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**S.C. Supreme Court**

THE STATE OF SOUTH CAROLINA

In The Supreme Court

---

APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

G. Edward Welmaker, Circuit Court Judge

---

Appellate Case No. 2013-001945

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Charles Christopher  
Williams,

Petitioner

v.

The State of South  
Carolina,

Respondent.

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APPENDIX  
VOLUME THREE OF ELEVEN

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In The Supreme Court

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APPEAL FROM GREENVILLE COUNTY

J. C. Buddy Nicholson, Jr., Circuit Court Judge

---

THE STATE,

RESPONDENT,

V.

CHARLES CHRISTOPHER WILLIAMS,

APPELLANT

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1 Q SO THAT WOULDN'T BEAR ON THAT?

2 A NO.

3 THE COURT: MR. MACDOUGALL?

4 MR. MACDOUGALL: THANK YOU, YOUR HONOR.

5 Q JUST A COUPLE OF MORE QUESTIONS, MR. MINA. AS A  
6 PARENT OF A MENTALLY RETARDED CHILD, YOU KNOW THERE'S A  
7 GREAT DIFFERENCE BETWEEN MENTAL RETARDATION AND MENTAL  
8 ILLNESS, YOU UNDERSTAND THAT?

9 A YES.

10 Q COULD YOU TELL ME JUST IN A FEW WORDS YOUR  
11 UNDERSTANDING OF THE ROLE MENTAL ILLNESS PLAYS IN THE  
12 ABILITY OF INDIVIDUALS TO FUNCTION AND HOW THEY LEAD THEIR  
13 DAILY LIVES? I'M NOT TALKING ABOUT RETARDATION, MENTAL  
14 ILLNESS GENERALLY.

15 A I WOULD SAY AT TIMES IT COULD IMPAIR A PERSON'S  
16 THOUGHT PROCESS OR DAMPEN THAT PERSON'S ABILITY TO THINK  
17 OR REASON. EMOTIONS MAY OVERWHELM SOMEBODY IN THAT  
18 SITUATION.

19 Q AND WOULD YOU VIEW THAT AS A CONSIDERATION IN, AN  
20 IMPORTANT CONSIDERATION IN MAKING A DECISION ABOUT JUST  
21 CONCEPTUALLY NOW, MAKING A DECISION ABOUT GUILT OR  
22 INNOCENCE AND THE DEGREE OF PUNISHMENT.

23 MR. ARIAIL: I OBJECT TO GUILT OR INNOCENCE HERE. I  
24 DON'T THINK THERE'S AN ISSUE HERE OF GUILT OR INNOCENCE.

25 THE COURT: REPHRASE THE QUESTION.

1 MR. ARIAIL: JUST THE SECOND PART IS FINE. I  
2 UNDERSTAND WHERE YOU'RE GOING.

3 THE COURT: JUST REPHRASE IT. FOR THE RECORD I'LL  
4 SUSTAIN THE OBJECTION. GO AHEAD.

5 MR. MACDOUGALL: THANK YOU, YOUR HONOR.

6 Q MR. MINA, BACK TO MENTAL ILLNESS, WOULD YOU GIVE  
7 MENTAL ILLNESS, THE PRESENCE OR ABSENCE OF MENTAL ILLNESS  
8 OR EVIDENCE YOU HEARD RELATING TO MENTAL ILLNESS,  
9 CONSIDERATION IN RELATING TO PUNISHMENT IN THIS CASE  
10 WHETHER LIFE WITHOUT PAROLE OR DEATH SENTENCE, WOULD THAT  
11 BE SOMETHING YOU WOULD CONSIDER?

12 A YES, I THINK I'D TAKE IT INTO CONSIDERATION. YES.

13 Q LET ME TALK TO YOU FOR A MINUTE ABOUT THE MECHANICS  
14 OF HOW THE JURY SYSTEM WORKS. IF YOU'RE A TELEVISION  
15 WATCHER LIKE THE REST OF US, YOU KNOW SOMETHING ABOUT IT.  
16 IT SOMETIMES HAPPENS THAT THERE WILL BE -- THERE ARE 12  
17 JURORS IN A ROOM, THERE WILL BE 11 THAT HAVE A PARTICULAR  
18 POINT OF VIEW IN REACHING A VERDICT. IF YOU WERE TO PUT  
19 YOURSELF IN A POSITION WHERE YOU ARE OF ONE VIEW, WHETHER  
20 IT BE GUILT OR INNOCENCE, DEATH PENALTY OR LIFE WITHOUT  
21 PAROLE; AND THERE ARE 11 OTHERS WHO FEEL DIFFERENTLY, WHO  
22 HAVE THE DIFFERENT POSITION, DO YOU FEEL LIKE YOU'RE THE  
23 KIND OF PERSON WHO WOULD STICK TO YOUR BELIEF?  
24 RECOGNIZING THAT YOU HAVE GIVE AND TAKE WITH PEOPLE, BUT  
25 IS IT YOUR FIRM CONVICTION YOU WOULD STICK TO YOUR BELIEF?

1 A YES.

2 Q AND YOU UNDERSTAND THAT THE SAME HOLDS TRUE IN  
3 REVERSE? IF YOU WERE A MEMBER OF A MAJORITY THAT, NOT  
4 NECESSARILY THE ELEVEN TO ONE, BUT YOU WERE A MEMBER OF  
5 THE MAJORITY THAT BELIEVES DEATH SENTENCE OR LIFE SENTENCE  
6 WAS APPROPRIATE; AND THERE WAS A MINORITY AND YOU WAS THE  
7 ONE OR MORE THAN ONE THAT BELIEVED THE OPPOSITE WAS TRUE,  
8 DO YOU FEEL YOURSELF THE KIND OF PERSON THAT COULD RESPECT  
9 THAT MINORITY'S VIEW IN YOUR DELIBERATIONS?

10 A YES.

11 MR. MACDOUGALL: ONE MOMENT, YOUR HONOR. THANK YOU.  
12 NOTHING FURTHER.

13 THE COURT: ANY MOTIONS FROM EITHER PARTY?

14 MR. ARIAIL: NONE FROM THE STATE.

15 THE COURT: ANY FROM THE DEFENDANT?

16 MR. NETTLES: YES, SIR.

17 THE COURT: OKAY. MR. MINA, WOULD YOU STEP OUTSIDE  
18 IN THE HALL, PLEASE, SIR.

19 (PROSPECTIVE JUROR EXITS.)

20 MR. NETTLES: I WITHDRAW THE OBJECTION.

21 THE COURT: DO YOU HAVE A MOTION?

22 MR. NETTLES: I DO. AND I'M JUST GOING TO ASK THIS.  
23 I'M GOING TO ASK YOU TO, ONCE AGAIN, BEFORE THIS JUROR  
24 COMES BACK, SHARE WITH HIM THAT ONE OF THE MOST SACRED  
25 THINGS ABOUT THE LAW IS THAT THE DEFENDANT NEVER HAS TO

1 TAKE THE WITNESS STAND, DEFENDANT NEVER HAS TO TESTIFY.  
2 AND IF YOU WILL DO THAT, IT TRULY IS ONE OF THE MOST  
3 SACRED RIGHTS A DEFENDANT HAS.

4 THE COURT: I'LL TRY TO EXPLAIN IT BEST I CAN.

5 MR. NETTLES: AND, YOUR HONOR, AND COULD YOU ASK HIM  
6 YOU KNOW, IF HE UNDERSTANDS THAT AND IF HE WILL AFFORD OUR  
7 CLIENT THAT RIGHT?

8 THE COURT: I DON'T KNOW ABOUT AFFORDING THAT RIGHT.  
9 I'M GOING TO EXPLAIN TO HIM FIFTH AMENDMENT RIGHTS, IT'S A  
10 CONSTITUTIONAL RIGHT AND A SUBSTANTIAL RIGHT AND NOT TO BE  
11 TAKEN LIGHTLY. AND IF HE EXERCISES THAT, HE'S ENTITLED TO  
12 DO THAT; AND THEY CAN'T CONSIDER IT IN THEIR  
13 DELIBERATIONS, PERIOD. THAT'S WHAT I'M GOING TO TELL HIM,  
14 SORT OF LIKE I WOULD IN THE CHARGE.

15 MR. NETTLES: BUT THEN I'M GOING TO ASK YOU TO  
16 CONSIDER, ASKING HIM, "CAN YOU DO THAT?" GET AN  
17 AFFIRMATION FROM HIM THAT HE CAN.

18 MR. MAULDIN: HIS PERSONAL LEVEL OF DISCOMFORT,  
19 JUDGE.

20 THE COURT: ALL RIGHT. BRING HIM BACK.

21 (PROSPECTIVE JUROR ENTERS COURTROOM.)

22 THE COURT: MR. MINA, HOPE YOU'RE GETTING ENOUGH  
23 EXERCISE RUNNING BACK AND FORTH. I WANT TO EXPLAIN TO YOU  
24 ABOUT -- I TOLD YOU EARLIER THE DEFENDANT NEVER HAS TO  
25 TESTIFY. IT'S UP TO THE STATE, THE STATE'S BURDEN IS TO

1 PROVE HIM GUILTY. AND THE REASON WE HAVE THAT, SOUTH  
2 CAROLINA AS WELL AS THE UNITED STATES, A PERSON HAS A  
3 FIFTH AMENDMENT RIGHT NOT TO SELF-INCRIMINATE HIMSELF;  
4 THEREFORE, HE NEVER HAS TO TESTIFY IN A COURT OF LAW.  
5 NEVER HAS TO PROVE HIS INNOCENCE.

6 IT'S THE STATE'S RESPONSIBILITY TO PROVE WHAT THE  
7 STATE'S TRYING TO PROVE. THAT'S A VERY IMPORTANT RIGHT HE  
8 HAS. AND I WILL INSTRUCT YOU IN THE CHARGE THAT IF A  
9 DEFENDANT DOES NOT TESTIFY, YOU CANNOT CONSIDER THAT IN  
10 ANY FASHION WHATSOEVER IN YOUR DELIBERATIONS. IT'S NOT A  
11 PART OF THE DELIBERATIONS. DO YOU UNDERSTAND WHY I'M  
12 TELLING YOU THAT?

13 A YES, I DO NOW.

14 Q ALL RIGHT. FROM YOUR PERSONAL BELIEFS, IF HE DOES  
15 NOT TESTIFY -- I DON'T KNOW IF HE IS OR NOT, CAN YOU PUT  
16 THAT ASIDE AND LISTEN TO THE TESTIMONY AND MAKE AN  
17 OPEN-MINDED DECISION?

18 A YES.

19 Q OKAY. NOW, MR. NETTLES, DO YOU WANT TO ASK HIM ONE  
20 QUESTION ON THAT ISSUE OR HAVE I COVERED IT?

21 MR. NETTLES: WE FEEL COMFORTABLE WITH WHERE WE ARE.  
22 THANK YOU.

23 THE COURT: ANY MOTIONS?

24 MR. NETTLES: NONE.

25 THE COURT: ALL RIGHT. MR. MINA, THE BAILIFF IS

1 GOING TO GIVE YOU A SLIP OF PAPER AND THERE'S A PHONE  
2 NUMBER. I WANT YOU TO CALL THAT TONIGHT. THE MESSAGE MAY  
3 BE CALL TOMORROW NIGHT. THE MESSAGE MAY SAY TO BE HERE AT  
4 1:00 TOMORROW. FOLLOW THOSE INSTRUCTIONS. DON'T TALK TO  
5 ANYBODY ABOUT THE CASE, LISTEN TO ANYBODY ON RADIO OR TV.  
6 DON'T READ ANYTHING IN THE PAPER. OKAY?

7 PROSPECTIVE JUROR: YES.

8 THE COURT: THANK YOU VERY MUCH.

9 PROSPECTIVE JUROR: THANK YOU.

10 MR. ARIAIL: I HAVE SOME DOCUMENTS REGARDING THE  
11 JUROR WE'VE BEEN TALKING ABOUT. AS IS USUAL, THE CLERK  
12 RESPONDED QUICKER THAN THE PROSECUTOR.

13 THE COURT: COUNTY ATTORNEY, THEY CALL THE PROSECUTOR  
14 COUNTY ATTORNEY IN GEORGIA?

15 MR. ARIAIL: WHAT I UNDERSTAND.

16 MS. STROM: DA'S, I USED TO BE ONE. COUNTY ATTORNEYS  
17 ARE LIKE THE ONES WE HAVE OVER HERE, CIVIL. YOU CAN READ  
18 ALL THIS, BUT IT ESSENTIALLY SAYS BOTH THE SENTENCING AND  
19 THE CHARGING DOCUMENT, THAT NO JUDGMENT OF GUILT BE  
20 IMPOSED. SO, APPARENTLY, WHEN YOU PLEAD UNDER THIS  
21 SECTION AND THE SENTENCING SHEET IS SIGNED BY THE  
22 PROBATION OFFICER AND A JUDGE, HE'S PLED WITHOUT AN  
23 ADJUDICATION OF GUILT; AND IF HE MAKES IT FIVE YEARS ON  
24 PROBATION, THERE'S NO GUILT.

25 NOW, YOU GUYS ARE NOT DOING TOO GOOD HERE FOR THE--



1 MR. MAULDIN: WHO'S THAT PROSECUTOR?

2 MR. ARIAIL: I'LL HAND THESE UP. I DON'T HAVE A COPY  
3 FOR JOHN AND THEM.

4 MR. MAULDIN: WELL, CAN I JUST LOOK AT THEM?

5 MR. ARIAIL: SURE.

6 THE COURT: IF THAT'S THE CASE, I THINK IT'S A MOOT  
7 ISSUE.

8 MR. NETTLES: HERE'S WHAT THE SOLICITOR DOESN'T  
9 UNDERSTAND. I'M FOR OUTLAWING BREATHING, BECAUSE IT MAKES  
10 ME MORE MONEY. THEY ALL THINK WE WANT TO MAKE EVERYTHING  
11 LEGAL. I WANT EVERYTHING ILLEGAL. OKAY?

12 MR. MAULDIN: JUST TELL YOU HOW OUTRAGEOUS THIS THING  
13 IS, JUDGE. THE TITLE OF IT, THE TITLE IS, "PETITION FOR  
14 ADJUDICATION OF GUILT AND IMPOSITION OF SENTENCE IN FIRST  
15 OFFENDER CASE." THEN IN THE BODY OF IT IT SAYS, "WITHOUT  
16 ADJUDICATION, GUILT." IS THAT THE STUPIDEST -- THAT'S THE  
17 CRAZIEST THING I EVER SAW.

18 THE COURT: LET ME ASK YOU THIS. WHAT WAS THE CHARGE  
19 HE PLED TO?

20 MR. ARIAIL: CONTROLLED SUBSTANCE LAW. IT PROBABLY  
21 COVERS 40,000 OFFENSES.

22 MR. MAULDIN: VIOLATION OF GEORGIA CONTROLLED  
23 SUBSTANCE LAW, SEE ATTACHED EXHIBIT B FOR PARTICULARS.

24 MR. ARIAIL: SALE OF MARIJUANA.

25 MR. MAULDIN: IT IS INDICATED ON THE COVER, ON THE

1 ACTUAL WARRANT, THAT IT'S A FELONY.

2 THE COURT: DO THE PARTIES WANT ME TO MARK THIS A  
3 COURT'S EXHIBIT OR HOW DO YOU WANT ME TO HANDLE IT?

4 MR. ARIAIL: WE WOULD SO MOVE, THAT COPY. THIS ONE  
5 GOT MY SOLICITOR.

6 (COURT'S EXHIBIT NUMBER 11 IS MARKED FOR  
7 IDENTIFICATION).

8 THE COURT: IF YOU HAD THAT IN SOUTH CAROLINA, COULD  
9 SURE MOVE SOME DRUG CASES.

10 MR. ARIAIL: WE HAVE THAT, IT'S CALLED PTI.

11 THE COURT: HOW MANY PEOPLE YOU PUT IN PTI FOR  
12 MANUFACTURING DRUGS?

13 MR. ARIAIL: OH, WE DON'T. WE REDUCE IT TO  
14 POSSESSION AND PUT THEM IN. ONE OTHER POINT, AND I DON'T  
15 MEAN TO BRING THIS UP BECAUSE I DON'T THINK IT'S GOING TO  
16 BE AN ISSUE; BUT WITH MARK ASKING QUESTIONS AT THIS TIME I  
17 THINK, JUST TO BE SAFE, WE OUGHT TO ASK THE JURORS, AND IF  
18 THERE ARE GOING TO BE OTHER APPEARANCES BY OTHER LAWYERS  
19 THAT HAVE BEEN ADMITTED PRO HAC VICE, I THINK THE JURORS  
20 NEED TO BE ASKED THE QUESTION DO THEY KNOW THOSE  
21 PARTICULAR PEOPLE. I DON'T THINK THEY WILL BASED ON WHERE  
22 THESE LAWYERS COME FROM; BUT I JUST THINK OUT OF AN  
23 ABUNDANCE OF CAUTION, I'D HATE FOR ONE, WITH PEOPLE COMING  
24 IN AND OUT, ALL OF A SUDDEN SHOW UP AND SAY --

25 THE COURT: I ASKED THEM ALL WITH THE ATTORNEYS WHO

1 WERE SITTING AT THE TABLE, THE ONES I'VE BEEN ASKING  
2 QUESTIONS, HAVE BEEN SITTING THERE. YOU WANT ME TO MAKE  
3 THEM ALL, SITTING AT THE TABLE ALL THE TIME?

4 MR. ARIAIL: LET'S SAY THAT DURING THE TRIAL -- I  
5 DON'T KNOW HOW THEY'RE GOING TO DO THIS, BUT LET'S SAY  
6 DURING THE TRIAL CAROL DECIDES OR THEY DECIDE THEY WANT  
7 CAROL TO ASK QUESTIONS. SHE HASN'T BEEN IDENTIFIED AND  
8 ALL OF A SUDDEN SHE'S UP. I DON'T THINK ANYBODY IS GOING  
9 TO KNOW HER, I DOUBT THEY WOULD. BUT I JUST THINK OUT OF  
10 AN ABUNDANCE OF CAUTION.

11 THE COURT: SOLVE IT THIS WAY. GIVE ME A LIST OF ALL  
12 THE ATTORNEYS AND I'LL CALL OUT THE NAMES.

13 MR. MACDOUGALL: THERE WILL JUST BE TWO NAMES ON IT,  
14 YOUR HONOR. MISS COYLE AND MYSELF, THAT'S IT.

15 THE COURT: JUST GIVE ME A LIST AND I'LL ASK YOU  
16 SPECIFICALLY IF YOU KNOW THESE ATTORNEYS. JUST WRITE IT  
17 OUT FOR ME IF YOU WOULD. ANYTHING ELSE BEFORE WE BRING  
18 THE NEXT JUROR. MR. GUNTER WILL NOT BE BACK UNTIL 4:00.

19 MR. NETTLES: CAN I SAY ONE THING THAT CONCERNS ME?  
20 THIS IS DIFFERENT FROM PTI.

21 THE COURT: I UNDERSTAND THAT.

22 MR. NETTLES: ALL RIGHT. I'LL SIT DOWN, I'M NOT  
23 GOING TO ARGUE WITH YOU.

24 THE COURT: WHAT'S YOUR POINT? I UNDERSTAND THEY'RE  
25 DIFFERENT THAN PTI.

1 MR. NETTLES: THE LAST THING THAT I HEARD TALKED  
2 ABOUT BEFORE WE STARTED TALKING ABOUT THIS WHOLE LAWYERS  
3 FROM OUT OF TOWN THING WAS, WHERE YOU SAID, "WE NEED  
4 SOMETHING LIKE THIS."

5 AND HE SAID, "WE DO, IT'S CALLED PTI." AND YOU  
6 AGREED WITH HIM. AND I JUST WANTED TO POINT OUT THAT THIS  
7 IS NOT PTI.

8 THE COURT: I DON'T THINK THAT'S PTI. I THINK THAT'S  
9 AN ENTIRELY DIFFERENT PROCESS.

10 MR. NETTLES: I AGREE WITH YOU.

11 THE COURT: I MISSTATED WHEN I SAID IT WAS THE SAME  
12 THING. I DON'T THINK -- I THINK WHAT THE SOLICITOR WAS  
13 SAYING, IT'S THE SAME THING THAT HE USES TO HELP MOVE  
14 CASES IN RESPONSE TO MY QUESTION, NOT THAT THEY WERE  
15 IDENTICAL PROCEDURES.

16 MR. NETTLES: THAT'S FINE. THAT'S FINE.

17 THE COURT: I DON'T THINK HE MEANT THEY WERE THE  
18 SAME. HE WAS SAYING THAT IN RESPONSE TO WHEN I ASKED IF  
19 THEY HAVE THAT IN SOUTH CAROLINA TO HELP MOVE CASES.

20 MR. ARIAIL: WE DON'T GET PAID FOR IT, WE DO.

21 MR. MAULDIN: SO, THIS RECORD IS STRAIGHT, WE MOVE  
22 THAT HE BE DISQUALIFIED BASED UPON THAT.

23 THE COURT: WHY DON'T WE WAIT UNTIL WE GET HIM HERE?

24 MR. MAULDIN: YES, SIR. BUT JUST I WANT TO MAKE SURE  
25 MY POSITION IS CONSTANT.

1 THE COURT: IT'S BEEN CONSTANT THROUGHOUT. YOU  
2 HAVEN'T WAIVERED AT ALL. AND I DON'T EXPECT YOU TO. AND  
3 I APPRECIATE IT.

4 MR. MAULDIN: I HAVE A REPUTATION.

5 (PROSPECTIVE JUROR MCCASSLAND ENTERS COURTROOM)

6 CHRISTOPHER MCCASSLAND, (WHITE  
7 MALE), HAVING BEEN PREVIOUSLY DULY SWORN, TESTIFIED AS  
8 FOLLOWS:

9 EXAMINATION

10 BY THE COURT:

11 Q MR. MCCASSLAND, DO YOU RECALL FILLING OUT YOUR  
12 QUESTIONNAIRE?

13 A I DO.

14 Q AND I WANT TO GIVE YOU YOUR QUESTIONNAIRE THAT YOU  
15 FILLED OUT.

16 A OKAY.

17 Q AT THE TIME YOU FILLED IT OUT, WAS IT ACCURATE TO THE  
18 BEST OF YOUR KNOWLEDGE?

19 A YES.

20 Q IF YOU DON'T MIND, I WOULD LIKE TO ASK YOU SOME  
21 QUESTIONS ABOUT IT. THERE'S NOT NECESSARILY ANY RIGHT OR  
22 WRONG ANSWER, JUST ANSWER THE QUESTIONS THE BEST YOU CAN.  
23 OKAY? I'M GOING TO BE ASKING YOU QUESTIONS ABOUT YOUR  
24 OPINION ON CERTAIN MATTERS. JUST BE TRUTHFUL IN YOUR  
25 ANSWERS. CAN YOU DO THAT?

1 A I CAN DO THAT.

2 Q WOULD YOU TURN TO PAGE SIX ON YOUR QUESTIONNAIRE?

3 A OKAY.

4 Q ON YOUR QUESTIONNAIRE NUMBER 36, I ASSUME YOUR  
5 FATHER-IN-LAW IS A RETIRED KANSAS CITY POLICEMAN?

6 A YES.

7 Q HOW LONG -- WHAT TYPE OF POLICE OFFICER? WHAT TYPE  
8 OF WORK DID HE DO IN KANSAS CITY?

9 A TOWARDS THE END I THINK IT WAS ACCIDENT  
10 RECONSTRUCTION.

11 Q IN THE TRAFFIC ASPECT OF IT?

12 A CORRECT. I THINK HE DID SOME OTHER STUFF AS WELL  
13 EARLIER IN THE CAREER.

14 Q HOW LONG HAS HE BEEN RETIRED?

15 A OH, GOSH, TEN YEARS.

16 Q SO, YOU DIDN'T KNOW HIM WHEN HE WORKED AT THE KANSAS  
17 CITY POLICE DEPARTMENT?

18 A CORRECT.

19 Q YOU HAD ALREADY BEEN MARRIED FOUR OR FIVE YEARS?

20 A RIGHT.

21 Q YOU HAD CONVERSATIONS WITH HIM ABOUT HIS VIEWPOINT ON  
22 LAW ENFORCEMENT?

23 A NOT REALLY, NO. NO.

24 Q LET ME ASK YOU, YOUR UNCLE WORKS IN A DETENTION  
25 CENTER IN TEXAS?

1 A CORRECT.

2 Q HOW LONG HAS HE BEEN WORKING AT THE DETENTION CENTER?

3 A COUPLE YEARS. I DON'T SPEAK WITH HIM OFTEN.

4 Q HOW OFTEN DO YOU SEE HIM?

5 A ONCE EVERY COUPLE OF YEARS.

6 Q HAVE YOU SEEN HIM SINCE HE WENT TO WORK AT THE  
7 DETENTION CENTER?

8 A ONCE.

9 Q DID HE TELL YOU ANYTHING ABOUT THE DETENTION CENTER?

10 A NOT REALLY.

11 Q ALL RIGHT. IF YOU WOULD, FLIP OVER TO PAGE TEN,  
12 QUESTION 64. "BRIEFLY DESCRIBE YOUR ATTITUDES AND BELIEFS  
13 CONCERNING CAPITAL PUNISHMENT."

14 AND YOU STATED, "I DO BELIEVE IN THE DEATH PENALTY IF  
15 THE CRIME WARRANTS IT." IS THAT STILL YOUR OPINION HERE  
16 TODAY?

17 A IT IS.

18 Q LET ME ASK YOU IN QUESTION NUMBER 65, YOU SAID, "WHAT  
19 IS YOUR OPINION ABOUT THE DEATH PENALTY?"

20 YOU SAID, "STRONGLY FAVOR." IS THAT CORRECT?

21 A I DID MARK IT SOMEWHAT FAVOR-STRONGLY FAVOR.

22 Q WHICH IS IT, STRONGLY OR SOMEWHAT?

23 A STRONGLY, PRETTY STRONGLY.

24 Q GO TO THE NEXT PAGE, PAGE 11 NUMBER 68. YOU GOT 68?

25 A UH-HUH.

1 Q ALL RIGHT. AND YOUR RESPONSE WAS, "I BELIEVE THAT  
2 THE DEATH PENALTY IS THE APPROPRIATE FORM OF PUNISHMENT IN  
3 SOME MURDER CASES, AND I CAN RETURN A VERDICT OF DEATH IF  
4 I BELIEVE IT'S WARRANTED IN A PARTICULAR CASE, DEPENDING  
5 UPON THE EVIDENCE, THE LAW, AND WHAT I LEARNED ABOUT THE  
6 DEFENDANT." IS THAT STILL YOUR OPINION HERE TODAY?

7 A IT IS.

8 Q ALL RIGHT. TELL ME, GOING BACK TO QUESTION 64, WHAT  
9 TYPE OF CRIMES DO YOU THINK WOULD WARRANT THE DEATH  
10 PENALTY BASED UPON YOUR RESPONSE TO QUESTION 64?

11 A I GUESS PROBABLY PREMEDITATED MURDER OR --

12 Q LET ME SAY THIS TO YOU. EVERY MURDER, IN ORDER TO  
13 HAVE MURDER IN SOUTH CAROLINA, IT HAS TO BE PREMEDITATED.  
14 RIGHT? OKAY. ANY OTHER THAT YOU CAN THINK OF?

15 A I GUESS SOMEBODY THAT WENT ON A KILLING SPREE OR, YOU  
16 KNOW, MULTIPLE PEOPLE.

17 Q DO YOU THINK ANY AND ALL MURDERS SHOULD RECEIVE THE  
18 DEATH PENALTY?

19 A NO.

20 Q WHAT TYPE OF FACTS DO YOU THINK WOULD DISTINGUISH THE  
21 MURDER CASES THAT SHOULD RECEIVE THE DEATH PENALTY IN  
22 YOUR OPINION VERSUS MURDER CASES THAT SHOULD NOT RECEIVE  
23 THE DEATH PENALTY?

24 A LIKE THE REASON BEHIND IT, THE CIRCUMSTANCES LEADING  
25 UP TO IT.



1 Q HOW ABOUT THE CIRCUMSTANCES OF THE CRIME ITSELF?

2 A WHAT DO YOU MEAN "CIRCUMSTANCES"?

3 Q OF HOW THE CRIME OCCURRED, WHAT TOOK PLACE.

4 A RIGHT. THE CIRCUMSTANCES LEADING UP TO IT, WHAT  
5 EXACTLY, WHAT HAPPENED, WHY IT HAPPENED, THE REASONING  
6 BEHIND IT.

7 Q LET ME ASK YOU THIS. I'M GOING TO TRY TO EXPLAIN THE  
8 PROCESS WE'RE GOING TO GO THROUGH IN THE TRIAL. THE TRIAL  
9 IS BROKEN UP INTO TWO PARTS OR TWO PHASES. THE FIRST PART  
10 IS GENERALLY REFERRED TO AS INNOCENCE OR GUILT PHASE. THE  
11 SECOND PART IS GENERALLY REFERRED TO AS THE PENALTY PHASE.  
12 IN THE FIRST PHASE THE STATE WOULD PRESENT EVIDENCE AND  
13 THE STATE'S RESPONSIBILITY WOULD BE TO FIND THE DEFENDANT  
14 GUILTY BEYOND A REASONABLE DOUBT.

15 A RIGHT.

16 Q AND IN THIS CASE THE DEFENDANT IS CHARGED WITH MURDER  
17 AND KIDNAPPING. SO, LET'S ASSUME THAT ALL 12 JURORS HAVE  
18 AGREED THAT THE STATE HAS PROVEN THEIR CASE BEYOND A  
19 REASONABLE DOUBT AND THAT THE DEFENDANT IS GUILTY OF  
20 MURDER AND KIDNAPPING. DO YOU UNDERSTAND?

21 A UH-HUH.

22 Q AND AT THAT TIME THE DEFENDANT WILL HAVE BEEN FOUND  
23 GUILTY OF PREMEDITATED MURDER THAT YOU'RE DESCRIBING. DO  
24 YOU UNDERSTAND?

25 A CORRECT.

1 Q THEN YOU WOULD GO TO THE SECOND PHASE AND THERE WOULD  
2 BE A 24-HOUR PERIOD BEFORE YOU WOULD START THE SECOND  
3 PHASE. IN THE SECOND PHASE THE STATE WOULD OFFER WHAT WE  
4 REFER TO AS AGGRAVATING CIRCUMSTANCES. THE AGGRAVATING  
5 CIRCUMSTANCES COULD BE SOME FACTS THAT SURROUND THE CRIME  
6 ITSELF, FACTS ABOUT THE DEFENDANT OR DIFFERENT  
7 AGGRAVATIONS, THERE'S A LIST OF THEM REQUIRED BY STATUTE,  
8 SUCH AS -- I DON'T KNOW WHAT THEY'RE GOING TO PROVE IN  
9 THIS PARTICULAR CASE BECAUSE I HAVEN'T HEARD THE CASE.

10 THE DEFENDANT MAY OR MAY NOT OFFER MITIGATING  
11 CIRCUMSTANCES. IN OTHER WORDS, THE DEFENDANT WOULD OFFER  
12 MITIGATING CIRCUMSTANCES TO SHOW TO THE JURY THAT THIS  
13 DEFENDANT SHOULD RECEIVE LIFE WITHOUT PAROLE. AND LIFE  
14 WITHOUT PAROLE MEANS WHAT IT SAYS, HE WOULD NEVER BE  
15 ELIGIBLE FOR PAROLE, HE WOULD DIE IN PRISON. DO YOU  
16 UNDERSTAND?

17 LET'S ASSUME -- LET'S DON'T ASSUME ANYTHING -- LET ME  
18 ASK YOU THIS QUESTION. AFTER YOU HAD FOUND THE DEFENDANT  
19 GUILTY IN THE GUILT PHASE OR THE FIRST PHASE AND YOU GO TO  
20 THE SECOND PHASE, COULD YOU CONSIDER ALL THE MITIGATING  
21 CIRCUMSTANCES AND ALL THE AGGRAVATING CIRCUMSTANCES AND  
22 GIVE MEANINGFUL CONSIDERATION BEFORE YOU DECIDED LIFE OR  
23 DEATH?

24 A I BELIEVE SO. YES.

25 Q YOU COULD?

1 A I THINK SO.

2 Q ALL RIGHT. COULD YOU GET --

3 A BASED ON NOT KNOWING THE CASE OR ANYTHING.

4 Q I UNDERSTAND. THEY'RE -- WE'RE TALKING ABOUT  
5 HYPOTHETICAL.

6 A JUST HYPOTHETICAL, YEAH.

7 Q BUT LET'S DON'T TALK AS HYPOTHETICAL AS MUCH. WHAT I  
8 WANT TO MAKE VERY CERTAIN YOU UNDERSTAND IS THAT THIS  
9 INDIVIDUAL WOULD BE FOUND GUILTY OF MURDER.

10 A RIGHT.

11 Q AND BY YOUR DEFINITION OF MURDER, PREMEDITATED, WOULD  
12 HAVE ALREADY BEEN FOUND GUILTY OF THAT. SO, COULD YOU  
13 CONSIDER WHAT COMES UP IN THE SENTENCING PHASE BEFORE YOU  
14 MAKE YOUR MIND UP AS TO LIFE OR DEATH?

15 A ABSOLUTELY, YEAH.

16 Q LET'S ASSUME THAT THE DEFENDANT DOES NOT OFFER ANY  
17 TESTIMONY. THE DEFENDANT IS NEVER REQUIRED TO OFFER  
18 TESTIMONY. OKAY? IT'S THE STATE'S RESPONSIBILITY TO  
19 PROVE THE DEFENDANT GUILTY IN THE FIRST PHASE. THE  
20 STATE'S RESPONSIBILITY TO PROVE THE AGGRAVATING  
21 CIRCUMSTANCES BEYOND A REASONABLE DOUBT AS TO WHY HE  
22 SHOULD RECEIVE DEATH. DO YOU UNDERSTAND?

23 A RIGHT.

24 Q AND LET'S ASSUME THE DEFENDANT NEVER TESTIFIES. IN  
25 THAT SITUATION COULD YOU CONSIDER GIVING MEANINGFUL

1 CONSIDERATION TO LIFE?

2 A IF HE HAS A GOOD LAWYER PLEAD HIS CASE, YEAH, BASED  
3 ON WHAT WE HEAR.

4 Q THE LAWYER WON'T BE TESTIFYING.

5 A NOT TESTIFYING, RIGHT. BUT, YOU KNOW, WITH --

6 Q THE ONLY THING YOU WILL HEAR WILL BE THE FACTS FROM  
7 THE --

8 A YES, SIR.

9 Q -- FROM THE STATE. DON'T YOU WATCH TV?

10 A YEAH, WELL.

11 Q YOU WATCH TRIALS ON TV?

12 A NOT TOO OFTEN.

13 Q THIS IS NOT TELEVISION, NOT LIKE YOU SEE ON  
14 TELEVISION. NO SCRIPT HAS BEEN WRITTEN FOR THE RESULTS.  
15 OKAY?

16 A OKAY.

17 Q WHAT DO YOU MEAN WHEN YOU SAY, "IF THE LAWYER"?

18 A WELL, THE QUESTIONS HE'S GOING TO ASK IS GOING TO  
19 BRING OUT GUILT OR INNOCENCE OR THE REASON BEHIND THE  
20 CASE. SO, IF HE ASKS THE CORRECT QUESTIONS, THE  
21 INFORMATION COMES OUT, AND BASED ON THE INFORMATION HE  
22 GIVES, THE DECISION WOULD BE --

23 Q YOU TELLING ME IF THE DEFENDANT DOES NOT OFFER ANY  
24 TESTIMONY IN THE SECOND PHASE THAT YOU COULD GIVE  
25 MEANINGFUL CONSIDERATION TO LIFE IN PRISON WITHOUT PAROLE?

1 A YES, I THINK SO.

2 Q AND YOU COULD KEEP AN OPEN MIND, NOT MAKE A DECISION  
3 ON LIFE OR DEATH UNTIL YOU HEARD ALL THE TESTIMONY IN THE  
4 FIRST PHASE AND THE SECOND PHASE?

5 A YES. I BELIEVE SO.

6 Q NOT BELIEVE, CAN YOU?

7 A YES.

8 Q WHOSE TURN?

9 MR. MAULDIN: JUST AS TO THAT ISSUE, YOUR HONOR?

10 THE COURT: YES, SIR.

11 BY MR. MAULDIN:

12 Q YES, SIR. MR. MCCASSLAND.

13 A YES, SIR.

14 Q MY NAME IS JOHN MAULDIN. I'M THE PUBLIC DEFENDER FOR  
15 GREENVILLE COUNTY. AND I, ALONG WITH BILL NETTLES, MARK  
16 MACDOUGALL, AND COLLEEN COYLE WHO HAPPEN TO BE OUT OF THE  
17 ROOM RIGHT NOW, REPRESENT CHRIS WILLIAMS. IT'S OBVIOUSLY  
18 NOT FAIR TO BRING THEM IN TO PREJUDGE A CASE. SO, WE GOT  
19 TO MAKE SURE YOU UNDERSTAND WE'RE NOT TALKING ABOUT CHRIS'  
20 CASE, WE'RE TALKING ABOUT JUST THE CONCEPT OF THE STATE  
21 SEEKING THE DEATH PENALTY IN ANY CASE?

22 A OKAY.

23 Q BECAUSE IT'S KIND OF THE CART BEFORE THE HORSE, YOU  
24 HAVEN'T HEARD ANYTHING.

25 A RIGHT.

1 Q NOW, A COUPLE OF QUESTIONS I WOULD LIKE TO ASK. THE  
2 JUDGE ASKED YOU ABOUT SEVERAL OF THESE QUESTIONS IN THE  
3 QUESTIONNAIRE. LOOK OVER ON 67, WHICH IS ON PAGE 11; AND  
4 THAT'S THE QUESTION WHERE IT SAYS, "HAVE YOU EVER  
5 DISCUSSED YOUR OPINION?"

6 YOU SAY, "ANYONE ASKED MY OPINION ON THE MATTER."

7 A YEAH.

8 Q SO, IF SOMEBODY SAID, "WHAT'S YOUR VIEW ON THE DEATH  
9 PENALTY?" HOW DO YOU FEEL ABOUT THE DEATH PENALTY WHEN  
10 YOU SAY SOMETHING?

11 A CORRECT.

12 Q ALL RIGHT. I JUST ASKED YOU --

13 A WHAT ARE MY FEELINGS, JUST LIKE I TOLD THE JUDGE, IF  
14 THE CRIME WARRANTS THE DEATH PENALTY, THEN I'M FOR THE  
15 DEATH PENALTY. IT ALL DEPENDS ON CIRCUMSTANCES. I'M NOT,  
16 I DON'T BELIEVE IF SOMEBODY COMMITS MURDER IN THIS  
17 PARTICULAR QUESTION THAT HE ASKS, THAT SOMEBODY  
18 AUTOMATICALLY DESERVES THE DEATH PENALTY. IT DEPENDS ON  
19 THE CIRCUMSTANCES.

20 Q WHEN YOU CAME IN, BEFORE YOU CAME IN TODAY AND THE  
21 COURT EXPLAINED TO YOU THAT NOT ALL MURDERS ARE ELIGIBLE,  
22 DID YOU THINK THAT THEY WERE ALL --

23 A NO, I DIDN'T.

24 Q DID YOU, BEFORE THE JUDGE EXPLAINED THAT ALL MURDERS  
25 ARE NOT ELIGIBLE FOR THE DEATH PENALTY TO EVEN BE

1 CONSIDERED, DID YOU BELIEVE -- LIKE WHEN YOU WERE FILLING  
2 OUT THIS QUESTIONNAIRE, AT THE TIME YOU WERE FILLING OUT  
3 THIS QUESTIONNAIRE, DID YOU BELIEVE THE PENALTY FOR MURDER  
4 IN SOUTH CAROLINA WAS THE DEATH PENALTY?

5 A NOT IN ALL CASES, NO. I DIDN'T THINK THAT IT WAS.

6 Q OKAY. SO, THAT QUESTION ESSENTIALLY IS EXACTLY WHAT  
7 YOU'VE BEEN SAYING YOUR VIEWS WERE TODAY?

8 A RIGHT.

9 Q ALL RIGHT. THE PROCESS WE'RE GOING THROUGH,  
10 MR. MCCASSLAND, OF THIS JURY, THESE INTERVIEWS, OBVIOUSLY,  
11 IT'S A DIFFICULT PROCESS AND OBVIOUSLY WE'RE TRYING TO  
12 FIND JURORS WHO YOU MIGHT CALL QUALIFIED. CAME IN MONDAY  
13 150 PEOPLE, ONLY 12 ARE GOING TO BE ON THE JURY. SO,  
14 OBVIOUSLY, WE ASSUMED A LOT OF PEOPLE WOULDN'T BE  
15 QUALIFIED. YOU FOLLOW ME?

16 A RIGHT.

17 Q I MEAN, THAT MAKES SENSE. A LOT OF PEOPLE HAVE VIEWS  
18 IF A PERSON COMMITS A MURDER, IT'S AN EYE FOR EYE, THEY  
19 JUST GIVE UP THEIR RIGHT.

20 A RIGHT.

21 Q AND OTHER PEOPLE SAY PERSON A COMMITS MURDER, I'D  
22 NEVER VOTE DEATH PENALTY; AND THEN THERE ARE PEOPLE WHO,  
23 UNDER THIS PARTICULAR SET OF CIRCUMSTANCES, WOULD  
24 ESSENTIALLY SIT IN THE QUALIFIED GROUP. AND WHAT WE WANT  
25 TO KNOW AND WHAT I WANT TO MAKE SURE FROM YOUR RESPONSE IS

1 WHERE YOU SAY YOU STRONGLY FAVOR AND THAT YOU BELIEVE IN  
2 THE DEATH PENALTY. I WANT TO MAKE SURE I UNDERSTAND WHAT  
3 YOU WOULD BE THINKING WHEN YOU WENT IN THAT SECOND PHASE,  
4 THAT THE JUDGE HAS DESCRIBED TO, DESCRIBED TO YOU. THE  
5 FIRST PHASE IS FOR GUILT OR INNOCENCE ONLY.

6 A RIGHT.

7 Q NOBODY'S TALKING ABOUT THE PENALTY, ALL WE'RE TALKING  
8 ABOUT IS WHO DONE IT.

9 A RIGHT.

10 Q DID HE DO IT, DID HE MEAN TO? DID HE DO IT OUT OF  
11 MEANNESS AND MALICE, AND DID HE PLAN TO DO IT? WAS IT  
12 PREMEDITATED? THAT'S THE FIRST THING.

13 A RIGHT.

14 Q AND IF THE JURY FINDS, YES, HE'S GUILTY AND ALSO HE  
15 IS GUILTY OF ANOTHER SERIOUS CRIME, ARMED ROBBERY, RAPE,  
16 KIDNAPPING, MURDER OF MORE THAN ONE PERSON; IN OTHER  
17 WORDS, IT HAS TO BE AN AGGRAVATER, THEN AND ONLY THEN YOU  
18 GO TO THE SECOND PHASE.

19 A UH-HUH.

20 Q WHEN YOU COME OUT OF THAT FIRST PHASE, THE QUALIFYING  
21 QUESTION IS, ARE YOU A JUROR WHO WOULD BELIEVE THAT A  
22 CONVICTED MURDERER, PREMEDITATED MURDER, SHOULD RECEIVE  
23 THE DEATH PENALTY, PERIOD. IF YOU ARE, THEN THAT -- YOU  
24 SHOULD BE EXCUSED. NOW, ARE YOU THAT JUROR?

25 A NO.



1 Q ARE YOU WILLING TO WITHHOLD YOUR CONCLUSION UNTIL YOU  
2 HAVE HEARD TESTIMONY IN THAT SECOND PHASE?

3 A YES.

4 Q ALL RIGHT. NOW, LET'S TALK ONE MINUTE ABOUT --  
5 JUDGE, I DON'T KNOW HOW FAR YOU WANT -- I GUESS I'LL STOP  
6 RIGHT THERE ON THE DEATH PENALTY VIEW ONLY.

7 THE COURT: I APOLOGIZE TO THE PARTIES. I WISH I HAD  
8 COVERED PRIOR KNOWLEDGE, BUT -- BEFORE YOU STARTED ASKING  
9 QUESTIONS.

10 Q MR. MCCASSLAND, THIS OCCURRED ON SEPTEMBER 3 2003 AT  
11 BI-LO HERE IN GREENVILLE.

12 A YEAH.

13 Q HAVE YOU HEARD ANYTHING ABOUT IT, READ ANYTHING IN  
14 THE NEWSPAPER, SEEN ANYTHING ON TV OR HEARD ANYBODY  
15 TALKING ABOUT THE CASE, EITHER AT THE TIME IT HAPPENED OR  
16 SINCE THEN?

17 A AT THE TIME IT HAPPENED I HEARD ABOUT IT.

18 Q HOW DID YOU HEAR ABOUT IT?

19 A I THINK IT WAS ON TV OR NEWS.

20 Q DID YOU SEE IT ON TV?

21 A I CAN'T SAY THAT I DID. I DON'T RECALL IT. I DON'T  
22 RECALL SEEING IT ON TV. I DO RECALL IT, THOUGH.

23 Q WHAT DO YOU SPECIFICALLY RECALL?

24 A THE ONLY THING I RECALL, SOMEBODY WAS SHOT AT BI-LO,  
25 A LADY WAS SHOT AT BI-LO. THAT'S ABOUT IT.

1 Q THAT'S ALL YOU RECALL.

2 A THAT'S ALL I RECALL.

3 Q BASED ON THAT, HAVE YOU FORMED OR EXPRESSED AN  
4 OPINION AS TO THE DEFENDANT'S INNOCENCE OR GUILT?

5 A I CAN'T SAY THAT OR --

6 Q NOW, THE VICTIM IN THE CASE IS MARANDA WILLIAMS. DO  
7 YOU KNOW MARANDA WILLIAMS?

8 A NO.

9 Q MR. CHARLES CHRISTOPHER WILLIAMS SITS TO MY RIGHT  
10 WITH THE SWEATER ON. DO YOU KNOW MR. WILLIAMS?

11 A NO.

12 Q THE ATTORNEYS IN THE CASE, MR. MAULDIN, MR. NETTLES,  
13 MR. MACDOUGALL, AND COLLEEN COYLE IS NOT PRESENT.

14 MR. MAULDIN: SHE CAME IN, JUDGE.

15 THE COURT: OKAY. SHE CAME IN. DO YOU KNOW ANY OF  
16 THOSE ATTORNEYS?

17 A NO.

18 Q TO THE LEFT IS THE SOLICITOR, BOB ARIAIL, AND TWO OF  
19 HIS ASSISTANTS. DO YOU KNOW ANY OF THOSE?

20 A NO.

21 Q DO YOU KNOW ANYONE IN MR. AIRIAL'S OFFICE?

22 A NO.

23 Q I'M GOING TO GIVE YOU A WITNESS LIST. WOULD YOU LOOK  
24 AT THAT WITNESS LIST AND TELL ME IF YOU RECOGNIZE ANY OF  
25 THOSE NAMES.

1 A (COMPLIES.) NO.

2 Q DO YOU RECOGNIZE ANY NAMES ON THAT LIST?

3 A (COMPLIES.) NO.

4 Q THANK YOU, SIR. I'M GOING TO READ THE QUESTION TO  
5 YOU. I WOULD ASK YOU TO LISTEN TO IT AND RESPOND. OKAY?  
6 IN THIS CASE THE DEFENDANT IS BLACK AND THE VICTIM IS  
7 WHITE. IT'S UNDISPUTED THE BLACK DEFENDANT AND WHITE  
8 VICTIM ENGAGED IN INTERRACIAL DATING. WOULD THE FACT THAT  
9 THE DEFENDANT AND THE VICTIM ENGAGED IN INTERRACIAL DATING  
10 MAKE IT DIFFICULT FOR YOU TO BE FAIR TO EITHER THE STATE  
11 OR THE DEFENDANT?

12 A NO.

13 Q CAN YOU BASE -- IF YOU'RE CHOSEN ON THE JURY AND  
14 YOU'RE SITTING IN THE JURY BOX, CAN YOU BASE YOUR DECISION  
15 ON THE TESTIMONY YOU HEAR FROM THE WITNESS STAND AND THE  
16 EVIDENCE BEING PRESENTED IN THIS COURTROOM, NOT ON ANY  
17 INFORMATION OUTSIDE THE COURTROOM?

18 A YES.

19 Q ALL RIGHT. CAN YOU BE FAIR TO BOTH THE STATE AND THE  
20 DEFENDANT?

21 A I THINK SO, YES.

22 Q ALL RIGHT. SOLICITOR, I BELIEVE IT'S YOUR TURN,  
23 UNLESS WE WANT TO GO BACK TO MR. MAULDIN FIRST.

24 MR. MAULDIN: GLAD TO DO THAT, JUDGE, IF BOB WISHES  
25 FOR ME TO.

1 THE COURT: DO YOU WANT HIM TO GO BACK OVER  
2 EVERYTHING BEFORE YOU START OR NOT? BECAUSE YOU ARE  
3 SECOND.

4 MR. MAULDIN: CAN EITHER HAVE THE LAST WORD OR FIRST  
5 WORD.

6 MR. ARIAIL: I'M GOING TO ASK TWO QUESTIONS, GOING TO  
7 BE SHORT. NOT GOING TO GET BEHIND HIM AGAIN.

8 BY MR. ARIAIL:

9 Q I NOTICE YOU WORK FOR NUVOX.

10 A I DO.

11 Q MY DAUGHTER WORKS FOR THE NOW MERGED NUVOX, SHE  
12 DOESN'T HAVE MY NAME, SHE GOT MARRIED, LAST NAME IS  
13 CONNOR, FIRST NAME IS BROOKS. DO YOU KNOW HER BY ANY --  
14 SHE'S IN SALES.

15 A NO, I'M IN PLANNING.

16 Q YOU'RE NOT GOING TO HOLD THAT AGAINST ME? THE OTHER  
17 THING I WOULD LIKE TO ASK YOU IS, IF YOU WERE ON THE JURY  
18 AND YOU WENT THROUGH THE GUILT PHASE THEN WENT THROUGH THE  
19 PENALTY PHASE, YOU GOT TO THE END, EVERYBODY VOTED -- ALL  
20 12 HAD DECIDED THAT THE APPROPRIATE SENTENCE WAS DEATH,  
21 THE LAW REQUIRES, HIS HONOR WILL CHARGE YOU, YOU MUST SIGN  
22 A FORM WITH ALL 11 OTHER JURORS, SIGN YOUR NAME TO IT,  
23 THAT BRINGS BACK TO THE COURT THE DOCUMENT WHICH TELLS THE  
24 JUDGE THAT YOU HAVE REACHED THE DECISION THAT THE  
25 APPROPRIATE SENTENCE IS DEATH. WOULD YOU HAVE ANY

1 PROBLEMS SIGNING THAT FORM HAD YOU REACHED THAT VERDICT?

2 A NO.

3 Q ALL I HAVE, YOUR HONOR.

4 MR. ARIAIL: THANK YOU.

5 THE COURT: MR. MAULDIN.

6 MR. MAULDIN: A COUPLE OF FINAL AREAS, JUDGE.

7 APPRECIATE IT.

8 Q SORRY FOR THAT BREAK UP THING THERE.

9 A NOT A PROBLEM.

10 Q WITH REGARD TO YOUR STATEMENT, AND I'M GOING TO  
11 TRANSPOSE SOME WORDS IS WHAT I'M GOING TO DO, "I DO  
12 BELIEVE IN THE DEATH PENALTY IF THE CRIME WARRANTS IT." I  
13 WROTE DOWN SITTING AT MY DESK THERE. TELL ME IF YOU WOULD  
14 AGREE WITH THAT STATEMENT. I DO BELIEVE IN THE SENTENCE  
15 OF LIFE WITHOUT PAROLE FOR A PERSON CONVICTED OF  
16 PREMEDITATED MURDER.

17 MR. ARIAIL: OBJECTION. ASKED AND ANSWERED. ALREADY  
18 BEEN OVER THE DEATH PENALTY PART. THIS IS FOR FOLLOW UP  
19 QUESTIONS.

20 MR. MAULDIN: LET ME REPHRASE.

21 THE COURT: I'M NOT CONCERNED ABOUT THE PHRASE. I'VE  
22 ALREADY GIVEN YOU THE OPPORTUNITY ONE TIME TO COVER IT.  
23 BE BRIEF, OKAY? I'LL ALLOW THIS QUESTION, MAYBE ONE MORE,  
24 ALREADY THOROUGHLY COVERED THE DEATH PENALTY ISSUE --  
25 BY MR. MAULDIN:

1 Q LET'S DO THIS. DO YOU BELIEVE LIFE WITHOUT PAROLE IS  
2 A SERIOUS PENALTY FOR SOMEONE CONVICTED OF MURDER?

3 A YES.

4 Q COUPLE OTHER QUESTIONS. THE PROSECUTOR ASKED YOU  
5 ABOUT SIGNING THE FORM. THE WAY THAT WORKS, DELIBERATE IN  
6 THE FIRST, SAY THE PERSON IS CONVICTED, COME IN THE SECOND  
7 PHASE. SO, YOU'RE IN THE SECOND DELIBERATIONS. AND YOU  
8 MAY DELIBERATE. IF HE IN FACT -- I TELL YOU EVERYBODY  
9 SHOULD GO AROUND THE ROOM, EVERYBODY SHOULD HAVE THEIR  
10 TURN TO SAY THEIR PEACE ABOUT IT. LET'S SAY YOU GO AND GO  
11 AND GO, GETS LATE IN THE DAY, THE TIME IS GOING BY. AND  
12 IT'S TIME TO VOTE. SO, YOU VOTE AND THERE ARE 11 FOR ONE,  
13 IT DOESN'T MATTER WHICH PENALTY FOR PURPOSE OF MY  
14 QUESTION, 11 PEOPLE SAY ONE PENALTY AND YOU SAY, I BEEN  
15 CONSIDERING THIS, THINKING ABOUT THIS, AND I THINK IT'S  
16 THE OTHER WAY. I WANT TO KNOW IF YOU ARE A PERSON WHO  
17 WOULD CHANGE YOUR VOTE AND JOIN THE MAJORITY JUST TO END  
18 THE PROCESS.

19 A I DON'T THINK SO.

20 Q YOU'RE --

21 A NO, PROBABLY NOT. NO.

22 Q OKAY. AND THEN, CONVERSELY, LET'S SAY YOU WERE ONE  
23 OF THE 11 AND IN THERE JUST AS LONG AS -- AND SOMEBODY ON  
24 THE OTHER SIDE, THAT AFTER LONG DELIBERATIONS, LIFE OR  
25 DEATH SITUATION, HAS COME TO A DIFFERENT PERSONAL

1 COMMITTED CONCLUSION. WOULD YOU GIVE THAT PERSON THE SAME  
2 RESPECT THIS YOU WOULD EXPECT IF YOU WERE IN THAT  
3 POSITION?

4 A I WOULD.

5 Q THE LAST QUESTION, MR. MCCASSLAND. I APPRECIATE YOUR  
6 PATIENCE WITH US TODAY. IT'S BEEN A LONG WEEK.

7 A I CAN IMAGINE.

8 Q AND THIS IS ON A COMPLETELY DIFFERENT SUBJECT. I  
9 WANT TO GET A FEEL FOR YOUR VIEW ON THE ISSUE OF MENTAL  
10 ILLNESS. I KNOW THAT'S A VERY OPEN, WIDE-OPEN QUESTION;  
11 BUT I JUST WANT TO KNOW IF I SAY, "HOW DO YOU FEEL ABOUT  
12 MENTAL ILLNESS," WHAT WOULD YOUR FIRST REACTION BE?

13 A I WOULD WANT TO KNOW MORE.

14 Q OKAY. ALL RIGHT. SOME PEOPLE -- LAY THE PREFACE  
15 THEN. SOME PEOPLE THINK MENTAL ILLNESS GENERALLY AS A  
16 CATEGORY IS JUST VODOO, WITCH DOCTORS, AND YOU KNOW,  
17 MEDICINE MEN. OTHER PEOPLE WHO HAVE EITHER HAD PERSONAL  
18 EXPERIENCES WITHIN THEIR FAMILY OR IN GENERAL BELIEVE IT  
19 IS A SERIOUS ISSUE. IT IS A VERY REAL ISSUE. WHICH OF  
20 THOSE TWO AREAS WOULD YOU FIND YOURSELF?

21 A IT'S A REAL ISSUE. I WOULDN'T SAY I HAVE STRONG  
22 FEELINGS. I'M NOT SURE WHAT YOU'RE HEADED TOWARDS,  
23 REALLY. DO I BELIEVE THERE ARE MENTALLY ILL PEOPLE? YES.

24 Q AND THEN FINALLY THE LAST QUESTION IS, IS IF THE  
25 ISSUE OF MENTAL ILLNESS WERE PRESENTED TO YOU AS A JUROR

1 IN THE SECOND PHASE, WHEN PENALTY WAS BEING EXAMINED AND  
2 DECIDED, IS THAT THE TYPE OF INFORMATION YOU WOULD WANT TO  
3 KNOW ABOUT IN DETERMINING WHETHER LIFE IN PRISON WITHOUT  
4 PAROLE WOULD BE AN APPROPRIATE SENTENCE?

5 A I DON'T THINK SO.

6 Q YOU DON'T THINK SO?

7 A NO.

8 Q ANY QUESTION OF ME ABOUT THAT? I MEAN, YOU  
9 UNDERSTOOD THE QUESTION?

10 A YEAH, I THINK I UNDERSTOOD IT.

11 Q AND IF THE JUDGE TOLD YOU THAT YOU HAD TO GIVE  
12 MEANINGFUL CONSIDERATION TO SUCH A THING AS MENTAL ILLNESS  
13 OR STATE OF MIND OF THE DEFENDANT, WOULD YOU BE ABLE TO  
14 FOLLOW THAT INSTRUCTION OR WOULD YOU FEEL LIKE MAYBE YOU  
15 COULDN'T?

16 A I THINK I COULD. YOU ASKED ME IF I WOULD WANT TO,  
17 YOU KNOW. WANT IS NO.

18 Q IT'S NOT WHAT YOU WANT TO DO, BUT IF THE JUDGE --

19 A THE FIRST QUESTION WAS WOULD I WANT TO, NO. THE  
20 SECOND QUESTION IF THE JUDGE TOLD ME TO, YES.

21 Q AND YOU COULD FOLLOW THAT INSTRUCTION?

22 A I BELIEVE SO.

23 MR. MAULDIN: ONE MOMENT, YOUR HONOR. YOUR HONOR, I  
24 CERTAINLY BEG THE COURT'S INDULGENCE.

25 THE COURT: YES, SIR.



1 Q MR. MCCASSLAND, WHAT WE'RE DISCUSSING WITH THE COURT  
2 AND LAWYERS IN MENTAL HEALTH ISSUE. I HAVE TO MAKE SURE  
3 BEFORE I STEP ASIDE, YOU SAID YOU WOULD NOT WANT TO  
4 CONSIDER THAT TYPE OF INFORMATION. AND THEN YOU SAID IF  
5 THE JUDGE INSTRUCTED YOU TO, YOU WOULD. THAT'S WHERE WE  
6 WERE.

7 A RIGHT.

8 Q THE QUESTION I WOULD HAVE THEN AS A FOLLOW UP WOULD  
9 BE SOMEWHAT OPEN-ENDED; AND THAT IS, WHY WOULD THE TYPE OF  
10 INFORMATION WE'RE TALKING ABOUT AT THIS TIME IS THE MENTAL  
11 HEALTH OR MENTAL ILLNESS ISSUE REGARDING THE PERSON WHO  
12 HAS BEEN CHARGED AND CONVICTED AND THEN THE PENALTY. AND  
13 I'M CURIOUS AS TO WHY YOU WOULD NOT FEEL THAT WOULD BE  
14 APPROPRIATE CONSIDERATION.

15 MR. ARIAIL: I OBJECT TO THE FORM.

16 THE COURT: SUSTAIN OBJECTION TO THE FORM. REPHRASE.  
17 IT'S AWFUL HARD TO UNDERSTAND WHAT YOU'RE ASKING FOR.  
18 TAKE A FEW MINUTES, THINK ABOUT IT. I THINK I KNOW WHERE  
19 YOU WERE GOING, BUT I DON'T THINK -- I DIDN'T UNDERSTAND  
20 WHAT YOU WERE ASKING.

21 BY MR. MAULDIN:

22 Q AND, AGAIN, WE KNOW WHAT YOU'VE SAID SO FAR. SO,  
23 LET'S MAKE SURE WE'RE WORKING FROM THAT PREMISE. YOU'RE  
24 IN THE SECOND PHASE AND WHAT YOU BASICALLY TOLD MR.  
25 MAULDIN WAS, I WOULDN'T WANT TO HEAR ABOUT THE MENTAL

1 HEALTH ISSUES REGARDING THE PERSON WHO WAS ON TRIAL AND  
2 BEING SENTENCED, BUT I WOULD IF THE COURT TOLD ME I HAD  
3 TO.

4 A CONSIDER IT, RIGHT.

5 Q NOW, IS THAT RIGHT?

6 A YES.

7 Q AND THE QUESTION IS, WHY WOULD YOU NOT WANT TO HEAR  
8 ABOUT THAT TYPE OF INFORMATION IN DECIDING WHETHER TO  
9 SENTENCE THE PERSON TO ONE OF THE TWO PENALTIES?

10 A I THINK THE SENTENCE WOULD BE IRRELEVANT ON THE  
11 MENTAL STATUS. IF I FOUND GUILTY BASED ON THE MURDER AND  
12 THE INFORMATION THAT CAME OUT OF THAT, YOU MAKE YOUR  
13 DECISION BASED OFF OF THAT, NOT ON THE MENTAL STABILITY OF  
14 THE PERSON.

15 THE COURT: LET ME INTERJECT SOMETHING AT THIS POINT  
16 IN TIME. THE MENTAL ISSUE WOULD NOT COME UP IN THE GUILT  
17 PHASE -- IT WOULD COME UP IN THE PENALTY PHASE -- WHERE  
18 YOU'RE TRYING TO DECIDE WHETHER IT'S INNOCENT OR GUILT.  
19 IT WOULD COME UP UNDER WHAT I HAVE EXPLAINED TO YOU  
20 PREVIOUSLY, MITIGATING CIRCUMSTANCES. AND IF YOU  
21 REMEMBER, I SAID MITIGATING CIRCUMSTANCES COULD BE FACTS  
22 SURROUNDING THE DEFENDANT OR FACTS SURROUNDING THE CRIME  
23 ITSELF.

24 PROSPECTIVE JUROR: RIGHT.

25 THE COURT: AND I ASKED YOU IF YOU COULD CONSIDER THE

1 MITIGATING FACTS. DO YOU RECALL THAT?

2 PROSPECTIVE JUROR: RIGHT.

3 THE COURT: IN LIGHT OF THAT, MR. MAULDIN, YOU MAY  
4 CONTINUE. I JUST WANT TO -- IT WOULD BE SUBJECT MATTER AS  
5 TO --

6 PROSPECTIVE JUROR: OKAY THAT MAKES SENSE.

7 BY MR. MAULDIN:

8 Q MR. MCCASLAND, YOU OWN -- AND YOU KNOW YOUR VIEWS ARE  
9 NOT ON TRIAL.

10 A I UNDERSTAND THEY'RE --

11 Q WE NEED TO KNOW.

12 A RIGHT.

13 Q YOU JUST SIMPLY DON'T GIVE MUCH CREDENCE TO THE ISSUE  
14 OF MENTAL ILLNESS?

15 MR. ARIAIL: I OBJECT, ARGUING TO THE WITNESS.

16 THE COURT: I SUSTAIN THE OBJECTION. DON'T MAKE  
17 ARGUMENTATIVE STATEMENT. JUST REPHRASE YOUR QUESTION.

18 MR. MAULDIN: YOUR HONOR, WELL, DON'T FUSS AT ME IF  
19 IT TAKES A WHILE.

20 THE COURT: I'M NOT FUSSING AT YOU. REPHRASE YOUR  
21 QUESTION, BUT DON'T MAKE IT ARGUMENTATIVE. OKAY? WE'RE  
22 NOT DEALING WITH A WITNESS IN THE COURTROOM WITH A JURY  
23 SITTING THERE.

24 MR. MAULDIN: RIGHT.

25 Q WHAT I'M HEARING, AND IF I'M WRONG, PLEASE CORRECT

1 ME; BUT WHAT I'M HEARING IS THAT YOUR VIEW, YOUR GENERAL  
2 IMPRESSION OF THAT ISSUE OF THE MENTAL ILLNESS ISSUE AND  
3 HOW IT RELATES TO THE SENTENCE OF A CONVICTED MURDERER, IS  
4 IT REALLY WOULDN'T MAKE ANY DIFFERENCE TO YOU. AND THAT'S  
5 WHAT I THOUGHT I HEARD, AND I'M JUST TRYING TO DETERMINE  
6 IF THAT IS IN FACT CORRECT. AND I THINK THE COURT NEEDS  
7 TO KNOW.

8 A NO, I DON'T THINK IT WOULD.

9 Q SO, THAT'S CORRECT?

10 A NO. GO AHEAD WITH THE QUESTION. SORRY.

11 Q AND IF THE COURT --

12 THE COURT: WHAT DO YOU WANT TO SAY? YOU STARTED TO  
13 SAY SOMETHING, YOU STOPPED. WHAT WERE YOU GOING TO SAY?  
14 TELL HIM WHAT YOU WERE GOING TO SAY.

15 A BASICALLY IF THE JUDGE TOLD US TO TAKE THAT INTO  
16 ACCOUNT, I WOULD TAKE IT INTO ACCOUNT. I DON'T THINK, YOU  
17 KNOW, I DON'T KNOW IF IT WOULD CHANGE MY MIND OR NOT. BUT  
18 I WOULD DEFINITELY, YOU KNOW, WOULD TAKE IT INTO ACCOUNT.

19 Q SO, IF HE TOLD YOU YOU HAD TO, YOU WOULD?

20 A ABSOLUTELY.

21 Q THAT'S WHAT YOU SAY?

22 A RIGHT. YOU KNOW I'D CONSIDER EVERYTHING THAT GOT  
23 PRESENTED.

24 Q AND I'M TRYING TO DETERMINE WHAT WOULD SEPARATE THAT  
25 FROM ESSENTIALLY JUST LIP SERVICE TO THE ISSUE. IN OTHER

1 WORDS, YOU SAY, "WELL, I THOUGHT ABOUT IT, I GAVE IT  
2 CONSIDERATION; BUT IT'S KIND OF LIKE OUR NATURAL INSTINCTS  
3 CARRY A LITTLE MORE WEIGHT THAN SOME JUDGE'S INSTRUCTION  
4 OF SOME KIND." I'M TRYING TO FIND OUT WHERE YOU ARE.  
5 BECAUSE IF YOU ARE, YOU NEED TO BE DISQUALIFIED FROM THIS  
6 PARTICULAR CASE. NOW, IS THAT WHERE YOU ARE?

7 A YES.

8 THE COURT: OKAY. STEP OUT IN THE HALL.

9 (PROSPECTIVE JUROR EXITS.)

10 THE COURT: LET ME HEAR YOUR MOTION.

11 MR. MAULDIN: MOTION TO DISQUALIFY BECAUSE HE'S  
12 MITIGATION IMPAIRED ON THE ISSUE OF MENTAL HEALTH.

13 THE COURT: I ASSUME THAT'S WHERE YOU'RE COMING?

14 MR. MAULDIN: YES, SIR.

15 THE COURT: GOT ANYTHING ELSE TO SAY OTHER THAN THAT?  
16 SOLICITOR, LET ME HEAR FROM YOU. ANYTHING YOU WANT TO  
17 ADD?

18 MR. ARIAIL: MY UNDERSTANDING OF WHAT THIS WITNESS  
19 IS -- HE'S CONFUSED. AND I THINK HE'S CONFUSED IN THIS  
20 SENSE. HE DOESN'T WANT TO HEAR MENTAL ILLNESS TESTIMONY  
21 AFTER THE GUILT HAS BEEN DECIDED, BECAUSE HE'S THINKING  
22 YOU'RE TALKING ABOUT INSANITY. AND THAT'S DONE. THAT'S  
23 OVER. HE'S ALREADY TOLD HIM THAT WAS DONE AND OVER. SO,  
24 I THINK HE'S CONFUSED ABOUT WHEN YOU'RE TALKING ABOUT  
25 MENTAL ILLNESS. AND SO, I THINK ASKING IF YOU WANT TO

1 HEAR ABOUT THE EMOTIONAL STABILITY, WHAT WAS GOING ON IN  
2 THE DEFENDANT'S MIND AT THE TIME, THOSE SORTS OF THINGS, I  
3 THINK YOU GET A DIFFERENT ANSWER.

4 THIS GUY, THAT'S WHAT HE KEPT SAYING THAT I HEARD, I  
5 DON'T WANT TO HEAR ABOUT THAT, WE'VE ALREADY CONVICTED  
6 HIM. SO, HE'S NOT INSANE. AND HE'S NOT GUILTY. -- NOT  
7 GUILTY BY REASON OF INSANITY.

8 THE COURT: I'M NOT SURE I GOT THAT IMPRESSION BUT  
9 I'M GOING TO FIND OUT.

10 MR. MAULDIN: CAN I RESPOND TO THAT?

11 MR. ARIAIL: LET ME SAY ONE OTHER THING. HE ALSO  
12 SAID HE COULD FOLLOW THE LAW.

13 THE COURT: OKAY. BRING HIM BACK, PLEASE.

14 BY THE COURT:

15 Q MR. MCCASSLAND, I WANTED TO MAKE SURE I CLEAR UP ONE  
16 AREA IF YOU HAVE A MISCONCEPTION ABOUT IT. WHEN THE  
17 LAWYER WAS USING THE TERM MENTAL ILLNESS, THEY WERE NOT  
18 REFERRING TO AN INSANITY DEFENSE AS YOU PROBABLY READ IN  
19 THE PAPER IN VARIOUS CASES. THEY WERE TALKING ABOUT A  
20 MENTAL ILLNESS IN THE PENALTY PHASE CONCERNING MITIGATION,  
21 A REASON WHY THE DEFENDANT SHOULD GET LIFE RATHER THAN  
22 DEATH. NOW, WERE YOU INTERPRETING IT AS AN INSANITY TYPE  
23 DEFENSE OR WERE YOU INTERPRETING AS A MENTAL ILLNESS?  
24 LEGALLY THERE'S A DIFFERENCE. I'M NOT GOING TO GET INTO  
25 THE DIFFERENCES LEGALLY, BUT WHAT WAS YOUR INTERPRETATION

1 OF MENTAL ILLNESS?

2 A I WAS THINKING MORE OF THE INSANITY PLEA OR TEMPORARY  
3 INSANITY.

4 Q INSANITY PLEA WOULD COME FORWARD IN THE GUILT PHASE,  
5 NOT THE PENALTY PHASE.

6 A RIGHT. OKAY. AND THAT'S --

7 Q OKAY?

8 A OKAY.

9 THE COURT: MR. MAULDIN, IF YOU WANT TO EXPLORE THAT  
10 I'LL ALLOW YOU TO DO IT OR ANYBODY ELSE AT THE TABLE WANTS  
11 TO EXPLORE IT, ALLOW YOU TO DO IT. APPARENTLY THE  
12 SOLICITOR WAS RIGHT. HE WAS THINKING, YOU THINKING  
13 SOMETHING, WEREN'T ON THE SAME WAVELENGTH.

14 MR. MAULDIN: I EXPECT, YOUR HONOR, THAT IT'S GOING  
15 TO BE A SERIES OF OBJECTIONS FOR ASKED AND ANSWERED.

16 THE COURT: NO, I'LL GIVE YOU AN OPPORTUNITY BECAUSE  
17 I HAD THE SAME IMPRESSION YOU HAD. I DIDN'T HAVE THE SAME  
18 IMPRESSION YOU DID. I DIDN'T HAVE THE IMPRESSION THE  
19 SOLICITOR DID; BUT AFTER ASKING THOSE QUESTIONS, I THINK  
20 HE WAS CONFUSED.

21 MR. ARIAIL: I'M NOT GOING TO OBJECT AS LONG AS IT  
22 DOESN'T GET ARGUMENTATIVE.

23 MR. MAULDIN: EXCUSE ME? YOUR HONOR, YOU'LL ALLOW  
24 BILL TO ASK --

25 MR. ARIAIL: I THINK WE NEED TO STICK TO ONE.

1 THE COURT: I'LL LET HIM DO IT.

2 MR. ARIAIL: IT'S UP TO THE JUDGE.

3 THE COURT: MR. NETTLES, COME ON UP.

4 MR. MAULDIN: THIS IS MR. NETTLES, HE'S GOING TO TRY  
5 TO CLEAN UP MY MESS.

6 MR. NETTLES: IT'S NOT A MESS, IT'S NOT A MESS. I'M  
7 JUST NOT GOING TO YELL AT YOU.

8 PROSPECTIVE JUROR: YELL ALL YOU WANT.

9 BY MR. NETTLES:

10 Q LET'S TALK FOR A SECOND IF WE CAN ABOUT THE  
11 DIFFERENCE BETWEEN INSANITY AND MENTAL ILLNESS. IN SOME  
12 RESPECTS THEY'RE THE SAME, IN THAT PEOPLE UNDER MENTAL  
13 ILLNESS AND PEOPLE WHO ARE INSANE SOMETIMES ACT FOR  
14 PERIODS OF TIME DIFFERENTLY THAN THEY OTHERWISE WOULD.  
15 THAT'S WHAT SOME PEOPLE BELIEVE, OR THAT'S THE THEORY.  
16 THE REASON WE'RE ASKING YOU THIS IS BECAUSE MENTAL ILLNESS  
17 IS SOMETHING SOME PEOPLE, BECAUSE IT'S NOT LIKE THE FLU,  
18 AND IT'S NOT LIKE CANCER. IT'S A LITTLE BIT MORE  
19 ABSTRACT. SOME PEOPLE JUST FRANKLY DON'T PUT A LOT OF  
20 CREDENCE IN IT. DO YOU FOLLOW ME? THEY THINK IT'S JUST  
21 AN EXCUSE, JUST SORT OF DUCKING RESPONSIBILITY. THAT'S  
22 WHAT SOME PEOPLE THINK, YOU KNOW?

23 A UH-HUH.

24 Q AND IT'S ONE OF THOSE ISSUES THAT THE REASON WE GET  
25 TO ASK YOU ABOUT IT IS, IT'S ONE OF THOSE ISSUES THAT THE



1 REASON WE GET TO ASK YOU ABOUT IT IS -- I MEAN, WE DON'T  
2 GET TO ASK YOU WHETHER YOU THINK IT'S OKAY TO MURDER  
3 PEOPLE BECAUSE THAT'S NOT SOMETHING REASONABLE PEOPLE  
4 DISAGREE ON. OKAY? YOU FOLLOW ME?

5 A RIGHT.

6 Q WE ONLY KIND OF GET TO ASK YOU ABOUT ISSUES THAT  
7 REASONABLE PEOPLE DISAGREE ON. DO YOU FOLLOW ME ON THAT?

8 A RIGHT.

9 Q SO, MY QUESTION TO YOU IS THIS. WE KIND OF GET THE  
10 SENSE, AND IT'S JUST SOME PEOPLE BELIEVE THAT WAY, THAT IF  
11 YOU WERE IN THE PENALTY PHASE OF THE CASE AND PEOPLE WERE  
12 PUTTING UP MENTAL HEALTH ISSUES AS A REASON FOR SOMEONE  
13 WHO'S BEEN CONVICTED, NO DOUBT DID IT, AND IT'S NOT THAT  
14 THEY WERE INSANE; BECAUSE IF THEY WERE INSANE, THEY  
15 WOULDN'T EVEN BE ON TRIAL. THAT IF WE PUT FORTH MENTAL  
16 HEALTH ISSUES, THAT WHAT WE'RE KIND OF HEARING FROM YOU,  
17 THAT'S JUST NOT SOMETHING YOU PUT A WHOLE LOT OF CREDENCE  
18 IN. IS THAT A FAIR ASSESSMENT?

19 A THAT'S A FAIR ASSESSMENT.

20 Q BECAUSE YOU JUST KIND OF BELIEVE THAT AND IT'S KIND  
21 OF LIKE -- I'VE NEVER BEEN TO ALASKA, I READ ABOUT PEOPLE;  
22 BUT ONE OF THE THINGS THAT YOU ALL ARE IS EVERYBODY'S SELF  
23 SUFFICIENT, RIGHT? AND THAT MENTAL HEALTH IS SOMETHING  
24 THAT SOMEBODY HAS CHOSEN NOT TO GET OVER?

25 A YES AND NO.

1 Q YES, AND NO? BUT IT'S NOT THE KIND OF THING --

2 A IT'S NOT BLACK AND WHITE, UNFORTUNATELY.

3 Q BUT IT'S NOT THE KIND OF THING THAT YOU COULD, BASED  
4 ON YOUR UPBRINGING AND STUFF, THAT YOU COULD GIVE  
5 MEANINGFUL CONSIDERATION AS A REASON TO SENTENCE SOMEBODY  
6 TO LESS THAN DEATH FOR A MURDER THAT THEY MEANT TO DO?

7 A I'D HAVE A HARD TIME WITH IT.

8 Q IT WOULD BE A DIFFICULT THING FOR YOU, RIGHT?

9 A YES.

10 Q WE KIND OF BEEN THROUGH THE WHOLE LAW THING, SO THIS  
11 IS IN THE CONTEXT OF THE JUDGE ASKING YOU TO FOLLOW THE  
12 LAW?

13 A RIGHT.

14 THE COURT: MR. MCCASSLAND, WOULD YOU STEP OUT IN THE  
15 HALL.

16 ALL RIGHT. DOES EITHER PARTY WANT TO MAKE ANY  
17 FURTHER ARGUMENTS? SOLICITOR?

18 MR. MAULDIN: YOUR HONOR, BEFORE HE WAS BROUGHT BACK  
19 IN REGARDING THE INSANITY ISSUE, AND I THINK MR. NETTLES  
20 DID A GOOD JOB OF CLARIFYING THAT DISTINCTION. THE  
21 IMPORTANT THING FOR THE COURT TO REMEMBER IN DETERMINING  
22 AN ISSUE LIKE THIS IS THAT THE MENTAL HEALTH ISSUE IS IN  
23 FACT AN ABSOLUTELY CRITICAL ISSUE IN MITIGATION. IF HE'S  
24 IMPAIRED IN THAT AREA, HE IS ABSOLUTELY IMPAIRED IN THIS  
25 CASE. AND THAT JUST GUTS IT. SO, I'M TELLING YOU THAT,

1 THAT'S THE REASON WE'VE ASKED 45 PEOPLE THAT QUESTION.  
2 AND --

3 THE COURT: HOW ABOUT 51?

4 MR. MAULDIN: HOWEVER MANY IT'S BEEN. SO, IT IS  
5 CRITICAL TO THIS SITUATION. AND HE ANSWERED THE QUESTIONS  
6 BOTH TO ME AND TO MR. NETTLES THE SAME WAY. WE CITE  
7 EDDINGS VERSUS OKLAHOMA. THANK YOU, JUDGE. I DON'T HAVE  
8 IT WITH ME.

9 THE COURT: OKAY. JOHN, BUT IT'S RIGHT HERE ON THIS  
10 PIECE OF PAPER.

11 ALL RIGHT, SOLICITOR. LET ME HEAR FROM YOU.

12 MR. ARIAIL: THE LAST TWO QUESTIONS HE ANSWERED AFTER  
13 WE GOT IT CLARIFIED, INSANITY AND ALL THAT, THE ISSUE OF  
14 MENTAL HEALTH, IT IS NOT BLACK AND WHITE. THAT'S WHAT HE  
15 SAID. AND THEN HE SAID IT WOULD BE DIFFICULT. HE WOULD  
16 HAVE A HARD TIME DOING IT. BUT HE DIDN'T SAY HE COULDN'T  
17 DO IT. AND HE SAID THAT HE WOULD FOLLOW YOUR  
18 INSTRUCTIONS. SO, THERE'S NO QUESTION. THEY'RE NOT  
19 ENTITLED TO HAVE EVERY JUROR LAY DOWN AND BEG TO HEAR  
20 MENTAL ILLNESS STUFF. THEY'RE ONLY ENTITLED TO QUESTION  
21 THOSE JURORS AS TO WHETHER OR NOT THEY WOULD CONSIDER IT.  
22 AND WE LET THEM IN THIS PROCEEDING, I SUBMIT, GO WAY TOO  
23 FAR ON THIS. BUT I LET THEM SIT BACK AND LET THEM DO IT  
24 IN EACH OF THESE CASES. OBJECTING SOME, BUT I'M NOT  
25 GETTING ANY RELIEF FROM YOU, SO I GAVE UP ON IT.

1 THE COURT: GOOD, FINALLY GOT THE MESSAGE.

2 MR. ARIAIL: I FINALLY GAVE UP. BUT THE POINT IS, WE  
3 CAN'T GO INTO AGGRAVATING CIRCUMSTANCES. WE CAN'T ASK  
4 THEM ABOUT KIDNAPPING, THE DEGREE, HOW MUCH OF THE MURDER  
5 THEY WANT TO HEAR. AND THEY CAN'T DO IT, EITHER. BUT  
6 WE'RE LETTING THEM GO TOO FAR. AND THEN THEY GET A LITTLE  
7 BIT OF INFORMATION THAT THEY WANT TO TWIST AROUND TO TRY  
8 TO DISQUALIFY A JUROR.

9 AND I SAY THIS GUY SAID, "I COULD FOLLOW THE LAW. IT  
10 WOULD BE DIFFICULT, I'D HAVE A HARD TIME DOING IT." BUT  
11 HE DIDN'T SAY HE COULDN'T DO IT AND HE DIDN'T SAY HE  
12 WOULDN'T DO IT. SO, I THINK HE'S NOT MITIGATION IMPAIRED  
13 TO BEGIN WITH. HE'S CERTAINLY NOT SOMEONE WHO'S GOING TO  
14 BE JUMPING UP AND DOWN TO HEAR ABOUT MENTAL HEALTH ISSUES.  
15 BUT THERE ARE A LOT OF OTHERS ON HERE THAT ARE NOT GOING  
16 TO BE JUMPING UP TO HEAR OTHER MITIGATION OR OTHER  
17 AGGRAVATION. BUT WE JUST HAVE TO TAKE THEM AS A WHOLE.  
18 AND THERE'S NO QUESTION THIS GUY IS A FAIR,  
19 MIDDLE-OF-THE-ROAD JUROR. JUST CLEAR OVERALL QUESTIONS.  
20 I DON'T KNOW HOW HE COULDN'T BE QUALIFIED.

21 THE COURT: IN YOUR HEART OF HEARTS YOU SAY HE IS A  
22 MIDDLE-OF-THE-ROAD JUROR?

23 MR. ARIAIL: HE IS A MIDDLE-OF-THE-ROAD JUROR.

24 THE COURT: MR. NETTLES, REFERRING TO THE ANSWERS TO  
25 YOUR QUESTIONS, HE SAID TO ONE QUESTION HE'D HAVE A HARD

1 TIME DOING IT. AND IT WOULD BE DIFFICULT FOR HIM, BUT HE  
2 NEVER SAID HE COULDN'T DO OR WOULDN'T DO IT. REVIEWING  
3 HIS ANSWERS, I'M GOING TO DENY.

4 MR. MAULDIN: HE SAID HE COULDN'T TO ME, YOUR HONOR.

5 THE COURT: "I'M JUST GOING -- ANSWER TO MR. NETTLES  
6 QUESTIONS, REVIEWING THE REALTIME, NEVER SAID TO ME HE  
7 COULDN'T. HE SAID IT WOULD BE DIFFICULT AND HE WOULD HAVE  
8 A HARD TIME WITH IT. IS WHAT HE SAID. THAT'S WHY I WENT  
9 BACK TO READ IT, SEE SPECIFICALLY WHAT HE SAID ANYTHING  
10 ELSE ON THIS JUROR?

11 MR. NETTLES: NOTE OUR OBJECTION.

12 THE COURT: HE MAY BE IMPAIRED, BUT I DON'T THINK  
13 HE'S SUBSTANTIALLY IMPAIRED. BUT I DO NOT THINK HE'S  
14 MIDDLE OF THE ROAD AS THE SOLICITOR SAID IN HIS HEART OF  
15 HEARTS MIDDLE OF THE ROAD.

16 MR. NETTLES: THE POINT IS, WE'RE ENTITLED TO  
17 MIDDLE-OF-THE-ROAD JURORS.

18 THE COURT: I UNDERSTAND BUT THEY VARY, WHETHER WE'RE  
19 TALKING ABOUT MIDDLE OF THE ROAD, RIGHT OF THE ROAD, OR  
20 LEFT OF THE ROAD. I DON'T THINK HE'S SUBSTANTIALLY  
21 IMPAIRED IS MY POINT. OKAY? BRING US THE JUROR. BASED  
22 ON THE ANSWERS I READ WHEN I WENT BACK ON REALTIME. I  
23 AGREE WITH YOU, YOU'RE ENTITLED TO MIDDLE OF THE ROAD, I  
24 PROBABLY SHOULDN'T HAVE USED THAT LANGUAGE.

25 (PROSPECTIVE JUROR ENTERS COURTROOM.)

1 THE COURT: MR. MCCASSLAND, THE -- WHAT WE'RE GOING  
2 TO DO IS DRAW 43 JURORS. FROM THAT GROUP, WE'RE GOING TO  
3 HAVE TO DRAW 12 AND 4 ALTERNATES. YOU'RE A PART OF THAT  
4 43. THE BAILIFF HAS A SLIP OF PAPER WITH THE PHONE  
5 NUMBER. CALL THAT NUMBER TONIGHT. THERE WILL BE A  
6 MESSAGE FOR YOU TO CALL BACK TOMORROW NIGHT OR THERE MAY  
7 BE A MESSAGE TO COME IN TOMORROW 1:00, 11:00, 2:00.  
8 FOLLOW THE INSTRUCTIONS. DON'T TALK TO ANYBODY ABOUT THE  
9 CASE, READ ANYTHING IN THE PAPER OR WATCH ANY TELEVISION  
10 ABOUT IT. OKAY?

11 A OKAY.

12 THE COURT: WE'RE GOING TO TAKE A SHORT BREAK ABOUT  
13 10 OR 15 MINUTES.

14 MR. ARIAIL: COULD I ASK WHILE YOU'RE ON THAT BREAK  
15 YOU ASK YOUR LAW CLERK TO RETRIEVE YOU THE CASE OF STATE  
16 VERSUS POWERS FROM 1998. AND READ, THAT IS OUR POSITION  
17 REGARDING MENTAL HEALTH ISSUES. SPECIFIC QUESTIONS ON  
18 MITIGATION. AND I'LL GIVE YOU CITE, 331 S.C. 37.

19 THE COURT: HOLD ON SECOND, I CAN'T WRITE THAT FAST.

20 MR. ARIAIL: 501 S.E. 2D 116, BECAUSE I'D LIKE TO  
21 ARGUE THAT WHEN WE COME BACK. I THINK WE'VE GONE TOO FAR.

22 MR. NETTLES: WE LOOK FORWARD TO IT.

23 THE COURT: OKAY.

24 MR. ARIAIL: I'M SURE YOU DO.

25 (BRIEF RECESS TAKEN)

1 THE COURT: OKAY. ARE WE GOING TO PUT ANY FINAL  
2 POSITIONS REGARDING GUNTER? I'M GOING THROUGH THE PROCESS  
3 WITH HIM. IF YOU WANT, YOU CAN PUT ANYTHING ON THE RECORD  
4 LATER.

5 (PROSPECTIVE JUROR GUNTER ENTERS COURTROOM.)

6 BY THE COURT:

7 Q I UNDERSTAND YOU'VE BEEN WAITING A WHILE. I THINK I  
8 SWORE YOU PREVIOUSLY. I GUESS I'LL DO IT AGAIN.

9 JASON L. GUNTER, (WHITE  
10 MALE), HAVING BEEN PREVIOUSLY DULY SWORN, TESTIFIED AS  
11 FOLLOWS:

12 EXAMINATION

13 BY THE COURT:

14 Q YOU HAD IDENTIFIED YOUR QUESTIONNAIRE AND I ASKED YOU  
15 SOME QUESTIONS AND I PRIMARILY ASKED YOU ABOUT THE  
16 QUESTIONS WE COVERED. IS THAT CORRECT?

17 A YES, SIR.

18 Q I'M GOING TO ASK YOU A FEW MORE QUESTIONS. OKAY?

19 A YES, SIR.

20 Q DO YOU HAVE ANY PHYSICAL OR MENTAL PROBLEMS THAT  
21 WOULD PREVENT YOU FROM SERVING ON JURY?

22 A NO.

23 Q DO YOU HAVE ANY PERSONAL HARDSHIPS THAT WOULD PREVENT  
24 YOU FROM SERVING ON JURY?

25 A I HAVE ONE. YES, SIR.

1 Q WHAT IS THAT?

2 A I'VE BEEN SELLING MY HOUSE AND BUYING A HOUSE. AND  
3 BOTH THE CLOSINGS ARE SCHEDULED FOR THE 21ST OF FEBRUARY.

4 Q WHEN IS THAT?

5 MR. MAULDIN: THAT'S MONDAY WEEK, JUDGE, 21<sup>st</sup> OF  
6 FEBRUARY.

7 A I HAVE A LETTER FROM THE BIDDER.

8 Q TODAY IS THE 11<sup>th</sup>, THAT WILL BE THE FOLLOWING WEEK,  
9 RIGHT?

10 A RIGHT. IF I WAS SEQUESTERED IT WOULD BE HARD TO.

11 Q I DON'T THINK YOU'LL BE SEQUESTERED THAT LONG. OKAY?

12 A I DIDN'T KNOW.

13 Q I THINK YOU'LL BE FREE BY THAT TIME.

14 A I WANT TO SAY IF -- I APOLOGIZE IF I CAUSED ANY  
15 PROBLEM A WHILE AGO.

16 Q IF YOU ARE SEQUESTERED ON THE 21ST, WE'LL MAKE  
17 ARRANGEMENTS TO GET YOU TO THE CLOSING.

18 A ALSO, 14TH AT 3:00 I HAVE AN APPOINTMENT WITH THE  
19 BUILDER.

20 Q THAT MAY HAVE TO GO BY THE WAYSIDE. ALL RIGHT? DO  
21 YOU HAVE ANY OTHER MEDICAL PROBLEMS THAT WOULD PREVENT YOU  
22 FROM SITTING ON THE JURY?

23 A NO, SIR.

24 Q THE DEFENDANT, MR. CHARLES CHRISTOPHER WILLIAMS, IS  
25 CHARGED WITH MURDER AND KIDNAPPING IN THIS CASE. IT



1 OCCURRED SEPTEMBER 3<sup>rd</sup> 2003 AT A BI-LO HERE IN  
2 GREENVILLE. HAVE YOU HEARD ANYTHING ON TV ABOUT IT, READ  
3 ANYTHING IN THE PAPER ABOUT IT, HEARD ABOUT IT ON THE  
4 RADIO, EITHER WHEN IT OCCURRED OR SINCE THAT TIME?

5 A I RECALL SEEING SOMETHING ON THE TV ABOUT IT. I  
6 DIDN'T READ ANYTHING IN THE PAPER ABOUT IT.

7 Q DO YOU RECALL WHAT YOU SAW?

8 A I RECALL ON TV IT TALKING ABOUT THE EVENT AND I DID  
9 SEE THEM ARRESTING HIM, AND TALKING ABOUT IT, THE NEWS  
10 COVERAGE.

11 Q DO YOU REMEMBER WHAT THEY WERE SAYING? DO YOU  
12 REMEMBER ANY OF THE FACTS THAT WERE BROUGHT OUT ON TV?

13 A NOT REALLY, I KNOW SOMEONE WAS KIDNAPPED. I THOUGHT  
14 I REMEMBER HEARING THE STORE SOMETHING WAS THERE, BUT  
15 FACTUAL STUFF, I COULDN'T.

16 Q HAVE YOU HEARD ANYTHING SINCE THEN ABOUT IT?

17 A IT CAME ON THE NEWS AND I'VE TRIED TO CHANGE THE  
18 CHANNEL AS QUICK AS I CAN. THAT'S ALL I'VE --

19 Q BASED UPON WHAT YOU'VE HEARD WHEN IT OCCURRED BACK ON  
20 SEPTEMBER 3<sup>rd</sup>, HAVE YOU FORMED AN OPINION OR EXPRESSED  
21 AN OPINION AS TO THE DEFENDANT'S INNOCENCE OR GUILT?

22 A I CAN'T REALLY SAY EITHER WAY. JUST FROM WHAT I SAW  
23 AND WHAT THE NEWS MEDIA SAYS, YOU KNOW, THAT HE DID IT;  
24 BUT AS FAR AS THE CIRCUMSTANCES OF WHY HE DID IT, NO, SIR.

25 Q HAVE YOU FORMED AN OPINION AS TO HIS GUILT? AND I

1 WILL SAY, WHEN YOU HEAR IT ON TV OR READ IT IN THE PAPER,  
2 THAT'S THE REPORTER DOING THE STORY AND THAT'S THE  
3 REPORTER WRITING THE STORY'S OPINION OF THE FACTS, NOT  
4 NECESSARILY CORRECT. IT MAY BE, MAY NOT BE. MY QUESTION  
5 IS, HAVE YOU FORMED AN OPINION BASED ON WHAT YOU KNOW AS  
6 TO HIS INNOCENCE OR GUILT?

7 A FROM WHAT I SAW ON THE NEWS AND, YOU KNOW, THERE  
8 WASN'T ANY, TO ME, THERE WASN'T ANY DOUBT THAT HE DID IT.

9 Q OKAY.

10 A BECAUSE THERE WAS NOT AN INVESTIGATION WHERE THEY HAD  
11 TO GO FIND SOMEBODY. HE WAS THERE. IN THAT INSTANCE I  
12 THINK HE DID IT, YOU KNOW, ON THAT PART.

13 Q WELL, DO YOU THINK HE'S GUILTY OF MURDER AND  
14 KIDNAPPING? HAVE YOU FORMED THAT OPINION?

15 A KIDNAPPING, NO. I HAVE NOT FORMED AN OPINION, MURDER  
16 I WOULD PROBABLY SAY YES.

17 Q YOU HAVE FORMED AN OPINION AS TO MURDER. DO YOU  
18 THINK YOU COULD SET THAT ASIDE AND LISTEN TO THE TESTIMONY  
19 IN THIS CASE AND BE OBJECTIVE AS TO WHAT YOU WOULD HEAR?  
20 OR IS YOUR OPINION SO STRONG THAT YOU COULD NOT DO THAT?

21 A I WOULDN'T SAY IT'S THAT STRONG WHERE I COULDN'T  
22 LISTEN TO SOMETHING AND FORM AN OPINION AT THAT POINT; BUT  
23 JUST FROM WHAT I SEE, I BELIEVE FROM WHAT I'VE SAW, HE DID  
24 IT.

25 Q OKAY. ANYBODY HAVE ANY QUESTIONS AS TO THIS ISSUE?

1 MR. MAULDIN: NO, SIR.

2 THE COURT: SOLICITOR?

3 MS. STROM: NO, SIR.

4 THE COURT: STEP OUT IN THE HALL.

5 (PROSPECTIVE JUROR EXITS.)

6 THE COURT: ANY MOTIONS?

7 MR. MAULDIN: SO MOVE HE BE DISQUALIFIED.

8 THE COURT: SOLICITOR, YOU HAVE ANY COMMENTS ON  
9 QUALIFICATION OR DISQUALIFICATION?

10 MS. STROM: NO, SIR.

11 THE COURT: FIND HE'S DISQUALIFIED BECAUSE OF  
12 PRETRIAL PUBLICITY AND OPINION AS TO GUILT OR THE FACT HE  
13 KEPT SAYING HE DID IT.

14 (PROSPECTIVE JUROR ENTERS COURTROOM.)

15 THE COURT: MR. GUNTER, I WANT TO THANK YOU FOR BEING  
16 HERE. SORRY IT'S BEEN SUCH A PROCESS FOR YOU AND A LONG  
17 WAIT. I WANT TO THANK YOU FOR YOUR HONESTY AND SINCERITY;  
18 BUT BASED UPON YOUR PRIOR KNOWLEDGE OF THE FACTS, I'M  
19 GOING TO FIND YOU NOT QUALIFIED. AND THAT SITUATION IN  
20 GEORGIA, WHAT YOU NEED DO, FIND YOU AN ATTORNEY OVER  
21 THERE, GET THAT REMOVED FROM YOUR RECORD?

22 PROSPECTIVE JUROR: CAN I DO THAT?

23 THE COURT: SO TEND TO THAT. OKAY?

24 PROSPECTIVE JUROR: OKAY. THANK YOU.

25 THE COURT: WOULD YOU BRING MRS. BILLINGS.

1 (PROSPECTIVE JUROR BILLINGS ENTERS COURTROOM)

2 MARGARET B. BILLINGS, (WHITE  
3 FEMALE), HAVING BEEN PREVIOUSLY DULY SWORN, TESTIFIED AS  
4 FOLLOWS:

5 EXAMINATION

6 BY THE COURT:

7 Q DO YOU REMEMBER FILLING OUT THIS QUESTIONNAIRE LAST  
8 MONTH OR THE MONTH BEFORE LAST?

9 A YES, SIR, --

10 Q WHEN YOU --

11 A -- I DO.

12 Q WHEN YOU FILLED IT OUT, WAS IT AS ACCURATE AS YOU  
13 COULD MAKE IT?

14 A I TRIED.

15 Q I'M GOING TO ASK YOU SOME QUESTIONS AND THE ATTORNEY  
16 IS GOING TO ASK YOU SOME QUESTIONS. THERE'S NO RIGHT OR  
17 WRONG ANSWER. OKAY. JUST BE TRUTHFUL ABOUT, DO THE BEST  
18 YOU CAN, BE TRUTHFUL ABOUT YOUR ANSWER.

19 DO YOU HAVE ANY PHYSICAL OR MENTAL PROBLEMS THAT  
20 WOULD PREVENT YOU FROM SERVING ON THE JURY?

21 A NO, SIR.

22 Q WHEN WE ASK YOU ABOUT QUESTION -- I'LL GIVE YOU AMPLE  
23 OPPORTUNITY TO LOOK AT THE QUESTIONNAIRE BEFORE I ASK YOU  
24 THE QUESTION. BUT I'M GOING TO ASK YOU SOME OTHER  
25 QUESTIONS BEFORE WE GET TO THE QUESTIONNAIRE.

1 A YES, SIR.

2 Q DO YOU HAVE ANY MENTAL PROBLEMS THAT WOULD PREVENT  
3 YOU FROM SERVING ON THE JURY?

4 A NO, SIR.

5 Q ANY PERSONAL HARDSHIPS THAT WOULD PREVENT YOU FROM  
6 SERVING ON THE JURY?

7 A NO.

8 Q THE DEFENDANT IN THIS CASE, CHARLES CHRISTOPHER  
9 WILLIAMS, IS CHARGED WITH MURDER AND KIDNAPPING. IT  
10 OCCURRED ON SEPTEMBER 3 2003 AT A BI-LO HERE IN  
11 GREENVILLE. HAVE YOU READ ANYTHING IN THE PAPER, SEEN  
12 ANYTHING ON TV, HEARD ANYTHING ON THE RADIO, HEARD ANYONE  
13 TALKING ABOUT IT EITHER WHEN IT OCCURRED OR SINCE THAT  
14 TIME?

15 A I SEEN THE ARTICLES OVER IN THE PAPER, TRIED TO SKIP  
16 THEM WHEN I SAW THE HEADLINES. WHEN THE TELEVISION, ON  
17 TELEVISION, I TRIED TO MUTE IT.

18 Q DO YOU KNOW ANYTHING AT ALL ABOUT THE FACTS THAT  
19 OCCURRED?

20 A NO, SIR.

21 Q HEARD ANYTHING ABOUT THE FACTS?

22 A NO.

23 Q SO, YOU FOLLOWED THE INSTRUCTION WHEN YOU RECEIVED  
24 THE INFORMATION SHEET? THANK YOU VERY MUCH FOR --

25 A YES, SIR, I DID.

1 Q THANK YOU VERY MUCH FOR DOING THAT. THE VICTIM IN  
2 THE CASE IS MARANDA WILLIAMS. DO YOU KNOW MARANDA  
3 WILLIAMS?

4 A NO, SIR, I DO NOT.

5 Q MR. CHARLES CHRISTOPHER WILLIAMS SITS TO MY RIGHT IN  
6 THE SWEATER. DO YOU KNOW MR. WILLIAMS?

7 A NO, SIR, I DO NOT.

8 Q ALL RIGHT. THE ATTORNEYS REPRESENTING MR. WILLIAMS  
9 ARE MR. MAULDIN, MR. NETTLES, MR. MARK MACDOUGALL, COLLEEN  
10 COYLE. AND I DON'T THINK MRS. COYLE IS IN THE COURTROOM.  
11 DO YOU KNOW ANY OF THE ATTORNEYS REPRESENTING MR.  
12 WILLIAMS?

13 A NO, SIR.

14 Q THE SOLICITOR SITS TO MY LEFT WITH TWO STAFF MEMBERS  
15 THE ASSISTANT SOLICITORS, DO YOU KNOW STAFF MEMBERS OR  
16 PEOPLE SITTING WITH HIM?

17 A NO.

18 Q DO YOU KNOW ANYONE IN HIS OFFICE, EITHER IN  
19 GREENVILLE OR IN PICKENS?

20 A NOT THAT I KNOW OF.

21 Q I'M GOING TO GIVE YOU A WITNESS LIST. WOULD YOU LOOK  
22 AT THAT WITNESS LIST, SEE IF YOU IDENTIFY OR RECOGNIZE ANY  
23 NAMES ON THE LIST.

24 A NO, SIR.

25 Q ALL RIGHT. LET ME GIVE YOU A SECOND LIST. WOULD YOU

1 LOOK AT THAT LIST AND SEE IF YOU RECOGNIZE ANY NAMES.

2 A (COMPLIES) NO, SIR.

3 Q THANK YOU, MA'AM. MISS BILLINGS, I'M GOING TO READ  
4 YOU A QUESTION AND I'D LIKE YOU TO LISTEN TO IT PLEASE,  
5 MA'AM, AND RESPOND TO IT.

6 A OKAY.

7 Q IN THIS CASE THE DEFENDANT IS BLACK AND THE VICTIM IS  
8 WHITE. IT'S UNDISPUTED THAT THE BLACK DEFENDANT AND THE  
9 WHITE VICTIM ENGAGED IN INTERRACIAL DATING. WOULD THE  
10 FACT THAT THE DEFENDANT AND THE VICTIM ENGAGED IN  
11 INTERRACIAL DATING MAKE IT DIFFICULT FOR YOU TO BE FAIR TO  
12 EITHER THE STATE OR THE DEFENDANT?

13 A I DON'T THINK SO. I'M NOT, I MUST BE OF THE AGE I'M  
14 NOT QUITE READY FOR INTERRACIAL DATING. IT'S OUR TIME AND  
15 I GUESS IT'S GOING TO HAPPEN, BUT I HOPE IT DOESN'T HAPPEN  
16 WITH MY GRANDCHILDREN.

17 Q LET ME ASK YOU THIS. IN THIS PARTICULAR CASE HOW  
18 WOULD THAT VIEWPOINT AFFECT YOU?

19 A I DON'T THINK IT WOULD. I WOULD TRY MY BEST TO NOT  
20 LET IT PREJUDICE ME.

21 Q DO YOU THINK YOU CAN SET THAT ASIDE?

22 A I THINK I CAN.

23 Q ALL RIGHT. WOULD IT PREJUDICE YOU AGAINST THE STATE  
24 OR AGAINST THE DEFENDANT IF IT WOULD PREJUDICE YOU AT ALL?

25 A I DON'T KNOW.

1 Q YOU DON'T KNOW?

2 A NO, SIR.

3 Q YOU JUST PERSONALLY DON'T APPROVE OF INTERRACIAL  
4 DATING?

5 A I DON'T LIKE IT; BUT IT'S HAPPENING, SO I ACCEPT IT.

6 Q DOES ANYBODY WANT TO ASK ANY QUESTIONS ON THAT ISSUE?  
7 THE DEFENDANT OR THE SOLICITOR?

8 MS. STROM: VERY BRIEFLY, YOUR HONOR.

9 Q GOOD AFTERNOON, MISS BILLINGS. I KNOW THAT'S A  
10 SENSITIVE TOPIC. AND, FIRST OF ALL, WE'RE NOT HERE TO  
11 CHALLENGE YOUR VIEWS, ANYTHING SUCH AS THAT. WE JUST WANT  
12 TO MAKE SURE WE GET FAIR AND IMPARTIAL JURORS. YOU  
13 UNDERSTAND?

14 A I THINK SO.

15 Q OKAY. WHAT WE'RE TRYING TO FIND OUT IS, AS THE JUDGE  
16 TOLD YOU, THE DEFENDANT IN THIS CASE IS BLACK AND THE  
17 VICTIM IN THIS CASE IS WHITE.

18 A RIGHT.

19 Q WHAT I WANT TO KNOW IS, THE FACT THAT THEY HAD A  
20 RELATIONSHIP, THEY HAD A DATING RELATIONSHIP, WOULD YOU IN  
21 ANY WAY HOLD THAT AGAINST THE VICTIM?

22 A NO, I WOULD NOT.

23 Q WOULD YOU IN ANY WAY HOLD THAT AGAINST THE DEFENDANT  
24 AND JUDGE HIM MORE HARSHLY SIMPLY BECAUSE HE WAS IN THIS  
25 RELATIONSHIP, OR WOULD YOU BASE YOUR DECISION ON THE FACTS



1 YOU HEARD IN THE COURT?

2 A I WOULD TRY TO BASE IT ON THE FACTS I HEARD IN THE  
3 COURT.

4 Q AND IF THE JUDGE INSTRUCTS YOU YOU MUST CONSIDER AND  
5 BASE YOUR DECISION ON THE FACTS AND EVIDENCE YOU HEARD IN  
6 COURT, NOT BASE IT ON ANY OUTSIDE INFLUENCE, WOULD YOU  
7 FOLLOW HIS INSTRUCTIONS?

8 A TO THE BEST OF MY ABILITY.

9 Q THANK YOU. JUST HOLD ON ONE SECOND. THANK YOU,  
10 MA'AM.

11 THE COURT: DOES THE DEFENSE HAVE ANY RESPONSE,  
12 QUESTIONS IN RESPONSE?

13 BY MR. NETTLES:

14 Q I TAKE FROM YOUR ANSWERS, JUST TO BE CLEAR, YOU  
15 WOULDN'T HOLD IT AGAINST THE VICTIM AND WOULDN'T HOLD IT  
16 AGAINST MY GUY EITHER?

17 A NO.

18 Q THANK YOU, MA'AM.

19 BY THE COURT:

20 Q ALL RIGHT. MRS. BILLINGS, IF YOU WOULD LOOK AT THE  
21 QUESTIONNAIRE, PLEASE, MA'AM. YOUR DAUGHTER IS A  
22 PARALEGAL; IS THAT CORRECT?

23 A SHE IS.

24 Q WHO DOES SHE WORK FOR?

25 A WILKINS AND MADDEN.

1 Q DO PRIMARILY DESK WORK OR?

2 A YES.

3 Q IS THAT WHAT SHE PRIMARILY DOES?

4 A YES.

5 Q YOU WERE A JUROR IN A CASE CONCERNING A WRECK IN THE  
6 LOWER PART OF THE STATE. WHEN WAS THAT?

7 A I WAS TRYING TO REMEMBER. IT'S BEEN FIVE, SIX YEARS  
8 AGO. BUT IT WAS HERE.

9 Q IT WAS HERE?

10 A YES, SIR.

11 Q WHAT DOES THE LOWER PART OF THE STATE HAVE TO DO WITH  
12 IT?

13 A I DON'T KNOW. IT WAS THERE AROUND -- COMING FROM  
14 MYRTLE BEACH, THE FIRECRACKER PLACE, AND SOMEBODY WAS  
15 PASSING AND I BELIEVE SOMEBODY --

16 Q THERE WAS A WRECK?

17 A YEAH, SOMEBODY SPEEDED UP AND -- THAT'S ALL.

18 Q HAVING BEEN INVOLVED IN THE JUDICIAL PROCESS IN THAT  
19 CIVIL ACTION HERE IN GREENVILLE CONCERNING THE WRECK, IN I  
20 GUESS EITHER MARION COUNTY, HORRY COUNTY, OR FLORENCE?

21 A ONE OF THOSE. YES.

22 Q ONE OF THE THREE. DO YOU HAVE ANY BIAS OR PREJUDICE  
23 TOWARDS THE JUDICIAL SYSTEM IN GENERAL?

24 A NO.

25 Q ALL RIGHT. IF YOU WOULD TURN TO PAGE TEN PLEASE,

1 MA'AM. IF YOU WOULD, LOOK AT QUESTION 64. IT SAYS,  
2 "DESCRIBE YOUR ATTITUDES AND BELIEFS CONCERNING CAPITAL  
3 PUNISHMENT, THE DEATH PENALTY."

4 AND YOU SAID OR WROTE, "I THINK IN SOME CASES IT IS  
5 THE ONLY CHOICE, ESPECIALLY IF THE EVIDENCE IS  
6 OVERWHELMING." NOW, CAN YOU TELL ME WHAT TYPE OF CASES  
7 YOU WOULD THINK, CONSIDER AS THE ONLY CHOICE?

8 A I THOUGHT ABOUT THAT AFTER I WROTE THAT AND I --  
9 WELL, MURDER AND THERE WAS NO PROVOCATION FROM THE VICTIM,  
10 YOU KNOW I JUST DON'T SEE HOW ANYBODY COULD KILL SOMEONE  
11 WITH NO PROVOCATION.

12 Q OKAY. THEN NUMBER 65 YOU SAID THAT YOU SOMEWHAT  
13 FAVOR THE DEATH PENALTY. IS THAT STILL YOUR OPINION HERE  
14 TODAY?

