

VOL. III OF VI

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Beaufort County

Carmen T. Mullen, Circuit Court Judge

TAVARUS LEE ROGERS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

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INDEX

INDEX.....	i
PRE-TRIAL HEARING (dated June 8, 2000)	1
PRE-TRIAL HEARING (dated August 17, 29, 2001).....	133
PRE-TRIAL MOTIONS HEARING (dated October 4, 2001)	427
JURY TRIAL TRANSCRIPT (dated October 8-16, 2001)	507
APPLICATION FOR POST-CONVICTION RELIEF	2312
AMENDED APPLICATION FOR POST-CONVICTION RELIEF	2317
RETURN	2342
POST-CONVICTION RELIEF HEARING TRANSCRIPT (dated September 5, 2012).....	2348
ORDER OF DISMISSAL	2449
INDICTMENTS	2461
SENTENCE SHEETS.....	2475
FINAL BRIEF OF APPELLANT	2482
COURT OF APPEALS' OPINION	2506

1 to allow it.

2 MR. KULP: I was getting to the question,
3 Judge, regarding whether or not she's had any
4 conversations with any other jurors?

5 POTENTIAL JUROR: No.

6 THE COURT: She says "no".

7 MR. KULP: We just wanted to make sure.

8 THE COURT: That is a legitimate question.
9 You've not said anything about -- you've not had any
10 conversations about this with any of the other jurors?

11 POTENTIAL JUROR: No.

12 THE COURT: With that in mind, you are excused.

13 POTENTIAL JUROR: Thank you. I'm sorry.

14 THE COURT: Have a nice rest of the week.

15 That's okay. Excused without objection.

16 (TESTIMONY OF DORIS MILLER CONCLUDED)

17 THE COURT: Mr. Poloschan.

18 (POTENTIAL JUROR TAKES STAND)

19 JOSEPH POLOSCHAN, being
20 duly sworn to tell the truth, the whole truth and
21 nothing but the truth, was examined and testified, as
22 follows:

23 EXAMINATION

24 BY THE COURT:

25 Q. Come right around, sir, and have a seat.

1 Q. Coffin Point.

2 A. Yes, sir.

3 Q. What do you recall that you read?

4 A. I just read -- from what I recall that at the
5 house on Coffin Point, someone had broke into it and
6 shot two people. And that was about all I know about
7 it.

8 Q. Since that initial article have you read anything
9 else about the case?

10 A. No.

11 Q. Have you talked to anybody about the case?

12 A. No.

13 Q. Specifically, have you read anything, like in
14 today's paper, Gazette, Island Packet, TV, radio,
15 anything about the case?

16 A. No. I haven't read or heard anything since the
17 initial ---

18 Q. Do you know any of the people involved in this
19 case?

20 A. No, I do not.

21 Q. Do you understand, sir, that it's basic and
22 fundamental that the case be decided from the sworn
23 testimony here and the other evidence that's introduced
24 in the case, that's introduced here in Court. And that
25 anything that you may have heard or read outside the

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

496

1 courtroom should not be considered by you.

2 A. Right.

3 Q. Of course, it should not be disseminated to any
4 other members of the jury if you happen to be chosen to
5 sit on the jury.

6 A. Right.

7 Q. So could you put aside and would you, now that
8 I've instructed you that you must, put aside anything
9 that you may have heard or read about the case and
10 decide the case solely based upon the testimony and
11 evidence presented in the trial?

12 A. Yes, I could.

13 Q. You say you haven't seen anything or read anything
14 about the case?

15 A. No. The only reason I even, you know, read it was
16 the fact that a couple of people had told me about it
17 when I had gotten back from vacation. And then I did
18 read it in the paper. And because it was in close
19 proximity to where I lived, I was, you know ---

20 Q. Do you recall what they told you about the case?

21 A. Just that there was -- somebody had said they
22 thought something was involved with drugs and two
23 people had gotten shot. And that was all, you know --
24 the extent of it.

25 Q. Let me ask you this. Did you read the pretrial

1 questionnaire?

2 A. Yes, I did.

3 Q. In a case where the State is seeking the death
4 penalty for a murder, the trial is bifurcated. That
5 means it's divided into two parts. The first phase is
6 called the guilt phase and the second phase is called
7 the penalty phase. Of course, when a person is tried
8 if a verdict comes from the jury of "not guilty", you
9 don't ever get to the penalty phase, obviously. It's
10 moot then. It doesn't have any need for that.

11 But in a case where, in the first phase, in the
12 guilt phase, a person is found guilty of murder the
13 jury then goes to the second phase called the penalty
14 phase. Under the law of South Carolina there are two
15 possible verdicts for murder, one of the death penalty
16 and a second of life imprisonment. It's the duty of
17 the jury to decide the penalty, if they've already made
18 the decision that the person is guilty of murder.

19 As you read in that questionnaire there are three
20 types of jurors. The first type, and it's designated
21 "type one", is a juror who feels that if a person has
22 committed a murder he ought to get the death penalty.

23 The second type is a person who doesn't believe in
24 the death penalty, that feels if a person is convicted
25 of murder he ought to get life imprisonment. In both

1 of those, the person does not need or wish to hear any
2 of the facts or circumstances of the case because his
3 mind is already closed and made up. That in the type
4 one he thinks he ought to have the dep. In type two he
5 should never have the death penalty. He always ought
6 to get life imprisonment.

7 Then there's a third type. And that's a juror who
8 feels that there are certain circumstances where the
9 death penalty is appropriate and the person would give
10 the death penalty in certain types of murders. And
11 certain times a person is convicted of murder where he
12 ought not to get the death penalty, that he ought to
13 get life imprisonment. And that person would hear the
14 testimony and consider the facts, the arguments and all
15 the other matters, the matters in aggravation or making
16 it serious, and the matters in mitigation which try to
17 lessen the thing in the juror's mind, and would
18 consider all those things and then figure out whether
19 they thought a particular case, a person ought to have
20 the death penalty or, conversely, ought to have a life
21 sentence.

22 Which type of juror do you feel that you are?

23 A. I'd try to be the third type, if it was warranted.

24 Q: Do you believe in the death penalty in some
25 circumstances?

1 A. Under certain circumstances.

2 Q. But not in every case?

3 A. Not in every case.

4 Q. And that you would want to know what the facts and
5 background of the case was and then make a decision on
6 that?

7 A. Yes, sir.

8 THE COURT: Solicitor Murdaugh.

9 EXAMINATION

10 BT MR. MURDAUGH:

11 Q. How do you pronounce your name, sir?

12 A. Poloschan.

13 Q. Poloschan?

14 A. Yes, sir.

15 Q. Mr. Poloschan, do you know Richard Rivers or
16 Kenneth Williams?

17 A. No, I do not.

18 Q. Tucked in the Woods, is that a campground?

19 A. Yes, sir.

20 Q. And where is it located?

21 A. On St. Helena Island, just off of M. L. King,

22 which is ---

23 Q. Almost to ---

24 A. On the island side of Texaco on Route 21 and M. L.

25 King. You turn there and it's about two-and-a-half

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

1 miles.

2 Q. Okay.

3 A. Probably about five miles from this Coffin Point.

4 Q. Right. And you are the manager of Tucked in the
5 Woods?

6 A. Yes.

7 Q. Where did you work prior to that, sir?

8 A. I was self-employed.

9 Q. Doing what?

10 A. Construction, painting and carpentry work.

11 Q. In the Beaufort area?

12 A. In the Beaufort area.

13 Q. You have indicated to the judge in certain
14 circumstances -- not in certain circumstances -- that
15 in every case you would consider everything that was
16 put up on the witness stand, any physical evidence that
17 was introduced, and make a decision based upon
18 everything?

19 A. Yes, sir.

20 Q. And in some circumstances you could vote the death
21 penalty, some life in prison, depending on how you felt
22 about the case?

23 A. Well, depending on what the circumstances were.

24 Q. Yes, sir.

25 A. As far as if the evidence warranted it. If it

1 did, then I would say "yes".

2 Q. And in that regard, if you had gotten to the point
3 to where you and the other members -- if you sat on the
4 jury, and the other members decided the death penalty
5 was an appropriate punishment for this crime or a
6 crime, you would have to sign a sheet a paper. There
7 would be twelve lines on it. And it would say
8 something to the effect, "We, the undersigned jurors,
9 recommend that the defendant suffer the death penalty."
10 Would you have a problem signing that if you thought it
11 was an appropriate case?

12 A. No, I would not.

13 Q. I notice, sir, that you listed your religion as
14 "Catholic"?

15 A. Yes, sir.

16 Q. Would that have any -- I've read some stuff about
17 the Bishop doesn't think the death penalty is a good
18 thing. Would that have any play in your decision?

19 A. No, because my religion -- I have a couple of
20 instance in my religion that I don't agree with anyway.
21 So I don't have a problem with that.

22 Q. Thank you, sir.

23 THE COURT: Mr. Kulp?

24 EXAMINATION

25 BY MR. KULP:

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

1 Q. Beg the Court's indulgence. Mr. Poloschan, my
2 name is Tim Kulp. And, along with Mr. Fleming, we
3 represent the accused, Mr. Rogers.

4 You said, I think, in response to some of the
5 initial questions by the Court that you discussed the
6 article or the events this your wife?

7 A. Yes, I did.

8 Q. And had she read any newspaper articles like you
9 did when you returned from your trip to Nevada?

10 A. She read the newspaper. Whether or not she read
11 that particular article, I'm not aware of that.

12 Q. Do you recall and can you tell the Court what you
13 discussed with her about the events?

14 A. The comment came up was -- my wife had made the
15 comment to me that this incident that happened was in
16 close proximity to where we live. We live off of
17 Seaside which runs the opposite way from Coffin Point
18 off of Highway 21. Off of Forest Island Drive is where
19 we live. And that's about a mile from the intersection
20 and probably a mile and a half from where this incident
21 took place. And she was concerned about it because we
22 lived, you know, in close proximity to it. And other
23 than that, there was nothing more really said about it.

24 Q. Did you have occasion to discuss the event with
25 anyone else?

1 A. A couple of friends that live off of Coffin Point,
2 the lady works at the campground with us occasionally.
3 We had discussions with them about it, only because she
4 goes back and forth that way every day. And it just
5 came up in conversation.

6 Q. What did those discussions include?

7 A. Just that there was a murder at that residence and
8 they thought it had something to do with drugs.

9 Q. Did the discussion address identification of
10 anyone who did it?

11 A. No.

12 Q. Or was accused of doing it?

13 A. Nobody even had any idea at the time when we
14 talked about it, you know.

15 Q. Did you or your wife or your friends know anyone
16 who lived there?

17 A. No.

18 Q. I think you said your residence is about a mile
19 and a half from that location?

20 A. Yes, I live approximately a mile from the
21 intersection of Seaside and Route 21, which is west of
22 where Coffin Point goes east off of that route.

23 Q. Would it be fair to say that when you and your
24 wife discussed the event, she was concerned about it
25 because of the proximity to you'all's residence?

1 A. Yes.

2 Q. In that regard, let me ask you this. You
3 understand and the Solicitor and the Court addressed
4 the two-part aspect of this trial proceeding, this
5 Court proceeding.

6 A. Yes, sir.

7 Q. In other words -- and I'm not going to go over it
8 all again, but there's a beginning phase, the guilt
9 phase -- guilt or not guilty phase.

10 A. Correct.

11 Q. And then the punishment phase that you only arrive
12 at if the State is able to prove and bear or meet their
13 burden of proof they have to prove beyond a reasonable
14 doubt that the accused is guilty of those charges.

15 A. Yes, sir.

16 Q. If you were on the jury and you concluded that the
17 State had met that burden of proof, and if you then
18 entered the second phase of the proceedings that dealt
19 with the determination and the consideration of all of
20 the aggravating or mitigating circumstances about the
21 event and the accused, would the fact -- when you'd at
22 that point with the jury concluded that the defendant
23 was guilty and you began to address only the aspect of
24 the appropriate punishment, would the fact or the
25 aspect that the event occurred so close to the

1 residence where you and your wife life affect in any
2 way your approach or your decision as to the
3 appropriate finding?

4 A. No.

5 Q. And at that point you would be able to put that
6 completely out of your mind and not consider that in
7 any way?

8 A. Right. In fact, if I may add, I have lived at
9 that address -- I only lived there about six months
10 prior to this happening. And I am currently still
11 living there, but I am in the process of moving over to
12 the campground because our resident manager has quit.
13 And I moving over there now. So that's the only reason
14 I'm moving. I've lived there three years after this
15 incident.

16 Q. The last question I have is -- my question to you
17 is you feel, or do you feel that your are capable, if
18 the evidence warranted it, of making a decision as to
19 life imprisonment versus the death penalty?

20 A. Yes, I am.

21 Q. Considering both, giving fair consideration to any
22 aspect?

23 A. I would determine the punishment based upon the
24 circumstances of the evidence presented. If it
25 warranted the death penalty, then I would have not a

1 problem with it. If it didn't, then I would go the
2 other way.

3 Q. Life.

4 A. Life.

5 Q. Thank you, sir. Thank you very much.

6 THE COURT: Any questions regarding this juror?
7 Any discussion?

8 MR. MURDAUGH: No questions.

9 MR. KULP: No, sir. Thank you.

10 THE COURT: Okay, Mr. Poloschan, you are deemed
11 qualified. I'm going to ask that you report back here
12 at 9:30 on Friday morning. Bring your clothes for a
13 three-night stay. You'll be put up in the Hampton Inn,
14 right across there behind Applebee's.

15 Don't discuss the case with anyone or allow anyone
16 to discuss the case with you. Do not -- if anybody
17 should attempt to discuss the case with you, please
18 tell them to stop and report it to the Court the next
19 time we see you which, of course, will be Friday.

20 Also, do not take any steps to do any reading,
21 research or inquiry into criminal law or criminal
22 procedures or about this particular case. In other
23 words, whether it's through books, interviewing
24 persons, magazines, internet or any other source. In
25 other words, you should decide the case based upon the

1 testimony and evidence here in Court and nothing
2 outside the Court.

3 With that, I hope you have a nice evening, and
4 we'll see you on Friday at 9:30.

5 POTENTIAL JUROR: Thank you.

6 THE COURT: Thank you.

7 (TESTIMONY OF JOSEPH POLOSCHAN CONCLUDED)

8 THE COURT: The next juror is Carmalita
9 McMullen.

10 (POTENTIAL JUROR TAKES STAND)

11 CARMALITA McMULLEN, being
12 duly sworn to tell the truth, the whole truth and
13 nothing but the truth, was examined and testified, as
14 follows:

15 EXAMINATION

16 BY THE COURT:

17 Q. Come right up here, please, ma'am, and have a
18 seat.

19 A. (Complies)

20 Q. How are you doing?

21 A. Fine, thank you.

22 Q. Have a seat, please. I remind you that you are
23 still under oath. And I apologize for us running
24 behind. But I assure you we're doing the best we can.
25 But it's just taking us awhile.

1 First off, Ms. McMullen, have you ever heard or
2 read anything about this case other than on Monday,
3 yesterday? Sounds like a long time ago, Monday
4 morning. But when I went through the charges -- had
5 you ever heard anything about this case before?

6 A. No, Your Honor. I purposely, this morning, did
7 not read what was in the *Island Packet*. I just ignored
8 it.

9 Q. Okay. But somebody tell you it was in there, or
10 did you just see the headlines or something?

11 A. I saw the headlines and just went to the next
12 page.

13 Q. So you knew, as you were supposed to, you just
14 deliberately did not read that article in there?

15 A. That's correct.

16 Q. That's excellent. That's exactly what I will
17 note. Have you spoken to anyone about this case?

18 A. Only about the sequestering.

19 Q. Okay, that's fine. You can certainly do that.
20 And you can tell, obviously, your job, your family and
21 so forth and friends that you might be sequestered if
22 you are chosen on a case. But you did not discuss
23 anything about the charges or the facts or anything
24 else?

25 A. No, Your Honor.

1 Q. Excellent. I'm glad to hear that. Did you read
2 this pretrial questionnaire that was in the jury room
3 in there?

4 A. Yes, Your Honor.

5 Q. I have a couple of questions to ask you about
6 that. In a case where the State is seeking the death
7 penalty for a murder -- and I'm not talking about this
8 case. I'm just talking about in general -- the case,
9 the trial is bifurcated under our law. By being
10 bifurcated it means that it is split and divided into
11 two things which is a guilt phase and a penalty phase.

12 In the guilt phase the State must prove the
13 defendant is guilty beyond a reasonable doubt. And, of
14 course, the jury may find a defendant to be not guilty.
15 And if that should be the verdict, that's the end of
16 the matter.

17 But if a jury finds a defendant to be guilty of
18 murder in the guilt phase, it goes to the second phase
19 which is the penalty phase. In the penalty phase there
20 are two possible verdicts that a jury may find. And it
21 is the jury's duty to reach a verdict and make a
22 finding. One verdict they can find is the death
23 penalty for murder. The second possible verdict or the
24 one that's allowed is life imprisonment.

25 There are three types of jurors that we have

1 found. Type one, as mentioned in this questionnaire,
2 is a person who feels like if a person is guilty of
3 murder they ought to get the death penalty. They don't
4 need to hear any of the facts, none of the background
5 or anything. They just have a preconceived notion that
6 the only punishment for somebody who is guilty of
7 murder is the death penalty.

8 By the same token, there's a second type which we
9 designate as type two. That person is against the
10 death penalty and feels that they, too, don't need to
11 hear any of the facts, the circumstances, the
12 background. Because they don't feel that the death
13 penalty is an appropriate punishment in a murder case.
14 In other words, they feel like they could not give the
15 death penalty.

16 The third type or type three is a person who feels
17 like there are murder cases where the death penalty is
18 appropriate and there are murder cases where the death
19 penalty is not appropriate. And so they would listen
20 to the facts and circumstances of the case, the
21 evidence, the arguments of the attorneys. And they
22 would make a decision based upon the particular facts
23 and circumstances of a given case and then, after
24 considering all the evidence and so forth, in some
25 cases they would come to the conclusion that they would

1 vote for the death penalty. And in some cases they
2 would come to the conclusion that they would vote
3 against the death penalty and for life imprisonment.

4 What type juror do you feel that you are?

5 A. After reading it twice, the third juror.

6 Q. The third type?

7 A. Yes.

8 Q. In other words, you feel like -- and I understand
9 this is not something that you've been sitting around
10 thinking about every day. And that's the reason that
11 we give it to you in there. Because it's important and
12 we want you to have an opportunity to read it and then
13 think about it.

14 You feel like that there are certain cases that
15 you feel that the death penalty is called for. And
16 there are certain cases that you feel that the death
17 penalty is not called for. And that you would vote in
18 those cases for life imprisonment. And that in the
19 cases where it is called for -- the death penalty is
20 called for -- you would vote for the death penalty?

21 A. Having reviewed all that you have said, if the
22 parameters were set before me exactly that way, yes.

23 Q. What do you mean by "the parameters"? Speak into
24 the microphone. I want the lawyers to be able to hear
25 you, too.

1 A. The defendant is innocent until proven guilty.
2 This is very important to me. I need to hear
3 everything that is so stated that I can make a valid
4 decision. Because this is something I will carry with
5 me for the rest of my life. I look at it as being that
6 important.

7 Q. So there's no misunderstanding -- I don't think
8 there is, but I want to just be absolutely sure. We
9 are talking -- and the questions that I've just given
10 you presuppose that a particular defendant -- and, as I
11 say, we're not talking about the defendant in this
12 case. But a jury in phase one has found -- and, of
13 course, the jury could find the person not guilty. You
14 don't go to phase two, then, about the punishment.
15 Because if a person is found not guilty, the process is
16 over with.

17 But if the jury finds by unanimous verdict that a
18 particular defendant is guilty of murder, and then you
19 go to step two which is the penalty phase. And then
20 you are considering -- so the issue of the guilt of the
21 defendant is not before you any more. You understand
22 that?

23 A. Yes, Your Honor.

24 Q. Then if a person has been determined by a jury
25 that you are sitting on, that you are a member of, to

1 be guilty of murder, then are you able to -- are you
2 still a type three juror? The one who if you thought
3 it was bad enough, after listening, that you would
4 listen to all the facts and circumstances. And if it
5 was bad enough, there were aggravating circumstances
6 sufficient that you thought that the death penalty was
7 called for, you could vote for the death penalty?

8 A. Yes, Your Honor.

9 Q. And if you felt like the circumstances were not so
10 bad that you thought the death penalty was called for,
11 you could and would vote for life imprisonment?

12 A. Yes, Your Honor.

13 Q. There's one last thing I'll ask you, and the
14 attorneys have some questions for you. If it is your
15 verdict, yours and the other eleven members of the
16 jury, that a defendant is guilty of murder and then
17 that you reach a decision, a unanimous verdict among
18 yourselves that the death penalty is called for, you
19 must -- the jury form on this -- our statute provides
20 that each of you must sign the verdict. It says
21 "recommends the death penalty", but that is the verdict
22 that gives a defendant the death penalty. Would you be
23 able to sign your name to that verdict?

24 A. Yes, Your Honor.

25 THE COURT: Thank you. I have nothing further.

1 Solicitor?

2 EXAMINATION

3 BY MR. MURDAUGH:

4 Q. Ms. McMullen, how are you doing?

5 A. Fine, thank you.

6 Q. I'm Randolph Murdaugh. I'm the Solicitor for this
7 Circuit. And with that title comes the responsibility
8 of prosecuting. Page three in your questionnaire was
9 inadvertently omitted, and I need to ask you some
10 questions. You didn't omit it. We did. No problem
11 with you.

12 Q. Where do you live in Beaufort County?

13 A. Hilton Head Island, South Carolina.

14 Q. And where on Hilton Head?

15 A. Hilton Head Plantation at one end of the island.

16 Q. That's the first on the left as you come on the
17 island, I believe?

18 A. Yes.

19 Q. Are you married?

20 A. I am a widow.

21 Q. Do you have children?

22 A. Yes.

23 Q. How many and what ages?

24 A. One daughter, age 36.

25 Q. Where did your husband work?

1 A. Los Angeles, California.

2 Q. You state that you work at Air Micronesia with
3 Continental Airlines?

4 A. I did.

5 Q. Not now?

6 A. No, sir.

7 Q. When did you work with them?

8 A. 1972 through 1979.

9 Q. Way back then?

10 A. Yes.

11 Q. Do you work now?

12 A. No, sir.

13 Q. Do you know Kenneth Williams or Richard Rivers?

14 A. No, sir.

15 Q. Thank you, ma'am. I appreciate you being so fair
16 and open with me.

17 MR. KULP: If it please the Court.

18 THE COURT: Mr. Kulp.

19 EXAMINATION

20 BY MR. KULP:

21 Q. Ms. McMullen, my name is Tim Kulp. And, with Mr.
22 Fleming here, we represent the accused. And on these
23 issues we have no questions of you. Thank you.

24 THE COURT: Any question about Ms. McMullen's
25 qualifications?

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

516

1 MR. MURDAUGH: No, sir.

2 MR. KULP: No, sir, Your Honor.

3 THE COURT: Ms. McMullen, thank you very much.

4 You are qualified to go into the panel as a potential
5 juror. We plan to draw this jury beginning at 9:30 on
6 Friday. We'd earlier announced Thursday, but we've
7 fallen behind. But we've speeded up. But right now
8 it's Friday. If there should be any change we, of
9 course, would contact you.

10 Please be back here at the jury room at 9:30 on
11 Friday. Bring with you clothes for three nights. You
12 will be put up at the Hampton Inn which is just about
13 two blocks from here. And now that you are on the
14 jury, as I told you before, and as you're telling me
15 that you've done before, do not let yourself be exposed
16 to any media reports about this from newspapers, TV,
17 radio and so forth. Do not discuss the case with
18 anyone or allow anyone to discuss the case with you.
19 As you should know, it is basic and fundamental that
20 the case be decided solely from the testimony of the
21 sworn witnesses along with evidence introduced in the
22 trial.

23 I hope you have a nice evening and I apologize
24 once more for keeping you up here so late.

25 POTENTIAL JUROR: Thank you.

1 THE COURT: Have a safe trip home.

2 POTENTIAL JUROR: All of you have had a
3 long day.

4 THE COURT: Yeah, we have.

5 (TESTIMONY OF CARMELITA McMULLEN CONCLUDED)

6 THE COURT: Harvey Rutland, Juror No. 334.

7 (POTENTIAL JUROR TAKES STAND)

8 HARVEY RUTLAND, being
9 duly sworn to tell the truth, the whole truth and
10 nothing but the truth, was examined and testified, as
11 follows:

12 EXAMINATION

13 BY THE COURT:

14 Q. How are you doing, sir?

15 A. Fine, sir.

16 Q. Mr. Rutland, I apologize for us running so late.

17 But we're just doing the best we can. We're going to
18 stay here until we get through this. I appreciate your
19 staying with us.

20 A. Yes, sir.

21 Q. I remind you that you are under oath as you were
22 yesterday. You're still under oath from that time I
23 swore you in then, or the Clerk did.

24 First off, have you ever heard or read anything
25 about this case other than what I told you about it

1 when I was qualifying the jury panel?

2 A. No, sir.

3 Q. Did you see or read anything about the case from
4 the media since yesterday?

5 A. No, sir.

6 Q. There are two other possible witnesses and their
7 names are Kenneth Williams and Richard Rivers. Do you
8 know anybody by the name of either Kenneth Williams or
9 Richard Rivers?

10 A. No, sir.

11 Q. Did you read this pretrial questionnaire?

12 A. Yes, sir.

13 Q. Just to set the stage for asking you a couple of
14 questions about that -- and it was given to you so that
15 you would have a chance to think about it a little bit
16 before you come in and not feel blind-sided.

17 In a case where the State is seeking the death
18 penalty for a murder -- and I'm not talking about this
19 case. I'm just talking about the way the procedure
20 works -- the trial is bifurcated which means that it's
21 divided into two parts. The first part is called the
22 guilt phase. And in that first phase it's the duty of
23 the jury to decide whether a defendant is guilty or not
24 guilty of the crime as charged.

25 If they find a defendant to be guilty, then you go

1 to phase two. If they find a defendant to be not
2 guilty, the process is over with and that's the end of
3 it.

4 But assuming that a defendant is found to be
5 guilty and you are sitting on the jury, we have found
6 or it's been found that there are basically three types
7 of jurors. They're divided as juror types one, two and
8 three.

9 The type one juror is a juror who feels that in a
10 case where a person is found guilty of murder that the
11 only appropriate sentence is the death penalty. They
12 don't need to hear any of the background or facts and
13 circumstances of a case. But if the person's guilty of
14 murder, he ought to get the death penalty.

15 The type two juror, by the same token or
16 similarly, feels -- does not believe in the death
17 penalty. That type juror feels that they don't need to
18 hear any of the facts and circumstances of a case
19 because they don't feel they could ever give someone
20 the death penalty. And so they would always feel that
21 they just couldn't bring themselves to give the death
22 penalty or just do not feel that it is ever
23 appropriate.

24 The type three is a person who feels that in some
25 murders a death penalty is appropriate and they would

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

1 have no problem giving it if they thought it was
2 appropriate. By the same token, they recognize that
3 there are some murders which they don't feel like the
4 person should get the death penalty and that the other
5 allowed sentence of life imprisonment is more
6 appropriate. And I don't know if I said it, but in
7 South Carolina, there's only two sentences allowed for
8 the crime of murder. One is the death penalty and the
9 other one is a life sentence.

10 Sir, which kind of juror do you feel that you are?

11 A. Without a doubt, number three, sir.

12 Q. Without a doubt. In other words, you feel that
13 there are some murders which the death penalty is
14 appropriate and you would not have any problem giving
15 the death penalty if you thought that was the proper
16 sentence?

17 A. That is correct, Your Honor.

18 Q. On the other hand, you feel that there are some
19 murder cases, if a person is convicted of murder, that
20 you feel like you should not suffer the death penalty
21 and you would, in those cases, give a sentence of life
22 imprisonment?

23 A. That is also correct, Your Honor.

24 THE COURT: Solicitor Murdaugh.

25 EXAMINATION

1 BY MR. MURDAUGH:

2 Q. How are you doing?

3 A. Fine, sir. Yourself?

4 Q. Fine. I'm Randolph Murdaugh. I'm the Solicitor
5 down here. And sharing with that title I have to do
6 all the prosecuting.

7 A. Okay.

8 Q. I need to ask you some questions, to be quite
9 honest with you, to find out whether we want you to sit
10 on the jury or not.

11 A. That's quite all right.

12 Q. I want you to understand there are no right or
13 wrong answers. We just need to know what your feelings
14 are.

15 A. Yes, sir.

16 Q. I notice that you worked with Lance for a number
17 of years. Was that when you were in Augusta?

18 A. I started with them in Augusta, continued with
19 them actually in Crown Point, Indiana, just outside
20 Chicago.

21 Q. And then moved to Beaufort?

22 A. Yes, sir.

23 Q. And you've been in Beaufort how long?

24 A. Approximately a year and a half now, sir.

25 Q. Good to have you down with us.

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

522

1 A. Thank you.

2 Q. You had answered the Judge's questions relating to
3 your ability to either find the death penalty or life
4 imprisonment after considering everything that would be
5 presented. And in that regard, if you got to the point
6 -- if you were on the jury and if you and the other
7 members of the jury decided that it was an appropriate
8 case for the death penalty, you would have to sign a
9 sheet of paper. And that paper would start off saying,
10 "We, the undersigned jury, find that the defendant
11 should suffer the death penalty." There would be a
12 line for each and every one of you to sign. If you
13 thought it was an appropriate case could you sign that
14 paper?

15 A. Yes, sir..

16 Q. Where are you working now, sir? You said you are
17 self-employed, I think.

18 A. Sir, I'm a contractor. I build seawalls, piers
19 and docks and such as that.

20 Q. Okay.

21 A. I own a company called Coastal Construction and
22 Maintenance here in Beaufort.

23 Q. Thank you, sir. One other question.

24 A. Yes, sir.

25 Q. Do you know two possible witnesses in this case,

1 Richard Rivers and Kenneth Williams?

2 A. No, sir.

3 Q. Thank you, sir.

4 EXAMINATION

5 BY MR. KULP:

6 Q. Mr. Rutland?

7 A. Yes, sir.

8 Q. Good late afternoon to you.

9 A. And the same to you, sir.

10 Q. Thank you. I am Tim Kulp. I was introduced by
11 the Court. This is Mr. Fleming, and we represent the
12 accused, Mr. Rogers.

13 A. Yes, sir.

14 Q. I just have a couple of quick questions. I won't
15 be long. Are you related to Larry Rutland?

16 A. Not to my knowledge, no, sir. I've never met him.

17 Q. I think that's a "no".

18 A. Yes, sir.

19 Q. As well, do you know West McKinnon?

20 A. No, sir.

21 Q. How many employees do you have in your company?

22 A. Sir, it's a small proprietorship. I have myself,
23 my son and two part-time employees.

24 Q. Very good. Now, the Solicitor asked you -- not on
25 this piece of paper, as he said, but asked you if you

1 could sign as one of the jurors if the decision of the
2 jury was that the appropriate punishment in a penalty
3 phase or punishment phase should be the death penalty.

4 And you said you could sign that.

5 A. Yes, sir.

6 Q. In the same sense, I would ask you that if the
7 jury concluded, in the guilty or not guilty phase --
8 and you understand that verdict could be not guilty.

9 A. Sure.

10 Q. And that certainly no other process would be
11 necessary.

12 A. Correct.

13 Q. But if, in fact, the jury determined guilt, that
14 the burden of proof that the State bears had been met,
15 could you as well sign as to the punishment that was
16 appropriate a verdict or a decision that you had made
17 individually and other jurors that the penalty or
18 punishment should be life imprisonment?

19 A. Equally so, yes, sir.

20 Q. I appreciate your answers, Mr. Rutland. Thank
21 you, Your Honor. No further questions.

22 THE COURT: Any discussion with this juror?

23 MR. MURDAUGH: None for the State, sir.

24 MR. KULP: None for the defense.

25 THE COURT: Mr. Rutland, I find that you are

1 qualified. It's our present plan to start this trial
2 on Friday morning at 9:30. We are requiring that
3 everybody report here at that time. Bring your bag
4 with enough clothes for three nights. The reason for
5 that -- you're not, at this time, on the jury. But
6 we're going to get the panel and then select the jury
7 at that time. Obviously, we don't want to have
8 everybody here and then the jury that's selected then
9 have to go home and get their clothes. We want to go
10 to work.

11 A couple of other things. As I've told you in the
12 past do not allow yourself to be exposed to any media
13 reports, newspapers, TV and so forth about the case.
14 And don't talk to anybody about the case or allow
15 anyone to talk about the case in your presence. If
16 anyone does attempt to, after you tell them not to or
17 something, please report it to me.

18 Lastly, do not take any steps to do any reading,
19 research or inquiry into any aspect of criminal
20 procedure or criminal law or the particular facts of
21 this case. By that I mean I don't talk to anybody
22 about it, read any books, magazines or the internet or
23 any other source to try to get ready to try this case.
24 In other words, everything you need to know if you are
25 on the jury will be presented to you here in Court.

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

526

1 With that, I hope you have a nice evening and
2 we'll see you on Friday at 9:30.

3 POTENTIAL JUROR: Thank you, Your Honor.

4 (TESTIMONY OF HARVEY RUTLAND CONCLUDED)

5 THE COURT: Betty Middleton, 232.

6 (POTENTIAL JUROR TAKES STAND)

7 BETTY MIDDLETON, being
8 duly sworn to tell the truth, the whole truth and
9 nothing but the truth, was examined and testified, as
10 follows:

11 EXAMINATION

12 BY THE COURT:

13 Q. Ms. Middleton, would you please come around and
14 take a seat right here?

15 A. (Complies)

16 Q. How are you doing?

17 A. Fine, thank you.

18 Q. Fine. First, I apologize for keeping you so late.
19 But we're running way behind. And, of course, we gave
20 you'all the opportunity if you wanted to come back
21 tomorrow. But these things take sometimes longer. We
22 try to do the best we can, but sometimes they take
23 longer. And we just have to schedule them as we can to
24 try not to waste your time.

25 I remind you, Ms. Middleton, that you are still

1 under oath. I will ask you first do you recall ever
2 having read or heard anything about this case ever
3 before yesterday?

4 A. No, sir.

5 Q. Did you read anything about it or hear any news
6 reports from radio, television or newspapers today or
7 yesterday?

8 A. No, sir.

9 Q. Did you read this pretrial questionnaire that I
10 had for you in the jury room?

11 A. Yes, I did.

12 Q. The reason we give that to you is I wanted you to
13 have an opportunity to study it and read it and think
14 about it. I didn't want to blind side you with
15 something this philosophical or whatever, so that you
16 would have a -- so we could find out what you really
17 think about it.

18 I'm not talking about the particular case we have
19 here before us. But just in general I want to go over
20 how the procedure works in a case where the State
21 decides to seek the death penalty for a murder -- in a
22 murder situation. The trial is bifurcated. That means
23 it is divided and we take it in two phases.

24 The first phase is called the guilt phase. And in
25 the first phase the jury would decide whether a

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

528

1 defendant is guilty or not guilty. If they decide a
2 defendant is guilty of murder it goes to phase two,
3 which is the penalty phase. If the jury should decide
4 a defendant is not guilty, then it is over with,
5 because there is no penalty, obviously, if a person is
6 not guilty.

7 So assume, for the sake of argument, that a
8 defendant is found to be guilty of murder and you go to
9 phase two. We've found or it has been noted that there
10 are basically three types of jurors. And that's what
11 that questionnaire discusses. The first type of juror
12 feels that if a person is guilty of murder he ought to
13 suffer the death penalty. Doesn't need to know any
14 facts, circumstances at all, just automatic. The
15 person feels like if he's committed a murder, he ought
16 to suffer the death penalty.

17 Likewise, the type two juror feels like if a
18 person is guilty of murder, they don't believe in the
19 death penalty. This juror doesn't believe in the death
20 penalty and could never, in good conscience, feel that
21 they could find the death penalty against a person
22 found guilty of murder.

23 The third type juror is one who feels that under
24 some circumstances they feel that if a murder has been
25 committed that the appropriate penalty for that should

1 be the death penalty. And also, that under other
2 circumstances if the defendant has been convicted,
3 there's some murderers that the person should not get
4 the death penalty, that they should get the lesser or
5 life sentence.

6 And those are the only two options under our law,
7 is the death penalty or life imprisonment.

8 What type juror do you feel you are?

9 A. I feel like I'm in the third category. I feel
10 like it depends on the evidence presented and the
11 circumstances surrounding the evidence.

12 Q. Let me ask you to get a little closer to the
13 microphone.

14 A. I also have laryngitis.

15 Q. But, anyway, you say you feel like you are in the
16 third category?

17 A. Yes.

18 Q. So, therefore, you feel, if I understand what you
19 are saying, that there are some cases you feel that for
20 a murder the death penalty is an appropriate
21 punishment. And you could give someone the death
22 penalty if you felt that?

23 A. Yes, sir.

24 Q. And there are other cases where a person has been
25 convicted of murder that you feel that because of the

1 circumstances, you feel that the death penalty should
2 not be required. And that you would, in those cases,
3 vote against the death penalty and in favor of life
4 imprisonment.

5 A. Yes, sir.

6 Q. And that you would need and you would listen to
7 all the facts and circumstances, what are called
8 aggravating circumstances and what are called
9 mitigating factors, before you made up your decision as
10 to which would be the appropriate penalty?

11 A. Yes, sir.

12 Q. Anything else you want to say on those particular
13 issues?

14 A. No.

15 THE COURT: I'll turn you over to Solicitor
16 Murdaugh, then.

17 EXAMINATION

18 BY MR. MURDAUGH:

19 Q. How are you doing?

20 A. Fine, thank you.

21 Q. I'm worn out and tired, as I know you are. I
22 think it's probably worse sitting around than it is up
23 here running your mouth, like I've been doing.

24 But I need to ask you one or two questions frankly
25 to find out whether we want you to sit on this jury or

1 not. I listened to your answers to the judge, and as I
2 understand, you would listen to everything that is
3 presented. And you would be fair and open and you
4 could, in certain cases, give the death penalty. In
5 certain cases you would give life imprisonment.

6 A. That's correct.

7 Q. One of the things -- if you got to that point, and
8 if you were on the jury and the twelve of you decided
9 this is an appropriate case for the death penalty, and
10 you voted, "Let's impose the death penalty." You'd
11 have to go a step further. And this is not it, by any
12 means. It just happens to be something to pick up.
13 There would be a sheet of paper and on it would be
14 twelve lines. And at the top it would say something
15 like, "We, the undersigned jurors, recommend that the
16 defendant suffer the death penalty."

17 If you thought it was an appropriate case, could
18 you sign your name to it?

19 A. Yes, sir, I think so.

20 Q. Do you know two additional possible witnesses,
21 Kenneth Williams and Richard Rivers? Do you know
22 either of them?

23 A. No, sir.

24 Q. Thank you, ma'am. I appreciate your openness and
25 frankness, and I appreciate you sitting around and

1 bearing with us.

2 A. Yes, sir.

3 THE COURT: Mr. Kulp.

4 EXAMINATION

5 BY MR. KULP:

6 Q. May it please the Court, Your Honor. Ms.
7 Middleton, my name is Tim Kulp. The Court introduced
8 us yesterday, which does seem like long ago. And Mr.
9 Fleming -- we represent the accused, Mr. Rogers, in
10 this case.

11 What grade do you teach?

12 A. I'm a media specialist. I teach kindergarten
13 through fifth grade.

14 Q. You also attended the Citadel graduate program?

15 A. I did.

16 Q. When was that?

17 A. Oh, dear. In the eighties and nineties. I
18 finished the ETS. I can't remember the exact date I
19 graduated. Then I did my doctorate at South Carolina
20 State. That was -- I think the degree was in '97 for
21 that.

22 Q. At the Citadel did you have occasion to meet or
23 know Selma Halastran in the library?

24 A. I don't.

25 Q. Let me ask you. You understand -- the Court and

1 we have gone over -- the Court very quickly -- the
2 overview of the process we go through in this type of
3 case. You understand there is a possibility, certainly
4 -- well, you understand that in the consideration of
5 the first part of the case, the determination as to
6 guilty or not guilty, you understand that, in fact, if
7 the decision of the jury, considering everything and
8 the lack of the evidence, is not guilty that the issue
9 of the second phase, logically, is eliminated.

10 A. Correct.

11 Q. Thank you, ma'am.

12 THE COURT: Any discussion needed for this
13 juror?

14 MR. MURDAUGH: Not from the State.

15 MR. KULP: No, sir, Your Honor. Thank you.

16 THE COURT: Ms. Middleton, I find that you are
17 qualified to be in the panel from which the jury will
18 be selected. Right now we plan to start this case at
19 9:30 on Friday. If our plans you, of course, would be
20 called. But if you would, please, report back up here.
21 Bring your clothes for three nights sequestration. So
22 if you are, obviously, we don't want to select the jury
23 and then have everybody have to go home and get their
24 clothes. We want to go to work.

25 The County has reserved rooms for the jury at the

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

534

1 Hampton Inn right across the way over here. So I hope
2 you have a nice evening.

3 POTENTIAL JUROR: The determination will be
4 made Friday?

5 THE COURT: Exactly. By the way, a couple of
6 other things I need to discuss with you. As you well
7 know, it's basic and fundamental that the case be
8 decided solely on the testimony and evidence presented.
9 So, therefore, do not let yourself be exposed to any
10 media reports of any kind or have anybody discuss the
11 case in your presence. And if anyone should attempt
12 that, please report it to the Court.

13 Secondly, do not take any steps to do any reading,
14 research or educate yourself or inquire into the
15 criminal procedure or criminal law or the facts of this
16 case. By that, I mean any books, magazines, the
17 internet or anything like that, or persons. So, in
18 other words, everything that you need to know about
19 this case will be -- and it's just basic and
20 fundamental that it be decided -- that it comes through
21 this courtroom.

22 POTENTIAL JUROR: Yes, sir.

23 THE COURT: Thank you very much. We look
24 forward to seeing you on Friday at 9:30.

25 (TESTIMONY FOR BETTY MIDDLETON CONCLUDED)

1 THE COURT: Next is Thomas Schau.

2 (POTENTIAL JUROR TAKES STAND)

3 THOMAS SCHAU, being duly
4 sworn to tell the truth, the whole truth and nothing
5 but the truth, was examined and testified, as follows:

6 EXAMINATION

7 BY THE COURT:

8 Q. Come around Mr. Schau and have a seat.

9 A. (Complies)

10 Q. How are you doing, sir?

11 A. All right.

12 Q. Just have a seat and speak into the microphone.

13 First off, Mr. Schau, I remind you that you are still
14 under oath from yesterday.

15 A. Yes, sir.

16 Q. Secondly, have you ever -- other than when I read
17 to you or summarized some of the charges from the
18 indictments, had you ever heard of this case prior to
19 that time?

20 A. No, sir, I have not.

21 Q. Since yesterday, have you heard anything from
22 anyone or anything like the newspapers, TV or radio
23 about the case?

24 A. No, sir.

25 Q. Very good. Did you read this pretrial

1 questionnaire?

2 A. Yes, sir, I did.

3 Q. Mr. Schau, I'll go over that briefly. In a case
4 where the State is seeking the death penalty, the trial
5 is bifurcated, meaning it is split into two parts or
6 two phases. The first phase is called the guilt phase.
7 And in that phase the jury would decide whether a
8 defendant is guilty or not guilty of the charges. And
9 I'm not talking about this case. I'm talking about
10 just in general so you'll have an idea about how we
11 will proceed.

12 If the jury should find the defendant not guilty,
13 that's it. You, of course, would not go to the penalty
14 phase because it wouldn't have any relevance.

15 If a jury finds a defendant guilty of murder, then
16 under South Carolina law it goes to the jury to decide
17 the punishment. And there are two possible punishments
18 provided for for murder in South Carolina. One is the
19 death penalty, and the other is life imprisonment.

20 It's been found that there are basically three
21 types of jurors in this situation where the death
22 penalty is being sought. The first juror we call a
23 type one juror in that questionnaire -- is a person who
24 feels like if a murder has been -- if a person is
25 guilty of murder and then found to have been guilty of

1 a murder they ought to suffer the death penalty.

2 A second type juror which is referred to as a type
3 two juror feels like if a person is found guilty of
4 murder the juror does not believe in the death penalty
5 and could not, regardless of the circumstances of the
6 case, give a verdict of death -- for the death penalty.
7 In other words, their verdict would always be for life
8 imprisonment.

9 The third type juror is referred to as type three
10 is a juror who feels that there are cases where a person
11 is guilty of murder for which he should suffer the
12 death penalty. And they would not have any problem in
13 giving the death penalty in one they thought was
14 appropriate. And by the same token, that juror feels
15 -- type three -- that there are other cases where a
16 person is guilty of murder where they do not feel the
17 death penalty is appropriate. That juror would wish
18 and would listen to the testimony and evidence
19 presented, both as to aggravating factors that make it
20 worse, and mitigating factors that seek to show some
21 reason for the crime, and would consider all the
22 factors and then and only then make a decision as to
23 whether they would feel that a person convicted of
24 murder should receive a death sentence or life
25 imprisonment.

1 Sir, what category of those three do you feel that
2 you come within?

3 A. I feel like ---

4 Q. Speak into the microphone so everybody can hear
5 you.

6 A. I could make that decision based on the
7 information I'd hear throughout the trial. I don't
8 know that I could make my mind up as to what exactly --
9 what type I was.

10 Q. Let me ask you another way, then. I'm not trying
11 to ask you what your verdict would be in this case or
12 any particular case. What I want to do is do you feel
13 like that you would have an open mind and that you
14 would want to -- that if you are in the penalty phase
15 and a person has been found guilty of murder, that you
16 would want to listen to the testimony. And if it was
17 -- you would consider the facts that you think are
18 important.

19 A. Absolutely, I would listen to those facts.
20 Absolutely.

21 Q. And in some cases you feel like you would -- as a
22 juror, you would vote for the death penalty. And in
23 some cases you would vote for life imprisonment.

24 A. Based on what I would hear, I'd have to say that.
25 I don't know that I could just say, "yes, I could."

1 Q. So I take it from this then that you feel, by the
2 process of elimination, you feel like you could, in a
3 proper case -- what you thought was proper -- give the
4 death penalty.

5 A. I could.

6 Q. I also take it by what you said that you do not
7 feel that every case of murder that the person should
8 receive the death penalty.

9 A. That's true.

10 THE COURT: Okay. Solicitor Murdaugh.

11 EXAMINATION

12 BY MR. MURDAUGH:

13 Q. Is it Mr. Schau?

14 A. That's correct, sir.

15 Q. Mr. Schau, I'm Randolph Murdaugh. How are you
16 doing?

17 A. Yes, sir.

18 Q. I need to ask you some questions so I can find out
19 a little bit about yourself so I'll know whether I want
20 you to sit on the jury or not.

21 A. Fine.

22 Q. I want you to understand there are no right or
23 wrong answers. We just need to know how you feel. In
24 listening to your answers to the Judge's questions, I
25 take it that you would listen to everything that came

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

1 out in the courtroom.

2 A. I would hope to, yes, sir.

3 Q. You would consider those things.

4 A. I'd try to retain every bit of it, yeah.

5 Q. Yes, sir. And if you thought that this crime --
6 not this crime -- a crime. I'm not talking about this
7 case now. We're talking about just murder, in general.
8 If you thought it was so heinous, you could give the
9 death penalty.

10 A. Yes, sir.

11 Q. If you didn't think it was that bad, you could
12 give life imprisonment just as easily.

13 A. Yes, sir.

14 Q. Okay, sir. One of the things that you would have
15 to do, sir, if you sat on the jury and if the jury, the
16 twelve of you, decided that this was a case for the
17 death penalty, you would have to sign a sheet of paper.
18 And this isn't the sheet of paper, by any means. It's
19 just something for me to hold. It would say at the top
20 of it, "We, the undersigned jurors, recommend that the
21 defendant suffer the death penalty." There would be
22 twelve lines for each juror to sign. If you thought
23 the case was bad enough could you sign such a paper?

24 A. Yes, sir.

25 Q. Do you know, sir, two additional people who may be

1 witnesses, that is Kenneth Williams and Richard Rivers?

2 A. Not to my knowledge, no.

3 Q. Okay, sir. To make myself sure that I understand
4 what your questionnaire said, you are retired, semi-
5 retired?

6 A. Yes, sir.

7 Q. And who did you retire from, sir?

8 A. Ashland Refining Company.

9 Q. And that was where?

10 A. The Tonawanda Plant in Tonawanda, New York.

11 Q. I don't know where Tonawanda is, but I generally
12 know where New York is.

13 A. Between Buffalo and Niagara Falls.

14 Q. And when did you retire with them?

15 A. When they shut the plant down in '83.

16 Q. '83. And you moved to Beaufort when, sir?

17 A. '89.

18 Q. I got your address that you live on on Hilton
19 Head. But I don't know where that is. So generally
20 tell me.

21 A. South Forest Beach.

22 Q. South Forest Beach?

23 A. Uh-huh, (affirmative nod), outside Sea Pines.

24 Q. So when you come up to the circle, you would go
25 right and before you get to Sea Pines, you would be on

State vs. Tavaris Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

542

1 the left?

2 A. Uh-huh, (affirmative nod).

3 Q. Okay, sir. I think that's all I've got to ask
4 you. I appreciate you waiting around while the lawyers
5 run our mouths so much today. Thank you.

6 MR. KULP: If it please the Court, Your Honor.

7 MR. MURDAUGH: And that was me and not them, sir.

8 EXAMINATION

9 BY MR. KULP:

10 Q. Mr. Schau, my name is Tim Kulp. The Court
11 introduce me and Mr. Fleming. We are the lawyers in
12 the case representing the accused, Mr. Rogers. You're
13 from New York?

14 A. Yes, sir.

15 Q. Your current occupation is what?

16 A. I'm semi- to self-employed. I have several homes
17 that I watch for for absentee owners. The majority of
18 them in Hilton Head Plantation are in Palmetto Dunes.
19 I also work with my wife and for her and do all the
20 filing, copying, the gophering and banking for her
21 business.

22 Q. And what is her business?

23 A. She is a -- she runs a personal secretarial
24 service for Dolan Pollard & Trane. And they are
25 developers of the Ford Plantation and originally from

1 Georgia, also in Greenbrier in West Virginia.

2 Q. Do you have any special licensing that pertains to
3 the watching-homes business?

4 A. No, I do not. This was an agreement between the
5 owners and myself as to keeping track of the mail,
6 letting in the bug spray people, housekeepers from time
7 to time and furniture deliveries. We're on a personal
8 basis. They don't rent these houses out. I don't have
9 to have cleaning people come and go for that purpose.
10 I don't provide them with doing any errands for them
11 other than just watching their homes for them.

12 Q. Very good. You have a brother and an uncle who
13 are police officers?

14 A. My brother-in-law is a current sergeant on a
15 Sheriff's Department in Winchester County, Virginia.
16 And my uncle is retired from the Buffalo Police
17 Department as a Lieutenant.

18 Q. Are you close with those gentlemen?

19 A. Yes.

20 Q. Have they ever discussed with you any personal
21 cases they've had, any homicide cases or any serious
22 crimes?

23 A. No.

24 Q. You currently hold a concealed weapons permit in
25 New York?

1 A. That's correct.

2 Q. You also were -- I think you listed in your
3 questionnaire that you were a victim of an armed
4 robbery when making a night deposit. When did that
5 occur?

6 A. To the best of my knowledge, it was '83. It was
7 at Christmastime where those things are accentuated.
8 We, my wife and I, owned and operated a commercial
9 boarding kennel in western New York, where we lived.
10 During the time I worked at Ashland Oil and after they
11 closed the plant down, which was the reason we stayed
12 until '89, I was making a night deposit. And that
13 particular evening I did not carry my gun as I was
14 going to visit some of my friends who I worked with for
15 many years at a bar. And I felt the best thing to do
16 was leave the gun at home, which I did. But any other
17 time I was always carrying it when I made deposits at
18 night. At any rate, no one got hurt, and no one got
19 caught.

20 Q. I'm glad to hear that no one got hurt. The fact
21 that your close relatives, your brother-in-law and your
22 uncle, are in the law enforcement business or were, and
23 the fact that you were in that event, that tragic event
24 that you described, you have the ability -- when you
25 answered these questions I take it that you have the

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1 ability to separate those factors or aspects from any
2 influence you may have in making a fair and impartial
3 decision in this case, both as to the first, guilty or
4 not guilty portion. Is that the case?

5 A. I do not have a preconceived notion of what this
6 man's been accused of. I think I can keep an open mind
7 about that, keep anything I've learned from my brother-
8 in-law and my uncle separate.

9 Q. Yes, sir. And you understand how important that
10 is, and that's why we're going through this process.

11 A. Absolutely.

12 Q. Very good. Thank you very much.

13 THE COURT: Anything further? Any comments
14 regarding this juror?

15 MR. KULP: No, sir, Your Honor.

16 MR. MURDAUGH: No, sir.

17 THE COURT: Mr. Schau, you are deemed qualified
18 to be in the panel from which this jury will be
19 selected. It is our present plan, subject to change.
20 If we change we'll certainly telephone you -- the we
21 will start this at 9:30 on Friday morning.

22 We're asking and requiring all potential jurors to
23 bring their suitcase with them with clothes for three
24 nights. You'll be put up at the Hampton Inn which is
25 just across the marsh from this courthouse. Obviously,

1 if you get selected on the jury, we don't want
2 everybody then to have to go home and get their stuff.
3 We want to go to work. So that's the reason we're
4 asking everything.

5 Of course, do not discuss the case with anyone or
6 allow anyone to discuss the case with you. You
7 certainly are allowed to tell your spouse and
8 associates that you are on a criminal case. But you
9 can't discuss particulars.

10 The other thing is don't allow yourself to be
11 exposed to any media reports, as you know and as we
12 talked about earlier. Lastly, do not do any reading,
13 research or try to educate yourself as to criminal
14 procedure or criminal law through books, magazines, the
15 internet or any other source. The reason for that is
16 that in this case it is basic and fundamental that it
17 be tried from what happens here in this Court, from the
18 testimony and the sworn witnesses, along with other
19 evidence introduced in the file.

20 Any questions?

21 POTENTIAL JUROR: 9:00 o'clock Friday morning.

22 THE COURT: 9:30 Friday. I might have said
23 9:00 o'clock, but it's 9:30.

24 POTENTIAL JUROR: I'll be here at 9:00.

25 THE COURT: You'll be here at 9:00. Excellent.

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

547

1 Look forward to seeing you.

2 POTENTIAL JUROR: Thank you.

3 (TESTIMONY FOR THOMAS SCHAU CONCLUDED)

4 THE COURT: That's Juror No. 23. Our next
5 juror is our last group. We have three more. Janice
6 Roeder, Juror No. 328.

7 (POTENTIAL JUROR TAKES STAND)

8 JANICE ROEDER, being duly
9 sworn to tell the truth, the whole truth and nothing
10 but the truth, was examined and testified, as follows:

11 EXAMINATION

12 BY THE COURT:

13 Q. Please, Ms. Roeder, come around and have a seat
14 right here.

15 A. (Complies)

16 Q. How are you doing?

17 A. Fine, thank you.

18 Q. First, I'd like to apologize for the late evening.
19 Of course, you realize we've been working as fast and
20 as hard as we can. We'll try not to take up too much
21 more of your time.

22 I'd like to ask you a couple of questions. First
23 off, I'd remind you that you are still under oath from
24 yesterday when you were sworn in in this matter. Had
25 you, before yesterday, ever heard any of the facts in

1 this case from anybody, including media, newspapers, or
2 television?

3 A. No, sir.

4 Q. Have you heard anything since then from any kind
5 of media? Has anybody talked to you about it or any
6 discussion?

7 A. No.

8 Q. Did you read this thing in the jury room which is
9 called a pretrial questionnaire?

10 A. Yes, I did.

11 Q. I'd like to go over that with you briefly. In a
12 case where a person is charged with murder, the State
13 may decide to seek the death penalty under our South
14 Carolina law. And in cases such as that, where the
15 State does decide to seek the death penalty, the trial
16 is bifurcated. What that means is it's divided.

17 Phase one is called the guilt phase. And in the
18 guilt phase a defendant -- and I want to emphasize I'm
19 not talking about the case at hand. I'm just talking
20 about the procedure generally. The jury will decide
21 whether or not a defendant is guilty or not guilty of
22 the crime charged, being the murder. If the jury
23 should decide a defendant is not guilty, that's the end
24 of it, of course.

25 If the jury should decide a defendant is guilty,

1 then you go to phase two. Phase two is called the
2 penalty phase. In South Carolina, for a person guilty
3 or convicted of murder, there are two possible
4 verdicts. The first penalty is the death penalty and
5 the second penalty is life imprisonment. And, as I
6 say, the jury makes this decision.

7 It's been found that there are basically three
8 types of jurors. A type one, as mentioned in that --
9 and we give you this ahead of time so that you're not
10 blind sided by it. You have time to think about it a
11 little bit. A type one juror would feel that if a
12 person is convicted of murder they should receive the
13 death penalty. No questions asked as to the
14 background, the circumstances or the particulars of a
15 particular case.

16 There's another type which is designated as a type
17 two juror. And that person is anti- or against the
18 death penalty. And that person feels like under no
19 circumstances could they themselves give a death
20 penalty. And they, too, would not need to know the
21 facts and circumstances of a case, because it didn't
22 matter. They would not and could not bring themselves
23 to give the death penalty.

24 And type three is a person who feels that there
25 are some murders that they feel the death penalty is

1 appropriate. And by the same token, there are some
2 murderers that they feel the death penalty is not
3 appropriate and the person should get a life sentence.

4 How do you classify yourself as to those three
5 types?

6 A. I would be the third category.

7 Q. I take that to mean, then, that you feel like
8 there are certain times a person guilty of murder
9 should be given the death penalty. And then there are
10 other times when you feel like a person convicted of
11 murder should not receive the death penalty, but should
12 receive a life sentence?

13 A. That's right. That's how I feel.

14 THE COURT: Solicitor Murdaugh.

15 EXAMINATION

16 BY MR. MURDAUGH:

17 Q. How are you doing?

18 A. Fine, thank you.

19 Q. I'm Randolph Murdaugh. I'm the Solicitor, and
20 with that title goes the duty of prosecution. I need
21 to ask you some questions. I need to find out,
22 frankly, if we want you to serve on a jury.

23 I notice that you list your address as Okatee.
24 I've got a place down at Chechessee. You'all are at
25 Callawassie?

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

551

1 A. Yes, that's right.

2 Q. I assumed since you said you were members of the
3 club that that's where you lived. And you'all have
4 lived at Callawassie how long?

5 A. A little over two-and-a-half years. We moved
6 there about the first of March in 1999.

7 Q. Is that because your husband had retired?

8 A. That's right.

9 Q. Where did he retire from?

10 A. Where from?

11 Q. Yes, ma'am. What company?

12 A. The company was IBM.

13 Q. And you were living ---

14 A. We were living in Sydney, Australia at the time
15 that he retired.

16 Q. I noticed that you'all lived all over the place.

17 A. Yes, we were moved a fair amount.

18 Q. Probably what? Ten different places?

19 A. Maybe almost ten.

20 Q. And he was with IBM the whole time?

21 A. That's right.

22 Q. Do you enjoy settling down now?

23 A. Yes, I do very much.

24 Q. I listened to your answer that the Judge gave
25 (sic). And from what I understand -- and you correct

1 me, please, if I'm misstating. You would listen to
2 everything that happened in the courtroom, the
3 instructions that the Judge gave. And after
4 considering everything that there was, you would come
5 to a decision?

6 A. That's right.

7 Q. Your decision could be the death penalty, or it
8 could be life imprisonment, depending on how you viewed
9 the facts of the case?

10 A. That's right.

11 Q. If you were sitting on the jury and if you and the
12 twelve members of the jury decided that this was an
13 appropriate case for the death penalty, and you'all had
14 voted to that effect, it would be incumbent upon you
15 and each of the members of the jury to sign -- and this
16 is not it. I'm just holding this up for sake of
17 something else. It would be incumbent upon you and
18 each of the other jurors to sign your name to a sheet
19 of paper which at the top would have something -- words
20 to this effect, "We, the undersigned jurors, recommend
21 that the defendant suffer the death penalty."

22 If you had decided that it was an appropriate
23 case, which you said you could, could you sign this
24 paper without any qualms?

25 A. Yes.

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

553

1 Q. Okay. I ask you, two additional possible
2 witnesses in this case -- do you know Kenneth Williams
3 or Richard Rivers?

4 A. No.

5 Q. What do you shoot in golf?

6 A. I'd be embarrassed to say.

7 Q. Probably beat the Dickens out of me. Thank you,
8 ma'am. I appreciate it. And I apologize for keeping
9 you this late.

10 A. Okay.

11 MR. KULP: May it please the Court.

12 THE COURT: Mr. Kulp.

13 EXAMINATION

14 BY MR. KULP:

15 Q. I'm sure it's well under 100. How long did you
16 live in Australia?

17 A. About fourteen months, just over a year.

18 Q. You understand that in making this determination
19 and asking you questions about your predispositions,
20 if any, or your approaches to this serious, serious
21 matter, that it's very important for us to do so. And
22 we appreciate your candor. You understand that?

23 A. Yes.

24 Q. And to do that and find out how you approach the
25 issue of potential punishment, we have to kind of put

1 the cart before the horse and ask you about that. And
2 you certainly don't assume, do you not, that it's a
3 foregone conclusion that our client, Mr. Rogers, the
4 accused, will be convicted, do you?

