

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Jun 13 2022

S.C. SUPREME COURT

Certiorari to Calhoun County

Honorable Kristi F. Curtis, Circuit Court Judge

HERMAN HUGHES,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2021-001415

APPENDIX

LARA M. CAUDY
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

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PURSUANT TO AUSTIN V. STATE4728

In The Supreme Court

APPEAL FROM CALHOUN COUNTY
Court of General Sessions

Edward B. Cottingham, Circuit Court Judge

THE STATE,

RESPONDENT,

v.

HERMAN LEE HUGHES, JR.,

APPELLANT.

RECORD ON APPEAL

JOSEPH L. SAVITZ, III
Deputy Chief Attorney

SC Office of Appellate Defense
1122 Lady Street, Suite 940
Columbia, SC 29201
(803) 734-1330
Attorney for Appellant

CHARLES MOLONY CONDON
Attorney General

JOHN W. MCINTOSH
Deputy Attorney General

DONALD J. ZELENKA
Assistant Deputy Attorney General

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

WALTER M. BAILEY, JR., Solicitor
First Judicial Circuit

134 East Richardson Avenue
Summerville, SC 29483
(803) 871-2640

Attorneys for Respondent

VOLUME ONE (OF SEVEN VOLS)
STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM CALHOUN COUNTY
Court of General Sessions

Edward B. Cottingham, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

HERMAN LEE HUGHES, JR.,

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RECORD ON APPEAL

JOSEPH L. SAVITZ, III
Deputy Chief Attorney

SC Office of Appellate Defense
1122 Lady Street, Suite 940
Columbia, SC 29201
(803) 734-1330
Attorney for Appellant

CHARLES MOLONY CONDON
Attorney General

JOHN W. MCINTOSH
Deputy Attorney General

DONALD J. ZELENKA
Assistant Deputy Attorney General

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

WALTER M. BAILEY, JR., Solicitor
First Judicial Circuit

134 East Richardson Avenue
Summerville, SC 29483
(803) 871-2640

Attorneys for Respondent

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 2 COUNTY OF CALHOUN

3
4 STATE OF SOUTH CAROLINA

94-GS-09-153
 94-GS-09-154
 94-GS-09-155
 94-GS-09-156

5 V.
 6 HERMAN LEE HUGHES, JR.
 7

8 VOLUME ONE

9 - - -
 10 THE TRIAL PROCEEDINGS HAD
 11 IN THE ABOVE-STYLED CAUSE
 12 - - -

13 TUESDAY, SEPTEMBER 5, 1995
 14 ST. MATTHEWS, SOUTH CAROLINA

15 BEFORE: HONORABLE EDWARD B. COTTINGHAM,
 16 CIRCUIT COURT JUDGE

17 A P P E A R A N C E S

18 FOR THE STATE: WALTER M. BAILEY, JR., SOLICITOR

19 FOR THE DEFENDANT: PHILLIP F. NEWSOME, ESQUIRE
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BETTY SPAGNER

DIRECT BY MR. BAILEY 1070

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THOMAS WADE FLEMING

DIRECT BY MR. BAILEY 1074

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	STATE'S	4 CHART	893	893
5	STATE'S	5 PHOTO OF SPENT BULLET	901	901
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6	STATE'S	7 PHOTO OF AUTOPSY	909	1380
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7	STATE'S	9 PHOTO OF AUTOPSY	909	1380
	STATE'S	10 CRIME SCENE LIST	930	930
8	STATE'S	11 BLOWUP	975	975
	STATE'S	12 PHOTO - CRIME SCENE	978	978
9	STATE'S	13 " " "	978	978
	STATE'S	14 " " "	978	978
10	STATE'S	15 " " "	978	978
	STATE'S	16 " " "	978	978
11	STATE'S	17 " " "	978	978
	STATE'S	18 " " "	978	978
12	STATE'S	19 " " "	978	978
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6	STATE'S 53	" " " "	1377	1377
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1 (BEGINNING OF VOLUME ONE)
2 (WHEREUPON, ON TUESDAY,
3 SEPTEMBER 5, 1995, BEGINNING AT
4 10:20 A.M., THE FOLLOWING
5 PROCEEDINGS WERE HAD.)
6 (COURT'S EXHIBIT NUMBER 1
7 MARKED FOR IDENTIFICATION.)

8 THE COURT: LADIES AND GENTLEMEN, I WISH
9 TO WELCOME ALL OF YOU TO THIS A TERM OF GENERAL
10 SESSIONS COURT. WE WOULD UNDERSTAND THAT WE ARE
11 INCONVENIENCING A LOT OF YOU, AND FOR THAT I DO
12 APOLOGIZE, BUT YOUR PRESENCE IS ABSOLUTELY NECESSARY
13 HERE FOR THESE PROCEEDINGS.

14 BY WAY OF INTRODUCTION, I'M JUDGE EDWARD
15 COTTINGHAM. I HAVE BEEN HERE BEFORE. I LOOK FORWARD
16 TO WORKING WITH ALL OF YOU THIS WEEK. THE FIRST
17 ORDER OF BUSINESS WILL BE THE CALLING OF THE ROLL TO
18 MAKE SURE THAT ALL OF YOU WHO HAVE BEEN SUMMONED ARE
19 HERE PRESENT READY TO PERFORM YOUR DUTY AS JURORS.

20 FIRST, BY WAY OF INTRODUCTION, I WOULD LIKE TO
21 INTRODUCE FOR YOU THE INDIVIDUALS WHO WILL BE
22 PARTICIPATING IN THE TRIAL OF THIS CASE. I WOULD
23 UNDERSTAND THAT FOR MOST OF YOU THIS IS THE FIRST
24 OPPORTUNITY THAT YOU HAVE SERVED AS JURORS, AND I
25 THINK IT'S GOOD THAT YOU KNOW EVEN AT THE BEGINNING

1 THE VARIOUS PERSONNEL THAT WILL BE WORKING WITH YOU.

2 THE FIRST INDIVIDUAL WHO I WILL INTRODUCE IS
3 YOUR SOLICITOR, MR. BAILEY. HE IS ELECTED BY THE
4 PEOPLE OF THIS JUDICIAL DISTRICT. HE IS THE
5 PROSECUTING ATTORNEY, THE D.A., AS YOU WOULD KNOW ON
6 TELEVISION. WE CALL THE PROSECUTING ATTORNEY IN
7 SOUTH CAROLINA THE SOLICITOR. I WOULD ASK NOW THAT
8 MR. BAILEY STAND, INTRODUCE HIMSELF AND HIS STAFF WHO
9 WILL BE WORKING WITH HIM.

10 MR. BAILEY: THANK YOU, YOUR HONOR. I'M
11 WALTER BAILEY. I'M THE SOLICITOR. WE'LL START WITH
12 THIS IS DARLENE SIMMONS HERE BESIDE WHO WORKS IN OUR
13 OFFICE AND GERALD FLOYD. MS. EASTERLING IS OUR
14 VICTIM ADVOCATE WHO WILL BE HERE DURING THE TRIAL.

15 THE COURT: NOW, REPRESENTING THE
16 DEFENDANT, HERMAN HUGHES, IS MR. PHIL NEWSOME. MR.
17 NEWSOME, I WOULD ASK THAT YOU STAND NOW AND INTRODUCE
18 THOSE WHO WILL BE WORKING WITH YOU.

19 MR. NEWSOME: THIS IS PATTY RICHFORD, WHO
20 WILL BE WORKING WITH ME ON THIS CASE. AND THIS IS MY
21 CLIENT, HERMAN HUGHES.

22 THE COURT: THANK YOU. NOW, MOST OF YOU
23 WOULD KNOW THE NEXT INDIVIDUAL THAT I'M GOING TO
24 INTRODUCE, BUT I NEED TO INTRODUCE HIM ANYWAY FOR
25 YOU. I HAD THE PLEASURE OF BEING HERE SEVERAL YEARS

1 AGO AND GOT TO KNOW YOUR SHERIFF VERY PLEASANTLY. HE
2 DID A SPLendid JOB FOR ME IN THOSE PROCEEDINGS, AND I
3 KNOW HE WILL IN THIS TWO WEEKS. SHERIFF JONES, WILL
4 YOU PLEASE STAND. IS HE IN THE COURTROOM? THANK
5 YOU, SHERIFF JONES.

6 NOW, THE YOUNG MAN WHO SITS TO MY IMMEDIATE
7 FRONT, MOST OF YOU, OF COURSE, WOULD KNOW THIS
8 GENTLEMAN. HE IS YOUR CLERK OF COURT. HE ATTENDS TO
9 THE ADMINISTRATIVE DUTIES HERE AND IS IN CHARGE OF
10 RECORDING YOUR NOTES AND MORTGAGES. MR. WANNAMAKER.
11 MR. WANNAMAKER, WOULD YOU PLEASE STAND.

12 THIS YOUNG MAN TO MY RIGHT IS THE COURT
13 REPORTER. HIS JOB IS TO TAKE DOWN AND TO TRANSCRIBE
14 EVERYTHING THAT'S SAID HERE, EVERYTHING THAT'S DONE
15 HERE, SO THAT THERE WILL ALWAYS BE A PERMANENT RECORD
16 OF THAT WHICH WAS ACCOMPLISHED HERE, AND HIS NAME IS
17 MARK HAGOOD. MR. HAGOOD.

18 NOW, AROUND THE COURTROOM ARE MY BAILIFFS, WHO
19 WILL BE ASSISTING IN MAINTAINING ORDER AND IN
20 ACCOMMODATING YOU THE JURY, AND THAT'S MR.
21 WANNAMAKER. WHERE'S MR. WANNAMAKER? IS HE HERE?
22 AND MR. PHILLIP WILES AND MR. JOHN BONAPARTE.

23 THIS YOUNG LADY TO MY LEFT IS MY ADMINISTRATIVE
24 ASSISTANT, LINDA MCCALL. MS. MCCALL HAS BEEN WITH ME
25 FOR A NUMBER OF YEARS.

1 THE YOUNG MAN HERE IS MY LAW CLERK, BRAD BAKER.
2 NOW, LADIES AND GENTLEMEN, AS I INDICATED BEFORE, WE
3 RECOGNIZE AND UNDERSTAND THAT YOU ARE HERE TODAY AT
4 SOME INCONVENIENCE TO YOUR WORK, TO YOUR PERSONAL
5 LIVES, TO YOUR FAMILY. EXPERIENCES TELLS ME THAT
6 MOST OF YOU WALKED IN THAT DOOR WITH SOME
7 TREPIDATION, PERHAPS AFRAID. BUT JURORS TELL ME WHEN
8 THEY LEAVE AT THE END OF A COURT, THAT THEY WERE GLAD
9 THAT THEY HAD THE OPPORTUNITY TO HAVE PARTICIPATED IN
10 THE PROCESS. I TRULY BELIEVE AND HOPE THAT THAT WILL
11 BE YOUR POSITION WHEN YOU LEAVE HERE.

12 I CONCLUDED MANY YEARS AGO THAT OTHER THAN IN
13 TIMES OF WAR, A CITIZEN OF THIS MAGNIFICENT COUNTRY
14 OF OURS WILL NEVER BE CALLED UPON TO PERFORM A HIGHER
15 DUTY THAN THAT OF A JUROR, PARTICULARLY IN A CRIMINAL
16 CASE. UNDER OUR SYSTEM OF JURISPRUDENCE, WE SAY THAT
17 AN INDIVIDUAL SHALL NOT BE DEPRIVED OF HIS LIBERTY,
18 NOT FOR ONE DAY, UNLESS AND UNTIL TWELVE JURORS OF
19 HIS PEERS HAD UNANIMOUSLY FOUND HIM GUILTY BEYOND A
20 REASONABLE DOUBT. THAT PROCESS PROTECTS YOUR
21 LIBERTY. WITH EQUAL IMPORTANCE, IT PROTECTS MINE.

22 NOW, HAVING SAID THAT AND THINKING AS HIGHLY AS
23 I DO OF JURY SERVICE, IT IS MY POLICY NEVER EVER TO
24 EXCUSE A JUROR. I SIMPLY WILL NOT DO THAT. NOW,
25 HAVING SAID THAT, I WOULD UNDERSTAND THAT THERE MIGH

1 BE SOME GOOD REASONS THAT A JUROR COULD NOT SERVE
2 THIS WEEK. I WOULD NOT EXCUSE THAT JUROR. I WOULD
3 SIMPLY TRANSFER THAT JUROR TO ANOTHER TERM OF COURT.
4 OBVIOUSLY, SOME JURORS WHO ARE SICK OR OVER THE AGE
5 OF 65 WHO HAVE ASKED TO BE EXCUSED ARE ENTITLED TO
6 BE, AND WE HAVE ATTENDED TO THAT. BEYOND THAT,
7 THOUGH, IT'S JUST SIMPLY MY POLICY TO SAY TO EVERY
8 JUROR, I KNOW WE'RE INCONVENIENCING YOU, I KNOW YOU
9 WOULD RATHER NOT BE HERE, BUT IT'S SIMPLY THE
10 HALLMARK OF GOOD CIVIC SERVICE TO BE A JUROR.

11 YOU KNOW, YOU ARE SELECTED AT RANDOM FROM ALL
12 THE VOTERS HERE OF THIS GREAT COUNTY, AND THIS IS AN
13 OPPORTUNITY THAT WELL MAY NOT COME AGAIN IN YOUR
14 LIFETIME. SO I WANT TO WELCOME ALL OF YOU, AGAIN
15 EMPHASIZING THAT WE KNOW YOU ARE BEING
16 INCONVENIENCED.

17 NOW, SOME OF YOU IN THE PAST SEVERAL YEARS OR
18 PAST SEVERAL WEEKS MAY HAVE WATCHED MATLOCK ON TV.
19 YOU MAY HAVE OBSERVED COURT TV. YOU MAY HAVE WATCHED
20 THE O.J. SIMPSON TRIAL IN CALIFORNIA. I TELL YOU
21 HERE IN SOUTH CAROLINA AND IN MOST STATES THAT I'M
22 AWARE OF, WE SIMPLY DO NOT RUN OUR COURTS IN THAT
23 WAY. WE REQUIRE OUR ATTORNEYS TO BE PROFESSIONAL IN
24 EVERY RESPECT, AND YOU HAVE OUTSTANDING PROFESSIONAL
25 ATTORNEYS HERE. WE RUN OUR COURT ON TIME AND

1 EXPEDITIOUSLY, AND JUDGE COTTINGHAM IS IN CHARGE OF
2 THIS COURTROOM.

3 SO I WANT YOU TO KNOW THAT WE'LL RUN THE COURT
4 ON TIME AND RUN IT EXPEDITIOUSLY, AND IN THAT
5 CONNECTION, I NOTE THAT WE STARTED SOME 20 MINUTES
6 LATE THIS MORNING. YOU WERE HERE PROMPTLY AT 10:00.
7 THE REASON FOR THAT, AND IT WILL NOT HAPPEN AGAIN, IS
8 THERE WAS A BREAKDOWN WITH THE AUTHORITIES IN
9 ORANGEBURG AND THE DEFENDANT WAS NOT HERE AT THE
10 APPROPRIATE TIME. THAT WILL NOT HAPPEN AGAIN. IT
11 CERTAINLY WASN'T THE DEFENDANT'S FAULT. IT'S JUST A
12 BREAKDOWN IN COMMUNICATION.

13 IF YOU WILL EXCUSE ME JUST A MOMENT, AND WE WILL
14 START JUST AS SOON AS I GET BACK, I HAVE A
15 COMMUNICATION HERE I NEED TO ADDRESS. EXCUSE ME ONE
16 MOMENT.

17 (WHEREUPON, A BREAK WAS TAKEN
18 FROM THE PROCEEDINGS.)

19 THE COURT: THANK YOU, LADIES AND
20 GENTLEMEN. PLEASE BE SEATED.

21 NOW, LADIES AND GENTLEMEN, THE CASE TO BE TRIED
22 IS THE CASE UPON THIS INDICTMENT THAT I HOLD IN MY
23 HAND OF THE STATE VERSUS ONE HERMAN HUGHES. THESE
24 INDICTMENTS ARE NOT EVIDENCE. THESE INDICTMENTS ARE
25 THE FORMAL WAY BY THE STATE TO BRING THE CHARGES

1 AGAINST THIS DEFENDANT AND ANY DEFENDANT. TO THE
2 CHARGES, HE PLEADS NOT GUILTY, THUS PLACING THE
3 BURDEN UPON THE STATE OF SOUTH CAROLINA OF PROVING
4 HIM GUILTY TO YOUR SATISFACTION UNANIMOUSLY, IF THEY
5 CAN.

6 THIS DEFENDANT IS INDICTED UPON THE FOLLOWING
7 CHARGES: GRAND LARCENY OF A VEHICLE, TO WHICH HE
8 PLEADS NOT GUILTY. HE'S INDICTED FOR ASSAULT AND
9 BATTERY WITH INTENT TO KILL, TO WHICH HE PLEADS NOT
10 GUILTY. HE'S INDICTED FOR ARMED ROBBERY, TO WHICH HE
11 PLEADS NOT GUILTY. HE IS INDICTED FOR MURDER, TO
12 WHICH HE PLEADS NOT GUILTY.

13 WITH REGARDS TO THE CHARGE OF MURDER, IF, AND I
14 USE THAT WORD ADVISEDLY, IF THE JURY FINDS HIM GUILTY
15 BEYOND A REASONABLE DOUBT UNANIMOUSLY, THE STATE
16 SEEKS AS A PUNISHMENT DEATH BY ELECTROCUTION OR
17 INJECTION. THIS WILL BE THE ONLY CASE TRIED THIS
18 WEEK. WE WILL BE SELECTING TWELVE JURORS AND TWO
19 ALTERNATES. THAT PROCESS WILL TAKE ABOUT TWO DAYS.
20 THE REST OF THE JURY WILL BE EXCUSED.

21 NOW, WE PROPOSE TO START THIS CASE AT 2:30 ON
22 THURSDAY. THE CASE, AS A BEST ESTIMATE, WILL
23 CONCLUDE BY TUESDAY OR WEDNESDAY OF NEXT WEEK. SO
24 THOSE OF YOU WHO ARE SELECTED WILL BE SEQUESTERED AT
25 NIGHT IN A MOTEL AT THE EXPENSE OF THE COUNTY. WE

1 WILL MAKE ARRANGEMENTS FOR FOOD AND TRANSPORTATION,
2 AND WE WOULD FULLY EXPECT TO CONCLUDE THIS CASE NO
3 LATER THAN NEXT WEDNESDAY. BUT YOU WILL BE -- THOSE
4 OF YOU WHO ARE SELECTED WILL BE SEQUESTERED.
5 NOW, PROCEDURALLY, WE WILL CALL THE ROLL AND
6 ASCERTAIN WHO IS HERE. THEN I WILL CONCLUDE -- I
7 WILL ASK ANYBODY WHO WILL BE UNDULY HARSHIPPED BY MY
8 WRIT OF SEQUESTRATION. AND THERE WILL BE CERTAIN OF
9 YOU WHO JUST CANNOT STAY AWAY FROM YOUR YOUNG
10 CHILDREN OR YOUR OLDER PARENTS OR WHATEVER AT NIGHT,
11 AND AT AN APPROPRIATE TIME, I WILL GIVE YOU AN
12 OPPORTUNITY TO GO INTO THAT WITH YOU. BUT YOU DO
13 NEED TO KNOW THAT DURING THE TRIAL OF THIS CASE, THE
14 JURY WILL BE SEQUESTERED FOR THE PERIOD OF TIME THAT
15 I HAVE INDICATED TO YOU. AGAIN, I REGRET THE
16 INCONVENIENCE THAT IT WOULD CAUSE SOME OF YOU, ALL OF
17 YOU, BUT IT IS ABSOLUTELY NECESSARY UNDER OUR SYSTEM
18 OF JURISPRUDENCE.
19 NOW, AS THE FIRST ORDER OF THE BUSINESS, IS
20 THERE ANY MEMBER OF THIS JURY PANEL WHO DID NOT
21 RECEIVE A WHITE QUESTIONNAIRE FORM? EACH JUROR WAS
22 SENT A FORM THAT HE WAS SUPPOSED TO FILL OUT AND
23 RETURN. ANY JURORS WHO DID NOT RECEIVE SUCH A FORM,
24 PLEASE STAND. (NO RESPONSE.)
25 IS THERE ANY MEMBER OF THE JURY PANEL WHO HAS

1 NOT RETURNED THAT FORM? PLEASE STAND.

2 OKAY. COME FORWARD, PLEASE. AND IS THERE ANY
3 MEMBER OF THE JURY PANEL WHO WOULD DESIRE TO AMEND
4 THAT FORM IN ANY WAY? (NO RESPONSE.)

5 THESE ARE THREE? YOU ARE -- YOU DIDN'T RECEIVE
6 A FORM OR JUST HAVEN'T RETURNED IT?

7 JURY VENIRE MEMBER: JUST HAVEN'T RETURNED
8 IT.

9 THE COURT: OKAY. IF YOU'LL JUST WAIT
10 JUST A SECOND, WE'LL GIVE YOU A FORM AND LET YOU
11 RETURN IT -- COMPLETE IT AT THIS TIME.

12 ANYONE ELSE WHO MAY NOT HAVE RETURNED THE FORM?
13 (NO RESPONSE.)

14 WOULD YOU GIVE THEM THE FORM, PLEASE, AND PENCIL
15 AND PAPER SO THEY CAN BE FILLING IT OUT BACK THERE.
16 YOU CAN FILL IT OUT AS YOU SIT DOWN AND RETURN IT TO
17 US AS QUICKLY AS YOU CAN.

18 ALL RIGHT. MR. CLERK, PLEASE CALL THE ROLL OF
19 THE JURY.

20 THE CLERK: AS I CALL YOUR NAME, IF YOU
21 WOULD, JUST PLEASE STAND AND INDICATE THAT YOU'RE
22 PRESENT. IF YOU'RE ALREADY STANDING, JUST RAISE YOUR
23 HAND AND MAKE SURE THAT I NOTE YOUR PRESENCE.

24 (WHEREUPON, THE ROLL OF THE JURY
25 WAS CALLED.)

1 THE COURT: MR. CLERK, CAN YOU TELL ME HOW
2 MANY DID NOT REPORT.

3 THE CLERK: ABOUT TWELVE, JUDGE.

4 THE COURT: OKAY. AT THE FIRST BREAK HERE
5 THIS MORNING, I WANT YOU TO FIND OUT IMMEDIATELY
6 WHERE THEY ARE, BRING THEM IN. IF THEY HAVE ANY
7 DIFFICULTY, ISSUE A BENCH WARRANT. THE LAW REQUIRES
8 THEM ABSOLUTELY TO BE HERE.

9 THE CLERK: YES, SIR.

10 THE COURT: MR. CLERK, WILL YOU NOW PLEASE
11 SWEAR THE JURY FOR QUESTIONING.

12 THE CLERK: MEMBERS OF THE JURY PANEL, IF
13 YOU COULD PLEASE STAND AND RAISE YOUR RIGHT HAND TO
14 BE SWORN.

15 (WHEREUPON, THE JURY VENIRE, AS
16 IMPANELED, WAS DULY SWORN BY THE
17 CLERK OF COURT FOR RENDERING A
18 TRUE VERDICT.)

19 THE CLERK: PLEASE BE SEATED.

20 THE COURT: THANK YOU, LADIES AND
21 GENTLEMEN. I'M NOW GOING TO ASK OF YOU CERTAIN
22 PRELIMINARY QUESTIONS WITH REGARDS TO YOUR
23 QUALIFICATION TO SERVE.

24 UNDER THE CONSTITUTION OF THIS STATE, I AM
25 REQUIRED TO HAVE CERTAIN QUALIFICATIONS TO BE YOUR

1 PRESIDING OFFICER HERE. THAT SAME CONSTITUTION ALSO
2 REQUIRES THAT YOU TOO POSSESS CERTAIN QUALIFICATIONS.
3 SO IN THAT CONNECTION, I'M GOING TO ASK OF YOU
4 CERTAIN QUESTIONS. IF THESE QUESTIONS PERTAIN TO
5 YOU, PLEASE STAND AND GIVE ME YOUR NAME AND JURY
6 NUMBER, IF KNOWN. NOW, IF YOU DON'T UNDERSTAND THE
7 QUESTION OR IF THERE'S ANY QUESTION ABOUT IT, PLEASE
8 LET THAT BE KNOWN IMMEDIATELY TO ME. IT IS
9 ABSOLUTELY NECESSARY THAT ALL JURORS BE FULLY
10 QUALIFIED TO SERVE AS JURORS IN A CRIMINAL CASE.

11 I EARLIER READ TO YOU THE INDICTMENTS UPON --
12 THAT I HOLD IN MY HAND. THESE INDICTMENTS WERE
13 FOUNDED BY THE GRAND JURY AT A TERM OF COURT IN MAY
14 OF 1994. IS THERE ANY MEMBER OF THIS -- WAS ANY
15 MEMBER OF THIS JURY PANEL A MEMBER OF THE GRAND JURY
16 IN 1994? ANY MEMBERS OF THE GRAND JURY HERE IN 1994
17 AT ALL? PLEASE STAND, IF SO. (NO RESPONSE.)

18 I THANK YOU SO MUCH. NOW, WERE EACH OF YOU
19 SUMMONED BY YOUR PROPER NAME? ANY OF YOU REMARRIED,
20 ADDITIONAL NAMES OR NAME CHANGES? IF SO, I WOULD
21 NEED TO KNOW THAT.

22 THE CLERK: JUDGE.

23 THE COURT: YES.

24 JURY VENIRE MEMBER: RIGHT HERE. MY NAME
25 IS JOHN G. KAIGLER, NOT C. IT'S C ON THE PAPER.

1 THE COURT: HAVE YOU GOT THAT, MR. CLERK?

2 THE CLERK: YES, SIR.

3 THE COURT: HOW ABOUT IT? IN THE BACK,

4 MR. CLERK.

5 JURY VENIRE MEMBER: IT WAS MAKIA MOORER

6 ON THE PINK SLIP THAT I WAS SENT, BUT I'M A BULL,

7 MAKIA BULL.

8 THE CLERK: YES, SIR. I CORRECTED THAT

9 WHEN WE CALLED THE ROLL.

10 THE COURT: SIR?

11 THE CLERK: I GOT THAT.

12 THE COURT: ALL RIGHT. IS THERE ANY

13 MEMBER OF THIS JURY PANEL -- THERE IS SOMEBODY ELSE,

14 PLEASE. WHO ELSE? YES, PLEASE STAND. THANK YOU.

15 JURY VENIRE MEMBER: IT WAS JENNIFER

16 WHITE, BUT I CORRECTED IT ON THE FORM WHEN I MAILED

17 IT IN.

18 THE COURT: ALL RIGHT. THAT'S FINE.

19 ANYONE ELSE? (NO RESPONSE.)

20 IS THERE ANY MEMBER OF THIS JURY PANEL WHO TODAY

21 IS NOT A CITIZEN AND RESIDENT OF CALHOUN COUNTY? YOU

22 MUST BE LIVING IN THIS COUNTY IN ORDER TO SERVE.

23 ALL RIGHT. I'LL TAKE YOUR NAME. YOU, SIR, IN

24 THE GREEN SHIRT, WHAT IS YOUR NAME?

25 JURY VENIRE MEMBER: WILLIAM HERLONG.

1 THE COURT: AND WHAT IS YOUR RESPONSE?

2 JURY VENIRE MEMBER: I LIVE IN RICHLAND
3 COUNTY NOW.

4 THE COURT: HOW LONG HAVE YOU LIVED THERE?

5 JURY VENIRE MEMBER: GOING ON THREE YEARS.

6 THE COURT: HOW DID WE GET YOUR NAME HERE?

7 DO YOU HAVE A --

8 JURY VENIRE MEMBER: VOTER REGISTRATION.

9 THE COURT: VOTER REGISTRATION STILL HERE?

10 JURY VENIRE MEMBER: YES, SIR.

11 THE COURT: WELL, YOU WOULD NOT BE
12 ELIGIBLE TO SERVE IN THIS COUNTY. I'LL PUT YOUR NAME
13 ON THE COUNTY IN RICHLAND SO YOU CAN SERVE THERE,
14 THOUGH. THEY'LL BE GLAD TO HAVE YOU.

15 JURY VENIRE MEMBER: OKAY.

16 THE COURT: WHEN WE TAKE THE FIRST BREAK,
17 YOU MAY BE EXCUSED AT THAT TIME.

18 JURY VENIRE MEMBER: YES, SIR.

19 THE COURT: THANK YOU SO MUCH. AND WHAT
20 WAS YOUR NAME?

21 JURY VENIRE MEMBER: SHIRLEY S. FELDER.

22 THE COURT: AND WHAT WAS YOUR RESPONSE,
23 PLEASE?

24 JURY VENIRE MEMBER: I'M IN ORANGEBURG
25 COUNTY.

1 THE COURT: HOW LONG HAVE YOU LIVED THERE?

2 JURY VENIRE MEMBER: OH, ABOUT 30 SOME
3 YEARS.

4 THE COURT: YOU STILL VOTE --

5 JURY VENIRE MEMBER: I'VE BEEN LIVING IN
6 ORANGEBURG COUNTY ALL OF MY LIFE.

7 THE COURT: DO YOU STILL VOTE OVER HERE?

8 JURY VENIRE MEMBER: I DON'T VOTE.

9 THE COURT: DO YOU OWN A CAR OVER HERE?

10 JURY VENIRE MEMBER: NO. I THINK IT'S IN
11 ORANGEBURG.

12 THE COURT: WELL, WE GOT YOU SOMEHOW.
13 WHAT IS YOUR NAME?

14 JURY VENIRE MEMBER: SHIRLEY S. FELDER.

15 THE COURT: AND YOU'VE LIVED IN ORANGEBURG
16 FOR A NUMBER OF YEARS?

17 JURY VENIRE MEMBER: ORANGEBURG. AND I
18 GET MY MAIL THROUGH ST. MATTHEWS, BUT I LIVE IN
19 ORANGEBURG COUNTY.

20 THE COURT: WELL, YOU WOULD NOT BE
21 ELIGIBLE TO SERVE HERE, BUT I'LL PUT YOUR NAME ON THE
22 LIST OVER THERE SO THEY CAN GET YOU TOO.

23 JURY VENIRE MEMBER: OKAY.

24 THE COURT: YOU MAY TOO BE EXCUSED WHEN WE
25 TAKE THE FIRST BREAK.

1 YES, MA'AM.

2 JURY VENIRE MEMBER: MY NAME IS TERRI
3 PARKER, AND I LIVE IN RICHLAND COUNTY.

4 THE COURT: HOW LONG HAVE YOU LIVED THERE?

5 JURY VENIRE MEMBER: ABOUT 19 YEARS.

6 THE COURT: YOU STILL VOTE HERE?

7 JURY VENIRE MEMBER: UH-HUH.

8 THE COURT: ALL RIGHT. SAME THING. WE'LL
9 HAVE TO TRANSFER YOU THERE. YOU MAY LEAVE AT THE
10 FIRST BREAK. THANK YOU.

11 WAS THERE SOMEONE ELSE AT THE BACK? YES, SIR.

12 JURY VENIRE MEMBER: RUSSELL M. FLAKE.

13 THE COURT: YES, SIR.

14 JURY VENIRE MEMBER: I LIVE IN LEXINGTON
15 COUNTY.

16 THE COURT: HOW LONG HAVE YOU LIVED THERE?

17 JURY VENIRE MEMBER: ABOUT A YEAR, AND MY
18 VOTER REGISTRATION IS STILL HERE.

19 THE COURT: ALL RIGHT, SIR. I'LL SEND
20 YOUR NAME -- I KNOW THEY'LL NEED YOU IN LEXINGTON
21 COUNTY. AND YOU TOO WILL BE EXCUSED AT THE FIRST
22 BREAK.

23 JURY VENIRE MEMBER: THANK YOU, SIR.

24 THE COURT: ANYONE ELSE? YES, MA'AM.

25 JURY VENIRE MEMBER: I LIVE IN ORANGEBURG

1 COUNTY. I GET MY MAIL THROUGH ST. MATTHEWS. 31

2 THE COURT: AND WHAT WAS YOUR NAME,
3 PLEASE?

4 JURY VENIRE MEMBER: ALVETA SEAWRIGHT.

5 THE COURT: ALL RIGHT.

6 THE CLERK: ANYBODY WHO IS OUT OF THE
7 COUNTY, IF YOU WOULD LEAVE YOUR ADDRESS DOWNSTAIRS,
8 BECAUSE YOU WILL GET PAID FOR YOUR TRIP DOWN HERE
9 TODAY. AND I DON'T HAVE YOUR CURRENT ADDRESS,
10 OBVIOUSLY, UNLESS YOU PUT IT ON THAT FORM. I WOULD
11 HAVE IT THEN. I GUESS EVERYBODY GOT A FORM SO I MAY
12 HAVE IT, BUT YOU MAY WANT TO CHECK DOWNSTAIRS.

13 THE COURT: YES, SIR. DID YOU WISH TO
14 RESPOND?

15 JURY VENIRE MEMBER: TAIWAN KENNERLY.

16 THE COURT: YES, SIR.

17 JURY VENIRE MEMBER: I STAY IN ORANGEBURG
18 COUNTY.

19 THE COURT: HOW LONG HAVE YOU LIVED THERE,
20 PLEASE?

21 JURY VENIRE MEMBER: APPROXIMATELY A YEAR.

22 THE COURT: ALL RIGHT, SIR. YOU TOO MAY
23 BE EXCUSED AT THE FIRST BREAK. THANK YOU.

24 WAS THERE ANYBODY ELSE WHO WOULD CARE TO RESPOND
25 TO THAT INQUIRY?

1 JURY VENIRE MEMBER: ONE MORE.

2 THE COURT: YES, MA'AM. WE WEREN'T GOING
3 TO FORGET YOU.

4 JURY VENIRE MEMBER: MARY W. JACKSON.

5 THE COURT: YES, MA'AM.

6 JURY VENIRE MEMBER: I LIVE IN LEXINGTON
7 COUNTY. I HAVE PROPERTY IN CALHOUN COUNTY AND I VOTE
8 IN CALHOUN.

9 THE COURT: YOUR RESIDENCE, THOUGH, IS IN
10 LEXINGTON COUNTY?

11 JURY VENIRE MEMBER: YES, SIR.

12 THE COURT: ALL RIGHT. DID YOU GET THAT?

13 THE CLERK: WHAT WAS YOUR NAME?

14 JURY VENIRE MEMBER: MARY W. JACKSON.

15 THE COURT: OKAY. THANK YOU, MS. JACKSON.
16 YOU MAY BE SEATED.

17 IS THERE ANY MEMBER OF THE JURY PANEL WHO IS
18 EITHER NOT A QUALIFIED ELECTOR OR WHO DOES NOT
19 POSSESS A VALID SOUTH CAROLINA LICENSE OR
20 IDENTIFICATION CARD? IF YOU HAVE AN IDENTIFICATION
21 CARD, POSSESS A SOUTH CAROLINA DRIVER'S LICENSE OR A
22 VOTING REGISTRATION AND LIVE HERE IN THIS COUNTY,
23 YOU'RE QUALIFIED TO SERVE. DOES EVERYBODY HAVE ONE
24 OF THOSE THREE? (NO RESPONSE.)

25 IS THERE ANY MEMBER OF THIS JURY PANEL WHO IS

1 UNABLE TO READ, WRITE, SPEAK OR UNDERSTAND THE
2 ENGLISH LANGUAGE? PLEASE STAND.

3 COME FORWARD, PLEASE.

4 AND IS THERE ANY MEMBER OF THE JURY PANEL WHO
5 HAS LESS THAN A SIXTH GRADE EDUCATION OR ITS
6 EQUIVALENT? PLEASE STAND.

7 COME FORWARD, PLEASE. STAND RIGHT UP HERE FOR
8 ME.

9 I WANT EVERYBODY WHO CANNOT READ, WRITE, SPEAK
10 OR UNDERSTAND THE ENGLISH LANGUAGE OR WHO HAS LESS
11 THAN A SIXTH GRADE EDUCATION OR ITS EQUIVALENT TO
12 COME FORWARD, PLEASE. ALL RIGHT. IS THERE ANOTHER
13 GENTLEMEN? ALL RIGHT. IF THERE'S ANY QUESTION ABOUT
14 IT, NOW, PLEASE COME FORWARD. ALL RIGHT.

15 I WILL START, PLEASE, MA'AM, WITH YOU. YOUR
16 NAME.

17 JURY VENIRE MEMBER: MOZELL BONNETT.

18 THE COURT: WHO?

19 JURY VENIRE MEMBER: MOZELL BONNETT.

20 THE COURT: AND WHAT WAS YOUR RESPONSE,
21 PLEASE, MA'AM?

22 JURY VENIRE MEMBER: I CAN READ AND WRITE
23 SOME, BUT NOT GOOD.

24 THE COURT: NOT -- HOW MUCH EDUCATION DID
25 YOU HAVE?

1 JURY VENIRE MEMBER: FIFTH -- FIFTH OR
2 SIXTH GRADE.

3 THE COURT: DO YOU READ THE MORNING
4 NEWSPAPER?

5 JURY VENIRE MEMBER: YEAH.

6 THE COURT: OKAY. WHERE DO YOU WORK?

7 JURY VENIRE MEMBER: WELL, I WAS TAKING
8 CARE OF SICK PEOPLE.

9 THE COURT: MA'AM?

10 JURY VENIRE MEMBER: I WAS TAKING CARE OF
11 SICK PEOPLE.

12 THE COURT: AND YOU FEEL LIKE THAT YOU
13 DON'T READ OR WRITE SUFFICIENTLY WELL? IS THAT WHAT
14 YOU'RE SAYING?

15 JURY VENIRE MEMBER: YEAH.

16 THE COURT: I WILL EXCUSE YOU. LET ME SAY
17 THIS TO ALL OF YOU. THERE WILL BE NO DESIRE -- WOULD
18 NOT EVER EMBARRASS SOMEBODY. WE REALIZE, OF COURSE,
19 THAT SOME OF US IN OUR AGE BRACKET DIDN'T HAVE THAT
20 OPPORTUNITY THAT WE NOW HAVE NOW. BUT I APPRECIATE
21 YOU COMING FORWARD SO MUCH. WHEN WE TAKE THE FIRST
22 BREAK, I WILL EXCUSE YOU.

23 THE CLERK: JUROR NUMBER 14.

24 THE COURT: YES, SIR, YOUR NAME.

25 JURY VENIRE MEMBER: JIMMY LEE PINCKNEY.

1 THE COURT: SIR?

2 JURY VENIRE MEMBER: JIMMY LEE PINCKNEY.

3 THE COURT: AND WHAT WAS YOUR RESPONSE?

4 JURY VENIRE MEMBER: WELL, I CAN'T READ

5 AND WRITE.

6 THE COURT: SIR?

7 JURY VENIRE MEMBER: I DON'T HAVE ENOUGH

8 EDUCATION.

9 THE COURT: YOU DO NOT HAVE SUFFICIENT

10 EDUCATION? YOU HAVE LESS THAN A SIXTH GRADE

11 EDUCATION?

12 JURY VENIRE MEMBER: THAT'S RIGHT.

13 THE COURT: I WILL EXCUSE THIS JUROR.

14 JUST HAVE A SEAT.

15 YOUR NAME, PLEASE, SIR.

16 JURY VENIRE MEMBER: WILLIAM MCKENZIE.

17 THE COURT: AND WHAT WAS YOUR RESPONSE?

18 JURY VENIRE MEMBER: I CAN'T READ.

19 THE COURT: YOU CAN'T READ? HOW FAR DID

20 YOU GO IN SCHOOL?

21 JURY VENIRE MEMBER: NINTH.

22 THE COURT: NINTH GRADE?

23 JURY VENIRE MEMBER: YEAH.

24 THE COURT: YOU DON'T READ THE NEWSPAPER?

25 JURY VENIRE MEMBER: NO.

1 THE COURT: DO YOU READ YOUR CHECK WHEN
2 YOU GET IT?
3 JURY VENIRE MEMBER: NO.
4 THE COURT: HUH?
5 JURY VENIRE MEMBER: CASH.
6 THE COURT: YOU GET PAID IN CASH. ARE YOU
7 TELLING ME YOU CAN'T READ AT ALL? WHAT KIND OF WORK
8 DO YOU DO?
9 JURY VENIRE MEMBER: CARPENTRY AND
10 PAINTER.
11 THE COURT: CARPENTER AND A PAINTER? DO
12 YOU RAISE A FAMILY?
13 JURY VENIRE MEMBER: YEAH.
14 THE COURT: MARRIED?
15 JURY VENIRE MEMBER: SINGLE, SEPARATED.
16 THE COURT: BEEN GAINFULLY EMPLOYED FOR
17 HOW MANY YEARS?
18 JURY VENIRE MEMBER: NOT THAT LONG.
19 THE COURT: ARE YOU TELLING ME, THOUGH,
20 THAT YOU DON'T READ AND WRITE?
21 JURY VENIRE MEMBER: RIGHT.
22 THE COURT: IS THAT WHAT YOU'RE SAYING?
23 JURY VENIRE MEMBER: YES.
24 THE COURT: I WILL EXCUSE YOU.
25 JURY VENIRE MEMBER: AND BESIDES, I'M KIN

1 TO THE -- I'M KIN TO THE --

2 THE COURT: YOU'RE KIN TO THE DEFENDANT,
3 TOO?

4 JURY VENIRE MEMBER: YEAH.

5 THE COURT: ALL RIGHT, SIR. WE'LL GET
6 INTO THAT IN A MINUTE. BUT I'LL EXCUSE THIS JUROR ON
7 BOTH GROUNDS.

8 GOOD MORNING. WHAT IS YOUR NAME, PLEASE?

9 JURY VENIRE MEMBER: ELI BRUNSON.

10 THE COURT: MR. BRUNSON, WHAT WAS YOUR
11 RESPONSE?

12 JURY VENIRE MEMBER: I WAS RAISED WITH THE
13 BOY. I'VE KNOWN HIM EVER SINCE HE WAS A BABY, SO I
14 DON'T --

15 THE COURT: SO YOU KNOW THE DEFENDANT, AND
16 ON THAT BASIS ASK TO BE -- I WILL MAKE INQUIRY OF
17 THAT IN A MOMENT. BUT SINCE YOU'RE HERE AND SAYING
18 THAT, I WILL EXCUSE YOU.

19 MR. NEWSOME, DO YOU UNDERSTAND WHAT HE'S SAYING?

20 MR. NEWSOME: YES, SIR.

21 THE COURT: ALL RIGHT. YES, MA'AM.

22 JURY VENIRE MEMBER: I'M ALLIE Q. AIKEN,
23 AND I DON'T HAVE A DRIVER'S LICENSE.

24 THE COURT: THAT'S OKAY. YOU VOTE HERE,
25 DON'T YOU?

1 JURY VENIRE MEMBER: YEAH.

2 THE COURT: THE RESPONSE I WANT NOW -- AND
3 WE'LL GET INTO THOSE OTHER QUESTIONS LATER -- I WANT
4 TO KNOW ANYBODY WHO CAN'T READ, WRITE, SPEAK OR
5 UNDERSTAND THE ENGLISH LANGUAGE AND WHO HAS LESS THAN
6 A SIXTH GRADE EDUCATION. DO YOU FALL WITHIN ONE OF
7 THOSE GROUPS, MA'AM?

8 JURY VENIRE MEMBER: NO.

9 THE COURT: ALL RIGHT. PLEASE HAVE A
10 SEAT. THANK YOU.

11 JURY VENIRE MEMBER: I'M WILLIE ROBINSON.

12 THE COURT: YES, SIR.

13 JURY VENIRE MEMBER: I CAN'T READ. I CAN
14 WRITE -- I CAN SIGN MY NAME, BUT THAT'S ALL.

15 THE COURT: BUT THAT'S ALL? I'LL EXCUSE
16 YOU. THANK YOU.

17 YES, SIR.

18 JURY VENIRE MEMBER: MY NAME IS FRITZ, AND
19 I WENT THROUGH THE FIFTH GRADE.

20 THE COURT: FIFTH GRADE? YOU READ AND
21 WRITE, DON'T YOU?

22 JURY VENIRE MEMBER: NO, I DON'T.

23 THE COURT: WHAT KIND OF WORK DO YOU DO?

24 JURY VENIRE MEMBER: I WORK AT THE
25 CHEVROLET PLACE.

1 THE COURT: WHAT DO YOU DO?

2 JURY VENIRE MEMBER: MECHANIC HELPER.

3 THE COURT: MECHANIC HELPER OR MECHANIC?

4 JURY VENIRE MEMBER: MECHANIC HELPER.

5 THE COURT: ARE YOU MARRIED?

6 JURY VENIRE MEMBER: YEAH.

7 THE COURT: HOW MANY CHILDREN DO YOU HAVE?

8 JURY VENIRE MEMBER: TWO.

9 THE COURT: WHAT AGE ARE THEY?

10 JURY VENIRE MEMBER: WHAT?

11 THE COURT: WHAT AGE ARE YOUR CHILDREN?

12 JURY VENIRE MEMBER: WHAT AGE?

13 THE COURT: YES, SIR.

14 JURY VENIRE MEMBER: WELL, ONE OF THEM IS
15 19 AND THE OTHER ONE IS 23.

16 THE COURT: OUR LAW SAYS THAT YOU EITHER
17 MUST HAVE A SIXTH GRADE EDUCATION OR ITS EQUIVALENT.
18 NOW, YOU HAVE A FIFTH GRADE EDUCATION, BUT YOU'VE
19 BEEN GAINFULLY EMPLOYED IN A RESPONSIBLE JOB. SURELY
20 YOU HAVE THE EQUIVALENT OF A SIXTH GRADE EDUCATION.

21 JURY VENIRE MEMBER: NO, I DON'T.

22 THE COURT: BUT YOU'RE TELLING ME NOW UPON
23 YOUR OATH THAT YOU CAN'T READ?

24 JURY VENIRE MEMBER: YEAH.

25 THE COURT: IS THAT WHAT YOU'RE TELLING

1 ME?

2 JURY VENIRE MEMBER: YEAH.

3 THE COURT: I WILL EXCUSE THIS JUROR.

4 YES, SIR. HAVE A SEAT. WHAT WAS YOUR NAME, PLEASE,
5 MR. JUROR?

6 THE CLERK: MR. JUROR.

7 THE COURT: MR. JUROR.

8 JURY VENIRE MEMBER: ISIAH FRITZ.

9 THE COURT: OKAY. THANK YOU, SIR. YES,
10 SIR.

11 JURY VENIRE MEMBER: I HAVE TROUBLE
12 WRITING. I CAN TYPE, BUT I CAN'T WRITE.

13 THE COURT: YOU DON'T NEED TO WRITE IN
14 THIS CASE.

15 JURY VENIRE MEMBER: GOOD ENOUGH.

16 THE COURT: LET ME SAY THIS TO YOU. WHEN
17 YOU RETURN, THIS WILL BE SAID TO ALL OF THE JURORS.
18 PLEASE DRESS APPROPRIATELY COMING INTO COURT.

19 JURY VENIRE MEMBER: GOOD ENOUGH.

20 THE COURT: ALL RIGHT. THANK YOU SO MUCH.
21 ANYONE ELSE? (NO RESPONSE.)

22 NOW, LADIES AND GENTLEMEN, WE HAVE MORE
23 DIFFICULTY WITH THE FOLLOWING QUESTION THAN ALL OF
24 THEM COMBINED. PEOPLE DON'T UNDERSTAND THIS
25 QUESTION.

1 UNDER THE STATUTORY LAWS OF THE STATE OF SOUTH
2 CAROLINA, IF YOU HAVE BEEN CONVICTED OR PLED GUILTY
3 IN A STATE OR FEDERAL COURT ANYWHERE IN THE UNITED
4 STATES OF A CRIME FOR WHICH YOU COULD HAVE BEEN
5 IMPRISONED FOR MORE THAN ONE YEAR, YOU ARE NOT
6 QUALIFIED TO SERVE.

7 NOW, CONFUSION ARISES IN THE FOLLOWING AREAS:
8 SOMETIMES PEOPLE SAY TO ME, "JUDGE, I DIDN'T GO TO
9 JAIL FOR ONE YEAR. I WAS PUT ON PROBATION." WELL,
10 IF YOU COULD HAVE GONE TO JAIL FOR MORE THAN ONE
11 YEAR, YOU'RE NOT QUALIFIED. JURORS HAVE SAID TO ME,
12 "WELL, JUDGE, IT HAPPENED SIX OR SEVEN YEARS AGO." I
13 STILL NEED TO KNOW ABOUT IT. "JURORS HAVE SAID,
14 "WELL, JUDGE, I WAS JUST 17 OR 18 YEARS OLD WHEN I
15 PLED GUILTY." STILL NOT QUALIFIED. JURORS HAVE SAID
16 TO ME, "WELL, JUDGE, IT HAPPENED IN TEXAS OR IN A
17 FEDERAL COURT, NOT IN SOUTH CAROLINA." YOU'RE STILL
18 NOT QUALIFIED.

19 NOW, THE SIGNIFICANCE OF THIS QUESTION IS AS
20 FOLLOWS: IN ORDER TO SERVE ON THIS JURY AND ANY JURY
21 IN THIS STATE, YOU MUST MEET THE QUALIFICATIONS. AND
22 IF A JUROR IS SEATED AND HE IS FOUND TO BE LATER NOT
23 QUALIFIED, THAT ENTIRE PROCEEDING MUST BE SET ASIDE.
24 AND I TELL YOU THAT ON PAST OCCASIONS, I HAVE FOUND
25 JURORS IN CONTEMPT OF COURT WITH VERY SERIOUS

1 CONSEQUENCES WHEN I FOUND OUT TOWARDS THURSDAY OR
2 FRIDAY THAT THEY WERE DISQUALIFIED AND FAILED TO
3 DISCLOSE IT. SO IT IS EXTREMELY IMPORTANT. AND I
4 WOULD NOT WISH TO EMBARRASS ANYONE AND I WOULD NOT DO
5 THAT.

6 IF SOME OF YOU HAVE SOME QUESTION ABOUT IT AND
7 WANT TO DISCUSS IT WITH ME PRIVATELY OVER HERE IN THE
8 PRESENCE OF THE ATTORNEYS ONLY, I'LL BE GLAD TO DO
9 THAT. MOST OF YOU, OF COURSE, WOULD HAVE NO PROBLEMS
10 IN TELLING ME ABOUT IT. BUT NOW IT'S TOO LATE TO ASK
11 FOR EXPLANATIONS ON THURSDAY OR FRIDAY OR AT THE END
12 OF NEXT WEEK. NOW IS THE TIME. AND IF THERE'S ANY
13 QUESTION ABOUT IT, I WANT YOU TO COME FORWARD AND LET
14 ME DISCUSS IT WITH YOU.

15 NOW, I WANT EVERYBODY TO STAND WHO HAS BEEN
16 CONVICTED OR PLED GUILTY IN A STATE OR FEDERAL COURT
17 ANYWHERE IN THE UNITED STATES OF A CRIME FOR WHICH
18 YOU COULD HAVE GONE TO JAIL FOR MORE THAN ONE YEAR.
19 PLEASE STAND. COME FORWARD. COME FORWARD.

20 ALL RIGHT. WE WILL START WITH YOU ON THE RIGHT,
21 NOW. FIRST I WANT YOUR NAME, PLEASE, SIR.

22 JURY VENIRE MEMBER: HUFFMAN.

23 THE COURT: SIR?

24 JURY VENIRE MEMBER: HUFFMAN.

25 THE COURT: AND WHAT WAS YOUR RESPONSE?

1 JURY VENIRE MEMBER: MY RESPONSE WAS I WAS
2 -- HAD TO GO TO COURT ONE TIME, GOT INVOLVED IN
3 WILDLIFE, A CONVICTION IN THAT.

4 THE COURT: AND WHAT WAS IT? WHAT WAS THE
5 VIOLATION?

6 JURY VENIRE MEMBER: IT WAS ACTUALLY FOR
7 KILLING ILLEGAL DEER.

8 THE COURT: WHAT WAS THE SENTENCE? DO YOU
9 REMEMBER?

10 JURY VENIRE MEMBER: I WAS PUT ON
11 PROBATION AND HAD TO PAY A FINE. I DON'T REMEMBER
12 WHAT THE --

13 THE COURT: I WOULDN'T THINK IT WAS OVER A
14 YEAR.

15 JURY VENIRE MEMBER: I WOULDN'T EITHER,
16 BUT I JUST WANTED TO MAKE SURE.

17 THE COURT: NO. WELL, THAT'S INDEED
18 PROPER. GENTLEMEN, I WOULD NOT THINK THAT SUCH A
19 SENTENCE WOULD CARRY OVER A YEAR. DO YOU HAVE ANY
20 QUESTION ABOUT HIS QUALIFICATION?

21 MR. NEWSOME: NO.

22 MR. BAILEY: NO.

23 THE COURT: YOU'RE QUALIFIED, BUT THANK
24 YOU. THAT'S EXACTLY WHAT I REQUESTED THAT YOU CALL
25 TO MY ATTENTION. THANK YOU SO MUCH.

1 YOUR NAME, SIR.

2 JURY VENIRE MEMBER: FRANKLIN JUMPER.

3 THE COURT: OKAY. EXCUSE ME. YOUR NAME?

4 JURY VENIRE MEMBER: JUMPER, FRANKLIN
5 JUMPER. SAME THING, WILDLIFE. I HAD TO PAY A FINE
6 AND PROBATION.

7 THE COURT: HOW MUCH FINE WAS IT?

8 JURY VENIRE MEMBER: WASN'T BUT \$25.

9 THE COURT: HOW MUCH PROBATION WAS IT?

10 JURY VENIRE MEMBER: I DON'T REMEMBER.

11 THE COURT: I DON'T THINK THAT
12 DISQUALIFIES YOU. ANY OBJECTION TO HIS REMAINING ON
13 THE JURY PANEL?

14 MR. NEWSOME: NONE.

15 THE COURT: ALL RIGHT. THANK YOU. MR.
16 JUROR, YOU WILL HAVE TO TAKE THAT HAT OFF IN THIS
17 COURTROOM.

18 YES, SIR, YOUR NAME?

19 JURY VENIRE MEMBER: CALVIN MURPH.

20 THE COURT: ALL RIGHT. LET'S HAVE ORDER,
21 PLEASE.

22 WHAT IS YOUR NAME, PLEASE?

23 JURY VENIRE MEMBER: CALVIN MURPH.

24 THE COURT: AND WHAT WAS YOUR RESPONSE?

25 JURY VENIRE MEMBER: I'VE BEEN IN JAIL FOR

1 CHILD SUPPORT.

2 THE COURT: JUST CHILD SUPPORT?

3 JURY VENIRE MEMBER: YEAH.

4 THE COURT: NOTHING ELSE?

5 JURY VENIRE MEMBER: NO, NOTHING ELSE.

6 THE COURT: CHILD SUPPORT DOES NOT
7 DISQUALIFY YOU. HAVE YOU BEEN SENTENCED FOR ANY
8 OTHER CHARGES?

9 JURY VENIRE MEMBER: NO.

10 THE COURT: OKAY. YOU MAY BE SEATED.

11 THANK YOU SO MUCH.

12 JURY VENIRE MEMBER: OTIS BACKMON.

13 THE COURT: YES.

14 JURY VENIRE MEMBER: FAILURE TO STOP FOR A
15 BLUE LIGHT.

16 THE COURT: YES, SIR. THAT WOULD
17 DISQUALIFY YOU. YOU COULD HAVE GONE TO JAIL FOR TEN
18 YEARS. YOU MAY LEAVE AT THE FIRST BREAK.

19 THE CLERK: THAT WAS JUROR NUMBER FOUR.

20 THE COURT: YES, SIR.

21 JURY VENIRE MEMBER: HARRISON ROBERTS.

22 THE COURT: WHAT WAS YOUR RESPONSE?

23 JURY VENIRE MEMBER: CONVICTED OF A
24 FELONY.

25 THE COURT: SIR.

1 JURY VENIRE MEMBER: CONVICTED OF A
2 FELONY.

3 THE COURT: OF A FELONY?

4 JURY VENIRE MEMBER: UH-HUH.

5 THE COURT: WHERE?

6 JURY VENIRE MEMBER: OKLAHOMA.

7 THE COURT: OKAY. WHAT KIND OF FELONY WAS
8 IT?

9 JURY VENIRE MEMBER: GRAND THEFT.

10 THE COURT: SIR?

11 JURY VENIRE MEMBER: GRAND THEFT.

12 THE COURT: YES, SIR. YOU ARE
13 DISQUALIFIED. WHAT WAS THAT JUROR'S NAME?

14 THE CLERK: JUROR NUMBER 220, HARRISON
15 ROBERTS.

16 THE COURT: OKAY. THANK YOU. I'M GOING
17 TO ASK THAT YOU SPEAK LOUDLY SO EVERYBODY CAN GET
18 YOUR NAME, PLEASE.

19 YES, SIR. WHAT WAS YOUR NAME, PLEASE?

20 JURY VENIRE MEMBER: RONALD STUCKEY.

21 THE COURT: WHAT WAS YOUR RESPONSE?

22 JURY VENIRE MEMBER: TEN YEARS PROBATION.

23 THE COURT: FOR WHAT?

24 JURY VENIRE MEMBER: INVOLUNTARY
25 MANSLAUGHTER.

1 THE COURT: YES, SIR. THAT WOULD
2 DISQUALIFY YOU. HAVE A SEAT.

3 JURY VENIRE MEMBER: DAN JOHNSON.

4 THE COURT: YES, SIR.

5 JURY VENIRE MEMBER: I DID 13 MONTHS IN
6 THE PENITENTIARY.

7 THE COURT: YES, SIR. THAT WOULD
8 DISQUALIFY YOU, SIR. THANK YOU.

9 GOOD MORNING.

10 JURY VENIRE MEMBER: GOOD MORNING.

11 THE COURT: YOUR NAME, SIR.

12 JURY VENIRE MEMBER: LEONARD WOODARD.

13 THE COURT: YES, SIR, MR. WOODARD.

14 JURY VENIRE MEMBER: FELONY CONVICTION,
15 BREACH OF TRUST, FRAUDULENT INTENT.

16 THE COURT: YES, SIR. THAT WOULD
17 DISQUALIFY YOU.

18 JURY VENIRE MEMBER: PRESTON GREEN.

19 THE COURT: YES, SIR.

20 JURY VENIRE MEMBER: FAMILY DOMESTIC
21 VIOLENCE.

22 THE COURT: IN THE MAGISTRATE COURT OR UP
23 HERE?

24 JURY VENIRE MEMBER: MAGISTRATE COURT.

25 THE COURT: THAT WOULD NOT DISQUALIFY YOU

1 THANK YOU. YOU'RE QUALIFIED.

2 JURY VENIRE MEMBER: JAMES IRICK,
3 THREATENING A PUBLIC OFFICIAL.

4 THE COURT: WHAT KIND?

5 JURY VENIRE MEMBER: THREATENING A PUBLIC
6 OFFICIAL.

7 THE COURT: THREATENING A PUBLIC OFFICIAL.
8 YES, SIR, THAT WOULD DISQUALIFY YOU.

9 THE CLERK: THAT WAS NUMBER 117.

10 THE COURT: LEAVE THAT HAT IN YOUR POCKET.

11 JURY VENIRE MEMBER: FREEMAN HUFFMAN, JR.

12 THE COURT: GOOD MORNING.

13 JURY VENIRE MEMBER: GOOD MORNING.

14 THE COURT: WHAT WAS YOUR RESPONSE,
15 PLEASE?

16 JURY VENIRE MEMBER: I WAS ON PROBATION
17 ABOUT 1960. I DON'T EVEN REMEMBER WHAT IT WAS NOW,
18 BUT I DO KNOW I WAS.

19 THE COURT: IN WHAT STATE?

20 JURY VENIRE MEMBER: RIGHT HERE.

21 THE COURT: IN CALHOUN?

22 JURY VENIRE MEMBER: UH-HUH.

23 THE COURT: YOU DON'T REMEMBER WHAT IT
24 WAS?

25 JURY VENIRE MEMBER: NO, I DON'T REMEMBER.

1 I DON'T KNOW WHAT I GOT CHARGED FOR. I KNEW IT WAS
2 SOMETHING TO DO WITH BREAKING IN.

3 THE COURT: HOW MUCH PROBATION DID YOU
4 GET?

5 JURY VENIRE MEMBER: TWO YEARS. I THINK
6 IT WAS TWO YEARS.

7 THE COURT: YOU THINK IT WAS BREAKING AND
8 ENTERING OR GRAND LARCENY?

9 JURY VENIRE MEMBER: I DON'T REMEMBER.

10 THE COURT: MR. CLERK, CAN YOU INQUIRE --
11 THIS WAS IN CALHOUN COUNTY?

12 JURY VENIRE MEMBER: YES, SIR. ABOUT '59,
13 '60.

14 THE COURT: MR. CLERK, CAN YOU MAKE
15 INQUIRY OF THAT?

16 MR. BAILEY: YOUR HONOR, I'M CHECKING THE
17 RAP SHEET NOW. I MAY HAVE SOMETHING ON THAT.

18 THE COURT: OKAY. AND AFTERWARDS, I WANT
19 YOU TO -- LET'S MAKE FURTHER INQUIRY TOO. HAVE YOU
20 GOT HIS NAME ON THE SHEET?

21 MR. BAILEY: SHE'S CHECKING NOW.

22 THE COURT: ALL RIGHT. LET'S WAIT AND
23 MAKE SURE. STAND ASIDE THERE.

24 YOUR NAME, SIR.

25 JURY VENIRE MEMBER: BILLY OLDS.

1 THE COURT: WHAT WAS YOUR RESPONSE?

2 JURY VENIRE MEMBER: FELONY CONVICTION.

3 THE COURT: YES, SIR. THAT WOULD

4 DISQUALIFY YOU.

5 ALL RIGHT. THE SOLICITOR AND THE SHERIFF HAVE A

6 RAP SHEET OVER THERE NOW, AND IF ANYBODY HAS NOT

7 RESPONDED OR IF THERE'S ANY QUESTION ABOUT IT, PLEASE

8 COME FORWARD.

9 MR. BAILEY: YOUR HONOR, WE DIDN'T SHOW

10 ANY RAP SHEET ON HIM.

11 THE COURT: SIR?

12 MR. BAILEY: THERE'S NO RAP SHEET.

13 THE COURT: ALL RIGHT. THEN ABSENT THAT,

14 MR. NEWSOME --

15 MR. NEWSOME: YES, SIR.

16 THE COURT: -- DO YOU HAVE ANY QUESTION

17 ABOUT THIS JUROR?

18 MR. NEWSOME: ONE SECOND, YOUR HONOR.

19 THE COURT: ON THIS ISSUE. I'M PREPARED

20 TO QUALIFY HIM.

21 MR. NEWSOME: IF HE HAS A CONVICTION -- I

22 REALIZE OUR RECORDKEEPING WAS NOT AS EFFICIENT IN

23 1959, BUT IF HE HAS A CONVICTION FOR BREAKING AND

24 ENTERING AND GOT PROBATION, I THINK THAT WOULD

25 DISQUALIFY HIM.

1 THE COURT: WE'VE GOT -- YOU HAVE NO
2 RECOLLECTION OF -- WERE YOU CONVICTED BY A JURY OR
3 YOU PLED GUILTY?

4 JURY VENIRE MEMBER: NO. I PLED GUILTY.

5 THE COURT: IN THIS COUNTY?

6 JURY VENIRE MEMBER: YES, SIR. IT WAS '59
7 OR '60.

8 THE CLERK: WE CAN CHECK DOWNSTAIRS, BUT
9 I'LL HAVE TO GO, YOU KNOW --

10 THE COURT: AND YOU WERE GIVEN, WHAT, A
11 SUSPENDED SENTENCE?

12 JURY VENIRE MEMBER: I GUESS. IT WAS
13 PROBATION.

14 THE COURT: PROBATION.

15 JURY VENIRE MEMBER: UH-HUH. FOR A YEAR
16 OR TWO YEARS.

17 THE COURT: WITHOUT ANY OBJECTION AND OUT
18 OF ABUNDANCE OF CAUTION, I'M PREPARED TO EXCUSE THIS
19 JUROR. ANY OBJECTION?

20 MR. BAILEY: NO, SIR.

21 THE COURT: ANY OBJECTION?

22 MR. NEWSOME: NO, SIR.

23 THE COURT: I'M GOING TO EXCUSE YOU. I'M
24 NOT SURE, BUT I WOULDN'T WANT TO TAKE A CHANCE.
25 OKAY. THANK YOU. JUST HAVE A SEAT, PLEASE.

1 IS THERE ANY MEMBER OF THIS JURY PANEL WHO IS AN
2 OFFICIAL OF THIS COUNTY OR WHO IS EMPLOYED WITHIN THE
3 WALLS OF THIS COURTHOUSE? PLEASE STAND.

4 YES, SIR. COME FORWARD, PLEASE. GENTLEMEN, HE
5 IS EMPLOYED BY THE COUNTY AS A MAINTENANCE WORKER.
6 HE'S -- ON OCCASIONS, HE WOULD COME INTO THE
7 COURTHOUSE TO DO CERTAIN MAINTENANCE WORK.
8 TECHNICALLY, HE IS NOT EMPLOYED WITHIN THE WALLS OF
9 THE COURTHOUSE. WHAT DO YOU SAY, MR. NEWSOME?

10 MR. NEWSOME: I HAVE NO OBJECTION TO HIM
11 SERVING.

12 THE COURT: WHAT DO YOU SAY, SOLICITOR?

13 MR. BAILEY: NO OBJECTION, YOUR HONOR.

14 THE COURT: HE'S QUALIFIED. THANK YOU. I
15 THANK YOU FOR CALLING THAT TO MY ATTENTION.

16 ANYONE ELSE THAT'S A COUNTY OFFICIAL OR EMPLOYED
17 WITHIN THE WALLS OF THE COURTHOUSE? (NO RESPONSE.)

18 NOW, LADIES AND GENTLEMEN, FOR THE TWELVE JURORS
19 AND TWO ALTERNATES, YOU WILL BE ASKED TO SIT IN THE
20 JURY BOX FOR MAYBE AN HOUR AND A HALF, AN HOUR, HOUR
21 AND A HALF AT A TIME, AND WE'LL TAKE PERIODIC BREAKS
22 FROM TIME TO TIME. OBVIOUSLY, IF SOMEBODY HAS SOME
23 PHYSICAL DEFECT WHICH WOULD PROHIBIT THEM FROM
24 RENDERING EFFICIENT JURY SERVICE, I WOULD NOT ASK
25 THEM TO SERVE.

1 SO IF ANYBODY HAS SOME SERIOUS HEARING
2 IMPAIRMENT THAT WOULD PREVENT YOU FROM HEARING THE
3 TESTIMONY, I WANT YOU TO LET ME KNOW. IF ANYBODY HAS
4 ANY SERIOUS BACK PROBLEMS WHERE YOU WOULD BE
5 UNCOMFORTABLE SITTING FOR AN HOUR, HOUR AND A HALF AT
6 A TIME, LET ME KNOW. IF ANYBODY IS UNDER SERIOUS
7 MEDICATION THAT MIGHT PUT YOU TO SLEEP OR SOMETHING
8 LIKE THAT, LET ME KNOW. IF ANYBODY HAS ANY SERIOUS
9 KIDNEY PROBLEMS OR OF THAT KIND, OBVIOUSLY, WE WOULD
10 NOT WISH ANYONE TO BE UNCOMFORTABLE.

11 SO IF ANYONE HAS ANY SERIOUS MEDICAL PROBLEMS
12 THAT YOU NEED TO CALL TO MY ATTENTION WHICH IN YOUR
13 VIEW WOULD PROHIBIT YOU FROM SITTING ON THIS JURY,
14 PLEASE COME FORWARD, AND I'LL BE GLAD TO DISCUSS IT
15 WITH YOU PUBLICLY OR PRIVATELY. ANYBODY FALL INTO
16 THAT CATEGORY?

17 COME FORWARD, PLEASE. WE WILL START FROM THE
18 LEFT AND GO TO THE RIGHT. YOUR NAME, PLEASE.

19 JURY VENIRE MEMBER: ROBERTA BARTLEY.

20 THE COURT: MS. BOCKLEY?

21 JURY VENIRE MEMBER: BARTLEY.

22 THE COURT: WHAT WAS YOUR RESPONSE,
23 PLEASE?

24 JURY VENIRE MEMBER: NERVE PROBLEM.

25 THE COURT: NERVE PROBLEMS. ARE YOU

1 CURRENTLY UNDER THE CARE OF A DOCTOR?

2 JURY VENIRE MEMBER: YES, SIR.

3 THE COURT: WHERE DO YOU WORK?

4 JURY VENIRE MEMBER: I'M DISABLED.

5 THE COURT: YOU ARE DISABLED?

6 JURY VENIRE MEMBER: YES, SIR.

7 THE COURT: AND YOU FEEL LIKE THAT THIS
8 DIFFICULTY WOULD PROHIBIT YOU FROM SITTING ON THE
9 JURY?

10 JURY VENIRE MEMBER: YES.

11 THE COURT: HAVE YOU BEEN -- YOU
12 UNDERSTAND -- HAVE YOU BEEN DECLARED DISABLED?

13 JURY VENIRE MEMBER: YES, SIR.

14 THE COURT: YOU HAVE BEEN? I WILL EXCUSE
15 YOU.

16 JURY VENIRE MEMBER: THANK YOU.

17 THE COURT: THANK YOU FOR CALLING THAT TO
18 MY ATTENTION.

19 MR. NEWSOME: NUMBER, MR. CLERK.

20 THE CLERK: THAT'S JUROR NUMBER 8.

21 THE COURT: MR. NEWSOME, AS WE INTERVIEW
22 THESE VARIOUS PEOPLE, IF YOU HAVE ANY FURTHER
23 INQUIRY, PLEASE LET ME KNOW. YOU'RE CERTAINLY
24 ENTITLED TO THAT, AND THE COURT WOULD WELCOME IT.

25 GOOD MORNING.

1 JURY VENIRE MEMBER: GOOD MORNING.

2 THE COURT: YOUR NAME, PLEASE.

3 JURY VENIRE MEMBER: ROSE H. BUTLER.

4 THE COURT: AND WHAT WAS YOUR RESPONSE?

5 JURY VENIRE MEMBER: I HAVE HYPERTENSION.

6 THE COURT: HYPERTENSION. DO YOU WORK

7 ANYWHERE?

8 JURY VENIRE MEMBER: YES, SIR, I DO.

9 THE COURT: WHERE DO YOU WORK.

10 JURY VENIRE MEMBER: AMERICAN YARN

11 PRODUCTS.

12 THE COURT: WHERE?

13 JURY VENIRE MEMBER: AMERICAN YARN

14 PRODUCTS.

15 THE COURT: WELL, YOUR HYPERTENSION

16 DOESN'T KEEP YOU FROM WORKING, DOES IT?

17 JURY VENIRE MEMBER: SOMETIMES IT DOES.

18 THE COURT: WELL, I THINK WE'LL KEEP YOU,

19 AND IF YOU GET -- I'LL LET YOU REST FROM TIME TO

20 TIME. THAT WOULD NOT EXCUSE YOU. THANK YOU.

21 IF ANYBODY HAS SOME PERCEIVED PROBLEM AND THEY
22 GET BY WORKING, OBVIOUSLY, YOU'RE QUALIFIED TO SERVE
23 AS JURORS.

24 YES, MA'AM.

25 JURY VENIRE MEMBER: AUDREY WALLING.

1 THE COURT: YES, MA'AM.

2 JURY VENIRE MEMBER: AND I HAVE A MUSCLE
3 DISEASE, AND I'M ON DISABILITY.

4 THE COURT: YOU ARE ON DISABILITY?

5 JURY VENIRE MEMBER: YES, SIR. I HAVE
6 MEDICATION.

7 THE COURT: AND YOU ASK THAT I EXCUSE YOU?

8 JURY VENIRE MEMBER: YES, SIR.

9 THE COURT: I WILL DO THAT. YES, MA'AM.
10 YES, MA'AM. YOUR NAME?

11 JURY VENIRE MEMBER: MAKIA MOORER.

12 THE COURT: YES, MA'AM.

13 JURY VENIRE MEMBER: I'M EXPECTING. I
14 MEAN, I'LL HAVE TO -- IF YOU WISH FOR ME TO STAY, I
15 WOULD HAVE TO BE ABLE TO GO TO THE RESTROOM
16 SOMETIMES.

17 THE COURT: ARE YOU ASKING --

18 JURY VENIRE MEMBER: I DON'T HAVE NO
19 PROBLEM WITH STAYING, BUT I MEAN, IF IT WOULD BE A
20 PROBLEM FOR THE COURT, I WOULD NEED IN AND OUT.

21 THE COURT: YOU THINK THAT THAT MIGHT
22 CAUSE YOU SOME PROBLEMS? IF YOU DO, I WILL EXCUSE
23 YOU. YOU ARE EXPECTING. I'M GOING TO EXCUSE THIS
24 JUROR. YES, MA'AM, I'LL EXCUSE YOU. BUT I
25 APPRECIATE YOUR WILLINGNESS TO SERVE.

1 JURY VENIRE MEMBER: ALL RIGHT.

2 THE CLERK: 185.

3 THE COURT: MR. CLERK, THAT JUROR WOULD
4 MAKE A SPLENDID JUROR. JUST TRANSFER HER AFTER HER
5 PREGNANCY IS COMPLETED. WE WOULD LIKE TO HAVE YOU.
6 GOOD MORNING.

7 JURY VENIRE MEMBER: GOOD MORNING.

8 THE COURT: YOUR NAME, PLEASE.

9 JURY VENIRE MEMBER: DOROTHY HUDGENS. I
10 HAVE HIGH BLOOD PRESSURE.

11 THE COURT: DO YOU WORK, MA'AM?

12 JURY VENIRE MEMBER: AND I HAVE A SICK
13 HUSBAND. I HAVE TO TAKE CARE OF HIM AT HOME.

14 THE COURT: YOU HAVE TO TAKE CARE OF HIM
15 AT HOME?

16 JURY VENIRE MEMBER: YES.

17 THE COURT: YOU TAKE CARE OF HIM ALL OF
18 THE TIME?

19 JURY VENIRE MEMBER: YES, SIR.

20 THE COURT: I WILL EXCUSE YOU. THANK YOU.

21 THE CLERK: NUMBER 109.

22 THE COURT: GOOD MORNING.

23 JURY VENIRE MEMBER: GOOD MORNING. I'M
24 ALLIE Q. AIKEN.

25 THE COURT: AND WHAT WAS YOUR RESPONSE?

1 JURY VENIRE MEMBER: I HAVE HIGH BLOOD
2 PRESSURE, ASTHMA AND ARTHRITIS.

3 THE COURT: YOU ARE -- MAY I INQUIRE AS TO
4 YOUR AGE, PLEASE, MA'AM?

5 JURY VENIRE MEMBER: 63.

6 THE COURT: DO YOU FEEL LIKE IT WOULD BE
7 DIFFICULT OR MAKE IT IMPOSSIBLE FOR YOU TO SERVE?

8 JURY VENIRE MEMBER: AND THEN I HAVE AN
9 APPOINTMENT FOR THE HOSPITAL ON MONDAY, ON THE 22ND
10 OF THIS MONTH.

11 THE COURT: I BETTER HURRY UP AND EXCUSE
12 YOU BEFORE YOU COME UP WITH SOME MORE. THANK YOU SO
13 MUCH.

14 GOOD MORNING.

15 JURY VENIRE MEMBER: ARTHUR HOWELL.

16 THE COURT: YES, SIR.

17 JURY VENIRE MEMBER: BACK PROBLEMS.

18 THE COURT: BACK PROBLEMS?

19 JURY VENIRE MEMBER: YES, SIR. I HAD AN
20 ACCIDENT ON DECEMBER 19TH OF LAST YEAR AND STILL
21 GOING TO THE DOCTOR.

22 THE COURT: STILL GOING TO THE DOCTOR?
23 ARE YOU WORKING ANYWHERE?

24 JURY VENIRE MEMBER: NO, SIR.

25 THE COURT: DO YOU FEEL LIKE THAT WOULD

1 KEEP YOU FROM SITTING IN THE JURY BOX FOR AN HOUR,
2 HOUR AND A HALF AT A TIME?

3 JURY VENIRE MEMBER: IT JUST WORRIES ME
4 WHEN I SIT UP THAT LONG.

5 THE COURT: WELL, I'M GOING TO LEAVE IT TO
6 YOU NOW. THIS IS A SERIOUS MATTER. YOU ARE
7 OTHERWISE QUALIFIED. ONLY YOU KNOW WHETHER OR NOT
8 YOU WOULD BE UNCOMFORTABLE OR NOT. IF YOU FEEL LIKE
9 THAT, THAT YOU JUST WOULD BE TOO UNCOMFORTABLE, I'M
10 GOING TO EXCUSE YOU. I'LL LEAVE IT TO YOU.

11 JURY VENIRE MEMBER: ALL RIGHT.

12 THE COURT: DO YOU WISH TO BE EXCUSED?

13 JURY VENIRE MEMBER: YES, SIR.

14 THE COURT: I WILL DO THAT.

15 YES, MA'AM.

16 JURY VENIRE MEMBER: I'M JUROR 23, RUBY
17 BROWN. I'M ON DISABILITY. I HAVE A PINCHED NERVE IN
18 MY BACK, AND I HAD SURGERY TWO YEARS AGO. IT'S A
19 BACK PROBLEM.

20 THE COURT: YOU'RE ON TOTAL DISABILITY.
21 DO YOU THINK YOU WOULD BE UNDULY UNCOMFORTABLE?

22 JURY VENIRE MEMBER: YES.

23 THE COURT: I WILL EXCUSE YOU.

24 JURY VENIRE MEMBER: THANK YOU, SIR.

25 THE COURT: THANK YOU.

1 YES, MA'AM. GOOD MORNING.

2 JURY VENIRE MEMBER: GOOD MORNING. MY
3 NAME IS BEATRICE WILLIAMS. I HAVE A DEPENDENT
4 HUSBAND AT HOME WHO HAS TO GO TO DIALYSIS THREE TIMES
5 A WEEK.

6 THE COURT: DO YOU KEEP YOUR HUSBAND ALL
7 THE TIME?

8 JURY VENIRE MEMBER: YES, SIR.

9 THE COURT: I WILL EXCUSE YOU.

10 JURY VENIRE MEMBER: THANK YOU.

11 MR. NEWSOME: 286.

12 THE CLERK: 286.

13 THE COURT: IS THERE ANY MEMBER OF THE
14 JURY PANEL WHO IS 65 YEARS OR OLDER AND WHO DOES NOT
15 WISH TO SERVE? WE ARE DELIGHTED TO HAVE YOU IF YOU
16 CARE TO STAY, BUT UNDER THE RULES, IF YOU ARE OVER 65
17 AND DESIRE THAT EXEMPTION, YOU ARE ENTITLED TO IT.

18 YES, SIR. YOUR NAME?

19 JURY VENIRE MEMBER: JEROME JENKINS. I'M
20 68.

21 THE COURT: LET ME SAY THIS TO YOU. WE
22 FIND THAT JURORS WHO ARE 65 AND OVER, GIVEN THEIR
23 EXPERIENCES IN LIFE, QUITE OFTEN MAKE THE VERY BEST
24 JURORS. I WOULD BE DELIGHTED FOR YOU TO STAY AND
25 SERVE. HOWEVER, IF YOU DESIRE TO BE EXCUSED, I WILL

1 DO THAT TOO. THE LAW REQUIRES ME TO GIVE YOU THAT
2 OPPORTUNITY EITHER WAY. WOULD YOU LIKE TO STAY AND
3 SERVE OR DO YOU WISH TO BE EXCUSED?

4 JURY VENIRE MEMBER: I WISH TO BE EXCUSED.

5 THE COURT: I WILL DO THAT. THANK YOU.

6 NOW, IF YOU ARE A FEMALE WHO HAS A CHILD UNDER THE
7 AGE OF SEVEN FOR WHOM YOU HAVE THE LEGAL DUTY OF CARE
8 AND CUSTODY AND THERE'S NOBODY HOME TO TAKE CARE OF
9 THAT INFANT, YOU ARE ENTITLED TO BE EXCUSED. NOW, IF
10 YOU ARE A WOMAN WHO HAS SUCH A CHILD, BUT ARE WORKING
11 AND SOMEBODY ELSE KEEPS THAT CHILD DURING THAT TIME,
12 WE WILL KEEP YOU ON THE JURY. WE WILL BE WORKING
13 FROM 9:30 IN THE MORNING, WE'LL TAKE A BREAK AT 1:00,
14 COME BACK AT 2:30, AND WORK UNTIL AROUND 5:30 OR 6:00
15 EVERY AFTERNOON. WE DON'T HOLD HOURS LIKE THEY DO IN
16 CALIFORNIA AND QUIT AT 3:00 IN THE AFTERNOON. SO
17 WE'RE GOING TO WORK AROUND HERE, BUT WE'LL QUIT AT
18 SOME DECENT APPROPRIATE HOUR.

19 DO ANY OF YOU HAVE ANY YOUNG CHILDREN THAT WOULD
20 PRECLUDE YOU FROM PARTICIPATING IN A JURY IF
21 SELECTED? PLEASE STAND. PLEASE COME FORWARD.

22 AND IF ANY OF YOU HAVE ANY ELDERLY PARENTS AT
23 HOME AND NOBODY ELSE TO HELP YOU WITH THEM AT NIGHT,
24 PLEASE COME FORWARD. AND I'LL INQUIRE A FEW MINUTES
25 FROM NOW ABOUT THE SEQUESTRATION ISSUE. BUT I

1 JURY VENIRE MEMBER: UH-HUH.

2 THE COURT: BUT --

3 JURY VENIRE MEMBER: I JUST GOT A JOB. I
4 DIDN'T HAVE A JOB WHEN I FILLED OUT THAT PINK SLIP,
5 BUT I DO NOW, SO --

6 THE COURT: WHO KEEPS THAT CHILD?

7 JURY VENIRE MEMBER: AFTER SCHOOL?

8 THE COURT: YES, MA'AM.

9 JURY VENIRE MEMBER: SHE GOES TO DAY CARE.

10 THE COURT: AND WHO KEEPS THE CHILD DURING
11 SCHOOL --

12 JURY VENIRE MEMBER: SCHOOL.

13 THE COURT: -- WHILE YOU'RE WORKING?

14 JURY VENIRE MEMBER: SCHOOL. SHE'S IN
15 SCHOOL.

16 THE COURT: AND WHO PICKS UP THE CHILD
17 FROM SCHOOL?

18 JURY VENIRE MEMBER: EITHER I DO OR MY
19 HUSBAND WHEN I GOT OFF WORK.

20 THE COURT: AND YOUR HUSBAND. THERE'S NO
21 REASON THAT YOU CAN'T SERVE, IS THERE?

22 JURY VENIRE MEMBER: I JUST WANTED TO LET
23 YOU KNOW.

24 THE COURT: WELL, LET ME ASK YOU THIS,
25 NOW. I'LL BE DEALING WITH THE SEQUESTRATION ISSUE

1 A MOMENT. YOU MAY WANT TO COME BACK UP AND TALK TO
2 ME. BUT AT THIS TIME, YOU ARE NOT -- ON THAT BASIS,
3 I WOULD BE GLAD TO KEEP YOU, AND WE'LL HAVE YOUR
4 HUSBAND --

5 JURY VENIRE MEMBER: OKAY.

6 THE COURT: BUT I'LL BE TALKING TO ALL OF
7 YOU ABOUT PROBLEMS AND STAYING AWAY AT NIGHT IF
8 YOU'RE SELECTED. YOU MAY WANT TO COME BACK.

9 JURY VENIRE MEMBER: OKAY.

10 THE COURT: THANK YOU.

11 JURY VENIRE MEMBER: CORINE MCKENZIE. I
12 BABYSIT MY GRANDBABY DURING THE DAY WHILE MY DAUGHTER
13 GOES TO SCHOOL AT TECH.

14 THE COURT: NOBODY ELSE TO TAKE CARE OF
15 THAT CHILD?

16 JURY VENIRE MEMBER: I COULD FIND SOMEBODY
17 ELSE, BUT RIGHT NOW --

18 THE COURT: CAN YOU FIND SOMEBODY?

19 JURY VENIRE MEMBER: YEAH, I COULD.

20 THE COURT: WELL, I WOULD WANT YOU TO DO
21 THAT. THAT'S YOUR -- YOUR DAUGHTER HAS
22 RESPONSIBILITY OF FINDING A BABYSITTER FOR HER. BUT
23 I DON'T WANT TO INCONVENIENCE ANYBODY. BUT SURELY
24 YOU CAN FIND SOMEBODY, CAN'T YOU? WHO'S BABYSITTING
25 THAT CHILD RIGHT THIS MINUTE?

1 JURY VENIRE MEMBER: SHE STAYED OFF FROM
2 WORK TODAY TO --

3 THE COURT: WELL, THAT MAY BE A SOLUTION
4 TO YOUR PROBLEM.

5 JURY VENIRE MEMBER: GALE GLOVER.

6 THE COURT: YES, MA'AM.

7 JURY VENIRE MEMBER: I HAVE A SIX-YEAR-OLD
8 DAUGHTER THAT GOES TO SCHOOL, AND MY MOM WORKS EVERY
9 DAY, AND THERE WOULDN'T BE NOBODY TO GET HER OFF THE
10 BUS.

11 THE COURT: NOBODY TO WHAT?

12 JURY VENIRE MEMBER: TO GET HER OFF THE
13 BUS.

14 THE COURT: TO GET HER OFF AT WORK?

15 JURY VENIRE MEMBER: NO. I SAID MY
16 DAUGHTER, SHE GOES TO SCHOOL, AND I SAID WHEN SHE
17 GETS FROM SCHOOL, MY MOTHER WORKS EVERY DAY. THERE
18 WON'T BE NOBODY TO GET HER OFF THE BUS.

19 THE COURT: IS THE BUS -- THE BUS BRINGS
20 HER TO THE HOUSE, DOESN'T IT?

21 JURY VENIRE MEMBER: YES, SIR. BUT IT
22 PUTS HER OFF AT THE STOP, BUT MY MOTHER WORKS EVERY
23 DAY, AND SOME DAYS MY GRANDMOTHER WORKS, AND I DON'T
24 KNOW WHETHER SOMEONE'S GOING TO BE THERE TO GET HER
25 OFF THE BUS.

1 THE COURT: WELL, CAN'T WE -- HOW OLD IS
2 SHE?

3 JURY VENIRE MEMBER: SIX.

4 THE COURT: WHO KEEPS THAT CHILD AT NIGHT?

5 JURY VENIRE MEMBER: I BE WITH HER AT
6 NIGHT.

7 THE COURT: IS YOUR MOTHER THERE AT NIGHT?

8 JURY VENIRE MEMBER: NO. MY MOTHER
9 DOESN'T LIVE WITH ME.

10 THE COURT: SO YOU WOULDN'T HAVE ANYBODY
11 -- IF YOU WERE SELECTED ON A JURY, AT NIGHT, YOU
12 WOULDN'T HAVE ANYBODY TO TAKE CARE OF THAT CHILD?

13 JURY VENIRE MEMBER: WELL, MY MOTHER WOULD
14 BE HOME AT NIGHT.

15 THE COURT: OKAY. WELL, SURELY WE CAN
16 FIND SOMEBODY TO ESCORT YOUR CHILD FROM THE BUS TO
17 THE HOUSE, CAN'T WE?

18 JURY VENIRE MEMBER: WELL, MY MOM WORKS.

19 THE COURT: ANYBODY ELSE LIVE IN YOUR
20 HOUSE?

21 JURY VENIRE MEMBER: NO.

22 THE COURT: YOU GOT ANY OLDER CHILDREN?

23 JURY VENIRE MEMBER: I HAVE -- WELL, MY
24 OTHER TWO KIDS, THEY GO TO A DIFFERENT SCHOOL AND
25 THEY GET HOME A DIFFERENT TIME.

1 THE COURT: ANY OF THEM THERE WHEN THIS
2 CHILD GETS OFF THE BUS?

3 JURY VENIRE MEMBER: NO. IT COMES HOME
4 AFTERWARDS.

5 THE COURT: YOU'RE TELLING ME NOW YOU'RE
6 ON YOUR OWN AND ALL OF THESE OTHER JURORS ARE
7 REQUIRED TO STAY AND PARTICIPATE. YOU'RE TELLING ME
8 NOW THAT YOU'VE GOT TO GET OFF OF THIS JURY BECAUSE
9 YOU CAN'T FIND ANYBODY TO GET YOUR DAUGHTER FROM THE
10 BUS TO THE HOUSE?

11 JURY VENIRE MEMBER: NO. I'M NOT SAYING
12 THAT. I'M SAYING MY MOTHER WORKS EVERY DAY.

13 THE COURT: I UNDERSTAND THAT. BUT YOUR
14 MOTHER'S NOT A POTENTIAL JUROR, YOU ARE.

15 JURY VENIRE MEMBER: TRUE. I KNOW THAT.
16 I WORK ALSO. AND SEE, WHEN MY DAUGHTER GETS HOME, I
17 GO TO WORK AT 2:30, AND WHEN MY DAUGHTER GETS HOME,
18 MY MOTHER BE AT WORK.

19 THE COURT: SO IF YOUR MOTHER'S AT WORK
20 AND YOU'RE AT WORK, WHO GETS YOUR DAUGHTER OFF THE
21 BUS?

22 JURY VENIRE MEMBER: THAT'S WHAT I WAS
23 TELLING YOU. MY GRANDMOTHER WORKS SOME DAYS.

24 THE COURT: I'LL TELL YOU WHAT I'M GOING
25 TO DO. I'M GOING TO KEEP YOU, AND IF I HAVE TO, I'

1 GET THE SHERIFF TO GO GET YOUR DAUGHTER OFF THE BUS.

2 JURY VENIRE MEMBER: OKAY.

3 THE COURT: WE'RE HAVING A MOMENT OF
4 FRIVOLITY HERE, AND THAT'S OKAY, BUT THIS JUST
5 EMPHASIZES TO ALL OF YOU THE VERY SERIOUSNESS OF
6 THESE PROCEEDINGS. THE STATE OF SOUTH CAROLINA AND
7 THIS DEFENDANT IS ENTITLED TO A FAIR AND IMPARTIAL
8 TRIAL. THEY CAN ONLY GET SUCH A TRIAL, THE STATE AND
9 THE DEFENDANT, BY HAVING GOOD PEOPLE SUCH AS YOU WHO
10 ARE WITHIN THE SOUND OF MY VOICE WHO ARE HERE DULY
11 SUMMONED AND READY TO DO YOUR JOB. AND THUS IT IS,
12 IT IS UNDER EXTRAORDINARY CIRCUMSTANCES THAT WE
13 EXCUSE ANYBODY BECAUSE EVERYBODY NEEDS TO
14 PARTICIPATE. SO I HOPE YOU UNDERSTAND OUR POSITION.

15 AND AS I SAY THAT, GOOD MORNING TO YOU. WHAT
16 WAS YOUR RESPONSE, PLEASE?

17 JURY VENIRE MEMBER: ME? I'M ANN SIKES.

18 THE COURT: YES, MA'AM.

19 JURY VENIRE MEMBER: I HAVE A FOUR YEAR
20 OLD. BUT YOU ANSWERED MY QUESTION ABOUT NIGHT.

21 THE COURT: WELL, I WILL DEAL WITH THAT IN
22 ANOTHER INQUIRY, PLEASE.

23 JURY VENIRE MEMBER: OKAY. AND THEN SHE'S
24 IN DAY CARE IN ORANGEBURG, AND SHE'S THERE UNTIL LIKE
25 6:00, AND SO THAT MAY BE A PROBLEM IF I, YOU KNOW,

1 CAN'T GET THERE TO PICK HER UP.

2 THE COURT: YOU DON'T HAVE ANYBODY THAT
3 CAN PICK HER UP?

4 JURY VENIRE MEMBER: I DO, BUT IT WOULD BE
5 MY MOTHER. IF SHE WAS TO RUN INTO A PROBLEM -- SHE'S
6 ALSO A SCHOOLTEACHER, BUT --

7 THE COURT: WHO WOULD STAY WITH YOUR CHILD
8 AT NIGHT IF YOU WERE SELECTED AND HAD TO BE IN A
9 MOTEL?

10 JURY VENIRE MEMBER: IT WOULD BE MY
11 HUSBAND AND MY 14-YEAR-OLD SON.

12 THE COURT: LET ME ADDRESS THAT QUESTION A
13 LITTLE LATER ON, PLEASE.

14 JURY VENIRE MEMBER: RIGHT. OKAY. THANK
15 YOU.

16 THE COURT: WE'LL TAKE A LOOK AT THAT.
17 YES, MA'AM.

18 JURY VENIRE MEMBER: I'M OUT OF THE AGE
19 LIMIT. THAT'S WHAT I CAME UP TO TELL YOU.

20 THE COURT: YOU ARE OVER 65?

21 JURY VENIRE MEMBER: YES.

22 THE COURT: DO YOU WISH TO STAY OR WOULD
23 YOU LIKE TO SERVE?

24 JURY VENIRE MEMBER: WELL --

25 THE COURT: IT'S UP -- LET ME TELL YOU,

1 UNDER OUR RULES, IT'S -- YOU HAVE THE EXEMPTION IF
2 YOU CARE TO.

3 JURY VENIRE MEMBER: UH-HUH.

4 THE COURT: IF YOU'RE OVER 65, YOU ARE
5 ENTITLED TO SERVE. WE WOULD BE GLAD TO HAVE YOU.

6 JURY VENIRE MEMBER: YES, SIR.

7 THE COURT: EQUALLY IMPORTANT, IF YOU'RE
8 OVER 65 AND FOR ANY REASON OR NO REASON, YOU ASK THAT
9 I EXCUSE YOU, I WILL DO THAT. THAT'S THE LAW.

10 JURY VENIRE MEMBER: YES, SIR.

11 THE COURT: WOULD YOU LIKE TO BE EXCUSED?

12 JURY VENIRE MEMBER: I BELIEVE I WOULD
13 LIKE TO STAY.

14 THE COURT: I BELIEVE I WOULD LOVE TO HAVE
15 YOU. THANK YOU.

16 JURY VENIRE MEMBER: THANK YOU.

17 THE COURT: YOU'RE CERTAINLY WELCOME.

18 NOW, LADIES AND GENTLEMEN, THIS AFTERNOON AND
19 TOMORROW AND PERHAPS ON THURSDAY MORNING, WE WILL BE
20 INDIVIDUALLY MAKING INQUIRIES OF JURORS UNDER A
21 PROCEDURE KNOWN AS VOIR DIRE. AFTER WE SELECT THE
22 PANELS, WE WILL HAVE THEM ALL COME BACK EITHER
23 THURSDAY MORNING OR THURSDAY AFTERNOON, AND AT THAT
24 TIME, A JURY OF TWELVE PLUS TWO WILL BE SELECTED.

25 I FULLY EXPECT AND INTEND TO START THE TRIAL OF

1 THIS CASE NO LATER THAN 2:30 ON THURSDAY. NOW, FOR
2 THOSE 14 WHO ARE SELECTED TO SERVE, YOU WILL BE
3 SEQUESTERED IN AN APPROPRIATE MOTEL IN ORANGEBURG AT
4 THE EXPENSE OF THE COUNTY. YOU WILL BE FED AND FED
5 GOOD. AND AS I INDICATED TO YOU, YOU WILL BE
6 SEQUESTERED FOR A PERIOD OF TIME. MY BEST GUESS IS
7 THAT THIS CASE WILL BE CONCLUDED BY TUESDAY, NO LATER
8 THAN WEDNESDAY OF NEXT WEEK.

9 BUT I NEED TO TELL YOU, NOW, THAT ONCE YOU ARE
10 SELECTED, YOU WILL BE IN THE CARE AND CUSTODY OF THE
11 SHERIFF BEGINNING ON WEDNESDAY -- THURSDAY AT 2:30
12 UNTIL THE END OF THIS CASE. AND I -- IT WILL END
13 SOMETIME NEXT WEEK, EARLY PART OF NEXT WEEK. NOW,
14 THAT POSES UNDUE HARDSHIP TO SOME PEOPLE. IF YOU
15 HAVE AN ELDERLY PERSON AT HOME OR YOU'VE GOT A YOUNG
16 CHILD AND YOUR HUSBAND WORKS AT NIGHT AND THERE'S
17 NOBODY THERE -- AND YOU CAN THINK OF MANY
18 CIRCUMSTANCES, BUT IF THE WRIT OF SEQUESTRATION WOULD
19 POSE SOME UNDUE HARDSHIPS ON YOU OR INSURMOUNTABLE
20 HARDSHIPS, PLEASE COME FORWARD AND LET ME DISCUSS IT
21 WITH YOU. BECAUSE ONCE YOU'RE ON THIS JURY, IT'S TOO
22 LATE TO BRING IT TO MY ATTENTION.

23 NOW, I'VE HAD JURORS TELL ME ONCE WE GOT IN THE
24 TRIAL OF THIS CASE, "JUDGE, I DIDN'T KNOW THAT WE
25 WEREN'T GOING TO QUIT AT 5:00. I'VE GOT TO PICK UP

1 MY CHILD." AND I UNDERSTAND THAT. I HAVE CHILDREN
2 AND GRANDCHILDREN. BUT NOW'S THE TIME I NEED TO KNOW
3 ABOUT ANY PROBLEMS AND NOT AFTER YOU'RE ON THIS JURY.

4 SO IF THERE WOULD BE ANY UNDUE HARDSHIPS FOR YOU
5 BY HAVING TO BE SEQUESTERED FROM THURSDAY AT 2:30
6 UNTIL THE MIDDLE OF NEXT WEEK, PLEASE COME FORWARD
7 AND LET ME DISCUSS IT WITH YOU NOW.

8 JURY VENIRE MEMBER: YOUR HONOR, I --

9 THE COURT: LET'S GET EVERYBODY UP HERE,
10 PLEASE.

11 YES, SIR, YOUR NAME? I NEED YOUR NAME FIRST.
12 EVERYTHING HAS TO BE ON THE RECORD.

13 JURY VENIRE MEMBER: MALCOLM H. ROWELL.

14 THE COURT: SIR?

15 JURY VENIRE MEMBER: MALCOLM H. ROWELL.

16 THE COURT: MR. ROWELL. AND WHAT WAS YOUR
17 RESPONSE?

18 JURY VENIRE MEMBER: I WOULD LOVE TO SIT
19 ON THE JURY A COUPLE OF DAYS. BUT STARTING THURSDAY
20 TO NEXT TUESDAY WOULD INCONVENIENCE ME.

21 THE COURT: THURSDAY TO NEXT TUESDAY. CAN
22 YOU TELL ME WHY? IT'S GOING TO INCONVENIENCE
23 EVERYBODY, NOW.

24 JURY VENIRE MEMBER: WELL, I'M OVER 75. I
25 WAS THE FORMER SHERIFF OF CALHOUN COUNTY.

1 THE COURT: YES, SIR.

2 JURY VENIRE MEMBER: THAT'S ABOUT IT.

3 THE COURT: WELL, I CAN EXCUSE YOU ON THE
4 BASIS OF YOUR AGE, IF YOU CARE TO BE EXCUSED. BUT I
5 TELL YOU IF YOU WOULD BE SELECTED, YOU WOULD BE
6 SEQUESTERED, AND IF YOU ARE -- WE WOULD BE DELIGHTED
7 TO HAVE YOU SERVE. I WOULD NOT EXCUSE YOU ON THE
8 BASIS OF JUST INCONVENIENCE. I WILL EXCUSE YOU IF
9 YOU REQUEST IT ON THE BASIS OF YOUR AGE.

10 JURY VENIRE MEMBER: AGE, YOUR HONOR.

11 THE COURT: YES, SIR. I WILL DO THAT.
12 YOU UNDERSTAND, NOW, SHERIFF, WE WOULD BE GLAD TO
13 HAVE YOU STAY AND SERVE. THANK YOU.

14 YES, MA'AM.

15 JURY VENIRE MEMBER: GLORIA D. JONES.

16 THE COURT: YES, MA'AM.

17 JURY VENIRE MEMBER: I WOULD LIKE TO BE
18 EXCUSED BECAUSE MY HUSBAND JUST WAS ELECTED AS A
19 PASTOR, AND I'M NOT SURE HOW OUR SCHEDULE WILL BE.
20 AND OUR YOUNGEST CHILD IS 13, AND HE WOULD HAVE TO
21 LIKE BE IN A SERVICE OR IN A MEETING OR SOMETHING.
22 I'M USUALLY, YOU KNOW, AT HOME.