15 A IT IS, BUT I DON'T KNOW IF I COULD GIVE SOMEONE  
16 DEATH.

17 Q PAGE NUMBER 67 -- QUESTION NUMBER 67. QUESTION 68,  
18 EXCUSE ME, ON PAGE 11. CAN YOU FIND IT?

19 A YES, SIR.

20 Q AND YOUR ANSWER TO QUESTION 68, YOU SAID, "ALTHOUGH I  
21 DO NOT BELIEVE THE DEATH PENALTY EVER OUGHT TO BE IMPOSED,  
22 AS LONG AS THE LAW PROVIDED FOR IT, I COULD VOTE TO IMPOSE  
23 IT IF I BELIEVE IT WAS WARRANTED IN A PARTICULAR CASE  
24 DEPENDING ON THE EVIDENCE, THE LAW, AND WHAT I LEARNED  
25 ABOUT THE DEFENDANT." IS THAT STILL YOUR OPINION HERE

1 TODAY?

2 A YES, SIR. I THINK SO.

3 Q YOU THINK SO. OKAY. WHAT DO YOU THINK HAS CHANGED?

4 A I JUST DON'T KNOW IF I COULD PUT SOMEONE TO DEATH.

5 THE MORE I THINK ABOUT IT, I'VE HAD A LOT OF TIME TO THINK

6 AND I JUST DON'T THINK I COULD PUT SOMEONE TO DEATH.

7 Q ALL RIGHT. LET ME EXPLAIN SOME THINGS TO YOU, THEN

8 WE'LL DISCUSS THAT A LITTLE FURTHER. IN THIS CASE THE

9 DEFENDANT IS CHARGED WITH MURDER AND KIDNAPPING. THE CASE

10 WOULD BE DIVIDED UP INTO TWO PARTS, THE FIRST PHASE AND

11 SECOND PHASE. THE FIRST PHASE WOULD BE THE GUILT PHASE.

12 THE SECOND PHASE WOULD BE THE SENTENCING PHASE. DO YOU

13 UNDERSTAND?

14 A YES.

15 Q IN THE FIRST PHASE THE STATE WOULD PRODUCE EVIDENCE

16 OR BRING EVIDENCE BEFORE THE JURY TO CONVINCE A JURY

17 BEYOND A REASONABLE DOUBT THAT THE DEFENDANT WAS GUILTY OF

18 MURDER AND KIDNAPPING. DO YOU UNDERSTAND?

19 A UH-HUH.

20 Q NOW, LET'S ASSUME FOR A MOMENT THAT ALL 12 JURORS

21 AGREE THAT THE STATE HAS PROVEN THE DEFENDANT GUILTY

22 BEYOND A REASONABLE DOUBT OF MURDER AND KIDNAPPING. OKAY?

23 A OKAY.

24 Q THEN YOU WOULD GO TO THE SECOND PHASE, WHICH IS THE

25 PENALTY PHASE. AND IN BETWEEN THE FIRST PHASE AND THE

1 SECOND PHASE WOULD BE A 24-HOUR WAITING PERIOD. NOW, IN  
2 THE SECOND PHASE THE JURY WILL DETERMINE WHETHER THE  
3 DEFENDANT WILL RECEIVE LIFE OR DEATH. DO YOU UNDERSTAND?

4 A UH-HUH.

5 Q NOW, THE STATE WILL OFFER, EXCUSE ME, STATE WILL  
6 OFFER AGGRAVATING CIRCUMSTANCES. WHEN I SAY AGGRAVATING  
7 CIRCUMSTANCES, I MEAN CIRCUMSTANCES SURROUNDING THE  
8 INDIVIDUAL CRIME OR OF VICTIM IMPACT STATEMENTS,  
9 INFORMATION ABOUT THE VICTIM; AND THEY WOULD BE REQUIRED  
10 TO PROVE THE AGGRAVATING CIRCUMSTANCES BEYOND A REASONABLE  
11 DOUBT. AND THE PURPOSE OF THAT WOULD BE TO CONVINCE THE  
12 JURY THAT THE DEFENDANT SHOULD RECEIVE DEATH. DO YOU  
13 UNDERSTAND?

14 A OKAY.

15 Q NOW, THE DEFENDANT MAY BE ABLE -- MAY OFFER WHAT WE  
16 REFER TO AS MITIGATING CIRCUMSTANCES. MITIGATING  
17 CIRCUMSTANCES WOULD BE CIRCUMSTANCES SURROUNDING THE  
18 INDIVIDUAL, THE FACTS, OR SOME OTHER FACT FOR PURPOSES OF  
19 CONVINCING THE JURY THAT THE JURY SHOULD RETURN LIFE. DO  
20 YOU UNDERSTAND?

21 A OKAY.

22 Q SO, AFTER THE FIRST PART, THE JURY HAS ALREADY FOUND,  
23 AS YOU DESCRIBED IT IN LAYMAN'S TERMS IN PARAGRAPH 64,  
24 ESPECIALLY IF THE EVIDENCE IS OVERWHELMING, THE LEGAL TERM  
25 WOULD BE BEYOND A REASONABLE DOUBT; BUT I'LL USE YOUR

1 LANGUAGE THAT YOU REFER TO. OKAY. IN THE FIRST PHASE  
2 THAT'S BEEN DECIDED.

3 A ALL RIGHT.

4 Q AND WE'RE TALKING ABOUT THE PENALTY PHASE. ALL  
5 RIGHT?

6 A ALL RIGHT.

7 Q NOW, TAKING ALL THE EVIDENCE THAT WAS PRESENTED IN  
8 THE GUILT PHASE AND ALL THE EVIDENCE THAT WAS ENTERED INTO  
9 IN THE PENALTY PHASE, WHICH WOULD BE THE AGGRAVATING  
10 CIRCUMSTANCES, THE MITIGATING CIRCUMSTANCES, IF THEY ARE  
11 OFFERED, COULD YOU GIVE MEANING CONSIDERATION TO THE DEATH  
12 PENALTY?

13 A I STILL DON'T THINK I COULD PUT ANYBODY TO DEATH.

14 Q OKAY. WHY IS THAT?

15 A I JUST DON'T THINK I CAN DO IT.

16 THE COURT: OKAY. ALL RIGHT. ANYBODY HAVE ANY  
17 QUESTIONS?

18 MR. NETTLES: COULD I ASK JUST TWO?

19 THE COURT: SOLICITOR, YOU HAVE ANY?

20 MS. STROM: NO, SIR. I DON'T HAVE ANY AT THIS POINT.

21 MR. NETTLES: MIGHT BE JUST TWO.

22 THE COURT: DO YOU WANT ME TO GO ON THROUGH?

23 MR. NETTLES: NO, SIR, I THINK WE'LL KNOW SOMETHING.

24 BY MR. NETTLES:

25 Q HOW YOU DOING?

1 A FINE. SCARED.

2 Q I UNDERSTAND. THEY'RE -- I GOT TO SAY ONE THING,  
3 THOUGH. YOU'RE THE FIRST PERSON SAT WITH YOUR HANDS,  
4 YOU'RE THE ONLY PERSON WE HAD JUST REALLY LEAN FORWARD.  
5 LET ME PUT IT TO YOU THIS WAY. AND, YOU KNOW, A COUPLE OF  
6 QUESTIONS. THE QUESTION IS THIS. ALL RIGHT?

7 YOU UNDERSTAND THAT MURDER IN SOUTH CAROLINA IS NOT  
8 ACCIDENT, IT'S NOT SELF-DEFENSE, IT'S NOT THE PERSON IS  
9 INSANE. IT'S KILLING SOMEONE. AND THE DEFINITION IS A  
10 HEART DEVOID OF ALL SOCIAL DUTY, FATALLY BENT ON MISCHIEF,  
11 A DARK AND DEPRAVED HEART. TO SUM IT UP, THEY DID IT,  
12 THEY MEANT TO DO IT, AND IT'S PROVEN BEYOND A REASONABLE  
13 DOUBT THAT THE PERSON MURDERED SOMEBODY, THEY MEANT TO DO  
14 IT.

15 A ALL RIGHT.

16 Q SO, YOU UNDERSTAND IF THE OTHER PERSON PROVOKED IT,  
17 THAT CAN LIKELY BE MANSLAUGHTER, THE VICTIM PROVOKED IT;  
18 OR IF, YOU KNOW, SELF-DEFENSE, THAT'S NOT MURDER. YOU  
19 UNDERSTAND WHAT I'M TALKING ABOUT?

20 A I UNDERSTAND WHAT YOU'RE SAYING. YES.

21 Q YOU FOLLOW ME ON THAT?

22 A I FOLLOW YOU.

23 Q IN SOUTH CAROLINA IT'S GOT TO BE MORE THAN JUST A  
24 MURDER. IT'S GOT TO BE MURDER AND ANOTHER VERY SERIOUS  
25 CRIME, KIND OF AT THE SAME TIME. KILL SOMEBODY WHILE

1 RAPING, KILL SOMEBODY WHILE BREAKING IN YOUR HOUSE, KILL  
2 SOMEBODY WHILE YOU'RE KIDNAPPING. THE QUESTION WE NEED TO  
3 FIND OUT FROM YOU, IF YOU WERE ON A JURY -- NOT TALKING  
4 ABOUT THIS ONE -- BUT IF YOU WERE ON A JURY AND YOU SEEN  
5 ALL THE EVIDENCE AND YOU FOUND OUT BEYOND A REASONABLE  
6 DOUBT THE PERSON WAS GUILTY OF MURDER AS YOU AND I HAVE  
7 JUST DISCUSSED IT, WOULD YOU BE ABLE TO -- YOU HAVE TWO  
8 CHOICES. THE LAW NEVER REQUIRES YOU TO GIVE THE DEATH  
9 PENALTY. ALL WE NEED TO KNOW, COULD YOU GIVE MEANINGFUL  
10 CONSIDERATION TO THE PENALTY OF DEATH FOR A PERSON SUCH AS  
11 THAT?

12 A I WOULD TRY MY BEST, BUT I STILL DO NOT THINK I COULD  
13 PUT ANYONE TO DEATH.

14 Q LET ME ASK YOU THIS QUESTION. IF YOU WERE IN THE  
15 JURY ROOM AND A PIECE OF PAPER CAME AROUND, AND IN ORDER  
16 TO SENTENCE SOMEONE TO DEATH YOU HAD TO SIGN YOUR NAME ON  
17 A PIECE OF PAPER THAT WOULD THEN GO INTO THE CLERK OF  
18 COURT'S OFFICE SAYING YOU SENTENCED THEM TO DEATH, ALL 12  
19 HAD TO SIGN IT. WOULD YOU BE ABLE TO SIGN THAT PIECE OF  
20 PAPER?

21 A I WOULD HAVE A VERY HARD TIME.

22 Q I UNDERSTAND THAT, AND I'M ASSUMING EVERYBODY ELSE  
23 WOULD HAVE A HARD TIME. THE QUESTION IS, COULD YOU DO IT?

24 A I DON'T BELIEVE SO.

25 THE COURT: ANY QUESTIONS?



1 MS. STROM: NO, SIR.

2 THE COURT: MRS. BILLINGS, WOULD YOU STEP OUTSIDE?

3 (PROSPECTIVE JUROR EXITS.)

4 THE COURT: ANY MOTIONS?

5 MS. STROM: WE SUBMIT SHE'S NOT QUALIFIED, YOUR  
6 HONOR.

7 THE COURT: ANY ARGUMENT?

8 MR. NETTLES: NO ARGUMENT.

9 THE COURT: BRING MISS BILLINGS BACK. MOTION  
10 GRANTED.

11 (PROSPECTIVE JUROR BILLINGS RETURNS)

12 THE COURT: MISS BILLINGS, I WANT TO THANK YOU FOR  
13 YOUR HONESTY AND SINCERITY. I APPRECIATE YOUR VIEWS AND I  
14 UNDERSTAND YOUR DIFFICULTY WANTING TO PUT SOMEBODY TO  
15 DEATH. AND I UNDERSTAND THAT AND RECOGNIZE AND RESPECT  
16 YOUR VIEWPOINTS. BUT FOR THIS PARTICULAR CASE I'M GOING  
17 TO FIND YOU'RE NOT QUALIFIED. OKAY?

18 A THANK YOU, SIR.

19 Q AND THANK YOU SO VERY MUCH.

20 PROSPECTIVE JUROR: THANK YOU.

21 THE COURT: WILL YOU BRING JEANETTE CUMMINGS, PLEASE?

22 (PROSPECTIVE JUROR CUMMINGS ENTERS COURTROOM.)

23 JEANETTE D. CUMMINGS, (WHITE  
24 FEMALE), HAVING BEEN PREVIOUSLY DULY SWORN, TESTIFIED AS  
25 FOLLOWS:

## EXAMINATION

BY THE COURT:

Q DO YOU RECALL FILLING OUT THIS QUESTIONNAIRE LAST MONTH OR THE MONTH BEFORE LAST, MRS. CUMMINGS?

A YES, SIR.

Q WHEN YOU FILLED IT OUT, WAS IT ACCURATE?

A YES, SIR.

Q WOULD YOU TAKE THE QUESTIONNAIRE PLEASE, MA'AM? I'M GOING TO ASK YOU SOME QUESTIONS ABOUT THE QUESTIONNAIRE. OKAY?

A OKAY.

Q THERE'S NO RIGHT OR WRONG ANSWER TO THE QUESTIONS. IT'S JUST ANSWER THE QUESTION THE BEST YOU CAN BASED UPON WHAT YOU THINK. CAN YOU DO THAT?

A YES, SIR.

Q CAN YOU BE TRUTHFUL IN YOUR ANSWERS?

A YES, SIR.

Q WOULD YOU TURN TO PAGE TEN, PLEASE? QUESTION NUMBER 64, DO YOU SEE IT?

A YES, SIR.

Q ALL RIGHT. QUESTION SAYS, "BRIEFLY DESCRIBE YOUR ATTITUDES AND BELIEFS CONCERNING CAPITAL PUNISHMENT AND THE DEATH PENALTY."

YOU SAID, "NOT IN FAVOR OF." IS THAT CORRECT?

A RIGHT.

1 Q IS THAT YOUR OPINION STILL HERE TODAY?

2 A YES.

3 Q QUESTION NUMBER 65, "WHAT IS YOUR OPINION ABOUT THE  
4 DEATH PENALTY?"

5 YOU SAID, "STRONGLY OPPOSE." IS THAT STILL YOUR  
6 OPINION HERE TODAY?

7 A YES.

8 Q ALL RIGHT. WOULD YOU TURN OVER TO PAGE 11? IN  
9 RESPONSE TO QUESTION 68, WITH REFERENCE TO THE DEATH  
10 PENALTY, YOU SAID, "I COULD NEVER UNDER ANY CIRCUMSTANCES  
11 RETURN A VERDICT OF DEATH."

12 IS THAT STILL YOUR OPINION HERE TODAY?

13 A YES.

14 Q ALL RIGHT. CAN YOU THINK OF ANY CIRCUMSTANCES  
15 WHEREBY YOU COULD RETURN A VERDICT OF DEATH IN ANY TYPE OF  
16 CRIME?

17 A NOT ME, MYSELF, NO.

18 Q WHY NOT?

19 A I JUST COULDN'T.

20 Q COULD YOU TELL ME WHY?

21 A I JUST COULDN'T TAKE SOMEBODY'S LIFE, AND THAT WOULD  
22 BE TAKING SOMEBODY'S LIFE.

23 THE COURT: OKAY. ALL RIGHT. ANYBODY HAVE ANY  
24 QUESTIONS?

25 MR. MAULDIN: YES, SIR. I NEED TO ASK MISS CUMMINGS

1 JUST A FEW QUESTIONS, YOUR HONOR.

2 Q IN CONSISTENT WITH MY OTHER JURORS, MISS CUMMINGS,  
3 THIS MATTER DOES INVOLVE AN ATTEMPT TO QUALIFY A JURY  
4 PANEL FOR A CASE THAT COULD VERY WELL INVOLVE A REQUEST BY  
5 THE PROSECUTOR FOR THE DEATH PENALTY. AND THAT'S WHY  
6 YOU'RE BEING ASKED THESE QUESTIONS. YOUR VIEWS ARE NOT  
7 BEING ON TRIAL.

8 A I UNDERSTAND THEY'RE --

9 Q YOU HAVE A RIGHT TO YOUR VIEWS, AND THE FACT IS THIS  
10 COURT IS RESPECTFUL OF AND RECOGNIZES INDIVIDUAL  
11 RESERVATIONS ABOUT CAPITAL PUNISHMENT, INDIVIDUAL VIEWS  
12 ABOUT CAPITAL PUNISHMENT; AND IN FACT YOUR HESITATION OR  
13 RESERVATIONS DO NOT NECESSARILY DISQUALIFY YOU UNLESS IT  
14 WOULD PREVENT YOU FROM GIVING CONSIDERATION, MEANINGFUL  
15 CONVERSATION, TO THE DEATH PENALTY AS A POSSIBLE PENALTY.  
16 DO YOU FOLLOW ME?

17 A I THINK SO.

18 Q NOW, THE FIRST THING YOU NEED TO KNOW IS WE HAVEN'T  
19 HAD A TRIAL YET. SO, YOU DON'T KNOW ANYTHING ABOUT THE  
20 CASE.

21 A RIGHT.

22 Q THE SECOND THING YOU NEED TO KNOW IS THAT THE LAW IN  
23 OUR STATE NEVER REQUIRES A DEATH PENALTY SENTENCE. IT'S  
24 NOT AUTOMATIC. YOU KNOW, IN OTHER WORDS, WE DON'T HAVE  
25 ANY CRIME THAT SAYS IF A PERSON CONVICTED OF THIS, THEN

1 THE PENALTY IS DEATH AUTOMATICALLY. DO YOU FOLLOW ME?

2 A RIGHT.

3 Q SO, THERE IS ALWAYS CONSIDERATION OF AT LEAST TWO  
4 CHOICES IF THE DEATH PENALTY IS ON THE TABLE. EITHER THE  
5 DEATH PENALTY OR LIFE IMPRISONMENT WITHOUT POSSIBILITY OF  
6 PAROLE.

7 NOW, WITH THAT IN MIND, HAVING NOW UNDERSTANDING THE  
8 PROCESS, THE QUESTION IS WHETHER JEANETTE CUMMINGS CAN  
9 IMAGINE A CASE LIKE THE JUDGE MENTIONED, WHERE YOU HAVING  
10 FOUND A CONVICTION FOR MURDER IN THE FIRST PHASE OF A  
11 TRIAL, NOW WE'RE IN THE PENALTY PHASE ONLY, WHETHER YOU  
12 CAN IMAGINE A CASE WHERE A PERSON WAS CONVICTED OF MURDER,  
13 AGGRAVATED MURDER, WHERE YOU COULD GIVE MEANINGFUL  
14 CONSIDERATION TO THE IMPOSITION OF THE DEATH PENALTY? CAN  
15 YOU IMAGINE SUCH A CASE?

16 A I CAN IMAGINE IT; BUT I DON'T THINK I COULD SAY OKAY  
17 TO TAKE SOMEBODY'S LIFE.

18 Q WELL, DESCRIBE WHAT YOU'RE IMAGINING AS THE CASE.

19 THE COURT: SHE JUST SAID, I COULD, SHE COULD IMAGINE  
20 BUT COULDN'T TAKE SOMEBODY'S LIFE.

21 MR. MAULDIN: YOU DON'T THINK YOU PERSONALLY COULD  
22 ACTUALLY --

23 A NO.

24 Q THANK YOU, MA'AM.

25 THE COURT: I KNOW THERE'S A MOTION, BUT ANY ARGUMENT

1 TO THE MOTION?

2 MR. MAULDIN: NO, SIR.

3 THE COURT: ALL RIGHT. MRS. CUMMINGS, I WANT TO  
4 THANK YOU FOR BEING HERE. FOR THE RECORD MOTION ON BEHALF  
5 OF THE STATE IS GRANTED.

6 MS. STROM: YES, SIR.

7 THE COURT: YOUR VIEWS OF THE DEATH PENALTY ARE YOUR  
8 PERSONAL VIEWS, NOTHING WRONG WITH THEM.

9 PROSPECTIVE JUROR: THAT'S RIGHT.

10 THE COURT: AND THE COURT, ANYONE IN THE COURTROOM IS  
11 NOT ARGUING WITH THAT; BUT FOR PURPOSES OF THIS PARTICULAR  
12 CASE I'M GOING TO FIND YOU'RE NOT QUALIFIED. OKAY?

13 PROSPECTIVE JUROR: OKAY.

14 THE COURT: THANK YOU SO VERY MUCH.

15 PROSPECTIVE JUROR: THANK YOU.

16 (PROSPECTIVE JUROR EXITS.)

17 MR. ARIAIL: BEFORE WE GET BACK TO THE MENTAL HEALTH  
18 ISSUE --

19 THE COURT: WHY DON'T WE WAIT UNTIL IT COMES UP.

20 MS. STROM: IT'S PRETTY CLEAR THIS --

21 THE COURT: YOU TALKING ABOUT --

22 MR. ARIAIL: I'M TALKING ABOUT STATE VERSUS HILL AND  
23 STATE VERSUS POWERS. AT THE VERY MINIMUM IF YOU ASK  
24 SPECIFICALLY IT'S GOT TO BE IN THE CONTEXT.

25 THE COURT: IN STATE VERSUS POWERS THE JUDGE ALLOWED

1       THEM TO ASK ABOUT AGE, SUPREME COURT SAID IT WAS WITHIN  
2       THE DISCRETION OF THE COURT, SAID YOU HAVE TO ASK GENERAL  
3       QUESTIONS. WE'VE BEEN DEALING WITH GENERAL QUESTIONS,  
4       THAT'S WHERE YOU AND I DISAGREE. IF THEY GET INTO  
5       SPECIFICS OF MENTAL ILLNESS, WE HAVE TO STOP IT. BUT  
6       THEY'RE DEALING IN --

7           MR. ARIAIL: COULD I RESPOND TO THAT? THE COURT SAID  
8       CLEARLY YOU COULD IN YOUR DESCRIPTION, BUT THE QUESTION  
9       HAS TO BE ASKED ABOUT MITIGATING CIRCUMSTANCES,  
10      SPECIFICALLY AS PRESENTED BY THE DEFENSE AS INSTRUCTED BY  
11      THE COURT. WHAT THEY'RE DOING IS THEY'RE CREATING THIS  
12      MENTAL ILLNESS IN A VACUUM AND ASKING THE WITNESS ABOUT  
13      IT. WE GOT INTO THAT LAST TIME. AND I SAY THEY HAVE TO  
14      DO IT IN THE CONTEXT IF THE COURT IS GOING TO INSTRUCT YOU  
15      TO CONSIDER IT, WILL YOU CONSIDER IT?

16           THE COURT: I'LL REQUIRE THAT IN THE QUESTIONS FROM  
17      NOW ON IF THAT WILL MAKE YOU HAPPY.

18           MR. ARIAIL: IT WILL MAKE ME HAPPY. I'M 57 TOO LATE,  
19      BUT I'M HAPPY.

20           THE COURT: DO YOU UNDERSTAND WHAT HE'S SAYING IN  
21      CONTEXT OF POWERS? GOING TO HAVE TO ADD THE PART OF YOUR  
22      QUESTION, AS INSTRUCTED BY THE COURT. AND POWERS DOES SAY  
23      THAT.

24           MR. NETTLES: I UNDERSTAND THAT, BUT WHAT IT SAYS --

25           THE COURT: YOU HAVE TO PUT THAT SOMEWHERE IN THE

1 CONTEXT OF THE QUESTION.

2 MR. NETTLES: I AGREE WITH THAT, AND BEFORE SOMEONE  
3 COULD BE STRICKEN FOR THE PERSONAL ILLNESS ISSUE WOULD  
4 ULTIMATELY HAVE TO ANSWER THAT QUESTION. BUT I DON'T  
5 THINK THAT THEY GET TO DETERMINE WHAT ORDER.

6 THE COURT: I AGREE. ALL I'M SAYING TO YOU, MR.  
7 NETTLES, SOMEWHERE IN YOUR QUESTIONING PROCESS UNTIL YOU  
8 GET UP TO THE FINAL QUESTION PUT THAT IN.

9 MR. NETTLES: THAT'S FINE.

10 THE COURT: THAT'S ALL I'M SAYING TO YOU.

11 MR. NETTLES: THAT'S FINE.

12 THE COURT: THANK YOU, MR. MAULDIN. APPRECIATE YOU  
13 STANDING. HAVE A SEAT. ANYTHING ELSE BEFORE WE BRING  
14 MR. COX IN?

15 MS. STROM: NOTHING FROM THE STATE.

16 (PROSPECTIVE JUROR ENTERS COURTROOM.)

17 THE COURT: MR. COX, PLEASE RAISE YOUR RIGHT HAND  
18 SIR.

19 PROSPECTIVE JUROR: YES, SIR.

20 JOHN J. COX, (WHITE  
21 MALE), HAVING BEEN PREVIOUSLY DULY SWORN, TESTIFIED AS  
22 FOLLOWS:

23 EXAMINATION

24 BY THE COURT:

25 Q DO YOU REMEMBER FILLING OUT THIS QUESTIONNAIRE --



- 1 A YES.
- 2 Q -- LAST MONTH OR THE MONTH BEFORE?
- 3 A I DO.
- 4 Q WHEN YOU FILLED IT OUT, DID YOU FILL IT OUT
- 5 ACCURATELY?
- 6 A AS ACCURATE AS I KNEW AT THE TIME. YES, SIR.
- 7 Q YOU MAY KEEP IT. DO YOU RECALL FILLING IT OUT?
- 8 A PRETTY MUCH.
- 9 Q DO YOU RECALL FILLING IT OUT?
- 10 A PRETTY MUCH SO. YES, SIR. YES, SIR.
- 11 Q ALL RIGHT. FIRST OF ALL, LET ME ASK YOU. YOU WORK
- 12 FOR BLACK BELT, WORLD BLACK BELT, INC. AS A NIGHT
- 13 ATTENDANT, SELF-DEFENSE AND TRAVEL MARSHAL?
- 14 A YES, SIR.
- 15 Q WHAT IS A TRAVEL MARSHAL? WHAT DO YOU ACTUALLY DO?
- 16 A I FLY AROUND THE COUNTRY AND TEACH FLIGHT ATTENDANTS
- 17 CABIN SELF-DEFENSE, WORK FOR UNITED AIRLINE, SOUTHWEST,
- 18 ANY TIME I TAKE ONE FLIGHT ON ONE OF THEIR PLANES, BECOME
- 19 TRAVEL MARSHAL, ACT AS THEIR SECURITY FOR.
- 20 Q THEY CONTRACT THAT OUT WITH WORLD BLACK BELT?
- 21 A NO, SIR. OUT OF TARZANA, CALIFORNIA.
- 22 Q WHAT IS THE PURPOSE OF THE UNIFORM?
- 23 A I JUST GOT OFF DUTY, LEFT THE FIRE STATION.
- 24 Q YOU ALSO WORK WITH THE FIRE STATION?
- 25 A YEAH, CAPTAIN WITH THE CITY OF GREENVILLE FIRE

1 DEPARTMENT.

2 Q WHICH -- YOU DO BOTH?

3 A I DO ACTUALLY OTHER JOBS BESIDES THAT.

4 Q YOU WORK AT THE FIRE DEPARTMENT PLUS FLY AROUND  
5 TEACHING SELF-DEFENSE?

6 A I WORK FOR THE FIRE DEPARTMENT FULL-TIME. I TEACH  
7 CABIN SELF-DEFENSE AND TRAVEL MARSHAL. I HAVE A MARSHAL  
8 ARTS SCHOOL, TEACH SELF-DEFENSE. I'M ALSO A LICENSED  
9 RESIDENTIAL BUILDER.

10 Q WHEN DO YOU HAVE TIME TO GO HOME AND SLEEP?

11 A RARELY.

12 Q I CAN BELIEVE THAT. YOU'RE QUITE ENERGETIC AND QUITE  
13 ACTIVE.

14 A WELL, I ENJOY WHAT I DO.

15 Q THAT'S GOOD. THAT'S GOOD. THAT'S IMPORTANT. I'M  
16 SORRY, I SAW ON HERE WHERE YOU WERE A FIRE CAPTAIN, I JUST  
17 OVERLOOKED IT. I WAS JUST INTRIGUED ABOUT WHAT THE TRAVEL  
18 MARSHAL DID.

19 A YES, SIR.

20 Q I LEARNED SOMETHING TODAY. THANK YOU VERY MUCH.  
21 YOUR NEPHEW WORKS FOR THE CITY OF GREENVILLE POLICE  
22 DEPARTMENT. IS THAT CORRECT?

23 A YES, SIR.

24 Q HOW OFTEN DO YOU SEE YOUR NEPHEW?

25 A DAILY.

1 Q HE COME BY THE FIRE STATION? WHICH CAPACITY OF YOUR  
2 EMPLOYMENT YOU SEE HIM?

3 A FAIR ENOUGH. EITHER THROUGH JOB RELATION THROUGH  
4 INTERACTION FIRE-POLICE SERVICE, HE'S ALSO ONE OF MY  
5 MARSHAL ARTS STUDENTS.

6 Q STUDENTS?

7 A YES, SIR.

8 Q HAVE YOU EVER DISCUSSED WITH HIM HIS VIEWPOINT OR  
9 ANYTHING ABOUT LAW ENFORCEMENT IN GENERAL.

10 A YES, SIR. EVERY DAY.

11 Q WHAT HAS HE TOLD YOU ABOUT HIS VIEWPOINT ON LAW  
12 ENFORCEMENT IN RELATION TO THE COURT SYSTEM?

13 A TRY TO KEEP FAIR AND HONEST AS YOU POSSIBLY CAN AND  
14 KEEP AN OPEN MIND THE BEST YOU CAN, WHICH IS, IF YOU HAVE  
15 TO DEAL WITH THE THINGS YOU SEE, HE AND I HAVE PRETTY MUCH  
16 THE SAME DISCUSSION ABOUT THAT. HIS VIEWPOINTS COMPARED  
17 TO WHAT HE DOES, AND MY VIEWPOINTS COMPARED TO WHAT HE  
18 DOES, ALSO. IF THAT MAKES SENSE.

19 Q THAT MAKES SENSE. IF YOU WOULD, TAKE YOUR  
20 QUESTIONNAIRE AND TURN TO PAGE TEN, PLEASE, SIR. WOULD  
21 YOU LOOK AT QUESTION 64? IT SAYS, "BRIEFLY DESCRIBE YOUR  
22 ATTITUDES AND BELIEFS CONCERNING CAPITAL PUNISHMENT AND  
23 THE DEATH PENALTY."

24 YOU SAID, "DEPENDS ON EVIDENCE AND IF GUILTY."

25 A UH-HUH.

1 Q CAN YOU SORT OF EXPOUND UPON THAT? TELL ME WHAT YOU  
2 MEAN.

3 A THERE AGAIN, I TRY TO BE FAIR AND HONEST AS I CAN,  
4 AND TRY TO KEEP AN OPEN MIND BASED ON MY TRAINING AND WHAT  
5 I'VE DONE OVER THE YEARS. I HAVE NO PROBLEM WITH THE  
6 DEATH PENALTY BASED ON THE EVIDENCE THAT'S THAT WOULD  
7 PREVENT AND IF THE REASONABLE DOUBT OF GUILT IS THERE.

8 Q ALL RIGHT. LOOK ON THE NEXT PAGE IF YOU WOULD, PAGE  
9 68. YOUR RESPONSE TO THAT QUESTION WAS, "I BELIEVE THE  
10 DEATH PENALTY IS AN APPROPRIATE FORM OF PUNISHMENT IN SOME  
11 MURDER CASES AND I CAN RETURN A VERDICT OF DEATH IF I  
12 BELIEVE IT WAS WARRANTED IN A PARTICULAR CASE, DEPENDING  
13 UPON THE EVIDENCE, THE LAW, AND WHAT I LEARNED ABOUT THE  
14 DEFENDANT." IS THAT STILL YOUR OPINION --

15 A YES, SIR.

16 Q -- HERE TODAY?

17 A YES, SIR. AND THEN, THERE AGAIN, THAT'S WHY I  
18 UNDERLINED THE WORD "SOME," BECAUSE IT JUST --

19 Q LET ME EXPLAIN TO YOU THE PROCESS WE'RE GOING TO GO  
20 THROUGH. OKAY?

21 A SURE.

22 Q THE DEFENDANT IN THIS CASE IS CHARGED WITH MURDER AND  
23 KIDNAPPING. THE TRIAL WOULD BE DIVIDED UP INTO TWO  
24 PHASES. THE FIRST PHASE IS REFERRED TO AS THE GUILT  
25 PHASE. THE SECOND PHASE REFERRED TO AS THE INNOCENCE --

1 I'M SORRY, EXCUSE ME, LET ME BACK UP. I'VE GONE THROUGH  
2 THIS SO MANY TIMES IN THE LAST THREE OR FOUR DAYS.

3 A I UNDERSTAND.

4 Q THE FIRST PHASE IS REFERRED TO AS THE GUILT PHASE.  
5 THE SECOND PHASE IS REFERRED TO AS THE PENALTY PHASE. IN  
6 THE FIRST PHASE THE STATE WOULD BE REQUIRED TO PROVE THE  
7 DEFENDANT GUILTY AS TO MURDER AND KIDNAPPING. DO YOU  
8 UNDERSTAND?

9 A I DO.

10 Q ALL RIGHT. LET'S ASSUME THAT ALL 12 JURORS BELIEVE  
11 AND DECIDE THAT THE STATE HAS PROVEN THEIR CASE BEYOND A  
12 REASONABLE DOUBT AS TO MURDER AND KIDNAPPING.

13 A OKAY.

14 Q SO THAT PHASE WOULD BE OVER. THE STATE HAS PROVEN  
15 THEIR CASE AND THE JURY HAS MADE A DECISION THAT THE  
16 DEFENDANT IS GUILTY OF THE TWO CRIMES. DO YOU UNDERSTAND?

17 A I UNDERSTAND.

18 Q THEN WE WOULD GO TO THE SENTENCING PHASE. NOW, THE  
19 PURPOSE OF THE SENTENCING PHASE OR THE SECOND PHASE IS FOR  
20 THE JURY TO DECIDE LIFE OR DEATH.

21 A SURE.

22 Q WHEN I SAY LIFE, I MEAN LIFE IN JAIL WITHOUT PAROLE.  
23 THAT MEANS THE PERSON WOULD DIE IN JAIL. HE WOULD NEVER  
24 BE ELIGIBLE FOR PAROLE.

25 A I UNDERSTAND.

1 Q NOW, IN THAT PHASE THE STATE WOULD INTRODUCE  
2 AGGRAVATING CIRCUMSTANCES. THESE AGGRAVATING  
3 CIRCUMSTANCES COULD SURROUND THE FACTS, BE ADDITIONAL  
4 FACTS ABOUT WHAT HAPPENED, ABOUT THE VICTIM, AND IT'S  
5 REFERRED TO AS VICTIM IMPACT. AND, SO, WOULD BE  
6 ADDITIONAL INFORMATION PUT BEFORE THE JURY THEY DID NOT  
7 HEAR IN THE FIRST PHASE. IT WOULD BE FOR THE PURPOSE OF  
8 CONVINCING THE JURY TO FIND DEATH. THE STATE HAS TO PROVE  
9 THAT BEYOND A REASONABLE DOUBT. DO YOU UNDERSTAND?

10 A SURE, I UNDERSTAND. THEY'RE --

11 Q EVEN THOUGH THE JURY MAY BELIEVE THAT THE STATE HAD  
12 PROVEN THEIR CASE BEYOND A REASONABLE DOUBT AS TO THE  
13 AGGRAVATING CIRCUMSTANCES, THE JURY STILL DOES NOT HAVE TO  
14 GIVE DEATH. THE JURY COULD STILL GIVE LIFE.

15 A I UNDERSTAND.

16 Q THE JURY COULD GIVE LIFE JUST AS AN ACT OF MERCY IF  
17 THEY SO DESIRE. DO YOU UNDERSTAND?

18 A I DO.

19 Q NOW, GENERALLY THE DEFENDANT WILL OFFER MITIGATING  
20 CIRCUMSTANCES. MITIGATING CIRCUMSTANCES WILL BE REASONS  
21 THAT THE JURY SHOULD GIVE LIFE RATHER THAN DEATH.

22 A I UNDERSTAND.

23 Q NOW, ASSUMING THE FACT THAT THE DEFENDANT HAS  
24 ALREADY, IT'S BEEN FOUND GUILTY OF THE TWO CRIMES IN THE  
25 FIRST PHASE AND YOU CAN CONSIDER EVERYTHING YOU HEARD IN

1 THE FIRST PHASE, THE AGGRAVATING CIRCUMSTANCES HAVE BEEN  
2 GIVEN TO THE JURY, THE MITIGATING CIRCUMSTANCES HAVE BEEN  
3 GIVEN TO THE JURY, BEFORE YOU MAKE UP YOUR MIND AS TO LIFE  
4 OR DEATH, CAN YOU GIVE MEANINGFUL CONSIDERATION TO LIFE?

5 A YOU'RE ASKING ME THAT NOW?

6 Q YEAH, NOW. IN OTHER WORDS. IT'S SORT OF CONFUSING.  
7 YOU LISTEN TO EVERYTHING BEFORE YOU MAKE UP YOUR MIND AS  
8 TO WHETHER YOU'RE GOING TO GIVE LIFE OR DEATH.

9 A IF YOU'RE ASKING ME THAT NOW, IT WOULD BE VERY HARD  
10 FOR ME TO LOOK YOU IN THE EYE AND SAY, YES, I COULD DO  
11 THAT. AND THE REASON IS BECAUSE WHAT I KNOW ABOUT THE  
12 CASE ALREADY.

13 Q ALL RIGHT. WHAT DO YOU KNOW ABOUT THE CASE ALREADY?

14 A SIMPLY OF TALKING TO LAW ENFORCEMENT AND EMERGENCY  
15 MEDICAL PERSONAL THAT WAS ON SCENE AT THE TIME OF WHAT  
16 TOOK PLACE, BEING IN THE PROFESSION I AM IN MEDICAL CALLS  
17 AND DEALING WITH THE POLICE OFFICE AND TEACHING  
18 SELF-DEFENSE, THEY COME AND WE HAVE DISCUSSIONS AND  
19 SOMETIMES WHAT HAPPENS TO TAKE PLACE WITH EMERGENCY  
20 RESPONSE PEOPLE, THEY HAVE TO DECOMPRESS THEIR STRESS BY  
21 TALKING ABOUT THINGS.

22 Q SO, YOU'VE HEARD A LOT FROM THE POLICE OFFICERS  
23 INVOLVED IN THE PROCESS?

24 A I HAVE. AND WHAT I'VE HEARD AND WHAT I'VE SEEN AND  
25 WHAT I ALREADY KNOW, I HAVE A DEFINITE THOUGHT OF WHAT

1 SHOULD BE DONE.

2 Q ALL RIGHT. LET ME ASK YOU THIS. IS THERE ANY WAY  
3 YOU COULD SET THAT ASIDE IN THE GUILT PHASE AND LISTEN TO  
4 THE TESTIMONY AND SEE IF THE STATE HAS PROVEN THEIR CASE  
5 BEYOND A REASONABLE DOUBT? OR IS YOUR OPINION SO STRONG  
6 THAT YOU COULD NOT DO THAT? I'M NOT TALKING ABOUT THE  
7 PENALTY PHASE, TALKING ABOUT THE GUILT PHASE.

8 A I STILL SAY IT WOULD BE VERY HARD FOR ME TO DO THAT.  
9 HARD FOR ANYBODY TO INTRODUCE ANY KIND OF INFORMATION TO  
10 ME TO CHANGE MY MIND.

11 Q WOULD IT BE THE SAME DIFFICULTY IN THE SENTENCING  
12 PHASE? SO, YOU MADE UP YOUR MIND HE SHOULD RECEIVE DEATH  
13 BASED ON WHAT YOU KNOW PRIOR TO TODAY; IS THAT CORRECT OR  
14 INCORRECT?

15 A I'M NOT SURE IF I'M ANSWERING YOUR QUESTION CORRECTLY  
16 ON THIS OR NOT. WHAT I CAN TELL YOU IS THIS. I HAVEN'T  
17 GIVEN A THOUGHT ONE WAY OR THE OTHER WHETHER HE SHOULD GET  
18 THE DEATH PENALTY OR LIFE IN PRISON; BUT I BELIEVE IN  
19 RESPONSIBILITY AND ACCOUNTABILITY, AND HE NEEDS TO BE HELD  
20 ACCOUNTABLE.

21 Q I THINK EVERYBODY HERE WOULD AGREE WITH THAT. MY  
22 QUESTION IS HAVE YOU ALREADY MADE UP YOUR MIND AS TO LIFE  
23 VERSUS -- DEATH VERSUS LIFE?

24 A YES. NOW I PROBABLY HAVE, YES.

25 Q HOW HAVE YOU MADE UP YOUR MIND?



1 A I WOULD SAY PROBABLY IF I HAD TO MAKE UP MY MIND  
2 BASED ON WHAT I KNOW TODAY, I WOULD SAY DEATH PENALTY.

3 THE COURT: ANYBODY HAVE ANYTHING, ANYBODY HAVE ANY  
4 ARGUMENTS AS TO THE MOTION I'M SURE THE DEFENSE WILL MAKE?

5 MR. MAULDIN: MOTION.

6 MS. STROM: NO, SIR.

7 THE COURT: THE MOTION ON BEHALF OF THE DEFENDANT  
8 WILL BE GRANTED.

9 THE COURT: MR. COX, I WANT TO THANK YOU FOR BEING  
10 HERE AND BEING HONEST WITH THE COURT. AND I APPRECIATE  
11 YOUR VIEWPOINTS AND I UNDERSTAND WHERE YOU'RE COMING FROM.  
12 THEY'RE NOT NECESSARILY WRONG, BUT FOR THIS PARTICULAR  
13 JURY I'M GOING TO HAVE TO FIND YOU NOT QUALIFIED BECAUSE  
14 OF YOUR PRIOR KNOWLEDGE OF THE FACTS.

15 A OKAY.

16 Q AND I WISH YOU LUCK IN ALL YOUR ENDEAVORS. I DON'T  
17 KNOW HOW YOU KEEP UP WITH ALL OF IT.

18 A I DO APPRECIATE. THANK YOU VERY MUCH.

19 THE COURT: THANK YOU VERY MUCH FOR BEING HERE.

20 PROSPECTIVE JUROR: SURE.

21 THE COURT: OKAY.

22 (PROSPECTIVE JUROR LAVERTY ENTERS COURTROOM)

23 JAMES LAVERTY, (WHITE  
24 MALE), HAVING BEEN PREVIOUSLY DULY SWORN, TESTIFIED AS  
25 FOLLOWS:

## EXAMINATION

BY THE COURT:

Q DO YOU RECALL FILLING OUT THIS QUESTIONNAIRE?

A I DO.

Q WOULD YOU MIND TAKING IT, PLEASE, SIR?

A ALL RIGHT.

Q WHEN YOU FILLED IT OUT, WAS IT ACCURATE?

A YES, IT WAS.

Q MR. LAVERTY, I'M GOING TO ASK YOU A FEW QUESTIONS.

THERE'S NO RIGHT OR WRONG ANSWER. OKAY?

A OKAY.

Q ANSWER THE QUESTIONS THE BEST YOU CAN. GIVE ME YOUR  
OPINION. THE ATTORNEYS MAY ASK YOU SOME QUESTIONS. OKAY?

AND ANSWER THE QUESTIONS TRUTHFULLY. COULD YOU DO THAT?

A OF COURSE.

Q CAN YOU DO THAT?

A SURE CAN.

Q WOULD YOU MIND TURN TO THE -- TURNING TO PAGE TEN.

BEFORE I GET TO THAT, LET ME TELL YOU THIS. THE DEFENDANT  
IN THIS CASE IS CHARGED WITH MURDER AND KIDNAPPING. AND

IT OCCURRED ON SEPTEMBER 3 2003 AT A BI-LO HERE IN TOWN.

HAVE YOU HEARD ANYTHING ABOUT THIS CASE?

A NO, ACTUALLY I HAVEN'T.

Q YOU HEAR -- WHEN IT OCCURRED, DID YOU SEE ANYTHING ON  
TELEVISION?

1 A I DIDN'T EVEN LIVE HERE THEN.

2 Q YOU DIDN'T EVEN LIVE THERE THEN?

3 A NO, 2003 YOU SAID?

4 Q 2003.

5 A NO, I MOVED HERE AT THE END OF, THE END OF 2003.

6 Q NOW, IF YOU WOULD LOOK AT QUESTION NUMBER 64 ON PAGE  
7 TEN.

8 A UH-HUH.

9 Q YOU SAID IN RESPONSE TO THE QUESTION "DESCRIBE YOUR  
10 ATTITUDES AND BELIEFS CONCERNING CAPITAL PUNISHMENT."

11 "I HAVE NOT COME TO A FIRM CONCLUSION, BUT IN GENERAL  
12 I DO NOT BELIEVE ANYONE HAS THE RIGHT TO TAKE THE LIFE  
13 FROM ANOTHER."

14 THEN ON THE NEXT PAGE, ON PAGE 11, THE QUESTION 68  
15 WITH REFERENCE TO THE DEATH PENALTY, YOU SAID, "ALTHOUGH I  
16 DO NOT BELIEVE THE DEATH PENALTY EVER OUGHT TO BE IMPOSED,  
17 AS LONG AS THE LAW PROVIDED FOR IT, I COULD VOTE TO IMPOSE  
18 IT IF I BELIEVED IT WAS WARRANTED IN A PARTICULAR CASE,  
19 DEPENDING ON THE EVIDENCE, THE LAW, AND WHAT I LEARNED  
20 ABOUT THE DEFENDANT." WHAT YOU SAID EARLIER, "I WOULD  
21 HAVE TO BE TOTALLY CONVINCED THIS IS THE RIGHT THING TO  
22 DO. THIS WOULD NOT BE EASY AT ALL."

23 IS THAT STILL YOUR OPINION TODAY --

24 A SURE.

25 Q -- REGARDING THE DEATH PENALTY?

1 A UH-HUH.

2 Q I'M GOING TO EXPLAIN TO YOU THE PROCESS WE'LL GO  
3 THROUGH AND THEN GO BACK TO YOUR ANSWERS ON THE DEATH  
4 PENALTY. THE CASE WILL BE DIVIDED UP INTO TWO PARTS, TWO  
5 PHASES. THE FIRST PHASE IS GENERALLY REFERRED TO AS THE  
6 GUILT PHASE, THE SECOND AS THE SENTENCING PHASE. IN THE  
7 FIRST PHASE THE STATE WOULD BE REQUIRED TO PROVE THE  
8 DEFENDANT GUILTY BEYOND A REASONABLE DOUBT. DO YOU  
9 UNDERSTAND?

10 A YES. YES.

11 Q LET'S ASSUME THE JURY AGREES THE DEFENDANT IS GUILTY  
12 BEYOND A REASONABLE DOUBT, ALL 12 JURORS AGREE.

13 A OKAY.

14 Q AT THAT POINT IN TIME THE JURY HAS CONVICTED THE  
15 DEFENDANT OF MURDER AND KIDNAPPING. DO YOU UNDERSTAND?

16 A UH-HUH.

17 Q NOW, WE WILL GO TO THE SECOND PHASE, WHICH IS THE  
18 PENALTY PHASE. IN THE PENALTY PHASE THE JURY IS  
19 RESPONSIBLE TO DECIDE WHETHER THE DEFENDANT SHOULD RECEIVE  
20 LIFE OR DEATH. DO YOU UNDERSTAND?

21 A I THINK SO.

22 Q NOW, IN THE SECOND PHASE OR THE PENALTY PHASE THE  
23 STATE WOULD BE OBLIGATED TO PROVE TO THE JURY CERTAIN  
24 AGGRAVATING CIRCUMSTANCES. NOW, THESE AGGRAVATING  
25 CIRCUMSTANCES ARE SET OUT BY STATUTE. HE WOULD HAVE TO

1 PROVE -- THE STATE WOULD HAVE TO PROVE THOSE BEYOND A  
2 REASONABLE DOUBT.

3 A OKAY.

4 Q AND THE PURPOSE OF THAT WOULD BE TO CONVINCE THE JURY  
5 THAT THE DEFENDANT SHOULD RECEIVE DEATH. DO YOU  
6 UNDERSTAND?

7 A UH-HUH. YES.

8 Q NOW, BASED UPON YOUR VIEWPOINTS AS EXPRESSED IN YOUR  
9 QUESTIONNAIRE CONCERNING THE DEATH PENALTY, COULD YOU GIVE  
10 MEANINGFUL CONSIDERATION TO DEATH BASED UPON WHAT YOU  
11 HEARD IN THE FIRST PHASE AND WHAT YOU HEARD IN THE SECOND  
12 PHASE, CONSIDERING THE AGGRAVATING CIRCUMSTANCES, ASSUMING  
13 THE DEFENDANT DID NOT TESTIFY -- AND THE DEFENDANT DOES  
14 NOT HAVE TO TESTIFY. HE HAS THAT RIGHT. AND THE COURT  
15 WILL INSTRUCT YOU HE HAS THAT RIGHT, YOU CAN'T TAKE THAT  
16 INTO CONSIDERATION. IT'S UNDER THE FIFTH AMENDMENT OF THE  
17 CONSTITUTION, SELF-INCRIMINATION. ASSUMING THE DEFENDANT  
18 DIDN'T OFFER ANYTHING. THE ONLY THING THE STATE OFFERED  
19 IN FIRST PHASE, AGGRAVATING CIRCUMSTANCES IN THE SECOND  
20 PHASE. COULD YOU GIVE MEANINGFUL CONSIDERATION TO DEATH  
21 UNDER THOSE CIRCUMSTANCES?

22 A YEAH, BASED ON THE CIRCUMSTANCES.

23 Q YOU COULD LOOK AT THE CIRCUMSTANCES. COULD YOU WAIT  
24 UNTIL YOU HEARD EVERYTHING IN THE FIRST PHASE AND  
25 EVERYTHING IN THE SECOND PHASE BEFORE YOU MADE UP YOUR

1 MIND AS TO DEATH OR LIFE?

2 A OH, DEFINITELY.

3 Q NOW, THE LAW PRESUMES LIFE. WHEN I SAY LIFE, I MEAN  
4 LIFE WITHOUT PAROLE.

5 A OKAY.

6 Q THE INDIVIDUAL WOULD DIE IN JAIL.

7 A UH-HUH.

8 Q NOW, LET'S ASSUME THAT THE -- LET ME BACK UP. YOU  
9 SAID YOU COULD GIVE MEANING CONSIDERATION TO DEATH. COULD  
10 YOU ALSO GIVE MEANINGFUL CONSIDERATION TO LIFE?

11 A I CERTAINLY CAN.

12 Q LET ME GIVE YOU THE SCENARIO THAT THE DEFENDANT  
13 OFFERS, WHAT WE REFER TO AS MITIGATING CIRCUMSTANCES IN  
14 THE SECOND PHASE, THE PENALTY PHASE. MITIGATING  
15 CIRCUMSTANCES WOULD BE REASONS THAT THE DEFENDANT WOULD  
16 OFFER TO THE JURY AS TO WHY THE JURY SHOULD NOT GIVE  
17 DEATH, THEY SHOULD GIVE LIFE. COULD YOU GIVE MEANINGFUL  
18 CONSIDERATION TO LIFE UNDER THOSE CONDITIONS?

19 A UH-HUH. YES.

20 Q COULD YOU GIVE MEANINGFUL CONSIDERATION TO DEATH?

21 A UNDER THE SAME CIRCUMSTANCES?

22 Q UNDER THE SAME OR SIMILAR CIRCUMSTANCES. YES OR NO?

23 A YES.

24 BY MS. STROM:

25 Q IT'S MR. LAVERLY?

1 A LAVERTY.

2 Q LAVERTY. I'M SORRY. FIRST OF ALL, MY NAME IS BETTY  
3 STROM, THE DEPUTY SOLICITOR HERE IN GREENVILLE AND PICKENS  
4 COUNTY. WHAT THAT IS, IT'S KNOWN TO OTHER STATES AS THE  
5 DISTRICT ATTORNEY. AND I, ALONG WITH MARK MOYER AND  
6 SOLICITOR ARIAIL ARE REPRESENTING THE STATE.

7 A OKAY.

8 Q I KNOW THE JUDGE HAS TALKED TO YOU ABOUT THE TWO  
9 PHASES AND I SORT OF LOOK AT THEM AS TWO BOXES. ONE BOX  
10 WHERE YOU DETERMINE WHETHER THE DEFENDANT COMMITTED THE  
11 CRIME. DID HE COMMIT THE ACT OF MURDER? AND IN SOUTH  
12 CAROLINA MURDER IS THE INTENTIONAL KILLING OF ANOTHER  
13 PERSON WITH MALICE AFORETHOUGHT, WHICH HAS SOME SENSE OF  
14 PREMEDITATION BUT DOESN'T HAVE TO BE PLANNED OUT  
15 LONG-TERM. IT CAN BE INSTANTANEOUS. OKAY?

16 A OKAY.

17 Q THAT'S MURDER, AN INTENTIONAL KILLING WITH MALICE  
18 AFORETHOUGHT. THAT'S WHAT YOU'RE GOING TO HEAR ABOUT IN  
19 THE FIRST PHASE, DID THE DEFENDANT DO IT. AND JURY  
20 DECIDES, YES OR NO. JURY DECIDED, NO, HE DIDN'T DO IT, IT  
21 ENDS. THE JURY DECIDES, YES, HE DID COMMIT THE CRIME  
22 BEYOND A REASONABLE DOUBT, THEN WE GO TO THE SECOND PHASE  
23 AS TO WHAT SENTENCE SHOULD BE IMPOSED.

24 AND IN THAT PHASE YOU HEAR ADDITIONAL EVIDENCE FROM  
25 THE STATE AS THE JUDGE DESCRIBED IT, EVIDENCE IN

1 AGGRAVATION, THINGS THAT WOULD TEND TO CONVINCE YOU TO  
2 GIVE DEATH. THE DEFENSE COULD OFFER, THOUGH, THEY'RE NOT  
3 REQUIRED TO, EVIDENCE OF MITIGATION, THOSE THINGS WHICH  
4 MAY CONVINCE THE JURY TO GIVE LIFE. OKAY?

5 WHAT I'M SEEING FROM YOUR QUESTIONNAIRE AND YOUR  
6 ANSWERS, AND PLEASE CORRECT ME IF I'M WRONG, IF I SAY  
7 SOMETHING YOU DON'T BELIEVE, YOU TELL ME.

8 A THAT'S OKAY.

9 Q YOUR GENERAL VIEW, I THINK YOU SAID WAS THAT YOU WERE  
10 OPPOSED IN GENERAL. I DO NOT BELIEVE ANYONE HAS THE RIGHT  
11 TO TAKE THE LIFE OF ANOTHER. OKAY.

12 A OKAY.

13 Q TELL ME WHERE THAT BELIEF COMES FROM.

14 A JUST BASED ON BIBLE AND, YOU KNOW, STRONG CHRISTIAN  
15 PRINCIPLES.

16 Q STRONG CHRISTIAN PRINCIPLES OF NOT TO TAKE THE LIFE  
17 OF ANOTHER?

18 A UH-HUH. IT'S FOR GOD TO TAKE OR GIVE LIFE.

19 Q OKAY. I KNOW THE JUDGE TALKED TO YOU IN SOME DETAIL  
20 ABOUT GIVING MEANINGFUL CONSIDERATION TO BOTH THE DEATH  
21 PENALTY, IMPOSING A DEATH SENTENCE AND LIFE IMPRISONMENT.

22 A RIGHT.

23 Q IF YOU WERE IN THAT SECOND PHASE WHERE YOU'VE ALREADY  
24 CONVICTED SOMEONE OF MURDER, NOW YOU'RE TRYING TO DECIDE  
25 WHAT PENALTY TO IMPOSE. I KNOW YOU SAID YOU COULD GIVE



1 MEANINGFUL CONSIDERATION TO DEATH. COULD YOU ACTUALLY  
2 VOTE TO IMPOSE DEATH?

3 A IT WOULD BE DIFFICULT. BUT I THINK GIVEN THE RIGHT  
4 CIRCUMSTANCES, I WOULDN'T SAY NO, I'M TOTALLY AGAINST IT.

5 Q SO, YOU'RE NOT TOTALLY AGAINST IT, YOU WOULD JUST  
6 NEED THE FACTS AND CIRCUMSTANCES THERE TO SUPPORT IT?

7 A CORRECT. UH-HUH.

8 Q ALL RIGHT.

9 A IT'S A SERIOUS THING.

10 Q I KNOW, IT'S VERY SERIOUS. WE'RE ASKING YOU SERIOUS  
11 QUESTIONS WITHIN A MATTER OF A FEW MINUTES.

12 A I THOUGHT ABOUT IT OFF AND ON A FEW -- OVER THE  
13 YEARS. BUT SINCE I FILLED OUT QUESTIONNAIRE, I THOUGHT  
14 ABOUT IT A LITTLE MORE SINCE I KNEW IT WOULD COME TO THIS  
15 POINT.

16 Q HAVE YOU DISCUSSED YOUR OPINIONS WITH OTHERS?

17 A NO.

18 Q JUST SOMETHING YOU BEEN THINKING ABOUT?

19 A RIGHT.

20 Q I KNOW YOU SAID YOU COULD VOTE FOR IT IF THE FACTS  
21 WARRANTED THE DEATH PENALTY. IF YOU, ALONG WITH ALL YOUR  
22 11 OTHER JURORS, CAME TO THAT DECISION, ONE OF THE THINGS  
23 IN SOUTH CAROLINA IS, WHEN A JURY MAKES A DETERMINATION AS  
24 TO THE SENTENCE TO BE IMPOSED, IF THEY DECIDE THE DEATH  
25 PENALTY IS THE APPROPRIATE PENALTY, THEY HAVE TO SIGN

1       THEIR NAME TO THE VERDICT FORM. HAS 12 LINES ON IT, EACH  
2       JUROR MUST SIGN HIS OR HER NAME TO THAT FORM.

3       A       UH-HUH.

4       Q       MY QUESTION TO YOU IS, AFTER YOU WERE IN THE  
5       DELIBERATION ROOM, THE JURY ROOM, AND YOU ALL HAVE MADE  
6       THAT DECISION TO IMPOSE THE DEATH PENALTY, COULD YOU SIGN  
7       YOUR NAME TO THAT FORM?

8       A       IF I MADE THE DECISION, YES.

9       Q       THE MERE FACT OF HAVING TO SIGN YOUR NAME WOULD NOT  
10      IMPAIR YOUR ABILITY TO --

11      A       NO.

12      Q       -- DECIDE THE APPROPRIATE PUNISHMENT?

13      A       NO.

14      Q       OKAY.

15            MS. STROM: MY UNDERSTANDING AT THIS POINT WE'RE ONLY  
16      QUESTIONING ON THAT ISSUE?

17            THE COURT: RIGHT. MR. MAULDIN?

18            MR. MAULDIN: JUST AS TO DEATH PENALTY, YOUR HONOR?

19      Q       MR. LAVERTY, I'M JOHN MAULDIN, PUBLIC DEFENDER. THIS  
20      IS MY CLIENT, CHRIS WILLIAMS. THE JUDGE WILL TALK TO YOU  
21      IN A FEW MINUTES ABOUT WHO THE PEOPLE ARE, WHETHER YOU  
22      KNOW EACH OTHER. YOU AND I DON'T KNOW EACH OTHER?

23      A       NO.

24      Q       I HAVE A COUPLE OF QUESTIONS. THE PROSECUTOR WAS  
25      ASKING YOU ABOUT THAT SECOND PHASE WHERE THE PERSON HAS

1 ALREADY BEEN CONVICTED OF A MURDER WITH AGGRAVATING  
2 EVIDENCE?

3 A UH-HUH.

4 Q AND YOU'RE IN THE DELIBERATION ROOM AND HEARD TALK  
5 ABOUT -- YOU HEARD ALL THE TESTIMONY AT THE SECOND PHASE  
6 AND YOU'RE TRYING TO DECIDE, SHOULD I IMPOSE LIFE  
7 IMPRISONMENT WITHOUT PAROLE? LIFE, DIE IN PRISON.

8 A UH-HUH.

9 Q OR SHOULD I IMPOSE THE DEATH PENALTY. AND THAT WOULD  
10 BE WHAT THE CONVERSATION IN THAT SECOND DELIBERATION WAS  
11 ABOUT. MISS STROM ASKED YOU ABOUT WHETHER OR NOT YOU  
12 COULD SIGN THE FORM IF ALL 12 AGREED ON THE DEATH PENALTY.  
13 AND YOU SAID, "YES." AND I WANT TO ASK YOU A COUPLE OF  
14 FOLLOW UP.

15 A SURE.

16 Q LET'S SAY THAT AFTER YOU HAD -- YOU ALREADY HEARD THE  
17 FIRST PHASE, ALREADY HAD A CONVICTION, ALREADY HEARD THE  
18 AGGRAVATING EVIDENCE, ALREADY HEARD THE MITIGATING  
19 EVIDENCE. YOU HEARD EVERYBODY SAY EVERYTHING ABOUT THE  
20 CASE, BEEN DELIBERATING A LONG TIME. EVERYBODY IN THE  
21 ROOM HAS TO HAVE THEIR SAY ABOUT HOW THEY FEEL; AND IT'S  
22 TIME TO VOTE. AND THE VOTE GOES AROUND AND IT'S TEN TO  
23 TWO, OR ELEVEN TO ONE, A HEAVY MAJORITY. LET'S SAY YOU  
24 GOT 11 PEOPLE ON ONE SIDE, IT DOESN'T MATTER WHICH PENALTY  
25 WE'RE TALKING ABOUT FOR PURPOSES OF MY QUESTION. ELEVEN

1 PEOPLE SAY ONE PENALTY AND YOU SAY --

2 A MINORITY, I'M IN MINORITY?

3 Q -- IN OTHER WORDS, YOU'RE A SMALL MINORITY.

4 A UH-HUH.

5 Q BUT IT'S A LIFE AND DEATH ISSUE AND YOU'VE  
6 DELIBERATED FULLY. IT'S NOT LIKE YOU JUST SAY VOTE. IN  
7 OTHER WORDS, YOU LOOKED AT EVERYTHING, LISTENED TO  
8 EVERYBODY. AND YOU'VE MADE A PERSONAL DECISION THAT YOU  
9 BELIEVE THIS PENALTY IS THE RIGHT ONE, 11 PEOPLE SAY  
10 OTHERWISE. WOULD YOU GO TO THE OTHER PENALTY JUST TO MAKE  
11 IT UNANIMOUS, OR WOULD YOU STAY WITH YOUR VIEW?

12 A NO, I WOULD STAY WITH MY VIEW.

13 Q CONVERSELY, IF YOU WERE IN THAT GROUP OF TEN OR  
14 ELEVEN AND SOMEONE ELSE WAS OVER HERE SAYING, "I DON'T  
15 WANT TO DO THAT, THIS IS TOO IMPORTANT," WOULD YOU RESPECT  
16 THAT PERSON'S MINORITY VIEW?

17 A YES, I WOULD.

18 Q ALL RIGHT. I BELIEVE THAT'S ALL. I BELIEVE THAT'S  
19 ALL. HOLD ON. IS THAT IT? ALL RIGHT. THANK YOU. THANK  
20 YOU, SIR. ON THAT ISSUE.

21 BY THE COURT:

22 Q LET ME ASK YOU A FEW MORE QUESTIONS. DO YOU KNOW OF  
23 ANY PHYSICAL OR MENTAL REASON YOU CAN'T SERVE ON THIS  
24 JURY.

25 A NO, SIR.

1 Q ANY MENTAL REASONS?

2 A NO.

3 Q ANY PHYSICAL, PERSONAL HARDSHIPS?

4 A JUST A COUPLE OF WEEKS.

5 Q DON'T -- I DON'T THINK BE A COUPLE OF WEEKS.

6 A NO. BUT I WORKED IT OUT, IT'S ALL RIGHT.

7 Q THE VICTIM IN THE CASE IS MARANDA WILLIAMS, DO YOU  
8 KNOW HER?

9 A NO.

10 Q DO YOU KNOW MR. CHARLES CHRISTOPHER WILLIAMS, WHO  
11 SITS TO MY RIGHT WITH THE SWEATER ON?

12 A NO.

13 Q THE ATTORNEYS REPRESENTING THE DEFENDANT ARE  
14 MR. MACDOUGALL, COLLEEN COYLE, MR. NETTLES, AND THE PUBLIC  
15 DEFENDER, MR. MAULDIN. DO YOU KNOW ANY OF THEM?

16 A NO, I DON'T.

17 Q THE SOLICITOR JUST WALKED OUT OF THE COURTROOM. DO  
18 YOU KNOW HIM, THE TALL GENTLEMAN THAT WAS THERE FOR A FEW  
19 MINUTES?

20 A NO.

21 Q DO YOU KNOW EITHER OF THE TWO ASSISTANT SOLICITORS  
22 SITTING AT THE TABLE?

23 A NO.

24 Q YOU KNOW ANYONE AT THE SOLICITOR'S OFFICE?

25 A NO.

1 Q I'M GOING TO HAND YOU A WITNESS LIST. WOULD YOU LOOK  
2 AT THAT WITNESS LIST AND SEE IF YOU RECOGNIZE ANY NAMES?

3 A NO, I DON'T.

4 Q LET ME GIVE YOU A SECOND LIST AND SEE IF YOU  
5 RECOGNIZE ANY NAMES ON THAT LIST.

6 A NO, I DON'T.

7 Q I'M GOING TO READ A QUESTION TO YOU, ASK YOU TO  
8 RESPOND PLEASE, SIR. IN THIS CASE THE DEFENDANT IS BLACK  
9 AND THE VICTIM IS WHITE. IT IS UNDISPUTED THE BLACK  
10 DEFENDANT AND WHITE VICTIM ENGAGED IN INTERRACIAL DATING.  
11 WOULD THE FACT THAT THE BLACK DEFENDANT AND WHITE VICTIM  
12 ENGAGED IN INTERRACIAL DATING MAKE IT DIFFICULT FOR YOU TO  
13 BE FAIR TO EITHER THE STATE OR THE DEFENDANT?

14 A NO.

15 Q CAN YOU BE FAIR TO BOTH THE STATE AND THE DEFENDANT  
16 IN THIS CASE?

17 A YES, I COULD.

18 Q CAN YOU BASE YOUR DECISION ON THE TESTIMONY YOU HEAR  
19 FROM THE WITNESS STAND IN THE COURTROOM AND THE EVIDENCE  
20 AS PRODUCED IN THE COURTROOM, NOT ANYTHING OUTSIDE THE  
21 COURTROOM?

22 A YES, I CAN.

23 Q ALL RIGHT. ANY FURTHER QUESTIONS FROM THE STATE?

24 MS. STROM: VERY BRIEFLY, YOUR HONOR.

25 THE COURT: YES, MA'AM. IN LOOKING OVER YOUR

1 QUESTIONNAIRE I SAW THAT YOU HAVE SOME FAMILY MEMBERS WHO  
2 WERE IN LAW ENFORCEMENT OR ARE IN LAW ENFORCEMENT.

3 A WELL, A LONG TIME AGO, NOT AROUND HERE.

4 Q RIGHT. IT WAS ALL UP IN NEW YORK?

5 A RIGHT. MY UNCLE, WHO IS DEAD; AND ANOTHER UNCLE WHO  
6 IS DEAD.

7 Q WOULD THE FACT YOU'VE HAD FAMILY MEMBERS IN LAW  
8 ENFORCEMENT, WOULD THAT IN ANY WAY AFFECT YOUR ABILITY TO  
9 BE FAIR AND IMPARTIAL TO EITHER THE STATE OR THE  
10 DEFENDANT?

11 A NO.

12 Q AND I ALSO SAW THAT YOU YOURSELF, YOUR HOUSE WAS  
13 ROBBED?

14 A YEAH.

15 Q AND THAT, AGAIN, WAS THAT HERE OR ELSEWHERE?

16 A IN BRAZIL.

17 Q IN BRAZIL. WOULD THE FACT YOU WERE THE VICTIM OF A  
18 CRIME, WOULD THAT IN ANY WAY AFFECT YOUR ABILITY TO BE  
19 FAIR AND IMPARTIAL TO EITHER THE STATE OR TO THE  
20 DEFENDANT?

21 A NO.

22 Q AND, FINALLY, YOUR QUESTIONNAIRE YOU FILLED IT OUT  
23 VERY COMPLETELY. YOU PUT IN THERE ABOUT YOUR DAD WAS A  
24 VOLUNTEER IN THE PRISON MINISTRIES?

25 A HE IS.

1 Q HE IS NOW?

2 A UH-HUH.

3 Q DO YOU IN ANY WAY ASSIST HIM IN THAT OR HAVE YOU --  
4 OR INVOLVED IN THAT WHATSOEVER?

5 A NO, NOT WITH HIM, IT'S BEEN IN JUVENILE PRISONS AS A  
6 VOLUNTEER, AS A MISSIONARY GOING IN JUST SITTING WITH THE  
7 KIDS TALKING TO THEM, TRYING TO HELP THEM ON A SPIRITUAL  
8 LEVEL.

9 Q SO, THAT IS RELIGIOUS BASED?

10 A UH-HUH. BUT THAT WAS IN BRAZIL, NOTHING CONNECTED  
11 WITH MY DAD.

12 Q SO, SEPARATELY YOU HAVE BEEN INVOLVED IN WHAT WE  
13 CONSIDER PRISON MINISTRIES?

14 A YES.

15 Q WOULD THAT IN ANY WAY AFFECT YOUR ABILITY TO GIVE  
16 FAIR CONSIDERATION TO THE STATE'S REQUEST IN BOTH THE  
17 GUILT PHASE AND THE PENALTY PHASE? WOULD THAT AFFECT YOUR  
18 ABILITY TO FAIRLY CONSIDER OUR REQUEST?

19 A NO.

20 Q NOT AT ALL?

21 A NO.

22 Q MR. MAULDIN, YOU HAVE ANY QUESTIONS?

23 MR. MAULDIN: NO QUESTIONS.

24 THE COURT: ARE THERE ANY MOTIONS?

25 MS. STROM: NO, SIR.



1 MR. MAULDIN: NO, SIR.

2 THE COURT: ALL RIGHT. MR. LAVERTY, WE'RE GOING TO  
3 PULL 43 JURORS. FROM THAT WE WILL DRAW 12 JURORS AND FOUR  
4 ALTERNATES. YOU'RE PART OF THAT GROUP. THE BAILIFF WILL  
5 GIVE YOU A SLIP OF PAPER. ON THAT SLIP OF PAPER IS A  
6 PHONE NUMBER. CALL THAT NUMBER TONIGHT. THERE WILL BE A  
7 MESSAGE ON THERE, TELL YOU TO CALL BACK TOMORROW NIGHT OR  
8 BE HERE IN THE AFTERNOON. BUT CALL BACK.

9 A TONIGHT?

10 Q TONIGHT. DON'T TALK TO ANYBODY ABOUT THE CASE, READ  
11 ANYTHING IN THE PAPER, DON'T WATCH ANYTHING ON TV. OKAY?

12 A YES, SIR.'

13 Q THANK YOU VERY MUCH.

14 PROSPECTIVE JUROR: HAVE A GOOD DAY.

15 THE COURT: CAN WE BRING KENNY WILLIAMS? BEFORE HE  
16 GETS HERE -- BE LAST JUROR FOR THE NIGHT.

17 (PROSPECTIVE JUROR ENTERS COURTROOM.)

18 THE COURT: MR. WILLIAMS, HOW YOU DOING TODAY?

19 PROSPECTIVE JUROR: FINE, SIR. THANK YOU.

20 THE COURT: THAT'S GOOD. DO YOU REMEMBER FILLING OUT  
21 THIS QUESTIONNAIRE EITHER LAST MONTH OR THE MONTH BEFORE  
22 LAST?

23 PROSPECTIVE JUROR: YES, I DO, SIR.

24 THE COURT: WOULD YOU TAKE IT, PLEASE, SIR?

25 PROSPECTIVE JUROR: YES, SIR.

1 THE COURT: ALL RIGHT. I'M GOING TO ASK YOU SOME  
2 QUESTIONS. THERE'S NO RIGHT OR WRONG ANSWERS, JUST ANSWER  
3 THE BEST YOU CAN. OKAY?

4 PROSPECTIVE JUROR: YES, SIR.

5 THE COURT: AND BE TRUTHFUL WITH YOUR ANSWERS.

6 KENNY WILLIAMS, (BLACK  
7 MALE), HAVING BEING PREVIOUSLY DULY SWORN, TESTIFIED AS  
8 FOLLOWS:

9 EXAMINATION

10 BY THE COURT:

11 Q WOULD YOU TURN TO PAGE 64?

12 A YES, SIR.

13 Q SAYS "BRIEFLY DESCRIBE YOUR ATTITUDES AND BELIEFS  
14 CONCERNING CAPITAL PUNISHMENT."

15 YOU SAID, "IF AFTER ALL THE EVIDENCE HAS BEEN  
16 CAREFULLY EVALUATED, LET THE PUNISHMENT FIT THE CRIME."

17 A YES, SIR.

18 Q IS THAT STILL YOUR OPINION HERE TODAY?

19 A YES, SIR.

20 Q ALL RIGHT. LET ME EXPLAIN TO YOU THE PROCESS THAT  
21 WE'RE GOING TO GO THROUGH. OKAY?

22 A YES, SIR.

23 Q THE DEFENDANT IN THIS CASE IS CHARGED WITH MURDER AND  
24 KIDNAPPING. DO YOU UNDERSTAND?

25 A YES.

1 Q NOW, THE TRIAL WILL BE DIVIDED UP INTO TWO PARTS.  
2 THERE WILL BE A FIRST PHASE AND A SECOND PHASE. THE FIRST  
3 PHASE IS REFERRED TO AS THE GUILT PHASE. OKAY?

4 A YES.

5 Q NOW, IN THAT PHASE THE STATE WILL BE REQUIRED TO COME  
6 BEFORE THE JURY, CONVINCE THE JURY BEYOND A REASONABLE  
7 DOUBT THAT THE DEFENDANT IS GUILTY OF MURDER AND  
8 KIDNAPPING. YOU UNDERSTAND?

9 A YES, SIR.

10 Q THE DEFENDANT DOES NOT HAVE TO TESTIFY, THE DEFENDANT  
11 DOES NOT HAVE TO PROVE HIS INNOCENCE. IT'S THE  
12 RESPONSIBILITY OF THE STATE TO PROVE THE DEFENDANT GUILTY  
13 BEYOND A REASONABLE DOUBT. DO YOU UNDERSTAND?

14 A YES.

15 Q ALL RIGHT. LET'S ASSUME FOR PURPOSES OF OUR  
16 DISCUSSION AND QUESTIONS THAT ALL 12 JURORS HAVE DECIDED  
17 THAT THE STATE PROVED THE DEFENDANT GUILTY BEYOND A  
18 REASONABLE DOUBT OF MURDER AND KIDNAPPING. THEN YOU WOULD  
19 GO TO A SECOND PHASE. AND THERE WILL BE 24 HOURS IN  
20 BETWEEN THE FIRST AND THE SECOND PHASE BEFORE IT STARTED.  
21 DO YOU UNDERSTAND?

22 A YES.

23 Q NOW, THE SECOND PHASE IS REFERRED TO AS THE PENALTY  
24 PHASE.

25 A I UNDERSTAND.

1 Q YOU UNDERSTAND?

2 A YES.

3 Q NOW, IN THE PENALTY PHASE THE STATE IS REQUIRED TO  
4 PROVE AGGRAVATING CIRCUMSTANCES; THAT IS, AGGRAVATING  
5 CIRCUMSTANCES ARE SET BY STATE LAW. THEY MAY INVOLVE  
6 OTHER CRIMES. I DON'T KNOW WHAT THE AGGRAVATING  
7 CIRCUMSTANCES ARE BECAUSE I HAVEN'T HEARD THE CASE. BUT  
8 THE PURPOSE OF PRESENTING AGGRAVATING CIRCUMSTANCES WILL  
9 BE INFORMATION THAT YOU DID NOT HEAR IN THE FIRST PHASE.  
10 DO YOU UNDERSTAND?

11 A YES.

12 Q AND THE STATE'S REQUIRED TO PROVE THESE AGGRAVATING  
13 CIRCUMSTANCES BEYOND A REASONABLE DOUBT. NOW, LET'S  
14 ASSUME THE JURY AGREES WITH THE STATE THEY HAVE PROVEN  
15 THESE AGGRAVATING CIRCUMSTANCES BEYOND A REASONABLE DOUBT.  
16 OKAY? YOU AGREE WITH THAT?

17 A YES.

18 Q THE JURY DOES.

19 A OKAY.

20 Q NOW, EVEN IF THE JURY BELIEVES THAT, THE JURY STILL  
21 DOES NOT HAVE TO GIVE DEATH, THE JURY CAN GIVE LIFE. DO  
22 YOU UNDERSTAND?

23 A YES.

24 Q THE JURY CAN GIVE LIFE, JUST AS AN ACT OF MERCY.  
25 LIFE MEANS LIFE WITHOUT PAROLE. WHAT I MEAN WHEN I SAY

1 THAT, THE DEFENDANT WILL DIE IN JAIL. HE WILL NEVER BE  
2 ELIGIBLE FOR PAROLE. OKAY?

3 A I UNDERSTAND.

4 Q NOW, THE DEFENDANT DOES NOT HAVE TO OFFER ANY  
5 TESTIMONY IN THAT PHASE, EITHER. IT'S UP TO THE  
6 DEFENDANT. AND I WILL SO INSTRUCT YOU IN THE CHARGE THAT  
7 YOU'RE NOT TO TAKE INTO CONSIDERATION THE FACT THAT THE  
8 DEFENDANT DIDN'T TESTIFY. OKAY?

9 A YES, SIR.

10 Q LET'S ASSUME FOR PURPOSES OF THE QUESTION, THAT THE  
11 DEFENDANT DOES NOT OFFER ANY TESTIMONY. IF, AFTER YOU'VE  
12 HEARD ALL THE FACTS IN THE FIRST PHASE AND ALL THE FACTS  
13 IN THE SECOND PHASE, COULD YOU GIVE MEANINGFUL  
14 CONSIDERATION TO A LIFE SENTENCE?

15 A YES.

16 Q ALL RIGHT. COULD YOU GIVE MEANINGFUL CONSIDERATION  
17 TO THE DEATH?

18 A YES.

19 Q IN YOUR QUESTION ON PAGE 64 YOU SAID, "LET THE  
20 PUNISHMENT FIT THE CRIME." DOES THAT MEAN THAT YOU WOULD  
21 HEAR EVERYTHING BEFORE YOU MADE UP YOUR MIND?

22 A ABSOLUTELY.

23 Q NOW, IF YOU WOULD LOOK AT YOUR QUESTIONNAIRE ON PAGE  
24 11, QUESTION NUMBER 68. DO YOU SEE IT, MR. WILLIAMS?

25 A NOT YET.

1 Q SIXTY-EIGHT.

2 A YES, SIR.

3 Q SIXTY EIGHT SAYS, "WITH REFERENCE TO THE DEATH  
4 PENALTY, WHICH OF THE FOLLOWING STATEMENTS WOULD BEST  
5 REPRESENT YOUR OPINION?" YOU CIRCLE NUMBER ONE?

6 A YES, SIR, I DID.

7 Q IT SAYS, "I BELIEVE THE DEATH PENALTY IS THE  
8 APPROPRIATE FORM OF PUNISHMENT IN ALL MURDER CASES."

9 A YES, SIR, I DID.

10 Q NOW, THAT'S IN CONFLICT WITH WHAT YOU JUST TOLD ME  
11 WHEN I DESCRIBED TO YOU THE PROCESS.

12 A YES, SIR, WHEN YOU DESCRIBED THE PROCESS. YES, SIR.

13 Q WHAT HAS CHANGED AS FAR AS YOUR OPINION WHERE YOU  
14 STATED THE DEATH PENALTY IS APPROPRIATE FORM OF PUNISHMENT  
15 IN ALL MURDER CASES? WHAT'S DIFFERENT NOW THAN WHEN YOU  
16 FILLED THE QUESTIONNAIRE OUT? I GUESS THAT'S THE BEST WAY  
17 TO ASK IT.

18 A I THINK THE WAY YOU EXPLAINED IT TO ME, SIR.

19 Q IN OTHER WORDS, WHAT I'M REALLY SAYING TO YOU,  
20 MR. WILLIAMS, YOUR ANSWER ON 68 REALLY IS INCONSISTENT  
21 WITH YOUR ANSWER ON 64. 64 YOU SAID LET THE PUNISHMENT  
22 FIT THE CRIME, AND IN 68 YOU SAID ON ALL CONDITIONS YOU'D  
23 GIVE THE DEATH PENALTY. THAT'S INCONSISTENT.

24 A SIR, IT SAYS LET THE PUNISHMENT FIT THE CRIME. OKAY.  
25 IF THE CRIME WAS MURDER.

1 Q IT IS MURDER AND IT IS KIDNAPPING.

2 A SO, IN MY OPINION, THAT'S WHY I CHOSE 68.

3 Q OKAY. WILL YOU LOOK AT ANY OF THE OTHER NUMBERS ON  
4 68 AND SEE IF ANY OF THOSE WOULD BE MORE APPLICABLE AFTER  
5 I'VE EXPLAINED TO YOU THE PROCESS. TWO, THREE, FOUR, FIVE  
6 OR SIX BE MORE APPLICABLE?

7 A OKAY. YES, SIR. I THINK TWO PROBABLY WOULD BE A  
8 BETTER CHOICE FOR ME.

9 Q TWO WOULD BE A BETTER CHOICE?

10 A YES, SIR.

11 Q TWO SAYS, "I BELIEVE THE DEATH PENALTY IS THE  
12 APPROPRIATE FORM OF PUNISHMENT IN SOME MURDER CASES AND I  
13 CAN RETURN A VERDICT OF DEATH IF I BELIEVE IT WAS  
14 WARRANTED IN A PARTICULAR CASE, DEPENDING UPON THE  
15 EVIDENCE, THE LAW, AND WHAT I LEARNED ABOUT THE  
16 DEFENDANT." IS THAT CORRECT?

17 A YES, SIR.

18 THE COURT: OKAY. WHO'S TURN ON THIS PARTICULAR  
19 ISSUE? BEFORE WE GO THERE, LET ME ASK ONE MORE QUESTION.  
20 MR. WILLIAMS, THIS OCCURRED SEPTEMBER 3 2003 AT A BI-LO  
21 HERE IN GREENVILLE. HAVE YOU HEARD ANYTHING ABOUT IT,  
22 READ ANYTHING ABOUT IT, OR HEARD ANYBODY TALKING ABOUT IT?

23 A NOT THAT I RECALL, SIR.

24 Q DO YOU REMEMBER WHEN IT OCCURRED, OR DO YOU KNOW  
25 ANYTHING AT ALL ABOUT THE CASE?

1 A NO, SIR.

2 Q OKAY, MR. MAULDIN. LET ME ASK YOU ONE MORE QUESTION  
3 BEFORE YOU START PLEASE, SIR. LET ME READ A QUESTION TO  
4 YOU.

5 A YES, SIR.

6 Q IN THIS CASE THE DEFENDANT IS BLACK AND THE VICTIM IS  
7 WHITE. IT IS UNDISPUTED THAT THE BLACK DEFENDANT AND THE  
8 WHITE VICTIM ENGAGED IN INTERRACIAL DATING. WOULD THE  
9 FACT THAT THE DEFENDANT AND THE VICTIM ENGAGED IN  
10 INTERRACIAL DATING MAKE IT DIFFICULT FOR YOU TO BE FAIR TO  
11 EITHER THE STATE OR THE DEFENDANT?

12 A NO, SIR.

13 THE COURT: OKAY. MR. MAULDIN, ON THOSE THREE  
14 ISSUES. I DON'T THINK PRETRIAL PUBLICITY IS A PROBLEM,  
15 BUT THE DEATH PENALTY ISSUE.

16 MR. MAULDIN: YES, SIR. ONE MOMENT, YOUR HONOR.

17 BY MR. MAULDIN:

18 Q MR. WILLIAMS, MY NAME IS JOHN MAULDIN. I'M THE  
19 PUBLIC DEFENDER AND I REPRESENT CHRIS WILLIAMS. I JUST  
20 HAVE TO TELL YOU NOW I READ YOUR QUESTIONNAIRE. I'M NOT  
21 REAL SURE, SO I WANT TO TRY TO MAKE SURE I KNOW WHERE YOU  
22 REALLY ARE.

23 A OKAY.

24 Q ALL RIGHT. AND I TELL YOU HOW I'M GOING TO DO IT.  
25 YOU GOT ON QUESTION 67, IT SAYS, "HAVE YOU EVER DISCUSSED



1 YOUR OPINIONS ABOUT THE DEATH PENALTY WITH FRIENDS OR  
2 WHATEVER?" AND YOU SAY YOU TALKED ABOUT IT WITH FRIENDS  
3 YEARS AGO. TELL ME WHAT YOU -- IF YOU JUST SAID, "JUDGE,  
4 I'M GOING TO TELL YOU HOW I FEEL ABOUT THE DEATH PENALTY,"  
5 WHAT WOULD YOU TELL HIM? AND THERE ARE NO RIGHT OR WRONG  
6 ANSWERS.

7 A I UNDERSTAND.

8 Q WE JUST NEED TO KNOW HOW YOU FEEL.

9 A IF IT WAS SOMEBODY IN MY FAMILY THAT WAS MURDERED,  
10 THEN MY OPINION WOULD BE, HEY, DEATH PENALTY. AND IF I  
11 DIDN'T KNOW THAT MUCH ABOUT A CASE, JUST JOE BLOW, HE  
12 MURDERED SOMEBODY, IT COULD HAVE BEEN CIRCUMSTANCES I  
13 DIDN'T KNOW ABOUT, I DIDN'T THINK THE STATE WOULD -- I  
14 DIDN'T THINK THE STATE SHOULD JUST GIVE THIS GUY LIFE  
15 WITHOUT PAROLE, CONTINUALLY TO KEEP HIM UP. MY OPINION IS  
16 CERTAIN CASES, TO PUT THEM ON AN ISLAND SOMEWHERE TO FEND  
17 FOR THEMSELVES.

18 Q PUT HIM ON AN ISLAND SOMEWHERE. I DON'T BELIEVE WE  
19 HAVE THAT OPTION IN THIS STATE.

20 A BUT THAT'S THE CONVERSATION WE HAD.

21 Q OKAY. SO I UNDERSTAND NOW YOU HAVE A CONCERN IF IT  
22 WAS SOMEBODY CLOSE TO YOU?

23 A YES.

24 Q AND YOU ALSO HAVE CONCERN, I THINK YOU USED THE TERM  
25 KEEPING THEM UP?

1 A YES, SIR.

2 Q AND WHAT DO YOU MEAN?

3 A LIFE WITHOUT PAROLE. THAT WAS MY OPINION, LIKE THIS  
4 WAS YEARS AGO.

5 Q RIGHT, AND YOU WOULD BE CONCERNED ABOUT KEEPING THEM  
6 UP?

7 A YES, SIR.

8 Q AND THAT I'M ASSUMING, AND I DON'T WANT TO PUT WORDS  
9 IN YOUR MOUTH; BUT I ASSUME YOU'RE TALKING ABOUT THE COST  
10 OF KEEPING THEM UP.

11 A YES, SIR.

12 MR. MAULDIN: JUDGE, WOULD YOU LIKE TO SAY ANYTHING  
13 ABOUT THAT?

14 THE COURT: I THINK HE'S TALKING ABOUT THE  
15 CONVERSATION HE HAD WITH A GENTLEMAN A LONG TIME AGO, NOT  
16 NECESSARILY HOW HE FEELS NOW.

17 Q OKAY. ARE YOUR VIEWS BASICALLY THE SAME NOW AS THEN?

18 A I DON'T THINK SO.

19 Q ALL RIGHT. TELL US WHAT YOUR VIEWS ARE TODAY.

20 A TODAY, AFTER LISTENING TO THE JUDGE, EVERYTHING WOULD  
21 HAVE TO BE CONSIDERED. AND I REALLY DON'T KNOW HOW TO  
22 EXPLAIN IT. BUT AS FAR AS THE DEATH PENALTY GOES, I THINK  
23 THAT IN SPECIAL CIRCUMSTANCES IT SHOULD BE CARRIED OUT.  
24 BUT I GUESS THERE COULD BE SOME CIRCUMSTANCES WHERE YOU  
25 COULD GRANT A LITTLE MERCY AND LIFE WITHOUT PAROLE.

1 Q SO, LET ME SEE IF I HEAR YOU. YOU GOT A FIRST TRIAL,  
2 CONVICTION IN OTHER WORDS, YOU'RE ON THE JURY, YOU HAVE  
3 THAT FIRST TRIAL WHERE YOU HEAR ALL ABOUT THE OFFENSE  
4 ITSELF, THE EVENTS, THE MURDER, THE FACTS, THE WITNESSES,  
5 THE EVIDENCE, THE PICTURES. ALL THAT COMES IN AND THE  
6 JURY GOES IN THE JURY ROOM AND THEY DELIBERATE.. THEY TALK  
7 ABOUT IT AND THEY DECIDE HE'S GUILTY BEYOND A REASONABLE  
8 DOUBT. BEYOND ANY DOUBT HE'S GUILTY.

9 A OKAY.

10 Q YOU COME INTO THE SECOND TRIAL AFTER A 24-HOUR WAIT.

11 A YES.

12 Q COME INTO THE SECOND TRIAL. WHAT I HEAR YOU SAY,  
13 MR. WILLIAMS, IS THAT YOU WOULD WANT TO HEAR EVIDENCE  
14 THAT, FROM THE PROSECUTOR, ABOUT WHY THEY SAY IT'S A DEATH  
15 PENALTY. YOU'D WANT TO ALSO HEAR IF THE DEFENDANT CHOSE  
16 TO PRESENT ANY INFORMATION TO YOU, YOU'D WANT TO KNOW IF  
17 THE LIFE IN PRISON WITHOUT PAROLE WAS APPROPRIATE, EVEN IF  
18 HE'S ALREADY, IT'S BEEN CONVICTED NOW. HE'S TALKING ABOUT  
19 A CONVICTED MURDERER. YOU'D STILL BE WILLING TO SENTENCE  
20 A CONVICTED MURDERER TO LIFE WITHOUT PAROLE; IS THAT  
21 CORRECT?

22 A YES, SIR, IN CERTAIN CIRCUMSTANCES.

23 Q IN CERTAIN CIRCUMSTANCES?

24 A YES, SIR.

25 MR. MAULDIN: YOUR HONOR. I DON'T WANT TO ASK HIM

1 THE CIRCUMSTANCE -- WOULD YOU ASK IF PERHAPS HE COULD  
2 CLARIFY THAT. I DON'T KNOW IF I SHOULD -- I DON'T KNOW IF  
3 THEY SHOULD. HE SAYS JUST UNDER CERTAIN CIRCUMSTANCES  
4 WHICH IS AS BROAD AS IT COULD BE.

5 THE COURT: I'M NOT TO GOING TO GO INTO ANY MORE.  
6 YOU'RE WELCOME TO GO INTO THAT.

7 MS. STROM: YOUR HONOR, I WOULD OBJECT TO THAT  
8 QUESTION.

9 THE COURT: WELL, I HAVEN'T HEARD THE QUESTION YET.

10 MR. MAULDIN: AND IT'S MERELY, ALL I WANTED HIM TO DO  
11 IS EXPLAIN HIS LAST ANSWER. YOU KNOW.

12 THE COURT: MR. WILLIAMS, IF YOU WOULD JUST EXPLAIN  
13 YOUR LAST ANSWER IN YOUR OWN WORDS. OKAY? IF YOU CAN,  
14 THAT'S FINE; IF YOU CAN'T, JUST TELL US.

15 PROSPECTIVE JUROR: IF, IF THAT PERSON IS SOMEHOW  
16 MENTALLY NOT RESPONSIBLE, THEN I COULD SEE LIFE WITHOUT  
17 PAROLE.

18 MR. MAULDIN: ALL RIGHT.

19 THE COURT: I'LL INTERJECT SOMETHING. MR. WILLIAMS,  
20 IF HE WAS NOT MENTALLY RESPONSIBLE WE'D BE TALKING ABOUT  
21 INSANITY. THAT'S NOT AN ISSUE.

22 A OKAY.

23 BY MR. MAULDIN:

24 Q THAT WOULD COME UP IN THE FIRST TRIAL WHEN, YOU KNOW,  
25 WHEN A PERSON CONVICTED OF MURDER WOULD MEAN IT WAS NOT AN

1 ACCIDENT, NOT MANSLAUGHTER, IT WAS NOT INSANITY, BECAUSE  
2 IF IT WAS ANY OF THOSE, HE WOULD HAVE BEEN NOT GUILTY OF  
3 MURDER. DO YOU FOLLOW ME?

4 A YES, SIR.

5 Q NOW, LET'S GET ALL THAT OFF THE TABLE AND LET ME  
6 REPEAT MY QUESTION. IF YOU'RE IN THAT SECOND TRIAL AND  
7 YOU HAVE A PERSON WHO HAS BEEN CONVICTED OF PREMEDITATED  
8 MURDER, CAN YOU SENTENCE HIM IN YOUR HEART OF HEARTS,  
9 SENTENCE HIM TO LIFE WITHOUT PAROLE FOR THE OFFENSE OF  
10 MURDER?

11 A NO.

12 Q IF THE DEFENDANT UNDER THOSE CIRCUMSTANCES OR THE  
13 DEFENSE UNDER THOSE CIRCUMSTANCES ASKS YOU TO GIVE ANY  
14 CONSIDERATION, MEANINGFUL CONSIDERATION TO A SENTENCE OF  
15 LIFE WITHOUT PAROLE FOR A CONVICTED MURDERER, IS THERE ANY  
16 CIRCUMSTANCE UNDER WHICH YOU'D DO THAT?

17 A I DON'T THINK SO.

18 MR. MAULDIN: THANK YOU.

19 THE COURT: SOLICITOR?

20 MS. STROM: YES, SIR.

21 BY MS. STROM:

22 Q MR. WILLIAMS, GOOD EVENING.

23 A HELLO.

24 Q MY NAME IS BETTY STROM, THE DEPUTY SOLICITOR HERE IN  
25 GREENVILLE AND PICKENS COUNTY. THIS IS THE SOLICITOR, BOB

1     ARIAIL, AND ASSISTANT SOLICITOR, MARK MOYER.  SOME OF MY  
2     QUESTIONS MIGHT BE REPETITIVE; BUT I THINK I HEARD  
3     SOMETHING A LITTLE DIFFERENT FROM THE CONVERSATION YOU HAD  
4     WITH THE JUDGE AND DEFENSE COUNSEL.  SO I WANT TO MAKE  
5     SURE WE'RE ALL CLEAR.  THE JUDGE EXPLAINED TO YOU THERE  
6     ARE TWO PHASES.  YOU HAVE THE FIRST PHASE, WHERE YOU  
7     DETERMINE WHETHER THE DEFENDANT COMMITTED THE CRIME.

8     A     RIGHT.

9     Q     AND UNDER THE LAWS AND UNDER THE RULES OF COURT THERE  
10    IS CERTAIN INFORMATION THAT CAN BE BROUGHT IN THAT PHASE.  
11    YOU HEAR ABOUT THE FACTS OF THE CRIME.  YOU HEARD ABOUT  
12    WHAT PHYSICAL EVIDENCE THAT WAS COLLECTED AND THINGS SUCH  
13    AS THAT.

14   A     I UNDERSTAND.

15   Q     HEAR FROM WITNESSES THAT MAY HAVE SEEN IT, HEARD IT,  
16    WHATEVER.  OKAY?  THE JURY MAKES A DETERMINATION WHETHER  
17    THE DEFENDANT IS GUILTY OF MURDER, WHICH IS AN INTENTIONAL  
18    KILLING WITH MALICE AFORETHOUGHT.  WE BEEN THROWING OUT  
19    THIS WORD PREMEDITATION.  YOU MAY HAVE A DIFFERENT  
20    UNDERSTANDING OF WHAT THAT IS.  IN SOUTH CAROLINA MURDER  
21    IS AN INTENTIONAL KILLING WITH MALICE AFORETHOUGHT.

22           NOW, THAT PREMEDITATION DOESN'T HAVE TO BE OVER  
23    WEEKS, OVER HOURS.

24   A     I UNDERSTAND.

25   Q     IT CAN BE RIGHT AT THE MINUTE THE FATAL SHOT IS

1 FIRED. THAT'S MALICE AFORETHOUGHT. OKAY? IT DOESN'T  
2 HAVE TO BE PLANNED OUT IN A, YOU KNOW, LONG-TERM. SO, I  
3 DON'T WANT TO YOU TO GET THE WRONG IDEA ABOUT  
4 PREMEDITATION. THE GENERAL CONCEPT IS IT'S PLANNED OUT  
5 FOR A LONG TIME. THAT'S NOT WHAT THE LAW IS IN THE STATE  
6 OF SOUTH CAROLINA, MALICE AFORETHOUGHT. OKAY?

7 A OKAY.

8 Q YOU'LL HEAR ABOUT THE FACTS IN THAT FIRST PART AND  
9 THE JURY COMES TO A DECISION THAT THE DEFENDANT IS GUILTY  
10 OF MURDER BASED, OKAY, UPON WHAT THEY FOUND IN THE FIRST  
11 PHASE. OKAY?

12 A I UNDERSTAND.

13 Q THEN WE GO TO THE SECOND PHASE AND THERE ARE THINGS  
14 THAT THE STATE IS ALLOWED TO PUT IN IN THAT PHASE THAT WE  
15 COULDN'T PUT IN IN THE FIRST PHASE BECAUSE THERE ARE RULES  
16 OF COURT. THE RULES OF EVIDENCE SAY YOU CAN PUT CERTAIN  
17 THINGS IN AT THIS PHASE AND YOU CAN PUT CERTAIN THINGS IN  
18 AT THIS PHASE. OKAY?

19 A ALL RIGHT.

20 Q ALSO IN THIS SECOND PHASE OVER HERE THERE ARE CERTAIN  
21 THINGS GET TO COME IN FROM THE DEFENDANT IF HE WANTS TO  
22 ABOUT HIS BACKGROUND, ABOUT A MENTAL CONDITION, ABOUT ANY  
23 PROBLEMS HE MIGHT HAVE HAD, ANYTHING SUCH AS THAT. THAT'S  
24 WHEN YOU GET TO HEAR ABOUT THE DEFENDANT IF HE WANTS TO  
25 PUT THAT TYPE OF INFORMATION UP.

1 A OKAY.

2 Q ALSO THE STATE GETS TO PUT UP, AS THE JUDGE TOLD YOU,  
3 EVIDENCE IN AGGRAVATION, THINGS THAT MAKE IT WORSE, IN OUR  
4 OPINION MAKE IT WORSE.

5 WHAT I'M HEARING FROM YOU, LET ME JUST ASK IT VERY  
6 OPEN-ENDED. WOULD YOU HAVE -- ALREADY HAVE YOUR MIND MADE  
7 UP AFTER THE FIRST PHASE OR WOULD YOU WANT TO WAIT AND  
8 HEAR EVERYTHING YOU POSSIBLY COULD BEFORE YOU MADE UP YOUR  
9 MIND?

10 A I WOULD LIKE TO WAIT AND HEAR EVERYTHING POSSIBLE  
11 BEFORE I MADE UP MY MIND.

12 Q OKAY. SECONDLY, THE JUDGE IS GOING TO CHARGE YOU  
13 THAT IN ORDER TO BE A FAIR JUROR YOU HAVE TO WAIT AND YOU  
14 HAVE TO LISTEN TO EVERYTHING. YOU HAVE TO GIVE MEANINGFUL  
15 CONSIDERATION TO AGGRAVATION, THINGS THAT MAKE IT WORSE;  
16 AND YOU HAVE TO GIVE MEANINGFUL CONSIDERATION TO  
17 MITIGATING EVIDENCE, THINGS THAT LESSEN IT, OR MAYBE GIVE  
18 YOU A REASON TO GIVE LIFE. HE WILL CHARGE YOU MUST LISTEN  
19 TO ALL THE EVIDENCE BEFORE YOU MAKE A DECISION. MY  
20 INFORMATION, FROM WHAT YOU'RE TELLING ME, IS YOU WOULD  
21 FOLLOW THAT INSTRUCTION?

22 A YES.

23 Q YOU WOULD HAVE TO?

24 A YES.

25 Q YOU WOULD WANT TO?



1 A YES.

2 Q OKAY. ALSO IN THE SECOND PHASE, WHERE I TOLD YOU  
3 THAT THE STATE GETS TO PUT UP EVIDENCE OF AGGRAVATION AND  
4 MITIGATION, THE DEFENSE MAY PUT UP EVIDENCE OF MITIGATION.  
5 THEY DON'T HAVE TO. THE JUDGE TOLD YOU THE DEFENSE  
6 DOESN'T HAVE TO PUT UP ANYTHING. OKAY. SO, LET'S THINK  
7 ABOUT A CASE THE JURY HAS FOUND THE DEFENDANT BACK OVER  
8 HERE WHO'S BEEN CONVICTED OF MURDER. OKAY?

9 A OKAY.

10 Q IT'S MURDER PLUS AN AGGRAVATING CIRCUMSTANCE SUCH AS  
11 MURDER DURING COMMISSION OF AN ARMED ROBBERY, MURDER  
12 DURING COMMISSION OF BURGLARY, THAT SORT OF THING.

13 A OKAY.

14 Q BECAUSE IT'S ONLY IN THOSE TYPES OF CASES WE'RE  
15 ALLOWED TO EVEN ASK FOR THE DEATH PENALTY. EVERY MURDER  
16 CASE WE CAN'T ASK FOR IT. IT HAS TO BE MURDER PLUS AN  
17 AGGRAVATING CIRCUMSTANCE.

18 SO, WE'RE NOW INTO THIS SECOND PHASE. THE JURY HAS  
19 CONVICTED THE DEFENDANT OF MURDER AND THE JURY FINDS AN  
20 AGGRAVATING CIRCUMSTANCE, EITHER THE BURGLARY OR THE ARMED  
21 ROBBERY OR WHATEVER. SAY THE DEFENDANT DOESN'T PUT UP  
22 ANYTHING. OKAY? THEY DON'T PUT UP ANY EVIDENCE  
23 WHATSOEVER. WHAT I WANT TO KNOW FROM YOU IS, IF YOU WOULD  
24 LOOK AT ALL THAT EVIDENCE, NO MATTER WHERE IT CAME -- SAY  
25 IT JUST CAME FROM THE STATE, THE DEFENSE DIDN'T PUT UP

1 ANYTHING. YOU LOOKED AT ALL THAT EVIDENCE AND SAID STILL,  
2 BASED UPON ALL THIS EVIDENCE, I THINK THAT THE RIGHT  
3 SENTENCE IN THIS CASE IS LIFE, WOULD YOU VOTE FOR LIFE OR  
4 WOULD YOU AUTOMATICALLY JUST GO FOR DEATH.

5 A THE DEATH.

6 Q YOU WOULD AUTOMATICALLY GO FOR DEATH?

7 A YES.

8 Q YOU WOULD NEVER -- LET ME ASK YOU THIS WAY. IS THERE  
9 NEVER?

10 MR. MAULDIN: NOW SHE'S BADGERING THE JUROR.

11 Q CAN YOU THINK OF A SITUATION, YOU DON'T HAVE TO TELL  
12 ME WHAT IT IS; BUT CAN YOU THINK OF A SITUATION WHERE A  
13 DEFENDANT HAS BEEN CONVICTED OF MURDER --

14 A OKAY.

15 Q -- DEFENDANT HAS BEEN CONVICTED OF MURDER, HE  
16 PRESENTS NO EVIDENCE. CAN YOU THINK OF A SITUATION WHERE  
17 YOU WOULD GIVE LIFE IMPRISONMENT?

18 A COULD I ASK YOU A QUESTION?

19 MR. MAULDIN: I OBJECT TO THE FORM OF THAT QUESTION.

20 THE COURT: YOU CAN'T ASK A QUESTION. IF YOU DON'T  
21 UNDERSTAND A QUESTION, YOU CAN SAY YOU DON'T UNDERSTAND.  
22 SHE CAN REPHRASE.

23 Q OKAY. I'LL TRY TO REPHRASE. WHAT I'M TRYING TO GET  
24 TO, CAN YOU THINK IN YOUR OWN MIND -- I'M NOT ASKING YOU  
25 TO COMMIT TO IT, AND SAY, THIS IS WHEN IT WOULD BE; BUT

1 CAN YOU THINK IN YOUR OWN MIND OF A SITUATION WHERE A  
2 DEFENDANT IS CONVICTED OF MURDER AND YOU HAVE FOUND AN  
3 AGGRAVATING CIRCUMSTANCE, COULD YOU THINK OF A SITUATION  
4 WHERE YOU WOULD GIVE LIFE FOR ANY REASON OR FOR NO REASON  
5 AT ALL?

6 MR. MAULDIN: AND I DO ENTER MY OBJECTION TO THAT  
7 QUESTION.

8 THE COURT: OVERRULED.

9 A YES.

10 Q YOU CAN?

11 A NOW, YES.

12 MS. STROM: COURT'S INDULGENCE, YOUR HONOR. NOW,  
13 PLEASE ANSWER ANY OTHER QUESTIONS. I HAVE NO OTHER  
14 QUESTIONS.

15 THE COURT: MR. WILLIAMS, THERE'S BEEN A LOT OF  
16 QUESTIONS. AND GOING BACK TO WHAT I TALKED TO YOU ABOUT  
17 IN THE ME BEGINNING, I ASKED YOU BRIEFLY, COULD YOU  
18 CONSIDER EVERYTHING GIVEN IN THE FIRST PHASE AND THE  
19 SECOND PHASE BEFORE YOU MADE A DECISION AS TO LIFE OR  
20 DEATH. AND YOU TOLD ME, "YES." HAVE YOU CHANGED THAT  
21 OPINION NOW?

22 A COULD YOU REPEAT? I'M SORRY.

23 Q WHEN WE FIRST STARTED, I EXPLAINED TO YOU THE PROCESS  
24 AND ASKED YOU COULD YOU LISTEN TO EVERYTHING THAT HAD COME  
25 INTO EVIDENCE IN THE GUILT PHASE AND THE PENALTY PHASE AND

1 BEFORE YOU MADE UP YOUR MIND AS TO LIFE AND DEATH, COULD  
2 YOU CONSIDER ALL THE EVIDENCE?

3 A YES, SIR.

4 Q HAVE YOU CHANGED YOUR OPINION BASED UPON THE ANSWERS  
5 YOU HAVE GIVEN TO THE ATTORNEYS?

6 A YES, SIR.

7 Q YOU HAVE CHANGED YOUR OPINION?

8 A YES, SIR.

9 Q HOW HAVE YOU CHANGED YOUR OPINION?

10 A EVEN WITH THOSE EXTRA CIRCUMSTANCES I WOULD CONSIDER  
11 LIFE WITHOUT PAROLE.

12 Q YOU WOULD CONSIDER?

13 A IT COULD BE A POINT, YES.

14 Q I NEED SOMETHING OTHER THAN POSSIBILITY, WOULD YOU DO  
15 IT?

16 A YES, SIR.

17 Q WOULD YOU GIVE IT MEANINGFUL CONSIDERATION?

18 A I WOULD GIVE IT CONSIDERATION.

19 Q OKAY. STEP OUT IN THE HALL JUST A SECOND.

20 A SIR?

21 Q STEP OUT IN THE HALL JUST A SECOND.

22 (PROSPECTIVE JUROR EXITS COURTROOM)

23 THE COURT: I ASSUME THE DEFENSE HAS A MOTION?

24 MR. MAULDIN: YES, SIR.

25 THE COURT: LET ME HEAR YOU.

1           MR. MAULDIN: YOUR HONOR, I HAVE TO SOME EXTENT A  
2 CERTAIN LEVEL OF SYMPATHY WITH THIS PARTICULAR JUROR. I  
3 THINK HE'S JUST -- I HAVE REALLY NO CLUE OTHER THAN WHAT  
4 HE WROTE ON HIS ORIGINAL QUESTIONNAIRE ABOUT WHERE THIS  
5 GUY MIGHT REALLY BE. BUT I HAVE NO DOUBT ABOUT TWO  
6 THINGS. HE TOLD ME THAT HE WOULD NOT GIVE LIFE WITHOUT  
7 PAROLE FOR THE CONVICTION OF AGGRAVATED MURDER AT THE  
8 SECOND PHASE. HE THEN TOLD MRS. STROM THAT THE ONLY  
9 PENALTY HE WOULD GIVE WOULD BE DEATH. AFTER A QUESTION  
10 WAS REFINED AND ZEROED IN ON HIM, THAT'S WHAT HE SAID.

11           THEN THE LAST QUESTION FROM HER WAS, "CAN YOU IMAGINE  
12 ANY CIRCUMSTANCE WHERE YOU COULD GIVE LIFE WITHOUT  
13 PAROLE?"

14           AND HE SAID, "YES." AND THEN SHE DID NOT ASK HIM ANY  
15 EXPLANATION FOR THAT. IN OTHER WORDS, WE'VE GOT A GUY WHO  
16 IS DISQUALIFIED, FLAT DISQUALIFIED, AND ALL OF A SUDDEN.  
17 "CAN YOU IMAGINE ANYTHING?" I OBJECTED TO MAKE SURE IT  
18 WAS ON THE RECORD. I OBJECT TO THE FORM OF THAT QUESTION.

19           HE SAID, "YES." AND SHE DIDN'T ASK HIM ANY FOLLOW UP  
20 QUESTION, WHICH IS WORTHLESS.

21           THE COURT: OKAY.

22           MR. MAULDIN: SO, THE GUY IS SIMPLY DISQUALIFIED.

23           THE COURT: THANK YOU VERY MUCH. ANYTHING FROM THE  
24 STATE?

25           MS. STROM: I WOULD SUBMIT THE JUROR IS QUALIFIED.

1 HE CONTINUOUSLY SAID HE WOULD FOLLOW YOUR INSTRUCTION,  
2 FOLLOW THE INSTRUCTION OF THE COURT. HE ALSO SAID, AS I  
3 DID ASK HIM, CAN HE THINK OF A SITUATION WHERE HE WOULD  
4 GIVE LIFE IMPRISONMENT. HE SAID HE COULD. I THINK IT'S  
5 INAPPROPRIATE FOR ME TO GO ASKING HIM WHAT SITUATION THAT  
6 IS BECAUSE I THINK THAT'S GOING ON A FISHING EXPEDITION,  
7 STAKING OUT A JUROR, WHICH THE SUPREME COURT HAS SAID I  
8 CANNOT DO. SO, I BELIEVE HE IS QUALIFIED.

9 I THINK HE STRUGGLING WITH THE DECISION. HE IS DEATH  
10 PRONE. I WON'T SIT UP HERE AND SAY HE IS NOT. HE IS  
11 DEATH PRONE, BUT HE CAN GIVE LIFE WITHOUT PAROLE AND HE  
12 SAID HE COULD GIVE IT, AND HE SAID HE COULD FOLLOW YOUR  
13 INSTRUCTION.

14 THE COURT: ALL RIGHT. I'M GOING TO DENY YOUR MOTION  
15 AS FAR AS DEATH PENALTY. I GOT TO GO BACK -- BRING UP  
16 SOME OTHER SUBJECT MATTERS.

17 MR. ARIAIL: YOU ALREADY DONE THE RACE ISSUE.

18 THE COURT: I'VE DONE THE RACIAL AND I'VE DONE THE  
19 PRIOR KNOWLEDGE. I HAVE A FEW MORE QUESTIONS TO ASK HIM.  
20 IF YOU HAVE ANY QUESTIONS ON THOSE, WE'LL ALLOW THAT.

