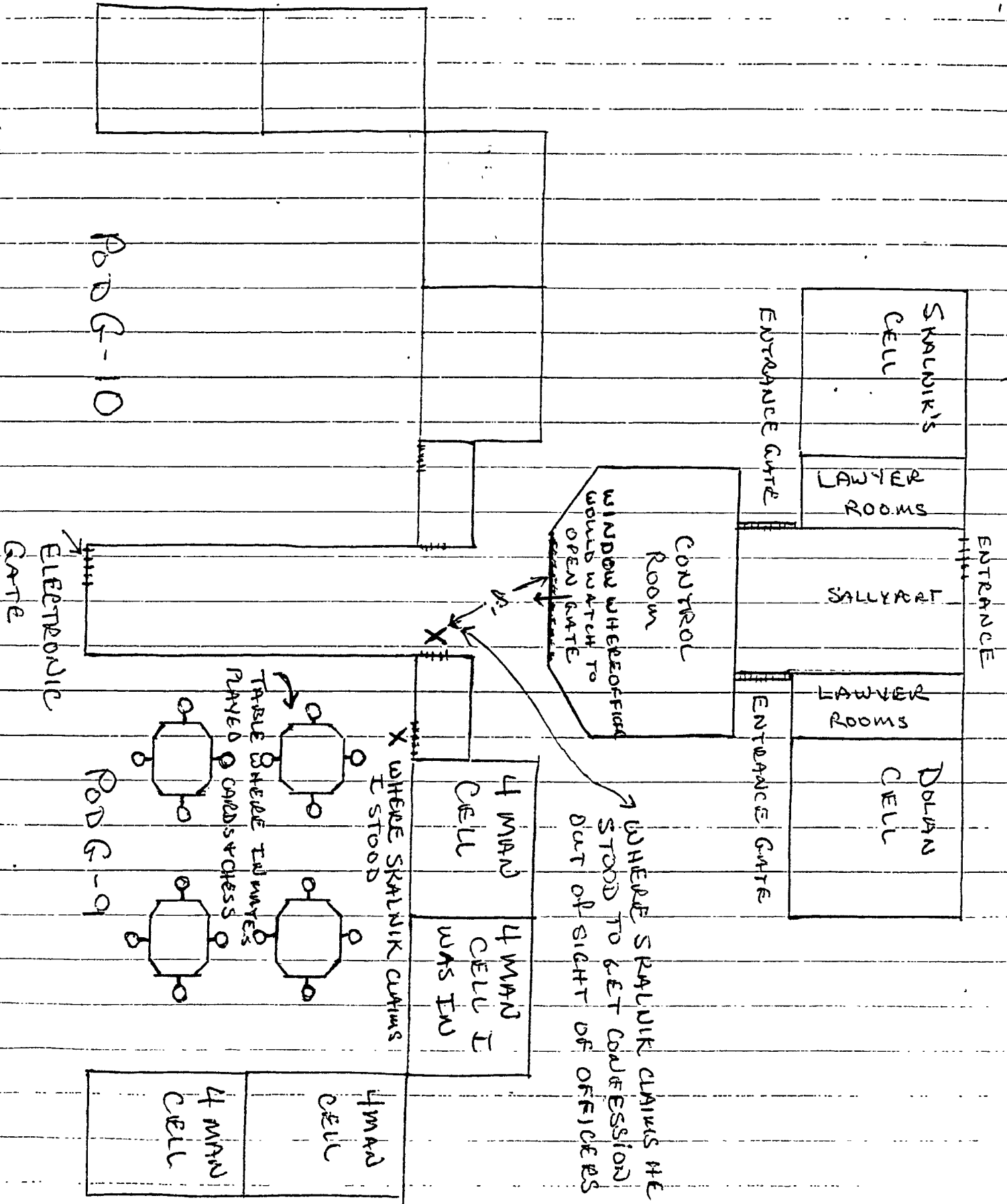


# Attachment A

RECEIVED, 05/09/2018 12:43:26 PM, Clerk, Supreme Court

JAN 22 2018





JUN 05 85

\*\*ITEMIZED CALLS\*\*

PAGE 7 913 829 2233

\*\*AT&T COMMUNICATIONS\* BILLING INQUIRIES CALL 1-800-222-0300F

NO.	DATE	TIME	PLACE CALLED	AREA	NUMBER	***	MIN	AMOUNT
1	5 04	2 28PM	OLATHE	KS	913 829 2233	NS	16	
		COLLECT FROM	ST PBG	FL COIN	813 392 9095			4.2
2	5 04	9 02PM	OLATHE	KS	913 829 2233	NS	26	
		COLLECT FROM	ST PBG	FL COIN	813 392 9606			5.8
3	5 05	10 16PM	OLATHE	KS	913 829 4000	ES	13	
		3RD NO. FROM	ST PBG	FL COIN	813 392 9606			4.8
4	5 06	12 15AM	OLATHE	KS	913 829 2233	NS	26	
		COLLECT FROM	ST PBG	FL COIN	813 392 9606			5.8
5	5 06	6 26PM	OLATHE	KS	913 829 2233	ES	20	
		COLLECT FROM	HLLYWD	FL COIN	305 925 9924			6.8

See Reverse THANK YOU FOR PAYING BY MAIL

Saturday, January 10, 1987

The Tampa Tribune

# 'I hope they lose the key,' judge tells convicted murderer

By EARL RINEHART  
Tribune Staff Writer

**CLEARWATER** — Jack Peary, sentenced Friday to life in prison for murdering Shelly Boggio, stared at her sisters in the courtroom a few seconds and then said something to them.

No one admitted to hearing what Peary said, but the fact the killer would address them brought Sherry and Stacey Boggio to tears.

"I don't know what he said. I wish he were dead," said Sherry Boggio, Shelly's 18-year-old sister.

She put her arm around Stacey, Shelly's twin sister, and looked back at her father

seated in the last row.

Frank Boggio was dismissed. He could hardly stand to be in the Pinellas County courtroom for periods at a time while waiting for the 1½-hour sentencing hearing to begin.

"He mutilated and killed a young girl," Boggio said. "I wanted him dead. I don't want to talk about it anymore."

Peary had made the inaudible comment while being fingerprinted, which required him to face the Boggio family seated in the courtroom.