5 A. Absolutely not.

6 Q. And you understand as well pursuant to that that
7 it's certainly as likely as can be that the State fails
8 to meet their burden of proof to prove the accusations
9 beyond a reasonable doubt. And that, in fact, your
10 decision as a jury might be that he's not guilty.

11 A. Right.

12 Q. And you would never, therefore, or thereafter,
13 even need to address the issue of punishment.

14 A. Yes.

15 THE COURT: Any discussion needed on this?

16 MR. MURDAUGH: No, sir.

17 MR. KULP: No, sir, Your Honor. Thank you.

18 THE COURT: Ms. Roeder, I find that you are
19 qualified to go in the panel for the jury selection.

20 We presently have planned to do that at 9:30 on Friday
21 morning right here. I ask that you please be here at
22 that time, that you bring with you your suitcase with
23 three days and three nights of clothes so that,
24 obviously, when we get everybody here we want to go to
25 work. We don't want everybody to have to then go turn

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

555

1 around and go back home and get their clothes.

2 Do not discuss the case with anyone or allow
3 anyone to discuss the case with you. Or do not allow
4 yourself to see or read any newspaper articles about
5 it. You, of course, may tell your spouse and other
6 people that you are on a case. But be sure to warn
7 them that you can't talk about the facts, that it's a
8 serious case, or something to that effect, or that you
9 will be sequestered or something like that. That's
10 entirely appropriate. But not in any way discuss the
11 facts.

12 I also request that you make sure that you don't
13 take any steps to read or research or educate yourself
14 or make any inquiry into criminal law or procedure or
15 the facts of this case through any persons, books, the
16 internet or any other source. In other words, you'll
17 decide this case from what happens here in the
18 courtroom, from the testimony of the sworn witnesses
19 along with the evidence introduce in the trial.

20 Any questions?

21 POTENTIAL JUROR: No, sir.

22 THE COURT: Have a nice evening and I look
23 forward to seeing you on Friday at 9:30.

24 POTENTIAL JUROR: Thank you.

25 (TESTIMONY OF JANICE ROEDER CONCLUDED)

1 THE COURT: John J. Smith.

2 (POTENTIAL JUROR TAKES STAND)

3 JOHN J. SMITH, being duly
4 sworn to tell the truth, the whole truth and nothing
5 but the truth, was examined and testified, as follows:

6 EXAMINATION

7 BY THE COURT:

8 Q. Come around, sir.

9 A. (Complies)

10 Q. How are you, Mr. Smith? I apologize for keeping
11 you this late. Obviously, we're doing the best we can,
12 but we just have to take whatever time is necessary in
13 a situation like this.

14 A. It's no problem at all, sir.

15 Q. Thank you. I'll remind you before I start that
16 you are still under oath, having been sworn in
17 yesterday in this case.

18 First off, have you ever at any time, other than
19 yesterday when I published to you the indictments,
20 heard anything about the case from anybody or any
21 media, like newspapers, TV or any conversation about
22 this case?

23 A. I had a friend in Coffin Point. When this
24 happened I recall possibly some newspaper accounts, but
25 no details.

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

1 Q. When's the last time you've talked to your friend
2 about this case?

3 A. Probably just then. She's deceased now.

4 Q. Okay. So the person is not even out there any
5 more?

6 A. That's correct.

7 Q. So this was just when it initially happened?

8 A. Yes, sir.

9 Q. How about since then? Have you read anything as
10 late as today or yesterday about the case?

11 A. I avoided the newspapers today, sir.

12 Q. Excellent.

13 A. And I can't recall seeing anything recently.

14 Q. And that's the only time you can recall anything?

15 A. Yes, sir.

16 Q. I tell you that it's basic and fundamental that a
17 case be decided solely from the testimony here in Court
18 from the sworn witnesses along with the evidence
19 introduced in the trial. And for that reason, you
20 should disregard and not consider anything you may have
21 read. Do you remember, just for the lawyers'
22 information and so forth, anything -- would you just
23 tell us all the details that you remember having read
24 about?

25 A. My recollection is a dramatic murder case, it

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State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

558

1 being at Coffin Point and it was about two years ago.

2 Q. Thank you. Did you read this pretrial
3 questionnaire?

4 A. Yes, sir, I did.

5 Q. From that, I'm going to briefly go into the
6 procedure that occurs when the State seeks the death
7 penalty for a murder.

8 First off, the trial is bifurcated. That simply
9 means that it is divided into a phase one and a phase
10 two. Phase one is called the guilt phase. And in
11 phase one the jury would decide whether the defendant
12 is guilty or not guilty.

13 A. Yes, sir.

14 Q. Of course, if a jury should decide the defendant
15 to be not guilty, that would be the end of it. If the
16 jury should decide a defendant is guilty, you would
17 then go to phase two which is called the punishment
18 phase.

19 In South Carolina, the punishment for murder,
20 there are only two punishments. One is the death
21 penalty. The other one is life imprisonment. It's up
22 to the jury to decide what the punishment is or which
23 of these two it is.

24 It's been found that there are basically three
25 types of jurors, and they are discussed in this

1 pretrial questionnaire. Type one juror feels that --
2 is of the opinion that if a person is convicted of
3 murder or guilty of murder that they should receive the
4 death penalty no matter what the facts and
5 circumstances are. They don't need to hear any of
6 them, because they feel like in every case where a
7 person is guilty of murder and been convicted, they
8 ought to receive the death penalty.

9 A type two person feels that are against the death
10 penalty or cannot conscientiously feel that they could
11 give the death penalty, no matter what the
12 circumstances of murder. So, therefore, it would not
13 make any difference what the facts or background and
14 circumstances, the aggravating matters are, the
15 mitigating factors are. They would always come back
16 with a life sentence, because they would not ever give
17 it.

18 And a type three juror is one who would listen to
19 the facts and circumstances in the case and, very
20 importantly, would feel that there are some murders
21 that that juror would feel a death penalty is
22 appropriate. And by the same token, there are some
23 murders, based upon the facts and circumstances of the
24 case, where the death penalty is not appropriate and
25 the person should receive a sentence of life

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

560

1 imprisonment.

2 From those three categories which one do you feel
3 that you come within?

4 A. Your Honor, last night I gave this a lot of soul
5 searching. I haven't touched a gun since Vietnam. I
6 live on a very productive fishing river. I don't fish.
7 I don't shrimp. I don't believe in killing things.
8 Even my diet is mostly vegetarian, sir. I never gave
9 it any thought until your discussion on this yesterday.
10 I would have to say that I fall into category number
11 two.

12 There are a number of things you maybe need to
13 know about me. One, I'm a licensed marine claims
14 adjuster in a number of states. I was part of that
15 group that stood as having business conflicts, sir,
16 this being my very busy time of year. Just today I got
17 four new projects. And tomorrow morning at break of
18 dawn I'll be in St. Augustine, Florida. So I would
19 truly love to do jury duty. I've stood as expert
20 witness in a number of cases. I do a lot of
21 investigation work for attorneys. January -- the end
22 of December, when I was doing paperwork in the office,
23 being sequestered for a jury would be no problem for me
24 whatsoever.

25 Another issue is with regard to Detective Hires.

1 Detective Hires' name, Drew Hires, you mentioned his
2 name yesterday. And you expressed -- asked anybody
3 that has had -- I believe the terms were "family
4 connections, strong social connections, business
5 connections" with Detective Hires. A year ago I was
6 involved with an investigation with Detective Hires,
7 with Sheriff Tanner. Both of those individuals were at
8 my home on several occasions. And Detective Hires
9 worked very hard in this investigation. I was very
10 impressed by that gentleman's work. I have no idea
11 what strength of testimony he'll be giving, what his
12 involvement was in this case.

13 Q. I'm particularly interested in -- without getting
14 into whether or not you ought to be excused for cause
15 on your business thing, do you feel there are any
16 circumstances in which you could give the death
17 penalty?

18 A. No, sir.

19 THE COURT: Any reason for anything further?

20 MR. MURDAUGH: No, sir.

21 MR. KULP: No, sir, Your Honor.

22 THE COURT: You are excused. Thank you for
23 staying.

24 POTENTIAL JUROR: If I could make one brief
25 request, sir, rather than be excused from jury duty, if

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

562

1 I could simply be rescheduled for December or January.

2 CLERK: We'll be happy to do that.

3 POTENTIAL JUROR: I appreciate that.

4 CLERK: We'll transfer to the winter and
5 send you another summons.

6 POTENTIAL JUROR: I appreciate that. Thank you
7 very much.

8 THE COURT: Well, then, if you're going to do
9 that you'd better make it that he's transferred and
10 business reasons, too.

11 CLERK: Yes, sir.

12 THE COURT: Because otherwise, I think he
13 wouldn't be qualified. But anyway, glad to have you.

14 Any objection to that?

15 MR. KULP: No, sir.

16 MR. MURDAUGH: Not from me, no, sir.

17 THE COURT: Thank you. Write it right there on
18 the thing. Because otherwise, he's not qualified.
19 He'd have to be redrawn. Isn't that right? Don't you
20 agree?

21 MR. MURDAUGH: Yes, sir.

22 (TESTIMONY OF JOHN J. SMITH CONCLUDED)

23 THE COURT: The last juror is Nikkia Rivers.

24 MR. MURDAUGH: Mr. Knight is going to take care of
25 this one. I'm going to call my wife and tell her that

1 I ain't out running around.

2 (POTENTIAL JUROR TAKES STAND)

3 NIKKIA RIVERS, being duly
4 sworn to tell the truth, the whole truth and nothing
5 but the truth, was examined and testified, as follows:

6 EXAMINATION

7 BY THE COURT:

8 Q. Ms. Rivers, please come around and have a seat
9 right here.

10 A. (Complies)

11 Q. I certainly appreciate you staying with us. We've
12 been doing the best we can, but this is about the best
13 we could do. Just have a seat. When I ask you these
14 questions if you'll please speak into the microphone so
15 everybody in here can hear you.

16 First off, Ms. Rivers, I remind you that you are
17 still under oath. You were sworn in yesterday. Is
18 there any reason that you are not available for service
19 this week?

20 A. No, sir.

21 Q. You are available?

22 A. Yes.

23 Q. Excellent. Have you ever heard anything about
24 this case before?

25 A. No, sir.

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

564

1 Q. Never read anything or heard anything about the
2 case?

3 A. No, sir.

4 Q. Did you see anything in the paper today or
5 yesterday or hear anything on the TV or news about the
6 case?

7 A. No, sir.

8 Q. Have you ever talked to anybody about the case?

9 A. No, sir.

10 Q. Did you read the pretrial questionnaire that was
11 in the jury room?

12 A. Yes, sir.

13 Q. Let me ask you a couple of questions about that.
14 Where the State is asking for the death penalty in a
15 murder case the trial is bifurcated which basically
16 means that it's divided into two phases. We call them
17 phase one and phase two.

18 Phase one is called the guilt phase. In that
19 phase the jury would decide -- I'm not talking about
20 this case. I'm just talking about procedure in
21 general. The jury would decide whether the defendant
22 is guilty or not. If they decide that the defendant is
23 guilty, then the jury then would go to phase two which
24 is the punishment phase.

25 Now, the jury could find, and would find if the

1 evidence warranted it, if he was not proven guilty by
2 the State beyond a reasonable doubt, they'd find him
3 not guilty and that would be the end of the case. You
4 wouldn't go to the punishment, because if he's found
5 not guilty, there is no punishment. You understand
6 that?

7 A. Yes, sir.

8 Q. So let's assume that you are on a jury and a
9 person is found guilty of murder and you go to phase
10 two. In South Carolina, the penalty for murder --
11 there's only two. One is the death penalty. The other
12 penalty is life imprisonment.

13 It's up to the jury to decide what the sentence
14 should be, whether -- and as is set forth on this
15 pretrial questionnaire, it's been discovered or found
16 that there is really three types of jurors.

17 The first type of juror says if the person's
18 guilty of murder, he ought to receive the death
19 penalty. It doesn't matter what the facts are, how it
20 happened, anything. He ought to receive the death
21 penalty.

22 The second type of juror is against the death penalty
23 and says it doesn't matter how it happened. I could
24 not ever give the death penalty. I'm not interested in
25 the facts and circumstances of the case, but I don't

1 feel like I could ever give the death penalty.

2 The third type juror -- that we call type three.

3 The third type juror is a person who feels that the
4 death penalty is an appropriate punishment in certain
5 cases. And that juror could vote to give somebody the
6 death penalty if he thought it was an appropriate case.
7 By the same token, that type three juror feels like
8 that it's not automatic. That there are some cases
9 where if somebody is guilty of murder that they should
10 not get the death penalty. That they should have the
11 life sentence instead.

12 In other words, they would have to hear what the
13 facts and circumstances of the case were. They would
14 consider all that and then, after thinking about it
15 long and hard, would make a decision as to whether they
16 thought the death penalty was the proper verdict or
17 whether they thought life imprisonment was.

18 Which type juror do you think you are?

19 A. I am type two.

20 Q. You're type two?

21 A. Yes, sir.

22 Q. Type two is a person who could not, under any
23 circumstances, give the death penalty, that would
24 always vote for life imprisonment, no matter what the
25 facts and circumstances of the case were.

1 A. Yes, sir.

2 Q. You're sure about that?

3 A. My religion wouldn't allow me.

4 Q. Your religion wouldn't?

5 A. No.

6 Q. What religion are you?

7 A. Christian.

8 Q. Christian?

9 A. Uh-huh, (affirmative nod).

10 Q. And you feel like that you're just against the
11 death penalty?

12 A. Yes.

13 Q. In every circumstance?

14 A. Yes, sir.

15 Q. Thank you.

16 MR. MURDAUGH: If Your Honor please, we don't have
17 any questions at this time, with the right to have to
18 ask some if anything changes.

19 THE COURT: Mr. Kulp.

20 MR. KULP: May it please the Court?

21 THE COURT: Mr. Kulp, go ahead.

22

23 EXAMINATION

24 BY MR. KULP:

25 Q. Ms. Rivers, my name is Tim Kulp. I think the

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

568

1 Court introduced me to the panel yesterday. This is
2 Mr. Fleming. We represent Mr. Rogers in the case. I'm
3 just going to ask you a couple of questions briefly,
4 considering the late hour.

5 You understand that if were to serve on a jury and
6 the conclusion of the jury, the verdict was that the
7 case had been proved and the defendant was considered
8 by the jury's unanimous vote to be guilty, that you'd
9 then go to the second phase that the judge has been
10 talking to you about. And you know absolutely nothing
11 about this case, correct?

12 A. Other than what I learned yesterday, no, sir.

13 Q. Correct. And as well, you understand that during
14 that second phase of the proceeding, should the jury
15 have found -- if the jury found the defendant, the
16 accused, to be guilty -- that you would then hear
17 whatever the State tends to present at that time. And
18 certainly they would be presenting evidence to support
19 their argument that there exists an aggravating
20 circumstance that would warrant the jury's imposition
21 or decision to impose the death penalty, correct?

22 A. Yes, sir.

23 Q. And since you don't know what would be presented,
24 and considering the realm of possibilities of whatever
25 would be presented, are there any circumstances that

1 you can imagine, any facts, any evidence as to the
2 nature of the crime or the nature of the person
3 convicted of the crime that would lead you to consider
4 and vote for the death penalty?

5 A. No, sir.

6 Q. Thank you.

7 THE COURT: Any discussion needed about this
8 juror?

9 MR. KULP: No, sir, Your Honor.

10 THE COURT: Thank you very much for coming, and
11 you are excused.

12 POTENTIAL JUROR: Thank you.

13 THE COURT: I hope you have a nice rest of the
14 week.

15 POTENTIAL JUROR: Thank you.

16 THE COURT: For your two days' jury service
17 you'll receive a check from the Clerk.

18 (TESTIMONY OF NIKKIA RIVERS CONCLUDED)

19 MR. MURDAUGH: I think that's all tonight.

20 THE COURT: That's all, as far as I know.

21 9:30. Everybody understand? 9:30. No, 8:30. 8:30.

22 If anybody has anything, like something in the
23 newspaper or something they want to put on record,
24 we're going to do that before 8:30. So I want the
25 lawyers here by 8:15. And we're going to go on the

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

570

1 record at 8:15 if you've got something else to put on
2 the record, anticipating that there's probably going to
3 be something else in the paper.

4 MR. MURDAUGH: If I don't get run over by a train,
5 I'll be here.

6 MR. KULP: Very good, Your Honor. Thank you.

7 THE COURT: We've got twenty-four jurors, is
8 what I've counted.

9 CLERK: And we got twenty of them today.

10 MR. KULP: More than we expected.

11 MR. MURDAUGH: We might not even need those
12 on Friday, but I know it'll be best. We can always
13 call them off when they get here.

14 (COURT IN RECESS AT 7:00 P.M.)

15 (TRANSCRIPT CONTINUED NEXT PAGE)

16

17

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19

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24

25

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF BEAUFORT	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	99-GS-07-221 thru 222
	)	99-GS-07-281 thru 288
TAVARUS ROGERS	)	
	)	
Defendant.	)	

JURY TRIAL

OCTOBER 10, 2001 - Volume 3 of 7 Volumes

The within Jury Trial was held before the Honorable Jackson V. Gregory, on October 8-16, 2001, in Courtroom No. 1 of the Beaufort Government Center, Beaufort, South Carolina; attended by counsel, as follows:

Randolph Murdaugh, Solicitor
Steven Knight, Deputy Solicitor
Angie McCall, Deputy Solicitor
Appearing for State of South Carolina

Cory H. Fleming, Esq.
MOSS & KUHN, P.A.
Post Office Drawer 507
Beaufort, South Carolina 29901-0507

-and-

Timothy Clay Kulp, Esq.
RIESEN LAW FIRM
3660 West Montague Avenue
North Charleston, South Carolina 29418
Appearing for Defendant

DEBORAH GARRISON
Circuit Court Reporter - 9th Judicial Circuit
Post Office Box 901
Johns Island, South Carolina 29457
(843) 768-1438
www.CourtReporting@aol.com

1 OCTOBER 10, 2001

8:15 a.m.

2 (DEFENDANT PRESENT)

3 THE COURT: We're a little more prompt today,
4 and hopefully we can keep up. You have some preliminary
5 matters when the defendant comes in?

6 MR. KULP: The defendant is here, Your Honor.

7 THE COURT: Excuse me. I guess I didn't see
8 Mr. Grayson there. It kind of fooled me. Go ahead.

9 MR. KULP: Your Honor, we just have -- went by
10 this morning to pick up several newspapers. I'd like
11 to offer them in the record for reference purposes as
12 Exhibits.

13 THE COURT: You can go ahead and do that. What
14 I would suggest, though, I not going to hear you every
15 day on this thing.

16 MR. KULP: Yes, sir.

17 THE COURT: Because I saw a little small
18 article, but it looked to me to be totally harmless.
19 I'm sure the Savannah paper is probably a repeat of the
20 other one. "MURDER TRIAL SET" -- okay.

21 MR. KULP: It contains the ---

22 THE COURT: The only thing I know to do is you
23 want to go ahead and make it an exhibit?

24 MR. KULP: Yes, sir. I'd like to introduce
25 the Beaufort Gazette. I might just do that every

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1 morning so we'll have it there at the Court's desk as
2 an exhibit should you need to refer to it, should a
3 juror say, "Well, I did read it."

4 THE COURT: And if you need to ask a juror
5 about it, if you want to ---.

6 MR. KULP: It'll be right here.

7 THE COURT: We'll have it and it will already
8 be marked as an Exhibit. And until it starts to be a
9 problem with the jurors, I don't think there's anything
10 to do with it. And that's probably a one-shot deal.
11 Frankly, I don't know many people who read the *Savannah*
12 *Morning News* anyway. Maybe they do.

13 MR. KULP: If Your Honor please. We're
14 offering, I guess, as Court's exhibit, for the record,
15 with the next successive number, would be this
16 morning's edition of the *Savannah Morning News*, the
17 *Carolina Morning News*, which contains an article
18 related to this case.

19 COURT REPORTER: Court's Exhibit Number 4.

20 (SO ENTERED AS EXHIBIT NUMBER 4)

21 MR. KULP: And also the *Beaufort Gazette* from
22 this morning which has a small article in it.

23 COURT REPORTER: Court's Exhibit Number 5.

24 (SO ENTERED AS EXHIBIT NUMBER 5)

25 THE COURT: If you want to, just for the

1 record, do you want to point out what the offending
2 part of the -- I know about the Beaufort one. It
3 didn't have anything in it, did it?

4 MR. KULP: No, sir.

5 THE COURT: It just stated that the trial was
6 ongoing or something.

7 MR. KULP: That's correct, Your Honor.

8 THE COURT: Which is nothing. I thought it was
9 pretty harmless. But you say the *Carolina Morning News*
10 -- I get confused. The *Carolina Morning News* is the
11 South Carolina edition of the *Savannah Morning News*.
12 Go ahead and point out what offends you.

13 MR. KULP: Referring to Court's Exhibit Number
14 4, the copy of this morning, October 10, 2001, *Carolina*
15 *Morning News*, there is a front-page article entitled
16 "Murder Trial Set for Friday". It's on page one. And
17 continued on page four. And on page four it indicates
18 -- I think parrots the language that was in
19 the *Beaufort Gazette* on Tuesday.

20 THE COURT: Uh-huh, (affirmative nod).

21 MR. KULP: Yes, sir. And then indicates --
22 makes reference to "He, referring to the defendant,
23 denied shooting Riley, 25, confessed to that slaying,
24 too. The deputy testified in a court hearing last
25 year. That confession was later ruled inadmissible

1 after the judge said Rogers was being held illegally at
2 the time it was given." So our concern is that it
3 contains that reference which the Tuesday Gazette did,
4 too.

5 Thank you, Your Honor.

6 THE COURT: You're welcome. And I concur with
7 you. I don't see any legitimate reason for it. It's
8 not news. The thing happened three years ago. They've
9 already had it in the paper some time ago. And for
10 them to do these recap articles, I think is a violation
11 of their obligation to be good citizens. And I've
12 tried to tell them that but, of course, they don't
13 listen. Anything else?

14 MR. KULP: No, sir.

15 MR. FLEMING: Yes, we do have one more thing.
16 Concerning the two additional witnesses that I made an
17 objection to yesterday, Your Honor, Kenneth Williams
18 and Richard Rivers. You had informed us that I could
19 put additional grounds on the record at the appropriate
20 time or whenever we weren't in front of a juror.

21 I would assert, Your Honor, that an additional
22 reason that we object to the inclusion of these
23 witnesses is that because the State or Your Honor is
24 forced to voir dire each individual juror concerning
25 the names of these potential witnesses, who I am

1 informed and now believe are not just potential, but
2 they are definite witnesses. I think the Solicitor
3 will confirm that. It is giving undue recognition or
4 significance to those particular witnesses which may
5 taint the jurors' initial perceptions of the value of
6 those witnesses. And therefore, as an additional
7 grounds for our objection, we would put that on the
8 record, sir.

9 THE COURT: Okay. Anything else?

10 MR. KULP: No, sir, Your Honor. Thank you.

11 THE COURT: Are any of the jurors here yet?

12 CLERK: John J. Harkins is the first one.
13 There's one who's supposed to be here at 8:30.

14 THE COURT: We're not late yet, but I just
15 wondered if they were here.

16 CLERK: Okay.

17 THE COURT: They're both here?

18 CLERK: Mr. Harkins and Ms. Barnett.

19 THE COURT: You can go ahead. I'm sure he's
20 already had a chance to read the pretrial
21 questionnaire. If they're ready, bring in -- which
22 one's first?

23 CLERK: Mr. Harkins.

24 (POTENTIAL JUROR TAKES STAND)

25 JOHN J. HARKINS, being

1 duly sworn to tell the truth, the whole truth and
2 nothing but the truth, was examined and testified, as
3 follows:

4 EXAMINATION

5 BY THE COURT:

6 Q. Good morning, sir.

7 A. Good morning.

8 Q. Have a seat.

9 A. (Complies)

10 Q. And you are John J. Harkins, I believe?

11 A. Yes, sir.

12 Q. Mr. Harkins, I remind you that you are still under
13 oath. I am sorry to have not been able to get to you
14 yesterday evening, but we were doing the best we could.

15 A. I understand.

16 Q. Hopefully, we'll do a little better today. A
17 couple of things, have you ever heard anything about
18 this case, either going back to the events when it
19 happened or since?

20 A. No, sir.

21 Q. In the last several days of this week -- speak
22 into the microphone so they can hear you all over the
23 courtroom. Have you read any media reports or talked
24 to anyone about it or has anyone talked to you about
25 the case?

1 A. No.

2 Q. Did you read this pretrial questionnaire?

3 A. Yes.

4 Q. In that, Mr. Harkins, I'm going to just kind of
5 briefly summarize it. I said it so many times
6 yesterday I'm trying to get my mind back on track.

7 In a case where the State is seeking the death
8 penalty, the trial is bifurcated meaning there's a
9 phase one and phase two. Phase one is called the guilt
10 phase. And in the guilt phase, of course, a defendant
11 who is charged -- and I'm not talking about this case
12 -- but at any time a defendant could be found guilty or
13 not guilty.

14 If the defendant is found not guilty, that's the
15 end of it. But if the defendant is found guilty it
16 goes to the second, what we call the penalty phase. In
17 the penalty phase it's up to the jury to decide the
18 punishment. In South Carolina the punishment for
19 murder is either the death penalty or life
20 imprisonment.

21 And it's been found that there are basically three
22 types of jurors. There's one type of juror who is
23 designated in this questionnaire or whatever it is that
24 says if somebody is guilty of murder, they ought to
25 suffer the death penalty.

1 The second type of juror doesn't believe in the
2 death penalty and would say that no matter what the
3 circumstances of the case are, they could never give
4 the death penalty. And neither one of type one or type
5 two, they wouldn't have to listen to any facts or
6 whatever because they are already set.

7 The third type juror is one who would consider all
8 the evidence, the facts, the circumstances, the matters
9 in aggravation, the matters in mitigation and feel like
10 that there are some murders where a person, if he's
11 guilty of murder, ought to have the death penalty. And
12 there's some murder where, because of the factual
13 situation or the circumstances, should receive a life
14 sentence.

15 So I ask you, sir, which of these three categories
16 do you fall within?

17 A. I'm the last kind.

18 Q. The last category?

19 A. Yes.

20 Q. So, in other words, you're saying that you would
21 be in the category that feels that there are some
22 murders that the person ought to have the death

23 penalty. And there are some murders that you feel that
24 he or she should not receive the death penalty?

25 A. Yes.

1 Q. And that you would like to know what the facts of
2 the case are and you'd listen to it and then make your
3 mind up at that time?

4 A. Yes.

5 Q. There are two additional witnesses that may be
6 called in this case. One is Kenneth Williams and the
7 other is Richard Rivers. Do you know by the name of
8 either one of those persons?

9 A. No.

10 THE COURT: Solicitor Murdaugh.

11 EXAMINATION

12 BY MR. MURDAUGH:

13 Q. Mr. Harkins, how are you doing?

14 A. Good.

15 Q. I'm Randolph Murdaugh. I'm the Solicitor for this
16 area. And with that title carries the duty of
17 prosecution. I need to ask you some questions to find
18 out a little bit about you, to find out if we want you
19 to sit on this jury, to be honest with you.

20 A. Yes, sir.

21 Q. I want you to understand there are no right or
22 wrong answers. Just need to know something about you.
23 In listening to the answers that you gave to the judge,
24 I gather that you would listen to everything that is
25 presented in Court. And after listening to everything

1 you would then, if we got to that point -- it's a two-
2 part trial. The first part decides guilt or innocence
3 of the defendant. The second part decides penalty.
4 Penalty can be one of two things, the death penalty or
5 life in prison.

6 If we got to the second part of the trial and if,
7 after listening to it, you thought that this was an
8 appropriate case for the death penalty, and the other
9 jurors along with you had voted to that effect, you
10 would, then, be required to sign a piece of -- and this
11 is not the paper. It just happened to be in front of
12 me. You would have to sign a piece of paper. It would
13 have twelve lines on it and up at the top it would have
14 something to the effect, "We, the undersigned jurors,
15 recommend that the defendant suffer the death penalty."
16 Would you have a problem, if you thought it was the
17 appropriate case, signing your name to that piece of
18 paper?

19 A. No.

20 Q. You work at the Marine Corps Air Station?

21 A. Yes.

22 Q. And you've been there 16 years, I believe?

23 A. Yes.

24 Q. Where did you come from to Beaufort County?

25 A. Well, actually North Carolina. Before that I was

1 in the Navy in San Diego.

2 Q. What did you do in North Carolina?

3 A. I was in construction and electrical.

4 Q. In commercial or residential construction?

5 A. Residential.

6 MR. MURDAUGH: Thank you, sir.

7 THE COURT: Mr. Kulp.

8 MR. KULP: Thank you, Your Honor.

9 MR. MURDAUGH: Excuse me. I hate to interrupt
10 you. May I ask one or two more questions?

11 MR. KULP: Yes, sir.

12 EXAMINATION RESUMED

13 BY MR. MURDAUGH:

14 Q. Mr. Harkins, I noticed on your questionnaire that
15 you said that you are a Catholic.

16 A. Yes, sir.

17 Q. I have read articles where the Bishop is opposed
18 to the death penalty. Would that affect you in your
19 decision?

20 A. No, sir.

21 Q. Thank you, sir.

22 MR. MURDAUGH: I'm sorry, Tim.

23 MR. KULP: No problem. May it please the
24 Court?

25 THE COURT: Mr. Kulp.

EXAMINATION

1

2 BY MR. KULP:

3 Q. Good morning, Mr. Harkins.

4 A. Good morning.

5 Q. My name is Tim Kulp. And Mr. Fleming and I
6 represent the accused, the young man there, Mr. Rogers.
7 What, exactly, when you were in the Navy in San Diego,
8 what was your role or job duty or assignment?

9 A. I was on the -- worked with the missile systems.

10 Q. And I imagine there are some things that you can't
11 tell us about that, huh?

12 A. On the systems I worked on, they weren't top-
13 secret or anything.

14 Q. You understand, as the judge explained to you,
15 that this process, this trial is a unique type of
16 trial. And there are two parts to it. Do you
17 understand that?

18 A. Yes, sir.

19 Q. And do you also understand there may only be one
20 part to it.

21 A. Yes.

22 Q. And do you agree that that would certainly be the
23 case if the jury hearing the case decided that the
24 State did not bear its burden of proof as to the
25 charges, and the decision of the jury was not guilty?

1 A. Yes.

2 Q. In other words, you understand there'd be no need,
3 of course, logically, for any second part.

4 A. Correct, yes.

5 Q. Very good. Now, however, it is was the jury's
6 decision that the verdict should be guilty of murder
7 and the process moved on to the second phase of the
8 proceedings, which would address the issue of the
9 appropriate penalty based on what was presented during
10 that hearing, what the jury concluded about that
11 evidence, and how they applied the law that the Court
12 would give them at that stage, I wanted to ask you a
13 few questions about that process.

14 During that process the Court will tell you that
15 what you can consider in deciding the appropriate
16 punishment would include what we call -- and I think
17 the judge addressed this -- mitigating factors, things
18 that would be offered in support that the decision at
19 that juncture between the two choices of life
20 imprisonment and the death penalty, would tend to
21 support a finding that the decision should be life
22 imprisonment. Mitigating information. Things about
23 the case, about the defendant that would bode for that
24 decision or support that.

25 And, as well, the Solicitor, of course, and the

1 State would be offering what they considered to be
2 evidence to support a finding of an aggravating factor.
3 And that would be the jury's responsibility to weigh
4 that information out and decide, of course, if it
5 established a mitigating factor or an aggravating
6 factor in any respect. And then determine how to apply
7 that based upon how the judge explains the law to you.
8 Do you understand that?

9 A. Yes.

10 Q. There can be a whole host of things which would be
11 offered or could be offered by the defense as support
12 of the asserting of a mitigating factor. And I'd like
13 to ask you about that, if I can, at this time.

14 Would you consider in your deliberations evidence
15 offered in support of a mitigating factor?

16 A. Yes.

17 Q. And would you consider a mitigating factor such as
18 abuse of the defendant as a child?

19 A. I would consider it, yes. It would be -- it
20 would all depend on how the whole case -- I would
21 consider it, yes.

22 Q. You hesitated, I see, in doing that. And it
23 certainly was obvious. Is there any reason that you
24 hesitated in considering your answer before giving it?

25 A. Just on the having a hard life himself with no

1 other factors, right, is hard. But if they found that
2 a person was guilty, just that alone I don't think
3 would be enough for me to take into consideration,
4 depending on what kind of -- what the evidence was and
5 how the murders took place and what happened. Like I
6 say, I would weigh all evidence and all mitigating
7 circumstances and then give weight to all mitigating
8 circumstances when I went ahead and decided which
9 penalty I would impose.

10 Q. Is that because you certainly understand the
11 seriousness and the importance of these proceedings?

12 A. Oh, yes.

13 Q. In all respects.

14 A. I've been thinking about this for a couple of
15 days.

16 Q. Would you still consider a presented mitigating
17 factor if the conclusion of the jury during the not
18 guilty or guilty phase was that two individuals were
19 murdered?

20 A. It would all depend on -- it just all -- I can't
21 really answer. It just depends on how the case
22 unfolded and what the facts were in the case. I guess
23 that's the best I can answer.

24 Q. But you certainly aren't saying that if the
25 conclusion was that two people had been murdered that

1 you would not consider some mitigating circumstances,
2 merely because ---

3 A. I would definitely look at mitigating
4 circumstances. That would be a for-sure before I
5 could, in good conscience, think about the death
6 penalty.

7 Q. Thank you very much. I appreciate the answers.

8 THE COURT: Any discussion about Mr. Roeder
9 (sic)?

10 MR. KULP: Nothing from defense, Your Honor.

11 THE COURT: Mr. Roeder (sic), I find that you
12 are a qualified juror. Therefore, you go into the pool
13 from which the jury will be selected. A couple of
14 things, we are going to -- right now our plan is, and I
15 think it is pretty certain that we will select this
16 jury at 9:30 on Friday. If you will be here at that
17 time. Bring your clothes with you for three nights
18 because you'll be staying at the Hampton Inn. The jury
19 will be sequestered.

20 Now that you are in this pool, take extraordinary
21 care not to discuss the case with anyone or allow
22 anyone to discuss it in your presence. If anyone
23 should attempt to do so, please report it to the Court
24 immediately.

25 Also you will obviously have to take such steps to

1 ~~avoid~~ avoid any media coverage, newspapers, TV and so forth
2 about the case. It's basic and fundamental that it be
3 decided solely from the evidence here in Court. And
4 nothing outside the courtroom should have any effect on
5 it.

6 Also, do not take any steps, do any reading,
7 research or trying to educate yourself in criminal law
8 or criminal procedure through books magazines, the
9 internet or anything like that. In other words, you'll
10 be told everything you need to know about the case
11 during the trial.

12 Any questions?

13 POTENTIAL JUROR: No, sir.

14 THE COURT: Thank you, sir. See you Friday
15 morning at 9:30.

16 POTENTIAL JUROR: Thank you.

17 (TESTIMONY OF JOHN J. HARKINS CONCLUDED)

18 CLERK: You called him the wrong name.

19 THE COURT: I thought we were on the second
20 one. I'm sorry. Is Ms. Barnett back there?

21 CLERK: Barrett.

22 THE COURT: Ms. Barrett, excuse me. Is she
23 back there?

24 CLERK: Yes.

25 THE COURT: Send her in.

1 (POTENTIAL JUROR TAKES STAND)

2 BARBARA BARRETT, being
3 duly sworn to tell the truth, the whole truth and
4 nothing but the truth, was examined and testified, as
5 follows:

6 EXAMINATION

7 BY THE COURT:

8 Q. Ms. Barrett, please come around and have a seat
9 right up here.

10 A. (Complies)

11 Q. Good morning. I'm sorry that we were not able to
12 get to you yesterday evening, but we were doing the
13 best we could.

14 A. That's okay.

15 Q. Ms. Barrett, first, I would remind you that you
16 are still under oath from Monday morning. I have a few
17 questions. First have you at any time ever heard
18 anything about this case before?

19 A. No.

20 Q. In the last several days, starting Monday, have
21 you read any media coverage or has anybody talked to
22 you about the case or tried to discuss the case with
23 you? Or have you talked to anyone about the case?

24 A. No.

25 Q. Would you speak into the microphone so everybody

1 can hear you clearly? Ms. Barrett, did you read this
2 thing called the pretrial questionnaire?

3 A. Yes.

4 Q. In that case, I'm going to discuss that with you
5 just briefly. In a case where the State is seeking the
6 death penalty, the trial is bifurcated which means that
7 it's done in two parts, called phase one and phase two.

8 Phase one is called the guilt phase. And in that
9 trial, the guilt of the defendant is determined, as to
10 whether he's guilty or not guilty -- he or her. And
11 I'm not talking about this case. I'm just speaking in
12 general. Of course, if a defendant is found to be
13 guilty of murder in the guilty phase, it goes to phase
14 two which is the penalty phase.

15 A defendant may be found not guilty, of course, in
16 phase one and that would be the end of the matter. So
17 you wouldn't go to phase two.

18 Briefly, I want to talk to you about phase two or
19 the penalty phase. The two sentences that are provided
20 for under South Carolina law in this situation are the
21 death penalty and life in prison for someone who has
22 been convicted of murder.

23 And it's been found that there are three types of
24 jurors in deciding the penalty phase. There's one
25 juror who feels that if a person is convicted of murder

1 that he should receive the death penalty. That person
2 is not interested and does not need to hear any facts,
3 circumstances or background about the circumstances of
4 the case because he just feels that the death penalty
5 is required.

6 There's a second jury who doesn't believe in the
7 death penalty and who also doesn't need to hear any of
8 the facts and circumstances involved. Because they
9 would always opt for the life imprisonment, because
10 they could not conscientiously sentence someone to
11 death.

12 And then there's a third type juror who feels that
13 there are some cases where a person guilty of murder
14 should receive the death penalty. And by the same
15 token, there are some cases where a person is convicted
16 of murder where the person should not receive the death
17 penalty, that they should receive the life sentence.

18 And I ask you, Ms. Barrett, which of these
19 categories do you feel that you fall within?

20 A. I fall in the third where I follow the advice of
21 the judge.

22 Q. In other words, that you would want to hear all
23 the facts and the circumstances, think about it, listen
24 to the arguments of the attorneys and so forth. And
25 that you do believe that there are some cases where the

1 death penalty is called for? Is that correct?

2 A. Uh-huh, (affirmative nod).

3 Q. And that you think there are some cases where the
4 death penalty is not called for and the person should
5 receive life imprisonment?

6 A. Uh-huh, (affirmative nod).

7 COURT REPORTER: That was a "yes"?

8 POTENTIAL JUROR: Yes.

9 EXAMINATION RESUMED

10 BY THE COURT:

11 Q. There are two other potential witnesses who
12 weren't read out on Monday, Kenneth Williams and
13 Richard Rivers. Would you know either one of those
14 persons?

15 A. No.

16 THE COURT: Solicitor Murdaugh.

17 EXAMINATION

18 BY MR. MURDAUGH:

19 Q. Ms. Barrett, how are you doing?

20 A. Hi. I'm fine, thank you.

21 Q. I'm Randolph Murdaugh. I am the Solicitor. And
22 with that title comes the duty of prosecuting trials.
23 And that's why I'm here. I need to ask you some
24 questions frankly to find out whether we want you to
25 sit on this jury or not.

- 1 I notice that you are still teaching math?
- 2 A. Yes, I am.
- 3 Q. How long have you'all lived in Beaufort?
- 4 A. Well ---
- 5 Q. Beaufort County.
- 6 A. Okay. Three years.
- 7 Q. You live in Hilton Head Plantation?
- 8 A. Yes.
- 9 Q. And where did you come to Beaufort from?
- 10 A. Connecticut.
- 11 Q. And you'all lived in Connecticut for what length
- 12 of time?
- 13 A. All my life.
- 14 Q. Is your husband working?
- 15 A. Yes.
- 16 Q. And where does he work?
- 17 A. At First National Bank.
- 18 Q. What's his position there?
- 19 A. Hummm ---
- 20 Q. Is he the head knocker?
- 21 A. No. Well, like a personal advisor if you want to
- 22 buy a CD or whatever.
- 23 Q. I listened to the answers that you gave the judge.
- 24 And I gather from your answers that if you were sitting
- 25 on this jury -- not this jury, a jury -- and if you'all

1 had found the defendant guilty, we would proceed to the
2 second part of that trial. And I gather from your
3 answers in the second part of that trial you would
4 listen to everything that was said from the witness
5 stand, any evidence that was introduced, exhibits, that
6 you would listen to -- in other words, everything. And
7 after doing that, if you thought it was a bad enough
8 crime that deserved the death penalty, you could give
9 the death penalty. Is that correct?

10 A. Yes. But I'd want to know the parameters that the
11 judge says for the State.

12 Q. That is one of the criterion that I left out.
13 It's my fault, because I should have told you. He will
14 charge you what the law is in the State of South
15 Carolina and in the United States in regard to the
16 giving or not giving of the death penalty. He won't
17 tell you what to do, of course. But he will tell you
18 what the law is, what rules that you need to follow.
19 Because in a trial, the facts are totally within the
20 jury's determination of what the truth is. It's
21 totally within the jury's provenance. The law is the
22 Judge's provenance. You'all have got to listen to what
23 he tells you. Whether you like it or don't like it,
24 you've got to listen to it.

25 After hearing what the parameters were, after

1 hearing the evidence that was presented -- and I'm not
2 talking about this case. Please understand that. If
3 you thought the case was bad enough, you could vote for
4 the death penalty?

5 A. Yes.

6 Q. If you didn't think it was bad enough, you'd vote
7 for life imprisonment.

8 A. Yes.

9 Q. Okay. If you were sitting on a jury, and if you
10 and the other eleven members of the jury had gotten to
11 the point to where you felt this was the type case that
12 the death penalty was warranted -- you'all had voted to
13 that effect, it would be incumbent upon you and the
14 other members to sign -- and this is not that sheet of
15 paper. But to sign a sheet of paper. At the top would
16 read, "We, the undersigned jurors, recommend that the
17 defendant suffer the death penalty." There'd be twelve
18 lines and it would be incumbent upon each and every one
19 of you to sign that sheet of paper.

20 If you felt it was the appropriate case for the
21 death penalty, would you have a problem signing it?

22 A. No.

23 Q. I notice on your questionnaire that you said that
24 you are a Roman Catholic.

25 A. Yes.

1 Q. I have read articles -- and I have to ask you
2 these questions. I have read where the Bishop is
3 opposed to the death penalty -- of the Catholic church.
4 I don't know who he is now, but it used to be Bishop
5 Uptecott, I believe it was. Would that affect your
6 ability to give the death penalty, because he has been
7 opposed to it?

8 A. No, I don't think so. I'm not a conservative
9 Catholic.

10 Q. Thank you, ma'am. I appreciate your openness and
11 frankness with me.

12 MR. KULP: May it please the Court, Your
13 Honor?

14 THE COURT: Mr. Kulp?

15 EXAMINATION

16 BY MR. KULP:

17 Q. Ms. Barrett, good morning.

18 A. Good morning.

19 Q. My name is Tim Kulp. We were introduced on
20 Monday, I think, from a distance. And Mr. Fleming and
21 I there represent the accused young man, Mr. Rogers.

22 I saw you brought some materials with you and I'm
23 going to venture a guess. Are those tests to be
24 graded?

25 A. Most of them.

1 Q. Very good. What grades do you teach, Ms. Barrett?

2 A. I teach at Hilton Head High School, nine through
3 twelve, math.

4 Q. So you have your hands full.

5 A. I like it.

6 Q. Good. You're certainly one of the heroes of our
7 country. I think people in education make great
8 sacrifices. A couple of questions I wanted to ask you,
9 one of the statements you made in your testimony, I
10 think you said you would follow the advice of the State
11 and the judge. I think we paused for a minute, because
12 although I don't -- your answers indicate that you
13 appreciate, it seems to me, the absolute seriousness
14 and requirement that you be fair and impartial and
15 listen to everything. And I don't have any concerns
16 about that. But you kind of left us out a little bit,
17 because you said you would listen to the law that the
18 Judge gives you, the arguments of the State. And I
19 guess implied that you would certainly -- it's silly to
20 even suggest that you would listen to the information
21 and the evidence presented by the defendant as well.

22 A. Yes.

23 Q. Is that correct?

24 A. Yes.

25 Q. And we shouldn't have any concerns about that just

1 because of the way you stated it?

2 A. Oh, no. I'm sorry.

3 Q. That's all right.

4 A. I would listen to it, but I would hope the State
5 or the judge would give us guidelines as to where that
6 fits in.

7 Q. Sure. And I think the judge said that in his
8 initial comments to you, is that he would provide you
9 and the jurors with the law that applies in any
10 respect.

11 A. Yes.

12 Q. In actually two instances. Because, as you've
13 been told, this entire procedure is a special type of
14 trial. And there are two parts to it. And the first
15 part is the determination the jury would have to make
16 of whether the defendant is not guilty or guilty. And
17 logically, we never get to the second portion
18 addressing the appropriateness of the punishment if the
19 jury were to conclude that the State failed to meet its
20 burden of proof to convince the jury beyond a
21 reasonable doubt of the charges. And the judge, of
22 course, would give you the framework within the law to
23 enable you to make that decision, based upon the facts
24 that the jury concluded.

25 A. "Framework" is a good word.

1 Q. And the judge would provide the law and that
2 framework for the second phase, if you got to that
3 phase as well. One of the questions that I wanted to
4 ask you about that is part of the framework and the
5 parameters that would apply to your decision-making
6 role during that second proceeding would be what we
7 call and the law calls mitigating circumstances and
8 aggravating circumstances. It's pretty easy to figure
9 out who is going to offer what.

10 We would be offering mitigating circumstances for
11 your consideration as an individual juror and a
12 collective jury to support the notion at that stage,
13 should we get there, that the appropriate punishment
14 between the two choices between the death penalty and
15 life imprisonment would be life imprisonment. That
16 there were things that mitigated the position based
17 upon the defendant at that time, based upon the nature
18 of the case and a number of other factors. And, of
19 course, you understand, would be presenting aggravating
20 circumstances or evidence to support that finding. Do
21 you understand that?

22 A. Uh-huh, (affirmative nod), yes.

23 Q. What's very important is your ability during that
24 phase to consider mitigating circumstances and
25 aggravating circumstances. But my concern, of course,

1 and our concern is that a jury and a juror would
2 consider mitigating circumstances.

3 Let me ask you a couple of questions and I'll wrap
4 up. Would you consider abuse of a child or abuse of
5 the defendant as a child as a mitigating factor in your
6 decision-making process -- you, individually?

7 A. Well, it depends on what he's being tried for or
8 what we're making the decision on.

9 Q. Well, the charge is as the judge read to you on
10 Monday.

11 A. Right. It was robbery and murder and kidnaping.
12 Is that right?

13 Q. There are charges that include those offenses,
14 yes. But for purposes of the consideration in this
15 phase, where the decision that the jury would be asked
16 to make between an appropriate punishment of life
17 imprisonment or the death penalty only applies to
18 murder.

19 A. So that would be the only decision made? That's
20 where the decision would be made?

21 Q. In the second phase, as to murder.

22 A. Right.

23 Q. Right. So you would not get to the second phase
24 unless the jury concluded that the State had met its
25 burden of proof as to the accusation of murder.

1 A. Right.

2 Q. So what I ask you is would you consider evidence
3 of abuse of a child or the defendant as a child as a
4 mitigating factor should you have convicted him of
5 murder, to consider that as a mitigating factor in the
6 penalty or punishment phase? Or is that something you
7 just wouldn't consider?

8 A. I don't know. I'd have to hear all of it.

9 Q. And as well ---

10 A. I'm supposed to listen to everything, aren't I?

11 Q. Absolutely. And it seems to me that your answers
12 have indicated -- correct me if I'm wrong -- that you
13 are committed to that. That you would, in fact, listen
14 to everything.

15 A. Yes.

16 Q. Let me ask you one final thing. You understand as
17 well that during that second phase of the proceeding
18 where they issue punishment for the offense of murder
19 would be considered by the jury, that that decision as
20 to the evidence supporting mitigating factors and
21 aggravating factors would be made by you, individually.
22 In other words, that's an individual decision that you,
23 as a juror, would make. Your consideration of the
24 weight of the evidence and its application to the
25 issue, that you would make that decision.

1 A. You mean it would be my decision?

2 Q. Individually and the jury's collective decision.

3 A. Right.

4 Q. And in that regard, as an individual decision, do
5 you feel and are you convinced that you are capable of
6 considering all the circumstances?

7 A. Yes.

8 Q. Thank you, ma'am. I appreciate your honesty.

9 THE COURT: Anything more with regard to this
10 potential juror?

11 MR. MURDAUGH: Not from the State.

12 THE COURT: Any discussion?

13 MR. KULP: No, sir, Your Honor.

14 THE COURT: Ms. Barrett, I find that you are
15 qualified to go into the panel from which the jury will
16 be selected. We will do that at 9:30 on Friday morning
17 right here. Please be back here at that time with your
18 bags packed for at least three nights. Of course, the
19 reason we're asking everybody to bring their clothes,
20 so that after we select the jury we can go to work.
21 Everybody doesn't have to turn around and go home and
22 get packed up, in other words -- we're asking everyone.

23 Do not discuss the case with anyone or allow
24 anyone to discuss the case with you, as we've
25 previously talked about. One other thing I want to

1 impress upon you is that you must not do any reading,
2 research into criminal law or criminal procedures
3 through books, the internet or any other source. In
4 other words, you should stay just the way you are, and
5 everything that you need to know will come out in the
6 trial as opposed to doing any independent research.

7 With that, have a nice day and I'll see you
8 Friday.

9 POTENTIAL JUROR: So I may or may not have
10 to stay Friday, then?

11 THE COURT: That's correct. In other words,
12 we'll have the panel of all of the qualified jurors.
13 And then we'll select from that.

14 POTENTIAL JUROR: Okay. Will there be more
15 questions then?

16 THE COURT: Just some very general questions.
17 Will not be any individual questions.

18 POTENTIAL JUROR: Okay. Thank you.

19 THE COURT: Okay.

20 (TESTIMONY OF BARBARA BARRETT CONCLUDED)

21 THE COURT: We got every one in that block
22 qualified. Isn't that amazing?

23 MR. MURDAUGH: Say again?

24 THE COURT: Everybody in that one was
25 qualified. Before we start on today's, I have that we

1 have 26. Mr. Harkins was number 26, I believe. And
2 then, of course, Ms. Williams makes it 27, who is out
3 of order. Is that what you'all have?

4 CLERK: Ms. Barrett?

5 THE COURT: Mr. Harkins is 26.

6 CLERK: Okay.

7 THE COURT: Because I'm keeping them in order
8 they're drawn on. That's very important to keep them
9 in the right order.

10 MR. MURDAUGH: I've got 27.

11 THE COURT: Well, that's right. We've got 26
12 in order, plus Ms. Williams who is out of order. And
13 we haven't gotten her to insert her in her proper
14 order.

15 MR. MURDAUGH: That's what I'm checking on now. I
16 think there are 65.

17 THE COURT: That's right. Twenty-seven total
18 if Ms. Williams is included.

19 MR. MURDAUGH: That's what I have.

20 THE COURT: That's right. And we, of course,
21 haven't gotten that she's not -- in other words, Mr.
22 Harkins is number 26. Do you'all see that?

23 MR. KULP: Yes, sir.

24 THE COURT: Let's go down the row. Sam
25 McLaughlin, see back there? We've got several on that

1 panel that we will --- Well, actually, that will work
2 out good. Because in this first group we've got a
3 slot. Mr. McLaughlin, come around, please.

4 (POTENTIAL JUROR TAKES STAND)

5 SAM R. McLAUGHLIN, being
6 duly sworn to tell the truth, the whole truth and
7 nothing but the truth, was examined and testified, as
8 follows:

9 EXAMINATION

10 BY THE COURT:

11 Q. How are you doing, sir?

12 A. Good.

13 Q. First off, Mr. McLaughlin, I remind you that you
14 are still under oath from Monday. Have you ever read,
15 other than Monday, had you ever heard or read or heard
16 any discussions about this case?

17 A. To the best of my knowledge, no.

18 Q. Have you heard anything since Monday?

19 A. No.

20 Q. Of course, that entails newspapers, radio,
21 personal conversations and all. You've heard nothing
22 about the case?

23 A. No.

24 Q. Did you read this pretrial questionnaire?

25 A. Yes, Your Honor.

1 Q. I'm going to go over that with you briefly and
2 then I'll let the attorneys ask you some questions,
3 too.

4 In a trial where the State is seeking the death
5 penalty, the trial is bifurcated meaning that it's
6 split into two phases. Phase one is called the guilt
7 phase. Phase two is called the penalty phase.

8 In the guilt phase a defendant, of course, may be
9 found guilty of murder or not guilty. And I'm not
10 talking about this case. But if a defendant is found
11 not guilty, that's the end of the process. If he's
12 found guilty, then the jury goes to the second phase.

13 And in the second phase or the penalty phase, the
14 jury must determine the punishment. And in South
15 Carolina there are two punishments for murder. One is
16 the death penalty and two is life imprisonment.

17 It's been found that basically there are three
18 types of jurors. There's one type of juror in that
19 handout that's referred to as a type one juror who
20 feels that if a person is guilty of murder he ought to
21 suffer the death penalty, no matter what the facts and
22 circumstances of the case are.

23 And there's a second type juror, the type two
24 juror, who feels that they are conscientiously opposed
25 to it for religious reasons or whatever. But they

1 could not give the death penalty, no matter what the
2 facts and circumstances of the case were.

3 And then there's a third case, a type three juror,
4 where a person feels that there are some cases where a
5 person who is guilty of murder that he should receive
6 the death penalty. And they would give the death
7 penalty for it if they are serving on a jury. And,
8 likewise, there are some cases where they feel like the
9 death penalty is not called for, and that they would
10 give life imprisonment.

11 I ask you, sir, which of these three type jurors
12 do you feel that you belong in?

13 A. Type three.

14 Q. In other words, you feel that there are some cases
15 of murder where the death penalty is called for and
16 some of them that it is not called for and the person
17 should receive life imprisonment?

18 A. Right.

19 Q. There are two additional witnesses who may be
20 called in this case. One is named Kenneth Williams and
21 the other is named Richard Rivers. Do you know either
22 of those gentlemen?

23 A. No.

24 THE COURT: Solicitor Murdaugh?

25 EXAMINATION

1 BY MR. MURDAUGH:

2 Q. How are you doing?

3 A. Good.

4 Q. I'm Randolph Murdaugh. I am the Solicitor for
5 this Judicial Circuit. And with that title goes the
6 duty of prosecuting crimes. I need to ask you some
7 questions, frankly, to find out whether I want you to
8 sit on the jury or not. I want you to understand there
9 are no right or wrong answers. We just want to get a
10 little bit of feeling from you, sir, as to what your
11 thoughts are.

12 I listened to your answers that you gave to the
13 judge, and I gather that if you were sitting on this
14 jury and if find the defendant guilty in the murder
15 part of the trial, the first part of the bifurcated
16 trial, that you would listen to everything that came
17 out in the courtroom and would consider everything that
18 came out in the courtroom before you made your
19 decision. Am I correct in that, sir?

20 A. You're correct.

21 Q. And if, after listening and after considering
22 everything that happened, what the judge tells you the
23 law is, what the witnesses said, what the physical
24 evidence that was produced, you would then make a
25 decision. And if you thought that the crime was bad

1 enough, you could give the death penalty?

2 A. That's correct.

3 Q. If you didn't think it was bad enough you could
4 give life imprisonment?

5 A. That's correct also.

6 Q. One of the things that you would have to do if you
7 were on the jury and if you'all had gotten -- when I
8 say "you'all", I'm talking about the twelve members of
9 the jury -- had decided, "Yes, we have considered all
10 of the aggravating circumstances. We've considered the
11 mitigating circumstances. And we think this crime is
12 bad enough for the death penalty. And we vote for the
13 death penalty." If you had gotten to that point where
14 you decided that that was the appropriate sentence, it
15 would be incumbent upon you, if you were on the jury,
16 and every other juror to sign a sheet of paper. That
17 sheet of paper would say something to the effect, "We,
18 the undersigned jurors, recommend that the defendant
19 suffer the death penalty." There would be twelve lines
20 down here where every juror was required to sign it.

21 If you thought it was the appropriate case, would you
22 have a problem signing your name to it, sir?

23 A. No.

24 Q. I notice that you worked 20 years in Ohio, I
25 believe it was?

- 1 A. That's correct.
- 2 Q. For a company -- some communications?
- 3 A. Yeah. I started the company in Ohio in 1977.
- 4 Q. What kind of company was it, sir?
- 5 A. Builds trade show exhibits. My son currently runs
- 6 it.
- 7 Q. So you retired after 20 years?
- 8 A. Yes.
- 9 Q. And you've been in Beaufort County for what length
- 10 of time?
- 11 A. Since 1977.
- 12 Q. And you life at Fripp?
- 13 A. Yes.
- 14 Q. Play golf?
- 15 A. Oh, yes.
- 16 Q. Two nice golf courses. Thank you, sir. I have no
- 17 further questions.
- 18 THE COURT: Mr. Kulp.
- 19 MR. KULP: May it please the Court.
- 20 EXAMINATION
- 21 BY MR. KULP:
- 22 Q. Good morning, Mr. McLaughlin.
- 23 A. Good morning.
- 24 Q. My name's Tim Kulp. I think we got quickly
- 25 introduced on Monday. And with Mr. Fleming, we

1 represent the accused, Mr. Rogers. I just have a few
2 questions for you.

3 Do you know Click and Clack?

4 A. The Car Talk people, yes.

5 Q. I saw that on your questionnaire and certainly
6 found that to be interesting. That's probably one of
7 that ---

8 A. They went to the same school I did.

9 Q. I didn't know that. They went to MIT.

10 A. Yes.

11 Q. I learned something today. Your company, you
12 said, Communication Exhibits, trade show exhibits,
13 would that be the devices used to display ---

14 A. For convention activity in major convention
15 centers, like in Atlanta at the Georgia Dome or
16 wherever -- type of thing.

17 Q. It's a large company?

18 A. We have 80 to 100 employees.

19 Q. You also put down here that your hobbies include
20 fishing as well.

21 A. Uh-huh, (affirmative nod).

22 Q. Is that deep-water?

23 A. I've done some of that. I prefer Canada.

24 Q. I see also that you indicated that you were the
25 mayor of Canal Fulton, Ohio.

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1 A. That's correct.

2 Q. What's that near? I'm only familiar with
3 Mansfield and Cleveland.

4 A. It's about 13 miles south of Akron, just above
5 Masland. It's a community of about 4,500 people.

6 Q. And how long were you the mayor there?

7 A. Eight years.

8 Q. I see. And I think certainly the State law
9 defines that. But you put down there chief law
10 enforcement official. Did you have any law enforcement
11 activities other than being the chief administrative
12 --- over the Chief. That was your responsibility?

13 A. Yes.

14 Q. You indicated you also attended Northwestern?

15 A. That's correct.

16 Q. Was that following your graduation from MIT?

17 A. I graduated from Northwestern. I attended both
18 schools. I got my B.A. from Northwestern.

19 Q. I see. You understand certainly the seriousness
20 of this type of proceeding. It's obvious that you
21 appreciate the gravity of all of the issues. Is that
22 correct?

23 A. That's correct.

24 Q. Have you ever served on a jury before?

25 A. Yes.

1 Q. Have you served on a criminal jury before?

2 A. It was in Masland, Ohio. It was criminal court.

3 It was a DUI case.

4 Q. In response to the Judge's questions, Mr.

5 McLaughlin, you readily indicated category three. And

6 you certainly understand the parameters of that, both

7 in the questionnaire and as the judge explained them to

8 you. Is that correct?

9 A. That's correct.

10 Q. And you understand, do you not, and the judge

11 himself mentioned it, that since it's a two-part

12 proceeding, unlike other types of cases, that

13 logically, should the jury find that the State failed

14 to meet its burden of proof and the jury's decision in

15 the first phase was not guilty, that there would be no

16 proceeding to any second stage. I mean, it would be

17 logical. Do you understand that?

18 A. I understand that.

19 Q. And, you know, as it is in this type of case, it's

20 a little bit cart before the horse in the sense that we

21 are compelled -- in the process of individually

22 addressing prospective jurors we're compelled to talk

23 about punishment -- the cart before the horse -- well

24 before you hear anything about the case in terms of

25 whether the defendant is not guilty or guilty on any of

1 the charges. Do you understand that?

2 A. Yes.

3 Q. And you understand that that cannot be considered
4 by you and would not to color your approach to the case
5 in any respect since you've indicated you fall into
6 category three and that you're open and would consider
7 all of the circumstances in any phase of the trial. Is
8 that correct?

9 A. That's correct.

10 Q. You understand, do you not, that despite
11 discussing the issue of your opinion and your
12 disposition about the issue of appropriate punishment
13 in a murder case such as the judge has defined, that
14 the defendant is presumed or the accused is presumed to
15 be innocent.

16 A. I understand that.

17 Q. And should we get to the phase of the second part,
18 if the jury would conclude that there was sufficient
19 evidence under the law that the judge would give the
20 jury to render a verdict of guilty and we proceeded to
21 the second phase, you would consider, as I understand
22 you have indicated in your testimony, any mitigating
23 circumstance that would be offered. And mitigating in
24 the sense of evidence which would support a finding by
25 you, individually, or the jury that the appropriate

1 circumstance would be life imprisonment. Is that
2 correct?