21 (PROSPECTIVE JUROR ENTERS COURTROOM.)

22 Q MR. WILLIAMS, THE VICTIM IN THE CASE IS MARANDA  
23 WILLIAMS, DO YOU KNOW HER?

24 A NO, SIR.

25 Q DO YOU KNOW MR. CHARLES CHRISTOPHER WILLIAMS, WHO

1 SITS TO MY RIGHT?

2 A NO, SIR.

3 Q DO YOU KNOW THE ATTORNEYS REPRESENTING THE DEFENDANT,  
4 MR. MAULDIN AND ALSO MR. NETTLES AND MR. MARK MACDOUGALL  
5 AND COLLEEN COYLE?

6 A NEVER MET THEM.

7 Q THE LAST THREE ARE NOT IN THE COURTROOM. DO YOU KNOW  
8 THEM?

9 A NO.

10 Q I'M GOING TO GIVE YOU A WITNESS LIST, ASK YOU, DO YOU  
11 RECOGNIZE ANYBODY'S NAME ON THAT LIST?

12 A NO, SIR.

13 Q LET ME GIVE YOU A SECOND LIST AND ASK YOU IF YOU  
14 RECOGNIZE ANYBODY ON THAT.

15 A NO, SIR.

16 Q OKAY. THANK YOU VERY MUCH. CAN YOU BE FAIR TO THE  
17 STATE AND THE DEFENDANT?

18 A YES, SIR.

19 Q ALL RIGHT. THANK YOU VERY MUCH. ANY QUESTIONS AS TO  
20 THE LAST QUESTIONS THE COURT HAS ASKED ON SUBJECT MATTER?

21 MR. MAULDIN: NOT SINCE HE CAME BACK IN THE  
22 COURTROOM.

23 MS. STROM: YOU ASKED HIM DID HE KNOW ANY DEFENSE  
24 LAWYERS, BUT I DON'T BELIEVE YOU ASKED IF HE KNEW ANY OF  
25 THE SOLICITORS.

1 Q SORRY. WE HAVE SOLICITOR ARIAIL HERE, TWO OF HIS  
2 ASSISTANTS. DO YOU KNOW ANYONE AT THAT TABLE?

3 A NO, SIR.

4 Q ANYBODY IN THE SOLICITOR'S OFFICE?

5 A NO, SIR.

6 Q THANK YOU VERY MUCH.

7 THE COURT: MR. WILLIAMS, WE'RE GOING TO QUALIFY 43  
8 JURORS. FROM THAT GROUP, WE'LL DRAW 12 JURORS AND FOUR  
9 ALTERNATES. YOU'RE PART OF THAT GROUP. THE BAILIFF IS  
10 GOING TO GIVE YOU A SLIP OF PAPER WITH A PHONE NUMBER.  
11 CALL THAT NUMBER TONIGHT. THERE WILL BE A MESSAGE ON THE  
12 MACHINE THAT WILL SAY CALL BACK TOMORROW AT 12:00. DO YOU  
13 UNDERSTAND? FOLLOW THOSE INSTRUCTIONS. YOU'LL CALL  
14 TONIGHT AND AGAIN TOMORROW AT 12:00. DO YOU UNDERSTAND?

15 A YES, SIR.

16 Q DON'T DISCUSS THE CASE, DON'T READ ANYTHING IN THE  
17 PAPER, DON'T WATCH TELEVISION ABOUT IT. DO YOU  
18 UNDERSTAND?

19 A I UNDERSTAND.

20 Q HAVE A GOOD DAY.

21 (WHEREUPON, THE PROCEEDINGS ARE ADJOURNED TO THE  
22 FOLLOWING DAY:)

23 \* \* \* \* \*

24 \* \* \*

25 \*



1                    FRIDAY, FEBRUARY 11, 2005.

2            (WHEREUPON, COURT RECONVENED AT 9:00 A.M. WHEN THE  
3            FOLLOWING PROCEEDINGS WERE HAD:)

4            THE COURT:    ALL RIGHT.    IS THE STATE READY TO  
5            PROCEED?

6            MS. STROM:    THE STATE'S READY, YOUR HONOR.

7            THE COURT:    DEFENSE READY?

8            MR. MAULDIN:    YES, SIR.

9            THE COURT:    I'M GOING TO GO WITH THREE ALTERNATES.  
10           THAT MEANS 39, WE'RE GOING TO DRAW ONE EXTRA IN CASE  
11           SOMETHING HAPPENS TO ONE WE'VE ALREADY QUALIFIED.    WE'RE  
12           GOING TO TRY TO QUALIFY 40.    ONE MORE JUROR, AND YOU'LL  
13           HAVE YOUR JURY AND YOUR FIRST ALTERNATE.    ALL WE'RE  
14           TALKING ABOUT IS THE LAST TWO ALTERNATES.    BECAUSE WE GOT  
15           30 QUALIFIED.

16           MR. MAULDIN:    JUDGE, I WAS JUST HANDED A NOTE TO MAKE  
17           SURE WE KEEP IN MIND THE JUROR BOTT FELLOW.    WE ARE GOING  
18           TO HAVE TO KIND OF FIGURE OUT WHETHER WE DO THAT IN A BIG  
19           GROUP.

20           THE COURT:    WHEN WE BRING THE GROUP BACK, WE'LL DO  
21           IT.    IT'S YOUR CALL WHETHER WE'LL DO THAT OR NOT.

22           MR. MAULDIN:    I HAVE CONCLUDED THAT IT WOULD BE  
23           NECESSARY.

24           THE COURT:    ALL RIGHT.    WHAT WE'LL DO IS WHEN WE  
25           BRING THE FULL PANEL BACK IN, I'LL BRING HIM IN AND I'LL

1 TELL HIM THE COURT FORGOT TO ASK HIM SOME QUESTIONS. I'LL  
2 TAKE THE RESPONSIBILITY FOR DOING THAT. I'M NOT GOING TO  
3 PUT IT ON THE STATE OR THE DEFENDANT. OKAY.

4 MR. MAULDIN: BUT YOU'RE GOING TO LET ME QUESTION  
5 HIM? I'LL JUST TELL HIM THERE'S A FEW THINGS I FORGOT TO  
6 ASK HIM ABOUT.

7 THE COURT: YEAH. I'LL ASK A COUPLE OF QUESTIONS AND  
8 I'LL TURN IT OVER TO YOU AND THE STATE. OKAY? ANYTHING  
9 ELSE BEFORE WE GET STARTED?

10 MS. STROM: NOTHING FROM THE STATE.

11 THE COURT: WOULD YOU BRING US JAMES WYNN, PLEASE.

12 (PROSPECTIVE JUROR WYNN ENTERS COURTROOM)

13 MR. WYNN, HOW ARE YOU DOING THIS MORNING?

14 PROSPECTIVE JUROR: FINE. HOW YOU DOING?

15 THE COURT: PLEASE RAISE YOUR RIGHT HAND, SIR.

16 PROSPECTIVE JUROR: YES, SIR. WOULD YOU LIKE ME TO  
17 STAND?

18 THE COURT: NO, YOU CAN KEEP YOUR SEAT.

19 JAMES WYNN, AFTER BEING DULY  
20 SWORN, TESTIFIED AS FOLLOWS:

21 EXAMINATION

22 BY THE COURT:

23 Q MR. WYNN, DO YOU REMEMBER FILLING OUT THIS  
24 QUESTIONNAIRE LAST MONTH OR THE MONTH BEFORE LAST?

25 A YES, SIR.

1 Q WOULD YOU MIND TAKING IT, PLEASE, SIR. WHEN YOU  
2 FILLED IT OUT, WAS IT ACCURATE IN YOUR OPINION?

3 A YES. YES, SIR.

4 Q I'M GOING TO ASK YOU A COUPLE OF QUESTIONS BEFORE WE  
5 GET TO THE QUESTIONNAIRE. THE FIRST THING I WANT TO TELL  
6 YOU IS IN THIS CASE THE DEFENDANT, CHARLES CHRISTOPHER  
7 WILLIAMS, IS CHARGED WITH MURDER AND KIDNAPPING. THIS  
8 OCCURRED ON SEPTEMBER 3, 2003, AT A BI-LO HERE IN  
9 GREENVILLE.

10 A YES, SIR.

11 Q HAVE YOU HEARD ANYTHING ABOUT IT WHEN IT OCCURRED OR  
12 HAVE YOU HEARD ANYTHING ABOUT IT SINCE THAT TIME OR READ  
13 ANYTHING ABOUT IT?

14 A YES, SIR, I DID. IT HAPPENED FAIRLY CLOSE TO WHERE I  
15 LIVE, TO WHERE MY MOTHER-IN-LAW LIVES, AND CLOSE TO MY  
16 FATHER'S BUSINESS. SO, I DID HEAR.

17 Q DID YOU SEE IT ON TV OR READ IT IN THE PAPER OR WHAT  
18 WAS YOUR SOURCE OF INFORMATION?

19 A I -- WORD OF MOUTH, FIRST OF ALL. MY SISTER -- I  
20 WENT INTO OUR FAMILY BUSINESS THAT DAY AND MY SISTER SAID  
21 THERE WAS SOMETHING BIG GOING ON. THEN I TALKED TO MY  
22 MOTHER-IN-LAW LATER.

23 Q DO YOU REMEMBER WHAT YOUR SISTER SPECIFICALLY TOLD  
24 YOU?

25 A SHE SAID THAT THEY HAD TO CALL THE SWAT TEAM OUT TO

1 THE BI-LO AT NORTH HILLS, IT WAS A HOSTAGE SITUATION.

2 Q WHAT DID YOUR MOTHER TELL YOU?

3 A I DON'T THINK I SAW MY MOTHER THAT DAY. MY SISTER IS  
4 THE BOOKKEEPER AND OFFICE MANAGER AT J.L. WYNN AND SONS,  
5 WHICH IS MY DAD'S FAMILY BUSINESS. I HAVE A SEPARATE  
6 BUSINESS. I'M A SELF-EMPLOYED CONTRACTOR, BUT I DO STOP  
7 IN THERE QUITE FREQUENTLY. I REMEMBER HER MENTIONING THAT  
8 TO ME. OF COURSE, MY ATTITUDE WAS ONE OF, YOU KNOW,  
9 PRAYING, ASKING FOR GOD'S GRACE IN THE SITUATION.

10 I FOUND OUT LATER IN THE DAY, I REMEMBER I TALKED TO  
11 MY MOTHER-IN-LAW, MARGARET MACK, WHO LIVES ON KENDALL  
12 GREEN OFF OF EAST NORTH STREET; AND I REMEMBER HER SAYING  
13 THAT SHE HAD HEARD ABOUT IT AND I THINK SHE SAID, "IT'S  
14 OVER." IT WAS LATER IN THE DAY.

15 Q DO YOU REMEMBER WHAT SHE TOLD YOU ABOUT IT?

16 A I'M TRY TO JOG MY MEMORY. I REMEMBER MY SISTER SAID  
17 THE SWAT TEAM HOSTAGE SITUATION, AND AT THAT POINT THE  
18 DETAILS WERE VERY SKETCHY. I THINK LATER I TURNED ON THE  
19 EVENING NEWS WHERE I HAD LEARNED BASICALLY IT WAS OVER. I  
20 DO REMEMBER SOMETHING BEING SAID ABOUT A WOMAN AND -- A  
21 WOMAN EMPLOYEE IN THE DELI, AND THAT HER BOYFRIEND HAD  
22 ENTERED THE STORE WITH A GUN, TAKEN HER HOSTAGE, AND THEN  
23 SHOT HER. I DO REMEMBER HEARING THAT.

24 Q ALL RIGHT. LET ME ASK YOU THIS. BASED UPON THAT  
25 KNOWLEDGE YOU GAINED FROM YOUR SISTER AND MOTHER-IN-LAW

1 AND NEWS MEDIA, HAVE YOU FORMED OR EXPRESSED AN OPINION  
2 ABOUT THE INNOCENCE OR GUILT OF THE DEFENDANT, CHARLES  
3 CHRISTOPHER WILLIAMS?

4 A NO, SIR. I PERSONALLY BELIEVE IT'S IMPORTANT TO KEEP  
5 YOUR MIND OPEN. I REALIZE MISTAKES ARE MADE SOMETIMES AND  
6 ACCUSATIONS. AND I REALIZE THAT, AS GOOD AS OUR LAW  
7 ENFORCEMENT PEOPLE ARE, THAT SOMETIMES MISTAKES CAN BE  
8 MADE. AND I FEEL IT'S A WONDERFUL SYSTEM WE HAVE TO FIND  
9 OUT EXACTLY WHAT DID HAPPEN. I DON'T HAVE A PREFORMED  
10 OPINION AS TO --

11 Q YOU COULD PUT THOSE FACTS ASIDE YOU SAW ON  
12 TELEVISION, HEARD FROM YOUR SISTER AND MOTHER-IN-LAW, AND  
13 LISTEN TO THE TESTIMONY AND BASE YOUR DECISION ON THE  
14 TESTIMONY YOU HEAR IN THE COURTROOM?

15 A ABSOLUTELY.

16 Q I'M GOING TO ASK YOU A COUPLE OF QUESTIONS ON THE  
17 QUESTIONNAIRE IF I MIGHT?

18 A YES, SIR.

19 Q IF YOU WOULD, WOULD YOU TURN TO PAGE 6, PLEASE, SIR,  
20 QUESTION NUMBER 39.

21 A ALL RIGHT, SIR.

22 Q WERE YOU A SECURITY OFFICER OR WAS THAT A MEMBER OF  
23 YOUR FAMILY?

24 A NO, SIR. I WORKED FOR BARTON PROTECTIVE SERVICES. I  
25 WORKED AS A -- I WAS A VOLUNTEER FOR A CHRISTIAN MISSION

1 ORGANIZATION THAT DOES CONSTRUCTION WORK ON A VOLUNTEER  
2 BASIS ALL AROUND THE COUNTRY. MY LAST PROJECT WAS IN  
3 PEARL RIVER, NEW YORK, IN 1995. I FINISHED THERE IN  
4 OCTOBER OF '95. I CAME BACK TO GREENVILLE AND, OF COURSE,  
5 I NEEDED TO GET A JOB RIGHT AWAY. AND I NEVER DONE  
6 SECURITY WORK BEFORE AND BARTON WAS NEEDING PEOPLE  
7 IMMEDIATELY. SO, THEY DID A BACKGROUND CHECK WITH SLED  
8 AND EVERYTHING, THEN THEY HIRED ME, AND THEY SENT ME TO  
9 MORTON CHEMICAL FIRST FOR A SHORT TERM AND THEN TO KEMMET.  
10 I WORKED AT KEMMET --

11 Q KEMMET PLANT?

12 A KEMMET PLANT, YES, SIR, AS A SECURITY OFFICER. FOR  
13 THE ABOUT SIX MONTHS I WAS THERE.

14 Q IF YOU LOOK AT PAGE 7, QUESTION 48. IT SAYS YOUR  
15 BROTHER-IN-LAW WAS CHARGED WITH POSSESSION OF DRUG,  
16 MARIJUANA, AND THE CHARGES WERE LATER DROPPED. HOW LONG  
17 AGO WAS THAT?

18 A THAT WAS AN UNFORTUNATE SITUATION WHERE MY BROTHER,  
19 DAVID WYNN, IT WAS MORE OR LESS A FAMILY SQUABBLE, HIS  
20 DAUGHTER, JEN'S, MOM CALLED THE POLICE AND SAID HER FATHER  
21 WAS USING DRUGS, WHICH I BELIEVE THE CHARGES WERE FALSE.  
22 AND THE POLICE RESPONDED AND THEY SEARCHED HIS HOUSE AND  
23 THEY DIDN'T FIND ANY DRUGS. THEY FOUND A, I THINK IT WAS  
24 A ROACH CLIP OR SOMETHING LIKE THAT IN THE COMPANY TRUCK,  
25 THE J.L. WYNN AND SONS' COMPANY TRUCK, WHICH IS DRIVEN BY

1 NUMEROUS PEOPLE, PAST AND PRESENT. THEY DID A VERY  
2 THOROUGH SEARCH, THEY FOUND THAT, AND HE WAS CHARGED WITH  
3 THAT.

4 Q BUT THE CHARGES WERE LATER DROPPED?

5 A TO THE BEST OF MY KNOWLEDGE. MY BROTHER DIDN'T  
6 REALLY DISCUSS IT WITH ME IN DETAIL BECAUSE OF THE  
7 EMBARRASSMENT. I DIDN'T REALLY PURSUE THAT, BUT TO BEST  
8 THE OF MY KNOWLEDGE HE WAS NEVER CONVICTED ON THAT. TO  
9 THE BEST OF MY KNOWLEDGE.

10 Q OKAY. THANK YOU, SIR. IF YOU WOULD TURN TO PAGE  
11 TEN, PLEASE, SIR. QUESTION 68 SAYS, "HAVE YOU EVER HAD A  
12 BUMPER STICKER ON YOUR CAR?"

13 AND YOU SAID, "YES." IT'S THE NEXT TO THE LAST PIECE  
14 OF PAPER. IT'S SORT OF CONFUSING THE WAY IT'S PUT  
15 TOGETHER.

16 WHERE IT SAYS YOU SAID YOU HAD A BUMPER STICKER OUT  
17 TO THE SIDE, "IF YES, WHAT DID IT SAY?"

18 A YES, SIR. I DIDN'T FILL THAT IN BECAUSE I HAVE  
19 SEVERAL. I'M A STAUNCH REPUBLICAN, HAVE A BUSH STICKER,  
20 DEMINT, NATIONAL RIFLE ASSOCIATION HAS BEEN ON THERE A  
21 LONG TIME. IT HAS ABOUT FADED OFF. I'M A REPUBLICAN AND,  
22 YOU KNOW, I LIKE TO SHOW MY COLORS WHEN IT COMES TO  
23 POLITICS.

24 Q NOW, IF YOU WOULD LET ME GO TO QUESTION 64. OKAY?  
25 SIXTY-FOUR SAYS, "BRIEFLY DESCRIBE YOUR ATTITUDES AND

1 BELIEFS CONCERNING CAPITAL PUNISHMENT."

2 YOU SAID, "JUST LIKE NUCLEAR WEAPONS -- HORRIBLE,  
3 HORRIBLE, SAD, TERRIBLE -- BUT SORT OF NECESSARY WHEN IT  
4 COMES TO DETERRENT TO EVIL." CAN YOU SORT OF EXPOUND ON  
5 THAT, WHAT YOU MEAN?

6 A AS A CHRISTIAN, I REALIZE WE LIVE IN A SAD WORLD, A  
7 LOT OF SADNESS AND HEARTBREAK. IT'S GRIEVOUS TO GOD AND  
8 TO HUMAN BEINGS AND IT IS A SHAME WE HAVE TO HAVE AIRCRAFT  
9 CARRIERS. IT IS A SHAME. I PLAY WAR GAMES WITH MY SON ON  
10 OUR COMPUTER BUT THE REALITY, WHEN I WAS IN THE NAVY, OUR  
11 ARMED FORCES ARE TRAINED TO KILL PEOPLE AND THEY DO IT  
12 VERY WELL. IT'S A SAD FACT THAT WE HAVE TO HAVE THAT.  
13 BUT I AM ABSOLUTELY CONVINCED THAT, JUST LIKE NUCLEAR  
14 WEAPONS, THE DEATH PENALTY, THOUGH VERY UGLY, VERY SAD,  
15 VERY TRAGIC, IS AN ESSENTIAL DETERRENT TO EVIL IN OUR  
16 WORLD.

17 Q LET ME ASK YOU THIS. WHEN YOU SAY IT'S A DETERRENT  
18 TO EVIL, ARE YOU TALKING ABOUT THE INDIVIDUAL IN LAW WILL  
19 BE PUNISHED, WHEREAS OTHER PEOPLE WILL NOT PERFORM THE  
20 SAME ACT? WHICH YOU REFERRING TO?

21 A I'M REFERRING TO THOSE. IT'S AN EXAMPLE TO OTHERS  
22 WHO ARE CONTEMPLATING THE COMMITMENT OF ATROCITIES,  
23 AGAINST CHILDREN, FOR EXAMPLE, THERE'S CRIMES AGAINST  
24 CHILDREN, CRIMES AGAINST SOCIETY. THE BIBLE SAYS THAT --  
25 GOT THE AUTHORITY, BECAUSE THERE ARE MEN THAT DO NOT FEAR



1 MEN OR GOD.

2 Q LET ME ASK YOU ONE OTHER THING. IF YOU'LL LOOK AT  
3 QUESTION 68 PLEASE, SIR.

4 A YES, SIR.

5 Q QUESTION 68 IN REFERENCE TO THE DEATH PENALTY, YOU  
6 SAID OR YOU MARKED, "I BELIEVE THE DEATH PENALTY IS THE  
7 APPROPRIATE FORM OF PUNISHMENT IN SOME MURDER CASES. I  
8 COULD RETURN A VERDICT OF DEATH IF I BELIEVE IT WAS  
9 WARRANTED IN A PARTICULAR CASE, DEPENDING UPON THE  
10 EVIDENCE, THE LAW, AND WHAT I LEARNED ABOUT THE  
11 DEFENDANT." IS THAT YOUR OPINION --

12 A YES, SIR.

13 Q -- CONCERNING THE DEATH PENALTY?

14 A YES, SIR.

15 Q FIRST, I'M GOING TO EXPLAIN THE PROCESS WE'RE GOING  
16 THROUGH, THEN I'LL ASK YOU A COUPLE OF QUESTIONS. OKAY?

17 A YES, SIR.

18 Q AS I SAID EARLIER, THESE ARE GOING TO BE GENERAL  
19 HYPOTHETICAL QUESTIONS, NOT FACT SPECIFIC QUESTIONS, AS TO  
20 THIS PARTICULAR CASE WE'RE HERE FOR. OKAY?

21 A YES, SIR.

22 Q THE CASE IS DIVIDED UP INTO TWO PHASES, PHASE ONE AND  
23 PHASE TWO. PHASE ONE IS REFERRED TO AS THE GUILT PHASE.  
24 IN THE GUILT PHASE THE STATE HAS THE BURDEN OF PROVING THE  
25 DEFENDANT GUILTY BEYOND A REASONABLE DOUBT. AND THE STATE

1 WILL HAVE TO PROVE TO THE JURY'S SATISFACTION THAT THE  
2 DEFENDANT IS GUILTY OF MURDER AND KIDNAPPING. LET'S  
3 ASSUME ALL 12 JURORS HAVE MET THEIR BURDEN AND PROVEN THE  
4 DEFENDANT GUILTY OF MURDER AND KIDNAPPING. ALL 12 JURORS  
5 AGREE.

6 A YES, SIR.

7 Q AT THAT POINT IN TIME THE DEFENDANT IS GUILTY OF  
8 THOSE TWO CRIMES BECAUSE ALL 12 JURORS HAVE SAID HE'S  
9 GUILTY. THAT'S THE GUILT PHASE.

10 A YES, SIR.

11 Q THEN WE WOULD HAVE A 24-HOUR WAITING PERIOD AND WE  
12 WOULD GO TO THE SENTENCING PHASE OR THE SECOND PHASE.  
13 NOW, THAT PHASE IS FOR THE PURPOSE OF THE JURY DECIDING  
14 WHETHER OR NOT THE DEFENDANT SHOULD RECEIVE LIFE OR DEATH.

15 A YES, SIR.

16 Q WHEN I SAY LIFE, I MEAN LIFE WITHOUT PAROLE, THE  
17 INDIVIDUAL WOULD DIE IN JAIL. HE WOULD NEVER BE ELIGIBLE  
18 FOR PAROLE. WHEN I SAY DEATH, THAT'S OBVIOUS. IN THE  
19 SECOND PHASE THE STATE WOULD BE PRODUCING EVIDENCE OF  
20 AGGRAVATING CIRCUMSTANCES. YOU CANNOT ASK FOR THE DEATH  
21 PENALTY IN SOUTH CAROLINA FOR EVERY MURDER. THERE JUST  
22 HAS TO BE OTHER AGGRAVATING CIRCUMSTANCES SUCH AS ARMED  
23 ROBBERY. THERE'S A LIST OF THEM SET OUT BY STATE STATUTE.  
24 THEY'LL BE OFFERING THOSE AGGRAVATING CIRCUMSTANCES  
25 PLUS THEY MAY BE OFFERING VICTIM IMPACT STATEMENTS ABOUT

1 HOW THE DEATH OF THE VICTIM, ABOUT THE FAMILY AND OTHER  
2 FACTS. THEY'RE REQUIRED TO PROVE THE AGGRAVATING  
3 CIRCUMSTANCES BEYOND A REASONABLE DOUBT. AND THE REASON  
4 YOU HAVE THE SECOND PHASE AND THE REASON THEY'RE OFFERING  
5 THIS INFORMATION TO THE JURY IS TO CONVINCE THE JURY TO  
6 GIVE THE DEFENDANT DEATH.

7 A YES, SIR.

8 Q OKAY? NOW, THE DEFENDANT MAY TESTIFY, THE DEFENDANT  
9 MAY NOT. THERE'S NO REQUIREMENT FOR THE DEFENDANT TO  
10 TESTIFY. THE DEFENDANT NEVER HAS TO PROVE HIS INNOCENCE.  
11 THE STATE HAS THE BURDEN OF PROVING GUILT AND THE STATE  
12 HAS THE BURDEN OF PROVING THE AGGRAVATING CIRCUMSTANCES.  
13 THE DEFENDANT DOES NOT HAVE TO PROVE ANYTHING.

14 A YES, SIR.

15 Q AND IF THE DEFENDANT DOES NOT TESTIFY, I WILL  
16 INSTRUCT THE JURY THEY CANNOT CONSIDER THAT IN ANY FORM OR  
17 FASHION IN YOUR DELIBERATIONS. NOW, LET'S ASSUME IN THE  
18 SECOND PHASE THAT THE DEFENDANT DOES NOT OFFER ANY  
19 TESTIMONY AT ALL. CAN YOU CONSIDER ALL THE TESTIMONY IN  
20 THE FIRST PHASE, ALL THE TESTIMONY IN THE SECOND PHASE  
21 BEFORE YOU MAKE A DECISION AS TO LIFE OR DEATH?

22 A YES, SIR, I CAN.

23 Q ALL RIGHT. CAN YOU GIVE MEANINGFUL CONSIDERATION TO  
24 LIFE UNDER CIRCUMSTANCE I JUST GAVE YOU?

25 A WELL, YOUR HONOR, AS A STUDENT OF THE BIBLE, IN THE

1 BOOK OF LEVITICUS, FIRST DEGREE AND SECOND DEGREE MURDER  
2 ARE DIFFERENTIATED.

3 Q I'M NOT TALKING ABOUT SECOND DEGREE. TALKING ABOUT  
4 FIRST DEGREE, NO QUESTION ABOUT THAT.

5 A YES. BUT I REALIZE THERE ARE DEGREES OF CRIME AND I  
6 WOULD ABSOLUTELY TAKE INTO CONSIDERATION ALL THE FACTORS  
7 SURROUNDING THE COMMISSION OF THE CRIME.

8 Q AND THE AGGRAVATING CIRCUMSTANCES --

9 A YES, SIR.

10 Q -- BEFORE YOU MADE A DECISION?

11 A YES, SIR.

12 Q LET ME ASK YOU THIS. ASSUMING THE DEFENDANT DOESN'T  
13 TESTIFY, AS I EXPLAINED TO YOU, CAN YOU ALSO GIVE  
14 MEANINGFUL CONSIDERATION TO DEATH?

15 A ABSOLUTELY, YES. I WOULD CONSIDER BOTH THE LIFE  
16 SENTENCE AND THE DEATH SENTENCE.

17 Q THE DEFENDANT IN MOST CASES IN THE SECOND PHASE, THE  
18 PENALTY PHASE, WILL OFFER WHAT IS REFERRED TO AS  
19 MITIGATING CIRCUMSTANCES. MITIGATING CIRCUMSTANCES ARE  
20 CIRCUMSTANCES THAT THE DEFENDANT FEELS OR BELIEVES AND  
21 THEY ARE OFFERING IT FOR THE PURPOSE OF CONVINCING THE  
22 JURY TO GIVE THE DEFENDANT LIFE RATHER THAN DEATH.

23 A YES, SIR.

24 Q CAN YOU GIVE MEANINGFUL CONSIDERATION TO LIFE BASED  
25 UPON THE MITIGATING CIRCUMSTANCES, ALL THE TESTIMONY FROM

1 THE STATE IN THE FIRST AND SECOND PHASE BEFORE YOU DECIDE  
2 LIFE?

3 A YES, SIR.

4 Q ALL RIGHT. UNDER THOSE CIRCUMSTANCES, WHERE THE  
5 DEFENDANT OFFERS MITIGATING CIRCUMSTANCES, CAN YOU GIVE  
6 MEANINGFUL CONSIDERATION TO DEATH?

7 A YES, SIR. I WOULD CONSIDER BOTH. I REALIZE IN  
8 PROCEEDINGS AS SOLEMN AS THIS, THAT CONSIDERATION MUST BE  
9 GIVEN TO ALL, EVERY ASPECT OF THE CASE AND TO ALL  
10 CONSEQUENCES.

11 Q BEFORE YOU MAKE UP YOUR MIND?

12 A EXACTLY.

13 Q ALL RIGHT. WHO'S TURN? OR ARE WE GOING TO FLIP A  
14 COIN AGAIN THIS MORNING?

15 MR. MAULDIN: I THINK IT'S HER TURN.

16 MS. STROM: WE HAVE AGREED.

17 THE COURT: SEE THAT JUSTICE PREVAILS.

18 BY MS. STROM:

19 Q GOOD MORNING, MR. WYNN.

20 A GOOD MORNING.

21 Q SORRY ABOUT THAT. WE HAD A DISAGREEMENT ABOUT THAT  
22 YESTERDAY, THE JUDGE ENDED UP FLIPPING A COIN, SEE WHO GOT  
23 TO GO FIRST. THAT'S WHAT THAT WAS ALL ABOUT.

24 I WANT TO MAKE SURE I UNDERSTAND WHAT YOUR RESPONSES  
25 AND YOUR OPINIONS ARE ON THE DEATH PENALTY. SO PLEASE, IF

1 I MISSTATE WHAT YOU SAID, DO NOT HESITATE TO CORRECT ME.  
2 I MAY HAVE MISHEARD OR INTERPRETED IT DIFFERENTLY.

3 I'M BETTY STROM, DEPUTY SOLICITOR. THIS IS MARK  
4 MOYER, ASSISTANT, AND BOB ARIAIL, THE SOLICITOR IN THIS  
5 COUNTY WILL BE PROSECUTING THE CASE. I THINK THE JUDGE  
6 TOLD YOU THERE WOULD BE TWO DIFFERENT PHASES?

7 A YES.

8 Q IN THE FIRST PHASE ALL YOU ARE CONCERNED WITH, DID  
9 THE DEFENDANT COMMIT THE CRIME OF MURDER. AND IN SOUTH  
10 CAROLINA I KNOW YOU WERE TALKING ABOUT DEGREES OF MURDER,  
11 MURDER IS AN INTENTIONAL KILLING OF ANOTHER PERSON WITH  
12 MALICE AFORETHOUGHT. AND THAT MALICE AFORETHOUGHT CAN BE  
13 PLANNED OUT FOR DAYS OR IT CAN BE INSTANTANEOUS.

14 A YES.

15 Q IT DOESN'T HAVE TO BE PLANNED OUT, BUT IT CAN BE. IT  
16 CAN ALSO BE INSTANTANEOUS, AT THE TIME THE FATAL ACT IS  
17 DONE.

18 A YES.

19 Q IF THE JURY DOES NOT FIND AN INTENTIONAL KILLING WITH  
20 MALICE AFORETHOUGHT, WE DON'T EVEN GO TO THE SECOND PHASE.

21 A YES, MA'AM.

22 Q SO, AT THE END OF THE FIRST PHASE, IF WE GO TO THE  
23 SECOND PHASE, YOU'VE ALREADY CONVICTED SOMEONE OF MURDER.

24 A YES.

25 Q IT'S MY UNDERSTANDING, FROM WHAT YOU'VE SAID, THAT

1 EVEN IN THAT SITUATION, EVEN WHEN YOU HAVE FOUND SOMEONE  
2 GUILTY OF MURDER, YOU WOULD STILL WAIT UNTIL YOU HEARD ALL  
3 OF THE EVIDENCE IN THE SECOND PHASE BEFORE YOU MADE YOUR  
4 DECISION --

5 A THAT'S CORRECT.

6 Q -- AS TO THE PENALTY? LET ME REPHRASE IT. AS TO THE  
7 PENALTY, IN THE SECOND PHASE IS WHERE YOU DETERMINE THE  
8 PENALTY.

9 A YES, MA'AM.

10 Q YOU WOULDN'T GO INTO THAT SECOND PHASE WITH YOUR MIND  
11 ALREADY MADE UP WHICH PENALTY SHOULD BE IMPOSED.

12 A ONE OF THE THINGS I'VE LEARNED IN MY 56 YEARS ON THIS  
13 EARTH IS TO ALWAYS GET ALL THE FACTS AND DON'T MAKE RASH  
14 DECISIONS. IT'S FAR BETTER TO DELIBERATE AND LOOK AT THE  
15 BIG PICTURE THAT APPLIES IN EVERY SITUATION IN LIFE. I  
16 BELIEVE IN GETTING ALL THE FACTS, LOOKING AT EVERYTHING  
17 OBJECTIVELY, AND THEN PROCEEDING.

18 Q NOW, I KNOW THAT YOU HAVE TALKED A LOT HERE TODAY  
19 ABOUT YOUR CHRISTIAN FAITH AND BIBLICAL REFERENCES AND  
20 THAT SORT OF THING.

21 A YES, MA'AM.

22 Q ARE YOUR FEELINGS REGARDING, OR ARE YOUR OPINIONS  
23 REGARDING THE DEATH PENALTY, AND THIS MAY SOUND SILLY  
24 BECAUSE BEING A CHRISTIAN EVERYTHING IS BASED ON YOUR  
25 FAITH AND YOUR BELIEFS, BUT ARE YOUR OPINIONS REGARDING

1 THE DEATH PENALTY BIBLICALLY BASED?

2 A YES, MA'AM.

3 Q CAN YOU EXPLAIN THAT FOR ME?

4 A WELL, IN THE WORLD WE LIVE IN, IN THE EUROPEAN UNION  
5 THE DEATH PENALTY HAS BEEN BANNED; AND THEREAFTER IT'S  
6 IMPORTANT FOR ALL OF US TO KNOW WHERE WE STAND ON THAT  
7 ISSUE. AND WHERE I STAND ON IT IS THE BIBLE. GOD IS A  
8 MERCIFUL GOD, BUT HE'S A GOD OF JUSTICE. AND HE'S A  
9 RIGHTEOUS GOD. AND IT'S CLEAR FROM THE TEACHING OF  
10 SCRIPTURE THAT CERTAIN ACTIONS WILL RECEIVE CERTAIN  
11 RESPONSES FROM GOD, APPROPRIATE RESPONSES, APPROPRIATE  
12 CONSEQUENCES.

13 I BELIEVE THE PUNISHMENT SHOULD FIT THE CRIME; BUT AS  
14 I SAID EARLIER, I BELIEVE THAT THE DEATH PENALTY IN SOME  
15 INSTANCES IS ENTIRELY APPROPRIATE. AND I BELIEVE IT IS A  
16 DETERRENT TO EVIL, TO PEOPLE WHO HAVE NO RESPECT FOR ANY  
17 LAW AND ORDER, NO RESPECT FOR ANY AUTHORITY, HAVE NO  
18 RESPECT FOR FAMILIES, THAT HAVE NO LOVE OR COMPASSION,  
19 LOVE OR COMPASSION FOR THEIR FELLOW MAN. I BELIEVE THAT  
20 THE DEATH PENALTY IN THOSE CIRCUMSTANCES IS A GREAT SAFETY  
21 NET BECAUSE THEY KNOW THERE'S A BOTTOM LINE. AND THEY  
22 KNOW IF THEY CROSS A LINE, THERE'S A TERRIBLE CONSEQUENCE.  
23 Q ALL RIGHT. SOMETIMES PEOPLE REFER TO IT AS -- WELL,  
24 LET ME BACK UP. THE JUDGE TOLD YOU THAT LIFE IMPRISONMENT  
25 IS LIFE WITHOUT PAROLE. A PERSON DOES NOT GET OUT OF



1 PRISON, NOT GET WORK RELEASE, DOES NOT COME OUT. DO YOU  
2 BELIEVE THAT IS A SIGNIFICANT PUNISHMENT JUST IN GENERAL,  
3 IS LIFE IMPRISONMENT?

4 A YES. OF COURSE, IT IS.

5 Q I KNOW SOME OF THE QUESTIONS MAY SOUND SOMEWHAT NOT  
6 SILLY, BUT RHETORICAL.

7 A IN COMPARISON TO THE DEATH PENALTY, YES.

8 Q DO YOU ALSO BELIEVE IN CERTAIN MURDER CASES,  
9 DEPENDING UPON THE FACTS AND CIRCUMSTANCES OF THE CRIME  
10 AND THE FACTS AND THE CIRCUMSTANCES OF THE PERSON  
11 INVOLVED, THE DEFENDANT, THAT LIFE IMPRISONMENT WOULD BE  
12 AN APPROPRIATE PUNISHMENT?

13 A YES, I DO. AS I STATED EARLIER, THE BOOK OF  
14 LEVITICUS STATES CLEARLY, "IF A MAN LIES IN WAIT FOR HIS  
15 NEIGHBOR AND SLAYS HIM, HE IS NOT AFFORDED THE PRIVILEGE  
16 OF GOING TO A CITY OF REFUGE," WHICH PROTECTED THAT  
17 INDIVIDUAL FROM THE SLAIN MAN'S FAMILY. BUT IT SAYS, "IF  
18 TWO MEN ARE STRIVING TOGETHER IN THE FIGHT AND ONE SLAYS  
19 THE OTHER, TO ME THAT'S SECOND DEGREE MURDER. THERE'S NO  
20 PREMEDITATION. IT SAYS, THEN, IN THE BOOK OF LEVITICUS,  
21 THEN THAT MAN MAY GO TO THE CITY OF REFUGE WHERE THE  
22 LEVITICAL PRIEST CAN AFFORD PROTECTION TO THAT  
23 INDIVIDUAL'S FAMILY FROM THE SLAIN PERSON'S FAMILY.

24 SO, IN THAT BOOK THERE'S A DIFFERENTIATION BETWEEN  
25 FIRST-DEGREE PREMEDITATED MURDER AND SECOND-DEGREE CRIMES

1 OF PASSION. SO, WE SEE THERE, THERE IS A DISTINCTION AND  
2 A DIFFERENTIATION IN GOD'S WORD BETWEEN THE PREMEDITATED  
3 COLD-BLOODED CALLOUSED ACT OF MURDER AND THE -- WHAT WE  
4 REFER TO AS A CRIME OF PASSION IN THE HEAT OF THE MOMENT.

5 Q SURE. IN TRANSLATING THAT INTO THE LAW OF SOUTH  
6 CAROLINA, IF IT IS A HEAT OF THE MOMENT, HEAT OF PASSION  
7 TYPE SITUATION, THEN IT WOULD NOT BE MURDER UNDER THE LAW.  
8 OKAY. IT WOULD BE VOLUNTARY MANSLAUGHTER. WE COULD NOT  
9 SEEK THE DEATH PENALTY IN VOLUNTARY MANSLAUGHTER, WE NEED  
10 TO GO BACK TO MURDER, WHERE IT IS INTENTIONAL PREMEDITATED  
11 TO SOME DEGREE. WHAT I NEED TO KNOW, EVEN IN THOSE  
12 SITUATIONS, WOULD YOU ALREADY HAVE YOUR MIND MADE UP AS TO  
13 PUNISHMENT? OR WOULD YOU WAIT UNTIL THE SECOND PHASE AND  
14 HEAR ALL THE EVIDENCE BEFORE YOU MADE UP YOUR MIND?

15 A DUE TO THE SOLEMNNESS OFF THIS PROCEEDING AND DUE TO  
16 THE SERIOUSNESS OFF THE CHARGES AND THE SERIOUSNESS OFF  
17 THE POTENTIAL PUNISHMENTS, I WOULD GIVE CAREFUL  
18 CONSIDERATION TO ALL, EVERY FACTOR SURROUNDING THE CASE  
19 BEFORE MAKING UP MY MIND.

20 Q OKAY. JUST A COUPLE OTHER QUICK POINTS. THE JUDGE  
21 WAS TALKING TO YOU ABOUT LIFE IMPRISONMENT AND DEATH, AND  
22 THAT THE STATE HAS THE BURDEN OF PROVING NOT ONLY THE  
23 DEFENDANT'S GUILT, BUT TO PROVE THE AGGRAVATING  
24 CIRCUMSTANCES TO SUPPORT THE DEATH PENALTY. DO YOU  
25 UNDERSTAND THAT?

1 A YES, MA'AM.

2 Q DO YOU UNDERSTAND THE LAW NEVER REQUIRES YOU TO  
3 IMPOSE THE DEATH PENALTY?

4 A YES, MA'AM.

5 Q JUST BECAUSE A, B, AND C ARE MET AND PROVEN BEYOND  
6 ALL DOUBT, THE JURY STILL, AS AN ACT OF MERCY, OR FOR ANY  
7 REASON OR NO REASON AT ALL CAN GIVE LIFE.

8 A YES, MA'AM.

9 Q IN THOSE SITUATIONS IF YOU FELT LIFE WAS THE  
10 APPROPRIATE SENTENCE FOR THIS DEFENDANT, FOR THIS CRIME,  
11 WHICHEVER MURDER IT IS, WHICHEVER DEFENDANT IT IS, YOU  
12 COULD IMPOSE THAT?

13 A YES, MA'AM.

14 Q FINALLY, IN SOUTH CAROLINA IN A JURY AFTER  
15 DELIBERATING AND ALL 12 JURORS AGREE, THE DEATH PENALTY IS  
16 APPROPRIATE, THEN ALL 12 JURORS MUST SIGN THEIR NAME TO  
17 THE VERDICT FORM.

18 A YES, MA'AM.

19 Q IF ONCE YOU HAVE MADE THAT DECISION, WOULD YOU BE  
20 ABLE TO SIGN YOUR NAME TO THAT VERDICT FORM?

21 A YES, MA'AM. TO DO OTHERWISE WOULD BE HYPOCRISY.

22 Q JUST HAVING TO SIGN YOUR NAME WOULD NOT IMPAIR YOUR  
23 ABILITY?

24 A NO. IF I'M NOT ABLE TO SIGN MY NAME TO MY  
25 CONVICTIONS, IT DOESN'T SPEAK VERY WELL FOR ME.

1 Q THANK YOU. LET ME CHECK ONE MOMENT WITH MY  
2 COCOUNSEL, BUT I THINK I'M DONE.

3 THE COURT: WHO FROM THE DEFENDANT, MR. MAULDIN?

4 MR. MAULDIN: YES, SIR?

5 EXAMINATION BY MR. MAULDIN:

6 Q MR. WYNN.

7 A GOOD MORNING, SIR.

8 Q I'M JOHN MAULDIN, I'M THE PUBLIC DEFENDER FOR  
9 GREENVILLE COUNTY. I, ALONG WITH BILL NETTLES, MARK  
10 MACDOUGALL, AND COLLEEN COYLE, WHO HAPPENS NOT TO BE IN  
11 THE COURTROOM RIGHT NOW, REPRESENT CHRIS IN THIS CASE. I  
12 THINK TO BEGIN WITH, I THINK THE FIRST THING THAT NEEDS TO  
13 BE -- WE NEED TO MAKE SURE THAT YOU ARE AWARE OF, THAT WE,  
14 THESE QUESTIONS FROM THE COURT AND PROSECUTOR AND I ARE  
15 NOT IN RELATION TO THIS PARTICULAR CASE.

16 A YES, SIR. I UNDERSTAND THAT, THEY'RE HYPOTHETICAL.

17 Q WE'RE TALKING ABOUT, WE'RE TRYING TO DETERMINE YOUR  
18 VIEWS TO DETERMINE IF YOU WOULD THEN BE QUALIFIED TO BE IN  
19 THE POOL FROM WHICH THE JURY WOULD BE CHOSEN.

20 A YES, SIR.

21 Q TRY TO KEEP IN MIND, YOU KNOW, THAT WHEN PEOPLE TALK  
22 ABOUT ALL THE EVIDENCE AND ALL THE FACTS, I MEAN,  
23 OBVIOUSLY, A PERSON FIRST CAME IN AND SAID, "I KNOW ALL  
24 THE EVIDENCE AND FACTS ALREADY MADE MY MIND UP, OBVIOUSLY,  
25 THEY'D BE DISQUALIFIED BECAUSE THERE HAVE BEEN NO FACTS IN

1 THIS CASE.

2 A YES, SIR.

3 Q AND ALL MY QUESTIONS RELATE TO WHAT I JUST DESCRIBED  
4 TO YOU.

5 A YES, SIR.

6 Q THE PROCESS OF SELECTING THE JURY, OBVIOUSLY, WHEN  
7 YOU CAME IN ON MONDAY THERE WERE 150 PEOPLE IN THERE, SO  
8 YOU KNEW THAT MANY OF THOSE PEOPLE WERE NOT GOING TO BE  
9 QUALIFIED.

10 A YES, SIR.

11 Q MANY PEOPLE WERE GOING TO HAVE, BECAUSE OF THEIR  
12 VIEWS ON CAPITAL PUNISHMENT, BECAUSE OF ANY OTHER NUMBER  
13 OF REASONS, THEY WOULD NOT BE ABLE TO SERVE ON THE JURY  
14 PANEL IN A CASE LIKE THIS. AND WHAT I WANT TO DO BECAUSE  
15 WHEN I LOOKED AT YOUR QUESTIONNAIRE AND WHEN I HEARD YOU,  
16 I GOT A PRETTY WELL, A PRETTY CLEAR VIEW OF WHAT I FELT  
17 LIKE JAMES WYNN'S VIEWS ON CAPITAL PUNISHMENT WERE. BUT  
18 IF I AM MISTAKEN, I WANT YOU TO CORRECT ME.

19 A YES, SIR.

20 Q YOU DESCRIBED IN LEVITICUS THE LYING IN WAIT  
21 SCENARIO --

22 A YES, SIR.

23 Q -- AS OPPOSED TO THE HEAT OF PASSION SCENARIO?

24 A YES, SIR.

25 Q AND YOU SAID THAT YOU BELIEVE THAT THAT WAS A CORRECT

1 DISTINCTION, THOSE WHO LIE IN WAIT RECEIVE DEATH?

2 A YES, SIR.

3 Q AND THOSE WHO COMMIT AN OFFENSE OF HOMICIDE IN SOME  
4 OTHER TYPE, AND I THINK YOU DESCRIBED SECOND-DEGREE MURDER  
5 OR MANSLAUGHTER?

6 A YES, SIR.

7 Q WOULD RECEIVE, WOULD GO TO THE HOUSE OF --

8 A THE CITY OF REFUGE, WHICH WAS RUN BY THE LEVITICAL  
9 PRIEST. IT WAS FOR THAT PURPOSE, TO PROTECT THAT PERSON  
10 FROM THE REVENGE OF HIS KINSMEN.

11 Q I CAN TELL YOU KNOW A LOT MORE ABOUT IT THAN I DO.  
12 SO, I'M KIND OFF STUMBLING AROUND. BUT I UNDERSTAND THAT,  
13 I THINK, AND THE WAY I UNDERSTAND THAT IS THAT IF WE DID  
14 HAVE FIRST DEGREE AND SECOND DEGREE, WHICH WE DON'T, THE  
15 PERSON WHO PREMEDITATES, THE PERSON WHO COMMITS THE  
16 INTENTIONAL ACT OF KILLING, THE PERSON WHO DOES IT WITH A  
17 WICKED HEART, ESSENTIALLY REAPS WHAT HE SOWS AND RECEIVES  
18 THE PUNISHMENT THAT FITS THE CRIME; THAT IS, DEATH FOR  
19 DEATH?

20 A YES, SIR.

21 Q I DON'T KNOW, MAYBE I MISUNDERSTOOD THAT, BUT IS THAT  
22 HOW YOU REALLY FEEL?

23 A YES, SIR, I THINK THAT'S APPROPRIATE. WE'RE ALL  
24 FAMILIAR WITH, "AN EYE FOR AN EYE AND TOOTH FOR A TOOTH."  
25 THAT'S ACTUALLY IN THE OLD TESTAMENT. ACTUALLY THAT WAS

1 IMPROVEMENT OVER THE EXISTING ORDER OF THE DAY, BEFORE GOD  
2 GAVE THAT COMMANDMENT "EYE FOR EYE, TOOTH FOR TOOTH." IT  
3 WAS ALL OUT, IF YOUR KINSMAN WAS SLAIN MY ANOTHER CLAN,  
4 THEY WENT OUT AND WIPE OUT THE HOLE CLAN. BUT GOD SAID,  
5 "AN EYE FOR AN EYE AND A TOOTH FOR A TOOTH."

6 Q OR WIPE OUT THE GUY WHO DID IT, BASICALLY.

7 A THAT'S RIGHT, SO THAT WAS AN IMPROVEMENT.

8 Q THAT'S RIGHT. NOW, WITH THAT IN MIND, LET ME ASK YOU  
9 THIS. THE JUDGE DESCRIBED THE TWO PHASES; AND BEFORE I DO  
10 THIS -- SO I AM INTERPRETING THAT AS YOU ARE SUPPORTER OF  
11 OR A BELIEVER IN THE EYE FOR AN EYE CONCEPT?

12 A I BELIEVE IN JUSTICE. I BELIEVE THAT THE PUNISHMENT  
13 SHOULD FIT THE CRIME.

14 Q AND AS WE HAVE TALKED ABOUT IT WITH REGARD TO THE LIE  
15 IN WAIT EXAMPLE AND THE EYE FOR AN EYE EXAMPLE YOU'VE JUST  
16 GIVEN, THOSE ARE ESSENTIALLY YOUR BELIEFS?

17 A WELL, BASICALLY. YES, SIR.

18 Q NOW, LET'S TALK ABOUT -- WE'RE GOING TO SPIN FORWARD  
19 FROM THE OLD TESTAMENT TO TODAY'S EXAMINATION.

20 A YES, SIR.

21 Q THE JUDGE DESCRIBED A FIRST TRIAL AND A SECOND TRIAL  
22 IF A CONVICTION WAS HAD.

23 A YES, SIR.

24 Q AT THAT FIRST TRIAL ALL THE EVIDENCE ABOUT THE  
25 ACTIONS THAT OCCURRED ON THE DAY OF THE CRIME ARE WHAT THE

1 JURY HEARS.

2 A YES, SIR.

3 Q THEY HEAR ALL OF THE, YOU KNOW, FINGERPRINTS,  
4 PHOTOGRAPHS, WEAPON, WITNESSES. ALL OF THAT STUFF COMES  
5 IN AT THE FIRST TRIAL. AND THEN THE JURY GOES OUT AND  
6 DELIBERATES; AND IF THEY FIND THE PERSON NOT GUILTY, OF  
7 COURSE, THAT ENDS IT.

8 A YES, SIR.

9 Q BUT WE HAVE TO KIND OF PUT THE CART BEFORE THE HORSE.  
10 WE HAVE TO KIND OF ASSUME THERE'S A GUILTY VERDICT IN  
11 ORDER TO EVEN ASK YOU ABOUT CAPITAL PUNISHMENT.

12 A YES, SIR.

13 Q LET'S SAY YOU'RE ON THE JURY AND THE JURY GOES OUT  
14 AND FIND THE PERSON GUILTY. HE'S NOT GUILTY OF  
15 MANSLAUGHTER. IT WASN'T ABOUT ACCIDENT, IT WASN'T SECOND  
16 DEGREE OR MANSLAUGHTER, HEAT OF PASSION, IT WASN'T  
17 INSANITY. THE JURY HAS DECIDED THAT THIS PERSON IS GUILTY  
18 OF MURDER.

19 A YES, SIR.

20 Q HE INTENDED TO DO IT. MEANT TO DO IT, DID IT WITH AN  
21 EVIL HEART.

22 A YES, SIR.

23 Q WE GO INTO THAT SECOND PHASE. AND THE QUESTION I'VE  
24 GOT FOR YOU, MR. WYNN, IS IF CONSISTENCY REGARDING YOUR  
25 BIBLICAL FOUNDATIONS FOR YOUR VIEWS APPLIES, THEN I WOULD



1 SEE JAMES WYNN SENTENCING THAT PERSON TO DEATH IF HE WERE  
2 FULLY AND COMPLETELY SATISFIED AS TO THE LEVEL OF  
3 RESPONSIBILITY?

4 A NOT NECESSARILY.

5 Q ALL RIGHT. PLEASE --

6 A LET ME EXPOUND ON THAT.

7 Q PLEASE.

8 A LORD JESUS THE PHARISES TOOK A WOMAN IN ADULTERY AND  
9 IN THE MOSAIC LODGE, SAID "IF A WOMAN COMMITS ADULTERY,  
10 SHE IS TO BE STONED. AND THEY BROUGHT HER TO HIM."

11 THEY SAID, "THIS WOMAN WAS CAUGHT IN ADULTERY, TAKEN  
12 IN THE VERY ACT."

13 AND THEY SAID, "WHAT DO YOU SAY?"

14 AND THEY SAID THAT HE JUST DREW IN THE SAND FOR A  
15 COUPLE OF MINUTES, AND HE SAID, "LET HIM WHO IS WITHOUT  
16 GUILT CAST THE FIRST STONE." AND IT SAYS THAT ONE BY ONE  
17 THE PHARISES, ONE BY ONE, TURNED AND LEFT.

18 AND THEN FINALLY, THE WOMAN AND JESUS WERE LEFT  
19 ALONE. JESUS SAID, "GO AND SIN NO MORE." SO, GOD'S  
20 JUSTICE IS TEMPERED WITH MERCY. SO, WHAT I'M SAYING IS IF  
21 THE INDIVIDUAL WAS FOUND PREMEDITATED MURDER, I WOULD  
22 STILL CONSIDER EVERY OTHER FACTOR INVOLVED IN THE CASE  
23 BEFORE MAKING UP MY MIND.

24 Q ALL RIGHT. SO, AT THE SECOND PHASE THE GOVERNMENT  
25 WOULD THEN BRING IN THE AGGRAVATING; THAT IS -- AND YOU

1 KNOW IT COULD BE GRAPHIC PHOTOGRAPHS OR WHATEVER THEY  
2 BRING IN THAT MAKES THEIR REQUEST FOR THE JURY. THEY'RE  
3 SAYING THIS EVIDENCE SUPPORTS THEIR REQUEST. AND FOR  
4 EXAMPLE, IT'S NOT JUST MURDER, IT WOULD BE MURDER AND A  
5 CONVICTION OF ANOTHER VIOLENT OR SERIOUS CRIME, ARMED  
6 ROBBERY, RAPE, KIDNAPPING OR SOMETHING, MURDER OF MORE  
7 THAN ONE PERSON.

8 A YES, SIR.

9 Q UNDER THOSE CIRCUMSTANCES AND IF THE PERSON WHO HAD  
10 BEEN CONVICTED OFFERS NO TESTIMONY, YOU FOLLOW ME?

11 A YES, SIR.

12 Q CONVICTED, GOVERNMENT PRODUCES INFORMATION, YOU HEAR  
13 NOTHING, CAN YOU, UNDER THAT CIRCUMSTANCE, GIVE A  
14 MEANINGFUL CONSIDERATION -- AND, YOU KNOW, IT'S LIKE I  
15 THINK MISS STROM SAID, THE JURY COULD DO THIS AND THE JURY  
16 COULD DO THAT, I TELL YOU WHAT I WANT TO KNOW, WHAT JAMES  
17 WYNN COULD DO. I WANT TO KNOW WHAT YOU IN YOUR HEART OF  
18 HEARTS REALLY FEEL LIKE YOU COULD DO. SO, THAT'S WHERE  
19 THIS QUESTION IS. COULD YOU GIVE MEANINGFUL CONSIDERATION  
20 TO A SENTENCE OF LESS THAN DEATH WHERE YOU HAVE THE  
21 CONVICTION AND NO RESPONSE OR INFORMATION FROM THE PERSON  
22 WHO'S BEEN CONVICTED?

23 A YES, I COULD. AND I COULD GIVE YOU AN EXAMPLE.

24 Q YES, SIR.

25 A SUPPOSE IT WAS SHOWN THE DEFENDANT DID COMMIT

1     PREMEDITATED MURDER AND WITH AGGRAVATION, AND SUPPOSE  
2     EVIDENCE WAS PRESENTED THIS INDIVIDUAL HAD BEEN SEXUALLY  
3     ABUSED AS A CHILD AND HAD SUFFERED AGGRAVATED AND  
4     CONTINUAL SEVERE ABUSE LATER IN LIFE AT THE HANDS OF OTHER  
5     PEOPLE.  WHAT I'M SAYING, I WOULD CONSIDER ALL ASPECTS OF  
6     THE CASE BEFORE RENDERING, BEFORE COMING TO AN OPINION.  
7     BECAUSE OF THE SEVERE -- BECAUSE OF THE SOLEMN NATURE OF  
8     THIS TRIAL AND BECAUSE OF THE SERIOUSNESS OF THE  
9     CONSEQUENCES.

10       MR. MAULDIN:  TWO MORE QUESTIONS.

11       THE COURT:  OKAY TWO MORE.  LET'S MOVE ON TO ANOTHER  
12     SUBJECT MATTER.

13       MR. MAULDIN:  I THINK I'VE COMPLETED --

14       THE COURT:  I'VE COVERED IT, SHE'S COVERED IT, YOU  
15     COVERED IT.

16       MR. MAULDIN:  I WANT TO ASK ABOUT THE SIGNING AND  
17     MENTAL HEALTH ISSUE.

18       THE COURT:  FINE.  BRING OUT SOME NEW MATERIAL.

19     BY MR. MAULDIN:

20     Q     MR. WYNN, THE PROSECUTOR ASKED YOU ABOUT SIGNING A  
21     FORM.  LET'S SPIN FORWARD AND ASSUME YOU'RE IN THE  
22     DELIBERATION ROOM IN THE PENALTY PHASE AND EVERYBODY HAS  
23     TALKED.  IN OTHER WORDS, YOU GOT TO GO AROUND THE ROOM,  
24     LET EVERYBODY HAVE THEIR FULL SAY ON THE MATTER OF LIFE  
25     AND DEATH.  AND THE JURY SAYS, "OKAY, IT'S TIME FOR US TO

1 VOTE. WE BEEN HERE, GETTING -- IT'S GETTING LATE IN THE  
2 DAY, WHATEVER THE ISSUE IS, AND THEY VOTE. LET'S SAY IT'S  
3 A STRONG MAJORITY ONE PENALTY OR ANOTHER, DOESN'T MATTER  
4 WHICH PENALTY; BUT THERE ARE TEN PEOPLE ON ONE SIDE,  
5 ELEVEN PEOPLE, AND ONE OR TWO ARE ON THE OTHER. AND I  
6 WANT TO PUT YOU IN THAT ONE OR TWO, BECAUSE I DON'T KNOW,  
7 YET, HOW YOU DEAL WITH ISSUES LIKE THAT. BUT LET'S SAY  
8 YOU'RE IN THAT POSITION. THE QUESTION I'VE GOT IS, WOULD  
9 YOU GIVE UP YOUR VIEW, HAVING FULLY DELIBERATED --

10 A NO.

11 Q -- IN ORDER TO GO?

12 A NO, I WOULD NOT.

13 Q ALL RIGHT.

14 A NEVER.

15 Q AND, LIKEWISE, IF YOU WERE IN THE MAJORITY AND YOU  
16 HAD ONE OR TWO PEOPLE WHO HAD FULLY DELIBERATED WHO HAD  
17 ALSO DECIDED IN THEIR TRUE COMMITTED VIEW, PERSONAL  
18 DECISION, ABOUT WHAT WAS RIGHT IN THAT CASE, WOULD YOU  
19 ATTEMPT TO FORCE THEM TO SIDE WITH THE MAJORITY, OR WOULD  
20 YOU RESPECT THE FACT THEY HAVE HEARD THE SAME EVIDENCE,  
21 COME TO SAME VIEW?

22 A I WOULD RESPECT THEIR OPINION. I WOULD NOT TRY TO  
23 COERCE THEM OR FORCE THEM TO A DECISION. I DON'T THINK  
24 THAT WOULD BE IN THE INTEREST OF JUSTICE.

25 Q THE LAST AREA. WE'VE TALKED ABOUT CAPITAL PUNISHMENT

1 AND I WANT TO CHANGE THE SUBJECT. I WANT TO ASK YOU IN  
2 GENERAL A VERY BROAD, OPEN QUESTION, JUST OFF THE CUFF,  
3 WHAT WOULD YOU SAY YOUR VIEW OR OPINION IS REGARDING THE  
4 SUBJECT OF MENTAL ILLNESS?

5 A SIR, I DON'T WANT TO GIVE YOU THE WRONG IMPRESSION.  
6 I WANT TO BE PERFECTLY HONEST AND CANDID --

7 Q YES, SIR. THE JUDGE NEEDS THAT.

8 A -- WITH THE JUDGE AND EVERYTHING. MENTAL ILLNESS I  
9 BELIEVE IS OFTEN USED AS A CLOAK FOR CRIMINAL ACTIVITY. I  
10 BELIEVE IT'S ABUSED. I DO BELIEVE THERE IS TRUE MENTAL  
11 ILLNESS; BUT I THINK IT'S OFTEN USED AS A CLOAK TO EVADE  
12 RESPONSIBILITY AND FOR THE COMMISSION OF CRIMINAL  
13 ACTIVITIES.

14 IN THE INSTANCE OF TRUE MENTAL ILLNESS, I BELIEVE  
15 THAT IS A BIG FACTOR IN THE CONSIDERATION OF GUILTY OR  
16 INNOCENCE. BUT IF, FOR EXAMPLE, I BELIEVE THAT IF A  
17 PERSON IS MENTALLY COMPETENT ENOUGH TO HAVE A NORMAL DAILY  
18 ROUTINE TO DRIVE A CAR, TO WORK, TO FUNCTION, TO  
19 COMMUNICATE, I BELIEVE THAT PERSON SHOULD BE HELD  
20 ACCOUNTABLE FOR RIGHT OR WRONG. SO --

21 THE COURT: LET ME EXPLAIN ONE THING TO YOU. OKAY?  
22 WE'RE NOT TALKING ABOUT AN INDIVIDUAL'S CAPACITY FOR RIGHT  
23 OR WRONG. THAT WOULD BE AN INSANITY SITUATION. AND IF  
24 THE DEFENDANT WAS INSANE, WE WOULD HAVE NEVER GOT TO THE  
25 PENALTY PHASE.

1 PROSPECTIVE JUROR: YES, SIR.

2 THE COURT: THAT WOULD BE AT THE END OF THE GUILT  
3 PHASE.

4 PROSPECTIVE JUROR: YES, SIR.

5 THE COURT: HE'S TALKING ABOUT A MENTAL ILLNESS IN  
6 CONJUNCTION WITH TYPE OF AGGRAVATING CIRCUMSTANCES. OKAY?  
7 I JUST WANT TO CLARIFY.

8 PROSPECTIVE JUROR: OKAY.

9 THE COURT: DOESN'T HAVE ANYTHING TO DO WITH THE  
10 DEFENDANT'S KNOWLEDGE OF RIGHT OR WRONG.

11 PROSPECTIVE JUROR: SO, YOU'RE SAYING THAT THIS  
12 HYPOTHETICAL INDIVIDUAL WITH MENTAL ILLNESS IS JUDGED BY  
13 THE COURT TO KNOW THE DIFFERENCE BETWEEN RIGHT AND WRONG?

14 THE COURT: THAT'S -- IT'S NOT WHAT HE'S TALKING  
15 ABOUT, I JUST WANTED YOU TO UNDERSTAND.

16 BY MR. MAULDIN:

17 Q THAT'S THE FIRST TRIAL ISSUE. AND WE'RE PAST THE  
18 FIRST TRIAL, WE'RE IN THE SENTENCING PART.

19 A YES, SIR.

20 Q AND THE ISSUE THAT -- AND YOU WERE VERY CLEAR ON  
21 THAT, IT SEEMS TO ME, THAT IF IT'S A RIGHT OR WRONG ISSUE,  
22 AND THAT'S ONE THING; BUT IF WE'RE BEYOND THAT AND IN THE  
23 SENTENCING PHASE, THE QUESTION I HAVE FOR YOU, IF  
24 TESTIMONY WAS OFFERED TO YOU REGARDING THE EXISTENCE OF  
25 MENTAL ILLNESS, IN THE -- IN SUPPORT OF THE REQUEST FOR A

1 CONSIDERATION OF A LIFE SENTENCE.

2 A YES, SIR.

3 Q COULD YOU GIVE MEANINGFUL CONSIDERATION --

4 A YES, SIR.

5 Q -- TO THAT TYPE OF TESTIMONY?

6 A YES, SIR, I COULD. YES, SIR.

7 Q BECAUSE THAT'S A LITTLE DIFFERENT THAN WHAT I THOUGHT  
8 I WAS HEARING. CAN YOU EXPLAIN --

9 MS. STROM: I WOULD OBJECT. I THINK WE'VE GONE INTO  
10 THAT QUESTION.

11 THE COURT: REPHRASE YOUR QUESTION. AND ONE MORE  
12 QUESTION, A WHILE AGO YOU SAID TWO, WE'RE ALREADY AT SIX.

13 Q LAST QUESTION. I THOUGHT I UNDERSTOOD YOU  
14 PREVIOUSLY.

15 A CAN I CLARIFY MY POSITION?

16 Q YES, SIR.

17 A I'M NOT A DOCTOR OR PSYCHIATRIST. I STUDIED  
18 PSYCHIATRY IN COLLEGE. I BELIEVE THAT IF A PERSON IS  
19 MENTALLY COMPETENT ENOUGH TO LEAD A FAIRLY NORMAL LIFE, TO  
20 COMMUNICATE AND -- COMMUNICATE WITH OTHER PEOPLE AND KNOWS  
21 RIGHT FROM WRONG, I HAVE TO BE HONEST. MENTAL ILLNESS, IF  
22 THE PERSON KNOWS RIGHT FROM WRONG, I DON'T FEEL THAT  
23 MENTAL ILLNESS IS A HUGE FACTOR IN THE CONSIDERATION OF  
24 THE PUNISHMENT, I WOULD BE VERY CLEAR ABOUT THAT. IF THE  
25 PERSON KNOWS THE DIFFERENCE BETWEEN RIGHT AND WRONG AND

1       COMMITTS A HORRIBLE CRIME, I FEEL THAT THEY SHOULD RECEIVE  
2       THE JUST PUNISHMENT FOR THAT CRIME.

3       Q       IF THE COURT INSTRUCTED YOU AS A JUROR TO BE ELIGIBLE  
4       OR QUALIFIED TO BE ON A JURY LIKE THIS THE PERSON WOULD  
5       HAVE TO SAY THEY COULD GIVE MEANINGFUL CONSIDERATION TO  
6       THE ISSUE OF MENTAL ILLNESS, EVEN IF IT HAD NOTHING TO DO  
7       WITH RIGHT OR WRONG, THE QUESTION I'VE GOT FOR YOU IS, CAN  
8       YOU FOLLOW THAT INSTRUCTION? BECAUSE IT'S NOT WHAT THE  
9       JUDGE SAYS, IT'S WHAT YOU REALLY FEEL LIKE YOU COULD DO.  
10      AND IF YOU CAN'T, WE NEED TO DO IT RIGHT NOW.

11      A       YES, SIR. YES, SIR. I COULD GIVE MEANINGFUL  
12      CONSIDERATION TO THE MATTER OF MENTAL ILLNESS, FOR  
13      EXAMPLE, CHRONIC DEPRESSION OR SCHIZOPHRENIA, SOMETHING  
14      LIKE THAT.

15      Q       IN DECIDING A LIFE SENTENCE?

16      A       YES, SIR. YES, SIR, I COULD.

17              MR. MAULDIN: THANK YOU. LET ME CHECK WITH MY FOLKS.  
18              NOTHING FURTHER, YOUR HONOR.

19              THE COURT: ANY MOTIONS? ARE THERE GOING TO BE ANY  
20      MOTIONS?

21              MR. MAULDIN: NO, SIR.

22              MS. STROM: NO, SIR.

23      BY THE COURT:

24      Q       MR. WYNN, WE'RE DRAWING A PANEL OF 40 JURORS. AND  
25      FROM THAT PANEL WE WILL DRAW 12 JURORS AND THREE



1 ALTERNATES. THE BAILIFF HAS A SHEET OF PAPER AND ON THERE  
2 THERE'S A PHONE NUMBER. CALL IN, THERE WILL BE A MESSAGE  
3 ON THAT MACHINE.

4 A YES, SIR. COULD I -- I HAVE ONE OTHER THING I NEED  
5 TO TALK WITH YOU ABOUT.

6 Q I'M SORRY. I GOT TO ASK A FEW MORE QUESTIONS. I'M  
7 GETTING AHEAD OF MYSELF. SORRY. I APOLOGIZE. OKAY. I'M  
8 GETTING AHEAD OF MYSELF. DO YOU HAVE ANY PHYSICAL OR  
9 MENTAL PROBLEMS THAT WOULD PREVENT YOU FROM SITTING ON THE  
10 JURY?

11 A NO, SIR.

12 Q DO YOU HAVE ANY MEDICAL REASONS AS TO WHY YOU COULD  
13 NOT SIT ON THE JURY?

14 A NO. I JUST HAD A MEDICAL PROBLEM.

15 Q YOU HAVE ANY PERSONAL HARDSHIP WHY YOU CAN'T SIT ON  
16 THE JURY?

17 A I WANT TO MENTION I HAVE TORN BETWEEN -- I HAVE A  
18 REAL DESIRE TO SERVE, HELP SERVE THE CAUSE OF JUSTICE AND  
19 SERVE MY COMMUNITY. I DO HAVE SOME FINANCIAL  
20 CONSIDERATIONS. I WAS IN THE HOSPITAL IN OCTOBER AND  
21 NOVEMBER, RAN UP A HUGE MEDICAL BILL, AND I'M TRYING TO  
22 WORK ON THAT, PAY IT DOWN. AND I LOST A LOT OF WORK ALSO;  
23 BUT THANK THE LORD, THE MAIN THING IS, I'M OKAY NOW. AND  
24 I CAREFULLY CONSIDERED THIS MORNING BEFORE I CAME IN. BUT  
25 I WOULD RESPECTFULLY REQUEST TO BE EXCUSED FOR THAT

1 REASON, BECAUSE, YOU KNOW, I HAVE A FAMILY AND IT WAS  
2 BASICALLY A FINANCIAL TIDAL WAIVE IN OCTOBER.

3 Q LET ME SAY THIS TO YOU. YOU PROBABLY WILL BE OUT OF  
4 WORK FOR FOUR TO FIVE DAYS. OKAY? POSSIBLY, I DON'T  
5 KNOW; BUT IT WOULD PROBABLY BE FOUR TO FIVE DAYS.

6 A OKAY. THAT -- I WAS THINKING IT WOULD BE MORE LIKE A  
7 MONTH.

8 Q NO, NO. WE'RE TALKING ABOUT BEING OUT OF WORK FOUR  
9 OR FIVE DAYS.

10 A YES, SIR. PUT ME IN.

11 Q CAN YOU HANDLE THAT?

12 A YES, SIR.

13 Q LET ME ASK YOU ONE MORE QUESTION ABOUT THAT. WILL  
14 THAT PROBLEM BE BOTHERING YOU SO BAD IF YOU WERE ON THIS  
15 JURY THAT YOU'RE NOT GOING TO BE ABLE TO CONCENTRATE ON  
16 WHAT YOU SHOULD BE DOING AS A JUROR?

17 A NO, SIR.

18 Q OKAY.

19 A I WAS THINKING IN TERMS OF IF IT WAS THREE WEEKS OR A  
20 MONTH.

21 Q NO, NO. THAT DOESN'T HAPPEN IN SOUTH CAROLINA.  
22 OKAY. JUST CALIFORNIA. OKAY. DO YOU KNOW THE VICTIM IN  
23 THIS CASE, MARANDA WILLIAMS?

24 A NO, SIR.

25 Q DO YOU KNOW MR. CHARLES CHRISTOPHER WILLIAMS, WHO IS

1 SITTING TO MY RIGHT HERE, IN THE DARK SWEATER?

2 A NO, SIR.

3 Q DO YOU KNOW ANY OF THE DEFENSE ATTORNEYS, EITHER MR.  
4 MAULDIN, MR. NETTLES OR MR. MACDOUGALL, MISS COLLEEN  
5 COYLE? SHE'S NOT IN THE COURTROOM RIGHT NOW.

6 A NO.

7 Q DO YOU KNOW MR. ARIAIL AND HIS TWO ASSISTANTS?

8 A NO, SIR.

9 Q DO YOU HAVE ANY FRIENDS OR ASSOCIATES YOU KNOW IN THE  
10 SOLICITOR'S OFFICE?

11 A NO, SIR.

12 Q I'M GOING TO GIVE YOU A WITNESS LIST. WOULD YOU LOOK  
13 AT THIS WITNESS LIST AND TELL ME IF YOU RECOGNIZE ANY  
14 NAMES ON THAT LIST.

15 A NO, SIR.

16 Q LET ME GIVE YOU A SECOND LIST AND WOULD YOU LOOK AT  
17 THAT AND SEE IF YOU COULD IDENTIFY ANY NAMES ON THAT LIST.

18 A GREENVILLE IS GETTING TO BE A BIG PLACE. I DON'T  
19 RECOGNIZE ANY OF THEM.

20 Q I'M GOING TO ASK YOU A QUESTION I'D LIKE YOU TO  
21 RESPOND TO. IN THIS CASE THE DEFENDANT IS BLACK AND THE  
22 VICTIM IS WHITE. IT IS UNDISPUTED THE BLACK DEFENDANT AND  
23 WHITE VICTIM ENGAGED IN INTERRACIAL DATING. WOULD THE  
24 FACT THAT THE DEFENDANT AND THE VICTIM ENGAGED IN  
25 INTERRACIAL DATING MAKE IT DIFFICULT FOR YOU TO BE FAIR TO

1 EITHER THE STATE OR THE DEFENDANT?

2 A NO, SIR.

3 Q CAN YOU BASE YOUR DECISION ON THE TESTIMONY AND  
4 EVIDENCE YOU HEAR IN THE COURTROOM, NOT WHAT HAPPENS  
5 OUTSIDE THE COURTROOM?

6 A YES, SIR.

7 Q CAN YOU BE FAIR TO BOTH THE STATE AND THE DEFENDANT?

8 A YES, SIR.

9 Q ANY FURTHER QUESTIONS?

10 MS. STROM: NONE FROM THE STATE.

11 MR. MAULDIN: WE WOULD HAVE A MATTER, YOUR HONOR.

12 THE COURT: ALL RIGHT. WOULD YOU STEP OUT IN THE  
13 HALL JUST A SECOND, PLEASE?

14 PROSPECTIVE JUROR: YES, SIR.

15 THE COURT: THANK YOU VERY MUCH.

16 (PROSPECTIVE JUROR EXITS COURTROOM)

17 THE COURT: YES, SIR?

18 MR. MAULDIN: YOUR HONOR, WE'RE GOING TO MOVE TO  
19 EXCUSE MR. WYNN. AND THE POSITION WE TAKE IS THIS. HE  
20 GAVE, I GUESS WHAT MIGHT BE DESCRIBED AS THE RIGHT  
21 ANSWERS; BUT I THINK IN DETERMINING THE OVERALL  
22 QUALIFICATION OF A JUROR, THE COURT'S GOT TO LOOK AT THE  
23 ENTIRE OVERALL VOIR DIRE, INCLUDING THE QUESTIONNAIRE.

24 I MAKE REFERENCE TO HIS ANSWER IN THE QUESTIONNAIRE  
25 THAT HIS DESCRIPTION OF CAPITAL PUNISHMENT IS THAT IT'S

1 JUST LIKE NUCLEAR WEAPONS. AND I GUESS I'VE QUESTIONED A  
2 THOUSAND JURORS IN VOIR DIRE, AND I NEVER HEARD ANYBODY  
3 MAKE THAT ANALOGY. THIS WAS AT HIS BREAKFAST ROOM TABLE,  
4 NOT UNDER THE STRESS OF A COURTROOM. HE ALSO SAID HE  
5 THOUGHT DEFENDANTS WERE SENTENCED TO DEATH IN DEATH  
6 PENALTY CASES TOO SELDOM. HE, FURTHERMORE, SAID ON PAGE  
7 EIGHT, QUESTION 57, "THE BI-LO," REGARDING CASES THAT HE  
8 WAS AWARE OF, "THE BI-LO STAND OFF AND THE MURDER OF THE  
9 LADY AT THE NORTH HILLS BI-LO," WHICH IS THIS CASE. HE'S  
10 TALKING ABOUT THE MURDER OF THE LADY.

11 THE COURT: I THINK WE WENT INTO THAT IN GREAT  
12 DETAIL, WHAT ACTUAL KNOWLEDGE HE HAD, WHAT ACTUAL  
13 KNOWLEDGE HE DIDN'T HAVE.

14 MS. STROM: RIGHT.

15 MR. MAULDIN: RIGHT. TO THINK YOU LOOK AT, THE FIRST  
16 THING, THE RESPONSES. YOU LOOK AT "EYE FOR AN EYE,  
17 LEVITICUS, LYING IN WAIT." HE CLEARLY IS A PERSON WHO ON  
18 A SECOND DEGREE MURDER, IF WE HAD IT, UNUSUAL  
19 CIRCUMSTANCES WOULD PROBABLY IMPOSE A LIFE SENTENCE  
20 WITHOUT HESITATION; BUT IN WHAT HE DESCRIBED FIRST DEGREE,  
21 WHICH IS WHAT SOUTH CAROLINA CALLS AGGRAVATED MURDER,  
22 WHICH IS A CAPITAL OFFENSE, WHICH IS EXACTLY WHAT WE HAVE  
23 IN FRONT OF US, HE SAYS THAT PERSON, THE PENALTY FITS THE  
24 CRIME. AND WE DON'T HAVE TO BE ROCKET SCIENTISTS TO  
25 REALIZE WHAT HE'S SAYING.

1 HE'S WANTING TO BE AS FAIR AS WE CAN BE, BUT WE  
2 REALLY KNOW WHAT HIS VIEWS ARE. WE REALLY DO. AND I TELL  
3 YOU WHY. WHEN YOU WERE TALKING TO HIM ABOUT THE WORK  
4 CONFLICT. I'M GOING TO QUOTE SOMETHING THAT HE SAID. AND  
5 HE'S A GOOD MAN. "I HAVE A DESIRE TO SERVE TO SEEK  
6 JUSTICE." THERE IS THE BELL RINGER FOR THIS FELLOW'S  
7 QUALIFICATIONS. HE WANTS TO BE HERE TO SEEK GOD'S  
8 JUSTICE. HE'S TOLD US THAT, AND WE DON'T HAVE TO SPIN IT  
9 TOO MANY TIMES TO FIGURE IT OUT.

10 GOD BLESS HIM, HE'S A WONDERFUL PERSON, BUT HE'S JUST  
11 NOT QUALIFIED UNDER WHITT AND HILL. IN THE OVERALL VOIR  
12 DIRE TAKEN AS A WHOLE, NOT ANY INDIVIDUAL QUESTION OR  
13 ANSWER, HE IS SUBSTANTIALLY IMPAIRED UNDER THE UNITED  
14 STATES AND SOUTH CAROLINA SUPREME COURT CASES, AND WE MOVE  
15 THAT HE BE DISQUALIFIED.

16 THE COURT: MOTION DENIED. I WILL MARK HIS  
17 QUESTIONNAIRE AS A COURT'S EXHIBIT. OKAY. WOULD YOU MARK  
18 THAT, PLEASE?

19 (COURT'S EXHIBIT NUMBER 10, THE JUROR QUESTIONNAIRE  
20 OF J. WYNN IS MARKED FOR PURPOSES OF THE RECORD.)

21 MR. MAULDIN: I THINK WE NEED TO BRING HIM IN.

22 THE COURT: SORRY, BRING HIM IN. EXCUSE ME.

23 (PROSPECTIVE JUROR ENTERS COURTROOM.)

24 MR. WYNN, THANK YOU VERY MUCH. AS I WAS PREMATURE IN  
25 SAYING, WE'RE DRAWING A POOL OF 40 JURORS. FROM THAT POOL

1 WE'LL DRAW 12 JURORS AND FOUR ALTERNATES. CALL THAT  
2 NUMBER TONIGHT, AND THERE WILL BE A MESSAGE FOR YOU  
3 TONIGHT TELLING YOU WHEN TO REPORT OR WHEN TO CALL BACK.  
4 THANK YOU VERY MUCH.

5 PROSPECTIVE JUROR: YES, SIR.

6 THE COURT: THANK YOU, SIR.

7 (PROSPECTIVE JUROR EXITS COURTROOM)

8 BRING US ASHLEY JOHNSON, PLEASE.

9 MR. ARIAIL: YOUR HONOR, I KNOW YOU'RE AWARE, WE JUST  
10 SPENT AN HOUR, IF WE HAVE TO DO 18 TODAY, WE JUST SPENT AN  
11 HOUR ON AN OBVIOUSLY QUALIFIED JUROR.

12 THE COURT: I UNDERSTAND THAT.

13 MR. MAULDIN: WE DON'T HAVE TO DO 18 TODAY.

14 THE COURT: DON'T WORRY.

15 MR. NETTLES: I'M NOT SO SURE IT WAS ALWAYS OBVIOUS.  
16 WE HAVE A CREDIBILITY PROBLEM IF THAT WAS ALWAYS OBVIOUS.

17 THE COURT: WELL, I DON'T NECESSARILY AGREE WITH THE  
18 SOLICITOR'S POSITION, IT WAS ALWAYS OBVIOUS. THAT'S  
19 NEITHER HERE NOR THERE. BUT I UNDERSTAND WHERE HE'S  
20 COMING FROM. FROM HIS PERSPECTIVE HE'S CORRECT; FROM YOUR  
21 PERSPECTIVE, YOU'RE CORRECT. FROM MY PERSPECTIVE, IT'S  
22 NOT ALWAYS.

23 ASHLEY JOHNSON, AFTER BEING DULY  
24 SWORN, TESTIFIED AS FOLLOWS:

25 EXAMINATION

1 BY THE COURT:

2 Q MISS JOHNSON, HOW YOU DOING THIS MORNING?

3 A ALL RIGHT. HOW ARE YOU?

4 Q I'M OKAY. MS. JOHNSON, DO YOU REMEMBER FILLING OUT  
5 THIS QUESTIONNAIRE LAST MONTH OR THE MONTH BEFORE LAST?

6 A YES, SIR.

7 Q WOULD YOU DO ME A FAVOR, GO WITH THE BAILIFF AND GET  
8 RID OF THAT CHEWING GUM.

9 (JUROR COMPLIES)

10 MISS JOHNSON, I GAVE YOU YOUR QUESTIONNAIRE. WHEN  
11 YOU FILLED IT OUT, WAS IT FAIRLY ACCURATE?

12 A YES.

13 Q I WANT TO ASK YOU A FEW QUESTIONS ABOUT -- DONNA, DID  
14 I SWEAR HER?

15 COURT REPORTER: YES, SIR.

16 Q I WANT TO ASK YOU A FEW QUESTIONS ABOUT YOUR  
17 QUESTIONNAIRE. THERE'S NO RIGHT OR WRONG ANSWER, JUST  
18 ANSWER THE QUESTION BEST YOU CAN.

19 A OKAY.

20 Q IF YOU WOULD TURN TO PAGE SIX OF YOUR QUESTIONNAIRE.  
21 PAGE SIX, QUESTION 42. SAYS, "HAVE YOU OR FAMILY MEMBERS  
22 OR CLOSE FRIENDS EVER BEEN REPRESENTED BY WILLIAM NETTLES  
23 OR JOHN MAULDIN? MR. MAULDIN SITS TO MY RIGHT IN THE GRAY  
24 SUIT. MR. NETTLES TO MY RIGHT IN THE DARK SUIT. DO YOU  
25 KNOW EITHER OF THOSE GENTLEMEN?



1 A I DON'T PERSONALLY.

2 Q WHICH FAMILY MEMBER WAS REPRESENTED BY WHO?

3 A I MUST HAVE CHECKED THE WRONG ANSWER ON THAT ONE  
4 BECAUSE I DON'T SEE NEITHER ONE.

5 Q WHAT WERE YOU REFERRING TO, YOURSELF OR A FAMILY  
6 MEMBER OR CLOSE FRIENDS?

7 A I THINK IT WAS A FAMILY MEMBER.

8 Q DO YOU KNOW WHO THE FAMILY MEMBER WAS?

9 A IT WAS MY COUSIN, NAMED ANTONIO WILLIAMS.

10 Q AND WAS HE REPRESENTED BY MR. MAULDIN?

11 A I'M NOT SURE WHICH ONE IT WAS.

12 MR. MAULDIN: I'M MR. MAULDIN.

13 A OKAY. I THINK IT WAS THE OTHER ONE, MR. NETTLES, IF  
14 I'M NOT MISTAKEN.

15 Q WHEN DID THIS OCCUR? MR. NETTLES IS FROM COLUMBIA.

16 A OKAY. WELL, OH, MY GOODNESS.

17 Q HE'S FROM A LONG WAYS OFF. MUST NOT HAVE BEEN MR.  
18 NETTLES, RIGHT?

19 A IT MUST HAVE BEEN ANOTHER LAWYER.

20 Q WHEN DID THIS OCCUR?

21 A BACK IN MAYBE '98 OR SO.

22 Q WHY DID HE HAVE -- WHY DID YOUR COUSIN HAVE AN  
23 ATTORNEY?

24 A HE HAD A DRUG CHARGE.

25 Q WAS HE REPRESENTED BY THE PUBLIC DEFENDER'S OFFICE OR

1 DO YOU KNOW? OR A PRIVATE ATTORNEY?

2 A I'M NOT -- IT MAY HAVE BEEN THE PUBLIC DEFENDER  
3 OFFICE.

4 Q WERE YOU INVOLVED IN THE CASE AT ALL?

5 A NO, I WASN'T.

6 Q DON'T KNOW ANYTHING ABOUT IT?

7 A NO.

8 Q OKAY. THANK YOU, MA'AM. ALL RIGHT. MS. JOHNSON,  
9 WOULD YOU TURN TO PAGE TEN OF YOUR QUESTIONNAIRE, WHICH IS  
10 THE NEXT TO THE LAST PAGE TOWARDS THE BACK? JUST FLIP  
11 RIGHT OVER THERE WHERE YOUR LEFT HAND IS. YOU GOT IT?

12 A YES.

13 Q QUESTION 64 SAYS, "BRIEFLY DESCRIBE YOUR ATTITUDES  
14 AND BELIEFS CONCERNING CAPITAL PUNISHMENT AND DEATH  
15 PENALTY." YOU HAVE N/A. WHAT DO YOU MEAN BY N/A?

16 A I REALLY DON'T BELIEVE IN IT.

17 Q WHAT DOES N/A, NOT APPLICABLE?

18 A YES.

19 Q YOU DON'T BELIEVE IN THE DEATH PENALTY?

20 A NO.

21 Q WHAT DO YOU BELIEVE ABOUT THE DEATH PENALTY?

22 A I DON'T HAVE AN ANSWER FOR IT.

23 Q YOU DON'T HAVE AN ANSWER. ALL RIGHT. YOU SAID YOU  
24 DON'T BELIEVE IN THE DEATH PENALTY?

25 A NO.

1 Q THEN LOOK AT QUESTION 65, "WHAT IS YOUR OPINION ABOUT  
2 DEATH PENALTY?"

3 YOU SAID YOU STRONGLY FAVOR THE DEATH PENALTY. SO,  
4 DO YOU BELIEVE IN THE DEATH PENALTY OR DO YOU NOT BELIEVE  
5 IN THE DEATH PENALTY?

6 A I DON'T. WHEN I DID THIS -- I WORK CRAZY SHIFTS, SO  
7 I WAS JUST GOING THROUGH FILLING IT OUT. I DON'T GET OFF  
8 UNTIL THREE IN THE MORNING. WHEN I GOT THIS, THROUGH IT  
9 OFF.

10 Q YOU FILLED IT OUT AT 3:30 IN THE MORNING OR 4:00?

11 A YEAH, TRYING TO GET IT BACK IN.

12 Q ALL RIGHT. FLIP OVER TO PAGE 11, QUESTION 68. I  
13 WOULD PRESUME, I PRESUME FROM WHAT YOU TOLD ME -- YOU FIND  
14 IT? GO FROM THE BACK.

15 QUESTION 68, "WITH REFERENCE TO THE DEATH PENALTY,  
16 WHICH OF THE FOLLOWING STATEMENTS BEST REPRESENTS YOUR  
17 OPINION?"

18 YOU SAID, "I BELIEVE THE DEATH PENALTY IS THE  
19 APPROPRIATE FORM OF PUNISHMENT IN ALL MURDER CASES."

20 A OKAY. I PUT THAT BECAUSE I HAD A COUSIN THAT WAS  
21 MURDERED IN '98 BY HER BOYFRIEND. AND HE DIDN'T RECEIVE  
22 THE DEATH PENALTY.

23 Q YOU FELT LIKE HE SHOULD HAVE?

24 A I FELT LIKE HE SHOULD HAVE.

25 Q WHY DID YOU FEEL LIKE THAT ABOUT HIM WHEN YOU TELL ME

1 YOU DON'T BELIEVE IN THE DEATH PENALTY?

2 A BECAUSE HE TOOK SOMEONE FROM ME I WAS REALLY, REALLY  
3 CLOSE TO.

4 Q THAT WAS PERSONAL TO YOU?

5 A YES.

6 Q WHAT IF YOU DIDN'T KNOW ABOUT THE PERSON HE KILLED,  
7 HOW DO YOU FEEL ABOUT THE DEATH PENALTY IN THAT CASE?

8 A FEEL LIKE THEY SHOULD JUST GIVE THEM LIFE IN PRISON.

9 Q TELL ME UNDER WHAT TYPE OF CIRCUMSTANCES DO YOU THINK  
10 THE DEATH PENALTY SHOULD EVER BE GIVEN, OTHER THAN YOU  
11 PERSONALLY KNOWING THE VICTIM?

12 A IF IT'S ON A CHILD.

13 Q PARDON?

14 A IF IT'S ON A CHILD.

15 Q OKAY. ANYTHING ELSE YOU CAN THINK OF?

16 A NO, SIR.

17 EXAMINATION BY MR. MAULDIN:

18 Q I'LL ASK A COUPLE, YOUR HONOR, ON JUST THE ISSUE OF  
19 HER ABILITY TO CHOOSE.

20 THE COURT: I'M NOT REAL SURE WHERE SHE --

21 MR. MAULDIN: I GOT YOU.

22 Q MISS JOHNSON, I'M JOHN MAULDIN THE PUBLIC DEFENDER  
23 FOR GREENVILLE COUNTY. AND YOU DON'T KNOW ME, RIGHT?

24 A NO, I DON'T.

25 Q WHAT WAS THE NAME OF THE PERSON YOU SAID MIGHT HAVE

1 AT SOME POINT BEEN REPRESENTED BY MY OFFICE?

2 A ANTONIO WILLIAMS.

3 Q ANTONIO WILLIAMS?

4 A UH-HUH.

5 Q AND IT WAS WHEN?

6 A BACK IN '98.

7 Q AND IT WAS A DRUG CHARGE?

8 A YES.

9 Q ALL RIGHT. WE'LL GET THAT CLARIFIED. I WANT TO ASK  
10 YOU A COUPLE OF QUESTIONS ABOUT YOUR FEELINGS ON THE DEATH  
11 PENALTY. YOUR HESITANCY OR RELUCTANCE ABOUT, HESITATIONS  
12 ABOUT THE DEATH PENALTY ARE RESPECTED. YOU HAVE  
13 ABSOLUTELY EVERY RIGHT TO DO THAT. THE QUESTION IS  
14 WHETHER YOU COULD EVER IMPOSE THE DEATH PENALTY ON A  
15 PERSON CONVICTED OF MURDER. AND IF I UNDERSTOOD YOUR  
16 RESPONSE -- YOU HAD THE CASE WHERE A FAMILY MEMBER WAS  
17 MURDERED?

18 A YES.

19 Q AND YOU FELT HE SHOULD HAVE GOTTEN THE DEATH PENALTY?

20 A YES.

21 Q SO, THAT WOULD HAVE BEEN A CASE, RIGHT?

22 A YES.

23 Q THE OTHER ONE I WROTE DOWN WAS, "IF THE VICTIM" -- I  
24 GUESS YOU MEANT IF THE VICTIM OF THE OFFENSE -- "WAS A  
25 CHILD OR YOUNG PERSON"?

1 A YES.

2 Q YOU BELIEVE THE PERSON WHO MURDERED A CHILD OR YOUNG  
3 PERSON SHOULD GET THE DEATH PENALTY, RIGHT?

4 A YES, SIR.

5 Q CAN YOU THINK OF ANY OTHER CIRCUMSTANCES UNDER WHICH  
6 YOU BELIEVE A CONSIDERATION OF THE DEATH PENALTY WOULD BE  
7 APPROPRIATE? AND YOU CAN GIVE US ANY EXAMPLES YOU WANT,  
8 TERRORISTS, SERIAL KILLERS, OR ANYTHING.

9 A MAYBE A SERIAL KILLER.

10 Q A PERSON WHO KILLS MORE THAN ONE PERSON? ALL RIGHT.  
11 CAN YOU GIVE US ANY OTHER EXAMPLES?

12 A NO, SIR.

13 MR. MAULDIN: THANK YOU, JUDGE.

14 THE COURT: ALL RIGHT. SOLICITOR.

15 BY MS. STROM:

16 Q GOOD MORNING, MISS JOHNSON.

17 A GOOD MORNING.

18 Q MY NAME IS BETTY STROM THE DEPUTY SOLICITOR IN  
19 GREENVILLE AND PICKENS COUNTIES. I KNOW WE WERE TALKING  
20 ABOUT WHETHER THE DEATH PENALTY WOULD BE APPROPRIATE IN  
21 CERTAIN CIRCUMSTANCES. YOU WERE TALKING ABOUT A SERIAL  
22 KILLER OR A CHILD OR A FAMILY MEMBER. WHAT I NEED TO KNOW  
23 IS COULD YOU VOTE TO IMPOSE THE DEATH PENALTY AGAINST  
24 SOMEONE?

25 A I MYSELF, NO.

1 Q DO YOU THINK IT'S AN APPROPRIATE PENALTY, BUT YOU  
2 COULD NOT DO IT?

3 A EXACTLY.

4 Q AND UNDER NO CIRCUMSTANCES YOU COULDN'T SIGN YOUR  
5 NAME TO A DOCUMENT THAT SAYS I BELIEVE THE DEATH PENALTY  
6 IS APPROPRIATE, AND THE FORM OF PUNISHMENT THIS PERSON  
7 SHOULD RECEIVE?

8 A NO, I COULDN'T.

9 MS. STROM: COURT'S INDULGENCE?

10 THE COURT: MISS JOHNSON, STEP OUT IN THE HALL A  
11 SECOND, PLEASE, MA'AM.

12 (PROSPECTIVE JUROR EXITS.)

13 ANY MOTIONS? OR DO YOU WANT TO GO FURTHER, ASK  
14 ADDITIONAL QUESTIONS?

15 MR. MAULDIN: I'D LIKE FOR YOU TO ASK ONE ADDITIONAL  
16 QUESTION. I WOULD LIKE THIS YOUNG LADY TO BE ASKED, SHE  
17 GAVE TWO EXAMPLES, BOTH OF WHICH ARE STATUTORY AGGRAVATERS  
18 IN OUR STATE OF CASES WHERE THE DEATH PENALTY SHOULD BE  
19 IMPOSED, CHILD KILLER OR SERIAL KILLER. I WOULD LIKE FOR  
20 YOU TO ASK HER IF UNDER THOSE CIRCUMSTANCES IF THEY FOUND  
21 THE PERSON GUILTY.

22 THE COURT: I THINK MISS STROM ASKED HER THAT  
23 QUESTION, DIDN'T YOU?

24 MR. MAULDIN: SHE SAID IN ANY CASE, SHE DID NOT USE  
25 THE TWO EXAMPLES.

1 THE COURT: AND YOU WANT ME TO USE THOSE TWO  
2 EXAMPLES?

3 MR. MAULDIN: USE THE TWO EXAMPLES TO MAKE SURE THIS  
4 WOMAN IS IMPAIRED. IF SHE SAYS NO, IN THAT CASE I COULD  
5 SIGN, THEN SHE ISN'T IMPAIRED.

6 THE COURT: SHE ALREADY SAID UNDER NO CIRCUMSTANCES  
7 COULD SHE PERSONALLY GIVE THE DEATH PENALTY, NOR COULD SHE  
8 UNDER ANY CIRCUMSTANCES SIGN IT. BUT I'LL ASK.

9 MR. MAULDIN: THANK YOU.

10 MS. STROM: BUT WE DO OBVIOUSLY HAVE A MOTION.

11 THE COURT: I UNDERSTAND THAT, BUT I'LL ASK HER.

12 Q MISS JOHNSON, WHERE DO YOU WORK? YOU GET HOME SO  
13 LATE, 3:00.

14 A I WORK AT PREDDLE.

15 Q WHERE IS THAT?

16 A IT'S ON WHITE HORSE ROAD.

17 Q AND YOU HAVE WHAT, FOUR CHILDREN?

18 A FIVE.

19 Q YOU HAVE YOUR HANDS FULL, COMING HOME THAT TIME OF  
20 NIGHT, WITH FIVE CHILDREN, DON'T YOU?

21 A YES, THREE UNDER AGE OF SEVEN.

22 Q YOU GAVE TWO EXAMPLES YOU FELT LIKE YOU COULD -- A  
23 PERSON COULD RECEIVE THE DEATH PENALTY, WHERE A CHILD IS  
24 KILLED OR MULTIPLE DEATHS?

25 A YES, SIR.



1 Q COULD YOU PERSONALLY SITTING ON A JURY GIVE THE DEATH  
2 PENALTY UNDER EITHER ONE OF THOSE CONDITIONS? SORRY, NOT  
3 THE CHILD -- SOMEONE PERSONAL TO YOU. YOU GAVE THE CHILD  
4 AND YOU GIVE THE MULTIPLE KILLINGS OR SERIAL KILLINGS;  
5 UNDER THOSE THREE CONDITIONS COULD YOU PERSONALLY VOTE TO  
6 GIVE THE DEATH PENALTY?

7 A NO, NOT PERSONALLY.

8 Q OKAY. ANY FURTHER QUESTIONS?

9 MR. MAULDIN: NOTHING FURTHER, YOUR HONOR.

10 THE COURT: WOULD YOU STEP OUT IN THE HALL JUST A  
11 SECOND?

12 (PROSPECTIVE JUROR EXITS.)

13 SOLICITOR STROM, I UNDERSTAND YOU HAVE A MOTION?

14 MS. STROM: YES, SIR. MOVE SHE'S NOT QUALIFIED.

15 THE COURT: MR. MAULDIN, YOU HAVE ANY ARGUMENTS?

16 MR. MAULDIN: NO, SIR.

17 THE COURT: I'M GOING TO FIND SHE'S NOT QUALIFIED.

18 (PROSPECTIVE JUROR ENTERS COURTROOM.)

19 MRS. JOHNSON, I WANT TO THANK YOU VERY MUCH. YOUR  
20 VIEWS ON THE DEATH PENALTY ARE NOT NECESSARILY RIGHT OR  
21 WRONG. I RESPECT THOSE, THEY'RE PROPER VIEWPOINTS.

22 EVERYBODY IS ENTITLED TO THEIR OWN VIEWPOINTS. OKAY? BUT  
23 IN THIS PARTICULAR CASE I'M GOING TO HAVE TO DISQUALIFY  
24 YOU FROM SERVICE ON THIS PARTICULAR JURY. ALL RIGHT.

25 PROSPECTIVE JUROR: YES, SIR.

1 THE COURT: ALL RIGHT. THANK YOU VERY MUCH.

2 (PROSPECTIVE JUROR EXCUSED.)

3 WOULD YOU BRING MELISSA STALLCUP, PLEASE.

4 MELISSA STALLCUP, (WHITE  
5 FEMALE), HAVING BEEN PREVIOUSLY DULY SWORN, TESTIFIED AS  
6 FOLLOWS:

7 EXAMINATION

8 BY THE COURT:

9 Q MS. STALLCUP, DO YOU REMEMBER FILLING OUT YOUR  
10 QUESTIONNAIRE?

11 A I'M SORRY?

12 Q MRS. STALLCUP, DO YOU REMEMBER FILLING OUT YOUR  
13 QUESTIONNAIRE LAST MONTHS OR THE MONTH BEFORE LAST?

14 A SORRY?

15 Q DO YOU REMEMBER FILLING IT OUT?

16 A YES.

17 Q WAS IT ACCURATE TO THE BEST OF YOUR ABILITY?

18 A YES, IT WAS.

19 Q MISS STALLCUP, IF YOU WOULD, ON YOUR QUESTIONNAIRE  
20 LET ME ASK YOU TO TURN TO PAGE SIX, NUMBER SIX, IF YOU  
21 WOULD. QUESTION NUMBER 41, YOU SAID YOU KNOW BRITTANY  
22 KELLEY, ADMINISTRATIVE ASSISTANT WITH THE SOLICITOR'S  
23 OFFICE?

24 A CORRECT.

25 Q AND SHE'S A CLOSE FRIEND OF YOURS; IS THAT CORRECT?

1 A (NODS HEAD UP AND DOWN.)

2 Q HOW OFTEN DO YOU SEE HER?

3 A ABOUT ONCE A WEEK.

4 Q ABOUT ONCE A WEEK?

5 A (WITNESS NODS HEAD UP AND DOWN.)

6 Q THIS PARTICULAR CASE OCCURRED ON SEPTEMBER 3<sup>rd</sup>  
7 2003. THE DEFENDANT, CHARLES CHRISTOPHER WILLIAMS, IS  
8 CHARGED WITH MURDER AND KIDNAPPING. AND IT WAS A KILLING  
9 THAT OCCURRED IN A LOCAL BI-LO HERE IN GREENVILLE. HAVE  
10 YOU EVER DISCUSSED THE CASE WITH BRITTANY KELLEY OR HAS  
11 SHE EVER TOLD YOU ANYTHING ABOUT THE CASE?

12 A NO.

13 Q HAVE YOU HEARD ANYTHING ABOUT THE CASE? EITHER AT  
14 THE TIME IT OCCURRED OR SINCE THAT TIME?

15 A THE TIME IT OCCURRED.

16 Q WHAT DO YOU REMEMBER HEARING AT THE TIME IT OCCURRED?  
17 WHERE DID YOU HEAR IT, FROM TV, RADIO, OR WHAT?

18 A I THINK JUST IN PASSING CONVERSATION.

19 Q WHO WERE YOU HAVING THE CONVERSATION WITH? DO YOU  
20 REMEMBER?

21 A I DON'T RECALL.

22 Q WHAT DO YOU REMEMBER HEARING IN PASSING CONVERSATION?

23 A I JUST REMEMBER THAT IT WAS A MURDER THAT HAPPENED AT  
24 BI-LO AND BETWEEN A GIRLFRIEND AND BOYFRIEND.

25 Q DO YOU REMEMBER ANYTHING ELSE?

1 A NOT REALLY, BECAUSE I DON'T WATCH THE NEWS OR READ  
2 THE NEWSPAPER OR ANYTHING.

3 Q YOU DON'T READ THE NEWSPAPER?

4 A I DON'T. I WATCH TELEVISION, BUT NOT THE NEWS.

5 Q LET ME ASK YOU, IS THIS BASED UPON THOSE PASSING  
6 CONVERSATIONS? HAVE YOU FORMED OR EXPRESSED AN OPINION  
7 ABOUT THE DEFENDANT'S GUILT OR INNOCENCE?

8 A NO, I HAVE NOT.

9 Q LET ME ASK YOU ANOTHER QUESTION ABOUT BRITTANY  
10 KELLEY. HAVE YOU AND MRS. KELLEY EVER HAD ANY  
11 CONVERSATIONS ABOUT LAW ENFORCEMENT OR THE SOLICITOR'S  
12 OFFICE OR HER OPINION ON ANY OF THAT?

13 A NO.

14 Q THE FACT THAT SHE WORKS IN THE SOLICITOR'S OFFICE AND  
15 SOLICITOR BOB ARIAIL IS HER EMPLOYER, WOULD THAT CAUSE YOU  
16 ANY DIFFICULTY IN SITTING ON THIS JURY?

17 A NO, IT WOULDN'T.

18 Q ALL RIGHT. IF YOU WOULD, LOOK AT QUESTION 36.  
19 GREENVILLE COUNTY SHERIFF'S OFFICE DEPUTY, WHO YOU  
20 REFERRING TO?

21 A HIS NAME IS CHRIS BAILEY.

22 Q AND HOW DO YOU KNOW HIM?

23 A HE'S ONE OF MY BEST FRIEND'S HUSBAND.

24 Q ONE OF YOUR BEST FRIEND'S HUSBANDS?

25 A RIGHT.

1 Q ALL RIGHT. DO YOU ASSOCIATE MORE WITH HIS WIFE OR  
2 WITH HIM OR BOTH?

3 A BOTH.

4 Q BOTH?

5 A (WITNESS NODS HEAD UP AND DOWN.)

6 Q HOW OFTEN DO YOU SEE THEM?

7 A ONCE OR TWICE A WEEK.

8 Q ONCE OR TWICE A WEEK. DO YOU SEE CHRIS ONCE OR TWICE  
9 A WEEK OR DO YOU SEE HIS WIFE ONCE OR TWICE A WEEK?

10 A BOTH.

11 Q ON WHAT TYPE OF OCCASIONS DO YOU SEE THEM?

12 A USUALLY WHEN WE HANG OUT WITH OUR FRIENDS, STUFF LIKE  
13 THAT.

14 Q DO YOU ALL GO OUT TO RESTAURANTS TO TAVERNS OR WHAT?

15 A YEAH, WE GO OUT TO RESTAURANTS.

16 Q SO, YOU GO OUT TO RESTAURANTS WITH THEM ONCE OR TWICE  
17 A WEEK?

18 A NOT EVERY ONCE OR TWICE A WEEK.

19 Q NOT EVERY WEEK, BUT YOU SEE THEM ON A REGULAR BASIS?

20 A RIGHT.

21 Q HAVE YOU EVER HAD ANY CONVERSATIONS WITH HIM ABOUT  
22 LAW ENFORCEMENT OR HIS VIEWPOINTS?

23 A NO.

24 Q YOU EVER HAD ANY CONVERSATIONS WITH HIM AT ALL ABOUT  
25 HIS VIEWPOINTS ON THE COURT SYSTEM?

1 A NO.

2 Q ANY CONVERSATION ABOUT VIEWPOINTS ABOUT HOW HE FEELS  
3 ABOUT PEOPLE WHO HAVE BEEN CHARGED WITH CRIMES?

4 A NO.

5 Q WOULD THE FACT HE WORKS FOR THE SHERIFF'S DEPARTMENT  
6 CAUSE YOU ANY DIFFICULTY ON SITTING ON THIS JURY?

7 A NO.

8 Q ANY PERSONAL DIFFICULTY SITTING ON THIS JURY? LET ME  
9 ASK IF THE -- WHO'S TURN IS IT? DOES ANYBODY WANT TO ASK  
10 ABOUT THEIR RELATIONSHIP AT THIS POINT IN TIME, DEVELOP  
11 THEM FURTHER?

12 MS. STROM: NONE FROM THE STATE.

13 THE COURT: BEFORE I GO INTO ANY FURTHER QUESTIONS?  
14 YOU RATHER WAIT UNTIL THE END?

15 MR. MACDOUGALL: YES, SIR.

16 THE COURT: OKAY. FINE.

17 Q MRS. STOLCUP, YOU HAVE ANY PHYSICAL OR MENTAL REASONS  
18 WHY YOU COULD NOT SERVE ON THE JURY?

19 A NO.

20 Q ANY PERSONAL HARDSHIPS WHY YOU COULD NOT SERVE ON THE  
21 JURY?

22 A NO.

23 Q ANY MEDICAL REASONS YOU COULD NOT SERVE ON THE JURY?

24 A NO.

25 Q THE VICTIM IN THE CASE WAS MARANDA WILLIAMS. DO YOU

1 KNOW MARANDA WILLIAMS?

2 A NO, I DO NOT.

3 Q DO YOU KNOW CHARLES CHRISTOPHER WILLIAMS, WHO SITS TO  
4 MY RIGHT IN THE DARK BLUE SWEATER?

5 A NO, SIR.

6 Q DO YOU KNOW HIS ATTORNEY, MR. MAULDIN, MR. NETTLES,  
7 AND COLLEEN COYLE, WHO IS NOT IN THE COURTROOM? AND ALSO  
8 MARK MACDOUGALL, WHO SITS TO THE FAR RIGHT?

9 A NO.

10 Q DO YOU KNOW THE SOLICITOR, WHO SITS IN FRONT OF YOU,  
11 AND HIS TWO ASSISTANTS?

12 A NO.

13 Q OTHER THAN BRITTANY KELLEY, DO YOU KNOW ANYONE ELSE  
14 IN THE SOLICITOR'S OFFICE?

15 A NO.

16 Q I'M GOING TO GIVE YOU A LIST OF NAMES. DO YOU  
17 RECOGNIZE ANY ONE OF THOSE NAMES? SOLICITOR, WHILE SHE'S  
18 LOOKING AT THAT, I'M GOING TO ASK YOU, IS CHRIS BAILEY ON  
19 THAT LIST?

20 MS. STROM: NO, SIR.

21 THE COURT: OKAY. THANK YOU.

22 A NO, SIR.

23 Q LET ME GIVE YOU AN ADDITIONAL LIST. WOULD YOU SEE IF  
24 YOU RECOGNIZE ANY NAMES ON THAT LIST?

25 A (COMPLIES.) NO.

1 Q OKAY. THANK YOU, MA'AM. ALL RIGHT. I'M GOING TO  
2 ASK YOU A QUESTION AND ASK YOU TO RESPOND TO IT PLEASE  
3 MA'AM.

4 IN THIS CASE THE DEFENDANT IS BLACK AND THE VICTIM IS  
5 WHITE. IT'S UNDISPUTED THE BLACK DEFENDANT AND THE WHITE  
6 VICTIM ENGAGED IN INTERRACIAL DATING. WOULD THE FACT THAT  
7 THE DEFENDANT AND THE VICTIM ENGAGED IN INTERRACIAL DATING  
8 MAKE IT DIFFICULT FOR YOU TO BE FAIR WITH EITHER THE STATE  
9 OR THE DEFENDANT?