23 THE COURT: AND THERE WOULD BE NOBODY TO
24 TAKE CARE OF THAT CHILD?

25 JURY VENIRE MEMBER: I'M USUALLY THE ONLY

1 ONE AT HOME.

2 THE COURT: DO YOU HAVE ANY QUESTIONS?

3 MR. NEWSOME: SHE HAS A 13-YEAR-OLD CHILD?

4 THE COURT: PARDON?

5 MR. NEWSOME: SHE HAS A 13-YEAR-OLD CHILD?

6 JURY VENIRE MEMBER: YEAH. THAT'S MY

7 YOUNGEST ONE. I HAVE SEVEN CHILDREN.

8 THE COURT: HOW MANY CHILDREN DO YOU HAVE?

9 JURY VENIRE MEMBER: SEVEN.

10 THE COURT: SEVEN?

11 JURY VENIRE MEMBER: UH-HUH.

12 THE COURT: AND IT'S JUST YOU AND YOUR

13 HUSBAND.

14 JURY VENIRE MEMBER: YES.

15 THE COURT: YES, SIR. WITH SEVEN

16 CHILDREN, YOUR HUSBAND NEEDS YOU AT HOME. IF YOU --

17 IF YOU WOULD LIKE TO SERVE, I WOULD BE GLAD TO HAVE

18 YOU, BUT IF YOU FEEL LIKE YOU NEED TO BE AT HOME --

19 AND I CAN SEE THE MOTHER OF SEVEN CHILDREN WOULD BE

20 VERY MUCH IMPOSSIBLE TO BE AWAY FOR FIVE OR SIX

21 NIGHTS. YES, MA'AM. I WILL EXCUSE YOU.

22 THE CLERK: 113.

23 THE COURT: AND MR. NEWSOME, AGAIN, I

24 INVITE ANY INQUIRY THAT YOU CARE TO MAKE.

25 YES, MA'AM. GOOD MORNING.

1 JURY VENIRE MEMBER: GOOD MORNING.

2 THE COURT: YOUR NAME, PLEASE.

3 JURY VENIRE MEMBER: BEVERLY SESSION.

4 THE COURT: AND WHAT IS YOUR RESPONSE?

5 JURY VENIRE MEMBER: WELL, I HAVE THREE
6 SMALL CHILDREN AND I DON'T HAVE ANYBODY TO WATCH THEM
7 AT NIGHT.

8 THE COURT: WHAT AGE ARE YOUR CHILDREN?

9 JURY VENIRE MEMBER: I HAVE NINE-YEAR-OLD
10 TWINS AND AN EIGHT YEAR OLD.

11 THE COURT: NINE-YEAR-OLD TWINS?

12 JURY VENIRE MEMBER: UH-HUH.

13 THE COURT: AND AN EIGHT YEAR OLD?

14 JURY VENIRE MEMBER: YES.

15 THE COURT: WHO ELSE IS IN THE HOUSEHOLD
16 WITH YOU?

17 JURY VENIRE MEMBER: NOBODY.

18 THE COURT: YOUR HUSBAND?

19 JURY VENIRE MEMBER: NO.

20 THE COURT: SO YOU HAVE NOBODY TO STAY
21 WITH THEM AT NIGHT?

22 JURY VENIRE MEMBER: YES.

23 THE COURT: THAT WOULD POSE AN UNDUE
24 HARDSHIP. YES, MA'AM. I WILL EXCUSE YOU.

25 YOUR NAME, PLEASE.

1 JURY VENIRE MEMBER: CARRIE SEDGWICK.

2 THE COURT: WHAT WAS YOUR RESPONSE?

3 JURY VENIRE MEMBER: I ATTEND COLUMBIA
4 COLLEGE IN THE EVENING.

5 THE COURT: YES, MA'AM. INCIDENTALLY, I
6 MEANT TO MAKE THAT INQUIRY. ANYBODY WHO IS A
7 STUDENT, I WOULD LIKE TO ASK ANY -- I WOULD NOT WANT
8 TO INTERFERE WITH ANYBODY'S EDUCATION. YOU ARE
9 TELLING ME YOU ARE A STUDENT?

10 JURY VENIRE MEMBER: YES.

11 THE COURT: YOU GO TO COLUMBIA COLLEGE
12 EVERY NIGHT?

13 JURY VENIRE MEMBER: THREE NIGHTS A WEEK,
14 MONDAY, WEDNESDAY AND THURSDAY.

15 THE COURT: MA'AM?

16 JURY VENIRE MEMBER: MONDAY, WEDNESDAY AND
17 THURSDAY.

18 THE COURT: AND YOU ARE REGULARLY ENROLLED
19 IN THOSE CLASSES?

20 JURY VENIRE MEMBER: YES.

21 THE COURT: YES, MA'AM, I WILL EXCUSE YOU.
22 ANYBODY ELSE OUT THERE A FULL-TIME STUDENT?

23 JURY VENIRE MEMBER: I AM.

24 THE COURT: COME FORWARD, PLEASE. LET ME
25 GET THAT. I SHOULD HAVE MADE THAT INQUIRY.

1 WHERE ARE YOU A STUDENT, PLEASE?

2 JURY VENIRE MEMBER: SOUTH CAROLINA STATE
3 UNIVERSITY.

4 THE COURT: AND YOU'RE THERE FULL TIME?

5 JURY VENIRE MEMBER: UH-HUH, FULL-TIME
6 STUDENT.

7 THE COURT: WOULD YOU LIKE TO SERVE OR
8 WOULD YOU -- I'LL BE GLAD TO KEEP YOU IF YOU CARE TO
9 SERVE, BUT I WOULD NOT WISH TO INTERFERE WITH YOUR
10 EDUCATION. I LEAVE IT TO YOU.

11 JURY VENIRE MEMBER: MY CLASSES START AT
12 5:00 ON MONDAY AND WEDNESDAY NIGHT.

13 THE COURT: WHEN, NOW?

14 JURY VENIRE MEMBER: MONDAY AND WEDNESDAY
15 NIGHT.

16 THE COURT: MONDAY AND WEDNESDAY?

17 JURY VENIRE MEMBER: UH-HUH.

18 THE COURT: YOU WOULD NOT MISS WEDNESDAY
19 NIGHT, BUT YOU WOULD MISS PROBABLY NEXT MONDAY. I
20 THINK YOU COULD PROBABLY MISS ONE NIGHT, COULDN'T
21 YOU?

22 JURY VENIRE MEMBER: I GUESS I COULD.

23 THE COURT: AND CAN YOU SERVE WITH US?

24 JURY VENIRE MEMBER: YES, MA'AM.

25 THE COURT: YES, MA'AM. PLEASE STAY WIT

1 US.

2 MR. BAILEY: WHAT WAS HER NAME AND NUMBER?

3 JURY VENIRE MEMBER: LORIA WHREN.

4 THE CLERK: 284.

5 THE COURT: MADAM JUROR, IF THERE'S ANY
6 PROBLEM, NOW, WITH YOUR PROFESSOR AND ALL, TELL HIM
7 TO CALL ME.

8 YES, MA'AM.

9 JURY VENIRE MEMBER: I'M PATRICIA HAIR.

10 THE COURT: AND WHAT WAS YOUR RESPONSE?

11 JURY VENIRE MEMBER: I HAVE TWO CHILDREN,
12 AGES SEVEN AND TEN. MY HUSBAND IS GOING OUT OF TOWN
13 ON A BUSINESS TRIP ON MONDAY, ON MONDAY OF NEXT WEEK.

14 THE COURT: HOW LONG WILL HE BE GONE?

15 JURY VENIRE MEMBER: ALL WEEK.

16 THE COURT: ALL WEEK?

17 JURY VENIRE MEMBER: YES.

18 THE COURT: AND YOU HAVE NOBODY TO STAY
19 WITH THOSE CHILDREN, NOW?

20 JURY VENIRE MEMBER: NO.

21 THE COURT: YOU DON'T FEEL LIKE YOU COULD
22 -- WELL, YOUR HUSBAND WILL BE GONE?

23 JURY VENIRE MEMBER: HE WILL BE GONE.

24 THE COURT: YES, MA'AM. BASED ON THAT, I
25 WILL EXCUSE YOU. ARE YOU ASKING TO BE EXCUSED?

1 JURY VENIRE MEMBER: YES.

2 THE COURT: THANK YOU.

3 THE CLERK: 89.

4 THE COURT: YES, SIR.

5 JURY VENIRE MEMBER: TWO THINGS. I WORK
6 FOR THE SOUTHEAST BOLL WEEVIL, AND I WORK 5,000
7 ACRES. I WORK THEM ON MONDAYS AND TUESDAYS OF EACH
8 WEEK, AND I'M SUPPOSED TO BE WORKING TODAY.

9 THE COURT: NOW, WE ALL WORK, NOW.

10 JURY VENIRE MEMBER: OKAY. LET ME -- CAN
11 I EXPLAIN IT SOME MORE?

12 THE COURT: YES, SIR.

13 JURY VENIRE MEMBER: THEY ARE SUPPOSED TO
14 BE WORKED ON 14-DAY INTERVALS.

15 THE COURT: WHERE ARE YOU WORKING?

16 JURY VENIRE MEMBER: SOUTHEAST BOLL
17 WEEVIL.

18 THE COURT: IF THEY'RE LIKE BOLL WEEVILS
19 IN MARLBORO COUNTY, THEY'LL WAIT ON YOU.

20 JURY VENIRE MEMBER: THEY ARE SUPPOSED TO
21 BE WORKED ON A 14-DAY BASIS.

22 THE COURT: NO, SIR. THAT WOULD NOT BE A
23 BASIS. YOU WILL JUST HAVE TO GET SOMEBODY ELSE TO
24 SUBSTITUTE FOR YOU.

25 JURY VENIRE MEMBER: I CAN'T GET ANYBODY.

1 I DON'T KNOW IF THEY CAN OR NOT.

2 THE COURT: WELL, THEY ARE GOING TO HAVE
3 TO TRY. IF I EXCUSE -- I UNDERSTAND YOUR PROBLEM,
4 BUT IF I EXCUSE YOU FOR REASONS OF WORK, I WOULD HAVE
5 TO EXCUSE EVERYBODY OUT THERE BECAUSE WE ALL HAVE
6 THAT RESPONSIBILITY.

7 JURY VENIRE MEMBER: MY OTHER
8 RESPONSIBILITY WAS THAT I HAVE ELEVEN DOGS AT HOME.
9 I LIVE BY MYSELF AND I DON'T HAVE NOBODY TO TAKE CARE
10 OF THEM.

11 THE COURT: ELEVEN DOGS?

12 JURY VENIRE MEMBER: YES, SIR.

13 THE COURT: YOU CAN'T MAKE ARRANGEMENTS
14 BETWEEN NOW AND WEDNESDAY?

15 JURY VENIRE MEMBER: I HAVEN'T EVER HAD
16 ANYBODY ELSE TO TAKE CARE OF THESE DOGS SINCE I LEFT
17 FLORIDA.

18 THE COURT: YOU'RE GOING TO HAVE TO FIND
19 SOMEBODY TO TAKE CARE OF THEM NOW. I JUST CAN'T
20 EXCUSE YOU ON THAT BASIS. WE WOULD NOT SEQUESTER YOU
21 BEFORE THURSDAY, AND THAT JUST SIMPLY WOULD NOT BE A
22 BASIS FOR ME TO EXCUSE YOU.

23 JURY VENIRE MEMBER: I WILL DO MY BEST.

24 THE COURT: I UNDERSTAND. I DID MY BEST
25 TOO, BUT I CAN'T EXCUSE YOU FOR THAT. YOU MAKE

1 ARRANGEMENTS NOW -- I UNDERSTAND. I LOVE DOGS TOO,
2 AND I UNDERSTAND. BUT YOU'RE JUST GOING TO HAVE TO
3 GET SOMEBODY, NOW, TO FEED THOSE DOGS.

4 JURY VENIRE MEMBER: OKAY.

5 THE COURT: OKAY? AND IF YOU CAN'T GET
6 ANYBODY, YOU LET ME KNOW, AND MAYBE I CAN FIND
7 SOMEBODY FOR YOU.

8 GENTLEMEN, APPROACH, PLEASE.

9 (WHEREUPON, COUNSEL APPROACHED
10 THE BENCH FOR AN OFF-THE-RECORD
11 DISCUSSION.)

12 THE COURT: GOOD MORNING.

13 JURY VENIRE MEMBER: GOOD MORNING.

14 THE COURT: WHAT WAS YOUR NAME, PLEASE?

15 JURY VENIRE MEMBER: LORRAINE FIELDS.

16 THE COURT: WHAT WAS YOUR RESPONSE?

17 JURY VENIRE MEMBER: I HAVE A FIVE YEAR
18 OLD AND A TWO YEAR OLD. MY MOTHER BABYSITS DURING
19 THE DAY, BUT AT NIGHT, SHE'S AT HOME, AND SHE'S ON
20 DIALYSIS.

21 THE COURT: SHE'S ON A DIALYSIS MACHINE?

22 JURY VENIRE MEMBER: UH-HUH.

23 THE COURT: THERE'S NOBODY ELSE IN THE
24 HOUSEHOLD?

25 JURY VENIRE MEMBER: NO. MY FATHER WORKS

1 DAYS AND NIGHTS.

2 THE COURT: YES, MA'AM. I WILL EXCUSE
3 YOU. I UNDERSTAND.

4 GOOD MORNING.

5 JURY VENIRE MEMBER: GOOD MORNING. MY
6 NAME IS TERESA ETHEREDGE, AND MY HUSBAND LEAVES OUR
7 HOUSE AT 4:30 IN THE MORNING TO REPORT TO WORK, SO
8 THERE WOULD BE NOBODY AT OUR HOME EXCEPT ME UNTIL
9 7:30 IN THE MORNING.

10 THE COURT: SO HOW OLD ARE YOUR CHILDREN?

11 JURY VENIRE MEMBER: I HAVE A TWO AND A
12 HALF YEAR OLD.

13 THE COURT: YES, MA'AM. IT'S WITHIN THAT
14 INTERVAL THAT THERE'S NOBODY THERE?

15 JURY VENIRE MEMBER: YES, MA'AM.

16 THE COURT: YES, MA'AM. IT WOULD BE
17 IMPROPER TO SEQUESTER YOU. I WILL EXCUSE YOU.

18 JURY VENIRE MEMBER: ETHEREDGE, TERESA.

19 THE COURT: YES, SIR.

20 JURY VENIRE MEMBER: HAROLD BALLENTINE.

21 THE COURT: YES, SIR.

22 JURY VENIRE MEMBER: MY ONLY CONCERN IS MY
23 WIFE HAS BEEN HAVING SEVERE STOMACH PAINS FOR THE
24 LAST SEVERAL DAYS. THE EARLIEST SHE WOULD BE ABLE TO
25 GET AN APPOINTMENT IS NEXT MONDAY FOR EVALUATION.

1 WHETHER SHE WILL BE ADMITTED FOR TESTS OR WHAT, I
2 HAVE NO IDEA AT THIS POINT.

3 THE COURT: I BETTER EXCUSE YOU ON THAT
4 BASIS. I KNOW YOU WOULD BE WILLING TO SERVE. WHERE
5 IS THE MEDICAL APPOINTMENT?

6 JURY VENIRE MEMBER: IT'S A
7 GASTROENTEROLOGIST. I'M NOT SURE WHERE.

8 THE COURT: YOU'RE FEARFUL THAT SHE MAY BE
9 ADMITTED TO THE HOSPITAL?

10 JURY VENIRE MEMBER: WELL, I DON'T KNOW.
11 THE ONLY REASON, YOU SAID NEXT WEEK IT'S TOO LATE IF
12 YOU GET PICKED.

13 THE COURT: YES, SIR. IT WOULD BE TOO
14 LATE. WE'LL BE WORKING MONDAY FOR SURE AND TUESDAY
15 I'M SURE, AND YOU WOULD NOT BE PERMITTED AT THAT TIME
16 TO LEAVE.

17 JURY VENIRE MEMBER: SO IT MAY OR MAY NOT
18 BE A PROBLEM. I HAVE NO IDEA.

19 THE COURT: WHAT'S THE POSITION OF THE
20 STATE AND THE DEFENSE?

21 MR. BAILEY: I WOULD JUST DEFER TO THE
22 JUROR, IF HE SAYS THIS WOULD BE A PROBLEM.

23 MR. NEWSOME: I HAVE NO PROBLEM WITH HIM
24 BEING EXCUSED.

25 THE COURT: HE OBVIOUSLY WOULD LIKE TO

1 SERVE, BUT I WOULDN'T WANT TO KEEP HIM FROM HIS WIFE
2 IF SHE NEEDS HIM. I WILL EXCUSE YOU. THANK YOU FOR
3 CALLING THAT TO MY ATTENTION.

4 YES, MA'AM.

5 JURY VENIRE MEMBER: YOUR HONOR, MY NAME'S
6 ANN SIKES, AND I HAVE A FOUR YEAR OLD AND A 14 YEAR
7 OLD THAT MY HUSBAND -- HE'S UP AND OUT -- HE'S GOT TO
8 BE AT WORK AT 6:30 AT CAROLINA, AND SO I HAVE TO TAKE
9 THEM TO SCHOOL AND DAY CARE AND EVERYTHING.

10 THE COURT: YES, MA'AM. I WOULD NOT WISH
11 TO KEEP YOU SEQUESTERED WITH THIS JURY. I WILL
12 EXCUSE YOU.

13 JURY VENIRE MEMBER: I'M ANN SIKES.

14 THE COURT: YES, MA'AM.

15 JURY VENIRE MEMBER: MY NAME IS ANNIE
16 WHITE, AND I HAVE A --

17 THE COURT: HAVE WHAT?

18 JURY VENIRE MEMBER: I SAY I HAVE A COURT
19 APPOINTMENT AT 1:00 NEXT WEEK.

20 THE COURT: FIND OUT FROM THE CLERK WHO
21 THAT COURT IS AND WHO THAT JUDGE IS AND WE'LL GET
22 YOUR COURT APPOINTMENT CHANGED.

23 JURY VENIRE MEMBER: THANK YOU.

24 THE CLERK: YOUR NAME?

25 JURY VENIRE MEMBER: ANNIE WHITE.

1 THE COURT: THANK YOU FOR CALLING THAT TO
2 MY ATTENTION, BUT WE'LL TAKE CARE OF THAT. WHAT IS
3 IT, TRAFFIC COURT?

4 JURY VENIRE MEMBER: IT'S A TRAFFIC
5 ACCIDENT, YES.

6 THE COURT: WELL, WE'LL TELL THEM YOU'RE
7 OTHERWISE BUSY IN ANOTHER COURT.

8 JURY VENIRE MEMBER: I'M AUBREY WALKER.

9 THE COURT: YES.

10 JURY VENIRE MEMBER: I HAVE A
11 FIVE-YEAR-OLD SON WHO I KEEP IN THE DAY. THE
12 GIRLFRIEND WITH WHOM I LIVE WORKS AND I DON'T HAVE
13 ANYBODY ELSE.

14 THE COURT: YOU KEEP THAT CHILD ALL OF THE
15 TIME?

16 JURY VENIRE MEMBER: YES.

17 THE COURT: YOU DON'T WORK ANYWHERE?

18 JURY VENIRE MEMBER: NO.

19 THE COURT: WHO WORKS, YOUR WIFE OR
20 GIRLFRIEND?

21 JURY VENIRE MEMBER: YES.

22 THE COURT: AND YOU STAY AT HOME WITH THE
23 CHILD?

24 JURY VENIRE MEMBER: YES.

25 THE COURT: WHO HAS GOT THAT CHILD NOW?

1 JURY VENIRE MEMBER: SHE'S OFF TODAY.

2 THE COURT: HOW ABOUT -- IS SHE GOING TO
3 BE OFF NEXT WEEK ANY TIME?

4 JURY VENIRE MEMBER: NO.

5 THE COURT: HOW DID SHE HAPPEN TO GET OFF
6 TODAY?

7 JURY VENIRE MEMBER: SHE WORKS FOR THE
8 GOVERNMENT, AND THEY DON'T WORK EVERY DAY, AND SHE'S
9 OFF TODAY.

10 THE COURT: WHAT KIND OF WORK DOES SHE DO?

11 JURY VENIRE MEMBER: SHE WORKS FOR CLEMSON
12 EXTENSION, OR WHATEVER, CLEMSON VOLUNTEER.

13 THE COURT: I'M FROM THE UNIVERSITY OF
14 SOUTH CAROLINA. CLEMSON DON'T WORK A LOT.

15 JURY VENIRE MEMBER: SHE DON'T WORK DOWN
16 IN CLEMSON.

17 THE COURT: IF YOU'RE TELLING ME -- YOU'RE
18 UNDER OATH. IF YOU'RE TELLING ME THAT YOU ARE
19 KEEPING YOUR FIVE-YEAR-OLD SON AND THERE'S NOBODY TO
20 KEEP THE CHILD, I'LL EXCEPT THAT. I'LL EXCUSE YOU.

21 JURY VENIRE MEMBER: I'M BOBBY GOVAN.

22 THE COURT: YES, SIR.

23 JURY VENIRE MEMBER: AND I WOULD JUST LIKE
24 TO SAY THAT I'VE GOT TO KEEP MY MOUTH SHUT WHEN
25 ELECTED TO THE JURY.

1 THE COURT: WAIT A MINUTE, NOW. DON'T
2 TALK TOO MUCH. I SAY THAT NOT FACETIOUSLY. I DON'
3 WANT YOU TO SAY ANYTHING THAT WOULD PREJUDICE THIS
4 JURY IN ANY WAY EITHER FOR OR AGAINST THE STATE OF
5 SOUTH CAROLINA OR THIS DEFENDANT.

6 JURY VENIRE MEMBER: I WOULD JUST LIKE TO
7 SAY THAT I'M A DEACON AT HIS FAMILY CHURCH, AND I
8 DON'T THINK I COULD JUSTIFY --

9 THE COURT: OKAY. I WOULD ASK THAT
10 QUESTION LATER, BUT IF YOU TELL ME THAT BECAUSE OF
11 THAT RELATIONSHIP THAT YOU FEEL LIKE THAT YOUR
12 VERDICT MIGHT BE IMPAIRED IN SOME WAY --

13 JURY VENIRE MEMBER: RIGHT.

14 THE COURT: -- AND ASK TO BE EXCUSED, I
15 WILL EXCUSE YOU.

16 JURY VENIRE MEMBER: I WOULD LIKE TO BE
17 EXCUSED.

18 THE COURT: I DIDN'T MEAN TO BE RUDE TO
19 YOU.

20 JURY VENIRE MEMBER: THAT'S NOT RUDE.

21 THE COURT: I JUST WANTED TO MAKE SURE
22 THAT NOBODY SAID ANYTHING. YOU SEE, THROUGHOUT THESE
23 PROCEEDINGS, THERE IS ONE THING THAT WE ARE
24 INTERESTED IN, AND THAT IS THAT THIS DEFENDANT AND
25 THE PEOPLE OF CALHOUN COUNTY BOTH GET A FAIR AND

1 IMPARTIAL TRIAL. AND WE WANT TO MAKE SURE THAT
2 WHATEVER THE VERDICT IS, AT THE CONCLUSION OF THESE
3 PROCEEDINGS, IT SPEAKS THE TRUTH AND IS JUSTICE.

4 THE JURY, WHOEVER IS SELECTED, WILL BE THE
5 FINDERS OF THE FACTS. THEY WILL JUDGE THE
6 CREDIBILITY OF THE WITNESSES AND REACH THAT VERDICT.
7 SO IN EXAMINING ALL POTENTIAL JURORS, I WANT TO MAKE
8 SURE THAT NOTHING IS SAID THAT WOULD PREJUDICE
9 WHOEVER IS SELECTED ON THAT JURY. DO YOU UNDERSTAND?

10 JURY VENIRE MEMBER: I UNDERSTAND.

11 THE COURT: AND THAT'S THE REASON I
12 CAUTIONED YOU. I WANTED TO MAKE SURE THAT WE GET A
13 JURY WITH NO FRIENDS TO REWARD, NO ENEMIES TO PUNISH,
14 A JUROR WHO IS NOT RELATED TO ANYBODY INVOLVED IN THE
15 CASE, A JUROR WHO HAS NO PERSONAL CONNECTIONS WITH
16 ANYONE, A JUROR WHO CAN SAY, JUDGE, IF I'M SELECTED
17 ON THIS JURY, I CAN TELL YOU UPON MY OATH THAT THE
18 VERDICT THAT I REACH WILL BE BASED ON THE LAW AND THE
19 EVIDENCE HEARD IN THIS COURTROOM AND FROM NO OTHER
20 SOURCE. AND THAT'S WHY I WANT TO BE CAREFUL THAT THE
21 JURORS ONLY REACH A VERDICT BASED ON THE EVIDENCE
22 THAT I PERMIT IN THE TRIAL OF THE CASE. THANK YOU
23 FOR CALLING THIS TO MY ATTENTION.

24 JURY VENIRE MEMBER: THANK YOU.

25 THE COURT: THIS JUROR FOR THE REASONS

1 THAT THE RECORD WILL REFLECT IS EXCUSED.

2 YES, MA'AM.

3 JURY VENIRE MEMBER: I HAVE THIS
4 APPOINTMENT FOR BLOOD WORK, E.K.G. AND A MAMMOGRAM.

5 THE COURT: HOW LONG HAVE YOU HAD THIS
6 APPOINTMENT?

7 JURY VENIRE MEMBER: I'VE HAD IT FOR ABOUT
8 A MONTH NOW.

9 THE COURT: WHEN IS IT SCHEDULED?

10 JURY VENIRE MEMBER: IT'S SCHEDULED
11 SEPTEMBER 7TH.

12 THE COURT: 7TH? WHICH WOULD BE?

13 JURY VENIRE MEMBER: IT'S -- IT'S
14 THURSDAY.

15 THE COURT: IT'S THURSDAY.

16 JURY VENIRE MEMBER: AND IT'S E.K.G. AND
17 MAMMOGRAM AND BLOOD WORK.

18 THE COURT: I WON'T -- IF YOU'VE HAD IT
19 THAT LONG, I WOULD NOT ASK YOU TO CHANGE IT, AND I
20 KNOW YOU DON'T WISH TO.

21 JURY VENIRE MEMBER: YEAH. IT TAKES --
22 FOR THE MAMMOGRAM, IT TAKES A MONTH.

23 THE COURT: I WILL HAVE TO EXCUSE YOU
24 BECAUSE WE WILL BE STARTING THIS CASE HOPEFULLY ON
25 THURSDAY. YOU SEE -- YOU VERIFY THAT, MR. NEWSOME?

1 MR. NEWSOME: YES, SIR.

2 THE COURT: ALL RIGHT. THIS JUROR IS
3 EXCUSED. MA'AM? WHAT'S HER NAME, PLEASE?

4 JURY VENIRE MEMBER: EARTHA LARRIMORE.

5 MR. NEWSOME: EARTHA LARRIMORE.

6 THE CLERK: JUROR NUMBER 150.

7 THE COURT: ALL RIGHT. NOW, LADIES AND
8 GENTLEMEN, I'M GOING TO TAKE A BREAK HERE IN JUST A
9 MOMENT AND LET YOU GO OUT AND STRETCH A FEW MINUTES.

10 AS I HAVE INDICATED TO YOU NOW, THE TWELVE
11 JURORS AND TWO ALTERNATES WILL BE SEQUESTERED AND
12 STAY IN A MOTEL DURING THIS TRIAL. AND ANY OF YOU
13 WHO HAVE NOT PREVIOUSLY DISCUSSED IT, ANY OF YOU HAVE
14 ANY PROBLEMS WITH THE SEQUESTRATION, PLEASE COME
15 FORWARD.

16 ALL RIGHT. LET'S TAKE A BREAK FOR FIFTEEN
17 MINUTES. PLEASE BE BACK IN THE COURTROOM AT 12:30.
18 THANK YOU.

19 (WHEREUPON, A BREAK WAS TAKEN
20 FROM THE PROCEEDINGS.)

21 THE COURT: ALL RIGHT. TIME IS 12:33 P.M.
22 SOLICITOR, PLEASE CALL THE CASE.

23 MR. BAILEY: YOUR HONOR, COULD I GET THE
24 INDICTMENTS FROM THE COURT?

25 THE COURT: THESE ARE MY COPIES.

1 MR. BAILEY: NO, SIR. THOSE ARE THE
2 ORIGINALS.

3 THE COURT: SIR?

4 MR. BAILEY: THESE ARE THE ORIGINALS.

5 THE COURT: I THOUGHT SOMEBODY GAVE ME
6 COPIES.

7 THE CLERK: THESE ARE THE ORIGINALS.

8 THE COURT: WHAT HAPPENED TO THE COPIES?

9 MR. BAILEY: THESE ARE THE ONES I HANDED
10 UP.

11 THE COURT: OH, I THOUGHT I TOLD SOMEBODY
12 TO MAKE COPIES FOR ME. OKAY. CALL THE CASE AND THEN
13 HAND THEM BACK TO ME, PLEASE.

14 MR. BAILEY: STATE CALLS 94-GS-9-156,
15 CHARGING HERMAN HUGHES WITH GRAND LARCENY OF A
16 VEHICLE. THE STATE CALLS 94-GS-9-153, CHARGING
17 HERMAN HUGHES WITH ASSAULT AND BATTERY WITH INTENT TO
18 KILL. INDICTMENT 94-GS-9-155 CHARGES HERMAN HUGHES
19 WITH ARMED ROBBERY. 94-GS-9-154, CHARGING HERMAN
20 HUGHES WITH MURDER.

21 THE COURT: IS THE DEFENDANT READY FOR
22 TRIAL?

23 MR. NEWSOME: YES, YOUR HONOR, HE IS.

24 THE COURT: HAS ARRAIGNMENT BEEN
25 COMPLETED?

1 MR. BAILEY: YES, SIR, YOUR HONOR.

2 THE COURT: ALL RIGHT. YOU MAY BE SEATED.

3 LADIES AND GENTLEMEN, I HAVE IN MY HAND DOCUMENTS

4 PREVIOUSLY REFERRED TO AS INDICTMENTS. THESE

5 INDICTMENTS CONTAIN THE ALLEGATIONS AGAINST THE

6 DEFENDANT, HERMAN HUGHES, TO WHICH HE PLEADS NOT

7 GUILTY.

8 NOW, THESE INDICTMENTS, AS I INDICATED EARLIER,

9 ARE MERELY THE FORMAL MANNER BY WHICH THIS DEFENDANT

10 AND ANY DEFENDANT IS BROUGHT INTO COURT. THESE

11 INDICTMENTS CONTAIN CERTAIN ALLEGATIONS WHICH WILL BE

12 READ TO YOU OR EXPLAINED TO YOU DURING THE PROCESS OF

13 THIS TRIAL. THE ALLEGATIONS IN THESE INDICTMENTS ARE

14 NOT EVIDENCE. THEY ARE JUST ALLEGATIONS ONLY. THE

15 EVIDENCE, IF ANY, COMES FROM THIS WITNESS STAND UNDER

16 OATH AND FROM SUCH OTHER MATTERS AS MAY BE INTRODUCED

17 INTO THE TRIAL OF THIS CASE.

18 I'M GOING, NOW, TO READ TO YOU THE ALLEGATIONS

19 SO THAT YOU WILL HAVE SOME IDEA OF THE ALLEGATIONS

20 AGAINST THIS DEFENDANT, REMEMBERING THAT HE IS

21 PRESUMED INNOCENT AND HE PLEADS NOT GUILTY. I READ

22 THESE ALLEGATIONS TO YOU SO THAT YOU MAY RESPOND TO

23 FURTHER INQUIRY THAT I MAKE.

24 WITH REGARDS TO FIRST, DOES THE DEFENDANT

25 CONSENT TO THE TRIAL OF ALL OF THE INDICTMENTS AT ONE

1 TIME?

2 MR. NEWSOME: YES, YOUR HONOR, WE DO.

3 THE COURT: ALL RIGHT, SIR. THE
4 INDICTMENT, FIRST -- HAVE THE DEFENDANT, STAND,
5 PLEASE. MR. HUGHES, PLEASE STAND. FACE THE JURY.
6 YOU MAY NOW BE SEATED.

7 THIS INDICTMENT SAYS THAT HERMAN HUGHES DID IN
8 CALHOUN COUNTY ON MARCH THE 18TH OF 1994,
9 FELONIOUSLY, WILLFULLY AND WITH MALICE AFORETHOUGHT
10 KILL ONE KENNETH PRESLEY BY MEANS OF SHOOTING HIM
11 WITH A PISTOL AT OR NEAR THE BLUE DIAMOND CASINO IN
12 CALHOUN COUNTY, AND THAT THE SAID KENNETH PRESLEY DID
13 DIE IN RICHLAND COUNTY AS A PROXIMATE RESULT THEREOF
14 ON THE 18TH DAY OF MARCH, 1994. THAT IS THE
15 ALLEGATION WITH REGARDS TO THE OFFENSE OF MURDER.

16 THE NEXT INDICTMENT AND THE ALLEGATIONS ARE AS
17 TO ARMED ROBBERY. AND AS TO THAT INDICTMENT, IT SAYS
18 AS FOLLOWS: THAT HERMAN HUGHES DID IN CALHOUN COUNTY
19 ON OR ABOUT MARCH THE 18TH, 1994, WHILE ARMED WITH A
20 DEADLY WEAPON, TO WIT, A PISTOL, FELONIOUSLY TAKE
21 FROM THE PERSON OR PRESENCE OF THE VICTIM, KENNETH
22 PRESLEY, KELLY HOFFMAN, AND/OR THE DIAMOND CASINO BY
23 MEANS OF FORCE OR INTIMIDATION MONEY OR GOODS.

24 THE NEXT INDICTMENT READS WITH REGARD TO ASSAULT
25 AND BATTERY WITH INTENT TO KILL. AND EACH OF THESE

1 CHARGES AND DEFINITIONS THEREUPON WILL BE EXPLAINED
2 IN FULL BY ME AT THE APPROPRIATE STAGE OF THIS CASE.
3 THIS INDICTMENT CHARGES THAT HERMAN HUGHES DID IN
4 CALHOUN COUNTY ON MARCH THE 18TH, 1994, WITH MALICE
5 AFORETHOUGHT COMMIT AN ASSAULT AND BATTERY UPON ONE
6 KELLY HOFFMAN WITH THE INTENT TO KILL SAID VICTIM.

7 AND THE LAST INDICTMENT, ALL OF WHICH WILL BE
8 TRIED SIMULTANEOUSLY, REGARDS THE CHARGE OF GRAND
9 LARCENY OF A VEHICLE. AND THIS INDICTMENT SAYS AS
10 FOLLOWS: THAT HERMAN HUGHES DID IN CALHOUN COUNTY ON
11 MARCH THE 18TH OF 1994, FELONIOUSLY TAKE AND CARRY
12 AWAY THE PERSONAL PROPERTY OF ONE KENNETH PRESLEY, TO
13 WIT, A 1985 MAZDA OF THE VALUE OF MORE THAN \$1,000,
14 WITH THE INTENT TO DEPRIVE THE OWNER PERMANENTLY OF
15 SAID PROPERTY.

16 NOW, LADIES AND GENTLEMEN, AS I HAVE INDICATED
17 EARLIER, THE STATE OF SOUTH CAROLINA THROUGH ITS
18 ATTORNEY AND THE DEFENDANT THROUGH ITS ATTORNEY AND
19 THE ATTORNEY -- AND THE DEFENDANT HIMSELF ASKS OF US
20 TO SECURE TWELVE JURORS. AS I INDICATED EARLIER,
21 TWELVE JURORS WITH NO FRIENDS TO REWARD, NO ENEMIES
22 TO PUNISH, TWELVE JURORS WHO HAVE NOT READ OR HEARD
23 ANYTHING ABOUT THE CASE, OR IF THEY HAVE, CAN REMOVE
24 THAT FROM THEIR MINDS, TWELVE JURORS WHO ARE NOT
25 RELATED TO ANY OF THE PARTICIPANTS IN THE CASE. BOTH

1 THE STATE AND THE DEFENDANT DESIRE TWELVE JURORS WITH
2 NO BIAS OR PREJUDICE EITHER FOR OR AGAINST THE STATE
3 OF SOUTH CAROLINA OR FOR OR AGAINST THE DEFENDANT,
4 TWELVE JURORS WHO CAN SAY TO ME UPON THEIR OATH,
5 JUDGE, IF I AM SELECTED AS ONE OF THE JURORS, I CAN
6 PROMISE YOU THAT I WILL BASE MY VERDICT, WHATEVER IT
7 IS, ON THE LAW AND THE EVIDENCE HEARD IN THIS
8 COURTROOM IN THIS TRIAL AND FROM NO OTHER SOURCE.
9 AND OUR PROCEDURE WILL BE TO ENSURE THAT THIS
10 DEFENDANT AND THE STATE OF SOUTH CAROLINA AND THE
11 PEOPLE OF CALHOUN COUNTY SECURE SUCH A JURY.

12 NOW, AS I'VE INDICATED TO YOU EARLIER, THIS WILL
13 BE THE ONLY CASE TRIED DURING THIS TERM OF COURT, AND
14 THOSE 14 OF YOU WILL BE THE ONLY ONES REQUIRED TO
15 STAY AND TO REMAIN.

16 NOW, THE BRIEF REMARKS THAT I MAKE AT THIS TIME
17 ARE SERVED ONLY AS AN INTRODUCTION TO THE TRIAL OF
18 THIS CASE AND WILL NOT BE A SUBSTITUTE FOR THE
19 DETAILED INSTRUCTIONS OF THE LAW WHICH I WILL GIVE TO
20 YOU AT THE CONCLUSION OF THE TAKING OF THE TESTIMONY
21 AND THE SUMMATION OF COUNSEL.

22 AS YOU ARE WELL AWARE, NOW, THIS IS A CRIMINAL
23 CASE, WHICH I SOMETIMES REFER TO AS A PROSECUTION
24 AGAINST HERMAN HUGHES. THIS CASE IS BASED ON THESE
25 FOUR INDICTMENTS WHICH I HAVE READ TO YOU. AND

1 REMEMBER, NOW, THESE INDICTMENTS ARE IN NO SENSE ANY
2 EVIDENCE.

3 TO THESE FOUR INDICTMENTS, THIS DEFENDANT HAS
4 PLED NOT GUILTY, WHICH PLACES UPON THE STATE OF SOUTH
5 CAROLINA THE BURDEN OF PROVING EVERY ESSENTIAL
6 ELEMENT OF THESE CASES BEYOND A REASONABLE DOUBT.
7 AND THE PURPOSE OF THIS TRIAL IS TO DETERMINE WHETHER
8 OR NOT THE STATE HAS MET THAT BURDEN.

9 THIS DEFENDANT, AS ALL DEFENDANTS IN A CRIMINAL
10 CASE IN SOUTH CAROLINA, IS PRESUMED INNOCENT OF ALL
11 CHARGES CONTAINED IN THIS INDICTMENT -- OR THESE
12 INDICTMENTS, AND THE PRESUMPTION OF INNOCENCE REMAINS
13 WITH HIM THROUGHOUT THE TRIAL AND UNTIL YOU THE JURY
14 HAVE FOUND HIM GUILTY BY EVIDENCE TO YOUR
15 SATISFACTION BEYOND A REASONABLE DOUBT. THUS, IT IS
16 A PERSON CHARGED WITH COMMITTING A CRIMINAL OFFENSE
17 IN SOUTH CAROLINA IS NEVER, EVER REQUIRED TO PROVE
18 HIMSELF INNOCENT. THE STATE MUST PROVE HIM GUILTY
19 BEYOND A REASONABLE DOUBT. YOUR PURPOSE, THEREFORE,
20 AS JURORS, IS TO FIND AND DETERMINE THE FACTS, TO
21 FIND AND TO DETERMINE THE TRUTH AS TO WHAT HAPPENED.

22 UNDER OUR SYSTEM OF CRIMINAL PROCEDURE, YOU AND
23 YOU ALONE ARE THE SOLE AND ONLY JUDGES OF THE FACTS
24 IN THIS CASE. THERE IS NOBODY ELSE IN THIS WIDE
25 WORLD THAT CAN TELL THE SELECTED JURY WHAT THE FACTS

1 ARE IN THIS CASE. AND IN THAT CONNECTION, I WANT TO
2 EMPHASIZE TO YOU AS STRONG AS I CAN, IF DURING THE
3 TRIAL OF THIS CASE ANY WORD, RULING OR MANNERISM OF
4 MINE MIGHT TEND TO INDICATE TO YOU HOW I FEEL ABOUT
5 ANY FACTUAL SITUATION, PLEASE DISMISS THAT FROM YOUR
6 MINDS. JUDGE COTTINGHAM IS NOT ENTITLED TO A FACTUAL
7 OPINION, AND I HAVE NONE. THAT IS TOTALLY,
8 EXCLUSIVELY WITHIN THE PROVINCE OF THE JURY.

9 AND AS FINDERS OF THE FACTS, YOU ARE THE SOLE
10 AND ONLY JUDGES OF THE CREDIBILITY, MEANING THE
11 BELIEVABILITY, OF EACH OF THE WITNESSES WHO TESTIFY.
12 YOU MAY BELIEVE ALL OF WHAT A WITNESS SAYS OR NONE.
13 YOU MAY BELIEVE A SMALL PORTION AND DISREGARD THE
14 LARGER OR THE OTHER WAY AROUND. YOU MAY BELIEVE, IF
15 YOU CHOOSE, ONE WITNESS AGAINST THAT OF MANY.

16 YOU KNOW, YOU DON'T LEAVE YOUR COMMON SENSE ON
17 THE STREETS OF ST. MATTHEWS WHEN YOU WALK INTO THIS
18 COURTROOM. AND WE ALL KNOW THAT IN EVERYDAY LIFE, WE
19 ARE CALLED UPON TO MAKE DECISIONS. AND WHEN PEOPLE
20 TELL US THINGS, WE GO INTO A PROCESS SIMILAR TO WHAT
21 YOU WOULD EXERCISE HERE. WE SIZE THEM UP. WE ASK
22 OURSELVES, HOW DID THIS PERSON COME TO KNOW ABOUT THE
23 FACTS THEY ARE TELLING YOU? IN OTHER WORDS, DO THEY
24 KNOW WHAT THEY ARE TALKING ABOUT? WE ASK OURSELVES,
25 DOES THIS PERSON HAVE SOME REASON TO BE BIASED OR

1 PREJUDICED WITH REGARDS TO WHAT THEY ARE TELLING ME?
2 IN OTHER WORDS, IS THIS PERSON TELLING ME SOMETHING
3 THAT'S NOT THE TRUTH, AND IF NOT THE TRUTH, WHY NOT?
4 THESE ARE THE TYPE OF THINGS THAT YOU WOULD BRING TO
5 BEAR AS YOU JUDGE THE CREDIBILITY AND THE
6 BELIEVABILITY OF THE WITNESSES. OTHERWISE, USE YOUR
7 COMMON SENSE AND EXPERIENCES IN LIFE IN JUDGING
8 CREDIBILITY AND BELIEVABILITY.

9 BECAUSE IT IS THAT YOU WILL BASE YOUR FINDINGS
10 OF FACTS, YOUR FINDING OF WHERE THE TRUTH LIES, BASED
11 ON SUCH PORTION OF A WITNESS'S TESTIMONY, IF AT ALL,
12 THAT YOU CARE TO BELIEVE OR DISBELIEVE. AGAIN, THE
13 CREDIBILITY AND THE BELIEVABILITY OF ALL OF THE
14 WITNESSES WHO TESTIFY ARE SOLELY AND EXCLUSIVELY THE
15 PROVINCE OF THE JURY.

16 NOW, IT IS ESPECIALLY IMPORTANT THAT YOU PERFORM
17 YOUR DUTY OF DETERMINING THE FACTS DILIGENTLY AND
18 CONSCIENTIOUSLY, AS I KNOW THAT YOU WILL, FOR
19 ORDINARILY, THERE IS NO MEANS FOR CORRECTING AN
20 ERRONEOUS FINDING OF THE FACT BY THE JURY. ON THE
21 OTHER HAND AND WITH EQUAL EMPHASIS, I INSTRUCT YOU
22 THAT THE LAW AS GIVEN BY THIS COURT CONSTITUTES THE
23 ONLY LAW FOR YOUR GUIDANCE, AND IT IS YOUR DUTY UNDER
24 YOUR OATH TO ACCEPT THE LAW OF THIS CASE AS I CHARGE
25 IT TO YOU.

1 IT IS YOUR DUTY TO FOLLOW THE LAW AS I GIVE IT
2 TO YOU, EVEN THOUGH YOU OR I, FOR THAT MATTER, MIGHT
3 DISAGREE WITH WHAT THE LAW IS OR OUGHT TO BE. FOR
4 THE PURPOSE OF THIS TRIAL, I AM MADE THE INSTRUCTOR
5 OF THE LAW BY THE CONSTITUTION OF THIS STATE, AND YOU
6 ARE REQUIRED TO FOLLOW THE LAW, REMEMBERING AT ALL
7 TIMES, HOWEVER, THAT YOU ARE THE FINDERS OF THE
8 FACTS, AND YOU WOULD APPLY THE FACTS AS YOU FIND THEM
9 TO BE TO THE LAW AS I INSTRUCT IT TO YOU TO REACH
10 THAT VERDICT THAT SIMPLY DOES JUSTICE AND THAT
11 VERDICT THAT SIMPLY SPEAKS THE TRUTH.

12 NOW, AS I HAVE INDICATED TO YOU, I WILL MORE
13 FULLY AND COMPLETELY STATE THE LAW AND THE PRINCIPLES
14 OF LAW THAT ARE APPLICABLE TO THESE INDICTMENTS LATER
15 ON DURING THE TRIAL OF THIS CASE. THERE ARE CERTAIN
16 PRINCIPLES OF LAW APPLICABLE TO THE FRAMEWORK OF
17 EVERY CASE IN A GENERAL SESSIONS COURT, AND I WILL AT
18 THIS TIME OUTLINE SEVERAL OF THESE BASIC PRINCIPLES
19 FOR YOUR GUIDANCE.

20 YOU MUST NOT CONSIDER ANYTHING YOU MAY HAVE READ
21 OR HEARD ABOUT THIS CASE OUTSIDE THE COURTROOM,
22 WHETHER BEFORE OR DURING THE TRIAL. FROM THIS POINT
23 ON, I WOULD INSTRUCT YOU NOT TO READ OR LISTEN TO ANY
24 NEWSPAPER, RADIO OR TV ABOUT ANY ISSUE IN THE CASE.
25 IF SOMETHING COMES UP IN THE MORNING'S PAPER, PLEASE

1 TURN IT ASIDE. I WANT THIS JURY TO BASE THE VERDICT
2 ON WHAT'S IN THIS COURTROOM.

3 NOW, UNTIL THE CASE IS SUBMITTED TO YOU WHO
4 WOULD HAVE BEEN SELECTED ON THE JURY, YOU MUST NOT
5 DISCUSS IT WITH ANYONE, EVEN YOUR FELLOW JURORS.
6 AFTER IT IS SUBMITTED TO YOU, YOU MUST DISCUSS IT
7 ONLY IN THE JURY ROOM WITH YOUR FELLOW JURORS. IT IS
8 IMPORTANT THAT YOU KEEP AN OPEN MIND AND NOT TO
9 DECIDE ANY ISSUE IN THIS CASE UNTIL THE ENTIRE CASE,
10 BOTH SIDES, HAS BEEN SUBMITTED TO YOU.

11 FOR MANY OF YOU, THIS IS THE FIRST TIME THAT
12 YOU'VE BEEN IN A COURTROOM. AS I INDICATED BEFORE,
13 NOW, SOME OF YOU MAY HAVE WATCHED MATLOCK OR COURT TV
14 OR THE O.J. SIMPSON TRIAL OR WHATNOT. YOU DISMISS
15 ALL OF THAT FROM YOUR MINDS. WE DO THINGS
16 DIFFERENTLY HERE IN THIS COURTHOUSE AND IN OUR STATE
17 AND IN MOST STATES, AND WE MOVE EXPEDITIOUSLY, WE
18 LIKE TO THINK. WE GIVE THE STATE OF SOUTH CAROLINA
19 AND THE VICTIMS A FULL AND FAIR OPPORTUNITY TO
20 PRESENT THEIR POSITION. WITH EQUAL IMPORTANCE, WE
21 ALSO GIVE THE DEFENDANT A FAIR AND FULL OPPORTUNITY
22 TO PRESENT ANY ISSUES THAT RELATE TO ANY QUESTIONS IN
23 THE TRIAL OF THIS CASE.

24 NOW, WE WILL PROCEED IN THAT THE SOLICITOR, WHO
25 IS CHARGED WITH THE PROSECUTION OF THIS CASE, WILL

1 MAKE AN OPENING STATEMENT, A SHORT STATEMENT
2 OUTLINING TO YOU THE POSITION OF THE STATE AND WHAT
3 HE INTENDS TO PROVE AS A GUIDELINE TO HELP YOU FOLLOW
4 THE EVIDENCE.

5 FOLLOWING THAT OPENING STATEMENT BY SOLICITOR
6 BAILEY, MR. NEWSOME, PHILLIP NEWSOME, WHO REPRESENTS
7 THE DEFENDANT, WILL GIVE YOU AN OPENING STATEMENT AS
8 TO HIS POSITION SO THAT YOU MAY AGAIN FOLLOW THE CASE
9 BY GUIDELINES.

10 FOLLOWING THESE OPENING STATEMENTS, WE WILL THEN
11 CALL THE WITNESSES. THE STATE OF SOUTH CAROLINA,
12 THROUGH MR. BAILEY, WILL CALL SUCH WITNESSES AS HE
13 DEEMS ARE APPROPRIATE FOR YOUR CONSIDERATION. AND
14 THEN THE DEFENSE MAY CALL SUCH WITNESSES AS IT DEEMS
15 APPROPRIATE. AT THAT TIME, AFTER THE CONCLUSION OF
16 ALL OF THE TESTIMONY, EACH LAWYER WILL MAKE A FINAL
17 SUMMATION, AND I WILL THEN GIVE YOU THE APPROPRIATE
18 LAW REGARDING EACH OF THESE INDICTMENTS.

19 IT IS AT THAT TIME THAT YOU THEN WILL RETIRE,
20 CONSIDER THE TESTIMONY AND OTHER MATTERS INTRODUCED
21 IN THE TRIAL OF THE CASE AND THEREAFTER REACH YOUR
22 VERDICT AS TO GUILT OR INNOCENCE ONLY. YOU WILL AT
23 THAT TIME NOT BE CONCERNED WITH ANY SENTENCE.

24 IN A CASE WHERE THE STATE OF SOUTH CAROLINA
25 SEEKS THE PENALTY OF DEATH, AS THEY DO IN THIS CASE,

1 WE HAVE WHAT IS KNOWN AS A BIFURCATED SYSTEM OR A TWO
2 TRIAL SYSTEM. THE FIRST TRIAL IS DEVOTED SOLELY AND
3 EXCLUSIVELY TO THE QUESTION OF GUILT OR INNOCENCE.
4 IF THE DEFENDANT IS FOUND INNOCENT IN THE FIRST PART
5 OR FIRST PHASE, YOU STOP RIGHT THERE. IF -- AND I
6 USE THE WORD ADVISEDLY -- IF THE DEFENDANT IS FOUND
7 GUILTY, THEN WE WILL GO TO THE SECOND STAGE, WHICH IS
8 THE SENTENCING STAGE. IT IS AT THAT TIME THAT THE
9 JURY WILL CONSIDER WHETHER OR NOT BASED ON THE LAW
10 AND THE EVIDENCE IN THE CASE THE DEFENDANT SHOULD BE
11 SENTENCED TO LIFE IMPRISONMENT OR TO DEATH.

12 IT IS IN THE SECOND STAGE THAT THE STATE WILL
13 PRESENT SUCH AGGRAVATING CIRCUMSTANCES AS THEY
14 DESIRE, AND THIS WILL BE FULLY EXPLAINED TO YOU. AND
15 IT IS IN THE SECOND PHASE, IF WE GET TO THE SECOND
16 PHASE, THAT THE DEFENDANT WILL BE PERMITTED TO GIVE
17 TO YOU SUCH MITIGATING CIRCUMSTANCES AS ARE
18 APPROPRIATE. AND ALL OF THIS WILL BE EXPLAINED FULLY
19 TO YOU BY ME AT THAT APPROPRIATE SENTENCING STAGE IN
20 THE EVENT THAT WE GET TO THAT PART OF THE CASE.

21 NOW, AS I'VE INDICATED TO YOU, THE ATTORNEYS FOR
22 THE STATE WILL BE TRYING TO CONVINCING YOU TO RECOMMEND
23 THE DEATH PENALTY, AND THE ATTORNEYS FOR THE
24 DEFENDANT WILL BE TRYING TO RECOMMEND TO YOU TO
25 CONVINCING YOU THAT A LIFE IN PRISON IS THE APPROPRIATE

1 SENTENCE. ALTHOUGH I USE THE WORD "RECOMMEND", YOU
2 SHOULD DISTINCTLY UNDERSTAND THAT WHATEVER YOU THE
3 JURY RECOMMENDS TO ME WILL BE THE SENTENCE OF THIS
4 COURT.

5 NOW, LADIES AND GENTLEMEN, IN A CASE WHERE THE
6 STATE SEEKS THE DEATH PENALTY, AS IN THIS ONE,
7 INDIVIDUAL VOIR DIRE OR QUESTIONING OF THE JURY IS
8 PERMITTED BY THE COURT, THE ATTORNEY FOR THE STATE
9 AND THE ATTORNEY FOR THE DEFENDANT SO THAT A JURY MAY
10 BE IMPANELLED COMPOSED OF MEN AND WOMEN QUALIFIED AND
11 COMPETENT TO JUDGE THE FACTS IN ISSUE WITHOUT BIAS,
12 WITHOUT PREJUDICE AND WITHOUT PARTIALITY, AND JURORS
13 WHO DO NOT HAVE ANY PRECONCEIVED OPINIONS RELATING TO
14 THIS CASE.

15 NOW, LISTEN TO ME VERY CAREFULLY IN THE MANNER
16 IN WHICH WE WILL BE PROCEEDING. IN ORDER TO
17 ACCOMPLISH THIS PURPOSE, I AM HAVING PANELS OF 15
18 PEOPLE DRAWN. WE WILL FIRST BEGIN QUALIFICATIONS OF
19 PANEL NUMBER 1 AFTER LUNCH, AND EACH PANEL THEREAFTER
20 WILL BE SELECTED AND ASKED TO RETURN IN INCREMENTS OF
21 TWO-AND-A-HALF HOURS. I DO THIS IN THIS WAY SO AS I
22 WILL NOT KEEP THE WHOLE JURY PANEL HERE. WE WILL BE
23 SELECTING PANELS 1 THROUGH 5. I WILL GIVE YOU AFTER
24 LUNCH THE TIME THAT PANEL 1 WILL APPEAR. WE WILL BE
25 ASKING INDIVIDUAL QUESTIONS THERE, AND THEN PANEL 2

1 WILL BE TWO-AND-A-HALF HOURS LATER, AND WE WILL GO
2 ON. THAT WAY ALL OF YOU WILL NOT BE REQUIRED TO SIT
3 HERE.

4 AS I INDICATED, I KNOW FULL WELL THAT WE ARE
5 INCONVENIENCING YOU FINE CITIZENS OF CALHOUN COUNTY,
6 AND WE'RE TRYING TO INCONVENIENCE YOU AS LITTLE AS WE
7 CAN, ALTHOUGH THIS IS AN ARDUOUS PROCESS AND JUST
8 TAKES SOME LITTLE TIME.

9 NOW, ONCE THE PANELS HAVE BEEN DRAWN, THE JURORS
10 INDIVIDUALLY WILL BE CALLED INTO THE WITNESS STAND
11 AND ASKED TO SIT HERE AND WE WILL BE QUESTIONING YOU
12 UNDER OATH. OBVIOUSLY, THERE WILL BE NO QUESTIONS
13 ASKED OF ANY JUROR WHICH WOULD EMBARRASS ANYONE IN
14 ANY WAY. NOBODY IS HERE TO EMBARRASS ANYONE, AND
15 THAT CERTAINLY WOULD NOT OCCUR. AT THE CONCLUSION OF
16 THIS EXAMINATION, THE JURY WILL BE -- JUROR WILL BE
17 EXCUSED AND ASKED TO RETURN AT 2:30 ON THURSDAY FOR
18 FURTHER CONSIDERATION.

19 NOW, AT THIS TIME, I INSTRUCT YOU NOW THAT YOU
20 MUST NOT IN ANY WAY WHATSOEVER COMMUNICATE OR DISCUSS
21 WITH ANY OF YOUR FELLOW JURORS THE QUESTIONS THAT WE
22 MAY ASK OF YOU WHEN YOU LEAVE THE JURY ROOM. JURORS,
23 BEING HUMAN, WILL SAY, WELL, WHAT ALL DID THEY ASK
24 YOU? YOU ARE NOT PERMITTED TO DISCUSS ANY ASPECT OF
25 THAT EXAMINATION WITH ANY OTHER JUROR OR WITH ANY

1 OTHER PERSON. YOU WOULD BE IN VIOLATION OF YOUR OATH
2 IF YOU DID SO.

3 NOW, AS I TOLD YOU, THE TWELVE JURORS AND TWO
4 ALTERNATES WILL BE SEQUESTERED IN AN APPROPRIATE
5 MOTEL. IF YOU ARE SELECTED, I WILL, OF COURSE,
6 PROVIDE YOU WITH APPROPRIATE TELEPHONE CONVERSATIONS
7 WITH YOUR FAMILY AND BUSINESS WHEN THE COURT IS NOT
8 IN SESSION. ALL OF YOU WILL BE UNDER SUPERVISION OF
9 THE BAILIFFS OF THIS COURT AND THE AGENTS OF THE
10 SOUTH CAROLINA LAW ENFORCEMENT DIVISION.

11 NOW, DURING THE PANEL SELECTION, AND THIS WILL
12 TAKE PLACE UPON YOUR RETURN FROM LUNCH, IT WILL BE
13 IMPORTANT THAT EACH OF YOU REMEMBER THE PANEL NUMBER
14 TO WHICH YOU HAVE BEEN ASSIGNED. AND I WILL AGAIN
15 DISCUSS THIS WITH YOU AFTER LUNCH.

16 NOW, LADIES AND GENTLEMEN, PLEASE BE ASSURED
17 THAT YOUR DUTIES AS JURORS WILL BE FULLY EXPLAINED TO
18 YOU AS WE PROCEED IN THE TRIAL OF THIS. MAKE NO
19 MISTAKE ABOUT IT. I UNDERSTAND YOU MAY SAY, MY
20 GOODNESS, I'VE NEVER BEEN IN A COURTROOM LIKE THIS.
21 I'M CONFRONTED WITH ALL OF THESE MATTERS. WHAT SHALL
22 I DO? YOU BE ASSURED THAT I WILL KEEP YOU FULLY
23 INFORMED OF YOUR DUTIES. THE STATE OF SOUTH CAROLINA
24 HAS AN EXCELLENT PROSECUTING ATTORNEY. MR. NEWSOME
25 IS A SPLENDID ATTORNEY. THEY TOO WILL FULLY ADVISE

1 YOU AS WE GO ALONG.

2 PLEASE UNDERSTAND THAT I WILL ACCOMMODATE YOU
3 THE JURY IN EVERY POSSIBLE WAY CONSISTENT WITH THE
4 LAW OF OUR STATE. THIS PROCESS, NOW, WILL TAKE SOME
5 TIME TO ACCOMPLISH. I DO ASK YOUR PATIENCE AND YOUR
6 UNDERSTANDING, AND I EXTEND TO YOU EVEN NOW MY
7 APPRECIATION FOR YOUR PATIENCE AND GOOD HUMOR THAT
8 YOU HAVE DEMONSTRATED THUS FAR.

9 NOW, LADIES AND GENTLEMEN, AS I INDICATED, WE
10 WILL BE ASKING OF YOU CERTAIN QUESTIONS ON VOIR DIRE
11 INDIVIDUALLY. THERE ARE CERTAIN QUESTIONS THAT I CAN
12 ASK OF YOU AT THIS TIME. AND IF THESE QUESTIONS
13 PERTAIN TO YOUR SITUATION, PLEASE STAND AND GIVE ME
14 YOUR NUMBER AS YOU DID EARLIER.

15 PRIOR TO BEGINNING THIS, NOW, I ADVISED ALL
16 MEMBERS OF THE JURY THAT THE 14 SELECTED WOULD BE
17 SEQUESTERED HOPEFULLY BEGINNING THURSDAY NIGHT TO THE
18 MIDDLE OF NEXT WEEK. I INQUIRED EARLIER, BUT I WANT
19 TO MAKE SURE, NOW. DOES ANYBODY HAVE ANY SIGNIFICANT
20 PROBLEMS WITH SEQUESTRATION THAT I'VE NOT ALREADY
21 ADDRESSED? ONCE YOU GET ON THE JURY, IT'S TOO LATE,
22 SO IF ANYBODY HAS ANY OTHER PROBLEMS THAT WOULD
23 PREVENT THEM FROM BEING SEQUESTERED FOR THE PERIOD OF
24 TIME THAT I'VE INDICATED, PLEASE COME FORWARD AND LET
25 ME DISCUSS IT WITH YOU NOW. (NO RESPONSE.)

1 ALL RIGHT.

2 JURY VENIRE MEMBER: YOUR HONOR --

3 THE COURT: NOW -- YES, COME FORWARD.

4 JURY VENIRE MEMBER: ISRAEL MATTHEWS.

5 THE COURT: SIR?

6 JURY VENIRE MEMBER: ISRAEL MATTHEWS. I'M
7 A FRIEND OF THE FAMILY.

8 THE COURT: WAIT A MINUTE. I HAVEN'T GOT
9 TO THAT YET. THE ONLY THING I'M CONCERNED WITH --
10 I'M GOING TO BE ASKING ABOUT FRIENDS OF THE FAMILY
11 AND ALL THAT IN JUST A MINUTE. THE ONLY THING I HAVE
12 RIGHT NOW, DOES ANYBODY HAVE ANY PROBLEMS WITH
13 STAYING IN THE JURY ROOM IF THEY HAVE TO? I'LL ASK
14 -- AND I APPRECIATE YOUR -- I'LL ASK YOU ABOUT THAT
15 IN JUST A MOMENT. OKAY.

16 OKAY. NOW, FIRST -- AND THIS WOULD BE FOR MY
17 INFORMATION -- I'M GOING TO CALL A LIST OF WITNESSES
18 WHO MAY BE CALLED IN THE TRIAL OF THIS CASE, AND AS
19 THE NAME IS CALLED, I WANT TO INQUIRE, ARE ANY OF YOU
20 KIN TO OR RELATED TO THESE PEOPLE OR DO YOU HAVE ANY
21 CLOSE PERSONAL RELATIONSHIP WITH THESE POTENTIAL
22 WITNESSES?

23 LUCILLE HODGINS. IF SO, PLEASE STAND. IF
24 ANYBODY HAS ANY CLOSE RELATIONSHIP OR KIN TO LUCILLE
25 HODGINS.

1 MR. BAILEY: EXCUSE ME, YOUR HONOR. I
2 THINK IT'S LUCILLE HUGHES.

3 THE COURT: HUGHES. I'M SORRY. HUGHES.
4 LUCILLE HUGHES. ANYBODY? (NO RESPONSE.)

5 MIRANDA HUGHES SINGLETARY, BARBARA JOHNSON,
6 WILBUR KIPPS, DANNY KIRKLAND.

7 JURY VENIRE MEMBER: YOUR HONOR, WAS THAT
8 DANNY KIRKLAND?

9 THE COURT: YES, SIR.

10 JURY VENIRE MEMBER: YES, SIR. THAT'S MY
11 BROTHER-IN-LAW.

12 THE COURT: THAT IS YOUR BROTHER-IN-LAW.
13 AND WHAT IS YOUR NAME?

14 JURY VENIRE MEMBER: ROBERT CARROLL.

15 THE COURT: I ACCEPT THAT AS INFORMATION.
16 MR. NEWSOME, ANY FURTHER INQUIRY ON THAT ISSUE AT
17 THIS TIME?

18 MR. NEWSOME: NOT AT THIS TIME, YOUR
19 HONOR.

20 THE COURT: HOW ABOUT IT, SOLICITOR
21 BAILEY?

22 MR. BAILEY: NO, SIR.

23 THE COURT: ALL RIGHT, SIR. PHILLIP
24 WRIGHT.

25 YES.

1 JURY VENIRE MEMBER: THAT'S MY SECOND
2 COUSIN.

3 THE COURT: SECOND COUSIN?

4 JURY VENIRE MEMBER: YEAH.

5 THE COURT: WHAT'S YOUR NAME?

6 JURY VENIRE MEMBER: WILLIAM WHITE.

7 THE COURT: ALL RIGHT, SIR. WE WILL MAKE
8 FURTHER INQUIRY IF NECESSARY.

9 ANYONE ELSE AS TO THAT?

10 JURY VENIRE MEMBER: YES.

11 THE COURT: YOUR NAME?

12 JURY VENIRE MEMBER: ANNIE MAE WHITE.

13 THE COURT: AND WHAT WAS YOUR RESPONSE?

14 JURY VENIRE MEMBER: ALSO FAMILY OF
15 PHILLIP WRIGHT.

16 THE CLERK: 282 AND 280.

17 THE COURT: YOU ARE A MEMBER OF THE
18 FAMILY? WHAT RELATIONSHIP ARE YOU PERSONALLY TO
19 PHILLIP WRIGHT?

20 JURY VENIRE MEMBER: I'M MARRIED TO THE
21 FAMILY. THIS IS MY HUSBAND.

22 THE COURT: YOU ARE THE WIFE OF THE
23 COUSIN?

24 JURY VENIRE MEMBER: SHE'S MY WIFE. I'M
25 THE COUSIN. SHE'S MY WIFE.

1 THE COURT: OKAY. I'VE GOT IT. THANK
2 YOU.

3 HENRY DANIEL OWENS, SR. DID I MISS -- YES.

4 JURY VENIRE MEMBER: I'M PHILLIP WRIGHT'S
5 COUSIN TOO.

6 THE COURT: COUSIN? AND YOUR NAME,
7 PLEASE.

8 JURY VENIRE MEMBER: JENNIFER WHITE
9 KELLER.

10 THE COURT: OKAY. ALL RIGHT. HENRY
11 DANIEL OWENS, SR.

12 JURY VENIRE MEMBER: THAT'S MY UNCLE.

13 THE COURT: PARDON?

14 JURY VENIRE MEMBER: THAT'S MY UNCLE.

15 THE COURT: AND YOUR NAME, PLEASE.

16 JURY VENIRE MEMBER: JACQUELINE PEARCE.

17 THE COURT: ALL RIGHT. THANK YOU SO MUCH.
18 AND HENRY DANIEL OWENS, JR., THAT WOULD BE YOUR
19 COUSIN, I TAKE IT?

20 JURY VENIRE MEMBER: YES.

21 THE COURT: ALL RIGHT. DON'T -- WHO IS
22 THIS, DONNA SWARTZ WATTS, SOLICITOR?

23 MR. BAILEY: THAT IS -- SHE'S A WITNESS,
24 BUT SHE'S A PHYSICIAN. THAT'S FURTHER DOWN THE LINE.

25 THE COURT: PARDON ME?

1 THE COURT: OKAY. I'VE GOT IT. THANK
2 YOU.

3 HENRY DANIEL OWENS, SR. DID I MISS -- YES.

4 JURY VENIRE MEMBER: I'M PHILLIP WRIGHT'S
5 COUSIN TOO.

6 THE COURT: COUSIN? AND YOUR NAME,
7 PLEASE.

8 JURY VENIRE MEMBER: JENNIFER WHITE
9 KELLER.

10 THE COURT: OKAY. ALL RIGHT. HENRY
11 DANIEL OWENS, SR.

12 JURY VENIRE MEMBER: THAT'S MY UNCLE.

13 THE COURT: PARDON?

14 JURY VENIRE MEMBER: THAT'S MY UNCLE.

15 THE COURT: AND YOUR NAME, PLEASE.

16 JURY VENIRE MEMBER: JACQUELINE PEARCE.

17 THE COURT: ALL RIGHT. THANK YOU SO MUCH.
18 AND HENRY DANIEL OWENS, JR., THAT WOULD BE YOUR
19 COUSIN, I TAKE IT?

20 JURY VENIRE MEMBER: YES.

21 THE COURT: ALL RIGHT. DON'T -- WHO IS
22 THIS, DONNA SWARTZ WATTS, SOLICITOR?

23 MR. BAILEY: THAT IS -- SHE'S A WITNESS,
24 BUT SHE'S A PHYSICIAN. THAT'S FURTHER DOWN THE LINE.

25 THE COURT: PARDON ME?

1 MR. BAILEY: SHE'S FURTHER DOWN THE LINE.

2 THE COURT: KELLY HOFFMAN. YES, MA'AM.

3 KELLY HOFFMAN. LET'S START WITH YOU, PLEASE.

4 JURY VENIRE MEMBER: MY NAME IS PHYLLIS
5 MCCANTS. I'M JUROR 168. I'VE BEEN A FRIEND OF THAT
6 FAMILY FOR OVER 25 YEARS.

7 THE COURT: WHAT RELATIONSHIP? YOU MEAN
8 THE HOFFMANS?

9 JURY VENIRE MEMBER: NO RELATIONSHIP OTHER
10 THAN CLOSE FRIENDS.

11 THE COURT: KELLY HOFFMAN?

12 JURY VENIRE MEMBER: YES, SIR.

13 THE COURT: WELL, HE'S JUST A POTENTIAL
14 WITNESS.

15 JURY VENIRE MEMBER: SHE IS.

16 THE COURT: THAT WOULD NOT BE A BASIS FOR
17 RECUSAL, BUT THANK YOU FOR CALLING IT TO MY
18 ATTENTION.

19 YOUR NAME.

20 JURY VENIRE MEMBER: MARGARET HOFFMAN,
21 UMBER 103.

22 THE COURT: YES, MA'AM.

23 JURY VENIRE MEMBER: I WAS A PART OF THAT
24 FAMILY FOR EIGHT YEARS.

25 THE COURT: ALL RIGHT. YOU'RE NOT NOW?

1 JURY VENIRE MEMBER: NO.

2 THE COURT: THANK YOU. BETTY SPEIER.

3 WHAT IS THE LAST NAME?

4 MR. BAILEY: KELSEY PEARCE.

5 THE COURT: KELSEY PEARCE. ANYBODY?

6 JURY VENIRE MEMBER: THAT'S MY COUSIN.

7 THE COURT: YOUR COUSIN?

8 JURY VENIRE MEMBER: YES.

9 THE COURT: ALL RIGHT. AND YOUR NAME WAS?

10 JURY VENIRE MEMBER: JACQUELINE PEARCE.

11 THE COURT: ALL RIGHT. THANK YOU. ALL

12 RIGHT. ANY OTHER INQUIRY ON THE WITNESS LIST, MR.

13 BAILEY?

14 MR. BAILEY: NO, SIR, YOUR HONOR.

15 THE COURT: HOW ABOUT IT? HAVE YOU GOT

16 ANY INQUIRY, MR. NEWSOME?

17 MR. NEWSOME: TWO MORE.

18 MR. BAILEY: TWO PEOPLE THAT THE DEFENSE

19 HAVE ON THE WITNESS LIST. WAYNE GILMORE AND RONNIE

20 GILMORE.

21 THE COURT: WAYNE GILMORE AND RONNIE

22 GILMORE, POTENTIAL WITNESSES. ANYBODY HAVE ANY CLOSE

23 PERSONAL -- ALL RIGHT. YOUR NAME?

24 JURY VENIRE MEMBER: LATOYA LOGAN, 157.

5 THE COURT: AND WHAT IS YOUR RESPONSE?

1 JURY VENIRE MEMBER: HE'S MY COUSIN, BOTH
2 OF THEM.

3 THE COURT: THANK YOU.

4 JURY VENIRE MEMBER: BOTH OF THEM ARE MY
5 COUSIN. JENNIFER WHITE.

6 THE COURT: ALL RIGHT. THANK YOU SO MUCH.
7 ALL RIGHT. I WOULD ASK AT THIS TIME, PLEASE, THAT
8 THE DEFENDANT, HERMAN HUGHES, PLEASE STAND. MR.
9 HUGHES, PLEASE STAND. FACE THE PANEL FOR ME. THE
10 DEFENDANT HERE STANDS DIRECTLY IN FRONT OF ME, MR.
11 HERMAN HUGHES. MR. HUGHES, PLEASE BE SEATED.

12 ARE ANY OF YOU RELATED BY BLOOD, CONNECTED BY
13 MARRIAGE OR HAVE ANY CLOSE SOCIAL OR OTHER
14 RELATIONSHIP WITH THIS DEFENDANT? PLEASE STAND.
15 SEVERAL OF YOU HAD INDICATED THAT YOU WERE CLOSE
16 MEMBERS OF THE FAMILY. COME FORWARD, PLEASE. COME
17 FORWARD. I NEED TO KNOW NOW -- I WANT EVERYBODY WHO
18 IS RELATED BY BLOOD OR CONNECTED BY MARRIAGE WITH MR.
19 HERMAN HUGHES OR ANYBODY WHO HAS ANY CLOSE PERSONAL
20 RELATIONSHIP WITH HIM OR HIS FAMILY, BE IT FRIEND,
21 NEIGHBORS, CHURCH RELATIONS OR WHATEVER, PLEASE COME
22 FORWARD. NOW IS THE TIME FOR ME TO MAKE INQUIRY.

23 NOW, EXCUSE ME, GENTLEMEN -- LADIES AND
24 GENTLEMEN, I'M WAITING FOR EVERYBODY TO COME FORWARD.
25 NOW, THIS IS VERY IMPORTANT. IF THERE'S ANY QUESTION

1 IN YOUR MIND ABOUT IT, PLEASE COME FORWARD SO THAT WE
2 CAN DISCUSS IT AT THIS TIME. THIS WILL SAVE US A LOT
3 OF TIME IN THE FUTURE.

4 ALL RIGHT. WE'LL START, SIR, WITH YOU. PLEASE
5 GIVE ME YOUR NAME.

6 JURY VENIRE MEMBER: ISRAEL MATTHEWS.

7 THE COURT: AND WHAT IS YOUR RESPONSE?

8 JURY VENIRE MEMBER: WE ARE FRIENDS AND
9 CLOSE NEIGHBORS.

10 THE COURT: CLOSE NEIGHBORS TO HIM?

11 JURY VENIRE MEMBER: YES, SIR.

12 THE COURT: DO YOU FEEL LIKE THAT
13 RELATIONSHIP WOULD IMPAIR YOUR ABILITY TO BE A FAIR
14 JUROR?

15 JURY VENIRE MEMBER: I THINK SO.

16 THE COURT: YOU THINK SO? I WILL EXCUSE
17 YOU.

18 JURY VENIRE MEMBER: THANK YOU.

19 THE COURT: JUST HAVE A SEAT. WHEN WE
20 TAKE A LUNCH BREAK, YOU WILL NOT HAVE TO RETURN.

21 THE CLERK: JUROR 64.

22 THE COURT: YOUR NAME, SIR?

23 JURY VENIRE MEMBER: WILLIAM WHITE.

24 THE COURT: WHAT WAS YOUR RESPONSE?

5 JURY VENIRE MEMBER: RELATION BY MARRIAGE,

1 PLUS ONE OF HIS COUSINS LIVES BY ME.

2 THE COURT: RELATION BY MARRIAGE AND WHAT?

3 JURY VENIRE MEMBER: HIS FAMILY --

4 THE COURT: YOU'RE CLOSE TO HIS FAMILY?

5 JURY VENIRE MEMBER: YEAH.

6 THE COURT: WOULD THAT IMPAIR YOUR ABILITY

7 TO BE A FAIR AND IMPARTIAL JUROR?

8 JURY VENIRE MEMBER: YES, IT WOULD.

9 THE COURT: IT WOULD? I WILL EXCUSE YOU.

10 JURY VENIRE MEMBER: AND THIS IS MY WIFE.

11 THE COURT: AND YOU HAVE THE SAME

12 SITUATION?

13 JURY VENIRE MEMBER: YES, SIR.

14 THE COURT: AND YOU'RE ASKING TO BE

15 EXCUSED BECAUSE OF THAT RELATIONSHIP TOO?

16 JURY VENIRE MEMBER: YES, SIR.

17 THE COURT: I WILL EXCUSE YOU.

18 THE CLERK: THAT WAS 280 AND 282.

19 THE COURT: NOW, LET ME MAKE THIS

20 ABUNDANTLY CLEAR. THE FACT THAT YOU MAY KNOW THE

21 DEFENDANT OR MAY KNOW THE VICTIM, THAT ALONE IS NOT A

22 BASIS FOR ME EXCUSING YOU. BUT IF THAT RELATIONSHIP

23 IS SO CLOSE EITHER FOR THE DEFENDANT OR THE VICTIM

24 THAT YOU FEEL LIKE THAT YOU MIGHT NOT BE FAIR AND

25 IMPARTIAL FINDERS OF THE FACTS, THAT'S WHAT EXCUSES

1 YOU. BUT IF YOU JUST KNOW THEM AND STILL WILL BASE
2 YOUR VERDICT ON THE LAW AND EVIDENCE IN THE CASE,
3 WE'LL BE GLAD TO HAVE YOU. YOU UNDERSTAND?

4 NOW, WHAT IS YOUR NAME?

5 JURY VENIRE MEMBER: MY NAME IS SAM
6 RAVENELL.

7 THE COURT: MR. RAVENELL, WHAT IS YOUR
8 RESPONSE?

9 JURY VENIRE MEMBER: THE DEFENDANT --

10 THE COURT: SIR?

11 JURY VENIRE MEMBER: THE DEFENDANT'S
12 FATHER IS MY BROTHER-IN-LAW.

13 THE COURT: THE DEFENDANT IS YOUR
14 BROTHER-IN-LAW?

15 JURY VENIRE MEMBER: HIS FATHER, RIGHT
16 THERE.

17 THE COURT: YOU'RE POINTING TO SOMEBODY?

18 MR. NEWSOME: THE DEFENDANT'S FATHER IS
19 HIS BROTHER-IN-LAW.

20 THE COURT: YOU ARE RELATED TO THE FAMILY?

21 JURY VENIRE MEMBER: YEAH.

22 THE COURT: YES. I WILL EXCUSE YOU.

23 YES, SIR.

24 JURY VENIRE MEMBER: ELI BRUNSON.

25 THE COURT: YES, SIR.

1 JURY VENIRE MEMBER: I KNEW HIM WHEN HE
2 WAS A BOY AND KNEW HIM ALL OF MY DAYS. YOU KNOW, I
3 THINK --

4 THE COURT: KNOWN HIM ALL OF THE DAYS?

5 JURY VENIRE MEMBER: YES, SIR.

6 THE COURT: THAT WOULD MIGHT IMPAIR YOUR
7 ABILITY, SIR?

8 JURY VENIRE MEMBER: YES.

9 THE COURT: YOU ARE ASKING THAT I EXCUSE
10 YOU?

11 JURY VENIRE MEMBER: YES, SIR.

12 THE COURT: YEAH. I WILL DO THAT.

13 THE CLERK: YOUR NAME WAS WHAT?

14 JURY VENIRE MEMBER: ELI BRUNSON.

15 THE COURT: MR. NEWSOME, MR. BAILEY, IF
16 THERE'S ANY ADDITIONAL INQUIRY PRIOR TO THEM LEAVING,
17 YOU LET ME KNOW; OTHERWISE, I ASSUME YOU HAVE NO
18 OBJECTION.

19 LET THE RECORD REFLECT NOW THAT I'M INVITING MR.
20 BAILEY AND MR. NEWSOME TO ASK ANY OTHER INQUIRY. AND
21 IF THEY DO NOT, I ASSUME THERE'S NO OBJECTION. DO
22 YOU UNDERSTAND?

23 MR. NEWSOME: MR. BRUNSON HAS ALREADY BEEN
24 EXCUSED FOR OTHER REASONS.

25 THE COURT: SIR?

1 MR. NEWSOME: HE'S ALREADY BEEN EXCUSED.

2 THE COURT: I CAN BRING HIM BACK FOR
3 INQUIRY. WOULD YOU LIKE FOR ME TO BRING HIM BACK?

4 MR. NEWSOME: NO, SIR. THIS GENTLEMAN HAS
5 ALREADY BEEN EXCUSED FOR A DIFFERENT REASON.

6 THE COURT: YES, SIR. JUST HAVE A SEAT.
7 YOU MAY GO HOME WHEN I EXCUSE YOU.

8 YOU'VE ALREADY BEEN EXCUSED?

9 JURY VENIRE MEMBER: NO.

10 THE COURT: WHAT'S YOUR NAME?

11 JURY VENIRE MEMBER: MR. HUGHES' WIFE IS
12 MY COUSIN.

13 THE COURT: COUSIN?

14 JURY VENIRE MEMBER: YEAH.

15 THE COURT: YOU'RE CLOSE FRIENDS OF THE
16 FAMILY?

17 JURY VENIRE MEMBER: YEAH.

18 THE COURT: DO YOU THINK THAT WOULD IMPAIR
19 YOUR ABILITY TO BE A FAIR JUROR?

20 JURY VENIRE MEMBER: YEAH.

21 THE COURT: YOU DO? ALL RIGHT. I'LL
22 EXCUSE YOU.

23 MR. NEWSOME: WHAT'S HIS NAME?

24 THE COURT: WHAT IS YOUR NAME?

25 JURY VENIRE MEMBER: PRESTON GREEN.

1 THE COURT: ALL RIGHT. NOW, IN EACH
2 INSTANCE, I WANT THE RECORD TO REFLECT THAT I INVITE
3 MR. NEWSOME TO QUESTION ANY OF THE JURORS ON THESE
4 ISSUES. YOU UNDERSTAND THAT?

5 MR. NEWSOME: YES, SIR.

6 THE COURT: THE LAW SPECIFICALLY GIVES YOU
7 THAT RIGHT, AND I INVITE IT.

8 JURY VENIRE MEMBER: NUMBER 138, GWENDOLYN
9 KELLER. I'M A NEIGHBOR AND A FRIEND OF THE
10 GRANDMOTHER OF THE DEFENDANT.

11 THE COURT: DO YOU THINK THAT THAT
12 RELATIONSHIP WOULD IMPAIR YOUR ABILITY TO BE A FAIR
13 JUROR?

14 JURY VENIRE MEMBER: YES.

15 THE COURT: SO YOU ARE ASKING THAT I
16 EXCUSE YOU FOR THAT REASON?

17 JURY VENIRE MEMBER: YES.

18 THE COURT: MR. NEWSOME, DO YOU HAVE ANY
19 QUESTIONS?

20 MR. NEWSOME: IF SHE STATES IT WOULD
21 IMPAIR HER, I DON'T THINK THERE'S ANY QUESTION TO
22 ASK.

23 THE COURT: I UNDERSTAND. THANK YOU.
24 WELL, THAT ISSUE WAS RAISED IN STATE V. ATKINS, AND I
25 WANT TO MAKE SURE THAT WE DON'T HAVE IT HERE.

1 YES, SIR.

2 JURY VENIRE MEMBER: MY NAME IS DALE
3 WALKER. I'M A FRIEND OF THE FAMILY AND ALSO A
4 NEIGHBOR.

5 THE COURT: FRIEND OF THE FAMILY? WOULD
6 THAT IMPAIR YOUR ABILITY TO SIT AS A JUROR AND A
7 FINDER OF THE FACTS?

8 JURY VENIRE MEMBER: YES, SIR.

9 THE COURT: YOU THINK IT WOULD? I WILL
10 EXCUSE YOU.

11 ANY QUESTION, MR. NEWSOME?

12 MR. NEWSOME: NONE, YOUR HONOR.

13 JURY VENIRE MEMBER: HI. RICKEY J. HILLS.
14 FRIEND AND NEIGHBOR.

15 THE COURT: FRIEND AND A NEIGHBOR?

16 JURY VENIRE MEMBER: YEAH.

17 THE COURT: AS I INDICATED EARLIER, THAT
18 STANDING ALONE WOULD NOT NECESSARILY EXCUSE YOU
19 UNLESS YOU FEEL LIKE THAT IT WOULD IMPACT UPON YOUR
20 VERDICT.

21 JURY VENIRE MEMBER: I DO NOT WANT TO BE
22 EXCUSED.

23 THE COURT: YOU DO NOT WANT TO BE EXCUSED.

24 JURY VENIRE MEMBER: YES.

25 THE COURT: THAT'S FINE. LET ME ASK YOU

1 THIS. YOU ARE A FRIEND AND NEIGHBOR OF WHO, NOW?

2 JURY VENIRE MEMBER: MS. LUCILLE.

3 THE COURT: AND HOW LONG HAVE YOU KNOWN
4 THEM?

5 JURY VENIRE MEMBER: FOR THE LAST FIVE
6 YEARS.

7 THE COURT: OKAY. REGARDLESS OF THAT AND
8 REGARDLESS THAT YOU ARE A NEIGHBOR, CAN YOU BASE YOUR
9 VERDICT, WHATEVER IT IS, ON THE LAW AND THE EVIDENCE
10 IN THIS CASE AND NOT ON THE FACT THAT YOU ARE A
11 FRIEND AND NEIGHBOR OF THE DEFENDANT'S FAMILY?

12 JURY VENIRE MEMBER: YES, SIR.

13 THE COURT: ALL RIGHT, SIR. YOU'RE
14 QUALIFIED. WHAT WAS YOUR NAME, MR. JUROR?

15 JURY VENIRE MEMBER: RICKEY J. HILLS.

16 THE COURT: ALL RIGHT, SIR. DO YOU HAVE
17 YOUR JUROR NUMBER, PLEASE?

18 JURY VENIRE MEMBER: 102.

19 THE COURT: THANK YOU.

20 YES, MA'AM.

21 JURY VENIRE MEMBER: 190, LOUISE NOBLE.

22 IT'S JUST THAT I KNOW THEM.

23 THE COURT: PARDON ME?

24 JURY VENIRE MEMBER: I KNOW HIM QUITE

25 WELL.

1 THE COURT: YOU KNOW --

2 JURY VENIRE MEMBER: AND I DON'T THINK I
3 WOULD BE A GOOD JUROR.

4 THE COURT: YOU THINK THAT MIGHT
5 DISQUALIFY YOU?

6 JURY VENIRE MEMBER: YEAH.

7 THE COURT: OKAY. ANY QUESTION?

8 MR. NEWSOME: NOT OF THESE, YOUR HONOR.
9 BUT EARLIER, THERE WAS TWO LADIES WHO, ONE
10 REPRESENTED SHE WAS RELATED BY MARRIAGE TO A WITNESS
11 WHO IS ALSO A VICTIM IN THIS CASE.

12 THE COURT: WELL, WE'LL -- I DIDN'T EXCUSE
13 HER.

14 MR. NEWSOME: NO, BUT I THINK WE NEED TO
15 INQUIRE OF THEM IF THAT COULD --

16 THE COURT: I THOUGHT WE MIGHT DO THAT ON
17 INDIVIDUAL VOIR DIRE.

18 MR. NEWSOME: OKAY.

19 THE COURT: WOULD YOU LIKE TO DO IT NOW?

20 MR. NEWSOME: YES, SIR.

21 THE COURT: CALL THAT WITNESS BACK.

22 MR. NEWSOME: PHYLLIS MCCANTS AND MARTHA
23 HOFFMAN.

24 THE COURT: COME FORWARD, PLEASE. THOSE
25 WHO I HAVE NOT EXCUSED, PLEASE, YOU WILL BE GIVEN THE

1 OPPORTUNITY IN INDIVIDUAL VOIR DIRE.

2 I WANT THIS RECORD TO BE ABUNDANTLY CLEAR THAT
3 IN THE FIRST CASE OF STATE V. ATKINS, OUR SUPREME
4 COURT RULED THAT EVEN THOUGH THE JUDGE MAY FIND A
5 WITNESS DISQUALIFIED, THE STATUTE SPECIFICALLY GIVES
6 YOU THAT RIGHT, AND I REQUESTED THAT YOU EXAMINE THEM
7 IF YOU CARE TO.

8 MR. NEWSOME: YES, SIR.

9 THE COURT: ALL RIGHT. YOUR NAME?

10 JURY VENIRE MEMBER: PHYLLIS MCCANTS,
11 JUROR 168.

12 THE COURT: YES.

13 JURY VENIRE MEMBER: I HAVE BEEN A FRIEND
14 OF THE VICTIM'S FAMILY FOR OVER 25 YEARS, AND I DON'T
15 BELIEVE I COULD --

16 THE COURT: WHAT FAMILY?

17 JURY VENIRE MEMBER: HOFFMAN.

18 MR. NEWSOME: MS. HOFFMAN. SHE WAS THE
19 YOUNG LADY WHO WAS SHOT, YOUR HONOR.

20 THE COURT: I'M GOING TO MAKE THE INQUIRY
21 ON THAT. I JUST HAVEN'T GOTTEN TO THAT YET. BUT I
22 WILL EXCUSE YOU, YES, MA'AM. AND WE'RE GOING TO MAKE
23 THAT INQUIRY NEXT. RIGHT NOW, I WAS CONCERNED WITH
24 THE RELATIONSHIP WITH THE DEFENDANT.

25 YES, MA'AM.

1 JURY VENIRE MEMBER: MARGARET HOFFMAN,
2 NUMBER 103.

3 THE COURT: YEAH.

4 JURY VENIRE MEMBER: I WAS RELATED TO ONE
5 OF THE VICTIMS AND A VERY GOOD FRIEND TO --

6 THE COURT: I WILL EXCUSE YOU.

7 JURY VENIRE MEMBER: OKAY.

8 THE COURT: THAT'S FINE. ALL RIGHT.

9 FIRST, NOW, I WANT TO CONCLUDE WITH REFERENCE TO
10 RELATIONSHIPS OR FRIENDSHIPS WITH HERMAN HUGHES OR
11 HIS FAMILY. ANY OF YOU OUT THERE -- NOW, FOR THOSE
12 WHO HAVE NOT RESPONDED, HOW MANY OF YOU KNOW THE
13 DEFENDANT, HERMAN HUGHES, IN ANY CAPACITY WHATSOEVER?
14 THOSE OF YOU WHO HAVE NOT RESPONDED, HOW MANY OF YOU
15 KNOW HIM? PLEASE STAND. THOSE OF YOU WHO HAVE NOT
16 RESPONDED, COME FORWARD. ANYBODY WHO KNOWS HIM. AND
17 WE'LL GET TO THE OTHER INDIVIDUALS IN A MOMENT. COME
18 FORWARD.

19 JURY VENIRE MEMBER: MY NUMBER IS 1 --

20 THE COURT: ONE MINUTE, PLEASE. I WANT TO
21 GET EVERYBODY UP HERE. WERE YOU STANDING BACK AT THE
22 BACK TO COME FORWARD OR JUST STANDING BECAUSE YOU
23 COULDN'T GET A SEAT?

24 JURY VENIRE MEMBER: I'M JUST STANDING
25 BECAUSE I COULDN'T GET A SEAT.

1 THE COURT: ALL RIGHT. YOUR NAME?

2 JURY VENIRE MEMBER: CORINE MCKENZIE.

3 THE COURT: YES, MA'AM.

4 JURY VENIRE MEMBER: I KNOW HERMAN. HE
5 LIVES -- HIS GRANDMOTHER LIVES ACROSS THE STREET FROM
6 MY SISTER, AND HIS MOTHER WAS A COWORKER OF MINE.

7 THE COURT: YOU JUST KNOW HIM CASUALLY?

8 JURY VENIRE MEMBER: YEAH.

9 THE COURT: THAT RELATIONSHIP, WOULD THAT
10 IMPAIR YOUR ABILITY TO BE A FAIR JUROR?

11 JURY VENIRE MEMBER: NO.

12 THE COURT: OKAY. YOU'RE QUALIFIED.

13 MR. NEWSOME: WHAT NUMBER?

14 JURY VENIRE MEMBER: 175.

15 THE COURT: NOW, THESE, OF COURSE, ARE
16 SUBJECT TO ADDITIONAL INQUIRY. YOU UNDERSTAND THAT?

17 JURY VENIRE MEMBER: I'M LASTEVEN HAYNES.

18 THE COURT: YES, SIR.

19 JURY VENIRE MEMBER: I KNOW HERMAN
20 PERSONALLY, SCHOOLMATE, AND I THINK IT MAY, YOU KNOW,
21 AFFECT MY JUDGMENT.

22 THE COURT: OKAY. I'M CURIOUS. WHY
23 DIDN'T YOU COME BY A MOMENT AGO?

24 JURY VENIRE MEMBER: BECAUSE I WASN'T
25 SURE, BUT I'M SURE NOW.

1 THE COURT: BUT YOU'VE THOUGHT ABOUT IT?

2 JURY VENIRE MEMBER: YES, SIR.

3 THE COURT: AND YOU THINK IT WOULD AFFECT
4 YOUR JUDGMENT?

5 JURY VENIRE MEMBER: YES, SIR.

6 THE COURT: I'M GOING TO EXCUSE YOU. MR.
7 NEWSOME, DO YOU CARE TO EXAMINE THE WITNESS?

8 MR. NEWSOME: IF HE THINKS IT WOULD IMPAIR
9 HIS JUDGMENT.

10 THE COURT: ALL RIGHT. SIR?

11 JURY VENIRE MEMBER: I'M MALLIE JACKSON,
12 JUROR NUMBER 120.

13 THE COURT: YES, SIR.

14 JURY VENIRE MEMBER: I KNOW THE YOUNG MAN
15 BY COMING TO CHURCH WITH HIS MOTHER OVER THERE. I
16 KNOW THE WHOLE FAMILY, TO BE HONEST.

17 THE COURT: IN WHAT CAPACITY? ARE YOU A
18 PASTOR?

19 JURY VENIRE MEMBER: JUST A FRIEND.

20 THE COURT: JUST A FRIEND?

21 JURY VENIRE MEMBER: YES, SIR.

22 THE COURT: WOULD THE FRIENDSHIP WITH THE
23 DEFENDANT OR THE FAMILY OF THE DEFENDANT IMPAIR YOUR
24 ABILITY TO WEIGH THE LAW AND THE EVIDENCE IN THE
25 CASE?

1 JURY VENIRE MEMBER: NO, SIR.

2 THE COURT: CAN YOU REACH A VERDICT BASED
3 ON THE LAW AND THE EVIDENCE THAT'S FAIR TO THIS
4 DEFENDANT AND EQUALLY FAIR TO THE STATE OF SOUTH
5 CAROLINA AND THE VICTIMS?

6 JURY VENIRE MEMBER: YES, SIR.

7 THE COURT: AND YOU CAN PUT ASIDE YOUR
8 FAMILY RELATIONSHIPS?

9 JURY VENIRE MEMBER: YES, SIR.

10 THE COURT: ALL RIGHT, SIR. FINE. YOU'RE
11 QUALIFIED.

12 YES.

13 JURY VENIRE MEMBER: KEITH MITCHELL.

14 THE COURT: AND WHAT IS YOUR RESPONSE?

15 JURY VENIRE MEMBER: I'M A FRIEND OF THE
16 FAMILY.

17 THE COURT: SIR?

18 JURY VENIRE MEMBER: I'M A FRIEND OF THE
19 DEFENDANT.

20 THE COURT: OF THE DEFENDANT?

21 JURY VENIRE MEMBER: YEAH.

22 THE COURT: I'M CURIOUS. WHY DIDN'T YOU
23 COME FORWARD A WHILE AGO WHEN I ASKED YOU THAT
24 QUESTION?

25 JURY VENIRE MEMBER: I'M A NEIGHBOR.

1 THE COURT: I ASKED THAT QUESTION A WHILE
2 AGO AND YOU DIDN'T COME FORWARD. WHY?

3 JURY VENIRE MEMBER: I DIDN'T THINK IT
4 WOULD AFFECT ME.

5 THE COURT: LET ME ASK YOU THIS. YOU'VE
6 HEARD ME ASK OF THE OTHER JURORS, THE FACT THAT
7 YOU'RE A FRIEND OF THIS YOUNG MAN AND A NEIGHBOR,
8 WOULD THAT IMPAIR YOUR ABILITY TO SIT ON THIS JURY?

9 JURY VENIRE MEMBER: YES.

10 THE COURT: YOU SAYING IT WOULD?

11 JURY VENIRE MEMBER: YES.

12 THE COURT: ALL RIGHT. MR. NEWSOME, DO
13 YOU CARE TO ASK ANY QUESTIONS?

14 MR. NEWSOME: WHAT YOU'RE SAYING IS YOU
15 COULDN'T OBEY THE LAW AND RULE ON THE EVIDENCE AND
16 THE FACTS?

17 JURY VENIRE MEMBER: YES.

18 MR. NEWSOME: YOU WOULD STILL BE AFFECTED
19 ADVERSELY?

20 JURY VENIRE MEMBER: YES.

21 THE COURT: THANK YOU. I WILL EXCUSE YOU.
22 ANY FURTHER QUESTIONS?

23 MR. NEWSOME: I'D LIKE TO GET HIS NUMBER.

24 THE CLERK: NUMBER 183.

25 THE COURT: NOW, MR. NEWSOME, FOR THE

1 RECORD, FOR THOSE OF YOU WHO ARE -- I HAVE EXCUSED ON
2 THAT BASIS. IF YOU CARE TO, I WILL INVITE EACH ONE
3 OF THEM BACK FOR INDIVIDUAL VOIR DIRE.

4 MR. NEWSOME: NO, SIR.

5 THE COURT: LET THE RECORD REFLECT THAT
6 YOU DECLINED YOUR RIGHT OF CROSS-EXAMINATION ON THAT
7 ISSUE.

8 NOW, LADIES AND GENTLEMEN, THERE WERE TWO
9 ALLEGED VICTIMS HERE. AGAIN, THESE ARE ALLEGATIONS
10 UNTIL PROVEN BEYOND A REASONABLE DOUBT. I WOULD ASK
11 ANY OF YOU RELATED BY BLOOD OR CONNECTED BY MARRIAGE
12 WITH KENNETH PRESLEY OR DO ANY OF YOU HAVE ANY CLOSE
13 PERSONAL RELATIONSHIPS WITH HIM OR HIS FAMILY?
14 PLEASE STAND AND COME FORWARD. AND IN THAT
15 CONNECTION, IF YOU ARE CLOSE -- IF YOU ARE CHURCH
16 MEMBERS OR NEIGHBORS OR ANY -- ANY KIND OF
17 RELATIONSHIP, I WANT TO KNOW ABOUT IT, AND THIS IS
18 THE TIME TO DISCLOSE IT.

19 YES, SIR. YOUR NAME?

20 JURY VENIRE MEMBER: KENNETH JOHNS.

21 THE COURT: AND WHAT WAS YOUR RESPONSE?

22 JURY VENIRE MEMBER: I KNOW HIS
23 STEPFATHER.

24 THE COURT: SIR?

25 JURY VENIRE MEMBER: I KNOW HIS FATHER.

1 THE COURT: YOU KNOW HIS --

2 JURY VENIRE MEMBER: I WORK WITH HIM.

3 THE COURT: YOU WORK WITH HIS FATHER?

4 JURY VENIRE MEMBER: YES.

5 THE COURT: WOULD THAT IMPAIR YOUR ABILITY
6 TO RENDER A VERDICT BASED ON THE LAW AND THE EVIDENCE
7 IN THIS CASE?

8 JURY VENIRE MEMBER: I BELIEVE IT WOULD.

9 THE COURT: YOU BELIEVE THAT CONNECTION
10 AND FRIENDSHIP WOULD?

11 JURY VENIRE MEMBER: YES, SIR.

12 THE COURT: MR. BAILEY, YOU OR MR. NEWSOME
13 WANT TO EXAMINE ON THAT QUESTION? IF YOU DO, I WILL
14 BRING HIM BACK ON VOIR DIRE.

15 MR. NEWSOME: NO, SIR.

16 MR. BAILEY: NO, SIR.

17 THE COURT: ALL RIGHT. I'LL EXCUSE YOU.

18 AGAIN, AS I INDICATED EARLIER, IT'S NOT THE FACT THAT
19 YOU KNOW THE DEFENDANT OR THE VICTIMS OR THE FAMILY,
20 IT'S WHETHER OR NOT THAT KNOWLEDGE WOULD KEEP YOU
21 FROM BEING A FAIR AND IMPARTIAL JUROR.

22 WHAT IS YOUR NAME, SIR?

23 JURY VENIRE MEMBER: MY NAME IS ALFRED
24 KOLBERG, NUMBER 146. I JUST KNEW THE VICTIM, AND I
25 ALSO KNOW THE FATHER.

1 THE COURT: IS THAT A CLOSE PERSONAL
2 RELATIONSHIP?

3 JURY VENIRE MEMBER: NO, SIR.

4 THE COURT: DOES THAT IMPACT ON YOUR
5 ABILITY TO BE A JUROR?

6 JURY VENIRE MEMBER: NO, SIR. I JUST
7 WANTED YOU TO KNOW.

8 THE COURT: YES, SIR. YOU'RE QUALIFIED IF
9 CHOSEN. YES, SIR.

10 ALL RIGHT. ANYONE ELSE WITH A CONNECTION? NOW,
11 IS THERE ANYONE ELSE WHO WOULD HAVE ANY KIND OF
12 CONNECTIONS WITH KENNETH PRESLEY OR HIS FAMILY? I
13 WANT YOU TO COME FORWARD AT THIS TIME. (NO
14 RESPONSE.)

