I need to speak with  
10 the lawyers outside of your presence. We're going  
11 to try to keep that as limited as possible, but if  
12 I do need to speak with them outside your  
13 presence, I may do it over here at what's called  
14 sidebar.

15 I think we may have done that once or twice  
16 yesterday. I'll turn the sound on in the  
17 courtroom so you can't hear us.

18 If I think it's going to take a little  
19 longer, I may have you retire to the jury lounge  
20 or possibly the jury room, but like I said, we'll  
21 try to keep that as minimal as possible.

22 The lawyers are trained in the rules of  
23 evidence, and they will make those objections that  
24 they feel are appropriate.

25 When a lawyer makes an objection, you should

1 not speculate on the reason why the lawyer made  
2 the objection.

3 In addition, if I sustain or I uphold any of  
4 the objections, you should not speculate as to  
5 what the witness may have said had I not sustained  
6 that objection.

7 So those are some instructions for you on  
8 some things to expect during the course of this  
9 trial.

10 So let me talk about those envelopes that  
11 were in your chairs this morning. You'll find in  
12 the envelope a notepad as well as a pen that  
13 hopefully works. If it doesn't, let us know.

14 The purpose of that notepad and pen is for  
15 you to take notes if you desire to take notes. If  
16 you would like to take notes during this trial,  
17 you may do so.

18 On the other hand, of course, you're not  
19 required to take notes if you do not want to.  
20 That will be left up to you individually.

21 As I mentioned, you are provided with that  
22 notepad and the pen for taking notes. If the pen  
23 stops working or if you run out of paper, let us  
24 know. We'll take care of that for you.

25 Any notes that you take will be for your

1           personal use. However, you should not take them  
2           with you from the courtroom.

3                       So during recesses, I'm going to have you  
4           place it back in the envelope and leave it on your  
5           chair. It will be secured by the bailiffs, and it  
6           will be back in your seat when you return.

7                       After you have completed your deliberations,  
8           the bailiff will deliver your notes to me. They  
9           will be destroyed. No one will ever read your  
10          notes.

11                      If you take notes, do not get so involved in  
12          note-taking that you become distracted from the  
13          proceedings.

14                      Your notes should be used only as aids to  
15          your own memory. Whether or not you take notes,  
16          you should rely on your memory of the evidence,  
17          and you should not be unduly influenced by the  
18          notes of other jurors.

19                      Notes are not entitled to any greater weight  
20          than each juror's memory of the evidence.

21                      And, lastly, as I mentioned yesterday, during  
22          recesses, you may run into the lawyers in the  
23          hallway. And they are under strict rules to not  
24          communicate with you.

25                      So if they look down or they walk the other



1 way, they're not being rude. They're just  
2 following the rules that they are required to  
3 follow.

4 So those are my preliminary instructions for  
5 you. At this point we'll begin with the opening  
6 statements.

7 State, you may proceed.

8 MS. DUNTON: Thank you.

9 May it please the Court?  
10 Counsel?

11 On October 4, 2006, the defendant in this  
12 case brutally murdered two men, these two men,  
13 Randy Peacock and Charles Johnston.

14 The defendant took a hatchet and he inflicted  
15 several blows to the faces and the skulls of these  
16 two men, and he caused injuries like you see here.

17 He fractured skulls. He fractured bones in  
18 the face. And with this man, Charlie Johnston, he  
19 even inflicted a blow so bad that it crushed the  
20 brain matter in his head.

21 Now, he used that same hatchet with Randy  
22 Peacock, causing similar injuries, and you'll see  
23 more of those.

24 But when that didn't work with Randy --  
25 you'll hear that Randy got up and was struggling

1           for his life, and he wasn't dead after that  
2           initial attack -- he took a knife and he stabbed  
3           him six times, causing injuries like you see here.

4           This case is about the heinous and cruel  
5           murders of these two men. And it's about how the  
6           death penalty is the only appropriate sentence for  
7           the defendant for these acts of violence.

8           The evidence will show that the defendant  
9           knew Charlie and Randy. He had known them for  
10          some time, a few years, and he considered himself  
11          a friend, friendly enough where he could go to the  
12          house, hang out with them.

13          And closer in time with -- to the murders, he  
14          was in touch because he was working as a handyman  
15          on a rental property that they had in Clay County.

16          Now, Randy and Charles lived together in a  
17          home off Palmo Fish Camp Road in St. Johns County.  
18          And on October 4, the defendant went to that home  
19          with the intent to get money.

20          He knew the men had money, and his intent in  
21          going that day -- going there that day was to get  
22          money no matter how he had to get it.

23          You'll hear that that day, Randy was home  
24          from work early. Randy was a respiratory  
25          therapist at Flagler Hospital. And he had gone



1           defendant decided he was going to ask Charlie for  
2           a hammer and a piece of wood to work on a dent in  
3           his -- in his Kia that was there.

4           And so Charlie's looking and he doesn't find  
5           a hammer, but Charlie finds, like, a hatchet or an  
6           axe.

7           He gives that to him and he's still searching  
8           for a piece of wood for the defendant when Charlie  
9           goes out behind the house. There is a shed, a red  
10          shed, like a work shed.

11          He goes in that shed to look, for the  
12          defendant, for what he's asking for, the wood.  
13          And that's when the defendant decides to go in the  
14          shed, to take advantage, to sneak up behind him,  
15          and hit him in the head with the hatchet.

16          You'll learn that this hatchet, it has, like,  
17          a sharp side, a blade, and then there is, like, a  
18          square, dull side, the back side of that hatchet,  
19          and he hits him with the dull side.

20          And he'll describe to investigators, and  
21          you'll hear this, how Charlie came crashing down,  
22          brought shelves and things down along with him.  
23          And he hit him one more time in the face before he  
24          left the shed.

25          He took that axe and he went back into the

1 main residence and he found Randy. Randy was home  
2 sick, remember? He was making soup at the stove.

3 And this defendant approached him in the  
4 kitchen from behind with the hatchet and began  
5 hitting him in the back of the head, causing some  
6 of those injuries you saw.

7 And he'll describe that it was kind of weird.  
8 Randy didn't just fall out on the floor. He just  
9 collapsed with his arms and his elbows into that  
10 big pot of soup.

11 And you'll see the evidence of burn marks,  
12 second- and third-degree, on Randy's arms and  
13 hands from that, in fact, happening.

14 And he hit him and he -- and he didn't fall.  
15 And so, eventually, the defendant said, I took --  
16 lifted him out of the soup, put him on the floor,  
17 and left him there.

18 And he left him there to go back to the shed.  
19 He needed stuff. He needed property. He went out  
20 there to get a watch from Charlie. He knew he had  
21 a watch, and he went to get it.

22 And to his surprise, when he went into the  
23 shed and saw Charlie, Charlie was making awful  
24 noises and moving. He was alive.

25 And that's when -- he tells investigators,

1           that's when I did the worst damage. That's when I  
2           started hacking at him in the face with the  
3           hatchet on the sharp side.

4                     He doesn't take his watch, but he does take  
5           his wallet. And before he leaves the shed, he --  
6           he drops the hatchet in, like, a bucket by the  
7           front of the shed.

8                     So he returns to the house again. He needs  
9           to look for more property, more money. He goes in  
10          there and, again, to his surprise, Randy is now  
11          moving.

12                    He describes the noises, the heavy breathing.  
13          He was having trouble breathing, but he was on his  
14          feet.

15                    And the defendant describes how Randy, he's,  
16          like, you know, he didn't have a lot of blood on  
17          his eyes, but I knew he couldn't see.

18                    And you'll hear about some of these blows to  
19          the back of the head and the damage they caused.  
20          The medical examiner will describe that that --  
21          you know, that can injure your optic nerves.

22                    He couldn't see and he's struggling. And now  
23          the defendant doesn't have his hatchet, so he  
24          grabs a kitchen knife and, again, for a second  
25          time, attacks Randy, stabs him six times.

1           He tells investigators, you know, I saw, you  
2           know, like, you see it on TV, and I want to go for  
3           the jugular. So he went for the neck first.

4           He was shocked. He was like, there wasn't a  
5           lot of blood. I didn't hit it. Something went  
6           wrong, so I need to go for his heart.

7           And you will see in an interview where he  
8           describes how he's trying to reach Randy's heart,  
9           stabbing him in the lower chest and the abdomen,  
10          stabbing him upwards, trying to reach.

11          So, eventually, he does that. He kills him.  
12          There's a lot of blood. So he leaves Randy there  
13          on the kitchen floor, and he goes throughout the  
14          house.

15          He goes in a bedroom, pulls out drawers,  
16          searching for property, for money. He knew there  
17          were rings that the men had that he wanted, um,  
18          and he found now Randy's wallet in that room.

19          So, eventually, he leaves the house on Palmo  
20          Fish Camp Road with both of these men's wallets  
21          and the keys to Randy's car, a Chrysler Sebring.  
22          And he takes that instead of his gold Kia, which  
23          is left there.

24          Now, over the next day, while Randy and  
25          Charles' bodies are being discovered, and we're

1 going to talk about that, the defendant proceeds  
2 to eventually dump Randy's car in Alachua County  
3 and steal a car from a man who was fishing, a  
4 Camaro.

5 He takes that Camaro, wrecks it on I-75,  
6 carjacks a man on I-75 of his vehicle, takes that.  
7 He later ditches that car in Levy County and  
8 carjacks a woman in Levy County.

9 And as this is going on on the fifth, you'll  
10 learn that the investigation is progressing. And  
11 he's now a suspect, and the search is on.

12 And when he's in that car in Levy County, law  
13 enforcement comes up on him and he ends up in a  
14 high-speed chase, crashes that vehicle in Citrus  
15 County.

16 The chase goes from Levy into Citrus County.  
17 He crashes it, runs into the woods, and later is  
18 apprehended.

19 So meanwhile, back in St. Augustine on  
20 October 5th, Randy doesn't show up for work at  
21 Flagler Hospital. And that's totally out of  
22 character for him.

23 So his co-workers kind of scramble to cover  
24 his patients, but two of them, Perry Privette and  
25 Julie Aubrey, they decide at lunch they're going



1 to go to his house and check on him.

2 This wasn't normal for him. He never called  
3 out sick. So they go to the house on Palmo Fish  
4 Camp Road around the lunch hour on October 5th,  
5 the next day.

6 And, obviously, the men have been laying  
7 there since the day before, dead, and they  
8 discover Randy.

9 They go in the main house and they see Randy.  
10 They immediately leave, call 911 to report what  
11 they see, obviously upset. And that's what --  
12 what gets law enforcement to the house, and the  
13 investigation begins.

14 And throughout, obviously, the initial search  
15 of the property and the homes, law enforcement  
16 discovers Charlie in the shed behind the house,  
17 deceased.

18 Now, not all first-degree-murder cases are  
19 eligible for the death penalty. There has to be  
20 at least one aggravating factor. You heard us  
21 refer to that through jury selection and even this  
22 morning in your instructions.

23 There has to be at least one to elevate a  
24 case to be subject for consideration for the death  
25 penalty, but in this case, there are five, five

1           aggravating factors the State intends to prove to  
2           you beyond a reasonable doubt.

3           An aggravating factor is something about the  
4           crime itself or the defendant's history that's set  
5           out in Florida Statutes, as you heard, that  
6           increases the gravity of the crime or the harm to  
7           the victim.

8           The evidence will show the following  
9           aggravator fact -- aggravating factors in this  
10          case. I'm going to go through them and then come  
11          back and touch on one in the end.

12          The first one is what's known as prior  
13          violent felonies. So if a defendant has prior  
14          violent felonies in his past prior to committing  
15          murders, they can be considered.

16          Now, the law is written by lawyers, and it's  
17          a little misleading because it also means prior  
18          and contemporaneous, okay?

19          So in this case for your consideration will  
20          be the murder of each man elevating the homicide  
21          of the other. He killed more than one person, and  
22          so the contemporaneous felony conviction  
23          aggravates the murder of the other.

24          And in addition to that, he has eight prior  
25          violent felonies prior to the homicide, eight.

1           And I'm going to go over those with you in a  
2           minute.

3                   The second aggravating factor for you to  
4           consider is what's called the felony murder  
5           aggravator.

6                   That just means that while committing these  
7           murders, another felony was committed in the  
8           commission of. And in this case we know it was  
9           the robbery, the taking of their property by force  
10          or violence.

11                   In addition to that, the third aggravating  
12          factor in this case is that the murders were  
13          committed for financial gain, okay?

14                   He went over there to take money and  
15          property. And so that aggravates the murder, and  
16          you can consider that in your decision in this  
17          case.

18                   And then the last two have to do with the  
19          circumstances of the actual crimes.

20                   The fourth one is what's called the murders  
21          were heinous, atrocious, or cruel. That obviously  
22          speaks to the nature of the murders. They were  
23          torturous murders.

24                   You will hear about the high degree of  
25          physical pain that was inflicted upon these two

1 men, the struggle to live, that they were still  
2 alive when they were both attacked a second time.  
3 They were living through that. They were  
4 conscious and aware of what was going on.

5 And, finally, the fifth is when murders are  
6 committed in a cold, calculated, and premeditated  
7 manner. Again, it speaks to the facts and  
8 circumstances of the crime.

9 And we will present those to you, and that  
10 his premeditation, you'll learn in this case, in  
11 order for what we sometimes refer to as CCP, cold,  
12 calculated, and premeditated, it has to be a  
13 heightened level of premeditation.

14 The fact that he thought about these crimes  
15 for an extended amount of time and he carried them  
16 out over a period of time. He had time to  
17 reflect. He certainly had time to stop.

18 And matter of fact, you'll hear that he told  
19 the investigators that when he returned back to  
20 Charlie in the shed, he said if I hadn't have gone  
21 at him that time, the second time and caused the  
22 serious damage, I could have called an ambulance  
23 and he probably would have lived.

24 So his murders were not only premeditated,  
25 but there was a heightened premeditated fashion to

1           them.

2                     So back to the eight prior violent felonies.

3           How are we going to prove that in this case?

4           Well, a couple ways.

5                     You are going to see in evidence what is  
6           called a judgment and sentence. You will have  
7           eight of those for all eight of those crimes.

8                     And the judgment and sentence is just  
9           paperwork that's filed in a court of law, similar  
10          to this, when someone's convicted of a crime.

11                    And it identifies the -- the name of the  
12          defendant, the court, and the charge, the date of  
13          conviction, and there's fingerprints attached to  
14          that so you can identify who that person really  
15          was if he's convicted in the future.

16                    But you're not going to just have the paper.  
17          That would be enough, just to put the paper in.  
18          We've proved all eight of those.

19                    You're going to get to hear, 'cause it's  
20          important for your consideration, the facts and  
21          circumstances around those eight convictions.

22                    And you're going to hear from six of those  
23          victims and a detective from one of the other  
24          cases, and they're going to describe to you the  
25          facts behind those eight convictions.

1           So what did the defendant do in these eight  
2 prior violent felonies? Well, in 1984, we will  
3 show that he was convicted of a kidnapping and a  
4 robbery.

5           The evidence will show that in 1990, he  
6 committed another -- that first one in '84 was in  
7 Broward County, and in 1990, again in Broward  
8 County, he committed another robbery.

9           That robbery occurred when he walked up  
10 behind a man at nighttime in an apartment complex,  
11 and he hit him in the back of the head as he was  
12 about to get on his motorcycle, knocked him out,  
13 stole his motorcycle.

14           You will hear from that victim and how he  
15 suffered a broken neck, and he still suffers from  
16 some of his injuries today.

17           Throughout the course of this trial, you'll  
18 learn that the defendant, after that and because  
19 of that conviction, spent a long period of time in  
20 prison.

21           And so after prison, in 2006 and 2000 -- some  
22 of the conviction dates are 2007, but a series of  
23 crimes had occurred in 2006.

24           And those are three robberies in Alachua  
25 County. You will hear from all of those victims.

1 He robbed a woman at a Waffle House. He robbed a  
2 woman at a Honey Baked Ham store. He robbed a  
3 woman at an organic grocery store.

4 And he also did an attempted robbery. He  
5 attempted to rob another woman at a Jo-Ann Fabrics  
6 in that same area and was convicted of attempted  
7 robbery there.

8 And then he went into another woman's home in  
9 Alachua County, Ms. Coffee. And he entered her  
10 home at gunpoint, and he kidnapped her.

11 He took her in a vehicle. He drove her  
12 around. You'll hear about that. And, eventually,  
13 he dumped her off in Putnam County at a  
14 convenience store. So that conviction is for  
15 kidnapping with a firearm.

16 And then, finally, he has a carjacking with a  
17 firearm. Remember the -- the car on October 5th  
18 when he's stealing cars and carjacking people left  
19 and right?

20 One of those carjackings with a firearm was  
21 against a man that you're going to hear from, as  
22 well, Mr. Van. So those are his eight prior  
23 violent felonies.

24 Ladies and gentlemen, when the State has  
25 rested its case, you will find that the evidence

1 of each aggravating factor has been proven, not  
2 one, but all five, beyond a reasonable doubt, that  
3 they are sufficient, one in -- one alone is  
4 sufficient to warrant the death penalty, that they  
5 outweigh any mitigation that may be established by  
6 the defense in this case.

7 And, ultimately, the last question that  
8 you'll be asked is should he be put to death? And  
9 the State submits that the evidence will support  
10 that conclusion that he should.

11 It won't be an easy decision, but the State  
12 is confident, after you hear all of the facts, the  
13 circumstances, the background of this defendant,  
14 that the facts and the law absolutely warrant that  
15 decision, the death penalty.

16 Thank you.

17 THE COURT: Thank you.

18 The defense may now proceed.

19 MR. HAMBURG: Thank you, your Honor.

20 Good morning. As you heard yesterday,  
21 Mr. McKenzie has already been found guilty of both  
22 of these murders.

23 What I want you to remember is that the fact  
24 that he's been found guilty of both of those  
25 murders has absolutely no bearing on this penalty



1 phase and what we're here for.

2 This is a totally separate proceeding. What  
3 you're to look at now is to make an individual  
4 moral decision and find your own right answer  
5 about the decision on life without parole or a  
6 death sentence because the decision on life  
7 without parole or death is an individual moral  
8 decision.

9 The judge is going to give you an instruction  
10 at the end of the trial that explains that. He's  
11 going to give you an -- he won't give you an  
12 instruction on how to find that right answer.

13 It's not like the right answer is just out  
14 there, and it's your job to find it. Your job is  
15 to find your own right answer and what is right  
16 for you, each juror, not as a whole, but as an  
17 individual.

18 All of us make many individual mortal --  
19 moral decisions in our lives: what church to  
20 attend, whether to attend church, what charities  
21 we give to, whether to have children, how many  
22 children to have, where to send them to school,  
23 what movies, television shows, videogames we allow  
24 them to watch and play.

25 And none of us should ever expect every

1 person to make the same decision because everyone  
2 has a different set of values and different life  
3 experiences.

4 These are all intensely personal matters, and  
5 there's no single, objective, universal truth when  
6 it comes to moral decisions.

7 You'll find your own truth, and that's the  
8 situation that we have here. And that's what it's  
9 your job to do in this portion of the trial.

10 The judge has already read you an instruction  
11 on what mitigation is. Mitigation is anything  
12 that might indicate that the death penalty is not  
13 an appropriate sentence for Mr. McKenzie.

14 Mitigation is not limited to the facts and  
15 circumstances surrounding the crime. It can be  
16 anything that you look at that would indicate that  
17 the death penalty is not appropriate for Norman  
18 McKenzie.

19 In other words, in the instruction -- in  
20 other words, a mitigating circumstance may include  
21 any aspect of Mr. McKenzie's character,  
22 background, or life, or any circumstance of the  
23 offense that reasonably may indicate that the  
24 death penalty is not an appropriate sentence in  
25 this case. And that's different from the

1           aggravators.

2                   The aggravators that the State just  
3           mentioned, one, must all unanimous -- unanimously be  
4           decided upon by all of you and proven beyond a  
5           reasonable doubt.

6                   And they relate to the facts and  
7           circumstances of the offense or the prior  
8           offenses. They don't go to Mr. McKenzie's life,  
9           character, and background.

10                   These mitigators that you'll hear, they're  
11           not presented at this point by us and by  
12           Mr. McKenzie to excuse or negate what happened on  
13           October 4th of 2006. They're not presented to  
14           excuse or negate what happened in 1984 or 1990.

15                   They're offered to show who Norman McKenzie  
16           is. They were offered somewhat by Mr. McKenzie in  
17           2006 when he spoke with investigators about this  
18           offense.

19                   This is something that you're going to hear.  
20           He never denied it. He cooperated with law  
21           enforcement and told them what happened on  
22           October the 4th, 2006, as well as several other  
23           days around that time.

24                   What you're going to hear is a life arc of  
25           Norman McKenzie. Starting with a chaotic

1 childhood, a lack of what many of us would  
2 consider adequate supervision by parents that  
3 contributed to, at the age of five, finding  
4 marijuana around his house.

5 Five-year-olds don't know generally what  
6 marijuana is. And Mr. McKenzie didn't either, but  
7 his brother, his older brother, knew what it was.

8 And without parents around to discuss those  
9 things with them, at the age of five, Norman  
10 McKenzie was shown how to smoke marijuana.

11 And you're going to hear that that  
12 escalated -- or there wasn't constant drug use at  
13 the age of five, but you're going to hear that by  
14 the time he was 11, he was living in Georgia in  
15 a -- in a home with his family, that he had  
16 friends who -- they were allowed to go out, do  
17 whatever they wanted, and he learned how to huff  
18 spray paint cans or Pam aerosol cans or some sort  
19 of varnish protection for art.

20 But he learned when he was 11 years old that  
21 if he huffed that with his friends, he would  
22 experience what he believed to be pretty cool  
23 hallucinations.

24 That spiralled from age 11, 12 to his first  
25 cocaine use at the age of 14. And then,

1           essentially, from the time he was 16 until October  
2           of 2006, constant cocaine use when he was in --  
3           when he was not in custody.

4           However, there were times when he could get  
5           clean, but it always spiraled. And what you're  
6           going to hear is that that drug use is not  
7           presented to excuse what happened, but you're  
8           going to hear testimony about how, at the age of  
9           five, at the age of 11, at the age of 14, what  
10          these drugs can do to someone's brain when it's  
11          still developing, the effects of drugs on an  
12          adolescent's brain and how that affects their  
13          thinking as they get -- as they get into  
14          adulthood.

15          And you're going to hear the chronic use of  
16          cocaine, even into adulthood, how that continues  
17          to affect someone's brain and impairs them so that  
18          they don't appreciate what their actions are and  
19          can't control their actions when they're under the  
20          influence at the time.

21          You're going to hear about the cycle of drugs  
22          in his life, that he would use drugs, get in  
23          trouble such as the incident in 1984, he would get  
24          in trouble, end up in jail, would get clean in  
25          jail, but never given any tools to deal with that

1           once he got out.

2                     He would get out, would be clean for a little  
3           bit, presented himself well, would get a job  
4           somewhere. He'd get a job, and with a job came  
5           money. With money came drugs.

6                     And, again, in 1990, he's on drugs and gets  
7           in trouble. He did serve a long, long time at  
8           that point. And by the time 2006 came around, he  
9           was running with some people that did a lot of  
10          drugs.

11                    You're going to hear from one of those people  
12          who will talk about 2005 and 2006 and her  
13          relationship with Mr. McKenzie, who he was as a  
14          person, that she had her own issues and he  
15          actually, to an extent, helped her.

16                    While he was using drugs, that he was always  
17          a good person to her and never treated her like  
18          some of the other people around them at that time  
19          did.

20                    By the time 2006 rolls around, he's gotten a  
21          decent job here in the area. Along with helping  
22          Randy Peacock and Charles Johnston with the rental  
23          property, he's working for another construction  
24          company as a foreman, reading blueprints, doing  
25          things like that.

1           And he relapses. And, essentially, starting  
2           from July of 2006 until October 4th, October 5th  
3           of 2006, it's a constant binge of intravenous use  
4           of cocaine.

5           You're going to hear again what that would  
6           have done to him and how that would have affected  
7           his ability to appreciate the criminality of his  
8           conduct and the extreme mental and emotional  
9           disturbance he would have been under.

10          You'll hear that for at least a week up to  
11          October 4th, it was a constant, constant binge of  
12          cocaine.

13          In interviews that the State has already  
14          mentioned you're going to see, he tells the  
15          officers that.

16          He tells the detectives he hasn't slept in  
17          nine days, that he's constantly been using these  
18          drugs, how paranoid the drugs made him, that he  
19          thought that he was being followed wherever he  
20          went.

21          And those robberies in 2006 that the State  
22          has mentioned, those were all in that time period,  
23          in that seven-day, ten-day time period. They're  
24          all right around that time, contemporaneous with  
25          these murders.

1           He's going to tell you -- he tells the  
2           detectives about the terrible decisions. He never  
3           hides any of it. He's never hidden that. He told  
4           the detectives what happened.

5           You're going to see that the acts that have  
6           brought us here today are someone that's clearly  
7           not thinking clearly and not -- he's not planning  
8           it out. There was no heightened premeditation for  
9           the aggravator of cold, calculated, premeditated.

10          He went -- he told the officers, just as --  
11          as the state attorney's office has told you, he  
12          went to the house in his car.

13          He didn't have some kind of weapon with him.  
14          This was -- while he was there, it dawns on him.  
15          I guess you should get a weapon. That's why he  
16          asked for it. He didn't take a weapon with him.

17          After he committed the murders, he didn't try  
18          to hide that weapon. He didn't take it with him  
19          to dispose of it. He left it at the scene.

20          This is not someone that had planned this out  
21          well in advance or had that additional time to  
22          reflect on it.

23          Not only that, he drove there in his gold  
24          Kia, registered in his name, and he leaves that  
25          there. He leaves basically the biggest piece of



1 evidence for the detectives to know who did this  
2 when it's investigated. And he could have taken  
3 his car and potentially never been found at that  
4 point.

5 However, because he's clearly not thinking,  
6 because of the drug use, he leaves his car there  
7 and goes off.

8 And then, ultimately, as he's fleeing,  
9 because of drugs, he commits the other offenses  
10 the State's talked about.

11 Like I said, when he's arrested, he doesn't  
12 hide what happened. He doesn't deny his guilt.  
13 He cooperates. He admits to the murders.

14 He tells the officers then that I've been  
15 using cocaine. I've been injecting cocaine for a  
16 long time, and definitely the last seven days,  
17 constantly.

18 It's not just an excuse now in 2019. It's  
19 what he told them then, exactly what happened.

20 Aside from his drug use and his childhood,  
21 you're going to see art that Mr. McKenzie has  
22 created.

23 Often we hear about criminals and art they've  
24 created while in prison, and you see these things  
25 with dark demented paintings, drawings.

1           That's not what Mr. McKenzie has created.  
2           Since 2007 -- as the judge told you, he's been  
3           previously convicted. Since 2007, he's  
4           continually created art that is bright. It's --  
5           I'm not an art critic, but it's bright. It's  
6           beautiful. It's of nature. It's of people, um,  
7           that he creates.

8           Not portraits of people sitting, but stuff  
9           that he's created while he's been in prison, of  
10          nature, birds, um, the St. Augustine pier, the  
11          Spanish Mission, the cross of the Spanish Mission,  
12          things that he's created that have these -- these  
13          bright effects, not grotesque, not dark art.

14          And that's something about Mr. McKenzie that  
15          shows that when he's had this time clean and  
16          sober, that he's redeemable. And that's  
17          mitigation about his character and something that  
18          supports a life sentence.

19          What mitigation is, and this mitigation  
20          you're going to hear, it's whatever is important  
21          to you in support of a life sentence.

22          It doesn't matter whether it's important to  
23          anyone else. As you were told, the aggravators,  
24          each of you are going to have to unanimously  
25          decide whether or not the State has proven those,

1 but mitigation each of you can come up with  
2 individually.

3 You can give mitigation whatever weight you  
4 believe it deserves. You can give the weight of  
5 life to any one piece of mitigation regardless of  
6 how any other juror may feel about it and  
7 regardless of the aggravators you have found.

8 If you take, for instance, one of the  
9 paintings and say, you know what, that painting  
10 right there shows that Mr. McKenzie should be  
11 given life without parole, that could -- that's  
12 your verdict.

13 You don't have to talk about it with anybody  
14 else. If you say that painting means that he  
15 should get life, then Mr. McKenzie gets life.

16 Everyone in this courtroom -- the judge, the  
17 State, the defense -- will respect your decision  
18 if that's what it is. Whatever it is, we will  
19 respect it.

20 And each of you must respect the decision of  
21 each other juror, even if you disagree. The  
22 process only works when we all do that and we  
23 honor and respect the right of each juror to make  
24 your own pores -- personal moral decision without  
25 demanding that you explain yourself or applying

1 pressure or intimidation.

2 As long as each of you faithfully and  
3 conscientiously follows the law and comes to a  
4 principal decision, you have done your job.

5 And that's what this is, coming to a  
6 principal, moral, individual decision about  
7 whether or not Mr. McKenzie gets life without  
8 parole or a death sentence.

9 And we believe with all the mitigation, that  
10 if you just take one thing from it, you'll see  
11 that Mr. McKenzie should get life without parole.

12 Thank you.

13 THE COURT: Okay. Thank you, folks. That  
14 concludes the opening statements of the  
15 attorneys --

16 Yes?

17 JUROR JONES: We don't have pens.

18 THE COURT: You don't have pens?

19 Can we get some pens, please? We'll put a  
20 couple extras over there, also.

21 (The bailiff distributed pens to the jurors.)

22 THE COURT: If you haven't reached into your  
23 envelope yet, please check to see if you have a  
24 pen.

25 Okay. Need one more. All right. Everybody

1 good?

2 (The jurors answered in the affirmative.)

3 THE COURT: Okay. All right. That concludes  
4 the opening statements of the attorneys. We'll  
5 now begin with the presentation of the evidence,  
6 and we'll start with the State's case.

7 Mr. Johnson, you may call your first witness.

8 MR. JOHNSON: The State calls Perry Privette.

9 (The witness entered the courtroom.)

10 THE COURT: Mr. Privette, if you'll come  
11 right up here to the witness stand where the  
12 little monitor is right here.

13 THE WITNESS: Good morning.

14 THE COURT: Good morning. Right over here.

15 THE WITNESS: Thank you.

16 THE COURT: And if you'll remain standing  
17 when you get here, I'll have the clerk administer  
18 the oath to you.

19 THE WITNESS: Thank you.

20 THE COURT: If you'll raise your right hand,  
21 please.

22 THE CLERK: Do you swear or affirm that the  
23 testimony you're about to give will be the truth,  
24 the whole truth, and nothing but the truth?

25 THE WITNESS: Yes, I do.

1 THE COURT: Thank you. You may be seated.  
2 Mr. Johnson, you may inquire when you're  
3 ready.

4 MR. JOHNSON: Thank you, your Honor.

5 PERRY PRIVETTE  
6 was called as a witness and, after having been first  
7 duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. JOHNSON:

10 Q Good morning, sir. How are you?

11 A Good morning. I'm fine. Thank you.

12 Q Sir, can you introduce yourself to the jury.

13 A Yes. My name is Perry Privette. I work at  
14 Flagler Hospital. And I had the privilege of having  
15 Randy as one of my very best and finest friends.

16 Q Now, Mr. Privette, you live here in  
17 St. Augustine?

18 A Yes.

19 Q And how long have you lived here?

20 A Since 1989.

21 Q What do you do for a living? I know you said  
22 you worked at Flagler Hospital.

23 A Yes. I'm a respiratory therapist.

24 Q And how long have you been in that line of  
25 work?

1           A     Thirty years.

2           Q     You mentioned that you knew Randy Peacock; is  
3 that correct?

4           A     That's correct.

5           Q     And how did you know him?

6           A     I first met Randy as an instructor in  
7 respiratory school, um, was hired then after school by  
8 Flagler Hospital.

9                     And a short time later, Randy became an  
10 employee of Flagler Hospital. So we were not just  
11 friends, but co-workers.

12          Q     Now, you said that you met him as the  
13 instructor. Who was the instructor?

14          A     Randy was the instruct -- one of the  
15 instructors at Flagler Career Institute.

16          Q     And you were one of his students?

17          A     Yes.

18          Q     And you said that after you, I guess,  
19 graduated, so to speak, you went to work at Flagler  
20 Hospital?

21          A     That's correct.

22          Q     And shortly thereafter, Randy came there to  
23 work, as well?

24          A     That's correct.

25          Q     And did you guys work in the same department?

1 A We did.

2 Q Now, what part of the hospital did you work  
3 in?

4 A The respiratory department. Um --

5 Q And so that's the same place you work at  
6 today?

7 A Yes.

8 Q Who was your supervisor in the department at  
9 that time?

10 A Julie Aubrey.

11 Q Now, what exactly -- what kind of duties did  
12 you and Randy Peacock have there at the hospital?

13 A We worked with outpatients, a procedure called  
14 a pulmonary function test. If you were my patient, you  
15 would come spend about an hour with me.

16 And we would evaluate several pulmonary issues  
17 and, uh, things that you may deal with and hopefully  
18 find some ways to add a little quality to your life.

19 Q How long did you work with Randy in that  
20 department?

21 A In that particular capacity, I'm -- I'm going  
22 to say ten years.

23 Q How would you describe your relationship with  
24 Randy Peacock?

25 A Fantastic. Again, I only knew him as an



1 instructor in school, so it wasn't on a personal level.  
2 When we became co-workers, a friendship was struck up  
3 to the point where Randy was the best man at my  
4 wedding.

5 Q How would you describe your friendship with  
6 him?

7 A Fantastic. He was just the sweetest guy,  
8 could put me at ease at any time. He was a very  
9 encouraging fellow.

10 Not only was he an instructor at the  
11 respiratory school that I went to, when I wanted to  
12 become licensed to learn how to do pulmonary function  
13 testing, Randy was already licensed.

14 And he became quite a mentor for me during  
15 that, and that was -- I'm still grateful for.

16 Q Would you describe him as your best friend?

17 A Yes.

18 Q Did you ever hang out with him?

19 A Yes.

20 Q Can you talk about that a little bit?

21 A Oh, sure. Randy, crazy man, he liked football  
22 as much as I did, uh, loved God, loved politics. Don't  
23 go political unless you can hold your own.

24 Um, and just basically, you know, just  
25 comfortable, enjoyable relationship. Good friends.

1 Q How was he as a hospital employee?

2 A Uh, the best. Um, you'd be hard-pressed to  
3 find somebody who really didn't like Randy. And I can  
4 truly say that because he just had the personality of  
5 being an encourager.

6 I'm trying to remember days he might not have  
7 smiled, and he was human so I'm sure there were times,  
8 but really, that's -- that's far and few between.

9 Uh, he was a very jovial person. He was just  
10 excited about life.

11 Q I want to take -- I want to take you back to  
12 October the 5th, 2006.

13 A Okay.

14 Q That was a few years ago, but I want to ask  
15 you, today in 2019, do you remember that day?

16 A Yes.

17 Q Did you work that day?

18 A Yes.

19 Q Do you recall what time of the day you began  
20 work?

21 A Yes. 6:30 a.m.

22 Q And what did you have on your work agenda that  
23 morning?

24 A Uh, we were a pretty busy, uh, pulmonary  
25 function lab at the time. So I believe we had at least

1 ten patients.

2 Your -- you would be scheduled, you know, per  
3 hour, as I said, with each individual. So our agenda  
4 that day would be to see, uh, two -- ten patients  
5 apiece.

6 We had two pulmonary function managers at the  
7 time. I would see ten. Randy would see ten.

8 Q Can you kind of describe a pulmonary function  
9 lab? A lot of people -- not being a respiratory  
10 therapist, some folks may not know exactly what that  
11 entails.

12 What is respiratory therapy? What is it the  
13 pulmonary function lab does, and how does it treat  
14 patients?

15 A Sure. Um, unlike, uh, if you were a patient  
16 in the hospital and I was your respiratory therapist,  
17 of course, my job is to come and get you back on your  
18 game, deliver any respiratory medications that I need  
19 to, anything I need to do, if it means critical, an  
20 emergency, whatever your end means.

21 As a pulmonary function therapist, though, you  
22 come to me and there are two basic reasons. Either we  
23 already know you have a pulmonary issue that's  
24 debilitating your life, and we want to learn what might  
25 be the causes.

1                   Um, if we can learn what are the causes, then  
2 we might be able to help you, help you meaning, uh,  
3 deliver medication after I've already assessed and  
4 found out where you're at and what you're dealing with.

5                   I can deliver medication, run you through all  
6 my battery of tests again, and, hopefully, find that  
7 you have benefited from that.

8           Q       Very simply, and correct me if I'm wrong here,  
9 but is it to help people breathe better?

10           A       Absolutely. And to improve the quality of  
11 your life if we can.

12           Q       So you had indicated that you had about ten  
13 witnesses [verbatim] lined up on the morning of  
14 October 5th of 2006?

15           A       That would be an average. Yes.

16           Q       And was Randy Peacock scheduled to work that  
17 day?

18           A       Yes, he was.

19           Q       And what kind of -- what kind of work agenda  
20 did he have lined up for that morning?

21           A       The same thing. He was very conscientious and  
22 enjoyed doing what he did, so, uh, the same thing.  
23 We -- our labs were next to each other, which was very  
24 beneficial. If I needed any advice from him, I could  
25 get it and vice versa.

1 Q So you and he were scheduled to work the same  
2 day?

3 A Yes.

4 Q At the same time that day, correct?

5 A Yes.

6 Q Did he arrive at work?

7 A No, he did not.

8 Q Now, you mentioned coming in at 6:30 and  
9 having patients to see, both you and Randy Peacock?

10 A Correct.

11 Q Approximately what time was it that you were  
12 supposed to start meeting with patients?

13 A I believe around 7:30 usually.

14 Q And did the patients, in fact, start showing  
15 up for their appointments?

16 A Yes.

17 Q Including Randy's patients?

18 A Yes.

19 Q So when Randy Peacock didn't show up in order  
20 to see his patients, what happened there?

21 A Well, of course, there was a little bit of  
22 panic. Um, especially when you know you have a  
23 conscientious co-worker, you're surprised. Um...

24 Q Was this within character for him --

25 A Absolutely not.

1 Q -- to even be late?

2 A I don't recall him ever even being late.

3 Q Okay. So -- so what did you or the other  
4 employees there do?

5 A Uh, contain our panic, uh, wondering how in  
6 the heck are we going to help everyone that's in the  
7 lobby. I think we just sped up the game as much as we  
8 could.

9 And I know that I started making a lot of  
10 phone calls, um, without success.

11 Q To who?

12 A To -- to Randy, uh, to his friend Charlie.  
13 Uh, at one time I thought perhaps I was calling  
14 hospitals.

15 I don't think I really did that. I remember  
16 the thought coming to my mind that possibly he's been  
17 in a car wreck.

18 Um, we're all human. Perhaps he really did  
19 forget he was supposed to be at work, way out of  
20 character, but --

21 Q Now, you said you called. Did you call a home  
22 phone number?

23 A A cell phone number, a home phone number  
24 several times, yes.

25 Q Okay. And what about his patients? Did you

1 start helping kind of see his patients?

2 A As -- as best we could, uh, yes. We had to  
3 corral a lot of things, but as best as we could.

4 Q Now, you mentioned your supervisor at the time  
5 was a woman by the name of Julie Aubrey?

6 A Yes.

7 Q Did you notify her of Randy's absence?

8 A Oh, yes.

9 Q Okay. And did she also make efforts to try to  
10 reach him?

11 A Uh, she did.

12 Q Now, you started around 7:30 seeing patients.  
13 Approximately what time were you able to kind of  
14 alleviate the backlog there?

15 A About 11, 11:30.

16 Q And what did you do from there?

17 A At that point we made the decision -- Randy  
18 lived pretty far out where most people would not know  
19 how to get to his home. I did.

20 So it's 11, 11:30 and Julie and I made the  
21 decision to go to his house, check him out. Maybe he  
22 overslept. Who knows?

23 Q Now, had you ever been to the house before?

24 A Yes.

25 Q And you mentioned that he -- he lived with

1 somebody there. What was his name again?

2 A Charlie Johnston.

3 Q Did you know Charlie?

4 A Yes.

5 Q All right. How well did you know him?

6 A Not nearly as well.

7 Q Okay.

8 A Um, I would go over to their house sometimes.  
9 We -- they would entertain. We'd either, again, watch  
10 football or hang out on the back patio, things like  
11 that.

12 So I got to know Charlie and -- enough to know  
13 that this is a pretty nice gentleman, also.

14 Q So you and Julie Aubrey left the hospital and  
15 drove to Randy Peacock's house, correct?

16 A Yes.

17 Q And do you recall approximately what time that  
18 was?

19 A About 11:30.

20 Q All right. Drove your car?

21 A Yes.

22 Q And what did you do when you arrived at his  
23 house?

24 A The first thing we noticed was that Randy's  
25 car was not there. So that --



1 Q What --

2 A -- got our attention.

3 Q What kind of car did Randy have at the time?

4 A A Chrysler Sebring.

5 Q All right. Where did you -- when you got  
6 there, where did you park?

7 A When you pulled up to Randy's house, the  
8 driveway is facing just to the east of the house. And  
9 the first thing we noticed, if you want to go through  
10 the front door, you would -- you would simply, you  
11 know, go to the south side there.

12 And we noticed that the outside porch light  
13 was still on. And that struck us as odd. It was 11:30  
14 in the morning.

15 Q All right. So did you -- you and Julie go to  
16 the front door?

17 A Yes.

18 Q All right. And what did you do when you got  
19 to the front door?

20 A Banged on it, hollered, hit the doorbell, um,  
21 made as much racket and noise as we possibly could. We  
22 tried to look through the front windows, but the shades  
23 were closed. Couldn't see anything.

24 Q Did anybody ever answer the door?

25 A No.

1           Q     Where did you go after you got done knocking  
2 on the front door?

3           A     Decided to go around to the back.  Thought  
4 perhaps, you know, again, uh, hoping we'll find him  
5 just hanging out at the pool.  He forgot he was off  
6 work or something -- or supposed to be at work, and so  
7 we went around to the back side of the home.

8           Q     All right.  Did you knock on the back door?

9           A     Uh, we did.

10          Q     Did you get an answer?

11          A     No.

12          Q     What did you do from that point forward?

13          A     So we could see through the back door.  It's  
14 like French doors, you know, with a lot of glass.  We  
15 could see, um, things were on.  Everything was on in  
16 the house.

17                     And, uh, they had a pretty big yard, at least  
18 an acre, I would say.  And as impractical as we thought  
19 it might be, they had a very nice exercise building way  
20 towards the back of the yard.

21                     And I thought, you know, we're here.  Let's --  
22 what the heck?  Let's go back there, look and see if  
23 he's -- if they're there.  So we -- so we did.  We went  
24 back to the exercise room.

25          Q     Did you find either Randy or Charlie there?

1           A     No.

2           Q     So what did you do then?

3           A     Well, at that point we decided, okay. Uh,  
4 he's not here. We don't know what's going on, and we  
5 were going to go back. And so we were heading back to  
6 our car --

7           Q     And where did you go from that point?

8           A     Well, what happened was, as we were heading  
9 back to the car, several dogs started running towards  
10 us. I'm going to say five or six dogs.

11                     That certainly got our concern. I knew that  
12 Randy had at least one dog, but here we are making all  
13 this racket and noise, and no dogs were barking.  
14 Nobody's making any sounds.

15                     And these dogs were coming towards us not in  
16 an aggressive manner. In fact, it was very odd, like  
17 did they suddenly get out of the house or something?  
18 What -- where did they come from? So that changed our  
19 plans a bit.

20           Q     Okay. So where did -- rather than going back  
21 to the car, where did you go?

22           A     Right. Well, the plan was to just walk around  
23 the patio, get in the car, and go back to work, but  
24 because of the dogs, um, we decided to give -- go right  
25 back through the patio, screened in.

1                   This time, again, I'm looking through the  
2 front doors. And, again, I see everything on, the  
3 computer on, TV on, chandelier on, all the lights on.

4                   You -- it looked like there -- there had been  
5 some entertainment, you know, glasses and things. And  
6 this time I decided to try the doorknob.

7           Q       Was it locked?

8           A       No.

9           Q       Did you go inside?

10          A       Yes.

11          Q       Now, what -- what was immediately on the other  
12 side of the French doors in the back patio?

13          A       Immediately you walk into -- I guess you call  
14 it, like, a Florida room where you would -- sure, you  
15 have a living room, but the Florida room is where you  
16 would have your TV and hang out and, you know, have  
17 your guests.

18                   Uh, so when we walked in, uh, it wasn't a very  
19 big house. I didn't have to take too many steps, but  
20 for whatever reason, it really struck me again that  
21 every appliance in the house was on.

22                   And so I -- I walked up to a -- a computer, a  
23 computer screen, just -- just to look at it and see  
24 that it's giving me the save screen. Uh...

25          Q       Now, when you walk in the house, is Julie

1 Aubrey still with you?

2 A Yes.

3 Q Okay. So both -- and both of you went into  
4 the house, correct?

5 A Yes.

6 Q And so when you and Julie Aubrey walk in the  
7 house, which direction --

8 A Side by side. She's on my right.

9 Q Okay. Which direction did you go when --

10 A I go straight. She goes towards -- she  
11 takes -- she goes towards the kitchen --

12 Q Okay. So --

13 A -- to -- away from my right.

14 Q Okay. So she goes to the right where the  
15 kitchen was located?

16 A Correct.

17 Q And you kind of just went straight on?

18 A Correct.

19 Q So what happened next?

20 A It only took seconds. Uh, I heard a gasp.

21 Q And from who?

22 A From Julie. No words, just a nice good gasp,  
23 and I knew what it meant.

24 Q So what did you do in response to that?

25 A Took four, five steps to Julie, looked over

1 the counter, I see Randy on the floor. Um, I know  
2 immediately he's dead, and it's not fresh.

3 Q So you said you found Randy. He was in the  
4 kitchen?

5 A Yes.

6 Q And how was he laying?

7 A He was laying facedown on the floor in the  
8 kitchen in front of his stove.

9 Q You said you knew immediately that he was  
10 dead?

11 A Immediately.

12 Q What -- what did you see that made you  
13 conclude that?

14 A Uh, a large pool of blood, very, very dark.  
15 Um, there's a term called mottling.

16 Mottling means when a person dies and just --  
17 you're not moved, and you stay in one place for a  
18 length of time. All your blood pools down, so it  
19 changes your -- the way you look.

20 And if you've ever seen it before, you only  
21 need to see it once. And I -- I knew immediately.  
22 Randy had been dead for a bit.

23 Q Were you -- what was going through your mind  
24 at that point?

25 A In my mind was I thought Randy was shot. And

1 I say that because he was wearing a red -- excuse me --  
2 a white T-shirt.

3 And, uh, within those few seconds, I could see  
4 that he had a red dot on his back. I truly interpreted  
5 that to be a gunshot.

6 And my instinct told me whoever did this was  
7 still in the house and was about to kill us.

8 Julie is standing to my left. And I made an  
9 instant decision, we got to get out of here. And I  
10 didn't want to give her time to think about it.

11 I just grabbed her by the back of the shirt,  
12 and we just ran out the back French doors. And because  
13 I thought it was a gunshot wound and because I believed  
14 the person was still in the house, I made Julie and I  
15 run all the way to the driveway 'cause I thought, you  
16 know, if he's in the house, he can see us, boom.

17 Q So what did you do when you and Julie got out  
18 of the house?

19 A Called 911.

20 Q Did law enforcement --

21 A I'm sorry?

22 Q -- respond to the scene?

23 A I'm sorry?

24 Q Did law enforcement respond to the scene?

25 A Yes.

1 Q And did you provide a statement to law  
2 enforcement?

3 A Yes.

4 MR. JOHNSON: May I approach the witness,  
5 your Honor?

6 THE COURT: You may.

7 BY MR. JOHNSON:

8 Q Mr. Privette, I'm showing you what's been --

9 MR. JOHNSON (to clerk): What was this  
10 number?

11 (Mr. Johnson conferred with the clerk.)

12 BY MR. JOHNSON:

13 Q Showing you what's been entered into evidence  
14 as State's Exhibit 39, do you recognize that?

15 A I sure do.

16 Q And what do you recognize that to be?

17 A I recognize two wonderful people.

18 Q Who is that?

19 A That's Charlie Johnston and that's Randy  
20 Peacock. And I believe that's Yellowstone Park.

21 Q And is that a fair and accurate photograph of  
22 them --

23 A It sure is --

24 Q -- close to October the 5th of 2006?

25 A Yes.



1           MR. JOHNSON: May I publish the photograph,  
2           your Honor?

3           THE COURT: You may.

4           MR. JOHNSON: May I pass it, your Honor?

5           THE COURT: You may.

6           (State's Exhibit 39 was published to the  
7           jury.)

8           THE COURT: It's actually on the screen now,  
9           folks. We got that working.

10          BY MR. JOHNSON:

11           Q     While we have this photograph, Mr. Privette,  
12           on the screen, can you tell us which one is Randy and  
13           which one is Charlie?

14           A     Yes. Randy is on the left. Charlie's on the  
15           right with the hat.

16           Q     Randy's the one with the sunglasses?

17           A     Yes.

18           MR. JOHNSON: No further questions.

19           THE COURT: Any cross-examination from the  
20           defense?

21           MR. HAMBURG: No questions, your Honor.

22           THE COURT: Okay. Thank you, Mr. Privette.  
23           You are excused. Have a good day.

24           THE WITNESS: Thank you.

25           (The witness exited the courtroom.)

1           THE COURT: Folks, we're going to go ahead  
2           and take our midmorning recess at this point, our  
3           midmorning break.

4           It's about 10:20, so let's take 20 minutes.  
5           Let's plan on being ready to come back at 10:40.

6           So I'm going to have you go down to the jury  
7           lounge. You're not stuck in the jury lounge. If  
8           you want to step outside and get some fresh air,  
9           that's fine. Just be back in the jury lounge by  
10          10:40, ready to come back.

11          During the break, please do not discuss the  
12          case among yourselves or with anybody else. Don't  
13          communicate with anybody about the case. And  
14          don't do any research about the case.

15          Put your notes in the envelope. Leave the  
16          envelope on your seat. They'll be secured during  
17          the break.

18          We'll see everybody back at 10:40. As soon  
19          as everybody's assembled, we'll get you back up  
20          here.

21          Everybody else stay in the courtroom.

22          (The jury exited the courtroom.)

23          THE COURT: All right. Y'all can be seated  
24          in the courtroom. I would ask everybody to remain  
25          for just a few moments until we get all the jurors

1 moved out.

2 And we'll be in recess until 10:40 and --

3 MR. JOHNSON: Judge, if I can, just for the  
4 record, just advise the Court that I'm releasing  
5 Mr. Privette. He wanted to stay and watch some of  
6 the proceedings --

7 THE COURT: Okay.

8 MR. JOHNSON: -- so I'm going to release him.

9 THE COURT: Defense have him under subpoena?

10 MR. BARRETT: No, Judge.

11 THE COURT: All right. So he can stay. In  
12 recess until 10:40.

13 (Court was in recess from 10:19 a.m. until  
14 10:45 a.m.)

15 THE COURT: Is everybody ready?

16 MR. BARRETT: Yes, Judge.

17 THE COURT: Okay. Let's go ahead and bring  
18 the jury in.

19 (The jury entered the courtroom.)

20 THE COURT: Y'all can be seated when you get  
21 to your seats. That's fine. We'll give everybody  
22 a chance to get settled in.

23 All right. Y'all can be seated in the  
24 courtroom.

25 All right. Welcome back, folks. I hope

1           everybody enjoyed the break. We are ready to  
2           proceed.

3                       We are still in the State's presentation of  
4           the case, so, State, call your next witness.

5                       MR. JOHNSON: State calls Julie Aubrey.

6                       (The witness entered the courtroom.)

7                       THE COURT: Ms. Aubrey, if you'll take the  
8           witness stand right over here by this little  
9           monitor, and if you'll remain standing so the  
10          clerk can administrate the oath to you.

11                      Raise your right hand, please.

12                      THE CLERK: Do you swear or affirm that the  
13          testimony you're about to give will be the truth,  
14          the whole truth, and nothing but the truth?

15                      THE WITNESS: Yes.

16                      THE COURT: Thank you. You can be seated.

17                      Mr. Johnson, you can proceed when you're  
18          ready.

19                      MR. JOHNSON: Thank you, your Honor.

20                               JULIE AUBREY  
21          was called as a witness and, after having been first  
22          duly sworn, testified as follows:

23                               DIRECT EXAMINATION

24          BY MR. JOHNSON:

25                      Q       Good morning, ma'am.

1           A     Good morning.

2           Q     Would you please introduce yourself to the  
3 jury.

4           A     I'm Julie Aubrey.

5           Q     And, ma'am, where do you live?

6           A     I live in Sky Valley, Georgia.

7           Q     And where did you live at previously?

8           A     I -- previously?

9           Q     Yes, ma'am.

10          A     I lived in South Carolina.

11          Q     Okay. And did you ever live in St. Augustine?

12          A     Yes.

13          Q     And when was that? When was that?

14          A     I lived in St. Augustine from 1996 through  
15 2010.

16          Q     And what did you do when you lived in  
17 St. Augustine? What did you do for a living?

18          A     I am a respiratory therapist, and I am a  
19 manager of a department and was there -- I was a  
20 manager of a department at Flagler Hospital.

21          Q     Did you know an individual by the name of  
22 Randy Peacock?

23          A     Yes.

24          Q     And how did you know him?

25          A     He was a co-worker. And as I advanced in my

1 profession, I became -- he was my subordinate.

2 Q All right. And what department did you work  
3 in there at Flagler Hospital with Mr. Peacock?

4 A The whole department was cardiopulmonary  
5 department. That included respiratory therapy, um, the  
6 pulmonary lab, sleep lab, and the ultrasound techs of  
7 cardio.

8 Q Did you know an individual by the name of  
9 Perry Privette?

10 A Yes.

11 Q And did he also work there in the pulmonary  
12 department?

13 A Correct.

14 Q I want to take you, Ms. Aubrey, specifically  
15 to -- before I do that, let me ask you this, 'cause you  
16 said that you were Randy Peacock's supervisor.

17 Can you talk to us a little bit about what  
18 kind of employee Randy Peacock was?

19 A Randy was a very dedicated, loyal employee.  
20 He was one that you could always rely on. He had his  
21 job to do, but if somebody else needed any assistance  
22 in getting through a hump in their day, you could  
23 always rely on Randy to pitch in and do what he could  
24 to help you through that hump.

25 Um, reliable is an understatement. Um, and

1 he -- he was just the best. He -- he was so dedicated  
2 and loyal.

3 Q Was he ever recognized at Flagler Hospital for  
4 the work he did?

5 A Yes. He got department employee of the month  
6 and went on from there and became hospital employee of  
7 the year.

8 Q And this is for all of Flagler Hospital?

9 A That's for the entire hospital.

10 Q All of the --

11 A Yes.

12 Q -- hundreds of employees that work there?

13 A Yes.

14 Q I want to take you, Ms. Aubrey, specifically  
15 to October the 5th of 2006. That was quite a while  
16 ago.

17 Do you remember that day?

18 A I do.

19 Q Did you work there at Flagler Hospital that  
20 particular day?

21 A Yes.

22 Q Was Randy Peacock scheduled to work?

23 A He was scheduled to work. Yes.

24 Q And what -- what hours was he scheduled to  
25 work that particular day?

1 A He was scheduled to work seven to three.

2 Q Okay. Now, I want to back up just one day.  
3 Did you -- did Randy work the day before, October the  
4 4th?

5 A Yes.

6 Q And what hours was he scheduled to work that  
7 day?

8 A The same --

9 Q All right.

10 A -- seven to three.

11 Q And did he actually complete his hours, or did  
12 he have to leave early?

13 A He -- he may have left right after three.

14 I -- I was thinking that he left early. He may not  
15 have --

16 Q Okay.

17 A -- but he --

18 Q Well, did he indicate there was some problem  
19 to you?

20 A He didn't feel good. He -- he was uneasy  
21 about something.

22 Q Okay. And so -- so he had communicated that  
23 he wasn't feeling well?

24 A Correct.

25 Q So going to October the 5th of 2006, did Randy



1 show up for work?

2 A Yes -- no.

3 Q October 5th.

4 A I'm sorry.

5 Q You're a little nervous, aren't you?

6 A I'm very nervous.

7 Q It's okay. We're all friends here. So let's

8 talk about October the 5th of 2006.

9 Did he show up for work that day?

10 A Yes. Six -- no. Sorry.

11 Q October the 5th, did he show up for work?

12 A No.

13 Q Okay.

14 A Sorry.

15 Q So was Mr. Privette there?

16 A Yes.

17 Q Did Randy have patients that he needed to see

18 that particular day?

19 A Yes.

20 Q All right. So what happened with all of the

21 patients that Randy was supposed to see that particular

22 day?

23 A Um, I really, at that point, didn't know what

24 was going on. Um, I think Perry was trying to do as

25 many as he could.

1           I was trying to get all the other res -- I was  
2 trying to get the day going as the -- as the manager  
3 and trying to get all the other therapists going with  
4 their day.

5           Q     At some point was it brought to your attention  
6 that Randy wasn't there?

7           A     Yes.

8           Q     And did you make some efforts to reach out to  
9 Randy?

10          A     I did.

11          Q     Make phone calls?

12          A     Calls to his home, yes.

13          Q     Okay. At some point in time, did you or  
14 anyone there in your department decide to check on  
15 Randy?

16          A     Yes.

17          Q     And who was that?

18          A     Perry and I.

19          Q     Okay. And what did y'all decide to do?

20          A     Um, well, after the multiple phone calls and  
21 not getting any reply, we decided to drive out to his  
22 home.

23          Q     Okay. And who drove?

24          A     Perry.

25          Q     Had you ever been to Randy Peacock's home?

1           A     I had not.  No.

2           Q     So what did you and Perry do when you got  
3 there?

4           A     We went to the front door and noticed that the  
5 front light was on, and the shades were pulled in the  
6 windows.  It -- it -- and we knocked on the door and  
7 got no answer.

8                     Perry had been at Randy's times before, so he  
9 knew the property.  And from there, we drove -- sorry.  
10 We walked down to another building that Randy had  
11 converted into an exercise room.

12                    Perry thought, well, maybe he's working out.  
13 At that point we were kind of figuring that he'd just  
14 forgot that he was supposed to work, which would have  
15 been a little unusual, but can happen.

16                    Anyway, we got to the building, lights were  
17 off, door was locked.  Um, we could peer in the window  
18 a little bit, and it was dark.  So, obviously, he  
19 wasn't there.

20                    And we walked back -- started walking back to  
21 the house and were greeted by, um, four, five friendly  
22 dogs.

23                    And we thought that was unusual 'cause they  
24 weren't barking or anything that we remembered hearing  
25 when we knocked at the front door originally.

1                   So we walked up and we said, you know,  
2 let's -- let's go and see how these dogs got out or  
3 where they came from. So we went into the back porch,  
4 and, um, we decided to try the door and it opened.

5           Q       So did you and Perry enter the house?

6           A       Yes.

7           Q       And kind of both of you together?

8           A       Yeah.

9           Q       And which direction do you go?

10          A       I went to the right, and Perry went to the  
11 left. There were lights on. A computer was on. It  
12 was like, you know, maybe they had gone to bed and  
13 forgot to shut everything off, that type of atmosphere.

14                   Um, no big lights were on, but there was a  
15 table lamp on. The direction that I took -- I had  
16 never been in the house, so I didn't know really where  
17 I was going, but it was toward the kitchen.

18                   And I walked past the, um, island of the  
19 kitchen and looked in and saw Randy on the floor,  
20 facedown.

21          Q       How would you describe his physical condition?

22          A       Well, he was obviously hurt. Um, there was  
23 significant blood. And being in the medical  
24 profession, I, you know, recognized that the blood had  
25 congealed.

1                   So I knew that it was not fresh blood as  
2                   opposed to blood that had been sitting there. Um, and  
3                   I really took a good look and saw that he wasn't  
4                   breathing.

5                   At that point I, you know, kind of let out a  
6                   scream, and Perry came behind me and saw Randy and said  
7                   we got to get out of here.

8                   His first thought, not mine, Perry's smart  
9                   thought was that whatever happened to Randy, that  
10                  person is still in the house, so we need to get out of  
11                  there so we're not injured. So we ran out and then I  
12                  immediately called 911.

13                 Q     And law enforcement arrived --

14                 A     Yes.

15                 Q     -- at the scene?

16                 MR. JOHNSON: I have nothing further, your  
17                 Honor.

18                 THE COURT: Any cross-examination?

19                 MR. BARRETT: No questions, your Honor.

20                 THE COURT: Thank you, Ms. Aubrey. You are  
21                 excused. Have a good day.

22                 THE WITNESS: Thank you.

23                 (The witness exited the courtroom.)

24                 THE COURT: State, call your next witness.

25                 MR. JOHNSON: State calls Commander Timothy

1 Burren.

2 (The witness entered the courtroom.)

3 THE COURT: Commander Burren, if you'll take  
4 the witness stand right over here. And if you'll  
5 remain standing when you get there so the clerk  
6 can administer the oath.

7 THE WITNESS: Yes, sir.

8 THE COURT: Thank you.

9 THE CLERK: Do you swear or affirm that the  
10 testimony you're about to give will be the truth,  
11 the whole truth, and nothing but the truth?

12 THE WITNESS: I do.

13 THE COURT: Okay. You may be seated.

14 THE WITNESS: Thank you, sir.

15 THE COURT: Mr. Johnson, you may inquire when  
16 you're ready.

17 MR. JOHNSON: Thank you, your Honor.

18 TIMOTHY BURREN

19 was called as a witness and, after having been first  
20 duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. JOHNSON:

23 Q Good morning, sir.

24 A Good morning.

25 Q Would you introduce yourself to the jury.

1           A     I'm Commander Timothy Burren. I work for the  
2 St. Johns County Sheriff's Office.

3           Q     And how long have you worked with St. Johns  
4 County Sheriff's Office?

5           A     Nineteen years.

6           Q     What are your current duties?

7           A     I'm the commander for the southwest district.

8           Q     And how many -- since your time there with the  
9 sheriff's office, how many different duties have you  
10 had?

11          A     Uh, started out as a patrol deputy, became a  
12 field training officer. I was a evidence technician on  
13 our shift.

14                 I became a violent-crimes detective, homicide  
15 detective, cold-case detective, internal-affairs  
16 detective, promoted to sergeant.

17                 I was a sergeant in patrol, sergeant in the  
18 district. I was a lieutenant in internal affairs, a  
19 detective in internal affairs, and now as a commander  
20 for the southwest district.

21          Q     Back in October of 2006, what were your  
22 duties?

23          A     I was a violent-crimes detective.

24          Q     Were you working in that capacity specifically  
25 on October the 5th of 2006?

1           A     Yes, sir, I was.

2           Q     At some point that day were you informed of a  
3 double homicide that was discovered within St. Johns  
4 County?

5           A     Yes, sir.

6           Q     And what were you doing when you were notified  
7 of that?

8           A     I had just left a funeral for one of my  
9 co-workers.

10          Q     And how were you notified?

11          A     By my sergeant, who was Jay Lawing at the  
12 time.

13          Q     And do you recall approximately what time you  
14 received that notification?

15          A     Approximately 12:30. It was right around  
16 lunchtime.

17          Q     What information did you have at that  
18 particular time before you actually responded?

19          A     Just that there were two deceased persons on  
20 the property at 7717 Palmo Fish Camp Road. They  
21 believed it to be a homicide and requested I respond.

22          Q     All right. And did you, in fact, respond?

23          A     Yes, sir.

24          Q     And where -- where was the scene located?

25          A     On Palmo Fish Camp Road. If you come down



1 just a little ways off 13, it's a dirt road that goes  
2 to the left. And it was the second trailer on the  
3 right-hand side.

4 Q All right. And what did you see -- and that  
5 was within St. Johns County, correct?

6 A Yes, sir.

7 Q And what did you see when you arrived?

8 A Uh, when I first got there, deputies were on  
9 scene. They were putting up the yellow barrier tape to  
10 mark off the crime scene.

11 Seen multiple patrol units there in response  
12 to the -- the call for service that we had.

13 Q All right. And what did you do when you got  
14 there?

15 A I first spoke with Sergeant Christine Lee in  
16 reference to what information she had.

17 Q And did you learn the identities of the  
18 victims?

19 A Yes, sir.

20 Q And who were they?

21 A Randy Peacock and a Charles Johnston.

22 Q Did they both live at the residence?

23 A Yes, sir, they did.

24 Q And were you advised of the circumstances that  
25 led to the discovery of the victims?

1           A     Yes.

2           Q     And what was that?

3           A     I was informed that Mr. Peacock didn't show up  
4 for work. Two co-workers came to find out if he was  
5 okay. I guess he was suffering from a cold or some  
6 type of illness.

7                     He didn't come to the door. They went to the  
8 rear of the residence, entered inside, and found his  
9 body inside in the kitchen.

10          Q     Okay. Now, with regard to the second victim,  
11 how was he found?

12          A     He was found by one of our patrol deputies.  
13 Once we get on the crime scene, we look for any  
14 victims, survivors, anybody needing medical attention.

15                     And Mr. Johnston was found inside of a shed on  
16 the back side of the property.

17          Q     Now, can you describe the residence as it  
18 appeared to you that day?

19          A     It's a double-wide mobile home. It has a  
20 front porch, a rear porch. It has a small, like, a  
21 detached cottage and has a carport where you can park  
22 your vehicles under.

23          Q     When you arrived on scene, did you make note  
24 of any vehicles that were in the area?

25          A     Yes, sir. There were three vehicles on

1 property. One was a gold Kia. It came back registered  
2 to a Norman Blake McKenzie.

3 There was another vehicle underneath the  
4 carport. I believe it was a silver Mercury. It came  
5 back to Charles Johnston and a Martha Beeman  
6 (phonetic).

7 And another vehicle in the backyard, which was  
8 a white Chrysler, that came back to a Robert Mitchell.

9 Q With regard to the white vehicle that was in  
10 the backyard, you said "Robert Mitchell."

11 A Yeah, Mitchell.

12 Q Were you able to ascertain his whereabouts on  
13 that particular day?

14 A Yes, sir. He was actually in Rhode Island.  
15 And what he would do is he would travel. Randy  
16 Johnston would take him to the airport and drive his  
17 vehicle back and park it until he returned and pick him  
18 up at the airport. And he was actually out of state at  
19 the time.

20 Q Did you locate any vehicles on the property  
21 that were registered to Randy Peacock?

22 A No, sir.

23 Q Did you learn whether or not he owned a  
24 vehicle?

25 A Yes, sir, I did.

1 Q And what type of vehicle did he own?

2 A It was a green Sebring.

3 Q Chrysler?

4 A Yes, sir.

5 Q After you received a briefing upon arriving to  
6 the scene and made note of the vehicles and things of  
7 that sort, what did you do next?

8 A We put out a BOLO for Mr. Peacock's vehicle  
9 since it wasn't there, and we also put a BOLO out for  
10 Mr. McKenzie, as well.

11 Q All right. You had a crime scene, correct?

12 A Correct.

13 Q Did you call anyone to process that crime  
14 scene?

15 A Yes, sir. We called Florida Department of Law  
16 Enforcement or FDLE.

17 Q And just so everybody's familiar with what  
18 they do, what was the purpose of calling FDLE to the  
19 scene?

20 A They do several different functions from law  
21 enforcement to crime-scene processing. And at the time  
22 they were better equipped to process large crime scenes  
23 for us, and we called them to do just that.

24 Q And to collect evidence and photograph the  
25 scene?

1           A     Yes, sir.

2           Q     And preserve the evidence as it appeared at  
3 the time?

4           A     Correct.

5           Q     Did FDLE respond as requested?

6           A     Yes, sir, they did.

7           Q     And after they arrived, did you conduct a  
8 walkthrough of the scene with them?

9           A     Yes, sir. Once they got on scene, so we don't  
10 mess up any type of evidence that may be in there, we  
11 select a couple people to go in and view what we need  
12 to process and how the layout of the home is.

13                     We walked in, made an observation, made some  
14 decisions, and then came back out.

15           Q     What areas of the crime scene did you conduct  
16 a walkthrough?

17           A     Uh, the whole entire residence.

18           Q     Okay. Did you also -- did that also include a  
19 walkthrough of the outside of the residence, including  
20 the shed that you indicated the second victim was found  
21 in?

22           A     Yes, sir. Once we came out of the actual  
23 residence, then we went to the shed where Mr. Johnston  
24 was and conducted -- basically, from the outside, we  
25 looked in to see what, you know, entailed inside the

1 shed.

2 Q Did -- were photographs taken of the scene as  
3 it appeared at the time?

4 A Yes, sir.

5 Q Now, where did you go when -- as you were  
6 conducting the walkthrough with FDLE, where did you  
7 first go?

8 A We came in through the rear of the residence.  
9 There is a set of, like, French doors. We entered in.  
10 You immediately come into a living room type family  
11 room area.

12 Q And did you proceed through the house and look  
13 at the other areas?

14 A Yes, sir. When we came out of the living  
15 room, we go to your right, and that walks you into the  
16 kitchen. And then straight ahead is the master  
17 bedroom.

18 Q All right. What did you see in the kitchen  
19 area?

20 A In the kitchen I observed the body of  
21 Mr. Peacock lying facedown in front of the stove.

22 Q And what condition did he appear to you?

23 A Um, severe trauma to his body, to his person.  
24 At that time I couldn't tell specifically what the  
25 trauma was from.

1 Q Was there a lot of blood?

2 A Large amount of blood. There was some -- he  
3 evidently was cooking at the stove, and there was a  
4 large amount of soup or stew spilled all over the  
5 place, as well.

6 Q Did you see anything in the vicinity that --  
7 that might have been a weapon?

8 A Immediately at that time, no. I didn't want  
9 to proceed too far in because the area was so saturated  
10 with blood. Didn't want to walk straight into it  
11 without processing it first. And we backed up and then  
12 went into the bedroom.

13 Q Okay. And what -- what did you find in the  
14 bedroom?

15 A Uh, the bedroom, the -- the bed appeared as  
16 two people had slept in there recently. Um, there was  
17 two nightstands on each side. The doors swung outward.

18 They appeared to have been opened, but not  
19 pushed all the way through. The -- the main dresser in  
20 the bedroom, one drawer was pulled all the way out, and  
21 the other ones looked like they had been gone through  
22 and then pushed partially closed.

23 Q All right. Where did you go next?

24 A From there, we went to the other side of the  
25 residence, which I believe would be on the north side.

1 There was a bedroom that was converted into, like, a  
2 den and then another bedroom on that side and a  
3 bathroom.

4 Q And then from there, where did you go?

5 A Outside to the shed.

6 Q Okay. What did you see in the shed?

7 A When we approached the shed, inside the shed,  
8 right inside the doorway -- it's about maybe a  
9 eight-by-ten shed -- the body of Mr. Johnston was lying  
10 there on his back, um, face kind of torn -- turned to  
11 his left.

12 Q All right. And what condition did you  
13 observe?

14 A Large amount of trauma to his facial area.  
15 And at that time I wasn't sure what the actual injury  
16 was.

17 Q All right. Did you notice anything within the  
18 shed that may have been a weapon?

19 A At that particular time, no. It was very  
20 cluttered with just common things that are found in a  
21 shed, so we just backed up and decided to start  
22 processing.

23 Q Okay. Eventually, as FDLE processed the  
24 scene -- and I'll ask you this in two parts, one part  
25 for the kitchen and the other part for the shed.



1                   As they began processing the scene, was there  
2 anything that was discovered that indicated that it  
3 might have been a weapon that was used?

4           A     Yes, sir.

5           Q     Okay. What was that?

6           A     In -- in the kitchen, there was a large, um, I  
7 refer to it as a butcher knife, but it was a large  
8 bladed knife.

9                   MR. JOHNSON: May I approach the witness,  
10 your Honor?

11                   THE COURT: You may.

12 BY MR. JOHNSON:

13           Q     Was that collected as evidence?

14           A     Yes, sir, it was.

15           Q     Commander Burren, I'm showing you what's  
16 already been entered into evidence as State's Exhibit,  
17 I believe, 19. Is that the knife that was found?

18           A     Yes, sir.

19           Q     And where was that found again?

20           A     It was in the kitchen sink.

21                   MR. JOHNSON: Your Honor, may I publish this  
22 to the jury?

23                   THE COURT: You may.

24                   (State's Exhibit 19 was published to the  
25 jury.)

1 BY MR. JOHNSON:

2 Q Was there any kind of weapon that was found in  
3 the shed?

4 A Yes, sir. Just right inside the doorway was a  
5 bucket. On top of the bucket was a water pump and, I  
6 think, some extension cords.

7 There was a broom handle lying up against it,  
8 and there was a hatchet, like, a camping size hatchet.

9 MR. JOHNSON: May I approach the witness,  
10 your Honor?

11 THE COURT: You may.

12 BY MR. JOHNSON:

13 Q Showing you what's been entered into evidence  
14 as State's Exhibit 20, do you recognize that?

15 A Yes, sir.

16 Q And what is that?

17 A That's the hatchet located inside the shed.

18 MR. JOHNSON: Your Honor, at this time may I  
19 publish this to the jury?

20 THE COURT: You may.

21 (State's Exhibit 20 was published to the  
22 jury.)

23 BY MR. JOHNSON:

24 Q Now, you had indicated that photographs were  
25 taken, correct?

1           A     Yes, sir.

2           Q     I'm showing you what's been marked for  
3     identification purposes as State's Exhibit -- I believe  
4     that's RR. Can you take a look at that, and tell me if  
5     you recognize those?

6                     (Witness perusing photographs.)

7           A     Yes, sir.

8           Q     And are those fair and accurate photographs  
9     from that day?

10          A     Yes, sir.

11          Q     And you had an opportunity to see what's on  
12     this disc and confirm that those are the photographs  
13     that are printed out there?

14          A     Yes, sir.

15                     MR. JOHNSON: Your Honor, at this time I  
16     would offer State's Exhibit RR into evidence.

17                     THE COURT: Any objection?

18                     MR. BARRETT: No, your Honor.

19                     THE COURT: Without objection, that will be  
20     received as the State's next numbered exhibit, as  
21     a composite exhibit.

22                     (The above-mentioned photographs were marked  
23     into evidence as State's Exhibit 40.)

24                     MR. JOHNSON: May I publish the photos, your  
25     Honor?

1 THE COURT: You may.

2 What's the number?

3 THE CLERK: Forty.

4 THE COURT: Forty, thank you.

5 BY MR. JOHNSON:

6 Q All right. Commander Burren, I'm going to  
7 start here with photograph A of this exhibit, and we'll  
8 just kind of walk through this.

9 I know you've already testified about what you  
10 found that particular day, but tell us what we're  
11 looking at here in photograph A.

12 A This is a small dirt road coming off the  
13 Palmo Fish Camp Road that leads to Mr. Peacock and  
14 Mr. Johnston's residence.

15 Q All right. And moving after photograph A,  
16 what do we see here?

17 A The residence before that. I believe this is  
18 the residence of Karen Pfeiffer. And then the next  
19 residence, which is the white one where the crime scene  
20 van is parked in front of, is the residence of  
21 Mr. Johnston and Mr. Peacock.

22 Q All right. And this is Randy Peacock and  
23 Charles Johnston's home, the front?

24 A Yes, sir.

25 Q What do we see here?

1           A     This was the vehicle registered to Norman  
2 Blake McKenzie.

3           Q     And photograph E?

4           A     That's a side view of Mr. McKenzie's vehicle.

5           Q     Okay.  There on the -- the rear driver's-side  
6 door, what is that?

7           A     Uh --

8           Q     Kind of that area between the drive -- the  
9 front driver's and rear driver's door?

10          A     It's damage to his door area right there.  It  
11 was, like, kind of bent outward and inward.

12          Q     Photograph F?

13          A     Mr. McKenzie's vehicle and Mr. Johnston's  
14 vehicle.

15          Q     And G is just another photograph of the front  
16 of the house, correct?

17          A     Yes, sir, just a little bit further to the  
18 south, or the angle.

19          Q     Photograph H, what do we see here?

20          A     A swimming pool that was in their backyard.

21          Q     Is that the red shed there beyond the pool?

22          A     Yes, sir.

23          Q     And photograph I?

24          A     That's the vehicle belonging to Mr. Mitchell,  
25 who was in Rhode Island at the time.

1 Q And photograph J?

2 A Back porch that leads to the two French doors  
3 that enters inside the home.

4 Q And this is how you entered the home initially  
5 that particular day, correct?

6 A Yes, sir.

7 Q Going to photograph K, what do we see here?

8 A Coming through the double doors, the French  
9 doors, you walk into the living room as I described  
10 earlier.

11 Q And then photograph L?

12 A Just furniture in there and to the right,  
13 around the -- the greenish-colored couch leads into the  
14 kitchen and the bedroom.

15 Q And photograph M?

16 A Picture of Mr. Peacock, um, deceased on the  
17 floor.

18 Q And this is how you found him that day?

19 A Yes, sir, how I first observed him.

20 Q Okay. And there on the stove, what do we see  
21 there on the top of the stove?

22 A It's a large pot. That's what he was cooking  
23 in at the time, um, that the incident occurred.

24 Q And it appears that there's some soup or  
25 something that's spilled over the top of --

1           A     Yes, sir.  Some type of stew or soup, yes,  
2     sir.

3           Q     Photograph N?

4           A     That's the knife, um, that we located in the  
5     sink.

6           Q     Photograph O, what part of the house is this?

7           A     This is in the master bedroom where  
8     Mr. Peacock and Mr. Johnston stayed.  And this is the  
9     dresser that was directly across from the bed.  You can  
10    actually see the bed in the mirror there.

11          Q     And this is exactly how that was found that  
12    day?

13          A     Yes, sir.

14          Q     All right.  And photograph P, is this just a  
15    closeup of that same drawer?

16          A     Yes, sir.  The drawer is open.  And then the  
17    one next to it and, I think, several others looked like  
18    they had been pulled out and then pushed partially back  
19    in.

20          Q     And photograph Q?

21          A     The nightstand next to the bed that had been  
22    opened and not closed all the way.

23          Q     And photograph R, is this that same shed we  
24    discussed earlier?

25          A     Yes, sir, it is.

1 Q And is this where the body of Charles Johnston  
2 was found?

3 A Yes, sir.

4 Q All right. Photograph S?

5 A Uh, it's from outside the shed looking in.  
6 You can see the -- the body of Mr. Johnston lying  
7 towards the back of the shed.

8 Q Photograph T?

9 A Once again, it's a picture of Mr. Johnston  
10 towards the rear. And as I mentioned earlier, there's  
11 the bucket, the water pump, and then you can see the  
12 handle of the hatchet sticking up on the right side of  
13 the water pump.

14 Q I'm going to have you point to that. There's  
15 a lot of stuff in that shed. Can you take this pointer  
16 and point that out?

17 A Yes, sir. The hatchet would be right here on  
18 top of the bucket.

19 Q Photograph U?

20 A Just a closer picture of Mr. Johnston and the  
21 surroundings where we located his body.

22 Q And then V, this is just a closeup of the same  
23 hatchet?

24 A Yes, sir, just taken on the opposite side of  
25 the water pump.



1           Q     Now, Commander Burren, following FDLE  
2     processing the scene and collecting evidence from that,  
3     did you also attend the autopsy of Randy Peacock and  
4     Charles Johnston?

5           A     Yes, sir.

6           Q     While you were there, did you make any  
7     observations in reference to the weapons that were used  
8     and the injuries that were found on their bodies?

9           A     Uh, yes, sir. On Mr. Peacock, we were able to  
10    take the hatchet and mark it up against injuries to the  
11    back side of his head, and it fit perfectly. And that  
12    was the blunt side of the hatchet.

13          Q     Now, was -- you indicated earlier that  
14    following -- during all of that, when you get to the  
15    scene and you make observations of the vehicles that  
16    are on scene and you noted that the gold Kia that was  
17    in the photograph was registered to Norman Blake  
18    McKenzie, put out a BOLO, a be-on-the-lookout for him,  
19    was he eventually taken into custody?

20          A     Yes, sir, he was.

21          Q     And when was that?

22          A     That was in Citrus County on the same day.

23          Q     And were you aware of the circumstances that  
24    occurred between the time that the bodies of Randy  
25    Peacock and Charles Johnston were found and him being

1 taken into custody?

2 A Yes, sir.

3 Q And what was your understanding of the  
4 circumstances that led to his capture?

5 A He had abandoned Mr. Peacock's vehicle in  
6 Gainesville and stole a -- another vehicle that was  
7 parked on the side of the road where I believe a man  
8 was fishing.

9 Uh, he then -- that vehicle became disabled in  
10 Marion County. He requested help. A citizen stopped  
11 and gave him a ride.

12 He had a small collapsable lunchbox that  
13 was -- that actually belonged to Mr. Peacock that he  
14 took from the residence.

15 And he said he had taken his hand and stuffed  
16 it inside and told the guy he had a weapon and made him  
17 get out of his vehicle, and he took his vehicle.

18 He then went into Levy County, where he met a  
19 lady and some children, asked them for directions to a  
20 mall, and then removed the keys from her car, made her  
21 get out with her children, and took her car.

22 He then went into Citrus County, became  
23 involved in a pursuit, eventually wrecked, and was  
24 taken into custody.

25 Q With regard to all those circumstances you

1 just outlined, was there any evidence that was found in  
2 any of the vehicles or on the defendant, Mr. McKenzie,  
3 that was connected to the crime scene?

4 A Yes, sir. I believe in Mr. Peacock's vehicle,  
5 there was some items related to the victims inside the  
6 vehicle, a wallet and some identification.

7 And when he was taken into custody, he had a  
8 wallet on his person that contained, I think, credit  
9 cards or debit cards of both Mr. Peacock and  
10 Mr. Johnston.

11 And he turned it over to Lieutenant Strickland  
12 and said something to the effect of, You'll need this  
13 for evidence.

14 MR. JOHNSON: May I approach the witness,  
15 your Honor?

16 THE COURT: You may.

17 BY MR. JOHNSON:

18 Q I'm showing you what's been entered into  
19 evidence as State's Exhibit 22 and 21. Can you look at  
20 those and tell me if you recognize those.

21 A Yes, sir.

22 Q And are these the wallets and the credit cards  
23 and identifications that were found in the wallets that  
24 were submitted by Citrus County Sheriff's Office by  
25 Deputy Strickland?

1           A     Yes, sir.

2           Q     And who -- whose identifications and credit  
3     cards were found in these wallets that were found  
4     either on the defendant or in the vehicle that he took?

5           A     It was Mr. Peacock and Mr. Johnston.

6                     MR. JOHNSON: Your Honor, may I publish these  
7     to the jury?

8                     THE COURT: You may.

9                     (State's Exhibits 21 and 22 were published to  
10    the jury.)

11    BY MR. JOHNSON:

12           Q     Now, following the defendant being arrested,  
13    were charges filed for the murder of Randy Peacock and  
14    Charles Johnston?

15           A     Yes, sir, they were.

16           Q     Did you ever personally have an opportunity to  
17    come in contact with the defendant and conduct an  
18    interview?

19           A     Yes, sir. I spoke him -- spoke to him on  
20    February 6 of 2007.

21           Q     And you spoke to him where?

22           A     At the St. Johns County Sheriff's Office  
23    inside of one of our interview rooms.

24           Q     Was that February the 6th or February the  
25    15th?

1 A I had -- I believe it was --

2 (Witness perusing documents.)

3 A I had February 6. That could be a --

4 (Witness perusing documents.)

5 A I had logged down February 6th.

6 Q Okay.

7 MR. JOHNSON: May I approach the witness,  
8 your Honor?

9 THE COURT: You may.

10 BY MR. JOHNSON:

11 Q Showing you what's been entered into evidence  
12 as State's Exhibit 3, do you recognize that?

13 A Yes, sir. It's a constitutional rights form.

14 Q Okay. And then do you recognize this right  
15 here, this disc?

16 A Yes, sir.

17 Q And what is on this disc?

18 A The interview conducted with Mr. McKenzie.

19 Q So it was recorded?

20 A Yes, sir.

21 Q And was it recorded in its entirety?

22 A Yes, sir.

23 Q And is this a fair and accurate, although  
24 redacted, version of the interview that you conducted  
25 on February the 6th of 2007?

1 A Yes, sir.

2 Q Now, you indicated that State's Exhibit 3 was  
3 a constitutional rights form.

4 A Correct.

5 Q What's the purpose of that?

6 A To advise the defendant of their  
7 constitutional rights and protections.

8 Q And did you read that from a form, or did you  
9 do it from memory?

10 A No, sir. We read it from a preprinted  
11 sheriff's office form.

12 Q And did you do that verbatim?

13 A Yes, sir. It was done that way.

14 Q And what rights are you advising him of?

15 A He has the right to remain silent. He doesn't  
16 have -- he has the right not to make self-incriminating  
17 statements against himself. Has a right to an attorney  
18 before any questions are asked if he wishes.

19 Q And you went over all those with him?

20 A Uh, Detective Tim Rollins did.

21 Q But you were present, correct?

22 A Yes, sir.

23 Q And did the defendant indicate that he  
24 understood those rights?

25 A Yes, sir.

1 Q And did he indicate to you and to Detective  
2 Rollins that he -- he wished to speak with you?

3 A Yes, sir, he did.

4 Q All right. And as you said, that was recorded  
5 in its entirety?

6 A Yes, sir.

7 MR. JOHNSON: Your Honor, at this time I'd  
8 offer State's Exhibit SS into evidence.

9 THE COURT: Any objection?

10 MR. BARRETT: No, your Honor.

11 THE COURT: All right. And that is edited?  
12 Redacted?

13 MR. JOHNSON: It's redacted.

14 THE COURT: Okay.

15 (The above-mentioned CD was marked into  
16 evidence as State's Exhibit 41.)

17 THE COURT: What number would that be?

18 THE CLERK: Forty-one.

19 THE COURT: Forty-one, thank you.

20 BY MR. JOHNSON:

21 Q And we were talking about the rights form that  
22 you indicated you went over with him. Did he also sign  
23 that to indicate that he understood and wished to waive  
24 his rights?

25 A Yes, sir. He signed, initialed, and verbally

1       stated he would talk to us.

2               MR. JOHNSON: Your Honor, at this time may I  
3       publish the interview?

4               THE COURT: You may.

5               Folks, you're about to listen to this audio  
6       recording.

7               Is it just audio or there's video?

8               MR. JOHNSON: It's video, your Honor.

9               THE COURT: It's video, okay, audio and  
10       video. It has been edited to eliminate irrelevant  
11       portions that would not add to your understanding  
12       of this case.

13               The fact that the recording has been edited  
14       should not concern you in any way and must not  
15       impact the way that you view, listen to, and  
16       consider this evidence.

17               Thank you. You can go ahead and publish.

18               MR. JOHNSON: Your Honor, I will advise the  
19       Court that it's about an hour long.

20               THE COURT: Okay. Would there be any problem  
21       stopping it at about the 30-minute mark, break for  
22       lunch, and then continue on when we come back?

23               MR. JOHNSON: However you wish to proceed.

24               THE COURT: Let's proceed that way. So we'll  
25       go about 30 minutes.



1           Everybody okay at this point, or anybody need  
2 a break?

3           (No response.)

4           MR. JOHNSON: We also had transcripts, your  
5 Honor, if I may pass those out?

6           THE COURT: You may. Has the defense seen  
7 the transcripts and had a chance to review it?

8           MR. BARRETT: Yes, sir.

9           THE COURT: All right.

10          Folks, the transcripts are not evidence in  
11 the sense you're not going to have that back in  
12 the jury room when you deliberate, but it is an  
13 aid to your listening to and viewing this video.

14          (The transcripts were distributed to the  
15 jurors.)

16          (State's Exhibit 41, a video recording, was  
17 published in open court. This transcript should  
18 not be considered a verbatim record of those  
19 proceedings due to inaudibles and inability to  
20 distinguish between speakers.)

21          THE COURT: Is that buzz throughout or is  
22 that something -- it's throughout?

23          MR. JOHNSON: Your Honor, we may have to --  
24 this was working earlier.

25          THE COURT: Do you need the volume turned up?

1 MS. DUNTON: No. It's not the volume.

2 THE COURT: It's not the volume?

3 MR. JOHNSON: Can we take a break, Judge?

4 THE COURT: Okay. The technology is  
5 wonderful when it works.

6 All right. Let's go ahead and take just a  
7 couple minutes. If you all want to step in the  
8 jury room here, I know it's a little cramped.

9 And we're not going to have you deliberate in  
10 here. I'm going to have you deliberate in a  
11 bigger room. Don't worry about that for when you  
12 deliberate the case at the end, but if you'll step  
13 in there for just a little bit, little comfort  
14 break, technology break, if you will.

15 Leave your notes here in the courtroom, and  
16 please don't discuss the case during this short  
17 break.

18 (The jury exited the courtroom.)

19 THE COURT: Of course, now it's going to  
20 work. I can control the volume to some degree  
21 over here.

22 Pause it. All right.

23 MS. DUNTON: Let's make sure it's loud  
24 enough. I think it's up all the way.

25 THE COURT: I can turn it up on this end.

1 That's as loud as it goes.

2 MS. DUNTON: Okay.

3 THE COURT: Okay. So let's -- want to check  
4 and see if anybody's in the rest room? If they're  
5 in the rest room, we'll go a few more minutes.

6 THE OFFICER: Two in the rest room.

7 THE COURT: Okay.

8 So at twelve o'clock, I'll tell you to stop  
9 it. We'll break for lunch, come back, and play  
10 the rest of it.

11 (Court was in an informal recess from  
12 11:30 a.m. until 11:32 a.m.)

13 THE COURT: I don't know if they know to tell  
14 you when they're done. Can you -- okay.

15 THE OFFICER: They're ready.

16 THE COURT: We're good? Okay.

17 (The jury entered the courtroom.)

18 THE COURT: All right. Welcome back,  
19 everybody.

20 Y'all can be seated in the courtroom.

21 All right. I think they fixed the technical  
22 issue, so we're ready to proceed.

23 You can play the video.

24 (State's Exhibit 41, a video recording, was  
25 published in open court. This transcript should

1 not be considered a verbatim record of those  
2 proceedings due to inaudibles and inability to  
3 distinguish between speakers.)

4 DETECTIVE ROLLINS: You want something to  
5 drink or --

6 THE DEFENDANT: I'm fine.

7 DETECTIVE ROLLINS: I will read this  
8 constitutional rights form to you again.

9 Okay. You have the following rights under  
10 the United States Constitution. You do not have  
11 to make a statement or say anything.

12 Anything you say can be used against you in  
13 court.

14 You have the right to talk to a lawyer for  
15 advice before you make a statement or before any  
16 questions are asked of you and to have a lawyer  
17 with you during questioning.

18 If you cannot afford to hire a lawyer, one  
19 will be appointed for you before any questions if  
20 you wish.

21 If you do answer questions, you have the  
22 right to stop answering questions at any time and  
23 consult with your lawyer.

24 Do you understand?

25 THE DEFENDANT: Absolutely.

1                   DETECTIVE ROLLINS: You wish to talk to us?

2                   THE DEFENDANT: Yeah.

3                   DETECTIVE ROLLINS: Okay. If you could just  
4 sign right here.

5                   THE DEFENDANT: You remember how my hand was  
6 that day.

7                   DETECTIVE ROLLINS: Yeah. If you could just  
8 initial after each sentence basically saying you  
9 read it and you understood it.

10                  THE DEFENDANT: I understand. It's all  
11 basic.

12                  DETECTIVE ROLLINS: You don't have to initial  
13 the juvenile box, though.

14                  THE DEFENDANT: Six?

15                  DETECTIVE ROLLINS: Yes.

16                  THE DEFENDANT: Yes.

17                  DETECTIVE ROLLINS: Okay. I talked to you on  
18 October 5th.

19                  THE DEFENDANT: Yes, 2006.

20                  DETECTIVE ROLLINS: 2006. You told me  
21 everything -- you gave me a statement that day.  
22 You told me what all occurred at Charlie and  
23 Randy's house. Do you remember all that?

24                               (No audible response.)

25                  DETECTIVE ROLLINS: Were you under the

1 influence at that time?

2 THE DEFENDANT: No, sir.

3 DETECTIVE ROLLINS: The statement you gave me  
4 then, is that an accurate statement of what  
5 occurred?

6 THE DEFENDANT: Yeah. It's an accurate  
7 statement what happened, exactly what happened.

8 DETECTIVE ROLLINS: Is there anything  
9 different that what you are going to tell us  
10 today?

11 THE DEFENDANT: Um, no. I mean, not anything  
12 that's not pertinent to the case, you know.

13 DETECTIVE ROLLINS: Okay.

14 THE DEFENDANT: (Unintelligible.)

15 DETECTIVE ROLLINS: Right. I know a lot --

16 THE DEFENDANT: There is a lot of mitigating  
17 circumstances that have nothing to do with the  
18 case.

19 DETECTIVE ROLLINS: Okay.

20 THE DEFENDANT: The case, you know, the  
21 murders and how they happened, they are exactly  
22 how I told you before.

23 DETECTIVE ROLLINS: Okay.

24 THE DEFENDANT: Nothing is different. No.  
25 There is nothing different.

1           DETECTIVE ROLLINS: I know the last time we  
2           were kind of back and forth. The Georgia guy was  
3           here and kind of back and forth. We want to  
4           forget about Georgia and we just want to  
5           concentrate on the --

6           THE DEFENDANT: Florida.

7           DETECTIVE ROLLINS: -- the Florida. Well,  
8           yeah, the case from Palmo Fish Camp Road. And you  
9           want to go ahead and tell us how the day started  
10          and go through all that again.

11          THE DEFENDANT: Um, I -- I had met somebody  
12          when I was doing drugs over there off Green Cove  
13          Springs, smoking and shooting. Smoking crack  
14          cocaine and shooting cocaine, powder cocaine.

15          All right. And I started running low on  
16          drugs, and I went to Alachua County and bought  
17          some more. And I couldn't get what I wanted.

18          So in my mind, I had already did all those  
19          crimes in Alachua County, the three robberies, two  
20          attempted robberies, the kidnapping charge.

21          And I was like, everything was just over with  
22          in my mind. So I went over to these people's  
23          house, Randy and Charlie's house, and the next  
24          thing you know, here it is that day I don't have  
25          any drugs or I don't have any money. And I was at

1 Randy's house.

2 DETECTIVE ROLLINS: You going back to the day  
3 when you leave Green Cove Springs?

4 THE DEFENDANT: Yeah. This is the day of the  
5 murder.

6 DETECTIVE ROLLINS: Okay.

7 THE DEFENDANT: All right.

8 DETECTIVE BURREN: And that would have been  
9 October 4th?

10 THE DEFENDANT: Yeah.

11 DETECTIVE BURREN: Okay. The day -- I guess  
12 the day before.

13 THE DEFENDANT: October 4th, 6:30 at night,  
14 something like that.

15 DETECTIVE BURREN: Okay.

16 THE DEFENDANT: I don't think -- it was  
17 sometime at dark, dusk --

18 DETECTIVE BURREN: Dusk, dark.

19 THE DEFENDANT: -- that the crime actually  
20 happened.

21 DETECTIVE BURREN: Okay. So you got there at  
22 Randy and Charlie's house a couple hours before  
23 dusk, dark?

24 THE DEFENDANT: When I got there, Charlie  
25 wasn't there. Randy was there. And Charlie and,



1           um, another -- I don't know who the other kid --  
2           this kid did not go with Charlie. The kid who  
3           said I was -- I think you have a witness who can  
4           place me at the scene of the crime who lives  
5           across --

6                     DETECTIVE ROLLINS: That's the mechanic or --

7                     THE DEFENDANT: Yeah. And -- but anyway, I  
8           got there and this guy is there, waiting for  
9           Charlie to get back. Randy's there.

10                    And I sit around, play with the dogs, and I'm  
11           waiting for Charlie 'cause Charlie is the guy  
12           who's really doing the deal with me over this  
13           apartment off of (unintelligible) in Green Cove  
14           Springs.

15                    DETECTIVE ROLLINS: What road was that  
16           apartment on again, Michigan or --

17                    THE DEFENDANT: You go -- I think it's 209.  
18           You turn onto 209 and then you go down to, uh,  
19           McKinley.

20                    DETECTIVE BURRESS: I'm not sure of the name.

21                    THE DEFENDANT: McKinley or -- I don't know.  
22           It's the first right.

23                    DETECTIVE ROLLINS: I think it starts with  
24           M-c. I think you mentioned it. I just don't  
25           recall.

1           THE DEFENDANT: Well I can't remember that,  
2           but I know it's the first road to the right or to  
3           the left.

4           DETECTIVE ROLLINS: Okay.

5           THE DEFENDANT: And it's the last house on  
6           the right. It's a house, not an apartment. And,  
7           uh, but he had this little side thing going that  
8           he didn't want Randy aware of.

9           And I would paint the place, fix the place  
10          up, and utilize my skills in building to -- I  
11          don't know if you guys walked in there, have you?  
12          You haven't been there.

13          DETECTIVE BURREN: No.

14          THE DEFENDANT: Well, that's a sight to see.  
15          Like, it's one of them houses that it was designed  
16          where they build outside of it and the owner comes  
17          in and does the inside.

18          DETECTIVE BURREN: Like a Jim Walters type  
19          home.

20          THE DEFENDANT: Exactly. That's exactly what  
21          it is. And it was all pulled together by someone  
22          who didn't know what they were doing. So they  
23          were going to use me to come in and redo the  
24          house.

25          And I started hanging drywall a little in

1           there, but I was on drugs, and I couldn't do a  
2           damn thing, you know.

3                     And so I was going to ask Charlie for some  
4           money without Randy knowing about it. And I  
5           didn't though. I got scared of asking him, him  
6           telling me no, him telling me to leave.

7                     And I went inside the house. I did a shot of  
8           coke, come back out, and saw my truck. It had a  
9           dent in the side of it. So I asked him if he had  
10          a hammer.

11                    DETECTIVE ROLLINS: Who are you talking to  
12          right now?

13                    THE DEFENDANT: Charlie.

14                    DETECTIVE ROLLINS: So Charlie comes back  
15          home then?

16                    THE DEFENDANT: Yeah, Charlie.

17                    DETECTIVE ROLLINS: Because before, you were  
18          talking to Randy and this other guy.

19                    THE DEFENDANT: Yeah. Maybe I am skipping  
20          around.

21                    DETECTIVE ROLLINS: Okay.

22                    THE DEFENDANT: Charlie finally came back.  
23          And the guys, they do the brake job on Charlie's  
24          car. They went ahead and installed -- they had to  
25          have some kind of tool to put the calipers on to

1 spread the calipers to be able to set them out on  
2 the disc.

3 DETECTIVE ROLLINS: And that's what Charlie  
4 went to get?

5 THE DEFENDANT: Yes. They went to go get  
6 this tool that you should buy every time you  
7 change the calipers, and they didn't have it,  
8 so...

9 DETECTIVE BURRES: So when you first got to  
10 Palmo Road, was Charlie there and then left, or...

11 THE DEFENDANT: No.

12 DETECTIVE BURRES: So when you got there, it  
13 was just Randy and the kid from next door that was  
14 going to work on the vehicle?

15 THE DEFENDANT: Well, it was just Randy at  
16 first, and then the kid came up.

17 DETECTIVE BURRES: Do you remember about what  
18 time you got there that day?

19 THE DEFENDANT: It was daylight. It wasn't  
20 dusk.

21 DETECTIVE BURRES: Three or four o'clock in  
22 the afternoon?

23 THE DEFENDANT: No. I don't think it was  
24 that early. It was probably about five.

25 DETECTIVE BURRES: About five o'clock?

1 THE DEFENDANT: Because he had -- the kid  
2 worked that day.

3 DETECTIVE BURRESE: Okay.

4 THE DEFENDANT: He, you know, he was coming  
5 over right after work. And so I don't think he  
6 had come home from work that day yet.

7 DETECTIVE BURRESE: Okay.

8 THE DEFENDANT: And, um, they did the brake  
9 job.

10 Is that somebody's phone?

11 DETECTIVE BURRESE: That was mine.

12 THE DEFENDANT: Okay.

13 DETECTIVE BURRESE: Go ahead.

14 THE DEFENDANT: He did the brake job. And so  
15 I sat there and watched them do it. Actually, in  
16 my mind, I'm sitting there thinking how am I going  
17 to ask Randy -- Charlie for some money.

18 DETECTIVE BURRESE: Did you borrow money from  
19 Charlie in the past?

20 THE DEFENDANT: Yeah.

21 DETECTIVE BURRESE: He just fronted you  
22 without doing jobs for him?

23 THE DEFENDANT: Yeah.

24 DETECTIVE BURRESE: Okay.

25 THE DEFENDANT: And there is -- but there was

1           always this once everything got settled and once I  
2           got moved in, you know, then things would start.

3           DETECTIVE BURRES: Right.

4           THE DEFENDANT: You know, with his little  
5           manipulations and stuff. Man, I know that's not  
6           pertinent to the case or what you guys are  
7           concerned about, but it is to me.

8           DETECTIVE ROLLINS: Uh-huh.

9           THE DEFENDANT: And which I really believe,  
10          you know, is the reason why a lot of this  
11          happened. So anyway, um, the job on the car was  
12          done.

13          DETECTIVE BURRES: Does he go home, the kid?

14          THE DEFENDANT: The guy was given a 12-pack.

15          DETECTIVE BURRES: Of beer?

16          THE DEFENDANT: Yeah. It might have been a  
17          case.

18          DETECTIVE BURRES: Okay.

19          THE DEFENDANT: But he was given -- it might  
20          have been two 12-packs, too.

21          DETECTIVE BURRES: Okay.

22          THE DEFENDANT: I don't -- I am not sure, but  
23          he was given some beer and, I believe, a 20-dollar  
24          bill.

25          DETECTIVE BURRES: So cash and some alcohol?

1 THE DEFENDANT: Right.

2 DETECTIVE BURREN: Okay.

3 THE DEFENDANT: And he -- and he left, and I  
4 was outside. Charlie came out, you know, and  
5 played a little bit of grab-ass with me, which  
6 only pissed me off even more than I was already  
7 mad.

8 I asked him for a hammer. What I wanted was  
9 a hammer and a piece of wood because when I opened  
10 my door, it was hit a little bit right here.