10 A NO.

11 Q ALL RIGHT. MRS. STALLCUP, I'M GOING TO EXPLAIN TO  
12 YOU THE PROCESS WE'RE GOING TO GO THROUGH IN THIS TRIAL.  
13 I BELIEVE I TOLD YOU EARLIER, THE DEFENDANT IS CHARGED  
14 WITH MURDER AND KIDNAPPING. AND THE STATE HAS ASKED FOR  
15 THE DEATH PENALTY -- OR IT'S A CAPITAL MURDER CASE  
16 WHICHEVER WAY YOU PREFER TO DESCRIBE IT. IN A CAPITAL  
17 CASE, THE FIRST PHASE OF THE TRIAL OR THE -- YOU HAVE TWO  
18 PHASES. THE FIRST PHASE IS REFERRED TO AS THE GUILT  
19 PHASE, THE SECOND PHASE IS REFERRED TO AS THE PENALTY  
20 PHASE.

21 NOW, IN THE FIRST PHASE, WHICH IS THE GUILT PHASE,  
22 THE STATE'S REQUIRED TO PROVE THE DEFENDANT GUILTY BEYOND  
23 A REASONABLE DOUBT. THE STATE HAS TO BRING IN EVIDENCE TO  
24 CONVINC THE JURY THAT THE DEFENDANT'S GUILTY OF MURDER  
25 AND KIDNAPPING. DO YOU UNDERSTAND? THE DEFENDANT NEVER



1 HAS TO COME INTO COURT AND PROVE HIS INNOCENCE. THE  
2 REQUIREMENT AND THE BURDEN IS ON THE STATE TO PROVE THE  
3 GUILT. DO YOU UNDERSTAND?

4 A YES.

5 Q NOW, LET'S ASSUME FOR OUR CONSIDERATION, OUR  
6 QUESTIONS, THE STATE HAS PROVEN THEIR CASE AND ALL 12  
7 JURORS BELIEVE THAT THE STATE HAS PROVEN THE MURDER AND  
8 THE KIDNAPPING. THE DEFENDANT AT THAT POINT IN TIME WOULD  
9 HAVE BEEN FOUND GUILTY OF MURDER. DO YOU UNDERSTAND?

10 A YES.

11 Q THEN WOULD MOVE TO THE PENALTY PHASE, TO THE SECOND  
12 PHASE. THERE WOULD BE A 24-HOUR WAITING PERIOD BETWEEN  
13 THE FIRST AND SECOND PHASE. AND THE SECOND PHASE IS  
14 REFERRED TO AS THE PENALTY PHASE. THE PURPOSE OF THE  
15 SECOND PHASE IS FOR THE JURY TO DECIDE WHETHER THE  
16 DEFENDANT SHOULD RECEIVE DEATH OR LIFE. DO YOU  
17 UNDERSTAND?

18 A YES.

19 Q IN THAT PHASE THE STATE WOULD BE REQUIRED TO BRING TO  
20 THE JURY AND PROVE BEYOND A REASONABLE DOUBT AGGRAVATING  
21 CIRCUMSTANCES. NOW, THOSE AGGRAVATING CIRCUMSTANCES ARE  
22 PRESCRIBED BY STATE STATUTE. I DON'T KNOW WHAT THEY ARE  
23 BECAUSE I HAVEN'T HEARD THE CASE YET IN THIS PARTICULAR  
24 CASE, SO I'M TALKING HYPOTHETICAL. THE STATE WOULD HAVE  
25 TO PROVE THOSE BEYOND A REASONABLE DOUBT. THE JURY WOULD

1 HAVE TO FIND THAT THEY BELIEVE THOSE AGGRAVATING  
2 CIRCUMSTANCES YOU HAVE PROVEN BEYOND A REASONABLE DOUBT.

3 NOW, THE DEFENDANT MAY OR MAY NOT OFFER TESTIMONY IN  
4 THE FIRST PHASE OR THE SECOND PHASE. AND I WOULD INSTRUCT  
5 YOU AT THE TIME YOU COULD NOT USE THAT AGAINST HIM IN ANY  
6 MANNER WHATSOEVER IN YOUR DELIBERATIONS IN THE FIRST PHASE  
7 OR THE SECOND PHASE. DO YOU UNDERSTAND?

8 A YES.

9 Q LET'S ASSUME THE DEFENDANT DOES NOT OFFER ANY  
10 TESTIMONY IN THE FIRST PHASE OR THE SECOND PHASE, ALL YOU  
11 HEARD IS ALL THE FACTS IN THE FIRST PHASE, THE AGGRAVATING  
12 CIRCUMSTANCES IN THE SECOND PHASE, AND YOU MAY HEAR SOME  
13 TESTIMONY ABOUT WHAT WE REFER TO AS VICTIM IMPACT, IN  
14 OTHER WORDS, HOW THE DEATH OF THE VICTIM IMPACTED THE  
15 FAMILY, OR WHATEVER.

16 NOW, HAVING HEARD ALL THAT, COULD YOU GIVE MEANINGFUL  
17 CONSIDERATION TO LIFE IMPRISONMENT? BEFORE YOU ANSWER THE  
18 QUESTION, I WANT TO TELL YOU A COUPLE OF THINGS. THE LAW  
19 PRESUMES LIFE. DO YOU UNDERSTAND?

20 A YES.

21 Q AND, AS I SAID EARLIER, THE BURDEN OF PROOF IS ON THE  
22 STATE TO PROVE THE AGGRAVATING CIRCUMSTANCES BEYOND A  
23 REASONABLE DOUBT. THE JURY, EVEN THOUGH YOU BELIEVE THE  
24 STATE'S PROVEN THE AGGRAVATING CIRCUMSTANCES, DOES NOT  
25 HAVE TO GIVE DEATH. THEY CAN GIVE LIFE FOR ANY REASON,

1 JUST AS AN ACT OF MERCY, FOR ANY REASON.

2 NOW, CAN YOU LISTEN TO ALL THE TESTIMONY IN THE FIRST  
3 PHASE, THE SECOND PHASE, AND GIVE MEANINGFUL CONSIDERATION  
4 TO LIFE IMPRISONMENT?

5 A YES.

6 Q CAN YOU GIVE MEANINGFUL CONSIDERATION TO DEATH?

7 A YES.

8 Q ALL RIGHT, SIR. LET'S ASSUME THAT THE DEFENDANT DOES  
9 DECIDE TO OFFER TESTIMONY IN THE FIRST PHASE OR THE SECOND  
10 PHASE. LET'S TALK ABOUT THE SECOND PHASE, THE PENALTY  
11 PHASE. LET'S ASSUME THAT THE DEFENDANT OFFERS WHAT WE  
12 REFER TO AS MITIGATING CIRCUMSTANCES. MITIGATING  
13 CIRCUMSTANCES ARE REASONS THAT THE DEFENDANT BELIEVES HE  
14 SHOULD RECEIVE LIFE RATHER THAN DEATH. UNDER THAT  
15 SCENARIO, FACTS, CAN YOU GIVE MEANING CONSIDERATION TO  
16 LIFE?

17 A YES.

18 Q CAN YOU GIVE MEANING CONSIDERATION TO DEATH?

19 A YES.

20 Q I WANT TO ASK YOU A COUPLE OF QUESTIONS ON YOUR  
21 QUESTIONNAIRE, IF I MAY PLEASE, MA'AM.

22 A OKAY.

23 Q IF YOU WOULD TURN TO PAGE TEN, QUESTION 64. FIRST OF  
24 ALL, I WANT TO ASK ABOUT 65. SIXTY-FIVE SAYS, "WHAT IS  
25 YOUR OPINION ABOUT THE DEATH PENALTY?"

1           YOU SAID, "STRONGLY FAVOR." IS THAT STILL YOUR  
2           OPINION TODAY?

3           A       YES.

4           Q       SIXTY-FOUR SAYS, "I BELIEVE THAT THE DEATH PENALTY  
5           SHOULD BE USED IN CASES WHERE IT IS AN APPROPRIATE  
6           PUNISHMENT FOR A DEFENDANT WHO IS FOUND GUILTY." TELL ME  
7           WHAT YOU MEAN WHEN YOU SAY "AN APPROPRIATE PUNISHMENT."

8           A       I THINK YOU WOULD HAVE TO WEIGH THE CIRCUMSTANCES OF  
9           THE CASE AND THE, YOU KNOW, BOTH SIDES. I DON'T KNOW HOW  
10          TO REALLY EXPLAIN IT OTHER THAN THAT.

11          Q       SO, ARE YOU TELLING ME YOU WOULD HAVE TO CONSIDER  
12          EVERYTHING YOU HEARD IN THE FIRST PHASE AND EVERYTHING YOU  
13          HEARD IN THE SECOND PHASE?

14          A       YES, SIR.

15          Q       ALL RIGHT. FLIP OVER TO PAGE 11, QUESTION NUMBER 68.  
16          YOU SAID, "I BELIEVE THE DEATH PENALTY IS AN APPROPRIATE  
17          FORM OF PUNISHMENT IN SOME MURDER CASES." SORRY, DID YOU  
18          FIND IT?

19          A       YEAH.

20          Q       YOU GOT IT?

21          A       YES.

22          Q       QUESTION 68, "I BELIEVE THAT THE DEATH PENALTY IS THE  
23          APPROPRIATE FORM OF PUNISHMENT IN SOME MURDERS CASES AND I  
24          COULD RETURN A VERDICT OF DEATH IF I BELIEVE IT WAS  
25          WARRANTED IN A PARTICULAR CASE, DEPENDING UPON THE

1 EVIDENCE, THE LAW, AND WHAT I LEARNED ABOUT THE  
2 DEFENDANT." IS THAT STILL YOUR OPINION?

3 A YES.

4 Q CAN YOU BASE YOUR DECISION ON THE EVIDENCE YOU HEAR  
5 IN THE COURTROOM, NOT SOMETHING OUTSIDE THE COURTROOM?

6 A YES.

7 Q CAN YOU BE FAIR AND IMPARTIAL TO BOTH THE STATE AND  
8 DEFENDANT?

9 A YES.

10 BY MS. STROM:

11 Q GOOD MORNING. MS. STALLCUP?

12 A YES.

13 Q MY NAME IS BETTY STROM. I'M THE DEPUTY SOLICITOR AND  
14 THE JUDGE HAS ALREADY INTRODUCED THE SOLICITOR AND MARK  
15 MOYER WHO WILL BE -- I WILL BE ASSISTING THEM IN  
16 PROSECUTING THE CASE.

17 YOU GATHERED, OBVIOUSLY, THAT WHAT WE'RE WANTING TO  
18 GET TODAY FROM YOU IS TRYING TO FIND OUT WHAT YOUR OPINION  
19 IS ON THE DEATH PENALTY AND WHETHER YOU CAN BE FAIR TO  
20 BOTH SIDES. YOU UNDERSTAND THAT?

21 A YES.

22 Q AND MY UNDERSTANDING FROM YOUR QUESTIONNAIRE, AND  
23 PLEASE CORRECT ME IF I MISSTATE ANYTHING, BECAUSE WHAT WE  
24 WANT TO KNOW ARE YOUR VIEWS AND YOUR OPINIONS. OKAY?  
25 WHEN YOU SAID YOU BELIEVE THE DEATH PENALTY SHOULD BE USED

1 IN CASES WHERE IT IS AN APPROPRIATE PUNISHMENT FOR A  
2 DEFENDANT WHO IS FOUND GUILTY. DO I TAKE THAT TO MEAN OR  
3 DO YOU MEAN TO SAY THAT YOU SEE IT AS AN APPROPRIATE  
4 PUNISHMENT, BUT NOT NECESSARILY THE ONLY PUNISHMENT?

5 A RIGHT.

6 Q WHEN THE JUDGE WAS TALKING TO YOU ABOUT THESE TWO  
7 PHASES OF THE TRIAL, IN A CAPITAL PROCEEDING THE FIRST  
8 PHASE BEING WHETHER THE DEFENDANT COMMITTED THE CRIME,  
9 THEN YOU HAVE A 24-HOUR WAITING PERIOD, AND THEN YOU GO TO  
10 THE SECOND PHASE TO DETERMINE WHAT SENTENCE TO IMPOSE.  
11 YOU UNDERSTAND THERE ARE TWO SEPARATE PHASES, I GUESS, FOR  
12 LACK OF A BETTER TERM?

13 A YES.

14 Q AND IN THIS FIRST PHASE YOU'RE GOING TO HEAR ABOUT  
15 THE FACTS OF THE CRIME. DID THE DEFENDANT COMMIT THE ACT  
16 OF MURDER? OKAY?

17 A OKAY.

18 Q AND IN SOUTH CAROLINA MURDER IS THE INTENTIONAL  
19 KILLING OF ANOTHER PERSON WITH MALICE AFORETHOUGHT.  
20 THAT'S THE LEGAL DEFINITION OF MURDER. AND I KNOW MALICE  
21 AFORETHOUGHT IS A VERY LEGAL TERM AND SOME PEOPLE SORT OF  
22 EQUATE IT WITH PREMEDITATION; BUT I DON'T WANT YOU TO GET  
23 CONFUSED ABOUT THAT. PREMEDITATION CAN BE OVER A LONG  
24 PERIOD OF TIME, SUCH AS HOURS OR WEEKS, OR DAYS, OR  
25 MONTHS. DO YOU UNDERSTAND THAT?

1 A YEAH.

2 Q AS A MATTER OF FACT, IT CAN BE THAT. IF IT'S THAT  
3 LONG -- IF IT'S THAT LONG, OBVIOUSLY, MALICE AFORETHOUGHT;  
4 BUT IT CAN ALSO BE INSTANTANEOUS, AT THE MOMENT THE FATAL  
5 ACT OCCURS CAN BE MALICE AFORETHOUGHT. SO, I WANT YOU TO  
6 UNDERSTAND WHERE THE SITUATION WE'RE TALKING ABOUT BEING  
7 IN THE SECOND PHASE. WE'RE TALKING ABOUT A JURY WHO HAS  
8 ALREADY CONVICTED THE DEFENDANT OF MURDER.

9 A RIGHT.

10 Q SO, IT'S AN INTENTIONAL KILLING, NOT ACCIDENT, NOT  
11 MISTAKE, NOT INSANITY, ANY OF THOSE ISSUES. DO YOU  
12 UNDERSTAND THAT?

13 A YES.

14 Q MY UNDERSTANDING OF WHAT YOU TOLD THE JUDGE IS, EVEN  
15 IF YOU WERE SITTING ON A JURY AND YOU CONVICTED A  
16 DEFENDANT OF MURDER, INTENTIONAL KILLING, YOU GO INTO THAT  
17 SECOND PHASE WITH AN OPEN MIND. IS THAT CORRECT?

18 A CORRECT.

19 Q YOU WOULDN'T ALREADY HAVE YOUR MIND MADE UP AS TO  
20 WHICH PENALTY TO IMPOSE?

21 A RIGHT.

22 Q THE JUDGE WAS TALKING TO YOU ABOUT THE FACT THAT THE  
23 LAW PRESUMES LIFE, THAT THE JURY IS NEVER REQUIRED TO  
24 IMPOSE THE DEATH PENALTY. DO YOU UNDERSTAND THAT?

25 A YES.

1 Q DO YOU UNDERSTAND THAT THE JURY, EVEN IF THE  
2 DEFENDANT PRESENTS NO EVIDENCE WHATSOEVER, DOESN'T PRESENT  
3 ANYTHING TO YOU, THE JURY CAN STILL GIVE LIFE IF THEY FEEL  
4 IT'S THE APPROPRIATE SENTENCE, EVEN AS AN ACT OF MERCY?

5 A RIGHT.

6 Q YOU UNDERSTAND THAT?

7 A YES.

8 Q WHAT I NEED TO KNOW FROM YOU IS, GIVEN THE  
9 CIRCUMSTANCES, IF YOU EVER CONVICTED SOMEONE OF MURDER, IF  
10 YOU THOUGHT THE APPROPRIATE SENTENCE WAS DEATH, YOU COULD  
11 IMPOSE IT, CORRECT?

12 A YES.

13 Q AND, LIKEWISE, YOU'VE CONVICTED SOMEONE OF MURDER,  
14 YOU HAVE FOUND AN AGGRAVATING CIRCUMSTANCE AS THE JUDGE  
15 TOLD YOU THE STATE HAS TO PROVE TO YOU BEYOND A REASONABLE  
16 DOUBT, YOU FIND THE MURDER, YOU FIND THE AGGRAVATING  
17 CIRCUMSTANCE, AND IN THAT CASE IF YOU FELT THE APPROPRIATE  
18 PUNISHMENT WAS LIFE IMPRISONMENT, YOU COULD VOTE FOR LIFE  
19 IMPRISONMENT?

20 A YES.

21 Q THERE'S ONE THING ABOUT SOUTH CAROLINA LAW REGARDING  
22 THE IMPOSITION OF THE DEATH PENALTY; THAT IS, IF THE JURY  
23 COMES TO THE CONCLUSION TOGETHER THAT THE DEATH PENALTY IS  
24 THE APPROPRIATE PUNISHMENT, EACH JUROR HAS TO SIGN HIS OR  
25 HER NAME TO THE VERDICT FORM. OKAY?



1 A OKAY.

2 Q THERE ARE 12 LINES ON IT, ALL 12 JURORS HAVE TO SIGN  
3 THEIR NAME IF THAT'S THEIR VERDICT. IF IT WERE YOUR  
4 VERDICT IN THE JURY ROOM TO IMPOSE DEATH, COULD YOU SIGN  
5 YOUR NAME TO THAT VERDICT FORM?

6 A YES.

7 Q AND I BELIEVE THE YOU TOLD THE JUDGE THE FACT YOU  
8 KNOW BRITTANY KELLEY IN OUR OFFICE AND A MEMBER OF THE  
9 GREENVILLE COUNTY SHERIFF'S DEPARTMENT WOULD NOT AFFECT  
10 YOUR DECISION IN ANY WAY?

11 A NO.

12 Q YOU COULD LOOK AT THE EVIDENCE AND BASE YOUR DECISION  
13 SOLELY ON WHAT COMES FROM THAT WITNESS STAND?

14 A YES.

15 MS. STROM: COURT'S INDULGENCE, YOUR HONOR.

16 Q WHEN THE JUDGE WAS TALKING TO YOU ABOUT THE TWO  
17 PHASES HE TALKED TO YOU ABOUT THE FACT IN THE SECOND PHASE  
18 WHERE THE JURY WOULD DETERMINE PENALTY, WOULD HEAR  
19 AGGRAVATING CIRCUMSTANCES, THOSE THINGS PRESENTED BY THE  
20 STATE, AND MITIGATING CIRCUMSTANCES, THOSE THINGS  
21 PRESENTED BY THE DEFENDANT; AND THAT WOULD BE ANYTHING,  
22 COULD BE ANYTHING FROM BACKGROUND TO MENTAL ISSUES, THAT  
23 SORT OF THING. OKAY?

24 A OKAY.

25 Q AND THE JUDGE WOULD INSTRUCT YOU, YOU HAVE TO GIVE

1 THOSE ITEMS, IF THE DEFENDANT CHOOSES TO PRESENT THEM, YOU  
2 HAVE TO GIVE THEM MEANINGFUL CONSIDERATION.

3 A YES.

4 Q YOU COULD DO THAT?

5 A YES.

6 Q WOULD YOU HAVE ANY PROBLEM DOING THAT?

7 A NO.

8 Q ON THE ISSUE OF MENTAL HEALTH, ANYTHING SUCH AS THAT?

9 A RIGHT.

10 Q LIKEWISE, IF I COVERED THIS, I APOLOGIZE. IF THE  
11 DEFENDANT PRESENTED NOTHING, PRESENTED ABSOLUTELY NO  
12 EVIDENCE WHATSOEVER IN EITHER THE GUILT PHASE OR IN THE  
13 PENALTY PHASE, SAY YOU'RE AT THE END OF THAT PENALTY PHASE  
14 AND THE ONLY EVIDENCE YOU HAVE HEARD IS FROM THE STATE.  
15 IF -- DO YOU BELIEVE THAT YOU COULD STILL IMPOSE A LIFE  
16 SENTENCE IF YOU FELT THAT WAS APPROPRIATE?

17 A YES.

18 Q YOU WOULD NOT HOLD IT AGAINST THE DEFENDANT THAT HE  
19 HAD NOT PRESENTED YOU ANYTHING?

20 A NO.

21 Q THANK YOU.

22 THE COURT: YES, SIR.

23 BY MR. MACDOUGALL:

24 Q GOOD MORNING, MISS STALCUP, MY NAME IS MARK  
25 MACDOUGALL, ALONG WITH JOHN MAULDIN AND BILL NETTLES, ARE

1 REPRESENTING CHRIS WILLIAMS IN THIS CASE. YOU BEEN ASKED  
2 A LOT OF QUESTIONS IN THE LAST FEW MINUTES ABOUT YOUR  
3 BELIEFS, HOW THEY WERE FORMED, ABOUT THE DEATH PENALTY:  
4 I'D LIKE TO ASK YOU, YOU FORM BELIEFS LIKE ALL OF US DO,  
5 YOU GROW UP, PARENTS OF COURSE, CHURCH, SCHOOL, THROUGH  
6 COLLEGE THROUGH FRIENDS, AND THROUGH THAT PROCESS YOU  
7 DEVELOP ATTITUDES, POLITICAL VIEWS, RELIGIOUS VIEWS,  
8 SOCIAL ATTITUDES AND OPINIONS. WHAT I'D LIKE TO ASK YOU  
9 IS IF YOU CAN TELL ME HOW YOU'VE REACHED THE POINT, WHERE  
10 YOU'VE DEVELOPED YOUR OPINIONS OF THE DEATH PENALTY  
11 DESCRIBED THIS MORNING.

12 A I GUESS JUST FROM DIFFERENT THINGS I'VE LEARNED ABOUT  
13 LIFE, DIFFERENT THINGS I'VE SEEN, WHETHER IT WAS ON TV OR  
14 THROUGH PERSONAL EXPERIENCES.

15 Q TELL ME SOME OF THE PERSONAL EXPERIENCES.

16 MS. STROM: I WOULD OBJECT, YOUR HONOR.

17 THE COURT: OVERRULED. THAT MEANS ANSWER IT, PLEASE.

18 A I DON'T KNOW. I'VE NEVER LIKE EXPERIENCED A CRIME IN  
19 MY LIFE. BUT JUST FROM LIKE HARDSHIPS IN MY LIFE AND SUCH  
20 AS THAT.

21 Q HOW ABOUT THING YOU'VE READ, TEACHERS, PREACHERS,  
22 ANYTHING YOU'VE ENCOUNTERED. I'M TRYING TO GET TO THE  
23 POINT HOW YOU DEVELOPED THE PERSPECTIVES YOU GOT.

24 A I GUESS THINGS I READ IN SCHOOL AND STUFF PROBABLY  
25 INFLUENCED IT. I CAN'T THINK OF ANY SPECIFIC THAT I'VE

1 READ; BUT THAT, I'M SURE HAD A LOT TO DO WITH IT. AND IN  
2 MY EARLIER YEARS, PROBABLY MY CHURCH VALUES AND STUFF  
3 PROBABLY HAD A LOT OF INFLUENCE.

4 Q WHAT KINDS OF THINGS DID YOU READ IN SCHOOL THAT HAVE  
5 AFFECTED YOUR VIEW?

6 A I TOOK COURSES ON GOVERNMENT AND SUCH AS THAT, AND  
7 THAT MIGHT HAVE INFLUENCED IT.

8 Q NOW, BOTH THE JUDGE AND MISS STROM TALKED TO YOU  
9 ABOUT WHAT FIRST-DEGREE MURDER IS AND WHAT CAPITAL MURDER  
10 IS. AND YOU UNDERSTAND THAT IN THE FIRST PHASE OF THE  
11 TRIAL, IT'S A TWO-PHASE TRIAL, THAT THE JURY WOULD BE  
12 CALLED UPON TO DECIDE WHETHER THE DEFENDANT HAD ACTED --  
13 IN SOUTH CAROLINA IT'S A HEART DEVOID OF ALL SOCIAL DUTY.  
14 A DARK AND DEPRAVED HEART. ONE WHO INTENDED TO DO WHAT  
15 THEY DID. NOT SOMETHING DONE IN A MOMENT OF PASSION.  
16 IT'S A VERY SPECIFIC LEVEL OF INTENT.

17 AND YOU UNDERSTAND IF YOU'RE ON THE JURY WHEN THE  
18 JURY REACHES ITS VERDICT, IF THE VERDICT IS GUILTY, ALL 12  
19 MEMBERS, YOURSELF INCLUDED, WOULD HAVE FOUND THE DEFENDANT  
20 HAD THAT VERY STRONG DIRECT LEVEL OF INTENT?

21 A YEAH.

22 Q AND YOU UNDERSTAND THAT ONCE THAT PROCESS IS OVER AND  
23 ONCE THAT VERDICT HAD BEEN REACHED, AFTER THE 24-HOUR  
24 WAITING PERIOD, YOU'RE THEN ASKED TO CONSIDER THE PENALTY  
25 PHASE?

1 A YES.

2 Q AND MY QUESTION TO YOU IS, WOULD YOU BE ABLE IN THAT  
3 PENALTY PHASE TO PUT ASIDE WHAT YOU HEARD TO THE EXTENT  
4 YOU HAD ALREADY REACHED THAT CONCLUSION? LET ME REPHRASE  
5 THE QUESTION. WOULD YOU BE ABLE TO LISTEN TO EVIDENCE IN  
6 MITIGATION AND AGGRAVATION AND MAKE A DECISION RECOGNIZING  
7 YOU HAD ALREADY DECIDED ON THE VERDICT OF GUILT?

8 A YES.

9 Q AND YOU ALSO UNDERSTAND THAT IN SOUTH CAROLINA IN  
10 ORDER FOR A CRIME TO BE A CAPITAL CRIME, THERE HAS TO BE A  
11 SECOND CRIME INVOLVED, KIDNAPPING, BURGLARY, SOME OTHER  
12 EVENT, SOME OTHER CRIME? YOU WOULD ALSO HAVE TO REACH A  
13 VERDICT ON PART OF THE GUILT PHASE. DO YOU UNDERSTAND  
14 THAT?

15 A YES.

16 Q AND YOU'RE TELLING ME THAT HAVING REACHED THAT  
17 CONCLUSION ON THE SECOND CRIME, IN ADDITION TO HAVING  
18 REACHED THE PREMEDITATED MURDER, YOU WOULD STILL BE ABLE  
19 IN THE PENALTY PHASE BE ABLE TO LISTEN TO ALL THE  
20 MITIGATION AND AGGRAVATION AND MAKE A DECISION?

21 A YES.

22 Q LET ME ASK YOU A COUPLE OF OTHER QUESTIONS. YOU  
23 UNDERSTAND THAT A LIFE SENTENCE IN THIS STATE IS LIFE  
24 WITHOUT THE POSSIBILITY OF PAROLE; THE DEFENDANT DIES IN  
25 PRISON?

1 A YES.

2 Q AND YOU UNDERSTAND THAT IN THIS CASE, AS IN MANY  
3 CASES LIKE THIS, YOU'RE GOING TO HEAR SOME VERY DIFFICULT  
4 EVIDENCE. YOU'RE GOING TO HEAR FACTS AND SEE EVIDENCE  
5 THAT WILL BE HEART WRENCHING, VERY UPSETTING?

6 A YES.

7 Q AND YOU UNDERSTAND THAT EVEN HAVING SEEN ALL THAT --  
8 MY QUESTION TO YOU, HAVING SEEN ALL THAT, WOULD YOU THEN  
9 IN THE PENALTY PHASE BE ABLE TO CONSIDER A LIFE SENTENCE,  
10 EVEN THOUGH YOU REACHED THE DECISION OF GUILT ON THE GUILT  
11 PHASE?

12 A YES.

13 Q JUST A COUPLE OTHER QUESTIONS. YOU HAVE A FRIEND WHO  
14 WORKS IN THE SOLICITOR'S OFFICE AND A FRIEND WHOSE HUSBAND  
15 IS A DEPUTY SHERIFF?

16 A YES.

17 Q AND SPEND A LOT OF TIME, I THINK YOU SAID, TWO VISITS  
18 OR TWO OUTINGS A WEEK?

19 A YES.

20 Q AND YOU'RE SURE -- LET ME ASK YOU, ARE YOU SURE, THAT  
21 GIVEN YOUR FRIENDSHIP WITH THE SOLICITOR, YOUR FRIENDSHIP  
22 WITH A DEPUTY SHERIFF AND HIS WIFE, YOU WOULD STILL BE  
23 ABLE TO MAKE A DECISION INDEPENDENT OF THOSE PERSONAL  
24 BONDS?

25 A YES.

1 Q ONE OTHER ISSUE MRS. STROM ASKED YOU ABOUT IS MENTAL  
2 ILLNESS. I'D LIKE TO ASK YOU THE SAME QUESTION I DID  
3 ABOUT THE DEATH PENALTY. WHAT'S YOUR VIEW OF MENTAL  
4 ILLNESS? HOW DO YOU UNDERSTAND MENTAL ILLNESS AS IT  
5 EXISTS AND IT'S EFFECTS ON PEOPLE?

6 A I UNDERSTAND MENTAL HEALTH, IT'S A MENTAL DISEASE  
7 SOMEBODY MIGHT HAVE. AND THERE ARE DIFFERENT TYPES OF  
8 MENTAL DISEASES SOMEONE COULD HAVE.

9 Q WHAT ARE SOME OF THE TYPES YOU KNOW OF?

10 A SCHIZOPHRENIA, I'M NOT SURE. SOCIOPATH. I DON'T  
11 KNOW.

12 Q DID YOU EVER STUDY ANY OF THAT IN SCHOOL?

13 A I THINK I TOOK ONE CLASS ON IT.

14 Q PLEASE TELL ME WHAT IS YOUR VIEW OF HOW MENTAL  
15 ILLNESS WOULD AFFECT SOMEONE, YOUR EVALUATION OF THEIR  
16 CONDUCT?

17 MS. STROM: I OBJECT TO THE FORM OF THE QUESTION,  
18 YOUR HONOR.

19 THE COURT: REPHRASE THE QUESTION, OKAY?

20 MR. MACDOUGALL: GIVEN YOUR VIEW OF MENTAL ILLNESS,  
21 WOULD YOU CONSIDER MENTAL ILLNESS AS A FACT IN MITIGATION  
22 SOMETHING THAT --

23 MS. STROM: OBJECT.

24 MR. MACDOUGALL: LET ME FINISH. AS A FACT IN  
25 MITIGATION IN THE GUILT PHASE OF THE TRIAL I'M TALKING

1 ABOUT.

2 THE COURT: HOLD ON. IF YOU WOULD HOLD ON,  
3 MRS. STALLCUP. YOU GOT AN OBJECTION?

4 MS. STROM: YES.

5 THE COURT: WHAT'S THE LEGAL OBJECTION?

6 MS. STROM: THE FORM OF THE QUESTION, BECAUSE I THINK  
7 IT HAS TO INCLUDE THE JUDGE'S INSTRUCTION.

8 THE COURT: ALL RIGHT. INCLUDE THAT SHE WOULD BE  
9 INSTRUCTED BY THE COURT TO CONSIDER ALL MITIGATING  
10 CIRCUMSTANCES.

11 MR. MACDOUGALL: THANK YOU, YOUR HONOR.

12 Q YOU UNDERSTAND IN THE SECOND PHASE OF THE TRIAL THE  
13 JUDGE MAY INSTRUCT YOU THAT ONE OF THE THINGS YOU MAY  
14 CONSIDER IN THE SECOND PHASE OF THE TRIAL THE IS  
15 POSSIBILITY OF MENTAL ILLNESS, POSSIBILITY THAT THE  
16 DEFENDANT SUFFERED MENTAL ILLNESS?

17 A YES.

18 Q YOU WOULD BE ABLE TO CONSIDER THAT AS A MITIGATOR IN  
19 DECIDING WHETHER YOU'D GIVE A LIFE SENTENCE OR A DEATH  
20 SENTENCE?

21 A YES.

22 Q ONE LAST COUPLE OF QUESTIONS, MISS STALCUP. DO YOU  
23 UNDERSTAND THERE WOULD BE 12 PEOPLE ON THE JURY, YOU COULD  
24 POSSIBLY BE ONE OF THE 12?

25 A YES.



1 Q SOMETIMES IF YOU'VE BEEN INVOLVED IN GROUPS THAT VOTE  
2 A MINORITY OF ONE, ONE PERSON HOLDS OUT.

3 A RIGHT.

4 Q IF YOU WERE IN A POSITION WHERE ONE PERSON HAD A  
5 DIFFERENT POINT OF VIEW THAN THE OTHER 11 JURORS, AND YOU  
6 TALKED ABOUT IT, GONE BACK AND FORTH, AND YOU'RE STILL AT  
7 A POINT WHERE YOUR VIEW IS DIFFERENT, YOU BELIEVE IN LIFE,  
8 THE OTHER ELEVEN BELIEVE IN DEATH; ARE YOU THE KIND OF  
9 PERSON COULD STICK TO YOUR CONVICTION AFTER YOU  
10 DELIBERATED, STICK TO YOUR CONVICTION BECAUSE YOU  
11 ABSOLUTELY BELIEF THAT STRONGLY?

12 A YES, SIR.

13 Q AND YOU WOULD NOT JOIN IN JUST TO GO ALONG?

14 A NO.

15 Q AND BY THE SAME TOKEN, IF YOU WERE PART OF A  
16 MAJORITY, LET'S SAY YOU WERE A GROUP OF TEN OF THE TWELVE  
17 THAT HAVE A VERDICT IN MIND OF, LET'S SAY, GUILT OR  
18 INNOCENCE. WOULD YOU BE ABLE TO RESPECT THE VIEWS OF THE  
19 MINORITY, AFTER YOU'VE DELIBERATED, AFTER YOU'VE TALKED,  
20 AND NOT PUT THE KIND OF PRESSURE ON THEM THAT WOULD FORCE  
21 THEM TO KIND OF JUST GO ALONG.

22 A YES.

23 Q ONE MINUTE, YOUR HONOR.

24 THE COURT: YES, SIR.

25 MR. MACDOUGALL: NOTHING FURTHER, YOUR HONOR.

1 THE COURT: ANY MOTIONS AS TO THIS WITNESS?

2 MS. STROM: NO, SIR.

3 THE COURT: ALL RIGHT. MRS. STALLCUP, AND THE  
4 DEFENDANT DIDN'T ASK BUT THERE WAS SOME HEAD SHAKING; IS  
5 THAT CORRECT? THE DEFENDANT DOESN'T HAVE A MOTION?

6 MR. MAULDIN: NO, SIR.

7 BY THE COURT:

8 Q MISS STALCUP, WHAT WE'RE GOING TO DO IS QUALIFY A  
9 PANEL OF 40 JURORS. FROM THAT, WE'LL DRAW 12 AND FOUR  
10 ALTERNATES. YOU'RE PART OF THE PANEL.

11 A OKAY.

12 Q DON'T DISCUSS ANYTHING WITH ANYBODY, READ ANYTHING IN  
13 THE PAPER, WATCH ANYTHING ON TELEVISION. THE BAILIFF WILL  
14 GIVE YOU A SLIP OF PAPER. CALL IN TONIGHT. THE  
15 INSTRUCTION WILL TELL YOU TO REPORT AT SUCH AND SUCH A  
16 DATE OR CALL IN A LATER DATE. OKAY?

17 A OKAY.

18 Q JUST FOLLOW THE INSTRUCTION.

19 A OKAY.

20 THE COURT: THANK YOU VERY MUCH.

21 PROSPECTIVE JUROR: THANK YOU.

22 THE COURT: OKAY. WE'RE GOING TO TAKE ABOUT A 15  
23 MINUTE BREAK.

24 MS. STROM: AS FAR AS THE RAP SHEET, I DON'T BELIEVE  
25 IT'S HER. WE GOT A HIT, ONE THAT CAME BACK AS MULTIPLE

1 HIT. I LOOKED AT IT, I DON'T THINK -- I DON'T BELIEVE  
2 IT'S THE SAME PERSON; BUT I WANT TO MAKE THE COURT AWARE  
3 IF IT IS THE SAME PERSON.

4 THE COURT: YOU WANT TO --

5 MS. STROM: THE BIRTH DATE IS A COUPLE OF YEARS OFF.

6 THE COURT: ARE ANY OF THE BIRTH DATES THE SAME DATE?

7 MS. STROM: WHEN WE PUT IN THE BIRTHDAY OF THIS  
8 JUROR, WE GOT AN ALIAS THAT CAME UP AND THEN JUST VARIOUS  
9 HITS. I TRULY CANNOT SAY IT'S HER. BUT FELT LIKE SINCE  
10 IT DID COME UP, I NEEDED TO BRING IT TO YOUR ATTENTION.

11 MR. MAULDIN: I THINK YOU NEED TO AT LEAST ASK HER,  
12 WHAT IS THE OFFENSE?

13 MS. STROM: MANUFACTURING, DELIVERING, POSSESSION  
14 CONTROLLED SUBSTANCE BACK IN '96 FAYETTEVILLE, WASHINGTON.  
15 IT WAS A NOT GUILTY.

16 THE COURT: I'LL JUST ASK HER IF SHE'S EVER BEEN TO  
17 FAYETTEVILLE. ANYTHING ELSE OTHER THAN MANUFACTURING THAT  
18 WOULD QUALIFY?

19 MS. STROM: NO, SIR. THEY'RE ALL DRUG OFFENSES, BUT  
20 I SEE THAT THEY'RE ALL NOT GUILTY.

21 THE COURT: IF THEY'RE NOT GUILTY, WHY DO WE NEED  
22 TO ASK HER ANYTHING?

23 MS. STROM: I'M NOT SAYING THAT WE DO, I'M JUST  
24 SAYING I RAN THE RAP, I GOT A HIT.

25 THE COURT: IF THEY'RE NOT GUILTY, I'M NOT GOING TO

1 ASK HER ANYTHING EVEN IF IT IS HER, UNLESS BOTH PARTIES  
2 CONSENT TO IT.

3 MR. MAULDIN: WHAT WE MIGHT ASK HER IS THIS.

4 MR. NETTLES: JUST ASK IF --

5 MR. MAULDIN: JUST ASK, HAS ANY OTHER NAMES --

6 THE COURT: ARE THEY ALL IN WASHINGTON STATE? LET ME  
7 JUST FIND OUT, IF SHE'S EVER VISITED IN WASHINGTON OR  
8 LIVED IN WASHINGTON.

9 AMY NELSEN, AFTER BEING DULY  
10 SWORN, TESTIFIED AS FOLLOWS:

11 EXAMINATION

12 BY THE COURT:

13 Q MRS. NELSEN, DO YOU REMEMBER FILLING OUT THIS  
14 QUESTIONNAIRE?

15 A YES.

16 Q WHEN YOU FILLED IT OUT, WAS IT ACCURATE?

17 A THE QUESTIONS?

18 Q YOUR ANSWERS TO THE QUESTIONS?

19 A OH, YES, SIR.

20 Q AND YOU FINISHED CHERAW ELEMENTARY SCHOOL?

21 A CHERAW.

22 Q MOVED UP HERE FINISHED IN MAULDIN?

23 A YES, SIR.

24 Q YOU EVER TRAVELED OUT OF THE STATE ANY?

25 A (WITNESS NODS HEAD UP AND DOWN.)

1 Q EVER BEEN TO THE WEST COAST?

2 A BEEN AS FAR AS VEGAS.

3 Q NEVER MADE IT ALL THE WAY TO THE WEST COAST?

4 A NO.

5 Q OH, OKAY. YOU TOOK TRAINING ON USING A GUN?

6 A UH-HUH.

7 Q DID YOU LEARN?

8 A UH-HUH.

9 Q CAN YOU HIT WHAT YOU'RE SHOOTING AT?

10 A NO.

11 Q STILL CAN'T?

12 A DIDN'T TAKE THAT MUCH TRAINING.

13 Q IF YOU WOULD TURN TO PAGE TEN ON YOUR QUESTIONNAIRE,  
14 PLEASE, MA'AM. AND QUESTION NUMBER 64 SAYS, "BRIEFLY  
15 DESCRIBE YOUR ATTITUDES AND BELIEFS CONCERNING CAPITAL  
16 PUNISHMENT."

17 YOU SAID, "I SUPPORT THE DEATH PENALTY."

18 A UH-HUH.

19 Q CAN YOU TELL ME, EXPOUND UPON THAT A LITTLE BIT?  
20 TELL ME WHAT YOUR THOUGHTS ARE AND WHY YOU SUPPORT THE  
21 DEATH PENALTY.

22 A BECAUSE I'M JUST A FIRM BELIEVE THAT, AN EYE FOR AN  
23 EYE, YOU KNOW, IF YOU COMMIT MURDER, I DON'T THINK THERE  
24 SHOULD BE A QUESTION ABOUT IT.

25 Q SO, YOU BELIEVE IF YOU COMMIT MURDER, THERE'S NO

1 QUESTION YOU SHOULD RECEIVE DEATH BECAUSE OF THE MURDER?

2 A THAT'S HOW I FEEL. YES, SIR.

3 Q ARE THERE ANY CIRCUMSTANCES WHEN YOU THINK A PERSON  
4 SHOULD NOT RECEIVE DEATH DUE TO A MURDER? BUT BEFORE YOU  
5 ANSWER THAT. LET ME TELL YOU, MURDER IN SOUTH CAROLINA IS  
6 ANY KIND OF INTENTIONAL PREMEDITATED KILLING. THAT  
7 DOESN'T INCLUDE SOMEONE THAT'S INSANE OR HEAT OF PASSION.

8 A RIGHT.

9 Q UNDER THOSE CIRCUMSTANCES YOU FEEL THAT PERSON SHOULD  
10 ALWAYS RECEIVE DEATH?

11 A IF IT'S PREMEDITATED. YES.

12 Q DOESN'T MEAN YOU SIT AT HOME AND THINK ABOUT IT A  
13 WEEK OR 24 HOURS, GO DO IT. PREMEDITATION CAN HAPPEN VERY  
14 QUICKLY, ALMOST INSTANTANEOUSLY. DO YOU UNDERSTAND?

15 A UH-HUH.

16 Q WOULD THAT MAKE A DIFFERENCE?

17 A IT WOULD MAKE A DIFFERENCE FOR INSTANCE IF SOMEBODY  
18 IS IN THE MIDDLE OF BEING RAPED AND SAY, GOING TO KILL A  
19 PERSON AND KILLS THE PERSON. I MIGHT HAVE A DIFFERENCE OF  
20 OPINION ON THAT MATTER.

21 Q THAT PERSON WOULD PROBABLY NEVER BE CHARGED WITH  
22 MURDER UNDER THE LAW.

23 A OKAY.

24 Q ALL RIGHT. LET ME TELL YOU BRIEFLY THE PROCESS WE  
25 ARE GOING TO GO THROUGH. IF YOU WOULD, FLIP OVER TO PAGE

1 11, QUESTION 68. IT SAYS, "I BELIEVE THE DEATH PENALTY IS  
2 THE APPROPRIATE FORM OF PUNISHMENT IN SOME MURDER CASES,  
3 AND I COULD RETURN A VERDICT OF DEATH IF I BELIEVE IT WAS  
4 WARRANTED IN A PARTICULAR CASE DEPENDING UPON THE  
5 EVIDENCE, THE LAW, AND WHAT I LEARNED ABOUT THE  
6 DEFENDANT." THAT'S SORT OF IN CONFLICT WITH WHAT YOU TOLD  
7 ME ABOUT YOUR SUPPORT OF THE DEATH PENALTY.

8 A RIGHT.

9 Q CAN YOU EXPLAIN THAT TO ME?

10 A WELL, I GUESS IT'S KIND OF GOING BACK TO THAT  
11 SCENARIO I JUST SAID. I THINK IT DEPENDS ON THE SITUATION  
12 OF THE WHOLE CASE. I MEAN --

13 Q EVERYTHING, THE ENTIRE CASE?

14 A RIGHT.

15 Q I THINK I'M HAVING A HARD TIME GETTING MY POINT  
16 ACROSS OR UNDERSTANDING YOUR DIFFERENTIATION. WHEN YOU  
17 USE THE TERM "EYE FOR AN EYE," DOES THAT MEAN IF SOMEONE'S  
18 LEG IS BROKEN, THEN THE PERSON THAT BROKE THE LEG SHOULD  
19 GET THEIR LEG -- OR DO YOU MEAN THE PUNISHMENT SHOULD FIT  
20 THE CRIME.

21 A THE PUNISHMENT SHOULD FIT THE CRIME, I GUESS WOULD  
22 BE.

23 Q WOULD BE A BETTER TERM?

24 A RIGHT.

25 Q ALL RIGHT. LET ME EXPLAIN TO YOU THE PROCESS THAT

1 WE'RE GOING TO GO THROUGH. OKAY? VERY BRIEFLY. BEFORE I  
2 GET TO THAT, LET ME ASK YOU, HAVE YOU HEARD ANYTHING ABOUT  
3 THIS CASE?

4 A (NODS HEAD UP AND DOWN.)

5 Q WHAT HAVE YOU HEARD?

6 A I REMEMBER WHEN IT HAPPENED.

7 Q HOW DID YOU HEAR ABOUT IT? TV?

8 A TV.

9 Q DID YOU WATCH IT ON TV?

10 A I WAS ACTUALLY -- I WORK OUT OF MY HOUSE, I HAPPENED  
11 TO BE AT HOME THAT DAY, AND HAD IT ON AS IT WAS BREAKING  
12 THROUGH.

13 Q YOU WATCHED THE WHOLE PROCESS ON TV?

14 A UH-HUH.

15 Q WHAT DO YOU REMEMBER SEEING ON TELEVISION?

16 A THE NEWS BREAKING THROUGH. THEY SHUT OFF EAST NORTH  
17 STREET AND PELHAM ROAD, AND IT WAS A HOSTAGE SITUATION.  
18 AND THEN THROUGHOUT THE COURSE OF THE AFTERNOON THEY KEPT  
19 BREAKING IN.

20 Q DO YOU REMEMBER THE FACTS OF WHAT HAPPENED OR WHAT  
21 YOU WERE TOLD HAPPENED ON TELEVISION?

22 A NOT SPECIFIC FACTS. I JUST REMEMBER IT WAS A HOSTAGE  
23 SITUATION. AND I DON'T REMEMBER REAL SPECIFICS OF WHAT  
24 THEY WERE SAYING THAT DAY. AND I REMEMBER I KIND OF  
25 FOLLOWED IT AFTERWARDS, AND I REMEMBER BITS AND PIECES.



1 Q A WHAT BITS AND PIECES DO YOU REMEMBER?

2 A SEEMS LIKE, IF I REMEMBER RIGHT, THERE WAS  
3 CONTROVERSY ABOUT HE HAD BEEN LET OUT ON BAIL AT SOME  
4 POINT IN TIME, AND I CAN'T REMEMBER. IT SEEMS LIKE SHE  
5 MIGHT HAVE BEEN IN THE PROCESS OF GETTING A RESTRAINING  
6 ORDER AGAINST HIM; AND THEN, OF COURSE, AFTER IT HAPPENED,  
7 WHAT ALL I READ IN THE PAPER.

8 Q LET ME ASK YOU THIS. BASED UPON WHAT YOU KNOW ABOUT  
9 IT AND WHAT YOU SAW ON TV AND READ IN THE PAPER, HAVE YOU  
10 FORMED AN OPINION AS TO THE INNOCENCE OR GUILT OF THE  
11 DEFENDANT, CHARLES WILLIAMS?

12 A OH, YEAH.

13 Q WHAT IS YOUR OPINION?

14 A HE'S GUILTY.

15 Q ALL RIGHT. IS THERE ANY WAY YOU CAN SET THAT ASIDE?  
16 OR IS YOUR OPINION SO STRONG THAT YOU DON'T THINK YOU CAN  
17 BE OBJECTIVE SITTING ON A JURY?

18 A IT WOULD BE HARD.

19 THE COURT: OKAY. ALL RIGHT. ANYBODY HAVE ANY  
20 QUESTIONS?

21 MS. STROM: NO, SIR.

22 MR. MAULDIN: NONE.

23 THE COURT: WOULD YOU STEP --

24 MR. MAULDIN: WE MOVE, YOUR HONOR.

25 THE COURT: I UNDERSTAND. WOULD YOU STEP OUTSIDE

1 JUST A SECOND?

2 PROSPECTIVE JUROR: SURE.

3 (PROSPECTIVE JUROR EXITS.)

4 THE COURT: ALL RIGHT YOU'VE GOT A MOTION?

5 MR. MAULDIN: (NODS HEAD UP AND DOWN.)

6 THE COURT: ANY ARGUMENT FROM THE STATE?

7 MS. STROM: NO, SIR.

8 THE COURT: I'M GOING TO EXCUSE MISS NELSEN PRIMARILY  
9 DUE TO PRETRIAL PUBLICITY AS WELL AS HER APPARENTLY VERY  
10 STRONG -- I DON'T KNOW WHERE SHE WOULD HAVE GONE ON THE  
11 DEATH PENALTY -- I DON'T THINK SHE REALLY UNDERSTOOD SOME  
12 OF THE QUESTIONS, BUT ON HER PRETRIAL PUBLICITY, I'M GOING  
13 TO EXCUSE HER.

14 BRING MRS. NELSON BACK.

15 (PROSPECTIVE JUROR ENTERS COURTROOM.)

16 MRS. NELSEN, I WANT TO THANK YOU FOR BEING HERE, I  
17 WANT TO THANK YOU FOR YOUR HONESTY WITH THE COURT; BUT  
18 PRIMARILY BECAUSE OF YOUR PRIOR KNOWLEDGE AND YOUR  
19 OPINIONS OF WHAT OCCURRED AND YOUR OPINIONS, AS A RESULT  
20 OF THAT, I'M GOING TO FIND THAT YOU'RE NOT QUALIFIED TO  
21 SIT ON THIS PARTICULAR JURY. THAT DOESN'T MEAN YOU CAN'T  
22 SIT ON ANOTHER JURY, WE'RE JUST TRYING TO FIND JURORS WHO  
23 HAVEN'T HEARD EVERYTHING ON TELEVISION AND FORMED THEIR  
24 OPINIONS PRIOR TO SITTING ON THE JURY. OKAY? THANK YOU  
25 SO VERY MUCH.

1 PROSPECTIVE JUROR: THANK YOU. I WILL TELL YOU IN  
2 ADVANCE, I DO INTEND TO FOLLOW UP.

3 THE COURT: I KNOW.

4 (PROSPECTIVE JUROR EXITS AS THE NEXT JUROR ENTERS.)

5 DAN M. CALNON, (WHITE MALE) AFTER  
6 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

7 EXAMINATION

8 BY THE COURT:

9 Q DO YOU REMEMBER FILLING OUT YOUR QUESTIONNAIRE?

10 A YES, SIR, I DO.

11 Q YOU MAY KEEP IT. AT THE TIME YOU FILLED IT OUT, DID  
12 YOU FILL IT OUT ACCURATELY THE BEST OF YOUR KNOWLEDGE?

13 A YES, SIR.

14 Q I'M GOING TO ASK YOU A FEW QUESTIONS ABOUT YOUR  
15 QUESTIONNAIRE AND SOME OTHER QUESTIONS. THERE'S NO RIGHT  
16 OR WRONG ANSWER, JUST ANSWER THE QUESTIONS THE BEST YOU  
17 CAN. CAN YOU DO THAT?

18 A YES, SIR.

19 Q MR. CALNON, THE DEFENDANT IN THIS CASE IS CHARGED  
20 WITH MURDER AND KIDNAPPING. THIS OCCURRED ON  
21 SEPTEMBER 3<sup>rd</sup> 2003. IT OCCURRED AT A BI-LO HERE IN  
22 GREENVILLE, SOUTH CAROLINA. DO YOU REMEMBER THAT YOU  
23 HEARD ANYTHING ABOUT IT, SEEN ANYTHING ON TV, ANYBODY TOLD  
24 YOU ABOUT IT, OR HAVE YOU READ ANYTHING ABOUT IT?

25 A I REMEMBER READING ABOUT IT IN THE NEWSPAPER AND WHEN

1 IT HAPPENED.

2 Q WHAT DO YOU SPECIFICALLY REMEMBER READING?

3 A JUST THAT IT WAS A HOSTAGE SITUATION I GUESS.

4 Q DO YOU REMEMBER ANYTHING ELSE?

5 A I DON'T REMEMBER HOW LONG IT LASTED OR WHETHER  
6 THERE---

7 Q DO YOU REMEMBER HOW THE HOSTAGE SITUATION ENDED?

8 A IT ENDED WITH THE GIRL'S DEATH, DID IT NOT?

9 Q WHAT DO YOU REMEMBER? I'M ASKING YOU.

10 A THAT'S AS MUCH AS I REMEMBER.

11 Q DO YOU REMEMBER ANYTHING ELSE?

12 A NO, SIR.

13 Q OKAY. ALL RIGHT. AS A RESULT OF THE KNOWLEDGE YOU  
14 HAVE ABOUT THE HOSTAGE SITUATION AND HOW IT ENDED, HAVE  
15 YOU FORMED AN OPINION AS TO THE DEFENDANT'S INNOCENCE OR  
16 GUILT?

17 A I REALLY HAVE NOT.

18 Q OKAY. NOW, IF YOU WOULD, TURN TO PAGE FOUR.  
19 QUESTION 36 SAYS YOUR BROTHER-IN-LAW WORKS WITH THE  
20 SHERIFF'S DEPARTMENT FOR MORE THAN TEN YEARS. IS THAT  
21 CORRECT?

22 A YES, SIR.

23 Q DO YOU SEE YOUR BROTHER-IN-LAW ON A FREQUENT BASIS?

24 A FIVE OR SIX TIMES A YEAR.

25 Q WOULD IT CAUSE YOU ANY DIFFICULTY SITTING ON THIS

1 JURY WITH YOUR BROTHER-IN-LAW BEING A DEPUTY SHERIFF IN  
2 GREENVILLE COUNTY?

3 A NO, SIR.

4 Q YOU EVER DISCUSSED HIS ATTITUDES OR BELIEFS ABOUT LAW  
5 ENFORCEMENT WITH HIM?

6 A HE HAS SERVED A NUMBER OF WARRANTS IN THE AREA AND  
7 HAS MENTIONED SOME OF THE WARRANTS THAT HE'S SERVED.

8 Q JUST THE TYPE OF WARRANTS HE'S SERVED?

9 A YES, SIR. AND ALSO THE CHARACTER OF THE PERSON.

10 Q THE CHARACTER OF THE PERSON. HAVE YOU HAD ANY OTHER  
11 CONVERSATION WITH HIM ABOUT THE JUDICIAL SYSTEM OR  
12 SOLICITOR'S OFFICE OR DEFENDANTS IN GENERAL?

13 A NO, SIR.

14 Q ALL RIGHT. WOULD YOU TURN TO PAGE TEN, QUESTION 64.  
15 YOU SAID, WHERE IT SAYS, "DESCRIBE YOUR ATTITUDES AND  
16 BELIEFS CONCERNING CAPITAL PUNISHMENT."

17 YOU SAID, "I THINK IT'S A GOOD DETERRENT TO CRIME."  
18 IS THAT STILL YOUR OPINION TODAY?

19 A YES, SIR, IT IS.

20 Q QUESTION NUMBER 65, YOU SAID, "WHAT IS YOUR OPINION  
21 ABOUT THE DEATH PENALTY?"

22 YOU SAID YOU STRONGLY FAVOR. IS THAT CORRECT?

23 A YES, SIR.

24 Q IS THAT STILL YOUR OPINION TODAY?

25 A YES, SIR.

1 Q GO OVER TO QUESTION, PAGE 11, QUESTION 68. ALL  
2 RIGHT. YOU STATED, "I BELIEVE THE DEATH PENALTY IS THE  
3 APPROPRIATE FORM OF PUNISHMENT IN SOME MURDER CASES AND I  
4 COULD RETURN A VERDICT OF GUILTY IF I BELIEVE IT WAS  
5 WARRANTED IN A PARTICULAR CASE, DEPENDING UPON THE  
6 EVIDENCE, THE LAW, AND WHAT I LEARNED ABOUT THE  
7 DEFENDANT." IS THAT STILL YOUR OPINION TODAY?

8 A YES, SIR.

9 Q I WANT TO READ YOU A QUESTION. I WANT YOU TO PLEASE  
10 RESPOND TO IT.

11 IN THIS CASE THE DEFENDANT IS BLACK AND THE VICTIM IS  
12 WHITE. IT IS UNDISPUTED THAT THE BLACK DEFENDANT AND THE  
13 WHITE VICTIM ENGAGED IN INTERRACIAL DATING. WOULD THE  
14 FACT THAT THE DEFENDANT AND THE VICTIM ENGAGED IN  
15 INTERRACIAL DATING MAKE IT DIFFICULT FOR YOU TO BE FAIR TO  
16 EITHER THE STATE OR THE DEFENDANT?

17 A I HAVE A FEELING IT WOULD INFLUENCE ME.

18 Q HOW WOULD IT INFLUENCE YOU?

19 A I'M A NORTHERNER WHO HAS LIVED IN THE SOUTH QUITE A  
20 WHILE. STILL, JUST FROM FEELINGS I'VE HAD, I DON'T REALLY  
21 APPROVE OF INTERRACIAL DATING WHEN I SEE IT. IT'S FINE  
22 WHATEVER THEY DO, BUT IT'S STILL, IT'S JUST A QUESTION I  
23 HAVE IN MY PERSON.

24 Q HOW WOULD THAT AFFECT YOU IN THIS CASE? YOU SAID YOU  
25 THINK IT WOULD OR YOU HAVE A FEELING IT WOULD?

1 A I HAVE A FEELING -- WELL, IT MAY NOT INFLUENCE ME  
2 WITH THE DECISION THAT COULD BE MADE. I THINK --

3 Q WOULD IT INFLUENCE YOU AGAINST THE STATE OR WOULD IT  
4 INFLUENCE YOU AGAINST THE DEFENDANT? WHEN I SAY THE  
5 STATE, I SAY THE VICTIM.

6 A I SEE.

7 Q WOULD IT INFLUENCE YOU AGAINST THE VICTIM OR  
8 INFLUENCE YOU AGAINST THE DEFENDANT OR BOTH?

9 A I DON'T THINK IT WOULD INFLUENCE ME AGAINST EITHER  
10 THE STATE OR THE VICTIM. NO.

11 Q IS THIS BELIEF YOU HAVE ABOUT INTERRACIAL DATING, IS  
12 THIS A STRONG BELIEF OR YOU JUST DON'T THINK IT'S  
13 APPROPRIATE IN OUR SOCIETY?

14 A I DON'T THINK IT'S APPROPRIATE IN OUR SOCIETY. IT'S  
15 JUST MY BELIEF.

16 Q AND YOU DON'T, YOU THINK YOU COULD SET THAT ASIDE?

17 A YES, SIR, I CAN. I BELIEVE SO.

18 Q ALL RIGHT. DOES THIS BELIEF -- OR WHERE DOES YOUR  
19 DISAPPROVAL FROM INTERRACIAL DATING STEM FROM? FROM YOUR  
20 PERSONAL BELIEF OR FROM SOMETHING YOU LEARNED IN COLLEGE  
21 OR UP NORTH OR MOVING TO THE SOUTH, OR WHERE DOES IT COME  
22 FROM?

23 A I BELIEVE IT HAS A BIBLICAL BASIS, KEEPING THE RACES  
24 SEPARATE.

25 Q WHERE DID YOU LEARN THAT FROM? OR WHERE DID THAT

1 COME FROM, YOUR OWN RESEARCH OR LEARN IT IN COLLEGE?

2 A I LEARNED IT IN COLLEGE.

3 Q AND THAT'S WHAT YOU WERE TAUGHT IN COLLEGE. IS THAT  
4 CORRECT?

5 A YES, SIR.

6 Q ALL RIGHT. COULD I ASK YOU TO STEP OUT IN THE HALL  
7 JUST A SECOND? LET ME SEE THE ATTORNEYS UP HERE.

8 (BENCH CONFERENCE HELD OFF THE RECORD, OUTSIDE THE  
9 PRESENCE OF THE JUROR.)

10 THE COURT: BRING HIM IN.

11 (PROSPECTIVE JUROR ENTERS COURTROOM.)

12 Q I WANTED TO ASK YOU A COUPLE QUESTIONS. EXPLAIN THE  
13 PROCESS WE GO THROUGH. THE TRIAL IS BROKEN INTO TWO  
14 PHASES. THE FIRST IS THE GUILT PHASE, THE SECOND IS THE  
15 PENALTY PHASE. IN THE GUILT PHASE THE STATE WOULD BE  
16 REQUIRED TO PROVE THE DEFENDANT GUILTY BEYOND A REASONABLE  
17 DOUBT. AS TO MURDER AND KIDNAPPING, THE DEFENDANT NEVER  
18 HAS TO TESTIFY. THE DEFENDANT IS NOT OBLIGATED BECAUSE OF  
19 FIFTH AMENDMENT. THE FIFTH AMENDMENT SAYS A DEFENDANT  
20 CANNOT BE FORCED TO SELF-INCRIMINATE HIMSELF. IT'S HIS  
21 DECISION TO TESTIFY OR NOT TO TESTIFY. DO YOU UNDERSTAND?

22 A YES.

23 Q THE STATE HAS THE OBLIGATION OF PROVING THE DEFENDANT  
24 GUILTY BEYOND A REASONABLE DOUBT ON BOTH CHARGES. FOR  
25 PURPOSES OF OUR DISCUSSION AND HYPOTHETICAL AND WHAT WE'RE



1 GOING TO BE DISCUSSING WITH YOU, I WANT YOU TO ASSUME ALL  
2 12 JURORS BELIEVE IT HAS BEEN PROVEN THE DEFENDANT IS  
3 GUILTY BEYOND A REASONABLE DOUBT OF MURDER AND KIDNAPPING.  
4 THE JURY HAS MADE THAT DECISION, UNANIMOUS. DO YOU  
5 UNDERSTAND?

6 A YES.

7 Q SO, AT THAT POINT IN TIME THE DEFENDANT WOULD BE  
8 GUILTY OF MURDER AND KIDNAPPING. THAT DECISION WOULD BE  
9 MADE.

10 WHEN I USE THE TERM KILLING IN LAYMAN'S TERMS, WHAT I  
11 MEAN, THE INTENTIONAL MALICIOUS PREMEDITATED ACT. DO YOU  
12 UNDERSTAND?

13 A YES, SIR.

14 Q THE LEGAL TERM IS MALICE AFORETHOUGHT. AND I'M SURE  
15 THE ATTORNEY WILL GO INTO THAT IN MORE DETAIL LATER.  
16 HOWEVER, THEN WE WOULD MOVE TO THE SECOND PHASE, WHICH IS  
17 CALLED THE PENALTY PHASE. THE PURPOSE OF THE PENALTY  
18 PHASE IS FOR THE JURY TO DECIDE WHETHER OR NOT THE  
19 DEFENDANT SHOULD RECEIVE LIFE OR DEATH. DO YOU  
20 UNDERSTAND?

21 A YES, SIR.

22 Q THE STATE WOULD BE REQUIRED TO PROVE CERTAIN  
23 AGGRAVATING CIRCUMSTANCES BEYOND A REASONABLE DOUBT. DO  
24 YOU UNDERSTAND?

25 A YES, SIR.

1 Q I DON'T KNOW WHAT THOSE AGGRAVATING CIRCUMSTANCES  
2 ARE; BUT THEY'RE SET OUT BY STATE LAW, CERTAIN OTHER  
3 AGGRAVATING CIRCUMSTANCES THAT YOU HAVE TO PROVE IN ORDER  
4 TO ASK FOR THE DEATH PENALTY OR FOR THE JURY TO GIVE THE  
5 DEATH PENALTY. DO YOU UNDERSTAND?

6 A YES, SIR.

7 Q NOW, LET'S ASSUME THAT THE JURY AGREES WITH THE STATE  
8 THAT THE STATE HAS PROVEN THE AGGRAVATING CIRCUMSTANCES  
9 BEYOND A REASONABLE DOUBT. THAT DECISION IS MADE BY ALL  
10 12 JURORS. EVEN IF THE JURY AGREES WITH THAT, THEY DO NOT  
11 HAVE TO GIVE THE DEFENDANT DEATH, THEY CAN GIVE THE  
12 DEFENDANT LIFE. DO YOU UNDERSTAND?

13 A YES, SIR.

14 Q THEY CAN GIVE THE DEFENDANT LIFE JUST AS A MEANS OF  
15 MERCY IF THE JURY DECIDES. DO YOU UNDERSTAND?

16 A YES, SIR.

17 Q WHEN I SAY LIFE, I MEAN LIFE IN JAIL WITHOUT PAROLE.  
18 THAT MEANS THE DEFENDANT WILL DIE IN JAIL. DO YOU  
19 UNDERSTAND?

20 A YES, SIR.

21 Q MY QUESTION TO YOU, BASED UPON YOUR ANSWER TO  
22 QUESTION 68 AND 64, BEFORE YOU MAKE A DECISION AS TO LIFE  
23 OR DEATH, CAN YOU TAKE INTO CONSIDERATION EVERYTHING YOU  
24 HEARD IN THE FIRST PHASE, EVERYTHING YOU HEARD IN THE  
25 SECOND PHASE AND GIVE MEANING CONSIDERATION TO LIFE OR

1 DEATH BEFORE YOU MAKE YOUR DECISION?

2 A YES, SIR.

3 Q CAN YOU GIVE MEANING CONSIDERATION TO LIFE IF THE  
4 DEFENDANT NEVER TESTIFIES AND NEVER SAYS ANYTHING DURING  
5 THE COURSE OF PHASE ONE AND PHASE TWO?

6 A YES.

7 Q CAN YOU GIVE MEANINGFUL CONSIDERATION TO DEATH BASED  
8 ON WHAT YOU HEARD IN THE FIRST PHASE AND THE SECOND PHASE?

9 A YES, SIR.

10 Q ALL RIGHT. NOW, LET ME ASK YOU THIS, HOW WOULD YOUR  
11 VIEWPOINTS ON THE INTERRACIAL DATING ISSUE THAT WAS  
12 DISCUSSED EARLIER AFFECT YOU IN MAKING A DETERMINATION AS  
13 TO WHETHER TO GIVE THE DEFENDANT LIFE OR DEATH? HOW WOULD  
14 IT FACTOR INTO YOUR THOUGHT PROCESS?

15 A I THINK I WOULD DISREGARD WHETHER THEY WERE  
16 INTERRACIAL OR NOT.

17 Q ALL RIGHT. I'M NOT TRYING TO BE ARGUMENTATIVE AND  
18 NOT TRYING TO DISRESPECT YOUR VIEWS. OKAY? I RESPECT  
19 YOUR VIEWS. I'M ASKING THIS FOR AN ENTIRELY DIFFERENT  
20 REASON. IF YOU STUDIED THIS IN COLLEGE AND HELD THIS  
21 OPINION FOR QUITE A NUMBER OF YEARS AND YOU STILL BELIEVE  
22 THAT INTERRACIAL DATING IS WRONG, HOW CAN YOU SET IT ASIDE  
23 AND NOT CONSIDER IT AS A FACTOR IN DETERMINING LIFE OR  
24 DEATH TO A DEFENDANT?

25 A WHILE I WAS GROWING UP, MY FATHER WAS IN THE AIR

1     FORCE AND WE DID MOVE AROUND QUITE A BIT.  SEEING HOW  
2     OTHER PEOPLE LIVE GAVE ME AN IDEA OF ACCEPTANCE.  MY  
3     WIFE'S SISTER MARRIED AN INDIAN PERSON.  AND THEN MY SON  
4     IS DATING A JAPANESE GIRL IN JAPAN RIGHT NOW WITH THE  
5     PROSPECTS OF MARRIAGE.  I'M WILLING TO ACCEPT INTERRACIAL  
6     DATING FOR OTHER PEOPLE, BUT I WOULD NOT DO IT FOR MYSELF.  
7     Q     OKAY.  ALL RIGHT.  DOES YOUR VIEWPOINT ON BLACK AND  
8     CAUCASIAN DATING DIFFER FROM ORIENTAL AND CAUCASIAN DATING  
9     OR ORIENTAL AND INDIAN DATING?

10    A     I WOULD SAY THEY'RE THE SAME.

11    Q     YOU WOULDN'T CLASSIFY BLACK AND WHITE DIFFERENT FROM  
12    CAUCASIAN AND ORIENTAL?

13    A     NO, SIR.

14    Q     WHOSE TURN ON THE ISSUES WE'VE COVERED?

15           MR. MAULDIN:  AS TO THE INTERRACIAL DATING AND THE  
16    ISSUE OF CAPITAL PUNISHMENT, YOUR HONOR?

17           THE COURT:  YES.

18           MR. MAULDIN:  WE COULD SPLIT THAT FOR PURPOSES OF THE  
19    INQUIRY?

20           THE COURT:  I THINK THEY'RE ONE IN THE SAME AS FAR AS  
21    HOW HIS VIEWPOINTS AFFECT THAT DECISION.

22           MR. MAULDIN:  ALL RIGHT, SIR.

23           THE COURT:  MR. MAULDIN, LET ME BACK OFF THAT.  IF  
24    YOU WANT TO BREAK IT UP, THAT'S FINE.  MISS STROM, YOU  
25    HAVE ANY OBJECTION TO BREAKING IT UP OR COMBINE THE TWO AS

1 FAR AS YOU ALL'S QUESTION? I DON'T CARE HOW YOU DO IT.

2 MS. STROM: I DON'T SEE THE NEED TO BREAK IT UP. I  
3 SAY LET'S GO AHEAD AND TAKE CARE OF EVERYTHING.

4 MR. MAULDIN: THAT'S FINE, YOUR HONOR.

5 THE COURT: THAT'S MY THOUGHT. GO AHEAD.

6 BY MR. MAULDIN:

7 Q IT'S CALNON?

8 A YES, SIR.

9 Q CALNON. MR. CALNON, I THINK FROM THE VERY BEGINNING  
10 I THINK WE NEED TO MAKE SURE WE'RE KIND OF ON THE SAME  
11 WAVELENGTH. THE FIRST THING I THINK THAT IS BASIC TO THIS  
12 INQUIRY OF YOU AS AN INDIVIDUAL, PROSPECTIVE JUROR, IN THE  
13 QUALIFICATION FOR YOU TO UNDERSTAND YOUR VIEWS, OPINIONS  
14 WHATEVER ARE NOT ON TRIAL.

15 A YES, SIR.

16 Q YOU WERE CALLED IN, SWEARING AND TESTIFYING, LAWYERS  
17 ALL OVER THE PLACE, THE POINT IS, PEOPLE BRING THEIR VIEWS  
18 WITH THEM REGARDLESS OF WHERE THEY GO. AND THEY GET  
19 OPINIONS OR DEVELOP VIEWS ABOUT THE WORLD THROUGH THEIR  
20 LIFE EXPERIENCES, NOT BY WHAT SOME JUDGE TELLS YOU.

21 A YES, SIR.

22 Q YOU FOLLOWING ME?

23 A YES, SIR.

24 Q SO, THE FIRST THING THAT WOULD HAVE TO BE UNDERSTOOD  
25 IS THAT WE WANT TO KNOW HOW DAN CALNON REALLY, IN HIS

1 HEART OF HEARTS, FEELS ABOUT THIS.

2 A YES, SIR.

3 Q AND I'LL TELL YOU SOMETHING THAT WOULD PROVE THAT TO  
4 YOU BEYOND ANY QUESTION. WHEN YOU SHOWED UP ON MONDAY  
5 THERE WERE 150 OF YOU IN THERE.

6 A YES, SIR.

7 Q AND THERE AREN'T GOING TO BE BUT 12 IN HERE. YOU CAN  
8 SEE, HERE WE ARE FIVE DAYS LATER, WE'RE STILL QUALIFYING.  
9 SO, YOU CAN TELL A LOT OF FOLKS ARE BEING NOT QUALIFIED --

10 A YES, SIR.

11 Q -- FOR OPINIONS, FOR WHAT THEY KNOW ABOUT THE CASE,  
12 THEIR VIEWS ON INTERRACIAL DATING, THEIR VIEWS ON ANY  
13 NUMBER OF THINGS. CAN SAY YOU MAY BE A GOOD JUROR ON ONE  
14 CASE, BUT NOT THIS CASE. SO, YOU FOLLOW THE PROCESS?

15 A YES, SIR.

16 Q ALL RIGHT. THE WORD FAIR GETS KIND OF THROWN AROUND,  
17 CAN YOU BE -- CAN YOU BE FAIR. IT'S KIND OF HARD FOR  
18 SOMEBODY TO SAY, I CAN'T BE FAIR. WE ALL WANT TO BE FAIR.  
19 THE QUESTION PROBABLY IS, WOULD YOUR ABILITY BE EITHER  
20 DISTRACTED OR AFFECTED BY MATTERS THAT SHOULDN'T UNDER THE  
21 LAW BE CONSIDERED; AND IF YOUR CONSIDERATION OF THINGS  
22 COULD BE AFFECTED BY THINGS THAT THE LAW SAYS SHOULD NOT  
23 BE USED, THEN WE SHOULD DISQUALIFY YOU AND YOU SHOULD COME  
24 BACK ON ANOTHER CASE. YOU FOLLOW THAT?

25 A YES, SIR.

1 Q SO, THE WORD FAIR, WE HAVE TO MAKE SURE WE UNDERSTAND  
2 THAT, TOO.

3 NOW, LET ME TALK ABOUT THE INTERRACIAL DATING ISSUE  
4 AND YOUR QUALIFICATION. HAVE YOU EVER HEARD, AND I  
5 CERTAINLY WOULD EXPECT THAT YOU WOULD, YOU EVER HEARD THE  
6 WORDS, "JUDGE A BOOK BY IT'S COVER"?

7 A YES, SIR.

8 Q IN MY CASE, PEOPLE JUDGE ME BECAUSE THE WAY I SOUND  
9 WHEN I TALK. WELL, I JUST GOT A SOUTHERN ACCENT. I CAN'T  
10 HELP IT. SOMETIMES YOU SEE A VERY ATTRACTIVE PERSON, YOU  
11 JUDGE THEM, THEN THEY TURN OUT TO BE AS MEAN AS A SNAKE.

12 A YES, SIR.

13 Q YOU'RE FAMILIAR WITH THE FACT THAT'S KIND OF A  
14 NATURAL INSTINCT, THE WAY WE ARE, WE DO THAT? WE JUDGE  
15 PEOPLE BY THEIR COVER, WHETHER WE ACTUALLY MEAN TO OR NOT.  
16 AND IT'S NOT, IT'S A MISTAKE TO DO IT, BUT IT'S NOT REALLY  
17 A WRONG THING BECAUSE IT'S ALMOST NATURAL TO DO IT. DO  
18 YOU AGREE WITH THAT?

19 A YES, SIR.

20 Q NOW, WE'RE TALKING ABOUT WHAT EFFECT A RACE ISSUE  
21 MIGHT HAVE IN A CASE. AND THE QUESTION, THE FIRST  
22 QUESTION I GUESS I WOULD WANT TO KNOW IS SHOULD, IN YOUR  
23 OPINION, SHOULD RACE BE A FACTOR IN A CASE IN COURT?

24 A I DON'T BELIEVE IT SHOULD BE A FACTOR IN COURT.

25 Q ALL RIGHT. AND WHEN YOU SAY, "I DON'T BELIEVE IT

1 SHOULD BE," IS THAT -- I'M TRYING TO FIGURE OUT HOW  
2 DEFINITIVE THAT IS. CAN YOU, DO YOU HAVE ANY  
3 QUALIFICATION FOR THAT ANSWER? DO YOU BELIEVE IT EVER  
4 SHOULD BE A FACTOR?

5 A I DON'T BELIEVE IT SHOULD BE A FACTOR.

6 Q AND YOU UNDERSTAND, MR. CALNON, WHY I'M CONCERNED  
7 ABOUT THIS, DON'T YOU?

8 A YES, SIR.

9 Q I MEAN, I HAVE A BLACK CLIENT AND HE'S CHARGED WITH  
10 KILLING A WHITE WOMAN. AND I'M TRYING TO FIND -- AROUND  
11 HERE I USE THAT WORD FAIR -- I SHOULDN'T, BUT I WILL --  
12 TRYING TO FIND PEOPLE WHO WILL NOT BE DISTRACTED BY THAT  
13 FACTOR AND THERE ARE PLENTY OF THEM. BUT WE JUST WANT TO  
14 MAKE SURE THOSE THAT COULD BE DISTRACTED ARE NOT IN THE  
15 POOL. DO YOU THINK I'M THINKING RIGHT?

16 A YES, SIR.

17 Q ALL RIGHT. PEOPLE HAVE A NATURAL TENDENCY TO  
18 PREJUDGE OR HAVE PREJUDICES WHETHER WE REALLY DO OR NOT.  
19 I'LL USE MYSELF AS AN EXAMPLE. I'LL USE AN EXPERIENCE I  
20 HAD AS AN EXAMPLE. PULL UP TO A RED LIGHT, I PULL OVER,  
21 SEE A YOUNG BLACK MALE DRIVING A BIG FANCY BMW. AND THE  
22 QUESTION IS, WHAT IS THE FIRST THING I THINK OF? ARE YOU  
23 FOLLOWING ME?

24 A YES, SIR.

25 Q DO I THINK HE, MAYBE HE'S A DOCTOR'S SON OR HAPPY



1 BIRTHDAY BIG CAR, OR DO I THINK HE JUST STOLE IT? AND  
2 IT'S VERY SUBTLE. I DON'T THINK I'M PREJUDICE, BUT THOSE  
3 KINDS OF THOUGHTS SPIN IN PEOPLE'S HEADS ALL THE TIME.  
4 AND WE ALL HAVE PREJUDICES LIKE THAT. AND THE THING WE'RE  
5 DOING IN THIS CASE, WE'RE TRYING TO MAKE SURE THE PEOPLE  
6 WHO ACTUALLY GET PUT INTO THE JURY BOX ARE NOT GOING TO  
7 HAVE TO WONDER WHETHER -- THE JUDGE QUESTIONED YOU AND YOU  
8 SAID A COUPLE OF TIMES, "I DON'T THINK SO. I THINK I  
9 COULD. I DON'T BELIEVE I WOULD." AND I JUST WANT YOU TO  
10 TELL ME IF THERE IS ANY CHANCE THAT YOUR OBJECTIVITY, THAT  
11 YOUR ABILITY TO FAIRLY CONSIDER WITHOUT BEING DISTRACTED  
12 BY THE NATURAL PREJUDICES THAT WE ALL KIND OF CARRY WITH  
13 US AS LUGGAGE OR DIRTY LAUNDRY, WAS GOING TO BE ABLE TO  
14 SET ALL THAT ASIDE AND NOT BE AFFECTED BY IT. IF YOU  
15 CAN'T, YOU CAN BE ON ANOTHER CASE. YOU'RE NOT ON TRIAL.  
16 BUT I JUST NEED TO KNOW.

17 A I HAVE A FEELING MY PREJUDICE MAY COME INTO PLAY.

18 MR. MAULDIN: THANK YOU. THANK YOU, SIR. I  
19 APPRECIATE YOUR HONESTY.

20 THE COURT: SOLICITOR?

21 EXAMINATION BY MRS. STROM:

22 Q JUST A COUPLE OF QUICK QUESTIONS. AGAIN, MY NAME IS  
23 BETTY STROM. WHEN YOU SAY THAT YOUR PREJUDICE MAY COME  
24 INTO PLAY, DO YOU FEEL THAT YOUR ABILITY TO FAIRLY  
25 CONSIDER THE EVIDENCE WOULD BE SUBSTANTIALLY IMPAIRED.

1 A I THINK I COULD CONSIDER THE EVIDENCE WITHOUT BEING  
2 IMPAIRED.

3 Q OKAY. WOULD YOU JUDGE A PERSON MORE HARSHLY, TEND TO  
4 THINK THAT PERSON WERE GUILTY SIMPLY BECAUSE OF HIS RACE  
5 OR HER RACE?

6 A I DO NOT THINK I WOULD USE A RACE AS A MEANS OF  
7 SAYING THAT IT WAS WRONG, THAT WHAT THEY DID WAS WRONG.

8 Q IN TERMS OF THE CRIME?

9 A IN TERMS OF THE CRIME.

10 Q WOULD YOUR OPINIONS REGARDING INTERRACIAL DATING,  
11 WOULD YOU JUDGE THE VICTIM, THE WHITE GIRL, MORE HARSHLY  
12 AND MAYBE BELIEVE SHE DOESN'T DESERVE THE SAME JUSTICE  
13 SOMEONE ELSE WOULD?

14 MR. MAULDIN: YOUR HONOR.

15 THE COURT: OVERRULED.

16 MR. MAULDIN: YOU DON'T WANT ME TO STATE MY OBJECTION  
17 FOR THE RECORD?

18 THE COURT: WHAT'S YOUR LEGAL OBJECTION?

19 MR. MAULDIN: THAT IS IRRELEVANT, WHICH SIDE IT  
20 AFFECTS. IT IS A RACE ISSUE EITHER WAY.

21 THE COURT: OVERRULED. YOU CAN ASK THE SAME QUESTION  
22 THE OTHER WAY AFTER SHE FINISHES IF YOU WANT TO.

23 Q DO YOU RECALL MY QUESTION?

24 A WOULD YOU PLEASE RESTATE IT?

25 Q OKAY. IN A HYPOTHETICAL CASE WHERE WE HAVE A BLACK

1 DEFENDANT DATING A WHITE VICTIM, RIGHT?

2 A YES, MA'AM.

3 Q WOULD YOU JUDGE THE VICTIM MORE HARSHLY AND BELIEVE  
4 THAT SHE'S NOT DESERVING OF THE SAME AMOUNT OF JUSTICE  
5 SIMPLY BECAUSE SHE WAS INVOLVED IN AN INTERRACIAL DATING  
6 SITUATION?

7 A I WOULD NOT JUDGE HER MORE HARSHLY.

8 Q ON THE OTHER SIDE, WOULD YOU JUDGE THE DEFENDANT, THE  
9 BLACK PERSON, MORE HARSHLY SIMPLY BECAUSE HE WAS IN AN  
10 INTERRACIAL RELATIONSHIP?

11 A I WOULD NOT JUDGE HIM MORE HARSHLY.

12 MS. STROM: COURT'S INDULGENCE ONE SECOND.

13 Q I THINK I HAVE ONE FINAL QUESTION. IN RESPONSE TO  
14 MR. MAULDIN'S QUESTION, YOU SAID YOU THOUGHT YOUR  
15 PREJUDICES MAY COME INTO PLAY?

16 A YES, MA'AM.

17 Q WHAT DO YOU MEAN BY THAT?

18 A I WORK AS A PHOTOGRAPHER AND SOMETIMES MY FIRST  
19 IMPRESSIONS, DISREGARDING FACTS AND SUCH, TENDS TO COME  
20 INTO PLAY HOW I JUDGE THINGS. AND IT'S REALLY BETTER FOR  
21 ME TO WAIT AND MAKE A BETTER COMMITTED JUDGMENT ABOUT A  
22 PERSON AFTER I GET TO KNOW THEM. A LOT OF TIMES MY FIRST  
23 IMPRESSIONS TEND TO BE PRETTY STRONG.

24 Q GIVEN THE FACT YOU MAY HAVE A STRONG FIRST  
25 IMPRESSION, IF EVIDENCE IS PRESENTED TO YOU THAT

1 CONTRADICTS THAT FIRST IMPRESSION AND YOU BELIEVE STRONGLY  
2 IN THAT EVIDENCE THAT'S BROUGHT TO YOU, COULD YOU CHANGE  
3 YOUR MIND?

4 A YES, MA'AM. I COULD.

5 Q AND WOULD YOU BE WILLING TO LISTEN TO ANYTHING AND  
6 EVERYTHING IN THE CASE BEFORE YOU MADE UP YOUR MIND?

7 A YES, MA'AM.

8 Q ONE OTHER QUESTION. I'M SORRY. THE JUDGE WILL TELL  
9 YOU -- WILL CHARGE YOU THAT A JUROR, ANY JUROR MUST FOLLOW  
10 THE LAW AND FOLLOW THE LAW AS HIS HONOR INSTRUCTS YOU TO  
11 DO SO. AND THE COURT WILL INSTRUCT YOU THAT YOU MUST PUT  
12 ASIDE ANY PRECONCEIVED NOTIONS THAT YOU MUST MAKE YOUR  
13 DECISION BASED SOLELY ON THE FACTS AND EVIDENCE PRESENTED  
14 IN THE CASE. INSTRUCTED BY THE COURT TO DO SO, COULD YOU  
15 DO THAT?

16 A YES.

17 MR. MAULDIN: OBJECTION UNDER MORGAN VERSUS ILLINOIS.

18 THE COURT: WOULD YOU STEP OUT IN THE HALL JUST A  
19 SECOND?

20 PROSPECTIVE JUROR: YEAH.

21 (PROSPECTIVE JUROR EXITS.)

22 THE COURT: ALL RIGHT. LET ME HEAR YOUR ARGUMENTS.

23 MR. MAULDIN: AS TO THAT OBJECTION?

24 THE COURT: AS TO THE OBJECTION, YOU SAID MORGAN  
25 VERSUS ILLINOIS?

1 MR. MAULDIN: YES, SIR. THE OBJECTION IS THE  
2 EMPHASIS ON THE "FOLLOW THE LAW," WHEN THE JUROR HAS  
3 ACTUALLY EXPRESSED AN IMPAIRMENT. AND THE QUESTION IS,  
4 "CAN YOU, IF THE JUDGE TOLD YOU TO ESSENTIALLY SET ASIDE  
5 THAT IMPAIRMENT AND FOLLOW THE LAW, WOULD YOU BE ABLE TO  
6 DO THAT?" AND WE OBJECT TO THAT QUESTION.

7 THE COURT: ALL MORGAN SAYS, YOU CAN DEVELOP THE RACE  
8 ISSUE. YOU SAID YOUR OBJECTION, MORGAN. I DON'T  
9 UNDERSTAND THE QUESTION AND THE ANALOGY WITH MORGAN.

10 MR. MAULDIN: HANG ON, THEN LET ME MAKE SURE THE  
11 RECORD IS STRAIGHT.

12 THE COURT: ALL RIGHT. MORGAN IS TALKING --

13 MR. NETTLES: DOGMATIC RESPONSES ARE NOT ENOUGH.

14 MR. MAULDIN: AND I APOLOGIZE.

15 THE COURT: I THINK TURNER --

16 MR. NETTLES: TURNER VERSUS BIRDIE WHAT EVERYBODY  
17 WANTS TO BE TALKING ABOUT.

18 MR. MAULDIN: MY BRAIN KIND OFF GETS WASHED OUT  
19 SOMETIMES. I APOLOGIZE FOR THE CASE CITE. THE ISSUE  
20 THOUGH. I'M TRYING TO SAY THE ISSUE IS IF A JUROR  
21 EXPRESSES AN IMPAIRMENT, WHICH THIS FELLOW CLEARLY HAS,  
22 AND THE QUESTION IS THEN IF THE JUDGE INSTRUCTED YOU TO  
23 DISREGARD OR SET ASIDE YOUR OWN IMPAIRMENT, WOULD YOU  
24 FOLLOW THAT INSTRUCTION? AND I OBJECT TO THAT QUESTION,  
25 PARTICULARLY WHEN IT WAS SO CLEARLY EXPRESSED.

1 THE COURT: SOLICITOR STROM, DO YOU HAVE ANY RESPONSE  
2 TO THAT?

3 MS. STROM: YES, SIR. IT'S JUST AS WHEN A JUROR  
4 COMES IN HERE, THEY HAVE SOME PRECONCEIVED NOTION THE  
5 DEFENSE HAS TO PUT UP TESTIMONY. WE TELL THEM THAT IF THE  
6 JUDGE TELLS YOU THE DEFENDANT BEARS NO BURDEN AND TELLS  
7 YOU, YOU CANNOT CONSIDER THAT, CANNOT HOLD THAT AGAINST  
8 HIM, WOULD YOU FOLLOW THE COURT'S INSTRUCTIONS AND PUT  
9 THAT ASIDE? IF THEY CAN, THEY'RE QUALIFIED IF THEY CAN'T,  
10 THEY'RE NOT. IT'S THE SAME WHEN WE TELL ABOUT MITIGATING  
11 CIRCUMSTANCES. IF YOU'RE INSTRUCTED BY THE COURT TO  
12 CONSIDER THEM, WOULD YOU CONSIDER THEM?

13 MR. MAULDIN: THAT IS REALLY CLEARLY NOT THE POINT.  
14 THE POINT IS NOT WHETHER THIS JUROR WOULD FOLLOW THE  
15 INSTRUCTION ABOUT AN ESTABLISHED LAW LIKE THE FIFTH  
16 AMENDMENT SELF-INCRIMINATION ISSUE. IT DON'T MATTER WHAT  
17 THEIR VIEW OF THAT IS. THAT IS IN FACT THE LAW AND THEIR  
18 REALLY NOT KNOWING IT, IT'S NOT REALLY IMPAIRMENT UNTIL  
19 THEY KNOW IT AND DISREGARD IT. THE ISSUE IS WHETHER THEY  
20 STATE AN IMPAIRMENT AND THEN THE QUESTION IS WHETHER OR  
21 NOT THEY CAN SET ASIDE THEIR OWN IMPAIRMENT.

22 THE COURT: I'LL SUSTAIN YOUR OBJECTION AS TO THAT  
23 QUESTION.

24 MR. MAULDIN: THANK YOU, JUDGE.

25 THE COURT: ANY OTHER QUESTIONS SOLICITOR, BEFORE WE

1 BRING MR. CALNON BACK? I THINK SOLICITOR PUT STATE VERSUS  
2 POWELL IN HER ARGUMENT. GO AHEAD. YOU HAVE ANY MORE  
3 QUESTIONS?

4 MS. STROM: OH, NO, SIR.

5 MR. MAULDIN: I HAVE A MOTION.

6 THE COURT: I AIN'T THROUGH WITH HIM YET. .BRING  
7 MR. CALNON BACK. JUST HOLD YOUR HORSES.

8 MR. CALNON, THERE HAVE BEEN A LOT OF QUESTIONS ABOUT  
9 YOUR VIEWS ON INTERRACIAL DATING, THE COURT ASKED YOU A  
10 LOT OF QUESTIONS, THE STATE DID, AND THE DEFENDANT DID.  
11 LISTENING TO SOME OF YOUR ANSWERS I THINK TO THE SOLICITOR  
12 YOU SAID YOU WOULD NOT TREAT THE DEFENDANT OR VICTIM  
13 HARSHLY BECAUSE OF YOUR VIEW. TO THE DEFENDANT'S ATTORNEY  
14 YOU SAID MY PREJUDICE MAY COME INTO PLAY. NOW, MY  
15 QUESTION TO YOU, I'M CONFUSED ABOUT YOU SAYING YOU  
16 WOULDN'T TREAT THEM HARSHLY BUT YOU SAY "MY PREJUDICE MAY  
17 COME INTO PLAY." I NEED TO KNOW WHAT YOU MEAN WHEN YOU  
18 USE THE TERMS "MY PREJUDICE MAY COME INTO PLAY IN."

19 DO YOU UNDERSTAND WHAT I'M ASKING? ON ONE HAND  
20 YOU'RE SAYING YOU'RE NOT GOING TO TREAT EITHER PERSON  
21 HARSHLY, THEN YOU TURN AROUND AND SAY MY PREJUDICE MAY  
22 COME INTO PLAY. THEY DON'T JIVE. OKAY?

23 A YES, SIR.

24 Q I NEED TO KNOW WHAT YOU REALLY MEAN WHEN YOU SAY, "MY  
25 PREJUDICE MAY COME INTO PLAY." ONLY YOU KNOW THAT AND

1     THERE'S NO RIGHT OR WRONG ANSWER, NO ONE IS GOING TO FUSS  
2     AT YOU FOR YOUR OPINION OR YOUR ANSWER.   DO YOU  
3     UNDERSTAND?

4     A     YES, SIR.

5     Q     I JUST NEED TO KNOW THAT.

6     A     I'M REALLY NOT SURE HOW MY PREJUDICES WOULD COME INTO  
7     PLAY.   I TEND TO BE VERY ACCEPTING OF THINGS AND I JUST AM  
8     NOT SURE ABOUT MYSELF, WHETHER SOMETHING I FEEL WOULD COME  
9     INTO PLAY.

10    Q     YOU'RE NOT SURE ABOUT YOURSELF WHETHER -- YOU'RE  
11    AFRAID THE PREJUDICE YOU HAVE MAY COME OUT IN YOUR  
12    DECISION MAKING PROCESS?

13    A     YES, SIR.

14    Q     IS WHAT YOU'RE TELLING ME?

15    A     YES, SIR.

16    Q     YOU'RE NOT SURE YOU CAN SET IT ASIDE?

17    A     CORRECT.

18    Q     ALL RIGHT.   THANK YOU VERY MUCH.   IF YOU WOULD STEP  
19    OUT IN THE HALL.

20           (PROSPECTIVE JUROR EXITS.)

21           THE COURT:   I PRESUME THE DEFENDANT HAS A MOTION?

22           MR. MAULDIN:  YES, SIR.   DO I NEED TO EXPRESS IT IN  
23    SPECIFICS?

24           THE COURT:   NO, SIR.

25           MS. STROM:   NO ARGUMENT.



1 THE COURT: BASED ON HIS LAST QUESTION AND SOME OF  
2 THE QUESTIONS ABOUT PREJUDICE MAY COME INTO PLAY, AND I  
3 THINK HE'S BEING PERFECTLY HONEST, HE'S AFRAID PREJUDICE  
4 MAY COME INTO PLAY, HE CAN'T CONTROL IT. AND I'M GOING TO  
5 FIND HE IS SUBSTANTIALLY IMPAIRED.

6 MS. STROM: BASED UPON HIS LAST TWO ANSWERS.

7 MR. MAULDIN: I THINK HE SHOULD BE PRAISED FOR HIS  
8 HONESTY.

9 THE COURT: I'VE BEEN TRYING TO DO THAT TO EVERYBODY.

10 MR. NETTLES: THAT'S A HARD THING.

11 (PROSPECTIVE JUROR ENTERS COURTROOM.)

12 THE COURT: MR. CALNON, I WANT TO THANK YOU FOR BEING  
13 HERE. I REALLY WANT TO THANK YOU FOR YOUR HONESTY. I'M  
14 SURE FOR YOU IT'S A SOUL SEARCHING EXPERIENCING. I DIDN'T  
15 MEAN TO EMBARRASS YOU. I APPRECIATE YOUR VIEWPOINTS,  
16 THEY'RE YOUR VIEWPOINTS, THEY'RE NOT RIGHT OR WRONG.  
17 YOU'RE ENTITLED TO THEM. I DO WANT TO SINCERELY THANK YOU  
18 FOR YOUR HONESTY, TELLING ME HOW YOU FEEL. OKAY?

19 A YES, SIR.

20 Q I'M NOT GOING TO, BECAUSE OF THE ISSUES IN THIS CASE,  
21 BASED ON WHAT YOU TOLD ME, I'M GOING TO FIND YOU NOT  
22 QUALIFIED FOR THIS JURY, BUT I THINK YOU WOULD BE AN  
23 EXCELLENT JUROR ON ANY OTHER CASE. OKAY?

24 A YES, SIR.

25 Q THANK YOU VERY MUCH.

1 (PROSPECTIVE JUROR CALNON EXCUSED.)

2 THE COURT: HOW ABOUT MS. SOUTHERN.

3 (PROSPECTIVE JUROR SOUTHERN ENTERS COURTROOM)

4 AMY A. SOUTHERN, (WHITE  
5 FEMALE), HAVING BEEN PREVIOUSLY DULY SWORN, TESTIFIED AS  
6 FOLLOWS:

7 EXAMINATION

8 BY THE COURT:

9 Q MISS SOUTHERLAND, [SIC] DO YOU RECALL FILLING OUT  
10 QUESTIONNAIRE?

11 A YES, I DO.

12 Q LET ME HAND IT TO YOU PLEASE, MA'AM. WHEN YOU FILLED  
13 IT OUT, WAS IT ACCURATE?

14 A TO THE BEST OF MY KNOWLEDGE, YES, SIR.

15 Q WE'RE GOING TO ASK YOU SOME QUESTIONS ABOUT YOUR  
16 OPINIONS AND YOUR VIEWPOINTS AND SOME OF THE QUESTIONS  
17 WILL BE JUST QUESTIONS -- JUST BE TRUTHFUL, CAN YOU DO  
18 THAT.

19 A YES, SIR.

20 Q I WANT TO ASK YOU, FIRST OF ALL, IF YOU WOULD TURN TO  
21 PAGE -- TURN TO PAGE SIX. YOUR HUSBAND IS A POLICE  
22 OFFICER?

23 A YES, SIR.

24 Q WITH THE GREER POLICE DEPARTMENT?

25 A YES, SIR.

1 Q HOW LONG HAS HE BEEN THERE?

2 A EIGHT YEARS.

3 Q HOW LONG HAVE YOU BEEN MARRIED TO HIM?

4 A TWELVE YEARS.

5 Q HOW IS THAT GOING TO AFFECT YOU SITTING ON THIS JURY?

6 A WELL, I KNOW SEVERAL PEOPLE WHO WERE INVOLVED IN THE  
7 ARREST. SO, I MEAN I WOULD LIKE TO SAY I COULD BE  
8 PARTIAL, BUT I DO KNOW PEOPLE INVOLVED.

9 Q HOW IS THAT GOING TO AFFECT YOU? THAT'S WHAT I NEED  
10 TO KNOW.

11 A IT WOULD KIND OF BE UNCOMFORTABLE.

12 Q HOW?

13 A TO KNOW PEOPLE WHO WERE INVOLVED IN IT AND TRY TO  
14 DISTANCE YOURSELF. I MEAN I UNDERSTAND THERE'S TWO SIDES  
15 OF EVERYTHING, BUT.

16 Q BUT YOU DON'T THINK YOU COULD SET THE RELATIONSHIP  
17 ASIDE WITH YOUR FRIENDS AND HUSBAND AND BE FAIR AND  
18 OBJECTIVE?

19 A YES, SIR.

20 Q I WANT TO THANK YOU FOR YOUR HONESTY AND I APPRECIATE  
21 YOU TELLING ME THAT. I THINK YOU WOULD PROBABLY BE A  
22 WONDERFUL JUROR IN ANY OTHER CASE EXCEPT FOR THIS ONE.  
23 THANK YOU VERY MUCH. OKAY?

24 A ALL RIGHT. THANK YOU.

25 (PROSPECTIVE JUROR EXITS.)

1 THE COURT: THE COURT DISMISSES THIS JUROR. I THINK  
2 SHE WOULD BE SUBSTANTIALLY IMPAIRED. ON HER RELATIONSHIP,  
3 WITH HER HUSBAND BEING A POLICE OFFICER, VERY DEFINITELY  
4 ON HER COMMENT ABOUT HER FRIENDS AND THE ARREST AND HER  
5 INABILITY TO BE FAIR.

6 THE COURT: WOULD YOU BRING DONNA DANDREA, PLEASE.

7 (PROSPECTIVE JUROR ENTERS COURTROOM.)

8 THE COURT: DANDREA WOULD YOU PLEASE RAISE YOUR RIGHT  
9 HAND PLEASE, MA'AM.

10 PROSPECTIVE JUROR: I'M MISS HUSSEY.

11 THE COURT: EXCUSE ME. I NEED DONNA DANDREA, PLEASE.  
12 WE'LL GET TO YOU MISS HUSSEY AFTER WE FINISH DONNA  
13 DANDREA. THANK YOU VERY MUCH.

14 (PROSPECTIVE JUROR ENTERS COURTROOM.)

15 THE COURT: HOW ARE YOU DOING? WOULD YOU MIND,  
16 PLEASE RAISE YOUR RIGHT HAND?

17 DONNA E. DANDREA, (WHITE  
18 FEMALE), HAVING BEEN PREVIOUSLY DULY SWORN, TESTIFIED AS  
19 FOLLOWS:

20 EXAMINATION

21 BY THE COURT:

22 Q WE'RE GOING TO ASK YOU SOME QUESTIONS. I'M GOING TO  
23 AND THE ATTORNEY WILL PROBABLY ASK YOU SOME QUESTIONS.  
24 OKAY? JUST ANSWER THE QUESTIONS AS TRUTHFULLY AS YOU CAN.  
25 MOST OF THE QUESTIONS THERE'S PROBABLY NO RIGHT OR WRONG

1 ANSWER, JUST GOING TO ASK YOU ABOUT YOUR VIEWPOINTS ON  
2 VARIOUS SUBJECT MATTERS.

3 A OKAY.

4 Q DO YOU REMEMBER FILLING OUT THE QUESTIONNAIRE?

5 A I DO.

6 Q MRS. DANDREA, WOULD YOU TURN TO PAGE FIVE, IF YOU  
7 WOULD, QUESTION NUMBER 33?

8 A YES.

9 Q YOU WERE A JUROR IN FEDERAL COURT?

10 A TRYING TO REMEMBER, BEEN SO LONG AGO.

11 Q WHERE WAS IT, IN THIS OLD BUILDING NEXT DOOR OR DOWN  
12 THE STREET?

13 A IN THE OLD BUILDING.

14 Q NEXT TO THIS BUILDING?

15 A UH-HUH.

16 Q THAT WOULD HAVE BEEN THE STATE COURT. THE FEDERAL  
17 BUILDING IS A FEW BLOCKS DOWN ON CHURCH STREET. OKAY.

18 LET ME SEE, THE VERDICT WAS IN FAVOR OF THE PLAINTIFF; IS  
19 THAT CORRECT?

20 A THAT'S CORRECT.

21 Q OKAY. HAVING GONE THROUGH THAT PROCESS, DO YOU HAVE  
22 ANY BIAS OR PREJUDICE TOWARDS THE JUDICIAL SYSTEM IN  
23 GENERAL?

24 A NO.

25 Q I WON'T ASK IF IT WAS PLEASANT OR UNPLEASANT

1 EXPERIENCE, PROBABLY A LITTLE BIT OF BOTH.

2 A YES, SIR.

3 Q IF YOU WOULD, LOOK AT QUESTION 64, PAGE TEN. HAVE  
4 YOU GOT 64?

5 A YES, SIR.

6 Q YOU SAID, "I FEEL UNDER SOME CIRCUMSTANCES IT IS  
7 WARRANTED. HOWEVER, I DO NOT FEEL 100 PERCENT EITHER WAY,  
8 WOULD NEED TO HAVE THE FACTS," AS TO YOUR ATTITUDES AND  
9 BELIEFS CONCERNING CAPITAL PUNISHMENT. IS THAT CORRECT?

10 A THAT'S CORRECT.

11 Q SIXTY-FIVE YOU SAID "SOMEWHAT FAVOR." IS THAT  
12 CORRECT?

13 A THAT'S CORRECT.

14 Q IS THAT STILL YOUR OPINION HERE TODAY?

15 A YES, SIR.

16 Q AND IF YOU FLIP OVER TO THE NEXT PAGE, YOU SAID, "I  
17 BELIEVE THE DEATH PENALTY IS THE APPROPRIATE FORM OF  
18 PUNISHMENT IN SOME MURDER CASES. I COULD RETURN A VERDICT  
19 OF DEATH IF I BELIEVE IT WAS WARRANTED IN A PARTICULAR  
20 CASE, DEPENDING UPON THE EVIDENCE, THE LAW, AND WHAT I  
21 LEARNED ABOUT THE DEFENDANT." IS THAT STILL YOUR OPINION  
22 HERE TODAY?

23 A YES, SIR.

24 Q MRS. DANDREA, THIS CASE OCCURRED ON SEPTEMBER 3 2003  
25 AND THE DEFENDANT IS CHARGED WITH MURDER AND KIDNAPPING.

1 IT OCCURRED AT A BI-LO HERE IN GREENVILLE. DO YOU  
2 REMEMBER HEARING ANYTHING ABOUT IT ON TV, SEEING ANYTHING  
3 ON TV, HEARING ANYTHING ON RADIO, READING ANYTHING IN THE  
4 PAPER ABOUT IT AT THE TIME IT HAPPENED OR SINCE THAT TIME?

5 A SEEMS LIKE IT WAS THE TIME IT HAPPENED.

6 Q WHAT DO YOU REMEMBER ABOUT WHAT YOU HEARD OR SAW ON  
7 TELEVISION WHEN IT HAPPENED?

8 A I JUST REMEMBER HEARING THAT IT HAPPENED AT A BI-LO.

9 Q DO YOU REMEMBER WHAT SOURCE YOU HEARD THAT FROM?

10 A TELEVISION.

11 Q DO YOU REMEMBER ANYTHING ELSE YOU SAW OR HEARD ON  
12 TELEVISION?

13 A NO.

14 Q BASED ON THAT, HAVE YOU FORMED OR EXPRESSED AN  
15 OPINION AS TO INNOCENCE OR GUILT OF THE DEFENDANT?

16 A NO.

17 Q DO YOU HAVE ANY PHYSICAL OR MENTAL PROBLEMS THAT  
18 WOULD PREVENT YOU FROM SERVING ON THE JURY?

19 A NO, SIR, I DON'T.

20 Q YOU HAVE ANY MEDICAL PROBLEMS?

21 A NO, SIR.

22 Q DO YOU HAVE ANY PERSONAL HARDSHIPS THAT WOULD PREVENT  
23 YOU FROM SERVING ON THE JURY?

24 A NO, SIR.

25 Q DO YOU KNOW THE VICTIM, MARANDA WILLIAMS?

1 A NO, I DON'T.

2 Q DO YOU KNOW CHARLES CHRISTOPHER WILLIAMS, WHO SITS TO  
3 MY RIGHT IN THE BLUE SWEATER?

4 A NO, SIR.

5 Q DO YOU KNOW ANY OF HIS ATTORNEYS, MR. MAULDIN, MR.  
6 NETTLES, MR. MACDOUGALL AND A COLLEEN COYLE, WHO IS NOT IN  
7 THE COURTROOM?

8 A NO, SIR.

9 Q DO YOU KNOW SOLICITOR ARIAIL AND HIS TWO ASSISTANTS  
10 OR ANYONE IN HIS OFFICE?

11 A NO, SIR. I DON'T BELIEVE SO.

12 Q OKAY. I'M GOING TO GIVE YOU A LIST OF NAMES. CAN  
13 YOU LOOK AT IT AND SEE IF YOU RECOGNIZE ANY NAMES ON THAT  
14 LIST.

15 A (COMPLIES) NO, SIR, I DON'T.

16 Q OKAY. I'M GOING TO GIVE YOU A SECOND LIST. WOULD  
17 YOU LOOK AT THAT LIST AND SEE IF YOU RECOGNIZE ANY OF THE  
18 NAMES?

19 A (COMPLIES) NO, SIR, I SURE DON'T.

20 Q THANK YOU, MA'AM.

21 A THANK YOU.

22 Q I'M GOING TO READ YOU A QUESTION, ASK YOU TO PLEASE  
23 RESPOND TO IT. OKAY?

24 A OKAY.

25 Q IN THIS CASE THE DEFENDANT IS BLACK AND THE VICTIM IS



1 WHITE. IT IS UNDISPUTED THE BLACK DEFENDANT AND THE WHITE  
2 VICTIM ENGAGED IN INTERRACIAL DATING. WOULD THE FACT THAT  
3 THE DEFENDANT AND THE VICTIM ENGAGED IN INTERRACIAL DATING  
4 MAKE IT DIFFICULT FOR YOU TO BE FAIR TO EITHER THE STATE  
5 OR THE DEFENDANT?

6 A NO, SIR.

7 Q ALL RIGHT. MRS. DANDREA, I'M GOING TO ASK YOU SOME  
8 QUESTIONS. BUT BEFORE I DO THAT, I'M GOING TO EXPLAIN TO  
9 YOU THE PROCESS THAT WE GO THROUGH IN THIS PARTICULAR  
10 CASE?

11 A OKAY.

12 Q AS I SAID EARLIER, THE DEFENDANT IS CHARGED WITH  
13 MURDER AND KIDNAPPING. AND THE STATE HAS ASKED FOR  
14 CAPITAL MURDER. CAPITAL MURDER MEANS THE STATE HAS ASKED  
15 THAT THE DEFENDANT BE PUT TO DEATH. SO IT'S A DEATH  
16 PENALTY CASE. SO, THE TRIAL IS DIVIDED UP INTO TWO  
17 PHASES. THE FIRST PHASE IS THE GUILT PHASE, THE SECOND  
18 PHASE IS THE PENALTY PHASE. IN THE GUILT PHASE THE STATE  
19 WILL PRODUCE EVIDENCE, FACTS DESIGNED TO PROVE TO YOU  
20 BEYOND A REASONABLE DOUBT THAT THE DEFENDANT IS GUILTY OF  
21 MURDER AND KIDNAPPING. DO YOU UNDERSTAND?

22 A YES, SIR.

23 Q NOW, THE DEFENDANT MAY TESTIFY, MAY OR MAY NOT  
24 TESTIFY. THE DEFENDANT DOES NOT HAVE TO TESTIFY. THE  
25 REASON FOR THAT IS THE FIFTH AMENDMENT TO CONSTITUTION

1 SAYS NO ONE CAN EVER BE REQUIRED TO SELF-INCRIMINATE  
2 HIMSELF. I WOULD INSTRUCT YOU ON THE LAW, THAT YOU COULD  
3 NOT CONSIDER THAT IN ANY FASHION IF THE DEFENDANT DID NOT  
4 TESTIFY.

5 A YES, SIR.

6 Q I DON'T KNOW IF THE DEFENDANT WILL TESTIFY OR NOT,  
7 TALKING IN HYPOTHETICAL. OKAY?

8 A YES, SIR.

9 Q NOW, LET'S ASSUME THAT ALL 12 JURORS BELIEVE THAT THE  
10 STATE HAS PROVEN BEYOND A REASONABLE DOUBT THAT THE  
11 DEFENDANT IS GUILTY OF MURDER AND KIDNAPPING. THEN WE  
12 WOULD GO TO THE SECOND PHASE. AND THE SECOND PHASE IS  
13 REFERRED TO AS THE PENALTY PHASE. THE PURPOSE OF THE  
14 PENALTY PHASE IS FOR THE JURY TO DECIDE LIFE WITHOUT  
15 PAROLE OR DEATH. LIFE WITHOUT PAROLE MEANS WHAT I SAY IT  
16 MEANS, THE PERSON WILL DIE IN JAIL AND WILL NEVER GET OUT  
17 ON PAROLE. DO YOU UNDERSTAND?

18 A YES, SIR.

19 Q IN THAT PHASE OF THE TRIAL THE STATE WOULD BE  
20 OBLIGATED TO PROVE AGGRAVATING CIRCUMSTANCES THAT ARE SET  
21 UP BY STATE LAW. IN OTHER WORDS, EVERY MURDER THAT  
22 HAPPENS, THE STATE COULD NOT ASK FOR THE DEATH PENALTY.  
23 THE STATE LEGISLATURE HAS SET OUT CERTAIN AGGRAVATING  
24 FACTORS. THE STATE HAS TO PROVE THOSE AGGRAVATING  
25 FACTORS. DO YOU UNDERSTAND?