15 ANY OF YOU HAVE ANY CONNECTIONS WHATSOEVER WITH
16 THE BLUE DIAMOND CASINO? ANY OF YOU OWNERS,
17 STOCKHOLDERS, ANY CLOSE PERSONAL CONNECTION? ANY OF
18 YOU HAVE ANY RELATION -- WHO IS THE OWNER OF THE
19 DIAMOND CASINO?

20 MR. BAILEY: YOUR HONOR, IT'S OUT OF
21 BUSINESS NOW. THE OWNER WAS -- LET ME LOOK FOR A
22 SECOND. JUDY OSBORNE WAS AN EMPLOYEE THERE. PAT
23 THORAL.

24 THE COURT: ANY OF YOU HAVE ANY CONNECTION
25 WITH ANY OF THE EMPLOYEES THERE OR THE OWNERS THERE?

1 (NO RESPONSE.)

2 ALL RIGHT. ANOTHER INDICTMENT CHARGES THAT
3 HERMAN HUGHES DID IN CALHOUN COUNTY ON THAT DATE
4 ASSAULT AND BATTERY WITH INTENT TO KILL ONE KELLY
5 HOFFMAN. NOW, I HAVE PREVIOUSLY EXCUSED SOMEBODY WHO
6 HAD A CONNECTION. I WANT TO KNOW ALL OF YOU WHO HAVE
7 A CLOSE PERSONAL CONNECTION RELATED BY BLOOD OR
8 MARRIAGE TO KELLY HOFFMAN OR HER FAMILY. PLEASE COME
9 FORWARD. ANYBODY THAT HAS ANY CLOSE CONNECTION WITH
10 KELLY HOFFMAN COME FORWARD. NOBODY IN HERE IS A
11 CLOSE FRIEND OF HERS? ANY OF HER FAMILY? DOES ANY
12 MEMBER OF THIS JURY KNOW OF ANY CONNECTION TO KELLY
13 HOFFMAN, AN ALLEGED VICTIM IN THIS CASE, THAT WOULD
14 PREVENT THAT JUROR FROM BEING A FINDER OF THE FACTS
15 IN THE CASE AND FROM RENDERING A TRUE VERDICT BASED
16 ON THE FACTS AND NOT THEIR RELATIONSHIP WITH KELLY
17 HOFFMAN OR HER FAMILY? (NO RESPONSE.)

18 DOES ANY MEMBER OF THIS JURY KNOW OF ANY REASON
19 WHATSOEVER WHY YOU COULD NOT GIVE BOTH THE STATE AND
20 THE DEFENDANT A FAIR AND IMPARTIAL TRIAL? (NO
21 RESPONSE.)

22 DO ALL OF YOU CERTIFY TO ME UNDER OATH THAT YOU
23 WILL FOLLOW THE LAW OF THIS CASE AS I GIVE IT TO YOU?
24 (NO RESPONSE.)

25 HAVE ANY OF YOU READ OR HEARD ANYTHING ABOUT

1 THIS CASE? I HAVE GIVEN YOU THE BARE BONES
2 ALLEGATIONS, AND I'M SURE IN THIS SMALL AREA, IF
3 YOU'RE KIND OF LIKE MY COUNTY, A LOT OF YOU WOULD
4 HAVE HEARD ABOUT IT OR READ ABOUT IT OR DISCUSSED IT.
5 NOW, I WANT YOU TO STAND IF ANYBODY KNOWS ANYTHING
6 ABOUT THIS CASE OR READ IT OR DISCUSSED IT. I DON'T
7 WANT TO KNOW WHAT YOU KNOW. I'M JUST GOING TO TAKE
8 YOUR NAMES SO THAT WHEN WE TALK TO YOU PRIVATELY, WE
9 CAN DISCUSS THAT WITH YOU. I DON'T WANT TO KNOW WHAT
10 YOU KNOW OR WHO YOU DISCUSSED IT WITH OR WHAT YOU
11 READ. I WANT TO KNOW IF THAT OCCURRED.

12 NOW, PLEASE STAND IF ANYBODY HERE HAS READ
13 ANYTHING ABOUT THIS CASE, DISCUSSED IT OR HAD IT
14 DISCUSSED IN YOUR PRESENCE. AND ABOUT -- I WOULD
15 THINK SO. NOW, BE SURE TO SEARCH YOUR MIND AND
16 HEARTS, NOW, LADIES AND GENTLEMEN. IF THERE'S ANY
17 QUESTION ABOUT IT, AT AN APPROPRIATE TIME WHEN WE
18 DISCUSS WITH YOU INDIVIDUALLY, WE'RE GOING TO WANT TO
19 KNOW ABOUT THAT. THAT MAY OR MAY NOT DISQUALIFY YOU.
20 IT WOULD DEPEND. SO I'M GOING TO GET THE NAMES OF
21 ALL OF THOSE NOW WHO ARE STANDING WHO SAY THAT THEY
22 HAVE READ ABOUT IT, AND I SEE SOME PEOPLE SLOWLY
23 STANDING. IF THERE'S ANY MORE, PLEASE STAND.

24 ALL RIGHT. YOUR NAME IN THE GREEN SHIRT.

25 JURY VENIRE MEMBER: ROGER DARBY.

1 THE COURT: PUT THAT DOWN. YOU'RE GOING
2 TO HAVE TO TALK A LITTLE LOUDER.

3 JURY VENIRE MEMBER: ROGER DARBY.

4 THE COURT: AND DO YOU KNOW YOUR JUROR
5 NUMBER?

6 JURY VENIRE MEMBER: 45.

7 THE COURT: 45. THANK YOU. YOUR NAME?

8 JURY VENIRE MEMBER: ROBERT CARROLL, JUROR
9 NUMBER 30.

10 THE COURT: THANK YOU.

11 YES, SIR.

12 JURY VENIRE MEMBER: WILLIAM BROOKS,
13 NUMBER 21.

14 THE COURT: ON THE BACK.

15 JURY VENIRE MEMBER: RIDGE WAY -- OH,
16 EXCUSE ME.

17 JURY VENIRE MEMBER: BILL CRIDER, NUMBER
18 39.

19 THE COURT: 39. GIVE ME -- IT'S DIFFICULT
20 TO HEAR UP HERE. I'VE GOT YOU, SIR.

21 JURY VENIRE MEMBER: BILL CRIDER -- YOU'VE
22 GOT ME?

23 THE COURT: YES, SIR.

24 JURY VENIRE MEMBER: MARY RIDGEWAY. I
25 BELIEVE IT'S NUMBER 217.

1 THE CLERK: CORRECT.

2 JURY VENIRE MEMBER: ALL RIGHT.

3 THE COURT: THANK YOU.

4 YES, MA'AM.

5 JURY VENIRE MEMBER: MARY H. WISE.

6 THE COURT: TALK A LITTLE LOUDER.

7 JURY VENIRE MEMBER: MARY H. WISE, NUMBER

8 294.

9 THE COURT: WE GOT THAT. IN THE BACK,

10 PLEASE.

11 JURY VENIRE MEMBER: NUMBER 255, LOIS

12 STEWART.

13 THE CLERK: 255, LOIS STEWART.

14 THE COURT: YOUR NAME?

15 JURY VENIRE MEMBER: LOIS STEWART.

16 THE COURT: WE'VE GOT IT. THANK YOU.

17 YES, MA'AM.

18 JURY VENIRE MEMBER: ME?

19 THE COURT: YES, MA'AM.

20 JURY VENIRE MEMBER: DAITHY COLLINS, 38.

21 THE COURT: THANK YOU. YES, MA'AM.

22 JURY VENIRE MEMBER: KELLY KEMMERLIN, 139.

23 THE COURT: THANK YOU.

24 YOU, SIR, ON THE RIGHT.

25 JURY VENIRE MEMBER: ALFRED KOLBERG, 146.

1 THE COURT: THANK YOU, SIR.

2 JURY VENIRE MEMBER: MARCIA KOLBERG, 147.

3 THE COURT: ON THE LEFT, PLEASE.

4 JURY VENIRE MEMBER: PATRICIA ROBINSON,

5 222.

6 THE COURT: THANK YOU.

7 JURY VENIRE MEMBER: SHREEAUND MCFADDEN,

8 172.

9 THE COURT: THANK YOU SO MUCH.

10 YES, MA'AM.

11 JURY VENIRE MEMBER: LORIA WHREN, 284.

12 THE COURT: YES. ALL RIGHT.

13 JURY VENIRE MEMBER: LILLIE JOHNSON, 129.

14 THE COURT: THANK YOU.

15 JURY VENIRE MEMBER: LATOYA LOGAN, 157.

16 JURY VENIRE MEMBER: JENNIFER WHITE

17 KELLER, 281.

18 JURY VENIRE MEMBER: WILLIAM BARRON, 7.

19 THE COURT: THANK YOU. ALL RIGHT. LET'S

20 START AT THE FRONT. ANYBODY OVER HERE?

21 YES, MA'AM. YOUR NAME?

22 JURY VENIRE MEMBER: CORINE MCKENZIE, 175.

23 THE COURT: THANK YOU.

24 JURY VENIRE MEMBER: 46, JIM DIAMOND.

25 THE COURT: YOU GOT -- WHAT'S YOUR NUMBER?

1 JURY VENIRE MEMBER: YEAH, 46.

2 THE COURT: 46. THANK YOU. ALL RIGHT.

3 WE'LL START TO THE LEFT. YES, MA'AM.

4 JURY VENIRE MEMBER: 124, MAMIE JETER.

5 THE COURT: WAIT A MINUTE. WE'LL START --

6 WHAT?

7 JURY VENIRE MEMBER: 124, MAMIE JETER.

8 THE COURT: THANK YOU.

9 YES, MA'AM.

10 JURY VENIRE MEMBER: ME?

11 THE COURT: YOU'RE NEXT.

12 JURY VENIRE MEMBER: MARY GUNTER, NUMBER

13 88.

14 THE COURT: OKAY. YES, SIR.

15 JURY VENIRE MEMBER: FURMAN HART, 93.

16 THE COURT: THANK YOU.

17 JURY VENIRE MEMBER: 102, RICKEY HILLS.

18 THE COURT: YES, SIR.

19 JURY VENIRE MEMBER: 131, DAVID JONES.

20 THE COURT: THANK YOU.

21 YES, MA'AM.

22 JURY VENIRE MEMBER: ELIZABETH PETERKIN,

23 199.

24 THE COURT: THANK YOU.

25 YES.

1 JURY VENIRE MEMBER: GALE GLOVER, 74.

2 THE COURT: THANK YOU.

3 YOU ON THE RIGHT, PLEASE.

4 JURY VENIRE MEMBER: BLONDELL GUINYARD,

5 86.

6 THE COURT: SIR?

7 JURY VENIRE MEMBER: BLONDELL GUINYARD,

8 86.

9 THE COURT: NO, ON THE RIGHT. YOU.

10 JURY VENIRE MEMBER: TIMOTHY BUTLER, 28.

11 THE COURT: 28. AND YOU'RE -- NOW YOU.

12 JURY VENIRE MEMBER: BLONDELL GUINYARD,

13 86.

14 THE COURT: THANK YOU. YES, MA'AM.

15 JURY VENIRE MEMBER: JUDITH RAST, 208.

16 THE COURT: THANK YOU.

17 JURY VENIRE MEMBER: 293, BRENDA WISE.

18 THE COURT: THANK YOU, MA'AM.

19 JURY VENIRE MEMBER: 295, PATRICIA WISE.

20 THE COURT: THANK YOU.

21 TO MY RIGHT, NOW.

22 JURY VENIRE MEMBER: BOBBIE JOHNSON, 126.

23 THE COURT: THANK YOU.

24 JURY VENIRE MEMBER: REATHER BOVAIN, 16.

25 THE COURT: THANK YOU.

1 AND TO THE BACK.

2 JURY VENIRE MEMBER: IVY VOID, 270.

3 THE COURT: THANK YOU.

4 JURY VENIRE MEMBER: HERMAN WISE, JR.

5 THE COURT: ALL RIGHT. NOW, THAT INQUIRY
6 WAS RELATED TO ANY JUROR WHO MAY HAVE READ ABOUT THE
7 CASE, HEARD ABOUT IT, DISCUSSED IT. NOW, THE FACT
8 THAT YOU MAY HAVE READ ABOUT IT OR DISCUSSED IT DOES
9 NOT NECESSARILY PERMIT A RECUSAL. THE QUESTION IS
10 WHETHER OR NOT THAT PRIOR KNOWLEDGE WILL INTERFERE
11 WITH YOUR REACHING A VERDICT BASED ON THE LAW AND THE
12 EVIDENCE IN THIS CASE.

13 YOU KNOW, SOMETIMES TV'S MAKE MISTAKES AND
14 NEWSPAPERS DON'T LIKE TO ADMIT IT, BUT THEY
15 ERRONEOUSLY REPORT THINGS SOMETIMES, AND PEOPLE TELL
16 US THINGS SOMETIMES THAT ARE STRICTLY RUMORS AND NOT
17 BASED ON THE FACTS. A JUROR MUST BE IN A POSITION TO
18 DISREGARD THAT AND SAY UPON MY OATH, I'M GOING TO
19 REACH A VERDICT BASED ON WHAT I HEAR IN THIS
20 COURTROOM AND NOT FROM SOME SCUTTLEBUTT ON THE
21 STREETS OR WHAT I READ IN THE PAPER. SO IF ANY OF
22 YOU -- AND WE'LL MAKE SOME INQUIRY AS TO THAT ISSUE
23 WHEN WE PRIVATELY EXAMINE VARIOUS WITNESSES.

24 NOW, MR. BAILEY, ARE THERE ANY QUESTIONS THAT WE
25 -- YOU DESIRE FROM THE ENTIRE PANEL AT THIS TIME?

1 MR. BAILEY: NOT AT THIS TIME, YOUR HONOR.

2 THE COURT: MR. NEWSOME, ANY QUESTIONS
3 THAT YOU DESIRE?

4 MR. NEWSOME: NONE AT THIS TIME, YOUR
5 HONOR.

6 THE COURT: ALL RIGHT. AGAIN, AT THIS
7 TIME, I EXTEND TO YOU THE OPPORTUNITY NOW TO EXAMINE
8 ANY JURORS WHO HAVE BEEN DISMISSED BY ME. THEY ARE
9 IN STILL IN THE COURTROOM AND YOU, OF COURSE, WILL
10 HAVE A FULL OPPORTUNITY IF YOU CARE TO, AS WILL MR.
11 BAILEY, TO EXAMINE THESE OTHER JURORS WHO HAVE
12 RESPONDED TO THE FACT THAT THEY HAVE EITHER
13 DISCUSSED, READ OR KNOW SOMETHING ABOUT THE ISSUES IN
14 THIS CASE. ALL RIGHT.

15 NOW, LADIES AND GENTLEMEN, I APOLOGIZE FOR
16 WORKING YOU PAST 1:30, BUT IN DOING SO AND IN
17 FOLLOWING THIS PROCEDURE, WE HAVE SAVED ABOUT TWO
18 DAYS OF WORK. THERE WAS NO REASON TO ASK ALL OF YOU
19 THESE INDIVIDUAL QUESTIONS WHEN THE ANSWER IS
20 OBVIOUSLY NO.

21 NOW, I'M GOING TO ASK THAT YOU RETURN AT 2:30.
22 AT THAT TIME, YOUR CLERK OF COURT WILL HAVE DIVIDED
23 YOU INTO APPROPRIATE JURY PANEL LISTS, AND I WILL
24 ASSIGN EACH PANEL TO YOU AND GIVE YOU A TIME FOR
25 RETURN. WE WILL START INDIVIDUAL VOIR DIRE.

1 THOSE JURORS THAT ARE FOUND QUALIFIED WILL BE
2 ASKED TO PACK YOUR BAGS AND TO BE BACK HERE THURSDAY
3 AFTERNOON AT 2:30. I WILL BE BRINGING BACK 35 OF YOU
4 PLUS ONE MORE PANEL. AND AT THAT TIME, WE WILL BE
5 SELECTING TWELVE JURORS AND TWO ALTERNATES. I FULLY
6 INTEND TO START THIS CASE AT 2:30 ON THURSDAY.

7 THE FIRST PHASE -- PROBABLY WE'LL CONCLUDE THE
8 FIRST PHASE BY FRIDAY OR SATURDAY. THAT WOULD BE OUR
9 PROPOSED SCHEDULE. THE SECOND PHASE -- AND I USE THE
10 WORD "IF" ADVISEDLY. THERE MAY OR MAY NOT BE A
11 SECOND PHASE, DEPENDING ON THE JURY, SO MAKE NO
12 INFERENCE ABOUT -- WHEN I TALK ABOUT A SECOND PHASE,
13 MAKE NO INFERENCE ABOUT THAT. IF IT'S NEEDED,
14 PROBABLY OUR PLANS ARE TO START THE SECOND PHASE ON A
15 MONDAY MORNING, AND I WOULD THINK THAT WE COULD
16 CONCLUDE THAT NO LATER THAN TUESDAY OR WEDNESDAY.

17 BUT I DO WANT YOU TO KNOW THAT THE STATE AND THE
18 DEFENSE AND THIS JUDGE ARE PREPARED TO MOVE
19 EXPEDITIOUSLY. WE WANT TO PRESERVE YOUR TIME AT ALL
20 TIME. HOWEVER, OUR PRIMARY INTEREST IS SEEING THAT
21 THE STATE OF SOUTH CAROLINA, THE PEOPLE OF CALHOUN
22 COUNTY, AND THIS DEFENDANT RECEIVE A FAIR AND
23 IMPARTIAL TRIAL, AND WITH YOUR ASSISTANCE AND GOD'S
24 HELP, THAT WILL BE ACCOMPLISHED.

25 PLEASE BE BACK AT 2:30. THANK YOU SO MUCH.

1 (WHEREUPON, A BREAK WAS TAKEN
2 FROM THE PROCEEDINGS AT 1:35
3 P.M.)

4 THE COURT: ALL RIGHT. LET'S GO ON THE
5 RECORD. LET THE RECORD REFLECT THAT THIS PROCEEDING
6 IS HELD OUTSIDE THE PRESENCE OF THE JURY. THE
7 DEFENDANT, HIS ATTORNEY AND THE SOLICITOR ARE
8 PRESENT.

9 LET THE RECORD FURTHER REFLECT THAT UPON THE
10 CALLING OF THE ROLL, SOME TEN OR TWELVE JURORS DID
11 NOT RESPOND. AS I UNDERSTAND IT, BY AND WITH THE
12 CONSENT OF THE DEFENDANT AND HIS ATTORNEY AND MR.
13 BAILEY, THE PRESENCE OF THOSE JURORS WHO DID NOT
14 RESPOND TO THE ROLL CALL ARE WAIVED. IS THAT RIGHT,
15 MR. BAILEY?

16 MR. BAILEY: THAT'S CORRECT, YOUR HONOR.

17 THE COURT: IS THAT RIGHT?

18 MR. NEWSOME: THAT'S CORRECT, YOUR HONOR.

19 THE COURT: MR. HUGHES, PLEASE STAND.

20 SOME OF THE JURORS DID NOT SHOW UP. YOUR ATTORNEY
21 SAYS THAT WE MAY PROCEED. HE WAIVES THEIR PRESENCE.
22 DO YOU AGREE WITH THAT?

23 THE DEFENDANT: YES, SIR.

24 THE COURT: LET THE RECORD SO REFLECT.

25 NOW, WE HAVE HAD -- YOU MAY BE SEATED, MR. HUGHES.

1 IN COLUMBIA, BY AND WITH THE CONSENT OF ALL PARTIES,
2 THERE WAS A JACKSON V. DENNO HEARING HELD AT WHICH
3 TIME TESTIMONY WAS TAKEN. I RECESSED THAT HEARING TO
4 GIVE THE DEFENDANT AN OPPORTUNITY TO HAVE ANY
5 WITNESSES THAT HE CHOSE TO CALL FIRST. ARE THERE ANY
6 WITNESSES ON THAT ISSUE TO BE CALLED BY THE
7 SOLICITOR'S OFFICE?

8 MR. BAILEY: NO ADDITIONAL WITNESSES, YOUR
9 HONOR.

10 MR. NEWSOME: NO WITNESSES, YOUR HONOR.
11 WE'LL GO ON THE RECORD.

12 THE COURT: ALL RIGHT. THEN LET THE
13 RECORD REFLECT AS FOLLOWS. I HAVE HELD AN
14 EVIDENTIARY HEARING IN THE MATTER, AND I'M CONVINCED
15 BEYOND A REASONABLE DOUBT AND SO FIND THAT THE
16 CONFESSION OR STATEMENT OBTAINED FROM THE DEFENDANT
17 WAS FREELY AND VOLUNTARILY GIVEN AND THAT THE SAME
18 WAS GIVEN WITHOUT DURESS, COERCION, WITHOUT UNDUE
19 INFLUENCE, WITHOUT ANY THREATS, INDUCEMENTS, HOPES OR
20 REWARDS.

21 I FURTHER FIND THE DEFENDANT IS IN COMPLIANCE
22 WITH MIRANDA V. ARIZONA, WAS ADVISED OF HIS
23 CONSTITUTIONAL RIGHTS; THAT IS, THE RIGHT TO HAVE AN
24 ATTORNEY PRESENT WITH HIM DURING THE INTERVIEW AND
25 THE INTERROGATION, THAT THE COURT WILL APPOINT AN

1 ATTORNEY FOR HIM IF HE WAS WITHOUT THE FUNDS TO
2 EMPLOY ONE WITHOUT COST TO HIM, THAT HE HAD THE RIGHT
3 TO REMAIN SILENT, THAT HE HAD THE RIGHT TO TERMINATE
4 THE INTERROGATION AT ANY TIME AND NOT TO ANSWER ANY
5 QUESTIONS, AND THAT ANYTHING THAT THE DEFENDANT SAID
6 COULD BE USED IN EVIDENCE AGAINST HIM.

7 I FURTHER UNDERSTOOD THAT THE DEFENDANT
8 UNDERSTOOD THESE RIGHTS AND THAT HE KNOWINGLY AND
9 INTELLIGENTLY WAIVED SUCH RIGHTS UNDER THE FIFTH AND
10 SIXTH AMENDMENT TO REMAIN SILENT AND TO HAVE COUNSEL
11 PRESENT WITH HIM AT THE INTERVIEW AND INTERROGATION
12 SESSION. I FIND THAT THE DECISION TO MAKE THE
13 STATEMENTS WAS A PRODUCT OF THE DEFENDANT'S OWN WILL,
14 AND THAT I FURTHER FIND BEYOND A REASONABLE DOUBT
15 THAT THIS DEPARTMENT HAD THE CAPACITY TO UNDERSTAND
16 THE MEANING AND EFFECT OF WAIVING HIS CONSTITUTIONAL
17 RIGHTS. I FIND FURTHER THAT THESE STATEMENTS ARE
18 ADMISSIBLE IF DESIRED BY THE STATE INTO THE TRIAL OF
19 THIS CASE. THESE FINDINGS ARE MADE BEYOND A
20 REASONABLE DOUBT.

21 NOW, ON THAT ISSUE, IS THERE ANYTHING ELSE, MR.
22 BAILEY?

23 MR. BAILEY: NO, SIR.

24 THE COURT: ON THAT ISSUE, IS THERE
25 ANYTHING ELSE FROM THE DEFENDANT?

1 MR. NEWSOME: NO, YOUR HONOR.

2 THE COURT: ALL RIGHT. AT THIS TIME,
3 LET'S PROCEED WITH A BLAIR HEARING. YOU MAY PROCEED,
4 SOLICITOR.

5 MR. BAILEY: YOUR HONOR, I WILL HAND TO
6 THE COURT, FIRST OF ALL, THE EVALUATION FROM DR.
7 MORGAN WITH THE HALL INSTITUTE DATED SEPTEMBER 1ST,
8 1995, AND WOULD, SECONDLY, HAND YOU A REPORT FROM THE
9 SOUTH CAROLINA DEPARTMENT OF DISABILITY AND SPECIAL
10 NEEDS DATED AUGUST 30TH, 1995. MR. HUGHES CONSENTED
11 TO THAT FACILITY OR THAT AGENCY BECAUSE OF HIS
12 BORDERLINE I.Q. SHOWN ON SOME TESTS, AND COPIES OF
13 BOTH OF THOSE HAVE BEEN PROVIDED TO MR. NEWSOME.

14 THE COURT: ALL RIGHT, SIR. IS THERE
15 ANYTHING ELSE?

16 MR. BAILEY: NO, SIR.

17 THE COURT: ALL RIGHT. NOW, MR. NEWSOME,
18 WHILE THE STATUTE, AS I UNDERSTAND IT, PERMITS THE
19 INTRODUCTION OF THESE DOCUMENTS WITHOUT THE NECESSITY
20 OF THE AUTHOR BEING PRESENT, THESE PEOPLE ARE ON
21 STANDBY. THEY ARE UNDER SUBPOENA. IF YOU DESIRE TO,
22 I'LL CALL THEM AND SUBJECT THEM TO YOUR
23 CROSS-EXAMINATION. WHAT IS YOUR POSITION?

24 MR. NEWSOME: YOUR HONOR, I WOULD WAIVE
25 CROSS-EXAMINATION AS LONG AS THE DOCUMENTS ARE

1 ENTERED IN AS EXHIBITS BUT NOT INTO EVIDENCE TO BE
2 GIVEN TO THE JURY.

3 THE COURT: I UNDERSTAND. THESE DOCUMENTS
4 ARE SUBMITTED AS A PART OF THIS RECORD AT THIS TIME
5 SOLELY FOR THE PURPOSES OF A BLAIR HEARING. AND I
6 WILL RULE ON ANY OTHER QUESTIONS AS APPROPRIATE, BUT
7 I AM MAKING THEM A PART OF THE RECORD, YOU HAVING
8 BEEN PREVIOUSLY GIVEN COPIES OF THEM.

9 MR. NEWSOME: YES, SIR.

10 (COURT'S EXHIBIT NUMBER 2
11 MARKED FOR IDENTIFICATION.)

12 THE COURT: AND YOU ARE STATING TO ME THAT
13 YOU HAVE NO POSITION CONTRARY TO THE FINDINGS IN THIS
14 RECORD.

15 MR. NEWSOME: NO. I HAVE NO
16 CROSS-EXAMINATION.

17 THE COURT: ALL RIGHT. HAVE YOU PREPARED
18 AN APPROPRIATE ORDER?

19 MR. BAILEY: NO, SIR, I HAVEN'T, YOUR
20 HONOR.

21 THE COURT: ALL RIGHT. LET THE RECORD
22 REFLECT THAT I AM INCORPORATING THESE TWO STATEMENTS
23 AS A PART OF THE RECORD, AND I AM ADOPTING THE
24 FINDINGS THEREUPON AS THE FINDINGS OF THIS COURT.
25 THE FIRST STATEMENT IS SIGNED BY DR. DONALD W.

1 MORGAN, SEPTEMBER THE 1ST OF 1995, WITH HIS FINDINGS
2 THEREUPON. THE SECOND STATEMENT IS DATED AUGUST 31ST
3 OF 1995 AND IS BASED ON A COURT ORDER THAT I ISSUED
4 AT THE LAST TERM OF COURT PURSUANT TO YOUR REQUEST,
5 WAS IT NOT, MR. NEWSOME?

6 MR. NEWSOME: NO. NEITHER OF THESE
7 REPORTS WAS DONE AT MY REQUEST. IT WAS OVER MY
8 OBJECTION, YOUR HONOR.

9 THE COURT: WELL, WE HAD A FURTHER
10 EXAMINATION, DID WE NOT?

11 MR. BAILEY: YES, SIR.

12 THE COURT: AND THAT IS THE LETTER DATED
13 AUGUST 31ST, 1995, TO WHICH YOU'VE GOT A COPY DULY
14 SIGNED BY MICHELLE E. FORD, M.D.; IS THAT CORRECT?

15 MR. NEWSOME: YES, SIR.

16 THE COURT: NOW, LET THE RECORD THEN
17 REFLECT THAT I FIND BEYOND A REASONABLE DOUBT BASED
18 UPON THESE REPORTS THAT THE ABOVE-NAMED DEFENDANT IS
19 CAPABLE OF UNDERSTANDING THE NATURE OF THE CHARGES,
20 CAPABLE OF ASSISTING COUNSEL IN HIS OWN DEFENSE, THAT
21 HE DID HAVE THE ABILITY TO DIFFERENTIATE RIGHT FROM
22 WRONG AT THE TIME OF THE ALLEGED OFFENSE ON OR ABOUT
23 MARCH 18TH, 1994, THAT THE ABOVE-NAMED DEFENDANT DID
24 HAVE THE CAPACITY TO CONFORM HIS CONDUCT TO THE
25 REQUIREMENTS OF LAW, AND THAT HE IS ABLE TO ASSIST

1 COUNSEL IN HIS OWN DEFENSE. DO YOU HAVE ANY COMMENTS
2 ABOUT HIS ABILITY TO ASSIST YOU?

3 MR. NEWSOME: NOT AT THIS TIME, YOUR
4 HONOR, NO.

5 THE COURT: ALL RIGHT. THESE, THEN, WE
6 WILL INCORPORATE AS THE FINDING OF THE COURT. IF YOU
7 WILL PREPARE ME A FINAL ORDER, I'LL BE GLAD TO SIGN
8 IT.

9 NOW, WE'VE RESOLVED THE QUESTION OF
10 VOLUNTARINESS OF THE PLEA AND THE MIRANDA RIGHTS.
11 THAT TAKES CARE OF THE BLAIR HEARING. WHAT OTHER
12 PRETRIAL MATTERS DO WE NEED, MR. BAILEY?

13 MR. BAILEY: YOUR HONOR, THE ONLY THING
14 PRETRIAL, I WOULD LIKE THE JURY TO BE INFORMED THAT I
15 MOVE TO AMEND THE INDICTMENTS. INDICTMENT 153, WHICH
16 IS THE ASSAULT AND BATTERY WITH INTENT TO KILL, I
17 WOULD LIKE TO CHANGE TO --

18 MR. NEWSOME: I WAS AWARE, YOUR HONOR -- I
19 THINK THIS WAS DONE IN A PRIOR MATTER. I WOULD HAVE
20 NO OBJECTION TO IT.

21 THE COURT: GRANTED.

22 MR. BAILEY: AND THE MURDER INDICTMENT
23 154, TO CHANGE THE PLACE OF DEATH FROM ORANGEBURG
24 COUNTY TO RICHLAND COUNTY.

25 MR. NEWSOME: CHANGE IT FROM ORANGEBURG TO

1 RICHLAND?

2 MR. BAILEY: EXCUSE ME, FROM RICHLAND TO
3 ORANGEBURG.

4 MR. NEWSOME: AND I JUST WAS MADE AWARE OF
5 THAT THIS MORNING, YOUR HONOR. I DON'T THINK IT
6 WOULD AFFECT DETRIMENTALLY OUR DEFENSE AT ALL.

7 THE COURT: SO BY AGREEMENT, THAT'S
8 GRANTED.

9 MR. BAILEY: THANK YOU, YOUR HONOR.

10 THE COURT: ANYTHING FURTHER ON THAT
11 ISSUE?

12 MR. BAILEY: NO, SIR.

13 THE COURT: ARE THERE ANY OTHER MOTIONS
14 FROM THE STATE?

15 MR. BAILEY: NO, SIR.

16 THE COURT: HOW ABOUT NOW, MR. NEWSOME, I
17 WOULD LIKE TO CLEAR THE DECK HERE. DO YOU HAVE ANY
18 MOTIONS AT THIS TIME REGARDING THE FIRST PHASE?

19 MR. NEWSOME: NO, SIR.

20 THE COURT: ALL RIGHT, SIR. SO AS I
21 UNDERSTAND IT NOW, AT 2:30 -- INCIDENTALLY, I'M
22 INSTRUCTING THE CLERK TO BEGIN THE SELECTION OF THE
23 PANEL PROCESS AT THIS TIME IN OPEN COURT AND IN THE
24 PRESENCE OF THE DEFENDANT. LET THE DEFENDANT REMAIN
25 IN THE COURTROOM. HAVE HIM GET A SANDWICH, AND I'LL

1 REMAIN HERE, TOO, AS YOU CAN. I MEAN, YOU CARE TO
2 LEAVE IF YOU WANT TO, BUT I WANT THE DEFENDANT HERE.

3 MR. NEWSOME: IF THE DEFENDANT'S HERE,
4 YOUR HONOR, I'LL BE HERE. SO LONG AS I HAVE TIME TO
5 GET A SANDWICH OR SEND OUT FOR ONE.

6 THE COURT: OKAY. I'M GOING TO ASK THE
7 CLERK TO -- MR. CLERK, CAN YOU SEND SOMEBODY TO GET A
8 SANDWICH FOR COUNSEL HERE, MY COURT REPORTER, ME AND
9 MY STAFF? CAN YOU DO THAT? SHERIFF, I NEED
10 SOMETHING FOR THE DEFENDANT, HIS ATTORNEY. AND WHO
11 IS GOING TO BE HERE FOR THE STATE?

12 MR. BAILEY: WE'VE ALREADY SENT OUT FOR
13 OURS, YOUR HONOR.

14 THE COURT: OKAY. PLEASE GET SOMETHING
15 FOR MY COURT REPORTER, ME AND HER. I'LL TAKE A
16 HAMBURGER.

17 OKAY. I UNDERSTAND ONE OF THE JURORS WHO FAILED
18 TO SHOW IS OUT THERE. TELL HIM TO COME IN, PLEASE,
19 AND LET ME SEE WHAT THE PROBLEM WAS. LET THE RECORD
20 REFLECT THAT AT THIS TIME WE WILL NOW BEGIN THE
21 PROCESS. DO YOU WAIVE THE JURY BOY'S PRESENCE?

22 MR. NEWSOME: DO I WAIVE -- EXCUSE ME,
23 SIR?

4 THE COURT: DO YOU WAIVE THE JURY BOY AND
25 AGREE TO PERMIT THE CLERK OF COURT TO PULL THESE

1 PANELS?

2 MR. NEWSOME: YES, SIR.

3 THE COURT: ALL RIGHT. PUT THAT IN THE
4 RECORD.

5 WHO IS THE JUROR WHO FAILED TO SHOW? MR. JUROR,
6 FOR THE RECORD NOW, I NEED TO BE ON THE RECORD. WHAT
7 IS YOUR NAME?

8 JURY VENIRE MEMBER: LARRY BLACK.

9 THE COURT: MR. BLACK, YOU WERE SUBPOENAED
10 TO BE HERE AT 10:00 IN A MOST IMPORTANT MATTER. WHY
11 ARE YOU LATE?

12 JURY VENIRE MEMBER: I HAVE NO EXCUSE. I
13 JUST FORGOT ABOUT IT. I'VE BEEN HAVING REAL BAD
14 MIGRAINE HEADACHES. AS A MATTER OF FACT, I JUST CAME
15 FROM THE DOCTOR. AND I'VE JUST HAD A LOT ON MY MIND,
16 AND I JUST FORGOT ABOUT IT.

17 THE COURT: WELL, YOU KNOW, I APPRECIATE
18 SOMEBODY TELLING ME THE TRUTH. ALL RIGHT. BY
19 AGREEMENT OF COUNSEL, WE'VE ALREADY DEALT WITH THE
20 JURY AT LENGTH TODAY, AND I WOULD HAVE TO GO THROUGH
21 THE ENTIRE PROCESS WITH YOU. THEY'VE AGREED TO
22 EXCUSE YOUR ABSENCE HERE. I WILL NOT EXCUSE YOU,
23 THOUGH. I'M GOING TO TRANSFER YOU TO THE NEXT TERM
24 OF COURT. NOW, I URGE YOU TO PUT THE SUMMONS ON YOUR
25 MIRROR.

1 JURY VENIRE MEMBER: I SURE WILL.

2 THE COURT: ALL RIGHT, SIR. THANK YOU.

3 ALL RIGHT. COURT WILL CONTINUE IN SESSION DURING THE
4 PICKING OF THE PANEL.

5 (WHEREUPON, INDIVIDUAL JUROR
6 VOIR DIRE OF THE PANEL WAS
7 COMMENCED AT 1:45 P.M.)

8 THE COURT: THE RECORD REFLECTS YOUR
9 PRESENCE. MR. NEWSOME, LET ME GET ON THE RECORD
10 ABOUT THE FOLLOWING MATTERS. HAS THE STATE OF SOUTH
11 CAROLINA THROUGH ITS SOLICITOR AT LEAST 30 DAYS PRIOR
12 TO TODAY THE SOLICITOR NOTIFIED YOU AS DEFENSE
13 COUNSEL OF HIS INTENTION TO SEEK THE DEATH PENALTY?

14 MR. NEWSOME: YES, YOUR HONOR, HE HAS.

15 THE COURT: AND PRIOR TO TRIAL, HAS HE
16 MADE KNOWN TO THE DEFENDANT AND TO YOU IN WRITING THE
17 PROSECUTION'S EVIDENCE IN AGGRAVATION OF THE
18 PUNISHMENT TO BE OFFERED BY THE STATE FOR
19 INTRODUCTION INTO EVIDENCE?

20 MR. NEWSOME: HE HAS GIVEN ME A SUMMARY OF
21 THE ALLEGATIONS OF AGGRAVATION.

22 THE COURT: ALL RIGHT, SIR. AND HAVE YOU
23 BEEN PREVIOUSLY PROVIDED WITH A TRUE COPY OF THE
24 INDICTMENT AT LEAST THREE DAYS PRIOR TO TRIAL?

25 MR. NEWSOME: I HAVE BEEN PROVIDED WITH

1 COPIES OF THE INDICTMENT, BUT NOT TRUE COPIES.

2 THE COURT: BUT YOU ARE SATISFIED WITH
3 THAT?

4 MR. NEWSOME: YES, SIR.

5 THE COURT: AND YOU CONSENT EVEN NOW TO
6 THE AMENDMENTS THAT WE'VE INSTITUTED?

7 MR. NEWSOME: YES, SIR. I WAS AWARE THAT
8 THE ONE AMENDMENT, THE ISSUE WAS A -- I'VE READ THE
9 INFORMATION THAT'S BEEN PROVIDED TO ME.

10 THE COURT: ALL RIGHT, SIR. NOW, FOR THE
11 RECORD, I KNOW THAT YOU ARE RETAINED, COUNSEL.

12 MR. NEWSOME: YES, SIR.

13 THE COURT: I'M NOT SURE IT'S NECESSARY,
14 BUT FOR YOUR PROTECTION --

15 MR. NEWSOME: YES, SIR.

16 THE COURT: -- PLEASE STATE YOUR FULL
17 QUALIFICATIONS IN PRIOR FELONY TRIAL EXPERIENCE.

18 MR. NEWSOME: YOUR HONOR, I GRADUATED FROM
19 LAW SCHOOL IN 1978. PRIOR TO GRADUATING FROM LAW
20 SCHOOL, I WAS EMPLOYED BY THE RICHLAND COUNTY
21 SOLICITOR'S OFFICE FOR A NUMBER OF YEARS. I WENT TO
22 WORK FOR THE RICHLAND COUNTY PUBLIC DEFENDER'S OFFICE
23 AND COMMENCED TRYING CASES, BOTH FELONY AND
24 MISDEMEANOR. I HAVE BEEN INVOLVED IN FIVE DEATH
25 PENALTY CASES PRIOR TO THIS ONE, THREE AS AN ATTORNEY

1 AND TWO AS -- I HAVE REPRESENTED FOLKS ANYWHERE FROM
2 A NINE-YEAR-OLD SHOPLIFTING TO FOLKS CHARGED WITH
3 DEATH PENALTY MURDER CASES.

4 I'VE MAINTAINED -- A LARGE PORTION OF MY
5 PRACTICE IS CRIMINAL AREA, ALTHOUGH THE FREQUENCY OF
6 FELONY TRIALS REDUCES IN PRIVATE PRACTICE OVER THE
7 YEARS. BUT I HAVE HAD THREE MURDER CASES IN PRIVATE
8 PRACTICE. I CAN TELL THE COURT THE RESULTS OF THAT
9 IF YOU NEED THAT.

10 THE COURT: ALL RIGHT, SIR. AND YOU WILL
11 NOW AGREE TO THE PANEL FROM WHICH THE JURY NOW WILL
12 BE SELECTED AND VOIR DIRE BEGINS?

13 MR. NEWSOME: YES, SIR.

14 THE COURT: ALL RIGHT. I WANT THE RECORD
15 TO REFLECT THAT I PREVIOUSLY ADVISED -- GAVE YOU A
16 COPY OF THE JUROR LETTER WHICH THEY WILL BE PERMITTED
17 TO READ.

18 MR. NEWSOME: YES, SIR.

19 THE COURT: AND YOU HAVE NO OBJECTION TO
20 THE CONTENTS OF THAT --

21 MR. NEWSOME: THIS IS THE LETTER
22 CONCERNING THE THREE DIFFERENT TYPES OF JURORS?

23 THE COURT: YES, SIR.

24 MR. NEWSOME: YES.

25 THE COURT: ALL RIGHT, SIR. I THINK THAT

1 THEN CLEARS THE DECK FOR THOSE PROCEDURE MATTERS.

2 THANK YOU SO MUCH.

3 (WHEREUPON, A BREAK WAS TAKEN
4 FROM THE PROCEEDINGS.)

5 THE COURT: GOOD AFTERNOON, LADIES AND
6 GENTLEMEN. PLEASE BE SEATED.

7 LADIES AND GENTLEMEN, WE HAVE NOW COMPLETED THE
8 DRAWING OF THE VARIOUS PANELS, AND AS YOUR NAME IS
9 CALLED, WE WOULD REQUEST THAT YOU PLEASE COME FORWARD
10 AND STAND IN FRONT OF US.

11 MR. CLERK, YOU MAY PROCEED WITH THE CALLING OF
12 THE FIRST PANEL.

13 THE CLERK: OKAY. NUMBER 157, LATOYA
14 LOGAN; NUMBER 293, BRENDA WISE; 41, JERRY CROWE;
15 NUMBER 134, JOHN A. JORDAN. THEY CAN PROBABLY HAVE A
16 SEAT OVER HERE BECAUSE WE'RE GOING TO KEEP THEM HERE;
17 RIGHT?

18 THE COURT: LET THEM JUST STAND THERE
19 BECAUSE I'M GOING TO MOVE THEM ON BACK. YOU MAY
20 STAND THERE.

21 THE CLERK: NUMBER 169, PAUL M. MCCOLL;
22 269, ERNEST VERNON; 120 --

23 THE COURT: WAIT A MINUTE. MAKE SURE HE'S
24 COMING, NOW. WHERE IS THAT LAST ONE YOU CALLED?

25 THE CLERK: 169, PAUL MCCOLL.

1 JURY VENIRE MEMBER: RIGHT HERE.

2 THE COURT: THAT'S YOU. RIGHT.

3 JURY VENIRE MEMBER: I THINK YOU'VE GOT
4 THE NUMBERS MIXED UP.

5 THE CLERK: 269 IS ERNEST VERNON; 120,
6 MALLIE T. JACKSON; 107, ROSENA HOWELL; NUMBER 2,
7 EVERETTE ATKINS; NUMBER 285, CATHY WILES; NUMBER 241,
8 IRENE RICHARDSON; NUMBER 52, ANNA L. EDWARDS; NUMBER
9 7, WILLIAM BARRON; NUMBER 3, TED AYER; AND NUMBER
10 161, JOAN MARTIN.

11 THE COURT: ALL RIGHT. LADIES AND
12 GENTLEMEN, YOU HAVE BEEN SELECTED AS PANEL NUMBER 1,
13 AND WE WILL START IMMEDIATELY WITH THIS GROUP
14 STARTING WITH JUROR NUMBER 157 FOR INDIVIDUAL VOIR
15 DIRE EXAMINATION.

16 NOW, THE WAY WE'LL PROCEED IS THAT THIS PANEL
17 WILL GO IN THE JURY ROOM. THE FIRST JUROR TO BE
18 EXAMINED WILL BE SITTING IN THE HALL, AND I'LL HAVE A
19 DOCUMENT FOR YOU THAT I WANT YOU TO READ. AS SOON AS
20 YOU HAVE READ THAT, I WILL CALL YOU OUT AND WE WILL
21 EXAMINE YOU. AND AS SOON AS WE'RE THROUGH, THEN
22 WE'LL BRING THE NEXT ONE IN. AND AT THAT TIME, I
23 WILL GIVE YOU FURTHER INSTRUCTION WITH REGARD TO
24 REPORTING.

25 SO REMEMBER NOW, YOU ARE ON PANEL NUMBER 1. CAN

1 YOU SEND SOMEBODY -- HAVE YOU GOT THEIR TELEPHONE
2 NUMBERS, MR. CLERK?

3 THE CLERK: FOR THESE JURORS?

4 THE COURT: WE WON'T NEED THESE. THAT'S
5 RIGHT. SO LET THEM GO TO THE JURY ROOM. MR.
6 SHERIFF?

7 THE SHERIFF: YES, SIR.

8 THE COURT: THE JUROR WHO WILL BE READING
9 THE LETTER, HE OR SHE WILL BE SITTING IN THE HALL.
10 HAVE THEY PROVIDED THE LETTER FOR YOU YET?

11 THE SHERIFF: NO, SIR.

12 THE COURT: OKAY. GO TO THE JURY ROOM.
13 THANK YOU SO MUCH.

14 (WHEREUPON, JURY PANEL NUMBER 1
15 WAS DISMISSED.)

16 THE COURT: ALL RIGHT. PANEL NUMBER 2,
17 PLEASE CALL.

18 THE CLERK: NUMBER 197, SONYA PARNELL;
19 NUMBER 204, GENE PLATT; NUMBER 147, MARCIA KOLBERG;
20 NUMBER 110, CARROLL HUDSON; NUMBER 205, TEDDY POUND;
21 NUMBER 49, JACQUELINE DYCHES; NUMBER 137, JOHN
22 KAIGLER; NUMBER 136, FRANKLIN JUMPER; NUMBER 88, MARY
23 GUNTER; NUMBER 30, ROBERT CARROLL; NUMBER 34, KATHY
24 CHEESEBORO; NUMBER 270, IVY VOID; NUMBER 290, ROBIN
25 WILLIAMS; NUMBER 58, JEFFREY FILINA; AND NUMBER 124,

1 MAMIE JETER.

2 THE COURT: ALL RIGHT. YOU LADIES AND
3 GENTLEMEN ARE PANEL NUMBER 2. AS I'VE INDICATED, NOW
4 WE WILL BE VOIR DIRING OR QUESTIONING PANEL NUMBER 1
5 FOR THE NEXT TWO-AND-A-HALF HOURS, SO I'M GOING TO
6 ASK THAT YOU COME BACK AT 5:30. NOW, THE REASON I'M
7 DOING THAT, FOR THOSE WHO ARE NOT QUALIFIED OR WHO
8 ARE OTHERWISE EXCUSED, WILL NOT HAVE TO COME BACK FOR
9 THE REST OF THE WEEK. AND SO IT IS I MAY BE SAVING A
10 LOT OF YOU SOME TIME. ORDINARILY, I MIGHT SAY COME
11 ON BACK IN THE MORNING. BUT SOME OF YOU WILL BE
12 EXCUSED TODAY, AND SO I WOULD NOT WISH FOR YOU TO
13 HAVE TO RUIN YOUR WHOLE DAY TOMORROW. SO I'M GOING
14 TO WORK A LITTLE LATER TONIGHT HOPING I'M
15 INCONVENIENCING -- I'M HELPING YOU TOO. I WOULD LIKE
16 TO BE GOING HOME AND SEE MY GRANDCHILDREN, BUT I'M
17 GOING TO STAY HERE WITH YOU.

18 SO YOU ARE PANEL NUMBER 2. IT'S VERY IMPORTANT
19 THAT YOU REMEMBER THAT. BE BACK IN THE COURTROOM OR
20 AT THE DOOR OF THE COURTROOM AT 5:30, AND WE WILL
21 PROCEED AS EXPEDITIOUSLY AS POSSIBLE. ANY QUESTIONS
22 FROM ANYBODY? NOW, BE SURE -- YOU'RE ALREADY ON THE
23 LIST NOW SO I'VE GOT TO HAVE YOU. THIS TIME IF
24 YOU'RE NOT HERE, I'LL HAVE TO SEND THE SHERIFF AFTER
25 YOU. SO I LOOK FORWARD TO SEEING Y'ALL BACK AT 5:30.

1 THANK YOU SO MUCH.

2 (WHEREUPON, JURY PANEL NUMBER 2
3 WAS DISMISSED.)

4 THE COURT: ALL RIGHT. CALL PANEL NUMBER
5 3.

6 THE CLERK: 77, WILLETTE GOODWIN; 271,
7 TIMOTHY WADFORD; 295, PATRICIA WISE; 179, NATALIE
8 MCVICKER; 92, SHANNON HARDWICK; 208, JUDITH RAST;
9 294, MARY H. WISE; 299, CLIFTON ZEIGLER; 28, TIMOTHY
10 BUTLER; 18, RONALD BOZARD; 50, RICHARD DYKES; 247,
11 JOSEPH SMITH; 199, ELIZABETH PETERKIN; 146, ALFRED
12 KOLBERG; AND 111, GWENDOLYN HUFFMAN.

13 THE COURT: ALL RIGHT. HAS EVERYBODY
14 RESPONDED TO PANEL NUMBER 3?

15 THE CLERK: YES, SIR.

16 THE COURT: ALL RIGHT. LADIES AND
17 GENTLEMEN, GOOD AFTERNOON. IS IT IS IMPORTANT NOW
18 FOR YOU TO REMEMBER THAT YOU ARE PANEL NUMBER 3. I'M
19 GOING TO ASK THAT YOU REPORT IN THE MORNING AT 10:00
20 A.M. WE'LL BE HERE EARLIER THAN THAT TO FINISH
21 EXAMINING PANEL NUMBER 2, AND I HOPE BY THEN WE'RE
22 READY FOR YOU. IF NOT, I'LL GIVE YOU SOME FURTHER
23 INSTRUCTIONS, BUT WE'RE GOING TO MAKE EVERY EFFORT TO
24 START YOU AT 10:00, IF AT ALL POSSIBLE. AGAIN, WE DO
25 THIS SO THAT FOR THOSE OF YOU WHO WILL NOT BE CALLED

1 CAN GET ABOUT YOUR DAILY PURSUITS. I DON'T WANT TO
2 HAVE TO KEEP YOU HERE ALL WEEK. AND THIS IS THE
3 REASON THAT WE HAVE PANELS, SO THAT THE WHOLE JURY
4 DOES NOT HAVE TO BE HERE WHILE WE EXAMINE THE
5 INDIVIDUAL JURORS.

6 IT IS IMPORTANT THAT YOU REMEMBER TO REPORT BACK
7 HERE AT 10:00 A.M. IN THE MORNING WITHOUT FAIL,
8 BECAUSE UNDER THE RULES NOW, SINCE YOU HAVE BEEN
9 DRAWN, I HAVE TO GO GET YOU IF YOU'RE NOT HERE, AND I
10 WOULDN'T WANT TO DO THAT, BUT I WILL BECAUSE IT'S MY
11 DUTY. SO REMEMBER, YOU'RE PANEL NUMBER 3, AND TO
12 REPORT BACK AT 10:00 A.M. IN THE MORNING. I THANK
13 YOU SO MUCH. SEE YOU IN THE MORNING. FEED THOSE
14 DOGS.

15 (WHEREUPON, JURY PANEL NUMBER 3
16 WAS DISMISSED.)

17 THE COURT: PANEL NUMBER 4, READ IT.

18 THE CLERK: PANEL NUMBER 4: 178, LUCILE
19 MCLAUHLIN; 244, DEBRA SMITH; 175, CORINE MCKENZIE;
20 63, ROBERT FREDERICK; 38, DAITHY COLLINS; 76, TERESA
21 GOFF; 187, CALVIN MURPH; 116, KEITH INABINET; 261,
22 JOHN SWICEGOOD; 264, RUTH THOMAS; 255, LOIS STEWART;
23 35, GARY CLARK; 139, KELLY KEMMERLIN; 69, LEE GANTT;
24 AND 21, WILLIAM BROOKS.

25 THE COURT: GOOD AFTERNOON, LADIES AND

1 GENTLEMEN. YOU HAVE BEEN DRAWN TO SERVE ON PANEL
2 NUMBER 4. PLEASE REMEMBER THAT. IT IS VERY
3 SIGNIFICANT. WE OBVIOUSLY HAVE ENOUGH POTENTIAL
4 JURORS TO OCCUPY OURSELVES IN THE MORNING, SO I'M
5 GOING TO ASK THAT THIS PANEL, WHICH IS NUMBER 4, TO
6 REPORT TO THE COURTROOM, PLEASE, AT 2:00 TOMORROW
7 AFTERNOON.

8 NOW, DO NOT DISCUSS THIS CASE WITH ANYBODY. LET
9 NO ONE DISCUSS IT WITH YOU. MAKE NO INDEPENDENT
10 INVESTIGATION, PLEASE. AND PLEASE REMEMBER, NOW, YOU
11 ARE NOW DRAWN. AND UNDER MY OATH OF OFFICE, IF
12 YOU'RE NOT HERE AND I DON'T SEE YOU IN THE OBITUARY
13 COLUMN, I'VE GOT TO GO GET YOU. AND I HOPE NEITHER
14 ONE OCCURS. SO I'LL LOOK FORWARD TO HAVING Y'ALL
15 BACK HERE AT 2:00 TOMORROW AFTERNOON. THANK YOU SO
16 MUCH.

17 (WHEREUPON, JURY PANEL NUMBER 4
18 WAS DISMISSED.)

19 THE CLERK: OKAY. THIS IS PANEL NUMBER 5.
20 NUMBER 254, SHEILA STALEY; NUMBER 291, THEODORE
21 WILLIAMS; NUMBER 229, INDIA RUDD; NUMBER 16, REATHER
22 BOVAIN; NUMBER 296, FURMAN WISE; NUMBER 251, DENNIS
23 SPILDE; NUMBER 284, GLORIA WHREN; NUMBER 217, MARY
24 RIDGEWAY; 53, GEORGE ESAW; NUMBER 39, BILL CRIDER;
25 NUMBER 40, MARION CRIDER; NUMBER 248, DANA SMOAK;

1 NUMBER 74, GALE GLOVER; NUMBER 100, CARLA HICKLIN;
2 AND NUMBER 172, SHREEAUND MCFADDEN.

3 THE COURT: DOES THAT CONSTITUTE PANEL
4 NUMBER 5?

5 THE CLERK: PANEL NUMBER 5.

6 THE COURT: ALL RIGHT. GOOD AFTERNOON,
7 LADIES AND GENTLEMEN. YOU INDIVIDUALS HAVE BEEN
8 DRAWN NOW AS PANEL NUMBER 5. IT IS PROJECTED THAT WE
9 WILL BE ABLE TO INTERVIEW YOU, OR SOME OF YOU. WE
10 MAY WELL HAVE HAD A JURY BY THE TIME YOU GET HERE; I
11 DON'T KNOW YET. BUT IT IS IMPORTANT THAT YOU BE HERE
12 TOMORROW AFTERNOON AT 4:30. AND AT THAT TIME, WE'LL
13 EITHER -- HOPEFULLY, WE'LL EITHER SELECT YOU OR LET
14 YOU GO. AND BY DOING THIS, AGAIN, I'M SAVING YOU
15 SITTING HERE THE REST OF THE DAY AND TOMORROW
16 MORNING. I HOPE THAT HELPS YOU SOME. IT IS
17 IMPORTANT THAT YOU DO REMEMBER, NOW, THAT YOU ARE
18 PANEL NUMBER 5 AND THAT YOU MUST BE HERE AT 4:30
19 TOMORROW AFTERNOON.

20 LET ME ASK YOU, MR. WANNAMAKER, WHAT DID WE DO
21 ABOUT GETTING THEIR PHONE NUMBERS?

22 THE CLERK: IF YOU FILLED OUT A PINK
23 INFORMATION FORM, THEN I SHOULD HAVE YOUR PHONE
24 NUMBER. IF YOU DO HAVE TO BE CALLED, GIVE ME THAT
25 INFORMATION AGAIN. I'LL NEED WHERE YOU CAN BE

1 REACHED IN CASE WE HAVE ANY INFORMATION.

2 THE COURT: ALL RIGHT. SO I LOOK FORWARD
3 TO SEEING YOU AT 4:30 TOMORROW AFTERNOON. THANK YOU.

4 (WHEREUPON, JURY PANEL NUMBER 5.
5 WAS DISMISSED.)

6 THE COURT: ALL RIGHT. MR. WANNAMAKER,
7 WHEN YOU CALL PANEL NUMBER 6 AND 7, I'M GOING TO LET
8 THEM REMAIN IN THE COURTROOM UNTIL YOU GET THEIR
9 PHONE NUMBERS BECAUSE IT WELL MAY BE THAT THEY WOULD
10 NOT HAVE TO COME BACK.

11 WE'RE GOING TO PULL PANEL NUMBER 6 WHO WILL
12 REPORT AT 9:30 THURSDAY MORNING UNLESS NOTIFIED
13 DIFFERENTLY, AND THEN WE'LL FILL PANEL NUMBER 7,
14 WHICH WILL REPORT AT 12:00 THURSDAY, UNLESS WE HEAR
15 DIFFERENTLY. AFTER YOU ARE CALLED UP AND ASSIGNED
16 PANELS, I'LL ASK YOU TO REMAIN IN THE COURTROOM JUST
17 A MOMENT SO THAT THE CLERK CAN GET YOUR PHONE NUMBER
18 BECAUSE IT WELL MAY BE THAT WE WON'T NEED YOU, AND I
19 DON'T WANT YOU TO COME IF YOU DON'T HAVE TO. SO
20 BEFORE YOU LEAVE, LET US GET YOUR PHONE NUMBERS.

21 CALL PANEL NUMBER 6 FOR ME TO REPORT AT 9:30
22 THURSDAY MORNING.

23 THE CLERK: NUMBER 129, LILLIE A. JOHNSON;
24 NUMBER 227, JOE ROYALS; NUMBER 90, CHARLIE HAMMOND;
25 NUMBER 131, DAVID JONES; NUMBER 46, JIM DIAMOND;

1 NUMBER 143, SALLY KIMPSON; NUMBER 126, BOBBY JOHNSON;
2 NUMBER 263, ROSEMARY TAYLOR; NUMBER 198, JACQUELINE
3 PEARCE; NUMBER 102, RICKEY HILLS; NUMBER 222,
4 PATRICIA ROBINSON; NUMBER 86, BLONDELL GUINYARD;
5 NUMBER 27, ROSE BUTLER; NUMBER 66, LUERENE FULLER;
6 NUMBER 292, DAVID WILSON.

7 THE COURT: GO AHEAD AND CALL THE THREE ON
8 SEVEN, AND LET THEM BE A PART OF THIS PANEL TOO.

9 THE CLERK: 45, ROGER DARBY; 281, JENNIFER
10 WHITE; AND 93, FURMAN HART.

11 NOW, IS THAT EVERYBODY THAT WAS ON THE JURY
12 PANEL?

13 JURY VENIRE MEMBER: I'M ON THE JURY
14 PANEL.

15 THE COURT: WHAT'S YOUR NUMBER?

16 JURY VENIRE MEMBER: I DIDN'T GET MY
17 PAPER.

18 THE CLERK: SHE WASN'T HERE EARLIER TODAY.
19 SHE'S BEEN -- SHE'S JUST COME IN.

20 THE COURT: YOU WERE SUPPOSED TO BE HERE
21 AT 10:00. WHY WEREN'T YOU HERE?

22 JURY VENIRE MEMBER: I WAS HERE AT 10:00
23 THIS MORNING. YOU CALLED MY NAME.

24 THE CLERK: OH.

25 THE SHERIFF: SHE WAS HERE. I SAW HER AT

1 10:00.

2 THE CLERK: WELL, I DON'T THINK WE GOT
3 HER.

4 THE COURT: SHE IS NOT IN THE LIST -- ARE
5 YOU WILLING TO EXCUSE HER?

6 MR. NEWSOME: OR IF SHE -- IF SHE ANSWERED
7 ALL OF THE QUESTIONS, I WOULD ASK THAT YOU SIT HER IN
8 PANEL NUMBER 7, YOUR HONOR.

9 THE COURT: HUH?

10 MR. NEWSOME: IF SHE WAS HERE AND ANSWERED
11 ALL OF THE QUESTIONS, WE COULD JUST ADD HER TO PANEL
12 NUMBER 7.

13 THE COURT: WELL, WE CAN DO THAT. YOU
14 AGREE TO JUST ADD HER TO NUMBER 7?

15 MR. NEWSOME: YES, SIR.

16 THE COURT: WHAT IS YOUR NAME, PLEASE?

17 JURY VENIRE MEMBER: LIZZIE SCOTT.

18 THE COURT: COME FORWARD, PLEASE. I'M
19 GLAD TO HAVE YOU. I DON'T KNOW HOW WE MISSED YOU.
20 SHE WAS NOT IN THE ORIGINAL DRAW?

21 THE CLERK: I DO NOT HAVE HER MARKED AS --
22 I MIGHT HAVE JUST MISSED --

23 THE COURT: YEAH, I KNOW. ANYWAY, BY
24 CONSENT, SHE WILL BE ADDED TO PANEL NUMBER 7.

25 NOW, LADIES AND GENTLEMEN, I'M HOPEFUL THAT WE

1 CAN GET A JURY BY TOMORROW AFTERNOON AND I WON'T NEED
2 YOUR SERVICES. BUT IT WELL MAY BE THAT I DO. SO YOU
3 LADIES AND GENTLEMEN ARE PANEL NUMBER 6. IT IS
4 ABSOLUTELY NECESSARY NOW THAT YOU REMEMBER THAT AND
5 THAT ALL OF YOU REPORT TO THIS COURTROOM AT 9:30
6 THURSDAY UNLESS OTHERWISE ADVISED BY THE CLERK.

7 SO BEFORE YOU GO, IF YOU HAVE NOT PREVIOUSLY
8 GIVEN HIM YOUR PHONE NUMBER, GIVE IT TO HIM. I WOULD
9 NOT -- IF I'VE GOT A JURY, I WANT TO BE IN A POSITION
10 TO CALL YOU SO YOU WON'T HAVE TO COME TO THE
11 COURTROOM. IF I DO NOT CALL YOU, THOUGH, YOU MUST BE
12 HERE AT 9:30, BECAUSE OTHERWISE I'M REQUIRED TO SEND
13 THE SHERIFF FOR YOU BECAUSE YOU HAVE NOW BEEN
14 SELECTED ON ONE OF THE PANELS. YOU ARE PANEL NUMBER
15 6. DOES ANYBODY HAVE ANY QUESTIONS ABOUT WHAT I'M
16 SAYING TO YOU?

17 JURY VENIRE MEMBER: YOUR HONOR, I HAVE A
18 QUESTION.

19 THE COURT: YES, MA'AM.

20 JURY VENIRE MEMBER: OKAY. YOU SAID WE
21 HAVE TO REPORT BACK ON THURSDAY?

22 THE COURT: YES.

23 JURY VENIRE MEMBER: I WILL NEED A
24 STATEMENT TO SAY TO MY JOB BECAUSE I HAVE TO REPORT
25 BACK TOMORROW, SINCE I WON'T BE ON THE JURY TOMORROW,

1 TO LET THEM KNOW THAT I NEED TO BE EXCUSED ON
2 THURSDAY.

3 THE COURT: YOU NEED TO BE -- YOU WANT --
4 WE'LL GET YOU AN EXCUSE. IS THAT WHAT YOU NEED?

5 JURY VENIRE MEMBER: I NEED SOMETHING FOR
6 WORK.

7 THE COURT: YOU'RE GOING TO NEED TO GET AN
8 EXCUSE FOR THURSDAY, FRIDAY, IF SELECTED. LET'S WAIT
9 AND SEE IF YOU'RE SELECTED.

10 JURY VENIRE MEMBER: WHAT I'M SAYING IS I
11 HAVE TO GO BACK TO WORK TOMORROW BECAUSE MY JOB MAKES
12 UP THE DIFFERENCE. IF I DON'T REPORT TO WORK
13 TOMORROW, THEY WILL --

14 THE COURT: YOU CAN REPORT TOMORROW.

15 JURY VENIRE MEMBER: BUT I NEED SOMETHING
16 FOR THURSDAY TO LET THEM KNOW.

17 THE COURT: HE WILL GIVE YOU -- HE WILL
18 GIVE YOU A STATEMENT THAT YOU NEED TO BE HERE
19 THURSDAY.

20 THE CLERK: I WANT YOU TO GO DOWNSTAIRS TO
21 MY OFFICE AND THERE WILL BE SOMEBODY DOWN THERE.

22 JURY VENIRE MEMBER: OKAY. THANK YOU.

23 THE COURT: WE'LL GET YOU ONE. IF ANYBODY
24 ELSE HAS ANY PROBLEMS LIKE THAT, JUST LET ME KNOW.
25 ALL RIGHT. UNLESS YOU HEAR FROM ME, PLEASE BE

1 BACK AT 9:30 THURSDAY.

2 MR. CLERK, DO YOU HAVE EVERYBODY'S PHONE NUMBER?

3 THE CLERK: IF YOU FILLED OUT A PINK JUROR
4 INFORMATION CARD AND PUT YOUR PHONE NUMBERS DOWN HERE
5 ON THE BOTTOM, THEN I HAVE THAT INFORMATION.

6 THE COURT: EVERYBODY FILL OUT THAT PINK
7 CARD?

8 THE CLERK: IF YOU DIDN'T, THEN I NEED
9 THAT INFORMATION NOW.

10 THE COURT: DID YOU FILL IT OUT?

11 JURY VENIRE MEMBER: I FILLED IT OUT, BUT
12 I FORGET WHETHER I PUT THE PHONE NUMBER ON THERE.

13 THE COURT: YOU BETTER GIVE IT TO HIM;
14 OTHERWISE, YOU MAY COME BACK IN AND I DIDN'T NEED
15 YOU. ALL RIGHT. I'LL SEE YOU ALL -- IF YOU DON'T
16 HEAR FROM ME, BE BACK AT 9:30 THURSDAY.

17 JURY VENIRE MEMBER: YOU MEAN IF THAT WAS
18 MAILED TO YOU?

19 THE CLERK: I MEAN THIS PINK FORM RIGHT
20 HERE. IF YOU JUST WANT TO GIVE ME YOUR NAME --

21 THE COURT: LET THERE BE NO QUESTION ABOUT
22 IT, NOW. BE HERE AT 9:30 UNLESS YOU HEAR FROM ME.

23 THE CLERK: I'M NOT GOING TO BE CALLING
24 YOU TO COME BACK. THIS IS IN CASE YOU DON'T HAVE TO
25 COME BACK.

1 JURY VENIRE MEMBER: IF I DON'T HAVE TO
2 COME BACK, YOU WILL CALL ME?

3 THE CLERK: RIGHT.

4 JURY VENIRE MEMBER: THANK YOU.

5 THE COURT: NOW, MR. BAILEY, YOU HAVE THE
6 ORIGINALS OF THE INDICTMENT, NOW?

7 MR. BAILEY: YES, SIR. DO YOU WANT ME TO
8 KEEP THE ORIGINALS, JUDGE?

9 THE COURT: YES.

10 (END OF VOLUME ONE)

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COME BACK.

1 CERTIFICATE OF REPORTER

2

3 STATE OF SOUTH CAROLINA

4 COUNTY OF FLORENCE

5

6 I, MARK W. HAGOOD, REGISTERED PROFESSIONAL
7 REPORTER, (RPR), COURT REPORTER FOR THE STATE OF
8 SOUTH CAROLINA, FOURTH JUDICIAL CIRCUIT, DO HEREBY
9 CERTIFY THAT THE FOREGOING PROCEEDINGS IS A
10 STENOGRAPHIC REPORT AND WAS TRANSCRIBED THROUGH
11 COMPUTER-AIDED TRANSCRIPTION; THAT THE FOREGOING
12 TRANSCRIPT CONTAINS A TRUE RECORD OF THE
13 PROCEEDINGS.

14 I FURTHER CERTIFY THAT I AM NEITHER ATTORNEY NOR
15 COUNSEL FOR, NOR RELATED TO NOR EMPLOYED BY ANY OF
16 THE PARTIES CONNECTED TO THE ACTION, NOR AM I
17 FINANCIALLY INTERESTED IN THE ACTION.

18 WITNESS MY HAND AT FLORENCE, SOUTH CAROLINA,
19 THIS 3rd DAY OF April, 1996.

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MARK W. HAGOOD, RPR

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THE BOARD OF DIRECTORS
[Handwritten signature]

THIS IS TO CERTIFY THAT THE ABOVE NAMED COMPANY HAS BEEN INCORPORATED IN THE STATE OF CALIFORNIA

AND THAT THE SAID COMPANY IS NOW IN FULL PAYMENT OF ALL TAXES DUE TO THE STATE OF CALIFORNIA

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STATE OF CALIFORNIA

1 STATE OF SOUTH CAROLINA
 2 COUNTY OF CALHOUN IN GENERAL SESSIONS COURT

3
 4 STATE OF SOUTH CAROLINA

94-GS-09-153

5 V. 94-GS-09-154

6 94-GS-09-155

7 94-GS-09-156

HERMAN LEE HUGHES, JR.

8 VOLUME TWO

9 - - -
 10 THE TRIAL PROCEEDINGS HAD
 11 IN THE ABOVE-STYLED CAUSE
 12 - - -

13 TUESDAY, SEPTEMBER 5, 1995
 14 ST. MATTHEWS, SOUTH CAROLINA

15 BEFORE: HONORABLE EDWARD B. COTTINGHAM,
 16 CIRCUIT COURT JUDGE

17 A P P E A R A N C E S

18 FOR THE STATE: WALTER M. BAILEY, JR., SOLICITOR

19 FOR THE DEFENDANT: PHILLIP F. NEWSOME, ESQUIRE
 20
 21
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 23
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6	STATE'S	7 PHOTO OF AUTOPSY	909	1380
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7	STATE'S	9 PHOTO OF AUTOPSY	909	1380
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8	STATE'S	11 BLOWUP	975	975
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9	STATE'S	13 " " "	978	978
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10	STATE'S	15 " " "	978	978
	STATE'S	16 " " "	978	978
11	STATE'S	17 " " "	978	978
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12	STATE'S	19 " " "	978	978
	STATE'S	20 " " "	978	978
13	STATE'S	21 CARTRIDGES	982	982
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14	STATE'S	23 " " "	982	982
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15	STATE'S	25 " " "	983	983
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5	STATE'S 51	" " "	1377	1377
	STATE'S 52	" " "	1377	1377
6	STATE'S 53	" " "	1377	1377
	STATE'S 54	" " "	1377	1377
7	STATE'S 55	" " "	1377	1377
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11	STATE'S 63	PHOTO - KEN PRESLEY	1381	1381
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1 (BEGINNING OF VOLUME TWO)

2 THE COURT: ALL RIGHT. GENTLEMEN, ARE WE
3 READY TO PROCEED?

4 MR. BAILEY: STATE'S READY, YOUR HONOR.

5 THE COURT: OKAY. LET ME GET THAT ONE
6 STATEMENT AND WE'LL BE READY.

7 OKAY. BRING THE FIRST ONE IN.

8 (JUROR NUMBER 157, A BLACK
9 FEMALE, ENTERS THE COURTROOM.)

10 THE CLERK: PLEASE STATE YOUR NAME.

11 JURY VENIRE MEMBER: LATOYA LOGAN.

12 THE CLERK: PLEASE PLACE YOUR LEFT HAND ON
13 THE BIBLE AND RAISE YOUR RIGHT HAND.

14 (JUROR NUMBER 157, HAVING BEEN FIRST DULY SWORN
15 BY THE CLERK OF COURT, TESTIFIED AS FOLLOWS:)

16 JURY VENIRE MEMBER: I SWEAR.

17 THE CLERK: COME AROUND AND HAVE A SEAT.

18 THE COURT: GOOD AFTERNOON, MS. LOGAN.

19 JURY VENIRE MEMBER: GOOD AFTERNOON.

20 THE COURT: I WANT TO ASK YOU A FEW
21 QUESTIONS. MS. LOGAN, I KNOW THAT THESE PROCEEDINGS
22 ARE UNFAMILIAR TO YOU, BUT PLEASE RELAX THE BEST YOU
23 CAN. WE WANT TO ASK YOU SOME QUESTIONS ABOUT YOUR
24 FEELINGS WITH REGARDS TO THE DEATH PENALTY. YOU HAD
25 A CHANCE TO READ THAT LETTER A WHILE AGO.

1 JURY VENIRE MEMBER: UH-HUH.

2 THE COURT: BEFORE WE DO THAT, THOUGH,
3 EARLIER TODAY, WHEN I QUESTIONED THE JURY AS A WHOLE
4 ABOUT THEIR RELATIONSHIP WITH ANYBODY AND WHETHER
5 THEY READ OR HEARD SOMETHING ABOUT THIS CASE, YOU
6 STOOD UP VERY PROMPTLY, AND I THANK YOU FOR THAT.
7 HAD YOU READ SOMETHING ABOUT THIS CASE OR HEARD IT?
8 OR TELL ME SOMETHING ABOUT IT.

9 JURY VENIRE MEMBER: I HAD READ IT IN THE
10 NEWSPAPER, AND I HEARD IT.

11 THE COURT: YOU HEARD IT? WHERE DID YOU
12 HEAR IT?

13 JURY VENIRE MEMBER: FROM SOME FRIENDS.

14 THE COURT: FROM A FRIEND?

15 JURY VENIRE MEMBER: YES.

16 THE COURT: HAD Y'ALL DISCUSSED ANY FACTS
17 ABOUT THE CASE?

18 JURY VENIRE MEMBER: IT WASN'T NO FACTS.
19 IT WAS WHAT WE HEARD.

20 THE COURT: WHAT YOU HEARD. WHAT DID YOU
21 HEAR, PLEASE?

22 JURY VENIRE MEMBER: WELL, I HEARD THAT
23 HERMAN AND KELSEY WENT TO THE CASINO AND --

24 THE COURT: CAN YOU HEAR? SIT UP, PLEASE,
25 AND TALK AT LITTLE LOUDER WHERE THEY CAN HEAR YOU.

1 YOU HEARD WHAT?

2 JURY VENIRE MEMBER: I HEARD THAT HERMAN
3 AND KELSEY HAD WENT TO BLUE CASINO AND SHOT KELLY AND
4 KENNETH AND SAYING THAT KELSEY HAD PULLED THE
5 TRIGGER, AND THEY LEFT WITH A MAN TO GET SOME MONEY
6 AND WENT TO EBONY LONGS, THAT'S THE CLUB, AND THEN
7 AFTER THAT, THEY LEFT FROM THERE.

8 THE COURT: ALL RIGHT. LET ME ASK YOU
9 THIS. EVEN THOUGH YOU HEARD THAT, WOULD YOU BE
10 WILLING TO DISMISS THAT FROM YOUR MIND AND BASE YOUR
11 VERDICT ON WHAT YOU HEAR IN THIS COURTROOM?

12 JURY VENIRE MEMBER: YES, SIR.

13 THE COURT: YOU UNDERSTAND THAT WE WANT A
14 JURY WHO WILL SIT IN THAT BOX, AND IT WON'T BE --
15 YOUR VERDICT WON'T BE BASED ON WHAT YOU HEARD; IT'S
16 WHAT YOU BELIEVE IN THE COURTROOM.

17 JURY VENIRE MEMBER: YES, SIR.

18 THE COURT: ALL RIGHT. LET ME ASK YOU
19 THIS. DID YOU HAVE A CHANCE TO READ THAT LETTER A
20 WHILE AGO?

21 JURY VENIRE MEMBER: UH-HUH.

22 THE COURT: IN DEALING WITH THIS SUBJECT,
23 REMEMBER THIS, NOW, THERE ARE NO RIGHT OR WRONG
24 ANSWERS. THERE ARE SOME PEOPLE WHO SAY -- WHICH IS
25 GROUP NUMBER 1, THAT IF MURDER IS COMMITTED, I WOULD

1 ALWAYS BE FOR THE DEATH PENALTY. THERE IS A SECOND
2 GROUP OF PEOPLE WHO SAY THAT EVEN THOUGH MURDER IS
3 COMMITTED, I COULD NEVER VOTE TO PUT SOMEBODY TO
4 DEATH. THERE IS A THIRD GROUP WHO SAY IT WOULD
5 DEPEND ON THE FACTS IN THIS CASE. I MIGHT BE WILLING
6 TO VOTE FOR DEATH OR I MIGHT GIVE LIFE.

7 NOW, THE FIRST GROUP SAYS I WOULD ALWAYS BE FOR
8 IT. THE SECOND SAYS NEVER. THE THIRD SAYS DEPENDS.
9 WHICH WOULD YOU BE IN; THE FIRST, SECOND OR THIRD?

10 JURY VENIRE MEMBER: THE FIRST ONE.

11 THE COURT: THE FIRST ONE. AND WHAT DO
12 YOU THINK THE FIRST ONE SAYS?

13 JURY VENIRE MEMBER: ALWAYS BE FOR IT.

14 THE COURT: ALWAYS BE FOR WHAT?

15 JURY VENIRE MEMBER: FOR THE DEATH
16 PENALTY.

17 THE COURT: YOU WOULD ALWAYS BE FOR THE
18 DEATH PENALTY?

19 JURY VENIRE MEMBER: YEAH.

20 THE COURT: WOULD YOU BE WILLING TO LISTEN
21 TO THE FACTS IN THE CASE AND THEN DECIDE?

22 JURY VENIRE MEMBER: YES, SIR.

23 THE COURT: OKAY. I'LL LET YOU EXAMINE,
24 SOLICITOR.

25 MR. BAILEY: YOUR HONOR, COULD I CONFER

1 WITH MR. NEWSOME FOR A SECOND?

2 MS. LOGAN, I BELIEVE -- LET ME MOVE THIS PODIUM
3 AROUND HERE FOR A SECOND. I BELIEVE THAT WHEN THE
4 JUDGE ASKED IF ANYBODY KNEW ANY OF THE POSSIBLE
5 WITNESSES HERE THAT YOU SAID YOU KNEW THE GILMORES,
6 RONNIE GILMORE?

7 JURY VENIRE MEMBER: YES.

8 MR. BAILEY: AND I BELIEVE HIS BROTHER'S
9 NAME IS DWAYNE GILMORE?

10 JURY VENIRE MEMBER: YEAH.

11 MR. BAILEY: ARE THEY THE PEOPLE YOU
12 TALKED TO ABOUT THE FACTS OF THIS CASE?

13 JURY VENIRE MEMBER: NO, SIR.

14 MR. BAILEY: OKAY. WHO WAS IT YOU TALKED
15 TO ABOUT THE CASE?

16 JURY VENIRE MEMBER: WELL, I TALKED TO --
17 IT BEEN AWHILE. IT WAS LIKE ON THE STREET TALKING
18 ABOUT IT ONE NIGHT.

19 MR. BAILEY: OKAY. ALL RIGHT. YOU DON'T
20 RECALL WHO IT WAS?

21 JURY VENIRE MEMBER: NO.

22 MR. BAILEY: OKAY. NOW, DO YOU KNOW
23 HERMAN HUGHES?

24 JURY VENIRE MEMBER: I KNOW HIM, BUT I
25 DON'T REALLY KNOW HIM.

1 MR. BAILEY: I'M SORRY. I CAN'T --

2 JURY VENIRE MEMBER: I KNOW HIM BY SEEING
3 HIM, BUT NOT REALLY COMMUNICATING WITH HIM.

4 MR. BAILEY: OKAY. BUT YOU DO KNOW HIM BY
5 SIGHT?

6 JURY VENIRE MEMBER: YEAH.

7 MR. BAILEY: DO YOU KNOW HIS FAMILY?

8 JURY VENIRE MEMBER: NO.

9 MR. BAILEY: OKAY. HAVE YOU SEEN HIM AT
10 SCHOOL, OR HOW DO YOU KNOW HIM?

11 JURY VENIRE MEMBER: SEE HIM ON THE STREET
12 WALKING.

13 MR. BAILEY: ALL RIGHT. HAVE YOU EVER
14 TALKED TO HIM?

15 JURY VENIRE MEMBER: NO, NOT REALLY.

16 MR. BAILEY: YOU SAY NOT REALLY. HAVE YOU
17 EVER SAID HELLO?

18 JURY VENIRE MEMBER: I WOULD SAY HI OR
19 BYE, BUT CONVERSATION, NO.

20 MR. BAILEY: WOULD HE RESPOND TO YOU?
21 WOULD HE ANSWER YOU IF YOU SAID HELLO?

22 JURY VENIRE MEMBER: YES.

23 MR. BAILEY: SO YOU DO KNOW HIM TO SOME
24 EXTENT; IS THAT RIGHT?

25 JURY VENIRE MEMBER: YEAH.

1 MR. BAILEY: WHAT ABOUT SOME OF THE OTHER
2 PEOPLE THAT WE HAVE TALKED ABOUT, KELSEY PEARCE? YOU
3 MENTIONED HIM AS BEING SOMEBODY YOU HEARD OF BEFORE.

4 JURY VENIRE MEMBER: YEAH. I KNOW KELSEY.

5 MR. BAILEY: YOU KNOW KELSEY. NOW, WHEN
6 THE JUDGE ASKED YOU, WHEN HE READ THAT NAME OUT, DID
7 YOU STAND UP?

8 JURY VENIRE MEMBER: NO.

9 MR. BAILEY: CAN YOU TELL US WHY YOU
10 DIDN'T DO THAT?

11 JURY VENIRE MEMBER: I DIDN'T REALLY HEARD
12 THAT KELSEY WAS ON IT.

13 MR. BAILEY: YOU DIDN'T HEAR THE JUDGE
14 CALL KELSEY'S NAME OUT?

15 JURY VENIRE MEMBER: NO.

16 MR. BAILEY: OKAY. BUT YOU DO KNOW KELSEY
17 PEARCE?

18 JURY VENIRE MEMBER: YES, I DO.

19 MR. BAILEY: DO YOU KNOW HIM BETTER THAN
20 HERMAN HUGHES?

21 JURY VENIRE MEMBER: YES.

22 MR. BAILEY: AND YOU HEARD THAT HE WAS
23 INVOLVED IN THIS THING TO SOME EXTENT; IS THAT TRUE?

24 JURY VENIRE MEMBER: YES.

25 MR. BAILEY: HOW ABOUT A MAN BY THE NAME

1 OF DANIEL OWENS, DO YOU KNOW HIM?

2 JURY VENIRE MEMBER: WHO?

3 MR. BAILEY: DANIEL OWENS.

4 JURY VENIRE MEMBER: YEAH. I KNOW HIM.

5 MR. BAILEY: HE'S ALSO EXPECTED TO BE A
6 WITNESS. HOW WELL DO YOU KNOW HIM?

7 JURY VENIRE MEMBER: I KNOW HIM WELL.

8 MR. BAILEY: BETTER THAN KELSEY PEARCE?

9 JURY VENIRE MEMBER: NO. IT'S ABOUT THE
10 SAME.

11 MR. BAILEY: ALL RIGHT. DO YOU KNOW IF HE
12 WAS RELATED TO KELSEY?

13 JURY VENIRE MEMBER: YEAH. I KNOW THAT.

14 MR. BAILEY: THAT THEY ARE RELATED?

15 JURY VENIRE MEMBER: UH-HUH.

16 MR. BAILEY: OKAY. NOW, LET ME ASK YOU,
17 MS. LOGAN, ABOUT YOUR THOUGHTS ABOUT THE DEATH
18 PENALTY. IS THIS SOMETHING THAT YOU'VE EVER THOUGHT
19 ABOUT IN THE PAST?

20 JURY VENIRE MEMBER: DEATH PENALTY?

21 MR. BAILEY: YEAH.

22 JURY VENIRE MEMBER: NO.

23 MR. BAILEY: ALL RIGHT. BUT IT'S -- I
24 WANT TO MAKE SURE I UNDERSTAND THE ANSWER YOU GAVE
25 THE JUDGE. IN THE CASE OF MURDER, YOU THINK THE

1 DEATH PENALTY SHOULD ALWAYS BE IMPOSED ON SOMEBODY NO
2 MATTER HOW -- YOU KNOW, WHAT THE KIND OF PERSON
3 YOU'RE DEALING WITH AND NO MATTER HOW BAD THE MURDER
4 WAS, YOU THINK IN EVERY MURDER CASE THERE OUGHT TO BE
5 A DEATH PENALTY IMPOSED?

6 JURY VENIRE MEMBER: YES, SIR.

7 MR. BAILEY: IS THAT A RELIGIOUS BELIEF
8 YOU'VE GOT OR A PERSONAL BELIEF OR --

9 JURY VENIRE MEMBER: PERSONAL.

10 MR. BAILEY: HAVE YOU FELT THAT WAY FOR
11 SOME TIME OR JUST SINCE YOU READ THAT PAPER THAT THE
12 JUDGE GAVE YOU?

13 JURY VENIRE MEMBER: NO. I FELT THAT WAY
14 FOR SOME TIME.

15 MR. BAILEY: OKAY. NOW, IF WE REACH THE
16 SECOND PHASE OF THIS TRIAL -- THE FIRST PHASE IS THE
17 GUILT PHASE, THE PERSON IS FOUND GUILTY OF THE
18 MURDER, THEY GO INTO THE SECOND PHASE. IF THE JURY
19 VOTES ON THE DEATH PENALTY AFTER HEARING ALL OF THE
20 ADDITIONAL EVIDENCE IN AGGRAVATION AND EVIDENCE IN
21 MITIGATION, THEY VOTE THE DEATH PENALTY, THEN EACH
22 JUROR HAS TO SIGN THEIR NAME TO A DEATH VERDICT FORM,
23 AND THE RESULT OF THAT WOULD BE THAT THAT DEFENDANT
24 WOULD BE EXECUTED. AND YOU'RE SAYING THAT YOU COULD
25 VOTE FOR THE DEATH PENALTY AND SIGN THAT FORM KNOWING

1 THAT IT WOULD RESULT IN AN EXECUTION?

2 JURY VENIRE MEMBER: I DON'T KNOW ABOUT
3 THAT.

4 MR. BAILEY: OKAY. WELL, IS THERE
5 ANYTHING ABOUT SIGNING THE PAPER AS OPPOSED TO VOTING
6 OR BEING FOR THE DEATH PENALTY THAT WOULD CAUSE YOU A
7 PROBLEM THERE?

8 JURY VENIRE MEMBER: YES, SIR.

9 MR. BAILEY: OKAY. CAN YOU TELL US WHAT
10 IT IS ABOUT SIGNING THAT PAPER WOULD CAUSE YOU TO
11 HESITATE?

12 JURY VENIRE MEMBER: ABOUT THE DEATH
13 PENALTY?

14 MR. BAILEY: YEAH.

15 JURY VENIRE MEMBER: I DON'T REALLY KNOW
16 ABOUT THAT.

17 MR. BAILEY: YOU UNDERSTAND, MS. LOGAN,
18 WHATEVER THE JURY VOTES FOR IS WHAT'S REALLY GOING TO
19 HAPPEN. IT'S NOT REALLY A RECOMMENDATION.

20 JURY VENIRE MEMBER: YES, SIR. I KNOW
21 THAT.

22 MR. BAILEY: IF YOU VOTE FOR THE DEATH
23 PENALTY, YOU'VE GOT TO ASSUME THAT THAT PERSON WILL
24 ACTUALLY BE EXECUTED. NOW, CAN YOU SIGN YOUR NAME TO
25 A PAPER LIKE THAT?

1 JURY VENIRE MEMBER: IF HE'S FOUND GUILTY,
2 YES.

3 MR. BAILEY: AND YOU UNDERSTAND YOU WOULD
4 NOT EVEN BE CONSIDERING THE PENALTY UNLESS THE
5 DEFENDANT HAD ALREADY BEEN FOUND GUILTY IN THE FIRST
6 PART OF THE TRIAL?

7 JURY VENIRE MEMBER: YES, SIR.

8 MR. BAILEY: IF WE GET INTO THAT SECOND
9 PART OF THE TRIAL WHERE THIS JURY VOTES FOR LIFE
10 IMPRISONMENT OR THE DEATH PENALTY AND THE JURY VOTES
11 FOR THE DEATH PENALTY AND YOU WERE ON THAT JURY,
12 COULD YOU STAND UP AND ANNOUNCE THAT VERDICT IN OPEN
13 COURT KNOWING THAT THAT VERDICT WOULD BE CARRIED OUT?

14 JURY VENIRE MEMBER: YES, SIR.

15 MR. BAILEY: NOW, WOULD THE FACT THAT THE
16 DEFENDANT IN THIS CASE IS A YOUNG BLACK MAN AND THAT
17 THE VICTIMS, KELLY HOFFMAN, WHO SURVIVED, AND KEN
18 PRESLEY, WHO DIED FROM A GUNSHOT WOUND, WOULD THE
19 FACT THAT THEY ARE WHITE AND MR. HUGHES IS BLACK
20 CAUSE YOU TO VIEW THIS CASE ANY DIFFERENTLY THAN IF
21 THE RACES HAD BEEN REVERSED, FOR EXAMPLE?

22 JURY VENIRE MEMBER: NO, SIR.

23 MR. BAILEY: IF THE CASE WAS BAD ENOUGH,
24 MS. LOGAN, COULD YOU IMPOSE THE DEATH PENALTY ON A
25 PERSON WHO WAS 16 YEARS OLD AT THE TIME HE COMMITTED

1 THE OFFENSE?

2 JURY VENIRE MEMBER: NO, SIR.

3 MR. BAILEY: YOU COULD NOT? THAT WOULD BE
4 BECAUSE OF THE AGE FACTOR?

5 JURY VENIRE MEMBER: YES, SIR.

6 MR. BAILEY: SO NO MATTER HOW BAD THE CASE
7 WAS, YOU COULD NEVER IMPOSE THE DEATH PENALTY ON A 16
8 YEAR OLD?

9 JURY VENIRE MEMBER: NO, SIR.

10 MR. BAILEY: THANK YOU. THAT'S ALL I HAVE
11 RIGHT NOW.

12 MR. NEWSOME: MS. LOGAN, I BELIEVE YOU ARE
13 SENDING MIXED SIGNALS. YOU SAY THAT -- AT ONE TIME I
14 UNDERSTAND YOU TO SAY THAT IF THE PERSON IS FOUND
15 GUILTY OF MURDER, YOU THINK THAT THEY SHOULD GET THE
16 DEATH PENALTY EVERY TIME; IS THAT NOT CORRECT?

17 JURY VENIRE MEMBER: YES, SIR.

18 MR. NEWSOME: THEN, ON THE OTHER HAND, IF
19 THERE WERE SOME MITIGATING CIRCUMSTANCES,
20 YOUTHFULNESS OF THE DEFENDANT, YOU SAY YOU COULD NOT;
21 IS THAT CORRECT?

22 JURY VENIRE MEMBER: YES.

23 MR. NEWSOME: DO YOU THINK THAT YOU COULD
24 LISTEN TO ALL OF THE EVIDENCE, GIVEN YOU HAD MIXED
25 FEELINGS ABOUT THE DEATH PENALTY, AND MAKE A DECISION

1 BASED ON WHAT THE LAW IS AND THE EVIDENCE?

2 JURY VENIRE MEMBER: YES.

3 MR. NEWSOME: IN SPITE OF WHAT YOUR VIEWS
4 ARE ABOUT BEING STRONGLY IN FAVOR OF THE DEATH
5 PENALTY OR SOME CONSIDERATION FOR THE YOUTHFULNESS OF
6 THE DEFENDANT, YOU COULD LISTEN TO ALL OF THE
7 EVIDENCE AND MAKE A DECISION?

8 JURY VENIRE MEMBER: I COULD LISTEN TO ALL
9 OF THE EVIDENCE AND MAKE A DECISION.

10 MR. NEWSOME: AND THEN MAKE A DECISION?

11 JURY VENIRE MEMBER: YES.

12 MR. NEWSOME: NOW, ASSUMING THAT WE GET TO
13 THE PENALTY PHASE, THE COURT IS GOING TO INSTRUCT YOU
14 THAT IN OUR STATE WE HAVE STATUTORY AGGRAVATING
15 CIRCUMSTANCES. I'LL TELL YOU WHAT THAT MEANS. AND
16 MITIGATING AGGRAVATING CIRCUMSTANCES ARE THINGS THAT
17 OUR LEGISLATURE HAS DEEMED TO BE WHEN MURDERS ARE
18 COMMITTED DURING CERTAIN OTHER OFFENSES; ROBBERIES,
19 KIDNAPS, RAPES, THOSE KIND OF THINGS. YOU HAVE TO
20 MAKE A DECISION AS A JUROR -- YOU CAN'T GIVE THE
21 DEATH PENALTY UNLESS YOU FIND BEYOND A REASONABLE
22 DOUBT THAT ONE OF THOSE AGGRAVATING CIRCUMSTANCES
23 OCCURS. DO YOU UNDERSTAND THAT?

24 JURY VENIRE MEMBER: UH-HUH.

25 MR. NEWSOME: SO IF YOU FELT THAT THE

1 DEATH PENALTY SHOULD BE APPLIED BUT THERE IS NO
2 EVIDENCE OF AGGRAVATING CIRCUMSTANCES, YOU WOULDN'T
3 BE ALLOWED TO RECOMMEND DEATH. DO YOU UNDERSTAND
4 THAT?

5 JURY VENIRE MEMBER: YES.

6 MR. NEWSOME: NOW, YOU'LL HAVE TO SPEAK UP
7 SO HE CAN GET YOUR ANSWER.

8 JURY VENIRE MEMBER: YEAH.

9 THE COURT: YEAH. SPEAK UP, PLEASE. WE
10 CAN'T HEAR.

11 MR. NEWSOME: SO WHAT YOU'RE SAYING IS YOU
12 WOULD LISTEN TO WHAT THE LAW IS AND APPLY IT?

13 JURY VENIRE MEMBER: YES, SIR.

14 MR. NEWSOME: AND YOU'RE NOT SURE WHETHER
15 YOU WOULD GIVE THE DEATH PENALTY OR NOT?

16 JURY VENIRE MEMBER: WELL, I WOULD LISTEN
17 TO IT, AND WHEN THEY SAID THE OUTCOME, YES, I CAN.

18 MR. NEWSOME: BUT YOU WOULD WAIT UNTIL
19 AFTER ALL OF THE EVIDENCE HAS BEEN GIVEN TO YOU?

20 JURY VENIRE MEMBER: YES, SIR.

21 MR. NEWSOME: WOULD YOU FOLLOW THE LAW OR
22 FOLLOW YOUR OWN FEELINGS IN SPITE OF THE LAW?

23 JURY VENIRE MEMBER: FOLLOW THE LAW.

24 MR. NEWSOME: THANK YOU. I HAVE NO
25 FURTHER QUESTIONS, YOUR HONOR.

1 THE COURT: ANY FURTHER QUESTIONS?

2 MR. NEWSOME: NO.

3 MR. BAILEY: NO FURTHER QUESTIONS, YOUR
4 HONOR.

5 THE COURT: YOU MAY STEP OUTSIDE JUST A
6 MOMENT AND THEN I'LL CALL YOU RIGHT BACK.

7 (JUROR NUMBER 157 IS DISMISSED
8 FROM THE COURTROOM.)

9 THE COURT: WHAT SAYS THE STATE?

10 MR. BAILEY: YOUR HONOR, THE STATE WOULD
11 MOVE TO DISQUALIFY MS. LOGAN FOR CAUSE. FIRST OF
12 ALL, WITH RESPECT TO HER CANDOR WITH THE COURT, SHE
13 ADMITTED UNDER QUESTIONING BY ME THAT SHE KNEW BOTH
14 KELSEY PEARCE AND HERMAN HUGHES. SHE DID NOT STAND
15 UP WHEN YOU ASKED THE QUESTIONS OF THE ENTIRE PANEL
16 IF THEY KNEW THOSE PEOPLE.

17 THE TWO PEOPLE SHE DOES KNOW, RONNIE GILMORE AND
18 DWAYNE GILMORE, I ASSUME IF THEY ARE CALLED AT ALL,
19 THEY WILL BE CALLED BY THE DEFENSE TO RELATE A
20 SUPPOSED CONFESSION THAT KELSEY PEARCE GAVE THESE
21 GUYS LATER ON THE NIGHT OF THE KILLING, IN WHICH,
22 ACCORDING TO THE GILMORES, KELSEY PEARCE ADMITTED TO
23 BEING THE SHOOTER. AND I THINK WITH THIS KNOWLEDGE
24 AND THE CANDOR PROBLEM STANDING UP, THAT SHE'S SO
25 TAINTED WITH KNOWING THESE TWO DEFENSE WITNESSES THAT

1 SHE WOULD NOT BE A FAIR AND IMPARTIAL JUROR.

2 YOUR HONOR, MOST IMPORTANTLY, SHE HAS SAID IN
3 HER RESPONSE TO MY QUESTIONS THAT SHE COULD NOT
4 IMPOSE THE DEATH PENALTY ON A 16 YEAR OLD, AND I
5 WOULD CITE STATE V. LONGWORTH IN THAT SITUATION. THE
6 POTENTIAL JUROR'S ANSWERS IN REGARDS TO IMPOSING THE
7 DEATH PENALTY ON A YOUNG DEFENDANT WERE A LOT LESS
8 STRONG THAN WHAT HER ANSWERS WERE, AND I'LL QUOTE
9 FROM THAT OPINION.

10 MS. HALL, THE JUROR, STATED BECAUSE SHE HAD A
11 SON THE AGE OF 22, AS OPPOSED TO 16 AT THIS TIME, SHE
12 WOULD FIND IT VERY DIFFICULT TO IMPOSE THE DEATH
13 PENALTY ON A YOUNG PERSON AND STATED SHE COULD NOT
14 IMPOSE A DEATH PENALTY ON THAT OCCASION. AND THERE
15 WAS AN EXCHANGE BETWEEN DEFENSE COUNSEL AND THAT
16 POTENTIAL JUROR, AND THE COURT SAYS, "WE FIND THE
17 RECORD SUPPORTS THAT CONTRARY TO HER VIEWS. AGE IS
18 NOT A BAR TO CAPITAL PUNISHMENT IN THIS CASE."

19 THE COURT: I'M FAMILIAR WITH THAT.

20 WHAT'S THE POSITION OF DEFENSE COUNSEL?

21 MR. NEWSOME: WE THINK SHE WOULD HAVE TO
22 BE DISQUALIFIED BECAUSE SHE'S GOING TO BE FOREVER
23 PUTTING EVERYBODY IN THE DEATH PENALTY, AND THEN SHE
24 SAYS SHE WOULD NOT FOR A 16 YEAR OLD, AND THEN WHEN I
25 QUESTIONED HER FURTHER --

1 THE COURT: I NEVER HEARD HER SAY SHE
2 WOULD BE FOR THE DEATH PENALTY FOR A 16 YEAR OLD.

3 MR. NEWSOME: NO. NO. SHE SAID SHE WOULD
4 NOT, FIRST QUESTION. THEN I ASKED HER IF SHE COULD
5 PUT HER PERSONAL FEELINGS ASIDE AND FOLLOW WHAT THE
6 LAW WAS INSTEAD OF THAT.

7 THE COURT: I HAVE SEVERAL CONCERNS WITH
8 HER AS A POTENTIAL WITNESS. ORDINARILY, CREDIBILITY,
9 BELIEVABILITY FOR THE JURY, BUT SHE WOULD BE ON THE
10 JURY. IT WAS CLEAR TO ME, AND I QUESTIONED
11 EXTENSIVELY ABOUT THE KNOWLEDGE, PRIOR KNOWLEDGE OF
12 THESE PEOPLE. THIS IS AN INTELLIGENT YOUNG GIRL.
13 SHE HAD EVERY OPPORTUNITY TO ANSWER. SHE REFUSED TO
14 DO SO. SHE HAS LIED UNDER OATH BECAUSE I PUT HER
15 UNDER OATH.

16 IN ADDITION TO THAT, SHE SAYS UNEQUIVOCALLY IN
17 MY VIEW THAT SHE CAN NEVER PUT A 16 YEAR OLD IN THE
18 ELECTRIC CHAIR. CLEARLY SAYS SHE WOULD NOT SIGN HER
19 NAME TO SUCH A WARRANT. I'M GOING TO EXCUSE HER. I
20 THINK UNDER THE EXISTING LAW, SHE'S NOT QUALIFIED TO
21 SERVE. BRING HER BACK. YOU'RE PROTECTED ON THE
22 RECORD.

23 (JUROR NUMBER 157 ENTERS THE
24 COURTROOM.)