11 So I wanted to just get it off of there. And  
12 he gave me a hammer. He couldn't find a piece of  
13 wood. I said --

14 DETECTIVE BURREN: Was it an actual hammer he  
15 gave you?

16 THE DEFENDANT: No. No. He didn't find a  
17 hammer. He found an axe.

18 DETECTIVE BURREN: Okay.

19 THE DEFENDANT: He gave me an axe because it  
20 had a flat head on the side of it.

21 DETECTIVE BURREN: Right. We're talking  
22 about an axe about --

23 THE DEFENDANT: A hatchet.

24 DETECTIVE BURREN: Okay. A hatchet.

25 THE DEFENDANT: A hatchet.

1                   DETECTIVE BURRES: Okay.

2                   THE DEFENDANT: And he went to look in the  
3 back of the house in the shed for a piece of wood.  
4 And we walked in there.

5                   He was looking on the shelf, and I hit him on  
6 the head. And he fell into a shelf, knocked the  
7 shelving down. A lot of noise, an enormous amount  
8 of noise. So much noise, in fact, that I though  
9 Randy would hear it, but I guess it really wasn't  
10 that much noise. I was just so damn high it  
11 sounded like a lot of noise. And -- but he fell.

12                  DETECTIVE BURRES: Do you remember where you  
13 struck him at?

14                  THE DEFENDANT: Yeah, in the back of the  
15 head.

16                  DETECTIVE BURRES: In the back of the head?

17                  THE DEFENDANT: Yes.

18                  DETECTIVE BURRES: Okay. Do you know how  
19 many times?

20                  THE DEFENDANT: That first, once.

21                  DETECTIVE BURRES: Okay.

22                  THE DEFENDANT: One time in the back of the  
23 head.

24                  DETECTIVE BURRES: Okay.

25                  THE DEFENDANT: And he was -- you know, and



1 he fell like this. He was in this corner, and he  
2 fell like this. He went, he turned, and he fell.  
3 He brought all -- he fell down like this.

4 DETECTIVE BURRES: Okay.

5 THE DEFENDANT: Stuff fell on him, you know,  
6 and he's down there and he's alive. He's making  
7 really bad noises.

8 DETECTIVE BURRES: He's not talking, though,  
9 right?

10 THE DEFENDANT: He more or less, you know --  
11 any words that are coming out of his mouth are not  
12 legible.

13 DETECTIVE BURRES: Okay.

14 THE DEFENDANT: And he fell and, um, I -- I  
15 panicked and hit him with the axe part of the axe  
16 in the top of the head.

17 DETECTIVE BURRES: Okay. Do you know how  
18 many times?

19 THE DEFENDANT: That first time there, I  
20 probably hit him once or maybe another time.

21 DETECTIVE BURRES: Okay.

22 THE DEFENDANT: But then, you know, I was  
23 paranoid about all the stuff that was happening.  
24 So I left out of there and, uh, I carried the axe.  
25 And I walked out and I walked around back in front

1 of the carport and went around the front of the  
2 house.

3 And, obviously, it was dark at this point,  
4 but not like -- it wasn't -- it was beyond dusk,  
5 but not fully dark.

6 DETECTIVE BURRES: Okay.

7 THE DEFENDANT: And, uh, I walked into the  
8 house. Randy was at the sink or Randy was at the  
9 stove. He was making stew because he had a cold.

10 DETECTIVE BURRES: Okay.

11 THE DEFENDANT: He was making this pot of  
12 chicken broth. And I walked up behind him, and I  
13 hit him in the top of the head.

14 And he fell down with his elbows into the pot  
15 that he was cooking in.

16 DETECTIVE BURRES: Did you strike him with  
17 the blade end of the axe?

18 THE DEFENDANT: No. The flat part.

19 DETECTIVE BURRES: Flat part?

20 THE DEFENDANT: The flat part of the axe in  
21 the back of the head.

22 DETECTIVE BURRES: Okay.

23 THE DEFENDANT: And he fell into the pot like  
24 this. And I -- I believe he was knocked out.

25 And, he, um, stood there. He didn't fall over.

1 He just stood there.

2 And I hit him again, I think. I'm pretty  
3 sure I hit him again.

4 DETECTIVE BURRES: In the back of the head?

5 THE DEFENDANT: Because I thought that -- he  
6 was -- now that I look back on it, I know he was  
7 knocked out now, but at that point there, I didn't  
8 think he was. You know, and I hit him again, but  
9 he didn't fall.

10 DETECTIVE BURRES: And that's with the blunt  
11 side again?

12 THE DEFENDANT: Yeah, but he didn't fall, all  
13 right? And he, uh -- I think I just finally took  
14 and pulled him away from the stove and he fell and  
15 collapsed right there on the floor. And, um,  
16 uh --

17 DETECTIVE BURRES: Was the stove on when he  
18 fell into the stove?

19 THE DEFENDANT: He fell into the pot.

20 DETECTIVE BURRES: Okay. He actually went  
21 into the pot itself?

22 THE DEFENDANT: His elbows went into the pot.

23 DETECTIVE BURRES: Okay.

24 THE DEFENDANT: So if he has abrasions on his  
25 elbows, that's what it's from.

1           DETECTIVE BURRES: Okay.

2           THE DEFENDANT: The heat of the pot.

3           DETECTIVE BURRES: All right.

4           THE DEFENDANT: And he was in that pot  
5 with -- it was a pot probably that big.

6           DETECTIVE BURRES: Uh-huh.

7           THE DEFENDANT: You know, because the stuff  
8 went all over the stove from him filling the pot  
9 full or fuller.

10          DETECTIVE BURRES: With his arms?

11          THE DEFENDANT: All right? And spilled out  
12 onto the stove. And I took him -- I -- I probably  
13 hit him one or two more times while he was in that  
14 pot.

15          DETECTIVE BURRES: Okay. With the axe or  
16 with the --

17          THE DEFENDANT: I don't think I hit him with  
18 the axe. I might have. And if I did or if I told  
19 you I did, then I probably did, okay?

20          But so many months have went right by --

21          DETECTIVE BURRES: Right.

22          THE DEFENDANT: And I was really high that  
23 day, so I can't remember. I know that I stabbed  
24 Randy, all right? I know that I wound up getting  
25 a knife out of the sink thing. There was a knife

1 in there, and I --

2 DETECTIVE ROLLINS: Now, between striking him  
3 with the axe and stabbing him, didn't you go back  
4 outside?

5 THE DEFENDANT: Right. I -- I haven't got  
6 there yet.

7 DETECTIVE ROLLINS: Okay.

8 THE DEFENDANT: But I -- I was just trying to  
9 tell you, I know I did more damage to Randy than  
10 what occurred at that moment right there.

11 I went back outside to get Charlie's watch.  
12 That's what I went back outside for. When I went  
13 back outside, I think Charlie was trying to stand.  
14 I think he was trying to stand up, and that's when  
15 I did really, really serious damage to Charlie.

16 And that was where I remember it, man, really  
17 clear in my mind because I dream it every day, you  
18 know? The atrocity of this blow that I did to --  
19 somewhere around here in his face.

20 DETECTIVE BURRESS: Front part of his head?

21 THE DEFENDANT: Yes.

22 DETECTIVE BURRESS: Okay.

23 THE DEFENDANT: Man, you wouldn't believe how  
24 hard it is to kill somebody, man. He actually  
25 lived through that. Man, this guy might have

1 lived if I would have called an ambulance for him.

2 He might have lived.

3 DETECTIVE ROLLINS: How many more times did  
4 you strike him when you went back outside?

5 THE DEFENDANT: More than twice.

6 DETECTIVE ROLLINS: Okay. And all of that's  
7 right in front of the face where you showed me?

8 THE DEFENDANT: Well, you know, maybe --

9 DETECTIVE BURREN: Top of the head to the  
10 front part?

11 THE DEFENDANT: I would think that this whole  
12 area here is just destroyed.

13 DETECTIVE BURREN: Okay.

14 THE DEFENDANT: You know, I'm sure you got  
15 pictures, and it probably looks really, really,  
16 really bad.

17 As far as blood goes, it was dark. I don't  
18 know how much blood there is, all right? But I  
19 left and I -- I got the wallet.

20 DETECTIVE BURREN: Was it in his front pocket  
21 or his back pocket?

22 THE DEFENDANT: It was in his back pocket,  
23 and it was in this pocket.

24 DETECTIVE BURREN: His right rear pocket?

25 THE DEFENDANT: Yeah.

1           DETECTIVE BURRES:  Okay.

2           THE DEFENDANT:  But I got his wallet.  And,  
3           uh, I -- as I was leaving out of the shed, there  
4           was a five-gallon bucket there.  Did you find it?

5           DETECTIVE ROLLINS:  Yeah.

6           DETECTIVE BURRES:  Yes, sir.

7           THE DEFENDANT:  There was a five-gallon  
8           bucket there.

9           DETECTIVE BURRES:  Should have been a water  
10          pump sitting on top of it, something.

11          THE DEFENDANT:  All I remember is that there  
12          was a container of some sort.  It might not have  
13          even been a bucket.  But there was something there  
14          that looked like something could go down in it.

15          DETECTIVE BURRES:  Right.

16          THE DEFENDANT:  And I put the hatchet in  
17          there.  And I don't even think I probably bothered  
18          to wipe it off.

19          DETECTIVE BURRES:  Okay.

20          THE DEFENDANT:  My fingerprints are probably  
21          all over it, and which really doesn't matter  
22          anyway.

23          But, anyway, I went back into the house at  
24          that time.

25          DETECTIVE BURRES:  Did you go back through

1 the back door, or did you go back in the way you  
2 went the first time, the front door?

3 THE DEFENDANT: I think that when I -- after  
4 I struck Randy, I think I walked out the back  
5 door.

6 DETECTIVE BURRES: Okay.

7 THE DEFENDANT: And, uh, so if there was my  
8 blood on the back porch, that's probably when it  
9 happened --

10 DETECTIVE BURRES: Okay.

11 THE DEFENDANT: -- okay, because I don't  
12 think I went out to see Charlie again. All right.  
13 But, um, I did -- I did do another shot of  
14 cocaine, and I did that shot of cocaine by walking  
15 out the front or the back -- there -- there is two  
16 French doors and then there is, like, a laundry  
17 room off to the side of the kitchen --

18 DETECTIVE BURRES: Right.

19 THE DEFENDANT: -- with another door.

20 DETECTIVE BURRES: That goes out to where the  
21 pool is.

22 THE DEFENDANT: And I went out -- well,  
23 actually, comes back out to the back porch.

24 DETECTIVE BURRES: Right, but the pool is  
25 right there in that corner where it comes out.



1 THE DEFENDANT: That's outside.

2 DETECTIVE BURRES: Yes, sir.

3 THE DEFENDANT: Outside the screened  
4 enclosure. And that is where I went and did --  
5 outside the screened enclosure by the pool, I did  
6 a shot.

7 I am really fast at this, so don't think it  
8 takes a lot of time.

9 DETECTIVE BURRES: Right.

10 THE DEFENDANT: I mean, in a matter of ten  
11 seconds, I can do a shot. And I did. I came  
12 back. I didn't do that right then and there. I  
13 went in there and Randy was struggling to get up.

14 DETECTIVE BURRES: Okay.

15 THE DEFENDANT: He was amazingly struggling  
16 to get up. And I didn't have the hatchet. I -- I  
17 really don't think that I hit Randy with the  
18 hatchet, not the hatchet hatchet. I think I hit  
19 him with the hammer.

20 DETECTIVE BURRES: Hammer side of it?

21 THE DEFENDANT: Yeah. I don't think I hit  
22 him with the hatchet. I might have. I might  
23 have. And I'm not sitting here trying to tell you  
24 if I did or didn't.

25 DETECTIVE BURRES: I understand completely,

1 Blake.

2 THE DEFENDANT: And I -- but there was a  
3 knife.

4 DETECTIVE BURREN: Butcher knife.

5 THE DEFENDANT: Butcher knife kind of  
6 implies, you know, you could hit with it, you  
7 know.

8 DETECTIVE BURREN: Just a long knife.

9 THE DEFENDANT: Probably some kind of knife  
10 to cut fat off something with.

11 DETECTIVE BURREN: Okay.

12 THE DEFENDANT: Something like that, about  
13 that wide.

14 DETECTIVE BURREN: Okay.

15 THE DEFENDANT: And about that long.

16 DETECTIVE BURREN: Uh-huh.

17 THE DEFENDANT: And, uh, I took the knife out  
18 of the strainer and, um, just in fear and probably  
19 also not knowing how to kill somebody, you know?

20 I mean, I tried to kill somebody, not knowing  
21 how to kill somebody. That's exactly what I did.

22 And that's probably what the body looks like,  
23 somebody trying to kill somebody who didn't know  
24 how to kill somebody.

25 You know, I'm thinking hit the jugular, you

1 know? I think I hit him one time there, but it  
2 didn't -- no all kinds of blood come out, so I  
3 completely missed that, you know?

4 And I think I tried to, uh, stab him in the  
5 heart, you know? I think I tried that. Um, in my  
6 mind, you know, I never ever seen a heart. I  
7 think it's somewhere in the left side of your  
8 chest. And I think I tried to stab him in that  
9 area.

10 And, uh, I think I tried to go through the  
11 abdomen, you know, up, you know, to try to hit his  
12 heart, you know.

13 DETECTIVE BURRESE: Do you remember actually  
14 ever penetrating his body with the knife?

15 THE DEFENDANT: Yeah.

16 DETECTIVE BURRESE: Okay. Would it have been  
17 in his abdomen or...

18 THE DEFENDANT: All over.

19 DETECTIVE BURRESE: Okay. So where you are  
20 telling us is where you actually remember  
21 penetrating this person?

22 THE DEFENDANT: Yeah. There could be spots,  
23 you know, that I did and don't -- and I am not  
24 saying nothing about it. And it's not because I  
25 am trying to not say anything about it.

1                   DETECTIVE BURRES: I believe you.

2                   THE DEFENDANT: This, you know, if you asked  
3 me, I would say that I hit Randy one, two, no more  
4 than three times probably with the hatchet, with  
5 the hammer of the hatchet. And I don't think I  
6 stabbed him any more than -- see, I am really  
7 confusing this stabbing stuff.

8                   But, man, if I dream about anything bad, it's  
9 about Randy because of the noise that he made. He  
10 made this noise, man, that was like a struggle for  
11 life, you know?

12                   And it's very similar to a man who has  
13 trouble breathing, who has this disease of  
14 sleeping and trouble breathing.

15                   DETECTIVE BURRES: Uh-huh.

16                   THE DEFENDANT: And that's what it sounded  
17 like. Every roommate I've had since that day has  
18 trouble breathing.

19                   DETECTIVE ROLLINS: Is that the snoring  
20 noise?

21                   THE DEFENDANT: It's more like (indicating  
22 noise).

23                   DETECTIVE ROLLINS: Like a wheezing sound?

24                   THE DEFENDANT: You know, it was more like  
25 that. And, uh, but he finally ended up dying.

1           There was a great deal of blood on the kitchen  
2           floor. I don't think it was from any wound to his  
3           neck or something like that.

4                     These were really probably superficial  
5           wounds, you know. The wound that probably really  
6           caused him death was the stab to the abdomen area.  
7           It's probably what killed him. And if I didn't  
8           hit him in the heart, I probably sure I hit him in  
9           the aorta or something like that, more close to  
10          his spine. I don't know.

11                    Ask how many people where the heart is, man.  
12          They will all probably tell you the wrong place.

13                    DETECTIVE ROLLINS: Right.

14                    THE DEFENDANT: You know, I didn't know. And  
15          I was high, and I was scared, and I just wanted to  
16          get the hell out of there.

17                    DETECTIVE ROLLINS: Now, did you leave  
18          immediately after Randy went down?

19                    THE DEFENDANT: No. I went and did a shot of  
20          cocaine. That's when I did the shot of cocaine.  
21          And I did the shot of cocaine, and I looked for  
22          rings. And I couldn't find 'em. I couldn't find  
23          'em. He wasn't wearing it, you know.

24                    DETECTIVE BURREN: Did you look in the  
25          bedroom for it?

1 THE DEFENDANT: Sure.

2 DETECTIVE BURREN: Did you look in the  
3 drawers?

4 THE DEFENDANT: Sure.

5 DETECTIVE BURREN: Nightstands or anything?

6 THE DEFENDANT: Yeah. There is probably  
7 things that look like they were ruffled. See,  
8 after thinking about it all, man, there was  
9 probably a significant amount of money in that  
10 house, inside their office. I just never went in  
11 there.

12 I don't know, but, I mean, I know that every  
13 time Charlie went and got me money, he went and  
14 got it out of that office. And I never walked in  
15 there once that day. Isn't that stupid?

16 DETECTIVE ROLLINS: Just didn't think about  
17 it?

18 THE DEFENDANT: No. I mean, that just -- I'm  
19 not a murderer, man. You know, I wasn't -- I  
20 wasn't thinking.

21 I mean, I was -- I was a junkie on drugs,  
22 man. I want to do, you know, more drugs, period.

23 So, you know, I found his wallet finally  
24 sitting on the dresser inside of this lunch --

25 DETECTIVE BURREN: Like a lunchbox?

1           THE DEFENDANT: Yes, but it was a collapsible  
2 one.

3           DETECTIVE BURRES: Okay. And it was in his  
4 bedroom on his dresser?

5           THE DEFENDANT: Yeah. It may have been  
6 sitting on the kitchen counter.

7           DETECTIVE BURRES: Okay.

8           THE DEFENDANT: I'm not sure, but I know that  
9 inside of it, I think there were -- no. Both of  
10 their cell phones were sitting on the kitchen  
11 counter.

12           And I -- I think I took one of them. I might  
13 have taken one of the cell phones. It's a black  
14 one with a round face on it.

15           THE COURT: Mr. Johnson, can we stop?

16           THE DEFENDANT: That may be either Charlie's  
17 or Randy's cell phone.

18           DETECTIVE ROLLINS: So would that have been  
19 left in one of the vehicles?

20           (The video recording was paused.)

21           THE COURT: Folks, if you're following along  
22 on the transcript, leave your transcript on that  
23 page. The pages aren't numbered, so we can't tell  
24 you what number to go back to. So just leave it  
25 open to that page.

1           We're going to go ahead and break for lunch  
2           at this point. Leave your notes here in the  
3           courtroom together with that transcript on your  
4           seat. That will be secured during the lunch  
5           break.

6           Let me caution you again, please do not  
7           discuss the case with anybody during lunch. Don't  
8           do any research of any type, and don't discuss it  
9           among yourselves.

10          It's exactly twelve o'clock. So let's plan  
11          on being back in the jury lounge at 1:20. As soon  
12          as we have everybody assembled, we'll get you back  
13          here and continue on where we left off.

14          So if you follow the deputy, he'll escort you  
15          out. Thank you, folks. Enjoy your lunch.

16          (The jury exited the courtroom.)

17          THE COURT: All right. Y'all can be seated.  
18          If everybody will remain in the courtroom for just  
19          a moment so we can get the jurors moved out of the  
20          hallway.

21          And, Commander Burren, you remain on the  
22          witness stand, so you can't talk to the lawyers --

23          THE WITNESS: Yes, sir.

24          THE COURT: -- about any of your testimony.  
25          And just be ready to go at 1:20, and enjoy your



1 lunch.

2 We'll be in recess until 1:20, and as soon as  
3 the hallway is cleared, everybody can leave.

4 Thank you, folks. See you all after lunch.

5 (Court was in recess from 12:01 p.m. until  
6 1:22 p.m.)

7 THE COURT: The jury is on their way up.  
8 Y'all can be seated. I don't see Mr. Barrett.

9 MR. HAMBURG: He'll be here in a minute,  
10 Judge.

11 THE COURT: Okay. Mr. Johnson, how are we  
12 doing schedule wise? I know we're just barely  
13 getting into it, but...

14 MR. JOHNSON: We're just a tiny bit behind  
15 schedule, but only about 30 minutes.

16 THE COURT: Okay.

17 So where's Mr. Barrett?

18 MR. HAMBURG: He's on his way back. He ran  
19 to our office to get a CD copied of evidence that  
20 we're going to be submitting tomorrow.

21 THE COURT: Your office is in Orlando, I  
22 thought.

23 MR. HAMBURG: No, no. Our office here -- the  
24 office that we have in St. Augustine.

25 THE COURT: Okay. Do we need to wait on him

1 or --

2 MR. HAMBURG: I just texted him to see how  
3 far out he is, if we could wait a couple more  
4 minutes for him to get here.

5 If he's not here by 1:30 and we're just doing  
6 the video, that's fine.

7 THE COURT: We're just doing the video, so  
8 why can't we roll the video without him?

9 MR. HAMBURG: If the Court wants to do that,  
10 that's fine.

11 THE COURT: I mean, we have defense counsel  
12 here.

13 All right. Let's bring the jury in and then,  
14 hopefully, he'll come running in.

15 THE OFFICER: Have one in the rest room.

16 MR. HAMBURG: Judge, do you want me to step  
17 outside and call him real quick?

18 THE COURT: No. As soon as they're ready,  
19 we're going to bring them in.

20 You all already have the transcripts, so you  
21 know everything on the video.

22 (The jury entered the courtroom.)

23 THE COURT: Okay. Y'all can be seated.

24 I hope everybody had a good lunch, and we are  
25 ready to continue. Just a reminder, as I stated

1           yesterday, I don't think I necessarily mentioned  
2           it this morning, but we're going to have an  
3           extended lunch tomorrow because of scheduling  
4           issues.

5                     So probably from 11 to one is probably what  
6           we're looking at tomorrow, a two-hour lunch.

7                     Is anybody planning on staying behind in the  
8           jury lounge tomorrow for those two hours, or is  
9           everybody going to go to whatever?

10                    'Cause I think we have another trial -- I'm  
11           just trying to coordinate everything -- another  
12           trial from another division.

13                    So everybody's planning on not hanging  
14           around?

15                    (The jurors indicated in the affirmative.)

16                    THE COURT: Thank you. All right. We are  
17           ready to proceed. We are going to continue with  
18           the video we were watching earlier.

19                    (State's Exhibit 41 continued to be published  
20           to the jury as follows):

21                    THE DEFENDANT: I didn't take a single cell  
22           phone with me when I -- wait. No. Charlie's cell  
23           phone may have been inside of my vehicle. I never  
24           got -- I think I did get in the car with his cell  
25           phone. Why, I don't know, because I never used

1           it. I don't have any idea why I took that phone,  
2           but I found his wallet. And, uh, then I looked up  
3           and I see the keys hanging on this column.

4                     (Mr. Barrett entered the courtroom.)

5           DETECTIVE BURREN: That's the one right here  
6           at the kitchen --

7           THE DEFENDANT: Right.

8           DETECTIVE BURREN: -- and dining room?

9           THE DEFENDANT: Yeah. It's a little -- it's  
10          right there at the end of the counter. I never  
11          ever knew that's where they hung them. I didn't.  
12          And I had been in that house 40, 50 times. I  
13          was -- I was known enough in that house to walk in  
14          without knocking.

15          DETECTIVE BURREN: Okay.

16          THE DEFENDANT: You know, they knew me.

17          DETECTIVE ROLLINS: Did you spend the night  
18          at the house prior to that?

19          THE DEFENDANT: Yes. I had spent the night  
20          at that house prior to that.

21          DETECTIVE ROLLINS: Do you remember --

22          THE DEFENDANT: Not that night.

23          DETECTIVE ROLLINS: Back to Randy and  
24          Charlie's house, when you say you saw the keys  
25          sitting there, is that when you left? After you

1 got his wallet, you say you looked up and saw the  
2 keys.

3 THE DEFENDANT: I think I got something to  
4 drink out of the refrigerator. I think I grabbed  
5 a couple of bottles of water or something to shoot  
6 dope with and to drink. And then I left.

7 DETECTIVE ROLLINS: Did you ever see the lady  
8 at the house while you were there? Wasn't there a  
9 lady staying there with them?

10 THE DEFENDANT: Standing?

11 DETECTIVE ROLLINS: Staying.

12 DETECTIVE BURREN: An elderly female that  
13 lives in the little cottage.

14 THE DEFENDANT: She lives in the back  
15 apartment. She is deaf.

16 DETECTIVE ROLLINS: Did you see her any at  
17 all?

18 THE DEFENDANT: I don't think that -- um, I  
19 think I might have seen her before all this  
20 happened.

21 DETECTIVE ROLLINS: But not at all that day?

22 THE DEFENDANT: No. No, I -- I didn't. I'm  
23 not saying she didn't see me.

24 DETECTIVE ROLLINS: Right.

25 THE DEFENDANT: You know? But -- because she

1 is an old woman, and she probably does a lot of  
2 peeping out the windows, you know. So she  
3 probably saw me. It's possible.

4 DETECTIVE BURRES: Have you ever met her  
5 before?

6 THE DEFENDANT: Yes. I mean, but, I mean, I  
7 didn't want to do no harm to her.

8 DETECTIVE BURRES: Okay.

9 THE DEFENDANT: You know, I didn't want to do  
10 no harm to anybody, believe it or not.

11 DETECTIVE ROLLINS: From the time you arrived  
12 at their house and the time you left, how long a  
13 time period do you think that was?

14 THE DEFENDANT: I'm assuming I got there  
15 around five. I think the kid got there around  
16 5:30. And I don't think I was there any later  
17 than seven, 7:30. It had to be. It could have  
18 been eight, but definitely not longer than that.

19 DETECTIVE BURRES: It's safe to say you were  
20 probably there about three hours or so?

21 THE DEFENDANT: Yes.

22 DETECTIVE BURRES: Give or take a minute.

23 THE DEFENDANT: But to say how long a period  
24 went by when the, um, crime actually began  
25 occurring, not ten minutes.

1           DETECTIVE ROLLINS: Okay. When you left, did  
2 you turn off any lights or turn any lights on?

3           THE DEFENDANT: I turned the light on, on the  
4 outside porch light on the front.

5           DETECTIVE ROLLINS: Okay.

6           DETECTIVE BURREN: Then you get in Randy's  
7 car? Did you take anything out of your vehicle  
8 put it in Randy's vehicle?

9           THE DEFENDANT: Yeah.

10          DETECTIVE BURREN: What did you take out of  
11 your vehicle?

12          THE DEFENDANT: Clothes.

13          DETECTIVE BURREN: Okay.

14          THE DEFENDANT: Yeah. I took a basket of  
15 clothes.

16          DETECTIVE BURREN: And you put them in  
17 Randy's vehicle? Put them in the trunk?

18          THE DEFENDANT: I am not sure I put them -- I  
19 might have put them in the back seat. Yeah, I --  
20 I'm almost positive.

21          DETECTIVE BURREN: Okay.

22          THE DEFENDANT: I can't tell you. I can't  
23 tell you if I put it in the trunk or the back  
24 seat, but I took -- um, a lot of stuff occurred  
25 after that, but, I mean, I guess that's neither

1 here or there with you guys, but...

2 DETECTIVE BURRES: When you left the scene,  
3 was Charlie and Randy both deceased at that point?

4 THE DEFENDANT: I don't know. I never laid  
5 my hands on their, you know, pulse.

6 DETECTIVE BURRES: Did it appear that they  
7 were deceased to you?

8 THE DEFENDANT: Yeah. Yeah.

9 DETECTIVE BURRES: Do you remember if Randy  
10 ever --

11 THE DEFENDANT: I don't know. I think I did  
12 put my hand on Charlie's neck to see. I think I  
13 did. I don't know, but -- yeah. I don't  
14 (inaudible). I don't understand.

15 DETECTIVE BURRES: On Randy, did you ever  
16 stab him in the back? Do you remember?

17 THE DEFENDANT: Yeah. I'm thinking it was  
18 more me trying to go through his side.

19 DETECTIVE BURRES: Okay.

20 THE DEFENDANT: You know, and if you asked me  
21 what side, right here, okay?

22 DETECTIVE BURRES: Stay on the right side  
23 more?

24 THE DEFENDANT: But I figured the knife was  
25 that long so that it would go -- I'm left-handed.



1           DETECTIVE BURRES: Yeah. Were you stabbing  
2           with your left hand?

3           THE DEFENDANT: Yeah. I'm left-handed. I  
4           mean, I'm goofy with my right.

5           DETECTIVE BURRES: Okay. Did you, like, try  
6           to hold him with your left and try to stab with  
7           your right?

8           THE DEFENDANT: No.

9           DETECTIVE BURRES: You would have been like  
10          that if you did that.

11          THE DEFENDANT: No, 'cause I never -- that's  
12          not true. Yeah. He was actually standing when I  
13          came back in or struggling to stand.

14          DETECTIVE BURRES: Okay.

15          THE DEFENDANT: He was struggling to stand  
16          up, and I got the knife.

17          DETECTIVE BURRES: Was the knife in the sink,  
18          or was it in the dish drainer?

19          THE DEFENDANT: The knife was in the dish  
20          drainer or it might have been in the sink, man.  
21          But I remember rinsing the knife off afterwards.

22          DETECTIVE BURRES: Okay.

23          THE DEFENDANT: And I think I put it in the  
24          drain. So maybe the knife was in the sink.

25          DETECTIVE BURRES: Okay.

1           THE DEFENDANT: And then I put it in the  
2 drain, but yeah, a little tussle did ensue with  
3 Randy.

4           DETECTIVE BURRES: Did he know he was  
5 fighting you, or did he appear like he mentally  
6 was just not with what was going on due to the  
7 blows that he had received in the head?

8           THE DEFENDANT: I think -- I think he was  
9 trying to live, you know?

10          DETECTIVE BURRES: Did he ever call your name  
11 out, like why are you doing this, Blake? You  
12 know, what's going on?

13          THE DEFENDANT: No. I don't think that he  
14 was that coherent.

15          DETECTIVE BURRES: Okay. He was a little  
16 dazed and confused probably from the strike?

17          THE DEFENDANT: But I do think that he was  
18 aware that he needed to live.

19          DETECTIVE BURRES: Right. That survival mode  
20 kicking in.

21          THE DEFENDANT: Exactly. But as far as, you  
22 know, did he know he was using a counter to stand  
23 up by, no.

24          DETECTIVE BURRES: Probably not.

25          THE DEFENDANT: You know, did he even know he

1 was dying? I don't know.

2 DETECTIVE BURRES: You don't know?

3 THE DEFENDANT: I don't know, but I know  
4 that, um --

5 DETECTIVE BURRES: So I guess when you come  
6 back --

7 THE DEFENDANT: I was amazed.

8 DETECTIVE BURRES: When you went back in the  
9 house, I'm sure this freaked you out?

10 THE DEFENDANT: Yes, it did.

11 DETECTIVE BURRES: After you struck this man  
12 several times in the head, that he's standing on  
13 his feet or trying to get up.

14 THE DEFENDANT: He wasn't really like, okay,  
15 here we are.

16 DETECTIVE BURRES: Right.

17 THE DEFENDANT: It was more like, you know.

18 DETECTIVE BURRES: Dazed? He is confused?

19 THE DEFENDANT: Actually, the counter is,  
20 like, that high, I think.

21 DETECTIVE BURRES: Uh-huh.

22 THE DEFENDANT: And so, you know, to have  
23 gotten a hold of the counter from down here, I  
24 don't --

25 DETECTIVE BURRES: And pulled himself up?

1           THE DEFENDANT: And gotten to a point about  
2           like that when I came in. So that's how he got  
3           stabbed in the side.

4           DETECTIVE BURREN: Okay.

5           THE DEFENDANT: That's how he got stabbed in  
6           the side, because I came up behind him and, uh, I  
7           didn't have anything in my hand.

8           And that's when I saw the knife, and we  
9           struggled. I couldn't have struggled that bad,  
10          though, because I didn't have blood all over me.

11          DETECTIVE BURREN: Uh-huh.

12          THE DEFENDANT: He must have not have had a  
13          lot of blood on him at that point 'cause I didn't  
14          shower or nothing. I remember -- I remember  
15          buying cocaine that next day.

16          And I looked down while I was at the drug  
17          person's house, and I saw blood on my toes. There  
18          was blood on my toes. At that point there I  
19          didn't have the shoes that you guys took from me  
20          that day.

21          DETECTIVE BURREN: Did you get rid of them  
22          or --

23          THE DEFENDANT: No. I mean, I put on a  
24          different pair. I had on flip-flops that day.

25          DETECTIVE BURREN: Okay.

1           THE DEFENDANT: Them flip-flops are in my  
2 property. They have the blood on them.

3           DETECTIVE ROLLINS: Now, you had flip-flops  
4 on when you were at Randy and Charlie's house?

5           THE DEFENDANT: Yeah.

6           DETECTIVE ROLLINS: Okay.

7           THE DEFENDANT: Those flip-flops are in  
8 one of them vehicles. They're a pair of black  
9 Reef flip-flops.

10          DETECTIVE BURREN: Would they have been in  
11 one of the vehicles that you had -- would it have  
12 been Randy's or --

13          THE DEFENDANT: No. It's going to be Randy's  
14 vehicle because the shoes that I put on were a  
15 pair of boat shoes that were in my box in  
16 my clothes bin.

17          DETECTIVE BURREN: Okay.

18          THE DEFENDANT: And what made me put those  
19 shoes on was seeing the blood on them the next  
20 day.

21          DETECTIVE BURREN: All right.

22          THE DEFENDANT: And so, you know, obviously,  
23 there is blood on those Reefs.

24          DETECTIVE BURREN: You said when you came  
25 back in, Randy was struggling to stand, and that's

1           when you stabbed him in the right side.

2                     Did you stab him anywhere else other than the  
3 side and the head?

4           THE DEFENDANT: Yeah. I think -- I think I  
5 did try to, you know, come down and stab him like  
6 in this area. I might have been in front -- for  
7 some reason, I think I stabbed him on this side.

8           DETECTIVE BURRES: Okay.

9           THE DEFENDANT: So I would have to be in  
10 front of him to do that.

11           DETECTIVE BURRES: Did you ever try to stab  
12 him in the head anywhere? Did you ever make any  
13 stabs?

14           THE DEFENDANT: Yeah. You know what? I  
15 remember seeing a videotape of a doctor showing  
16 this amazing person who got stabbed with a KA-BAR  
17 knife, and the person didn't die.

18                     But in my mind, you know, I was thinking that  
19 a knife could go through a skull. And I think I  
20 tried it. It just didn't.

21                     Whoever stabbed that person in the head with  
22 a KA-BAR knife was a massive individual. So I --  
23 it didn't work. And I know this stuff sounds  
24 really cold-blooded to you. I'm just trying to  
25 tell you exactly --

1           DETECTIVE BURRES: I know you are, and I  
2 appreciate your cooperation.

3           THE DEFENDANT: It's not like I'm, you know,  
4 sitting here, you know, this shit eats me alive  
5 every night.

6           DETECTIVE BURRES: I'm sure it does.

7           THE DEFENDANT: That noise that he made, I  
8 hear it constantly, man. And I never tell Carol  
9 this stuff. So y'all guys spare her that, you  
10 know.

11          DETECTIVE BURRES: We won't say anything to  
12 her.

13          DETECTIVE ROLLINS: Do you remember stabbing  
14 Randy in the back at all?

15          THE DEFENDANT: You know, I don't see how I  
16 could have. Like, I was standing behind him and  
17 stab him, you know?

18          DETECTIVE BURRES: Were you ever physically  
19 grasping Randy when he was standing up to control  
20 him to be able to stab him?

21                I know -- I think you said in your interview  
22 with Detective Rollins, if Detective Rollins told  
23 me correctly, at one time Randy went to fall, and  
24 you were scared he was going to make too much  
25 noise. And you grabbed a hold of him to lower him

1 to the ground so he wouldn't make so much noise  
2 when he fell.

3 THE DEFENDANT: That's when he fell out of  
4 the pot --

5 DETECTIVE BURRES: Okay.

6 THE DEFENDANT: -- you know? And, uh, yeah.  
7 I did try to -- I did try to lower him down, but I  
8 couldn't.

9 First of all, I was really, really high.  
10 Believe it or not, I'm a really powerful man, but,  
11 I mean, on drugs, you know -- you know, you are  
12 not as powerful as you think you are.

13 You think you're Superman when you're on  
14 drugs, but you're not, you know. And I tried,  
15 but he hit the floor.

16 DETECTIVE BURRES: Okay. And is that where  
17 you were concerned about the elderly lady maybe  
18 going to hear this?

19 THE DEFENDANT: I know she's deaf.

20 DETECTIVE BURRES: Okay.

21 THE DEFENDANT: She's deaf. She is deaf,  
22 right?

23 DETECTIVE BURRES: Uh-huh.

24 THE DEFENDANT: You know, but I think that I  
25 thought maybe the vibration.



1           DETECTIVE BURRES: She could feel that, sense  
2 that?

3           THE DEFENDANT: Yeah. I thought, you know,  
4 because that's what -- that's probably what was  
5 going on in my mind. It's not -- guys, I'm not  
6 trying to tell you what happened. If I'm saying  
7 something wrong or anything that is either  
8 different from what it is, and it's, like, going  
9 to be some kind of major hold for you guys, ask me  
10 and I'll tell you whether or not it's true or --

11          DETECTIVE BURRES: That's why a couple of  
12 things I said --

13          THE DEFENDANT: Right.

14          DETECTIVE BURRES: -- if I have questions.

15          THE DEFENDANT: Right. I totally forgot that  
16 I struggled with Randy, probably because I wanted  
17 to.

18          DETECTIVE BURRES: Right.

19          DETECTIVE ROLLINS: I think you mentioned  
20 that the last time we talked, though.

21          THE DEFENDANT: What?

22          DETECTIVE ROLLINS: That you struggled.

23          THE DEFENDANT: Right. I -- yeah, I did. I  
24 did mention that, but sitting here, I would have  
25 never remembered it if you hadn't made me remember

1           it, you know? Not because I was trying to hide  
2           something from you. I just --

3                     DETECTIVE ROLLINS: It's been four months.

4                     THE DEFENDANT: No. That's part of something  
5           you will really want to forget. To think that  
6           I've actually had probably forgotten some of it is  
7           a blessing. You know, I mean, I don't want to  
8           remember any of it.

9                     DETECTIVE ROLLINS: Right.

10                    THE DEFENDANT: I don't.

11                    DETECTIVE BURREN: So when you go to leave  
12           the house, I guess is that when you turned the  
13           porch light on?

14                    THE DEFENDANT: Yeah. I locked the front  
15           door.

16                    DETECTIVE BURREN: Okay. And you locked the  
17           front door. Why did you lock the front door?

18                    THE DEFENDANT: Why did I lock the front  
19           door? Because the kid was supposed to be coming  
20           back over.

21                    DETECTIVE BURREN: Okay. Later that night?

22                    THE DEFENDANT: I don't know. You know,  
23           that -- that day was -- that wasn't the first time  
24           I had seen that kid.

25                    DETECTIVE BURREN: Uh-huh.

1           THE DEFENDANT: I think we all sat out on the  
2 porch one time, um, at least a month, might have  
3 been a year before.

4           DETECTIVE BURREN: So when you leave, you go  
5 and you get, I guess, the box out of your vehicle  
6 and you put it in Randy's?

7           THE DEFENDANT: Yeah. It's a  
8 lavender-colored box, lavender bin. I say bin.

9           DETECTIVE BURREN: Did you have a book bag  
10 or, like, a backpack?

11          THE DEFENDANT: Yeah. Blue.

12          DETECTIVE BURREN: Blue in color?

13          THE DEFENDANT: Yeah.

14          DETECTIVE BURREN: Do you remember where you  
15 left it?

16          THE DEFENDANT: I remember it's Carol's. I  
17 remember she gave it to me for some reason for all  
18 my office work, all my paperwork and stuff when I  
19 was in the office. And where did I leave it?

20          DETECTIVE BURREN: Did you use it just for  
21 that, or did you use it for clothes?

22          THE DEFENDANT: No. It became something  
23 totally different from what I was using it for.  
24 Oh, I know what it was.

25          Carol brought it over one time for an

1           overnight stay with me in Alachua County. She  
2           come stayed the weekend. I had a place over there  
3           that I rented while I was running that job site.

4                     And she would come on the weekends and stay  
5           with me. And I was drug-free then.

6                     Where did I leave it? Did I leave it in  
7           Charlie's house?

8                     DETECTIVE BURRES: No. Actually, it wasn't  
9           in the house.

10                    THE DEFENDANT: But then --

11                    DETECTIVE BURRES: Do you remember taking it  
12           out when you were there? Was it something, like,  
13           you used for, like, overnight stays or something  
14           like that?

15                    THE DEFENDANT: You know what, man? In that  
16           state of mind I was in, I could have probably  
17           threw all kinds of stuff in it.

18                    DETECTIVE BURRES: Okay.

19                    THE DEFENDANT: You know, in my mind, I'm  
20           making, like, you know, an escape package, you  
21           know, but I don't know if I left it somewhere or  
22           if I --

23                    DETECTIVE BURRES: Okay. I just wanted to  
24           know because I did find one. I just wanted to  
25           know if it was yours or not.

1 THE DEFENDANT: Yeah. What was in it?

2 DETECTIVE BURRES: Just clothes and stuff  
3 like that.

4 THE DEFENDANT: Okay. Then yeah. I probably  
5 tried to make -- you know what? I might have -- I  
6 may have brought that in with me when I spent the  
7 night --

8 DETECTIVE BURRES: Okay.

9 THE DEFENDANT: -- and left it there that  
10 Monday when I left.

11 DETECTIVE BURRES: So it would be something  
12 consistent with just carrying your change of  
13 clothes or something like that --

14 THE DEFENDANT: Yeah.

15 DETECTIVE BURRES: -- for the most part? So  
16 when you leave the house --

17 THE DEFENDANT: You know what? I think that  
18 I -- I think that some of those clothes in there  
19 came from the place in Georgia.

20 DETECTIVE BURRES: Okay.

21 THE DEFENDANT: I really do.

22 DETECTIVE BURRES: Would they have been your  
23 clothes, or would they have been someone else's?

24 THE DEFENDANT: Man, probably some of them  
25 mine and I think I grabbed a shirt out of that

1 closet there and put that on, you know. I mean,  
2 uh, those clothes in that bin, I mean, I used to  
3 do laundry every week, you know, but I was kind of  
4 off my rocker, so -- so I guess I was wearing  
5 whatever I could.

6 DETECTIVE BURREs: So when you leave Randy  
7 and Charlie's house, what do you do? You get in  
8 Randy's car and --

9 THE DEFENDANT: Man, you wouldn't believe.

10 DETECTIVE BURREs: -- pull out of their  
11 driveway and you drive to Palmo and to 13. Where  
12 do you go from there?

13 THE DEFENDANT: I think I was going to  
14 Savannah.

15 DETECTIVE BURREs: Do you remember seeing  
16 anybody standing in their yard when you left or  
17 anybody pulling into their houses as you were  
18 leaving, anybody who would have seen you?

19 THE DEFENDANT: No.

20 DETECTIVE BURREs: Okay. Nobody that you  
21 know would have seen you?

22 THE DEFENDANT: Is there someone that was  
23 saying they were there?

24 DETECTIVE BURREs: At the house, no. Nobody  
25 is saying that. I'm just asking, was anybody

1 coming home? Did you pass anybody on that little  
2 dirt road?

3 THE DEFENDANT: What do you mean? You mean  
4 the feeder road off of --

5 DETECTIVE BURREN: Yeah, the feeder road.

6 THE DEFENDANT: -- the main road?

7 DETECTIVE BURREN: Uh-huh.

8 THE DEFENDANT: Off the asphalt?

9 DETECTIVE BURREN: Right.

10 THE DEFENDANT: Did I pass someone?

11 DETECTIVE BURREN: Yeah.

12 THE DEFENDANT: Walking or driving?

13 DETECTIVE BURREN: Driving or walking. Do  
14 you remember seeing anybody out there that would  
15 have seen you leaving? Maybe not knowing  
16 specifically that it was you, but knowing that  
17 they may have seen Randy's car leave?

18 THE DEFENDANT: No.

19 DETECTIVE BURREN: Okay.

20 THE DEFENDANT: Not at all.

21 DETECTIVE BURREN: No? All right. When you  
22 leave, what do you go? You say --

23 THE DEFENDANT: I -- I think I went out  
24 there, and I think I turned left on, um, 13A.

25 DETECTIVE BURREN: 13A or 13? That's

1           actually 13.

2           THE DEFENDANT: Okay. I think I turned left  
3           on 13, and then I think I, um -- I think I  
4           went on -- I know I didn't go back out to that  
5           house. I went on --

6           DETECTIVE BURRES: The one in Green Cove,  
7           you're referring to?

8           THE DEFENDANT: I was heading somewhere. I  
9           don't know, just away. I think I was going  
10          to Savannah. There is a bishop there that used to  
11          be in this Catholic church here in St. Johns  
12          County. He used to come to the jail. And he is a  
13          cardinal now or a bishop. And he runs the  
14          Catholic church in Savannah.

15          And I had a really good rapport with him, and  
16          I was going to go see him. But my paranoia  
17          started getting me, so I wound up being in  
18          Jacksonville airport. And, um, I was going to  
19          sleep in the overnight.

20          DETECTIVE BURRES: Parking, you mean?

21          THE DEFENDANT: Yeah, but I got scared there.  
22          So I actually went up to the attendant and said,  
23          hey, am I allowed to sleep in here?

24          And they were like, well, no. You are not  
25          supposed to, but being you're asking me,



1 obviously, you don't want to do nothing wrong.

2 DETECTIVE BURRES: Right.

3 THE DEFENDANT: So go ahead, you know. And I  
4 went and pulled in to park and got to thinking  
5 about that.

6 I was like, no. This guy here is going to  
7 freak out about this. You know, it's highly  
8 unusual, I was assuming, so I pulled out.

9 And I -- I think I actually used Randy's card  
10 to pay for it. And it got jammed --

11 DETECTIVE BURRES: In the machine?

12 THE DEFENDANT: -- in the machine. And I had  
13 to stand there and wait for someone  
14 to (inaudible), you know, but I can't leave  
15 because the card's there.

16 And, uh, so I actually waited until  
17 someone -- can you actually believe I waited until  
18 someone came to open the machine up to give me  
19 that card? Thanks. Yeah. I drove away.

20 And now I think I bought a thousand packs of  
21 cigarettes. Didn't open one of them.

22 DETECTIVE BURRES: Really.

23 THE DEFENDANT: Is there that many packs of  
24 cigarettes in his car?

25 DETECTIVE BURRES: Not that I've seen.

1           THE DEFENDANT: Then they all smoked  
2           Marlboros who went through them because I know --  
3           well, you've got the records.

4           DETECTIVE BURREN: Yeah. There's definitely  
5           not a large quantity of cigarettes.

6           THE DEFENDANT: There's -- I think I bought  
7           at least five cartons.

8           DETECTIVE BURREN: Did you do that on a  
9           credit card?

10          THE DEFENDANT: Everything was off his card.

11          DETECTIVE BURREN: Now, was there a lot of  
12          money in Randy and Charlie's --

13          THE DEFENDANT: I have no idea.

14          DETECTIVE BURREN: Was there cash?

15          THE DEFENDANT: Oh, you mean in their  
16          wallets?

17          DETECTIVE BURREN: In their wallets.

18          THE DEFENDANT: Man, I told you the exact  
19          amount that there was, and I -- I can't remember  
20          it, but I know it wasn't much. I know it wasn't  
21          much. I don't think that there --

22          DETECTIVE ROLLINS: I've got it written down.  
23          I don't remember offhand myself.

24          THE DEFENDANT: I don't think that --  
25          combined, I don't think there was 50 dollars in

1 both wallets.

2 DETECTIVE BURREN: So you more or less used  
3 credit cards for most of the stuff you did or --

4 THE DEFENDANT: I didn't do a lot of stuff.  
5 I ate, like, four or five times at -- you know,  
6 that night I ate a lot. I ate at McDonald's,  
7 Wendy's, Arby's, Burger King.

8 DETECTIVE ROLLINS: Did you ever make it to  
9 Savannah?

10 THE DEFENDANT: No.

11 DETECTIVE ROLLINS: You just mainly hung  
12 around the Jax area?

13 THE DEFENDANT: No. I think I actually made  
14 it in Georgia --

15 DETECTIVE ROLLINS: Okay.

16 THE DEFENDANT: -- you know? And I -- as a  
17 matter of fact, I think I even bought -- no. You  
18 know what? I think I made it to Fernandina,  
19 Fernandina.

20 DETECTIVE BURREN: It's close to Georgia.

21 THE DEFENDANT: Yeah, but the reason I say  
22 that is because I was going to go to Fernandina  
23 Beach, and I wound up in some industrialized area.

24 Man, you wouldn't believe the stuff I went  
25 through, man. I mean, I was in Jacksonville, and

1 I actually drove right up to the sheriff's  
2 department. I'm going through a neighborhood and  
3 I'm trying to hide from all the cops and  
4 everything.

5 There ain't no cops, but I'm hiding and  
6 stuff, hiding. And I turn in -- I pulled right  
7 into the sheriff's department. I pulled right  
8 into the sheriff's department. Guys, no, no.  
9 Everything's fine. And I backed out and left.  
10 Crazy. Crazy, man.

11 And then I -- one time a state trooper -- I  
12 did something -- the car sat so low, and I'm so  
13 used to driving in my Titan, sitting really high  
14 up.

15 I couldn't see the median, and I did some  
16 stuff that I should have never -- I should have  
17 never made it out of this county that night.

18 I mean, I actually went through a median into  
19 the thing and then had -- it was a  
20 front-wheel-drive car and had to really mash. I'm  
21 going to get stuck. Stopped right there on the  
22 road. There was a cop.

23 And he said, man, I wouldn't believe that if  
24 I didn't see that. I said, I swear, I thought  
25 that there was a road here to be able to get into

1 this lane. There wasn't. I actually drove --

2 DETECTIVE ROLLINS: Now, where was that at?

3 THE DEFENDANT: Jacksonville. I mean, I  
4 actually drove up -- you know how you come out of  
5 a parking lot, there's three lanes going that way  
6 and a median and three lanes going that way?

7 I thought there was, you know, a little spot  
8 you could get on it. There wasn't.

9 DETECTIVE ROLLINS: Uh-huh.

10 THE DEFENDANT: 'Cause I couldn't see it  
11 because the car sat so low. And a cop watched me  
12 do that, watched me sit there and peel out, smoke  
13 going everywhere to get up out of this ditch.

14 Then we stopped and talked. And he said,  
15 man, I wouldn't believe that if I hadn't just seen  
16 it myself.

17 I say, I swear, I thought there was a road  
18 there. He said, there ain't no road. I said, I  
19 see that, you know? He said, you have a nice day.  
20 I said, yes, sir.

21 DETECTIVE BURREN: Back to Fernandina, where  
22 did you go?

23 THE DEFENDANT: Back to Jacksonville.

24 DETECTIVE BURREN: Back to Jacksonville?

25 THE DEFENDANT: Yeah. I was running out of

1           dope.

2                   DETECTIVE BURRES:   Okay.  Did you buy, I  
3           guess, in Jacksonville?

4                   THE DEFENDANT:  No.  I don't know anybody.

5                   DETECTIVE BURRES:  Take you back over to  
6           Gainesville?

7                   THE DEFENDANT:  I sat in a -- I probably  
8           messed around in the -- you can see the time, man.

9                   Have you guys went and got the time off of  
10          that clock where I stayed at?  I told you I stayed  
11          there.

12                   DETECTIVE BURRES:  Off of where at?

13                   DETECTIVE ROLLINS:  At the airport?

14                   THE DEFENDANT:  Yeah.

15                   DETECTIVE BURRES:  Yeah.  We have been up  
16          there, but we couldn't find which one --

17                   THE DEFENDANT:  Oh.

18                   DETECTIVE BURRES:  The right one.

19                   THE DEFENDANT:  It was there.  It was a black  
20          man who was an attendant.  I mean, all you had to  
21          do is -- do you remember the guy -- maybe they  
22          have these things get stuck all the time.  I don't  
23          know.  The card actually got stuck in the machine.

24                   DETECTIVE BURRES:  Do you remember when you  
25          got back to Gainesville?

1 THE DEFENDANT: Yeah. I got to Gainesville,  
2 uh, before the dope dealer was home.

3 DETECTIVE BURRES: So would that be on the  
4 day that you are actually caught in Citrus County,  
5 is that when you got back?

6 THE DEFENDANT: Yeah.

7 DETECTIVE BURRES: Is it early morning? Is  
8 it --

9 THE DEFENDANT: Yeah. It's early morning.

10 DETECTIVE BURRES: Did you ever trade any of  
11 Charlie's or Randy's credit cards for any drugs or  
12 anything?

13 THE DEFENDANT: I was going to try.

14 DETECTIVE BURRES: You never did, though?

15 When -- when did you get to the point, Blake,  
16 that you abandoned Randy's car?

17 THE DEFENDANT: Driving on I-75, thinking you  
18 were following me.

19 DETECTIVE BURRES: Okay. Do you know about  
20 what time of the day that was?

21 THE DEFENDANT: No. It was probably  
22 somewhere midmorning.

23 DETECTIVE BURRES: Okay.

24 THE DEFENDANT: Maybe --

25 DETECTIVE BURRES: Okay. Probably about ten

1 o'clock or so?

2 THE DEFENDANT: Maybe. Maybe -- the guy was  
3 fishing, you know? He was fishing, you know? It  
4 was crazy.

5 DETECTIVE BURRES: Did he even know you were  
6 there?

7 THE DEFENDANT: He had no idea.

8 DETECTIVE BURRES: You just parked Randy's  
9 car in a parking lot or --

10 THE DEFENDANT: Right on the highway.

11 DETECTIVE BURRES: Right on the highway?

12 DETECTIVE ROLLINS: What, 301 or 441?

13 THE DEFENDANT: I don't remember. I don't  
14 think it was 301.

15 DETECTIVE ROLLINS: Then it's 441? I though  
16 it was north of -- south of Gainesville heading  
17 towards Ocala.

18 THE DEFENDANT: Yeah. Don't ask me where I  
19 was going because I don't know. I was just  
20 running.

21 DETECTIVE BURRES: So his keys was in his  
22 vehicle?

23 THE DEFENDANT: Yeah.

24 DETECTIVE BURRES: You just parked right  
25 there beside or behind him?



1 THE DEFENDANT: Right behind him, pulled up  
2 right behind him.

3 DETECTIVE BURREN: And get in his truck?

4 THE DEFENDANT: It's not a truck. It was a  
5 maroon --

6 DETECTIVE BURREN: Camaro?

7 THE DEFENDANT: -- Z28 Camaro.

8 DETECTIVE BURREN: Did you take anything out  
9 of Randy's car and put it in there?

10 THE DEFENDANT: Yeah. Sure. I think I took,  
11 um -- I obviously took all my dope, you know. Um,  
12 I think I had a couple packs of cigarettes.

13 DETECTIVE BURREN: Okay.

14 THE DEFENDANT: And I took that lunchbox.

15 DETECTIVE BURREN: The soft-sided one?

16 THE DEFENDANT: Yeah.

17 DETECTIVE BURREN: What color was it? Do you  
18 remember?

19 THE DEFENDANT: Blue, interior white, zipper  
20 top.

21 DETECTIVE BURREN: And that's -- that's what  
22 had Randy's wallet, credit cards, everything in?

23 THE DEFENDANT: Well, no. Those were in my  
24 back pocket by then.

25 DETECTIVE BURREN: Did you mix his and --

1 THE DEFENDANT: Yes, I did.

2 DETECTIVE BURREN: -- Charlie's stuff  
3 together?

4 THE DEFENDANT: Whose wallet I kept I can't  
5 tell you. I still had both wallets, but I just  
6 combined them into one wallet.

7 DETECTIVE BURREN: Okay.

8 THE DEFENDANT: And if you had a map, I  
9 honestly came down and I got that car, the Camaro.  
10 And then I went a little further, turned back  
11 around, went past the guy that I took the car  
12 from. He doesn't even know I took his car.

13 DETECTIVE BURREN: The guy fishing?

14 THE DEFENDANT: Yeah. He's still fishing  
15 when I went back by him, all right? And then I  
16 went on back over and, uh, um, down I-75, came  
17 down I-75, and went and turned on I-75. Now I'm  
18 doing 140 mile an hour on I-75.

19 DETECTIVE BURREN: Uh-huh.

20 THE DEFENDANT: I ran off the road, crawled  
21 out. I did this once that day on I-75 where I  
22 crashed at.

23 (Unintelligible.)

24 THE DEFENDANT: -- that goes over I-75.

25 Well, I just went down the embankment and busted

1 through -- with no one chasing me, busted through  
2 the game fence, got out on I-75, and drove.

3 I'm trying to be inconspicuous. Can you --  
4 can you picture this day?

5 DETECTIVE BURREN: No.

6 THE DEFENDANT: I mean --

7 DETECTIVE BURREN: When do you -- when do you  
8 ditch the Camaro?

9 THE DEFENDANT: Some point here.

10 DETECTIVE BURREN: Okay.

11 THE DEFENDANT: You know, because here is how  
12 I did it. I tried to bust through another  
13 overpass to get back on I-75 because I'm off I-75  
14 now.

15 I'm back doing some other stuff somewhere  
16 else in some other part of Florida that I -- I've  
17 never heard of Citrus County in my life. I never  
18 heard of Levy.

19 I never even knew there was a Levy or Citrus  
20 County. That shows you I didn't know where the  
21 hell I'm at.

22 And I tried to bust through this game fence.  
23 It didn't work though. It stopped about like  
24 that, down this embankment.

25 And I grabbed the drugs. I got the drugs on

1 me, put the syringe, maybe some cigarettes and  
2 change. And there is a little bitty box with  
3 marijuana in it that was Randy's that he smoked  
4 out of. Had a little pipe and stuff.

5 (Unintelligible.)

6 THE DEFENDANT: -- slid down, got to the end,  
7 tumbled down the rest of the embankment, ran out  
8 to I-75.

9 And, you know, flag, flag, flag. And this  
10 guy that just went to court for today pulled over  
11 in a maroon-colored Acura. And he lied, man. He  
12 said I pulled a pistol on him, man. I didn't pull  
13 no pistol on this guy, you know?

14 DETECTIVE ROLLINS: Did you say you had one  
15 or anything?

16 THE DEFENDANT: Yeah, I said I had one, but I  
17 didn't show him one. I had my hand in the  
18 lunchbox, you know, and I -- I said I need to go  
19 down this road right here.

20 He says okay, I'll drive you. We're driving  
21 down the road, and he looks really big in my mind.  
22 If I had to have an altercation with him, you  
23 know, it might go either way.

24 So I said, listen, man, you need to just stop  
25 the car. I've got a pistol right here. You need

1 to just get out of the car.

2 DETECTIVE BURRES: Okay.

3 THE DEFENDANT: He got out of the car. His  
4 cell phone was plugged in there, all right? I  
5 said, man, get your cell phone to call the cops.

6 DETECTIVE BURRES: And you gave him the cell  
7 phone?

8 THE DEFENDANT: Yeah. I gave him the cell  
9 phone and said, call the cops, you know? And I  
10 left.

11 And, you know, I did some crazy stuff again,  
12 run, run, run, here, there, and everywhere. And I  
13 wound up meeting another Latin woman, apparently,  
14 in Levy County now.

15 She stopped at an intersection, you know, a  
16 three-way intersection. And I said, ma'am, how do  
17 you get to the mall in Ocala? And she told me  
18 this and that, and I got out of the car. I  
19 reached in -- (inaudible) -- said, I need this  
20 car.

21 She got out and she went to go. I said,  
22 wait, ma'am. Come on, get your kids. You know,  
23 she had three kids. She was going to leave them.  
24 Get your kids. My God, you know? And she got her  
25 kids and -- (unintelligible) -- you know?

1           And, uh, she went to leave. I said, ma'am,  
2           get your purse. And she got her purse, and I  
3           drove away in that car. And that's the car that I  
4           got caught in. That's the car where you have the  
5           report of the high-speed chase.

6           DETECTIVE BURRES: You drive out of Levy and  
7           into Citrus, and that's where you get into the  
8           pursuit, where they start pursuing you?

9           THE DEFENDANT: Well, that's when, uh, I had  
10          a conversation with a state trooper. I had a  
11          conversation with a state trooper.

12          DETECTIVE BURRES: After you took the vehicle  
13          from the -- the Latin lady?

14          THE DEFENDANT: Yeah.

15          DETECTIVE BURRES: He stopped you?

16          THE DEFENDANT: No. I stopped him.

17          DETECTIVE BURRES: And he talked to you and  
18          let you go.

19          THE DEFENDANT: I mean, I shaved in the car.  
20          I -- I had a beard. I shaved. Randy had a razor  
21          in, uh, the lunchbox. I dry, you know --

22          DETECTIVE BURRES: Just a regular disposable?

23          THE DEFENDANT: I dry shaved. I had more  
24          than I have right now. I dry shaved. Um, so  
25          maybe the state trooper was questioning

1           about whether or not it was me that he was looking  
2           for.

3                     I don't know if he was even looking for me,  
4           you know? In my mind, all of you was looking for  
5           me, you know?

6                     So I asked him something. I can't remember  
7           what it was. He (inaudible). I left and he  
8           didn't follow me. I went back out on the road.

9                     And I'm driving down the road, and that's  
10          when I seen behind me that all the traffic is  
11          blocked off behind me. And then way up ahead, all  
12          the traffic over here ceases. You can tell they  
13          got the road blocked off.

14                    And I crossed the median, turned around, and  
15          went back. Got up to about 110 mile an hour.  
16          (Inaudible.) Didn't lose control of the car.

17                    DETECTIVE BURRES: Is that when you were  
18          being pursued by Citrus?

19                    THE DEFENDANT: Yeah. I'm being pursued now.

20                    DETECTIVE BURRES: Okay.

21                    THE DEFENDANT: By everybody. Helicopters is  
22          flying, you know? (Unintelligible.)

23                    DETECTIVE BURRES: I guess you just ended up  
24          running out of road where --

25                    THE DEFENDANT: No. I thought I was going to

1 break through a game fence.

2 DETECTIVE BURREN: There was no fence there?

3 THE DEFENDANT: And go onto I-75. That's  
4 what I thought (unintelligible) bridge was. I  
5 thought it was an overpass to I-75.

6 DETECTIVE BURREN: Okay.

7 THE DEFENDANT: I didn't think it was a  
8 river, you know, especially with boulders bigger  
9 than this room surrounding the river.

10 I hit one of them damn things, man, doing  
11 over a hundred mile an hour, and walked away from  
12 it, ran away from it. I'm telling you, I didn't  
13 hit the brakes at all. I hit that rock doing over  
14 a hundred mile an hour and crawled out of that car  
15 and run away.

16 Dove in the water with the bag of cocaine  
17 right here in the small pocket, sealed up. Got in  
18 the water, freaked out about the cocaine, and put  
19 it in my mouth and, uh, but I don't have a  
20 syringe.

21 And I dove in the water and thought to  
22 myself, as I got about a third of the way across,  
23 that's the first place they're going to look.  
24 (Inaudible.)

25 And I was right. They were all over there on



1 that other side, waiting. Then they had to all  
2 come back to this side. (Inaudible.)

3 DETECTIVE BURRES: I guess when you're taken  
4 into custody is when you give them the wallet with  
5 Randy's ID and Charlie's?

6 THE DEFENDANT: Actually, they took it out of  
7 my back pocket.

8 DETECTIVE BURRES: Did you tell them who you  
9 were (unintelligible)?

10 THE DEFENDANT: (Inaudible.)

11 DETECTIVE BURRES: They knew you were Blake  
12 McKenzie at that point?

13 THE DEFENDANT: Yeah. I told them.

14 DETECTIVE ROLLINS: I think you even told  
15 them to keep the wallet for evidence, didn't you?

16 THE DEFENDANT: Yeah. I didn't try -- I  
17 mean, I told them right off the bat. I said,  
18 listen, guys, you don't have to beat me. But  
19 there were a (inaudible).

20 I actually met one of the guys. He was a  
21 corrections officer for Citrus County. And he was  
22 going to get his tires rotated. And the road -- I  
23 sped past him and, uh, he got involved in the  
24 chase.

25 (Inaudible.)

1           THE DEFENDANT: That car did -- that Latin  
2 woman's car did 120 mile an hour. What was it?  
3 Do you know?

4           DETECTIVE BURRES: I don't remember the  
5 actual model of it. I think it was a Toyota.

6           Wasn't it a Toyota?

7           THE DEFENDANT: I thought it was a Mercury  
8 or something. I don't know, but then again,  
9 I thought the black dude's car was a  
10 (unintelligible), and I just found out today it  
11 was an Acura.

12           That's about it, man.

13           DETECTIVE BURRES: Anything else you can  
14 think about?

15           THE DEFENDANT: No. How about you?

16           DETECTIVE BURRES: Right now I think you  
17 answered a lot of my questions. I can't think of  
18 anything at this time.

19           You need to go to the bathroom or anything?  
20 You want to take a break?

21           THE DEFENDANT: Yeah. I'd like to take a --  
22 or use -- take a number one -- (unintelligible) --  
23 smoke if I could.

24           DETECTIVE BURRES: We'll go to the bathroom  
25 real quick, and then we'll -- we'll take you out,

1 get a smoke.

2 (The video recording concluded.)

3 THE COURT: Were there any further questions  
4 of Commander Burres?

5 MR. JOHNSON: I have no further questions.

6 THE COURT: Cross-examination?

7 MR. BARRETT: Thank you, Judge.

8 CROSS-EXAMINATION

9 BY MR. BARRETT:

10 Q Good afternoon, Commander.

11 A Good afternoon, sir.

12 Q You weren't involved in the first interview  
13 that was done where Detective Rollins was involved,  
14 correct?

15 A That's correct.

16 Q But did you, as part of your involvement in  
17 this case, have the opportunity to review that video?

18 A Yes, sir. I reviewed it.

19 Q Okay. And during that video, Mr. McKenzie  
20 spoke about his extensive use of drugs during this  
21 period, correct?

22 A Yes, sir.

23 Q In fact, he also spoke about nine days,  
24 basically, going on a binge, correct?

25 A Correct. It was several days.

1 Q And at some point he also said that from  
2 around July up until the time of the death of these two  
3 gentlemen, he had been using drugs constantly?

4 A I don't remember the exact time frame, but it  
5 was -- he was using quite frequently.

6 Q And he also told the detective that he spent,  
7 like, thousands of dollars on drugs?

8 A I would say that's accurate.

9 Q And that prior to this incident himself, he  
10 had worked at a place where he was making over 60,000  
11 dollars a year, correct?

12 A Yes, sir. He told us that.

13 Q He was reading blueprints for a company?

14 A Correct. He was in the construction industry.

15 Q And he got fired because he relapsed and got  
16 caught using drugs, correct?

17 A Yes, sir.

18 Q Now, you read him his Miranda rights, which  
19 basically told him that he didn't have to talk to you  
20 at all, right?

21 A Detective Rollins did that, but they were  
22 advised on two occasions.

23 Q And on both occasions, he spoke to you?

24 A Yes, sir.

25 Q Told you exactly what happened as far as he

1 could remember, correct?

2 A Correct.

3 Q In fact, in this interview, he said there were  
4 things that he couldn't remember, but he did speak to  
5 you, correct?

6 A Yes, he did.

7 Q This interview was done sometime in February,  
8 correct?

9 A Yes, sir. The second one was.

10 Q Right. February the 15th, 2007?

11 A Yes, sir.

12 Q So that's roughly around four months after the  
13 first interview, correct?

14 A Correct.

15 Q Okay. Now, Mr. McKenzie told you that he took  
16 the wallets, one wallet out of a pocket of one of the  
17 gentlemen, and then I think he found the other wallet  
18 somewhere else and took both wallets, correct?

19 A Yes, sir. The first wallet came out of  
20 Mr. Johnston's rear right pocket inside the shed, and  
21 the other one was located in a soft-sided lunchbox  
22 within the house.

23 We weren't sure if it was on the kitchen  
24 counter or in the bedroom, but that's where  
25 Mr. Peacock's wallet was.

1           Q     And he also told you that when he went to the  
2 home, his intent was to ask, I think he said Charlie,  
3 for money?

4           A     Yes, sir. Mr. Johnston. He wanted to borrow  
5 money.

6           Q     Other than what Mr. McKenzie told you, do you  
7 have any independent evidence to show that he went  
8 there with the intention to rob any of these gentlemen?

9           A     Nothing that I can independently say. Just  
10 going off of what he told us.

11          Q     Okay. He also told you that, um, when he  
12 asked for a hammer initially, it was to take out a dent  
13 that was in his vehicle, correct?

14          A     Correct.

15          Q     And you did see the vehicle, correct?

16          A     Correct.

17          Q     And I believe you testified that there was a  
18 dent in the vehicle, correct?

19          A     Yes, sir.

20          Q     And besides the hammer, he also asked for a  
21 piece of wood?

22          A     Correct.

23          Q     Again, anything independent in terms of your  
24 investigation or the investigation of any other  
25 officers involved in this case that would suggest

1 otherwise, that he, um, went in there requesting the  
2 hammer to do the work on his vehicle?

3 A No, sir, other than what Mr. McKenzie told us.

4 Q You -- you indicated that FDLE was called in  
5 to basically process the scene, correct?

6 A Yes, sir.

7 Q And one of the things they processed there  
8 would have been the vehicle, his vehicle, correct?

9 A At the scene, no, sir.

10 Q Say again?

11 A At that scene, no, sir.

12 Q But they did collect the vehicle, correct?

13 A We did impound the vehicle and have it towed  
14 to the sheriff's office.

15 Q Okay. Did you ever check to see if the  
16 vehicle was functional? Could it drive?

17 A I don't believe we did.

18 Q Didn't check? But you know he drove the  
19 vehicle there, correct?

20 A Uh, yes, sir. I was told he did.

21 Q And you know also that the vehicle's  
22 registered in his name?

23 A Correct.

24 Q Okay. The wallets that were taken and other  
25 items that were taken from these two gentlemen, again,

1 the only evidence you have is what he told you,  
2 correct?

3 A That is correct.

4 Q And these were taken after the individuals had  
5 died, correct?

6 A Correct.

7 Q And, in fact, after the individuals had died,  
8 the axe that was used in this case was found in plain  
9 view, correct?

10 A Yes, sir.

11 Q It wasn't hidden in any kind of tool kit or  
12 anything like that, correct?

13 A No, sir. It was right inside the doorway.

14 Q Right. So as you walk in, it's right there?

15 A Yes, sir.

16 Q And the knife that was used in this case, too,  
17 it was found in the sink?

18 A Yes, sir.

19 Q So both of these were left behind, correct?

20 A Correct.

21 Q Do you know whether or not any of these items  
22 were checked for fingerprints or anything like that?

23 A I would have to review the evidence submittals  
24 or the lab work that was done. I don't recall offhand.

25 Q But Mr. McKenzie never told you that he wore



1 gloves?

2 A No, sir. He -- he had told us that we would  
3 more than likely find his fingerprints on the hatchet  
4 itself.

5 Q Did you check to see if that knife was a part  
6 of a set that was in the house?

7 A It appeared as if it was. I know there were  
8 some other knives, but I didn't specifically look to  
9 see if they were part of a culinary set or anything  
10 like that.

11 Q So, again, based upon your independent  
12 investigation, you have no evidence that he brought the  
13 knife there or the axe to the --

14 A No, sir, other than what he told us.

15 Q Okay. At one point way back in your career,  
16 you were a patrol officer, correct --

17 A Yes, sir.

18 Q -- patrol deputy? And through -- I think you  
19 said 19 years with the department?

20 A Nineteen, yes, sir.

21 Q Okay. I'm assuming you have worked drug cases  
22 also, correct?

23 A Correct.

24 Q You have had occasion to come upon people who  
25 were stoned or really high on drugs, correct?

1 A Yes, sir.

2 Q And, again, Mr. McKenzie told you he's been  
3 using drugs, including, uh, shooting up, correct?

4 A Yes, sir.

5 Q Did you check to see the track marks, to see  
6 if it was consistent with what he's telling you?

7 A I didn't look at his arms or anything like  
8 that.

9 Q Okay. But also did you, um, do any kind of a  
10 screening or have him checked to see whether or not he  
11 had any drugs in his system?

12 A No, sir.

13 Q Do you have any independent evidence to  
14 contradict what he said to you about his drug use?

15 A No, sir.

16 Q In fact, in one of the interviews of one of  
17 the other victims in the case, a woman whose house he  
18 went into, that woman actually told you all she saw him  
19 shooting up, correct?

20 A I believe she told Detective Rollins.

21 Q And, again, you were --

22 A Yes, sir. I have no -- other than what I  
23 reviewed, yes, sir.

24 Q And, in fact, she told Detective Rollins she  
25 saw him shoot up twice while he's in the house?

1           A     I believe so.

2           Q     Okay.  You said there was some -- I guess in  
3     the bedroom, one of the drawers was open; one of them  
4     appeared to have been not completely closed?

5           A     I think in the pictures you'll see the one's  
6     extended fully out.  The remainder of the ones looked  
7     like they had either been opened and pushed back, but  
8     not closed all the way, or -- but he had told us that  
9     he went through the drawers and that we would find them  
10    in that situation.

11          Q     And, again, he -- this was after these two  
12    individuals had been killed or died, correct?

13          A     Yes, sir.

14          Q     And, in fact, one of the wallet -- the one  
15    that was in his back pocket, it wasn't found.  He  
16    actually says here, you may want to keep this for  
17    evidence or something to that effect?

18          A     I believe he said in the interview that it was  
19    taken by Lieutenant Strickland.  And he mentioned that  
20    you'll want to keep this for evidence or something to  
21    that effect.

22          Q     And, again, the video -- the interview he did  
23    with Detective Rollins that you were not a part of, do  
24    you recall seeing in that video taking the drugs he  
25    mentioned in this video, other than --

1           A     I know there was some -- what appeared and  
2     what I was told was a piece of plastic, but as far as  
3     it actually being narcotics, I never could see that or  
4     never was told it was narcotics. It was the plastic.

5           Q     Who was the lead on the case at the time?

6           A     I was the lead.

7           Q     And as the lead, just explain to the jury what  
8     the lead does.

9           A     Any time we have a homicide or any major crime  
10    scene, there's somebody that's going to be tasked with  
11    being the lead agent on it. You'll have a  
12    co-case-agent, as well.

13                    You're responsible for making sure  
14    everything's processed to what needs to be done, uh,  
15    making sure interviews are completed, making sure  
16    everything is documented in a fashion that's legible,  
17    coherent, and factual.

18           Q     And as the lead, did you check to see whether  
19    or not this item he took out of his mouth was, in fact,  
20    drugs or not?

21           A     That was done in Citrus County when he was  
22    being interviewed. I didn't know of that particular  
23    incident until after Detective Rollins had returned  
24    from Citrus. So I was still in St. Johns County when  
25    that interview was being conducted.

1 Q Do you have access to items that the other  
2 county would have collected?

3 A I don't know if that particular item was  
4 collected. I believe it was thrown away.

5 Q Did you ever check with that county to see  
6 whether or not they had -- it was drugs?

7 A No, sir.

8 Q But that's what he told you he had, drugs?

9 A I think it was a piece of plastic that had  
10 held drugs at one time.

11 Q When he was arrested, he was running away from  
12 the police?

13 A Correct.

14 Q Where did he end up?

15 A He crashed his vehicle, the vehicle he had  
16 stolen or had taken from the lady, down towards -- I  
17 guess it dead-ended into a lake.

18 Q Did he go into the lake?

19 A He physically went into the lake himself.  
20 Yes.

21 Q And, in fact, I believe -- and you can correct  
22 me if I'm wrong -- he told you that when he went into  
23 the lake, rather than getting the drugs all wet, he put  
24 it in his mouth, correct?

25 A Yes, sir.

1 Q So even though he was being chased by police  
2 after committing these two murders, he was still trying  
3 to protect his drugs? He put it in his mouth?

4 A Yes, sir. He put it in his mouth. I know  
5 that much. I don't know what his intent was.

6 Q Well, he did turn it over to the police. It's  
7 not like he swallowed it, correct?

8 A I don't think he ever turned narcotics over to  
9 police. I was informed it was a piece of plastic.

10 Q Who told you that?

11 A Detective Rollins.

12 Q Okay.

13 MR. BARRETT: If I may have a second, Judge?

14 THE COURT: Sure.

15 MR. BARRETT: Thank you, Commander.

16 Congratulations.

17 THE WITNESS: Thank you, sir.

18 THE COURT: Any redirect?

19 MR. JOHNSON: No, your Honor.

20 THE COURT: Thank you. You are excused --

21 Is he subject to recall, Mr. Johnson?

22 MR. JOHNSON: We'll release him.

23 THE COURT: Okay. You are released.

24 THE WITNESS: Thank you, sir.

25 THE COURT: Thank you.

1                   (The witness exited the courtroom.)  
2                   THE COURT: All right. State, call your next  
3                   witness, please.  
4                   MS. DUNTON: State's going to call Dr. Bulic.  
5                   (The witness entered the courtroom.)  
6                   THE COURT: Dr. Bulic, if you'll take the  
7                   witness stand right over here, please.  
8                   THE WITNESS: Thank you.  
9                   THE COURT: Good afternoon.  
10                  THE WITNESS: Good afternoon.  
11                  THE COURT: And if you'll remain standing  
12                  when you get there, the clerk will administer the  
13                  oath to you.  
14                  THE CLERK: Do you swear or affirm that the  
15                  testimony you're about to give will be the truth,  
16                  the whole truth, and nothing but the truth?  
17                  THE WITNESS: I do.  
18                  THE COURT: Thank you. Doctor, you can be  
19                  seated.  
20                  THE WITNESS: Thank you.  
21                  THE COURT: Ms. Dunton, you may proceed when  
22                  you're ready.  
23                  MS. DUNTON: Thank you.  
24                                 PREDRAG BULIC, M.D.,  
25                  was called as a witness and, after having been first

1       duly sworn, testified as follows:

2                               DIRECT EXAMINATION

3       BY MS. DUNTON:

4               Q       Good afternoon, Doctor.

5               A       Good afternoon.

6               Q       Please introduce yourself to the jury, and  
7       spell your last name for Madam Court Reporter.

8               A       My name is Predrag Bulic. That's  
9       P-r-e-d-r-a-g, and the last name is B-u-l-i-c.

10              Q       Doctor, what is your occupation?

11              A       I'm the chief medical examiner for three  
12       counties.

13              Q       How long have you been serving as the chief  
14       medical examiner?

15              A       Since 2011.

16              Q       And did you serve as an assistant medical  
17       examiner prior to that?

18              A       Yes. I was, uh, associate medical examiner in  
19       Volusia and Seminole Counties for -- for five years.

20              Q       And what do your duties include as a medical  
21       exam -- medical examiner chief here in our district?

22              A       Generally, medical examiners basically do  
23       autopsies to determine the cause and manner of death in  
24       certain medical-legal cases according to the Florida  
25       Statute.



1                   And the chief medical examiner does the same  
2 except that he oversees the office, as well.

3           Q       And so does that then mean -- it means you're  
4 a medical doctor; is that right?

5           A       Yes. I am a medical doctor.

6           Q       And where are you licensed and how long have  
7 you been a licensed physician?

8           A       I got the license, uh, for the State of  
9 Florida in 2007.

10          Q       And are you board-certified in anything  
11 related to being a medical examiner?

12          A       Yes. I'm board-certified in forensic  
13 pathology, and also in addition to that, I have a  
14 board certification in surgical pathology.

15          Q       What is the study of forensic pathology? What  
16 does that mean?

17          A       Forensic pathology is a subspecialty that is  
18 of a much larger branch of medicine called pathology.

19                   And so pathology is -- is a very, very broad  
20 branch of medicine that mostly, uh, deals with the, um,  
21 um, diseases and, um, etiology of the -- why disease  
22 begins in the body and also diagnostics, so basically  
23 diagnosing.

24                   And forensic pathology is more narrow  
25 subspecialty of -- of pathology where the most -- the

1 primary focus is the -- determining the cause and  
2 manner of death in -- in those cases that become under  
3 the jurisdiction of the medical examiner.

4 Q Okay. And if you could, tell the jury, just  
5 briefly, about your education, med school, and then how  
6 you ultimately came to become the medical examiner.

7 What did you --

8 A So I graduated in -- from the medical school  
9 in Belgrade, which is in former Yugoslavia. That took  
10 five years of training as a medical student.

11 Then I did the internship rotations in  
12 Belgrade, as well, and -- and was -- and was offered a  
13 job in, um, emergency department in Belgrade.

14 I did the ER medicine for five years as a, um,  
15 fully, um, licensed to practice, um, emergency medicine  
16 in Belgrade.

17 And then, um, I became interested in the field  
18 of pathology when -- when I came to the United States  
19 and, um, then entered a residency, um, in pathology,  
20 uh, completed that for -- uh, in, um, within five  
21 years.

22 Then I did two fellowships. One was in  
23 surgical pathology, and second one was in forensic  
24 pathology.

25 And after that, I was offered a position to be

1 assist -- associate medical examiner in Volusia and  
2 Seminole Counties.

3 Q Okay. And that was the job you mentioned that  
4 you held for five or so years prior to becoming our  
5 chief here --

6 A That's correct.

7 Q -- in District 23? Okay. And can you  
8 approximate how many autopsies you've done over the  
9 years? Thousands, I would --

10 A I perform approximately over 4,000 autopsies.

11 Q Have you ever been -- testified in court in  
12 this area as an expert in forensic pathology?

13 A Yes, I do.

14 Q And have you testified here in St. Johns  
15 County in addition to the other counties in your  
16 district?

17 A Yes. I -- I testified in St. Johns, Putnam,  
18 Flagler, in Volusia and Seminole and Broward Counties.

19 Q Okay. And, Dr. Bulic, were you asked to  
20 review autopsies of two men that we're here to talk  
21 about today, Randy Peacock and Charles Johnston?

22 A Yes.

23 Q Now, you were not the medical examiner, just  
24 so the jury is clear, at the time of their death in  
25 2006, correct? Not here?

1           A     No. I was appointed in 2011, so I was, uh,  
2     at -- at 2006, I was actually in Broward County, um, as  
3     a associate medical examiner.

4           Q     Okay. And who did their original autopsies?

5           A     Uh, Dr. Steiner.

6           Q     Okay. And is he still with us?

7           A     Um, no. He, um, he's deceased. Um, I  
8     believe -- he retired first and during that retirement,  
9     he passed away.

10          Q     Okay. So what did you review in order to  
11     familiarize yourself with the cases in order to form an  
12     opinion on your own?

13          A     There were two files, obviously, for two  
14     victims, and they're two separate files. Each file  
15     contains the scene investigations, then some  
16     photographs including the autopsy photographs, also,  
17     obviously, Dr. Steiner's autopsy reports for each.

18                 Um, I reviewed also his, um, trial testimony,  
19     uh, a transcript of that. I reviewed my deposition  
20     that I gave regarding these two cases. And I reviewed,  
21     uh, a transcript that Defendant gave, um, sometime ago.

22          Q     Okay. A statement about the crimes --

23          A     That's correct. Yes.

24          Q     -- that he gave? Okay. And, Doctor, did we  
25     prepare a presentation of photographs for trial here

1 today, autopsy photographs that were taken back in  
2 2006?

3 A Yes.

4 Q Okay.

5 MS. DUNTON: Your Honor, may I approach?

6 THE COURT: You may.

7 BY MS. DUNTON:

8 Q Doctor, I'm going to show you what's been  
9 previously marked as State's DD, and I'll just ask you  
10 to take a look at this.

11 A Okay.

12 Q These photographs, Doctor, are these  
13 photographs that you reviewed that were part of the  
14 medical examiner's file on these two men we talked  
15 about?

16 A Yes, they are.

17 Q And these were able to aid you in your  
18 decision in coming to a medical opinion in this case?

19 A Yes.

20 Q Okay.

21 MS. DUNTON: Your Honor, at this time State  
22 would move in State's triple D, and permission to  
23 publish as I ask questions?

24 THE COURT: Any objection?

25 MR. HAMBURG: No, your Honor.

1 THE COURT: All right. Without objection, it  
2 will be received as State's Composite Exhibit --  
3 whatever the next number is. What is it?

4 THE CLERK: Forty-two.

5 THE COURT: Forty-two.

6 (The above-mentioned items were marked into  
7 evidence as State's Exhibit 42.)

8 MS. DUNTON: And I'll set this up here,  
9 Doctor, in case you need it.

10 THE COURT: You may publish the exhibit.

11 MS. DUNTON: Thank you.

12 BY MS. DUNTON:

13 Q All right. Doctor, I want to start with the  
14 autopsy of Charles Johnston first.

15 What were you able to determine was the cause  
16 and manner of his death? And then we'll go through and  
17 describe how you came to that conclusion.

18 A Um, so for the cause and manner of death  
19 for -- for Charles Johnston, the -- the cause, first,  
20 is the, uh, multiple chop wounds of the head. And the  
21 manner of death is homicide.

22 Q Okay. All right. I'm going to show you a set  
23 of photographs, and you describe these chop injuries,  
24 if you would.

25 Do you -- tell the jurors how many total chop

1 injuries he had. And we have a set of photos here to  
2 illustrate that.

3 A So there are a total of four chop, uh,  
4 injuries or chop wounds. And they're primarily on the,  
5 uh, forehead.

6 Q And --

7 A I can -- I can point them now.

8 Q Yeah. If you want to step down and point out  
9 each one?

10 A I'm -- I'll be okay here.

11 Q Okay.

12 A So -- so we see one, uh, that is little bit  
13 higher in the scalp area on the right side.

14 And then we see another one that is going kind  
15 of diagonally from the forehead, from almost entire  
16 forehead, going diagonally to the right and going down  
17 to the -- to the, uh, the end of the eyebrow on the  
18 right.

19 Then, uh, we have a additional chop wound that  
20 is -- we see only partially. It's not -- it's not  
21 depicted fully, but it begins from the -- somewhere in  
22 the middle of the forehead, and then it goes into the  
23 scalp area.

24 Q Let me flip this for the record to photo C.

25 A So just to make sure, now that we understand,

1 that wound is somewhere from the middle of the forehead  
2 and is going, um, into the scalp area, again,  
3 diagonally to the -- kind of reaching pretty far to  
4 the -- the middle maybe of the -- of the head, the  
5 scalp. So it's a -- it's a little longer wound.

6 Q Okay. So there's the very long one on the top  
7 of the head?

8 A So, if -- and then the one that I already  
9 described. There was one on the right side of the  
10 scalp area.

11 Then the one that goes from the eyebrow to  
12 somewhere in the, uh, the forehead, but it stays on the  
13 right side of the forehead.

14 Q Uh-huh.

15 A And then this one is somewhere in the middle  
16 of the forehead. And it goes, um, up into the scalp  
17 area slightly to the left.

18 Q Okay. And if we flip back to one of these --  
19 I'm sorry -- other pictures --

20 A Yes.

21 Q -- that other one to the right of the big one  
22 is, like, the fourth?

23 A Yes. It shows better. Um, so, again, the  
24 first that we described, the second is going to the  
25 eyebrow, um, and then the third is going into the scalp



1 area.

2 And then the fourth -- there's total of four.  
3 So the fourth is, um, somewhere in the -- so begins  
4 from the -- between the eyebrows and it goes, uh, it  
5 starts spreading into -- it's almost like a L-shape, or  
6 maybe we could call it star shape.

7 Q Right.

8 A But it's -- it's -- it does not go far into  
9 the -- this is not connected, so there is no connection  
10 between the two. So it stops somewhere here.

11 Q Okay.

12 A So that's the fourth one.

13 Q And what internal injuries did these four chop  
14 wounds make --

15 A So --

16 Q -- to the eye?

17 A -- these chop wounds are known to fracture the  
18 bone in -- in a quite extensive fashion. So the bone  
19 underneath was, uh, um, basically crushed in and mix --  
20 mixed up with, um, brain tissue.

21 The brain tissue was also, uh, severely  
22 lacerated, the frontal lobes, both sides.

23 We have two lobes -- I mean two hemispheres.  
24 And the front of these two hemispheres were severely  
25 lacerated.

1           Q     Would it have caused hemorrhages or bleeding  
2 on the brain, also?

3           A     Of course, this kind of injury is associated  
4 with extensive hemorrhage. There's a lot of blood  
5 vessels that are being severed. So there would be  
6 hemorrhage throughout the brain and within the brain  
7 and also all around the brain.

8           Q     Okay. Doctor, can you explain why the eyes  
9 look black? Like, does that mean he got punched in the  
10 eye, or does that mean something else?

11          A     No. So these are called raccoon eyes. That's  
12 a popular term that, um, we use. Uh, and it indicates  
13 crushing injuries to inside of the -- the bones inside  
14 of the head.

15                    So when that happens, also the bones that are  
16 around the eyes, or we call eye sockets, they also get  
17 fragmented. They all get crushed.

18                    So -- so then the blood from the inside of the  
19 head will seep through these cracks and will stain the  
20 soft tissue un -- around the eyes, so you get raccoon  
21 eyes.

22                    And this on this side is more -- well, we  
23 don't see really full face, full frontal, so I'm sure  
24 there's more here, too. We just don't have that  
25 photographed.

1           Q     Okay.  And from a physical aspect, what type  
2 of pain does these -- do these types of injuries cause  
3 to someone?

4           A     Well, that all depends how -- how fast  
5 somebody really, uh, gets knocked out or -- or loses  
6 consciousness.

7                     If it's instant, then, uh, literally, there  
8 would be no pain.  Maybe only that second that the  
9 injury's inflicted.  And there would be a -- no, um, no  
10 consciousness, no pain.

11                    Um, however, there was a -- some, um,  
12 indication that, uh, the person did try to get up.  Uh,  
13 from the material that I reviewed, I saw that there was  
14 a -- even a moment when -- when this victim had, uh,  
15 first -- first injury to the head, and then he was  
16 actually trying to get up.

17                    So -- so there were -- there will be  
18 significant pain, quite -- quite a bit of pain because  
19 even the first injury, which I believe was right --  
20 this one here because it's way back into, like, the  
21 right side of the scalp, so somewhere here, it would --  
22 it -- that injury also, uh, crushed the skull and also  
23 lacerated the brain, that part of the brain.

24                    You will still -- with that kind of injury, he  
25 was still trying to get up, so, obviously, he was in

1 pain.

2 Q Okay. And you saw, for the record, photo  
3 number D. You had a photo of this instrument, and you  
4 know that there's one sharp side to this instrument and  
5 a blunt side and that both were sort of used in these  
6 attacks; is that right?

7 A Yes. This is the -- that, uh, the weapon that  
8 would absolutely not rule out in, uh, in this scenario.  
9 So -- so most likely, this is the weapon that is being  
10 used.

11 Q Right. If it's the injuries you saw, and I  
12 think we'll see even more with Randy Peacock here in a  
13 minute --

14 A That's correct. So seeing the other victim,  
15 there's actually a match.

16 Q Right. Okay. Now, if we move on to Randy  
17 Peacock, I have a few overall -- you can -- whatever  
18 you like, Doctor, stand or sit.

19 A Okay.

20 Q Here's an overall photo, photo E for the  
21 record. And what did you determine after reviewing  
22 everything in Mr. Peacock's case?

23 What was his cause and manner of death? And  
24 then we'll go through his injuries.

25 A So the, um, so the cause of death in -- in

1 his -- in this case, um, was multiple, uh, stab wounds,  
2 um, of the torso.

3 Um, there were also some blunt injuries that  
4 could have caused death. Uh, we will never know that  
5 because he died from, actually, a loss of blood because  
6 of the -- of the sharp-force injuries, but there were  
7 some blunt-force injuries to the head that, um, in my  
8 opinion, is not entirely survivable.

9 So there could be either -- if they're  
10 survivable, it would be permanent brain damage and, uh,  
11 and possible death.

12 Q Okay. And also a homicide, as well?

13 A Yes. That's correct. The manner of death is  
14 homicide. Yes.

15 Q So that's a upper torso in E, and F is just a  
16 lower torso, overall showing those injuries?

17 And I know we're going to talk about those in  
18 a minute with you, but is that right?

19 A Yes. These are the injuries. Also, there's  
20 one in the back, which is actually the most lethal one.

21 Q Yes. We're going to talk about those. First  
22 I did want to touch on photos G and then H on the arms  
23 and hand. You're going to see an H.

24 These two injuries, what are those injuries,  
25 just --

1           A       So these are scalding injuries or we can call  
2 them burn injuries. These are acquired when, um, a  
3 victim was burned by -- by hot liquid. So, um, we see  
4 these -- these are second- and third-degree, uh, burns.

5                   So first degree is just a redness that you'll  
6 get when you go to the beach. And a second degree is,  
7 um, basically a blister. And the third degree is  
8 necrosis of subcutaneous or underlying layers of skin,  
9 so it's deeper.

10                   These are second- and third-degree injury  
11 blister -- not blisters, burns. And after the blister  
12 popped -- the blister popped here and here -- we see  
13 some sloughing of the skin.

14                   But they -- they are -- they actually, uh,  
15 would -- would deflate and then would start drying, so  
16 start looking that way, like a little bit of brownish  
17 and, um, and, uh, and kind of like almost getting that  
18 look of a third-degree here.

19                   But I still see vessel, so most likely, just  
20 second-degree. So there's veins underneath. Still  
21 second-degree because in third degree, the vessels and  
22 the -- those veins would be also burned, burned away.  
23 So we would not have blood vessels seen.

24                   So at this point that's just a second-degree  
25 burn, most likely second-degree, but I think previous

1 ones that we looked at, those are, um, those are  
2 deeper.

3 So this is probably -- where you see darker  
4 here, this is longer contact with the liquid. And it's  
5 a -- probably a third-degree burn, so...

6 Q Okay. Might seem like a silly question, but  
7 pain, physical pain associated with this type of a  
8 burn?

9 A Pain is severe, extraordinarily severe.

10 Q Now, Doctor, moving on to -- let's discuss  
11 his blunt-force trauma first. I'm showing you  
12 photograph I.

13 Can you describe what's there in I and --

14 A So --

15 Q -- if you need to flip back and forth, there's  
16 J and I sort of in concert there.

17 A So we see the indent of the axe that was being  
18 shown previously, but we also see a rectangular  
19 contusion that is -- that perfectly matches the  
20 dimensions of the back of that hatchet.

21 Um, we see, um, this almost, like, imprint of  
22 the back of the, uh, the axe. There's also, uh,  
23 splitting, so it's not just a contusion.

24 Contusion is nothing but a bruise, so the  
25 bruise will be -- be okay. It's survivable, but if you

1 have also splitting of full-thickness skin all the way  
2 to the bone and then the bone underneath is indented or  
3 actually fractured, then that is -- that could be a  
4 mortal injury.

5 Q So there's -- I think J is a picture of two of  
6 those wounds with the axe?

7 A So these are separate, two different hits.  
8 And so they're -- there's one and there's another one.  
9 We see two completely separate. There's nothing  
10 intervening in between. Completely separate  
11 rectangular contusions with a split of the skin in the  
12 middle.

13 Q All right. And then we have -- so these two  
14 are side by side, and then there's another photo of  
15 this injury, also, to the --

16 A Additional rectangular injury or, um, this is  
17 again blunt force. And, uh, this is deceiving. When  
18 you see a wound like this, you think that's a cut.

19 That's not a cut. This is a blunt injury that  
20 is -- that always, when it's very severe or, um,  
21 extensive trauma, the skin will split even if it's a  
22 blunt object.

23 So -- so hammer, uh, back of the hatchet, or  
24 even a brick would cause the same type of injury. It  
25 would cause a bruise that -- that basically shows the



1 outline of that implement that is being used.

2 Let's say brick, it would look rectangular,  
3 but then somewhere in -- in there would be a splitting  
4 of the skin, or we call it laceration.

5 Q Okay. Now, these -- I believe there's a total  
6 of three to the posterior head area?

7 A That's correct. And I'm -- also, I'm not  
8 excluding that there's two overlapping injuries.

9 Q Right.

10 A So if you have -- if it's hit one time and  
11 then very close to the same spot, you'll have another  
12 laceration.

13 It's a little bit more rare to have, um, skin  
14 split two times in one impact. Usually, skin gives way  
15 in where is the -- where the force is the -- the most  
16 intense. It will split up.

17 And that's just once. It doesn't happen that  
18 often, but I wouldn't say impossible. Never say never,  
19 but I -- I would -- I would think that this is --

20 Q Two?

21 A -- two impacts that are really --

22 Q Close --

23 A -- overlapping, one on top of another.

24 Q Okay. And same as Charles Johnston as far as  
25 the injuries caused fractures, bleeding on the brain;

1 was that the same for Mr. Peacock with the blunt force?

2 A Yes. The -- there are -- the autopsy show  
3 that after the skin or scalp was reflected and -- or  
4 peeled, um, then the -- the bone, the back of the, um,  
5 of the head was indented and pushed in, basically.

6 So, um, so with that, there is hemorrhage,  
7 subarachnoid, subdural. Um, there's also contrecoup  
8 injury.

9 This is known when -- when a injury, direct  
10 injury, occurs in the back. Then the front is -- it's  
11 called blowout injury.

12 Basically, the eyes would be -- the eye  
13 sockets would fracture. Uh, the nasal, um -- the floor  
14 of the nose, there's an inside. There's, like,  
15 basically a plate that is over the -- the, um, nasal  
16 passages that also got fractured.

17 So the eye sockets and the -- and the nasal  
18 bone also got fractured. And it's so-called  
19 blown-out -- blowout injury.

20 Q And would that have affected his vision,  
21 Doctor, or could it have affected vision?

22 A Oh, yes. First of all, direct impact is -- is  
23 the -- is located in the back of the head, which was --  
24 which where the visual centers are present in the --  
25 the back of the hemispheres or the occipital poles of

1 the -- of the brain.

2 So that's a direct impact there, but then you  
3 also have a contrecoup injury. It's known in boxers,  
4 in the boxing injuries. Like if a person is hit from  
5 one side of the face, but then he suffers the  
6 contrecoup injury in the back of the brain.

7 So this is similar, but in the opposite  
8 direction. The injury occurred in the back, and the  
9 frontal injuries were also present in the areas of the  
10 eyes.

11 So yes. Blind -- blindness is quite possible.

12 Q Okay. And, again, same as Mr. Johnston,  
13 physical pain, again, depending on whether they're  
14 conscious, and if he was still conscious after these  
15 blunt-force injuries, he would have felt pain?

16 A Um, yes. If he didn't lose consciousness at  
17 any point, there will be pain and -- and quite  
18 extensive because there are also burns.

19 Scalding injury is one of the most painful  
20 injuries, even more than gunshots or -- or, um, or axe  
21 injuries, because there's a lot of -- the skin has a  
22 lot of nerve receptors for pain.

23 And there's -- the more area of the skin is  
24 being damaged, the more pain will be experienced.

25 Q Okay. Now, moving on to the sharp-force

1 injuries, Doctor, do you recall -- and we're going to  
2 go through each one, but do you recall in total how  
3 many sharp-force injuries?

4 A Um, the total of six stabs. And sharp-force  
5 injuries are, um, really divided only in, like,  
6 incisions, which is cuts. And it's not the same as  
7 stabs.

8 Stabs go deep and cuts are -- just go on the  
9 surface of the skin. So, um, so these are -- there are  
10 no cuts here. They're all stabs.

11 Q Stabbing wounds?

12 A So they -- meaning the -- the penetration of  
13 the blade is -- is longer than -- than the -- than the  
14 mark on the skin.

15 Q Okay. And starting with the photograph L  
16 that's being displayed right now -- and, actually, you  
17 can kind of see, now that we have the head and the neck  
18 in context, you see those blunt-force injuries we were  
19 just focusing on?

20 A Yes. These are the blunt-force injuries that  
21 we talked about. We're seeing only two of them.

22 Q Right.

23 A There's a third and fourth on the back of the  
24 head.

25 Q Right.

1           A     Um, but you can see more geographically where  
2 this is happening in relationship to the other  
3 injuries.

4                     So now we have a stab wound of the right side  
5 of the neck. We see that is a quite long -- I can't  
6 see the ruler markings, so I cannot exactly tell you  
7 the length of that wound, but usually they reflect also  
8 the width of the blade.

9                     It can have a blade brought to the -- and  
10 compared and see what -- you know, whether the blade  
11 width matches the -- this injury, this stab.

12           Q     And can --

13           A     But, um, so, um, this -- this particular  
14 injury is nonlethal. So I know it looks -- on the  
15 neck, I mean, these are the most vital areas of the  
16 human body, either side of the neck.

17                     If they get injury -- injuries, likely --  
18 likelihood is high that a person will die, but  
19 surprisingly enough, this -- this stab didn't go this  
20 way in depth, but it went posterior towards the back,  
21 which there's nothing there. It's just skin, soft  
22 tissue, and muscle.

23                     So except being painful, he would not, uh,  
24 cause any type of permanent damage or -- or loss of  
25 life.

1 Q Okay. And do you remember how deep that one  
2 was? It wasn't as deep as some of these others?

3 A It was one inch and three-quarters.

4 Q Okay.

5 A So that's, um, it's -- if -- that would be  
6 enough if, uh, the wound was having -- if the direction  
7 of the blade was towards the front of the body, because  
8 right here we have big veins and arteries.

9 And a inch, almost two inches deep, that would  
10 cut one of them, and it would -- then it would be  
11 lethal, but this one is not.

12 Q Just happened to go the other way?

13 A It just happened that the blade was actually  
14 heading this way, so...

15 Q And moving on to photo M, there's actually  
16 four injuries here, Doctor, but if you want to start  
17 with -- you know, I know we group them lower chest and  
18 then abdomen, so --

19 A So these, we can't really see geographically  
20 where this is because it's confusing. I know where  
21 they are, but the jury doesn't.

22 Q You can explain that part.

23 A I can say, well, this is, uh, the chest area  
24 here. This is the -- um, so right here is the end of  
25 the chest here.

1                   And this is where the abdomen begins or the  
2 upper abdomen. So the name -- naevus or nevus is the  
3 umbilical cord, is somewhere here.

4                   So these are -- these two are located in the  
5 upper abdomen, and these two are located in -- in the,  
6 um, lower chest area.

7           Q       Okay. Do you want to start with --

8           A       Okay.

9           Q       -- whichever one is the lower chest ones  
10 maybe?

11          A       So we can go with these two and they are --

12          Q       Just the --

13          A       -- almost -- almost parallel, almost  
14 identical. They perforated the skin. Uh, the blade  
15 goes into the -- between the ribs. I believe it's the  
16 space between the eighth rib and the ninth rib.

17                   And so -- so after that, they -- they enter  
18 the liver in -- in a depth of four inches and five  
19 inches.

20                   So this one, I believe, goes five inches deep  
21 into the liver. This one goes four inches deep into  
22 the liver.