1 A YES, SIR.

2 Q HAVE TO PROVE THAT BEYOND A REASONABLE DOUBT. AND AS  
3 I SAID, THE DEFENDANT COULD TESTIFY OR NOT TESTIFY IN THE  
4 SECOND PHASE. LET'S ASSUME THAT THE JURY BELIEVES THE  
5 STATE HAS PROVEN THE AGGRAVATING CIRCUMSTANCES BEYOND A  
6 REASONABLE DOUBT, ALL 12 JURORS BELIEVE THAT.

7 A OKAY.

8 Q ALL RIGHT. THE JURY STILL DOES NOT HAVE TO GIVE  
9 DEATH. IT'S UP TO THE JURY. THE JURY CAN GIVE LIFE FOR  
10 ANY REASON, THE JURY CAN GIVE LIFE JUST AS AN ACT OF  
11 MERCY. THE LAW PRESUMES LIFE. DO YOU UNDERSTAND?

12 A YES, SIR.

13 Q NOW, MY QUESTION TO YOU, CAN YOU CONSIDER ALL THE  
14 FACTS IN THE FIRST PHASE, ALL THE FACTS IN THE SECOND  
15 PHASE, AND BEFORE YOU MAKE A DECISION AS TO LIFE OR DEATH,  
16 CAN YOU GIVE MEANINGFUL CONSIDERATION TO LIFE?

17 A OH, YES, SIR.

18 Q CAN YOU GIVE MEANINGFUL CONSIDERATION TO DEATH?

19 A YES, SIR.

20 Q CAN YOU LISTEN TO ALL THE FACTS IN BOTH PHASES BEFORE  
21 YOU MAKE YOUR DECISION AS TO LIFE OR DEATH?

22 A YES, SIR.

23 Q NOW, LET'S ASSUME THAT THE DEFENDANT DOES OFFER  
24 TESTIMONY IN THE SECOND PHASE, THE PENALTY PHASE. AND HE  
25 MAY OFFER MITIGATING CIRCUMSTANCES. MITIGATING

1 CIRCUMSTANCES WOULD BE INTRODUCED TO CONVINCE THE JURY  
2 THAT HE SHOULD RECEIVE LIFE. NOW, BEFORE YOU MADE A  
3 DECISION AS TO LIFE OR DEATH, WOULD YOU GIVE SERIOUS  
4 CONSIDERATION, MEANINGFUL CONSIDERATION, TO THOSE  
5 MITIGATING CIRCUMSTANCES?

6 A YES, SIR.

7 Q CAN YOU LISTEN TO THE TESTIMONY AND BE FAIR AND  
8 IMPARTIAL TO BOTH THE STATE AND THE DEFENDANT?

9 A YES, I CAN.

10 Q CAN YOU BASE YOUR DECISION BASED ON THE TESTIMONY YOU  
11 HEAR FROM THE WITNESS STAND IN THE COURTROOM?

12 A YES.

13 Q WHO'S NEXT?

14 BY MS. STROM:

15 Q GOOD MORNING. MY NAME IS BETTY STROM. I'M THE  
16 DEPUTY SOLICITOR FOR GREENVILLE AND PICKENS COUNTIES.  
17 THAT'S BOB ARIAIL, THE SOLICITOR; AND MARK MOYER, AN  
18 ASSISTANT SOLICITOR. I'M GOING TO ASK YOU A FEW  
19 QUESTIONS, HOPEFULLY JUST A FEW QUESTIONS, REGARDING YOUR  
20 OPINIONS ON THE DEATH PENALTY AND LIFE IMPRISONMENT.  
21 OKAY?

22 A OKAY.

23 Q IF EVER I MISSTATE ANYTHING, PLEASE STOP ME. BECAUSE  
24 I WANT TO KNOW WHAT YOU THINK AND WHAT YOU FEEL AND WHAT  
25 YOU BELIEVE. ALL RIGHT?

1 A ALL RIGHT.

2 Q THE JUDGE TALKED TO YOU FIRST OFF ABOUT THE FACT THAT  
3 THE STATE CAN ONLY SEEK THE DEATH PENALTY IN CERTAIN  
4 MURDER CASES. YOU KNOW THAT?

5 A THAT'S CORRECT.

6 Q NOT EVERY MURDER CASE CAN WE EVEN ASK FOR THE DEATH  
7 PENALTY. HE TOLD YOU IT HAD TO BE A MURDER PLUS AN  
8 AGGRAVATING CIRCUMSTANCE.

9 A RIGHT.

10 Q THAT AGGRAVATING CIRCUMSTANCE CAN BE MANY THINGS,  
11 KILLING OF A POLICE OFFICER, THE MURDER DURING THE  
12 COMMISSION OF AN ARMED ROBBERY OR MURDER DURING THE  
13 COMMISSION OF A RAPE, THAT SORT OF THING. THE STATUTE  
14 LISTS THEM AND THEY'RE VERY SPECIFIC. OKAY? IN THE FIRST  
15 PHASE THE ONLY DETERMINATION TO BE MADE BY THE JURY, DID  
16 THE DEFENDANT COMMIT THE CRIME? MY UNDERSTANDING IS YOU  
17 WOULD LISTEN TO THE EVIDENCE AND COME TO A DECISION?

18 A RIGHT.

19 Q IT'S ALSO MY UNDERSTANDING YOU SAID YOU WOULDN'T HAVE  
20 YOUR MIND MADE UP ABOUT PENALTY GOING INTO THE SECOND  
21 PHASE?

22 A THAT'S RIGHT.

23 Q YOU WOULD WAIT AND HEAR EVERYTHING IN THAT SECOND  
24 PHASE BEFORE YOU MADE UP YOUR MIND?

25 A THAT'S CORRECT.

1 Q AND I BELIEVE ON YOUR QUESTIONNAIRE YOU STATED THAT  
2 YOU FELT THAT THE DEATH PENALTY IS AN APPROPRIATE  
3 PUNISHMENT IN CERTAIN CASES?

4 A THAT'S RIGHT.

5 Q NOT IN ALL CASES?

6 A THAT'S CORRECT.

7 Q DO YOU BELIEVE THAT LIFE IMPRISONMENT WITHOUT PAROLE  
8 IS A SIGNIFICANT PUNISHMENT FOR SOMEONE CONVICTED OF  
9 MURDER AND AN AGGRAVATING CIRCUMSTANCES?

10 A YES, I DO.

11 Q THERE, AGAIN, I TAKE IT, IT WOULD JUST DEPEND UPON  
12 THE FACTS AND CIRCUMSTANCES?

13 A THAT'S CORRECT.

14 Q WHEN THE JUDGE WAS TALKING ABOUT THE TWO PHASES AND  
15 IN THIS SECOND PHASE YOU WOULD HEAR EVIDENCE IN  
16 AGGRAVATION BECAUSE THE STATE HAS TO PROVE TO YOU AN  
17 AGGRAVATING FACTOR BEFORE YOU COULD EVEN CONSIDER THE  
18 DEATH PENALTY. OKAY? SO, YOU WOULD TAKE INTO  
19 CONSIDERATION ALL THE EVIDENCE THAT THE STATE PRESENTED TO  
20 YOU?

21 A RIGHT.

22 Q AND IF THE DEFENDANT CHOSE NOT TO PRESENT ANY  
23 EVIDENCE TO YOU, WHICH IS HIS RIGHT, HE DOESN'T HAVE TO  
24 YOU UNDERSTAND THAT?

25 A YES.

1 Q EVEN IN THAT SITUATION YOU COULD CONSIDER BOTH  
2 PENALTIES, LIFE IMPRISONMENT AND DEATH?

3 A YES, I COULD.

4 Q AND EVEN IN A SITUATION WHERE THE DEFENDANT DID NOT  
5 PRESENT ANY EVIDENCE, IF YOU FELT THE APPROPRIATE  
6 PUNISHMENT WERE LIFE IMPRISONMENT, YOU COULD AND WOULD IN  
7 FACT VOTE FOR LIFE IMPRISONMENT?

8 A YES, I WOULD.

9 Q AND, CONVERSELY, IF YOU BELIEVED THE DEATH PENALTY  
10 WERE APPROPRIATE, YOU COULD AND WOULD VOTE FOR THE DEATH  
11 PENALTY?

12 A THAT'S TRUE.

13 Q ONE OF THE NUANCES ABOUT THE DEATH PENALTY IN SOUTH  
14 CAROLINA IS IF ALL OF THE JURORS IN THE DELIBERATION ROOM  
15 DETERMINED THAT DEATH IS THE APPROPRIATE VERDICT, THE  
16 APPROPRIATE SENTENCE, ALL 12 JURORS MUST SIGN THE VERDICT  
17 FORM. INDIVIDUALLY MUST SIGN, EACH ONE HAS IT ON 12  
18 LINES. IF THAT WERE YOUR DECISION IN THE JURY ROOM, COULD  
19 YOU SIGN YOUR NAME TO THAT FORM?

20 A OH, YES.

21 Q YOU WOULDN'T HESITATE?

22 A RIGHT.

23 Q THERE WOULDN'T BE ANY HESITATION AS FAR AS THE MERE  
24 SIGNING OF THE FORM?

25 A RIGHT.

1 Q THE JUDGE TALKED TO YOU ALSO ABOUT IN THAT SECOND  
2 PHASE YOU MIGHT HEAR THINGS FROM THE DEFENDANT IF HE CHOSE  
3 TO PUT UP ANY EVIDENCE REGARDING MITIGATION, MITIGATING  
4 FACTORS. THAT COULD BE ANYTHING FROM THE DEFENDANT'S  
5 BACKGROUND TO MENTAL HEALTH ISSUES, ANYTHING THEY COULD  
6 BRING TO YOU TO SAY GIVE THE DEFENDANT LIFE, HE DESERVES  
7 LIFE. IS IT MY UNDERSTANDING THAT YOU WOULD GIVE ALL THAT  
8 CONSIDERATION BEFORE YOU MADE YOUR DECISION?

9 A YES, I WOULD.

10 Q JUST ONE MOMENT, PLEASE.

11 A OKAY.

12 Q I DID HAVE ONE MORE QUESTION, BUT I WANTED TO MAKE  
13 SURE IT WAS JUST ONE MORE. WHEN WE WERE TALKING ABOUT  
14 MITIGATION, THAT MITIGATION EVIDENCE, DO YOU HAVE ANY  
15 PRECONCEIVED BIAS OR PREJUDICE AGAINST THE ISSUE OF MENTAL  
16 ILLNESS?

17 A NO, I DON'T.

18 Q ALL RIGHT. THANK YOU.

19 THE COURT: WHOEVER, MR. MACDOUGALL?

20 MR. MACDOUGALL: THANK YOU, YOUR HONOR.

21 BY MR. MACDOUGALL:

22 Q GOOD MORNING, MISS DANDREA. MY NAME IS MARK  
23 MACDOUGALL. I'M HERE REPRESENTING CHRIS WILLIAMS WITH  
24 JOHN MAULDIN AND BILL NETTLES. I'VE JUST GOT A COUPLE OF  
25 QUESTIONS FOR YOU. BUT I'D LIKE TO GO BACK TO YOUR



1 QUESTIONNAIRE ON PAGE TEN. DO YOU HAVE THAT THERE?

2 A OKAY. ALL RIGHT.

3 Q QUESTION 64, WHEN YOU WERE ASKED THE QUESTION TO  
4 DESCRIBE YOUR ATTITUDES AND BELIEFS CONCERNING CAPITAL  
5 PUNISHMENT, YOU SAY "I FEEL UNDER CIRCUMSTANCES IT IS  
6 WARRANTED." COULD YOU TELL ME WHAT KINDS OF CIRCUMSTANCES  
7 YOU THINK WOULD WARRANT THE DEATH PENALTY OR WHAT YOU WERE  
8 THINKING WHEN YOU ANSWERED THE QUESTION.?

9 MS. STROM: I WOULD OBJECT TO THE FORM OF THE  
10 QUESTION, YOUR HONOR. I BELIEVE IT'S STAKING OUT THE  
11 JUROR.

12 THE COURT: OVERRULED. GO AHEAD. WHEN I SAY  
13 OVERRULED, THAT MEANS YOU CAN ANSWER THE QUESTION. IF I  
14 USE THE WORDS SUSTAIN, THAT MEANS I AGREE WITH THE  
15 ATTORNEY, IT'S NOT A PROPER QUESTION, YOU'RE NOT TO  
16 REMEMBER.

17 GO AHEAD. ANSWER THE QUESTION IF YOU REMEMBER. IF  
18 YOU DON'T, I CAN GET IT READ BACK TO YOU.

19 A WELL, I WOULD NEED TO KNOW ALL THE FACTS. I WOULD  
20 NEED TO KNOW ALL THE CIRCUMSTANCES. IT'S NOT A I CAN'T  
21 THINK OF A CERTAIN INSTANCE THAT WOULD WARRANT IT. IT  
22 REALLY DEPENDS ON THE CIRCUMSTANCES AND THE FACTS THAT I  
23 HEAR.

24 Q OKAY.

25 A I REALLY DON'T KNOW. I'VE NEVER BEEN PUT IN A PLACE

1 WHERE I WOULD MAKE A DECISION LIKE THAT. SO, I WOULD HAVE  
2 TO REALLY, REALLY MAKE IT SURE THAT THAT'S POSITIVELY  
3 CORRECT BEFORE I WOULD ASSUME THAT.

4 Q I UNDERSTAND. NOTHING IN PARTICULAR COMES TO MIND?

5 A NO, NO.

6 Q YOU'VE HEARD THE JUDGE AND MISS STROM TALK ABOUT  
7 PREMEDITATED MURDER AND THE FACT YOU HAVE A TWO-PART  
8 TRIAL, REALLY TWO TRIALS. THE FIRST PART GOES TO THE  
9 QUESTION OF GUILTY OR INNOCENCE OF CHRIS WILLIAMS AND THE  
10 JURY WILL BE ASKED TO MAKE A DECISION ON THAT AND MAKE A  
11 UNANIMOUS CONCLUSION. IF THE JURY VOTES TO CONVICT, IF  
12 THEY FIND THE DEFENDANT GUILTY, IT WILL BE BECAUSE YOU  
13 HAVE UNANIMOUSLY FOUND THAT THE DEFENDANT ACTED WITH REAL  
14 MALICE AND ALL KINDS OF PHRASES ARE USED TO DESCRIBE IT,  
15 MOST OF THEM LEGALESE. BUT SOMEONE WHO HAS A HEART DEVOID  
16 OF SOCIAL DUTY IS ONE WAY OF DESCRIBING IT.

17 I WANT YOU TO ASSUME YOU REACHED THAT CONCLUSION, YOU  
18 AND THE OTHER 11 JURORS HAVE REACHED THAT CONCLUSION, MADE  
19 A DECISION. HAVING REACHED THAT CONCLUSION, HAVING  
20 DECIDED THIS DEFENDANT HAS COMMITTED A CRIME OF MURDER  
21 WITH THE KIND OF HEART I'M TALKING ABOUT, ABSOLUTELY VOID  
22 OF ANY CONCERN FOR OTHERS AND COMPLETE PREMEDITATION. IF  
23 YOU REACH THAT DECISION AND YOUR OTHER 11 JURORS HAVE,  
24 TOO, DO YOU BELIEVE YOU COULD STILL GIVE THE DEFENDANT A  
25 LIFE SENTENCE?

1 A YES, I COULD.

2 Q YOU DON'T BELIEVE YOU WOULD BE COMPELLED, GIVEN YOU  
3 ALREADY REACHED THAT CONCLUSION, TO IMPOSE THE DEATH  
4 PENALTY?

5 A NO.

6 Q I'D LIKE TO ADD SOMETHING TO THAT NOW. AND WHAT I'D  
7 LIKE TO ADD TO THAT IS THE IDEA YOU WOULD HAVE HEARD SOME  
8 HORRIFIC EVIDENCE, THAT YOU HAVE WOULD HAVE SEEN THINGS  
9 THAT REALLY KEEP YOU UP AT NIGHT. IT'S A VERY TERRIBLE  
10 CRIME. AND IN SEEING THAT EVIDENCE, YOU'VE MET WITH THE  
11 OTHER JURORS IN DELIBERATIONS AND YOU'VE REACHED THE  
12 CONCLUSION THIS DEFENDANT IS GUILTY OF HAVING THAT  
13 PREMEDITATION; AND, IN ADDITION, COMMITTED SOME HORRIFIC  
14 ACTS IN THE PROCESS. WHEN YOU'VE REACHED THAT POINT --  
15 YOU WITH ME?

16 A YES.

17 Q WHEN YOU'VE REACHED THAT POINT, DO YOU BELIEVE YOU  
18 CAN STILL CONSIDER A LIFE SENTENCE OR WOULD YOU FEEL YOU  
19 HAD TO IMPOSE THE DEATH PENALTY?

20 A WELL, THEN, THE PROSPECT, THE DECISION OF THE DEATH  
21 PENALTY WOULD BE MORE I WOULD THINK OF.

22 Q WHY DO YOU SAY THAT?

23 A WELL, IF IT'S HORRIFIC AND IT'S FULL INTENT ON THE  
24 MR. WILLIAMS, AND IT'S JUST THE MOST HORRIFIC THING I'VE  
25 SEEN AND OTHER JURORS BELIEVE IT, TOO, 'IN AGREEMENT', THEN

1 YES, I COULD CONSIDER THAT.

2 Q I'M SORRY, YOU COULD CONSIDER?

3 A THE DEATH PENALTY.

4 Q WOULD YOU FEEL YOU HAD TO IMPOSE THE DEATH PENALTY?

5 A NO, I DON'T FEEL LIKE I HAD TO.

6 Q COULD YOU STILL CONSIDER A LIFE SENTENCE?

7 A YES.

8 Q LET ME ADD TO THAT, THAT IN ADDITION TO FINDING THE  
9 LEVEL OF PREMEDITATION AND THE HEART DEVOID OF ANY SOCIAL  
10 CONSCIENCE AND HAVING SEEN THIS HORRIFIC EVIDENCE; LET ME  
11 ADD THAT YOU WILL HAVE HAD TO HAVE, MS. STROM TOLD YOU,  
12 CONVICTED HIM OF A SECOND CRIME. IN SOUTH CAROLINA IT'S  
13 NOT ONLY MURDER, IT HAS TO BE ANOTHER CRIME, KIDNAPPING OR  
14 RAPE, ANOTHER TERRIBLE CRIME. SO, YOU'VE SEEN THAT  
15 TERRIBLE EVIDENCE, YOU'VE CONCLUDED THAT HE HAS THE  
16 REQUISITE INTENT AND YOU'VE CONVICTED HIM OF ANOTHER CRIME  
17 COMMITTED IN THE SAME TIME FRAME. COULD YOU STILL  
18 CONSIDER A LIFE SENTENCE, OR AT THAT POINT WOULD YOU HAVE  
19 TO IMPOSE A DEATH PENALTY?

20 A NO, I'D CONSIDER A LIFE SENTENCE.

21 Q LET ME ADD ONE MORE THING TO IT.

22 A OKAY.

23 Q AND THAT IS THAT THE DEFENSE IN THE PENALTY PHASE  
24 PUTS UP NO EVIDENCE, NOTHING, AS IS THE DEFENDANT'S RIGHT  
25 AS THE JUDGE WILL TELL YOU.

1 A RIGHT.

2 Q WITH THAT IN MIND --

3 A YES, I WOULD STILL BE ABLE TO CONSIDER LIFE WITHOUT  
4 PAROLE.

5 Q LET ME GO INTO A COUPLE OTHER THINGS AND WE'LL BE  
6 DONE, MISS DANDREA. MENTAL ILLNESS. IF THE JUDGE  
7 INSTRUCTS YOU THAT MENTAL ILLNESS IS A FACTOR YOU MAY  
8 CONSIDER IN DELIBERATIONS OVER THE PENALTY PHASE, IS  
9 MENTAL ILLNESS SOMETHING THAT YOU BELIEVE YOU CAN WEIGH IN  
10 MAKING THE DECISION?

11 A YES.

12 Q TELL ME YOUR VIEW, YOUR DEFINITION OF WHAT MENTAL  
13 ILLNESS IS.

14 A WELL, IT'S A DISORDER OF THE MIND THAT HAS PEOPLE NOT  
15 TO BE ABLE TO REACT THE WAY THEY SHOULD REACT. THEIR MIND  
16 WORKS IN A DIFFERENT WAY. IT'S NOT LIKE AN ILLNESS THAT  
17 CAN TAKE A MEDICATION FOR AND IT GOES AWAY. IT IS MORE IN  
18 DEPTH THAN THAT.

19 Q AND YOU BELIEVE IT'S REAL?

20 A YES, I DO.

21 Q BECAUSE SOME PEOPLE OUT THERE THINK MENTAL ILLNESS IS  
22 JUST KIND OF AN EXCUSE FOR WHAT OTHER PEOPLE DESCRIBE AS  
23 WEAKNESSES OR FAILING, BUT YOU BELIEVE IN MENTAL ILLNESS?

24 A YES.

25 Q ONE LAST THING. YOU'VE PROBABLY BEEN ON COMMITTEES

1 IN YOUR LIFE OR SMALL GROUPS WHERE YOU HAVE TO VOTE ON  
2 SOMETHING. EVERYBODY DOES AT SCHOOL, CHURCH; THAT IS, IN  
3 SOME RESPECTS WHAT A JURY IS LIKE. IN THIS CASE IF YOU'RE  
4 IN THE JURY, THERE WILL BE 12 MEMBERS ALL VOTING. AND AS  
5 SOMETIMES HAPPENS, THERE WILL BE ONE PERSON WHO HAS A  
6 POINT OF VIEW DIFFERENT FROM THE OTHER 11. LET'S SAY IT'S  
7 YOU AND IT'S A LIFE SENTENCE. HAVING DELIBERATED, TALKED  
8 ABOUT IT BACK AND FORTH, IF YOU STILL BELIEVE A LIFE  
9 SENTENCE OUGHT TO BE IMPOSED IN A CASE, DO YOU FEEL YOU'RE  
10 A PERSON WHO CAN RESIST PRESSURE FROM 11 OTHERS?

11 A YES. BECAUSE WHEN I FEEL STRONGLY ABOUT SOMETHING, I  
12 STICK WITH IT.

13 Q TAKE IT FROM THE OTHER SIDE. IF YOU'RE PART OF A  
14 MAJORITY, MAYBE IT'S NOT ELEVEN TO ONE, MAYBE IT'S TEN TO  
15 TWO, AND YOU BELIEVE THAT, ALONG WITH NINE OTHER PEOPLE  
16 FOR EXAMPLE, THAT THE DEFENDANT IS GUILTY OF THE CRIME;  
17 TWO ARE HOLDING OUT AND HAVE A DIFFERENT POINT OF VIEW.  
18 ONCE YOU'VE DELIBERATED, ONCE YOU'VE TALKED IT THROUGH,  
19 AND YOU UNDERSTAND EVERYONE ELSE'S POINT OF VIEW, DO YOU  
20 FEEL LIKE YOU'RE SOMEONE WHO COULD RESPECT THAT MINORITY  
21 POINT OF VIEW?

22 A YES.

23 Q YOU WOULDN'T FEEL THE NEED TO PUT PRESSURE ON THEM?

24 A NO.

25 MR. MACDOUGALL: ONE MOMENT, YOUR HONOR.

1 Q ONE OTHER THING, MISS DANDREA. YOU HEARD THE  
2 SENTENCE OF LIFE WITHOUT PAROLE DESCRIBED; AND THAT IS,  
3 THE DEFENDANT -- THAT MEANS THE DEFENDANT NEVER WALKS OUT  
4 OF PRISON, DIES IN PRISON. HOW DO YOU FEEL ABOUT THAT AS  
5 A SERIOUS PUNISHMENT FOR A VERY SERIOUS CRIME?

6 A I THINK THAT'S APPROPRIATE.

7 THE COURT: ANY MOTIONS?

8 MS. STROM: NONE FROM THE STATE, YOUR HONOR.

9 MR. MACDOUGALL: NONE FROM THE DEFENSE, YOUR HONOR.

10 THE COURT: MRS. DANDREA, I WANT TO THANK YOU FOR  
11 YOUR HONESTY. THANK YOU FOR BEING HERE. WE'RE DRAWING A  
12 POOL OF 40 JURORS. FROM THAT 40 JURORS WILL BE 12 JURORS  
13 AND FOUR ALTERNATES. YOU'LL BE PART OF THAT 40.

14 PROSPECTIVE JUROR: OH.

15 THE COURT: SO, THE BAILIFF IS GOING TO GIVE YOU A  
16 LITTLE SLIP OF PAPER AND ON THAT SLIP OF PAPER IS A PHONE  
17 NUMBER. CALL THAT PHONE NUMBER TONIGHT. THERE WILL BE A  
18 MESSAGE FOR YOU. FOLLOW THE INSTRUCTIONS ON THE MESSAGE.  
19 OKAY? DON'T TALK ABOUT THE CASE, WATCH ANYTHING ON TV,  
20 READ THE PAPER, OR LISTEN TO ANYTHING ON THE RADIO.

21 PROSPECTIVE JUROR: ALL RIGHT.

22 THE COURT: THANK YOU VERY MUCH. THANK YOU, MA'AM.

23 ALL RIGHT. WE WILL TAKE A BREAK. SEE YOU AT 2:00.

24 (WHEREUPON, THE PROCEEDINGS ARE ADJOURNED FOR THE  
25 LUNCHEON RECESS.)

1 AFTERNOON SESSION.

2 (PURSUANT TO THE ADJOURNMENT FOR THE LUNCHEON RECESS,  
3 COURT WAS AGAIN IN SESSION AT 2:00 P.M. WHEN THE  
4 FOLLOWING PROCEEDINGS WERE HAD:)

5 (PROSPECTIVE JUROR HUSSEY ENTERS COURTROOM.)

6 THE COURT: MISS HUSSEY, HOW YOU DOING TODAY?

7 PROSPECTIVE JUROR: DOING FINE, THANK YOU.

8 GAIL J. HUSSEY, (WHITE  
9 FEMALE), HAVING BEEN PREVIOUSLY DULY SWORN, TESTIFIED AS  
10 FOLLOWS:

11 EXAMINATION

12 BY THE COURT:

13 Q MISS HUSSEY, YOU FILLED OUT THIS QUESTIONNAIRE. DO  
14 YOU REMEMBER THAT?

15 A YES.

16 Q WHEN YOU FILLED IT OUT, WAS IT ACCURATE TO THE BEST  
17 OF YOUR ABILITY?

18 A YES.

19 Q LET ME ASK YOU SOME QUESTIONS ABOUT THAT AND SOME  
20 OTHER QUESTIONS. I'M GOING TO ASK YOU TO RESPOND TO THE  
21 QUESTIONS THE BEST YOU CAN. ALL RIGHT?

22 A YES, SIR.

23 Q FIRST OF ALL, I WANT TO ASK YOU, DO YOU KNOW OF ANY  
24 PHYSICAL OR MENTAL PROBLEMS YOU HAVE THAT WOULD PREVENT  
25 YOU FROM SERVING ON THIS JURY?



- 1 A NO.
- 2 Q DO YOU HAVE ANY MEDICAL PROBLEMS?
- 3 A I HAVE A HEART CONDITION.
- 4 Q DO YOU TAKE MEDICATION FOR IT?
- 5 A YES, IT'S TAKEN CARE OF BY MEDICATION.
- 6 Q YOU TAKE MEDICATION ONCE A DAY? TWICE A DAY?
- 7 A TWICE A DAY.
- 8 Q SO, YOU CAN HAVE MEDICATION WITH YOU, TAKE IT?
- 9 A YES.
- 10 Q DO YOU HAVE ANY PERSONAL HARDSHIPS SERVING ON THE
- 11 JURY?
- 12 A NO.
- 13 Q THE DEFENDANT IN THIS CASE, CHARLES CHRISTOPHER
- 14 WILLIAMS, IS CHARGED WITH MURDER AND KIDNAPPING. THIS
- 15 OCCURRED ON SEPTEMBER 3, 2003, AT A BI-LO HERE IN
- 16 GREENVILLE. DO YOU REMEMBER HEARING ANYTHING ON RADIO,
- 17 SEEING ANYTHING ON TV, OR HEARING ABOUT THE CASE?
- 18 A I'M SURE I HEARD ABOUT IT. I DON'T REMEMBER.
- 19 Q YOU DON'T REMEMBER?
- 20 A NO.
- 21 Q DO YOU REMEMBER ANYTHING AT ALL ABOUT IT?
- 22 A NOT REALLY.
- 23 Q OKAY, THAT'S FINE. THE VICTIM IN THE CASE IS MARANDA
- 24 WILLIAMS. DO YOU KNOW MARANDA WILLIAMS?
- 25 A NO.

1 Q DO YOU KNOW THE DEFENDANT, CHARLES CHRISTOPHER  
2 WILLIAMS, WHO SITS TO MY RIGHT IN THE BLUE SWEATER?

3 A NO, SIR.

4 Q THE ATTORNEYS REPRESENTING MR. WILLIAMS ARE  
5 MR. MAULDIN, MR. NETTLES, MARK MACDOUGALL, AND COLLEEN  
6 COYLE. MR. MACDOUGALL AND MISS COYLE ARE NOT IN THE  
7 COURTROOM. DO YOU KNOW ANY OF THOSE ATTORNEYS?

8 A NO.

9 Q DO YOU KNOW SOLICITOR ARIAIL AT THE TABLE AND HIS TWO  
10 ATTORNEYS?

11 A NO.

12 Q DO YOU KNOW ANYONE AT IN THE SOLICITOR'S OFFICE?

13 A NO, SIR.

14 Q I'M GOING TO GIVE YOU A LIST OF WITNESSES. TELL ME  
15 IF YOU RECOGNIZE ANY OF THOSE NAMES.

16 A NO, SIR.

17 Q LET ME GIVE YOU AN ADDITIONAL LIST OF NAMES. DO YOU  
18 RECOGNIZE ANY NAMES ON THAT LIST?

19 A NO, SIR, I DON'T.

20 Q THANK YOU, MA'AM. I'M GOING TO ASK YOU A QUESTION  
21 AND ASK YOU TO PLEASE RESPOND TO THE QUESTION. CAN YOU DO  
22 THAT?

23 A YES.

24 Q IN THIS CASE THE DEFENDANT IS BLACK AND THE VICTIM IS  
25 WHITE. IT IS UNDISPUTED THAT THE BLACK DEFENDANT AND THE

1 WHITE VICTIM ENGAGED IN INTERRACIAL DATING. WOULD THE  
2 FACT THAT THE DEFENDANT AND THE VICTIM ENGAGED IN  
3 INTERRACIAL DATING MAKE IT DIFFICULT FOR YOU TO BE FAIR TO  
4 EITHER THE STATE OR THE DEFENDANT?

5 A NO.

6 Q ALL RIGHT. I'M GOING TO EXPLAIN TO YOU THE PROCESS  
7 THIS TRIAL WILL GO THROUGH. AS I SAID EARLIER, THE  
8 DEFENDANT IS CHARGED WITH MURDER AND KIDNAPPING. THE  
9 TRIAL WILL BE IN TWO PHASES, PHASE ONE AND PHASE TWO.  
10 PHASE ONE IS REFERRED TO AS THE GUILTY PHASE. IN THE  
11 GUILTY PHASE THE STATE WILL BE REQUIRED TO PROVE THE  
12 DEFENDANT GUILTY BEYOND A REASONABLE DOUBT OF KIDNAPPING  
13 AND MURDER. DO YOU UNDERSTAND?

14 A YES, I UNDERSTAND.

15 Q THAT WOULD BE THE STATE'S OBLIGATION. THE DEFENDANT  
16 DOES NOT HAVE TO TESTIFY IN THAT PHASE OF THE TRIAL OR THE  
17 SECOND PHASE OF THE TRIAL. THE DEFENDANT NEVER HAS TO  
18 COME INTO COURT AND PROVE HIS GUILTY, THAT'S THE STATE'S  
19 OBLIGATION, DO YOU UNDERSTAND?

20 A YES.

21 Q LET'S ASSUME FOR A MOMENT THAT ALL 12 JURORS BELIEVE  
22 THAT THE STATE HAS PROVEN THEIR CASE BEYOND A REASONABLE  
23 DOUBT AND VOTE TO FIND THE DEFENDANT GUILTY ON MURDER AND  
24 KIDNAPPING, DO YOU UNDERSTAND?

25 A YES.

1 Q AT THAT POINT IN TIME THE DEFENDANT WOULD BE GUILTY  
2 OF MURDER AND KIDNAPPING?

3 A RIGHT.

4 Q AND YOU WOULD HAVE HEARD ALL THE FACTS SURROUNDING  
5 THE KILLING FROM THE STATE, DO YOU UNDERSTAND?

6 A YES.

7 Q THEN YOU WOULD GO TO THE PENALTY PHASE OR THE SECOND  
8 PHASE, WHICH IS CALLED THE PENALTY PHASE. THE REASON FOR  
9 THE PENALTY PHASE IS FOR THE JURY TO DECIDE EITHER LIFE OR  
10 DEATH, WHICH ONE THE DEFENDANT SHOULD RECEIVE. THAT'S THE  
11 JURY'S RESPONSIBILITY. WHEN I USE LIFE, I MEAN LIFE  
12 WITHOUT PAROLE, WHICH MEANS THE DEFENDANT WILL DIE IN  
13 JAIL. HE WILL NEVER BE ELIGIBLE FOR PAROLE. DO YOU  
14 UNDERSTAND?

15 A YES, I DO.

16 Q NOW, IN THE SECOND PHASE OF THE TRIAL THE STATE WOULD  
17 BE OBLIGATED TO INTRODUCE OR PROVE AGGRAVATING  
18 CIRCUMSTANCES. THOSE CIRCUMSTANCES ARE ESTABLISHED BY  
19 STATE LAW. I DON'T KNOW WHAT THEY ARE IN THIS CASE  
20 BECAUSE I HAVEN'T -- THIS PARTICULAR CASE, BECAUSE I  
21 HAVEN'T HEARD ANYTHING. BUT THE STATE IS REQUIRED TO  
22 PROVE THOSE AGGRAVATING CIRCUMSTANCES BEYOND A REASONABLE  
23 DOUBT. NOW, IF THE JURY BELIEVES THAT THE STATE HAS  
24 PROVEN THE FIRST BEYOND A REASONABLE DOUBT, THE  
25 AGGRAVATING CIRCUMSTANCES, THEN THE JURY CAN FIND THAT THE

1 DEFENDANT SHOULD RECEIVE DEATH OR LIFE. JUST MERELY  
2 BECAUSE THE STATE HAS PROVEN THE AGGRAVATING CIRCUMSTANCES  
3 TO THE JURY'S SATISFACTION, THE JURY STILL DOES NOT HAVE  
4 TO GIVE DEATH. THE LAW PRESUMES LIFE. THE JURY CAN GIVE  
5 LIFE JUST MERELY AS AN ACT OF MERCY. DO YOU UNDERSTAND?

6 A YES.

7 Q NOW, ASSUMING THAT YOU'VE HEARD ALL THE TESTIMONY IN  
8 THE FIRST PHASE AND ALL THE TESTIMONY IN THE SECOND PHASE,  
9 AT THAT TIME CAN YOU GIVE MEANINGFUL CONSIDERATION TO LIFE  
10 IMPRISONMENT FOR THE DEFENDANT.

11 IN OTHER WORDS, CAN YOU CONSIDER ALL THE FACTS THAT  
12 YOU'VE HEARD BEFORE YOU MAKE UP YOUR MIND?

13 A YES, SIR.

14 Q AS TO LIFE OR DEATH?

15 A YES, SIR.

16 Q CAN YOU GIVE MEANINGFUL CONSIDERATION TO ALL THE  
17 FACTS YOU HEARD, TO LIFE, AND TO LIFE WITHOUT PAROLE?

18 A YES, I CAN.

19 Q CAN YOU GIVE MEANINGFUL CONSIDERATION TO DEATH?

20 A YES, SIR.

21 Q ALL RIGHT. NOW, THE DEFENDANT IN THE SECOND PHASE OR  
22 THE PENALTY PHASE MAY OFFER WHAT IS REFERRED TO AS  
23 MITIGATING CIRCUMSTANCES. MITIGATING CIRCUMSTANCES CAN BE  
24 FACTS ABOUT THE MURDER OR THEY CAN BE FACTS ABOUT THE  
25 DEFENDANT. CAN YOU GIVE MEANINGFUL CONSIDERATION TO ANY

1 MITIGATING CIRCUMSTANCES THAT THE DEFENDANT SHOULD OFFER  
2 IN THE SECOND PHASE OF THE TRIAL?

3 A YES.

4 Q WOULD YOU LISTEN TO ALL THE AGGRAVATING  
5 CIRCUMSTANCES, ALL THE MITIGATING CIRCUMSTANCES, AND ALL  
6 THE TESTIMONY THAT CAME IN ON THE FIRST PHASE BEFORE YOU  
7 DECIDE LIFE OR DEATH?

8 A YES, YOUR HONOR, I WOULD.

9 Q ALL RIGHT. WOULD YOU TAKE YOUR QUESTIONNAIRE AND  
10 TURN TO PAGE TEN. DO YOU QUESTION 64?

11 A YES, I DO.

12 Q "BRIEFLY DESCRIBE YOUR ATTITUDES AND BELIEFS  
13 CONCERNING CAPITAL PUNISHMENT."

14 YOU SAID, "I BELIEVE IN DEATH PENALTY FOR SOME  
15 CRIMES, ESPECIALLY IF THE PERSON WAS KILLED WAS A CHILD OR  
16 ELDERLY PERSON."

17 IS THAT YOUR ATTITUDE BELIEF ABOUT THE DEATH PENALTY?

18 A THAT IS MY BASIC BELIEF OR MY FIRST RESPONSE TO IT.  
19 BECAUSE CHILDREN AND ELDERLY PEOPLE HAVE NO -- OR LACK THE  
20 ABILITY TO DEFEND THEMSELVES AND IT WOULD ALSO COVER THE  
21 POLICE OFFICERS. BECAUSE IF THEY WERE KILLED IN THE LINE  
22 OF DUTY, I BELIEVE THEY SHOULD GET THE DEATH PENALTY.

23 Q LET ME ASK YOU THIS. THERE ARE OTHER AGGRAVATING  
24 CIRCUMSTANCES ESTABLISHED BY LAW.

25 A RIGHT.

1 Q ARE THOSE THE ONLY CONDITIONS YOU COULD CONSIDER FOR  
2 THE DEATH PENALTY?

3 A NO, SIR.

4 Q OR COULD YOU CONSIDER SOME OTHER CIRCUMSTANCES FOR  
5 DEATH OR AGGRAVATING FACTORS FOR DEATH?

6 A I WOULD LISTEN TO EVERYTHING THAT WAS PRESENTED AND  
7 MAKE MY DECISION MY THAT.

8 Q QUESTION 65, "WHAT IS YOUR OPINION ABOUT THE DEATH  
9 PENALTY?"

10 YOU SAY, "SOMEWHAT FAVOR." IS THAT CORRECT?

11 A UH-HUH.

12 Q NOW, IF YOU WILL FLIP OVER TO QUESTION NUMBER 68.

13 A OKAY.

14 Q DO YOU SEE QUESTION 68?

15 A YES.

16 Q YOUR RESPONSE TO QUESTION 68 IS, "I BELIEVE THAT THE  
17 DEATH PENALTY IS THE APPROPRIATE FORM OF PUNISHMENT IN  
18 SOME MURDER CASES, AND I COULD RETURN A VERDICT OF DEATH  
19 IF I BELIEVE IT WAS WARRANTED IN A PARTICULAR CASE,  
20 DEPENDING UPON THE EVIDENCE, THE LAW, AND WHAT I LEARNED  
21 ABOUT THE DEFENDANT." IS THAT STILL YOUR OPINION HERE  
22 TODAY?

23 A YES, IT IS.

24 Q WOULD YOU TURN TO PAGE SIX ON THE QUESTIONNAIRE,  
25 QUESTION 36. YOUR NEPHEW WAS IN LAW ENFORCEMENT AND HE

1 WORKED AT THE JAIL; IS THAT CORRECT?

2 A YES, SIR.

3 Q IS HE STILL WORKING THERE?

4 A NO, HE'S NOT.

5 Q HOW LONG DID HE WORK THERE, DO YOU KNOW?

6 A HE HAD BEEN IN LAW ENFORCEMENT I BELIEVE FOR TEN  
7 YEARS, BUT HE'S NOT -- HE IS CONSTABLE STILL BUT HE'S NOT  
8 A POLICEMAN OR IS NOT INVOLVED WITH ANY OTHER PART OF THE  
9 LAW ENFORCEMENT.

10 Q HOW OFTEN DO YOU SEE YOUR COUSIN -- I MEAN YOUR  
11 NEPHEW? EXCUSE ME.

12 A USUALLY TWICE A MONTH.

13 Q TWICE A MONTH. ARE YOU GOOD FRIENDS.

14 A YES. I CONSIDER US CLOSE, YOU KNOW, WE TALK TO EACH  
15 OTHER ON THE PHONE.

16 Q OKAY. HAS HE EVER DESCRIBED TO YOU HIS VIEWPOINT ON  
17 LAW ENFORCEMENT?

18 A WELL, I MEAN HE HAS DISCUSSED WITH ME BEING A POLICE  
19 OFFICER AND WHAT IT MEANT TO HIM.

20 Q HAS HE EVER EXPRESSED TO YOU, GIVEN HIS OPINIONS OF  
21 DEFENDANTS IN GENERAL?

22 A NO.

23 Q I ASSUME QUESTION NUMBER 38, SAYS SPARTANBURG COUNTY  
24 JAIL, THAT WOULD BE YOUR NEPHEW?

25 A YES, SIR.



1 Q QUESTION NUMBER SEVEN, SORRY, PAGE SEVEN, QUESTION  
2 47. SAYS YOUR HUSBAND WITNESSED AN ASSAULT IN THE PARKING  
3 LOT AT WAL-MART. WERE YOU WITH HIM WHEN THAT OCCURRED?

4 A NO, I WAS AT WORK.

5 Q YOU WERE AT WORK. OKAY. LET ME ASK YOU THIS.  
6 MRS. HUSSEY, CAN YOU LISTEN TO THE TESTIMONY AND MAKE YOUR  
7 DECISION FROM TESTIMONY OFFERED FROM THE WITNESS STAND AND  
8 INFORMATION AND THE EVIDENCE YOU SEE IN THE COURTROOM, NOT  
9 FROM SOMETHING OUTSIDE THE COURTROOM?

10 A RIGHT, RIGHT, YES.

11 Q CAN YOU BE FAIR AND IMPARTIAL TO BOTH THE STATE AND  
12 THE DEFENDANT?

13 A I FEEL I COULD.

14 Q OKAY. WHOSE TURN?

15 MR. NETTLES: THEY POINTED AT ME.

16 BY MR. NETTLES:

17 Q PLEASE PRONOUNCE YOUR LAST NAME FOR ME.

18 A HUSSEY.

19 Q HUSSEY. SO, YOU WERE BORN AND RAISED IN ALASKA?

20 A YES.

21 Q PRETTY WILD.

22 A IT'S BEEN A WHILE.

23 Q I SAID "PRETTY WILD," MEANING A LITTLE DIFFERENT, BUT  
24 IT'S A PRETTY WILD PLACE, TOO.

25 A YES.

1 Q WHERE IS THAT IN ALASKA?

2 A CATCHECAN CITY.

3 Q SO, JUST OVER THE BORDER FROM CANNADA?

4 A RIGHT.

5 Q LET ME ASK A COUPLE OF QUESTIONS. YOU WERE KIND  
6 ENOUGH TO SHARE WITH US SOME SORT OF SPECIFIC EXAMPLES.

7 GOING TO PAGE TEN, I BELIEVE IT'S PAGE TEN. YEAH. THE  
8 QUESTION WAS, "BRIEFLY DESCRIBE YOUR ATTITUDES AND BELIEFS  
9 CONCERNING CAPITAL PUNISHMENT AND THE DEATH PENALTY."

10 YOU SAID, "I BELIEVE THE DEATH PENALTY FOR SOME  
11 CRIMES, ESPECIALLY IF THE PERSON WHO WAS KILLED WAS A  
12 CHILD OR AN ELDERLY PERSON," RIGHT?

13 A YES.

14 Q LET ME ASK YOU THIS. WHEN YOU SAY YOU BELIEVE IN THE  
15 DEATH PENALTY, COULD YOU ALSO, IF THE PERSON KILLED WAS A  
16 CHILD OR ELDERLY PERSON, I THINK YOU ADDED POLICE OFFICER  
17 WHEN YOU WERE TALKING TO THE JUDGE?

18 A YES.

19 Q IS DEATH THE ONLY PUNISHMENT FOR THOSE GROUPS?

20 A NO. THAT'S NOT WHAT I SAID.

21 Q I KNOW. I PROMISE, I'M NOT TRYING TO PUT WORDS IN  
22 YOUR MOUTH.

23 A I'M JUST SAYING WHEN I THINK OF THE DEATH PENALTY --

24 Q RIGHT.

25 A -- THE MAIN GROUP OF PEOPLE THAT COME TO MIND WOULD

1 BE ELDERLY PEOPLE AND CHILDREN BECAUSE THEY CANNOT DEFEND  
2 THEMSELVES.

3 Q RIGHT. RIGHT. SO, THEN MY QUESTION TO YOU WOULD BE  
4 THIS. IF HYPOTHETICALLY YOU WERE ON A JURY AND THE PERSON  
5 WAS CHARGED WITH -- AND LET'S BE CLEAR ABOUT WHAT MURDER  
6 IS. BASICALLY DID IT, MEANT TO DO IT, NOT ACCIDENT, NOT  
7 INSANE. AND THE VICTIM WAS A CHILD OR AN ELDERLY PERSON,  
8 WOULD THE FACT THAT THE PERSON MURDERED A CHILD OR ELDERLY  
9 PERSON MEAN THAT IN YOUR HEART OF HEARTS THE ONLY PENALTY  
10 YOU COULD CONSIDER IS DEATH PENALTY? YOU FOLLOW WHAT I'M  
11 GETTING AT?

12 A NO, I DON'T THINK I'M THAT CONCRETE WHERE I WOULDN'T  
13 CONSIDER ANYTHING ELSE.

14 Q OKAY. AND THAT'S FAIR ENOUGH. AND THAT'S WHAT I  
15 WANTED TO KNOW. SO, EVEN IF IT WERE A CHILD, WHICH IT'S  
16 NOT IN THIS CASE; BUT HYPOTHETICALLY IF IT WERE A CHILD OR  
17 ELDERLY PERSON AND THE DEFENDANT IT WAS BROUGHT TO YOU,  
18 WAS PROVEN TO YOU BEYOND A REASONABLE DOUBT TO HAVE  
19 MURDERED THAT CHILD OR ELDERLY PERSON, IT'S STILL WITHIN  
20 YOUR COMFORT ZONE OR ABILITY TO COMPREHEND TO FORCE THEM  
21 TO SPEND THE REST OF THEIR LIFE IN PRISON?

22 A YES, I CAN DISTINGUISH -- I'M GETTING CONFUSED NOW.  
23 I WOULD BE ABLE TO OBJECTIVELY LISTEN TO AND MAKE A  
24 DECISION FROM WHAT IS PRESENTED.

25 Q OKAY. I GUESS WHAT I'M GETTING AT, AND I APPRECIATE

1        THAT, BUT, AT THE END OF IT, COULD YOU -- I KNOW I'M  
2        ASKING THE SAME QUESTION, BUT MAYBE YOU DIDN'T UNDERSTAND  
3        MY QUESTION, WHAT I THINK. I GUESS THE ANSWER I'M LOOKING  
4        FOR IS CAN YOU SEE YOURSELF GIVING SOMEONE WHO MURDERED A  
5        CHILD OR AN ELDERLY PERSON LIFE IN PRISON?

6        A        YES.

7        Q        OKAY. THAT'S WHAT I WANT TO KNOW. TELL ME, WHAT  
8        DOES LIFE IMPRISONMENT MEAN TO YOU? LET ME REPHRASE THAT.  
9        JUST LET ME TELL YOU THIS. THE LAW IN SOUTH CAROLINA IS  
10       THERE'S NO MORE PAROLE ON THIS ISSUE. ALL RIGHT? LIFE IN  
11       IMPRISONMENT MEANS YOU DIE IN PRISON.

12       A        RIGHT.

13       Q        SOME PEOPLE CALL IT PINE BOX LIFE. DO YOU ACCEPT  
14       LIFE IMPRISONMENT AS A SERIOUS PUNISHMENT FOR A MURDER?

15       A        YES, I DO.

16       Q        ALL RIGHT. NOW, LET ME TALK TO YOU A LITTLE BIT  
17       ABOUT THIS. AS YOU CAN UNDERSTAND, ONE OF THE THINGS THAT  
18       WE'RE LOOKING FOR HERE IS EVERYBODY WANTS TO BE FAIR. ALL  
19       RIGHT. BUT WHAT WE'RE LOOKING FOR IS UNDER SOME OF THE  
20       UNIQUE SITUATIONS THAT WE'RE IN, IN HERE, CAN YOU BE FAIR  
21       IN THIS CASE? THAT'S WHAT KIND OF FINDING OUT. DO YOU  
22       UNDERSTAND WHAT I'M SAYING?

23       A        YES.

24       Q        SOME VERY FAIR PEOPLE HAVE NOT BEEN QUALIFIED TO SIT  
25       IN THE JURY JUST BECAUSE OF THIS UNIQUE SITUATION.

1 A RIGHT.

2 Q MY QUESTION TO YOU IS THIS. AND YOU PROBABLY ALREADY  
3 KNOW THIS, BUT YOU KNOW SOMEBODY IS PRESUMED INNOCENT  
4 UNTIL THEY'RE PROVEN GUILTY. BUT WHAT YOU MAY NOT KNOW IS  
5 IN THE PENALTY PHASE, JUST LIKE IN THE FIRST PHASE, THE  
6 GOVERNMENT GOES FIRST, YOU FOLLOW ME?

7 A RIGHT.

8 Q THEY PUT UP THEIR EVIDENCE, BUT WE GET TO CROSS  
9 EXAMINE; BUT AT THE END OF THEIR CASE WE GET AN  
10 OPPORTUNITY TO PUT MITIGATION UP. WOULD YOU AGREE WITH ME  
11 THAT A FAIR JUROR IN THE SECOND PHASE WOULD BE ABLE TO  
12 WAIT UNTIL THE DEFENSE GOT A CHANCE TO SPEAK BEFORE THEY  
13 MADE UP THEIR MIND ABOUT THE APPROPRIATE PUNISHMENT?

14 A OH, YES.

15 Q SO, BEING A FAIR JUROR AND UNDERSTANDING THAT, EVEN  
16 THOUGH THE GOVERNMENT IS GOING TO COME IN HERE IN THE  
17 PENALTY PHASE AND THEY'RE GOING TO BRING YOU SOME VERY  
18 HEART-WRENCHING VICTIM IMPACT TESTIMONY, WHAT THAT IS, IS  
19 THIS. PEOPLE THAT KNEW THE VICTIM VERY CLOSELY,  
20 INTIMATELY, ARE GOING TO COME IN AND TALK ABOUT THEIR VERY  
21 TRAGIC LOSS. COULD YOU LISTEN TO THAT, GIVE IT THE WEIGHT  
22 IT'S ACCORDED, BECAUSE THEY CERTAINLY HAVE THE RIGHT TO DO  
23 THAT, BUT WAIT UNTIL THE END TO MAKE UP YOUR MIND?

24 A YES.

25 Q I HAVE TWO OTHER TOPICS I WANT TO TALK TO YOU ABOUT,

1 THEN I'LL BE DONE. FIRST, JUST LIKE WE ASKED SORT OF A  
2 BROAD, WHAT YOU THINK ABOUT THE DEATH PENALTY. COULD I  
3 ASK YOU, WHAT ARE YOUR THOUGHTS ON MENTAL ILLNESS?

4 A I HAVE A SISTER WHO WAS IN THAT --

5 Q IF THAT'S GOING TO BE PAINFUL, YOU DON'T HAVE TO TELL  
6 US THAT UNLESS YOU WANT TO.

7 A WELL, I THINK THAT HAVING A PROBLEM CAN AFFECT WHAT  
8 IS PRESENTED.

9 Q OKAY.

10 A AND THAT HAS TO BE CONSIDERED IF IT'S, YOU KNOW, IF  
11 IT'S PRESENTED IT HAS TO BE CONSIDERED BY A JUROR.

12 Q YES, MA'AM. SO, IN OTHER WORDS, AND I THINK I KNOW  
13 THE ANSWER TO THIS QUESTION. BUT SOME PEOPLE JUST SAY ALL  
14 THAT MENTAL ILLNESS IS JUST VODOO. YOU CLEARLY DON'T  
15 SUBSCRIBE TO THAT?

16 A NO, I DON'T. I DON'T THINK THAT AT ALL.

17 Q THE LAST THING, THIS IS ANOTHER ONE I THINK I KNOW  
18 THE ANSWER TO, BUT I HAVE TO ASK. IF YOU WERE IN THE  
19 MINORITY BACK IN THE JURY ROOM, HEARD EVERYTHING, YOU  
20 WADED THROUGH THIS POWERFUL VICTIM IMPACT TESTIMONY, YOU  
21 SAY, "WAIT A MINUTE. WAIT A MINUTE." YOU'RE BACK IN THE  
22 JURY ROOM, HEARD EVERYTHING. THERE'S 11 PEOPLE THAT FEEL  
23 ONE WAY AND YOU FEEL ANOTHER ABOUT THE APPROPRIATE  
24 PUNISHMENT. AND OBVIOUSLY I CARE WHAT YOU THINK, BUT FOR  
25 PURPOSES OF THIS QUESTION IT DOESN'T MATTER. WOULD YOU BE

1 WILLING TO CHANGE YOUR MIND JUST TO GO ALONG WITH EVERYONE  
2 ELSE?

3 A NO.

4 Q LET ME FLIP THAT JUST A SECOND, AND THEN I'LL BE  
5 DONE. IF YOU WERE IN THE MAJORITY. YOU UNDERSTAND THAT  
6 PART OF A JURY IS DELIBERATION AND, YOU KNOW, ONE OF THE  
7 BEAUTIES OF OUR SYSTEM IS THAT EVERYBODY HERE HAS AN  
8 OPINION AND EVERYBODY HERE HAS EXPERIENCE, COLLECTIVE  
9 WISDOM OF THE JURY. SOMETIMES PEOPLE DISAGREE. WOULD YOU  
10 BE WILLING TO RESPECT SOMEONE'S OPINION EVEN THOUGH THEY  
11 WERE IN THE MINORITY?

12 A YES.

13 Q OKAY. I BELIEVE I MAY BE DONE, BUT LET ME TOUCH BASE  
14 WITH THE FOLKS OVER THERE. OKAY?

15 A ALL RIGHT.

16 Q THANK YOU, MA'AM. I SURE DO APPRECIATE IT.  
17 BY MR. MOYER:

18 Q ALL RIGHT. MISS HUSSEY, I JUST HAVE A COUPLE OF  
19 QUESTIONS FOR YOU. LET ME FIRST INTRODUCE MYSELF. MY  
20 NAME IS MARK MOYER, I'M AN ASSISTANT SOLICITOR HERE IN  
21 GREENVILLE. I'M PARTICIPATING IN THE CASE WITH THE  
22 SOLICITOR, BOB ARIAIL, WHO JUST STEPPED OUT FOR A MOMENT,  
23 AND HIS DEPUTY SOLICITOR, BETTY STROM SEATED HERE. LIKE I  
24 SAID, I HAVE JUST A COUPLE OF QUESTIONS.

25 LIKE I JUST SAID, NO ONE IS HERE TO JUDGE WHAT YOU

1 SAY OR CRITICIZE WHAT YOU BELIEVE. JUST TRYING TO FIND  
2 OUT WHAT YOU TRULY BELIEVE. FIRST, I WANT TO ASK YOU  
3 ABOUT QUESTION NUMBER 64 ON PAGE TEN. I THINK YOU  
4 ANSWERED THIS. I WANT TO MAKE SURE WE UNDERSTAND WHAT YOU  
5 SAID. THIS IS WHERE YOU GAVE US SOME EXAMPLES OF  
6 SITUATIONS WHERE YOU BELIEVE THE DEATH PENALTY IS  
7 APPROPRIATE.

8 A RIGHT.

9 Q AND YOU MENTIONED CHILDREN, YOU MENTIONED ELDERLY  
10 PEOPLE, AND THEN HERE AT THE JUDGE'S QUESTIONS, YOU ALSO  
11 MENTIONED POLICE OFFICERS.

12 A YES, SIR.

13 Q NOW, AM I UNDERSTANDING THAT YOU'RE NOT LIMITING IT  
14 TO THOSE SITUATIONS?

15 A NO.

16 Q THAT'S JUST EXAMPLES?

17 A JUST EXAMPLES.

18 Q SO, IF HIS HONOR TOLD YOU UNDER SOUTH CAROLINA LAW  
19 AGGRAVATING CIRCUMSTANCES COVERS MORE THAN THAT, YOU WOULD  
20 BE WILLING TO LISTEN TO THAT AND CONSIDER THAT?

21 A YES.

22 Q NOW, I ALSO WANT TO ASK YOU ABOUT THE JURY ROOM  
23 PROCEDURE AND PROCESS. AT THE END OF THIS CASE, AFTER YOU  
24 HEAR ALL OF THE FACTS IN THE FIRST PHASE OF THE TRIAL, THE  
25 GUILTY OR INNOCENCE PHASE, THEN YOU GO THROUGH THE SECOND



1 PHASE THE, SENTENCE PHASE WHERE YOU'RE DECIDING WHETHER  
2 IT'S DEATH PENALTY OR LIFE WITHOUT PAROLE. IF YOU AND THE  
3 JURY CAME TO A DECISION THE DEATH PENALTY WAS APPROPRIATE  
4 IN THIS CASE. UNDER SOUTH CAROLINA LAW YOU, ALONG WITH  
5 OTHER 11, WOULD HAVE TO SIGN A FORM WITH ALL 12 OF YOUR  
6 NAMES ON THAT FORM. WOULD YOU BE ABLE TO DO THAT?

7 A YES.

8 Q OR WOULD THAT GIVE YOU ANY TROUBLE?

9 A YES.

10 Q YOU WOULD BE ABLE TO DO THAT? YOU MENTIONED -- YOU  
11 WERE QUESTIONED A LITTLE BRIEFLY ABOUT MENTAL ILLNESS. I  
12 THOUGHT I SAW A BIT OF AN EMOTIONAL REACTION. IS THAT  
13 SOMETHING THAT IS SUCH A TENDER SUBJECT FOR YOU, THAT YOU  
14 WOULD NOT BE ABLE TO GIVE THE STATE AND THE DEFENSE A FAIR  
15 HEARING ON THAT ISSUE?

16 A I DON'T THINK SO. IT'S JUST THAT MY SISTER WAS IN,  
17 WAS DIAGNOSED WITH SOME MENTAL PROBLEMS AND IT'S ALMOST  
18 THE ANNIVERSARY OF HER DEATH NOW. SO, THAT JUST, IT TOOK  
19 ME BY SURPRISE.

20 Q OKAY. WELL, THAT BEING THE CASE, AND IF THE MENTAL  
21 CONDITION DID BECOME AN ISSUE IN THE CASE, WOULD YOU STILL  
22 BE ABLE TO SET THOSE EMOTIONAL PERSONAL ASPECTS ASIDE AND  
23 GIVE THE STATE A FAIR HEARING ON THAT ISSUE?

24 A I BELIEVE I COULD.

25 Q AND, FINALLY, YOU WERE ASKED ABOUT THE -- IN THE JURY

1 ROOM IF YOU WERE IN A MINORITY POSITION, AND IT WAS YOU  
2 AND ONE OF THE OTHERS HOLDING THAT POSITION, WOULD YOU  
3 HOLD TO THAT VIEW, AND NOT FEEL AN OBLIGATION TO GO ALONG  
4 WITH THE OTHERS?

5 A RIGHT.

6 Q I WANT TO ASK YOU DO YOU UNDERSTAND THAT THE JURY  
7 PROCESS INCLUDES GIVE AND TAKE --

8 A YES.

9 Q -- WITH ONE ANOTHER? AND YOU UNDERSTAND IT'S ALL  
10 ABOUT AN EXCHANGE OF VIEW, EXPLAINING YOUR REASONS BEHIND  
11 THINGS AND ELICITING OTHERS VIEWS AS WELL?

12 A YES.

13 Q GIVE ME ONE MOMENT. THAT WILL BE ALL. THANK YOU.

14 THE COURT: OKAY. ANY MOTIONS?

15 MR. NETTLES: NONE FROM THE DEFENSE.

16 MR. MOYER: NONE FROM THE STATE, YOUR HONOR.

17 THE COURT: MRS. HUSSEY, WE'RE GOING TO DRAW A PANEL  
18 OF 40 JURORS. FROM THAT 40 WILL BE 12 JURORS AND FOUR  
19 ALTERNATES. OKAY? AND THE BAILIFF IS GOING TO GIVE YOU A  
20 LITTLE SLIP OF PAPER WITH A PHONE NUMBER ON IT. CALL THAT  
21 NUMBER TONIGHT. THERE WILL BE INSTRUCTION TO COME BACK OR  
22 CALL BACK TOMORROW. JUST FOLLOW THOSE INSTRUCTIONS.  
23 OKAY?

24 PROSPECTIVE JUROR: YES, SIR.

25 THE COURT: THANK YOU VERY MUCH.

1 PROSPECTIVE JUROR: THANK YOU, YOUR HONOR.

2 THE COURT: WOULD YOU BRING US DUANE CONSTABLE,  
3 PLEASE?

4 (PROSPECTIVE JUROR CONSTABLE ENTERS COURTROOM.)

5 IS IT CONSTABLE? IS THAT HOW YOU PRONOUNCE YOUR  
6 NAME?

7 PROSPECTIVE JUROR: YES, SIR.

8 DUANE A. CONSTABLE, (WHITE  
9 MALE), HAVING BEEN PREVIOUSLY DULY SWORN, TESTIFIED AS  
10 FOLLOWS:

11 EXAMINATION

12 BY THE COURT:

13 Q DO YOU REMEMBER FILLING OUT THIS QUESTIONNAIRE A  
14 WHILE BACK?

15 A YES.

16 Q WHEN YOU FILLED IT OUT, WAS IT ACCURATE TO THE BEST  
17 THAT YOU COULD TELL?

18 A I BELIEVE SO.

19 Q ALL RIGHT. WOULD YOU TURN TO PAGE 11 OF THE  
20 QUESTIONNAIRE PLEASE, SIR?

21 A ALL RIGHT.

22 Q ON QUESTION 68 YOU SAID, "I BELIEVE THE DEATH PENALTY  
23 IS THE APPROPRIATE FORM OF PUNISHMENT IN ALL MURDER  
24 CASES." IS THAT STILL YOUR OPINION HERE TODAY?

25 A YES, SIR.

1 Q ALL RIGHT. WOULD YOU FLIP BACK TO PAGE TEN. DO YOU  
2 SEE QUESTION 64?

3 A YES, SIR.

4 Q YOU SAID, "BRIEFLY DESCRIBE YOUR ATTITUDES AND  
5 BELIEFS CONCERNING CAPITAL PUNISHMENT."

6 YOU SAID, "I BELIEVE IN IT." IS THAT STILL YOUR  
7 BELIEF HERE TODAY?

8 A YES, SIR.

9 Q AND THEN ON 65 YOU SAID, "WHAT IS YOUR OPINION ABOUT  
10 THE DEATH PENALTY?"

11 YOU SAID, "I STRONGLY FAVOR." IS THAT CORRECT?

12 A YES, SIR.

13 Q IS THAT STILL YOUR OPINION HERE TODAY?

14 A YES, SIR.

15 Q LET ME ASK YOU A QUESTION. IN THIS PARTICULAR CASE  
16 THE DEFENDANT WAS CHARGED WITH MURDER AND KIDNAPPING. IT  
17 OCCURRED ON SEPTEMBER 3<sup>rd</sup> 2003 AT A LOCAL BI-LO HERE IN  
18 GREENVILLE. HAVE YOU HEARD ANYTHING ON RADIO, SEEN  
19 ANYTHING ON TV, READ ANYTHING IN THE PAPER OR HEARD  
20 ANYTHING ABOUT THE CASE?

21 A IT HAPPENED OVER A YEAR AGO. SO, YES I HAVE HEARD  
22 ABOUT IT.

23 Q WHAT HAVE YOU HERD?

24 A PRETTY MUCH WHAT YOU JUST SAID, A GUY CAME INTO BI-LO  
25 HAD HIS GIRLFRIEND, KILLED HER, AND IT'S GOING TO TRIAL.

1 Q WHERE DID YOU HEAR IT FROM?

2 A I BELIEVE IT WAS AT WORK, PROBABLY A COUPLE OF MONTHS  
3 BACK MAYBE.

4 Q DO YOU REMEMBER WHEN IT FIRST HAPPENED, DID YOU SEE  
5 ANYTHING ON TELEVISION OR ANYTHING IN THE PAPER ABOUT IT?

6 A NO, SIR, I DIDN'T SEE ANYTHING ON TV OR IN THE PAPER.  
7 I HEARD IT FROM SOMEBODY AT WORK.

8 Q DO YOU REMEMBER SPECIFICALLY WHAT THEY TOLD YOU?

9 A THEY JUST SAID, "HEY, DUANE, DID YOU HEAR ABOUT THE  
10 GUY KILLED HIS GIRLFRIEND AT BI-LO?"

11 I SAID, "NO."

12 Q BASED ON THAT, YOU FORMED AN OPINION AS TO THE  
13 DEFENDANT'S INNOCENCE OR GUILT?

14 A NO, SIR.

15 Q YOU HAVE NOT.

16 A I MEAN, I'M NOT A JUDGE.

17 Q PARDON?

18 A I'M NOT A JUDGE.

19 Q I'M NOT ASKING YOU TO BE A JUDGE, JUST ASKING YOU  
20 HAVE YOU FORMED AN OPINION?

21 A I MEAN, IF HE KILLED HER, THEN, YES, HE'D BE GUILTY.

22 Q HAVE YOU FORMED THAT OPINION? THAT OPINION DEFINITE  
23 IN YOUR MIND?

24 A YES, SIR.

25 Q YOU MADE YOUR MIND UP TO THAT?

1 A YES, SIR.

2 Q LET ME ASK YOU THIS. ON THE QUESTION ON PAGE 11,  
3 QUESTION 68. DO YOU BELIEVE THE DEATH PENALTY IS  
4 APPROPRIATE FORM OF PUNISHMENT IN ALL MURDER CASES? DO  
5 YOU KNOW OF ANY -- FIRST OF ALL, LET ME TELL YOU, MURDER  
6 IS A PREMEDITATED INTENTIONAL KILLING OR MALICE  
7 AFORETHOUGHT, WHICH MEANS A HEART DEVOID OF SOCIAL DUTY.  
8 DO YOU UNDERSTAND?

9 A YES, SIR.

10 Q CAN YOU THINK OF ANY MURDER CASE WHERE YOU DO NOT  
11 THINK THAT THE DEATH PENALTY WOULD BE APPROPRIATE?

12 A NO, SIR.

13 Q YOU THINK YOU WOULD GIVE IT IN ALL -- WHAT IS YOUR  
14 BASIS FOR THAT BELIEF?

15 A MY BASIS IS IF A MAN CAN KILL SOMEONE WITHOUT A  
16 SECOND THOUGHT ABOUT IT, I WON'T GIVE A SECOND THOUGHT  
17 ABOUT GIVING HIM THE DEATH PENALTY.

18 Q AND WOULD THAT BE JUST AUTOMATIC IN YOUR MIND?

19 A YES, SIR.

20 Q ALL RIGHT. HAVING FORMED THAT OPINION ABOUT  
21 INNOCENCE OR GUILT OF THIS DEFENDANT, WOULD YOU GIVE HIM  
22 THE DEATH PENALTY WITHOUT GIVING A SECOND THOUGHT?

23 A YES, SIR.

24 Q ANY QUESTIONS?

25 MR. MAULDIN: NONE, YOUR HONOR.

1 MS. STROM: NONE, YOUR HONOR.

2 THE COURT: ANY MOTION? I KNOW THERE'S A MOTION. IS  
3 THERE ANY ARGUMENT TO THE MOTION?

4 MS. STROM: NO, SIR. NO ARGUMENT.

5 THE COURT: MR. CONSTABLE, I WANT TO THANK YOU FOR  
6 BEING HONEST AND GIVING ME YOUR OPINIONS. I DON'T ARGUE  
7 WITH YOUR OPINIONS. YOU'RE ENTITLED TO YOUR OPINIONS.  
8 THERE'S NOTHING WRONG WITH YOUR OPINIONS. OKAY? YOU'RE  
9 ENTITLED TO YOUR VIEW OF THE DEATH PENALTY. I RESPECT  
10 THAT. HOWEVER, IN THIS PARTICULAR CASE I'M GOING TO FIND  
11 YOU NOT QUALIFIED TO SERVE ON THIS PARTICULAR JURY. OKAY?

12 A YES, SIR.

13 Q BUT THANK YOU VERY MUCH FOR YOUR SERVICES. OKAY?  
14 THANK YOU VERY MUCH.

15 (PROSPECTIVE JUROR EXITS AND THE NEXT ENTERS)

16 THE COURT: FLORA, IS IT RIDDEN?

17 PROSPECTIVE JUROR: RIDEN.

18 THE COURT: MISS RIDEN, HOW YOU DOING TODAY?

19 PROSPECTIVE JUROR: FINE, THANK YOU.

20 FLORA G. RIDEN, (WHITE  
21 FEMALE), HAVING BEEN PREVIOUSLY DULY SWORN, TESTIFIED AS  
22 FOLLOWS:

23 EXAMINATION

24 BY THE COURT:

25 Q MS. RIDEN, YOU FILLED OUT A QUESTIONNAIRE IN THE

1 PAST, I GUESS THE LAST 60 DAYS?

2 A YES, SIR.

3 Q DO YOU REMEMBER FILLING IT OUT?

4 A YES, SIR.

5 Q WOULD YOU TAKE IT PLEASE, MA'AM?

6 A I NEED TO GET MY GLASSES.

7 Q OKAY. GET YOUR GLASSES. WHEN YOU FILLED IT OUT, WAS  
8 IT ACCURATE TO THE BEST OF YOUR KNOWLEDGE?

9 A YES, SIR.

10 Q I'M GOING TO ASK YOU SOME QUESTIONS. THERE'S NO  
11 RIGHT OR WRONG ANSWERS, JUST WANT TO GET YOUR OPINIONS AND  
12 VIEWPOINTS ON VARIOUS ISSUES. ALL RIGHT?

13 A YES, SIR.

14 Q FIRST THING I WANT TO ASK YOU, IF YOU WOULD, WOULD  
15 YOU TURN TO PAGE TEN, QUESTION NUMBER 64.

16 A YES, SIR.

17 Q "BRIEFLY DESCRIBE YOUR ATTITUDES AND BELIEFS  
18 CONCERNING CAPITAL PUNISHMENT, DEATH PENALTY."

19 "DEPENDING UPON THE CASE AND CIRCUMSTANCES, I HAVE NO  
20 PROBLEM WITH IT." COULD YOU SORT OF EXPOUND UPON THAT AND  
21 TELL ME WHAT YOU MEAN BY THAT?

22 A CAPITAL PUNISHMENT IS A VERY SERIOUS PUNISHMENT. BUT  
23 THERE ARE ALSO VERY SERIOUS CRIMES AND I DO BELIEVE THERE  
24 ARE SOME CRIMES THAT CAPITAL PUNISHMENT IS THE PENALTY  
25 THAT SHOULD BE GIVEN.



1 Q ALL RIGHT. DO YOU UNDERSTAND IN SOUTH CAROLINA ALL  
2 MURDER CASES THE STATE CANNOT ASK FOR THE DEATH PENALTY?

3 A YES, SIR.

4 Q THE LEGISLATURE HAS ESTABLISHED CERTAIN AGGRAVATING  
5 CIRCUMSTANCES AND THE FACTS HAVE TO MEET ONE OF THOSE  
6 AGGRAVATING CIRCUMSTANCES OR SEVERAL OF THOSE AGGRAVATING  
7 CIRCUMSTANCES IN ORDER TO ALLOW THE STATE TO ASK FOR THE  
8 DEATH PENALTY?

9 A YES, SIR.

10 Q DO YOU UNDERSTAND?

11 A YES, SIR.

12 Q ALL RIGHT. NOW, IN QUESTION 65, IT SAYS, "WHAT IS  
13 YOUR OPINION ABOUT THE DEATH PENALTY?"

14 IT SAYS, "STRONGLY FAVOR." IS THAT STILL YOUR  
15 OPINION TODAY?

16 A AGAIN, DEPENDING UPON THE CIRCUMSTANCES.

17 Q OKAY. ALL RIGHT. IF YOU WOULD GO OVER TO PAGE 11,  
18 QUESTION 68. ARE YOU WITH ME?

19 A OH, YES, SIR. I'M JUST READING.

20 Q YOUR RESPONSE TO QUESTION 68 WAS, "I BELIEVE THE  
21 DEATH PENALTY IS THE APPROPRIATE FORM OF PUNISHMENT IN  
22 SOME MURDER CASES, AND I CAN RETURN A VERDICT OF DEATH IF  
23 I BELIEVE IT WAS WARRANTED IN A PARTICULAR CASE DEPENDING  
24 UPON THE EVIDENCE, THE LAW, WHAT I LEARNED ABOUT THE  
25 DEFENDANT. IS THAT STILL YOUR OPINION HERE TODAY?

1 A YES, SIR.

2 Q IN THIS PARTICULAR CASE THE DEFENDANT IS CHARGED WITH  
3 MURDER AND KIDNAPPING. AND IT OCCURRED ON SEPTEMBER  
4 THIRD, 2003, AT A BI-LO. HAVE YOU HEARD ANYTHING ON THE  
5 RADIO, HEARD ANYBODY TALKING ABOUT THE CASE OR SEEN  
6 ANYTHING ON TV, EITHER AT THE TIME IT HAPPENED OR SINCE  
7 THAT TIME --

8 A NO, SIR.

9 Q -- ABOUT THIS CASE?

10 A NO, SIR. I HAVE HEARD THAT.

11 Q TELL ME WHAT YOU HEARD.

12 A I HEARD SOMETHING ABOUT, IT WAS MY HUSBAND MENTIONED  
13 IT, THAT THE RADIO SAID SOMETHING ABOUT THE JURY SELECTION  
14 NEEDED TO BE HURRIED UP. I TOLD HIM, "I DIDN'T -- I DON'T  
15 AGREE WITH THAT."

16 Q YOU AGREE WITH THAT, DON'T YOU?

17 A I HAVE NO PROBLEM.

18 Q I DO. I THINK WE CAN BOTH AGREE ON THAT.

19 THE COURT: ANYTHING, HEARD ANYTHING ELSE?

20 A ANYBODY COVERED ANY TIME SOMEBODY STARTED TO TALK TO  
21 YOU, IT CALLED.

22 THE COURT: WHO TRIED.

23 A EVERYONE THREATENED SOME WITH QUO. ONCE I FOUND OUT  
24 AT WORK I WAS ON THE JURY SELECTION, I JUST HUSH, I DON'T  
25 WANT TO HEAR IT.

1 Q AND THEY RESPECTED YOUR REQUEST.

2 A YES.

3 Q THANK YOU FOR DOING THAT. LET ME ASK YOU IF YOU HAVE  
4 ANY PHYSICAL OR MENTAL REASON AS TO WHY YOU CANNOT SERVE  
5 ON THE JURY?

6 A NO, SIR.

7 Q MEDICAL REASONS?

8 A NO, SIR.

9 Q YOU HAVE ANY PERSONAL PROBLEMS OR PERSONAL HARDSHIPS  
10 WHY YOU CAN'T SERVE ON THE JURY?

11 A NONE THAT CAN'T BE OVERCOME.

12 Q THIS IS ONE YOU NEED TO OVERCOME.

13 A WELL, I HAVE A GRANDDAUGHTER THAT I GET UP, GET READY  
14 TO GO TO SCHOOL OR NURSERY IN THE MORNING; BUT HER  
15 GRANDFATHER CAN DO THAT. IT WON'T KILL HIM.

16 Q HOW OLD IS YOUR GRANDAUGHTER?

17 A FOUR.

18 Q THE VICTIM IN THIS CASE IS MARANDA WILLIAMS. DO YOU  
19 KNOW MARANDA WILLIAMS?

20 A NO, SIR.

21 Q ALL RIGHT. CHARLES CHRISTOPHER WILLIAMS SITS TO MY  
22 RIGHT IN THE BLUE-GRAY SWEATER. DO YOU KNOW MR. WILLIAMS?

23 A NO, SIR.

24 Q HIS ATTORNEYS SITTING TO MY RIGHT, MR. MAULDIN WHO IS  
25 WALKING IN NOW, MR. NETTLES AND MR. MACDOUGALL, AND ALSO A

1 LADY BY THE NAME OF COLLEEN COYLE. MISS COYLE IS NOT IN  
2 THE COURTROOM. DO YOU KNOW ANY OF ATTORNEYS IN THE  
3 COURTROOM?

4 A NO, SIR. IF THEY'RE NOT PLAINTIFF ATTORNEYS, I  
5 WOULDN'T KNOW THEM.

6 Q STRAIGHT IN FRONT OF YOU, SOLICITOR ARIAIL AND TWO OF  
7 HER ASSISTANTS. DO YOU KNOW SOLICITOR ARIAIL OR TWO  
8 ASSISTANTS?

9 A NO, SIR.

10 Q DO YOU KNOW ANYBODY IN THE SOLICITOR'S OFFICE?

11 A NO, SIR.

12 Q ALL RIGHT..

13 A WELL, I TAKE IT -- IS MARILYN BOWYER IN THE  
14 SOLICITOR'S OFFICE?

15 THE COURT: SOLICITOR, IS MARILYN BOWYER IN THE  
16 SOLICITOR'S OFFICE?

17 A YES, SIR.

18 Q WHAT DOES SHE DO?

19 MS. STROM: HANDLES OUR BONDS.

20 PROSPECTIVE JUROR: HER SON IS MARRIED TO MY  
21 STEPDAUGHTER. THAT WOULD BE IT.

22 THE COURT: HER -- YOU JUST KNOW HER THROUGH THE  
23 MARRIAGE?

24 A NO, I KNOW HER PERSONALLY.

25 Q HOW LONG -- DO YOU EVER SEE HER, MEET WITH HER?

1 A AT BIRTHDAY PARTIES FOR THE KIDS. WE'RE NOT BOSOM  
2 BUDDIES. NO.

3 Q NOT BOSOM BUDDIES.

4 A NO.

5 Q WOULD THAT GIVE YOU ANY DIFFICULTY IN SERVING ON THE  
6 JURY?

7 A NO, SIR.

8 Q ALL RIGHT. I WON'T DELVE INTO THAT ANY FURTHER.  
9 OKAY? BY THE LOOK YOU GAVE ME, I WON'T DELVE INTO THAT  
10 ANY FURTHER.

11 A INLAWS AND OUTLAWS.

12 Q OKAY. LET ME GIVE YOU A LIST OF NAMES. DO YOU  
13 RECOGNIZE ANY NAME ON THAT LIST?

14 A NO, SIR.

15 Q LET ME GIVE YOU AN ADDITIONAL LIST. CAN YOU IDENTIFY  
16 ANY NAMES ON THAT LIST?

17 A PAUL SILVAGGIO.

18 Q HOW DO YOU KNOW HIM?

19 A HE AND MY HUSBAND ARE FRIENDS. AGAIN, IT'S A SPEAK  
20 BACK AND FORTH, BUT NOTHING GREAT FRIENDSHIP. PAUL DEON.

21 Q PAUL SILVAGGIO WORKS FOR THE GREENVILLE COUNTY  
22 SHERIFF'S DEPARTMENT?

23 A YES, SIR.

24 Q THAT CAUSE YOU ANY PROBLEM HIM BEING AN EMPLOYEE OF  
25 THE SHERIFF'S DEPARTMENT, SERVING ON THIS CASE?

1 A NO.

2 Q I'M GOING TO READ YOU A QUESTION. I WANT YOU TO  
3 RESPOND. IN THIS CASE THE DEFENDANT IS BLACK AND THE  
4 VICTIM IS WHITE. IT'S UNDISPUTED THE DEFENDANT AND VICTIM  
5 ENGAGED IN INTERRACIAL DATING. WOULD THE FACT THAT THE  
6 VICTIM AND THE DEFENDANT ENGAGED IN INTERRACIAL DATING  
7 MAKE IT DIFFICULT FOR YOU TO BE FAIR TO THE STATE AND TO  
8 THE DEFENDANT?

9 A NO, SIR.

10 Q I'M GOING TO EXPLAIN TO YOU THE PROCESS WE GO THROUGH  
11 IN THIS TRIAL. OKAY. THE TRIAL IS GUIDED UP INTO TWO  
12 PHASES. THE FIRST PHASE IS COMMONLY REFERRED TO AS THE  
13 GUILT PHASE. THE SECOND PHASE IS REFERRED TO AS THE  
14 PENALTY PHASE. IN THE GUILT PHASE THE STATE IS REQUIRED  
15 TO PROVE THE DEFENDANT GUILTY BEYOND A REASONABLE DOUBT.  
16 LET'S ASSUME FOR A MOMENT THAT THE DEFENDANT HAS BEEN  
17 PROVEN BY THE STATE GUILTY BEYOND A REASONABLE DOUBT. SO  
18 ALL 12 JURORS HAVE DECIDED THE STATE HAS PROVEN THEIR  
19 CASE. DO YOU UNDERSTAND?

20 A YES, SIR.

21 Q PLEASE UNDERSTAND THE DEFENDANT HAS NEVER HAS A  
22 RESPONSIBILITY OR DEFENDANT DOES NOT HAVE TO TESTIFY. THE  
23 DEFENDANT NEVER HAS TO COME INTO COURT AND PROVE HIS  
24 INNOCENCE. IT'S THE STATE'S BURDEN TO PROVE HIS GUILT.  
25 OKAY?

1 A UH-HUH.

2 Q LET'S ASSUME, AS I SAID, THE JURY HAS FOUND THE  
3 DEFENDANT GUILTY. NO QUESTION THE DEFENDANT IS GUILTY OF  
4 MURDER AND KIDNAPPING. DO YOU UNDERSTAND?

5 A YES, SIR.

6 Q THEN WE WOULD GO TO THE PENALTY PHASE. THE BURDEN OF  
7 PROOF OF THE PENALTY PHASE IS FOR THE JURY TO DECIDE LIFE  
8 OR DEATH. NOW, THE STATE'S OBLIGATION IN THE PENALTY  
9 PHASE IS TO PROVE THE AGGRAVATING CIRCUMSTANCES OF THE  
10 CRIME OR SURROUNDING THE CRIME BEYOND A REASONABLE DOUBT.  
11 I DON'T KNOW WHAT THOSE AGGRAVATING CIRCUMSTANCES ARE.  
12 WE'RE TALKING IN HYPOTHETICAL, OKAY? IT COULD BE AN AWFUL  
13 LOT OF DIFFERENT THINGS. NOW LET'S ASSUME THAT THE JURY  
14 BELIEVES THAT THE STATE HAS PROVEN THE AGGRAVATING  
15 CIRCUMSTANCES BEYOND A REASONABLE DOUBT. ALL 12 JURORS  
16 BELIEF THAT. DO YOU UNDERSTAND?

17 A YES, SIR.

18 Q ALL RIGHT. AT THAT POINT IN TIME, COULD YOU GIVE  
19 MEANINGFUL CONSIDERATION TO LIFE? AND BEFORE YOU ANSWER  
20 THAT QUESTION, I WANT TO SAY A COUPLE OF THINGS TO YOU.  
21 THE LAW PRESUMES LIFE. THE JURY CAN GIVE LIFE FOR NO  
22 REASON WHATSOEVER JUST AS AN ACT OF MERCY. EVEN THOUGH  
23 THE JURY BELIEVES THE STATE HAS PROVEN THERE WERE  
24 AGGRAVATING CIRCUMSTANCES, THE JURY STILL IS NOT OBLIGATED  
25 TO GIVE LIFE. OKAY?

1           NOW, AFTER YOU HEARD ALL THE TESTIMONY IN THE FIRST  
2 PHASE AND ALL THE TESTIMONY IN THE SECOND PHASE, COULD YOU  
3 GIVE MEANINGFUL CONSIDERATION TO A LIFE SENTENCE?

4       A     YES, SIR.

5       Q     COULD YOU GIVE MEANINGFUL CONSIDERATION TO DEATH?

6       A     YES, SIR.

7       Q     ALL RIGHT. LET'S ASSUME THAT THE DEFENDANT IN THE  
8 PENALTY PHASE OFFERS TESTIMONY AND THAT TESTIMONY WILL BE  
9 REFERRED TO AS MITIGATING CIRCUMSTANCES. THESE WILL BE  
10 CIRCUMSTANCES THAT THE DEFENDANT IS OFFERING TO CONVINCE  
11 THE JURY TO GIVE HIM LIFE RATHER THAN DEATH. NOW, COULD  
12 YOU CONSIDER SERIOUS OR MEANINGFUL CONSIDERATION OF THE  
13 MITIGATING CIRCUMSTANCES IN THE SECOND PHASE OF THE TRIAL?

14      A     YES, SIR.

15      Q     AND COULD YOU CONSIDER THAT BEFORE YOU DECIDED ON  
16 LIFE OR DEATH?

17      A     YES, SIR.

18      Q     ALL RIGHT. CAN YOU BE FAIR AND IMPARTIAL TO BOTH THE  
19 STATE AND THE DEFENDANT?

20      A     I BELIEVE SO. YES, SIR.

21      Q     WILL YOU?

22      A     YES, SIR.

23      Q     OKAY. CAN YOU BASE YOUR DECISION ON THE TESTIMONY  
24 YOU HEAR FROM THE WITNESS STAND AND THE EVIDENCE IN THE  
25 COURTROOM, NOT ON SOMETHING YOU HEARD OUTSIDE THE



1 COURTROOM?

2 A I'D HAVE TO BECAUSE I HAVEN'T HEARD ANYTHING OUTSIDE.

3 Q OKAY. ALL RIGHT.

4 WHO IS NEXT?

5 MS. STROM: GOOD AFTERNOON, MISS RIDEN.

6 A HELLO.

7 Q MY NAME IS BETTY STROM. I'M THE DEPUTY SOLICITOR  
8 HERE IN GREENVILLE. I'VE ALREADY BEEN INTRODUCED TO  
9 SOLICITOR BOB ARIAIL AND THIS IS MARK MOYER, ASSISTANT  
10 SOLICITOR IN OUR OFFICE. AS YOU CAN GATHER FROM THE  
11 JUDGE, WE'RE DELVING INTO YOUR OPINIONS REGARDING DEATH  
12 PENALTY AND LIFE WITHOUT PAROLE.

13 A YES, SIR.

14 Q THE JUDGE WAS TALKING TO YOU ABOUT THE TWO PHASES,  
15 FIRST ONE BEING WHETHER THE DEFENDANT COMMITTED THE CRIME  
16 OF MURDER AND GOING INTO THE SECOND PHASE TO DETERMINE  
17 WHAT THE PENALTY IS. I WANT TO MAKE SURE WE UNDERSTAND  
18 THAT IN SOUTH CAROLINA WE CAN ONLY SEEK THE DEATH PENALTY  
19 IN CERTAIN MURDER CASES.

20 A YES, MA'AM.

21 Q AND SO THAT WOULD BE A MURDER PLUS AN AGGRAVATING  
22 CIRCUMSTANCE. AND THAT AGGRAVATING CIRCUMSTANCE COULD BE  
23 THE KILLING OF A POLICE OFFICER, OR A KILLING DURING AN  
24 ARMED ROBBERY OR DURING A RAPE OR SOME OTHER AGGRAVATING  
25 CIRCUMSTANCE. OKAY? AND IN SOUTH CAROLINA MURDER IS THE

1 INTENTIONAL KILLING OF ANOTHER PERSON WITH MALICE  
2 AFORETHOUGHT. YOU MAY HEAR SOME PEOPLE TALK ABOUT IT IN  
3 TERMS OF PREMEDITATED -- I WANT YOU TO UNDERSTAND THAT MY  
4 GENERAL LAYMAN'S TERM PREMEDITATED MEANS PLANNED OUT OVER  
5 PERIOD OF TIME MAYBE HOURS, DAYS, OR WEEKS; BUT MALICE  
6 AFORETHOUGHT CAN BE ALMOST INSTANTANEOUS, ALMOST BEFORE  
7 THE MURDEROUS ACT OCCURRED. I WANT YOU UNDERSTAND WHEN  
8 PEOPLE GET UP HERE START TALKING ABOUT PREMEDITATED, THE  
9 LAW REQUIRES US TO PROVE MALICE AFORETHOUGHT, AN EVIL  
10 HEART, A WICKED HEART.

11 AND I SAID ALL THAT TO GET US TO THE SECOND PHASE TO  
12 SAY THAT WHEN YOU HEAR IN THAT SECOND PHASE, IF THE JURY  
13 GETS TO THAT SECOND PHASE, THEY'VE ALREADY CONVICTED  
14 SOMEONE OF MURDER. OKAY? AN INTENTIONAL KILLING WITH  
15 MALICE AFORETHOUGHT. IT'S NOT ACCIDENT. IT'S NOT HEAT OF  
16 PASSION, IT'S NOT INSANITY OR ANYTHING SUCH AS THAT. SO,  
17 IT IS AN INTENTIONAL KILLING OF ANOTHER PERSON. MY  
18 UNDERSTANDING OF WHAT YOU'RE SAYING IS THAT WHEN YOU GET  
19 TO THAT SECOND PHASE YOU WOULD NOT HAVE MADE UP YOUR MIND  
20 YET AS TO WHICH PUNISHMENT TO IMPOSE?

21 A THAT'S CORRECT.

22 Q YOU WOULD WANT TO HEAR WHATEVER YOU COULD HEAR IN  
23 THAT SECOND PHASE, NO MATTER HOW LITTLE OR HOW MUCH?

24 A I WOULD LIKE TO HEAR ALL SIDES. YES, MA'AM.

25 Q AND YOU WOULD NOT GO IN WITH YOUR MIND ALREADY MADE

1 UP, NO MATTER WHAT YOU HEARD IN THE FIRST PHASE. YOU  
2 WOULD STILL WANT TO WAIT UNTIL THE SECOND PHASE IN ORDER  
3 TO MAKE YOUR DECISION?

4 A THAT'S CORRECT.

5 Q I SHOULD HAVE STARTED OFF WITH -- I KNOW YOU SAID YOU  
6 KNEW MARILYN AND NOT TO GO INTO IT. BUT YOU WOULD NOT  
7 HOLD THAT AGAINST US IN ANY WAY, WOULD YOU?

8 A NO.

9 Q AND AS TO PAUL SILVAGGIO, YOU KNOWING PAUL SILVAGGIO,  
10 IF HE WERE TO BE A WITNESS IN A CASE YOU SAT ON THE JURY,  
11 WOULD THAT IN ANY WAY AFFECT YOUR ABILITY TO BE FAIR AND  
12 IMPARTIAL?

13 A NO, MA'AM.

14 Q OKAY. I JUST WANTED TO MAKE SURE THAT WAS CLEAR.  
15 THE JUDGE TALKED TO YOU ABOUT IF THE DEFENDANT WANTED TO  
16 IN THE SECOND PHASE, HE COULD PRESENT MITIGATING EVIDENCE  
17 BUT HE'S NOT REQUIRED TO.

18 A YES.

19 Q AND YOU WOULDN'T HOLD THAT AGAINST HIM IF HE DIDN'T  
20 PRESENT ANY EVIDENCE?

21 A WOULDN'T BE A PROBLEM.

22 Q AND EVEN IN THAT CASE WHERE THE DEFENSE DID NOT  
23 PRESENT ANY EVIDENCE IN MITIGATION, I THINK WHAT YOU'RE  
24 TELLING THE COURT, YOU CAN STILL CONSIDER DEATH AND LIFE?

25 A YES, SIR.

1 Q AND YOU WOULD GIVE THE DEFENDANT WHICHEVER PUNISHMENT  
2 YOU FELT WAS APPROPRIATE FOR THAT CRIME FOR THAT  
3 DEFENDANT?

4 A YES, MA'AM.

5 Q AND I, AGAIN, I THINK I KNOW THE ANSWER BUT JUST WANT  
6 TO MAKE SURE.

7 NO MATTER WHAT IS PRESENTED IN THE SECOND PHASE, YOU  
8 WOULD GIVE IT THE CONSIDERATION IT DESERVES, CORRECT?

9 A YES, MA'AM.

10 Q YOU DON'T HAVE ANY PRECONCEIVED BIAS OR PREJUDICE  
11 ABOUT MENTAL ILLNESS OR ANYTHING LIKE THAT?

12 A NO, MA'AM.

13 Q YOU WOULD LISTEN TO THAT AND GIVE IT CONSIDERATION?

14 A YES, MA'AM.

15 Q IN SOUTH CAROLINA IF A JURY DETERMINES THAT THE DEATH  
16 PENALTY IS THE APPROPRIATE SENTENCE, ALL 12 JURORS MUST  
17 SIGN THEIR NAME TO WHAT'S CALLED THE VERDICT FORM. THEY  
18 GET BACK IN THE JURY ROOM. THEY DECIDE -- IF THEY  
19 DETERMINE DEATH, ALL 12 MUST SIGN. IF YOU HAD MADE THAT  
20 DECISION IN THE JURY ROOM, WOULD YOU BE ABLE TO SIGN YOUR  
21 NAME TO THAT VERDICT FORM?

22 A YES, MA'AM.

23 Q THE ACT OF HAVING TO SIGN WOULD NOT IMPAIR YOUR  
24 ABILITY?

25 A NO, MA'AM.

1 Q COURTS INDULGENCE JUST ONE MOMENT.

2 I KNEW THERE WAS ONE OTHER THING I JUST WANTED TO  
3 MAKE SURE. ON YOUR QUESTIONNAIRE, I THINK QUESTION 48,  
4 YOU RESPONDED THAT YOU HAD A FAMILY MEMBER WHO HAD BEEN  
5 ARRESTED OF A CRIME?

6 A YES, MA'AM.

7 Q WAS THAT HERE IN GREENVILLE COUNTY?

8 A YES, MA'AM.

9 Q DO YOU KNOW IF IT WERE MY OFFICE, THE SOLICITOR'S  
10 OFFICE?

11 A ACTUALLY IT WAS THE -- FBI.

12 Q THE FBI?

13 A YES, MA'AM.

14 Q THE FACT YOU HAD A FAMILY MEMBER INVOLVED IN THAT,  
15 WOULD YOU IN ANY WAY HOLD THAT AGAINST THE STATE OF SOUTH  
16 CAROLINA?

17 A NO, MA'AM. YOU ALL DIDN'T DO ANYTHING.

18 Q I DIDN'T THINK SO, BUT I JUST HAD TO ASK THE  
19 QUESTION.

20 THE COURT: DEFENDANT?

21 BY MR. MACDOUGALL:

22 Q MR. MACDOUGALL, GOOD AFTERNOON, MISS RIDEN, MY NAME  
23 IS MARK MACDOUGALL AND I'M REPRESENTING THE DEFENDANT,  
24 CHRIS WILLIAMS, OVER HERE ALONG WITH JOHN MAULDIN AND BILL  
25 NETTLES. I ONLY HAVE A FEW QUESTIONS FOR YOU, BUT I'D

1     LIKE YOU TO LOOK AT YOUR QUESTIONNAIRE AGAIN IF YOU WOULD,  
2     PLEASE.   PAGE 11, QUESTION 69 AND 70.   IF I READ THAT  
3     CORRECTLY, YOU SAY THAT YOU THINK THAT DEFENDANTS ARE  
4     SENTENCED TO DEATH IN DEATH PENALTY CASES TOO SELDOM AND  
5     YOU THINK THE DEATH PENALTY IS CARRIED OUT TOO SELDOM.  
6     YOU WRITE TOO MANY APPEALS, WHICH I TAKE TO MEAN  
7     CONVICTIONS REVERSED, OR TAKES TOO LONG BECAUSE OF THE  
8     APPEAL PROCESS.   WHAT I LIKE TO KNOW HOW YOU FORMED THAT  
9     SUSPENSE OPINION.   WHAT ABOUT YOUR EXPERIENCES IN LIFE  
10    HAVE LEAD YOU TO BELIEVE THAT?

11   A     THE NUMBER OF INMATES ON DEATH ROW.   THE PEOPLE THAT  
12    STAY THERE FOR 25 AND 30 YEARS AFTER THEY HAVE BEEN  
13    SENTENCED BY SUPPOSEDLY A JURY OF THEIR PEERS.

14   Q     SO, IT'S JUST THE LENGTH OF TIME THAT THE PROCESS  
15    TAKES?

16   A     YES, SIR.

17   Q     AND ON THE QUESTION OF, THE FIRST QUESTION 69, THE  
18    DEFENDANT'S SENTENCED TO DEATH IN DEATH PENALTY CASES TOO  
19    SELDOM, I WOULD ASSUME WOULDN'T HAVE MUCH TO DO WITH THE  
20    APPEAL PROCESS.   THAT'S THE TRIAL PROCESS, AND YOU BELIEVE  
21    IN DEATH PENALTY CASES DEFENDANTS ARE NOT SENTENCED TO  
22    DEATH ENOUGH.   IS THAT RIGHT?

23   A     THAT'S NOT NECESSARILY RESTRICTED TO THE STATE OF  
24    SOUTH CAROLINA.   THAT'S JUST FROM PREVIOUS READING.  
25    PREVIOUS NEWSPAPERS.   YOU SEE HORRIBLE, HORRIBLE ACTS THAT

1 ARE DONE BY PEOPLE. THEY GET 25 TO LIFE AND THEY GET  
2 PAROLLED IN TEN YEARS. IT'S NOT BASED UPON SOUTH  
3 CAROLINA.

4 Q I UNDERSTAND. SO, YOUR BELIEF AND THE BELIEF YOU  
5 FORMED ABOUT THE DEATH PENALTY AND HOW OFTEN IT'S IMPOSED  
6 AT TRIAL IS IN PART DUE TO, IF I UNDERSTAND YOU CORRECTLY.  
7 I WANT TO MAKE SURE I UNDERSTAND YOU CORRECTED.

8 A THAT'S FINE.

9 Q THAT PEOPLE COMMIT TERRIBLE, TERRIBLE CRIMES AND THEY  
10 OUGHT TO BE SENTENCED TO DEATH AND THEY'RE NOT AND THEY  
11 SHOULD BE. IS THAT --

12 A YES, SIR.

13 Q YOU'VE HEARD THE JUDGE AND MISS STROM TALK ABOUT THE  
14 MOTION OF PREMEDITATED MURDER. AND THERE ARE ALL KINDS OF  
15 DESCRIPTIONS THAT CAN BE USED TO CLASSIFY THAT. ONE  
16 THAT'S USED FREQUENTLY IS A HEART DEVOID OF ALL SOCIAL  
17 DUTY, A DARK AND DEPRAVED HEART. THE DEFENDANT MEANT IT  
18 AND HE DID IT. SO, IT'S NOT AN ACCIDENT, NOT SOMETHING  
19 DONE ON THE SPUR OF THE MOMENT. IT'S INTENTIONAL.

20 NOW, MY QUESTION TO YOU IS THAT GIVEN THAT AND GIVEN  
21 YOUR BELIEF THAT THE DEATH PENALTY IS IMPOSED FOR HORRIBLE  
22 ACTS TOO RARELY, DO YOU BELIEVE A CRIME, A MURDER WITH A  
23 HEART DEVOID OF ALL HUMAN DUTY, ALWAYS WARRANTS THE DEATH  
24 PENALTY?

25 A NO, SIR. THERE'S MITIGATING FACTS TO ALL THINGS.

1 Q THAT'S RIGHT. THAT'S RIGHT. LET ME ADD SOMETHING TO  
2 THAT, THE HEART DEVOID OF ALL DUTY. LET ME ADD, AS MRS.  
3 STROM AND THE JUDGE TOLD YOU, IN THIS STATE IN ORDER TO BE  
4 SENTENCED TO DEATH, THERE HAS TO BE A AGGRAVATING CRIME,  
5 AGGRAVATING CIRCUMSTANCES. IT CAN BE KIDNAPPING, RAPE,  
6 ANY NUMBER OF THINGS. TAKE THE HEART DEVOID WITH SOCIAL  
7 DUTY, DARK AND DEPRAVED HEART, COMMITS A SECONDS SERIOUS  
8 CRIME AT THE SAME TIME. AND YOUR 11 OTHER JURORS HAVE  
9 FOUND THAT PERSON GUILTY, CONVINCED OF IT BEYOND A  
10 REASONABLE DOUBT, GUILTY OF TWO SERIOUS CRIMES. GUILTY OF  
11 HAVING THAT DARK AND DEPRAVED HEART. DOES THAT PERSON  
12 ALWAYS GET THE DEATH PENALTY?

13 A NO, SIR.

14 Q WHY NOT?

15 A AS I SAID, THERE'S MITIGATING CIRCUMSTANCES TO ALL  
16 CRIMES AND TO ALL ACTIONS.

17 Q NOW, A COUPLE OF MINUTES AGO YOU TALKED ABOUT ONE OF  
18 THE REASONS YOU BELIEVE THE DEATH PENALTY IS NOT IMPOSED  
19 ENOUGH OR TOO SELDOM IS THAT YOU READ ABOUT HORRIFIC  
20 CRIMES AND YOU BELIEVE BASED UPON WHAT YOU HAVE AND THAT'S  
21 REALLY ALL YOU HAVE, WHAT YOU RECEIVE, THAT THE PEOPLE  
22 COMMIT THOSE CRIMES DON'T RECEIVE THE DEATH PENALTY AND  
23 THEY SHOULD?

24 A YES, SIR.

25 Q GOT OUR DARK DEPRAVED HEART, GOT A SECOND CRIME



1 COMMITTED AT THE SAME TIME, AND REALLY HORRIBLE  
2 CIRCUMSTANCES, FACTS AND EVIDENCE AND THINGS YOU'LL SEE  
3 WILL KEEP YOU UP FOR DAYS AT NIGHT, KEEP UP AT NIGHT DAYS  
4 AFTERWARDS. TAKE THOSE THREE TOGETHER, DARK DEPRAVED  
5 HEART; SECOND CRIME; AND THE TERRIBLE CIRCUMSTANCES, KIND  
6 YOU READ ABOUT IN THE NEWSPAPER. THE KIND REALLY UPSET  
7 YOU. DOES THAT DEFENDANT HAVE TO GET THE DEATH PENALTY?

8 A IF I WERE THERE AND I HEARD ALL THE FACTS, THEN,  
9 YEAH, I PROBABLY WOULDN'T HAVE A PROBLEM SENTENCING HIM TO  
10 DEATH. BUT I CAN'T TELL YOU IF I DON'T HEAR ALL THE  
11 FACTS.

12 Q WOULD YOU SENTENCE THAT DEFENDANT TO LIFE? THAT  
13 DEFENDANT HAD THE DARK AND DEPRAVED HEART, YOU ALREADY  
14 COMMITTED THAT, YOU AND -- AND YOU ALL OF THAT IS  
15 ESTABLISHED. CHECK THAT ANSWER (ARE YOU GOING TO GIVE HIM  
16 A LIFE SENTENCE?

17 A IF THE FACTS WARRANT IT. I MEAN, I'M NOT NECESSARILY  
18 GOING TO SAY THAT EVERYBODY THAT COMMITS MURDER DESERVES  
19 THE DEATH PENALTY. BUT ON THE SAME HAND, I'M NOT GOING TO  
20 SAY THAT EVERYBODY THAT COMMITS MURDER SHOULD BE GIVEN  
21 LIFE, EITHER. THERE ARE FACTS THAT SURROUND THINGS THAT I  
22 DON'T KNOW. AND I CAN'T MAKE MY DECISION UNTIL I KNOW ALL  
23 THE FACTS.

24 Q ALL RIGHT. I'M WITH YOU.

25 NOW, TAKE OUR FACTS, DARK DEPRAVED HEART, SECOND

1 CRIME, TERRIBLE EVIDENCE; YOU AND THE OTHER 11 JURORS HAVE  
2 MADE UP THEIR MIND GUILTY. YOU IN THE SECOND PHASE,  
3 PENALTY PHASE, THE SECOND TRIAL BEEN TALKING ABOUT AND THE  
4 DEFENDANT PUTS UP NOTHING, NO EVIDENCE. DO YOU EVER TO  
5 GIVE HIM THE DEATH PENALTY THEN?

6 WHAT KIND OF DEFENSE HIS DEFENSE PUT UP?

7 MS. STROM: ZERO.

8 A EVEN THOUGH HE SAYS NOTHING, THE PEOPLE THAT ARE  
9 DEFENDING HIM WILL HAVE SAID SOMETHING.

10 Q LET ME CLARIFY THAT. UNDER THIS STATE'S LAW, EVERY  
11 STATE LAW, THE DEFENDANT HAS NO OBLIGATION TO SAY  
12 ANYTHING. IN THE SITUATION I'M DESCRIBING TO YOU, THE  
13 DEFENDANT AND HIS LAWYERS HAVE PUT UP NO DEFENSE IN THE  
14 PENALTY PHASE, NO DEFENSE. THEY'VE RESTED.

15 A NO DEFENSE.

16 Q WHAT HE'S DONE, NO MITIGATING CIRCUMSTANCES.

17 A NO MITIGATING CIRCUMSTANCES.

18 Q NOTHING, DO YOU EVER TO THEN SENTENCE THAT DEFENDANT  
19 TO DEATH?

20 A NO, I DON'T HAVE TO -- I DON'T KNOW THAT I WOULDN'T,  
21 BUT I DON'T HAVE TO.

22 Q WHAT CIRCUMSTANCES WOULD LEAD YOU TO SAY YOU WOULDN'T  
23 HAVE TO?

24 MS. STROM: I OBJECT, YOUR HONOR, TO THE FORM OF THE  
25 QUESTION.

1 THE COURT: WE'RE GETTING TO THE POINT. TRYING TO  
2 STEAK HER OUT, UPON THIS PARTICULAR ISSUE. AND I'LL  
3 SUSTAIN THE OBJECTION. OKAY?

4 Q BELIEF WITHOUT PAROLE, WHAT DO YOU UNDERSTAND THAT TO  
5 BE?

6 A YOU'RE STUCK IN A SIX-BY-EIGHT CELL FOR THE REST OF  
7 YOUR LIFE.

8 BY MS. STROM:

9 Q NEVER GET OUT?

10 A NO CHANCE OF PAROLE, DON'T EVER GO BEFORE THE PAROLE  
11 BOARD OR WHATEVER.

12 Q DO YOU CONSIDER THAT A SERIOUS PUNISHMENT?

13 A YES.

14 Q GIVEN ALL THE PICTURE PAINTED FOR YOU, THE TERRIBLE  
15 CRIME, TERRIBLE CIRCUMSTANCES, THE SECOND CRIME AT THAT  
16 TIME. DO YOU BELIEVE THAT UNDER SOME CIRCUMSTANCES LIFE  
17 IMPRISONMENT WITHOUT PAROLE THE DEFENDANT IS GOING TO DIE  
18 IN PRISON IS A SUITABLE PUNISHMENT?

19 A YES, SIR.

20 Q YOUR HONOR, WE GOING TO COVER EVERY OTHER ISSUE AS  
21 WELL?

22 THE COURT: YES, SIR. A COUPLE OF OTHER THINGS  
23 IMAGINE WE'LL BE DONE. MENTAL ILLNESS, WE REMEMBER  
24 TALKING EARLIER. I THINK YOU USED THE TERM MITIGATING  
25 CIRCUMSTANCES. WHAT IS YOUR VIEW MENTAL ILLNESS. WHEN I

1 SAY VIEW, SOME PEOPLE THINK ITS ILLNESS LIKE PNEUMONIA,  
2 HEART DISEASE, SOME OTHERS THINK EXCUSE FOR ALL KINDS OF  
3 THINGS. WHAT YOUR VIEW OF MENTAL ILLNESS.

4 A I THINK THERE ARE CASES WHERE THERE ARE DEFINITE  
5 MENTAL ILLNESS ISSUE. I ALSO THINK TIME IT HAD BEEN USED  
6 AS A SCAPEGOAT.

7 Q GOES BOTH WAYS?

8 A YES, SIR.

9 Q AND IT'S SOMETHING YOU WOULD CONSIDER?

10 A YES, SIR.

11 Q THE LAST THING. YOU'RE IN OUR JURY ROOM, AGAIN, 128  
12 OF YOU THERE. THE ISSUE IS GUILTY OR INNOCENCE IN THE  
13 FIRST PHASE AND THE ISSUE IS LIFE OR DEATH. YOU'RE THE  
14 ONLY ONE VOTING LET'S SAY FOR LIFE. YOU'VE GOT 11 JURORS  
15 WHO ALL BELIEVE THE DEATH PENALTY IS WHAT THE VERDICT  
16 OUGHT TO BE. YOU'VE TALKED ABOUT IT, WORKED IT THROUGH,  
17 EVERYBODY HAS SAID THEIR PIECE. ARE YOU THE KIND OF  
18 PERSON THAT CAN SAY, "I UNDERSTAND WHAT YOU'RE SAYING, BUT  
19 MY BELIEF IS BASED UPON THE EVIDENCE, ANYTHING I'VE HEARD.  
20 I WANT TO GO FOR LIFE"?

21 A I'M STRONG WILLED PERSON, NOT EASILY PERSUADED B  
22 ANYBODY.

23 Q I BELIEVE THAT. LET ME ASK YOU THE OTHER SIDE OF THE  
24 QUESTION. THIS HAS TO DO WITH HOW STRONG YOU'RE UPON  
25 OTHER SIDE OF THE COIN. ONE OF TEN OR ELEVEN THAT BELIEVE

1 THE DEATH PENALTY IS APPROPRIATE VERDICT OR GUILTY IS THE  
2 APPROPRIATE VERDICT. YOU HAVE ONE OR TWO DON'T YES.  
3 TALKED IT THROUGH, CAN'T REACH A CONCLUSION. AT THAT  
4 POINT IN TIME CAN YOU RESPECT THE MINORITY'S VIEW, SAY  
5 THAT'S WHERE WE END UP, OR DO YOU FEEL YOU HAVE TO PUSH  
6 THOSE PEOPLE KEEP PUSHING UNTIL THEY AGREE?

7 A EVERYBODY HAS A RIGHT TO THEIR OPINION. EVERYBODY  
8 HAS TO DO WHAT IT IS, RIGHT THEIR OWN CONSCIOUS. NOT  
9 GOING TO TRY TO PERSUADE ANYBODY TO GO AGAINST THEIR  
10 CONSCIENCE. AT THE SAME TIME THEY'RE NOT GOING TO  
11 PERSUADE ME TO GO AGAINST MINE, EITHER.