25 THE COURT: I WILL EXCUSE YOU FROM FURTHER

1 PARTICIPATION. YOU ARE NOW EXCUSED TO GO BACK TO
2 YOUR REGULAR DUTIES. THANK YOU SO MUCH.

3 JURY VENIRE MEMBER: ALL RIGHT. THANK
4 YOU.

5 (JUROR NUMBER 157 IS DISMISSED
6 FROM THE COURTROOM.)

7 THE COURT: HAVE THE NEXT ONE COME AROUND.

8 (JUROR NUMBER 293, A WHITE
9 FEMALE, ENTERS THE COURTROOM.)

10 THE CLERK: STATE YOUR NAME, PLEASE.

11 JURY VENIRE MEMBER: BRENDA WISE.

12 (JUROR NUMBER 293, HAVING BEEN FIRST DULY SWORN
13 BY THE CLERK OF COURT, TESTIFIED AS FOLLOWS:)

14 THE CLERK: PLEASE COME AROUND BACK HERE
15 AND HAVE A SEAT IN THIS CHAIR.

16 THE COURT: MS. WISE, GOOD AFTERNOON.

17 JURY VENIRE MEMBER: GOOD AFTERNOON, SIR.

18 THE COURT: WE'RE GOING TO ASK YOU SEVERAL
19 QUESTIONS, AND WE DON'T WANT TO INVADE YOUR PRIVACY,
20 BUT THIS IS THE ONLY WAY UNDER OUR PROCEDURE WE HAVE
21 A RIGHT TO MAKE INQUIRIES.

22 FIRST THING I WANT TO DO, YOU HAD RESPONDED THAT
23 YOU KNEW THESE PEOPLE OR HAD READ ABOUT SOMETHING IN
24 THE CASE. TELL ME ABOUT THAT, PLEASE. AND TALK LOUD
25 SO THEY CAN HEAR YOU TOO.

1 JURY VENIRE MEMBER: EXCUSE ME.

2 INDIRECTLY -- WELL, MY DAUGHTER WAS -- OR IS A FRIEND
3 OF THE VICTIM'S SISTER AMY.

4 THE COURT: OKAY.

5 JURY VENIRE MEMBER: IF I HAVE THAT
6 CORRECT.

7 THE COURT: AND YOU JUST -- HAD ANYBODY
8 DISCUSSED ANY ASPECT OF THIS CASE WITH YOU?

9 JURY VENIRE MEMBER: MY DAUGHTER SHERRY
10 DID WITH --

11 THE COURT: CAN YOU DIVULGE TO US THE
12 EXTENT OF THAT CONVERSATION?

13 JURY VENIRE MEMBER: WELL, OTHER THAN WHAT
14 HAPPENED, THAT HE WAS KILLED, AND SHE WOULD COME TO
15 SHERRY'S HOUSE AND SHERRY WOULD TRY TO CONSOLE HER.

16 THE COURT: OKAY. YOU UNDERSTAND THAT IF
17 YOU ARE SELECTED ON THE JURY, WE WANT TO MAKE SURE
18 THAT WHATEVER THE VERDICT IS, IT'S BASED ON NOT WHAT
19 YOU WOULD HAVE HEARD FROM SOMEONE BUT BASED ON THE
20 EVIDENCE IN THIS COURTROOM. CAN YOU DO THAT FOR ME?

21 JURY VENIRE MEMBER: I THINK I COULD, SIR.

22 THE COURT: OKAY. YOU UNDERSTAND, NOW,
23 YOU CANNOT DETERMINE THE GUILT OR INNOCENCE OF ANY
24 PARTY ON IDLE CONVERSATION OR ANY CONVERSATION
25 OUTSIDE OF THE COURTROOM, AND I JUST WANT TO MAKE

1 SURE THAT YOU CAN SET ASIDE WHAT YOU MAY HAVE HEARD
2 AND SAY TO ME, I WILL BASE MY DECISION ON WHAT I HEAR
3 IN THIS COURTROOM. DO YOU THINK YOU COULD DO THAT?

4 JURY VENIRE MEMBER: CORRECT.

5 THE COURT: NOW, YOU HAD AN OPPORTUNITY TO
6 READ THAT LETTER A WHILE AGO. REMEMBER THAT THERE
7 ARE NO RIGHT OR WRONG ANSWERS. THERE'S THREE
8 CATEGORIES OF PEOPLE, ONE WHO SAYS I'LL ALWAYS --
9 WHERE A MURDER HAS BEEN COMMITTED, I'LL ALWAYS BE FOR
10 THE DEATH PENALTY. THE SECOND GROUP SAYS, I CAN
11 NEVER IMPOSE THE DEATH PENALTY REGARDLESS. THE THIRD
12 GROUP SAYS, I WILL LISTEN TO THE LAW AND THE EVIDENCE
13 AND I CAN BE EITHER WAY DEPENDING. WOULD YOU BE IN
14 THE FIRST, SECOND OR THIRD CATEGORY?

15 JURY VENIRE MEMBER: THE THIRD.

16 THE COURT: THE THIRD. ALL RIGHT. YOU
17 MAY QUESTION, MR. BAILEY.

18 MR. BAILEY: THANK YOU, YOUR HONOR. MS.
19 WISE, IS THE DEATH PENALTY SOMETHING YOU'VE EVER HAD
20 THE OCCASION TO THINK ABOUT IN THE PAST?

21 JURY VENIRE MEMBER: NOT REALLY,
22 SERIOUSLY.

23 MR. BAILEY: SINCE YOU FOUND OUT WHAT TYPE
24 OF CASE THIS IS, HAVE YOU HAD ADEQUATE PERIOD OF TIME
25 TO THINK ABOUT YOUR THOUGHTS ABOUT THE DEATH PENALTY?

1 JURY VENIRE MEMBER: MEANING?

2 MR. BAILEY: HAVE YOU HAD ENOUGH TIME TO
3 THINK ABOUT THE TYPE OF JUROR THAT YOU ARE; THE FIRST
4 TYPE THAT ALWAYS BELIEVES IN THE DEATH PENALTY IN
5 EVERY CASE, THE SECOND TYPE OF JUROR THAT WOULD NEVER
6 IMPOSE THE DEATH PENALTY, THE THIRD TYPE OF JUROR
7 THAT WANTED TO HEAR ALL OF THE FACTS AND
8 CIRCUMSTANCES AND THEN COULD VOTE FOR LIFE
9 IMPRISONMENT OR COULD VOTE FOR THE DEATH PENALTY?

10 JURY VENIRE MEMBER: THE THIRD.

11 MR. BAILEY: ALL RIGHT.

12 JURY VENIRE MEMBER: I MEAN, I WOULD FEEL
13 THAT WAY.

14 MR. BAILEY: AND YOU UNDERSTAND WE WOULD
15 NOT EVEN BE TALKING ABOUT THE POTENTIAL PENALTY
16 UNLESS THE DEFENDANT IS FOUND GUILTY IN THE FIRST
17 PART OF THE TRIAL, AND THEN WE WOULD MOVE INTO THE
18 PENALTY STAGE AND THE JURY WOULD MAKE A DECISION OF
19 LIFE IMPRISONMENT OR THE DEATH PENALTY?

20 JURY VENIRE MEMBER: YES.

21 MR. BAILEY: OKAY. IN SOUTH CAROLINA,
22 WHATEVER THE JURY'S RECOMMENDATION IS AS TO THE
23 SENTENCE, THAT WOULD BE CARRIED OUT. IN OTHER WORDS,
24 THE JURY DECIDES THE SENTENCE, NOT THE JUDGE.
25 KNOWING THE RESULT OF A DISCUSSION WOULD BE THE

1 ACTUAL IMPOSITION OF THE DEATH PENALTY. IF YOU AND
2 THE OTHER JURORS VOTED FOR THE DEATH PENALTY, COULD
3 YOU SIGN YOUR NAME TO A PIECE OF PAPER, A DEATH
4 VERDICT FORM, THAT WOULD PUT THAT VERDICT INTO
5 EFFECT?

6 JURY VENIRE MEMBER: IF I WAS 100 PERCENT
7 SURE.

8 MR. BAILEY: OKAY. ALL RIGHT. AND COULD
9 YOU, IF YOU WERE SURE WHAT YOU WANTED TO DO, COME OUT
10 INTO OPEN COURT AND ANNOUNCE THAT VERDICT?

11 JURY VENIRE MEMBER: CORRECT.

12 MR. BAILEY: OKAY. NOW, IF THE CASE WAS
13 BAD ENOUGH, MS. WISE, COULD YOU IMPOSE THE DEATH
14 PENALTY ON SOMEONE WHO WAS 16 YEARS OLD AT THE TIME
15 THEY COMMITTED THE MURDER? I'M NOT ASKING WHAT YOU
16 WOULD DO IN THIS CASE BECAUSE YOU HAVEN'T HEARD THE
17 FACTS. I'M JUST ASKING YOU IF THE CASE WAS BAD
18 ENOUGH, COULD YOU IMPOSE THE DEATH PENALTY ON A 16
19 YEAR OLD?

20 JURY VENIRE MEMBER: IF THERE WAS NO DOUBT
21 IN MY MIND.

22 MR. BAILEY: NO DOUBT AS TO WHAT? BECAUSE
23 WE WOULD NOT EVEN BE TALKING --

24 JURY VENIRE MEMBER: THAT THE PARTY WAS
25 GUILTY.

1 MR. BAILEY: OKAY. YOU UNDERSTAND THAT
2 THE GUILT DETERMINATION IS MADE IN THE FIRST PHASE OF
3 THE TRIAL.

4 JURY VENIRE MEMBER: AND THE SENTENCE IN
5 THE SECOND.

6 MR. BAILEY: WE WOULD NOT EVEN BE IN THAT
7 SENTENCING PHASE UNLESS THE PERSON IS FOUND GUILTY
8 BEYOND A REASONABLE DOUBT.

9 JURY VENIRE MEMBER: OKAY.

10 MR. BAILEY: NOW, IN THIS PARTICULAR CASE,
11 THE DEFENDANT IS A YOUNG BLACK MAN. THE VICTIM --
12 BOTH VICTIMS, THE YOUNG MAN PRESLEY WHO DIED FROM
13 GUNSHOT WOUNDS, AND KELLY HOFFMAN WHO WAS SHOT BUT
14 DID NOT DIE, WERE BOTH WHITE. WOULD THE DIFFERENCE
15 IN RACE PLAY ANY ROLE IN YOUR DECISION OF LIFE
16 IMPRISONMENT OR DEATH PENALTY?

17 JURY VENIRE MEMBER: NO.

18 MR. BAILEY: IF THE RACES WERE REVERSED,
19 WOULD IT MAKE ANY DIFFERENCE?

20 JURY VENIRE MEMBER: NO.

21 MR. BAILEY: MS. WISE, I BELIEVE THAT'S
22 ALL I'VE GOT RIGHT NOW. THANK YOU VERY MUCH.

23 THE COURT: MR. NEWSOME.

24 MR. NEWSOME: DID I UNDERSTAND YOU TO SAY
25 THAT IF YOU WERE 100 PERCENT SURE OF SOMEONE'S GUILT,

1 YOU WOULD GIVE THEM THE DEATH PENALTY?

2 JURY VENIRE MEMBER: YES, SIR.

3 MR. NEWSOME: BUT THAT WOULD BE IN EACH
4 CASE?

5 JURY VENIRE MEMBER: I DON'T THINK YOU
6 ALWAYS HAVE 100 PERCENT.

7 MR. NEWSOME: BUT IF YOU HAD 100 PERCENT
8 BELIEF IN YOUR MIND THAT MY CLIENT WERE GUILTY -- OR
9 IF ANYBODY WAS GUILTY, YOU WERE SAYING THAT YOU WOULD
10 GIVE THE DEATH PENALTY IN EVERY CASE?

11 JURY VENIRE MEMBER: IN EVERY CASE, I -- I
12 DON'T KNOW.

13 MR. NEWSOME: ALL RIGHT.

14 JURY VENIRE MEMBER: DON'T KNOW.

15 MR. NEWSOME: ALL RIGHT. DO YOU THINK
16 THAT THE FACT THAT MY CLIENT BEING YOUNG AND BLACK
17 AND IS ALLEGED TO HAVE COMMITTED A CRIME AGAINST A
18 WHITE PERSON, YOU HESITATED EARLIER, CAUSE YOU
19 GREATER CONCERN ABOUT WHETHER TO IMPOSE THE DEATH
20 PENALTY OR WOULD YOU BE MORE LIKELY TO --

21 JURY VENIRE MEMBER: I DON'T KNOW THAT
22 RACE WOULD ENTER THERE.

23 MR. NEWSOME: HAVE EITHER YOU OR ANYBODY
24 IN YOUR FAMILY BEEN A VICTIM OF A CRIME?

25 JURY VENIRE MEMBER: NO.

1 MR. NEWSOME: OKAY. DO YOU KNOW ANYONE
2 WHO HAS EVER BEEN ACCUSED OF A CRIME?

3 JURY VENIRE MEMBER: IN MY IMMEDIATE
4 FAMILY?

5 MR. NEWSOME: YEAH.

6 JURY VENIRE MEMBER: OR ANYBODY?

7 MR. NEWSOME: ANYBODY.

8 JURY VENIRE MEMBER: KNOW THEM PERSONALLY?

9 MR. NEWSOME: PERSONAL FRIEND OR FAMILY.
10 NOT JUST ANYBODY IN THE WORLD.

11 JURY VENIRE MEMBER: HUH-UH.

12 MR. NEWSOME: YOU UNDERSTAND IN OUR STATE
13 WITH THE TWO-PHASE TRIAL, IF WE GET TO THE PENALTY
14 PHASE, THERE ARE CERTAIN THINGS THAT YOU WOULD BE
15 ASKED TO CONSIDER. EVEN IF YOU WERE INCLINED TO GIVE
16 THE DEATH PENALTY, YOU WOULD HAVE TO MAKE A
17 DETERMINATION THAT AGGRAVATED CIRCUMSTANCES EXISTED,
18 AND THE COURT WOULD TELL YOU WHAT THOSE CIRCUMSTANCES
19 COULD BE, AND THAT IF YOU COULD NOT FIND IN YOUR MIND
20 AFTER HEARING THE EVIDENCE THAT IT WAS BEYOND A
21 REASONABLE DOUBT, EVIDENCE OF AN AGGRAVATED
22 CIRCUMSTANCE, YOU COULD NOT IMPOSE THE DEATH PENALTY.
23 DO YOU UNDERSTAND THAT?

24 JURY VENIRE MEMBER: NOT REALLY.

25 MR. NEWSOME: OKAY. THERE ARE CERTAIN

1 FACTORS IN ADDITION TO A MURDER OCCURRING, IN
2 ADDITION TO SOMEONE KILLING SOMEONE, THAT HAVE TO
3 EXIST BEFORE YOU WOULD BE ABLE TO SENTENCE SOMEBODY
4 TO THE DEATH PENALTY, OKAY? IN SPITE OF YOUR FEELING
5 ABOUT THE FACTS OF THE CASE, IF YOU COULD NOT FIND
6 THAT THOSE AGGRAVATED CIRCUMSTANCES EXISTED, YOU
7 WOULD NOT BE ABLE TO GIVE A DEATH VERDICT. OKAY?

8 NOW, THERE ARE ALSO CERTAIN STATUTORY MITIGATING
9 CIRCUMSTANCES, AND THOSE ARE SET ASIDE BY OUR LAW
10 THAT JURORS HAVE TO CONSIDER -- TAKE INTO
11 CONSIDERATION BEFORE THEY CAN MAKE A DECISION OF WHAT
12 THE APPROPRIATE PUNISHMENT IS. COULD YOU LISTEN TO
13 WHAT THOSE MITIGATING CIRCUMSTANCES WERE AND RENDER A
14 VERDICT --

15 JURY VENIRE MEMBER: OH, YEAH.

16 MR. NEWSOME: -- ACCORDING TO THAT? ALL
17 RIGHT. IN OUR STATE, ALL TWELVE JURORS WOULD HAVE TO
18 UNANIMOUSLY DELIVER A VERDICT OF GUILTY AS WELL AS
19 RENDER A DEATH SENTENCE. IF ALL TWELVE OF YOU FOUND
20 THAT THERE WERE NO AGGRAVATING CIRCUMSTANCES, YOU
21 WOULD MAKE A RECOMMENDATION OF A LIFE SENTENCE. DO
22 YOU UNDERSTAND THAT?

23 JURY VENIRE MEMBER: TRUE.

24 MR. NEWSOME: OKAY. BUT IF ONE OF YOU HAD
25 A QUESTION ABOUT WHETHER THERE WAS AGGRAVATING

1 CIRCUMSTANCES --

2 MR. BAILEY: I'M ANTICIPATING HIS
3 QUESTION.

4 THE COURT: WHAT, SOLICITOR?

5 MR. BAILEY: I'M ANTICIPATING HIS
6 QUESTION, AND I WANTED TO OBJECT BEFORE IT GOT OUT.
7 I'M NOT SURE WHERE HE'S GOING.

8 THE COURT: I'M NOT EITHER, BUT GO AHEAD.

9 MR. BAILEY: I THINK HE'S GOING INTO
10 DIVIDING THE VERDICT, HYPOTHETICALLY.

11 MR. NEWSOME: NOT HYPOTHETICALLY. ALL I'M
12 DOING IS TELLING HER --

13 THE COURT: WELL, WHAT ARE YOU ASKING HER?
14 WHAT'S THE QUESTION?

15 MR. NEWSOME: I FORGOT EXACTLY HOW I WAS
16 GOING TO PHRASE THE QUESTION. I WAS GETTING TO THE
17 POINT OF EXPLAINING WHAT THE LAW IS.

18 THE COURT: I WILL TELL THEM WHAT THE LAW
19 IS NOW, BUT YOU --

20 MR. NEWSOME: YES, SIR.

21 THE COURT: LET ME HEAR IT.

22 MR. NEWSOME: THE LAW MUST STATE THAT IF
23 IT IS NOT A UNANIMOUS VERDICT FOR --

24 THE COURT: WAIT A MINUTE, NOW. NO.
25 THAT'S NOT HER CONCERN WHAT HAPPENS IF THERE IS OR IS

1 NOT A UNANIMOUS VERDICT. NOW, DON'T GET INTO ALL OF
2 THAT. NO, SIR. NO, SIR.

3 MR. NEWSOME: ALL RIGHT. I CAN'T EXPLAIN
4 TO HER ABOUT WHAT THE LAW IS CONCERNING --

5 THE COURT: YOU MAY EXPLAIN TO HER THAT IN
6 ORDER FOR THE STATE TO SEEK THE PENALTY OF DEATH,
7 THERE MUST BE A UNANIMOUS VERDICT BY ALL TWELVE OF
8 THEM, ALL OF WHOM MUST SIGN THEIR NAME TO A VERDICT,
9 BUT THAT'S THE ONLY INQUIRY.

10 MR. NEWSOME: ALL RIGHT.

11 THE COURT: YOU UNDERSTAND?

12 MR. NEWSOME: YES, SIR.

13 THE COURT: ALL RIGHT.

14 MR. NEWSOME: I'VE -- IT'S MY
15 UNDERSTANDING THERE ARE SOME QUESTIONS AROUND THAT
16 AREA I COULD ASK.

17 THE COURT: WELL, I'LL LET YOU STEP
18 OUTSIDE FOR A MOMENT, AND LET'S EXPLORE THIS NOW SO
19 THERE WON'T BE NO QUESTION ABOUT IT.

20 (JUROR NUMBER 293 IS DISMISSED
21 FROM THE COURTROOM.)

22 THE COURT: WHAT DO YOU WANT TO ASK?

23 MR. NEWSOME: THE PURPOSE OF MY LINE OF
24 QUESTIONING, YOUR HONOR, IS TO SEE IF EACH JUROR, NO
25 MATTER WHICH ONE THEY ARE, WOULD BE WILLING IF THEY

1 BELIEVED IN SOMETHING OR BELIEVED SOMETHING DID NOT
2 OCCUR OR OCCURRED, IF THEY WOULD BE WILLING TO STAND
3 UP IN THE FACE OF WHETHER THERE WERE ODDS OF TEN TO
4 TWO OR ELEVEN TO ONE FEELING A DIFFERENT WAY, WHETHER
5 THEY WOULD GIVE IN. I'M TRYING TO EXPLORE WHETHER --

6 THE COURT: YOU CAN DO THAT, BUT HIS
7 CONCERN WAS THAT YOU WERE GOING TO BRACE THE QUESTION
8 THAT IF THERE WAS NOT A UNANIMOUS VERDICT, LIFE
9 SENTENCE IS AUTOMATIC, AND THAT'S NOT FOR THEIR
10 CONSIDERATION AT THIS TIME. THAT WAS YOUR CONCERN,
11 WASN'T IT?

12 MR. BAILEY: THAT WAS MY CONCERN, AND I
13 MIGHT HAVE BEEN PREMATURE IN MAKING MY OBJECTION.

14 THE COURT: YOUR QUESTION IS CAN SHE -- IF
15 SHE THOUGHT STRONG ENOUGH, COULD SHE HOLD OUT AGAINST
16 ELEVEN OTHERS?

17 MR. NEWSOME: YEAH.

18 THE COURT: YOU CAN DO THAT. BRING HER
19 IN. THAT'S WHERE I THOUGHT YOU WERE GOING TOO.

20 (JUROR NUMBER 293 ENTERS THE
21 COURTROOM.)

22 MR. NEWSOME: IF AFTER HEARING ALL OF THE
23 EVIDENCE IN THIS CASE, WHETHER EITHER IN THE GUILT
24 PHASE OR IF WE GOT TO THE PENALTY PHASE, IF YOUR
25 OPINION DIFFERED FROM THAT OF THE REMAINING ELEVEN

1 MEMBERS OF THE JURY, SAY YOU'RE ONE OF THE TWELVE,
2 COULD YOU HOLD OUT FOR YOUR OPINION OR WOULD YOU BE
3 INCLINED TO GO WITH THE MAJORITY?

4 JURY VENIRE MEMBER: I WOULD HOLD OUT.

5 MR. NEWSOME: OKAY. LET ME ASK YOU, I
6 NOTICE IN YOUR QUESTIONNAIRE YOU HAVE TWO ADULT
7 CHILDREN. DO EITHER OF THEM LIVE AT HOME?

8 JURY VENIRE MEMBER: NO.

9 MR. NEWSOME: OKAY. WOULD THE FRIENDSHIP
10 YOUR DAUGHTER HAS WITH THE SISTER OF MR. PRESLEY MAKE
11 IT UNCOMFORTABLE FOR YOU TO FULFILL YOUR ROLE AS A
12 JUROR IN THIS CASE?

13 JURY VENIRE MEMBER: I'M GOING TO HAVE TO
14 BE HONEST AND SAY PROBABLY SOMEWHAT.

15 MR. NEWSOME: OKAY. ALL RIGHT.

16 JURY VENIRE MEMBER: DUE TO HEARING MY --
17 SHERRY'S THINGS SHE WOULD TELL ME.

18 MR. NEWSOME: UH-HUH. SO YOU'VE HEARD
19 THINGS?

20 JURY VENIRE MEMBER: FROM THE SISTER.

21 MR. NEWSOME: OKAY. WHAT KIND OF THINGS
22 HAVE YOU HEARD?

23 JURY VENIRE MEMBER: WELL, HOW MUCH THE
24 PAIN -- THE HURT.

25 MR. NEWSOME: OF THE FAMILY?

1 JURY VENIRE MEMBER: OF THE FAMILY.

2 MR. NEWSOME: YES. OKAY. ANY OTHER
3 PARTICULAR FACTS OF THE CASE?

4 JURY VENIRE MEMBER: I CAN'T SAY FACTS.

5 MR. NEWSOME: ALL RIGHT. HAVING HEARD
6 THAT AND THIS BEING A SMALL COMMUNITY, WOULD IT MAKE
7 IT DIFFICULT FOR YOU IF YOUR DECISION -- OR IF AT THE
8 END OF THE CASE YOU WERE A JUROR AND I ASKED YOU TO
9 MAKE A DECISION THAT WOULD ACQUIT MY CLIENT OR TO
10 SENTENCE HIM TO LIFE IF HE WERE CONVICTED VERSUS --

11 JURY VENIRE MEMBER: PLEASE, WOULD YOU ASK
12 THAT AGAIN?

13 MR. NEWSOME: ALL RIGHT. GIVEN THAT YOU
14 KNOW THE HURT THAT THE FAMILY'S GONE THROUGH TODAY --

15 JURY VENIRE MEMBER: UH-HUH.

16 MR. NEWSOME: -- WOULD IT MAKE IT SO
17 DIFFICULT FOR YOU TO SIT ON THE JURY THAT YOU COULD
18 NOT GIVE A VERDICT OF NOT GUILTY IF YOU THOUGHT IT BE
19 SO -- OR OF NOT GUILTY? I'LL LET YOU ANSWER THAT
20 FIRST.

21 JURY VENIRE MEMBER: I BELIEVE I COULD BE
22 FAIR.

23 MR. NEWSOME: OKAY. ALL RIGHT. IF THERE
24 WERE EVIDENCE OF GUILT AND INVOLVEMENT, KNOWING OF
25 THE PAIN THAT THE FAMILY SUFFERED THROUGH YOUR

1 DAUGHTER'S FRIENDSHIP WITH THE SISTER, WOULD IT MAKE
2 IT MORE OR LESS LIKELY FOR YOU TO RETURN A DEATH
3 VERDICT TO MY CLIENT BECAUSE YOU KNOW THE FAMILY AND
4 YOUR DAUGHTER KNOWS THE FAMILY?

5 JURY VENIRE MEMBER: I STILL THINK I HAVE
6 MY OWN MIND AND I CAN USE MY OWN JUDGMENT.

7 MR. NEWSOME: OKAY. DO YOU THINK WE HAVE
8 A HARD TIME AS PEOPLE HAVING EMPATHY FOR FOLKS WHO
9 ARE DIFFERENT FROM US?

10 JURY VENIRE MEMBER: DO -- AS A WHOLE, DO
11 PEOPLE?

12 MR. NEWSOME: YES.

13 JURY VENIRE MEMBER: TRUE.

14 MR. NEWSOME: WOULD IT BE HARDER FOR YOU
15 TO IDENTIFY WITH MY CLIENT GIVEN THAT HE IS BLACK AND
16 THE EVIDENCE WILL SHOW THAT HE DOESN'T COME FROM A
17 WEALTHY FAMILY?

18 JURY VENIRE MEMBER: WOULD IT MAKE A
19 DIFFERENCE?

20 MR. NEWSOME: WOULD IT HARDER FOR YOU TO
21 IDENTIFY WITH HIM AND SEE SOME GOOD IN HIM?

22 JURY VENIRE MEMBER: I'M NOT SURE I QUITE
23 UNDERSTAND, BUT WHERE SOMEONE COMES FROM WOULDN'T
24 REALLY AFFECT MY WAY OF THINKING OF -- OF THAT PERSON
25 AS MUCH AS THE CRIME THAT WAS COMMITTED.

1 MR. NEWSOME: DO YOU THINK THAT -- I'LL
2 WITHDRAW THAT QUESTION. I HAVE NO QUESTIONS --
3 FURTHER QUESTIONS.

4 THE COURT: ALL RIGHT. I'LL LET YOU GO
5 OUT JUST A MOMENT, AND I'LL CALL YOU BACK.

6 (JUROR NUMBER 293 IS DISMISSED
7 FROM THE COURTROOM.)

8 THE COURT: THANK YOU SO MUCH. AS TO
9 QUALIFICATION?

10 MR. BAILEY: QUALIFIED, YOUR HONOR.

11 THE COURT: QUALIFICATION?

12 MR. NEWSOME: I THINK SHE'S QUALIFIED.

13 THE COURT: I DO TOO. BRING HER OUT.

14 (JUROR NUMBER 293 ENTERS THE
15 COURTROOM.)

16 THE COURT: MS. WISE.

17 JURY VENIRE MEMBER: YES, SIR.

18 THE COURT: YOU HAVE BEEN QUALIFIED TO
19 SERVE BY THE ATTORNEY FOR THE STATE AND THE DEFENDANT
20 IN THIS COURT, IF SELECTED. SO YOU ARE ONE OF THOSE
21 WHO ARE QUALIFIED TO SERVE.

22 NOW, I WANT YOU TO BRING SUCH PERSONAL ITEMS AS
23 YOU WILL NEED IN ORDER TO BE SEQUESTERED, IF
24 SELECTED. YOU MAY OR MAY NOT BE SELECTED, BUT YOU'RE
25 QUALIFIED. SO REPORT BACK -- I THINK I'M GOING TO

1 HAVE THEM REPORT -- DIDN'T WE HAVE THEM REPORT OVER
2 THERE BEFORE?

3 THE SHERIFF: YES, SIR.

4 THE COURT: DO YOU KNOW WHERE THE ANNEX
5 BUILDING IS?

6 JURY VENIRE MEMBER: I'LL FIND IT.

7 THE COURT: THE ANNEX BUILDING IS ACROSS
8 THE STREET. REPORT OVER THERE WITH YOUR PERSONAL
9 EFFECTS AT 2:30.

10 JURY VENIRE MEMBER: WHICH DAY?

11 THE COURT: THURSDAY. AND SHERIFF, I
12 BELIEVE THEY WILL HAVE SOMEBODY OVER THERE AND THEY
13 CAN LEAVE THEIR BAGGAGE OVER THERE.

14 NOW, MS. WISE, ANY QUESTIONS RIGHT NOW?

15 JURY VENIRE MEMBER: NONE THAT I CAN THINK
16 OF, SIR.

17 THE COURT: OH, DO THIS. DO NOT DISCUSS
18 THIS CASE WITH ANYONE. LET NO ONE DISCUSS IT WITH
19 YOU. DO NOT EVEN DISCUSS THE QUESTIONS THAT I AM
20 ASKING.

21 JURY VENIRE MEMBER: AM I EXCUSED FOR THE
22 DAY?

23 THE COURT: YES, MA'AM. AND YOU'RE
24 EXCUSED TOMORROW TOO. I'LL SEE YOU THURSDAY AT 2:30.

25 JURY VENIRE MEMBER: SO I CAN GO TO WORK

1 TOMORROW?

2 THE COURT: YES, MA'AM. THANK YOU SO
3 MUCH.

4 (JUROR NUMBER 293 IS DISMISSED
5 FROM THE COURTROOM.)

6 MR. NEWSOME: YOUR HONOR, I WOULD REQUEST
7 A FIVE-MINUTE BREAK. MY CLIENT NEEDS A SHORT BREAK,
8 ABOUT THREE MINUTES.

9 THE COURT: GO AHEAD. THAT'S FINE. WE'LL
10 TAKE A SHORT BREAK.

11 (WHEREUPON, A BREAK WAS TAKEN
12 FROM THE PROCEEDINGS.)

13 THE COURT: ALL RIGHT. READY TO PROCEED?
14 MR. BAILEY: YES, SIR.

15 (JUROR NUMBER 41, A WHITE
16 MALE, ENTERS THE COURTROOM.)

17 THE CLERK: PLEASE STATE YOUR NAME FOR THE
18 RECORD.

19 JURY VENIRE MEMBER: JERRY D. CROWE.

20 (JUROR NUMBER 41, HAVING BEEN FIRST DULY SWORN
21 BY THE CLERK OF COURT, TESTIFIED AS FOLLOWS:)

22 THE CLERK: PLEASE COME AROUND BACK HERE
23 AND HAVE A SEAT.

24 THE COURT: HAVE A SEAT, MR. CROWE. MR.
25 CROWE, IN THE ORIGINAL QUESTIONING THIS MORNING, YOU

1 DID NOT INDICATE THAT YOU HAD READ OR HEARD OR KNEW
2 ANYTHING ABOUT THIS CASE. IS THAT STILL CORRECT?

3 JURY VENIRE MEMBER: THAT'S CORRECT.

4 THE COURT: ALL RIGHT. MR. CROWE, WE
5 DON'T WANT TO INVADE YOUR PRIVACY IN ANY WAY, BUT IN
6 THESE PROCEEDINGS, THIS IS THE ONLY OPPORTUNITY I AND
7 THE COUNSEL WILL HAVE AN OPPORTUNITY TO TALK TO YOU
8 ABOUT YOUR FEELINGS ABOUT THE DEATH PENALTY. DID YOU
9 HAVE A CHANCE TO READ THAT LETTER A WHILE AGO?

10 JURY VENIRE MEMBER: YES, SIR.

11 THE COURT: YOU WOULD UNDERSTAND THAT
12 THERE ARE GENERALLY -- THERE'S NO RIGHT OR WRONG
13 ANSWERS, BUT THERE'S GENERALLY THREE GROUPS OF
14 PEOPLE. THE FIRST GROUP SAYS ONCE AN INDIVIDUAL HAS
15 BEEN CONVICTED BEYOND A REASONABLE DOUBT OF MURDER, I
16 WOULD ALWAYS BE FOR THE DEATH PENALTY. THERE IS A
17 SECOND GROUP THAT SAYS EVEN THOUGH HE HAD BEEN
18 CONVICTED OF MURDER, I CAN NEVER BE FOR THE DEATH
19 PENALTY. THERE IS A THIRD GROUP WHO SAY EVEN THOUGH
20 HE HAS BEEN CONVICTED OF MURDER, I WILL CONSIDER THE
21 AGGRAVATING CIRCUMSTANCES, I WILL CONSIDER THE
22 MITIGATING CIRCUMSTANCES, AND I WILL THEN DECIDE
23 WHETHER TO IMPOSE DEATH OR LIFE IMPRISONMENT.

24 NOW, WOULD YOU BE UNDER THE FIRST THAT SAYS
25 ALWAYS, UNDER THE SECOND THAT SAYS NEVER OR UNDER T

1 THIRD THAT SAYS IT WILL DEPEND ON THE FACTS? WHICH
2 WOULD YOU BE, ONE TWO OR THREE?

3 JURY VENIRE MEMBER: THREE.

4 THE COURT: THREE. ALL RIGHT, SIR. YOU
5 MAY EXAMINE HIM.

6 MR. BAILEY: THANK YOU, YOUR HONOR.

7 THE COURT: THANK YOU, MR. CROWE.

8 MR. BAILEY: MR. CROWE, I'M WALTER BAILEY.
9 I JUST WANT TO ASK YOU A FEW QUESTIONS TO FOLLOW UP
10 ON WHAT JUDGE COTTINGHAM ASKED YOU. AND I GUESS THE
11 FIRST QUESTION IS, HAVE YOU EVER THOUGHT ABOUT THE
12 DEATH PENALTY BEFORE YOU FOUND OUT THAT YOU MIGHT BE
13 ON A JURY CONSIDERING THE DEATH PENALTY?

14 JURY VENIRE MEMBER: I HAD THOUGHT ABOUT
15 IT, YEAH.

16 MR. BAILEY: DID YOU HAVE A CHANCE TO
17 FORMULATE ANY KIND OF OPINION ON IT ONE WAY OR THE
18 OTHER?

19 JURY VENIRE MEMBER: WELL, NOT REALLY.

20 MR. BAILEY: OKAY.

21 JURY VENIRE MEMBER: I'VE NEVER...

22 MR. BAILEY: ALL RIGHT. YOU UNDERSTAND
23 THAT IN SOUTH CAROLINA, THE WAY THE SYSTEM WORKS IS
24 WE DON'T EVEN CONSIDER LIFE IMPRISONMENT OR THE DEATH
25 PENALTY UNLESS THE DEFENDANT'S BEEN FOUND GUILTY OF

1 MURDER IN THE FIRST PART OF THE TRIAL?

2 JURY VENIRE MEMBER: YES, SIR.

3 MR. BAILEY: THE FIRST PART IS LIKE ANY
4 OTHER CRIMINAL TRIAL WHERE THE JURY JUST DECIDES
5 WHETHER THE STATE CAN PROVE A PERSON GUILTY OR NOT OF
6 THE PARTICULAR CHARGE.

7 JURY VENIRE MEMBER: YES.

8 MR. BAILEY: AND WHEN THE STATE SEEKS THE
9 DEATH PENALTY, THE STATE HAS TO FIRST CONVINC THAT
10 JURY BEYOND A REASONABLE DOUBT THAT THE PERSON IS
11 GUILTY OF MURDER --

12 JURY VENIRE MEMBER: YES, SIR.

13 MR. BAILEY: -- BEFORE WE EVEN GET TO THAT
14 SECOND STAGE. IN THE SECOND STAGE, WHATEVER THE JUR
15 RECOMMENDS WILL BE THE SENTENCE THAT WILL ACTUALLY BE
16 IMPOSED.

17 JURY VENIRE MEMBER: YES, SIR.

18 MR. BAILEY: OKAY. NOW, IF YOU WERE ON A
19 JURY AND GOT INTO THE SECOND PHASE, THE PENALTY PHASE
20 OF THE TRIAL, AND YOU AND THE OTHER ELEVEN JURORS
21 AFTER HEARING ALL OF THE EVIDENCE IN AGGRAVATION AND
22 MITIGATION, YOU DECIDE TO GO WITH THE DEATH PENALTY.
23 IN ORDER TO PUT THAT SENTENCE INTO EFFECT, THEN EACH
24 JUROR WOULD HAVE TO SIGN THEIR NAME TO A DEATH
25 VERDICT FORM. COULD YOU SIGN YOUR NAME TO A PIECE OF

1 PAPER LIKE THAT IF YOU HAD ALREADY HEARD ALL OF THE
2 EVIDENCE AND --

3 JURY VENIRE MEMBER: YES, SIR.

4 MR. BAILEY: COULD YOU COME OUT INTO OPEN
5 COURT AND ANNOUNCE THAT DECISION, IF THAT WAS YOUR
6 DECISION?

7 JURY VENIRE MEMBER: I BELIEVE SO.

8 MR. BAILEY: WHEN YOU SAY YOU BELIEVE SO,
9 YOU KIND OF QUALIFIED THAT A LITTLE BIT. IS THERE
10 ANYTHING -- WE'RE LOOKING, FIRST OF ALL, AT THE VOTE,
11 THEN THE SIGNING OF THE DEATH VERDICT FORM, AND THEN
12 COMING OUT AND ANNOUNCING THAT. IS THERE ANYTHING
13 ABOUT ANNOUNCING THAT VERDICT IN OPEN COURT THAT
14 WOULD CAUSE YOU ANY UNDUE PROBLEMS?

15 JURY VENIRE MEMBER: I DON'T THINK SO.

16 MR. BAILEY: IN THIS PARTICULAR CASE, THE
17 DEFENDANT AT THE TIME THE STATE ALLEGES THE OFFENSE
18 OF MURDER WAS 16 YEARS OLD, AND NOBODY'S GOING TO ASK
19 YOU WHAT YOU WOULD DO IN THIS CASE BECAUSE YOU
20 HAVEN'T HEARD THE FACTS. BUT JUST IN GENERAL TERMS,
21 IF THE FACTS WERE BAD ENOUGH, COULD YOU IMPOSE THE
22 DEATH PENALTY ON A PERSON WHO WAS 16 AT THE TIME THE
23 MURDER WAS COMMITTED?

24 JURY VENIRE MEMBER: IF IT'S BAD ENOUGH,
25 YES, SIR.

1 MR. BAILEY: AND IN THIS PARTICULAR CASE,
 2 THE DEFENDANT IS BLACK AND THE VICTIMS WERE WHITE.
 3 WOULD THAT ENTER INTO YOUR DELIBERATIONS OR WOULD YOU
 4 LOOK AT THE CASE JUST THE SAME AS IF THE CASE WERE
 5 REVERSED?

6 JURY VENIRE MEMBER: NONE WHATSOEVER.

7 MR. BAILEY: IT WOULD NOT MAKE ANY
 8 DIFFERENCE?

9 JURY VENIRE MEMBER: IT WOULDN'T MAKE ANY
 10 DIFFERENCE.

11 MR. BAILEY: THAT'S ALL I'VE GOT. THANK
 12 YOU VERY MUCH.

13 THE COURT: MR. NEWSOME.

14 MR. NEWSOME: HOW LONG HAVE YOU LIVED IN
 15 CALHOUN COUNTY?

16 JURY VENIRE MEMBER: SIX YEARS.

17 MR. NEWSOME: SIX YEARS. YOU DON'T KNOW
 18 ANY OF THE PEOPLE?

19 JURY VENIRE MEMBER: I DON'T KNOW NONE OF
 20 THEM.

21 MR. NEWSOME: THE VICTIMS, WITNESSES OR
 22 THE DEFENDANT?

23 JURY VENIRE MEMBER: NO, SIR.

24 MR. NEWSOME: AND YOU HAVE ADULT CHILDREN.
 25 DO THEY LIVE HERE OR LIVE AWAY?

1 JURY VENIRE MEMBER: THEY LIVE AWAY.

2 MR. NEWSOME: ALL RIGHT, SIR. WOULD YOU
3 CONSIDER YOURSELF MORE OF A THINKER OR A FEELER? IF
4 YOU HAD TO DESCRIBE YOURSELF BETWEEN TWO CHOICES,
5 BEING A THINKING PERSON OR FEELING PERSON --

6 MR. BAILEY: YOUR HONOR, I THINK THAT'S
7 GETTING PERSONAL.

8 THE COURT: IT IS, AND I THINK YOU CAN
9 PROBABLY BE BOTH. I WOULD PERMIT THAT ONE INQUIRY,
10 BUT THAT GETS INTO PERSONALITY PROFILE.

11 JURY VENIRE MEMBER: I DON'T KNOW. I --
12 FEELER, PROBABLY.

13 MR. NEWSOME: ALL RIGHT. DO YOU THINK
14 THAT YOU COULD STAND UP TO THE MAJORITY MEMBERS OF
15 THE JURY IF YOUR OPINION OF THE FACTS IN THE CASE AND
16 THE APPROPRIATE SENTENCE WERE DIFFERENT FROM THEIRS
17 AND HOLD OUT FOR THE DECISION YOU HAD MADE OR WOULD
18 YOU GIVE INTO THE MAJORITY?

19 JURY VENIRE MEMBER: I BELIEVE I COULD
20 HOLD OUT.

21 MR. NEWSOME: EVEN IF IT MADE YOU AN
22 UNPOPULAR PERSON WITH THEM?

23 JURY VENIRE MEMBER: I THINK SO.

24 MR. NEWSOME: EITHER WAY, WHETHER YOU
25 THOUGHT IT WAS FOR THE DEATH SENTENCE OR --

1 JURY VENIRE MEMBER: YES. THAT'S RIGHT.

2 MR. NEWSOME: I HAVE NO FURTHER QUESTIONS

3 THE COURT: YOU MAY STEP OUTSIDE FOR JUST

4 A MOMENT.

5 (JUROR NUMBER 41 IS DISMISSED

6 FROM THE COURTROOM.)

7 THE COURT: WHAT SAY THE STATE?

8 MR. BAILEY: QUALIFIED, YOUR HONOR.

9 MR. NEWSOME: HE'S QUALIFIED.

10 THE COURT: OKAY.

11 (JUROR NUMBER 41 ENTERS THE

12 COURTROOM.)

13 THE COURT: MR. JUROR, YOU HAVE BEEN

14 QUALIFIED BY THE ATTORNEYS FOR THE STATE AND THE

15 DEFENDANT AND BY THE COURT. NOW, PLEASE, I WANT YOU

16 TO REPORT ACROSS THE STREET TO THE ANNEX AT 2:30

17 THURSDAY WITH SUCH PERSONAL EFFECTS AS YOU MAY NEED

18 TO STAY ON THE JURY, IF SELECTED. YOU ARE QUALIFIED.

19 YOU MAY OR MAY NOT BE SELECTED, BUT COME PREPARED TO

20 STAY IF YOU ARE SELECTED.

21 JURY VENIRE MEMBER: YES, SIR.

22 THE COURT: ANY QUESTIONS ABOUT THAT?

23 JURY VENIRE MEMBER: THAT'S 2:30?

24 THE COURT: 2:30 THURSDAY ACROSS THE

25 STREET.

1 JURY VENIRE MEMBER: OKAY.

2 THE COURT: DO NOT DISCUSS THIS CASE. LET
3 NO ONE DISCUSS IT WITH YOU. DO NOT DISCUSS THE
4 QUESTIONS AND ANSWERS THAT YOU WERE GIVEN HERE IN
5 THIS COURTROOM.

6 JURY VENIRE MEMBER: YES, SIR.

7 THE COURT: THANK YOU SO MUCH.

8 (JUROR NUMBER 41 IS DISMISSED
9 FROM THE COURTROOM.)

10 (JUROR NUMBER 134, A WHITE
11 MALE, ENTERS THE COURTROOM.)

12 THE CLERK: PLEASE STATE YOUR NAME FOR THE
13 RECORD.

14 JURY VENIRE MEMBER: JOHN A. JORDAN.

15 (JUROR NUMBER 134, HAVING BEEN FIRST DULY SWORN
16 BY THE CLERK OF COURT, TESTIFIED AS FOLLOWS:)

17 THE CLERK: PLEASE COME AROUND AND HAVE A
18 SEAT.

19 THE COURT: COME AROUND, MR. JORDAN.

20 JURY VENIRE MEMBER: HOW ARE YOU DOING?

21 THE COURT: GOOD AFTERNOON. MR. JORDAN, I
22 WANT TO ASK YOU A FEW QUESTIONS. WE DO NOT INTEND TO
23 INVADE YOUR PRIVACY, BUT OUR PROCEDURE REQUIRES US TO
24 ASK YOU CERTAIN QUESTIONS. EARLIER THIS MORNING, YOU
25 INDICATED THAT YOU HAD NOT READ, HEARD OR TALKED

1 ANYTHING ABOUT THIS CASE. IS THAT STILL YOUR ANSWER?

2 JURY VENIRE MEMBER: YES, SIR.

3 THE COURT: MR. JORDAN, UNDER OUR
4 PROCEDURE, WE HAVE TWO TRIALS; A BIFURCATED TRIAL, AS
5 YOU UNDERSTAND.

6 JURY VENIRE MEMBER: YES, SIR.

7 THE COURT: THE FIRST TRIAL IS TO
8 DETERMINE WHETHER OR NOT THE DEFENDANT HAS BEEN FOUND
9 GUILTY OF MURDER BEYOND A REASONABLE DOUBT. IF THE
10 JURY FINDS HIM NOT GUILTY, WE STOP RIGHT THERE. YOU
11 UNDERSTAND THAT?

12 JURY VENIRE MEMBER: YES, SIR.

13 THE COURT: NOW, IF THE JURY UNANIMOUSLY
14 HAS FOUND HIM GUILTY OF MURDER, WE GO TO THE SECOND
15 PHASE, WHICH IS THE PENALTY PHASE. IN THAT PHASE,
16 THE JURY WILL BE ASKED THE FOLLOWING QUESTION. THIS
17 DEFENDANT, HAVING BEEN FOUND GUILTY OF MURDER, WHAT
18 IS THE SENTENCE YOU WILL IMPOSE, DEATH BY
19 ELECTROCUTION OR LETHAL INJECTION OR LIFE
20 IMPRISONMENT? THAT'S TWO ALTERNATIVES IN THE SECOND
21 PHASE.

22 YOU'VE HAD A CHANCE TO READ THAT LETTER A MOMENT
23 AGO THAT I PUT OUT THERE?

24 JURY VENIRE MEMBER: YES, SIR.

25 THE COURT: THERE IS ONE GROUP OF JURORS

1 THAT SAY WHERE AN INDIVIDUAL HAS BEEN FOUND GUILTY
2 UNANIMOUSLY OF MURDER, I WOULD ALWAYS BE FOR THE
3 DEATH PENALTY. A SECOND GROUP THAT SAYS EVEN THOUGH
4 HE'S BEEN FOUND GUILTY OF MURDER, I COULD NEVER BE
5 FOR THE DEATH PENALTY. A THIRD GROUP SAYS KNOWING
6 HE'S BEEN CONVICTED OF MURDER, I WILL STILL WEIGH THE
7 AGGRAVATION AND THE MITIGATION AND THEN I WILL DECIDE
8 WHETHER OR NOT DEATH OR LIFE IMPRISONMENT IS
9 APPROPRIATE.

10 WOULD YOU BE THE ONE THAT SAYS ALWAYS, THE
11 SECOND THAT SAYS NEVER, THE THIRD THAT SAYS IT WOULD
12 DEPEND ON THE FACTS? WHICH GROUP WOULD YOU BE?

13 JURY VENIRE MEMBER: I THINK I WOULD BE
14 NUMBER ONE.

15 THE COURT: NUMBER ONE? AND WHAT DO YOU
16 BELIEVE THE NUMBER ONE SAYS?

17 JURY VENIRE MEMBER: I WOULD ALWAYS GO FOR
18 THE DEATH PENALTY.

19 THE COURT: ALWAYS GO.

20 JURY VENIRE MEMBER: YES, SIR.

21 THE COURT: YOU WOULD NOT LISTEN TO THE
22 MITIGATING CIRCUMSTANCES, NOT BE WILLING TO DO THAT?

23 JURY VENIRE MEMBER: I -- I REALLY DON'T
24 THINK THAT WOULD MAKE TOO MUCH DIFFERENCE IN MY
25 OPINION.

1 THE COURT: WELL, YOU KNOW, THERE'S NO
2 RIGHT OR WRONG ANSWER HERE, AND THAT'S ALL WE'RE
3 ASKING IS YOUR HONEST OPINION, AND EVERYBODY IS
4 ENTITLED TO A DIFFERENT OPINION ON THIS ISSUE.
5 YOU MAY EXAMINE.

6 MR. BAILEY: I WON'T KEEP YOU TOO LONG. I
7 JUST WANT TO ASK YOU A COUPLE QUESTIONS AND MAKE SURE
8 I UNDERSTAND YOUR POSITION. NO RIGHT OR WRONG
9 ANSWERS. WE JUST WANT TO KNOW EXACTLY HOW YOU FEEL
10 ABOUT THE DEATH PENALTY.

11 YOU UNDERSTAND, WE WOULD NOT EVEN BE TALKING
12 ABOUT THE PENALTY OR THE PENALTY PHASE OF THE TRIAL
13 UNLESS THE DEFENDANT HAS ALREADY BEEN FOUND GUILTY OF
14 MURDER IN THE FIRST PART?

15 JURY VENIRE MEMBER: TRUE.

16 MR. BAILEY: AND AT THE PENALTY PHASE, THE
17 STATE, THAT WOULD BE ME, I'M TRYING TO CONVINCING YOU
18 TO BACK THE DEATH PENALTY BY BRINGING UP EVIDENCE TO
19 SHOW YOU HOW BAD THAT DEFENDANT IS OR HOW BAD THE
20 CRIME WAS, AND THE DEFENSE WOULD BRING OUT EVIDENCE
21 IN MITIGATION TO BRING OUT THE DEFENDANT'S BACKGROUND
22 OR SOMETHING OF THAT NATURE.

23 JURY VENIRE MEMBER: RIGHT.

24 MR. BAILEY: NOW, WOULD YOU, IF YOU WERE
25 ON A JURY, AND YOU AND THE OTHER ELEVEN JURORS FOUND

1 A DEFENDANT GUILTY OF MURDER, WHAT WE ALL WANT TO
2 KNOW IS WHETHER OR NOT THAT SECOND PHASE WOULD BE A
3 WASTE OF TIME BECAUSE YOUR MIND IS ALWAYS MADE UP OR
4 WHETHER YOU WOULD CONTINUE TO LISTEN TO THAT
5 EVIDENCE, THE EVIDENCE IN AGGRAVATION AND MITIGATION,
6 AND KEEP AN OPEN MIND THROUGHOUT THE SECOND PART OF
7 THAT PROCESS?

8 JURY VENIRE MEMBER: I WOULD STILL BE --
9 IT WOULD BE THE DEATH PENALTY.

10 MR. BAILEY: OKAY. SO NO MATTER WHAT, IF
11 A PERSON IS FOUND GUILTY OF MURDER, YOU WOULD
12 AUTOMATICALLY VOTE FOR THE DEATH PENALTY?

13 JURY VENIRE MEMBER: YEAH. MY MIND WOULD
14 BE MADE UP.

15 MR. BAILEY: THANK YOU. THAT'S ALL I
16 HAVE.

17 MR. NEWSOME: I HAVE NO QUESTIONS.

18 THE COURT: YOU MAY STEP OUT JUST A
19 MOMENT.

20 (JUROR NUMBER 134 IS DISMISSED
21 FROM THE COURTROOM.)

22 THE COURT: YES, SIR, MR. BAILEY.

23 MR. BAILEY: I'M AFRAID HE'S NOT
24 QUALIFIED, YOUR HONOR.

25 THE COURT: YES, I FIND HIM SO TOO. THANK

230

1 YOU.

2 (JUROR NUMBER 134 ENTERS THE
3 COURTROOM.)

4 THE COURT: MR. JORDAN, I WANT TO THANK
5 YOU FOR YOUR PARTICIPATION HERE TODAY. I AM GOING TO
6 EXCUSE YOU FROM FURTHER PARTICIPATION. YOU WILL NOT
7 HAVE TO RETURN. THANK YOU SO MUCH.

8 JURY VENIRE MEMBER: THANK YOU.

9 THE COURT: THANK YOU.

10 (JUROR NUMBER 134 IS DISMISSED
11 FROM THE COURTROOM.)

12 THE COURT: ALL RIGHT.

13 (JUROR NUMBER 169, A WHITE
14 MALE, ENTERS THE COURTROOM.)

15 THE CLERK: PLEASE STATE YOUR NAME FOR THE
16 RECORD.

17 JURY VENIRE MEMBER: PAUL MCCOLL.

18 (JUROR NUMBER 169, HAVING BEEN FIRST DULY SWORN
19 BY THE CLERK OF COURT, TESTIFIED AS FOLLOWS:)

20 THE CLERK: PLEASE COME AROUND AND HAVE A
21 SEAT.

22 THE COURT: GOOD AFTERNOON, MR. MCCOLL.

23 JURY VENIRE MEMBER: HI.

24 THE COURT: SORRY TO KEEP YOU WAITING BACK
25 THERE, BUT OUR SYSTEM IS JUST A TEDIOUS SLOW PROCESS

1 SOMETIMES. DID YOU HAVE A CHANCE TO READ THAT LETTER
2 THAT I LEFT BACK THERE?

3 JURY VENIRE MEMBER: UH-HUH.

4 THE COURT: WE DO NOT WANT TO INVADE YOUR
5 PRIVACY, BUT UNDER OUR SYSTEM WE NEED TO ASK OF YOU
6 SEVERAL QUESTIONS, REMEMBERING NOW, DIFFERENT PEOPLE
7 HAVE DIFFERENT VIEWS ON THE ISSUE OF PUNISHMENT.
8 THERE ARE NO RIGHT OR WRONG ANSWERS, YOU UNDERSTAND.
9 DIFFERENT PEOPLE HAVE DIFFERENT VIEWS.

10 AS I EXPLAINED TO YOU BEFORE, WE WILL HAVE A
11 TWO-PART TRIAL. THE FIRST PART IS TO DETERMINE
12 WHETHER OR NOT THE DEFENDANT IS GUILTY. YOU
13 UNDERSTAND THAT?

14 JURY VENIRE MEMBER: YES.

15 THE COURT: IF THE JURY FINDS HIM NOT
16 GUILTY, WE STOP RIGHT THERE. IF THE JURY
17 UNANIMOUSLY, ALL TWELVE OF THEM, FIND HIM GUILTY
18 BEYOND A REASONABLE DOUBT, THEN WE GO TO THE SECOND
19 PHASE, WHICH IS THE PENALTY PHASE. DO YOU UNDERSTAND
20 THAT?

21 JURY VENIRE MEMBER: YES.

22 THE COURT: NOW, THE QUESTION FOR THE JURY
23 IN THE SECOND PHASE IS THIS. HAVING FOUND THE
24 DEFENDANT GUILTY OF MURDER, WHAT SHALL THE SENTENCE
25 BE? WILL IT BE DEATH BY ELECTROCUTION OR LETHAL

1 INJECTION OR SHALL THE PUNISHMENT BE LIFE
2 IMPRISONMENT?

3 NOW, THAT LETTER EXPLAINED TO YOU THREE
4 DIFFERENT TYPES OF PEOPLE. ONE TYPE, NUMBER ONE,
5 SAYS THAT ONCE HE'S BEEN FOUND GUILTY OF MURDER, I
6 WILL ALWAYS BE FOR THE PENALTY OF DEATH. THE SECOND
7 GROUP SAYS EVEN THOUGH HE'S BEEN FOUND GUILTY OF
8 MURDER, I CAN NEVER PUT A PERSON TO DEATH. THE THIRD
9 GROUP SAYS I WILL LISTEN TO THE AGGRAVATING
10 CIRCUMSTANCES. I WILL LISTEN TO THE MITIGATING
11 CIRCUMSTANCES. DEPENDING ON WHAT I HEAR AND FEEL, I
12 COULD BE FOR THE DEATH PENALTY OR I COULD BE FOR LIFE
13 IMPRISONMENT.

14 WOULD YOU BE THE FIRST THAT SAYS ALWAYS, THE
15 SECOND THAT SAYS NEVER, THE THIRD THAT SAYS I WILL
16 LISTEN TO THE TESTIMONY -- EVIDENCE AND THEN DECIDE?
17 WHICH WOULD YOU BE?

18 JURY VENIRE MEMBER: THE FIRST ONE.

19 THE COURT: SIR?

20 JURY VENIRE MEMBER: THE FIRST ONE.

21 THE COURT: AND WHAT DO YOU THINK THE
22 FIRST ONE IS?

23 JURY VENIRE MEMBER: IF HE'S GUILTY --

24 THE COURT: PARDON?

25 JURY VENIRE MEMBER: IF HE'S GUILTY OF

1 MURDER, THEN HE SHOULD SERVE THE DEATH PENALTY.

2 THE COURT: OKAY. YOU MAY EXAMINE, MR.
3 BAILEY.

4 MR. BAILEY: I'M WALTER BAILEY. I WANT TO
5 ASK YOU JUST A FEW QUESTIONS. FIRST OF ALL, DID YOU
6 HAVE ENOUGH TIME TO LOOK OVER THAT PIECE OF PAPER? I
7 KNOW THE BAILIFF SAID YOU WEREN'T QUITE FINISHED
8 READING IT. HAVE YOU HAD ENOUGH TIME TO LOOK OVER
9 THAT NOW?

10 JURY VENIRE MEMBER: YEAH.

11 MR. BAILEY: AND YOU UNDERSTAND WHAT JUDGE
12 COTTINGHAM TOLD YOU ABOUT THE TWO-PART PROCESS, THE
13 FIRST PART OF THE TRIAL LIKE THIS IS LIKE ANY OTHER
14 CRIMINAL TRIAL, CALLED THE GUILT PHASE, AND WHAT I'M
15 TRYING TO DO ON BEHALF OF THE STATE IS TO PROVE THAT
16 A PERSON WAS GUILTY OF MURDER BEYOND A REASONABLE
17 DOUBT JUST LIKE ANY OTHER TRIAL, LIKE A D.U.I. TRIAL
18 OR GRAND LARCENY OR WHATEVER.

19 IF THE DEFENDANT IS FOUND GUILTY OF MURDER IN
20 THE FIRST PHASE, THEN WE GO ON TO THE SECOND PHASE OR
21 THE PENALTY PHASE WHERE THE JURY IS DEALING WITH A
22 CONVICTED MURDERER OR YOU WOULDN'T BE IN THAT SECOND
23 PHASE. AND THE REASON FOR HAVING THAT SECOND PHASE
24 IS TO ALLOW ADDITIONAL EVIDENCE IN AGGRAVATION WHERE
25 I WOULD BE REQUIRED TO MAKE THE CASE SOUND AS BAD AS

1 I COULD TRYING TO GET A DEATH PENALTY, AND THE
2 DEFENSE WOULD BRING UP EVIDENCE IN MITIGATION TO TRY
3 TO TALK THE JURY INTO A LIFE SENTENCE. DO YOU
4 UNDERSTAND THAT TWO-PART PROCESS?

5 JURY VENIRE MEMBER: YES.

6 MR. BAILEY: NOW, IF YOU WERE ON A --
7 PICKED ON A JURY IN A CASE LIKE THIS AND GOT INTO
8 THAT SECOND PHASE, KNOWING THAT YOU'RE DEALING WITH A
9 CONVICTED MURDERER, WOULD YOU CONTINUE TO LISTEN TO
10 THE EVIDENCE AND ADDITIONAL INSTRUCTION OF JUDGE
11 COTTINGHAM BEFORE YOU MADE UP YOUR MIND ON
12 PUNISHMENT?

13 JURY VENIRE MEMBER: PROBABLY NOT.

14 MR. BAILEY: OKAY. CAN YOU EXPLAIN THAT
15 LITTLE BIT?

16 JURY VENIRE MEMBER: I JUST FEEL IF YOU
17 KILL SOMEBODY, THEN YOU DESERVE TO DIE TOO.

18 MR. BAILEY: OKAY. ARE YOU SAYING THAT NO
19 MATTER WHAT EVIDENCE MIGHT COME OUT IN THE SECOND
20 PART OF THE TRIAL, THAT YOU WOULD HAVE YOUR MIND MADE
21 UP AFTER THE FIRST PART, AFTER THE GUILT PHASE? I
22 KNOW THIS IS ALL NEW TO YOU, AND THAT'S WHY WE'RE
23 TRYING -- WE HIT YOU WITH A BUNCH OF STUFF AT ONE
24 TIME, BUT YOU UNDERSTAND WE DON'T TALK ABOUT
25 PUNISHMENT UNLESS WE'RE DEALING WITH SOMEBODY WHO'S

1 ALREADY BEEN FOUND GUILTY OF MURDER. IF HE'S FOUND
2 NOT GUILTY, HE GOES HOME, AND THAT'S THE END OF IT.

3 SO ANY TIME YOU'RE IN THAT SECOND PHASE, YOU'RE
4 DEALING WITH A CONVICTED MURDERER, AND THE REASON TO
5 HAVE THE SECOND PHASE IS TO MAKE THAT CHOICE BETWEEN
6 LIFE IMPRISONMENT AND THE DEATH PENALTY. AND WHAT WE
7 ALL WANT TO KNOW IS WHETHER OR NOT YOU WOULD CONTINUE
8 TO LISTEN DURING THAT SECOND PART OF THE TRIAL OR
9 WHETHER THAT WOULD BE A WASTE OF TIME BECAUSE YOU
10 WOULD ALREADY HAVE YOUR MIND MADE UP FOR EITHER THE
11 DEATH PENALTY OR LIFE IN PRISON AFTER THE FIRST PART
12 OF THE TRIAL.

13 JURY VENIRE MEMBER: IT WOULD BE A WASTE
14 OF TIME.

15 MR. BAILEY: AS FAR AS YOU'RE CONCERNED IT
16 WOULD?

17 JURY VENIRE MEMBER: YES.

18 MR. BAILEY: THANK YOU. THAT'S ALL I
19 HAVE.

20 MR. NEWSOME: I HAVE NO QUESTIONS.

21 THE COURT: YOU MAY STEP OUT JUST A
22 MOMENT, PLEASE.

23 (JUROR NUMBER 169 IS DISMISSED
24 FROM THE COURTROOM.)

25 MR. BAILEY: NOT QUALIFIED.

1 MR. NEWSOME: UNQUALIFIED.

2 (JUROR NUMBER 169 ENTERS THE
3 COURTROOM.)

4 THE COURT: MR. MCCOLL, APPRECIATE YOUR
5 ATTENDANCE HERE TODAY AND APPRECIATE YOUR CANDOR OF
6 YOUR RETURN TO OUR QUESTIONS. YOU ARE EXCUSED FROM
7 FURTHER PARTICIPATION, BUT THANK YOU SO MUCH.

8 JURY VENIRE MEMBER: ALL RIGHT. THANK
9 YOU.

10 THE COURT: YOU WILL NOT HAVE TO COME
11 BACK.

12 (JUROR NUMBER 169 IS DISMISSED
13 FROM THE COURTROOM.)

14 (JUROR NUMBER 269, A WHITE
15 MALE, ENTERS THE COURTROOM.)

16 THE CLERK: PLEASE STATE YOUR NAME FOR THE
17 RECORD.

18 JURY VENIRE MEMBER: ERNEST VERNON.

19 (JUROR NUMBER 269, HAVING BEEN FIRST DULY SWORN
20 BY THE CLERK OF COURT, TESTIFIED AS FOLLOWS:)

21 THE CLERK: PLEASE COME AROUND AND HAVE A
22 SEAT.

23 THE COURT: GOOD AFTERNOON, MR. VERNON.

24 JURY VENIRE MEMBER: GOOD AFTERNOON,
25 JUDGE.

1 THE COURT: MR. VERNON, I NOTE FROM YOUR
2 APPLICATION, YOU'RE KIND OF LIKE ME, YOU DON'T WRITE
3 TOO WELL.

4 JURY VENIRE MEMBER: THAT'S WHAT I WAS
5 TRYING TO TELL YOU THIS MORNING. I WASN'T TRYING TO
6 GET OUT OF JURY DUTY. I JUST CAN'T WRITE, BUT I CAN
7 READ.

8 THE COURT: I KNOW THAT, AND I APPRECIATE
9 THAT. OF COURSE, OBVIOUSLY, YOU HAVE SIGNIFICANT
10 EDUCATION.

11 YOU HAD INDICATED THIS MORNING THAT YOU HAD NOT
12 READ OR HEARD ANYTHING ABOUT THIS CASE. IS THAT
13 STILL YOUR ANSWER?

14 JURY VENIRE MEMBER: IF I DID, IT SURE
15 DIDN'T REGISTER.

16 THE COURT: OKAY. THAT'S FINE. LET ME
17 ASK YOU THIS. YOU UNDERSTAND FROM MY EXPLANATION
18 THAT THE DEFENDANT IS CHARGED WITH MURDER AND PLED
19 NOT GUILTY. THERE WOULD BE OR COULD BE A TWO-STAGE
20 TRIAL. THE FIRST STAGE IS TO DETERMINE HIS GUILT OR
21 INNOCENCE. IF THE JURY DETERMINED HE WAS INNOCENT,
22 WE STOP THERE. IF THE JURY HAS FOUND HIM GUILTY
23 BEYOND A REASONABLE DOUBT OF MURDER, WE THEN AND ONLY
24 THEN GO TO THE SECOND PHASE.

25 IN THE SECOND PHASE, THE QUESTION FOR THE JURY

1 IS, THIS DEFENDANT HAVING BEEN FOUND GUILTY OF
2 MURDER, WHAT SHALL THE SENTENCE BE? WILL IT BE DEATH
3 BY ELECTROCUTION OR LETHAL INJECTION OR SHALL WE GIVE
4 HIM LIFE IMPRISONMENT? NOW, THAT LETTER THAT YOU
5 JUST READ -- YOU READ THE LETTER, I'M SURE?

6 JURY VENIRE MEMBER: YES, SIR.

7 THE COURT: -- EXPRESSES THREE DIFFERENT
8 GROUPS OF PEOPLE AND THREE DIFFERENT VIEWS. THERE
9 ARE NOT ANY RIGHT OR WRONG ANSWERS. THAT FIRST GROUP
10 SAYS WHERE SOMEBODY HAS BEEN FOUND GUILTY OF MURDER,
11 I'LL ALWAYS BE FOR THE DEATH PENALTY. THE SECOND
12 GROUP SAYS EVEN THOUGH HE'S BEEN FOUND GUILTY OF
13 MURDER, I COULD NEVER BE FOR THE DEATH PENALTY. THE
14 THIRD GROUP SAYS I WILL CONSIDER ALL OF THE FACTS,
15 AGGRAVATION, MITIGATION, AND THEN I'LL DETERMINE
16 WHAT'S THE APPROPRIATE SENTENCE. IS YOURS THE FIRST,
17 SECOND OR THIRD GROUP?

18 JURY VENIRE MEMBER: I FALL IN THE THIRD,
19 SIR.

20 THE COURT: SIR?

21 JURY VENIRE MEMBER: THE THIRD GROUP.

22 THE COURT: ALL RIGHT. YOU MAY EXAMINE.

23 THANK YOU.

24 MR. BAILEY: I'M WALTER BAILEY. I WANT TO
25 ASK YOU A FEW QUESTIONS.

1 JURY VENIRE MEMBER: YES, SIR.

2 MR. BAILEY: TO FOLLOW UP ON WHAT JUDGE
3 COTTINGHAM ASKED YOU, IS THE DEATH PENALTY SOMETHING
4 THAT YOU'VE HAD OCCASION TO THINK ABOUT IN THE PAST?

5 JURY VENIRE MEMBER: OH, YES.

6 MR. BAILEY: AND COULD YOU TELL US IN
7 GENERAL TERMS WHAT YOUR THOUGHTS ARE ON THE DEATH
8 PENALTY?

9 JURY VENIRE MEMBER: THERE'S MANY
10 THOUGHTS, SOLICITOR, WITH THE DEATH PENALTY, BUT I
11 THINK IT -- IT DEPENDS ON THE CIRCUMSTANCES --

12 MR. BAILEY: OKAY.

13 JURY VENIRE MEMBER: -- QUITE OFTEN.
14 ECONOMICALLY, IT MIGHT BE WISER JUST TO GO WITH THE
15 -- WITH THE LIFE IMPRISONMENT INSTEAD OF DEATH. I
16 UNDERSTAND THE PRICE IS ABOUT THREE TIMES.

17 MR. BAILEY: LET ME ASK YOU THIS. COULD
18 YOU BASE A DECISION, IF WE GET TO THE SECOND PHASE OF
19 THE TRIAL, WHICH WOULD MEAN THE DEFENDANT IS FOUND
20 GUILTY OF MURDER IN THE FIRST PHASE, COULD YOU MAKE
21 YOUR DECISION ON LIFE IMPRISONMENT OR THE DEATH
22 PENALTY BASED SOLELY ON THE FACTS AND CIRCUMSTANCES
23 THAT ARE BROUGHT OUT IN TRIAL AND PUT ASIDE ANY
24 ECONOMIC CONSIDERATIONS THAT MIGHT BE OUTSIDE OF THE
25 COURTROOM?

1 JURY VENIRE MEMBER: IF THE CRIME IS THAT
2 HEINOUS, YES, SIR.

3 MR. BAILEY: OKAY. AND YOU UNDERSTAND
4 THAT'S THE PURPOSE OF THAT SECOND PHASE, TO BRING OUT
5 STUFF THAT MAYBE --

6 JURY VENIRE MEMBER: YES, SIR.

7 MR. BAILEY: -- DIDN'T COME OUT IN THE
8 GUILT PHASE, WHICH I WOULD BE TRYING TO CONVINCING YOU
9 AS A JURY TO BRING BACK THE DEATH PENALTY AND MR.
10 NEWSOME WOULD BE TRYING TO BRING UP EVIDENCE IN
11 MITIGATION PERHAPS TO TRY TO TALK YOU INTO A LIFE
12 SENTENCE. AND YOU'RE SAYING THAT YOU WOULD BE
13 WILLING TO LISTEN THROUGHOUT THE SECOND PHASE OF THAT
14 TRIAL AND THAT YOU COULD BRING BACK LIFE IMPRISONMENT
15 OR THE DEATH PENALTY DEPENDING ON WHAT YOU HEARD?

16 JURY VENIRE MEMBER: DEFINITELY WOULD
17 LISTEN.

18 MR. BAILEY: AND OF COURSE, NOBODY IS
19 ASKING YOU WHAT YOU WOULD DO IN THIS CASE BECAUSE YOU
20 HAVEN'T HEARD THE EVIDENCE. BUT IF YOU WERE ON A
21 DEATH PENALTY JURY AND YOU FOUND THE DEFENDANT GUILTY
22 OF MURDER IN THE FIRST PART OF THE TRIAL AND YOU
23 MOVED INTO THE SECOND PHASE AND YOU AND THE OTHER
24 ELEVEN JURORS AFTER HEARING ALL OF THAT OTHER
25 ADDITIONAL TESTIMONY VOTED FOR THE DEATH PENALTY,

1 COULD YOU THEN SIGN YOUR NAME TO A DEATH VERDICT FORM
2 WHICH WOULD RESULT IN THAT DEFENDANT'S EXECUTION?

3 JURY VENIRE MEMBER: AFTER MUCH
4 CONSIDERATION, YES.

5 MR. BAILEY: AND COULD YOU COME OUT INTO
6 OPEN COURT AND ANNOUNCE THAT DECISION?

7 JURY VENIRE MEMBER: YES.

8 MR. BAILEY: IF THAT WAS YOUR DECISION?

9 JURY VENIRE MEMBER: YES.

10 MR. BAILEY: AND IN THIS PARTICULAR CASE,
11 THE VICTIMS WERE WHITE, THE DEFENDANT IS BLACK.

12 WOULD THAT ENTER INTO YOUR DELIBERATION OR WOULD YOU
13 LOOK AT IT AS IF THE POSITIONS WERE REVERSED?

14 JURY VENIRE MEMBER: I WOULD SURE HOPE
15 NOT.

16 MR. BAILEY: SO RACE WOULD NOT BE A
17 QUESTION?

18 JURY VENIRE MEMBER: RIGHT.

19 MR. BAILEY: AND THE FINAL QUESTION IS
20 RELATED TO THE DEFENDANT'S AGE. AT THE TIME THIS
21 MURDER TOOK PLACE THE DEFENDANT WAS 16 YEARS OLD. IF
22 THE CASE WAS BAD ENOUGH, COULD YOU BRING BACK A DEATH
23 PENALTY ON A 16 YEAR OLD OR PERSON WHO WAS 16 YEARS
24 OLD AT THE TIME THE MURDER WAS COMMITTED?

25 JURY VENIRE MEMBER: I FEEL A 16 YEAR OLD

1 IS ACCOUNTABLE.

2 MR. BAILEY: MR. VERNON, I BELIEVE THAT'S
3 ALL I'VE GOT. THANK YOU VERY MUCH.

4 MR. NEWSOME: MR. VERNON, HOW LONG HAVE
5 YOU LIVED HERE IN CALHOUN COUNTY?

6 JURY VENIRE MEMBER: ABOUT TEN YEARS.

7 MR. NEWSOME: ABOUT TEN YEARS. YOUR
8 CHILDREN, DO THEY LIVE HERE OR --

9 JURY VENIRE MEMBER: I HAVE ONE CHILD
10 HERE.

11 MR. NEWSOME: OKAY. AND YOU'VE BEEN
12 MARRIED FOR ELEVEN YEARS HERE. THIS WAS A SECOND
13 MARRIAGE?

14 JURY VENIRE MEMBER: YES. UH-HUH.

15 MR. NEWSOME: ALL RIGHT. WOULD IT BOTHER
16 YOU AS FAR AS SENTENCING SOMEBODY TO DEATH IF THERE
17 WERE OTHER REASONS IN MITIGATION BESIDES THE YOUTHFUL
18 AGE? YOU SAID YOU THOUGHT 16 YEAR OLDS WERE
19 ACCOUNTABLE.

20 JURY VENIRE MEMBER: I'M HAVING A LITTLE
21 TROUBLE HEARING YOU, SIR.

22 MR. NEWSOME: ALL RIGHT. ARE THERE OTHER
23 ITEMS OF MITIGATION THAT YOU WOULD CONSIDER IN
24 ADDITION TO MY CLIENT'S YOUTHFULNESS IN CONSIDERING
25 WHETHER TO IMPOSE THE DEATH PENALTY?

1 JURY VENIRE MEMBER: I THINK YOU WOULD TRY
2 TO EXAMINE ALL OF THE CIRCUMSTANCES, SIR.

3 MR. NEWSOME: OKAY. ALL RIGHT. DO YOU
4 THINK THAT ALL 16 YEAR OLDS ARE JUST AS ACCOUNTABLE,
5 ARE JUST ALIKE, OR DO YOU THINK THERE MIGHT BE SOME
6 16 YEAR OLDS THAT ARE MORE MATURE THAN OTHERS?

7 JURY VENIRE MEMBER: DEFINITELY SOME OF
8 THEM ARE MORE MATURE.

9 MR. NEWSOME: NO FURTHER QUESTIONS. THANK
10 YOU.

11 THE COURT: STEP OUTSIDE JUST A MOMENT.
12 I'LL CALL YOU RIGHT BACK.

13 (JUROR NUMBER 269 IS DISMISSED
14 FROM THE COURTROOM.)

15 THE COURT: MR. BAILEY?

16 MR. BAILEY: QUALIFIED.

17 MR. NEWSOME: QUALIFIED.

18 (JUROR NUMBER 269 ENTERS THE
19 COURTROOM.)

20 THE COURT: MR. JUROR, YOU HAVE BEEN
21 QUALIFIED TO SERVE, IF SELECTED, BY BOTH COUNSEL FOR
22 THE STATE AND THE DEFENDANT AND THE COURT. YOU MAY
23 OR MAY NOT BE SELECTED, BUT YOU ARE QUALIFIED TO
24 SERVE. I WANT YOU TO RETURN ACROSS THE STREET AT THE
25 ANNEX 2:30 FRIDAY -- I MEAN THURSDAY. BRING YOUR

1 PERSONAL EFFECTS WITH YOU SO THAT YOU CAN STAY IF
2 SELECTED.

3 JURY VENIRE MEMBER: YES, SIR.

4 THE COURT: YOU MAY OR MAY NOT BE
5 SELECTED, BUT YOU ARE ON THE LIST QUALIFIED TO SERVE.
6 ANY QUESTION ABOUT WHAT I'M SAYING TO YOU?

7 JURY VENIRE MEMBER: 2:30 THURSDAY?

8 THE COURT: THURSDAY.

9 JURY VENIRE MEMBER: ALL RIGHT.

10 THE COURT: REMEMBER NOW --

11 JURY VENIRE MEMBER: DON'T BRING MY
12 SHORTS.

13 THE COURT: NO, SIR. DON'T BRING YOUR
14 SHORTS. BUT YOU CAN WEAR THEM AFTER COURT. NOT IN
15 COURT, NO. IF YOU WANT TO WEAR THEM AT NIGHT, THAT'S
16 FINE WITH ME. I HOPE I DIDN'T EMBARRASS YOU IN ANY
17 WAY THIS MORNING.

18 JURY VENIRE MEMBER: YES, SIR, YOU DID.

19 THE COURT: WELL, I APOLOGIZE, BUT WE FIND
20 THAT COURT RUNS BETTER IF EVERYBODY EXERCISES A
21 DEGREE OF DECORUM, SO I HOPE YOU UNDERSTAND.

22 JURY VENIRE MEMBER: IF I KNEW THERE WAS A
23 DRESS CODE, I WOULD APPLY IT.

24 THE COURT: I KNOW IT. NEXT TIME WE HAVE
25 COURT HERE, I'LL TELL THEM TO DO THAT. BUT BE THAT

1 AS IT MAY, BE BACK AT 2:30 THURSDAY.

2 JURY VENIRE MEMBER: 2:30 WITH MY BAGS
3 PACKS.

4 THE COURT: AND DON'T DISCUSS THIS CASE
5 WITH ANYONE, AND NO ONE IS TO DISCUSS IT WITH YOU,
6 AND DO NOT DISCUSS THE QUESTIONS AND ANSWERS GIVEN
7 HERE.

8 JURY VENIRE MEMBER: OKAY.

9 THE COURT: SEE YOU AT 2:30.

10 JURY VENIRE MEMBER: VERY GOOD.

11 (JUROR NUMBER 269 IS DISMISSED
12 FROM THE COURTROOM.)

13 (JUROR NUMBER 120, A BLACK
14 MALE, ENTERS THE COURTROOM.)

15 THE CLERK: STATE YOUR NAME FOR THE
16 RECORD.

17 JURY VENIRE MEMBER: MALLIE Q. JACKSON.

18 (JUROR NUMBER 120, HAVING BEEN FIRST DULY SWORN
19 BY THE CLERK OF COURT, TESTIFIED AS FOLLOWS:)

20 THE COURT: ALL RIGHT. GOOD AFTERNOON.

21 JURY VENIRE MEMBER: GOOD AFTERNOON.

22 THE COURT: IN MY INDIVIDUAL INITIAL
23 QUESTIONING THIS MORNING, MR. JACKSON, YOU INDICATED
24 THAT YOU KNEW THE DEFENDANT, PERHAPS, OR HIS FAMILY,
25 OR ALL OF THEM THROUGH SOME CHURCH-RELATED MATTER; IS

1 THAT RIGHT? DID I --

2 JURY VENIRE MEMBER: YES, SIR.

3 THE COURT: ARE YOU CLOSE FRIENDS OF THE
4 FAMILY?

5 JURY VENIRE MEMBER: NOT CLOSE FRIENDS,
6 BUT I KNOW THEM.

7 THE COURT: ALL RIGHT. WOULD THAT IMPAIR
8 YOUR ABILITY TO RENDER A VERDICT ACCORDING TO THE
9 EVIDENCE IN THIS CASE?

10 JURY VENIRE MEMBER: NO, SIR.

11 THE COURT: CAN YOU TELL ME THAT EVEN
12 THOUGH YOU KNOW THEM -- OR YOU SAY CHURCH. HOW ARE
13 THEY RELATED TO YOU IN CHURCH?

14 JURY VENIRE MEMBER: WELL, WE ATTEND THE
15 SAME CHURCH.

16 THE COURT: ATTEND THE SAME CHURCH?

17 JURY VENIRE MEMBER: YES.

18 THE COURT: ARE YOU A DEACON IN THE
19 CHURCH?

20 JURY VENIRE MEMBER: I AM UP FOR A DEACON.

21 THE COURT: UP FOR A DEACON?

22 JURY VENIRE MEMBER: YES, SIR.

23 THE COURT: BUT YOU CAN BASE YOUR VERDICT
24 ON THE LAW IN THIS CASE AND PUT PERSONAL KNOWLEDGE
25 ASIDE?

1 JURY VENIRE MEMBER: YES, SIR, I COULD.

2 THE COURT: LET ME ASK YOU THIS. DID YOU
3 HAVE A CHANCE TO READ THE LETTER ABOUT THE THREE
4 TYPES OF JURORS OUT THERE?

5 JURY VENIRE MEMBER: YES, SIR.

6 THE COURT: YOU UNDERSTAND THAT YOU DON'T
7 EVEN GET INTO THE SENTENCING PHASE UNLESS A JURY HAS
8 FOUND HIM GUILTY BEYOND A REASONABLE DOUBT?

9 JURY VENIRE MEMBER: YES, SIR.

10 THE COURT: IF THEY, OF COURSE, ACQUIT
11 HIM, THAT'S THE END OF IT.

12 JURY VENIRE MEMBER: UH-HUH.

13 THE COURT: IF THEY FIND HIM GUILTY BEYOND
14 A REASONABLE DOUBT, THEN THE JURY CONSIDERS THE
15 SENTENCE. AND YOUR DECISION THERE WILL BE THE
16 FOLLOWING, HAVING FOUND THE DEFENDANT GUILTY OF
17 MURDER, IF THAT BE YOUR VERDICT, WHAT SHALL THE
18 SENTENCE BE, DEATH BY ELECTROCUTION OR LETHAL
19 INJECTION OR LIFE IMPRISONMENT?

20 THREE GROUPS -- THERE'S NO RIGHT OR WRONG
21 ANSWERS. ONE GROUP SAYS ONCE HE'S FOUND GUILTY OF
22 MURDER, I'LL ALWAYS BE FOR THE DEATH PENALTY. THE
23 SECOND GROUP SAYS EVEN THOUGH ONE'S BEEN FOUND GUILTY
24 OF MURDER, I CAN NEVER BE FOR THE DEATH PENALTY. A
25 THIRD GROUP SAYS IT WILL DEPEND ON THE FACTS IN THE

1 CASE. I COULD OR COULD NOT DEPENDING ON WHAT THE
2 FACTS ARE. WOULD YOU BE THE FIRST, SECOND OR THIRD?

3 JURY VENIRE MEMBER: THIRD.

4 THE COURT: AND WHAT DO YOU THINK THE
5 THIRD ONE SAYS?

6 JURY VENIRE MEMBER: IT WOULD BE DEPENDING
7 ON THE FACTS AND ALL OF THE EVIDENCE FROM BOTH SIDES.

8 THE COURT: OKAY. THAT'S FINE. YOU MAY
9 EXAMINE.

10 MR. BAILEY: THANK YOU, YOUR HONOR. MR.
11 JOHNSON -- JACKSON OR JOHNSON?

12 JURY VENIRE MEMBER: JACKSON.

13 MR. BAILEY: JACKSON, I'M SORRY. I JUST
14 WANT TO ASK YOU A FEW QUESTIONS. AND FIRST OF ALL,
15 WANTED TO ASK YOU ABOUT YOUR RELATIONSHIP WITH THE
16 HUGHES FAMILY. AND OF COURSE, I'M NOT TRYING TO
17 EMBARRASS YOU, BUT THIS IS THE ONLY CHANCE WE GET TO
18 TALK WITH THE JURORS.

19 WHICH MEMBERS OF THE HUGHES FAMILY DO YOU ATTEND
20 CHURCH WITH?

21 JURY VENIRE MEMBER: HIS MOTHER.

22 MR. BAILEY: OKAY. AND THAT'S MIRANDA?

23 JURY VENIRE MEMBER: I DON'T REALLY KNOW
24 THE NAME, BUT THAT'S HIS MOTHER RIGHT BEHIND THERE.

25 MR. BAILEY: ON THE LEFT-HAND SIDE?

1 JURY VENIRE MEMBER: ON THE LEFT, YEAH.

2 MR. BAILEY: AND DO YOU SEE HER

3 FREQUENTLY, LIKE EVERY SUNDAY?

4 JURY VENIRE MEMBER: WELL, I USED TO SEE
5 HER EVERY SUNDAY, BUT I HAVEN'T SEEN HER LATELY.

6 MR. BAILEY: WHAT ABOUT HERMAN HUGHES,
7 HAVE YOU SEEN HIM?

8 JURY VENIRE MEMBER: WHEN SHE USED TO COME
9 TO CHURCH, HE WOULD BE WITH HER; NOT EVERY SUNDAY,
10 BUT SOME SUNDAYS.

11 MR. BAILEY: HOW RECENTLY HAS IT BEEN
12 SINCE YOU'VE SEEN HERMAN HUGHES AND HIS MOTHER IN
13 CHURCH?

14 JURY VENIRE MEMBER: SOMETIME LAST YEAR.

15 MR. BAILEY: ALL RIGHT. WHAT ABOUT HERMAN
16 HUGHES' FATHER AND HIS GRANDMOTHER? DO YOU KNOW THE
17 GRANDMOTHER?

18 JURY VENIRE MEMBER: YEAH, I KNOW HER.

19 MR. BAILEY: DOES SHE ATTEND THAT SAME
20 CHURCH?

21 JURY VENIRE MEMBER: NO, SIR.

22 MR. BAILEY: OKAY. BUT YOU KNOW HER FROM
23 OUTSIDE THE CHURCH?

24 JURY VENIRE MEMBER: I'VE KNOWN HER IN
25 PASSING. WE SPEAK TO EACH OTHER.

1 MR. BAILEY: WHAT ABOUT MR. HUGHES'
2 FATHER, DO YOU KNOW HIM?

3 JURY VENIRE MEMBER: I KNOW HIM, BUT NOT
4 -- WE SPEAK TO EACH OTHER WHEN WE SEE EACH OTHER, BUT
5 THAT'S AS FAR AS IT GOES.

6 MR. BAILEY: DO YOU KNOW A YOUNG MAN NAMED
7 KELSEY PEARCE?

8 JURY VENIRE MEMBER: WHAT'S HIS NAME?

9 MR. BAILEY: KELSEY PEARCE.

10 JURY VENIRE MEMBER: I KNOW SOME PEARCES,
11 BUT KELSEY, I DON'T.

12 MR. BAILEY: HOW ABOUT A FELLOW NAMED
13 DANIEL OWENS OR HENRY DANIEL OWENS, DO YOU KNOW HIM?

14 JURY VENIRE MEMBER: I KNOW HIS PARENTS,
15 BUT I DON'T KNOW THE KIDS TOO MUCH.

16 MR. BAILEY: ALL RIGHT. MR. JACKSON, DO
17 YOU FEEL LIKE KNOWING THE HUGHES FAMILY THROUGH
18 CHURCH AND THROUGH OTHER AREAS THAT IF YOU WERE TO
19 SIT ON THIS JURY AND COME BACK WITH A VERDICT OF
20 MURDER AND IF YOU WERE ON A JURY THAT IMPOSED THE
21 DEATH PENALTY THAT YOU WOULD BE CRITICIZED BY MEMBERS
22 OF THE COMMUNITY OR WOULD THAT BE A CONCERN TO YOU IF
23 YOU WERE SITTING ON A JURY LOOKING AT THE DEATH
24 PENALTY AS THE POSSIBLE PUNISHMENT?

25 JURY VENIRE MEMBER: WELL, I WOULD BE

1 WILLING TO DO THE RIGHT THING.

2 MR. BAILEY: OKAY. WOULD YOU FEEL MORE
3 COMFORTABLE SITTING AS A JUROR IN A CASE WHERE YOU
4 DIDN'T KNOW THE FAMILY MEMBERS OF THE DECEASED -- OF
5 THE DEFENDANT, EXCUSE ME?

6 JURY VENIRE MEMBER: WELL, THAT -- THAT
7 WEIGHS A WHOLE LOT, BUT I NEVER GIVE THAT NO
8 CONSIDERATION.

9 MR. BAILEY: ALL RIGHT. DO YOU KNOW -- OR
10 DO YOU KNOW THE HOFFMAN FAMILY? KELLY HOFFMAN WAS
11 THE YOUNG WOMAN WHO WAS SHOT.

12 JURY VENIRE MEMBER: I NEVER -- THE PLACE
13 WHERE THE ACCIDENT HAPPENED AT, I NEVER WAS DOWN
14 THERE.

15 MR. BAILEY: OKAY.

16 JURY VENIRE MEMBER: I DON'T KNOW WHY.

17 MR. BAILEY: AND YOU UNDERSTAND THE
18 TWO-PART PROCESS YOU GO THROUGH IN A DEATH PENALTY
19 TRIAL. YOU HAVE THE GUILT PHASE THAT IS LIKE ANY
20 OTHER TRIAL, AND THEN THE PENALTY PHASE WHERE THE
21 JURY IS ASKED TO LISTEN TO ADDITIONAL TESTIMONY?

22 JURY VENIRE MEMBER: I HEARD THE JUDGE SAY
23 THAT EARLIER TODAY. JUST BY LOOKING AT TV, I CAN
24 VERIFY FROM THAT POINT OF VIEW.

25 MR. BAILEY: THIS IS A LITTLE BIT

1 DIFFERENT FROM TV.

2 JURY VENIRE MEMBER: YEAH.

3 MR. BAILEY: EVERY STATE IS A LITTLE BIT
4 DIFFERENT.

5 JURY VENIRE MEMBER: UH-HUH.

6 MR. BAILEY: BUT IF YOU WERE SITTING ON A
7 JURY IN A DEATH PENALTY CASE AND YOU AND THE OTHER
8 JURORS VOTED FOR GUILT IN THE FIRST PHASE AND YOU
9 MOVED ON TO THE SECOND PHASE AND YOU AND THE OTHER
10 ELEVEN JURORS VOTED FOR THE DEATH PENALTY, COULD YOU
11 THEN SIGN YOUR NAME ALONG WITH THE OTHER JURORS TO
12 THE DEATH VERDICT FORM KNOWING THAT WOULD RESULT IN
13 THE EXECUTION TAKING PLACE? NO RIGHT OR WRONG
14 ANSWER. WE JUST DIDN'T KNOW HOW YOU REALLY --

15 JURY VENIRE MEMBER: I WOULD BE HONEST ON
16 THAT. THAT WOULD BE SORT OF HARD TO DO.

17 MR. BAILEY: OKAY. WHY WOULD THAT BE
18 HARDER ON YOU THAN THE ACTUAL VOTE ITSELF?

19 JURY VENIRE MEMBER: FOR SOME REASON, I
20 ALWAYS BELIEVE THAT JUSTICE SHOULD BE SERVED IF YOU
21 DO SOMETHING WRONG, BUT IT JUST -- SOMETIMES I BE
22 THINKING ABOUT IT, LIKE I'M THINKING ABOUT IT RIGHT
23 NOW, AND A LIFE FOR A LIFE, THAT IS A HARD DECISION.
24 AND I -- I REALLY JUST DON'T KNOW.

25 MR. BAILEY: OKAY. AND YOU UNDERSTAND

1 NOBODY'S GOING TO ASK YOU WHAT YOU WOULD DO IN THIS
2 TRIAL BECAUSE YOU HAVEN'T HEARD THE FACTS. WE'RE
3 JUST TALKING, YOU KNOW, GENERALITIES.

4 JURY VENIRE MEMBER: YEAH.

5 MR. BAILEY: BUT YOU UNDERSTAND WHATEVER
6 THE JURY DECIDES IS GOING TO HAPPEN IN THAT PENALTY
7 PHASE IS WHAT'S GOING TO HAPPEN?

8 JURY VENIRE MEMBER: YES, SIR.

9 MR. BAILEY: IF THE JURY VOTES FOR LIFE IN
10 PRISON, THAT'S WHAT HAPPENS.

11 JURY VENIRE MEMBER: YES, SIR.

12 MR. BAILEY: IF THE JURY VOTES FOR THE
13 DEATH PENALTY, THAT'S WHAT HAPPENS.

14 JURY VENIRE MEMBER: YES, SIR.

15 MR. BAILEY: NOW, IF YOU GO THROUGH THE
16 STAGE, YOU KNOW, YOU VOTE FOR THE DEATH PENALTY, YOU
17 SIGN YOUR NAME TO THE VERDICT FORM, THE LAST THING
18 YOU WOULD HAVE TO DO AS A JUROR IN ORDER FOR THAT
19 VERDICT TO GO INTO EFFECT IS TO COME OUT HERE IN OPEN
20 COURT IN THE PRESENCE OF MR. HUGHES' FAMILY, WHOEVER
21 HAPPENS TO BE HERE, AND ANNOUNCE THAT VERDICT. COULD
22 YOU DO THAT IF THAT WOULD BE YOUR VERDICT?

23 JURY VENIRE MEMBER: YOU MEAN IF I WAS THE
24 FOREMAN OF THE JURY?

25 MR. BAILEY: NO.

1 JURY VENIRE MEMBER: COULD I DO IT?

2 MR. BAILEY: EVERYBODY HAS TO STAND UP
3 INDIVIDUALLY AND ANNOUNCE BY THEMSELVES AND ANNOUNCE
4 THAT VERDICT INDIVIDUALLY.

5 JURY VENIRE MEMBER: YES, I COULD.

6 MR. BAILEY: MR. JACKSON, COULD YOU IMPOSE
7 THE DEATH PENALTY ON A PERSON WHO WAS 16 YEARS OLD AT
8 THE TIME THEY COMMITTED THE OFFENSE?

9 JURY VENIRE MEMBER: I DON'T THINK I
10 COULD, NO, SIR.

11 MR. BAILEY: OKAY. YOU JUST THINK 16 IS
12 TOO YOUNG TO IMPOSE THE DEATH PENALTY ON SOMEBODY?

13 JURY VENIRE MEMBER: YES, SIR.

14 MR. BAILEY: SO FOR THAT REASON, YOU COULD
15 NOT DO IT UNDER ANY CIRCUMSTANCES ON A 16 YEAR OLD?

16 JURY VENIRE MEMBER: NO, SIR.

17 MR. BAILEY: ALL RIGHT, SIR. MR. JACKSON,
18 THAT'S ALL I'VE GOT. THANK YOU VERY MUCH.

19 MR. NEWSOME: IF THE CRIME WAS BAD ENOUGH,
20 WOULD YOU RECONSIDER?

21 JURY VENIRE MEMBER: SAY IT AGAIN, NOW.

22 MR. NEWSOME: IF YOU HAD A 16-YEAR-OLD
23 DEFENDANT AND THE CRIME WAS HORRIBLE ENOUGH, WOULD
24 YOU RECONSIDER? WOULD YOU CONSIDER A DEATH PENALTY
25 OR WOULD IT JUST BE DIFFICULT?

1 JURY VENIRE MEMBER: IT WOULD JUST BE
2 DIFFICULT.

3 MR. NEWSOME: SO YOU COULD CONSIDER IT?

4 JURY VENIRE MEMBER: YEAH.

5 MR. NEWSOME: I HAVE NO FURTHER QUESTIONS.

6 THE COURT: HE CAN STEP OUTSIDE. STEP
7 OUTSIDE.

8 MR. BAILEY: JUDGE, COULD I ASK A COUPLE
9 OF MORE?

10 THE COURT: YES, SIR.

11 MR. BAILEY: MR. JACKSON, I APOLOGIZE. I
12 JUST WANT TO MAKE SURE WE FULLY UNDERSTAND WHAT YOUR
13 POSITION IS BECAUSE I'M HAVING A LITTLE BIT OF
14 TROUBLE RECONCILING WHAT YOU TOLD ME WITH WHAT YOU
15 TOLD MR. NEWSOME.

16 I MIGHT BE MISTAKEN, BUT I THOUGHT YOU TOLD ME
17 THAT YOU COULD NOT IMPOSE A DEATH PENALTY ON A 16
18 YEAR OLD.

19 JURY VENIRE MEMBER: THAT'S RIGHT.

20 MR. BAILEY: AND THEN YOU TOLD HIM THAT
21 YOU COULD CONSIDER IT.

22 JURY VENIRE MEMBER: I THOUGHT, COULD I
23 RECONCILE IT. I THOUGHT THAT'S WHAT HE SAID.

24 MR. BAILEY: I'M TRYING TO RECONCILE IT
25 MYSELF. MAYBE I MISUNDERSTOOD WHAT YOU TOLD ME AND

1 WHAT YOU TOLD MR. NEWSOME, BUT YOU UNDERSTAND THE
2 DIFFERENCE IN BEING ABLE TO CONSIDER SOMETHING AND
3 ACTUALLY DOING IT.

4 JURY VENIRE MEMBER: UH-HUH.

5 MR. BAILEY: I MIGHT CONSIDER JUMPING UP
6 AND TOUCHING THAT LIGHT, BUT I CAN'T DO IT. IS THAT
7 THE WAY YOU WOULD LOOK AT YOUR ROLE IN CONSIDERING
8 THE DEATH PENALTY ON A 16 YEAR OLD? WHEN IT COMES
9 RIGHT DOWN TO IT, YOU COULDN'T ACTUALLY DO IT?

10 JURY VENIRE MEMBER: NO, I DON'T THINK I
11 COULD SIGN A -- I MEAN, THE -- I DON'T THINK THAT I
12 COULD. AS A MATTER OF FACT, I KNOW.

13 MR. BAILEY: OKAY.

14 JURY VENIRE MEMBER: SIGN A PAPER FOR
15 DEATH PENALTY ON A 16 YEAR OLD.

16 MR. BAILEY: THE AGE WOULD SUBSTANTIALLY
17 IMPAIR YOUR ABILITY TO SIT AS A FAIR AND IMPARTIAL
18 JUROR?

19 JURY VENIRE MEMBER: UH-HUH.

20 MR. BAILEY: THANK YOU, SIR.

21 THE COURT: CARE TO REEXAMINE, MR.
22 NEWSOME?

23 MR. NEWSOME: NO, YOUR HONOR.

24 (JUROR NUMBER 120 IS DISMISSED
25 FROM THE COURTROOM.)

1 MR. BAILEY: NOT QUALIFIED, YOUR HONOR.

2 MR. NEWSOME: UNFORTUNATELY, I WOULD HAVE
3 TO AGREE WITH HIM UNDER WHAT HE SAID.

4 THE COURT: HE IS NOT QUALIFIED.

5 (JUROR NUMBER 120 ENTERS THE
6 COURTROOM.)

7 THE COURT: MR. JUROR, WE ALL APPRECIATE
8 YOUR ATTENDANCE HERE TODAY. WE WILL EXCUSE YOU FROM
9 FURTHER PARTICIPATION. YOU WILL NOT HAVE TO RETURN.
10 BUT WE ALL APPRECIATE YOUR CANDOR IN ANSWERING THESE
11 QUESTIONS. I HOPE YOU KNOW THAT WE HAVE NOT
12 ATTEMPTED TO INVADE YOUR PRIVACY.

13 JURY VENIRE MEMBER: NO PROBLEM.

14 THE COURT: BUT EVERYBODY HAS DIFFERENT
15 VIEWS, AND ALL OF THEM ARE JUST AS VALID AS THEY CAN
16 BE, AS YOURS ARE.

17 JURY VENIRE MEMBER: ALL RIGHT.

18 THE COURT: THANK YOU VERY MUCH. YOU ARE
19 EXCUSED.

20 JURY VENIRE MEMBER: ALL RIGHT.

21 (JUROR NUMBER 120 IS DISMISSED
22 FROM THE COURTROOM.)

23 THE COURT: GENTLEMEN, BEFORE THE NEXT --
24 CLOSE THAT DOOR. WAIT A MINUTE. CLOSE THE DOOR,
25 PLEASE. CLOSE THE DOOR. HOW OLD IS THE DEFENDANT AT

1 THIS TIME?

2 MR. NEWSOME: HE RECENTLY TURNED 18, YOUR
3 HONOR.

4 THE COURT: IT MIGHT HELP, AND I'LL LEAVE
5 IT TO YOU TO DECIDE, IF YOU WOULD EXPLAIN TO THE JURY
6 THAT THE DEFENDANT IS 18 NOW AND WAS 16 AT THE TIME
7 OF THE COMMISSION OF THE CRIME.