23          Q       What --

24          A       And that's where it stops.

25          Q       Just so they know, because I'm not sure I know

1 where the liver is, the direction -- what direction  
2 is --

3 A So it was upward. So, basically, liver is  
4 right here. I mean, in -- you know, I'm showing on  
5 myself, so the -- the wounds were somewhere in the  
6 right side of the lower chest area.

7 There's still ribs here, so you can go between  
8 the ribs and still get the liver because liver is a  
9 little bit above the ribcage and goes in -- goes up.  
10 Um, and the ribcage kind of passes the edge of the  
11 liver.

12 So the liver is still there, um, under the  
13 skin, even though there is -- the ribcage is somewhere  
14 this way here, the end of the ribcage.

15 Q Okay.

16 A The liver is around here. And I believe the  
17 direction is slightly upward, direction of the blade,  
18 but it -- the injury stops within five inches and four  
19 inches, uh, inside the liver.

20 Q Okay. And then to move to the two that are in  
21 the upper abdomen --

22 A The --

23 Q -- same thing?

24 A -- abdomen, the upper abdomen, sustained two  
25 similar stab wounds. They're kind of almost parallel



1 to each other.

2 And they, uh, they literally ran through fat  
3 only. So there's fat and then between the bowels  
4 there's more fat. So -- and, um, no vital tissue was  
5 ever, uh, cut or injured.

6 So -- so, um, it's -- uh, those two injuries  
7 are nonlethal. The depth of these stabs, uh, were not  
8 determined by Dr. Steiner because, um, I believe  
9 there's a school of thought in forensic pathology that,  
10 um, when something can -- can give in, such as, like,  
11 fat and abdomen, it's not rigid.

12 Um, you can suck air in and it can change  
13 the -- the depth of the -- if somebody's stabbing you,  
14 it can -- you know, the depth could not be consistent.

15 So -- so it's hard to measure something, uh,  
16 you can push in, you know, twice as much. And -- and,  
17 basically, it would not reflect the length of the  
18 knife.

19 Q Okay. That's --

20 A So that's --

21 Q -- 'cause -- sorry.

22 A So --

23 Q 'Cause it only touched, like, fat and tissue,  
24 not another organ?

25 A Right. So yeah. If the blade is going

1 through the soft tissues, that -- that could -- that  
2 could -- that have a give, then the -- the depth --  
3 measuring the depth will be inaccurate.

4 That's what, in -- in most textbooks, uh,  
5 is -- for forensic pathology is being, uh, written  
6 about.

7 But in -- in this case just there were no --  
8 there were no organs that were being perforated and not  
9 much bleeding or not much of any type of injury except  
10 the fat.

11 Q For the two abdomen ones is what --

12 A That's correct. Yes.

13 Q Okay.

14 A These are -- these first two that we talked  
15 about that are in the liver --

16 Q Right.

17 A -- the liver is whole different story because  
18 that's a extremely vascular organ. A lot of blood  
19 vessels through the liver.

20 And this would be a lethal injury if, uh, the  
21 person sustained only those two, nothing else, uh, and,  
22 uh, went to ER, uh, it would -- if didn't go to ER, it  
23 would -- it would not survive.

24 If it -- it's still treatable within a  
25 reasonable time, I would say, uh, unless the bleeding

1 is so extensive.

2 And I believe two injuries would compound, and  
3 that four inches deep, five inches deep, uh, would  
4 compound each other. So there will be a lot of  
5 bleeding.

6 So I'll say within half an hour, it's prob --  
7 probably, uh, survivable if the person goes to the ER  
8 and gets treated.

9 Q All right. Okay. We're going to move on to  
10 the last one, Doctor, the one on the back, photo  
11 number N for the record.

12 If you would talk about the direction, the  
13 structures injured, and things with this injury.

14 A Yes. This is on the back, the right side of  
15 the back. Here's the, uh, that -- the head is that  
16 way.

17 And then spinal column is here, and the -- the  
18 lower back is somewhere here. Here, this is the lower  
19 back.

20 So this injury is on the right side on the  
21 back. Um, and, um, what's interesting about this  
22 injury is that it goes all the way from the back to the  
23 front.

24 And, uh, the tip of the knife has caused  
25 the -- a fracture of a rib up front. So if the -- if

1 the blade entered right side of the -- the back, um,  
2 and fractured the rib on the front, that's entire  
3 length of the blade was inserted through the body.

4 So the depth of this wound is eight inches,  
5 and it goes through the, um -- goes through the, um,  
6 uh, first tenth, uh, rib, and also then through the  
7 entire lung on the right side.

8 So -- so this is, uh, potentially a lethal  
9 injury. The person would not survive if does not -- if  
10 it -- they don't go to the ER.

11 Q Thank you, Doctor. And with the sharp-force  
12 injuries, physical pain, and depending again on the  
13 time they're inflicted and how long someone's  
14 conscious?

15 A Well, the death is not instant, so there will  
16 be pain. A person would not lose, um, consciousness  
17 and, uh, it would basically bleed out.

18 Uh, it would be a lot of internal and external  
19 bleeding from the liver, two -- twice in the liver, and  
20 entire lung was perforated by the blade.

21 So this would be -- it would also cause a  
22 collapse of the lung, so it would be difficult to  
23 breathe, um, which still -- the victim still has  
24 another lung, but with this collapse of the lung would  
25 cause significant, uh, loss of oxygen delivered to

1 the -- the organs.

2 Plus that -- that's compounded with, um,  
3 bleeds, extensive bleeding. So my estimate is that  
4 this person will be dead within -- within half an hour.

5 Q All right.

6 MS. DUNTON: One moment, your Honor.

7 BY MS. DUNTON:

8 Q Doctor, you were asked to -- again, you  
9 mentioned earlier that one of the things you reviewed  
10 was a statement provided by the defendant about how he  
11 explained.

12 A Yes.

13 Q And so the question is, um, is his story  
14 possible based on what you saw medically about, you  
15 know, inflicting one injury and then coming back and  
16 inflicting a second set of injuries on both victims?

17 Is that plausible, based on what you've seen?

18 A I think it's entirely consistent with, um, the  
19 defendant's affidavit.

20 Q All right. Thank you.

21 THE COURT: Folks, we're going to take our  
22 break at this point.

23 How long do you anticipate your cross to be?

24 MR. HAMBURG: Not long.

25 THE COURT: What does that mean?

1 MR. HAMBURG: Five minutes at most.

2 THE COURT: Okay. Let's go ahead -- is  
3 everybody okay for five more minutes?

4 (The jurors indicated in the affirmative.)

5 THE COURT: Okay. Let's go ahead and do  
6 that.

7 MR. HAMBURG: Thank you, Judge.

8 CROSS-EXAMINATION

9 BY MR. HAMBURG:

10 Q Good afternoon, Dr. Bulic.

11 A Good afternoon.

12 Q Now, you indicated the -- the head injuries to  
13 Mr. Johnston would have essentially caused very quick  
14 unconsciousness, correct?

15 A Uh, let's see. Um, yes. I agree with that.

16 Q Okay. And once someone's unconscious, at that  
17 point they no longer feel pain?

18 A That's correct.

19 Q Now, the -- the head injuries to Mr. Peacock  
20 also would have caused very quick unconsciousness,  
21 correct?

22 A It would. Um, yes. Those -- those were, um,  
23 blunt injuries to the head. Um, and it would cause  
24 the, uh, in my opinion, it would cause unconsciousness.

25 Q Okay. And, again, once he's

1 unconsciousness -- or once he's unconscious, he won't  
2 feel pain, correct?

3 A Yes. That's correct.

4 Q And even if someone is unconscious or even  
5 dead, um, they could still get the -- the burn injuries  
6 that we saw in the photos, correct?

7 A Not dead, um, this -- this injuries, um, but  
8 unconscious, if person's unconscious, they can be  
9 burned.

10 And it would not -- we would not be able to  
11 say whether they were conscious or unconscious, but if  
12 they were dead, uh, there would be no vital tissue  
13 reaction, and therefore they would have a completely  
14 different appearance.

15 Q So if he's knocked unconscious and goes into a  
16 pot of boiling soup, his arms are still going to show  
17 those burn injuries, but there may be no pain actually  
18 associated with that?

19 A That's correct.

20 MR. HAMBURG: May I have one moment, your  
21 Honor?

22 THE COURT: Sure.

23 MR. HAMBURG: Thank you.

24 THE COURT: Any redirect?

25 MS. DUNTON: Just briefly, Judge --

1 THE COURT: Sure.

2 MS. DUNTON: -- if I may.

3 REDIRECT EXAMINATION

4 BY MS. DUNTON:

5 Q Going right back to Mr. Peacock who had the  
6 burn injuries, the defendant's statement is essentially  
7 that he inflicted some of the blunt-force injuries on  
8 Mr. Peacock which caused him to fall in the soup?

9 A That's correct.

10 Q And then later -- left him there, returned,  
11 and he was conscious and getting to his feet, which is  
12 then when he obtained the knife.

13 Do you recall that?

14 A That's what I understood. Yes.

15 Q Okay. So is it possible that he was, um,  
16 temporarily, like, knocked -- knocked out, knocked  
17 unconscious, and then came back, um, for that  
18 sharp-force-wounds attack that he had the second time?

19 A It's -- it's very possible that -- yeah. In  
20 fact, that's how I understood that -- that, um, the  
21 whole episode occurred.

22 Q And if he regained consciousness and was sort  
23 of struggling, would he have an ability to feel pain  
24 now that he's conscious?

25 A If he regain -- regains consciousness, he



1 would feel that burn on his hands.

2 Q Right. And any of the wounds that came after  
3 that --

4 A And all other stab wounds.

5 Q Okay. And then back to Mr. Johnston, again,  
6 based on your review of the defendant's statements, not  
7 all four of those blunt-force-trauma injuries were  
8 inflicted at once.

9 He did one, maybe two -- he's not sure -- and  
10 then he came back and did the rest?

11 A Yes. According to the transcript, um, of --  
12 the defendant gave, it was -- first, um, first injury  
13 with the hatchet, uh, was somewhere in the scalp area.

14 And then there was a delay when he came back  
15 and then did the rest of the -- of the damage to the  
16 front of the forehead and scalp.

17 Q And if he indicated that Mr. Johnston was  
18 making awful noises and moving around to the point  
19 where he was shocked he was still alive, that's an  
20 indication that he's conscious, correct --

21 A Yes --

22 Q -- making noises?

23 A That's what I understood, too.

24 MS. DUNTON: No further questions.

25 THE COURT: Any recross?

1 MR. HAMBURG: No, your Honor. Thank you.

2 THE COURT: Thank you, Doctor. You are  
3 excused.

4 THE WITNESS: Thank you.

5 THE COURT: Have a good afternoon.

6 (The witness exited the courtroom.)

7 THE COURT: All right, folks. We're going to  
8 take our afternoon break. It's a little after  
9 three, so let's go ahead and take 15 minutes.

10 Again, leave your notes here in the  
11 courtroom, any other materials here in the  
12 courtroom.

13 And do not discuss the case among yourselves  
14 or with anybody else during the break, and don't  
15 do any research of any type.

16 Be ready to come back at 3:15, if you'll  
17 follow the deputy out.

18 (The jury exited the courtroom.)

19 THE COURT: Everybody else remain in the  
20 courtroom, please.

21 All right. Y'all can be seated in the  
22 courtroom.

23 Did we ever gather those transcripts up from  
24 the jurors for --

25 MR. JOHNSON: I had waved, but you didn't see

1 me.

2 THE COURT: Don't mess with their stuff.  
3 We'll get them when they come back.

4 All right. Anything else we need to take up  
5 before we break?

6 MR. BARRETT: No, Judge.

7 THE COURT: Okay. See you all at 3:15.

8 (Court was in recess from 3:03 p.m. until  
9 3:20 p.m.)

10 THE COURT: All right. Everybody ready?

11 MR. BARRETT: Yes, Judge.

12 THE COURT: Okay. We can go ahead and bring  
13 the jury in.

14 (The jury entered the courtroom.)

15 THE COURT: Welcome back, folks. Y'all can  
16 be seated in the courtroom.

17 Before we continue on with the next witness,  
18 I do want to collect from you all that transcript  
19 from the previous witness. We do need to collect  
20 that up, so we'll gather those up and then  
21 continue on.

22 (The transcripts were collected from the  
23 jurors.)

24 THE COURT: All right. Thank you, folks.  
25 All right. And we are ready to proceed.

1 State, call your next witness.

2 MS. DUNTON: Thank you, your Honor. State  
3 would call Samantha Otter.

4 (The witness entered the courtroom.)

5 THE COURT: All right. Ms. Otter, if you'll  
6 take the witness stand right here, remain standing  
7 so the clerk can put you under oath.

8 THE CLERK: Do you swear or affirm that the  
9 testimony you're about to give will be the truth,  
10 the whole truth, and nothing but the truth?

11 THE WITNESS: I do.

12 THE COURT: You can be seated.

13 And you may inquire.

14 MS. DUNTON: Thank you, your Honor.

15 SAMANTHA OTTER

16 was called as a witness and, after having been first  
17 duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MS. DUNTON:

20 Q Good afternoon, ma'am. If you would,  
21 introduce yourself to the jury, and let them know how  
22 you're employed.

23 A My name is Samantha Otter, and I work with the  
24 St. Johns County Sheriff's Office as a latent-print  
25 technician.



1 science of fingerprints, a basic comparison and  
2 classification course, an advanced comprehensive  
3 comparison latent-print course, analysis of distortion  
4 in latent prints, and also palmprint techniques and  
5 comparisons.

6 Q And you have hundreds of hours in that --

7 A Yeah, roughly 176 hours of training.

8 Q Are you subject to annual audits or testing by  
9 your agency?

10 A Yes. I take a yearly proficiency test.

11 Q And how do you stay current in your field?

12 A On top of the proficiency tests, I also  
13 continue taking courses related in the field and  
14 reading journal articles and things like that.

15 Q Are you a member of any of professional  
16 organizations associated with latent prints?

17 A I am. The IAI, which stands for the  
18 International Association for Identification, and then  
19 also the FDI AI, which is just the Florida division of  
20 the International Association for Identification.

21 Q Can you estimate how many latent-print  
22 comparisons you've made over your career, or do you  
23 keep, like, statistics on that?

24 A Yeah. I've done over 36,000 comparisons.  
25 Through the -- those make up over 5,000 latents have

1     been evaluated, uh, 1600 compared into the 36,000  
2     comparisons.

3           Q     How many times have you testified in court in  
4     the area of fingerprint comparison in the State of  
5     Florida?

6           A     Five times.

7           Q     And was that here in St. Johns County?

8           A     Yes.

9           Q     Have you also testified in this area in  
10    numerous depositions in other cases?

11          A     Yes.

12          Q     What is a known or inked fingerprint?

13          A     Known fingerprints are when you intentionally  
14    take someone's fingerprints, and you document whose  
15    they were, who took them, and when you took them.

16          Q     And what are some examples of how you would  
17    receive a known or inked print?

18          A     When people are arrested, part of the booking  
19    process is taking their fingerprint and palm standards.

20                 Also, there are -- when you get court orders,  
21    a motion to compel, fingerprint standards are taken  
22    then, as well, and also judgment and sentencing are  
23    taken there.

24          Q     And what is another term we're going to hear  
25    you refer to as a latent fingerprint? What does that

1 mean?

2 A So on your hands and feet are what's called  
3 friction ridge skin. These ridges make up patterns,  
4 and so when you touch things, these patterns are left  
5 behind.

6 Typically, you can't see them with the visible  
7 eye, and so they require some type of processing to  
8 become visible.

9 Q Okay. So when you refer to a latent print, is  
10 that a print that may be processed from a crime scene  
11 or something like that?

12 A Yes. Correct.

13 Q How are fingerprints compared and either an  
14 identification or nonidentification made?

15 A We follow what is called the ACV method. It  
16 stands for analysis, comparison, evaluation, and  
17 verification.

18 So in the analysis phase is when we're looking  
19 at the overall latent. We're looking at the overall  
20 ridge flow, the pattern, and we're looking at the  
21 clarity of the latent and the quality and quantity of  
22 the characteristics.

23 When -- we then move into the comparison phase  
24 where we are taking the unknown latent and a known  
25 latent, comparing them side by side, and looking at the



1 individual characteristics that make up the latent.

2 From there, after we finish the comparison, we  
3 move into the evaluation phase where we determine  
4 where, yes, these are an identification, they are from  
5 the same source, or we can make the conclusion that,  
6 no, this person is excluded from this unknown latent.

7 Sometimes we do have inconclusive results if,  
8 like, the quality of the standard just isn't good  
9 enough to use for comparison.

10 After that, we move to the verification where  
11 we hand all our work to another latent-print examiner,  
12 and they to their own analysis, comparison, and  
13 evaluation.

14 Q What are the basic factors in the use of  
15 fingerprints as a means of identification?

16 A Um, so if you look at your hands or your  
17 fingers, the -- there are three basic patterns that  
18 make up fingerprints.

19 There are loops, whorls, and arches. The  
20 majority of you would have loops. Um, 60 to 65 percent  
21 of the population have loops.

22 A loop is where it comes in one side, loops  
23 around, and comes back out the same side it entered on.

24 The next most common or whorls, where 30 to  
25 35 percent of the population have. And those are

1 easier to spot. They're circles.

2 And the rarest, which only 5 percent of the  
3 population have, are arches, where they come in one  
4 side, arch up like a hill, and continue flowing out the  
5 opposite side.

6 These ridges aren't always continuous, so they  
7 break and have these characteristics. They include  
8 ridge endings, bifurcations, sometime the ridges will  
9 just go and split.

10 There are short ridges. There's dots.  
11 Sometimes the bifurcations can make enclosures, and so  
12 these are the characteristics that are used in the  
13 comparisons.

14 Q And are fingerprints specific or unique to  
15 each one of us, each person?

16 A Yeah. They're unique in that no two  
17 fingerprints have been found to be the same, even in  
18 identical twins.

19 Um, and they're persistent from when they are  
20 formed, um, before birth, uh, and then all the way to  
21 decomposition after death, except for some diseases and  
22 scarring can alter them.

23 Q Were you asked to perform a comparison of  
24 fingerprints in this case, State of Florida versus  
25 Norman McKenzie?

1 A Yes.

2 Q And what exactly were you asked to do?

3 A I was asked to compare eight judgment and  
4 sentences to known standards of Norman McKenzie.

5 Q And were the -- you got a set of judgment and  
6 sentences. Were the fingerprints contained within  
7 those of value so you could use them?

8 A Yes.

9 Q And what does "of value" mean?

10 A So that's determined in the analysis phase I  
11 was talking about, where you look at the overall  
12 latent.

13 You're determining where it is on the hand.  
14 You're looking at the overall clarity, the quality and  
15 quantity of those characteristics, and if they're  
16 sufficient to move forward in the comparison process.

17 Q And so before you could obviously compare the  
18 judgment and sentences, what did you have to do to have  
19 something for comparison?

20 A I took major-case prints of Norman McKenzie.

21 Q And do you recall when you did that?

22 A Um, May 7th of this year.

23 MS. DUNTON: Your Honor, may I approach?

24 THE COURT: You may.

25 BY MS. DUNTON:

1           Q     Ms. Otter, I'm just going to show you some  
2 documents labeled State's TT for identification. Can  
3 you take a look at that and let me know if you  
4 recognize them?

5           A     I do.

6           Q     What do you recognize those to be?

7           A     They're the major-case prints I took from  
8 Norman McKenzie.

9           Q     Okay. And do you see that person here in the  
10 courtroom today?

11          A     Yes.

12          Q     And can you point to him and identify him by  
13 an article of clothing he's wearing?

14          A     It's the gentleman on the left over there in  
15 the white button-down shirt.

16                MS. DUNTON: Your Honor, at this time may the  
17 record reflect the defendant?

18                THE COURT: So noted for the record.

19                MS. DUNTON: Okay. And, your Honor, at this  
20 time may the State move in State's TT?

21                THE COURT: Any objection?

22                MR. HAMBURG: No, your Honor.

23                THE COURT: Okay. Without objection, that  
24 will be received as the State's next numbered  
25 exhibit.

1                   (The above-mentioned item was marked into  
2                   evidence as State's Exhibit 43.)

3           BY MS. DUNTON:

4           Q       And just real quick, with kind of just showing  
5           the jury, what are you -- what are you taking here?

6           A       So when I take major-case prints, I start with  
7           the fingerprints. And so I'll start with just a basic  
8           black ink pad, and I'll cover the fingertip with the  
9           ink and I will roll them onto the paper. I'll do all  
10          ten fingers.

11                   And then I move into doing the palmprints.  
12          I'll do -- cover them in black printer's ink and put on  
13          the contrasting white paper. And I do that with both  
14          hands.

15                   And then I also get, um, the writer's palms,  
16          which is just the side.

17                   And then I document who they came from. I  
18          have the individual sign and then I also date it and  
19          then put my name on there that I took them.

20          Q       And, Ms. Otter, the documents you received  
21          that were labeled judgment and sentences, I'm going to  
22          approach and show you some of those.

23                   MS. DUNTON: Your Honor, may I approach?

24                   THE COURT: You may.

25          BY MS. DUNTON:

1 Q I'm just going to kind of start by -- do you  
2 have one documented in your report with --

3 A I --

4 Q -- case numbers?

5 A I do.

6 MS. DUNTON: May she look at that, your  
7 Honor?

8 THE COURT: Sure.

9 BY MS. DUNTON:

10 Q I believe you had a Broward County case from  
11 1984; is that correct?

12 A Correct.

13 Q I'm going to show you what's been previously  
14 marked as State's UU for identification. Does this  
15 appear to be that document you previously examined?

16 A Yes.

17 Q Okay. And it has a case number --

18 A Yeah.

19 Q -- on there for identification?

20 A Uh-huh.

21 Q Okay. And you had a 1990 judgment and  
22 sentence from Broward County, as well; is that correct?

23 A Correct.

24 Q And I'm going to pass you State's VV for  
25 identification. Let me know if you recognize that.

1 (Witness perusing document.)

2 A Yes.

3 Q Okay. That's the 1990. And then a set -- a  
4 lot -- the other six are -- excuse me -- from Alachua  
5 County.

6 Let me ask you about -- do you have a J and S  
7 from a 2006-5259 case?

8 A Yes.

9 Q Alachua County. And I'm going to show you  
10 State's triple A for identification and ask if you  
11 recognize that as that document.

12 (Witness perusing document.)

13 A Yes.

14 Q Okay. And then I'm going to show you what's  
15 been marked as State's triple B, an Alachua County  
16 case, 2006-5261, and ask you if you previously examined  
17 that document.

18 (Witness perusing document.)

19 A Yes.

20 Q Okay. And then I'm going to show you  
21 State's YY, Alachua County, 2007-532 case, ask you if  
22 you examined that document.

23 (Witness perusing document.)

24 A Yes.

25 Q Okay. And then I'm going to show you

1 State's ZZ, an Alachua County, 2007-585, judgment and  
2 sentence.

3 (Witness perusing document.)

4 A Yes.

5 Q Okay. And then Alachua County, 2007-586, this  
6 is going to be State's XX for the record, ask you if  
7 you examined the fingerprints in that document.

8 (Witness perusing document.)

9 A Yes. I did.

10 Q Okay. And then there's a Marion County,  
11 2006-4213, judgment and sentence. For the record, it's  
12 State's triple C.

13 Did you examine that document?

14 (Witness perusing document.)

15 A Yes.

16 MS. DUNTON: Your Honor, at this time, based  
17 on the fact that these are self-authenticating  
18 court documents and the identification by  
19 Ms. Otter, State would move these into the record.

20 THE COURT: Any objection?

21 MR. HAMBURG: No, your Honor.

22 THE COURT: All right. Without objection,  
23 those eight separate judgment and sentences will  
24 be received into evidence as the State's next  
25 eight exhibits.



1 MS. DUNTON: Thank you.

2 (The above-mentioned items were marked into  
3 evidence as State's Exhibits 44 through 51.)

4 BY MS. DUNTON:

5 Q And what were your results after you examined  
6 all of the prints contained in the judgment and  
7 sentences and the prints that you took from the  
8 defendant in this case?

9 A I found that all eight judgment and sentences  
10 were one and the same as the major-case prints that I  
11 had taken previously of Norman McKenzie.

12 Q So "one and the same" meaning there's a match?

13 A They're from the same source. Yes. They're  
14 identified to him.

15 Q Okay. And --

16 MS. DUNTON: Your Honor, I don't have any  
17 further questions for her. May I publish these  
18 documents to the jury?

19 THE COURT: You may.

20 What were the numbers, starting with the  
21 first one?

22 THE CLERK: Starting with 44 and ending  
23 at 51.

24 THE COURT: Thank you.

25 (State's Exhibits 44 though 51 were published

1 to the jury.)

2 THE COURT: Is there any cross-examination  
3 from the defense?

4 CROSS-EXAMINATION

5 BY MR. HAMBURG:

6 Q Mr. McKenzie cooperated with you when you took  
7 his prints in May, correct?

8 A Yes.

9 MR. HAMBURG: Nothing further, Judge.

10 THE COURT: Any redirect?

11 MS. DUNTON: No, your Honor.

12 THE COURT: Okay. Thank you.

13 Ms. Otter, you are excused. Have a good  
14 afternoon.

15 (The witness exited the courtroom.)

16 THE COURT: State, call your next witness.

17 MS. DUNTON: State would call Clarice  
18 Polczynski, if I pronounced that correctly.

19 (The witness entered the courtroom.)

20 THE COURT: Okay. Ma'am, if you'll take the  
21 witness stand right over here where this little  
22 screen is.

23 Please remain standing and raise your right  
24 hand. The clerk will administer the oath to you.

25 THE CLERK: Do you swear or affirm that the

1 testimony you're about to give will be the truth,  
2 the whole truth, and nothing but the truth?

3 THE WITNESS: I do.

4 THE COURT: Thank you, ma'am. You can be  
5 seated.

6 You may inquire, Ms. Dunton.

7 MS. DUNTON: Thank you.

8 CLARICE POLCZYNSKI

9 was called as a witness and, after having been first  
10 duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MS. DUNTON:

13 Q Good afternoon, ma'am. If you would,  
14 introduce yourself, and you're probably going to have  
15 to spell your last name for the court reporter.

16 A Okay. My name is Clarice Polczynski,  
17 P-o-l-c-z-y-n-s-k-i.

18 Q Where do you live, ma'am? Just the city and  
19 state.

20 A Gainesville, Florida.

21 Q How long have you lived in the Gainesville  
22 area?

23 A Almost 20 years.

24 Q What are you currently doing for work?

25 A Uh, currently, I am a Bite Squad food delivery

1 driver.

2 Q Have you been in kind of the food industry for  
3 a long time in your life?

4 A Pretty much my whole life, yes, ma'am.

5 Q Okay. And did you previously own a business  
6 in Gainesville?

7 A Yes, I did. I owned, uh, the Honey Baked Ham  
8 Company. It was a franchise.

9 Q What years did you own that store?

10 A We owned the store from 2000 to, uh, almost  
11 2015.

12 Q And when you say "we," who --

13 A It was my husband and I.

14 Q Where was that store located in Gainesville?

15 A That store was located at, um, uh, 618  
16 Northwest 60th Street in -- in Gainesville.

17 Q Okay. Is that near the college or --

18 A It's near -- near the Oaks Mall.

19 Q As the owner, did you also work in the store?

20 A Yes, I did. I worked pretty much about six  
21 days a week, handled, uh, you know, catering, helping  
22 the customers, making sandwiches, pretty much  
23 everything that needed to be done.

24 Q Okay. So would you say that you worked more  
25 in the front of the store or more in the back of the

1 store or both?

2 A More in the front of the store.

3 Q Okay. I want to turn your attention to  
4 September 20th, 2006, a robbery that occurred at your  
5 business. Do you remember that?

6 A Yes, I do.

7 Q What time of day was it that morning that this  
8 event kind of happened?

9 A It was at approximately 10:30 in the morning.

10 Q And what was happening just before the  
11 defendant came in the store? Kind of --

12 A Okay.

13 Q -- give us what was going on.

14 A I was helping a customer, might have been one  
15 of our regular customers, just chatting with her. We  
16 open at ten o'clock, so there really hadn't been very  
17 many people in the store.

18 And then I noticed a gentleman come in the  
19 store. And, uh, I, you know, just kind of looked over,  
20 and I said, I'll be right with you.

21 Our menu boards are kind of up. You would  
22 have to look up a little bit, uh, to see them.

23 And, uh the lady that I was helping, she left.  
24 And, uh, he approached the counter and said, "I'm not  
25 going to speak very loud."

1 I didn't think too much about that, and then  
2 he said, "Open the drawer. Give me the money."

3 And I knew that I had three steps to open the  
4 cash drawer. I opened the cash drawer, handed him the  
5 money that I had, and, uh, he looked at it and said did  
6 I -- was that all I had.

7 And I said yes. You know, we just opened,  
8 short amount of time, and then he turned around and  
9 left.

10 Q And when he came in -- in the store,  
11 obviously, after the customer you were helping left,  
12 was it just you and him in the store?

13 A Yes. Yes. There -- there might have been,  
14 uh, one of the students that works for us maybe in the  
15 back of the store, but it was just he and I in the  
16 front of the store.

17 Q And so you said he walked up to the counter  
18 and asked you to -- what did he say again?

19 A He said, "I'm not going to speak very loud."  
20 And, uh, I just looked at him. And he said, uh, you  
21 know, "Open the drawer. Give me the money."

22 Q Okay. And you did that?

23 A Yes, I did.

24 Q Did he ask you for anything in particular with  
25 the money? I know he asked you if that was all you

1 had. Did he ask you anything else?

2 A No. No.

3 Q Anything about denominations of money?

4 A No.

5 Q Did you see a gun or weapon on him?

6 A I did not.

7 Q Okay. Why, um -- I'm not trying to offend  
8 you. This might sound like a silly question, but why  
9 did you give him the money? What was going through  
10 your mind when that was going on?

11 A Uh, I have to be honest. I think probably  
12 just for my own safety. I thought that that was the  
13 best thing to do.

14 Q Were you in fear?

15 A Uh, at the time everything happened pretty  
16 quickly. I -- I probably was, but I knew that that  
17 was, you know, that, you know, hopefully, that was  
18 going to be the end of it.

19 Q Do you know approximately how much money that  
20 you turned over to him?

21 A Yes. I believe -- most of the days, we -- we  
22 had three registers in the store. Usually, we start  
23 with a 75-dollar bank. And I'd only had maybe one or  
24 two customers that had come in the store maybe for a  
25 soft drink or something. So there couldn't have been

1 too much more money than that, maybe 75 dollars.

2 Q And what did he do after you gave him the  
3 money?

4 A Um, he mentioned, you know, did I have any  
5 more. And I said, no, that's all -- you know, we just  
6 opened.

7 And then he started to walk out of the store.  
8 And I do remember -- the only thing I do remember is he  
9 kind of looked back, you know, into the -- you know, we  
10 have all glass in front. And then he just headed off  
11 down the street.

12 Q How would you describe his demeanor throughout  
13 this?

14 A Uh, I would say he seemed -- he seemed calm,  
15 seemed calm.

16 Q Not highly agitated or --

17 A No, not at all.

18 Q -- angry? And what did you do when he walked  
19 out?

20 A I immediately just went to try to get one of  
21 the students in the back that worked for me. And just,  
22 you know, I said, you know, what had happened.

23 And they ran out the back, trying to see if  
24 they maybe saw him or something like that. And that  
25 was it, and then I -- then I called the police.



1 Q And the Gainesville Police Department came and  
2 took an initial statement from you, I guess?

3 A Yes, ma'am.

4 Q Were you later contacted by, you know, other  
5 Gainesville police officers and asked to look at a  
6 photo lineup? Do you remember that?

7 A Yes, I do.

8 Q And do you remember, you know, anything about  
9 that? Did they show you photos? How did that --

10 A Uh, it was one piece of paper. It had, I want  
11 to say, if I recall right, maybe six or nine, uh,  
12 photographs on it.

13 And I looked at it and, um, knew, you know,  
14 picked it right out. I remembered what -- what he  
15 looked like.

16 Q And you were certain when you identified him  
17 that day that that was who that was?

18 A I feel very certain. Yes.

19 Q And did you later learn that that person was  
20 Norman McKenzie?

21 A Yes, I did.

22 MS. DUNTON: No further questions.

23 THE COURT: Any cross-examination,  
24 Mr. Barrett?

25 MR. BARRETT: Yes, Judge.

1 THE COURT: Okay.

2 CROSS-EXAMINATION

3 BY MR. BARRETT:

4 Q Good afternoon, ma'am.

5 A Hello.

6 Q I'll be brief.

7 A Okay.

8 Q Okay. So you were the only person up front  
9 when this person came in; is that correct?

10 A Yes, sir.

11 Q I think you said you had three registers in  
12 the store?

13 A Yes. We did. He came to the middle register.

14 Q How far away from the other two registers?

15 A Uh, I would say maybe -- maybe -- maybe ten to  
16 15 feet away from each other.

17 Q So they were close enough that he could see  
18 all three?

19 A I would think so. Yes.

20 Q He never asked you to open the other two  
21 registers?

22 A No.

23 Q You said you never saw a weapon. Did he ever  
24 tell you he had a weapon?

25 A He did not.

1           Q     When you said to him that it was all you had,  
2 did he ever scream, yell, or tell you, um, that's not  
3 enough or anything like that?

4           A     No, he -- no, he did not.

5           Q     Okay. Clearly, you were afraid when this  
6 person approached you, correct?

7           A     Everything happened pretty quickly. Um, I  
8 probably was scared, but I knew that, um, this was  
9 going to be the best thing to do.

10          Q     Right. Roughly, about how -- are we talking  
11 about a matter of seconds or minutes at the most, the  
12 whole incident?

13          A     I would say the whole incident, uh, once I was  
14 able to help him as a customer and finish with the  
15 other lady that I had been helping, just a few minutes  
16 at most.

17          Q     And would it be safe to say you were more  
18 concerned with just getting this over with then in  
19 really paying attention to how he was acting in terms  
20 of whether or not he was jumpy, movements, things like  
21 that?

22          A     Uh, I don't think I noticed anything about him  
23 being jumpy or anything. Yes. I certainly wanted to  
24 comply with what he was asking. I think -- as I  
25 recall, I think he seemed very calm.

1                   MR. BARRETT: I don't have any other  
2 questions.

3                   THE COURT: Any redirect examination?

4                   MS. DUNTON: No, your Honor.

5                   THE COURT: All right. Thank you, ma'am.  
6 You are excused.

7                   THE WITNESS: Thank you.

8                   THE COURT: Have a good afternoon.

9                   (The witness exited the courtroom.)

10                  THE COURT: State, call your next witness.

11                  MR. JOHNSON: State calls Amanda Hughes.

12                  (The witness entered the courtroom.)

13                  THE COURT: All right. Ma'am, if you'll take  
14 the witness stand right up here. And if you'll  
15 remain standing, please, and raise your right  
16 hand, the clerk will place you under oath.

17                  THE CLERK: Do you swear or affirm that the  
18 testimony you're about to give will be the truth,  
19 the whole truth, and nothing but the truth?

20                  THE WITNESS: Yes.

21                  THE COURT: Thank you. You can be seated.  
22 Mr. Johnson, you may inquire.

23                  MR. JOHNSON: Thank you.

24                                    AMANDA HUGHES

25 was called as a witness and, after having been first

1       duly sworn, testified as follows:

2                               DIRECT EXAMINATION

3       BY MR. JOHNSON:

4               Q       Good afternoon, ma'am.  Could you please  
5       introduce yourself to the jury.

6               A       My name is Amanda Hughes.

7               Q       And where do you live, ma'am?

8               A       Lake City.

9               Q       And how are you employed?

10              A       I currently work for the Department of  
11       Children and Families.

12              Q       Okay.  If you could, just keep your voice up  
13       so everyone can hear.

14              A       I'll try.  I tend to talk lowly anyway.

15              Q       Are you a little nervous this afternoon?

16              A       I am now.  I wasn't earlier.

17              Q       Maybe I shouldn't have asked.  How long have  
18       you been employed with DCF?

19              A       Four years.

20              Q       What do you do for them?

21              A       I'm an ACCESS worker.  I do food stamps,  
22       Medicaid, cash-assistance applications.

23              Q       Where did you live in September or October of  
24       2006?

25              A       I lived in Cross Creek, Florida.

1 Q And is that in Alachua County?

2 A It is.

3 Q Where did you work at the time?

4 A At Jo-Ann Fabrics.

5 Q And whereabouts was that located?

6 A It was on Newberry Road, towards Newberry.

7 Q Okay. Was that near the college, the  
8 university there in Gainesville, or -- or near a mall  
9 or anything like that?

10 A It's closer to the mall. It's on the other  
11 side of the interstate from the mall.

12 Q Okay. What mall is that?

13 A The Gainesville Oaks Mall.

14 Q Were you working there specifically on  
15 September the 24th of 2006?

16 A I was.

17 Q And were you working a particular shift?

18 A I was, um, morning shift.

19 Q And what were those hours?

20 A Uh, usually, I would open. I think we opened  
21 at nine, so I would have worked like nine to two-ish.

22 Q Okay. What were your duties on that  
23 particular day?

24 A Uh, we -- it was a slower day, so we tended to  
25 float between -- it would either be working the

1 fabric-cutting counter, register, stocking, that kind  
2 of thing.

3 And we would float up to the register when we  
4 needed to or float up to the counter when needed.

5 Q So, for example, you might be working, say,  
6 like, a fabric-cutting area, but if a customer would  
7 walk in and want to purchase an item, you would float  
8 to the cash register --

9 A Yes.

10 Q -- to help them check out?

11 A Yes.

12 Q That particular day, did anything out of the  
13 ordinary occur?

14 A I went to the counter to check out a customer.  
15 And this customer, um, told me that he had a gun and to  
16 open the cash register drawer.

17 Q Okay. So I'm going to back up just a little  
18 bit.

19 A Yes.

20 Q When did you -- where were you when you first  
21 saw this customer come in?

22 A Um, I don't remember if I was already at the  
23 register or if I came up to the register to take care  
24 of another customer.

25 Q Okay. And what did this customer look like?

1 Male, female?

2 A It was a male. We didn't have -- I mean, it  
3 was a fabric store. We don't have very many male  
4 customers.

5 Q White, black?

6 A White.

7 Q Do you recall approximately what time of day  
8 this occurred?

9 A It was fairly early, before lunch.

10 Q And you said that he told you that he had a  
11 gun?

12 A He did.

13 Q And to give you the money out of the cash  
14 register?

15 A Correct.

16 Q Now, was there any other customers around?

17 A No. It was very slow.

18 Q Did you ever see -- see the man's hands?

19 A No.

20 Q Do you know how they were positioned?

21 A Um, no. They were in -- I believe they were  
22 in his pockets.

23 Q Okay. Did you ever see a gun?

24 A I did not.

25 Q Okay. Did you believe he had a gun?



1           A     I did.

2           Q     So when he -- when he approached and told you  
3 he had a gun and told you to give him the money out of  
4 the cash register, how did you respond?

5           A     I froze. I -- we had to hit a certain  
6 sequence of keys to open the cash register without  
7 making a sale, and I didn't do that often. And I -- I  
8 couldn't remember how.

9                     I just -- my brain blanked out, and I couldn't  
10 remember how. And I said, I can't open the register  
11 without making a sale.

12          Q     And was that true? You couldn't --

13          A     I could have, but I just couldn't remember  
14 how.

15          Q     In that moment, correct?

16          A     In that moment, I couldn't.

17          Q     What did -- did you tell the -- tell the man  
18 that?

19          A     I said I can't. I have to make a sale. I  
20 can't.

21          Q     And what did he say or do in response?

22          A     He said, yes, you can. Just open the drawer  
23 and give me -- it was odd. I feel like he had -- if I  
24 remember correctly, he had said just give him 35 or 50  
25 dollars, which I thought was an odd amount.

1           Q     And when he said that, I mean, how did you  
2 respond?

3           A     I still was blanking on how to open the  
4 drawer, and I said I can't do it.

5           Q     And what happened next?

6           A     I had called a co-worker over, hoping they  
7 could open the drawer or help or something, and he  
8 left.

9           Q     Okay. If you had been able to remember how to  
10 open the drawer, would you have?

11          A     Absolutely.

12          Q     And why is that?

13          A     Because that's what we were trained to do.

14          Q     And when he told you he had a gun and told you  
15 to give him the money in the cash register, what was  
16 going through your mind?

17          A     I -- I just -- it was so blank. I just -- I  
18 just froze. I didn't --

19          Q     Were you scared?

20          A     I was.

21          Q     The man who walked in, you said that he --  
22 when you called somebody over, he left?

23          A     He left.

24          Q     Did he -- did he leave -- did he walk? Did he  
25 run? Did you see him leave?

1           A     He walked quickly. I saw him go out the door.  
2 I saw which way he went outside of our windows.

3                     And, um, my co-worker had come up. And she  
4 said -- I quickly explained to her what had happened,  
5 and she said you have to call the sheriff's office.

6           Q     And did -- did y'all call the sheriff's  
7 office?

8           A     We called the sheriff's office, and we had to  
9 call our district manager, also.

10          Q     All right. And did you make a statement to  
11 the police about what had happened?

12          A     I did.

13                     MR. JOHNSON: May I have a moment, your  
14 Honor?

15                     THE COURT: Sure.

16                     MR. JOHNSON: Nothing further.

17                     THE COURT: Any cross-examination?

18                     MR. HAMBURG: Yes, your Honor.

19                                 CROSS-EXAMINATION

20 BY MR. HAMBURG:

21          Q     Ms. Hughes, you never saw a gun that day,  
22 correct?

23          A     No.

24          Q     And you were never threatened with a gun or  
25 any other weapon, correct?

1 A No.

2 Q And, specifically, he asked for a very small  
3 amount of money?

4 A Yes.

5 Q Thirty-five to 50 dollars?

6 A Yes.

7 Q And when you couldn't open the -- the drawer,  
8 he didn't make a scene?

9 A No.

10 Q Didn't make any threats?

11 A No.

12 Q Didn't act agitated?

13 A Just said, you know, yes, you can open the  
14 drawer, you know.

15 Q But then you couldn't and he left?

16 A Uh-huh.

17 MR. HAMBURG: One moment, your Honor.

18 Nothing further. Thank you.

19 THE COURT: Okay. Any redirect, Mr. Johnson?

20 MR. JOHNSON: No, your Honor.

21 THE COURT: Thank you, Ms. Hughes. You are  
22 excused. Have a good afternoon.

23 (The witness exited the courtroom.)

24 THE COURT: State, call your next witness.

25 MS. DUNTON: State would call Chantel Wilson.

1 (The witness entered the courtroom.)

2 THE COURT: Ma'am, if you'll come right up  
3 here to the witness stand where this little screen  
4 is.

5 THE WITNESS: Okay.

6 THE COURT: We'll have you remain standing so  
7 the clerk can place you under oath. If you'll  
8 raise your right hand, please.

9 THE CLERK: Do you swear or affirm that the  
10 testimony you're about to give will be the truth,  
11 the whole truth, and nothing but the truth?

12 THE WITNESS: I do.

13 THE COURT: Thank you. You can be seated.

14 THE WITNESS: Thanks.

15 THE COURT: Ms. Dunton, you may inquire.

16 MS. DUNTON: Thank you.

17 CHANTEL WILSON

18 was called as a witness and, after having been first  
19 duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MS. DUNTON:

22 Q Good afternoon. Please introduce yourself to  
23 the jury.

24 A My name is Chantel Wilson.

25 Q Ms. Wilson, where do you currently live?

1 A In Jacksonville.

2 Q How long have you been in the Jacksonville  
3 area?

4 A A couple of months.

5 Q What do you do for work?

6 A I am a health-food-store manager.

7 Q How long have you been in the health-food  
8 business?

9 A Um, about 18 years.

10 Q Okay. Did you previously live in the  
11 Gainesville area of Florida?

12 A Yes.

13 Q Do you remember approximately what years you  
14 were living there?

15 A 2000 to 2008.

16 Q When you lived in Gainesville, what did you do  
17 for work there?

18 A My mom owned a health-food store, and so I  
19 managed the store.

20 Q And what was the name of that health-food  
21 store?

22 A Sunflower Health Foods.

23 Q And as a manager, what were your job duties?  
24 What did your daily workday look like?

25 A I would open the store most days, and a lot of

1 days I would close it. Customer service, placing  
2 orders, um, and then training any new employees that we  
3 had.

4 Q So you were out on the floor in the store a  
5 lot, not --

6 A Yes.

7 Q -- necessarily in the back?

8 A Yes.

9 Q Did other members of your family work in the  
10 store, as well?

11 A Yes. My mother, um, mostly did billing in the  
12 back. And then some days my sister would work, uh,  
13 part-time at the cash register. And then my brother  
14 did the books for the store sometimes.

15 Q I want to turn your attention to September the  
16 20th of 2006. There was a robbery that occurred at  
17 that business.

18 Do you recall that day --

19 A Yes.

20 Q -- now in 2019?

21 All right. Who was working with you in the  
22 store that day? Kind of describe what was going on  
23 before.

24 A My mom, uh, was working, and we had just hired  
25 a new employee, Pam. Um, she had moved up to

1 Gainesville from the Miami area to get away from crime.

2 And, um, I was training her on the register.

3 Q Okay. Was it -- had she worked there very  
4 long?

5 A It was her first day.

6 Q It was her first day. Okay. So you and Pam  
7 are the only employees on the floor; is that right?

8 A Yes.

9 Q And your mom's in the back. Okay. And what  
10 were you doing just before the defendant, um, came in  
11 the store?

12 Just kind of tell us what happened, and I may  
13 stop you and ask you some questions.

14 A Okay. In the store, on the left-hand side was  
15 the vitamin section, and so the shelves are very low.  
16 And then on the right-hand section, it was mostly  
17 groceries and sports nutrition.

18 So periodically throughout the day, I would go  
19 and just straighten aisles and pull products and ask  
20 Pam to watch the register while I went and started  
21 pulling shelves.

22 So I was in the grocery aisle, getting ready  
23 to come around the corner where the drinks and  
24 refrigerated items were.

25 Q And did something happen or somebody come to



1 your attention?

2 A A customer came in, and, um, I was walking up  
3 the aisle as he was walking down. And he asked me, um,  
4 where the vegenaïse was.

5 Q What's that?

6 A It's like a vegan version of mayonnaïse, and  
7 so I showed him where it was. I actually opened the  
8 cooler and handed him the container.

9 And, uh, he looked to be like a normal  
10 customer that we would have. And so I figured, you  
11 know, Pam wouldn't have a problem ringing him up, and  
12 so I just kept pulling the shelves.

13 Q And what did this person look like? You know,  
14 it's a male, you said, but white or black and just  
15 describe --

16 A White, um, taller than me, thin. Um, I just  
17 remember very piercing eyes, um, and nothing really  
18 kind of out of the ordinary, um, as far as compared to  
19 any other customer --

20 Q Right. In the initial encounter --

21 A -- have.

22 Q -- so you hand him the vegenaïse, and what  
23 draws your attention to him or the situation next?

24 A We have a chime at the door that chimes when  
25 customers come in and come out. And I didn't hear the

1 door chime, so I thought it was really strange that he  
2 was still in the store.

3 Um, and so I started walking up front. And I  
4 get to the front, and Pam is standing at the register.  
5 And he's standing in front of her, and neither of them  
6 are moving.

7 And so I walk over and I just smile and say,  
8 "Is there something I can help with? Is there a  
9 problem?"

10 I thought maybe she didn't know how to run the  
11 register or something.

12 Q Okay. And did the male respond at all when  
13 you kind of asked what was going on?

14 A No, which I thought was strange. So then I  
15 looked at Pam, and she said, "We're being robbed."

16 Q And what did you do when she said that?  
17 What's going through your mind and what did you do?

18 A Um, well, based on previous experiences I had  
19 had, I was really angry. And going through my mind  
20 was, I'm not going to be a victim again.

21 And so I said, "No, you're not. We work too  
22 hard for this money. You're not stealing from us."

23 Q And was there a response by the male?

24 A Yes.

25 Q What was that?

1           A     Um, he made a physical gesture towards -- um,  
2     like, the counter comes about, uh, five -- midhigh.  
3     And he made a gesture like he had a weapon.  And, um --

4           Q     When you say "gesture," just so the record is  
5     clear, you're kind of pointing, like taking your right  
6     hand and pointing it towards your waistband?

7           A     Exactly, exactly.

8           Q     So he did that?

9           A     And he said something, made a threat, but I  
10    don't recall --

11          Q     Okay.

12          A     -- what that was.  So I opened the drawer, and  
13    at that point I stopped making eye contact and just was  
14    pulling the money out of the drawer.

15          Q     Okay.  And so you -- initially, sounds like  
16    you weren't going to give him the money, right?

17          A     No.

18          Q     Okay.  And why then did you give him the  
19    money?

20          A     I felt threatened.  I felt like he did have a  
21    gun.  Um, if he didn't and I didn't feel threatened, I  
22    was not going to give the money.

23          Q     Right.  So if you knew for sure he didn't have  
24    one, you wouldn't have given him the money?

25          A     No.

1 Q Okay. But his gesture, his movements, his  
2 words made you feel like he had a weapon?

3 A Yes. I felt -- definitely felt threatened.  
4 And I actually moved, like, angled so Pam was behind me  
5 so I was kind of shielding her, too, because I could  
6 tell that she was kind of starting to shut down.

7 Q And when you were -- you said you kind of  
8 stopped making eye contact, and you were giving him  
9 some money. Did he say anything about the money or  
10 what he wanted or anything?

11 A When we got to the ones or when I got to the  
12 ones, he said, "No, not the ones."

13 Q Okay. And what was his general demeanor  
14 during this part of him being in the store?

15 A He seemed very calm. It definitely didn't  
16 seem like, you know, anything that I'd seen in the  
17 movies or anything like that.

18 It -- he just -- he seemed very matter of  
19 fact, like, you know, taking the money from us.

20 Q Okay. There was no, um, agitation,  
21 hyperactivity --

22 A No.

23 Q -- anger, shouting, any of that?

24 A No. He was very calm. And, um, I -- there  
25 was nothing erratic about the behavior. It also didn't

1 seem like there was a rush on anything.

2 It just was very, like, you know, until I  
3 handed him the money, he's standing there waiting for  
4 it.

5 Q Okay. Do you know approximately how much  
6 money you happened to give him that time -- or that  
7 day?

8 A Usually, we would have 150 dollars in the  
9 drawer to start with. And we had already had a few  
10 customers in, so it was a little bit more than that.

11 Q What happened once you gave him that money?  
12 What did he do?

13 A Um, then he left. And he had parked out  
14 front. Um, so I went and locked the doors, and I  
15 watched him.

16 Q Did he --

17 A He didn't get in the car right away, though.

18 Q Let me ask you this: Did he run out? Did he  
19 walk out?

20 A No. He walked out.

21 Q Just walked out? Okay. And so you said you  
22 went behind him, locked the door, and were you able to  
23 see through glass windows?

24 A Yes.

25 Q Okay. What did you see?

1           A     I saw him stand at the side of the car and  
2     take off his shirt.  And he just seemed to be moving  
3     kind of slowly.

4                     And so I remember thinking, like, you know, I  
5     need to make sure to notice anything, to see if there's  
6     anything that I see that I can tell people about.

7           Q     Did you notice anything?

8           A     I did, but I don't remember.

9           Q     Okay.  All right.  Whatever you noticed in  
10    descriptions you gave out to law enforcement later --

11          A     Yes.

12          Q     -- back then?  Okay.  And do you remember what  
13    kind of vehicle -- you may have already said it, but do  
14    you remember what kind of vehicle, or what color?

15          A     It just looked like a very expensive SUV,  
16    which I thought was strange since he was robbing us,  
17    that he was driving such a nice car.  I remember  
18    thinking that and --

19          Q     Do you remember the color of it, light, dark  
20    or anything like that?

21          A     I don't.

22          Q     Okay.  It's okay.  Did he -- did you see him  
23    get in that car and leave or just --

24          A     Yes.

25          Q     -- stand outside of it?

1 A Yes.

2 Q Did he get in the driver's side or passenger  
3 side?

4 A The driver's side.

5 Q Like the actual driver --

6 A Yes.

7 Q -- he got in and drove away?

8 MS. DUNTON: One moment, your Honor.

9 No further questions.

10 THE COURT: Any cross-examination?

11 CROSS-EXAMINATION

12 BY MR. BARRETT:

13 Q Was he wearing anything underneath the shirt  
14 when he took off his shirt?

15 A He was -- the car door was open --

16 Q Right.

17 A -- and so I didn't see.

18 Q Okay. But you just saw him standing there and  
19 just took -- was it a regular shirt on, like a T-shirt?

20 A Like a T-shirt.

21 Q And he just took it off?

22 A Uh-huh.

23 Q Was he looking around or just took it off and  
24 got in the car?

25 A He as -- he was looking at the store,

1 actually. I remember -- I remember that clearly  
2 because I was wondering is he going to come back in?  
3 Is that what he was thinking?

4 MR. BARRETT: No other questions, Judge.

5 THE COURT: Any redirect examination?

6 MS. DUNTON: No, your Honor.

7 THE COURT: Thank you, ma'am. You are  
8 excused. Have a good afternoon.

9 THE WITNESS: Thank you.

10 (The witness exited the courtroom.)

11 THE COURT: State, call your next witness.

12 MR. JOHNSON: State calls Charles Maguire.

13 (The witness entered the courtroom.)

14 THE COURT: All right. Mr. Maguire, if  
15 you'll take the witness stand right up here,  
16 please.

17 And if you'll please remain standing, the  
18 clerk will administer the oath to you.

19 If you'd raise your right hand, please.

20 Thank you.

21 THE CLERK: Do you swear or affirm that the  
22 testimony you're about to give will be the truth,  
23 the whole truth, and nothing but the truth?

24 THE WITNESS: Yes, I do.

25 THE COURT: All right. You can take a seat.



1 Thank you.

2 Mr. Johnson, you may inquire.

3 MR. JOHNSON: Thank you, sir.

4 CHARLES MAGUIRE

5 was called as a witness and, after having been first  
6 duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. JOHNSON:

9 Q Good afternoon, sir.

10 A Good afternoon.

11 Q Could you please introduce yourself to the  
12 jury.

13 A My name's Charles Anthony Maguire.

14 Q And, Mr. Maguire, where do you live?

15 A Currently, Port St. Lucie.

16 Q And how long have you lived there?

17 A Uh, eight years.

18 Q All right. And what do you do for a living?

19 A I'm a handyman.

20 Q And how long have you done that kind of work?

21 A Uh, 30 years.

22 Q All right. Where did you live in August of  
23 1990? I know that was quite a while ago, August of  
24 1990.

25 A Um, Margate.

1 Q Okay. Is that in Broward County?

2 A Yeah.

3 Q And did you own any motor vehicle at that  
4 particular time in your life?

5 A Yeah.

6 Q And what was that?

7 A A motorcycle, Ninja.

8 Q A Ninja motorcycle?

9 A Yeah.

10 Q Was it new, used?

11 A Brand spanking new.

12 Q And what color was it?

13 A Red and black.

14 Q I want to take you, um, back specifically to  
15 August the 4th of 1990. Do you recall an incident that  
16 occurred that day?

17 A Yes.

18 Q What were you -- what were you doing at that  
19 time?

20 A I was going to see a girlfriend.

21 Q And where did she live?

22 A I think it was called Pelican Apartments.

23 Q Okay. Was that also in Broward County?

24 A Yeah, off Sample.

25 Q And what -- approximately what time of day or

1 night was it when you went to see her?

2 A It was around nine.

3 Q Okay. And was your friend expecting you?

4 A No. I just pop over there.

5 Q Okay. Were you alone when you went over  
6 there?

7 A Yes.

8 Q And how did you get there?

9 A My motorcycle.

10 Q All right. Where did you park when you  
11 arrived at the apartment complex?

12 A Right in the parking spot.

13 Q And what did you do when you got there?

14 A Went to her door, knocked on it. She wasn't  
15 there --

16 Q All right.

17 A -- so went to the pool to see if she was  
18 there.

19 Q Okay. Was there a pool in the vicinity of her  
20 apartment?

21 A Yeah.

22 Q And did you find her there?

23 A No.

24 Q What did you do next?

25 A I sat there for about ten minutes until this

1       guy kept walking by me, staring at me.

2           Q       Okay. Did this man say anything to you?

3           A       No.

4           Q       Did you say anything to him?

5           A       No.

6           Q       Did he just pass by you and -- and walk out of  
7       sight?

8           A       Yeah, couple times.

9           Q       Okay. And after -- you said you sat there for  
10       about ten minutes. After that ten minutes had passed,  
11       what did you do?

12          A       I just went to get on my bike, leave.

13          Q       And what happened when you got there?

14          A       Well, I went to go put my -- I went to put my  
15       helmet on, and I just woke up the next morning in the  
16       parking lot.

17          Q       Did you actually get your helmet put on?

18          A       Nope.

19          Q       What happened?

20          A       Somebody was hiding behind a car or something  
21       with a two-by-four. They found my blood on it.

22          Q       Right. And where were you -- were you struck  
23       with that two-by-four?

24          A       Yeah, several times.

25          Q       Where were you struck?

1           A     My head.

2           Q     Front of your head, back of your head?

3           A     Back of my head.

4           Q     And you said that you woke up the next  
5 morning, so you were knocked unconscious?

6           A     Yeah.

7           Q     And you said you went to see your girlfriend  
8 around nine o'clock, and you said you woke up the next  
9 morning.

10          A     Uh-huh.

11          Q     So you were there all night?

12          A     Yeah.

13          Q     And -- and nobody -- nobody found you until  
14 the next morning?

15          A     Next morning, lady walking her dog.

16          Q     Was --

17          A     I had a broken neck and couldn't move.

18          Q     Were you taken to the hospital?

19          A     Yeah.

20          Q     How long were you in the hospital?

21          A     Two to three weeks.

22          Q     And you said that you suffered a broken neck?

23          A     Yeah.

24          Q     Did you suffer any other injuries?

25          A     I still don't have feeling in my fingertips or

1 my toes. That was it.

2 Q Even today?

3 A Yeah.

4 Q Now, when you saw this man that was, you know,  
5 in the pool area, did you recognize him at the time?

6 A No. Never seen him before in my life.

7 Q Did you see the person who struck you with the  
8 two-by-four?

9 A No. Can't say that I did.

10 Q Was anything -- was anything missing?

11 A My money out of my pocket.

12 Q And what about your motorcycle?

13 A My motorcycle and my helmet.

14 Q How much money was stolen out of your pocket?

15 A About 1400.

16 Q Were you doing the same type of work then that  
17 you do now?

18 A Yeah.

19 Q Did you have to do any rehab -- rehabilitation  
20 or anything like that as a result of your injuries?

21 A Yes.

22 Q I know a lot of folks, when they have a broken  
23 neck, they have to wear a neck brace or a halo. Did  
24 you have to wear any of those?

25 A Yeah.

1 Q Which -- which or both?

2 A The neck brace.

3 Q Now, were you -- as a result of your injuries,  
4 were you out of work?

5 A Yeah.

6 Q Did you later learn that the individual who  
7 struck you and stole your motorcycle and stole your  
8 money was caught?

9 A Yeah.

10 Q And convicted?

11 A Yeah. They -- the detective showed me the  
12 pictures of six guys, and he said does any one of them  
13 look familiar.

14 And I was like, yeah, the guy that walked by  
15 me by the pool. That looks familiar.

16 And he was like, yeah, that was him.

17 Q So you were able to identify the person who  
18 actually you saw at the pool?

19 A Yeah.

20 Q All right. And you found out that the person  
21 was actually caught and convicted; is that correct?

22 A Yes, yeah.

23 MR. JOHNSON: One moment.

24 Nothing further, your Honor.

25 THE COURT: Any cross-examination?

1 MR. HAMBURG: No questions.

2 THE COURT: Okay. Thank you, Mr. Maguire.  
3 You are excused. Have a good day.

4 THE WITNESS: Thank you. You, too. Thank  
5 you.

6 (The witness exited the courtroom.)

7 THE COURT: State, call your next witness.

8 MR. JOHNSON: State calls Larry Dan.

9 THE COURT: All right. Sir, if you'll take  
10 the witness stand right up here. And if you'll  
11 please remain standing and raise your right hand,  
12 the clerk will administer the oath to you.

13 THE CLERK: Do you swear or affirm that the  
14 testimony you're about to give will be the truth,  
15 the whole truth, and nothing but the truth?

16 THE WITNESS: I do.

17 THE COURT: Thank you, sir. You can be  
18 seated.

19 Mr. Johnson, you may inquire.

20 MR. JOHNSON: Thank you, your Honor.

21 LARRY VAN

22 was called as a witness and, after having been first  
23 duly sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MR. JOHNSON:



1 Q Good afternoon, sir.

2 A Good afternoon.

3 Q Could you introduce yourself to the jury.

4 A My name is Larry Van.

5 Q And, Mr. Van, where do you live?

6 A In Leesburg, Georgia.

7 Q All right. And what part of Georgia is that  
8 located in?

9 A It's in southwest Georgia.

10 Q All right. How are you employed?

11 A Actually, I'm -- I work for Bimbo Bakeries,  
12 and I restore classic cars.

13 Q Where did you live in October of 2006?

14 A In Leesburg, Georgia.

15 Q In the same place?

16 A Same place.

17 Q And what did you do back then?

18 A At that time I worked -- I owned a bread  
19 route. I sold bread for Bimbo Bakery.

20 Q For the same company?

21 A For the same company.

22 Q You said you had a route, so would you travel  
23 to sell bread for the company?

24 A No. Actually, it was a local -- it was a  
25 local route, but, uh, I would go to meetings and stuff,

1 usually here in Florida.

2 Q Okay. And did you happen to be traveling, um,  
3 through Marion County specifically on October the 5th  
4 of 2006?

5 A Yes, I was.

6 Q And had you -- when did you -- did you leave  
7 home that morning?

8 A Uh, yes. I left home on my way down to the  
9 meeting. I was going to, uh -- I think I was going to  
10 Orlando or Ocala.

11 Q Okay.

12 A I don't remember.

13 Q And what were you driving?

14 A I was driving a 2000 Acura TL.

15 Q What color was that car?

16 A It was red.

17 Q And you had indicated that you were going to a  
18 meeting; is that correct?

19 A Yes.

20 Q All right. Do you recall approximately what  
21 time it was you were passing through Marion County?

22 A I don't. I don't remember the time.

23 Q Okay. What route were you traveling?

24 A I think I was going down 75.

25 Q All right. And were you traveling alone?

1           A     Yes.

2           Q     As you were driving through Marion County on  
3 I-75, did anything unusual occur?

4           A     Uh, yes. Uh, the traffic had slowed down.  
5 Um, the traffic had slowed down and -- to almost a  
6 standstill.

7                     And when I came -- when I came -- I think it  
8 was a overpass. When I came under the overpass, there  
9 was a gentleman on the side of the street, uh, waving  
10 at cars, trying to get someone to stop and help him.

11          Q     And did you stop?

12          A     Yes, I did.

13          Q     And did you stop in the middle of the road, or  
14 did you pull off on the side?

15          A     Well, it was -- I pulled off -- I eventually  
16 pulled off to the side, but he was, uh, he was in the  
17 road.

18                     And he said that, uh, there was a car on the  
19 side of the road that had -- that had wrecked. And he  
20 said his girlfriend was in the car, and she needed  
21 help.

22          Q     Okay. Could you describe this man that --  
23 that was wave -- that waved you down and was telling  
24 you this?

25          A     It was a white male.

1 Q And so you stopped and he came to the side of  
2 the vehicle?

3 A Yes.

4 Q Which side of the vehicle did he come to?

5 A On the passenger side.

6 Q And did you roll the window down?

7 A Yes, partially down. I rolled the window  
8 partially down.

9 Q And is that when he told you that he had  
10 wrecked and his girlfriend was hurt?

11 A That was -- he was -- that was when he told me  
12 that the car -- that his girlfriend was in the car.

13 Q Okay. So what was your response to that?

14 A I told him I was on -- well, I was on the  
15 phone with -- I was on the phone at the time with 911.

16 And I told him I had 911 on the phone and that  
17 I would, uh, uh -- I just said, "I have 911 on the  
18 phone."

19 And I went back to 911 to talk to them, and  
20 when I turned around, he was coming in the car.

21 Q He had opened the door?

22 A He was, uh -- he had -- I think he crawled  
23 through the window.

24 Q Okay. And -- and tell me what happened next.

25 A Well, when I turned around, he had -- uh, he

1 was pulling up a weapon at me and said, "Get out or  
2 drive."

3 Q What type of weapon did he pull?

4 A A handgun.

5 Q What did it look like?

6 A Uh, a handgun. It was just -- I couldn't  
7 describe it.

8 Q Okay. And he pointed it at you or just  
9 brandished it?

10 A He pointed it.

11 Q And told you to get out of the car?

12 A "Get out of the car or drive."

13 Q Get out of the car or drive. What do you do?

14 A I get out of the car.

15 Q And where did you go?

16 A Uh, to the side of the road.

17 Q So after you got out of the car, what  
18 happened?

19 A He went down the highway.

20 Q And did you ever see that person again?

21 A Never.

22 Q What was going through your mind when he got  
23 into the car and pulled the gun and pointed it in your  
24 direction?

25 A Well, of course, I was afraid. I was afraid.

1 I didn't -- I thought that I shouldn't have stopped.  
2 Uh, is this really happening? I don't know what was  
3 going through my mind.

4 Q You were afraid?

5 A Yeah. Oh, yeah.

6 Q Did you believe that if he did not -- if you  
7 did not comply, that he might shoot you?

8 A I -- did I believe he was going to shoot me?

9 Q No. If you -- did you believe that if you did  
10 not comply with his demands, that he would shoot you?

11 A Oh, I probably did. I just got out of the  
12 car. I just jumped out of the car.

13 Q What did you do after, um, you were able to  
14 get --

15 A I was --

16 Q -- out of the car and he left?

17 A I was still on the phone with 911. They told  
18 me to check the car. I think they told me to check the  
19 car.

20 And I went over and looked in the car, but I  
21 was on the phone with 911 the whole time. They told me  
22 the police were coming.

23 Q Did you -- when you say "check the car," you  
24 were talking about the car that was --

25 A That had turned over.

1 Q And that he said his girlfriend was in?

2 A Excuse me?

3 Q The car that this man said his girlfriend was  
4 in, correct?

5 A Yes.

6 Q Was there anybody in the car?

7 A No.

8 Q Did law enforcement respond to where you were  
9 located?

10 A Yes, they did.

11 Q And did you provide a statement to them about  
12 what happened?

13 A Yes.

14 Q And did you discover later or learn later that  
15 the man who pointed the gun at you and took your car  
16 was later arrested and convicted?

17 A Yeah. They told me. They told me at the  
18 police station.

19 MR. JOHNSON: Nothing further.

20 THE COURT: Any cross-examination?

21 MR. BARRETT: No, Judge.

22 THE COURT: All right. Thank you, Mr. Van.

23 You are excused. Have a good afternoon.

24 (The witness exited the courtroom.)

25 THE COURT: State, do we have another

1 relatively short witness?

2 MS. DUNTON: We do.

3 THE COURT: Okay.

4 (The witness entered the courtroom.)

5 THE COURT: All right. Ma'am, if you could  
6 take the witness stand right over here, please.  
7 If you could please remain standing and raise your  
8 right hand, the clerk will administer the oath to  
9 you.

10 THE CLERK: Do you swear or affirm that the  
11 testimony you're about to give will be the truth,  
12 the whole truth, and nothing but the truth?

13 THE WITNESS: I do.

14 THE COURT: Thank you, ma'am. You can be  
15 seated.

16 Ms. Dunton, you may inquire.

17 MS. DUNTON: Thank you.

18 MARQUETTE FREDRICK

19 was called as a witness and, after having been first  
20 duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MS. DUNTON:

23 Q Good afternoon, ma'am. If you would, please  
24 introduce yourself to the jurors.

25 A Uh, my name is Marquette Fredrick.



1 Q And if you would for me, can you either pull  
2 that mic a little bit closer, or just keep your voice  
3 up for me, okay?

4 Where do you live, Ms. Fredrick?

5 A I live in Bradenton.

6 Q Bradenton, Florida?

7 A Yes.

8 Q And how long have you lived in Bradenton?

9 A About a year and a half.

10 Q What do you do for a living now?

11 A I'm a security guard with G4S Security.

12 Q How long have you been doing that line of  
13 work?

14 A Um, four years or so.

15 Q Did you previously live in the Gainesville  
16 area of Florida?

17 A Yes.

18 Q And do you remember what years you were living  
19 in Gainesville?

20 A 2006, 2007, and beginning of 2008.

21 Q What did you do for work when you were in  
22 Gainesville?

23 A I worked at Taco Bell and a Waffle House.

24 Q And how long did you work for Waffle House?  
25 What -- go ahead.

1 A Um, a little bit over a year.

2 Q And what were your duties with Waffle House?

3 A Um...

4 Q What was your job?

5 A Waitress -- waitressing, sometimes helping the  
6 cook, cashing out orders.

7 Q Okay. And this Waffle House you worked at,  
8 where was it located in -- in Gainesville?

9 A Um, on Archer Road by 75.

10 Q Okay. Is this real close to the interstate?

11 A Yes.

12 Q I want to turn your attention to September 20,  
13 2006. There was a robbery that occurred at that Waffle  
14 House. Do you remember that day --

15 A Yes.

16 Q -- that you were there?

17 Can you tell us, do you remember what time of  
18 day it was? Was it daytime, nighttime?

19 A Um, later in the day. It was probably around  
20 seven or so.

21 Q Okay. And if you could, tell us, you know,  
22 what happened. And I may stop you and ask you some  
23 questions.

24 A Um, a guy came in, sat down at the counter by  
25 the register, um --

1           Q     Let me -- let me -- see, I told you I was  
2 going to stop you. And let me ask you to just keep  
3 your voice up a little bit more, okay?

4                     When this man that came in the store and sat  
5 down at the counter came in, was the restaurant busy at  
6 that time or was it slow? Do you remember?

7           A     Actually, it was empty. It was just me and  
8 the cook.

9           Q     So just you and the cook were working?

10          A     Right.

11          Q     And then a man comes in, and you said he sits  
12 at the counter?

13          A     Right.

14          Q     We may have all been in a Waffle House, but  
15 kind of describe how it's set up, or how that one was  
16 set up with tables and things.

17          A     When you walk in, there's booths on both  
18 sides, and then there's the counter. And on one side  
19 of the counter is the register, and then there's all  
20 the drinks and the grill and all that.

21          Q     Okay. And the people can actually sit at the  
22 counter --

23          A     Right.

24          Q     -- and eat and order from there?

25          A     Right.

1 Q Okay. All right. So this man walks in, sits  
2 at that counter. What happens next? What do you do?

3 A He asked if we take credit cards, and I said  
4 we take most of them. And he showed me a credit card.  
5 I said, yes, we take that.

6 And he asked for a cup of coffee and if he  
7 could borrow my pen. Um, so I handed him my pen and  
8 got a cup of coffee and brought it back.

9 And he pushed a note towards me, and it said,  
10 "I have a gun. Give me all your money and don't say a  
11 word."

12 Q Okay. And so he's passing that -- are you on  
13 the other side of the counter, or are you serving him  
14 at --

15 A I'm on the other side of the counter.

16 Q So you're behind the counter, and he slides  
17 that note to you?

18 A Yes.

19 Q And does he say anything when he slides it to  
20 you?

21 A No.

22 Q What did you do --

23 A I --

24 Q -- when you got that note?

25 A -- walked over to the register and hit the

1 no-sale button to pop the drawer open, took all the  
2 cash out, and handed it to him.

3 Q Did you have to go far away? Was the register  
4 close to where he was?

5 A Um, if he was sitting here, I was about here.

6 Q Okay. So feet away --

7 A Yeah.

8 Q -- is that fair? Okay. Couple feet away.

9 What did you think when you got that note?  
10 You know, what was your response? Why did you do what  
11 you did?

12 A I thought that sometimes people are crazy and  
13 that if someone had the -- whether or not he had a gun,  
14 that if he said that, then he was probably going to  
15 hurt me if I didn't do what he said.

16 Q So you were scared, safe --

17 A Very.

18 Q -- to say? And you never saw a gun; is that  
19 right?

20 A Right.

21 Q But he wrote it on the piece of paper, "I have  
22 a gun" --

23 A Yes.

24 Q -- correct? And so you went over and got  
25 money.

1                   Do you remember approximately how much money  
2 your registers would have had back then?

3           A     A little bit over a hundred dollars.

4           Q     What did he do after you handed him the money?

5           A     He picked up the money and walked out.

6           Q     What was his demeanor throughout this whole  
7 thing, from the moment he walked in to the moment he  
8 walked --

9           A     Um, calm, but intense. Like very intent,  
10 watching everything I was doing, but calm.

11          Q     Okay. And other than after he asked you for  
12 coffee and a pen and a credit card, once he slid you  
13 that note, he didn't say anything else to you; is that  
14 right?

15          A     No. He didn't say anything else.

16          Q     He didn't scream at you?

17          A     No.

18          Q     Appear highly agitated --

19          A     No.

20          Q     -- anything like that? Just calm, but direct  
21 or --

22          A     Very --

23          Q     -- intense?

24          A     -- intense, watching everything that was going  
25 on.

1 Q And so after he left with the money, what did  
2 you do?

3 A I told the cook that we had been robbed, and I  
4 called 911. And, um, they asked me to stay on the  
5 phone with them until the police came.

6 Q And did you give a statement and file a  
7 report?

8 A We filed a report and they took me across the  
9 street to see -- they thought they caught the person on  
10 camera at the Target across the street. And they asked  
11 me to see if I could identify him.

12 Q And sometime after this, did you learn of --  
13 of a Norman McKenzie that was convicted of this crime  
14 against you?

15 A Um, yes. Uh, a couple months after, um, after  
16 it happened, I got a call from the detective who had  
17 been there after it happened. They told me he had been  
18 caught and arrested.

19 MS. DUNTON: No further questions.

20 THE COURT: Any cross-examination?

21 MR. HAMBURG: No cross, your Honor.

22 THE COURT: Thank you, ma'am. You are  
23 excused.

24 (The witness exited the courtroom.)

25 THE COURT: Folks, we're going to go ahead

1 and break for the day. It's pretty much right at  
2 4:30.

3 So I'll remind you, don't do any research of  
4 any type. Don't discuss this case with anybody,  
5 particularly family members when you get home.

6 Don't do any research of any type. Leave  
7 your notes here in the courtroom. They'll be  
8 secured overnight. They'll be back in your chairs  
9 in the morning.

10 Let's plan on being back at 8:45, same place,  
11 the jury lounge on the second floor. And as soon  
12 as we have everybody assembled, we'll get you up  
13 here and continue on with this trial.

14 Thank you, folks, and have a wonderful  
15 evening. If you'll follow the deputy out.

16 (The jury exited the courtroom.)

17 THE COURT: Y'all can be seated. Everybody  
18 remain in the courtroom for a few moments while  
19 the jury clears.

20 Let me check with the lawyers for a moment.  
21 We do have everybody present, including the  
22 defendant. We are outside the presence of the  
23 jury.

24 How are we doing on the schedule with  
25 witnesses?



1           MR. JOHNSON: I was worried for a while,  
2           Judge, but we got caught up in the last hour.  
3           We're doing good.

4           THE COURT: So what do we have from the State  
5           tomorrow?

6           MR. JOHNSON: I have two witnesses and  
7           potentially victim-impact statements.

8           THE COURT: What were the first -- I didn't  
9           hear.

10          MR. JOHNSON: Two witnesses, which will  
11          include another interview that's about a little  
12          bit less than an hour long, and then we have some  
13          potential victim-impact statements.

14          THE COURT: How did you plan on handling the  
15          victim-impact statements? Were you going to have  
16          somebody read them?

17          MR. JOHNSON: They're going to be written and  
18          read, Judge.

19          THE COURT: Who is going to read them?

20          MR. JOHNSON: Well, we have Charles  
21          Johnston's daughter, who is not going to be here.  
22          So I still have to clarify exactly how we'll do  
23          that. It will be somebody probably from my  
24          office.

25          And then the -- some of the family members

1 of Randy Peacock, um, they -- they wrote  
2 victim-impact letters back in 2007 when the case  
3 was originally tried, but there's still a question  
4 as to whether or not they want to do an updated  
5 one.

6 And I need to communicate with them about  
7 that and, if so, get those copied so that the  
8 parties can review them.

9 And if there's anything that needs to be  
10 amended or clarified on that, we'll have time to  
11 do that.

12 THE COURT: So the ones that you currently  
13 have in your possession are ones that were read in  
14 2007 during the penalty phase?

15 MR. JOHNSON: Yes, sir.

16 THE COURT: And the defense has that, I  
17 presume?

18 MR. BARRETT: Yes, Judge.

19 THE COURT: Are there any issues with the  
20 victim-impact statements that were read in 2007?

21 MR. BARRETT: No, Judge.

22 THE COURT: No issues therein? Okay.

23 MR. JOHNSON: I can tell you that two of the  
24 ones that were read will be read tomorrow.

25 I think there was a sister or something.

1 That one's going to be read, and the daughter of  
2 Charles Johnston.

3 It's the other two that I need clarification  
4 on.

5 THE COURT: If there's any updates, let us  
6 know in the morning. Particularly, let Defense  
7 know and provide them a copy if there's going to  
8 be an updated version.

9 If not, if it's going to be the same ones,  
10 then fine.

11 Okay. And then the State would rest at that  
12 point?

13 MR. JOHNSON: Yes, sir.

14 THE COURT: And any idea on what time that  
15 would be? I know you have to be out of here by  
16 11, so we will break at 11 so you can make your  
17 appointment.

18 MR. JOHNSON: Yeah. It may be -- I think we  
19 may be running close with the statement.

20 THE COURT: Uh-huh.

21 MR. JOHNSON: We may have to do the victim  
22 impact after lunch, um, but that's my best guess  
23 right now, Judge.

24 THE COURT: Okay. Is the defense going to be  
25 ready to go with the defense case tomorrow



1 coming from?

2 MR. BARRETT: She's coming from Orlando.

3 THE COURT: Okay. So she's the one --

4 MR. BARRETT: She's not going to be an issue.

5 THE COURT: Okay.

6 MR. BARRETT: The intent is to have  
7 Dr. Bloomfield testify first, so that's why we  
8 just needed some idea as to when we needed him  
9 here.

10 THE COURT: Has there been a decision at this  
11 point -- you know, doesn't have to be at this  
12 point -- but as to whether or not the defendant's  
13 going to testify?

14 MR. BARRETT: We haven't quite thought --  
15 we've talked to him about this before. And I know  
16 he hadn't made up his mind at that point, so I  
17 would imagine he still hasn't made up his mind.

18 I'll talk to him in the morning.

19 THE COURT: So, Mr. McKenzie, we're going to  
20 get to that point -- looks like we're going to get  
21 to that point sometime tomorrow.

22 So talk to your lawyers overnight and discuss  
23 with them whether or not you want to testify in  
24 this case.

25 You have the absolute right to testify if you

1 want to. Of course, keep in mind if you do  
2 testify, you would be subject to cross-examination  
3 by the State.

4 You also have the right to not testify. And  
5 if you choose to not testify, I would advise the  
6 jury that you've exercised a fundamental  
7 constitutional right by not testifying, and they  
8 shouldn't draw any negative inferences or hold  
9 that against you in any way.

10 So talk about it with your lawyer.  
11 Ultimately, it's going to be your decision, not  
12 your lawyer's decision, but, of course, you need  
13 to consult with your lawyers and listen to  
14 whatever they have to tell you before you finalize  
15 your decision on that.

16 Do you have any questions about that of me?

17 THE DEFENDANT: No, sir. I think I pretty  
18 much learned my lesson last time.

19 THE COURT: You know I wasn't the judge last  
20 time --

21 THE DEFENDANT: I know.

22 THE COURT: -- so I don't know what even  
23 happened if you test --

24 THE DEFENDANT: I represented myself.

25 THE COURT: I did know that. Yeah. Okay.

1 All right. So let us know tomorrow what you want  
2 to do on that.

3 THE DEFENDANT: All right, sir.

4 MR. JOHNSON: I will tell you, Judge, we do  
5 have a rebuttal witness, Dr. Meadows. I just  
6 wanted to be sure you knew that for your  
7 scheduling.

8 THE COURT: Okay.

9 MR. JOHNSON: I think probably right now  
10 we're thinking about him Thursday morning.

11 THE COURT: That's what I was going to ask.  
12 We're looking at about Thursday morning to --  
13 probably for the last witness.

14 So we'll probably do a charge conference  
15 maybe late tomorrow, maybe after we let the jury  
16 go tomorrow, so be prepared on that. The  
17 instructions aren't terribly long on this type of  
18 proceeding.

19 And then we'll see where we are Thursday.  
20 Okay. Thank you, everybody. Y'all have a good  
21 night. We'll see y'all tomorrow morning at 8:45.

22 (Time noted: 4:35 p.m.)  
23  
24  
25

1 IN THE CIRCUIT COURT, SEVENTH  
2 JUDICIAL CIRCUIT, IN AND FOR  
3 ST. JOHNS COUNTY, FLORIDA

CASE NO.: CF06-01864

4 STATE OF FLORIDA

APPEAL TRANSCRIPT

5 vs.

(Pages 674 through 959)

6 NORMAN BLAKE MCKENZIE,

7 Defendant.

8 \* \* \* \* \*

10 TRANSCRIPT OF PROCEEDINGS  
11 BEFORE THE HONORABLE HOWARD M. MALTZ,  
12 CIRCUIT COURT JUDGE

13 PENALTY PHASE JURY TRIAL

14 \* \* \* \* \*

15 DATE TAKEN: WEDNESDAY, AUGUST 28, 2019

16 TIME: COMMENCED at 8:55 A.M.  
CONCLUDED at 4:44 P.M.

17 PLACE: RICHARD O. WATSON JUDICIAL CENTER  
18 4010 LEWIS SPEEDWAY  
19 ST. AUGUSTINE, FLORIDA 32084

20 STENOGRAPHICALLY MARY GRAYBOSCH, RPR, CRR, CRC  
21 REPORTED BY: COURT REPORTER AND NOTARY PUBLIC

22 \* \* \* \* \*

23

24

25



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

2 THE COURT: We have the jury on their way up.  
3 Y'all can be seated. Give you a few minutes to  
4 get settled in.

5 MR. JOHNSON: Judge, just to kind of let you  
6 know, our witness -- we're set up and ready to go.  
7 Our witness, he's in Tallahassee.

8 So he had to go to the state attorney's  
9 office down there, had a little trouble parking.  
10 I think he found a parking spot about five minutes  
11 ago, so he's making his way into the courthouse as  
12 we speak.

13 THE COURT: So that's the empty chair that we  
14 see?

15 MR. JOHNSON: That's correct. Otherwise,  
16 we're ready to go.

17 THE COURT: And how long is that witness? Is  
18 that --

19 MR. JOHNSON: Probably 30 minutes.

20 THE COURT: Oh, that's not the hourlong  
21 statement you were talking about?

22 MR. JOHNSON: No. That's -- that will be our  
23 next witness.

24 THE COURT: Okay. All right. Before we  
25 broke -- and let the record reflect we're in the

1 presence of all parties, including the defendant,  
2 outside the presence of the jury.

3 Before we broke yesterday, the State was  
4 going to address whether it was going to update  
5 the victim-impact statements.

6 Have you figured that out at this point?

7 MR. JOHNSON: We talked to them yesterday,  
8 and I believe they've elected to read the same  
9 statements they --

10 THE COURT: The same statements?

11 MS. JOHNSON: Yes, sir.

12 THE COURT: And the defense indicated they  
13 had no objection to the content of these  
14 statements that were the ones -- same ones that  
15 were done or read back in 2007?

16 MR. BARRETT: Judge, other than what we had  
17 in the previous hearing on those motions,  
18 death-penalty related motions, we have no  
19 objection.

20 THE COURT: Okay.

21 MR. BARRETT: Just want to make sure we  
22 preserve those issues.

23 THE COURT: Right. Okay. Thank you.

24 Anything else we need to take up before we  
25 bring the jury in here in a few moments?

1 MR. JOHNSON: I don't think so.

2 MS. DUNTON: Just --

3 THE COURT: Well, I guess we don't have a  
4 witness.

5 MS. DUNTON: Yeah.

6 MS. JOHNSON: Well, yeah.

7 THE COURT: Could we do the other one ahead  
8 of him? I guess not.

9 MR. JOHNSON: That will -- the next one will  
10 probably be about an hour, hour and a half.

11 MS. DUNTON: Yeah.

12 THE COURT: So then he'll be sitting in --

13 MS. DUNTON: I'd rather have him in the chair  
14 and ready before we --

15 THE COURT: So he's at the state attorney's  
16 office, looking for -- or was looking for a  
17 parking spot.

18 MS. DUNTON: Yeah. He found --

19 MR. JOHNSON: Yeah. He's found one. He  
20 just -- and I was advised by the secretary who's  
21 helping us there, today is a trial date for them,  
22 too.

23 So there may be a bit of a funnel. They have  
24 pretty tight security there.

25 THE COURT: Okay.

1           Frank, can you let the jurors know it will be  
2           just a few moments?

3           THE OFFICER: Yes.

4           THE COURT: Thank you.

5           MR. JOHNSON: We have somebody there. I  
6           don't know if you need to get their notary  
7           information for the record.

8           THE COURT: So we do have somebody there that  
9           can place him under oath?

10          MR. JOHNSON: Yes, sir.

11          THE COURT: Okay. Good. Have you tested  
12          that? It works?

13          MS. DUNTON: Yeah. We've been talking to  
14          them. That's why we don't want to move it.

15          MR. JOHNSON: That's some of the same  
16          problems as yesterday. We had to flip back to  
17          the --

18          MS. DUNTON: The old --

19          MS. JOHNSON: Yesterday we had to flip to the  
20          HDMI. Today that wouldn't work, so we had to flip  
21          back.

22          MS. DUNTON: The sound is literally better  
23          the old-school way, but it does have this humming  
24          in the background.

25          THE COURT: I'm sensing the humming.

1 MS. DUNTON: But you can still actually hear  
2 the person better.

3 (Court was in an informal recess from  
4 8:58 a.m. until 9:01 a.m. while awaiting the  
5 arrival of the witness in Tallahassee.)

6 THE COURT: Okay. While we're waiting, has  
7 there been a decision as to whether or not the  
8 defendant is going to testify, or do you still  
9 need some more time?

10 MR. BARRETT: We had yesterday, but I would  
11 ask the Court to just inquire.

12 THE COURT: Okay. Mr. McKenzie, good  
13 morning.

14 THE DEFENDANT: Good morning, sir.

15 THE COURT: Have you made a decision yet as  
16 to whether you would like to testify during these  
17 proceedings?

18 THE DEFENDANT: I mean, I thought about it  
19 all night long, sir. I still haven't come to a  
20 decision yet.

21 Do I still have more time before I --

22 THE COURT: Yes, you do. Sometimes people  
23 make their minds up early on in the process.  
24 That's why I'm asking you now.

25 THE DEFENDANT: I haven't made my mind up



1 yet, sir.

2 THE COURT: Okay. No problem.

3 THE DEFENDANT: All right. Thank you.

4 THE COURT: We'll circle back on that.

5 THE DEFENDANT: Yes. Yes, sir.

6 (Court was in an informal recess from  
7 9:02 a.m. until 9:04 a.m. while awaiting the  
8 arrival of the witness in Tallahassee.)

9 THE COURT: You tell me when you're ready to  
10 go and you've got him hooked up and we can bring  
11 the jury in.

12 THE WITNESS: Can you hear me?

13 MS. DUNTON: We can hear you. Yes. Can you  
14 hear us?

15 THE WITNESS: Yes, ma'am.

16 MS. DUNTON: Okay. We'll just need the  
17 notary there and --

18 Do you want to take that information before  
19 the jury comes in?

20 THE COURT: I want to do that in front of the  
21 jury.

22 MS. DUNTON: Oh, in front of the jury? All  
23 right.

24 Is there a notary there?

25 THE WITNESS: Yes, ma'am, somewhere.

1 MS. DUNTON: Yeah. Just grab her.  
2 THE WITNESS: Okay.  
3 MR. JOHNSON: Good morning, Mr. Saldana, how  
4 are you?  
5 THE WITNESS: I'm pretty good. Yourself?  
6 MS. JOHNSON: Fine. Mark Johnson, just to  
7 put a face to the name since we've talked so much  
8 recently.  
9 THE WITNESS: Yes, sir.  
10 MS. JOHNSON: Good to see you.  
11 THE NOTARY: Raise your right hand, please.  
12 MS. DUNTON: Well, wait, wait.  
13 THE COURT: Hold on.  
14 (Simultaneous speaking.)  
15 MS. DUNTON: Hold on.  
16 THE NOTARY: Okay. All right. All right.  
17 THE COURT: We're just going to go ahead and  
18 bring the jury in.  
19 MS. DUNTON: We're about to bring the jury  
20 in.  
21 THE NOTARY: Okay.  
22 (The jury entered the courtroom.)  
23 THE COURT: Good morning, everybody.  
24 MEMBERS OF THE JURY: Good morning.  
25 THE COURT: All right. Y'all can be seated

1 in the courtroom.

2 Again, welcome, everybody, and apologize for  
3 the brief delay, keeping you cooped up here in our  
4 small jury room, but we had to set up what you can  
5 see on the screens right now.

6 The next witness is going to appear through  
7 the wonders of modern technology. The parties  
8 have agreed that this witness could appear via  
9 teleconference, so this is live.

10 The witness actually is there. It's not a  
11 video recording. So we have a notary on the other  
12 end to place the witness under oath.

13 So if our notary on the other end, if you can  
14 hear me, if you could place the witness under  
15 oath, please.

16 MS. DUNTON: Can you hear us?

17 THE WITNESS: Yes.

18 MS. DUNTON: Is the notary there?

19 THE NOTARY: I'm right here. Are you ready?

20 THE COURT: Yes, please.

21 I don't know if she can hear me or not.

22 THE NOTARY: Raise your right hand, please.

23 Do you swear the testimony you're about to give is  
24 true and correct to the best of your knowledge, so  
25 help you God?

1 THE WITNESS: Yes, I do.

2 THE COURT: Okay. State, you may proceed  
3 with your next witness, if you could tell us who  
4 this is, please.

5 MR. JOHNSON: Thank you. Thank you, your  
6 Honor.

7 CESAR SALDANA  
8 was called as a witness and, after having been first  
9 duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. JOHNSON:

12 Q Good morning, sir. Could you introduce  
13 yourself to our jury.

14 (No response.)

15 Q Good afternoon, can -- good morning. Can you  
16 hear us?

17 A Yes. I can hear you.

18 Q Okay. Could you introduce yourself to the  
19 jury.

20 A Good morning. My name's (unintelligible) --  
21 sorry -- former Inspector Caesar Saldana with the  
22 Florida Department of Law Enforcement.

23 Q Okay. And are you retired from that position,  
24 sir?

25 A Yes, I am, as of September of last year.

1 Q All right. How long did you work for FDLE?

2 A About nine years (unintelligible). But at the  
3 time in question, I worked for Alachua County Sheriff's  
4 Office.

5 Q Okay. Did you work for the Alachua County  
6 Sheriff's Office prior to FDLE?

7 A Yes, sir, I did.

8 Q And how long did you work for Alachua County  
9 Sheriff's Office?

10 A Approximately ten years.

11 Q How long do you have in law enforcement in  
12 general?

13 A About 27, 28 years.

14 Q Were you working for the Alachua County  
15 Sheriff's Office on September the 28th of 2006?

16 A Yes, sir, I was.

17 Q What were your duties at the time?

18 A I was assigned to general investigations  
19 division. I was a detective with the Alachua County  
20 Sheriff's Office.

21 Q And what types of offenses or general crimes  
22 did you -- were you called upon to investigate in that  
23 position?

24 A Back at that time, I was at -- I was assigned  
25 to general investigations, which means I worked every

1 crime, when I worked it, you know, wasn't on call, I  
2 worked every crime that was property related,  
3 basically. So if somebody had a bicycle stolen or a  
4 car stolen, it came across our desk.

5 Q All right. And you mentioned when you were  
6 not on call. Were there occasions during your tenure  
7 at that time where you would be on call?

8 A Yes, sir. Once a month, there was  
9 (unintelligible) the on-call -- the on-call detectives,  
10 and we would -- we were all (unintelligible).

11 Normally, we worked from 3 a.m. to 5 p.m.  
12 When we were on call, we would work from 3 p.m. to  
13 11 p.m., and then be (unintelligible) the rest of the  
14 week.

15 Q All right. And when you were on call, what  
16 types of offenses would you -- would you be called upon  
17 to investigate?

18 A Whatever came across our desk, no matter what  
19 it was. If it was homicide, if it was robbery, if it  
20 was grand theft, petit theft, no matter what, we were  
21 responsible for that call.

22 Q All right. So taking your attention to  
23 September the 28th of 2006, did you receive a call on  
24 that date about a kidnapping that occurred in Alachua  
25 County?

1 A Yes, sir.

2 Q All right. And approximately --

3 A (Unintelligible) the on-call supervisor for  
4 that night, or the acting supervisor that night, saying  
5 that they were at a residence in Alachua County where  
6 the wife had been kidnapped, and they needed  
7 investigator assistance.

8 Q At approximately what time did you receive  
9 that call?

10 A Around 11, 11:15, sometime after 11. I know I  
11 was almost home when I got called.

12 Q And what did you do when you received that  
13 call?

14 A I turned around and responded to the residence  
15 in question.

16 Q And when you arrived at the residence, who --  
17 who was there when you got there?

18 A Several deputies, including Deputy Hixton  
19 (phonetic), the one who had called me, a crime-scene  
20 investigator, and there were three other -- three other  
21 individuals, who were civilians. There was a young  
22 lady, there was a woman, and a man.

23 Q Okay. And the --

24 A (Inaudible) sorry.

25 Q The civilian witnesses, what were their names?

1           A     The last names were -- were Coffees. The  
2 first name was -- was Madeline Coffee was the young  
3 girl. Let's see. There was --

4                     (Witness perusing documents.)

5           A     Looking for their names right now.

6                     MR. BARRETT: Judge, I am going to object.

7           A     I don't have the first names right now, just  
8 Mr. and Mrs.

9                     THE COURT: Are we --

10                    (Simultaneous speaking, as the witness  
11 continued to answer.)

12           A     (Unintelligible.)

13                    THE COURT: Are we working off the microphone  
14 on computer? I think that's --

15                    (Simultaneous speaking, as the witness  
16 continued to answer.)

17                    THE COURT: Can you tell him to stop,  
18 Mr. Johnson?

19           A     -- daughter --

20                    MS. JOHNSON: Hold on, Mr. -- Mr. Saldana.  
21 Can you hold on just a second? Hold on just a  
22 second, please.

23                    THE COURT: Yeah. He can't hear me, I don't  
24 think, because you're working off the computer  
25 microphone, and he can't hear Mr. Barrett.



1 MS. DUNTON: Right.

2 THE COURT: So if there's an objection, if  
3 you could tell him to stop.

4 So, Mr. Barrett, what's your objection?

5 MR. BARRETT: Judge, he should be testifying,  
6 not reading from the report. If he needs it to  
7 refresh, just to refresh, that's one thing, but I  
8 don't want him sitting there reading the report.

9 THE COURT: Okay. If you could preface your  
10 questions so that --

11 MR. JOHNSON: Sure.

12 THE COURT: -- if he needs to refresh his  
13 recollection.

14 BY MR. JOHNSON:

15 Q Mr. Saldana, do you need to review -- review  
16 your report to refresh your recollection?

17 A Just certain facts, but for the most part, I  
18 understand the case.

19 Q No, no. With regard to the names of the  
20 civilian witnesses?

21 A Yes. I did write it down in my report. I  
22 don't have the face page which provides their name.  
23 The only name I wrote down was the daughter's name.  
24 Her name was Madeline Coffee.

25 Q Okay.

1           A     And --

2           Q     So --

3           A     -- it was Mr. Coffee and the wife,  
4 Mrs. Coffee.

5           Q     So -- but their last names were Coffee,  
6 correct?

7           A     Yes, sir.

8           Q     All right. Which of the civilian witnesses  
9 was the individual who had been kidnapped?

10          A     The older female, Mrs. Coffee.

11          Q     Mrs. Coffee? Okay. Did you -- did you speak  
12 to her about what had happened?

13          A     Yes, sir, I did.

14          Q     Now, I don't want to get into specifically  
15 what she told you, but I would like to ask you, um, um,  
16 how long did you interview her, in terms of what  
17 actually happened?

18          A     Approximately an hour, maybe an hour and a  
19 half.

20          Q     And that was inside their home?

21          A     Yes, sir.

22          Q     Can you describe to us her -- her demeanor to  
23 you as she told you what happened to her?

24          A     She was distraught, but very quiet. She  
25 wouldn't look me in the face. She kept ringing her

1 hands and looking down.

2 And what I noticed first off is she was  
3 crying. There were tears running down her face, but  
4 she barely made a sound so it was, like, a silent cry.

5 Then later as I thought about it, I thought  
6 she was in a state of shock, but she answered all my  
7 questions as best as she could.

8 And not once that night did -- did she look at  
9 me. And she appeared very, very distraught, I guess,  
10 is the word.

11 Q Now, following your interview with her, were  
12 you able to develop anyone as a particular suspect in  
13 her kidnapping?

14 A At that time, no.

15 Q Did you later -- were you later able to do so?

16 A Yes, sir, I was.

17 Q All right. And was that person Norman Blake  
18 McKenzie?

19 A Yes, sir, it was.

20 Q And what had occurred that -- that caused you  
21 to develop him as the -- as the person who committed  
22 this kidnapping against Mrs. Coffee?

23 A The vehicle he was in was involved in a  
24 different case that I worked. There was another  
25 individual he was involved with who called law

1 enforcement.

2 I was the on-call detective at the time. I  
3 responded to that scene. And that person who I  
4 interviewed described Mr. McKenzie and described the  
5 vehicle.

6 Once the vehicle was described, I realized  
7 that this vehicle and the vehicle from my kidnapping  
8 scene were very similar, so I ran the tag and got a  
9 name.

10 Q Okay. And was -- did you later learn that he  
11 had been arrested on other case -- on another case?

12 A Yes, sir.

13 Q Okay. And did you receive, um, a copy of a  
14 recorded interview that he had given in that other  
15 case, which was a murder case?

16 A Yes, sir.

17 Q All right. And in that interview -- did you  
18 have a chance to review that interview?

19 A Yes, sir. I watched it a couple times.

20 Q And in that interview, did Norman Blake  
21 McKenzie admit to the kidnapping of Mrs. Coffee?

22 A Yes, he did.

23 Q Following that, did you -- did you write up  
24 charges on -- on -- regarding the kidnapping?

25 A Yes, sir, I did. I charged Mr. McKenzie

1 with -- with armed kidnapping.

2 Q With armed kidnapping?

3 A I believe it was armed kidnapping. Might have  
4 been just kidnapping.

5 Q All right. Okay. Was there a -- was there  
6 allegations that he had used a firearm?

7 A Yes, there was, from -- from Mrs. Coffee.

8 Q All right. And were those charges forwarded  
9 to the state attorney's office there in Alachua County?

10 A Yes, sir, they did -- they were.

11 Q And was Norman Blake McKenzie later convicted  
12 of that armed kidnapping of Mrs. Coffee?

13 A Yes, sir.

14 MR. JOHNSON: Thank you, Judge. No further  
15 questions.

16 THE COURT: Any cross-examination?

17 MR. BARRETT: No questions, Judge.

18 THE COURT: Okay. Thank you, sir. You are  
19 excused.

20 You may need to tell him that since he can't  
21 hear me.

22 MR. JOHNSON: Thank you, Mr. Saldana. You're  
23 excused.

24 THE WITNESS: Thank you. Thank you very  
25 much.

1 THE COURT: All right. We'll shut that off.  
2 Okay. State can call its next witness.

3 MR. JOHNSON: State calls Deputy Tim Rollins.  
4 (The witness entered the courtroom.)

5 THE COURT: All right. Deputy Rollins, if  
6 you'll take the witness stand right here --

7 THE WITNESS: Yes, sir.

8 THE COURT: -- please. Good morning, sir.  
9 If you'll remain standing and raise your right  
10 hand, the clerk will place you under oath.

11 THE CLERK: Do you swear or affirm that the  
12 testimony you're about to give will be the truth,  
13 the whole truth, and nothing but the truth?

14 THE WITNESS: Yes, ma'am, I do.

15 THE COURT: Thank you, Deputy. You can be  
16 seated.

17 Mr. Johnson, when you're ready, you can  
18 inquire.

19 MR. JOHNSON: Thank you, your Honor.

20 TIMOTHY ROLLINS  
21 was called as a witness and, after having been first  
22 duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. JOHNSON:

25 Q Good morning, sir. How are you?

1 A Good morning. Good.

2 Q Could you introduce yourself to the jury.

3 A Timothy Roy Rollins, deputy sheriff with the  
4 St. Johns County Sheriff's Office.

5 Q How long have you worked with the St. Johns  
6 County Sheriff's Office?

7 A Eighteen years.

8 Q And can you describe your -- any prior law  
9 enforcement experience that you may have?

10 A Yes, sir. Prior to St. Johns County, I was a  
11 police officer with the Jacksonville Beach Police  
12 Department for seven and a half years.

13 Prior to that, I was a deputy sheriff with the  
14 Putnam County Sheriff's Office for five years.

15 And prior to that, I was a reserve officer  
16 with the Jacksonville Sheriff's Office for two years.

17 Q And how many total years in law enforcement do  
18 you have?

19 A Thirty years full-time, 32 with the reserve  
20 time.

21 Q And were you working with the St. Johns County  
22 Sheriff's Office back in October of 2006?

23 A Yes, sir, I was.

24 Q And what were your duties at that time?

25 A I was a detective assigned to the

1 violent-crimes unit.

2 Q Were you working specifically on October  
3 the 5th of 2006?

4 A Yes, I was.

5 Q At some point that day, were you informed of a  
6 double homicide that had occurred on Palmo Fish Camp  
7 Road here in St. Johns County?

8 A Yes, I was.

9 Q And what were you doing at the time you  
10 received that information?

11 A Me and my unit were leaving a funeral in  
12 Jacksonville. We were preparing to stop for lunch at  
13 San Jose Boulevard and Loretta Road, and we were  
14 notified of the call.