12 MS. STROM: COULD I HAVE A MOMENT?

13 THE COURT: YES, SIR.

14 MS. STROM: NOTHING ELSE, YOUR HONOR. THANK YOU.

15 THE COURT: ANY MOTIONS? NONE FROM THE STATE.

16 MR. MACDOUGALL: NONE FROM THE DEFENSE.

17 THE COURT: ALL RIGHT. MISS RIDEN, WE'RE GOING TO  
18 DRAW A PANEL OF 40 JURORS. FROM THAT PANEL WE'LL DRAW 12  
19 JURORS AND THREE ALTERNATES. YOU'RE PART OF THAT GROUP OF  
20 40. THE BAILIFF IS GOING TO GIVE YOU A SLIP OF PAPER.  
21 CALL THAT NUMBER TONIGHT. THERE WILL BE A MESSAGE TELLING  
22 YOU TO EITHER CALL BACK AT A CERTAIN TIME OR COME BACK.  
23 THAT CERTAIN TIME WILL BE TOMORROW. OKAY?

24 A YES, SIR.

25 Q NOT MONDAY, BUT TOMORROW?

1 A DON'T TALK TO ANYBODY ABOUT THE CASE, LISTEN TO  
2 ANYBODY, ANYTHING ON T.V. OR READ ANYTHING ABOUT IT.  
3 OKAY? THANK YOU SO VERY MUCH. HAVE A GOOD DAY.

4 (PROSPECTIVE JUROR EXITS AND THE NEXT ENTERS)

5 I WANT TO GIVE YOU THE QUESTION.

6 ROGER A. WATSON, (WHITE  
7 MALE), HAVING BEEN PREVIOUSLY DULY SWORN, TESTIFIED AS  
8 FOLLOWS:

9 EXAMINATION

10 BY THE COURT:

11 Q QUESTIONNAIRE YOU FILLED IT OUT?

12 A YES, SIR.

13 Q WHEN YOU FILLED IT OUT, WAS IT ACCURATE THE BEST YOU  
14 CAN DETERMINE?

15 A YES, SIR.

16 Q I'M GOING TO ASK YOU SOME QUESTIONS, AND I THINK THE  
17 ATTORNEYS WILL BE ASKING YOU SOME QUESTIONS. OKAY?

18 A OKAY, SIR.

19 Q THERE'S NOT NECESSARILY RIGHT OR WRONGS ANSWERS TO  
20 THE QUESTIONS. THEY'LL BE QUESTIONS TO DETERMINE YOUR  
21 VIEWPOINTS ON VARIOUS SUBJECT MATTERS AND VARIOUS ISSUES.  
22 ALL RIGHT?

23 A ALL RIGHT.

24 Q JUST ANSWER THE QUESTIONS BEST YOU CAN AND BE  
25 TRUTHFUL. ALL RIGHT?

1 A SURE.

2 Q LET ME ASK YOU ONE QUESTION. IF YOU LOOK AT PAGE  
3 TEN, QUESTIONNAIRE 64. SIXTY-FOUR, CAN YOU FIND IT?

4 A YES, SIR.

5 Q SIXTY-FOUR SAYS, "BRIEFLY DESCRIBE YOUR ATTITUDES AND  
6 BELIEFS CONCERNING CAPITAL PUNISHMENT AND DEATH PENALTY."

7 YOU SAID, "DEPENDS TOTALLY ON THE CRIME." WHAT DO  
8 YOU MEAN WHEN YOU SAY TOTALLY ON THE CRIME?

9 A WELL, YOUR HONOR, I WOULD SAY THAT IT DEPENDS ON THE  
10 CRIMES, THE CIRCUMSTANCES, AND ALL OF THE ISSUES INVOLVED  
11 IN THE ENTIRE CRIME, NOT JUST THE CRIME, BUT THE ENTIRE  
12 EVIDENCE OF THE CASE FOR AND AGAINST JUST EVERYTHING  
13 DEVELOPED, AND I JUST COULDN'T COME UP WITH A YES OR NO  
14 ANSWER IN MY OPINION.

15 Q OKAY. I APPRECIATE THAT. THANK YOU VERY MUCH. LET  
16 ME ASK YOU THIS. THE DEFENDANT IN THIS CASE IS CHARGED  
17 WITH MURDER AND KIDNAPPING. THAT OCCURRED ON SEPTEMBER  
18 3RD 2003 AT A BI-LO HERE IN GREENVILLE. IT OCCURRED OR  
19 SINCE THAT TIME YOU READ ANYTHING IN THE PAPER, SEEN  
20 ANYTHING ON TV, HEARD ANYONE TALKING ABOUT THE CASE?

21 A VERY, VERY LITTLE. I WAS NOT EVEN IN SOUTH CAROLINA  
22 WHEN THIS CRIME HAPPENED. I GOT HERE A COUPLE OF MONTHS  
23 LATER THAN THAT. AND I HAVE HEARD VERY LITTLE ABOUT IT  
24 WHATSOEVER.

25 Q TELL ME WHAT A LITTLE IS WHAT HAVE YOU HEARD?

1 A JUST WHAT YOU SAID, THAT'S ALL.

2 Q WHAT THE GENTLEMAN IS CHARGED WITH?

3 A YES, SIR.

4 Q NOTHING ELSE?

5 A NOTHING. YES, SIR.

6 Q HAVEN'T HEARD ENOUGH TO FORM AN OPINION OR EXPRESS AN  
7 OPINION AS TO INNOCENCE OR GUILTY?

8 A EITHER WAY, NO, SIR.

9 Q DO YOU HAVE ANY PHYSICAL OR MENTAL PROBLEMS THAT  
10 WOULD PREVENT YOU FROM SERVING ON THE JURY?

11 A NONE, SIR.

12 Q DO YOU HAVE ANY MENTAL PROBLEMS THAT WOULD PREVENT  
13 YOU FROM SERVING ON THE JURY?

14 A NONE, SIR.

15 Q DO YOU HAVE ANY HARDSHIPS THAT WOULD PREVENT YOU FROM  
16 YOU SERVING ON THE JURY?

17 A NO.

18 Q THE VICTIM IN THE CASE WAS MARANDA WILLIAMS. DO YOU  
19 KNOW MARANDA WILLIAMS?

20 A NO, SIR, NOT AT ALL.

21 Q THE DEFENDANT IS CHARLES CHRISTOPHER WILLIAMS, WHO  
22 SITS TO MY RIGHT IN THE BLUE-GRAY SWEATER. DO YOU KNOW  
23 MR. WILLIAMS?

24 A NO, SIR, NOT AT ALL.

25 Q ALL RIGHT. THE ATTORNEYS REPRESENTING MR. WILLIAMS



1 SITTING AT THE TABLE ARE MR. NETTLES AND MR. MACDOUGALL.  
2 AND TWO OTHER ATTORNEYS, COLLEEN COYLE AND MR. MAULDIN  
3 REPRESENT THE DEFENDANT. DO YOU KNOW ANY OF THOSE?

4 SITTING IN FRONT OF YOU IS THE SOLICITOR AND TWO OF  
5 HIS ASSISTANTS. DO YOU KNOW ANY OF THEM?

6 A NO.

7 Q DO YOU KNOW ANYBODY IN THE SOLICITOR'S OFFICE?

8 A NO.

9 Q DO YOU UNDERSTAND THE SOLICITOR IS THE D.A, THE  
10 PROSECUTING?

11 A VERY WELL.

12 Q NOT A PERSON OUT COLLECTING MONEY, SOLICITING.

13 A NO, SIR.

14 Q OKAY. LET ME GIVE YOU A LIST OF NAMES, SEE IF YOU  
15 RECOGNIZE ANY NAME ON THAT LIST.

16 A NOT THE FIRST NAME.

17 Q LET ME GIVE YOU ANOTHER LIST AND SEE IF YOU CAN  
18 RECOGNIZE ANYBODY ON THAT LIST.

19 A NO, SIR, NOT THE FIRST NAME.

20 Q WOULD YOU TURN TO PAGE SIX. IN QUESTION NUMBER 40 --

21 A QUESTION 40?

22 Q YES, SIR.

23 A UH-HUH.

24 Q WHO IS THE FEDERAL INFORMANT. WAS THAT YOU?

25 A THAT WAS ME, 15 YEARS AGO.

1 Q FIFTEEN YEARS AGO, WHAT WAS IT ABOUT?

2 A IT WAS A FEDERAL FORFEITURE CASE WHERE I TURNED IN A  
3 DRUG DEALER.

4 Q AND YOUR DATE OF BIRTH IS AUGUST THE FIRST, '54?

5 A YES, SIR.

6 Q WHAT IS YOUR SOCIAL SECURITY NUMBER?

7 A 258-94-2997.

8 Q OKAY. ALL RIGHT. BACK IN '77 AND PRIOR TO THAT  
9 TIME, DO YOU HAVE SOME DUI CHARGES, PUBLIC DRUNK CHARGES?

10 A PRIOR TO THAT. YES, SIR.

11 Q ALL RIGHT. AND I BELIEVE THAT WAS WHERE? IN  
12 GEORGIA?

13 A AUGUSTA, GEORGIA.

14 Q BACK IN '97, PRIOR TO THAT?

15 A YES, SIR.

16 Q AND YOU ALSO, THERE WAS AN ASSAULT AND BATTERY IN  
17 AIKEN; IS THAT CORRECT?

18 A YES, SIR. IT WAS VERY MINOR.

19 Q AND THAT WAS IN 2000?

20 A YES, SIR.

21 Q SIMPLE ASSAULT AND BATTERY. THERE'S A QUESTION ON  
22 THIS QUESTIONNAIRE SOMEWHERE, I'M NOT SURE WHERE IT IS, DO  
23 THE ATTORNEYS KNOW WHERE IT IS?

24 MS. STROM: I BELIEVE IT'S 48, YOUR HONOR.

25 THE COURT: WOULD YOU TURN TO 48, PLEASE, SIR. IT

1 SAYS "HAVE YOU OR FAMILY MEMBER, CLOSE FRIENDS, EVER BEEN  
2 CHARGED WITH A CRIME?

3 YOU SAID, "NO."

4 WHY DIDN'T YOU PUT THOSE CRIMES DOWN ON THE  
5 QUESTIONNAIRE? I JUST ASKED YOU ABOUT THE DUI, PUBLIC  
6 DRUNK, AND SIMPLE ASSAULT?

7 A I THOUGHT IT WAS A MAJOR CRIME. I DIDN'T KNOW IT  
8 WAS -- IT WASN'T SOMETHING THAT WASN'T MAJOR.

9 THE COURT: OKAY. ALL RIGHT. I UNDERSTAND. LET ME  
10 SEE. LET ME GET MY TRAIN OF THOUGHT GOING. LET ME ASK  
11 YOU A QUESTION, I'D LIKE YOU TO RESPOND TO IT. IN THIS  
12 CASE THE DEFENDANT IS BLACK, THE VICTIM IS WHITE. IT IS  
13 UNDISPUTED THE BLACK DEFENDANT AND WHITE VICTIM ENGAGED IN  
14 INTERRACIAL DATING. WOULD THE FACT THE DEFENDANT AND  
15 VICTIM ENGAGED IN INTERRACIAL DATING MAKE IT DIFFICULT FOR  
16 YOU TO BE FAIR TO EITHER THE STATE OR DEFENDANT?

17 A NO, SIR.

18 Q LET ME ASK YOU ANOTHER QUESTION IF I MAY ABOUT YOUR,  
19 QUESTIONNAIRE, PAGE SEVEN, QUESTION 51.

20 A YES, SIR.

21 Q YOU BEEN MARRIED FOR SEVEN YEARS; IS THAT CORRECT?

22 A WENT AND MARRIED MY WIFE TWICE. I BEEN MARRIED TO  
23 HER 20 YEARS. BUT THAT'S TWO TIMES.

24 Q OKAY. ALL RIGHT. SHE MUST BE A FINE LADY IF YOU  
25 MARRIED HER TWICE?

- 1 A SHE WAS FINER THAN I WAS.
- 2 Q ALL RIGHT. LET ME ASK YOU THIS. QUESTION 51 YOU SAY
- 3 YOUR WIFE IS BIPOLAR?
- 4 A YES, SIR.
- 5 Q DOES SHE TAKE MEDICATION?
- 6 A YES, SIR.
- 7 Q DOES THE MEDICATION CONTROL THE ILLNESS?
- 8 A YES, SIR.
- 9 Q HOW LONG HAS YOUR WIFE BEEN DIAGNOSED WITH BIPOLAR?
- 10 A SINCE 1998.
- 11 Q NINETY-EIGHT?
- 12 A YES, SIR.
- 13 Q SO, THAT WAS SEVEN YEARS AGO?
- 14 A YES, SIR.
- 15 Q ABOUT THE TIME YOU MARRIED THE SECOND TIME?
- 16 A YES, SIR.
- 17 Q HOW HAS SHE PROGRESSED IN THE SEVEN YEARS?
- 18 A I NEED TO SORT OF ELABORATE ON THAT BECAUSE WHAT SHE
- 19 DID GO THROUGH WAS A, SHE WENT INTO AS ZYPREXA COMA.
- 20 THAT'S A MEDICATION FOR BIPOLAR. SHE WENT INTO A COMA,
- 21 AND LOST PART OF HER BRAIN. SHE CAME OUT OF IT,
- 22 REHABILITATED, AND SHE'S DOING MUCH BETTER NOW. BUT WE'RE
- 23 NOT USING ZYPREXA ANY MORE, USING OTHER MEDICATIONS, AND
- 24 SHE'S FINE.
- 25 Q ALL RIGHT. AS A RESULT OF I GUESS LIVING WITH YOUR

1 WIFE WITH THE BIPOLAR CONDITION, HAVE YOU DEVELOPED ANY  
2 STRONG BELIEFS ABOUT MENTAL ILLNESS IN GENERAL.

3 A I'M A MUCH MORE OPEN PERSON THAN I EVER HAD BEEN  
4 ABOUT MENTAL ILLNESS. IT NEVER HAD DIRECTLY AFFECTED ME  
5 UNTIL IT TOTALLY DID AND TOOK OVER A GOOD PORTION OF MY  
6 LIFE. SO, I'M VERY MUCH OPEN WHERE I USED TO NOT BE.

7 Q OKAY. ALL RIGHT. I'M GOING TO EXPLAIN TO YOU THE  
8 PROCESS THAT WE'RE GOING THROUGH. OKAY?

9 A YES, SIR.

10 Q THERE WILL BE TWO PHASES TO THIS TRIAL. THE FIRST  
11 PHASE IS THE GUILT PHASE. THE SECOND PHASE IS REFERRED TO  
12 AS THE PENALTY PHASE. NOW, IN THE GUILT PHASE, THE  
13 STATE'S RESPONSIBLE TO PROVING THE DEFENDANT GUILTY BEYOND  
14 A REASONABLE DOUBT. IT WOULD TAKE ALL 12 JURORS TO FIND  
15 THE DEFENDANT GUILTY. NOW, LET'S ASSUME FOR THE PURPOSES  
16 OF ADDITIONAL QUESTION, HYPOTHETICALLY, THE JURY BELIEVES  
17 THAT THE STATE HAS PROVEN THE CASE BEYOND A REASONABLE  
18 DOUBT. ALL 12 JURORS AGREE. AT THAT POINT IN TIME THE  
19 INDIVIDUAL WILL BE FOUND GUILTY OF MURDER AND KIDNAPPING.  
20 DO YOU UNDERSTAND?

21 A YES, SIR.

22 Q NOW, IF THAT HAPPENS, THEN WE'LL GO TO THE SECOND  
23 PHASE, WHICH WILL BE THE PENALTY PHASE. NOW, IF THE JURY  
24 SHOULD FIND THE DEFENDANT NOT GUILTY, THEN THAT WOULD BE  
25 THE END OF IT. IT WOULD NOT GO TO THE SECOND PHASE. DO

1 YOU UNDERSTAND?

2 A YES, SIR.

3 Q BUT FOR PURPOSES OF ADDITIONAL QUESTIONS, LET'S  
4 ASSUME THAT THE JURY HAS AGREED WITH THE STATE AND FOUND  
5 THE DEFENDANT GUILTY. ALL RIGHT. WE WOULD MOVE TO THE  
6 PENALTY PHASE OR THE SECOND PHASE. THE SECOND PHASE,  
7 PURPOSE OF THE SECOND PHASE, IS FOR THE JURY TO DETERMINE  
8 WHETHER THE DEFENDANT SHOULD RECEIVE LIFE OR DEATH. WHEN  
9 I SAY LIFE, I MEAN LIFE WITHOUT PAROLE. LIFE WITHOUT  
10 PAROLE MEANS THE DEFENDANT WILL DIE IN JAIL. DO YOU  
11 UNDERSTAND?

12 A I UNDERSTAND.

13 Q NEVER BE ELIGIBLE FOR PAROLE. NOW, LET'S ASSUME THAT  
14 THE JURY AGREES THAT THE STATE HAS PROVEN CERTAIN  
15 AGGRAVATING CIRCUMSTANCES. I DO NOT KNOW WHAT THOSE  
16 AGGRAVATING CIRCUMSTANCES ARE, BUT THEY ARE REQUIRED IN  
17 THE PENALTY PHASE TO BE PROVEN. OKAY? LET'S ASSUME THAT  
18 THE JURY AGREES WITH THE STATE, THEY HAVE PROVEN THAT  
19 BEYOND A REASONABLE DOUBT. EVEN THOUGH THE JURY, ALL 12  
20 JURORS -- ALL DECISIONS HAVE TO BE UNANIMOUS -- EVEN  
21 THOUGH THE JURY HAS FOUND THAT THE STATE HAS PROVEN THE  
22 AGGRAVATING CIRCUMSTANCES BEYOND A REASONABLE DOUBT, THE  
23 JURY STILL IS NOT OBLIGATED OR DOES NOT HAVE TO GIVE  
24 DEATH. DO YOU UNDERSTAND?

25 A YES, SIR.

1 Q THE JURY CAN GIVE LIFE MERELY AS AN ACT OF MERCY.  
2 THE LAW PRESUMES LIFE. DO YOU UNDERSTAND?

3 A YES, SIR.

4 Q NOW, TAKING INTO CONSIDERATION ALL THE FACTS IN THE  
5 FIRST PHASE AND ALL THE FACTS THAT HAVE BEEN OFFERED IN  
6 THE SECOND PHASE, AT THAT POINT IN TIME COULD, YOU  
7 CONSIDER LIFE OR DEATH.

8 A ARE YOU ASKING ME TO PICK ONE OF THE TWO?

9 Q NO, THAT'S A BAD -- I ASKED THAT QUESTION BAD.

10 A I UNDERSTAND THE QUESTION NOW.

11 Q OKAY. WHAT I'M ASKING YOU, COULD YOU WAIT UNTIL YOU  
12 HEARD EVERYTHING BEFORE YOU MADE UP YOUR MIND AS TO LIFE  
13 OR DEATH?

14 A YES, SIR, MOST DEFINITELY.

15 Q NOW, MY NEXT QUESTION, UNDER THE SCENARIO I GAVE YOU,  
16 THE DEFENDANT HAS NOT OFFERED ANY TESTIMONY, NOT REQUIRED  
17 TO. THE BURDEN IS ON THE STATE. EVEN THOUGH YOU HAVEN'T  
18 HEARD ANYTHING FROM THE DEFENDANT, TAKING EVERYTHING IN  
19 CONSIDERATION IN THE FIRST PHASE AND THE SECOND PHASE,  
20 COULD YOU GIVE A MEANINGFUL CONSIDERATION TO LIFE?

21 A YES, SIR.

22 Q COULD YOU GIVE A MEANINGFUL CONSIDERATION TO DEATH?

23 A YES, SIR.

24 Q LET'S ASSUME THE DEFENDANT DOES OFFER TESTIMONY IN  
25 THE PENALTY PHASE, IT IS REFERRED TO AS MITIGATING

1 CIRCUMSTANCES. I DO NOT KNOW IF THE DEFENDANT IS GOING TO  
2 OR NOT. I DO NOT KNOW WHAT THE MITIGATING CIRCUMSTANCES  
3 ARE, IT WILL BE SURROUNDING THE FACTS IN THE CASE OR  
4 SOMETHING ABOUT THE DEFENDANT, OR SOME OFFER OF EVIDENCE.  
5 OKAY? MY QUESTION TO YOU, COULD YOU GIVE MEANINGFUL  
6 CONSIDERATION, SERIOUS CONSIDERATION, TO THE MITIGATING  
7 CIRCUMSTANCES OFFERED BY THE DEFENDANT IN THE PENALTY  
8 PHASE BEFORE YOU DECIDED LIFE OR DEATH?

9 A YES, I COULD.

10 Q COULD YOU BE FAIR TO BOTH THE STATE AND THE  
11 DEFENDANT?

12 A I BELIEVE SO.

13 Q CAN YOU BASE YOUR DECISION ON THE TESTIMONY YOU HEAR  
14 IN THE COURTROOM AND THE EVIDENCE PRESENTED IN THE  
15 COURTROOM, NOT ANYTHING OUTSIDE THE COURTROOM?

16 A ONLY THE EVIDENCE IN THE COURTROOM.

17 THE COURT: WHOSE TURN IS IT?

18 BY MR. NETTLES:

19 Q HOW YOU DOING, MR. WATSON?

20 A HOW ARE YOU DOING?

21 Q GOOD. THANK YOU FOR ASKING. MY NAME IS BILL  
22 NETTLES. YOU CAN TELL WHERE I'M SITTING, DO I NEED TO GO  
23 ANY FURTHER?

24 A NO, THAT'S FINE.

25 Q OKAY. ALL RIGHT. LET ME ASK YOU A COUPLE OF



1 QUESTIONS. AND LET ME START OFF WITH THIS. THE JUDGE  
2 TALKED ABOUT MURDER, AND SOMETIMES, WE FOUND THAT  
3 SOMETIMES IT'S NOT CLEAR TO POTENTIAL JURORS WHAT WE'RE  
4 TALKING ABOUT. SOUTH CAROLINA THERE ARE NO DEGREES OF  
5 MURDER. IT'S NOT FIRST DEGREE AND SECOND DEGREE. WHAT WE  
6 HAVE IS MURDER, AND MANSLAUGHTER; THERE'S TWO  
7 MANSLAUGHTERS, VOLUNTARY AND INVOLUNTARY. BUT LET'S TALK  
8 ABOUT MURDER. MURDER IS, YOU KNOW, IT'S CALLED A HEART  
9 DEVOID, IT'S A KILLING OF A HEART DEVOID OF ALL SOCIAL  
10 DUTY, FATALLY BENT ON MISCHIEF. IT'S NOT SELF-DEFENSE,  
11 IT'S NOT YOU'RE INSANE. IT'S IN SHORT, VERY QUICK AND  
12 DIRTY, YOU DID IT, MEANT TO DO IT. THAT'S WHAT MURDER IS.  
13 YOU ON THE SAME PAGE ON THAT?

14 A YES, SIR.

15 Q NOW, NOT ALL MURDERS ARE DEATH PENALTY CASES. HERE  
16 IS WHY. ONE OF THE THINGS YOU HAVE TO HAVE IS ANOTHER  
17 VERY SERIOUS CRIME AT THE SAME TIME. MURDER SOMEBODY  
18 WHILE YOU ARMED ROB, MURDER SOMEBODY DURING RAPE, MURDER  
19 SOMEBODY DURING KIDNAPPING. MY QUESTION TO YOU IS THIS.  
20 UNDERSTANDING THAT DEFINITION OF MURDER, AND BEFORE YOU  
21 WOULD BE ASKED TO DECIDE BETWEEN LIFE OR DEATH, YOU WOULD  
22 HAVE HAD TO HAVE CONVICTED THE PERSON OF MURDER AND  
23 ANOTHER VERY SERIOUS CRIME. OKAY?

24 SOME PEOPLE, ONCE THEY HEAR MURDER, ANOTHER SERIOUS  
25 CRIME, THEY SAY, "LOOK, YOU KNOW, AS FAR AS I'M CONCERNED,

1     THERE'S ONLY ONE PUNISHMENT FOR THAT PERSON."   OKAY.   ARE  
2     YOU ONE OF THOSE KIND OF PEOPLE?

3     A     NO, SIR, I WOULDN'T BE.

4     Q     LET ME ASK YOU THIS QUESTION.   COULD YOU CONSIDER OR  
5     SEE YOURSELF SENTENCING SOMEONE TO LIFE, KNOWING THAT  
6     THEY'RE GUILTY OF MURDER AND ANOTHER VERY SERIOUS CRIME?

7     A     THAT'S A VERY HARD QUESTION.   I WOULD HAVE TO SAY I  
8     WOULD CONSIDER IT.   I COULDN'T SAY ONE WAY OR ANOTHER  
9     RIGHT NOW.

10    Q     YOU UNDERSTAND I'M NOT ASKING FOR A COMMITMENT?

11    A     YES, SIR.

12    Q     BUT I HOPE YOU -- I HOPE YOU CAN APPRECIATE THIS.  
13    YOU KIND OF SHARED WITH ME YOU COULD CONSIDER IT; BUT NOT  
14    MANY PEOPLE OR VERY FEW PEOPLE WOULDN'T CONSIDER IT.   MY  
15    QUESTION TO YOU IS THIS THEN.   COULD YOU GIVE IT REALLY,  
16    IN YOUR HEART OF HEARTS, COULD YOU GIVE IT MEANINGFUL  
17    CONSIDERATION?

18    A     YES, I WOULD.   I COULD.

19    Q     OKAY.   IN YOUR MIND IS LIFE IN PRISON A SERIOUS  
20    PUNISHMENT FOR A MURDER AND ANOTHER VERY SERIOUS CRIME?

21    A     I THINK THAT IT IS.   MY, PERSONALLY -- IF I HAD BEEN  
22    CONVICTED OF MURDER, IT WOULDN'T MATTER ONE WAY OR THE  
23    OTHER LIFE IN PRISON OR DEATH WOULD BE ABOUT THE SAME TO  
24    ME IN MY OPINION.   SO, I WOULD JUST HAVE TO JUST WAIT  
25    WHERE IT GOES.

1 Q LET ME ASK YOU THIS QUESTION. IN A CAPITAL CASE THE  
2 GOVERNMENT, JUST LIKE IN THE FIRST PHASE, THEY GET TO GO  
3 FIRST IN THE SECOND PHASE. ALL RIGHT. AND THEY GET TO  
4 PUT UP ALL THEIR STUFF. AND THEN THE DEFENSE IF THEY  
5 CHOOSE TO, CAN PUT UP STUFF. YOU FOLLOW ME? MY QUESTION  
6 TO YOU IS THIS. WOULD YOU AGREE WITH ME THAT A FAIR JUROR  
7 WOULD BE SOMEONE WHO -- LET'S TALK ABOUT WHAT YOU'RE  
8 LIKELY TO HEAR IN ANY CAPITAL CASE. I MEAN, I'M TALKING  
9 HEARING HEART WRENCHING TESTIMONY FROM THE FAMILIES OF THE  
10 VICTIM. ALL RIGHT? AND IT'S CALLED EVIDENCE OF  
11 AGGRAVATION. IN ALL CANDOR, IT'S BASICALLY EVERYTHING  
12 ALLOWED UNDER THE LAW THAT'S BAD ABOUT THE DEFENDANT. DO  
13 YOU FOLLOW ME?

14 A YES, SIR.

15 Q OKAY. MY QUESTION TO YOU IS THIS. WOULD YOU AGREE  
16 WITH ME THAT A FAIR JUROR WOULD BE ONE WHO WOULD LISTEN TO  
17 THAT, GIVE IMPACT EVIDENCE, DO YOU THEIR ABILITY TO COME  
18 IN AND TALK ABOUT THAT?

19 A THAT'S THEIR JOB.

20 Q WHAT?

21 A TO BE FAIR, TO TAKE ALL --

22 Q JUST LET ME FINISH. AND EVEN WHEN THEY'RE HEARING  
23 ALL OF THAT, IF THEY FIND THEMSELVES STARTING TO MAKE UP  
24 THEIR MIND, TO MAKE A CONSCIOUS DECISION THAT THE DEFENSE  
25 MAY HAVE SOMETHING COMING AND THEY CAN'T MAKE UP THEIR

1 MIND UNTIL IT'S OVER. DO YOU FOLLOW ME?

2 A RESTATE THAT PLEASE.

3 Q I TALKED ABOUT THE VICTIM IMPACT, THE GOVERNMENT IS  
4 PUTTING UP ALL THAT STUFF, HORRIBLE STUFF, ABOUT THE  
5 DEFENDANT. OKAY? VICTIM IMPACT EVIDENCE. AS THE JURORS  
6 SITTING IN THE JURY BOX AND THEY'RE HEARING THE GOVERNMENT  
7 SIDE OF THE PENALTY PHASE. IF THEY START TO MAKE UP THEIR  
8 MIND ABOUT THE PUNISHMENT, THAT THEY MAKE A CONSCIOUS  
9 DECISION, "NO, I CAN'T MAKE UP MY MIND UNTIL I'VE HEARD  
10 WHETHER THE DEFENSE HAS GOT ANYTHING TO SAY."

11 A THAT'S THE WAY I WOULD BE. I WOULD HAVE TO HEAR BOTH  
12 SIDES COMPLETELY.

13 Q BUT YOU WOULD WAIT?

14 A YES, SIR.

15 Q THAT'S WHAT I'M GETTING AT. YOU FOLLOW WHAT I'M  
16 SAYING?

17 A I WOULD DEFINITELY WAIT UNTIL THE END.

18 Q I HAVE TO TELL YOU, I BELIEVE KNOW THE ANSWER TO THIS  
19 QUESTION. JUST OUT OF A SENSE OF FAIRNESS, I'VE ASKED  
20 EVERYBODY ELSE, I HAVE TO ASK. IF YOU WERE IN THE JURY  
21 ROOM, 11 PEOPLE, YOU ALL HEARD ALL THE EVIDENCE, BOTH  
22 SIDES, AND YOU MADE UP YOUR MIND. OKAY. AND YOU TALKED  
23 TO THE JURORS, YOU KNOW, JUST LIKE THE JURY IS SUPPOSED TO  
24 DO. YOU THINK YOU'VE APPLIED THE FACTS TO THE LAW.  
25 YOU'VE DISCUSSED IT WITH THE JURORS, BUT IN YOUR

1 DISCUSSION, YOU MADE UP YOUR MIND WHAT THE APPROPRIATE  
2 PUNISHMENT IS FOR THAT PERSON ON THAT DAY. WOULD YOU  
3 CHANGE YOUR MIND JUST TO GO ALONG WITH OTHER 11?

4 A NO, SIR.

5 Q I TOLD YOU. NOW, LET ME ASK YOU THIS QUESTION. LET  
6 ME FLIP IT AROUND. IF YOU HAPPENED TO BE IN THE MAJORITY,  
7 ONE PERSON IS IN THE MINORITY, OKAY? AND YOU'VE ALL  
8 TALKED ABOUT IT. WOULD YOU BE ABLE TO AFFORD THEIR  
9 OPINION THE RESPECT AS EVERYBODY ELSE'S JUST BECAUSE  
10 THEY'RE IN THE MINORITY?

11 A YES, SIR.

12 Q I BELIEVE THAT'S IT. BUT LET ME GO TOUCH BASE. IS  
13 THAT FAIR?

14 THE COURT: MR. MOYER, YOU HAVE ANY QUESTIONS?

15 MR. MOYER: JUST A COUPLE.

16 BY MR. MOYER:

17 Q I HAVE A COUPLE OF QUESTIONS FOR YOU. MY NAME IS  
18 MARK MOYER, I'M AN ASSISTANT SOLICITOR HERE IN GREENVILLE  
19 COUNTY. I'M PARTICIPATING IN THE PROSECUTION OF THIS CASE  
20 ALONG WITH THE SOLICITOR, BOB ARIAIL, WHO IS THE SOLICITOR  
21 OF GREENVILLE AND PICKENS COUNTIES; AND HIS DEPUTY,  
22 MRS. BETTY STROM. JUST A COUPLE OF QUESTIONS I WANT TO  
23 ASK YOU ABOUT.

24 YOU WERE ASKED ABOUT IF YOU WERE BACK IN THE JURY  
25 ROOM AND YOU HAPPENED TO TAKE WHAT WE MIGHT CALL A

1 MINORITY POSITION. TEN OR ELEVEN WERE TAKING THE POSITION  
2 OTHER THAN THE ONE YOU HAD. YOU INDICATED YOU FEEL  
3 STRONGLY THAT YOU COULD HOLD YOUR POSITION. YOU ALSO  
4 INDICATED IF YOU WERE IN THE MAJORITY, YOU WOULD RESPECT  
5 VIEWS AND NOT TRY TO BROWBEAT THOSE IN MINORITY.

6 A I BELIEVE I WOULD.

7 Q LET ME ASK YOU THIS. YOU UNDERSTAND THE JURY PROCESS  
8 REQUIRES GIVE AND TAKE WITH ONE ANOTHER?

9 A YES, SIR.

10 Q YOU UNDERSTAND IT INVOLVES EXCHANGE OF VIEWS AND  
11 VIEWPOINTS?

12 A YES, SIR, DELIBERATIONS.

13 Q AND YOU WOULDN'T HESITATE TO DO THAT?

14 A NO, NOT AT ALL.

15 Q YOU WOULDN'T HESITATE TO EXPLAIN WHY YOU HOLD A VIEW  
16 WITH THE OTHER JURORS AND THEY TELL YOU WHY THEY HOLD  
17 THEIR VIEWS?

18 A YES, SIR.

19 Q IF FINALLY, SIR, UNDER SOUTH CAROLINA LAW IF YOU AND  
20 THE OTHER 11 JURORS WOULD HAPPEN TO DECIDE THAT DEATH  
21 PENALTY IS THE APPROPRIATE SENTENCE IN THIS CASE, UNDER  
22 SOUTH CAROLINA LAW, YOU AND THOSE OTHER 11 PEOPLE WOULD  
23 SIGN A FORM, AND IT WOULD BE A FORM INDICATING WHAT YOUR  
24 SENTENCE WAS, IT WAS A SENTENCE OF DEATH, YOU'D HAVE NO  
25 PROBLEM WITH THAT?

1       A       NONE WHATSOEVER.

2       MR. MOYER:   THANK YOU.

3       THE COURT:   ANY MOTIONS?

4       MR. MOYER:   NONE FOR THE STATE, YOUR HONOR.

5       THE COURT:   MR. WATSON, I WANT TO THANK YOU FOR

6       ANSWERING THE QUESTIONS.   HOLD ON JUST ONE SECOND.   I WANT

7       TO TELL YOU WHAT'S GOING TO HAPPEN.   WE'RE GOING TO DRAW A

8       POOL OF 40 JURORS.   YOU'RE GOING TO BE PART OF THAT POOL.

9       FROM THE 40 JURORS WE'RE GOING TO DRAW 12 JURORS AND THREE

10      ALTERNATES.   DO YOU UNDERSTAND?

11      PROSPECTIVE JUROR:   YES, SIR.

12      THE COURT:   THE BAILIFF IS GOING TO GIVE YOU A SLIP

13      OF PAPER WITH A PHONE NUMBER.   CALL THAT NUMBER TONIGHT.

14      THERE WILL BE A MESSAGE ON THERE TO EITHER CALL BACK IN

15      THE MORNING OR BE HERE IN THE MORNING.   FOLLOW THE

16      DIRECTIONS.   OKAY?

17      PROSPECTIVE JUROR:   YES.

18      THE COURT:   ALL RIGHT.   GO WITH THE BAILIFF.   THANK

19      YOU.

20      (PROSPECTIVE JUROR EXITS.)

21      THE COURT:   ALL RIGHT.   WE'RE GOING TO TAKE ABOUT A

22      TEN-MINUTE BREAK.

23      (BRIEF RECESS TAKEN.)

24      THE COURT:   EVERYBODY READY?

25      MS. STROM:   THE STATE'S READY TO PROCEED.

1 THE COURT: WE'LL GET BONNIE KITTS IN HERE.

2 MS. STROM: I KNOW YOU READ THE QUESTIONNAIRES, BUT I  
3 WANT TO POINTED OUT 75.

4 THE COURT: YEAH. I THINK THAT'S IN REFERENCE TO HER  
5 ANSWERS ON EVERYTHING ELSE, I PRESUME.

6 (PROSPECTIVE JUROR ENTERS.)

7 BONNIE S. KITTS, (WHITE  
8 FEMALE), HAVING BEEN PREVIOUSLY DULY SWORN, TESTIFIED AS  
9 FOLLOWS:

10 EXAMINATION

11 BY THE COURT:

12 Q MISS KITTS, DO YOU REMEMBER FILLING OUT THE  
13 QUESTIONNAIRE A FEW MONTHS AGO?

14 A YES.

15 Q LET ME HAND THAT TO YOU, PLEASE, MA'AM. TO YOUR  
16 KNOWLEDGE WAS THE QUESTIONNAIRE CORRECT WHEN YOU FILLED IT  
17 OUT?

18 A WHEN I FILLED IT OUT.

19 Q LET ME SAY THIS TO YOU. NOBODY IS GOING TO FUSS AT  
20 YOU ABOUT YOUR VIEWPOINTS ON ANYTHING. WE'RE GOING TO ASK  
21 YOU SOME QUESTIONS ABOUT WHAT YOU THINK, YOUR VIEWPOINTS  
22 ON DIFFERENT SUBJECT MATTERS. IT DOESN'T MATTER WHAT YOUR  
23 OPINION IS, WE JUST WANT TO KNOW WHAT YOUR OPINION IS.  
24 NOBODY IS GOING TO COMPLAIN OR FUSS AT YOU ABOUT YOUR  
25 OPINION. YOU'RE ENTITLED TO YOUR OPINION. THAT'S FINE.



1 A YES, SIR.

2 Q WE'RE JUST TRYING TO DETERMINE WHAT THAT IS. NOT  
3 TRYING TO CHALLENGE IT. YOU'RE PERFECTLY ENTITLED TO YOUR  
4 VIEWPOINTS ON EVERYTHING YOU ANSWERED. ALL RIGHT? CALM  
5 DOWN. THIS IS NOT TELEVISION. THERE'S NOT GOING TO BE  
6 ANYBODY SITTING IN FRONT OF YOU YELLING AT YOU, FUSSING AT  
7 YOU. WE'RE JUST GOING TO ASK YOU A FEW QUESTIONS.

8 A OKAY.

9 Q DO YOU UNDERSTAND?

10 A YES, SIR.

11 Q WOULD YOU LOOK AT YOUR QUESTIONNAIRE AND TURN TO PAGE  
12 TEN. IF YOU WOULD. QUESTION NUMBER 64.

13 A OKAY.

14 Q BASICALLY YOU WROTE THE ANSWER TO THE 64, YOU SAID,  
15 "I BELIEVE AS A CHRISTIAN I HAVE A RESPONSIBILITY TO SHARE  
16 CHRIST. CAPITAL PUNISHMENT WOULD BE HARD FOR ME. I WOULD  
17 ALWAYS WONDER IF I MADE THE RIGHT DECISION. IT WOULD  
18 ALWAYS BE A FEAR I MISSED SOMETHING." THAT'S YOUR VIEW  
19 CONCERNING CAPITAL PUNISHMENT?

20 A YES.

21 Q FLIP OVER TO THE BACK OF PAGE 75 ON THE VERY BACK.  
22 QUESTION 75. YOU SAID, "I'M REALLY SCARED. IT WAS HARD  
23 FOR ME TO FILL OUT. TOOK ME ALMOST THREE DAYS." ALL  
24 RIGHT. WERE YOU SCARED AND IT WAS HARD TO FILL OUT  
25 BECAUSE OF YOUR VIEWPOINT ON THE DEATH PENALTY OR SOME

1 OTHER REASON YOU WERE SCARED?

2 A THAT AND THE FACT THAT THE VIEW ON THE DEATH PENALTY,  
3 BECAUSE I DON'T KNOW WHAT'S RIGHT. I'M A LITTLE BIT  
4 CONFUSED ON WHAT I BELIEVE, YOU KNOW, IS RIGHT. BECAUSE I  
5 BELIEVE THE BIBLE AND IT SAYS TWO DIFFERENT THINGS. AND  
6 I'M NOT -- I DON'T KNOW IT WELL ENOUGH TO KNOW IF WHAT I'M  
7 DOING IS THE RIGHT THING.

8 Q ALL RIGHT. WELL, CONCERNING YOUR VIEWPOINT ON THE  
9 DEATH PENALTY, CAN YOU THINK OF -- LET ME REPHRASE. LET  
10 ME ASK YOU THIS QUESTION. HAVING READ YOUR ANSWERS TO  
11 QUESTION 64 AND EXPLAINING TO ME WHAT YOU MEAN WHEN YOU  
12 SAID YOU WERE AFRAID. DO YOU THINK IF YOU EVEN BELIEVE  
13 SOMEONE DESERVED THE DEATH PENALTY, DO YOU THINK YOU COULD  
14 EVER VOTE TO GIVE THE DEATH PENALTY?

15 A I DON'T KNOW. BECAUSE I DON'T WANT TO BE HELD  
16 ACCOUNTABLE. I DON'T WANT TO HAVE TO STAND BEFORE THE  
17 COMMANDMENT ONE, "THOU SHALT NOT KILL." I ALWAYS BELIEVED  
18 IF YOU'RE THINKING IT, YOU'RE SIGNING IT. AND I THINK  
19 THAT'S A SIN TO GO AGAINST ONE OF THE TEN COMMANDMENTS.  
20 GOD SAYS, "THOU SHALT NOT KILL."

21 I'M CONFUSED. IF A COMMANDMENT IS THE SAME, IF  
22 THERE'S A DIFFERENCE IN CORPORAL PUNISHMENT AND THE  
23 COMMANDMENT OF THE LAW.

24 Q WE ARE, WE'RE NOT TALKING ABOUT CORPORAL PUNISHMENT,  
25 TALKING ABOUT CAPITAL PUNISHMENT.

1 A YEAH. I'M CONFUSED THERE. I DON'T KNOW IF THAT'S  
2 THE SAME THING. IT DOESN'T PUT ANY CIRCUMSTANCE.

3 Q I DON'T WANT TO DEBATE CHRISTIANITY AND YOUR VIEWS.

4 A THAT'S WHERE I'M AT.

5 Q I UNDERSTAND. IF I'M UNDERSTANDING YOU CORRECTLY,  
6 THE REASON YOU WOULD BE AFRAID TO VOTE ON JURY FOR DEATH  
7 PENALTY, YOU AFRAID YOU WOULD BE SIGNING, IS THAT CORRECT,  
8 WHAT I HEAR?

9 A I WOULD BE AFRAID WHEN THE DAY COMES I HAVE TO STAND  
10 BEFORE THE LORD AND HE ASKED ME WHY DID THIS WHEN IT  
11 CLEARLY STATES THOU SHALT NOT KILL. I MIGHT HAVE A  
12 PROBLEM EXPLAINING.

13 Q YOU THINK IT'S VIOLATING THE TEN COMMANDMENTS BY  
14 SITTING ON A JURY OF 12 PEOPLE AND GIVING THE DEATH  
15 PENALTY?

16 A I BELIEVE SO AT THIS POINT. BECAUSE I DON'T KNOW  
17 WHAT I BELIEVE. I DON'T KNOW WHAT THE BIBLE SAYS. I BEEN  
18 SEARCHING AND LOOKING THROUGH, I JUST HAVEN'T COME TO  
19 WHERE GOD SAYS THAT THAT'S OKAY.

20 THE COURT: DOES ANYBODY WANT TO ASK HER SOME  
21 QUESTIONS ON THIS SUBJECT AREA?

22 MS. STROM: NO, SIR. I DON'T, KNOW I DO.

23 MR. MAULDIN: YOUR HONOR, I DO. AND IN LIGHT OF WHAT  
24 I BEEN DOING FIVE DAYS, I DO THINK I SHOULD.

25 THE COURT: I UNDERSTAND. BUT PLEASE BE AWARE OF --

1 MR. MAULDIN: TREAD CAREFULLY.

2 THE COURT: RIGHT.

3 BY MR. MAULDIN:

4 Q MISS KITTS, MY NAME IS JOHN MAULDIN. I'M THE PUBLIC  
5 DEFENDER. AND I, ALONG WITH MARK MACDOUGALL AND BILL  
6 NETTLES, WHO HAS STEPPED OUT OF THE ROOM WITH COLLEEN  
7 COYLE, WHO HAS ALSO STEPPED OUT, REPRESENT CHRIS WILLIAMS.  
8 I KNOW YOU SAID YOU'RE SCARED AND NERVOUS. I WOULD BE,  
9 TOO. IT'S A LOT EASIER STANDING OVER HERE THAN SITTING  
10 OVER THERE. BEEN IN THIS FIVE DAYS, AND PEOPLE HAVE COME  
11 IN AND SAID, "I DON'T WANT TO BE HERE."

12 A IT'S NOT THAT. I JUST WANT TO MAKE SURE YOU'RE  
13 PICKING THE RIGHT PERSON TO DO WHAT YOU WANT DONE.

14 Q RIGHT. NOW, I WANT TO ASK --

15 THE COURT: LET ME INTERJECT ONE THING. WE'RE NOT  
16 TRYING TO PICK THE RIGHT PERSON TO DO WHAT WE WANT DONE.  
17 THAT'S NOT THE PURPOSE OF THESE QUESTIONS. THESE  
18 QUESTIONS ARE JUST SORT OF TO GET YOUR VIEWPOINTS ON THE  
19 DEATH PENALTY AND HOW YOU, WHAT YOU THINK ABOUT THE DEATH  
20 PENALTY. ALL RIGHT? GO AHEAD.

21 BY MR. MAULDIN:

22 Q MISS KITTS, THE PURPOSE OF THE PROCESS WE'RE GOING  
23 THROUGH PRETRIAL, THE TRIAL HASN'T STARTED, IS TO MAKE  
24 SURE THE PEOPLE FROM WHICH THE JURY IS CHOSEN MEET CERTAIN  
25 QUALIFICATIONS. SO, THIS IS NOT -- YOUR VIEWS ARE NOT ON

1 TRIAL. AND WE WANT YOU TO BE AS HONEST AS YOU CAN BE  
2 ABOUT WHAT YOUR VIEWS REALLY ARE, WHAT YOU FEEL IN YOUR  
3 HEART YOU REALLY ARE. SO THE JUDGE CAN DECIDE IF YOU  
4 SHOULD BE IN THAT POOL. ALL RIGHT?

5 THE FIRST THING TO REMEMBER IS THAT IN SOUTH CAROLINA  
6 THERE IS NO REQUIREMENT THAT THE DEATH PENALTY EVER BE  
7 IMPOSED. IN OTHER WORDS, THERE'S NO -- NO MATTER WHAT YOU  
8 COMMITTED, WHAT CRIME YOU COMMIT, THERE'S NEVER AN  
9 AUTOMATIC DEATH PENALTY. THERE'S ALWAYS A CONSIDERATION  
10 OF A SECOND OPTION. DO YOU FOLLOW ME?

11 A UH-HUH.

12 Q SO, IT DOESN'T MATTER HOW HORRIBLE OR VICIOUS OR  
13 GROSS OR WHATEVER CRIME OF MURDER MIGHT BE, THERE WOULD  
14 ALSO ALWAYS BE THE ALTERNATIVE CONSIDERATION OF EITHER A  
15 LIFE SENTENCE OR A DEATH SENTENCE FOR WHATEVER THE JURY  
16 WANTED TO DO.

17 THE SECOND THING I WOULD WANT YOU TO BE VERY CLEAR ON  
18 IS THAT THIS COURT RECOGNIZES AND RESPECTS YOUR VIEWS THAT  
19 THE -- THE JUDGE IS THE GIVER OF THE LAW IN THIS  
20 COURTROOM. YOU'VE TALKED ABOUT THE GIVER OF A MUCH  
21 BROADER LAW. AND TO THE EXTENT THAT CONFLICTS, THAT'S  
22 KIND OF WHERE WE GOT TO MAKE SURE WE'RE COMFORTABLE. THE  
23 JUDGE SAYS, "HERE IS WHAT THE LAW IN SOUTH CAROLINA IS."  
24 YOU'RE A CITIZEN SOUTH CAROLINA, YOU'RE A CITIZEN OF  
25 GREENVILLE COUNTY, YOU PAY TAXES IN SOUTH CAROLINA, DO ALL

1       THESE THINGS TO BE A CITIZEN.   AND THAT'S WHY YOU'RE ON  
2       JURY.   DO YOU FOLLOW ME?

3       A       UH-HUH.

4       Q       NOW, LET'S TALK ABOUT WHETHER INHERENT CONFLICT  
5       BETWEEN HOW YOU FEEL ABOUT CAPITAL PUNISHMENT AND WHAT THE  
6       JUDGE HAS TO DO IN TERMS OF QUALIFYING A JURY.   AND I  
7       REFER TO YOUR QUESTIONNAIRE, A COUPLE OF QUESTIONS.   THE  
8       FIRST QUESTION OF COURSE IS 68, SAYS, "I COULD NEVER UNDER  
9       ANY CIRCUMSTANCES RETURN A VERDICT OF GUILT."   SIXTY-SEVEN  
10      YOU SAY THAT YOU HAVE HAD CONVERSATIONS ABOUT YOUR VIEW  
11      WITH YOUR FAMILY.   SIXTY-SEVEN YOU TALK ABOUT IT?

12           THE COURT:   MISS KITTS.   IF YOU WOULD ANSWER YES OR  
13      NO.   THIS LADY IS TAKING EVERYTHING DOWN, SHE MIGHT NOT  
14      SEE THE HEAD SHAKE OR SHE MIGHT GET CONFUSED WHETHER YOUR  
15      HEAD IS GOING UP AND DOWN OR LEFT AND RIGHT.   IF YOU  
16      WOULD, PLEASE, SAY YES OR NO.

17      A       YES, SIR.

18      Q       QUESTION 64, YOU SAY THAT CAPITAL PUNISHMENT WOULD BE  
19      HARD FOR ME.   NOW, AND I TELL YOU IT SHOULD BE HARD FOR  
20      ANYBODY.   BUT YOU'RE SAYING IT WOULD BE HARD, "HARD TO  
21      ME."   I DIDN'T READ THAT AS BEING IT'S JUST IMPOSSIBLE,  
22      IT'S JUST HARD TO DO.   AND THEN I LOOK OVER ON QUESTION  
23      57, THIS IS PAGE EIGHT.

24           AND THIS IS THE POINT OF MY QUESTION.   QUESTION 57,  
25      YOU SAY SUSAN SMITH WAS A CASE THAT DREW YOUR ATTENTION.

1 YOU SAY WHEN SHE WAS ON THE NEWS TELLING HER STORY, SHE  
2 DIDN'T SEEM TOO UPSET TO HAVE JUST LOST HER CHILDREN. AND  
3 KNOWING WHAT WE KNOW NOW, SHE KNEW THOSE CHILDREN WERE  
4 DEAD.

5 A YEAH, I REMEMBER THAT VERY CLEARLY.

6 Q JUST ABSOLUTELY HORRIBLE. AND I WANT TO ASK YOU THIS  
7 QUESTION, MISS KITTS. WHEN THAT VERDICT IN HER CASE CAME  
8 BACK AND THEY GAVE HER LIFE IN PRISON, DID THAT SURPRISE  
9 YOU?

10 A NO, NOT REALLY.

11 Q DID YOU THINK THAT SHE DESERVED THE DEATH PENALTY?

12 A NO.

13 Q ALL RIGHT. THEN, I JUST WANTED TO DOUBLE CHECK ON  
14 THAT. THE FACT OF THE MATTER IS, YOU DON'T BELIEVE YOU  
15 COULD EVER ACTUALLY IMPOSE THE DEATH PENALTY NO MATTER HOW  
16 HORRIBLE IF A TERRORIST DID A HORRIBLE BOMBING OR  
17 SOMETHING, YOU COULDN'T SIGN THE VERDICT OF A DEATH  
18 PENALTY?

19 A NO, SIR.

20 Q ALL RIGHT. THANK YOU, JUDGE.

21 THE COURT: ANYTHING FOR THE STATE?

22 MS. STROM: MOTION.

23 THE COURT: ANY ARGUMENTS ON THE MOTION, MR. MAULDIN?

24 MR. MAULDIN: NO, SIR. NO OBJECTION.

25 THE COURT: MRS. KITTS, I WANT TO THANK YOU FOR

1 FILLING OUT THE QUESTIONNAIRE. AND I UNDERSTAND YOU  
2 TRYING TO TRICK THAT FOR YOU OWN WELL BEING, BUT FOR THE  
3 PURPOSES OF THIS CASE, I'M GOING TO FIND YOU'RE NOT  
4 QUALIFIED.

5 PROSPECTIVE JUROR: SORRY.

6 THE COURT: NO PROBLEM. DON'T FEEL BAD ABOUT IT. NO  
7 REASON, ABSOLUTELY NONE. ALL RIGHT. I MEAN, WE'VE SEEN  
8 PEOPLE COME IN HERE SAY I CAN'T EVER GIVE THE DEATH  
9 PENALTY. AND WE'VE SEEN PEOPLE COME IN AND SAY, YOU OUGHT  
10 TO SHOOT THEM TODAY. SO, IT'S THE WHOLE SPECTRUM. ALL  
11 RIGHT. DON'T FEEL BAD. THERE'S NOTHING FOR YOU TO FEEL  
12 BAD ABOUT. ABSOLUTELY NOTHING, YOU'RE ENTITLED TO YOUR  
13 VIEWPOINTS. I RESPECT THOSE VIEWPOINTS. OKAY? I HOPE  
14 YOU HAVE A GOOD WEEKEND. OKAY?

15 PROSPECTIVE JUROR: YES, SIR.

16 THE COURT: THANK YOU VERY MUCH.

17 (PROSPECTIVE JUROR EXITS.)

18 MOTION GRANTED.

19 MR. MAULDIN: YES, SIR. I THINK THE NEXT ONE IS  
20 EDWARDS. I'VE GOT A NOTE --

21 THE COURT: SOLICITOR, DO YOU HAVE AN NCI ON HIM?  
22 WAS THIS HIS MAIL FRAUD? FORTY-NINE, MAIL FRAUD IN 2003  
23 CONVICTED, IT DOESN'T SAY WHO. WAS IT HIM?

24 MS. STROM: I DID NOT HAVE A RAP SHEET ON THIS  
25 INDIVIDUAL.



1 THE COURT: I WANTED TO ASK BEFORE YOU BROUGHT HIM IN  
2 HERE. WHAT DO YOU WANT TO TELL ME?

3 MR. MAULDIN: I DIDN'T HAVE ONE. WE GOT A NOTE, WE  
4 GOT THIS LITTLE FORM WE USE REGARDING MEDICAL. AND HE  
5 SAYS --

6 THE COURT: LIVES WITH HIS ELDERLY PARENTS AND CARES  
7 FOR THEM IN --

8 MR. MAULDIN: NEED TO DETERMINE HARDSHIP BEFORE WE GO  
9 THROUGH 30 MINUTES.

10 THE COURT: WE'LL DO THAT. ANYTHING ELSE BEFORE WE  
11 BRING HIM IN HERE?

12 MS. STROM: NONE FOR THE STATE.

13 MR. MAULDIN: I DON'T THINK SO, JUDGE.

14 THE COURT: DO YOU ALL WANT TO AGREE TO HARDSHIP?  
15 HE'S GOT A DOCTOR'S EXCUSE SAYING HE'S THE ONLY ONE WHO  
16 CARES FOR HIS PARENTS. THERE'S A STATUTE THAT SAYS CARING  
17 FOR SOMEBODY OVER 65 YOU'RE ENTITLED TO BE EXCUSED. IT  
18 WAS PASSED LAST YEAR. IF YOU WANT TO AGREE TO IT, WE  
19 WON'T EVEN BRING HIM IN HERE. THERE'S A STATUTE PASSED  
20 LAST YEAR RIGHT ON THAT POINT.

21 MR. MAULDIN: WE DO MOVE THAT.

22 THE COURT: I'M NOT GOING TO FORCE YOU TO AGREE. BUT  
23 I'LL BRING HIM IN SO WE CAN QUESTION HIM ABOUT IT.

24 MS. STROM: I WOULD SAY LET'S QUESTION HIM ABOUT IT,  
25 YOUR HONOR.

1 THE COURT: ALL RIGHT. BRING HIM IN, PLEASE.

2 (PROSPECTIVE JUROR ENTERS COURTROOM.)

3 ALAN J. EDWARDS, (WHITE  
4 MALE), HAVING BEEN PREVIOUSLY DULY SWORN, TESTIFIED AS  
5 FOLLOWS:

6 EXAMINATION

7 BY THE COURT:

8 Q I HANDED YOU A QUESTIONNAIRE. DO YOU REMEMBER  
9 FILLING IT OUT?

10 A YES, SIR.

11 Q LET ME ASK YOU ATTACHED TO THAT IS A DOCTOR'S  
12 STATEMENT. APPARENTLY YOU CARE FOR YOUR TWO ELDERLY  
13 PARENTS. IS THAT CORRECT?

14 A YES.

15 Q HOW OLD ARE THEY?

16 A MY DAD IS ABOUT 73 AND MY MOM'S 68, 69.

17 Q DO YOU LIVE WITH THEM?

18 A YES, I DO.

19 Q WHAT TYPE -- WHAT KIND OF HEALTH ARE THEY IN?

20 A MY DAD'S GOT CONGESTIVE HEART FAILURE AND A GOOD BIT  
21 OF MEMORY LOSS.

22 Q HOW ABOUT YOUR MOTHER?

23 A SHE'S OKAY.

24 Q DO YOU HAVE TO BE WITH THEM EVERYDAY?

25 A NOT REALLY.

1 Q YOU DON'T?

2 A (MOTIONS WITH HANDS.)

3 Q CAN YOUR MOTHER CARE FOR YOUR FATHER IF YOU AREN'T  
4 THERE FOR FOUR OR FIVE DAYS --

5 A YES.

6 Q -- WITHOUT ANY PROBLEM? CAN SHE DRIVE?

7 A YES.

8 Q AND SHE'S IN GOOD HEALTH. IT'S JUST YOUR FATHER'S  
9 CONGESTIVE HEART FAILURE; IS THAT CORRECT?

10 A WELL, HER HEALTH ISN'T REAL, GOOD BUT IT'S OKAY.

11 Q WHAT'S WRONG WITH HER?

12 A CHRONIC LUNG PROBLEMS AND STUFF. HIGH BLOOD  
13 PRESSURE.

14 Q IS THERE ANYBODY ELSE THAT CAN COME IN AND CARE FOR  
15 HER IF NEED BE? IF YOU'RE NOT THERE FOR FOUR OR FIVE  
16 DAYS?

17 A YES.

18 Q WHO?

19 A MY SISTER.

20 Q YOUR SISTER. IF YOU ARE ON THE JURY, CAN YOU MAKE  
21 ARRANGEMENTS TO DO THAT?

22 A YES.

23 Q OKAY. ALL RIGHT. IF YOU WOULD, WOULD YOU TURN TO  
24 PAGE TEN ON YOUR QUESTIONNAIRE? DID YOU FIND PAGE TEN?

25 A YES.

1 Q QUESTION 64. IT SAYS, "BRIEFLY DESCRIBE YOUR  
2 ATTITUDES AND BELIEFS CONCERNING CAPITAL PUNISHMENT? DO  
3 YOU SEE IT?

4 A YES.

5 Q AND YOU SAID, "BELIEVE IN IT FOR CERTAIN CASES." CAN  
6 YOU EXPLAIN TO ME WHAT YOU MEAN BY THAT?

7 A MURDER CASES, CHILD MOLESTATION, AND A FEW OTHER,  
8 LIKE HIGHER DRUG CASES.

9 Q ALL RIGHT. DO YOU UNDERSTAND IN SOUTH CAROLINA THE  
10 ONLY CRIME THAT WOULD BE PUNISHED BY DEATH IS MURDER AND  
11 NOT ALL MURDERS ARE PUNISHABLE BY DEATH. DO YOU  
12 UNDERSTAND?

13 A YES.

14 Q HAS TO BE SOME TYPE OF AGGRAVATED CIRCUMSTANCES WITH  
15 THE MURDER, AND THAT'S LAID OUT BY STATUTE, NUMEROUS  
16 AGGRAVATING CIRCUMSTANCES. DO YOU UNDERSTAND?

17 A YES, SIR.

18 Q NOW, YOU'VE SAID CHILD MOLESTATION. THAT WOULD NEVER  
19 BE -- THAT WOULD NEVER QUALIFY FOR MURDER ALONE. DO YOU  
20 UNDERSTAND?

21 A YES.

22 Q AND YOU SAID FOR MURDERS. DO YOU MEAN THAT YOU WOULD  
23 GIVE THE DEATH PENALTY IN ALL MURDER CASES?

24 A PROBABLY BE PRETTY CLOSE.

25 Q PRETTY CLOSE. IF YOU WOULD, TURN TO PAGE 11 ON YOUR

1 QUESTIONNAIRE.

2 A OKAY.

3 Q YOU SAID QUESTION NUMBER, I BELIEVE, 68. "I BELIEVE  
4 THAT THE DEATH PENALTY IS THE APPROPRIATE FORM OF  
5 PUNISHMENT IN SOME MURDER CASES, AND I COULD RETURN A  
6 VERDICT OF DEATH IF I BELIEVED IT WAS WARRANTED IN A  
7 PARTICULAR CASE." DEPENDING UPON THE EVIDENCE ALONG WITH  
8 WHAT I LEARNED ABOUT THE DEFENDANT?

9 A YES.

10 Q IS THAT YOUR BELIEF TODAY? DO YOU STILL BELIEVE THAT  
11 TODAY?

12 A YEAH.

13 Q WHOSE TURN IS IT, SOLICITOR'S TURN?

14 MR. MAULDIN: I DON'T KNOW.

15 MS. STROM: I THINK IT IS HIS.

16 BY MR. MAULDIN:

17 Q I WANT TO ASK YOU A FEW QUESTIONS, MR. EDWARDS. IT'S  
18 BEEN A LONG TIME, FIVE DAYS. I'M GOING TO TRY TO MAKE  
19 THIS A LITTLE SHORT HERE. IF I UNDERSTOOD, WHEN YOU CAME  
20 IN BEFORE THE JUDGE DESCRIBED THE LAW IN SOUTH CAROLINA TO  
21 YOU, YOU SAID THAT YOU BELIEVED IN CAPITAL PUNISHMENT IN  
22 CERTAIN CASES, AND YOU SAID MURDER CASES, CHILD  
23 MOLESTATION, AND THEN I WROTE DOWN, AND I WAS HAVING A  
24 HARD TIME HEARING; BUT I THOUGHT YOU SAID SOME SORT OF  
25 PRIOR DRUG CASES.

1 A BIG DRUG CASES.

2 Q I THOUGHT THAT'S WHAT YOU SAID. BIG DRUG CASES AND  
3 THEN WERE THERE ANY OTHERS THAT WHEN YOU CAME IN YOU  
4 THOUGHT CAPITAL PUNISHMENT APPLIED TO? ANY OTHER CASES  
5 YOU THOUGHT PRIOR TO COMING IN HERE THAT CAPITAL  
6 PUNISHMENT APPLIED TO IN SOUTH CAROLINA?

7 A NOT OFF HAND.

8 Q SO, YOUR VIEW, THERE WERE THREE GROUPS YOU THOUGHT  
9 CAPITAL PUNISHMENT SHOULD APPLY TO. MURDER CASES, CHILD  
10 MOLESTATION, AND BIG DRUG CASES.

11 A WELL, THERE IS ONE MORE.

12 Q ALL RIGHT.

13 A RAPE.

14 Q LET ME WRITE THAT DOWN, RAPE CASES. AND WHEN THE  
15 JUDGE TOLD YOU THAT CAPITAL PUNISHMENT DID NOT APPLY TO  
16 CHILD MOLESTATION CASES, HE DIDN'T MEAN IT DOESN'T APPLY  
17 TO BIG DRUGS CASES, EITHER, DOESN'T APPLY TO RAPE CASES.  
18 SO THAT'S NEWS TO YOU, RIGHT. YOU DIDN'T KNOW WHEN YOU  
19 CAME IN HERE?

20 A I DIDN'T KNOW IT OFFHAND, NO.

21 Q AND THEN HE SAID, WOULD IT BE YOUR IMPRESSION THAT  
22 CAPITAL PUNISHMENT WOULD BE APPROPRIATE IN ALL MURDER  
23 CASES AND YOUR ANSWER WAS, PRETTY CLOSE?

24 A MOST OF THEM, YES.

25 Q CAN YOU, JUST OFF THE TOP -- JUST OFF THE TOP OF YOUR

1 HEAD, IMAGINE -- AND I'M TRYING TO GET INTO HOW YOU FEEL,  
2 NOT WHAT THE LAW IS OR WHAT SOMEBODY ELSE TOLD YOU, I WANT  
3 TO KNOW HOW MR. EDWARDS FEELS ABOUT IT. CAN YOU IMAGINE,  
4 AND IF SO, DESCRIBE TO THE COURT A MURDER CASE THAT WHERE  
5 THE DEATH PENALTY IN YOUR VIEW WOULD NOT APPLY.

6 A THE ONLY THING I WOULD THINK WOULD BE MAYBE AN  
7 ASSISTED SUICIDE, WHERE THE PERSON WAS SICK AND WANTED YOU  
8 TO HELP. OTHER THAN THAT, I BELIEVE THE DEATH PENALTY  
9 SHOULD BE APPLIED FOR PRETTY MUCH THE REST OF THEM.

10 MR. MAULDIN: ALL RIGHT. JUST ONE MOMENT, PLEASE.

11 THANK YOU. APPRECIATE IT.

12 THE COURT: DOES THE STATE HAVE ANY QUESTIONS?

13 MR. MOYER, STATE HAVE ANY QUESTIONS?

14 MR. MOYER: NO, SIR.

15 THE COURT: IS THERE ANY ARGUMENT TO THE DEFENDANT'S  
16 MOTIONS?

17 MR. MOYER: NO, SIR.

18 THE COURT: MR. EDWARDS, I WANT TO THANK YOU FOR  
19 BEING HERE. BUT I RESPECT YOUR VIEWPOINTS YOU'RE ENTITLED  
20 TO YOUR VIEWPOINTS. AND THERE'S NOTHING WRONG WITH YOUR  
21 OPINION ABOUT THE DEATH PENALTY. THAT'S NOT OUR PURPOSE,  
22 TO CRITICIZE YOUR OPINION ABOUT THE DEATH PENALTY. I WANT  
23 TO THANK YOU FOR BEING HONEST ABOUT THE DEATH PENALTY.

24 PROSPECTIVE JUROR: YES, SIR.

25 THE COURT: BUT FOR THE PURPOSES OF THIS CASE, UNDER

1 THE LAW I'M GOING TO FIND YOU'RE NOT QUALIFIED TO SIT ON  
2 THIS PARTICULAR JURY. YOU'RE QUALIFIED TO SIT ON ANY  
3 OTHER JURY. OKAY?

4 A YES, SIR.

5 Q THANK YOU SO VERY MUCH. I HOPE YOUR PARENTS GET  
6 ALONG OKAY.

7 THEODORE A. WOOD, (WHITE  
8 MALE), HAVING BEEN PREVIOUSLY DULY SWORN, TESTIFIED AS  
9 FOLLOWS:

10 EXAMINATION

11 BY THE COURT:

12 Q MR. WOOD, YOU FILLED OUT THIS QUESTIONNAIRE, YOU  
13 REMEMBER THAT?

14 A YES, SIR.

15 Q I'M GOING TO HAND YOU THE QUESTIONNAIRE. WHEN YOU  
16 FILLED IT OUT, WAS IT ACCURATE TO THE BEST OF YOUR  
17 KNOWLEDGE?

18 A YES, SIR.

19 Q WE'RE GOING TO ASK YOU CERTAIN QUESTIONS. THERE'S NO  
20 RIGHT OR WRONG ANSWER, JUST GIVE THE BEST ANSWER YOU CAN.

21 A YES, SIR.

22 Q AND BE TRUTHFUL WITH YOUR ANSWER. CAN YOU DO THAT?

23 A YES, SIR.

24 Q FIRST OF ALL, I WANT TO ASK YOU, THE DEFENDANT IN  
25 THIS CASE IS CHARGED WITH MURDER AND KIDNAPPING THAT



1 OCCURRED SEPTEMBER 3RD 2003 AT A BI-LO HERE IN GREENVILLE.  
2 HAVE YOU HEARD ANYTHING ABOUT IT, SEEN ANYTHING ON TV,  
3 HEARD ANYTHING ON RADIO ABOUT IT?

4 A THE ONLY THING I KNOW, I DID SEE IT ON TV WHEN IT HAD  
5 HAPPENED.

6 Q WHAT DO YOU REMEMBER SEEING IT ON TELEVISION?

7 A I JUST REMEMBER SEEING THAT THE LADY WAS KILLED AT  
8 THE BI-LO AND POLICE THERE AND EVERYTHING, YOU KNOW, AT  
9 THE EAST NORTH STREET LOCATION AND ALL THAT.

10 Q HAVE YOU HEARD ANYTHING ELSE ABOUT IT SINCE THAT  
11 TIME?

12 A NO, SIR, NOT REALLY.

13 Q OKAY. NOW, IF YOU WOULD TURN TO PAGE TEN ON YOUR  
14 QUESTIONNAIRE, PLEASE, SIR.

15 A OKAY.

16 Q QUESTION 64 SAYS, "BRIEFLY DESCRIBE YOUR ATTITUDES  
17 AND BELIEFS CONCERNING CAPITAL PUNISHMENT AND DEATH  
18 PENALTY. YOU SAY, "DON'T." DON'T, WHAT DO YOU MEAN?  
19 DON'T WHAT?

20 A I DON'T REALLY BELIEVE IN IT, THE DEATH PENALTY.

21 Q YOU DON'T BELIEVE IN IT IN AT ALL?

22 A YES, SIR.

23 Q DO YOU BELIEVE IN IT UNDER ANY CIRCUMSTANCES?

24 A NO, NOT REALLY.

25 Q YOU CAN'T THINK OF ANY REASON YOU WOULD GIVE THE

1 DEATH PENALTY?

2 A WELL, NO, NOT RIGHT OFFHAND.

3 Q WHAT IS THE BASIS OF YOUR BELIEF. WHY DO YOU BELIEVE  
4 THAT WAY?

5 A I JUST DON'T BELIEVE, JUST BECAUSE SOMEBODY DID  
6 SOMETHING LIKE THAT, I DON'T BELIEVE THEY SHOULD BE PUT TO  
7 DEATH FOR IT.

8 Q IS THAT A RELIGIOUS OR PERSONAL BELIEF?

9 A PERSONAL BELIEF.

10 Q AND ON PAGE 11 QUESTION 68, YOU SAID, IF YOU'LL FLIP  
11 OVER TO THE NEXT PAGE, YOU SAID, "I COULD NEVER UNDER ANY  
12 CIRCUMSTANCES RETURN A VERDICT OF DEATH." IS THAT  
13 CORRECT?

14 A YES, SIR.

15 Q IS THAT STILL YOUR OPINION TODAY?

16 A YES, SIR. YES. IT HAS NOT CHANGED.

17 Q HAS NOT CHANGED?

18 A YES, SIR.

19 Q SOLICITOR, I THINK YOUR TURN IF YOU WANT TO ASK ANY  
20 QUESTIONS.

21 MR. ARIAIL: NO, SIR.

22 MR. MAULDIN: I'LL LET THEM ASK AFTER ME IF THEY WANT  
23 ME TO, JUST GET UP AND SEE WHERE WE GO HERE.  
24 BY MR. MAULDIN:

25 Q MR. WOOD, I'M JOHN MAULDIN THE PUBLIC DEFENDER. AND

1 I, ALONG WITH BILL NETTLES, MARK MACDOUGALL, AND COLLEEN  
2 COYLE, THEY'RE NOT IN THE COURTROOM BUT BILL IS; THEY,  
3 ALONG WITH ME, REPRESENT CHRIS WILLIAMS. AND I WANT TO  
4 ASK YOU A FEW FOLLOW-UP QUESTIONS REGARDING YOUR VIEW ON  
5 THE DEATH PENALTY. AND, FIRST OF ALL, I WANT YOU TO  
6 CLEARLY UNDERSTAND THAT THE JUDGE, IN DECIDING WHO IS  
7 GOING TO BE IN THE GROUP FROM WHICH THE JURY IS CHOSEN.

8 A SORRY, EXCUSE ME? THE GROUP, ARE THEY GOING TO BE  
9 LIKE A SEPARATE GROUP.

10 Q YOU WANT TO TELL HIM WHAT THAT PROCESS IS?

11 THE COURT: JUST GO ONTO SOMETHING ELSE. THAT  
12 DOESN'T HAVE ANYTHING TO DO WITH WHAT WE'RE TALKING ABOUT.

13 Q THE POINT, THOUGH, IS WE'RE NOT TALKING ABOUT THIS  
14 CASE. THE QUESTIONS HE'S ASKING YOU ARE NOT HOW YOU FEEL  
15 ABOUT WHAT'S RIGHT IN THIS CASE BECAUSE YOU HAVEN'T HEARD  
16 ANY EVIDENCE.

17 A RIGHT.

18 Q YOU HAVEN'T HEARD ANYTHING. SO, YOU COULDN'T KNOW  
19 HOW YOU FEEL ABOUT THIS CASE. WHAT WE'RE TALKING ABOUT IS  
20 WHETHER OR NOT YOU, UNDER ANY CIRCUMSTANCES, WOULD EVER  
21 GIVER A REAL CONSIDERATION, A MEANINGFUL CONSIDERATION, TO  
22 IMPOSING THE DEATH PENALTY ON A PERSON WHO HAD BEEN  
23 CONVICTED OF AGGRAVATED MURDER. THAT'S REALLY KIND OF THE  
24 CENTRAL FOCUS. IT HAS NOTHING DO WITH THIS CASE HERE.

25 A UH-HUH.

1 Q NOW, YOU NEED TO KNOW THAT YOUR VIEWS ARE NOT ON  
2 TRIAL. YOU BROUGHT YOUR VIEWS WITH YOU AND YOU'RE GOING  
3 TO LEAVE WITH THEM. AIN'T NOBODY GOING TO TAKE THEM AWAY  
4 FROM YOU. AND IT'S OKAY FOR YOU TO FEEL THE WAY YOU DO.  
5 HOWEVER IT IS. ALL RIGHT?

6 A YES, SIR.

7 Q YOUR RESERVATIONS ABOUT THE DEATH PENALTY, YOUR  
8 HESITATION. THE FACT THAT IT'S A PERSONAL BELIEF, IS ALL  
9 RESPECTED COMPLETELY. DO YOU FOLLOW ME?

10 A UH-HUH, YEAH.

11 Q NOW, LET'S TALK A MINUTE ABOUT THE DEATH PENALTY AND  
12 I WANT TO KNOW IF A PERSON -- IF YOU WERE ON A JURY AND  
13 HAD HEARD EVIDENCE IN THE FIRST PHASE OF A TRIAL JUST ON  
14 WHETHER THE PERSON IS GUILTY OR NOT, AND YOU WERE  
15 CONVINCED BEYOND A REASONABLE DOUBT THAT THIS PERSON HAD  
16 COMMITTED THE ACT OF MURDER, INTENTIONALLY, HAD -- IT WAS  
17 PREMEDITATED NOT NECESSARILY FOR A LONG TIME, BUT THE  
18 PERSON MEANT TO DO IT, IT WASN'T AN ACCIDENT, BEYOND A  
19 REASONABLE DOUBT GUILTY. AND THEN YOU GO INTO A HEARING  
20 TO DECIDE WHETHER TO GIVE THIS PERSON WHO'S BEEN CONVICTED  
21 OF AN AGGRAVATED MURDER THE DEATH PENALTY OR LIFE  
22 IMPRISONMENT. THOSE WOULD BE THE TWO OPTIONS.

23 A UH-HUH, YES.

24 Q IF YOU WERE ON THAT JURY, WE NEED TO KNOW WHETHER YOU  
25 BELIEF THAT YOU COULD GIVE MEANINGFUL CONSIDERATION TO A

1 SENTENCE OF LIFE AND MEANINGFUL CONSIDERATION TO A  
2 SENTENCE OF DEATH. WOULD YOU GIVE CONSIDERATION TO BOTH  
3 SENTENCES BEFORE YOU MADE UP YOUR MIND WHICH?

4 A PROBABLY NOT. I'D PROBABLY JUST GO WITH THE LIFE IN  
5 PRISON.

6 Q SO, YOU DO NOT THINK YOU COULD GIVE REAL  
7 CONSIDERATION?

8 A I DO NOT.

9 MR. MAULDIN: THANK YOU, JUDGE. THANK YOU, JUDGE.  
10 APPRECIATE IT.

11 THE COURT: PRESUME THE STATE HAS A MOTION?

12 MS. STROM: YES, SIR.

13 THE COURT: DOES THE DEFENDANT WANT TO ARGUE THAT  
14 MOTION?

15 MR. MAULDIN: NO, SIR.

16 THE COURT: MR. WOOD, I WANT TO THANK YOU FOR BEING  
17 HERE. I RESPECT YOUR VIEWPOINTS AND YOU'RE ENTITLED TO  
18 YOUR VIEWPOINTS. THE PURPOSE HERE IS TO TRY TO DETERMINE  
19 WHAT THOSE VIEWPOINTS WERE, NOT TO SAY YOU'RE RIGHT OR  
20 WRONG WITH YOUR VIEWPOINTS. OKAY? THANK YOU VERY MUCH.

21 PROSPECTIVE JUROR: OKAY.

22 THE COURT: BASED UPON YOUR VIEWPOINTS I'M GOING TO  
23 HAVE TO FIND YOU'RE NOT QUALIFIED TO SIT ON THIS  
24 PARTICULAR JURY. OKAY?

25 PROSPECTIVE JUROR: UH-HUH.

1 THE COURT: ALL RIGHT. THANK YOU.

2 (PROSPECTIVE JUROR EXITS AND THE NEXT ENTERS.)

3 THE COURT: MRS. HEATH, HOW YOU DOING TODAY?

4 PROSPECTIVE JUROR: I'M FINE.

5 THE COURT: WOULD YOU PLEASE RAISE YOUR RIGHT HAND?

6 SHARON HEATH, (WHITE  
7 FEMALE), HAVING BEEN PREVIOUSLY DULY SWORN, TESTIFIED AS  
8 FOLLOWS:

9 EXAMINATION

10 BY THE COURT:

11 Q LET ME ASK YOU THIS. I SEE YOUR ADDRESS IS HONEA  
12 PATH?

13 A YES. I'M IN THE SOUTHERN TIP OF GREENVILLE COUNTY.

14 Q SO, YOU LIVE ACROSS THE RIVER THERE IN GREENVILLE  
15 COUNTY BUT STILL HAVE A HONEA PATH ADDRESS?

16 A YES.

17 Q DO YOU RECALL FILLING OUT THE QUESTIONNAIRE?

18 A YES.

19 Q WHEN YOU FILLED IT OUT, WAS IT ACCURATE TO THE BEST  
20 OF YOUR KNOWLEDGE?

21 A YES.

22 Q IF YOU WOULD, LOOK AT PAGE SIX, QUESTION 44. DID YOU  
23 FIND IT?

24 A YES.

25 Q SAYS ANOTHER EMPLOYEE AND YOU WERE ROBBED AT GUNPOINT

1 WHILE WORKING MAX SAVER OR ON FORK SHOALS ROAD. HOW LONG  
2 AGO DID THAT HAPPEN?

3 A IT'S BEEN AT LEAST FIVE YEARS, MAYBE SIX YEARS.

4 Q WAS ANYONE EVER ARRESTED FOR THAT?

5 A NO.

6 Q THEY NEVER DID FIND OUT WHO DID IT?

7 A NO.

8 Q HAVING GONE THROUGH THAT EXPERIENCE, DID YOU HAVE ANY  
9 BIAS OR PREJUDICE TOWARDS THE POLICE AS A RESULT OF NOT  
10 HAVING CAUGHT ANYBODY THAT DID IT?

11 A NO.

12 Q OKAY. ALL RIGHT. IF YOU WOULD LOOK DOWN PAGE SEVEN  
13 QUESTION NUMBER 49.

14 A YES.

15 Q SAYS FRAUDULENT CHECK SEVERAL YEARS AGO, PAID THEM  
16 AND COURT COSTS?

17 A RIGHT.

18 Q IS THAT AGAINST YOU OR A FAMILY MEMBER?

19 A IT WAS ME.

20 Q HOW LONG AGO WAS IT?

21 A GOT TO BE FIVE YEARS.

22 Q DO YOU REMEMBER WHERE YOU WENT TO PAY THEM? WHERE  
23 DID YOU GO TO PAY THOSE CHECKS? DO YOU UNDERSTAND?

24 A ANDERSON.

25 Q WHERE DID YOU GO IN ANDERSON, BEHIND THE OLD

1 COURTHOUSE OR THE NEW COURTHOUSE ACROSS THE STREET?

2 A THERE WAS LIKE A JAIL RIGHT THERE OR SOMETHING.

3 Q WAS IT THE BAILES BUILDING OR SOMETHING?

4 A I DON'T REMEMBER.

5 Q YOU WENT TO THE JAIL?

6 A I THINK THAT'S WHERE IT WAS.

7 Q SO, YOU PAID THE CHECKS AND A FINE OUT AT THE JAIL?

8 A YES.

9 Q ALL RIGHT. WOULD YOU TURN TO PAGE SIX?

10 A YES.

11 Q YOU -- SORRY, PAGE TEN. EXCUSE ME. PAGE TEN.

12 A YES.

13 Q PAGE TEN, QUESTION 64. YOU WITH ME?

14 A YES.

15 Q ALL RIGHT. YOU SAID, "I BELIEVE THAT COLD BLOODED

16 MURDER THAT IS PROVEN BEYOND A SHADOW OF A DOUBT AND

17 CARRIED OUT IN A DISPASSIONATE WAY, DESERVES TO BE GIVEN

18 THE DEATH PENALTY." CAN I ASK YOU A COUPLE OF QUESTIONS

19 ABOUT WHAT YOU SAID?

20 A YES.

21 Q FIRST IS, WHAT DO YOU MEAN OR INTERPRET COLD BLOODED

22 MURDER TO BE?

23 A WHEN SOMEONE SETS OUT TO KILL SOMEONE ON PURPOSE.

24 Q OKAY. TELL ME WHAT YOU MEAN WHEN YOU SAY BEYOND A

25 SHADOW OF DOUBT.



1 A IF THERE'S ANY KIND OF EVIDENCE THAT SHOWS, I MEAN,  
2 IF IT CAN BE PROVEN BEYOND A DOUBT THAT THIS PERSON DID IN  
3 FACT DO THIS, THEN I MEAN I WOULD SAY, NO. IF THERE WAS  
4 ANY DOUBT WHATSOEVER; BUT IF THERE WAS WITNESSES OR  
5 WHATEVER, YOU --

6 Q OKAY. WHAT DO YOU MEAN WHEN YOU SAY A DISPASSIONATE  
7 WAY?

8 A THAT IT -- I DON'T KNOW. ACTUALLY, MY ONLY  
9 EXPERIENCE WITH ANYTHING LIKE THAT WOULD BE SOMETHING ON  
10 TV OR SOMETHING OR READING SOMETHING IN THE NEWSPAPER,  
11 THAT A PERSON SHOWS NO REMORSE FOR DOING IT, LIKE YOU  
12 KNOW, IT'S HARD TO EXPLAIN.

13 Q I UNDERSTAND. I UNDERSTAND. WOULD YOU LOOK AT PAGE  
14 11, QUESTION 68. YOU SEE THAT?

15 A UH-HUH.

16 Q YOU SAID, "I BELIEVE THE DEATH PENALTY IS THE  
17 APPROPRIATE FORM OF PUNISHMENT IN SOME MURDER CASES, AND I  
18 BELIEVE I COULD RETURN A VERDICT OF DEATH IF I BELIEVE IT  
19 WAS WARRANTED IN A PARTICULAR CASE, DEPENDING UPON THE  
20 EVIDENCE, THE LAW, AND WHAT I LEARNED ABOUT THE  
21 DEFENDANT."

22 A RIGHT.

23 Q IS THAT STILL YOUR OPINION TODAY?

24 A YES. I THINK THAT'S PRETTY MUCH WHAT I JUST SAID.

25 Q LET ME EXPLAIN TO YOU THE PROCESS WE'RE GOING TO GO

1 THROUGH. OKAY. IN THIS PARTICULAR CASE THE DEFENDANT IS  
2 CHARGED WITH MURDER AND KIDNAPPING. ALL MURDER CASES IN  
3 SOUTH CAROLINA THE STATE CANNOT REQUEST THE DEATH PENALTY.  
4 OKAY? THERE ARE CERTAIN --

5 A (WITNESS NODS HEAD UP AND DOWN).

6 Q -- AGGRAVATING CIRCUMSTANCES. THEY'RE ALL SET BY  
7 STATE LAW.

8 A ALL RIGHT.

9 Q THE FACTS SURROUNDING THE MURDER, YOU HAVE TO HAVE  
10 THE ADDITIONAL AGGRAVATING CIRCUMSTANCES IN ORDER TO EVEN  
11 ASK FOR THE DEATH PENALTY.

12 A RIGHT.

13 Q NOW, IN LAYMAN'S TERMS, MURDER IN SOUTH CAROLINA IS  
14 THE INTENTIONAL PREMEDITATED ACT. IT'S WITH MALICE  
15 AFORETHOUGHT, COLD HEART, DEVOID OF ANY SOCIAL DUTY. DO  
16 YOU UNDERSTAND?

17 A YES.

18 Q SO, WHAT YOU TOLD ME ABOUT COLD MURDER AND  
19 DISPASSIONATE, EVERY MURDER WOULD BE COLD BLOODED, DO YOU  
20 UNDERSTAND?

21 A PUT LIKE THAT, YES. THAT'S NOT EXACTLY THE WAY -- I  
22 SEE IT IN MY HEAD DIFFERENTLY THAN THAT, BUT I UNDERSTAND  
23 WHAT YOU'RE SAYING. YES. YOU'RE RIGHT.

24 Q ALL RIGHT. NOW, THERE WILL BE TWO PHASES OF THE  
25 TRIAL. THE FIRST PHASE WOULD BE THE GUILT PHASE.

- 1 A YES.
- 2 Q AND IN THE GUILT PHASE THE STATE WOULD BE REQUIRED TO
- 3 PROVE THE DEFENDANT GUILTY BEYOND A REASONABLE DOUBT.
- 4 A YES.
- 5 Q THAT'S THE STATE'S RESPONSIBILITY.
- 6 A UH-HUH.
- 7 Q THAT'S THE STATE'S BURDEN, DO YOU UNDERSTAND?
- 8 A YES.
- 9 Q THE DEFENDANT NEVER HAS TO PROVE HIMSELF NOT GUILTY,
- 10 DO YOU UNDERSTAND?
- 11 A RIGHT.
- 12 Q THE DEFENDANT DOES NOT EVEN HAVE TO TESTIFY.
- 13 A YES. I UNDERSTAND THAT. I'VE --
- 14 Q YOU'VE SEEN THAT ON TELEVISION?
- 15 A I'VE SEEN THAT ON TV.
- 16 Q ALL RIGHT. BUT THIS DEFENDANT DOES NOT HAVE TO COME
- 17 FORWARD AND PROVE HIS INNOCENCE.
- 18 A RIGHT.
- 19 Q OKAY?
- 20 A RIGHT.
- 21 Q AND I WOULD INSTRUCT YOU IF THE DEFENDANT DID NOT
- 22 TESTIFY, YOU COULD NOT CONSIDER THAT IN ANY FASHION
- 23 WHATSOEVER IN YOUR DELIBERATIONS.
- 24 A RIGHT.
- 25 Q LET'S ASSUME IN THE FIRST PHASE THAT THE STATE HAS

1 MET THEIR BURDEN.

2 A UH-HUH.

3 Q OR PROVEN THE CASE BEYOND A REASONABLE DOUBT.

4 A YES.

5 Q AND ALL 12 JURORS AGREE THAT THE STATE HAS MET THEIR  
6 BURDEN.

7 A YES.

8 Q OKAY? NOW, AT THAT POINT IN TIME THE DEFENDANT WOULD  
9 BE GUILTY OF MURDER AND KIDNAPPING. AND WHEN I SAY  
10 MURDER, A COLD-BLOODED MURDER AS YOU DESCRIBED. OKAY.

11 A YES.

12 Q THEN YOU WOULD GO TO THE SECOND PHASE. THE PURPOSE  
13 OF THE SECOND PHASE IS TO DETERMINE WHETHER OR NOT THE  
14 DEFENDANT SHOULD RECEIVE LIFE OR DEATH.

15 A RIGHT.

16 Q THAT'S THE JURY'S DETERMINATION.

17 A UH-HUH.

18 Q WHEN I SAY LIFE, I MEAN LIFE WITHOUT PAROLE. THAT  
19 MEANS THAT THE DEFENDANT WOULD DIE IN JAIL. DO YOU  
20 UNDERSTAND?

21 A YES.

22 Q WOULD NEVER BE ELIGIBLE FOR PAROLE?

23 A YES.

24 Q IN THE SECOND PHASE OR THE PENALTY PHASE, THE STATE  
25 WOULD BE REQUIRED TO PROVE ALL THE AGGRAVATING

1 CIRCUMSTANCES BEYOND A REASONABLE DOUBT. THAT'S THE  
2 STATE'S BURDEN. YOU REMEMBER I WAS TELLING YOU ABOUT THE  
3 MURDER WITH THE AGGRAVATION?

4 A RIGHT.

5 Q I DO NOT KNOW WHAT THE AGGRAVATING FACTORS ARE OR THE  
6 FACTS. I HAVEN'T HEARD IT.

7 A RIGHT.

8 Q THAT'S -- AND THE BURDEN ALSO IS ON THE STATE TO  
9 PROVE THE AGGRAVATING FACTORS OR AGGRAVATING CIRCUMSTANCES  
10 BEYOND A REASONABLE DOUBT. DO YOU UNDERSTAND?

11 A YES.

12 Q LET'S ASSUME ALL 12 JURORS BELIEVE THE STATE HAS  
13 PROVEN THE AGGRAVATING CIRCUMSTANCES BEYOND A REASONABLE  
14 DOUBT.

15 A YES.

16 Q NOW, EVEN THOUGH THE STATE HAS PROVEN THE AGGRAVATING  
17 CIRCUMSTANCES AND THE JURY BELIEVES THEY'VE BEEN PROVEN,  
18 THE JURY STILL DOES NOT HAVE TO GIVE DEATH.

19 A RIGHT.

20 Q JURY CAN STILL GIVE LIFE. THE LAW PRESUMES LIFE.  
21 THE JURY CAN GIVE LIFE JUST AS AN ACT OF MERCY. DO YOU  
22 UNDERSTAND?

23 A YES.

24 Q ONCE YOU'RE IN THE PENALTY PHASE, ONCE THE PENALTY  
25 PHASE AND GUILT PHASE, CONSIDERING EVERYTHING THAT'S

1 OCCURRED IN THE GUILT PHASE, CONSIDERING EVERYTHING THAT  
2 OCCURRED IN THE PENALTY PHASE AND THE DEFENDANT DID NOT  
3 TESTIFY. AT THAT TIME COULD YOU GIVE A MEANINGFUL  
4 CONSIDERATION TO LIFE?

5 A YES. BECAUSE THE DEFENSE WOULD BRING UP ANY KIND  
6 OF --

7 Q WELL, THE DEFENSE HASN'T PUT UP ANY TESTIMONY IN THE  
8 HYPOTHETICAL. OKAY?

9 A OKAY..

10 Q DEFENSE HASN'T PUT UP ANYTHING. ALL YOU HEARD IS  
11 WHAT THE STATE PUT UP IN THE GUILT PHASE AND WHAT THE  
12 STATE PUT UP IN THE SENTENCING PHASE. AND SAID THE  
13 DEFENDANT DID NOT COME FORWARD WITH ANYTHING AT THAT POINT  
14 IN TIME, COULD YOU GIVE MEANINGFUL CONSIDERATION OF LIFE?

15 A I WOULD CONSIDER IT.

16 Q ALL RIGHT. COULD YOU GIVE MEANINGFUL CONSIDERATION  
17 TO DEATH?

18 A AGAIN, I COULD CONSIDER IT, YES.

19 Q ALL RIGHT. LET'S ASSUME FOR A MOMENT THE DEFENDANT  
20 DOES OFFER TESTIMONY IN THE PENALTY PHASE. UNDER THE LAW  
21 HE CAN OFFER MITIGATING CIRCUMSTANCES AND MITIGATING  
22 CIRCUMSTANCES ARE DESIGNED OR ARE GIVEN TO THE JURY  
23 THROUGH TESTIMONY TO CONVINCE THE JURY TO GIVE LIFE RATHER  
24 THAN DEATH?

25 A RIGHT.

1 Q COULD YOU GIVE MEANINGFUL CONSIDERATION TO THESE  
2 MITIGATING CIRCUMSTANCES?

3 A YEAH, I WOULD SAY IT WOULD DEPEND ON THE  
4 CIRCUMSTANCES.

5 Q BUT YOU'D CONSIDER IT?

6 A YES, IF IT WAS MEANINGFUL.

7 Q THAT'S ALL I'M SAYING, WOULD YOU CONSIDER IT --

8 A YES.

9 Q -- BEFORE YOU MAKE UP YOUR MIND AS TO LIFE OR DEATH?

10 A YES.

11 Q I MEAN, YOU SHOULD TAKE EVERYTHING INTO  
12 CONSIDERATION. LET ME SAY ONE OTHER THING. BEYOND A  
13 SHADOW OF DOUBT, THAT'S NOT THE STATE'S BURDEN. IT'S  
14 BEYOND A REASONABLE DOUBT. THERE'S NOTHING THAT'S AN  
15 ABSOLUTE CERTAINTY. DO YOU UNDERSTAND?

16 A RIGHT.

17 Q THE STATE DOESN'T HAVE TO PROVE THEIR CASE TO AN  
18 ABSOLUTE CERTAINTY. DO YOU UNDERSTAND?

19 A RIGHT.

20 THE COURT: DID I ASK HER ABOUT PUBLICITY?

21 MR. MAULDIN: NO. AND WE'RE GOING TO HAVE A MATTER  
22 OF LAW TO TAKE UP BEFORE WE GO FORWARD AFTER YOUR  
23 QUESTIONS, YOUR HONOR.

24 BY THE COURT:

25 Q THIS OCCURRED ON SEPTEMBER 3<sup>rd</sup> 2003. OKAY.

1 A YES.

2 Q IT OCCURRED AT THE BI-LO HERE IN GREENVILLE. OKAY?

3 A YES.

4 Q HAVE YOU HEARD ANYTHING ABOUT IT?

5 A AT THE TIME IT HAPPENED.

6 Q AT THE TIME IT HAPPENED.

7 A YES, I MEAN, THEY'VE -- IT WAS ON THEY'VE TOOK  
8 PROGRAMS OFF THE TV AND HAD COVERAGE.

9 Q OKAY. DID YOU WATCH ALL OF IT?

10 A NO.

11 Q WHAT PART DID YOU WATCH AND WHAT DO YOU REMEMBER  
12 ABOUT?

13 A WHAT DO I REMEMBER?

14 Q YES, MA'AM.

15 A THE ONLY THING I REMEMBER IS THAT SOMEONE HAD TAKEN  
16 SOMEONE HOSTAGE INSIDE OF BI-LO IN GREENVILLE. IN FACT,  
17 WHEN IT FIRST HAPPENED, I HAD NO IDEA WHICH STORE IT WAS  
18 OR WHAT ALL WAS INVOLVED.

19 Q WHAT DID YOU FIND OUT LATER?

20 A THAT THE MAN KILLED HIS EX-GIRLFRIEND OR GIRLFRIEND,  
21 WHATEVER THE CASE WAS.

22 Q AND DID YOU FIND OUT WHICH STORE IT WAS IN LATER ON?

23 A YEAH. SOMEBODY SAID EAST NORTH STREET, WHICH THERE'S  
24 SEVERAL BI-LOS EAST NORTH STREET. SO, I'M NOT SURE WHICH  
25 ONE IT WAS YET.



1 Q WHAT ELSE DID YOU FIND OUT ABOUT THE CASE?

2 A ONLY HE HAS BEEN ARRESTED. I REALLY DON'T KNOW A LOT  
3 ABOUT IT.

4 Q LET ME ASK YOU THIS. HAVE YOU FORM OR EXPRESSED AN  
5 OPINION AS TO THE DEFENDANT'S INNOCENCE OR GUILT BASED  
6 UPON WHAT YOU SAW ON TELEVISION?

7 A NO, NOT -- WELL, YES, I PROBABLY DID. I PROBABLY DID  
8 I MEAN.

9 Q YOU PROBABLY DID?

10 A I PROBABLY DID SAY, "THEY NEED TO DO TO HIM WHAT HE  
11 DID TO HER." BUT I REALLY --

12 Q SO, THAT'S -- YOU THINK YOU PROBABLY DID WHEN YOU  
13 HEARD ALL THIS?

14 A YES.

15 Q WHY DO YOU TALK ABOUT IT IN THE PAST TENSE? DO YOU  
16 STILL THINK THAT TODAY?

17 A I THINK IF HE DID IT AND HE WENT IN THERE WITH THE  
18 INTENTIONS OF KILLING HER, I FIGURE WHATEVER HE'S GOT  
19 COMING TO HIM HE DESERVES.

20 Q HAVING SAID THAT, COULD YOU EVER CONSIDER LIFE?

21 A IT WOULD DEPEND ON THE CIRCUMSTANCE OF WHY IT  
22 HAPPENED.

23 Q BASED ON THE CIRCUMSTANCES YOU JUST GAVE ME, COULD  
24 YOU CONSIDER LIFE, WHAT YOU JUST SAID?

25 A IF HE NEVER WAS GOING TO GET OUT OF JAIL? YEAH.

1 YES.

2 Q WHOSE TURN IS IT?

3 MR. MAULDIN: I'VE GOT ONE SHORT MATTER BEFORE WE GO  
4 FURTHER QUESTION.

5 THE COURT: WHOSE TURN IS IT?

6 MS. STROM: I THINK -- I BELIEVE IT'S OURS.

7 THE COURT: YOU WANT TO TAKE UP SOMETHING?

8 MR. MAULDIN: I DO NEED TO TAKE UP SOMETHING  
9 BEFORE --

10 THE COURT: MRS. HEATH, WOULD YOU STEP OUT IN THE  
11 HALL, PLEASE, MA'AM, JUST A MOMENT?

12 (PROSPECTIVE JUROR EXITS.)

13 THE COURT: ALL RIGHT. WHAT DO YOU WANT TO TAKE UP?

14 MR. MAULDIN: YOUR HONOR, MISS HEATH LISTS SHE IS A  
15 HOMEMAKER AND THEN DOES NOT LIST -- PLEASE BEAR WITH ME A  
16 SECOND. BECAUSE THIS IS ALL GOING TO END UP MAKING A LOT  
17 OF SENSE. IT'S AN UNBELIEVABLE STORY I'VE BEEN RIGHT IN  
18 THE MIDDLE OF FOR 11 YEARS NOW. SHE LISTS A HOMEMAKER BUT  
19 SHE DOESN'T LIST ANY PRIOR JOBS. THEN SHE LISTS ON NUMBER  
20 44, THAT IT SAYS, "ANOTHER EMPLOYEE AND I WERE ROBBED AT  
21 GUNPOINT, BY WORKING AT THE MAX SAVER." THEN SHE LISTS ON  
22 NUMBER 50 THAT SHE'S HAD FIREARM TRAINING BECAUSE THE  
23 OWNER OF THE STORE REQUIRED IT, WHICH WOULD HAVE BEEN HER  
24 BOSS. FIFTY-SEVEN IS THE RECOLLECTION ABOUT A CASE IS THE  
25 MURDER OF JERRY SMITH.

1           NOW, THE REASON ALL THAT MAKES SENSE IS BECAUSE THE  
2   MAX SAVER CONVENIENCE STORES DOWN IN THE LOWER PART OF THE  
3   COUNTY AND CROSSING OVER INTO SPARTANBURG COUNTY ARE  
4   OWNED, OR WERE AT LEAST OWNED AT THE TIME, BY THE SMITH  
5   FAMILY. THE SMITH FAMILY HAS LOST TWO SONS TO  
6   ROBBERY/MURDERS. ONE OF THOSE CASES INVOLVED A MAN BY THE  
7   NAME OF DICKIE SMITH. AND I REPRESENTED THE DEFENDANT WHO  
8   SHOT AND KILLED DICKIE SMITH AT THE MAX SAVER STORE. HE  
9   GOT THE DEATH PENALTY IN 1994. THAT'S THE HUMPHRIES CASE.

10          JERRY SMITH WAS DICKIE'S BROTHER. AND JERRY  
11   TESTIFIED IN THE VICTIM IMPACT TESTIMONY IN THE DICKIE  
12   SMITH MURDER CASE THAT I DEFENDED HERE IN GREENVILLE  
13   COUNTY COURTHOUSE. JERRY SMITH, ONE OF THE BROTHERS, WAS  
14   RUNNING A MAX SAVER AND WAS KILLED IN A ROBBERY OF THAT  
15   MAX SAVER STORE. THAT CASE WAS FROM SPARTANBURG COUNTY  
16   AND THEY'VE WENT TO TRIAL. AND IF I'M NOT -- AND I AM 95  
17   PERCENT CERTAIN THAT THAT CASE RESULTED IN A DEATH PENALTY  
18   BEING GIVEN TO THAT DEFENDANT FOR KILLING JERRY SMITH.

19          THE COURT: WHAT TIME FRAME WAS THAT?

20          MR. ARIAIL: LAST YEAR.

21          MR. MAULDIN: YEAH, WITHIN THE LAST--

22          THE COURT: 2003? I'M SORRY, 2004?

23          MR. ARIAIL: PROBABLY 2004, TREY GOUDY TRIED IT.

24          MR. MAULDIN: TRAY GOUDY WAS THE PROSECUTOR. THE  
25   MURDER WAS PROBABLY THREE YEARS AGO, SOMETHING LIKE THAT.

1 AND IT'S JUST THE MOST HORRIBLE -- THIS FAMILY HAS HAD TWO  
2 SONS KILLED. THEY NOW HAVE TWO PEOPLE THAT HAVE BEEN  
3 SENTENCED TO DEATH ROW, AND THIS LADY APPARENTLY IS AN  
4 EMPLOYEE OR WAS.

5 THE COURT: I DON'T THINK IT'S A MATTER OF LAW. WHY  
6 DON'T WE BRING HER BACK AND ASK HER SOME QUESTIONS FACTUAL  
7 QUESTIONS ALONG THESE LINES. I DON'T THINK IT'S A MATTER  
8 OF LAW, I'M NOT GOING TO DISMISS HER JUST BECAUSE SHE WAS  
9 AN EMPLOYEE THERE. LET'S FIND OUT WHAT SHE KNOWS ABOUT IT  
10 AND WHAT SHE THINKS ABOUT IT. I'LL LET YOU ASK SOME  
11 QUESTIONS AND THE SOLICITOR ABOUT THAT ALONG THAT LINE.  
12 THANK YOU FOR TELLING ME. THERE'S NO WAY I WOULD KNOW  
13 THAT FROM THE QUESTIONNAIRE.

14 MR. MAULDIN: WELL, AND I DIDN'T PIECE IT TOGETHER.

15 THE COURT: YOU WANT TO SAY SOMETHING, SOLICITOR?

16 MS. STROM: NO, SIR. I JUST DIDN'T KNOW IF YOU  
17 WANTED TO GET INTO THE INTERRACIAL DATING QUESTION WHILE  
18 WE WERE GOING THROUGH THESE OTHERS THINGS. I JUST WAS  
19 GOING TO THROW THAT OUT.

20 THE COURT: THAT'S PROBABLY A GOOD IDEA.

21 (PROSPECTIVE JUROR RETURNS.)

22 Q MRS. HEATH.

23 A YES, SIR.

24 Q LOOKING AT YOUR QUESTIONNAIRE. IF YOU'LL LOOK ON  
25 PAGE THREE, YOU DIDN'T FILL OUT YOUR EMPLOYER. I KNOW NOW

1 YOU SAY YOU'RE A HOUSEWIFE; IS THAT CORRECT?

2 A OH, AND MY --

3 Q AND THEN YOU SAID YOU WERE ROBBED AT GUNPOINT, WHICH  
4 WE'VE ALREADY COVER PREVIOUSLY?

5 A SORRY. I DIDN'T EVEN SEE THAT.

6 Q I UNDERSTAND. CAN YOU SORT OF TELL ME WHO YOUR  
7 EMPLOYER WAS AND THE DATES, WHERE YOU WORKED?

8 A WELL, IT SAYS HERE SIGNIFICANT JOBS THAT I'VE HAD.  
9 ALL YOU NEED IS THE ONES --

10 Q GIVE ME YOUR INSIGNIFICANT, TOO. OKAY. WHERE HAVE  
11 YOU WORKED IN THE LAST TEN YEARS?

12 A IN THE LAST TEN YEARS I'VE WORKED AT RYAN'S CORPORATE  
13 OFFICE.

14 Q WHEN WAS THAT?

15 A I'M NOT GOOD WITH DATES ANY MORE.

16 Q WELL, I'M NOT EITHER.

17 A I WOULD SAY PROBABLY '96, '97.

18 Q OKAY. ALL RIGHT.

19 A AFTER THAT I WORKED FOR MAX SAVER, RUTH AND CUREN  
20 SMITH. I WORKED AT THREE OF THEIR --

21 Q WHEN DID YOU WORK AT MAX SAVER?

22 A I WORKED THERE SEVERAL DIFFERENT TIMES. ONLY IF  
23 THEY'VE NEEDED SOMEBODY. I STARTED OUT WORKING IN THE  
24 KITCHEN IN THE GRILL AREA. I STARTED THERE IN --

25 Q DID YOU WORK PART TIME OR FULL TIME?

1 A SOMETIMES I WORKED FULL TIME. I MEAN, I WORKED BOTH.

2 Q WHO OWNS THE MAX SAVER?

3 A NOW THEY'RE PRETTY WELL GONE EXCEPT THE ONE IN  
4 GEORGIA.

5 Q WHO OWNED IT WHEN YOU WERE WORKING THERE?

6 A RUTH AND CUREN SMITH.

7 Q RUTH AND CUREN SMITH?

8 A YES.

9 Q HOW LONG DID YOU WORK THERE?

10 A I WORKED THERE OFF AND ON ABOUT THREE OR FOUR YEARS.

11 Q DO YOU RECALL WHEN THAT WAS?

12 A WHEN I WORKED FOR THEM?

13 Q YES, MA'AM?

14 A FIRST TIME I WORKED FOR THEM, PROBABLY ABOUT '94,  
15 '95. I WORKED FOR THEM FOR A FEW MONTHS. I WENT TO WORK  
16 SOMEWHERE ELSE IN AN OFFICE. AND THEN I, THE COMPANY --  
17 WELL, ACTUALLY I WORKED AT MANHATTEN BAGEL COMPANY. THEY  
18 WENT BANKRUPT AND I LOST MY JOB. I WENT BACK TO WORK FOR  
19 THE SMITH FAMILY.

20 Q DO YOU RECALL WHEN YOU WENT BACK TO WORK FOR THEM?

21 A PROBABLY '95, '96.

22 Q AND HOW LONG DID YOU WORK THAT TIME?

23 A ABOUT A YEAR AND HALF, TWO YEARS.

24 Q DID YOU PERSONALLY KNOW RUTH AND CUREN SMITH?

25 A YES.

1 Q DID YOU KNOW THEIR CHILDREN --

2 A YES, I KNEW --

3 Q -- DICKIE SMITH AND JERRY SMITH?

4 A I DIDN'T KNOW DICKIE. THAT WAS BEFORE I STARTED  
5 WORK. IN FACT WHEN I FIRST MOVED OUT IN THE COUNTRY WHERE  
6 WE ARE, THEY WERE BUILDING THE MAX SAVER WHERE DICKIE WAS  
7 KILLED. I HAD STOPPED IN THERE SEVERAL TIMES TO GET A  
8 SODA OR WHATEVER, AND I HAD SPOKEN TO THE MAN; BUT AT THAT  
9 TIME I DIDN'T KNOW RUTH OR CHUBBY -- WELL, THAT'S WHAT  
10 THEY CALL CUREN, CHUBBY. IT WAS AFTER THE BROTHER GOT  
11 KILLED THAT I GOT TO KNOW THEM.

12 Q BUT YOU DIDN'T KNOW THE BROTHER, DICKIE SMITH?

13 A NO, BUT I KNEW JERRY.

14 Q HOW WELL DID YOU KNOW JERRY?

15 A JUST TO TALK TO HIM. I MEAN, HE USED TO COME IN THE  
16 STORE, AND WHEN WE WOULD HAVE OUR CHRISTMAS PARTY, HE  
17 WOULD BE THERE.

18 Q WERE YOU WORKING FOR THE SMITHS WHEN HE GOT KILLED?

19 A YES, I DID.

20 Q ALL RIGHT. TELL ME --

21 A I THINK IT WAS -- I THINK HE GOT KILLED ABOUT A MONTH  
22 AFTER I GOT ROBBED IN THE OTHER STORE.

23 Q ALL RIGHT. TELL ME HOW THEIR DEATHS AFFECTED YOU AND  
24 THE FACT YOU GOT ROBBED. HOW DID THAT AFFECT YOU?

25 A WELL, IT REALLY UPSET ME BECAUSE THE NIGHT THAT JERRY

1 GOT KILLED I WAS SUPPOSED TO BE UP AT THAT STORE, TOO.  
2 AND SOMEBODY HAD CALLED IN SICK AND I HAD TO WORK THE  
3 STORE ON WEST GEORGIA ROAD AND FORK SHOALS ROAD. SO, IT  
4 REALLY, I MEAN, IT KIND OF SHOCKED ME. IT SCARED THE  
5 LIVING WHATEVER OUT OF ME WHEN I GOT ROBBED.

6 Q I'M SURE IT DID.

7 A IT WAS HORRIBLE.

8 Q AND YOU ARE AWARE THAT TWO PEOPLE CONVICTED IN THE  
9 DEATHS OF DICKIE SMITH AND JERRY SMITH BOTH OF THEM  
10 RECEIVED THE DEATH PENALTY?

11 A NO, I DIDN'T -- WELL, YES, I KNEW THE ONE THAT KILLED  
12 DICKIE RECEIVED THE DEATH PENALTY. AND I KNOW ONE OF THE  
13 TWO RECEIVED THE DEATH PENALTY FOR JERRY. AND I THINK THE  
14 OTHER ONE GOT LIKE 35 YEARS OR SOMETHING.

15 Q WELL, WHERE I'M GOING AND WHAT I NEED YOU TO TELL ME,  
16 IS HOW HAS ALL THIS AFFECTED YOU AND YOUR VIEWPOINT AS TO  
17 THE DEATH PENALTY IF IT HAS?