3 A. That's correct.

4 Q. You aren't predisposed toward any type of
5 punishment in this case?

6 A. I'm not predisposed.

7 Q. And you understand, I ask you lastly, the grave
8 nature of these proceedings and how important it is
9 that every juror be fair and impartial?

10 A. I understand.

11 Q. Thank you very much. I appreciate your answers.
12 Thanks for your patience.

13 THE COURT: Any discussion about Mr.
14 McLaughlin?

15 MR. MURDAUGH: No, sir.

16 MR. KULP: No, sir, Your Honor.

17 THE COURT: Very good. Mr. Laughlin, I find
18 that you are qualified. You now go in the pool. The
19 jury will be selected at 9:30 on Friday morning.
20 Please be here at that time. Bring your clothes for a
21 three-night stay for the sequestration. You'll be
22 staying at the Hampton Inn which is right across the
23 marsh over here, behind Applebee's.

24 Of course, as you well know, do not discuss the
25 case with anyone or allow anyone to discuss it with

1 you. Do not let yourself be exposed to any media
2 coverage. And also do not do any reading, research or
3 inquiry into criminal procedure or criminal law through
4 books, magazines, the internet or any such sources of
5 that. In other words, you've been qualified the way
6 you are, and that's the way the system works.

7 So we look forward to seeing you Friday morning.

8 POTENTIAL JUROR: That's it?

9 THE COURT: That's it, yes, sir.

10 (TESTIMONY OF SAM R. McLAUGHLIN CONCLUDED)

11 THE COURT: Teri -- I'm not sure how to
12 pronounce the name -- Deroen.

13 (POTENTIAL JUROR TAKES STAND)

14 TERI DEROEN, being duly
15 sworn to tell the truth, the whole truth and nothing
16 but the truth, was examined and testified, as follows:

17 EXAMINATION

18 BY THE COURT:

19 Q. Good morning.

20 A. Good morning.

21 Q. Please have a seat.

22 A. (Complies).

23 Q. How do you pronounce your name?

24 A. Deroen.

25 Q. Deroen. Ms. Deroen, I remind you that you are

1 still under oath.

2 A. Okay.

3 Q. First off, have you ever before Monday heard or
4 read or had any discussions about this case before?

5 A. No.

6 Q. Since Monday have you read anything in the paper
7 or on the TV, newspapers or any discussions about the
8 case?

9 A. No.

10 Q. Have you talked to anyone else about the case?

11 A. No.

12 Q. Has anybody tried to talk to you about the case?

13 A. No.

14 Q. Did you read the pretrial questionnaire?

15 A. Yes, sir, I did.

16 Q. I'm going to go over that with you briefly and
17 then let the lawyers ask you some questions and that
18 will conclude it. It shouldn't take long.

19 In a case where the State is seeking the death
20 penalty -- and I'm not talking about this case. I'm
21 just talking about the procedure -- the trial is
22 bifurcated. That word means that it's divided into two
23 parts.

24 Phase one is called the guilt phase. And in that
25 phase the jury decide whether or not the defendant is

1 guilty or not guilty. Of course, if a defendant is
2 found guilty it goes to phase two. If a defendant is
3 found not guilty, that's the end of the procedure.

4 Assuming a defendant is found guilty, in phase two
5 the jury determines the punishment. In South Carolina
6 there are two punishments for murder. One is the death
7 penalty. The other one is life imprisonment.

8 It has been found that there are three types of
9 jurors on the issue of such as this. There is one type
10 jury which is designated in that handout as a type one
11 juror. And that type, that person, feels that anyone
12 who is convicted of murder should receive the death
13 penalty, does not need to hear any of the facts and
14 circumstances of the case at all because he feels like
15 that the murder demands the death penalty.

16 There's a second type juror who does not believe
17 in the death penalty and, no matter what the facts and
18 circumstances are, could not conscientiously give the
19 death penalty. And so that person also does not need
20 to hear any of the facts and circumstances, because
21 they already have -- could not give someone the death
22 penalty.

23 The third type juror is one who believes and
24 would, in some cases, feel that there are cases where
25 the death penalty is called for. And, likewise, there

1 are other cases where a person who is guilty of murder
2 where the death penalty is not called for. And that
3 they would think the person should receive life
4 imprisonment. That person would listen to the law, the
5 facts, the arguments of the attorneys and all the other
6 circumstances that come forth in the penalty phase and
7 then decide themselves as to whether or not a
8 particular person should receive the death penalty or
9 should receive life imprisonment for a murder.

10 And I ask you which category do you think you fall
11 in?

12 A. The third one.

13 Q. The third one? In other words, I take that to
14 mean that you feel that there are some cases that you
15 feel that the death penalty is appropriate. And if you
16 did, you would give somebody the death penalty if you
17 were sitting on a jury?

18 A. Yes, sir.

19 Q. And you also feel like there are some cases of
20 murder that you feel that do not warrant the death
21 penalty. And in those cases you would give them life
22 imprisonment?

23 A. Yes, sir.

24 Q. There are two additional witnesses who may be
25 called in the trial of this case. One is named Kenneth

1 Williams and the other one is named Richard Rivers. Do
2 you know either of those persons?

3 A. No, sir.

4 Q. The lawyers will have a couple of questions for
5 you at this time. Solicitor Murdaugh.

6 EXAMINATION

7 BY MR. MURDAUGH:

8 Q. Ms. Deroen, how do you do?

9 A. Good.

10 Q. I'm Randolph Murdaugh. I'm the Solicitor for this
11 area. With that title comes the duty of prosecuting
12 cases.

13 I need to ask you some questions, quite frankly,
14 to find out whether we want you to sit on this jury or
15 not. So I'm going to ask you some questions -- nothing
16 real complicated. In listening to your answers to the
17 judge, I gather that if you were sitting on the jury
18 and if you and the other members had found the
19 defendant guilty, that in the second phase of this
20 trial you would listen to everything that came out in
21 this courtroom and consider everything that came out in
22 the courtroom, that, along with the judge's instruction
23 as to what the law was before you would make any
24 decision?

25 A. Yes.

1 Q. And if, after hearing and considering all of that,
2 you and the other twelve members decided that this was
3 an appropriate case for the death penalty, you could
4 then vote for the death penalty?

5 A. Yes.

6 Q. Conversely, if, for some reason, you thought it
7 wasn't a bad enough crime, you could vote for life
8 imprisonment?

9 A. Yes.

10 Q. If you had gotten to the point to where each of
11 you and the other eleven members of the jury said, "Yes,
12 we have considered everything and we think that this is
13 a bad enough case and we vote that the defendant should
14 be given the death penalty," it would then be incumbent
15 upon you and every other member of the jury to sign a
16 sheet of paper -- and this isn't the sheet of paper.
17 This is just something sitting up here -- sign a sheet
18 of paper. At the top of that paper would be something
19 to this effect. "We, the undersigned members of the
20 jury, recommend that the defendant suffer the death
21 penalty." And while it says "recommendation", it isn't
22 a recommendation. That is it. Would you have a
23 problem signing your name to it, if you thought it was
24 a bad enough case?

25 A. No.

1 Q. I notice that on the jury summons you are

2 "Deroen"?

3 A. Yes, Deroen.

4 Q. And I notice you are married to Robert Morgan? Is
5 that correct?

6 Q. No, I'm married to Patrick Morgan.

7 A. Patrick Morgan. I couldn't remember. You kept
8 your name?

9 A. Yes, because of my son. He has my first marriage
10 last name. So in order that when people call me "Mrs.
11 Deroen", it isn't uncomfortable.

12 Q. I'm so old things like that didn't happen when I
13 was growing up.

14 A. I wish it hadn't happened to me.

15 Q. I admire you'all for doing that. You teach K4?

16 A. I used to. I home school now.

17 Q. Okay. And your child is how old now?

18 A. He's nine.

19 Q. Nine. Okay. I admire you for that, too. I have
20 no further questions.

21 THE COURT: Mr. Kulp?

22 MR. MURDAUGH: Did you ask about the two
23 witnesses?

24 THE COURT: I did.

25 MR. KULP: May it please the Court, Your

1 Honor.

2

3

EXAMINATION

4 BY MR. KULP:

5 Q. Ms. Deroen, good morning.

6 A. Morning.

7 Q. My name's Tim Kulp. I think we got quickly

8 introduced on Monday. And Mr. Fleming and I represent

9 the accused, Mr. Rogers.

10 I listened with great your interest to your answer

11 to the Solicitor's question, because I have a four-

12 year-old. It's an interesting life.

13 A. It is.

14 Q. I saw on your questionnaire that you put down that

15 -- had you been employed in law enforcement before?

16 A. No, I haven't. I do have a family member -- not

17 immediate family members -- uncles, my grandmother.

18 They're in California, not here. I have never been,

19 no.

20 Q. I see. That wouldn't affect your ability to

21 remain fair?

22 A. No.

23 Q. Have you lived here in the Beaufort area for a

24 long period of time?

25 A. I left for a couple of years, but I've been here

1 since I was in fourth grade.

2 Q. Did you live in California during that time?

3 A. Yes, for a couple of years.

4 Q. You understand, do you not, that because this
5 special proceeding contains two parts, as the judge
6 explained to you -- first, the not guilty or the guilty
7 phase. And then the second phase, a determination of
8 the appropriate punishment -- that, logically, the
9 second phase may never be approached?

10 A. Absolutely.

11 Q. You don't have any concerns about that? I mean,
12 you understand that's the application or potential
13 application or the result of the process?

14 A. Yes.

15 Q. Very good. And you indicated also on your
16 questionnaire -- there was a category there where you
17 had to tick off whether you could be fair or not fair

18 and so forth. You put in that column -- every mark you
19 put down that you would be fair and impartial on any
20 issue.

21 A. I believe I would, yes.

22 Q. And also, should it be the circumstance that we
23 proceeded to the second phase, which would be a
24 determination of punishment and a consideration of the
25 appropriate punishment between life imprisonment or the

1 death penalty -- a very serious, without saying,
2 matters for consideration -- that the Judge would tell
3 you that one of the things that you would be
4 considering determining, both individually and as a
5 collective body in the jury, would be whether there was
6 the existence of mitigating circumstances, which
7 probably is a little more expensive word than we need,
8 but things that would support a finding by you,
9 individually, and the jury that the appropriate
10 punishment would be life imprisonment. And then the
11 State, of course, would be offering aggravating
12 circumstances to try to support their argument for the
13 death penalty. And you would, would you not, consider
14 every evidence of mitigating circumstances?

15 A. Yes, I would.

16 Q. And you understand that that decision is your
17 decision, based upon your fair and impartial
18 consideration of all of the evidence?

19 A. Yes, I do understand it.

20 Q. Thank you very much. I appreciate it.

21 THE COURT: Any discussion?

22 MR. MURDAUGH: No, sir.

23 MR. KULP: No, sir.

24 THE COURT: Ms. Deroen, you are qualified to go
25 in the jury pool. A couple of things before I let you

1 go. First off, do not discuss this case with anyone,
2 as I've told you many times, or allow yourself to be
3 exposed to any media coverage by newspaper, TV or
4 otherwise.

5 Also, you must not take any steps to do any
6 reading, research or try to educate yourself about
7 criminal law or criminal procedure through the
8 internet, magazines, books and so forth. In other
9 words, you've been qualified the way you are, and
10 that's the way we want you.

11 So with that, please bring your clothes for a
12 three-night stay. And be here at 9:30 on Friday. We
13 will select the jury at that time. The reason we're
14 doing it that way, of course, is to that we can -- that
15 when everybody comes and we select the jury, then those
16 who aren't selected then will go home. But the rest of
17 them are here and we're ready to go to work.

18 POTENTIAL JUROR: 9:30 Friday?

19 THE COURT: Excuse me?

20 POTENTIAL JUROR: 9:30 Friday?

21 THE COURT: 9:30 on Friday. Any questions?

22 POTENTIAL JUROR: No, sir.

23 THE COURT: Have a nice day.

24 POTENTIAL JUROR: You, too. Thank you.

25 (TESTIMONY OF TERI DERON CONCLUDED)

1 MR. MURDAUGH: If Your Honor please, before we
2 call the next juror for voir dire, could I have a
3 conference with you and the two lawyers?

4 THE COURT: Yeah, we're about ready to take a
5 recess anyway. I was just going to do about two more.

6 (BRIEF RECESS)

7 THE COURT: Pamela Stewart.

8 CLERK: Excused by consent.

9 THE COURT: Okay. I understood that she had a
10 connection with one of the prosecution witnesses, and
11 both sides agree that she be excused by consent. Is
12 that correct?

13 MR. MURDAUGH: That is correct, sir. And that the
14 reason I asked for the conference in Chambers, to
15 inform the attorneys of that.

16 THE COURT: That's right, isn't it, Mr.
17 Fleming?

18 MR. FLEMING: Yes, sir.

19 THE COURT: The next one is the person who -- I
20 don't have his name -- but who was scheduled for this
21 afternoon and had an appointment this afternoon. Is he
22 out there?

23 MR. KULP: Object, Your Honor.

24 CLERK: George Heelan.

25 THE COURT: George who?

1 CLERK: Heelan.

2 THE COURT: Heelan.

3 CLERK: He's in Panel 19, Juror No. 145.

4 THE COURT: He's in Panel 19.

5 CLERK: Number 145.

6 (POTENTIAL JUROR TAKES STAND)

7 GEORGE HEELAN, being duly
8 sworn to tell the truth, the whole truth and nothing
9 but the truth, was examined and testified, as follows:

10 EXAMINATION

11 BY THE COURT:

12 Q. Mr. Heelan, come right up here and have a seat,
13 sir.

14 A. (Complies)

15 Q. How are you today?

16 A. Fine, how are you?

17 Q. Fine. Mr. Heelan, first off, I remind you that

18 you are still under oath. Had you ever heard anything
19 about this case before Monday?

20 A. No, sir.

21 Q. Have you heard anything about it since, either
22 anybody talked to you or you talked to anybody or seen
23 any media reports about the case?

24 A. No, sir.

25 Q. Did you read this pretrial questionnaire?

1 A. Yes, sir.

2 Q. I'm going to go over that with you briefly. In a
3 case where the State is seeking the death penalty for a
4 murder the trial is bifurcated, meaning it is divided
5 into two parts. The first part is known as the guilt
6 phase. Of course, in the guilt phase a defendant could
7 be found guilty or not guilty. If he's found not
8 guilty, that's the end of the process.

9 And I'm not even speaking of this case. I'm just
10 speaking in general, about the general procedure. If a
11 defendant is guilty of murder it goes to phase two
12 which is known as the penalty phase.

13 In the penalty phase the two potential verdicts
14 are the death penalty and life imprisonment. And it's
15 been found, as is set forth on that questionnaire which
16 we let you read ahead of time so you could have some
17 time to think about it, that there's one type of juror
18 that is a -- feels that if a person is convicted of
19 murder, he should get the death penalty. And that
20 person, of course, needs to know nothing about the
21 facts and circumstances.

22 A second type juror, which is referred to as a
23 type two juror in that questionnaire or the memo, is a
24 person who's against the death penalty, for whatever
25 reason, and would not give the death penalty in any

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

1 case, and therefore is not interested and does not need
2 to hear any of the facts and circumstances.

3 Then there's a type three juror who feels that
4 there's some murders for which the death penalty is
5 called for, and there's some murders which the death
6 penalty is not called for. Therefore, if that person
7 was serving on a jury, would listen to the facts and
8 circumstances, the matters in aggravation, the matters
9 in mitigation, and then reach a decision after hearing
10 the charge on the law, the testimony and the arguments
11 of counsel as to whether a particular person should
12 receive the death penalty or not.

13 What type juror do you feel -- which category do
14 you feel you come within?

15 A. Most likely the third category.

16 Q. Most likely the third category? Why do you say
17 "most likely"?

18 A. Well, I guess ---

19 Q. Get a little closer to the microphone so they can
20 hear you.

21 A. Category three.

22 Q. You're sure that you fall within the third
23 category?

24 A. I'm fairly certain.

25 Q. Fairly certain. Okay. In other words, you feel

1 like there are cases that the death penalty is called
2 for. And in those cases, if you felt that way -- and
3 it is up to you. It's your decision. If you felt the
4 death penalty was called for, you wouldn't have any
5 problem rendering a verdict and giving the death
6 penalty?

7 A. Correct.

8 Q. If you felt like the death penalty was not called
9 for, in your opinion, it wouldn't hurt your conscious
10 to give somebody life imprisonment either?

11 A. Correct.

12 Q. There are two new witnesses who may be called --
13 not new witnesses, but they were not read out to you,
14 Kenneth Williams and Richard Rivers. Do you know
15 either one of these persons?

16 A. No, sir.

17 THE COURT: Solicitor Murdaugh.

18 EXAMINATION

19 BY MR. MURDAUGH:

20 Q. Mr. Heelan, how are you doing, sir?

21 A. Fine.

22 Q. I'm Randolph Murdaugh. I am the Solicitor for
23 this Judicial Circuit of which Beaufort is one of the
24 counties. I need to ask you some questions, quite
25 honestly, to find out whether I want you to sit on the

1 jury or not, sir. I want you to understand there are
2 no right or wrong answers. I'm just trying to get a
3 little insight into you.

4 I listened to your answers, and I gather what you
5 told the Judge -- and if I misstate it, you correct me,
6 please -- that you would listen to everything that came
7 out in this courtroom, evidence from that witness chair
8 you're sitting in, physical evidence that was
9 introduced, instructions by the Judge as to what the
10 law is. And if you were on the jury and if you'all had
11 found the defendant guilty in the first phase of the
12 trial, you would then listen to anything else that was
13 presented. And before making a decision you would
14 listen and consider everything that was presented. Is
15 that correct, sir?

16 A. Correct.

17 Q. If, at that point, you determined that this was a
18 bad enough crime that the imposition of the death
19 penalty would be appropriate, you could vote for the
20 death penalty. Is that correct?

21 A. Yes, sir.

22 Q. Conversely, if you did not think it was bad
23 enough, you would vote for life imprisonment.

24 A. Yes, sir.

25 Q. One of the things that you have to do, sir, if you

1 had found -- sitting on the jury and if you had found a
2 defendant guilty in that first phase. And if, after
3 listening to it, you had decided that the death penalty
4 was appropriate, you and the other eleven members of the
5 jury, it would then be incumbent upon you and each of
6 those jurors to sign a sheet of paper. And this is not
7 the sheet of paper. I need something to hold in my
8 hand, sir. It would have at the top something to the
9 effect, "We, the undersigned jurors, recommend that the
10 defendant suffer the death penalty." Each and every
11 one of you would have to sign that sheet of paper. If
12 you thought it was a bad enough case to warrant the
13 death penalty, would you have a problem signing it,
14 sir?

15 A. No, sir.

16 Q. Where are you employed, sir?

17 A. I work at Morris College which is in Sumter, South
18 Carolina.

19 Q. Okay.

20 A. Actually, I have a problem with, you know, the --
21 serving for this particular case. I've got a letter
22 from my employer.

23 THE COURT: Oh, you have a problem?

24 POTENTIAL JUROR: Yes, I do.

25 THE COURT: Tell me about it.

1 MR. MURDAUGH: Address that and then I'll come
2 back and ask some more.

3 POTENTIAL JUROR: I'm employed at Morris
4 College as the chief fiscal officer. We have a trustee
5 meeting next Tuesday, October 16. We only have two a
6 year. And at this one we present the audit for the
7 previous fiscal year and also the projected budget,
8 which I present at the Board of Trustees. That meets
9 at 10:00 next Tuesday, the 16th, and would ask your
10 consideration in, you know, either being transferred to
11 another case. I believe this case will probably, from
12 what I heard yesterday, probably carry on into the
13 first part of next week.

14 THE COURT: Well, I think we'll be out of here
15 by Tuesday. But you have to get ready for your
16 meeting?

17 POTENTIAL JUROR: Yes, sir. We've got --

18 actually, that's why I came in. I was scheduled to
19 come in at 2:00 this afternoon. I appreciate you
20 getting me in sooner so I could get back to Sumter at
21 least today. So I would ask your consideration.

22 THE COURT: Let me have a sidebar on that.

23 ~~SIDEBAR:~~ SIDEBAR:

24 THE COURT: What do you say?

25 MR. MURDAUGH: I have no objection.

1 MR. KULP: No, sir.

2 THE COURT: Anything else you want me to
3 ask him?

4 MR. KULP: No, Your Honor.

5 MR. MURDAUGH: Nothing for the State.

6 (SIDEBAR CONCLUDED)

7 THE COURT: There is no objection from any of
8 the opposing counsel. And I understand the pressures
9 you would be under with that. It's just twice a year.

10 POTENTIAL JUROR: Right.

11 THE COURT: So we will just go ahead then and
12 excuse you then, and that will relieve you.

13 Now, because of that, if you would, please
14 transfer Mr. Heelan to another term.

15 CLERK: Yes, sir.

16 THE COURT: And you'll receive another notice.

17 POTENTIAL JUROR: Yes, sir. Thank you very
18 much.

19 THE COURT: Okay. So you are transferred!

20 POTENTIAL JUROR: Thank you.

21 (TESTIMONY OF GEORGE HEELLEN CONCLUDED)

22 THE COURT: That's number 145. Charles Hood.

23 (POTENTIAL JUROR TAKES STAND)

24 CHARLES HOOD, being duly
25 sworn to tell the truth, the whole truth and nothing

1 but the truth, was examined and testified, as follows:

2 EXAMINATION

3 BY THE COURT:

4 Q. How are you doing, sir?

5 A. Good, thank you.

6 Q. Mr. Hood, I'm going to ask you a couple of
7 questions and then let the lawyers ask you some.

8 First off, I remind you that you are still under
9 oath. Had you ever heard anything about this case
10 before Monday in here?

11 A. No, sir.

12 Q. Have you heard anything about the case since then?

13 A. No, sir.

14 Q. Have you talked to anybody about it or has anyone
15 talked to you about it?

16 A. No, sir.

17 Q. Did you read the pretrial questionnaire?

18 A. Yes, sir.

19 Q. That was in the jury room. In a case where the
20 State is seeking the death penalty, the trial is
21 bifurcated, meaning it is divided into two parts.

22 Phase one is called the guilt phase. Phase two is
23 called the penalty phase.

24 In phase one a person charged -- and I'm not
25 talking about this case, but just talking about the

1 procedure in general. A defendant may be, of course,
2 found guilty or not guilty. If he's found not guilty,
3 that's the end of the process.

4 But if he is found guilty in the first phase, you
5 go to the second phase which is called the punishment
6 phase. And there the jury decides what the punishment
7 is. And in South Carolina there are two punishments
8 for a person charged with murder. One is the death
9 penalty. The other one is life imprisonment.

10 It's been found out, basically, that there are
11 three types of jurors. And the jury is the one who
12 decides the punishment. There's one type juror who
13 feels that if a person is found guilty of murder he
14 ought to receive the death penalty. That person
15 doesn't need to know any of the facts and circumstances
16 of the case. But he just feels strongly that the death
17 penalty is called for.

18 There's a second type juror who is opposed to the
19 death penalty. And no matter what the circumstances of
20 the case are, feels like that he or she could never
21 give the death penalty. And that person, of course,
22 would never give the death penalty, no matter what the
23 facts and circumstances of the case are.

24 There's a third type juror who feels like that in
25 some cases where a person is guilty of murder, the

1 death penalty is called for. And there are also
2 certain cases of murder where the death penalty is not
3 called for and that life imprisonment is more
4 appropriate.

5 I ask you, sir, which one of these type jurors do
6 you feel that you are?

7 A. I would think that I'm the third.

8 Q. The third?

9 A. Yes, sir.

10 Q. By that do you feel that there's some cases where
11 you feel the death penalty is appropriate. And that
12 you, if you were sitting on a jury, would vote for the
13 death penalty in those cases?

14 A. Yes, sir.

15 Q. And that there are other cases of murder in which
16 you feel like that the death penalty is not

17 appropriate. And in those cases you would not vote for
18 the death penalty but would vote for life imprisonment?

19 A. Yes, sir.

20 Q. Okay. There are two witnesses who you were not
21 asked about on Monday in that long list. One is named
22 Kenneth Williams. The other is named Richard Rivers.

23 Do you know either of these gentlemen?

24 A. No, sir.

25 THE COURT: Solicitor Knight.

1 EXAMINATION

2 BY MR. KNIGHT:

3 Q. Mr. Hood, I'm Steve Knight. I'm the Deputy
4 Solicitor. I'm going to ask you some questions. There
5 are no right answers. There are no wrong answers.
6 Except I'm going to start with in the return that you
7 filed with the Clerk's Office, you indicated -- and
8 correct me if I'm wrong -- that this is your busiest
9 period of the year, saving except the month of April.
10 You are a CPA or an accountant. Is that correct?

11 A. Yes, sir.

12 Q. My concern is how would that, in the back of your
13 mind, affect your decision-making process, being fair
14 to the State of South Carolina and fair to the
15 defendant?

16 A. Well, I've thought about that. And when the issue
17 of being sequestered came up, I am 99 percent certain,
18 not being able to be 100 percent certain, that that
19 would be a reasonable presentation to the IRS to have
20 an extension on any deadlines that I may have. So I'm
21 not concerned about that.

22 THE COURT: So you're not asking to be
23 transferred or anything any more?

24 POTENTIAL JUROR: No, sir.

25 EXAMINATION RESUMED

1 BY MR. KNIGHT:

2 Q. The Judge asked you about group one, group two and
3 group three. And you indicated that you were in group
4 three. Is that correct?

5 A. Yes, sir.

6 Q. Understanding the first part, that the State --
7 that the jury must find a defendant guilty, not this
8 particular case -- but must find a defendant guilty and
9 must find things called aggravated circumstances.
10 That's what I'll call "bad things". Then we move into
11 the second phase of the case which is the penalty
12 phase. You take the aggravating circumstances, which
13 are the bad things. Then you take what's called
14 mitigating circumstances, lessening the degree, okay --
15 good things, if you will, for the defendant. Can you
16 listen both to the aggravating circumstance, the bad
17 ~~things, and the mitigating circumstances, and make an~~
18 independent decision yourself?

19 A. Yes, sir.

20 Q. In other words, if it was bad enough, considering
21 the mitigating circumstances, you could vote for the
22 death penalty? Is that correct?

23 A. Yes, sir.

24 Q. Understand that if you vote for the death penalty,
25 then the next requirement would be there would be a

1 list. This is not the list in question -- where it
2 says the jury recommends the death penalty. Now, that
3 recommendation is a form. Could you sign your name as
4 one of the twelve folks that are recommending the death
5 penalty?

6 A. Yes, sir.

7 Q. You could?

8 A. Yes, sir.

9 Q. I think that's all.

10 MR. KULP: May it please the Court, Your
11 Honor.

12 EXAMINATION

13 BY MR. KULP:

14 Q. Mr. Hood, good morning.

15 A. Good morning.

16 Q. My name is Tim Kulp. I think we got introduced
17 quickly on Monday.

18 A. Yes, sir.

19 Q. Not much of an introduction across a courtroom.
20 Mr. Fleming and I represent the accused in this case,
21 Mr. Rogers, over there. And I'd like to ask you a few
22 questions in this part of the proceedings which deal
23 with the Court's determination of your qualifications
24 for consideration as a juror in this case.

25 You are 40 years old?

State vs. Tavarus-Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

- 1 A. Forty-one.
- 2 Q. Just had a birthday?
- 3 A. Yes, sir.
- 4 Q. And your father -- what's your father's name?
- 5 A. Marvin Hood.
- 6 Q. And he retired from the FBI?
- 7 A. Yes, sir.
- 8 Q. A Special Agent?
- 9 A. Yes, sir.
- 10 Q. For 25 years?
- 11 A. Yes, sir.
- 12 Q. Did he serve in various field offices around the
- 13 country as you were growing up?
- 14 A. Three.
- 15 Q. Three. And what field office did he retire from?
- 16 A. Atlanta.
- 17 Q. Atlanta? Where does he reside?
-
- 18 A. Atlanta.
- 19 Q. To clarify this, you, yourself -- you received an
- 20 education and obtained a criminal justice degree?
- 21 A. I obtained a two-year associate degree in criminal
- 22 justice along with a two-year associate degree in
- 23 accounting.
- 24 Q. I see. And where did you attend?
- 25 A. DeKalb College in Atlanta.

1 Q. Have you held any position as a law enforcement
2 officer yourself?

3 A. No, sir.

4 Q. Reserve officer, constable?

5 A. No, sir.

6 Q. Do you have any brothers or sisters?

7 A. Yes, sir.

8 Q. Are they involved in any law enforcement
9 activities or careers?

10 A. No, sir.

11 Q. You indicated in your questionnaire that all the
12 jurors were asked to complete and return that you have
13 a concealed weapons permit in the State of South
14 Carolina?

15 A. Yes, sir.

16 Q. And both your parents have a concealed weapons
17 permit?

18 A. Yes, sir.

19 Q. Do all the members of your family have conceal
20 weapons permits?

21 A. No, sir.

22 Q. Just the three that we mentioned?

23 A. Yes, sir. My father, obviously, when he was
24 retired, got one and requested that my mom get one for
25 herself.

1 Q. I see. How long have you held one in the State of
2 South Carolina?

3 A. I believe since 1997.

4 Q. And you've gone through one renewal of that?

5 A. Going through that right now.

6 Q. I see. You indicated as well on your
7 questionnaire that you had a close friend who was an
8 assault victim. Could you tell us about that, please?

9 A. I would have to see that. I'm sorry. I'm drawing
10 a blank.

11 Q. Just to refresh your recollection (tendering).

12 A. I have a current friend who was a victim of an
13 assault about two years ago. I'm not even sure why I
14 put that down except just to put down anything that I
15 thought might be relevant. It wasn't even in this
16 country. It was in the Ukraine. She's a Ukrainian
17 national, and she had gotten assaulted pretty badly

18 when she'd been back there.

19 Q. Do you have contact with her now?

20 A. Oh, yes.

21 Q. Are you very close with her?

22 A. Yes.

23 Q. It's your girlfriend?

24 A. Yes.

25 Q. I don't mean to pry, but these are important

1 issues. Was it a physical assault?

2 A. It was an attempted physical assault. And when
3 she resisted, she got hit a few times and finally the
4 person gave up and ran away.

5 Q. She didn't sustain any injury?

6 A. Not any permanent injury. I think she had a
7 broken nose.

8 Q. You weren't present with her at that time?

9 A. Oh, no.

10 Q. Did you know her then?

11 A. Yes.

12 Q. Do you know how that case came out?

13 A. When I asked her if she called the police she kind
14 of laughed and said, "Over there you don't call the
15 police." I had to educate her about some differences
16 between here and there.

17 Q. What other is different?

18 A. Well, over there the police don't do anything
19 unless you have money and unless you have influence.
20 And over here if you have a problem, you don't need to
21 expect trouble when you call the police. You can
22 expect reasonable treatment.

23 Q. You are also a member -- you said on your
24 questionnaire -- I'm confused a little bit about this.

25 May I approach the Bench, Your Honor?

1 THE COURT: Yes.

2 EXAMINATION RESUMED

3 BY MR. KULP:

4 Q. Again I look at the questions and answers
5 (tendering). But here it said -- we were looking at
6 this page before. "If yes, was anyone arrested?" Yes.
7 "If there was an arrest, what was the outcome?" And
8 you now recognize and recall that your answer was
9 "Various. I imagine usually guilty."

10 A. Yes, sir. I believe the question was concerning
11 being involved in breaking of the law. Obviously, with
12 my father being a retired FBI Agent, he had quite a lot
13 of contact with criminal activity. And not knowing the
14 seriousness of the case, I put in probably usually
15 guilty if he was involved in it.

16 Q. Okay.

17 A. I have a lot of respect for the fact that he

18 wouldn't have pursued something that he thought wasn't
19 reasonable to pursue.

20 Q. I see. So it's the case that this is your dad you
21 are talking about?

22 A. Yes, sir.

23 Q. Of course, you have great respect for him because
24 of his distinguished career and as your father. So you
25 assume if your father had been involved in a case that

1 the fellow did it?

2 A. Well, no, I wouldn't say that it is that cut and
3 dried. I would -- as I said, I had no idea of the
4 seriousness of the case involved. And I was making a
5 lame attempt at injecting a little humor into the
6 questionnaire.

7 Q. Okay. You are also a member of the NRA, the
8 National Rifle Association.

9 A. Yes, sir.

10 Q. And you display the decals for that association on
11 your automobile?

12 A. Yes, sir.

13 Q. You are also a member of the Gun Owners of America
14 Association or club.

15 A. That's right.

16 Q. And also Grassroots South Carolina. Is Grassroots
17 the organization that supports the expansion of the
18 circumstances under which concealed weapons permittees
19 may carry guns?

20 A. Yes, sir.

21 Q. You are also involved in recreational shooting and
22 reload your own ammunition, correct?

23 A. Yes, sir.

24 Q. And what caliber ammunition do you reload? Pistol
25 cartridges?

1 A. Mainly, yes.

2 Q. Mainly pistol cartridges, .45?

3 A. No, sir. Nine-millimeter and .357.

4 Q. You indicated on your initial form that you
5 desired to be excused because of this third-quarter
6 deadline crunch for extended return filings.

7 A. Yes, sir.

8 Q. I think you indicated when the Solicitor was
9 speaking with you that you believed that the IRS --
10 that if you were selected and you communicated to the
11 IRS that you were sequestered, that that would be a
12 basis for them to grant you an extension to file those
13 returns for those clients or for persons that would
14 fall into the category that needed to file by October
15 the 15th, correct?

16 A. Yes, sir.

17 Q. And have you contacted them about that in any way?

18 A. No, sir. A pretty important issue got resolved in
19 the past couple of weeks that kind of expanded my
20 knowledge of how they operate. And contrary to popular
21 belief, they are actually not too difficult to work
22 with. As I said, when they mentioned being
23 sequestered, obviously, I can't be responsible for
24 filing a return if I'm being ordered by the Court to be
25 doing something else.

1 Q. Yes, sir. But not having checked -- granted, I
2 guess everyone has an opinion about the IRS. And they
3 fall into two camps, probably no more than two camps of
4 opinion. But inasmuch as you have not checked with
5 them to get the answer to that, so you don't know the
6 answer, they could very well say, "I'm really sorry,
7 but ----"

8 A. Yeah, they could say that.

9 Q. Thank you, sir. No further questions, Your Honor.

10 THE COURT: Any discussion about this?

11 MR. KULP: Yes, sir.

12 THE COURT: Mr. Hood, would you please just
13 step outside and we'll get back to you in just a
14 moment?

15 (POTENTIAL JUROR STEPS DOWN/EXITS ROOM)

16 THE COURT: What says the State?

17 MR. KNIGHT: I think he's qualified.

18 THE COURT: Defense?

19 MR. KULP: I think he's qualified to be a police
20 officer.

21 THE COURT: Go ahead.

22 MR. KULP: Hear me out, please. The primary
23 consideration, Your Honor, is to let's stay away from
24 the qualitative aspects of this juror as a candidate
25 for service.

1 THE COURT: That's the only thing I can do.

2 You've some strikes there that you might want to use.

3 But I can use my discretion, can't I?

4 MR. KULP: No, Your Honor, you don't have any
5 strikes.

6 THE COURT: I can only look at the
7 qualifications.

8 MR. KULP: I understand that. And in terms of
9 qualifications, we're also concerned about the
10 integrity of the jury and someone being able to serve
11 throughout the course of the case. I think we know
12 about the issue of ---

13 THE COURT: You're worried about his problems?
14 You're worried about his clients' problems?

15 MR. KULP: I think that if you have -- the IRS
16 is the IRS. He may assume that they would say, "Hey,
17 no problem." But we all know that operation may very

18 well say, "You'll have to find somebody else to do
19 this," or whatever. And I think it would be ---

20 THE COURT: This isn't a month-long trial, you
21 know. We're talking about just a couple of days.

22 MR. KULP: I know that, Your Honor. But at
23 the same time --- well, let's see, eight and seven. The
24 15th is Monday. And he has that deadline. And if the
25 IRS doesn't excuse him and he gets the order, he may

1 very well have to come to the Court with the problem
2 that he's between a rock and a hard place. If he had
3 answered, "I checked with the IRS and they have advised
4 me by letter or issued an opinion or ruling that this
5 would apply if I am sequestered." Or, "I have done the
6 research under the IRS regs and found out that, in
7 fact, this is a valid and published excuse and basis
8 for an extension," that's fine. But he didn't say
9 that, Your Honor. And I think that in addition to all
10 the other aspects of this, that he certainly -- it's up
11 in the air as to whether or not he would be able to
12 complete service. And very surely, Your Honor, I just
13 think that while he made an attempt to answer in terms
14 of his fairness to his profile is significant for a --

15 THE COURT: That's an interesting word you
16 used.

17 MR. KULP: Pardon me?

18 THE COURT: That's an interesting word that you
19 used. Go ahead. I'm listening. You can go ahead and
20 protect the record.

21 I'm satisfied that nothing came out as to anything
22 other than the fact that he's qualified. But I want
23 you to go ahead and protect the record. But I don't
24 want to ---

25 MR. KULP: We respectfully note our exception,

1 of course, Your Honor. Thanks.

2 THE COURT: I find that based upon everything
3 that's in the record on Mr. Hood, Juror No. 156, that
4 he is qualified. Would you ask him to please come in?
5 And he can just come into the middle there.

6 (POTENTIAL JUROR RESUMES STAND)

7 THE COURT: Mr. Hood, I find that you are
8 qualified as a prospective juror. I ask that, as you
9 say you've done in the past, do not discuss the case
10 with anyone. Do not allow anyone to discuss it with
11 you. Do not allow yourself to read anything in the
12 newspapers or hear anything on TV or radio or any other
13 media outlets. If anyone should attempt to discuss the
14 case with you please report it to the Court.

15 As I say, you are in the pool for the prospective
16 jurors. The jury will be drawn starting at 9:30 on
17 Friday. Please bring with you enough clothes to stay
18 three nights in sequestration. It'll be at the Hampton
19 Inn which is about two blocks from here, right across
20 the marsh there.

21 Lastly, you must not take any -- you've been
22 qualified the way you are now. So you must not take
23 any steps to read, research, educate yourself or
24 inquire into any criminal law, criminal procedure or
25 anything dealing with this case from any books, the

1 internet, books or magazines and so forth,

2 Have a nice day and we'll see you Friday.

3 POTENTIAL JUROR: 9:30 Friday morning.

4 THE COURT: Friday morning 9:30.

5 POTENTIAL JUROR: Thank you.

6 (TESTIMONY OF CHARLES HOOD CONCLUDED)

7 THE COURT: Jane McKay.

8 (POTENTIAL JUROR TAKES STAND)

9 JANE MCKAY, being duly
10 sworn to tell the truth, the whole truth and nothing
11 but the truth, was examined and testified, as follows:

12 EXAMINATION

13 BY THE COURT:

14 Q. How are you, Ms. McKay?

15 A. Fine.

16 Q. Would you have a seat? Speak directly into the
17 microphone so everyone can hear you here in the
18 courtroom.

19 A. (Complies).

20 Q. First off, before Monday, had you ever heard
21 anything about this case?

22 A. No.

23 Q. Have you heard anything about it since then? Have
24 you talked or -- have you heard anything about it since
25 then?

1 A. No.

2 Q. Have you talked to anybody about the case at all?

3 A. No.

4 Q. Since Monday, have you read anything in the
5 newspaper, heard anything on the TV or radio about the
6 case?

7 A. No.

8 Q. Did you read this thing that's called a pretrial
9 questionnaire?

10 A. Yes, I did.

11 Q. Ms. McKay, I'm going to discuss that with you
12 briefly. In a case where the State is seeking the
13 death penalty -- and I'm not talking about this case.
14 I'm just talking about cases in general -- the trial is
15 bifurcated meaning that it's split into two parts.

16 The first part is called the penalty (sic) phase.

17 The second -- excuse me. I've been here doing this too

18 long. The first phase is the guilt phase. In the

19 first phase the State must prove the defendant guilty

20 beyond a reasonable doubt. And, of course, the jury

21 may find a defendant guilty or not guilty. If the find

22 a defendant not guilty, that's the end of the process.

23 If a defendant is found guilty you go into the

24 second phase which is called the penalty phase. In the

25 penalty phase the jury will decide the punishment. If

1 a person has been convicted of murder there are two
2 punishments that are provided for under South Carolina
3 law, that being the death penalty and life
4 imprisonment.

5 It has been found that there are basically three
6 types of jurors when you get to the punishment phase.
7 There is one type of juror who feels that if a person
8 is convicted of murder they deserve the death penalty
9 and nothing else. In other words, in every instance
10 they feel like the death penalty is the appropriate
11 punishment.

12 There's a second type juror who is against the
13 death penalty and feels that they could never give the
14 death penalty in any circumstances.

15 The third type juror feels that there are some
16 instances of murder where a defendant should receive
17 the death penalty. And in those cases the juror would
18 give the death penalty or vote for it. And, likewise,
19 there are some instances of murder where the juror
20 feels that the person should receive a life sentence
21 and not receive the death penalty. And I ask you to
22 please tell me which of these categories do you fit in?

23 A. I think probably the second.

24 Q. The second one?

25 A. The second one which is not from the paper that

1 they have inside is not ---

2 Q. Would you get a little closer to the microphone?

3 A. Yes. The paper that I read inside where you
4 couldn't give it -- the death penalty.

5 Q. You feel like you could not give the death
6 penalty?

7 A. No.

8 Q. No matter how horrible the crime or evil the
9 person?

10 A. No.

11 Q. Under all the aggravating steps you, under no
12 circumstances would feel like that you could give a
13 vote for the death penalty?

14 A. No.

15 THE COURT: Any questions, solicitor?

16 MR. MURDAUGH: Yes, sir.

17 EXAMINATION

18 BY MR. MURDAUGH:

19 Q. Ms. McKay, how are you doing?

20 A. Fine, thank you.

21 Q. I'm Randolph Murdaugh. I am the Solicitor and I
22 need to ask you a few questions.

23 A. Okay.

24 Q. You are married to John?

25 A. Yes.

1 Q. Can you conceive of any circumstances in which you
2 could ever vote for the death penalty?

3 A. No.

4 Q. Never, ever, under any circumstances?

5 A. No.

6 Q. I have no further questions.

7 THE COURT: Mr. Kulp?

8 MR. KULP: No, sir, Your Honor. No questions.

9 THE COURT: Then you are excused. Thank you,
10 Ms. McKay. I know John very pleasantly.

11 THE COURT: Thank you.

12 (TESTIMONY OF JANE MCKAY CONCLUDED)

13 THE COURT: Joanne Stanley.

14 (POTENTIAL JUROR TAKES STAND)

15 JOANNE STANLEY, being

16 duly sworn to tell the truth, the whole truth and
17 nothing but the truth, was examined and testified, as
18 follows:

19 EXAMINATION

20 BY THE COURT:

21 Q. Ms. Stanley, please come around and have a seat
22 right up here.

23 A. (Complies)

24 Q. Right here. How are you doing today?

25 A. Fine, thank you.

1 Q. Would you please speak directly into the
2 microphone so everyone can hear you? And I remind you,
3 Ms. Stanley, that you are still under oath.

4 First off, had you ever, before Monday, ever heard
5 anything about this case before?

6 A. No.

7 Q. How about since then? Have you heard or read
8 anything about the case?

9 A. The only thing I read is what was in the paper
10 yesterday that they were choosing the jurors.

11 Q. And that was in which newspaper?

12 A. Yesterday's, I think, Beaufort Gazette.

13 Q. In the Beaufort Gazette? And the only thing you
14 read in there, you say, was that the jury was being
15 selected?

16 A. Just what you told us, about he -- that it was
17 murders.

18 Q. Okay. Have you talked to anyone about the case or
19 has anybody talked to you, or heard any discussion
20 about the case?

21 A. My neighbor was talking about she had read it in
22 the paper yesterday. Other than that -- she said she
23 had spoke to the woman that had lost her son. But I
24 didn't discuss anything with them, because I didn't
25 know anything.

1 Q. She said she had spoken to the lady who had lost
2 her son in this incident?

3 A. Yes.

4 Q. It's basic and fundamental that a case be decided
5 solely from the witnesses that are sworn to here in
6 Court, along with the evidence introduced in the trial.
7 Anything that you have heard, would that have any
8 influence -- anything that you heard or read, would
9 that have any influence upon you if you were selected
10 to serve as a juror in this case?

11 A. I don't think so.

12 Q. Well, I know people say "I don't think so." Are
13 you sure in your own mind that it wouldn't, or do you
14 think that it could or possibly could? I want you to
15 speak more specifically on that issue, if you could.

16 A. I really don't know. I didn't hear enough of
17 anything to have made me make a decision one way or the
18 other, because I don't know anything that went on.

19 Q. That's what I mean. Obviously, the facts of the
20 case will come out in the trial.

21 A. Right.

22 Q. When you hear it from the sworn witnesses and all.
23 And as I say, that's where the case must be decided
24 from what happens. And you understand that. And if
25 are selected on the jury would that be what you would

1 do, is decide the case solely based upon what happens
2 in Court?

3 A. Yes.

4 Q. Okay. Ms. Stanley, did you read this pretrial
5 questionnaire?

6 A. Yes, I did.

7 Q. In that it discusses the way our criminal
8 procedure works in cases where the State seeks the
9 death penalty. In these cases -- and I'm not talking
10 about this one specifically, but just in general -- the
11 trial is bifurcated. That's a word that means it is
12 divided into two parts. The first part is called the
13 guilt phase and the second part is called the penalty
14 phase.

15 In the guilt phase a defendant could be found
16 guilty or not guilty by the jury. Of course, if he is
17 ~~found not guilty, that's the end of the process.~~

18 If he's found guilty, it goes to the penalty
19 phase. And in that phase the jury decides what
20 punishment a defendant should receive. Our South
21 Carolina provides for two possible punishments for a
22 ~~person who is found guilty of murder. One is the death~~
23 ~~penalty. The other one is life imprisonment.~~

24 It's been found that there are three types of
25 jurors. There's one type juror who feels like if a

1 person is found guilty of murder that he ought to get
2 the death penalty. He doesn't need to hear any of the
3 facts and circumstances of the case. He just
4 automatically ought to get the death penalty.

5 There's a second type of juror who feels like that
6 they are against the death penalty and would not impose
7 the death penalty no matter what the facts and
8 circumstances of the case.

9 And there's a third type and these are designated
10 as types one, two and three. The third type person is
11 one -- is a juror who feels like that there are some
12 instances of murder where a person should get the death
13 penalty. And likewise, there are some instances of
14 murder where a person should not get the death penalty
15 and should receive life imprisonment. And that person
16 would like to hear and would listen to all the facts
17 and circumstances of the case and then made a decision
18 as to what would be a proper verdict that would come
19 from their heart as to whether that person should
20 receive the death penalty or life imprisonment. And
21 after they made that, if they thought it was the death
22 penalty, they'd find the death penalty. And if they
23 thought it was a life imprisonment case, they would
24 vote for life imprisonment.

25 What category do you fall within?

1 A. Probably the second, because I feel like it's
2 God's place to tell us whether we live or die.

3 Q. Do you feel like that there's any circumstances
4 that you would vote for the death penalty?

5 A. I don't think so, because I don't feel like I have
6 that privilege. That's God's privilege only.

7 THE COURT: Okay. Solicitor?

8 EXAMINATION

9 BY MR. MURDAUGH:

10 Q. Ms. Stanley, how are you doing?

11 A. Fine, thank you.

12 Q. I'm Randolph Murdaugh. I am the Solicitor down
13 here. And with that title comes the duty of
14 prosecution.

15 A. Yes, sir.

16 Q. I need to ask you one or two questions to find out
17 a little bit about you. Are you telling the judge that

18 no matter the seriousness of the crime, how bad it was,
19 that you could never vote for the death penalty? Is
20 that what you are saying?

21 A. I don't think I could, really. I could pray for
22 him, but I couldn't vote for his death. I could pray
23 that God would take care of that.

24 Q. Thank you, ma'am.

25 MR. KULP: No questions, Your Honor.

1 THE COURT: Thank you very much, Ms. Stanley.
2 I'm going to excuse you from the trial of this case.
3 Thank you for coming.

4 POTENTIAL JUROR: Thank you.

5 (TESTIMONY OF JOANNE STANLEY CONCLUDED)

6 THE COURT: Mary -- and I'm not sure -- B-O-U-
7 L-L-Y.

8 (POTENTIAL JUROR TAKES STAND)

9 MARY BOULLY, being duly
10 sworn to tell the truth, the whole truth and nothing
11 but the truth, was examined and testified, as follows:

12 EXAMINATION

13 BY THE COURT:

14 Q. Good morning?

15 A. Good morning.

16 Q. How do you pronounce your name?

17 A. Bouilly, like Dooley would be.

18 Q. Dooley, Bouilly. Okay. Ms. Bouilly, I remind you
19 that you are still under oath. First off, before
20 Monday, had you ever heard anything about this case?

21 A. I may have read it in the newspapers some long
22 time ago, but it didn't do any -- you know, I didn't
23 remember it, really.

24 Q. Okay. How about since Monday? Have you read or
25 heard anything about the case?

1 A. I saw something in the newspaper yesterday. I did
2 not read it, but the headlines jumped out. And I just
3 scanned ---

4 Q. But you didn't read the article. You just saw the
5 headlines?

6 A. I did not read the article. I would say that I
7 scanned it.

8 Q. What paper did you read?

9 A. The *Island Packet*.

10 Q. The *Island Packet*, okay. Ms. Bouilly, let me ask
11 you this. Did what you read, either initially years
12 ago or this, would that have any influence or impact
13 upon you if you are selected to serve as a juror in
14 this case?

15 A. I don't think so.

16 Q. Did you read this thing called a pretrial
17 questionnaire?

18 A. Yes, I did.

19 Q. I'm going to ask you a couple of questions about
20 that. In a case where the State is seeking the death
21 penalty there is basically three types -- excuse me.
22 The trial is bifurcated. By that it means it is split
23 into two phases, a guilt phase and a penalty phase.

24 In the guilt phase, of course, a defendant could
25 be found not guilty or guilty. If he's found not

1 guilty, that's the end of the process. But if he's
2 found guilty -- and I'm not speaking of this case, but
3 in general -- it would go to the second or the penalty
4 phase.

5 In the penalty phase the jury would decide the
6 punishment. And there are two punishments provided for
7 under our law. One is the death penalty and the other
8 is life imprisonment.

9 There are some jurors who feel that if a person is
10 found guilty of murder he ought to get the death
11 penalty. And, likewise, there are some jurors who feel
12 that they could never, under any circumstances, give
13 the death penalty. And then the third, as it discussed
14 -- and this is called a type three juror -- who would
15 feel that there are some cases where the death penalty
16 is called for. And that juror would vote for the death
17 penalty is he or she thought it was called for.

18 Likewise, there are some murder cases that a juror
19 would feel would not call for the death penalty. And
20 in those a person would not vote for the death penalty.

21 I ask you as to which type of juror you feel that
22 you are?

23 A. Juror number three.

24 Q. You are number three? In other words, you do feel
25 that the death penalty is appropriate in some cases and

1 you would vote for it in those cases?

2 A. Yes. I believe in the death penalty, but I think
3 there are exceptions.

4 Q. And you feel like there are other cases that a
5 person should not receive the death penalty for?

6 A. Yes.

7 Q. And you would not vote for the death penalty in
8 those cases?

9 A. Yes.

10 Q. There are two additional witnesses who may be
11 called in this trial. And I've lost their names. Here
12 they are. Kenneth Williams and Richard Rivers. Do you
13 know anybody by either name, Kenneth Williams or
14 Richard Rivers?

15 A. No.

16 THE COURT: Solicitor.

17 ~~EXAMINATION~~

18 BY MR. MURDAUGH:

19 Q. Ms. Bouilly, how are you doing?

20 A. Just fine, thank you.

21 Q. Did I pronounce your name right?

22 A. You did, indeed.

23 Q. Ms. Bouilly, I am Randolph Murdaugh. I'm the
24 Solicitor for this Judicial Circuit of which Beaufort
25 is one of the counties. With that title comes the duty

1 to prosecute. I need to ask you a few questions, quite
2 frankly, to find out whether I want you to sit on this
3 jury or not.

4 I listened to your answers to the Judge's
5 questions and got the impression that if you were on a
6 jury -- not this jury, but on a jury -- that you would
7 listen to any instructions he gave you about what your
8 duties were and what the law that you had to follow
9 would be, you would listen to any testimony that was
10 derived during the trial, any physical evidence that
11 was placed in, and you would consider everything. Is
12 that correct?

13 A. That's correct.

14 Q. If you were sitting on the jury, as His Honor told
15 you, the first part of the bifurcated trial would deal
16 only with guilty or innocence. If, at that stage, you
17 found the defendant guilty, you would then move into
18 the second part of the bifurcated trial or the penalty
19 phase.

20 Your obligation in that would be again to listen
21 to everything that you had heard, consider everything
22 you had heard, listen to anything new that was
23 presented, both for or against the death penalty,
24 aggravating circumstances, the circumstances of the
25 crime, the character of the defendant, mitigating

1 circumstances, which are reasons not to give the death
2 penalty. And you would listen to and consider all of
3 those things before you made a decision?

4 A. Yes, I would.

5 Q. If you thought the crime was bad enough and that
6 the defendant deserved the death penalty, you would
7 have no problem in voting for the death penalty?

8 A. I would not.

9 Q. Conversely, if you did not think it was a bad
10 enough crime, you could vote for life in prison?

11 A. Yes.

12 Q. But doing neither of those things until after you
13 had considered everything that had come up?

14 A. That's correct.

15 Q. If you should be on the jury, and if you and the
16 other members of the jury should have found him guilty
17 and had gone to the second part. And if you'all had

18 considered punishment and decided that this case is bad
19 enough for the death penalty and vote to have the death
20 penalty imposed, it would then be incumbent for each
21 and every juror to sign a sheet of paper. This isn't
22 the paper, by any means, but I'm just holding it up
23 here. At the top of the paper would be verbiage, "We,
24 the undersigned jurors, recommend that the death
25 penalty should be imposed." Would you have a problem

1 signing that paper if you thought the crime was bad
2 enough?

3 A. I would sign the paper. I think it would be
4 difficult, but I would sign the paper.

5 Q. Okay. Let me ask you one or two questions.

6 You'all live on Golf Course Drive.

7 A. Club Course.

8 Q. Ma'am?

9 A. It's Club Course.

10 Q. Club Course?

11 A. Yes.

12 Q. That's the back gate on the right?

13 A. It's the main gate on the right, down about a mile
14 down Club Course Drive.

15 Q. The would be turn off at the first circle?

16 A. Yes, sir.

17 Q. Your husband works for who?

18 A. He works for American Way Insurance.

19 Q. And in what capacity?

20 A. He's a broker, a registered broker. He's a
21 securities representative.

22 Q. Okay. And you also work with Prudential, I
23 believe?

24 A. Correct.

25 Q. And what do you do with Prudential?

1 A. I'm what's called a registered associate. I have
2 my licenses, but I do not -- my primary function is not
3 to act as a broker. It's more backup. I do some
4 trading for the broker within my work, but that's not
5 my primary function.

6 Q. Ms. Bouilly, how long have you'all lived on Hilton
7 Head?

8 A. My husband moved down here in the fall of 1981,
9 and I came in early 1982.

10 Q. So you're a long-life resident down here now.
11 Thank you, ma'am. Oh, I need to ask you one question.
12 You put on the back page of your questionnaire that you
13 have strong feelings about the sale of illegal drugs,
14 "but I feel I can be fair." Can you tell me that you
15 will listen to only what happens in this courtroom and
16 make your decision based on the testimony that came
17 from this stand rather than your external feeling, your
18 feelings -- and I realize you can't do that totally.

19 But what both counsel for the defendant and I are
20 looking for a fair and impartial jury who will consider
21 only the things that happen in this courtroom and not
22 be unduly influenced -- and I understand you are going
23 to be influenced by the way you are brought up. But
24 not be unduly influenced by any external matters.

25 A. I believe that I can be fair. I bring my baggage

1 with me, but I can leave it at the door.

2 Q. Thank you, ma'am. I appreciate your being fair
3 and honest with us and so open.

4 MR. KULP: May it please the Court, Your
5 Honor.

6 EXAMINATION

7 BY MR. KULP:

8 Q. Good morning, Ms. Bouilly.

9 A. Good morning.

10 Q. My name is Tim Kulp, and I think we met across the
11 courtroom by the Judge's introduction on Monday. With
12 Mr. Fleming, we represent the accused, Mr. Rogers. I
13 just wanted to ask you a few questions.

14 You understand that this is a very serious matter.

15 A. I do.

16 Q. You understand that there are very serious issues
17 involved in this dual-part decision-making process?

18 You do?

19 A. Yes.

20 Q. And you understand that just because the fact that
21 we're required to talk to prospective jurors about
22 their appreciation or opinion about that maybe-never-
23 reached second phase of the proceedings in terms of the
24 appropriate punishment doesn't mean that the first part
25 has a standard meaning. In other words, you understand

1 that even though we're talking about the punishment,
2 it's a little bit like the cart before the horse.

3 You understand that it might very well be any
4 juror's decision that the State does not meet its
5 burden of proof in the case, and that the decision
6 might be not guilty.

7 A. Yes, I understand.

8 Q. And that if it's not guilty, then logically, no
9 one proceeds to any additional phase. You understand
10 that?

11 A. Yes, I do.

12 Q. When you answered and testified that you believe
13 in the death penalty, could you explain that a little
14 bit more as to what you mean by "believe in the death
15 penalty". It's a difficult question, I know, but
16 important.

17 A. I think that the death penalty has a place in our
18 law. I think that there are crimes that call for the
19 death penalty and not life imprisonment. I think if
20 that were not so, the burden on our economy would be
21 unreasonable.

22 Q. So are there crimes -- when you say "call for the
23 death penalty", it is your perspective that whatever
24 those crimes are that are within your consideration,
25 that if that crime -- does that mandate the death

1 penalty, irrespective of any other considerations?

2 A. It's not the crime itself necessarily. It's all
3 the extenuating circumstances. If someone was found
4 guilty of a crime and it appeared that there was no
5 chance of rehabilitation, then I would be in favor of
6 the death penalty. If there was a crime, and it was
7 the same crime, but the circumstances were very much
8 different and there was a chance that the person who
9 was found guilty could be rehabilitated, then I would
10 be no inclined to vote for the death penalty. I don't
11 how to explain it to you any more than that.

12 Q. Very good. I appreciate the answer. But you
13 understand, specifically within that area, that in this
14 setting, should that phase of the proceedings be
15 encountered, that the way the Judge gives the structure
16 of the decision-making process -- what he does -- what
17 the law says is that you would be asked to find and
18 address mitigating factors as well as aggravating
19 factors. Do you understand that?

20 A. Yes.

21 Q. And I just want to know or ensure that you
22 understand that regardless of the crime, as you said,
23 and regardless of any other approaches that you have,
24 that you would and could consider any mitigating
25 evidence that would support the conclusion by you,

1 individually -- you, individually -- and the jury that
2 if you were at that stage of life in prison, life in
3 prison was the appropriate punishment. In other words,
4 regardless of any other factor, would you consider
5 mitigating factors and evidence in support of
6 mitigating factors?

7 A. Yes, sir.

8 Q. Nothing about your decision-making process would
9 be automatic simply because there was a conviction for
10 murder alone?

11 A. I don't think so, no. No.

12 Q. And I would include even if drugs were involved in
13 the case, because you did check that mark and say that
14 -- there was a column to put if you could be fair and
15 impartial, but you checked that you would have
16 difficulty in that area, did you not?

17 A. I did.

18 Q. And having checked that and expressed that
19 perspective, if the case involved drugs, would that
20 prohibit you from being fair and impartial and
21 considering all of the aspects?

22 A. No.

23 Q. You also mentioned that there were exceptions to
24 when the death penalty would be warranted. Do you know
25 of any that come to mind that would lead you to express

1 that opinion here on the stand?

2 A. It's not black and white. If someone reacted to a
3 force and committed a murder as a reaction, I would
4 look at that differently, I believe, than someone who
5 planned to do something and acted pro-actively.

6 Q. And if someone planned to do something and acted
7 as opposed to acting reactively, would you
8 automatically decide that the appropriate punishment
9 would be the death penalty?

10 A. I don't think there is an automatic decision on
11 either side. It would take -- what I am saying is that
12 my inclination would be to less inclined for a death
13 penalty in a case where someone reacted rather than, as
14 I said, with malice aforethought.

15 Q. And if malice aforethought, would you be more
16 inclined to conclude that the death penalty was
17 warranted?

18 A. Yes. I think the inclinations would be there. I
19 would still sit through the mitigating circumstances
20 and whatever else was offered. But, yes, understand
21 that that would be the inclination.

22 Q. You understand as well that both the State and the
23 defense are asking you these questions because of the
24 grave nature of things and because it is very
25 important, and that it is a critical part of the

1 process. We're not inclined to make you have to delve
2 into your -- all these considerations.

3 A. Yes.

4 Q. Thank you. Oh, one question. One other things
5 now on these kinds of approaches, but just in terms of
6 the newspaper issue and reading that. You indicated, I
7 think, that you saw something in the paper some time
8 ago, and you don't really remember the details?

9 A. I'm not even sure that I saw something in the
10 paper some time ago. I have clients who have property
11 on Coffin Point. And I remember Coffin Point. And I
12 remembered something happening out on Coffin Point.
13 I'm not even sure it's related to this.

14 Q. Very good. But you did see yesterday's *Island*
15 *Packet*?

16 A. Yes, I did.

17 ~~Q. And you indicated that you saw the title or the~~
18 headline for the piece. Do you recall where it was in
19 the paper?