8 MR. NEWSOME: YES, SIR.

9 THE COURT: THE WAY YOU'RE DOING IT NOW,
10 YOU'RE ASKING THESE JURORS IF THEY CAN PUT A 16 YEAR
11 OLD IN THE ELECTRIC CHAIR. BUT I THINK IF YOU WILL
12 QUALIFY IT, AND I'LL LEAVE THAT TO YOU, IT MIGHT MOVE
13 THE PROCESS ALONG SOME.

14 BRING THE NEXT ONE IN.

15 (JUROR NUMBER 107, A BLACK
16 FEMALE, ENTERS THE COURTROOM.)

17 THE CLERK: PLEASE STATE YOUR NAME FOR THE
18 RECORD.

19 JURY VENIRE MEMBER: ROSENA HOWELL.

20 (JUROR NUMBER 107, HAVING BEEN FIRST DULY SWORN
21 BY THE CLERK OF COURT, TESTIFIED AS FOLLOWS:)

22 THE CLERK: PLEASE COME AROUND AND HAVE A
23 SEAT IN THE CHAIR.

24 THE COURT: GOOD AFTERNOON, MS. HOWELL.

25 JURY VENIRE MEMBER: GOOD AFTERNOON.

1 THE COURT: WE WOULD LIKE TO ASK YOU A FEW
2 QUESTIONS. YOU HAD INDICATED EARLIER THAT YOU HAD
3 NOT HEARD ANYTHING ABOUT THE CASE FROM NONE OF THE
4 PEOPLE INVOLVED. IS THAT STILL YOUR ANSWER?

5 JURY VENIRE MEMBER: YES, SIR. THAT'S
6 STILL MY ANSWER.

7 THE COURT: MS. HOWELL, THIS CASE WILL BE
8 A TWO-PART TRIAL. IT'S DIFFERENT FROM A USUAL CASE.
9 THE FIRST PART IS TO DETERMINE WHETHER OR NOT THE
10 DEFENDANT HUGHES IS GUILTY OF MURDER IN THE FIRST
11 DEGREE. YOU UNDERSTAND THAT?

12 JURY VENIRE MEMBER: UH-HUH.

13 THE COURT: NOW, IF THE JURY DETERMINES
14 THAT HE IS NOT GUILTY, WE STOP RIGHT THERE. IF THE
15 JURY UNANIMOUSLY FINDS HIM GUILTY OF MURDER BEYOND A
16 REASONABLE DOUBT, WE WILL THEN GO INTO THE SECOND
17 PART OF THE TRIAL. DO YOU UNDERSTAND THAT?

18 JURY VENIRE MEMBER: UH-HUH.

19 THE COURT: NOW IN THE SECOND PART, THE
20 QUESTION FOR THE JURY IS THIS. WE THE JURY, HAVING
21 FOUND HERMAN HUGHES GUILTY OF MURDER, WHAT SHALL HIS
22 PUNISHMENT BE? ONE, WILL IT BE DEATH BY
23 ELECTROCUTION OR LETHAL INJECTION, OR WILL IT BE LIFE
24 IMPRISONMENT? THAT WOULD BE THE QUESTION AT THAT
25 PART OF THE TRIAL. DO YOU UNDERSTAND THAT?

1 JURY VENIRE MEMBER: UH-HUH.

2 THE COURT: THERE ARE THREE DIFFERENT
3 GROUPS OF THOUGHT. AND YOU READ THE LETTER A WHILE
4 AGO?

5 JURY VENIRE MEMBER: UH-HUH.

6 THE COURT: THE FIRST GROUP SAYS ONCE
7 SOMEBODY HAS BEEN FOUND GUILTY OF MURDER, I WILL
8 ALWAYS IMPOSE THE DEATH PENALTY.

9 JURY VENIRE MEMBER: UH-HUH.

10 THE COURT: THE SECOND GROUP SAYS THAT
11 EVEN THOUGH SOMEONE HAS BEEN CONVICTED OF MURDER, I
12 CAN NEVER BE FOR THE DEATH PENALTY. THE THIRD GROUP
13 SAYS I WILL CONSIDER ALL OF THE FACTS AND I WILL THEN
14 DECIDE WHETHER OR NOT TO GIVE HIM LIFE IMPRISONMENT
15 OR DEATH. WOULD YOU BE THE FIRST THAT SAYS ALWAYS,
16 THE SECOND THAT SAYS NEVER OR THE THIRD THAT SAYS IT
17 WILL DEPEND ON THE FACTS? WHICH WOULD YOU BE?

18 JURY VENIRE MEMBER: DEPENDING ON THE
19 FACTS.

20 THE COURT: DEPENDING -- YOU WOULD BE IN
21 THE THIRD GROUP?

22 JURY VENIRE MEMBER: YES.

23 THE COURT: THIS IS A DIFFICULT QUESTION,
24 AND THERE'S NO RIGHT OR WRONG ANSWERS. YOU
25 UNDERSTAND THAT. PLEASE ANSWER ANY QUESTIONS THAT

1 THEY HAVE.

2 MR. BAILEY: MS. HOWELL, I'M WALTER
3 BAILEY, AND I JUST WANT TO FOLLOW UP A LITTLE BIT ON
4 WHAT JUDGE COTTINGHAM ASKED YOU. AND LIKE HE TOLD
5 YOU, THERE'S NO RIGHT OR WRONG ANSWERS. THE ONLY
6 WRONG ANSWER WOULD BE IF YOU WERE TO GIVE ME AN
7 ANSWER THAT YOU THINK I WANT TO HEAR OR GIVE THE
8 JUDGE AN ANSWER YOU THINK HE WANTS TO HEAR. WE NEED
9 TO KNOW EXACTLY HOW YOU FEEL.

10 HAVE YOU EVER THOUGHT ABOUT THE DEATH PENALTY
11 BEFORE TODAY?

12 JURY VENIRE MEMBER: NO, SIR.

13 MR. BAILEY: NEVER REALLY CROSSED YOUR
14 MIND AT ALL. HAD NO OCCASION TO THINK ABOUT IT. YOU
15 UNDERSTAND THE TWO-PART PROCESS THAT WE GO THROUGH IN
16 A DEATH PENALTY TRIAL, THE GUILTY PHASE AND THE
17 PENALTY PHASE?

18 JURY VENIRE MEMBER: UH-HUH.

19 MR. BAILEY: THE FIRST PART OF THAT TRIAL,
20 THE JURY IS DECIDING WHETHER OR NOT THE STATE HAS
21 PROVED THAT DEFENDANT GUILTY BEYOND A REASONABLE
22 DOUBT. AND IF HE'S FOUND NOT GUILTY, THAT'S THE END
23 OF IT. BUT IF HE'S FOUND GUILTY, THEN THE JURY HAS
24 TO DECIDE PUNISHMENT. THE JUDGE DOESN'T DECIDE, THE
25 JURY DECIDES. AND WHATEVER THE JURY SAYS IS GOING

1 HAPPEN, IT WILL HAPPEN. AND IF THE JURY SAYS LIFE IN
2 PRISON, THE DEFENDANT GETS LIFE IN PRISON. IF THEY
3 SAY THE DEATH PENALTY, THEN HE ACTUALLY IS EXECUTED
4 BASED ON WHAT THAT JURY SAYS.

5 NOW, COULD YOU AS A JUROR VOTE FOR THE DEATH
6 PENALTY IF THE CASE IS BAD ENOUGH?

7 JURY VENIRE MEMBER: NO, SIR.

8 MR. BAILEY: COULDN'T DO IT?

9 JURY VENIRE MEMBER: NO.

10 MR. BAILEY: AND SO WOULD THE NUMBER TWO
11 TYPE JUROR, THE JUROR THAT CAN NEVER IMPOSE THE DEATH
12 PENALTY BE MORE THE KIND OF JUROR YOU ARE THAN THE
13 NUMBER THREE JUROR THAT COULD VOTE FOR THE DEATH
14 PENALTY AND COULD VOTE FOR LIFE IMPRISONMENT?

15 JURY VENIRE MEMBER: LIFE IN PRISON.

16 THE COURT: TALK WHERE WE CAN HEAR YOU,
17 PLEASE. WE NEED TO HEAR YOU. WHAT WAS THAT ANSWER?

18 MR. BAILEY: LIFE IMPRISONMENT.

19 THE COURT: REMEMBER, NOW, MA'AM, THERE'S
20 NO RIGHT OR WRONG ANSWER. DIFFERENT PEOPLE HAVE
21 DIFFERENT VIEWS, AND YOURS IS JUST AS VALID AS
22 ANYBODY ELSE'S. YOU UNDERSTAND THAT, DON'T YOU?

23 JURY VENIRE MEMBER: YES.

24 THE COURT: ALL RIGHT. GO AHEAD.

25 MR. BAILEY: MS. HOWELL, I'M NOT TRYING TO

1 PUT WORDS IN YOUR MOUTH, BUT IS WHAT YOU'RE TELLING
2 US THAT NO MATTER HOW BAD THE CASE WAS, THAT YOU
3 DON'T BELIEVE IN THE DEATH PENALTY?

4 JURY VENIRE MEMBER: NO, SIR.

5 MR. BAILEY: AND YOU WOULD ALWAYS VOTE FOR
6 LIFE IMPRISONMENT?

7 JURY VENIRE MEMBER: YES, SIR.

8 MR. BAILEY: YOU COULD NEVER THEN SIGN
9 YOUR NAME TO A PIECE OF PAPER THAT WOULD RESULT IN
10 SOMEBODY'S EXECUTION?

11 JURY VENIRE MEMBER: NO.

12 MR. BAILEY: AND COULD NOT GET UP IN COURT
13 AND ANNOUNCE THAT YOU WERE PUTTING SOMEBODY TO DEATH?

14 JURY VENIRE MEMBER: NO.

15 MR. BAILEY: OKAY. AND SINCE YOU COULD
16 NEVER DO THAT, WHAT ABOUT THE SITUATION WHERE IF A
17 PERSON WAS 16 YEARS OLD AT THE TIME THAT OFFENSE WAS
18 COMMITTED AND WAS 18 AT THE TIME OF TRIAL, COULD YOU
19 PUT SOMEBODY THAT YOUNG TO DEATH?

20 JURY VENIRE MEMBER: WHAT'S THE QUESTION?
21 COULD YOU GIVE ME THE QUESTION OVER?

22 MR. BAILEY: I NOTICE IN YOUR
23 QUESTIONNAIRE THAT YOU'VE GOT SONS THAT ARE 16 AND
24 18.

25 JURY VENIRE MEMBER: UH-HUH.

1 MR. BAILEY: WOULD THE FACT THAT YOU'VE
2 GOT SONS ABOUT THE SAME AGE OF THE DEFENDANT CAUSE
3 YOU TO HAVE ANY PROBLEMS IN CONSIDERING THE DEATH
4 PENALTY IN THIS PARTICULAR CASE?

5 JURY VENIRE MEMBER: NO.

6 MR. BAILEY: IT WOULD NOT? OKAY. BUT YOU
7 COULD NEVER UNDER ANY CIRCUMSTANCES IMPOSE THE DEATH
8 PENALTY ON SOMEONE?

9 JURY VENIRE MEMBER: NO, SIR.

10 MR. BAILEY: THANK YOU. THAT'S ALL I
11 HAVE.

12 MR. NEWSOME: I DON'T HAVE ANY QUESTIONS,
13 YOUR HONOR.

14 THE COURT: YOU MAY STEP OUTSIDE.

15 (JUROR NUMBER 107 IS DISMISSED
16 FROM THE COURTROOM.)

17 THE COURT: MR. BAILEY?

18 MR. BAILEY: YOUR HONOR, SHE'S NOT
19 QUALIFIED.

20 MR. NEWSOME: I AGREE, YOUR HONOR.

21 THE COURT: SHE OBVIOUSLY GAVE HER
22 HEARTFELT BELIEF ON THAT ISSUE.

23 (JUROR NUMBER 107 ENTERS THE
24 COURTROOM.)

25 THE COURT: MADAM JUROR, I WANT TO THANK

1 YOU FOR BEING WITH US TODAY. I WANT TO THANK YOU FOR
2 YOUR PATIENCE, AND WE APOLOGIZE FOR HAVING TO ASK ALL
3 OF YOU VARIOUS QUESTIONS, BUT THAT'S JUST OUR
4 PROCEDURE. YOU'VE BEEN VERY HONEST WITH US, VERY
5 FORTHRIGHT, AND WE THANK YOU. I AM NOW GOING TO
6 EXCUSE YOU FOR THE REST OF THE TRIAL. YOU WILL NOT
7 HAVE TO COME BACK. THANK YOU SO MUCH. ALL RIGHT.

8 (JUROR NUMBER 107 IS DISMISSED
9 FROM THE COURTROOM.)

10 (JUROR NUMBER 2, A WHITE
11 MALE, ENTERS THE COURTROOM.)

12 THE CLERK: STATE YOUR NAME FOR THE
13 RECORD.

14 JURY VENIRE MEMBER: EVERETTE B. ATKINS.

15 (JUROR NUMBER 2, HAVING BEEN FIRST DULY SWORN
16 BY THE CLERK OF COURT, TESTIFIED AS FOLLOWS:)

17 THE CLERK: PLEASE COME AROUND AND HAVE A
18 SEAT.

19 THE COURT: HAVE A SEAT, MR. ATKINS.

20 JURY VENIRE MEMBER: YES, SIR.

21 THE COURT: MR. ATKINS, I NOTE THAT YOU
22 ARE FROM DILLON COUNTY.

23 JURY VENIRE MEMBER: YES, SIR.

24 THE COURT: YOU'RE FROM MY PART OF THE
25 WORLD.

1 JURY VENIRE MEMBER: I RECOGNIZE YOUR
2 NAME.

3 THE COURT: COTTINGHAM, BETHEA AND ROGERS
4 IN DILLON COUNTY; RIGHT?

5 JURY VENIRE MEMBER: YES, SIR.

6 THE COURT: I APPRECIATE YOUR ATTENDANCE
7 HERE TODAY. YOU HAD INDICATED THAT YOU HAD NOT READ
8 OR HEARD ANYTHING ABOUT THIS CASE.

9 JURY VENIRE MEMBER: YES, SIR.

10 THE COURT: DID YOU HAVE A CHANCE TO READ
11 THE LETTER OUT THERE?

12 JURY VENIRE MEMBER: YES.

13 THE COURT: YOU WOULD UNDERSTAND THAT WE
14 MAY OR MAY NOT GET TO THE SECOND PHASE. THE FIRST
15 PHASE OF THE TRIAL IS THE GUILT OR INNOCENCE. IF
16 HE'S FOUND INNOCENT, WE STOP THERE. IF HE'S FOUND
17 GUILTY OF MURDER BEYOND A REASONABLE DOUBT, WE THEN
18 AND ONLY THEN WOULD GO TO THE SECOND PHASE WHEREIN
19 THE JURY WOULD BE ASKED TO DETERMINE WHETHER OR NOT
20 THE DEFENDANT HAVING BEEN FOUND GUILTY OF MURDER
21 SHALL SUFFER AS PUNISHMENT DEATH BY ELECTROCUTION OR
22 LETHAL INJECTION OR LIFE IMPRISONMENT.

23 NOW, GENERALLY, THERE ARE THREE GROUPS OR
24 SCHOOLS OF THOUGHT ON THAT, AND ALL OF THEM ARE
25 EQUALLY VALID. ONE GROUP, THE FIRST GROUP SAYS WHEN

1 AN INDIVIDUAL HAS BEEN FOUND GUILTY OF MURDER BEYOND
2 A REASONABLE DOUBT, I'LL ALWAYS IMPOSE THE DEATH
3 PENALTY. THE SECOND GROUP SAYS EVEN THOUGH THAT'S
4 OCCURRED, I WILL NEVER IMPOSE THE DEATH PENALTY.
5 THERE IS A THIRD GROUP WHO SAYS I WILL LISTEN TO THE
6 EVIDENCE FROM THE STATE, I WILL LISTEN TO THE
7 EVIDENCE OF THE DEFENSE AND THEN I WILL DECIDE
8 WHETHER THE PROPER PUNISHMENT IS DEATH OR LIFE
9 IMPRISONMENT.

10 WOULD YOU BE NUMBER ONE THAT SAYS ALWAYS, NUMBER
11 TWO THAT SAYS NEVER OR NUMBER THREE THAT SAYS IT WILL
12 DEPEND ON THE FACTS THAT I HEAR AND BELIEVE? WHICH
13 WOULD YOU BE?

14 JURY VENIRE MEMBER: NUMBER THREE, IT
15 WOULD DEPEND ON THE FACTS.

16 THE COURT: ALL RIGHT, SIR. THANK YOU.

17 MR. BAILEY: MR. ATKINS, I'M WALTER
18 BAILEY. I'M GOING TO ASK YOU JUST A FEW QUESTIONS
19 HERE. I NOTICE YOU'VE BEEN ON JURY SERVICE BEFORE IN
20 A CRIMINAL CASE.

21 JURY VENIRE MEMBER: YES, SIR.

22 MR. BAILEY: THE FIRST PART OF THIS TRIAL
23 WILL BE JUST LIKE WHATEVER CASE YOU SAT IN WHERE THE
24 JURY IS JUST CONCERNED WITH GUILT OR INNOCENCE. AND
25 IN THIS CASE IF THE DEFENDANT IS FOUND NOT GUILTY OF

1 MURDER, THAT'S THE END OF IT, YOU WOULD GO HOME. IF
2 HE'S FOUND GUILTY OF MURDER, THEN WE WOULD GO INTO
3 THE SECOND PHASE, AND THE JURY MAKES UP THEIR MIND
4 AFTER HEARING ADDITIONAL EVIDENCE WHAT THE PENALTY
5 OUGHT TO BE, LIFE IMPRISONMENT OR THE DEATH PENALTY,
6 AND WHATEVER THE JURY DECIDES HAPPENS WILL HAPPEN.
7 IT'S NOT A RECOMMENDATION, IT IS THE SENTENCE. YOU
8 UNDERSTAND THAT?

9 JURY VENIRE MEMBER: YES.

10 MR. BAILEY: OKAY. NOW, IF WE GET TO THE
11 SECOND PHASE OF THIS TRIAL AND YOU'RE ON THE JURY AND
12 YOU AND THE OTHER ELEVEN JURORS AFTER HEARING THE
13 ADDITIONAL EVIDENCE FROM THE SECOND PHASE DECIDE THAT
14 AMONG THOSE TWO CHOICES DEATH PENALTY IS THE
15 APPROPRIATE SENTENCE, IN ORDER TO PUT THAT SENTENCE
16 INTO EFFECT, EACH JUROR WOULD HAVE TO SIGN THEIR NAME
17 TO A DEATH VERDICT FORM. COULD YOU SIGN YOUR NAME TO
18 THAT PIECE OF PAPER IF YOU HAD ALREADY VOTED WITH THE
19 OTHER JURORS FOR THE DEATH PENALTY?

20 JURY VENIRE MEMBER: YES, SIR.

21 MR. BAILEY: OKAY. AND COULD YOU COME OUT
22 IN OPEN COURT IN FRONT OF THE DEFENDANT AND HIS
23 ATTORNEY AND FAMILY MEMBERS, WHOEVER IS OUT HERE, AND
24 ANNOUNCE THAT VERDICT IF THAT WAS YOUR VERDICT?

25 JURY VENIRE MEMBER: YES, SIR.

1 MR. BAILEY: OKAY. NOW, IN THIS
2 PARTICULAR CASE, THE VICTIMS, THE YOUNG WOMAN WHO WAS
3 SHOT AND WOUNDED AND THE YOUNG MAN WHO WAS KILLED,
4 WERE WHITE AND THE DEFENDANT WAS BLACK. WOULD THE
5 DIFFERENCE IN THE RACES HAVE ANY BEARING ON YOUR
6 DECISION?

7 JURY VENIRE MEMBER: NO, SIR.

8 MR. BAILEY: WOULD YOU CONSIDER THIS THE
9 SAME WAY AS IF THE RACES WERE REVERSED?

10 JURY VENIRE MEMBER: YES, SIR.

11 MR. BAILEY: ALL RIGHT, SIR. AND IN THIS
12 PARTICULAR CASE, THE DEFENDANT AT THIS TIME IS 18
13 YEARS OLD. AT THE TIME THE STATE ALLEGES HE
14 COMMITTED THIS MURDER HE WAS 16. IF THE CASE WAS BAD
15 ENOUGH, COULD YOU VOTE FOR THE DEATH PENALTY ON A
16 PERSON THAT WAS 16 AT THE TIME THE STATE ALLEGES HE
17 COMMITTED THAT MURDER?

18 JURY VENIRE MEMBER: YES, SIR.

19 MR. BAILEY: OKAY. MR. ATKINS, I BELIEVE
20 THAT'S ALL I'VE GOT RIGHT NOW. THANK YOU VERY MUCH.

21 MR. NEWSOME: MR. ATKINS, WOULD YOU BE
22 WILLING TO LISTEN TO EVIDENCE OF MITIGATION?

23 JURY VENIRE MEMBER: SIR?

24 MR. NEWSOME: BEFORE YOU MADE A DECISION
25 AS TO LIFE OR DEATH, WOULD YOU BE WILLING TO LISTEN

1 TO EVIDENCE OF MITIGATION ON BEHALF OF SOMEBODY WHO
2 WAS CONVICTED OF MURDER?

3 JURY VENIRE MEMBER: YES, SIR.

4 MR. NEWSOME: OKAY. DO YOU THINK
5 MITIGATION AND EVIDENCE OF THAT IS IMPORTANT IN
6 CONSIDERATION?

7 JURY VENIRE MEMBER: YES, SIR.

8 MR. NEWSOME: ALL RIGHT. I NOTICE YOU
9 HAVE THREE DAUGHTERS, 12, 18 AND 21. DO THEY LIVE AT
10 HOME WITH YOU?

11 JURY VENIRE MEMBER: TWO OF THEM ARE IN
12 COLLEGE.

13 MR. NEWSOME: TWO OF THEM ARE IN COLLEGE?

14 JURY VENIRE MEMBER: YES.

15 MR. NEWSOME: WHERE DO THEY GO TO SCHOOL?

16 JURY VENIRE MEMBER: CLEMSON AND COLUMBIA
17 COLLEGE.

18 MR. NEWSOME: HOW LONG HAVE YOU LIVED HERE
19 IN CALHOUN COUNTY?

20 JURY VENIRE MEMBER: ABOUT FOUR YEARS.

21 MR. NEWSOME: AND YOU LIVED IN DILLON
22 COUNTY PRIOR TO THAT?

23 JURY VENIRE MEMBER: LEXINGTON COUNTY.

24 MR. NEWSOME: HOW LONG DID YOU LIVE THERE?

25 JURY VENIRE MEMBER: 23 YEARS.

1 MR. NEWSOME: 23 YEARS. SO YOU WERE JUST
2 BORN PRETTY MUCH IN DILLON COUNTY?

3 JURY VENIRE MEMBER: RIGHT. I WAS BORN
4 THERE, AND I LEFT WHEN I WAS TEN.

5 MR. NEWSOME: DO YOU HAVE FAMILY STILL IN
6 THAT AREA?

7 JURY VENIRE MEMBER: YES, SIR.

8 MR. NEWSOME: HAVE YOU OR ANYBODY IN YOUR
9 FAMILY BEEN VICTIMS OF CRIMES?

10 JURY VENIRE MEMBER: NO, SIR, OTHER THAN
11 WE HAD A BREAK-IN AT MY BUSINESS IN COLUMBIA. YOU
12 KNOW, BREAK-IN, BUT IT WASN'T --

13 MR. NEWSOME: OKAY. I HAVE NO FURTHER
14 QUESTIONS, YOUR HONOR.

15 THE COURT: YOU MAY STEP OUT JUST A MOMENT
16 AND I'LL CALL YOU BACK.

17 (JUROR NUMBER 2 IS DISMISSED
18 FROM THE COURTROOM.)

19 THE COURT: MR. BAILEY?

20 MR. BAILEY: QUALIFIED, YOUR HONOR.

21 MR. NEWSOME: HE'S QUALIFIED, YOUR HONOR.
22 YOUR HONOR, BEFORE YOU CALL THE NEXT ONE --

23 THE COURT: LET ME EXCUSE THIS ONE.

24 (JUROR NUMBER 2 ENTERS THE
25 COURTROOM.)

1 THE COURT: MR. ATKINS, YOU HAVE BEEN
2 QUALIFIED TO SERVE, IF SELECTED, BY THE ATTORNEYS FOR
3 THE STATE AND THE DEFENSE. SO I WANT YOU TO REPORT
4 BACK ACROSS THE STREET AT THE ANNEX THURSDAY AT 2:30.
5 PLEASE BRING YOUR PERSONAL EFFECTS IN THE EVENT THAT
6 YOU ARE ONE OF THE JURORS SELECTED. ANY QUESTIONS?

7 JURY VENIRE MEMBER: NO, SIR.

8 THE COURT: PLEASE DON'T DISCUSS THIS
9 CASE. LET NO ONE DISCUSS IT WITH YOU. DO NOT
10 DISCUSS WITH ANYONE THE QUESTIONS HERE TODAY OR YOUR
11 ANSWERS.

12 JURY VENIRE MEMBER: OKAY.

13 THE COURT: SO BE BACK READY TO GO, IF
14 SELECTED, 2:30 THURSDAY.

15 JURY VENIRE MEMBER: THANK YOU.

16 THE COURT: YOU WILL NOT BE REQUIRED TO
17 COME TOMORROW.

18 JURY VENIRE MEMBER: THANK YOU, SIR.

19 THE COURT: THANK YOU, SIR.

20 (JUROR NUMBER 2 IS DISMISSED
21 FROM THE COURTROOM.)

22 THE COURT: BEFORE WE POLL THE NEXT ONE,
23 WHAT IS IT, COUNSEL?

24 MR. NEWSOME: I DON'T HAVE 285 OR 241.

25 THE COURT: SIR?

1 MR. NEWSOME: I DON'T HAVE THE INFORMATION
2 SHEETS FOR THE NEXT TWO.

3 THE COURT: YOU DO NOT?

4 MR. NEWSOME: NO, SIR.

5 THE COURT: LET'S SEE IF WE HAVE THEM FOR
6 YOU. AND THANK YOU FOR CALLING THAT TO MY ATTENTION.

7 MR. BAILEY: I'VE GOT THE FIRST PAGE OF
8 285, BUT NOT THE SECOND PAGE.

9 THE COURT: LET'S SEE WHAT WE HAVE. YOU
10 DON'T HAVE 41 EITHER?

11 MR. NEWSOME: NO, SIR.

12 THE COURT: ALL RIGHT. DO YOU NEED A
13 MOMENT TO PERUSE IT, SIR?

14 MR. NEWSOME: I'M READY.

15 THE COURT: ALL RIGHT. BRING THE NEXT ONE
16 IN, PLEASE.

17 (JUROR NUMBER 285, A WHITE
18 FEMALE, ENTERS THE COURTROOM.)

19 THE CLERK: PLEASE STATE YOUR NAME INTO
20 THE RECORD.

21 JURY VENIRE MEMBER: KATHY WILES.

22 (JUROR NUMBER 285, HAVING BEEN FIRST DULY SWORN
23 BY THE CLERK OF COURT, TESTIFIED AS FOLLOWS:)

24 THE CLERK: PLEASE COME AROUND AND HAVE A
25 SEAT.

1 THE COURT: GOOD AFTERNOON.

2 JURY VENIRE MEMBER: GOOD AFTERNOON, SIR.

3 THE COURT: SORRY TO KEEP YOU WAITING, MS.
4 WILES, BUT IT'S JUST A SLOW PROCEDURE.

5 JURY VENIRE MEMBER: YES, SIR.

6 THE COURT: THIS MORNING IN THE INQUIRY,
7 YOU HAD INDICATED THAT YOU HAD NOT HEARD OR READ
8 ANYTHING ABOUT THE CASE. IS THAT STILL YOUR
9 POSITION?

10 JURY VENIRE MEMBER: YES, SIR.

11 THE COURT: MS. WILES, YOU WERE --
12 IS THAT A JUROR? OKAY. MAKE SURE, NOW, THAT NO
13 JURORS...

14 THIS MORNING, AS I EXPLAINED, A CASE OF THIS
15 KIND IS A TWO-PART TRIAL. THE FIRST PART IS TO
16 DETERMINE WHETHER OR NOT THIS DEFENDANT IS GUILTY OF
17 MURDER. NOW, IF THE JURY FINDS HIM NOT GUILTY, WE
18 STOP RIGHT THERE.

19 JURY VENIRE MEMBER: UH-HUH.

20 THE COURT: IF -- AND I USE THE WORD
21 ADVISEDLY -- IF THE JURY FINDS THAT DEFENDANT GUILTY
22 OF MURDER BEYOND A REASONABLE DOUBT, THEN AND ONLY
23 THEN, WE WOULD GO INTO THE SECOND PHASE.

24 JURY VENIRE MEMBER: I UNDERSTAND.

25 THE COURT: NOW, THE SECOND PHASE IS THI

1 QUESTION THAT YOU WILL BE CONFRONTED WITH. WE THE
2 JURY HAVING FOUND THE DEFENDANT GUILTY OF MURDER,
3 WHAT SHALL THE SENTENCE BE ABOUT PUNISHMENT? SHALL
4 WE GIVE HIM DEATH BY ELECTROCUTION OR LETHAL
5 INJECTION OR SHALL WE GIVE HIM LIFE IMPRISONMENT?
6 THAT'S THE QUESTION.

7 NOW, YOU HAD AN OPPORTUNITY TO READ THAT LETTER
8 OUT THERE?

9 JURY VENIRE MEMBER: YES, SIR.

10 THE COURT: THAT LETTER TELLS YOU -- AND
11 THERE'S NO RIGHT OR WRONG ANSWERS HERE -- THERE ARE
12 GENERALLY THREE GROUPS OF PEOPLE. THE FIRST GROUP
13 SAYS WHERE MURDER HAS BEEN ESTABLISHED BEYOND A
14 REASONABLE DOUBT, I WILL ALWAYS VOTE FOR THE PENALTY
15 OF DEATH. THE SECOND GROUP SAYS EVEN THOUGH WE HAVE
16 CONVICTED HIM OF MURDER, I CAN NEVER INVOKE THE
17 PENALTY OF DEATH. THE THIRD GROUP SAYS EVEN THOUGH
18 WE HAVE CONVICTED HIM OF MURDER, I WILL CONSIDER ALL
19 OF THE FACTS IN AGGRAVATION AND MITIGATION AND THEN,
20 DEPENDING ON THE FACTS, I MIGHT GIVE HIM DEATH, OR I
21 COULD VOTE FOR LIFE IMPRISONMENT. WOULD YOU BE IN
22 THE FIRST, SECOND OR THIRD GROUP?

23 JURY VENIRE MEMBER: THIRD GROUP, SIR.

24 THE COURT: THIRD GROUP. AND WHAT IS YOUR
25 VIEW OF THE THIRD GROUP, PLEASE?

1 JURY VENIRE MEMBER: I JUST LIKE TO HEAR
2 ALL OF THE CIRCUMSTANCES AND EVERYTHING THAT HAS TO
3 GO WITH IT BEFORE I MAKE MY DECISION.

4 THE COURT: YOU MAY EXAMINE.

5 MR. BAILEY: THANK YOU, YOUR HONOR. MS.
6 WILES, YOU UNDERSTAND THAT YOU WOULD NOT EVEN BE
7 CALLED UPON TO MAKE THAT LIFE AND DEATH DECISION
8 UNLESS WE GET INTO THE SECOND PHASE --

9 JURY VENIRE MEMBER: YES, SIR.

10 MR. BAILEY: -- IN THE TRIAL. AND WE
11 WOULDN'T DO THAT UNLESS WE HAD BEEN THROUGH THE FIRST
12 STAGE AND THE JURY WAS SATISFIED BEYOND A REASONABLE
13 DOUBT THAT THE DEFENDANT WAS GUILTY OF MURDER.

14 JURY VENIRE MEMBER: I UNDERSTAND THAT.

15 MR. BAILEY: AND YOU'RE TELLING US THAT
16 EVEN THOUGH YOU'RE DEALING WITH A CONVICTED MURDERER,
17 YOU WOULD STILL WANT TO LISTEN TO ALL THE ADDITIONAL
18 EVIDENCE IN AGGRAVATION FROM THE STATE IN WHICH I
19 WOULD BE TRYING TO CONVINCING YOU AS A JUROR TO BRING
20 BACK THE DEATH PENALTY AND THE ADDITIONAL EVIDENCE
21 FROM THE DEFENDANT IN MITIGATION WHERE THEY WOULD BE
22 TRYING TO TALK YOU AS A JUROR INTO A LIFE SENTENCE?

23 JURY VENIRE MEMBER: YES, SIR.

24 MR. BAILEY: AND IF THE JURY GETS INTO
25 THAT SECOND PHASE AND AFTER HEARING ALL THE

1 ADDITIONAL EVIDENCE, THEY DECIDE ON THE DEATH
2 PENALTY, THEN YOU WOULD HAVE TO ASSUME THAT THAT
3 REALLY WILL BE CARRIED OUT. IT'S NOT A
4 RECOMMENDATION. IT IS THE ACTUAL SENTENCE IMPOSED BY
5 THE COURT. DO YOU UNDERSTAND THAT?

6 JURY VENIRE MEMBER: YES, SIR.

7 THE COURT: AND COULD YOU IF YOU AND THE
8 OTHER ELEVEN JURORS VOTED FOR THE DEATH PENALTY SIGN
9 YOUR NAME TO A DEATH VERDICT FORM WHICH WOULD RESULT
10 IN THE EXECUTION OF THAT DEFENDANT? NOT ASKING WHAT
11 YOU WOULD DO IN THIS CASE BECAUSE YOU HAVEN'T HEARD
12 THE FACTS, BUT IF YOU DID HEAR THE FACTS AND YOU
13 FIGURED THAT OUT OF THOSE TWO CHOICES THE DEATH
14 PENALTY WAS APPROPRIATE, COULD YOU THEN SIGN YOUR
15 NAME TO THAT PAPER KNOWING THAT WOULD RESULT IN THE
16 EXECUTION?

17 JURY VENIRE MEMBER: I WOULD NOT WANT TO.

18 MR. BAILEY: OKAY. AND IS THERE ANY
19 DIFFERENCE IN THE ACTUAL VOTE ON THE DEATH PENALTY
20 AND SIGNING THE PAPER IN YOUR MIND THAT WOULD CAUSE
21 YOU MAYBE NOT TO SIGN THAT PAPER EVEN THOUGH YOU HAD
22 ALREADY VOTED FOR THE DEATH PENALTY?

23 JURY VENIRE MEMBER: PLEASE EXPLAIN.

24 THE COURT: LET ME EXPLAIN IT FOR HER.

25 MR. BAILEY: ALL RIGHT, SIR.

1 THE COURT: MADAM JUROR, UNDER THE LAWS OF
2 THIS STATE -- AND THIS IS ADVISEDLY -- IF -- AND I
3 USE THE WORD ADVISEDLY -- IF THE JURY HAS CONSIDERED
4 ALL OF THE AGGRAVATING CIRCUMSTANCES AND IF THEY HAVE
5 CONSIDERED ALL OF THE MITIGATING CIRCUMSTANCES AND IF
6 THE JURY UNANIMOUSLY, ALL TWELVE, CONCLUDE THAT DEATH
7 IS THE APPROPRIATE SENTENCE -- YOU FOLLOW ME SO FAR?

8 JURY VENIRE MEMBER: YES, SIR.

9 THE COURT: -- THEN THEY MUST SIGN THEIR
10 NAMES, ALL TWELVE OF THEM, TO A PAPER THAT SAYS WE
11 RECOMMEND THE PENALTY OF DEATH. NOW, THE SOLICITOR
12 IS ASKING YOU IF YOU DETERMINED THAT DEATH WAS THE
13 APPROPRIATE SENTENCE AND IF ALL TWELVE JURORS
14 UNANIMOUSLY AGREED WITH THAT, COULD YOU THEN UNDER
15 YOUR CIRCUMSTANCES, AS ONE FURTHER SELF, SIGN YOUR
16 NAME TO A PAPER AS TO YOUR VERDICT?

17 JURY VENIRE MEMBER: YES, SIR.

18 MR. BAILEY: OKAY.

19 MR. NEWSOME: WHAT WAS THE ANSWER?

20 THE COURT: SIR?

21 MR. NEWSOME: WHAT DID SHE SAY?

22 THE COURT: SHE SAID YES.

23 MR. BAILEY: THE NEXT THING THAT WOULD
24 HAVE TO HAPPEN IS AFTER THAT WAS IMPOSED, THE JURY
25 WOULD COME OUT AND THE FOREMAN WOULD ANNOUNCE THAT

1 VERDICT AND THEN EACH INDIVIDUAL JUROR WOULD BE ASKED
2 EITHER BY THE JUDGE OR BY THE CLERK OF THE COURT IF
3 THAT WAS THEIR VERDICT. COULD YOU ANNOUNCE THAT
4 VERDICT IN OPEN COURT IF THAT WAS YOUR VERDICT
5 KNOWING THAT THAT WOULD RESULT IN THE EXECUTION OF
6 THE DEFENDANT?

7 JURY VENIRE MEMBER: YES, SIR.

8 MR. BAILEY: IN THIS CASE, THE VICTIMS,
9 THE YOUNG MAN WHO WAS KILLED AND THE YOUNG WOMAN THAT
10 WAS SHOT THAT LIVED, WERE WHITE. THE DEFENDANT,
11 OBVIOUSLY, IS A YOUNG BLACK MAN. WOULD THE
12 DIFFERENCE IN RACE HAVE ANY BEARING ON YOUR DECISION
13 IN THIS CASE?

14 JURY VENIRE MEMBER: NO, SIR.

15 MR. BAILEY: WOULD YOU LOOK AT THIS CASE
16 THE SAME WAY IF THE RACES WERE REVERSED, IF YOU HAD A
17 WHITE DEFENDANT AND BLACK VICTIMS?

18 JURY VENIRE MEMBER: I THINK SO.

19 MR. BAILEY: IN THIS PARTICULAR CASE, THE
20 STATE ALLEGES THAT AT THE TIME THIS MURDER WAS
21 COMMITTED, THE DEFENDANT WAS 16 YEARS OLD. HE'S 18
22 NOW. COULD YOU IMPOSE A DEATH SENTENCE ON A PERSON
23 WHO WAS 16 YEARS OLD AT THE TIME HE COMMITTED THE
24 MURDER? I'M NOT ASKING YOU WHAT YOU WOULD DO IN THIS
25 CASE BECAUSE YOU HAVEN'T HEARD THE FACTS. I'M ASKING

1 IF YOU COULD IN ANY CASE EVER IMPOSE THE DEATH
2 PENALTY ON A 16 YEAR OLD. AND THERE'S NO RIGHT OR
3 WRONG ANSWERS LIKE THE JUDGE TOLD YOU. TAKE YOUR
4 TIME.

5 JURY VENIRE MEMBER: NO, SIR, I DON'T
6 THINK SO.

7 MR. BAILEY: YOU JUST THINK 16 -- A PERSON
8 WHO COMMITS THAT KIND OF OFFENSE AT 16 IS TOO YOUNG
9 TO HAVE THE DEATH PENALTY IMPOSED ON THEM?

10 JURY VENIRE MEMBER: YES, SIR.

11 MR. BAILEY: SO ARE YOU TELLING US THAT
12 EVEN THOUGH YOU WOULD LISTEN TO AND CONSIDER THE
13 EVIDENCE IN THE SECOND PHASE OF THE TRIAL, THE FACT
14 THAT THE PERSON WAS 16 WOULD PREVENT YOU FROM IN ANY
15 EVENT IMPOSING THE DEATH PENALTY?

16 JURY VENIRE MEMBER: YES, SIR.

17 MR. BAILEY: MS. WILES, THAT'S ALL I HAVE.
18 THANK YOU VERY MUCH.

19 THE COURT: YES, MR. NEWSOME.

20 MR. NEWSOME: I HEARD YOU SAY YOU DON'T
21 THINK SO. DOES THAT MEAN IT WOULD BE DIFFICULT OR
22 DOES THAT MEAN YOU COULD NOT ABSOLUTELY?

23 JURY VENIRE MEMBER: IT WOULD BE
24 DIFFICULT.

25 MR. NEWSOME: OKAY. SO CONCEIVABLY, THERE

1 ARE CIRCUMSTANCES THAT YOU COULD, BUT IT WOULD BE
2 DIFFICULT?

3 JURY VENIRE MEMBER: YES, SIR. I THINK
4 SO.

5 THE COURT: YOU MAY STEP OUTSIDE JUST A
6 MOMENT.

7 (JUROR NUMBER 285 IS DISMISSED
8 FROM THE COURTROOM.)

9 THE COURT: MR. BAILEY, IT'S REASONABLY
10 CLOSE, BUT I'M GOING TO FIND HER QUALIFIED. WHAT SAY
11 YOU FOR THE DEFENSE?

12 MR. NEWSOME: I THINK SHE'S QUALIFIED.

13 THE COURT: THANK YOU. YES.

14 (JUROR NUMBER 285 ENTERS THE
15 COURTROOM.)

16 THE COURT: MADAM JUROR, YOU HAVE BEEN
17 QUALIFIED, IF SELECTED, BY BOTH THE ATTORNEY FOR THE
18 STATE AND THE ATTORNEY FOR THE DEFENSE. I WANT YOU
19 TO REPORT BACK ACROSS THE STREET AT THE ANNEX AT 2:30
20 THURSDAY WITH YOUR PERSONAL EFFECTS IN THE EVENT YOU
21 WERE CHOSEN. YOU MAY OR MAY NOT BE.

22 JURY VENIRE MEMBER: YES, SIR.

23 THE COURT: BUT YOU ARE ONE OF THOSE WHO
24 ARE QUALIFIED TO SERVE.

25 JURY VENIRE MEMBER: OKAY.

1 THE COURT: SO DON'T DISCUSS THIS CASE,
2 YOUR QUESTIONS AND ANSWERS OR ANYTHING ELSE. ARE
3 THERE ANY QUESTIONS THAT YOU HAVE NOW?

4 JURY VENIRE MEMBER: NO, SIR.

5 THE COURT: ALL RIGHT. IF YOU ARE
6 SELECTED, WE HOPE TO START THIS CASE THURSDAY
7 AFTERNOON. AND WE WILL -- WE WILL FINISH THIS CASE
8 IN THE MIDDLE OF NEXT WEEK. I DON'T WANT YOU TO
9 THINK THAT WE'RE GETTING INTO A CALIFORNIA SITUATION.

10 JURY VENIRE MEMBER: THANK YOU, SIR.

11 (JUROR NUMBER 285 IS DISMISSED
12 FROM THE COURTROOM.)

13 THE COURT: WE'RE DOING PRETTY GOOD.

14 OKAY. BRING IN THE NEXT ONE.

15 (JUROR NUMBER 241, A BLACK
16 FEMALE, ENTERS THE COURTROOM.)

17 THE CLERK: STATE YOUR NAME FOR THE
18 RECORD.

19 JURY VENIRE MEMBER: IRENE RICHARDSON.

20 (JUROR NUMBER 241, HAVING BEEN FIRST DULY SWORN
21 BY THE CLERK OF COURT, TESTIFIED AS FOLLOWS:)

22 THE CLERK: HAVE A SEAT.

23 JURY VENIRE MEMBER: OKAY.

24 THE COURT: COME AROUND PLEASE, MA'AM.

25 GOOD AFTERNOON, MS. RICHARDSON. HOW ARE YOU DOING?

1 JURY VENIRE MEMBER: FINE.

2 THE COURT: I KNOW THESE ARE UNFAMILIAR
3 CIRCUMSTANCES TO YOU, BUT PLEASE RELAX AS BEST YOU
4 CAN SO THAT WE CAN MAKE SOME INQUIRIES. YOU ARE ONE
5 OF THE POTENTIAL JURORS IN THE TRIAL OF THIS CASE.
6 AND THIS MORNING WHEN I ASKED OF SEVERAL QUESTIONS,
7 YOU INDICATED THAT YOU HAD NEVER HEARD ANYTHING ABOUT
8 THIS CASE AT ALL.

9 JURY VENIRE MEMBER: NO.

10 THE COURT: IS THAT STILL TRUE?

11 JURY VENIRE MEMBER: YES.

12 THE COURT: YOU ALSO INDICATED THAT YOU
13 DID NOT KNOW THE DEFENDANT, MR. HUGHES. IS THAT
14 TRUE?

15 JURY VENIRE MEMBER: YES.

16 THE COURT: AND YOU DID NOT KNOW THE
17 VICTIMS OR THEIR FAMILIES; IS THAT TRUE?

18 JURY VENIRE MEMBER: YES.

19 THE COURT: DID YOU HAVE A CHANCE TO READ
20 THE LETTER A MOMENT AGO?

21 JURY VENIRE MEMBER: UH-HUH.

22 THE COURT: AS I EXPLAINED TO YOU EARLIER
23 THIS MORNING, THIS DEFENDANT IS HERE CHARGED WITH
24 MURDER. NOW, WE'LL HAVE TWO SEPARATE CASES. THE
25 FIRST CASE WILL BE TO DETERMINE WHETHER OR NOT HE'S

1 INNOCENT OR GUILTY. IF THE JURY FINDS HIM INNOCENT,
2 WE STOP RIGHT THERE. NOW, IF ALL TWELVE JURORS
3 UNANIMOUSLY FIND HIM GUILTY OF MURDER BEYOND A
4 REASONABLE DOUBT, WE THEN GO TO THE SECOND PART. DO
5 YOU UNDERSTAND THAT?

6 JURY VENIRE MEMBER: UH-HUH.

7 THE COURT: NOW, IN THE SECOND PART, THE
8 QUESTION FOR THE JURY IS THIS. WE'VE ALREADY DECIDED
9 HIS GUILT. THE QUESTION IS, HAVING FOUND HIM GUILTY
10 OF MURDER, WHAT SHALL HIS PUNISHMENT BE? SHALL WE
11 GIVE HIM DEATH BY ELECTROCUTION OR LETHAL INJECTION
12 OR SHALL WE GIVE HIM LIFE IMPRISONMENT? DO YOU
13 UNDERSTAND THAT? THAT'S THE SOLE QUESTION IN THE
14 SECOND PHASE.

15 NOW, THAT LETTER THAT YOU READ INDICATES THAT
16 THERE ARE USUALLY THREE DIFFERENT VIEWS ON THAT. AND
17 THERE'S NO RIGHT OR WRONG ANSWERS. WE ALL HAVE
18 DIFFERENT OPINIONS AND ALL OF THEM ARE RIGHT. THE
19 FIRST GROUP SAYS HAVING FOUND HIM GUILTY OF MURDER, I
20 WOULD ALWAYS BE FOR THE PENALTY OF DEATH. THE SECOND
21 GROUP SAYS REGARDLESS OF HIS MURDER, I WILL NEVER
22 SENTENCE ANYBODY TO DEATH. THE THIRD GROUP SAYS I
23 WILL LISTEN TO ALL OF THE FACTS ON BOTH SIDES AND
24 THEN DEPENDING ON WHAT I FIND AND BELIEVE, I CAN GIVE
25 HIM THE PENALTY OF DEATH OR I WILL GIVE HIM THE

1 PENALTY OF LIFE, DEPENDING.

2 WOULD YOU BE IN THE FIRST GROUP THAT SAYS
3 ALWAYS, SECOND THAT SAYS NEVER, OR THE THIRD THAT
4 SAYS IT WILL DEPEND ON WHAT I LEARNED? WHICH WOULD
5 YOU BE; FIRST, SECOND OR THIRD?

6 JURY VENIRE MEMBER: IT WOULD DEPEND ON
7 WHAT I HEARD.

8 THE COURT: SO YOU WOULD BE IN THE THIRD
9 GROUP?

10 JURY VENIRE MEMBER: YES.

11 THE COURT: YOU MAY EXAMINE. THANK YOU.

12 MR. BAILEY: THANK YOU, YOUR HONOR. OKAY.
13 I'VE GOT A FEW MORE QUESTIONS TO ASK YOU. I NOTICED
14 THAT YOU ATTEND GREATER HOLINESS CHURCH. DO YOU KNOW
15 IF THAT CHURCH HAS ANY PARTICULAR TEACHINGS ON THE
16 DEATH PENALTY?

17 JURY VENIRE MEMBER: UH-HUH.

18 MR. BAILEY: CAN YOU TELL US WHAT THE
19 CHURCH'S POSITION ON THE DEATH PENALTY IS? WHAT IS
20 YOUR CHURCH'S POSITION ON THE DEATH PENALTY?

21 JURY VENIRE MEMBER: WELL, IT TEACHES US
22 ABOUT DEATH.

23 MR. BAILEY: I'M SORRY. I'M HAVING A
24 LITTLE BIT OF TROUBLE --

25 JURY VENIRE MEMBER: WHAT DO YOU MEAN BY

1 THAT?

2 MR. BAILEY: MY FIRST QUESTION IS WHETHER
3 OR NOT YOUR CHURCH HAD A POSITION ON THE DEATH
4 PENALTY.

5 JURY VENIRE MEMBER: UH-HUH.

6 MR. BAILEY: AND I THINK YOU TOLD ME THAT
7 IT DID, AND THEN I ASKED YOU WHAT YOUR CHURCH TAUGHT
8 AS FAR AS THE DEATH PENALTY.

9 JURY VENIRE MEMBER: NOTHING ABOUT THAT,
10 NO.

11 MR. BAILEY: SO YOU'VE NEVER BEEN TO
12 CHURCH WHERE THERE WAS A SERMON ON THE DEATH PENALTY
13 OR SUNDAY SCHOOL LESSON ON THE DEATH PENALTY?

14 JURY VENIRE MEMBER: YEAH.

15 MR. BAILEY: YOU HAVE?

16 JURY VENIRE MEMBER: YEAH.

17 MR. BAILEY: WHICH ONE WAS IT, SUNDAY
18 SCHOOL OR CHURCH?

19 JURY VENIRE MEMBER: CHURCH.

20 MR. BAILEY: CAN YOU TELL US WHAT THE
21 MINISTER SAID ABOUT THE DEATH PENALTY?

22 JURY VENIRE MEMBER: WELL, SHE WAS TELLING
23 US THAT THE BIBLE SAYS, THOU SHALT NOT KILL.

24 MR. BAILEY: HOW DID YOU INTERPRET THOU
25 SHALT NOT KILL AS IT RELATES TO THE DEATH PENALTY?

1 JURY VENIRE MEMBER: THOU SHALT NOT KILL.

2 MR. BAILEY: HUH?

3 JURY VENIRE MEMBER: THOU SHALT NOT KILL.

4 MR. BAILEY: OKAY. AND DO YOU THINK THAT
5 YOUR RELIGIOUS BELIEFS IN THE DEATH PENALTY, WHAT
6 YOU'VE BEEN TAUGHT AT CHURCH, WOULD CAUSE YOU ANY
7 PROBLEMS TO SIT IN AS A JUROR IN A CASE WHERE YOU
8 WOULD BE FACED WITH THAT DEATH PENALTY DECISION?

9 JURY VENIRE MEMBER: NO.

10 MR. BAILEY: AND YOU UNDERSTAND THAT --
11 ABOUT THE TWO-PART PROCESS JUDGE COTTINGHAM TOLD YOU
12 ABOUT. THE FIRST PART IS THE GUILT PHASE WHERE THE
13 JURY IS JUST THERE TO DECIDE WHETHER THE STATE PROVES
14 BEYOND A REASONABLE DOUBT THAT THE DEFENDANT IS
15 GUILTY OF MURDER. AND IF HE'S FOUND NOT GUILTY, HE
16 GOES HOME. BUT IF HE'S FOUND GUILTY, WE GO TO THE
17 SECOND PART OF THE TRIAL AND THE JURY HEARS
18 ADDITIONAL EVIDENCE FROM THE STATE, PERHAPS FROM THE
19 DEFENDANT.

20 OKAY. NOW, IF YOU WERE SITTING AS A JUROR IN
21 THE SECOND PHASE OF A TRIAL LIKE THIS AND YOU AND THE
22 OTHER ELEVEN JURORS, AFTER HEARING ALL OF THAT
23 ADDITIONAL EVIDENCE, VOTED FOR THE DEATH PENALTY, YOU
24 WOULD HAVE TO ASSUME THAT THAT IS WHAT'S GOING TO
25 HAPPEN. IT'S NOT A RECOMMENDATION. THE JUDGE

1 DOESN'T MAKE THAT DECISION, THE JURY DOES. OKAY.
2 COULD YOU VOTE FOR THE DEATH PENALTY KNOWING IT
3 RESULTED IN THAT PERSON'S EXECUTION?

4 JURY VENIRE MEMBER: YES.

5 MR. BAILEY: AND COULD YOU SIGN YOUR NAME
6 TO A DEATH VERDICT FORM KNOWING THAT WOULD RESULT IN
7 THAT PERSON'S EXECUTION?

8 JURY VENIRE MEMBER: DEFINITELY.

9 MR. BAILEY: AND COULD YOU COME OUT IN
10 OPEN COURT AND ANNOUNCE THAT DECISION IN OPEN COURT
11 IN FRONT OF THE DEFENDANT AND HIS FAMILY AND WHOEVER
12 ELSE WAS OUT HERE?

13 JURY VENIRE MEMBER: YES.

14 MS. BAILEY: MS. SHULER, I NOTICED IN YOUR
15 QUESTIONNAIRE THAT YOU HAVE A SON THAT'S 15 AND
16 ANOTHER BOY WHO'S 19 NOW.

17 JURY VENIRE MEMBER: 14 AND 9.

18 MR. BAILEY: 14 AND 9?

19 JURY VENIRE MEMBER: YES.

20 MR. BAILEY: YOU DON'T HAVE A 19-YEAR-OLD
21 SON?

22 JURY VENIRE MEMBER: 15, 14 AND 9.

23 MR. BAILEY: OKAY. THE STATE ALLEGES AT
24 THE TIME THE DEFENDANT COMMITTED THE MURDER HE'S ON
25 TRIAL FOR HERE THAT HE WAS 16 YEARS OLD AT THAT TIME

1 HE'S NOW 18. COULD YOU IMPOSE THE DEATH PENALTY ON
2 SOMEONE WHO WAS 16 AT THE TIME THEY COMMITTED THE
3 MURDER?

4 JURY VENIRE MEMBER: NO.

5 MR. BAILEY: YOU'RE SHAKING YOUR HEAD NO;
6 IS THAT RIGHT?

7 JURY VENIRE MEMBER: NO, I COULDN'T.

8 MR. BAILEY: YOU THINK 16 IS JUST TOO
9 YOUNG TO IMPOSE THE DEATH PENALTY ON SOMEBODY?

10 JURY VENIRE MEMBER: YES, SIR.

11 MR. BAILEY: AND DOES THE FACT THAT YOU'VE
12 GOT A SON THAT'S 15, WOULD THAT WEIGH INTO YOUR
13 DECISION, DO YOU THINK?

14 JURY VENIRE MEMBER: YES.

15 MR. BAILEY: AND YOU'RE NODDING YOUR HEAD
16 YES; IS THAT RIGHT? OKAY. NOW, YOU NEED -- THE
17 COURT REPORTER'S GOT TO TAKE DOWN EVERYTHING THAT
18 YOU'RE SAYING SO YOU'VE GOT TO ANSWER OUT EITHER YES
19 OR NO SO HE CAN GET IT IN THE RECORD.

20 JURY VENIRE MEMBER: YES.

21 MR. BAILEY: AS I UNDERSTAND WHAT YOU'VE
22 TOLD ME, THAT YOU WOULD NEVER IMPOSE THE DEATH
23 PENALTY ON A PERSON THAT WAS 16?

24 JURY VENIRE MEMBER: NO, SIR.

25 MR. BAILEY: NO MATTER HOW BAD THE CASE

1 WAS?

2 JURY VENIRE MEMBER: NO, SIR.

3 MR. BAILEY: THAT'S ALL I HAVE. THANK
4 YOU.

5 MR. NEWSOME: COULD YOU IMPOSE IT ON
6 SOMEBODY WHO WAS 18?

7 JURY VENIRE MEMBER: UH-HUH.

8 MR. NEWSOME: DOES THE DIFFERENCE IN THE
9 DEFENDANT'S AGE AT THE TIME HE'S BEING TRIED HAVE
10 SOME IMPACT ON YOU?

11 JURY VENIRE MEMBER: YES, SIR.

12 MR. NEWSOME: WOULD YOU HOLD HIM MORE
13 RESPONSIBLE NOW BECAUSE HE'S 18?

14 JURY VENIRE MEMBER: UH-HUH. YES, SIR.

15 MR. NEWSOME: ALL RIGHT. AND SINCE HE WAS
16 16 WHEN THE TIME OF THE CRIME OCCURRED, WOULD THAT
17 THEN MAKE YOU SAY YOU COULD NOT OR NOW THAT HE'S 18
18 NOW YOU WOULD CONSIDER IT?

19 JURY VENIRE MEMBER: YES, SIR.

20 MR. NEWSOME: YOU WOULD CONSIDER IT?

21 JURY VENIRE MEMBER: (NO VERBAL RESPONSE.)

22 THE COURT: LET ME SAY, MA'AM, YOU CAN'T
23 SHAKE YOUR HEAD. WE CAN'T GET THAT IN THE RECORD.
24 WE'VE GOT TO HAVE YOUR ANSWER, PLEASE. THANK YOU. I
25 KNOW IT'S VERY DIFFICULT FOR YOU, BUT SPEAK OUT AND

1 TELL US.

2 MR. NEWSOME: AND KNOWING THAT HE'S 18 NOW
3 AND HE WAS 16 AT THE TIME HE ALLEGEDLY COMMITTED THE
4 CRIME, COULD YOU CONSIDER IMPOSING THE DEATH PENALTY
5 IF THE CIRCUMSTANCES WARRANTED IT?

6 JURY VENIRE MEMBER: YES, SIR.

7 MR. BAILEY: YOUR HONOR, COULD I HAVE ONE
8 ON REDIRECT?

9 THE COURT: YES, SIR.

10 MR. BAILEY: MS. SHULER -- MS. RICHARDSON
11 NOW; RIGHT?

12 JURY VENIRE MEMBER: UH-HUH.

13 MR. BAILEY: I APOLOGIZE TO KEEP ASKING
14 WHAT MAY SOUND LIKE THE SAME QUESTIONS OVER AND OVER
15 AGAIN. WE JUST WANT TO MAKE SURE WE UNDERSTAND
16 EXACTLY WHAT YOUR FEELINGS ARE ON THAT. I ASKED YOU
17 -- ONE OF THE QUESTIONS I ASKED YOU IS WHETHER OR NOT
18 YOU COULD IMPOSE THE DEATH PENALTY ON A PERSON WHO
19 WAS 16 AT THE TIME HE COMMITTED THE OFFENSE AND YOU
20 TOLD ME YOU COULD NOT. IS THAT STILL YOUR POSITION?

21 JURY VENIRE MEMBER: NO, SIR.

22 MR. BAILEY: YOU COULD NOT?

23 JURY VENIRE MEMBER: NO, SIR.

24 MR. BAILEY: EVEN THOUGH HE'S 18 AT THE
25 TIME HE STANDS TRIAL?

1 JURY VENIRE MEMBER: YES, SIR.

2 MR. BAILEY: YOU STILL COULD NOT DO IT?

3 JURY VENIRE MEMBER: YES, SIR.

4 MR. BAILEY: YES, SIR, YOU COULD DO IT?

5 JURY VENIRE MEMBER: IF HE'S 18, YES, SIR.

6 MR. BAILEY: OKAY. SO IF HE'S 16 AT THE

7 TIME HE COMMITS THE OFFENSE, BUT 18 AT THE TIME OF

8 THE TRIAL, ARE YOU SAYING THAT YOU COULD OR COULD NOT

9 IMPOSE THE DEATH PENALTY?

10 JURY VENIRE MEMBER: COULD.

11 MR. BAILEY: COULD?

12 JURY VENIRE MEMBER: YES, SIR.

13 MR. BAILEY: OKAY. AND YOU UNDERSTAND

14 AGAIN THAT WHATEVER YOU DECIDED TO DO AS A JUROR,

15 WHATEVER YOU AND THE OTHER ELEVEN JURORS DECIDE WOULD

16 BE THE ACTUAL SENTENCE IMPOSED?

17 JURY VENIRE MEMBER: YES, SIR.

18 MR. BAILEY: AND YOU COULD DO THAT?

19 JURY VENIRE MEMBER: YES, SIR.

20 MR. BAILEY: THANK YOU. THAT'S ALL -- ONE

21 OTHER QUESTION. OBVIOUSLY THE DEFENDANT IN THIS CASE

22 IS BLACK. THE VICTIMS WERE WHITE. WOULD THAT MAKE

23 ANY DIFFERENCE TO YOU IN YOUR DELIBERATIONS?

24 JURY VENIRE MEMBER: NO, SIR.

25 MR. BAILEY: THANK YOU.

1 THE COURT: DO YOU HAVE ANY OTHER
2 QUESTIONS, MR. NEWSOME?

3 MR. NEWSOME: NO, SIR.

4 THE COURT: STEP OUTSIDE JUST A MOMENT.

5 (JUROR NUMBER 241 IS DISMISSED
6 FROM THE COURTROOM.)

7 THE COURT: WHAT SAY THE STATE?

8 MR. BAILEY: YOUR HONOR, SHE GAVE
9 INCONSISTENT ANSWERS, BUT I GUESS THE TOTALITY OF IT,
10 SHE FINALLY ENDED UP SAYING SHE COULD.

11 THE COURT: YES. SHE'S QUALIFIED IN MY
12 VIEW. WHAT DO YOU SAY?

13 MR. NEWSOME: YES, YOUR HONOR. I THINK
14 SHE'S QUALIFIED.

15 MR. BAILEY: I WOULD LIKE THE RECORD --
16 YOU KNOW, MAYBE BATSON REASONS TO REFLECT THAT SHE
17 DID EQUIVOCATE SUBSTANTIALLY IN HER RESPONSES.

18 THE COURT: IT'S A CLOSE QUESTION BECAUSE
19 SHE CLEARLY SAID INITIALLY THAT SHE WOULD NOT DO SO.
20 THEN SHE EQUIVOCATED TO THE EXTENT THAT IF HE WAS NOW
21 18. BUT FOR BATSON PURPOSES, SHE EQUIVOCATED
22 CONSIDERABLY, BUT AT THIS JUNCTURE, I FIND HER
23 QUALIFIED FOR CONSIDERATION.

24 MR. BAILEY: YES, SIR.

25 THE COURT: DO YOU HAVE ANY FURTHER

1 COMMENT AT THIS TIME?

2 MR. NEWSOME: NO, SIR.

3 (JUROR NUMBER 241 ENTERS THE
4 COURTROOM.)

5 THE COURT: MADAM JUROR, YOU HAVE BEEN
6 FOUND TO SERVE BY THE STATE AND THE DEFENSE AND BY
7 THE COURT. NOW, YOU MAY OR MAY NOT BE SELECTED. WE
8 ARE QUALIFYING 35 INDIVIDUALS, 14 OF WHICH WILL BE
9 SELECTED. I WANT YOU TO COME BACK, NOT TOMORROW,
10 THURSDAY AT 2:30.

11 JURY VENIRE MEMBER: YES, SIR.

12 THE COURT: BRING YOUR PERSONAL EFFECTS IN
13 THE EVENT YOU ARE SELECTED SO THAT YOU CAN SPEND THE
14 NIGHT THREE OR FOUR NIGHTS.

15 JURY VENIRE MEMBER: YES, SIR.

16 THE COURT: REPORT ACROSS THE STREET TO
17 THE ANNEX BUILDING. YOU UNDERSTAND THAT?

18 JURY VENIRE MEMBER: YES, SIR.

19 THE COURT: AND BE SURE AND BE THERE, NOW,
20 BECAUSE WE'VE GOT TO HAVE YOU.

21 JURY VENIRE MEMBER: YES, SIR.

22 THE COURT: SEE YOU AT 2:30 THURSDAY.

23 JURY VENIRE MEMBER: YES, SIR.

24 THE COURT: THANK YOU SO MUCH.

25 (JUROR NUMBER 241 IS DISMISSED)

1 FROM THE COURTROOM.)

2 THE COURT: GENTLEMEN, WE'VE BEEN OUT
3 THERE TWO HOURS. WOULD YOU CARE TO TAKE A SHORT
4 BREAK?

5 MR. BAILEY: I'M FINE.

6 MR. NEWSOME: I'M FINE.

7 THE COURT: ALL RIGHT. BRING THE NEXT ONE
8 IN.

9 (JUROR NUMBER 52, A WHITE
10 FEMALE, ENTERS THE COURTROOM.)

11 THE CLERK: PLEASE STATE YOUR NAME FOR THE
12 RECORD.

13 JURY VENIRE MEMBER: ANNA LEE EDWARDS.

14 (JUROR NUMBER 52, HAVING BEEN FIRST DULY SWORN
15 BY THE CLERK OF COURT, TESTIFIED AS FOLLOWS:)

16 THE CLERK: OKAY. IF YOU WOULD, PLEASE,
17 COME AROUND AND HAVE A SEAT IN THIS CHAIR.

18 THE COURT: GOOD AFTERNOON, MS. EDWARDS.
19 MS. EDWARDS, YOU INDICATED THAT YOU HAD NOT HEARD
20 ANYTHING ABOUT THE CASE OR DISCUSSED IT WITH ANYONE.
21 IS THAT STILL YOUR ANSWER?

22 JURY VENIRE MEMBER: THAT'S RIGHT.

23 THE COURT: DID YOU HAVE A CHANCE TO READ
24 THE LETTER ABOUT DIFFERENT PEOPLE'S VIEW ON THE DEATH
25 PENALTY?

1 JURY VENIRE MEMBER: YES, SIR.

2 THE COURT: YOU WOULD UNDERSTAND THAT
3 THERE IS NO RIGHT OR WRONG ANSWERS. THE ONLY
4 CIRCUMSTANCES IN WHICH YOU WOULD CONSIDER PUNISHMENT
5 IS AFTER THE FIRST PHASE. IN THE FIRST PHASE, YOU
6 DECIDE THE GUILT OR THE INNOCENCE. AND IF THE JURY
7 FINDS THAT THIS YOUNG MAN IS INNOCENT, WE WOULD STOP
8 THERE. IF THEY UNANIMOUSLY FIND HIM GUILTY OF MURDER
9 BEYOND A REASONABLE DOUBT, WE WOULD THEN AND ONLY
10 THEN GO INTO THE SECOND PART. AT THAT TIME, YOUR
11 QUESTION WOULD BE, HAVING FOUND HIM GUILTY OF MURDER
12 BEYOND A REASONABLE DOUBT, SHALL WE NOW SENTENCE HIM
13 TO DEATH OR LIFE IMPRISONMENT? THAT WOULD BE THE
14 QUESTION.

15 NOW, THERE ARE THREE SCHOOLS OF THOUGHT,
16 BASICALLY, AND ALL OF THEM ARE RIGHT. THE FIRST
17 GROUP SAYS THAT ONCE SOMEBODY HAS BEEN CONVICTED OF
18 MURDER BEYOND A REASONABLE DOUBT, I WILL ALWAYS VOTE
19 TO IMPOSE THE DEATH PENALTY. A SECOND GROUP SAYS
20 THAT EVEN THOUGH HE'S BEEN CONVICTED OF MURDER, I CAN
21 NEVER VOTE FOR THE DEATH PENALTY. AND THAT THIRD
22 GROUP SAYS I WILL LISTEN TO THE EVIDENCE IN THE CASE,
23 THE LAW OF THE CASE, AND THEN DECIDE THE APPROPRIATE
24 PUNISHMENT. WERE YOU FIRST, SECOND OR THIRD?

25 JURY VENIRE MEMBER: THIRD.

1 THE COURT: THIRD. ALL RIGHT.

2 MR. BAILEY: MS. EDWARDS, I'M WALTER
3 BAILEY. I WANT TO ASK YOU JUST A FEW MORE QUESTIONS.
4 IN REGARD TO THE DEATH PENALTY, IS THE DEATH PENALTY
5 EVER SOMETHING YOU'VE HAD OCCASION TO THINK OF BEFORE
6 TODAY?

7 JURY VENIRE MEMBER: NOT REALLY.

8 MR. BAILEY: OKAY. HAVE YOU HAD AN
9 ADEQUATE OPPORTUNITY TO THINK ABOUT IT NOW KNOWING
10 THE IMPORTANCE OF YOUR DECISION HERE ON THE JURY?

11 JURY VENIRE MEMBER: YES, SIR.

12 MR. BAILEY: OKAY. AND YOU UNDERSTAND ON
13 THE TWO-PART PROCESS WE WOULD BE GOING THROUGH HERE
14 TODAY, THE FIRST PHASE IS THE GUILT PHASE LIKE ANY
15 OTHER TRIAL, AND ONLY IF THE DEFENDANT IS FOUND
16 GUILTY OF MURDER BEYOND A REASONABLE DOUBT IN THE
17 FIRST PHASE WOULD WE EVEN GET INTO THE SECOND PART OF
18 THE TRIAL?

19 JURY VENIRE MEMBER: YES, SIR.

20 MR. BAILEY: AND THE JURY IN THE SECOND
21 PART OF THE TRIAL WOULD HAVE TWO DECISIONS TO MAKE,
22 OR TWO CHOICES, EITHER LIFE IMPRISONMENT OR THE DEATH
23 PENALTY. AND WHATEVER THE JURY DECIDES IS WHAT IS
24 GOING TO BE CARRIED OUT. IF THEY DECIDE THE DEATH
25 PENALTY, THE DEATH PENALTY WOULD ACTUALLY BE IMPOSED

1 ON THAT DEFENDANT. AND THE PURPOSE OF THAT SECOND
2 PHASE IS TO BRING OUT EVIDENCE IN AGGRAVATION AND
3 MITIGATION THAT YOU MIGHT NOT HAVE HEARD IN THE FIRST
4 PART OF THE TRIAL TO HELP THE JURY MAKE THAT LIFE AND
5 DEATH DECISION. DO YOU UNDERSTAND ALL OF THAT?

6 JURY VENIRE MEMBER: YES, SIR.

7 MR. BAILEY: OKAY. NOW, IF THE JURY AFTER
8 HEARING ALL THE EVIDENCE WEIGHS -- CONSIDERS THOSE
9 TWO CHOICES, LIFE IN PRISON AND THE DEATH PENALTY,
10 AND THEY DECIDE THE DEATH PENALTY IS THE APPROPRIATE
11 PUNISHMENT FOR THAT PARTICULAR DEFENDANT IN THAT
12 CASE, THEN AFTER THE VOTE, EACH JUROR WOULD NEED TO
13 SIGN THEIR NAME TO A DEATH VERDICT FORM. COULD YOU
14 SIGN YOUR NAME TO A PAPER LIKE THAT KNOWING THAT IT
15 WOULD RESULT IN THAT DEFENDANT'S EXECUTION?

16 JURY VENIRE MEMBER: YES, SIR.

17 MR. BAILEY: COULD YOU COME OUT IN COURT
18 AND ANNOUNCE THAT DECISION IF IT WAS YOUR DECISION IN
19 FRONT OF THE DEFENDANT AND WHOEVER WAS IN THE
20 COURTROOM?

21 JURY VENIRE MEMBER: YES, SIR.

22 MR. BAILEY: OKAY. NOW, IN THIS
23 PARTICULAR CASE, THE DEFENDANT IS A YOUNG BLACK MALE.
24 THE VICTIMS WERE WHITE. WOULD THAT MAKE ANY
25 DIFFERENCE IN YOUR DELIBERATIONS?

1 JURY VENIRE MEMBER: NO, SIR.

2 MR. BAILEY: WOULD YOU LOOK AT THE CASE
3 THE SAME WAY IF THE RACES WERE REVERSED, IF YOU HAD A
4 WHITE DEFENDANT AND A BLACK VICTIM?

5 JURY VENIRE MEMBER: YES, SIR.

6 MR. BAILEY: OKAY. AT THE TIME THE STATE
7 ALLEGES THE DEFENDANT COMMITTED THIS MURDER, HE WAS
8 16 YEARS OLD. HE'S 18 NOW. COULD YOU IMPOSE -- IF
9 THE CASE WAS BAD ENOUGH, COULD YOU IMPOSE THE DEATH
10 PENALTY ON A PERSON WHO WAS 16 AT THE TIME HE
11 COMMITTED THE MURDER AND 18 AT THE TIME OF TRIAL?

12 JURY VENIRE MEMBER: YES, SIR.

13 MR. BAILEY: I NOTICE THAT YOU'VE GOT A
14 SON THAT'S 20.

15 JURY VENIRE MEMBER: YES, SIR.

16 MR. BAILEY: OKAY. WOULD THE FACT THAT
17 YOU'VE GOT A SON WHO IS FAIRLY CLOSE TO THE
18 DEFENDANT'S AGE CAUSE YOU ANY INSURMOUNTABLE PROBLEMS
19 SITTING AS A JUROR IN A CASE LIKE THIS?

20 JURY VENIRE MEMBER: NO.

21 MR. BAILEY: MS. EDWARDS, I THINK THAT'S
22 ALL I'VE GOT RIGHT NOW. THANK YOU VERY MUCH.

23 MR. NEWSOME: YOU UNDERSTAND THAT IN ORDER
24 TO -- FOR THE DEFENDANT TO BE SENTENCED TO DEATH,
25 EVERYONE ON THE JURY WOULD HAVE TO UNANIMOUSLY AGREE

1 FOR THE DEATH VERDICT?

2 JURY VENIRE MEMBER: YES, SIR.

3 MR. NEWSOME: IF YOU FELT STRONGLY -- IF
4 YOU WERE PART OF THE JURY AND YOU FELT STRONGLY THAT
5 THE DEFENDANT WAS NOT GUILTY, COULD YOU HOLD OUT
6 AGAINST THE REST OF THE JURORS IF THEY FELT HE WAS
7 GUILTY OR WOULD THAT BE DIFFICULT FOR YOU?

8 JURY VENIRE MEMBER: NOW SAY THAT AGAIN.

9 MR. NEWSOME: IF YOU FELT VERY STRONGLY
10 THAT THERE WASN'T ENOUGH EVIDENCE TO CONVICT THE
11 DEFENDANT AND THE REST OF THE JURORS THOUGHT THERE
12 WAS, COULD YOU HOLD OUT AGAINST THEM?

13 JURY VENIRE MEMBER: YES, SIR.

14 MR. NEWSOME: YOU WOULD STICK TO YOUR
15 BELIEFS, AND LIKEWISE, IF YOU FELT VERY STRONGLY THAT
16 THE DEFENDANT SHOULD BE SENTENCED TO DEATH AND THE
17 REMAINING ELEVEN THOUGHT HE SHOULD BE SENTENCED TO
18 LIFE, YOU WOULD HOLD OUT FOR THAT TOO?

19 JURY VENIRE MEMBER: YES, SIR.

20 MR. NEWSOME: AND IF YOU FELT THAT HE
21 SHOULD BE SENTENCED TO LIFE WITH ALL OF THE
22 MITIGATING CIRCUMSTANCES AND THE TOTALITY OF THE
23 CIRCUMSTANCES, COULD YOU HOLD OUT FOR LIFE?

24 JURY VENIRE MEMBER: YES, SIR.

25 MR. NEWSOME: THANK YOU.

1 THE COURT: YOU MAY STEP OUT JUST A
2 MOMENT.

3 (JUROR NUMBER 52 IS DISMISSED
4 FROM THE COURTROOM.)

5 THE COURT: FOR THE STATE?

6 MR. BAILEY: QUALIFIED, YOUR HONOR,

7 THE COURT: FOR THE DEFENSE?

8 MR. NEWSOME: SHE'S QUALIFIED, YOUR HONOR.

9 (JUROR NUMBER 52 ENTERS THE
10 COURTROOM.)

11 THE COURT: MADAM JUROR, YOU HAVE BEEN
12 FOUND QUALIFIED TO SERVE BY BOTH THE STATE AND THE
13 DEFENSE AND THIS COURT. NOW, YOU MAY OR MAY NOT BE
14 SELECTED. WE'RE GOING TO QUALIFY 35. FROM THAT
15 NUMBER, A JURY OF 14, 12 AND TWO ALTERNATES, WILL BE
16 SELECTED.

17 I WANT YOU TO REPORT ACROSS THE STREET AT THE
18 ANNEX 2:30 THE DAY AFTER TOMORROW, THURSDAY. PLEASE
19 BRING SUCH PERSONAL BELONGINGS WITH YOU THAT YOU WILL
20 NEED IN THE EVENT YOU ARE SELECTED TO SERVE. DO YOU
21 UNDERSTAND?

22 JURY VENIRE MEMBER: YES, SIR.

23 THE COURT: DON'T DISCUSS THIS CASE WITH
24 ANYONE AND PERMIT NO ONE TO DISCUSS IT WITH YOU.
25 DON'T EVEN DISCUSS THE QUESTIONS AND ANSWERS. SO

1 PLEASE BE ACROSS THE STREET 2:30 THURSDAY --

2 JURY VENIRE MEMBER: THANK YOU.

3 THE COURT: -- WITH YOUR PERSONAL

4 BELONGINGS. WE HOPE TO START THE TRIAL OF THIS CASE

5 AT THAT TIME. THANK YOU.

6 (JUROR NUMBER 52 IS DISMISSED

7 FROM THE COURTROOM.)

8 THE COURT: GENTLEMEN, WE'LL TAKE THIS

9 WITNESS AND THEN TAKE A SHORT BREAK. I HAVE FOUND

10 SEVEN QUALIFIED. IS THAT YOUR RECORD?

11 MR. BAILEY: YES, SIR.

12 MR. NEWSOME: YES, SIR.

13 (JUROR NUMBER 7, A WHITE

14 MALE, ENTERS THE COURTROOM.)

15 THE CLERK: PLEASE STATE YOUR NAME FOR THE

16 RECORD.

17 JURY VENIRE MEMBER: WILLIAM T. BARRON,

18 JR.

19 (JUROR NUMBER 7, HAVING BEEN FIRST DULY SWORN

20 BY THE CLERK OF COURT, TESTIFIED AS FOLLOWS:)

21 THE CLERK: PLEASE COME AROUND AND HAVE A

22 SEAT BACK HERE.

23 THE COURT: MR. BARRON, GOOD AFTERNOON.

24 JURY VENIRE MEMBER: GOOD AFTERNOON, YOUR

25 HONOR.

1 THE COURT: I APOLOGIZE FOR KEEPING YOU
2 WAITING BACK THERE, BUT THIS IS JUST A SLOW PROCESS.

3 JURY VENIRE MEMBER: YES, SIR.

4 THE COURT: THIS MORNING ON THE INQUIRY,
5 YOU HAD INDICATED AND VERY PROPERLY SO, AND I THANK
6 YOU FOR THAT, THAT YOU MAY HAVE READ OR HEARD OR KNEW
7 SOMETHING ABOUT THIS CASE OR HAD IT DISCUSSED WITH
8 YOU. WOULD YOU TELL US WHAT YOUR ANSWER WOULD BE
9 THERE?

10 JURY VENIRE MEMBER: WELL, IT WAS IN THE
11 PAPER HERE IN THE COUNTY, AND ALSO I THINK I SAW IT
12 IN THE TIMES AND THE DEMOCRAT AND THE STATE OUT OF
13 COLUMBIA.

14 YOUR HONOR, IF IT'S OKAY, I WOULD LIKE TO MAKE A
15 STATEMENT AT THIS POINT.

16 THE COURT: ALL RIGHT.

17 JURY VENIRE MEMBER: ON THE NIGHT THAT
18 THIS INCIDENT HAPPENED, THE MURDER VICTIM'S SISTER
19 WAS OUT AT OUR FARM. AND I DO NOT KNOW THE MURDER
20 VICTIM'S FAMILY AND DO NOT KNOW THIS SISTER WELL
21 EITHER, BUT SHE WAS A FRIEND OF MY SON'S AND HIS
22 WIFE. AND OFFICER WOODY CROWDER, WHO IS A POLICE
23 OFFICER WITH THE TOWN OF ST. MATTHEWS, CALLED OUT TO
24 THE FARM AND GOT ME AT MY HOUSE AND ASKED IF I WOULD
25 GO OVER AND NOTIFY THIS SISTER AT MY SON'S HOUSE, AND

1 I DID SO. AND THAT REALLY IS WHAT I WANTED TO SAY.
2 AT LUNCHTIME TODAY, I WAS REMINDED THAT MY
3 DAUGHTER-IN-LAW, WHO IS A FRIEND OF THIS SISTER, HAD
4 WORKED AT ONE POINT AT THIS ESTABLISHMENT WHERE THIS
5 INCIDENT OCCURRED. THAT'S ALL.

6 THE COURT: WELL, I APPRECIATE YOU CALLING
7 THAT TO OUR ATTENTION. IS THERE ANYTHING ABOUT WHAT
8 YOU HAVE RELATED TO ME THAT WOULD IMPAIR YOUR ABILITY
9 TO REACH A VERDICT BASED ON THE LAW AND THE EVIDENCE
10 IN THIS CASE?

11 JURY VENIRE MEMBER: NO, SIR.

12 THE COURT: CAN YOU TELL ME UNDER YOUR
13 OATH THAT WHATEVER YOUR VERDICT IS, IT'S NOT AS A
14 RESULT OF THAT INCIDENT BUT WHAT YOU HEAR IN THIS
15 WITNESS STAND?

16 JURY VENIRE MEMBER: YES, SIR.

17 THE COURT: ALL RIGHT, SIR. THAT'S FINE,
18 THEN. THE FACT THAT THAT OCCURRED, AS LONG AS YOU
19 CAN DISMISS IT AND BASE YOUR VERDICT ON WHAT YOU HEAR
20 IN THIS COURTROOM UNDER OATH, IS WHAT WE'RE
21 INTERESTED IN.

22 LET ME ASK YOU THIS. DID YOU HAVE A CHANCE TO
23 READ THAT LETTER A WHILE AGO?

24 JURY VENIRE MEMBER: YES, SIR, I DID.

25 THE COURT: YOU WOULD UNDERSTAND THAT THIS

1 IS A TWO-STAGE TRIAL. THE FIRST STAGE IS TO
2 DETERMINE THE GUILT OR INNOCENCE OF THE DEFENDANT.
3 IF HE IS DETERMINED INNOCENT, WE STOP THERE. IF HE'S
4 FOUND GUILTY BY THE JURY BEYOND A REASONABLE DOUBT,
5 WE THEN GO TO THE SECOND PHASE.

6 NOW, THE SECOND PHASE IS SIMPLY THIS. WE WILL
7 TAKE TESTIMONY AS TO THE AGGRAVATING CIRCUMSTANCES,
8 IF ANY. WE'LL TAKE TESTIMONY AS TO THE MITIGATING
9 CIRCUMSTANCES. THE STATE WILL BE TELLING YOU WHY
10 DEATH IS APPROPRIATE. THE DEFENSE WILL BE TELLING
11 YOU WHY LIFE IMPRISONMENT IS APPROPRIATE.

12 ON THAT ISSUE, THERE ARE GENERALLY THREE GROUPS
13 OF PEOPLE, AND THERE'S NO RIGHT OR WRONG ANSWERS.
14 ONE GROUP SAYS HAVING FOUND HIM GUILTY OF MURDER
15 BEYOND A REASONABLE DOUBT, I WILL ALWAYS BE FOR THE
16 DEATH PENALTY. THE SECOND GROUP SAYS EVEN THOUGH
17 WE'VE FOUND HIM GUILTY OF MURDER, I CAN NEVER BE FOR
18 THE DEATH PENALTY. THE THIRD GROUP SAYS WE HAVE
19 FOUND HIM GUILTY OF MURDER BEYOND A REASONABLE DOUBT.
20 ON THE QUESTION AS TO WHAT HIS PUNISHMENT SHALL BE, I
21 WILL LISTEN TO THE AGGRAVATING CIRCUMSTANCES, I WILL
22 LISTEN TO THE MITIGATING CIRCUMSTANCES, I WILL
23 CONSIDER ALL OF THE FACTS, AND DEPENDING ON WHAT I
24 FIND, I CAN BE FOR THE DEATH PENALTY OR I CAN BE FOR
25 LIFE IMPRISONMENT.

1 WOULD YOU BE THE ONE GROUP THAT SAYS ALWAYS FOR
2 THE DEATH, TWO THAT SAYS NEVER OR THREE THAT SAYS I'
3 WILLING TO LISTEN AND THEN DECIDE WHAT'S APPROPRIATE?
4 WHICH ARE YOU, SIR?

5 JURY VENIRE MEMBER: THE THIRD GROUP, YOUR
6 HONOR.

7 THE COURT: THIRD? YOU MAY EXAMINE.
8 REMEMBER, THERE IS NO RIGHT OR WRONG ANSWER.

9 JURY VENIRE MEMBER: YES, SIR.

10 MR. BAILEY: MR. BARRON, AS I UNDERSTAND
11 WHAT YOU TOLD JUDGE COTTINGHAM, YOU DO HAVE SOME
12 OUTSIDE KNOWLEDGE OF THIS INCIDENT FROM THE NEWSPAPER
13 AND TALKING TO PEOPLE THAT YOU KNOW AND ALL OF THAT,
14 BUT YOU COULD PUT THAT ASIDE?

15 JURY VENIRE MEMBER: YES, SIR.

16 MR. BAILEY: NOT NECESSARILY FORGET ABOUT
17 IT, BUT PUT THAT ASIDE AND BASE YOUR DECISION
18 STRICTLY ON THE FACTS AS YOU HEAR FROM THE WITNESS
19 STAND?

20 JURY VENIRE MEMBER: YES, SIR.

21 MR. BAILEY: ALL RIGHT, SIR. NOW, IF WE
22 GET INTO THE SECOND PHASE OF THIS PROCEEDING, WHICH
23 IS THE PENALTY PHASE, YOU UNDERSTAND WE WOULDN'T EVEN
24 BE GETTING THERE UNLESS THE DEFENDANT WAS FOUND
25 GUILTY OF MURDER IN THE FIRST PART OF THE TRIAL.

1 WHATEVER THE JURY DECIDES THE PUNISHMENT OUGHT TO BE
2 IS WHAT'S GOING TO HAPPEN. IF THEY DECIDE LIFE IN
3 PRISON, THE JUDGE WOULD IMPOSE LIFE IN PRISON. AND
4 IF THE JURY DECIDED THE DEATH PENALTY, THEN THE
5 DEFENDANT WOULD ACTUALLY BE EXECUTED. DO YOU
6 UNDERSTAND THAT?

7 JURY VENIRE MEMBER: YES, SIR.

8 MR. BAILEY: THE JURY, NOT THE JUDGE,
9 WOULD MAKE THE DECISION. IF YOU WERE ON A JURY AND
10 YOU GOT INTO THE SECOND PHASE OF A TRIAL LIKE THIS
11 AND YOU AND THE OTHER MEMBERS OF THE JURY VOTED FOR
12 THE DEATH PENALTY, AFTER CONSIDERING ALL OF THE
13 EVIDENCE, IN ORDER TO PUT THAT VERDICT INTO EFFECT,
14 THEN EACH JUROR WOULD BE REQUIRED TO SIGN THEIR NAME
15 TO A DEATH VERDICT FORM. COULD YOU SIGN YOUR NAME TO
16 A FORM LIKE THAT KNOWING THAT IT WOULD RESULT IN THE
17 EXECUTION OF THE DEFENDANT?

18 JURY VENIRE MEMBER: YES, SIR.

19 MR. BAILEY: AND COULD YOU STAND UP IN
20 OPEN COURT AND ANNOUNCE THAT VERDICT IF THAT WAS YOUR
21 VERDICT?

22 JURY VENIRE MEMBER: YES, SIR.

23 MR. BAILEY: IN THIS PARTICULAR CASE, THE
24 VICTIMS, THE YOUNG WOMAN WHO WAS SHOT AND SURVIVED
25 AND THE YOUNG MAN THAT WAS SHOT AND KILLED, WERE

1 WHITE. THE DEFENDANT, OBVIOUSLY, IS A YOUNG BLACK
2 MAN. WOULD THE DIFFERENCE IN RACES ENTER INTO YOUR
3 DECISION OR WOULD YOU BASE YOUR DECISION THE SAME AS
4 IF YOU HAD THE OPPOSITE SITUATION WHERE YOU HAD A
5 WHITE DEFENDANT AND A BLACK VICTIM?

6 JURY VENIRE MEMBER: I WOULD BE UNBIASED
7 IN THAT.

8 MR. BAILEY: ALL RIGHT, SIR. AT THE TIME
9 THE STATE ALLEGES THE DEFENDANT COMMITTED THIS
10 MURDER, HE WAS 16 YEARS OLD. HE'S 18 AT THIS TIME.
11 COULD YOU, IF THE CASE WAS BAD ENOUGH, IMPOSE THE
12 DEATH PENALTY ON A PERSON THAT YOUNG? I'M NOT ASKING
13 YOU TO PREDICT WHAT YOU WOULD DO IN THIS CASE BECAUSE
14 YOU HAVEN'T HEARD THE EVIDENCE.

15 JURY VENIRE MEMBER: YES, SIR.

16 MR. BAILEY: BUT IF THE CASE IS BAD
17 ENOUGH, COULD YOU DO IT?

18 JURY VENIRE MEMBER: YES, SIR.

19 MR. BAILEY: MR. BARRON, I THINK THAT'S
20 ALL I'VE GOT. THANK YOU VERY MUCH.

21 MR. NEWSOME: MR. BARRON, I NOTICED THAT
22 YOU WERE EDUCATED IN THE COLUMBIA AREA.

23 JURY VENIRE MEMBER: YES, SIR.

24 MR. NEWSOME: SO HOW LONG HAVE YOU LIVED
25 HERE IN CALHOUN COUNTY?

1 JURY VENIRE MEMBER: ABOUT EIGHT YEARS,
2 SIR.

3 MR. NEWSOME: ABOUT EIGHT YEARS. AND
4 PRIOR TO THAT YOU LIVED IN RICHLAND COUNTY?

5 JURY VENIRE MEMBER: YES, SIR.

6 MR. NEWSOME: OKAY.

7 JURY VENIRE MEMBER: EASTOVER.

8 MR. NEWSOME: IN EASTOVER. SO WOULD YOU
9 BE RELATED TO THE BARRONS UP THERE, THE CORONER?

10 JURY VENIRE MEMBER: YES, SIR.

11 MR. NEWSOME: OKAY. DOES THE FACT THAT
12 YOUR RELATIVE IS A CORONER, WOULD THAT IMPAIR YOU
13 FROM GIVING A FAIR TRIAL IN THIS CASE HERE?

14 JURY VENIRE MEMBER: NO, SIR.

15 MR. NEWSOME: OKAY. YOU WOULDN'T BE MORE
16 LIKELY TO LISTEN TO -- OR BELIEVE THE EVIDENCE OR
17 TESTIMONY OF A LAW ENFORCEMENT OFFICER VERSUS A
18 CIVILIAN, WOULD YOU?

19 JURY VENIRE MEMBER: NO, SIR, I WOULDN'T.

20 MR. NEWSOME: AND YOU WOULD LISTEN TO ALL
21 OF THE EVIDENCE IN MITIGATION BEFORE YOU DECIDED THE
22 PENALTY IF WE GOT TO THAT PHASE?

23 JURY VENIRE MEMBER: YES, SIR, I WOULD.

24 MR. NEWSOME: THANK YOU, SIR.

25 THE COURT: YOU MAY STEP OUTSIDE JUST A

1 MOMENT.

2 (JUROR NUMBER 7 IS DISMISSED
3 FROM THE COURTROOM.)

4 THE COURT: YES, SIR.

5 MR. BAILEY: QUALIFIED, YOUR HONOR.

6 THE COURT: YES, SIR.

7 MR. NEWSOME: HE'S QUALIFIED.

8 (JUROR NUMBER 7 ENTERS THE
9 COURTROOM.)

10 THE COURT: MR. JUROR, YOU HAVE BEEN FOUND
11 QUALIFIED TO SERVE BY THE ATTORNEY FOR THE STATE AND
12 THE DEFENDANT AND THIS COURT. WE ARE QUALIFYING 35
13 INDIVIDUALS FROM WHICH 14 WILL BE SELECTED AT 2:30 ON
14 THURSDAY.

15 JURY VENIRE MEMBER: YES, SIR.

16 THE COURT: SO I WANT YOU TO BRING WITH
17 YOU ON THURSDAY AFTERNOON YOUR PERSONAL EFFECTS TO
18 STAY IN THE MOTEL FOR THE SEVERAL DAYS REQUIRED IF
19 YOU ARE SELECTED. PLEASE REPORT TO THE ANNEX AT 2:30
20 THURSDAY.

21 JURY VENIRE MEMBER: YES, SIR.

22 THE COURT: ANY QUESTIONS?

23 JURY VENIRE MEMBER: NO, SIR.

24 THE COURT: DON'T DISCUSS THIS CASE OR ANY
25 ASPECT OF IT. SEE YOU THEN.

1 JURY VENIRE MEMBER: YES, SIR.

2 (JUROR NUMBER 7 IS DISMISSED
3 FROM THE COURTROOM.)

4 THE COURT: ONE MINUTE. CLOSE THE DOOR.
5 MR. NEWSOME, THE CASES ARE REplete WITH THE
6 ADMONITION THAT YOU MUST NOT ASK THE JUROR WHETHER HE
7 WOULD BELIEVE AN OFFICER IN PREFERENCE TO SOMEBODY
8 ELSE. I CAN CITE THOSE CASES FOR YOU, IF NECESSARY.

9 MR. NEWSOME: I UNDERSTAND, YOUR HONOR.

10 THE COURT: ALL RIGHT. LET'S TAKE A SHORT
11 BREAK AND WE'LL GET RIGHT BACK. MR. WANNAMAKER, IF
12 YOU WILL FIND THAT JUROR, WE'LL DISCUSS IT WITH HIM
13 IN CHAMBERS OR OUT HERE IN THE COURTROOM. I'VE GOT
14 ONE JUROR ON A PANEL TOMORROW WHO TELLS ME THAT HIS
15 UNCLE IS SICK, AND I DON'T KNOW WHETHER HE WANTS TO
16 BE EXCUSED OR WHAT HIS PROBLEM IS. DO YOU KNOW WHAT
17 HIS PROBLEM IS?

18 THE CLERK: HE'S ON THE PANEL HERE, SO HE
19 SHOULD BE HERE.

20 THE COURT: OKAY. FIND HIM FOR ME. JUST
21 HAVE HIM COME TO THE COURTROOM. LET'S TAKE A SHORT
22 BREAK. GENTLEMEN, WE'RE MOVING ALONG. WE'RE GOING
23 TO TAKE A BREAK NOW AND THEN DEAL WITH IT.

24 (WHEREUPON, A BREAK WAS TAKEN
25 FROM THE PROCEEDINGS.)

1 THE COURT: LET THE RECORD REFLECT THAT
2 BECAUSE OF SERIOUS ILLNESS IN THE FAMILY BY AND WITH
3 THE AGREEMENT OF COUNSEL FOR THE STATE AND THE
4 DEFENSE, I HAVE EXCUSED FROM FURTHER PARTICIPATION
5 JUROR NUMBER -- WHO WAS IT?

6 THE CLERK: JUROR NUMBER 136.

7 THE COURT: -- JUROR NUMBER 136. THAT
8 JUROR WOULD HAVE BEEN ON PANEL NUMBER 2.

9 ALL RIGHT. BRING THE NEXT JUROR IN FOR ME.

10 (JUROR NUMBER 3, A WHITE
11 MALE, ENTERS THE COURTROOM.)

12 THE CLERK: PLEASE STATE YOUR NAME FOR THE
13 RECORD.

14 JURY VENIRE MEMBER: TED M. AYER.

15 (JUROR NUMBER 3, HAVING BEEN FIRST DULY SWORN
16 BY THE CLERK OF COURT, TESTIFIED AS FOLLOWS:)

17 THE CLERK: PLEASE COME AROUND HERE.

18 THE COURT: GOOD AFTERNOON, MR. AYER.

19 JURY VENIRE MEMBER: GOOD AFTERNOON.

20 THE COURT: I APOLOGIZE FOR KEEPING YOU
21 WAITING, BUT THIS IS JUST A SLOW PROCESS. I TRUST
22 THAT YOU UNDERSTAND.

23 MR. AYER, YOU HAD INDICATED EARLIER TODAY THAT
24 YOU HAD NOT HEARD OR DISCUSSED THIS CASE WITH ANYONE.
25 IS THAT STILL YOUR POSITION?

1 JURY VENIRE MEMBER: THAT'S RIGHT.

2 THE COURT: DID YOU HAVE A CHANCE TO READ
3 THAT LETTER OUT THERE?

4 JURY VENIRE MEMBER: YES, SIR.

5 THE COURT: WELL, YOU KNOW AND UNDERSTAND
6 THAT WE ARE TALKING ABOUT A POSSIBLE TWO-PHASE TRIAL.
7 THE FIRST PHASE WOULD BE TO DETERMINE THE INNOCENCE
8 OR GUILT OF THE DEFENDANT HERE ON TRIAL. YOU
9 UNDERSTAND THAT?

10 JURY VENIRE MEMBER: YES, SIR.

11 THE COURT: IF THE JURY FINDS HIM NOT
12 GUILTY, WE STOP. IF THEY FIND HIM GUILTY, THEN THE
13 JURY GOES INTO THE SECOND PHASE AND THE QUESTION
14 THERE IS, WE THE JURY HAVING FOUND HIM GUILTY OF
15 MURDER BEYOND A REASONABLE DOUBT, WHAT SHALL THE
16 PUNISHMENT BE, DEATH OR LIFE IN PRISON?

17 AS THAT LETTER INDICATES, THERE ARE REALLY THREE
18 DIFFERENT GROUPS OF PEOPLE, AND THERE'S NO RIGHT OR
19 WRONG ANSWERS, ALL OF THEM ARE RIGHT. THE FIRST
20 GROUP SAYS HAVING FOUND HIM GUILTY OF MURDER, I WILL
21 ALWAYS INVOKE THE PENALTY OF DEATH. THE SECOND GROUP
22 SAYS EVEN THOUGH WE HAVE FOUND HIM GUILTY OF MURDER,
23 I CAN NEVER VOTE FOR THE DEATH PENALTY. THE THIRD
24 GROUP SAYS I WILL CONSIDER ALL OF THE FACTS IN THE
25 CASE, SURROUNDING CIRCUMSTANCES, AND I CAN INVOKE THE

1 DEATH PENALTY OR I CAN GIVE HIM LIFE IMPRISONMENT.

2 WOULD YOU BE THE FIRST, SECOND OR THIRD GROUP?

3 JURY VENIRE MEMBER: THIRD.

4 THE COURT: ALL RIGHT. THANK YOU.

5 MR. BAILEY: MR. AYER, I'M WALTER BAILEY.

6 I WANT TO ASK YOU JUST A COUPLE OF MORE QUESTIONS. I

7 NOTICE IN YOUR QUESTIONNAIRE THAT YOU HAD BEEN A

8 WITNESS IN A CRIMINAL CASE.

9 JURY VENIRE MEMBER: IN -- YES, SIR.

10 MR. BAILEY: OKAY. COULD YOU TELL US WHAT

11 KIND OF CASE THAT WAS?

12 JURY VENIRE MEMBER: A MURDER CASE.

13 MR. BAILEY: OKAY. AND WERE YOU AN

14 EYEWITNESS TO THE MURDER?

15 JURY VENIRE MEMBER: YES, SIR.

16 MR. BAILEY: OKAY. WERE YOU CALLED AS A

17 WITNESS FOR THE PROSECUTION OR BY THE DEFENSE, IF YOU

18 RECALL?

19 JURY VENIRE MEMBER: THE PROSECUTION.

20 MR. BAILEY: WAS THE MURDER VICTIM

21 SOMEBODY YOU WERE CLOSE TO?

22 JURY VENIRE MEMBER: A FRIEND OF MINE.

23 MR. BAILEY: ALL RIGHT. AND DO YOU THINK

24 IF YOU WERE PICKED ON THIS JURY OR ANY OTHER JURY

25 THAT YOU WOULD BE ABLE TO MAKE YOUR DECISION STRICTLY

1 ON THE FACTS THAT COME OUT IN THE TRIAL? THE FACT
2 THAT YOU WERE CLOSELY INVOLVED IN A MURDER
3 PROSECUTION BEFORE, COULD YOU KIND OF PUT THAT ASIDE
4 AND BASE YOUR DECISION ON THE FACTS OF THIS CASE?