Months before, Circuit Judge Thomas E. Penick Jr., visibly appeared disheartened after deciding he had to follow the recommendation of the trial jury and sentence

Peary, 31, to life in prison over the prosecutor's arguments in favor of the death sentence.

Peary must serve 25 years before he is eligible for parole.

"I intend to make sure you spend every last second of your life in jail — and I hope they lose the key," Penick told the defendant. "You have 90 days to appeal. And may God have mercy on your soul."

The crime was especially heinous, said Penick, who presided at Peary's November capital murder trial. Boggio, a 14-year-old pupil at 15th Street Middle School, had been beaten, stabbed 11 times and probably raped, prosecutors said, before she was thrown alive into the Intracoastal Waterway

near the Indian Rocks Bridge on May 5, 1985. Her nude body was found the next day.

Court-appointed defense attorneys Ky Koch and Ronnie G. Cridler had argued that Peary's accomplice, James M. Dalley, killed Boggio after the pair picked up the hitchhiking Kenneth City girl and took her drinking with them to several bars. Peary, they said, was drunk and awoke too late from nap to stop Dalley from stabbing the girl. Dalley goes on trial before Penick next month.

But the only evidence of Peary being simply at the wrong place at the wrong time is "His own self-serving statements," said Assistant State Attorney Beverly Andrews. "The cause of death was drowning and this

man helped drag the body into the water," Koch often interrupted Andrews' arguments, saying the prosecution was in a trial.

"They took their bite at the apple the jury and lost," Koch said.

At one point, Penick pointed his gun the attorney and said, "Mr. Koch, sit do But jurors believed there was an cause to spare Peary a trip to Florida electric chair. And Penick said he was aware of recent state Supreme Court decisions that overturned opinions of trial who did not follow jury recommendations for life in prison and instead imposed death penalty.