20 A. It wasn't on the front page. It was further on.

21 Q. And I think you said you scanned it?

22 A. I knew I was not to read it.

23 Q. Yes, ma'am.

24 A. And I was curious if it was, indeed, this case.

25 So I tried to not read it but see. I knew I shouldn't

1 read it, so I just -- you know ---

2 Q. You know, nobody's going to yell at you if you
3 succumbed to the temptation to read it.

4 A. I know. I did not read the article. I did -- I
5 saw the name and realized that it was the defendant.
6 And I handed it to my husband and I told him that this
7 was what I was involved in.

8 Q. Did you read anything -- what do you recall about
9 scanning the article other than, as you just testified,
10 that it was, in fact, pertaining to this case?

11 A. His name and that the jury was being selected. I
12 think it said there were like 130 jurors.

13 Q. Anything else?

14 A. I don't think so.

15 Q. When you handed the article to your husband did he
16 read it?

17 A. Yes.

18 Q. Did he discuss it with you?

19 A. No.

20 Q. Did he mentioned anything about it to you?

21 A. No.

22 Q. Was that because you instructed him not to do so?

23 A. Because he knew he shouldn't.

24 Q. Thank you very much.

25 THE COURT: Any discussion about this juror?

1 MR. FLEMING: Yes, Your Honor.

2 THE COURT: Would you please just go out the
3 back door and wait just for a moment while we take up
4 this matter, Ms. Bouilly?

5 (POTENTIAL JUROR STEPS DOWN/EXITS ROOM)

6 THE COURT: Go ahead.

7 MR. FLEMING: Your Honor, with regard to the
8 issue of the newspaper, I will again assert to you that
9 on the second page of the *Island Packet*, the one that
10 the witness just indicated that she read, within one
11 inch within the name that she would have had to have
12 seen -- when she said she scanned the article -- within
13 one inch are the inadmissible parts of this case. And
14 to say ---

15 THE COURT: Read what it says.

16 MR. FLEMING: It says (reading): "A later ruling
17 stated that an alleged confession given while Rogers

18 was detained on the Coroner's warrant was not
19 admissible in Court because it was given while Rogers
20 was detained illegally."

21 It says much more than that. And this is a part
22 of the evidence, Your Honor. This is Court's Exhibit
23 Number 3.

24 She scanned the article. This is a man on trial
25 for his life, and that somebody scanned an article that

1 has information that says that he confessed. To
2 interject that into the jury will taint the entire
3 process and it will prohibit him from getting a fair
4 trial. And he may be executed as a result of that.

5 THE COURT: Solicitor? Well, she's clear in her
6 testimony and I found her, by watching her demeanor and
7 all, that she was very careful. And to me, she was
8 genuinely concerned to do the right thing. And so I
9 believe her when she said that. What do you say,
10 Solicitor?

11 MR. MURDAUGH: If Your Honor please, you would
12 have to make an affirmative finding that she lied to
13 the Court. And I just don't think there's anything
14 to ---

15 THE COURT: I don't need to hear any more
16 argument on it.

17 MR. FLEMING: May I please, sir?

18 THE COURT: Okay.

19 MR. FLEMING: For just a moment. You would not
20 have to make an affirmative finding that she was lying.
21 And, in fact -- the fact of the matter is we can't
22 inquire of the specific information which she read,
23 because we would then give her information that she's
24 not allowed to have. We're in a Catch 22. There's
25 information that if we asked her about, she may very

1 well say, "Oh, yeah, I did read that." But we can't
2 ask her that. And so we are put in a position of
3 having to use one of our peremptory strikes for a
4 witness that we can't possibly know or properly
5 question.

6 THE COURT: Let me just say this, Mr. Fleming.
7 This case has such a small less amount of publicity
8 than hundreds of cases that are tried every year all
9 over this country. But jurors are *voir dired* on those
10 issues and they are tried, because they are asked about
11 those thing.

12 I mean, to take your argument to its logical
13 conclusion, most of the famous cases would never be
14 tried anywhere. So that's just not the law, I don't
15 think.

16 MR. FLEMING: I would just add one very brief
17 ~~thing. And the issue is out of an abundance of~~
18 caution. Because we've seen people who have read the
19 paper before and ---

20 THE COURT: Well, I don't mind you'all doing
21 this. But what I'm getting -- I'm trying to move this
22 along and go through -- we've re-plowed this ground
23 over and over, and over again. I'm going to request
24 that you'all just make your exception and let's not go
25 through this same argument every time.

1 I will hear you when the jury -- you can make
2 notes about the jurors that you want to discuss. I
3 know you need to make it now, because I'm making the
4 finding. But it's the same argument about how can you
5 believe the juror when she says she didn't read it.

6 MR. FLEMING: I know that, Your Honor. But I
7 think we have several categories of people. One that
8 did not see that article at all. Two, people who
9 clearly say they did nothing more than read the title
10 or headline. Then we have people like this witness who
11 said -- and this, I think, is the first one who said,
12 "I scanned it." We really don't know what that means.
13 And then the last category of people said, "I read it
14 and it is going to change my ability to be fair and
15 impartial."

16 Since that one is so close to the danger zone,
17 that's the only reason we offer it. Thank you, Judge.

18 THE COURT: Well, to my mind, there's plenty of
19 authority where people actually see it all, read it
20 all, know it all. And they say that they can be fair
21 and impartial and they are qualified. I mean, that's
22 the law. I mean, that's the precedent. And if you
23 could show me some authority that supports your
24 position that if somebody sees something or finds out
25 some information that they shouldn't know about, that

1 they are automatically disqualified, I would love to
2 see it. Because I don't think it's the law.

3 MR. FLEMING: Yes, Your Honor.

4 THE COURT: Would you please show Ms. Bouilly
5 back into the courtroom, please?

6 (POTENTIAL JUROR RESUMES STAND)

7 THE COURT: Just come right up here briefly.
8 Ms. Bouilly, I find that you are qualified to go into
9 the jury panel or the pool from which the jury will be
10 selected. It will be selected at 9:30 on Friday.
11 Would you be here at that time? Bring clothes for at
12 least three nights' sequestration. You will be staying
13 at the Hampton Inn, which is just right across the
14 marsh here.

15 Do not expose yourself to any media coverage of
16 this whether it's by newspaper, TV, radio or whatever.

17 ~~Do not discuss the facts of the case. You, of course,~~
18 can tell your job or your husband that you're going to
19 be sequestered on a case. But don't talk about the
20 specifics of the case.

21 And lastly, do not read, do any research or
22 educate yourself about any aspect of criminal procedure
23 or criminal law through books, the internet or
24 whatever. Because you have been qualified the way you
25 are, and that's the way we want you to be when the jury

1 is drawn.

2 I hope you have a nice afternoon, and thank you
3 for coming.

4 (TESTIMONY OF MARY BOULLY CONCLUDED)

5 THE COURT: We'll take a 15-minute recess at
6 this time.

7 (BRIEF RECESS)

8 THE COURT: Here is something my law clerk
9 suggested. Since you'all are going over the same
10 things I'm going over, I'm perfectly willing to just
11 let you'all ask them those questions. I try to ask
12 them those things to get through them in an unbiased
13 way. But if you'all want to just go ahead and do it,
14 it's fine with me. Because I feel like both of you are
15 asking the same questions I am.

16 MR. KULP: Well, maybe as Mr. Fleming has
17 suggested, Your Honor, it might speed it up to say,
18 "Have you read the questionnaire? Do you have any
19 questions about it?" And then, "Having read it, which
20 category do you feel you fall into?" And we'll come in
21 with hopefully not much of the ---

22 THE COURT: I'll try that.

23 MR. KULP: Yes, sir.

24 THE COURT: I'm willing to do anything to make
25 this thing faster. Our next one is Koren Pope, Juror

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

1 No. 290.

2 (POTENTIAL JUROR TAKES STAND)

3 KOREN POPE, being duly
4 sworn to tell the truth, the whole truth and nothing
5 but the truth, was examined and testified, as follows:

6 EXAMINATION

7 BY THE COURT:

8 Q. How are you, Ms. Pope?

9 A. Fine.

10 Q. Have a seat.

11 A. (Complies)

12 Q. Ms. Pope, first off, I remind you that you are
13 still under oath from Monday. Had you ever heard
14 anything about this case before?

15 A. No, sir, I haven't.

16 Q. I'm talking about from when it happened all the
17 way till Monday? You said you hadn't?

18 A. (Indicates negative response)

19 Q. How about since then? Have you seen anything in
20 the newspaper or heard anything on the TV or radio or
21 anything?

22 A. No, sir, I haven't.

23 Q. Did you read this pre-trial questionnaire?

24 A. Yes.

25 Q. It talks about the three kinds of jurors. Did you

1 understand that?

2 A. Yes.

3 Q. Which type juror are you, do you feel?

4 A. I would have to know what happened, have to know
5 the situation.

6 Q. I think that's a type three. Which, in other
7 words, if somebody has been convicted of murder, you
8 feel that there are some cases where a person ought to
9 get the death penalty. And then there are some cases
10 where a person is guilty of murder that they should get
11 life imprisonment. Is that right?

12 A. Right.

13 Q. But you could, if you felt like it was right, give
14 somebody the death penalty?

15 A. Yes, I believe I could.

16 Q. And if you felt like they shouldn't, you wouldn't
17 automatically give the death penalty. If you thought
18 the death penalty wasn't right, you could give them
19 life in prison?

20 A. Right.

21 THE COURT: Solicitor Murdaugh.

22 EXAMINATION

23 BY MR. MURDAUGH:

24 Q. Ms. Pope, how are you doing?

25 A. Fine.

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

1 Q. I'm Randolph Murdaugh. I'm the Solicitor down
2 here. And with that title comes the obligation of
3 prosecuting people.

4 A. Yes, sir.

5 Q. I need to ask you before I start talking with you,
6 there are two possible additional witnesses. And those
7 are Richard Rivers and Kenneth Williams. Do you know
8 them?

9 A. No.

10 Q. Are you originally from Beaufort County?

11 A. I was born here, but I've never lived here.

12 Q. When did you leave?

13 A. Well, my dad was in the military, so I never grew
14 up here.

15 Q. I got you. So you were born in Beaufort?

16 A. Yes.

17 Q. When did you come back?

18 A. February of this year.

19 Q. The reason I'm talking to you is I need to ask
20 some questions of you to find out a little bit about
21 you, frankly to see if I want to have you sitting on
22 this jury or not. Where all did you live when you
23 left?

24 A. Oh, we lived in Germany, Colorado, Maryland. Then
25 I joined the military and I lived in North Carolina

1 then.

2 Q. Where in North Carolina?

3 A. Jacksonville, Fort LeJeune.

4 Q. LeJeune.

5 A. Uh-huh, (affirmative nod).

6 Q. And the other place after you joined the military?

7 A. Norfolk.

8 Q. Norfolk. You were in the Marine Corps?

9 A. Navy.

10 Q. Navy?

11 A. Uh-huh, (affirmative nod).

12 Q. I listened to the answers you gave the Judge, and

13 I need to talk with you just a little bit about it.

14 This is an unusual case. Normally, sentencing is left

15 solely with the Judge. But in a case where a murder

16 has been committed and the death penalty is being asked

17 for, it's different. Because the Judge doesn't do the

18 sentencing. The jury, in essence, does the sentencing.

19 And there's not but one of two sentences that can be

20 given, that is, the death penalty or life imprisonment.

21 To more fully explain to you, it's a two-part

22 trial. The first part deals only with the guilt or

23 innocence of the defendant. If you find him not

24 guilty, that's the end of it and everybody goes home.

25 If you find him guilty, then you have to proceed

1 to the second part of the trial. And in that second
2 part things would come up, reasons to give him the
3 death penalty. Reasons not to give him the death
4 penalty may come up. You would have to listen to and
5 consider all of those things before making a decision.
6 Could you do that?

7 A. Yes, sir.

8 Q. And if the thought the crime was bad enough and
9 that all of the laws as His Honor will charge you had
10 been met, could you vote for the death penalty?

11 A. Yes, I could.

12 Q. And, conversely, if you didn't think it was bad
13 enough, you'd vote life in prison?

14 A. Right.

15 Q. Okay. If you were on the jury and if you and the
16 other eleven members of the jury voted -- said, "This
17 case is an appropriate case for the death penalty," and

18 you'all had decided that, it would then be incumbent
19 upon you, required of you, to sign a sheet of paper.
20 This isn't the paper.

21 A. Yes, sir.

22 Q. But to sign a sheet of paper. And at the top of
23 it, it would say, "We, the undersigned, recommend that
24 the defendant suffer the death penalty." There would
25 be twelve lines on it and each juror would have to sign

1 it. Could you do that?

2 A. Yes, I could.

3 Q. No problem?

4 A. Yes.

5 Q. Where do you work now?

6 A. Coastal Cardiac. It's a clinic.

7 Q. Who runs it?

8 A. Dr. Coleman.

9 Q. And how long have you worked for him?

10 A. Almost two months.

11 Q. Two months? Prior that where did you work?

12 A. I worked in Hilton Head.

13 Q. How long have you been out of the Navy?

14 A. About seven or eight months. I got out in
15 February.

16 Q. Newly out?

17 A. Yes.

18 Q. How long were you in the Navy?

19 A. Five years.

20 Q. There are a lot of people like you in there now
21 protecting us. What age were you when you left
22 Beaufort?

23 A. I was a baby.

24 Q. Infant?

25 A. Uh-huh, (affirmative nod).

1 Q. Where do you live now?

2 A. On St. Helena Island.

3 Q. Whereabouts?

4 A. Back by Lands End.

5 Q. Where is that?

6 A. That's back by Lands End, way back there.

7 Q. Back to the right as you go in towards Hunting
8 Island?

9 A. Uh-huh, (affirmative nod).

10 Q. What was your duty with the military?

11 A. I was a corpsman.

12 Q. Thank you very much.

13 A. You're welcome.

14 MR. KULP: May it please the Court?

15 THE COURT: Mr. Kulp?

16 EXAMINATION

17 BY MR. KULP:

18 Q. Good morning, Ms. Pope.

19 A. Good morning.

20 Q. Which I can see that it still is. Mr. Fleming and
21 I represent the accused, a young man, Mr. Rogers. I
22 have a few questions for you, and I'd appreciate your
23 answers. Are you in the Reserves?

24 A. I used to be, but I'm not any more.

25 Q. Next, this process of speaking to jurors as the

1 Court is inquiring is a little bit putting the cart
2 before the horse, a lot putting the cart before the
3 horse, in the sense that we're discussing your
4 approach, opinions and predispositions about what an
5 issue we may never arrive at, in other words, your
6 feelings about the punishment and appropriate
7 punishment in a murder case. You understand what I
8 mean when I say that it's a little bit cart before the
9 horse, because the first part of the trial is just like
10 any other trial where the State has a burden of proof.
11 And if they fail and do not meet that burden of proof
12 the jury may very well find that the defendant is not
13 guilty.

14 And, logically, if that happens then we'll never
15 address the issue of what the appropriate punishment
16 is. You understand that?

17 A. Yes.

18 Q. Are you aware of that? So simply the fact that we
19 are talking about punishment, you understand that means
20 absolutely nothing and that the accused, Mr. Rogers,
21 remains and is presumed innocent as any other person is
22 who faces a criminal trial and is accused. Do you
23 understand that?

24 A. Yes.

25 Q. And you also understand that should we get to a

1 portion of the entire process in the second phase where
2 the issue of punishment is addressed, that it's the
3 jury's responsibility, yours individually, and the jury
4 as a collective group, to consider any mitigating
5 information, not only about the events and the
6 circumstances of the events, the people involved or --
7 including Mr. Rogers, and to consider that in terms of
8 the issue of the appropriate punishment between life in
9 prison and the death penalty. You understand?

10 A. Yes.

11 THE COURT: Anything else?

12 MR. KULP: No, sir, Your Honor. Thank you
13 very much.

14 THE COURT: Any questions regarding this juror?

15 MR. MURDAUGH: Not from the State, sir.

16 MR. KULP: Nor from the defense. Thank you,
17 Judge.

18 THE COURT: Ms. Pope, I find that you are
19 qualified to go in the jury pool. We will select the
20 jury from the qualified jurors on Friday at 9:30 right
21 here. Please be here. Bring enough clothes to last at
22 least three nights because you will be sequestered at
23 the Hampton Inn which is right across the marsh there.

24 Now that you have been selected, of course, don't
25 discuss the case with anyone or allow anyone to discuss

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

693.

1 the case with you. It doesn't mean you can't tell your
2 office and so forth that you are going to be on a
3 criminal case, sequestered or whatever, and that you
4 won't be available for several days.

5 One last thing. Do not do any reading, research
6 or try to educate yourself into the facts of this case
7 or criminal law or criminal procedure generally.
8 You've been qualified the way you are, and so don't go
9 on the internet or read any books and so forth to try
10 to bring yourself up to speed about criminal law.
11 You'll find out everything you need to know if you're
12 selected on the jury.

13 POTENTIAL JUROR: Okay.

14 THE COURT: I hope you have a nice day, and
15 thank you for coming.

16 (TESTIMONY FOR KOREN POPE CONCLUDED)

17 THE COURT: Michelle Spicer.

18 (POTENTIAL JUROR TAKES STAND)

19 MICHELLE SPICER, being
20 duly sworn to tell the truth, the whole truth and
21 nothing but the truth, was examined and testified, as
22 follows:

23 EXAMINATION

24 BY THE COURT:

25 Q. Ms. Spicer, how are you doing?

1 A. Fine.

2 Q. I notice that when you were qualified you said you
3 had a two-year-old and a four-year-old?

4 A. Yes, sir.

5 Q. Do you have someone that can take care of them if
6 you are sequestered for about three days?

7 A. No, sir, I don't.

8 Q. Do you work also?

9 A. No, sir.

10 Q. So you stay at home with the children?

11 A. Yes, sir.

12 Q. Do you want to exercise your exemption as with
13 small children?

14 A. Yes, sir.

15 THE COURT: Any objection?

16 MR. MURDAUGH: No, sir.

17 MR. KULP: No, sir.

18 THE COURT: Then you are excused. Thank you
19 for coming.

20 (TESTIMONY OF MICHELLE SPICER CONCLUDED)

21 THE COURT: Jeff Rhodan.

22 (POTENTIAL JUROR TAKES STAND)

23 JEFF RHODAN, being duly
24 sworn to tell the truth, the whole truth and nothing
25 but the truth, was examined and testified, as follows:

EXAMINATION

BY THE COURT:

Q. Sir, would you please come around and have a seat in this witness box?

A. (Complies)

Q. How are you doing, sir?

A. Pretty good this morning, sir.

Q. Good. Mr. Rhodan, I remind you that you are still under oath. I've got a couple of questions to ask you.

First, had you ever heard anything about this case before Monday?

A. A little bit through the newspaper or whatever.

Q. And when did you learn anything about it, and what -- when did you learn anything about it and from where?

A. Well ---

Q. Get closer to the microphone so we can ---

A. Just reading the newspaper. That's about it.

Q. Would that be the *Beaufort Gazette* or the *Hilton Head Packet*?

A. *Beaufort Gazette*.

Q. *Beaufort Gazette*? Do you remember any of the specifics of the case?

A. Not really.

Q. What do you remember?

A. I think I kind of remember -- I'm not sure if it

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

1 was one person or two persons. I'm not sure what it
2 was. Very little.

3 Q. That were killed?

4 A. Right.

5 Q. That's about all?

6 A. That's about it.

7 Q. Tell me, have you heard anything since Monday
8 about the case, either from TV, radio, newspapers or
9 anything?

10 A. No, nothing only picking up the little paper
11 yesterday. It had a little bit about the case.

12 Q. Did you read that article in there?

13 A. Right.

14 Q. What did that article say?

15 A. Just talked about picking the jurors and getting
16 the case started. That's about it.

17 Q. Did you read anything in that article that would
18 have any effect upon you if you were selected to serve
19 as a juror in this case?

20 A. No, not really.

21 Q. Did you read this pretrial questionnaire?

22 A. Right.

23 Q. Did you understand it?

24 A. Yes, sir.

25 Q. Of course, it says there are three types of jurors

1 in there. What type do you think that you are?

2 A. Probably the second one.

3 Q. The second one?

4 A. (Affirmative nod).

5 Q. The second one is, if I recall correctly, the one
6 that says they don't know of any circumstances where
7 they could give the death penalty. Is that what you

8 ---

9 A. Right.

10 Q. Do you feel like that you are against the death
11 penalty?

12 A. Yes.

13 Q. And no matter what the facts and circumstances are
14 in a case, you do not feel like that you could ever
15 vote to sentence someone to death?

16 A. Right.

17 THE COURT: Any questions?

18 EXAMINATION

19 BY MR. MURDAUGH:

20 Q. Mr. Rhodan, how are you doing?

21 A. Pretty good.

22 Q. I'm Randolph Murdaugh. I am the Solicitor. And
23 with that title comes the duty of prosecuting down
24 here.

25 A. Right.

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

1 Q. I need to ask you do you know Richard Rivers or
2 Kenneth Williams?

3 A. No.

4 MR. MURDAUGH: I have no questions at this time,
5 if Your Honor please.

6 THE COURT: Mr. Kulp?

7 MR. KULP: No questions. Thank you, Your
8 Honor.

9 THE COURT: Sir, since you are a type two
10 juror, I must excuse you from this case. Thank you
11 very much for coming.

12 POTENTIAL JUROR: Thank you.

13 (TESTIMONY OF JEFF RHODAN CONCLUDED)

14 THE COURT: Maureen Byrnes.

15 CLERK: Judge, she knows one of the
16 witnesses.

17 THE COURT: She knew one of the witnesses and
18 I'll ask her about that. I've got that note.

19 (POTENTIAL JUROR TAKES STAND)

20 MAUREEN BYRNES, being
21 duly sworn to tell the truth, the whole truth and
22 nothing but the truth, was examined and testified, as
23 follows:

24 EXAMINATION

25 BY THE COURT:

1 Q. Come around, please, and have a seat right here.

2 A. (Complies)

3 Q. How are you, Ms. Byrnes?

4 A. Fine, thank you.

5 Q. Would you have a seat and speak right into that
6 microphone? I remind you, Ms. Byrnes, that you are
7 still under oath. First off, when were qualifying the
8 jury in some preliminary matters on Monday, you stated
9 -- you stood up and said that you knew one or more of
10 the witnesses. Do you recall who that is?

11 A. Yes. That's Curt Copeland, the coroner.

12 Q. Curt Copeland, the coroner. Okay. The fact that
13 Mr. Copeland may be a witness in this case, would that
14 have any influence or impact upon you if you are
15 selected to serve as a juror in this case?

16 A. No.

17 Q. Had you ever heard anything about this case before
18 Monday?

19 A. No, I do not.

20 Q. Have you heard anything or read through the media
21 or has anybody asked you anything about this case since
22 Monday?

23 A. No.

24 Q. Have you talked to anyone about the case?

25 A. No, I have not.

1 Q. Did you read this pretrial questionnaire?

2 A. I did.

3 Q. Did you understand it?

4 A. Yes, sir.

5 Q. Do you know what sort of juror you would be, a
6 type one, type two or type three?

7 A. Type two.

8 Q. And that, if I recall correctly, is the type of
9 person who is opposed to the death penalty in every
10 case?

11 A. That is correct.

12 Q. Do you feel like that there is no instance where
13 you would consider voting for the death penalty?

14 A. That is correct.

15 THE COURT: Solicitor?

16 EXAMINATION

17 BY MR. MURDAUGH:

18 Q. How are you doing?

19 A. Fine.

20 Q. I'm Randolph Murdaugh. I am the Solicitor down
21 here. And with that title comes the duty of
22 prosecution. I need to ask you one question. Do you
23 know Richard Rivers or Kenneth Williams?

24 A. No.

25 MR. MURDAUGH: Thank you, ma'am.

1 THE COURT: Mr. Kulp?

2 MR. KULP: No questions, Your Honor.

3 THE COURT: Ms. Byrnes, I must excuse you since
4 you could not consider the death penalty. So you are
5 excused.

6 POTENTIAL JUROR: Thank you.

7 (TESTIMONY OF MAUREEN BYRNES CONCLUDED)

8 THE COURT: Janet Belle-Isle, Juror No. 18.

9 (POTENTIAL JUROR TAKES STAND)

10 JANET BELLE-ISLE, being
11 duly sworn to tell the truth, the whole truth and
12 nothing but the truth, was examined and testified, as
13 follows:

14 EXAMINATION

15 BY THE COURT:

16 Q. Come around, please, and have a seat.

17 A. (Complies)

18 Q. How are you doing?

19 A. Fine.

20 Q. You pronounce your name Belle-Isle?

21 A. That's it, Belle-Isle.

22 Q. Ms. Belle-Isle, I remind you that you are still
23 under oath. I've got some questions to ask. Had you
24 ever heard about this case before Monday?

25 A. No.

1 Q. How about since Monday? Have you heard anything
2 about the case or read anything in the newspapers or
3 has anybody mentioned it to you?

4 A. No.

5 Q. Have you talked to anyone about the case?

6 A. No.

7 Q. Did you read the pretrial questionnaire?

8 A. Yes.

9 Q. Did you understand it?

10 A. Yes.

11 Q. Do you have an opinion as to what sort of juror
12 that you are?

13 A. I'm the third.

14 Q. The third. And that is a person who feels that
15 there is some instances of murder, where a person is
16 convicted of murder, where they feel like the death
17 penalty is appropriate. And that juror would vote for
18 the death penalty. And, likewise, there's some murders
19 that the juror feels like that the death penalty would
20 not be called for. And in those, the juror would vote
21 against it and for life imprisonment. And the juror
22 would consider all the facts and circumstances and the
23 law and so forth to make a decision.

24 A. That's right.

25 Q. Is that your view?

1 A. Yes.

2 Q. There are two witnesses who you were not asked
3 about, Kenneth Williams and Richard Rivers. Do you
4 know either one of these people?

5 A. No, sir.

6 THE COURT: Solicitor Murdaugh?

7 EXAMINATION

8 BY MR. MURDAUGH:

9 Q. How are you doing, Ms. Belle-Isle?

10 A. Fine.

11 Q. I'm Randolph Murdaugh. I am the Solicitor for
12 this Judicial Circuit of which Beaufort is a part.
13 With that duty -- that title -- carries the duty of
14 prosecution. I need to ask you a few questions, quite
15 frankly, to find out if we want you to sit on the jury
16 or not.

17 A. Fine.

18 Q. You work with the *Carolina Morning News*.

19 A. That's right.

20 Q. And have worked with them for what length of time?

21 A. Right about three years.

22 Q. And in what capacity?

23 A. Advertising.

24 Q. You don't review everything that's in the paper?

25 A. No, I look for ads.

1 Q. And you have read nothing about this case?

2 A. No, I haven't.

3 Q. Where did you -- you live where?

4 A. I live in Bluffton.

5 Q. Whereabouts in Bluffton?

6 A. Westbury Park.

7 Q. When I was a little boy Bluffton was a whole lot
8 littler than it is now. So I have trouble keeping up
9 with everything. When I was a little boy Bluffton may
10 not have even been in existence. I listened to the
11 answers that you gave the Judge. And I want to expand
12 on that just a moment.

13 As His Honor told you, this is a two-part trial.
14 It is different than any other trial that they have in
15 South Carolina. Generally, the Judge does the
16 sentencing. The jury finds guilty or innocence. But
17 in this case it's different. It's a two-part trial.
18 The first part of the deals with the guilt or
19 innocence, just like every other trial does, of the
20 defendant. If the jury determines that he's guilty,
21 you then proceed to the second part of the trial.

22 The second part, we call it, for lack of a better
23 phrase, the penalty phase. And in that phase of the
24 trial the jury must do the sentencing. Not the Judge,
25 but the jury. In that part of the trial you will

1 consider everything that you've heard and any new stuff
2 that may be put up, reasons to give the death penalty,
3 reasons not to give the death penalty, aggravating
4 circumstances and mitigating circumstances. You'll
5 have testimony about the character of the defendant,
6 the circumstances of the crime.

7 Do I understand you to tell the Judge that if you
8 sat on this jury you would listen to everything that
9 came out from that witness stand, from physical
10 evidence that's introduced along with the instructions
11 that the judge gives you regarding the law. And that
12 you would listen to and consider those things before
13 making a decision?

14 A. Yes, I would.

15 Q. If, after having listened to everything, and if
16 you thought that the case was appropriate for the death
17 penalty, could you vote for the death penalty?

18 A. If I thought it was appropriate, yes.

19 Q. Conversely, if you thought it was appropriate for
20 life imprisonment, you could vote for life
21 imprisonment?

22 A. Yes.

23 Q. One of the things that would have to occur if you
24 sat on the jury, if you'all found him guilty and if you
25 thought that it was an appropriate case for the death

1 penalty -- you've got three ifs in there now.

2 A. Yes.

3 Q. And you'all have sat back there and you'all have
4 considered it. And you'all have said, "Yes, this is a
5 case that is appropriate for the death penalty." You
6 would have to sign a sheet of paper. And this isn't
7 the paper, by any means. It's just something sitting
8 up here in front of me. You would have to sign a piece
9 of paper. It would have twelve lines on it. And up at
10 the top it would have words to this effect -- may not
11 be verbatim -- "We, the undersigned jury, recommend
12 that the defendant suffer the death penalty." And
13 while it says "recommendation", it isn't a
14 recommendation. What you'all decide will be it. You
15 understand that?

16 A. I do.

17 Q. It would be incumbent upon each and every one of
18 the jurors to sign their name to that sheet of paper
19 and it would be on public record for *ad infinitum*.
20 Would you have a problem, if you thought it was an
21 appropriate case for the death penalty, with signing
22 your name to it?

23 A. No, sir.

24 Q. You said you've been back in Beaufort County for
25 -- not back in -- in Beaufort County for four years?

1 A. About three years.

2 Q. Three years. Where did you grow up?

3 A. I grew up in Cincinnati, Ohio as a child.
4 And then I lived in Atlanta most of my life.

5 Q. Did I notice something about you'd lived in
6 Columbus, Georgia?

7 A. Born in Columbus, Georgia.

8 Q. Born in Columbus. That's where the Houston Clinic
9 is, I believe.

10 A. I don't know. I haven't been there.

11 Q. The orthopaedic clinic? How long has it been --
12 I'm not going to ask you that question. Has it been a
13 good while since you were there?

14 A. Since I was five.

15 Q. I noticed that you are widowed, I believe?

16 A. Yes.

17 Q. Did that happen before you came to Beaufort
18 County?

19 A. Yes.

20 Q. I'm sorry about that. Can I ask you how you
21 happened to come down to this area?

22 A. Well, when my husband died I thought that would be
23 a good time to make a change. I had many good memories
24 in Atlanta. Those are the hardest kind. So I came
25 here to start over.

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

1 Q. Their loss is our gain. Thank you for your
2 answers.

3 JUROR: Thank you.

4 THE COURT: Mr. Kulp?

5 MR. KULP: May it please the Court?

6 EXAMINATION

7 BY MR. KULP:

8 Q. Good morning, Ms. Belle-Isle.

9 A. Morning.

10 Q. We were very briefly and distantly introduced on
11 Monday. But I'm Tim Kulp. And this is Mr. Fleming.
12 We're lawyers, and we represent the accused, Mr.
13 Rogers, that man seated over there. And I just have a
14 couple of questions for you.

15 First off, I saw in your questionnaire something
16 very interesting. And it indicated that you are a
17 pilot?

18 A. Yes.

19 Q. And you have an instrument flight rating?

20 A. Yes.

21 Q. Could you tell me how you got into that?

22 A. It's something I always wanted to do as a child,
23 and went to flight school right out of high school.

24 Got a scholarship through the Civil Air Patrol. That's
25 where I met my husband. And we had a flying business.

1 Q. In Atlanta?

2 A. In Atlanta. Gainesville, Georgia. We were in the
3 Gainesville airport.

4 Q. So you've flown everything from a 150 up to ---

5 A. Up to a Navajo Chieftian. But I don't have a
6 multi-engine rating. Since Bobby died I haven't flown.

7 Q. But you have everything but the multi-engine
8 rating?

9 A. Well, just two things. The private pilot with an
10 instrument rating.

11 Q. I see. Wow. You're with the *Carolina Morning*
12 *News* in advertising sales?

13 A. Sales and office manager for the advertisement
14 side.

15 Q. The Court and the State and we ask, and we have to
16 go by your review of any newspaper articles or whatever
17 pertaining to this case. And you indicated that you
18 haven't read anything.

19 A. Right.

20 Q. And that, as well, that the Judge instructed you
21 to take extra precaution.

22 A. Right.

23 Q. Excellent. One of the questions I'd like to ask
24 you is about your understanding of this kind of
25 different sort of trial. In a sense, we're kind of

1 putting the cart before the horse. I think it's
2 important for us to understand that you know why we're
3 doing this. In fact, when I say "cart before the
4 horse", we're talking about your predisposition or
5 feelings or approaches to the issue of the appropriate
6 punishment hypothetically and kind of speculating in
7 terms of a murder case. And in doing that, there's a
8 reason for that and the Court's inquiry.

9 But you do understand, do you not, that the first
10 part of this approach is just like any other trial in
11 that the State bears the burden of proof as they do in
12 any other case. And that there are certain laws that
13 the Judge will give you and standards by which, under
14 which they have undertaken to prove their case must be
15 measured. And if they fail and the jury would conclude
16 that there wasn't proof beyond a reasonable doubt and
17 their decision was not guilty, that we'd never
18 logically get to a second phase.

19 And, as well, should we get to a second phase, you
20 have indicated that you will be fair and impartial
21 about all the issues. And that you will listen and
22 take into consideration any evidence associated or
23 supporting mitigating circumstances in terms of whether
24 the appropriate punishment at that juncture, should it
25 ever be approached, would be life in prison or the

1 death penalty. Is that correct?

2 A. Yes.

3 Q. And you do have, it seems, and am I correct that
4 you have a full appreciation of the gravity of these
5 matters?

6 A. Yes.

7 Q. Thank you very much.

8 THE COURT: Any discussion needed about the
9 qualifications of this juror?

10 MR. KULP: No, sir, Your Honor.

11 THE COURT: Ms. Belle-Isle, you are qualified.
12 I find that you are qualified to be in the jury pool
13 from which the jury will be selected. We will do that
14 at 9:30 on Friday. Please be here at 9:30. Bring your
15 clothes for three nights' sequestration -- at least
16 three nights, but I think that will be sufficient.

17 Make sure that you do not let yourself become
18 exposed to any media coverage or any conversations
19 regarding it. Obviously, you can talk to your boss or
20 whatever or friends or family or whatever and tell them
21 you are on a case and that you've got to be
22 sequestered. But don't go into any specifics.

23 And, lastly, do not take any steps to read,
24 research or educate yourself or inquire into any
25 matters of criminal law or criminal procedure such as

1 books, magazines, the internet or anything like that.

2 You've been qualified the way you are. And so don't do
3 any studying about your duties as a juror.

4 With that, have a nice day. Have you got any
5 questions?

6 POTENTIAL JUROR: I'm free to go until 9:30
7 on Friday?

8 THE COURT: Exactly.

9 POTENTIAL JUROR: Okay. Thank you.

10 (TESTIMONY OF JANET BELLE-ISLE CONCLUDED)

11 THE COURT: Patricia Williams is the next
12 juror. Do you'all understand what I'm saying?

13 MR. KULP: Yes, sir.

14 THE COURT: Who was the first one that we
15 qualified out of order.

16 MR. MURDAUGH: This is where she goes in.

17 CLERK: So what number would she be?

18 THE COURT: She's 33. She's actually 33.

19 Let's get straight on that. Does everybody agree with
20 that? Is that what you'all's notes show?

21 MR. MURDAUGH: That's what my notes show, but
22 somebody has screwed something up and got somebody
23 else.

24 THE COURT: Come and look at mine and let's see
25 why. Let's take a second and look at this.

1 MR. MURDAUGH: I have got Ms. Belle-Isle down as
2 our 63rd juror that we have interviewed.

3 (OFF RECORD DISCUSSION)

4 THE COURT: Ms. DeMars.

5 (POTENTIAL JUROR TAKES STAND)

6 SHARON DeMARS, being duly
7 sworn to tell the truth, the whole truth and nothing
8 but the truth, was examined and testified, as follows:

9 EXAMINATION

10 BY THE COURT:

11 Q. Come in, Ms. DeMars. Have a seat.

12 A. (Complies)

13 Q. How are you doing?

14 A. Fine, thank you.

15 Q. Would you please speak into the microphone, and
16 I'll remind you that you are still under oath from
17 Monday.

18 A. Yes, sir.

19 Q. A couple of things, had you ever heard anything
20 about this case before Monday?

21 A. No, nothing.

22 Q. How about since Monday? Have you seen any kind of
23 media coverage or has anybody spoken to you about the
24 case?

25 A. No.

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

1 Q. Have you spoken to anyone else about the case?

2 A. No.

3 Q. Did you read the pretrial questionnaire?

4 A. I did.

5 Q. Did you understand it?

6 A. I did.

7 Q. What type juror do you feel like that you are?

8 A. Number three.

9 Q. A three. Okay. If I understand correctly, the
10 number three means that it is someone who feels like
11 that they believe the death penalty is appropriate in
12 some instances of murder and would vote for the death
13 penalty in some instances but not every instance.
14 Because in some cases they feel like that even though a
15 murder has been committed, a life sentence would be
16 more appropriate.

17 A. That's correct.

18 Q. Is that your ---

19 A. That's how I feel.

20 Q. One last thing and I'll let the lawyers ask you
21 questions. Two new witnesses have been -- that were
22 omitted from the initial list, Kenneth Williams and
23 Richard Rivers. Do you know either one of those
24 persons?

25 A. I do not.

1 THE COURT: Solicitor Murdaugh.

2 EXAMINATION

3 BY MR. MURDAUGH:

4 Q. Ms. DeMars, how are you doing?

5 A. Fine.

6 Q. I'm Randolph Murdaugh. I'm the Solicitor for the
7 Fourteenth Circuit, of which Beaufort is one of the
8 counties. With that title comes the duty of
9 prosecuting people.

10 I need to talk to you a little bit to find out,
11 quite frankly, if I want you to sit on the jury or not.

12 A. Okay.

13 Q. And I want you to understand there are no right or
14 wrong answers. It's just both sets of lawyers want to
15 find out a little bit about you.

16 A. Right.

17 Q. I listened to the questions that the Judge asked
18 you, and I need to go into a little bit more detail.
19 This is an unusual case in that in the normal type of
20 criminal case the jury decides guilt or innocence of
21 the defendant, and the judge does the sentencing. The
22 jury has nothing to do with sentencing.

23 This is a different situation where a death
24 penalty is being asked for in a murder case. Because
25 it becomes the jury's duty to do the sentencing. The

1 Judge doesn't do it. The jury does. And I need to
2 tell you a little bit about the way the system operates
3 so I can ask you some questions.

4 A. Okay.

5 Q. As His Honor has alluded to, it is a two-part
6 trial. The first part of the trial will deal only with
7 the guilt or innocence of the defendant. Once that
8 hurdle is overcome -- if you find them not guilty,
9 that's the end of it and everybody goes home. If you
10 find that the defendant is guilty -- and I'm not
11 talking about this case. Please understand. We're
12 talking about just in general.

13 If the defendant is found guilty, you go to the
14 second part of the bifurcated trial. In that part of
15 the trial, we call it the penalty phase. And the
16 reason being is you have to decide the penalty. And
17 when I say "you", I'm talking about the jury.

18 A. Right.

19 Q. In that part of the trial you will have to make a
20 determine as to whether or not there is in existence an
21 aggravating circumstance. Without an aggravating
22 circumstance, again you stop right there. If you find
23 there is in existence an aggravating circumstance, then
24 you have to listen to any new evidence that is
25 presented along with all of the other evidence that

1 you've listened to in the first part of the trial such
2 as the character of the defendant, the circumstances of
3 the crime itself, whether or not there are any
4 mitigating circumstances, that is reasons not to give
5 the death penalty.

6 Do I understand you to say that you would listen
7 to all of those things that came from that witness
8 stand, from physical evidence as introduced along with
9 the law as His Honor will charge you, and consider
10 those things before making your decision?

11 A. I would.

12 Q. And if, after listening to all of those things,
13 you thought that it was an appropriate case for the
14 imposition of the death penalty, you could vote in
15 favor of the death penalty?

16 A. I believe so.

17 Q. Conversely, if you thought it was appropriate for
18 life imprisonment, you could vote for life
19 imprisonment?

20 A. Yes.

21 Q. And I need to ask you another question. You just
22 answered "I guess so".

23 A. Okay.

24 Q. When I asked you if you could vote for the death
25 penalty.

1 A. Yes.

2 Q. I don't want to be aggravating, but I need you to
3 get a little more specific than that for us.

4 A. All right.

5 Q. Could you vote for the death penalty?

6 A. I could.

7 Q. If you had gotten to the point to where you'all
8 had considered all of the evidence, the law that the
9 Judge charged you and voted on it. And if you were on
10 this jury, you, along with the other twelve members
11 says, "Yes, this is a case that is appropriate for the
12 imposition of the death penalty." You'all decide he
13 should get the death penalty. It would then be
14 incumbent upon you and each of the other eleven jurors
15 to sign a sheet of paper. This isn't the paper, by
16 any means. But it would have written up at the top
17 words to this effect, "We, the undersigned jurors,
18 recommend that the defendant suffer the death penalty."
19 There would be twelve lines and each juror would have
20 to sign it. If you thought it was the appropriate
21 case, could you sign your name to that?

22 A. I could.

23 Q. How long have you lived in Beaufort?

24 A. Over one year, just barely over a year.

25 Q. And you came to Beaufort from where?

- 1 A. The Atlanta area.
- 2 Q. From Atlanta?
- 3 A. Uh-huh, (affirmative nod).
- 4 Q. Has your husband retired?
- 5 A. No.
- 6 Q. He is working with who?
- 7 A. He's in manufacturing consulting, Emeritus
- 8 Consulting.
- 9 Q. What does that mean?
- 10 A. He travels every week. He's in a plant right now
- 11 in New Orleans consulting and helping them work out
- 12 problems in their plant.
- 13 Q. I got you. And do you work?
- 14 A. I do not.
- 15 Q. Have you worked?
- 16 A. No.
- 17 Q. You've been a housewife?
- 18 A. Yes.
- 19 Q. As is my wife. Do you have children?
- 20 A. Two grown.
- 21 Q. What are their ages?
- 22 A. 31 and 28.
- 23 Q. Boys or girls?
- 24 A. Boys.
- 25 Q. Where do they live?

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

1 A. One's in Atlanta and one's in Greenville.

2 Q. You weren't originally from Atlanta?

3 A. Originally, Toledo, Ohio.

4 Q. Atlanta is sort of like Beaufort. Ain't nobody
5 born there. I think you very much for you openness and
6 frankness. And I appreciate your answers.

7 A. You're welcome.

8 THE COURT: Mr. Kulp.

9 MR. KULP: If it please the Court.

10 EXAMINATION

11 BY MR. KULP:

12 Q. Ms. DeMars?

13 A. Yes.

14 Q. My name is Tim Kulp. We met briefly across the
15 courtroom when the Judge introduced Mr. Fleming and
16 myself to all the collected group of potential jurors.
17 We represent Mr. Rogers, the accused, and would like to
18 ask you just a few questions to determine if you have
19 an understanding of the obvious.

20 And that is that while we're talking and the Court
21 is speaking with you and we're inquiring about your
22 feelings about punishment, that is something we may
23 never even have to address.

24 A. Right.

25 Q. Meaning, you understand that the first phase that

1 the Judge has talked about of these proceedings would
2 be like any other criminal trial wherein the jury has
3 to determine if the State has met its burden of proof
4 as to the charges that the accused has been accused of.

5 A. Right.

6 Q. And if they fail in that proof, under the law that
7 the Judge gives you and the standards by which you
8 judge the evidence or the lack of evidence, then the
9 verdict might be -- could very well be not guilty. And
10 there is logically no need to move to the issue of
11 punishment.

12 A. Right.

13 Q. And actually, in the course of the proceedings,
14 you understand, do you not, that a juror, both in the
15 first and in the second phase, would be required to
16 listen to all the evidence and to do fairly and
17 impartially and to make a decision based on the law and
18 the evidence and follow the rules of the Court. Do you
19 understand that?

20 A. Right.

21 Q. And have a full appreciation of that?

22 A. I do.

23 Q. And as well, the importance of these matters and
24 the issues that are involved and the severity of the
25 issues?

1 A. Uh-huh, (affirmative nod).

2 Q. And, in fact, is it the case that if you are in a
3 circumstance where murder was proven by the State under
4 their burden of proof, that you could consider
5 mitigating circumstances about the event and the
6 accused. And you could, in fact, arrive at a decision
7 that life in prison would be an appropriate punishment
8 as opposed to the death penalty?

9 A. Yes.

10 Q. Thank you very much.

11 THE COURT: Any questions regarding this juror?

12 MR. MURDAUGH: No, sir.

13 MR. KULP: No, sir, Your Honor.

14 THE COURT: Ms. DeMars, I find that you are
15 qualified to serve as a juror. Therefore, please
16 report back here to this courthouse at 9:30 on Friday.
17 Bring your bag packed for at least three nights. I
18 don't think it will be much more, but it could be. It
19 looks like there are about three nights. You'll be
20 staying at the Hampton Inn which is right across -- I
21 guess it's this way. I'm not sure.

22 Now that you have been selected make sure that you
23 do not talk to anyone about the case or allow anyone to
24 discuss the case with you. Also, make sure that you do
25 not do any reading or research or try to educate

1 yourself about it. You've been qualified the way you
2 are. Don't go on the internet or read any books or
3 anything as to how you serve as a juror on a case.

4 With that, thank you for coming and I hope you
5 have a nice day.

6 POTENTIAL JUROR: Thank you.

7 (TESTIMONY OF SHARON DeMARS CONCLUDED)

8 THE COURT: Dolores Mitchell.

9 (POTENTIAL JUROR TAKES STAND)

10 DOLORES MITCHELL, being
11 duly sworn to tell the truth, the whole truth and
12 nothing but the truth, was examined and testified, as
13 follows:

14 EXAMINATION

15 BY THE COURT:

16 Q. Good morning. How are you, Ms. Mitchell?

17 A. Fine, thank you.

18 Q. Ms. Mitchell, get close to the microphone. There
19 are a couple of questions I need to ask you.

20 A. Okay.

21 Q. First, I remind you that you are still under oath
22 from Monday. And I'll ask you, before Monday had you
23 ever heard anything about this case from media or
24 anybody ever talk to you about the case?

25 A. No, I haven't.

1 Q. Since Monday when we were in the courthouse, have
2 you ever heard anything or seen any media reports,
3 newspapers, TV, radio or anything about the case?

4 A. No, sir.

5 Q. Did you read the pretrial questionnaire?

6 A. Yes.

7 Q. Did you understand it?

8 A. Is that the one in there?

9 Q. In there, yes.

10 A. Yes, I read that.

11 Q. In that it discusses the fact that in cases where
12 the death penalty is being sought, there are three
13 types of jurors.

14 A. Yes.

15 Q. Do you know which type that you are?

16 A. Yes, the third.

17 Q. The third?

18 A. Yes.

19 Q. What I take that to mean is that you feel like you
20 believe the death penalty is an appropriate punishment
21 in some instances of murder. And if you thought it was
22 proper you would vote for the death penalty.

23 A. Yes.

24 Q. And likewise, there are other instances of murder
25 that you feel like the death penalty is not an

1 appropriate punishment. And in those you would not
2 vote for the death penalty, but would vote for life
3 imprisonment?

4 A. Yes.

5 Q. And that you would want to hear the facts and
6 circumstances and the law and everything before you
7 decided what would be a proper punishment?

8 A. Yes, definitely.

9 Q. There are two other witnesses who have been
10 identified that were not on the list, or at least they
11 were left off the list, Kenneth Williams and Richard
12 Rivers. Do you know either one of those persons?

13 A. No, I don't.

14 THE COURT: Solicitor Murdaugh.

15 EXAMINATION

16 BY MR. MURDAUGH:

17 Q. Ms. Mitchell, how are you today?

18 A. Hello.

19 Q. I'm Randolph Murdaugh. I'm the Solicitor. That
20 doesn't mean I sell anything, but I am the prosecutor.

21 A. I know your name.

22 Q. And with that title comes the obligation of
23 prosecuting people. I need to ask you some questions
24 to find out, quite frankly, if I want you to sit on the
25 jury or not.

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

1 A. Okay.

2 Q. No right or wrong answers. But both the defense
3 attorneys and I want to find out a little bit about
4 you.

5 A. Okay.

6 Q. You have lived on Hilton Head now for some 25
7 years, I believe?

8 A. Yes.

9 Q. And where do you live on Hilton Head?

10 A. I live in a villa complex, Palmetto Forest.

11 Q. Where is that?

12 A. It's just past Freeland Drive.

13 Q. Okay. I know where you're talking about.

14 A. Okay.

15 Q. In listening to your answers to the Judge a moment
16 ago I think I understand what you said. But I think I
17 need to give you a little definition of what to expect,
18 to make sure I understand. Unlike any other trial in
19 the State of South Carolina where a murder case is
20 being tried and the death penalty is being asked for,
21 the jury has to do the sentencing. In the normal
22 criminal case the Judge does the sentencing. The jury
23 doesn't have anything to do with the sentence.

24 A. Uh-huh, (affirmative nod).

25 Q. Only with the guilt or innocence. So this becomes

1 a two-part trial. The first part of the trial deals
2 only with the guilt or innocence of the defendant. I'm
3 not talking about this case, understand. This is just
4 in general.

5 A. Uh-huh, (affirmative nod).

6 Q. The jury determines whether or not the defendant
7 is guilty or innocent. If they decide that he is
8 guilty of the crime of murder, you go to the second
9 phase of the two-part or bifurcated trial.

10 In that part, you would listen to reasons why the
11 defendant should be given the death penalty. You will
12 listen to reasons why he should not be given the death
13 penalty but should be given life in prison. It would
14 be incumbent on the State to prove the existence of an
15 aggravating circumstance.

16 If the jury determines that there is an
17 aggravating circumstance then you go to the rest of it
18 and consider the character of the defendant, the
19 circumstances of the crime, mitigating circumstances.
20 Do I understand you to be a juror who, if selected,
21 would consider everything that transpired in this
22 courtroom, listen to all of the evidence that came from
23 that witness stand, any physical evidence as
24 introduced, listen to the instructions that the Judge
25 would give you relating to this case before you made a

1 decision?

2 A. Absolutely right.

3 Q. And after listening to and looking at and
4 considering, would you be able, if you thought it was
5 an appropriate case for the death penalty, to vote for
6 the death penalty?

7 A. Yes.

8 Q. No question in your mind about it?

9 A. No question.

10 Q. Conversely, if you thought it was an appropriate
11 case for life imprisonment, you would vote for life
12 imprisonment.

13 A. Yes.

14 Q. If you were selected for the jury and if you and
15 the other eleven members of the jury decided, "Yes, this
16 is the appropriate case for the death penalty," you'all
17 had gotten to that point.

18 A. Uh-huh, (affirmative nod).

19 Q. It would be incumbent upon you to sign your name
20 to a sheet of paper. That sheet of paper would have
21 twelve lines on it. And up at the top it would say
22 words to this effect, "We, the undersigned jurors,
23 recommend that the defendant suffer the death penalty."
24 If you thought it was an appropriate case, would you
25 have a problem signing it?

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

- 1 A. Not at all.
- 2 Q. Are you now married?
- 3 A. No, I'm divorced.
- 4 Q. Did you come to Hilton Head with your husband?
- 5 A. Yes, I did.
- 6 Q. Does he still live there?
- 7 A. Yes, he does.
- 8 Q. What type of work did he do?
- 9 A. He was an Air Force officer, career.
- 10 Q. And he retired and you'all came here?
- 11 A. We retired at Hilton Head, yes.
- 12 Q. Do you work now?
- 13 A. No.
- 14 Q. And have you worked in the past?
- 15 A. Yes, I worked at a place called Lindal Harbor on
- 16 the Island.
- 17 Q. That's just as you come on the Island?
- 18 A. Yes. I did secretarial work for eight years.
- 19 Q. Prior to that did you work?
- 20 A. No.
- 21 Q. Thank you very much for being so open and frank
- 22 with us. I appreciate it.
- 23 A. Thank you.
- 24 THE COURT: Mr. Kulp?
- 25 MR. KULP: May it please the Court, Your

1 Honor.

2 EXAMINATION

3 BY MR. KULP:

4 Q. Good afternoon, Ms. Mitchell.

5 A. Hello.

6 Q. How are you?

7 A. Just fine.

8 Q. My name's Tim Kulp. And Mr. Fleming and I were
9 introduced to you very quickly on Monday across the
10 room.

11 A. Yes.

12 Q. But we represent Mr. Rogers, the accused in this
13 case, the young man seated there.

14 A. Yes.

15 Q. I just wanted to ask you a few questions. We, as
16 well, appreciate your candid and forthright attitude.
17 And we do appreciate that you have an understanding of
18 the serious nature of these matters and issues.

19 A. Uh-huh, (affirmative nod).

20 Q. How important it is to get this information from
21 you.

22 A. Uh-huh, (affirmative nod).

23 Q. So that we might make our decisions about the
24 selection of the jury. You indicated on your
25 questionnaire that you like to travel.

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

732

1 But it's an important process for us. ~~process~~

2 A. I understand that.

3 Q. And, of course, I'm sure you understand as well
4 that because the first phase of the proceedings, the
5 determination of the issue of not guilty or guilty, has
6 to be or will be encountered and we'll go through that,
7 just like any other criminal case in criminal court.

8 A. Yes.

9 Q. And that as a result, and certainly if the
10 prosecution and if the Solicitor fails to meet that
11 burden of proof under these accusations of these
12 offenses, that it might very well be that the jury's
13 decision that a defendant is not guilty.

14 A. Uh-huh, (affirmative nod).

15 Q. And that the accusations have not been proven and
16 that we'd never, in fact, get into this phase we're
17 discussing as to punishment, and discussing a bit
18 prematurely, considering we haven't done it. You
19 understand that?

20 A. Yes.

21 Q. And that we may never even get to that point.
22 Thank you very much.

23 A. You're welcome.

24 THE COURT: Any questions regarding the
25 qualifications on this juror?

1 MR. MURDAUGH: No, sir.

2 MR. KULP: No, Your Honor.

3 THE COURT: Ms. Mitchell, I find that you are
4 qualified to go into the jury panel from which the jury
5 will be selected. It will be done on Friday at 9:30
6 here at this courthouse in this courtroom. You should
7 please come here and bring enough clothes for at least
8 three nights' stay while you are being sequestered.
9 You will stay at the Hampton Inn, which is right across
10 the marsh here, about two blocks from here.

11 Now that you've been selected, of course, you must
12 continue not to -- make sure you don't read anything or
13 hear anything about the case. Don't allow anybody to
14 discuss the case with you. If anybody should attempt
15 to discuss the case with you please report it to the
16 Court.

17 One last thing. Do not read or do any research or
18 try to educate yourself about any aspect of criminal
19 law or criminal procedure or about this case. Because
20 you have been qualified as you are. So don't read any
21 books or magazines or go on the internet to try to do
22 any research about the case.

23 POTENTIAL JUROR: Does that mean I'm
24 selected for the jury?

25 THE COURT: No, it means that you're in the

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

1 pool from which the panel will be selected. In other
2 words, just those -- we're trying to get about in the
3 law forties qualified. And from that will be the
4 selections. Of course, the jury then will be selected
5 from that.

6 But the reason we're doing it this way, obviously
7 we don't want to get all the jurors here, select the
8 jury and then everybody have to go home and get their
9 clothes for the motel.

10 POTENTIAL JUROR: Uh-huh, (affirmative
11 nod).

12 THE COURT: So we're asking everybody to come
13 prepared to stay. And then those that are not chosen,
14 then they'll go back home and the rest of them will go
15 to work.

16 POTENTIAL JUROR: Okay.

17 THE COURT: See you Friday.

18 POTENTIAL JUROR: Thank you very much.
19 What time was that again?

20 THE COURT: 9:30.

21 POTENTIAL JUROR: 9:30. Thank you very
22 much. It's my first time for a juror.

23 THE COURT: Well, you know, lawyers especially
24 don't like to be there. It's tougher on us than it is
25 anybody else. Have a nice afternoon.

1 (TESTIMONY OF DOLORES MITCHELL CONCLUDED)

2 THE COURT: Geneva Wright.

3 (POTENTIAL JUROR TAKES STAND)

4 GENEVA WRIGHT, being duly
5 sworn to tell the truth, the whole truth and nothing
6 but the truth, was examined and testified, as follows:

7 EXAMINATION

8 BY THE COURT:

9 Q. How are you, Ms. Wright?

10 A. All right, you?

11 Q. Fine. Come around and have a seat.

12 A. (Complies)

13 Q. Ms. Wright, I remind that you are still under oath
14 from Monday.

15 A. Uh-huh, (affirmative nod).

16 Q. And if you would, please speak into the microphone
17 so everybody in the courtroom can hear you comfortably.
18 First off, had you ever heard anything about this case
19 before Monday?

20 A. No, sir.

21 Q. Have you heard anything about it since, either
22 from somebody mentioning it to you or newspapers, TV,
23 radio or anything?

24 A. No, sir.

25 Q. Have you talked to anybody about the case?

1 A. No, sir.

2 Q. Very good. Did you read this pretrial
3 questionnaire?

4 A. Yes, sir.

5 Q. Did you understand it?

6 A. Yes, sir.

7 Q. What kind of juror do you think you are in a case
8 where the State is seeking the death penalty?

9 A. The third one, sir.

10 Q. The third one. And if I understand correctly,
11 that means that you feel that there are some cases
12 where the death penalty is appropriate in a murder
13 case. And on those that you think that it's
14 appropriate, you would vote for the death penalty as a
15 juror. And then there are other cases where somebody
16 has been convicted of murder that you're serving as a
17 juror, you would think the death penalty would not be
18 appropriate. And on those that you would not vote for
19 the death penalty. That you would vote for life
20 imprisonment. Is that a fair statement of what you
21 think?

22 A. Right, after hearing the testimony, sir.

23 Q. You're exactly right, and I'll go into that. In
24 other words, what it means is you would like to hear
25 all the testimony, the facts and circumstances, any

1 matters in aggravation and any matters in mitigation.
2 And based upon everything, the charge on the law, the
3 arguments of the attorneys, and then you would make a
4 decision, after hearing everything, as to what you
5 thought was an appropriate sentence?

6 A. Yes, sir.

7 Q. There are two other witnesses who have been
8 listed, Kenneth Williams and Robert (sic) Rivers. Do
9 you know either one of those gentlemen?

10 A. No, sir.

11 THE COURT: Mr. Knight?

12 EXAMINATION

13 BY MR. KNIGHT:

14 Q. Ms. Wright, I'm Stephen Knight. I'm a Deputy
15 Solicitor here in Beaufort. I've got some questions
16 I'm going to ask you. There are no right answers.
17 There are no wrong answers, okay?

18 You've indicated that you would come under
19 category three.

20 A. Uh-huh, (affirmative nod).

21 Q. Meaning you could vote in some cases for the death
22 penalty and in other cases not vote for it.

23 A. Uh-huh, (affirmative nod).

24 THE COURT: Could you make a verbal response so
25 they can hear it and the court reporter can get it

1 also?

2 POTENTIAL JUROR: Yes, sir.

3 THE COURT: That's good. Thank you.

4 EXAMINATION RESUMED

5 BY MR. KNIGHT:

6 Q. You understand that this is a trial of two phases,
7 the guilt phase in which the jury could find the person
8 not guilty. You understand?

9 A. Yes, sir.

10 Q. And then there's also the second phase if the jury
11 found him guilty in the first phase?

12 A. Yes, sir.

13 Q. Then you'd get to the second phase which is called
14 the penalty phase.

15 A. Yes, sir.

16 Q. You understand that?

17 A. Yes.

18 Q. As a result of getting to the penalty phase the
19 jury would have to find some aggravating circumstances.
20 I like to call them bad things, so to speak, against
21 the person -- not in this case, but in any death
22 penalty case. You understand that?

23 A. Yes, sir.

24 Q. And you would hear testimony about the aggravating
25 circumstances.

1 A. Yes, sir.

2 Q. You would also, in the penalty phase, hear what's
3 called mitigating circumstances.

4 A. Yes, sir.

5 Q. Which we describe as good things.

6 A. Yes, sir.

7 Q. Do you believe that you could sit down and listen
8 at the aggravating circumstances?

9 A. Yes, sir.

10 Q. And the mitigating circumstances?

11 A. Yes, sir.

12 Q. And independently make a decision to vote for or
13 against the death penalty?

14 A. Yes, sir.

15 Q. And if the aggravating circumstances were such
16 that you could, in fact, vote for the death penalty?

17 A. Yes, sir.

18 Q. That's the first part, voting for the death
19 penalty, if the circumstances were such that you could,
20 in fact, vote for it.

21 A. Yes, sir.

22 Q. The second factor is this. There's a list -- and
23 this is not the list. It would have twelve spaces for
24 the jurors to sign. And at the top it would say, "We,
25 the jurors, recommend the death sentence."

1 A. Yes, sir.

2 Q. It's really an order for the Court to issue.
3 After making those findings and your independent
4 analysis of the facts, that you voted for the death
5 penalty, could you sign your name as one of the twelve
6 people that recommended the death sentence?