5 JURY VENIRE MEMBER: I WOULD PUT ASIDE
6 WHAT HAPPENED BEFORE.

7 MR. BAILEY: OKAY. SO IS WHAT YOU'RE
8 SAYING IS, IF YOU WERE PICKED AS A JUROR IN THIS
9 CASE, YOU WOULD BASE YOUR DECISION STRICTLY ON THE
10 FACTS AND THE EVIDENCE OF THIS CASE?

11 JURY VENIRE MEMBER: OF THIS CASE.

12 MR. BAILEY: ALL RIGHT, SIR. NOW, TO ASK
13 YOU A LITTLE BIT MORE ABOUT THE DEATH PENALTY, YOU
14 UNDERSTAND ABOUT THE TWO-PART STAGE THAT WE GO
15 THROUGH WHERE YOU'VE GOT A GUILT PHASE WHICH IS LIKE
16 ANY OTHER CRIMINAL TRIAL.

17 JURY VENIRE MEMBER: YES, SIR.

18 MR. BAILEY: AND IF THE DEFENDANT IS FOUND
19 NOT GUILTY IN THAT FIRST STAGE, THAT'S THE END OF IT,
20 BUT IF HE'S FOUND GUILTY OF MURDER, THEN WE WOULD GO
21 INTO THE SECOND PHASE, AND THE JURY DETERMINES THE
22 PUNISHMENT OF EITHER LIFE OR THE DEATH PENALTY.

23 JURY VENIRE MEMBER: I UNDERSTAND.

24 MR. BAILEY: AND YOU WOULD HEAR ADDITIONAL
25 EVIDENCE IN THAT SECOND PART OF THE TRIAL THAT YOU

1 MIGHT NOT HAVE HEARD THE FIRST TIME.

2 JURY VENIRE MEMBER: YES.

3 MR. BAILEY: AND IF YOU WERE ON A JURY IN
4 THE SECOND PHASE OF A DEATH PENALTY TRIAL AND YOU AND
5 THE OTHER JURORS VOTED TO IMPOSE THE DEATH PENALTY,
6 YOU WOULD HAVE TO ASSUME THAT IS WHAT WOULD ACTUALLY
7 HAPPEN, THAT IF YOU VOTE ON THE DEATH PENALTY,
8 EXECUTION WOULD TAKE PLACE. COULD YOU VOTE FOR THE
9 DEATH PENALTY KNOWING IT WOULD BE IMPOSED IF YOU
10 THOUGHT THAT WAS THE APPROPRIATE DECISION TO MAKE?

11 JURY VENIRE MEMBER: IF -- IF THAT'S IN
12 CATEGORY THREE.

13 MR. BAILEY: YEAH, CATEGORY THREE IS THE
14 PERSON --

15 JURY VENIRE MEMBER: WELL, THAT'S THE ONE
16 -- I COULD VOTE FOR IT, YES.

17 MR. BAILEY: ALL RIGHT. AND IF YOU -- IF
18 YOU AND THE OTHER JURORS DECIDED THAT THE DEATH
19 PENALTY WAS THE APPROPRIATE SENTENCE, IN ORDER TO PUT
20 THAT SENTENCE INTO EFFECT, THEN EACH JUROR WOULD NEED
21 TO SIGN THEIR NAME TO A PIECE OF PAPER, A DEATH
22 VERDICT FORM. COULD YOU SIGN YOUR NAME TO A PIECE OF
23 PAPER LIKE THAT IF YOU REACHED THAT DECISION?

24 JURY VENIRE MEMBER: COULD I MAKE A
25 STATEMENT?

1 THE COURT: YES, SIR.

2 JURY VENIRE MEMBER: WITH THE DEATH
3 PENALTY, I HAVE A SON THAT'S IN PRISON FOR
4 MANSLAUGHTER FOR 30 YEARS. AND I WOULD HAVE A HARD
5 TIME DEALING WITH HIM NOT KNOWING -- I HAVE A GOOD
6 RELATIONSHIP WITH HIM NOW, AND I JUST DON'T KNOW HIS
7 FEELINGS TOWARD THE DEATH PENALTY, AND I DON'T KNOW
8 IF THIS WOULD AFFECT MY --

9 THE COURT: WELL, WE CAN'T BE CONCERNED
10 ABOUT HIS FEELINGS, NOW.

11 JURY VENIRE MEMBER: OKAY.

12 THE COURT: YOU'VE GOT TO BE CONCERNED
13 ABOUT YOURS BECAUSE YOU'RE THE ONE WHO HAS GOT TO
14 LIVE WITH YOUR DECISION, WHETHER IT BE -- YOU HAVE
15 TWO VERDICTS, EITHER DEATH OR LIFE, AND THERE'S
16 NOBODY ENTITLED TO QUESTION YOU ON IT EITHER WAY. DO
17 YOU UNDERSTAND?

18 JURY VENIRE MEMBER: I UNDERSTAND.

19 THE COURT: IF YOU VOTE FOR THE DEATH
20 PENALTY, THERE'S NOBODY IN THIS WORLD THAT COULD
21 CHALLENGE YOU BECAUSE THAT WAS UNDER YOUR OATH. IF
22 YOU VOTE FOR LIFE, NOBODY HAS THE RIGHT TO CRITICIZE
23 YOU. NOW, IF YOU THINK YOU'VE GOT TO CHECK WITH YOUR
24 SON BEFORE YOU REACH A VERDICT, I WANT TO KNOW ABOUT
25 IT.

1 JURY VENIRE MEMBER: WELL, I DON'T HAVE TO
2 CHECK WITH HIM, BUT I'VE ESTABLISHED A GOOD
3 RELATIONSHIP WITH HIM, AND I JUST -- IF THIS WAS
4 GOING TO CAUSE A BARRIER, BUT I MEAN, I CAN VOTE FOR
5 THE DEATH PENALTY.

6 THE COURT: WELL, YOU'VE GOT TO DETERMINE
7 WITH YOUR CONSCIENCE UNDER YOUR OATH AND WITH YOUR
8 LORD WHAT YOUR ANSWER IS TO WHAT HE SAYS. NOW,
9 REQUESTION HIM ON THOSE ISSUES.

10 MR. BAILEY: OKAY. LET ME BACK UP A
11 SECOND, MR. AYER. THE MURDER TRIAL THAT YOU WERE A
12 WITNESS IN, IS THAT SOMETHING SEPARATE FROM WHAT YOUR
13 SON --

14 JURY VENIRE MEMBER: THAT'S SEPARATE.

15 MR. BAILEY: THAT'S TWO TOTALLY DIFFERENT
16 THINGS?

17 JURY VENIRE MEMBER: THAT'S TWO DIFFERENT
18 THINGS ALTOGETHER.

19 MR. BAILEY: AND I'LL ASK YOU THE SAME
20 QUESTION WITH YOUR SON'S SITUATION THAT I ASKED WITH
21 YOU AS THAT MURDER WITNESS. KNOWING THAT IT'S YOUR
22 SWORN DUTY TO MAKE UP YOUR MIND BASED SOLELY ON THE
23 EVIDENCE, COULD YOU PUT ASIDE YOUR SON'S SITUATION
24 AND BASE YOUR DECISION STRICTLY ON THE EVIDENCE IF
25 YOU WERE PICKED AS A JUROR IN THIS CASE?

1 JURY VENIRE MEMBER: I'M NOT SURE.

2 MR. BAILEY: OKAY.

3 JURY VENIRE MEMBER: IT WOULD BE -- IT'S A
4 HARD THING FOR ME.

5 MR. BAILEY: OKAY. NO PROBLEM. I WANT
6 YOU JUST TO ANSWER TRUTHFULLY. WHAT I'M HEARING YOU
7 SAY, I THINK, IS THAT YOU -- YOU COULDN'T FOLLOW THE
8 LAW WITH REGARDS TO THE PUNISHMENT BECAUSE OF YOUR
9 SON'S SITUATION. IF THAT'S TRUE, THAT'S FINE.

10 JURY VENIRE MEMBER: THAT'S WHAT I'M
11 SAYING. IT WOULD PUT A BURDEN ON ME, NOT -- I'M NOT
12 AGAINST THE DEATH PENALTY, BUT THIS WOULD PUT A
13 BURDEN ON ME.

14 MR. BAILEY: OKAY. IN THIS PARTICULAR
15 CASE, THE DEFENDANT IS NOW 18 YEARS OLD. THE STATE
16 ALLEGES AT THE TIME HE COMMITTED THE MURDER HE WAS
17 16. COULD YOU IMPOSE THE DEATH PENALTY ON SOMEBODY
18 THAT YOUNG?

19 JURY VENIRE MEMBER: I COULD.

20 MR. BAILEY: IS THERE ANYTHING ABOUT THE
21 PROCESS OF SIGNING THE DEATH VERDICT FORM IF YOU WERE
22 ON A JURY AND YOU ALREADY VOTED FOR THE DEATH PENALTY
23 WITH THE OTHER JURORS, ANYTHING ABOUT SIGNING THAT
24 PAPER THAT WOULD CAUSE YOU TO HOLD BACK OR NOT DO IT?

25 JURY VENIRE MEMBER: NO. I COULD SIGN IT.

1 MR. BAILEY: AND IF YOU VOTED ON THE DEATH
2 PENALTY AND YOU SIGNED THE DEATH VERDICT FORM, COULD
3 YOU COME OUT IN OPEN COURT WHEN YOUR NAME WAS CALLED
4 AND ANNOUNCE THAT VERDICT?

5 JURY VENIRE MEMBER: YOU WILL HAVE TO
6 REPEAT THAT ONE.

7 MR. BAILEY: IF YOU WERE PICKED AS A JUROR
8 AND YOU AND THE OTHER JURORS VOTED FOR THE DEATH
9 PENALTY, COULD YOU COME OUT INTO COURT AND ANNOUNCE
10 THAT VERDICT WHEN YOUR NAME IS CALLED?

11 JURY VENIRE MEMBER: YES, SIR.

12 MR. BAILEY: OKAY. IN THIS CASE, THE
13 VICTIMS WERE WHITE, THE DEFENDANT IS BLACK. WOULD
14 THE DIFFERENCE IN THE RACES CAUSE YOU ANY PROBLEMS AS
15 A JUROR?

16 JURY VENIRE MEMBER: NO.

17 MR. BAILEY: WOULD YOU LOOK AT THAT THE
18 SAME AS IF THE SITUATION WAS REVERSED?

19 JURY VENIRE MEMBER: YES.

20 MR. BAILEY: WHERE YOU HAD A WHITE
21 DEFENDANT AND A BLACK VICTIM?

22 JURY VENIRE MEMBER: YES.

23 MR. BAILEY: SIR, I BELIEVE THAT'S ALL
24 I'VE GOT. THANK YOU.

25 MR. NEWSOME: LET ME TRY TO UNDERSTAND

1 YOUR DIFFICULTY. WOULD YOUR DIFFICULTY BE IN
2 CONVICTING SOMEBODY OR IN FINDING THEM NOT GUILTY? I
3 MEAN, THE PROBLEM YOU WOULD HAVE, WOULD YOU BE
4 PREDISPOSED TO FIND SOMEBODY GUILTY OR TO FIND THEM
5 NOT GUILTY BECAUSE YOUR SON'S IN PRISON?

6 JURY VENIRE MEMBER: I CAN FIND THEM
7 GUILTY.

8 MR. NEWSOME: OKAY. THEN IN THE
9 SENTENCING PART, WHAT IS THE PROBLEM?

10 JURY VENIRE MEMBER: IT'S -- THE
11 SENTENCING PART WITH THE DEATH PENALTY IS THAT I
12 DON'T -- IT TOOK ME A GOOD WHILE TO BUILD A
13 RELATIONSHIP WITH MY SON. LIKE I SAY, HE HAS
14 MANSLAUGHTER CHARGES, AND I JUST DON'T KNOW IF -- IF
15 IT WOULD CAUSE ME AND HIM TO GO BACK INTO A CONFLICT
16 WITH EACH OTHER IF HE KNEW THAT I VOTED FOR IT WHILE
17 HE'S -- WOULD HE HAVE SOMETHING TO SAY TO ME ABOUT IT
18 OR --

19 MR. NEWSOME: OKAY. WOULD YOU BE WILLING
20 TO TRY TO SET ALL OF THAT ASIDE AND LISTEN TO THE
21 EVIDENCE IN AGGRAVATION IF ANY WERE SUBMITTED AND THE
22 EVIDENCE IN MITIGATION ON BEHALF OF THE DEFENDANT?

23 JURY VENIRE MEMBER: I CAN SET IT ASIDE.

24 MR. NEWSOME: ALL RIGHT. I NOTICE YOU
25 SAID THAT YOU COULD IMPOSE THE DEATH SENTENCE ON

1 SOMEBODY THAT WAS 16.

2 JURY VENIRE MEMBER: YES, SIR.

3 MR. NEWSOME: OKAY. DO YOU THINK THERE
4 ARE CHARACTERISTICS THAT A YOUNG PERSON MAY HAVE THAT
5 WOULD CAUSE YOU TO HESITATE ABOUT IMPOSING THE DEATH
6 PENALTY?

7 JURY VENIRE MEMBER: CHARACTERISTICS?

8 MR. NEWSOME: YEAH. CHARACTERISTICS THAT
9 A YOUNG PERSON WOULD HAVE THAT WOULD CAUSE YOU TO
10 HESITATE.

11 JURY VENIRE MEMBER: I THINK SO.

12 MR. NEWSOME: YOU THINK WHEN PEOPLE COMMIT
13 CRIMES THAT THEY DO IT NECESSARILY OUT OF MEANNESS OR
14 OUT OF MISTAKES?

15 JURY VENIRE MEMBER: OUT OF MISTAKES.

16 MR. NEWSOME: OUT OF MISTAKES?

17 JURY VENIRE MEMBER: I WOULD SAY BOTH.

18 MR. NEWSOME: I HAVE NO FURTHER QUESTIONS,
19 YOUR HONOR.

20 THE COURT: ANY FURTHER QUESTIONS?

21 MR. BAILEY: NO, SIR.

22 THE COURT: STEP OUTSIDE.

23 (JUROR NUMBER 3 IS DISMISSED
24 FROM THE COURTROOM.)

25 MR. BAILEY: YOUR HONOR -- MAY I HAVE ON

1 SECOND, PLEASE?

2 THE COURT: YES, SIR.

3 MR. BAILEY: YOUR HONOR, I THINK THIS
4 JUROR IS QUALIFIED. HE HAS SOME RESERVATION ABOUT
5 SOME SITUATIONS AND SAID HE WOULD PUT THAT ASIDE.

6 THE COURT: YES. I AGREE. HE SAID
7 FINALLY, AND I BELIEVE HE WAS SINCERE, THAT HE CAN
8 PUT IT ASIDE, AND IT GAVE HIM SOME CONCERN, BUT HE'S
9 NOT DOGMATIC ABOUT IT. WHAT DO YOU SAY?

10 MR. NEWSOME: OH, I THINK HE'S QUALIFIED
11 TOO, YOUR HONOR.

12 THE COURT: ALL RIGHT. I DO TOO.

13 (JUROR NUMBER 3 ENTERS THE
14 COURTROOM.)

15 THE COURT: MR. JUROR, THE STATE AND THE
16 DEFENDANT AND THIS COURT FIND YOU QUALIFIED TO SERVE
17 ON THIS JURY, IF SELECTED. WE ARE SELECTING 35
18 POTENTIAL JURORS, 14 OF WHICH WILL BE SELECTED. I
19 WANT YOU TO REPORT WITH YOUR PERSONAL EFFECTS 2:30
20 THURSDAY. REPORT ACROSS THE STREET TO THE ANNEX.
21 BRING YOUR CLOTHES IN THE EVENT YOU ARE SELECTED.
22 YOU MAY OR MAY NOT BE, BUT YOU ARE QUALIFIED.

23 DON'T DISCUSS THIS CASE. LET NO ONE DISCUSS IT
24 WITH YOU. DO NOT DISCUSS YOUR QUESTIONS AND ANSWERS.
25 I APOLOGIZE FOR HAVING TO INCONVENIENCE YOU. SEE YOU

1 AT 2:30 THURSDAY. THANK YOU.

2 (JUROR NUMBER 3 IS DISMISSED
3 FROM THE COURTROOM.)

4 THE COURT: DO YOU FIND NINE QUALIFIED
5 THUS FAR?

6 MR. NEWSOME: I HAVE NINE.

7 MR. BAILEY: I HAVE NINE.

8 THE COURT: BRING MS. MARTIN. ALL RIGHT.
9 GENTLEMEN, WE'LL GO UNTIL WE GET 15 QUALIFIED,
10 HOWEVER IT WORKS, AND STOP FOR THE NIGHT. DOES THAT
11 SUIT EVERYBODY?

12 (JUROR NUMBER 161, A WHITE
13 FEMALE, ENTERS THE COURTROOM.)

14 THE CLERK: MS. MARTIN, PLEASE PLACE YOUR
15 LEFT HAND ON THE BIBLE AND PLEASE RAISE YOUR RIGHT
16 HAND. PLEASE STATE YOUR NAME FOR THE RECORD.

17 JURY VENIRE MEMBER: JOAN Y. MARTIN.

18 (JUROR NUMBER 161, HAVING BEEN FIRST DULY SWORN
19 BY THE CLERK OF COURT, TESTIFIED AS FOLLOWS:)

20 THE CLERK: PLEASE COME AROUND AND HAVE A
21 SEAT RIGHT HERE.

22 THE COURT: MS. MARTIN, YOU HAPPEN TO BE
23 THE LAST ONE ON THE FIRST PANEL. WE APOLOGIZE FOR
24 THE INCONVENIENCE. PLEASE BE SEATED.

25 JURY VENIRE MEMBER: THANK YOU.

1 THE COURT: I KNOW THAT THIS COMES AS
2 SOMEWHAT OF A INCONVENIENT, BUT THIS IS JUST A SLOW
3 PROCESS.

4 JURY VENIRE MEMBER: YES, SIR.

5 THE COURT: MS. MARTIN, YOU INDICATED
6 EARLIER THAT YOU HAD NOT HEARD ANYTHING ABOUT THE
7 CASE OR DISCUSSED IT WITH SOMEONE. IS THAT STILL
8 YOUR ANSWER?

9 JURY VENIRE MEMBER: YES.

10 THE COURT: DID YOU HAPPEN TO HAVE AN
11 OPPORTUNITY TO READ THE LETTER OUT THERE THAT
12 DESCRIBED THE THREE JURORS?

13 JURY VENIRE MEMBER: YES, SIR.

14 THE COURT: WHICH TYPE ARE YOU?

15 JURY VENIRE MEMBER: PROBABLY THE THIRD.

16 THE COURT: PROBABLY THE THIRD. YOU MAY
17 PROCEED.

18 MR. BAILEY: MS. MARTIN, I'M WALTER
19 BAILEY. I WANT TO ASK YOU JUST A FEW MORE QUESTIONS
20 THAN WHAT THE JUDGE ASKED YOU. WHEN YOU SAID YOU ARE
21 PROBABLY A THIRD, THAT KIND OF -- YOU GAVE A LITTLE
22 BIT OF HESITATION TO THAT.

23 JURY VENIRE MEMBER: NO. I'M VERY MUCH A
24 THIRD.

25 MR. BAILEY: OKAY. IS THE DEATH PENALTY

1 SOMETHING THAT YOU'VE HAD THE OCCASION TO THINK ABOUT
2 IN THE PAST BEFORE YOU FOUND OUT THAT YOU MIGHT BE ON
3 A JURY LIKE THIS?

4 JURY VENIRE MEMBER: YES.

5 MR. BAILEY: OKAY. AND YOU'VE HAD
6 ADEQUATE TIME TO THINK ABOUT THE PROS AND CONS OF THE
7 DEATH PENALTY IN GENERAL; IS THAT CORRECT?

8 JURY VENIRE MEMBER: YES.

9 MR. BAILEY: YOU UNDERSTAND THAT -- THAT
10 THE TWO-PART PROCESS OF A CASE LIKE THIS WHERE YOU
11 HAVE THE GUILT PHASE WHICH IS LIKE ANY OTHER CRIMINAL
12 TRIAL WITH MY JOB THERE TO TRY TO CONVINCING THE JURY
13 BEYOND A REASONABLE DOUBT THAT THE DEFENDANT IS
14 GUILTY OF MURDER, AND IF I CAN'T DO THAT, THEN HE
15 GOES HOME. IF I CAN DO IT, THEN WE GO TO THE PENALTY
16 PHASE.

17 JURY VENIRE MEMBER: YES.

18 MR. BAILEY: SO IN EACH AND EVERY CASE
19 WHERE THE JURY IS LOOKING AT LIFE IN PRISON OR THE
20 DEATH PENALTY, THAT PERSON HAS ALREADY BEEN FOUND
21 GUILTY OF MURDER BEYOND A REASONABLE DOUBT.

22 JURY VENIRE MEMBER: YES.

23 MR. BAILEY: AND ARE YOU TELLING US THAT
24 DESPITE THE FACT THAT YOU ARE DEALING WITH SOMEONE
25 THAT YOU CONVICTED OF MURDER, THAT YOU WOULD CONTINUE

1 TO KEEP AN OPEN MIND IN THAT SECOND PHASE AND LISTEN
2 TO THE ADDITIONAL EVIDENCE --

3 JURY VENIRE MEMBER: YES, I WOULD.

4 MR. BAILEY: -- IN AGGRAVATION AND
5 EVIDENCE IN MITIGATION THAT CAME OUT?

6 JURY VENIRE MEMBER: YES, SIR.

7 MR. BAILEY: OKAY. AND IF YOU WERE ON A
8 JURY IN THE SECOND PHASE AND YOU AND THE OTHER JURORS
9 AFTER HEARING ALL OF THAT EVIDENCE DECIDED THAT THE
10 APPROPRIATE SENTENCE WAS THE DEATH PENALTY, COULD YOU
11 VOTE FOR THAT ALONG WITH YOUR OTHER JURORS?

12 JURY VENIRE MEMBER: YES, I COULD.

13 MR. BAILEY: AND COULD YOU SIGN YOUR NAME
14 TO A DEATH VERDICT FORM KNOWING THAT THAT WOULD
15 EVENTUALLY RESULT IN THAT DEFENDANT'S EXECUTION?

16 JURY VENIRE MEMBER: YES, I COULD.

17 MR. BAILEY: COULD -- AND YOU UNDERSTAND
18 THAT WHATEVER YOU DECIDE IS GOING TO HAPPEN WILL BE
19 THE SENTENCE. IT'S NOT A RECOMMENDATION, IT IS THE
20 SENTENCE TO THE COURT.

21 JURY VENIRE MEMBER: YES, SIR.

22 MR. BAILEY: AND COULD YOU COME OUT IN
23 OPEN COURT AND ANNOUNCE THAT VERDICT IF THAT WAS YOUR
24 VERDICT?

25 JURY VENIRE MEMBER: YES, I WOULD.

1 MR. BAILEY: OKAY. IN THIS PARTICULAR
2 CASE, THE VICTIM WAS A YOUNG WHITE MAN, A YOUNG WHITE
3 WOMAN THAT WAS -- THE YOUNG MAN WAS KILLED, THE YOUNG
4 WOMAN WAS SHOT AND SURVIVED, GUN SHOTS. THE
5 DEFENDANT, OF COURSE, IS A YOUNG BLACK MAN. WOULD
6 THE DIFFERENCE IN THE RACES OF THE VICTIM AND THE
7 DEFENDANT CAUSE YOU TO VIEW THIS CASE ANY DIFFERENTLY
8 THAN IF THE CASE WAS REVERSED WHERE YOU HAD A WHITE
9 DEFENDANT AND A BLACK VICTIM?

10 JURY VENIRE MEMBER: IT WOULD MAKE NO
11 DIFFERENCE.

12 MR. BAILEY: MS. MARTIN, THE DEFENDANT IN
13 THIS CASE IS NOW 18 YEARS OLD, AND THE STATE ALLEGES
14 THAT AT THE TIME THIS MURDER OCCURRED THAT HE WAS 16.
15 I NOTICE IN YOUR QUESTIONNAIRE THAT YOU'VE GOT A SON
16 WHO IS 16. WOULD THE FACT THAT YOU HAVE A SON WHO IS
17 NOW THE SAME AGE AS THE DEFENDANT WAS WHEN WE SAY THE
18 MURDER OCCURRED, WOULD THAT CAUSE YOU ANY PROBLEM
19 THAT YOU CAN ANTICIPATE AT THIS POINT?

20 JURY VENIRE MEMBER: I WOULD HAVE TO VIEW
21 THE FACTS. I DON'T THINK IT WOULD BE A PROBLEM. I
22 THINK THE FACTS ARE THE MAJOR THING INVOLVED IN A
23 CASE, HEARING THE FACTS.

24 MR. BAILEY: AND IF THE FACTS WERE BAD
25 ENOUGH, COULD YOU IMPOSE THE DEATH PENALTY ON A

1 PERSON WHO WAS 16 AT THE TIME THE CRIME WAS
2 COMMITTED?

3 JURY VENIRE MEMBER: I BELIEVE I COULD.

4 MR. BAILEY: MS. MARTIN, THAT'S ALL I
5 HAVE. THANK YOU VERY MUCH.

6 MR. NEWSOME: WHAT KIND OF FACTS DO YOU
7 THINK ARE THE MAJOR --

8 MR. BAILEY: YOUR HONOR, OBJECTION.

9 THE COURT: THAT WOULD BE SPECULATIVE,
10 WHAT KIND OF FACTS. THEY WOULD MAKE THEIR JURY --
11 MAKE THEIR DECISION BASED ON THE FACTS IN THIS CASE.
12 I THINK THAT WOULD BE VERY DIFFICULT FOR HER -- JUST
13 REPHRASE YOUR QUESTION. I'LL PERMIT IT.

14 MR. NEWSOME: IS WHAT YOU'RE SAYING THAT
15 IF THE ALLEGED MURDER WAS A TERRIBLE MURDER, THEN THE
16 FACT -- THAT WOULD INDICATE TO YOU OR THE TOTALITY OF
17 BOTH?

18 JURY VENIRE MEMBER: I WOULD HAVE TO LOOK
19 AT THE ENTIRE SITUATION AND ALL OF THE FACTS, AND I
20 WOULD HAVE TO WEIGH THOSE FACTS CAREFULLY --

21 MR. NEWSOME: OKAY.

22 JURY VENIRE MEMBER: -- BEFORE MAKING THAT
23 DECISION.

24 MR. NEWSOME: WOULD YOU CONSIDER THAT IN
25 OUR STATE WE HAVE BOTH STATUTORY AGGRAVATED

1 CIRCUMSTANCES THAT YOU MUST FIND IN ORDER TO RENDER
2 DEATH PENALTY -- YOU UNDERSTAND THAT?

3 JURY VENIRE MEMBER: I'M SORRY.

4 MR. NEWSOME: ALL RIGHT. WE HAVE
5 DIFFERENT FACTORS THAT YOU HAVE TO CONSIDER BY LAW.
6 OKAY? IF YOU FIND THAT THERE ARE AGGRAVATING
7 CIRCUMSTANCES, AS THE JUDGE WILL CHARGE YOU WHICH
8 ONES ARE AGGRAVATING, THEN YOU CAN GIVE THE DEATH
9 PENALTY VERDICT. DO YOU UNDERSTAND THAT?

10 JURY VENIRE MEMBER: YES.

11 MR. NEWSOME: BUT THERE ARE ALSO STATUTORY
12 MITIGATING CIRCUMSTANCES, OKAY, AND YOU MUST CONSIDER
13 THOSE. YOU'VE GOT TO ASSIGN THE WEIGHT TO THAT, YO
14 OR ANY OTHER JUROR.

15 THE COURT: LET ME EXPLAIN TO THE JUROR.
16 IN THIS STATE, THE STATE MUST PROVE AGGRAVATING
17 CIRCUMSTANCES BEYOND A REASONABLE DOUBT, AND THE JURY
18 MUST FIND THEM, AND I WOULD CHARGE THE JURY THAT.
19 BUT I WOULD ALSO CHARGE THE JURY THEY CAN CONSIDER
20 CERTAINLY MITIGATING CIRCUMSTANCES, INCLUDING THE
21 MENTAL CAPACITY OF THE DECEASED, HIS AGE AT THE TIME,
22 AND I WOULD CHARGE THE JURY THAT THEY CAN RECOMMEND
23 LIFE FOR ANY OTHER MITIGATING CIRCUMSTANCE THEY FIND
24 OR FOR ANY REASON AT ALL. DO YOU UNDERSTAND?

25 JURY VENIRE MEMBER: YES.

1 MR. NEWSOME: THE JURY WOULD BE -- THE
2 JURY WOULD SAY THAT THEY WOULD HAVE TO FIND
3 AGGRAVATING CIRCUMSTANCES BEFORE THEY COULD FIND THE
4 DEATH PENALTY. BUT THEY CAN CONSIDER LIFE FOR ANY
5 MITIGATING CIRCUMSTANCES OR ANY REASON WHATSOEVER.
6 DO YOU UNDERSTAND?

7 JURY VENIRE MEMBER: YES.

8 THE COURT: ALL RIGHT. GO ON.

9 MR. NEWSOME: AND WHAT YOU'RE SAYING IS
10 YOU WOULD TAKE ALL OF THOSE FACTS IN MAKING YOUR
11 DECISION?

12 JURY VENIRE MEMBER: YES.

13 MR. NEWSOME: OKAY. THAT'S WHAT I WANTED
14 TO MAKE SURE.

15 HOW LONG HAVE YOU LIVED HERE IN ST. MATTHEWS?

16 JURY VENIRE MEMBER: IN ST. MATTHEWS, 15
17 YEARS.

18 MR. NEWSOME: OKAY. ALL RIGHT. DO YOU
19 KNOW ANY OF THE PEOPLE INVOLVED IN THIS?

20 JURY VENIRE MEMBER: NO, I DO NOT.

21 MR. NEWSOME: OKAY. THAT'S ALL THE
22 QUESTIONS I HAVE. THANK YOU.

23 THE COURT: THANK YOU VERY MUCH. STEP
24 OUTSIDE FOR JUST A MOMENT, AND I'LL BE CALLING YOU
25 BACK.

1 (JUROR NUMBER 161 IS DISMISSED
2 FROM THE COURTROOM.)

3 THE COURT: FOR THE STATE?

4 MR. BAILEY: QUALIFIED.

5 THE COURT: FOR THE DEFENSE?

6 MR. NEWSOME: QUALIFIED, YOUR HONOR.

7 (JUROR NUMBER 161 ENTERS THE
8 COURTROOM.)

9 THE COURT: MS. MARTIN, YOU HAVE BEEN
10 QUALIFIED TO SERVE BY THE ATTORNEY FOR THE STATE, THE
11 ATTORNEY FOR THE DEFENSE AND THIS COURT. WE ARE
12 QUALIFYING 35 INDIVIDUALS FROM WHOM 14 WILL BE
13 SELECTED, 12 JURORS AND TWO ALTERNATES. YOU WILL MAY
14 BE INCLUDED IN THAT AMOUNT, YOU MAY NOT, BUT YOU ARE
15 CERTAINLY QUALIFIED.

16 SO I WANT YOU TO BRING YOUR PERSONAL EFFECTS
17 BACK WITH YOU SUFFICIENT TO BE SEQUESTERED FOR A
18 PERIOD OF SEVERAL DAYS. COME BACK ACROSS THE STREET
19 AT THE ANNEX. BE HERE, PLEASE, AT 2:30 THURSDAY, DAY
20 AFTER TOMORROW. ANY QUESTIONS ABOUT THAT?

21 JURY VENIRE MEMBER: NO, SIR.

22 THE COURT: DO NOT DISCUSS THIS CASE WITH
23 ANYONE. PERMIT NO ONE TO DISCUSS IT WITH YOU. DO
24 NOT DISCUSS THE QUESTIONS AND ANSWERS HERE TODAY.
25 AND THANK YOU SO MUCH. APOLOGIZE FOR THE

1 INCONVENIENCE TO YOU.

2 JURY VENIRE MEMBER: THAT'S FINE.

3 (JUROR NUMBER 161 IS DISMISSED
4 FROM THE COURTROOM.)

5 THE COURT: ALL RIGHT. GENTLEMEN, THAT IS
6 THE LAST OF PANEL NUMBER 1. PANEL NUMBER 2 BACK
7 THERE NOW?

8 (JUROR NUMBER 197, A WHITE
9 FEMALE, ENTERS THE COURTROOM.)

10 THE CLERK: PLEASE STATE YOUR NAME FOR THE
11 RECORD.

12 JURY VENIRE MEMBER: SONYA PARNELL.

13 (JUROR NUMBER 197, HAVING BEEN FIRST DULY SWORN
14 BY THE CLERK OF COURT, TESTIFIED AS FOLLOWS:)

15 THE COURT: GOOD AFTERNOON, MS. PARNELL.

16 JURY VENIRE MEMBER: HEY, HOW ARE YOU?

17 THE COURT: FINE. YOU ARE THE FIRST JUROR
18 ON PANEL NUMBER 2. I RAN A LITTLE LATE WITH THE REST
19 OF THEM, BUT WE'RE MAKING GOOD PROGRESS HERE TODAY.
20 I WANT TO THANK YOU FOR YOUR PATIENCE.

21 JURY VENIRE MEMBER: OKAY.

22 THE COURT: YOU HAVE INDICATED THAT YOU
23 HAVE NOT HEARD OR READ ANYTHING ABOUT THE CASE. IS
24 THAT STILL YOUR ANSWER?

25 JURY VENIRE MEMBER: YES, SIR.

1 THE COURT: DID YOU HAVE AN OPPORTUNITY TO
2 READ THE THREE TYPES OF JURORS WHO MIGHT BE INVOLVED
3 IN A CASE OF THIS NATURE?

4 JURY VENIRE MEMBER: YES, SIR.

5 THE COURT: YOU UNDERSTAND THAT THERE
6 WOULD BE TWO PHASES OF THE TRIAL. THE FIRST ONE
7 WOULD BE GUILT OR INNOCENCE. IF THE JURY DETERMINED
8 THE DEFENDANT WAS INNOCENT, WE WOULD STOP. IF THE
9 JURY FOUND HIM GUILTY BEYOND A REASONABLE DOUBT, YOU
10 WOULD THEN AND ONLY THEN GO TO THE SECOND PHASE.

11 THE QUESTION IN THE SECOND PHASE IS THIS, WE THE
12 JURY HAVING FOUND THE DEFENDANT GUILTY BEYOND A
13 REASONABLE DOUBT, WHAT SHALL THE PUNISHMENT BE?
14 SHALL IT BE THE PUNISHMENT OF DEATH BY ELECTROCUTION
15 OR LETHAL INJECTION OR SHALL THE PUNISHMENT BE LIFE
16 IMPRISONMENT?

17 AS THAT LETTER INDICATES, THERE ARE THREE
18 DIFFERENT GROUPS AND THERE'S NO RIGHT OR WRONG
19 ANSWERS. THE FIRST GROUP SAYS HAVING FOUND HIM
20 GUILTY, I WOULD ALWAYS BE FOR THE DEATH PENALTY. THE
21 SECOND GROUP SAYS EVEN THOUGH WE FOUND HIM GUILTY OF
22 MURDER, I CAN NEVER BE FOR THE DEATH PENALTY. THE
23 THIRD GROUP SAYS I AM WILLING TO LISTEN TO THE
24 AGGRAVATING CIRCUMSTANCES, TO THE MITIGATING
25 CIRCUMSTANCES, AND THEN I WILL DECIDE WHETHER OR NO

1 TO IMPOSE DEATH OR LIFE. WOULD YOU BE UNDER THE
2 FIRST, SECOND OR THIRD?

3 JURY VENIRE MEMBER: THIRD.

4 THE COURT: THIRD. AND WHAT IS YOUR
5 CONCEPTION OF THE THIRD GROUP, PLEASE?

6 JURY VENIRE MEMBER: THAT I WOULD HEAR --
7 IF HE WAS FOUND GUILTY, THEN I WOULD HEAR BOTH, YOU
8 KNOW, THE ARGUMENTS FROM BOTH SIDES, AND THEN I WOULD
9 DECIDE IF IT WOULD BE LIFE IN PRISON OR DEATH.

10 THE COURT: ALL RIGHT.

11 MR. BAILEY: THANK YOU, YOUR HONOR. MS.
12 PARNELL, YOU UNDERSTAND WE WOULD NOT EVEN BE
13 CONSIDERING LIFE OR DEATH UNLESS THE DEFENDANT WAS
14 FOUND GUILTY BEYOND A REASONABLE DOUBT IN THE FIRST
15 PART OF THE TRIAL?

16 JURY VENIRE MEMBER: RIGHT.

17 MR. BAILEY: SO ANY TIME WE'RE CONSIDERING
18 -- OR THE JURY IS CONSIDERING LIFE IN PRISON OR THE
19 DEATH PENALTY, YOU'RE DEALING WITH A CONVICTED
20 MURDERER.

21 JURY VENIRE MEMBER: RIGHT.

22 MR. BAILEY: AND THE PURPOSE OF THE SECOND
23 PHASE IS TO HEAR ADDITIONAL EVIDENCE IN AGGRAVATION
24 WHERE I WOULD BE TRYING TO CONVINCING THE JURY TO BRING
25 BACK THE DEATH PENALTY. THE DEFENSE WOULD BE PUTTING

1 UP EVIDENCE AND ARGUING IN FAVOR OF LIFE SENTENCE,
2 AND YOU'RE TELLING US THAT YOU WOULD KEEP AN OPEN
3 MIND THROUGHOUT THAT ENTIRE PROCESS?

4 JURY VENIRE MEMBER: YES, SIR.

5 MR. BAILEY: YOU COULD VOTE FOR LIFE
6 IMPRISONMENT OR FOR THE DEATH PENALTY?

7 JURY VENIRE MEMBER: RIGHT.

8 MR. BAILEY: AND YOU UNDERSTAND THAT
9 WHATEVER THE JURY DECIDES OUGHT TO HAPPEN AS FAR AS
10 THE SENTENCE WOULD BE THE SENTENCE THE JUDGE WOULD
11 IMPOSE. IN OTHER WORDS, THE JURY, NOT THE JUDGE,
12 DECIDES THE SENTENCE.

13 JURY VENIRE MEMBER: RIGHT.

14 MR. BAILEY: OKAY. AND IF YOU AND THE
15 OTHER JURORS, AFTER HEARING ALL OF THAT ADDITIONAL
16 EVIDENCE IN THE SECOND PART OF THE TRIAL, IF WE GOT
17 TO THAT STAGE, DECIDED BETWEEN THOSE TWO CHOICES THAT
18 THE DEATH PENALTY WAS THE APPROPRIATE SENTENCE FOR
19 THAT PARTICULAR DEFENDANT, IN ORDER TO IMPOSE THAT
20 SENTENCE, EACH JUROR WOULD HAVE TO SIGN THEIR NAME TO
21 A DEATH VERDICT FORM. COULD YOU SIGN YOUR NAME TO A
22 FORM LIKE THAT?

23 JURY VENIRE MEMBER: YES, SIR.

24 MR. BAILEY: KNOWING THAT EVENTUALLY THAT
25 DEFENDANT WOULD BE EXECUTED?

1 JURY VENIRE MEMBER: YES, SIR.

2 MR. BAILEY: AND COULD YOU STAND UP IN
3 OPEN COURT AND ANNOUNCE THAT DECISION IF THAT WAS
4 YOUR DECISION?

5 JURY VENIRE MEMBER: YES, SIR.

6 MR. BAILEY: IN THIS CASE, THE VICTIMS
7 WERE A YOUNG WHITE MAN AND A YOUNG WHITE GIRL. THE
8 YOUNG MAN WAS KILLED AND THE YOUNG WOMAN WAS SHOT AND
9 SURVIVED HER INJURIES. THE DEFENDANT, OBVIOUSLY, IS
10 A YOUNG BLACK MAN. WOULD THE DIFFERENCE IN THE RACES
11 OF THE DEFENDANT AND THE VICTIMS MAKE ANY DIFFERENCE
12 TO YOU?

13 JURY VENIRE MEMBER: NO, SIR.

14 MR. BAILEY: WOULD YOU VIEW THE CASE THE
15 SAME AS IF THE DEFENDANT WAS WHITE AND THE VICTIMS
16 WERE BLACK?

17 JURY VENIRE MEMBER: YES, SIR.

18 MR. BAILEY: ALL RIGHT. THE STATE ALLEGES
19 THAT AT THE TIME THIS MURDER TOOK PLACE THAT THIS
20 DEFENDANT WAS 16 YEARS OLD. HE'S NOW 18 YEARS OLD.
21 IF THE CASE WAS BAD ENOUGH, COULD YOU AS A JUROR
22 IMPOSE THE DEATH PENALTY ON SOMEONE WHO WAS 16 AT THE
23 TIME THEY COMMITTED THE MURDER AND IS 18 AT THE TIME
24 OF TRIAL?

25 JURY VENIRE MEMBER: YES, SIR.

1 MR. BAILEY: MS. PARNELL, I THINK THAT'S
2 ALL I'VE GOT. THANK YOU VERY MUCH.

3 MR. NEWSOME: WOULD IT BE MORE DIFFICULT
4 ON YOU TO IMPOSE THE DEATH PENALTY ON A 16 YEAR OLD
5 THAN IT WOULD A 20 YEAR OLD?

6 JURY VENIRE MEMBER: NO.

7 MR. NEWSOME: NOT AT ALL? OKAY. I HAVE
8 NO FURTHER QUESTIONS.

9 THE COURT: PLEASE STEP OUTSIDE. HAVE A
10 SEAT OUTSIDE. WE'LL CALL YOU BACK IN JUST A MINUTE.

11 (JUROR NUMBER 197 IS DISMISSED
12 FROM THE COURTROOM.)

13 THE COURT: YES, SIR?

14 MR. BAILEY: QUALIFIED, YOUR HONOR.

15 THE COURT: YES, SIR?

16 MR. NEWSOME: SHE'S QUALIFIED.

17 (JUROR NUMBER 197 ENTERS THE
18 COURTROOM.)

19 THE COURT: MADAM JUROR, THE STATE OF
20 SOUTH CAROLINA AND THE DEFENDANT AND THIS COURT FIND
21 YOU QUALIFIED TO SERVE IF SELECTED. WE ARE
22 QUALIFYING TODAY AND TOMORROW 35 INDIVIDUALS FROM
23 WHOM THIS JURY WILL BE SELECTED, AND YOU WILL BE ONE
24 OF THEM. PLEASE RETURN ACROSS THE STREET TO THE
25 ANNEX AT 2:30 THURSDAY AFTERNOON. BRING WITH YOU

1 YOUR PERSONAL EFFECTS SO THAT YOU CAN STAY IN A MOTEL
2 IF SELECTED.

3 JURY VENIRE MEMBER: OKAY.

4 THE COURT: ANY QUESTIONS?

5 JURY VENIRE MEMBER: JUST 2:30 THURSDAY BE
6 BACK?

7 THE COURT: 2:30 THURSDAY RIGHT ACROSS THE
8 STREET, AND BE PREPARED TO STAY BECAUSE YOU MAY WELL
9 BE SELECTED. WE DON'T KNOW YET.

10 JURY VENIRE MEMBER: FOR A WEEK?

11 THE COURT: UNTIL SOMETIME TUESDAY OR
12 WEDNESDAY, YES.

13 JURY VENIRE MEMBER: OKAY.

14 THE COURT: I KNOW WE'RE IMPOSING AN
15 IMPOSITION ON YOU, BUT AS I INDICATED, IT IS THE DUTY
16 OF OUR CITIZENSHIP TO LIVE IN THIS MAGNIFICENT
17 COUNTRY OF OURS.

18 JURY VENIRE MEMBER: YES, SIR.

19 THE COURT: SO I'LL SEE YOU AT 2:30.

20 JURY VENIRE MEMBER: YES, SIR.

21 (JUROR NUMBER 197 IS DISMISSED
22 FROM THE COURTROOM.)

23 THE COURT: ALL RIGHT, GENTLEMEN. I'M
24 INDICATING 10 QUALIFIED. I'M SORRY, 11. YOU'RE
25 RIGHT.

1 (JUROR NUMBER 204, A WHITE
2 MALE, ENTERS THE COURTROOM.)

3 THE CLERK: PLEASE STATE YOUR NAME.

4 JURY VENIRE MEMBER: GENE H. PLATT.

5 (JUROR NUMBER 204, HAVING BEEN FIRST DULY SWORN
6 BY THE CLERK OF COURT, TESTIFIED AS FOLLOWS:)

7 THE CLERK: PLEASE HAVE A SEAT AROUND
8 HERE.

9 THE COURT: GOOD AFTERNOON, MR. PLATT.

10 JURY VENIRE MEMBER: GOOD AFTERNOON, SIR.

11 THE COURT: I NOTE PARTICULARLY IN YOUR
12 RETURN THAT YOU ARE A TRUCK DRIVER EMPLOYED BY FOOD
13 LION, AND I KNOW THIS SERVICE INCONVENIENCES YOU A
14 GREAT DEAL.

15 JURY VENIRE MEMBER: NO PROBLEM.

16 THE COURT: AND I APOLOGIZE, BUT IT'S JUST
17 PART OF OUR CITIZENSHIP.

18 JURY VENIRE MEMBER: NO PROBLEM.

19 THE COURT: YOU INDICATED THAT YOU KNEW
20 NOTHING ABOUT THE FACTS OF THIS CASE. IS THAT STILL
21 YOUR ANSWER?

22 JURY VENIRE MEMBER: YES, SIR.

23 THE COURT: DID YOU HAVE THE OPPORTUNITY
24 TO READ THE THREE KINDS OF JURORS BACK THERE?

25 JURY VENIRE MEMBER: YES, SIR.

1 THE COURT: NOW, YOU WOULD UNDERSTAND THAT
2 THERE ARE NO RIGHT OR WRONG ANSWERS. EVERYBODY'S
3 ANSWER IS CORRECT BECAUSE IT'S THEIR OWN HEARTFELT
4 THOUGHT.

5 JURY VENIRE MEMBER: TRUE. YES, SIR.

6 THE COURT: YOU WOULD KNOW THAT THIS WOULD
7 BE A TWO-PHASE TRIAL, IF AT ALL. THE FIRST PHASE
8 DEALS WITH THE GUILT OR INNOCENCE OF THE DEFENDANT.

9 JURY VENIRE MEMBER: YES, SIR.

10 THE COURT: IF HE'S FOUND NOT GUILTY, WE
11 STOP RIGHT THERE.

12 JURY VENIRE MEMBER: UH-HUH.

13 THE COURT: IF -- AND I USE THE WORD
14 ADVISEDLY -- IF THE JURY FINDS THIS DEFENDANT GUILTY
15 OF MURDER BEYOND A REASONABLE DOUBT, THEN AND ONLY
16 THEN WOULD THEY MAKE THE FOLLOWING INQUIRY.

17 JURY VENIRE MEMBER: YES, SIR.

18 THE COURT: HAVING FOUND THE DEFENDANT
19 GUILTY OF MURDER, WHAT SHALL BE THE PUNISHMENT, DEATH
20 OR LIFE IMPRISONMENT? NOW, THERE IS ONE GROUP, AS
21 THAT LETTER INDICATES, THAT SAYS HAVING FOUND SOMEONE
22 GUILTY OF MURDER BEYOND A REASONABLE DOUBT, I WOULD
23 ALWAYS BE FOR THE DEATH PENALTY. THE SECOND GROUP
24 SAYS THAT EVEN THOUGH WE FOUND HIM GUILTY OF MURDER,
25 I WILL NEVER BE FOR THE DEATH PENALTY. THE THIRD

1 GROUP SAYS I WILL LISTEN AND CONSIDER ALL OF THE
2 FACTS IN THE CASE AND I WILL THEN DECIDE WHETHER OR
3 NOT THE APPROPRIATE PUNISHMENT IS DEATH OR LIFE
4 IMPRISONMENT.

5 WOULD YOU BE UNDER ONE, TWO OR THREE GROUP?
6 FIRST GROUP SAYS I WOULD ALWAYS BE FOR THE DEATH
7 PENALTY IF WE FIND HIM GUILTY OF MURDER. THE SECOND
8 GROUP SAYS I WOULD NEVER BE FOR THE DEATH PENALTY,
9 AND THE THIRD GROUP SAYS I'LL DECIDE AFTER I LISTEN
10 TO ALL OF THE EVIDENCE.

11 JURY VENIRE MEMBER: THIRD, SIR.

12 THE COURT: THIRD. ALL RIGHT. YES, SIR.

13 MR. BAILEY: THANK YOU, YOUR HONOR. MR.
14 PLATT, I WANT TO ASK YOU A COUPLE OF QUESTIONS. IS
15 THE DEATH PENALTY SOMETHING YOU'VE EVER HAD ANY
16 REASON TO THINK ABOUT IN THE PAST IN GENERAL TERMS?

17 JURY VENIRE MEMBER: NO.

18 MR. BAILEY: DO YOU THINK THAT SINCE YOU
19 FOUND OUT THAT YOU MAY BE ON A JURY WHERE WE'RE
20 ASKING FOR THE DEATH PENALTY, YOU'VE HAD ENOUGH TIME
21 TO THINK ABOUT IT AND DECIDE WHAT KIND OF JUROR YOU
22 WOULD BE?

23 JURY VENIRE MEMBER: YES, SIR.

24 MR. BAILEY: ALL RIGHT, SIR. AND YOU
25 UNDERSTAND ABOUT THE TWO-PART PROCESS WE MAY BE GOI

1 THROUGH HERE WHERE YOU'VE GOT A GUILT PHASE WHICH IS
2 LIKE ANY OTHER CRIMINAL TRIAL.

3 JURY VENIRE MEMBER: YES, SIR.

4 MR. BAILEY: WHERE I ON BEHALF OF THE
5 STATE OF SOUTH CAROLINA, I WOULD BE TRYING TO PROVE
6 THAT THE DEFENDANT'S GUILTY BEYOND A REASONABLE
7 DOUBT.

8 JURY VENIRE MEMBER: YES, SIR.

9 MR. BAILEY: IF I CAN'T DO THAT, HE GOES
10 HOME.

11 JURY VENIRE MEMBER: RIGHT.

12 MR. BAILEY: ON THE OTHER HAND, IF I CAN
13 CONVINCED THE JURY THAT HE'S GUILTY OF MURDER BEYOND A
14 REASONABLE DOUBT, THEN WE GO INTO THAT SECOND PHASE.

15 JURY VENIRE MEMBER: YES, SIR.

16 MR. BAILEY: SO ANY TIME YOU'RE IN THAT
17 SECOND PHASE, YOU'RE DEALING WITH A CONVICTED
18 MURDERER OR YOU WON'T BE THERE.

19 JURY VENIRE MEMBER: YES, SIR. RIGHT.

20 MR. BAILEY: AND YOU UNDERSTAND THAT
21 WHATEVER THE JURY DECIDES THE PUNISHMENT SHOULD BE,
22 THE JUDGE IS GOING TO AUTOMATICALLY IMPOSE THAT
23 SENTENCE. THE JURY MAKES UP THEIR MIND, AND IT'S NOT
24 A RECOMMENDATION, THAT IS THE SENTENCE.

25 JURY VENIRE MEMBER: YES, SIR.

1 MR. BAILEY: NOW, IF YOU AND THE OTHER
2 ELEVEN JURORS, IF YOU WERE ON THE JURY, GOT INTO THAT
3 SECOND STAGE AND YOU LISTENED TO ALL OF THE
4 ADDITIONAL EVIDENCE THAT CAME OUT AND YOU LISTENED TO
5 THE INSTRUCTION FROM THE JUDGE AND YOU DECIDED THAT
6 BETWEEN LIFE IN PRISON AND THE DEATH PENALTY, DEATH
7 PENALTY WAS THE APPROPRIATE PUNISHMENT, IN ORDER TO
8 PUT THAT SENTENCE INTO EFFECT, EACH JUROR WOULD HAVE
9 TO SIGN THEIR NAMES TO A PIECE OF PAPER, A DEATH
10 VERDICT FORM, AND THE RESULT WOULD BE THAT DEFENDANT
11 WOULD EVENTUALLY BE EXECUTED. COULD YOU SIGN THAT
12 FORM IF YOU AND THE OTHER JURORS HAD REACHED THAT
13 DECISION?

14 JURY VENIRE MEMBER: YES, SIR. YES, SIR

15 MR. BAILEY: COULD YOU COME INTO COURT AND
16 ANNOUNCE THAT DECISION IN FRONT OF THE DEFENDANT AND
17 HIS ATTORNEY AND WHOEVER ELSE IN COURT?

18 JURY VENIRE MEMBER: IF HE'S GUILTY, YES,
19 SIR.

20 MR. BAILEY: AND UNDERSTAND, WE'RE NOT
21 TALKING ABOUT GUILT. THAT'S THE FIRST STAGE OF THE
22 TRIAL.

23 JURY VENIRE MEMBER: YES, SIR.

24 MR. BAILEY: WE'RE TALKING ABOUT
25 PUNISHMENT. WE WOULD BE LISTENING TO ADDITIONAL

1 STUFF.

2 JURY VENIRE MEMBER: RIGHT. RIGHT.

3 MR. BAILEY: ALL RIGHT, SIR. NOW, IN THIS
4 CASE, OBVIOUSLY, THE DEFENDANT IS A YOUNG BLACK MAN.

5 JURY VENIRE MEMBER: RIGHT.

6 MR. BAILEY: THE VICTIM IN THIS CASE, THE
7 MURDER VICTIM, WAS A YOUNG WHITE MAN. IN YOUR MIND
8 WOULD THE DIFFERENCE IN RACE HAVE ANY EFFECT ON YOU?

9 JURY VENIRE MEMBER: NO, SIR.

10 MR. BAILEY: WOULD YOU VIEW THE CASE THE
11 SAME AS IF WE HAD A WHITE DEFENDANT AND A BLACK
12 VICTIM?

13 JURY VENIRE MEMBER: YES, SIR.

14 MR. BAILEY: MR. PLATT, AT THE TIME THE
15 STATE ALLEGES THIS MURDER WAS COMMITTED BACK IN MARCH
16 OF 1994, THE DEFENDANT WAS 16 YEARS OLD. HE'S NOW
17 18. IF THE CASE WAS BAD ENOUGH, COULD YOU IMPOSE THE
18 DEATH PENALTY ON A DEFENDANT WHO WAS 16 YEARS OLD AT
19 THE TIME HE COMMITTED THE MURDER?

20 JURY VENIRE MEMBER: COULD I IMPOSE IT?

21 MR. BAILEY: COULD YOU? NOT ASKING YOU
22 WHAT YOU WOULD DO IN THIS CASE BECAUSE YOU HAVEN'T
23 HEARD THE FACTS YET, BUT COULD YOU?

24 JURY VENIRE MEMBER: YES, SIR. YES, SIR.

25 MR. BAILEY: MR. PLATT, I THINK THAT'S ALL

1 I'VE GOT. THANK YOU VERY MUCH.

2 MR. NEWSOME: HOW LONG HAVE YOU LIVED
3 HERE?

4 JURY VENIRE MEMBER: SINCE 1990.

5 MR. NEWSOME: ALL RIGHT.

6 JURY VENIRE MEMBER: I'VE BEEN A RESIDENT
7 OF SOUTH CAROLINA FOR ALL OF MY LIFE.

8 MR. NEWSOME: OKAY. DO YOUR CHILDREN LIVE
9 HERE, YOUR DAUGHTERS?

10 JURY VENIRE MEMBER: YES, THEY DO.

11 MR. NEWSOME: THEY LIVE HERE WITH YOU?

12 JURY VENIRE MEMBER: NO. NO. I'M
13 DIVORCED. THEY -- ONE IS MARRIED, AND ONE IS A
14 SCHOOLTEACHER, WHICH IS IN THE OTHER PART OF SOUTH
15 CAROLINA.

16 MR. NEWSOME: HAVE YOU OR ANY OF YOUR
17 FAMILY BEEN A VICTIM OF A CRIME?

18 JURY VENIRE MEMBER: NO.

19 MR. NEWSOME: YOU HAVE NOT? DO YOU AGREE
20 THAT THERE ARE SOME TIMES WHEN A MURDER WILL OCCUR
21 THAT THE DEATH PENALTY MAY NOT BE APPROPRIATE?

22 JURY VENIRE MEMBER: RESTATE THE QUESTION.

23 MR. NEWSOME: DO YOU AGREE THAT THERE ARE
24 TIMES WHEN -- THERE ARE SOME MURDERS THAT OCCUR THAT
25 A DEATH PENALTY IS NOT THE APPROPRIATE SENTENCE?

1 JURY VENIRE MEMBER: NO, SIR.

2 MR. NEWSOME: SO YOU'RE SAYING IF A
3 MURDER --

4 JURY VENIRE MEMBER: IF IT'S A MURDER, I
5 THINK IT SHOULD BE TAKEN CARE OF IN THE RIGHT WAY,
6 YES, SIR.

7 MR. NEWSOME: BY DEATH PENALTY?

8 JURY VENIRE MEMBER: YES, SIR.

9 MR. NEWSOME: SO UNLESS A PERSON WAS
10 ACQUITTED, IF THEY WERE CONVICTED OF MURDER, YOU
11 WOULD GIVE THE DEATH PENALTY?

12 JURY VENIRE MEMBER: IF HE'S ACQUITTED,
13 THAT'S A DIFFERENT STORY.

14 MR. NEWSOME: IF HE'S CONVICTED, YOU WOULD
15 GIVE THE DEATH PENALTY?

16 JURY VENIRE MEMBER: YES, SIR.

17 THE COURT: FORGIVE ME FOR INQUIRING, BUT
18 I'M CONFUSED NOW.

19 JURY VENIRE MEMBER: ALL RIGHT.

20 THE COURT: WHEN I FIRST MADE INQUIRY --
21 REMEMBER THERE'S NO RIGHT OR WRONG ANSWER.

22 JURY VENIRE MEMBER: YES, SIR.

23 THE COURT: WHEN I FIRST MADE INQUIRY, I
24 TOLD YOU THAT THERE WERE THREE GROUPS OF JURORS.

25 JURY VENIRE MEMBER: YES, SIR.

1 THE COURT: THE FIRST GROUP WAS SAYING
2 THAT ONCE WE FIND HIM GUILTY OF MURDER --

3 JURY VENIRE MEMBER: YES, SIR.

4 THE COURT: -- I WILL ALWAYS BE FOR THE
5 PENALTY OF DEATH.

6 JURY VENIRE MEMBER: YES, SIR.

7 THE COURT: AND THERE'S A SECOND GROUP
8 THAT SAYS THAT THOUGH WE FOUND HIM GUILTY OF MURDER,
9 I WILL NEVER BE FOR THE DEATH PENALTY.

10 JURY VENIRE MEMBER: YES, SIR.

11 THE COURT: THERE'S A THIRD GROUP THAT
12 SAYS WE HAVE FOUND HIM GUILTY OF MURDER.

13 JURY VENIRE MEMBER: YEAH.

14 THE COURT: BUT I WILL BE WILLING TO
15 LISTEN TO ALL OF THE FACTS.

16 JURY VENIRE MEMBER: THAT'S -- THAT'S WHAT
17 I MEANT, YES, SIR.

18 THE COURT: AND THEN I CAN CONSIDER
19 WHETHER OR NOT DEATH OR LIFE IS APPROPRIATE.

20 JURY VENIRE MEMBER: YES, SIR.

21 THE COURT: THAT'S WHAT YOU SAID TO START
22 WITH.

23 JURY VENIRE MEMBER: THAT'S WHAT I STICK
24 TO. I MAY HAVE ANSWERED HIS QUESTION WRONG.

25 THE COURT: I'LL LET YOU EXAMINE HIM

1 FURTHER ON THAT. I WASN'T SURE WHETHER HE WAS
2 CONFUSED OR NOT. YOU UNDERSTAND --

3 JURY VENIRE MEMBER: RIGHT.

4 THE COURT: -- THAT YOU WOULD ONLY
5 CONSIDER THE SENTENCE AFTER THE JURY HAS FOUND HIM
6 GUILTY OF MURDER.

7 JURY VENIRE MEMBER: RIGHT.

8 THE COURT: THAT'S THE QUESTION.

9 JURY VENIRE MEMBER: YES.

10 THE COURT: THEN, THE QUESTION IS, WHAT'S
11 THE APPROPRIATE PUNISHMENT?

12 JURY VENIRE MEMBER: YES.

13 MR. NEWSOME: IF THE DEFENDANT IS, IN
14 FACT, GUILTY AS CHARGED, AND IF HE --

15 JURY VENIRE MEMBER: RIGHT.

16 MR. NEWSOME: YOU WOULD IMPOSE THE DEATH
17 PENALTY IF YOU WERE SATISFIED THEY WERE GUILTY?

18 JURY VENIRE MEMBER: YES, SIR.

19 MR. BAILEY: YOUR HONOR, COULD I HAVE A
20 COUPLE OF REDIRECT?

21 THE COURT: YES, SIR.

22 MR. BAILEY: COULD I?

23 THE COURT: YES, SIR.

24 MR. BAILEY: WELL, HE'S ASKED YOU WOULD
25 YOU IMPOSE THE DEATH PENALTY IF HE'S GUILTY? WELL,

1 OBVIOUSLY, YOU WON'T EVEN CONSIDER IT UNLESS YOU
2 FOUND HIM GUILTY.

3 JURY VENIRE MEMBER: NO, SIR.

4 MR. BAILEY: THE QUESTION IS, THOUGH, ARE
5 YOU WILLING TO CONSIDER LIFE IMPRISONMENT DEPENDING
6 ON THE FACTS IN THE CASE?

7 JURY VENIRE MEMBER: YES.

8 MR. BAILEY: SIR?

9 JURY VENIRE MEMBER: YES, SIR.

10 THE COURT: WELL, THAT'S WHAT I -- YOU'RE
11 NOT SAYING THAT YOU WOULD ALWAYS BE FOR THE DEATH
12 PENALTY REGARDLESS?

13 JURY VENIRE MEMBER: NO, NO, NO, NO.

14 THE COURT: PARDON?

15 JURY VENIRE MEMBER: NO, SIR.

16 THE COURT: WELL, THAT'S WHAT I -- EXAMINE
17 HIM FURTHER, NOW. I WANT YOU TO BE CLEAR.

18 JURY VENIRE MEMBER: MAYBE I'M GETTING IT
19 ALL CONFUSED.

20 THE COURT: I THINK SO, BUT --

21 JURY VENIRE MEMBER: IF THERE'S ENOUGH
22 EVIDENCE THERE, YES, SIR. IF -- IF THE OTHER ELEVEN
23 JURORS, WE DECIDED FOR DEATH, YES, SIR, I COULD GO
24 ALONG WITH IT. BUT IF THERE'S ONE HOLDING BACK, NO,
25 SIR, YOU KNOW, I'M GOING TO MAKE UP MY MIND JUST LIKE

1 THE OTHER ELEVEN. RIGHT? AND WHATEVER WE COME UP
2 WITH, I'M WITH THE ELEVEN, YOU KNOW.

3 MR. NEWSOME: LET ME ASK YOU AGAIN.

4 JURY VENIRE MEMBER: I'M TRYING TO BE
5 TRUTHFUL WITH YOU.

6 MR. NEWSOME: I UNDERSTAND, AND I
7 APPRECIATE THAT. I REALLY APPRECIATE YOUR HONESTY,
8 AND IT'S DIFFICULT BECAUSE YOU'VE GIVEN DIFFERENT
9 SIGNALS HERE TO BOTH OF US.

10 JURY VENIRE MEMBER: OKAY.

11 MR. NEWSOME: MY MAIN CONCERN IS, ARE
12 THERE CIRCUMSTANCES THAT YOU WOULD GIVE A LIFE
13 SENTENCE AFTER SOMEBODY HAD BEEN CONVICTED OF MURDER?
14 I'M NOT ASKING YOU WHAT THE CIRCUMSTANCES ARE, JUST
15 ARE THERE SOME CIRCUMSTANCES THAT YOU WOULD GIVE A
16 LIFE SENTENCE INSTEAD OF DEATH?

17 JURY VENIRE MEMBER: YES, SIR.

18 MR. NEWSOME: THERE ARE SOME?

19 JURY VENIRE MEMBER: YES, SIR.

20 MR. NEWSOME: AND WOULD YOU CONSIDER AGE
21 AS A POTENTIAL CIRCUMSTANCE?

22 JURY VENIRE MEMBER: AGE WOULD PROBABLY
23 HAVE SOME BEARING ON IT, YES, SIR.

24 MR. NEWSOME: AND THERE WOULD BE SOME
25 OTHER FACTORS THAT YOU WOULD CONSIDER ALSO?

1 JURY VENIRE MEMBER: YES. I JUST --

2 THE COURT: ALL RIGHT. STEP OUTSIDE.

3 (JUROR NUMBER 204 IS DISMISSED
4 FROM THE COURTROOM.)

5 MR. BAILEY: HE'S QUALIFIED.

6 MR. NEWSOME: I THINK WHEN HE ANSWERED
7 THERE, HE'S QUALIFIED.

8 THE COURT: I THINK HE'S QUALIFIED. HE
9 JUST GOT CONFUSED, BUT I THINK HE WOULD BE AN
10 EXTREMELY CONSCIENTIOUS JUROR FOR EITHER SIDE.

11 (JUROR NUMBER 204 ENTERS THE
12 COURTROOM.)

13 THE COURT: THE ATTORNEYS FOR THE STATE
14 AND THE DEFENDANT AND THIS COURT FIND YOU QUALIFIED
15 TO SERVE IF SELECTED. NOW, WE ARE QUALIFYING 35
16 JURORS WHO ARE ASKED TO RETURN AT 2:30 THURSDAY. I
17 WANT YOU TO RETURN ACROSS THE STREET TO THE ANNEX
18 ROOM. THERE WILL BE SOMEBODY OVER THERE RIGHT ACROSS
19 THE STREET.

20 JURY VENIRE MEMBER: YES, SIR.

21 THE COURT: PLEASE BRING YOUR PERSONAL
22 EFFECTS SO THAT IF YOU ARE SELECTED, WE CAN START
23 RIGHT INTO THE TRIAL OF THE CASE AND WE CAN MOVE OUT
24 OF THE COURTROOM. SO BRING SUCH CLOTHING AND
25 PERSONAL EFFECTS THAT YOU WOULD REQUIRE IF SELECTED

1 ANY QUESTIONS?

2 JURY VENIRE MEMBER: NO, SIR.

3 THE COURT: DO NOT DISCUSS THIS CASE WITH
4 ANYONE, PLEASE. DON'T LET ANYONE DISCUSS IT WITH
5 YOU. DON'T READ ANYTHING ABOUT IT. PLEASE DON'T
6 DISCUSS THE QUESTIONS WE ASKED YOU IN THIS COURTROOM.

7 JURY VENIRE MEMBER: YES, SIR.

8 THE COURT: I APOLOGIZE. I KNOW YOU NEED
9 TO BE ON YOUR DUTIES, BUT WE'LL HAVE YOU BACK HERE
10 2:30 THURSDAY. YOU'RE OFF TOMORROW.

11 JURY VENIRE MEMBER: YES, SIR.

12 THE COURT: THANK YOU.

13 (JUROR NUMBER 204 IS DISMISSED
14 FROM THE COURTROOM.)

15 THE COURT: BRING THE NEXT ONE.

16 (JUROR NUMBER 147, A WHITE
17 FEMALE, ENTERS THE COURTROOM.)

18 THE CLERK: PLEASE PLACE YOUR LEFT HAND ON
19 THE BIBLE AND PLEASE RAISE YOUR RIGHT HAND. PLEASE
20 STATE YOUR NAME FOR THE RECORD.

21 JURY VENIRE MEMBER: IT'S MARCIA KOLBERG.

22 (JUROR NUMBER 147, HAVING BEEN FIRST DULY SWORN
23 BY THE CLERK OF COURT, TESTIFIED AS FOLLOWS:)

24 THE CLERK: PLEASE COME AROUND HERE AND
25 HAVE A SEAT IN THE WITNESS CHAIR.

1 THE COURT: IS IT MS. KOLBERG?

2 JURY VENIRE MEMBER: KOLBERG.

3 THE COURT: MS. KOLBERG, PLEASE HAVE A
4 SEAT AND ACCEPT MY APOLOGIES FOR KEEPING YOU WAITING
5 BACK THERE.

6 JURY VENIRE MEMBER: THAT'S OKAY.

7 THE COURT: MS. KOLBERG, ON THE INITIAL
8 INQUIRY THIS MORNING, YOU HAD INDICATED THAT YOU HAD
9 READ OR HEARD OR PERHAPS KNEW SOMETHING ABOUT THIS
10 CASE OR KNEW SOMEBODY INVOLVED IN IT. CAN YOU
11 ELABORATE ON THAT FOR ME?

12 JURY VENIRE MEMBER: MOST OF WHAT I KNOW
13 THAT I READ WAS IN THE NEWSPAPER. BUT I HAVE A SON
14 THAT ATTENDED SCHOOL WITH KEN.

15 THE COURT: ALL RIGHT. WERE THEY CLOSE
16 FRIENDS OR JUST SCHOOL?

17 JURY VENIRE MEMBER: IT'S PROBABLY BEEN
18 TEN YEARS -- EIGHT TO TEN YEARS SINCE THEY --

19 THE COURT: SO THAT WOULD NOT IMPACT?

20 JURY VENIRE MEMBER: I WOULD NOT THINK SO.

21 THE COURT: THAT WOULD NOT IMPACT. LET ME
22 ASK YOU, YOU MAY HAVE READ SOMETHING ABOUT SOME
23 ASPECT ABOUT THIS CASE. CAN YOU TELL ME THAT YOU CAN
24 PLACE WHAT YOU READ ASIDE AND BASE YOUR VERDICT ON
25 WHAT YOU HEAR IN THIS COURTROOM?

1 JURY VENIRE MEMBER: YES, SIR, BECAUSE
2 THINKING ABOUT IT TODAY, I DON'T REMEMBER READING
3 ANYTHING ABOUT IT OTHER THAN THE OFFICIAL INFORMATION
4 ABOUT A MURDER BEING COMMITTED, BUT I DON'T REMEMBER
5 ANYTHING.

6 THE COURT: DO YOU REMEMBER THE LETTER
7 THAT YOU READ?

8 JURY VENIRE MEMBER: YES, SIR.

9 THE COURT: THERE ARE THREE JURORS. IF
10 THE JURY FINDS THIS DEFENDANT NOT GUILTY, WE STOP
11 RIGHT THERE. NOW, IF -- AND I USE THE WORD ADVISEDLY
12 -- IF THE JURY FINDS HIM GUILTY UNANIMOUSLY, BEYOND A
13 REASONABLE DOUBT, THEN AND ONLY THEN WE GO INTO THE
14 SECOND PHASE.

15 NOW, THE SECOND PHASE IS AS FOLLOWS. WE THE
16 JURY, HAVING FOUND THIS DEFENDANT UNANIMOUSLY GUILTY
17 BEYOND A REASONABLE DOUBT OF MURDER, WHAT SHALL THE
18 SENTENCE BE? THAT'S THE QUESTION. YOU'VE ALREADY
19 FOUND HIM GUILTY OF MURDER. SO WHAT IS THE SENTENCE?
20 SHALL IT BE DEATH BY ELECTROCUTION OR LETHAL
21 INJECTION OR SHALL WE SENTENCE HIM TO LIFE IN PRISON?

22 NOW, ON THAT ISSUE, THE STATE OF SOUTH CAROLINA
23 WILL PRESENT FOR YOU CERTAIN EVIDENCE WHICH IN THEIR
24 VIEW INDICATES THAT THE PROPER SENTENCE IS DEATH.
25 EQUALLY IMPORTANT, THE DEFENDANT WILL PRESENT

1 MITIGATING CIRCUMSTANCES WHICH HOPEFULLY IN THEIR
2 VIEW WOULD GIVE YOU CAUSE TO RECOMMEND LIFE
3 IMPRISONMENT. YOU UNDERSTAND?

4 JURY VENIRE MEMBER: YES.

5 THE COURT: NOW, IN CONSIDERATION OF THIS
6 KIND, AS THAT LETTER INDICATES TO YOU, THERE ARE
7 THREE TYPES OF JURORS. AND THERE'S NO RIGHT OR WRONG
8 ANSWERS. IT'S ALL OF OUR HEARTFELT CONVICTION. THE
9 FIRST TYPE OF JUROR SAYS IF I FIND HIM GUILTY OF
10 MURDER BEYOND A REASONABLE DOUBT, I WILL ALWAYS BE
11 FOR THE DEATH PENALTY. THE SECOND JUROR SAYS EVEN
12 THOUGH WE HAVE FOUND HIM GUILTY OF MURDER BEYOND A
13 REASONABLE DOUBT, I CAN NEVER BE FOR THE DEATH
14 PENALTY. THERE IS A THIRD GROUP OF JURORS WHO SAYS
15 WE HAVE FOUND HIM GUILTY OF MURDER. I WILL LISTEN TO
16 THE FACTS ON THE STATE'S SIDE WHERE THEY SEEK THE
17 DEATH, AND EQUALLY IMPORTANT, I WILL LISTEN TO ALL OF
18 THE FACTS FROM THE DEFENSE WHERE THEY URGE LIFE
19 IMPRISONMENT, AND I WILL THEN MAKE MY MIND UP AS TO
20 WHAT I THINK THE PROPER PUNISHMENT WOULD BE, EITHER
21 DEATH OR LIFE.

22 WOULD YOU BE IN THE FIRST GROUP THAT SAYS ALWAYS
23 I WOULD IMPOSE DEATH OR THE SECOND GROUP THAT SAYS I
24 CAN'T IMPOSE THE DEATH SENTENCE OR THE THIRD GROUP
25 THAT SAYS I WILL CONSIDER ALL OF THE FACTS AND THEN

In The Supreme Court

APPEAL FROM CALHOUN COUNTY
Court of General Sessions

Edward B. Cottingham, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

HERMAN LEE HUGHES, JR.,

APPELLANT.

RECORD ON APPEAL

JOSEPH L. SAVITZ, III
Deputy Chief AttorneySC Office of Appellate Defense
1122 Lady Street, Suite 940
Columbia, SC 29201
(803) 734-1330
Attorney for AppellantCHARLES MOLONY CONDON
Attorney GeneralJOHN W. MCINTOSH
Deputy Attorney GeneralDONALD J. ZELENKA
Assistant Deputy Attorney GeneralOffice of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727WALTER M. BAILEY, JR., Solicitor
First Judicial Circuit134 East Richardson Avenue
Summerville, SC 29483
(803) 871-2640

Attorneys for Respondent

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1 DECIDE? WHICH WOULD YOU BE?

2 JURY VENIRE MEMBER: I THINK I WOULD BE IN
3 THE THIRD GROUP.

4 THE COURT: IN THE THIRD GROUP. AND WHAT
5 IS YOUR VIEW OF THE THIRD GROUP?

6 JURY VENIRE MEMBER: DEPENDING ON THE
7 SITUATION -- THE CIRCUMSTANCES THAT I HAVE HEARD,
8 LIKE YOU WERE SAYING, IS WHAT HAPPENED AT THAT TIME,
9 IF IT WERE LIKE -- WELL, I DON'T KNOW IF IT WAS
10 PREMEDITATED OR WHATEVER, BUT I WOULD BE ABLE TO MAKE
11 UP MY MIND BASED ON THE EVIDENCE I HEARD.

12 THE COURT: YOU COULD DECIDE EITHER WAY
13 DEPENDING ON YOUR HEARTFELT THOUGHTS?

14 JURY VENIRE MEMBER: I COULD.

15 MR. BAILEY: I'M WALTER BAILEY. I WANT TO
16 ASK YOU A FEW MORE QUESTIONS. I THINK YOUR HUSBAND
17 IS ON THE DEATH PENALTY TOO.

18 JURY VENIRE MEMBER: YES.

19 MR. BAILEY: IF Y'ALL ARE BOTH PICKED,
20 WOULD THAT CAUSE YOU ANY MARITAL PROBLEMS?

21 JURY VENIRE MEMBER: I HOPE NOT. WE'VE
22 BEEN MARRIED 27 YEARS. I HOPE NOT.

23 MR. BAILEY: DOES YOUR CHURCH HAVE ANY
24 PARTICULAR DOCTRINE ON THE DEATH PENALTY THAT YOU'RE
25 AWARE OF?

1 JURY VENIRE MEMBER: NO.

2 MR. BAILEY: DO YOU HAVE ANY PERSONAL
3 VIEWS ON THE DEATH PENALTY?

4 JURY VENIRE MEMBER: NO.

5 MR. BAILEY: IS THE DEATH PENALTY
6 SOMETHING THAT YOU'VE EVER REALLY THOUGHT ABOUT IN
7 ANY DEPTH BEFORE TODAY?

8 JURY VENIRE MEMBER: A LITTLE. I HAVE
9 THOUGHT ABOUT IT A LITTLE.

10 MR. BAILEY: OKAY. AND YOU THINK IT'S
11 APPROPRIATE IN SOME CASES AND NOT APPROPRIATE IN
12 OTHER CASES?

13 JURY VENIRE MEMBER: YES.

14 MR. BAILEY: WHICH IS PRETTY MUCH WHAT YOU
15 TOLD JUDGE COTTINGHAM?

16 JURY VENIRE MEMBER: YES.

17 MR. BAILEY: AND YOU UNDERSTAND THAT IN
18 SOUTH CAROLINA, IF WE GET TO THE SECOND PHASE,
19 MEANING THE DEFENDANT'S ALREADY BEEN FOUND GUILTY
20 BEYOND A REASONABLE DOUBT IN THE FIRST STAGE, AND THE
21 SOLE PURPOSE OF THE SECOND STAGE IS TO DECIDE THE
22 PUNISHMENT, LIFE IMPRISONMENT OR DEATH PENALTY, AND
23 WHATEVER THE JURY DECIDES THE PUNISHMENT OUGHT TO BE
24 IS WHAT THE JUDGE WILL DO.

25 JURY VENIRE MEMBER: I UNDERSTAND.

1 MR. BAILEY: IF THE JURY DECIDES ON LIFE
2 IN PRISON, IT'S LIFE IN PRISON. IF IT VOTES FOR THE
3 DEATH PENALTY, THEN YOU WOULD HAVE TO ASSUME THAT THE
4 DEATH PENALTY WOULD BE IMPOSED. IF YOU WERE ON A
5 JURY AND YOU GOT INTO THAT SECOND STAGE OF THE TRIAL
6 AND YOU AND THE OTHER ELEVEN JURORS AFTER HEARING ALL
7 OF THAT ADDITIONAL EVIDENCE COME OUT AND DECIDE THAT
8 THE DEATH PENALTY IS THE APPROPRIATE PENALTY FOR THAT
9 DEFENDANT, IN ORDER FOR THAT SENTENCE TO BE PUT INTO
10 EFFECT, THEN EACH JUROR HAS TO SIGN THEIR NAME TO A
11 PIECE OF PAPER, A DEATH VERDICT FORM. COULD YOU SIGN
12 YOUR NAME TO A PAPER LIKE THAT KNOWING THAT IT WOULD
13 RESULT IN AN EXECUTION?

14 JURY VENIRE MEMBER: IF I HAD MADE UP MY
15 MIND THAT I FELT THAT THAT WAS WHAT NEEDED TO BE
16 DONE, YES, I COULD SIGN IT.

17 MR. BAILEY: COULD YOU COME INTO COURT AND
18 ANNOUNCE THAT DECISION?

19 JURY VENIRE MEMBER: YES.

20 MR. BAILEY: THERE'S A PROCESS CALLED POLL
21 THE JURY WHERE EACH INDIVIDUAL GETS UP INDIVIDUALLY
22 AND SAYS THAT IS YOUR VERDICT. COULD YOU DO THAT?

23 JURY VENIRE MEMBER: YES.

24 MR. BAILEY: AND OBVIOUSLY IN THIS CASE,
25 THE DEFENDANT IS A YOUNG BLACK MAN. THE VICTIM IN

1 THIS CASE WAS A YOUNG WHITE MAN. THERE WAS ALSO A
2 YOUNG WHITE WOMAN WHO WAS SHOT WHO SURVIVED. WOULD
3 THE DIFFERENCE IN THE RACES BETWEEN THE VICTIM AND
4 THE DEFENDANT CAUSE YOU ANY PROBLEMS?

5 JURY VENIRE MEMBER: NO.

6 MR. BAILEY: WOULD YOU VIEW THE CASE ANY
7 DIFFERENTLY IF YOU HAD A WHITE DEFENDANT AND A BLACK
8 VICTIM?

9 JURY VENIRE MEMBER: NO.

10 MR. BAILEY: ALSO IN THIS CASE, THE STATE
11 ALLEGES THAT THE CRIME OCCURRED IN MARCH OF 1994. AT
12 THAT TIME, THE DEFENDANT WAS 16. RIGHT NOW, HE'S 18.
13 IF THE CRIME WAS BAD ENOUGH, COULD YOU IMPOSE THE
14 DEATH PENALTY ON SOMEONE WHO WAS 16 AT THE TIME HE
15 COMMITTED THE MURDER? I'M NOT ASKING YOU WHAT YOU'RE
16 GOING TO DO BECAUSE YOU HAVEN'T HEARD THE FACTS.

17 JURY VENIRE MEMBER: YEAH.

18 MR. BAILEY: I'M JUST ASKING YOU IF THE
19 CASE WAS BAD ENOUGH, COULD YOU IMPOSE THE DEATH
20 PENALTY?

21 JURY VENIRE MEMBER: I DO BELIEVE I COULD.

22 MR. BAILEY: OKAY. I THINK THAT'S ALL
23 I'VE GOT. THANK YOU VERY MUCH.

24 MR. NEWSOME: WOULD IT MAKE IT AN AWKWARD
25 SITUATION FOR YOU SERVING ON THE JURY WITH YOUR

1 HUSBAND, WHO I BELIEVE YOU STATED EARLIER HE KNEW THE
2 VICTIM, WOULD THAT MAKE IT MORE AWKWARD FOR YOU TO BE
3 FAIR AND IMPARTIAL?

4 JURY VENIRE MEMBER: NO, I DON'T THINK SO.

5 MR. NEWSOME: OKAY. COULD YOU -- IF YOU
6 THOUGHT THE FACTS WARRANTED IT, YOU COULD SIT THERE
7 AND RETURN A VERDICT FOR NOT GUILTY IF YOU FELT IT
8 WAS APPROPRIATE?

9 JURY VENIRE MEMBER: I THINK I COULD BE
10 VERY FAIR.

11 MR. NEWSOME: OKAY. AND IF THE SITUATION
12 WARRANTED A LIFE SENTENCE, IF YOU FOUND MY CLIENT
13 GUILTY, COULD YOU SIT THERE KNOWING THAT YOU KNEW THE
14 VICTIM AND RETURN A RECOMMENDATION OF LIFE?

15 JURY VENIRE MEMBER: YES.

16 MR. NEWSOME: IF ELEVEN OF THE OTHER
17 JURORS -- IF ELEVEN OF THE OTHER JURORS FELT THAT
18 DEATH WAS APPROPRIATE AND YOU FELT THAT A LIFE
19 SENTENCE WAS APPROPRIATE, COULD YOU STAND UP TO THEM
20 AND HOLD OUT FOR WHAT YOU BELIEVED IN?

21 JURY VENIRE MEMBER: I THINK I PROBABLY
22 COULD.

23 MR. NEWSOME: OKAY. THANK YOU.

24 THE COURT: STEP OUTSIDE JUST A MOMENT.
25 I'LL CALL HER RIGHT BACK.

1 (JUROR NUMBER 147 IS DISMISSED
2 FROM THE COURTROOM.)

3 THE COURT: MR. BAILEY?

4 MR. BAILEY: QUALIFIED.

5 MR. NEWSOME: SHE IS QUALIFIED.

6 THE COURT: OBVIOUSLY QUALIFIED.

7 (JUROR NUMBER 147 ENTERS THE
8 COURTROOM.)

9 THE COURT: MA'AM, YOU HAVE BEEN FOUND
10 QUALIFIED BY THE COURT, BY THE ATTORNEYS FOR THE
11 STATE AND THE DEFENSE. WE ARE QUALIFYING 35 JURORS
12 FROM WHICH 14 WILL BE SELECTED. I WOULD ASK, THEN,
13 THAT YOU RETURN AT 2:30 THURSDAY ACROSS THE STREET TO
14 THE ANNEX AND BRING YOUR PERSONAL EFFECTS WITH YOU SO
15 THAT YOU WILL BE ABLE TO STAY IN A MOTEL IF SELECTED.

16 JURY VENIRE MEMBER: OKAY.

17 THE COURT: ONE FURTHER THING. DON'T
18 DISCUSS THIS CASE WITH ANYONE. LET NO ONE DISCUSS IT
19 WITH YOU. DON'T -- PLEASE, PARTICULARLY NOW, I KNOW
20 THAT YOUR HUSBAND IS ON THE THIRD PANEL, AND DON'T
21 DISCUSS WITH HIM UNDER YOUR OATH THE QUESTIONS AND
22 ANSWERS. JUST TELL HIM NO.

23 JURY VENIRE MEMBER: OKAY.

24 THE COURT: IT'S DIFFICULT TO SAY NO, BUT
25 I SUSPECT YOU CAN TELL HIM. I BET YOU CAN. THANK

1 YOU.

2 JURY VENIRE MEMBER: THANK YOU.

3 THE COURT: SEE YOU OVER THERE AT 2:30.

4 (JUROR NUMBER 147 IS DISMISSED
5 FROM THE COURTROOM.)

6 THE COURT: BRING THE NEXT ONE.

7 (JUROR NUMBER 110, A WHITE
8 MALE, ENTERS THE COURTROOM.)

9 THE CLERK: ALL RIGHT, SIR. IF YOU PLEASE
10 COME AROUND IN FRONT OF HERE. PLEASE PLACE YOUR LEFT
11 HAND ON THE BIBLE. PLEASE RAISE YOUR RIGHT HAND.
12 PLEASE STATE YOUR NAME FOR THE RECORD.

13 JURY VENIRE MEMBER: CARROLL H. HUDSON..
14 (JUROR NUMBER 110, HAVING BEEN FIRST DULY SWORN
15 BY THE CLERK OF COURT, TESTIFIED AS FOLLOWS:)

16 THE CLERK: PLEASE COME AND HAVE A SEAT
17 AROUND HERE.

18 THE COURT: MR. HUDSON, GOOD AFTERNOON.

19 JURY VENIRE MEMBER: GOOD AFTERNOON, SIR.

20 THE COURT: THIS IS A SLOW PROCESS, BUT WE
21 APPRECIATE YOUR PATIENCE.

22 JURY VENIRE MEMBER: THAT'S ALL RIGHT.

23 THE COURT: YOU HAVE NOT HEARD OR READ OR
24 KNOW ANYTHING ABOUT THIS CASE OR KNOW ANYBODY
25 INVOLVED IN IT?

1 JURY VENIRE MEMBER: NO, SIR.

2 THE COURT: DID YOU HAVE THE OPPORTUNIT
3 TO READ THE LETTER THAT DESCRIBED THE THREE TYPES OF
4 JURORS?

5 JURY VENIRE MEMBER: YEAH.

6 THE COURT: YOU UNDERSTAND, OF COURSE,
7 THAT WE'LL HAVE TWO PHASES IN THE TRIAL. THE FIRST
8 PHASE CONCERNS THE GUILT OR INNOCENCE OF THE
9 DEFENDANT. IF THE JURY FINDS HIM INNOCENT, WE STOP
10 THERE. IF THE JURY UNANIMOUSLY FINDS HIM GUILTY OF
11 MURDER BEYOND A REASONABLE DOUBT, WE WOULD THEN GO TO
12 THE SECOND PHASE, WHICH IS THE SENTENCING PHASE. DO
13 YOU UNDERSTAND?

14 JURY VENIRE MEMBER: YES, SIR.

15 THE COURT: NOW, UNDER THE SENTENCING
16 PHASE, THE JURY WOULD BE REQUIRED TO DECIDE WHETHER
17 THE DEFENDANT AS A RESULT OF HIS CONVICTION SHOULD BE
18 SENTENCED TO DEATH OR LIFE IMPRISONMENT. THAT WOULD
19 BE FOR THE JURY TO DECIDE. NOW, THERE'S NO RIGHT OR
20 WRONG ANSWERS TO THIS, BUT THERE'S GENERALLY THREE
21 GROUPS OF PEOPLE, AS THAT LETTER INDICATES.

22 THERE'S A FIRST GROUP THAT SAYS HAVING CONVICTED
23 HIM OF MURDER BEYOND A REASONABLE DOUBT, I WILL
24 ALWAYS IMPOSE THE PUNISHMENT OF DEATH. THERE'S A
25 SECOND GROUP THAT SAYS EVEN THOUGH WE FOUND HIM

1 GUILTY OF MURDER, I CAN NEVER IMPOSE THE DEATH
2 PENALTY. THERE'S A THIRD GROUP THAT SAYS WE HAVE
3 FOUND HIM GUILTY OF MURDER. I NOW AM WILLING TO
4 LISTEN TO THE FACTS AND THEN DECIDE WHETHER OR NOT I
5 SHOULD IMPOSE LIFE OR DEATH.

6 WOULD YOU BE IN THE FIRST GROUP THAT SAYS
7 ALWAYS, THE SECOND THAT SAYS NEVER OR THE THIRD THAT
8 SAYS I'M GOING TO CONSIDER ALL OF THE FACTS ON BOTH
9 SIDES OF THIS QUESTION AND THEN I'LL DECIDE? WOULD
10 YOU BE FIRST, SECOND OR THIRD?

11 JURY VENIRE MEMBER: THIRD.

12 THE COURT: THIRD. WHAT DO YOU THINK THE
13 THIRD MEANS?

14 JURY VENIRE MEMBER: TO MAKE YOUR OWN MIND
15 UP OF THE EVIDENCE PRESENTED TO THE COURT.

16 THE COURT: AND YOU ARE SAYING THAT EVEN
17 THOUGH YOU FOUND HIM GUILTY OF MURDER, YOU MIGHT GIVE
18 HIM THE ELECTRIC -- DEATH OR YOU COULD GIVE HIM LIFE
19 IMPRISONMENT? IS THAT WHAT YOU'RE SAYING?

20 JURY VENIRE MEMBER: YES, SIR.

21 THE COURT: OKAY.

22 MR. BAILEY: THANK YOU, YOUR HONOR. MR.
23 HUDSON, I NOTICE THAT YOU HAD SOME PREVIOUS CRIMINAL
24 JURY SERVICE BACK IN 1977 --

25 JURY VENIRE MEMBER: YES, SIR.

1 MR. BAILEY: -- IS THAT CORRECT? OKAY.
2 WAS THAT TRIAL -- DID YOU ACTUALLY SIT ON A TRIAL
3 JUST --

4 JURY VENIRE MEMBER: I WAS SELECTED TO THE
5 JURY, BUT THE DEFENDANT CHANGED HIS PLEA BEFORE IT
6 WENT TO TRIAL.

7 MR. BAILEY: AND YOU UNDERSTAND THE
8 TWO-PART PROCESS THAT WE WOULD GO THROUGH IN THIS
9 TRIAL OR MAY GO THROUGH IN THIS TRIAL?

10 JURY VENIRE MEMBER: YES.

11 MR. BAILEY: THE TWO-PART PHASE, IF I
12 CAN'T CONVINCED THE JURY OF THE DEFENDANT'S GUILT
13 THROUGH THE EVIDENCE, THAT HE WOULD GO HOME; IF I
14 CAN, WE WOULD GO TO THE PENALTY PHASE.

15 JURY VENIRE MEMBER: YES, SIR.

16 MR. BAILEY: AND YOU UNDERSTAND THAT ANY
17 TIME YOU GET INTO THE PENALTY PHASE, THE DEFENDANT IS
18 A CONVICTED MURDERER OR HE WON'T BE THERE, AND THE
19 PURPOSE OF THAT PENALTY PHASE IS TO HAVE THE JURY
20 HEAR ADDITIONAL EVIDENCE AND TESTIMONY AND ADDITIONAL
21 INSTRUCTIONS FROM THE JUDGE THAT RELATE TO
22 PUNISHMENT. I WOULD BE TRYING TO CONVINCED THE JURY
23 TO BRING BACK THE DEATH PENALTY. THE DEFENSE WOULD
24 BE TRYING TO CONVINCED THE JURY TO BRING BACK LIFE IN
25 PRISON.

1 AND ARE YOU TELLING US THAT YOU WOULD CONTINUE
2 TO PAY ATTENTION TO ALL OF THAT ADDITIONAL EVIDENCE
3 IN THAT PENALTY PHASE AND THAT YOU COULD VOTE FOR
4 LIFE IN PRISON OR YOU COULD VOTE FOR THE DEATH
5 PENALTY DEPENDING ON WHAT YOU HEARD?

6 JURY VENIRE MEMBER: YES, SIR.

7 MR. BAILEY: ALL RIGHT, SIR. AND IF YOU
8 AND THE OTHER ELEVEN JURORS ARE IN THE SECOND PHASE
9 OF A DEATH PENALTY TRIAL AND YOU DECIDE AFTER HEARING
10 ALL OF THAT ADDITIONAL EVIDENCE THAT OUT OF THOSE TWO
11 CHOICES, THE DEATH PENALTY IS THE APPROPRIATE
12 PUNISHMENT FOR THAT DEFENDANT, IN ORDER TO PUT THAT
13 SENTENCE INTO EFFECT, EACH JUROR WOULD NEED TO SIGN
14 THEIR NAMES TO A PIECE OF PAPER, AND THE RESULT OF
15 THAT WOULD BE THE DEFENDANT ACTUALLY WOULD BE PUT TO
16 DEATH. COULD YOU SIGN YOUR NAME TO A PAPER LIKE THAT
17 IF YOU AND THE OTHER ELEVEN JURORS HAD REACHED THAT
18 DECISION?

19 JURY VENIRE MEMBER: YES, SIR.

20 MR. BAILEY: COULD YOU COME OUT IN OPEN
21 COURT AND ANNOUNCE THAT DECISION IN FRONT OF THE
22 DEFENDANT, HIS LAWYER AND WHOEVER ELSE MIGHT BE OUT
23 HERE?

24 JURY VENIRE MEMBER: COULD I ANNOUNCE THAT
25 IN FRONT OF THE LAWYERS AND THE COURT?

1 MR. BAILEY: IF THAT WAS YOUR DECISION.

2 JURY VENIRE MEMBER: YES, SIR.

3 MR. BAILEY: AND OBVIOUSLY, IN THIS CASE,
4 THE DEFENDANT IS A YOUNG BLACK MAN. THE EVIDENCE
5 WOULD BE THAT THE VICTIM WHO WAS KILLED WAS A YOUNG
6 WHITE MALE. WOULD THE DIFFERENCE IN THE RACE ENTER
7 INTO YOUR DECISION?

8 JURY VENIRE MEMBER: NO, SIR.

9 MR. BAILEY: WOULD YOU VIEW THE CASE THE
10 SAME AS IF YOU HAD A WHITE DEFENDANT AND A BLACK
11 VICTIM?

12 JURY VENIRE MEMBER: YES, SIR.

13 MR. BAILEY: THE STATE ALSO ALLEGES THAT
14 THIS CRIME OCCURRED IN MARCH OF 1994 AND THAT AT THAT
15 TIME THE DEFENDANT WAS 16 YEARS OLD. HE'S NOW 18.
16 IF THE CASE IS BAD ENOUGH, COULD YOU AS A JUROR
17 IMPOSE THE DEATH PENALTY ON A PERSON WHO WAS 16 YEARS
18 OLD AT THE TIME HE COMMITTED THE MURDER?

19 JURY VENIRE MEMBER: I DON'T KNOW.

20 MR. BAILEY: NOW, YOU UNDERSTAND I'M NOT
21 ASKING YOU TO PREDICT WHAT YOU WOULD DO IN THIS CASE
22 IF YOU WERE ON THIS JURY BECAUSE YOU HAVEN'T HEARD
23 THE EVIDENCE. I'M JUST ASKING YOU IF IN GENERAL, IF
24 THE CASE WAS BAD ENOUGH, COULD YOU IMPOSE THE DEATH
25 PENALTY ON A PERSON WHO WAS 16 AT THE TIME OF THE

1 MURDER?

2 JURY VENIRE MEMBER: I -- I BELIEVE I
3 COULD.

4 MR. BAILEY: ALL RIGHT, SIR. I NOTICE IN
5 YOUR QUESTIONNAIRE THAT YOU'VE GOT A SON WHO IS 17,
6 ANOTHER SON WHO IS 15.

7 JURY VENIRE MEMBER: YES, SIR.

8 MR. BAILEY: AND OF COURSE, THAT ONE'S A
9 YEAR OLDER AND ONE'S A YEAR YOUNGER THAN THIS YOUNG
10 MAN WAS IN MARCH OF 1994. COULD YOU PUT THAT FAMILY
11 SITUATION ASIDE IN REACHING THAT LIFE-AND-DEATH
12 DECISION?

13 JURY VENIRE MEMBER: I DON'T UNDERSTAND
14 WHAT YOU'RE SAYING.

15 MR. BAILEY: COULD YOU PUT ASIDE THE FACT
16 THAT YOU'VE GOT SONS THAT WERE HIS SAME AGE IN MARCH
17 OF LAST YEAR WHEN YOU ARE CONSIDERING THAT? I MEAN,
18 IN ORDER TO -- FIRST OF ALL, THE GUILT PHASE, YOU'VE
19 GOT TO DECIDE GUILT OR INNOCENCE BASED ON THE
20 EVIDENCE AND PUT ASIDE ANYTHING FROM OUTSIDE OF THE
21 COURTROOM, AND THE SAME THING WITH THE PENALTY PHASE.
22 YOU NEED TO BASE YOUR DECISION STRICTLY ON THE
23 EVIDENCE IN THAT CASE AND NOT ON ANY KIND OF OUTSIDE
24 FACTOR.

25 JURY VENIRE MEMBER: NO, NO OUTSIDE

1 FACTOR.

2 MR. BAILEY: OKAY.

3 JURY VENIRE MEMBER: I WOULDN'T -- WOULD
4 MAKE MY DECISION -- WOULDN'T MAKE MY DECISION WHETHER
5 MY TWO SONS ARE 15 OR 26 OR ANYTHING.

6 MR. BAILEY: ALL RIGHT, SIR.

7 JURY VENIRE MEMBER: I WOULD MAKE A
8 DECISION ON WHAT I HEARD IN THE COURTROOM.

9 MR. BAILEY: SO IS YOUR ANSWER THAT IF THE
10 CASE IS BAD ENOUGH, THAT YOU COULD IMPOSE THE DEATH
11 PENALTY?

12 JURY VENIRE MEMBER: YES, SIR.

13 MR. BAILEY: ALL RIGHT. THANK YOU VERY
14 MUCH.

15 MR. NEWSOME: I NOTICE YOU HESITATED WHEN
16 HE FIRST ASKED YOU ABOUT WHETHER YOU COULD IMPOSE THE
17 DEATH PENALTY ON A PERSON WHO WAS 16 WHEN THE
18 INCIDENT OCCURRED. DOES YOUTHFULNESS -- IS THAT A
19 FACTOR THAT YOU THINK IS SIGNIFICANT IN CONSIDERING
20 THE APPROPRIATENESS FOR THE PENALTY?

21 JURY VENIRE MEMBER: I THINK THAT IT WOULD
22 MAKE ME THINK LONGER, YOU KNOW, ON 16 THAN I WOULD AN
23 ADULT.

24 MR. NEWSOME: ALL RIGHT, SIR. AND IF
25 THERE WERE OTHER EVIDENCE OF MITIGATION, YOU WOULD

1 CONSIDER THOSE ALSO?

2 JURY VENIRE MEMBER: I DON'T UNDERSTAND
3 YOU.

4 MR. NEWSOME: IN OUR STATE, WE HAVE -- IF
5 WE GOT TO THE PENALTY PHASE --

6 JURY VENIRE MEMBER: UH-HUH.

7 MR. NEWSOME: -- THERE ARE SITUATIONS --
8 YOU HAVE TO MAKE DECISIONS ABOUT WHETHER THERE ARE
9 CIRCUMSTANCES OF AGGRAVATION. HIS HONOR WILL CHARGE
10 YOU WHAT THOSE ARE, AND ONCE YOU DECIDE THAT THERE
11 ARE, THEN YOU HAVE TO CONSIDER IF THERE ARE ANY
12 MITIGATING FACTORS THAT WE WOULD OFFER TO YOU. OKAY?
13 AND MY QUESTION IS, WOULD YOU CONSIDER ALL OF THE
14 MITIGATING FACTORS BEFORE YOU MADE A DECISION?

15 JURY VENIRE MEMBER: YES. YES, SIR.

16 MR. NEWSOME: OKAY. HOW LONG HAVE YOU
17 LIVED HERE, SIR?

18 JURY VENIRE MEMBER: ABOUT
19 FIVE-AND-A-HALF, SIX YEARS.

20 MR. NEWSOME: ABOUT FIVE-AND-A-HALF, SIX
21 YEARS. OKAY. AND WHERE DID YOU LIVE PRIOR TO MOVING
22 HERE?

23 JURY VENIRE MEMBER: WEST COLUMBIA.

24 MR. NEWSOME: ALL RIGHT. THANK YOU, SIR.
25 THAT'S IT.

1 THE COURT: THANK YOU. STEP OUT JUST A
2 MOMENT AND I'LL CALL YOU RIGHT BACK.

3 (JUROR NUMBER 110 IS DISMISSED
4 FROM THE COURTROOM.)