15 Q And did you respond to the scene?

16 A Yes, I did.

17 Q Did you stay at the scene very long?

18 A Probably hour and a half to two hours.

19 Q Okay. And at some point were you redirected  
20 from the scene to another location?

21 A Yes, I was.

22 Q And where -- where was that?

23 A Originally, I was contacted by my supervisor  
24 on scene, and I was sent to Gainesville, Florida.

25 Q Okay. And did you begin driving to



1 Gainesville?

2 A Yes, sir, I did.

3 Q And did you make it to Gainesville?

4 A No, I did not.

5 Q All right. So tell us what happened as you  
6 were en route to Gainesville, sort of how -- any  
7 different instructions that you had received.

8 A While I was traveling to Gainesville -- one of  
9 the victims' vehicles was allegedly located in  
10 Gainesville, so I was sent to Gainesville to follow up  
11 on that.

12 While en route to Gainesville, I was notified  
13 by my supervisor to start responding to Marion County.

14 While en route to Marion County, Paynes  
15 Prairie area, I was directed to Levy County, where our  
16 possible suspect had abandoned a vehicle and took  
17 another vehicle.

18 And while I was heading to Levy County, I was  
19 told to go to Citrus County because our suspect was  
20 involved in a pursuit in Citrus County, and I was  
21 directed to head to Citrus County.

22 Q And what was the name of the suspect?

23 A Norman Blake McKenzie.

24 Q All right. So after all those different  
25 redirections, did you head to Citrus County as you were

1 instructed?

2 A Yes, sir, I did.

3 Q And where exactly did you go?

4 A I went to the Citrus County Sheriff's Office,  
5 which was in Inverness, Citrus County.

6 Q Now, you received information that Norman  
7 Blake McKenzie had been taken into custody, correct?

8 A Yes, sir, I did.

9 Q And he was at that location?

10 A Yes.

11 Q All right. What did you do when you got  
12 there?

13 A When I arrived, I met with the detectives at  
14 the sheriff's office. I notified my chain of command  
15 that I was on -- at the sheriff's office. Shortly  
16 thereafter, I spoke with Mr. McKenzie.

17 Q All right. And was there anyone else in that  
18 interview with you?

19 A Yes, sir.

20 Q And who was that?

21 A Investigator Wayne Jennings with the Georgia  
22 Bureau of Investigation.

23 Q All right. Now, did you actually conduct an  
24 interview of the defendant in this case?

25 A Yes, I did.

1 Q And was that interview recorded?

2 A Yes, sir, it was.

3 Q And was it recorded in its entirety?

4 A Yes, it was.

5 Q Did you have any conversation with the  
6 defendant that was not recorded?

7 A No, sir.

8 Q Prior to actually conducting your formal  
9 interview, did you advise the defendant of his Miranda  
10 rights?

11 A Yes, I did.

12 Q And did you do that from -- from memory? Did  
13 you have a preprinted form that you did that from?

14 A Yes. We have a prepared form. We fill in the  
15 blanks and we read the form. Then we get the --  
16 whoever we're talking to to initial after each line  
17 that they understood their rights.

18 MR. JOHNSON: May I approach the witness,  
19 your Honor?

20 THE COURT: You may.

21 BY MR. JOHNSON:

22 Q Showing you what's already been entered into  
23 evidence as State's Exhibit 1, Deputy Rollins, if you  
24 can tell me if you recognize that.

25 A Yes, sir. It's the constitutional rights form

1 used that day on October the 5th, 2006.

2 Q And did you read that form to the defendant in  
3 its entirety, verbatim?

4 A Yes. Omitting the juvenile section, I read  
5 the entire form. Yes.

6 Q And after reading him -- what were some of the  
7 rights that you read him?

8 A You have the following rights under the United  
9 States Constitution:

10 You do not have to make a statement or say  
11 anything. Anything you say can be used against you in  
12 court.

13 You have the right to talk to a lawyer for  
14 advice before you make a statement or before any  
15 questions are asked of you and you have a -- and to  
16 have a lawyer with you during any questioning.

17 If you cannot afford to hire a lawyer, one  
18 will be appointed for you before any questioning if you  
19 wish.

20 If you do answer questions, you have the right  
21 to stop answering questions at any time and consult  
22 with lawyer.

23 Q And after you read him those rights, did --  
24 did he indicate that he understood those rights?

25 A Yes, sir.

1 Q And did he indicate that he was willing to  
2 waive those rights and talk to you?

3 A Yes, he did.

4 Q How did he do that? Did he do it verbally?  
5 Did he do it in writing? Did he do both?

6 A Well, it wasn't verbally, but we went over the  
7 form and he signed the form, agreeing to -- that he  
8 acknowledged the rights and was willing to talk.

9 Q And was all that captured on video?

10 A Yes, sir, it was.

11 MR. JOHNSON: May I approach the witness?

12 THE COURT: You may.

13 BY MR. JOHNSON:

14 Q Showing you what's been marked for  
15 identification purposes as State's Exhibit triple E,  
16 can you take a look at that and tell me if you  
17 recognize that?

18 A Yes, sir.

19 Q And what is that?

20 A DVD of the interview from Citrus County.

21 Q Okay. And is that a redacted copy of the  
22 interview that you conducted on that date?

23 A Yes, it is.

24 Q And have you had an opportunity to review that  
25 video?

1           A     Yes, sir, I did.

2           Q     And is it a fair and accurate recording of  
3 your interview with the defendant on that date?

4           A     Yes, sir.

5           MR. JOHNSON: Your Honor, at this time I  
6 would offer State's triple E into evidence.

7           MR. BARRETT: No objection.

8           THE COURT: Without objection, that will be  
9 received as the State's next numbered exhibit.

10           (The above-mentioned DVD was marked into  
11 evidence as State's Exhibit 52.)

12           MR. JOHNSON: May we also pass out  
13 transcripts, and may we publish the interview,  
14 your Honor?

15           THE COURT: Okay. Folks, the transcripts are  
16 going to be passed out to you like that last  
17 statement we viewed.

18           The transcript is not evidence, but it is  
19 to -- designed to assist you in following along.

20           In just a moment, the video's going to be  
21 read to you. This -- yeah, read to you. It's  
22 going to be played for you, excuse me. This video  
23 has been edited, as you heard.

24           I instruct you that it has been edited to  
25 eliminate irrelevant portions that would not aid

1 to your understanding of this case.

2 The fact that the recording has been edited  
3 should not concern you in any way and must not  
4 impact the way that you view and listen to this  
5 evidence.

6 All right. You can publish it when you're  
7 ready.

8 MR. JOHNSON: Thank you, your Honor.

9 THE COURT: If you have an extra copy of that  
10 transcript, that would be appreciated.

11 MS. DUNTON: I gave it to --

12 THE CLERK: It's right there, sir.

13 THE COURT: Okay. Thank you.

14 (State's Exhibit 52, a video recording, was  
15 published in open court. This transcript should  
16 not be considered a verbatim record of those  
17 proceedings due to inaudibles and inability to  
18 distinguish between speakers.)

19 DETECTIVE ROLLINS: -- to read you your  
20 Miranda Warning before I talk to you. You  
21 understand all that, right?

22 THE DEFENDANT: Yeah. They've been read to  
23 me.

24 DETECTIVE ROLLINS: Okay. I'm from St. Johns  
25 County. My sheriff likes me to read it off this

1 form.

2 SPECIAL AGENT JENNINGS: My boss is like his.  
3 He loves paperwork.

4 DETECTIVE ROLLINS: Do you need a napkin or a  
5 Band-Aid?

6 THE DEFENDANT: No. It's fine. It's just a  
7 small cut.

8 DETECTIVE ROLLINS: Okay. Here, take one of  
9 these. We have plenty of napkins.

10 SPECIAL AGENT JENNINGS: You can use this one  
11 for him to sign.

12 DETECTIVE ROLLINS: Okay. Your first -- your  
13 real name, is it Norman?

14 THE DEFENDANT: Norman Blake McKenzie. Blake  
15 is my real name, Norman Blake McKenzie.

16 DETECTIVE ROLLINS: Okay. Blake is your  
17 middle name?

18 THE DEFENDANT: Yeah.

19 SPECIAL AGENT JENNINGS: Okay. M-c-K-e-n --

20 THE DEFENDANT: Z-i-e.

21 DETECTIVE ROLLINS: How old are you?

22 THE DEFENDANT: Forty-two.

23 SPECIAL AGENT JENNINGS: Okay.

24 DETECTIVE ROLLINS: Spell your last name. Is  
25 it M-c-K --



1 THE DEFENDANT: E-n-z-i-e.

2 DETECTIVE ROLLINS: E-n-z-i-e?

3 THE DEFENDANT: Uh-huh.

4 SPECIAL AGENT JENNINGS: The fifth?

5 DETECTIVE ROLLINS: Yes. It's been a long  
6 week.

7 AGENT JENNINGS: Yes. October 5, 2006, and  
8 I've got 8:32.

9 THE DEFENDANT: Every time I write the date,  
10 I always put '80s.

11 DETECTIVE ROLLINS: That would be nice. If I  
12 knew now what I knew then.

13 SPECIAL AGENT JENNINGS: Yeah, me too.

14 DETECTIVE ROLLINS: You seem like a young  
15 guy. How old are you?

16 THE DEFENDANT: Forty-two. Forty-two.

17 DETECTIVE ROLLINS: Okay. Let me go ahead  
18 and read this. You have the following rights  
19 under the United States Constitution:

20 You don't have to make a statement or say  
21 anything. Anything you say can be used against  
22 you in court.

23 You have the right to talk to a lawyer for  
24 advice before you make a statement or before any  
25 questions are asked of you and to have a lawyer

1 with you during any questioning.

2 If you cannot afford to hire a lawyer, one  
3 will be appointed for you before any questioning,  
4 if you wish.

5 If you do answer questions, you have the  
6 right to stop answering questions at any time and  
7 consult with your attorney.

8 THE DEFENDANT: Okay.

9 DETECTIVE ROLLINS: Do you understand all  
10 that?

11 THE DEFENDANT: Yes, sir.

12 DETECTIVE ROLLINS: You want to go ahead and  
13 talk about all this?

14 THE DEFENDANT: Sure. I'll answer your  
15 questions.

16 SPECIAL AGENT JENNINGS: Pen.

17 DETECTIVE ROLLINS: I tell you what, since  
18 you've got a pen in your hand, you could initial  
19 there, there, there, there, there, and there, just  
20 like the end of each sentence for me.

21 THE DEFENDANT: Okay.

22 DETECTIVE ROLLINS: Kind of hard to write  
23 like that.

24 THE DEFENDANT: That's fine.

25 DETECTIVE ROLLINS: You don't have to --

1           that's a juvenile spot there. You can skip on  
2           down to these. That's it, sir.

3           THE DEFENDANT: You want me to do yours?

4           SPECIAL AGENT JENNINGS: No.

5           DETECTIVE ROLLINS: Got the same one.

6           SPECIAL AGENT JENNINGS: I'll just use a copy  
7           of his.

8           DETECTIVE ROLLINS: Now, do you know why  
9           St. Johns County Sheriff's Office wants to talk to  
10          you? You've been through a lot today.

11          THE DEFENDANT: I've been through a lot in  
12          the last nine days.

13          DETECTIVE ROLLINS: Yeah. Well, yeah. My  
14          concern right now is from this point going  
15          backwards.

16          Uh, I need to know, you were at Charlie and  
17          Randy's house in St. Augustine. Are you familiar  
18          with Charlie and Randy --

19          THE DEFENDANT: Yeah.

20          DETECTIVE ROLLINS: -- over on Palmo Fish  
21          Camp Road?

22          THE DEFENDANT: I don't know the name of the  
23          road.

24          DETECTIVE ROLLINS: Okay. How did -- how did  
25          you come to know them?

1 THE DEFENDANT: Um, I met Randy, um, when I  
2 had a mild heart attack on the job site. I was  
3 building Cobblestone Village. I built 28  
4 buildings in Cobblestone Village for E.M. Chang  
5 Corporation.

6 DETECTIVE ROLLINS: Yeah. That sounds  
7 familiar.

8 THE DEFENDANT: And Pier One Imports was my  
9 first building. I worked Christmas Eve. And on  
10 Christmas Eve, I was carrying some large pieces of  
11 steel into Bealls. It was a door frame, metal  
12 security door frame.

13 And I wanted to get it done before my  
14 superintendent came back. I wasn't allowed to  
15 work or wear any tools. I was just allowed to  
16 read blueprints and transfer notes to the subs.

17 And I had a heart attack trying to get it  
18 done before they caught me doing it, a mild heart  
19 attack.

20 DETECTIVE ROLLINS: Okay.

21 THE DEFENDANT: And I've had one before, too,  
22 so this was a second one.

23 DETECTIVE ROLLINS: So Randy worked on the  
24 job site, also?

25 THE DEFENDANT: No. He was a nurse man at

1 the hospital.

2 SPECIAL AGENT JENNINGS: Okay. So Randy was  
3 a nurse?

4 THE DEFENDANT: Uh-huh.

5 DETECTIVE ROLLINS: Okay. So that was over  
6 at Flagler Hospital?

7 THE DEFENDANT: Yeah.

8 DETECTIVE ROLLINS: Okay. Y'all just kind of  
9 hit it off from that point on?

10 THE DEFENDANT: No.

11 SPECIAL AGENT JENNINGS: What about today?  
12 Did you meet up with Randy today or yesterday?

13 THE DEFENDANT: You know that I met up with  
14 him.

15 SPECIAL AGENT JENNINGS: No, I don't.

16 DETECTIVE ROLLINS: I have no idea. Was it  
17 yesterday, last night, or --

18 THE DEFENDANT: Is Randy here today?

19 DETECTIVE ROLLINS: No.

20 THE DEFENDANT: Is Charlie here today?

21 DETECTIVE ROLLINS: No. I'm trying to figure  
22 out when you met up with Randy and Charlie. Did  
23 you show up at their house this morning? Did you  
24 come over last night?

25 THE DEFENDANT: Come on, guys.

1           SPECIAL AGENT JENNINGS: We're trying to  
2           establish a time line.

3           THE DEFENDANT: I know you already have a  
4           time line according to the coroner's report.

5           SPECIAL AGENT JENNINGS: No.

6           DETECTIVE ROLLINS: Not yet.

7           SPECIAL AGENT JENNINGS: Not received a  
8           coroner's report.

9           DETECTIVE ROLLINS: They haven't been sent to  
10          the coroner yet. We just went to the house today  
11          at three o'clock. We're still at the house right  
12          now. Nobody found them until three o'clock and  
13          called the sheriff's office, so...

14          THE DEFENDANT: Yeah.

15          DETECTIVE ROLLINS: That's why I don't know.  
16          We don't know. That's why we're asking you.

17          SPECIAL AGENT JENNINGS: That's why we're  
18          asking you to establish a time line.

19          DETECTIVE ROLLINS: I think you might have  
20          gone there yesterday, cause I think somebody was  
21          working on -- were you working on a car or someone  
22          across the street working on a car?

23          THE DEFENDANT: Kid across the street.

24          DETECTIVE ROLLINS: Okay.

25          SPECIAL AGENT JENNINGS: So you went over

1           there yesterday?

2           THE DEFENDANT: Yeah.

3           SPECIAL AGENT JENNINGS: About what time?

4           THE DEFENDANT: Dusk. Dusk.

5           SPECIAL AGENT JENNINGS: Okay. Dusk.

6           DETECTIVE ROLLINS: Did Randy remember you?

7           THE DEFENDANT: Sure, man. Yeah.

8           DETECTIVE ROLLINS: Y'all just --

9           THE DEFENDANT: I been over to their house

10          many times.

11          SPECIAL AGENT JENNINGS: Okay.

12          THE DEFENDANT: I was, you know.

13          SPECIAL AGENT JENNINGS: Who all was there

14          when you were there at dusk?

15          THE DEFENDANT: Charlie, Randy, the kid

16          across the street, and the deaf woman that lived

17          there in her apartment.

18          DETECTIVE ROLLINS: Okay. Yeah. That's -- I

19          think he's a caretaker for her --

20          THE DEFENDANT: Oh.

21          DETECTIVE ROLLINS: -- little old lady?

22          THE DEFENDANT: He was --

23          DETECTIVE ROLLINS: Okay.

24          THE DEFENDANT: -- for several people,

25          probably.

1                   DETECTIVE ROLLINS: Oh, really?  
2                   THE DEFENDANT: Yeah.  
3                   DETECTIVE ROLLINS: Now, you showed up  
4                   yesterday?  
5                   THE DEFENDANT: Yeah.  
6                   DETECTIVE ROLLINS: Stayed all night?  
7                   THE DEFENDANT: No.  
8                   DETECTIVE ROLLINS: Okay. What happened at  
9                   their house? Did y'all have a fight or --  
10                  THE DEFENDANT: Do you need to know that? Do  
11                  you really need to know that?  
12                  SPECIAL AGENT JENNINGS: It would be nice.  
13                  DETECTIVE ROLLINS: If I didn't know, I  
14                  wouldn't --  
15                  THE DEFENDANT: I was very, very high. Very  
16                  high.  
17                  SPECIAL AGENT JENNINGS: Okay.  
18                  THE DEFENDANT: Very high.  
19                  DETECTIVE ROLLINS: You were on about your  
20                  eighth day of cocaine?  
21                  THE DEFENDANT: Yeah.  
22                  SPECIAL AGENT JENNINGS: You were high on  
23                  cocaine?  
24                  THE DEFENDANT: Yes. Shooting.  
25                  SPECIAL AGENT JENNINGS: Was that the only



1 thing you were using was cocaine?

2 THE DEFENDANT: Shooting and smoking.

3 DETECTIVE ROLLINS: Okay. So what led to all  
4 this at Randy and Charlie's house?

5 THE DEFENDANT: Addiction.

6 SPECIAL AGENT JENNINGS: Okay. What did your  
7 addiction cause you to do? I haven't been there,  
8 so I don't know.

9 DETECTIVE ROLLINS: Did you just do this  
10 because of your addiction, or was there a problem  
11 at the house or did you have a problem with one of  
12 them?

13 THE DEFENDANT: Man, I was insane, man.

14 DETECTIVE ROLLINS: I mean --

15 THE DEFENDANT: I was -- I was on drugs, man.  
16 I wanted more drugs.

17 SPECIAL AGENT JENNINGS: Okay.

18 THE DEFENDANT: It's bottom line, man, bottom  
19 line.

20 DETECTIVE ROLLINS: How were you going to get  
21 more drugs than that, I mean?

22 THE DEFENDANT: I already got them. The bag  
23 I just took out of my mouth was a gram of dope I  
24 have been eating since I've been arrested.

25 DETECTIVE ROLLINS: Okay.

1           THE DEFENDANT: It's gone. I bought them  
2           today here in Gainesville.  
3           DETECTIVE ROLLINS: Okay.  
4           THE DEFENDANT: Randy -- Randy had three  
5           quarter -- three quarter-ounce bags of marijuana  
6           in the console of his car.  
7           DETECTIVE ROLLINS: Right.  
8           THE DEFENDANT: I didn't know that they were  
9           there, you know. Like, I planned to take his car  
10          because of three quarter-ounce bags of dope in his  
11          car.  
12          DETECTIVE ROLLINS: Right.  
13          THE DEFENDANT: Of marijuana.  
14          SPECIAL AGENT JENNINGS: Uh-huh.  
15          THE DEFENDANT: I don't smoke marijuana.  
16          SPECIAL AGENT JENNINGS: Do you smoke?  
17          THE DEFENDANT: Cigarettes, yeah.  
18          SPECIAL AGENT JENNINGS: What brand of  
19          cigarettes do you smoke?  
20          THE DEFENDANT: The ones that are in that  
21          car, Marlboro.  
22          SPECIAL AGENT JENNINGS: Marlboro.  
23          THE DEFENDANT: And (inaudible), man.  
24          DETECTIVE ROLLINS: Well, tell me how it all  
25          started at the house.

1 THE DEFENDANT: Nothing got started. There's  
2 nothing got started. Nothing got started.

3 DETECTIVE ROLLINS: Just addiction got to you  
4 and you just -- tell me what happened. I mean,  
5 who's in the kitchen? Is that Randy in the  
6 kitchen?

7 THE DEFENDANT: You don't have to talk to me  
8 like I'm crazy, man.

9 DETECTIVE ROLLINS: No. I don't know.

10 SPECIAL AGENT JENNINGS: He hasn't seen it.

11 DETECTIVE ROLLINS: I haven't been.

12 THE DEFENDANT: You know it's Randy in the  
13 kitchen.

14 SPECIAL AGENT JENNINGS: I have no idea.

15 THE DEFENDANT: You want to confirm that's  
16 Randy in the kitchen area. Randy's in the  
17 kitchen.

18 SPECIAL AGENT JENNINGS: Okay. Randy's in  
19 the kitchen.

20 DETECTIVE ROLLINS: I don't know these  
21 people. I've been driving over here since three  
22 o'clock this afternoon.

23 THE DEFENDANT: Come on, sir. You know  
24 everything you already asked me.

25 SPECIAL AGENT JENNINGS: If I knew, I

1           wouldn't be asking you. I wouldn't even waste my  
2           time with you. I'd get a warrant and put you in  
3           jail.

4           THE DEFENDANT: I would prefer that you talk  
5           to me like you're an intelligent man.

6           SPECIAL AGENT JENNINGS: Right.

7           THE DEFENDANT: And I am, too.

8           SPECIAL AGENT JENNINGS: All right. Well,  
9           tell us -- tell us what happened at the house.

10          THE DEFENDANT: My addiction.

11          SPECIAL AGENT JENNINGS: Your addiction drove  
12          you to do what?

13          THE DEFENDANT: Exactly what happened,  
14          exactly what happened.

15          SPECIAL AGENT JENNINGS: I haven't been  
16          there. I'm from Georgia.

17          THE DEFENDANT: But you know a little bit of  
18          the details.

19          SPECIAL AGENT JENNINGS: I know that there's  
20          two bodies there.

21          THE DEFENDANT: You know, realize I'm sober.  
22          I'm getting sober and seeing what happened, you  
23          know?

24          SPECIAL AGENT JENNINGS: Well, tell me what  
25          happened.

1 THE DEFENDANT: Hearing it's bad.  
2 DETECTIVE ROLLINS: I think it's going to  
3 help you to talk about it.  
4 THE DEFENDANT: Help?  
5 I think I did a robbery in Gainesville that  
6 night, maybe the night before.  
7 SPECIAL AGENT JENNINGS: Before you went up  
8 there?  
9 THE DEFENDANT: Yeah.  
10 SPECIAL AGENT JENNINGS: Do you remember the  
11 place of business?  
12 THE DEFENDANT: I did three there.  
13 SPECIAL AGENT JENNINGS: Okay. Before you  
14 went to Georgia?  
15 THE DEFENDANT: Yeah.  
16 SPECIAL AGENT JENNINGS: Okay.  
17 THE DEFENDANT: No, no, no. Wait. Yeah. I  
18 did. Um, yeah. Before I went to Georgia, yeah,  
19 'cause -- yeah. I think I did one that next day,  
20 the last one.  
21 DETECTIVE ROLLINS: Are these businesses or  
22 just people?  
23 THE DEFENDANT: No. These are, you know,  
24 businesses.  
25 DETECTIVE ROLLINS: Restaurants and stuff?

1 THE DEFENDANT: No. One of them was a, um --  
2 one of them was -- the first one was a Waffle  
3 House.

4 SPECIAL AGENT JENNINGS: Waffle House, okay.

5 THE DEFENDANT: Archer Road. The --

6 SPECIAL AGENT JENNINGS: Archer Road?

7 THE DEFENDANT: -- second one -- yeah, Archer  
8 and 42nd.

9 SPECIAL AGENT JENNINGS: Tell me something,  
10 Blake. You said the Waffle House was at Archer  
11 Road and 42nd?

12 THE DEFENDANT: Yeah. The second was a Honey  
13 Ham place off of 62nd, behind the McDonald's there  
14 in the plaza there. There's a ham place, you  
15 know, where you can go buy --

16 SPECIAL AGENT JENNINGS: Honey Baked Hams?

17 THE DEFENDANT: Yeah.

18 SPECIAL AGENT JENNINGS: Okay. It's behind  
19 McDonald's?

20 THE DEFENDANT: Yeah. Off of University.  
21 It's, like, a block east of 62nd Boulevard on  
22 University.

23 SPECIAL AGENT JENNINGS: What was the third  
24 one?

25 THE DEFENDANT: It's in a Publix plaza, by

1 34th and University.

2 SPECIAL AGENT JENNINGS: 34th and University?

3 THE DEFENDANT: Yeah. It's a, um, uh, it's  
4 a organic shop, you know, like a health-food --  
5 health-food place.

6 DETECTIVE ROLLINS: Like a GNC or something  
7 like that?

8 THE DEFENDANT: No. It's privately owned.

9 SPECIAL AGENT JENNINGS: Fruits and  
10 vegetables and stuff like that?

11 THE DEFENDANT: Like a --

12 SPECIAL AGENT JENNINGS: Herbs?

13 THE DEFENDANT: You can get -- they sell  
14 vegenaize there, you know.

15 SPECIAL AGENT JENNINGS: Okay.

16 THE DEFENDANT: That's how I went in there,  
17 faked them with a vegenaize jar.

18 SPECIAL AGENT JENNINGS: Okay. Now, those  
19 are the three robberies you're talking about?

20 THE DEFENDANT: No weapons involved.

21 SPECIAL AGENT JENNINGS: Okay.

22 THE DEFENDANT: But they thought there was.  
23 I held my hand up under my shirt.

24 SPECIAL AGENT JENNINGS: Did you wear a mask  
25 or gloves or anything?

1 THE DEFENDANT: Nothing.

2 SPECIAL AGENT JENNINGS: Did you rob any more  
3 Waffle Houses?

4 THE DEFENDANT: No.

5 SPECIAL AGENT JENNINGS: Okay.

6 THE DEFENDANT: Just them three, man. I'd  
7 tell you if I did.

8 SPECIAL AGENT JENNINGS: Tell me something.  
9 What were you driving to the Waffle House when you  
10 did that one? Do you remember?

11 THE DEFENDANT: Let me think. I think I was  
12 driving a -- a rental.

13 SPECIAL AGENT JENNINGS: Okay. Do you  
14 remember what kind of car?

15 THE DEFENDANT: Yeah. It was a Sebring,  
16 Chrysler Sebring. I got it from Enterprise. My  
17 insurance paid for it cause I totaled my Titan.

18 SPECIAL AGENT JENNINGS: At the Waffle  
19 House -- I mean, at the Waffle House, you had a  
20 Chrysler. The Honey Ham place, you were driving  
21 what?

22 THE DEFENDANT: My, uh, truck that's at  
23 your --

24 SPECIAL AGENT JENNINGS: The Kia?

25 THE DEFENDANT: Yeah.



1                   SPECIAL AGENT JENNINGS: The gold Kia?  
2                   THE DEFENDANT: Yeah.  
3                   SPECIAL AGENT JENNINGS: What about the  
4                   organic place?  
5                   THE DEFENDANT: Kia.  
6                   SPECIAL AGENT JENNINGS: Okay.  
7                   THE DEFENDANT: She saw me. She saw me get  
8                   in it.  
9                   SPECIAL AGENT JENNINGS: Were you alone?  
10                  THE DEFENDANT: Yeah.  
11                  SPECIAL AGENT JENNINGS: Okay. All right.  
12                  And that was --  
13                  THE DEFENDANT: I'm not sitting here telling  
14                  you I'm crazy. I could have convinced you of it.  
15                  I could have. I really could have.  
16                  SPECIAL AGENT JENNINGS: After this --  
17                  THE DEFENDANT: No doubt about it, I could  
18                  have. I could have made you think I was stone  
19                  cold crazy, man.  
20                  SPECIAL AGENT JENNINGS: After those three,  
21                  where did you go?  
22                  THE DEFENDANT: Went and bought dope.  
23                  SPECIAL AGENT JENNINGS: Okay.  
24                  THE DEFENDANT: I mean, these didn't all  
25                  happen on the same day, man.

1                   SPECIAL AGENT JENNINGS: I understand that.

2                   You were talking about a period of time.

3                   THE DEFENDANT: I never once wasn't high.

4                   SPECIAL AGENT JENNINGS: Okay. You stayed  
5                   high constantly?

6                   THE DEFENDANT: Constantly.

7                   SPECIAL AGENT JENNINGS: Okay.

8                   THE DEFENDANT: Constantly. Did not fall  
9                   asleep in the motel room.

10                  SPECIAL AGENT JENNINGS: Okay.

11                  THE DEFENDANT: And woke up with that syringe  
12                  in my hand.

13                  DETECTIVE ROLLINS: How long were these  
14                  robberies here?

15                  THE DEFENDANT: They were during this period  
16                  of time.

17                  DETECTIVE ROLLINS: Which was the last two  
18                  weeks?

19                  SPECIAL AGENT JENNINGS: Since the 25th.

20                  THE DEFENDANT: Yeah. I think maybe the  
21                  Waffle House was longer ago, but not much.

22                  SPECIAL AGENT JENNINGS: Yeah. It was within  
23                  just a few days of that.

24                  THE DEFENDANT: Okay. I did a robbery of the  
25                  organic place.

1           SPECIAL AGENT JENNINGS: I think it was.

2           THE DEFENDANT: Last one I did.

3           SPECIAL AGENT JENNINGS: I don't know. I  
4           don't have my paperwork with me, but that sounds  
5           about right, one or the other.

6           THE DEFENDANT: I tried to do one --  
7           actually, there was this little girl. I tried to  
8           do one over off of University at, um, uh, another  
9           Publix shopping plaza. It might have been  
10          Winn-Dixie shopping plaza. There was kind of like  
11          a Michael's. There was a art supplies kind of  
12          store.

13          SPECIAL AGENT JENNINGS: Uh-huh.

14          THE DEFENDANT: And I walked in there, and  
15          she -- I said, This is a robbery. I have a gun.  
16          Please don't make me hurt you. Give me the money  
17          out of the cash register.

18          And this little girl looked at me and she  
19          said no. I said, give me the money. She said,  
20          no. Leave or shoot me. I left.

21          DETECTIVE ROLLINS: You just walked out?  
22          Kind of stunned there?

23          THE DEFENDANT: Yeah. The girl at the  
24          organic shop, the young girl. I said, it's a  
25          robbery. I have a gun. Please just give me the

1 money out of the cash register.

2 She said no. She said, you can't have it.  
3 My family worked hard for this. And then she  
4 called a girl that apparently was her mother. And  
5 she said, this idiot wants our money. And she  
6 gave it to me. The mother gave it to me.

7 DETECTIVE ROLLINS: She called her mother  
8 while you were standing there to ask her what to  
9 do?

10 THE DEFENDANT: She was up fronting the  
11 shelves, you know, putting --

12 SPECIAL AGENT JENNINGS: She called her up to  
13 the counter?

14 THE DEFENDANT: She did. I didn't call her.  
15 I didn't want the attention, you know?

16 SPECIAL AGENT JENNINGS: Yeah.

17 THE DEFENDANT: Her daughter says -- I take  
18 it as her daughter. I don't know. It might not  
19 be, but --

20 SPECIAL AGENT JENNINGS: Tell me about  
21 getting to the woman's house where you left the  
22 credit cards.

23 THE DEFENDANT: Did I leave them that same  
24 day?

25 SPECIAL AGENT JENNINGS: Uh-huh.

1           THE DEFENDANT: That same -- okay. Man, you  
2           could imagine the paranoia that was setting in. I  
3           was getting high.

4           SPECIAL AGENT JENNINGS: How did you even  
5           find this house?

6           THE DEFENDANT: Dude, I didn't find it. I  
7           stumbled on it.

8           SPECIAL AGENT JENNINGS: You were just  
9           riding?

10          THE DEFENDANT: No. It's not -- no. I ain't  
11          just riding. I'm running.

12          SPECIAL AGENT JENNINGS: Okay.

13          THE DEFENDANT: From nothing, from nothing.

14          SPECIAL AGENT JENNINGS: Well --

15          THE DEFENDANT: That's how I got caught.

16          SPECIAL AGENT JENNINGS: Do you remember what  
17          you told the woman when you came in?

18          THE DEFENDANT: I said, you know -- no. I  
19          think I was kind of honest with her.

20          SPECIAL AGENT JENNINGS: That's what she  
21          said.

22          THE DEFENDANT: Yeah. I think I was kind of  
23          honest with her.

24          SPECIAL AGENT JENNINGS: Do you remember  
25          saying anything to her about asking her if she was

1 a believer?

2 THE DEFENDANT: Yeah. We talked about God a  
3 lot.

4 SPECIAL AGENT JENNINGS: Okay. Y'all prayed  
5 together?

6 THE DEFENDANT: Yeah.

7 SPECIAL AGENT JENNINGS: She was concerned  
8 about your hand.

9 THE DEFENDANT: Yeah.

10 SPECIAL AGENT JENNINGS: She told me that  
11 your hand was really messed up. It looked really  
12 bad.

13 THE DEFENDANT: This is the results of it. I  
14 think I got bit by a brown recluse.

15 SPECIAL AGENT JENNINGS: That's what that  
16 looks like.

17 THE DEFENDANT: That's what I think.

18 SPECIAL AGENT JENNINGS: What -- what took  
19 place at the house with her?

20 THE DEFENDANT: I sat there and done drugs,  
21 (inaudible) and --

22 SPECIAL AGENT JENNINGS: Uh-huh.

23 THE DEFENDANT: You know.

24 SPECIAL AGENT JENNINGS: She was afraid.

25 THE DEFENDANT: Obviously, she didn't want to

1 get hurt, too.

2 SPECIAL AGENT JENNINGS: Right. What gun did  
3 you have then?

4 THE DEFENDANT: Both of them.

5 SPECIAL AGENT JENNINGS: Okay. You still had  
6 those?

7 THE DEFENDANT: Uh-huh.

8 SPECIAL AGENT JENNINGS: Okay.

9 THE DEFENDANT: (Inaudible.)

10 SPECIAL AGENT JENNINGS: Where did you park?  
11 Did you pull inside the garage?

12 THE DEFENDANT: I pulled right inside the  
13 garage and shut the door, walked in the house,  
14 weapon drawn.

15 SPECIAL AGENT JENNINGS: Okay. She was what,  
16 in the back?

17 THE DEFENDANT: I said hello. And she said  
18 hello. She was back there playing Scrabble on  
19 line on the computer.

20 SPECIAL AGENT JENNINGS: Right.

21 THE DEFENDANT: And I said, how are you? And  
22 she says, you know -- I'm in my role, you know,  
23 man. And she came --

24 SPECIAL AGENT JENNINGS: You asked her about,  
25 you know, if she was a believer. And y'all even

1           prayed together.

2           THE DEFENDANT: I was like, man, listen. I  
3           love the Lord, dude. I really do. I am a firm  
4           believer.

5           SPECIAL AGENT JENNINGS: You even -- you even  
6           talked scripture to her about the Old Testament,  
7           right?

8           THE DEFENDANT: You wouldn't believe how well  
9           I know the Bible, man.

10          SPECIAL AGENT JENNINGS: That's what she told  
11          me.

12          THE DEFENDANT: I know the Bible intimately.  
13          And it's not like some sick thing where I'm going  
14          to say God told me to do all this. None of that,  
15          man.

16          It's not -- I don't want you to think like  
17          I'm fucking insane or something.

18          SPECIAL AGENT JENNINGS: You did the right  
19          thing. I mean, you didn't hurt the lady.

20          THE DEFENDANT: I had no intention of hurting  
21          her. I was hiding.

22          SPECIAL AGENT JENNINGS: You even called  
23          somebody to tell her --

24          THE DEFENDANT: Carol.

25          SPECIAL AGENT JENNINGS: -- that you weren't



1 a bad person.

2 THE DEFENDANT: My fiancée.

3 SPECIAL AGENT JENNINGS: Okay. All right.

4 So you guys went for a ride in her car?

5 THE DEFENDANT: Yeah.

6 SPECIAL AGENT JENNINGS: What was the bag  
7 that you put in there, that sports bag?

8 THE DEFENDANT: Uh-huh.

9 SPECIAL AGENT JENNINGS: Same bag we see in  
10 the truck. Y'all remember taking the credit cards  
11 out and laying them in the car?

12 THE DEFENDANT: Of course not, dude. I was  
13 high.

14 SPECIAL AGENT JENNINGS: Okay. But that's  
15 where you left them because that's where we got  
16 them from.

17 THE DEFENDANT: Did she report it  
18 immediately?

19 SPECIAL AGENT JENNINGS: Huh?

20 THE DEFENDANT: Did she call the cops  
21 immediately?

22 SPECIAL AGENT JENNINGS: Shortly thereafter.

23 THE DEFENDANT: I called her husband and told  
24 him.

25 SPECIAL AGENT JENNINGS: Yes, you did.

1           Somebody did. I assumed it was you.

2           THE DEFENDANT: I did.

3           SPECIAL AGENT JENNINGS: Okay.

4           THE DEFENDANT: I called her husband and  
5           said, sir, your wife is fine. You need to go get  
6           her. I told him where she was. I think I lied to  
7           him, though.

8           SPECIAL AGENT JENNINGS: You said Cafe Risque  
9           parking lot or something like that.

10          THE DEFENDANT: Yeah. I lied to him, but I  
11          wanted him to know she was fine. He wanted to ask  
12          me, who are you. I said, listen to me, man. Is  
13          your wife not missing? He's like, yes.

14          SPECIAL AGENT JENNINGS: You called him on  
15          what, your phone or her phone?

16          THE DEFENDANT: Her phone.

17          SPECIAL AGENT JENNINGS: Where's her phone  
18          now?

19          THE DEFENDANT: Somewhere. Chucked it out  
20          the window, you know, went through another one of  
21          them paranoia states. I kept that phone about a  
22          day, maybe a day and a half.

23          SPECIAL AGENT JENNINGS: But you kept it off.

24          THE DEFENDANT: Yeah. I mean, then I got  
25          paranoid, and --

1           SPECIAL AGENT JENNINGS: Do you remember --

2           THE DEFENDANT: And, um, I wound up taking  
3 the battery and SIM chip out.

4           SPECIAL AGENT JENNINGS: Do you remember  
5 leaving your drink or anything like that in the  
6 garage?

7           THE DEFENDANT: It's possible.

8           SPECIAL AGENT JENNINGS: Do you remember if  
9 you were drinking a bottle, can, cup?

10          THE DEFENDANT: Bottle of water.

11          SPECIAL AGENT JENNINGS: There was a cup  
12 there. Was that yours?

13          THE DEFENDANT: Dude, if I had a bottle of  
14 water, it was for shooting dope, man. That's the  
15 only reason I had water.

16          SPECIAL AGENT JENNINGS: Okay.

17          THE DEFENDANT: And I had --

18          SPECIAL AGENT JENNINGS: There was a cup  
19 there of some kind.

20          THE DEFENDANT: You know what I bought? I  
21 bought a quarter-ounce of powder that day.

22          SPECIAL AGENT JENNINGS: Yeah. She said that  
23 you were doing dope right there in front of her.

24          THE DEFENDANT: Yeah. I took a shot and --

25          SPECIAL AGENT JENNINGS: And then you rode --

1 y'all rode around in her car; is that correct?

2 THE DEFENDANT: Yeah.

3 SPECIAL AGENT JENNINGS: And at some point  
4 you decided to go back and get yours, right?

5 THE DEFENDANT: Yeah.

6 SPECIAL AGENT JENNINGS: So you went back to  
7 the house.

8 THE DEFENDANT: I'm fighting inside of me,  
9 man, you know, just wanting to hurt this woman.

10 DETECTIVE ROLLINS: She said that you were  
11 real kind to her, that y'all talked a good bit.

12 THE DEFENDANT: Uh-huh.

13 SPECIAL AGENT JENNINGS: When you went back  
14 to the house, did you pull her car back into the  
15 garage next to yours?

16 THE DEFENDANT: Yeah.

17 SPECIAL AGENT JENNINGS: And then got  
18 yours --

19 THE DEFENDANT: Dude, you know that.

20 SPECIAL AGENT JENNINGS: I wasn't there.

21 THE DEFENDANT: You know that.

22 SPECIAL AGENT JENNINGS: I'm making sure.

23 THE DEFENDANT: Everything that happened in  
24 the order that you say it's happening is what  
25 happened.

1           SPECIAL AGENT JENNINGS: Okay. And then  
2           after you --

3           THE DEFENDANT: Do you, like, need me to say  
4           these things out of my mouth so you can say that,  
5           under oath, this guy said this, right?

6           SPECIAL AGENT JENNINGS: Yes.

7           THE DEFENDANT: When we pulled out, I got out  
8           of there. I may miss a few details. If I do, you  
9           can rehash it. All right.

10          I got in my truck and then I -- 'cause she  
11          got in it with me. And we left and I drove around  
12          like a madman, thinking --

13          SPECIAL AGENT JENNINGS: Do you remember  
14          asking her something about your tattoos, if she  
15          saw your tattoos?

16          THE DEFENDANT: Yeah.

17          SPECIAL AGENT JENNINGS: All right.

18          THE DEFENDANT: And, uh, she said, um, I wear  
19          glasses. I can't see. And then she went to put  
20          her glasses on. I said, don't do it. Don't do  
21          that.

22          SPECIAL AGENT JENNINGS: Okay.

23          THE DEFENDANT: I didn't want her to, you  
24          know?

25          SPECIAL AGENT JENNINGS: Right.

1 THE DEFENDANT: 'Cause --

2 SPECIAL AGENT JENNINGS: When you, um, when  
3 you dropped her off, where'd you go to?

4 THE DEFENDANT: (Unintelligible.) I did  
5 robberies with nothing on, man.

6 SPECIAL AGENT JENNINGS: Where did you go  
7 when you left there?

8 THE DEFENDANT: With her?

9 SPECIAL AGENT JENNINGS: No. After you  
10 dropped her off.

11 THE DEFENDANT: You know I took her a lot of  
12 places.

13 SPECIAL AGENT JENNINGS: She told me.

14 THE DEFENDANT: A lot of -- I even took her  
15 over to somebody's house, somebody I know. I took  
16 her over there, think about kidnap --

17 SPECIAL AGENT JENNINGS: You had a couple  
18 conversations with your mom while she was riding  
19 with you, didn't you?

20 THE DEFENDANT: Probably.

21 SPECIAL AGENT JENNINGS: And she said you  
22 kept saying that you weren't ever going to see  
23 your baby again. Who were you talking about when  
24 you said that?

25 THE DEFENDANT: Me. I'm the baby.

1           SPECIAL AGENT JENNINGS: Oh, that you were  
2 never going to see you again?

3           THE DEFENDANT: (Nodding.)

4           SPECIAL AGENT JENNINGS: Okay. Where did you  
5 go after you put her out?

6           THE DEFENDANT: (Inaudible.)

7           SPECIAL AGENT JENNINGS: When did you go to  
8 St. Johns County yesterday?

9           THE DEFENDANT: I --

10          SPECIAL AGENT JENNINGS: You said earlier  
11 that you had started over there to go see  
12 (inaudible). You decided to go to Randy's  
13 instead.

14          DETECTIVE ROLLINS: And didn't you go by --  
15 you did go by and see your mom, didn't you?

16          THE DEFENDANT: Yeah. I -- I don't know.

17          SPECIAL AGENT JENNINGS: Did you go by and  
18 drop some stuff off at your mom's?

19          THE DEFENDANT: Here's what happened, man.  
20 When I got arrested in 1990 --

21          DETECTIVE ROLLINS: Uh-huh.

22          THE DEFENDANT: -- I just put this dude in a  
23 coma, man, with a (unintelligible)  
24 pressure-treated post, hit him in the head, okay,  
25 and robbed him. And do you know what? I knew

1           what was going on. I wasn't being paranoid. I  
2           saw the cops coming, all right? So, I mean, I  
3           know that --

4           SPECIAL AGENT JENNINGS: So where did you  
5           stay the night last night, in the car or over at  
6           Randy's?

7           THE DEFENDANT: Spend the night?

8           SPECIAL AGENT JENNINGS: Yeah.

9           THE DEFENDANT: No. I didn't spend the  
10          night.

11          SPECIAL AGENT JENNINGS: Where were -- where  
12          were you?

13          THE DEFENDANT: I got high.

14          SPECIAL AGENT JENNINGS: Okay. You were --

15          THE DEFENDANT: I was getting high.

16          SPECIAL AGENT JENNINGS: You didn't sleep.

17          THE DEFENDANT: No.

18          SPECIAL AGENT JENNINGS: Where were you, at  
19          Randy's?

20          THE DEFENDANT: Randy's?

21          DETECTIVE ROLLINS: Randy and Charlie's.

22          SPECIAL AGENT JENNINGS: Randy and Charlie's.

23          THE DEFENDANT: No. Man, I left Randy and  
24          Charlie's right immediately after it all happened.

25          SPECIAL AGENT JENNINGS: All right. Well,



1 tell us about that 'cause we don't know that.

2 THE DEFENDANT: Okay. No. I left  
3 immediately because the kid across the street --

4 (Simultaneous speaking.)

5 THE DEFENDANT: The kid across the street  
6 had made a statement that I overheard. I think  
7 Randy -- I think Charlie gave the kid some money.  
8 Charlie gave him a case of beer, I think of  
9 Natural Light and, uh -- cans.

10 And then he gave him -- I don't know. Could  
11 have been anywhere from a ten or a 20, you know,  
12 for his assistance on the brakes.

13 SPECIAL AGENT JENNINGS: And this was all  
14 yesterday?

15 THE DEFENDANT: No. He did three tires the  
16 day before, which I wasn't aware of.

17 SPECIAL AGENT JENNINGS: Were you there when  
18 he did the three tires?

19 THE DEFENDANT: No, I wasn't. And, um, and  
20 then when I came over, after telling myself  
21 (inaudible).

22 And when I pulled up to the house, there as  
23 Charlie's car with one tire off of it, jacked up  
24 with two jacks.

25 And um, and Randy was there making soup.

1 And, um, I -- I -- I never knocked. I just walked  
2 in, you know? That's how well I know them.

3 But, honestly, they didn't know me, you know?  
4 'Cause every time I went there, I was high, blown  
5 out of my mind, man.

6 And I would -- I don't know why they didn't  
7 get suspicious 'cause I used the bathroom so much,  
8 you know?

9 SPECIAL AGENT JENNINGS: So you went over  
10 there Wednesday?

11 THE DEFENDANT: (Nodding.)

12 SPECIAL AGENT JENNINGS: And today's  
13 Thursday. So you got there Wednesday.

14 THE DEFENDANT: I got there probably about --

15 SPECIAL AGENT JENNINGS: Daytime, nighttime?

16 THE DEFENDANT: -- probably about a hour,  
17 maybe, before dusk.

18 SPECIAL AGENT JENNINGS: Okay.

19 THE DEFENDANT: An hour before dusk. And I  
20 probably left 30 minutes after dusk.

21 DETECTIVE ROLLINS: Okay.

22 THE DEFENDANT: Thirty minutes after dusk.

23 DETECTIVE ROLLINS: When you got there, the  
24 kid was already over there working on the car?

25 THE DEFENDANT: No. No one was there.

1                   DETECTIVE ROLLINS: Okay.

2                   THE DEFENDANT: He hadn't got off of work  
3 yet.

4                   DETECTIVE ROLLINS: "He" who?

5                   THE DEFENDANT: The kid.

6                   DETECTIVE ROLLINS: Okay.

7                   THE DEFENDANT: And then what he -- he did a  
8 chimney that day, and it was ready for drywall.  
9 No, stucco. It was ready for stucco. I remember  
10 him saying that.

11                   DETECTIVE ROLLINS: Okay.

12                   THE DEFENDANT: He wasn't talking to me,  
13 though, but he made that statement. But, anyway,  
14 he got off work and he came over there. Charlie  
15 wasn't back from getting the part that they needed  
16 for that one tire, or else they would have  
17 finished it yesterday.

18                   And this is conflicting with, um, what's  
19 going on in my mind. See, I had no idea --  
20 there's never -- there's never anyone there when I  
21 go over there. There's never ever been anyone  
22 there.

23                   SPECIAL AGENT JENNINGS: Tell us what  
24 happened there, 'cause honestly I don't know. I  
25 know that there's --

1           DETECTIVE ROLLINS: You said something about  
2           somebody was making soup?

3           THE DEFENDANT: Yeah. Randy was. It's all  
4           over the stove. You didn't see it?

5           DETECTIVE ROLLINS: I haven't been there  
6           today.

7           SPECIAL AGENT JENNINGS: He hasn't been  
8           there.

9           THE DEFENDANT: Randy fell in the soup.

10          SPECIAL AGENT JENNINGS: All I've been is in  
11          the street, okay?

12          THE DEFENDANT: Randy fell in the soup.

13          DETECTIVE ROLLINS: You just walked right in  
14          the house?

15          THE DEFENDANT: Yeah.

16          DETECTIVE ROLLINS: Go from there, what  
17          happened.

18          THE DEFENDANT: I walked in the house.

19          (Inaudible), you know, hey.

20          SPECIAL AGENT JENNINGS: He was in the  
21          kitchen?

22          THE DEFENDANT: Yeah. He was, you know,  
23          stirring his soup that he was making. The soup  
24          was never served.

25          DETECTIVE ROLLINS: Okay.

1           THE DEFENDANT: You know? It was cooking.  
2           He stirred it up, you know. Well, sit down. He  
3           had his TV muted. And we sat down.

4           I was going to ask him, I said, so what's  
5           been on the news, you know?

6           I asked him about the other car out there.  
7           He explained to me what was going on, the brake  
8           job. And that's when I learned that, um, the guy  
9           would be there after work to continue the job.

10          DETECTIVE ROLLINS: Right.

11          THE DEFENDANT: And so, um, um, Charlie  
12          wasn't there. Uh, so, you know, well, should be  
13          here in a little while.

14          So I went out there and talked to the guy. I  
15          could tell the guy didn't like me.

16          SPECIAL AGENT JENNINGS: So what happened  
17          after that?

18          THE DEFENDANT: I don't know. Me and him  
19          talked a little bit, you know, then Charlie shows  
20          up.

21          Charlie comes in. He's got the car. And he  
22          explains to him why they couldn't put it together  
23          yesterday. You need this little tool to rotate  
24          this or that. It's a piston. It's a piston. It  
25          squeezes the caliper together, you know?

1           DETECTIVE ROLLINS: Right.

2           THE DEFENDANT: So they figured it out. And  
3 then they got it all together, and they took -- it  
4 was just becoming, um -- it was just becoming -- I  
5 got a splinter in my arm.

6           It was just becoming, um, almost dusk when  
7 they finished.

8           DETECTIVE ROLLINS: So the kid left?

9           THE DEFENDANT: Oh, yeah. He left, you know.  
10 Immediately, I went into this -- how the hell can  
11 this happen, man.

12           So, uh, I walked into the house. Randy and  
13 Charlie. Randy -- Charlie -- Charlie's asking me,  
14 uh -- Charlie really didn't like me 'cause he knew  
15 that Randy liked me.

16           But Randy's the one with the money.  
17 Charlie's the one who -- Randy helps him with  
18 money, and Charlie plays and dabbles with the  
19 properties.

20           DETECTIVE ROLLINS: Uh-huh.

21           THE DEFENDANT: You know?

22           SPECIAL AGENT JENNINGS: All right. So  
23 Charlie was asking you what?

24           THE DEFENDANT: He's trying to be, uh, okay.  
25 So how's it going at the house, you know. I'm



1 driver's side?

2 THE DEFENDANT: Yeah.

3 SPECIAL AGENT JENNINGS: Okay.

4 THE DEFENDANT: So, um, where the -- the lip  
5 that the front door seats in, into the front of  
6 the back door --

7 DETECTIVE ROLLINS: Right.

8 THE DEFENDANT: -- it was bowed out and  
9 stuff, you know. And that's -- it's been like  
10 that forever, so -- not forever, but the past  
11 couple weeks, anyway.

12 And I said, Charlie, I want to knock these  
13 little ridges back in. He's like -- well,  
14 needless to say, he couldn't find a hammer nor a  
15 piece of wood, believe it or not.

16 I was like, hey, come on, man. You've got to  
17 have a damn hammer around here somewhere. He  
18 said, there's a hatchet right here.

19 I said, well, does it have a hammer head, you  
20 know? He said yeah. But it didn't, you know,  
21 not -- not like I needed to if I was really truly  
22 trying to fix that, you know.

23 SPECIAL AGENT JENNINGS: So what did you do  
24 with the hatchet? I haven't been over there. I'm  
25 asking.



1 THE DEFENDANT: Man, you know what I did with  
2 the hatchet, man. You ain't got to be there,  
3 dude. You know what happened.

4 DETECTIVE ROLLINS: Go -- go ahead. This  
5 is -- this is the one that took place outside in  
6 the garage or the shed or --

7 THE DEFENDANT: Yeah, the shed.

8 SPECIAL AGENT JENNINGS: Did you hit him with  
9 the hatchet?

10 THE DEFENDANT: Yeah.

11 SPECIAL AGENT JENNINGS: Okay. I haven't  
12 been there.

13 THE DEFENDANT: Do I -- just come on, man.  
14 Do I have to go into the gory details of it?

15 SPECIAL AGENT JENNINGS: Please.

16 THE DEFENDANT: I did it. I did it, I did  
17 it, I did it, okay?

18 DETECTIVE ROLLINS: Did you surprise him or  
19 did y'all fight at all?

20 THE DEFENDANT: No.

21 DETECTIVE ROLLINS: Okay. How many times did  
22 you hit him?

23 THE DEFENDANT: (Inaudible.)

24 DETECTIVE ROLLINS: More than once?

25 THE DEFENDANT: (Inaudible.)

1           DETECTIVE ROLLINS: Okay. Was the hatchet  
2 still there?

3           (No audible response.)

4           DETECTIVE ROLLINS: Okay.

5           THE DEFENDANT: As soon as you walk into the  
6 shed, I think that there was a tire rim or  
7 something like that. As soon as you open up the  
8 shed door, there's a bucket there or something  
9 like that.

10          DETECTIVE ROLLINS: Uh-huh.

11          THE DEFENDANT: It's sitting right there.

12          DETECTIVE ROLLINS: Did you clean it up or  
13 anything or just place it back in --

14          THE DEFENDANT: (Inaudible.) Walked up to  
15 the back door, the screen door. By (inaudible)  
16 house, you know --

17          DETECTIVE ROLLINS: Uh-huh.

18          THE DEFENDANT: -- there's a screen door over  
19 there and a screen door over there by the --

20          DETECTIVE ROLLINS: So she lives in separate  
21 quarters there at the house?

22          THE DEFENDANT: Yeah. There's a  
23 little corridor to pass over to her place --

24          DETECTIVE ROLLINS: Okay.

25          THE DEFENDANT: -- to get to the three-car

1 carport. That's a three-car carport. (Inaudible.)

2 Anyway, I walked up the stairs to the front  
3 of the house, walked in, and (inaudible) so  
4 fucking sick. I was actually taking in this  
5 physical sight that I appeared to be from anyone  
6 who may be watching out the windows across the  
7 grass. (Inaudible.)

8 DETECTIVE ROLLINS: So did you do Randy with  
9 the hatchet, also?

10 THE DEFENDANT: Yeah, but I ended up stabbing  
11 Randy, too.

12 DETECTIVE ROLLINS: So you went back inside  
13 and he was, I guess, in the kitchen?

14 THE DEFENDANT: He was getting up. Oh, oh,  
15 yeah. I hit him, man. I hit him. And then it  
16 wasn't what I thought it was about Charlie.

17 He fell right away, but he fell into the pot  
18 on the stove, right into the damn soup, believe it  
19 or not.

20 SPECIAL AGENT JENNINGS: Charlie or Randy?

21 DETECTIVE ROLLINS: Randy's inside.

22 THE DEFENDANT: Randy, Randy. So, uh,  
23 what -- what happened with Randy, I mean, with  
24 Charlie in the shed, with that in my mind, I'm  
25 like, uh, I don't want to go through that again,



1 with -- with the hatchet, where --  
2 THE DEFENDANT: Is this thing recording?  
3 SPECIAL AGENT JENNINGS: What's that?  
4 THE DEFENDANT: That laptop.  
5 SPECIAL AGENT JENNINGS: No. It's off.  
6 THE DEFENDANT: You guys don't have it  
7 recording?  
8 DETECTIVE ROLLINS: No.  
9 THE DEFENDANT: You're not going to ask me  
10 this again.  
11 SPECIAL AGENT JENNINGS: No. I'm writing it  
12 down. That's why I'm writing it.  
13 THE DEFENDANT: All right?  
14 SPECIAL AGENT JENNINGS: Okay.  
15 THE DEFENDANT: Okay?  
16 SPECIAL AGENT JENNINGS: Okay.  
17 THE DEFENDANT: Seriously.  
18 SPECIAL AGENT JENNINGS: So you've got an  
19 elbow in the soup pot.  
20 THE DEFENDANT: I don't want to hear nothing  
21 else about this, man.  
22 DETECTIVE ROLLINS: Once we get it over,  
23 we're done with it.  
24 THE DEFENDANT: You don't -- you don't have  
25 to question me.

1                   SPECIAL AGENT JENNINGS: He fell over and  
2 he's got an elbow in the soup pot. How many times  
3 did you hit Randy with the hatchet?

4                   THE DEFENDANT: (Unintelligible) trying to  
5 get him off the stove, man, you know, to lay him  
6 on the ground.

7                   And the mistake I made with Charlie was I hit  
8 him and I didn't catch him, you know? And he  
9 fell, like, and made this atrocious noise, man,  
10 when he fell.

11                   So I don't want that to happen now, you know?  
12 I don't want him to fall, like, loud and stuff  
13 'cause a vibrations could occur, and the deaf  
14 woman could feel it. I don't want to hurt her.

15                   DETECTIVE ROLLINS: Right.

16                   (A telephone rang in the background.)

17                   SPECIAL AGENT JENNINGS: I'll have to call  
18 you back.

19                   THE DEFENDANT: So, um, then I discovered  
20 he's not falling because he doesn't want to fall.  
21 He's holding himself up.

22                   DETECTIVE ROLLINS: So Randy's holding  
23 himself up on the stove?

24                   THE DEFENDANT: His elbows --

25                   DETECTIVE ROLLINS: Where -- where did you

1 hit him at the first time?

2 THE DEFENDANT: In the head, back of the  
3 head.

4 DETECTIVE ROLLINS: Okay.

5 THE DEFENDANT: Probably about somewhere in  
6 this area here.

7 DETECTIVE ROLLINS: Okay.

8 SPECIAL AGENT JENNINGS: With the blade side  
9 of the hatchet?

10 THE DEFENDANT: No.

11 SPECIAL AGENT JENNINGS: The hammer side?

12 THE DEFENDANT: Yeah.

13 SPECIAL AGENT JENNINGS: Okay.

14 THE DEFENDANT: The blade side of the hatchet  
15 happened one time with Charlie. (Inaudible.)

16 SPECIAL AGENT JENNINGS: So where did you get  
17 the knife from --

18 THE DEFENDANT: It was --

19 SPECIAL AGENT JENNINGS: -- to cut, uh,  
20 Randy?

21 THE DEFENDANT: (Inaudible.)

22 SPECIAL AGENT JENNINGS: You said you cut  
23 Randy. That's what you said a while ago.

24 DETECTIVE ROLLINS: Well, after -- after you  
25 discovered he was fighting, not going down, what

1           happened then?

2           THE DEFENDANT:  (Inaudible.)

3           DETECTIVE ROLLINS:  With the hatchet again?

4           (No audible response.)

5           DETECTIVE ROLLINS:  Okay.

6           THE DEFENDANT:  And I was able to ease him  
7           down to the ground, all right?

8           SPECIAL AGENT JENNINGS:  And this is Randy  
9           we're talking about, right?

10          THE DEFENDANT:  Yes.

11          SPECIAL AGENT JENNINGS:  Okay.

12          THE DEFENDANT:  I -- I left him then and  
13          there, okay?  When I -- when he went to the  
14          ground -- I've knocked a lot of people out in my  
15          life, man.  So I know the sound of the breath when  
16          you, you know, when it's -- when it's happening,  
17          when you're coming to, you know what I'm saying.

18          And, uh, I thought that that's what I was  
19          hearing, okay?  So I -- I don't have to, you know,  
20          freak out about it anymore.  (Inaudible.)

21          So I went back to the shed and, you know,  
22          wiped the, uh, hatchet off and sat it there where  
23          it's at.

24          DETECTIVE ROLLINS:  Okay.

25          THE DEFENDANT:  And then I went back inside,



1 and Randy was on his feet.

2 DETECTIVE ROLLINS: He was standing up all  
3 the way or just on his knees?

4 THE DEFENDANT: No. He was on his feet.

5 DETECTIVE ROLLINS: Okay.

6 THE DEFENDANT: But he was blind. I could  
7 see that he couldn't see. But there was no  
8 blood in his eyes, but he couldn't -- I could see  
9 that he couldn't see.

10 Obviously, some trauma to the head had  
11 damaged his visual something, all right? But the  
12 guy, he was up, man.

13 DETECTIVE ROLLINS: Okay.

14 THE DEFENDANT: And I was kind of, oh, my  
15 God, you know? And there was a knife sitting  
16 right there in the --

17 DETECTIVE ROLLINS: Kitchen knife?

18 THE DEFENDANT: (Inaudible.)

19 SPECIAL AGENT JENNINGS: What did you say,  
20 Blake?

21 THE DEFENDANT: It's in the -- in the sink,  
22 man.

23 DETECTIVE ROLLINS: It's in the sink of the  
24 house?

25 THE DEFENDANT: Yeah.

1           DETECTIVE ROLLINS: Okay. So you cleaned it  
2 off?

3           THE DEFENDANT: Yeah.

4           SPECIAL AGENT JENNINGS: How many times did  
5 you --

6           DETECTIVE ROLLINS: What did you do with  
7 that?

8           THE DEFENDANT: One time (inaudible) was kind  
9 of standing.

10          SPECIAL AGENT JENNINGS: Where did you hit  
11 him with it?

12          DETECTIVE ROLLINS: In the head?

13          THE DEFENDANT: No.

14          SPECIAL AGENT JENNINGS: In the side, rib  
15 area?

16          THE DEFENDANT: Yeah.

17          DETECTIVE ROLLINS: Okay.

18          THE DEFENDANT: Yeah. And that's where --  
19 that's where -- because (inaudible) you know,  
20 that's a area there, man, if it's done right, it's  
21 over with.

22          DETECTIVE ROLLINS: So that was just one time  
23 there and that was it?

24          THE DEFENDANT: No. He didn't fall. He  
25 reached around and grabbed the knife, which is

1           actually my hand 'cause the knife was in him all  
2           of the way, you know?

3                     He grabbed my hand.  Dude, I -- I couldn't  
4           get his hand off of me, you know?  But I finally  
5           did.  And he may have some cuts on his fingers --

6                     DETECTIVE ROLLINS:  Okay.

7                     THE DEFENDANT:  -- from the knife or the  
8           blade of the knife.  Not from me slicing his  
9           fingers, but from the grip of him, he might.

10                    He might.  I'm not saying it's for sure, but  
11           he might.  I'm not real sure which way I had the  
12           blade, the sharp part, you know?

13                    DETECTIVE ROLLINS:  Okay.

14                    THE DEFENDANT:  You know?  Or how he grabbed  
15           it or -- I'm just saying there might be.  If there  
16           is, that's the explanation for it.

17                    DETECTIVE ROLLINS:  Okay.

18                    THE DEFENDANT:  And, um, the effects of the,  
19           um, that stabbing are -- you can see immediately.  
20           I probably hit the aorta or the other one with  
21           that hit, but he wouldn't go down.  He wouldn't go  
22           down, man.

23                    So then I was going to try to do this thing  
24           that I had read about, where (inaudible) said go  
25           in here -- this was a KA-BAR -- and stick it up in

1           there and jiggle it around and it's over.

2                     That shit ain't as easy as it sounds, man.

3           It's not, you know? I don't know where they got

4           that shit from, but it's probably a punch hole in

5           here.

6                     DETECTIVE ROLLINS: Oh, by the neck?

7                     THE DEFENDANT: Yeah.

8                     DETECTIVE ROLLINS: Okay.

9                     SPECIAL AGENT JENNINGS: Possible neck wound?

10                    THE DEFENDANT: Yeah. There's no

11           possibility. There is.

12                    SPECIAL AGENT JENNINGS: There is?

13                    THE DEFENDANT: Yeah.

14                    DETECTIVE ROLLINS: Any other ones after

15           that?

16                    THE DEFENDANT: (Inaudible.)

17                    DETECTIVE ROLLINS: The foot?

18                    THE DEFENDANT: The front.

19                    DETECTIVE ROLLINS: The front part? Okay.

20                    SPECIAL AGENT JENNINGS: Front body or neck

21           or --

22                    THE DEFENDANT: I tried to go in an angle

23           like that.

24                    DETECTIVE ROLLINS: Okay.

25                    THE DEFENDANT: I tried. (Inaudible.)

1 DETECTIVE ROLLINS: And he finally went down?

2 (No audible response.)

3 SPECIAL AGENT JENNINGS: And you took one of  
4 them's wallet; is that right?

5 THE DEFENDANT: Both of them.

6 SPECIAL AGENT JENNINGS: Both of them?

7 DETECTIVE ROLLINS: Now, where is the -- we  
8 have one wallet.

9 THE DEFENDANT: We have one wallet with both  
10 credit cards.

11 DETECTIVE ROLLINS: Okay. Okay.

12 THE DEFENDANT: And we have another wallet  
13 inside of -- where is the other wallet? It's in  
14 the blue lunchbox, wherever the hell that is.  
15 It's in one of them cars I exchanged today.

16 DETECTIVE ROLLINS: Okay. Blue lunchbox, did  
17 that come from the house?

18 THE DEFENDANT: That's what Randy carried to  
19 work every day.

20 DETECTIVE ROLLINS: Is there anything else in  
21 the house you took besides the wallets and a  
22 lunchbox?

23 THE DEFENDANT: Yeah, a little bitty  
24 Tupperware thing with pot in it.

25 DETECTIVE ROLLINS: Okay.

1           SPECIAL AGENT JENNINGS: So the wallet you  
2 gave the police had both guys' credit cards?

3           THE DEFENDANT: Not all of their credit  
4 cards.

5           SPECIAL AGENT JENNINGS: Some of the cards.

6           THE DEFENDANT: But mainly the debit and  
7 credit cards. I didn't know the PIN numbers.

8           DETECTIVE ROLLINS: Okay.

9           SPECIAL AGENT JENNINGS: All right. Okay.  
10 And you took the blue lunchbox, right?

11          THE DEFENDANT: Yeah. Man --

12                   (Simultaneous speaking.)

13          THE DEFENDANT: -- I'm not saying that I  
14 didn't take anything else, but I don't remember  
15 taking anything else.

16          DETECTIVE ROLLINS: Okay.

17          THE DEFENDANT: All right? And I'm not  
18 trying to hide anything from you.

19          DETECTIVE ROLLINS: I know you haven't -- I  
20 know you've been honest.

21          SPECIAL AGENT JENNINGS: Yeah. You've been  
22 very honest about shit. Everything you told us  
23 here today is true and correct, right?

24                   (No audible response.)

25          DETECTIVE ROLLINS: Let me ask you, all this

1 was last night, and you left right after that?

2 THE DEFENDANT: Immediately.

3 DETECTIVE ROLLINS: And you left your car  
4 there?

5 THE DEFENDANT: I took the --

6 DETECTIVE ROLLINS: Blue Chrysler?

7 THE DEFENDANT: Blue or green?

8 DETECTIVE ROLLINS: Was it green? Okay.

9 THE DEFENDANT: What do you mean, was it  
10 green?

11 DETECTIVE ROLLINS: There's been so many cars  
12 today I've heard.

13 THE DEFENDANT: Man, you tried me just then.

14 DETECTIVE ROLLINS: Come on, now.

15 THE DEFENDANT: You tried me just then.

16 See --

17 DETECTIVE ROLLINS: Where are the keys to  
18 your car at?

19 THE DEFENDANT: Once a cop, man, always a  
20 cop.

21 SPECIAL AGENT JENNINGS: Where's the keys to  
22 your -- your Kia?

23 THE DEFENDANT: I don't know.

24 DETECTIVE ROLLINS: Were they at the house?

25 THE DEFENDANT: Probably in the blue

1 lunchbox.

2 DETECTIVE ROLLINS: Okay. Okay.

3 THE DEFENDANT: Probably, yeah. Probably  
4 (inaudible).

5 DETECTIVE ROLLINS: And the lady at the house  
6 didn't see anything at all? She just stays there  
7 and stays in her room?

8 THE DEFENDANT: She has a fully functional --

9 DETECTIVE ROLLINS: House?

10 THE DEFENDANT: Yeah.

11 SPECIAL AGENT JENNINGS: Okay. So the lady  
12 knew nothing?

13 THE DEFENDANT: (Unintelligible.)

14 DETECTIVE ROLLINS: Did you see her at all  
15 while you were there?

16 THE DEFENDANT: Never. I think she looked  
17 out the window once.

18 DETECTIVE ROLLINS: Okay.

19 THE DEFENDANT: I think she looked out the  
20 window while Charlie and Randy and I were in  
21 there, talking to the kid.

22 And Randy made some comment, oh, there she  
23 is, another one of those.

24 SPECIAL AGENT JENNINGS: And the kid never  
25 knew this happened?



1 THE DEFENDANT: No.

2 SPECIAL AGENT JENNINGS: 'Cause he'd already  
3 gone, right?

4 THE DEFENDANT: But he had made a comment  
5 while he was shaking Charlie's hand, I'll probably  
6 swing back by in a little bit, man. (Inaudible.)

7 SPECIAL AGENT JENNINGS: But he never came  
8 back while you were there?

9 THE DEFENDANT: No.

10 SPECIAL AGENT JENNINGS: Okay. So you  
11 cleaned the hatchet up. What did you do with the,  
12 uh, the kitchen knife?

13 THE DEFENDANT: I think I washed it.

14 SPECIAL AGENT JENNINGS: Did you leave it in  
15 the sink?

16 THE DEFENDANT: (Nodding.)

17 SPECIAL AGENT JENNINGS: Okay. Left the  
18 hatchet outside?

19 THE DEFENDANT: Right in front of -- just as  
20 you open the door of the shed, there's (inaudible)  
21 right there.

22 SPECIAL AGENT JENNINGS: Uh-huh.

23 THE DEFENDANT: (Inaudible.)

24 DETECTIVE ROLLINS: Okay.

25 THE DEFENDANT: (Inaudible.) It probably

1 will appear that there was some plundering going  
2 on, you know, in the bedroom.

3 DETECTIVE ROLLINS: Uh-huh.

4 THE DEFENDANT: All right? But I was just  
5 looking for the damn wallet.

6 DETECTIVE ROLLINS: Okay.

7 THE DEFENDANT: You know?

8 DETECTIVE ROLLINS: Where did you find those  
9 wallets at?

10 THE DEFENDANT: Um, Randy's -- Charlie's was  
11 on him.

12 DETECTIVE ROLLINS: So you had to go back out  
13 there and get it?

14 THE DEFENDANT: Yeah. (Inaudible.) I was  
15 fucked, too, dude. I was real fucked up.

16 DETECTIVE ROLLINS: Where was Randy's wallet?

17 THE DEFENDANT: His wallet was in the blue  
18 lunchbox, sitting right there on the dresser.

19 DETECTIVE ROLLINS: Okay.

20 THE DEFENDANT: And I opened up the top  
21 drawer. I may have even opened up the  
22 right-hand-side second drawer, okay?

23 And I went over to the -- Randy's side of the  
24 bed, which is, if you're standing in front of the  
25 bed, the left side of the bed.

1                   And there's a light over there on the table  
2                   that has two doors on it. I opened the two doors.  
3                   And I don't even think I shut them all the way.

4                   Then I went from there over to Charlie's side  
5                   of the bed. And I knew that Charlie had Randy's  
6                   car, you know?

7                   DETECTIVE ROLLINS: Uh-huh.

8                   THE DEFENDANT: And when I -- when I went to  
9                   get Charlie's wallet, I still hadn't found  
10                  Randy's. As a matter of fact --

11                  SPECIAL AGENT JENNINGS: So you got Charlie's  
12                  first and then went back in and found Randy's?

13                  THE DEFENDANT: Yeah.

14                  SPECIAL AGENT JENNINGS: Okay.

15                  THE DEFENDANT: And I'm -- I'm looking for  
16                  the car keys.

17                  SPECIAL AGENT JENNINGS: Where'd you find the  
18                  car keys?

19                  THE DEFENDANT: Hanging up where they belong,  
20                  but I searched like a fucking madman for them car  
21                  keys, man. And then I had already found Randy's  
22                  wallet inside that lunchbox.

23                  SPECIAL AGENT JENNINGS: All right. I  
24                  haven't been inside the house, so where would that  
25                  be?

1 THE DEFENDANT: The kitchen.  
2 SPECIAL AGENT JENNINGS: Off the kitchen?  
3 THE DEFENDANT: The kitchen has an opening.  
4 SPECIAL AGENT JENNINGS: Okay.  
5 THE DEFENDANT: There's a refrigerator.  
6 There's a slight little instep which is equivalent  
7 to the depth of the counters -- of the cabinets up  
8 under the countertop.  
9 SPECIAL AGENT JENNINGS: Okay.  
10 THE DEFENDANT: It sticks out that far.  
11 SPECIAL AGENT JENNINGS: So it was in the  
12 kitchen area?  
13 THE DEFENDANT: Well, I'm going to tell you.  
14 That depth that they stick out, there's, like, a  
15 little bar there --  
16 SPECIAL AGENT JENNINGS: Okay.  
17 THE DEFENDANT: -- that they stick out. And  
18 that bar runs into a column.  
19 SPECIAL AGENT JENNINGS: Okay.  
20 THE DEFENDANT: And there's two hooks.  
21 SPECIAL AGENT JENNINGS: Two hooks on the  
22 column off of the bar.  
23 THE DEFENDANT: It's not a bar. It's not a  
24 bar. It's only this wide, man.  
25 SPECIAL AGENT JENNINGS: Okay.

1 THE DEFENDANT: You know --

2 DETECTIVE ROLLINS: It's like a little island  
3 or something like that?

4 THE DEFENDANT: No. It's not a island. It's  
5 the edge -- it's -- it's the finish of the  
6 countertop is what it is. It steps up just a  
7 little bit. There may be a splashboard there on  
8 the countertop.

9 DETECTIVE ROLLINS: Okay.

10 THE DEFENDANT: That's it, man.

11 SPECIAL AGENT JENNINGS: And then --

12 THE DEFENDANT: I got in the fucking car.  
13 I went to my truck, and I took the -- the -- the  
14 box of clothes that you're going to find in the,  
15 uh -- I didn't put it in the red Camaro when I  
16 took the red Camaro. It's still in the green  
17 Sebring.

18 DETECTIVE ROLLINS: From Charlie's house?

19 THE DEFENDANT: Yeah.

20 DETECTIVE ROLLINS: And did you get injured  
21 during this? Did you cut yourself at all?

22 THE DEFENDANT: No. No.

23 DETECTIVE ROLLINS: No scratches or scrapes  
24 from them fighting at all?

25 THE DEFENDANT: No. No. Now, he did grip my

1 hand one time, but -- but there's nothing there.

2 SPECIAL AGENT JENNINGS: All right. Now,  
3 Blake, this goes for me, for my -- my policy  
4 stuff. I've got to ask this.

5 What you told me in here is the truth?

6 THE DEFENDANT: Absolutely.

7 SPECIAL AGENT JENNINGS: And it's correct and  
8 accurate, correct?

9 THE DEFENDANT: Yeah, everything.

10 SPECIAL AGENT JENNINGS: Okay. And, uh, I  
11 haven't forced you to tell me this?

12 THE DEFENDANT: No. No.

13 SPECIAL AGENT JENNINGS: You told me this  
14 freely and voluntarily, correct?

15 THE DEFENDANT: Where is Alachua County at?

16 SPECIAL AGENT JENNINGS: Alachua?  
17 Gainesville.

18 THE DEFENDANT: I know, but, I mean, they're  
19 not here?

20 SPECIAL AGENT JENNINGS: Oh, um, I don't  
21 know.

22 DETECTIVE ROLLINS: Not that I'm aware of.

23 SPECIAL AGENT JENNINGS: Unless they're out  
24 there --

25 (Simultaneous speaking.)

1           DETECTIVE ROLLINS:  -- inside here.

2           SPECIAL AGENT JENNINGS:  But, uh, everything

3           you've told me is freely and voluntarily?

4           THE DEFENDANT:  Yeah.

5           SPECIAL AGENT JENNINGS:  And you understood

6           your rights and waived those rights and made this

7           statement to us in here tonight, right?

8           THE DEFENDANT:  Yeah.

9           SPECIAL AGENT JENNINGS:  Okay.  Is there

10          anything else -- anything you want to ask us?

11          THE DEFENDANT:  (Inaudible.)

12          SPECIAL AGENT JENNINGS:  Well, I appreciate

13          you being honest with us, okay?

14          You need anything else to eat?

15          (No audible response.)

16          DETECTIVE ROLLINS:  I've got to call my

17          people.

18          SPECIAL AGENT JENNINGS:  You need something

19          to drink or anything?

20          (The video recording concluded.)

21          THE COURT:  Mr. Johnson, does that conclude

22          your questioning of Detective Rollins?

23          MR. JOHNSON:  Yes, your Honor.

24          THE COURT:  If you folks would pass those

25          transcripts over to your right, we'll get those

1 collected up.

2 Any cross-examination from the defense?

3 MR. BARRETT: Yes, Judge.

4 THE COURT: Roughly how long, Mr. Barrett?

5 MR. BARRETT: It's not going to be very long.

6 THE COURT: Not very long, okay.

7 Then we'll take a quick break, folks.

8 CROSS-EXAMINATION

9 BY MR. BARRETT:

10 Q Good morning.

11 A Good morning, sir.

12 Q Just some brief questions. During the  
13 interview you did with Mr. McKenzie, he talked to you  
14 about the woman whose car -- who he kidnapped and the  
15 car, they went driving around?

16 A Yes, sir.

17 Q Okay. He also talked to you about doing drugs  
18 in her house, correct?

19 A Yes, sir.

20 Q And, um, did you ever see the report of the  
21 officer who interviewed her, the woman herself?

22 A No, I did not.

23 Q Okay. Do you recall him talking to you about  
24 actually doing cocaine twice in her house?

25 A I remember him talking about the cocaine



1 usage. I don't remember the number -- amount of times,  
2 though.

3 Q Okay. Do you recall, at some point during the  
4 interview of him, him taking something out of his  
5 mouth?

6 A Yes, I do.

7 Q Do you recall him handing that to you?

8 A He took it out of his mouth -- it looked like  
9 a chewed-up piece of plastic -- and placed it in that  
10 empty McDonald's bag.

11 Q Okay. You never saw if it had drugs in it?

12 A It did not -- after the interview, we looked  
13 in the bag. It did not appear to have -- it just  
14 looked like a chewed-up piece of plastic.

15 MR. BARRETT: May I have just a second,  
16 Judge?

17 THE COURT: Sure.

18 MR. BARRETT: I don't have any other  
19 questions.

20 THE COURT: Any redirect examination?

21 MR. JOHNSON: No, your Honor.

22 THE COURT: Okay. Detective or Deputy  
23 Rollins, you are excused.

24 THE WITNESS: Thank you.

25 THE COURT: Have a good day.

1 (The witness exited the courtroom.)

2 THE COURT: Folks, we're going to take a  
3 short break, if it's okay with y'all, because  
4 we're going to break at 11 for lunch early as I  
5 mentioned. Is it okay if we stay up here?

6 (The jurors indicated in the affirmative.)

7 THE COURT: Okay. So let's make it ten  
8 minutes. We'll check and see if everybody's  
9 ready. If you need longer, that's fine.

10 Again, remember, please don't discuss the  
11 case among yourselves or with anybody else during  
12 the break.

13 And leave your notes here in the courtroom.  
14 And then we'll take a short break, if you'll  
15 retire to the jury room. Thank you, folks.

16 (The jury exited the courtroom.)

17 THE COURT: All right. Let's plan on ten  
18 minutes, folks, so that will be 10:30. Please be  
19 prompt. At 10:30 we'll get started again.

20 (Court was in recess from 10:20 a.m. until  
21 10:30 a.m.)

22 THE COURT: All right. Y'all can be seated.  
23 Are we about to do victim impact?

24 MR. JOHNSON: Yes, sir. We're ready.

25 THE COURT: Okay. I am going to read the

1 victim-impact instruction before each one. If the  
2 State could just, before you read each one, let me  
3 know which victim it applies to because we have  
4 two victims here.

5 Okay. Everybody ready?

6 Can we check with the jury and see if they're  
7 ready?

8 THE OFFICER: Yes, sir.

9 Yes, sir.

10 THE COURT: Okay. We can bring them out.

11 MR. JOHNSON: Judge, where do you want them?

12 At the podium or --

13 THE COURT: Who "him"?

14 MR. JOHNSON: The victims.

15 (The jury entered the courtroom.)

16 THE COURT: All right. Welcome back,  
17 everybody. Y'all can be seated in the courtroom.  
18 And we are ready to proceed.

19 So, State, call your next witness, please.

20 MR. JOHNSON: State calls Kathy Whitman.

21 THE COURT: Kathy Whitman?

22 MR. JOHNSON: Yes, sir.

23 (The witness entered the courtroom.)

24 THE COURT: All right. Ms. Whitman, if  
25 you'll take the witness stand right here.

1           Mr. Johnson, is this what's known as  
2           victim-impact testimony?

3           MR. JOHNSON: Yes, sir.

4           THE COURT: Pertaining to which victim?

5           MR. JOHNSON: To Randy Peacock.

6           THE COURT: Okay. Folks, this is what's  
7           known as victim-impact evidence. You're about to  
8           hear evidence about --

9           You can be seated, ma'am.

10          You're about to hear evidence about the  
11          impact of this murder on the family, friends, and  
12          community of Randy Peacock.

13          This evidence is presented to show the  
14          victim's uniqueness as an individual and the  
15          resultant loss by Randy Peacock's death.

16          However, you may not consider this evidence  
17          as an aggravating factor.

18          Okay. So, ma'am, we're going to have you  
19          raise your right hand. The clerk will administer  
20          the oath to you.

21          THE CLERK: Do you swear or affirm that the  
22          testimony you're about to give will be the truth,  
23          the whole truth, and nothing but the truth?

24          THE WITNESS: Yes, I do.

25          THE COURT: Mr. Johnson, you can proceed.

1 MR. JOHNSON: Thank you, your Honor.

2 KATHY WHITMAN

3 was called as a witness and, after having been first  
4 duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. JOHNSON:

7 Q Good morning, ma'am.

8 A Good morning.

9 Q Could you introduce yourself to the jury.

10 A I'm Kathy Whitman. I'm Randy's youngest  
11 sister.

12 Q And, Ms. Whitman, do you have a victim-impact  
13 statement that you would like to share with --

14 A I do.

15 Q -- the jury today?

16 A I do.

17 Q Okay. Go ahead.

18 THE COURT: Maybe move that microphone a  
19 little closer to you.

20 THE WITNESS: Okay.

21 THE COURT: Thank you.

22 A It's hard to know where to begin and difficult  
23 to put into words how much I love my brother Randy.  
24 The past ten months have been a living nightmare. The  
25 shock and horror of what happened will never be erased

1 from my mind.

2 In my life, people have come and gone, but  
3 there are some who are constant. Their presence is  
4 never doubted and love is never questioned.

5 There are only a handful of people in my life  
6 like this, and Randy was one of them. How can I  
7 measure or explain how much I miss him or the hole that  
8 is in my life?

9 When my family gets together, our loss is so  
10 evident. Randy and Charlie are so sorely missed, and  
11 for them -- and for those that have loved them or were  
12 touched by them, our lives will never be the same.

13 There were six children in our family. I had  
14 four brothers and one sister. Now I have three  
15 brothers. I never realized how complete we were until  
16 Randy was taken from us.

17 I can only compare the six of us to a set of  
18 china and feel as if a piece has been broken and can  
19 simply never be replaced.

20 We have no choice but to accept their deaths,  
21 but we are hindered in our ability to heal due to the  
22 distressing way in which we lost our loved ones.

23 We all know there are cruel and heartless  
24 people in this world, but when two people you love are  
25 so thoughtlessly and violently killed, you look at the

1 world differently, and everyone in it.

2 I now have a heightened sense of distress for  
3 strangers and feel as if the final notion of innocence  
4 has been stripped from my life.

5 The way in which Randy and Charlie were  
6 treated is unthinkable and before now was only  
7 something imagined in my own worst nightmare.

8 This isn't just a dream, but it's a reality.  
9 We are all on death row, but fortunately for most of  
10 us, we don't know the day or hour we will leave this  
11 world.

12 Randy and Charlie were no exception. However,  
13 it wasn't an accident or self-infliction or an illness  
14 that took their lives.

15 Mr. McKenzie chose the day and time of their  
16 executions and took it upon himself to carry out their  
17 sentences.

18 Obviously, he doesn't know what love is nor  
19 does he respect life or others. Sometimes I hate  
20 Mr. McKenzie, but I am not consumed by it. Sometimes I  
21 just don't care about him, but, mostly, I just pity  
22 him.

23 I am more consumed by the pain my brother may  
24 have felt and what he went through, and it is those  
25 thoughts that continue to haunt me.

1           Mr. McKenzie will never know the amount of  
2           grief he has caused the families and friends of Charlie  
3           and Randy. He will never appreciate the love that we  
4           feel for them, the importance that they played in our  
5           lives, or the loss that was forced upon us.

6           I'll never spend another holiday with my  
7           brother. I'll never hear him sing Happy Birthday to me  
8           again.

9           When he passed away, Flagler Hospital flew the  
10          American flag at half staff for a week, and an  
11          educational fund was set up by the hospital in his  
12          name.

13          His ashes are sitting on my bedroom dresser.  
14          My most sweet brother, you always stood behind me. You  
15          deserved so much better.

16          Q       Thank you, ma'am.

17          THE COURT: Thank you, ma'am.

18          THE WITNESS: Thank you.

19          (The witness stepped down from the stand.)

20          THE COURT: All right. State, call your next  
21          witness, please.

22          MR. JOHNSON: State calls David Brooks.

23          THE COURT: Is this also victim-impact  
24          testimony?

25          MR. JOHNSON: Yes, sir, with regard to



1 Mr. Peacock.

2 (The witness entered the courtroom.)

3 THE COURT: Okay. Folks, I'm going to read  
4 that same instruction to you that I just read a  
5 moment ago.

6 Sir, you can be seated.

7 You're about to again hear evidence about the  
8 impact of this murder on the family, friends, and  
9 community of Randy Peacock.

10 This evidence is presented to show the  
11 victim's uniqueness as an individual and the  
12 resultant loss by Randy Peacock's death.

13 However, you must not consider this evidence  
14 as an aggravating factor.

15 Sir, if you'll raise your right hand, I'll  
16 have the clerk administer the oath to you.

17 THE CLERK: Do you swear or affirm that the  
18 testimony you're about to give will be the truth,  
19 the whole truth, and nothing but the truth?

20 THE WITNESS: Yes, I do.

21 THE COURT: All right. Mr. Johnson, you may  
22 proceed.

23 MR. JOHNSON: Thank you, your Honor.

24 DAVID BROOKS

25 was called as a witness and, after having been first

1       duly sworn, testified as follows:

2                               DIRECT EXAMINATION

3       BY MR. JOHNSON:

4               Q       Good morning, sir.

5               A       Good morning.

6               Q       Could you please introduce yourself to the  
7       jury.

8               A       My name's David Brooks. I'm the older brother  
9       of Randy, second of six kids.

10              Q       Mr. Brooks, you're -- you prepared -- you're  
11       prepared to read a victim-impact statement here today,  
12       correct?

13              A       That is correct. It's my sister's, older  
14       sister's.

15              Q       And what was the name of your sister?

16              A       Janet Luke.

17              Q       And when did she write this victim-impact  
18       statement?

19              A       She wrote it in Aug -- um, 2007.

20              Q       Okay. And is she with us today?

21              A       No, she's not. She passed away in 2009.

22              Q       All right. Could you go ahead and read that  
23       letter.

24              A       Yes. So these are her words, so you'll have  
25       to bear with me when I say "My name is."

1           My name is Janet Luke. I am Randy's older  
2 sister. Randy and I were born ten years apart almost  
3 to the day, and he and I always felt this gave us a  
4 special bond way beyond that of brother and sister.

5           We were both March babies. I was born on the  
6 23rd. He was born on the 21st. We always celebrated  
7 our birthdays together, and there was always a lot of  
8 ribbing on the milestone birthdays.

9           For instance, this year I turned 60. Randy  
10 would have been the big 50. Long before his death last  
11 October, I was planning a huge birthday event to mark  
12 these two important dates.

13           I can't imagine ever celebrating another  
14 birthday. It's too painful to think of him not being  
15 there with me.

16           Randy was the fourth of -- the fourth born out  
17 of six children. I had many wonderful memories of him  
18 as a little boy, but one always comes to mind when I  
19 think of those years.

20           When he was in the third or fourth grade, he  
21 come -- came home very confused about what he had  
22 learned in school that day.

23           His teacher had told him that one out of every  
24 fourth child born in the world was Chinese. Randy, of  
25 course, wanted to know why he wasn't Chinese since he

1 was the fourth born of the family.

2 I know this is a simple story, but when I  
3 think of it, I can see him, I can hear him, and I can  
4 see Mom trying not to laugh.

5 Randy was not an old soul, but he was well on  
6 his way to becoming one.

7 He was loving and -- and tenderhearted. He  
8 was always there for those whoever needed him. He  
9 never judged you for whatever you shared with him.

10 My own children turned to him for counsel --  
11 excuse me -- several times in their lives, and I was  
12 very grateful that God made that possible.

13 Because of his nature, Randy was a perfect  
14 caregiver. He was best demonstrated by his choice of  
15 vocation. He was a respiratory therapist for more than  
16 20 years and was a favorite of hospital patients.

17 His touch was gentle and the meaning, caring.  
18 One of our brothers, Len, always had mental and  
19 emotional problems, and he had been on medication and  
20 treatment for all his adult life.

21 Randy was two years older than Len and served  
22 as his primary caregiver for those years since our  
23 mother's passing in 1987.

24 Providing complete support for Len, he made  
25 sure that he had food, clothing, shelter, and medical

1 attention. Randy was literally everything to Len.

2 We have moved to try to fill the gap left by  
3 Randy's death, and it will never be enough.

4 Randy was the always the first I'd call when  
5 planning a family get-together. In fact, I left a  
6 voice message on his machine -- answering machine that  
7 day he was killed.

8 I was calling him about planning a birthday  
9 party for our sister Kathy. When the call was placed,  
10 he was already dead, and him -- and his and Charlie's  
11 bodies had not been discovered.

12 There are no words to describe how I feel  
13 knowing this. In many ways, I feel guilty that I did  
14 not sense that something was wrong.

15 THE COURT: Here's some tissues.

16 A Typically -- logically, I'm sorry, I know this  
17 is unreasonable, but Randy was my little brother. And  
18 I felt like I should have been able to provide -- or to  
19 protect him somehow.

20 It's hard to read through tears.

21 THE COURT: There's some tissues to your left  
22 if you want some.

23 THE WITNESS: No. I'm good.

24 A One of the last conversations I had with Randy  
25 was near the end of September. We were on one of our

1 marathon phone calls, and we were talking about  
2 retirement plans.

3 My husband and I were, um, retiring soon, and  
4 Randy was almost as excited as we were. He told me he  
5 had drafted a ten-year plan that would allow him to  
6 retire at 60, the same age I would have been when I  
7 retired.

8 He told me that he and Charlie were going to  
9 buy an RV so they could take camping trips with us. We  
10 were like two kids talking about Christmas.

11 Randy wanted to get the RV by this year  
12 because Charlie's health was deteriorating. He knew he  
13 didn't have too many more years left. Ironic.

14 Of course, none of this will ever happen, and  
15 I feel cheated and angry, not just for me, but also for  
16 him.

17 He had many, many years of life before him.  
18 My grandchildren loved their Uncle Randy, and I was  
19 angry that they had such a short time with him.

20 He would have been there for them just as he  
21 was for his brothers and sisters, his nieces and  
22 nephews, and his friends.

23 We've all lost someone very dear, and a hole  
24 created by his loss cannot be filled. We hear a lot  
25 about closure these days, but I do not know closure is

1 a myth -- I do know -- now know closure is a myth. It  
2 is not possible when you lose someone in violence.

3 I am in Yellowstone -- or at Yellowstone  
4 National Park as I write this. On the 14th of this  
5 month, my husband and I scattered the ashes Charlie --  
6 of Randy and Charlie in Jackson Lake, Grand Teton  
7 National Park. We chose this in place of the memory of  
8 a wonderful trip we all had there in 19 -- or 2004.

9 MR. JOHNSON: Thank you, sir.

10 THE COURT: No questions from the defense?

11 MR. BARRETT: No, Judge.

12 THE COURT: Okay. Thank you, Mr. Brooks.

13 (The witness stepped down from the stand.)

14 MR. JOHNSON: Judge, we have Julianne  
15 Schneider from our office, victim advocate, who's  
16 going to read a victim-impact statement from  
17 Cheryl Johnston, who is the daughter of Charlie  
18 Johnston.

19 THE COURT: Folks, I'm going to read that  
20 same instruction to you.

21 You're about to hear evidence about the  
22 impact of this murder on the family, friends, and  
23 community of Charles Johnston.

24 This evidence was presented to show -- or is  
25 being presented to show the victim's uniqueness as

1 an individual and the resultant loss by Charles  
2 Johnston's death.

3 However, you must not consider this evidence  
4 as an aggravating factor.

5 Okay. You may proceed.

6 VICTIM ADVOCATE: Okay. Where to begin? My  
7 name is Cheryl Johnston, and I guess for me, I  
8 should start by saying that when I was very young,  
9 I was and continue to be my daddy's shadow.

10 I followed him everywhere and did or  
11 attempted to do everything my daddy did. Because  
12 of this, I developed my nickname that is still  
13 with me to this day, which is CJ.

14 Most people think it is just my initials, but  
15 the truth be told, it stands for Charlie Junior.  
16 Growing up, my family consisted of my father, my  
17 mother, myself, and my older brother.

18 Unfortunately, due to the limited amount of  
19 time I received in which this letter was due, my  
20 brother was unable to write a statement letter.  
21 So I write this for not only myself, but my  
22 brother, as well.

23 We have very fond memories of our childhood.  
24 It consisted of camping, boating, skiing,  
25 motorcycle riding, and a lot of softball.



1           I remember one year I had decided I wanted to  
2           play softball, but, unfortunately, I had signed up  
3           too late. So my dad sponsored a team just so I  
4           could play ball.

5           On another instance, I remember my brother  
6           was staying the night with our cousin Lad, and Lad  
7           had decided he wanted to ride bicycles.

8           And, of course, my brother didn't have his  
9           bike, so he called my dad and asked and begged and  
10          pleaded for our dad to bring him his bike.

11          Even though it was about a 45-minute drive,  
12          our dad loaded up my brother's bike and took the  
13          45-minute drive to our cousin Lad's house just to  
14          take my brother his bike.

15          Those are just a couple of things our dad did  
16          to ensure we would be able to have the tools  
17          necessary to be everything we could be.

18          I understand that what I have said thus far  
19          is not exactly what you were looking for with the  
20          impact statement, but for you to understand what  
21          we have lost, you have to understand where we come  
22          from.

23          Our dad is, was, the most giving,  
24          understanding, nonjudgmental, kindhearted person  
25          known -- one could ever hope to meet.

1           Once we became adults, our father continued  
2           to give those around him support and tools he felt  
3           necessary for -- for whoever to be the best they  
4           could be.

5           He loved to help those around him. He was  
6           always there when anyone needed him. A lady my  
7           brother taught with at the school for the deaf  
8           and -- deaf and -- deaf and blind befriended our  
9           daddy several years ago.

10          Unfortunately, as they both aged,  
11          Ms. Martha's health deteriorated and our daddy  
12          built an apartment onto his property so Ms. Martha  
13          would have a place it call her own, but still have  
14          someone close to be able to ensure she was getting  
15          the nutrition and the care she needed.

16          That is not something our daddy had to do,  
17          but wanted to do to ensure his friend was take --  
18          taken care of.

19          Unfortunately, what our daddy loved to do is  
20          what eventually caused his death. He wanted  
21          people to have a second chance to prove to not  
22          only society, but to themselves that they can be  
23          good and honest and deserve to have a life that  
24          many people strive to achieve. He wanted to be  
25          able to assist in giving that.

1           It was our father's nature to give people  
2           second chances and hope for the better side to  
3           come through. Please know that it was not only  
4           our daddy that we have lost, but we have lost  
5           Randy, as well.

6           Above, I stated several things as to whom and  
7           what our dad was, but in all honesty, Randy made  
8           my dad who he was, and my dad made Randy who he  
9           was, which for both of them is giving,  
10          understanding, nonjudgmental and kindhearted  
11          people.

12          I only wish that they could have had the time  
13          left here for you to find out for yourself.

14          THE COURT: Thank you.

15          MR. JOHNSON: At this time, Judge, the State  
16          rests.

17          THE COURT: All right. Ladies and gentlemen,  
18          you heard that the State has rested its case.  
19          That's all the evidence and testimony you're going  
20          to hear in the State's case in chief.

21          I do need to meet with the lawyers at this  
22          juncture, so we're actually going to take a break  
23          even a little earlier than 11. We planned on 11.

24          So we're going to take our very extended  
25          lunch. As I told you at the beginning of this

1 trial, there's a scheduling conflict that I need  
2 to deal with, and that's why we're going to break  
3 until one o'clock.

4 Don't blame the lawyers for the scheduling  
5 conflict. Blame me. It's on me. So we will go  
6 ahead and break until one o'clock.

7 Please leave your notes here in the  
8 courtroom. Please do not discuss the case among  
9 yourselves or with anybody else. Don't do any  
10 research of any type.

11 We'll see you back in the jury lounge at one  
12 o'clock, and as soon as we have everybody  
13 assembled, we'll get you back here and we'll  
14 continue on with this case. And enjoy your  
15 extended lunch.

16 Everybody else remain in the courtroom,  
17 please.

18 (The jury exited the courtroom.)

19 THE COURT: All right. Y'all can be seated  
20 in the courtroom. Just remain in the courtroom  
21 for a few moments until we get the jury out of the  
22 hallway.

23 Before Mr. Johnson scampers off, any motions  
24 from the defense?

25 MR. BARRETT: Judge, since this is a penalty

1 phase, I'm assuming that somehow we make the  
2 argument that the aggravators don't --

3 THE COURT: Yeah. I put that out there.

4 It's an awkward phase --

5 MR. BARRETT: Yes.

6 THE COURT: -- so I understand.

7 All right. Defense, be ready with your  
8 witnesses at one o'clock.

9 MR. BARRETT: Yes, Judge.

10 THE COURT: And we'll be in recess until one  
11 o'clock.

12 (Court was in recess from 10:52 a.m. until  
13 1:07 p.m.)

14 THE COURT: All right. We're outside the  
15 presence of the jury.

16 MR. BARRETT: We're ready, Judge. He's out  
17 there talking to Dr. Bloomfield. We can start  
18 without him being here.

19 THE COURT: Okay. We'll wait on him. We  
20 have a few minutes.

21 Mr. McKenzie, has there been a decision yet  
22 as to whether you're going to testify?

23 We probably still have a little bit more time  
24 for you to consider.

25 THE DEFENDANT: Yeah. I wanted, you know --

1           THE COURT: Okay. We'll have a break  
2           sometime this afternoon, but I'll need to know at  
3           that point.

4           THE DEFENDANT: I understand, sir.

5           THE COURT: Okay. I just want to make sure  
6           you have enough time to think about it.

7           (Mr. Hamburg entered the courtroom.)

8           THE COURT: Mr. Hamburg, perfect timing.

9           MR. HAMBURG: Thank you, Judge. It was my  
10          turn to be a couple minutes late.

11          THE COURT: No. You're -- Mr. Barrett said  
12          you were out there with Dr. Bloomfield.

13          MR. HAMBURG: Oh, yeah. We were just going  
14          over one thing.

15          MR. BARRETT: He just threw me under the bus,  
16          Judge.

17          THE COURT: Exactly. All right. Is  
18          everybody ready to bring the jury in?

19          MR. BARRETT: Yes, Judge.

20          THE COURT: All right. We can go ahead and  
21          bring the jury in, please. Thank you.

22          (The jury entered the courtroom.)

23          THE COURT: All right. You all can be seated  
24          in the courtroom.

25          Welcome back, everybody. I hope you enjoyed

1 your extended lunch. We don't normally do that,  
2 but, like I said, there was a scheduling conflict  
3 that we had to do that today, but we are ready to  
4 proceed.

5 If you recall, right before we broke for the  
6 extended lunch, the State had rested its case. So  
7 now the defense is going to put on its case.

8 So, Defense, you can call your first witness.

9 MR. BARRETT: Thank you, Judge. At this time  
10 the defense would call Tammy Kimball.

11 (The witness entered the courtroom.)

12 THE COURT: All right. Ma'am, if you'll take  
13 the witness stand right over here by this small  
14 screen.

15 And if you'll remain standing, please, and  
16 raise your right hand, the clerk will administer  
17 the oath to you.

18 THE CLERK: Do you swear or affirm that the  
19 testimony you're about to give will be the truth,  
20 the whole truth, and nothing but the truth?

21 THE WITNESS: I do.

22 THE COURT: Thank you. You can be seated.

23 THE WITNESS: Thanks.

24 THE COURT: Mr. Barrett, whenever you're  
25 ready, you can inquire.

1 MR. BARRETT: Thank you, Judge.

2 TAMMY KIMBALL

3 was called as a witness and, after having been first  
4 duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. BARRETT:

7 Q Good afternoon, Ms. Kimball.

8 A Good afternoon.

9 Q Could you spell your first name and last name  
10 for the jury, please.

11 A T-a-m-m-y K-i-m-b-a-l-l.

12 Q And, Ms. Kimball, where do you live right now?  
13 Just the city.

14 A Albuquerque, New Mexico.

15 Q All right. New Mexico. You flew in when,  
16 yesterday or today?

17 A Yesterday.

18 Q Okay. And what do you do for a living?

19 A I'm a general manager at a property, um --

20 Q What kind of property?

21 A Apartment complex.

22 Q How long have you been doing that?

23 A Four years.

24 Q Say again?

25 A Four years.



1 Q I'm going to take you back in time --  
2 A Okay.  
3 Q -- way back in time to around 2006, 2005.  
4 Where were you living then?  
5 A I was living in Gainesville.  
6 Q Gainesville, Florida, here?  
7 A Yes.  
8 Q And did you have another job then?  
9 A No.  
10 Q What did you do for a living at that time?  
11 A I was a prostitute and sold drugs.  
12 Q What type of drugs?  
13 A Um, cocaine.  
14 Q And how often back then would you use drugs?  
15 A Every day.  
16 Q Every day? And did you get in trouble with  
17 police back then, using drugs?  
18 A Yes.  
19 Q Now, when you lived here in Gainesville, did  
20 there come a time when you met Mr. McKenzie?  
21 A Yes.  
22 Q Do you remember roughly what year you met him?  
23 A Not exactly the year. Probably, like, 2005.  
24 Q Do you remember the circumstances under which  
25 you met him? How did you meet him?