## Jury recommends life for killer

**CLEARWATER** — A jury of eight men and four women deliberated for one hour and 15 minutes Tuesday before recommending that Pinellas Circuit Judge Thomas E. Penick spare the life of convicted murderer Jack E. Peary Jr. that the jury recommended May 6, 1985, death of 14-year-old year-old from Olathe, Kan., be sentenced to life in prison without parole for 25 years.

Penick set sentencing for Jan. 9 and remanded Peary in custody without bail.

The jury had taken less than three hours Sunday to find Peary guilty of first-degree murder in the death of Shelly Boggio of Kenneth City.

# Jury recommends life sentence for man convicted in girl's killing

By PAT MEISOL  
St. Petersburg Times Staff Writer

A jury recommended on Tuesday that Jack Pearcy spend the rest of his life in prison for the brutal stabbing of a 14-year-old girl who died while apparently fighting off a sexual attack in May 1985.

The vote against the death penalty came after an emotional hearing in which witnesses said they believed Pearcy was innocent and after one of Pearcy's attorneys, in his closing argument, told jurors he disagreed with the guilty verdict they rendered Sunday night.

Pearcy's mother, Sally Coburn, hugged her son's lawyers on hearing that his life apparently had been spared.

"Jack knew that he had to pay some sort of price for being where Shelly Boggio was murdered," she had told the jury earlier.

"He told me he didn't do it," she said, "and that he knew the first thing he should have done was to go to the police."

Pearcy moved to Seminole from Olathe, Kan., three months before Ms. Boggio's beaten body was pulled from the Intracoastal Waterway near the Indian Rocks Beach bridge. Ms. Boggio, a seventh-grader at 16th Street Middle School, had been beaten, choked and stabbed 31 times on May 5, 1985. She was still alive when she was dragged into the water. Her nude body was discovered the next day.

Pearcy, a 31-year-old construction worker, had taken Ms. Boggio to several bars on the night she died. He claimed he woke up from a drunken stupor too late to stop his friend, James M. Dailey, from stabbing the Kenneth City girl.

For two weeks afterward, he spent time "in the mountains of Colorado searching his own soul," said his mother, who called the police to make an appointment for Pearcy to surrender.

One of the people who testified on Pearcy's behalf Tuesday was Mark A. Davis, an accused murderer and Pearcy's cellmate in the Pinellas County jail. He swore he overheard co-defendant Dailey take full responsibility for Ms. Boggio's murder. Dailey is scheduled for trial on Dec. 2.

A witness for the state — sheriff's detective John Halliday — pointed out the knife wounds on the 14-year-old's blood-stained shirt.

And prosecutors asked the jury not to be swayed by tears for a man they called morally bankrupt.

"I wonder how many times Shelly Boggio cried out that night with each stab wound . . . and whether she had any cry left in her when she was being carried out to the water," Assistant State Attorney Beverly Andrews said.

Pearcy had no business taking a 14-year-old to bars, defense attorney Ky Koch conceded. But he said the "major participant in Ms. Boggio's awful death" was James Dailey. I do disagree with y'all's verdict,"

Pearcy was convicted largely on the basis of his own changing stories. The key witness, who said Pearcy stabbed Ms. Boggio to "take the fight out of her," was a jail inmate who has spent years in mental institutions. Also, a detective testified that Pearcy admitted stabbing Ms. Boggio once in the hand and said he helped carry her to the water.

Pearcy will be sentenced Jan. 9 to life in prison unless Judge Thomas E. Penick overrules the jury's recommendation.

# Jury recommends life sentence for man convicted in girl's killing

By PAT MEISOL  
St. Petersburg Times Staff Writer

A jury recommended on Tuesday that Jack Pearcy spend the rest of his life in prison for the brutal stabbing of a 14-year-old girl who died while apparently fighting off a sexual attack in May 1985.

The vote against the death penalty came after an emotional hearing in which witnesses said they believed Pearcy was innocent and after one of Pearcy's attorneys, in his closing argument, told jurors he disagreed with the guilty verdict they rendered Sunday night.