5 MR. BAILEY: QUALIFIED.

6 MR. NEWSOME: HE'S QUALIFIED.

7 (JUROR NUMBER 110 ENTERS THE
8 COURTROOM.)

9 THE COURT: MR. JUROR, WE ARE QUALIFYING
10 PEOPLE. THE ATTORNEYS FOR THE STATE AND THE DEFENSE
11 FIND YOU QUALIFIED TO SERVE IF SELECTED. OF COURSE,
12 WE ARE GOING TO BE SELECTING 12 JURORS AND TWO
13 ALTERNATES FROM THE 35. YOU ARE QUALIFIED TO SERVE.

14 WE WANT YOU TO BRING YOUR PERSONAL EFFECTS WITH
15 YOU SO THAT IF SELECTED, YOU WILL BE IN A POSITION TO
16 STAY WITH US FOR A FEW DAYS. REPORT THURSDAY
17 AFTERNOON AT 2:30 WITH YOUR PERSONAL EFFECTS AND MEET
18 OVER THERE IN THE ANNEX. YOU KNOW WHERE THE ANNEX IS
19 ACROSS THE ROAD OVER THERE?

20 JURY VENIRE MEMBER: THE NEW BUILDING?

21 THE COURT: IS IT A NEW BUILDING? IF YOU
22 DON'T FIND IT, YOU COME OVER HERE AND I'LL TAKE YOU
23 OVER THERE, BUT YOU CAN FIND IT. BE OVER THERE 2:30
24 THURSDAY AFTERNOON. THANK YOU SO MUCH.

25 (JUROR NUMBER 110 IS DISMISSE

1 FROM THE COURTROOM.)

2 THE COURT: NEXT ONE, PLEASE.

3 (JUROR NUMBER 205, A WHITE

4 MALE, ENTERS THE COURTROOM.)

5 THE CLERK: PLEASE PLACE YOUR LEFT HAND ON

6 THE BIBLE AND PLEASE RAISE YOUR RIGHT HAND. PLEASE

7 STATE YOUR NAME FOR THE RECORD.

8 JURY VENIRE MEMBER: TEDDY POUND.

9 (JUROR NUMBER 205, HAVING BEEN FIRST DULY SWORN

10 BY THE CLERK OF COURT, TESTIFIED AS FOLLOWS:)

11 THE CLERK: PLEASE COME AROUND AND HAVE A

12 SEAT.

13 THE COURT: GOOD AFTERNOON, MR. POUND.

14 JURY VENIRE MEMBER: GOOD AFTERNOON.

15 THE COURT: I WANT TO APOLOGIZE TO YOU FOR

16 HAVING YOU WAIT, BUT THIS IS A SLOW, ARDUOUS PROCESS.

17 JURY VENIRE MEMBER: NO PROBLEM.

18 THE COURT: YOU HAD INDICATED IN

19 DISCUSSING THIS MORNING THAT YOU HAD NOT SEEN OR

20 HEARD OR READ ANYTHING ABOUT THE CASE OR KNEW ANYBODY

21 INVOLVED IN IT. IS THAT STILL YOUR ANSWER?

22 JURY VENIRE MEMBER: YES.

23 THE COURT: DID YOU READ ABOUT THE THREE

24 JURORS?

25 JURY VENIRE MEMBER: YES.

1 THE COURT: YOU WOULD UNDERSTAND THAT THAT
2 IS JUST SOMEBODY'S OPINION ABOUT A VERY DIFFICULT
3 ISSUE. THERE ARE NO RIGHT OR WRONG ANSWERS. NOW LET
4 ME REPEAT WHAT I SAID EARLIER. THIS WOULD POSSIBLY
5 BE A TWO-PHASE TRIAL. THE FIRST PHASE IS TO
6 DETERMINE THE INNOCENCE OR GUILT OF THE DEFENDANT.
7 IF HE'S FOUND INNOCENT, WE STOP RIGHT THERE. YOU
8 UNDERSTAND?

9 JURY VENIRE MEMBER: YES.

10 THE COURT: NOW, IF THE JURY UNANIMOUSLY
11 FINDS THIS DEFENDANT GUILTY OF MURDER BEYOND A
12 REASONABLE DOUBT, WE WOULD THEN GO TO THE SECOND
13 PHASE, WHICH IS THE PUNISHMENT PHASE. DO YOU
14 UNDERSTAND THAT?

15 JURY VENIRE MEMBER: YES, SIR.

16 THE COURT: IN THAT PHASE, THE QUESTION
17 WOULD BE, WE HAVE FOUND THE DEFENDANT GUILTY OF
18 MURDER BEYOND A REASONABLE DOUBT, WHAT NOW SHALL THE
19 PUNISHMENT BE? WILL WE IMPOSE THE PUNISHMENT OF
20 DEATH OR WILL WE IMPOSE THE PUNISHMENT OF LIFE?

21 NOW, ON THIS QUESTION, THERE ARE GENERALLY THREE
22 TYPES OF JURORS AS THAT LETTER STATES. THE FIRST
23 TYPE SAYS WE FIND HIM GUILTY OF MURDER BEYOND A
24 REASONABLE DOUBT, I WILL ALWAYS VOTE FOR THE PENALTY
25 OF DEATH. THE SECOND GROUP SAYS EVEN THOUGH WE FOUND

1 HIM GUILTY OF MURDER, I CAN NEVER VOTE FOR THE
2 PENALTY OF DEATH. THERE'S A THIRD, A THIRD GROUP,
3 HOWEVER, THAT SAYS WE HAVE FOUND HIM GUILTY OF
4 MURDER. I WILL NOW LISTEN TO ALL OF THE FACTS WHICH
5 SUGGEST THAT DEATH IS THE APPROPRIATE PUNISHMENT.
6 EQUALLY IMPORTANT, I WILL LISTEN TO ALL OF THE
7 MITIGATING CIRCUMSTANCES WHICH SUGGEST THAT LIFE IS
8 THE APPROPRIATE PUNISHMENT. THAT THIRD JUROR SAYS I
9 WILL LISTEN BOTH WAYS, AND DEPENDING ON WHAT I FIND
10 TO BE THE FACTS, I CAN VOTE FOR THE DEATH PENALTY,
11 BUT I CAN ALSO AND WILL CONSIDER LIFE IMPRISONMENT.
12 WOULD YOU BE IN THE FIRST, SECOND OR THIRD?

3 JURY VENIRE MEMBER: I WOULD BE IN THE
14 THIRD.

15 THE COURT: IN THE THIRD. THANK YOU SO
16 MUCH. YOU MAY EXAMINE.

17 MR. BAILEY: I'M WALTER BAILEY. I WANT TO
18 ASK YOU A COUPLE OF QUESTIONS TO FOLLOW UP ON WHAT
19 THE JUDGE ASKED YOU. I NOTICE THAT YOU'VE BEEN ON --
20 HAVE BEEN A JUROR BEFORE IN A CRIMINAL CASE; IS THAT
21 CORRECT.

22 JURY VENIRE MEMBER: THAT'S CORRECT, SIR.

23 MR. BAILEY: ABOUT HOW FAR BACK IS THAT?

24 JURY VENIRE MEMBER: THAT MUST HAVE BEEN
25 ABOUT 23 YEARS.

1 MR. BAILEY: OKAY. DID YOU ACTUALLY SERVE
2 ON THE JURY OR JUST THE PANEL?

3 JURY VENIRE MEMBER: I WAS FOREMAN OF THE
4 JURY.

5 MR. BAILEY: YOU UNDERSTAND THE FIRST
6 STAGE OF THIS TRIAL WOULD BE JUST LIKE THAT TRIAL
7 THAT YOU SERVED ON YEARS AGO WHERE THE SOLE PURPOSE
8 OF THE JURY BEING THERE IS TO DETERMINE WHETHER OR
9 NOT THE STATE CAN PROVE THE DEFENDANT GUILTY BEYOND A
10 REASONABLE DOUBT.

11 JURY VENIRE MEMBER: YES.

12 MR. BAILEY: IF I CAN'T DO IT, THEN WE ALL
13 GO HOME AND IT'S OVER. ON THE OTHER HAND, IF I CAN
14 CONVINCED YOU AS A JUROR THROUGH THE EVIDENCE THAT THE
15 DEFENDANT'S GUILTY OF MURDER BEYOND A REASONABLE
16 DOUBT, WE WOULD THEN GO TO THE PENALTY PHASE.

17 JURY VENIRE MEMBER: I DO.

18 MR. BAILEY: AND THE JURY WOULD HEAR
19 ADDITIONAL EVIDENCE AT THAT TIME. I WOULD BE TRYING
20 TO CONVINCED THE JURY THROUGH MY EFFORTS TO BRING BACK
21 THE DEATH PENALTY. THE DEFENSE WOULD BE TRYING TO
22 CONVINCED YOU TO BRING BACK LIFE IMPRISONMENT. AND
23 WHATEVER THE JURY DECIDES, THAT SECOND PHASE IS WHAT
24 WOULD ACTUALLY HAPPEN. THE JURY MAKES THE DECISION,
25 NOT THE JUDGE.

1 JURY VENIRE MEMBER: OKAY.

2 MR. BAILEY: IF YOU WERE PICKED ON A JURY
3 AND GOT TO THAT SECOND STAGE AND YOU AND THE OTHER
4 ELEVEN JURORS AFTER HEARING ALL OF THAT TESTIMONY
5 DECIDED THAT THE DEATH PENALTY WAS THE APPROPRIATE
6 PUNISHMENT FOR THAT PARTICULAR DEFENDANT, IN ORDER TO
7 PUT THAT PUNISHMENT INTO EFFECT, THEN EACH JUROR
8 WOULD HAVE TO SIGN THEIR NAMES TO A DEATH VERDICT
9 FORM. COULD YOU SIGN YOUR NAME TO A PAPER LIKE THAT
10 KNOWING THAT THE RESULT WOULD BE THE EXECUTION OF THE
11 DEFENDANT?

12 JURY VENIRE MEMBER: YES, I COULD.

13 MR. BAILEY: AND COULD YOU COME OUT IN
14 OPEN COURT AND ANNOUNCE THAT DECISION IF IT WAS YOUR
15 DECISION?

16 JURY VENIRE MEMBER: YES, I COULD.

17 MR. BAILEY: ALL RIGHT, SIR. OBVIOUSLY,
18 IN THIS CASE, MR. POUND, THE DEFENDANT IS A YOUNG
19 BLACK MAN, AND THE STATE'S EVIDENCE WILL PROVE THAT
20 THE VICTIM WAS A YOUNG WHITE MALE. THERE WAS ALSO A
21 YOUNG WHITE WOMAN WHO WAS SHOT BUT SURVIVED THAT
22 SHOOTING. WOULD THE DIFFERENCE IN THE RACE BETWEEN
23 THE VICTIM AND THE DEFENDANT ENTER INTO YOUR
24 DELIBERATIONS?

25 JURY VENIRE MEMBER: NO, SIR, IT WOULD

1 NOT.

2 MR. BAILEY: WOULD YOU VIEW THE CASE THE
3 SAME WAY AS IF WE HAD A WHITE DEFENDANT CHARGED WITH
4 MURDERING A BLACK VICTIM?

5 JURY VENIRE MEMBER: AS A CHRISTIAN, I
6 SURE WOULD NOT.

7 MR. BAILEY: AND YOU HAVE TWO SONS, ONE 21
8 AND ONE 19?

9 JURY VENIRE MEMBER: YES, SIR.

10 MR. BAILEY: THE STATE ALLEGES THAT THIS
11 CRIME OCCURRED IN MARCH OF 1994. AT THAT TIME, THE
12 DEFENDANT WAS 16 YEARS OLD. HE'S NOW 18. IF THE
13 CASE WAS BAD ENOUGH, COULD YOU IMPOSE THE DEATH
14 PENALTY ON A PERSON WHO WAS 16 AT THE TIME HE
15 COMMITTED THE MURDER?

16 JURY VENIRE MEMBER: I WOULD HAVE TO HEAR
17 THE CIRCUMSTANCES, BUT THAT'S TOUGH. YES, SIR, I
18 GUESS I WOULD.

19 MR. BAILEY: ALL RIGHT, SIR. NOW, YOU
20 UNDERSTAND, NOBODY, NOT THE JUDGE, NOT ME, NOT MR.
21 NEWSOME IS GOING TO ASK YOU TO PREDICT WHAT YOU WOULD
22 DO IN THIS CASE.

23 JURY VENIRE MEMBER: YES, SIR.

24 MR. BAILEY: BECAUSE YOU HAVEN'T HEARD THE
25 FACTS.

1 JURY VENIRE MEMBER: RIGHT.

2 MR. BAILEY: AND WHAT WE WANT TO KNOW IS
3 IN THE ABSTRACT, IN GENERAL, IF THE CASE IS BAD
4 ENOUGH, COULD YOU IMPOSE THE DEATH PENALTY ON A 16
5 YEAR OLD?

6 JURY VENIRE MEMBER: YES, SIR, I COULD. I
7 MEAN, THAT WOULD BE HARD, HAVING TWO SONS OF MY OWN.

8 MR. BAILEY: WELL, DO YOU THINK HAVING
9 SONS THAT AGE WOULD ENTER INTO YOUR DELIBERATION?
10 WOULD THAT ENTER INTO YOUR THOUGHT PROCESSES OR COULD
11 YOU PLACE THAT FACTOR ASIDE AND BASE YOUR DECISION
12 STRICTLY ON THE EVIDENCE THAT YOU'VE HEARD?

13 JURY VENIRE MEMBER: I WOULD HAVE TO SET
14 THIS ASIDE. THIS IS A DIFFERENT MATTER CONCERNING
15 THIS YOUNG MAN.

16 MR. BAILEY: I THINK THAT'S ALL I'VE GOT.
17 THANK YOU VERY MUCH.

18 THE COURT: MR. NEWSOME, DO YOU HAVE ANY
19 INQUIRY?

20 MR. NEWSOME: NONE, YOUR HONOR.

21 THE COURT: ALL RIGHT. HAVE HIM STEP
22 OUTSIDE.

23 (JUROR NUMBER 205 IS DISMISSED
24 FROM THE COURTROOM.)

25 THE COURT: YOU UNDERSTAND YOU'RE FULLY

1 ENTITLED TO EXAMINE IF YOU DESIRE TO?

2 MR. NEWSOME: YES, SIR.

3 THE COURT: WHAT SAY THE STATE?

4 MR. BAILEY: QUALIFIED, YOUR HONOR.

5 MR. NEWSOME: HE'S QUALIFIED, YOUR HONOR.

6 (JUROR NUMBER 205 ENTERS THE
7 COURTROOM.)

8 THE COURT: MR. JUROR, WE ARE QUALIFYING
9 PEOPLE FROM WHICH WE WILL SELECT A JURY OF TWELVE AND
10 TWO ALTERNATES. THE ATTORNEYS FOR THE STATE AND THE
11 ATTORNEYS FOR THE DEFENSE AND MYSELF FIND YOU
12 IMMEDIATELY QUALIFIED TO SERVE IF SELECTED. I WOULD
13 ASK THAT YOU RETURN AT 2:30 THURSDAY AFTERNOON AT THE
14 ANNEX ACROSS THE STREET OVER THERE.

15 JURY VENIRE MEMBER: YES, SIR.

16 THE COURT: AND PLEASE BRING YOUR PERSONAL
17 EFFECTS WITH YOU SO THAT YOU WOULD BE PREPARED TO
18 SERVE IN A MOTEL IF SELECTED.

19 JURY VENIRE MEMBER: I WILL.

20 THE COURT: DO NOT DISCUSS THIS CASE WITH
21 ANYONE. NO ONE TO DISCUSS IT WITH YOU. DO NOT
22 DISCUSS THE QUESTIONS OR ANSWERS WE ASKED YOU.

23 JURY VENIRE MEMBER: YOU HAVE MY WORD.

24 THE COURT: SEE YOU AT 2:30. THANK YOU SO
25 MUCH.

1 (JUROR NUMBER 205 IS DISMISSED
2 FROM THE COURTROOM.)

3 THE COURT: ALL RIGHT. NOW, GENTLEMEN, WE
4 HAVE SELECTED 15. IF YOU CARE TO, WE'LL GO ON TO
5 7:30 AND QUIT, OR WE'LL QUIT NOW. DO YOU FEEL LIKE
6 TRYING TO WORK ANOTHER 30 MINUTES OR PREFER TO QUIT?

7 MR. BAILEY: YOUR HONOR, WHATEVER THE
8 COURT PREFERS WE DO.

9 THE COURT: WELL, LET'S GO AHEAD AND WORK
10 UNTIL 7:30, IF YOU WILL. I'M TRYING TO INCONVENIENCE
11 THIS PANEL AS LESS I COULD. DO YOU HAVE ANY REAL
12 PROBLEM WITH THAT, MR. NEWSOME?

13 MR. NEWSOME: I CAN LIVE WITH THAT.

14 THE COURT: OKAY. NOW, WE'RE GOING TO
15 QUIT HERE AT 7:30, I CAN PROMISE YOU. BRING THE NEXT
16 JUROR IN. SINCE WE HAD THEM COME BACK AT 5:30, I
17 FEEL LIKE WE OUGHT TO WORK TWO HOURS WITH THEM.

18 (JUROR NUMBER 49, A WHITE
19 FEMALE, ENTERS THE COURTROOM.)

20 THE CLERK: STATE YOUR NAME FOR THE
21 RECORD.

22 JURY VENIRE MEMBER: JACQUELINE DYCHES.

23 (JUROR NUMBER 49, HAVING BEEN FIRST DULY SWORN
24 BY THE CLERK OF COURT, TESTIFIED AS FOLLOWS:)

25 THE COURT: TELL ME HOW TO PRONOUNCE YOUR

1 NAME.

2 JURY VENIRE MEMBER: JACQUELINE.

3 THE COURT: YES, MA'AM.

4 JURY VENIRE MEMBER: DYCHES.

5 THE COURT: MS. DYCHES, I NOTE THAT YOU
6 ARE A LEGAL SECRETARY, AND I NOTE THAT SOME OF YOUR
7 FAMILY HAS PREVIOUSLY WORKED FOR LAW ENFORCEMENT IN
8 CALHOUN COUNTY. WHO WOULD THAT HAVE BEEN?

9 JURY VENIRE MEMBER: IT WAS MY BROTHER,
10 TIM RAINEY, ABOUT TEN YEARS AGO.

11 THE COURT: TEN YEARS AGO. AND YOU ARE
12 CURRENTLY EMPLOYED WITH FELDER AND WHITESTONE AT THIS
13 TIME?

14 JURY VENIRE MEMBER: NO, SIR. I'M
15 CURRENTLY EMPLOYED AT UNION CAMP.

16 THE COURT: UNION CAMP. HOW LONG -- WHEN
17 WERE YOU LAST EMPLOYED AS A LEGAL SECRETARY?

18 JURY VENIRE MEMBER: TWELVE YEARS AGO.

19 THE COURT: TWELVE YEARS AGO. YOU HAD
20 INDICATED EARLIER TODAY THAT YOU HAD NOT HEARD OR
21 DISCUSSED THIS CASE WITH ANYONE. IS THAT STILL YOUR
22 RESPONSE?

23 JURY VENIRE MEMBER: YES, SIR.

24 THE COURT: YOU WOULD NOT BE RELATED TO OR
25 HAVE ANY CLOSE PERSONAL CONNECTION WITH EITHER THE

1 VICTIMS OR THE DEFENDANT?

2 JURY VENIRE MEMBER: NO.

3 THE COURT: DID YOU HAVE A CHANCE TO READ
4 THE LETTER ABOUT THE THREE TYPES OF JURORS?

5 JURY VENIRE MEMBER: YES, SIR.

6 THE COURT: DO YOU UNDERSTAND WHAT WE MEAN
7 BY THE FIRST AND SECOND PHASE OF A TRIAL OF THIS
8 KIND? LET ME EXPLAIN IT TO YOU.

9 JURY VENIRE MEMBER: WILL YOU EXPLAIN.

10 THE COURT: THE DEFENDANT IS CHARGED WITH
11 MURDER. IF IN THE FIRST PHASE HE IS FOUND NOT
12 GUILTY, WE STOP RIGHT THERE. YOU UNDERSTAND THAT.
13 NOW, IF IN THE SECOND PHASE, THE JURY FINDS HIM
14 GUILTY BY EVIDENCE BEYOND A REASONABLE DOUBT, WE
15 WOULD THEN GO INTO THE SECOND PHASE AND ONLY THEN.
16 DO YOU UNDERSTAND?

17 JURY VENIRE MEMBER: YES, SIR.

18 THE COURT: NOW, THE SECOND PHASE QUESTION
19 IS THIS. WE THE JURY, HAVING FOUND THIS DEFENDANT
20 GUILTY OF MURDER BEYOND A REASONABLE DOUBT, THAT
21 DECISION WOULD HAVE ALREADY BEEN MADE, THE QUESTION
22 IS, WHAT PUNISHMENT SHALL WE GIVE TO HIM? SHALL THAT
23 PUNISHMENT BE DEATH BY ELECTROCUTION OR LETHAL
24 INJECTION OR SHALL THE PUNISHMENT BE LIFE
25 IMPRISONMENT?

1 NOW, AS THAT LETTER INDICATED, THERE ARE THREE
2 TYPES OF JURORS IN THIS REGARD. AND THERE'S NO RIGHT
3 OR WRONG ANSWERS. THERE IS A GROUP OF PEOPLE WHO SAY
4 HAVING FOUND AN INDIVIDUAL GUILTY OF MURDER BEYOND A
5 REASONABLE DOUBT, I WILL ALWAYS INVOKE THE PENALTY OF
6 DEATH. THERE IS A SECOND GROUP THAT SAYS EVEN THOUGH
7 WE FOUND HIM GUILTY OF MURDER WITHOUT QUESTION, I CAN
8 NEVER INVOKE THE PENALTY OF DEATH. THERE IS A THIRD
9 GROUP THAT SAYS YES, WE HAVE FOUND HIM GUILTY BEYOND
10 A REASONABLE DOUBT OF MURDER. I WILL NOW LISTEN TO
11 THE AGGRAVATING CIRCUMSTANCES BY WHICH THE STATE
12 SEEKS TO IMPOSE THE PENALTY OF DEATH. EQUALLY
13 IMPORTANT, I WILL LISTEN TO ALL OF THE MITIGATING
14 CIRCUMSTANCES WHERE THE DEFENSE SUGGESTS THAT LIFE
15 IMPRISONMENT IS APPROPRIATE AND I WILL THEREAFTER
16 MAKE MY DECISION AS TO DEATH OR LIFE DEPENDING ON THE
17 FACTS. WOULD YOU BE IN THE FIRST, SECOND OR THIRD
18 GROUP?

19 JURY VENIRE MEMBER: I WOULD FALL IN THE
20 THIRD GROUP.

21 THE COURT: IN THE THIRD. AND WHAT IS
22 YOUR VIEW OF THE THIRD GROUP, PLEASE, MA'AM?

23 JURY VENIRE MEMBER: WELL, I THINK A
24 SENTENCE SHOULD BE BASED ON CIRCUMSTANCES, AND I
25 THINK YOU NEED TO LISTEN TO WHAT THOSE CIRCUMSTANCES

1 ARE.

2 THE COURT: OKAY. THANK YOU. AND LET ME
3 SAY THIS TO YOU. WE DON'T WANT TO INFRINGE OR IMPOSE
4 ON YOUR VIEWS, BUT IT'S SOMETHING THAT'S NECESSARY
5 THAT WE DO. I HOPE YOU UNDERSTAND.

6 JURY VENIRE MEMBER: SURE.

7 MR. BAILEY: OKAY. I'M WALTER BAILEY.
8 MS. DYCHES. I WANT TO ASK YOU A FEW MORE QUESTIONS,
9 IF I MIGHT.

10 JURY VENIRE MEMBER: OKAY.

11 MR. BAILEY: IS THE DEATH PENALTY
12 SOMETHING YOU'VE EVER THOUGHT ABOUT IN THE PAST
13 BEFORE YOU FOUND OUT THAT YOU MIGHT BE A JUROR IN A
14 CASE LIKE THIS?

15 JURY VENIRE MEMBER: YES. YES.

16 MR. BAILEY: OKAY. AND JUST IN GENERAL
17 TERMS, WHAT ARE YOUR THOUGHTS ON THE DEATH PENALTY?
18 DO YOU THINK IT'S GOOD OR BAD THAT WE'VE GOT THAT AS
19 A FORM OF PUNISHMENT?

20 JURY VENIRE MEMBER: WELL, I THINK THAT
21 THE DEATH PENALTY IS GOOD FOR, YOU KNOW, SOME OF
22 THESE CASES WHERE THERE'S BEEN DEATH TO A CHILD OR
23 JUST DIFFERENT CASES, YOU KNOW, THAT DIFFER. I THINK
24 THE DEATH PENALTY SHOULD -- SHOULD APPLY.

25 MR. BAILEY: ALL RIGHT. AND YOU'VE TOLD

1 THE JUDGE THAT YOU THINK THE DEATH PENALTY IS
2 APPROPRIATE IN SOME CASES AND MAYBE NOT IN OTHER
3 MURDER CASES; IS THAT CORRECT?

4 JURY VENIRE MEMBER: YES.

5 MR. BAILEY: ALL RIGHT. AND YOU WOULD
6 WANT TO SIT AND -- IF YOU GOT ON THE JURY AND THE
7 DEFENDANT IS FOUND GUILTY OF MURDER IN THE FIRST
8 STAGE AND THEN WE MOVE INTO THE SECOND STAGE, EVEN
9 THOUGH YOU'RE DEALING WITH SOMEONE WHO'S BEEN
10 CONVICTED OF MURDER, YOU WOULD WANT TO SIT AND
11 CONTINUE TO LISTEN TO ANY EVIDENCE THAT MIGHT COME
12 OUT BEFORE YOU DECIDE ON THE APPROPRIATE PUNISHMENT?

13 JURY VENIRE MEMBER: YES.

14 MR. BAILEY: AND MS. DYCHES, YOU
15 UNDERSTAND THAT IN SOUTH CAROLINA, WHATEVER THE JURY
16 DECIDES THE PUNISHMENT OUGHT TO BE IS THE PUNISHMENT
17 THE JUDGE WOULD IMPOSE. IN OTHER WORDS, IT'S NOT A
18 RECOMMENDATION, IT IS THE SENTENCE THAT WOULD BE
19 CARRIED OUT.

20 JURY VENIRE MEMBER: YES. I UNDERSTAND.

21 MR. BAILEY: AND IF YOU WERE PICKED ON A
22 JURY LIKE THIS AND WHEN YOU GOT TO THE SECOND STAGE
23 AND AFTER HEARING ALL OF THE EVIDENCE AND THE JUDGE'S
24 INSTRUCTION TO YOU, YOU AND THE OTHER ELEVEN JURORS
25 DECIDING BETWEEN THOSE TWO CHOICES DECIDE THAT THE

1 DEATH PENALTY WAS THE APPROPRIATE CHOICE, THEN EACH
2 JUROR WOULD HAVE TO SIGN THEIR NAME TO A DEATH
3 VERDICT FORM, AND THE RESULT OF THAT WOULD BE THAT
4 THE DEFENDANT WOULD ACTUALLY BE EXECUTED.

5 JURY VENIRE MEMBER: I UNDERSTAND.

6 MR. BAILEY: COULD YOU SIGN YOUR NAME TO A
7 PIECE OF PAPER LIKE THAT IF YOU HAD ALREADY VOTED FOR
8 THE DEATH PENALTY?

9 JURY VENIRE MEMBER: YES.

10 MR. BAILEY: AND COULD YOU COME OUT IN
11 OPEN COURT AND ANNOUNCE THAT AS BEING YOUR DECISION?

12 JURY VENIRE MEMBER: YES.

13 MR. BAILEY: IN THIS PARTICULAR CASE, THE
14 DEFENDANT OBVIOUSLY IS A YOUNG BLACK MAN. THE VICTIM
15 IN THIS CASE WAS A YOUNG WHITE MAN. THERE WAS ALSO A
16 YOUNG WHITE WOMAN WHO WAS SHOT THAT SURVIVED HER
17 WOUNDS. WOULD THE FACT THAT YOU'RE DEALING WITH A
18 BLACK VICTIM -- EXCUSE ME, A WHITE VICTIM AND A BLACK
19 DEFENDANT CAUSE YOU TO VIEW THAT CASE ANY DIFFERENTLY
20 THAN IF THE RACES WERE REVERSED?

21 JURY VENIRE MEMBER: NOT AT ALL.

22 MR. BAILEY: SO IF YOU HAD A WHITE
23 DEFENDANT CHARGED WITH KILLING A BLACK VICTIM, YOU
24 WOULD VIEW THE CASE THE SAME WAY?

25 JURY VENIRE MEMBER: YES.

1 MR. BAILEY: MS. DYCHES, I NOTICED IN THE
2 QUESTIONNAIRE THAT YOU HAVE A GIRL WHO'S 16 AT THI
3 TIME.

4 JURY VENIRE MEMBER: RIGHT.

5 MR. BAILEY: AND THE STATE ALLEGES THAT
6 THIS MURDER OCCURRED IN MARCH OF 1994. AT THAT TIME,
7 THE DEFENDANT WAS 16. HE'S NOW 18. IN ANY CRIMINAL
8 TRIAL, A JURY HAS TO BE ABLE TO BASE THEIR DECISION
9 STRICTLY ON THE EVIDENCE, THE SWORN TESTIMONY THEY
10 HEAR IN COURT, AND PUT ASIDE ANY OUTSIDE INFLUENCES.
11 DO YOU BELIEVE THAT THE FACT THAT YOU'VE GOT A
12 DAUGHTER WHO IS NOW THE SAME AGE AS THE DEFENDANT WAS
13 ON THE DATE WE ALLEGE THAT HE COMMITTED THIS MURDER
14 WOULD ENTER INTO YOUR DELIBERATION IN ANY WAY?

15 JURY VENIRE MEMBER: NO.

16 MR. BAILEY: YOU COULD PUT THAT TOTALLY
17 ASIDE?

18 JURY VENIRE MEMBER: YES.

19 MR. BAILEY: AND IF THE CASE WAS BAD
20 ENOUGH, COULD YOU IMPOSE THE DEATH PENALTY ON A 16
21 YEAR OLD?

22 JURY VENIRE MEMBER: YES.

23 MR. BAILEY: OR A PERSON WHO WAS 16 AT THE
24 TIME THE MURDER OCCURRED?

25 JURY VENIRE MEMBER: BASED ON

1 CIRCUMSTANCES.

2 MR. BAILEY: MS. DYCHES, THAT'S ALL I
3 HAVE. THANK YOU VERY MUCH.

4 MR. NEWSOME: MS. DYCHES, DO YOU -- IN
5 OTHER WORDS, WHAT YOU'RE SAYING IS YOU BELIEVE
6 SOMETIMES THERE ARE CIRCUMSTANCES THAT THE DEATH
7 PENALTY WOULD NOT APPLY?

8 JURY VENIRE MEMBER: RIGHT.

9 MR. NEWSOME: EVEN IF A MURDER WAS
10 COMMITTED?

11 JURY VENIRE MEMBER: RIGHT.

12 MR. NEWSOME: OKAY. HAVE YOU OR ANYBODY
13 IN YOUR FAMILY BEEN VICTIMS OF A CRIME?

14 JURY VENIRE MEMBER: NO.

15 MR. NEWSOME: OKAY. HOW LONG HAVE YOU
16 LIVED HERE IN CALHOUN COUNTY?

17 JURY VENIRE MEMBER: ALL OF MY LIFE.

18 MR. NEWSOME: ALL OF YOUR LIFE. OKAY.
19 AND DID YOU GO AWAY TO SCHOOL?

20 JURY VENIRE MEMBER: WELL, YEAH.

21 MR. NEWSOME: OKAY. DO YOU THINK THAT THE
22 -- IS IT YOUR BELIEF THAT YOU WOULD TAKE INTO
23 CONSIDERATION ANY AND ALL OF THE MITIGATING FACTORS
24 THAT WERE OFFERED TO YOU ON BEHALF OF THE DEFENDANT
25 IF WE GOT TO THAT PART OF THE TRIAL BEFORE YOU WOULD

1 CONSIDER WHAT AN APPROPRIATE PUNISHMENT FOR HIM WOULD
2 BE?

3 JURY VENIRE MEMBER: YES.

4 MR. NEWSOME: YOU WOULD LISTEN TO ALL OF
5 THE FACTS AND CIRCUMSTANCES ABOUT HIS LIFE?

6 JURY VENIRE MEMBER: RIGHT.

7 MR. NEWSOME: OKAY. WOULD IT BOTHER YOU
8 TO REMAIN LIVING HERE IN THIS COMMUNITY IF YOU
9 RETURNED -- IF IT WAS YOUR OPINION THAT A LIFE
10 SENTENCE WOULD BE APPROPRIATE IN THIS MATTER?

11 JURY VENIRE MEMBER: NO, IT WOULDN'T
12 BOTHER ME.

13 MR. NEWSOME: EVEN IF THAT WERE AN
14 UNPOPULAR DECISION?

15 JURY VENIRE MEMBER: NO.

16 MR. NEWSOME: THANK YOU.

17 THE COURT: I'LL ASK YOU TO STEP RIGHT OUT
18 JUST A MOMENT AND I'LL CALL YOU BACK. THANK YOU.

19 (JUROR NUMBER 49 IS DISMISSED
20 FROM THE COURTROOM.)

21 THE COURT: SOLICITOR?

22 MR. BAILEY: SHE IS QUALIFIED, YOUR HONOR.

23 MR. NEWSOME: SHE'S QUALIFIED, YOUR HONOR.

24 THE COURT: BRING HER BACK.

25 (JUROR NUMBER 49 ENTERS THE

1 COURTROOM.)

2 THE COURT: MADAM JUROR, WE ARE GOING TO
3 QUALIFY 35 INDIVIDUALS FROM WHICH TWELVE JURORS AND
4 TWO ALTERNATES WILL BE SELECTED. YOU HAVE BEEN FOUND
5 TO BE QUALIFIED BY THE ATTORNEY FOR THE STATE AND THE
6 ATTORNEY FOR THE DEFENSE AND THIS COURT. SO YOU ARE
7 ONE OF THE POTENTIAL 14 JURORS THAT WE WILL BE
8 SELECTING.

9 JURY VENIRE MEMBER: OKAY.

10 THE COURT: WE'RE GOING TO SELECT THAT
11 JURY PROMPTLY AT 2:30 ON THURSDAY, AND I WOULD ASK
12 THAT YOU REPORT TO THE ANNEX ACROSS THE STREET AT
13 THAT TIME. PLEASE BRING SUFFICIENT PERSONAL EFFECTS
14 TO STAY WITH US IN A MOTEL IN THE EVENT YOU ARE
15 SELECTED. WOULD YOU DO THAT FOR ME?

16 JURY VENIRE MEMBER: YES, SIR.

17 THE COURT: DO YOU HAVE ANY QUESTIONS?

18 JURY VENIRE MEMBER: NO, SIR.

19 THE COURT: PLEASE DO NOT DISCUSS THIS
20 CASE WITH ANYONE. PERMIT NO ONE TO DISCUSS IT WITH
21 YOU. DO NOT DISCUSS THE QUESTIONS AND ANSWERS THAT
22 HAVE BEEN GIVEN.

23 JURY VENIRE MEMBER: OKAY.

24 THE COURT: SO I'LL SEE YOU AT -- ACROSS
25 THE STREET AT 2:30. WE'LL CALL YOU OVER HERE AND YOU

1 WILL KNOW WITHIN 15 MINUTES WHETHER YOU WILL OR WILL
2 NOT BE ON THE JURY. BUT YOU ARE QUALIFIED.

3 JURY VENIRE MEMBER: OKAY.

4 THE COURT: SO I'LL SEE YOU. THANK YOU SO
5 MUCH.

6 (JUROR NUMBER 49 IS DISMISSED
7 FROM THE COURTROOM.)

8 THE COURT: ALL RIGHT. JUST LEAVE THE
9 JURY THERE. DON'T GIVE THAT -- THIS WILL BE THE LAST
10 JUROR. DON'T GIVE THE JURY TO ANYONE ELSE -- DON'T
11 GIVE THE LETTER TO ANYONE ELSE.

12 THE SHERIFF: I'VE GOT ONE WAITING.

13 THE COURT: JUST HOLD THE REST OF THEM
14 UNTIL I GIVE FURTHER INSTRUCTION. KEEP THEM IN THE
15 JURY ROOM. BRING THE NEXT ONE OUT.

16 (JUROR NUMBER 137, A WHITE
17 MALE, ENTERS THE COURTROOM.)

18 THE CLERK: IF YOU WOULD, PLEASE, PLACE
19 YOUR LEFT HAND ON THE BIBLE. PLEASE RAISE YOUR RIGHT
20 HAND. PLEASE STATE YOUR NAME FOR THE RECORD.

21 JURY VENIRE MEMBER: JOHN C. KAIGLER, III.

22 (JUROR NUMBER 137, HAVING BEEN FIRST DULY SWORN
23 BY THE CLERK OF COURT, TESTIFIED AS FOLLOWS:)

24 THE CLERK: PLEASE COME AROUND AND HAVE A
25 SEAT.

1 THE COURT: MR. KAIGLER, YOU HAVE
2 INDICATED THAT YOU HAVE NOT READ OR HEARD ANYTHING
3 ABOUT THE CASE OR COMMUNICATED WITH ANYBODY WHO HAD.

4 JURY VENIRE MEMBER: YES, SIR.

5 THE COURT: DID YOU HAVE THE OPPORTUNITY
6 TO READ THE LETTER BACK THERE A WHILE AGO?

7 JURY VENIRE MEMBER: YES, SIR.

8 THE COURT: IT DEFINES THREE TYPES OF
9 JURORS IN A CASE OF THIS KIND. LET ME REVIEW WITH
10 YOU WHAT I SAID EARLIER. IN A CASE WHERE THE STATE
11 SEEKS THE PENALTY OF DEATH, AS THEY DO IN THIS CASE,
12 WE HAVE A BIFURCATED OR TWO-PHASE TRIAL. THE FIRST
13 PHASE IS TO DETERMINE THE INNOCENCE AND GUILT OF THE
14 DEFENDANT. IF THE JURY FINDS HIM NOT GUILTY, WE STOP
15 RIGHT THERE. NOW, IF AFTER THE TRIAL OF THE FIRST
16 CASE THE JURY FIND HIM GUILTY OF MURDER BEYOND A
17 REASONABLE DOUBT, WE WILL THEN AND ONLY THEN ENTER
18 THE SECOND PHASE. DO YOU UNDERSTAND THAT SO FAR?

19 JURY VENIRE MEMBER: YES, SIR.

20 THE COURT: NOW, THE SECOND PHASE, IT SAYS
21 THIS. WE THE JURY HAVE FOUND THIS DEFENDANT GUILTY
22 OF MURDER BEYOND A REASONABLE DOUBT. HAVING FOUND
23 HIM GUILTY, WHAT SENTENCE WILL WE -- SHALL WE IMPOSE?
24 THERE ARE TWO POSSIBILITIES. THE JURY CAN FIND HIM
25 -- THAT THE SUITABLE PUNISHMENT IS DEATH BY

1 ELECTROCUTION OR LETHAL INJECTION, OR THE JURY, AFTER
2 CONSIDERING ALL OF THE INITIAL EVIDENCE, CAN FIND
3 THAT THE APPROPRIATE SENTENCE IS LIFE IMPRISONMENT,
4 EVEN THOUGH HE'S BEEN CONVICTED OF MURDER.

5 NOW, THERE ARE THREE GROUPS OF PEOPLE ON THIS
6 ISSUE, AND THERE'S NO RIGHT OR WRONG ANSWERS. THERE
7 IS A FIRST GROUP THAT SAYS SINCE WE FIND YOU GUILTY
8 OF MURDER, I WILL ALWAYS BE FOR THE DEATH PENALTY.
9 THE SECOND GROUP SAYS THAT EVEN THOUGH WE FOUND HIM
10 GUILTY OF MURDER, I CAN NEVER BE FOR THE DEATH
11 PENALTY. THERE IS A THIRD GROUP THAT SAYS, YES, WE
12 FOUND YOU GUILTY OF MURDER, AND I WILL NOW CONSIDER
13 ALL OF THE FACTS WHICH WEIGH HEAVILY FOR DEATH.
14 EQUALLY IMPORTANT, I WILL CONSIDER ALL OF THE FACTS
15 THAT WEIGH FOR LIFE IMPRISONMENT AND I WILL THEN
16 DECIDE. WOULD YOU BE IN THE FIRST, SECOND OR THIRD
17 GROUP?

18 JURY VENIRE MEMBER: THIRD.

19 THE COURT: THIRD. AND WHAT IS YOUR VIEW
20 AND DEFINITION OF THE THIRD GROUP, PLEASE?

21 JURY VENIRE MEMBER: WELL, START TALKING
22 ABOUT TAKING SOMEBODY'S LIFE, THAT'S A PRETTY SERIOUS
23 THING, AND I BELIEVE IT WOULD HAVE TO BE HIGHLY
24 AGGRAVATED TO WARRANT THE DEATH PENALTY.

25 THE COURT: THAT'S FINE. AS I SAID,

1 THERE'S NO RIGHT OR WRONG ANSWERS HERE, AND EVERYBODY
2 -- IT'S A SERIOUS MATTER, AND THAT'S AS IT SHOULD BE.

3 SOLICITOR, YOU MAY EXAMINE THE WITNESS.

4 MR. BAILEY: THANK YOU.

5 THE COURT: OR THE JUROR.

6 MR. BAILEY: BEFORE YOU FOUND OUT THAT YOU
7 MIGHT BE ON A JURY LIKE THIS WHERE THE STATE IS
8 SEEKING A DEATH PENALTY, HAD YOU EVER GIVEN ANY
9 THOUGHT TO THE DEATH PENALTY?

10 JURY VENIRE MEMBER: YEAH.

11 MR. BAILEY: CAN YOU TELL US WHAT YOUR
12 THOUGHTS WERE?

13 JURY VENIRE MEMBER: WELL, I -- I THOUGHT
14 I WAS ALL FOR IT, TO BE HONEST WITH YOU.

15 MR. BAILEY: OKAY.

16 JURY VENIRE MEMBER: BUT GETTING HERE AND
17 FACING IT, IT'S A LITTLE DIFFERENT FEELING, YOU KNOW.

18 MR. BAILEY: AND YOU THINK YOU'VE HAD AN
19 ADEQUATE LENGTH OF TIME TO CONSIDER THE THREE BASIC
20 TYPE OF JURORS, ONE, TWO, AND THREE, AND YOU'RE
21 PRETTY WELL SURE YOU'RE THE THIRD TYPE THAT COULD GO
22 EITHER WAY, BASICALLY?

23 JURY VENIRE MEMBER: YEAH.

24 MR. BAILEY: DEPENDING ON WHAT YOU HEARD.

25 AND YOU UNDERSTAND WHAT THE TWO-PART PROCESS IS. THE

1 FIRST STAGE IS LIKE ANY OTHER CRIMINAL TRIAL WHERE
2 THE JURY IS IN JUST TO DETERMINE WHETHER THE STATE
3 PROVES GUILT BEYOND A REASONABLE DOUBT, AND IN THIS
4 CASE, SINCE WE'RE TRYING THE DEFENDANT FOR MURDER, IF
5 WE CAN PROVE HIM GUILTY BEYOND A REASONABLE DOUBT,
6 THEN WE GO INTO THAT SECOND PHASE OF THE TRIAL.

7 JURY VENIRE MEMBER: YEAH, I UNDERSTAND.

8 THE COURT: AND YOU UNDERSTAND THAT IN
9 SOUTH CAROLINA, THE JURY DECIDES WHAT THE PUNISHMENT
10 IS, NOT THE JUDGE.

11 JURY VENIRE MEMBER: YEAH, I UNDERSTAND.

12 MR. BAILEY: AND THERE ARE TWO CHOICES,
13 LIFE IMPRISONMENT OR THE DEATH PENALTY. WHATEVER THE
14 JURY DECIDES IS GOING TO HAPPEN WILL HAPPEN. IF YOU
15 WERE ON A JURY IN A CASE LIKE THIS AND YOU AND THE
16 OTHER ELEVEN JURORS, AFTER HEARING ALL OF THE OTHER
17 EVIDENCE, DECIDED BETWEEN LIFE IN PRISON AND THE
18 DEATH PENALTY FOR THAT PARTICULAR CASE AND THAT
19 PARTICULAR DEFENDANT THE DEATH PENALTY WAS THE MOST
20 APPROPRIATE PUNISHMENT, THEN IN ORDER TO PUT THAT
21 SENTENCE INTO EFFECT, EACH JUROR WOULD HAVE TO SIGN
22 THEIR NAME TO THE DEATH WARRANT. THE RESULT OF
23 SIGNING THAT FORM WOULD BE THE DEFENDANT WOULD
24 ACTUALLY BE PUT TO DEATH. COULD YOU SIGN YOUR NAME
25 TO A PAPER LIKE THAT IF YOU HAD ALREADY VOTED FOR IT?

1 JURY VENIRE MEMBER: YEAH.

2 MR. BAILEY: AND COULD YOU COME OUT INTO
3 OPEN COURT AND WHEN YOUR NAME WAS CALLED INDIVIDUALLY
4 ANNOUNCE THAT VERDICT?

5 JURY VENIRE MEMBER: YES, SIR.

6 MR. BAILEY: OKAY. NOW, OBVIOUSLY, IN
7 THIS CASE, THE DEFENDANT IS A YOUNG BLACK MAN, AND IN
8 THE STATE'S TESTIMONY, THE EVIDENCE YOU WOULD HEAR
9 WOULD BE THAT THIS VICTIM WAS A YOUNG WHITE MAN, THE
10 MURDER VICTIM. ALSO, ANOTHER GUNSHOT VICTIM WHO DID
11 NOT DIE WAS A YOUNG WHITE WOMAN. WOULD THE
12 DIFFERENCE IN THE RACES BETWEEN THE VICTIMS AND THE
13 DEFENDANT ENTER INTO YOUR DELIBERATION OR WOULD YOU
14 VIEW THE CASE THE SAME AS IF YOU HAD A WHITE
15 DEFENDANT AND A BLACK MURDER VICTIM?

16 JURY VENIRE MEMBER: I BELIEVE I WOULD
17 VIEW IT THE SAME.

18 MR. BAILEY: NOW, THE STATE ALLEGES THAT
19 THIS MURDER OCCURRED IN MARCH OF 1994. AT THAT TIME,
20 THE DEFENDANT WAS 16 YEARS OLD. HE'S NOW 18. IF
21 IT'S PROVEN TO YOU AS A JUROR THAT THE CASE IS BAD
22 ENOUGH, COULD YOU IMPOSE THE DEATH PENALTY ON A
23 PERSON WHO WAS 16 YEARS OLD AT THE TIME HE COMMITTED
24 THE MURDER?

25 JURY VENIRE MEMBER: IN -- IF IT WAS

1 HIGHLY AGGRAVATED, YES.

2 MR. BAILEY: I THINK THAT'S ALL I'VE GOT
3 THANK YOU VERY MUCH.

4 MR. NEWSOME: MR. KAIGLER, I BELIEVE YOU
5 SAID THAT UNTIL TODAY, YOU WERE ALL FOR THE DEATH
6 PENALTY.

7 JURY VENIRE MEMBER: YES, SIR.

8 MR. NEWSOME: WHAT MADE YOU CHANGE YOUR
9 MIND TODAY?

10 THE COURT: WHAT WAS THAT QUESTION? I'M
11 SORRY.

12 MR. NEWSOME: I ASKED HIM WHAT MADE HIM
13 CHANGE HIS MIND TODAY.

14 JURY VENIRE MEMBER: WELL, IT'S DIFFERENT
15 WHEN YOU'RE SITTING HERE AND YOU REALIZE IT'S IN YOUR
16 HANDS WHETHER OR NOT SOMEBODY LIVES OR DIES.

17 MR. NEWSOME: YES, SIR. IF YOU WERE NOT
18 CERTAIN THAT IT WAS NECESSARY TO IMPOSE THE DEATH
19 PENALTY AFTER CONVICTING THE DEFENDANT, COULD YOU
20 VOTE FOR A LIFE SENTENCE?

21 JURY VENIRE MEMBER: YES.

22 MR. NEWSOME: IF YOU WERE NOT CERTAIN THAT
23 HE WAS GUILTY, THAT YOU WERE ONE OF ONE OR TWO WHO
24 FELT THAT WAY AND THE REST OF THE JURY FELT THE OTHER
25 WAY, COULD YOU STAND UP FOR WHAT YOU FELT IN YOUR

1 HEART THE EVIDENCE SHOWED?

2 JURY VENIRE MEMBER: YES.

3 MR. NEWSOME: AND CONVERSELY, IN THE
4 PENALTY PHASE, IF YOU WERE CONVINCED -- IF YOU WERE
5 CONVINCED THAT IT SHOULD NOT BE A DEATH SENTENCE,
6 WOULD YOU STAND UP FOR WHAT YOU BELIEVED IN?

7 JURY VENIRE MEMBER: YES.

8 MR. NEWSOME: DO YOU FEEL THE MAJORITY
9 SHOULD RULE IN THOSE CIRCUMSTANCES?

10 JURY VENIRE MEMBER: I -- THAT'S A TOUGH
11 ONE. YES, I WOULD SAY SO.

12 MR. NEWSOME: IF THE MAJORITY OF THE FOLKS
13 FELT ONE WAY AND YOU FELT ANOTHER WAY, YOU WOULD GIVE
14 IN TO THEIR BELIEFS?

15 JURY VENIRE MEMBER: OH, I WOULDN'T GIVE
16 IN, NO.

17 MR. NEWSOME: YOU WOULD STAND UP FOR WHAT
18 YOU BELIEVED, WHETHER IT WAS IN FAVOR OF THE DEATH
19 PENALTY OR IN FAVOR OF THE LIFE SENTENCE?

20 JURY VENIRE MEMBER: YES, SIR.

21 MR. NEWSOME: ALL RIGHT. SO YOU BELIEVE
22 THAT THERE ARE SOME TYPES OF SITUATIONS THAT EVEN
23 WHERE THERE IS A MURDER THAT'S COMMITTED, THAT A LIFE
24 SENTENCE IS A SUFFICIENT PENALTY?

25 JURY VENIRE MEMBER: YES.

1 MR. NEWSOME: ALL RIGHT. THANK YOU, SIR.

2 THE COURT: PLEASE STEP OUT.

3 (JUROR NUMBER 137 IS DISMISSED
4 FROM THE COURTROOM.)

5 THE COURT: WHAT SAYS THE STATE?

6 MR. BAILEY: QUALIFIED, YOUR HONOR.

7 MR. NEWSOME: HE'S QUALIFIED, YOUR HONOR.

8 THE COURT: BRING HIM BACK IN. ALL RIGHT.
9 HAVE THE JUROR COME IN, PLEASE.

10 (JUROR NUMBER 137 ENTERS THE
11 COURTROOM.)

12 THE COURT: MR. JUROR, WE ARE IN THE
13 PROCESS OF QUALIFYING 35 JURORS, AND YOU ARE ONE OF
14 THOSE WHO ARE QUALIFIED. NOW, YOU MAY OR MAY NOT BE
15 SELECTED ON THURSDAY AT 2:30. WE'LL BE SELECTING
16 TWELVE JURORS AND TWO ALTERNATES. BUT I WANT YOU TO
17 REPORT BACK HERE AT 2:30 THURSDAY AT THE ANNEX ACROSS
18 THE STREET. PLEASE BRING YOUR PERSONAL EFFECTS WITH
19 YOU SO THAT YOU CAN BE WITH US IN THE JURY ROOM AND
20 IN THE MOTEL IF SELECTED.

21 DO YOU HAVE ANY QUESTIONS ABOUT ANYTHING WE'VE
22 SAID?

23 JURY VENIRE MEMBER: NO, SIR.

24 THE COURT: DON'T DISCUSS THIS CASE WITH
25 ANYONE. LET NO ONE DISCUSS IT WITH YOU. I'LL SEE

1 YOU AT THAT TIME. THANK YOU SO MUCH.

2 BRING DOWN THE REST OF THE PANEL. YOU MAY
3 LEAVE. BRING IN THE REST OF THE PANEL AND LET ME
4 TALK WITH THEM, PLEASE.

5 (JUROR NUMBER 137 IS DISMISSED
6 FROM THE COURTROOM.)

7 (REMAINING JURORS ON PANEL.
8 NUMBER 2 ENTER COURTROOM.)

9 THE COURT: LADIES AND GENTLEMEN OF THE
10 JURY, I ASKED THAT YOU RETURN AT 5:30. YOU ARE ONLY
11 7 OF 30 NOW REMAINING. WE NEED TO QUALIFY 35 JURORS.
12 WE HAVE SUCCESSFULLY QUALIFIED TODAY 17, SO WE ARE
13 MAKING VAST IMPROVEMENTS. I'M GOING TO ASK NOW THAT
14 YOU SEVEN RETURN TO THIS JURY ROOM IN THE MORNING AT
15 9:30. NOT AT 10, NOW. AT 9:30. I HAVE ANOTHER
16 GROUP COMING IN AT 10:00, SO I DON'T WANT TO KEEP
17 THEM WAITING TOO LONG.

18 REMEMBER, NOW, DO NOT DISCUSS THIS CASE WITH
19 ANYONE. LET NO ONE DISCUSS IT WITH YOU UNDER ANY
20 CIRCUMSTANCES. IF ANYBODY SHOULD ATTEMPT TO DO SO,
21 IT IS YOUR DUTY UNDER YOUR OATH TO TAKE THEIR NAME
22 AND REPORT THAT FACT TO ME. PLEASE MAKE NO CONTINUED
23 INQUIRY. IT'S NOT LIKELY, BUT IF SOMETHING POPS UP
24 ON THE TV OR IN THE PAPER, PLEASE TURN IT OFF, TURN
25 THE PAPER ASIDE. AND THE REASON FOR THAT, I THINK,

1 IS RELATIVELY OBVIOUS.

2 IF YOU ARE SELECTED AS A JUROR, WHATEVER YOUR
3 DECISION IS IN ANY ISSUE MUST BE BASED ON WHAT YOU
4 HEARD IN THIS COURTROOM AND NOT IDLE CHATTER OR WHAT
5 MAY BE IN THE PAPER. THAT MAY BE RIGHT OR WRONG.
6 BUT YOU'VE GOT TO MAKE YOUR DECISION BASED ON WHAT
7 YOU HEAR IN THIS COURTROOM.

8 ANY QUESTIONS? (NO RESPONSE.)

9 SEE YOU IN THE MORNING IN THE JURY -- YOU WILL
10 HAVE COFFEE FOR THEM AND EVERYTHING IN THE MORNING?

11 THE SHERIFF: YES, SIR.

12 THE COURT: PLEASE BE HERE AT 9:30. THANK
13 YOU SO MUCH.

14 (REMAINING JURORS OF PANEL
15 NUMBER 2 DISMISSED.)

16 THE COURT: ALL RIGHT. EVERYBODY ELSE
17 REMAIN. EVERYBODY ELSE REMAIN SEATED, PLEASE. WE
18 HAVE NOT RELEASED -- MR. BAILEY, ANYTHING FURTHER
19 FROM THE STATE?

20 MR. BAILEY: NO, SIR.

21 MR. NEWSOME: NOTHING FURTHER FROM THE
22 DEFENDANT, YOUR HONOR.

23 THE COURT: I CONGRATULATE YOU, GENTLEMEN,
24 FOR THE EXPEDITIOUS MANNER IN WHICH YOU'VE MOVED.
25 LET'S START AT 9:30. THE NEXT PANEL COMES IN AT

1 10:00 AND SO I WANT TO MOVE AS FAST AS WE CAN ON
2 THESE, AND I LOOK FORWARD TO SEEING YOU AT 9:30.

3 (WHEREUPON, THE FOREGOING
4 PROCEEDINGS WERE ADJOURNED
5 AT 7:31 P.M.)

6 (END OF VOLUME TWO)

7

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CERTIFICATE OF REPORTER

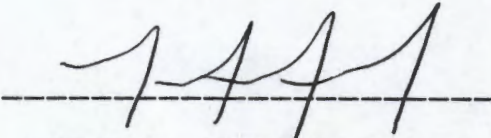
STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

I, MARK W. HAGOOD, REGISTERED PROFESSIONAL REPORTER, (RPR), COURT REPORTER FOR THE STATE OF SOUTH CAROLINA, FOURTH JUDICIAL CIRCUIT, DO HEREBY CERTIFY THAT THE FOREGOING PROCEEDINGS IS A STENOGRAPHIC REPORT AND WAS TRANSCRIBED THROUGH COMPUTER-AIDED TRANSCRIPTION; THAT THE FOREGOING TRANSCRIPT CONTAINS A TRUE RECORD OF THE PROCEEDINGS.

I FURTHER CERTIFY THAT I AM NEITHER ATTORNEY NOR COUNSEL FOR, NOR RELATED TO NOR EMPLOYED BY ANY OF THE PARTIES CONNECTED TO THE ACTION, NOR AM I FINANCIALLY INTERESTED IN THE ACTION.

WITNESS MY HAND AT FLORENCE, SOUTH CAROLINA,
THIS 3rd DAY OF April, 1996.


MARK W. HAGOOD, RPR

1 STATE OF SOUTH CAROLINA IN GENERAL SESSIONS COURT
2 COUNTY OF CALHOUN

3
4 STATE OF SOUTH CAROLINA

94-GS-09-153

5
6 V.

94-GS-09-154

94-GS-09-155

94-GS-09-156

7 HERMAN LEE HUGHES, JR.

8 VOLUME THREE

9 - - -
10 THE TRIAL PROCEEDINGS HAD
11 IN THE ABOVE-STYLED CAUSE
12 - - -

13 WEDNESDAY, SEPTEMBER 6, 1995
14 ST. MATTHEWS, SOUTH CAROLINA

15 BEFORE: HONORABLE EDWARD B. COTTINGHAM,
16 CIRCUIT COURT JUDGE

17 A P P E A R A N C E S

18 FOR THE STATE: WALTER M. BAILEY, JR., SOLICITOR

19 FOR THE DEFENDANT: PHILLIP F. NEWSOME, ESQUIRE
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1 (BEGINNING OF VOLUME THREE)
2 (WHEREUPON, ON WEDNESDAY,
3 SEPTEMBER, 6, 1995, BEGINNING AT
4 9:15 A.M., THE FOLLOWING
5 PROCEEDINGS WERE HAD.)

6 THE COURT: AT THIS TIME, I WANT TO MAKE
7 SURE NO MEMBERS OF THE JURY PANEL ENTER THE
8 COURTROOM, NOW. MR. BAILIFF, THIS IS AN OPEN
9 COURTROOM AND ANYBODY IS WELCOME, BUT BEFORE ANYBODY
10 COMES IN, YOU MAKE SURE THAT THEY ARE NOT A MEMBER OF
11 THE JURY PANEL. ANY QUESTIONS ABOUT THAT?

12 THE BAILIFF: YES, SIR. NO QUESTIONS.

13 THE COURT: ALL RIGHT. THANK YOU.

14 (JUROR NUMBER 285 ENTERS THE
15 COURTROOM.)

16 THE COURT: LET THE RECORD REFLECT THAT
17 COURT IS NOW IN SESSION. THE DEFENDANT IS PRESENT
18 ACCOMPANIED BY HIS ATTORNEY AS WELL AS WALTER BAILEY,
19 SOLICITOR FOR THE CIRCUIT.

20 I HAVE BEFORE ME -- WHAT IS YOUR NAME, PLEASE,
21 MA'AM?

22 JURY VENIRE MEMBER: KATHY WILES.

23 THE COURT: ALL RIGHT. MS. WILES, I
24 REMIND YOU YOU WERE PREVIOUSLY SWORN YESTERDAY AND
25 ARE STILL UNDER OATH.

1 JURY VENIRE MEMBER: YES, SIR.

2 THE COURT: THIS MORNING PRIOR -- AND THIS
3 IS FOR THE RECORD, PRIOR TO OPENING OF THE COURT, THE
4 CLERK OF COURT INFORMED ME THAT MRS. WISE HAD
5 INDICATED THAT SHE NOW HAD SECOND THOUGHTS REGARDING
6 HER QUALIFICATION TO SERVE AS A JUROR IN THIS TERM OF
7 COURT. I AT THAT TIME REQUESTED THAT THE CLERK HAVE
8 MS. WISE APPEAR IN THE COURTROOM UPON THE RECORD IN
9 THE PRESENCE OF THE DEFENDANT, HIS ATTORNEY AND THE
10 STATE'S ATTORNEY.

11 NOW, MS. WILES, YESTERDAY, WE ASKED OF YOU
12 SEVERAL QUESTIONS.

13 JURY VENIRE MEMBER: YES, SIR.

14 THE COURT: THE CLERK INDICATES TO ME THAT
15 THIS MORNING -- AND WE APPRECIATE THIS. DON'T
16 MISUNDERSTAND ME -- THAT YOU APPROACHED HIM AND
17 INDICATED THAT YOU NOW HAD SOME SECOND THOUGHTS ABOUT
18 WHETHER OR NOT YOU COULD SIGN A FORM REGARDING THE
19 PUNISHMENT OF DEATH; IS THAT CORRECT?

20 JURY VENIRE MEMBER: YES, SIR, IT IS.

21 THE COURT: ALL RIGHT. WHAT WERE YOUR
22 CONCERNS, PLEASE, MA'AM?

23 JURY VENIRE MEMBER: YESTERDAY WHEN I --
24 WHEN I ANSWERED YOUR QUESTIONS, ALL MY LIFE I'VE BEEN
25 TAUGHT THAT IF MURDER WAS THE VERDICT, THEN CAPITA

1 PUNISHMENT WAS THE ALTERNATIVE TO THAT. BUT LAST
2 NIGHT, I THOUGHT ABOUT THIS THING OVER AND OVER AND
3 THE QUESTIONING, AND I CANNOT BRING MYSELF TO WANT TO
4 SIGN A PAPER TO PUT SOMEBODY ELSE TO DEATH. I JUST
5 CANNOT DO IT.

6 THE COURT: DON'T WORRY ABOUT IT, PLEASE,
7 MA'AM. LET ME SAY THIS TO YOU. AS I INDICATED,
8 THERE ARE THREE DIFFERENT GROUPS. YOU KNOW WHAT I'M
9 TALKING ABOUT.

10 JURY VENIRE MEMBER: YES, SIR.

11 THE COURT: AND ALL OF THEM ARE THE RIGHT
12 ANSWER, ALL OF THEM. THERE IS NO WRONG ANSWER.
13 DIFFERENT PEOPLE HAVE THEIR HEARTFELT THOUGHTS. NOW,
14 LET ME EXPLAIN TO YOU OUR SYSTEM AGAIN, AND YOU TELL
15 ME AS I CONCLUDE EXACTLY WHAT YOU'RE SAYING, WHATEVER
16 THE TRUTH IS. DO YOU UNDERSTAND?

17 JURY VENIRE MEMBER: YES, SIR.

18 THE COURT: IF YOU CAN SIGN YOUR NAME,
19 FINE; IF YOU CAN'T, FINE. ALL WE WANT IS EXACTLY
20 YOUR HEARTFELT FEELINGS. YOU UNDERSTAND THAT?

21 JURY VENIRE MEMBER: YES, SIR.

22 THE COURT: NOW, LET ME GO THROUGH THE
23 PROCEDURE AGAIN. YOU LISTEN VERY CAREFULLY, AND I'LL
24 LET THESE ATTORNEYS ASK YOU SOME QUESTIONS, NEVER
25 DESIGNED TO EMBARRASS YOU. YOU UNDERSTAND THAT?

1 JURY VENIRE MEMBER: YES, SIR.

2 THE COURT: WE WOULD NOT DO THAT. THESE
3 ARE GENTLEMEN, AND I WOULDN'T LET IT HAPPEN IN MY
4 COURTROOM UNDER ANY CIRCUMSTANCES. SO TO THE EXTENT
5 THAT YOU CAN BE AT EASE, PLEASE DO.

6 NOW, LET ME GO THROUGH WITH YOU THE PROCEDURE.
7 THIS YOUNG MAN, HERMAN HUGHES, IS CHARGED WITH THE
8 OFFENSE OF MURDER. TO THIS CHARGE, HE PLEADS NOT
9 GUILTY. THIS YOUNG MAN AND ALL DEFENDANTS ARE
10 PRESUMED INNOCENT, AND THAT PRESUMPTION OF INNOCENCE
11 REMAINS WITH THEM THROUGHOUT THE TRIAL AND UNTIL
12 TWELVE PEOPLE UNANIMOUSLY HAVE FOUND HIM GUILTY
13 BEYOND A REASONABLE DOUBT, IF AT ALL. DO YOU
14 UNDERSTAND?

15 JURY VENIRE MEMBER: YES, SIR.

16 THE COURT: NOW, IN THIS CASE, IF THE
17 STATE CONVICTS HIM OF MURDER, THE STATE THEN SEEKS
18 THE PENALTY OF DEATH. THAT'S THE STATE SEEKING THAT
19 PENALTY OF DEATH. NOW, OUR LAW SAYS THAT WHERE THE
20 STATE SEEKS THE PENALTY OF DEATH, THERE WILL BE NOT
21 ONE TRIAL, BUT TWO TRIALS, TWO SEPARATE TRIALS.

22 THE FIRST TRIAL IS CONCERNED ONLY WITH THE
23 EVIDENCE INVOLVING HIS GUILT OR INNOCENCE. THAT'S
24 ALL WE DO IN THE FIRST TRIAL. THE STATE PRODUCES
25 SUCH EVIDENCE AS IT HAS THAT HE DID COMMIT THE CRI

1 THE DEFENSE WOULD PRODUCE SUCH EVIDENCE AS IT HAS
2 THAT HE DID NOT OR SUCH OTHER DEFENSES AS ARE
3 APPROPRIATE. THE JURY WOULD THEN ASK THE SINGLE
4 QUESTION, IS HE GUILTY OF MURDER OR NOT? THE JURY IN
5 THE FIRST PHASE WOULD THEN SAY, WE FIND THE DEFENDANT
6 GUILTY OF MURDER OR WE FIND THE DEFENDANT NOT GUILTY.
7 YOU UNDERSTAND THAT?

8 JURY VENIRE MEMBER: YES, SIR.

9 THE COURT: NOW, THE JURY, IN ORDER TO SAY
10 -- AND THE FOREMAN WOULD SIGN THAT VERDICT. IN ORDER
11 TO SAY THAT, THE JURY WOULD HAVE TO UNANIMOUSLY, ALL
12 TWELVE, AGREE THAT THEY FOUND HIM GUILTY BEYOND A
13 REASONABLE DOUBT. YOU UNDERSTAND THAT?

14 JURY VENIRE MEMBER: YES, SIR.

15 THE COURT: SO AT THE CONCLUSION OF THE
16 FIRST CASE, THERE IS NO QUESTION, THEN, AS TO HIS
17 GUILT OR INNOCENCE. THE JURY -- THAT JURY HAS
18 ALREADY FOUND HIM GUILTY AND THEY'VE CONSIDERED THAT
19 EVIDENCE. ALL RIGHT?

20 JURY VENIRE MEMBER: YES, SIR.

21 THE COURT: THEN, LET'S ASSUME WITHOUT
22 STATING -- BUT LET'S ASSUME THEY FOUND HIM GUILTY.
23 AND THAT'S AN ASSUMPTION ONLY BECAUSE I CAN'T TELL
24 YOU WHAT THE JURY -- BUT ASSUMING THEY FOUND HIM
25 GUILTY BEYOND A REASONABLE DOUBT, OUR LAW THEN

1 PROVIDES THAT THERE WILL BE A 24-HOUR WAITING PERIOD,
2 AND THAT'S TO LET THE PASSIONS COOL AND THE PEOPLE
3 REGROUP, YOU UNDERSTAND. THE JURY CAN'T EVEN START
4 AGAIN. BUT THE SAME JURY WHO FOUND HIM GUILTY, 24
5 HOURS LATER, WILL THEN BEGIN THE SENTENCING PHASE.
6 THAT'S ALL YOU CONSIDER THEN.

7 NOW, IN THE SENTENCING PHASE, YOU OF COURSE CAN
8 CONSIDER SUCH FACTS AS WAS IN THE FIRST TRIAL ABOUT
9 WHAT HAPPENED. BUT IN ADDITION TO THAT, THE STATE OF
10 SOUTH CAROLINA WILL INTRODUCE WHAT WE CALL
11 AGGRAVATING CIRCUMSTANCES. OUR LAW ONLY PROVIDES
12 THAT YOU CAN SEEK THE DEATH PENALTY UPON PROOF OF
13 AGGRAVATING CIRCUMSTANCES BEYOND A REASONABLE DOUBT.
14 AN AGGRAVATING CIRCUMSTANCE IS, AS YOU WOULD GUESS BY
15 DEFINITION, IS SOMETHING THAT'S SO SERIOUS, SO BAD AS
16 WOULD REQUIRE THE PENALTY OF DEATH.

17 NOW, AFTER THE STATE IN THE SECOND PHASE
18 CONCLUDES ITS INTRODUCTION OF AGGRAVATING
19 CIRCUMSTANCES, THE DEFENSE IS PERMITTED TO INTRODUCE
20 MITIGATING CIRCUMSTANCES. AND THE MITIGATING
21 CIRCUMSTANCE IS SUCH THAT YOU WOULD UNDERSTAND THE
22 WORD, IT'S SUCH CIRCUMSTANCES AS WOULD LESSEN THE
23 ENORMITY OF THE CRIME SUCH THAT WHERE PEOPLE CAN
24 CONSIDER IMPOSING LIFE IMPRISONMENT RATHER THAN
25 DEATH. DO YOU UNDERSTAND THAT?

1 JURY VENIRE MEMBER: YES, SIR.

2 THE COURT: THERE ARE A NUMBER OF
3 MITIGATING CIRCUMSTANCES. ONE WOULD BE THE MENTAL
4 CAPACITY OF THE DEFENDANT. TWO, AS TO MITIGATING
5 CIRCUMSTANCES, WOULD BE THE AGE OF THE DEFENDANT AT
6 THE TIME HE COMMITTED THE CRIME. THERE ARE OTHERS.
7 BUT IN ADDITION TO THAT, I WOULD CHARGE THE JURY THAT
8 IN CONSIDERING LIFE IMPRISONMENT, THEY CAN CONSIDER
9 ANY OF THESE MITIGATING CIRCUMSTANCES TO IMPOSE LIFE.
10 THEY MAY CONSIDER ANY OTHER MITIGATING CIRCUMSTANCES
11 THAT THE EVIDENCE WARRANTS TO IMPOSE LIFE. AND I
12 WOULD TELL THE JURY THAT EVEN AS AN ACT OF MERCY,
13 THEY CAN IMPOSE LIFE INSTEAD OF DEATH FOR ANY REASON
14 WHATSOEVER, JUST BECAUSE I WANT TO DO THAT. DO YOU
15 UNDERSTAND THAT?

16 JURY VENIRE MEMBER: YES, SIR.

17 THE COURT: ALL RIGHT. ANY QUESTIONS SO
18 FAR?

19 JURY VENIRE MEMBER: NO, SIR.

20 THE COURT: ALL RIGHT. SO THERE WE ARE.
21 NOW, AT THE CONCLUSION OF THESE INSTRUCTIONS
22 REGARDING AGGRAVATING AND MITIGATING CIRCUMSTANCES, I
23 WOULD HAVE PREPARED A SERIES OF FORMS, AND I WOULD
24 TELL THE JURY THAT THERE ARE TWO VERDICTS, BOTH OF
25 WHICH MUST BE UNANIMOUS BEYOND A REASONABLE DOUBT. I

1 WOULD TELL THE JURY THAT IF -- AND I USE THIS WORD
2 ADVISEDLY -- IF YOU CONCLUDE UNANIMOUSLY THAT A LIFE
3 SENTENCE IS PROPER UNDER ALL OF THE FACTS IN THE
4 CASE, THAT THE FOREMAN WOULD SIGN HIS NAME AND THIS
5 VERDICT WOULD BE AS FOLLOWS: WE THE JURY IN THE
6 ABOVE-ENTITLED CASE UNANIMOUSLY RECOMMEND THAT THE
7 DEFENDANT BE IMPRISONED IN THE STATE PENITENTIARY FOR
8 THE BALANCE OF HIS NATURAL LIFE. I USE THE WORD
9 RECOMMEND. THE COURT WOULD IMPOSE WHATEVER YOU
10 RECOMMEND. AND THE FOREMAN WOULD SIGN HIS NAME. DO
11 YOU UNDERSTAND THAT?

12 JURY VENIRE MEMBER: YES, SIR.

13 THE COURT: NOW, GIVEN THE ENORMITY OF A
14 SENTENCE OF DEATH, OUR LAW FURTHER PROVIDES THAT IF
15 -- AND I USE THE WORD ADVISEDLY -- THAT IF THE JURY
16 UNANIMOUSLY HAS CONCLUDED FROM ALL OF THE EVIDENCE IN
17 THE FIRST AND SECOND TRIALS THAT THE SENTENCE OF
18 DEATH IS THE APPROPRIATE SENTENCE, THEY MAY SIGNIFY
19 THAT VERDICT, BUT OUR LAW SAYS THIS, THAT IN ADDITION
20 TO THE FOREMAN, EACH JUROR MUST SIGN THAT VERDICT.
21 IN RECOMMENDING LIFE, JUST THE FOREMAN SIGNS. BUT IF
22 THE JURY RECOMMENDS THE PENALTY OF DEATH, IN ADDITION
23 TO COMING OUT IN THE COURTROOM AND SAYING THAT,
24 YOU'VE GOT TO DO THIS. THIS FORM SAYS, WE THE JURY
25 IN THE ABOVE-ENTITLED CASE UNANIMOUSLY RECOMMENDS

1 THAT THE DEFENDANT BE SENTENCED TO DEATH. NOW, IN
2 THIS ONE, THE FOREMAN SIGNS FIRST AND EACH MEMBER OF
3 THAT TWELVE JURORS SIGN THIS FORM. DO YOU
4 UNDERSTAND? I WANT YOU TO LOOK AT IT.

5 JURY VENIRE MEMBER: YES, SIR. I
6 UNDERSTAND.

7 THE COURT: OKAY. NOW, THAT IS THE
8 PROCEDURE. THAT IS THE LAW THAT I WOULD CHARGE TO
9 YOU. NOW, IF BECAUSE OF YOUR BELIEFS, RELIGIOUS OR
10 OTHERWISE, YOU CONCLUDE THAT YOU ARE NOT ABLE TO
11 CONFORM TO THE REQUIREMENTS OF THE LAW, I WILL EXCUSE
12 YOU. YOU UNDERSTAND THAT?

13 JURY VENIRE MEMBER: YES, SIR.

14 THE COURT: IF YOU CONCLUDE THAT IF -- AND
15 NOBODY SUGGESTS THAT YOU WOULD OR WOULD NOT BE FOR
16 THE DEATH PENALTY OR LIFE IMPRISONMENT. THE ONLY
17 THING I'M SAYING TO YOU, THAT IF YOU AND THE JURY
18 UNANIMOUSLY CONCLUDE THAT DEATH IS THE PROPER
19 SENTENCE TO BE IMPOSED, IN ADDITION TO VOTING FOR
20 THAT, YOU WOULD BE REQUIRED TO SIGN YOUR NAME TO THAT
21 DOCUMENT. HAVE I ANSWERED YOU?

22 JURY VENIRE MEMBER: YES, SIR.

23 THE COURT: ALL RIGHT. NOW, I'M GOING TO
24 LET EACH OF THE ATTORNEYS TALK TO YOU ABOUT THESE
25 QUESTIONS, AND I WANT YOU TO KNOW THAT THEY AND THIS

1 COURT FULLY RESPECT ANY OPINION THAT YOU HAVE. YOU
2 UNDERSTAND THAT?

3 JURY VENIRE MEMBER: THANK YOU, SIR.

4 THE COURT: LET THERE BE NO QUESTION ABOUT
5 THAT. YOU JUST GIVE EACH ONE OF THESE GENTLEMEN YOUR
6 HEARTFELT OPINION ON ANY QUESTION, AND THIS COURT
7 WILL RESPECT IT IN EVERY WAY.

8 JURY VENIRE MEMBER: THANK YOU, SIR.

9 THE COURT: ALL RIGHT. YOU MAY EXAMINE.

10 MR. BAILEY: THANK YOU, YOUR HONOR. MS.

11 WILES, I'LL JUST KIND OF REITERATE WHAT JUDGE
12 COTTINGHAM SAID. PLEASE DON'T GIVE ME AN ANSWER
13 BECAUSE YOU THINK I WANT TO HEAR IT, BECAUSE THE ONLY
14 WRONG ANSWER WOULD BE AN ANSWER THAT REALLY ISN'T A
15 TRUTHFUL ANSWER. OKAY.

16 NOW, IN THIS CASE, AS WE KNOW, THE DEFENDANT IS
17 NOW 18. HE WAS 16 AT THE TIME THE STATE ALLEGES HE
18 COMMITTED THIS MURDER. AND MY UNDERSTANDING IS THAT
19 YOU'VE REFLECTED OVERNIGHT IN THINKING ABOUT THE
20 MAGNITUDE OF THAT DECISION AND HAD REACHED A DECISION
21 THAT YOU COULD NOT UNDER ANY CIRCUMSTANCES SIGN YOUR
22 NAME TO THE DEATH VERDICT FORM IF THE PERSON WAS 16;
23 IS THAT CORRECT?

24 JURY VENIRE MEMBER: NOT JUST -- NOT JUST
25 THIS DEFENDANT, BUT ANYBODY.

1 MR. BAILEY: OKAY.

2 JURY VENIRE MEMBER: I WOULD NOT BE ABLE
3 TO SIGN THE DEATH WARRANT, NO, SIR.

4 MR. BAILEY: REGARDLESS OF AGE?

5 JURY VENIRE MEMBER: REGARDLESS OF AGE OR
6 WHO IT IS.

7 MR. BAILEY: ALL RIGHT. SO IF -- IF JUDGE
8 COTTINGHAM OR I WAS TO ASK YOU TODAY WHICH ONE OF THE
9 THREE TYPE OF JURORS YOU WOULD BE, THE FIRST BEING
10 THE JUROR THAT WOULD ALWAYS IMPOSE THE DEATH PENALTY,
11 THE SECOND JUROR THAT WOULD ALWAYS IMPOSE LIFE
12 IMPRISONMENT, OR THE THIRD JUROR THAT COULD IMPOSE
13 LIFE IMPRISONMENT OR THE DEATH PENALTY, ARE YOU NOW
14 SAYING YOU ARE IN THE NUMBER TWO CATEGORY?

15 JURY VENIRE MEMBER: AT THIS TIME, YES,
16 SIR.

17 MR. BAILEY: THAT COULD NEVER UNDER ANY
18 CIRCUMSTANCES EITHER VOTE FOR OR SIGN THE DEATH
19 VERDICT FORM OR ANNOUNCE THE DEATH VERDICT FORM?

20 JURY VENIRE MEMBER: YES, SIR. THAT'S
21 CORRECT.

22 MR. BAILEY: OKAY. SO IN EVERY CASE, NO
23 MATTER HOW BAD THE CRIME WAS OR HOW BAD THE DEFENDANT
24 WAS, YOU WOULD ALWAYS VOTE FOR LIFE IMPRISONMENT?

25 JURY VENIRE MEMBER: YES, SIR.

1 MR. BAILEY: THANK YOU. THAT'S ALL I
2 HAVE.

3 THE COURT: MR. NEWSOME.

4 MR. NEWSOME: JUST A COUPLE OF QUESTIONS,
5 YOU HONOR. SHE MAY ALREADY BE FIXED IN HER FEELINGS.
6 YOU KNOW, OUR POINT HERE IS NOT WHETHER YOU WOULD OR
7 NOT, IT'S WHETHER YOU COULD. ARE THERE ANY
8 CIRCUMSTANCES THAT YOU COULD IF IT WERE WARRANTED?

9 JURY VENIRE MEMBER: NO, SIR, I DON'T
10 THINK SO.

11 MR. NEWSOME: I HAVE NO FURTHER QUESTIONS.

12 THE COURT: PLEASE STEP OUTSIDE.

13 JURY VENIRE MEMBER: THANK YOU, SIR.

14 (JUROR NUMBER 285 IS DISMISSED
15 FROM THE COURTROOM.)

16 THE COURT: SOLICITOR?

17 MR. BAILEY: YOUR HONOR, MS. WILES IS
18 OBVIOUSLY NOT QUALIFIED. SHE'S DONE A LOT OF SOUL
19 SEARCHING.

20 THE COURT: MR. NEWSOME?

21 MR. NEWSOME: YOUR HONOR, GIVEN HER --
22 ALTHOUGH I WOULD LOVE TO HAVE THAT LADY ON THE JURY,
23 GIVEN HER --

24 THE COURT: YES, SIR. SHE'S NOT
25 QUALIFIED. HER ANSWERS WERE HEARTFELT. BRING HER

1 IN.

2 (JUROR NUMBER 285 ENTERS THE
3 COURTROOM.)

4 THE COURT: MS. WILES, I WANT TO GIVE YOU
5 MY HEARTFELT THANKS AND APPRECIATION FOR COMING BACK
6 IN HERE. YOU'VE DEMONSTRATED THE VERY THING THAT WE
7 LIKE IN JURORS, AND THAT IS A CONSCIENTIOUS EFFORT TO
8 FOLLOW THE LAW AND DO WHAT'S RIGHT.

9 BASED ON YOUR THOUGHTS TODAY WHEREIN YOU HAVE
10 INDICATED TO ME AND SAID QUITE CANDIDLY, AND I
11 APPRECIATE THAT, THAT YOU CANNOT UNDER ANY
12 CIRCUMSTANCES FOLLOW THE LAW WHICH WOULD REQUIRE YOU
13 TO SIGN A FORM OF DEATH, I AM GOING TO EXCUSE YOU
14 FROM FURTHER PARTICIPATION.

15 JURY VENIRE MEMBER: THANK YOU, SIR.

16 THE COURT: AND I THANK YOU SO MUCH FOR
17 CALLING THIS TO OUR ATTENTION.

18 JURY VENIRE MEMBER: THANK YOU, SIR.

19 THE COURT: ALL RIGHT.

20 (JUROR NUMBER 285 IS DISMISSED
21 FROM THE COURTROOM.)

22 THE COURT: LET'S SEE. GENTLEMEN, BEFORE
23 WE PROCEED, IS THERE -- WHICH IS MS. WILES? ALL
24 RIGHT. GENTLEMEN, THAT GIVES US 16 AT THIS TIME.

25 ALL RIGHT. FOR THE SOLICITOR, PRIOR TO

1 BEGINNING, NOW, IS THERE ANY FURTHER THING YOU WANT
2 TO CALL TO MY ATTENTION?

3 MR. BAILEY: NO, SIR.

4 THE COURT: HOW ABOUT IT, MR. NEWSOME?

5 MR. NEWSOME: NO, YOUR HONOR.

6 THE COURT: THEN LET ME START AGAIN BY
7 SAYING GOOD MORNING TO ALL OF YOU. GOOD MORNING.

8 (JUROR NUMBER 88, A WHITE
9 FEMALE, ENTERS THE COURTROOM.)

10 THE CLERK: IF YOU WOULD, PLEASE PUT YOUR
11 LEFT HAND ON THE BIBLE AND RAISE YOUR RIGHT HAND FOR
12 ME. PLEASE STATE YOUR NAME FOR THE RECORD.

13 JURY VENIRE MEMBER: MARY B. GUNTER.

14 (JUROR NUMBER 88, HAVING BEEN FIRST DULY SWORN
15 BY THE CLERK OF COURT, TESTIFIED AS FOLLOWS:)

16 THE CLERK: OKAY. PLEASE COME AROUND AND
17 HAVE A SEAT BACK HERE.

18 THE COURT: GOOD MORNING, MS. GUNTER.

19 JURY VENIRE MEMBER: GOOD MORNING.

20 THE COURT: I HOPE WE'RE NOT
21 INCONVENIENCING YOU TOO MUCH GIVEN YOUR TEMPORARY
22 DISABILITY THERE ON THOSE CRUTCHES.

23 JURY VENIRE MEMBER: NO, I'M FINE.

24 THE COURT: MS. GUNTER, WE APPRECIATE
25 AGAIN YOUR PRESENCE HERE THIS MORNING. I AND THE

1 ATTORNEYS WOULD LIKE TO ASK YOU A FEW QUESTIONS
2 CONCERNING YOUR VIEWS ON THE DEATH PENALTY, AND AS WE
3 DO THAT, I WANT TO EMPHASIZE THERE ARE NO RIGHT OR
4 WRONG ANSWERS; JUST DIFFERENT PEOPLE HAVE DIFFERENT
5 VIEWS. AND YOU WOULD UNDERSTAND THAT -- AND WE, OF
6 COURSE, WOULD NOT WANT TO INVADE YOUR PRIVACY IN ANY
7 WAY AND WOULD NOT DO THAT, CERTAINLY WOULD NOT
8 EMBARRASS YOU.

9 BEFORE BEGINNING THAT INQUIRY, THOUGH, I NOTED
10 YESTERDAY THAT YOU INDICATED THAT YOU KNEW OR READ OR
11 HEARD SOMETHING ABOUT THE CASE OR PERHAPS HAD SOME
12 DISCUSSION WITH SOMEBODY. CAN YOU TELL US A LITTLE
13 BIT ABOUT THAT, PLEASE.

14 JURY VENIRE MEMBER: I JUST READ IT IN THE
15 NEWSPAPER.

16 THE COURT: JUST READ SOMETHING ABOUT IT
17 IN THE NEWSPAPER?

18 JURY VENIRE MEMBER: UH-HUH.

19 THE COURT: DID YOU FORM OR EXPRESS ANY
20 KIND OF OPINION AS TO THE GUILT OR INNOCENCE OF
21 ANYBODY?

22 JURY VENIRE MEMBER: NO.

23 THE COURT: LET ME ASK YOU THIS. WE WANT
24 A JURY WHO SITS IN THIS BOX AND MAKES THE
25 DETERMINATION OF WHAT OCCURRED BASED ON THE WITNESSES

1 IN THIS COURTROOM. CAN YOU DISMISS THAT FROM YOUR
2 MIND AND BASE YOUR VERDICT ON WHAT YOU HEAR IN THI
3 COURTROOM?

4 JURY VENIRE MEMBER: WHAT I READ IN THE
5 PAPER?

6 THE COURT: YES. CAN YOU DISMISS THAT?

7 JURY VENIRE MEMBER: YES.

8 THE COURT: YOU UNDERSTAND THAT SOMETIMES
9 PAPERS GET THINGS WRONG.

10 JURY VENIRE MEMBER: UH-HUH.

11 THE COURT: AND WE WANT YOU TO BASE YOUR
12 OPINION ON WHAT YOU HEAR IN THIS COURTROOM AFTER
13 YOU'VE JUDGED THE CREDIBILITY AND THE BELIEVABILITY
14 OF ALL OF THE WITNESSES AND LISTENED TO ALL OF THE
15 FACTS. CAN YOU TELL ME YOU CAN DO THAT?

16 JURY VENIRE MEMBER: UH-HUH.

17 THE COURT: I THINK THAT YOU CAN. YOU
18 WOULD UNDERSTAND FROM READING THE LETTER OUT THERE
19 THAT GENERALLY WITH REGARDS TO THE QUESTION OF
20 SENTENCE OF DEATH OR LIFE IMPRISONMENT, THERE ARE
21 THREE GROUPS OF PEOPLE. UNDER OUR SYSTEM, WE WOULD
22 HAVE TWO TRIALS. THE FIRST TRIAL WOULD BE WHETHER OR
23 NOT THE YOUNG MAN IS GUILTY OF MURDER. IF HE'S FOUND
24 NOT GUILTY, OF COURSE, WE WOULD STOP THERE. IF THE
25 TWELVE PEOPLE FIND HIM GUILTY UNANIMOUSLY OF MURDE

1 THEN LATER IN THAT PROCEEDING, THERE IS A SECOND
2 TRIAL, AND THAT'S THE SENTENCING PROCEEDING. IN THAT
3 PROCEEDING, THE SIMPLE QUESTION IS, NOW THAT WE'VE
4 FOUND HIM GUILTY OF MURDER BEYOND A REASONABLE DOUBT,
5 WHAT SHALL THE SENTENCE BE, DEATH BY ELECTROCUTION OR
6 LETHAL INJECTION OR SHALL WE GIVE HIM LIFE
7 IMPRISONMENT?

8 THERE ARE THREE GROUPS OF PEOPLE. THERE'S ONE
9 GROUP WHO SAY THAT ONCE WE FIND HIM GUILTY OF MURDER,
10 I'LL ALWAYS BE FOR THE DEATH PENALTY. THERE'S A
11 SECOND GROUP THAT SAYS EVEN THOUGH WE FOUND HIM
12 GUILTY OF MURDER, I CAN NEVER IMPOSE THE SENTENCE OF
13 DEATH. THIS IS A THIRD GROUP WHO SAY I DON'T KNOW.
14 WE FIND HIM GUILTY OF MURDER, BUT I NOW WILL LISTEN
15 TO ALL OF THE FACTS AND THE CIRCUMSTANCES AND CERTAIN
16 MITIGATING CIRCUMSTANCES AND THEN I WILL DECIDE
17 WHETHER OR NOT I WANT TO GIVE HIM LIFE OR DEATH.
18 WOULD YOU BE ONE, TWO OR THREE?

19 JURY VENIRE MEMBER: THREE.

20 THE COURT: THREE. ALL RIGHT. LET ME ASK
21 YOU THIS. IF -- AND I USE THE WORD ADVISEDLY --
22 UNDER OUR LAW, IF THE JURY RECOMMENDS A SENTENCE OF
23 DEATH, THEY MUST SIGN A FORM THAT SAYS WE THE JURY
24 UNANIMOUSLY RECOMMEND THAT DEATH BE IMPOSED, AND THE
25 FOREMAN AND EACH JUROR MUST SIGN HIS NAME, IF THAT

1 OCCURS. AND I USE THAT ADVISEDLY. CAN YOU SIGN SUCH
2 A FORM?

3 JURY VENIRE MEMBER: YES, SIR.

4 THE COURT: ALL RIGHT. YOU MAY EXAMINE.

5 MR. BAILEY: MS. GUNTER, I'M WALTER

6 BAILEY. I WANT TO ASK YOU A FEW MORE QUESTIONS.

7 FIRST OF ALL, YOU AND THE OTHER JURORS WERE ASKED TO
8 FILL OUT A QUESTIONNAIRE, AND ONE OF THE QUESTIONS IS
9 REGARDING YOUR EMPLOYMENT.

10 JURY VENIRE MEMBER: UH-HUH.

11 THE COURT: AND I BELIEVE YOU'RE AN
12 ADMINISTRATIVE ASSISTANT AT THE MENTAL HEALTH CLINIC
13 IN ORANGEBURG?

14 JURY VENIRE MEMBER: RIGHT.

15 MR. BAILEY: DO YOU HAVE -- IS YOUR JOB
16 STRICTLY ADMINISTRATIVE OR DO YOU HAVE CLIENT CONTACT
17 ALSO?

18 JURY VENIRE MEMBER: I HAVE CLIENT CONTACT
19 ALSO.

20 MR. BAILEY: AND WHAT BASICALLY IS YOUR
21 CLIENTELE THERE? WHAT PROBLEMS DO THEY HAVE?

22 JURY VENIRE MEMBER: WELL, I DON'T SEE
23 CLIENTS FOR COUNSELING OR ANYTHING LIKE THAT. I SEE
24 CLIENTS FOR ENTITLEMENTS, TO HELP THEM SECURE
25 ENTITLEMENT SUCH AS DISABILITY, S.S.I., MEDICAID,

1 MEDICARE, THAT SORT OF THING.

2 MR. BAILEY: ARE THE CLIENTS THAT GO
3 THROUGH YOUR CLINIC, ARE THEY PEOPLE WHO ARE MENTALLY
4 RETARDED OR THAT HAVE MENTAL ILLNESSES?

5 JURY VENIRE MEMBER: THEY HAVE A MENTAL
6 ILLNESS, BUT SOME OF THEM ARE ALSO MENTALLY RETARDED.

7 MR. BAILEY: YOU DON'T DEAL WITH THE
8 RETARDATION OR MENTAL ILLNESS ASPECT OF IT; IS THAT
9 RIGHT?

10 JURY VENIRE MEMBER: NO.

11 MR. BAILEY: IT'S JUST THE ADMINISTRATIVE
12 PAPERWORK?

13 JURY VENIRE MEMBER: RIGHT. UH-HUH.

14 MR. BAILEY: DO YOU HAVE ANY BACKGROUND IN
15 MENTAL RETARDATION OR MENTAL ILLNESS OF ANY TYPE OR
16 IS YOUR BACKGROUND --

17 JURY VENIRE MEMBER: NO.

18 MR. BAILEY: -- ADMINISTRATIVE IN NATURE?

19 JURY VENIRE MEMBER: RIGHT. UH-HUH.

20 MR. BAILEY: MS. GUNTER, BEFORE YOU FOUND
21 OUT YOU MIGHT BE A JUROR ON A DEATH PENALTY CASE, HAD
22 YOU EVER GIVEN ANY THOUGHT TO THE DEATH PENALTY IN
23 GENERAL TERMS?

24 JURY VENIRE MEMBER: YES.

25 MR. BAILEY: WOULD YOU SAY WHETHER OR NOT

1 YOU ARE GENERALLY IN FAVOR OF THE DEATH PENALTY OR
2 GENERALLY --

3 JURY VENIRE MEMBER: I'M SORRY. IT WOULD
4 BE ACCORDING TO THE SITUATION, THE CIRCUMSTANCES.

5 MR. BAILEY: ALL RIGHT. AND YOU'VE
6 INDICATED TO JUDGE COTTINGHAM THAT OUT OF THE THREE
7 POSSIBLE TYPE OF JURORS, YOU ARE CLOSEST TO NUMBER
8 THREE. EVEN THOUGH YOU'RE DEALING WITH A CONVICTED
9 MURDERER, IF YOU REACH THAT SECOND STAGE, YOU WOULD
10 STILL WANT TO HEAR ANY EVIDENCE THAT MIGHT COME OUT
11 OF THAT PART OF THE TRIAL BEFORE MAKING UP YOUR MIND?

12 JURY VENIRE MEMBER: CERTAINLY. UH-HUH.

13 MR. BAILEY: AND IF YOU WERE SELECTED ON A
14 DEATH PENALTY JURY AND YOU AND THE OTHER ELEVEN
15 JURORS REACHED THAT SECOND PHASE WHERE YOU'RE
16 DECIDING LIFE IMPRISONMENT OR THE DEATH PENALTY, YOU
17 UNDERSTAND THAT UNDER OUR LAW, WHATEVER THE JURY
18 DECIDES THE PUNISHMENT IS WILL BE IMPOSED BY THE
19 JUDGE. THE JURY SETS THE PUNISHMENT, NOT THE JUDGE.

20 JURY VENIRE MEMBER: RIGHT.

21 MR. BAILEY: AND IF YOU AND THE OTHER
22 ELEVEN JURORS DECIDE OUT OF THOSE TWO CHOICES, THE
23 DEATH PENALTY AND LIFE IMPRISONMENT, THAT THE DEATH
24 PENALTY WAS THE APPROPRIATE PUNISHMENT, THEN EACH
25 JUROR WOULD BE ASKED TO SIGN THEIR NAMES TO A PIECE

1 OF PAPER, THE DEATH VERDICT FORM, AND THE RESULT OF
2 THAT WOULD BE THE DEFENDANT WOULD BE EXECUTED. COULD
3 YOU SIGN THAT PAPER IF YOU HAD REACHED THAT DECISION
4 WITH THOSE OTHER JURORS?

5 JURY VENIRE MEMBER: YES.

6 MR. BAILEY: AND COULD YOU STAND UP IN
7 OPEN COURT HERE AND WHEN YOUR NAME WAS CALLED OUT
8 STAND UP INDIVIDUALLY AND ANNOUNCE THAT DECISION?

9 JURY VENIRE MEMBER: YES.

10 MR. BAILEY: ALL RIGHT. AND IN THIS
11 PARTICULAR CASE, MS. GUNTER, THE STATE ALLEGES THAT
12 THIS MURDER OCCURRED IN MARCH OF 1994. AT THAT TIME,
13 THIS DEFENDANT WAS 16 YEARS OLD. HE'S 18 AT THIS
14 TIME. IF THE CASE WAS BAD ENOUGH, COULD YOU IMPOSE
15 THE DEATH PENALTY ON A PERSON THAT WAS 16 AT THE TIME
16 THE OFFENSE WAS COMMITTED?

17 JURY VENIRE MEMBER: YES, I COULD.

18 MR. BAILEY: AND OBVIOUSLY, MR. HUGHES IS
19 A YOUNG BLACK MAN. THE EVIDENCE WILL SHOW THAT THE
20 HOMICIDE VICTIM WAS A YOUNG WHITE MAN. WOULD THE
21 DIFFERENCE BETWEEN THE RACE OF THE DEFENDANT AND THE
22 VICTIM MAKE ANY DIFFERENCE TO YOU?

23 JURY VENIRE MEMBER: NO.

24 MR. BAILEY: WOULD YOU VIEW THE CASE THE
25 SAME WAY IF YOU HAD A WHITE DEFENDANT AND A BLACK

1 VICTIM?

2 JURY VENIRE MEMBER: YES.

3 MR. BAILEY: MS. GUNTER, I BELIEVE THAT'S
4 ALL I HAVE. THANK YOU VERY MUCH.

5 JURY VENIRE MEMBER: UH-HUH.

6 MR. NEWSOME: MS. GUNTER, I NOTICE THAT ON
7 YOUR INTERVIEW SHEET THAT YOU HAVE LISTED THAT YOU
8 ATTEND CONGAREE BAPTIST CHURCH?

9 JURY VENIRE MEMBER: YES, SIR.

10 MR. NEWSOME: DOES YOUR CHURCH TAKE A
11 POSITION ON THE DEATH PENALTY?

12 JURY VENIRE MEMBER: NO, NOT TO MY
13 KNOWLEDGE.

14 MR. NEWSOME: NOT TO YOUR KNOWLEDGE?
15 OKAY. HOW LONG HAVE YOU LIVED HERE IN ST. MATTHEWS?

16 JURY VENIRE MEMBER: ALL OF MY LIFE.

17 MR. NEWSOME: ALL OF YOUR LIFE IN ST.
18 MATTHEWS, EVEN THOUGH YOU WERE BORN IN ORANGEBURG?

19 JURY VENIRE MEMBER: RIGHT. UH-HUH.

20 MR. NEWSOME: HAVE EITHER YOU OR SOMEBODY
21 IN YOUR FAMILY BEEN THE VICTIM OF A CRIME?

22 JURY VENIRE MEMBER: NO.

23 MR. NEWSOME: THANK YOU.

24 THE COURT: DOES THAT CONCLUDE THE
25 QUESTIONING?

1 MR. NEWSOME: YES, SIR.

2 THE COURT: I'LL ASK YOU TO STEP OUT JUST
3 A MOMENT AND THEN I'LL CALL YOU RIGHT BACK.

4 (JUROR NUMBER 88 IS DISMISSED
5 FROM THE COURTROOM.)

6 THE COURT: MR. BAILEY, FOR THE RECORD?

7 MR. BAILEY: QUALIFIED, YOUR HONOR.

8 THE COURT: FOR THE RECORD?

9 MR. NEWSOME: SHE'S QUALIFIED.

10 THE COURT: BRING HER BACK.

11 (JUROR NUMBER 88 ENTERS THE
12 COURTROOM.)

13 THE COURT: MADAM JUROR, THE ATTORNEY FOR
14 THE STATE AND FOR THE DEFENSE, AS I HAVE, HAVE FOUND
15 YOU QUALIFIED TO SERVE IF SELECTED. WE ARE
16 QUALIFYING 35 JURORS FROM WHICH 12 WILL BE SELECTED
17 ALONG WITH 2 ALTERNATES. YOU ARE AMONG THE GROUP
18 THAT POTENTIALLY WOULD BE ON THAT JURY.

19 PLEASE DON'T DISCUSS THIS CASE WITH ANYONE OR
20 LET ANYONE DISCUSS IT WITH YOU. DO NOT DISCUSS THE
21 QUESTIONS OR ANSWERS THAT WERE GIVEN. PACK YOUR
22 PERSONAL BELONGINGS SUFFICIENT TO STAY IN A MOTEL, IF
23 SELECTED, AND BE OVER ACROSS THE STREET AT THE ANNEX
24 AT 2:30 TOMORROW AFTERNOON. CAN YOU DO THAT?