1           A     I was staying at Motel 6, and, um, he was  
2 sitting out in his car. And I went out -- his truck,  
3 and I went out to approach him --

4           Q     Okay.

5           A     -- doing my --

6           Q     As part of what you were doing for a living at  
7 the time?

8           A     Right.

9           Q     Was there anything particular about the car,  
10 the way he was sitting, the way he looked, that --

11          A     Yeah. It was a really nice truck. And I  
12 walked up and I thought he was a cop 'cause he was  
13 dressed so nice and he was very clean-cut. And I was  
14 kind of nervous at first.

15          Q     Okay. So when you approached him, what  
16 happened?

17          A     Um, he asked me if we can go up to my room,  
18 and I said okay.

19          Q     And did you go up to the room with him?

20          A     Yes.

21          Q     Did you have some concern about bringing him  
22 to your room?

23          A     Yes, I did. I told him to wait outside. And  
24 I went up and I hid my drugs under the bed 'cause I  
25 thought -- I really did think he was a cop.

1 Q Now, during this time, when you went up to  
2 your room, was there any sexual --

3 A No.

4 Q What happened once you got up to the room?

5 A Um, he started using cocaine, smoking it.

6 Q Did he have his own cocaine?

7 A Yes.

8 Q And I know it's been quite a while, but are we  
9 talking about just a little bit of cocaine, a lot of  
10 cocaine? Do you recall?

11 A I always had a lot, so it was probably a lot.

12 Q It was a lot of cocaine? And you said he was  
13 smoking it?

14 A Yes.

15 Q How often would you meet with Mr. McKenzie to  
16 do cocaine?

17 A It varied.

18 Q Okay. Let's start in a week, roughly about  
19 how often would you meet him?

20 A At first, I would see him a cup -- two, three  
21 times a week.

22 Q And you said "at first."

23 A Right.

24 Q Did it -- it got worse?

25 A He had a really good job. And he was doing --

1 he was a supervisor of construction at this, like,  
2 condos, apartments. And he was doing really well, and  
3 he -- I didn't see him for a while.

4 Q Did you ever go to the apartment to see --

5 A Yes.

6 Q Okay. Describe the area that he was living  
7 in, as best you recall.

8 A It was over by the mall in Gainesville. It  
9 was a really nice area. They were just building this  
10 new apartment complex, and the -- sort of like condos.  
11 And it was really nice apartments.

12 Q The condo itself that he was staying in, how  
13 was it furnished? Did there -- was there any furniture  
14 at all?

15 A Oh, yeah. It was very nice. It was brand  
16 new. He had brand-new furniture. He was doing really  
17 well. He had a brand-new motorcycle.

18 Q At that point was he living with someone in  
19 the apartment?

20 A Not that I knew of.

21 Q Okay. You're aware that he had a girlfriend  
22 somewhere else?

23 A Yes.

24 Q He did tell you that?

25 A Yeah.

1 Q Did your relationship at any time became  
2 sexual?

3 A No.

4 Q So, basically, to meet with him was to do  
5 drugs?

6 A Right.

7 Q Now, moving up -- well, at some point you said  
8 he was smoking --

9 A Yes.

10 Q -- crack cocaine? Did the way he used cocaine  
11 change?

12 A Yes. I introduced him to some people that I  
13 knew, which was unfortunate. And they were shooting  
14 cocaine, and he started to hang around with those type  
15 of people.

16 Q I mean, we all watch TV and probably everyone  
17 knows what you mean by "shooting," but just --

18 A Intravenous drug user.

19 Q So he was using a needle --

20 A Yes.

21 Q -- sticking it in his arm?

22 Do you recall whether he was bringing his own  
23 needle or they were sharing needles?

24 A I didn't really like being around that. I  
25 wasn't doing it that way. So I really wasn't paying

1 attention to what they were doing. I just know that's  
2 what they did.

3 Q So at this point it wasn't powder cocaine  
4 anymore?

5 A No. He was always -- it was either crack or,  
6 um, intravenous.

7 Q Okay. I will bring you closer to October  
8 the 4th, 2006. I'm sure you've heard that Mr. McKenzie  
9 was involved in two murders, correct?

10 A Yes.

11 Q You've heard? I'll bring you closer to that  
12 time frame.

13 A Okay.

14 Q Do you recall roughly around the last time you  
15 saw him in that time period?

16 A I was on 13th Street in Gainesville, and I was  
17 walking and he picked me up. And he was talking about  
18 going -- he was really high.

19 He was talking about going for a -- going  
20 away, like, to just go away, if I wanted to get in the  
21 truck with him and just, like, go to some other town  
22 and hang out.

23 And I said yeah. And he brought me over to  
24 Patty's house, which was behind the Domino's on 13th  
25 Street.

1                   I remember going upstairs to get some clothes,  
2 and when I came back down, he was gone.

3           Q     Okay. And who was Patty?

4           A     Just a friend where I left my stuff.

5           Q     And when he said whether or not you wanted to  
6 go away with him, was he talking about just a day trip  
7 or go for a while?

8           A     At that point I was like, you're a prostitute.  
9 You don't care. Just get in the car and go, 'cause you  
10 know you're going to go get high and have fun.

11          Q     And you agreed to go with him?

12          A     Yeah.

13          Q     And when you came back down --

14          A     He was gone.

15          Q     Was that the last time you saw him?

16          A     Yes.

17          Q     So the last day you saw him, he was real high,  
18 you said?

19          A     Yes.

20          Q     How did you know he was high?

21          A     He was all sweaty and his demeanor. You can  
22 tell when someone's high.

23          Q     You had been using crack for a while?

24          A     Yeah.

25          Q     And having been around crack cocaine for a

1 while, you have seen other people really high?

2 A Oh, yeah.

3 Q And you had no doubt in your mind that at the  
4 time you saw him, he was real high?

5 A Yeah, 'cause that's the only time I knew he  
6 came around was when he wanted to get high or was high.

7 MR. BARRETT: If I may just have a moment,  
8 Judge?

9 THE COURT: Sure.

10 MR. BARRETT: No other questions, Judge.

11 THE COURT: Any cross-examination from the  
12 State?

13 CROSS-EXAMINATION

14 BY MR. JOHNSON:

15 Q Good afternoon, ma'am.

16 A Good afternoon.

17 Q So as I understood from what you said, the  
18 only time that you ever had contact with -- the only  
19 times that you had contact with him on those occasions,  
20 he was either high or he was going to get high?

21 A And the one time when he brought me over to  
22 his apartment. He was showing me how well he was  
23 doing, showed me his motorcycle. He was racing it up  
24 and down. Um, he was doing really good at that point.

25 Q Okay. That -- that wasn't my question.



1 A Yeah.

2 Q My question is, the times that you saw him --

3 A I -- except for that one time.

4 Q Okay. The times that you saw -- all the times  
5 that you saw him, he was generally high, correct?

6 A Yes.

7 Q All right. But he was never violent during  
8 those times, was he?

9 A No, he was not.

10 Q Okay. So when he was around you and he was  
11 high, he had the ability to be nice to you, correct?

12 A Yeah, 'cause he wanted to hang around.

13 Q And nice to other people, didn't he?

14 A As far as I know.

15 MR. JOHNSON: Nothing further.

16 THE COURT: Any redirect?

17 MR. BARRETT: Briefly, Judge.

18 THE COURT: Sure.

19 REDIRECT EXAMINATION

20 BY MR. BARRETT:

21 Q At the times he was around you, he at that  
22 point had money to buy drugs, correct?

23 A Oh, yeah.

24 Q So he always had his drugs, correct?

25 A Correct.

1 Q You've never -- he's never been around you  
2 when he was broke and needed drugs, and he just didn't  
3 have --

4 A No.

5 Q And you said you always had drugs?

6 A Yes.

7 Q Okay. So it was always available?

8 A Yes.

9 MR. BARRETT: Nothing further, Judge.

10 THE COURT: Any recross?

11 MR. JOHNSON: No, your Honor.

12 THE COURT: Okay. Thank you, ma'am. You are  
13 excused.

14 THE WITNESS: Thank you.

15 MR. BARRETT: Judge, she may be released from  
16 the subpoena.

17 THE COURT: Okay. You are released.

18 THE WITNESS: Thank you.

19 THE COURT: Thank you.

20 (The witness exited the courtroom.)

21 THE COURT: Defense, call your next witness.

22 MR. HAMBURG: Judge, we'd call Dr. Stephen  
23 Bloomfield.

24 (The witness entered the courtroom.)

25 MR. HAMBURG: May I approach the clerk

1           briefly, your Honor?

2           THE COURT:    Sure.

3           (Mr. Hamburg conferred with the clerk.)

4           THE COURT:    All right.  Dr. Bloomfield, good  
5           afternoon.  If you would take the witness stand  
6           right over here, please.  Right over here.

7           And the clerk will swear you in when you get  
8           here.  If you'll remain standing and, when you get  
9           a chance --

10          THE CLERK:    Do you swear or affirm that the  
11          testimony you're about to give will be the truth,  
12          the whole truth, and nothing but the truth?

13          THE WITNESS:  Yes, I do.

14          THE COURT:    Okay.  You can be seated and take  
15          as long as you need to get yourself situated over  
16          there.

17          Mr. Hamburg, whenever y'all are ready, you  
18          can proceed.

19          MR. HAMBURG:  Thank you, Judge.

20                         DR. STEPHEN BLOOMFIELD  
21          was called as a witness and, after having been first  
22          duly sworn, testified as follows:

23                         DIRECT EXAMINATION

24          BY MR. HAMBURG:

25           Q           Good afternoon, Dr. Bloomfield.

1           A     Good afternoon.

2           Q     Can you introduce yourself to the jury, and  
3 spell both your first and last name.

4           A     Sure. My name is Stephen, S-t-e-p-h-e-n,  
5 Bloomfield, B-l-o-o-m-f-i-e-l-d. I'm a licensed  
6 psychologist in Florida and in Massachusetts.

7           Q     And, Dr. Bloomfield, how long have you been a  
8 licensed psychologist in those two states?

9           A     I first became licensed in Massachusetts in  
10 1984. I relocated to Florida, uh, about 29 years ago,  
11 maybe 30. And I became licensed in Florida about a  
12 year and a half, two years before I moved here.

13                     So I've been licensed continually since 1984.  
14 My practice as a psychologist has been forensic  
15 psychology.

16                     Forensic psychology is clinical psychology  
17 with an emphasis on issues related to people involved  
18 in the court system.

19                     At times, it's been all of the different  
20 divisions of the court, family court, divorce and, uh,  
21 the dependency court, adoption and foster care, and the  
22 criminal court.

23                     Most recently, uh, I guess in the last three  
24 to five years, it's been exclusively in the criminal  
25 area. And I almost exclusively do evaluations of

1 adults and juveniles involved in criminal cases of some  
2 sort.

3 Q And, Dr. Bloomfield, what kind of education do  
4 you have?

5 A I have a doctorate from the University of  
6 Massachusetts in Amherst, Massachusetts, in psychology.  
7 I have a master's degree from Springfield College and a  
8 bachelor's degree from Long Island University in  
9 Brooklyn.

10 And, uh, I got my, uh -- I was awarded my  
11 doctorate in 1982 and, of course, since then, have, uh,  
12 taken and given continuing education credits for all of  
13 those years, so...

14 Q And do you have any professional affiliations?

15 A Yes. Currently, I'm a member of the Florida  
16 Psychological Association and the American  
17 Psychological Association.

18 I, um, I've served in many roles in the  
19 Florida Psychological Association, including president,  
20 uh, chair of the ethics committee, chair of the  
21 forensic committee, chair of the advocacy committee.

22 In addition, I was appointed by the governor  
23 several years ago to serve on the Board of Psychology.  
24 The Board of Psychology is not a professional  
25 association.

1           The Board of Psychology is a leg -- an  
2 administrative body of the State to regulate psychology  
3 and protect consumers. The job of the Board of  
4 Psychology is not to protect psychologists, but to  
5 protect consumers.

6           I've been extensively involved in the American  
7 Psychological Association. I chaired an advocacy  
8 committee. I chaired two forensic committees.

9           I've received several -- numerous awards from  
10 the Florida Psychological Association in ethics, in,  
11 uh, being voted the psychologist of the year, uh,  
12 twice, um, a number of others.

13           I received two awards from the American  
14 Psychological -- Psychological Association which are  
15 only granted to one or two people every year.

16           One is called the Heiser, H-e-i-s-e-r, award,  
17 and that's for contributing to the understanding of  
18 psychology.

19           And just last year, I was awarded, uh, by the  
20 American Psychological Association, the state leader of  
21 the year.

22           So my -- my involvement, both in advocacy,  
23 regulation, and forensic work in psychology is  
24 extensive.

25           Um, I -- I do -- I work in that field -- in

1 that area a great deal. I try and, uh, make sure that,  
2 uh, psychology, uh, provides services to the consumer.  
3 And I also try and stay involved in areas that protect  
4 consumers from anything wrong that a psychologist may  
5 do.

6 Q And have you ever testified as an expert in a  
7 court in the State of Florida?

8 A Yes, numerous times. Uh, I would guesstimate  
9 hundreds, if not thousands, of times in Florida.

10 I testify in federal court, as well. I just  
11 testified this week in United States Federal Court.

12 I've testified in courts in, uh, in  
13 Massachusetts, as well, but, certainly, for the last 25  
14 or six years, predominantly in Florida, all over the  
15 State.

16 And the U.S. Federal Court, predominantly in  
17 the middle district, which is the district that's  
18 housed -- uh, the federal courthouse is housed in  
19 Jacksonville. So I testify, uh, a good deal.

20 Q And how did you become involved in this case  
21 with Mr. McKenzie?

22 A In this case? Uh, I got a call from, uh,  
23 Mr. Barrett, who asked me if I could become involved.  
24 He informed me that another psychologist, Dr. Mings,  
25 had been working on the case, but had to withdraw

1 because of, uh, a significant physical disorder that he  
2 couldn't continue.

3 And I actually received a note from Dr. Mings  
4 saying that he had -- he had to withdraw, so I became  
5 involved.

6 Hadn't worked with Mr. Barrett before, so we  
7 had a conversation. I -- I have been involved in these  
8 kinds of hearings before.

9 Um, so after we discussed my qualifications  
10 and my experience, I became involved in -- in this  
11 case.

12 Q And when you became involved, were you given  
13 materials to review?

14 A I was given a significant amount of materials,  
15 which included records from the jails, from the  
16 Department of Corrections, um, transcripts of hearings,  
17 transcripts of the original trial, the original  
18 sentencing hearing, penalty hearing, the original guilt  
19 phase.

20 Mr. Barrett provided me extensive, um,  
21 extensive amount of records. I also received from  
22 Dr. Mings, uh, the testing, psychological testing, that  
23 he had conducted before he withdrew from the case.

24 Q And outside of the materials, did you also  
25 speak with, um, any other people about the case?



1           A     I spoke with, uh, uh, Mr. McKenzie's mom and,  
2 of course, the legal team, but...

3           Q     And, um, did you -- at any time did you meet  
4 with Mr. McKenzie?

5           A     I met with Mr. McKenzie several times, four  
6 times at the, uh, St. Johns County Jail. I met with  
7 him in interview as well as administering, uh,  
8 questionnaires, uh, psychological instruments.

9           Q     In the four times that you met with him, how  
10 long did you meet with him each time?

11          A     I don't keep an exact record, but, um -- well,  
12 I do keep an exact record. I'm not sure I have the  
13 exact record. I -- I could, um --

14          Q     Was it over -- over multiple hours each time?

15          A     Yes. Couple hours each time. Uh, sorry.  
16 First time I met with him for a little over two hours.  
17 Um, second time, also a little over two hours --  
18 there's a time issue with the jail sometimes -- um, and  
19 the third time for almost two hours.

20                    Uh, so I think I met with him three times. I  
21 think I misspoke. I have my, uh, my sheet. I met with  
22 him, uh --

23                    (Witness perusing documents.)

24          A     -- three times, for about six hours in total.

25          Q     And during those times, what -- what

1 information did you gather from Mr. McKenzie?

2 A Well, I took some history from Mr. McKenzie.  
3 I took -- I gathered information about the, uh, status  
4 of the case, what had happened previously, uh,  
5 administered psychological questionnaires, um,  
6 discussed -- discussed his life with him, uh, tried to  
7 get a sense of him as a person.

8 Um, my task, my job, is to, um, not  
9 investigate the crime. That's not the role of the  
10 psychologist, but it's to, um, try and get a sense of  
11 the human being who I'm evaluating and then to try and  
12 understand what I like to call his life narrative.

13 Um, you know, what -- what was his life?  
14 What's his life?

15 Um, it's not just the crime, but it's --  
16 there's a life. And the life is complex. And so I try  
17 and gather that by psychological instruments as well  
18 as, uh, interview and, of course, reading records just  
19 to get a historical flavor of what's going on, but, um,  
20 the role of a forensic psychologist is really focused  
21 on the human being, the person.

22 Uh, there's a big legal system to focus on the  
23 crime and the facts of the crime and, uh, who did what,  
24 when, and where.

25 But -- so my -- my role is -- and it's

1 specific. I mean, I was retained by the defense to  
2 provide mitigation. Mitigation is -- there are two  
3 things, mitigation and aggravation.

4 Mitigation are issues to look at that might be  
5 considered in sentencing that are, I guess you could  
6 say, favorable to the defendant.

7 And aggravation are those things that  
8 aggravate what he did and what the sentence might be.

9 So my task is pretty specific, and that's what  
10 I do. I try and, as best I can, make sure I'm getting  
11 honest answers from the person.

12 The psychological instruments that I use have  
13 validity scales, reliability scales, that tell if  
14 someone's being forthright, being genuine, being  
15 honest.

16 And, uh, as -- as is, uh, the, uh, the  
17 discussion, uh, the interview process. And so that's  
18 what I do. And that's what I did in this case.

19 And so I -- I saw Mr. McKenzie. I, uh,  
20 assessed him, uh, and tried to get a sense of him as a  
21 person and a narrative of his life, uh, from early on  
22 'til today -- or not today, but 'til the last time I  
23 saw him.

24 Q So getting a sense of his life, what did you  
25 learn about Mr. McKenzie's childhood?

1           A     Well, the -- it's -- Mr. McKenzie's an  
2 interesting person. He had, in my opinion, a rather  
3 chaotic childhood.

4                     He smoked marijuana, for example, the first  
5 time when he was about five. He found it and he smoked  
6 it, got in trouble.

7                     Uh, his parents divorced at about eight, when  
8 he was about eight. He got in trouble legally at about  
9 ten.

10                    At one point he, uh, he stole food for the  
11 family after the divorce because there wasn't enough  
12 money, and he had -- he had to help his mother.

13                    His mother didn't send him out to do it, but  
14 that's what he did. So in my opinion, you see -- I see  
15 a rather disruptive, chaotic, uh, childhood.

16                    Not one where he was abused by his parents, so  
17 I want to be clear about that, but one that's  
18 disruptive and chaotic.

19                    I mean, smoking marijuana at five years old is  
20 enough for me to -- to make it chaotic, but if I ask  
21 Mr. McKenzie, he didn't see it that way.

22                    He's a very resilient man, and he was a  
23 resilient child. And so although these things  
24 happened, he would describe his childhood as great  
25 because he didn't see it as, uh, he didn't see it as

1 chaotic.

2 I saw it as chaotic. And I'm using the word  
3 chaotic, but I don't think he had, but that's my task  
4 to see.

5 And why -- why would he tell me that his -- or  
6 other people that his life was great? Because that's  
7 how he perceived it. He perceived -- that was the  
8 context that he lived in.

9 And, uh, but regardless of him seeing it as  
10 good, it means that he's resilient. It means that he  
11 doesn't, uh, he didn't become psychologically impaired  
12 by it, but nonetheless it happened. It happened.

13 Not everybody who experiences a trauma, uh,  
14 becomes totally impaired. Some people do. Some  
15 trauma, some people don't.

16 In his case he -- I would imagine if you asked  
17 him, he would say his childhood was pretty good. For  
18 me, I don't think it was pretty good.

19 I think that, uh, it was hard and he survived.  
20 And he did the best he could and, uh, there were a lot  
21 of factors that went into play that he doesn't  
22 necessarily see as traumatic.

23 And -- but, you know, maybe aren't, but for  
24 me, it still is a definition of a chaotic -- at least  
25 those four things, if not more, define, in my opinion,

1 what would be a out-of-the-ordinary childhood.

2 Q And did you confirm things through his mother  
3 that he told you about the childhood?

4 A I did.

5 Q Now, you mentioned marijuana use at the age of  
6 five. Did you talk -- did you get more information  
7 about drug use?

8 A Well, yeah. I think he start -- he used  
9 marijuana at five. He found it. He liked it.

10 At ten, I think he -- I believe -- I'm not  
11 sure of the date. I -- I -- I'm thinking that at ten  
12 he used methamphetamine for the first time.

13 His life has been one that's been focused  
14 around drug abuse. Uh, you know, I don't want to  
15 belabor the point, but if your first experience with  
16 drugs is at five years old, it's a good bet that you're  
17 going to have a drug problem the rest of your life.

18 Q Based on that, can you make any kind of  
19 diagnosis about substance abuse?

20 A I think he has a substance-abuse disorder.

21 Q Aside from his childhood drug use, did you  
22 discuss and find out more about drug use as he became  
23 an adult?

24 A Yeah. He explained to me that every time he  
25 got in trouble, it was a result of drugs, cocaine,

1 methamphetamine, marijuana, any and all drugs, all  
2 drugs.

3 Many drugs that are, uh, considered, uh,  
4 euphoric or, in the vernacular, speedy, uh, make  
5 somebody agitated, aggravated, assertive.

6 So when we talk about his life history, he --  
7 he -- he told me that, um, he believed that all -- most  
8 of the trouble he got into had to do with the use of  
9 drugs.

10 Now, I can't go back to each of those things  
11 and find out, but, uh, seemed consistent and logical  
12 with everything else he told me.

13 Q Did he talk to you about drug use around the  
14 time of the murders?

15 A Yes. He said he was heavily using drugs, that  
16 there was, uh, evidence from, um, the amount of money  
17 he withdrew from his accounts that -- that the -- he  
18 said went to the use of drugs.

19 There's -- seem -- excuse me. It seemed  
20 credible to me, uh, uh, but that -- he said that during  
21 the time of the offense, he, uh, was in a heavy state  
22 of intoxication and that he had been up, awake, for  
23 several days.

24 Um, we know that when people are awake for  
25 48 hours or more, whether it has to do with a

1 psychological condition or drug condition or just  
2 staying awake, they start experiencing paranoia on a  
3 range from just being overly sensitive and wary of the  
4 community, of people, uh, to extreme.

5 I don't think that Mr. McKenzie is psychotic.  
6 I think that he may experience some paranoid  
7 perceptions from the drugs he uses.

8 Q So from a -- a long binge of drugs, a long  
9 time without sleeping, did his -- his impression that  
10 he gave you of being paranoid at the time, would that  
11 fit --

12 A It fits. Another thing that it fits, too, is  
13 a spotty memory. I'm not saying that he lost his  
14 memory, but it becomes spotty.

15 MR. HAMBURG: Your Honor, may I approach the  
16 witness?

17 THE COURT: You may.

18 BY MR. HAMBURG:

19 Q Dr. Bloomfield, I'm showing you what has been  
20 entered into evidence as Defense Exhibits 1 through 4.  
21 Have you seen those before?

22 A Yes.

23 Q Okay. And what are those?

24 A They look like bank statements. Um, I -- I  
25 assume -- I'm assuming they're bank statements. And



1 they show, uh, withdrawals, uh, significant amounts of  
2 money on different dates.

3 Q And are those on different days leading up to  
4 October 4, 2006?

5 A Yes.

6 Q And would those withdrawals fit with needing  
7 money for drugs?

8 A They fit with his description, absolutely.

9 Q Okay. Based upon your, um, your interviews  
10 with Mr. McKenzie, your review of everything else, do  
11 you have an opinion about his -- whether or not he  
12 was -- committed the -- when he committed the crimes,  
13 he was under the influence --

14 A Say again. I'm sorry.

15 Q When Mr. McKenzie committed the crimes,  
16 whether he would have been under the influence of --  
17 under the influence of extreme mental or emotional  
18 disturbance?

19 A Based upon his substance abuse.

20 Q Okay. And would you also be able to talk  
21 about his capacity to appreciate the criminality of his  
22 conduct and conform his conduct to the requirements of  
23 the law at that time?

24 A I think it was impaired because of the  
25 substance abuse.

1           Q     Now, as part of your find -- your review of  
2 all the materials and meeting with Mr. McKenzie, did  
3 you learn that he was an artist?

4           A     Yes.

5           Q     And did you -- did you view his artwork?

6           A     I did.

7           Q     Can you describe that artwork for the jury?

8           A     I'm not an art critic, uh, but it was  
9 different than what I've seen from other men, uh, who  
10 show me their artwork, uh, on death row and, uh, on,  
11 uh, incarcerated settings.

12                     Most people, uh, draw in black and white,  
13 gray. And it's very eerie, scary. And you get a --  
14 you get a look at their personality.

15                     His was very colorful, very bright. Uh, I  
16 know I'm not using artistic terms because I'm not an  
17 artist and I'm not an art critic. I -- I like art.

18                     But, uh, I think it shows that he -- I think  
19 it goes back to that -- what I said earlier about his  
20 resilience to overcome adversity and try and make  
21 something, uh, positive out of it.

22                     So he -- his art flourished and, uh, it's --  
23 they're bright pictures. They're colorful pictures.  
24 They're paintings.

25                     Um, I apologize for my, uh, inarticulateness

1 about describing art, but I've never been one to, uh,  
2 uh -- I go to museums, but I usually say I like that, I  
3 don't like that, but I'm not -- I haven't studied art,  
4 but that's -- but I've studied people and how they  
5 represent themselves.

6 And so you get -- we often see eerie, eerie  
7 things. We see it in young people, we get really  
8 concerned.

9 Well, we get concerned if we see it in adults,  
10 as well, but his art was a different level. It was a  
11 different tone.

12 And it's impressive for someone in his  
13 position and who's observed or experienced some of the  
14 things he's experienced.

15 MR. HAMBURG: Your Honor, may I approach the  
16 witness?

17 THE COURT: You may.

18 BY MR. HAMBURG:

19 Q Dr. Bloomfield, I'm going to show you what has  
20 been premarked as Defense Exhibit for identification E.  
21 Do you recognize that?

22 A Yes.

23 Q And can you tell us what that is?

24 A It's a disc with, uh, representations of  
25 Mr. McKenzie's artwork.

1 Q And is that art on this disc a fair and  
2 accurate representation of the art that you viewed?

3 A Of what I saw, sure. Yes.

4 MR. HAMBURG: Your Honor, at this time we  
5 would tender Defense Exhibit E into evidence.

6 THE COURT: Any objection?

7 MR. JOHNSON: No, your Honor.

8 THE COURT: Without objection, that will be  
9 received as the defense next numbered exhibit.

10 (The above-mentioned item was marked into  
11 evidence as Defendant's Exhibit 5.)

12 MR. HAMBURG: That's all the questions I  
13 have.

14 THE COURT: All right. Cross-examination  
15 from the State?

16 MR. JOHNSON: Yes, your Honor.

17 CROSS-EXAMINATION

18 BY MR. JOHNSON:

19 Q Good afternoon, Dr. Bloomfield.

20 A Afternoon.

21 Q Now, you reviewed -- you talked about some of  
22 the psychological testing you did, but you also  
23 reviewed some other testing that Dr. Mings --

24 A I did.

25 Q -- did prior to you being retained by the

1 defense in this case, correct?

2 A That's correct. Yes.

3 Q And, uh, some of the testing that was done was  
4 actually a -- an IQ test, right?

5 A That's correct.

6 Q The Wechsler Adult Intelligence --

7 A Scale.

8 Q -- Assessment?

9 A Wechsler Adult Intelligence Scale, Fourth  
10 Edition.

11 Q Thank you, sir. And what did the defendant  
12 score on that IQ test?

13 A Just give me a second so I can pull it out.

14 Q Sure.

15 A So I don't -- uh...

16 Q And you could just give us the general or raw  
17 score.

18 A I'm happy when I remember the scores of tests  
19 I gave, but he scored -- his full scale -- the Wechsler  
20 Adult Intelligence Scale, just 30 seconds, is the scale  
21 we use to measure intelligence in adults.

22 There's also one for children. It has  
23 subtests. It has ten subtests. Some of them are  
24 puzzles. Some of them are words.

25 And then those subtests get pulled out into

1 different composite scores. There are five  
2 composite -- four composite scores.

3 And those four composite scores then get  
4 pulled out into forming the full-scale IQ, and that's  
5 typically what we talk about.

6 I'm happy to go further if you would like, but  
7 his full-scale IQ on Dr. Mings' test was 103.

8 Q Which is about average, correct?

9 A Oh, yeah. One hundred is, uh, uh, I'm trying  
10 to think of the word when the -- is right on -- right  
11 at average, uh, uh, 100. So 103 is very close. Yes.

12 Q And when you discussed this, the defendant  
13 actually thought he was smarter than that, didn't he?

14 A Say again?

15 Q When you discussed that with the defendant, he  
16 actually thought he was smarter, didn't he?

17 A He thought he had a higher IQ. Was tested at  
18 one point at higher, it could have been.

19 Q He actually thought his was 120?

20 A One seventeen, I think, was the number, but  
21 close to 120. Yeah.

22 Q Now, you also gave some other testing,  
23 correct, yourself?

24 A Well, I -- Dr. Mings gave some other testing,  
25 as well, and I --

1 Q I'm talking about the testing you gave.

2 A I did. Okay. Oops, sorry. I try to keep  
3 organized. It's not my strong suit.

4 Yes. I did some testing.

5 Q One you gave is the Trauma Stress Inventory,  
6 correct?

7 A That's correct.

8 Q Tell us what that Trauma Stress Inventory is.

9 A It measures signs and symptoms of  
10 posttraumatic stress disorder and acute stress  
11 disorder.

12 So again, 30 seconds, it has 136 symptoms that  
13 are listed, and the person answers in the last six  
14 months how often they have experienced these symptoms.

15 Zero is never, one is a little bit, two is a  
16 little bit more, and three is often. So then I take  
17 all those scores and put them together and see if a  
18 person is -- a person is experiencing signs and  
19 symptoms of predominantly posttraumatic stress  
20 disorder, but could be acute stress disorder.

21 Q What was the purpose of you giving him this  
22 test?

23 A Because he described to me traumas that he  
24 experienced both as a child and during his  
25 incarceration. And Dr. Mings wrote about those

1       traumas.

2                   And so, um, I use this often because it has  
3       validity scales and reliability scales, says whether a  
4       person's, uh, genuinely answering or manipulating.

5                   So I gave him that because I wanted to see if  
6       he was, uh, uh, suffering from posttraumatic stress  
7       disorder.

8           Q       And, now, with regard to some of the trauma  
9       that you said he spoke to you about, he told you he had  
10      never suffered any physical abuse, correct?

11      A       Right.

12      Q       And he told -- also told you that he had never  
13      experienced any kind of sexual abuse, sexual assault or  
14      anything like that, correct?

15      A       Right. There was some incident with a teacher  
16      that he didn't experience as sexual assault. It was a,  
17      well, sponge bath or something.

18      Q       But the way it was described to you, it was  
19      not a sexual assault?

20      A       That's correct.

21      Q       So with -- what were the results of this  
22      instrument you administered to the defendant?

23      A       He showed no signs or symptoms of  
24      posttraumatic stress disorder.

25      Q       In fact, he scored lower than anyone you've



1 ever tested?

2 A That's correct.

3 Q So whatever trauma he may have described to  
4 you, he was sufficient -- he had no anxiety -- he had  
5 no ongoing anxiety or trauma on -- related to that,  
6 correct?

7 A Right. There are different things that it  
8 measures, intrusive -- I'll say a couple. It's an  
9 anxiety-related thing, so intrusive experiences; that  
10 is, reexperiencing trauma, nightmares, uh, defensive  
11 avoidance.

12 People who experience trauma, uh,  
13 unconsciously avoid, uh, uh, um, avoid the situation.

14 So, for example, in the supermarkets, we now  
15 see veterans with dogs who are trained for  
16 posttraumatic stress disorder.

17 And what the dog does is it keeps a -- it  
18 keeps a radius, circumference, one of those words. It  
19 keeps people out of the space of the person because the  
20 person has PTSD, and they have a defensive avoidance.

21 They don't want -- if someone comes in their  
22 space, they start reexperiencing it, so -- but he --  
23 but Mr. McKenzie had none of those symptoms. That's  
24 correct.

25 Q No stress?

1 A Right.

2 Q No anxiety?

3 A That's correct.

4 Q No posttraumatic stress disorder?

5 A That's correct.

6 Q So whatever trauma he observed did not affect  
7 him?

8 A Right. Well, it could have affected -- I  
9 guess that's reasonable. It could have affected him.  
10 He could have dealt with it, but he's not showing any  
11 signs and symptoms at the moment.

12 Q And that's why you describe him today as a  
13 very resilient individual?

14 A Yeah.

15 Q Someone who can experience things that could  
16 be traumatic to maybe someone who's more vulnerable,  
17 but yet absorb that and proceed appropriately?

18 A Yes.

19 Q You also gave a test called the NAS-PI; is  
20 that correct?

21 A That is correct.

22 Q Can you tell us what that is?

23 A That's a measurement -- it's called the Novaco  
24 Anger Provocation Inventory. And it measures a  
25 person -- it's a very similar scoring system.

1           Instead of zero, one, two, three, four choices  
2           that the other thing has, this has three choices, one,  
3           two, three.

4           And so he scored -- so then he answers  
5           questions. Does this create anger for you? Does this  
6           create anger for you? How do you react to this? How  
7           do you react to something else, um, typical  
8           anger-related issues.

9           And, um, you know, how -- how angry do you get  
10          when you're criticized in front of other people? Uh,  
11          uh, how would you rate the -- the sentence, it makes my  
12          blood boil to have someone make fun of me: never,  
13          sometimes, always, questions like that.

14          And he scored very low. He didn't, uh,  
15          experience anger, uh, uh, arousal or behavior or  
16          provocation. He doesn't get angry.

17          Q       So in other words, and what this test kind of  
18          is designed to do is, if somebody does something or  
19          something occurs that would generally make a person  
20          angry, he scored low on that.

21          So he would not get angry in situations such  
22          as that?

23          A       That's correct.

24          Q       Okay. Now, you also administered the MMPI; is  
25          that correct?

1           A     I administered the MMPI, yes, a version of the  
2 MMPI.

3           Q     What is the MMPI?

4           A     It's called the Minnesota Multiphasic  
5 Personality Inventory. It's the most widely used  
6 personality inventory in the world. It's been formally  
7 and officially, uh, translated into nine languages.

8                     Informally, it has been translated into over  
9 60 languages, but I'm reluctant to cite that because we  
10 can't use the ones that are informal because they're  
11 not validated. So nine languages.

12                    It's the most widely used personality  
13 inventory. The one I use is called the --  
14 specifically, the Minnesota Multiphasic Personality  
15 Inventory, Second Edition, Restructured Form.

16                    Just for context, the MMPI, Minnesota  
17 Multiphasic Personality Inventory was developed during  
18 the second world war.

19                    A lot of psychological instruments were  
20 developed during the second world war because we had --  
21 psychologists and behavior analysts had an audience,  
22 soldiers, and they gave them tests and checked things  
23 out with them.

24                    So this is a current version of it. It uses  
25 the same questions. It looks at it a little bit

1 differently, but it's a reliable test.

2 It's used in forensic settings very often and,  
3 um, it's probably eventually going to take the place of  
4 the standard one that was developed in the '40s, but  
5 right now they both exist.

6 I didn't want to belabor it. I just wanted to  
7 kind of contextualize it.

8 Q Yes, sir. One of the things that it tests for  
9 is whether or not a person's suffering from mental  
10 illness, correct?

11 A That's the design, yeah, psychopathology.  
12 Yes.

13 Q And of all the tests that you administered to  
14 the defendant in this case, as well as the tests that  
15 you reviewed that Dr. Mings had performed, there was no  
16 indication whatsoever that the defendant suffered from  
17 any type of mental illness, correct?

18 A Correct.

19 Q Okay. Now, did you discuss with him the  
20 circumstances of the -- the crimes at issue here?

21 A Very, very superficially, but, um, uh, you  
22 know, I read -- I -- I read reports. I -- I -- I --  
23 there's a -- I feel there's a balance for a  
24 psychologist about being an investigator versus, uh,  
25 trying to assess the person's, uh, mental state at the

1 time.

2 So I discussed them. Uh, I -- he acknowledged  
3 that -- he gave a confession. So, I mean, he  
4 acknowledged that -- the crimes and, uh, said he did  
5 them. And, uh, I didn't feel a need to go deeply into  
6 it.

7 Q And that's because -- and I think you put it  
8 in your focus here today -- your job here today is to  
9 focus on his life, not on the crimes that he committed,  
10 correct?

11 A Correct.

12 Q Okay. But he did commit these crimes?

13 A Oh, absolutely. Yeah.

14 Q Okay. And you're here today to discuss with  
15 us and to the jury and to explain to them why it's your  
16 opinion that, I believe, as you -- as you put it, that  
17 his, uh, ability to conform his conduct to the  
18 requirements of the law was substantially impaired at  
19 the time that he committed these crimes, correct?

20 A I did say that. Yes.

21 Q And also that he was experiencing emotional  
22 disorder at the time?

23 A Based upon substance use.

24 Q Okay. What did he -- how -- what did he --  
25 how did he explain to you kind of what happened, his

1 version of the events?

2 A He said he went to the house. He had been  
3 using drugs for days. He had been working with these  
4 men or for these men.

5 And he went to the house and used a tool,  
6 possibly a shovel, and, uh, uh, hit them with it.

7 Q Okay. He told you that he hit them with a  
8 shovel?

9 A I believe. I don't have an exact  
10 recollection. I'll be honest.

11 Q Why did he say he did it?

12 A Say again?

13 Q Why did he say that he did it?

14 A He was upset about the -- the job, about  
15 the -- him -- them owing him money. He wasn't happy  
16 with what was going on.

17 And, uh, and, uh, he became, uh, more  
18 suspicious of them the more he was awake and the more  
19 he was using drugs. And, uh, uh, then he did it.

20 Q Did he tell you that they disrespected him?

21 A I think so. Yes.

22 Q So they, um -- so he was -- they were not  
23 treating him the way he thought he should be treated?

24 A Right.

25 Q Disrespected him?

1 A Right.

2 Q They had been taking advantage of him --

3 A Yeah.

4 Q -- basically, is the way he describes it to  
5 you; is that correct?

6 A Yes.

7 Q And so under his version of events that he  
8 told you, he took a shovel and hit them in the head?

9 A I'm not sure it was a shovel, but yes.  
10 Something.

11 Q But what he told you was that they offended  
12 him; they made him angry?

13 A Yes.

14 Q They disrespected him?

15 A Yes.

16 Q And he lashed out?

17 A That's -- yeah. I think that's the way -- a  
18 way to explain it. Sure.

19 Q Did he ever tell you that he went there for  
20 money?

21 A Yeah. I think he went there for money.

22 Q Well, did you ask him about it? 'Cause that's  
23 obviously two different things there, kind of a motive  
24 for why somebody would -- would hit somebody in the  
25 head with a shovel or whatever it was he told you.



1                   Which was it? Did you challenge him on that?

2           A        I can't say which it was. I think they were  
3 all intermingled and that, uh, some of his presentation  
4 to me is part of, uh, the spottiness that I talked  
5 about before about recollection, uh, and motivation.

6                   Why did he go -- I don't know what his motive  
7 was. I can't talk to his motive, honestly. And I  
8 can't talk to -- I could talk only very little to the  
9 facts of -- of the crime.

10                   I think that there are much better, uh, people  
11 who can discuss the facts of the crime. And so I'm not  
12 an expert in the facts of the crime.

13                   What I'm trying to look at is what the person  
14 does, says, you know. I mean, I even go so far as to  
15 say, well, does this meet the criteria for -- there's a  
16 thing that's called not guilty by reason of insanity,  
17 and I didn't.

18                   But I think he was impaired because of his  
19 drug use and the paranoia that comes from that drug  
20 use. And he acted out and lashed out and, uh, you  
21 know, according to all the records I read and the  
22 trial, he, uh, killed two people.

23           Q        Well, and --

24           A        I mean, I don't have any other way to say it.

25           Q        Well, basically, you say you're not an expert

1 in the facts --

2 A Right.

3 Q -- of the crime. Understood, but your role  
4 here today is to comment on his capacity to appreciate  
5 the criminality of his conduct and conform his conduct  
6 to the requirements of the law.

7 You're saying it was substantially impaired,  
8 and this was at the time the crime was committed.

9 Isn't it important to know exactly from the  
10 person what was going through their mind, what was  
11 going on, what motivated them to do the crime at that  
12 time?

13 In order to be able to reach that opinion,  
14 isn't it important to really delve into those facts and  
15 know them?

16 A I --

17 Q And to be, quote/unquote, the expert on the  
18 facts?

19 A I don't think so. I think I did with the  
20 information I had. It's not -- it's not a -- it's to  
21 the best of my psychological ability, and that's the  
22 best it is.

23 I'm not saying that, um, there's not other  
24 explanations. Other people have other explanations.

25 I'm saying this is my explanation from a

1 scientific psychological perspective, behavioral  
2 science, of what his state -- what his life was like  
3 and what his state of mind was like.

4 He was found guilty of the crime. I'm not  
5 here to discuss the guilt of the crime. And it's  
6 pretty clear that there was a trial and that there --  
7 issues came -- things came up and there was debate and  
8 argument about, uh, those issues.

9 So I can't rehash all of that. I can only  
10 take what I see and what I understand and what my  
11 instruments show me, and try and present a narrative of  
12 a human being as best as I can. That's what I do.

13 Is it failsafe and perfect? I don't think so.  
14 Uh, uh, it's -- to the best of my knowledge, my answers  
15 are accurate. To the best of my psychological ability,  
16 my answers are accurate.

17 I don't pretend to be able to investigate as  
18 good as a trained investigator or even an attorney, uh,  
19 um, because our trainings are different. What we look  
20 at is different.

21 Um, I look at the human being, their mot --  
22 their -- their -- their psychological mechanisms,  
23 whether there's mental illness, whether there's  
24 psychosis, whether there's substance abuse, whether  
25 there's all of those things.

1                   And I try and present it, uh, in as truthful  
2 and accurate as is humanly possible. I'm going to  
3 insist that I'm not -- no. I don't have to be an  
4 expert in the facts.

5                   And, um, I think there are experts in the  
6 facts. And I think that the facts of the case can be  
7 presented by people who are better off -- better to do  
8 that, um, than me.

9           Q       And the facts that you were given were facts  
10 that were told to you by this defendant who stands --  
11 who is on trial today?

12           A       Well, I read transcripts.

13           Q       Okay. But what you're talking about what he  
14 told you about being there and being insulted --

15           A       Well, that's what you asked me about.

16           Q       Right. Those were facts that were given to  
17 you by him?

18           A       Perceptions is what I'm saying.

19           Q       And all those details --

20           A       I'm saying perceptions. You're saying facts,  
21 and I'm saying perceptions.

22           Q       Well, the things he told you?

23           A       Yeah.

24           Q       And if some of the things he told you are not  
25 true, that would affect your opinion, correct?

1           A     Sure.

2                   MR. JOHNSON:  Nothing further, your Honor.

3                   THE COURT:  Any redirect, Mr. Hamburg?

4                                 REDIRECT EXAMINATION

5  BY MR. HAMBURG:

6           Q     Now, Dr. Bloomfield, you also reviewed prior  
7  interviews with Mr. McKenzie, correct?

8           A     Correct.

9           Q     Interviews that he did with law enforcement at  
10  the time of the crimes?

11          A     Yes.

12          Q     Okay.  So the only facts or perceptions that  
13  you got were not just from Mr. McKenzie in the couple  
14  days you saw him at the jail.

15                   The only perceptions that you got about the  
16  case were not just what Mr. McKenzie --

17          A     That's correct.

18          Q     -- reported to you?

19          A     Right.

20          Q     All of the instruments or testing that you did  
21  and reviewed from Dr. Mings, at the time of all of  
22  those tests, Mr. McKenzie wasn't on drugs?

23          A     That's correct.

24          Q     Okay.  And the IQ test we discussed, where  
25  he -- his IQ on the test was 103, that's a standard

1 IQ test that's given to anybody that -- that takes an  
2 IQ test, correct?

3 A Yeah, standard test. I mean, there's -- he  
4 could have been right about the 117. The amount of  
5 drugs that he's told me he used over the years could  
6 have diminished his cognitive ability.

7 It hasn't diminished it below the ability to  
8 perform -- to do all the tasks that are needed to do,  
9 but we know that substance use, abuse, affects -- uh,  
10 diminishes cognitive ability.

11 And if he had tested at 117 or 120 or  
12 whatever, it's possible. And that could have happened  
13 at some point in his life, and then the, uh -- and  
14 assuming that there was significant substance abuse,  
15 um, especially the drugs that -- uh, cocaine,  
16 methamphetamine, and others, that affects the brain.

17 The same sensors that create get -- quote,  
18 getting high also diminish, uh, uh -- there used to be  
19 a commercial, your drugs on brain -- your brain on  
20 drugs or something like that on TV. That's really  
21 true.

22 I mean, our brains are, um, are impacted, uh,  
23 by the use of substances, whether it's alcohol or  
24 cocaine or methamphetamine, because that's -- because  
25 those substances create issues in the brain. That's

1 what creates the euphoria.

2 Q The IQ test, though, doesn't measure one's  
3 technical ability, how to read blueprints, things like  
4 that that's more needed as a vocation?

5 A No, but someone with an average IQ should be  
6 able to read -- I'm not sure what you're asking. No,  
7 it doesn't.

8 Q So he could have been a great assistant  
9 superintendent for a construction company with that  
10 kind of IQ?

11 A Absolutely. Sure.

12 MR. HAMBURG: Nothing further. Thank you.

13 THE COURT: Any recross from the State?

14 MR. JOHNSON: No, your Honor.

15 THE COURT: All right. Dr. Bloomfield, you  
16 are excused.

17 THE WITNESS: Thank you.

18 THE COURT: You can pack up all your stuff.

19 Let me see Counsel at sidebar.

20 Folks, I'm going to meet with counsel at  
21 sidebar, so if you want to stand up and stretch,  
22 that's fine.

23 MR. BARRETT: Judge, can we have them go in  
24 the jury room so I can set up while we're talking?

25 THE COURT REPORTER: Judge, is this on the

1 record?

2 THE COURT: No.

3 (An off-the-record discussion was held at  
4 benchside from 2:07 p.m. until 2:09 p.m.)

5 THE COURT: Okay, folks. We need to get a  
6 couple things set up before the next witness comes  
7 in, so we're going to go ahead and take a break at  
8 this point.

9 It's 2:10, so let's take 20 minutes. So at  
10 2:30, be ready to come back up. I'll have you go  
11 to the jury lounge where you are not obligated to  
12 stay.

13 Again, I know you're going to be sick of  
14 hearing me say this by the end of this trial:

15 You are not to talk about this case among  
16 yourselves or with anybody else. Do not do any  
17 research of any type, and leave your notes here in  
18 the courtroom.

19 I do want to give you an update on our  
20 schedule. We're doing really good. We're not  
21 only on schedule, but we're ahead of schedule.

22 So I do always want to keep everybody advised  
23 about that, especially since I told you it was  
24 going to be all week, and we're moving a bit ahead  
25 of schedule.



1           So if any of that changes either way, I'll  
2           keep you posted, but from this point forward, I'll  
3           try to do my best to keep you posted  
4           schedule-wise.

5           All right. So if you follow the deputy out,  
6           leave your notes here, and we'll see you back at  
7           2:30.

8           (The jury exited the courtroom.)

9           THE COURT: Okay. Y'all can be seated.  
10          Everybody remain in the courtroom for a couple  
11          minutes until we get the jury moved out of the  
12          hallway.

13          THE OFFICER: Your Honor, one of the jurors  
14          handed me a question sheet as I was passing.

15          THE COURT: Okay. Y'all can be seated.

16          You can take them, Frank. Thank you.

17          THE OFFICER: Yes, sir.

18          THE COURT: Okay. Let me read to y'all the  
19          question. I'll let y'all see it, too. And then  
20          however y'all want to handle this, we'll talk  
21          about it. There's a couple of questions:

22          "When was Mr. McKenzie convicted?"

23          Second question, "Is this a repeat of a  
24          sentencing?"

25          Next question, "Was his mother contacted by

1 FDLE between 9/28/06 and 10/45/06 [verbatim]?"

2 So my inclination would be to completely  
3 ignore these questions. Anybody want.

4 MR. JOHNSON: Well, those dates we'll  
5 probably want to clarify in closing, anyway,  
6 'cause if they're on the J and Ss.

7 Obviously, we can't answer the second one,  
8 although I think that got mentioned during  
9 Dr. Bloomfield's testimony, so that question may  
10 have been answered by Dr. Bloomfield.

11 THE COURT: They were mentioned in response  
12 to questioning from the defense, just so the  
13 record is clear on that.

14 MR. JOHNSON: Right.

15 THE COURT: Yeah. We're not going to answer  
16 one and two. They've been told already he was  
17 convicted.

18 MR. BARRETT: Right.

19 THE COURT: When he was convicted is entirely  
20 irrelevant.

21 We're not going to advise the jury this is a  
22 repeat of sentencing.

23 Um, and the other issue, if y'all want to  
24 elicit evidence about that, so be it, but I'll  
25 make this part of the permanent court file, but I

1 have no plan on answering this.

2 MR. JOHNSON: So question number one had to  
3 do with this case, not the prior convictions we  
4 put into evidence?

5 MS. DUNTON: Yes.

6 THE COURT: Yes.

7 MR. JOHNSON: Okay. All right. I understand  
8 now.

9 THE COURT: All right. So we're outside the  
10 presence of the jury. I have all parties present,  
11 including the defendant.

12 So let me first ask the defense. You said  
13 you have one more witness, correct?

14 MR. BARRETT: Yes, Judge.

15 THE COURT: And that's Dr.?

16 MR. BARRETT: Skolly.

17 THE COURT: Okay. And she's a toxicologist,  
18 correct?

19 MR. BARRETT: Right.

20 THE COURT: Okay. And that's -- that's all  
21 you're planning to put on for the defense?

22 MR. BARRETT: Other than if Mr. McKenzie  
23 changes his mind.

24 THE COURT: Other than if Mr. McKenzie,  
25 right.

1 MR. BARRETT: That's correct.

2 THE COURT: Okay. So, Mr. McKenzie, let me  
3 ask you, have you made a decision as to whether or  
4 not you're going to testify in this case?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: What is your decision?

7 THE DEFENDANT: No, sir. I'm not going to.

8 THE COURT: Okay. That's fine. Let me have  
9 you raise your right hand. I know you've done  
10 this before, but just -- I'll do it again.

11 Do you solemnly swear or affirm that any  
12 testimony you give today will be the truth, the  
13 whole truth, and nothing but the truth, so help  
14 you God?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Okay. You can put your hand  
17 down. You can sit down if you want to be more  
18 comfortable.

19 You just told me that you have -- you have  
20 made a decision to not testify in this case; is  
21 that correct?

22 THE DEFENDANT: That's correct, sir.

23 THE COURT: And this is your decision as  
24 opposed to anybody else's decision, correct?

25 THE DEFENDANT: That's correct, sir.

1           THE COURT: All right. Have you had ample  
2 time, meaning enough time, to discuss this with  
3 your lawyer, the pros and cons of testifying and  
4 the pros and cons of not testifying?

5           THE DEFENDANT: Yes, sir.

6           THE COURT: All right. You do -- do you  
7 understand that you do have the right to testify  
8 if you want to, and -- do you understand that?

9           THE DEFENDANT: Yes, sir.

10          THE COURT: Okay. Do you also understand  
11 that if you were to testify in this case, you  
12 would be subject to cross-examination from the  
13 State; you understand that?

14          THE DEFENDANT: I'm aware of that, your  
15 Honor.

16          THE COURT: Okay. Do you also understand  
17 that by exercising your right to remain silent or  
18 your right against self-incrimination and choosing  
19 to not testify in this case, I will advise the  
20 jury that you've exercised a fundamental right,  
21 and they can't hold that against you; you  
22 understand that?

23          THE DEFENDANT: Yes, your Honor.

24          THE COURT: Okay. Are you currently under  
25 the influence of any drugs, alcohol, narcotics, or

1 medications?

2 THE DEFENDANT: Yes, sir, I am, but no  
3 narcotic.

4 THE COURT: Okay. What kind of medications  
5 are you taking or --

6 THE DEFENDANT: I take a -- the medication in  
7 the fight against, um immune system, to help  
8 support my immune system.

9 THE COURT: Okay. Is that the only thing  
10 you're taking?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Does that impair your ability to  
13 understand what's going on here today?

14 THE DEFENDANT: Not in the least.

15 THE COURT: Okay. Do you suffer from any  
16 mental illness?

17 THE DEFENDANT: No, sir, I don't.

18 THE COURT: Do you understand everything  
19 going on here today?

20 THE DEFENDANT: Yes, sir, I do.

21 THE COURT: Has anybody promised you anything  
22 in order to get you to not testify in this case?

23 THE DEFENDANT: No, sir, they have not.

24 THE COURT: Has anybody threatened you in any  
25 way in order to get you to not testify in this

1 case?

2 THE DEFENDANT: No, sir, they have not.

3 THE COURT: And is it -- is it your decision,  
4 made freely and voluntarily, to not testify in  
5 this case in this proceeding?

6 THE DEFENDANT: Yes, sir, it is.

7 THE COURT: All right. I'm going to find the  
8 defendant did freely, voluntarily, and  
9 intelligently waive his right to testify and is  
10 knowingly and intelligently exercising his right  
11 to not testify.

12 Now, Mr. McKenzie, let me ask you this, as  
13 well:

14 You've heard there's going to be one more  
15 witness, a toxicologist or pharmacologist, to talk  
16 about substances and substance abuse.

17 Is there any other mitigation or any other  
18 evidence of mitigation that you believe that your  
19 lawyers should be putting on that they're not  
20 putting on in this proceeding?

21 THE DEFENDANT: Um, no, sir. I -- I believe  
22 that they believe they're doing the best they  
23 possibly can for me.

24 THE COURT: Do you believe they're doing the  
25 best they possibly can?

1           THE DEFENDANT: They're more qualified to  
2 answer that than I am. I'm -- believe me, they  
3 are doing the best they can.

4           THE COURT: Okay. Are you satisfied with  
5 their efforts so far?

6           THE DEFENDANT: Absolutely.

7           THE COURT: Okay. Is there anything that  
8 they've been doing in this case that you're not  
9 happy about, or is there anything they're not  
10 doing that you think they should be doing?

11          THE DEFENDANT: I think that my unhappiness  
12 is based upon my ignorance of what they're doing.  
13 That doesn't mean that they're not doing something  
14 that they're not supposed to be doing, though.

15          I believe they're doing everything they are  
16 supposed to be doing, but, you know, of course, I  
17 have, you know, thoughts on that, but that doesn't  
18 necessarily make my thoughts correct.

19          THE COURT: Well, I -- I'm interested in your  
20 thoughts. Is there anything that you think they  
21 need to be doing that they're not doing?

22          THE DEFENDANT: No.

23          THE COURT: Okay. All right. So let's break  
24 until 2:30.

25          And you'll have your witness ready --



1 MR. BARRETT: Yes.

2 THE COURT: -- to go at 2:30.

3 MR. BARRETT: Yes, Judge.

4 THE COURT: Okay. And then when you're done  
5 with your witness --

6 MR. BARRETT: We'll rest.

7 THE COURT: -- you'll rest your case. The  
8 State wants to put an a rebuttal witness, they  
9 said, tomorrow. The rebuttal witness is  
10 unavailable until tomorrow.

11 MR. JOHNSON: Yes, sir.

12 THE COURT: But we'll do a charge conference  
13 this afternoon once we let the jury go, so that  
14 will probably be in the 3:30, four o'clock range,  
15 guesstimating.

16 Okay. Be in recess until 2:30. Thank you,  
17 everybody.

18 (Court was in recess from 2:17 p.m. until  
19 2:34 p.m.)

20 THE COURT: Y'all can be seated while we wait  
21 for the jury.

22 Let me ask you all some questions real quick.  
23 Assuming the same schedule -- y'all can be  
24 seated -- when you have your rebuttal witness  
25 tomorrow, how long do you think that's going to

1 take?

2 MR. JOHNSON: An hour.

3 THE COURT: Okay. Just an hour. I'm trying  
4 to plan for when we put the jury out.

5 How long for your closing arguments? Now,  
6 the State only gets one, and the defense gets one,  
7 unlike a trial guilt phase.

8 How long do you think you would want for your  
9 closings?

10 MR. JOHNSON: I'm not going to take this  
11 long, but I know, um, you'll limit me to whatever  
12 I say, so I'll say an hour and a half.

13 THE COURT: Okay. What -- the defense, I  
14 guess, how long would the defense --

15 MR. BARRETT: I'll be shorter than he will  
16 be. That's --

17 THE COURT: I'm --

18 MR. BARRETT: That's more than enough time.

19 THE COURT: And I'm not trying to limit you.  
20 I'm trying to figure out if we can put the jury  
21 out to deliberate tomorrow.

22 It looks like we're on track that we could.  
23 The instructions aren't terribly long for this  
24 type of proceeding. We'll just see how it goes,  
25 but --

1           MR. BARRETT: I'll try to time it tonight,  
2           also.

3           THE COURT: Okay. If it's, you know, by two  
4           o'clock, I'll probably send the jury out.

5           If it's really going to be later than that, I  
6           might bring them back the next day, especially  
7           with that storm kind of --

8           MR. BARRETT: Oh, yeah.

9           THE COURT: -- threatening now. I might want  
10          to try to expedite this, just, you know, to not  
11          have to bring the jury back in case they decide to  
12          start shutting down the courthouse, which they do  
13          sometimes days and days in advance of anything  
14          happening.

15          MS. JOHNSON: I didn't even know about the  
16          hurricane until yesterday.

17          THE COURT: Better we're doing it this week  
18          than next.

19          MR. JOHNSON: They say it's a category three  
20          right now.

21          THE COURT: It could become a category three.

22          MR. BARRETT: It could become --

23          MS. DUNTON: Right, right.

24          THE COURT: Being a weatherman is the best  
25          job in the world. You can be wrong half the time

1 and still keep your job.

2 (Court was in an informal recess from  
3 2:36 p.m. until 2:38 p.m. while awaiting the  
4 arrival of the jurors.)

5 THE OFFICER: Jurors are in the jury room.

6 THE COURT: Okay. Everybody ready?

7 MR. BARRETT: Yes, Judge.

8 THE COURT: Okay. We'll go ahead and bring  
9 the jury in.

10 (The jury entered the courtroom.)

11 THE COURT: All right. Y'all can be seated  
12 in the courtroom.

13 And welcome back, everybody. I hope you had  
14 a good break. We are ready to proceed. We left  
15 off right where we're going to start back, which  
16 is the presentation of the defense case.

17 So we'll ask the defense to call your next  
18 witness, please.

19 MR. BARRETT: Thank you, Judge. At this time  
20 the defense would call Dr. Susan Skolly at this  
21 time.

22 (The witness entered the courtroom.)

23 THE COURT: Ma'am, if you'll take the witness  
24 stand right over here.

25 THE WITNESS: Thank you, your Honor.

1           THE COURT: And if you'll remain standing and  
2           raise your right hand, the clerk will administer  
3           the oath to you.

4           THE CLERK: Do you swear or affirm that the  
5           testimony you're about to give will be the truth,  
6           the whole truth, and nothing but the truth?

7           THE WITNESS: Yes, I do.

8           THE COURT: Thank you. You can be seated.

9           THE WITNESS: Thank you, sir.

10          THE COURT: Mr. Barrett, you can proceed when  
11          you're ready.

12          MR. BARRETT: Thank you.

13                   DR. SUSAN SKOLLY-DANZIGER  
14          was called as a witness and, after having been first  
15          duly sworn, testified as follows:

16                           DIRECT EXAMINATION

17          BY MR. BARRETT:

18           Q     Good afternoon, Dr. Skolly.

19           A     Good afternoon.

20           Q     Please introduce yourself to the jury.

21           A     Yes. Good afternoon. My name is Susan  
22          Skolly-Danziger. That's S-k-o-l-l-y hyphen  
23          D-a-n-z-i-g-e-r.

24           Q     And what do you do for a living?

25           A     Well, I do two things for a living. I'm an

1 expert witness in toxicology, pharmacy, and  
2 pharmacology. I work for a group that's called  
3 Psychiatric Affiliates.

4 And I also work in a hospital that's in The  
5 Village -- Villages. I've worked there for eight  
6 years.

7 I work as a clinical pharmacist, and I've also  
8 been the director of pharmacy on and off within those  
9 eight years.

10 Q Just tell the jury a little bit about your  
11 educational background.

12 A Sure. So I started out, um, and I graduated  
13 with a Bachelor of Science in pharmacy. And I received  
14 that in 1980, so I've been practicing for a long time.

15 And then I went back to school to receive a  
16 doctorate in pharmacy, as well, from Nova Southeastern  
17 University, so I have that doctorate degree.

18 I went back to school and I received a Master  
19 of Science in forensic toxicology, and I received that  
20 from the University of Florida.

21 And then I received another degree from the  
22 University of Florida, a Master of Science in  
23 analytical chemistry with an emphasis in forensic  
24 toxicology.

25 I have a certification as a diplomat from the

1 American Board of Applied Toxicology, and that  
2 certification is a, uh, a demonstration of my ability  
3 to be what's called a clinical toxicologist, which is  
4 somebody who understands the presentation and the  
5 behaviors of people who have been affected by drugs,  
6 drug overdoses, drug interactions, and knows how to  
7 treat the symptoms of the effects of drugs on people.

8 Q What is forensic toxicology?

9 A So forensic toxicology is toxicology, and  
10 toxicology is the study of poisons, which can be  
11 manmade, something like methadone, or it can be  
12 something that's biological, sometimes when people eat  
13 poisonous fish or poisonous plants, like poisonous  
14 mushrooms.

15 And so that would be then the spectrum of the  
16 effects that occur when people are exposed to those  
17 poisons.

18 So forensic toxicology is the -- the  
19 investigation of the -- the measurement of body  
20 tissues, such as blood or breath, the accurate and  
21 precise and reliable testing of those body fluids, and  
22 the introduction in a courtroom setting or into an -- a  
23 certification.

24 And that's really the difference between  
25 clinical, which is really taking care of people, and

1 forensic, which is testing those body fluids and then,  
2 uh, applying that to a courtroom setting.

3 Q Are you a licensed pharmacist in any state?

4 A Yes, I am. I first received a pharmacy  
5 license in the State of Illinois in -- a long time ago,  
6 as I said, in 1980.

7 I am a practicing pharmacist here in the State  
8 of Florida, and I also have a pharmacy license in  
9 Louisiana, as well.

10 And I have what's called a consultant pharmacy  
11 license, which allows me to be a director of pharmacy  
12 or to manage people in a long-term care setting or to  
13 be a director of pharmacy.

14 Q You indicated that you're with a group called  
15 Psychological Affiliates, correct?

16 A Correct.

17 Q What is your position with that organization?

18 A So my position, I'm an employee at Psychiatric  
19 Affiliates, and I provide consultation. In other  
20 words, when somebody has a -- a case, such as a legal  
21 case, they might ask me to consult and to review  
22 materials, to review information with regard to  
23 somebody's blood levels or investigate somebody's  
24 behavior with regard to drugs and provide some type of  
25 statement with regard to my findings.



1           Q     Does your responsibility also involve your  
2 being -- acting as a pharmacist for that organization?

3           A     You know, as a pharmacist, most pharmacists'  
4 role is either dispensing or giving information to  
5 doctors with regard to the effects of drugs or  
6 optimizing drug therapy.

7                     So it -- my role is not providing those  
8 services, but I encompass what I know about drugs when  
9 I provide services at Psychiatric Affiliates about how  
10 drugs affect people's behavior, performance, and what  
11 do those levels mean.

12          Q     Do you have any additional professional  
13 experience in toxicology?

14          A     I do. So, uh, after I finished my -- my  
15 Bachelor's of Science, I did what's called a  
16 pharmaceutical residence.

17                     And that's a one-year experience working in  
18 hospital on a clinical floor. And I did that at the  
19 Northwestern Memorial Hospital in Chicago.

20                     And after that, I worked for five years at  
21 Cook County Hospital in Chicago, and all I did was  
22 clinical management of patients.

23                     And that is optimizing drug therapy, working  
24 with a team of physicians, of health professionals, and  
25 how to manage medications for people who were in the

1 hospital.

2           So I -- I did that for five years. Other  
3 things that I've done out -- outside of what I do now  
4 is, um, after I received my doctorate degree, I -- I  
5 worked at the Miami Poison Center.

6           And I was the assistant director of the Miami  
7 Poison Center. And I worked -- the Miami Poison Center  
8 actually has a toxicology center, so I worked in their  
9 toxicology center.

10           And I worked in the poison center, and I  
11 taught poison specialists how to answer the phone and  
12 how to recognize poisoning emergencies.

13           And sometimes it varies. And I'll give you an  
14 example. Sometimes a baby might take a sip of bleach,  
15 which really isn't a very harmful substance when it's  
16 just a sip, but compared to if somebody gets into pool  
17 bleach, which is a very toxic substance because it's a  
18 much more concentrated type of bleach, that could be a  
19 medical emergency.

20           So I -- I was teaching specialists how to  
21 answer poisoning emergencies. So I did that at the  
22 Miami Poison Center.

23           And I was also the director of the Penn State  
24 Medical Center. So I taught residents, pharmacy  
25 students, and specialists.

1                   So I have a lot of experience working in the  
2 arena of poisoning and recognizing what are poisoning  
3 emergencies and what is a true emergency and what is  
4 something where somebody, if they've been exposed to a  
5 poison, can be safely triaged at home.

6           Q       Where was this you were teaching?

7           A       I was teaching at the University of Miami and  
8 also the Penn State Poisoning Center in Hershey,  
9 Pennsylvania.

10          Q       Do you have any certification in your  
11 profession?

12          A       Yes, I do. I'm what's called an ABAT, or  
13 sometimes people call it a DBAT, which is a diplomat of  
14 the American Board of Applied Toxicology.

15                   And I received that designation in 1996. I  
16 have to be recertified every five years, so my original  
17 recert was 2010. It was ten years before  
18 recertification originally.

19                   And then I was recertified in 2015, and I'm  
20 due to be recertified in 2020.

21          Q       I'm assuming the title diplomat has nothing to  
22 do with politics?

23          A       No, it doesn't.

24          Q       What does it mean to be a diplomat of the  
25 American Board of Toxicology?

1           A     One has to have certain training and expertise  
2     in poisoning.  So I had -- I was mentored by experts in  
3     that field.  I had to be credentialed, so in other  
4     words, I had to have certain training in the field in  
5     order to take a very rigorous and comprehensive test in  
6     toxicology.

7                     And it was a three-day test.  And I remember I  
8     took it in Portland, Oregon, and it seemed to rain  
9     every day.  And I was very depressed, thinking I did  
10    not pass it, but I did.

11                    And then so it -- it is a comprehensive review  
12    of -- of all of one's understanding and study in that  
13    field of toxicology and how to -- how to recognize  
14    what's called toxidromes, which are the symptoms that  
15    surround somebody who's ingested a poison, a  
16    constellation of symptoms that -- that are seen in a  
17    person who's ingested a poison, and then to understand  
18    the treatment or the antidotes that are given to  
19    someone who's ingested poisons.

20           Q     And we've all heard the term toxic and  
21    toxicology.  Exactly what does it really mean?

22           A     So, uh, when -- when I talk about poisons or  
23    toxins and I talk about -- it's -- it's a spectrum, um,  
24    of -- it's really a matter of dose.

25                    And, um, so what differen -- what

1 differentiates a -- a poison from a remedy is dose, and  
2 I'll give you an example.

3           If I drank this water, this -- this is  
4 essential for life. If I drank gallons of water, that  
5 would be considered a toxin because I would dilute my  
6 blood so much that my sodium level would go down and it  
7 would be a medical emergency.

8           So sometimes it is about the drug itself and  
9 about how much. So that's why it's important in  
10 toxicology that we look at -- a toxicologist looks at  
11 how much and we measure. We measure the how much.

12           So, again, it's about the drug substance, and  
13 it's about the how much. So it's a dose response  
14 relationship about how much and the effects that the  
15 drugs cause.

16           Q    Are there different areas within toxicology  
17 itself?

18           A    Um, yes. There -- there are different areas  
19 or what I call domains of toxicology. And most of you  
20 have probably heard them or seen them on TV.

21           So one of the areas that's very popular in  
22 toxicology is the medical examiner in autopsy findings.  
23 And that's the -- the measurement of blood and --  
24 of what we call analytes or drugs in the blood to  
25 determine the manner and the cause of death. And

1 that's when a toxicologist would be involved in  
2 that -- that arena.

3 Another area of toxicology would be like a  
4 DUI. So what role does a drug have in determining the  
5 performance of somebody in their behavior and in their  
6 ability to control their movements and their behaviors?

7 And just like you'd probably understand if  
8 you're ever stopped by the police and somebody wants to  
9 know if you've had difficulty controlling your car,  
10 could it be from a drug or could it be from a medical  
11 condition or -- or from something else.

12 So a toxicologist might be involved in  
13 determining if you've ever had testing from an  
14 Intoxilyzer or blood -- blood levels of drugs.  
15 Intoxilyzer would be for alcohol levels.

16 Was -- was there a role in the determination  
17 of those -- the results of those in determining your  
18 performance and behavior.

19 Another area is forensic urine drug testing,  
20 and that's to determine not performance and behavior,  
21 but just drug exposures.

22 And a lot of times in jobs, jobs that have  
23 a -- a -- safety issues that are considered important,  
24 individuals are -- in companies want to know if people  
25 are using drugs on the job, and urine is taken to

1 determine drug use.

2           There is other considerations or domains in  
3 toxicology that are, uh, in hospitals. Somebody's  
4 clinical, uh, clinical performance or behaviors used  
5 by, let's say drug overdoses or drug interactions by a  
6 clinical toxicologist or clinical performance and  
7 outcomes and remedies that are used in a hospital area.

8           And then the last one would be in research and  
9 development in drug companies where a toxicologist  
10 might be used to determine the areas of drug research  
11 and development.

12           Q     Dr. Skolly, have you ever been called to  
13 testify in a criminal or civil action in a courtroom?

14           A     Yes, I have.

15           Q     Roughly how many times?

16           A     I've been called, um, at this point I'm  
17 guessing probably 75, 80 times.

18           Q     And are there counties here in the State of  
19 Florida that you've been called?

20           A     Um, yes. I've been called in, uh, Dade  
21 County, Brevard County, Volusia County, Flag --  
22 Flagler.

23                     I just had a case last week that was in, um,  
24 in the Jacksonville area. I've had Palm Beach County,  
25 Lake County, Marion County, so -- so many counties all

1 over the state.

2 Q In any of those counties that you've testified  
3 or given testimony, has it been as an expert in the  
4 area of toxicology?

5 A Yes, it has.

6 Q Have you ever testified in a case where part  
7 of the punishment involves death?

8 A Yes. This -- this actually would be the  
9 fourth case that would involve a death mitigation or  
10 death sentence.

11 Q So is it safe to say you haven't spent a lot  
12 of your life and practice actually testifying about  
13 death cases; is that right?

14 A Yes, I have.

15 Q Have you been involved with any kind of a  
16 publishing of -- either by yourself or in conjunction  
17 with other experts in your field?

18 A Yes, I have.

19 Q Okay. Could you tell the jury just briefly  
20 about that?

21 A Sure. I published a textbook, uh, that --  
22 that was, uh, about toxicity in jewelers, heavy-metal  
23 poisoning and -- and toxicity with regard to the  
24 materials that a jeweler would be using in a typical  
25 jewelry store, which involve chemicals such as cyanide



1 and acids, what the -- what the exposures would be,  
2 what the outcomes would be, how to prevent these type  
3 of exposures and toxicity.

4 So that -- that was one. It was in a book  
5 with regard to en -- environmental toxicity.

6 Um, my -- my publications, a lot were about  
7 sedative hypnotic medications. I worked for a drug  
8 company where the company was developing a product  
9 would -- that would allow people to -- to sleep for  
10 longer periods of time and not -- not wake up in the  
11 middle of the night.

12 So there were publications that I had with  
13 regard to the drug interactions of this drug, uh, with  
14 the effect of -- of sleep, uh, and, um, what was the  
15 effect if this drug was given over a six-month period.

16 How would it affect somebody's sleep? Even  
17 after the drug is withdrawn, would there be any rebound  
18 type of behaviors after the drug was -- was, um, not  
19 given anymore, so many in the area of sleep medicine.

20 Q Are you a member of any professional  
21 association or organizations?

22 A Yes. As I said, I'm an ABAT. I'm a diplomat  
23 of the American Board of Applied Toxicology. The group  
24 that -- that, um, I perform a lot of my work with is  
25 called ABAT, American Board of Applied Toxicology.

1 I'm involved in the history committee. I'm  
2 involved in the lifelong learning committee, where I --  
3 I develop questions for other people who want to be an  
4 ABAT and assist in writing a test.

5 I review articles and submit questions so that  
6 individuals who want to review new articles that come  
7 out, uh, can -- can review these articles and then  
8 answer a series of questions, and they get credit for  
9 what's called lifelong learning.

10 And then every year, I'm involved in what's  
11 called the -- there's a -- an ABAT dinner, and it's an  
12 awards ceremony. And I help to put it together. It's  
13 always a lot of fun.

14 Q Let's talk about your reason for being here.

15 A Okay.

16 Q How did you become involved in Mr. McKenzie's  
17 case?

18 A I became involved in this case when I received  
19 a call. I believe it was from either you or somebody  
20 in your office, and it was at the end of February,  
21 February the 25th, 2019, asking for my involvement in  
22 this case.

23 Q Okay. And when you were asked to become  
24 involved in this case, were you told how you were going  
25 to be involved?

1           A     Well, what I was asked to do was to -- to look  
2     at materials that would be sent to me and come out and  
3     interview the defendant.  And look at the defendant's  
4     history of his lifelong drug use to determine if there  
5     were any effects, um, that would likely be present from  
6     his lifelong drug use that would affect his  
7     decision-making, his performance, um, that would have  
8     affected his behaviors at the time of the crime and  
9     also look at the -- the drugs or medications that he  
10    was using at or near the time of the crime that also  
11    would have affected his behaviors and performance at  
12    that time.

13          Q     And as part of your becoming involved in this  
14    case, were you limited in any way in terms of your  
15    findings or in terms of what you should look at?

16          A     Um, no.  I -- you know, I asked for materials.  
17    I asked to interview certain individuals.  And no.  I  
18    was given the opportunity to do such.

19          Q     Were you told that you were expected to give a  
20    certain finding or result?

21          A     Not at all.

22          Q     Okay.  Now, you talked about materials that  
23    you were asked to look at.  Can you tell the jury  
24    basically what materials you were provided?

25          A     Yes.  Can I look at my notes to refresh my

1 memory?

2 Q If it would help to refresh your memory.

3 THE COURT: Yes.

4 THE WITNESS: Right. Thank you, your Honor.

5 A So I had quite a bit of materials that I  
6 reviewed. And I -- I'll try to, um, keep -- keep it --  
7 not go through everything, but to give a synopsis of  
8 this, but I had other experts' reports that I did  
9 review.

10 There were some other experts who had  
11 interviewed, uh, Mr. McKenzie from a time back in 2007.  
12 There was a -- there were several mental-health  
13 experts, uh, Dr. Harry Krop.

14 There was a gastroenterologist, so there was a  
15 person who is a -- reviews diseases of the intestines  
16 and the -- and the bowels, and there was a report from  
17 him.

18 There was an -- a -- another mental-health  
19 expert, Dr. Mark Cunningham.

20 There was a -- a presentence investigation  
21 from St. Johns County that I reviewed. It was  
22 September the 26th, 2007.

23 There were some mitigation experts, interviews  
24 that I reviewed with Mr. McKenzie, with his mother,  
25 with, uh, Mr. McKenzie's stepmother that I looked at.



1           Mr. McKenzie sent me two letters. There was  
2 one in March of 2019. One was in April of 2019.

3           Q     Did you also speak to Mr. McKenzie's mom?

4           A     I did. I spoke to Mr. McKenzie's mother. It  
5 was, um, August the 14th of this year.

6           I -- I spoke to uh, Tammy Kimball, which was  
7 August 14th.

8           And I also had two interviews with  
9 Mr. McKenzie. One was March 18th that I came over and  
10 spoke to him at the St. Johns jail.

11           The other one was on August the 8th, and I  
12 spoke to him about four hours over at the St. Johns  
13 jail just recently.

14           Q     After reviewing all the documents that you  
15 mentioned and talking to his mom, Ms. Kimball, and to  
16 Mr. McKenzie himself, did you come to a conclusion as  
17 to whether or not drugs had affected his action at the  
18 time of these murders?

19           A     Yes, I did.

20           Q     Okay. Let's back up now and tell -- how did  
21 you come to that conclusion? How did you develop that  
22 opinion?

23           A     Well, I -- I developed the opinion by look --  
24 looking at the totality of all the records, by  
25 listening to the video, the early videos that were at

1 or near the time of the crime, where Mr. McKenzie had  
2 admitted to using a large amount of cocaine at or near  
3 the time of the crimes and getting information from the  
4 secondary sources, from his mother, from Tammy Kimball,  
5 from his mother, who gave me information about early  
6 drug use, getting information with regard to drug use  
7 that was near the time of the crime.

8 And that's information from Ms. Tammy Kimball,  
9 who he met, um, at two -- between 2005 and 2006, who  
10 had provided information about Mr. McKenzie's large use  
11 of both IV and smoked cocaine.

12 I had information from prison records with  
13 regard to, uh, substance use and with regard to crimes  
14 related to substance use.

15 So I had that information, as well. So it --  
16 it did give me quite a bit of information that would  
17 substantiate and corroborate his early drug use and  
18 later drug use, as well.

19 Q And you also spoke to Mr. McKenzie, correct?

20 A Yes. I spoke to him, as well. Correct.

21 Q And did he provide you with information about  
22 his drug use, his drug history?

23 A Yes. Yes, he did.

24 Q What information did he provide to you?

25 A Um, he -- he -- first of all, when I spoke to

1 him, you know, I was told he might not want to talk to  
2 me. So I was prepared that I might not get much data,  
3 but I think he was very open.

4 He was willing to talk to me. Um, I -- I was  
5 surprised that, um, that we did -- I -- that I did get  
6 some good information from him.

7 And he was very willing to share about what I  
8 think is -- you know, people aren't always willing to  
9 share about their prior drug use because it's, um --  
10 often they're not open about that.

11 So he did -- he was very open about early drug  
12 use, um, drug use that is not very flattering at all,  
13 and he was very good at relaying information, very  
14 specific information, about his drug use, and very  
15 detailed information.

16 Q Do you recall roughly about how old he was the  
17 first time he used drugs?

18 A Uh, yes. The first time that he actually used  
19 drugs, not necessarily got high, was when he was five  
20 years old, which was a -- astoundingly very young.

21 Q Do you recall what the drug was at the time?

22 A Yes. He used cannabis. And he -- he had  
23 found it when he came back from going to school. He  
24 was in an area -- he was in Georgia. Um, I think it  
25 was Warner -- I want to say Warner Roberts [verbatim]



1 was an area where he -- he had been living at that  
2 time.

3 And he was still with his mother and father.  
4 And he was alone and he -- he did not know what it was  
5 at the time, but he had a friend with him.

6 And the brother of the friend told him what  
7 this was and how to use it. And the two boys, the  
8 friend and him, smoked this.

9 And so that was just the beginning of drug use  
10 at a very, very early age, kind of opening the door to  
11 further drug use.

12 Q We've often heard the term "gateway drugs,"  
13 that some drugs sometimes lead to other drugs. Did  
14 Mr. McKenzie's drug use stop at marijuana at age five?

15 A Um, no. No. He did not become hooked or  
16 start using immediately at age five. I mean, that was  
17 a rather young age, but it -- it was the beginning of  
18 this -- this tremendous, um, and horrendous use of  
19 drugs. So no. That was just the very beginning.

20 Q What other drugs did he tell you he used when  
21 he was very young?

22 A So what he did is -- and a lot of it  
23 precipitated from the fact that he -- he did not have  
24 oversight. He did not have limits and be -- because of  
25 his situation, which you might have heard from other

1 people, but he did not have the boundaries set for him.

2 So he's still in this area of this Warner  
3 Roberts, Georgia, and he starts to use inhalants. And  
4 the inhalants were -- because he's in a remote area, he  
5 comes across when he's playing with friends.

6 He starts -- he sees a pile of these, um,  
7 paint -- these paint drying agents, inhalant agents.  
8 And he's using these with a friend, and this is at or  
9 around the age of 11.

10 Q Did he explain to you how he actually inhaled  
11 these cans?

12 A Yes. So the -- um, there's -- there's what's  
13 called, um, huffing, bagging, and sniffing are  
14 different ways to use inhalants.

15 And what he was doing is he was spraying on  
16 a -- a brown napkin, saturating the napkin, putting it  
17 over his mouth and breathing in the fumes until he  
18 would pass out.

19 He would also spray it into a -- a bag, as  
20 well, breathe it -- and this is called bagging,  
21 breathing the fumes until he would pass out, as well.

22 Q Did he tell you roughly about what age he was  
23 at that point?

24 A This was, um, at the age -- at the age of 11.

25 Q Do you recall whether or not he, at age 11,

1 whether or not he was using any other drugs? Was he  
2 still using weed, marijuana, cannabis, or --

3 A So at the -- at the age of 11, he, um, he's  
4 using some occasional weed, but he is not using it  
5 every day.

6 Q What about the cans themselves? How often  
7 would he do it at that age?

8 A So that was one -- uh, one particular summer  
9 where -- where he was, um, in -- that was about 1975.  
10 So he's using it where he's with a friend, and he's --  
11 there's no oversight. And he's using it over that one  
12 summer.

13 Q Did there come a time when his marijuana use  
14 became daily?

15 A Um, yes. His marijuana use becomes daily when  
16 he's at the age of 12. And that's because now he --  
17 he's now living in an area he -- he moves from this  
18 Warner Lambert [verbatim].

19 He's living now in Hollywood, Florida. He's  
20 with his brothers and sisters who now, uh, are -- are  
21 going with him and showing him -- he's the youngest of  
22 the four children -- and showing him now how to use  
23 marijuana and taking him on walks at night, walking the  
24 dog, and showing him to use marijuana. And now he's  
25 doing this every night.

1           Q     Now, earlier you mentioned something about  
2 boundaries. He did not have boundaries set for him.  
3 What does that mean?

4           A     Well, part of it was that at the -- at the age  
5 of eight years old, his -- his father leaves, and now  
6 it's just Mom.

7                     His mother is taking care of him, who does the  
8 best that she can. Um, and this is all that she knows  
9 because she is married very young at the age of 14 and  
10 has Blake, Mr. McKenzie, at the age of 20.

11                    And it's very devastating to have a husband  
12 walk out at a very early age. And -- and, uh,  
13 Mrs. McKenzie then is then trying -- trying to work and  
14 keep it together for -- for the children.

15                    And then she leaves the children then with --  
16 without having oversight and parenting.

17           Q     Okay. Meaning she basically wasn't able to be  
18 there as often as probably would have been necessary  
19 for -- to develop his boundaries?

20           A     That -- that's correct. There's not a parent  
21 in the house watching an eight-year-old child and --  
22 and getting him food and seeing that he's going to  
23 school and making sure that he's doing the things that  
24 he needs to do.

25           Q     I believe you also told the jury he was doing

1 this with older brothers and sister?

2 A Um, yes.

3 Q At some point did he move up from marijuana to  
4 some other kind of drug?

5 A Well, what happens is he starts increasing the  
6 use. And he starts increasing the use for -- for a  
7 reason, because when he's with his father, his -- his  
8 father realizes that, um, you know, he has an exquisite  
9 skill set to fix things, as -- and he's working with  
10 his dad and making money.

11 He's making at this time about 125 dollars,  
12 and he's able to now buy drugs instead of people giving  
13 it to him.

14 So he's making money to buy marijuana, and he  
15 can -- he can smoke, at the age of 12, about -- he buys  
16 what, in old-fashioned terms I'm familiar with, is  
17 called a lid, a lid of marijuana, which is about an  
18 ounce, ounce and a half of -- a lid a week of  
19 marijuana.

20 So he starts using more, and so he increases  
21 drug use at this time.

22 Q Did he at some point start trying cocaine?

23 A Yes. So he -- he tries cocaine and he -- this  
24 is about at the age of 14. And he -- now he's in Fort  
25 Lauderdale, Florida, a new crowd of people.

1                   He has money. It's available to him. He  
2 tries powder cocaine.

3           Q       And how would he administer the cocaine to  
4 himself? How would he use it?

5           A       So he -- he's snorting cocaine. He's not, uh,  
6 using rock at this point, just snorting cocaine and,  
7 um, using, uh, I believe -- I believe, and I -- I might  
8 have misstated on my deposition, but it is one --  
9 one-half gram per week is about that, which is five --  
10 500 milligrams.

11          Q       Is that a lot of cocaine?

12          A       I mean, for a young person, it is.

13          Q       Okay. Did he try any other drug or -- around  
14 that time?

15          A       Um, so at -- at that time he's -- he's now  
16 starting to use alcohol. Um, the alcohol use isn't  
17 substantial, but for -- for a 14-year-old it is.

18                   So he's starting to increase his use of other  
19 drugs. He's -- he's -- he buys a fifth of whisky,  
20 of -- and I -- a fifth of hard liquor and about one --  
21 once a week, and -- and drinking that with friends.

22                   It's hard for me to say how much he drinks,  
23 but he's being exposed now to liquor, as well.

24          Q       At some point did he also started trying to  
25 use meth?

1           A     Um, yes. He -- he was also using -- there's  
2 other drugs. He -- he had a friend who had access to  
3 what's called mandrake, which we know as Quaalude.

4                     So he's using Quaaludes about five times a  
5 week, as well. Quaaludes are sedative hypnotics that  
6 are off the market now.

7                     So yeah. He -- you know, it's opened the door  
8 now to more drug use at this point.

9           Q     Why is Quaalude off the market?

10          A     Um, be -- there were a lot of accidents being  
11 reported with the use of this, you know, very potent  
12 sedative hypnotic, and it was removed from the market.

13                     And, uh, you know, at --

14          Q     If I understand, because of the danger it  
15 posed to people who were using it?

16          A     Uh, yes. Yeah. Be -- because it would, um,  
17 you know, create a situation where people -- people,  
18 um, would basically, you know, fall almost unconscious.  
19 And, uh, and it was -- it was very hazardous.

20          Q     Based upon your knowledge and experience, was  
21 Quaalude ever prescribed to kids?

22          A     It was never prescribed to kids.

23          Q     So for him to be as a young person using  
24 Quaaludes, that would have had quite an effect on him?

25          A     I'm sure it had an effect on him. It's very,

1 very potent, acts quickly, can last about six hours  
2 long.

3 There's a movie called The Wolf of Wall Street  
4 where there was significant, uh, you know, scenes where  
5 the, um, the -- the, uh, people were using Quaaludes.

6 And -- and showing, you know, at the time of  
7 the film in the '70s, uh, you know, how Quaaludes were  
8 very big and -- and, uh, and just a terrible, terrible  
9 drug, terrible drug epidemic, um, you know, before now  
10 our opioid epidemic, but there was just tremendous  
11 effect on people using these Quaaludes.

12 Q At this point he's somewhere around the age  
13 of 17, correct?

14 A At -- at this point he's still 14, 15 years  
15 old, and he hasn't stepped up to the next level yet.

16 Q Okay. What was the next level he stepped up  
17 to, about what age?

18 A So the -- the next level then is then  
19 Mr. McKenzie then, um, is -- he -- he sent -- he goes  
20 back to -- with his mother, um, to Warner Roberts.

21 And then the parents leave -- uh, the  
22 father -- his stepfather at the time, Sonny Littlefield  
23 is then sent to -- to Texas for a very good job.

24 And Mr. McKenzie comes with them, but then  
25 this again opens the door to new people and new drugs.



1 And -- and with this now, there's, um, opportunity  
2 to -- to meet new people who are now using crack  
3 cocaine and going further and using, um, more mandrake,  
4 drinking more, um, you know, also using hashish, so  
5 he's now using steeper drugs.

6 So he gets -- he gets in trouble with the law.  
7 He has a very short, um, I believe it is a jail  
8 sentence.

9 And when he comes out, then he's exposed to IV  
10 methamphetamine, and he is 16 years old.

11 Q What do you mean by "IV methamphetamine"?

12 A It's intravenous use of methamphetamine. And  
13 methamphetamine is a very potent stimulant that is  
14 similar to amphetamine, but it's longer acting and it  
15 has more potency.

16 It produces a higher rush of a -- of -- of  
17 what's called dopamine, dopamine, which, um, is  
18 synonymous with, you know, reward in the brain and a  
19 rush of pleasure. And so it's a -- it's very highly  
20 addicting.

21 Q And when you say "IV," I'm sure you're not  
22 talking about he was having one of those little bottle  
23 things with it dripping into his hand.

24 He was actually using a needle, correct?

25 A No. He starts using a needle. He's using a

1 needle at this point, so injecting, you know, a needle  
2 with a syringe into a vein.

3 Q The times when Mr. McKenzie would stop using  
4 drugs, those were usually when he got locked up for  
5 drug-related offenses?

6 A Yes.

7 Q And, again, the history that Mr. McKenzie gave  
8 you about his drug use, were you able to verify this  
9 history with the people you spoke to, his mom, people  
10 who were around him at the time?

11 A Uh, yes.

12 Q So it wasn't just coming from Mr. McKenzie?

13 A That is correct. The methamphetamine came,  
14 um, after Mr. McKenzie had, um, had -- had been in  
15 prison. He started using the methamphetamine.

16 And then he, uh, then he goes back to  
17 Fort Lauderdale. Then he starts using IV cocaine.

18 Q Okay. At some point Mr. McKenzie's life was  
19 going good. He was working, doing great, correct?

20 A Correct.

21 Q You learned that as part of his history. Did  
22 it continue that way?

23 A Um, no, because he -- he has problems staying  
24 off of his drugs. He does well for a while, but he  
25 tends to what's called relapse, to -- to fall back to

1 drug use because he has a hard time fighting the urges,  
2 the impulse to use drugs.

3 Q I believe AA or AN, Narconon -- Narcotics  
4 Anonymous, NA, excuse me, has a little token or  
5 something they give you, and they use a term  
6 "recovering addict."

7 What does that term mean?

8 A A recovering -- an individual who uses drugs  
9 is always in recovery. They always have to fight to  
10 prevent the triggers from -- from pulling them back to  
11 drug use.

12 So it's always a conscious effort to pre --  
13 prevent an individual from seeing the triggers and the  
14 cues that lead them back to drug use.

15 And it's -- so it -- it's almost like a  
16 known -- it's a -- it's a physical token to -- to hold  
17 on to for somebody to remember what it is they need to  
18 do to fight the, um, the -- the kind of demons that  
19 pull them back to drug use.

20 Q So it is essentially a lifetime attempt to  
21 stay away from drugs?

22 A Absolutely.

23 Q In your conversation with the people you spoke  
24 to as well as Mr. McKenzie and the records you looked  
25 at, do you know whether or not Mr. McKenzie attended

1 any drug or alcohol treatment?

2 A Um, speaking with Mr. McKenzie, he denied that  
3 he ever did. I looked at the -- there were some  
4 records that I talked about, a three-page record, with  
5 regard -- with regard to the inmate educational  
6 program.

7 There were -- there were two records. There  
8 was an alcohol anonymous and an NA program that looked  
9 like they were started, but never completed.

10 So it looked like two hours of AA and maybe  
11 perhaps maybe four hours of NA on the same day, but  
12 that was the extent of the Alcoholics Anonymous and the  
13 Narcotics Anonymous programs.

14 Q So he may have started it, but he stopped?

15 A He did not finish.

16 Q Is that unusual for people who are drug users  
17 and addicted to drugs?

18 A That is correct.

19 Q It's not unusual or is unusual?

20 A It's not unusual.

21 Q Is that part of it because a lot of times they  
22 think they can control it themselves?

23 A That -- that's absolutely correct.

24 Q What did you learn about his drug use when you  
25 spoke to, um, his mom?

1           A     Um, what his -- what his mother said was that  
2 she -- she, um, knew that he started using drugs, um,  
3 at the -- at the age of 12.

4                     And, uh, she said she could not stop him from  
5 using. She said that the first time that she -- she  
6 found out about it was she got a call from the school.

7                     And this was in Warner Rob -- when she's  
8 living in Warner Roberts, Georgia. And she knew where  
9 she could find her son, and there were big areas where  
10 he -- where he would go and he would be with other  
11 people.

12                    And she caught him smoking marijuana, and she  
13 would tell him to stop. And he kept going and  
14 persisting.

15                    And that -- those were her words, that I could  
16 not get him to stop. He -- he would not. Um, she had  
17 a hard time getting him to go to school, and he was  
18 very, um, persistent.

19           Q     So at that point when he was still young, the  
20 drug was already affecting his life?

21           A     The drugs were already affecting his life.  
22 Um, there was -- there was another instance where she  
23 said that -- that her son had told her about a time  
24 when he was using Pam spray, which is an inhalant, and  
25 he was using it with his cousin Buddy.

1                   And his cousin Buddy, there were -- Cousin  
2 Buddy lived in a house that was several miles away from  
3 his house. And Mr. McKenzie was teaching his cousin  
4 Buddy how to do these inhalants, the huffing and  
5 bagging.

6                   And what happened was, the two boys were in  
7 the kitchen. They were trying to cook something in a  
8 frying pan.

9                   They walked away from the frying pan. They  
10 went into a back room. The two were using these  
11 inhalants and blacked out in the back room.

12                   The frying pan caught on fire. When the two,  
13 um, came up from their blackout, they realized that the  
14 kitchen had caught on fire. Cabinets had caught on  
15 fire.

16                   Mr. McKenzie said that he doused the pan with  
17 some water, but the flames came up. And then there was  
18 extensive damage to the kitchen. The house did not  
19 burn down, but extensive damage to the kitchen.

20                   And the only -- the reason why Mrs. McKenzie  
21 had found out about it is because Blake, her son,  
22 told -- told her that -- that it was not Buddy's fault.  
23 He said he took the blame for it.

24                   Q     What about in your discussion with, um,  
25 Ms. Kimball, what did you learn about his drug use?

1           A       So what I learned from Ms. Kimball is that  
2 Ms. Kimball had known Mr. McKenzie at or around 2005 to  
3 2006. Ms. Kimball had been living at a Hotel 6  
4 [verbatim] in Gain -- in Gainesville.

5                   And at the time, um, Ms. -- Ms. Kimball had an  
6 addiction to methamphetamine. She was a prostitute.  
7 She had an addiction to -- I believe it was IV  
8 methamphetamine.

9                   And she thought that Mr. McKenzie was a  
10 policeman because he was sitting in a car, and he  
11 looked clean-cut and he was always in the parking lot.

12                   But I guess they got to know each other, and  
13 then when he came up to her room, he began to use IV  
14 cocaine. And she was astounded because she didn't  
15 realize that he had such an incredible drug problem.

16                   What -- what had happened, though, he actually  
17 had -- he was clean until that point, and he had -- he  
18 had relapsed at that time. So that was really the  
19 beginning of his relapse when she had met him.

20                   Mr. McKenzie then had felt -- then failed a  
21 drug test. Um, he failed -- he violated his terms of  
22 probation. He ended up going back to prison for seven  
23 months.

24                   And when he came back, he still became  
25 friendly with, uh, with Ms. Kimball. And so she knew

1 him very well from that time forward until the time of  
2 the crimes.

3 Q Now, we've all seen -- there was once a  
4 commercial: "This is your brain. This is your brain  
5 on drugs."

6 Could you tell us, how does the brain affect  
7 individuals? Could you explain that to the jury?

8 A Well, I have a PowerPoint, and maybe it would  
9 be easier if I use that PowerPoint, if -- if that's  
10 okay?

11 THE COURT: Any objection?

12 MS. DUNTON: No, your Honor.

13 THE COURT: All right. Go ahead.

14 THE WITNESS: Can you -- can you back it up?

15 MR. BARRETT: I'm going to the beginning.

16 THE WITNESS: All right. Yes.

17 So this is --

18 MR. BARRETT: Judge, may I approach?

19 THE COURT: Sure.

20 THE WITNESS: Thanks.

21 BY MR. BARRETT:

22 Q Okay. Forward, backwards, hopefully it works.

23 A And I'm not the best with the AV equipment, so  
24 please, I apologize in advance.

25 So what I plan to talk about is what happens



1 when somebody uses drugs chronically, how it affects  
2 the brain, especially in adolescence, what happens to  
3 the -- the brain structure and function.

4 There's short-term drug -- also want to talk  
5 about the short-term use of cocaine and the effects on  
6 the brain from the chronic use of cocaine, okay?

7 So, first of all, I think it -- it's good to  
8 talk about some terminology. So there are cells in the  
9 brain, and they're called neurons.

10 And the neurons in the -- in the nervous  
11 system, they're like -- they're like a hard drive of a  
12 computer. So the neurons, which are these cells, they,  
13 um, they -- the neurons talk to each other.

14 And, um, how they do that is they generate --  
15 there's electrical currents that connect through bands  
16 of fibers in the brain. And these are called axons.

17 And axons are very efficient, but how they do  
18 this is the axons need to be insulated just like the  
19 telephone poles outside. You've got this -- this  
20 coating.

21 So the axons need to be coated to be  
22 efficient. And how they're coated, it's what's called  
23 myelin. And myelin insulates these axons and the  
24 better the insulation, the faster the connection.

25 So myelin is produced by what's called a

1 Schwann cell in the brain, which produces that myelin  
2 sheath. So the better the insulation, the -- the  
3 better the high-speed connection.

4 So this is a picture of what I'm talking  
5 about, this -- this Schwann -- the Schwann cell that  
6 secretes the myelin.

7 And the Axon is what is the messenger from --  
8 does this actually have a -- oh.

9 THE COURT: Looking for a pointer?

10 THE WITNESS: Yeah. I'm looking for a  
11 pointer here.

12 MR. BARRETT: Oh, I'm sorry. It does have --

13 THE WITNESS: Sorry. I'm not good at --

14 MR. BARRETT: That's okay. Let's first make  
15 sure I didn't turn it off. Okay.

16 MR. JOHNSON: Mr. Barrett.

17 MR. BARRETT: I'm sorry. I'll move.

18 MS. DUNTON: No.

19 MR. BARRETT: Oh, the old-fashioned way.  
20 Show me up.

21 THE COURT: We have an old-fashioned pointer.

22 A So this is -- this is the cell body here. So  
23 I talked about the -- this is the, uh, the neuron.  
24 This is the live part of the cell.

25 And the messages come into this area here

1 called the dendrite. These fingerlike structures  
2 collect electrical and chemical messages from other  
3 cells that come into the cell body here.

4 MS. DUNTON: Your Honor, I'm going to object  
5 to just a continuous narrative presentation.

6 THE COURT: Mr. Barrett, can you ask  
7 questions?

8 MR. BARRETT: Sure. We'll do it that way.

9 THE COURT: We seem to have lost the  
10 PowerPoint.

11 THE WITNESS: Oh.

12 MR. BARRETT: Give me a minute.

13 BY MR. BARRETT:

14 Q All right. Now, you did say that the use of  
15 drugs does have an impact on the brain, correct?

16 A It does.

17 Q Okay. And how does it impact the brain? Is  
18 it functionality in terms of the impact?

19 A Well, I think what I said is very important  
20 here because what happens is, the use of cannabis, the  
21 use of alcohol, affects the -- what's called the -- the  
22 myelin sheath, which is that white matter.

23 I talked about how it's important to have a  
24 good connection. It affects the development of that  
25 myelin sheath, which -- and the development, this --

1 this, um, this process which is called, um, synaptic  
2 pruning, which improves the capacity of that myelin  
3 sheath, takes place during adolescence.

4 This what's called synaptic pruning also  
5 improves the integrity of that dendrite. Remember that  
6 fingerlike projection that I had?

7 Q Okay. Let me just stop you for a second  
8 'cause when I'm thinking of pruning, I'm thinking of,  
9 like, trees. Is that essentially what it does?

10 A That's exactly what it does. It gets rid of  
11 the bad branches that don't connect very well, that  
12 don't pick up the messages very well, and improve --  
13 improves more healthier structures.

14 So that takes place during adolescence. And  
15 that process takes place during -- uh, at a point in  
16 adolescence all the way 'til somebody's about 25 years  
17 old, this process called arborization or synaptic  
18 pruning.

19 And it improves -- it fortifies the structures  
20 of the dendrites. It fortifies the structures of those  
21 axons so there's better communication.

22 And that white matter is solidified, and it  
23 improves what -- what I call the gray matter, and that  
24 gray matter being the -- the -- the cell bodies  
25 themself; the synapses, which is are the spaces between

1 the cells; the what are called glial cells, which  
2 provide all the nutrition to the -- the -- the cell  
3 bodies.

4 Q Okay.

5 A So all of it is very important. And it takes  
6 place at a very critical time, which is during the  
7 adolescence.

8 Q So in Mr. McKenzie's case, when he started  
9 using not just marijuana, but cocaine and -- and this,  
10 uh, huffing, that affects the messaging between the  
11 parts of the brain? It affects the brain directly?

