

**OFFICER KEN JORDAN**

- LIFE SENTENCE WITHOUT PAROLE

# OFFICERS JOSH HUNTER AND JOHN GARZA

- ATTEMPTED FIRST DEGREE MURDER AND FIRST DEGREE ASSAULT FOR EACH VICTIM
- 80 YEARS FOR EACH VICTIM, CONSECUTIVE TO ALL OTHER SENTENCES = 160 YEARS
- 7 YEARS FOR REMAINING COUNTS/CASE
- =167 YEARS CONSECUTIVE

- **Life, without parole, plus 167 years**

# Sentence is Appropriate

- Guarantee of Life in Prison
- Guarantee of No Appeals
- No Guarantees with a Jury Trial

# Guilt Phase and Penalty Phase

- Two Separate Phases
- Our Burden of Proof – Beyond a Reasonable Doubt
- Unanimous Decision of all 12 jurors

# Guilt Phase

- People Must Prove Unanimously Beyond a Reasonable Doubt Murder in the First Degree
- Must Prove Intentionally and After Deliberation

# Guilt Phase

- Intentionally: - his conscious objective is to cause the specific result.
- After Deliberation: - not only intentionally, but also that the decision to commit the act has been made after the exercise of reflection and judgment. It is not hasty or impulsive.

# Guilt Phase: Intoxication Evidence

- C.R.S. 18-1-804
- Intoxication Evidence can be offered to negate the mental state of “intentionally”
- Defendant’s medical blood draw, level of intoxication: BAC .266
- Defendant’s legal blood draw, level of intoxication:
  - Approximately 4 hours: BAC .156
  - Approximately 6 hours: BAC .122

# Penalty Phase

- C.R.S. 18-1.3-1201
- Statutory Aggravators and Statutory Mitigators

# Penalty Phase: 4 STEPS

- Step 1 - Must prove at least 1 aggravator beyond a reasonable doubt, unanimously
- Step 2 - Defense establishes mitigating factors (anything), no burden of proof
- Step 3 - Jurors must find beyond a reasonable doubt unanimously that the aggravation outweighs mitigation (not a matter of numbers)
- Step 4 - Juror's Individual Moral Judgment

- **Applicable provisions are highlighted**

# Aggravators for Death Penalty

- 1. Felony 1 committed while under imprisonment for 1,2,or 3.
- 2. Previous conviction for 1, 2 (cov).

# Aggravators for Death Penalty

- ***3. Intentionally killed person who was engaged in official duties, or for retaliation for same. (Police Officer, Firefighter, Judge, Elected Official).***
- **4. Intentionally killed a person kidnapped or held hostage by Defendant, or associate.**

# Aggravators for Death Penalty

- ***5. Committed offense while lying in wait, from ambush, or by use of an explosive or incendiary device.***
- 6. Committed 1,2, or 3, during course/furtherance of the Defendant intentionally caused the death of a person other than participants.
- 7. Felony 1 committed for pecuniary gain.

# Aggravators for Death Penalty

- *8. During commission, Defendant knowingly created a grave risk or death of another person, in addition to the victim of the offense.*
- *9. Defendant committed the offense in an especially heinous, cruel, or depraved manner.*
- *10. Class 1 committed for avoiding/prevention the lawful arrest/prosecution, or effecting an escape from custody. Killing of a witness to a crime.*

# Aggravators for Death Penalty

- 11. Defendant intentionally, knowingly or w/ universal malice...indifference, killed 2 or more during the commission of the same criminal episode.
- 12. Intentionally killed a child under 12 yoa.
- 13. Class 1 felony committed b/c victim's race, color, ancestry, religion, or national origin.

# Aggravators for Death Penalty

- ***14. Defendant's possession of a weapon used to commit a Class 1 felony is a felony offense.***
- 15. Victim pregnant.

# Mitigators for Death Penalty

- ***1. Age***
- ***2. Capacity to appreciate wrongfulness, or to conform conduct to law was significantly impaired, but not such impairment that is a defense to the crime***
- ***3. Under unusual or substantial duress.***

# Mitigators for Death Penalty

- 4. Defendant was principal, but participation was relatively minor.
- 5. Defendant could not have reasonably foreseen his conduct would cause, or created a grave risk of death to another.
- ***6. Emotional state of Defendant at the time the crime was committed.***
- ***7. Absence of any significant prior convictions.***

# Mitigators for Death Penalty

- ***8. Extent of cooperation w/ LEO and DA.***
- ***9. Under the influence of alcohol/drugs.***
- 10. Good faith belief for moral justification.
- ***11. Defendant not a continuing threat to society.***

# Mitigators for Death Penalty

- *12. Any other evidence, which in court's opinion, bears on the question of mitigation.*

# Death Penalty In Colorado

## Death Penalty In Colorado

- Gary Davis
  - Executed: 1997
- Nathan Dunlap (15 years and still pending)
  - 1993 - Crime
  - 1996 - Conviction
  - 2007 - State Conviction/Appeal Affirmed
  - Appeal Pending
- Sir Mario Owens (death sentence imposed 12/08)

# Death Penalty In Colorado

- All other Death Penalty Convictions have been overturned on some type of grounds on Appeal