7 A. That's after hearing everything?

8 Q. Yes, ma'am.

9 A. Yes, sir.

10 Q. You are a teacher?

11 A. Yes, sir.

12 Q. What school do you teach at?

13 A. St. Helena Elementary.

14 Q. And what grade is that?

15 A. Well, that's child care.

16 Q. Child care?

17 A. Uh-huh, (affirmative nod).

18 Q. How long have you been teaching at St. Helena
19 Elementary?

20 A. Two months.

21 Q. You live out in Seabrook?

22 A. Yes, sir.

23 Q. Have you ever lived on St. Helena yourself?

24 A. No, sir.

25 Q. You went to Francis Marion College in Florence?

1 A. Yes, sir.

2 Q. Do you like Florence?

3 A. Yes, sir.

4 MR. KNIGHT: At this time, Your Honor, I think
5 that's all I have.

6 THE COURT: Any questions?

7 MR. KULP: May it please the Court, Your
8 Honor.

9 EXAMINATION

10 BY MR. KULP:

11 Q. Ms. Wright, good afternoon.

12 A. Good afternoon.

13 Q. My name is Tim Kulp and we got introduced briefly
14 on Monday. Along with Mr. Fleming, we represent the
15 accused, Mr. Rogers, seated there. And we appreciate
16 your answers in this important process.

17 You attended and graduated from Francis Marion?

18 A. Yes, sir.

19 Q. As the Solicitor said, in Florence. What did you
20 study at college?

21 A. My major was sociology and my minor was
22 psychology.

23 Q. And you obviously enjoyed your college experience
24 very much.

25 A. Yes, sir.

1 Q. You said you work at St. Helena Elementary School?

2 A. Yes, sir.

3 Q. Just started.

4 A. Yes, sir.

5 Q. Enjoying it?

6 A. Yes, sir.

7 Q. What ages of children are you involved with in the
8 child care?

9 A. Infants and toddlers.

10 Q. I'm sorry?

11 A. Infants and toddlers, two months to two and three
12 months.

13 THE COURT: Infants and toddlers. I couldn't
14 quite hear that.

15 EXAMINATION RESUMED

16 BY MR. KULP:

17 Q. You understand that this is a very serious matter.

18 A. Yes, sir.

19 Q. And it's important, as you have already expressed,
20 to give due consideration, fairly and impartially, to
21 all of the issues.

22 A. Yes, sir.

23 Q. And there's two parts involved. And just like any
24 other trial, which I'm sure you have knowledge of, in a
25 criminal case that the result of that could be that the

1 jury finds Mr. Rogers not guilty or guilty.

2 A. Yes, sir.

3 Q. That although we're talking about the issue of
4 your approach to punishment or sentencing at this
5 point, that means absolutely nothing other than it's
6 part of our process where we need to know that, both
7 the Court and both sides involved.

8 A. Yes, sir.

9 Q. Thank you, ma'am.

10 A. Uh-huh, (affirmative nod).

11 THE COURT: Any further discussion needed of
12 this juror?

13 MR. KNIGHT: Not from the State.

14 MR. KULP: No, sir, Your Honor.

15 THE COURT: Ms. Wright, thank you very much for
16 your answers. I find that you are qualified to serve
17 as a juror. You go in the pool of the jurors along
18 with the other ones. And the jury will actually be
19 selected at 9:30 on Friday right here.

20 If you would, please, be here at that time. Bring
21 enough clothes to last you at least three nights.

22 You'll be put up at the -- sequestered with the other
23 jurors -- at the Hampton Inn which is right across the
24 marsh here, behind Applebee's.

25 Now that you've been selected don't discuss the

1 case with anyone or allow anyone to discuss the case
2 with you, as I've told you many times. Also don't let
3 yourself get exposed to any media coverage. Don't read
4 any newspaper articles, listen to the radio or TV about
5 it. If anybody should try to discuss the case with you
6 please report it to the Court.

7 One last thing, now that you've been selected as a
8 juror, don't do any studying to prepare yourself for
9 this trial such as criminal law or criminal procedure.
10 Don't do any reading or research, either in books or on
11 the internet or anything like that. Because you've
12 been qualified the way you are. And, of course,
13 anything that you need to know about the case will be
14 demonstrated to you in the trial of the case.

15 Any questions?

16 POTENTIAL JUROR: No, sir.

17 THE COURT: Look forward to seeing you on
18 Friday. Have a nice day.

19 POTENTIAL JUROR: You, too.

20 THE COURT: Thank you.

21 (TESTIMONY OF GENEVA WRIGHT CONCLUDED)

22 THE COURT: James Lindsay.

23 (POTENTIAL JUROR TAKES STAND)

24 JAMES LINDSAY, being duly
25 sworn to tell the truth, the whole truth and nothing

1 but the truth, was examined and testified, as follows:

2 EXAMINATION

3 BY THE COURT:

4 Q. How are you, Mr. Lindsay?

5 A. Very good.

6 Q. Mr. Lindsay, speak into the microphone so everyone
7 can hear you. And I remind you that you are still
8 under oath from Monday.

9 A. Yes, sir.

10 Q. A couple of things, had you ever, before Monday,
11 heard anything about this case?

12 A. No, sir.

13 Q. How about since Monday? Have you heard anything
14 or seen any newspaper articles or TV or radio about it?

15 A. No, sir.

16 Q. Have you talked to anybody about the case or
17 anybody tried to talk to you about it?

18 A. No.

19 Q. You read, did you not, this pretrial question-
20 naire?

21 A. Yes, sir.

22 Q. Did you understand that?

23 A. Yes, I did.

24 Q. What type juror do you think you are in a murder
25 case dealing with the death penalty?

1 A. I probably fit the third category, I guess. I
2 feel like the punishment should fit the crime.

3 I would basically weigh the evidence and made a
4 decision based on that. I probably would have a hard
5 time giving the death penalty, but I feel like I could,
6 if warranted, in my opinion.

7 Q. The third type person is one who would listen to
8 all the evidence and would feel that there's some cases
9 which the juror feels -- some cases of murder that
10 would warrant the death penalty and would, if the juror
11 felt that way, would be -- would vote for it and feel
12 that they were doing the proper thing. And by the same
13 token, would recognize that there are some cases -- or
14 feel that there are some cases of murder that the death
15 penalty would not be called for and would not vote
16 automatically for the death penalty. And would vote
17 for life imprisonment in those cases, but would be
18 open, going in, to hear what the facts and circum-
19 stances of any case, the law and all the other things
20 that happen in a trial. And would make a decision
21 after everything transpires as to what they thought
22 was a proper verdict in a particular case.

23 A. Yes, sir.

24 Q. Is that a fair statement of the way you feel?

25 A. That's the way I feel.

1 Q. There are two witnesses that we didn't ask you on
2 Monday, Kenneth Williams and Richard Rivers. Do you
3 know either one of those persons?

4 A. No, sir.

5 THE COURT: Mr. Knight?

6 EXAMINATION

7 BY MR. KNIGHT:

8 Q. Mr. Lindsay, I'm Steve Knight. I'm the Deputy
9 Solicitor and I've got some questions to ask you and
10 basically determine whether or not you are qualified to
11 be on this jury, whether or not both the defense and
12 ourselves want you to be on the jury.

13 A. Okay.

14 Q. In response to a question that Judge Gregory asked
15 you about giving the death penalty -- if I misstate
16 what you said, please correct me, because I'm hard of
17 hearing at times. The question was could you give the
18 death penalty. And your answer was, "I would have a
19 hard time giving the death penalty." Is that an
20 adequate description of what you earlier said?

21 A. I think it is.

22 Q. Could you get closer to that microphone?

23 A. Yes, sir.

24 Q. You would have a hard time giving the death
25 penalty?

1 A. I said I would have to think about it hard and
2 study the facts in the case. It would not be an easy
3 decision for me to make, is what I'm trying to say.

4 Q. I understand. Okay. So there's two phases of the
5 trial. The first phase is to determine whether or not
6 the defendant's guilty. If he's not guilty, we'll all
7 go home.

8 If he's found guilty, together with a finding of
9 aggravating circumstances -- aggravating circumstances
10 are bad things, so to speak, make the defendant look
11 bad. And then we have also in the second phase the
12 mitigating factors, things that make him look better,
13 just for the sake of describing it to you.

14 Could you, independently, think about the
15 aggravating circumstances and the mitigating circum-
16 stances -- independently could you vote for the death
17 penalty at that point?

18 A. I think so.

19 Q. Think so? Would it be based upon the
20 mitigating or the aggravating circumstances or a
21 combination? Are you going to look at the whole
22 picture, is my question?

23 A. Yes, sir.

24 Q. And if the aggravating circumstances outweigh the
25 mitigating circumstances, am I to conclude that you

1 would vote in favor for the death penalty?

2 A. Yes, sir.

3 Q. That would be your independent thought process and
4 your independent vote?

5 A. Yes, sir.

6 Q. At the conclusion of that vote, if the jury has
7 said to recommend the death penalty, you'd be asked to
8 sign and be required to sign a form, the top of which
9 indicated that the jury recommends the death penalty.
10 The recommendation, the truth of the matter, is an
11 order for the death penalty. You, as one of the twelve
12 jurors, would be requested and have to sign that form.
13 Could you, after voting for the death penalty, sign the
14 form recommending to the court that a person receive
15 the death penalty?

16 A. Yes.

17 Q. No question in your mind?

18 A. There's a little, but I feel like I could.

19 MR. KNIGHT: Thank you, sir.

20 THE COURT: Mr. Kulp.

21 POTENTIAL JUROR: (Stands)

22 THE COURT: Sir, you're not through yet. It's
23 not going to be that easy.

24 EXAMINATION.

25 BY MR. KULP:

1 Q. My name's Tim Kulp. We met quickly the other day.
2 And this is Mr. Fleming. He was also quickly
3 introduced to you. We represent the accused, Mr.
4 Rogers. And I just want to ask you a few questions and
5 I appreciate your candor.

6 I think you indicated in your questionnaire that
7 you are friends with Sheriff Tanner.

8 A. Yes, sir.

9 Q. Is that just an occasional social ---

10 A. Family friends. His mother took our wedding
11 pictures. We've always been friends with the family
12 for years.

13 Q. When's the last time that you had occasion to see
14 or talk to him or any member of his family?

15 A. It's probably been a month or so, for myself. My
16 wife has been over there more recently.

17 Q. And how long have you'all known the Tanner family?

18 A. Fifteen years.

19 Q. Are you also acquainted with Agent Butch Polk of
20 the State Law Enforcement Division? Do you know him?

21 A. No, sir.

22 Q. As a result of your relationship -- your family's
23 relationship with the Tanner family, would that affect
24 your ability to sit here and weigh the evidence fairly
25 and impartially in this case in any way?

1 A. It would not affect it.

2 Q. Where are you from originally?

3 A. Jacksonville, Florida.

4 Q. And you've been here in the Beaufort area about
5 how long?

6 A. About six years.

7 Q. And I think your questionnaire said that -- you're
8 employed where?

9 A. With Professional Turf Maintenance, a regional
10 golf course maintenance company.

11 Q. And how long have you been going that?

12 A. I've been in the golf course business for twenty-
13 five years, but in this position for six.

14 Q. I see. It seems -- am I correct in assuming that
15 by the virtue of your answers about the issue of the
16 death penalty, that you certainly consider the
17 seriousness of the issue and the importance to consider
18 all the aspects?

19 A. Yes, sir.

20 Q. Then again, you well know, as the Judge told you,
21 we have a two-part process. And that, of course, if
22 the jury's decision was that the burden of proof that
23 the State bears had not been met and their decision was
24 not guilty, that we'd never get to, logically, the
25 penalty?

1 A. Yes, sir.

2 MR. KULP: Thank you very much.

3 JUROR: Yes, sir.

4 THE COURT: Are there any questions relating to
5 Mr. Lindsay's qualifications?

6 MR. KNIGHT: None.

7 MR. KULP: No, sir, Your Honor.

8 THE COURT: Mr. Lindsay, I find that you are
9 qualified as a juror in this case. You will go into
10 the pool from which the jury is to be selected. That
11 will be done at 9:30 on Friday morning right here.
12 Please be here at that time. Bring clothes for three
13 nights' lodging or at least three nights' lodging. I
14 think that will take care of it. Because you will be
15 sequestered. You'll be staying in the Hampton Inn
16 which is just right across the marsh here.

17 Now that you've been selected, continue as you
18 have. Don't talk to anybody about the case. Don't
19 allow anybody to talk to you about it. If anyone
20 should contact you about the case please report it to
21 the Court.

22 One other things -- and, of course, as I said,
23 don't read any newspapers or listen to the radio or
24 TV concerning the case. Because it's basic and
25 fundamental that the case be decided from the witnesses

1 sworn to here in Court.

2 And do not do any reading or research by books,
3 internet or magazines or whatever to try to educate
4 yourself about criminal law or criminal procedure. You
5 have been qualified the way you are, and you shouldn't
6 go outside that and do anything else. Just show up and
7 everything that you need to know will be testified to
8 and explained to you by the lawyers.

9 With that, I hope you have a nice afternoon and
10 we'll see you on Friday morning at 9:30.

11 JUROR: 9:30. Thank you.

12 (TESTIMONY OF JAMES LINDSAY CONCLUDED)

13 THE COURT: Susan Olsen.

14 (POTENTIAL JUROR TAKES STAND)

15 SUSAN OLSEN, being duly
16 sworn to tell the truth, the whole truth and nothing
17 but the truth, testified as follows:

18 EXAMINATION

19 BY THE COURT:

20 Q. Come right around, Ms. Olsen.

21 A. (Complies)

22 Q. Please speak into the microphone. I remind you,
23 Ms. Olsen, that you are still under oath. First off,
24 had you ever heard anything about this case before
25 Monday?

1 A. No, sir.

2 Q. How about since Monday? Have you seen anything in
3 the newspapers, on TV or radio or has anyone mentioned
4 this case to you?

5 A. No, sir.

6 Q. Have you talked to anyone about the case?

7 A. No.

8 Q. Did you read this pretrial questionnaire that's in
9 the jury room?

10 A. Yes.

11 Q. Did you understand it?

12 A. I believe so.

13 Q. Do you know which type juror that you are?

14 A. I think I'm juror number two.

15 Q. Number two? Number two being the person who is
16 against the death penalty?

17 A. No.

18 Q. Tell me what you are.

19 A. I do believe in it.

20 Q. You do believe in the death penalty/

21 A. Right.

22 Q. Let me explain to you since there's a little
23 confusion. I don't want to suggest anything.

24 The way it is on the paper is number one is a
25 person who feels a person who's convicted of murder

1 should always get the death penalty.

2 Number two feels like that they're against the
3 death penalty and could never vote for the death
4 penalty. And number three is a person who feels like
5 in some circumstances they would vote for the death
6 penalty because they think it's appropriate, but not
7 always. Because in some cases they feel that even
8 though a person is convicted of murder, they do not
9 believe that the person should be executed.

10 And those persons would consider all the facts and
11 the law and the circumstances of the case. And then
12 after hearing everything would decide what should be
13 done in that particular case.

14 So which one are you?

15 A. I'm number one.

16 Q. Number one. You favor the death penalty in every
17 case that a person is convicted of murder?

18 A. I believe so.

19 Q. Without regard to how it occurred or what
20 happened. Just that you think the person should get
21 the death penalty?

22 A. I think if they take a life, their life should be
23 taken.

24 THE COURT: Any questions?

25 EXAMINATION

1 BY MR. MURDAUGH:

2 Q. Ms. Olsen, how are you?

3 A. Fine.

4 Q. I'm Randolph Murdaugh. I'm the Solicitor down
5 here which carries with it the duty of prosecuting.
6 I need to ask you if you know two people who may be
7 possible witnesses, Richard River and Kenneth Williams?

8 A. No, sir.

9 MR. MURDAUGH: Thank you, ma'am.

10 THE COURT: Any questions?

11 MR. KULP: No, sir, Your Honor.

12 THE COURT: Ms. Olsen, I'm going to excuse you
13 from the trial of this case. That will conclude your
14 jury service. Thank you very much.

15 (TESTIMONY OF SUSAN OLSEN CONCLUDED)

16 THE COURT: John Stanton.

17 (POTENTIAL JUROR TAKES STAND)

18 JOHN STANTON, being duly sworn
19 to tell the truth, the whole truth and nothing but the
20 truth, testified as follows:

21 EXAMINATION

22 BY THE COURT:

23 Q. How are you, sir?

24 A. Good afternoon.

25 Q. Mr. Stanton, please speak into the microphone.

1 First, I remind you that you are still under oath from
2 Monday. Had you ever heard anything about this case
3 before Monday?

4 A. No, I had not.

5 Q. How about since Monday? Have you heard anything,
6 either through the media, radio, TV, newspapers or has
7 anyone mentioned anything about it to you?

8 A. I saw a headline in the paper yesterday that the
9 jury selection had started for the trial. That's all.

10 Q. And which paper was that?

11 A. The *Island Packet*.

12 Q. Did you read the article?

13 A. I did not.

14 Q. Anything else that you've heard or seen anything
15 about it?

16 A. No, sir.

17 Q. Did what you read, that headline that you read,
18 would that have any influence or impact upon you if you
19 are selected as a juror?

20 A. No.

21 Q. Did you read the pretrial questionnaire?

22 A. I did.

23 Q. Did you understand it?

24 A. Yes, sir.

25 Q. What type of juror do you think you are in a case

1 where the death penalty is being sought for murder?

2 A. I'd have to say probably a kind of a cross between
3 a one and a three.

4 Q. Juror number one feels like that they don't need
5 to know the facts and circumstances of any case. That
6 they're going to vote, if a person's convicted of
7 murder -- they think they ought to be executed, period.

8 And a three, if I recall it, is a person who feels
9 like that some people who are convicted of murder,
10 because of the circumstances or whatever, that the
11 death penalty would be appropriate. And they would
12 vote for the death penalty in those cases. Whereas in
13 other murder cases, they feel like the death penalty
14 does not fit the circumstances and would not vote for
15 it and would opt for life imprisonment. And that those
16 jurors would listen to all the facts and circumstances
17 of the case, the law, the testimony and the arguments
18 of the attorneys and everything throughout the trial
19 and then would decide at the end what they thought was
20 appropriate.

21 Is that your understanding of the two categories?

22 And, of course, number two which we haven't talked
23 about is against the death penalty altogether, but
24 doesn't apply to you.

25 A. Right.

1 Q. So tell me how you feel like you're a cross
2 between those two.

3 A. Well, I feel that if it's a crime that's been
4 committed that warrants the death penalty, the death
5 penalty should be administered. And if there is a
6 crime that's been committed that has some circumstances
7 which might warrant rethinking the death penalty and
8 those can be considered.

9 Q. Under our statute it states certain things which
10 are called aggravating circumstances. And there must
11 be aggravating circumstances that the jury must find
12 before they can give the death penalty.

13 The law also provides for mitigation, matters in
14 mitigation. Those things are for the jury's
15 consideration to decide whether the person should be
16 given the death penalty or maybe spared the death
17 penalty and given a life sentence. Would you consider
18 those mitigating circumstances also?

19 A. Yes, I think so.

20 Q. And if you found mitigating circumstances that
21 were, to your satisfaction, sufficient -- let me put it
22 this way. Can you think of a situation where there
23 would be mitigating circumstances that would convince
24 you that the death penalty was not appropriate and that
25 life imprisonment was -- that you would vote for life

1 imprisonment?

2 A. Yes, I think I could consider something like that.

3 Q. There are two witnesses who were not -- that you
4 were not asked about on Monday who may testify, Kenneth
5 Williams and Richard Rivers. Do you know anybody by
6 the name of Kenneth Williams or Richard Rivers?

7 A. No, sir.

8 THE COURT: Solicitor Murdaugh.

9 EXAMINATION

10 BY MR. MURDAUGH:

11 Q. Mr. Stanton, how are you doing?

12 A. Good morning. Good afternoon.

13 Q. I'm Randolph Murdaugh. I'm the Solicitor for this
14 Circuit of which Beaufort is one of the counties. And
15 with that title comes the duty of prosecution. And I
16 need to ask you some questions to find out, quite
17 frankly, if I want you to sit on the jury or not.
18 There are no right answers, no wrong answers. But both
19 I and the defense lawyers want to find out some stuff
20 about you, as I said, to see if we want you to sit on
21 this jury.

22 I listened to the answers that you gave to the
23 Judge. And I think I understand what you're saying.
24 But in order to ask you a few questions I need to lay a
25 little groundwork.

1 Unlike any other criminal case in the State of
2 South Carolina, the jury does the sentencing in this
3 type case where a murder has taken place and the death
4 penalty is being asked for. Normally, the Judge does
5 the sentencing. The jury determines guilt or
6 innocence. Do you follow me, sir?

7 A. Yes.

8 Q. In this case, because of the way it's structured,
9 it becomes a two-part trial. The first part of the
10 trial deals solely and only with the guilt or innocence
11 of the defendant. If the jury determines that the
12 defendant is guilty, you will then proceed to the
13 second part of the bifurcated or two-part trial. And
14 in that the jury has to make a determination of one of
15 two sentences, death penalty, life imprisonment.

16 The State is required to prove the existence of a
17 thing called aggravating circumstances. His Honor will
18 explain to you what the law is later in this trial, and
19 he will explain to you what an aggravating circumstance
20 is and what degree of proof that it has to be proved
21 by.

22 But if the jury finds the aggravating circum-
23 stances, they are then required to go to the second
24 part and consider evidence that has been present as
25 to the character of the defendant, the circumstances

1 of the crime itself and any mitigating circumstances.
2 Mitigating circumstances being circumstances not to
3 give the death penalty.

4 If you were on a jury -- and I'm not talking about
5 this case. I'm talking about any jury with the death
6 penalty. Would you, before making a decision as to
7 which penalty to give -- you've already found him
8 guilty now of murder. So we are at the penalty phase.
9 Would you, before you made a decision as to what type
10 of sentence the defendant should receive, would you
11 have listened to and considered aggravating
12 circumstances and mitigating circumstances before
13 making a decision?

14 A. I would.

15 Q. Depending on what you thought about the crime and
16 the way you felt and what you had heard and what you
17 had considered, if you thought it was an appropriate
18 case for the death penalty, would you have a problem
19 voting for the death penalty?

20 A. I would not.

21 Q. Conversely, if you did not think it was an
22 appropriate case for the death penalty would you vote
23 for life imprisonment?

24 A. I would.

25 Q. I gather from listening to what you've told the

1 Judge and what you've told me that you would be fair
2 and impartial and consider everything that came out in
3 this courtroom and give it consideration. But you
4 would have a strong leaning towards the death penalty?
5 Is that a fair assessment, or no?

6 A. I wouldn't characterize it as "strong", but I
7 might have a leaning towards the death penalty in a
8 trial of this nature, yes.

9 Q. One of the things that would happen if you're
10 sitting on a jury, and if you come to a conclusion --
11 you, along with the other elevenmembers of the jury --
12 that this is an appropriate case for the death penalty.
13 We think this man ought to suffer the death penalty.
14 And no question. Everybody has voted on that and
15 decided it. It would be incumbent upon you along with
16 the other elevenmembers of the jury to sign a sheet of
17 paper. Up at the top it would have words to this
18 effect, "We, the undersigned jurors, recommend that the
19 defendant suffer the death penalty." Twelve lines down
20 here. Each juror would have to sign that sheet if he
21 thought it was an appropriate case for the death
22 penalty. Would you have a problem signing it?

23 Q. No. If it were appropriate, I would not.

24 A. You've decided. That's what I'm telling you.
25 You'all have decided this is an appropriate case.

1 You'all have already made that decision. But then it
2 becomes mandatory that you sign this piece of paper.
3 The signing would give you no problem once you came
4 to that decision?

5 A. Yes, no problem.

6 Q. You're in the construction business on Hilton
7 Head?

8 A. That's correct.

9 Q. Where do you live on Hilton Head, sir?

10 A. I live in Hilton Head Plantation,
11 Drive.

12 Q. Okay. What's the name of your company?

13 A. Stanton Construction Services.

14 Q. And you do residential or commercial?

15 A. Mostly residential repairs and remodeling.

16 Q. How long have you lived on Hilton Head?

17 A. Twenty-three years.

18 Q. You're a long timer down there. Where did you
19 come from?

20 A. I came to Hilton Head from central Florida. I
21 grew up in the Hudson Valley region of New York State.

22 Q. This ain't got a thing to do with this trial. How
23 come you happened to come to Hilton Head?

24 A. A good friend of mine from college was working
25 here and living here at the time. And I just went up

1 there to spend a week with him and never left.

2 Q. Florida's loss, our gain. Glad to have you here,
3 sir. Thank you, sir. I appreciate your openness and
4 your candor with me.

5 A. You're welcome.

6 MR. KULP: May it please the Court?

7 THE COURT: Mr. Kulp.

8 EXAMINATION

9 BY MR. KULP:

10 Q. Mr. Stanton, good afternoon.

11 A. Good afternoon.

12 Q. My name is Tim Kulp. We were introduced briefly
13 on Monday with the entire group. Mr. Fleming and I
14 represent the accused, Mr. Rogers, in this case. I
15 certainly appreciate your response and participation in
16 this process.

17 And the first thing I want to tell you is that
18 this is very -- and I'm sure you appreciate this --
19 very, very important, this process of asking you these
20 questions and making these determinations.

21 And now, today, right here is the time to resolve
22 this. And when I say "resolve this" -- and I
23 appreciate you bearing with these questions. But
24 because of the gravity of things, I need to address
25 this. You indicated that, yes, you thought you could

1 consider mitigating circumstances. And you also
2 indicated to the Solicitor, or in response to his
3 questions, that you certainly favored the death
4 penalty.

5 And what has to be determined is if your expressed
6 feelings about the appropriateness of the death penalty
7 in a crime it fits, in effect, would impair your
8 ability -- those strong feelings would impair your
9 ability to give due consideration to another -- well,
10 the only other potential verdict in that stage of the
11 trial, that being life imprisonment. And it's
12 important for me to ask you and push you to response.

13 Do you think you could do that? If it's the case
14 that that would impair -- those feeling you have about
15 murder and the appropriate punishment for murder, now's
16 the time, here today. If you think that would impair -
17 - naturally, we're all human -- that that would impair
18 your ability -- those feelings about the death penalty.
19 I ask you now if that is such that -- it's so strong
20 that it would impair your ability?

21 A. In my understanding, you're asking if it would
22 impair my ability to consider mitigating circumstances
23 or my ability to reach a sentence of life imprisonment?

24 Q. Both.

25 A. I don't feel that strongly that it would impair my

1 ability to consider either the life imprisonment or
2 mitigating circumstances.

3 Q. There's certainly a reason why you say that you
4 might have a tendency to lean toward the death penalty.
5 I mean, there's a reason for saying that.

6 A. Yes. I just feel that if someone has taken
7 someone's life ---

8 Q. Yes, sir.

9 A. --- that a just punishment would be for them to
10 lose theirs. I feel that is appropriate.

11 Q. And certainly that -- I appreciate that. That's
12 the basis for your statement. In other words, if you
13 think someone -- it's been proven that someone took
14 someone's life, then it be a fair and appropriate
15 punishment for their life to be taken as well?

16 A. That's my feeling, yes.

17 Q. You know that no one has mentioned that this is
18 not a manslaughter case. I mean, the Judge has
19 indicated and you heard on Monday, this is a murder
20 case. And if, in fact, it was the decision of the jury
21 at the conclusion of the first phase, the determination
22 of guilt or innocence, that the defendant was guilty.

23 That's over.

24 From that point on, that same jury, if you were a
25 member, would be faced with the consideration of the

1 appropriate punishment. And it would be, at that
2 point, a determination that murder had occurred.

3 And if it's the position -- your feelings and your
4 opinion -- that if someone killed someone, at that
5 point the jury would have decided that that happened.
6 And it seems to me -- and that's what I mean about
7 "now's the time" -- that it seems to me -- and please
8 correct me if I'm wrong -- that if the jury made that
9 determination that under circumstances of murder, that
10 the person that was convicted had taken one or more
11 people's lives, that the appropriate punishment would
12 then be taking the life of that person. Is that
13 correct?

14 A. That is correct, yes.

15 MR. KULP: Thank you.

16 THE COURT: Any discussion required about this
17 juror?

18 MR. KULP: Potentially, yes, sir.

19 MR. MURDAUGH: I have some more questions.

20 THE COURT: Okay.

21 MR. MURDAUGH: Mr. Stanton, I've become a little
22 bit confused. I asked you the question earlier if you
23 would consider everything that came out in the
24 courtroom, both mitigating and aggravating
25 circumstances, reasons why he should get the death

1 penalty, reasons why he should not get the death
2 penalty. And you told me, yes, you would listen to
3 them and you would consider them before making a
4 decision.

5 JUROR: I did.

6 MR. MURDAUGH: Is that still your answer?

7 JUROR: It is.

8 MR. MURDAUGH: Mr. Kulp asked you the question a
9 minute ago that every time a person is convicted of
10 murder, he would get the death penalty. Was your
11 answer to that "yes"?

12 JUROR: I understood his question to be
13 that if a person was found guilty of murder, is the
14 death penalty an appropriate punishment. And my answer
15 to that is "yes".

16 MR. MURDAUGH: An appropriate?

17 JUROR: That is correct.

18 MR. MURDAUGH: But not one you'd give every time?

19 JUROR: I'd have to know the circumstances
20 for or against.

21 MR. MURDAUGH: Thank you, sir.

22 THE COURT: If you would, please, Mr. Stanton,
23 if you'll just go out back and stay there for a moment
24 while we take up a matter outside your presence.

25 (POTENTIAL JUROR EXITS COURTROOM)

1 MR. KULP: May it please the Court, Your
2 Honor, very briefly.

3 THE COURT: Go ahead.

4 MR. KULP: My argument to the Court is that
5 this juror is substantially impaired. I think that he
6 was clear and unequivocal in his answers. And I think
7 what it boils down to is he's saying that he feels that
8 if someone is proven to have taken a life, then their
9 life must be taken unless -- in other words, it's as if
10 the burden shifts. Unless -- not that he'll consider
11 it, but unless he's shown otherwise.

12 And, as well, Your Honor, he seems to be laboring
13 over it to the point where it's clear that those are
14 his strong, strong feelings. Instead of right out of
15 the chute. He said he's stuck between number one and
16 number three. And I think that our questions to him
17 clearly established that he his strong feelings in that
18 direction and that regard impair him and do so
19 substantially to the point where he would not be in a
20 position of considering -- fairly and impartially
21 considering life imprisonment unless he was convinced
22 otherwise. If some type of burden had been exceeded to
23 prove to him that -- it's like he has a presumption for
24 the death penalty. Thank you, Your Honor.

25 THE COURT: Well, I think that -- of course, he

1 started out saying, I believe, that he was a
2 combination, didn't he?

3 MR. KULP: Yes, sir, one and three.

4 THE COURT: One and three. And I think that I
5 got the impression that he was maybe 60/40 or something
6 like that, you know. That he has a tilt towards the
7 death penalty. And I think that's implicit in his
8 testimony. But I didn't think it was a severe tilt,
9 that he would consider it and he recognized -- he said
10 that some cases he thought a person should not receive
11 the death penalty and others he did. But I think it's
12 clearly -- and as I understand the law, that would not
13 disqualify him. If he could -- because, obviously,
14 everybody is going to, in that range between those
15 persons who are going to give the death sentence 25
16 percent of the time. And then there are some people
17 who are going to give it seventy-five percent.
18 Everybody's going to be somewhere differently in that
19 range. And the jury has to come to a consensus. To my
20 mind, that's logically the way it has to be.

21 In other words, it's not necessarily that you're
22 fifty-fifty, you know, and it's not required. I think
23 you're just supposed to consider all the facts and
24 recognize -- and be open to a life sentence in some.
25 And recognize that there are some cases where the death

1 penalty is not appropriate and others where it is and
2 be able to do what you think is right.

3 Isn't that basically the law?

4 MR. MURDAUGH: That is my understanding of it,
5 sir.

6 THE COURT: So your objection objecting to his
7 qualifications is duly noted. But I do find that he is
8 qualified.

9 MR. KULP: Thank you, Your Honor. Please note
10 our exception for the record.

11 THE COURT: Your exception is noted. Bring Mr.
12 Stanton back in, please.

13 (POTENTIAL JUROR RETURNS TO COURTROOM)

14 THE COURT: Mr. Stanton, I have found that you
15 are qualified to go into the jury pool from which this
16 jury will be selected. That will occur on Friday at
17 9:30 here.

18 So please be present. Bring your clothes packed
19 for at least a three-day stay. You'll be put up at the
20 Hampton Inn which is right down the street here, right
21 behind Applebee's.

22 Now that you've been selected, as you have done in
23 the past, do not let yourself get exposed to any media,
24 such as newspaper articles, radio, TV. Don't allow
25 anyone to discuss the case with you and do not discuss

1 it with anyone. Obviously, you are allowed to talk to
2 your family, talk to your job and tell any appointments
3 that you have to be Court. That you are on a jury. I
4 mean by that do not talk about the specifics of this
5 case.

6 One other thing, now that you have been selected
7 you have been qualified as you are. Therefore, you
8 should not do any reading, research or do any education
9 on the internet, in books, magazines or whatever on
10 criminal law, criminal procedure or anything else
11 dealing with this case. Do you understand?

12 JUROR: Yes, sir.

13 THE COURT: Any questions?

14 JUROR: No, sir.

15 THE COURT: We'll see you, then, at 9:30 on
16 Friday. Have a nice day.

17 (TESTIMONY OF JOHN STANTON CONCLUDED)

18 THE COURT: One more before we'll break.
19 Dianne Garnett.

20 (POTENTIAL JUROR TAKES STAND)

21 DIANNE GARNETT, being duly
22 sworn to tell the truth, the whole truth and nothing
23 but the truth, testified as follows:

24 EXAMINATION

25 BY THE COURT:

1 Q. How are you, Ms. Garnett?

2 A. Very good.

3 Q. Please speak into the microphone. First, I would
4 remind you that you are still under oath from Monday.

5 Had you ever heard anything about this case before
6 Monday?

7 A. No, sir.

8 Q. How about since Monday? Has anybody asked you
9 anything about it or have you seen anything in the
10 newspaper, TV, radio and so forth about the caes?

11 A. No. I'd heard it through the newspaper, but I
12 have not read anything.

13 Q. Did you read this pretrial questionnaire?

14 A. Yes, sir.

15 Q. Did you understand it?

16 A. Yes, sir.

17 Q. Do you know which type juror you are?

18 A. I believe that I could look at the facts and
19 presented and, if convinced that the defendant was
20 guilty, could find the defendant guilty. And in terms
21 of sentencing would again look at the facts that were
22 presented. It would be a difficult decision.

23 Q. I take it from what you're saying that you feel
24 like that there are some cases that the death penalty
25 would be appropriate. And if you found on that you

1 thought the death penalty was appropriate, you would
2 vote for the death penalty. Is that correct?

3 A. Yes, sir.

4 Q. Let me give the rest of it. And by the same
5 token, there's some cases where a person is convicted
6 of murder that you feel like a death penalty is not
7 called for. And in those cases you would not vote for
8 the death penalty, that you would like to and would
9 require before you did any voting on this that you hear
10 the facts and the testimony, the charge on the law,
11 consider aggravating circumstances and mitigating
12 circumstances and think long and hard before you
13 decided what was appropriate?

14 A. Yes, sir.

15 Q. So you agree with basically what I said?

16 A. Yes, sir.

17 Q. There are two other witnesses that were not called
18 out on Monday, Kenneth Williams and Richard Rivers. Do
19 you know either one of those persons?

20 A. No, sir.

21 THE COURT: Solicitor Murdaugh.

22 EXAMINATION

23 BY MR. MURDAUGH:

24 Q. Ms. Garnett, how are you doing? Is it Garnett?

25 A. Garnett, yes.

1 Q. I'm Randolph Murdaugh. I am the Solicitor for the
2 Fourteenth Circuit which carries with it the duty of
3 prosecution... I notice you're a member of the Rotary
4 Club of Hilton Head. Where do you'all meet?

5 A. Port Royal Hotel.

6 Q. Were you present at any time I've spoken down
7 there?

8 A. I don't recall, sir. I don't believe I was.

9 Q. I need to ask you several questions, to be honest
10 with you and quite frankly, to find out if we want you
11 to sit on the jury. I want you to understand there are
12 no right, there are no wrong answers, but only how you
13 feel.

14 I've listened to your answers that you gave to the
15 Judge and I need to ask you some questions. But in
16 order to do that I need to lay out the framework of how
17 this trial will proceed. As he has said, it's a two-
18 part trial. The first part of the trial -- and it's
19 also different than any other trial that will ever take
20 place -- not that will ever take place -- any other
21 kinds of trial that take place in South Carolina in
22 that, normally, the jury is only concerned with the
23 guilt or innocence of the defendant. And the Judge
24 does the sentencing.

25 In a murder trial where the death penalty is being

1 asked for, the jury has a dual obligation. It has to
2 determine guilt or innocence, and then determine what
3 sentence he gets. Do you follow me so far?

4 A. Yes.

5 Q. So you will have a first part. You will determine
6 whether or not he's guilty or whether or not he is not
7 guilty. If you determine -- and I'm not talking about
8 this trial, even. I'm just talking in general. If you
9 are on the jury and if you'all -- you and the other
10 elevenmembers -- decide that the defendant is guilty
11 of murder, you then go to the second phase of the trial
12 in which you determine death penalty, life imprisonment
13 -- the only two sentences that can be given.

14 In that, in order to be a qualified juror, you
15 would have to listen to the testimony that's elicited
16 during the trial in both phases, the evidence in
17 aggravation. That is a reason why the defendant should
18 be given the death penalty. And you would have to make
19 an affirmative finding that an aggravating circumstance
20 existed.

21 His Honor would charge you later during the trial
22 what it is -- what an aggravating circumstance is. But
23 for the time being, that is a reason to give the death
24 penalty, to oversimplify it a little bit.

25 If you find that there was in existence an

1 aggravating circumstance, you would then be required to
2 have listened to and to consider the character of the
3 defendant, the circumstances of the crime and any
4 mitigating circumstances, that is reasons not to give
5 him the death penalty. You would have to listen to and
6 consider all of those things before making a decision.

7 Do you follow me so far?

8 A. Yes, sir.

9 Q. And would you do that?

10 A. Yes, sir.

11 Q. If, after listening to all of those things, and
12 after considering all those things, you determined
13 that, yes, this is an appropriate case for the death
14 penalty, could you vote for it?

15 A. After careful consideration, yes.

16 Q. Conversely, if you thought it was not an
17 appropriate case for the death penalty, but it was
18 appropriate for life imprisonment, could you vote for
19 life imprisonment?

20 A. Yes.

21 Q. If you're serving on the jury, and if you and the
22 other eleven members of the jury decided, yes, this is
23 an appropriate case. The death penalty should be
24 imposed in this case. You'all voted on that and
25 everybody said "yes". It would then be incumbent upon

1 you to sign a sheet of paper. This isn't the sheet of
2 paper, by the way. But it would be incumbent that
3 you'all sign a sheet of paper. And up at the top would
4 be words to this effect, "We, the undersigned jury,
5 recommend that the defendant suffer the death penalty."
6 And while it says "recommendation", it doesn't mean
7 "recommendation". That's it.

8 If you thought it was appropriate, could you sign
9 the paper?

10 A. Yes.

11 Q. You work someplace, and I can't remember what it
12 was. I've looked at so many questionnaires and asked
13 so many questions my mind's getting addled. It was
14 before I came in here, too. Community Foundation of
15 the Low Country?

16 A. Yes, sir.

17 Q. What is that?

18 A. It's a community foundation which serves four
19 counties, Beaufort, Hampton, Jasper and Colleton.
20 Prior to July 1st of this year it was the Hilton Head
21 Island Foundation. We've expanded our service area.

22 Q. I know what you're talking about now, and I should
23 have thought about it. And you have been with them
24 nine years?

25 A. Yes, sir.

1 Q. Your husband is retired?

2 A. Yes, sir.

3 Q. And what did he do?

4 A. He was a college professor and administrator.

5 Q. College professor where?

6 A. University of Evansville in Evansville, Indiana.

7 Q. How long have you'all lived -- you'all have lived
8 nine ---

9 A. Nine-plus years.

10 Q. So you've been with the Community Foundation --
11 you founded it?

12 A. I was with the Hilton Head Hospital Foundation
13 prior to the hospital sale in '94. And then worked
14 with the Board to start the Community Foundation.

15 Q. So you'all have been in Beaufort County for nine
16 years?

17 A. Yes, sir.

18 MR. MURDAUGH: I envy your husband being retired.

19 My wife told me I couldn't retire. She said, "I've
20 married you for better or worse, but not for lunch."

21 Thank you, ma'am. I appreciate your openness and your
22 candor in answering these questions. Thank you.

23 THE COURT: Mr. Kulp.

24 MR. KULP: May it please the Court.

25 EXAMINATION.

1 BY MR. KULP:

2 Q. Good afternoon, Ms. Garnett.

3 A. Good afternoon.

4 Q. My name is Tim Kulp. We were briefly introduced
5 Monday to the whole group, and Mr. Fleming. Along with
6 Mr. Fleming, we represent Mr. Rogers, the accused in
7 this case. And I just want to ask you a couple of
8 questions to be sure that you have an understanding of
9 one aspect of this process.

10 You understand that because we've asked you
11 questions about any opinions or predispositions you
12 might have about an appropriate penalty in a murder
13 case about which you've heard nothing, that that
14 doesn't mean, necessarily, that we would ever even get
15 to that portion of the proceeding. You understand
16 that?

17 A. Yes.

18 Q. That the first part of the proceeding is like any
19 other trial, criminal trial, wherein the State has a
20 burden of proof. And if they fail to meet that burden
21 of proof that the Court would instruct you that you
22 must return a verdict of not guilty. Do you understand
23 that?

24 A. Yes.

25 Q. It's just that unique aspect of these proceedings

1 mandates that we ensure that you understand that while
2 we're talking about punishment, that is something you
3 may very well never ever approach. And you understand
4 that?

5 A. Yes.

6 Q. But that if we do end up in a circumstance where
7 we are addressing the issue of appropriate punishment,
8 you understand, based upon the severity of that issue
9 and all the factors that would be involved, that it
10 would be important to give consideration to all the
11 evidence at that time about the accused?

12 A. Yes.

13 Q. Before any decision would be made.

14 A. Yes.

15 MR. KULP: Thank you very much.

16 THE COURT: Go ahead.

17 MR. MURDAUGH: Did we ask her about the two
18 witnesses, Judge?

19 THE COURT: I think I did. Do you know Kenneth
20 Williams or Richard Rivers?

21 JUROR: No, I do not.

22 THE COURT: Any discussion about this juror?

23 MR. KULP: No, sir, Your Honor.

24 MR. MURDAUGH: No, sir.

25 THE COURT: Ms. Garnett, I find that you are

1 qualified to go in the panel from which the jury will
2 be selected. That will be done at 9:30 on Friday
3 morning right here. Please come prepared to stay for
4 at least three nights. You'll be put up at that --
5 sequestered with the -- if you are selected -- with the
6 jury at the Hampton Inn, which is right across the
7 marsh here, behind Applebee's.

8 Now that you've been selected to be in the panel,
9 as I've told you before, don't discuss the case with
10 anyone or allow anyone to discuss the case with you.
11 And do not allow yourself to be exposed to any media
12 coverage. So don't read anything in the newspaper or
13 hear anything on TV or the radio.

14 One last thing, you've been qualified as you are.
15 So do not take any steps to do any reading, research or
16 whatever through books or the internet or anything on
17 criminal law or criminal procedures or anything dealing
18 with this. It should be tried basically from the facts
19 and evidence here in the courtroom. So everything that
20 you need to know about the case will come out in the
21 trial.

22 Any questions?

23 JUROR: 9:30 on Friday?

24 THE COURT: Yes, ma'am. See you then. Have a
25 nice day.

1 (TESTIMONY OF DIANNE GARNETT CONCLUDED)

2 THE COURT: That's the last one we have, I
3 believe. Is that right?

4 MR. MURDAUGH: I think so, yes, sir.

5 MR. KULP: Till 2:00 o'clock.

6 THE COURT: Till 2:00 o'clock. So we'll resume
7 then.

8 MR. MURDAUGH: How many are we going to get, sir?

9 THE COURT: Let's go off the record and we'll
10 talk about it.

11 (LUNCH RECESS 12:55 - 2:00 P.M.)

12 THE COURT: We'll take one out of order first.
13 I think she's actually tomorrow. We might not even get
14 to her. But she's here. She's on the schedule for
15 tomorrow. I understand that somehow I got the
16 impression -- she's in Panel 26, Juror No. 192. The
17 easiest thing is just go ahead and take her. I doubt
18 we'll even get to her anyway.

19 We've got another guy who apparently has got back
20 trouble and is faxing over a doctor's statement rather
21 than coming this afternoon.

22 If you will send in, please, Delores Lawyer.

23 (POTENTIAL JUROR TAKES STAND)

24 DELORES LAWYER, being
25 duly sworn to tell the truth, the whole truth and

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

1 nothing but the truth, testified as follows:

2 EXAMINATION

3 BY THE COURT:

4 Q. Come forward, please, Ms. Lawyer. Come up here
5 and have a seat. How are you doing, ma'am?

6 A. Doing fine.

7 Q. You called and we're taking you out of order.
8 You are actually scheduled for tomorrow. Isn't that
9 correct?

10 A. Yes.

11 Q. And you're Juror No. 192?

12 A. Yes, I am.

13 Q. Did you read this pretrial questionnaire?

14 A. Yes, I did.

15 Q. Did you understand it?

16 A. Yes.

17 Q. What kind of juror do you think you are? It said
18 one, two or three type. Type one would always give the
19 death penalty. Type two would never give the death
20 penalty because of religious or moral or whatever
21 reasons. And type three would consider all the
22 testimony and evidence and decide, based upon that,
23 what they would think appropriate. Do you know which
24 type you are?

25 A. Type two.

1 Q. Type two. And that means that you have an
2 objection or religious reasons against the death
3 penalty?

4 A. I do.

5 Q. Just explain to everyone what your position is on
6 the death penalty.

7 A. Well, I feel that the death penalty is a harsh
8 penalty to subject someone to without having all
9 evidence. And I have been looking at people who have
10 been on trial for many years or in jail for many years.
11 The evidence does not really prove that they have
12 committed such crimes. And also because of religious
13 reasons. I cannot, in good conscious, say someone
14 should get the death penalty, based on my convictions.

15 THE COURT: Solicitor Murdaugh.

16 MR. MURDAUGH: We don't have any questions, Your
17 Honor.

18 THE COURT: Mr. Kulp?

19 MR. KULP: No, sir, Your Honor. Thank you.

20 THE COURT: I'm going to excuse you. Thank you
21 very much for coming, and you are excused for the week.
22 Thank you very much.

23 MR. LAWYER: Thank you.

24 (POTENTIAL JUROR EXITS COURTROOM)

25 THE COURT: Before we get started, this is

1 someone who is coming in today. And that is Norman
2 Argast, A-R-G-A-S-T. Let's take a minute to find his
3 name on here.

4 CLERK: He's on Panel 22 at 4:15, number
5 nine.

6 THE COURT: It's "Norman", N-o-r-m-a-n. Panel
7 22. That's supposed to be an "N" on that "Norman"
8 Argast. Not "Norma". He's Juror No. 9, I'll read this
9 and then I'll pass it down.

10 This is a medical report from Dr. Charles J.
11 Nivens, M.D., Spine Medicine. Today's date, 10/10/01.
12 (Reading): "Diagnosis, herniated disc in lumbar spine.
13 Cannot work." It's got in quotes "jury duty".
14 "Patient is to be excused from jury duty secondary to
15 pathology in his lumbar spine. Prolonged sitting could
16 exacerbate his pain or worsen his pathology."

17 MR. FLEMING: What is the juror number?

18 THE COURT: Just a second. He's Juror No. 9
19 on the overall list. It's in Panel 22. He's scheduled
20 for 4:15 today. He called and asked if he faxed a
21 medical report would he have to come over? And I said
22 no, we'd take it up. And it's a medical report. And
23 I'll pass this down and make it a Court's Exhibit and
24 let you'all look at it.

25 COURT REPORTER: Court's Exhibit Number 6.

1 (SO ENTERED AS COURT'S EXHIBIT 6)

2 THE COURT: Of course, you'all can look at the
3 juror response and everything. I don't know a thing
4 about him.

5 MR. KNIGHT: Based upon the medical report that
6 was faxed to the Court, the State has no objection to
7 him being excused. Based upon that report, medical
8 problems.

9 MR. KULP: We have no objections, Your Honor.
10 We think this is certainly sufficient documentation.

11 THE COURT: He's excused without objection, so
12 please notify them to call him and tell him that he is
13 excused for the week.

14 That worked out good to take care of a couple of
15 them there.

16 We are now back in Carol Womack in Panel 19. Is
17 that where we are? Everybody agree?

18 MR. MURDAUGH: Yes, sir, that's where I am.

19 THE COURT: Send her in, please. Carol Womack.

20 (POTENTIAL JUROR TAKES STAND)

21 CAROL WOMACK, being duly sworn
22 to tell the truth, the whole truth and nothing but the
23 truth, testified as follows:

24 EXAMINATION

25 BY THE COURT:

1 Q. How are you doing, Ms. Womack?

2 A. Just fine.

3 Q. Ms. Womack, speak into the microphone. And also I
4 remind you that you are still under oath from Monday.
5 First off, had you ever heard anything about this case
6 before Monday?

7 A. No.

8 Q. Have you heard anything about it since? Anybody
9 mentioned it to you or have you heard anything on the
10 radio, newspapers, TV or anything?

11 A. No.

12 Q. Did you read this pretrial questionnaire that's
13 out there?

14 A. Yes.

15 Q. Did you understand it?

16 A. Yes.

17 Q. And what kind of juror do you feel that you are?

18 A. I would say the third kind.

19 Q. The third kind is ---

20 A. I would have to hear ---

21 Q. You feel like in a proper case -- there's some
22 cases you feel like the death penalty is appropriate
23 and some cases you feel like it's not appropriate...
24 And you'd have to hear everything and decide as to a
25 particular case what the proper disposition was?

1 A. Yes.

2 Q. Two witnesses were not called out on Monday,
3 Kenneth Williams and Richard Rivers. Do you know
4 either one of those gentlemen?

5 A. No.

6 THE COURT: Solicitor Murdaugh?

7 EXAMINATION

8 BY MR. MURDAUGH:

9 Q. Ms. Womack, how are you doing?

10 A. Very good, sir.

11 Q. I'm Randolph Murdaugh. I am the Solicitor down
12 here for the Fourteenth Judicial Circuit of which
13 Beaufort is one of the counties. With that title
14 carries the duty of prosecuting.

15 I need to ask you some questions to be quite
16 honest with you to find out whether we want you to sit
17 on the jury or not.

18 A. Okay.

19 Q. I want you to understand there are no right or
20 wrong answers. But we just want to get a feeling, both
21 me and the counsel for the defense want to get a
22 feeling about you. You have told the Judge that you
23 are a category three juror.

24 A. Yes.

25 Q. In order to ask you a couple of questions that

1 I've got to ask I need to lay a little foundation as to
2 exactly how this whole procedure works. Unlike any
3 other trial in the State of South Carolina, where there
4 is a death penalty case, a murder with a death penalty,
5 the jury does the sentencing. In all other cases the
6 Judge does the sentencing, and the jury is only
7 concerned with guilty or innocence.

8 In a case of this nature, it becomes a two-part
9 trial. The first part will deal with guilt or
10 innocence, as the jury normally does. And if the jury
11 should find the defendant guilty, then you go into the
12 second phase of that trial. In that phase, you listen
13 to everything with an eye toward what sentence should
14 be given, either death penalty or life imprisonment.

15 In order to consider the death penalty, it would
16 be necessary that the State prove a thing called an
17 aggravating circumstance. His Honor will charge you in
18 detail what that is later. But simply, it is a reason
19 for giving the death penalty. If you found that there
20 was an aggravating circumstance, you would have heard
21 and may hear more evidence of the character of the
22 defendant, the circumstances of the crime, the
23 aggravating circumstances and things called mitigating
24 circumstance, which are reasons not to give the death
25 penalty.

1 Do you think that you would be -- as a juror you
2 would listen to the evidence that came from that
3 witness stand, the physical evidence that was
4 introduced, the charge as the Judge would give it to
5 you, listen to and consider all of those things?

6 A. Yes.

7 Q. Both in favor of and opposed to the death penalty?

8 A. Yes.

9 Q. And before making your decision you would consider
10 them?

11 A. Yes, I would.

12 Q. And if you thought that it was an appropriate case
13 for the imposition of the death penalty, could you vote
14 for the death penalty?

15 A. Yes.

16 Q. Conversely, if you thought it was appropriate for
17 life imprisonment, you could vote for life
18 imprisonment.

19 A. Yes.

20 Q. If you serve on the jury and if you and the other
21 members of the jury decided, yes, this case -- and I'm
22 not talking about this case, now. I'm just talking in
23 general -- this case, the defendant should suffer the
24 death penalty. You'all voted on it. You'all decided
25 he ought to get the death penalty. It would then be

1 incumbent upon you to sign -- and this is not the
2 sheet of paper. But it would be a sheet of paper that
3 would have up at the top, "We, the undersigned jurors,
4 recommend that the defendant suffer the punishment of
5 death," words to that effect. There'd be twelve lines
6 and each juror would have to sign their name on one of
7 those lines.

8 If you decided that this is the appropriate case
9 for the death penalty, could you sign that sheet of
10 paper?

11 A. Yes.

12 Q. You are a nurse at Beaufort Hospital?

13 A. Yes, sir.

14 Q. How long have you been there?

15 A. Fourteen years.

16 Q. At one time you were married to a deputy sheriff.

17 A. Yes, sir.

18 Q. You're divorced now?

19 A. Yes, sir.

20 Q. And how long have you been divorced?

21 A. I've been divorced for a year and a half.

22 Q. That, of course, would have no play in your
23 decision for or against the case?

24 A. No, I don't think so.

25 Q. You were born in Beaufort?

1 A. No, sir, I was born in Germany. My father was in
2 the Army.

3 Q. When did you come to Beaufort first?

4 A. I've lived here since I was about 12. And I'm 39,
5 so a long time.

6 Q. Thank you, ma'am.

7 MR. MURDAUGH: I have nothing further. Thank you
8 very much for your candor and openness.

9 THE COURT: Mr. Kulp?

10 MR. KULP: May it please the Court?

11 EXAMINATION

12 BY MR. KULP:

13 Q. Ms. Womack, my name is Tim Kulp. We met by the
14 Court's introduction briefly on Monday. Mr. Fleming
15 and I represent the accused, Mr. Rogers. Just a couple
16 of quick questions. You are an R.N., a nurse?

17 A. Yes, sir.

18 Q. In the area of obstetrics?

19 A. Obstetrics.

20 Q. You've had an occasion to participate in a Baby
21 Basics course as an instructor. And I think your
22 response was that you didn't think that your marriage
23 to the deputy, to your ex-husband, would have any --
24 play any role or affect your decision-making process in
25 this case at all?

1 A. No, I don't think so.

2 Q. When you say you don't think so, do you have any
3 doubts about that?

4 A. No, sir.

5 Q. You understand that we're taking things a little
6 out of order here, in fact a lot out of order. We are
7 asking you and making a determination about your pre-
8 disposition, if any, or your opinion about punishment
9 in the most serious case in this land. And by doing
10 that and determining that you can be fair and
11 impartial, as you've answered that you could, and in
12 looking at all aspects of the case, I think it's
13 important to know that you understand that while we're
14 addressing that, nothing is assumed.

15 And the first part of the case is just like any
16 other case or trial in criminal court where the issue
17 at that stage is whether the defendant is not guilty or
18 guilty, whether the State meets its burden of proof as
19 to the charges that the accused has been accused of
20 violating.

21 And, in fact, if it was the jury's determination
22 that the defendant was not guilty, we never would get
23 into this other aspect of punishment or penalty?

24 A. Right.

25 Q. So you understand merely because we're having to

1 determine if you had -- and you say you don't, and we
2 appreciate your candor -- any impairment or feelings
3 that are so significant that you couldn't -- you would
4 automatically make one decision or automatically make
5 another decision, means nothing about the first issue
6 in the case. And that's whether the State can prove
7 their case or not.

8 A. I understand.

9 MR. KULP: Thank you.

10 THE COURT: Any questions or discussion
11 regarding this juror?

12 MR. MURDAUGH: None.

13 MR. KULP: None from the defendant, Your
14 Honor.

15 THE COURT: Ms. Womack, I find that you are
16 qualified to serve as a juror on this case. And you
17 will, therefore, be part of the pool from which the
18 jury will be selected. That will be done at 9:30 on
19 Friday right here. Please bring enough clothes with
20 you, your suitcase, because you will be sequestered.
21 You will be staying at the Hampton Inn, just right
22 across the way here. We always get all of them to
23 bring their clothes so that we can go to work and the
24 jurors that are selected don't have to go back home and
25 get packed up and everything.

1 Now that you've been selected, as I told you in
2 the past, don't discuss the case with anyone. Don't
3 allow anyone to discuss the case with you. Obviously,
4 you can tell your people at work and your family that
5 you're going to be tied up in a case. But don't
6 discuss the details or read any newspaper or TV or
7 listen to the radio about it.

8 Lastly, now that you've been qualified as a juror
9 you must not take any steps to do any research or
10 reading about criminal law or criminal proceedings or
11 anything about this in books or on the internet or
12 anything. In other words, you're qualified as you are
13 now. And you don't need to do any preparation, and you
14 should not do any preparation.

15 Any questions?

16 MS. WOMACK: No, sir.

17 THE COURT: Thank you very much. I hope you
18 have a nice afternoon.

19 MS. WOMACK: 9:00 o'clock Friday?

20 THE COURT: Huh?

21 MS. WOMACK: 9:00 o'clock Friday?

22 THE COURT: 9:30.

23 MS. WOMACK: 9:30.

24 THE COURT: 9:30 Friday.

25 (TESTIMONY OF CAROL WOMACK CONCLUDED)

1 THE COURT: William Jankoski.

2 (POTENTIAL JUROR TAKES STAND)

3 WILLIAM JANKOSKI, being duly sworn
4 to tell the truth, the whole truth and nothing but the
5 truth, testified as follows:

6 EXAMINATION

7 BY THE COURT:

8 Q. How are you doing, sir?

9 A. Good, thank you.

10 Q. Have a seat. Mr. Jankoski, did I pronounce it
11 correctly?

12 A. It's Jankoski.

13 Q. Thank you. I believe this is spelled wrong here,
14 J-A-N ---

15 A. --- K-O-S-K-I.

16 Q. I read that J-A-R. Jankoski?

17 A. Uh-huh, (affirmative nod).

18 Q. I remind you that you are still under oath. Have
19 you ever heard anything about this case before Monday?

20 A. I had read about it in the paper when it initially
21 happened back three years ago or two years ago.

22 Q. Since that initial thing in the paper have you
23 heard anything else?

24 A. No.

25 Q. What about since Monday? Have you heard anything

1 or anybody mentioned it to you, seen any news reports,
2 read any articles in the newspaper?

3 A. I've seen the headlines in the paper, but I didn't
4 read it.

5 Q. What do you remember from what initially happened?

6 A. Very little, practically nothing. I remember
7 nothing about it until it was mentioned here in Court.
8 I mean, I don't remember anything.

9 Q. In other words, that sort of refreshed your memory
10 about it?

11 A. Yeah.

12 Q. Did you read the pretrial questionnaire?

13 A. Yes, I did.

14 Q. Did you understand it?

15 A. Yes, I did.

16 Q. And what type juror do you feel that you are?

17 A. I think that I would be analogous to juror number
18 two.

19 Q. Number two? And that is that you are against the
20 death penalty?

21 A. No, I'm not against the death penalty. It came
22 close. I don't think ---

23 Q. Let me just tell you, since I've complicated it by
24 trying to oversimplify it.

25 Number one in a death penalty case of a person

1 convicted of murder would always give the death
2 penalty.

3 A. Uh-huh, (affirmative nod).

4 Q. Number two, the person would never give the death
5 penalty, no matter what the facts and circumstances.

6 Number three, the person would feel that the death
7 penalty was appropriate in some cases and not
8 appropriate and would think a life sentence was more
9 appropriate in some cases. And that person would have
10 to and want to hear all the facts and circumstances of
11 a case and then make a decision as to each particular
12 case, whether they thought it was appropriate.

13 With that, now, tell us which one you are.

14 A. I'm neither. My feelings are that I cannot
15 condemn a person to death personally. I was picked in
16 a death penalty case in the military thirty-five years
17 ago. And my feelings were the same then as they are
18 today.

19 Q. So you could never give the death penalty?

20 A. No, I couldn't.

21 THE COURT: Any questions?

22 EXAMINATION

23 BY MR. KULP:

24 Q. Mr. Jankoski, how are you doing, sir?

25 A. Good, thank you.

1 Q. I'm Randolph Murdaugh. I'm the Solicitor down
2 here which is the prosecutor.

3 A. Uh-huh, (affirmative nod).

4 Q. Do you, by any chance, know Kenneth Williams or
5 Richard Rivers?

6 A. No.

7 MR. MURDAUGH: Thank you, sir.

8 MR. KULP: May it please the court?

9 THE COURT: Mr. Kulp?

10 EXAMINATION

11 BY MR. KULP:

12 Q. Mr. Jankoski, my name's Tim Kulp. Mr. Fleming and
13 I represent the accused, Mr. Rogers.

14 A. Yes, sir.

15 Q. Good afternoon.

16 A. How are you?

17 Q. Fine, thank you. You've indicated that your
18 position is that you could never impose the death
19 penalty in a proceeding such as this.