12 A Yes -- yes, it does, because it affects  
13 certain hormones that -- that are neg -- that  
14 negatively affect.

15 It produces increased amounts of epinephrine,  
16 norepinephrine, and cortisol and decreases a very  
17 important component called brain-derived neurotrophic  
18 neurotrophic factor, which is important for that growth  
19 process.

20 That's why it's important because -- because  
21 drugs negatively affect the hor -- hormone production  
22 that is important to brain growth.

23 Q And the earlier you start using these drugs,  
24 the effect becomes more permanent, correct?

25 A Yes, it does. It can be permanent. And yes.

1 The earlier, the more devastating the effects.

2 Q You talked about marijuana. Does cocaine have  
3 the same effect in terms of damaging the brain?

4 A Cocaine has a different effect in that, uh,  
5 it -- it does affect the stress hormones that I talked  
6 about where it decreases that's -- what's called BDNF,  
7 the brain-derived neurotrophic factor, which is  
8 important for that development and increases stress  
9 hormones, but it does one other thing.

10 It decreases the -- the, uh, receptor sites on  
11 those dendrites that -- that collect the messages. So  
12 it decreases that.

13 It dampens -- it -- it doesn't allow the  
14 messages to come through, so there's what's called down  
15 regulation -- that's terminology -- down regulation of  
16 the receptors.

17 And when there's down regulation, it may take  
18 years for the -- for the receptors to reestablish  
19 themselves.

20 So that's -- that's problematic. In other  
21 words, it takes more drug to get the message across.  
22 That's why there's something called tolerance.

23 That's why people keep using more and more and  
24 more drug because the receptors have diminished.  
25 There's down regulation. There's less receptors.

1 That's why you see people needing more and more and  
2 more drug to get the same effect.

3 Q Would also -- would the drug use, cocaine,  
4 also affect the organs in the body? Can they do any  
5 damage to organs?

6 A Oh, there's devastating effects to cocaine  
7 use. Cocaine is what's called a vasoconstrictor,  
8 constricts blood vessels so there is less blood flow to  
9 every organ in the body.

10 So individuals have high blood pressure and  
11 stroke and what's called infarction, reduced blood flow  
12 to, again, every organ in the body. Uh, so heart  
13 attacks because of that reduced blood flow, yes.

14 Q As part of the records you reviewed, you  
15 learned that, um, Mr. McKenzie contracted HIV and  
16 hepatitis C from drug use.

17 Is that consistent with your studies and with  
18 also the history you received?

19 A It's consistent with people who are using  
20 needles to inject drugs.

21 Q Would the hepatitis C, would that affect the  
22 need for more drugs or the affect -- in terms of  
23 controlling the drug use?

24 A What -- what happens in hepatitis C is the  
25 liver doesn't function very well. The liver then

1 doesn't clear the drug very well, doesn't metabolize or  
2 eliminate drugs very well.

3 So then when somebody is using a drug that  
4 needs to be metabolized by the liver, then there's  
5 essentially a higher amount of drug, um, for -- for  
6 every dose because the -- the liver isn't working as  
7 well.

8 The person's ex -- getting more drug for every  
9 dose of drug they get because the liver isn't clearing  
10 it.

11 Q In this case and part of what you've reviewed  
12 is that Mr. McKenzie had a relapse sometime in July of  
13 2006 and started again to use cocaine, um, from 2006 up  
14 until October, the time of this incident, almost on a  
15 daily basis.

16 Would that affect Mr. -- I said McClain. I'm  
17 sorry -- Mr. McKenzie's ability to, um, control his  
18 conduct, to, um, conform his conduct to the  
19 requirements of the law?

20 A Yes.

21 Q How?

22 A Uh, this goes back to the issue of, um,  
23 addiction of, um -- and especially with a drug like  
24 cocaine, that there's -- when somebody who has a  
25 cocaine addiction even -- if they see a drug or think



1 of a drug, um, there's conditioning, conditioning to  
2 want to use.

3 That is, again, if they don't have the tools  
4 to -- to stop and say, wait. Can't do this. How to  
5 deal with the trigger, again, the cueing.

6 Then they -- they -- they -- they are out of  
7 control. They have no control over their drug use.  
8 And that is -- that is the illness, is the, um, the  
9 loss of control over drug use.

10 The -- the -- the need to use a drug  
11 compulsively, um, despite the harm it causes, despite  
12 the harm it causes socially, with regard to somebody's  
13 health, with regard to their legal issues, um, and  
14 with -- with regard to any aspect of their life.

15 And that -- that is addiction. So this is --  
16 the issue is that he has this, uh, this lifelong  
17 addiction that he has no tools to use how to keep it in  
18 check.

19 And so this has been the -- the devastating  
20 issue for Mr. McKenzie, that he has no control over his  
21 actions because of his drug addiction.

22 Q Would it also affect his ability -- was he --  
23 well, did it affect his ability to control his actions  
24 to the extent where he would have been under, um,  
25 essentially emotional stress at the time of the

1 offense?

2 A Yes. And in particular, he -- he was -- he  
3 was acting in a -- as he describes it, he was in an  
4 altered reality. He was hearing and seeing things that  
5 were not present because of his drug use, so yes.

6 Q So --

7 A Um, that's what the drug effects were. It was  
8 causing him to think things that were -- that were not  
9 real were there. So that was the additional stress  
10 that he had.

11 Q And that would have also affected his paranoia  
12 and delusions at the time of the offense?

13 A Yes, because of his drug use.

14 MR. BARRETT: If I could have a second?

15 THE COURT: Sure.

16 You have no more questions? Okay.

17 Everybody okay on the jury? Anybody need a  
18 break?

19 (The jurors indicated in the negative.)

20 THE COURT: Okay. Go ahead, Ms. Dunton, on  
21 cross-examination.

22 MS. DUNTON: Thank you.

23 CROSS-EXAMINATION

24 BY MS. DUNTON:

25 Q Good afternoon, Doctor.

1 A Good afternoon.

2 Q You testified earlier about the fact that you  
3 testified at least in four death-penalty proceedings;  
4 is that right?

5 A Yes.

6 Q In addition to other testimony I know you've  
7 given, but four death-penalty cases?

8 A Correct.

9 Q And those were all for the defense?

10 A Yes.

11 Q And, um, you gave a list of materials that you  
12 reviewed in this matter, a lengthy list of materials.

13 Did you review any of the St. Johns County  
14 Sheriff's Office reports about the homicide?

15 A I did.

16 Q Okay. Which ones were those?

17 A I reviewed -- it was a -- a presentencing  
18 report.

19 Q You're familiar that presentence reports are  
20 prepared by the Department of Corrections for the  
21 Court; is that right, by probation officers?

22 A Um, no. I -- I don't know who it was prepared  
23 by.

24 Q You're not familiar with reviewing PSIs in  
25 your line of work?

1 A I'm sorry?

2 Q You're not familiar with reviewing PSIs in  
3 your line of work?

4 A I reviewed them, but I'm not aware of who it  
5 was prepared by.

6 Q It was prepared by DOC. So my question is,  
7 did you read anything that was prepared by St. Johns  
8 County Sheriff's Office?

9 A No, but I -- I listened to the interviews.

10 Q Of the defendant's account --

11 A Of the --

12 Q -- correct?

13 A I listened to the interviews.

14 Q Of the defendant?

15 A The questions that were asked.

16 Q Interviews of the defendant, correct?

17 A Correct.

18 Q Did you review any of the reports from Alachua  
19 County, Broward County, Marion County as to his prior  
20 offenses to which he may or may not have been using  
21 drugs at the time of those?

22 A No, I did not.

23 Q Did you ask him about those prior offenses?

24 A I did. I asked for all the materials.

25 Q Did you ask the defendant about those prior

1 offenses?

2 A No. I did not ask about offenses. My role  
3 was to ask him about drug use.

4 Q And did you ask him about -- um, you didn't  
5 ask about the priors. Did you ask him about the  
6 homicide then?

7 A No. My role is not to ask about the homicide.  
8 My role is to ask about drug use.

9 Q Okay. Because you just testified as to an  
10 opinion as to the homicides and the fact that he's  
11 under emotional distress at the time of the homicide,  
12 correct?

13 A Um, yes.

14 Q But you didn't ask him about what he was doing  
15 and thinking at the time of the homicide?

16 A I -- I asked him about his drug use at or  
17 around the time of the homicide.

18 Q Okay. What did he tell you?

19 A Um, he told me at the time that he -- that he  
20 thought that individuals were after him, and he was  
21 extremely paranoid. And so that -- those were his  
22 thoughts.

23 Q Okay. What individuals?

24 A Um, well, he could not elaborate on what -- he  
25 just said that people were after him. He did not

1 elaborate on which people.

2 He thought it might be police officers. It  
3 might be the FBI, might be the CIA, but he felt very  
4 persecuted.

5 Q So in general, around the time of the murders,  
6 he was paranoid; is that fair?

7 A Yes.

8 Q Are you describing that, like, nine-day period  
9 where he claims he didn't sleep, or are you talking  
10 about the day of the murder?

11 A I'm talking about the day of.

12 Q The murder?

13 A Correct.

14 Q But you didn't ask about what actually  
15 happened at Charlie and Randy's house that caused him  
16 to kill these people?

17 A No. That is not my role to ask him about what  
18 caused him to kill the people. I asked him about his  
19 drug use.

20 Q Correct, but you testified that his drug use  
21 caused emotional disturbance which caused him to kill  
22 these people, but you didn't ask about that?

23 A Well, I didn't say that caused him. I said  
24 that that was his emotional state.

25 Q But you didn't ask about the murder and what

1 was happening at the time of the murder, did you?

2 A No.

3 Q And, again, you just testified that he didn't  
4 have an ability to conform his conduct or appreciate  
5 the criminality of homicide due to drug use, but you  
6 didn't ask him about the homicide, correct?

7 A No. I did not ask him specific questions  
8 about his homicide.

9 Q You've done a lot of talking this afternoon  
10 about drugs and the effects on persons' brains. You  
11 testified that, generally, a brain -- um, the brain  
12 develops and continues to develop until we're about 25  
13 years old; is that right?

14 A Correct.

15 Q You previously said, though, that the brain is  
16 90 percent developed by the age of six; is that right?

17 A I said that in my deposition. I was not able  
18 to discuss that information in front of the jury.

19 Q You said that in your deposition. So is  
20 90 percent of our brains developed by the age of six?

21 A Yes.

22 Q Is that a true statement?

23 A That is true.

24 Q So 90 percent of our brains are done  
25 developing by the age of six?

1 A Correct.

2 Q So only 10 percent is still developing  
3 throughout your life; is that correct?

4 A That's true.

5 Q And you've testified about white matter, and  
6 I'm going to forget a lot of the terms used, receptors,  
7 things like that, but you have no scans of the  
8 defendant's brain in this case, correct?

9 A I don't.

10 Q So you have no scientific evidence if, in  
11 fact, any of this has occurred in his brain over time?

12 A I don't have those scans. Correct.

13 Q Because you've taken a lot of the history from  
14 the defendant himself; that's your source, correct?

15 A I have a lot of history from the defendant.

16 Q And Mr., um -- strike that.

17 Let me ask you about the behaviors and what  
18 drugs and chronic use of cocaine can do to individuals.

19 You previously testified that it could cause  
20 hyperactivity, correct?

21 A Yes.

22 Q Psychosis in a lot of people, correct?

23 A Yes.

24 Q Okay. And other mental-health issues that can  
25 be caused by chronic cocaine or drug use; is that



1 right?

2 A Uh, right. It depends what stage someone is  
3 in as to what aspect of the effect it's showing.

4 Q Okay. But Mr. McKenzie has no mental-health  
5 diagnosis that you're aware of, correct?

6 A Correct.

7 Q You know he's operating at an average IQ,  
8 right?

9 A Correct.

10 Q And you have no evidence, um, about his brain  
11 and whether it's been changed at all by any drug use,  
12 correct?

13 A Right, um, but let me add this:

14 So this -- this is now many, many years after  
15 his drug use. And, uh, I -- he is not using drugs in  
16 prison, as far as I know.

17 And there is regeneration of those dopamine  
18 receptors, so it would make sense that he doesn't have  
19 residual effects at this time since he's been  
20 interviewed.

21 Q Correct, but you reviewed reports that went  
22 all the way back to doctors that talked to him in 2006,  
23 2007, correct?

24 A Correct.

25 Q And no mental-health diagnosis?

1 A Uh, at that time, yes. That's --

2 Q An average IQ?

3 A Yes.

4 Q Nothing drastically different than 2019 where  
5 we are now?

6 A Correct.

7 Q And since you mentioned DOC and drugs in DOC,  
8 you said that he denies any substance-abuse help, but  
9 you saw a little bit in the records with that, correct?

10 A Correct.

11 Q That it had been offered to him. It looks  
12 like he started, I think, a couple hours of AA and NA,  
13 but that it was -- obviously, in DOC you're familiar  
14 that that's not forced upon them. It's offered  
15 sometimes and it's their choice, correct?

16 A Correct.

17 Q And he chose not to participate in that beyond  
18 a few hours, it looks like, correct?

19 A Yes. It's true.

20 Q Mr. McKenzie, I believe he has told you that  
21 at some point in his life, his cocaine habit was up to  
22 a thousand dollars a day; is that right?

23 A Correct.

24 Q Do you know what period of time he was talking  
25 about there?

1           A     Um, so he told me that between the ages of 17  
2     and 20, he had a -- a large use of cocaine and so at or  
3     around that time.

4           Q     At ages of 17 to 20?

5           A     Yes.

6           Q     Did you find that to be credible?

7           A     Uh, now, I -- I have nothing to corroborate  
8     that, but he was involved in, you know, robbery,  
9     burglary.

10           A     So, um, that would sup -- that would  
11     substantiate that he was robbing to support his cocaine  
12     habit.

13           Q     You would agree that a thousand-dollar-a-day  
14     habit is 365,000 dollars a year that he would need to  
15     be using, correct?

16           A     That's true.

17           Q     Do you find that credible at all based on what  
18     he told you about what he was doing in his life at ages  
19     17 to 20?

20           A     Well, he said that he was robbing, um, and,  
21     you know, individuals would ask him to -- to pick  
22     certain homes and areas to go into and rob and, you  
23     know, very expensive merchandise.

24           Q     Okay, but 365,000 dollars a year worth?

25           A     Well, that I don't know, but very expensive

1 merchandise, um, Oriental rugs.

2 Q Okay. And you spoke with or reviewed  
3 information from Tammy Kimball; is that right?

4 A Correct.

5 Q And she explained the defendant was never  
6 violent with her, is that right, when he was using  
7 drugs?

8 A Um, he -- she didn't explain -- she didn't  
9 share anything about his violence. Correct.

10 Q Okay. And you didn't ask about whether he was  
11 violent or how he treated her when he was high?

12 A Um, no.

13 Q Okay. And I believe you testified earlier  
14 that she, um, said that he came into her hotel room and  
15 was using IV cocaine; is that right?

16 A Correct.

17 Q Are you aware she's testified, um, and stated  
18 otherwise, that she was the one that introduced him to  
19 IV cocaine there in 2005 or 2006?

20 A Uh, no. I didn't hear her testify, so no, I  
21 did not.

22 Q When did he tell you he started using IV  
23 cocaine?

24 A He started using IV cocaine when he was 17  
25 years old.

1 Q That's what he told you?

2 A Correct.

3 Q And, Doctor, there's several reasons why  
4 people use drugs; is that right? Is that fair?

5 A There's many reasons why people use drugs.

6 Q One of the reasons why people use drugs is to  
7 self-medicate; is that right?

8 A That's a very common reason. Yes.

9 Q Right. Sometimes self-medicating for physical  
10 pain, correct?

11 A Correct.

12 Q And sometimes psychological, suffering from  
13 mental illness, um, or psychosis, you may self-medicate  
14 with an illegal drug versus a prescription drug; is  
15 that right?

16 A Yes.

17 Q And another reason people use drugs -- they  
18 don't have to have any of those problems -- they can  
19 just be thrill seekers and somebody who likes to party  
20 and use drugs; isn't that fair?

21 A That's possible. That's usually how it  
22 starts.

23 Q Okay. And that's why the defendant in this  
24 case uses drugs, correct?

25 A No. I -- I think maybe that's the way he

1 started, but after that, he becomes addicted. And then  
2 he needs to keep using to pre -- to prevent the crash  
3 and to prevent some of the other problems that he's  
4 created by his use.

5 Q Well, obviously, but --

6 A Which is the down regulation of receptors.

7 Q Correct, but he's not doing it to  
8 self-medicate any chronic illness or psychological  
9 issues going on in his life, correct?

10 A No, but it create -- it creates secondary  
11 changes in the brain. And he needs to keep -- to keep  
12 using because of the changes that drugs create in the  
13 brain; otherwise, he has devastating effects.

14 And it's also because of conditioning that  
15 forces him to keep using --

16 Q So he started --

17 A -- because of cueing. Yes.

18 Q He started more as a thrill seeker, but  
19 obviously continued to use because of an addiction;  
20 that's clear?

21 A Yes.

22 Q He also had a choice to seek treatment that  
23 was available to him; AA and NA are free options?

24 A Right, which many people think they don't need  
25 because they think I can kick it. I have strong will.

1 Q I understand, but it was a choice, right?

2 A Yes. It can be a choice to take or not take.

3 MS. DUNTON: No further questions.

4 THE COURT: Any redirect examination,  
5 Mr. Barrett?

6 REDIRECT EXAMINATION

7 BY MR. BARRETT:

8 Q Robbing and stealing and breaking into houses,  
9 that is consistent, again, based upon your experience  
10 of people using cocaine, that's consistent with someone  
11 who is using cocaine, correct?

12 A Yes, to get the money, especially at a young  
13 age, to support --

14 Q And it is also --

15 A -- their habit.

16 Q -- consistent with someone, for example, if I  
17 told you someone went into a bank account and drew a  
18 lot of money and uses that on drugs, that's consistent  
19 with someone that is addicted to drugs; is that right?

20 A Yes. That would be something to look at,  
21 certainly.

22 MR. BARRETT: Thank you. No other questions.

23 THE COURT: Any recross from the State?

24 MS. DUNTON: No, your Honor.

25 THE COURT: Thank you, ma'am. You are

1           excused. Have a good afternoon.

2           THE WITNESS: Thank you, your Honor.

3           (The witness exited the courtroom.)

4           MR. BARRETT: Judge, at this time the defense  
5 would rest.

6           THE COURT: All right. Ladies and gentlemen,  
7 you just heard the defense has rested its case.  
8 That's all the evidence and testimony you're going  
9 to hear from the defense in their case in chief.

10          I've been advised by the State, and I'll ask  
11 them again, there is a rebuttal witness they  
12 intend to call, but that witness is not available  
13 until tomorrow; is that accurate?

14          MR. JOHNSON: Yes, sir.

15          THE COURT: Which is an expert witness or  
16 specialty witness, so that will take a little bit  
17 of time.

18          So in just a little bit, we're going to break  
19 for the day. So let me address a couple things  
20 with you before we break for the day.

21          First off, I received a question from one of  
22 the jurors. You don't need to tell me who it was.  
23 I can't answer that question.

24          You are to rely on the evidence and testimony  
25 that's elicited during this trial, during these



1 proceedings.

2 Secondly, let me give you some scheduling  
3 updates. We are ahead of schedule. So what we're  
4 looking at tomorrow is that one witness I just  
5 talked about, kind of hard to estimate how long  
6 it's going to take, maybe an hour. That's it for  
7 witnesses and testimony.

8 After that, the lawyers will present their  
9 closing arguments to you. After their closing  
10 arguments, I'll give you your instructions that  
11 you have to follow in deciding the law in this  
12 case.

13 So what it looks like is you will be able to  
14 deliberate your verdict tomorrow, really, a day  
15 ahead of schedule, which is -- I'm sure  
16 everybody's happy with that.

17 So we're looking at probably -- and I'm going  
18 to guesstimate here. Don't necessarily hold me to  
19 it -- probably early afternoon that you would be  
20 able to deliberate your verdict in this case.

21 Of course, I have no idea how long that's  
22 going to take, and take as long as you need,  
23 obviously.

24 One thing I mentioned to you Monday during  
25 jury selection is that while you are not

1 sequestered during the trial, if your  
2 deliberations last so long that you have to --  
3 that they have to go overnight, that we would have  
4 to break and come back in the morning, you do have  
5 to be sequestered for that.

6 That is the law for this type of proceeding.  
7 Now, it's very unusual. That doesn't often  
8 happen.

9 And you'll have several hours tomorrow, if  
10 all goes according to plan, several hours in order  
11 to deliberate your verdict.

12 And if you reach a verdict within that time,  
13 fine. If you don't, that's equally as fine, but  
14 you would have to be sequestered overnight.

15 So the reason I'm telling you this is I would  
16 ask that everybody packs an overnight bag  
17 tomorrow. We'll have you leave it in your car.  
18 But just in case.

19 Again, it's unusual. Doesn't happen often,  
20 but we want to prepare for every contingency just  
21 in case you have to be sequestered overnight.

22 So have an overnight bag with you, and leave  
23 it in your car with clothing and -- and any  
24 medications you might need, anything like that.  
25 Obviously, you all know what you need overnight.

1 We'll have you leave it in the car.

2 As I also mentioned to you at the beginning  
3 of these proceedings on Monday, when you  
4 deliberate, you will not be able to have your cell  
5 phones and electronic devices with you while you  
6 deliberate.

7 So we'll take some breaks, obviously, before  
8 we get to that point, but if you want to leave  
9 those in your car tomorrow, that's fine.

10 You don't have to. We have a process that  
11 when you deliberate, we have it -- you leave it in  
12 the courtroom. It will be secured by the  
13 deputies, so that's fine, too.

14 But I just want to give you the heads-up on  
15 'that cause we're getting to that point of the  
16 trial, so I wanted to give you some information on  
17 that.

18 What I'm going to do this afternoon is, after  
19 I discharge you all in just a few moments, I'm  
20 going to meet with the lawyers and we're going to  
21 discuss and -- and come up with the final  
22 instructions that I'm going to give you when you  
23 deliberate your verdict in this case.

24 And then I'll get adequate copies made so  
25 everybody has a copy to follow along if you want

1 to follow along when I'm reading the instructions  
2 on the law to you.

3 And then you all will have a set of those  
4 instructions to take back with you when you  
5 deliberate your verdict tomorrow afternoon.

6 So that's where we are. So I'm going to go  
7 ahead and excuse you for the evening.

8 Let me remind you again -- I know you're sick  
9 of me saying this -- don't discuss the case among  
10 yourselves or with anybody else.

11 I'm sure everybody at home wants to know  
12 about what's going on. Don't tell them. Tell  
13 them I told you that you can't talk about it.

14 When this is over, you can talk about it with  
15 whoever you want, but until that time, you cannot  
16 talk about it with anybody.

17 Don't do any research of any type. That  
18 includes research of the Internet, don't look up  
19 people, place, things, maps, anything like that.

20 Should there be any media coverage of this  
21 case overnight, which I don't anticipate, but  
22 should there be any, make sure you don't read it,  
23 listen to it, or look at it.

24 Leave your notes here in the courtroom.  
25 They'll be secured for you overnight, and they'll

1 be back in those seats when you come back.

2 Let's plan on being back at 8:45 tomorrow  
3 morning in the same jury lounge. As soon as we  
4 have everybody assembled, we'll get you up here  
5 and get started and continue on from where we left  
6 off today.

7 With that, I wish you all a good evening, and  
8 we'll see you all tomorrow morning.

9 Everybody else remain in the courtroom.

10 (The jury exited the courtroom.)

11 THE COURT: All right. We are outside the  
12 presence of the jury. All parties are present,  
13 including the defendant.

14 Everybody remain in the courtroom for just a  
15 few moments. Y'all can be seated. As soon as we  
16 get the jury out of the hallway, we'll let you go.

17 We're going to talk about jury instructions.  
18 Y'all want a few minutes, rest room break? We've  
19 been going for an hour and a half or so.

20 MR. BARRETT: Yes, your Honor.

21 THE COURT: So let's go ahead and take a  
22 ten-minute break, and then we'll reconvene and  
23 talk about the jury instructions and verdict form.

24 (Court was in recess from 3:57 p.m. until  
25 4:07 p.m.)

1           THE COURT: All right. Let's go back on the  
2 record. I have all parties present, including the  
3 defendant, and we're here to address jury  
4 instructions.

5           You all have a copy of it, correct,  
6 Defense --

7           MR. BARRETT: Yes, Judge.

8           THE COURT: -- that the State prepared?  
9 Okay. I'll put it on the screen, also, so y'all  
10 can look at it if you like.

11           Of course, you have paper copies and probably  
12 computerized copies, but we'll start with the  
13 first two paragraphs before we get into  
14 aggravating factors.

15           Y'all want to look at that, and just tell me  
16 if you have any objection.

17           MR. BARRETT: Standard. Yes, Judge. No  
18 objection.

19           THE COURT: No objection. Okay.

20           Then we get into first-degree murder of Randy  
21 Peacock, count one, the aggravating factors.

22           The first aggravating factor is that the --  
23 it's alleged that the defendant was previously  
24 convicted of another capital felony or felony  
25 involving the use or threat of violence to another

1 person.

2 Then states first-degree murder is a capital  
3 felony, and the next paragraph states that  
4 robbery, carjacking, and kidnapping are all  
5 felonies involving the threat of violence to  
6 another person.

7 Any objection to the instruction on prior  
8 violent felonies?

9 MR. BARRETT: Other than just what was in our  
10 death-penalty motions, your Honor, no.

11 THE COURT: Okay. All right. Then the next  
12 aggravating factor asserted by the State for count  
13 one is that the first-degree murder was committed  
14 while the defendant was engaged in a robbery, the  
15 felony murder aggravating factor.

16 Any objection to that one?

17 MR. BARRETT: Yes, Judge. We would. I  
18 believe the evidence -- and if you recall, I did  
19 ask the detective if he had any independent  
20 information about the motive for going in, what  
21 occurred.

22 I believe the evidence that we have heard was  
23 that when he got there, um, he went there with the  
24 intent to knock out the dent. The murder occurred  
25 and then he took the wallets.

1           It's our position that the reason for the  
2 murder was not to facilitate the robbery, but that  
3 the items taken were done as an aftereffect,  
4 after, um, he killed, um, these two individuals.

5           Obviously, it's our position that while he  
6 was high on these drugs and, um, that he killed  
7 these individuals and that it was essentially an  
8 afterthought as opposed to going there with the  
9 intent to facilitate the robbery.

10          THE COURT: Wasn't there also testimony in  
11 the statement to Detective Rollins that we heard  
12 earlier today that the whole thing about getting  
13 the dent out of the car was, for lack of a better  
14 term, a ruse and he was trying to get a hammer,  
15 uh, and was asking for a hammer?

16          And his intent when he went there was to get  
17 money, from the get-go. That was my recollection.

18          MR. JOHNSON: Yes, sir. In fact, the  
19 statement early -- early in the interview where he  
20 says, you know, basically, I decided not to do my  
21 parents, so I went there to get money.

22          And then there was the statement that, as he  
23 was developing, you know, what he was going to do,  
24 he said that he asked for a hammer, pretty big  
25 hammer, to basically get it over with quick.



1           So I think, clearly, from the interviews, his  
2           intent was there to go to -- to get money from  
3           them.

4           MR. BARRETT: I think also in that interview  
5           he indicated that, um, he went there because,  
6           obviously, the second individual -- they owed him  
7           money was part of what he said, and also that he  
8           was going there to -- to ask them, Charlie, I  
9           think, was the one he said he was going to ask.

10          So yes, he was going there, but as to whether  
11          or not the intent was to go there to rob and the  
12          murder was to facilitate that, that's our  
13          position.

14          THE COURT: Okay. Well, there's sufficient  
15          evidence before the jury --

16          MR. BARRETT: Okay.

17          THE COURT: -- for the jury to come to the  
18          conclusion if they so desire --

19          MR. BARRETT: Okay.

20          THE COURT: -- to support that aggravating  
21          circumstance, so I'll give that one.

22          Number three, the first-degree murder was  
23          committed for financial gain referred to as the  
24          pecuniary-gain instruction.

25          Any objection to that?

1 MR. BARRETT: It would be the same argument  
2 and, of course, the doubling issue --

3 THE COURT: Right. The State addresses that  
4 further down, but the merging is addressed further  
5 down.

6 MR. JOHNSON: Did we put that in there?  
7 'Cause I was thinking might have forgot to do  
8 that.

9 MR. BARRETT: I saw it.

10 THE COURT: I saw it in there. It's on  
11 page 3 of 12. It's on the next page.

12 MR. JOHNSON: Okay.

13 THE COURT: All right. Then number four,  
14 heinous, atrocious, and cruel. It is the standard  
15 instruction for HAC, if you will.

16 Any objection? I know there was an objection  
17 earlier on because of the late disclosure.

18 MR. BARRETT: And that's the argument we  
19 would make, Judge. I guess based upon what's been  
20 introduced in terms of the evidence in the case  
21 and I know the stabbing injuries are generally  
22 considered to be, but my argument would be at the  
23 time of offense --

24 THE COURT: I previously ruled on the --

25 MR. BARRETT: Correct.

1           THE COURT: -- quote/unquote, late-disclosure  
2           issue, and there is evidence to support a HAC  
3           aggravating factor.

4           The next one is CCP, cold, calculated,  
5           premeditated. That's the fifth and last one  
6           asserted by the State.

7           Any objection to that one?

8           MR. BARRETT: Other than just -- well, yes,  
9           Judge, but in addition to all these objections I'm  
10          making would be the objections that was made  
11          previously when we had the death-penalty-motion  
12          hearings, but yes.

13          He went -- he didn't -- the items that were  
14          used in this murder were items that he got there.  
15          He never went there with, um, with an ax or with  
16          any kind of weapon. Even the knife that was used  
17          was a knife that was in the sink.

18          It's our position that it wasn't calculated,  
19          and it wasn't in any way, shape, or form planned.  
20          It was just essentially, um, it wasn't  
21          premeditated. It just happened while he was at  
22          the situation, so it wasn't one that was planned,  
23          premeditated, or calculated.

24          THE COURT: Okay. So say the State?

25          MR. JOHNSON: Well, my response, Judge, would

1 be, again, as I said before, he made the statement  
2 that he decided not to do his parents, so he went  
3 there, and then he says, to get money.

4 So, obviously, could be open to  
5 interpretation what "to do" means, to kill them or  
6 just to rob them, but regardless, the interviews  
7 make clear that at some point he does decide to  
8 kill them.

9 And that's why he asked Charlie Johnston for  
10 a hammer. And not just a hammer, but a large one.  
11 And so he at that time decided that he was going  
12 to kill them.

13 And even if you would conclude that that  
14 simply only proves simple premeditation, it is the  
15 extent -- extensive effort that the defendant went  
16 through to make sure that Charlie Johnston and  
17 Randy Peacock were dead.

18 He actually went to each of them twice and  
19 inflicted further injuries when he found that they  
20 were -- that he didn't do a good enough job the  
21 first time.

22 And -- and in Charlie Johnston's case, he  
23 actually used the -- the blade end of the ax to  
24 hack into his brain.

25 And then with Randy Peacock, stabbed him

1 multiple times, that even if the initial acts were  
2 simple premeditation, going back to them a second  
3 time to make sure he finished them off certainly  
4 was a heightened level of premeditation in this  
5 case.

6 THE COURT: The jury in the original trial  
7 heard the same evidence we did with regards to  
8 what happened out there because the only evidence  
9 as to what happened at the murder scene was from  
10 the defendant -- other than forensic evidence, but  
11 from the defendant's statements.

12 The Florida Supreme Court upheld the  
13 defendant's conviction as well as his sentence,  
14 but the sentence has since been set aside in light  
15 of the Hurst decision.

16 But in the previous decision of the Florida  
17 Supreme Court upholding his conviction located at  
18 29 Southern Third page 272, decided in 2010, that  
19 Court confirmed the finding of the trial Court.

20 And I guess the jury didn't make a specific  
21 finding of CCP, but the trial Court did. And the  
22 Supreme Court, Florida Supreme Court, affirmed  
23 that finding in affirming the sentence based upon  
24 the same testimony that we've heard.

25 MR. JOHNSON: I would --

1 THE COURT: So --

2 MR. JOHNSON: Sorry.

3 THE COURT: What?

4 MR. JOHNSON: I would even go so far as we  
5 presented more evidence in this case because in  
6 the first trial, they didn't even play the  
7 statements.

8 They just simply had the detectives testify  
9 about portions of the interview, so this jury  
10 actually heard more details of it than the  
11 previous jury.

12 THE COURT: Okay. So I'm going to overrule  
13 the objection. I'm going to allow that  
14 instruction.

15 All right. If you go on to page 3 of 12, I  
16 can scroll down as we're looking at the screen, we  
17 have the merging instruction.

18 So I'll ask the defense, any objection to  
19 that?

20 It starts with, "Pursuant to Florida law, the  
21 aggravating factors of the murder was committed  
22 during the course of the robbery and the murder  
23 was committed for financial gain are considered to  
24 merge because they are considered to be a single  
25 aspect of the offense."

1           Goes on to tell the jury in that same  
2 paragraph, "If you unanimously determine that the  
3 aggravating factors of the murder was committed  
4 during the course of a robbery and the murder was  
5 committed for financial gain have both been proven  
6 beyond a reasonable doubt, your finding should  
7 indicate that both aggravating factors exist, but  
8 you must consider them only" -- uh -- "you must  
9 consider them as only one aggravating factor."

10           MR. BARRETT: That's fine, Judge. That seems  
11 to be the standard.

12           THE COURT: All right. Then we have the  
13 victim-impact instruction, which I've already read  
14 to the jury and I would read to them again.

15           MR. BARRETT: Yes, Judge.

16           THE COURT: Okay. So those are the  
17 aggravating-factors instruction with regards to  
18 count one.

19           Let's go on to count two. The first one  
20 asserted -- this count two is for the first-degree  
21 murder of Charles Johnston.

22           The first one asserted by the State is that  
23 the defendant had previously been convicted of  
24 another capital felony or felony involving the use  
25 or threat of violence to another person.

1           Again, it defines first-degree murder meaning  
2           the contemporary conviction here in count one as a  
3           capital felony, and then says robbery, carjacking,  
4           and kidnapping also qualify as felonies involving  
5           threat or violence to another person.

6           Any objection to that instruction other than  
7           those previously stated?

8           MR. BARRETT: No, Judge.

9           THE COURT: Okay. Then number two, that the  
10          murder was committed while the defendant was  
11          engaged in a robbery.

12          Any objection other than those previously  
13          stated?

14          MR. BARRETT: Same objection previously  
15          stated, your Honor.

16          THE COURT: Okay. And then number three, the  
17          murder was committed for financial gain.

18          Any objection --

19          MR. BARRETT: Same object --

20          THE COURT: -- other than those previously  
21          stated?

22          MR. BARRETT: No objection other than what  
23          was previously stated.

24          THE COURT: All right. Then we have heinous,  
25          atrocious, and cruel or HAC.



1           Any objection other than those previously  
2           stated?

3           MR. BARRETT: None other than those  
4           previously stated.

5           THE COURT: Okay. And then, lastly, we have  
6           cold, calculated, premeditated, or CCP, for that  
7           count.

8           Any objections other than those previously  
9           stated?

10          MR. BARRETT: None other than those  
11          previously stated.

12          THE COURT: And then again, on page 5 of 12,  
13          the State has the merging instruction.

14          Any objection to the merging instruction?

15          MR. BARRETT: No, your Honor.

16          THE COURT: All right. And then there is  
17          also the victim-impact instruction.

18          Any objection to that?

19          MR. BARRETT: No objection.

20          THE COURT: All right. Then the next two  
21          paragraphs deal with the definition of reasonable  
22          doubt for purposes of aggravating factors.

23          Any objection to that?

24          MR. BARRETT: No, your Honor.

25          THE COURT: All right. Then right below that

1 is the instruction that a jury's finding as to the  
2 existence of an aggravating factor must be  
3 unanimous.

4 Any objection to that?

5 MR. BARRETT: No, your Honor.

6 THE COURT: All right. Then it goes on to  
7 say if you do not unanimously find at least one  
8 aggravating factor was proven by the State beyond  
9 a reasonable doubt, the defendant's not eligible  
10 for the death penalty and he would be sentenced to  
11 life imprisonment, and your deliberations would be  
12 complete.

13 However, if you unanimously find one or more  
14 aggravating factors have been proven beyond a  
15 reasonable doubt, the defendant is eligible for  
16 the death penalty.

17 And you must make an additional finding to  
18 determine whether the appropriate sentence to be  
19 imposed is life imprisonment without the  
20 possibility of parole.

21 Any objection up to that point?

22 MR. BARRETT: No, your Honor.

23 THE COURT: All right. Then it goes on to  
24 define mitigating circumstances, that the jury  
25 needs to consider mitigating circumstances,

1 including anything in the defendant's character,  
2 background, or life or circumstances of the  
3 offense.

4 It is the defendant's burden to prove that  
5 one or more mitigating circumstances have been  
6 proven or exist, but that does not have to be done  
7 beyond a reasonable doubt.

8 The standard is greater weight of the  
9 evidence, and it does not need to be unanimous.  
10 Any juror can find the existence of a mitigating  
11 circumstance.

12 So I'm all the way through basically  
13 two-thirds through page 6.

14 MR. BARRETT: Right.

15 THE COURT: Any objection up to that point?

16 MR. BARRETT: No, your Honor.

17 THE COURT: All right. Then we get into the  
18 mitigating circumstances that at least the State  
19 has listed in these instructions. The first one  
20 listed is that the first-degree murder was  
21 committed while the defendant was under the  
22 influence of extreme mental or emotional  
23 disturbance.

24 Y'all want that I presume?

25 MR. BARRETT: Yes, Judge.

1 THE COURT: Okay. State have any objection  
2 to that?

3 MR. JOHNSON: No, your Honor.

4 THE COURT: Okay. That will be given. There  
5 has been evidence and testimony to that effect.

6 Number two, the capacity of Norman McKenzie  
7 to appreciate the criminality of his conduct or to  
8 conform his conduct to the requirements of law was  
9 substantially impaired.

10 The defense wants that?

11 MR. BARRETT: We'd ask for that, as well.

12 THE COURT: State have any objection?

13 MR. JOHNSON: No, your Honor.

14 THE COURT: Then you get into the -- I'll  
15 call them the nonenumerated mitigating  
16 circumstances. It's the existence of any other  
17 facts in the -- factors in the defendant's  
18 character, background, or life or the circumstance  
19 of the offense.

20 There's a handful of them listed here, so  
21 we'll go through those.

22 MR. BARRETT: Yes.

23 THE COURT: You'll need to let me know if  
24 there's anything else you want listed or if the  
25 State objects to any of them.

1           So -- and where did the State gets this list  
2           from? Did you get this from the defense?

3           MR. BARRETT: From our notice.

4           MR. JOHNSON: It was from their notice, your  
5           Honor.

6           THE COURT: Okay.

7           MS. JOHNSON: Yeah. It was from a amended  
8           notice of mental mitigation.

9           THE COURT: Okay.

10          MS. JOHNSON: I was anticipating some of  
11          these. I'm not sure all of them were established,  
12          but we can talk about that.

13          THE COURT: Okay. Let's start with A, the  
14          defendant and his siblings suffered child abuse at  
15          the hand of his father.

16          MR. JOHNSON: That needs to be --

17          MR. BARRETT: That needs to be --

18          MS. JOHNSON: -- taken out.

19          THE COURT: We're going to take that out.

20          Mr. McKenzie, you agree with that coming out?

21          THE DEFENDANT: That's A?

22          THE COURT: A, right.

23          THE DEFENDANT: Yes, sir. All right.

24          THE COURT: You okay with that coming out?

25          THE DEFENDANT: Yes, sir.

1 THE COURT: Okay. All right.

2 THE DEFENDANT: Can I -- can I clarify  
3 something, please?

4 THE COURT: Yes. Go ahead.

5 THE DEFENDANT: All right. When you're  
6 saying, um, we didn't suffer any child abuse at  
7 the hands of our father, right, you're not asking  
8 about sex or anything? You're saying sexual  
9 abuse, right?

10 THE COURT: Child abuse.

11 MR. BARRETT: No. We're saying child abuse,  
12 but none of that evidence came in anyway, so  
13 that --

14 THE COURT: Physical or sexual.

15 THE DEFENDANT: All right. Okay. All right.

16 THE COURT: Okay? You -- any -- anything you  
17 want to add to that?

18 THE DEFENDANT: Well, no. I mean, there's  
19 nothing that was raised in the trial, so then  
20 there can't be nothing raised here.

21 THE COURT: Okay.

22 THE DEFENDANT: Right?

23 THE COURT: Just wanted to --

24 THE DEFENDANT: All right.

25 THE COURT: All right. Next, that the

1 defendant's childhood was chaotic.

2 We did hear testimony about that.

3 MR. BARRETT: We got -- Dr. Bloomfield  
4 addressed that issue.

5 THE COURT: Y'all want it in there?

6 MR. BARRETT: Yes, Judge.

7 THE COURT: Okay. All right.

8 Next is the defendant and his siblings  
9 experienced a lack of adequate supervision after  
10 the divorce of his parents.

11 MR. BARRETT: I would ask for that.  
12 Dr. Skolly.

13 MR. JOHNSON: It's fine.

14 THE COURT: There's been folks testifying  
15 about that.

16 Next is Defendant witnessed his mother's  
17 constant abuse of drugs or alcohol.

18 MR. BARRETT: No evidence came in as to that,  
19 Judge.

20 THE COURT: Okay. State agree with that?

21 MR. JOHNSON: Yes, your Honor.

22 THE COURT: Mr. McKenzie, you agree with  
23 that?

24 THE DEFENDANT: I agree with that.

25 THE COURT: Okay. Next, the defendant

1 started huffing from spray cans at age 12 years of  
2 age.

3 THE DEFENDANT: Eleven.

4 THE COURT: Eleven?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Okay.

7 MR. JOHNSON: I believe --

8 MS. DUNTON: She said 11.

9 MR. BARRETT: I believe she said 11.

10 THE COURT: She did say 11.

11 THE DEFENDANT: Well, it was -- it said 12.

12 THE COURT: Right. This thing said 12.

13 MS. JOHNSON: I don't mind changing it.

14 Y'all want that in there?

15 MR. BARRETT: Eleven, Judge. Yes.

16 THE COURT: Eleven, right. I've made the  
17 change.

18 MR. BARRETT: Okay.

19 THE COURT: Next up, the defendant had an  
20 early and chronic abuse and dependency on alcohol  
21 and drugs.

22 MR. BARRETT: We would ask for that.

23 THE COURT: Okay.

24 MR. JOHNSON: No objection.

25 THE COURT: All right. Next, Defendant's



1 introduction into the prison system at a young age  
2 damaged him mentally.

3 MR. BARRETT: No evidence came in as to that.

4 THE COURT: All right. You agree with that,  
5 Mr. McKenzie?

6 THE DEFENDANT: Well, I agree that no  
7 evidence came in.

8 THE COURT: No evidence came in. Okay.  
9 We'll take it out.

10 Next, Defendant had a cocaine dependency  
11 relapse starting in July of '06 up to and after  
12 the crimes at bar.

13 MR. BARRETT: We'd ask for that.

14 THE COURT: Okay.

15 MR. JOHNSON: No objection.

16 THE COURT: All right. Next up, Defendant  
17 consistently used a voluminous amount of cocaine  
18 for seven-plus days from October -- from July to  
19 October of 2006.

20 That's a lot more --

21 MS. JOHNSON: That was fairly verbatim what  
22 was in the notice, but, you know, that's several  
23 months. So I'm not sure what seven-plus days  
24 we're talking about.

25 THE COURT: Yeah. Would it make more sense

1 to take out the words "for seven-plus days"?

2 MR. BARRETT: Yes, Judge. I would ask that  
3 to be out.

4 THE COURT: Okay. Then it would read,  
5 "Defendant consistently used a voluminous amount  
6 of cocaine from July to October of 2006."

7 THE DEFENDANT: That's fine.

8 THE COURT: Is that acceptable to the  
9 defense?

10 MR. BARRETT: Yes, Judge.

11 THE COURT: All right. Next, and the State  
12 scratched through it, Defendant would not be  
13 eligible for parole.

14 We had a hearing about this.

15 MR. BARRETT: Right.

16 MR. JOHNSON: Right.

17 THE COURT: And, of course, y'all can argue  
18 that.

19 MR. BARRETT: Judge, there were two other  
20 ones. I think we did a second amended.

21 THE COURT: Well, let me -- let me go ahead  
22 and get through what I have here.

23 MR. BARRETT: Okay.

24 THE COURT: I'll be glad to add whatever is  
25 appropriate.

1                   Next -- maybe this is -- this must be the  
2                   latest version. How come --

3                   MR. JOHNSON: Yeah.

4                   THE COURT: -- my printed version doesn't  
5                   have these two?

6                   So okay. The next one up, defendant  
7                   cooperated with law enforcement at the time of his  
8                   arrest.

9                   MR. HAMBURG: Yes. We --

10                  THE COURT: Y'all want that. Okay.

11                  And then next up, Defendant admitted to the  
12                  murders of Randy Peacock and Charles Johnston.

13                  MR. BARRETT: Yes, Judge.

14                  THE COURT: Okay. Anything else you all  
15                  want?

16                  MR. BARRETT: No, Judge.

17                  THE COURT: And I'll get all the letters  
18                  straight. Don't worry.

19                  An -- anything else y'all want?

20                  MR. HAMBURG: Judge, we would like -- we'd  
21                  request something about the art. I'm trying to  
22                  think of how to word it.

23                  MR. BARRETT: I think that was the first one  
24                  in my original notice.

25                  MR. JOHNSON: Are you guys going to show

1           that?

2           MR. BARRETT: Huh?

3           MS. JOHNSON: Are you guys going to show it?

4           MR. BARRETT: Yes.

5           MR. JOHNSON: I don't remember ever seeing --

6           MR. BARRETT: Yes.

7           THE COURT: Along those lines, does the  
8           State -- does the State have the stripped-down  
9           computer so the jury can take it with them?

10          MR. JOHNSON: We'll get it.

11          THE COURT: Get it for tomorrow. Doesn't  
12          have Internet access, so they can put things in  
13          there if they want.

14          MR. BARRETT: Judge, the phrasing I would  
15          ask, and the State can object, that, uh, Defendant  
16          showed -- well, that wouldn't be Defendant, but --

17          THE COURT: We're going to use his name.

18          MR. BARRETT: Showed his creative -- was able  
19          to create, um, works of art while in prison or  
20          something to that effect.

21          MR. JOHNSON: Or you could just say the  
22          defendant has artistic ability.

23          MR. BARRETT: Yeah, that.

24          THE COURT: Has demonstrated artistic ability  
25          while in prison?

1           MR. HAMBURG: Because has demonstrated, has  
2           artistic capability.

3           THE DEFENDANT: Because some of the stuff was  
4           done while I was free.

5           THE COURT: Okay. So he has artistic  
6           ability, period.

7           MR. BARRETT: Correct.

8           THE COURT: Is that acceptable?

9           MR. BARRETT: Yes, Judge.

10          THE COURT: Okay. I'll get all that  
11          lettering straight.

12          Any others? I'll look at my notes. Anything  
13          else y'all want that you can think of?

14          MR. BARRETT: No, Judge, not that I can think  
15          of.

16          THE COURT: Okay. Mr. McKenzie, anything  
17          else you want listed? Anything else you want  
18          listed, Mr. McKenzie?

19          THE DEFENDANT: One --

20          THE COURT: You want to talk to your lawyer?  
21          Sure. Absolutely.

22          MR. HAMBURG: Judge, part of the evidence in  
23          Mr. McKenzie's interview was about building, I  
24          think, 28 different buildings at Cobblestone  
25          Village here in St. Augustine.

1           We'd request that -- that he was a -- he was  
2           an assistant superintendent that built the -- that  
3           helped build the Cobblestone Village, and he also  
4           mentioned --

5           THE COURT: How would you -- assistant  
6           construction superintendent?

7           THE DEFENDANT: I was assistant  
8           superintendent hired by EMJ.

9           MR. HAMBURG: That's what -- EMJ was, I  
10          think, mentioned --

11          MR. BARRETT: Yes.

12          MR. HAMBURG: -- in the evidence.

13          And then there was something mentioned in the  
14          interview about donating --

15          THE COURT: EMJ?

16          THE DEFENDANT: Yes, sir.

17          MR. HAMBURG: Donating either columns or  
18          money to the disabled school in St. Augustine.

19          THE COURT: I can only do one at a time.

20          THE DEFENDANT: I -- I donated 12 --

21          MR. BARRETT: Wait, wait, wait. He has to  
22          finish the first one.

23          THE DEFENDANT: I'm sorry.

24          THE COURT: So here's what I have up there if  
25          you can see it. Norman Blake McKenzie was an

1 assistant superintendent -- spell it the right  
2 way -- assistant superintendent for EMJ that  
3 worked on Cobblestone Village in St. Augustine.  
4 Is that acceptable --

5 THE DEFENDANT: Sure.

6 THE COURT: -- or do you want different  
7 language?

8 MR. HAMBURG: How about just that built  
9 Cobblestone Village.

10 THE COURT: That built --

11 THE DEFENDANT: Basically, your Honor, I was  
12 hired for Pier One Imports, but because of my  
13 performance on Pier One Imports, 27 other  
14 buildings were given to me --

15 THE COURT: Okay.

16 THE DEFENDANT: -- that I really wasn't hired  
17 for, but because of my performance level building  
18 Pier One Imports, they gave me 27 other buildings.

19 And I basically built Cobblestone Village on  
20 my own.

21 THE COURT: Okay. So this is what I have  
22 there now, that you were an assistant  
23 superintendent for EMJ that built Cobblestone  
24 Village in St. Augustine.

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Okay. That works?

2 THE DEFENDANT: Yes.

3 THE COURT: Okay. What was the next one that  
4 y'all were mentioning?

5 THE DEFENDANT: I -- I donated 12,000 dollars  
6 worth of load-bearing columns to Able Charter  
7 School.

8 I donated my time and my tools to installing  
9 all their trim work and hanging all of their doors  
10 for free in order to get the school up and running  
11 so kids could go to it.

12 THE COURT: Have we had evidence of that?  
13 Was that mentioned --

14 THE DEFENDANT: The school exists.

15 THE COURT: Well --

16 MS. JOHNSON: Judge --

17 THE DEFENDANT: My columns are hanging in  
18 front of it.

19 MR. HAMBURG: Judge, that was -- it wasn't in  
20 the interview.

21 THE COURT: It wasn't? So we haven't had any  
22 other evidence or testimony. I don't recall that.

23 Okay. Anything else y'all want listed? I'm  
24 not going to give that one.

25 Anything else y'all can think of?



1           MR. BARRETT: I think in the interview it  
2 talked about him supervising -- I'm trying to  
3 remember how much it was, but he was  
4 supervising --

5           THE DEFENDANT: The super -- are you talking  
6 about the amount of men that worked for me?

7           MR. BARRETT: Yeah.

8           THE DEFENDANT: It's the same thing. It's  
9 all the guys that were building Cobblestone  
10 Village. They were all under me. It doesn't  
11 matter.

12          THE COURT: Anything else?

13          MR. BARRETT: No.

14          THE COURT: All right. Okay.

15                 Then it continues to go through the process  
16 of weighing aggravating and mitigating  
17 circumstances.

18                 So if y'all could look at that, see if you  
19 have an objection.

20          MR. BARRETT: No objection, Judge.

21          THE COURT: Okay. Then we get into weighing  
22 the evidence. It's a standard instruction with  
23 four, five options, so we'll go through each  
24 option.

25                 There's a couple optional paragraphs.

1 Starting with number six, has the witness been  
2 offered or received any money, preferred  
3 treatment, or other benefit in order to get the  
4 witness to testify.

5 MR. BARRETT: I don't think six through ten  
6 applies.

7 THE COURT: Well, let's go one by one.  
8 State?

9 MR. JOHNSON: I agree.

10 THE COURT: Okay. Had any pressure or threat  
11 been used against the witness to affect their --  
12 the truth of the witness' testimony?

13 MR. BARRETT: No evidence.

14 MR. JOHNSON: I agree.

15 THE COURT: Okay. Did the witness at some  
16 other time make a statement that's inconsistent  
17 with the testimony he or she gave in court?

18 MR. BARRETT: No evidence came in as to that.

19 MR. JOHNSON: I agree.

20 THE COURT: Has the witness been convicted of  
21 a felony or a misdemeanor involving false  
22 statement or dishonesty?

23 MR. BARRETT: No evidence of such.

24 THE COURT: And does the witness have a  
25 general rep --

1           MR. JOHNSON: Can I -- can I ask that that  
2 remain? And the reason I ask that is, um, you  
3 know, the doctor -- and I don't know the rule, but  
4 there's a rule that basically says that, you know,  
5 hearsay testimony comes into evidence, that a  
6 person's prior, you know, basically, you can  
7 impeach them through whatever evidence that was  
8 available if they had taken the stand.

9           The doctors testified extensively of -- of  
10 their interviews with Mr. McKenzie and what he  
11 told them, which is essentially hearsay, but  
12 they're permitted to testify to that because  
13 they're experts.

14           And, of course, it's -- there's evidence in  
15 the record that he's been convicted of multiple  
16 felonies, and he's probably been convicted of more  
17 than what -- what's in evidence.

18           MR. BARRETT: That's fine, Judge.

19           THE COURT: Okay. I'll take out -- the  
20 misdemeanors involving false statement or  
21 dishonesty would come out, right?

22           MR. JOHNSON: Yes, your Honor.

23           MR. BARRETT: Yes.

24           THE COURT: All right. Does the witness have  
25 a general reputation for dishonesty or

1 truthfulness?

2 Everybody agree that comes out?

3 MR. JOHNSON: Yes, sir.

4 THE COURT: Okay. Then we have the law  
5 enforcement witness instruction that would appear  
6 to be appropriate.

7 MR. BARRETT: Yes.

8 THE COURT: Expert witness instruction  
9 appears to be appropriate.

10 MR. BARRETT: Agree.

11 THE COURT: Defendant being a witness would  
12 not seem to be appropriate.

13 MR. BARRETT: Correct.

14 THE COURT: Then we have Defendant not  
15 testifying. We do need to give that one.

16 MR. BARRETT: Yes.

17 THE COURT: Then we have rules for  
18 deliberations.

19 MR. BARRETT: Standard.

20 THE COURT: Give five if applicable. The  
21 jury is not to discuss any questions that a juror  
22 wrote that was not asked by the Court.

23 MR. BARRETT: No.

24 THE COURT: Well, we had --

25 MR. HAMBURG: I was going to say do we need

1 to leave that in since the --

2 THE COURT: That's why I'm --

3 MR. HAMBURG: -- juror did that randomly  
4 without an instruction.

5 THE COURT: I'll --

6 (Simultaneous speaking.)

7 MR. HAMBURG: -- that judges allow jurors to  
8 actually ask questions, but it happened in this  
9 case, so I don't --

10 THE COURT: It did.

11 MR. BARRETT: Yeah. So --

12 THE COURT: I'm inclined to leave it in.

13 MR. BARRETT: Yeah. Leave it in.

14 THE COURT: So say the State? No objection?

15 MR. JOHNSON: Agree.

16 MS. DUNTON: Agree.

17 THE COURT: All right. I'll just clean it up  
18 a little bit.

19 It was an individual juror that wrote it. I  
20 don't know which one, so it will say a juror --

21 MR. BARRETT: Juror, okay.

22 THE COURT: -- unless somebody wants  
23 something different.

24 MR. BARRETT: That's fine.

25 THE COURT: Well, there were a couple

1 questions. So I guess it would be were ask --  
2 "were not asked."

3 You must not hold it -- all right.

4 Six belongs. All right. Then I'll leave the  
5 instruction about leaving their phones.

6 MR. BARRETT: Right.

7 THE COURT: All right. What about exhibits?  
8 That's where we are right now. There were  
9 probably a lot of exhibits during the guilt phase.  
10 I don't know. I didn't preside over the guilt  
11 phase.

12 Do we want to send everything back?

13 MR. BARRETT: Are you sending the ax back?

14 MR. JOHNSON: I mean, to the extent it makes  
15 sense to do that, yes.

16 You know, as I pointed out before, we sort of  
17 redid the judgment and sentences in this case.

18 THE COURT: Uh-huh.

19 MS. JOHNSON: So I don't think it's necessary  
20 to send both sets back, the ones introduced at the  
21 previous trial and the ones that we introduced.

22 So I would say send back the ones that we  
23 introduced during this phase and not the ones  
24 before.

25 Seemed like there was something else.

1 THE COURT: Were there any exhibits  
2 introduced during the penalty phase before that  
3 were not introduced this time?

4 MR. JOHNSON: Any evidence that -- there  
5 was -- yes, there was. Photo -- photographs with  
6 the other one, Judge. We used more photographs  
7 this time.

8 MS. DUNTON: He's asking the opposite,  
9 though.

10 MR. JOHNSON: Oh, I'm sorry.

11 MS. DUNTON: Anything introduced then that  
12 wasn't now.

13 THE COURT: Was there anything last time --  
14 right.

15 MR. JOHNSON: Yeah.

16 THE COURT: You think there's more this time.

17 MS. DUNTON: We did more.

18 MR. JOHNSON: Yeah. We did more. So, um,  
19 the 911 call was introduced in evidence that we  
20 did not.

21 THE COURT: During the guilt phase or the --

22 MR. JOHNSON: During the guilt phase.

23 THE COURT: Okay.

24 MS. JOHNSON: We did not play that. There  
25 was some thought to do that, but we thought it

1 really didn't add anything, so we didn't do it.

2 That's the only thing I can think of that we  
3 didn't do.

4 THE COURT: All right. What's the defense  
5 position on what gets sent back? What do you want  
6 sent back?

7 MR. BARRETT: Clearly, if it wasn't  
8 introduced in this trial, it shouldn't be sent  
9 back, which would include the 911.

10 As far as the bank records, we would ask --  
11 which was previously introduced, that be sent  
12 back. And, well, unless they going to have the  
13 player back there --

14 THE COURT: They will.

15 MR. BARRETT: Then I would ask that the, um,  
16 the disc also be sent back.

17 THE COURT: Right. Your disc, obviously,  
18 will be your bank records. Obviously, they will  
19 get --

20 MR. BARRETT: Those are the two things we  
21 have.

22 THE COURT: Do we want -- let's do this. Let  
23 me put this out there. Get your thoughts.

24 Do we only want to send back the exhibits  
25 that were used and introduced during this penalty



1 phase and not the guilt phase in evidence?

2 MR. JOHNSON: I think I would agree with  
3 that. The hatchet and knife we used. I think you  
4 said use that language, so yes.

5 THE COURT: We did.

6 MR. JOHNSON: I was going to say, the  
7 photographs that were used in the previous trial,  
8 don't send back.

9 The judgment and sentences that were  
10 introduced in the previous trial, don't send back.

11 I can't think of anything -- um, the 911  
12 call, I'm fine with that not going back.

13 THE COURT: Okay. So why don't you all do  
14 this. I'll work on the language here. Come in  
15 tomorrow at, like, 8:30 and meet with our clerk to  
16 make sure that we know the right things are going  
17 back.

18 MR. JOHNSON: Yes, sir.

19 MR. BARRETT: Yes.

20 MS. DUNTON: Yes, sir.

21 THE COURT: All right. That's pretty much it  
22 on the instructions.

23 Anybody have anything further on the  
24 instructions? Are there any special requests on  
25 instructions by any party, especially the defense?

1           That's it on the instructions. Anything else  
2           you want?

3           MR. BARRETT: Judge, only -- not in the  
4           instructions itself. It was something we were  
5           requesting as to the verdict.

6           THE COURT: All right. Well, we're going to  
7           talk about that next.

8           MR. BARRETT: Okay.

9           THE COURT: There will be two verdict forms,  
10          one for each count. We'll start with count one.  
11          I'm not sure I have that electronically. I'm sure  
12          I do somewhere. I'm just not finding it right  
13          now.

14          MR. JOHNSON: I can e-mail it to you again.

15          THE COURT: Okay. That would be great.

16          It will take a minute. Okay. Here's the  
17          verdict form. Is that both of them in that  
18          e-mail?

19          MR. JOHNSON: Yes, sir. Should be back to  
20          back.

21          THE COURT: Okay. So has the defense had an  
22          opportunity to look at the verdict form?

23          MR. BARRETT: Yes, Judge.

24          THE COURT: Okay. Any objections or anything  
25          that you want to change?

1           MR. HAMBURG: Judge, we'd ask, under the  
2 mitigating circumstances, for an interrogatory  
3 verdict form for the -- for each mitigating  
4 circumstance, whether, um, the State -- like, we,  
5 the jury, find that --

6           THE COURT: With regards to each mitigator?

7           MR. HAMBURG: With regards to each mitigator.

8           THE COURT: Didn't the Supreme Court recently  
9 come out -- and I say "recently"; in the past  
10 year -- come out with a new verdict form that says  
11 don't do a interrogatory verdict form?

12          MR. BARRETT: Judge, for years the Supreme  
13 Court said 12 wasn't necessary, so obviously we're  
14 going to request it.

15          I understand what the Court is saying, but we  
16 are going to make the request.

17          THE COURT: I've, unfortunately, done a lot  
18 of these cases --

19          MR. BARRETT: No. I --

20          THE COURT: -- since the statute has been  
21 redone. And the first one I did, we did list them  
22 all out 'cause that was the model verdict form.

23          And then by the time we got to the second one  
24 that I did -- I've done four now since the new  
25 statute -- second one we did, the Supreme Court

1           came out with the new model form, and we were able  
2           to greatly condense it.

3                     Thanks to the Supreme Court on that. Well,  
4           those folks spent a lot of time working on these  
5           forms, and they're at a higher pay grade at the  
6           Supreme Court.

7                     So I'm going to deny that request, and I'll  
8           give the instruction -- or give the verdict form  
9           as promulgated by the Florida Supreme Court.

10                    I presume the State wants it as promulgated  
11           by the Florida Supreme Court, correct?

12                    MR. JOHNSON: Yes, sir. And I -- of course,  
13           I remember that first one. It was quite lengthy.

14                    THE COURT: Yes, 30-something pages, I think.

15                    All right. So other than that, any  
16           exceptions or objections to the verdict form?

17                    MR. BARRETT: No, Judge.

18                    THE COURT: All right. And then the verdict  
19           form for count two is the same, with the only  
20           exception being the victim's name at the top.

21                    MR. BARRETT: Same argument.

22                    THE COURT: Okay. All right. Looks like  
23           we're in agreement on that.

24                    Okay. I'll get these jury instructions  
25           printed and have them for the jury when we're

1 ready -- when we get there.

2 We'll do the State's rebuttal witness first  
3 thing, and then into your closing arguments, okay?

4 So why don't y'all come in at 8:30 and go  
5 through the exhibits.

6 MR. BARRETT: Sure.

7 THE COURT: Be ready to go at 8:45.

8 (The defendant exited the courtroom.)

9 (Time noted: 4:44 p.m.)

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1 IN THE CIRCUIT COURT, SEVENTH  
2 JUDICIAL CIRCUIT, IN AND FOR  
3 ST. JOHNS COUNTY, FLORIDA

4 CASE NO.: CF06-01864

5 STATE OF FLORIDA APPEAL TRANSCRIPT  
6 vs. (Pages 960 through 1208)

7 NORMAN BLAKE MCKENZIE,  
8 Defendant.

9 \* \* \* \* \*

10 TRANSCRIPT OF PROCEEDINGS  
11 BEFORE THE HONORABLE HOWARD M. MALTZ,  
12 CIRCUIT COURT JUDGE

13 PENALTY PHASE JURY TRIAL

14 \* \* \* \* \*

15 DATE TAKEN: THURSDAY, AUGUST 29, 2019

16 TIME: COMMENCED at 8:50 A.M.  
17 CONCLUDED at 3:28 P.M.

18 PLACE: RICHARD O. WATSON JUDICIAL CENTER  
19 4010 LEWIS SPEEDWAY  
20 ST. AUGUSTINE, FLORIDA 32084

21 STENOGRAPHICALLY MARY GRAYBOSCH, RPR, CRR, CRC  
22 REPORTED BY: COURT REPORTER AND NOTARY PUBLIC

23 \* \* \* \* \*

24  
25

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

2 THE COURT: We have all parties present,  
3 including the defendant. We are outside the  
4 presence of the jury.

5 MR. BARRETT: Before the jury comes in,  
6 Judge, there's an issue that Mr. McKenzie would  
7 like to address to the Court --

8 THE COURT: Okay. Mr. McKenzie, I'm --

9 MR. BARRETT: -- about scheduling.

10 THE COURT: Okay. I'm listening. I'm typing  
11 so I can get my computer logged on, but I'm  
12 listening to you.

13 THE DEFENDANT: Your Honor, good morning,  
14 sir.

15 THE COURT: Good morning.

16 THE DEFENDANT: Something unexpected  
17 occurred. The night before last, I called my wife  
18 in Maulburg, Germany.

19 THE COURT: Your wife's in Germany?

20 THE DEFENDANT: Yes. My wife is German.

21 THE COURT: Okay.

22 THE DEFENDANT: And she jumped on a plane and  
23 flew here yesterday. She got in last night.  
24 She's here now in St. Augustine and is going to  
25 walk into this door this morning.

1           And, uh, she wants to testify, sir. She  
2           wants to, you know, offer some type of statement,  
3           you know, of -- I understand she has nothing to do  
4           with the crime at all. I met her four years ago.

5           THE COURT: Uh-huh.

6           THE DEFENDANT: And I'm -- if you remember, I  
7           was like, send me back to prison. I'm trying to  
8           get married.

9           THE COURT: I don't remember the trying to  
10          get married part, but I remember you wanted to go  
11          back to prison.

12          THE DEFENDANT: Right. That -- that was why.

13          THE COURT: Okay.

14          THE DEFENDANT: And, uh, so I married her on  
15          January 20th of this year. And, uh, I -- I -- I  
16          mean, I could sit here and talk about her all day  
17          long.

18          THE COURT: Where is she?

19          THE DEFENDANT: She should be coming through  
20          this door soon. You know, she's here with  
21          Dr. Skolly who testified yesterday.

22          THE COURT: How do you know that? I'm not  
23          familiar with what level of communication you have  
24          in the jail.

25          THE DEFENDANT: I -- I -- money is placed in

1 my canteen account. I transfer it to a debit  
2 card, and then I can make overseas calls based  
3 upon -- I pay for it. You can't call overseas  
4 collect, all right? So I communicate with her  
5 like that.

6 I've spent, you know, several thousand  
7 dollars since I've been here talking to my wife,  
8 and it's 15 dollars a call.

9 THE COURT: Wow.

10 THE DEFENDANT: And we haven't seen each  
11 other since January 20th. I didn't want her to  
12 come.

13 I advise -- you know, I spoke to my  
14 attorneys, and they said they weren't going to use  
15 her.

16 So I'm like, you know, Tara, we're talking,  
17 like, 2500 Euro for you to fly over here. You  
18 can't talk to me. You can't touch me. You can't  
19 visit me, you know?

20 And she's --

21 THE COURT: How do you know she's actually  
22 here? Have you talk --

23 THE DEFENDANT: Because I called my wife  
24 last -- I mean I called my mother last night, and  
25 my mother called her. She's in town.

1           MR. BARRETT: Judge, just to -- our  
2           investigator did notify us that she is in  
3           St. Augustine, um, and that she at some point was  
4           having dinner with Dr. Skolly, but our  
5           investigator did inform us that she is actually in  
6           St. Augustine.

7           THE COURT: Okay. But you haven't talked to  
8           her; the investigator has?

9           MR. BARRETT: Correct.

10          THE COURT: Okay. What's -- let me talk to  
11          the defense lawyers. Obviously, I have no idea  
12          what she would say.

13          Either you or your investigators have talked  
14          to her as to whether it's truly mitigation --

15          MR. BARRETT: Right.

16          THE COURT: -- or if it's, uh, some things  
17          other than that, so what do y'all say about that?

18          MR. BARRETT: Judge, as part of the  
19          preparation of this case, we had met with her.  
20          We had a mitigation person who was making contact  
21          with her.

22          We had discussed whether or not we would call  
23          her as a witness in this case. It was our  
24          decision, as counsel, that we would not.

25          It is still our decision that we will not

1 call her as a witness.

2 THE COURT: And why? Can you disclose that  
3 without invading attorney-client privilege or work  
4 product?

5 MR. BARRETT: Uh, probably not.

6 THE DEFENDANT: I would --

7 THE COURT: I don't want this to become an  
8 issue down the line.

9 MR. BARRETT: I -- I don't --

10 MR. JOHNSON: Judge, we can step out if you  
11 want to do ex parte.

12 THE COURT: Okay. Let's do that. I'm going  
13 to clear the courtroom of everybody from the state  
14 attorney's office, any observers.

15 Obviously, the deputies need to stay, court  
16 reporter needs to stay, and the court staff.

17 Thank you, Mr. Johnson.

18 (The above-mentioned people exited the  
19 courtroom.)

20 THE COURT: Mr. McKenzie, you can sit down.  
21 I don't want you to be uncomfortable.

22 THE DEFENDANT: No. I'm -- I'm fine.

23 THE COURT: Okay. So what's -- why did you  
24 all decide that she shouldn't testify? And I  
25 understand --

1 MR. BARRETT: Part of it --

2 THE COURT: -- there's a lot of reasons --

3 MR. BARRETT: Right.

4 THE COURT: -- strategy reasons.

5 MR. BARRETT: Well, part of it is, as -- as  
6 Mr. McKenzie told you, that she met him long after  
7 the incident occurred. And, of course, they got  
8 married.

9 Um, part of it is that I think by her getting  
10 on the stand could open the door to the State  
11 bringing in evidence and information even about  
12 prior, um, offenses that may not have been  
13 admissible because they may not have been  
14 aggravators, just in terms of, you know, if she  
15 gets there and starts saying he's this kind of  
16 person, or the State could conceivably start  
17 asking questions, did you know about this, did you  
18 know about that.

19 Part of it is --

20 THE COURT: Let -- let me ask you a question.

21 MR. BARRETT: Sure.

22 THE COURT: Have there been issues since  
23 Mr. McKenzie's been in prison that possibly it  
24 could open the door to?

25 I don't know if there's disciplinary issues,

1 drug issues. I don't really know what's happening  
2 over there.

3 MR. BARRETT: Those kind of issues, no,  
4 Judge.

5 THE COURT: Okay.

6 MR. BARRETT: I mean, but I think, um -- and  
7 I can rediscuss it.

8 Even though there may not -- obviously, the  
9 Court's aware of, on the aggravators, there is  
10 certain information that the State can bring up.  
11 That was one of our concern.

12 Part of our concern is that her getting on  
13 the stand -- I'm trying to be diplomatic without  
14 getting into my major concern, but her getting on  
15 the stand, um, the situation of their meeting, the  
16 situation of their relationship, um, and the  
17 concern that their relationship becomes a focus of  
18 this case.

19 For example, um, obviously, two individuals  
20 have died. He's married. He has a wife. He has  
21 a relationship.

22 Um, whether or not that's something that a  
23 jury could conceivably focus on and say,  
24 basically, he's already got rewarded for whatever  
25 happened, and these two people are dead and he's

1 carrying on his life. He's in a relationship.

2 We thought that, strategically, it would be  
3 more harmful than beneficial to have her testify  
4 about their relationship and the situation she's  
5 in.

6 THE COURT: Is there a concern, from a  
7 strategic standpoint, that jurors could perceive  
8 that his doing life in prison isn't as bad as you  
9 all would want the jurors to believe it to be?

10 And I'm not saying that's --

11 MR. BARRETT: Right.

12 THE COURT: -- a walk through the park, doing  
13 life in prison, but that he since got married, has  
14 a wife, that it's not such a bad thing.

15 MR. BARRETT: Yes, Judge. And that, in a  
16 sense, he's doing life. He has, essentially,  
17 years to actually have a relationship, though  
18 limited it may be, and these two individuals are  
19 no longer here.

20 I think part of the argument was strengthened  
21 when the victim-impact statements were being given  
22 and they talk about their relative being gone and  
23 all that.

24 Part of what I was doing is watching the  
25 jury.



1 THE COURT: Right.

2 MR. BARRETT: And there were at least three  
3 of the jurors that was, like, tearing up, crying  
4 through all of that.

5 And, again, my concern is that the focus then  
6 shifts to, okay, they're not here. He's  
7 essentially been rewarded in the sense that he's  
8 had the benefit of a relationship, a marriage,  
9 and --

10 THE COURT: Uh-huh.

11 MR. BARRETT: -- that part of our concern.

12 If the Court recall, even one juror was  
13 asking a question about, you know, was he  
14 sentenced before these kind of things to -- to see  
15 whether or not he's benefitting from being kept  
16 alive in prison.

17 Part of my closing is to suggest that there's  
18 really not a benefit to it, and this would also --  
19 I mention that in part of my closing.

20 THE COURT: Okay. Mr. McKenzie, you've now  
21 heard your lawyer express his strategic decisions  
22 for not wanting to call your wife.

23 You were indicating you wanted to say  
24 something, so I'm glad to hear what you have to  
25 say.

1           THE DEFENDANT: Please, sir, with all due  
2           respect to my attorneys, all right -- and I  
3           understand their situation perfectly. I do.

4           But the reality of it is that 13 have --  
5           years have gone by, and I am alive and my life has  
6           continued.

7           Yes. There are things about my life that  
8           have taken place. I mean, even the fact that I've  
9           created art is a pleasure. I mean, so there --  
10          you know, I mean, I had the pleasure of creating  
11          art.

12          Two men lost their lives, and they never get  
13          to see art ever again.

14          THE COURT: Uh-huh.

15          THE DEFENDANT: So they're -- I mean, it's  
16          not just that I got married that could be  
17          construed as a bad thing.

18          There are many things about this case and me  
19          that could be construed as a bad thing, but yet  
20          are being allowed in, all right?

21          And, um, and I -- I -- my wife loves me --

22          THE COURT: Uh-huh.

23          THE DEFENDANT: -- and I'm here with my life  
24          on trial, to live or die.

25          THE COURT: Right.

1           THE DEFENDANT: This woman has nothing to do  
2 with the murders.

3           THE COURT: Right.

4           THE DEFENDANT: Nothing. She has only  
5 something to do with my life, all right?

6           I've never lied to her, your Honor. You can  
7 ask her anything you want about my entire life.  
8 I've never lied to her about anything.

9           In fact, when she fell in love with me and I  
10 saw that she was falling in love with me, I  
11 stopped her and I said, listen -- this is before  
12 we ever met, you know, physically.

13           I said, listen, I want you to know something.  
14 I'm not one of these men sitting on death row  
15 who's going to tell you he's innocent. I killed  
16 two men, all right?

17           THE COURT: Uh-huh.

18           THE DEFENDANT: And you need to know that  
19 before you proceed any further with me.

20           She knows everything. And she knows I didn't  
21 want her here because I didn't want her to see  
22 them photographs.

23           That's why my mother's not here right now,  
24 because I don't want no woman to have to see those  
25 photographs, all right?

1 THE COURT: Uh-huh.

2 THE DEFENDANT: And that's the only reason I  
3 don't have family members here today. Basically,  
4 the only people alive right now are my -- are  
5 women in my life, and I didn't want them here to  
6 see this.

7 Last time we had this trial, I sequestered  
8 them because they came here without -- and I asked  
9 them not to come. They came anyway.

10 I put them on the witness list, and I called  
11 them. And I asked Judge Wendy Berger if she would  
12 sequester them. That's how I got them out of the  
13 courtroom --

14 THE COURT: Uh-huh.

15 THE DEFENDANT: -- you know? And, uh, but,  
16 um, your Honor, this woman loves me. And this is  
17 life for her, life.

18 And if she lives through life thinking that  
19 she didn't do what she could to save the man she  
20 loves' life, that would have a greater impact on  
21 her than knowing that she didn't do anything and I  
22 died.

23 THE COURT: Okay. You heard your lawyer's  
24 explanation as to why he feels that this could be  
25 harmful to the outcome in this case, but let me

1 ask you this:

2 THE DEFENDANT: I'm sorry.

3 THE COURT: Mr. Barrett, is a very  
4 seasoned --

5 THE DEFENDANT: Absolutely.

6 THE COURT: -- trial attorney, very  
7 experienced in trying these types of cases. He's  
8 a very good lawyer.

9 He's very well versed in the strategies of  
10 these types of cases. These are the types of  
11 cases that he often handles.

12 He indicated that putting your wife on the  
13 witness stand may allow the jury -- the State to  
14 inquire on cross-examination of her certain things  
15 that, otherwise, the State could not elicit during  
16 the course of this trial.

17 He also has expressed concern, the same  
18 concern that I've expressed, that a juror or  
19 jurors could find that the fact that you have  
20 gotten married while on death row or while in  
21 prison could cause a juror to perceive that life  
22 in prison's not that bad.

23 Now, I understand it's -- as I said, it's no  
24 walk through the park and it's bad. I understand  
25 that.

1           The jurors may not understand that. They may  
2           perceive it to be something different. They may  
3           perceive that it's not that bad that you're doing  
4           life in prison.

5           That you now have a wife, uh, and there's two  
6           people that are dead and don't have family  
7           members, and you're sitting in prison with a wife,  
8           whatever.

9           And it could work potentially negatively  
10          towards you in this trial. Do you understand all  
11          that?

12          THE DEFENDANT: Yes, sir.

13          THE COURT: All right.

14          THE DEFENDANT: And as it was pointed out  
15          yesterday, I'm of average intelligence.

16          THE COURT: Uh-huh.

17          THE DEFENDANT: You guys are probably a lot  
18          more intelligent than I am.

19          THE COURT: They may be. I don't think I am.  
20          Your lawyers may be.

21          THE DEFENDANT: But the fact of the matter is  
22          that you just gave the cons of that. There are  
23          pros to it, too --

24          THE COURT: Uh-huh.

25          THE DEFENDANT: -- correct?

1 THE COURT: I don't know what she's going  
2 to --

3 THE DEFENDANT: I'm --

4 THE COURT: I don't know what she's going to  
5 say, so I don't know about pros.

6 THE DEFENDANT: I know, but, I mean, we  
7 can -- we don't know what she's going to say, but  
8 we can mention cons.

9 We don't know what she's going to say, but we  
10 can mention pros, as well, all right? But we're  
11 not doing that. We're only mentioning cons.

12 THE COURT: Well, when your life is on the  
13 line here, like you mentioned, and you're accurate  
14 in that-- in mentioning that, I want to make sure  
15 you understand the cons 'cause the cons are huge.

16 THE DEFENDANT: Absolutely, sir. And you  
17 know that I do. I mean, I walked into this with  
18 my eyes wide open. I did.

19 I knew what I was doing when I was making  
20 those statements in that -- in that -- in, um,  
21 that investigating room. I knew everything, all  
22 right?

23 And the fact of the matter is that this is my  
24 wife, and this is not just about me. It isn't any  
25 longer. It's about her and what she can say about

1           having a part in trying to save my life.

2                   And if I don't give her that chance -- I  
3           mean, look, I told her not to come. She just  
4           spent 2500 Euro and jumped on a plane and flew  
5           into a place she's never been before in her life.

6                   She's a woman, and I can't tell her what to  
7           do, all right? But she's here now. And I'm her  
8           husband. I'm not going to deny her the  
9           opportunity to try to do what she wants to do.

10                   Now, again, your Honor, I told Mr. Barrett  
11           that when Tara walks through that door, to go up  
12           to her and tell her, Tara, I know you're here.  
13           You came.

14                   I don't want you to testify, all right? But  
15           if you want to testify, I'm going to put you on  
16           the stand if the judge allows it.

17                   THE COURT: Okay. Let me say this. You said  
18           it's not just about you. That I disagree with.  
19           This trial is all about you.

20                   THE DEFENDANT: Yes, sir.

21                   THE COURT: So I want to make sure the  
22           record's real clear on that.

23                   Mr. Barrett, let me -- let me say this.

24                   MR. BARRETT: Judge, can I just add two  
25           things?



1 THE COURT: Yeah. Go ahead.

2 MR. BARRETT: I spoke to Dr. Bloomfield and  
3 Dr. Skolly about his wife testifying. We had that  
4 discussion. Um, and both of the doctors agreed  
5 that she should not.

6 Because of that, I also asked both of them,  
7 especially, I know, Bloom -- Dr. Bloomfield, to  
8 speak to her to see if there is additional  
9 information that she can provide that he may be  
10 able to use as part of his presentation to the  
11 Court.

12 He's informed me he did, in fact, speak to  
13 her. It may have been by e-mail, but he did.

14 I know Dr. Skolly, at least in the past, had  
15 talked to her. And, again, I spoke to both of  
16 them, and they were in agreement with me, for some  
17 of the concerns that I had, that she should not,  
18 um, take the stand. So just so...

19 THE COURT: There are certain aspects of a  
20 trial that -- or a case that are entirely a  
21 defendant's decision.

22 There are other decisions that are a lawyer's  
23 decision.

24 Certain things that are a defendant's  
25 decision, for example, are whether to plead guilty

1 or not, uh, whether to admit guilt during a trial  
2 or not 'cause that's the equivalent of a guilty  
3 plea.

4 Those are some of the things that a lawyer  
5 can't make that decision for you. That's going to  
6 be entirely your decision.

7 The decision to testify or not, which we  
8 talked about yesterday, that's your decision. Of  
9 course, all of these decisions are made after  
10 consulting with your lawyer.

11 There are other decisions in a case that are  
12 a lawyer's strategic or tactical decision.

13 Certain examples of that may be whether to  
14 waive speedy trial. One of the classic tactical  
15 decisions that lawyers make is whether or not to  
16 call a particular witness.

17 And that's based upon lawyers' training and  
18 experience, so at this point I'm going to ask  
19 Mr. Barrett --

20 THE DEFENDANT: Let --

21 THE COURT: -- what do you want to do?

22 MR. BARRETT: As I've indicated to him, I  
23 will not call her unless the Court tells me I have  
24 to call her because, again -- and I've told him  
25 this the first day.

1           My concern is him. My concern, even if he  
2           wanted us not to present mitigation, that I -- I  
3           would because my job is to keep him alive even if  
4           that's not what he wants.

5           THE COURT: Uh-huh.

6           MR. BARRETT: So based upon all the  
7           discussions I've had, not only with the expert and  
8           with co-counsel, but also with others in my  
9           office -- I've had discussion with several  
10          individuals in my office about this.

11          And I've told him this morning, I will not  
12          call her unless the Court says that we have to  
13          call her.

14          THE COURT: So you're saying it's not -- in  
15          your mind, from a tactical strategic standpoint,  
16          it's not even a close call.

17          MR. BARRETT: No, Judge. No.

18          THE COURT: I want to make the record clear  
19          here.

20          Mr. McKenzie, you seem like you want to say  
21          something, so I'm going to give you the  
22          opportunity to say whatever you want to say.

23          THE DEFENDANT: Your Honor, I mean --

24          THE COURT: You do understand that your  
25          lawyers are looking out for you?

1           THE DEFENDANT: Yes, sir, I do. I understand  
2           that completely, all right? And, um, and I don't  
3           mean these men any disrespect at all.

4           I appreciate both of them, and I actually  
5           like both of them outside of the fact that they're  
6           representing me in this proceeding. They're good  
7           men, okay? And I have respect for them.

8           And, uh, and I appreciate everything they're  
9           doing for me and trying to do for me, but, you  
10          know, when this is over with, I'm never going to  
11          see these men again. We'll be done.

12          But I'll be with my wife until either I die  
13          in life in prison or I'm executed or I succumb to  
14          some disease I may have, you know?

15          Either way it goes, I'll be done with them,  
16          but I'll still have my wife. And, uh, she's not  
17          going anywhere. Not at all.

18          And I understand and I respect what you said,  
19          your Honor, that this is about me. It is, but me  
20          as a totality includes my wife.

21          I mean, there's no man who's married that can  
22          separate himself from his wife. She is a part of  
23          his life, you know?

24          And this woman is a part of my life. However  
25          meager that life may be that we have together, it

1 is still -- she is very much a part of my life,  
2 very much.

3 And for me to de -- um, not try to stand here  
4 and plead for her to be allowed to testify, you  
5 know, and -- and hope that you understand that and  
6 allow her to testify, I -- I -- I res -- and I  
7 would hope that -- and I know that they will.

8 If you say she testifies, I believe that my  
9 lawyers are going to get up there and do the best  
10 that they possibly can with this situation.

11 And they're not mentioning to you their  
12 misgivings, you know, but I will, all right?  
13 There are some issues with her.

14 THE COURT: Keep in mind that any  
15 conversations that you've had with your lawyer are  
16 privileged.

17 You don't have to disclose it, but it's your  
18 privilege. It's up to you if you want to disclose  
19 it.

20 THE DEFENDANT: I will.

21 THE COURT: I want to make sure you  
22 understand you do not have to tell me any  
23 conversations you've had with your lawyer.

24 THE DEFENDANT: Recently, my wife testified  
25 in trial in Maulburg, briefly, sir. Both of her

1 parents are doctors, and they owned a hospital in  
2 Germany.

3 They sold the hospital, but they never got  
4 paid for it. It went into litigation for years  
5 and years and years.

6 And it was based upon something that Tara did  
7 in the conference room when they were signing the  
8 documents over to, uh, other, um, uh, owners of  
9 the hospital that she did.

10 She noticed that there was not a sum total  
11 number on the contract, and she had that number  
12 written in the contract and then had everybody in  
13 the conference room sign it, all right?

14 And they left, but when she testified about  
15 that in court, the prosecutor kind of tore into  
16 her and -- and tried to make her seem like she  
17 wasn't a very intelligent person.

18 My wife holds a master's degree in  
19 international economics. There's nothing stupid  
20 about her, all right?

21 I believe that she can get up on that stand  
22 and hold her own against anyone just like she did  
23 in that -- in that circumstance at that trial, all  
24 right?

25 There's -- your Honor, she's an outstanding

1 woman. She was a professional athlete and ranked  
2 number two in Germany in tennis, right up under  
3 Stephanie Graf. She's no slouch at all.

4 And she's well traveled. She's very  
5 intelligent. She went to college here in  
6 California and many other places in the world.

7 And, um, uh, she's a good girl, your Honor.  
8 And she should -- I believe that she has the  
9 right -- or she should have the right to fight for  
10 her man's life.

11 However -- whatever comes, whatever cards on  
12 the table, all of it, this woman loves me. And  
13 she just flew 6,000 miles to be here.

14 And I -- I'm -- I'm sorry, sir. I don't want  
15 to sound like I don't -- that I'm against what my  
16 lawyers are saying. I respect everything he's  
17 saying.

18 And I understand the aggravators, the  
19 possibility of everything that can -- and this man  
20 right here, Mr. Johnson, he's no slouch. I know  
21 that, you know? And -- and his co-worker, I have  
22 respect for both of them, you know?

23 And, uh, um, please, please, sir. I know I  
24 can look at you and read your body language.  
25 You're leaning towards not allowing this girl to

1 testify, you know, but it's -- it's my life, sir.

2 It is.

3 And -- and I think that my life is much, much  
4 more than either life in prison or death in -- by  
5 execution. It's bigger than that. It's a lot  
6 bigger than that, you know?

7 It's about the love that she and I share  
8 together. You know, this -- this woman is my  
9 life. And I believe that, you know if she wants a  
10 hand in my life, then I res -- I beg you to let  
11 her have that opportunity.

12 THE COURT: Okay. Take a seat. Let me say  
13 this:

14 First of all, defense counsel's strategy or  
15 tactical decision or desire to not call the  
16 defendant's current wife as a witness is very  
17 sound, reasonable trial strategy.

18 It's not unusual in any criminal case,  
19 particularly this type of case, but any criminal  
20 case for that matter, for there to come a point  
21 that the client and his lawyer disagree on some  
22 type of trial strategy.

23 I'm not going to step on a lawyer's toes and  
24 tell them how to try a case. That's not my job.  
25 I give lawyers a lot of leeway in deciding how to



1           try their case, as long as they're acting within  
2           the bounds of the law and the evidence code.

3                     So I'm going to leave it up to defense  
4           counsel on how they want to proceed. They have a  
5           trial strategy that's very sound, very reasonable.

6                     Their strategy, their decisions, seem to be  
7           100 percent based upon what they believe to be  
8           best for their client as opposed to anything else.

9                     So whatever they decide to do, that's fine  
10          with me. This -- this is clearly a decision which  
11          is a tactical strategic decision that is the right  
12          of the lawyers to make after full consideration of  
13          the defendant's desires, after full consideration  
14          of all factors, and based upon their training and  
15          experience.

16                    And Mr. Barrett has extensive experience and  
17          is a very skilled trial lawyer, particularly in  
18          these types of cases, the most complex of all  
19          criminal cases.

20                    So if it is defense counsel's desire to not  
21          call the witness, that will be it. Is that what  
22          you desire, Mr. Barrett?

23                    MR. BARRETT: Yes, Judge, it is. And I did  
24          discuss it with her previously in the past, by  
25          e-mail, that I would not.

1           THE COURT: Okay. Mr. McKenzie, sounds like  
2 you want to say one thing last before we move on.

3           THE DEFENDANT: Well, your Honor, then, you  
4 know, I want to terminate my lawyers from  
5 representing me.

6           If that will help me get my wife on the  
7 witness stand, then I want to terminate my  
8 relationship with these lawyers, and I want to  
9 represent myself.

10          I want to have a Faretta hearing to represent  
11 myself from this stage on, your Honor, and have my  
12 wife testify.

13          THE COURT: Okay. So before we get into  
14 that, I want -- and we'll do that. I have to  
15 bring the State back in to do that, but before we  
16 do that, you expressed to me on many occasions  
17 during the course of this trial that that didn't  
18 work out well for you last time.

19          THE DEFENDANT: I know.

20          THE COURT: And I wasn't there at the last  
21 trial. All I know is the outcome, that you did,  
22 in fact, receive a death sentence, so...

23          THE DEFENDANT: I also received a nine-three  
24 vote.

25          THE COURT: Right. But I just want to make

1           sure that truly that's what you want to do before  
2           you --

3           THE DEFENDANT: I only need one this time.

4           THE COURT: That's accurate. That's a  
5           hundred percent true.

6           THE DEFENDANT: And all -- and in my belief,  
7           and I've told my lawyers this, what gets most men  
8           death is they sit here and they paint and draw  
9           pictures on a tablet in front of the jury, and the  
10          jury never gets to hear them interact.

11          If I fire my attorneys, I'll make my closing  
12          statement.

13          THE COURT: Okay. If you fire your lawyers  
14          and I go through a Faretta inquiry, I'm not going  
15          to go through that inquiry again through the rest  
16          of this trial. I'll go through it through every  
17          stage of the proceedings.

18          So, for example, if the jury was to have --  
19          return a death verdict, at what's known as a  
20          Spencer hearing, I would go through it again.

21          And at sentencing, I would go through it  
22          again.

23          If the jury does not vote for death at the  
24          sentencing, I would go through it again, but if  
25          you want to represent yourself, this would be the

1           only Faretta inquiry I'm going to do during this  
2           stage of the proceedings.

3           Do you unders --

4           THE DEFENDANT: I understand, sir. And can I  
5           just ask you this:

6           If I was to terminate my relationship with my  
7           attorneys, would it be possible to have my wife  
8           testify?

9           THE COURT: If you -- if I find that you are  
10          competent to represent yourself, and -- after  
11          being fully advised, then you can call whoever you  
12          want to testify if -- as long as they have  
13          something that's relevant to --

14          THE DEFENDANT: Despite the fact that they  
15          rested yesterday?

16          THE COURT: I would allow the case to be  
17          reopened. I wouldn't hamstring you that way.

18          Even if your lawyer said they wanted to call  
19          her as a witness, I would allow you to reopen your  
20          case.

21          THE DEFENDANT: Well, I'm going to say this  
22          here, your Honor, all right?

23          Mr. Barrett, sir, I don't want to lose you as  
24          my lawyer. I don't, but this is how adamant I am  
25          about it.

1           And I know you're just as adamant. We're  
2 both men, but one of us has to give here, all  
3 right?

4           And me and you have balked at a -- many, many  
5 things, and I've -- and I've given in everything  
6 you asked me to do.

7           All I'm asking you, sir, is to do this one  
8 thing for me 'cause I don't want to lose you as my  
9 lawyer. I don't.

10          I'm begging you, Mr. Barrett. Please put my  
11 wife on the stand, and do the best you can with  
12 her.

13          THE COURT: Now, Mr. Barrett, do you want  
14 some time with your client maybe to discuss this  
15 privately without me -- well, privately away from  
16 the State, but we still have deputies, court  
17 clerks, court reporters, myself here.

18          MR. BARRETT: That's fine, Judge. And he  
19 also -- I guess it depends on whether she's --  
20 also still wants to --

21          THE COURT: She's not even here, but -- I  
22 presume she's not here.

23          MR. BARRETT: That may resolve that issue, as  
24 well.

25          THE COURT: What -- what -- I'm sorry. I

1 missed the last part.

2 MR. BARRETT: I said that, Judge, I will tell  
3 the Court that -- and it's not just being  
4 stubborn. I -- I've spent a lot of time thinking  
5 about this.

6 THE COURT: Uh-huh.

7 MR. BARRETT: And I will talk to him, but I'm  
8 not going to change my position about that, but  
9 that issue may be resolved because he wants us to  
10 talk to her and see if she really wants to get on  
11 the stand, and if she says no --

12 THE COURT: She may not. I don't know.

13 MR. BARRETT: She very well --

14 THE BAILIFF: -- bring her in here --

15 THE COURT: What if --

16 (Simultaneous speaking.)

17 THE COURT: What if she doesn't want to  
18 testify?

19 THE DEFENDANT: Then I'm going not -- I'm not  
20 going to force my wife to do anything. I couldn't  
21 even keep her in Germany.

22 THE COURT: Can we see if she's even here?

23 MR. BARRETT: I'll go check.

24 THE COURT: That may moot the issue, too.

25 (Mr. Barrett exited the courtroom and

1 returned.)

2 MR. BARRETT: Judge, she is outside.

3 THE COURT: Okay.

4 MR. BARRETT: Um, and part of the question  
5 she asked me is whether or not she can come into  
6 the room. I told her I would ask the judge.

7 She wants to know what he thinks. I've  
8 explained to her that he wanted me to ask her, and  
9 I explained to her my position about whether or  
10 not she would testify.

11 And her response is, "What does Blake think?"

12 THE COURT: Do you want some time to talk to  
13 her, Mr. Barrett? I mean, you spent a couple  
14 moments just now, but --

15 THE DEFENDANT: Why don't you just bring her  
16 in here?

17 THE COURT: Do you want to do it -- I don't  
18 care.

19 MR. BARRETT: I won't get into specifics.

20 THE COURT: I want you all to -- I want you  
21 to privately have an opportunity to speak with  
22 her --

23 MR. BARRETT: Right.

24 THE COURT: -- to discuss the pros and cons.  
25 And then if you wanted to do it here, I'm fine

1 with that. If you don't want to do it here, I'm  
2 fine with that.

3 I'm not as much concerned about her position  
4 other than the ultimate decision.

5 MR. BARRETT: Right.

6 THE COURT: I did want to hear the  
7 defendant's side of all this, as we have, but I do  
8 want to give you an opportunity to discuss the  
9 pros and cons with her.

10 So do you want a few moments to do that?

11 MR. BARRETT: I -- I can tell you what she's  
12 more concerned with is what he wants her to do.

13 THE COURT: And we know what the answer is to  
14 that.

15 MR. BARRETT: And he's -- if I understand,  
16 he's saying whatever she wants to do, which  
17 doesn't really quite answer the question.

18 THE COURT: Mr. McKenzie, do you want her to  
19 testify?

20 THE DEFENDANT: I would like to look in her  
21 eye and ask her, "Do you want to take that stand?"

22 THE COURT: Well, she's going to probably say  
23 whatever you want.

24 THE DEFENDANT: That's what I want to do. I  
25 want to ask her, do you want to take the stand?



1           If you want to take the stand, I'm going to put  
2           you on the stand.  If not, I'm not going to.

3           THE COURT:  Mr. Barrett, how do you want to  
4           proceed?

5           MR. BARRETT:  That's fine with me.  Just her  
6           answering that question does not get into anything  
7           specifically, so I wouldn't worry about what the  
8           State wants to use on cross-examination if he's  
9           going to go forward on his own.

10          So that's fine if that would help the issue.  
11          I leave it up to the Court.

12          THE COURT:  Do you want to talk to her  
13          privately before she comes in here?

14          MR. BARRETT:  I did talk to her.

15          THE COURT:  You did?

16          MR. BARRETT:  Yes.  And I kind of explained  
17          to her the situation including the fact that he's  
18          indicated to the Court that if we won't put her on  
19          the stand, he...

20          THE COURT:  And tell me her name.

21          THE DEFENDANT:  Her name, sir, is actually  
22          Claudia Cornelia Goecke.  That's G-o-e-c-k-e.

23          THE COURT:  G-o-e --

24          THE DEFENDANT:  -- c-k-e.

25          THE COURT:  And it's pronounced Goecke?

1 THE DEFENDANT: Yes, sir, but I call her  
2 Tara. You know, that's --

3 THE COURT: I'll address her as Ms. Goecke.

4 THE DEFENDANT: There you are. She's in the  
5 process of trying to get her name changed to  
6 McKenzie.

7 She's having some problems in the registry in  
8 Maulburg because they want two people there.

9 THE COURT: Okay. That -- that's not as much  
10 my concern.

11 THE DEFENDANT: I understand, but I just --

12 THE COURT: Okay. Let's go ahead and bring  
13 Ms. Goecke in.

14 (The witness entered the courtroom.)

15 THE COURT: Ms. Goecke, why don't you come on  
16 right up here, and I'll have you stand by a  
17 microphone here.

18 Right up here is fine. Right -- right up  
19 closer. Right up -- there's a microphone.

20 MR. BARRETT: There's a microphone.

21 THE WITNESS: Oh.

22 THE COURT: You're fine where you are. Do me  
23 a favor and --

24 THE WITNESS: Sorry.

25 THE COURT: -- raise your right hand for me.

1 Do you solemnly swear or affirm that any testimony  
2 you give today will be the truth, the whole truth,  
3 and nothing but the truth so help you God?

4 THE WITNESS: I swear.

5 THE COURT: Okay. Can you -- you can put  
6 your hand down.

7 Can you tell me your name, please.

8 THE WITNESS: Claudia -- Claudia Cornelia  
9 Goecke.

10 THE COURT: Goecke, you pronounce it?

11 THE WITNESS: Goecke, yes.

12 THE COURT: Okay. There's been an issue  
13 raised in this case as to whether or not you  
14 should or will testify in this case.

15 Mr. McKenzie has represented to me that you  
16 all are married; is that correct?

17 THE WITNESS: Yes.

18 THE COURT: Okay. And do you want to testify  
19 in this case?

20 THE WITNESS: I would like to. Yes.

21 THE COURT: You would like to testify?

22 THE WITNESS: Yes. I promise, my health is  
23 not the best, and I'm -- English is not my mother  
24 tongue, so there are some particular things.

25 THE COURT: Do you speak -- you seem to speak

1 English. We're --

2 THE WITNESS: Yes, yes.

3 THE COURT: We're able to communicate?

4 THE WITNESS: Yes.

5 THE COURT: You understand me?

6 THE WITNESS: Yes, sure.

7 THE COURT: Okay. All right.

8 Did you want to ask any questions,

9 Mr. Barrett?

10 MR. BARRETT: No, Judge. I previously, like  
11 I've told the Court, by e-mail, I've kind of  
12 expressed to her my position about her testifying.

13 THE COURT: Okay. Mr. Barrett -- this  
14 gentleman is Mr. Barrett.

15 MR. BARRETT: We met. She knows me.

16 THE COURT: Okay. You've met.

17 Mr. Barrett is very concerned about if you  
18 testify, he tactically is concerned that it will  
19 hurt your husband's case, that a jury would be  
20 more inclined to vote for the death penalty, that  
21 your husband would be executed as opposed to life  
22 in prison if you testify.

23 He's very concerned. Mr. Barrett is a very  
24 seasoned, experienced lawyer in these types of  
25 cases.

1           With that in mind, I want to make sure you  
2           fully understand that, that this could adversely  
3           affect the outcome of your husband's case.

4           With that in mind, do you still want to  
5           testify in this case?

6           THE WITNESS: No.

7           THE COURT: Okay.

8           Mr. McKenzie, did you want to add anything?

9           THE DEFENDANT: I mean, I'm really surprised  
10          she said no, you know, but, I mean, if that's what  
11          she wants to do, then I want her to do what she  
12          wants to do.

13          If she wants to testify, then I want her to  
14          testify. I want her to be able to say that she  
15          did what she wanted to do.

16          THE COURT: Okay.

17          THE DEFENDANT: That's all.

18          THE COURT: Good enough. This is big stuff,  
19          obviously, big decisions for everybody.

20          Like I said, Mr. Barrett's a very experienced  
21          lawyer in -- in death-penalty proceedings. And,  
22          like I said -- I'm going to go over it again. I'm  
23          going to repeat myself. And I apologize, but I  
24          want to make sure everybody's understanding  
25          everything here.

1           Mr. Barrett, your husband's lawyer, is very  
2           concerned that your testifying, if you testify,  
3           will hurt your husband. And by hurting your  
4           husband, he's concerned that it could -- no one  
5           has a crystal ball. No one knows the ultimate  
6           answer, but he's concerned that it could, uh, uh,  
7           affect, negatively, your husband's chances of  
8           leaving this courtroom with or without a death  
9           sentence hanging over him.

10           THE WITNESS: Right.

11           THE COURT: Do you understand that?

12           THE WITNESS: (Nodding.)

13           THE COURT: Yes? Is that a yes?

14           THE WITNESS: Yes.

15           THE COURT: With that in mind, do you want to  
16           testify in this case?

17           THE WITNESS: I would.

18           THE COURT: Now you want to testify?

19           THE WITNESS: Yes.

20           THE COURT: Understanding that your husband's  
21           lawyers think that it will hurt your husband's  
22           case?

23           THE WITNESS: Yes.

24           THE COURT: You want to testify?

25           THE WITNESS: Yes.

1 THE COURT: All right. If you can step  
2 outside for a little bit.

3 (The witness exited the courtroom.)

4 THE COURT: So, Mr. McKenzie, she's now  
5 expressed she wants to testify. You heard that.

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Your lawyers say they are not  
8 going to call her as a witness.