18 A I DON'T THINK IT HAS. BECAUSE I'VE ALWAYS BEEN --  
19 I'VE ALWAYS FELT THAT IF SOMEBODY KILLS SOMEBODY AND IT'S  
20 PROVEN BEYOND A SHADOW OF A DOUBT, WHICH IF THERE'S  
21 ANYTHING THAT WOULD BE JUST A SLIVER OF A DOUBT, YOU'D  
22 HAVE TO PAY ATTENTION TO IT.

23 Q WHEN YOU SAY A SLIVER OF A DOUBT, YOU TALKING ABOUT  
24 IN THE PENALTY PHASE I DESCRIBED TO YOU OR THE GUILT PHASE  
25 OR BOTH?



1       A     BOTH.  WELL, I MEAN, YOU CAN -- BECAUSE I DON'T KNOW  
2       HOW IT WORKS IN REAL COURT, BUT I KNOW DIFFERENT THINGS  
3       I'VE HEARD AND WHAT HAVE YOU, THAT YOU COULD SAY A PERSON,  
4       INSTEAD OF FIRST DEGREE MURDER, YOU COULD SAY SECOND  
5       DEGREE MURDER THEY WOULD GET PUNISHED BUT THEY WOULDN'T  
6       GET PUNISHED FOR --

7       Q     IN SOUTH CAROLINA WE DON'T HAVE DEGREES OF MURDER.  
8       WE HAVE MURDER PERIOD.

9       A     SO MURDER IS MURDER?

10      Q     MURDER IS MURDER.

11      A     BUT NO, I DON'T THINK -- I DON'T THINK THAT THOSE  
12      THINGS HAPPENING, BECAUSE THOSE THINGS HAPPEN TO A LOT OF  
13      PEOPLE.  I MEAN, THERE'S A LOT OF THINGS IN LIFE THAT  
14      HAPPEN TO PEOPLE AND YOU CAN SAY, "OH, I FEEL SO BAD FOR  
15      THIS PERSON."  BUT I TELL YOU WHAT, UNTIL YOU GO THROUGH  
16      IT YOURSELF, IT HITS YOU PERSONALLY, I DON'T THINK YOU CAN  
17      PUT YOURSELF IN THEIR SHOES.

18      Q     SINCE YOU BEEN SO CLOSE TO IT PERSONALLY AND YOU HAVE  
19      A GUN POINTED AT YOU, ASSUME IT WAS A GUN, AND YOU BEEN  
20      ROBBED UNDER VERY SIMILAR CIRCUMSTANCES DICKIE SMITH AND  
21      JERRY SMITH KILLED, HOW HAS IT AFFECTED YOU PERSONALLY?

22      A     I WON'T WORK IN A CONVENIENCE STORE ANY MORE AT NIGHT  
23      IN FACT, I DON'T EVEN LIKE WORKING THERE IN THE DAYTIME.

24      Q     HOW HAS IT AFFECTED YOU AS FAR AS YOUR VIEWPOINT AS  
25      TO DEATH, THE DEATH PENALTY?

1 A IT HASN'T CHANGED ANYTHING.

2 Q YOU HAD YOUR OPINIONS ALL ALONG?

3 A I'VE HAD MY OPINIONS ALL ALONG.

4 Q NONE OF THIS HAS CHANGED THAT VIEWPOINT?

5 A NO.

6 Q I'M GOING TO READ YOU A QUESTION, ASK YOU TO ANSWER  
7 IT. OKAY?

8 A OKAY.

9 Q IN THIS CASE THE DEFENDANT IS BLACK AND THE VICTIM IS  
10 WHITE. IT'S UNDISPUTED THAT THE BLACK DEFENDANT AND THE  
11 WHITE VICTIM ENGAGED IN INTERRACIAL DATING. WOULD THE  
12 FACT THAT THE DEFENDANT AND THE VICTIM ENGAGED IN  
13 INTERRACIAL DATING MAKE IT DIFFICULT FOR YOU TO BE FAIR TO  
14 EITHER THE STATE OR THE DEFENDANT?

15 A I DON'T THINK IT SHOULD COME INTO IT.

16 Q OKAY. WOULDN'T HAVE ANY EFFECT AT ALL WITH YOU?

17 A I DON'T THINK SO, NO. NO.

18 THE COURT: MR. MAULDIN, DO YOU HAVE ANY QUESTIONS ON  
19 THE ISSUE OF THE SMITHS OR THE DEATH PENALTY --

20 MR. MAULDIN: YES, SIR.

21 THE COURT: -- AT ALL?

22 MR. MAULDIN: CERTAINLY ON THE SMITH ISSUE, I WOULD  
23 LIKE TO.

24 THE COURT: I DON'T KNOW WHOSE TURN IT IS.

25 MS. STROM: I BELIEVE IT'S OUR TURN.

1 MR. MAULDIN: IT'S THEIR TURN.

2 BY MS. STROM:

3 Q GOOD AFTERNOON, MS. HEATH.

4 A HELLO.

5 Q MY NAME IS BETTY STROM, DEPUTY SOLICITOR FOR

6 GREENVILLE AND PICKENS COUNTIES. THAT'S THE SOLICITOR,

7 BOB ARIAIL, AND ONE OF THE ASSISTANTS, MARK MOYER. WE

8 REPRESENT THE STATE. CERTAIN STATES CALL IT DISTRICT

9 ATTORNEY. YOU SEE ON IT ON THE TV AS DISTRICT ATTORNEY.

10 A RIGHT.

11 Q THAT'S OUR ROLE. OKAY?

12 A RIGHT.

13 Q THE JUDGE WAS TALKING TO YOU ABOUT YOUR OPINIONS ON

14 THE DEATH PENALTY AND WHETHER YOU COULD GIVE THE --

15 WHETHER YOU COULD IMPOSE A DEATH SENTENCE AND WHETHER YOU

16 COULD IMPOSE A LIFE SENTENCE.

17 A RIGHT.

18 Q MY UNDERSTANDING IS YOU COULD DO BOTH?

19 A I THINK I COULD.

20 Q I WANT TO GO THROUGH AND MAKE SURE I'M ON THE SAME

21 PAGE WITH YOU, THAT I HAVEN'T MISUNDERSTOOD SOMETHING THAT

22 YOU'VE SAID. WHEN THE JUDGE WAS TALKING TO YOU ABOUT

23 MURDER, HE EXPLAINED TO YOU IT WAS AN INTENTIONAL KILLING

24 WITH MALICE AFORETHOUGHT.

25 A RIGHT.

1 Q AND THAT MALICE AFORETHOUGHT SOME PEOPLE LIKE TO CALL  
2 IT PREMEDITATION, WHICH IT COULD BE FOR DAYS OR IT CAN BE  
3 INSTANTANEOUS.

4 A RIGHT.

5 Q OKAY. IT'S AN INTENTIONAL KILLING. THE PERSON MEANT  
6 TO KILL THE OTHER PERSON. THAT'S MURDER. SO, WHEN WE  
7 TALK ABOUT THE DEATH PENALTY, WE'RE GOING TO HAVE TO TALK  
8 ABOUT IT IN TERMS OF THE JURY HAS ALREADY CONVICTED  
9 SOMEONE OF MURDER. IT'S NOT AN ACCIDENT. IT'S NOT HEAT  
10 OF PASSION. IT'S NOT INSANITY. IT'S NOT A DRUNK DRIVER,  
11 THAT SORT OF THING. SOMEBODY INTENDED TO KILL ANOTHER  
12 PERSON.

13 A RIGHT.

14 Q SO WHEN WE GET TO THAT SECOND PHASE. YOU KNOW WE  
15 TALKED ABOUT THE FIRST PHASE BEING WHETHER THE DEFENDANT  
16 WAS GUILTY AND THE SECOND PHASE IS WHAT PENALTY TO IMPOSE?

17 A RIGHT.

18 Q THERE ARE CERTAIN THINGS THAT CAN BE BROUGHT OUT IN  
19 THAT SECOND PHASE THAT UNDER THE RULES OF COURT CAN'T BE  
20 BROUGHT OUT IN THE FIRST PHASE.

21 A I'M NOT AWARE OF THAT.

22 Q WELL, THERE ARE RULES OF COURT. HAVE YOU WATCHED  
23 SOME THINGS ON TV, LAW AND ORDER A LITTLE BIT?

24 A LAW AND ORDER, BUT A LOT OF IT'S NOT REAL. I WATCHED  
25 TV KNOWING THAT YOU'RE WATCHING FANTASY.

1 Q OKAY. WELL, THERE ARE CERTAIN THINGS THAT WE'RE ABLE  
2 TO PRESENT IN THE FIRST PHASE, CERTAIN THINGS THAT WE'RE  
3 ABLE TO PRESENT IN THE SECOND PHASE BOTH PARTIES --

4 A UH-HUH.

5 Q MY UNDERSTANDING, WHAT YOU'RE TELLING ME, IS THAT  
6 EVEN THOUGH YOU CONVICTED SOMEONE OF MURDER AND  
7 INTENTIONAL KILLING?

8 A RIGHT.

9 Q YOU WOULD STILL WAIT UNTIL YOU HEARD EVERYTHING IN  
10 THE SECOND PHASE BEFORE YOU MADE UP YOUR MIND AS TO THE  
11 PENALTY?

12 A RIGHT.

13 Q YOU WOULDN'T GO INTO THAT SECOND PHASE ALREADY SAYING  
14 THIS PERSON SHOULD RECEIVE DEATH OR THIS PERSON SHOULD  
15 RECEIVE LIFE?

16 A NOT IF YOU HAVEN'T HEARD EVERYTHING.

17 Q YOU WOULD HAVE TO KEEP AN OPEN MIND?

18 A KEEP AN OPEN MIND UNTIL YOU HAVE --

19 Q WOULD YOU PERSONALLY?

20 A YES.

21 Q OKAY, GOT YOU. THE JUDGE TALKED TO YOU ABOUT  
22 EVIDENCE IN AGGRAVATION. IN OTHER WORDS, THE STATE'S ONLY  
23 ALLOWED TO SEEK THE DEATH PENALTY IN CERTAIN CASES. IT  
24 HAS TO BE A MURDER PLUS AN AGGRAVATING CIRCUMSTANCE.

25 A RIGHT.

1 Q AND THAT AGGRAVATING CIRCUMSTANCE COULD BE THE MURDER  
2 OF A POLICE OFFICER.

3 A RIGHT.

4 Q OR THE MURDER DURING THE COMMISSION OF AN ARMED  
5 ROBBERY, OR RAPE, THAT SORT OF THING.

6 A RIGHT.

7 Q I WANT YOU TO UNDERSTAND THAT THAT SECOND CRIME  
8 HAPPENS AT THE SAME TIME. IT'S THE MURDER AND THE ARMED  
9 ROBBERY AT THE SAME TIME. IT'S NOT TWO SEPARATE EVENTS.

10 A RIGHT.

11 Q OKAY? HAVING CONVICTED SOMEONE OF MURDER PLUS THE  
12 AGGRAVATING CIRCUMSTANCE, IS IT STILL YOUR OPINION, EVEN  
13 IN THAT SITUATION YOU WOULD KEEP AN OPEN MIND AND LISTEN  
14 TO ALL THE EVIDENCE BEFORE YOU DETERMINE THE PENALTY?

15 A I THINK I WOULD. YES.

16 Q AND IF THE JUDGE INSTRUCTED YOU THAT YOU MUST DO  
17 THAT, WOULD YOU FOLLOW HIS INSTRUCTION?

18 A YES.

19 Q OKAY. IN THE SECOND PHASE THE JUDGE TOLD YOU THAT  
20 THE STATE IS OBLIGATED TO BRING YOU EVIDENCE OF  
21 AGGRAVATION; BUT THE DEFENSE IS NEVER OBLIGATED TO BRING  
22 ANYTHING, DO YOU UNDERSTAND THAT?

23 A I -- YEAH. I UNDERSTAND IT. I MEAN I UNDERSTAND IT,  
24 BUT I DON'T UNDERSTAND IT. I MEAN, IT'S JUST THE WAY THE  
25 LAW IS WRITTEN.

1 Q RIGHT. IN OTHER WORDS, THE DEFENDANT NEVER HAS TO  
2 PROVE HE'S INNOCENT. THE STATE HAS TO PROVE HE'S GUILTY.

3 A YES.

4 Q HE HAS NO BURDEN WHATSOEVER, YOU UNDERSTAND THAT?

5 A RIGHT. YES.

6 Q AND YOU AGREE WITH THAT?

7 A YES, I DO.

8 Q THE SAME THING IN THE PENALTY PHASE. WE HAVE TO  
9 PROVE -- THE STATE HAS TO PROVE THAT THERE'S AN  
10 AGGRAVATING CIRCUMSTANCE, THAT THERE ARE REASONS TO GIVE  
11 THE DEATH PENALTY.

12 A RIGHT.

13 Q THE DEFENSE NEVER HAS TO PROVE TO YOU A REASON TO  
14 GIVE LIFE.

15 A RIGHT.

16 Q EVEN IF THE STATE BRINGS AGGRAVATING CIRCUMSTANCES  
17 AND THE DEFENSE BRINGS NOTHING, BECAUSE THEY DON'T HAVE  
18 TO.

19 A RIGHT.

20 Q THE JURY CAN STILL GIVE A LIFE SENTENCE IF THEY FEEL  
21 THAT IT'S APPROPRIATE. DO YOU UNDERSTAND THAT?

22 A YES, I DO.

23 Q SO, THE LAW NEVER REQUIRES THE JURY TO DO ONE OR THE  
24 OTHER. IT'S ALWAYS UP TO THE JURY'S DECISION.

25 A WELL, YOU WOULDN'T NEED THE JURY IF IT --

1 Q EXACTLY.

2 A RIGHT?

3 Q EXACTLY. MY QUESTION TO YOU IS EVEN IN THAT  
4 SITUATION WHERE A PERSON HAS BEEN CONVICTED OF MURDER PLUS  
5 THERE'S AN AGGRAVATING CIRCUMSTANCE. THE STATE HAS PROVEN  
6 TO YOU THE AGGRAVATING CIRCUMSTANCE AND THE DEFENSE BRINGS  
7 YOU NOTHING. IF YOU FELT EVEN UNDER THAT SITUATION THAT  
8 THE LIFE IMPRISONMENT WAS THE APPROPRIATE PUNISHMENT,  
9 WOULD YOU VOTE FOR IT?

10 A YES. IF I THOUGHT IT WAS APPROPRIATE.

11 Q AND YOU WOULD CONSIDER THAT PUNISHMENT, LIFE WITHOUT  
12 PAROLE, TO BE A SERIOUS PUNISHMENT?

13 A YES, IT WOULD BE VERY SERIOUS PUNISHMENT.

14 Q BECAUSE IT'S LIFE WITHOUT PAROLE.

15 A THAT'S RIGHT.

16 Q IT'S EVERY DAY IN PRISON?

17 A THAT'S RIGHT.

18 Q AND AS TO -- BEFORE MAKING YOUR DECISION AS TO WHICH  
19 SENTENCE TO IMPOSE, YOU WOULD GIVE MEANINGFUL  
20 CONSIDERATION TO ALL THE EVIDENCE IN AGGRAVATION AND ALL  
21 THE EVIDENCE IN MITIGATION IF IT WERE PRESENTED TO YOU?

22 A YES.

23 Q ONE FINAL POINT ON THE DEATH PENALTY IF I MAY. ONE  
24 OF THE REQUIREMENTS IN SOUTH CAROLINA IS IF A JURY  
25 DETERMINES THAT THE DEATH PENALTY IS APPROPRIATE, EACH AND



1 EVERY JUROR MUST SIGN THE VERDICT FORM WHICH SAYS WE  
2 BELIEF, "WE, THE JURY, BELIEVE DEATH PENALTY." THE  
3 SENTENCE TO BE IMPOSED IS DEATH PENALTY.

4 A RIGHT.

5 Q EACH AND EVERY JUROR MUST SIGN. IF THAT WERE YOUR  
6 DECISION IN THE JURY ROOM, COULD YOU SIGN THAT VERDICT  
7 FORM?

8 A IF I GAVE THE VERDICT, YES, I COULD.

9 Q THE ACT OF SIGNING IT WOULD NOT AN IMPAIR YOUR  
10 ABILITY TO CONSIDER IT OR IMPOSE IT?

11 A NO.

12 Q OKAY. COURT'S INDULGENCE ONE MOMENT. I THINK I  
13 PROBABLY MISSED SOMETHING. I'M GOING TO CHECK WITH MY  
14 COCOUNSEL.

15 OKAY, I DID FORGET SOMETHING. WE TALKED A LITTLE  
16 ABOUT EVIDENCE IN MITIGATION AND YOU SAID YOU WOULD  
17 CONSIDER THAT. SOMETIMES THAT CAN INCLUDE THINGS SUCH AS  
18 THE DEFENDANT'S BACKGROUND, WHAT HAPPENED TO THE  
19 DEFENDANT, THAT SORT OF THING AND WOULD TALK ABOUT THINGS  
20 SUCH AS HIS MENTAL HEALTH, ANY MENTAL ILLNESS HE MAY HAVE.

21 A RIGHT.

22 Q WOULD YOU GIVE THAT CONSIDERATION IN DETERMINING WHAT  
23 SENTENCE TO IMPOSE?

24 A WELL, IF A PERSON WEREN'T FULLY RESPONSIBLE FOR DOING  
25 SOMETHING, YES, YOU'D HAVE TO GIVE THEM A LITTLE ROOM.

1 Q LET ME GO BACK TO ONE THING WE TALKED ABOUT. EARLIER  
2 WHEN WE TALKED ABOUT MURDER BEING AN INTENTIONAL KILLING.

3 A RIGHT.

4 Q AT THAT FIRST PHASE IF THE PERSON IS FOUND NOT TO  
5 KNOW RIGHT FOR WRONG, IF HE HAS A MENTAL ILLNESS TO SUCH A  
6 DEGREE HE DOESN'T KNOW RIGHT FROM WRONG, THEN IT DOESN'T  
7 GO ANY FURTHER.

8 A RIGHT.

9 Q SO, IN THE SECOND PHASE, IF THE JURY GETS TO THE  
10 SECOND PHASE, THEY'VE ALREADY DETERMINED THAT THE  
11 DEFENDANT KNEW RIGHT FROM WRONG. OKAY?

12 A YES.

13 Q BUT STILL IN THAT SECOND PHASE THERE STILL MAY BE  
14 EVIDENCE OF MENTAL ILLNESS, IT JUST MAY NOT RISE TO THAT  
15 LEVEL.

16 A RIGHT.

17 Q DO YOU UNDERSTAND?

18 A RIGHT.

19 Q WOULD YOU STILL GIVE MEANINGFUL CONSIDERATION TO THAT  
20 TYPE OF EVIDENCE BEFORE YOU MADE THE DECISION AS TO WHICH  
21 PUNISHMENT TO IMPOSE?

22 A YES, BECAUSE I MEAN THERE'S SOMETIMES PEOPLE HAVE A  
23 DISABILITY THAT THEY MAY NOT REALIZE THEY HAVE OR THEY  
24 DON'T HAVE MEDICATION, THEIR MEDICATION DOESN'T WORK RIGHT  
25 AND CAN CAUSE YOUR MIND TO DO WEIRD THINGS.

1 Q OKAY. THANK YOU.

2 THE COURT: MR. MAULDIN.

3 MR. MAULDIN: PLEASE THE COURT?

4 BY MR. MAULDIN:

5 Q MISS HEATH?

6 A YES.

7 Q I'M GOING TO SPEND TIME WITH YOU IN THREE AREAS. ONE  
8 I WANT TO TALK TO YOU A LITTLE BIT IN DEPTH ABOUT THE  
9 SMITH FAMILY AND WHAT THEY'VE ENDURED. TALK TO YOU A  
10 LITTLE BIT ABOUT THE DEATH PENALTY AND A LITTLE ABILITY  
11 THIS MENTAL HEALTH ISSUE THAT MISS STROM BROUGHT UP.

12 A OKAY.

13 Q AND BEFORE I GO INTO IT, I WANT YOU TO KNOW THAT YOUR  
14 -- WHAT YOU BRING INTO THIS COURTROOM IS NOT ON TRIAL.  
15 YOUR LIFE EXPERIENCES, WHERE YOU WERE THE NIGHT SOMEBODY  
16 ROBBED YOU.

17 A RIGHT.

18 Q THAT'S JUST THE WAY LIFE, YOU BRING WITH YOU WHAT YOU  
19 LIVE.

20 A THAT'S RIGHT.

21 Q AND THERE ARE NO RIGHT OR WRONG ANSWERS TO ANY OF  
22 THIS.

23 A RIGHT.

24 Q WHEN WE STARTED HERE ON MONDAY, WE HAD 150 JURORS.

25 A YES.

1 Q WE'VE BEEN HERE FIVE DAYS ASKING PEOPLE THE SAME  
2 QUESTIONS. AND THE REASON THEY BROUGHT IN 150, BECAUSE A  
3 LOT OF THEM ARE NOT GOING TO BE QUALIFIED.

4 A I'M SURE, YEAH.

5 Q A LOT OF THEM HAVE WORK ISSUES, LOT HAVE HEALTH  
6 ISSUES, A LOT OF THEM HAVE OPINIONS ON VARIOUS THINGS. A  
7 LOT OF THEM WE HAVE VARIOUS REASONS THEY WOULDN'T BE  
8 QUALIFIED TO BE ON THIS PARTICULAR CASE.

9 A RIGHT.

10 Q THAT'S KIND OF WHAT I WANT TO TALK TO YOU A LITTLE  
11 BIT ABOUT ON THE SMITH FAMILY.

12 A OKAY.

13 Q ANOTHER THING IS, YOU KNOW, YOU'VE HEARD THE WORD  
14 FAIR, YOU WOULD BE FAIR.

15 A RIGHT. RIGHT.

16 Q I DON'T BELIEVE I EVER MET SOMEBODY JUST GOING TO SAY  
17 I WANT TO BE UNFAIR.

18 A WELL, THIS IS TRUE. I DON'T THINK I HAVE EITHER.

19 Q THAT'S RIGHT. SO FAIR IS KIND OF A WORD THAT'S BEEN  
20 TOSSED AROUND HERE AND THE FACT IS, I THINK IT'S TIME FOR  
21 US TO KIND OF PUT THE RUBBER TO THE ROAD, SO TO SPEAK, AND  
22 LET'S LOOK AT YOUR INDIVIDUAL QUALIFICATIONS ON A CASE  
23 LIKE THIS.

24 A OKAY.

25 Q DID YOU -- DID YOU KNOW ME OR MY ROLE IN THE DICKIE

1 SMITH CASE? DID YOU KNOW I WAS INVOLVED IN THAT CASE?

2 A NO, I DID NOT.

3 Q DID YOU EVER TALK TO RUTH AND HER -- DID YOU EVER  
4 TALK TO THEM ABOUT WHAT THEY WENT THROUGH REGARDING THAT  
5 CASE AND THE DEATH PENALTY THAT WAS SENTENCED IN THAT?

6 A NOT REALLY. NOT REALLY. ALL I KNOW IS I REMEMBER  
7 TALKING TO MS. LOTTIE ONE DAY. AND THIS IS BEFORE JERRY  
8 GOT KILLED. AND SHE SAID IT WAS THE HARDEST THING SHE  
9 EVER HAD TO GO THROUGH, WAS TO GO UP THERE EVERY DAY FOR  
10 THAT TRIAL.

11 Q AND THAT WAS THE DICKIE SMITH CASE?

12 A YEAH.

13 Q AND THAT WAS AT THIS COURTHOUSE --

14 A YES.

15 Q -- IN GREENVILLE?

16 A YES.

17 Q NOW, SO YOU ARE, IF SHE WOULD HAVE BEEN SAYING THINGS  
18 LIKE THAT TO YOU, THEN YOU'RE CLOSE WITH THEM? YOU WOULD  
19 BE A CLOSE FRIEND?

20 A I DON'T, I MEAN, IF I SEE -- I DON'T CALL THEM OR GO  
21 TO SEE THEM. OCCASIONALLY I WILL BE SOMEPLACE AND I WILL  
22 RUN INTO ONE OF THEM. MY OLDEST DAUGHTER WORKED FOR THE  
23 SMITHS LONGER THAN I DID. AND SHE TALKED TO RUTH  
24 OCCASIONALLY. HER AND RUTH DEVELOPED SORT OF A  
25 FRIENDSHIP.

1 Q HAVE YOU TALKED TO YOUR DAUGHTER ABOUT WHAT THAT  
2 FAMILY HAS GONE THROUGH, LOSING TWO SONS LIKE THAT?

3 A WELL, WE HAD TALKED ABOUT IT THE FOLLOWING DAY AFTER  
4 JERRY WAS MURDERED. WE WERE WE WERE AT THE STORE, THE ONE  
5 ON FORK SHOALS AND GEORGIA ROAD THERE WAS WE HAD A LITTLE  
6 TV IN THE BACK, AND WE WERE WATCHING BECAUSE AT THAT POINT  
7 THEY HADN'T FOUND.

8 Q THE PEOPLE INVOLVED IN EVERYTHING?

9 A IN FACT, YOU KNOW, I REALLY DON'T KNOW WHAT TIME THEY  
10 FOUND JERRY'S BODY IN HIS CAR AND ALL THAT KIND OF STUFF.  
11 ALL I KNOW IS WE WERE ALL VERY UPSET. I WAS UPSET BECAUSE  
12 IT COULD HAVE HAPPENED TO ME THAT NIGHT, TOO.

13 Q I GUESS ONE THING THAT, YOU KNOW, I HAVE AN AWESOME  
14 RESPONSIBILITY REPRESENTING THIS YOUNG MAN.

15 A YES. I UNDERSTAND THAT.

16 Q AND I WANT TO MAKE SURE THAT THE PEOPLE SEATED HERE  
17 DON'T HAVE THINGS IN, YOU KNOW, DISTRACTIONS THAT COULD  
18 AFFECT WHAT THEY'RE THINKING OR WHAT THEY'RE DOING. AND I  
19 THOUGHT -- HERE IS WHAT I THOUGHT, MISS HEATH, GOING TO  
20 JUST GO STRAIGHT. I --

21 A THAT'S FINE.

22 Q I THOUGHT IF YOU WERE SITTING ON THIS JURY AND ONE OF  
23 MANDY WILLIAMS' FAMILY MEMBERS CAME IN AND TESTIFIED --  
24 AND THEY SHOULD AND THEY WILL, THEY NEED TO BE HEARD --  
25 YOU AND YOUR RELATION, YOU SAY YOU WERE OVER THERE AT THAT

1 STORE THE DAY AFTER THAT AND YOU WERE WITH THAT FAMILY.  
2 UPSET. EVERYBODY WAS VERY UPSET, YOU OBVIOUSLY CAN HAVE  
3 SOME SENSE OF FEELING ABOUT HOW THEY WOULD BE FEELING AT  
4 THAT VERY MOMENT.

5 A YES, I PROBABLY WOULD HAVE. AND I KNOW THEIR  
6 OUTWARD, THE WAY THEY FELT IT WAS SHOWING OUTWARD, BECAUSE  
7 IT HAS NEVER HAPPENED TO ME, SO I DON'T KNOW HOW THEY  
8 WOULD BE FEELING INSIDE.

9 Q RIGHT.

10 A YOU CAN SYMPATHIZE WITH A PERSON, BUT UNLESS YOU BEEN  
11 IN THEIR SHOES, YOU DON'T KNOW.

12 Q YOU AGREE WITH ME THAT PEOPLE WHO SIT ON JURORS ON A  
13 CASE, PARTICULARLY A CASE OF THE MAGNITUDE THE COURT IS  
14 TALKING ABOUT HERE, THE ULTIMATE PUNISHMENT CASE --

15 A RIGHT.

16 Q -- PEOPLE WHO SIT ON THE JURY SHOULD NOT HAVE THINGS  
17 IN THEIR LIFE EXPERIENCE OUTSIDE OF THE COURTROOM THAT  
18 COULD AFFECT HOW THEY FEEL ABOUT THE CASE THEY'RE BEING  
19 ASKED TO JUDGE. DO YOU AGREE WITH THAT?

20 A NO. NO, I DON'T. BECAUSE I TELL YOU WHAT. I MEAN,  
21 HOW MANY PEOPLE ARE EITHER DIRECTLY OR EVEN INDIRECTLY  
22 EXPOSED TO THIS TYPE OF THING? WE'RE ALL EXPOSED TO IT  
23 ALL THE TIME. I MEAN, EVEN IF IT'S NOT SOMEBODY REAL,  
24 REAL CLOSE, YOU KNOW SOMEBODY THAT WAS CLOSE TO SOMEBODY  
25 AND YOU HEARD THE SAME STORIES.

1 Q SO, YOU'RE SAYING THAT -- AND I UNDERSTAND THE HUMAN,  
2 WE ALL HAVE HUMAN EXPERIENCES AND WE CAN'T --

3 THE COURT: MR. MAULDIN, GET TO THE POINT ON HOW IT  
4 AFFECTS HER VIEWPOINT.

5 MR. MAULDIN: I THINK --

6 THE COURT: I KNOW, BUT YOU KEEP BEATING AROUND THE  
7 BUSH. GET TO IT. OKAY.

8 Q WELL, THE QUESTION, MISS HEATH, IS IF YOU WERE SEATED  
9 AS A JUROR IN A CASE WHERE THE DEATH PENALTY WAS BEING  
10 ASKED BY THE PROSECUTOR AND YOU, HAVING HAD THE EXPERIENCE  
11 YOU HAD WITH THE SMITH FAMILY WHERE TWO PEOPLE HAVE BEEN  
12 SENTENCED TO DEATH FOR KILLING THEIR SONS.

13 A RIGHT.

14 Q DO YOU BELIEVE THAT YOUR ABILITY TO OBJECTIVELY  
15 DECIDE ON WHAT WAS RIGHT IN THE CASE YOU WERE SITTING ON  
16 COULD BE IMPAIRED OR AFFECTED BY THE EXPERIENCES THAT  
17 YOU'VE HAD TO ENDURE WITH YOUR RELATIONSHIP WITH THE SMITH  
18 FAMILY?

19 A I DON'T THINK IT WOULD BE. IT WOULDN'T. I DON'T  
20 THINK IT WOULD AFFECT MY ABILITY TO JUDGE OR TO JUDGE THE  
21 FACTS AND WHATEVER WAS --

22 MR. MAULDIN: THANK YOU, MA'AM.

23 THE COURT: OKAY. MR. NETTLES, MR. MOYER, HAVE WE  
24 GONE THROUGH THE WITNESS LIST AND ALL THAT WITH THIS  
25 JUROR? I, QUITE FRANKLY, DON'T REMEMBER.



1 MR. NETTLES: I DON'T THINK SO.

2 THE COURT: OKAY.

3 MS. STROM: WE HAVE NOT GONE THROUGH THE WITNESS  
4 LIST.

5 THE COURT: I JUST WANTED TO ASK.

6 Q MRS. HEATH --

7 A YES.

8 Q -- THE VICTIM IN THIS CASE WAS MARANDA WILLIAMS. DID  
9 YOU KNOW THE VICTIM IN THIS CASE?

10 A NO, SIR, I DID NOT.

11 Q ALL RIGHT. THE DEFENDANT, CHARLES CHRISTOPHER  
12 WILLIAMS, SITS TO MY RIGHT IN THE BLUE-GRAY SWEATER. DO  
13 YOU KNOW HIM?

14 A NO, I DO NOT.

15 Q DO YOU KNOW HIS ATTORNEYS? HIS ATTORNEYS ARE MR.  
16 MAULDIN, MR. NETTLES, AND MARK MACDOUGALL, WHO IS NOT  
17 HERE, AND COLLEEN COYLE, WHO IS NOT HERE.

18 A NO, I DON'T.

19 Q DO YOU KNOW THE SOLICITOR OR HIS TWO ASSISTANT  
20 SOLICITORS WHO SIT IN FRONT OF YOU?

21 A NO.

22 Q DO YOU KNOW ANYONE IN THE SOLICITOR'S OFFICE?

23 A NO.

24 Q I'M GOING TO GIVE YOU A LIST OF WITNESSES. CAN YOU  
25 IDENTIFY ANY NAMES ON THAT LIST?

1 A WHO IS CHRIS JOHNSON? IT SAYS DEPARTMENT OF PUBLIC  
2 SAFETY.

3 THE COURT: WHO IS CHRIS JOHNSON?

4 PROSPECTIVE JUROR: WAS HE A SHERIFF'S -- IN THE  
5 SHERIFF'S DEPARTMENT?

6 THE COURT: I DON'T KNOW. LET ME FIND OUT. CHRIS  
7 JOHNSON, WHO IS THAT, SOLICITOR?

8 MS. STROM: HE IS ONE WITH THE FORENSIC DEPARTMENT.

9 THE COURT: FORENSIC DEPARTMENT? SLED OR GREENVILLE  
10 COUNTY?

11 MS. STROM: GREENVILLE, SERVES BOTH THE CITY AND THE  
12 COUNTY.

13 Q HE WORKS WITH FORENSIC DEPARTMENT.

14 A I KNEW HIM FROM COMING IN THE MAX SAVER, THAT'S ALL.

15 Q HAVE YOU SEEN HIM SINCE?

16 A NO.

17 Q WOULD THAT AFFECT YOU SITTING ON THIS JURY?

18 A NO.

19 Q DO YOU KNOW GARY WILLIAMS?

20 A NO.

21 Q OKAY. LET ME GIVE YOU ANOTHER LIST. ASK YOU WOULD  
22 YOU LOOK AT THAT LIST AND SEE IF YOU RECOGNIZE ANY NAMES.

23 A (COMPLIES) NO.

24 Q THANK YOU, MA'AM. DO YOU HAVE ANY PHYSICAL OR MENTAL  
25 PROBLEMS THAT WOULD PREVENT YOU FROM SITTING ON THE JURY?

1 A NO.

2 Q ANY MEDICAL PROBLEMS?

3 A ALLERGIES AND ASTHMA, BUT I HAVE MEDICATION.

4 Q DO YOU HAVE ANY HARDSHIPS SITTING ON THE JURY?

5 A NO.

6 Q CAN YOU LISTEN TO TESTIMONY IN THE COURTROOM AND BASE  
7 YOUR DECISION ON TESTIMONY IN THE COURTROOM RATHER THAN  
8 SOMETHING OUTSIDE THE COURTROOM?

9 A I BELIEVE I CAN.

10 Q CAN YOU BE FAIR AND IMPARTIAL TO BOTH THE STATE AND  
11 THE DEFENDANT?

12 A I COULD DO IT.

13 Q OKAY. ALL RIGHT. ANY FURTHER QUESTIONS FROM EITHER  
14 PARTY FOR THIS WITNESS?

15 MS. STROM: NO, SIR.

16 THE COURT: MR. MAULDIN?

17 MR. MAULDIN: YES, SIR. I HAVE A MOTION.

18 THE COURT: OH, OKAY. ALL RIGHT.

19 MR. NETTLES: I WAS KIND OF WITH YOU ON THAT ONE.

20 THE COURT: I ALMOST NEED THE GAVEL, GOING TO DIG IT  
21 OUT.

22 (JUROR EXITS)

23 THE COURT: YES, SIR, MR. MAULDIN?

24 MR. MAULDIN: WE MOVE THAT SHE BE DISQUALIFIED ON THE  
25 GROUNDS ESSENTIALLY THAT HER ANSWER ABOUT WHETHER OR NOT

1 SHE WOULD BE IMPAIRED BY THE DISTRACTIONS FROM HER PRIOR  
2 EXPERIENCES IN THE SMITH FAMILY DEFIES NATURAL LAW AND IS  
3 BEYOND ANY SENSE OF CREDIBILITY.

4 THE COURT: NATURAL LAW?

5 MR. MAULDIN: SHE CANNOT DO THAT. NO HUMAN BEING ON  
6 EARTH COULD DO IT, AND WE MOVE THAT SHE BE DISQUALIFIED.

7 THE COURT: MOTION DENIED. ANYTHING ELSE?

8 MR. MAULDIN: NOTHING.

9 THE COURT: SOLICITOR, IS THERE ANYTHING YOU WANT TO  
10 PUT ON THE RECORD CONCERNING THAT?

11 MS. STROM: NO, SIR.

12 THE COURT: I DIDN'T MEAN TO CUT YOU OFF. ANYTHING  
13 YOU WANT TO ADD?

14 MS. STROM: NO, SIR, YOU DIDN'T CUT ME OFF. THAT'S  
15 FINE.

16 THE COURT: MOTION DENIED. ALL RIGHT. WOULD YOU  
17 BRING MRS. HEATH BACK, PLEASE?

18 (PROSPECTIVE JUROR RETURNS TO COURTROOM.)

19 BY THE COURT:

20 Q MRS. HEATH?

21 A YES, SIR.

22 Q WE'RE IN THE PROCESS OF DRAWING 40 JURORS. FROM  
23 THOSE 40 JURORS WE'RE GOING TO SELECT 12 JURORS AND FOUR  
24 ALTERNATES. OKAY?

25 A OKAY.

1 Q YOU ARE NOW PART OF THOSE 40. PLEASE DON'T LISTEN TO  
2 ANYTHING ON THE TV.

3 A I DON'T.

4 Q DON'T READ THE PAPER.

5 A I DON'T.

6 Q DON'T LISTEN TO ANYBODY ABOUT IT. NOW, THE BAILIFF  
7 HAS A SLIP OF PAPER. ON THAT SLIP OF PAPER IS A PHONE  
8 NUMBER. CALL THAT NUMBER AND THERE WILL BE A MESSAGE FOR  
9 YOU. THE MESSAGE WILL PROBABLY BE TELLING YOU COME BACK  
10 AT A CERTAIN TIME TOMORROW, DO YOU UNDERSTAND?

11 A YES, SIR.

12 Q THANK YOU VERY MUCH.

13 A THANK YOU.

14 THE COURT: WE'RE GOING TO TAKE A FIVE OR TEN-MINUTE  
15 BREAK.

16 (BRIEF RECESS)

17 THE COURT: NEXT JUROR IS CHERYL WATSON.

18 (PROSPECTIVE JUROR CHERYL GLENN, BLACK FEMALE, ENTERS  
19 COURTROOM.)

20 THE COURT: OKAY. MRS. GLENN, HOW YOU DOING TODAY?

21 PROSPECTIVE JUROR: FINE, THANK YOU.

22 THE COURT: WOULD YOU PLEASE RAISE YOUR RIGHT HAND,  
23 PLEASE, MA'AM. SORRY, MRS. WATSON?

24 PROSPECTIVE JUROR: IT'S GLENN. IT WAS WATSON, AND I  
25 GOT MY MAIDEN NAME BACK, GLENN.

1 THE COURT: IT WAS WATSON, NOW IT'S GLENN?

2 A YES, SIR.

3 CHERYL L. WATSON, (BLACK  
4 FEMALE), HAVING BEEN PREVIOUSLY DULY SWORN, TESTIFIED AS  
5 FOLLOWS:

6 EXAMINATION

7 BY THE COURT:

8 Q OKAY. WHEN DID YOU GET DIVORCED?

9 A MAY 9TH OF 2000.

10 Q OKAY. SO, YOU'VE BEEN DIVORCED A WHILE?

11 A YES.

12 Q LET ME GIVE YOU THIS QUESTIONNAIRE.

13 A YES.

14 Q DO YOU REMEMBER FILLING OUT THE QUESTIONNAIRE?

15 A YES, SIR.

16 Q DID YOU FILL OUT THE QUESTIONNAIRE ACCURATELY WHEN  
17 YOU FILLED IT OUT?

18 A YES.

19 Q WE'RE GOING TO ASK YOU SOME QUESTIONS. OKAY.

20 THERE'S NO RIGHT OR WRONG ANSWER TO THE QUESTION. JUST  
21 GIVE THE BEST ANSWER YOU CAN. WE'RE GOING TO ASK YOUR  
22 OPINION ABOUT CERTAIN MATTERS. I'M GOING TO ASK SOME  
23 QUESTIONS, THEN THE ATTORNEY WILL ASK SOME QUESTIONS.  
24 OKAY?

25 A OKAY.

1 Q I SEE WHERE YOU WORK ON THE CRISIS LINE. IS THAT  
2 CORRECT?

3 A I USED TO VOLUNTEER.

4 Q WHAT IS THAT?

5 A SAFE HARBOR.

6 Q WHAT IS THAT?

7 A SAFE HOUSE FOR WOMEN. SAFE HOUSE FOR WOMEN.

8 Q ABUSED AND BATTERED WOMEN. IS THAT WHAT IT IS?

9 A IT IS.

10 Q DID YOU WORK THERE FULL TIME?

11 A VOLUNTEER.

12 Q WHEN IS THE LAST TIME YOU WORKED THERE?

13 A PROBABLY A YEAR AGO.

14 Q WORKED PART TIME?

15 A YES, JUST VOLUNTEER TWO HOURS.

16 Q AT NIGHT OR?

17 A WHEN I GET OFF WORK, JUST ONE DAY A WEEK.

18 Q ALL RIGHT. IF YOU WOULD, TURN IN YOU QUESTIONNAIRE  
19 TO PAGE 10. IF YOU WOULD, PLEASE, MA'AM, AND QUESTION 64.

20 IT SAYS BRIEFLY DESCRIBE YOUR ATTITUDES AND BELIEFS  
21 CONCERNING CAPITAL PUNISHMENT, THE DEATH PENALTY. YOU  
22 SAID, "NEVER REALLY GAVE IT ANY THOUGHTS." HAVE YOU GIVEN  
23 IT ANY THOUGHT SINCE YOU FILLED OUT THE QUESTIONNAIRE?

24 A UNTIL I CAME HERE, I REALLY NEVER, HAVEN'T THOUGHT  
25 ABOUT IT SERIOUSLY.

1 Q HAVE YOU THOUGHT ABOUT IT FOR THE LAST MONTH?

2 A YES, I HAVE.

3 Q WHAT DO YOU THINK ABOUT IT? WHAT IT IS YOUR OPINION  
4 ABOUT IT?

5 A I REALLY DON'T WANT ANY BLOOD ON MY HANDS. I REALLY  
6 DON'T WANT THAT. I'M NOT GOD TO SAY IF SOMEONE SHOULD  
7 LIVE OR SOMEONE SHOULD DIE. THAT'S MY OPINION OF IT.

8 Q YOU FEEL LIKE YOU CANNOT SAY WHETHER SOMEONE SHOULD  
9 LIVE OR DIE?

10 A RIGHT.

11 Q HOW DID YOU ARRIVE AT THAT DECISION OR THAT  
12 CONCLUSION?

13 A WELL, I THOUGHT ABOUT IT THIS WAY. IF SOMEONE TOOK  
14 MY LIFE, AND WHAT WOULD I WANT TO BE DONE TO THAT PERSON?  
15 RIGHT OFF, I WOULD WANT YOU TO TAKE THEIR LIFE; BUT,  
16 SPIRITUALLY, I CAN'T SAY THAT THAT'S THE RIGHT THING TO  
17 DO. I FEEL LIKE THAT'S GOD'S DECISION.

18 Q CAN YOU THINK OF ANY CRIME OR ANY SITUATION WHERE YOU  
19 THINK IT WOULD BE APPROPRIATE TO GIVE THE DEATH PENALTY?

20 A I'VE BEEN IN DOMESTIC VIOLENCE MYSELF.

21 Q BEEN IN WHAT, NOW?

22 A DOMESTIC VIOLENCE MYSELF. SO, WHEN I LEFT HERE  
23 MONDAY NIGHT, I GAVE IT SOME SERIOUS THOUGHT AND I REALLY  
24 CAN'T MAKE THAT DECISION.

25 Q YOU DON'T THINK YOU CAN MAKE THAT DECISION UNDER ANY



1 CIRCUMSTANCES.

2 A I'LL GIVE MY OPINION OF WHY HE SHOULD OR WHY SHE  
3 SHOULD OR -- THAT'S IT. I'LL LOOK AT THE PICTURE. I'M  
4 NOT NARROW MINDED. I'M OPEN MINDED.

5 Q I SEE. BUT YOU NEVER COULD VOTE TO GIVE SOMEONE THE  
6 DEATH PENALTY, IS THAT WHAT YOU'RE SAYING?

7 A I DIDN'T SAY YES OR NO, I'LL DO THAT. IF YOU PUT ME  
8 IN THAT PREDICAMENT, I WILL MAKE A DECISION, BUT I DON'T  
9 WANT TO BE PUT IN THAT POSITION.

10 Q OKAY. SO WHAT YOU'RE TELLING ME. LET ME SEE IF I  
11 CAN SUMMARIZE WHAT YOU'RE TELLING ME. YOU'RE TELLING ME,  
12 YES, IF YOU WERE ON THE DECISION, MAKE A DECISION TO DEATH  
13 OR LIFE, BUT YOU PERSONALLY DON'T WANT TO BE PLACED IN  
14 THAT POSITION. IS THAT WHAT YOU'RE TELLING ME?

15 A YES. YES, SIR.

16 Q OKAY. WHOSE TURN?

17 MS. STROM: IT'S THEIRS.

18 BY MR. NETTLES:

19 Q LET ME ASK A COUPLE OF QUESTIONS REAL QUICK. HOW YOU  
20 DOING?

21 A I'M FINE. YOU?

22 Q THAT WAS MY FIRST QUESTION. LET ME GET STRAIGHT TO  
23 THE POINT. MAYBE I CAN HELP YOU.

24 THE COURT: LET ME ASK TWO QUESTIONS MAY COVER IT  
25 ALL. STAY WHERE YOU WANT TO MR. NETTLES. THIS CASE

1 OCCURRED SEPTEMBER 3, 2003, AND THE DEFENDANT IS CHARGED  
2 WITH MURDER AND KIDNAPPING. IT OCCURRED AT A BI-LO HERE  
3 IN GREENVILLE COUNTY SEPTEMBER 3, '03. HAVE YOU SEEN  
4 ANYTHING ON THE TELEVISION, HEARD ANYTHING ABOUT IT, OR  
5 HEARD ANYBODY TALKING ABOUT IT?

6 A WHEN I CAME MONDAY, ONE OF MY COWORKERS SAID I THINK  
7 I KNOW WHAT CASE YOU'RE WORKING ON. I DIDN'T HAVE A CLUE.  
8 I JUST THOUGHT IT WAS A TICKET THING. WHEN I FOUND OUT I  
9 BACKED OFF. WHEN I CAME HERE AND SAW THE GENTLEMAN, I  
10 REMEMBER I HEARD ABOUT IT BACK THEN.

11 Q WHAT DO YOU REMEMBER HEARING BACK THEN?

12 A ABOUT BI-LO AND HOSTAGE. I THINK I WAS WORKING AT  
13 THE TIME WHEN IT WAS GOING ON AND THAT WAS IT.

14 Q BASED UPON WHAT YOU HEARD WHEN IT OCCURRED BACK IN  
15 SEPTEMBER OF '03, HAVE YOU FORMED OPINION ABOUT INNOCENCE  
16 OR GUILT OF THE DEFENDANT?

17 A MY OPINION, PERSONALLY, IF THE GIRL WENT THROUGH  
18 ANYTHING LIKE I WENT THROUGH, I'D BE EMOTIONALLY REALLY  
19 FOR THE GIRL. I MEAN, IF SHE FOUGHT AND TRIED TO GET THE  
20 SYSTEM TO HELP HER OUT, GET HER PROTECTED AND HOW THE  
21 SYSTEM IS SET UP, EXCUSE ME FOR SAYING, BUT YOU KNOW,  
22 THINGS HAPPEN LIKE IT JUST DID. YOU HAVE TO FIGHT AND  
23 STAND YOUR GROUND AND IF I DIDN'T HAVE COWORKERS STAND  
24 BESIDE ME, WENT TO DIFFERENT THINGS, I WOULD HAVE GIVEN  
25 UP, AND PROBABLY SOMETHING WOULD HAPPEN. BUT I KNOW --

1 Q I CAN UNDERSTAND YOUR OPINION ON SPOUSAL ABUSE. I  
2 THINK YOU'RE ABSOLUTELY CORRECT. OKAY? BUT I'M TALKING  
3 ABOUT A DIFFERENT THING RIGHT NOW. BASED ON YOUR  
4 KNOWLEDGE OF THE FACTS OF THIS CASE, DO YOU HAVE AN  
5 OPINION AS TO WHETHER THE DEFENDANT IS INNOCENT OR GUILTY?

6 A I DON'T, BECAUSE I DON'T KNOW THE DETAILS.

7 Q YOU DON'T KNOW THE DETAILS.

8 A NO, I DON'T.

9 Q LET'S TAKE THE SITUATION YOU SAY, IF THE GIRL FOUGHT,  
10 IT WAS A BAD SITUATION AND SHE HAD WORKED TO GET  
11 PROTECTIONS, ET CETERA, ET CETERA, EVERYTHING YOU WERE  
12 TELLING ME. UNDER THOSE CIRCUMSTANCES, COULD YOU CONSIDER  
13 GIVING THE DEATH PENALTY?

14 A MY THING IS, AND I CAN'T GIVE YOU A YES AND NO  
15 ANSWER. I GET MAD AT THE SYSTEM BECAUSE OF WHAT I BEEN  
16 THROUGH. I FEEL LIKE YOU HAVE TO -- THE PERSON HAVE TO  
17 KILL YOU BEFORE THEY DO ANYTHING. AND I'M NOT SAYING I'M  
18 MAD AT THE PERSON, I'M MAD AT THAT MAN. I'M MAD AT THE  
19 SYSTEM BECAUSE THEY DON'T PROTECT YOU LIKE THEY SHOULD.

20 Q UNFORTUNATELY, THE LAW IS DESIGNED TO REACT AFTER  
21 SOMETHING HAPPENS. THE LAW ENFORCEMENT IS NOT DESIGNED --

22 MR. NETTLES: YOUR HONOR, I'VE SPOKEN WITH --

23 THE COURT: OKAY.

24 PROSPECTIVE JUROR: I'M EXCUSED?

25 THE COURT: YES, MA'AM. THANK YOU VERY MUCH. THANK

1 YOU SO VERY MUCH. LET ME SAY THIS. YOUR OPINIONS ARE  
2 FINE, NOBODY IS QUARRELING WITH YOUR OPINION, JUST FINDING  
3 WHAT YOUR OPINION ARE.

4 PROSPECTIVE JUROR: I SPOKE FROM THE HEART, WHAT I  
5 TOLD YOU.

6 THE COURT: I APPRECIATE THAT AND RESPECT THAT.  
7 THANK YOU SO VERY MUCH FOR BEING HERE.

8 PROSPECTIVE JUROR: OKAY. THANK YOU.

9 THE COURT: THANK YOU.

10 (PROSPECTIVE JUROR ENTERS COURTROOM.)

11 THE COURT: HOW YOU DOING TODAY?

12 PROSPECTIVE JUROR: ALL RIGHT, SIR. A LITTLE  
13 NERVOUS.

14 THE COURT: LITTLE NERVOUS. PLEASE RAISE YOUR RIGHT  
15 HAND.

16 STANTON WOOD BOROFF, (WHITE  
17 MALE), HAVING BEEN PREVIOUSLY DULY SWORN, TESTIFIED AS  
18 FOLLOWS:

19 EXAMINATION

20 BY THE COURT:

21 Q NOBODY IS GOING TO FUSS AT YOU.

22 A YES, SIR.

23 Q JUST GOING TO ASK YOU SOME QUESTIONS GET YOUR OPINION  
24 ON SOME SUBJECT MATTERS, DIFFERENT VIEWPOINTS. OKAY?

25 A YES, SIR.

- 1 Q WOULD YOU TAKE THE QUESTIONNAIRE?
- 2 A OKAY.
- 3 Q WHEN YOU FILLED IT OUT, WAS IT ACCURATE?
- 4 A YES, SIR.
- 5 Q OKAY. WOULD YOU TURN TO PAGE 11?
- 6 A OKAY.
- 7 Q OKAY. ON QUESTION 68, YOU SAID, "I BELIEVE THAT THE
- 8 DEATH PENALTY IS THE APPROPRIATE FORM OF PUNISHMENT IN ALL
- 9 MURDER CASES." IS THAT CORRECT?
- 10 A YES.
- 11 Q IS THAT STILL YOUR OPINION?
- 12 A YES.
- 13 Q AND QUESTION 67.
- 14 A HUH?
- 15 Q YOU SAID, "SCOTT PETERSON SHOULD HAVE DIED ON MONDAY
- 16 NIGHT WHEN HE WAS CONVICTED." IS THAT CORRECT?
- 17 A YES. WHEN HE WAS SENTENCED, I THINK HE SHOULD HAVE.
- 18 Q HOW DO YOU THINK HE SHOULD HAVE DIED THAT NIGHT?
- 19 A WHATEVER THE LAW SAYS. JUST MY OPINION.
- 20 Q I SEE. SCOTT PETERSON, THAT'S THIS TRIAL THAT THE
- 21 NEWS MEDIA COVERED IN CALIFORNIA?
- 22 A YES, SIR.
- 23 Q IS THAT THE SAME?
- 24 A YES.
- 25 Q I DON'T REMEMBER, WAS HE CONVICTED? I DON'T

1 REMEMBER.

2 A HE WAS, AND THEY SENTENCED HIM.

3 Q WHAT WAS HE CONVICTED OF?

4 A HE MURDERED HIS WIFE AND CHILD.

5 Q ALL RIGHT. AND SO YOU THOUGHT THAT AT THAT TIME THEY  
6 SHOULD HAVE TAKEN HIM OUT, SORT OF LIKE OUT BEHIND THE  
7 BARN, AND KILLED HIM?

8 A WELL, NO, SIR.

9 Q HOW DO YOU THINK THEY SHOULD HAVE KILLED HIM?

10 A WHATEVER THE LAW SAYS, IF IT'S LETHAL INJECTION OR  
11 ELECTROCUTION, WHATEVER.

12 Q THEY SHOULD HAVE GAVE HIM LETHAL INJECTION THAT  
13 NIGHT?

14 A YES, SIR. THAT'S THE WAY I FEEL.

15 Q OKAY. WOULD YOU STEP OUT IN THE HALL, PLEASE?

16 (JUROR COMPLIES)

17 THE COURT: ANY MOTIONS?

18 MR. NETTLES: I'M GLAD I'M NOT REPRESENTING SCOTT  
19 PETERSON. I MAKE A MOTION HE'S NOT QUALIFIED, YOUR HONOR.  
20 SOLICITOR, YOU GOT ANY ARGUMENT OR YOU WANT TO ASK SOME  
21 QUESTIONS?

22 MR. ARIAIL: NO, NO.

23 THE COURT: YOU AGREE WITH THE MOTION?

24 MR. ARIAIL: I AGREE. I DON'T IMAGINE HE'S  
25 DISQUALIFIED YET, BUT I DON'T THINK THERE'S ANY REASON TO

1 KEEP ASKING QUESTIONS.

2 THE COURT: WE CAN BELABOR THE POINT ANOTHER 30  
3 MINUTES. I DON'T THINK HE'S GOING TO CHANGE.

4 MR. ARIAIL: NO.

5 THE COURT: DO YOU AGREE WITH THE MOTION?

6 MR. ARIAIL: YES. CONSENT TO THE MOTION.

7 THE COURT: WILL YOU BRING IN MR. BOROFF?

8 (PROSPECTIVE JUROR RETURNS.)

9 BY THE COURT:

10 Q MR. BOROFF, I WANT TO THANK YOU. I APPRECIATE YOUR  
11 VIEWS. THERE'S NOTHING WRONG WITH YOUR VIEWS. OKAY?

12 A YES, SIR.

13 Q I'M NOT TRYING TO CRITICIZE YOUR VIEWS, I'M JUST  
14 TRYING TO FIND OUT ABOUT YOUR VIEWS AND HOW STRONG THEY  
15 WERE.

16 A I UNDERSTAND.

17 Q BUT FOR PURPOSES OF THIS CASE, I'M GOING TO FIND  
18 YOU'RE NOT QUALIFIED TO SERVE ON THIS JURY. OKAY?

19 A YES, SIR.

20 Q THANK YOU SO VERY MUCH AND HAVE A GOOD WEEKEND.

21 (PROSPECTIVE JUROR EXITS AND NEXT JUROR ENTERS.)

22 THE COURT: MR. HARPER, HOW ARE YOU DOING TODAY?

23 PROSPECTIVE JUROR: GOOD, SIR.

24 DAVID HARPER, (WHITE  
25 MALE), HAVING BEEN PREVIOUSLY DULY SWORN, TESTIFIED AS

1       FOLLOWS:

2                                       EXAMINATION

3       BY THE COURT:

4       Q       DO YOU RECALL FILLING OUT THIS QUESTIONNAIRE,  
5       MR. HARPER?

6       A       YES.

7       Q       WAS THE QUESTIONNAIRE AND THE ANSWERS, YOUR ANSWERS  
8       TO THE QUESTIONNAIRE, WERE THEY ACCURATE AT THE TIME YOU  
9       FILLED IT OUT?

10      A       YES.

11      Q       ALL RIGHT. IF YOU WOULD, MR. HARPER, I WANT TO ASK  
12      YOU CERTAIN QUESTIONS, THE ATTORNEYS MAY ASK YOU SOME  
13      QUESTIONS. THERE'S NO RIGHT OR WRONG ANSWER, WE JUST WANT  
14      TO EXPLORE YOUR VIEWPOINTS AND OPINIONS ON VARIOUS  
15      SUBJECTS, JUST ANSWER THE QUESTIONS THE BEST YOU CAN,  
16      ANSWER TRUTHFUL. CAN YOU DO THAT?

17      A       YES, SIR.

18      Q       THE DEFENDANT IN THIS CASE IS CHARGED WITH MURDER AND  
19      IT OCCURRED SEPTEMBER 3, 2003, AT THE BI-LO HERE IN  
20      GREENVILLE. AT THE TIME IT OCCURRED, DID YOU WATCH  
21      ANYTHING ON TV ABOUT IT, HAE YOU HEARD ANYTHING OR READ  
22      ANYTHING ABOUT IT SINCE?

23      A       AT THE TIME I READ ABOUT IT IN THE NEWSPAPER AND I  
24      SAW IT ON TV.

25      Q       WHAT DO YOU REMEMBER SEEING ON TV?



1 A ALL I REMEMBER SEEING LIKE A SWAT TEAM OR SOMETHING  
2 LIKE THAT. I DIDN'T WATCH A LOT OF TV. I JUST SAW LIKE A  
3 CLIP OR SOMETHING.

4 Q WHAT DID YOU READ ABOUT IN THE PAPER?

5 A I READ EVERYTHING ABOUT IT, PROBABLY BECAUSE I READ  
6 THE PAPER FROM FRONT TO BACK GENERALLY.

7 Q WHAT DO YOU REMEMBER ABOUT WHAT THE PAPER SAID ABOUT  
8 THE SITUATION?

9 A IT SEEMED LIKE THERE WAS A HOSTAGE TAKEN OR  
10 SOMETHING, SOMETHING LIKE THAT. AND THAT IT ENDED IN A  
11 DEATH. I CAN'T SAY I REMEMBER A LOT OF DETAILS.

12 Q BASED UPON WHAT YOU READ AND SAW ON TELEVISION, HAVE  
13 YOU FORMED AN OPINION AS TO THE INNOCENCE OR GUILT OF THE  
14 DEFENDANT?

15 A NO.

16 Q OKAY. LET ME -- I WANT TO READ A QUESTION TO YOU. I  
17 WANT TO ASK YOU TO RESPOND TO, IF YOU WOULD PLEASE, SIR.  
18 IN THIS CASE THE DEFENDANT IS BLACK AND THE VICTIM IS  
19 WHITE. IT IS UNDISPUTED THE BLACK DEFENDANT AND THE WHITE  
20 VICTIM ENGAGED IN INTERRACIAL DATING. WOULD THE FACT THAT  
21 THE DEFENDANT AND THE VICTIM ENGAGED IN INTERRACIAL DATING  
22 MAKE IT DIFFICULT FOR YOU TO BE FAIR TO EITHER THE STATE  
23 OR THE DEFENDANT?

24 A NO.

25 Q ALL RIGHT. IF YOU WOULD, WOULD YOU OPEN THE

1 QUESTIONNAIRE TO PAGE 10 PLEASE, SIR? IF YOU LOOK AT  
2 QUESTION 64, IT SAYS BRIEFLY DESCRIBE YOUR ATTITUDES AND  
3 BELIEFS CONCERNING CAPITAL PUNISHMENT OR DEATH PENALTY.  
4 AND YOU WROTE, "I AM FOR IT." OKAY. I UNDERSTAND YOU'RE  
5 FOR IT. WHAT DO YOU THINK ABOUT IT AND UNDER WHAT  
6 CONDITIONS OR CIRCUMSTANCES DO YOU THINK SOMEONE SHOULD  
7 GET THE DEATH PENALTY?

8 A I THINK SOMEONE SHOULD GET THE DEATH PENALTY WHEN  
9 IT'S FIRST DEGREE MURDER.

10 Q ALL RIGHT. IN SOUTH CAROLINA THE ONLY TIME -- YOU  
11 CANNOT GET THE DEATH PENALTY FOR EVERY MURDER. IN SOUTH  
12 CAROLINA MURDER, ALL MURDERS ARE FIRST DEGREE, BUT THEY  
13 HAVE AGGRAVATING CIRCUMSTANCES.

14 A RIGHT.

15 Q AND THE MURDER OR THE KILLING HAS TO BE ACCOMPANIED  
16 WITH CERTAIN AGGRAVATING CIRCUMSTANCES. THOSE ARE  
17 SPECIFIED BY STATUTE. OKAY?

18 A ALL RIGHT.

19 Q DO YOU THINK ALL MURDERS WHERE YOU HAVE STATUTORY  
20 AGGRAVATING CIRCUMSTANCES SHOULD GET THE DEATH PENALTY?

21 A NO.

22 Q WHAT WOULD YOU CONSIDER IN MAKING YOUR DECISION AS TO  
23 WHETHER OR NOT THEY WOULD GET LIFE OR DEATH?

24 A I'D PROBABLY CONSIDER THE AGE OF THE PERSON, THE  
25 CIRCUMSTANCES OF THE ACTION, THE, IF A POLICE OFFICER WAS

1 INVOLVED I DEFINITELY WOULD BELIEVE IN IT.

2 Q LET ME ASK YOU THIS. LOOK AT PAGE 10, QUESTION 65.

3 IT SAYS, "WHAT IS YOUR OPINION ABOUT THE DEATH PENALTY?

4 YOU SAY, "SOMEWHAT FAVOR." IS THAT STILL YOUR

5 OPINION TODAY?

6 A YEAH. YES.

7 Q ALL RIGHT. IF YOU WOULD, FLIP OVER ON PAGE 11,

8 QUESTION 68. QUESTION 68 YOU SAID, OR I BELIEVE THAT THE

9 DEATH PENALTY IS THE APPROPRIATE FORM OF PUNISHMENT IN

10 SOME MURDER CASES. AND I COULD RETURN A VERDICT OF DEATH

11 IF I BELIEVE IT WAS WARRANTED IN A PARTICULAR CASE,

12 DEPENDING UPON THE EVIDENCE, THE LAW, AND WHAT I'VE

13 LEARNED ABOUT THE DEFENDANT. IS THAT YOUR OPINION STILL

14 HERE TODAY?

15 A YES.

16 Q DO YOU HAVE ANY PHYSICAL OR MENTAL PROBLEMS AS TO WHY

17 YOU COULD NOT SERVE ON THE JURY?

18 A NO.

19 Q YOU HAVE ANY MEDICAL PROBLEMS?

20 A NO.

21 Q YOU HAVE ANY PERSONAL HARDSHIPS AS TO WHY YOU COULD

22 NOT SERVE ON THE JURY?

23 A NO.

24 Q DO YOU KNOW THE VICTIM IN THIS CASE, MARANDA

25 WILLIAMS?

1 A NO.

2 Q DO YOU KNOW THE DEFENDANT, MR. CHARLES CHRISTOPHER  
3 WILLIAMS, WHO SITS TO MY RIGHT WITH THE BLUE SWEATER?

4 A NO.

5 Q DO YOU KNOW HIS ATTORNEYS SITTING BESIDE HIM, MR.  
6 NETTLES, MARK MACDOUGALL, AND COLLEEN COYLE --

7 A NO.

8 Q -- AND MR. MAULDIN, WHO IS ALSO NOT IN THE COURTROOM.  
9 DO YOU KNOW MR. MAULDIN?

10 A NO.

11 Q DO YOU KNOW THE SOLICITOR, BOB ARIAIL, AND HIS TWO  
12 ASSISTANTS WHO SIT IN FRONT OF HIM?

13 A I DON'T KNOW THEM PERSONALLY. NO.

14 Q DO YOU KNOW ANYBODY IN THE SOLICITOR'S OFFICE?

15 A NO.

16 Q ALL RIGHT. I'M GOING TO DESCRIBE TO YOU THE PROCESS  
17 THAT WE'RE GOING THROUGH IN THIS TRIAL. THERE WILL BE TWO  
18 PHASES OF THE TRIAL. THE FIRST PHASE IS COMMONLY REFERRED  
19 TO AS THE GUILT PHASE. THE SECOND PHASE IS COMMONLY  
20 REFERRED TO AS THE PENALTY PHASE. IN THE FIRST PHASE THE  
21 STATE WILL BE REQUIRED TO PROVE THE DEFENDANT GUILTY OF  
22 MURDER AND KIDNAPPING BEYOND A REASONABLE DOUBT. DO YOU  
23 UNDERSTAND?

24 A YES.

25 Q THAT'S THE STATE'S RESPONSIBILITY. THE DEFENDANT

1 NEVER HAS TO PROVE HIS INNOCENCE. THE STATE HAS TO PROVE  
2 THE CRIMES CHARGED BEYOND A REASONABLE DOUBT. DO YOU  
3 UNDERSTAND?

4 A YES.

5 Q THAT'S IN THE GUILT PHASE. NOW, LET'S ASSUME FOR  
6 PURPOSES OF ASKING SOME QUESTIONS, THAT ALL 12 JURORS  
7 AGREE THAT THE STATE HAS FOUND THE DEFENDANT OR PROVEN THE  
8 DEFENDANT GUILTY BEYOND A REASONABLE DOUBT. DO YOU  
9 UNDERSTAND?

10 A YES, SIR.

11 Q ALL RIGHT. AT THAT TIME THE DEFENDANT WOULD BE  
12 GUILTY OF MURDER AND KIDNAPPING. THAT DECISION WOULD HAVE  
13 BEEN MADE BY THE JURY. DO YOU UNDERSTAND?

14 A YES.

15 Q IF THAT OCCURRED, WE WOULD HAVE TO GO TO THE SECOND  
16 PHASE, WHICH IS THE PENALTY PHASE, DO YOU UNDERSTAND?

17 A YES, SIR.

18 Q NOW, IN THE PENALTY PHASE THE STATE WOULD INTRODUCE  
19 AGGRAVATING CIRCUMSTANCES, THESE AGGRAVATING CIRCUMSTANCES  
20 WOULD HAVE TO BE PROVEN BEYOND A REASONABLE DOUBT. I DO  
21 NOT KNOW WHAT AGGRAVATING CIRCUMSTANCES IN THIS CASE ARE  
22 GOING TO BE INTRODUCED BECAUSE I HAVEN'T HEARD THE CASE.  
23 BUT THE STATE IS RESPONSIBLE AND REQUIRED TO PROVE THOSE  
24 AGGRAVATING CIRCUMSTANCES. DO YOU UNDERSTAND?

25 A YES, SIR.

1 Q ALL RIGHT. THE STATE PRESUMES LIFE. DO YOU  
2 UNDERSTAND?

3 A YES.

4 Q THE PURPOSE OF THE PENALTY PHASE IS FOR THE JURY TO  
5 DECIDE WHETHER THE DEFENDANT SHOULD RECEIVE LIFE OR DEATH,  
6 DO YOU UNDERSTAND?

7 A YES.

8 Q LET'S ASSUME THAT THE JURY AGREES THAT THE STATE HAS  
9 PROVEN THOSE AGGRAVATING CIRCUMSTANCES BEYOND A REASONABLE  
10 DOUBT. THAT DECISION IS MADE BY ALL 12 JURORS. THE JURY  
11 STILL DOES NOT HAVE TO GIVE DEATH. THE JURY CAN GIVE  
12 LIFE. THE JURY CAN GIVE LIFE JUST AS AN ACT OF MERCY. DO  
13 YOU UNDERSTAND?

14 A YES.

15 Q ALL RIGHT. NOW, CONSIDERING ALL THE FACTS IN THE  
16 GUILT PHASE AND ALL THE FACTS THAT YOU HEARD IN THE  
17 PENALTY PHASE, WHICH IS THE SECOND PHASE; TAKING ALL THAT  
18 INTO CONSIDERATION, AND AS I TOLD YOU EARLIER, THE  
19 DEFENDANT DOESN'T TESTIFY IN THE FIRST PHASE OR THE SECOND  
20 PHASE, COULD YOU CONSIDER ALL THE FACTS THAT YOU HEARD IN  
21 BOTH PHASES BEFORE YOU MADE A DECISION AS TO LIFE OR  
22 DEATH?

23 A YES.

24 Q ALL RIGHT. AT THAT STAGE COULD YOU GIVE A MEANINGFUL  
25 CONSIDERATION TO A LIFE PUNISHMENT? WHEN I SAY LIFE, I

1 MEAN LIFE WITHOUT PAROLE, NO OPPORTUNITY FOR PAROLE. THE  
2 DEFENDANT WOULD DIE IN JAIL. COULD YOU GIVE A MEANINGFUL  
3 CONSIDERATION TO LIFE IN PRISON?

4 A YES.

5 Q COULD YOU GIVE MEANINGFUL CONSIDERATION TO DEATH?

6 A YES.

7 Q LET'S ASSUME THAT THE DEFENDANT OFFERS TESTIMONY IN  
8 THE SECOND PHASE, THE PENALTY PHASE. THAT WOULD BE, IS  
9 REFERRED TO AS MITIGATING CIRCUMSTANCES. AND MITIGATING  
10 CIRCUMSTANCES WILL BE DIFFERENT FACTS SURROUNDING THE  
11 CRIME, OR POSSIBLY FACTS ABOUT THE DEFENDANT, WHICH ARE  
12 OFFERED FOR PURPOSES OF CONVINCING THE JURY TO RETURN  
13 LIFE. COULD YOU GIVE MEANINGFUL CONSIDERATION TO THESE  
14 MITIGATING CIRCUMSTANCES?

15 A PROBABLY NOT.

16 Q WHY NOT?

17 A THINK IN BLACK AND WHITE TERMS.

18 Q COULD YOU CONSIDER THE MITIGATING CIRCUMSTANCES?

19 A I WOULD LISTEN TO THEM.

20 Q WELL, LISTENING TO THEM AND CONSIDERING THEM IS TWO  
21 DIFFERENT THINGS. YOU'VE ALREADY SAID YOU WOULD CONSIDER  
22 LIFE WHEN YOU DIDN'T HEAR FROM THE DEFENDANT. BUT IN THIS  
23 SITUATION WHEN YOU HEAR FROM THE DEFENDANT AND HE OFFERS  
24 SOME MITIGATING REASONS, WOULD YOU CONSIDER THOSE REASONS?  
25 YOU SAID YOU WOULD, MY QUESTION IS WOULD YOU GIVE THEM

1 MEANINGFUL CONSIDERATION?

2 A I WOULD CONSIDER THEM.

3 Q PARDON?

4 A YES, I WOULD CONSIDER THEM.

5 THE COURT: WHOSE TURN?

6 BY MR. NETTLES:

7 Q MR. HARPER, I'M BILL NETTLES, AND I REPRESENT --  
8 WELL, ONE OF THE LAWYERS. A BUNCH GOING ON, AS YOU CAN  
9 IMAGINE, I'M ONE OF THE LAWYERS REPRESENTING CHRIS  
10 WILLIAMS. AND LET ME ASK YOU THIS. THE COURT HAS ASKED  
11 YOU ABOUT MITIGATION. OKAY. AND, YOU KNOW, SOME PEOPLE  
12 JUST BELIEVE -- DO YOU HAVE IN YOUR MIND -- I'M NOT GOING  
13 TO ASK YOU SPECIFICALLY, BUT WHAT IS YOUR UNDERSTANDING OF  
14 WHAT MITIGATION -- I'M NOT ASKING, JUST WHENEVER THE COURT  
15 SAYS, "COULD YOU CONSIDER MITIGATION," WHAT ARE YOU  
16 THINKING ABOUT?

17 A I WAS THINKING, I GUESS, THAT THERE ARE OTHER  
18 CIRCUMSTANCES THAT HAD NOT BEEN BROUGHT UP IN THE TRIAL  
19 THAT SHOULD BE CONSIDERED WHEN YOU'RE ABOUT TO HAND DOWN A  
20 SENTENCE OR THE JURY IS ABOUT TO RULE, I MEAN.

21 Q RIGHT. LET ME SHARE SOMETHING. THE REASON HE'S  
22 ASKING YOU ALL THAT IS BECAUSE, QUITE FRANKLY, SOME PEOPLE  
23 JUST SAY, LOOK, YOU KNOW, IF THE GUY, I MEAN, WE'RE  
24 TALKING ABOUT MURDER HERE, YOU UNDERSTAND. WE'RE NOT  
25 TALKING ABOUT MANSLAUGHTER OR SELF-DEFENSE, WE'RE NOT



1 TALKING ABOUT THE GUY WAS INSANE. OKAY? WE'RE TALKING  
2 ABOUT MURDER AND ANOTHER OFFENSE.

3 IT CAN'T JUST BE MURDER, IT'S GOT TO BE MURDER AND  
4 LIKE ARMED ROBBERY, MURDER AND RAPE, OR MURDER AND  
5 KIDNAPPING. SO, WHAT THE GOVERNMENT BROUGHT UP IN FRONT  
6 OF YOU THAT YOU BELIEVE BEYOND A REASONABLE DOUBT IS A  
7 MURDER AND ANOTHER SERIOUS CRIME, ARMED ROBBERY, RAPE,  
8 KIDNAPPING, WHATEVER YOU PICK, TWO SERIOUS CRIMES. AND  
9 THE GOVERNMENT THEN GIVES AGGRAVATION, EVIDENCE IN  
10 AGGRAVATION, BECAUSE THEY GET TO GO FIRST. THAT WOULD BE,  
11 YOU'D HEAR FROM THE FAMILIES OF THE VICTIM. THEY COME IN  
12 AND GIVE YOU TRULY HEART WRENCHING TESTIMONY, WHICH  
13 THEY'RE ENTITLED TO DO, AND NOBODY WOULD WANT TO STOP  
14 THEM.

15 AND THEN THE DEFENSE IF THEY WANT TO, OR IF THEY  
16 CHOOSE TO, CAN PUT UP MITIGATION. JUST BETWEEN -- ONE OF  
17 THE REASONS WE'RE ASKING THESE QUESTIONS IS SOME PEOPLE  
18 JUST SAY THIS. "LOOK, I DON'T CARE ABOUT THAT." YOU  
19 KNOW? AND, "I'M GOING TO LISTEN TO IT, BUT I'M KIND OF A  
20 PULL MY MYSELF UP BY MY BOOTSTRAPS, KIND OF GUY, AND I  
21 DON'T CARE ABOUT YOUR PAST OR ANY OF THAT. IT JUST  
22 DOESN'T MATTER TO ME."

23 AND OUR QUESTION IS -- AND THERE ARE PEOPLE WHO  
24 BELIEVE THAT WAY, AND THE REASON WE GET TO ASK THESE  
25 QUESTIONS IS BECAUSE THERE ARE PEOPLE WHO BELIEVE THAT

1 WAY. ARE YOU ONE OF THESE PEOPLE?

2 A PROBABLY.

3 Q SO, IN OTHER WORDS, IF THEY BROUGHT IN STUFF ABOUT,  
4 LET'S SAY, MENTAL ILLNESS, YOU'RE GOING, "LOOK, I'LL  
5 LISTEN TO IT, BUT THAT'S NOT THE KIND OF THING THAT  
6 MATTERS TO ME," IN MAKING YOUR DECISION BETWEEN LIFE AND  
7 DEATH?

8 A RIGHT.

9 MR. NETTLES: ON THAT PARTICULAR ISSUE? YOU WANT ME  
10 TO JUST DO ON THAT ISSUE?

11 THE COURT: LET'S DO IT ON EVERYTHING.

12 Q AND THE OTHER REASON WE GET TO ASK THESE QUESTIONS IS  
13 BECAUSE THESE ARE ISSUES THAT REASONABLE MINDS CAN  
14 DISAGREE ON. AND WHILE THE COURT TELLS YOU, YOU KNOW, THE  
15 LAW IS YOU HAVE TO CONSIDER AND FOLLOW THE LAW, THE REASON  
16 THAT WE ASKED YOU REPEATEDLY ABOUT GIVING MEANINGFUL  
17 CONSIDERATION IS BECAUSE WE KNOW THAT SOME PEOPLE, THEY  
18 BRING IN THEIR PERSONAL BELIEFS. AND SO, FOR YOU, YOU  
19 COULDN'T GIVE MEANINGFUL CONSIDERATION TO MITIGATION?

20 A I THINK I'D HAVE A HARD TIME WITH IT.

21 Q OKAY. AND I HATE TO BE DIFFICULT, BUT IT MATTERS A  
22 LOT TO US. YOU SAY YOU'D HAVE A HARD TIME WITH IT. DOES  
23 THAT MEAN YOU THAT COULDN'T GIVE IT MEANINGFUL  
24 CONSIDERATION?

25 A YES. THAT'S WHAT I MEAN BY THAT.

1 Q AND SO THEN LET ME ASK YOU THIS. THEN, IF -- WE'RE  
2 TALKING ABOUT A MURDER AND I'M NOT SURE HOW MUCH  
3 DISCUSSION YOU AND THE COURT DID ABOUT WHAT MURDER IS IN  
4 SOUTH CAROLINA, BUT IT'S A HEART DEVOID OF ALL SOCIAL  
5 DUTY, FATALLY BENT ON MISCHIEF. IT'S A DARK AND DEPRAVED  
6 HEART. IN SHORT, KILL SOMEBODY, DID IT, MEANT TO DO IT.  
7 YOU FOLLOW ME?

8 A RIGHT.

9 Q THAT PERSON GETS BROUGHT TO YOU, YOU SAT ON A JURY,  
10 GIVEN BENEFIT OF DOUBT, REASONABLE DOUBT ON GUILT OR  
11 INNOCENCE. YOU'RE CONVINCED BEYOND A REASONABLE DOUBT  
12 THEY DID IT AND ANOTHER OFFENSE, RIGHT?

13 A RIGHT.

14 Q YOU SIMPLY, YOU KNOW, THERE'S NOTHING THAT THE  
15 DEFENSE CAN BRING YOU THAT'S GOING TO MATTER TO YOU,  
16 RIGHT?

17 A IT'S DOUBTFUL.

18 Q IT'S DOUBTFUL. SO, AS FAR AS YOU'RE CONCERNED, THE  
19 ONLY APPROPRIATE PUNISHMENT FOR THAT PERSON, MURDER,  
20 ANOTHER SERIOUS CRIME, IS DEATH?

21 A YES.

22 Q OKAY. AND THAT'S JUST THE WAY YOU FEEL?

23 A THAT'S THE WAY I THINK.

24 Q AND WHENEVER YOU PUT NUMBER TWO ON THIS QUESTIONNAIRE  
25 THAT'S BECAUSE YOU REALLY DIDN'T UNDERSTAND WHAT MURDER

1 MEANT, RIGHT?

2 A IT COULD BE.

3 Q MAY I TOUCH BASE?

4 THE COURT: YES.

5 MR. NETTLES: I HAVE NO FURTHER QUESTIONS. THANK  
6 YOU.

7 THE COURT: SOLICITOR.

8 BY MR. ARIAIL:

9 Q MR. HARPER, MY NAME IS BOB ARIAIL, I'M THE SOLICITOR  
10 FOR GREENVILLE AND PICKENS COUNTIES. IN SOUTH CAROLINA.  
11 THE SOLICITOR IS THE DISTRICT ATTORNEY, WE KEEP THE OLD  
12 TERM FROM THE ENGLISH SYSTEM. ALONG THOSE LINES AS MR.  
13 NETTLES WAS SAYING, WHAT WE ARE LOOKING FOR IS JURORS THAT  
14 IN THE END, WHEN WE GET TO THE PENALTY PHASE CAN BE FAIR  
15 AND OBJECTIVE AND --

16 MR. NETTLES: I OBJECT, YOUR HONOR.

17 THE COURT: WHAT IS YOUR LEGAL OBJECTION?

18 MR. NETTLES: IMPROPER, THAT'S NOT LAW. THAT'S NOT  
19 THE LAW.

20 MR. ARIAIL: COULD I FINISH THE QUESTION?

21 THE COURT: LET ME HEAR THE QUESTION. AND I'LL  
22 LISTEN TO YOUR OBJECTION, BUT I HAVEN'T HEARD THE QUESTION  
23 YET.

24 Q WE'RE LOOKING FOR JURORS WHO CAN BE FAIR, WHO CAN BE  
25 OBJECTIVE, AND WHO CAN MEANINGFULLY CONSIDER THE EVIDENCE

1 THAT HAS BEEN PRESENTED IN CONSIDERING WHETHER IT IS  
2 APPROPRIATE TO IMPOSE A LIFE SENTENCE OR A DEATH SENTENCE.

3 MR. NETTLES: I OBJECT IN IT IS A COMPOUND QUESTION.

4 THE COURT: WHAT'S YOUR LEGAL OBJECTION?

5 MR. ARIAIL: GOLLY.

6 MR. NETTLES: FIRST OF ALL, I'D ASK THE JUROR BE SENT  
7 OUTSIDE JUST A SECOND.

8 THE COURT: MR. HARPER, WOULD YOU STEP OUTSIDE IN THE  
9 HALL FOR JUST A SECOND.

10 (JUROR OUT.)

11 MR. NETTLES: I REALIZE WE ARE ALL TIRED, BUT I THINK  
12 THE GOVERNMENT TRIED TO MAKE ME LOOK BAD BECAUSE I MADE --  
13 I MADE AN OBJECTION, WAITED FOR QUESTION TO BE DONE,  
14 OBJECTION IS A COMPOUND QUESTION, AND HERE IS WHY. FAIR  
15 OBJECTIVE MEANINGFUL CONSIDERATION, THOSE ARE THREE  
16 DIFFERENT, CERTAINLY TWO DIFFERENT THINGS. AND I RESENT  
17 THE COMMENT MADE BY THE GOVERNMENT IN AN ATTEMPT TO MAKE  
18 ME LOOK BAD WHEN I'M DOING MY JOB. I REALIZE WE'RE ALL  
19 TIRED. BUT NOW HE THINKS I'M A JOKE. I'M DOING MY JOB.  
20 THAT WAS A VALID OBJECTION.

21 THE COURT: OKAY. TELL ME ABOUT YOUR OBJECTION OTHER  
22 THAN BEING COMPOUND.

23 MR. NETTLES: IT COMPOUND BECAUSE YOU CAN BE FAIR AND  
24 OBJECTIVE AND NOT BE --

25 THE COURT: I'LL SUSTAIN THE OBJECTION ON THE FORM OF

1 THE QUESTION. REPHRASE THE QUESTION. OKAY?

2 MR. NETTLES: I ASK THE COURT TO INSTRUCT HIM THAT  
3 ANYTHING THAT HAPPENED DURING THAT, THAT I WAS DOING MY  
4 JOB.

5 THE COURT: I'LL BE HAPPY TO INSTRUCT HIM THAT.  
6 WOULD YOU ASK MR. HARPER TO COME BACK.

7 (JUROR RETURNS.)

8 THE COURT: MR. HARPER. LET ME SAY THIS. WHEN THE  
9 ATTORNEYS MAKE OBJECTIONS IN COURT, WE HAVE CERTAIN RULES  
10 OF EVIDENCE, RULES OF COURT WE HAVE TO GO BY. MY JOB IS  
11 TO SEE THAT THE TRIAL IS CONDUCTED BY THOSE RULES OF COURT  
12 AND THE RULES OF EVIDENCE. WHEN ONE PARTY MAKES AN  
13 OBJECTION, WHAT THEY'RE SAYING IS, THEY'RE TELLING THE  
14 COURT WE DON'T THINK THAT'S APPROPRIATE TESTIMONY, WE  
15 DON'T THINK IT'S CORRECT UNDER THE RULES OF EVIDENCE.  
16 OKAY?

17 PROSPECTIVE JUROR: RIGHT.

18 THE COURT: I CANNOT COMMENT ON THE FACTS, SO THAT'S  
19 THE REASON I SENT YOU OUT IN THE HALL, SO I WOULD BE FREE  
20 TO COMMENT ON THE FACTS. NOBODY IS TRYING TO DO ANYTHING  
21 WRONG WHEN THEY MAKE OBJECTIONS. WHEN I USE THE WORDS  
22 OVERRULED, THAT MEANS I DISAGREE WITH THE ATTORNEY. IF I  
23 USE THE WORDS SUSTAIN, I AGREE AND IT'S NOT A PROPER  
24 QUESTION. IN THIS CASE, SITUATION, THE SOLICITOR IS GOING  
25 TO REPHRASE THE QUESTIONS THAT HE JUST GAVE TO YOU.

1 SOLICITOR.

2 Q YOU REMEMBER THE QUESTION MR. NETTLES ASKED YOU ABOUT  
3 BEING ABLE TO CONSIDER, BEING ABLE TO CONSIDER,  
4 MEANINGFULLY CONSIDER, IMPOSING OR VOTING FOR A LIFE  
5 SENTENCE IN THE PENALTY PHASE?

6 A RIGHT. YES.

7 Q WITHOUT RESTATING ALL OF THOSE QUESTIONS, THE  
8 QUESTION THAT I HAVE IS IF THE JUDGE, YOU WERE ON THE JURY  
9 AND THE JUDGE INSTRUCTED YOU AS A JURY MEMBER THAT THE LAW  
10 REQUIRED THAT YOU CONSIDER THAT EVIDENCE AND CONSIDER THAT  
11 VERDICT, COULD YOU PUT ASIDE YOUR PERSONAL POSITIONS AND  
12 FOLLOW THE LAW AS THE JUDGE INSTRUCTS YOU AND GIVE THE  
13 MITIGATING EVIDENCE AND THE POSSIBLE PENALTY OF LIFE OR  
14 THE POSSIBLE PENALTY OF DEATH MEANINGFUL CONSIDERATION?

15 A I THINK THAT WOULD BE DIFFICULT FOR ME.

16 MR. ARIAIL: OKAY. THANK YOU.

17 YOUR HONOR, THAT'S ALL I HAVE.

18 THE COURT: ALL RIGHT. THERE ANY ARGUMENT TO THE  
19 MOTION, FROM THE STATE?

20 MR. ARIAIL: NONE.

21 THE COURT: OKAY. ALL RIGHT. MR. HARPER. I WANT TO  
22 THANK YOU FOR EXPRESSING YOUR VIEWPOINTS. YOUR VIEWPOINTS  
23 AREN'T NECESSARILY WRONG. WE'RE NOT TRYING TO QUESTION,  
24 NOT TRYING TO CHANGE YOU VIEWPOINTS, BUT THE LAW SAYS A  
25 JUROR HAS TO GIVE MEANINGFUL CONSIDERATION TO MITIGATING

1 CIRCUMSTANCES. IF A JUROR CANNOT DO THAT, THEY'RE NOT  
2 ELIGIBLE TO SIT ON A CAPITAL CASE. OKAY?

3 PROSPECTIVE JUROR: OKAY.

4 THE COURT: THANK YOU VERY MUCH FOR BEING HERE. HAVE  
5 A GOOD WEEKEND.

6 PROSPECTIVE JUROR: THANK YOU.

7 THE COURT: ALL RIGHT. IT IS 6:15. WE'LL RECESS,  
8 DIDN'T GET -- WE'RE AT 37, STILL AT 37.

9 MR. ARIAIL: WE'RE NOT GOING TO DO THIS NEXT ONE?

10 THE COURT: NO, STOP AT 6:30. I DON'T THINK THERE'S  
11 ANY WAY WE CAN DO ONE IN 15 MINUTES. WE'LL JUST RECESS  
12 AND START IN THE MORNING AT 9:00.

13 (WHEREUPON, AT 6:30 P.M. THE PROCEEDINGS ARE  
14 ADJOURNED FOR THE EVENING RECESS:)

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1                   SATURDAY, FEBRUARY 11, 2005

2           (WHEREUPON, COURT RECONVENED WITH ALL PARTIES  
3           PRESENT, WHEN THE FOLLOWING PROCEEDINGS WERE HAD:)

4           THE COURT: ALL RIGHT. IT'S BEEN BROUGHT TO THE  
5           COURT'S ATTENTION JUROR ELIZABETH C. DANIEL, NUMBER 26 ON  
6           THE STRIKE SHEET, NUMBER 68 ON THE JUROR LIST. THE COURT  
7           WAS AWARE OF THIS YESTERDAY. HER 28 YEAR-OLD SON HAD A  
8           HEART ATTACK AND HE HAD A 98 PERCENT BLOCKAGE AND HE HAD A  
9           STINT PUT IN YESTERDAY. AND HE IS GOING TO BE GETTING OUT  
10          OF THE HOSPITAL MONDAY AND HIS MOTHER, ELIZABETH DANIEL, IS  
11          THE ONLY CARE KEEPER. AND SHE'S REQUESTED TO BE EXCUSED.

12          I'VE DISCUSSED IT WITH THE ATTORNEYS AT THE BENCH,  
13          AND I UNDERSTAND THE STATE NOR THE DEFENDANT DOES NOT HAVE  
14          ANY OBJECTION TO THAT. IS THAT CORRECT?

15          MS. STROM: NO OBJECTION FROM THE STATE.

16          THE COURT: ANY FROM THE DEFENDANT?

17          MR. NETTLES: NONE.

18          THE COURT: IF YOU WOULD CALL MRS. DANIEL, TELL HER  
19          THAT SHE IS EXCUSED.

20                                GLENDA BRIDGES, AFTER BEING DULY  
21          SWORN, TESTIFIED AS FOLLOWS:

22          BY THE COURT:

23          Q        MRS. BRIDGES, HOW YOU DOING THIS MORNING?

24          A        JUST FINE. HOW YOU DOING?

25          Q        MRS. BRIDGES, I'M GOING TO HAND YOU YOUR

1 QUESTIONNAIRE THAT YOU FILLED OUT.

2 A OKAY.

3 Q DO YOU RECOGNIZE IT?

4 A YES, I DO.

5 Q WHEN YOU FILLED IT OUT, WAS IT AS ACCURATE AS YOU  
6 COULD FILL IT OUT? WAS IT ACCURATE?

7 A YEAH, AS ACCURATE AS I CAN REMEMBER.

8 Q WE'RE GOING TO ASK YOU SOME QUESTIONS. THERE IS NO  
9 RIGHT OR WRONG ANSWER TO THE QUESTIONS, JUST ANSWER THE  
10 QUESTION THE BEST YOU CAN. AND I WOULD ASK YOU TO BE  
11 TRUTHFUL IN YOUR ANSWERS. CAN YOU DO THAT?

12 A YES, SIR.

13 Q DO YOU HAVE ANY PHYSICAL OR MENTAL PROBLEMS AS TO WHY  
14 YOU COULD NOT SERVE ON THE JURY?

15 A NO, SIR.

16 Q DO YOU HAVE ANY MEDICAL PROBLEMS AS TO WHY YOU COULD  
17 NOT SERVE ON THE JURY?

18 A NO, SIR.

19 Q DO YOU KNOW OF ANY PERSONAL HARDSHIPS AS TO WHY YOU  
20 COULD NOT SERVE ON THE JURY?

21 A NO, SIR.

22 Q THE DEFENDANT IS CHARGED WITH MURDER AND KIDNAPPING.  
23 IT OCCURRED ON SEPTEMBER THE 3<sup>rd</sup> 2003 AT A BI-LO HERE IN  
24 GREENVILLE. HAVE YOU HEARD ANYTHING ON THE RADIO,  
25 TELEVISION, OR HEARD ANYONE TALKING ABOUT THE CASE, EITHER

1 WHEN IT OCCURRED OR SINCE THAT TIME?

2 A I KNEW WHEN IT OCCURRED. I JUST WORK DOWN THE STREET  
3 FROM THERE, SO I KNOW WHEN IT OCCURRED.

4 Q WHAT DO YOU KNOW ABOUT WHAT TRANSPIRED OR WHAT  
5 HAPPENED?

6 A I JUST HEARD WHAT WAS ON THE RADIO THAT HE HELD HER  
7 HOSTAGE AND THE SWAT TEAM WAS GOING IN, AND THEN SHE WAS  
8 DEAD.

9 Q THAT'S ALL YOU KNOW ABOUT IT?

10 A YES.

11 Q HAVE YOU HEARD ANYTHING ELSE ABOUT IT SINCE THAT  
12 TIME?

13 A NO.

14 Q BASED UPON WHAT YOU HEARD WHEN IT OCCURRED BACK IN  
15 SEPTEMBER 2003, HAVE YOU FORMED OR EXPRESSED AN OPINION AS  
16 TO GUILT OR INNOCENCE OF THE DEFENDANT, MR. WILLIAMS?

17 A NO.

18 Q THE VICTIM IN THE CASE IS MARANDA WILLIAMS. DO YOU  
19 KNOW MARANDA WILLIAMS?

20 A NO, SIR.

21 Q MR. WILLIAMS SITS TO MY RIGHT IN THE GRAY-BLUE  
22 SWEATER, DO YOU KNOW HIM?

23 A NO, SIR.

24 Q HIS ATTORNEYS ARE MR. NETTLES, WHO SITS TO HIS RIGHT;  
25 MR. MACDOUGALL, COLLEEN COYLE, AND JOHN MAULDIN. DO YOU

1 KNOW ANY OF THOSE ATTORNEYS?

2 A NO, SIR.

3 Q OKAY. TO MY LEFT OR IN FRONT OF YOU IS SOLICITOR BOB  
4 ARIAIL AND TWO OF HIS ASSISTANTS. DO YOU KNOW THEM?

5 A NO, SIR.

6 Q DO YOU KNOW ANYONE ELSE IN HIS OFFICE?

7 A NO, SIR.

8 Q I'M GOING TO GIVE YOU A WITNESS LIST AND ASK YOU IF  
9 YOU RECOGNIZE ANY NAMES ON THAT LIST.

10 A (COMPLIES.) NO, SIR.

11 Q LET ME GIVE YOU ANOTHER LIST AND SEE IF YOU RECOGNIZE  
12 ANY NAMES ON THAT LIST?

13 A (COMPLIES.) NO, SIR.

14 Q I'M GOING TO READ A QUESTION TO YOU, ASK YOU TO  
15 RESPOND TO THE QUESTION.

16 A OKAY.

17 Q IN THIS CASE THE DEFENDANT IS BLACK AND THE VICTIM IS  
18 WHITE. IT IS UNDISPUTED THAT THE BLACK DEFENDANT AND THE  
19 WHITE VICTIM ENGAGED IN INTERRACIAL DATING. WOULD THE  
20 FACT THAT THE DEFENDANT AND THE VICTIM ENGAGED IN  
21 INTERRACIAL DATING MAKE IT DIFFICULT FOR YOU TO BE FAIR TO  
22 EITHER THE STATE OR THE DEFENDANT?"

23 A NO, SIR.

24 Q IF YOU WOULD, WOULD YOU TAKE YOUR QUESTIONNAIRE  
25 PLEASE, MA'AM, AND TURN TO PAGE TEN. QUESTION 64, YOU

1 SAID, "I FEEL THAT THE DEATH PENALTY SHOULD ONLY BE GIVEN  
2 IF ALL THE EVIDENCE, NO DOUBT, POINTS TO THE ACCUSED AND  
3 IT SHOULD BE CARRIED OUT WITHOUT ALL THE APPEALS." IS  
4 THAT YOUR OPINION?

5 A YES, SIR.

6 Q QUESTION 65, "WHAT IS YOUR OPINION ABOUT THE DEATH  
7 PENALTY?"

8 YOU SAID, "SOMEWHAT FAVOR, ONLY IF THERE IS NOT ANY  
9 QUESTION THAT THE PERSON COMMITTED THE CRIME." IS THAT  
10 YOUR -- STILL YOUR OPINION HERE TODAY?

11 A YES, SIR.

12 Q IF YOU WOULD TURN OVER TO PAGE 11, QUESTION NUMBER  
13 68, "WITH REFERENCE TO THE DEATH PENALTY, WHICH OF THE  
14 FOLLOWING STATEMENTS WOULD BEST REPRESENT YOUR OPINION?  
15 NEXT TO THE LAST PAGE. FLIP THAT ONE PAGE UP AND LOOK AT  
16 THE TOP, NUMBER 68.

17 YOU CIRCLED THE ANSWER, WHICH SAYS, "I BELIEVE THE  
18 DEATH PENALTY IS THE APPROPRIATE FORM OF PUNISHMENT IN  
19 SOME MURDER CASES AND I CAN RETURN A VERDICT OF DEATH IF I  
20 BELIEVE IT WAS WARRANTED IN A PARTICULAR CASE, DEPENDING  
21 UPON THE EVIDENCE, THE LAW, AND WHAT I LEARNED ABOUT THE  
22 DEFENDANT." IS THAT STILL YOUR OPINION TODAY?

23 A YES, SIR.

24 Q ALL RIGHT. LOOKING AT YOUR ANSWERS, IS ONE OF YOUR  
25 OBJECTIONS TO THE DEATH PENALTY THE LONG APPEAL PROCESS

1 THAT YOU READ ABOUT OR HEARD ABOUT?

2 A JUST WHAT I HEARD ABOUT. I KNOW THEY HAVE A LOT OF  
3 APPEALS. ONCE THEY'RE FOUND GUILTY, THEY STAY ON DEATH  
4 ROW SO MANY YEARS AND KEEP GOING THROUGH ALL THESE  
5 APPEALS.

6 Q YOU THINK THAT BOTHERS YOU?

7 A I THINK THEY SHOULDN'T HAVE ALL THESE APPEALS. IF  
8 THE EVIDENCE IS FIRM, WE KNOW THAT'S WHAT THE EVIDENCE IS  
9 AND IT PROVES IT, I JUST THINK IT SHOULD BE CARRIED OUT.

10 Q I'M GOING TO EXPLAIN TO YOU THE PROCESS THAT WE'RE  
11 GOING TO GO THROUGH. OKAY?

12 A OKAY.

13 Q WE'RE GOING TO HAVE A TRIAL, THERE ARE GOING TO BE  
14 TWO PHASES OF THE TRIAL. THE FIRST PHASE WILL BE THE  
15 GUILT PHASE. IN THE GUILT PHASE THE DEFENDANT -- OR  
16 EXCUSE ME, THE PROSECUTOR WILL OFFER EVIDENCE. THE  
17 PROSECUTOR'S RESPONSIBILITY IS TO PROVE THE DEFENDANT  
18 GUILTY BEYOND A REASONABLE DOUBT, BEYOND A REASONABLE  
19 DOUBT OF MURDER AND KIDNAPPING. LET'S ASSUME FOR THE  
20 PURPOSES OF THE QUESTIONS I'M GOING TO ASK YOU, THAT ALL  
21 12 JURORS, IT WOULD TAKE ALL 12 JURORS TO FIND THE  
22 DEFENDANT GUILTY. DO YOU UNDERSTAND?

23 A YES, SIR.

24 Q LET'S ASSUME THAT ALL 12 JURORS AGREE THE SOLICITOR  
25 HAS PROVEN THE CASE BEYOND A REASONABLE DOUBT. AT THAT

1 POINT IN TIME THE DEFENDANT WOULD BE FOUND GUILTY OF  
2 MURDER AND KIDNAPPING. DO YOU UNDERSTAND?

3 A YES, SIR.

4 Q SO, IN REFERENCE TO YOUR QUESTION NUMBER 64, WHERE  
5 YOU SAID, "IF ALL THE EVIDENCE, WITH NO DOUBT." NOW, THE  
6 STANDARD FOR THE STATE IS REASONABLE DOUBT. THERE'S NO  
7 ABSOLUTE DOUBT. THAT'S NOT THE STANDARD THE STATE HAS.  
8 DO YOU UNDERSTAND?

9 A YES, SIR.

10 Q WOULD YOU HAVE ANY PROBLEM WITH THAT STANDARD,  
11 REASONABLE DOUBT RATHER THAN NO DOUBT?

12 A NO, SIR.

13 Q ALL RIGHT. AS I SAID, THE JURY HAS FOUND THE  
14 DEFENDANT GUILTY BEYOND A REASONABLE DOUBT OF MURDER AND  
15 KIDNAPPING. THEN WE WOULD GO TO THE SECOND PHASE, WHICH  
16 IS THE PENALTY PHASE. THE PURPOSE OF THE PENALTY PHASE IS  
17 FOR THE JURY TO DECIDE WHETHER THE DEFENDANT RECEIVES LIFE  
18 OR DEATH. WHEN I SAY LIFE, I MEAN LIFE WITHOUT PAROLE.  
19 LIFE WITHOUT PAROLE MEANS THAT THE DEFENDANT WILL DIE IN  
20 JAIL, HE WILL NEVER MAKE PAROLE. DO YOU UNDERSTAND?

21 A YES, SIR.

22 Q DEATH MEANS EXACTLY WHAT IT SAYS.

23 IN THE PENALTY PHASE THE STATE WOULD BE REQUIRED TO  
24 PROVE AGGRAVATING CIRCUMSTANCES BEYOND A REASONABLE DOUBT.  
25 EVERY MURDER CASE IN SOUTH CAROLINA IS NOT ELIGIBLE FOR A

1 DEATH SENTENCE DO YOU UNDERSTAND?

2 A YES, SIR.

3 Q THERE ARE CERTAIN AGGRAVATING CIRCUMSTANCES THAT ARE  
4 ESTABLISHED BY STATE LAW THAT THE SOLICITOR AND THE  
5 PROSECUTOR HAVE TO GO THROUGH, DO YOU UNDERSTAND?

6 A YES, SIR.

7 Q SO, IN THE SECOND PHASE HE WOULD INTRODUCE THE  
8 AGGRAVATING CIRCUMSTANCES, AND HE HAS TO PROVE THOSE  
9 BEYOND A REASONABLE DOUBT. NOW, IN THE SECOND PHASE THE  
10 JURY COULD CONSIDER EVERYTHING THEY HEARD IN THE FIRST  
11 PHASE AND EVERYTHING THEY HEARD IN THE SECOND PHASE. THE  
12 DEFENDANT DOES NOT HAVE TO TESTIFY. THE DEFENDANT NEVER  
13 HAS TO COME INTO COURT AND PROVE HIS INNOCENCE. IT'S THE  
14 STATE'S OBLIGATION TO PROVE HIS GUILT. DO YOU UNDERSTAND?

15 A YES, SIR.

16 Q ALL RIGHT. LET'S ASSUME THAT THE JURY HAS DETERMINED  
17 THAT THE STATE HAS PROVEN THEIR CASE AS TO THE AGGRAVATING  
18 CIRCUMSTANCES BEYOND A REASONABLE DOUBT. DO YOU  
19 UNDERSTAND? ALL 12 JURORS AGREE THE STATE HAS PROVEN THE  
20 AGGRAVATING CIRCUMSTANCES.

21 A OKAY.

22 Q AT THAT POINT IN TIME THE JURY STILL DOES NOT HAVE TO  
23 GIVE DEATH. THE JURY CAN GIVE LIFE. THE JURY CAN GIVE  
24 LIFE JUST MERELY AS AN ACT OF MERCY. THE LAW PRESUMES  
25 LIFE. DO YOU UNDERSTAND?



1 A YES, SIR.

2 Q ALL RIGHT. WHAT I'M GOING TO ASK YOU, CONSIDERING  
3 ALL THE EVIDENCE IN THE FIRST PHASE, ALL THE EVIDENCE IN  
4 THE SECOND PHASE, IF AT THAT POINT IN TIME WOULD YOU GIVE  
5 MEANINGFUL CONSIDERATION TO LIFE WITHOUT PAROLE?

6 A AFTER I HEARD ALL THE EVIDENCE IN BOTH CASES?

7 Q YES, MA'AM.

8 A YES, SIR.

9 Q COULD YOU GIVE MEANING CONSIDERATION TO DEATH?

10 A YES, SIR.

11 Q ALL RIGHT. THE DEFENDANT HAS AN OPPORTUNITY, IF HE  
12 SO CHOOSES, TO OFFER MITIGATING CIRCUMSTANCES. MITIGATING  
13 CIRCUMSTANCES ARE FACTS SURROUNDING THE DEFENDANT OR  
14 WHATEVER THAT WOULD BE DESIGNED TO CONVINCE THE JURY TO  
15 GIVE THE DEFENDANT LIFE RATHER THAN DEATH. IF THE  
16 DEFENDANT OFFERS MITIGATING CIRCUMSTANCES, COULD YOU GIVE  
17 MEANINGFUL CONSIDERATION TO THOSE MITIGATING CIRCUMSTANCES  
18 AND DETERMINE WHETHER HE SHOULD RECEIVE LIFE OR DEATH?

19 A DOES THAT MEAN THE EVIDENCE PRESENTED, MAYBE HE --

20 Q NOT WHETHER HE COMMITTED THE CRIME, IT WOULD BE  
21 EVIDENCE ABOUT HIM OR ABOUT WHAT OCCURRED TO CONVINCE THE  
22 JURY THAT HE SHOULD RECEIVE LIFE. MY QUESTION IS, WOULD  
23 YOU CONSIDER THAT AND GIVE THAT -- WOULD YOU CONSIDER THAT  
24 BEFORE YOU ACTUALLY DECIDED LIFE OR DEATH?

25 A YES, SIR, I THINK I COULD.

1 Q I GUESS THE TERMINOLOGY I SHOULD USE, WOULD YOU GIVE  
2 IT MEANINGFUL CONSIDERATION --

3 A CONSIDER THAT, ALSO?

4 Q -- BEFORE YOU DECIDED LIFE OR DEATH?

5 A I THINK I COULD.

6 Q OKAY. COULD YOU BE FAIR TO BOTH THE STATE AND  
7 DEFENDANT?

8 A YES, SIR.

9 Q AND YOU COULD BE IMPARTIAL TO BOTH THE STATE AND THE  
10 DEFENDANT, BASE YOUR DECISION ON THE TESTIMONY AND THE  
11 EVIDENCE YOU HEAR FROM THE WITNESS STAND AND THE EVIDENCE  
12 PRODUCED IN COURT. IS THAT CORRECT?

13 A YES, SIR.

14 Q ALL RIGHT. WHOSE TURN?

15 BY MS. STROM:

16 Q GOOD MORNING, MS. BRIDGES.

17 A GOOD MORNING.

18 Q MY NAME IS BETTY STROM. I'M THE DEPUTY SOLICITOR  
19 HERE IN GREENVILLE AND PICKENS COUNTIES. SOMETIMES THEY  
20 CALL THE SOLICITORS DA'S, DISTRICT ATTORNEYS. I KNOW THE  
21 JUDGE ALREADY INTRODUCED YOU TO BOB ARIAIL. AND THIS IS  
22 MARK MOYER, ONE OF OUR ASSISTANTS IN OUR OFFICE. AS YOU  
23 CAN GUESS, WE'RE GOING TO DELVE INTO YOUR OPINIONS  
24 REGARDING THE DEATH PENALTY AND LIFE WITHOUT PAROLE.

25 A UH-HUH.

1 Q THE JUDGE EXPLAINED THESE TWO PHASES THAT OCCUR IN  
2 ANY CAPITAL CASE; BEFORE THE STATE CAN EVEN SEEK THE DEATH  
3 PENALTY, IT HAS TO BE A MURDER CASE, NUMBER ONE. WE CAN'T  
4 SEEK THE DEATH PENALTY IN ANYTHING BUT A MURDER CASE.

5 OKAY?

6 A OKAY.

7 Q AND IT CAN'T -- IT HAS TO BE A MURDER PLUS AN  
8 AGGRAVATING FACTOR. THE JUDGE TALKED TO YOU ABOUT  
9 AGGRAVATING CIRCUMSTANCES. THAT COULD BE A MURDER OF A  
10 POLICE OFFICER OR MURDER DURING THE COMMISSION OF AN ARMED  
11 ROBBERY OR MURDER DURING THE COMMISSION OF A RAPE, OR  
12 MURDER DURING THE COMMISSION OF A KIDNAPPING. THAT SORT  
13 OF THING. OKAY?

14 A OKAY.

15 Q IT'S ONLY IN THOSE CERTAIN LIMITED CIRCUMSTANCES CAN  
16 THE STATE EVEN ASK FOR THE DEATH PENALTY. DO YOU  
17 UNDERSTAND ABOUT THE FACT THAT IN THE FIRST PHASE THE ONLY  
18 THING YOU'RE CONCERNED WITH IS WHETHER THE DEFENDANT  
19 COMMITTED THE CRIME? IS HE GUILTY OF COMMITTING THE CRIME  
20 OF MURDER OR ANY OTHER CRIMES THAT THE STATE PUTS FORTH.

21 A SO, WE JUST THINK ABOUT THAT IN THE FIRST PHASE.

22 Q RIGHT. ALL YOU'RE DETERMINING IS GUILTY OR NOT  
23 GUILTY. IF ALL 12 JURORS SAY HE'S NOT GUILTY, IT ENDS.  
24 IF ALL 12 JURORS SAY HE'S GUILTY, THEN AND ONLY THEN, DO  
25 YOU GO TO THE SECOND PHASE. OKAY?

1 A OKAY.

2 Q AND THAT SECOND PHASE IS WHERE THE JURY DETERMINES  
3 THE PUNISHMENT TO BE IMPOSED. IS IT GOING TO BE LIFE  
4 WITHOUT PAROLE OR IS IT GOING TO BE DEATH? IN THAT SECOND  
5 PHASE YOU WILL HEAR ADDITIONAL EVIDENCE, ADDITIONAL  
6 EVIDENCE FROM THE STATE, THE THINGS THAT MAKE IT WORSE.  
7 WE WOULD PUT UP EVIDENCE OF AGGRAVATION.

8 THE DEFENSE CAN PUT UP, IF THEY WANT TO, THEY DON'T  
9 HAVE TO, BECAUSE THE JUDGE TOLD YOU, THEY'RE NOT REQUIRED  
10 TO, PUT UP EVIDENCE OF MITIGATION, THINGS ABOUT HIS  
11 BACKGROUND, THINGS ABOUT MENTAL HEALTH, OR CIRCUMSTANCES  
12 ABOUT THE CRIME THAT MAYBE MAKE IT DESERVING OF LIFE AS  
13 OPPOSED TO DEATH. SO, THERE WOULD BE NEW EVIDENCE THAT  
14 YOU WOULD HEAR IN THAT SECOND PHASE. OKAY?

15 A OKAY.

16 Q WOULD YOU GO INTO THAT SECOND PHASE WITH AN OPEN  
17 MIND, WANTING TO HEAR ALL OF THAT ADDITIONAL EVIDENCE  
18 BEFORE YOU DECIDED PENALTY?