25 JURY VENIRE MEMBER: YES, SIR.

1 THE COURT: NOW, I NOTICED LAST NIGHT YOU
2 WERE WAITING ON A RIDE. CAN WE ACCOMMODATE YOU IN
3 ANY WAY IN THAT CONNECTION?

4 JURY VENIRE MEMBER: NO. I'M FINE.

5 THE COURT: ALL YOU HAVE TO DO IS LET THIS
6 OFFICER KNOW OR THIS BAILIFF, AND WE'LL BE IN TOUCH
7 WITH YOU.

8 JURY VENIRE MEMBER: YES, SIR.

9 THE COURT: SO WE'LL SEE YOU OVER THERE AT
10 2:30 ON THURSDAY.

11 (JUROR NUMBER 88 IS DISMISSED
12 FROM THE COURTROOM.)

13 THE COURT: NEXT ONE.

14 (JUROR NUMBER 30, A WHITE
15 MALE, ENTERS THE COURTROOM.)

16 THE CLERK: PLEASE STATE YOUR NAME FOR THE
17 RECORD.

18 JURY VENIRE MEMBER: ROBERT CARROLL.

19 (JUROR NUMBER 30, HAVING BEEN FIRST DULY SWORN
20 BY THE CLERK OF COURT, TESTIFIED AS FOLLOWS:)

21 THE CLERK: PLEASE COME AROUND AND HAVE A
22 SEAT BACK HERE.

23 THE COURT: GOOD MORNING, MR. CARROLL.

24 JURY VENIRE MEMBER: GOOD MORNING, SIR.

25 THE COURT: MR. CARROLL, I HAVE HERE YO

1 RETURN THAT YOU SENT IN. I NOTICE THAT YOU HAVE A
2 BROTHER-IN-LAW EMPLOYED BY THE SHERIFF'S DEPARTMENT.

3 JURY VENIRE MEMBER: HE WAS AT THE TIME OF
4 THIS INCIDENT.

5 THE COURT: HE WAS? AND WHAT WAS HIS
6 NAME, PLEASE?

7 JURY VENIRE MEMBER: DANNY KIRKLAND.

8 THE COURT: AND IN WHAT CAPACITY DID HE
9 SERVE?

10 JURY VENIRE MEMBER: HE WAS A DEPUTY
11 SHERIFF.

12 THE COURT: DEPUTY SHERIFF?

13 JURY VENIRE MEMBER: YES, SIR.

14 THE COURT: THE SHERIFF'S DEPARTMENT MAY
15 OR MAY NOT BE INVOLVED IN THE INVESTIGATION OF THE
16 CASE THAT WE ARE CONCERNED WITH. DOES THAT BOTHER
17 YOU IN ANY WAY?

18 JURY VENIRE MEMBER: DANNY WAS DIRECTLY
19 INVOLVED WITH THE CASE AT THE TIME.

20 THE COURT: IS HE THE ONE WHO DISCUSSED IT
21 WITH YOU?

22 JURY VENIRE MEMBER: YES, SIR.

23 THE COURT: AND YOU MEAN THE INVESTIGATING
24 OFFICER, HE DISCUSSED IT IN DETAIL WITH YOU?

25 JURY VENIRE MEMBER: HE DIDN'T GO INTO

1 GREAT DETAIL ABOUT THE CASE, BUT WE DID TALK ABOUT IT
2 AT -- IN CONVERSATIONS.

3 THE COURT: OKAY. DID YOU FORM OR EXPRESS
4 AN OPINION AS TO THE GUILT OR INNOCENCE OF ANYONE AT
5 THAT TIME?

6 JURY VENIRE MEMBER: YES, SIR.

7 THE COURT: YOU'VE ALREADY MADE THAT
8 DETERMINATION.

9 JURY VENIRE MEMBER: YES, SIR.

10 THE COURT: DO YOU THINK IF YOU SAT IN
11 THIS JURY BOX THAT YOU COULD DISMISS THAT FROM YOUR
12 MIND?

13 JURY VENIRE MEMBER: IT MAY BE HARD.

14 THE COURT: MAY BE DIFFICULT?

15 JURY VENIRE MEMBER: YES, SIR.

16 THE COURT: STEP OUTSIDE JUST A MOMENT.

17 (JUROR NUMBER 30 IS DISMISSED
18 FROM THE COURTROOM.)

19 MR. BAILEY: YOUR HONOR, I WOULD HAVE TO
20 SAY HE'S NOT QUALIFIED. HE CAN'T PUT THAT ASIDE.

21 MR. NEWSOME: YEAH.

22 THE COURT: YEAH. NO NEED GETTING INTO
23 THAT. THANK YOU, GENTLEMEN.

24 (JUROR NUMBER 30 ENTERS THE
25 COURTROOM.)

1 THE COURT: MR. CARROLL, THE STATE AND THE
2 DEFENDANT WOULD HAVE GREAT CONFIDENCE IN YOUR ABILITY
3 TO SERVE, AS WOULD I, BUT HAVING HAD A BROTHER-IN-LAW
4 ON THE INVESTIGATIVE AGENCY, I DON'T WANT TO PUT YOU
5 IN THAT POSITION.

6 JURY VENIRE MEMBER: THANK YOU, SIR.

7 THE COURT: SO I'M GOING TO EXCUSE YOU
8 FROM FURTHER PARTICIPATION, BUT I APPRECIATE YOUR
9 ATTENDANCE.

10 JURY VENIRE MEMBER: THANK YOU, SIR.

11 (JUROR NUMBER 30 IS DISMISSED
12 FROM THE COURTROOM.)

13 (JUROR NUMBER 34, A BLACK
14 FEMALE, ENTERS THE COURTROOM.)

15 THE CLERK: PLEASE STATE YOUR NAME FOR THE
16 RECORD.

17 JURY VENIRE MEMBER: KATHY CHEESEBORO.

18 (JUROR NUMBER 34, HAVING BEEN FIRST DULY SWORN
19 BY THE CLERK OF COURT, TESTIFIED AS FOLLOWS:)

20 THE CLERK: OKAY. PLEASE COME AROUND AND
21 HAVE A SEAT RIGHT THERE.

22 THE COURT: GOOD MORNING, MS. CHEESEBORO.

23 JURY VENIRE MEMBER: GOOD MORNING.

24 THE COURT: HOW ARE YOU DOING?

25 JURY VENIRE MEMBER: FINE.

1 THE COURT: WE WANT TO ASK YOU SOME
2 QUESTIONS. HE JUST A MOMENT AGO GAVE YOU THE OATH OF
3 THE JUROR. DID YOU UNDERSTAND THAT -- I HEARD HIM --
4 YOU SOUNDED LIKE YOU DIDN'T UNDERSTAND WHAT YOU'RE
5 DOING.

6 JURY VENIRE MEMBER: I'M NERVOUS.

7 THE COURT: PARDON ME?

8 JURY VENIRE MEMBER: I'M NERVOUS.

9 THE COURT: I KNOW YOU'RE NERVOUS. I
10 UNDERSTAND THAT. LET ME SAY THIS TO YOU. THIS IS
11 PROBABLY THE FIRST TIME YOU'VE BEEN IN THIS
12 SITUATION.

13 JURY VENIRE MEMBER: UH-HUH.

14 THE COURT: TO THE EXTENT THAT YOU CAN,
15 RELAX. NOBODY IS GOING TO DO ANYTHING TO EMBARRASS
16 YOU. NOBODY IS GOING TO BE MEAN TO YOU IN ANY
17 CIRCUMSTANCES. UNDER OUR SYSTEM, THOUGH, WE HAVE TO
18 ASK YOU SOME QUESTIONS. YOU UNDERSTAND THAT?

19 JURY VENIRE MEMBER: YES, SIR.

20 THE COURT: SO THE OATH THAT YOU TOOK A
21 MOMENT AGO WAS AS MUCH THE OATH THAT EVERYBODY GETS,
22 AND THAT IS YOU SWEAR UPON THE BIBLE AND UPON YOUR
23 RELIGION TO TELL THE TRUTH. YOU UNDERSTAND THAT?

24 JURY VENIRE MEMBER: YES, SIR.

25 THE COURT: I'M GOING TO BE ASKING YOU

1 QUESTIONS, AS ARE THESE GENTLEMEN. THERE ARE NO
2 RIGHT AND WRONG ANSWERS. IT'S JUST YOUR HEARTFELT
3 OPINION ABOUT THINGS. DO YOU UNDERSTAND?

4 JURY VENIRE MEMBER: YES, SIR.

5 THE COURT: SO ALL I WANT AND THEY WANT IS
6 THE TRUTH AS TO HOW YOU REALLY FEEL ABOUT THE
7 QUESTION OF THE DEATH PENALTY. DO YOU UNDERSTAND?

8 JURY VENIRE MEMBER: YES, SIR.

9 THE COURT: ALL RIGHT. AS I SAID, THERE
10 ARE DIFFERENT PEOPLE WHO VIEW IT DIFFERENT WAYS, AND
11 THEIR OPINION IS CORRECT. BUT UNDER THE LAW, THIS IS
12 THE ONLY TIME WE HAVE TO DISCUSS WITH YOU THAT
13 QUESTION IN THE EVENT IT ARISES. SO I WANT YOU TO
14 RELAX AS BEST YOU CAN. I'LL BE ASKING YOU QUESTIONS,
15 AND THEY WILL. IF YOU DON'T UNDERSTAND ANYTHING,
16 NOW, PLEASE STOP ME AND SAY, JUDGE, I DON'T
17 UNDERSTAND. WILL YOU DO THAT FOR ME?

18 JURY VENIRE MEMBER: YES, SIR.

19 THE COURT: OKAY. DO YOU UNDERSTAND SO
20 FAR WHAT I'VE SAID?

21 JURY VENIRE MEMBER: YEAH.

22 THE COURT: OKAY. NOW, I SPEAK TOO LOUD
23 SOMETIMES. YOU ARE SPEAKING TOO SOFTLY. THIS
24 INDIVIDUAL HAS GOT TO TAKE DOWN WHAT YOU HAVE TO SAY.
25 THESE GENTLEMEN NEED TO HEAR WHAT YOU SAY. NOW, WHEN

1 YOU USE A NOD OF THE HEAD, WE CAN'T PUT THAT IN THE
2 RECORD, SO YOU HAVE TO SAY NO OR YES. DO YOU
3 UNDERSTAND THAT?

4 JURY VENIRE MEMBER: YES, SIR.

5 THE COURT: MA'AM?

6 JURY VENIRE MEMBER: YES, SIR.

7 THE COURT: CAN YOU SAY THAT A LITTLE
8 LOUDER?

9 JURY VENIRE MEMBER: YES, SIR.

10 THE COURT: OKAY. THANK YOU. NOW, YOU
11 SENT IN THIS RETURN. YOU INDICATED THAT YOU WERE NOT
12 EMPLOYED AT THIS TIME.

13 JURY VENIRE MEMBER: NO, I'M NOT.

14 THE COURT: WHERE WERE YOU LAST EMPLOYED,
15 PLEASE?

16 JURY VENIRE MEMBER: R.C. MCINTYRE IN
17 COLUMBIA.

18 THE COURT: WHAT DID YOU DO THERE?

19 JURY VENIRE MEMBER: PROCESSING.

20 THE COURT: PARDON ME?

21 JURY VENIRE MEMBER: PROCESSING. I USED
22 TO WORK IN PROCESSING AT A WAREHOUSE.

23 THE COURT: UH-HUH.

24 JURY VENIRE MEMBER: YEAH.

25 THE COURT: OKAY. AND HOW LONG AGO WAS

1 THAT?

2 JURY VENIRE MEMBER: ABOUT A YEAR AGO.

3 THE COURT: AND SO, SINCE THEN -- ARE YOU
4 MARRIED?

5 JURY VENIRE MEMBER: NO, I'M NOT.

6 THE COURT: SO YOU JUST LIVE HERE IN
7 CALHOUN COUNTY?

8 JURY VENIRE MEMBER: I USED TO LIVE HERE
9 AND NEW YORK.

10 THE COURT: OKAY. HOW LONG HAVE YOU LIVED
11 HERE?

12 JURY VENIRE MEMBER: OH, ABOUT
13 20-SOMETHING YEARS.

14 THE COURT: 20-SOMETHING YEARS. WHEN WAS
15 THE LAST TIME YOU WERE IN NEW YORK?

16 JURY VENIRE MEMBER: OH, I GO BACK A LOT.

17 THE COURT: I SEE.

18 JURY VENIRE MEMBER: MARCH.

19 THE COURT: LET ME ASK YOU THIS. DID SHE
20 INDICATE -- DID YOU INDICATE THAT YOU MAY HAVE HEARD
21 SOMETHING ABOUT THIS CASE OR KNEW SOMEBODY INVOLVED
22 IN IT YESTERDAY?

23 JURY VENIRE MEMBER: NO. I DON'T KNOW
24 NONE OF THE PEOPLE.

25 THE COURT: PARDON ME?

1 JURY VENIRE MEMBER: NO, SIR. I DON'T
2 KNOW NONE -- NONE OF THE PEOPLE.

3 THE COURT: NONE OF THE PEOPLE INVOLVED IN
4 IT OR HEARD ANYTHING?

5 JURY VENIRE MEMBER: NO. THE LITTLE I
6 HEARD WAS ON THE RADIO.

7 THE COURT: WHAT WAS ON THE RADIO?

8 JURY VENIRE MEMBER: I CAN'T REMEMBER.

9 THE COURT: YOU CAN'T REMEMBER?

10 JURY VENIRE MEMBER: I JUST WAS LISTENING
11 TO THE RADIO ONE SATURDAY MORNING ON A RADIO STATION
12 IN ST. MATTHEWS, AND I WAS DOING SOMETHING, BUT I
13 REALLY WASN'T PAYING THAT MUCH ATTENTION.

14 THE COURT: ALL RIGHT. LET ME ASK YOU
15 THIS. DID YOU GET A CHANCE TO READ THAT LETTER OUT
16 THERE A WHILE AGO?

17 JURY VENIRE MEMBER: UH-HUH.

18 THE COURT: AND DO YOU KNOW ABOUT THE
19 THREE DIFFERENT PEOPLE -- THREE DIFFERENT CLASSES OF
20 PEOPLE INVOLVING THE DEATH PENALTY?

21 JURY VENIRE MEMBER: YES, SIR.

22 THE COURT: YOU UNDERSTAND THAT?

23 JURY VENIRE MEMBER: YEAH.

24 THE COURT: LET ME EXPLAIN THIS TO YOU
25 NOW. THIS YOUNG MAN IS BEING TRIED FOR MURDER. YOU

1 UNDERSTAND THAT?

2 JURY VENIRE MEMBER: YES, SIR.

3 THE COURT: THERE ARE TWO PARTS TO THIS
4 TRIAL, POSSIBLY. THE FIRST PART IS WHETHER OR NOT HE
5 COMMITTED THE MURDER, WHETHER OR NOT THE JURY FINDS
6 HIM GUILTY BEYOND A REASONABLE DOUBT. IF THE JURY
7 FINDS HIM NOT GUILTY, WE STOP THERE. DO YOU
8 UNDERSTAND THAT?

9 JURY VENIRE MEMBER: YES, SIR.

10 THE COURT: NOW, IF AFTER LISTENING TO ALL
11 OF THE TESTIMONY THE JURY FINDS HIM GUILTY OF MURDER
12 BEYOND A REASONABLE DOUBT, WE THEN GO TO THE SECOND
13 PART OF THE TRIAL.

14 JURY VENIRE MEMBER: YES, SIR.

15 THE COURT: AND THE SECOND PART IS WHAT
16 PENALTY SHALL BE IMPOSED, AND THE JURY HAS TO DO
17 THIS. THE JURY SAYS NOW THAT WE HAVE FOUND HIM
18 GUILTY OF MURDER, WHAT WILL THE PUNISHMENT BE?
19 THAT'S THE JURY'S QUESTION. THEY SAY WILL WE PUNISH
20 HIM BY PUTTING HIM TO DEATH OR SHALL WE GIVE HIM LIFE
21 IMPRISONMENT? THE JURY CAN DO EITHER ONE. IT'S FOR
22 THE JURY TO DECIDE. DO YOU UNDERSTAND THAT SO FAR?

23 JURY VENIRE MEMBER: YES, SIR.

24 THE COURT: OKAY. NOW, AS THAT LETTER
25 INDICATED, THERE ARE GENERALLY THREE GROUPS OF

1 PEOPLE. AND THERE ARE NO RIGHT OR WRONG ANSWERS.
2 THERE'S ONE GROUP OVER HERE THAT SAY ONCE WE HAVE
3 FOUND AN INDIVIDUAL GUILTY OF MURDER, I WILL ALWAYS
4 VOTE FOR THE PENALTY OF DEATH. THERE'S A GROUP OF
5 PEOPLE WHO SAY THAT, AND THAT'S THEIR OPINION, AND
6 THEY ARE ENTITLED TO IT. THERE IS A SECOND GROUP
7 HERE THAT SAYS EVEN THOUGH WE FIND THIS INDIVIDUAL
8 GUILTY OF MURDER, I WILL NEVER VOTE FOR THE DEATH
9 PENALTY, NEVER. THERE IS A THIRD GROUP OVER HERE WHO
10 SAY WE HAVE FOUND THIS INDIVIDUAL GUILTY OF MURDER.
11 I CAN VOTE FOR THE PENALTY OF DEATH, DEPENDING ON
12 WHAT I HEAR, OR EQUALLY IMPORTANT, I CAN BE FOR LIFE
13 IMPRISONMENT, DEPENDING ON THE FACTS.

14 WOULD YOU BE IN THAT GROUP WHO SAY I WILL ALWAYS
15 BE FOR THE DEATH PENALTY, IN THAT GROUP THAT SAYS I
16 CAN NEVER VOTE FOR THE DEATH PENALTY NO MATTER HOW
17 BAD IT IS, OR THE THIRD GROUP WHO SAYS I WILL LISTEN
18 TO BOTH SIDES AND THEN MAKE UP MY MIND, I COULD DO
19 ONE OR BOTH? WHICH WOULD YOU BE, THE FIRST THAT SAYS
20 ALWAYS, NEVER OR DEPENDING?

21 JURY VENIRE MEMBER: DEPENDING.

22 THE COURT: DEPENDING?

23 JURY VENIRE MEMBER: UH-HUH.

24 THE COURT: ALL RIGHT. NOW, LET ME SAY
25 THIS TO YOU, AND THIS IS ADVISEDLY, BECAUSE YOU MA

1 NOT GET TO THE SECOND OPINION. BUT IF YOU DO GET TO
2 THE PUNISHMENT STAGE, NOW, OUR LAW PROVIDES THAT IF
3 -- AND I USE THE WORD ADVISEDLY BECAUSE I DON'T KNOW
4 WHAT THE JURY WOULD DO -- IF A JURY UNANIMOUSLY, ALL
5 TWELVE --

6 JURY VENIRE MEMBER: UH-HUH.

7 THE COURT: -- VOTE FOR THE PENALTY OF
8 DEATH, THEY WOULD HAVE TO SIGN THIS FORM THAT SAYS WE
9 THE JURY IN THE ABOVE-ENTITLED CASE UNANIMOUSLY
10 RECOMMEND THAT THE DEFENDANT BE SENTENCED TO DEATH.
11 EACH MEMBER OF THE JURY WOULD HAVE TO SIGN THEIR NAME
12 TO THAT. DEPENDING ON THE FACTS, CAN DO YOU THAT?

13 JURY VENIRE MEMBER: YES, SIR.

14 THE COURT: ALL RIGHT. YOU MAY EXAMINE.

15 MR. BAILEY: I'M WALTER BAILEY, THE
16 SOLICITOR. I NEED TO ASK YOU A FEW MORE QUESTIONS.
17 OKAY? THERE ARE A LOT OF CHEESEBOROS AROUND CALHOUN
18 COUNTY, AND I'VE HEARD A FEW NAMES. I WANTED TO SEE
19 IF YOU WERE RELATED TO THEM AT ALL. THERE WAS A
20 DEPUTY SHERIFF CHEESEBORO.

21 JURY VENIRE MEMBER: KIRKLAND.

22 MR. BAILEY: WHAT'S THE FIRST NAME?

23 JURY VENIRE MEMBER: KIRKLAND.

24 MR. BAILEY: KIRKLAND?

25 JURY VENIRE MEMBER: YES, SIR.

1 MR. BAILEY: OKAY. WAS HE RELATED TO YOU?
2 JURY VENIRE MEMBER: YES, SIR.
3 MR. BAILEY: HOW WAS MR. CHEESEBORO
4 RELATED TO YOU?
5 JURY VENIRE MEMBER: SECOND OR THIRD
6 COUSIN.
7 MR. BAILEY: SECOND OR THIRD COUSINS?
8 JURY VENIRE MEMBER: UH-HUH.
9 MR. BAILEY: AND HOW ABOUT LEON
10 CHEESEBORO?
11 JURY VENIRE MEMBER: FIRST.
12 MR. BAILEY: HE'S YOUR FIRST COUSIN? AND
13 YOU LIVE NEAR LEON CHEESEBORO, DON'T YOU?
14 JURY VENIRE MEMBER: EXCUSE ME?
15 MR. BAILEY: YOU LIVE NEAR LEON
16 CHEESEBORO?
17 JURY VENIRE MEMBER: NO, SIR.
18 MR. BAILEY: OKAY. ALL RIGHT. AND MS.
19 CHEESEBORO, LIKE JUDGE COTTINGHAM TOLD YOU, THERE ARE
20 NO RIGHT OR WRONG ANSWERS TO ANY OF THESE QUESTIONS.
21 WE JUST -- ALL OF US, MR. NEWSOME, THE JUDGE AND ALL
22 OF US, WANT TO KNOW EXACTLY HOW YOU FEEL. SO PLEASE,
23 DON'T GIVE ME AN ANSWER BECAUSE YOU THINK I WANT TO
24 HEAR IT. WE NEED TO KNOW EXACTLY HOW YOU FEEL.
25 BUT I WANT TO ASK YOU ABOUT THE DEATH PENALTY

1 IS THAT SOMETHING YOU'VE EVER THOUGHT ABOUT IN THE
2 PAST?

3 JURY VENIRE MEMBER: YEAH.

4 MR. BAILEY: OKAY. CAN YOU TELL ME WHAT
5 THAT -- WHEN YOU HAPPENED TO -- IF ANYTHING CAUSED
6 YOU TO THINK ABOUT IT OR HOW IT CAME UP?

7 JURY VENIRE MEMBER: BY LISTENING TO THE
8 NEWS A LOT.

9 MR. BAILEY: ALL RIGHT.

10 JURY VENIRE MEMBER: AND SEEING A LOT OF
11 PEOPLE PROBABLY WILL GET THE DEATH PENALTY.

12 THE COURT: CAN YOU HEAR, MR. NEWSOME?
13 TALK A LITTLE LOUDER.

14 MR. NEWSOME: NO, SIR. I --

15 JURY VENIRE MEMBER: BY LISTENING TO THE
16 NEWS A WHOLE LOT AND WAS HEARING ABOUT A LOT OF
17 PEOPLE MIGHT HAVE GOTTEN THE DEATH PENALTY.

18 MR. BAILEY: OKAY. AND COULD YOU TELL US
19 WHETHER YOU ARE GENERALLY FOR OR WHETHER YOU WERE
20 GENERALLY AGAINST THE DEATH PENALTY. NOT TALKING
21 ABOUT THIS CASE HERE, BUT IN GENERAL, BEFORE YOU GOT
22 ON THE JURY HERE, WERE YOU FOR IT OR AGAINST IT?

23 JURY VENIRE MEMBER: FOR IT, IF THEY
24 SHOULD GET IT.

25 MR. BAILEY: FOR IT IF WHAT?

1 JURY VENIRE MEMBER: I WAS FOR IT IF I
2 FIGURED THAT'S WHAT HE NEEDS.

3 MR. BAILEY: OKAY. ALL RIGHT. NOW, THE
4 JUDGE TOLD YOU ABOUT THE THREE DIFFERENT TYPE JURORS.
5 YOU SAID YOU'RE THE THIRD TYPE OF JUROR THAT COULD
6 VOTE FOR LIFE IMPRISONMENT OR YOU COULD VOTE FOR THE
7 DEATH PENALTY DEPENDING ON WHAT YOU HEARD; IS THAT
8 RIGHT?

9 JURY VENIRE MEMBER: YES, SIR.

10 MR. BAILEY: ALL RIGHT. AND YOU
11 UNDERSTAND ABOUT THE TWO-PART PROCESS THAT WE GO
12 THROUGH HERE WHERE THE FIRST PART IS LIKE ANY OTHER
13 CRIMINAL TRIAL, IT'S CALLED THE GUILT PHASE. AND IN
14 THAT FIRST PART OF THE TRIAL, THE JURY IS JUST
15 CONCERNED WITH WHETHER OR NOT THE STATE CAN PROVE A
16 DEFENDANT GUILTY OF WHATEVER HE'S CHARGED WITH. IN
17 THIS CASE, THE DEFENDANT IS CHARGED WITH MURDER. SO
18 IF I CAN CONVINCED THAT JURY BEYOND A REASONABLE DOUBT
19 THAT HE'S GUILTY OF MURDER, THEN WE GO INTO THE
20 SECOND PHASE OF THE TRIAL, WHICH IS THE PENALTY
21 PHASE. AND YOU UNDERSTAND THAT IF WE GET TO THAT
22 PENALTY PHASE, YOU'RE DEALING WITH SOMEBODY THAT
23 YOU'VE ALREADY CONVICTED OF MURDER OR YOU WOULDN'T BE
24 IN THAT PENALTY PHASE.

25 JURY VENIRE MEMBER: YES, SIR.

1 MR. BAILEY: AND THE JURY HAS TWO CHOICES,
2 LIFE IMPRISONMENT OR THE DEATH PENALTY. WHATEVER THE
3 JURY DECIDES IS GOING TO HAPPEN WILL HAPPEN. IF THE
4 JURY DECIDES ON LIFE IN PRISON, THE JUDGE IS GOING TO
5 GIVE THEM THE LIFE IN PRISON. IF THE JURY DECIDES
6 THE DEATH PENALTY, HE WILL BE EXECUTED.

7 NOW, IF YOU WERE ON A JURY AND YOU GOT INTO THAT
8 SECOND PHASE OF THAT TRIAL AND YOU AND THE OTHER
9 JURORS AFTER HEARING ALL OF THE EVIDENCE VOTED FOR
10 THE DEATH PENALTY, THE NEXT THING THAT WOULD HAPPEN
11 IS YOU WOULD BE ASKED TO SIGN A PIECE OF PAPER, A
12 DEATH VERDICT FORM THAT I THINK THE JUDGE SHOWED YOU.
13 COULD YOU SIGN YOUR NAME TO A FORM LIKE THAT IF YOU
14 HAD ALREADY VOTED FOR THE DEATH PENALTY?

15 JURY VENIRE MEMBER: YES, SIR.

16 MR. BAILEY: KNOWING THAT IT WOULD RESULT
17 IN THE DEATH PENALTY LATER ON?

18 JURY VENIRE MEMBER: YES, SIR.

19 MR. BAILEY: OKAY. AND COULD YOU COME OUT
20 IN OPEN COURT AND ANNOUNCE THAT DECISION IF YOUR NAME
21 IS CALLED ALONG WITH THE OTHER JURORS? COULD YOU
22 ANNOUNCE THAT?

23 JURY VENIRE MEMBER: YES, SIR.

24 MR. BAILEY: OKAY. IN THIS PARTICULAR
25 CASE, THE DEFENDANT IS OBVIOUSLY A YOUNG BLACK MALE.

1 THE VICTIM WHO WAS KILLED WAS A YOUNG WHITE MALE.
2 WOULD THE DIFFERENCE IN THE RACE BETWEEN THE VICTI
3 AND THE DEFENDANT ENTER INTO YOUR DELIBERATIONS?

4 JURY VENIRE MEMBER: SAY THAT AGAIN.

5 MR. BAILEY: WOULD YOU TAKE INTO
6 CONSIDERATION THE DIFFERENCE IN THE RACES BETWEEN THE
7 DEFENDANT AND THE VICTIM?

8 JURY VENIRE MEMBER: NO, SIR. NO, SIR.

9 MR. BAILEY: WOULD YOU LOOK AT THIS CASE
10 THE SAME AS IF YOU HAD A WHITE DEFENDANT AND A BLACK
11 VICTIM --

12 JURY VENIRE MEMBER: YES, SIR.

13 MR. BAILEY: -- INSTEAD OF THE OTHER WAY
14 AROUND? OKAY. MS. CHEESEBORO, IN THIS PARTICULAR
15 CASE, THE STATE ALLEGES THAT THE MURDER OCCURRED IN
16 MARCH OF 1994. AT THAT TIME, THE DEFENDANT WAS 16
17 YEARS OLD. HE'S 18 NOW. IF THE CASE WAS BAD ENOUGH,
18 COULD YOU IMPOSE THE DEATH PENALTY ON A PERSON WHO
19 WAS 16 AT THE TIME HE COMMITTED THE MURDER?

20 JURY VENIRE MEMBER: YES.

21 MR. BAILEY: OKAY. ALL RIGHT. MS.
22 CHEESEBORO, I THINK THAT'S ALL I'VE GOT. THANK YOU
23 VERY MUCH.

24 JURY VENIRE MEMBER: ALL RIGHT.

25 MR. NEWSOME: MS. CHEESEBORO, YOUR

1 INFORMATION SHEET LISTS THAT YOU ATTEND ST. PAUL
2 EBONY CHURCH.

3 JURY VENIRE MEMBER: YES, SIR.

4 MR. NEWSOME: DOES YOUR DENOMINATION OR
5 YOUR CHURCH HAVE AN INITIAL STAND FOR OR AGAINST THE
6 DEATH PENALTY?

7 JURY VENIRE MEMBER: NO, SIR.

8 MR. NEWSOME: THEY'VE NEVER TAKEN A STAND?

9 JURY VENIRE MEMBER: I DON'T THINK.

10 MR. NEWSOME: OKAY.

11 JURY VENIRE MEMBER: I DON'T THINK.

12 MR. NEWSOME: HAVE YOU OR ANYBODY IN YOUR
13 FAMILY EVER BEEN A VICTIM OF A CRIME?

14 JURY VENIRE MEMBER: IN MY -- WELL, YEAH,
15 IN MY FAMILY.

16 MR. NEWSOME: IN YOUR FAMILY?

17 JURY VENIRE MEMBER: YEAH.

18 MR. NEWSOME: OKAY. DO YOU THINK THAT
19 WOULD AFFECT YOUR ABILITY TO GIVE MY CLIENT A FAIR
20 TRIAL?

21 JURY VENIRE MEMBER: NO, SIR.

22 MR. NEWSOME: I HAVE NO FURTHER QUESTIONS.

23 THE COURT: THANK YOU. YOU MAY STEP OUT
24 JUST A MOMENT.

25 (JUROR NUMBER 34 IS DISMISSED

1 FROM THE COURTROOM.)

2 THE COURT: WHAT SAY THE STATE?

3 MR. BAILEY: QUALIFIED, YOUR HONOR.

4 MR. NEWSOME: QUALIFIED, YOUR HONOR.

5 (JUROR NUMBER 34 ENTERS THE
6 COURTROOM.)

7 THE COURT: MADAM JUROR, THE STATE'S
8 ATTORNEY, THE DEFENSE AND THIS COURT HAVE FOUND YOU
9 QUALIFIED TO SERVE IF YOU ARE SELECTED. WE HAVE
10 QUALIFIED OR WILL BE QUALIFYING 35 POTENTIAL JURORS.
11 FROM THAT NUMBER, 12 WILL BE SELECTED AS THE JURY, 2
12 AS ALTERNATES. YOU MAY OR MAY NOT BE IN THAT GROUP.

13 I WANT YOU TO RETURN TOMORROW AFTERNOON AT THE
14 ANNEX RIGHT ACROSS THE STREET AT 2:30. BRING WITH
15 YOU PERSONAL EFFECTS AND CLOTHES SUFFICIENT TO STAY
16 IN A MOTEL FOR A FEW NIGHTS IF YOU ARE SELECTED. DO
17 YOU UNDERSTAND THAT?

18 JURY VENIRE MEMBER: YES, SIR.

19 THE COURT: ANY QUESTIONS ABOUT THAT?

20 JURY VENIRE MEMBER: NO, SIR.

21 THE COURT: MA'AM?

22 JURY VENIRE MEMBER: NO, SIR.

23 THE COURT: OKAY. BE SURE AND BE OVER
24 THERE, NOW. YOU ARE AMONG THE JURORS. SO BE THERE
25 AT 2:30.

1 JURY VENIRE MEMBER: ALL RIGHT.

2 THE COURT: THANK YOU SO MUCH. ONE MORE
3 FURTHER THING, PLEASE. DON'T DISCUSS THE CASE WITH
4 ANYONE. I KNOW THAT YOU WOULD NOT, BUT I WANT TO
5 REMIND YOU. DON'T LET ANYBODY DISCUSS IT WITH YOU.
6 DON'T DISCUSS THE QUESTIONS AND ANSWERS IN THE
7 COURTROOM.

8 JURY VENIRE MEMBER: OKAY.

9 THE COURT: THANK YOU.

10 JURY VENIRE MEMBER: ALL RIGHT.

11 (JUROR NUMBER 34 IS DISMISSED
12 FROM THE COURTROOM.)

13 THE COURT: ALL RIGHT. BRING THE NEXT ONE
14 IN.

15 (JUROR NUMBER 270, A BLACK
16 FEMALE, ENTERS THE COURTROOM.)

17 THE CLERK: MS. VOID, IF YOU WOULD, COME
18 AROUND RIGHT HERE. PLEASE STATE YOUR NAME FOR THE
19 RECORD.

20 JURY VENIRE MEMBER: IVY VOID.

21 (JUROR NUMBER 270, HAVING BEEN FIRST DULY SWORN
22 BY THE CLERK OF COURT, TESTIFIED AS FOLLOWS:)

23 THE CLERK: JUST COME AROUND AND HAVE A
24 SEAT BACK HERE.

25 THE COURT: GOOD MORNING, MS. VOID.

1 JURY VENIRE MEMBER: GOOD MORNING.

2 THE COURT: HOW ARE YOU TODAY?

3 JURY VENIRE MEMBER: FINE. HOW ARE YOU?

4 THE COURT: MS. VOID, WE WANT TO IMPOSE ON
5 YOU AND ASK YOU A FEW QUESTIONS. WE WOULD NOT INVADE
6 YOUR PRIVACY IN ANY WAY. YOU'RE LIKE THE REST OF US,
7 BEGINNING COMING TO COURT, YOU'RE A LITTLE BIT
8 NERVOUS, AND I WOULD UNDERSTAND THAT. DON'T LET THAT
9 WORRY YOU. THIS IS JUST A PROCEDURE THAT WE HAVE TO
10 GO THROUGH FOR THE RULES OF THE COURT. I HOPE YOU
11 UNDERSTAND THAT.

12 YESTERDAY IN TALKING TO THE JURY, YOU INDICATED,
13 AND VERY PROPERLY SO, AND I THANK YOU FOR THAT, THAT
14 YOU KNEW SOMETHING ABOUT THE CASE OR READ SOMETHING
15 ABOUT IT OR HEARD SOMETHING ABOUT IT.

16 JURY VENIRE MEMBER: UH-HUH.

17 THE COURT: WHAT WAS YOUR RESPONSE? DO
18 YOU RECALL?

19 JURY VENIRE MEMBER: I JUST SAID I HEARD
20 SOMETHING, YOU KNOW, JUST IN GENERAL TALK.

21 THE COURT: GENERAL TALK?

22 JURY VENIRE MEMBER: YES.

23 THE COURT: HAD YOU FORMED OR EXPRESSED AN
24 OPINION TO AS TO THE GUILT OR INNOCENCE OF ANYBODY?

25 JURY VENIRE MEMBER: NO, BECAUSE I WAS NOT

1 OF TOWN WHEN IT HAPPENED.

2 THE COURT: WHAT I NEED TO KNOW IS IF YOU
3 ARE -- IF YOU ARE ONE OF THESE TWELVE JURORS, CAN YOU
4 PROMISE ME THAT WHATEVER THE DECISION IS IS BASED ON
5 WHAT YOU HEAR IN THIS COURTROOM AND NOT WHAT YOU HEAR
6 ON THE STREETS? CAN YOU DO THAT?

7 JURY VENIRE MEMBER: YES, SIR.

8 THE COURT: IS IT VOID?

9 JURY VENIRE MEMBER: YES.

10 THE COURT: MS. VOID, DID YOU HAVE AN
11 OPPORTUNITY TO READ THE LETTER REFERRING TO THE THREE
12 TYPES OF JURORS?

13 JURY VENIRE MEMBER: YES.

14 THE COURT: YOU WOULD UNDERSTAND, NOW,
15 THAT THERE ARE NO RIGHT OR WRONG ANSWERS ON THE
16 QUESTION OF THE IMPOSITION OF THE DEATH PENALTY.
17 DIFFERENT PEOPLE HAVE DIFFERENT VIEWS, AND ONE VIEW
18 IS JUST AS VALID AS THE OTHER. DIFFERENT PEOPLE FEEL
19 DIFFERENTLY ABOUT IT. UNDER OUR SYSTEM, THIS YOUNG
20 MAN IS BEING TRIED FOR MURDER.

21 JURY VENIRE MEMBER: UH-HUH.

22 THE COURT: NOW, WE HAVE A TWO-PART TRIAL.
23 IF HE'S FOUND NOT GUILTY OF MURDER, WE STOP THERE.
24 IF -- AND I USE THE WORD ADVISEDLY -- IF THE JURY HAS
25 FOUND HIM GUILTY BEYOND EVERY REASONABLE DOUBT OF

1 MURDER, THEN WE GO INTO THE SECOND PART, AND ONLY
2 THEN. AND AT THE SECOND PART, THE JURY SAYS TO
3 THEMSELVES, WE HAVE FOUND HIM GUILTY OF MURDER, WHAT
4 NOW SHALL THE PUNISHMENT BE? THAT'S THE QUESTION.

5 IN RESOLVING THAT QUESTION, GENERALLY PEOPLE
6 FALL INTO THREE GROUPS. THERE'S ONE GROUP WHO SAY WE
7 FIND HIM GUILTY OF MURDER. I'LL ALWAYS BE FOR THE
8 DEATH PENALTY. THERE'S A MIDDLE GROUP -- ANOTHER
9 GROUP WHO SAYS EVEN THOUGH WE FIND HIM GUILTY OF
10 MURDER, I CAN NEVER VOTE FOR THE PENALTY OF DEATH.
11 THERE'S A THIRD GROUP WHO SAY WE FIND HIM GUILTY OF
12 MURDER. NOW I'M GOING TO LISTEN TO THE EVIDENCE AND
13 I'LL DECIDE WHETHER DEATH IS APPROPRIATE OR LIFE
14 IMPRISONMENT. YOU UNDERSTAND?

15 JURY VENIRE MEMBER: YES, SIR.

16 THE COURT: ALL RIGHT. UNDER OUR SYSTEM,
17 IF A JURY FINDS FOR AN INDIVIDUAL THAT THE DEATH
18 PENALTY IS APPROPRIATE, THEY MUST UNANIMOUSLY ALL
19 FIRST AGREE THAT THAT IS THE APPROPRIATE SENTENCE.
20 YOU UNDERSTAND THAT?

21 JURY VENIRE MEMBER: YES, SIR.

22 THE COURT: IF ANYONE DISAGREES, OBVIOUSLY
23 YOU COULDN'T IMPOSE THE DEATH SENTENCE. IF THEY
24 UNANIMOUSLY FIND AFTER LISTENING TO EVERYTHING THAT
25 DEATH IS THE APPROPRIATE SENTENCE, OUR LAW REQUIRE

1 THIS FORM BE SIGNED.

2 JURY VENIRE MEMBER: UH-HUH.

3 THE COURT: AND IT SAYS WE THE JURY IN THE
4 ABOVE-ENTITLED CASE UNANIMOUSLY RECOMMEND THAT THIS
5 DEFENDANT BE SENTENCED TO DEATH. UNDER THIS FORM,
6 THE FOREMAN AND EVERY MEMBER OF THE JURY SIGN HIS
7 NAME. IF YOU CONCLUDE -- AND I USE THE WORD IF --

8 JURY VENIRE MEMBER: UH-HUH.

9 THE COURT: -- IF YOU CONCLUDE AFTER
10 LISTENING TO ALL OF THE EVIDENCE THAT DEATH IS THE
11 APPROPRIATE PUNISHMENT, CAN YOU SIGN YOUR NAME TO
12 SUCH A FORM?

13 JURY VENIRE MEMBER: NO, SIR.

14 THE COURT: YOU CAN'T?

15 JURY VENIRE MEMBER: NO, SIR.

16 THE COURT: WHAT VIEW DO YOU PUT YOURSELF
17 IN, THE FIRST THAT SAYS ALWAYS, THE SECOND THAT SAYS
18 NEVER OR THE THIRD THAT SAYS DEPENDING ON THE FACTS?

19 JURY VENIRE MEMBER: I WOULD HAVE TO SAY
20 NEVER.

21 THE COURT: NEVER? WELL, THAT -- NOW,
22 DON'T MISUNDERSTAND ME, NOW. THERE IS NO RIGHT OR
23 WRONG ANSWERS. YOUR OPINION IS JUST AS VALID AS
24 ANYBODY ELSE. YOU UNDERSTAND THAT?

25 JURY VENIRE MEMBER: YES, SIR.

1 THE COURT: ALL RIGHT.

2 MR. BAILEY: MS. VOID, I'M WALTER BAILEY
3 AND I'LL JUST ASK YOU A COUPLE OF MORE QUESTIONS, ALL
4 RIGHT, JUST TO MAKE SURE WE ALL UNDERSTAND HOW YOU
5 FEEL ABOUT THE DEATH PENALTY. AND LIKE THE JUDGE
6 TOLD YOU, THERE ARE NO RIGHT OR WRONG ANSWERS, SO
7 PLEASE DON'T GIVE ANYBODY AN ANSWER THAT YOU THINK
8 THEY WANT TO HEAR.

9 JURY VENIRE MEMBER: OKAY.

10 MR. BAILEY: JUST TELL US WHAT YOU REALLY
11 THINK. YOU'VE INDICATED THAT YOU'RE THE SECOND TYPE
12 JUROR THAT DOES NOT BELIEVE IN THE DEATH PENALTY
13 UNDER ANY CIRCUMSTANCES --

14 JURY VENIRE MEMBER: NO, SIR.

15 MR. BAILEY: -- IS THAT CORRECT? SO WOULD
16 YOU MIND ME KIND OF PARAPHRASING THAT TO SAY NO
17 MATTER HOW BAD THE MURDER WAS, THAT YOU WOULD ALWAYS
18 COME BACK WITH LIFE IMPRISONMENT IF YOU HAD THAT
19 CHOICE TO MAKE?

20 JURY VENIRE MEMBER: YES, SIR. I FEEL --

21 MR. BAILEY: NO MATTER WHAT WAS SAID, NO
22 MATTER HOW BAD IT WAS OR HOW BAD THAT DEFENDANT WAS,
23 YOU WOULD ALWAYS BRING BACK LIFE IMPRISONMENT?

24 JURY VENIRE MEMBER: YES, SIR.

25 MR. BAILEY: OKAY. AND IS THAT -- DOES

1 THAT STEM FROM YOUR RELIGIOUS BELIEFS, MS. VOID, OR
2 PERSONAL FEELINGS?

3 JURY VENIRE MEMBER: I FEEL LIKE A PERSON
4 WON'T BE ABLE TO PAY THEIR PUNISHMENT IF YOU JUST GO
5 AND TAKE THEM OUT LIKE THAT, JUST KILL THEM. I MEAN,
6 TAKING A LIFE DON'T BRING A LIFE.

7 MR. BAILEY: AND YOU'VE FELT THAT WAY FOR
8 SOME TIME?

9 JURY VENIRE MEMBER: YES.

10 MR. BAILEY: IT'S NOT JUST SOMETHING YOU
11 JUST THOUGHT OF WHEN YOU FOUND OUT YOU MAY BE ON THIS
12 JURY?

13 JURY VENIRE MEMBER: NO. THAT'S HOW I
14 FEEL.

15 MR. BAILEY: THAT IS A DEEPLY-HELD BELIEF?

16 JURY VENIRE MEMBER: HUH?

17 MR. BAILEY: THAT IS A DEEPLY-HELD BELIEF?

18 JURY VENIRE MEMBER: THAT'S JUST INSIDE OF
19 ME.

20 MR. BAILEY: OKAY. I HAVE NO FURTHER
21 QUESTIONS.

22 MR. NEWSOME: I HAVE NO QUESTIONS.

23 THE COURT: STEP IN THE HALL.

24 (JUROR NUMBER 270 IS DISMISSED
25 FROM THE COURTROOM.)

1 THE COURT: THE RECORD WILL REFLECT THAT
2 DEFENSE ATTORNEY DECLINED TO EXAMINE. I HAVE TO DO
3 THAT UNDER STATE V. ATKINS IN EVERY CASE. THE
4 STATUTE CLEARLY SAYS THE DEFENDANT SHALL HAVE THE
5 RIGHT TO EXAMINE THESE WITNESSES. SO MAKE SURE THIS
6 RECORD REFLECTS THAT HE WAS AFFORDED THAT
7 OPPORTUNITY.

8 WHAT'S YOUR POSITION ON THAT?

9 MR. BAILEY: NOT QUALIFIED, YOUR HONOR.

10 MR. NEWSOME: YOUR HONOR, I THINK SHE'S
11 NOT QUALIFIED. IF I THOUGHT THERE WAS ANY CHANCE, I
12 WOULD HAVE.

13 THE COURT: THAT'S WHAT I WAS THINKING,
14 AND I APPRECIATE THE FACT THAT YOU WENT AHEAD AND
15 SAID IT.

16 (JUROR NUMBER 270 ENTERS THE
17 COURTROOM.)

18 THE COURT: WE APPRECIATE YOUR HEARTFELT
19 RESPONSE AND YOUR PRESENCE HERE AND WE WILL EXCUSE
20 YOU FROM FURTHER PARTICIPATION. THANK YOU VERY MUCH.

21 (JUROR NUMBER 270 IS DISMISSED
22 FROM THE COURTROOM.)

23 (JUROR NUMBER 290, A WHITE
24 FEMALE, ENTERS THE COURTROOM.)

25 THE CLERK: PLEASE STATE YOUR NAME FOR E

1 RECORD.

2 JURY VENIRE MEMBER: I'M ROBIN WILLIAMS.

3 (JUROR NUMBER 290, HAVING BEEN FIRST DULY SWORN
4 BY THE CLERK OF COURT, TESTIFIED AS FOLLOWS:)

5 THE CLERK: PLEASE COME AROUND AND HAVE A
6 SEAT IN THE WITNESS BOX.

7 THE COURT: GOOD MORNING. HOW ARE YOU
8 DOING?

9 JURY VENIRE MEMBER: FINE.

10 THE COURT: WE WANT TO TALK TO YOU A FEW
11 MOMENTS, IF WE CAN. YOU INDICATED YESTERDAY THAT YOU
12 HAD NOT HEARD OR READ ANYTHING ABOUT THE CASE. IS
13 THAT STILL YOUR ANSWER?

14 JURY VENIRE MEMBER: YES, SIR.

15 THE COURT: OKAY. DID YOU HAVE AN
16 OPPORTUNITY TO REVIEW THE LETTER THAT I PUT OUT THERE
17 A WHILE AGO?

18 JURY VENIRE MEMBER: YES, SIR, I DID.

19 THE COURT: IT DISCUSSED THE THREE TYPES
20 OF JURORS. YOU UNDERSTAND YOU WOULD NEVER GET INTO
21 THE PUNISHMENT UNTIL AND IF A JURY HAS FOUND HIM
22 GUILTY BEYOND A REASONABLE DOUBT. YOU UNDERSTAND?

23 JURY VENIRE MEMBER: YES, SIR.

24 THE COURT: ONCE, THOUGH -- AND I USE THE
25 WORD ADVISEDLY -- IF THE JURY FINDS HIM GUILTY BEYOND

1 A REASONABLE DOUBT, THEY THEN MUST CONSIDER WHAT
2 PUNISHMENT IS APPROPRIATE.

3 JURY VENIRE MEMBER: YES, SIR.

4 THE COURT: THERE ARE THREE GROUPS OF
5 PEOPLE, AND ALL OF THEM ARE RIGHT. THERE'S NO RIGHT
6 OR WRONG ANSWER, JUST DIFFERENT PEOPLE'S BELIEFS.
7 ONE GROUPS OF PEOPLE SAY HAVING FOUND AN INDIVIDUAL
8 GUILTY OF MURDER, I WILL ALWAYS IMPOSE THE PENALTY OF
9 DEATH. THERE'S A SECOND GROUP OF PEOPLE THAT SAY
10 EVEN THOUGH WE'VE FOUND HIM GUILTY OF MURDER, I CAN
11 NEVER SENTENCE SOMEONE TO DEATH. THERE IS THAT THIRD
12 GROUP THAT SAY THAT IN THE SENTENCING PHASE, I WOULD
13 LISTEN TO THE ARGUMENT AS TO WHY HE SHOULD BE
14 SENTENCED TO DEATH. EQUALLY IMPORTANT, I WOULD
15 LISTEN TO THE ARGUMENT AS TO WHY HE SHOULD BE GIVEN A
16 LIFE SENTENCE --

17 JURY VENIRE MEMBER: UH-HUH.

18 THE COURT: -- AND THEN I'LL MAKE MY
19 DECISION. WOULD YOU BE IN THE FIRST GROUP THAT SAYS
20 ALWAYS, SECOND WHO SAYS NEVER, OR THE THIRD GROUP WHO
21 SAY I WILL LISTEN AND THEN IT WILL DEPEND ON WHAT I
22 FEEL AND FIND? WHAT WOULD YOU SAY; FIRST, SECOND, OR
23 THIRD?

24 JURY VENIRE MEMBER: WELL, WITHOUT A
25 DOUBT, IT WOULD BE THE THIRD.

1 THE COURT: THE THIRD. ALL RIGHT. AND
2 THANK YOU SO MUCH.

3 YOU MAY EXAMINE.

4 MR. BAILEY: THANK YOU, YOUR HONOR. I'M
5 WALTER BAILEY. I WANT TO ASK YOU A FEW MORE
6 QUESTIONS IF THAT'S ALL RIGHT.

7 JURY VENIRE MEMBER: YES, SIR.

8 MR. BAILEY: ALL OF THE JURORS GOT A
9 TWO-PAGE QUESTIONNAIRE. FOR SOME REASON, I ONLY GOT
10 THE FIRST PAGE, AND THE SECOND PAGE HAS SOME
11 ADDITIONAL INFORMATION ON IT. DO YOU RECALL IF YOU
12 FILLED OUT BOTH SIDES OF IT OR TWO PAGES OR ONE?

13 JURY VENIRE MEMBER: NO, I DIDN'T FILL OUT
14 THAT.

15 MR. BAILEY: OKAY.

16 JURY VENIRE MEMBER: I HAVEN'T FILLED OUT
17 ANYTHING LIKE THAT.

18 MR. BAILEY: OKAY. ALL RIGHT. LET ME
19 CHECK WITH THE CLERK AND SEE IF HE'S GOT THE SECOND
20 PAGE.

21 THE COURT: I HAVE A SECOND PAGE. WOULD
22 YOU LIKE -- I'M SORRY. THIS IS THE FIRST PAGE.

23 MR. BAILEY: OKAY.

24 MR. NEWSOME: I DON'T HAVE THE SECOND PAGE
25 EITHER.

1 MR. BAILEY: OKAY. LET ME JUST ASK YOU A
2 COUPLE QUESTIONS, THEN, THAT WOULD HAVE BEEN ON THE
3 SECOND PAGE. OKAY. YOU'VE INDICATED YOU'VE GOT TWO
4 CHILDREN, TWO GIRLS?

5 JURY VENIRE MEMBER: YES, SIR.

6 MR. BAILEY: AND HOW OLD ARE THEY?

7 JURY VENIRE MEMBER: SEVEN AND NINE.

8 MR. BAILEY: ALL RIGHT. AND YOUR CHURCH
9 AFFILIATION IS GOSPEL LIGHT BAPTIST CHURCH.

10 JURY VENIRE MEMBER: YES, SIR, I DID FILL
11 THAT OUT. I'M SORRY.

12 MR. BAILEY: DOES THAT CHURCH HAVE ANY
13 DOCTRINE OR TEACHINGS ON THE DEATH PENALTY THAT
14 YOU'RE AWARE OF?

15 JURY VENIRE MEMBER: NO, SIR.

16 MR. BAILEY: DO YOU HAVE ANY PERSONAL
17 RELIGIOUS BELIEFS ON THE DEATH PENALTY ONE WAY OR THE
18 OTHER?

19 JURY VENIRE MEMBER: I HAVE RELIGIOUS
20 CONVICTIONS BUT NOT CONCERNING THE DEATH PENALTY.

21 MR. BAILEY: ALL RIGHT. AND ON YOUR
22 QUESTIONNAIRE, YOU INDICATED SOME POTENTIAL WORK
23 CONFLICT. HAVE YOU RESOLVED THAT?

24 JURY VENIRE MEMBER: WELL, YES, THEY DO
25 HAVE A SUB FOR ME NOW.

1 MR. BAILEY: OKAY. SO THAT WOULD NOT BE A
2 PROBLEM IF YOU WERE PICKED ON A JURY?

3 JURY VENIRE MEMBER: NO, SIR.

4 MR. BAILEY: OKAY. JUDGE COTTINGHAM
5 EXPLAINED TO YOU ABOUT THE TWO-PART PROCESS THAT WE
6 GO THROUGH IN A DEATH PENALTY TRIAL IN SOUTH
7 CAROLINA, WHERE THE FIRST PART OF THE TRIAL IS LIKE
8 ANY OTHER CRIMINAL TRIAL WHERE THE JURY IS JUST THERE
9 TO DETERMINE GUILT OR INNOCENCE.

10 JURY VENIRE MEMBER: YES, SIR.

11 MR. BAILEY: AND IT WOULD BE MY JOB TO TRY
12 TO CONVINCING THE JURY BEYOND A REASONABLE DOUBT THAT
13 THE DEFENDANT IS GUILTY.

14 JURY VENIRE MEMBER: YES, SIR.

15 MR. BAILEY: IF I CAN'T DO THAT, THEN
16 THAT'S THE END OF IT, HE GOES HOME. IF I DO CONVINCING
17 THE JURY BEYOND A REASONABLE DOUBT THAT THE
18 DEFENDANT'S GUILTY OF MURDER, THEN WE GO INTO THE
19 SECOND PHASE, WHICH IS THE PENALTY PHASE, AND THE
20 JURY HAS TWO CHOICES, LIFE IMPRISONMENT OR THE DEATH
21 PENALTY.

22 JURY VENIRE MEMBER: UH-HUH.

23 MR. BAILEY: AND YOU UNDERSTAND THAT WE
24 WOULD NOT EVEN BE IN THAT SECOND PHASE UNLESS WE'RE
25 DEALING WITH A CONVICTED MURDERER IN THE FIRST PHASE;

1 IS THAT RIGHT?

2 JURY VENIRE MEMBER: YES, SIR. I
3 UNDERSTAND.

4 MR. BAILEY: OKAY. YOU UNDERSTAND THAT IN
5 SOUTH CAROLINA, THE JURY AND NOT THE JUDGE DECIDES
6 WHAT THE PUNISHMENT WOULD BE.

7 JURY VENIRE MEMBER: YES, SIR.

8 MR. BAILEY: IT ISN'T A RECOMMENDATION, IT
9 IS WHAT'S GOING TO HAPPEN.

10 JURY VENIRE MEMBER: YES, SIR.

11 MR. BAILEY: OKAY. NOW, IF YOU WERE ON A
12 JURY IN A CASE LIKE THIS AND YOU GOT TO THE SECOND
13 PHASE AND YOU AND THE OTHER ELEVEN JURORS AFTER
14 HEARING ALL OF THE EVIDENCE DECIDED THAT FOR THAT
15 PARTICULAR DEFENDANT IN THAT PARTICULAR CRIME THAT
16 DEATH WAS THE APPROPRIATE PUNISHMENT --

17 JURY VENIRE MEMBER: UH-HUH.

18 MR. BAILEY: -- THEN EACH JUROR WOULD HAVE
19 TO SIGN THEIR NAME TO THE DEATH VERDICT FORM, AND THE
20 RESULT OF THAT WOULD BE THAT EVENTUALLY THAT
21 DEFENDANT ACTUALLY WOULD BE EXECUTED.

22 JURY VENIRE MEMBER: YES.

23 MR. BAILEY: COULD YOU SIGN YOUR NAME TO
24 THAT FORM IF YOU AND THE OTHER JURORS HAD ALREADY
25 VOTED FOR THE DEATH PENALTY?

1 JURY VENIRE MEMBER: I BELIEVE -- YES, I
2 KNOW I COULD. I -- I WOULD HAVE TO -- IT WOULD HAVE
3 TO BE A REAL STRONG FEELING IN THAT DIRECTION.

4 MR. BAILEY: OKAY. AND COULD YOU COME OUT
5 INTO OPEN COURT AND ANNOUNCE THAT DECISION IF YOUR
6 NAME WAS CALLED INDIVIDUALLY?

7 JURY VENIRE MEMBER: YES, SIR.

8 MR. BAILEY: OKAY. NOW, IN THIS
9 PARTICULAR CASE, THE DEFENDANT IS OBVIOUSLY A YOUNG
10 BLACK MALE.

11 JURY VENIRE MEMBER: UH-HUH.

12 MR. BAILEY: THE VICTIM OF THE KILLING WAS
13 A YOUNG WHITE MALE.

14 JURY VENIRE MEMBER: YES, SIR.

15 MR. BAILEY: WOULD THE DIFFERENCE IN RACES
16 BETWEEN THE VICTIM AND THE DEFENDANT MAKE ANY
17 DIFFERENCE TO YOU?

18 JURY VENIRE MEMBER: NO, SIR.

19 MR. BAILEY: WOULD YOU VIEW THE CASE THE
20 SAME WAY IF YOU HAD A WHITE DEFENDANT SITTING HERE
21 AND A BLACK VICTIM?

22 JURY VENIRE MEMBER: YES, SIR.

23 MR. BAILEY: ALL RIGHT. THE STATE ALLEGES
24 AND OUR EVIDENCE WOULD BE THAT THE MURDER TOOK PLACE
25 IN MARCH OF 1994. AT THAT TIME, THE DEFENDANT WAS 16

1 YEARS OLD. HE'S 18 NOW.

2 JURY VENIRE MEMBER: UH-HUH.

3 MR. BAILEY: IF THE CASE WAS BAD ENOUGH,
4 COULD YOU IMPOSE THE DEATH PENALTY ON A PERSON WHO
5 WAS 16 AT THE TIME HE COMMITTED THE MURDER?

6 JURY VENIRE MEMBER: YEAH. IT WOULD
7 DEPEND ON THE FACTS OF THE CASE, BUT YES, SIR, I
8 COULD.

9 MR. BAILEY: ALL RIGHT. MS. WILLIAMS,
10 THAT'S ALL I'VE GOT. THANK YOU VERY MUCH.

11 MR. NEWSOME: MS. WILLIAMS, ARE YOU FROM
12 THE ST. MATTHEWS AREA?

13 JURY VENIRE MEMBER: NO, SIR.

14 MR. NEWSOME: YOU DID NOT GROW UP HERE?

15 JURY VENIRE MEMBER: HUH-UH.

16 MR. NEWSOME: HOW LONG HAVE YOU LIVED IN
17 THIS COUNTY?

18 JURY VENIRE MEMBER: I'VE LIVED IN CAMERON
19 FOR FIVE YEARS.

20 MR. NEWSOME: IN CAMERON?

21 JURY VENIRE MEMBER: YES, SIR.

22 MR. NEWSOME: OKAY. HAVE EITHER YOU OR
23 ANYBODY IN YOUR FAMILY BEEN A VICTIM OF A CRIME, A
24 VIOLENT CRIME?

25 JURY VENIRE MEMBER: NO, SIR.

1 MR. NEWSOME: THANK YOU. I HAVE NO
2 FURTHER QUESTIONS.

3 THE COURT: STEP OUT JUST A MOMENT.

4 (JUROR NUMBER 290 IS DISMISSED
5 FROM THE COURTROOM.)

6 THE COURT: WHAT SAY THE STATE?

7 MR. BAILEY: QUALIFIED, YOUR HONOR,

8 THE COURT: WHAT SAY THE DEFENSE?

9 MR. NEWSOME: QUALIFIED, YOUR HONOR.

10 (JUROR NUMBER 290 ENTERS THE
11 COURTROOM.)

12 THE COURT: MADAM JUROR, THE ATTORNEY FOR
13 THE STATE AND THE DEFENDANT AND THIS COURT FIND YOU
14 QUALIFIED TO SERVE, IF SELECTED.

15 JURY VENIRE MEMBER: YES, SIR.

16 THE COURT: WE ARE QUALIFYING 35 JURORS
17 FROM WHICH NUMBER WE WILL BE TAKING 12 JURORS AND 2
18 ALTERNATES. I'M GOING TO ASK THAT YOU PACK SUCH
19 PERSONAL BELONGINGS AS YOU WILL NEED IN THE EVENT YOU
20 ARE SELECTED. I WANT YOU TO REPORT TOMORROW
21 AFTERNOON TO THE -- WITH THE OTHER 34 JURORS AT THE
22 ANNEX ACROSS THE STREET AT 2:30.

23 JURY VENIRE MEMBER: OKAY.

24 THE COURT: AND THEN WITHIN 15 MINUTES,
25 YOU WILL KNOW WHETHER YOU WILL OR WILL NOT BE ON THE

1 JURY. BUT BE PREPARED TO STAY IN THE EVENT YOU ARE
2 SELECTED. THANK YOU.

3 JURY VENIRE MEMBER: THANK YOU.

4 (JUROR NUMBER 290 IS DISMISSED
5 FROM THE COURTROOM.)

6 (JUROR NUMBER 58, A WHITE
7 MALE, ENTERS THE COURTROOM.)

8 THE CLERK: IF YOU WOULD, PLEASE PLACE
9 YOUR LEFT HAND ON THE BIBLE. PLEASE RAISE YOUR RIGHT
10 HAND. PLEASE STATE YOUR NAME FOR THE RECORD.

11 JURY VENIRE MEMBER: JEFFREY FILINA.

12 (JUROR NUMBER 58, HAVING BEEN FIRST DULY SWORN
13 BY THE CLERK OF COURT, TESTIFIED AS FOLLOWS:)

14 THE CLERK: COME AROUND AND HAVE A SEAT,
15 PLEASE, SIR.

16 THE BAILIFF: HAVE A SEAT IN THE CHAIR
17 THERE, PLEASE, SIR.

18 THE COURT: GOOD MORNING.

19 JURY VENIRE MEMBER: GOOD MORNING.

20 THE COURT: PLEASE TELL ME HOW TO
21 PRONOUNCE YOUR NAME.

22 JURY VENIRE MEMBER: FILINA.

23 THE COURT: MR. FILINA, WE APPRECIATE YOUR
24 PRESENCE HERE TODAY. WE WANT TO ASK YOU A FEW
25 QUESTIONS, CERTAINLY NOT TO INVADE YOUR PRIVACY.

1 THIS IS THE ONLY TIME IN A PROCEEDING WHERE WE HAVE
2 AN OPPORTUNITY TO ASK YOUR VIEWS ABOUT THE IMPOSITION
3 OF THE DEATH PENALTY.

4 AS YOU KNOW, OF COURSE, THERE ARE TWO PHASES TO
5 THIS TRIAL. THE FIRST PHASE WOULD BE TO DECIDE THE
6 GUILT OR INNOCENCE OF THE DEFENDANT. IF THE
7 DEFENDANT IS FOUND NOT GUILTY, WE STOP THERE. IF THE
8 JURY -- AND I USE THAT WORD ADVISEDLY -- IF THE JURY
9 FINDS THIS DEFENDANT GUILTY OF MURDER BEYOND A
10 REASONABLE DOUBT, WE THEN GO TO THE SECOND PHASE,
11 WHICH THE PUNISHMENT PHASE. IN THAT PHASE, THE JURY
12 SAYS WE HAVE NOW FOUND HIM GUILTY OF MURDER, WHAT
13 SHALL THE SENTENCE BE BY WAY OF PUNISHMENT? SHALL WE
14 IMPOSE THE SENTENCE OF DEATH OR SHALL WE IMPOSE THE
15 LIFE IMPRISONMENT?

16 AS THAT LETTER INDICATED, THERE IS ONE GROUP OF
17 PEOPLE WHO SAY WE FIND HIM GUILTY OF MURDER, I'LL
18 ALWAYS BE FOR THE DEATH PENALTY. THERE'S A SECOND
19 GROUP THAT SAYS EVEN THOUGH WE FOUND HIM GUILTY OF
20 MURDER, I CAN NEVER BE FOR THE DEATH PENALTY.
21 THERE'S A THIRD GROUP WHO SAY EVEN THOUGH WE FOUND
22 HIM GUILTY OF MURDER, I'M GOING TO LISTEN TO THE
23 REASONS WHY THE STATE WANTS TO GIVE HIM DEATH AND I'M
24 GOING TO LISTEN TO THE REASONS WHY THE DEFENSE THINKS
25 HE OUGHT TO HAVE LIFE AND THEN I'LL MAKE MY DECISION.

1 WOULD YOU BE THE FIRST, SECOND, OR THIRD?

2 JURY VENIRE MEMBER: I WOULD BE IN THE
3 SECOND.

4 THE COURT: SECOND. AND WHAT IS YOUR VIEW
5 OF THE SECOND?

6 JURY VENIRE MEMBER: JUST -- I COULDN'T
7 HAVE THAT ON MY CONSCIENCE FOR MY LIFE THAT I DID
8 SOMEBODY -- OR TOOK SOMEBODY'S LIFE OR HAD TO SAY TO
9 TAKE SOMEBODY'S LIFE.

10 THE COURT: NO MATTER HOW SERIOUS COULD BE
11 THE OFFENSE, YOU SAY THAT JUST PHILOSOPHICALLY OR
12 RELIGIOUSLY OR FOR WHATEVER REASON, YOU COULD NEVER,
13 EVER IMPOSE THE DEATH SENTENCE?

14 JURY VENIRE MEMBER: YES, SIR.

15 THE COURT: THAT IS A VIEW THAT YOU WOULD
16 NOT CHANGE YOUR MIND?

17 JURY VENIRE MEMBER: NO, I WOULD NOT, SIR.

18 MR. BAILEY: NO QUESTIONS, YOUR HONOR.

19 MR. NEWSOME: NO QUESTIONS, YOUR HONOR.

20 THE COURT: ALL RIGHT, SIR. PLEASE STEP
21 OUT.

22 (JUROR NUMBER 58 IS DISMISSED
23 FROM THE COURTROOM.)

24 MR. BAILEY: NOT QUALIFIED.

25 MR. NEWSOME: HE APPEARS TO BE VERY STRONG

1 IN HIS OPINION.

2 THE COURT: YES. THANK YOU.

3 (JUROR NUMBER 58 ENTERS THE
4 COURTROOM.)

5 THE COURT: MR. JUROR, WE DEEPLY
6 APPRECIATE YOUR PRESENCE AND ATTENDANCE HERE. I KNOW
7 WE'VE INCONVENIENCED YOU. I HOPE WE'VE
8 INCONVENIENCED YOU AS LITTLE AS POSSIBLE. WE WILL
9 EXCUSE YOU FROM FURTHER PARTICIPATION. THANK YOU.

10 JURY VENIRE MEMBER: THANK YOU, YOUR
11 HONOR. THANK YOU.

12 (JUROR NUMBER 58 IS DISMISSED
13 FROM THE COURTROOM.)

14 THE COURT: IN THE MEANTIME, BRING ME IN
15 THE OTHER PANEL, MR. KOLBERG -- MR. KOLBERG IN THE
16 THIRD PANEL. THIS WOULD BE THE GENTLEMAN WE TALKED
17 ABOUT IN CHAMBERS.

18 (JUROR NUMBER 146, A WHITE
19 MALE, ENTERS THE COURTROOM.)

20 THE COURT: MR. KOLBERG.

21 JURY VENIRE MEMBER: YES, SIR. GOOD
22 MORNING, SIR.

23 THE COURT: THAT'S ALL RIGHT. THE RECORD
24 WILL REFLECT THAT FOR GOOD AND SUFFICIENT REASON, WE
25 ARE TRANSFERRING YOU TO ANOTHER TERM OF COURT.

1 JURY VENIRE MEMBER: OKAY.

2 THE COURT: WE UNDERSTAND THAT YOU HAVE
3 SOME URGENT GENERAL DUTIES WITH THE CALHOUN COUNTY
4 WATER DISTRICT THAT MUST BE ATTENDED TO.

5 JURY VENIRE MEMBER: YES, SIR.

6 THE COURT: THE STATE AND THE DEFENSE AND
7 THE DEFENDANT IN MY PRESENCE AT THIS MOMENT HAVE
8 ACQUIESCED AND AGREED TO YOUR TRANSFER. IS THAT
9 RIGHT?

10 MR. BAILEY: THAT'S CORRECT, YOUR HONOR.

11 MR. NEWSOME: THAT'S CORRECT, YOUR HONOR.

12 THE COURT: ALL RIGHT, SIR. YOU MAY BE
13 EXCUSED.

14 JURY VENIRE MEMBER: THANK YOU VERY MUCH,
15 SIR. THANK YOU.

16 (JUROR NUMBER 146 IS DISMISSED
17 FROM THE COURTROOM.)

18 (JUROR NUMBER 124, A BLACK
19 FEMALE, ENTERS THE COURTROOM.)

20 THE CLERK: PLEASE STATE YOUR NAME FOR THE
21 RECORD.

22 JURY VENIRE MEMBER: MAMIE L. JETER.

23 (JUROR NUMBER 124, HAVING BEEN FIRST DULY SWORN
24 BY THE CLERK OF COURT, TESTIFIED AS FOLLOWS:)

25 THE CLERK: PLEASE COME AROUND AND HAVE

1 SEAT.

2 THE COURT: GOOD MORNING. IS IT JETER?

3 JURY VENIRE MEMBER: YES.

4 THE COURT: FINE. MS. JETER, WE THANK YOU
5 FOR YOUR PRESENCE HERE. WE WOULD UNDERSTAND THAT YOU
6 MIGHT BE NERVOUS IN THESE UNFAMILIAR PROCEEDINGS.
7 SOMETIMES THEY MAKE ME NERVOUS TOO, SO DON'T WORRY
8 ABOUT ALL OF THAT.

9 MS. JETER, YOU HAVE INDICATED YESTERDAY THAT YOU
10 HAVE NOT HEARD OR DISCUSSED THIS CASE WITH ANYONE --
11 SHE HAD HEARD -- EXCUSE ME. YOU HAD INDICATED THAT
12 YOU HAD HEARD SOMETHING ABOUT IT. CAN YOU TELL US
13 WHAT YOU MAY HAVE HEARD?

14 JURY VENIRE MEMBER: WELL --

15 THE COURT: I'LL ASK YOU TO TALK A LITTLE
16 LOUDER SO EVERYBODY CAN HEAR YOU.

17 JURY VENIRE MEMBER: WELL, ON BEHALF OF
18 THE OWENS --

19 THE COURT: MA'AM?

20 JURY VENIRE MEMBER: THE OWENS BOY
21 CONNECTED WITH THE CASE, HIS BROTHER WORKED WITH ME.

22 THE COURT: HIS BROTHER WORKS FOR YOU?

23 JURY VENIRE MEMBER: WORKED AT THE SAME
24 COMPANY.

25 THE COURT: UH-HUH.

1 JURY VENIRE MEMBER: WE WORKED VERY CLOSE
2 TOGETHER, SO THEREFORE I'VE BEEN HEARING LITTLE
3 RUMORS.

4 THE COURT: BACK AND FORTH, BACK AND
5 FORTH?

6 JURY VENIRE MEMBER: BACK AND FORTH.

7 THE COURT: FOR THE RECORD, WHO IS OWENS,
8 PLEASE?

9 MR. BAILEY: HE'S HENRY DANIEL OWENS WHO
10 WILL BE A STATE'S WITNESS. HIS FATHER IS ALSO HENRY
11 DANIEL OWENS WHO WILL BE A STATE'S WITNESS ALSO.

12 THE COURT: WOULD THAT CONNECTION GIVE YOU
13 PROBLEMS IF YOU WERE SITTING ON THE JURY?

14 JURY VENIRE MEMBER: I THINK IT WOULD.

15 THE COURT: YOU THINK IT WOULD. AND
16 THEY'VE DISCUSSED THE FACTS IN THIS CASE WITH YOU
17 PRETTY HEAVILY?

18 JURY VENIRE MEMBER: SOME OF THEM, YES.

19 THE COURT: DO YOU WANT TO EXPLORE THAT?

20 MR. BAILEY: YES, SIR, JUST THAT ONE
21 POINT.

22 THE COURT: SHE INDICATED THAT HER
23 KNOWLEDGE WOULD HAVE AN IMPACT ON HER, BUT YOU MAY
24 ASK SOME MORE IT, AND I'LL PERMIT THE DEFENSE TO ASK
25 SOME MORE ON IT.

1 MR. BAILEY: MS. JETER, THIS IS HENRY
2 DANIEL OWENS' OLDER OR YOUNGER BROTHER THAT YOU WORK
3 WITH?

4 JURY VENIRE MEMBER: I THINK IT'S THE
5 YOUNGER. KENNY. KENNY.

6 MR. BAILEY: ALL RIGHT. AND AS I
7 UNDERSTAND WHAT YOU TOLD JUDGE COTTINGHAM, THAT KENNY
8 OWENS HAS RELATED STUFF TO YOU THAT DANIEL OWENS HAS
9 TOLD TO HIM?

10 JURY VENIRE MEMBER: WELL, YES.

11 MR. BAILEY: ABOUT WHAT HAPPENED?

12 JURY VENIRE MEMBER: ABOUT THE CASE, YES.

13 MR. BAILEY: AND DID YOU KNOW THAT DANIEL
14 OWENS HAD CHARGES PENDING AGAINST HIM FOR HIS
15 INVOLVEMENT?

16 JURY VENIRE MEMBER: YES, I KNEW THAT TOO.

17 MR. BAILEY: SO DID DANIEL OWENS' BROTHER
18 GIVE SPECIFIC DETAILS OF WHAT HE SAID THAT HENRY
19 OWENS --

20 JURY VENIRE MEMBER: NO. HE JUST TOLD ME
21 THAT HIS BROTHER WOULD BE TRIED WITH THIS CASE.

22 MR. BAILEY: OKAY. BUT DID THEY TALK
23 ABOUT WHAT ACTUALLY HAPPENED AT THE BLUE DIAMOND?

24 JURY VENIRE MEMBER: ALL I KNOW IS
25 SOMEBODY GOT SHOT.

1 MR. BAILEY: OKAY.

2 JURY VENIRE MEMBER: AND JUST LITTLE
3 RUMORS, YOU KNOW.

4 MR. BAILEY: OKAY. WELL, WOULD THE FACT
5 THAT YOU WORK WITH THE BROTHER OF A PERSON WHO HAS
6 GOT CHARGES STEMMING OUT OF THIS SAME INCIDENT CAUSE
7 YOU ANY PROBLEMS IF YOU WERE PICKED ON THE JURY?

8 JURY VENIRE MEMBER: I THINK IT WOULD.

9 MR. BAILEY: OKAY. AND YOU UNDERSTAND
10 THAT IF YOU'RE PICKED ON A JURY, YOU HAVE TO MAKE A
11 DECISION SOLELY ON THE SWORN TESTIMONY FROM THE
12 WITNESS STAND AND PUT ANY OUTSIDE INFLUENCE KIND OF
13 OUT OF YOUR MIND?

14 JURY VENIRE MEMBER: YES, SIR. I
15 UNDERSTAND THAT TOO.

16 MR. BAILEY: AND IN ALL HONESTY, WOULD YOU
17 BE ABLE TO DO THAT IN THIS CASE BASED ON YOUR
18 RELATIONSHIP WITH THE OWENS FAMILY?

19 JURY VENIRE MEMBER: I REALLY DON'T THINK
20 SO.

21 MR. BAILEY: THANK YOU. THAT'S ALL I
22 HAVE.

23 MR. NEWSOME: A COUPLE OF QUESTIONS. ARE
24 YOU SAYING THAT IF YOU HEARD A RUMOR AND THEN HEARD
25 LATER -- LATER HEARD EVIDENCE THAT WAS DIFFERENT FROM

1 THAT RUMOR, YOU COULDN'T SET ASIDE THAT RUMOR AND
2 MAKE YOUR DECISION SOLELY ON THE EVIDENCE THAT YOU
3 HEARD?

4 JURY VENIRE MEMBER: THAT'S WHAT I'M
5 SAYING.

6 MR. NEWSOME: OKAY. I HAVE NO FURTHER
7 QUESTIONS.

8 THE COURT: HAVE HER STEP OUTSIDE.

9 (JUROR NUMBER 124 IS DISMISSED
10 FROM THE COURTROOM.)

11 THE COURT: WHAT SAYS THE STATE?

12 MR. BAILEY: NOT QUALIFIED, YOUR HONOR.

13 MR. NEWSOME: NOT QUALIFIED, YOUR HONOR.

14 THE COURT: BRING HER IN.

15 (JUROR NUMBER 124 ENTERS THE
16 COURTROOM.)

17 THE COURT: MADAM JUROR, WE THANK YOU FOR
18 YOUR APPEARANCE HERE. THE COURT APPRECIATES --
19 PARTICULARLY APPRECIATES THE CANDOR IN YOUR REPLY TO
20 QUESTIONS. THANK YOU SO MUCH. WE WILL EXCUSE YOU
21 FROM FURTHER PARTICIPATION.

22 JURY VENIRE MEMBER: THANK YOU.

23 THE COURT: THANK YOU SO MUCH.

24 (JUROR NUMBER 124 IS DISMISSED
25 FROM THE COURTROOM.)

1 THE COURT: ALL RIGHT. GENTLEMEN, WE'LL
2 TAKE JUST A VERY SHORT BREAK AND THEN BEGIN WITH
3 PANEL NUMBER THREE. MY RECORDS NOW REFLECT THAT WE
4 HAVE QUALIFIED 19.

5 MR. BAILEY: YES, SIR.

6 MR. NEWSOME: YES, SIR.

7 THE COURT: ALL RIGHT. THANK YOU SO MUCH.
8 LET'S TAKE A SHORT BREAK AND THEN WE'LL RESUME.
9 WE'RE NOT RUNNING MUCH BEHIND TIME.

10 (WHEREUPON, A BREAK WAS TAKEN
11 FROM THE PROCEEDINGS.)

12 THE COURT: SOLICITOR, ARE YOU READY TO
13 PROCEED?

14 MR. BAILEY: YES, SIR.

15 THE COURT: YOU READY TO PROCEED TOO?

16 MR. NEWSOME: YES, SIR.

17 THE COURT: ALL RIGHT. GENTLEMEN, WE
18 BEGIN ON PANEL NUMBER THREE.

19 (JUROR NUMBER 77, A BLACK
20 FEMALE, ENTERS THE COURTROOM.)

21 THE CLERK: MS. GOODWIN, IF YOU WOULD,
22 PLEASE YOUR LEFT HAND ON THE BIBLE. PLEASE RAISE
23 YOUR RIGHT HAND. PLEASE STATE YOUR NAME FOR THE
24 RECORD.

25 JURY VENIRE MEMBER: MY NAME IS WILLET

1 GOODWIN.

2 (JUROR NUMBER 77, HAVING BEEN FIRST DULY SWORN
3 BY THE CLERK OF COURT, TESTIFIED AS FOLLOWS:)

4 THE CLERK: PLEASE COME AROUND AND HAVE A
5 SEAT.

6 THE COURT: GOOD MORNING.

7 JURY VENIRE MEMBER: GOOD MORNING.

8 THE COURT: MS. GOODWIN, WE APPRECIATE
9 YOUR ATTENDANCE HERE TODAY AND ARE SORRY FOR THE
10 DELAY BACK THERE, BUT THIS IS JUST A SLOW PROCESS.

11 MS. GOODWIN, DID YOU HAVE THE OPPORTUNITY TO
12 READ THE LETTER ABOUT THE THREE TYPE OF JURORS?

13 JURY VENIRE MEMBER: YES, SIR.

14 THE COURT: AND DO YOU UNDERSTAND THIS
15 SORT OF CASE WHERE THE DEATH -- WHERE THE STATE SEEKS
16 THE PENALTY OF DEATH IS DIVIDED INTO TWO PARTS? THE
17 FIRST PART IS TO DETERMINE THE GUILT OR THE INNOCENCE
18 OF THE DEFENDANT. IF THE JURY FINDS HIM NOT GUILTY,
19 OF COURSE, WE STOP THERE. IF THE JURY FINDS HIM
20 GUILTY BEYOND A REASONABLE DOUBT, WE THEN GO INTO THE
21 SECOND PART AND ONLY THEN. IN THE SECOND PART, THE
22 JURY SAYS WE HAVE FOUND HIM GUILTY, WHAT SHALL THE
23 PUNISHMENT BE, DEATH BY ELECTROCUTION OR LETHAL
24 INJECTION OR LIFE IMPRISONMENT? THAT'S WHAT THE JURY
25 HAS TO DECIDE. ON THAT QUESTION, DIFFERENT PEOPLE

1 HAVE DIFFERENT VIEWS, AND ALL OF THEM ARE RIGHT.

2 THERE'S NO RIGHT OR WRONG ANSWERS.

3 THERE'S ONE GROUP OF PEOPLE WHO SAY HAVING FOUND
4 HIM GUILTY OF MURDER, I WOULD ALWAYS VOTE TO IMPOSE
5 DEATH. THERE'S A SECOND GROUP THAT SAY EVEN THOUGH
6 WE FIND HIM GUILTY OF MURDER, I CAN NEVER EVER VOTE
7 FOR THE DEATH PENALTY. THE THIRD GROUP SAYS I'M
8 WILLING TO LISTEN TO BOTH SIDES AND THEN DECIDE
9 WHETHER THE PUNISHMENT SHOULD BE LIFE OR DEATH. DO
10 YOU UNDERSTAND THAT?

11 JURY VENIRE MEMBER: YES, SIR.

12 THE COURT: WOULD YOU BE IN THE FIRST
13 GROUP THAT SAYS ALWAYS, THE SECOND THAT SAYS NEVER,
14 OR WOULD YOU BE IN THE THIRD GROUP THAT SAYS I'LL
15 LISTEN TO BOTH SIDES AND THEN I COULD IMPOSE LIFE OR
16 DEATH? WHAT WOULD YOU BE; FIRST, SECOND OR THIRD,
17 PLEASE?

18 JURY VENIRE MEMBER: WELL, THIRD ONE.

19 THE COURT: THIRD ONE? AND WHAT IS YOUR
20 VIEW, PLEASE, OF THE THIRD GROUP?

21 JURY VENIRE MEMBER: LIFE.

22 THE COURT: PARDON ME?

23 JURY VENIRE MEMBER: LIFE.

24 THE COURT: LIFE?

25 JURY VENIRE MEMBER: YES, SIR.

1 THE COURT: WELL, THE THIRD GROUP SAYS I
2 COULD DO EITHER ONE.

3 JURY VENIRE MEMBER: UH-HUH.

4 THE COURT: ARE YOU SAYING THAT YOU WOULD
5 ALWAYS IMPOSE LIFE IMPRISONMENT?

6 JURY VENIRE MEMBER: RIGHT.

7 THE COURT: OKAY. YOU UNDERSTAND THAT
8 THERE'S NO RIGHT OR WRONG ANSWERS, NOW.

9 JURY VENIRE MEMBER: YES, SIR.

10 THE COURT: AS I -- LET ME TELL YOU ONE
11 MORE TIME. THERE IS ONE GROUP -- YOU UNDERSTAND THAT
12 IF YOU GOT TO THAT QUESTION, THE JURY WOULD HAVE
13 FOUND HIM GUILTY OF MURDER.

14 JURY VENIRE MEMBER: UH-HUH.

15 THE COURT: IN THE PUNISHMENT STAGE, THERE
16 IS ONE GROUP THAT SAYS I WOULD ALWAYS VOTE FOR DEATH.

17 JURY VENIRE MEMBER: UH-HUH.

18 THE COURT: THERE A SECOND GROUP THAT SAYS
19 EVEN THOUGH HE'S GUILTY OF MURDER, I COULD NEVER VOTE
20 FOR THE DEATH PENALTY.

21 JURY VENIRE MEMBER: UH-HUH.

22 THE COURT: THAT IS YOUR VIEW -- IS THAT
23 THE ONE YOU HAVE OR ARE YOU IN THE SECOND GROUP THAT
24 -- THIRD GROUP THAT WOULD DEPEND ON THE FACTS?

25 JURY VENIRE MEMBER: I'M SORT OF LIKE IN

1 THE SECOND ONE AND THE THIRD ONE. BUT I KNOW MY
2 OPINION WOULD BE I COULD NEVER VOTE FOR THE DEATH
3 PENALTY.

4 THE COURT: THAT'S FINE, AND YOU'RE
5 ENTITLED -- THERE'S NO PROBLEM WITH THAT OPINION.
6 YOU UNDERSTAND?

7 JURY VENIRE MEMBER: YES.

8 THE COURT: ALL RIGHT. YOU MAY EXAMINE.

9 MR. BAILEY: THANK YOU, YOUR HONOR. MS.
10 GOODWIN, I'M WALTER BAILEY, AND I WANT TO ASK YOU A
11 FEW MORE QUESTIONS. AND LIKE JUDGE COTTINGHAM SAID,
12 THERE ARE NO RIGHT OR WRONG ANSWERS. EVERYBODY'S GOT
13 THEIR OPINION ON SOMETHING LIKE THIS AND EVERYBODY
14 RESPECTS YOUR OPINION. BUT AS I UNDERSTAND WHAT YOU
15 TOLD JUDGE COTTINGHAM, YOU'RE THE TYPE OF JUROR WHO
16 DOES NOT BELIEVE IN THE DEATH PENALTY UNDER ANY
17 CIRCUMSTANCES; IS THAT RIGHT?

18 JURY VENIRE MEMBER: RIGHT.

19 MR. BAILEY: SO NO MATTER HOW BAD THE
20 CRIME WAS OR HOW BAD THE DEFENDANT WAS, IF YOU HAD A
21 CHOICE BETWEEN LIFE IMPRISONMENT AND THE DEATH
22 PENALTY, YOU WOULD IN EVERY CASE VOTE FOR LIFE?

23 JURY VENIRE MEMBER: RIGHT.

24 MR. BAILEY: AND COULD YOU UNDER ANY
25 CIRCUMSTANCES EVER SIGN YOUR NAME TO A PIECE OF PA

1 THAT WOULD RESULT IN SOMEBODY BEING EXECUTED?

2 JURY VENIRE MEMBER: STATE THAT QUESTION
3 AGAIN, PLEASE.

4 MR. BAILEY: COULD YOU UNDER ANY
5 CIRCUMSTANCES AS A JUROR --

6 JURY VENIRE MEMBER: UH-HUH.

7 MR. BAILEY: -- SIGN YOUR NAME TO A DEATH
8 VERDICT FORM THAT WOULD MEAN THAT SOMEONE WOULD BE
9 EXECUTED?

10 JURY VENIRE MEMBER: NO.

11 MR. BAILEY: THAT'S ALL I HAVE.

12 MR. NEWSOME: JUST A COUPLE. INITIALLY
13 YOU SAID THE THIRD, THAT YOU WOULD LISTEN TO FACTS --

14 JURY VENIRE MEMBER: UH-HUH.

15 MR. NEWSOME: -- AND THEN YOU WOULD
16 DECIDE.

17 JURY VENIRE MEMBER: RIGHT.

18 MR. NEWSOME: WOULD THAT BE BECAUSE --
19 LISTENING TO THE FACTS BEFORE GUILT AND INNOCENCE OR
20 LISTENING TO FACTS BEFORE DECIDING WHAT THE SENTENCE
21 WOULD BE?

22 JURY VENIRE MEMBER: RUN THAT BACK OVER
23 AGAIN, NOW.

24 MR. NEWSOME: ALL RIGHT. INITIALLY YOU
25 TOLD THE JUDGE THE THIRD GROUP WAS THE GROUP THAT YOU

1 WOULD -- THAT YOU WOULD IDENTIFY WITH, THAT YOU WOULD
2 LISTEN TO THE FACTS BEFORE YOU MADE A DECISION. I
3 THAT NOT CORRECT?

4 JURY VENIRE MEMBER: RIGHT.

5 MR. NEWSOME: ALL RIGHT. WHAT YOU'RE
6 TELLING US IS THAT EVEN THOUGH YOU LEAN TOWARD
7 LIFE --

8 JURY VENIRE MEMBER: UH-HUH.

9 MR. NEWSOME: -- YOU WOULD HEAR ALL THE
10 FACTS, ALL OF THE INFORMATION, BEFORE YOU DECIDED?

11 JURY VENIRE MEMBER: YES, I WOULD.

12 MR. NEWSOME: OKAY. SO DOES THAT MEAN
13 NECESSARILY THAT THERE'S A POSSIBILITY THAT YOU COULD
14 IMPOSE THE DEATH PENALTY?

15 JURY VENIRE MEMBER: NO, SIR.

16 MR. NEWSOME: THERE IS NO POSSIBILITY?

17 JURY VENIRE MEMBER: NO, SIR.

18 MR. NEWSOME: OKAY. I HAVE NO FURTHER
19 QUESTIONS.

20 THE COURT: STEP OUTSIDE JUST A MOMENT,
21 PLEASE.

22 (JUROR NUMBER 77 IS DISMISSED
23 FROM THE COURTROOM.)

24 THE COURT: WHAT SAYS THE STATE?

25 MR. BAILEY: NOT QUALIFIED.

1 THE COURT: WHAT SAYS THE DEFENSE?

2 MR. NEWSOME: NOT QUALIFIED.

3 THE COURT: HAVE HER COME BACK IN.

4 (JUROR NUMBER 77 ENTERS THE
5 COURTROOM.)

6 THE COURT: MS. GOODWIN, WE DEEPLY
7 APPRECIATE YOUR PRESENCE HERE TODAY, BUT WE WILL
8 EXCUSE YOU FROM FURTHER PARTICIPATION. THANK YOU SO
9 MUCH.

10 JURY VENIRE MEMBER: OKAY.

11 (JUROR NUMBER 77 IS DISMISSED
12 FROM THE COURTROOM.)

13 (JUROR NUMBER 271, A WHITE
14 MALE, ENTERS THE COURTROOM.)

15 THE CLERK: PLACE YOUR LEFT HAND ON THE
16 BIBLE. PLEASE RAISE YOUR RIGHT HAND. PLEASE STATE
17 YOUR NAME FOR THE RECORD.

18 JURY VENIRE MEMBER: TIMOTHY C. WADFORD,
19 JR.

20 (JUROR NUMBER 271, HAVING BEEN FIRST DULY SWORN
21 BY THE CLERK OF COURT, TESTIFIED AS FOLLOWS:)

22 THE CLERK: PLEASE COME AROUND AND HAVE A
23 SEAT.

24 THE COURT: GOOD MORNING.

25 JURY VENIRE MEMBER: GOOD MORNING.

1 THE COURT: HOW ARE YOU DOING, SIR?

2 JURY VENIRE MEMBER: PRETTY GOOD, SIR.

3 THE COURT: I SEE YOUR RETURN HERE. YOU
4 ARE A TRAPPER FOR BOLL WEEVILS FOR THE SOUTH CAROLINA
5 DEPARTMENT OF AGRICULTURE?

6 JURY VENIRE MEMBER: WELL, IT'S CALLED THE
7 SOUTHEAST BOLL WEEVIL ASSOCIATION.

8 THE COURT: OKAY.

9 JURY VENIRE MEMBER: ERADICATION
10 FOUNDATION.

11 THE COURT: AND I BELIEVE YESTERDAY YOU
12 WERE THE GENTLEMAN CONCERNED ABOUT YOUR DOGS.

13 JURY VENIRE MEMBER: YES, SIR.

14 THE COURT: OKAY. ARE YOU MAKING
15 ARRANGEMENTS IN CASE NEED BE?

16 JURY VENIRE MEMBER: YES, SIR. I -- I
17 CALLED SOMEBODY IN EASTOVER LAST NIGHT, AND THEY WORK
18 IN HILTON HEAD, AND THEY SAID IF I BROUGHT MY DOGS
19 DOWN THIS -- AND PUT THEM UP, THAT THEY WOULD GO BY
20 AND TAKE CARE OF THEM AND WATER THEM, AND I -- AND I
21 DO HAVE ONE DOWN THIS MORNING IN THE BACK.

22 THE COURT: I HATE TO INCONVENIENCE YOU,
23 BUT THESE THINGS OCCUR. LET ME ASK YOU THIS, MR.
24 WADFORD. DID YOU HAVE AN OPPORTUNITY TO READ THAT
25 PAPER ABOUT THE THREE TYPES OF JURORS?

1 JURY VENIRE MEMBER: YES, SIR.

2 THE COURT: WOULD YOU BE IN THE FIRST,
3 SECOND OR THIRD GROUP?

4 JURY VENIRE MEMBER: I THINK I MIGHT BE IN
5 THE THIRD GROUP, IF I UNDERSTOOD.

6 THE COURT: WELL, LET ME EXPLAIN IT TO YOU
7 AND LET'S SEE WHERE YOU ARE. REMEMBER, THERE'S NO
8 RIGHT OR WRONG ANSWER.

9 JURY VENIRE MEMBER: YES, SIR.

10 THE COURT: DIFFERENT PEOPLE FALL IN
11 DIFFERENT AREAS DEPENDING ON HOW THEY FEEL, AND I
12 UNDERSTAND THAT. THERE WOULD BE TWO TRIALS. THE
13 FIRST PART OF THE TRIAL WOULD BE TO DETERMINE THE
14 GUILT OR INNOCENCE. IF HE WAS FOUND NOT GUILTY, WE
15 WOULD STOP RIGHT THERE. IF THE JURY UNANIMOUSLY, ALL
16 TWELVE OF THEM, FIND HIM GUILTY BEYOND A REASONABLE
17 DOUBT OF MURDER, THEN YOU GO INTO WHAT WE CALL THE
18 SENTENCING PHASE. IN THAT PHASE, THE SAME JURY SAYS
19 TO THEMSELVES, WE'VE FOUND THIS DEFENDANT GUILTY OF
20 MURDER, WHAT NOW IS THE APPROPRIATE PUNISHMENT?
21 SHALL WE PUNISH HIM BY DEATH OR SHALL WE PUNISH HIM
22 BY LIFE IMPRISONMENT?

23 NOW, TESTIMONY WOULD BE TAKEN WHERE THE STATE
24 WOULD INTRODUCE TESTIMONY HOPING TO CONVINCING YOU THAT
25 DEATH IS THE APPROPRIATE SENTENCE. THE DEFENDANT

1 WOULD INTRODUCE TESTIMONY CALLED MITIGATING
2 CIRCUMSTANCES WHICH HOPEFULLY WOULD CONVINCEN YOU THAT
3 LIFE IMPRISONMENT IS THE APPROPRIATE SENTENCE. YOU
4 UNDERSTAND? YOU WOULD BE HEARING TESTIMONY ON BOTH
5 SIDES OF THAT QUESTION.

6 NOW, WHERE PEOPLE ARE CONCERNED WITH THAT ISSUE,
7 THERE ARE GENERAL REALLY THREE GROUPS OF PEOPLE.
8 THERE IS A GROUP THAT SAYS HAVING FOUND HIM GUILTY OF
9 MURDER, I WILL ALWAYS IMPOSE DEATH. THERE IS A
10 SECOND GROUP WHO SAY WE FOUND HIM GUILTY OF MURDER,
11 BUT I WILL NEVER EVER VOTE FOR THE DEATH PENALTY.
12 THERE IS A THIRD GROUP WHO SAY I'M GOING TO LISTEN TO
13 BOTH SIDES OF THAT QUESTION, AND DEPENDING ON WHAT I
14 FIND AND FEEL, I CAN VOTE FOR THE DEATH PENALTY OR I
15 CAN VOTE FOR LIFE IMPRISONMENT. WOULD YOU BE THE
16 FIRST, SECOND OR THIRD GROUP?

17 JURY VENIRE MEMBER: STILL PROBABLY BE IN
18 THE THIRD GROUP.

19 THE COURT: WHICH IS THE ONE WHO SAYS I
20 WILL LISTEN TO BOTH SIDES?

21 JURY VENIRE MEMBER: YES, SIR.

22 THE COURT: YOU MAY EXAMINE.

23 MR. BAILEY: THANK YOU, YOUR HONOR. MR.
24 WADFORD, I'M WALTER BAILEY. I WANT TO ASK YOU A FEW
25 MORE QUESTIONS. AND LIKE JUDGE COTTINGHAM SAID,

1 THERE ARE NO RIGHT OR WRONG ANSWERS. WE JUST NEED TO
2 KNOW HOW YOU FEEL ABOUT THE DEATH PENALTY AND OTHER
3 ISSUES.

4 I NOTICED THAT YOU HESITATED A LITTLE BIT BEFORE
5 YOU DECIDED THAT YOU WERE THE THIRD TYPE JUROR. IS
6 THAT BECAUSE THINKING ABOUT THE DEATH PENALTY IS
7 SOMETHING THAT'S NEW TO YOU OR --

8 JURY VENIRE MEMBER: WELL, NO, NOT
9 ACTUALLY. I'M NOT THINKING THAT IT'S SOMETHING NEW.
10 IT'S THE THING ABOUT TAKING A LIFE.

11 MR. BAILEY: BEFORE YOU GOT YOUR JURY
12 SUMMONS AND FOUND OUT THAT YOU MIGHT BE A JUROR IN A
13 DEATH PENALTY CASE, HAD YOU THOUGHT ABOUT THE DEATH
14 PENALTY IN GENERAL?

15 JURY VENIRE MEMBER: I THINK I'VE ALWAYS
16 THOUGHT ABOUT THE DEATH PENALTY.

17 MR. BAILEY: OKAY. AND COULD YOU JUST
18 TELL US BRIEFLY WHAT YOUR THOUGHTS WERE GENERALLY ON
19 THE DEATH PENALTY, WHETHER YOU THOUGHT IT WAS GOOD OR
20 BAD THAT WE'VE GOT A DEATH PENALTY IN SOUTH CAROLINA?

21 JURY VENIRE MEMBER: WELL, I KIND OF THINK
22 IT'S CIRCUMSTANTIAL, AND ACTUALLY IT DEPENDS ON, YOU
23 KNOW -- WELL, IT WOULD DEPEND ON HOW YOU WOULD FEEL,
24 I GUESS.

25 THE COURT: ALL RIGHT.

1 JURY VENIRE MEMBER: WERE YOU MAD OR WERE
2 YOU JUST --

3 MR. BAILEY: OKAY. AND DO YOU HAVE ANY
4 RELIGIOUS BELIEFS ABOUT THE DEATH PENALTY ONE WAY OR
5 THE OTHER THAT WOULD INTERFERE WITH YOUR ABILITY TO
6 BRING BACK EITHER PUNISHMENT?

7 JURY VENIRE MEMBER: NO, SIR. I DON'T
8 THINK SO.

9 MR. BAILEY: ALL RIGHT, SIR. NOW, YOU
10 UNDERSTAND ABOUT THE TWO-PART PROCESS THAT WE UNDERGO
11 IN SOUTH CAROLINA IN THE DEATH PENALTY TRIAL WHERE
12 YOU HAVE THE GUILT PHASE, WHICH IS LIKE ANY OTHER
13 CRIMINAL TRIAL. THE JURY IS JUST CONCERNED WITH
14 WHETHER THE STATE PROVES BEYOND A REASONABLE DOUBT
15 THE DEFENDANT IS GUILTY. AND IF THE STATE CAN'T
16 PROVE THAT, THEN THE DEFENDANT GOES HOME, AND THAT'S
17 THE END OF IT. BUT IF, ON THE OTHER HAND, THE STATE
18 CONVINCES THE JURY BEYOND A REASONABLE DOUBT THAT
19 THAT DEFENDANT IS GUILTY OF MURDER, THEN WE GO INTO
20 THAT SECOND STAGE. SO WE WOULD NOT EVEN GET INTO
21 THAT SECOND STAGE UNLESS YOU'RE DEALING WITH A
22 CONVICTED MURDERER WHO WAS CONVICTED IN THE FIRST
23 PART OF THE TRIAL. YOU UNDERSTAND THAT IN SOUTH
24 CAROLINA THE JURY, NOT THE JUDGE, DECIDES WHAT THE
25 PENALTY IS GOING TO BE. IF THE JURY DECIDES ON LI