9 THE DEFENDANT: Yes.

10 THE COURT: You expressed to me that if your  
11 lawyers persist in that position, which they are  
12 persisting in that position, that you do not want  
13 them to represent you anymore; is that accurate?

14 THE DEFENDANT: Mr. Barrett, are you going to  
15 call her?

16 MR. BARRETT: No.

17 THE DEFENDANT: No. I was only bluffing,  
18 sir. I'm not a stupid man. I'm not going to fire  
19 my lawyers.

20 THE COURT: You are not a stupid man.

21 THE DEFENDANT: No.

22 THE COURT: I can attest to that from  
23 everything I've observed. You're far from a  
24 stupid man.

25 THE DEFENDANT: No. I'm not going to fire my

1 lawyers. I was just trying to push them into  
2 doing it.

3 THE COURT: Okay. All right. Okay. So with  
4 that in mind, that's how we're going to proceed.

5 Okay. Fair enough. Let's bring the State  
6 in.

7 I did receive a note from the jurors -- or  
8 juror, and it's not that significant, but I want  
9 to go over it with the State in here.

10 The State and whoever else wants to come in.  
11 Back to an open courtroom.

12 MR. BARRETT: She can sit in here if she  
13 wants?

14 THE COURT: She can sit in here. Right.

15 (All parties and spectators reentered the  
16 courtroom.)

17 THE COURT: All right. Welcome back,  
18 everybody. I appreciate your patience.

19 We're back in the presence of counsel for all  
20 parties and the defendant, outside the presence of  
21 the jury.

22 And we worked our way through our last issue.  
23 Let's take up another issue. I received a note  
24 from a juror this morning, not really a big deal,  
25 but I want to share it with you all.



1                   This is the question: "Were the jurors  
2                   supposed to see the defendant's artwork which was  
3                   entered as evidence?"

4                   Did you all plan on putting it --

5                   MR. BARRETT: It's part of my closing.

6                   THE COURT: During your closing you're going  
7                   to show it?

8                   MR. BARRETT: Yes. That's why I didn't  
9                   bother --

10                  THE COURT: That's fine. And I'll tell them  
11                  they'll have all the evidence with them in the  
12                  jury room when they deliberate their verdict.

13                  Did y'all get a chance to go over the  
14                  evidence this morning?

15                  MR. HAMBURG: Yes.

16                  THE COURT: Is there any disagreement, or  
17                  everyone's in agreement as to what's going to go  
18                  back?

19                  MS. DUNTON: We agree. Everything that's out  
20                  here and not in the box is going to go back.

21                  MR. HAMBURG: That's correct.

22                  THE COURT: Very well.

23                  And let me give you all a copy of the jury  
24                  instructions for the lawyers.

25                  We're going to make this part of the

1 permanent court file.

2 Let's go ahead and bring the jury in.

3 Did you have your rebuttal witness?

4 MR. JOHNSON: We do, your Honor.

5 THE COURT: And is the defense anticipating  
6 any surrebuttal?

7 MR. BARRETT: No, Judge. No, no. No.

8 THE COURT: Okay. Do y'all need a moment  
9 before we bring the jury in?

10 I'll take a moment. Be right back.

11 (Court was in recess from 9:33 a.m. until  
12 9:37 a.m.)

13 THE COURT: Is everybody ready for the jury  
14 to come in?

15 MR. JOHNSON: Yes, your Honor.

16 MR. BARRETT: Yes, Judge.

17 THE COURT: All right. Go ahead and bring  
18 the jury in.

19 (The jury entered the courtroom.)

20 THE COURT: Welcome back. Good morning,  
21 folks. Y'all can be seated in the courtroom.  
22 Welcome back. I hope everybody had a good  
23 evening.

24 I apologize for the brief delay this morning,  
25 but things come up and I had to address some

1 things outside your presence.

2 So, hopefully, you were comfortable down  
3 there in the jury lounge, but we are ready to  
4 proceed.

5 I received a note from one of the jurors  
6 about some evidence. All of the items that have  
7 been introduced into evidence during the course of  
8 these proceedings will be available to you in the  
9 jury room when you deliberate your verdict.

10 The lawyers decide what they want to publish  
11 and not publish during the course of the trial,  
12 but, like I said, everything's going to be  
13 available to you in the jury room when you  
14 deliberate your verdict for you to view as you  
15 deem necessary.

16 When we left off yesterday, the defense  
17 rested its case. And as I indicated to you  
18 yesterday, the State indicated it has a rebuttal  
19 witness, so that's where we are going to pick up  
20 this morning.

21 So, State, you can call your witness, please.

22 MR. JOHNSON: Thank you, your Honor. State  
23 calls Dr. William Meadows.

24 (The witness entered the courtroom.)

25 THE WITNESS: Good morning, your Honor.

1 THE COURT: Good morning. If you'll take the  
2 witness stand right over here. And remain  
3 standing --

4 THE WITNESS: Good morning.

5 THE COURT: -- when you get there, and the  
6 clerk will administer the oath to you. If you'd  
7 raise your right hand, please.

8 THE WITNESS: Yes, your Honor.

9 THE CLERK: Do you swear or affirm that the  
10 testimony you're about to give will be the truth,  
11 the whole truth, and nothing but the truth?

12 THE WITNESS: Yes, ma'am.

13 THE COURT: Thank you. You can be seated.

14 THE WITNESS: Thank you.

15 THE COURT: Mr. Johnson, you may acquire when  
16 you're ready.

17 MR. JOHNSON: Thank you, your Honor.

18 DR. WILLIAM MEADOWS

19 was called as a witness and, after having been first  
20 duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. JOHNSON:

23 Q Good morning, sir.

24 A Good morning, sir.

25 Q Could you please introduce yourself to the

1 jury, and tell them what it is that you do.

2 A My name is William Meadows. I'm a forensic  
3 psychologist and a licensed psychologist in the State  
4 of Florida.

5 I'm also an adjunct faculty member training  
6 medical residents at the Orange Park Medical Center.

7 Q Dr. Meadows, how long have you worked as a  
8 licensed psychologist?

9 A I've been a licensed psychologist for -- it's  
10 almost 25 years, initially in Massachusetts and now in  
11 Florida.

12 Q Can you kind of give the jury an idea of your  
13 educational background?

14 A Yes, sir. I received a Bachelor of Science in  
15 psychology from University of Florida, um, a Ph.D. in  
16 clinical psychology with specializations in forensics  
17 and addictions from Florida State University.

18 And then I completed a postdoctoral fellowship  
19 training program at Harvard Medical School in forensic  
20 psychology.

21 Q What about what types of jobs that you've had  
22 in that field?

23 A Yes, sir. I've worked in a variety of, uh,  
24 correctional facilities, uh, Department of Corrections,  
25 um, evaluating and providing treatment services for

1 inmates.

2 I've worked in state psychiatric, uh,  
3 facilities, uh, for forensic residents. I was a  
4 director of forensic services at the Northeast Florida  
5 State Hospital in Macclenny. I worked in the forensic  
6 service at the Florida State Hospital in Chattahoochee.

7 I've worked in evaluating sex offenders who  
8 were committed as sexually dangerous.

9 And I've been in private practice now, um,  
10 full-time, for about ten years, uh, conducting forensic  
11 evaluations for the judicial system.

12 So I get appointed by judges or hired by  
13 defense attorneys or hired by state attorneys.

14 Q So you've actually been retained not only by  
15 the State in cases, but you've also been retained by  
16 defense attorneys and you've also been appointed by  
17 Courts to conduct forensic psychological evaluations,  
18 correct?

19 A Yes, sir.

20 Q Have you ever had -- do you have any  
21 experience, Dr. Meadows, in the area of addiction?

22 A Yes, sir.

23 Q And can you explain that to us?

24 A Yes, sir. Um, in training for my Ph.D. at  
25 Florida State University, I was in an addictions lab.

1 And my, uh, research, my dissertation research,  
2 surrounded addictions and risky behaviors. So one of  
3 my specializations in training was addictions.

4 Um, since then, I've worked in a variety of  
5 settings, prison settings, uh, correctional settings,  
6 dealing with addictions.

7 I've run addictions groups for inmates,  
8 conducted a number of alcohol and substance-abuse  
9 assessments.

10 And within the context of criminal cases,  
11 addictions often is an issue in criminal behavior.  
12 Alcohol or drug abuse is pretty common.

13 So just about every week, I'm dealing with  
14 addictions.

15 Q Dr. Meadows, have you ever testified as an  
16 expert witness in forensic psychology?

17 A Yes, sir.

18 Q Approximately how many times?

19 A Well over a hundred times.

20 Q Were you asked to conduct an evaluation of the  
21 defendant in this case, Norman Blake McKenzie?

22 A Yes, sir.

23 Q All right. Prior to your actual evaluation,  
24 did you receive materials to review to sort of give you  
25 an idea of what the case was about or his background, a

1 variety of types of documentation?

2 A Yes, sir.

3 Q And what type of information did you receive?

4 A It was quite a bit of information. Um,  
5 information pertaining to the, um, murder cases, um,  
6 court records related to that, arrest reports related  
7 to that, transcripts of interviews, investigative  
8 interviews related to that, Department of Correction  
9 investigative reports related to that.

10 I also reviewed, um, arrest reports from prior  
11 criminal offenses, um, court records such as, uh,  
12 appeals decisions, reviewed, um, deposition transcripts  
13 from two defense experts.

14 Um, psychological test data that was provided  
15 to me by Dr. Bloomfield, defense notes, reports by  
16 mitigation specialist, um, a letter from the defendant  
17 to one of his defense experts.

18 Um, I think that pretty well summarizes it  
19 all.

20 Q All right. So prior to your evaluation, you  
21 had a pretty good idea of kind of what the case was  
22 about or what the allegations were, what he had been  
23 convicted of, correct?

24 A Yes, sir.

25 Q All right. When did you actually meet the



1 defendant sort of face to face?

2 A I met him at the jail on August 20th, 2019.

3 Q All right. And how long did you -- what --  
4 how long did you have to spend with him?

5 A I'd estimate probably about two hours.

6 Q Now, specifically, were you able to discuss  
7 with the defendant his childhood, sort of upbringing,  
8 and things of that nature?

9 A Yes, sir.

10 Q All right. And what did he tell you about  
11 his -- his childhood?

12 A Well, I asked him, uh, about his childhood.  
13 He described himself as having a happy childhood. I  
14 asked him specifically if he had a happy childhood, and  
15 he responded, quote/unquote, absolutely.

16 I asked him about his parents. He said he  
17 had, quote/unquote, great parents.

18 He denied, um, that he was ever exposed to any  
19 type of domestic violence in the home. He denied  
20 suffering from any type of physical abuse. He denied  
21 that, um, he was ever taken out of the home by any  
22 state service agency.

23 Often when homes are chaotic and there's  
24 parental neglect or abuse, you'll see a history of  
25 agencies like Department of Children and Families being

1 involved to investigate because they come to the  
2 attention of teachers or other people.

3 He denies that had ever took part in this  
4 home. He had never been investigated. DCF was never  
5 involved, never been removed, never placed in foster  
6 care.

7 I asked him about any history of sexual abuse,  
8 and he did report an incident involving a teacher. Uh,  
9 uh, I don't know if you want me to get into that.

10 Q Well --

11 A So he said that a teacher had given him a,  
12 quote/unquote, sponge bath when he was naked. He said  
13 during that, the teacher touched his genitals.

14 He said at the time he didn't really see  
15 himself as being sexually molested and denied any other  
16 sexual behaviors.

17 I asked him if he had ever disclosed this to  
18 anyone before, you know, around that time.

19 He said he never disclosed it to anybody, was  
20 never a subject of any kind of investigation, said he  
21 may have told his mother later when he was in his 40s.

22 And then I asked him again, you know, in light  
23 of that incident, you know, how would you characterize  
24 yourself as a child, and he said, quote/unquote, a  
25 happy child.

1           So overall, he denied anything really that  
2 would describe a problem childhood other than perhaps,  
3 uh, depending on the credibility of the report, that  
4 incident involving a teacher.

5           Q     So based on what the defendant himself is  
6 telling you -- and you're aware that one of the claims  
7 in this particular case is that the defendant suffered  
8 from a chaotic childhood, correct?

9           A     Yes, sir.

10          Q     According to the defendant's own statements to  
11 you, what opinion were you able to develop as -- in  
12 light of that claim?

13          A     I -- I think there's no basis to substantiate  
14 that, not just by his report, but by the fact that  
15 there were no official reports, uh, confirming that.

16                 I do hundreds of cases a year, and I see  
17 individuals in the criminal justice system who do have  
18 a history of chaos in their family, history of abuse in  
19 their family.

20                 Those individuals typically -- again, there --  
21 there's multiple DCF contacts. The child's removed or  
22 placed in foster care. There's some kind of report,  
23 some kind of record that confirms all that.

24                 And that wasn't the case here. And even just  
25 in the interview, he confirmed that, that he wasn't

1 exposed to that, and indicated that he had a child -- a  
2 happy childhood.

3 So looking at the lack of records that I  
4 typically see for children who are exposed to severe  
5 backgrounds and the fact that he confirmed that he was  
6 well adjusted, uh, leads me to conclude that that claim  
7 that he was from a chaotic background is false.

8 Q And you saw nothing in the information that  
9 was provided to you to dispute that, correct?

10 A Correct.

11 Q What about his sort of educational upbringing?  
12 We talked about sort of his family life in general, but  
13 what about his educational bringing?

14 A He was actually successful in his education.  
15 He did drop out of school in the tenth grade, but did  
16 earn his GED when he was 16.

17 Unfortunately, most of the cases I see in the  
18 criminal justice system don't get a GED. They drop out  
19 of middle school or high school and don't progress in  
20 education.

21 Well, he was able to obtain a GED, but even  
22 more than that, he completed -- and I was actually  
23 pretty, um, impressed by it. He had completed a number  
24 of college courses and postsecondary vocational  
25 training.

1 I provided a listing in my report. I  
2 didn't -- I didn't even get it all because he has been  
3 so involved in educating himself.

4 He talked about getting -- or completing  
5 courses in electronic engineering, computer-aided  
6 design and drafting, electrical wiring, small gas  
7 engines, computer business, masonry, plumbing, framing,  
8 and other -- other classes.

9 So he was doing pretty well, uh, cognitively  
10 from his thinking standpoint and ability to achieve.

11 And that, uh, I think, was remarkable compared  
12 to many of my other cases, how much he was actually  
13 able to accomplish.

14 Q Did you have an opportunity to review an  
15 intelligence assessment that was administered by either  
16 Dr. Bloomfield or Dr. Mings?

17 A I believe it was Dr. Mings. Yes, sir. The  
18 raw intelligence testing was sent to me.

19 Q And what was his score on that?

20 A He scored in the average range of  
21 intelligence.

22 Q So he had no cognitive deficits from an  
23 intellectual standpoint?

24 A No, sir.

25 Q What about his mental-health history?

1           A     Unremarkable. He had no history of  
2     mental-health care, never sought it, um, was --  
3     individuals who have significant emotional psychiatric  
4     problems often get involuntarily sent to psych  
5     treatment facilities because they're not doing well.

6                     And so they come into contact with law  
7     enforcement because they may be acting erratically due  
8     to their psychiatric problems.

9                     Family members notice it, and so they may, um,  
10    undergo a Bake -- what's called a Baker Act, which is a  
11    civil commitment for individuals who are  
12    psychiatrically impaired.

13                    He had no history of that. The only history  
14    that he reported was that he was sent to a psychiatric  
15    wing of a youth detention facility after having been  
16    arrested.

17                    And he -- I asked him about that, you know,  
18    what was the circumstances, and this was around the age  
19    of 14 or 15.

20                    He said it wasn't due to emotional psychiatric  
21    problems. He indicated he had been abusing Valium and  
22    accidentally overdosed on it.

23                    So it's not uncommon if somebody overdoses to  
24    send them to a psychiatric unit to see if it was a  
25    suicide attempt and so forth, but he denied that that

1 was the case.

2 And he told me that throughout his life, he  
3 felt like he never needed mental-health treatment. Um,  
4 he's been in prison several times and never sought  
5 psychiatric care while he was there.

6 Now, I've been to prisons in Florida many  
7 times for my work. I'm well aware that there are  
8 psychiatric and mental-health-treatment services  
9 available in these prisons.

10 And all an inmate has to do is put in a  
11 request to see a mental-health counselor if they're  
12 experiencing any kind of emotional difficulty or  
13 psychiatric problem.

14 However, in this case he told me that he  
15 never sought those services. So as far as -- to  
16 answer your question, there absolutely is no history of  
17 mental-health problems, seeking psychiatric treatment,  
18 or, um, feeling like he needed to get into psychiatric  
19 care.

20 Q Now, during your own evaluation of the  
21 defendant in this case, did you actually conduct  
22 psychological assessments to evaluate that for  
23 yourself, notwithstanding his history?

24 A Yes, sir.

25 Q And what type of psychological instruments did

1 you administer?

2 A Well, I administered, um, the -- what's called  
3 the Millon Clinical Multiaxial Inventory, Fourth  
4 Edition. It's a long phrase. We call it the MCMI-IV.

5 This is an objective instrument. The  
6 examinee takes it on his own. The computer scores it.  
7 It gives you a profile.

8 And then, as a psychologist, you look at the  
9 profile and, based on your training, interpret it.

10 So it's a instrument that tells us if a person  
11 fits any of the diagnostic criteria for mood disorders  
12 or psychotic disorders or bipolar disorders,  
13 substance-abuse disorders, and, um -- so it's -- it's a  
14 well-known instrument.

15 I also relied -- I normally also give the  
16 MMPI-2, but that was given by Dr. Bloomfield, and so  
17 his test data was sent to me. These tests are pretty  
18 reliable over time.

19 And, in fact, we're advised not to repeat  
20 them, uh, for about six months. And so, uh, given that  
21 Dr. Bloomfield administered that, um, I relied on those  
22 data in addition to my MCMI.

23 Q And did either of those tests, either of the  
24 psychological instruments that you administered or the  
25 MMPI that Dr. Bloomfield administered, did either of



1 those indicate that the defendant suffered from my sort  
2 of mental illness?

3 A The tests were entirely clear, that this  
4 individual does not suffer from any type of mood  
5 disorder or any type of mental illness.

6 Q What about substance abuse?

7 A Yes, sir. Particularly -- in both -- both  
8 instruments, but speaking to my administration of the  
9 MCMI, the MCMI did show that there was, um, a  
10 significant substance-abuse problem.

11 Q Does that instrument reflect a certain profile  
12 as to sort of a -- the basis for that, what's driving  
13 the person to a substance-abuse problem?

14 A Yes, sir.

15 Q And can you explain that to us?

16 A Sure. Um, what I look for in the MCMI is not  
17 only does it tell you does this person have a  
18 substance-abuse problem, but it gets into what are the  
19 reasons, you know, what drives the substance abuse.

20 And to explain that a little bit, there are  
21 two main reasons why people -- just going to break it  
22 down to two reasons why people will get into  
23 addictions.

24 One is, um, what lay people often call  
25 self-medicating. So they may have a mental illness.

1 They may have a mood disorder like major depression or  
2 severe anxiety.

3 And so rather than going to a psychiatrist and  
4 utilizing psychiatric medicines, which is a more  
5 adaptive way of dealing with it, they'll turn to  
6 alcohol or substances.

7 So you may think in your life of somebody you  
8 knew of who was depressed that tends to drink. That  
9 may be part of self-medicating.

10 On the other hand, some people do drugs  
11 because it feels good, because it accentuates their  
12 personality.

13 And some individuals tend to be thrill  
14 seekers, sensation seekers, tend to lead what we call  
15 Hedonistic lifestyles. They enjoy pleasure, and so the  
16 drugs increase that and there's -- it makes it  
17 exciting.

18 In line with that, there also tends to be an  
19 antisocial component; that is, that they don't -- they  
20 don't follow social conventions. They break rules.  
21 And substance abuse is part of that.

22 Now, the MCMI looks at these two  
23 characteristics, these two types, to see, you know,  
24 which this examinee falls into.

25 And in this case the profile was clear in that

1 Mr. McKenzie falls in the latter; that is, it's not --  
2 he wasn't using drugs, at least as suggested by the  
3 MCMI, to self-medicate any emotional or psychiatric  
4 problems, which is consistent with his history. He has  
5 no psychiatric treatment history.

6 Rather, the MCMI showed that, in all  
7 likelihood, he was using this, um, basically for  
8 sensation-seeking purposes, for pleasure, for  
9 excitement.

10 Um, the MCMI even posed it as adolescents,  
11 like teens, having fun, using drugs to disinhibit  
12 themselves, to do things they are wanting to do  
13 anyways.

14 So that's the picture that this test  
15 portrayed, that, again, this isn't a depressed,  
16 mentally ill person using drugs to escape from a  
17 psychiatric problem.

18 Rather, this is somebody who chooses to use  
19 drugs because it feels good. It's part of the party  
20 lifestyle, and it's hedonistic in nature.

21 Q Was there anything about when you evaluated  
22 him or talked to him, reviewed the records -- we talked  
23 a little bit about sort of his educational background  
24 and how he was able to succeed to a certain extent and  
25 that.

1           Was there anything in your evaluation of the  
2 defendant, his work history and things of that nature,  
3 that showed, um, that he had the ability to succeed and  
4 thrive, um, you know, as a free person?

5           A     Absolutely.

6           Q     What was that?

7           A     We talked about his employment history and his  
8 relationships. Now, I see many cases of people who  
9 self-medicate, who are having significant emotional  
10 problems, lose control over drug use because they're so  
11 depressed.

12                   They've been turning to this for so long.  
13 They usually don't have these kind of employment and  
14 relationship histories.

15                   Usually, they're -- many times, they're  
16 homeless, unemployed, can't maintain employment. You  
17 know, everything around them, uh, is unsuccessful.

18                   That's not what we had in this case. This  
19 individual's working many hours, was successful in his  
20 business, talked to me about how he was able to move up  
21 in remodelling, construction, and was supervising other  
22 people, working many hours.

23                   And -- and I asked him specifically, and it's  
24 important, uh, to think about, is, you know, what's a  
25 person's income.

1                   Um, and he told me that between his salary and  
2 his bonuses, he was making about 115,000 dollars a  
3 year. Um, so he was pretty successful as far as, uh,  
4 what he's able to do, making income and his employment.

5                   He told me, uh, after his most recent release  
6 from prison, he had developed a relationship, had a --  
7 a home in, uh, Gainesville, and was also residing with  
8 his girlfriend and her children in St. Augustine.

9                   I asked him about, uh, you know, that  
10 relationship, how things were going. Well, he  
11 described the relationship as going really well, said  
12 that, uh, he was happy with -- with his girlfriend.

13                   She was happy with him, other than she was  
14 aware of his substance abuse, and that the children  
15 were happy with him. They were all getting along.

16                   One important feature that I wanted to assess  
17 is, 'cause when we're talking about lack of control  
18 with addictions or actually making conscious choices to  
19 use substances, it's important to see the context that  
20 people are actually using these substances.

21                   And if somebody's lacking in control, that  
22 means they're going to use these drugs everywhere.  
23 What I found pretty interesting in this case was when I  
24 asked him, well, you know, what was your drug use  
25 around the kids and around your girlfriend, well, he

1 told me he wasn't using around his girlfriend and the  
2 family, that he knew enough not to use these drugs in  
3 that situation.

4 Um, so when I looked at it, as far as his  
5 educa -- as far as his, excuse me, his occupation,  
6 being able to maintain that level, making that kind of  
7 money, being able to maintain a relationship with  
8 children and a girlfriend and the addiction's not  
9 interfering with that, that falls in line with what the  
10 MCMI showed as far as consciously using substances for  
11 more stimulus-seeking purposes.

12 Q With regard -- continuing on with this talking  
13 about the substance-abuse issues that he described, did  
14 you find in your evaluation of him that he had  
15 opportunities throughout the course of his life to  
16 actually have treatment that was available to him?

17 A Yes, sir.

18 Q And what was that?

19 A Well, he -- he told me that he had been  
20 involved in Narcotics Anonymous. And I asked him,  
21 well, how is that going, and he said, well, he felt  
22 like he didn't fit into that.

23 He said he kept going, eventually stopped  
24 going, but had participated in that.

25 And meeting with him, he was well aware that

1 there's substance-abuse rehabilitation in prison and in  
2 the community. Um, he chose not to utilize those --  
3 those services.

4 This is an intelligent individual. He has an  
5 average IQ. Um, I see cases where people are low IQ,  
6 you know, they need help to get to places, to under --  
7 to understand things.

8 That's not the case here. This was somebody  
9 who was fully aware that there are options out there  
10 and even was involved in them, but didn't like it and  
11 so he chose not to implement that.

12 Q Did you find anything about the way he  
13 described his substance abuse, um, how frequently it  
14 was or how often, how much money he was spending?

15 Was there anything about the way he described  
16 his substance abuse, um, that you found incredible?

17 A Yeah. I -- I had doubts about his  
18 credibility. I don't doubt that he had a  
19 substance-abuse problem. I certainly believe that.  
20 And there's enough, um, evidence around that.

21 But when you evaluate substance abusers, you  
22 got to be mindful of credibility. I mean, people  
23 don't -- in these cases don't always tell you the  
24 truth, and there's different reasons for that.

25 Um, and substance abuse, some people will

1 minimize their drug use because they're afraid that,  
2 you know, they don't want to look bad or there might be  
3 consequences.

4 In other cases, especially criminal cases,  
5 some people may over-endorse their substance -- they  
6 may exaggerate it, um, because they may be looking for  
7 sympathy.

8 And I had, uh, some suspicion just -- I've  
9 seen thousands of drug addicts. And, you know, this  
10 was pretty incredible far as what was being reported.

11 It -- it -- not -- not just recently, but  
12 going back to when it started. I mean, he told me he  
13 started smoking marijuana at age five, you know?

14 Is that possible? Yeah. I mean, but think of  
15 a five-year-old. You know, it just, um, um, I think  
16 raises some doubt.

17 He said that he began using substances  
18 regularly and alcohol by the age of ten, then got more  
19 into adolescence, which seems, you know, reasonable as  
20 far as comparatively to what other drug users, um,  
21 report.

22 He did describe during his adolescence that he  
23 was using these substances recreationally, mostly with  
24 peers, which is consistent with those MCMI test results  
25 of thrill seeking.



1           People who are self-medicating, usually, it's  
2 by themselves while they're home depressed. He's out  
3 partying with friends.

4           It got, you know, I think, uh, suspect as far  
5 as credibility when he talked about more recent drug  
6 use, saying he was shooting up about a thousand dollars  
7 worth cocaine on a daily basis and then, in addition to  
8 that, smoking crack cocaine.

9           Um, that would be quite a bit of cocaine. I'm  
10 not sure somebody physically could function, um, with  
11 that amount.

12           So I -- I don't doubt he was doing these, but  
13 I would caution the Court, uh, as far as how credible  
14 his report is.

15           Q     Did you talk to him about -- specifically  
16 about some of the prior offenses that were involved in  
17 this particular case, such as, um, a string of  
18 robberies that occurred in Gainesville, a -- a robbery  
19 that occurred in Broward County in 1990, a kidnaping  
20 that occurred in Alachua County in 2006, attempted  
21 robbery in Gainesville?

22           Did you -- you have an opportunity -- I know  
23 you said there was a number of things that you had  
24 reviewed prior to your evaluation and meeting with him.

25           Were these thing -- offenses that you were

1 able to discuss with the defendant?

2 A Yes, sir.

3 Q And what did he tell you about those?

4 A Well, I -- you got to look at history to get  
5 an understanding of an individual. Um, if somebody's,  
6 uh, attributing recent behavior to -- to some  
7 situational circumstance, extreme circumstance, some  
8 substance, um, it's unlikely they're going to have a  
9 history of doing similar things.

10 When people repeat things, it becomes more  
11 characterological in nature. It's more part of who  
12 that individual is.

13 So I asked him about prior convictions,  
14 particularly ones that involved violence, and I was  
15 actually struck.

16 He denied that he did these things. He said  
17 that he had stolen from people, but denied any of the  
18 violent components. And, um, it got into an  
19 interesting exchange.

20 And I said, well, you know I've read the  
21 reports and I've -- I've read the court findings, um,  
22 of fact.

23 And he said, well, you know, in all those  
24 cases, he pled out, you know, because he wanted a  
25 lighter sentence.

1 Q Did you also have an opportunity to review  
2 statements that he made regarding these offenses?

3 A Yes, sir.

4 Q And were those statements consistent with what  
5 he was telling you?

6 A Highly inconsistent. I mean, they were -- I  
7 was particularly focused on the 1990 case where he had  
8 hit somebody in the back of the head.

9 And there were witnesses at the scene who said  
10 he had made statements that he wished he had killed  
11 that person.

12 And he denied that he engaged in violence. He  
13 said that he stole, but he -- he didn't do these things  
14 and pled out to them.

15 Q And he denied all of these -- all of these  
16 offenses that we just mentioned?

17 A The violent components, yes, sir. He denied  
18 using weapons, denied firearm, denied, uh, being  
19 violent.

20 Q What about the murders in question? Let me  
21 ask you this, Dr. Meadows:

22 Did you ask -- talk to the defendant about the  
23 circumstances of the -- the murders in question, the  
24 murders of Randy Peacock and Charlie Johnston?

25 A Yes, sir.

1           Q     Why is it important to talk to the defendant  
2 about the circumstances of the crime?

3           A     I don't know how you could do an assessment of  
4 an individual related to a disposition in a case if you  
5 don't talk to him about the offense, um, to understand  
6 what they were thinking at the time, what may have been  
7 motivating them, how they're processing it now.

8                     Uh, its standard practice in our field as a  
9 forensic evaluator to do that, so I do that in every  
10 case. You got to talk about the offense.

11          Q     All right. So let's talk about what he said  
12 to you about the circumstances of these murders. What  
13 did the defendant say to you?

14          A     Um, essentially, he was, uh, in denial. Uh,  
15 he claimed now, um, that he didn't recall any of this.  
16 He talked about how he could recall leading up to the  
17 incident, couldn't recall killing the people, and then  
18 could recall components afterwards.

19                     I asked him about, well, what about the  
20 interview that you had with investigators? And  
21 these -- these interviews, uh, if you look at it, it's  
22 pretty clear. He -- he gave a lot of details as to  
23 what happened.

24                     He said he didn't remember talking to the  
25 investigators. So, uh, to answer your question, he did

1       similarly like he did in previous violent behaviors.  
2       He didn't admit to it.

3           Q       So do I understand you correctly that he was  
4       able to describe the events leading up to the murders,  
5       but not able to remember anything about the  
6       circumstances surrounding the murders, and then events  
7       right after?

8           A       Yes. He claimed that afterwards, his memory  
9       was clouded. And I -- I asked him specific questions  
10      which showed to me that he actually could remember  
11      things.

12                  But yeah. He -- he was entirely clear that  
13      he's basically saying he had this complete amnesic  
14      episode, amnesia, for killing these two individuals.

15           Q       Did he explain to you -- did he give you kind  
16      of a -- a reason why he didn't think he could remember?

17           A       He blamed it on the -- on the substances.

18           Q       Let me talk to you specifically about, um, the  
19      mitigating circumstances at issue, Dr. Meadows.

20           A       Yes, sir.

21           Q       With regard to the mitigating factor that --  
22      claiming the defendant was under the influence of  
23      extreme mental or emotional disturbance, do you have an  
24      opinion regarding whether the defendant, at the time  
25      these crimes were committed, was under the influence of

1 extreme mental or emotional disturbance?

2 A Yes, I do.

3 Q And what is your opinion?

4 A In my opinion, he was not under any extreme  
5 emotional or psychiatric disturbance. Historically,  
6 there's no evidence of that. Psychological testing  
7 reflects that he has no fixed emotional or psychiatric  
8 problem.

9 If you look at his statements to investigators  
10 after the offense, it's clear that he wasn't suffering  
11 from any emotional or psychiatric problem at that time.

12 And even when I talked to him in my  
13 examination, uh, he denied any significant emotional or  
14 psychiatric problems, uh, leading up to that.

15 Um, he did, later in the evaluation, said that  
16 he had some medical issues that he was dealing with,  
17 and we talked some more about that.

18 He denied any physical symptoms related to  
19 them and said that he was getting -- had gotten  
20 treatment for them.

21 So when you take everything together, um, I --  
22 I disagree with that completely, that, uh, he was under  
23 any kind of emotional distress or psychiatric  
24 impairment.

25 Q What about -- what about the drug use?

1 Assume, for sake of argument, that he was shooting up,  
2 smoking cocaine leading up to the crimes, during the  
3 crimes.

4 Would that have -- would that change your  
5 opinion, I mean, if he was doing those things, or is  
6 your opinion still the same?

7 A My opinion is still the same. Couple of  
8 reasons. One is he chose to use these substances.  
9 He's been in and out of prison.

10 He's gotten out. His -- his family provided  
11 him with a residence. He's had support. He's made --  
12 he's been educated. He's been employed. He's had  
13 relationships.

14 He had everything in place to not use, but he  
15 chose to use. Drugs didn't come to him. He went to  
16 the drugs.

17 And it wasn't for psychiatric problems.  
18 There's no evidence of that. He liked to use the  
19 substances.

20 Now, um, in addition to that, when I read  
21 the -- the amount of detail that he provided to  
22 officers about what he did, specific details, things  
23 that there's no way a person could even really consider  
24 at the time of the offense if they were so impaired by  
25 a substance, I mean, he's talking about the victims'

1 positions and what he needs to do and things he needs  
2 to do to avoid another person in the house seeing  
3 what's going on or people outside seeing what's going  
4 on, cleaning murder weapons.

5 This isn't somebody so whacked out on  
6 substances that they don't know what's going on around  
7 them. He knew exactly what was going on around him.  
8 He was able to relay that, shortly after, to officers.

9 So somebody who's so impaired by a substance  
10 isn't going to be able to even think about those  
11 details at the time that they're killing somebody.

12 Q What about the -- there was, in the statement,  
13 Dr. Meadows, where he talked about a deaf woman in the  
14 house.

15 Was there anything about that, his statement  
16 to officers about the deaf woman, who -- that Randy  
17 Peacock was a caretaker of --

18 A Yes, sir.

19 Q -- that you found striking?

20 A I found that -- I found that very significant  
21 because on the one hand, he's telling me he's so  
22 drugged out that he doesn't know anything, can't  
23 remember anything.

24 But what he told the investigators was that he  
25 assaulted the first victim, killed the first victim,



1 that he was surprised by the sound of his body hitting  
2 the ground, essentially how loud of a thump it was.

3 And so when he went to kill the second victim  
4 who was struggling with standing up, he first noticed  
5 that the victim was blinded by being struck in the back  
6 of the head.

7 I found that significant that, you know,  
8 you're -- you're telling me you're so whacked out on  
9 drugs, but you notice that a victim is struggling and  
10 is blind.

11 But getting to your question, during this  
12 whole interchange of killing this person, he was  
13 already thinking that there was a woman -- a deaf woman  
14 in the -- in another room.

15 And he thought -- had the conscious thought  
16 that he couldn't kill this person the way that the  
17 person would drop to the floor like the first victim  
18 did and make that thump because, he told the  
19 investigator, that the deaf person would feel the  
20 vibrations of the body hitting the floor.

21 And so he needed to figure out a different  
22 way, to make sure that this person hit the ground in  
23 not such a loud way so that this other person wouldn't  
24 get involved 'cause, he even said at the time, he  
25 didn't want to kill her.

1           How is that somebody that's out of control,  
2 who doesn't know what's going on? That's one of the  
3 most sophisticated versions of an offense that I've  
4 heard in my career, thinking about and planning  
5 around -- calculating how you're going to kill  
6 somebody.

7           It's completely inconsistent with his report  
8 that he can't even remember what happened.

9           Q     Now, with regard to -- excuse me -- the  
10 mitigation factor that -- the claim that Defendant  
11 was -- his capacity to appreciate his criminal conduct  
12 or to conform his conduct to the requirements of law,  
13 that it was -- that it was impaired, do you have an  
14 opinion on that?

15          A     It was not impaired.

16          Q     Can you explain that, too?

17          A     Well, just what I mentioned. I mean, he's --  
18 he's actively, while killing somebody, actively  
19 thinking what he needs to do to not get this other  
20 person involved, to not get other people outside  
21 involved.

22                 Cleaning the murder weapons, fleeing the  
23 scene, transferring to other vehicles while he's doing  
24 that.

25                 He made statements to the police indicating

1 that he was already going there to rob, uh, these  
2 individuals. So --

3 Q Was there -- was there any other information  
4 in the reports that you read, or even in the  
5 defendant's own interviews, where he was in the process  
6 of committing a crime and then was -- had the ability  
7 to stop himself, um, from going further?

8 A Yes, sir.

9 Q And what was that?

10 A You talking about this offense or previous  
11 offenses?

12 Q Previous offenses.

13 A He had kidnapped a woman or stop -- there was  
14 a discussion with her about religion and so forth, and  
15 it -- it seemed like she kind of got through to him.

16 So he basically stopped himself from going  
17 further with that.

18 Just in this index offense, the fact that he's  
19 considering that there's another person in there and  
20 doing things to prevent that person from coming out,  
21 that's somebody showing a lot of control.

22 Q He said in that interview that he was fighting  
23 within himself not to hurt her, correct?

24 A You talking about the previous --

25 Q Yes, the kidnapping victim.

1           A     Yeah.  He indicated in the previous one to  
2     investigators that he was fighting himself not to hurt  
3     her.

4                     So he had thought about hurting her, but, um,  
5     was thinking that he didn't want, you know, didn't want  
6     to go that route and so was able to effectively stop  
7     himself from doing that.

8                     MR. JOHNSON:  May I have a moment, your  
9     Honor?

10                    THE COURT:  Sure.

11                    MR. JOHNSON:  No further questions.

12                    THE COURT:  All right.  Cross-examination?

13                    MR. BARRETT:  Thank you, Judge.

14                                 CROSS-EXAMINATION

15     BY MR. BARRETT:

16           Q     Is there a cure for addiction?

17           A     A cure for addiction?  There is -- there's  
18     treatment and rehabilitation for addiction.

19           Q     Is that a cure?

20           A     Um, cure is a layman's term related to  
21     addiction.  It's used in AA and NA models where they  
22     conceptualize that it's a disease.  Uh,  
23     psychiatrically, we don't consider an addiction a  
24     mental disorder.

25                     It certainly -- we couch it as professionals

1 as can the person rehabilitate their addiction and  
2 prevent relapse, but people who are addicted to  
3 substances we do know are at risk for relapses.

4 Q Okay. Doesn't quite answer my question,  
5 though. Can an individual who is addicted to, say,  
6 something like crack cocaine, be cured --

7 A Again, cured --

8 Q -- to a situation -- let me finish -- to a  
9 situation where they will never ever use crack cocaine  
10 again?

11 A I've seen a number of individuals who were  
12 addicted who don't use crack cocaine again.

13 Q Are those individuals cured?

14 A Well, if you want to put it in layman's terms,  
15 I guess, sure. Again, cure is a layman's term.

16 We talk about people being at risk. So if you  
17 want to define cure as not using crack cocaine again,  
18 then sure. There are people who are cured.

19 Q Is there a term recovering drug addict? There  
20 is such a term, correct?

21 A Yes, sir.

22 Q And there are a lot of people who will keep  
23 track of how many years or days that they are  
24 recovering, correct?

25 A Yes, sir.

1 Q And those people do that because, because of  
2 the addiction, it is quite possible, probably more  
3 reasonable, that they will relapse again, correct, go  
4 back into using drugs?

5 A There -- there's always a risk for relapse,  
6 uh, for anybody who's been addicted.

7 Q Some of the things that would help in that  
8 relapse would be like being around people who are using  
9 drugs, correct?

10 A That could help with a relapse?

11 Q That could cause individuals to start using  
12 again is being around people who are using drugs; is  
13 that --

14 A If a drug addict, uh, is around people who are  
15 using, the NA model is to get out of that situation,  
16 but yeah, that would present as a risk factor.

17 Q Is drug addiction a medical disease?  
18 Substance use, is it a medical disease?

19 A There's quite a bit of debate in the field.  
20 Do we call it a medical disease or not? Um, it's not a  
21 medical disease that you're born with. It's  
22 conceptualized as a disease as far as relapse and risk  
23 and so forth. It's not on par with mental illness like  
24 schizophrenia and so forth.

25 Q Again, Doctor, I didn't ask you if it's one

1 that you are born with. The question is, is it a  
2 medical disease?

3 A Sir, I'm answering your question.

4 Q Is it --

5 A Some an -- may I finish? Some answers aren't  
6 just yes or no.

7 Q Okay. Are you saying you can't tell me  
8 whether or not it is a medical disease?

9 A I'm telling you if you ask some doctors,  
10 they'll say it's a medical disease. If you ask others,  
11 they'll say no, it's not a medical disease.

12 Q I'm discussing --

13 A Do I consider it a medical disease?

14 Q Right.

15 A No. I fall more into relapse prevention and  
16 that it's not a medical disease.

17 Q Okay. You did indicate that you have taken  
18 some courses in -- and have done some work with drug  
19 addicts, correct?

20 A I've done more than courses. I've done  
21 research in drug addictions and had specialized  
22 training in drug addictions.

23 Q You're not a toxicologist, though, are you?

24 A No, sir.

25 Q Okay. And I believe you said that he has a

1 substance-use disorder, correct?

2 A Yes, sir.

3 Q Okay. You also told this jury that -- that  
4 one of the things you would look for to see whether or  
5 not he had a chaotic childhood would be whether or not  
6 agencies like DCF got involved with either taking the  
7 kids or just investigating the family, correct?

8 A Yes, sir. I'd asked him about whether or not  
9 there had been any involvement.

10 Q And when you spoke to Mr. McKenzie, he told  
11 you that not that he's aware of, correct?

12 A That's right.

13 Q Okay. What did his mother tell you?

14 A I didn't speak to his mother.

15 Q Okay. What did his brother told -- told you?

16 A I'm sorry?

17 Q What did his brother or sister told you?

18 A I didn't speak to any family members.

19 Q Did you speak to anyone else other than  
20 Mr. McKenzie about his history, growing up?

21 A No, sir.

22 Q So when you said to this jury that he has no  
23 history of agency involvement, that is not correct,  
24 right?

25 A I reported to the jury what he disclosed to



1 me.

2 Q What you said to the jury, and, again, the  
3 jury will rely on their own recollection, but what you  
4 said to the jury was he had no history of any kind of  
5 social-services intervention in his family.

6 A I believe what I stated to the jury, and I  
7 think they'll recall this, was that in my evaluation  
8 with him, he denied any involvement and that I didn't  
9 see anywhere in the records that there was any  
10 documentation of involvement.

11 Q Okay. So did you go and look at DCF records  
12 or anything like that?

13 A Well, had he told me there was DCF  
14 involvement, I may have, uh, explored that, but there  
15 was nothing that was presented to me, nothing in any of  
16 the Department of Corrections investigative reports  
17 that I reviewed, that indicated that there was DCF  
18 involvement.

19 And, typically, you'll see that in a --

20 Q Okay. So the reality is that you don't know  
21 whether or not there had been any kind of a social  
22 service --

23 A The reality is that --

24 Q Let me finish the question.

25 A Okay. Yes, sir.

1 Q The reality is that you don't know whether or  
2 not there were any kind of an intervention into his  
3 family life when he was a child growing up, correct?

4 A The reality is, is that your own client denied  
5 that there was any intervention and that of all the  
6 records that I reviewed, court records, Department of  
7 Correction investigative reports, arrest reports, there  
8 was no indication of that.

9 Q So you consider him saying "not that I know  
10 of" to be a denial?

11 A Sir, he's an intelligent individual. He  
12 disclosed a number of details related to his history.  
13 Um, when he says he's not aware of DCF investigations,  
14 then I'm -- I'm taking that as --

15 Q As --

16 A -- that's likely the case. And it's also  
17 consistent with the records that I reviewed.

18 Q Okay. So when he tells you things, you take  
19 what he told you as being likely the case, correct? Is  
20 that what you're saying?

21 A That's not what I said.

22 Q Okay. He told you he was not aware of it, um,  
23 but then your conclusion to this jury is that there was  
24 no involvement.

25 A Based on his report and the records that I

1 received, that's my conclusion. Correct.

2 Q And you said, again, he did deny chaotic  
3 lifestyle. You're aware his mom and dad divorced when  
4 he was around eight, correct?

5 A We talked about that. Yes, sir.

6 Q And did you talk about the fact that he was  
7 going back and forth between the two parents?

8 A He told me that, um, his parents, uh, divorced  
9 at age eight, that he then resided with his mother  
10 until age 12, and then he moved in with his father.

11 Q Okay. Did he tell you that, as a child, there  
12 were times when he was basically left unattended; it  
13 was just him and his siblings?

14 A He described himself as being unsupervised  
15 quite a bit during childhood.

16 Q And you said as part of your review, you also  
17 look over interviews done by mitigation specialists.  
18 You reviewed interviews and the deposition of  
19 Dr. Bloomfield and Dr. Skolly, correct?

20 A Correct.

21 Q Okay. So that's part of the information you  
22 had about his history?

23 A Yes.

24 Q Okay. And in that information about his  
25 history, you learned that this, now grown, as a child,

1 was using drugs, skipping school, again, some serious  
2 drug as a child, correct?

3 A I think we went through that. I think I've --

4 Q That's not my question.

5 A -- talked to the jury about what he reported  
6 with his substance abuse and the ages he claims that  
7 they started.

8 Q Is that correct?

9 A What --

10 Q What I just asked you. Do you need me to  
11 repeat the question?

12 A I think I've answered your question, sir.

13 Q I don't think you have. Dr. Meadows, you sat  
14 there, still sitting there, and told this jury that his  
15 life as a child was not chaotic, and so I'm asking you  
16 about that.

17 You spoke to no one but Mr. McKenzie, correct?

18 A Well, sir, isn't that the subject of this --

19 Q Correct?

20 A Okay. May I finish?

21 Q No. You may answer my question, please.

22 A I am answering your question.

23 MR. JOHNSON: I'm going to -- Judge, I'm  
24 going to object. We're getting --

25 THE COURT: Dr. Meadows, if you'll -- if

1           you'll answer Mr. Barrett's questions, please.

2           THE WITNESS: I'm trying to answer it, your  
3           Honor.

4           THE COURT: That didn't seem responsive. Go  
5           ahead and respond to the question.

6           MR. JOHNSON: I'd ask, Judge, that also,  
7           Mr. Barrett's also getting very argumentative, as  
8           well, so...

9           THE COURT: Okay. I'll overrule that  
10          objection.

11          Mr. Barrett, please ask your last --

12          MR. BARRETT: Thank you.

13          THE COURT: -- question over unless you need  
14          it read back.

15          BY MR. BARRETT:

16          Q       And before I ask the question, if there's  
17          something in the question you don't understand, let me  
18          know.

19          A       I'm -- I fully understand the question, sir.

20          Q       Dr. Meadows, please let me finish so we don't  
21          talk over each other, okay?

22          A       Yes, sir.

23          Q       All right. The question to you was that --

24          MR. BARRETT: If I could have the jury read  
25          back -- uh, the jury -- the court reporter read

1 back the question.

2 THE COURT: Madam Court Reporter?

3 THE COURT REPORTER: Yes, sir.

4 "QUESTION: Dr. Meadows, you sat there, still  
5 sitting there, and told this jury that his life as  
6 a child was not chaotic, and so I'm asking you  
7 about that.

8 You spoke to no one but Mr. McKenzie,  
9 correct?"

10 MR. BARRETT: Thank you.

11 BY MR. BARRETT:

12 Q Is that correct?

13 A Yeah. He confirmed that it was not chaotic.

14 Q Okay. You also said he had no, um -- is it  
15 adoption problems or adaptive problems? I may have  
16 phrased that incorrectly.

17 Is it he has no adapt -- adaptive problems; is  
18 that --

19 A I don't understand what you're saying.

20 Q Would you agree that based upon what you've  
21 read and based upon your discussion with Mr. McKenzie,  
22 if you take what he said to you as true, that he had an  
23 addiction?

24 A I agree. I diagnosed him with a substance-use  
25 disorder. I haven't disputed that.

1 Q Okay. You said he's defensive in accepting  
2 responsibility and blames it on substance abuse,  
3 correct?

4 A Yes.

5 Q And you also talk about his prior convictions,  
6 correct?

7 A Yes, sir.

8 Q You reviewed those, correct?

9 A That's correct.

10 Q And you know, obviously, in his prior  
11 conviction, that he pled to all of those, correct?

12 A Yes, sir.

13 Q Which means he said to a judge at some point,  
14 I am guilty, I am accepting responsibility for the  
15 crime, correct?

16 A At the time that he pled, yes, sir.

17 Q Okay. You're also aware that these two  
18 offenses, the reason we're here today, he told, in both  
19 interviews he did, that he's guilty of committing these  
20 crimes, correct?

21 A You talking about the interviews with the  
22 police investigators?

23 Q Yeah, the two interviews. He did tell the  
24 police officers --

25 A That's right.

1 Q -- that --

2 A Yes, sir. He -- he went into details about  
3 what he did.

4 Q So the answer is yes, he did tell them he's  
5 guilty of committing these crimes, right?

6 A He acknowledged that he killed the people.  
7 Yes. I mean, when you're saying "guilty," you're -- I  
8 think of a guilty plea.

9 So I'm trying to answer as truthful and  
10 correct as possible. I don't recall him saying I'm  
11 guilty 'cause that's a plea, but I -- I certainly read  
12 and reviewed, and he admitted to killing these  
13 individuals.

14 Q Anywhere in those interviews, did he say that  
15 I never did it?

16 A No, sir.

17 Q In fact, one of those interview was about four  
18 months later, correct?

19 A That's right.

20 Q Did you actually watch the video?

21 A No, sir. I reviewed the transcript.

22 Q Okay. So you didn't watch the way he was  
23 acting, his movements, any of these things in that  
24 video, correct?

25 A I had transcripts that were verbatim to what



1 he was saying, the manner he was saying them.

2 Q You said his drug use -- well, let me back up.  
3 You said he didn't have a mental-health problem,  
4 correct?

5 A Correct.

6 Q And, in fact, I believe you said to this jury  
7 that he may be minimizing psychiatric disturbances,  
8 correct?

9 A I didn't say that.

10 Q Okay. Did you say that in your report?

11 A Not the way you're saying it, no.

12 Q Okay. What way did you say it in your report?  
13 (Witness perusing documents.)

14 A You're referencing the MCMI-IV.

15 THE WITNESS: And I'm sorry. I'm going to  
16 have to explain this a little bit.

17 THE COURT: Go ahead.

18 A His pattern on the MCMI-IV, um, there's what's  
19 called validity scales on these instruments, which are  
20 good scales. They tell you, essentially, how -- how  
21 truthful somebody's being on the instrument.

22 So it can tell you, is the person exaggerating  
23 problems, so they're -- they're endorsing items that  
24 really aren't realistic, or are they minimizing, you  
25 know, do they have more problems than they're actually

1       stating.

2                   So his validity profile suggested, to a mild  
3       degree, that he may have been minimizing issues;  
4       however, the MCMI states that you have to further  
5       assess that because that profile is also consistent  
6       with somebody who doesn't have a mental illness or  
7       emotional problems.

8                   The reason why it does that is because these  
9       instruments are developed for clinical populations.  
10       They're developed for -- for example, if you go to see  
11       a psychiatrist, psychologist in a clinic, they might  
12       give you this instrument to see what kind of problems  
13       you have.

14                   So the assumption initially of the instrument  
15       is that somebody's coming in to take this because they  
16       have some kind of psychiatric problems, or why would  
17       they be taking it?

18                   That's why the instrument tells you, be really  
19       careful because this could be somebody who really  
20       doesn't have problems. And depending on the context  
21       that you're seeing them, that's how they're going to  
22       score, so you need to look at other factors.

23                   And the other factors that you look at are  
24       history is a big one. Does the person have any history  
25       of going to a psychologist or a mental-health

1 professional, seeking mental-health care.

2 Is there any evidence and documentation of any  
3 kind of previous diagnosis and so forth. And if all  
4 that tells you that there's no history whatsoever, then  
5 the MCMI suggests that this is a person who doesn't  
6 have a mental illness or emotional problems.

7 So that was my conclusion based on how we  
8 interpret these instruments.

9 BY MR. BARRETT:

10 Q Okay. We'll go back before your conclusion  
11 and the question I asked you. In your report, did you  
12 indicate that he was -- at least the tests showed that  
13 he was minimizing psychiatric disturbances?

14 A I explained in my report just like I testified  
15 to the jury.

16 Q And you said in order to verify whether or not  
17 you actually have a problem, part of what you look at  
18 is his, I guess, treatment history?

19 A Yes, sir.

20 Q And from his treatment history, there is no  
21 history, correct?

22 A Other than as a juvenile, he was referred for  
23 that overdose --

24 Q Right.

25 A -- which he described as accidental.

1           Q     So in the Department of Correction, DOC  
2     prison, there is no history of mental-health counseling  
3     or evaluation, correct?

4           A     None that I saw in the records and none by his  
5     report.

6           Q     Did you see the records that he refused to go  
7     see a psychologist or psychiatrist?

8           A     We talked about that. Yes, sir.

9           Q     That wasn't what I asked you. Did you see in  
10    the records that he refused or --

11          A     I believe in the record it was consistent as a  
12    statement that he at one point refused to go see a  
13    psychologist.

14          Q     In the Department of Corrections, it's not  
15    mandated; you don't have to go, correct?

16          A     No, sir. You don't -- I mean, you don't.  
17    They -- they could involuntarily send you somewhere if  
18    you're showing problems but --

19          Q     And you've been practicing for -- for a while  
20    now. Is it unusual for you to see individuals in  
21    prison refusing to go see psychologists or  
22    psychiatrists?

23          A     Is it unusual?

24          Q     Yes.

25          A     We see -- we see people go, and we see people

1 don't go. It's not unusual either way.

2 Q Are you aware that in the Department of  
3 Correction, going to prison, seeing a psychologist or  
4 psychiatrist could have a negative stigma for an  
5 individual in population?

6 A Can you rephrase that? I'm not sure what  
7 you're getting at.

8 Q Okay. People who go see psychologists or  
9 psychiatrists in prison usually carries a stigma in  
10 prison; are you aware of that?

11 A Usually has what?

12 Q Has a stigma attached to them when they go see  
13 a psychologist or psychiatrist.

14 A I mean, many people in prison go see  
15 mental-health professionals. The medical information  
16 provided by inmates is confidential just like it would  
17 be if you saw a doctor in the community.

18 So if somebody comes to a clinic, nobody knows  
19 what they're going to the clinic for. I've been to  
20 these clinics.

21 It's not like there are a bunch of inmates  
22 standing around monitoring who's going to see the  
23 psychologist.

24 I've been the psychologist in these prisons.  
25 I've seen a number of inmates in these prisons.

1           The only time that you might have a stigma is  
2 if somebody is so psychotic and then they're put into a  
3 mental-health-segregation cell and there's other  
4 inmates around, then they may be deemed as -- and  
5 excuse the term -- the nut job or the crazy guy or  
6 whatever, but to go in and see a psychologist for  
7 mental-health counseling or assessment, I mean, that's  
8 routinely done in prisons.

9           Q     Are you saying there's no stigma attached to  
10 it in prison?

11          A     I think it's unlikely in this context.

12          Q     You said his drug use was centered around  
13 self-indulgent lifestyle. What was --

14          A     The -- the test -- the psychological testing  
15 suggested that.

16          Q     Okay. Initial use of drug would recreate --  
17 generally, it's by choice. Somebody wants to  
18 experiment or just want to see what it's like, correct?

19          A     Drug -- drug use is a behavior. It is a  
20 conscious choice that people make.

21          Q     Is it a conscious choice that someone who's  
22 addicted to something like crack cocaine may want to  
23 continue to still use crack cocaine?

24          A     Absolutely.

25          Q     You don't think it's because of the addiction

1 that they cannot stay away from it?

2 A The person chooses to continue with their  
3 addiction. And you usually see behaviors leading up to  
4 it --

5 Q So it's --

6 A -- 'cause usually they -- they start driving  
7 around the crack house. They start looking for people  
8 who are using crack.

9 They're making the choice that they're going  
10 to get back into this lifestyle. They -- they cut off  
11 the people that are helpful to them. They drop out of  
12 NA. They leave the substance-abuse house.

13 Um, they're making the decision to -- to use  
14 that drug.

15 Q Okay. So an individual -- part of the street  
16 terms that you hear sometimes is a crackhead. I'm sure  
17 you've heard that before, correct?

18 A Yes, sir.

19 Q So it's your testimony to this jury that  
20 someone who's a crackhead, every time they go and use  
21 drugs, it's not because they can't control themselves,  
22 but they're just consciously deciding to stay on crack;  
23 is that what you're saying?

24 A It's their decision to stay on crack. Yes.  
25 I've seen individuals who have been, uh, so cracked out

1 on the streets that they decide they don't want to do  
2 it anymore, and they walk into a rehab center. They  
3 say no. They say I've had enough, and they go to  
4 rehab.

5 I see people come in the jail who are bouncing  
6 off the jail walls, and then when they come off of it,  
7 they tell me they're done with this. They're done  
8 coming to jail. They want the rehab that's in the  
9 jail.

10 Those are decisions that we make as adults.  
11 Some adults choose not to make proper decisions. They  
12 make wrongful decisions, but it's still their  
13 decisions.

14 And we're talking about a case of somebody  
15 who's got high intelligence, who's been successful,  
16 who's had opportunities presented before him, who's had  
17 help from his family, isn't a crack addict on the  
18 street with no resources available.

19 Q What help did he get from his family?

20 A He indicated to me when he was released that  
21 they had allowed him to live in a trailer on his  
22 property -- on their property.

23 Q Okay. When he started using crack as a child  
24 or as a juvenile, what help did he get from his family?

25 A What help did he get from his family when he



1 started using crack as a child?

2 Q Yes.

3 A I don't -- I don't know that he was using  
4 crack as a child. It's surprising to me that he's able  
5 to make it through high school and get a GED at --  
6 during his teen years, but, you know, I don't know what  
7 types of efforts people made to try to stop him from  
8 using substances.

9 Q Part of the history that you reviewed to  
10 testify here today was that he started using drugs at  
11 an early age, correct?

12 A That's what he reported. Yes, sir.

13 Q That's also what's reported by, um -- since  
14 you've looked at the mitigation reports, by an  
15 individual -- by, um, his mom.

16 In talking to his -- Dr. Bloomfield and  
17 Dr. Skolly's, um, deposition, they indicated they spoke  
18 to the mom, and the mom did confirm that he started  
19 using drugs at an early age, correct?

20 A I -- I don't dispute that he wasn't using  
21 drugs as --

22 Q That's not my question.

23 A -- in childhood.

24 Q Dr. Meadows, my question to you is that part  
25 of what Dr. Skolly talked about in her deposition,

1     having talked to the mom -- that you didn't do, having  
2     talked to the mom -- is that he started using drug at  
3     an early age, in fact, was skipping school and that's  
4     how Mom found out?

5             A     And --

6             Q     Is that correct?

7             A     I saw that and I testified, again, when he got  
8     to his report of the adolescence, that that seemed  
9     consistent with -- with drug use.

10            And he talked about how he used it for  
11   recreation with peers. I think we got into that.

12            Q     Also, as part of that, Mom actually said that  
13   she couldn't help him. She couldn't stop him. She  
14   couldn't do anything for him.

15            Isn't that also part of this interview?

16            A     She very well may have said that. Yes, sir.

17            Q     Okay. Isn't that part of what you reviewed?

18            A     You're asking me to think of a sentence out of  
19   probably over a thousand pages of records.

20            Q     I'm not --

21            A     If you want me to be more specific, you can  
22   introduce a document, but I've literally reviewed over  
23   a thousand pages of records in this case.

24            I recall his mother talking to either the  
25   mitigation specialist or a psychologist or both about

1 his substance abuse.

2 I've testified he has a substance-abuse  
3 disorder. I've testified that this did -- at least  
4 began in late childhood, and his pattern adolescence  
5 seemed consistent with that.

6 So I'm not -- again, I'm not disputing that  
7 that's the case.

8 Q So other than giving him a place, a trailer on  
9 the property to stay on, having him to stay on her  
10 property when he got out of prison, what assistance did  
11 the family provide to him?

12 A Well, I think that's -- I mean, I -- giving  
13 you a place to live when you come out of prison is  
14 pretty significant.

15 Q I didn't say it wasn't. I --

16 A Well, I -- but you -- it's embedded in your  
17 question, sir, so I'm addressing it.

18 Q I said in addition to that, Doctor, what  
19 assistance did the family provide to Mr. McKenzie?

20 A I don't know. I don't -- did they -- is it  
21 their job to take him to a rehab center? I mean --

22 Q You don't know, but you just told this jury  
23 that his family provided assistance to him.

24 A Yeah. They provided him a place to live.

25 Q Okay. You point out the fact that he was able

1 to hold a job. He was making at some point, between  
2 bonus and salary, over a hundred thousand dollars a  
3 year, correct?

4 A Yes, sir.

5 Q Okay. You're aware that he got fired from  
6 that job, correct?

7 A That's not what he told me.

8 Q Okay. What about the materials you reviewed,  
9 including interviews by the mitigation expert,  
10 including Dr. Skolly's deposition, that he got fired  
11 from the job because he was using drugs on the job?  
12 Were you aware of that?

13 A I -- I don't recall specifically. I asked  
14 him, again, about any adaptive problems at work. He  
15 denied them.

16 He said that he was supervising other people.  
17 He talked about going -- uh, obtaining different work.  
18 He didn't say that he was fired from any job.

19 Q Okay. And he -- but you did review other  
20 materials, correct?

21 A Yes, sir, but I complete -- I do my own  
22 assessment, and I'm assessing your client. And I'm  
23 getting it right from the horse's mouth, so I'm relying  
24 on what he's telling me.

25 Q Yeah, but as an expert, someone who knows he's

1 going to come in court and testify, surely, you don't  
2 just rely on just your evaluation of this individual to  
3 get a complete history of Mr. McKenzie, correct?

4 A No. I rely on a lot of information, but I'm  
5 not going to rely just on a defense mitigation or  
6 defense expert to tell me the truth about whether or  
7 not he was fired.

8 Q But -- and, again, you would want to talk to  
9 other people, as well, correct --

10 A Yeah. I --

11 Q -- to get a complete --

12 A -- spoke with your client.

13 Q You would want to talk to other people,  
14 including Mr. McKenzie, to get a complete history,  
15 correct?

16 A I felt comfortable with the history that he  
17 provided to me and with what was noted in the records.

18 Q So you didn't think you needed to talk to his  
19 mom to verify anything about his childhood? You didn't  
20 need to -- think you needed to talk to anyone who grew  
21 up around him or was around him during his drug use to  
22 verify whether or not he had drug use?

23 A I knew he had drug use, and no --

24 Q This --

25 A -- I don't -- there wasn't anything else other

1 than what already -- this woman had been interviewed by  
2 different people. I saw it. I was aware of it. I was  
3 aware of what she stated. I compared that to what this  
4 defendant was stating.

5 Had -- had he disclosed to me that there were  
6 always problems in childhood and so forth, then I might  
7 have seen a need to follow up on that depending on what  
8 he said, but he denied it.

9 He said he -- he had a happy childhood. He  
10 said he had good parents. So he was dis -- he was  
11 disputing that information. He denied emotional  
12 problems.

13 Q We're not talking about emotional problems.  
14 We're talking about drug use. He didn't deny drug use  
15 to you, correct?

16 A He denied drugs; is that what you're saying?

17 Q He did not deny drug use to you; is that  
18 correct?

19 A Sir, I think we've answered this I don't know  
20 how many times. Yes. He reported several times that  
21 he was using substances. Yes. I diagnosed him with a  
22 substance-abuse disorder.

23 Q Dr. Meadows, you've testified before hundreds  
24 of times, correct?

25 A Yes, sir.

1 Q You know how it works. The attorneys ask you  
2 questions, and you answer the questions, correct?

3 A I do, but I also know attorneys, when they ask  
4 the same thing over and over, it becomes repetitive.

5 Q You know the attorneys ask the questions, and  
6 you answer the questions, correct?

7 A Yes, sir.

8 Q You know the role of the state attorneys, if  
9 there is something that's objectionable, to object to  
10 those questions, correct?

11 A Yes, sir.

12 Q You know the role of the judge is to make  
13 rulings on those objections?

14 A Yes, sir.

15 Q Okay. And your role is to testify and answer  
16 questions, correct?

17 A That's right.

18 Q Okay. Part of what you told this jury as part  
19 of the reason why you think that he's in control, I  
20 guess, of his drug problem or his addiction problem is  
21 that he was able to successful -- he was successful in  
22 his education. He was able to take a whole lot of  
23 classes; um, is that correct? He had --

24 A No, sir. You're -- I believe you're  
25 misstating. I talked about his accomplishments, but

1 when we got into control, if I'm hearing you right,  
2 control while using substances, is that what you're  
3 asking?

4 Q No. Let me try -- and that may be my bad  
5 phrasing --

6 A It's okay.

7 Q -- so I apologize for that. All these classes  
8 that you told the jury that he took, these were classes  
9 he took in prison, correct?

10 A Yes, sir.

11 Q While he was locked up?

12 A That's right.

13 Q And you have no information to suggest that  
14 while he was in prison locked up taking these classes,  
15 he was using drugs, correct?

16 A Correct.

17 Q In reviewing his DOC records, you didn't see  
18 anything in his DOC records what is often referred to  
19 as DR, disciplinary reports, about him using drugs in  
20 DOC? Do you recall?

21 A I don't recall seeing that. No, sir.

22 Q Okay. So when he was away from the drugs,  
23 locked up, he was able to successfully take additional  
24 courses and to -- to educate himself, correct?

25 A Yes, sir.



1 Q Okay. But when he was out of prison, the only  
2 thing he may have told you that he did in terms of  
3 education was the GED, correct?

4 A I believe that's the thing he did outside of  
5 prison. Yes, sir.

6 Q Okay. So even though he did advance his  
7 education, this was all done while he was locked up and  
8 away from the drugs, correct?

9 A The post high school, yes, sir.

10 MR. BARRETT: If I may just have a brief  
11 moment?

12 THE COURT: Sure.

13 BY MR. BARRETT:

14 Q Oh, you had indicated you have testified  
15 several times. How many of those times were in  
16 death-penalty cases?

17 A Death penalty?

18 Q Yes.

19 A I -- I mean, I'm guessing, uh, 15 or so.

20 Q And those 15 cases, how many --

21 A Are you talking about -- I'm sorry. I'm  
22 thinking in this situation, like, coming back for  
23 sentencing.

24 Q No. I'm not asking that.

25 A But I've testified in more death-penalty --

1 pretrial death-penalty cases.

2 Q What I'm asking is just death-penalty cases  
3 itself, whatever the circumstances.

4 A I don't --

5 Q How many --

6 A I really don't know.

7 THE WITNESS: I mean, I'm guessing, your  
8 Honor.

9 THE COURT: All right.

10 THE WITNESS: It's been a number, but --

11 BY MR. BARRETT:

12 Q Can you tell us how many of those cases you  
13 actually testified for the defense in?

14 A There's been several for the defense. I don't  
15 know the exact number.

16 MR. BARRETT: I don't have any other  
17 questions.

18 THE COURT: Any redirect examination,  
19 Mr. Johnson?

20 MR. JOHNSON: No, your Honor.

21 THE COURT: Thank you, Dr. Meadows. You are  
22 excused.

23 THE WITNESS: Yes.

24 THE COURT: Have a good day.

25 THE WITNESS: Thank you. Everybody have a

1 good day.

2 (The witness exited the courtroom.)

3 THE COURT: Does the State have any further  
4 rebuttal witnesses?

5 MR. JOHNSON: No, your Honor.

6 THE COURT: All right. Ladies and gentlemen,  
7 the State has rested its rebuttal portion of its  
8 case, so that's all the evidence and testimony  
9 you're going to hear in this case.

10 Let's go ahead and take a break at this  
11 point. Do y'all want to go to the jury lounge  
12 for, like, 20 minutes or do you want to stay up  
13 here?

14 Show of hands, who wants to stay up here?

15 Okay. Only -- who wants to go downstairs?

16 (Some of the jurors indicated in the  
17 affirmative.)

18 THE COURT: Okay. There's a couple, so we'll  
19 send you down there. Maybe you want some coffee  
20 or something. That's fine.

21 Let's plan 20 minutes, 11:15. What we're  
22 going to do when you come back is we're going to  
23 start the closing arguments of the attorneys.

24 And when we're done with the closing  
25 arguments -- that's going to take a little while,

1 so there may be a break in there -- then I'll  
2 instruct you on the law and give you some other  
3 instructions as we go along.

4 So, again, please do not discuss the case  
5 among yourselves. Don't do any research of any  
6 type. Leave your notes here in the courtroom.

7 And if you'll follow the deputy out, we'll  
8 have you go to the lounge. Be ready to come back  
9 at 11:15.

10 (The jury exited the courtroom.)

11 THE COURT: All right. Y'all take a seat.  
12 Everybody remain in the courtroom for a few  
13 moments until the jury's cleared.

14 Let the record reflect we're outside the  
15 presence of the jury, and we have all parties  
16 present, including the defendant.

17 I've received two more questions from the  
18 jury. I feel like I'm in a civil case. In civil  
19 cases, juries get to ask questions.

20 In criminal cases, it's discretionary and I  
21 did not give them that option, but, apparently, it  
22 didn't matter.

23 I'm going to put the questions out there to  
24 you --

25 MR. BARRETT: Yes, Judge.

1           THE COURT: -- just so you know what's out  
2           there. We're not going to answer the questions,  
3           but it just gives y'all a heads-up.

4           MR. BARRETT: Sure.

5           THE COURT: First question: "How long was  
6           Mr. McKenzie incarcerated and for what?" That's  
7           the first question.

8           We're going to make all these part of the  
9           permanent record.

10          And the next one, "Was the defendant ever  
11          clean while on the outside?"

12          So just letting you know what they are. I'm  
13          not going to answer them to the jury. They're to  
14          rely upon their own -- or reply -- rely on the  
15          evidence and testimony presented during this  
16          trial, and that's what I'm going to tell them.

17          So I am thinking of, obviously, we're going  
18          to get into closings in just a few moments, but  
19          I'm thinking of ordering lunch in for the jurors  
20          so that when we get to the point of their  
21          deliberations -- or maybe we'll take a short break  
22          in the middle of closings, depending on how  
23          long-winded you all are -- for them to eat their  
24          lunch, but I'm thinking of getting menus in here  
25          and then maybe we'll take a break in the middle of

1 the closings, let them fill out the menus, and  
2 then finish the closings.

3 And when they're deliberating, bring the  
4 lunch in. That way they have more time to  
5 deliberate.

6 So if you can order up --

7 THE BAILIFF: Yes, sir.

8 THE COURT: And we will now be in recess  
9 until 11:15.

10 (Court was in recess from 10:58 a.m. until  
11 11:17 a.m.)

12 THE COURT: All right. Y'all can be seated.  
13 We have the jury on their way up here.

14 Just so you know, we'll take a very short  
15 break between the closings so the jury can take  
16 care of their menus for lunch.

17 MR. BARRETT: That's when I'll set up.

18 THE COURT: That's what I figured.

19 All right. John, we're ready to bring the  
20 jurors in.

21 We're going to go ahead and bring the jury  
22 in.

23 (The jury entered the courtroom.)

24 THE COURT: Welcome back, folks. Y'all can  
25 be seated in the courtroom. I hope everybody

1           enjoyed the break.

2                     So what we're going to do is, in just a few  
3           moments, we'll begin the closing arguments of the  
4           attorneys. There will be two closing arguments,  
5           one from the State, one from the defense.

6                     We're going to take a short break in between.  
7           The purpose of this break, in addition to if  
8           anybody needs to use the rest room, obviously,  
9           we'll keep you up here, but we're going to give  
10          you lunch menus and order lunch in for you.

11                    So we'll have you complete the menus during  
12          that short break, we'll order the lunch in, and by  
13          the time -- if all the timing goes well, by the  
14          time we're done with the last closing argument and  
15          you retire to deliberate your verdict, lunch will  
16          be in there for you. And then you'll be able to  
17          eat lunch while you start your deliberations.

18                    So that is the plan. So I'm not forgetting  
19          about lunch, so everybody keeps that in mind.

20                    And like I said, we're about to start the  
21          closing arguments of the attorneys. Keep in mind  
22          that what the lawyers say is not evidence, and you  
23          should not consider it as such.

24                    Their closing arguments are designed,  
25          however, to assist you in understanding this case,

1 so please pay careful attention to what they're  
2 about to tell you.

3 I do want to say one other thing. I did  
4 receive some notes or questions from some of the  
5 jurors. I'm not able to answer those questions,  
6 and you are to rely on the evidence and testimony  
7 that's introduced during this trial.

8 So with that, we'll start with the closing  
9 arguments. State -- like I said, the State will  
10 go first and then the defense, and we'll take that  
11 little break in between.

12 So, Mr. Johnson, you may proceed.

13 MR. JOHNSON: Thank you, your Honor. May it  
14 please the Court?

15 Counsel?

16 Good morning. On October the 4th of 2006,  
17 Randy Peacock left work and went home. Charlie  
18 Johnston at that time was shopping for a tool for  
19 his neighbor to help him fix the brakes on his  
20 car.

21 At that time neither one of them realized  
22 that neither one of them would see the light of  
23 the next morning.

24 Because at that time, at that same time, this  
25 defendant was on his way to their house, and he



1 was on his way to their house with a plan.

2 He wanted money. He needed money. They had  
3 it, in his opinion, and he was going to take it  
4 from them.

5 Randy Peacock -- you heard the victim-impact  
6 statements in this particular case. He was a  
7 brother. He was a friend. He was a co-worker.  
8 At one time he was Flagler Hospital's employee of  
9 the year.

10 Charlie Johnston was a father to a daughter.  
11 On October the 4th of 2006, they walked among us,  
12 human beings alive, and now they're dead.

13 And they're dead because of the choices made  
14 by one man, choices that he made from his own  
15 selfish desires.

16 All of us make choices. Some of us make  
17 choices well intentioned, and bad things happen.  
18 You roll through a red light, you cause an  
19 accident, you didn't mean to, but there are  
20 consequences.

21 But sometimes a person makes choices, bad  
22 choice -- that they know are bad, that they know  
23 are forever, and they do them anyway.

24 And that's what the defendant in this case  
25 did. And he did it in the most horrendous manner

1 possible, and that's why we're here today.

2 His guilt has already been decided. Your  
3 job, your role here today, is to decide what is  
4 the appropriate sentence for this man who took  
5 those two people, those two men, took their lives.

6 The judge will tell you in the next few  
7 moments that in -- it is now your duty to make a  
8 determination as the appropriate sentence that  
9 should be imposed for the defendant for the crimes  
10 of first-degree murder.

11 And there are two counts, two crimes of  
12 first-degree murder, and there are two possible  
13 punishments. And that is life in prison without  
14 the possibility of parole or death.

15 The judge will also tell you that when he  
16 reads you those instructions, it is important that  
17 you follow the law that is spelled out in those  
18 instructions. There's not any other laws that  
19 apply to this particular case.

20 Even if you don't like the laws, you still  
21 have to apply them, and you have to use them.

22 So let's talk about how you're going to be  
23 able to reach the decision you're called upon  
24 today. Essentially, it comes down to four  
25 questions.

1           Number one, has the State in this case proven  
2           at least one aggravating factor beyond a  
3           reasonable doubt?

4           Number two, are the aggravating factors that  
5           are found to exist sufficient to warrant the  
6           imposition of the death penalty?

7           Number three, do those aggravating factors  
8           outweigh the mitigating circumstances found to  
9           exist?

10          And based on those considerations, based on  
11          those considerations and none other, should the  
12          death penalty be imposed?

13          So let's talk about the aggravating factors.  
14          A lot of times -- this is familiar language to  
15          those of us who practice this -- in this area.

16          You folks, many of you may not have ever  
17          served on a jury before. You may not have ever  
18          heard these terms before, and so it's important  
19          that we explain to you what is an aggravating  
20          factor and why is that important in this  
21          particular case.

22          What the judge is going to tell you is that  
23          an aggravating factor is the standard that guides  
24          the jury in making a choice between a verdict for  
25          either life imprisonment without the possibility

1 of parole or death.

2 He will also tell you it's a statutorily  
3 enumerated circumstance. What that means is there  
4 is a statute that lists the aggravating  
5 circumstances, and the State is limited as to what  
6 those circumstances may be.

7 And he will tell you that those  
8 circumstances -- it is a circumstance that  
9 increases the gravity of a crime or the harm to  
10 the victim.

11 What makes this crime different? In not  
12 every first-degree murder the death penalty is  
13 sought. It's not appropriate in some cases.

14 So what is it about these murders that makes  
15 this different? The death penalty is reserved for  
16 the most aggravated and the least mitigated cases.

17 So what is it about this case that makes this  
18 case different?

19 The judge will tell you that it is our  
20 burden. We have to prove these aggravating  
21 factors beyond a reasonable doubt, and that your  
22 finding as to those aggravating factors has to be  
23 unanimous.

24 So what do you do with that? When you find  
25 an aggravating factor, you're going to weigh that

1           against the mitigating factors that are claimed in  
2           this particular case, and you will evaluate all of  
3           that.

4           And we'll talk about mitigating circumstances  
5           a little bit later, but what the judge will tell  
6           you is that when you're weighing the aggravating  
7           and mitigating circumstances against each other,  
8           it's not a mathematical process.

9           You're not simply counting the aggravating  
10          circumstances, the number of aggravating  
11          circumstances, against the number of mitigating  
12          circumstances and deciding who has the most. It  
13          is a weighing process.

14          You may actually find that certain  
15          circumstances are deserving of more weight. And  
16          if you imagine a scale where you have different  
17          size weights, you may have a circumstance that  
18          you'd consider to have very heavy weight.

19          You may have another -- on the other side of  
20          that, you may have circumstances, and there may be  
21          numerous of them, but you give them very little  
22          weight.

23          And still that one factor that you've given  
24          very heavy weight outweighs all of the other  
25          numerous circumstances on the other side. That's

1           how you're going to go about this process.

2                   So in this particular case, as you know,  
3           there are two counts that the defendant has been  
4           convicted of.

5                   And that is the murder of Randy Peacock and  
6           the murder -- first-degree murder of Charles  
7           Johnston. You're going to decide the defendant's  
8           sentence as to both of those.

9                   For those crimes, he is eligible for the  
10          death penalty on count one as well as count two,  
11          so let's talk about this again.

12                   What is it about this case? What is it about  
13          this case that makes this -- these crimes  
14          different than your typical first-degree murder?

15                   Well, there are five aggravating factors that  
16          apply in this particular case.

17                   Number one is that Nor -- the defendant was  
18          previously convicted of a capital felony or a  
19          felony involving the use or threat of violence.

20                   This is one of the statutorily enumerated  
21          aggravating factors that apply in this case.

22                   The second one is that the murder was  
23          committed while the defendant was engaged in the  
24          commission of a robbery.

25                   That, again, is another statutorily

1 enumerated aggravating factor that applies to this  
2 case.

3 Number three, that the murder was committed  
4 for financial gain.

5 Number four, that the murder was especially  
6 heinous, atrocious, and cruel, and we'll talk  
7 about that in just a minute.

8 And number five, that the murder was  
9 committed in a cold, calculated, and premeditated  
10 fashion with no pretense of moral or legal  
11 justification.

12 So let's talk about these one by one. And,  
13 again, these five aggravating factors apply to  
14 both counts one and count two, the murders of  
15 Randy Peacock and Charles Johnston.

16 So let's talk about the first one. The  
17 defendant was previously convicted of another  
18 capital felony or a felony involving the use or  
19 threat of violence to another person.

20 And you heard several of these during the  
21 course of this trial. First of all, the judge is  
22 going to tell you the crime of first-degree murder  
23 is a capital felony.

24 What that means is, the defendant has been  
25 convicted of two counts of murder here. When you

1           consider the aggravating -- this aggravating  
2           factor as it applies to the murder of Randy  
3           Peacock, the fact that the defendant was also  
4           convicted of the murder of Charles Johnston is an  
5           aggravating factor for that.

6           When you consider this aggravating factor as  
7           it applies to the murder of Charles Johnston, his  
8           murder -- his conviction for the murder of Randy  
9           Peacock is an aggravating factor of that, as well.

10          So also talking about this aggravating  
11          factor, you heard evidence in this particular  
12          trial of a number of prior violent felonies that  
13          the defendant in this case had previously been  
14          convicted of.

15          You heard -- you saw a judgment and sentence  
16          as to a Broward County conviction in 1984, where  
17          the defendant was kid -- convicted of kidnapping  
18          and robbery.

19          This happened very long ago. We don't know  
20          the circumstances of it, but the court records  
21          indicate that in 1984, this 1984 case, this  
22          defendant was convicted of kidnapping and robbery,  
23          two violent felonies.

24          In 1990, he was also convicted in Broward  
25          County of robbery. And you heard from Charles



1 Maguire in this particular case.

2 And he told you how he went to see his  
3 girlfriend this particular night in question, and  
4 he was waiting around for her. She never showed  
5 up.

6 He saw this guy pass by him at the pool, and  
7 he decided to go back and get on his motorcycle to  
8 go home when, out of the blue, out of nowhere, he  
9 suddenly was struck in the back of the head.

10 And he was there all night, woke up the next  
11 morning, wound up having to go to the hospital,  
12 had a broken neck. And his motorcycle was stolen,  
13 and money that he had in his pocket was -- was  
14 stolen.

15 This defendant, Norman McKenzie, was  
16 convicted of that. And you heard him. You heard  
17 him admit that in his statements.

18 You also heard evidence of a robbery that the  
19 defendant committed at the Honey Baked Ham store.  
20 This was Clarice Polczynski.

21 She testified about how this defendant came  
22 into her store. This crime that he was convicted  
23 of, he came into her store very calmly. He wasn't  
24 agitated. He wasn't angry.

25 He waited for the customer in front of him to

1 finish their purchase and leave. And then he  
2 walks up to her and demands that she give him the  
3 money in the cash register.

4 And in fear, that's exactly what she did.  
5 This defendant was convicted of that, the evidence  
6 shows.

7 You also heard about the robbery at the  
8 Waffle House. This was the victim Marquette  
9 Fredrick, how the defendant -- there was nobody  
10 else in the restaurant.

11 She was there. There was a cook standing  
12 behind her, cooking, with his back turned to them.  
13 And this defendant, Norman McKenzie, walked in  
14 there and threatened her, told her to give her  
15 [verbatim] the money out of the cash register.

16 And she was afraid, in fear for her life, and  
17 she gave him the money. He was convicted in that  
18 robbery case.

19 You also heard from Chantel Wilson regarding  
20 a robbery that occurred at the organic-food store.  
21 And she talked to you about how she was not -- she  
22 was not inclined -- she had been victimized  
23 before. She was not going to take it anymore.

24 She comes up and she sees what's going on.  
25 Her co-worker tells her that this -- that there is

1 a robbery.

2 And she wasn't going to give him the money  
3 until he made it known to her, at least left an  
4 impression in her mind, that he was armed and that  
5 it was probably in her best interest that she  
6 comply with his demands.

7 And so she did, and gave him the money out of  
8 the cash register. The defendant was convicted of  
9 that robbery in that Alachua County case in 2007.

10 You also heard about -- heard from Amanda  
11 Hughes, the person -- the woman who worked at the  
12 Jo-Ann's Fabric, how she was working in the store  
13 and how this man came in.

14 And she goes to the cash register. He  
15 basically tells her he's got a gun, give me what's  
16 in the cash register.

17 And she's frozen. She's -- she knows that  
18 there are these buttons that she has to push in  
19 order to open the cash register, but in this  
20 moment, she can't think of which buttons it is to  
21 push.

22 And he's like open the cash register, and she  
23 can't do it. And he winds up leaving. The  
24 defendant was convicted of that attempted robbery  
25 there at the Jo-Ann's Fabric in 2006.

1           Then you heard the testimony of Detective  
2           Saldana, Cesar Saldana, who worked with the  
3           Alachua County Sheriff's Office back in 2006.

4           And he talked to you about go -- responding  
5           to a kidnapping scene where he met with a woman by  
6           the name of Karen Coffee, how she had been  
7           kidnapped.

8           And she recounted that story to him as she  
9           cried these tears, silent tears, as he described  
10          it. This defendant was convicted of that crime.

11          And then, lastly, you heard testimony and the  
12          conviction from Larry Van, how he was driving to  
13          a -- to a meeting on I-75 when the traffic slowed  
14          down.

15          And he saw a man. He's out on the interstate  
16          and he's waving somebody down. And he pulls over  
17          to help, to help. And like the adage goes,  
18          Murphy's Law, no good deed goes unpunished.

19          This defendant walks up to him and tells him,  
20          and lies, and says my girlfriend, she's in the  
21          car. We just had a wreck and she's hurt.

22          And Larry Van is trying to help. He gets on  
23          the phone, and he's trying to call 911. Next  
24          thing he knows, this defendant is crawling through  
25          the car window, pulls a gun on him, points it at

1 him, and says, "Get out or drive."

2 And he got out, in fear. This defendant was  
3 convicted of that carjacking. Not only was he  
4 convicted of it, but the defendant admitted to  
5 these things.

6 You heard, with regard to the Charles Maguire  
7 robbery, he told the detectives in his interview  
8 on October the 5th, "When I got arrested in 1990,  
9 I put a dude in a coma, man, with an  
10 eight-foot-long pressure-treated post, hit him in  
11 the head, okay, and robbed him."

12 The way he describes, it's almost like he's  
13 proud of it. The Gainesville robberies, he told  
14 the detectives in that interview:

15 "I think I did a robbery in Gainesville. I  
16 did three. The first one was a Waffle House. The  
17 second was a Honey Ham place. The third one was  
18 an organic shop. They seal vegenaïse there."

19 Do you remember Marquette Fred -- um, do you  
20 remember Chantel Wilson telling you that? There  
21 was this person, this man, who looked perfectly  
22 normal to her, was asking her about vegenaïse.

23 That's exactly what he says: "They sell  
24 vegenaïse there. That's how I walked in there and  
25 faked them with this jar of vegenaïse." Defendant

1 admitted to this.

2 And then he tells the story of the girl at  
3 the organic shop. I said it's a robbery. I have  
4 a gun. Please just give me the money out of the  
5 cash register.

6 She said no, you can't have it, which is  
7 exactly what Chantel Wilson told you. My family  
8 worked too hard for this.

9 Let's talk more about these statements on  
10 October the 5th. The Amanda Hughes attempted  
11 robbery, he didn't remember the name of the place,  
12 but he referred to as, like, a Michael's, an art  
13 supply store.

14 He said he walked in there. He said, this is  
15 a robbery. I have a gun. Please don't make me  
16 hurt you. He's admitting that he threatened this  
17 girl.

18 And he says that she looked at him and said  
19 no, as well. Her story was that she froze, and  
20 she couldn't comply with his demands. The  
21 defendant admitted to that attempted robbery.

22 And then the Karen Coffee kidnapping, he  
23 described in that interview how he pulled inside  
24 the garage and shut the door. He walked into the  
25 house with his weapon drawn.

1           She said -- I said hello. She said hello.  
2           And he says it more dramatically than that. He  
3           says she was back in the back, playing Scrabble on  
4           line on the computer.

5           I said how are you. I was in my role, man.  
6           I was in my role. He was playing a role. She  
7           came out.

8           So the detective asked him, you guys went  
9           in -- went for a ride in the car? He said yes.

10          You run around in a car; is that correct?  
11          Yes.

12          At some point you decide to go back and get  
13          yours, right? Yeah.

14          And then what's so significant about this --  
15          his admissions about this crime, and I'll talk  
16          more about this a little later, but he talks about  
17          how he was fighting inside of her -- fighting  
18          inside of him not to hurt this woman.

19          He -- these were words from this defendant's  
20          mouth as he told these stories. He loves to tell  
21          stories.

22          You can tell from his interviews, he loves to  
23          tell -- tell a story, and he told all these and  
24          admitted to all of these crimes.

25          So what does it show us? With regard to each

1 of these victims, with regard to Randy Peacock and  
2 with regard to Charles Johnston, what are -- what  
3 is the evidence in this particular case as it  
4 relates to this aggravating circumstance?

5 With each of these victims, you have one  
6 additional murder, capital felony, and nine,  
7 nine -- there was eight cases, nine different  
8 crimes, violent felonies, that he was convicted of  
9 that constitute a prior violent felony.

10 Now, you can only consider that as one  
11 aggravating factor, but you can consider all of  
12 those, all ten of those crimes, the murd -- other  
13 murder and the nine prior violent felonies, you  
14 can consider that for its weight.

15 If you stop and think about each of those  
16 being a single thing, and you keep adding that  
17 together, I submit to you that you should give  
18 that great weight.

19 So let's talk about number two and number  
20 three. I'm going to combine these in our  
21 discussion here together.

22 And that is that the murder was committed  
23 while Norman Blake McKenzie was engaged in the  
24 commission of a robbery and that the murder was  
25 committed for financial gain 'cause these are



1           somewhat related.

2                    Again, we heard from the defendant's own  
3           mouth how he said he came over.  They're talking  
4           about Randy and Charlie's house.

5                    He said he came over after telling myself, I  
6           don't have to do my parents.  I can do this and  
7           get some money here.  And I did.

8                    That was what -- that was why he went there.  
9           That was why he went there was to get money.

10                   Now, he says I don't have to do my parents,  
11           so I can do this.  It very well could be that his  
12           intention all along was to kill them, but at the  
13           very least, we know from the context of that  
14           was -- his primary purpose was to rob them, was to  
15           get money from them.

16                   So what happens after he gets there?  He  
17           waits around.  He waits around for the young man  
18           who was helping Charlie Johnston -- that was  
19           helping Charlie Johnston fix his -- fix his  
20           vehicle.

21                   Remember, he tells -- he tells Charlie he  
22           needs a hammer and a piece of wood to fix a dent  
23           in his car.  He needs a really big hammer.

24                   And Charlie goes and tries to find these  
25           objects for him, and he hits Charlie in the back

1 of the head. Charles falls.

2 And he leaves and he goes and attacks Randy  
3 Peacock with the same hatchet.

4 And then he says, I went back out to get  
5 Charlie's watch. Again, this was a murder that  
6 was committed while he was engaged in the  
7 commission of a robbery, and it was a murder that  
8 was committed for financial gain.

9 Then he said he got Charlie's wallet. He  
10 said it was in his right rear pocket. And then  
11 after he basically made sure that both Randy and  
12 Charlie were dead, he goes looking for a ring. He  
13 couldn't find it. It wasn't -- Randy wasn't  
14 wearing his ring.

15 He says, I found Randy -- finally found  
16 Randy's wallet sitting in a -- it was inside of a  
17 blue lunchbox that was on Randy's dresser in his  
18 bedroom.

19 He told the detectives it will probably  
20 appear that there was plundering going on in the  
21 bedroom. I was just looking for the damn wallet.  
22 Again, that's -- he's focused on taking things  
23 from these victims.

24 And then he -- later after he leaves, he  
25 does -- he tells the detectives he can't tell you

1           which wallet he kept, but he still had both  
2           wallets. He had mixed the contents together.

3                    Again, this evidence shows you what -- what  
4           he did after -- while he was committing -- what  
5           was the purpose of committing these, and that  
6           was -- and that was to commit a robbery, and it  
7           was for financial gain.

8                    Now, the judge is also going to instruct you  
9           on this -- on this -- on the whole document. And  
10          I know you don't understand what that means, and  
11          I'll explain it to you.

12                   Basically, those two aggravating factors, two  
13          and three, that the murder was committed while he  
14          was engaged in the commission of a robbery and  
15          that it was committed for financial gain, you  
16          consider as one.

17                    Instead of two, you consider that as one. So  
18          two and three merge together in your consideration  
19          if you find that aggravating factor.

20                    So let's talk about number four. The fourth  
21          aggravating factor that applies in this particular  
22          case is that the murder was especially heinous,  
23          atrocious, and cruel.

24                    And this is the most significant of these  
25          aggravating factors, I submit to you. The judge

1 will tell you what heinous means. Heinous means  
2 extremely wicked or shockingly evil.

3 He will tell you that atrocious means  
4 outrageously wicked and vile, that cruel means  
5 designed to inflict a high degree of pain with  
6 utter indifference to or even enjoyment of the  
7 suffering of others.

8 He will tell you that the kind of crime  
9 intended to be included as especially heinous,  
10 atrocious, or cruel is one accompanied by  
11 additional acts that show the crime was  
12 conscienceless or pitiless and was unnecessarily  
13 torturous to the victim.

14 Now, let's talk about that for a little bit.  
15 You heard -- with regard to Charles Johnston, you  
16 heard testimony from the medical examiner in this  
17 particular case, Dr. Bulic.

18 He's the chief medical examiner here in  
19 St. Augustine. And he review -- he did not do the  
20 autopsy 'cause he wasn't there at the time. The  
21 medical examiner that did has since passed away or  
22 retired.

23 But he reviewed those records. He reviewed  
24 the photographs. He reviewed all of the  
25 information in order to come to his own

1 independent conclusions in this particular case.

2 He even reviewed the defendant's statements  
3 in this case. And what he told you is that  
4 Charles Johnston suffered four chop injuries to  
5 the head.

6 He told you that his skull was crushed  
7 inward, and it was mixed with brain matter. His  
8 brain was severely lacerated, that he had suffered  
9 extensive hemorrhaging.

10 But what's interesting about this is that  
11 when Dr. Bulic read the statement that this  
12 defendant made where he describes having hit  
13 Charles Johnston in the back of the head in the  
14 shed and then going to -- to attack Randy and then  
15 coming back, that Charles Johnston was still  
16 alive.

17 And he was making sounds, and he was moving.  
18 And the defendant thought he was trying to get up.  
19 And what the defendant said was that that was when  
20 he did the most damage to Charles Johnston.

21 You saw those photographs. The doctor says  
22 that that's based on his review of the autopsy and  
23 the photographs, and his re -- and his review of  
24 the -- that that's possible, that Charles Johnston  
25 was alive, that he was conscious during -- after

1           that initial attack, and that was why the  
2           defendant in this particular case decided to  
3           finish him off.

4                   And the reason why that's important is  
5           because if the victim is conscious -- Dr. Bulic  
6           said this -- if he's conscience [verbatim], he  
7           would have been in significant pain, which is  
8           perfectly obvious when you see the injuries that  
9           were inflicted on him.

10                   Again, according to the defendant, he hit  
11           the -- he initially hit Charles Johnston in the  
12           back of the head with the back of the hatchet and  
13           then left the shed and went in the house to attack  
14           Randy Peacock.

15                   And then he returned to get Charles  
16           Johnston's wallet and -- and found him trying to  
17           get up. And this is what the defendant said:

18                   "I think he was trying to stand up. And  
19           that's when I did really, really serious damage to  
20           Charlie. And that -- and that was where I  
21           remember it really clear in my mind because I  
22           dream it every day, the atrocity of this blow I  
23           did to his face."

24                   Those were the defendant's words. And then  
25           he said, "Man, you wouldn't believe how hard it is

1 to kill somebody. He actually lived through  
2 that."

3 The defendant, he was the witness to this.  
4 He was there. He saw this. And he told this to  
5 the police.

6 He said, "This guy might have lived if I  
7 would have called an ambulance for him. He might  
8 have lived."

9 But did the defendant let him live? No, he  
10 did not. He attacked him in the shed, and then he  
11 returned and finished him off with this hatchet.

12 What does this tell us? He used a hatchet.  
13 He used a hatchet. Other crimes he -- he used a  
14 gun. With Karen Coffee, he had a gun. With Larry  
15 Van, he had a gun.

16 In this particular case, he used a hatchet.  
17 What does that tell us? That it was designed --  
18 his actions were designed to inflict a high degree  
19 of pain.

20 There was utter indifference on his part to  
21 the suffering of Charles Johnston. There was no  
22 conscience in this attack, no pity, none  
23 whatsoever. It was unnecessarily torturous.

24 This is the defendant's handiwork. This  
25 proves that this murder of Charles Johnston was

1 heinous, that it was atrocious, and that it was  
2 cruel.

3 And I submit to you, ladies and gentlemen,  
4 that you should give this aggravating factor great  
5 weight.

6 So let's talk about Randy Peacock. We'll go  
7 back to the testimony of Dr. Bulic. He told you  
8 that Randy Peacock suffered three or four  
9 blunt-force injuries to the back of his skull, and  
10 the back of his skull was indented.

11 He told you that the visual center of the  
12 brain is actually located in the back. And so  
13 blindness was actually possible from being hit in  
14 that area.

15 He told you that Randy Peacock suffered six  
16 stab wounds, one to the neck, four to the abdomen  
17 and chest area, and one to the back.

18 He told you that the neck wound that you saw  
19 was not lethal. He also told you that the upper  
20 abdomen wounds, those lower of the four, were not  
21 lethal.

22 He told you that the lower chest wounds,  
23 which were the higher of the four, were survivable  
24 if he had been -- if the victim had been taken to  
25 the hospital within 30 minutes.



1           He also told you that the back wound, the  
2           back wound that this defendant, when he took this  
3           knife and he stabbed Randy Peacock, that that --  
4           that that knife wound penetrated through the back  
5           all the way to the front of Randy's body.

6           In fact, Dr. Bulic told you that it actually  
7           fractured a rib on the front side of Randy's body.  
8           That's how much force was used to stab Randy  
9           Peacock in the back.

10          The -- Dr. Bulic also told you that the  
11          defendant's statements -- he listened to the  
12          defendant's statements and that they were  
13          consistent with his findings at the autopsy.

14          So what do we know? We know this from,  
15          again, the defendant's own words as he tells this  
16          story.

17          He said that he attacked Randy Peacock --  
18          after he attacked Charles Johnston is when he went  
19          into the house and attacked Randy Peacock.

20          He said he was standing there at the stove.  
21          He was cooking soup. You remember, he was not  
22          feeling well.

23          And the defendant said he had a cold, so he  
24          was cooking soup. And as he was standing there  
25          cooking soup, he struck Randy in the back of the

1 head with the back side of that ax.

2 He said that Randy actually fell into the pot  
3 with his elbows, in this hot burning soup, but he  
4 didn't fall down. To his surprise, he didn't fall  
5 down.

6 So the defendant said, I hit him again. And,  
7 eventually, either he lowered Randy -- you heard  
8 him talk about how he was afraid of Randy making  
9 all this noise and let -- and the deaf woman who  
10 lived on the premises hearing that vibration --  
11 lowered him to the floor. And then he said, I  
12 left him there. He thought he was dead.

13 He said, "I've knocked a lot of people out in  
14 my life, man, so I know the sound of the breath.  
15 It's happening when it's coming to the end. And I  
16 thought that was what I was hearing." He thought  
17 he was dead.

18 "Okay. So I didn't have to freak about --  
19 freak out about it anymore. Fuck him. So I went  
20 back to the shed."

21 And this is when he goes and he finishes off  
22 Charles Johnston. After he finishes off Charles  
23 Johnston, and if you remember, after he hacked him  
24 multiple times in the head, he just left -- wiped  
25 off the hatchet and left it in the shed 'cause he

1 thought Randy Peacock was dead.

2 And he goes back into the house, and that was  
3 how Randy Peacock was found. You see the pot on  
4 the stove there where the soup had spilled out all  
5 over the front of the stove, just like the  
6 defendant said.

7 You heard Dr. Bulic talk about these burns,  
8 these second- and third-degree burns that were on  
9 Randy Peacock's arms and hands, consistent with  
10 him going into that soup.

11 And then the injuries to the back of his head  
12 that perfectly matched the back of that ax. Two,  
13 possibly three injuries, just like the defendant  
14 said. He hit him, and when he didn't go down, he  
15 hit him again.

16 What does this tell us? Again, that it was  
17 designed to inflict a high degree of pain.

18 So what happens? After he hit Randy Peacock  
19 and then he goes out and finishes off Charles  
20 Johnston, he comes back. And to his surprise, he  
21 sees that Randy was on his feet.

22 Interestingly, he says that he could tell  
23 that the defendant [verbatim] was blind. He  
24 couldn't see. There was no blood in his eyes, but  
25 he could just tell that he couldn't see.

1           Obviously, some trauma to the -- to his head,  
2           he damaged -- and this was completely consistent  
3           with what Dr. Bulic said. He told you that the  
4           visual center is in the back of the head,  
5           completely consistent with the defendant's version  
6           of events.

7           So what does he do? He left the hatchet. He  
8           left the hatchet in the shed. And so now it's  
9           kind of an "oh, crap" moment, and he has to do  
10          something.

11          And what does he do? He grabs a large knife  
12          out of -- out of the strainer. He describes  
13          trying to stab Randy in the neck, in the chest, in  
14          the heart several -- in the abdomen several times.

15          He says the effects of the stabbing are seen  
16          immediately, but he wouldn't go down. So then I  
17          was going to try to do this thing that I read  
18          about where somebody said go in here and stick it  
19          up there and jiggle it around and it's over.

20          That's consistent with what Dr. Bulic told  
21          you those injuries were. He said I tried to go in  
22          an angle like that, and he describes stabbing  
23          Randy in the abdomen and trying to hit his heart.

24          He said I -- he reached around. Randy  
25          reached around, while all -- while he is trying to

1 stab Randy, and he reached around and grabbed the  
2 knife.

3 He actually -- he said, he actually grabbed  
4 my hand because the knife was so far in him that  
5 all he could do -- he couldn't grab the knife. He  
6 was grabbing his hand. And he said, I couldn't  
7 get his hand off me, and eventually, he was.

8 Randy was fighting back. Defendant says,  
9 "That shit's not as easy as it sounds, man." He  
10 had to work hard for this. He wanted it to be  
11 easy. And he found that it wasn't easy.

12 He said if I dreamed about anything bad, it's  
13 about Randy because the noise that he made. He  
14 made this noise, man, like it was a struggle for  
15 his life.

16 And if you remember, he actually mimics the  
17 sound in the video, in the interview, that Randy  
18 made. Surreal.

19 He says that Randy, I think he was trying to  
20 live. I do think he was aware that he needed to  
21 live.

22 So what does this tell us? Utter  
23 indifference to suffering, no conscience, no pity.  
24 Stab wound after stab wound after stab wound,  
25 unnecessarily torturous.