Pearcy's mother, Sally Coburn, hugged her son's lawyers on hearing that his life apparently had been spared.

"Jack knew that he had to pay some sort of price for being where Shelly Boggio was murdered," she had told the jury earlier.

"He told me he didn't do it," she said, "and that he knew the first thing he should have done was to go to the police."

Pearcy moved to Seminole from Olathe, Kan., three months before Ms. Boggio's beaten body was pulled from the Intracoastal Waterway near the Indian Rocks Beach bridge. Ms. Boggio, a seventh-grader at 16th Street Middle School, had been beaten, choked and stabbed 31 times on May 5, 1985. She was still alive when she was dragged into the water. Her nude body was discovered the next day.

Pearcy, a 31-year-old construction worker, had taken Ms. Boggio to several bars on the night she died. He claimed he woke up from a drunken stupor too late to stop his friend, James M. Dailey, from stabbing the Kenneth City girl.

For two weeks afterward, he spent time "in the mountains of Colorado searching his own soul," said his mother, who called the police to make an appointment for Pearcy to surrender.

One of the people who testified on Pearcy's behalf Tuesday was Mark A. Davis, an accused murderer and Pearcy's cellmate in the Pinellas County jail. He swore he overheard co-defendant Dailey take full responsibility for Ms. Boggio's murder. Dailey is scheduled for trial on Dec. 2.

A witness for the state — sheriff's detective John Halliday — pointed out the knife wounds on the 14-year-old's blood-stained shirt.

And prosecutors asked the jury not to be swayed by tears for a man they called morally bankrupt.

"I wonder how many times Shelly Boggio cried out that night with each stab wound . . . and whether she had any cry left in her when she was being carried out to the water," Assistant State Attorney Beverly Andrews said.

Pearcy had no business taking a 14-year-old to bars, defense attorney Ky Koch conceded. But he said the "major participant in Ms. Boggio's awful death" was James Dailey. I do disagree with y'all's verdict."

Pearcy was convicted largely on the basis of his own changing stories. The key witness, who said Pearcy stabbed Ms. Boggio to "take the fight out of her," was a jail inmate who has spent years in mental institutions. Also, a detective testified that Pearcy admitted stabbing Ms. Boggio once in the hand and said he helped carry her to the water.

Pearcy will be sentenced Jan. 9 to life in prison unless Judge Thomas E. Penick overrules the jury's recommendation.

# Prosecutors say defendant admitted hitting murder victim

By PAT HANCOCK

St. Petersburg Times Staff Writer

When Jack Peary saw 14-year-old Shabby Boggo hitting ferociously with his companion on a beach in May 1985, he got out of his car and offered to help. He took up a knife and hit her, prosecutors contended in opening statements at Peary's first-degree murder trial Wednesday.

"He said he did it," Assistant State Attorney Robert Heyman said, "to take the fight out of her." Peary, 31, says he is only a witness to the brutal slaying of a young girl he met in a bar. He surrendered to police in his native Kansas two weeks after the naked body of Miss Boggo — a seventh-grade student at 16th Street Middle School — was spotted by a

Peary's attorneys said Wednesday that he was dozing in his car for most of this "raving, gut-wrenching, absolutely awful crime."

bridge tender 30 feet from shore in the Intracoastal Waterway off Indian Rocks Beach.

The girl, who lived at 5901 59th St. N., Kenneth City, had been beaten, choked and stabbed more than 30 times while she apparently tried to ward off sexual advances. She was still struggling when another man, James M. Duley, "held her head underwater and drowned her," Heyman said. Duley, who lived with

Peary in Seminole, is being tried separately for the May 5, 1985 slaying.

Peary has given conflicting statements about his participation, according to prosecutors, and in one such statement — to a jail inmate — he admitted going after Miss Boggo with a knife.

But Peary's attorneys said Wednesday that he was dozing in his car for most of the "raving, gut-wrenching, absolutely awful crime."