20 A. That's correct.

21 Q. But, of course, we're going through a process of
22 determining that, as to you and other potential jurors.
23 And it sounds silly to say, but we don't know anything
24 about this case. I mean, the jurors -- you have no
25 idea what this case is all about.

1 A. Not at all.

2 Q. You indicated you read something in the paper, but
3 you don't really recall possibly at the time that the
4 event happened.

5 Are you absolutely convinced that whatever you
6 would hear that would unfold in the course of the case,
7 that could not convince you otherwise?

8 A. This case has nothing to do with the way I feel.
9 It's how I feel about me, personally, imposing the
10 death penalty on another individual.

11 Q. And your testimony is there's absolutely no
12 circumstances that would alter that perspective?

13 A. No.

14 MR. KULP: Thank you very much.

15 THE COURT: Mr. Jankoski, I'm going to excuse
16 you. Thank you very much. You're excused for the
17 week.

18 (TESTIMONY OF WILLIAM JANKOSKI CONCLUDED)

19 THE COURT: Annie Underwood, Juror No. 402.

20 MR. MURDAUGH: She didn't have a form. She came
21 late.

22 THE COURT: I remember. That's right. She
23 stood up and said that she knows a witness. I'm going
24 to let you all ask her what you want to.

25 MR. MURDAUGH: I see no need to do that.

1 THE COURT: I'm going to let you'all ask her
2 what you need to know.

3 (POTENTIAL JUROR TAKES STAND)

4 ANNIE UNDERWOOD, having been
5 previously sworn to tell the truth, the whole truth and
6 nothing but the truth, continued under her oath and
7 testified, as follows:

8 EXAMINATION

9 BY THE COURT:

10 Q. Ms. Underwood, please come around.

11 A. (Complies)

12 Q. How are you, Ms. Underwood?

13 A. I'm pretty good. How are you today?

14 Q. Doing good. Take your time and have a seat.

15 A. Yes, sir.

16 Q. Ms. Underwood, I've got a couple of questions to
17 ask you. Speak into the microphone so everybody can
18 hear you. I remind you that you are still under oath,
19 okay? And make an answer like "yes" or "no" as opposed
20 to shaking your head so that the court reporter can
21 take it down.

22 A. All right.

23 Q. First, I'm going to ask you about the trial.

24 Let's get into that first. Ms. Underwood, in a death
25 penalty case, in other words, where the State, the

1 prosecution, is seeking the death penalty, the trial is
2 bifurcated, which simply means it is split into two
3 parts.

4 There's a guilt phase, where a defendant -- I'm no
5 talking about this case, but in any situation -- the
6 State has to prove a defendant to be guilty beyond a
7 reasonable doubt. And if the person is found guilty,
8 then it goes to the penalty phase.

9 Now, a person can be found not guilty. And then
10 that ends the process. In other words, if a defendant
11 is found not guilty, that's it. Then you don't go to
12 the penalty phase.

13 But if you go to the penalty phase under the law
14 of South Carolina a jury can find two possible
15 sentences for a person who is convicted of murder. One
16 is the death penalty and the other is imprisonment for
17 life. In other words, life imprisonment. Do you
18 understand all that?

19 A. Yes, sir.

20 Q. It's up to the jury to decide the punishment.
21 There are three types of jurors. There's one type who,
22 anytime somebody is convicted of murder, would say that
23 the person ought to get the death penalty. And they
24 would vote for the death penalty every time. That's
25 one type of juror.

1 There's a second type who is against the death
2 penalty, whether for religious or because of their
3 conscious or whatever reason. And that person says
4 they could never give the death penalty because of
5 whatever reason they have. But they just would not
6 vote, as a juror, to give somebody the death penalty.

7 There's a third type of juror who would consider
8 everything that comes out in the trial, consider good
9 things about the defendant which are called mitigating
10 factor, and bad things which are called aggravating
11 factors, and would then make a decision as to whether a
12 person would receive a death penalty or life
13 imprisonment. In other words, that person would
14 recognize that there were some cases where the death
15 penalty was appropriate and would vote for it those
16 cases, and would vote to put somebody to death. In
17 other cases, they would think the death penalty was not
18 appropriate and would vote to give somebody a life
19 sentence.

20 Do you know which kind of juror you would be?

21 A. What kind?

22 Q. Yes, ma'am.

23 A. (Negative gesture).

24 Q. You say you don't know?

25 A. I don't know.

1 Q. Let me ask you this. Would you ever vote to give
2 somebody the death penalty?

3 A. I don't think so.

4 Q. And why would you not do that?

5 A. I just wouldn't want to have that on my conscious.

6 Q. You think it would bother your conscious if you
7 had to vote to send somebody to a death sentence?

8 A. Yes, sir.

9 Q. Let me ask you this. There's two other witnesses
10 that were not called out on Monday, Kenneth Williams
11 and Richard Rivers. Do you know either one of those
12 persons?

13 A. No, sir.

14 Q. You stated when I was asking you these questions
15 on Monday that you knew a witness or some of the people
16 whose names were called. Do you remember who that was?

17 A. I know three of them.

18 Q. And who is that?

19 A. The two Gadsons and the McKinnon.

20 THE COURT: Let me find their names.

21 MR. MURDAUGH: Those are co-defendants.

22 THE COURT: That's Jonathan Gadson and Collins
23 Eric Gadson.

24 MS. UNDERWOOD: Yes, sir.

25 THE COURT: And the other one is West McKinnon.

1 MS. UNDERWOOD: Yes, sir.

2 THE COURT: The fact that you know those
3 persons and they might be witnesses in this case, would
4 that have any influence or impact upon you if you were
5 selected as a juror?

6 MS. UNDERWOOD: I don't think so.

7 EXAMINATION CONTINUED

8 BY THE COURT:

9 Q. Back to the other issue. You're telling me, and
10 I'm given you a chance to think about it a little bit.
11 You told me earlier that you didn't think that you
12 could ever give somebody -- vote to give somebody the
13 death penalty. Is that correct?

14 A. I don't think so, no. I've got kids, you know.

15 Q. One of the things if you -- and you say you
16 couldn't. But one of the things you'd have to do in a
17 trial if you were on a jury, and if a jury votes to
18 give somebody the death penalty, each juror has to sign
19 their name recommending that sentence to the Judge.
20 Would you be able to sign your name on a form, along
21 with the other eleven jurors, recommending the death
22 penalty?

23 A. Maybe if I hear the whole facts and all, maybe I
24 could. And maybe I couldn't. I don't know.

25 Q. You say maybe ---

1 A. I say maybe if I get the facts of what really went
2 on and what had happened, maybe I could and maybe I
3 couldn't at the time. I don't know.

4 THE COURT: Solicitor Murdaugh.

5 EXAMINATION

6 BY MR. MURDAUGH:

7 Q. Ms. Underwood, how are you doing?

8 A. I'm pretty good today.

9 Q. I'm Randolph Murdaugh. I'm the Solicitor down
10 here, which means I'm the prosecutor.

11 A. Yes, sir.

12 Q. I need to ask you some questions to find out if I
13 want you on this jury.

14 A. All right.

15 Q. I want you to understand there aren't any right or
16 wrong answers, but just tell us how you feel. And tell
17 us as close to the way it is as it is. You couldn't
18 ever vote for the death penalty, could you?

19 A. I don't think so.

20 Q. Every time it came to deciding the penalty, you
21 would vote for life imprisonment and not for the death
22 penalty?

23 A. I would vote for life in prison.

24 Q. Would you ever vote for the death penalty, under
25 any circumstances?

1 A. I don't think so. At this point, I don't think
2 so.

3 Q. I'm not talking about something that might change
4 your mind in the future. I'm talking about as you sit
5 in that chair right there today, could you ever, in any
6 kind of a case, vote for the death penalty?

7 A. I don't think so.

8 Q. Just one second. You say that you know Collins
9 and Jonathan Gadson?

10 A. Yes, sir.

11 Q. And their parents?

12 A. I'm very close friends of their parents. I knew
13 them from little kids, small kids.

14 Q. Have you ever talked with their parents about this
15 case?

16 A. Well, I talked to them when it first happened.

17 But I haven't talked to them about it.

18 Q. That was when Collins and Jonathan were accused of
19 murder?

20 A. Yes, sir.

21 Q. Along with Tavarus Rogers?

22 A. Yes, sir.

23 Q. You know West McKinnon.

24 A. Yes, I do.

25 Q. Do you know his parents?

1 A. Yes, I do.

2 Q. Have you talked with them about it?

3 A. Not really to discuss anything. Because my son
4 was in jail at the same time.

5 Q. For what?

6 A. The guy that got beat up in the park in Beaufort
7 there somewhere. And they took his truck or something.
8 My son was involved in that. And they were talking
9 about, you know -- we were talking about the kids
10 getting into trouble and stuff like that.

11 Q. Did you ever discuss with Eric or Collins or West
12 McKinnon the murder?

13 A. No, I haven't seen them.

14 Q. Ma'am?

15 A. No, I haven't seen them. I haven't talked to
16 them.

17 Q. One last question, Ms. Underwood. I ain't going
18 to promise you, but I don't think I'm going to ask you
19 but one more.

20 A. As many more as you want to.

21 Q. Your son was tried up here or plead guilty, didn't
22 he?

23 A. Yes, Patrick James Underwood.

24 Q. And got a twenty-year sentence?

25 A. Twenty-year sentence. Right, yes, sir.

1 Q. Would that cause you to have any feelings about
2 what to do with somebody else?

3 A. No, sir.

4 Q. Find them guilty or not guilty?

5 A. No, sir.

6 Q. Ma'am?

7 A. No, sir.

8 MR. MURDAUGH: Thank you.

9 MR. KULP: May it please the Court, Your
10 Honor.

11 EXAMINATION

12 BY MR. KULP:

13 Q. Good afternoon, Ms. Underwood.

14 A. Hi.

15 Q. My name is Tim Kulp. Mr. Fleming and I, seated

16 there, represent the accused, Mr. Rogers. I just have
17 a few brief questions for you. You are how young?

18 A. I'm 59.

19 Q. And in your years you have raised children?

20 A. I've been a foster mother for twenty-nine years.

21 Q. How many children?

22 A. I can't count them, there's so many of them.

23 Q. My hat is off to you. Do you have children of
24 your own?

25 A. One of my own, and the rest of them -- two I

1 adopted -- no, three I adopted. Patrick and others.

2 Q. Yes, ma'am. Have you qualified to be a foster
3 mother?

4 A. Yes, but I'm not a foster mother now.

5 Q. You were?

6 A. I was for twenty-nine years.

7 Q. I'm sorry. But you qualified to the government?

8 A. Yes.

9 Q. I think you said that your education was limited?

10 A. Yes, sir.

11 Q. But you certainly managed your affairs very well
12 during the years of your life.

13 A. Oh, yes, sir.

14 Q. And you've been a good manager of your personal
15 business affairs. And I imagine you've had other
16 employment as well?

17 A. Yes, I have.

18 Q. What type of employment have you had over the
19 years?

20 A. I worked with Head Start driving a school bus.
21 I was a nurse assistant, is what it's called. I
22 worked at Bayview Nursing Center for quite awhile.

23 Q. And, so, you have some ability to read, to some
24 degree?

25 A. Yes, but very little, but I manage things.

1 Q. And you make do.

2 A. Yes, I do.

3 Q. This is almost a silly question. Of course, you
4 know nothing about this case in terms of what the
5 evidence would prove or may be offered at trial or
6 might not prove?

7 A. No, I don't.

8 Q. And, like I said, it's a silly question. And
9 although you've indicated that you have strong feelings
10 against the death penalty, I think you also indicated
11 that maybe if you heard the facts that you could bring
12 back the death penalty?

13 A. I'm not thinking bring it back. But I might
14 consider it.

15 Q. You would consider it.

16 A. I might just consider it.

17 Q. In other words, not knowing anything about this
18 case, and since we're talking about kind of concepts in
19 the air -- I didn't mean to say "bring it back". But
20 you have no automatic exclusion of the death penalty.
21 I mean, you testified that it would depend upon the
22 facts of the case. Isn't that true?

23 A. Yeah, that's what I said.

24 Q. Yes, ma'am. In fact, if the facts came out and
25 they were bad enough or they were heinous enough or you

1 considered them that way, isn't it the case that you
2 might very well consider that the death penalty was the
3 appropriate punishment in that situation?

4 A. I don't think so. I don't think I would take
5 anybody's life.

6 Q. Even though you have no idea what in the world the
7 government might present in terms of the basis for the
8 crime for the offense of murder?

9 A. I still wouldn't take someone's life.

10 MR. KULP: Thank you, ma'am.

11 THE COURT: How far did you go in school?

12 MS. UNDERWOOD: Fourth grade.

13 THE COURT: You went just to the fourth grade?

14 MS. UNDERWOOD: Yes, sir.

15 THE COURT: And did you ever take any other
16 school after that?

17 MS. UNDERWOOD: No, sir.

18 THE COURT: Any other training after that?

19 MS. UNDERWOOD: No.

20 THE COURT: You say you can -- can you read
21 anything?

22 MS. UNDERWOOD: A little.

23 THE COURT: And like what do you read?

24 MS. UNDERWOOD: Just not no -- those great big
25 words, or stuff like that. I get my mail and stuff. I

1 can go get my mail and tell what my bills are or what
2 I'm supposed to ---

3 THE COURT: And you go to the grocery store and
4 you can tell how much something costs?

5 MS. UNDERWOOD: Yes, sir. I can do that.

6 THE COURT: Can you write a check?

7 MS. UNDERWOOD: If it's a small check, yes.

8 THE COURT: I find that -- no, I tell you what.
9 I'm going to ask that you retire to the back of the
10 courtroom and go back with the officer back there. And
11 I'll come back to you in just a moment.

12 (POTENTIAL JUROR EXITS COURTROOM)

13 THE COURT: What says the State?

14 MR. KNIGHT: Your Honor, I don't think she's
15 qualified. Mr. Kulp led her down the road and got her
16 to use the words "might consider". Then he went on
17 another path and her response was to the question
18 "can't take anybody's life". Then he said, well, I'm
19 going to go down another road, the third fork in the
20 road, when there's only two.

21 And again, her response was, "I can't take
22 anybody's life". So those followed the first consider,
23 might consider and then he followed with two questions.
24 And earlier, initially, the Court talked to her and she
25 said she was a number two. So I think there's no

1 question in my mind that she's not qualified.

2 THE COURT: What do you say, Mr. Kulp?

3 MR. KULP: What I say is I hate to use that
4 expression, "What's good for the goose is good for the
5 gander." But if the standard of substantial impairment
6 that's been applied to those jurors that we thought
7 might not be qualified because of some ---

8 THE COURT: Well, I'm not so sure -- I think
9 that it was back and forth. I have -- she says she has
10 a fourth-grade education. She cannot read and write
11 except just very little. She can write a small check.
12 And I asked her if she could shop at the grocery store.
13 And that's about the extent of it.

14 And, of course, Section 14-7-810 clearly says
15 (reading): "A juror is disqualified if they are unable
16 to read, write, speak or understand the English
17 language." And I find that she is not able to. And
18 she admitted the other time she couldn't fill out the
19 juror form, couldn't read it.

20 I also find that she has less than a sixth-grade
21 education. She said she had a fourth-grade education.
22 And that is in the statute, under Subsection 4
23 (reading): "If he has less than a sixth-grade education
24 or its equivalent." And she went to the fourth grade
25 and that was it.

1 So aside from the equivocation on the matter of
2 the type one, two or three, she clearly does not have
3 the amount -- and, of course, the reason for that is
4 that a lot of this evidence is going to be documentary
5 evidence, I'm sure. It always is. And she has
6 absolutely no ability to look at any kind of
7 documentary evidence or to understand it, I don't
8 believe.

9 MR. KULP: Just one question, Your Honor, that
10 I'm sure you can answer since you have Section 8-10
11 there before you. It will be faster than me taking
12 time to look it up. The requirement -- and I don't
13 recall from my memory. But the requirement of being
14 able to speak and read and write the English language
15 is a separate requirement from the sixth-grade
16 education?

17 THE COURT: Yes, sir, it's completely separate.
18 Here it is right here. I'll show it to you.

19 MR. KULP: That's fine, sir.

20 THE COURT: Number (2) says, and I'll read it
21 completely.

22 MR. KULP: Yes, sir.

23 THE COURT: Of course, number (1) is about
24 convictions in State or Federal Court of more than a
25 year. Number (2) (reading): "He is unable to read,

1 write, speak or understand the English language." All
2 right, number (4) is (reading): "He has less than a
3 sixth-grade education or its equivalent."

4 And, of course, I followed it up and asked her if
5 she had any other training or anything else. And she
6 said, "No, sir." She had nothing else but just the
7 fourth-grade education.

8 And she has not followed it up with any education
9 whatsoever, so far as adult education or anything like
10 that, to try to do it. So she clearly and fortunately,
11 in this day and time -- it's very seldom you get
12 someone who's -- she's younger than I am. But she
13 cannot -- she does not have any followup education
14 whatsoever to give her the equivalency.

15 MR. KULP: Thank you, Your Honor. Since those
16 are in separate Sections -- and I appreciate you
17 reading them -- if they weren't, I would certainly
18 argue, respectfully, that a lady who spends 27 years
19 raising foster children and manages her own affairs,
20 that would probably -- I don't know any sixth graders
21 that can do all that.

22 So I think I would argue, apart from the issue of
23 any additional formal training, that that would meet
24 the standard of its equivalent. But since that other
25 requirement is in a separate Section ---

1 THE COURT: ~~Well~~ Well, that happens from time to
2 time. When somebody has less than a sixth-grade
3 education you ask them if they can read and write and
4 they work in a plant or a mill or something like that.
5 And they are able to -- or a truck driver or something
6 like that, and they know how to read maps and go
7 places. Then they do have the equivalency.

8 She demonstrated nothing to give the equivalency,
9 and she still can't read and write.

10 MR. KULP: Yes, sir.

11 THE COURT: So, if you would, please, show Ms.
12 Underwood back.

13 (POTENTIAL JUROR RETURNS TO COURTROOM)

14 THE COURT: Ms. Underwood?

15 MS. UNDERWOOD: Yes, sir.

16 THE COURT: You are excused from the trial.
17 Thank you very much for coming and you'll receive a
18 check for your two days' jury service. Thank you very
19 much. Have a nice day.

20 (JUROR EXITS COURTROOM)

21 THE COURT: Judy Messer, Juror No. 230.

22 MR. KULP: The only person I know who has the
23 Codes memorized is my partner, Paul Gibson.

24 THE COURT: It's kind of unusual for me to look
25 for a volume back here and it be here, you know. I can

1 say that.

2 Of course, Mr. Heelan that you'all have on your
3 list, we took up earlier, out of order.

4 MR. MURDAUGH: Yes, sir.

5 (POTENTIAL JUROR TAKES STAND)

6 JUDY MESSER, having been
7 previously sworn to tell the truth, the whole truth and
8 nothing but the truth, continued under her oath and
9 testified, as follows:

10 EXAMINATION

11 BY THE COURT:

12 Q. Hello, good afternoon.

13 A. Good afternoon.

14 Q. Ms. Messer, have a seat. And I remind you that
15 you are still under oath. And if you would, please,
16 speak into the microphone so they can hear you across
17 the room there. Had you ever heard anything about
18 this case before Monday?

19 A. No.

20 Q. Have you heard anything about it since then,
21 anybody mention it to you, anything like the newspaper,
22 TV, radio or anything?

23 A. No.

24 Q. Did you read the pretrial questionnaire?

25 A. Yes.

1 Q. Did you understand it?

2 A. Yes.

3 Q. What kind of juror do you feel that you are?

4 A. I'm the very last one.

5 Q. The last one, the third type, which says,
6 basically -- and correct me if I'm wrong -- but that's
7 the one that says that you believe the death penalty,
8 in certain cases where someone is convicted of murder,
9 but not every time. You feel like sometimes a person
10 who is convicted of murder and he should not receive
11 the death penalty. Is that correct?

12 A. Yes.

13 Q. And if you felt like if a person -- I'll just stop
14 it there. Okay.

15 There are two other -- I'll let the lawyers finish
16 it up. There are two other possible witnesses in this
17 case, and I've forgotten their names. One of them is
18 Richard Rivers and the other one is Kenneth Williams.
19 Do you know either of those persons?

20 A. No, sir.

21 THE COURT: Solicitor Murdaugh.

22 EXAMINATION

23 BY MR. MURDAUGH:

24 Q. Ms. Messer, how are you doing?

25 A. Fine, thank you.

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1 Q. I'm Randolph Murdaugh. I am the Solicitor for
2 this Circuit of which Beaufort is one of the counties.
3 And with that title comes the duty of prosecution.
4 This case is different than most cases that are tried
5 in this Court. It is the only case and the only time
6 the Judge does not sentence the defendant, that is, if
7 they are found guilty.

8 In a murder case where the death penalty is being
9 asked, it becomes a two-part trial. The first part
10 deals only, as normally the jury does, with the guilt
11 or innocence of the defendant. If they find the
12 defendant guilty, then you proceed to the second part
13 of the bifurcated trial. In that portion of the trial,
14 you are concerned with only two things ultimately, and
15 that is the death penalty, life imprisonment. Those
16 are the only two sentences that can be given.

17 And in that regard it would be incumbent upon the
18 State of South Carolina through me to prove, by
19 evidence, competent evidence in this courtroom, that
20 there is in existence a thing called an aggravating
21 circumstance. His Honor will charge you technically
22 what those things are at a later time. But suffice it
23 to say now, that is a reason to impose the death
24 penalty.

25 If you find there is in existence an aggravating

1 circumstance, you would then review the characteristics
2 of the defendant and the character of the defendant and
3 the crime itself, circumstances of the crime. You
4 would also -- may also listen to things in mitigation,
5 or reasons not to give the death penalty. And it would
6 be incumbent upon you, if you were a juror, that you
7 listen to and consider all of those things before
8 making a decision. Could you do that?

9 A. Yes, sir.

10 Q. If, after listening to and considering all of
11 those things, if you thought it was an appropriate case
12 for the death penalty, could you vote for the death
13 penalty?

14 A. Yes, sir.

15 Q. Conversely, if you thought it was appropriate for
16 life imprisonment, you could vote for life
17 imprisonment.

18 A. Yes, sir.

19 Q. One of the things that would happen, if, after
20 having found the defendant guilty, you progressed to
21 the other portion, you and the other eleven jurors
22 decided yes, this is an appropriate case where the
23 defendant should suffer the death penalty. And you'all
24 had decided that. It would then be incumbent upon you
25 to sign a sheet of paper. That sheet of paper -- and

1 this isn't it, by any means. That sheet of paper would
2 have at the top something to the effect, "We, the
3 undersigned jury, recommend that the defendant suffer
4 the death penalty." And while it says "recommend", it
5 doesn't really mean "recommend", because you'all will
6 be doing the sentencing.

7 And underneath it, it would have twelve lines.
8 And each juror would have to sign their name to one of
9 those lines under that phrase I just told you about.
10 Would you have a problem, if you'all had decided it was
11 the appropriate case for the death penalty, of signing
12 that sheet of paper?

13 A. I would sign it.

14 Q. Ma'am?

15 A. I would sign it.

16 Q. Where do you work?

17 A. The company name?

18 Q. Yes, ma'am.

19 A. CSG Systems. It's a computer software company
20 based out of Denver, Colorado.

21 Q. I am in awe of you if you know anything about
22 computers. I notice they've got computers all over
23 their table, and I've got yellow pads on mine. How
24 about your husband? Where does he work?

25 A. He works for a company called Schlumberger.

1 They're also involved with computers, in Atlanta,
2 Georgia.

3 Q. Where are the two outfits you'all work for
4 located?

5 A. Mine is in Denver, Colorado. My husband's is in
6 Atlanta, Georgia.

7 Q. You'all live on Hilton Head?

8 A. Yes.

9 Q. How do you ---

10 A. I do it from home. We work out of the house or
11 the client site when we travel to places other than
12 Hilton Head.

13 Q. Okay. You'all do a lot of traveling then?

14 A. One hundred percent, yes.

15 Q. Where do you live on Hilton Head?

16 A. Port Royal Plantation.

17 Q. Port Royal Plantation?

18 A. Yes, sir.

19 Q. Do you have any children?

20 A. No, sir.

21 Q. How long have you been married?

22 A. Four years.

23 Q. And how long have you lived in Beaufort County?

24 A. Since 1997, so it's been awhile.

25 Q. Where did you come from to get to Beaufort County?

1 A. Budapest, Hungary. I was employed there for a
2 project for seven years.

3 Q. This same company, computer company?

4 A. No.

5 Q. A different --

6 A. Correct. Same business, but different. And I was
7 recruited back to Hilton Head from there. But I lived
8 abroad from 1990 to 1997.

9 Q. You were in the computer business there?

10 A. Yes.

11 Q. And how about your husband? Where was he prior to
12 coming to Hilton Head?

13 A. Also in Budapest. We met there.

14 Q. Okay. Budapest's loss is our gain. We're glad
15 you're here and I thank you for your openness and
16 candor.

17 THE COURT: Mr. Kulp?

18 MR. KULP: May it please the Court?

19 EXAMINATION

20 BY MR. KULP:

21 Q. Good afternoon, Ms. Messer.

22 A. Good afternoon.

23 Q. My name is Tim Kulp. We were quickly introduced
24 on Monday. Mr. Fleming and I represent the accused,
25 Mr. Rogers. We appreciate your participation and

1 candid answers, truthful answers, and also your
2 indication that you would be fair and impartial in your
3 consideration of the issues in this serious case.

4 It's very important -- and I don't want to sound
5 like I'm prying. But you were asked to fill out the
6 questionnaire and so forth. So we kind of -- it's a
7 process of getting to know a little bit about you, as
8 the Solicitor was doing himself.

9 Do you write code?

10 A. No, sir. I'm a project manager, so I work on
11 operational assignments. I'm not a programmer.

12 Q. I see. What type of software is the primary ---

13 A. Building a customer care for telecommunication
14 companies. They use that to gather their bills.

15 Q. Where were you born?

16 A. I was born in Santa Monica, California.

17 Q. You attended schools there? And when did you
18 leave Santa Monica?

19 A. I left -- I went to high school there, and I
20 graduated in 1986. Then I went to the University in
21 Santa Barbara, graduated there in 1990. And shortly
22 after that I got a job. Then I went to Budapest where
23 I also got an M.B.A. at the university there.

24 Q. For whom did you work -- what company did you work
25 with that led you to Budapest?

1 A. A small import/export company that exported
2 distilled spirits. And they picked up a product line
3 that was manufactured in Budapest.

4 Q. Do you have any language fluency?

5 A. Yes, I speak Hungarian fluently. I'm first-
6 generation Hungarian.

7 Q. That certainly aided ---

8 A. Sure.

9 Q. --- your resume in securing that job.

10 A. Uh-huh, (affirmative nod).

11 Q. Have you ever been in the military?

12 A. No, sir.

13 Q. Or worked for the government at all, in any
14 respect?

15 A. No.

16 Q. Your questionnaire notes that you are a member of
17 the NRA, the National Rifle Association.

18 A. Yes, sir.

19 Q. Is that because you have an interest in sporting,
20 hunting or ---

21 A. Yes.

22 Q. What is that, exactly?

23 A. Hunting with my husband.

24 Q. Do you hunt birds or deer?

25 A. Birds, yes.

1 Q. Birds? What type?

2 A. Quail. In North Dakota we went duck hunting.

3 Q. You indicated that you travel a lot, and that's a
4 requirement of your job. And in terms of project
5 director, I imagine that you couldn't do that without
6 it. If you're not at your house you are on the road, I
7 guess, most of the time?

8 A. Yes.

9 Q. Would that interfere at all with your service as a
10 juror in this case?

11 A. Yes. Obviously, I wouldn't be able to be employed
12 during that time. I couldn't participate. My company
13 allows for jury duty.

14 Q. You've been with CSG Systems for how long?

15 A. Since 1998.

16 Q. Anyway, as you understand -- have you ever served
17 on a criminal jury before, criminal-case jury?

18 A. No, I've never been on a jury at all.

19 Q. I catch myself. A jury is not criminal. This is
20 an unusual case in among the cases we handle and that
21 come before the Court. You've heard that from the
22 Judge in terms of it being bifurcated, have two parts.

23 You understand that our questions to you, both
24 from the Court, from the State and from us, about your
25 ability to be fair, impartial and consider all aspects

1 of the case, are very important.

2 A. Yes, sir.

3 Q. And even though we're addressing those before
4 anyone who will be the jurors have heard anything about
5 the case, you do understand, in fact, that mere
6 reference to that now and the questions we're asking
7 you, do not mean on anyone's part that we don't have
8 the first part of the case to approach, as would be in
9 any other case where someone is accused of a crime.

10 That being that if, in fact, the State does not meet
11 its burden of proof under our laws and the Court's
12 instructions, then the jury finds the accused not
13 guilty, unless the State is able to meet its burden of
14 proof, applies in this case as well. And we may very
15 well end up or it could be the result that this
16 defendant is found not guilty.

17 A. Yes, I understand that.

18 Q. And that if, in fact, the defendant was found --
19 the accused. I don't want to call him the defendant in
20 this case -- the accused, is found not guilty that
21 there certainly, logically, is no need to proceed to
22 any other portion?

23 A. Yes.

24 Q. So the fact that we're discussing these avenues of
25 the appropriate punishment or approaches does not

1 affect your ability to yield a fair and impartial
2 assessment of the case in its whole?

3 A. No, it does not.

4 Q. And in terms of referring back to the punishment
5 determination phase, in this case of murder where the
6 State is seeking the death penalty, should we get to
7 that portion of the case, it's your individual decision
8 and determination, based on the evidence that's
9 presented, and that only, and the Judge's instructions,
10 to decide whether or not the appropriate punishment is
11 the death penalty or life in prison. Do you understand
12 that?

13 A. Yes, sir.

14 Q. And you're able to give due consideration to all
15 aspects of the evidence presented to assist you and the
16 jury in making that decision, including mitigating
17 evidence or things about the case or about Mr. Rogers
18 that would weigh heavily?

19 A. Yes.

20 MR. KULP: Thank you very much. It's a
21 pleasure.

22 THE COURT: Any comments on this juror?

23 MR. MURDAUGH: No, sir.

24 MR. KULP: No, sir, Your Honor.

25 THE COURT: Ms. Messer, I find that you are

1 qualified. You are now in the panel from which the
2 jury will be selected. We'll do that at 9:30 on Friday
3 right here. Please come and bring enough clothes for
4 at least three nights. It could be four, but no more
5 than four, but three is probably going to be plenty. I
6 guess as much as you travel, you are probably pretty
7 efficient anyway.

8 Don't discuss the case with anyone or allow anyone
9 to discuss the case with you. As you well know, it's
10 basic and fundamental that the case be decided from the
11 witnesses here in Court, along with the evidence
12 introduced in the trial.

13 But now that you are in the selection pool and
14 have been qualified, I ask that you do not take any
15 steps or do any reading, research or anything of that
16 type of thing into criminal law or criminal procedure
17 or whatever through any books, magazines or the
18 internet or anything.

19 In other words, you've been qualified just as you
20 are. And so you should -- everything you need to know
21 about the case will come out in the trial.

22 So with that, do you have any questions?

23 MS. MESSER: No. Is there any followup
24 questions? It's just 9:30 here and we assemble again?

25 THE COURT: We'll assemble again. And there

1 will not be any followup questions, assuming nothing
2 new has transpired. Just very general questions of the
3 entire panel. And the hotel that you'll be staying in
4 is the Hampton Inn which is just right across the marsh
5 here, right behind the Applebee's here.

6 Have a nice afternoon.

7 (TESTIMONY OF JUDY MESSER CONCLUDED)

8 THE COURT: James Locke, Juror No. 205.

9 (POTENTIAL JUROR TAKES STAND)

10 JAMES LOCKE, having been
11 previously sworn to tell the truth, the whole truth and
12 nothing but the truth, continued under his oath and
13 testified, as follows:

14 EXAMINATION

15 BY THE COURT:

16 Q. How are you, Mr. Locke?

17 A. Not too bad. You?

18 Q. Good. Have a seat and get close to the microphone
19 so everybody can hear you well. And I remind you that
20 you are still under oath from Monday. First off, had
21 you ever heard anything about this case before Monday?

22 A. No, sir.

23 Q. Have you seen or heard anything about this case
24 since Monday, other than what happened in Court?

25 A. I just heard a little bit this morning. I turned

1 the channel.

2 Q. Excuse me. I didn't hear you.

3 A. I heard a little bit this morning and I turned the
4 channel of the radio.

5 Q. You heard something on the radio. And so you
6 immediately turned the channel?

7 A. Yes, sir.

8 Q. So you did not listen to whatever they were
9 saying?

10 A. No.

11 Q. Do you remember what station you were listening
12 to?

13 A. I think it was the River.

14 Q. The River? I'm familiar with that one. I listen
15 to it myself. Did you read this pretrial questionnaire
16 out there?

17 A. Yes, sir.

18 Q. You notice in there they talk about three types of
19 jurors in a case where the death penalty is being
20 sought? What type juror do you feel you are?

21 A. I feel I'm type three.

22 Q. That being the one that feels like in some cases
23 that you think the death penalty is appropriate and
24 some cases you do not think it would be in a murder
25 case. And that you would want to hear all the

1 testimony and so forth and make up your mind according
2 to the whole story?

3 A. Yes, sir.

4 Q. There are two witnesses that you were not asked
5 about, Kenneth Williams and Richard Rivers. Do you
6 know either one of those persons?

7 A. No, sir.

8 THE COURT: Mr. Murdaugh, Solicitor Murdaugh.

9 EXAMINATION

10 BY MR. MURDAUGH:

11 Q. Mr. Locke, how do you do?

12 A. Not too bad.

13 Q. I'm Randolph Murdaugh. I'm the Solicitor here.
14 That doesn't mean I'm selling anything. It means I'm
15 the prosecutor. I need to ask you some questions,
16 quite frankly, to find out if I want you to sit on the
17 jury.

18 A. All right.

19 Q. And understand there are no right or wrong
20 answers. We just want to get a feeling about you.
21 And when I say "we", the lawyers on the other side
22 as well as me.

23 This is a different case than you ever have in
24 Court. Generally, when you walk the Court or come to
25 Court, the jury determines the guilt or innocence of

1 the defendant and the Judge does the sentencing.

2 This is different, where you have a murder and are
3 asking for the death penalty. The jury does both.
4 They determine his guilt or innocence, and then
5 subsequently determine what his sentence will be.

6 And I need to explain a little bit about that. As
7 I said, the first part will be only with guilt or
8 innocence. If you find him guilty, then you go to the
9 second part. In the second part, the State is required
10 to prove a thing called an aggravating circumstance.
11 The Judge will charge you later, if you serve on the
12 jury, as to specifically what an aggravating
13 circumstance is. But for right now, suffice it to say
14 that's a reason to impose the death penalty.

15 If you find there is an aggravating circumstance,
16 then you have to consider all of the testimony you have
17 heard such as the character of the defendant, the
18 circumstances of the crime itself, the aggravating
19 circumstances that I've just spoken about and
20 mitigating circumstances. Mitigating circumstances
21 being reasons not to give the death penalty. And you
22 are required to consider all of those things before you
23 make a decision. Is that what you would do?

24 A. Yes, sir.

25 Q. If, after listening to all of those things, the

1 aggravating circumstances, the character of the
2 defendant, the circumstances of the crime, the
3 mitigating circumstances, if you thought that this --
4 and I'm not talking about this case. The case we're
5 talking about, if you thought it was appropriate for
6 the defendant to receive the sentence of death, could
7 you vote for it?

8 A. Yes, sir.

9 Q. Conversely, if you thought it was appropriate,
10 could you vote for life in prison?

11 A. Yes, sir.

12 Q. If you were sitting on the jury, and if you and
13 the other eleven members of the jury got to the point
14 to where you'all decided, yes, we think this man or
15 this woman or whoever it may be, should receive the
16 death penalty, you've voted on it, you've decided that.
17 It would then be incumbent upon you to sign a piece of
18 paper. This isn't the paper. It's just something
19 that's in front of me. And the top of the paper would
20 say something like -- not specifically, but something
21 like -- "We, the undersigned jurors, recommend that the
22 defendant suffer punishment of death." Twelve lines on
23 it, and each person would have to sign their name to
24 it. If you thought it was the appropriate case for the
25 death penalty, could you sign your name to it?

1 A. Yes, sir.

2 Q. Where do you work?

3 A. Graco Home Center in Beaufort on Ladys Island.

4 Q. Ladys Island. And you are a cabinet builder?

5 A. Yes, sir.

6 Q. Are you originally from Beaufort?

7 A. Yes, sir.

8 Q. And how long have you lived here?

9 A. When I was younger I moved around a lot.

10 Q. Parents in the military?

11 A. No, they were in a corporation that caused them to
12 move around a lot. Off and on I came back. I've lived
13 here all my life now.

14 Q. How long have you lived here now, just roughly?

15 A. Probably about fifteen, seventeen years.

16 Q. I notice you went to Thomas Heyward. Did you play
17 football over there?

18 A. No.

19 MR. MURDAUGH: They had some good football teams.

20 That's all I've got to ask you. I appreciate your
21 being fair and open with me. Thank you.

22 MR. KULP: If it please the Court, Your Honor.

23 EXAMINATION

24 BY MR. KULP:

25 Q. Good afternoon, Mr. Locke.

1 A. How are you doing?

2 Q. Very good, thank you. My name is Tim Kulp. I
3 think the Judge mentioned my name and introduced us on
4 Monday. You were here when the large panel of people
5 were brought in. And Mr. Fleming is the other lawyer
6 in this case working with me. And we represent Mr.
7 Rogers, the accused.

8 I just have a few questions for you. The first
9 thing I wanted to ask you is what's the largest-drawing
10 spectator sport in the United States?

11 A. I don't know.

12 Q. I was just asking you. You're a fan of auto
13 racing?

14 A. I like NASCAR.

15 Q. Do you go to a lot of NASCAR events?

16 A. I go to several.

17 Q. You've been on a criminal jury before as well?

18 A. Yes, sir.

19 Q. Was it in Circuit Court or in a smaller
20 jurisdiction court?

21 A. It was in this one here.

22 Q. In big court?

23 A. Yes, sir.

24 Q. What type of offense was it?

25 A. Robbery.

- 1 Q. Robbery? How long ago was that?
- 2 A. It was three or three-and-a-half years ago.
- 3 Q. How long did the trial last?
- 4 A. That particular trial lasted three or four days.
- 5 Q. Do you recognize any of the people here in the
- 6 courtroom who ---
- 7 A. Yes, I recognize the people over there.
- 8 Q. Mr. Knight?
- 9 A. Yes, sir.
- 10 Q. Did he prosecute that case?
- 11 A. Yes, sir.
- 12 Q. Your brother, is it an older brother?
- 13 A. Younger.
- 14 Q. Younger brother. He's in the Air Force?
- 15 A. Yes, sir.
- 16 Q. Where is he stationed?
- 17 A. Minot, North Dakota.
- 18 Q. North Dakota. He didn't make anybody mad, did he?
- 19 He's in the Military Police?
- 20 A. Yes.
- 21 Q. Are you close to your brother?
- 22 A. Yes.
- 23 Q. You're tight? You and your brother get along well?
- 24 A. Yes.
- 25 Q. Did he have any prior law enforcement experience

1 before he went into the Air Force?

2 A. No.

3 Q. Do you see him often?

4 A. No.

5 Q. When's the last time you saw him?

6 A. It was about a year ago.

7 Q. Do you talk with him any?

8 A. Yes, we talk on the phone.

9 Q. Do you communicate with him by e-mail?

10 A. Not on the computer, just the phone.

11 Q. Just the phone? When is his commitment up?

12 A. Five years from now.

13 Q. He just got in?

14 A. Yes, sir.

15 Q. You work, you said, at Graco Home Center?

16 A. Yes.

17 Q. And you have the skill of trim carpentry?

18 A. Trim carpentry and cabinet building.

19 Q. Cabinet building. How long have you been doing
20 that?

21 A. Six years.

22 Q. Did you have an apprenticeship and learn how to do
23 it?

24 A. I went to CEC for instruction.

25 Q. You indicated to the Court and when the Solicitor

1 asked you as well that you feel that you fall within
2 the category the Judge described, category three?

3 A. Yes.

4 Q. That you could listen to the evidence or the lack
5 of it in a case and make a decision that would be fair
6 and impartial. And in terms of that issue of the
7 category you fall in, there's nothing that -- you don't
8 have an opinion or a predisposition that you would tell
9 us about now at this critical point in making the
10 inquiry where you feel you would have to give a certain
11 punishment or penalty?

12 A. I don't understand what you're asking.

13 Q. You don't feel that if a person was convicted of
14 murder that you would be required to impose a certain
15 penalty?

16 A. No. I could be fair.

17 Q. You could be fair?

18 A. Yes, sir.

19 Q. So if, in fact, someone was convicted of murder
20 and then you were asked, as the Judge described, in a
21 second proceeding to, as the jury, determine what the
22 appropriate punishment would be. And your choices were
23 between life in prison and the death penalty, you don't
24 have any opinion or disposition as to either? You
25 don't have any feelings about either?

1 A. No.

2 Q. You understand as well that the first part of the
3 case is like any other trial where the State has the
4 burden of proof and the jury has the decision to make
5 as to whether the defendant is not guilty or guilty.
6 And, in fact, if the decision of the jury was not
7 guilty, logically, you'd never get to a point where you
8 addressed the issue of the appropriate punishment. Do
9 you understand that?

10 A. Yes, sir.

11 Q. Very good. And I think you told the Judge you
12 haven't seen anything in the newspaper?

13 A. No. Just this morning on the radio and I turned
14 the channel.

15 Q. That's right. And what, exactly, did you hear?

16 A. It was very short. I turned the channel after
17 they mentioned his name. That's basically all I heard.

18 Q. Didn't hear any other facts and circumstances?

19 A. No.

20 Q. Didn't see the newspaper today?

21 A. No, I don't read the newspaper. I try not to.

22 MR. KULP: Thank you very much.

23 THE COURT: Any comments regarding this juror?

24 MR. MURDAUGH: No, sir.

25 MR. KULP: Yes, sir, very briefly.

1 THE COURT: Mr. Locke, would you please retire
2 to the back of the courtroom. And I'll call you back
3 in in just a second.

4 (POTENTIAL JUROR EXITS COURTROOM)

5 MR. KULP: Your Honor, if they didn't already
6 know the answer I might not ask the question. But I
7 was wondering if they would disclose -- if they recall
8 that trial and how the case came out?

9 THE COURT: Sir?

10 MR. KULP: I wasn't going to ask the juror how
11 the case came out. Do you'all remember?

12 MR. KNIGHT: It surprised me. He said three or
13 four days. I don't ever go over a day-and-a-half.

14 THE COURT: I've noticed that lawyers think
15 they don't take very long. So I don't know. It might
16 seem like a day-and-a-half to you, but it sure probably
17 seemed like longer to somebody else. I always say to
18 lawyers when you ask them how long they're going to
19 take on summation and they say, "I don't know. I've
20 never timed myself. But I never take more than fifteen
21 minutes." Those are the ones you'd better look out
22 for.

23 MR. KULP: Judge, that's kind of novel. I
24 don't know ---

25 THE COURT: What issue are you addressing?

1 MR. KULP: Probably one I should have asked
2 the juror-witness, and that is whether or not his
3 participation in that case with someone sitting at the
4 table here for the prosecution now ---

5 THE COURT: Well, I'll let you ask that. But
6 let me go ahead and rule. Because I'm going to bring
7 him in here in a second.

8 MR. KULP: Yes, sir.

9 THE COURT: And if you want to followup with
10 that and if you think that changes it, I'll send him
11 out again. But if that's all you've got, when he comes
12 in ---

13 MR. KULP: I think we need to clarify that,
14 for the record.

15 THE COURT: Let me just say this. Do you have
16 any objection to him as to what's in the record at the
17 present time?

18 MR. KULP: No, sir. Well, I don't think
19 there's any basis for me to object.

20 THE COURT: Well, I find that he is qualified.
21 When I bring him in, I'm going to let you address him.
22 And if you want to -- if you think you need to talk to
23 the Court again, we'll send him out again and go
24 forward. I don't anticipate that. And I'm going to
25 go ahead. You just signal me before I give him any

1 instructions about coming up here and all.

2 MR. KULP: Yes, sir.

3 THE COURT: Would you please send in Mr. Locke?

4 (POTENTIAL JUROR RETURNS TO COURTROOM)

5 THE COURT: Mr. Locke, just come right up here
6 in the middle here, just for a second. Mr. Kulp, you
7 have another question, you say?

8 MR. KULP: Yes, sir, Your Honor.

9 THE COURT: Go ahead.

10 MR. KULP: If it please the Court. Mr. Locke,
11 I meant to ask you one thing. You indicated that you
12 had served on a jury here in this courtroom for a
13 burglary case?

14 MR. LOCKE: Yes.

15 MR. KULP: And you recall that Mr. Knight was
16 the prosecutor?

17 MR. LOCKE: Yes.

18 MR. KULP: Would the fact that you
19 participated as a juror in that trial in this
20 courtroom, and what you learned as a juror -- I know
21 that case has nothing to do with this -- but just your
22 experience. Would that affect your ability to be fair
23 and impartial in this case, in any way whatsoever?

24 MR. LOCKE: No.

25 MR. KULP: It would not?

1 MR. LOCKE: No.

2 THE COURT: Mr. Locke, I find that you are
3 qualified to serve as a juror. That means that you go
4 into the pool from which the jury will be selected. We
5 will do that at 9:30 on Friday. So please report back
6 here at that time, 9:30 on Friday. Bring enough
7 clothes to last you at least three nights. You'll be
8 put up at the Hampton Inn, right across the way over
9 here, behind Applebee's.

10 And, of course, as I told you before and as you
11 say you've done before, don't discuss this case with
12 anyone or allow anybody to discuss it with you. Do not
13 let yourself see or hear any TV, radio or newspaper ads
14 about it. If anybody should attempt to talk to you
15 about the case please report it to us. You can call
16 the Clerk's Office. You've got that number. And
17 they'll put you in touch with me right away. Or you
18 could report it when you come in on Friday. Do you
19 understand all that?

20 MR. LOCKE: Yes.

21 THE COURT: One other thing. Now that you've
22 been selected on this jury don't read anything or do
23 any research or go on the internet or through books or
24 magazines or whatever about criminal law or criminal
25 procedure or the facts of this case. In other words,

1 you've been qualified the way you are. And anything --
2 if you are selected as a juror, all of that will be
3 explained to you when you come.

4 Any questions?

5 MR. LOCKE: No, sir.

6 THE COURT: Have a nice afternoon, and thank
7 you for coming in. We'll see on Friday morning at
8 9:30.

9 (TESTIMONY OF JAMES LOCKE CONCLUDED)

10 THE COURT: Brian Smith, Juror No. 358.

11 (POTENTIAL JUROR TAKES STAND)

12 BRIAN SMITH, having been
13 previously sworn to tell the truth, the whole truth and
14 nothing but the truth, continued under his oath and
15 testified, as follows:

16 EXAMINATION

17 BY THE COURT:

18 Q. How are you, Mr. Smith?

19 A. Fine. Yourself?

20 Q. Doing good. You are a fireman?

21 A. Yes, sir.

22 Q. And you do not have a law enforcement commission,
23 do you?

24 A. No, sir.

25 Q. Mr. Smith, have you ever heard anything about this

1 case before Monday?

2 A. Not really. I know they went on a call. You
3 know, I know they went on a call, you know, back -- you
4 know, just hearing around the Fire Department.

5 Q. Is that your Fire Department?

6 A. Yes, sir.

7 Q. Did you talk to any of the people who went on that
8 call?

9 A. Not specifically, no. I mean, you just hear that
10 they went on, you know, a call.

11 Q. Did you read anything in the newspapers or
12 anything about it back when it happened?

13 A. No, sir.

14 Q. Have you read or heard anything about this case
15 since immediately after it happened?

16 A. No, sir.

17 Q. How about since you were here? Of course, we
18 talked about it in Court here on Monday. Have you
19 heard or read or anything on TV, radio or newspaper
20 or anything?

21 A. No, sir.

22 Q. Anybody ask you about anything or have you talked
23 to anybody about the case?

24 A. No, sir. I did read about or somebody told me
25 that it might go into next week and about picking the

1 jury.

2 Q. Did you discuss any of the facts about the case or
3 just the fact there was a case going on?

4 A. Just that the case was going on.

5 Q. Did you read this thing called a pretrial
6 questionnaire out there?

7 A. Yes, sir.

8 Q. And in it, it talks about the three kinds of
9 jurors. Do you understand all that?

10 A. Yes, sir.

11 Q. What kind of juror do you think you are?

12 A. (No response)

13 Q. Let me explain it a little further. Maybe I can
14 give you a little background. There's one kind of
15 juror that feels -- and, of course, we're talking about
16 a death penalty case. In a death penalty it's
17 bifurcated, meaning divided into two parts.

18 A. Right.

19 Q. The first part is the guilt phase. And, of
20 course, if you go into the guilt phase and a person is
21 found not guilty, then that's the end of it. But if
22 the person is found guilty of murder in the guilt
23 phase, then it goes to the second phase. And that's
24 called the penalty phase. The jury decided the
25 penalty.

1 In South Carolina there's two penalties that are
2 provided for. One is the death penalty. The other is
3 life imprisonment.

4 And then this questionnaire goes on to explain
5 there's some jurors that feel like if a person has been
6 convicted of murder, he ought to get the death penalty
7 in every case, and just because -- and doesn't need to
8 know any facts behind it.

9 There's a second type juror called type two juror
10 who feels that no matter what the circumstances of the
11 case are they do not believe in the death penalty and
12 would not vote for the death penalty, no matter what.

13 Then there's a third type, which is the type
14 three. And that juror feels that there are some cases
15 where the death penalty is appropriate. And that juror
16 would vote for the death penalty if he or she thought
17 it was appropriate. On the other hand, that juror also
18 thinks that there are some cases where if somebody has
19 been convicted of murder for which they should not
20 receive the death penalty. That they ought to get life
21 imprisonment. And those jurors would like to have the
22 information that's developed during the trial, both in
23 aggravation and in mitigation before they decide how
24 they would vote as to whether or not -- what the
25 penalty should be in a particular case.

1 With that, tell me how you feel.

2 A. If you kill somebody, you've given up your rights
3 as a citizen. I probably am for it.

4 Q. Speak into the microphone.

5 A. I'm for it.

6 Q. In every case?

7 A. If you kill somebody I think you ought to be
8 punished for it.

9 Q. And by "punished" you mean ---

10 A. Well, I think we ought to go back to public
11 hangings and we might straighten some people up now and
12 then.

13 Q. Public caning?

14 A. Hanging.

15 Q. Hanging?

16 A. Yes, sir. I might have been born a century too
17 late. I don't know.

18 Q. Well, I don't want to put words in your mouth, but
19 are you telling me that you feel like that if somebody
20 commits the crime of murder they ought to suffer the
21 death penalty?

22 A. Yes, sir. I know there's probably some things that
23 might change that. You know, like if somebody gets
24 accused of murder for a hunting accident or something
25 like that it might be, you know -- I mean, if you're

1 convicted of murder, I think you ought to -- if you're
2 going to kill somebody ---

3 Q. Okay. There are two other witnesses, Kenneth
4 Williams and Richard Rivers. Do you know either one of
5 those persons?

6 A. No, sir.

7 THE COURT: Solicitor Murdaugh.

8 MR. MURDAUGH: I have no question, Your Honor.

9 MR. KULP: No question, Your Honor. Thank
10 you.

11 THE COURT: All right, sir. I'm going to
12 excuse you, then, Mr. Smith. And thank you so much for
13 coming in. And that will conclude your jury service.

14 (TESTIMONY OF BRIAN SMITH CONCLUDED)

15 THE COURT: THE COURT: I just noticed that
16 Brian Smith knew some witness in there. That's
17 probably Curt Copeland.

18 MR. MURDAUGH: And his Chief, I think, also is a
19 witness, Mr. Ellison.

20 Daniel Connelly, Juror No. 62.

21 (POTENTIAL JUROR TAKES STAND)

22 DANIEL CONNELLY, being
23 duly sworn to tell the truth, the whole truth and
24 nothing but the truth, was examined and testified, as
25 follows:

1 EXAMINATION

2 THE COURT:

3 Q. How are you, Mr. Connelly?

4 A. Fine. How are you doing, sir?

5 Q. Doing fine. Mr. Connelly, I remind you that you
6 are still under oath from Monday when you were sworn.

7 Have you ever heard about this case before Monday?

8 A. I vaguely recall it from '99, but no particulars.

9 Q. Nothing in particular?

10 A. No, sir.

11 Q. Have you heard anything since it originally
12 happened or right after it originally happened?

13 A. No, sir.

14 Q. Have you heard anything the case since we were up
15 here on Monday?

16 A. No, sir.

17 Q. In other words, you haven't seen any newspaper
18 articles, heard anything on the radio or TV or
19 anything?

20 A. No.

21 Q. And nobody's talked to you about it and you
22 haven't talked to anybody else about it?

23 A. No, sir.

24 Q. Did you read this thing about this pretrial
25 questionnaire?

1 A. Yes, sir.

2 Q. And did you understand it?

3 A. Yes, sir.

4 Q. What kind of juror do you think you are?

5 A. Probably number three.

6 Q. That's the one that you feel that the death
7 penalty is appropriate sometimes, and you would give it
8 in those cases you think it's appropriate?

9 A. Yes, sir.

10 Q. And in other cases, even though somebody's been
11 convicted of murder, you think they should not receive
12 the death penalty?

13 A. Yes, sir.

14 THE COURT: Solicitor Murdaugh?

15 EXAMINATION

16 BY MR. MURDAUGH:

17 Q. I'm Randolph Murdaugh. How are you doing, sir?

18 A. Fine. How are you doing?

19 Q. I'm the Solicitor for this Circuit, which means I
20 am the prosecutor.

21 A. Right.

22 Q. And I need to ask you some questions to find out
23 whether or not I want you to serve on the jury, sir.

24 A. Okay.

25 Q. Do you by any chance know Richard Rivers or

1 Kenneth Williams?

2 A. No, sir.

3 Q. You are originally from Beaufort County?

4 A. Yes, sir.

5 Q. Who are your parents?

6 A. Julie and Danny Connelly.

7 Q. Danny?

8 A. Yes, sir.

9 Q. Mr. Connelly, this case is different than any
10 other case that ever comes to Court, the normal case
11 that comes to Court, in that generally when a criminal
12 case is tried, the jury determines the guilt or
13 innocence of the defendant, and then their duty is over
14 with. The Judge does the sentencing.

15 But in a murder case where the death penalty is
16 being asked for, the jury has a dual role. They first
17 have to determine guilt or innocence. Then in a second
18 part of that trial they have to determine what sentence
19 the defendant should serve, death penalty or life in
20 prison.

21 A. Right.

22 Q. And in that regard, if the jury has found the
23 defendant guilty in the first phase of the trial, you
24 go to the second phase in which the State has to prove
25 a thing called an aggravating circumstances or a reason

1. to give the death penalty. If you find that the State
2. -- you were on the jury and you and the other jurors
3. determined that the State had proved an aggravating
4. circumstance or a reason to give the death penalty,
5. then you would have to consider all of the evidence
6. that you had heard or may have regarding the character
7. of the defendant, what kind of fellow he was, the
8. circumstances of the crime -- how bad it was -- and
9. mitigating circumstances, reasons not to give the death
10. penalty.

11. If you were serving on a jury would you listen to
12. and consider all of that information before you made a
13. decision one way or the other?

14. A. Yes, sir.

15. Q. And if you were sitting on the jury, sir, and if
16. you decided that this -- and I'm not talking about this
17. case. I'm just talking about a case in general -- that
18. a case was so bad until the defendant deserved the
19. death penalty, could you vote for the death penalty?

20. A. Yes, sir.

21. Q. Conversely, could you vote for life imprisonment
22. if you didn't think it was so bad?

23. A. Yes, sir.

24. Q. If you were on the jury and if you and the other
25. eleven members of that jury decided 'Yeah, this is a

1 bad, bad case. The man or the woman ought to get the
2 death penalty.' So you'all have made a decision about
3 what you want to do. It would then be incumbent upon
4 you to sign a piece of paper. And this is not the
5 paper. This is just something that was here for me to
6 pick up. The paper would say, "We, the undersigned
7 jury, recommend that the defendant suffer the death
8 penalty," or words to that effect. There would be
9 twelve lines on it. Each juror would have to sign his
10 name to one of those lines.

11 If you thought that the defendant's crime was so
12 bad until he deserved the death penalty, could you sign
13 that paper?

14 A. Yes, sir.

15 Q. Would you have a problem with it?

16 A. No, sir.

17 Q. Where do you work?

18 A. At Beaufort Winlectric.

19 Q. Doing what, sir?

20 A. I'm an outside salesman for electrical supplies.

21 Q. You mean outside the building?

22 A. Yeah, I'm out all the time.

23 Q. There was one other thing I wanted to ask you,
24 sir. You are not married?

25 A. No, sir.

- 1 Q. Where do you live?
- 2 A. I'm in the process of moving.
- 3 Q. Where do you live right now?
- 4 A. Whitehall Road.
- 5 Q. Out Ribault to the right?
- 6 A. Right off Battery Creek Road.
- 7 Q. Okay. And where are you moving to?
- 8 A. I'm moving to Duke Street.
- 9 Q. That doesn't help me. Where is that?
- 10 A. It's actually about a couple of blocks from here.
- 11 Q. Are you buying there?
- 12 A. Yes, sir.
- 13 Q. Thank you for being so fair and open with me.
- 14 Just one moment, please. Is your mother still alive?
- 15 A. Yes, sir.
- 16 Q. Do you have any brothers and sisters?
- 17 A. I have a sister.
- 18 Q. And what is her name?
- 19 A. Christina Connelly.
- 20 Q. Christina. Thank you, sir.
- 21 MR. KULP: May it please the Court?
- 22 THE COURT: Mr. Kulp.
- 23 EXAMINATION
- 24 BY MR. KULP:
- 25 Q. Mr. Connelly, good afternoon.

1 A. Good afternoon.

2 Q. My name is Tim Kulp. This is Mr. Corey Fleming.
3 We represent the accused, Mr. Rogers. I just have a
4 few questions. I saw you filled out the questionnaire
5 that all the jurors were sent and had to fill out and
6 send back.

7 A. Yes.

8 Q. And you indicated -- a number of the questions --
9 one of the questions was your hobbies and special
10 interests. And you put down here golf, fishing,
11 boating and then something that makes me very envious.
12 You said "whatever I want to do."

13 A. Yes.

14 MR. MURDAUGH: That's before he gets married.

15 MR. KULP: I knew that was coming and I didn't want
16 to say it. So I thought I'd let the Solicitor say it.

17 EXAMINATION RESUMED

18 BY MR. KULP:

19 Q. You've indicated that you believe you're a type
20 three juror which means, as the Judge told you, that
21 you could be fair and impartial and that you would
22 consider all the facts and circumstances, correct?

23 A. Yes, sir.

24 Q. And, as well, that you don't have any
25 predisposition to give the death penalty or to give

1 life imprisonment, if we ever got to the stage where
2 the appropriate penalty was an issue?

3 A. Right.

4 Q. And you do understand, do you not, how important
5 and critical it is in a case like this that a juror or
6 the jury, comprised of jurors, be fair and impartial
7 and not have any impediments or any strong feelings
8 that would keep them from being fair and impartial?

9 A. Right.

10 Q. Now, I'm looking at your questionnaire, and you
11 said there that you had very strong feelings about the
12 use and sale of illegal drugs that would make it so
13 that you could not be fair and impartial in a case
14 involving the alleged sale or use of illegal drugs. Is
15 that true?

16 A. Yes, sir.

17 Q. You also said that you have strong feelings about
18 alcohol or drug abuse, that you could not fairly weigh
19 the evidence in a case involving the alleged use or
20 abuse of alcohol or drugs. Is that correct?

21 A. Right.

22 Q. You also indicated you have such strong feelings
23 for or against law enforcement that you would be unable
24 to give both sides a fair trial in a criminal case.

25 A. Right.

1 Q. Is that correct and accurate?

2 A. Actually, it was 11:30 at night when I was going
3 through that.

4 Q. Yes, sir.

5 A. And I read the front page where I was supposed to
6 turn it in early, and I didn't. I was packing boxes
7 up. Like I said, I'm moving. So I was in a hurry when
8 I was going through that.

9 Q. So those answers are incorrect?

10 A. Partially, yes, sir.

11 Q. What is not incorrect, please, sir?

12 A. Can you repeat those for me one more time?

13 MR. KULP: May I approach the witness, Your Honor,
14 to refresh his recollection?

15 THE COURT: Yes.

16 EXAMINATION RESUMED

17 BY MR. KULP:

18 Q. (Tenders document to Juror).

19 A. (Upon review), Number 30, the question about do
20 you feel or not feel about law enforcement officers so
21 that you would be unable to give both sides a fair
22 trial. I could be fair on that. That's about it.

23 Q. The others you couldn't be fair on?

24 A. I don't think so, not at my age and not with my
25 experiences I've been through so far.

1 Q. What are those experiences?

2 A. Just being young. I'm only 21 years old. And to
3 be honest with you, I don't want to serve on the jury.

4 Q. Well, your honesty is extremely important. I know
5 you'd probably rather be -- maybe no working, but it's
6 important that you tell us exactly how you feel about
7 this. Why would you not want to serve on the jury?