1           The evidence shows clearly and unequivocally,  
2           beyond and to the exclusion of every reasonable  
3           doubt in this case, that this defendant's conduct,  
4           his actions in hitting Randy in the back of the  
5           head with that hatchet, and when that didn't do  
6           the trick, when that didn't do the job, he grabs  
7           that large kitchen knife and he's stabbing him  
8           over and over again as Randy fights for his life,  
9           trying to live, as the defendant said.

10           That is -- that was heinous, atrocious, and  
11           cruel. And I submit to you, you should give that  
12           aggravating circumstance in this case great  
13           weight.

14           So let's talk about the last one, the murder  
15           was committed in a cold, calculated, and  
16           premeditated manner without any pretense of moral  
17           or legal justification.

18           The judge will tell you that cold means the  
19           murder was a product of cool and calm reflection;  
20           that it was calculated, that calculated means  
21           having a careful plan or prearranged design to  
22           commit murder.

23           He'll also tell you that in order for this  
24           aggravating factor to apply, a heightened level of  
25           premeditation, demonstrated by a substantial

1 period of reflection, is required.

2 Again, this is -- this is how this murder is  
3 different from a typical first-degree premeditated  
4 murder.

5 In a typical premeditated murder, you just  
6 have premeditation. With this aggravating factor,  
7 there has to be a substantial period of  
8 reflection, plenty of time to decide, to think  
9 about what you're doing, plenty of time to decide  
10 you're not going to go through with it, plenty of  
11 time to make a different choice.

12 But this defendant didn't make a different  
13 choice. He had many, many, many opportunities in  
14 this particular case.

15 He said that he was in and out of there in  
16 ten minutes. So ten minutes, that may not seem  
17 like a long time, but I guarantee if we stood here  
18 silently for the next ten minutes, you would see  
19 how long ten minutes is.

20 So what did the defendant say? Again, he  
21 said, "I came over after telling myself I don't  
22 have to do my parents, man. I can do this and get  
23 some money here, and I did."

24 When he -- before he ever arrived, he is  
25 planning to go there and do harm to Randy Peacock

1 and Charles Johnston.

2 Then he said after he got there that, you  
3 know, the young man was there helping Charles  
4 Johnston work on -- on his car.

5 He went in, talked to Randy for a little bit,  
6 and he said he walked back outside. And he said,  
7 I was looking for something to help me get it over  
8 with pretty quick.

9 Again, he thought this was going to be easy.  
10 He wanted it to be easy, but he was already  
11 looking for something, a weapon, to use.

12 Charles Johnston, he asked Charles Johnston  
13 for a hammer and a piece of wood, and Charles  
14 John -- they had trouble finding it.

15 He gave him an ax. Couldn't find a piece of  
16 wood. They were looking around. Time. Time for  
17 this defendant to change his mind, to actually  
18 take that hatchet and that piece of wood, whenever  
19 it was found, and actually do something productive  
20 with it instead of destructive.

21 They looked, find the hatchet, he gives him  
22 the hatchet. They're looking for the piece of  
23 wood.

24 No one ever found a piece of wood. Charles  
25 Johnston is in the shed when he's attacked.



1           He said, I said to Charlie, I need a piece of  
2 wood and a hammer. He said it has -- I need -- it  
3 has to be a good-sized hammer.

4           He didn't want an ordinary hammer. He wanted  
5 a good-sized hammer. Why is that?

6           He wanted something sufficient to do the job  
7 that he had planned. This shows that this was a  
8 careful prearranged plan.

9           The evidence shows that, as it relates to  
10 this aggravating factor, that when the defendant  
11 went to Charlie and Randy's house, he went there  
12 with a specific intent to harm them.

13           And he waited. He waited for the opportune  
14 time to carry out his plan. When he got there,  
15 there was somebody else there.

16           And so he waited. He waited for that person  
17 to finish what it was they were going to do and  
18 waited until they left.

19           He didn't kill them while the neighbor was  
20 there helping fix the brakes. He waited until he  
21 left.

22           The other thing, he didn't kill Charlie and  
23 Randy together. He waited until he could attack  
24 each of them alone.

25           And then he decided who he was going to kill

1 first, and that was Charlie, Charlie first and  
2 then Randy.

3 And then he decided how he was going to kill  
4 them. And that was with the big hammer, or in  
5 this case, an ax.

6 What does this show? Calm and cool  
7 reflection. So let's talk more about this. He  
8 designed a way to get Charlie in the shed by  
9 asking him for that ax and that piece of wood.

10 His plan was to blindsides them. He didn't  
11 wait for them to turn around and face -- face them  
12 face to face, man to man. He waited until their  
13 back was turned to them -- to him before he  
14 attacked them.

15 And the reason for that is 'cause it was  
16 easier for him to kill them. He used two  
17 different types of weapons in this particular  
18 case.

19 He struck each in the head with a hatchet  
20 multiple times. He stabbed Randy Peacock six  
21 times. And here's the most important thing about  
22 this, this -- these murders:

23 When he attacked them first and that  
24 didn't -- that didn't do the job, he went back and  
25 finished them off. He -- he was determined. He

1 was determined that when he left that house, that  
2 Randy Peacock and Charles Johnston would be dead.

3 And if it didn't work the first time, he was  
4 going to do it again, and again if necessary, to  
5 make sure that they were dead.

6 What does this show? A substantial period of  
7 reflection, plenty of opportunities to make a  
8 different choice.

9 It also shows that this was a cold,  
10 calculated, premeditated murder. That's what the  
11 evidence shows beyond a reasonable doubt.

12 He was determined to kill them, and he did.  
13 And I submit to you, you should give this  
14 aggravating factor great weight.

15 So let's talk about the mitigating  
16 circumstances in this particular case. The judge  
17 is going to tell you this is what -- when you  
18 decide on the aggravating factors, that will be  
19 your first job.

20 You decide, has the State proven at least one  
21 aggravating factor beyond a reasonable doubt. And  
22 if you decide that the State has proven it, and I  
23 submit to you that we have, then you're going --  
24 the next thing you're going to do is you're going  
25 to consider mitigating circumstances.

1           And the defense has had an opportunity to  
2           present evidence to you of those mitigating  
3           circumstances that they believe is worthy of your  
4           consideration.

5           The judge will tell you that a mitigating  
6           circumstance is basically anything that supports a  
7           sentence of life imprisonment without the  
8           possibility of parole, and it could be anything  
9           that might indicate that the death penalty in this  
10          case is not appropriate.

11          It's not limited to circumstances of the  
12          crime, and it can include any aspect of the  
13          defendant's character, background, or life or any  
14          circumstances of the offense that may reasonably  
15          indicate that the death penalty is not an  
16          appropriate sentence in the case.

17          Could be anything. The State is limited to  
18          what the statute lists. The defense, whatever  
19          they think is appropriate, they can -- they have  
20          the opportunity to submit to you for your  
21          consideration.

22          What's important, though, is that when it  
23          comes to mitigating circumstances, it is the  
24          defendant's burden to prove those mitigating  
25          circumstances.

1           Now, it is not the same standard that the  
2           State has to meet in order to prove aggravating  
3           circumstances.

4           They simply -- it doesn't have to be proven  
5           beyond a reasonable doubt. Instead, they only  
6           need to establish it through the greater weight of  
7           the evidence, more likely than not that it exists.

8           So let's talk about some of these. Lack of  
9           adult supervision, cooperated with law enforcement  
10          at the time of his arrest, admitted to the murders  
11          of Randy Peacock and Charles Johnston. These are  
12          some of the mitigating circumstances that will  
13          likely be presented to you.

14          And I submit to you, I'm not going to dispute  
15          these. I think I would probably lose credibility  
16          with you if I did.

17          Was there a lack of adult supervision in his  
18          life as a youngster? Yeah. Probably, there was.

19          Did he cooperate with law enforcement at the  
20          time of the arrest? I mean, that -- I mean,  
21          you -- there's some evidence both ways on that.

22          Yeah, he gave a statement to law enforcement  
23          and admitted the murders, but he was engaged in a  
24          high-speed chase. They had -- they actually had  
25          to catch him in order to bring him into custody.

1           There's evidence in this particular case both  
2           ways, but did he -- did he give an interview with  
3           detectives, and did he admit to these murders?

4           Yeah, he did. And you'll decide how much  
5           weight to give that.

6           The -- another one is that the first-degree  
7           murder was committed while the defendant was under  
8           the influence of extreme mental or emotional  
9           disturbance and that the capacity of the defendant  
10          to appreciate the criminality of his conduct or  
11          conform his conduct to the requirements of the law  
12          was substantially impaired.

13          And I -- I group those together for a  
14          specific reason, and a lot of this has to do with  
15          the drug use.

16          The -- essentially, the allegations in this  
17          case is that the defendant's chronic drug use in  
18          his life is what caused him to be under the  
19          influence of an extreme emotional disturbance and  
20          impaired his ability to appreciate, basically,  
21          what he was doing or to make a different decision,  
22          to conform his conduct to the law.

23          Now, most of this evidence came to you from  
24          the expert witnesses in this particular case,  
25          Dr. Bloomfield and Dr. Skolly-Danziger.

1           And the judge is going to read you  
2           instructions on consideration of expert witness  
3           testimony.

4           He's going to tell you that expert witnesses  
5           are like any other witness with one exception,  
6           that the law permits an expert witness to give an  
7           opinion.

8           He'll also tell you that an expert's opinion  
9           is only reliable when given on a subject about  
10          which you believe that person to be an expert.

11          Like all other witnesses, you may believe or  
12          disbelieve all or any part of a witness'  
13          testimony.

14          Now, when it comes to witness reliability,  
15          the judge will tell you that when considering  
16          aggravating factors and mitigating circumstances,  
17          it is up to you to decide which evidence is  
18          reliable.

19          You get to decide. Is there some evidence  
20          that you think is more reliable than others, or  
21          maybe it's not reliable at all. And it's up to  
22          you to make that decision as to -- in this  
23          weighing process.

24          So sometime -- some of the things that he'll  
25          say is you should consider how the witness acted

1 as well as what they said. Some things you  
2 consider are:

3 Did the witness seem to have an opportunity  
4 to see and know the things about which the witness  
5 testified?

6 And this is important because the doctors,  
7 Dr. Dan -- Dr. Skolly-Danziger and Dr. Bloomfield,  
8 they weren't present when all these things  
9 occurred.

10 They are essentially relying on what other  
11 people told them, particularly the defendant in  
12 this particular case.

13 Did the witness have some interest in how the  
14 case should be decided? Here not necessarily  
15 talking about the doctors, but the source of the  
16 information that they're giving you, and that is  
17 the defendant.

18 The defendant is essentially the witness  
19 because they are communicating to you what the  
20 defendant told them.

21 So does the witness in this particular case  
22 have an interest in how the case should be  
23 decided? Yes, he does.

24 Another one is that, does the witness'  
25 testimony agree with other testimony and other



1 evidence in the case?

2 And we saw that several times where the  
3 defendant is telling one doctor something and had  
4 told law enforcement something completely  
5 different.

6 With Dr. -- Dr. Meadows, the defendant told  
7 him, I don't remember committing these other  
8 crimes, and flat -- and some of them he just  
9 flat-out denied it.

10 With regard to the murders of Randy Peacock  
11 and Charles Johnston, he remembered things leading  
12 up to it, and then suddenly, he has amnesia. He  
13 doesn't remember. And then immediately  
14 afterwards, he has some memory.

15 Completely inconsistent with his own  
16 statement to law enforcement the day that he was  
17 caught.

18 And then, after he had been in -- in custody  
19 for four months, in February of 2007, he gave them  
20 another statement that admitted to all of -- to  
21 the murders of Randy Peacock and Charles Johnston.  
22 So that's something for you to consider.

23 When you're deciding, you know, the doctors,  
24 they're testifying. They're relying on the truth  
25 of what the defendant tell -- told them.

1 Well, you can consider, did the defendant say  
2 different things at other times? Can we trust  
3 anything that he says? And the answer is no.

4 So when you heard the testimony of  
5 Dr. Bloomfield and Dr. Skolly-Danziger, they  
6 essentially told you that this -- that these  
7 mitigating factors that are being claimed, that  
8 he -- he -- his inability to appreciate the  
9 criminality of his conduct or to conform his  
10 conduct to the requirements of law, and the claim  
11 that he was under the influence of an extreme  
12 emotional or mental disturbance, they both told  
13 you that this was based on the defendant's drug  
14 use at the time of these murders.

15 It's virtually -- and I know they talked to  
16 some different people, like maybe the mother or  
17 some -- some other folks like that.

18 I think we heard from the one witness that  
19 talked about how she, um, she saw him the day that  
20 he left, um, to go to Randy and Charlie's house,  
21 although I don't know that the date was  
22 specifically established.

23 But, virtually, their knowl -- the  
24 information they had about his drug use on that  
25 particular day -- and that's what's important here

1 is what happened that particular day.

2 Their knowledge of that was based almost  
3 exclusively on the defendant's self report, but  
4 this is what's really interesting:

5 Neither Dr. Bloomfield or Dr. Skolly-Danziger  
6 asked the defendant many, if any, questions about  
7 the crimes, hardly any.

8 Dr. -- Dr. Skolly-Danziger said she didn't  
9 ask him anything. And why is that important, that  
10 they didn't ask him what -- how were you feeling?  
11 What was going through your mind at the time?

12 I mean, they're -- after all, they're saying  
13 at the time of the crimes, he was impaired to the  
14 extent that he couldn't appreciate what he was  
15 doing, he couldn't conform his conduct to the law,  
16 that he was under the influence of extreme  
17 emotional or mental disturbance.

18 That moment in time was important, vitally  
19 important. They didn't ask him any questions.  
20 How were you feeling? What were you thinking?

21 Many of the facts that he told Dr. Bloomfield  
22 were inconsistent with what he had said before.  
23 And then he tried to explain away -- this is  
24 Dr. Bloomfield -- tried to explain it away by  
25 saying that he wasn't an expert in the facts.

1           Well, he was called as an expert in this  
2           trial to get on the stand and tell you that, in  
3           his opinion as a psychologist, a licensed  
4           psychologist, that the defendant did -- his  
5           ability to know what he was doing, appreciate what  
6           he was doing, and to make a different decision,  
7           that it was impaired.

8           But how can he possibly know that if he  
9           didn't ask him any questions about what was going  
10          on at the time in his mind?

11          There was a lot of testimony about prior drug  
12          use, but things that happened weeks, months, years  
13          later, while those may be important to other  
14          potential mitigating factors, do not inform us at  
15          all about these particular mitigating factors,  
16          which are -- which are essentially what was going  
17          on at the time that he committed these crimes.

18          Dr. Bloomfield wasn't interested in that. He  
19          said that wasn't his role. He said my job was to  
20          focus on the defendant's life, not the crimes.

21          Well, if that's the case, how can you tell  
22          us, how can you tell us, that he was impaired at  
23          the time?

24          I mean, you can -- you can be -- you can take  
25          drugs and still -- that's what Dr. -- Dr. Meadows

1           said. You can take drugs and still know what  
2           you're doing.

3                     And in his opinion, that's what was go -- he  
4           talk -- Dr. Meadows talked to this defendant about  
5           what was going on through his mind.

6                     And, of course, the defendant, he just denied  
7           that he remembered anything. That's completely  
8           inconsistent with what he said before.

9                     Dr. Danziger, she also said, my role was not  
10          to ask about crimes, but about drug use. And why  
11          is that? Why is it they're saying this?

12                    Well, Dr. Bloomfield says I was hired to  
13          provide mitigation. I was -- that's why -- he was  
14          hired to provide mitigation, not to explain to you  
15          that there is mitigation in this case. It was his  
16          job to provide it.

17                    And maybe -- maybe he misspoke. I don't  
18          know, but it was interesting that he put it that  
19          way, not to explain there's mitigation, but I was  
20          hired to provide mitigation.

21                    There's also a lack of corroborative evidence  
22          with regard to their testimony and even  
23          conflicting evidence.

24                    The -- several psychological tests were  
25          administered on the defendant, one by Dr. Mings,

1 who was a previous doctor in the case, Dr. --  
2 Dr. Bloomfield, and Dr. Meadows.

3 And that psycholog -- none of that  
4 psychological testing revealed any mental illness  
5 on the part of the defendant in this particular  
6 case.

7 An intelligence test that was given to the  
8 defendant showed that he was of average  
9 intelligence.

10 There was a brain scan. Dr. Skolly-Danziger  
11 took the stand and she went through all this  
12 talking about how -- how drug use in childhood can  
13 affect the brain and how, in her opinion, in this  
14 particular case, the defendant's self-reported  
15 drug use throughout his lifetime, childhood  
16 through adulthood, whatever, affected him as it  
17 relates to these particular crimes.

18 But there's no brain scans or any other kind  
19 of testing to show he actually suffered some kind  
20 of impairment as a result of that drug use. It  
21 was just what the defendant told her, and she  
22 accepted that at face value.

23 We also heard evidence about how the  
24 defendant was able to thrive. He was able to  
25 succeed and do well in employment. He was making,

1 according to him, over a hundred thousand dollars  
2 a year.

3 And we're talking about a people -- a person  
4 who, he had a GED. He had some college courses.  
5 And he was in the construction industry. And he's  
6 making over a hundred thousand dollars a year.

7 Someone who's been to prison several times,  
8 some -- usually, those kind of folks have trouble  
9 finding work, but he was able to find it and find  
10 a good job making a lot of money.

11 The testing also revealed the defendant --  
12 there was a lot of talk about his childhood, his  
13 chaotic childhood.

14 That -- the testing revealed that he was not  
15 affected at all by any past trauma. The testing  
16 revealed that he was able to regulate his anger.

17 Dr. Bloomfield, they did -- Dr. Bloomfield,  
18 he done -- he did these tests. He didn't testify  
19 about it on direct examination. We had to bring  
20 it out in cross-examination.

21 He said yeah, I conducted these tests. He  
22 wasn't affected by any trauma if there was any,  
23 and -- and -- but did this test to see if -- about  
24 his anger regulation. He was able to -- he was  
25 able to do that, according to this test.

1           The other thing is that in this particular  
2 case, the defendant's -- his own interview  
3 demonstrated that he knew that what he did was  
4 horrific.

5           He talked about the dreams. He talked about  
6 how he didn't want to talk about it at first. And  
7 I don't -- you know, there was this back-and-forth  
8 where he's kind of challenging the detective, like  
9 you know what happened. I shouldn't have to tell  
10 you, until finally he -- he finally tells.

11           And there's a point where -- where the  
12 descriptions of what he did to those two men  
13 became so -- he didn't want to talk about it. I  
14 don't want to get into all the gory details.

15           The defendant knew, he knew, he knew the  
16 details. That's something else that Dr. Meadows  
17 talked about. He knew the details.

18           We're talking about somebody who's impaired,  
19 someone who's under the influence of emotional  
20 disturbance, but he knew these details in minute  
21 detail.

22           Dr. Meadows talked about how, when he -- when  
23 he didn't want Randy Peacock to fall, and how  
24 incredible he -- he thought -- the defendant, it's  
25 going through his mind, I do not want him to make



1 a racket that Charlie Johnston made when he fell  
2 because the deaf woman may feel the vibrations,  
3 how utterly unsophis -- how utterly sophisticated  
4 that level of thinking is for someone who's under  
5 the influence of an extreme emotional disturbance  
6 or who doesn't understand and appreciate what he's  
7 doing.

8 The other thing, too, is his decision. When  
9 we go back to the kidnapping in Gainesville of  
10 Ms. Coffee, and he -- this is -- these are his  
11 words. These are his words.

12 After he went in the house and held her at  
13 gunpoint and took her in his car, for whatever  
14 reason, she was able to make some kind of  
15 connection with him, and he decided to make a  
16 different choice.

17 He said, I was fighting within myself to hurt  
18 her. And he decided not to. And he decided to  
19 let her go.

20 Now, he also said, in those same interviews,  
21 there was no time, no time when he was committing  
22 all these crimes, that he was not on drugs.

23 So if we're talking about his mental state  
24 being affected, being impaired by the use of these  
25 drugs, it should be the same in this particular

1 situation with Ms. Coffee when he kidnapped her,  
2 and the same situation with these murders.

3 He says there's no time that he wasn't on  
4 drugs, but when he was -- when he committed that  
5 kidnapping, he was able to appreciate what he was  
6 doing, and he was able to conform his conduct to  
7 the law and he let her go.

8 But he did not let Randy Peacock and Charles  
9 Johnston go. He had the ability to make a  
10 different choice.

11 And not only did he not make a different  
12 choice, but his conduct in this particular case  
13 shows that he was determined, determined beyond  
14 measure, to make sure that they -- that they were  
15 murdered.

16 Dr. Meadows said -- told you that, based on  
17 his testing, he said there's -- when people use  
18 drugs, there's a couple different reasons why they  
19 use drugs.

20 Some people -- there's people with mental --  
21 mental illness or there's some stress, anxiety in  
22 their life, and it causes them to use drugs to  
23 medicate.

24 There are some people that, they just want to  
25 have a good time. They want to feel good, that

1           there is this thrill-seeking desire.

2                   And he said that the testing that he  
3           performed on this defendant showed that the  
4           defendant fell in that latter category, that he  
5           was -- there was no underlying mental illness.

6                   There was nothing that he was trying to  
7           self-medicate, that the reason that he was  
8           attracted to drugs was because he had these  
9           hedonistic and thrill-seeking needs.

10                   We also heard testimony about -- from  
11           Dr. Bloomfield about the defendant's childhood.  
12           He said it was his opinion that his -- the  
13           defendant's childhood was chaotic.

14                   However, he said the defendant would describe  
15           his childhood as great. Dr. Bloomfield said that  
16           the defendant -- in his discussion with the  
17           defendant, he goes, my childhood was great.

18                   He was not abused by his parents. He was not  
19           psychologically impaired by his childhood, but  
20           Dr. Bloomfield dismissed that.

21                   He said, I don't think it was really that  
22           good, despite what the defendant himself said.  
23           Defendant himself said yeah. We heard the  
24           testimony of Dr. Meadows who said that his  
25           childhood was not.

1           I mean, he basically told Dr. Meadows the  
2           same thing that he told Dr. Bloomfield, that he  
3           had a happy childhood, he had good parents. There  
4           was no domestic violence.

5           He never suffered abuse, other than the  
6           incident he described about the teacher who  
7           molested him or whatever -- however he described  
8           it, which, interestingly enough, when  
9           Dr. Bloomfield discussed that, he said that, you  
10          know, the way it was described was not sexual  
11          abuse. So he kind of told them both kind of two  
12          different things. And that Defendant's upbringing  
13          was generally free of psychosocial stressors.

14          So these are things you're going to weigh.  
15          You're going to weigh. You're going to decide,  
16          you know, number one, did -- did the defense  
17          establish these mitigating factors?

18          And if you do, that -- you know, you'll have  
19          the opportunity to do that. The question, though,  
20          is if you do, what kind of weight are you going to  
21          give it?

22          And I submit to you, to the extent that you  
23          find some of these mitigating factors have been  
24          established, I submit to you you should give them  
25          little weight.

1           You'll also hear about the defendant's  
2           artistic ability. You're going to see -- you  
3           haven't yet, but you're going to see that the  
4           defendant is, in fact, a -- a good artist.

5           The defense has waited until now to show that  
6           to you, but what you're -- what it's going to show  
7           you, ladies and gentlemen, is that the defendant  
8           had the ability to create something good, but in  
9           the end, it's an inanimate object. It's  
10          inanimate. It's lifeless.

11          So the question you'll have to ask  
12          yourself -- again, it's very good art, but when  
13          you see that, you're going to have to ask yourself  
14          this question:

15          How does that artistic ability weigh against  
16          his decision to destroy two living, breathing  
17          human beings in the hearts of the people that  
18          loved them?

19          You're going to be weighing. You're going to  
20          say, yes, he was a very good artist, but you're  
21          going to weigh that against the other aggravating  
22          factors in this particular case.

23          Randy Peacock and Charles Johnston, when you  
24          have an opportunity to see that art, I want you to  
25          think about this picture of them.

1           And, again, how does that weigh against the  
2           circumstance, the aggravating circumstance, in  
3           this particular case?

4           This defendant has been convicted of two  
5           murders. Each of those can be considered an  
6           aggravating factor of the other's murder.

7           He's been convicted of nine violent prior  
8           felonies, kidnapping, robbery, carjacking.

9           He committed these murders in the commission  
10          of a robbery and for financial gain, for his own  
11          selfish desires. He put his own selfish desires  
12          above the lives of two men, these two men.

13          He killed them in a heinous, atrocious, and  
14          cruel manner. He killed them in a cold,  
15          calculated, and premeditated fashion.

16          And I submit to you, ladies and gentlemen,  
17          when you consider those aggravating circumstances  
18          and the great weight that you should give it, I  
19          submit to you that that will outweigh all of the  
20          mitigating factors that you find to exist in this  
21          particular case.

22          I'm going to leave you with this thought: In  
23          a few minutes, after the defense has an  
24          opportunity to speak to you, and I -- I want you  
25          to listen to them -- but when that's done, you're

1 going to leave this courtroom and you're going to  
2 go into that room and your deliberations will  
3 begin.

4 It's going -- according to the law, the 12 of  
5 you who decide this case will have to agree  
6 unanimously. You will have to agree unanimously  
7 that the State has proven at least one aggravating  
8 factor in this particular case.

9 You're going to have to agree unanimously  
10 that those aggravating factors that you find  
11 are --

12 MR. BARRETT: Judge, I'm going to object. I  
13 think it's a misstatement of law. May we  
14 approach?

15 THE COURT: Well, no.

16 Ladies and gentlemen, I'm going to instruct  
17 you on the law at the end of this case. It's the  
18 law that I give you that you need to follow in  
19 deciding this case.

20 Of course, the lawyers are entitled to make  
21 their arguments, but it's the law that I give you  
22 that you need to use in deciding this case.

23 Go ahead, Mr. Johnson.

24 MR. JOHNSON: I suggest to you that what I'm  
25 telling you is what the judge will tell you, that

1           you will have to decide unanimously that we have  
2           proven at least one aggravating factor.

3                     You will have to decide unanimously that  
4           those aggravating factors are sufficient for the  
5           death penalty.

6                     You will have to decide unanimously that  
7           those aggravating factors outweigh the mitigating  
8           factors.

9                     And will you have to decide unanimously that  
10          the death penalty should be given in this  
11          particular case.

12                    It's only going to take one of you to say no.  
13          I am asking you not to be the one. I'm asking all  
14          of you, all 12 of you in this case, based on the  
15          evidence in this particular case, the evidence  
16          that you've seen and that you have heard in this  
17          courtroom, to make the decision that the evidence  
18          shows is the right decision.

19                    And that is this defendant, this defendant,  
20          for taking the lives of these two men in such a  
21          brutal and heinous fashion, that the only  
22          appropriate sentence in this particular case is  
23          that he should be sentenced to death.

24                    I don't pretend that it's easy. I would  
25          never suggest to you that it is, but in this



1 particular case, the evidence shows that that is  
2 the right decision. And I ask you to return that  
3 verdict.

4 Thank you.

5 THE COURT: All right. Folks, as I mentioned  
6 earlier, we're going to take a short break for you  
7 to complete your menus. Before I do that, let me  
8 ask this:

9 We probably have another hour or so to go.  
10 Does anybody need anything to eat now? I know  
11 sometimes for medical purposes, people need to at  
12 least have something to get their sugar levels up.

13 Anybody have that issue? I hate to put  
14 anybody on the spot. Okay. No one's indicating,  
15 so what we're going to do is have you retire for  
16 just a few moments.

17 Of course, you can use the rest room. Take a  
18 few moments. We're going to hand out menus. I  
19 think it's Zaxby's.

20 Make sure you put your names on the menus,  
21 and order a drink, as well. You can order  
22 anything on the menu, just not everything on the  
23 menu.

24 Rest assured, we've had people try that, but  
25 once you've completed that, we'll hand it to the

1 deputy. We'll have somebody run out to get the  
2 lunch. And then, hopefully, by the time we're  
3 done with closing arguments and I've instructed  
4 you on the law, the lunches will be ready for you.

5 So if you want to retire to this room up here  
6 for just a couple moments, fill that out, use the  
7 rest room if you like, and then we'll get started  
8 with the defense closing argument.

9 (The jury exited the courtroom.)

10 THE COURT: Okay. Y'all can be seated.

11 Is there a pen in there?

12 THE BAILIFF: I don't know. I got some right  
13 here.

14 (The bailiff delivered pens to the jury  
15 room.)

16 THE COURT: Might have been a little tough  
17 without the pen. Let's take a couple moments.  
18 Let's take five so Mr. Barrett can set up.

19 Y'all can take a comfort break, and we'll  
20 check on the jury after that.

21 (Court was in recess from 12:32 p.m. until  
22 12:40 p.m.)

23 THE COURT: Frank, can we check and see if  
24 they're ready?

25 THE OFFICER: Yes, sir.

1 I think they might be waiting on two.

2 (The jurors submitted the menus to the  
3 bailiff.)

4 THE COURT: Okay. All right. We have the  
5 menus, so we're going to deliver those. Ms. Renee  
6 is here to take care of that for us.

7 Thank you, Renee.

8 All right. Is everybody ready for the jury  
9 to come out?

10 MR. BARRETT: Yes, Judge.

11 THE COURT: Okay. We can go ahead and bring  
12 the jury out.

13 (The jury entered the courtroom.)

14 (Construction type noises were heard behind  
15 the walls or in the hallway.)

16 THE COURT: What is that? Find out what that  
17 is. They need to cut that out.

18 All right. Welcome back, folks. We're going  
19 to get that noise taken care of. Whoever is  
20 working on the building, they're going to stop.  
21 Thank you for filling out your menus.

22 Those -- one of the deputies is taking that  
23 over to Zaxby's, and, hopefully, we'll get that  
24 back in time.

25 We are ready to continue with the closing

1 arguments and will now have the defense closing  
2 argument.

3 Mr. Barrett, you may proceed.

4 MR. BARRETT: Thank you, Judge.

5 Good afternoon.

6 (Construction type noises continued to be  
7 heard behind the walls or in the hallway.)

8 THE COURT: They're working on it.

9 MR. BARRETT: I know that this has been a  
10 long four days, probably made more so because of  
11 the fact that you're here.

12 THE COURT: If you want to wait until we get  
13 that noise to stop.

14 MEMBER OF THE JURY: I was going to say...

15 MR. BARRETT: Can you hear me?

16 MEMBER OF THE JURY: So-so.

17 MR. BARRETT: Okay. I'll wait a moment.

18 (Construction type noises stopped.)

19 MR. BARRETT: Hopefully, that's it.

20 THE COURT: There we go.

21 MR. BARRETT: Again, it's been a long four  
22 days, but you're here to decide the ultimate  
23 question.

24 Don't expect my slide to be as fancy as the  
25 State's, but, hopefully, we'll be able to get the

1 point across.

2 When I sit down, the attorneys' work is  
3 essentially done. And probably the hardest or one  
4 of the hardest decisions you would have to talk  
5 about being made is just about to begin.

6 And part of the decision, obviously, is to  
7 decide the ultimate, but so you realize whatever  
8 decision you make after deliberating, the bottom  
9 line is this:

10 That Blake McKenzie will die in prison. That  
11 decision was made before you even came into this  
12 courtroom.

13 There are only two possible punishment for  
14 first-degree murder: the death penalty or life in  
15 prison without the possibility of parole.

16 And it means what it says, without the  
17 possibility of parole. He will remain in prison  
18 until such time as some medical officer pronounce  
19 him dead.

20 He will never go to a park. He will never  
21 watch a sunset. He will never go to a family  
22 gathering. He will die in prison.

23 So the decision you have to make is -- your  
24 vote is whether or not, again, he should be  
25 sentenced to life in prison without the

1 possibility of ever getting out or whether or not  
2 the State of Florida should kill him.

3 We keep using term death penalty, but I would  
4 like to refer to it as you have to make -- whether  
5 or not you make the choice for life.

6 And I spoke to you briefly about this in  
7 opening when we were doing jury selection, but you  
8 need to understand, Florida law never requires the  
9 death penalty.

10 So if you vote for life, you are following  
11 the law in the State of Florida. It doesn't  
12 require it in this case, in any case, in the worst  
13 possible case you can imagine. The law never  
14 requires it.

15 The law is satisfied with a vote for life,  
16 which means if you vote for life without the  
17 possibility of parole, you are following the law  
18 and you have done your job as jurors in this case.

19 Any juror can choose life, and the verdict  
20 will be life, which means, unlike in the -- in the  
21 guilt phase or the first phase of this trial or in  
22 any normal trials, all 12 jury have to vote either  
23 not guilty or guilty.

24 In this stage, that is not required by the  
25 law. Any one juror can choose that the punishment

1           should be life without the possibility of parole,  
2           and the sentence will be life. So each juror has  
3           the power of life.

4           How do you decide life or death? I heard the  
5           State talk to you about aggravators and  
6           mitigators. And he talks about what the burden of  
7           proof is for aggravators, beyond a reasonable  
8           doubt. And, again, the judge will give you  
9           instructions on that.

10          He also talked to you about the burden of  
11          proof for mitigators, and I will also point out  
12          again that mitigator does not have to be  
13          unanimous, which means, unlike an aggravator, for  
14          each aggravator, all 12 of you have to agree for  
15          that to actually be established.

16          For a mitigator, just one of you can decide  
17          this is a mitigator for you based upon your  
18          consideration of the evidence.

19          And the standard, again, is by the greater  
20          weight of the evidence, which basically means that  
21          it's more likely than not.

22          What is mitigation? It is a legal term, and  
23          the judge will give you instructions on that, but  
24          each of you, as you deliberate, will decide what  
25          the mitigation is, what is mitigation in this

1 case.

2 And I suggest to you that mitigation is any  
3 reason that any one of you can find to choose life  
4 and not to choose death.

5 We talk about the character and experience  
6 and the life of Mr. McKenzie, but it also comes  
7 from your background, your experience, your walk  
8 of life.

9 And I talked to you about this also in jury  
10 selection. Even though we expect you to go and  
11 deliberate, mitigation can be something that you  
12 just cannot explain.

13 You are not required by law to explain why  
14 you think something is a mitigator. You're not  
15 required by law to justify to any of the other  
16 jurors. Each juror must make an individual  
17 personal judgment.

18 Again, in the usual criminal cases, all  
19 jurors have to agree in order to vote for guilty  
20 or not guilty.

21 On the question of whether or not he should  
22 die, each of you have to make that individual  
23 choice. Each of you can choose your own reason,  
24 again, to choose life.

25 And the instructions the judge will give you



1 on mitigation will also show you that mitigation  
2 is not just what we present to you in terms of  
3 evidence.

4 Mitigation is what you believe is a reason to  
5 choose life, regardless of whether anyone else in  
6 the jury had reason to, regardless of whether or  
7 not you can just explain why you feel that way.

8 Now, the State did bring up the fact that  
9 we've talked -- or we've at least presented to you  
10 some mitigation.

11 And part of it talks about his childhood.  
12 And Dr. Meadows, in his testimony, tried to play  
13 that down, but I'll -- as the State pointed out,  
14 we have experts on both side.

15 And you have to evaluate which one is an  
16 expert, which one is reliable, which one is not.

17 At least when you heard from Dr. Skolly and  
18 you heard from Dr. Bloomfield, you know they did  
19 not limit their inquiry or their attempt to get  
20 information to just Mr. McKenzie.

21 They spoke to his mom. They spoke to the  
22 woman who was around him around the time of the  
23 incident, who was doing drugs with him for a  
24 while.

25 They read the reports of mitigation experts

1           who interviewed people, so they didn't just rely  
2           on him.

3                     And they talked to you about the fact that,  
4           as a child, when his mom and dad divorced at his  
5           age of eight, he was moving back and forth, living  
6           with different parents.

7                     They've mentioned that when he was young, he  
8           actually was stealing food, stealing things to  
9           help to feed his family, a child doing this.

10                    They talked to you about the fact that, um,  
11          he started experimenting with marijuana at a young  
12          age. They found it. Kids being curious, they  
13          started to use it.

14                    Whether or not you believe it to be a gateway  
15          drug, he started then, but it didn't stop there.  
16          He started to get into more drugs.

17                    And he had the opportunity to get into them  
18          because, again, Mom and Dad split up. Mom was  
19          basically working, trying to take care of her  
20          family.

21                    And so he had opportunity to hang out, and  
22          unfortunately, hang out with the wrong people,  
23          including his older brothers.

24                    And he was introduced to other drugs. He was  
25          introduced to Valium. He was introduced to meth.

1 He was introduced to cocaine and, eventually, to  
2 crack cocaine.

3 And even Dr. Meadows admit that he's reported  
4 to him that at one point when he was a teenager,  
5 he ended up in the psychiatric section at the  
6 hospital because he was using Valium and almost  
7 overdosed on it, almost died.

8 We told you that you bring your experience  
9 and life with you when you come as jurors in this  
10 case, and I would suggest that probably all, if  
11 not most of you, you have had a family member or  
12 know someone who's got caught up in drug  
13 addiction.

14 I know Dr. Meadows says it's not a disease.  
15 It is not a medical disease. I suggest to you it  
16 is.

17 Someone who started using drugs at that early  
18 age, as this old commercial used to say, this is  
19 your brain; this is your brain on drugs, with the  
20 egg.

21 It affects a person. You don't need an  
22 expert to tell you that.

23 If you have friends and family who are  
24 addicted to drugs, you can see it. Some people  
25 who function, at least appears to function well in

1 society, are drug addicts. They function in that  
2 limited field. They can do certain things.

3 Some people use drugs to cope with work, but  
4 it is an addiction. It is something that someone  
5 loses control over.

6 I would ask you to think about it and to  
7 think whether or not an individual would choose to  
8 lose a job where he's making over a hundred  
9 thousand dollars a year just so he could do crack,  
10 if he had that choice.

11 He was fired -- and you heard it from the  
12 doctors. I believe also that he talked about  
13 that. He was fired because he was caught using  
14 drugs.

15 At one point he switched jobs because the  
16 first place he worked at, he fired some workers  
17 under his supervision who were using drugs, and  
18 the boss rehired them. And he left that job and  
19 went somewhere else.

20 He was doing well at some point. We know  
21 that because, again, Tammy came in and told you.  
22 When she first saw him sitting in his vehicle, he  
23 looked sharp. She thought he was a cop. She was  
24 surprised.

25 They went to her room. She hid her stuff,

1 still thinking he's a cop. And then he started to  
2 use drugs there, and at some point it progressed.

3 She introduced him -- and, in fact, I think  
4 she said, "I'm sorry that I did," but she  
5 introduced him to people who were not just using  
6 drugs, but they were sticking needles in their  
7 veins.

8 And he started to use not just the powdered  
9 drug, but the crack cocaine. And I think she  
10 testified -- and, again, rely on your own  
11 recollection about what the witnesses said.  
12 Neither side would try to mislead you in any way,  
13 but I think she said that at some point he started  
14 to change. She could see it.

15 When she went, he was living in a condo.  
16 That was still a new condo. He had new furniture.  
17 Not only did he have the new car, he had a  
18 motorcycle. He was doing very well.

19 And because of the drugs, he lost all of  
20 that. His childhood, huffing, imagine a child  
21 finding spray cans, spraying it into tissues or a  
22 cloth, putting it to their face, and inhaling  
23 this, for a whole summer. He did that for a  
24 summer.

25 I suggest to you his childhood was indeed

1 chaotic, notwithstanding what Dr. Meadows may have  
2 told you.

3 And I suggest to you it is clear that he  
4 became dependent on alcohol, but also on drugs at  
5 a very early age, to the point where his mom even  
6 told Dr. Skolly that she couldn't help him. She  
7 felt there was nothing she could do to help him.

8 Yes, he could have gone to counseling. He  
9 didn't. Why didn't Mom take him? I don't know,  
10 but the reality is, he never went to counseling as  
11 a child.

12 He started to skip school. The school would  
13 call Mom. She knew exactly where to go and find  
14 him.

15 He got a job as a teenager with Dad. Now he  
16 had money in his pocket. And did he buy a bike?  
17 Did he buy a car? No.

18 He was using the money to buy drugs because  
19 by that point, it had him. It wasn't a choice by  
20 that point. He was addicted to cocaine.

21 Again, I talked to you about the lack of  
22 supervision. It's not a blame game. Not blaming  
23 Mom.

24 Mom was trying to do the best that she can,  
25 but because of the situation, he had the

1 opportunity to start using drugs.

2 I suggest to you, no -- Dr. Meadows said it  
3 and the State said it. At the time of this  
4 offense, he was indeed under the influence of the  
5 drugs.

6 If you recall, when the State said to  
7 Dr. Meadows about extreme mental or emotional  
8 disturbance, the doctor said, because of the  
9 substance abuse. Even Dr. Meadows agreed he had  
10 some extreme substance abuse.

11 You saw the tape. You listened to the video.  
12 You heard the conversation, both of them. In  
13 fact, in the second video, I suggest to you by  
14 that point he was going through withdrawal, 'cause  
15 if you recall watching him, you can see him kind  
16 of doing one of these, and he kept shaking. This  
17 was four months after he was arrested.

18 How do we know that at the time he was using  
19 drugs? Again, the State wants you to say, fine.  
20 Let's believe him when he talks about what  
21 happened that night, but let's not believe him  
22 when he talks about the drug use.

23 We know from one of the detectives, not only  
24 did he tell them back in 2006, not yesterday, not  
25 after he spoke to his lawyers, when he was

1           arrested, about his drug use, we also know that  
2           one of the victims in the kidnapping case told  
3           them that this man smoked cocaine in front of her,  
4           did it twice. So even then, he was still using  
5           the cocaine.

6                     And I would suggest to you that cocaine got a  
7           hold of him. State said, well, he planned all  
8           this and it was cold, calculated, premeditated. I  
9           suggest to you what happened that day was not.

10                    He drove his vehicle to the house. He didn't  
11           bring the weapons with him to commit this crime.

12                    In the statement, he said, well, he didn't  
13           have to do his parents. Everything you have  
14           learned is that he loved his parents, so what  
15           would cause someone to even think about doing  
16           something to their parents?

17                    I suggest to you, an addiction that they had  
18           no control over.

19                    Not only did he drive a vehicle, but his  
20           vehicle that is registered to him, to the scene.  
21           He left it there.

22                    If you recall, I asked the detective, did you  
23           check to see if it worked? There's no evidence  
24           that this -- his vehicle wasn't functioning. He  
25           drove it there, but he left it there.



1           The weapons that were used weren't weapons he  
2 brought there because he had got there with a plan  
3 to commit murder.

4           His actions at the scene, his actions after  
5 he left the scene, with the exception of two of  
6 his prior violent felonies, all of the other  
7 felonies that the State has introduced all took  
8 place around that time frame.

9           He told the detectives that he had relapsed  
10 from around July up to that time, that he had been  
11 on a binge for about seven days or nine days.

12           In fact, the detective said to him, "This has  
13 been a long nine days, hasn't it?"

14           You can, again, watch the video. He talks to  
15 the detective about people following him. At one  
16 point he was talking about they disrespected him,  
17 part of the paranoia of the addiction that he was  
18 under.

19           There is no cure for drug addiction. One day  
20 at a time. Every day for someone who is on drugs  
21 is a struggle.

22           Norman McKenzie lost that struggle. His  
23 cleanest moments were the moments he was locked up  
24 when he didn't have the money or the access to the  
25 drugs.

1           If he stays in prison for the rest of his  
2           life, which he will, not that he'll be cured, but  
3           he won't have the drugs or the money to get the  
4           drugs.

5           But if you look, whenever he's released from  
6           prison, he gets back into drugs, because that's  
7           the effect drugs have on people.

8           We've heard about the amount of drugs he's  
9           been using. And the State talked to you about  
10          that.

11          Yes, he did admit. He cooperated. In fact,  
12          when you see the judgment and sentence that the  
13          State has introduced, not one of those situation  
14          did Norman McKenzie force one of his victim to  
15          come in and testify.

16          He admitted it. He said, yeah, I did it. He  
17          pled to all of them. He took responsibility for  
18          it. And he took responsibility for these two  
19          cases. He admitted to what he did.

20          And even the details of what he told police,  
21          they're bad, they're real bad, but he also told  
22          you he's had nightmares about it, that at times he  
23          was out, didn't sleep, dreamt about it.

24          Now, the State talked to you about his  
25          drawing. And one of the reason we are -- I am

1 going to show you some of his drawing, and you  
2 have access to the disc with the others, because  
3 the Norman McKenzie you are seeing today and you  
4 saw on that video is someone who is trapped by  
5 drug abuse.

6 When he's away from it, there is a positive  
7 side to him. That Norman McKenzie could read a  
8 blueprint. That Norman McKenzie could supervise  
9 people who worked under him.

10 That Norman McKenzie fired someone who was  
11 using drugs on the workplace. And when that  
12 person was rehired, he left, trying to get away  
13 from the drug use.

14 That Norman McKenzie was functioning so well  
15 that he made over 60,000 dollars a year.

16 That Norman McKenzie did some work at  
17 Cobblestone Village here in St. Augustine.

18 That Norman McKenzie, when he stayed off  
19 drugs, created things of beauty.

20 This incident occurred in 2006. He's been  
21 locked up since 2006. And part of what he spends  
22 his time doing -- before I get into that, just to  
23 touch briefly on it, yeah, there are treatment  
24 programs sometimes in prison.

25 He could have seen a psychologist or

1           psychiatrist. He didn't. That's not unusual. In  
2           drug treatment programs, they tell you the first  
3           step is to admit you have a problem. If you don't  
4           admit, you're not going to get treatment.

5                     Keep in mind he's in a prison environment.  
6           Dr. Meadows wants you to believe that yes, he's in  
7           prison, but all these things are secret and  
8           confidential. I suggest to you that is not the  
9           case.

10                    Use your common sense. There's a stigma.  
11           It's a different world. And we're not suggesting  
12           to you he had some mental-health issue. We never  
13           talked to you about that, but I point that out  
14           just to point out to you that some of the  
15           conclusions Dr. Meadows made in front of you, he  
16           had no business making those conclusions.

17                    Even when his tests were told -- were telling  
18           him that there may be some psychiatric problem,  
19           because he's testifying for State, I suggest to  
20           you he found reason to say otherwise.

21                    Again, when he's away from the drugs, after  
22           these brutal killings, Norman Blake McKenzie were  
23           able to show that there's something warm inside  
24           him.

25                    At the bottom you see a date. Remember, this

1 occurred in 2006. Blake is his middle name. This  
2 was done in 2009, 2012.

3 Look at the detail from someone whose mind,  
4 at least for those years, was clear from the  
5 drugs.

6 I think Dr. Bloomfield told you that,  
7 normally, when you see the art done by inmates,  
8 it's usually gruesome. That is not what you see  
9 coming from Norman Blake McKenzie.

10 Again, this is a man who's not caught and  
11 wrapped up in crack cocaine. He will always be a  
12 drug addict. He will always be a crackhead, but  
13 he still, once he's away from the drugs, is a  
14 different person than the person who committed  
15 those murders.

16 And let me just again point out that -- the  
17 law, and Norman Blake has the right to 12  
18 individual assessment.

19 He has a right to each of you deciding  
20 individually, as well. And each of you has the  
21 right, the duty, and the obligation to see that  
22 whatever decision you make is heard in the  
23 courtroom.

24 Again, you all have a right to respect and  
25 dignity. So if you disagree with each other, you

1 can disagree. That's fine.

2 But each of you have the right to expect to  
3 be treated with respect, whether or not you agree.

4 Each of you have the right to an obligation.  
5 If after you deliberated, and if you get to the  
6 point where you have decided to choose life, if it  
7 gets to the point when you know that is your  
8 choice, you have the right, the duty, and  
9 obligation to knock on the door and let the judge  
10 know that you have chosen life.

11 We have presented some mitigation, but you  
12 can still choose life even if you find that none  
13 of the mitigation we presented warrants a life  
14 sentence.

15 You can find that all the aggravators have  
16 been proven and they all have great weight, but,  
17 again, Florida does not require you to choose  
18 death.

19 You can still choose life, and that decision  
20 will be a lawful one, again, regardless of whether  
21 or not anyone agrees with you, whether you can  
22 explain it.

23 Each of you can give the power of life to any  
24 one mitigating factor. Doesn't have to be two,  
25 three, four. Any one mitigating factor.

1           And, again, it's not limited to what we  
2           present in this courtroom. That mitigating factor  
3           can just be how he behaves in court. It could be  
4           anything, again, regardless of what the  
5           aggravators are.

6           I know it's a hard decision to make. We are  
7           hoping you will choose life. In choosing life,  
8           you are not saying that Norman Blake McKenzie did  
9           not commit these murders. You don't have to make  
10          that choice. He did. He was convicted of those  
11          murders.

12          In choosing life, you're saying to the State  
13          of Florida that they shouldn't take his life.

14          In choosing life, you are saying that Norman  
15          Blake McKenzie will get up every day, hear the  
16          chains, the gates clank shut, that Norman Blake  
17          McKenzie will never, ever walk out of prison,  
18          however long he may live.

19          In choosing life, you're saying that Norman  
20          Blake McKenzie will die in prison. He will die in  
21          prison.

22          Thank you.

23          THE COURT: All right. Ladies and gentlemen,  
24          that concludes the final arguments of the  
25          attorneys.

1           I'm now going to have the bailiff distribute  
2           the jury instructions to you. And as soon as you  
3           have them all, I will go over them with you.

4           (The jury instructions were distributed to  
5           the jurors.)

6           THE COURT: It appears that everybody now has  
7           the jury instructions. I am required by law to  
8           read these to you. You will have these with you  
9           in the jury room when you deliberate your verdict.  
10          So I'll go ahead and get started.

11          Members of the jury, you have heard all the  
12          evidence and the arguments of Counsel. It is now  
13          your duty to make a decision as to the appropriate  
14          sentence that should be imposed upon the defendant  
15          for the crime of first-degree murder.

16          There are two possible punishments: life  
17          imprisonment without the possibility of parole or  
18          death.

19          In making your decision, you must first  
20          unanimously determine whether the aggravating  
21          factors alleged by the State have been proven  
22          beyond a reasonable doubt.

23          An aggravating factor is a circumstance that  
24          increases the gravity of a crime or the harm to  
25          the victim.



1           No facts other than proven aggravating  
2 factors may be considered in support of a death  
3 sentence.

4           I'll now speak to the aggravating factors  
5 alleged as it pertains to count one. The  
6 aggravating factors alleged by the State as to  
7 count one are as follows:

8           One, Norman Blake McKenzie was previously  
9 convicted of another capital felony or a felony  
10 involving the use or threat of violence to another  
11 person.

12           A crime of first-degree murder is a capital  
13 felony. The crimes of robbery, carjacking, and  
14 kidnapping are all felonies involving the use or  
15 threat of violence to another person.

16           Two, the first-degree murder was committed  
17 while Norman Blake McKenzie was engaged in the  
18 commission of a robbery.

19           Three, the first-degree murder was committed  
20 for financial gain.

21           Four, the first-degree murder was especially  
22 heinous, atrocious, or cruel.

23           Heinous means extremely wicked or shockingly  
24 evil.

25           Atrocious means outrageously wicked and vile.

1           Cruel means designed to inflict a high degree  
2 of pain with utter indifference to or even  
3 enjoyment of the suffering of others.

4           The kind of crime intended to be included as  
5 especially heinous, atrocious, or cruel is one  
6 accompanied by additional acts that show that the  
7 crime was conscienceless or pitiless and was  
8 unnecessarily torturous to Randy Peacock.

9           Five, the first-degree murder was committed  
10 in a cold, calculated, and premeditated manner  
11 without any pretense of moral or legal  
12 justification.

13           Cold means the murder was the product of calm  
14 and cool reflection.

15           Calculated means having a careful plan or  
16 prearranged design to commit murder.

17           A killing is premeditated if it occurs after  
18 the defendant consciously decides to kill. The  
19 decision must be present in the mind at the time  
20 of the killing.

21           The law does not fix the exact amount of time  
22 that must pass between the formation of the  
23 premeditated intent to kill and the killing.

24           The period of time must be long enough to  
25 allow reflection by the defendant. The

1 premeditated intent to kill must be formed before  
2 the killing.

3 However, in order for this aggravating factor  
4 to apply, a heightened level of premeditation,  
5 demonstrated by a substantial period of  
6 reflection, is required.

7 A pretense of moral or legal justification is  
8 any claim of justification or excuse that, though  
9 insufficient to reduce the degree of murder,  
10 nevertheless rebuts the otherwise cold,  
11 calculated, or premeditated nature of the murder.

12 Pursuant to Florida law, the aggravating  
13 factors of "the murder was committed during the  
14 course of a robbery" and "the murder was committed  
15 for financial gain" are considered to merge  
16 because they are considered to be a single aspect  
17 of the offense.

18 If you unanimously determine that the  
19 aggravating factors of "the murder was committed  
20 during the course of a robbery" and "the murder  
21 was committed for financial gain" have both been  
22 proven beyond a reasonable doubt, your findings  
23 should indicate that both aggravating factors  
24 exist, but you must consider them as only one  
25 aggravating factor.

1           You have heard evidence about the impact of  
2           this murder on the family, friends, and community  
3           of Randy Peacock.

4           This evidence was presented to show the  
5           victim's uniqueness as an individual and the  
6           resultant loss by Randy Peacock's death.

7           However, you may not consider this evidence  
8           as an aggravating factor.

9           I'll now speak to the aggravating factors  
10          alleged in count two. The aggravating factors  
11          alleged by the State as to count two are:

12          One, Norman Blake McKenzie was previously  
13          convicted of another capital felony or a felony  
14          involving the use or threat of violence to another  
15          person.

16          The crime of first-degree murder is a capital  
17          felony. The crimes of robbery, carjacking, and  
18          kidnapping are all felonies involving the use or  
19          threat of violence to another person.

20          Two, the first-degree murder was committed  
21          while Norman Blake McKenzie was engaged in the  
22          commission of a robbery.

23          Three, the first-degree murder was committed  
24          for financial gain.

25          Four, the first-degree murder was especially

1           heinous, atrocious, or cruel.

2                    Again, heinous means extremely wicked or  
3           shockingly evil.

4                    Atrocious means outrageously wicked and vile.

5                    Cruel means designed to inflict a high degree  
6           of pain with utter indifference to or even  
7           enjoyment of the suffering of others.

8                    The crime -- the kind of crime intended to be  
9           included as especially heinous, atrocious, or  
10          cruel is one accompanied by additional acts that  
11          show that the crime was conscienceless or pitiless  
12          and was unnecessarily torturous to Charles  
13          Johnston.

14                   Five, the first-degree murder was committed  
15          in a cold, calculated, and premeditated manner  
16          without any pretense of moral or legal  
17          justification.

18                    Again, cold means the murder was the product  
19          of calm and cool reflection.

20                    Calculated means having a careful plan or  
21          prearranged design to commit murder.

22                    A killing is premeditated if it occurs after  
23          the defendant consciously decides to kill. The  
24          decision must be present in the mind at the time  
25          of the killing.

1           The law does not fix the exact period of time  
2           that must pass between the formation of the  
3           premeditated intent to kill and the killing.

4           The period of time must be long enough to  
5           allow reflection by the defendant. The  
6           premeditated intent to kill must be formed before  
7           the killing.

8           However, in order for this aggravating factor  
9           to apply, a heightened level of premeditation,  
10          demonstrated by a substantial period of  
11          reflection, is required.

12          A pretense of moral or legal justification is  
13          any claim of justification or excuse that, though  
14          insufficient to reduce the degree of murder,  
15          nevertheless rebuts the otherwise cold,  
16          calculated, or premeditated nature of the murder.

17          Pursuant to Florida law, the aggravating  
18          factors of "the murder was committed during the  
19          course of a robbery" and "the murder was committed  
20          for financial gain" are considered to merge  
21          because they are considered to be a single aspect  
22          of the offense.

23          If you unanimously determine that the  
24          aggravating factors of "the murder was committed  
25          during the course of a robbery" and that "the

1 murder was committed for financial gain" have both  
2 been proven beyond a reasonable doubt, your  
3 findings should indicate that both aggravating  
4 factors exist, but you must consider them as only  
5 one aggravating factor.

6 You have heard evidence about the impact of  
7 this murder on the family, friends, and community  
8 of Charles Johnston. This evidence was presented  
9 to show the victim's uniqueness as an individual  
10 and the resultant loss by Charles Johnston's  
11 death.

12 However, you may not consider this evidence  
13 as an aggravating factor.

14 As explained before the presentation of  
15 evidence, the State has the burden to prove an  
16 aggravating factor beyond a reasonable doubt.

17 A reasonable doubt is not a mere possible  
18 doubt, a speculative, imaginary, or forced doubt.  
19 Such a doubt must not influence you to disregard  
20 an aggravating factor if you have an abiding  
21 conviction that it exists.

22 On the other hand, if after carefully  
23 considering, comparing, and weighing all the  
24 evidence, you do not have an abiding conviction  
25 that the aggravating factor exists, or if having a

1 conviction, it is one which is not stable, but one  
2 which wavers and vacillates, then the aggravating  
3 factor has not been proved beyond a reasonable  
4 doubt and you must not consider it in providing a  
5 verdict.

6 A reasonable doubt as to the existence of an  
7 aggravating factor may arise from the evidence, a  
8 conflict in the evidence, or the lack of evidence.

9 If you have a reasonable doubt as to the  
10 existence of an aggravating factor, you must find  
11 that it does not exist.

12 However, if you have no reasonable doubt, you  
13 should find the aggravating factor does exist.

14 A finding that an aggravating factor exists  
15 must be unanimous; that is, all of you must agree  
16 that each presented aggravating factor exists.

17 You will be provided a form to make this  
18 finding as to each alleged aggravating factor, and  
19 you should indicate whether or not you find each  
20 aggravating factor has been proven beyond a  
21 reasonable doubt.

22 I will go over that verdict form with you in  
23 just a little bit.

24 If you do not unanimously find that at least  
25 one aggravating factor was proven by the State



1 beyond a reasonable doubt, then the defendant is  
2 not eligible for the death penalty, and your  
3 verdict must be for a sentence of life  
4 imprisonment without the possibility of parole.  
5 At such point, your deliberations are complete.

6 If, however, you have -- if, however, you  
7 unanimously find that one or more aggravating  
8 factors have been proven beyond a reasonable  
9 doubt, then the defendant is eligible for the  
10 death penalty, and you must make additional  
11 findings to determine whether the appropriate  
12 sentence to be imposed is life imprisonment  
13 without the possibility of parole or death.

14 If you do unanimously find the existence of  
15 at least one aggravating factor and that the  
16 aggravating factors are sufficient to impose a  
17 sentence of death, the next step in the process is  
18 for you to determine whether any mitigating  
19 circumstances exist.

20 A mitigating circumstance is anything that  
21 supports a sentence of life imprisonment without  
22 the possibility of parole and can be anything  
23 which might indicate that the death penalty is not  
24 appropriate.

25 It is not limited to the facts surrounding

1 the crime. A mitigating circumstance may include  
2 any aspect of the defendant's character,  
3 background, or life or any circumstance of the  
4 offense that may reasonably indicate that the  
5 death penalty is not an appropriate sentence in  
6 this case.

7 It is the defendant's burden to prove that  
8 one or more mitigating circumstances exist.  
9 Mitigating circumstances do not need to be proven  
10 beyond a reasonable doubt.

11 Instead, the defendant need only establish a  
12 mitigating circumstance by the greater weight of  
13 the evidence, which means evidence that more  
14 likely than not tends to establish the existence  
15 of a mitigating circumstance.

16 If you determine by the greater weight of the  
17 evidence that a mitigating circumstance exists,  
18 you must consider it established and give that  
19 evidence such weight as you determine it should  
20 receive in reaching your verdict about the  
21 appropriate sentence to be imposed.

22 Any juror persuaded as to the existence of a  
23 mitigating circumstance must consider it in this  
24 case.

25 Among the mitigating circumstances you may

1 consider are:

2 One, the first-degree murder was committed  
3 while Norman Blake McKenzie was under the  
4 influence of extreme mental or emotional  
5 disturbance.

6 Two, the capacity of Norman Blake McKenzie to  
7 appreciate the criminality of his conduct or to  
8 conform his conduct to the requirements of law was  
9 substantially impaired.

10 Three, the existence of any other factor in  
11 Norman Blake McKenzie's character, background, or  
12 life or the circumstances of the offense that  
13 would mitigate against the imposition of the death  
14 penalty, including the following:

15 Norman Blake McKenzie's childhood was  
16 chaotic.

17 Norman Blake McKenzie and his siblings  
18 experienced a lack of adequate supervision after  
19 the divorce of his parents.

20 Norman McKenzie started huffing from spray  
21 cans at the age of 11 years old.

22 Norman Blake McKenzie had an early and  
23 chronic abuse and dependency on alcohol and drugs.

24 Norman Blake McKen -- Norman Blake McKenzie  
25 had a cocaine-dependency relapse, starting in

1 July 2006, up to and after the crimes at bar.

2 Norman Blake McKenzie consistently used a  
3 voluminous amount of cocaine from July 'til  
4 October of 2006.

5 Norman Blake McKenzie cooperated with law  
6 enforcement at the time of his arrest.

7 Norman Blake McKenzie admitted to the murders  
8 of Randy Peacock and Charles Johnston.

9 Norman Blake McKenzie has artistic ability.

10 Norman Blake McKenzie was an assistant  
11 superintendent for EMJ that built Cobblestone  
12 Village in St. Augustine.

13 Your decision regarding the appropriate  
14 sentence should be based upon proven aggravating  
15 factors and established mitigating circumstances  
16 that have been presented to you during these  
17 proceedings.

18 The next step in the process is for you to  
19 determine whether the aggravating factors that you  
20 have unanimously found to exist outweigh the  
21 mitigating circumstances that you have  
22 individually found to exist.

23 The process of weighing aggravating factors  
24 and mitigating circumstances is not a mechanical  
25 or mathematical process.

1           In other words, you should not merely total  
2           the number of aggravating factors and compare that  
3           number to the total number of mitigating  
4           circumstances.

5           The law contemplates that different factors  
6           or circumstances may be given different weight or  
7           values by different jurors.

8           Therefore, in your decision-making process,  
9           each individual juror must decide what weight is  
10          to be given to a particular factor or  
11          circumstance.

12          Regardless of the results of each juror's  
13          individual weighing process, even if you find that  
14          the sufficient aggravating factors outweigh the  
15          mitigators, the law neither compels nor requires  
16          you to determine that the defendant should be  
17          sentenced to death.

18          Once each juror has weighed the proven  
19          factors, he or she must determine the appropriate  
20          sentence for the defendant.

21          The jury's decision regarding the appropriate  
22          sentence must be unanimous if death is to be  
23          imposed.

24          To repeat what I have just said, if your  
25          verdict is that the defendant should be sentenced

1 to death, your finding that each aggravating  
2 factor exists must be unanimous.

3 Your finding that the aggravating factors are  
4 sufficient to impose death must be unanimous.

5 Your findings that the aggravating factors  
6 found to exist outweigh the established mitigating  
7 circumstances must be unanimous.

8 And your decision to impose a sentence of  
9 death must be unanimous.

10 You will be provided a form to reflect your  
11 findings and decision regarding the appropriate  
12 sentence.

13 If your vote on the appropriate sentence is  
14 less than unanimous, the defendant will be  
15 sentenced to life imprisonment without the  
16 possibility of parole.

17 The fact that the jury can make its decision  
18 on a single ballot should not influence you to act  
19 hastily or without due regard to the gravity of  
20 these proceedings.

21 Before you vote, you should carefully  
22 consider and weigh the evidence, realizing that a  
23 human life is at stake, and bring your best  
24 judgment to bear in reaching your verdict.

25 Now let me talk to you about the verdict

1 form. You're going to have a paper verdict form  
2 like this. I'm going to put it on the screen so I  
3 can show it to you, but you'll have a paper  
4 verdict form in the back.

5 There will be two verdict forms, one for each  
6 count. I'm going to go over the verdict form for  
7 count one line by line.

8 It's identical for count two. The only  
9 difference is, the second one for count two will  
10 identify count two.

11 And the one for count one identifies the  
12 victim Randy Peacock. The one for count two  
13 identifies the victim Charles Johnston.

14 The top of the verdict form, as you can see,  
15 identifies this case, State of Florida versus  
16 Norman Blake McKenzie.

17 The verdict -- now showing you the verdict  
18 for count one, verdict as to sentence, count one,  
19 first-degree murder of Randy Peacock, the first  
20 question deals with aggravating factors as to  
21 count one.

22 It starts off, we, the jury, unanimously find  
23 that the State has proven the following  
24 aggravating factors beyond a reasonable doubt as  
25 to the defendant, Norman Blake McKenzie, in this

1 case.

2 So you'll answer each of these questions yes  
3 or no with regards to your finding, which would  
4 need to be unanimous, that the State has  
5 established the aggravating factors beyond a  
6 reasonable doubt.

7 The first question for you, Norman Blake  
8 McKenzie was previously convicted of a capital  
9 felony or a felony involving the use or threat of  
10 violence to a person.

11 If the jury unanimously finds this has been  
12 established beyond a reasonable doubt, you would  
13 check yes. Otherwise, you would check no.

14 The second one, the first-degree murder was  
15 committed while Norman Blake McKenzie was engaged  
16 in the commission of a robbery.

17 Again, if the jury unanimously finds that  
18 this aggravating factor has been established  
19 beyond a reasonable doubt, you would check yes.  
20 Otherwise, you would check no.

21 The third one, the first-degree murder was  
22 committed for financial gain.

23 Again, if the jury unanimously finds that  
24 this aggravating factor has been established  
25 beyond a reasonable doubt, you would check yes.



1           Otherwise, you would check no.

2                   The fourth, the first-degree murder was  
3           especially heinous, atrocious, or cruel.

4                   Again, if the jury finds that this  
5           aggravating factor was established -- unanimously  
6           finds this aggravating factor was established  
7           beyond a reasonable doubt, you would check yes.

8           Otherwise, you would check no.

9                   And five, the first-degree murder was  
10          committed in a cold, calculated, and premeditated  
11          manner without any pretense of moral or legal  
12          justification.

13                   And, again, if the jury unanimously finds  
14          that this aggravating factor has been established  
15          beyond a reasonable doubt, you would check yes.

16          Otherwise, you would check no.

17                   You'll see at the bottom of the first  
18          section, Section A, there's some instructions in  
19          bold, and that instruction reads as follows:

20                   If you answered yes to at least one of the  
21          aggravating factors listed above, please proceed  
22          is Section B.

23                   If you answered no to every aggravating  
24          factor listed above, do not proceed to Section B.

25          The defendant, Norman Blake McKenzie, is not

1 eligible for the death penalty and will be  
2 sentenced to life in prison without the  
3 possibility of parole.

4 You would sign and date the verdict form and  
5 return it to the courtroom.

6 I'll go over Section B now with you, if  
7 you're moving on to Section B. Section B deals  
8 with the sufficiency of aggravating factors.  
9 There's one question in Section B which is as  
10 follows:

11 Reviewing the aggravating factors that we  
12 unanimously found to be proven beyond a reasonable  
13 doubt in Section A above, we, the jury, also  
14 unanimously find that the aggravating factors are  
15 sufficient to warrant a possible sentence of  
16 death.

17 So if you're on Section B, the jury would  
18 check yes or no.

19 As you can see, below that in bold there are  
20 more instructions, which read as follows:

21 If you answered yes to Section B, please  
22 proceed to Section C. If you answered no to  
23 Section B, do not proceed to Section C. The  
24 defendant, Norman Blake McKenzie, will be  
25 sentenced to life in prison without the

1 possibility of parole.

2 You would then sign and date the verdict form  
3 and return it to the courtroom.

4 I'll go on to Section C. In the event you're  
5 answering Section C, this is the question on  
6 mitigating circumstances:

7 One or more individual jurors find that one  
8 or more mitigating circumstances was established  
9 by the greater weight of the evidence. Yes or no  
10 would be checked.

11 As you can see, there is an instruction below  
12 that section, Section C, which reads, please  
13 proceed to Section D regardless of your findings  
14 in Section C.

15 So if you were answering Section C, you would  
16 move on to Section D. Section D has the following  
17 question. It's entitled Eligibility for the Death  
18 Penalty for Count One. The question is as  
19 follows:

20 We, the jury, unanimously find that the  
21 aggravating factors that were proven beyond a  
22 reasonable doubt in Section A above outweigh the  
23 mitigating circumstances established in Section C  
24 above as to count one, first-degree murder.

25 And whatever the jury unanimously finds, they

1 would check. You would check yes if the jury  
2 unanimously finds it does. Otherwise, you would  
3 check no.

4 As you can see in bold below that, it reads  
5 as follows:

6 If you answered yes to Section D, please  
7 proceed to Section E. If you answered no to  
8 Section D, do not proceed. The defendant, Norman  
9 Blake McKenzie, will be sentenced to life in  
10 prison without the possibility of parole.

11 And you would sign and date the verdict form  
12 and return it to the courtroom.

13 I'll move on to Section E, if you are  
14 answering Section E, which reads as follows. The  
15 heading of Section E is Jury Verdict As to Death  
16 Penalty. The question is as follows:

17 Having unanimously found that at least one  
18 aggravating factor has been established beyond a  
19 reasonable doubt in Section A above, that the  
20 aggravating factors are sufficient to warrant a  
21 sentence of death in Section B above, and that the  
22 aggravating factors outweigh the mitigating  
23 circumstances in Section D above, we, the jury,  
24 unanimously find that the defendant, Norman Blake  
25 McKenzie, should be sentenced to death.

1           If the jury unanimously finds that, you would  
2           check yes. Otherwise, you would check no.

3           And as it states in the instruction in bold  
4           right below that, if your vote to impose death is  
5           less than unanimous, the trial court shall impose  
6           a sentence of life without the possibility of  
7           parole.

8           And right below that you'll see a place for  
9           the foreperson to sign and date verdict form.

10          The verdict form, again, it's the same for  
11          count two, except it says count two and the  
12          victim's name is different, so that is the verdict  
13          form.

14          When considering aggravating factors and  
15          mitigating circumstances, it is up to you to  
16          decide which evidence is reliable.

17          You should use your common sense in deciding  
18          which is the best evidence and which evidence  
19          should not be relied upon in making your decision  
20          as to what sentence should be imposed.

21          You may find some of the evidence not  
22          reliable or less reliable than other evidence.  
23          You should consider how the witnesses acted as  
24          well as what they said. Some things you should  
25          consider are:

1           Did the witness seem to have an opportunity  
2           to see and know the things about which the witness  
3           testified?

4           Did the witness seem to have an accurate  
5           memory?

6           Was the witness honest and straightforward in  
7           answering the attorneys' questions?

8           Did the witness have some interest in how the  
9           case should be decided?

10          Did the witness' testimony agree with the  
11          other testimony and other evidence in the case?

12          Has the witness been convicted of a felony?

13          The fact that a witness is employed in law  
14          enforcement does not mean that his or her  
15          testimony deserves more or less consideration than  
16          that of any other witness.

17          Expert witnesses are like other witnesses  
18          with one exception. The law permits an expert  
19          witness to give an opinion.

20          However, an expert's opinion is only reliable  
21          when given on a subject about which you believe  
22          that person to be an expert.

23          Like other witnesses, you may believe or  
24          disbelieve all or any part of an expert's  
25          testimony.

1           It is entirely proper for a lawyer to talk to  
2           a witness about what testimony the witness would  
3           give if called to the courtroom. The witness  
4           should not be discredited by talking to a lawyer  
5           about his or her testimony.

6           You may rely upon your own conclusion about  
7           the credibility of any witness. A juror may  
8           believe or disbelieve all or any part of the  
9           evidence or the testimony of any witness.

10          The defendant exercised a fundamental right  
11          by choosing not to be a witness in this case. You  
12          must not be influenced in any way by his decision.

13          No juror should ever be concerned that a  
14          defendant did or did not take the witness stand to  
15          give testimony in the case.

16          These are some general rules that apply to  
17          your discussions. You must follow these rules in  
18          order to make a lawful decision.

19          You must follow the law as it is set out in  
20          these instructions. If you fail to follow the  
21          law, your decisions will be a miscarriage of  
22          justice.

23          There is no reason for failing to follow the  
24          law in this case. All of us are depending upon  
25          you to make a wise and legal decision in this

1 matter.

2 Your decisions must be based only upon the  
3 evidence that you have heard from the testimony of  
4 the witnesses, have seen in the form of the  
5 exhibits in evidence, and these instructions.

6 Your decisions must not be based upon the  
7 fact that you feel sorry for anyone or are angry  
8 at anyone.

9 Remember, the lawyers are not on trial. Your  
10 feelings about them should not influence your  
11 decisions.

12 The jury is not to discuss any questions that  
13 a juror wrote that were not asked by the Court,  
14 and must not hold that against either party.

15 Your decisions should not be influenced by  
16 feelings of prejudice or racial or ethnic bias.  
17 Your decisions must be based on the evidence and  
18 the law contained in these instructions.

19 In just a few moments, you'll be taken to the  
20 jury room by the bailiff. When you have reached  
21 decisions in conformity with these instructions,  
22 the appropriate forms, the verdict forms I went  
23 over, should be signed and dated by your  
24 foreperson.

25 During deliberations, jurors must communicate



1           about the case only with one another and only when  
2           all jurors are present in the jury room.

3           You are not to communicate with any person  
4           outside the jury about this case, and you must not  
5           talk about this case in person or through the  
6           telephone, writing, or electronic communication  
7           such as a blog, Twitter, e-mail, text message, or  
8           any other means.

9           Many of you have cell phones, tablets,  
10          laptops, or other electronic devices here in the  
11          courtroom.

12          As I mentioned to you the other day, the  
13          rules do not allow you to bring your phones or any  
14          of these types device -- types of devices into the  
15          jury room.

16          So in just a few moments, I'll go over that  
17          with you and what we're going to do with the  
18          electronic devices.

19          Do not contact anyone to assist you during  
20          deliberations. These communications rules apply  
21          until I discharge you at the end of the case.

22          If you become aware of any violation of these  
23          instructions or any other instruction I have given  
24          in this case, you must tell me by giving a note to  
25          the bailiff.

1           During this penalty phase of the trial, items  
2           were received into evidence as exhibits. You may  
3           examine whatever exhibits you think will help you  
4           in your deliberations. The exhibits will be sent  
5           into the jury room with you when you begin to  
6           deliberate.

7           There will also be a computer sent back there  
8           that you can look at any disc or electronic  
9           evidence. That computer does not hook up to the  
10          Internet, so don't even try. We made sure about  
11          that.

12          I cannot participate in your deliberations in  
13          any way. Please disregard anything I may have  
14          said or done that made you think I preferred one  
15          decision over another.

16          If you need to communicate with me, send a  
17          note through the bailiff signed by the foreperson.

18          If you have questions, I will talk to the  
19          attorneys before I answer, so it may take some  
20          time. You may continue your deliberations while  
21          you wait for my answer.

22          I will answer any questions, if I can, in  
23          writing or orally here in open court.

24          In closing, let me remind you that it is  
25          important that you follow the law spelled out in

1           these instructions. No other laws -- there are no  
2           other laws that apply to this case.

3           Even if you do not like the laws that must be  
4           applied, you must use them. For more than two  
5           centuries, we have lived by the Constitution and  
6           the law. No juror has the right to violate the  
7           rules that we all share.

8           Okay. Now, before I have you retire to  
9           deliberate, there's a couple more things I need to  
10          take up with you.

11          First of all, proceedings like this are heard  
12          by 12-person juries. You may have noticed there  
13          are 14 of you here. There's good reason for that.

14          Two of you have served as alternate jurors.  
15          Based upon the laws that I'm required to follow,  
16          I'm not allowed to tell the alternate jurors who  
17          they are until this stage of the trial.

18          The alternate jurors are there in case one of  
19          the other jurors cannot complete their service for  
20          whatever reason, and then the alternate would step  
21          into regular jury service.

22          However, everybody's here, everybody's  
23          healthy, so the alternate jurors in this case will  
24          not be able to deliberate a verdict.

25          So our alternates in this case have been

1 Mr. Robbins and Mr. Stovall. You two will not be  
2 able to deliberate a verdict in this case.

3 I know that may be a little bit disappointing  
4 'cause we had you sit here nearly all week. I've  
5 had folks sit in here for a month as alternate  
6 jurors, and I couldn't tell them until the end of  
7 the trial. It was just a couple days for you  
8 guys, but I realize that it was probably a little  
9 disappointing you can't deliberate your verdict.

10 I'm going to have some further instructions  
11 for you before you go, but before I do that, do  
12 you have anything in this jury room you need to  
13 get out?

14 ALTERNATE JUROR ROBBINS: My phone's in  
15 there.

16 THE COURT: Okay. I'll need you to get your  
17 phone. Do you have anything downstairs that you  
18 left in the jury lounge?

19 (The alternate jurors answered in the  
20 negative.)

21 THE COURT: Okay. So, Mr. Robbins, if you'll  
22 get your phone out of there. Your lunches may be  
23 in there, also.

24 Have they arrived?

25 THE BAILIFF: No, sir, not yet.

1           THE COURT: Okay. Long line at Zaxby's, I  
2           guess.

3           Now, you are more than welcome to stick  
4           around and see what your fellow jurors do. We did  
5           order lunch for y'all, so you might as well stick  
6           around and get your lunches.

7           For everybody else, as I mentioned, you will  
8           not be able to take your phones, electronic  
9           devices, or any type of communications devices  
10          like that back to the jury room when you  
11          deliberate.

12          Does anybody have their electronic device in  
13          the room here or --

14          (Most of the jurors indicated in the  
15          affirmative.)

16          THE COURT: Almost everybody. Okay. Or  
17          down -- anybody have it downstairs?

18          (The jurors indicated in the negative.)

19          THE COURT: No. Okay. So if you all could  
20          go in there, take them out, put them on your  
21          seats, we'll have them secured while you're  
22          deliberating. So if y'all want to --

23          Yes, ma'am?

24          JUROR JONES: Do you want our smart watches,  
25          as well?

1           THE COURT: Yes. If you have a smart watch,  
2           please take that off. Thank you for mentioning  
3           that. I'm going to have you actually deliberating  
4           down in the jury lounge, so your smart watch  
5           probably isn't going to have the range to  
6           communicate with your phone down there, depending  
7           on what type of watch it is, but, nonetheless, if  
8           you have a smart watch, you'll need to leave that  
9           here, as well.

10           So if y'all can go in and get your devices,  
11           and then leave it on the seats.

12           JUROR TERRY: Leave our watch on the seat, as  
13           well?

14           THE COURT: If it's a smart watch. If it's  
15           like mine, it's a dumb watch, you don't have to  
16           take it off.

17           (The jurors entered the jury room.)

18           THE OFFICER: Your Honor, she's asking if  
19           they're going to leave things in here, leave  
20           their -- any personal items in here.

21           THE COURT: They can, but things like purses  
22           and all that, if they want to take it with them to  
23           the jury lounge when they're deliberating, that's  
24           fine, as long as it's not electronic.

25           (The jurors reentered the courtroom.)

1           THE COURT: You used to be able to take your  
2           electronic devices back with you as long as you  
3           had them turned off, but because of things that  
4           happened in other parts --

5           Y'all can sit down.

6           Because of things that happened in other  
7           parts of the state -- and I always blame other  
8           parts of the state. Because of things that  
9           happened in other parts of the state, you're not  
10          allowed to do that anymore.

11          So we do have to secure those devices. They  
12          will be secured while you're deliberating.

13          Any other personal items, as long as it's not  
14          a communication device or any type of research  
15          material, you can take those with you when you  
16          deliberate, purses, things like that, that's fine.  
17          Any comfort items, water bottles, anything else,  
18          that's fine.

19          Take your notes with you. Take your jury  
20          instructions with you. We will bring the evidence  
21          and the verdict forms down there to you.

22          Like I said, we're going to have you  
23          deliberating down there. There's a room -- I  
24          don't know if you noticed it when you were down  
25          there or not.

1           There's a room way back in the jury lounge  
2           that actually is a -- they call it a jury  
3           sequester room, but it's a deliberations room.

4           There's more room than there is here. With  
5           12 people, it can get a little cramped in here.  
6           There's definitely more room down there.

7           At all times, there will be a bailiff  
8           stationed down there. They may alternate who it  
9           is, but there will always be a bailiff down there.

10          As soon as you have reached a verdict or if  
11          you need to otherwise communicate with me, let the  
12          bailiff know, and then he'll communicate with me.

13          And we'll get everybody up here if that's  
14          where we are at that stage to address that.

15          Any questions before we have you go down  
16          there?

17          (The jurors indicated in the negative.)

18          THE COURT: Okay. You are now free to  
19          deliberate your verdict. If you follow our  
20          bailiff, he'll escort you to the jury sequester  
21          room down there in the jury lounge.

22          And everybody else please remain in the  
23          courtroom.

24          And lunch will hopefully be there soon.

25          THE BAILIFF: It just got here.



1 THE COURT: There you go.

2 THE BAILIFF: Their lunches are going to the  
3 jury lounge. The alternates' are coming up here.

4 THE COURT: Okay. Perfect timing.

5 (The jury exited the courtroom to begin  
6 deliberations at 1:51 p.m.)

7 THE COURT: Y'all -- y'all can be seated.  
8 Have a seat. I'm not throwing you out just yet.

9 I do want to thank you all for your service.  
10 Oftentimes, especially in cases like this with  
11 larger juries and longer cases, oftentimes, the  
12 alternate jurors are called into service many,  
13 many times.

14 So I can't impress upon you how valuable your  
15 service really was. You're more than welcome to  
16 stick around and see what your fellow jurors are  
17 going to do. Please stick around and get your  
18 lunch.

19 If you don't want to stick around, that's  
20 fine. If you want the clerk to call you and let  
21 you know what the outcome was, we'll be glad to do  
22 that for you.

23 You are now free to discuss this case with  
24 anybody that you want, or not discuss it with  
25 anybody. That's entirely up to you.

1           So that discussion I gave you or that  
2           instruction I gave you during the trial to not  
3           discuss the case with anybody, that doesn't apply  
4           anymore, so that's entirely up to you.

5           What I need is for you to leave your notes  
6           and jury instructions on the chair. Also your  
7           jury badges. The clerk wants me to collect those  
8           every time so you don't walk off with them and we  
9           don't have to get new ones.

10          And with that, gentlemen, you are excused  
11          from your jury service. Like I said, you're more  
12          than welcome to stick around.

13          If you're going to do that, you'll have to  
14          stay in the audience or outside the courtroom, but  
15          you are now excused. Thank you. We appreciate  
16          your service very much.

17          ALTERNATE JUROR ROBBINS: Judge, can I get a  
18          letter for my employer?

19          THE COURT: I'm going to mail a letter to  
20          everybody. How soon -- do you need it today?

21          ALTERNATE JUROR ROBBINS: No. I just have to  
22          show that I was here.

23          THE COURT: Okay. You're going to get a  
24          letter from me thanking you for your service, and  
25          that clearly will show that you -- do you need the

1 dates on it?

2 ALTERNATE JUROR ROBBINS: I believe so.

3 THE COURT: You do? Okay. Let me make a  
4 note of that.

5 ALTERNATE JUROR STOVALL: Same here.

6 THE COURT: You need the same?

7 ALTERNATE JUROR STOVALL: Yes, sir.

8 THE COURT: Okay. All right. Very well.  
9 Thank you, gentlemen.

10 THE BAILIFF: Just to let y'all know, they're  
11 bringing your lunch up here, so if you want to  
12 wait five minutes, it should be here.

13 THE COURT: Okay. Thank you, folks.

14 Y'all can be seated in the courtroom.

15 To Counsel for the parties, any exceptions or  
16 objections to the jury instructions as read, other  
17 than those objections previously stated when we  
18 had our charge conference, Defense?

19 MR. BARRETT: No objection based upon the  
20 Court's phraseology.

21 THE COURT: Okay. State?

22 MR. JOHNSON: No, sir.

23 THE COURT: All right. Anything we need to  
24 bring up until we hear back from the jury?

25 MR. JOHNSON: I don't believe so.

1 MR. BARRETT: No, Judge.

2 THE COURT: Okay. I know we have a couple  
3 lawyers from out of town. Cell service stinks in  
4 this building. You probably figured that out  
5 already.

6 So don't stray too far that we have to put a  
7 BOLO out to find you. And as soon as we hear from  
8 the jury, we'll regather here.

9 MR. BARRETT: Yes, Judge.

10 THE COURT: Okay. Very well. We'll be in  
11 recess until we hear from the jury.

12 (Court was in recess from 1:54 p.m. until  
13 3:03 p.m., at which time the bailiff advised that  
14 the jury had reached a verdict.)

15 THE COURT: Everyone may be seated. We are  
16 waiting on the jury to get up here from where they  
17 were deliberating.

18 We'll get Mr. Barrett and Mr. Hamburg back  
19 home so you can prepare for the storm coming.

20 (Court was in an informal recess from  
21 3:04 p.m. until 3:08 p.m. while awaiting the  
22 arrival of the jurors.)

23 THE COURT: Looks like we have the jury in  
24 the box. We're going to bring them out in just a  
25 minute.

1           Let me just caution everybody in the  
2 audience -- there aren't that many, but those who  
3 are here -- that I know these things can be  
4 emotional, but there will not be any outbursts  
5 during these proceedings.

6           If you feel you can't control yourself, you  
7 might want to leave now. If there is an outburst,  
8 you'll be asked to leave the courtroom.

9           So when we bring the jury out, I'll review  
10 the verdict for legal sufficiency, and then we'll  
11 have the clerk publish the verdict.

12           Then when we're done with that, I'll ask if  
13 either party, if they want the jury polled.

14           All right. We can go ahead and bring the  
15 jury in, please.

16           (The jury entered the courtroom.)

17           THE COURT: All right. Welcome back,  
18 everybody.

19           Y'all can be seated in the courtroom.

20           All right. It's my understanding the jury  
21 has reached a verdict; is that correct?

22           JURY FOREPERSON: Yes.

23           THE COURT: Who is the foreperson?  
24 Ms. Beaty?

25           JURY FOREPERSON: Yes.

1           THE COURT:  If you have the verdict form, if  
2           you could hand it to the deputy, I will review it  
3           for legal sufficiency.

4           We don't make the foreperson read it out  
5           loud.  The clerk will publish the verdict if  
6           legally sufficient, and we'll go from there.

7           Thank you.

8           THE BAILIFF:  You're welcome.

9           THE COURT:  All right.  Mr. McKenzie, if you  
10          and your counsel will stand and harken to the  
11          jury's verdict, I'll have the clerk publish the  
12          verdict, please.

13          THE CLERK:  "In the Circuit Court, Seventh  
14          Judicial Circuit, in and for St. Johns County,  
15          Florida, case number CF-2006-1864, State of  
16          Florida versus Norman Blake McKenzie.

17          "Verdict as to -- as to sentence.  Count one,  
18          first-degree murder of Randy Peacock:

19          "We, the jury, find as follows as to the  
20          defendant, Norman Blake McKenzie, in this case:

21          "We, the jury, unanimously find that the  
22          State has proven the following aggravating factors  
23          beyond a reasonable doubt as to the defendant,  
24          Norman Blake McKenzie, in this case:

25          "Number one, Norman Blake McKenzie was

1           previously convicted of a capital felony or a  
2           felony involving the use or threat of violence to  
3           a person. Yes.

4           "The first-degree murder was committed while  
5           Norman Blake McKenzie was engaged in the  
6           commission of a robbery. Yes.

7           "The first-degree murder was committed for  
8           financial gain. Yes.

9           "The first-degree murder was especially  
10          heinous, atrocious, or cruel. Yes.

11          "The first-degree murder was committed in a  
12          cold, calculated, and premeditated manner without  
13          the pretense of moral or legal justification.  
14          Yes.

15          "Section B, Sufficiency of Aggravating  
16          Factors as to Count One:

17          "Reviewing the aggravating factors that were  
18          unanimous -- unanimously found to be proven beyond  
19          a reasonable doubt in Section A above, we, the  
20          jury, also unanimously find that the aggravating  
21          factors are sufficient to warrant a possible  
22          sentence of death. Yes.

23          "Mitigating circumstances: One or more  
24          individual jurors find that one or more mitigating  
25          circumstances were established by the greater

1 weight of the evidence. Yes.

2 "Eligibility for the death penalty for count  
3 one:

4 "We, the jury, unanimously find that the  
5 aggravating factors that were proven beyond a  
6 reasonable doubt in Section A above outweigh the  
7 mitigating circumstances established in Section C  
8 above as to count one, first-degree murder. Yes.

9 "Jury verdict as to death penalty:

10 "Having unanimously found that at least one  
11 aggravating factor has been established beyond a  
12 reasonable doubt in Section A above, that the  
13 aggravating factors are sufficient to warrant a  
14 sentence of death in Section B above, and that the  
15 aggravating factors outweigh the mitigating  
16 circumstances in Section D above, we, the jury,  
17 unanimously find that the defendant, Norman Blake  
18 McKenzie, should be sentenced to death. Yes.

19 "Dated this 29th day of August, 2019, in  
20 St. Augustine, St. Johns County, Florida. Signed  
21 by the foreperson.

22 "Verdict as to sentence, count two,  
23 first-degree murder of Charles Johnston:

24 "We, the jury, find as follows as to the  
25 defendant, Norman Blake McKenzie, in this case:



1            "We, the jury, unanimously find that the  
2            State has proven the following aggravating factors  
3            beyond a reasonable doubt as to the defendant,  
4            Norman Blake McKenzie, in this case:

5            "Norman Blake McKenzie was previously  
6            convicted of a capital felony or a felony  
7            involving the use or threat of violence to a  
8            person. Yes.

9            "The first-degree murder was committed while  
10           Norman Blake McKenzie was engaged in the  
11           commission of a robbery. Yes.

12           "The first-degree murder was committed for  
13           financial gain. Yes.

14           "The first-degree murder was especially  
15           heinous, atrocious, or cruel. Yes.

16           "The first-degree murder was committed in a  
17           cold, calculated, and premeditated manner without  
18           any pretense of moral or legal justification.  
19           Yes.

20           "Reviewing the aggravating factors that we  
21           unanimous -- unanimously found to be proven beyond  
22           a reasonable doubt in Section A above, we, the  
23           jury, also unanimously find that the aggravating  
24           factors are sufficient to warrant a possible  
25           sentence of death. Yes.

1           "One or more individual jurors find that one  
2           or more mitigating circumstances was established  
3           by the greater weight of the evidence. Yes.

4           "We, the jury, unanimously find that the  
5           aggravating factors that were proven beyond a  
6           reasonable doubt in Section A above outweigh the  
7           mitigating circumstances established in Section C  
8           above as to count one [verbatim], first-degree  
9           murder. Yes.

10           "Having unanimously found that one -- that at  
11           least one aggravating factor has been established  
12           beyond a reasonable doubt in Section A above, that  
13           the aggravating factors are sufficient to warrant  
14           a sentence of death in Section B above, and that  
15           the aggravating factors outweigh the mitigating  
16           circumstances in Section D above, we, the jury,  
17           unanimously find that the defendant, Norman Blake  
18           McKenzie, should be sentenced to death. Yes.

19           "Dated this 29th day of August, 2019,  
20           St. Augustine, St. Johns County, Florida. Signed  
21           by the foreperson."

22           THE COURT: Okay. Thank you.

23           Y'all can be seated.

24           Does the defense desire the jury to be  
25           polled?

1 MR. BARRETT: Yes, Judge.

2 THE COURT: Okay. Ladies and gentlemen, I'm  
3 going to ask you all individually questions about  
4 your verdict to assure that this is your verdict.

5 I'm going to ask each of you whether the  
6 verdict as read by the clerk was, in fact,  
7 correctly stated and is your verdict. So I'm  
8 going to go one by one.

9 Ms. Terry, do you agree that each of the  
10 findings in the verdict form is yours?

11 JUROR TERRY: Yes.

12 THE COURT: Ms. Williams -- Mrs. Williams, do  
13 you agree that at least -- that each of the  
14 findings in the verdict form is yours?

15 JUROR WILLIAMS: Yes, your Honor.

16 THE COURT: Okay. Ms. Roberts, do you agree  
17 that each of the findings in the verdict form is  
18 yours?

19 JUROR ROBERTS: Yes, sir.

20 THE COURT: Ms. Beaty, do you agree that each  
21 of the findings in the verdict form is yours?

22 JUROR BEATY: Yes, sir.

23 THE COURT: Ms. Griener, do you agree that  
24 each of the findings in the verdict form is yours?

25 JUROR GRIENER: Yes, your Honor.

1 THE COURT: Ms. Dupont, do you agree that  
2 each of the findings in the verdict form is yours?

3 JUROR DUPONT: Yes, sir.

4 THE COURT: Mr. Metcalf, do you agree that  
5 each of the findings in the verdict form is yours?

6 JUROR METCALF: Yes, sir.

7 THE COURT: And, Mr. Hasty, do you agree that  
8 each of the findings in the verdict form is yours?

9 JUROR HASTY: Yes.

10 THE COURT: Ms. Stambaugh, do you agree that  
11 each of the findings in the verdict form is yours?

12 JUROR STAMBAUGH: Yes.

13 THE COURT: Ms. Hansen, do you agree that  
14 each of the findings in the verdict form is yours?

15 JUROR HANSEN: Yes, your Honor.

16 THE COURT: Ms. Timmermans, do you agree that  
17 each of the findings in the verdict form is yours?

18 JUROR TIMMERMANS: Yes, sir.

19 THE COURT: And, Ms. Jones, do you agree that  
20 each of the findings in the verdict form is yours?

21 JUROR JONES: Yes, your Honor.

22 THE COURT: All right. It is a unanimous  
23 verdict. Thank you, folks. I'm going to read one  
24 final instruction for you, and then you'll be  
25 discharged from jury duty.

1           On behalf of the parties, the lawyers, and  
2           the people of the State of Florida, I wish to  
3           thank you for your time and consideration in this  
4           case.

5           I also wish to advise you of some very  
6           special privileges enjoyed by jurors. No juror  
7           can be required to talk about the discussions that  
8           occurred in the jury room except by court order.

9           For many centuries, our society has relied  
10          upon juries for consideration of difficult cases.  
11          We have recognized for hundreds of years that a  
12          jury's deliberations, discussions, and votes  
13          should remain their private affair as long as they  
14          wish it.

15          Therefore, the law gives you a unique  
16          privilege not to speak about the jury's work.

17          The lawyers and their representatives are not  
18          permitted to initiate any communication with you  
19          about this trial.

20          However, you may speak to the lawyers or  
21          anyone else about this trial if you desire to do  
22          so. You also have the right to refuse to speak  
23          with anyone if you desire to do so.

24          A request may come from those who are simply  
25          curious or from those who might seek to find fault

1 with you. It will be up to you to decide whether  
2 to preserve your privacy as a juror.

3 So what that means, in sum, is all week I've  
4 been telling you you can't talk about this case  
5 with anybody.

6 You can now talk about this case with anybody  
7 that you want to talk to. You, likewise, don't  
8 have to talk to anybody about the case if you  
9 don't want to.

10 No one can force you to talk about what  
11 happened in the jury room except by court order.  
12 Now, that's unusual.

13 The lawyers and their representatives are not  
14 allowed to initiate communications with you, so if  
15 any of them do that, you do need to notify my  
16 office immediately 'cause that is prohibited.

17 Now, you're free to initiate communications  
18 with them if you want to, but they cannot initiate  
19 communications with you. So that's what that  
20 means.

21 Again, I want to thank you on behalf of  
22 everybody in this courtroom for your jury service,  
23 not like you had a choice, but nevertheless, we do  
24 appreciate you coming down here.

25 You're also going to get a letter from me

1           that is not another jury summons, so you don't  
2           need to tear it up right away.

3           It will thank you for your service. There's  
4           also a phone number and e-mail address there. If  
5           you have any questions about your service or any  
6           questions about these proceedings, those  
7           requests will come directly to me, or if you  
8           have any comments on how we can improve what the  
9           jury -- what jury duty was for you.

10          So I'm going to go ahead and excuse you from  
11          jury duty at this point. I do need you to leave  
12          your jury instructions and your notes on your  
13          chair as well as the jury buttons.

14          The clerk wants me to always make sure that  
15          you don't walk off with the buttons so they have  
16          don't have to order new ones, and you will now be  
17          excused from jury duty.

18          Thank you, folks, and have a good afternoon.  
19          Stay safe with the storm pending out there.

20          (The jury exited the courtroom.)

21          THE COURT: All right. Y'all can be seated.  
22          We're outside the presence of the jury. All  
23          parties are present, including the defendant.

24          So the first thing we need to do is order a  
25          PSI, so I'll order another PSI. It should be

1 updated from a previous one.

2 Then we need to figure out a date for a  
3 Spencer hearing at least 60 days out, most likely  
4 further out than that.

5 Does anybody have any preferences or  
6 scheduling problems coming up in October,  
7 November?

8 MR. BARRETT: No, Judge.

9 THE COURT: Okay. How long would you all  
10 anticipate a Spencer hearing to take in this case?

11 MR. JOHNSON: You know, we might have a  
12 couple of letters, Judge, but that would be it.

13 THE COURT: Okay. Defense, any idea? And,  
14 obviously, not holding you to it. I'm just trying  
15 to get a general idea for scheduling purposes.

16 MR. BARRETT: Uh, maybe an hour at the most,  
17 Judge.

18 THE COURT: Okay. Let's do this: How is the  
19 afternoon of November 21?

20 MR. JOHNSON: Is that Thanksgiving week?

21 THE COURT: That's what I'm checking to see.

22 MR. HAMBURG: It's the week before.

23 THE COURT: It's the week before. It's the  
24 Thursday before Thanksgiving, so it's exactly one  
25 week before Thanksgiving.



1           MR. JOHNSON: I don't think that would be a  
2           problem. I show that as Judge McGillin's trial  
3           week, but I don't think I have anything set.

4           THE COURT: Okay. Mr. Barrett, any problem  
5           with that date?

6           MR. BARRETT: No, Judge.

7           THE COURT: Okay. So 11/21 at 1:30 will be  
8           the Spencer hearing.

9           And just so you all know, ten days after the  
10          Spencer hearing, I'll want memorandums from the  
11          parties.

12          So I give you the heads-up now so if you want  
13          to start working on them now, obviously, you can  
14          start working on them now.

15          MR. JOHNSON: Ten days after?

16          THE COURT: Ten days after, yeah. That way  
17          you can address anything else that might come up  
18          in the Spencer hearing.

19          MR. JOHNSON: Yes, sir.

20          THE COURT: Is there anything else we need to  
21          take up?

22          MR. BARRETT: No, Judge.

23          MS. JOHNSON: Is that a regular hearing  
24          docket for you?

25          THE COURT: It's a motion afternoon. I'll

1 just kind of wipe that -- it's a motion day, so  
2 I'll just compress everything into the morning,  
3 and you all can have the whole afternoon,  
4 hopefully.

5 MS. DUNTON: Just so your Honor knows, and we  
6 probably could talk about it with Counsel, but  
7 that Cook 3.850 that's set, that's not --

8 THE COURT: Is that set at the same time?

9 MS. DUNTON: Uh-huh. It's not going to be a  
10 simple --

11 THE COURT: Oh, okay.

12 MS. DUNTON: Yeah. It's -- that could turn  
13 into --

14 THE COURT: I didn't realize I had something  
15 else already set on that date.

16 MS. DUNTON: Yes, sir. We bumped -- the  
17 defense attorney asked for more time, and we  
18 bumped it from September to that day.

19 THE COURT: Yeah. I haven't updated the  
20 schedule here. Okay. So after --

21 MS. DUNTON: Just so you know.

22 THE COURT: -- all that, let's -- how long do  
23 you think Cook will take? All afternoon?

24 MS. DUNTON: The defense is still trying to  
25 figure out what they're doing, but yeah. I mean,

1 I'm not sure.

2 THE COURT: Possibly.

3 MS. DUNTON: But they're -- yeah. I would  
4 say several hours, between testimony and argument.

5 THE COURT: How about the next day, 11/22, in  
6 the morning, on Friday morning?

7 MR. BARRETT: That's good, Judge.

8 THE COURT: Okay. Let's do that, 11/22 at  
9 9 a.m.

10 MR. JOHNSON: So the memos would be due?

11 THE COURT: Ten days later. Uh, let me bring  
12 up a calendar.

13 MR. JOHNSON: Ten business days or counting  
14 weekends?

15 THE COURT: Let's see.

16 MS. DUNTON: We've got Thanksgiving in there,  
17 too.

18 THE COURT: Yeah. There is -- that's why I'm  
19 checking.

20 Ten calendar days would be the Monday after  
21 Thanksgiving. I don't want to push y'all to do  
22 that, so let's -- memos will be due on the sixth.  
23 Does that work for everybody?

24 MR. JOHNSON: Yes, your Honor.

25 THE COURT: That's two complete weeks.

1 MR. JOHNSON: Yes, sir.

2 THE COURT: All right. Anything else we need  
3 to take up?

4 MR. BARRETT: No, Judge.

5 THE COURT: Okay. I'm going to have  
6 Mr. McKenzie kept here 'cause, technically, he  
7 doesn't have a sentence yet, so we won't send him  
8 back to prison.

9 MR. BARRETT: He was going to request --

10 MR. HAMBURG: Right. He was going to request  
11 to go back to prison. He does have sentences on  
12 other cases.

13 THE COURT: Does he?

14 MR. HAMBURG: Yeah.

15 THE COURT: Oh, okay. I didn't realize that.  
16 What is the defense preference?

17 MR. BARRETT: He wants to go back, Judge, so  
18 we'll go along.

19 THE COURT: Okay.

20 MR. BARRETT: We can drive up there. That's  
21 no problem.

22 THE COURT: Okay. He can go back then.  
23 That's fine.

24 Where were you being held, Mr. McKenzie?  
25 Were you at UCI, Raiford, FSP?

1 THE DEFENDANT: I, uh --

2 MR. BARRETT: UCI.

3 THE DEFENDANT: I was actually trying to, you  
4 know, find out if it's more convenient for her  
5 or -- that I stay here or go back. I don't know.

6 I mean, I just want to do something that's  
7 going to be beneficial to, you know, the people in  
8 my life.

9 THE COURT: Okay. I don't know the answer to  
10 that, obviously, but he can go back. And then --

11 UNIDENTIFIED SPEAKER: When's the next court  
12 date?

13 THE COURT: Twelve -- 11/22, so we'll do a  
14 transport order for 11/22.

15 Okay. Thank you, everybody.

16 THE DEFENDANT: So am I return --

17 THE COURT: You're going to go back --

18 THE DEFENDANT: All right.

19 THE COURT: -- to prison.

20 THE DEFENDANT: All right.

21 (Time noted: 3:28 p.m.)

22

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