"When he woke up and saw Duley on top of this girl he knew something was definitely wrong," attorney Ky Koch told the jury. Peary got out of his car, ran to the beach and "the first thing he sees is Duley's right hand going up and down," Koch said. The sight of the blood-covered girl made Peary

vomit, Koch said. And that is one of the "compelling" facts the 12-person jury will hear from the witnesses seated in support of Peary's story, he said.

In testimony Wednesday, a 17-year-old friend of Miss Boggo, who said she smoked marijuana and drank with the defendant on the night of the murder, failed to identify Peary in court.

Suzanne Forrybe told the jury that she, Miss Boggo and Miss Boggo's twin sister Stacy hitched a ride with Peary and two other men. They were returned to Peary's car at several hours because of their age, she said, and wound up at Peary's home in Seminole. When the party decided to move to a bar, she and Stacy asked to be driven home, she said. That was the last time she saw Miss Boggo alive.

# Attachment B

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT,  
IN AND FOR PINELLAS COUNTY, FLORIDA**

**STATE OF FLORIDA,  
Plaintiff,**

**v.**

**Case No. 1985-CF-007084**

**JAMES DAILEY,  
Defendant.**

---

**DIRECTIONS TO THE CLERK**

Defendant, James Dailey, by and through undersigned counsel, hereby directs the Clerk as specified in Florida Rule of Appellate Procedure 9.200(a)(1) to include all items filed in this post-conviction proceeding in the record on appeal, including: all pleadings and attachments to pleadings; original documents; transcripts of all proceedings including status hearings; and all exhibits which have been filed with the Clerk of Court at trial and during all post-conviction proceedings, whether accepted into evidence or not.

Respectfully submitted,

**/s/ Chelsea Rae Shirley**

Chelsea Rae Shirley

Florida Bar. No. 112901

Assistant Capital Collateral Counsel

[Shirley@ccmr.state.fl.us](mailto:Shirley@ccmr.state.fl.us)

Counsel for Mr. Dailey

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing motion has been filed with Clerk for the 6<sup>th</sup> Judicial Circuit, Pinellas County, and served upon Assistant Attorney General Christina Pacheco ([Christina.Pacheco@myfloridalegal.com](mailto:Christina.Pacheco@myfloridalegal.com) and [capapp@myfloridalegal.com](mailto:capapp@myfloridalegal.com)); Assistant State Attorney Sara Macks ([smacks@co.pinellas.fl.us](mailto:smacks@co.pinellas.fl.us)); Assistant State Attorney Kristi Aussner ([SA6appealservice@co.pinellas.fl.us](mailto:SA6appealservice@co.pinellas.fl.us)); Seth Miller, Innocence Project of Florida ([smiller@floridainnocence.org](mailto:smiller@floridainnocence.org)); and The Honorable Frank Quesada ([bfedersp@jud6.org](mailto:bfedersp@jud6.org)) on this 9<sup>th</sup> day of April, 2018.

Respectfully submitted,

**/s/ Chelsea Rae Shirley**

Chelsea Rae Shirley  
Florida Bar. No. 112901  
Assistant Capital Collateral Counsel  
[Shirley@ccmr.state.fl.us](mailto:Shirley@ccmr.state.fl.us)

**/s/ Maria E. DeLiberato**

Maria E. DeLiberato  
Florida Bar No. 664251  
Assistant Capital Collateral Counsel  
[deliberato@ccmr.state.fl.us](mailto:deliberato@ccmr.state.fl.us)

**/s/ Julissa R. Fontán**

Julissa R. Fontán  
Florida Bar. No. 0032744  
Assistant Capital Collateral Counsel  
12973 N. Telecom Parkway  
Temple Terrace, FL 33637  
813-558-1600  
[Fontan@ccmr.state.fl.us](mailto:Fontan@ccmr.state.fl.us)

**/s/ Laura Fernandez**

Laura Fernandez  
Yale Law School  
127 Wall Street  
New Haven, Connecticut 06511  
203-432-1179  
[laura.fernandez@yale.edu](mailto:laura.fernandez@yale.edu)

Counsel for Mr. Dailey