8 A. I don't think I've had enough experience to tell
9 somebody whether they deserve die or whether they
10 deserve to spend the rest of their life in prison.

11 Q. But at this point you certainly have not heard the
12 facts and circumstances of the case.

13 A. Right.

14 Q. I guess the issue that I'm asking is would you be
15 fair and impartial and wait to hear the evidence in the
16 case as to the issues that the Judge asked you to
17 decide and gave you and the other jurors the
18 instructions about how to go about deciding those
19 issues?

20 A. How long could the case end up dragging on is
21 pretty much why I say that.

22 MR. KULP: Your Honor, it may be the
23 appropriate time, consider the topics, for the
24 Court to inquire.

25

EXAMINATION CONTINUED

1 THE COURT:

2 Q. Let me ask you this. You don't have any excuse
3 not to serve, any legal excuse, do you?

4 A. No, sir.

5 Q. Well, you know, it's like military service. You
6 know, you don't have the draft now, but the Court is
7 public service and this is part of your duties of
8 citizenship. Just because you'd rather be fishing or
9 doing something else, I can't help you there.

10 But to answer your question, I would think that
11 this case -- we're telling jurors that they will be
12 sequestered. They will be staying at the Hampton Inn,
13 and to bring enough clothes to stay three nights.
14 We're going to start the case on Friday morning.

15 So it would appear to me that you would possibly
16 be out sometime no later than Monday afternoon or
17 sometime Tuesday.

18 MR. KULP: Thank you, Your Honor.

19 EXAMINATION RESUMED

20 BY MR. KULP:

21 Q. You testified a minute ago that you didn't think
22 you had enough experience based on your age to make a
23 decision as to someone's life or death. Is that the
24 case?

25 A. Yes, sir.

1 Q. Is it for that reason that you feel like you would
2 avoid the issue and you would automatically give life
3 imprisonment?

4 A. It's a possibility.

5 Q. Is it the case that you feel like you would
6 automatically give the death penalty?

7 A. More than likely, no.

8 Q. Is that based upon any feelings that you have
9 about those topics and those outcomes?

10 A. No.

11 Q. So it's your testimony here under oath on the
12 stand today that in most cases or in all cases where
13 murder was the verdict in a trial, that you would give
14 life imprisonment?

15 A. Not in all cases.

16 Q. One of the questions on that form that I handed
17 you to review, Mr. Connelly, is whether or not you
18 could be fair and give both the State and the defense a
19 fair trial, a fair and impartial trial. Do you recall
20 that?

21 A. Yes, sir.

22 Q. And on there it's written "no", but it's in the
23 column for "I cannot be fair". So is the answer that
24 you couldn't be fair? That you would favor the State's
25 position in the case more than you would the defense

1 because of your experiences?

2 A. I would favor the State.

3 Q. You would favor the State?

4 A. Yes, sir.

5 Q. Would you also favor the State in a case where
6 firearms were involved or alleged to be involved in the
7 trial?

8 A. Yes, sir.

9 Q. And would you also favor the State in a case where
10 the use or sale of illegal drugs were alleged to be
11 involved?

12 A. Yes, sir.

13 Q. And where there was alleged use or abuse of
14 alcohol or drugs?

15 A. Yes, sir.

16 Q. And also that you would -- you feel strong
17 feelings about police and law enforcement would make it
18 so that you would give greater weight to the State's
19 case?

20 A. Right.

21 Q. Thank you.

22 MR. KULP: Your Honor, we have no further
23 questions. Thank you very much.

24 POTENTIAL A. Thank you.

25 THE COURT: Do you'all want ---

1 MR. KNIGHT: We're in agreement. We think that
2 we should move on to the next juror.

3 THE COURT: You'all both agree to excuse him?

4 MR. KULP: Yes, sir, absolutely.

5 THE COURT: Mr. Connelly, I'm going to excuse
6 you from the trial of this case. So you are excused.
7 Thank you.

8 POTENTIAL JUROR: Thank you, sir.

9 (TESTIMONY OF DANIEL CONNELLY CONCLUDED)

10 THE COURT: That was by agreement of both sides
11 that he be excused, correct?

12 MR. KNIGHT: Yes, sir.

13 THE COURT: Carole Howe, Juror No. 158.

14 (POTENTIAL JUROR TAKES STAND)

15 CAROLE HOWE, being duly
16 sworn to tell the truth, the whole truth and nothing
17 but the truth, was examined and testified as follows:

18 THE COURT: If you'all get one like that again,
19 kind of let's have a sidebar.

20 MR. MURDAUGH: We didn't know him until right
21 there at the end, sir.

22 MR. KULP: Yes, sir.

23 THE COURT: I could see that.

24 EXAMINATION

25 THE COURT:

- 1 Q. How are you, Ms. Howe?
- 2 A. Fine.
- 3 Q. Have a seat.
- 4 A. (Complies).
- 5 Q. Ms. Howe, first off, I'd remind you that you are
- 6 still under oath from Monday.
- 7 A. Uh-huh, (affirmative nod).
- 8 Q. And I'd ask before Monday, had you ever heard
- 9 anything about the facts of this case?
- 10 A. Probably when it happened.
- 11 Q. Do you remember anything specifically anything
- 12 about it?
- 13 A. Not really, no.
- 14 Q. Have you heard anything about it since it
- 15 happened, initially happened or right after it
- 16 happened?
- 17 A. Well, the newspapers and TV, but not now, no.
- 18 Q. Tell me about the newspapers and TV.
- 19 A. I can't remember what happened. This is when it
- 20 occurred I can't even remember.
- 21 Q. Do you remember where it was that it happened?
- 22 A. No.
- 23 Q. Did you see something on the TV, any news reports?
- 24 A. No.
- 25 Q. What about since Monday? Have you heard or seen

1 anything about it?

2 A. You told us not to.

3 Q. I know that.

4 A. No.

5 Q. You haven't read any newspaper articles or heard
6 anything on the radio or anything about it?

7 A. No.

8 Q. Did you read the pretrial questionnaire?

9 A. Yes, sir.

10 Q. And did you understand that?

11 A. Yes, sir.

12 Q. What type juror do you feel that you are?

13 A. I'm an advocate of capital punishment, and I think
14 -- I've been thinking about this since you talked to us
15 on Monday. And I've been really considering it. I've
16 put my feelings together.

17 Q. Okay.

18 A. And I am a proponent of capital punishment. And I
19 do feel death sentences should be given out more than
20 they are.

21 Q. Well, let me ask you this. Do you feel like that
22 the death sentence ought to be given out in every case,
23 or that there are cases where even though a person is
24 convicted of murder that they should not receive the
25 death penalty? Because the alternative sentence

1 provided by South Carolina is life imprisonment.

2 A. If they take a life, why should they keep their
3 own?

4 Q. Okay, so you feel -- if I understand you correct,
5 it's your feeling -- an eye for an eye and a tooth for
6 a tooth. If they take a life, they ought to -- without
7 exception.

8 A. Uh-huh, (affirmative nod).

9 Q. And you would not be interest in hearing any of
10 the facts and circumstances behind a case. You would
11 think that if they have taken a life and been convicted
12 of murder that they should receive the death penalty?

13 A. Uh-huh, (affirmative nod), yes.

14 THE COURT: Any questions, Solicitor?

15 MR. MURDAUGH: Yes, sir.

16 EXAMINATION

17 BY MR. MURDAUGH:

18 Q. Ms. Howe, how are you doing?

19 A. Fine, thank you.

20 Q. I'm Randolph Murdaugh. I am the Solicitor which
21 means the prosecutor for this area. And where do you
22 live on Hilton Head?

23 A. Hilton Head Plantation.

24 Q. And how long have you lived in Beaufort County?

25 A. Nine years.

1 Q. And where did you come from?

2 A. Louisville, Kentucky.

3 Q. Your husband now works with Merrill Lynch?

4 A. Yes, sir.

5 Q. Has he always worked with Merrill Lynch?

6 A. No, sir.

7 Q. Where did he work in Kentucky?

8 A. In Louisville, it was for a distiller, Glenmore
9 Distillery in Louisville.

10 Q. Is that who makes Makers Mark?

11 A. No, it makes -- I can't remember. It's not Makers
12 Mark. I wish it was.

13 Q. That's in Bardstown, Kentucky. Excuse me. Thank
14 you, ma'am.

15 THE COURT: Mr. Kulp?

16 MR. KULP: No question, Your Honor.

17 THE COURT: Thank you, Ms. Howe. I'm going to
18 excuse you from the trial of the case. So you are
19 excused. Thank you.

20 POTENTIAL JUROR: Thank you.

21 (TESTIMONY OF CAROLE HOWE CONCLUDED)

22 THE COURT: Gloria Ciresi.

23 (POTENTIAL JUROR TAKES STAND)

24 GLORIA CIRESI, being duly
25 sworn to tell the truth, the whole truth and nothing

1 but the truth, was examined and testified as follows:

2 EXAMINATION

3 BY THE COURT:

4 Q. Good afternoon. Do you pronounce your name
5 Ciresi?

6 A. Correct.

7 Q. Chris?

8 A. No, you said it correctly.

9 Q. Oh, correctly. Okay. Ms. Ciresi, how are you
10 doing this afternoon?

11 A. Very nervous.

12 Q. I remind you that you are still under oath from
13 when I put you under oath on Monday, or when the Clerk
14 did. Had you ever heard anything about this case
15 before Monday?

16 A. No, I haven't.

17 Q. Have you heard anything about it since then?

18 A. No, I haven't.

19 Q. You haven't seen anything on the radio(sic) or
20 read any news articles or anything?

21 A. We just moved here.

22 Q. Where did you move from?

23 A. New York. I'm still trying to cope with what's up
24 there, my family and everything.

25 Q. With the World Trade ---

1 A. Yeah.

2 Q. Did you have some family involved in that?

3 A. Well, they weren't hurt.

4 Q. Wonderful. I have two daughters that live in New

5 York City myself. So I had some concerns, too. But

6 I thank God that they were okay. Did you read the

7 pretrial questionnaire?

8 A. Yes, I did.

9 Q. You mentioned the fact that you are still trying
10 to cope with that. Would that interfere with your jury
11 service?

12 A. I think this whole case is too overwhelming for
13 me.

14 Q. It is?

15 A. Yes.

16 MR. MURDAUGH: I'm having difficulty hearing.

17 THE COURT: She says that the whole case, with
18 the World Trade Center and her family being involved in
19 that -- they were not injured -- that she feels like
20 it's too overwhelming for her.

21 MR. MURDAUGH: I can well understand that, sir.

22 MR. KULP: As well.

23 THE COURT: So there's no objection to excusing
24 Ms. Ciresi?

25 MR. MURDAUGH: I don't want to, but I just feel

1 incumbent to do it. Yes, sir.

2 THE COURT: Thank you for coming. And I hope
3 everything works out. I know how traumatic it is just
4 to move to a new area, too. So you are excused. Thank
5 you very much.

6 (TESTIMONY OF GLORIA CIRESI CONCLUDED)

7 THE COURT: Nancy Small.

8 (POTENTIAL JUROR TAKES STAND)

9 NANCY SMALL, being duly
10 sworn to tell the truth, the whole truth and nothing
11 but the truth, was examined and testified as follows:

12 EXAMINATION

13 BY THE COURT:

14 Q. How are you, Ms. Small?

15 A. I'm fine. How are you?

16 Q. Okay. Ms. Small, had you ever heard anything
17 about this case before Monday?

18 A. No.

19 Q. Have you heard anything about it since then,
20 either through the media or has anybody mentioned it to
21 you or have you talked to anybody about the case?

22 A. No.

23 Q. Haven't read anything in the newspaper or heard
24 anything on the radio at all?

25 A. No.

1 Q. Did you read the pretrial questionnaire?

2 A. Yes, sir.

3 Q. Did you understand it?

4 A. Uh-huh, (affirmative nod).

5 Q. And what type juror do you feel that you are in a
6 case where someone has been convicted of the crime of
7 murder? Which type juror do you feel that you are?

8 A. The last one. I believe in the death penalty, but
9 I would need to hear all ---

10 Q. Would you get closer to the microphone so they can
11 hear you?

12 A. - I believe in the death penalty, but I believe that
13 I would need to hear all the evidence before I decided.

14 Q. In other words, you feel like that somebody who's
15 been convicted of the crime of murder, that you believe
16 in the death penalty in certain cases. But there are
17 also certain people who have committed the crime of
18 murder that you feel that probably should not be put to
19 death?

20 A. Yes.

21 Q. And that you would want to hear all the facts and
22 circumstances before deciding in a particular case what
23 the punishment should be?

24 A. Right.

25 Q. There are two additional witnesses that you were

1 not previously asked about, Kenneth Williams and
2 Richard Rivers. Do you know either one of those
3 persons?

4 A. No.

5 THE COURT: Solicitor Murdaugh.

6 EXAMINATION

7 BY MR. MURDAUGH:

8 Q. Ms. Small, how are you doing?

9 A. I'm doing fine.

10 Q. I'm Randolph Murdaugh. I'm the Solicitor for the
11 Fourteenth Circuit of which Beaufort is a part. And we
12 don't sell anything. I'm the prosecutor. You have
13 lived in Beaufort County for how long now?

14 A. Two and a half years, almost three years.

15 Q. And you moved here from where?

16 A. Charlotte.

17 Q. Charlotte. That's a growing area. You're
18 married?

19 A. Uh-huh, (affirmative nod).

20 Q. And your husband works where?

21 A. He is an independent insurance adjuster for T. M.
22 Mayfield out of Charleston.

23 Q. Mayfield, okay. And you work where?

24 A. I don't work now. I'm on sabbatical.

25 Q. I envy you. I've listened to what you told the

1 Judge, and one of the things that a juror would have to
2 do if he sat on a case like this -- and this is
3 different than any other criminal case that we try in
4 South Carolina. Generally, the jury determines the
5 guilt or innocence, and then they are through. And the
6 Judge does the sentencing.

7 But in this and only this kind of case, a murder
8 where you're asking for the death penalty, does the
9 jury actually do the sentencing.

10 And it would be required, before you made a
11 decision for the death penalty or against the death
12 penalty, that you listen to -- not just listen, but
13 that you live and give consideration to everything that
14 transpired in this courtroom, including reasons to give
15 him the death penalty and reasons not to give him the
16 death penalty. That is aggravating circumstances and
17 mitigating circumstances.

18 You could do that?

19 A. I think I could.

20 Q. I need more than a think.

21 A. Okay.

22 Q. And I'm not trying to put you on the spot. But
23 for a juror to be qualified, they have to agree to
24 abide by what the law is. The law says that in order
25 to serve as a juror, you have to do that. You have to

1 consider everything, listen to and consider.

2 A. Right. Can I give you a little history?

3 Q. Absolutely. Yes, ma'am. That's what we're
4 looking for, is some insight into you.

5 A. I used to teach special ed. And I taught mostly
6 disturbed children who, many times, were violent. And
7 do have to say when I heard the charges, my first
8 reaction was guilty. Because I've heard a lot of
9 teenage kids that are convicted of crimes. And usually
10 when there's illicit charges, there's something behind
11 it.

12 Q. Where there's smoke, there's fire.

13 A. Yes.

14 Q. Let me ask you a question. Even though you think
15 that -- and I ought not to be arguing against it. Even
16 though you think that, if you listened to the testimony
17 and you didn't think he was guilty, would you find him
18 guilty just because there's a bunch of charges?

19 A. No.

20 Q. Okay. So you would listen to the evidence and
21 make an independent decision on guilt or innocence?

22 A. I have to do that a lot.

23 Q. In that regard, if we found him guilty in the
24 first part of murder and went to the second phase, the
25 State would have to prove a thing called aggravating

1 circumstances. His Honor will charge specifically what
2 that is. But just for the sake of simplicity, it is a
3 reason to give the death penalty.

4 You would hear what the character of the defendant
5 is, the circumstances of the crime and mitigating
6 circumstances, which are reasons not to give the death
7 penalty. And just because he's charged with a bunch of
8 things, you wouldn't automatically give him the death
9 penalty, would you?

10 A. No.

11 Q. You would listen and consider all of those things
12 I've just discussed.

13 A. Right.

14 Q. If you thought it was bad enough, could you vote
15 for the death penalty?

16 A. Yes.

17 Q. If you didn't think it was bad enough, would you
18 vote for life imprisonment?

19 A. Right.

20 Q. That's all anybody asks of you. Well, a little
21 bit more. Also, if you were sitting on this jury now,
22 you'all had found him guilty in the first phase. You
23 had considered all of the aggravating, mitigating
24 circumstances, the characteristics of the defendant,
25 the circumstances of the crime. And you'all thought --

1 and when I say "you'all" -- that's because I'm from the
2 South, I say y'all -- you all. If you'all thought that
3 this was an appropriate case to impose the death
4 penalty -- I mean you'all voted back in the jury room
5 and said, "Listen, this fellow or lady" -- we're not
6 talking about this case. "This man or this woman
7 deserves the death penalty." So it's pretty well
8 obvious what you'all want to do. You'all would have to
9 sign a sheet of paper. This isn't the paper, by any
10 means. I'm just holding it up for something to put in
11 m you hand. And up at the top it would say, "We, the
12 undersigned jurors, recommend that the defendant suffer
13 the death penalty." Twelve lines. And in order to
14 impose the death penalty, each of you would have to
15 sign it. Would you have a problem signing your name to
16 it, if you thought it was the appropriate case for the
17 death penalty?

18 A. No.

19 Q. You're not working now. So other than being away
20 from your husband, it's not going to create a problem
21 being sequestered?

22 A. No.

23 MR. MURDAUGH: Thank you, ma'am. I appreciate
24 your honesty and candor.

25 MR. KULP: If it please the Court?

1 THE COURT: Mr. Kulp.

2 EXAMINATION

3 BY MR. KULP:

4 Q. Good afternoon, Ms. Smallis?

5 A. No "S" on the end.

6 Q. Singular. Pardon?

7 A. No "S" on the end.

8 Q. That's what I thought. What are the charges
9 against Mr. Rogers?

10 A. What are the charges?

11 Q. What are the charges?

12 A. Two murders, several firearm possessions, several
13 burglaries and several kidnappings.

14 Q. And what is the evidence against him?

15 A. I don't know.

16 Q. And what is the proof against him?

17 A. I don't know.

18 Q. You testified that you used to teach special
19 education and emotionally disturbed children.

20 A. Right.

21 Q. And that would cover what ages?

22 A. Kindergarten through 12.

23 Q. Kindergarten through 12 -- K through 12.

24 A. Uh-huh, (affirmative nod).

25 Q. And in a public-school setting? Where was that?

1 A. Charlotte.

2 Q. Pardon?

3 A. Charlotte.

4 Q. In Charlotte?

5 A. Uh-huh, (affirmative nod).

6 Q. And how long did you do that?

7 A. Six years.

8 Q. Did you come immediately from Charlotte to
9 Beaufort?

10 A. Uh-huh, (affirmative nod). But I didn't teach
11 until I came to Beaufort. I was the office manager for
12 my husband's company in Charlotte for thirteen years.

13 Q. You started off by saying that you have to
14 understand my history. Well, during the six years of
15 your work in that public school were there any
16 incidents, a part of that history, that affect your
17 opinion or your approach?

18 A. Not other than I used to could read the newspaper
19 and almost determine who would be in my class that year
20 by the crimes that were committed by juveniles in
21 Charlotte/Mecklenburg.

22 Q. So in other words, you could read in the newspaper
23 who the crime were committed. And you felt that those
24 would be the people who would show up in your class
25 when school started?

1 A. And they generally were.

2 Q. Pardon?

3 A. And they generally were.

4 Q. You were generally right about that. So that's
5 the experience you're talking about in terms of your
6 history that led you to testify under oath a minute ago
7 that you -- that based upon that life experience, that
8 your first reaction was that that man is guilty by
9 virtue of the charges which you enumerated that are
10 pending against him?

11 A. Right.

12 Q. Thank you, ma'am.

13 THE COURT: Any questions about this juror?

14 MR. MURDAUGH: Not from the State, sir.

15 MR. KULP: Yes, sir, Your Honor.

16 THE COURT: Ms. Small, would you go to the back
17 and wait outside the door there while we consider this
18 matter?

19 (POTENTIAL JUROR EXITS COURTROOM)

20 THE COURT: Before we talk about that -- it's
21 now 4:15, we haven't gotten too many this afternoon.
22 We've run into another cold snap. How many did we say
23 we wanted? About 46 or 47?

24 MR. MURDAUGH: Forty-seven.

25 CLERK: That's only five more.

1 MR. MURDAUGH: I've got 43 now.

2 THE COURT: Forty-three?

3 MR. MURDAUGH: I've got 42, because I'm counting
4 Ms. Small.

5 THE COURT: That would be 44. She'd be 44,
6 wouldn't she?

7 MR. MURDAUGH: It's 43, I've got, sir.

8 MR. FLEMING: She'd be 43, according to my
9 records, if she's qualified.

10 CLERK: That's right.

11 THE COURT: I must have made a mistake.
12 Because I've got that she's 44. What do you have?

13 COURT REPORTER: I have 42 right now.

14 THE COURT: That's right. Okay, she's 43.
15 That's what everybody else has. Oh, I see. Connolly,
16 he's not there. I had him in there. She'd be 43. I
17 wrote it down too soon.

18 What I'm thinking is if we need any, it's going to
19 be very few tomorrow. Do you'all want to just go with
20 what we finish up today. Because we have -- and I, of
21 course, don't know how many we are going to qualify.
22 But we have three -- we have seven more -- eight more
23 today. That sounds like that's enough to me.

24 CLERK: Two of them have violent crimes.

25 THE COURT: I see one of them's got a violent

1 crime. Two of them have violent crimes in their
2 family. What do you'all want to do?

3 MR. MURDAUGH: You had indicated, sir, that you
4 may reconsider -- may reconsider some of them.

5 THE COURT: One, particularly.

6 MR. MURDAUGH: I think we sort of need to know
7 what happens with those. If, for some reason, you
8 knock out about four of them.

9 THE COURT: Well, I presume -- well, there's
10 nothing -- we can go ahead and let those come in the
11 morning. And then if we just do the ones from 9:00 to
12 10:00, and if we get here and while we're doing that
13 first group, we'll know exactly. And then they can
14 call and stop the rest of them at that time.

15 I think that is -- we'll just look at that in the
16 morning.

17 MR. MURDAUGH: I think that probably is going to
18 be a waste of time bringing them. But it's better to
19 do that than for us not to get a jury.

20 THE COURT: And we can easily stop the later
21 ones tomorrow.

22 MR. MURDAUGH: Yes.

23 THE COURT: Okay, about this juror. What's the
24 State? Ms. Small?

25 MR. MURDAUGH: We think she's qualified.

1 THE COURT: What do you say?

2 MR. KULP: Your Honor, I think a fundamental
3 concept is that a juror -- what's really interesting
4 and I note to myself is if I recall your pre-address to
5 the panel addressed the issue of presumption of
6 innocence and the importance of it and how it applies
7 in this case and this Court.

8 THE COURT: Well, you know, after you left it
9 and you got her to say that -- but, you know, when you
10 put these questions on there what you're thinking and
11 you don't ask them the followup, you didn't ask them
12 about the presumption of innocence or anything. I
13 started to ask it and I said, "Well, I don't."
14 Because, you know, you can get some funny results with
15 these leading questions. And she, obviously -- so I
16 don't think that -- I didn't get that she was going to
17 condemn, that she did not have an open mind.

18 MR. MURDAUGH: Your Honor, in addition, if Your
19 Honor please, I specifically asked her the question.
20 If, after listening to all of the testimony regarding
21 these indictments, she didn't think the fellow was
22 guilty what would she do? She said "not guilty".

23 MR. KULP: In simple terms, Your Honor, what
24 it seems to me to boil down to is this statement. I've
25 ignored your instructions about the presumption of

1 innocence. I am biased against this person without
2 knowing anything ---

3 THE COURT: I'm listening.

4 MR. KULP: --- about the case, without knowing
5 any of the evidence or any of the proof, anything. And
6 despite that, I can be fair.

7 Well, Your Honor, what I refer to as the *New End*
8 *Virginia* case, 1991, in the Supreme Court which
9 indicates that during this procedure for determining
10 the death penalty qualification of potential jurors, a
11 suitable inquiry is permissible in order to ascertain
12 whether the jury has any bias, opinion or prejudice
13 that would affect or control a fair determination.

14 And I just suggest that we've been through, Your
15 Honor, a half hour with her.

16 THE COURT: Let me ask you this. You were
17 asking her about -- she sort of volunteered something
18 about having taught emotionally handicapped or
19 something like that. And that they are often involved
20 in that. As far as I know -- and this defendant, Mr.
21 Rogers, doesn't come into any of that. And that's not
22 even an issue. And if it was, you've never asked him
23 if he, in fact, was -- had something like that, would
24 that have any effect on them. Because I don't know
25 whether that has anything to do with the case or not.

1 I couldn't tell.

2 MR. KULP: I think the issue, Your Honor, is
3 whether she's formed an opinion about the case. What
4 I'm saying is we've been through a number of jurors and
5 not one juror yet has expressed this, which I think is
6 very disconcerting, that she's formed an opinion about
7 the guilt or innocence of the defendant without hearing
8 one iota of evidence.

9 And, as well, that indicates she has a bias.
10 Whether it results from her teaching -- I mean, and I
11 didn't ask the question because ---

12 THE COURT: Well, I'll tell you what I'll do.
13 Let me hear the rest of it, because I'll be glad to
14 bring her back in and I'll ask her a couple of followup
15 questions and let you ask her again.

16 MR. KULP: Yes, sir. But I can answer your
17 concern. I didn't think it was necessary to ask her
18 that, because I certainly thought the other example she
19 gave was quite disconcerting and preposterous. That if
20 she read someone was arrested in the newspaper that she
21 knew that they would end up in her special ed class.
22 She's got a bias, Your Honor. She's got a prejudice.
23 And that is if somebody's charged with multiple
24 charges, they did it.

25 And I just don't know how it can be cured, but

1 thank you for hearing me.

2 THE COURT: You don't see any necessity, I take
3 it, from the way you finished to bring her back in and
4 voir dire her any more specifically on those issues?

5 MR. KULP: I'd be happy to, Your Honor.
6 You've indicated that you'll give me the opportunity to
7 examine her again as well. You know, obviously I'm
8 just offering my opinion in argument. But I think we
9 would end up even deeper in the issue. That's just my
10 two cents. I didn't want to be rough and mean to her.
11 I mean, she's done nothing against us.

12 What I wanted to say was, "How in the world could
13 you possible form an opinion about this case based upon
14 the fact that he's been charged?" And I had to really
15 rein myself in because we're not in that stage of the
16 trial yet. But I wanted to say, "Are you kidding?"

17 THE COURT: You know, you've got ten
18 challenges, and that's what some of those things are
19 for.

20 MR. KULP: I'm getting kind of genteel in my
21 old age, Your Honor.

22 THE COURT: What do you say, Solicitor?

23 MR. MURDAUGH: I think she's qualified, if Your
24 Honor please. She said that she would listen to
25 everything and wouldn't make a decision until she had

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

891

1 Q. Would you be able to accept the law as I --
2 because I'm the Judge. I charge you the law. Would
3 you take the law as I give it to you and follow the law
4 to the best of your ability?

5 A. Yes.

6 Q. Frankly, what brought this on is you made some
7 comment about that you felt like -- I'm not sure that
8 you made the comment. But it was alleged that you may
9 have made a comment that when a person is charged with
10 this many charges, you figured he might be guilty.

11 A. Uh-huh, (affirmative nod).

12 Q. I want you to say what you really think. Do you
13 really feel that way?

14 A. I feel like that if there are that many charges
15 brought against a person in one particular incident,
16 that where there's smoke there's fire.

17 Q. Well, then, if you feel that, do you feel that
18 pretty strongly?

19 A. Yes.

20 Q. And so I take it, then, that would that not
21 common-sense-wise conflict with what is the law of our
22 country, that a person is innocent until proven guilty?
23 Because he comes into -- a defendant comes into Court
24 clothed in a cloak of innocence. You've heard that
25 before, haven't you?

1 considered everything. In response to that one
2 question -- and I think I was asking her questions.
3 And she said, "Yeah, he's charged with so much stuff,
4 he must be guilty." I said, "Where there's smoke,
5 there's fire." And she said, "Yeah". I said, "Let me
6 ask you a question, ma'am. If you listened to this
7 testimony, and after listening to it decided that there
8 wasn't any proof that he was guilty, what would you
9 do?" And she, of course, said, "Turn him loose."

10 THE COURT: Mr. Ash, would you ask her to
11 please come back in here, Ms. Small?

12 (POTENTIAL JUROR RESUMES STAND)

13 EXAMINATION CONTINUED

14 BY THE COURT:

15 Q. Ms. Small, would you please come back up here a
16 second time, please? And I apologize for doing this,
17 needing to do this. I'm going to ask you a couple of
18 questions and then the lawyers may want to ask you
19 something else, too.

20 Do you understand under the law of South Carolina
21 and the law of every State of our country, that a
22 person is innocent until proven guilty?

23 A. Yes.

24 Q. Do you agree with that proposition of the law?

25 A. Yes.

1 Q. Would you be able to accept the law as I --
2 because I'm the Judge. I charge you the law. Would
3 you take the law as I give it to you and follow the law
4 to the best of your ability?

5 A. Yes.

6 Q. Frankly, what brought this on is you made some
7 comment about that you felt like -- I'm not sure that
8 you made the comment. But it was alleged that you may
9 have made a comment that when a person is charged with
10 this many charges, you figured he might be guilty.

11 A. Uh-huh, (affirmative nod).

12 Q. I want you to say what you really think. Do you
13 really feel that way?

14 A. I feel like that if there are that many charges
15 brought against a person in one particular incident,
16 that where there's smoke there's fire.

17 Q. Well, then, if you feel that, do you feel that
18 pretty strongly?

19 A. Yes.

20 Q. And so I take it, then, that would that not
21 common-sense-wise conflict with what is the law of our
22 country, that a person is innocent until proven guilty?
23 Because he comes into -- a defendant comes into Court
24 clothed in a cloak of innocence. You've heard that
25 before, haven't you?

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1 A. Right.

2 Q. So deep down, then, you don't accept that?

3 A. I do accept it.

4 Q. Let me just say this, then. You say you accept it
5 from an intellectual thing, that that's an ideal. And
6 that's in there, just like you say, about Thomas
7 Jefferson and everything. But deep down, you don't
8 believe that. Is that what you're saying?

9 A. It depends on the circumstance. I mean, my point
10 was made from dealing with juveniles that, you know,
11 may or may not come in and state that they did or did
12 not do something. That generally, if there is a whole
13 list of things that were on their records and ---

14 THE COURT: Of course, this is very different.
15 And I know -- I was a juvenile many, many years ago.
16 And I didn't always tell the truth about what I did
17 either. I'd blame it on my brother, if I could get
18 away with it.

19 But this is extremely serious business. We have a
20 person who is on trial for his life. And so I don't
21 want there to be any question, and I don't see how
22 there's much confusion there. Because, of course, --
23 and I have three children. And, you know, "Why weren't
24 you home at 11:00 o'clock last night?" You know, it's
25 been many years ago, but there's no telling what kind

1 of answer I'd get. But I know that I knew when it was
2 being told to me that it wasn't the truth.

3 That's a different thing.

4 A. It is a different thing.

5 Q. But you equate the two.

6 A. My point was that that was my gut reaction when
7 the charges were read.

8 Q. Well, and that's what you believe, though?

9 A. I mean, I would have to hear the evidence to prove
10 otherwise.

11 Q. To convince you otherwise?

12 A. Right.

13 THE COURT: I'm going to excuse you. Thank
14 you. Thank you for coming. You are excused for the
15 week.

16 (TESTIMONY OF NANCY SMALL CONCLUDED)

17 THE COURT: Laretta Pazant, who says has been
18 represented by Mr. Moss, but stated it would not make
19 any difference.

20 MR. KULP: Thank you for making the inquiry,
21 Your Honor.

22 THE COURT: You're correct.

23 MR. KULP: Every now and then, you know.

24 (POTENTIAL JUROR TAKES STAND)

25 LAURETTA PAZANT, being

1 duly sworn to tell the truth, the whole truth and
2 nothing but the truth, was examined and testified as
3 follows:

4 EXAMINATION

5 BY the COURT:

6 Q. Come up, Ms. Pazant. How are you doing?

7 A. Just fine.

8 Q. Speak directly in the microphone so everybody can
9 hear you. Ms. Pazant, do I pronounce that correctly?

10 A. Pazant.

11 Q. Pazant. Ms. Pazant, first, I remind you that I
12 swore you in, or the Clerk did, on Monday.

13 A. Monday.

14 Q. The Clerk of Court did. And that you are still
15 under oath. Had you ever heard anything about this
16 case before Monday?

17 A. No.

18 Q. Have you heard anything about it since then?

19 A. No.

20 Q. Huh?

21 A. No.

22 Q. You haven't heard anything on the radio, seen
23 newspaper articles?

24 A. No.

25 Q. And nobody's discussed it with you?

- 1 A. No.
- 2 Q. Did you read this pretrial questionnaire?
- 3 A. Yes.
- 4 Q. Did you understand it?
- 5 A. Yes.
- 6 Q. What kind of juror do you think you are?
- 7 A. Number three.
- 8 Q. Number three?
- 9 A. Uh-huh, (affirmative nod).
- 10 Q. That's a person who can -- feels like the death
- 11 penalty is proper in some cases. And in those cases
- 12 they would vote for the death penalty, if the juror
- 13 thought that that's what should be done?
- 14 A. Right.
- 15 Q. In other cases, even though somebody's convicted
- 16 of murder, they do not feel the death penalty is
- 17 proper. And in those cases the juror would follow
- 18 their conscious and not vote for the death penalty.
- 19 A. It depends on the facts.
- 20 Q. That you'd listen to all the facts and make a
- 21 decision?
- 22 A. Yes.
- 23 Q. There are two other witnesses that you were not
- 24 asked about on Monday, Kenneth Williams and Richard
- 25 Rivers. Do you know either one of those young men or

1 men?

2 A. No.

3 THE COURT: Solicitor?

4 EXAMINATION

5 BY MR. KNIGHT:

6 Q. Ms. Pazant, I'm Steve Knight. I'm a Deputy
7 Solicitor here in Beaufort. How are you doing?

8 A. I'm just fine.

9 Q. I've got some questions I want to ask you. And
10 there's not a right or a wrong answer, okay?

11 A. Okay.

12 Q. You're going to need to speak into that mike,
13 please, so this young and lady and these folks over
14 here can hear you. the

15 This is a two-part trial. What we call Part A is
16 to determine -- the jury has to determine whether or
17 not a person is guilty, okay?

18 A. Okay.

19 Q. In other words, the burden is on the State to
20 prove beyond a reasonable doubt that the defendant
21 committed a particular crime. You either find him
22 guilty or not guilty, okay?

23 A. Yes.

24 Q. If it's not guilty, everybody goes home. Now, if
25 the jury finds the person guilty then they would also

1 have to find some other things, aggravating
2 circumstances, how bad the situation is, the
3 seriousness, the heinousness of the crime, okay?

4 A. Yes.

5 Q. That's the State's proposition. The other part of
6 this is the penalty phase which I'm calling number two
7 is the mitigating circumstances, lessening the
8 aggravating circumstance side, making the defendant or
9 that person look a little better. Do you follow that?

10 A. Making the defendant look better?

11 Q. Yes, ma'am, or lessening the situation.

12 Aggravation. Mitigation. Aggravation is bad, using my
13 example. Mitigation is good.

14 A. Okay.

15 Q. Now, taking those two concepts, you would have to
16 make, as a juror, an independent determination -- okay
17 -- of whether or not you would vote for the death
18 penalty, based upon the aggravating circumstances, or
19 whether or not you would vote for life imprisonment,
20 okay?

21 A. Yes.

22 Q. Could you independently, if the circumstances were
23 such, vote to issue the death penalty?

24 A. It depends on the facts.

25 Q. And, conversely, if the facts lend themselves to

1 -- after the jury has already found the fellow guilty,
2 or lady guilty -- okay -- then you could also vote to
3 give a life sentence. Is that correct?

4 A. Yes.

5 Q. So you could give the death penalty or you could
6 give life in prison?

7 A. Yes.

8 Q. Now, if you voted for the death penalty, you
9 understand it would say the jury recommends the death
10 penalty. Okay? That recommendation is an absolute.
11 It's an order from the jury to the judge to issue the
12 death penalty, okay?

13 In addition to that there would be a sheet that
14 says at the top, "The jury recommends the death
15 penalty." And all twelve jurors would have to sign --
16 sign their name there, that they are issuing this
17 recommendation to give the death penalty. My question
18 is could you sign this -- and this is not the form, but
19 it's a similar form. Could you sign the form saying to
20 recommend the death penalty?

21 A. If we agreed upon it.

22 Q. Independently?

23 A. Yes.

24 Q. You could make that decision to vote for the death
25 penalty?

1 A. Independently, yes.

2 Q. And independently, you could make that decision to
3 sign this form?

4 A. Yes.

5 Q. I notice that it says on your health conditions
6 "very good". And then there's something in brackets.

7 A. Parkinsons's.

8 Q. Parkinsons's Disease?

9 A. Yes.

10 Q. How would you describe your treatment on your
11 Parkinsons's Disease?

12 A. I think it's very good.

13 Q. You have to speak up, ma'am.

14 A. I think it's very good. It doesn't bother me.

15 Q. Do you take medication every day?

16 A. Yes.

17 Q. Do you work?

18 A. No, I'm retired.

19 Q. You used to work at MIS?

20 A. In Atlanta.

21 Q. You never worked in Beaufort County?

22 A. No.

23 Q. What did you do with Marsh?

24 A. Sales assistant and management information
25 systems.

1 Q. And how long did you work for Marsh?

2 A. Ten years.

3 Q. Very good. And you live over on Pigeon Point
4 Road?

5 A. Yes.

6 Q. You have two brother-in-laws that work for the
7 Beaufort Police Department?

8 A. One for the Police Department and one for the
9 Sheriff's Office.

10 Q. What's their names?

11 A. E. P. Harris and Dave Brown.

12 Q. I know Dave. Dave works for the Sheriff's
13 Department.

14 A. Sheriff.

15 Q. And E. P. works for the City?

16 A. Yes.

17 Q. Thank you, ma'am.

18 THE COURT: Mr. Kulp?

19 MR. KULP: May it please the Court.

20 EXAMINATION

21 BY MR. KULP:

22 Q. Good afternoon, Ms. Pazant.

23 A. Good afternoon.

24 Q. My name is Tim Kulp. An Mr. Corey Fleming and I
25 represent the accused in this case, Mr. Rogers. I have

1 a few questions, as did the Solicitor. I appreciate
2 your answers very much.

3 Have you, either before Monday or since Monday --
4 have you had occasion to discuss any aspect of this
5 case with any other persons?

6 A. No.

7 Q. As the Judge asked you, and to be sure you haven't
8 read the newspaper?

9 A. No, don't get the paper.

10 Q. Heard anything on the radio?

11 A. No.

12 Q. Very good. Have you served on a jury before?

13 A. Years ago.

14 Q. Years ago?

15 A. Uh-huh, (affirmative nod).

16 Q. You have two sons you are very proud of?

17 A. Yes.

18 Q. And your sons are employed by the Beaufort Police
19 Department?

20 A. No, no, my brothers.

21 Q. Your brothers. You're proud of your brothers,
22 too.

23 A. Brothers-in-law.

24 Q. Your sisters' husbands?

25 A. Yes.

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

1 Q. Very good. You mentioned their names. And one is
2 employed by the Beaufort Police Department?

3 A. Yes.

4 Q. Your brother-in-law. And your other brother-in-
5 law is employed by the Beaufort County Sheriff's Office
6 or Department?

7 A. Right.

8 Q. And what positions do they hold there, those
9 gentlemen?

10 A. I'm not sure. I think one is a Captain. I'm not
11 sure. I think the other one's a Lieutenant, but I'm
12 not sure.

13 Q. Do you see them often?

14 A. No, I don't.

15 Q. And your sons -- I happened to turn the wrong
16 corner. But you're very proud of your sons. What do
17 your sons do?

18 A. One of my sons is still living in Atlanta. He
19 works for Delta. And the other one just recently moved
20 to Savannah. He was in Atlanta. He's in real estate,
21 works in real estate.

22 Q. I see. Do you have grandchildren?

23 A. Seven.

24 Q. Congratulations.

25 A. Thank you.

1 Q. Let me go over a couple of things the Solicitor
2 asked you about. We've all, including you, had a long
3 day. We've been working very hard in this case, all of
4 us. But when the Solicitor asked you or mentioned that
5 this is a two-part trial, you understand that's not
6 entirely accurate. Because it's really a one-part
7 trial and possibly a second one-part trial. There are
8 two parts, but it's not one and then the other.
9 There's something that happens between those two parts.
10 Do you understand that?

11 A. Yes.

12 Q. And that thing that happens would be how the first
13 part is concluded, like any criminal case. Do you
14 understand that?

15 A. Concluded?

16 Q. How it ends?

17 A. Yes.

18 Q. And how would that end? What are the
19 possibilities?

20 A. I don't know. I haven't heard the facts yet.

21 Q. But what I'm saying is ---

22 A. One is aggravating and one is mitigating.

23 Q. Well, I'm talking about the first part. Do you
24 know that there is a first part before we get to that
25 aggravating and mitigating stuff.

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

1 A. What's the first part again?

2 Q. Let me ask you this. Do you think that in this
3 case with the charges that you heard on Monday, that if
4 you serve as a juror that you would be in the jury box
5 and that you would then be asked to decide whether
6 there were aggravating circumstances or mitigating
7 circumstances, and whether the defendant's punishment
8 should be death or life imprisonment?

9 A. They couldn't ask me that until I've heard all the
10 facts.

11 Q. Right. But do you know if anything happens before
12 you get to the point of making that decision, if you
13 had all the facts about aggravating and mitigating
14 circumstances?

15 A. Are you trying to confuse me now?

16 Q. No, ma'am. It's simple. I'll make it short.
17 What happens before you get down to that part where you
18 discuss and aggravating and mitigating circumstances?

19 A. You hear all the witnesses, I'm sure.

20 Q. And is it your understanding that the jury has to
21 do anything else before they make a decision about the
22 aggravating and mitigating circumstances?

23 A. Just listen.

24 Q. Just listen? I'm glad to hear that you are
25 managing your Parkinson's very well. I'm sorry to hear

1 that you have that, but at the same time glad to hear
2 that you are managing it well. When were you first
3 diagnosed, if I might ask?

4 A. In March of 2000.

5 Q. In March of 2000?

6 A. Uh-huh, (affirmative nod).

7 Q. And your treatment for that is what? What's your
8 course of treatment?

9 A. Pray.

10 Q. In addition to prayer, what do you do anyway?

11 A. I take Requip.

12 Q. Is that what your doctor prescribes?

13 A. Yes.

14 Q. Do you know what the dosage is of that and how
15 frequently you take it?

16 A. It's one or two milligrams three times a day.

17 Q. How long have you been taking that?

18 A. Almost a year.

19 Q. Do you take any other medications?

20 A. Yes, high blood pressure medication. I don't give
21 in to sickness. I try not to dwell on it.

22 Q. Absolutely. And I think that's a wonderful,

23 positive approach. We're just trying to get all the

24 information that we can about you and about your

25 ability to serve as a juror and so forth in this very

1 serious case. Anything else besides that medication
2 and high blood pressure?

3 A. No.

4 Q. And has your doctor indicated any prognosis for
5 the Parkinson's?

6 A. No. I'm just going to get better.

7 Q. Very good. The Solicitor mentioned something that
8 I'd like to correct, and that's why I said we've been
9 here a long time today and our jaws are tired and we've
10 done a lot of talking. But I think he asked you if you
11 understood that -- and I take issue with it,
12 respectfully, with him. But if you did not find an
13 aggravating circumstance, that you would then be in a
14 position to determine that the appropriate punishment
15 should be life imprisonment. Do you recall that? Do
16 you recall your answer?

17 A. It depends on the facts.

18 Q. Do you understand that if the State fails to prove
19 an aggravating circumstance and there is no finding of
20 a mitigating circumstance, that your individual
21 decision and the jury's decision would have to be that
22 the appropriate punishment was life imprisonment?

23 A. I don't know what the appropriate decision would
24 be in that case. It would be a mistrial. I don't
25 know.

1 Q. Thank you very much.

2 A. Uh-huh, (affirmative nod).

3 THE COURT: I notice you talking about your
4 Parkinson's Disease that Janet Reno, of course, has it
5 and she's running for Governor in Florida, I believe.

6 POTENTIAL JUROR: You don't dwell on the
7 negative.

8 THE COURT: Any question about this Juror's
9 qualifications?

10 MR. KULP: Yes, sir, Your Honor.

11 THE COURT: Then, if you would, please, Ms.
12 Pazant, if you'll step to the back and let me talk to
13 the lawyers just a moment, please?

14 (POTENTIAL JUROR STEPS DOWN/EXITS ROOM)

15 THE COURT: Yes, sir.

16 MR. KULP: Thank you, Your Honor. May it
17 please the Court, it's sort of painful for me. My
18 mother's remaining living brother is in a home because
19 of Parkinson's Disease. I didn't really want to do
20 that. And the lady certainly has one of the most
21 commendable positive attitude in the world about it.

22 But I think, Your Honor, I don't know that she's
23 capable of serving. And I'm not saying that simply
24 because of the diagnosis of Parkinson's Disease or the
25 medication she's taking for it. But she seemed to be

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

1 very confused. And I wasn't trying to confuse her.

2 THE COURT: You know, I would be confused, too,
3 if you asked what the sentence is for murder and so
4 forth. And you're asking these technical questions.
5 She's not a lawyer. You know, a lawyer won't know it.
6 I don't know those things. I looked them up, back when
7 I practiced.

8 MR. MURDAUGH: If, Your Honor please, if it will
9 help the Court, and I agree with what you are saying.
10 But I will concur in your request.

11 THE COURT: It's by agreement, then. The
12 Juror's excused.

13 Would you please send Ms. Pazant in, please?

14 (POTENTIAL JUROR RESUMES STAND)

15 THE COURT: We were cruising and these last
16 ones have slowed down again.

17 Ms. Pazant, thank you for coming. You have been
18 excused. So that will conclude your jury service.
19 Thank you very much.

20 POTENTIAL JUROR: Thank you.

21 (TESTIMONY OF LAURETTA PAZANT CONCLUDED)

22 THE COURT: Ms. Langhorne, Mary Langhorne.

23 (POTENTIAL JUROR TAKES STAND)

24 MARY LANGHORNE, being
25 duly sworn to tell the truth, the whole truth and

1 nothing but the truth, was examined and testified as
2 follows:

3 EXAMINATION

4 BY THE COURT:

5 Q. We have now Ms. Mary Langhorne, Juror No. 189.

6 How are you, Ms. Langhorne?

7 A. Fine, thank you.

8 Q. I remind you that you are still under oath from
9 when the Clerk of Court swore you in on Monday.

10 A. Yes.

11 Q. First off, had you ever heard anything about this
12 case before Monday?

13 A. No, sir.

14 Q. Have you heard anything about the case since
15 Monday?

16 A. No, sir.

17 Q. In other words, you haven't heard -- nobody's
18 talked to you about it or asked you about it and you
19 haven't talked to anybody else about it?

20 A. No, sir.

21 Q. And you haven't read anything in the newspaper or
22 heard anything on the radio or TV or anything?

23 A. No, sir.

24 Q. Did you read this pretrial questionnaire that was
25 outside?

1 A. Yes, sir.

2 Q. Did you understand it?

3 A. Yes, sir.

4 Q. What kind of juror do you think you are, after
5 reading that?

6 A. I think number two, sir.

7 Q. Number two?

8 A. Yes, sir.

9 Q. If I understand correctly, the number two is
10 someone who feels -- would no -- does not believe in
11 the death penalty and could not, in good conscious, or
12 because of their own conscious or for religious
13 reasons, would not give the death penalty.

14 A. Yes, sir.

15 Q. And why would you feel that you could not give the
16 death penalty if you were serving as a juror?

17 A. Because of religious beliefs.

18 Q. Could you get closer to the microphone?

19 A. Because of religious beliefs. I don't think I
20 could do it.

21 THE COURT: Any questions?

22 MR. MURDAUGH: Yes, just a couple.

23 EXAMINATION

24 BY MR. KNIGHT:

25 Q. Ms. Langhorne, I'm Steve Knight. I'm the Deputy.

1 Solicitor. Do you know a fellow by the name of Richard
2 Rivers?

3 A. No, sir.

4 Q. How about Kenneth E. Williams?

5 A. Williams?

6 Q. Williams.

7 A. No, sir.

8 Q. Is there any circumstance that you could think of,
9 anything, that would cause you to vote for the death
10 penalty?

11 A. That would cause me to vote for it? I could not
12 vote for the death penalty.

13 Q. Under any circumstances?

14 A. I could not.

15 Q. Thank you, ma'am.

16 THE COURT: Mr. Kulp?

17 MR. KULP: Beg the Court's indulgence just one
18 second. No questions, Your Honor. Thank you very
19 much.

20 THE COURT: Ms. Langhorne, under the law I must
21 excuse you from this jury trial. Thank you very much
22 for coming, and I hope you have a nice evening.

23 POTENTIAL JUROR: Thank you, sir.

24 (TESTIMONY OF MARY LANGHORNE CONCLUDED)

25 THE COURT: Debra Heitmann, Juror No. 146.

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

1 (POTENTIAL JUROR TAKES STAND)

2 DEBRA HEITMANN, being
3 duly sworn to tell the truth, the whole truth and
4 nothing but the truth, was examined and testified as
5 follows:

6 EXAMINATION

7 BY the COURT:

8 Q. Come around, please, and have a seat.

9 A. (Complies).

10 Q. How are you doing?

11 A. Fine, thank you.

12 Q. Would you speak directly into the microphone so
13 everyone can hear you comfortably. And how do you
14 pronounce your last name?

15 A. Heitmann.

16 Q. Heitmann. Ms. Heitmann, had you ever heard
17 anything about this case before Monday?

18 A. No.

19 Q. How about since Monday?

20 A. No.

21 Q. Haven't read anything or heard anything on the
22 radio, or nobody's talked to you about it?

23 A. No.

24 Q. Did you read this pretrial questionnaire that's
25 outside?

1 A. Yes, I did.

2 Q. Did you understand it?

3 A. Yes.

4 Q. What kind of juror do you feel that you are?

5 A. I'd have to be two.

6 Q. A two?

7 A. Uh-huh, (affirmative nod).

8 Q. If I understand it correctly, number two is a
9 person who does not believe in the death penalty or at
10 least would not themselves be able to serve as a juror
11 and give the death penalty to someone.

12 A. Correct.

13 Q. Is that what you are?

14 A. Yes.

15 Q. Is there any circumstance that you feel that you
16 would be able to serve on a jury that recommended the
17 death penalty for someone?

18 A. I've always believed in the death penalty. I
19 don't know if I'm capable of making that decision
20 myself.

21 Q. So you believe in it in the abstract.

22 A. Yes.

23 Q. One of the requirements under South Carolina law
24 and for murder there are -- a person convicted of
25 murder. Of course, you know it's a bifurcated trial.

1 In the first stage a person -- it's called the guilt
2 phase. And a person who's on trial, the jury would
3 find him guilty or not guilty. If they found them not
4 guilty, that's the end. You wouldn't go to the penalty
5 stage.

6 But if they found him guilty of murder, it goes to
7 the second phase. In the second phase, of course, you
8 have some jurors, as it says, that would vote for the
9 death penalty every time somebody who was convicted of
10 murder. And in the second one they would say that they
11 would not vote because they do not believe and could
12 not do it.

13 But one of the requirements of it -- and this was
14 what I meant to tell you -- is before a person, even if
15 you vote in the jury room to give the death penalty,
16 each juror must sign a form that has the twelve jurors
17 listed and basically says, "We recommend the death
18 penalty." And it's not a recommendation. That is the
19 sentence. But it just says that. And you would have
20 to -- each juror who -- if the jury comes with a
21 unanimous verdict for the death penalty, each juror has
22 to sign his name on that.

23 Would you be able to sign your name on such a
24 document?

25 A. No, I could not.

1 Q. Are you satisfied to a reasonable certainty that
2 you could not sign such a paper?

3 A. Yes.

4 THE COURT: Any questions?

5 EXAMINATION

6 BY MR. KNIGHT:

7 Q. There are two potential additional witnesses. I'm
8 Steve Knight with the Solicitor's Office. I'm Deputy
9 Solicitor. Do you know a Richard Rivers?

10 A. No.

11 Q. Do you know a Kenneth E. Williams?

12 A. No.

13 Q. Thank you, ma'am.

14 THE COURT: Mr. Kulp?

15 MR. KULP: May it please the Court?

16 EXAMINATION

17 BY MR. KULP:

18 Q. Ms. Heitmann, my name is Tim Kulp. Good
19 afternoon. This is Mr. Corey Fleming. We represent
20 the accused, Mr. Rogers. You haven't heard anything
21 about this case, any of the facts and circumstances,
22 and that's obvious. The trial hasn't even begun.

23 Is it the case that no matter what you heard about
24 the details of this case in terms of the aggravating
25 aspects or any information, that you still could not

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

1 possibly return a verdict or recommendation for the
2 death penalty?

3 A. I do believe in the death penalty. As I said, I'm
4 not sure if I could make that decision. I'd want
5 someone else to make it and I'll back them up.

6 Q. And what?

7 A. And I'll back them up.

8 Q. Have you ever had to make that decision?

9 A. Never.

10 Q. So you don't know if you could make that decision
11 or not?

12 A. Correct.

13 Q. Because it would depend on the nature of what you
14 heard, of the evidence and the testimony from the
15 witnesses.

16 A. Right.

17 Q. And if, in fact, the information that you heard
18 was heinous enough or was terrible and horrible enough,
19 since you believe in the death penalty, you might very
20 well be able to decide and agree with other jurors
21 after you decided that that was the appropriate
22 punishment under those circumstances?

23 A. I can't risk that.

24 Q. Thank you, ma'am.

25 MR. KULP: Thank you, Your Honor.

1 THE COURT: Anything else?

2 MR. KNIGHT: No, sir.

3 THE COURT: Ms. Heitmann, then I will excuse
4 you from the trial of this case. Thank you for coming.

5 POTENTIAL JUROR: Thank you.

6 (TESTIMONY OF DEBRA HEITMANN CONCLUDED)

7 THE COURT: Gerald Daniels, Juror No. 71.

8 (POTENTIAL JUROR TAKES STAND)

9 GERALD DANIELS, being
10 duly sworn to tell the truth, the whole truth and
11 nothing but the truth, was examined and testified, as
12 follows:

13 EXAMINATION

14 BY THE COURT:

15 Q. How are you, Mr. Daniels?

16 A. Fine. How are you?

17 Q. Fine. Come around and have a seat.

18 A. (Complies).

19 Q. Mr. Daniels, I remind you that you are still under
20 oath from Monday when you were sworn in. First off,
21 had you ever heard anything about this case before
22 Monday?

23 A. Yes, I did.

24 Q. What had you heard? Speak close in to the
25 microphone so everybody can hear you clearly.

1 A. It's been awhile. I can't remember everything,
2 the details. But a guy used to work with us named
3 Myron. I can't think of his last name. But he told me
4 about some of the things that happened that night.

5 Q. Did you read about it in the newspaper, too?

6 A. Yes, I did.

7 Q. When did he tell you about this? Was this about
8 the time it happened, or would it be at a later time?

9 A. I think the night after.

10 Q. The night after it?

11 A. The very next day.

12 Q. Would you be able to put aside those things that
13 you heard, if you were selected as a juror? Could you
14 forget about what he told you about what happened?

15 A. Possibly, yes.

16 Q. You say "possibly"?

17 A. Yes.

18 Q. Well, are you pretty clear in your own mind, or
19 you just don't know?

20 A. I believe I can, but it's ---

21 Q. Well, tell me what he said.

22 A. Like I said, I can't remember in details. But he
23 said someone -- two guys were murdered. That's about
24 it.

25 Q. Just the fact -- did he tell you about the

1 circumstances of it?

2 A. He didn't go into details.

3 Q. Have you read anything in the newspaper since
4 those articles that occurred right after it happened?

5 A. Not about that, no.

6 Q. About this case? You haven't read anything?

7 A. Not since the first time I read it. I haven't
8 seen anything else about it.

9 Q. And since Monday have you read or heard anything
10 about the case?

11 A. No, I haven't.

12 Q. Have you talked to anybody about it or has anybody
13 talked to you?

14 A. No, they haven't.

15 Q. Mr. Daniels, did you read this pretrial
16 questionnaire?

17 A. Yes, I did.

18 Q. Did you understand it?

19 A. I did.

20 Q. And what kind of juror do you think you are?

21 A. First of all, I grew up in a Christian family.

22 My dad's a preacher and my brother's one. I don't

23 believe in the death penalty, you know. I feel like,

24 for example, if someone break into your house and harm

25 you or your family and you fear for your life, you can

1 take a life. That's what I feel about the death
2 penalty, Your Honor. As far as saying, yeah, someone
3 should die for the crime they did, I don't think I
4 could do that. And also, Mr. Fleming did a case for
5 me. He did an excellent job, I think. And really as a
6 favor, I just -- he's still my attorney.

7 Q. Corey Fleming is?

8 A. Yes, sir. I'd lean strongly toward him.

9 MR. FLEMING: That's correct, sir. I do recall
10 him. That is correct. And I still do represent his
11 family.

12 THE COURT: So then I'll excuse you without
13 objection. Any objection to his being excused?

14 MR. KNIGHT: No, sir

15 THE COURT: Thank you for coming. You are
16 excused.

17 MR. KNIGHT: Thank you, sir.

18 POTENTIAL JUROR: Thank you.

19 (TESTIMONY OF GERALD DANIELS CONCLUDED)

20 THE COURT: In fact, I had a note of that. He
21 said that on the -- I didn't call it to his attention
22 because I didn't see it. But he announced that on
23 Monday.

24 MR. FLEMING: I think I didn't recall his face.

25 MR. KULP: We had a Bench conference about

1 that.

2 THE COURT: Lawrence Hughes, Juror No. 161.

3 THE COURT: Good thing we didn't excuse a lot of
4 them, because we're running out of prospects.

5 (POTENTIAL JUROR TAKES STAND)

6 LAWRENCE HUGHES, being
7 duly sworn to tell the truth, the whole truth and
8 nothing but the truth, was examined and testified as
9 follows:

10 EXAMINATION

11 BY THE COURT:

12 Q. Have a seat, please, Mr. Hughes.

13 A. (Complies).

14 Q. First, I remind you, sir, that you are still under
15 oath from Monday when you were sworn in along with the
16 other jurors. Had you ever heard anything about this
17 case before Monday?

18 A. No.

19 Q. Have you heard anything about it or read anything
20 about it since Monday?

21 A. No, Your Honor.

22 Q. Did you read this pretrial questionnaire?

23 A. Yes, sir.

24 Q. And, of course, you understood that?

25 A. Yes, sir.

1 Q. What kind of juror do you feel that you are?

2 A. The first listed.

3 Q. That is the one who says that if a person is
4 convicted of murder, they feel that the death penalty
5 is the only appropriate sentence?

6 A. That is correct, Your Honor.

7 Q. And you wouldn't consider any facts and
8 circumstances as to -- in any case some people
9 convicted of murder should get a life sentence?

10 A. Not if I felt the State had proven their case,
11 Your Honor.

12 THE COURT: Solicitor Murdaugh.

13 EXAMINATION

14 BY MR. MURDAUGH:

15 Q. Mr. Hughes, how are you doing?

16 A. Sir?

17 Q. I'm Randolph Murdaugh. I'm the Solicitor for this
18 Circuit which means I'm the prosecuting attorney.

19 A. I understand.

20 Q. I need to ask you a few questions. You have said
21 that if a murder is proven that under every
22 circumstance you would give the death penalty?

23 A. That is my feeling, yes.

24 Q. Have you ever thought about if it was a young,
25 young person? Would that make a difference?

1 A. Not if the taking of a human life is involved and
2 proven to my reasonable satisfaction.

3 Q. A 100-year-old man?

4 A. Same answer.

5 Q. Okay, sir. I thank you.

6 THE COURT: Any questions?

7 MR. KULP: No, sir, Your Honor. Thank you.

8 THE COURT: Mr. Hughes, you are excused. Thank
9 you. That excuses you for the week.

10 (TESTIMONY OF LAWRENCE HUGHES CONCLUDED)

11 THE COURT: Susan Murphy, Juror No. 253.

12 (POTENTIAL JUROR ENTERS ROOM)

13 SUSAN MURPHY, being duly
14 sworn to tell the truth, the whole truth and nothing
15 but the truth, was examined and testified as follows:

16 THE COURT: Is Ms. Murphy back there?

17 BAILIFF: Yes, Your Honor.

18 EXAMINATION

19 BY THE COURT:

20 Q. Come around.

21 A. (Complies)

22 Q. How are you, Ms. Murphy?

23 A. Fine.

24 Q. Ms. Murphy, first off, I remind that you are still
25 under oath from Monday when you were sworn in. I

1 notice one thing that you said when we were going over,
2 that there was a violent crime committed in your
3 family?

4 A. Yes.

5 Q. Would you mind telling us what that crime was, or
6 is it too personal?

7 A. No, I can tell you. My sister-in-law was murdered
8 and she was murdered by her husband who is my brother.

9 Q. Okay. Would that have any influence or impact
10 upon you if you were selected to serve as a juror in
11 this case?

12 A. No, sir.

13 Q. Had you ever heard anything about this case before
14 Monday?

15 A. No, sir.

16 Q. Have you heard anything about it since Monday,
17 anything in the papers or radio, TV or has anybody
18 spoken to you about the case?

19 A. No, sir.

20 Q. Did you read the pretrial questionnaire?

21 A. Yes.

22 Q. Did you understand it?

23 A. Yes.

24 Q. And what kind of juror do you feel you are? There
25 are type one, two and three.

1 A. Number three.

2 Q. Three. Okay, that is a juror, I think, that they
3 believe in the death penalty in certain circumstances.
4 And if they were satisfied that it was a proper case
5 for the death penalty, they wouldn't mind giving it --
6 sentencing someone to death or recommending that as a
7 juror. But they also feel like -- a juror in that
8 category feels like it's not every murder case that
9 should result in a death penalty. And in those cases
10 they would not vote for the death penalty. Is that a
11 fair statement?

12 A. Yes, although I don't know that I could say I
13 wouldn't mind voting for the death penalty. I think I
14 would just phrase it a little bit differently. It
15 would be a difficult decision to do that. I could do
16 it, but ---

17 Q. Oh, I did not mean to say that you would ---

18 MR. MURDAUGH: Judge, I'm sorry to interrupt ---
19 the microphone.

20 EXAMINATION RESUMED

21 BY THE COURT:

22 Q. Yeah, look out that way, even though you are
23 talking to me. That's a poor choice of words on my
24 part. What you said is -- I used the words that you
25 would not mind voting for the death penalty in a proper

1 case. You said that you would do it reluctantly, but
2 you would do your duty if you felt that that was -- use
3 your words. Go ahead and say it.

4 A. I would say that if the facts of the case
5 warranted the death penalty the way it was defined by
6 law, I could vote for it.

7 Q. But there are also cases ---

8 A. But there are cases where murder might be the
9 verdict and I would not think the death penalty is
10 appropriate. But I can't speak for the pros and cons
11 without knowing the facts of the case.

12 Q. And, of course, -- and I'll tell you this just for
13 your information. That in a case such as this, murder,
14 if there is a conviction -- of course, it could result
15 in a not guilty verdict. But if there is a conviction,
16 if a defendant is found not guilty, obviously you don't
17 get to that. But we're only talking about where the
18 person is actually convicted.

19 With that, there are two additional witnesses who
20 you were not asked about on Monday, Kenneth Williams
21 and Richard Rivers. Do you know either one of those
22 persons?

23 A. No.

24 THE COURT: Solicitor Murdaugh.

25 EXAMINATION

1 BY MR. MURDAUGH:

2 Q. Ms. Murphy, how are you doing?

3 A. I'm fine.

4 Q. I'm Randolph Murdaugh. I'm the Solicitor which
5 carries with it the duty of prosecution in this area.
6 And I need to talk to you a little bit to find out if
7 we want you to sit on this jury or not.

8 A. Okay.

9 Q. I want you to understand there are no right or
10 wrong answers. We just need to get a little bit of
11 your feelings.

12 A. Okay.

13 Q. His Honor explained to you something about the
14 jurors and you've read that questionnaire. And I need
15 to ask you a couple of questions. But in order to do
16 that I need to lay a little groundwork.

17 A. Okay.

18 Q. In a normal case in South Carolina, the jury
19 decides guilty or innocence of the defendant. And the
20 Judge does the sentencing. Only in a case where a
21 person is accused of murder and the State is asking for
22 the death penalty does the two-part trial where the
23 jury does the sentencing kick in.

24 A. Okay.

25 Q. Are you following?

1 A. Yes, sir.

2 Q. What would happen is we would have a first part of
3 the trial. We call it the guilt phase -- in which the
4 jury would determine whether or not the defendant was
5 guilty or innocent.

6 A. Right.

7 Q. If the jury determined that they were guilty, then
8 you would kick into the second part of the trial or the
9 penalty phase. And in that, a juror would be required
10 to listen to evidence of aggravation. That is
11 aggravating circumstances. That is a reason to give
12 the death penalty. And before you could go any further
13 there would have to be an affirmative finding that
14 there is in existence an aggravating circumstance. His
15 Honor will charge you later technically what those
16 things are, if you serve on the jury.

17 But to oversimplify things, it is a reason to give
18 the death penalty.

19 A. Okay.

20 Q. In addition to that, you perhaps would have
21 testimony about the character of the defendant, what
22 kind of person he was, the circumstances of the crime,
23 what happened during the crime, and perhaps evidence in
24 mitigation, that is reasons not to give the death
25 penalty.

1 Would you, before making any decision, and with an
2 open mind, listen to all of that testimony, any
3 physical evidence as introduced, the charge that the
4 Judge would give you on the law, listen and consider
5 all testimony before you made a decision?

6 A. Yes, sir.

7 Q. If you thought -- if you were sitting on a jury --
8 I'm not talking about this case, please understand. A
9 case of murder where the death penalty is being asked.
10 If you were sitting on the jury and you thought the
11 circumstances were so bad till you thought the death
12 penalty was an appropriate sentence, could you vote for
13 the death penalty?

14 A. Yes, sir.

15 Q. Conversely, if you didn't think it was so bad,
16 could you vote for life in prison?

17 A. Yes.

18 Q. Would you have a predisposition -- that's probably
19 not a good word. Would you have a leaning one way or
20 the other?

21 A. At this point, no.

22 Q. You'd listen to the evidence.

23 A. Yes.

24 Q. That's what you're supposed to do. Glad to hear
25 that. One other thing. If you were sitting on the

- 1 jury and if you, along with the other eleven jurors had
2 decided, "Yes, this is a case where the death penalty
3 is completely and totally warranted, and we vote for
4 the death penalty," you'd have to go a step further.
5 You would have to sign -- and this is not the paper.
6 It's just something I've got in my hand. You would
7 have to sign a paper. It would have twelve lines on it
8 and up at the top it would say, "We, the undersigned
9 jury" -- words to this effect. "We, the undersigned
10 jury, recommend that the defendant suffer the death
11 penalty." And each and every one of you would have to
12 sign it. And even though it says "recommend", it is no
13 recommendation. That would be the sentence. Could you
14 sign that paper, if you thought the paper was bad
15 enough to warrant the death penalty?
- 16 A. Yes, sir. Yes, sir.
- 17 Q. How long have you been in Beaufort County?
- 18 A. Since December of last year.
- 19 Q. A year -- eight months -- ten months?
- 20 A. About ten months. I was in the process of moving
21 since last August. But we made the final part of our
22 move in December.
- 23 Q. So you've been here close to a year?
- 24 A. Right.
- 25 Q. And where did you come from?

1 A. From Atlanta.

2 Q. Georgia?

3 A. Yes, sir.

4 Q. How long did you live there?

5 A. Ten years.

6 Q. Was that because of your work or your husband's
7 work?

8 A. We both worked in Atlanta.

9 Q. And what did you do there?

10 A. I worked for the Internal Revenue Service, and I
11 was in administrative positions.

12 Q. Are you still working with IRS?

13 A. No, sir.

14 Q. Are you retired now?

15 A. Yes, we reorganized and I took early retirement.

16 Q. I envy you.

17 A. Thank you.

18 Q. Your husband, where did he work?

19 A. He also worked with the Internal Revenue Service.

20 Q. Is he also retired?

21 A. He retired in March of 2000.

22 Q. And you'all moved to Hilton Head?

23 A. Yes.

24 Q. Where on Hilton Head do you live?

25 A. We're in Palmetto Dunes.

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

1 Q. Do you play golf?

2 A. No.

3 Q. You're in a wonderful place to play if you did.

4 Thank you for being so candid and fair with me.

5 MR. KULP: If it please the Court, Your Honor.

6 EXAMINATION

7 BY MR. KULP:

8 Q. Good evening, Ms. Murphy.

9 A. Good evening.

10 Q. My name is Tim Kulp. I think the Judge identified
11 us at the beginning. And Mr. Corey Fleming is co-
12 counsel in this case. We represent the accused, Mr.
13 Rogers. And I would like to ask you a few questions.

14 A. Okay.

15 Q. You described yourself as being the type of juror
16 that would be encompassed by the description of
17 category three. Is that correct?

18 A. Yes..

19 Q. And having retired from the IRS, how long did you
20 spend with the service?

21 A. I was there for 22 years. I had 26 years of
22 Federal service.

23 Q. Did you ever work in an enforcement capacity or
24 investigative capacity?

25 A. No.

1 Q. Just always administrative?

2 A. Yes.

3 Q. How about your husband? Did he ever work in
4 the ---

5 A. He was in collections.

6 Q. But not CID?

7 A. No.

8 Q. Where did you go to college or school?

9 A. New York, Union College in Schenectady, New York.

10 Q. Is that where you grew up?

11 A. Yes.

12 Q. Very good. You know, sometimes I think my job is
13 difficult, and other times I think it's extremely
14 difficult. I don't want to -- it's only because of the
15 severity and the seriousness of this case that I would
16 even ask you about any of these questions. But I'm
17 compelled to do so. And if, in fact, you find that you
18 are uncomfortable about answering them regarding the
19 tragedy that your family experienced -- I'm not going
20 to ask you a bunch of questions. But if, please, just
21 stop or ask me to. I'm very sorry to hear that, truly.
22 Can you tell me what that occurred?

23 A. In October, 1994.

24 Q. Was that in Atlanta?

25 A. No, in Dallas, Texas.

1 Q. In Dallas? Is your brother your only sibling?

2 A. No, I have three brothers. He was my oldest
3 brother. He is my oldest brother.

4 Q. Again, I apologize for asking this.

5 A. No, I understand why you want to.

6 Q. How did that matter come out in terms of the
7 disposition?

8 A. He plead guilty to a murder charge and was
9 sentenced to 30 years.

10 Q. I see. You indicated to the Court that your
11 terrible experience of that tragedy, you and your
12 family, would not play any role or affect your ability
13 to be fair and impartial in this case. As you most
14 aptly said, whatever the evidence is and however it
15 comes out in trial, which you don't know now, that's
16 truly the case. And you feel that that horrible event
17 would not affect your ability to approach both the
18 State's case and the defense case fairly and
19 impartially?

20 A. I don't think it affects me. I would need to look
21 at the facts of this case.

22 Q. Do you feel that once seeing the facts of the
23 case, if there was any relationship between the facts
24 of this case and that other horrible case, that that
25 might color or affect your ability to remain fair and

1 impartial, from a human perspective?

2 A. I hope that it wouldn't.

3 Q. Do you think it could?

4 A. It might make me cry, but it's not going to affect
5 my judgment.

6 Q. And you understand that this special case as a
7 process has two elements and parts to it?

8 A. Yes.

9 Q. And you understand that because we're in a process
10 of inquiring of you about your perspectives about the
11 types of punishment that could possibly be considered
12 in this case, that it doesn't mean that that issue has
13 already been decided. Of course not?

14 A. Right, I understand.

15 Q. That issue being the guilt, whether the defendant
16 is guilty or not guilty.

17 A. Two parts.

18 Q. Pardon?

19 A. Two parts. I understand.

20 Q. And that broaching this issue and discussing it
21 and asking you these questions we wouldn't ask in any
22 other setting does not indicate that the first part of
23 the case is different than any other case that doesn't
24 have a capital or death penalty aspect to it in that
25 unless the State is able to prove the accusations under

1 the legal standard that applies beyond a reasonable
2 doubt, that it may very well be the case that the
3 jury's decision will be not guilty and there would be,
4 logically, no need to consider these serious issues.

5 A. I understand.

6 Q. But if, in fact, that circumstance was
7 encountered, is it your testimony and is it your belief
8 and opinion, knowing yourself, that you would be able
9 to be fair and impartial about your consideration of
10 evidence that we presented at that point as to
11 mitigating characteristics or issues?

12 A. Yes. I take this responsibility very seriously.

13 Q. And that you could then consider it without
14 emotion and objectively and follow the Judge's
15 instructions and encompass whatever was before you in
16 making your decision?

17 A. Yes, sir.

18 Q. And you'd be able to do that individually and then
19 collectively?

20 A. I could.

21 MR. KULP: Thank you very much.

22 THE COURT: Any discussion regarding this
23 juror?

24 MR. MURDAUGH: Not from the State, sir.

25 MR. KULP: No, sir. Thank you very much.

1 THE COURT: Very good. Ms. Murphy, I find that
2 you are qualified as a member of the panel. The panel
3 will actually be drawn at 9:30 on Friday.

4 If you will please report to this courthouse.
5 Please bring clothes for three nights. The jury will
6 be sequestered. There's a Hampton Inn just right
7 across the marsh over here, within sight of the court
8 house.

9 And now that you've been selected don't discuss
10 the case with anyone or allow anyone to discuss the
11 case with you. If anyone should attempt to, please
12 report it.

13 Also, don't do any research or study or anything
14 about the criminal procedure, criminal law or anything.
15 Because you've been qualified the way you are. And so
16 don't go on the internet or get a book or anything and
17 do any reading up on it.

18 I hope you have a nice evening and thank you and
19 look forward to seeing you. Do you have any questions?

20 POTENTIAL JUROR: 9:30 Friday?

21 THE COURT: 9:30 on Friday.

22 POTENTIAL JUROR: Thank you, sir.

23 (TESTIMONY OF SUSAN MURPHY CONCLUDED)

24 THE COURT: It's just like yesterday. We start
25 slowing down when it gets later.

1 Walter Burns, Juror No. 36.

2 (POTENTIAL JUROR TAKES STAND)

3 WALTER BURNS, being duly
4 sworn to tell the truth, the whole truth and nothing
5 but the truth, was examined and testified as follows:

6 EXAMINATION

7 BY THE COURT:

8 Q. Have a seat. Please speak directly into the
9 microphone. I remind that you, of course, were sworn
10 in on Monday, and that you are still under oath.

11 A. Yes, sir.

12 Q. Mr. Burns, had you ever heard anything about this
13 case before Monday?

14 A. No, sir.

15 Q. Have you heard anything about it since then?

16 A. No.

17 Q. Not from any media, television, radio, newspaper
18 or nobody's mentioned it to you?

19 A. No, sir.

20 Q. Did you read this pretrial questionnaire?

21 A. Yes.

22 Q. Did you understand it?

23 A. Yes.

24 Q. What kind of juror do you think you are?

25 A. I'd be the third type.

1 Q. That's being someone who believes in the death
2 penalty and feels like that after hearing the testimony
3 in a case that the juror thinks is proper, that you
4 could give the death penalty if you thought it was
5 appropriate?

6 A. Yes.

7 Q. And by the same token, it's not every case you
8 feel like the death penalty is called for. And if you
9 didn't think it was proper after hearing all the facts
10 and circumstances, you would recommend life
11 imprisonment.

12 A. Yes.

13 Q. Do you know Kenneth Williams or Richard Rivers?

14 A. No.

15 THE COURT: Solicitor Murdaugh.

16 EXAMINATION

17 BY MR. MURDAUGH:

18 Q. Mr. Burns, how are you doing?

19 A. Good.

20 Q. I'm Randolph Murdaugh. I'm the Solicitor down
21 here. By virtue of that title I get to prosecute the
22 criminals.

23 A. All right.

24 Q. People who are accused of crimes. Excuse me, sir.
25 I need to ask you some questions to find out whether I

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

1 want you to sit on this jury. You're not from Beaufort
2 County?
3 A. Yes, sir. Originally?
4 Q. You live here now.
5 A. Correct.
6 Q. And been living here about two-and-a-half years?
7 A. Right.
8 Q. A little bit more?
9 A. About two-and-a-half.
10 Q. Do you have any kin people living in Beaufort
11 County?
12 A. No, just my wife.
13 Q. You are not related to Lance Burns that used to
14 live on Dufuskie Island?
15 A. No, sir.
16 Q. Where did you come from to Beaufort County?
17 A. I came from Solon, Indiana.
18 Q. Your wife, is she from Beaufort County?
19 A. We're both from Indiana.
20 Q. Out of curiosity, how did you'all happen to come
21 to Beaufort, Bluffton, really.
22 A. Yeah. We came down to Hilton Head on vacation in
23 the summer of '98, and got married in May of '99. And
24 moved down about a month after that.
25 Q. I'm glad you're here with us.

1 A. We like living here.

2 Q. Where do you work, sir?

3 A. I'm a real estate appraiser on Hilton Head Island.

4 Q. Independent or with someone?

5 A. I'm with Pike Appraisal Company

6 Q. That's Ed Pike?

7 A. It's his son.

8 Q. Son. It's been so long ago I forgot they change
9 around.

10 A. Yeah.

11 Q. And your wife works where?

12 A. She works for the Hilton Ocean Properties on
13 Hilton Head.

14 Q. And what does she do with them?

15 A. She is the employment manager.

16 Q. I listened to your answers that you gave the Judge
17 a minute ago and I need to ask you one or two
18 questions. And in order to do that I need to lay a
19 little groundwork.

20 A. Uh-huh, (affirmative nod).

21 Q. Normally, a case in South Carolina, the jury
22 decides the guilt or innocence of the defendant and are
23 through with the case. It becomes the Judge's duty to
24 sentence him. You'all would have nothing to do with
25 sentencing.

1 But in this type case where there is a murder
2 where the State's asking for the death penalty, the
3 jury does the sentencing. It's entirely different.
4 And what happens is you have a first part to determine
5 guilt or innocence. And if you should decide that the
6 defendant in that segment of the trial, you then go to
7 the second phase in which you determine the penalty --
8 one of two penalties, death penalty, life imprisonment.

9 And in that, the State is required to prove the
10 existence of a thing called an aggravating circumstance
11 before you can consider anything. Aggravating
12 circumstances are things that are set out by the
13 Legislature in our Code, and you would have to make an
14 affirmative finding that there is in existence an
15 aggravating circumstance. His Honor will tell you what
16 aggravating circumstances are in more detail. But for
17 simplistic (sic) reasons, just call it reasons to give
18 the death penalty.

19 You would also listen to testimony about the
20 character of the defendant, the circumstances of the
21 crime and mitigating evidence which are reasons not to
22 give the death penalty. If you were sitting on the
23 jury would you listen to all of those things I've just
24 talked about and consider them before you decided what
25 to do?

1 A. Yes.

2 Q. And after listening to and considering those
3 things, the aggravating circumstances, the character of
4 the defendant, the circumstances of the crime,
5 mitigating circumstances, would you then be able, if
6 you thought it was an appropriate case for the death
7 penalty, to vote for the death penalty?

8 A. Yes, sir.

9 Q. Conversely, if you thought life in prison was the
10 proper sentence, would you vote for it?

11 A. Yes.

12 Q. You would have an open mind, depending on how you
13 felt?

14 A. Yes.

15 Q. If you sat on the jury and if you and the other
16 eleven jurors decided, "Yeah, this crime is so bad" --
17 I'm not talking about this case. You understand that.
18 Decided this case is so bad that the defendant deserves
19 the death penalty, and you'all voted and decided he
20 needed to get the death penalty or her needs to get the
21 death penalty, you would then be required to do one
22 additional thing. And that thing is you would be
23 required to sign a sheet of paper. This isn't that
24 sheet of paper, by any means. But there would be
25 twelve lines on that paper, one for each juror. And up

1 at the top would be something similar to what I'm about
2 to tell you. "We, the undersigned jury, recommend that
3 the defendant suffer the death penalty." And while it
4 says "recommend", it is not a recommendation. That is
5 it.

6 If you thought the case was bad enough, could you
7 sign that paper without any qualms?

8 A. Yes, sir.

9 Q. Just one moment, please. Did the Judge ask you if
10 you knew Kenneth Williams and Richard Rivers? Do you
11 know them?

12 A. No, sir, don't know them.

13 Q. Thank you, sir. I appreciate you being so open
14 and frank with me.

15 A. Sure.

16 MR. KULP: If it please the Court, Your Honor.

17 THE COURT: Mr. Kulp.

18 EXAMINATION

19 BY MR. KULP:

20 Q. Just a few questions. My name is Tim Kulp. And I
21 think the Judge introduced me and my co-counsel, Mr.
22 Corey Fleming, on Monday. We represent the accused,
23 Mr. Rogers.

24 A. Uh-huh, (affirmative nod).

25 Q. You certainly understand, and it appears that you

1 do, that this aspect of this proceeding has two parts
2 to it. And we might very well, and the Solicitor made
3 reference to it himself, never even get to the point
4 that's so critical in this case and why we're asking
5 you these questions -- the second phase where you would
6 be asked to consider the appropriate punishment, should
7 the accused be convicted of murder.

8 But you understand that we may very well not get
9 there because we have a first part to listen to?

10 A. Right. That makes sense.

11 Q. It does. You've indicated that you believe
12 yourself to be a type three juror?

13 A. Yes.

14 Q. That you have no predisposition. You have no
15 leaning in a hypothetical sense as to what the
16 automatic appropriate punishment is for someone
17 convicted of murder. And that you would be open-minded
18 and you would listen to all the evidence or lack of it
19 before you made any decision?

20 A. Yes.

21 Q. I'm looking at your questionnaire. Do you recall
22 filling that lengthy thing out and sending it back to
23 the Clerk?

24 A. Yes.

25 Q. And on there you indicated that you could not be

1 fair in circumstances where there was the alleged use
2 of drugs or alcohol -- illegal drugs. Of course, I'm
3 pausing because does that impact -- or how might that
4 interplay with your consideration that you are fair and
5 impartial?

6 A. I think it has something to do with having strong
7 feels about drugs or drug use. And I've got a personal
8 case. My father was a drug addict and it affected my
9 family for several years. So I do have some strong
10 feelings about drug dealers and drug users.

11 Q. I see. Would that affect your ability to be fair
12 and impartial in the case?

13 A. I guess if it was a drug dealer, maybe, yes.

14 Q. It would?

15 A. Otherwise, if it didn't have anything to do with
16 that, no.

17 Q. But being candid as you are and under your
18 testimony, that if the circumstances involved the use
19 or sale of drugs, then because of those personal
20 experiences, is it your testimony that your ability as
21 a human to be fair and impartial might be substantially
22 impaired?

23 A. I'd say it possibly would affect it.

24 Q. How about substantially impaired?

25 A. I'd say it would depend on the circumstances of

1 the case.

2 Q. Would that mean that some circumstances could
3 result in you being -- feeling you were substantially
4 impaired in your ability to be fair and impartial?

5 A. I guess I'd have to say "yes".

6 Q. Thank you.

7 THE COURT: Any discussion regarding this
8 juror?

9 MR. MURDAUGH: I need to ask him one or two other
10 questions.

11 EXAMINATION CONTINUED

12 BY MR. MURDAUGH:

13 Q. I'm not sure I understood everything that was just
14 said between you and Mr. Kulp.

15 A. Uh-huh, (affirmative nod).

16 Q. My question to you is you say that you have some
17 problems where drugs are involved?

18 A. Correct.

19 Q. Because of ---

20 A. I had put an answer on the questionnaire that it
21 could affect my ability to be fair.

22 Q. When you say it could affect your ability to be
23 fair -- I reckon what I'm trying to find out is whether
24 or not you would listen to all of the evidence, set
25 aside any feelings that you have about drugs and look

1 at the testimony purely from what happened here in this
2 court room and make your decision from that, not from
3 external feelings?

4 A. Yes, I'd have to say I do have strong feelings
5 about drug dealers and users.

6 Q. You can have strong feelings.

7 A. Uh-huh, (affirmative nod).

8 Q. But that's not my question, about your feelings.
9 You know, some people are predisposed to the death
10 penalty. Some are predisposed to life imprisonment.
11 But they could do either. The fact that you are
12 predisposed one way or the other is not the criterion.
13 The criterion in this case is can you lay aside your
14 feelings and find the defendant guilty or innocent and
15 sentence him to the death penalty or life imprisonment
16 and set aside your feelings about the drugs?

17 A. Yes.

18 Q. Okay, sir. Thank you, sir.

19 THE COURT: Anything further?

20 MR. KULP: No, sir, Your Honor.

21 THE COURT: Any discussion about this juror?

22 MR. KULP: Beg the Court's indulgence one
23 second. No, sir, Your Honor.

24 THE COURT: You either, Solicitor?. Is that
25 correct?

1 MR. MURDAUGH: Yes.

2 THE COURT: I find that you are qualified to be
3 a member of the jury panel. There's a couple of things
4 I want to tell you.

5 This jury will be selected on Friday at 9:30.
6 9:30 on Friday right here. You will be a member of the
7 panel. Please bring enough clothes to last you three
8 nights. The jury, after it is empaneled, will be
9 sequestered during the trial. They'll stay at the
10 Hampton Inn, which is just right across -- almost
11 within sight of the courthouse.

12 Don't discuss the case with anyone or allow anyone
13 to discuss the case with you or let yourself read or
14 see anything from the media, you know, like TV or
15 whatever.

16 Lastly, don't do any reading or research or
17 whatever about criminal law, criminal procedures or
18 anything, from books or the internet or anything. In
19 other words, you've been qualified as you are. And so
20 don't go and try to bone up on anything.

21 With that, I hope you have a nice evening.

22 POTENTIAL JUROR: All right, sir. Be here at
23 9:30 on Friday morning?

24 THE COURT: Be here at 9:30 on Friday.

25 POTENTIAL JUROR: All right.

1 THE COURT: Thank you, sir.

2 (TESTIMONY OF WALTER BURNS CONCLUDED)

3 THE COURT: We don't need a message on the
4 answering machine. Because everybody's been called
5 that's supposed to report. And they've got their
6 message, and so we don't need anybody else.

7 Katherine Cook.

8 (POTENTIAL JUROR TAKES STAND)

9 KATHERINE COOK,
10 being duly sworn to tell the truth, the whole truth and
11 nothing but the truth, was examined and testified as
12 follows:

13 EXAMINATION

14 BY THE COURT:

15 Q. How are you, Ms. Cook?

16 A. How are you?

17 Q. Doing good. As best I can. Tired, but other than
18 that -- Have a seat. And, Ms. Cook, I remind you that
19 you are still under oath from Monday when you the Clerk
20 of Court swore you in.

21 Just a couple of questions. You mentioned on
22 Monday that there was a violent crime that you or a
23 member of your family was a victim of?

24 A. Yes, sir.

25 Q. Do you mind telling us the circumstances of that?

1 A. No, I don't. About twenty-five years ago I was
2 living in Savannah. And a young, black man broke into
3 my apartment. Actually, he didn't break in. He came
4 in and tried to kill me. He said he was going to kill
5 me and he had a knife at my throat. And I had a
6 violent fight with him. And I don't know, really, what
7 happened. But as it turned out, he did not rape me.
8 He did not kill me, and he didn't even cut me.

9 It was a terrible experience. As it turned out I
10 was only one of about twenty-five women in the downtown
11 historic area that were attacked by this man that was
12 not raped.

13 I reported it to the police, obviously, and I
14 worked with the Georgia SLED agents for several months
15 in helping them find this man. And it was me that
16 identified him. I went to several line-ups. It was
17 very frightening to me to be given photographs in a
18 book that the agents had that showed as many black,
19 young men that were out of jail at the time walking the
20 streets that could have possibly tried to kill me.

21 And I felt that it was up to me to be -- I'm
22 normally not an aggressive person. But I felt like I
23 had to help the other victims, because we met several
24 times in Chambers. One of the victims was my sixteen-
25 year-old babysitter at the time. Another was the wife

1 of a very prominent advertising person in Savannah.

2 Her husband subsequently died of a heart attack.

3 Q. Was the person caught and convicted?

4 A. Yes, and it was mostly me that convicted him. My

5 problem with this case is I would like to say to you

6 that I am a very fair person. And I think that I am.

7 When I came in here and sat in that back row, I had no

8 idea what -- who anybody was. I had heard of Mr.

9 Murdaugh and I'm familiar with the Moss Law Firm.

10 My daughter has ridden with Jim Moss's daughter.

11 Q. Ridden horseback?

12 A. Yes. I now live in Hilton Head, of course. But

13 -- and I wasn't looking for anyone to be here. I

14 didn't know what the case was.

15 But I feel that I'm not prejudiced. And I'm not.

16 But there's something about this gentleman that --

17 I've made eye contact with him several times. And his

18 demeanor would make it very hard for me to be fair,

19 because I'm having so many flashbacks about a very bad

20 situation.

21 Q. And you're talking about the defendant, Tavarus

22 Rogers?

23 A. The gentleman -- yes.

24 THE COURT: Any objection to being excused?

25 MR. MURDAUGH: (Negative nod)

1 MR. KULP: (Negative nod)

2 THE COURT: Ms. Cook, I'm sorry to have put to
3 back through this, as everybody is. I won't require
4 anything else of you. You are excused. That's what
5 you're asking for. Is that right?

6 POTENTIAL JUROR: I'm not really saying that.
7 I'm saying that I would find it very hard to be
8 objective.

9 THE COURT: For legal reasons, then, I need to
10 excuse you anyway.

11 POTENTIAL JUROR: Thank you.

12 THE COURT: And thank you so much for coming.
13 And that is without objection. Is that right?

14 MR. MURDAUGH: Yes.

15 POTENTIAL JUROR: Thank you.

16 THE COURT: Thank you. Nice to see you, and
17 good luck to you.

18 POTENTIAL JUROR: I'm sorry to have to go
19 through all that, but ---

20 THE COURT: Well, I'm sorry to have to put you
21 through that, but I'm glad we didn't have to string it
22 out longer than we had to.

23 (TESTIMONY OF KATHERINE COOK CONCLUDED)

24 THE COURT: Do we have any other business
25 today?

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

1 MR. MURDAUGH: Not from the State, Your Honor.

2 THE COURT: We're not but forty-five minutes
3 late, and that's pretty good. I'll have to commend
4 everybody. We're out on time, because that one would
5 be exactly 5:45, because the last one was at 5:00.

6 MR. KULP: Very good.

7 THE COURT: I tell you what. We can do it when
8 we try.

9 What I would suppose that we'll do is we're going
10 to have these others coming. And when we very close to
11 it, we can start cancelling the ones for the afternoon.
12 But there's no reason to do it, because we've got the
13 numbers. So we won't try to cancel anything until
14 tomorrow.

15 MR. MURDAUGH: We have forty-four right now.

16 THE COURT: Forty-four.

17 MR. MURDAUGH: And how many more have we got?

18 CLERK: There's nobody here.

19 MR. MURDAUGH: Tomorrow? What about Charles
20 White? I've got him down here.

21 CLERK: That's in the morning.

22 MR. KULP: 9:00 o'clock in the morning, right,
23 Your Honor?

24 THE COURT: 9:00 o'clock, yes.

25 MR. MURDAUGH: Shoot, we can start at 8:00

1 tomorrow. I'm staying at the river now.

2 (PROCEEDINGS CONCLUDED AT 5:50 P.M.)

3 (TRANSCRIPT CONTINUED NEXT PAGE)

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STATE OF SOUTH CAROLINA)

COUNTY OF BEAUFORT)

) COURT OF GENERAL SESSIONS

~~STATE OF SOUTH CAROLINA,~~)

Plaintiff,)

vs.)

) 99-GS-07-221 thru 222

) 99-GS-07-281 thru 288

TAVARUS ROGERS)

Defendant.)

JURY TRIAL**OCTOBER 11, 2001 - Volume 4 of 7 Volumes**

The within Jury Trial was held before the Honorable Jackson V. Gregory, on October 8-16, 2001, in Courtroom No. 1 of the Beaufort Government Center, Beaufort, South Carolina; attended by counsel, as follows:

Randolph Murdaugh, Solicitor
 Steven Knight, Deputy Solicitor
 Angie McCall, Deputy Solicitor
 Appearing for State of South Carolina

Cory H. Fleming, Esq.
 MOSS & KUHN, P.A.
 Post Office Drawer 507
 Beaufort, South Carolina 29901-0507

-and-

Timothy Clay Kulp, Esq.
 RIESEN LAW FIRM
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 North Charleston, South Carolina 29418
 Appearing for Defendant

DEBORAH GARRISON**Circuit Court Reporter - 9th Judicial Circuit**

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State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

957

October 11, 2001

9:30 A.M.

2 (DEFENDANT PRESENT)

3 THE COURT: How many more did we decide that we
4 needed?

5 MR. MURDAUGH: We've got forty-four.

6 THE COURT: All right. Was it forty-seven that
7 we were trying to get?

8 MR. KULP: That's right.

9 MR. MURDAUGH: Yes, sir, I would say forty-seven.

10 THE COURT: Okay. So we only need three more.
11 So are we ready to go?

12 MR. KULP: Yes, sir, Your Honor.

13 THE COURT: I don't believe that there was
14 anything in the press today, was there?

15 MR. KULP: No, sir.

16 THE COURT: Solicitor, are you ready?

17 MR. MURDAUGH: Yes, sir.

18 THE COURT: Would you please send in Charles
19 White, Juror No. 418. Let me ask you this, we had two
20 that didn't show, that came in later. Of course, they
21 aren't on the list. We don't need to be concerned
22 about those, do we?

23 MR. MURDAUGH: No, sir.

24 MR. KULP: No, Your Honor.

1 THE COURT: Come around, Mr. White, and have a
2 seat right up here.

3 (POTENTIAL JUROR TAKES STAND)

4 CHARLES WHITE, being duly
5 sworn to tell the truth, the whole truth and nothing
6 but the truth, testified as follows:

7 EXAMINATION

8 BY THE COURT:

9 Q. Good morning.

10 A. Good morning, sir.

11 Q. Mr. White, I remind you, sir, that you are still
12 under oath from Monday.

13 A. Yes, sir.

14 Q. First off, had you ever heard anything about this
15 case before Monday?

16 A. Very little. I recall having read something in
17 the paper some time ---

18 Q. When it happened or something?

19 A. Right.

20 Q. Did you read anything after that initial time?

21 A. I don't recollect, sir.

22 Q. How about since Monday, have you heard or read or
23 has anybody said anything -- had any conversations with
24 anybody about it?

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

959

1 A. No conversations. I did read in the Beaufort

2 Gazette the article about the jury selection.

3 Q. And what was in that article?

4 A. Just that they were describing the process of
5 interviewing.

6 Q. And that's all that you remember? Nothing about
7 what actually happened or anything dealing with the
8 defendant?

9 A. No, Your Honor.

10 Q. Did you read this pretrial questionnaire?

11 A. Yes, sir.

12 Q. Did you understand it?

13 A. Yes, sir.

14 Q. What kind of juror do you think that you are?

15 A. I think that I am probably number three.

16 Q. In other words, you think that there are some
17 cases that you believe the death penalty is appropriate
18 and that you'd vote for the death penalty in those
19 instances if you thought that it was appropriate after
20 hearing the facts and circumstances?

21 And that also there are some instances where if a
22 defendant is convicted of murder that you feel like you
23 do not feel like the death penalty would be
24 appropriate?

1 There's two options in South Carolina for someone
2 convicted of murder, the death penalty or life
3 imprisonment.

4 Is that a fair statement of your views on it?

5 A. Yes.

6 THE COURT: Solicitor Murdaugh.

7 EXAMINATION

8 BY MR. MURDAUGH:

9 Q. Mr. White, how are you doing?

10 A. I'm fine.

11 Q. I am Randolph Murdaugh. I am the Solicitor for
12 this circuit, which Beaufort is one of the counties.
13 With that title goes the obligation of prosecution.

14 I need to ask you, quite frankly to find out if we
15 want you to sit on the jury or not. And I want you to
16 understand that there are no 'right' nor 'wrong'
17 answers. Just we need to get a feeling about you.

18 First, there are two possible additional
19 witnesses. Do you know Kenneth Williams or Richard
20 Rivers?

21 A. No, sir.

22 Q. Okay, sir. Now, Mr. White, in listening to your
23 answers to the Judge, I need to ask you a few more
24 questions about it. And I probably need to lay a
25 little groundwork to give you an explanation of how we

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

961

1 proceed.

2 This case, unlike any other criminal case in the
3 State, requires the jury to do the sentencing. Most
4 criminal cases, the jury makes only a determination of
5 guilt or innocence of the defendant. Then the judge
6 does the sentencing. But where there is a murder and
7 where the State is asking for the death penalty, you
8 have an additional obligation.

9 And if during -- it is a two-part trial. And if
10 during the first part of the trial you find that the
11 defendant -- and I am not talking about this case, you
12 understand. I am talking about in general.

13 In the first part of the trial, it would be
14 necessary for the jury to determine whether he is
15 guilty or whether he is innocent -- or she.

16 If you determine that they are guilty, then you go
17 to the second part of the trial, which is the
18 sentencing phase or penalty phase. In that phase, you
19 could only consider two penalties: the death penalty or
20 life imprisonment. The only options that you have.

21 You would hear reasons why the death penalty
22 should be given, aggravating circumstances. You would
23 hear testimony or would have heard testimony about the
24 character of the defendant, the nature of the crime
25 itself, the circumstances of the crime, and you perhaps

1 would have mitigating circumstances, reasons why the
2 death penalty should not be imposed. You would have to
3 hear all of that and consider all of that before making
4 your decision.

5 Could you do that, sir? And would you do that?

6 A. I believe that I could, and I would.

7 Q. Then if you had heard all of that and considered
8 all of that information, you would then have to make a
9 decision. And if you thought -- and, again, I am not
10 talking about this case but a case in general -- if you
11 thought that the case was bad enough that the defendant
12 deserved the death penalty, could you vote for the
13 death penalty?

14 A. Under certain circumstances, (affirmative nod).

15 Q. His Honor would lay out the parameters under which
16 it could be granted and you could only do it under
17 those parameters. Do you understand that?

18 A. Yes, sir.

19 Q. Conversely, if you thought that it was a proper
20 case for life imprisonment could you vote for life
21 imprisonment?

22 A. Yes, sir.

23 Q. Now, one of the things that would be required of
24 you if you served on the jury and if you and the other
25 eleven members of the jury decided that, yes, this is a

1 bad case and the defendant deserves the death penalty,
2 that you'all had voted on that and decided that, you
3 would then be required to sign -- and this is not the
4 sheet of paper, I am just using this as an example.
5 You would have to sign a sheet of paper, there would be
6 twelve lines on it, and up at the top would be words to
7 this effect, it may not be verbatim, but "We, the
8 undersigned jury, recommend that the defendant suffer
9 the death penalty."

10 You'all have decided that he deserved it. Could
11 you sign your name to that paper?

12 A. If that was my decision, (affirmative nod).

13 Q. Yes, sir, I understand. And you understand that
14 while it says "recommend" the death penalty that isn't
15 what it means. It means that that is what -- you'all
16 are sentencing him to death. "Recommendation", while
17 it says that that isn't what it means. Okay, sir?

18 A. (Affirmative nod).

19 Q. I gather from talking with you, and I not trying
20 to put words in your mouth but I need to know a little
21 bit about what your feelings are. I surmise from
22 listening to you that while you could give the death
23 penalty that would be an extraordinary verdict that you
24 would issue? That it would be tough for you to do it?

25 A. I think that would be an extraordinary decision to

1 make, yes, sir. That's a fair statement.

2 Q. But you wouldn't lean towards life imprisonment
3 every time in a murder case, or would you?

4 A. I have -- no.

5 Q. You would have to listen to everything and then
6 decide?

7 A. Before disposition, yes.

8 Q. Okay, sir. That's what I needed to know. Now,
9 you live on Fripp?

10 A. Yes, sir.

11 Q. How long have you been in Beaufort County, sir?

12 A. Nine years.

13 Q. Where did you come to Beaufort County from?

14 A. I moved here from the state of Delaware.

15 Q. Delaware?

16 A. (Affirmative nod).

17 Q. Whereabouts?

18 A. Newark, Delaware.

19 Q. What did you do in Delaware, sir?

20 A. I was the owner and operator of a Honda motorcycle
21 dealership.

22 Q. You retired from that?

23 A. I sold the dealership.

24 Q. And moved down here to retire, and couldn't
25 retire?

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

1 A. Not exactly with the intent of retiring. I've

2 been selling real estate for a realty company.

3 Q. You're married?

4 A. Yes, sir.

5 Q. And does your wife work?

6 A. She works at Joyner Sports Medicine here in Port
7 Royal.

8 Q. Was she ---

9 A. She is a physical therapist.

10 Q. I was trying to remember the questionnaire.
11 Sometimes it's -- we've seen so many of them that
12 sometimes it is hard to remember everything.

13 Do you have children, sir?

14 A. Yes, sir.

15 Q. Their sexes and ages?

16 A. My son is thirty, he lives in Atlanta.

17 Q. What does he do, sir?

18 A. He is a computer person.

19 Q. I admire him. I know nothing about it.

20 And your daughter?

21 A. My middle child is a daughter and she still lives
22 in Newark, Delaware. She's married.

23 Q. And you have one other child?

24 A. My youngest is a daughter and she's here in
25 Beaufort. She's a teacher.

1 Q. What is her age?

2 A. Twenty-three.

3 Q. What does she teach?

4 A. She's in elementary education.

5 MR. MURDAUGH: Thank you, sir, I appreciate
6 your -- I hate to ask you those questions but I
7 appreciate your candor and your frankness.

8 MR. KULP: May it please the Court.

9 THE COURT: Mr. Kulp

10 EXAMINATION

11 BY MR. KULP:

12 Q. Good morning, Mr. White.

13 A. Good morning.

14 Q. My name is Tim Kulp. You probably heard that
15 Monday morning when the judge introduced us. Mr.
16 Fleming and I represent the accused, Mr. Rogers.

17 A. Yes, sir.

18 Q. I just wanted to ask you a few questions, as well.
19 You -- how long did you have the Honda dealership?

20 A. Almost eight years, seven-and-a-half years.

21 Q. I was going to ask you a question about the old
22 180 Scrambler.

23 A. That is old.

24 Q. You didn't have an occasion to keep one of those
25 from the original '50s with the plastic knee frame and

1 -- that's a keepsake.

2 A. We probably had a few pass through but I didn't
3 keep any.

4 Q. You got your MBA, back in Delaware?

5 A. Yes.

6 Q. Now you're living on Fripp, Fripp Island?

7 A. Yes.

8 Q. You indicated that you read an article in the
9 paper. Do you remember what day that was? Monday or
10 Tuesday? I mean Tuesday or Wednesday? Sorry.

11 A. I think it was Tuesday. It was in Tuesday
12 morning's paper. It was just a short piece, one
13 column.

14 Q. Do you recall if you read the entire article?

15 A. Yeah, I did.

16 Q. Let me show you a newline from that and ask you if
17 you can just identify the headline of that article.

18 Referring to Court's Exhibit 3, just from back --
19 referring to Court's Exhibit 2, does that appear to
20 mimic the article that you read?

21 A. I think that's it.

22 Q. And you read the entire article?

23 A. Yes.

24 Q. What exactly do you recall about the article
25 itself, its substance and content?

1 A. Gee, I didn't know that there was going to be a
2 quiz.

3 Q. Not did I intend it to be.

4 A. As I recall, the article described in very general
5 terms the jury selection. I think that it may have
6 mentioned a number of jurors that were originally
7 selected for the process.

8 Q. Do you recall if it mentioned or did it mention
9 anything about the evidence in the case, and prior
10 proceedings or anything?

11 A. I don't recall that.

12 MR. KULP: I beg the Court's indulgence one
13 second.

14 THE COURT: Yes, sir.

15 EXAMINATION CONTINUED

16 BY MR. KULP:

17 Q. Mr. White, having read that article, is there
18 anything about your review of that article that would
19 affect your ability to be fair and impartial in the
20 case?

21 A. No.

22 Q. Did you read any other articles other than the
23 Tuesday article in the Beaufort Gazette?

24 A. No.

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

1 Q. Now, you have some prior law enforcement

2 experience. Did you mark that? Or did you have

3 anybody in your family -- in your questionnaire?

4 A. I don't think that I marked anything. I was in
5 the military police when I was in the Army.

6 Q. Oh, you were in the military police when you were
7 in the Army? Maybe that's what you meant?

8 A. On my short tour.

9 Q. Because you marked ---

10 MR. KULP: May I approach the witness, Your
11 Honor?

12 THE COURT: Yes, sir.

13 EXAMINATION CONTINUED

14 BY MR. KULP:

15 Q. (Reading): "any law enforcement agency, whether
16 local, city, state federal" -- and you put "yes."

17 A. That's, (affirmative nod), the military police.

18 Q. Oh, that's what you were talking about?

19 A. Yes.

20 Q. Where were you stationed when you were a military
21 police officer?

22 A. In Fort Hood, Texas.

23 Q. Do you recall how long that you served in that
24 position with the Army?

25 A. A short period of time. Actually I was infantry

1 detailed to the military police for about six months.

2 Q. Did you have occasion to work any investigations
3 of any violations of the UCMJ during that time period?

4 A. Yes.

5 Q. Any serious cases?

6 A. No.

7 Q. Would your service as a military police officer
8 during that attachment affect your ability in any way
9 in a murder case to be fair and impartial?

10 A. No.

11 Q. All right. Now, when the Solicitor reviewed with
12 you, as the Judge did, or may have briefly, about the
13 unique nature of this case. You certainly understand
14 that we're in the process of speaking with all
15 potential jurors about any predisposition that they may
16 have or not have, or strong opinions, about the
17 appropriate punishment in a murder case. That means
18 absolutely nothing -- you understand that it doesn't
19 suggest anything about the first issue that a jury
20 would have to determine and that would be whether the
21 defendant is guilty or not guilty of the charges?

22 A. I understand.

23 Q. In other words -- of course, I am sure that you
24 understand. But just to review, a court logically
25 would never get to the determination of what an

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

971

1 appropriate penalty or punishment would be if the

2 jury's decision at the conclusion of the first part of
3 the proceedings was that the defendant was not guilty?

4 A. I understand that.

5 Q. And, of course, I am sure that you understand
6 that, as any other person who is charged in the course
7 of our country, that he is presumed innocent?

8 A. Yes.

9 Q. So whatever decision that the jury would have to
10 make at the end of the "not guilty" or "guilty" portion
11 of the trial would be exactly that, whether he was
12 guilty or not guilty. And not, as the Solicitor said,
13 whether -- your choice isn't "guilty" or "innocent".
14 Your choice would be, do you understand, "guilty" or
15 "not guilty"? Correct?

16 A. Yes.

17 Q. A subtle distinction, but very important.

18 MR. KULP: And I heard with great interest
19 your description of your son in Atlanta as a "computer
20 person". I think that is used more frequently than
21 maybe he and I would prefer. Thank you, sir.

22 POTENTIAL JUROR: You're welcome, sir.

23 THE COURT: Any discussion about this juror?

24 MR. MURDAUGH: No, sir.

25 MR. KULP: I beg the Court's indulgence,

1 (consulting with Mr. Fleming) Very briefly, Your

2 Honor.

3 THE COURT: If you would, please, Mr. White,
4 just go back out the back door very briefly and we will
5 come back to you in just a moment.

6 (POTENTIAL JUROR STEPS DOWN/EXITS COURTROOM)

7 THE COURT: Yes, sir?

8 MR. KULP: Thank you, sir. I think juror
9 admits that he would be fair and impartial. I think
10 the only pause that I have is his revelation that he
11 read the entire article ---

12 THE COURT: Is that the one that had the things
13 about the prior confession and so forth in it?

14 MR. KULP: Yes, sir. I consulted with Mr.
15 Fleming about that and I think -- I think it is a bit
16 confusing. If he -- I just don't know. I don't think
17 that he is misrepresenting anything, and I don't have
18 any reason to think that.

19 THE COURT: Well, you can't have it both ways.
20 I might exclude him if you want him excluded but I
21 don't like lawyers setting this land mines around,
22 because -- he did read it against my instructions.

23 If it was in there and then he says that he didn't
24 read it, you know. I think that you are going to have
25 to -- I can see that you might like to have him, too.

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

973

1 So I don't know. You're going to have to make the
2 decision.

3 MR. KULP: I think, out of an abundance of
4 caution, we would ask that he be excused. He said
5 that he read the entire article and it does have that
6 information in it. If it had been one of the others,
7 fine. But I -- I don't know. I just think that we
8 need to move for the juror to be excused, Your Honor.

9 THE COURT: What do you say, Solicitor?

10 MR. MURDAUGH: If Your Honor please, Court's
11 Exhibit 2 was held up from approximately fifteen feet
12 away from him and it was said, 'Is this the article
13 that you read?' And he said, 'Yeah, I think it is.'

14 THE COURT: And, but he said also that he read
15 it in Tuesday's paper, that he read the entire thing.
16 He was pretty clear about that. And, of course, even
17 though he doesn't remember it now -- you know, if he
18 read it, I think he would be a good defense juror. But
19 if you want him excluded, I am inclined to grant it if
20 that is what you want?

21 MR. KULP: Yes, sir.

22 THE COURT: Because he certainly had to know
23 that he was violating the court's instructions. It's
24 not question that he said that he read the headlines.
25 I think that's consistent with my prior rulings.

1 MR. KULP: Yes, sir. Thank you.

2 THE COURT: Would you show Mr. White in,
3 please.

4 (POTENTIAL JUROR ENTERS COURTROOM)

5 THE COURT: Mr. White, I am going to have to
6 excuse you from the trial of this case, regrettably.
7 Thank you for coming. That will conclude your jury
8 service.

9 (JUROR EXITS).

10 THE COURT: I understand that I did excuse
11 another one yesterday who said that they had read that
12 entire article. So that was consistent.

13 MR. KULP: Yes, sir. Thank you, Your Honor.

14 THE COURT: Michelle Cochran, Juror No. 56.

15 (POTENTIAL JUROR TAKES STAND)

16 MICHELLE COCHRAN SUTTON,
17 being duly sworn to tell the truth, the whole truth and
18 nothing but the truth, testified as follows:

19 EXAMINATION

20 BY THE COURT:

21 Q. Good morning.

22 A. Hey.

23 Q. You are Michelle Cochran?

24 A. Yeah.

25 Q. Ms. Cochran, first off I would like to remind you

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

1 that you are still under oath from Monday when the
2 Clerk of Court sworn you in.

3 A. Okay.

4 Q. My first question -- I just have a few and then
5 the lawyers will ask you a couple. Had you ever heard
6 anything about this case before Monday?

7 A. No.

8 Q. Have you heard anything about it since? Has
9 anybody asked you about it or have you read anything in
10 the newspaper or on the radio or TV or anything?

11 A. I just heard people talking about, just that they
12 read it in the newspaper or something.

13 Q. What did they talk about?

14 A. They just said that there was a murder case.

15 Q. Were there any of the factual details discussed
16 with you?

17 A. Uh-uh.

18 COURT REPORTER: Is that a "no"?

19 POTENTIAL JUROR: "No."

20 EXAMINATION CONTINUED

21 BY THE COURT:

22 Q. Who was it -- was this friends or associates at
23 work or where was this?

24 A. People at church and -- I work at the high school,
25 people at the high school.

1 Q. Which high school?

2 A. Hilton Head High.

3 Q. Ms. Cochran, did you read the handout in there
4 about the -- let me see if I can find it right here,
5 this pretrial questionnaire?

6 A. Yes.

7 Q. Did you understand it?

8 A. Yes.

9 Q. What kind of juror do you think that you are?

10 A. I don't think that I -- I don't know. I'm not in
11 that situation yet. But normally I don't believe in
12 the death penalty but I have never actually been in a
13 situation where I was really asked. But I don't -- I
14 have a hard time with people being put to death.

15 Q. You do?

16 A. Yeah.

17 Q. Okay. Well, do you feel like that if you thought
18 the -- is there any case where you think the death
19 penalty would be appropriate?

20 A. I don't -- I really don't know because I have
21 never been -- every time that I've thought about it, I
22 would say 'no'. I don't think people should be put to
23 death. I've never heard facts and details of a case
24 before and I've never been in a situation to think,
25 'yes, that person should be put to death.' I don't

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

977

1 know.

2 Q. One of the things if you're serving on a jury and
3 if you were to vote to -- you, along with the other
4 twelve jurors were to vote for someone to get the death
5 penalty, one of the things that you would have to do is
6 to sign your name on a form that would be prepared
7 where every juror would have to say, "We recommend the
8 death penalty." And that recommendation is final.

9 Would you be able to sign your name to such a
10 document?

11 A. I don't know. Sorry. I really don't know.

12 Q. That's okay.

13 A. I would kind that I wouldn't.

14 Q. You think that you would not?

15 A. Yeah, that's the type person I am. But like I
16 said, I don't know. I haven't been through something
17 like that, but I would think 'no.'

18 Q. Two witnesses who might testify that were left off
19 the original list are named Kenneth Williams and
20 Richard Rivers. Do you know either one of those
21 persons?

22 A. No.

23 THE COURT: Solicitor Murdaugh?

24 MR. MURDAUGH: Thank you.

25 EXAMINATION

1 BY MR. MURDAUGH:

2 Q. Ms. Cochran, how are you doing?

3 A. Okay.

4 Q. I am Randolph Murdaugh. I am the Solicitor for
5 this Circuit and with that title goes the obligation of
6 prosecution. I need to ask you some more questions.

7 A. Okay.

8 Q. I need to know that after listening to all of the
9 testimony in a case such as this if you could ever vote
10 to give a man or a woman the death penalty?

11 A. I don't know. I really think that I would say
12 'no.' I don't know. I'm sorry. I would say 'no', I
13 guess.

14 MR. MURDAUGH: Thank you, ma'am.

15 THE COURT: Mr. Kulp.

16 MR. KULP: May it please the Court.

17 EXAMINATION

18 BY MR. KULP:

19 Q. Ms. Cochran, my name is Tim Kulp. Mr. Fleming and
20 I represent the accused, Mr. Rogers. Just a few
21 questions.

22 A. Okay.

23 Q. Are you nervous?

24 A. (Affirmative nod).

25 Q. You don't need to be. The Judge would tell you

1 that, I would tell you that and the Solicitor would
2 tell you that. We're just trying to make a
3 determination about some issues and we very much
4 appreciate your answers.

5 Exactly like you said, you've heard absolutely
6 nothing about this case. Therefore, you have no idea
7 what in the world the evidence and testimony would
8 reveal.

9 A. Right.

10 Q. And certainly, you also indicate, that you've
11 never had the opportunity to be in a position where you
12 might be a juror in a case with such a decision to
13 make.

14 A. Right.

15 Q. Now, you understand that although we are kind of
16 jumping to that issue about the appropriate punishment
17 that there is a first part of the proceedings, as well?

18 An important part. You understand, do you not, that
19 before you would get to, if at all, the issue of an
20 appropriate punishment as a juror -- as in any other
21 criminal accusation or criminal trial in this country,
22 you would have to as jurors, individually and
23 collectively, determine if the State or prosecution had
24 met its burden of proof that the accused was guilty.
25 And that if they failed to do that, the Judge will tell

1 you that it would be your decision that you would have
2 to render a verdict of not guilty. Do you understand
3 that?

4 A. Yes.

5 Q. And that in fact, although it is very apparent, if
6 you rendered a decision as a juror on the jury of "not
7 guilty" that there wouldn't be the issue of considering
8 the appropriate punishment?

9 A. Yes.

10 Q. Back to the issue of if you did get to that point.
11 Do I understand that what you're saying is that you do
12 not think -- you do not automatically feel an
13 appropriate punishment for murder would be
14 automatically life imprisonment in every circumstance;
15 do you?

16 A. No.

17 Q. As well, you don't feel that in a case where
18 someone was convicted of murder that the automatic
19 appropriate punishment would be the death penalty;
20 correct?

21 A. Correct.

22 Q. And is it the case that your approach and opinion
23 of disposition is that you would listen to each and
24 every bit of evidence and testimony before you
25 considered your decision in such a grave and serious

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001.

981

1 area?

2 A. Yes.

3 Q. And that, depending on what the evidence revealed
4 and the nature of it, how bad it was or heinous, that
5 you certainly would not automatically reject a decision
6 that the appropriate punishment would be or could be
7 the death penalty.

8 A. Right.

9 Q. It would depend on what you heard, correct?

10 A. Correct.

11 MR. KULP: Thank you very much.

12 MR. MURDAUGH: Ms. Cochran, if after
13 listening to all of the testimony in a case -- not
14 talking about this case but in a case, could you vote
15 for the death penalty -- ever?

16 POTENTIAL JUROR: I am just a really emotional
17 person and I care about everybody -- like even an ant,
18 if I kill an ant, I feel bad. I just feel like with my
19 emotions, with me -- I don't know. I just feel like my
20 emotions would make me -- I don't know. I would be so
21 emotional and I would feel bad for the person. Even
22 though they did something bad to someone else, I would
23 have -- I'd think about their family, like their
24 families didn't kill somebody and their families have
25 to deal with the pain of them being killed. So I can't

1 say 'yes' or 'no', because if I am real emotional and
2 sad for that person I'd say 'no.'

3 MR. MURDAUGH: Would you ever in a case where the
4 State was asking for the death penalty ever not be
5 sympathetic and emotional and would you be able to vote
6 for the death penalty?

7 POTENTIAL JUROR: I don't know.

8 MR. MURDAUGH: And please understand, ma'am, that
9 there are no 'right' or 'wrong' answers.

10 POTENTIAL JUROR: Okay.

11 MR. MURDAUGH: We are just trying to find out a
12 little bit about you.

13 POTENTIAL JUROR: I honestly would think that I
14 would say no.

15 MR. MURDAUGH: Thank you.

16 THE COURT: Any discussion?

17 MR. KULP: No, sir, Your Honor. Thank you.

18 THE COURT: Thank you very much, Ms. Cochran.

19 I am going to excuse you from the trial of this case,
20 which I am sure is good news for you.

21 POTENTIAL JUROR: Yes, sir.

22 THE COURT: Have a nice day.

23 POTENTIAL JUROR: Thank you.

24 COURT REPORTER: Ms. Cochran, is "Cochran" your
25 last name?

State vs. Tavarus Rogers
99-GS-07-221 thru 222 and 99-GS-07-281 thru 288
Jury Voir Dire
Jury Trial October 8-16, 2001

983

1 POTENTIAL JUROR: No, my name is now Sutton.

2 COURT REPORTER: Thank you.

3 (POTENTIAL JUROR STEPS DOWN)

4 THE COURT: The next person is Mark Schaller,
5 Juror No. 339.

6 (POTENTIAL JUROR TAKES STAND)

7 MARK SCHALLER, being duly
8 sworn to tell the truth, the whole truth and nothing
9 but the truth, testified as follows:

10 EXAMINATION

11 BY THE COURT:

12 Q. How are you doing, sir?

13 A. Very good, thank you.

14 Q. Mr. Schaller, first off, had you ever heard
15 anything about this case before Monday?

16 A. No.

17 Q. How about since Monday, have you heard or read
18 anything or has anybody talked to you about the case?

19 A. People have tried to talk to me about it and I've
20 told them that I am not supposed to hear anything. I
21 was told that it was in the newspaper Tuesday but, no,
22 I did not read it.

23 Q. So you very carefully followed my instructions and
24 just stayed away from it?

25 A. I've been trying my best, yes.

1 Q. Very good, that's what you're supposed to do.

2 Mr. Schaller, did you read this pretrial questionnaire?

3 A. Yes.

4 Q. Did you understand it?

5 A. Yes, sir.

6 Q. What kind of juror do you think that you are?

7 A. Number three.

8 Q. By that, you mean that you feel like the death
9 penalty is appropriate in some cases of murder and not
10 appropriate in other cases of murder; that you would
11 hear the facts and circumstances and everything and in
12 a case that you thought was proper for murder, of
13 murder, you would vote for the death penalty?

14 If you thought that it was not, then you would
15 vote against it?

16 A. Right, sir.

17 Q. Two other witnesses that were not -- whose names
18 were left off the list on Monday: Kenneth Williams and
19 Richard Rivers, do you know either one of those
20 persons?

21 A. No, sir.

22 THE COURT: Solicitor Murdaugh.

23 EXAMINATION

24 BY MR. MURDAUGH:

25 Q. How do you do, sir?

1 A. Fine.

2 Q. How do you pronounce your name?

3 A. Schaller, (Shall-er).

4 Q. I am Randolph Murdaugh. I am the Solicitor for
5 the 14th Circuit, of which Beaufort is one of the
6 counties. With that title comes the obligation of
7 prosecuting people. I need to find out a little bit
8 about you, quite frankly to find out if I want you to
9 sit on the jury. I want you to understand that there
10 are no right answers nor wrong answers. We are just
11 trying to find out something about you so that we will
12 know, as I said, whether we want you on this jury or
13 not.

14 A. Yes, sir.

15 Q. I listened to your answers to the Judge's
16 questions and I need to ask you two or three more
17 things about that. But I need to tell you, make sure
18 that you understand that in a case where a person is
19 accused of murder and where the State is asking for a
20 death penalty it is different than any other case that
21 happens in South Carolina.

22 In a normal case the jury will listen to evidence
23 to determine whether or not the defendant is guilty or
24 innocent.

25 A. Um-humm.

1 Q. Then you're through. Once you make that decision
2 it becomes the judge's obligation to then sentence the
3 person. But in a case where a person is accused of
4 murder and where the death penalty is being asked, not
5 only do you make that decision is he guilty or is he
6 innocent, you then go to the next step and you have to
7 decide -- and when I say 'you', I am talking about the
8 jury.

9 A. (Affirmative nod).

10 Q. The jury has to decide what his punishment will
11 be. It can be one of two things: the death penalty, on
12 one hand, or life imprisonment on the other. Are you
13 following me so far?

14 A. Yes, sir.

15 Q. In that second phase after you'all had found the
16 defendant guilty, you would listen to other evidence,
17 reasons for him to be given the death penalty and
18 reasons not to be given the death penalty.

19 It is incumbent upon the State to be able to prove
20 a thing called an aggravating circumstance. His Honor
21 would charge you later in this trial, as to
22 specifically what an aggravating circumstance is. But
23 for the purposes of our conversation, suffice it to say
24 that that is a reason to give the death penalty.

25 A. Okay.