19 A YES, MA'AM.

20 Q OKAY. AND I PROBABLY NEED TO STEP BACK AND TELL YOU  
21 ONE THING ABOUT MURDER. I TOLD YOU IT CAN ONLY BE IN A  
22 MURDER CASE. IN SOUTH CAROLINA MURDER IS THE INTENTIONAL  
23 KILLING OF ANOTHER PERSON WITH MALICE AFORETHOUGHT. OKAY?

24 A OKAY.

25 Q I KNOW THAT'S A LOT OF LEGAL TERMS. SOME PEOPLE TRY

1 TO TALK ABOUT IT IN TERMS OF PREMEDITATION. PREMEDITATION  
2 CAN BE IN TERMS OF A LONG PERIOD OF TIME, DAYS, WEEKS, OR  
3 WHATEVER. OR IT CAN BE ALMOST INSTANTANEOUS, MALICE  
4 AFORETHOUGHT IT CAN BE THE MOMENT BEFORE THE FATAL ACT IS  
5 FIRED OR THE FATAL ACT IS DONE. OKAY?

6 A OKAY.

7 Q SO, IT IS AN INTENTIONAL KILLING. NOT GOING TO BE,  
8 YOU'RE NOT GOING TO BE LOOKING AT ANYTHING IN THE SECOND  
9 PHASE WHERE IT'S AN ACCIDENT OR DRUNK DRIVER OR ANYTHING  
10 LIKE THAT. IT IS AN INTENTIONAL ACT TO TAKE THE LIFE OF  
11 ANOTHER PERSON.

12 A OKAY.

13 Q WITH MALICIOUSNESS. I WANT YOU UNDERSTAND IN THE  
14 SECOND PHASE YOU'VE ALREADY CONVICTED SOMEONE OF MURDER.  
15 AND MY UNDERSTANDING OF WHAT YOU'RE TELLING ME, EVEN UNDER  
16 THOSE CIRCUMSTANCES, EVEN THOUGH YOU'VE CONVICTED SOMEONE  
17 OF MURDER, YOU WOULD STILL WANT TO HEAR ADDITIONAL  
18 EVIDENCE BEFORE YOU MADE UP YOUR MIND?

19 A YES.

20 Q AND YOU WOULD WAIT UNTIL YOU HEARD THAT ADDITIONAL  
21 EVIDENCE BEFORE YOU MADE UP YOUR MIND?

22 A YES, MA'AM.

23 Q THE JUDGE TOLD YOU THAT THE JURY IS NEVER REQUIRED TO  
24 GIVE DEATH. THE JURY CAN ALWAYS GIVE LIFE AS AN ACT OF  
25 MERCY; AND SOMETIMES IT'S REFERRED TO AS THE JURY CAN GIVE

1 LIFE FOR ANY REASON OR NO REASON AT ALL. YOU DON'T HAVE  
2 TO HAVE A REASON TO DO THAT. WHAT I WANT TO KNOW IS, IN  
3 THAT SECOND PHASE IF THE STATE BRINGS YOU EVIDENCE IN  
4 AGGRAVATION AND THE DEFENSE DOESN'T BRING YOU ANYTHING,  
5 BECAUSE THE JUDGE TOLD YOU HE DOESN'T HAVE TO, MY  
6 UNDERSTANDING FROM WHAT YOU'VE BEEN TELLING THE JUDGE IS  
7 YOU COULD STILL CONSIDER DEATH AND YOU COULD STILL  
8 CONSIDER LIFE IMPRISONMENT.

9 A YEAH, I COULD LOOK AT THAT.

10 Q EVEN IF THE DEFENDANT DOESN'T PUT UP ANYTHING, IF YOU  
11 THOUGHT THE APPROPRIATE PUNISHMENT FOR THAT DEFENDANT FOR  
12 THAT PARTICULAR CRIME WAS LIFE IMPRISONMENT, YOU WOULD  
13 VOTE FOR LIFE IMPRISONMENT?

14 A YEAH.

15 Q LIKEWISE, IF YOU THOUGHT THE APPROPRIATE PUNISHMENT  
16 WERE DEATH, YOU WOULD VOTE FOR DEATH?

17 A YES.

18 Q ONE THING ABOUT THE DEATH PENALTY IN SOUTH CAROLINA  
19 IS IF THE JURY MAKES A DECISION THAT DEATH IS THE SENTENCE  
20 TO BE IMPOSED, ALL 12 MUST SIGN A FORM, IT'S CALLED A  
21 VERDICT FORM. IT HAS TWELVE LINES ON IT, EACH AND EVERY  
22 JUROR MUST SIGN IT. IF YOU HAD MADE UP YOUR MIND IN THE  
23 JURY ROOM THAT THAT WAS THE APPROPRIATE VERDICT, WOULD YOU  
24 HAVE ANY PROBLEM WITH SIGNING THAT DOCUMENT?

25 A WHAT IS THE DOCUMENT I WOULD BE SIGNING?

1 Q THE DOCUMENT IS A VERDICT FORM, WOULD SAY, "WE THE  
2 JURY HEREBY FIND THE DEFENDANT -- THE SENTENCE IN THIS  
3 CASE IS DEATH." AND IT WOULD HAVE 12 LINES. YOU WOULD  
4 BRING THAT FORM BACK TO THE COURT, GO TO THE COURT, THEN  
5 TO THE CLERK OF COURT'S OFFICE. SO, IT WOULD BE A  
6 PERMANENT RECORD THAT ALL 12 JURORS AGREED TO THAT  
7 SENTENCE.

8 A NO, I WOULD NOT HAVE A PROBLEM.

9 Q AND THE JUDGE TALKED TO YOU ABOUT MITIGATING  
10 EVIDENCE. THE DEFENSE MAY PUT UP SOME TYPE OF MITIGATING  
11 EVIDENCE, BUT THEY DON'T HAVE TO. AND I TOLD YOU, IT  
12 COULD BE ABOUT HIS BACKGROUND OR MENTAL ISSUES OR THAT  
13 SORT OF THING. WOULD YOU FOLLOW THE JUDGES INSTRUCTION --  
14 LET ME JUST ASK YOU THIS WAY. WOULD YOU WANT TO HEAR  
15 THOSE TYPES OF THINGS IF IT WAS PRESENTED TO YOU, YOU  
16 WOULD WANT TO CONSIDER IT?

17 A YES.

18 Q AND YOU WOULD GIVE IT SERIOUS CONSIDERATION?

19 A YES, SIR.

20 Q AND YOU WOULD FOLLOW THE JUDGE'S INSTRUCTIONS WHEN HE  
21 INSTRUCTED YOU, YOU MUST CONSIDER THOSE THINGS?

22 A YES.

23 MS. STROM: COURT'S INDULGENCE JUDGE ONE MOMENT,  
24 PLEASE.

25 THE COURT: YES, MA'AM.

1 MS. STROM: THANK YOU.

2 THE COURT: DEFENDANT, MR. NETTLES?

3 BY MR. NETTLES:

4 Q HOW YOU DOING, MISS BRIDGES? I'M PROBABLY THE LAST  
5 PERSON WHO IS GOING TO QUESTION YOU TODAY, FOR WHAT THAT'S  
6 WORTH. LET ME ASK YOU THIS. AND THE JUDGE TALKED TO YOU  
7 ABOUT IT BRIEFLY AND I'D LIKE TO GO BACK TO YOUR  
8 QUESTIONNAIRE IF YOU DON'T MIND, IF YOU HAVE IT WITH YOU.  
9 AND IF YOU LOOK AT PAGE TEN, QUESTION NUMBER 64, ALL  
10 RIGHT? THE JUDGE ASKED YOU A LITTLE BIT ABOUT THAT.

11 A SIXTY-FOUR?

12 Q YES, MA'AM.

13 A OKAY.

14 Q ALL RIGHT. YOU SAID, "I BELIEVE THE DEATH PENALTY  
15 SHOULD BE USED ONLY IF ALL THE EVIDENCE, WITH NO DOUBT,  
16 POINTS TO THE ACCUSED." OKAY?

17 A UH-HUH.

18 Q "THEN IT SHOULD BE CARRIED OUT WITHOUT ALL THE  
19 APPEALS"?

20 A YES.

21 Q THE JUDGE TALKED TO YOU A LITTLE BIT ABOUT THAT.

22 A UH-HUH.

23 Q BUT LET ME ASK YOU THIS. WHAT DO YOU THINK THE  
24 PURPOSE OF THE APPEALS ARE?

25 MS. STROM: I WOULD OBJECT, YOUR HONOR.



1 THE COURT: WHAT IS YOUR LEGAL OBJECTION?

2 MS. STROM: YOUR HONOR, I DON'T THINK THAT'S RELEVANT  
3 AS TO HER UNDERSTANDING OF THE PURPOSE OF APPEALS.

4 THE COURT: OVERRULED. OKAY. GO AHEAD.

5 MR. NETTLES: THAT'S CODE FOR YOU GET TO ANSWER THE  
6 QUESTION.

7 THE COURT: THAT'S A SECRET CODE.

8 Q WE'LL GIVE YOU THIS HIGH SIGN.

9 A I FEEL LIKE HE'S GONE THROUGH ONE TRIAL AND ALL THE  
10 EVIDENCE DEFINITELY POINTS THAT THAT PERSON BEING GUILTY,  
11 HE ACTUALLY DID IT, I JUST DON'T THINK THEY SHOULD BE, YOU  
12 KNOW, WASTING TIME TO GO THROUGH ANY MORE APPEALS OR ANY  
13 MORE TRIALS.

14 THE COURT: LET ME ASSERT THIS, SINCE WE'RE ON THE  
15 SUBJECT. MRS. BRIDGES, APPEALS ARE ISSUES, LEGAL ISSUES.

16 PROSPECTIVE JUROR: OKAY.

17 THE COURT: IN OTHER WORDS, WHETHER SOMETHING  
18 HAPPENED IN THIS COURTROOM OR DURING THIS TRIAL THAT WAS  
19 NOT PROPER UNDER THE LAW. IT DOESN'T HAVE ANYTHING TO DO  
20 WITH THE FACTS OF THE CASE, IT DOESN'T HAVE ANYTHING TO DO  
21 WITH THE INNOCENCE OR GUILT. IT'S A QUESTION OF WHETHER  
22 THE TRIAL WAS CONDUCTED AS UNDER THE LAW. THAT'S WHAT  
23 APPEALS ARE FOR. THEY QUESTION DIFFERENT THINGS IN THE  
24 LAW ABOUT THE DEATH PENALTY. IT DOESN'T GO INTO THE  
25 FACTUAL FINDINGS THAT THE JURY HAD.

1 PROSPECTIVE JUROR: OKAY. SO, IT DOESN'T REALLY GO  
2 BACK TO WHETHER HE'S GUILTY OR ANYTHING LIKE THAT?

3 THE COURT: NO. YOU DEAL WITH APPEALS ON LEGAL  
4 ISSUES.

5 PROSPECTIVE JUROR: OH, OKAY. I UNDERSTAND.

6 THE COURT: I JUST WANTED TO GIVE YOU THAT  
7 CLARIFICATION. GO AHEAD, MR. NETTLES.

8 BY MR. NETTLES:

9 Q SO, THEN, IF I'M READING WHAT YOU'RE SAYING HERE  
10 CORRECTLY, YOU HAVE A VERY STRONG COMMITMENT AND WE'VE  
11 TALKED TO YOU ABOUT THE DEATH PENALTY IN TERMS OF A GLOBAL  
12 ISSUE, WHAT YOU SEE ON TV AND YOUR FEELINGS ON THE DEATH  
13 PENALTY. NOW, I'D LIKE TO TALK ABOUT YOU. OKAY?

14 A OKAY.

15 Q LET'S FOR A SECOND PLACE YOU ON A JURY.

16 A OKAY. ALL RIGHT.

17 Q AND FOR THE FIRST PHASE OF THAT TRIAL YOU HAVE HEARD  
18 EVIDENCE, I'M NOT TALKING ABOUT THIS CASE, BUT I'M TALKING  
19 ABOUT HYPOTHETICALLY; AND WHATEVER THE EVIDENCE IS, BUT  
20 IT'S A CAPITAL CASE. ALL RIGHT?

21 A RIGHT.

22 Q IN OTHER WORDS, A CASE WHICH THE PENALTY AT THE END  
23 ARE EITHER LIFE IMPRISONMENT OR DEATH. OKAY? AND YOU  
24 HAVE HEARD ALL THE EVIDENCE AT THE END OF THE FIRST PHASE.  
25 AND IT IS BEYOND A REASONABLE DOUBT -- WHICH IS THE

1 STANDARD, WHICH IS THE HIGHEST STANDARD WE'VE GOT, THERE'S  
2 NOTHING HIGHER THAN THAT -- THAT THE PERSON IS GUILTY OF  
3 MURDER AS THE SOLICITOR TALKED ABOUT. NOT SOMEBODY DRUNK  
4 DRIVING, KILLED SOMEBODY; IT'S, IN SHORT, DID IT AND MEANT  
5 TO DO IT.

6 A OKAY.

7 Q AND THE OTHER THING THAT WE KIND OF DIDN'T TALK A  
8 GREAT DEAL ABOUT; BUT IN ORDER TO BE A DEATH PENALTY CASE,  
9 THERE'S GOT TO BE ANOTHER SERIOUS CRIME. IT CAN'T JUST BE  
10 A MURDER. SO, IT'S AN ARMED ROBBERY, A RAPE, A  
11 KIDNAPPING. AND YOU HAVE SAT ON THE JURY, SAT IN THIS  
12 JURY BOX, YOU HEARD THE EVIDENCE COMING FROM THAT WITNESS  
13 STAND AND YOU'RE CONVINCED BEYOND A REASONABLE DOUBT THE  
14 PERSON IS GUILTY OF MURDER AND ANOTHER SERIOUS OFFENSE.

15 NOW, WE'RE TALKING ABOUT TALKING ABOUT YOU. SO,  
16 YOU'RE CONCERN THAT ALL THE EVIDENCE BEYOND A REASONABLE  
17 DOUBT POINTS TO THE PERSON HAS BEEN TAKEN CARE OF.

18 A OKAY.

19 Q WE'VE CROSSED THAT HURDLE. IN YOUR MIND FOR THAT ONE  
20 PERSON, ONCE ALL THE DOUBT'S BEEN TAKEN CARE, REASONABLE  
21 DOUBT HAS BEEN TAKEN CARE OF, IS THE ONLY APPROPRIATE  
22 PUNISHMENT FOR A PERSON GUILTY OF MURDER AND ANOTHER  
23 SERIOUS CRIME DEATH?

24 A NOW, THIS IS LIKE, YOU'RE SAYING IN THE SECOND PHASE?

25 Q YES, MA'AM. THE FIRST PHASE IS OVER, HE'S BEEN FOUND

1 GUILTY BEYOND A REASONABLE DOUBT OF MURDER AND ANOTHER  
2 CRIME. YOU SAT ON THE JURY; AND YOU'RE NOT JUDGING  
3 ANOTHER JUROR'S DECISION, YOU SEEN IT COME FROM THE  
4 WITNESS STAND.

5 A UH-HUH. IT'S REALLY HARD TO SAY BECAUSE, YEAH, I  
6 WOULD SAY THAT THEY DESERVE THE DEATH PENALTY FOR TAKING  
7 SOMEONE ELSE'S LIFE. BUT, YOU KNOW, I -- IT WOULD BE HARD  
8 TO SAY WITHOUT HEARING ALL THE EVIDENCE, YOU KNOW, FOR  
9 BOTH SIDES ON THE SECOND PHASE OF THE TRIAL.

10 Q OKAY. YOU JUST SAID THAT THEY DESERVED DEATH FOR  
11 TAKING SOMEONE'S LIFE?

12 A YES.

13 Q IS THAT FOUNDED IN A RELIGIOUS BELIEF?

14 A PARTLY.

15 Q OKAY. AN EYE FOR AN EYE?

16 A YES.

17 Q AND, YOU KNOW, YOU NEED TO KNOW THAT THERE ARE PLENTY  
18 OF PEOPLE WHO SUBSCRIBE TO THAT. AND IT'S SOMETHING THAT  
19 INTELLIGENT PEOPLE CAN DISAGREE ON.

20 A UH-HUH.

21 Q BUT LET ME ASK YOU THIS. AT THE END OF THAT, AND YOU  
22 KNOW, EVERYBODY WANTS TO FOLLOW THE LAW AND EVERYBODY  
23 WANTS TO BE FAIR; BUT THE REASON WE GET TO ASK YOU THESE  
24 QUESTIONS IN CASES LIKE THIS IS BECAUSE THESE ARE SUCH  
25 ISSUES THAT SOME PEOPLE, YOU KNOW, THEY WANT TO FOLLOW THE

1 LAW AND THEY COULD BE FAIR ON ANOTHER CASE; BUT BECAUSE OF  
2 THEIR BELIEFS, THEY'RE NOT SUITED FOR THESE CASES. DO YOU  
3 UNDERSTAND WHAT I'M SAYING?

4 A UH-HUH.

5 Q SO, LET ME ASK YOU THIS. IF AT THE END OF THE FIRST  
6 PHASE FOUND GUILTY BEYOND A REASONABLE DOUBT, ALL RIGHT?

7 A UH-HUH.

8 Q AND THE DEFENDANT CHOSE TO PUT UP NO MITIGATION IN  
9 THE SECOND PHASE, OKAY?

10 A UH-HUH.

11 Q BECAUSE OF YOUR BELIEFS OF AN EYE FOR AN EYE; IF YOU  
12 TAKE SOMEONE'S LIFE, YOUR LIFE SHOULD BE FORFEITED, IT  
13 WOULD BE DIFFICULT FOR YOU TO CONSIDER A SENTENCE OF LIFE.  
14 IS THAT RIGHT?

15 A IF HE DIDN'T PUT UP ANY KIND OF, YOU KNOW, GOING  
16 AGAINST AND TRYING TO PROVE SOMETHING ELSE AND ALL.

17 Q YES, MA'AM.

18 A I SAY, AGAIN, THAT WOULD BE HARD TO TELL WITHOUT, YOU  
19 KNOW, ACTUALLY HEARING WHAT THE DEFENSE PUT UP AGAINST.

20 Q OKAY.

21 A I COULD SAY, YEAH, YOU KNOW. I COULD SAY, YEAH, I  
22 COULD DO THE DEATH PENALTY; BUT REALLY I'D HAVE TO HEAR  
23 ALL THE EVIDENCE, TOTAL COMPLETE THING.

24 Q AND LET ME PUT IT TO YOU THIS WAY. IF ALL THE  
25 EVIDENCE DID NOT INCLUDE ANYTHING FROM THE DEFENSE,

1 BECAUSE LET'S BE CLEAR ABOUT SOMETHING, THE GOVERNMENT IS  
2 GOING TO BRING YOU VICTIM-WITNESS TESTIMONY. IN OTHER  
3 WORDS THE VICTIMS OF THE FAMILY ARE GOING TO GET ON THE  
4 WITNESS STAND, AND THEY HAVE EVERY RIGHT TO, AND THEY'RE  
5 GOING TO COME IN HERE AND THEY'RE GOING TO SHARE WITH YOU  
6 THE TREMENDOUS LOSS THEY HAVE FELT. I CAN'T COUNTER THAT.  
7 YOU KNOW, THEY SUFFERED A LOSS, THEY LOST A LOVED ONE. I  
8 CAN'T COUNTER THAT. OKAY. NOBODY CAN. AND IF THE  
9 DEFENSE CHOSE TO PRESENT NO DEFENSE, COULD YOU GIVE  
10 MEANINGFUL CONSIDERATION TO A SENTENCE OF LIFE?

11 MS. STROM: OBJECTION, ASKED AND ANSWERED.

12 THE COURT: OVERRULED. .

13 MR. NETTLES: YOU KNOW WHAT THE CODE MEANS, RIGHT?

14 THE COURT: THAT MEANS YOU CAN ANSWER THE QUESTION.

15 MR. NETTLES: YOU SEE WHAT I'M ASKING YOU?

16 PROSPECTIVE JUROR: I JUST HAVE TO CONSIDER WHY WOULD  
17 THE DEFENSE NOT BRING --

18 THE COURT: BECAUSE WHAT I EXPLAINED TO YOU IN THE  
19 BEGINNING. THE DEFENDANT DOES NOT --

20 PROSPECTIVE JUROR: DOESN'T HAVE TO.

21 THE COURT: DOES NOT HAVE TO. IT ARISES FROM THE  
22 FIFTH AMENDMENT TO THE CONSTITUTION. NO ONE CAN MAKE  
23 SOMEONE SELF-INCRIMINATE HIMSELF. SO, HE DOES NOT HAVE TO  
24 TESTIFY UNDER THE LAW. THAT'S HIS DECISION, NOBODY ELSE.  
25 IT'S THE STATE'S BURDEN TO PROVE VARIOUS ASPECTS OF THE

1 CASE. THAT'S THE REASON.

2 PLEASE PROCEED.

3 BY MR. NETTLES:

4 Q DO YOU UNDERSTAND?

5 A SO, ASK ME THAT QUESTION AGAIN.

6 Q JUST TO KIND OF BRING UP, WE'RE TALKING ABOUT A  
7 MURDER. BAD PERSON, BAD, BAD PERSON. YOU SAT, THE  
8 VICTIMS HAVE COME IN AND THEY'VE TESTIFIED. AND THEY TOLD  
9 YOU ABOUT THEIR LOSS, LOST SOMEBODY THEY LOVED. IT'S  
10 HEART WRENCHING. COULD YOU, BECAUSE OF YOUR BELIEFS AND  
11 EVERYTHING, IT'S NOT THAT YOU WOULDN'T BE FAIR OR  
12 ANYTHING, BUT COULD YOU GIVE MEANINGFUL CONSIDERATION TO A  
13 SENTENCE OF LIFE FOR SOMEONE THAT YOU FOUND CONVICTED OF  
14 MURDER, VICTIM IMPACT EVIDENCE, AND THEY PRESENTED YOU  
15 NOTHING IN THE PENALTY PHASE.

16 A I COULD GIVE THEM DEATH.

17 Q WE'VE ESTABLISHED YOU COULD GIVE THEM DEATH. I  
18 UNDERSTAND THAT. AND I APPRECIATE THAT. MY QUESTION TO  
19 YOU IS THIS. COULD YOU GIVE MEANINGFUL CONSIDERATION TO  
20 THE SENTENCE OF LIFE?

21 A LIFE. YES, I THINK I COULD.

22 Q LET ME ASK YOU THIS. AND I NOTICED YOU HESITATED A  
23 LITTLE BIT WHEN THE JUDGE ASKED YOU ABOUT MITIGATION. LET  
24 ME ASK YOU THIS QUESTION. WE'RE GOING TO MOVE ONTO  
25 ANOTHER TOPIC SORT OF. IN THE PENALTY PHASE OF A CASE,

1 THE DEFENSE CAN PRESENT MITIGATION EVIDENCE. AND I  
2 BELIEVE THE GOVERNMENT TALKED ABOUT BACKGROUND, SHE  
3 MENTIONED BACKGROUND. DO YOU REMEMBER THAT?

4 A YES.

5 Q IS THAT SOMETHING THAT YOU GIVE MEANINGFUL  
6 CONSIDERATION TO AS A REASON TO SENTENCE SOMEONE WHO'S  
7 BEEN CONVICTED OF MURDER AND ANOTHER VERY SERIOUS CRIME TO  
8 A SENTENCE OF OTHER THAN DEATH?

9 MS. STROM: OBJECTION, YOUR HONOR, TO THE FORM OF THE  
10 QUESTION.

11 THE COURT: I'LL SUSTAIN AS TO THE FORM OF THE  
12 QUESTION. I THOUGHT THE QUESTION WAS VERY CONFUSING.

13 MR. NETTLES: I'LL CLEAN IT UP.

14 MR. ARIAIL: COMPOUND.

15 MR. NETTLES: WHAT DID YOU SAY?

16 MR. ARIAIL: COMPOUND.

17 MR. NETTLES: HE'S GOT A COMPOUND.

18 THE COURT: WE'RE ALL IN A COMPOUND.

19 BY MR. NETTLES:

20 Q THE PERSON THAT WE'VE TALKED ABOUT, OKAY, THAT YOU  
21 SAT ON A JURY ON, THAT PERSON GUILTY AND ALL THAT STUFF.  
22 IF THEY -- COULD YOU GIVE, IF IN THE PENALTY PHASE THEY  
23 CHOSE TO BRING YOU EVIDENCE OF THEIR BACKGROUND AS A  
24 REASON TO SENTENCE THEM TO SOMETHING LESS THAN LIFE, DO  
25 YOU UNDERSTAND THAT?



1 A UH-HUH.

2 Q MY QUESTION TO YOU IS, IS THAT SOMETHING YOU COULD  
3 GIVE MEANINGFUL CONSIDERATION TO?

4 A YES. BECAUSE I THINK THAT COULD BE PART OF THE  
5 EVIDENCE. YES.

6 Q SO, YOU RECOGNIZE THAT AS SOMETHING THAT'S GOT A  
7 PLACE IN DECIDING THE APPROPRIATE PUNISHMENT?

8 A YES.

9 Q LET ME ASK YOU THIS. HOW ABOUT THE GENERAL TOPIC OF  
10 MENTAL ILLNESS. LET ME SHARE WITH YOU WHY I'M ASKING YOU  
11 THAT QUESTION. I'LL BE FRANK. SOME PEOPLE SAY, "LOOK,  
12 THAT'S NOTHING BUT AN EXCUSE. IT'S VODOO." AND, "PEOPLE  
13 ARE TRYING TO HIDE SOMETHING." AND SOME OTHER PEOPLE  
14 FEEL, YOU KNOW, VERY DIFFERENTLY ABOUT THAT.

15 AND MY QUESTION IS, WOULD YOU SHARE WITH US YOUR  
16 GENERAL VIEWS. I'M NOT TALKING ABOUT INSANITY. BECAUSE  
17 IF THEY'RE INSANE, LET'S BE CLEAR, IF THEY KNEW RIGHT FROM  
18 WRONG, THEY DON'T EVEN GO TO TRIAL. SO, I'M TALKING ABOUT  
19 HE KNEW RIGHT FROM WRONG BUT THERE'S AN ISSUE OF MENTAL  
20 ILLNESS. WHAT ARE YOUR THOUGHTS ON MENTAL ILLNESS AS IT  
21 RELATES TO A CRIMINAL CASE?

22 A WHAT DO I THINK OF MENTAL ILLNESS?

23 Q YES, MA'AM.

24 A I DO KNOW THEY CAN JUST SNAP, MAYBE SOMEONE LOOK AT  
25 THEM WRONG OR SAY SOMETHING WRONG. AND I KNOW SOMEONE

1 THAT HAS, THAT THEY CAN JUST SNAP AND JUST DO SOMETHING  
2 THEY NEVER THOUGHT THEY WOULD DO.

3 Q OKAY.

4 A I KNOW IT IS TREATABLE.

5 Q OKAY.

6 A AND I KNOW THAT THEY HAVE -- I REALLY THINK THEY HAVE  
7 TO REALLY REALIZE THEY ARE MENTALLY, AND THEY NEED THAT  
8 HELP BEFORE ANYBODY CAN REALLY HELP THEM.

9 Q THAT'S RIGHT. THAT'S RIGHT. COULD YOU GIVE THAT  
10 MEANINGFUL CONSIDERATION AS A REASON TO SENTENCE SOMEONE  
11 TO LIFE?

12 A IF IT WAS ACTUALLY PROVEN?

13 Q ABSOLUTELY. YES, MA'AM. I'M NOT ASKING YOU TO PULL  
14 IT OUT OF NOWHERE. I'M NOT ASKING YOU TO BELIEVE IT  
15 BECAUSE IT'S RAISED; BUT IF THE EVIDENCE IS PUT ON AND AT  
16 THE END OF THAT EVIDENCE YOU THOUGHT THAT PERSON WAS  
17 MENTALLY ILL, YOU DECIDE ON YOUR OWN, WOULD YOU BE ABLE TO  
18 GIVE THAT MEANINGFUL CONSIDERATION AS A REASON TO SENTENCE  
19 SOMEONE TO LESS, TO LIFE IN PRISON?

20 A I THINK I COULD.

21 Q YOU UNDERSTAND? YOU THINK IT? YOU KNOW, IT'S VERY  
22 IMPORTANT TO ME. IS THERE A DIFFERENCE IN YOUR MIND  
23 BETWEEN THINK AND I COULD GIVE MEANINGFUL CONSIDERATION?

24 A I COULD LOOK AT ALL THE EVIDENCE, AND IF THAT WAS  
25 SOME OF THE EVIDENCE. YES.

1 Q YOU COULD GIVE THAT MEANINGFUL CONSIDERATION?  
2 BECAUSE THAT'S WHAT THE LAW IS.

3 MS. STROM: OBJECTION, YOUR HONOR. ASKED AND  
4 ANSWERED.

5 THE COURT: ALREADY ASKED THREE TIMES. MOVE ON TO  
6 ANOTHER SUBJECT.

7 BY MR. NETTLES:

8 Q THAT'S WHAT THE LAW IS, AND YOU WOULD FOLLOW THE LAW?

9 A YES.

10 Q NOW, WHAT DOES LIFE IMPRISONMENT WITHOUT PAROLE MEAN  
11 TO YOU?

12 A THAT THEY'RE IN THERE FOR LIFE. THEY WILL NEVER COME  
13 OUT.

14 Q IF THE JUDGE INSTRUCTS YOU LIFE IMPRISONMENT WITHOUT  
15 PAROLE IN SOUTH CAROLINA MEANS EXACTLY THAT, WILL YOU  
16 ACCEPT THAT AS BEING THE LAW?

17 A YES.

18 Q THAT IF YOU SENTENCE SOMEONE TO LIFE IN PRISON, THAT  
19 THEY'RE GOING TO DIE IN PRISON?

20 A YES.

21 Q WOULD YOU ACCEPT THAT, NOT WITHSTANDING WHAT YOU, I  
22 HOPE PREVIOUSLY THOUGHT ABOUT APPEALS, THAT IF YOU  
23 SENTENCED SOMEONE TO DEATH IN SOUTH CAROLINA, YOU SIGN  
24 YOUR NAME TO THAT PAPER, THAT THAT IS WHAT WILL HAPPEN,  
25 THEY WILL BE SENTENCED TO DEATH?

1 A SAY THAT AGAIN. I'M SORRY.

2 Q IF YOU SIGN YOUR NAME TO A PIECE OF PAPER -- YOU HAD  
3 CONCERNS ABOUT APPEALS EARLIER, AND HOPEFULLY, THE JUDGE  
4 HAS CLEARED THAT UP, THAT IF YOU SENTENCE SOMEONE TO  
5 DEATH --

6 A UH-HUH.

7 Q -- THAT THAT, I MEAN, THIS ISN'T -- I MEAN, THAT IS  
8 WHAT HAPPENS. HE GETS SENTENCED TO DEATH AND THE LAW IS  
9 THAT HE GETS EXECUTED.

10 A I'M STILL NOT QUITE SURE I UNDERSTAND THE QUESTION.

11 Q MY CONCERN IS THIS. IS THAT BECAUSE OF SOME OF THE  
12 THINGS YOU SAID ABOUT APPEALS EARLIER, THAT IF YOU WERE TO  
13 SENTENCE SOMEONE TO DEATH, YOU WOULD BE DOING IT WITH SORT  
14 OF IN THE BACK OF YOUR MIND, WELL, HE'S NOT REALLY GOING  
15 TO BE SENTENCED TO DEATH. DO YOU SEE WHAT I'M SAYING?  
16 HOPEFULLY, THE ISSUE ON APPEALS, HOPEFULLY -- FRANKLY, I  
17 HOPE WE CLEARED UP WITH YOU.

18 A YEAH.

19 Q THIS ISN'T A JOKE. IF YOU SIGN THIS THING THAT GIVES  
20 DEATH, HE GETS SENTENCED TO DEATH.

21 THE COURT: MR. NETTLES, I REALLY THINK YOU'RE TRYING  
22 TO STAKE HER OUT HERE.

23 MR. NETTLES: NO, SIR, I'M NOT.

24 THE COURT: WELL, THEN REPHRASE. YOU'RE PUTTING HER  
25 IN A REAL TIGHT BOX, OKAY, WITH CERTAIN INSINUATIONS I

1 DON'T THINK ARE PROPER.

2 MR. NETTLES: COULD I ASK HER TO BE SENT OUTSIDE?  
3 BECAUSE I HAVE A REASON.

4 THE COURT: YEAH. MISS BRIDGES, WOULD YOU STEP OUT  
5 IN THE HALL JUST A SECOND, PLEASE?

6 (PROSPECTIVE JUROR EXITS COURTROOM.)

7 MR. NETTLES: THIS IS MY CONCERN. MY CONCERN IS, AND  
8 I HAVEN'T DONE THIS WITH ANY OTHER WITNESS.

9 THE COURT: I KNOW YOU HAVEN'T. AND I'M VERY  
10 CONCERNED ABOUT THE QUESTION, PRIMARILY BECAUSE I THINK  
11 YOU'RE TRYING, I GUESS FOR LACK OF A BETTER WORD, YOU'RE  
12 TRYING TO STAKE HER OUT AND CHALLENGE HER ON, HEY, IF YOU  
13 THINK THESE APPEALS ARE GOING TO GO AWAY. WHAT YOU'RE  
14 TRYING TO DO IS SAY, I WANT YOU TO UNDERSTAND THAT YOU'RE  
15 GOING TO HAVE YOUR HAND ON THE SWITCH OR THE NEEDLE.  
16 OKAY. AND THAT'S THE INSINUATION YOU'RE PUTTING.

17 MR. NETTLES: NO, SIR. IF THE COURT WANTS TO CLEAR  
18 THAT UP, FINE. MY CONCERN IS SIMPLY THIS. BASED ON HER  
19 QUESTIONNAIRE, THAT SHE'S GOING TO SAY, "WELL, I'LL  
20 SENTENCE TO DEATH BUT THERE'S GOING TO BE A BUNCH OF OTHER  
21 DECISIONS." AND THE LAW IS VERY CLEAR, THEY NEED TO  
22 UNDERSTAND THE DEATH PENALTY, IF THEY SENTENCE SOMEONE --

23 THE COURT: THAT'S FINE. BUT ASK HER ABOUT HER  
24 OPINIONS ABOUT THE APPEAL. YOU'RE INSINUATING THAT SHE'S  
25 THE ONE THAT'S GOING TO, IN EFFECT, KILL THE PERSON.

1       OKAY?  AND THAT'S WHAT I DON'T LIKE ABOUT YOUR QUESTION.  
2       AND I'M NOT GOING TO ALLOW YOU TO DO IT.

3               MR. NETTLES:  IF ANYBODY CAN HELP ME WITH WHAT  
4       QUESTION THEY WANT ME TO ASK TO MAKE ALL THIS FEEL BETTER,  
5       THAT SHE REALIZES -- I TRY TO PUT THIS WAY.  IT'S NOT A  
6       JOKE.  JOKE WAS A FLIPPANT TERM, AND I APOLOGIZE.  BUT  
7       BASED ON HER BELIEF ABOUT APPEALS, I HOPE THE COURT CAN  
8       UNDERSTAND THAT.

9               THE COURT:  I UNDERSTAND WHAT YOU'RE TRYING TO DO.  I  
10       JUST DON'T LIKE HOW YOU'RE GOING ABOUT IT.

11               SOLICITOR?

12               MS. STROM:  MY THOUGHT IS THAT IT COULD BE CLEARED UP  
13       BY YOUR TELLING THIS POTENTIAL JUROR THAT EITHER SENTENCE  
14       THAT SHE IMPOSE, BE IT DEATH OR BE IT LIFE, WILL BE THE  
15       SENTENCE THAT WILL BE CARRIED OUT.  AND JUST AN  
16       INSTRUCTION FROM YOU.

17               MR. NETTLES:  THAT'S FAIR ENOUGH.  BECAUSE THAT'S  
18       WHAT YOU'RE GOING TO TELL THEM AT THE END OF THE TRIAL.

19               THE COURT:  I UNDERSTAND.  RIGHT.  YOU SATISFIED WITH  
20       THAT?

21               MR. NETTLES:  YOU KNOW, I AM.

22               THE COURT:  ALL RIGHT.  WE'VE REACHED A HIGH WATER  
23       MARK.  TELL HER TO COME ON BACK.

24               (PROSPECTIVE JUROR RETURNS.)

25               MR. NETTLES:  JUST TO SHOW YOU CIVILITY IN THE BAR,

1 WE REACHED A CONSENSUS. HOW ABOUT THAT?

2 PROSPECTIVE JUROR: OKAY.

3 BY THE COURT:

4 Q MRS. BRIDGES, WHAT I WANT TO TELL YOU, IF WE GET TO  
5 THE PENALTY PHASE --

6 A UH-HUH.

7 Q -- AT THE END OF THE PENALTY PHASE I WILL GIVE YOU A  
8 FORM AND THAT FORM AT THE TOP, BY STATE LAW SAYS IT'S THE  
9 JURY'S RECOMMENDATION. THAT'S A MISNOMER. IT'S NOT A  
10 RECOMMENDATION TO THE COURT. YOU UNDERSTAND? IF THE JURY  
11 DECIDES LIFE, THEN LIFE WILL BE CARRIED OUT BY THE STATE.  
12 OKAY?

13 A OKAY.

14 Q IF THE JURY PUTS DEATH, THEN THE DEFENDANT WILL BE  
15 PUT TO DEATH. DO YOU UNDERSTAND?

16 A UH-HUH.

17 Q THAT'S THE LAW, AND THE LAW WILL BE CARRIED OUT. IF  
18 THE JURY, I SAY JURY, IF ALL 12 OF YOU SAY LIFE OR ALL 12  
19 OF YOU SAY DEATH, DO YOU UNDERSTAND?

20 A YES, SIR.

21 Q DO YOU HAVE ANY QUESTION ABOUT THAT?

22 A NO, SIR.

23 BY MR. NETTLES:

24 Q AND WHEN HE SAYS LIFE, TALKING ABOUT LIFE WITHOUT  
25 POSSIBILITY OF PAROLE?

1 A YES.

2 Q THOSE ARE THE TWO POSSIBLE PUNISHMENTS.

3 A OKAY.

4 Q LAST THING IS, THIS LAST TOPIC. THREE OR FOUR  
5 QUESTIONS. I CAN'T IMAGINE HOW THIS COULD GO WEIRD. IT  
6 GOES LIKE THIS. IF YOU ARE BACK IN THE JURY ROOM AND YOU  
7 HAVE DECIDED ON A PUNISHMENT, AFTER HEARING ALL THE  
8 EVIDENCE AND EVERYTHING NOW, AND -- NOW, YOU WOULD AGREE  
9 WITH ME THAT A FAIR JUROR WOULD WAIT UNTIL THE END, I'M  
10 TALKING ABOUT THE VERY END, BEFORE THEY MADE UP THEIR MIND  
11 ABOUT PUNISHMENT?

12 A YES.

13 Q THAT WOULD SEEM FAIR. IN OTHER WORDS, IT JUST  
14 WOULDN'T BE FAIR TO MAKE UP YOUR MIND BEFORE THE OTHER  
15 TEAM GOT TO TALK?

16 A YEAH.

17 Q AND YOU WOULD AGREE WITH ME THAT A FAIR JUROR, IF  
18 THEY STARTED TO MAKE UP THEIR MIND, WOULD MAKE A CONSCIOUS  
19 DECISION TO STOP AND SAY, "I HAVEN'T HEARD THE OTHER SIDE  
20 YET."

21 A YES.

22 Q YOU AGREE WITH THAT?

23 A YES.

24 Q YOU HAD MADE UP YOUR MIND ABOUT IT. AND YOU FELT  
25 ABOUT ONE PUNISHMENT, AND THE OTHER 11 THOUGHT A DIFFERENT



1 WAY, YOU WOULD LISTEN TO THE EVIDENCE --

2 A YES.

3 Q -- AND YOU WOULD ENGAGE IN CONVERSATION?

4 A YES.

5 Q AND AT THE END OF THAT, IF YOU FELT ONE WAY AND THE  
6 OTHERS FELT ANOTHER WAY, WOULD YOU CHANGE YOUR MIND JUST  
7 TO GO ALONG?

8 A NO, NO.

9 Q IF YOU HAPPENED TO BE IN THE MAJORITY AND THERE WAS  
10 ONE PERSON WHO WAS NOT BEING WEIRD ABOUT IT, BUT JUST HAD  
11 AN OPINION THAT WAS DIFFERENT FROM YOURS, WOULD YOU BE  
12 WILLING TO RESPECT THEIR OPINION?

13 A OH, YES. YES.

14 Q I BELIEVE THAT'S ALL I'VE GOT.

15 THE COURT: ANY MOTIONS?

16 MS. STROM: NONE FROM THE STATE, YOUR HONOR.

17 THE COURT: ANY MOTIONS FROM THE DEFENDANT?

18 MR. NETTLES: NONE, YOUR HONOR.

19 THE COURT: ALL RIGHT, MRS. BRIDGES.

20 PROSPECTIVE JUROR: YES.

21 THE COURT: WE'RE DRAWING 40 JURORS. AND FROM THAT  
22 POOL OF 40 WE'RE GOING TO DRAW 12 JURORS AND THREE  
23 ALTERNATES. YOU'RE PART OF THAT 40 POOL. OKAY?

24 PROSPECTIVE JUROR: OKAY.

25 THE COURT: NOW, THE BAILIFF IS GOING TO GIVE YOU A

1 NUMBER. JUDY, WHAT TIME ARE YOU GOING TO PUT THE MESSAGE  
2 ON THERE?

3 THE CLERK: AS SOON AS YOU LET ME KNOW. AFTER 11,  
4 BETWEEN 11 AND 11:30.

5 THE COURT: CALL THAT NUMBER AFTER 11. THERE WILL BE  
6 A MESSAGE.

7 PROSPECTIVE JUROR: AFTER 11 TODAY?

8 THE COURT: YEAH, 11 TODAY. THE MESSAGE MAY BE CALL  
9 BACK AT 1:00, MESSAGE MAY BE, BE HERE AT 1:00. BUT FOLLOW  
10 THE INSTRUCTIONS ON THE RECORDER.

11 PROSPECTIVE JUROR: OKAY.

12 THE COURT: DON'T TALK TO ANYBODY ABOUT THE CASE,  
13 DON'T WATCH ANYTHING ON TELEVISION, LISTEN TO ANYTHING ON  
14 THE RADIO, OR READ THE PAPER ABOUT THE CASE. OKAY?

15 PROSPECTIVE JUROR: OKAY.

16 THE COURT: THANK YOU VERY MUCH.

17 PROSPECTIVE JUROR: THANK YOU.

18 (PROSPECTIVE JUROR EXCUSED.)

19 MR. ARIAIL: YOUR HONOR, COULD I REPORT TO THE COURT?

20 THE COURT: YES, SIR. WHAT DO YOU WANT TO REPORT?

21 MR. ARIAIL: WE HAVE REVIEWED THE JURORS TO DATE, AND  
22 I CAN REPRESENT TO THE COURT THAT OTHER THAN IF MISS DANIEL  
23 IS THE ONLY PERSON THAT DOESN'T COME, WE HAVE MORE THAN  
24 ENOUGH, BASED ON THE STRIKES THE STATE WILL USE, TO  
25 COMPLETE THE ENTIRE JURY PANEL. WE DON'T NEED ANY MORE.

1 NOW, IF YOU BELIEVE --

2 THE COURT: ARE YOU TELLING ME YOU'RE NOT GOING TO  
3 USE ALL YOUR STRIKES?

4 MR. ARIAIL: WELL, I'M NOT GOING TO SPECIFICALLY SAY,  
5 BUT THAT'S CORRECT.

6 THE COURT: I MEAN, AND TO GET THREE ALTERNATES?

7 MR. ARIAIL: THREE ALTERNATES AND SOME LEFT OVER,  
8 PROBABLY ENOUGH TO GET A FOURTH.

9 THE COURT: ALL RIGHT. I'M NOT TRYING TO RESTRICT  
10 ANYONE FROM USING THE STRIKES. IF THAT'S THE CASE, WE  
11 PROBABLY DON'T NEED TO GO ANY FURTHER.

12 MR. ARIAIL: THE ONLY THING I WAS THINKING, IF WE CAN  
13 HAVE THE CLERK CALL --

14 THE COURT: WE HAVE 37 JURORS RIGHT NOW.

15 MR. ARIAIL: WE COULD HAVE THE CLERK CALL THEM  
16 BETWEEN NOW AND 11, SAY, WE'RE LOOKING AT COMING IN AT  
17 12:00, AND FIND OUT WHO MAY HAVE A PROBLEM. IF WE END UP  
18 WITH FIVE OR SIX HAVING A PROBLEM, NOT COMING IN; BUT IF  
19 THEY ALL COME IN WITH THE EXCEPTION OF MISS DANIEL, WE  
20 ALREADY EXCLUDED HER, AND POSSIBLY ONE OR TWO OTHERS, WE  
21 WOULD BE ALL RIGHT.

22 THE COURT: OKAY. WHAT DOES THE DEFENDANT SAY?

23 MR. NETTLES: OH, YES. TO BE HONEST WITH YOU, I  
24 WASN'T LISTENING; BUT I'VE BEEN TOLD TO SAY YES. YES,  
25 SIR, WE AGREE.

1 THE COURT: NOW, LET ME SAY THIS. IF SOMETHING  
2 HAPPENS, WHAT HE'S TELLING ME IS NOT CORRECT, WE'LL KEEP  
3 THE ONES WE PICK AND PUT THEM IN THE JURY ROOM, BUT WE'LL  
4 GO BACK TO GET THE THIRD ALTERNATE. DOES EVERYBODY  
5 UNDERSTAND?

6 MR. ARIAIL: WE CAN KEEP DOING IT WHILE THE CLERKS  
7 CALL AND GET ANOTHER ONE.

8 THE COURT: I'M NOT TRYING TO BELABOR WHAT WE'RE  
9 DOING ANY FURTHER, BUT I WANT TO GET THAT THIRD ALTERNATE  
10 IS WHAT I'M SAYING. AND WE'RE AT 37. RIGHT NOW ALL WE  
11 NEED IS TWO MORE TO GET THE THIRD ALTERNATE.

12 MR. ARIAIL: WE GOT THIRTY-EIGHT.

13 THE COURT: NO THIRTY-SEVEN, TOOK MS. DANIEL OFF.

14 MS. STROM: THAT'S RIGHT.

15 MR. NETTLES: I GOT SERIOUS CONCERNS ABOUT WHETHER  
16 THIS NEXT GUY IS GOING TO BE OUR --

17 THE COURT: I HAVEN'T EVEN LOOKED YET.

18 MR. ARIAIL: WE GOT ENOUGH TO KEEP PLOWING ALONG  
19 WHILE SHE'S CHECKING. AND THEN IF IT LOOKS LIKE WE GOT A  
20 PROBLEM --

21 THE COURT: WHAT TIME DO YOU WANT TO BRING THE 37 IN?  
22 TWELVE O'CLOCK?

23 MR. ARIAIL: TWELVE O'CLOCK.

24 MR. NETTLES: ANOTHER SUGGESTION THAT'S BEEN PROVIDED  
25 TO ME MAY NOT BE A BAD IDEA. MAYBE IT'S JUST IMPLICIT IN

1 WHAT YOU'RE SAYING. IF WE BROUGHT THE OTHER TWO PANELS  
2 IN, KEPT THEM SEPARATE, IF ANYTHING --

3 THE COURT: IN OTHER WORDS, WE GOT HOW MANY PEOPLE IN  
4 THERE RIGHT NOW, NINE? TEN? TEN.

5 THE CLERK: ROUGHLY EIGHT.

6 THE COURT: WHAT I'LL DO IS PUT THE 37 IN THE  
7 COURTROOM PUT THE EIGHT IN THE JURY ROOM. JUST HOLD THEM  
8 IN THE JURY ROOM. IF WE HAVE TO USE THEM, WE'LL USE THEM.

9 MR. NETTLES: THAT'S FINE.

10 THE COURT: ALL RIGHT. GO MAKE YOUR PHONE CALLS. I  
11 WANT YOU TO CALL THE 37 AND TELL THEM TO BE HERE AT 12:00.  
12 OKAY?

13 THE CLERK: CALL EACH ONE PERSONALLY?

14 THE COURT: CALL EACH ONE, TELL THEM TO BE HERE AT  
15 12:00. SEE IF THERE'S ANY PROBLEM WITH THEM BEING HERE AT  
16 12:00. WE WILL CONTINUE TO DO THIS UNTIL WE HEAR BACK  
17 FROM YOU.

18 ONE PROBLEM, LET ME POINT OUT TO YOU AS WE GO THROUGH  
19 THIS PROCESS, WHEN WE GET DOWN TO TIMBERLY GRIFFIN, SHE  
20 DIDN'T HAVE TRANSPORTATION, BUT THE SHERIFF'S DEPARTMENT  
21 IS MAKING ARRANGEMENTS RIGHT NOW TO BRING HER IN.

22 THE CLERK: SHE HAD HER OWN TRANSPORTATION WHEN I  
23 CALLED. SHE'LL BE HERE BY 10:00.

24 THE COURT: SHE'LL BE HERE. SHE'S RUNNING LATE.

25 MR. ARIAIL: SHE'S A PROSPECTIVE?

1 THE COURT: YES, SHE'S A PROSPECTIVE, NUMBER 79 ON  
2 THE LIST. WE GOT TWO IN FRONT OF HER.

3 ALL RIGHT. I'LL TAKE ABOUT A FIVE-MINUTE BREAK AND  
4 CONTINUE WHEN SHE -- LET ME SAY THIS, SHE MAY NOT BE ABLE  
5 TO GET THEM ALL ON THE TELEPHONE.

6 MR. NETTLES: ALL I'D LIKE TO ASK FOR IS THIS.  
7 HOWEVER WE PLAN THIS OUT, WHENEVER WE GET DONE, WE WOULD  
8 LIKE AN HOUR AND A HALF TO SIT DOWN, GO THROUGH ALL OF OUR  
9 PEOPLE BEFORE WE STRIKE. ALL I'M ASKING FOR IS BETWEEN  
10 THE TIME WE DECIDE WE GOT THE PANEL AND DO THE STRIKE.  
11 SO, HOWEVER YOU WOULD WORK THAT OUT.

12 THE COURT: WELL, IT'S 10:00 NOW, YOU GOT TWO HOURS.

13 MR. NETTLES: I THOUGHT YOU SAID, THOUGH, WE WERE  
14 GOING TO COME BACK IN FIVE MINUTES.

15 THE COURT: NO, IF YOU ALL WANT TO STOP RIGHT NOW,  
16 TAKE YOUR TWO HOURS, TRY TO DRAW WITH WHAT WE HAVE.

17 MR. NETTLES: THAT'S WHAT WE WANT.

18 THE COURT: IF WE CAN'T DRAW WITH WHAT WE HAVE, WE'LL  
19 GO BACK TO THESE EIGHT.

20 MR. NETTLES: VERY WELL.

21 THE COURT: AND WE'LL CONTINUE TO GO THROUGH THIS  
22 PROCESS UNTIL WE GET THE THIRD ALTERNATE. WE'LL STOP  
23 RIGHT NOW, YOU ALL GO WORK ON IT, AND WE'LL PLAN ON  
24 RECONVENING HERE AT 12.

25 MR. NETTLES: THAT'S GREAT.

1 THE COURT: AND I'LL GET THE CLERK, TELL HER TO GET  
2 ON THE TELEPHONE, GET EVERYBODY HERE AT 12:00. ALL RIGHT.  
3 LET ME SEE THE ATTORNEYS UP HERE JUST A SECOND.

4 (WHEREUPON, THE PROCEEDINGS ARE ADJOURNED UNTIL THE  
5 AFTERNOON.)

6 AFTERNOON SESSION

7 (WHEREUPON, COURT WAS AGAIN IN SESSION AT 12:15 P.M.  
8 WHEN THE FOLLOWING PROCEEDINGS WERE HAD:)

9 THE COURT: ALL RIGHT. I UNDERSTAND WHILE WE'RE  
10 WAITING TO SEE HOW MANY JURORS AND WHILE WE'RE WAITING TO  
11 GET THEM HERE, WE'RE GOING TO HAVE A JACKSON V. DENNO  
12 HEARING. IS THAT CORRECT?

13 MR. ARIAIL: YES, YOUR HONOR.

14 THE COURT: MR. NETTLES, ARE YOU READY?

15 MR. NETTLES: I AM.

16 THE COURT: SOLICITOR, ARE YOU READY?

17 MR. ARIAIL: I AM. THEY'RE JUST GETTING COPIES OF  
18 THE ORIGINAL STATEMENT.

19 THE COURT: LET ME KNOW WHEN YOU'RE READY TO CALL  
20 YOUR FIRST WITNESS.

21 MR. ARIAIL: I CAN CALL HIM RIGHT NOW, SHE WON'T BE  
22 BUT A SECOND.

23 THE COURT: BRING HIM ON UP.

24 MR. NETTLES: WELL, I TELL YOU WHAT. WHAT HE'S  
25 ACTUALLY GOING TO GET IS OUR FILE FOR THESE TWO WITNESSES.

1 OBVIOUSLY, WE THOUGHT WE WERE DOING THE JURY STRIKE, WE  
2 DIDN'T BRING THEM UP. IF I COULD JUST HAVE THE TWO  
3 MINUTES IT TAKES HIM TO RUN DOWN AND RUN BACK.

4 THE COURT: I'LL GIVE YOU AS MUCH TIME AS YOU WANT.

5 MR. NETTLES: THANK YOU.

6 THE COURT: FOR BOTH OF YOU, WHEN YOU GOT PROBLEMS,  
7 LET ME KNOW. WE'LL TRY TO WORK AROUND AND ACCOMMODATE  
8 YOU. OKAY.

9 MR. NETTLES: THANK YOU.

10 (COURT'S EXHIBIT NUMBER 9 IS MARKED FOR  
11 IDENTIFICATION.)

12 MR. ARIAIL: CALL MIKE MCNAMARA.

13 MR. MAULDIN: I WANTED TO MAKE SURE BEFORE WE GET  
14 INTO THE CASE THE NUMEROUS PRETRIAL MOTIONS, MEMORANDUM  
15 AND BRIEFS FILED BY THE STATE AND DEFENDANT, GONE THROUGH  
16 THE CLERK'S OFFICE AND HEARD BY YOU, ARE MOVED INTO THE  
17 RECORD OF THIS CASE.

18 THE COURT: SO GRANTED.

19 MS. STROM: FOR THE PURPOSE OF THE RECORD, WE ALL  
20 KNOW THEY DON'T GO TO THE JURY, BUT FOR PURPOSES OF THE  
21 RECORD.

22 THE COURT: FOR THE PURPOSES OF THE RECORD. THAT'S  
23 CORRECT.

24 MR. MAULDIN: THANK YOU, JUDGE.

25 (COURT'S EXHIBIT NUMBER 1 THROUGH 6 HAVING BEEN



1 MARKED IN PRIOR HEARINGS ARE IDENTIFIED FOR THE  
2 RECORD AS FOLLOWS: 1, WRITTEN STATEMENT; 2,  
3 TRANSCRIPT OF CRAWFORD INTERVIEW; 3, DR. CRAWFORD  
4 REPORT; COURT'S 4, C.V. OF DR. FRIERSON; 5, JOURNAL  
5 OF AAPL PRACTICE GUIDELINES; AND 6, C.V. OF DR.  
6 HALLECK.)

7 MICHAEL MCNAMARA, AFTER BEING  
8 DULY SWORN, TESTIFIED AS FOLLOWS:

9 DIRECT EXAMINATION BY MR. ARIAIL:

10 Q STATE YOUR NAME FOR THE RECORD, PLEASE.

11 A MY NAME IS MICHAEL MCNAMARA.

12 Q BY WHOM ARE YOU EMPLOYED?

13 A BY THE GREENVILLE COUNTY SHERIFF'S OFFICE, SIR.

14 Q HOW LONG HAVE YOU BEEN EMPLOYED WITH THE SHERIFF'S  
15 OFFICE?

16 A ABOUT NINE AND A HALF YEARS, SIR.

17 Q WHAT IS YOUR PRESENT POSITION?

18 A I'M AN INVESTIGATOR WITH VIOLENT CRIMES, HOMICIDE  
19 UNIT.

20 Q VIOLENT CRIMES, HOMICIDE UNIT. IS THAT UNIT THAT  
21 INVESTIGATES EXACTLY THAT, VIOLENT CRIMES AND HOMICIDES?

22 A YES.

23 Q I WANT TO DIRECT YOUR ATTENTION TO THE AFTERNOON OF  
24 SEPTEMBER THE 3<sup>RD</sup> 2003 AND ASK YOU IF YOU WERE AN  
25 INVESTIGATOR OF THE VIOLENT CRIMES UNIT AT THAT TIME.

1 A YES, I WAS.

2 Q AND AS SUCH, DID YOU HAVE OCCASION TO BECOME INVOLVED  
3 WITH THE DEFENDANT, CHARLES CHRISTOPHER WILLIAMS?

4 A YES, SIR.

5 Q WHERE WAS YOUR FIRST CONTACT WITH MR. WILLIAMS MADE?

6 A IT WAS AT THE LAW ENFORCEMENT CENTER DOWNSTAIRS, NEAR  
7 THE JUDICIAL SUPPORT SERVICES DIVISION. I MET MR.  
8 WILLIAMS. HE WAS BEING ESCORTED BY TWO UNIFORMED  
9 DEPUTIES, THEY WEE ON THEIR WAY BACK UP TO OUR OFFICE  
10 WHERE CENTRAL INVESTIGATIONS IS LOCATED.

11 Q YOU DID NOT GO TO THE SCENE OF THE BI-LO?

12 A NO, I DID NOT.

13 Q YOU MET HIM DOWNSTAIRS AT THE LAW ENFORCEMENT CENTER.  
14 WHO WERE THE TWO DEPUTIES WHO ESCORTED HIM?

15 A DEPUTY MICHAEL JOLLY AND DEPUTY ANDREW RACKLEY.

16 Q ONCE YOU MET IN THE DOWNSTAIRS OF THE LAW ENFORCEMENT  
17 CENTER, WHERE DID YOU GO?

18 A TOOK HIM UP THE ELEVATOR TO THE SECOND FLOOR WHERE  
19 CID OFFICES, TOOK HIM THROUGH THOSE OFFICES AND TO THE  
20 VIOLENT CRIMES OFFICE. IT'S A SEPARATE OFFICE FROM THE  
21 REST OF THE CID IN THE SAME AREA OF THE BUILDING.

22 Q AT THAT TIME, HOW WERE YOU DRESSED?

23 A I WAS DRESSED IN OUR TYPICAL BUSINESS CASUAL DRESS  
24 THAT WE WEAR IN VIOLENT CRIMES, A PAIR OF SLACKS, A GOLF  
25 SHIRT, HAD MY BADGE, A GUN ON, IDENTIFICATION.

1 Q HOW WAS THE DEFENDANT, MR. WILLIAMS, DRESSED?

2 A HE HAD ON A CAMOUFLAGE JACKET AND SEVERAL SHIRTS  
3 UNDER THAT, A PAIR OF JEANS, AND PAIR OF BOOTS ON.

4 Q WHEN YOU SAY YOU TOOK HIM TO THE VIOLENT CRIMES UNIT,  
5 WHICH IS PART OF THE OVERALL CENTRAL INVESTIGATION  
6 DIVISION, DESCRIBE THAT AREA FOR US.

7 A VIOLENT CRIMES UNIT IS A SINGLE OFFICE BY ITSELF. IT  
8 HOUSES ABOUT SEVEN DIFFERENT DESKS. SEVERAL DIFFERENT  
9 INVESTIGATORS WORK IN THERE. IT'S YOUR TYPICAL OFFICE  
10 ENVIRONMENT WITH CABINETS, DESKS, COMPUTER EQUIPMENT, FILE  
11 CABINETS IN THE BACK, AND SEVERAL WINDOWS ALONG THE LEFT  
12 SIDE THAT LOOK OUT THROUGH AN AREA BETWEEN THERE AND THE  
13 DETENTION CENTER.

14 Q IS THIS AREA SECURED FROM THE OTHER PART OF THE  
15 CENTRAL INVESTIGATIVE DIVISION?

16 A IT'S SEPARATED BY A LOCKING DOOR AND A WALL WITH NO  
17 VIEW OR WINDOWS INTO THE OFFICE FROM THAT INDIVIDUAL.

18 Q WAS MR. WILLIAMS UNDER ARREST OR DETAINED IN YOUR  
19 UNDERSTANDING, AT THAT TIME?

20 A YES, HE WAS.

21 Q WAS HE HANDCUFFED?

22 A YES, HE WAS.

23 Q AND WHEN YOU WENT TO THIS OFFICE IN THE CID OFFICE,  
24 THE BACK PART, WHO CAME INTO THE OFFICE WITH YOU AND WHERE  
25 DID EVERYONE SIT?

1 A WE BROUGHT HIM TO THE OFFICE. MY DESK IS AT THE VERY  
2 BACK OF THAT OFFICE FACING THE ENTRY DOOR. I SAT THERE.  
3 MR. WILLIAMS SAT IN A CHAIR ADJACENT TO MY DESK, FACING  
4 THE BACK WALL, FACING ME WHERE I SAT AT MY DESK. AND THEN  
5 THE TWO UNIFORMED DEPUTIES SAT BEHIND US. MICHAEL JOLLY  
6 SAT BEHIND MR. WILLIAMS AT ANOTHER INVESTIGATOR'S DESK,  
7 AND DEPUTY RACKLEY SAT TO THE LEFT SIDE OF ME, ALSO AT THE  
8 BACK OF THE OFFICE, AT ANOTHER INVESTIGATOR'S DESK.

9 Q WAS ANYONE ELSE IN THE OFFICE AT THAT TIME, OTHER  
10 THAN THE FOUR PEOPLE YOU DESCRIBED?

11 A NO, SIR.

12 Q HOW DID YOU -- FIRST, WHAT WAS YOUR PURPOSE IN  
13 MEETING WITH MR. WILLIAMS?

14 A TO SEE IF HE WANTED TO GIVE A STATEMENT AND SUBMIT TO  
15 AN INTERVIEW ABOUT WHAT HAPPENED THAT DAY.

16 Q AND DID YOU ASK HIM THAT?

17 A AT ONE POINT, YES, I DID, SIR.

18 Q WELL, HOW DID YOU START THE CONVERSATION?

19 A I ASKED HIM IF HE WANTED TO TALK ABOUT WHAT HAD  
20 HAPPENED THAT DAY.

21 Q AND PRIOR TO THAT, HAD YOU ASKED HIM ANYTHING ABOUT  
22 HIMSELF OR ANY OTHER INFORMATION OR WAS THAT THE FIRST  
23 THING YOU STARTED TALKING ABOUT?

24 A THE ONLY OTHER THINGS WE TALKED ABOUT PRIOR TO THAT,  
25 I ASKED HIM DID HE NEED TO USE THE RESTROOM, WAS HE

1 HUNGRY, WAS HE THIRSTY? WE HAD SNACKS AND DRINKS IN THE  
2 OFFICE AVAILABLE, AND HE DECLINED ANYTHING AT THAT POINT.  
3 BUT THAT'S THE ONLY CONVERSATION WE HAD.

4 Q THEN YOU ASKED IF HE WANTED TO TALK TO YOU ABOUT IT?

5 A ABOUT WHAT HAPPENED, YES.

6 Q WHAT WAS HIS ANSWER?

7 A HE SAID, "I'LL TELL YOU ANYTHING YOU WANT TO KNOW."

8 Q ALL RIGHT. DID HE INQUIRE OF YOU AS TO WHAT  
9 INFORMATION YOU WANTED?

10 A HE DID, SIR. HE ASKED ME, "WHERE DO YOU WANT ME TO  
11 START?"

12 Q AND WHAT DID YOU RESPOND TO THAT?

13 A I ASKED HIM TO START AT THE BEGINNING AND TALK ABOUT  
14 HIS RELATIONSHIP WITH MARANDA.

15 Q ALL RIGHT. NOW, BEFORE YOU BEGAN THAT CONVERSATION,  
16 LET ME ASK YOU IF YOU CAN IDENTIFY STATE'S EXHIBIT A,  
17 WHICH HAS BEEN PREVIOUSLY MARKED AS A COURT'S EXHIBIT IN  
18 PROCEEDINGS IN THIS CASE EARLIER?

19 A YES, I CAN.

20 Q WHAT IS THAT FOR?

21 A THAT'S THE WAIVER OF RIGHTS FORM THAT I READ TO  
22 MR. WILLIAMS AND USED BEFORE WE BEGAN THE INTERVIEW AND  
23 THE STATEMENT.

24 Q AND IS THAT A STANDARD ISSUED FORM OF THE GREENVILLE  
25 COUNTY SHERIFF'S OFFICE?

1 A YES, IT'S WHAT WE USE IN ANY SIMILAR CIRCUMSTANCES.

2 Q AND THAT IS FOR THE PURPOSE OF WHAT?

3 A FOR THE PURPOSE OF DETERMINING WHETHER A DEFENDANT OR  
4 A PERSON WHO IS GOING TO BE INTERVIEWED WANTS TO WAIVE HIS  
5 RIGHT TO AN ATTORNEY AND IS WILLING TO SPEAK WITH US AND  
6 GIVE A STATEMENT.

7 Q DO YOU HAVE TO STILL OUT CERTAIN INFORMATION ON THE  
8 FORM BEFORE YOU START GOING THROUGH IT?

9 A YES.

10 Q WHAT IN THIS CASE DID YOU FILL OUT?

11 A THE INFORMATION I FILLED OUT INCLUDES OUR CASE NUMBER  
12 AT THE TOP AND ALL THE PERSONAL INFORMATION YOU SEE AT THE  
13 TOP ABOUT MR. WILLIAMS, AS WELL AS THE DATE AND TIME WE  
14 BEGAN THIS PROCESS IN THE OFFICE.

15 Q AND THE INFORMATION YOU FILLED IN AT THE TOP IS HIS  
16 NAME, HIS ADDRESS, SOCIAL SECURITY NUMBER, THAT SORT OF  
17 THING?

18 A YES, SIR.

19 Q AND DID HE GIVE THAT INFORMATION TO YOU?

20 A YES, HE DID.

21 Q THEN WHAT DID YOU DO AFTER YOU COMPLETED THAT  
22 PORTION?

23 A AS I SAID, HE WAS SEATED TO THE LEFT SIDE OF MY DESK.  
24 AND I SLID MY CHAIR OVER SO I COULD FACE THE PAGE IN HIS  
25 DIRECTION SO THAT HE COULD CLEARLY SEE IT.

1           AND ONCE I DID THAT, I TOLD HIM I WAS GOING TO READ  
2 THE FORM OUT LOUD TO HIM. I ASKED HIM TO PLEASE FOLLOW  
3 ALONG WITH ME AS I READ IT. SO, I DID THAT. I STARTED AT  
4 THE TOP, TOLD HIM WHAT THE CASE NUMBER WAS, THAT THIS IS  
5 THE FORM OF HIS RIGHTS AND READ THE INFORMATION WE  
6 INCLUDED ON THE RIGHT-HAND SIDE ABOUT THE DATE AND TIME.  
7 I ASKED HIM AGAIN IF THIS INFORMATION, THE PERSONAL  
8 INFORMATION THAT HE HAD ALREADY GIVEN ME, WAS CORRECT; AND  
9 WHEN HE SAID IT ALL WAS, I WENT DOWN THE LIST, BEGAN WITH  
10 THE VERY FIRST SENTENCE AND READ IT OUT LOUD.

11 Q       READ IT FOR US AND READ IT INTO THE RECORD FOR THE  
12 JUDGE'S EDIFICATION.

13 A       "BEFORE WE ASK YOU ANY QUESTIONS YOU MUST UNDERSTAND  
14 YOUR RIGHTS." AND I CONTINUED DOWN THE PAGE AND READ EACH  
15 AND EVERY LINE AT THE TOP SECTION OF THAT PAGE OUT LOUD TO  
16 HIM.

17 Q       WHAT IS THE NEXT ONE?

18 A       "YOU HAVE THE RIGHT TO REMAIN SILENT."

19 Q       THE NEXT ONE?

20 A       "ANYTHING YOU SAY CAN BE USED AGAINST YOU IN COURT.  
21 YOU HAVE THE RIGHT TO TALK TO A LAWYER FOR ADVICE BEFORE  
22 WE ASK YOU ANY QUESTIONS AND HAVE HIM WITH YOU DURING  
23 QUESTIONING. IF YOU HAVE NO MONEY TO PAY A LAWYER'S FEE,  
24 THE COURT WILL APPOINT ONE TO REPRESENT YOU WITHOUT COST  
25 IF YOU WISH. IF YOU DECIDE TO ANSWER QUESTIONS NOW

1 WITHOUT A LAWYER PRESENT, YOU WILL STILL HAVE THE RIGHT TO  
2 STOP ANSWERING AT ANY TIME. YOU ALSO HAVE THE RIGHT TO  
3 STOP ANSWERING AT ANY TIME UNTIL YOU TALK TO A LAWYER."

4 Q AS YOU READ THOSE, DID YOU READ THEM INDIVIDUALLY AND  
5 TALK TO HIM OR DID YOU READ THE GROUP, ALL OF THAT, BEFORE  
6 YOU TALKED TO HIM AGAIN?

7 A I WOULD READ THE FIRST SENTENCE, ASK IF HE UNDERSTOOD  
8 THAT. HE INDICATED HE DID FOR EVERY SENTENCE I READ. AND  
9 ONCE HE INDICATED HE DID, I CONTINUED ON WITH EACH  
10 SENTENCE.

11 Q I NOTICED ON THE FORM AT THE BEGINNING OF EACH IS A  
12 SET OF INITIALS. WHOSE INITIALS ARE THOSE?

13 A THOSE ARE MR. WILLIAMS' INITIALS.

14 Q WHEN WERE THEY PLACED ON THERE?

15 A WHEN I READ THE ENTIRE TOP SECTION OF THE FORM TO HIM  
16 AND ASKED IF HE UNDERSTOOD EVERYTHING I SAID, "IF YOU  
17 UNDERSTAND THOSE RIGHTS, PLEASE PUT YOUR INITIALS NEXT TO  
18 EACH SENTENCE THAT I READ TO YOU OUT LOUD."

19 Q DID HE DO THAT?

20 A YES, HE DID.

21 Q DO YOU MAKE HIM READ ANY OF THE FORM TO YOU?

22 A I ASKED HIM TO READ OR MADE HIM READ THE FOURTH LINE  
23 DOWN FROM THE TOP, STARTS WITH, "YOU HAVE THE RIGHT TO  
24 TALK TO A LAWYER."

25 Q COULD HE READ THAT?



1 A HE READ IT WITHOUT DIFFICULTY OUT LOUD. YES, SIR.

2 Q DID HE ALSO INITIAL THAT LINE?

3 A HE DID. I ASKED HIM TO SIGN HIS NAME IN A SIGNATURE  
4 FORM AT THE END OF THAT LINE.

5 Q THE LINE DEALING WITH THE ATTORNEY, HE ALSO INITIALED  
6 AT THE BEGINNING AND SIGNED HIS NAME AT THE END?

7 A YES, SIR.

8 Q BASED ON THAT SERIES OF EVENTS, AND QUESTION AND  
9 ANSWER, DID HE APPEAR TO YOU TO UNDERSTAND HIS RIGHTS?

10 A VERY CLEARLY HE DID, SIR.

11 Q AND HAD HE RESPONDED IN WHAT YOU BELIEVE WAS AN  
12 APPROPRIATE FASHION TO THE QUESTIONS YOU HAD ASKED HIM?

13 A YES, HE DID.

14 Q WAS HE, IN YOUR OPINION OR TO YOUR OBSERVATION, UNDER  
15 THE INFLUENCE OF DRUGS OR ALCOHOL?

16 A HE WAS NOT.

17 Q DID YOU AND HE HAVE A DISCUSSION ABOUT THAT AT ANY  
18 TIME?

19 A WE DID.

20 Q AND THAT WAS LATER?

21 A YES, SIR.

22 Q DID HE IN ANY WAY APPEAR UNABLE TO UNDERSTAND WHAT  
23 YOU WERE SAYING TO HIM ON THE NATURE OF THESE PROCEEDINGS?

24 A NO, SIR. HE WAS LUCID AND COHERENT. EACH TIME THAT  
25 I SPOKE WITH HIM, ANY QUESTIONS THAT I ASKED HIM, HIS

1     ANSWERS WERE RESPONSIVE TO THAT.   HE MAINTAINED EYE  
2     CONTACT.   IT WAS BASICALLY A NORMAL BACK AND FORTH  
3     CONVERSATION BETWEEN TWO PEOPLE.

4     Q     AT ANY TIME DID HE INDICATE TO YOU THAT HE DID NOT  
5     WANT TO TALK TO YOU?

6     A     NO, HE DID NOT.

7     Q     DID HE INDICATE TO YOU AT ANY TIME HE WANTED TO CEASE  
8     TALKING TO YOU ONCE HE BEGAN TALKING TO YOU?

9     A     NO, HE DID NOT.

10    Q     DID HE INDICATE TO YOU AT ANY TIME HE WANTED A LAWYER  
11    PRESENT?

12    A     NO, SIR.

13    Q     NOW, THE SECOND PART OF THE FORM, WHAT DOES IT RELATE  
14    TO?

15    A     IT RELATES TO THE ACTUAL WAIVER OF RIGHTS.

16    Q     AND WHAT DOES IT SAY?

17    A     IT SAYS, "I HAVE READ THIS STATEMENT OF MY RIGHTS AND  
18    I UNDERSTAND WHAT MY RIGHTS ARE.   I AM WILLING TO MAKE A  
19    STATEMENT AND ANSWER QUESTIONS.   I DO NOT WANT A LAWYER AT  
20    THIS TIME.   I UNDERSTAND AND KNOW WHAT I AM DOING.   NO  
21    PROMISES OR THREATS HAVE BEEN MADE TO ME, AND NO PRESSURE  
22    OR COERCION OF ANY KIND HAS BEEN USED AGAINST ME."

23    Q     DID YOU READ IT TO HIM EXACTLY LIKE THAT?

24    A     YES, I DID.

25    Q     DID YOU ASK HIM TO READ IT OR LOOK AT IT OR PLACE ANY

1 INITIALS ON IT?

2 A I DID NOT ASK HIM TO READ IT, I SIMPLY ASKED HIM TO  
3 FOLLOW ALONG AND LISTEN AS I READ IT OUT LOUD. AFTER I  
4 DID THAT, I ASKED DID HE UNDERSTAND WHAT THAT PARAGRAPH  
5 MEANT.

6 HE SAID HE DID.

7 I ASKED HIM IF HE DID, PLEASE PUT HIS INITIALS ON THE  
8 LEFT-HAND SIDE OF IT, WHICH HE DID.

9 Q AT ANY TIME DID HE INDICATE HE DIDN'T WANT TO TALK,  
10 THAT HE WANTED A LAWYER, OR THAT HE WANTED TO CEASE  
11 TALKING TO YOU?

12 A NO, SIR.

13 Q WHILE THAT PROCESS WAS GOING ON, AND HOW LONG DID  
14 THAT TAKE? STARTED AT WHEN?

15 A THAT PROCESS TOOK -- THROUGH THE WHOLE FORM TOOK  
16 ABOUT FOUR MINUTES, SIR.

17 Q DURING THAT PERIOD OF TIME WHILE YOU WERE IN THE  
18 ROOM, DID ANYONE IN YOUR PRESENCE, OR YOU, EVER OFFER HIM  
19 ANY HOPE OF REWARD OR LENIENCY FOR GIVING A STATEMENT OR  
20 MAKING A STATEMENT?

21 A I DID NOT. AND THE TWO DEPUTIES THAT WERE WITH US  
22 DID NOT SPEAK TO HIM AT ALL DURING THIS PROCESS.

23 Q DID NOT SPEAK?

24 A NO, SIR.

25 Q DID ANYONE THREATEN HIM?

1 A NO, SIR.

2 Q DID ANYONE COERCE HIM?

3 A NO, SIR.

4 Q DID ANYONE LAY ANY HANDS UPON HIM OR MAKE THREATENING  
5 GESTURES, OR THREATENING LANGUAGE IN ANY WAY?

6 A NO, SIR.

7 Q WERE YOU THE ONLY ONE DOING THE TALKING?

8 A YES, SIR.

9 Q EXCEPT FOR HIM?

10 A CORRECT.

11 Q HOW WOULD YOU DESCRIBE -- WHAT WAS YOUR OBSERVATION  
12 AND HOW WOULD YOU DESCRIBE HIS WILLINGNESS TO TALK TO YOU  
13 AFTER YOU HAD GIVEN THIS WARNING TO HIM?

14 A HE APPEARED EAGER TO TALK, THAT WANTED TO TELL ME  
15 WHAT HAD HAPPENED, HE TOLD ME ON MORE THAN ONE OCCASION HE  
16 WANTED TO TELL ME WHAT HAPPENED.

17 Q DURING THAT COLLOQUY, HE TOLD YOU HE WANTED TO TALK  
18 TO YOU?

19 A YES, SIR.

20 Q DID HE SIGN THE WAIVER?

21 A YES, HE DID, AT THE BOTTOM OF THE FORM.

22 Q HE INDICATED HE WANTED TO TALK TO YOU?

23 A YES, SIR.

24 Q DURING THAT PERIOD OF TIME DID ANYONE ENTER THE ROOM  
25 OR LEFT THE ROOM?

1 A NO, SIR. THE SAME FOUR PEOPLE REMAINED IN THERE.

2 Q AND DURING THAT PERIOD OF TIME OUT OF THOSE FOUR, YOU  
3 AND HE ARE THE ONLY OF THE FOUR THAT EVER TALKED?

4 A YES.

5 Q DID ANY OF THE CIRCUMSTANCES IN THE ROOM CHANGE  
6 DURING THE TIME THAT YOU WERE ADVISING OF HIS RIGHTS AND  
7 HE WAS SIGNING THE WAIVER FORM?

8 A NO, SIR.

9 Q DID HE GIVE YOU A WRITTEN STATEMENT?

10 A YES, HE DID.

11 Q TELL US THE METHOD IN WHICH HE GAVE THE WRITTEN  
12 STATEMENT. HOW DID YOU TAKE IT AND HOW WAS IT DONE?

13 A IT WAS TYPED INTO OUR LAPTOP COMPUTERS WE USE.  
14 THERE'S A STATEMENT FORM BUILT IN TO THAT COMPUTER WITH  
15 THE FORM WITH FILL IN BLANK SPACES FOR PERSONAL  
16 INFORMATION AS WELL AS THE BODY OF THE STATEMENT. I ASKED  
17 HIM TO TELL ME WHAT HAPPENED, START FROM THE BEGINNING.  
18 HE SIMPLY SPOKE. AS HE SPOKE, I TYPED THOSE WORDS INTO  
19 THE COMPUTER. THAT'S WHAT MADE UP THE STATEMENT.

20 Q WAS THERE A QUESTION AND ANSWER PROCESS USED OR WAS  
21 IT SIMPLY HE WAS TALKING, YOU WERE TYPING?

22 A THE BULK OF THE STATEMENT WOULD BE HIM TALKING, ME  
23 TYPING. IF THERE WAS SOME CLARIFICATION, IF I DIDN'T  
24 UNDERSTAND SOMETHING, CERTAINLY I WOULD ASK HIM WHAT HE  
25 MEANT BY THAT. IF I DIDN'T UNDERSTAND SOMETHING; BUT AT

1 THE END OF THE STATEMENT IT WAS ALL WHAT HE SPOKE AND I  
2 TYPED DOWN WHAT HE SAID.

3 Q DID YOU AT ANY TIME DURING THE PROCESS TRY TO  
4 QUESTION HIM OR CHALLENGE ANY OF THE INFORMATION HE WAS  
5 GIVING TO YOU?

6 A NO, SIR. I TOLD HIM I'D WRITE WHATEVER HE WANTED TO  
7 SAY ABOUT THE SITUATION, ABOUT THE BACKGROUND, HE AND  
8 MARANDA, ANYTHING HE WANTED TO SAY, I WOULD PUT DOWN  
9 EXACTLY AS HE SAID IT.

10 Q SO, THIS IS HIS VERSION?

11 A YES, SIR.

12 Q AND ARE THEY HIS WORDS VERBATIM?

13 A YES, SIR.

14 Q WERE YOU ABLE TO KEEP TYPING AS FAST AS HE COULD  
15 TALK?

16 A NO. ON NUMEROUS OCCASIONS I ASKED HIM TO HOLD ON A  
17 SECOND SO I COULD CATCH UP. I MADE IT CLEAR I JUST NEEDED  
18 TO CATCH UP, AND ONCE I DID, I TOLD HIM HE COULD GO ON AND  
19 CONTINUE SPEAKING AND WE DID THAT OFF AND ON THROUGHOUT  
20 THE TIME OF THE STATEMENT.

21 Q DID YOU QUESTION HIM OR PROBE HIM ON ANY OF THE FACTS  
22 THAT HE WAS GIVING TO YOU BASED ON YOUR KNOWLEDGE OF THE  
23 EVENTS THAT OCCURRED?

24 A I SIMPLY ASKED ONE QUESTION ABOUT WHAT MAY HAVE  
25 HAPPENED OUT THERE TOWARDS THE END OF THAT STATEMENT.

1 Q WE'LL GO INTO THAT IN A MINUTE. LET ME SHOW YOU THEN  
2 THIS DOCUMENT WHICH HAS BEEN PREVIOUSLY MARKED AS COURT'S  
3 EXHIBIT NUMBER ONE, WHICH IS A THREE-PAGE DOCUMENT. I'LL  
4 ASK YOU IF YOU'RE FAMILIAR WITH THAT.

5 A YES, I AM.

6 Q AND WHAT IS THAT?

7 A THAT IS A COPY OF MR. WILLIAMS' STATEMENT. THE ONE  
8 HE GAVE ME THAT DAY AT THE LAW ENFORCEMENT CENTER.

9 Q THAT IS THE ONE YOU TYPED ON YOUR LAPTOP COMPUTER?

10 A YES.

11 Q IS THAT EXHIBIT THE ONE THAT WAS PRINTED OUT FROM THE  
12 LAPTOP COMPUTER?

13 A YES, SIR.

14 Q NOW, ONCE IT PRINTED OUT FROM THE LAPTOP COMPUTER,  
15 WHAT EXACTLY DID YOU DO WITH IT?

16 A I GAVE THE PRINTED COPY TO MR. WILLIAMS, AND I TOLD  
17 HIM TO READ IT, TAKE HIS TIME, TAKE HOWEVER LONG HE  
18 NEEDED. READ THE STATEMENTS, ANYTHING IN THE STATEMENT  
19 NOT ACCURATE OR CORRECT, ANYTHING THAT NEEDS TO BE REMOVED  
20 OR NEEDS TO BE ADDED TO IT, I'D SIMPLY GO IN THE COMPUTER  
21 AND DO THAT. I ASKED HIM TO CHECK FOR CONTENT. IT WAS  
22 THE STATEMENT HE WANTED TO GIVE, AND THAT'S WHAT HE WANTED  
23 TO SAY.

24 Q DID HE DO THAT --

25 A YES, HE DID.

1 Q -- IN YOUR PRESENCE?

2 A YES HE DID.

3 Q ANY OF THE CIRCUMSTANCES IN THE ROOM CHANGE?

4 A NO, SIR.

5 Q ANYBODY COME IN, COME OUT, ANYBODY ELSE DO ANY  
6 TALKING, THE SAME THING WE ASKED EARLIER?

7 A NO, SIR.

8 Q AND DID HE READ IT?

9 A HE DID, SIR.

10 Q AND DID HE INDICATE HE WAS WILLING TO SIGN IT?

11 A YES, HE DID.

12 Q AT THE TIME HE SIGNED IT OR PRIOR TO HIM SIGNING IT,  
13 DID ANYBODY MAKE ANY THREATS TO HIM, PROMISE HIM ANY  
14 HOPE -- OR HOLD OUT ANY HOPE OF REWARD OR IN ANY WAY  
15 COERCE HIM TO OBTAIN HIS SIGNATURE ON THE DOCUMENT?

16 A NO, SIR.

17 Q LET ME SHOW YOU ON PAGE ONE, WHO ARE THE PEOPLE WHO  
18 WITNESSED THE EXECUTION OF THAT DOCUMENT?

19 A I SIGNED IT AS A WITNESS AND DEPUTY MICHAEL JOLLY WHO  
20 WAS PRESENT FOR THE STATEMENT TAKEN, HE SIGNED IT AS A  
21 WITNESS, ALSO.

22 Q YOU SAID AT SOME POINT YOU ENDED UP HAVING A QUESTION  
23 AND ANSWER. I WANT TO SHOW YOU WHAT IS -- WELL, LOOK OVER  
24 ON PAGE THREE; BUT IN PARTICULAR, BEFORE I ASK YOU THAT,  
25 AS YOU READ THE STATEMENT, DID YOU ASK HIM TO MAKE ANY



1 NOTATIONS?

2 A I ASKED HIM MAKE TO ADDITIONAL NOTATIONS ONCE HE HAD  
3 COMPLETED THE WRITTEN STATEMENT AND HE TOLD ME THAT WAS  
4 THE COMPLETE WRITTEN STATEMENT THAT HE WANTED TO GIVE.

5 Q WOULD HE INITIAL THE STATEMENT?

6 A AT NUMEROUS LOCATIONS ON THE THREE PAGES I ASKED HIM  
7 TO INITIAL. YES, SIR.

8 Q AND THE PURPOSE OF INITIALS WAS TO INDICATE WHAT?

9 A THAT HE READ THAT AND THE STATEMENT WAS CORRECT AND  
10 THAT WAS WHAT HE WANTED TO SAY.

11 Q DURING THE COURSE OF GIVING THE STATEMENT, YOU  
12 TYPING, AND HIM READING, DID HE AT ANY TIME ASK FOR YOU TO  
13 ARRANGE FOR HIM TO SPEAK TO A LAWYER?

14 A NO, SIR.

15 Q DID HE INDICATE HE WANTED TO TALK TO A LAWYER?

16 A NO, SIR.

17 Q DID HE INDICATE HE DIDN'T WANT TO TALK TO YOU ANY  
18 FURTHER OR THAT HE WANTED TO STOP TALKING?

19 A NO, SIR.

20 Q WAS THERE ANYTHING THAT YOU OBSERVED DURING THE  
21 COURSE OF THIS CONVERSATION, BEGINNING WITH THE FIRST TIME  
22 YOU MET HIM DOWNSTAIRS TO THE TIME THAT HE SIGNED THE  
23 STATEMENT, ANYTHING THAT LEAD YOU TO BELIEVE THAT HIS  
24 STATEMENT THAT HE WAS GIVING YOU WAS NOT FREELY,  
25 VOLUNTARILY, AND INTELLIGENTLY GIVEN?

1 A NO, SIR.

2 Q HOW DID HE ACT DURING THAT TIME? WHAT WAS HIS  
3 Demeanor?

4 A HE WAS VERY CALM AND FOCUSED. NO SIGNIFICANT  
5 DISPLAYS OF EMOTION, SIMPLY SAT THERE. AND AS WE HAVE  
6 THIS CONVERSATION RIGHT NOW, TALKED TO ME, TOLD ME WHAT  
7 HAPPENED, AND WAS JUST WAS A VERY TYPICAL CONVERSATION  
8 BETWEEN TWO PEOPLE.

9 Q ALL RIGHT. AT THE END YOU SAID THERE WAS SOME  
10 QUESTION AND ANSWER. WHERE YOU ACTUALLY ASKED A QUESTION  
11 AND THEY GAVE AN ANSWER, OR HE GAVE AN ANSWER, EXCUSE ME?

12 A YES, SIR.

13 Q WHAT PART OF THE STATEMENT IS THAT? IDENTIFY THAT  
14 FOR US OR THE SUBJECT.

15 A IT'S ON PAGE THREE, THE FINAL PAGE OF THE STATEMENT,  
16 AND IS THE VERY LAST PARAGRAPH IN THE STATEMENT.

17 Q WHAT WAS THE SUBJECT MATTER YOU WERE ASKING HIM  
18 ABOUT?

19 A ASKED HIM ABOUT THE FACT THAT THE VICTIM WAS NOT  
20 COMPLETELY DRESSED AT THE SCENE WHEN THEY FOUND HER AND  
21 TRIED TO DETERMINE HOW THAT CAME TO BE.

22 Q AND HE DISCUSSED THAT WITH YOU?

23 A HE DID. HE ANSWERED ANY QUESTIONS I HAD ABOUT THAT.

24 Q YOU TRANSCRIBED THAT INTO THE STATEMENT?

25 A YES, SIR.

1 Q DID YOU GIVE HIM AN OPPORTUNITY TO READ THAT?

2 A YES. THAT WAS INCLUDED WITH THE ENTIRE STATEMENT  
3 THAT HE WAS ABLE TO READ WHEN IT WAS PRINTED OUT.

4 Q ALL RIGHT. LET ME ASK YOU, ALSO. IF DURING THE  
5 COURSE OF MEETING WITH MR. WILLIAMS DURING THAT INTERVIEW,  
6 YOU HAD OCCASION TO TALK TO HIM ABOUT WHAT HAS BEEN  
7 MARKED -- TO TALK TO HIM -- WELL, FIRST DID YOU HAVE  
8 OCCASION TO COME IN CONTACT WITH THOSE TWO DOCUMENTS WHICH  
9 ARE PRELIMINARILY MARKED STATE'S EXHIBIT 16 AND 17?

10 A YES, I DID, SIR.

11 Q TELL US THE CIRCUMSTANCE OF -- FIRST, TELL US WHAT  
12 THOSE ARE.

13 A THESE ARE COPIES OF TWO HANDWRITTEN LETTERS ON LINED  
14 WHITE PAPER.

15 Q AND HOW DID YOU COME INTO POSSESSION OF THESE TWO  
16 LETTERS?

17 A IF I CAN SPEAK WITH REGARD TO STATE'S EXHIBIT NUMBER  
18 17, THAT WAS THE FIRST ONE I CAME INTO POSSESSION OF WHEN  
19 MR. WILLIAMS WAS FIRST BROUGHT TO THE CENTRAL  
20 INVESTIGATIVE DIVISION AND BACK INTO VIOLENT CRIMES.  
21 DEPUTY MICHAEL JOLLY HAD WHAT HE SAID WAS HIS WALLET WITH  
22 IDENTIFICATION AND OTHER THINGS IN IT. AS MR. WILLIAMS  
23 WAS SEATED AT THE DESK, I LOOKED THROUGH IT. A FOLD-OUT  
24 WHITE PIECE OF PAPER, WHICH TURNED OUT TO BE WHAT THIS IS,  
25 A COPY OF WAS IN THERE.

1 Q WHEN YOU OPENED THE WALLET AND SAW THE LETTER,  
2 TALKING ABOUT STATE'S EXHIBIT 17, DID YOU CONFIRM WITH THE  
3 DEFENDANT THAT THIS WAS IN FACT HIS WALLET?

4 A YES.

5 Q AND DID YOU INQUIRE OF HIM AS TO WHAT THIS DOCUMENT  
6 WAS?

7 A I DID. I ASKED HIM WHAT IT WAS.

8 Q WHAT DID HE RESPOND?

9 A HE SAID IT WAS A LETTER HE HAD WRITTEN AND INTENDED  
10 TO GIVE TO MIRANDA.

11 Q THEN, THEREAFTER, LOOKING AT STATE'S EXHIBIT 16,  
12 WHERE DID YOU COME IN CONTACT WITH THAT LETTER OR  
13 DOCUMENT?

14 A AT THE GREENVILLE COUNTY DETENTION CENTER.

15 Q TELL US HOW THAT HAPPENED.

16 A WHEN ALL THE PROCESSING, STATEMENTS TAKEN, WARRANTS  
17 COMPLETED. HE WAS PREPARED TO GO TO THE DETENTION CENTER.  
18 WHEN WE PLACE SOMEBODY IN THAT FACILITY, WE NEED TO CHECK  
19 THOROUGHLY ALL THEIR ITEMS AND ANYTHING THEY MAY HAVE ON  
20 THEIR PERSON, MAKE SURE NOTHING THAT'S SUPPOSED -- NOT  
21 SUPPOSED TO BE IN THE DETENTION CENTER. DURING THAT  
22 PROCESS I WENT THROUGH THE WALLET, TO INCLUDE ANY SMALL  
23 AREAS THAT MAYBE CONCEALED SOMETHING. INSIDE DEEPER IN  
24 THE WALLET THAN THIS FIRST ONE WAS THE SECOND LETTER.

25 Q AND THE PURPOSE FOR GOING THROUGH THE WALLET IS FOR

1 INVENTORY PERSONAL EFFECTS OF A DEFENDANT GOING TO BE  
2 PLACED IN DETENTION?

3 A THAT'S CORRECT.

4 Q SO THE RECORD IS CLEAR ON THIS, THAT PROPERTY IS NOT  
5 GOING TO ACCOMPANY THE DEFENDANT INTO THE DETENTION  
6 CENTER?

7 A THE PROPERTY IN TOTAL, THE WALLET AND EVERYTHING,  
8 THAT WHAT YOU'RE ASKING ME ABOUT?

9 Q RIGHT. WHERE IS IT GOING?

10 A GOING TO A PROPERTY LOCATION INSIDE THE DETENTION  
11 CENTER, NOT SPECIFICALLY WITH THE PERSON BEING BOOKED IN,  
12 IT'S KEPT SEPARATELY FROM HIM.

13 Q IT'S MAINTAINED SEPARATELY TO BE RETURNED TO THAT  
14 PERSON WHEN HE'S RELEASED FROM DETENTION?

15 A YES, SIR.

16 Q THEY DO AN INVENTORY OF IT?

17 A THAT'S RIGHT.

18 Q THIS IS STANDARD OPERATING PROCEDURE TO INVENTORY THE  
19 PROPERTY OF THE DEFENDANT BEING PLACED IN THE DETENTION  
20 CENTER FOR THE SAFEKEEPING OF THAT PROPERTY?

21 A THAT'S CORRECT, SIR.

22 Q WHERE DID YOU FIND THE SECOND LETTER YOU WERE TALKING  
23 ABOUT, STATE'S EXHIBIT 16?

24 A INSIDE HIS WALLET THERE'S SEVERAL SMALLER POCKETS IN  
25 THAT WALLET AND I PULLED IT FROM WITHIN THAT POCKET.

1 Q AND DID YOU CONVERSE WITH THE DEFENDANT AS TO WHAT  
2 THIS ITEM, STATE'S EXHIBIT 16, WAS?

3 A YES, SIR. I DID JUST THAT. I ASKED HIM, "WHAT IS  
4 THIS?" I HELD IT UP TO HIM AND ASKED HIM, "WHAT IS IT?"

5 Q WHAT DID HE RESPOND?

6 A SAID IT WAS ANOTHER LETTER HE HAD WRITTEN FOR  
7 MARANDA.

8 Q DID HE INDICATE WHEN HE INTENDED TO GIVE IT TO HER?

9 A I BELIEVE HE TOLD ME WHEN HE GOT TO THE SUPERMARKET,  
10 WHERE HE WAS GOING.

11 MR. NETTLES: I'M SORRY, WHAT WAS THAT?

12 THE WITNESS: WHEN HE GOT TO THE SUPERMARKET WHERE HE  
13 WAS GOING.

14 Q HAVE YOU MAINTAINED POSSESSION OF THESE DOCUMENTS IN  
15 YOUR OFFICE SINCE THAT TIME?

16 A I PERSONALLY HAVE NOT, THEY WERE TURNED OVER TO THE  
17 LEAD INVESTIGATOR, PAUL SILVAGGIO; BUT YES, SIR, THEY WERE  
18 MAINTAINED IN THE OFFICE WITH THE CASE FILE AND OTHER  
19 DOCUMENTS.

20 Q AND IS THAT OFFICE SECURED FROM ENTRY, AND INGRESS  
21 AND EGRESS BY OTHER PEOPLE?

22 A YES, SIR. ONLY THE PEOPLE WHO WORK IN THAT OFFICE  
23 OTHERWISE, SUPERVISORS WHO OTHERWISE HAVE BUSINESS IN THAT  
24 OFFICE HAVE ACCESS.

25 Q WHERE DOES THIS ORIGINAL CASE FILE REMAIN, SITTING ON

1 A DESK OR SECURED SOMEWHERE?

2 A SECURED IN A CABINET THAT HAS A PADLOCK ON IT IN THE  
3 BACK OF THE OFFICE WHERE MAJOR CASES ARE STORED UNTIL  
4 THEY'RE READY TO GO TO TRIAL.

5 Q ANY INDICATION TO YOU THAT ANY ONE OF THESE  
6 DOCUMENTS, EITHER ONE OF THESE DOCUMENTS HAVE BEEN ALTERED  
7 OR DAMAGED OR CHANGED DURING THE COURSE OF BEING HELD IN  
8 THAT SECURE CABINET?

9 A NO, SIR.

10 Q LET ME MAKE SURE. SINCE THOSE ARE ALREADY IN, THE  
11 WAIVER AND THE STATEMENT, I MOVE THEM AS PART OF THIS  
12 PROCEEDING, ALSO.

13 THE COURT: THE LETTERS AREN'T PREVIOUSLY IN. THE  
14 WAIVER AND THE STATEMENTS ARE.

15 MR. ARIAIL: THE STATEMENT AND WAIVER ARE PREVIOUS  
16 COURT'S EXHIBITS.

17 THE COURT: THE TWO LETTERS AREN'T.

18 MR. ARIAIL: THE LETTERS ARE NOT.

19 THE COURT: YOU JUST WANT TO MARK THEM AS COURT'S  
20 EXHIBITS AT THIS POINT IN TIME OR YOU WANT THEM IN  
21 EVIDENCE?

22 MR. ARIAIL: I DON'T WANT THEM IN EVIDENCE. I'LL  
23 WAIT UNTIL WE PUBLISH THEM. I'LL MARK THEM AS COURT'S  
24 EXHIBIT UNLESS SOMEBODY WANTS THEM PUBLISHED, I DON'T SEE  
25 THE NEED TO PUBLISH THEM AT THIS POINT. STATE'S EXHIBIT

1 16 AND STATE'S 17 AS A COURT'S EXHIBITS FOR THIS HEARING.

2 THE COURT: WHAT IS THE NUMBERS ON THE OTHER TWO?

3 MR. ARIAIL: THE OTHERS ARE STATE'S EXHIBIT A AND  
4 STATE'S EXHIBIT 1.

5 THE COURT: I ALREADY SEEN A AND 1 IN A PREVIOUS  
6 HEARING.

7 MR. ARIAIL: AT THE JANUARY 26<sup>th</sup> '05 HEARING,  
8 ACCORDING TO THE STICKERS.

9 THE COURT: ANY OTHER QUESTIONS?

10 MR. ARIAIL: NONE.

11 CROSS EXAMINATION

12 THE COURT: MR. NETTLES?

13 BY MR. NETTLES:

14 Q HOW YOU DOING, INVESTIGATOR MCNAMARA? WE MET ONE  
15 TIME BEFORE.

16 A YES, SIR.

17 Q LET ME ASK YOU THIS. YOU WERE PRESENT FOR THE  
18 QUESTIONING OF CHRIS ON HOW MANY OCCASIONS?

19 A ON TWO SEPARATE OCCASIONS.

20 Q AND WHAT WE JUST WENT THROUGH NOW WAS THE QUESTIONS  
21 THAT TOOK PLACE -- WAS THE FIRST ONE?

22 A YES, SIR.

23 Q HOW LONG BETWEEN THAT QUESTION AND THE SECOND  
24 QUESTION?

25 A A COUPLE OF HOURS, QUESTIONING. IT TOOK SOME TIME.



1 Q HE STAYED IN THE JUDICIAL COMPLEX?

2 A HE STAYED IN OUR VIOLENT CRIMES OFFICE AND THEN MOVED  
3 TO ANOTHER OFFICE WITHIN THE SAME UNIT. YES, SIR.

4 Q LET ME TALK TO YOU FOR A SECOND ABOUT WHEN YOU  
5 SAID -- SHARE WITH US A LITTLE BIT MORE, IF YOU DON'T  
6 MIND, WOULD YOU MIND ELABORATING ON HIS DEemeanOR WHEN HE  
7 WAS GIVING YOU HIS STATEMENT.

8 A HE WAS CALM. HE SAT THERE AS IF HE WERE A, MAYBE A  
9 VICTIM OF A CRIME WHO WAS THERE SIMPLY TO TALK ABOUT WHAT  
10 HAD HAPPENED OR GIVE A STATEMENT. HE WAS ABLE TO EASILY  
11 ANSWER QUESTIONS, TALK TO ME, MAINTAIN EYE CONTACT, HAVE A  
12 BACK AND FORTH CONVERSATION, THINK LOGICALLY. IT JUST  
13 SEEMED TO BE A NORMAL CONVERSATION BETWEEN TWO PEOPLE.

14 Q DID YOU FIND THAT DEemeanOR TO BE IN ANY WAY  
15 SURPRISING OR REMARKABLE?

16 A SURPRISING MAYBE SLIGHTLY TO THE EXTENT THAT HE  
17 CERTAINLY HAD BEEN THROUGH, UNDER ANY CONDITIONS, A  
18 TRAUMATIC EXPERIENCE INVOLVING BOTH WHAT HAPPENED AND THEN  
19 HIS ARREST AFTER THAT. BUT CERTAINLY WE'VE HAD A GREAT  
20 DEAL OF PEOPLE COME IN UNDER SIMILAR CIRCUMSTANCES WHO  
21 HAVE DEMONSTRATED THE SAME CALM AND FOCUSED DEemeanOR IN  
22 THE COURSE OF SOMETHING TRULY HORRIBLE.

23 Q NOW, AND IN TERMS OF, YOU AND I TALKED ABOUT THIS A  
24 LITTLE BIT LAST TIME; BUT LET ME MAKE SURE I GOT THIS  
25 CLEARED UP. EVERYBODY CAN REST ASSURED WE'LL BE QUICKER

1 THIS TIME. OKAY? BUT WHEN YOU WERE TYPING, OKAY, YOU  
2 WERE TYPING WHAT HE WAS SAYING AND IT'S CLEARER TO ME THAN  
3 IT WAS LAST TIME. YOU HAVE A FORM ON YOUR LAPTOP THAT IS  
4 THE FORM THAT PRINTS OUT NOW?

5 A THAT YOU SEE PRINTED OUT, YES.

6 Q SO, WHEN YOU'RE PRINTING OUT, YOU CAN SEE THE FORM ON  
7 YOUR SCREEN AND YOU'RE TYPING IN THE OPEN PLACES?

8 A YES, SIR.

9 Q AND YOU ARE TYPING WHAT HE'S TELLING YOU?

10 A YES, SIR.

11 Q AND HE'S SPEAKING FAST?

12 A I WOULDN'T SAY FASTER THAN ANY OTHER CONVERSATION,  
13 BUT CERTAINLY NOT TO A POINT I COULD TYPE THAT  
14 CONSISTENTLY AND KEEP UP.

15 Q IT WASN'T SLOW?

16 A TO ME IT WAS NORMAL CONVERSATION SPEED.

17 Q WHENEVER YOU TOOK HIM UP THERE, YOU'RE TELLING US  
18 THERE'S NO DOUBT IN YOUR MIND HE WANTED TO TALK TO YOU?

19 A NO DOUBT IN MY MIND. THAT'S CORRECT, SIR.

20 Q AND HE KNEW THAT IF HE HAD A LAWYER, YOU WOULD HAVE  
21 STOPPED?

22 A I DON'T THINK I UNDERSTAND THAT QUESTION.

23 Q IF HE HAD SAID, "I WANT A LAWYER," YOU WOULD HAVE  
24 STOPPED QUESTIONING?

25 A THAT'S CORRECT.

1 Q AND IF HE SAID, "I DON'T WANT TO TALK TO YOU ANY  
2 MORE," YOU WOULD HAVE STOPPED?

3 A CORRECT.

4 Q AND YOU'RE TELLING ALL US THAT HE DIDN'T HAVE ANY  
5 REASON TO BELIEVE HE WAS GOING TO BE TREATED ANY  
6 DIFFERENTLY, DEPENDING ON WHETHER HE GAVE A STATEMENT OR  
7 NOT?

8 A NO. NOBODY EVER SAID THAT TO HIM.

9 Q AT THE CONCLUSION OF THAT STATEMENT, THERE WAS NO  
10 DOUBT IN YOUR MIND THAT HE WAS ONLY A SUSPECT?

11 A CORRECT.

12 Q YOU WERE PRESENT WHEN HE WAS INTERVIEWED SUBSEQUENTLY  
13 BY ANOTHER PERSON?

14 A YES, SIR.

15 Q AND YOU WERE PRESENT FOR -- THERE WERE TWO INTERVIEWS  
16 THERE, WERE YOU PRESENT WITH BOTH OF THOSE?

17 A BY THE OTHER PERSON?

18 Q YES.

19 A NO, SIR. JUST THE FIRST ONE.

20 Q OKAY. LET ME CHECK MY NOTES I THINK THAT MIGHT BE  
21 ALL.

22 MR. NETTLES: I HAVE NO FURTHER QUESTIONS.

23 THE COURT: LET ME ASK YOU A QUESTION, MR. NETTLES,  
24 CONCERNING THE LETTERS. DO YOU HAVE AN OBJECTION AS FAR  
25 AS THAT SEARCH NOT BEING ANYTHING OTHER THAN INVENTORY

1 SEARCH AND PROPERTY?

2 MR. NETTLES: I BELIEVE IT WAS A CUSTODIAL INVENTORY  
3 SEARCH.

4 THE COURT: SO, YOU DON'T HAVE ANY OBJECTION TO THAT?

5 MR. NETTLES: NO.

6 THE COURT: THE COURT DOESN'T HAVE TO RULE ON THAT  
7 ISSUE. NOW, DO YOU WANT TO MAKE ANY ARGUMENTS AS TO THE  
8 CONFESSION?

9 MR. NETTLES: NO.

10 THE COURT: ANYTHING FROM THE STATE AS TO THE  
11 QUESTIONING?

12 MR. ARIAIL: NONE.

13 THE COURT: I'M GOING TO FIND THE CONFESSION WAS  
14 VOLUNTARILY GIVEN AND ALLOW IT TO BE HEARD BY THE JURY.  
15 AND I WOULD STATE THAT THE COURT HAS CAREFULLY CONSIDERED  
16 ALL THE EVIDENCE, WHICH HAS BEEN OFFERED BY THE STATE.  
17 FIRST OF ALL, LET ME BACK UP. DO YOU WANT TO OFFER ANY  
18 EVIDENCE AS TO THE CONFESSIONS?

19 MR. NETTLES: NO, SIR.

20 THE COURT: THIS COURT IS CONVINCED BY A  
21 PREPONDERANCE OF THE EVIDENCE AND I SO FIND THAT BEFORE  
22 THE ALLEGED STATEMENT WAS OBTAINED FROM THE DEFENDANT, THE  
23 DEFENDANT WAS FULLY ADVISED OF HIS RIGHTS UNDER THE FIFTH  
24 AND SIXTH AMENDMENTS TO THE CONSTITUTION OF THE UNITED  
25 STATES AND THAT THE DEFENDANT WAS ADVISED OF THE

1     CONSTITUTIONAL SAFEGUARDS REQUIRED BY MIRANDA V. ARIZONA,  
2     AS FOLLOWS:

3             THE DEFENDANT WAS ADVISED PRIOR TO ANY INTERROGATION,  
4     THAT HE HAD THE RIGHT TO REMAIN SILENT.  AND THE DEFENDANT  
5     WAS ADVISED THAT PRIOR TO ANY INTERROGATION, THAT IF HE  
6     WAIVED HIS RIGHT TO REMAIN SILENT AND MADE A STATEMENT,  
7     THAT SUCH STATEMENT COULD AND WOULD BE USED AGAINST HIM IN  
8     A COURT OF LAW.  AND THE DEFENDANT WAS ADVISED PRIOR TO  
9     ANY INTERROGATION THAT HE HAD A RIGHT TO EMPLOY OR SELECT  
10    AN ATTORNEY OF HIS OWN CHOICE; AND THAT IF HE DID NOT HAVE  
11    THE MONEY, FUNDS, OR RESOURCES TO EMPLOY AN ATTORNEY, THE  
12    COURT WOULD APPOINT AND PROVIDE AN ATTORNEY FOR HIM IF HE  
13    SO DESIRED WITHOUT COST OR EXPENSE TO HIM.

14            THAT HE HAD THE RIGHT TO HAVE HIS ATTORNEY PRESENT  
15    WITH HIM AT ALL TIMES, DURING ALL INTERVIEWS AND ALL  
16    INTERROGATIONS; AND THE DEFENDANT WAS ADVISED, PRIOR TO  
17    ANY INTERROGATION THAT HE HAD THE RIGHT TO CONSULT WITH  
18    HIS ATTORNEY BEFORE INTERROGATION, AND TERMINATE THE  
19    INTERROGATION AT ANY TIME AND THAT HE HAD THE FURTHER  
20    RIGHT TO STOP ANSWERING QUESTIONS AT ANY TIME DURING THE  
21    INTERROGATION.  THE DEFENDANT WAS ADVISED, PRIOR TO ANY  
22    INTERROGATION THAT IF DURING THE INTERROGATION HE DESIRED  
23    AN ATTORNEY, THE INTERROGATION WOULD CEASE UNTIL AN  
24    ATTORNEY WAS PROVIDED FOR HIM AND HE WOULD BE GIVEN AN  
25    OPPORTUNITY TO CONSULT WITH HIS ATTORNEY PRIOR TO FURTHER

1 INTERROGATION; THAT THE DEFENDANT KNOWINGLY AND  
2 INTELLIGENTLY WAIVED HIS RIGHTS UNDER THE FIFTH AND SIXTH  
3 AMENDMENTS OF THE CONSTITUTION OF THE UNITED STATES AND  
4 THE CONSTITUTIONAL SAFEGUARDS REQUIRED BY MIRANDA V.  
5 ARIZONA; AND THAT THE ALLEGED STATEMENT OBTAINED FROM THE  
6 DEFENDANT WAS FREELY AND VOLUNTARILY GIVEN WITHOUT DURESS,  
7 WITHOUT REWARD, WITHOUT PROMISE OR HOPE OF REWARD, WITHOUT  
8 PROMISE OF LENIENCY, WITHOUT THREAT OF INJURY AND WITHOUT  
9 COMPULSION OR INDUCEMENT OF ANY KIND; AND THAT SUCH  
10 ALLEGED STATEMENT WAS THE VOLUNTARY PRODUCT OF THE FREE  
11 AND UNCONSTRAINED WILL OF THE DEFENDANT.

12 THIS COURT FINDS ALL OF THE FOREGOING CONCLUSIONS BY  
13 THE PREPONDERANCE OF THE EVIDENCE AND I, THEREFORE, FIND  
14 THAT THE STATEMENTS ARE ADMISSIBLE IN EVIDENCE.

15 ANYTHING ELSE WE NEED TO HEAR ON PRETRIAL MOTIONS?

16 MR. ARIAIL: THE ONLY OTHER THING WOULD BE A SHORT  
17 PRESENTATION BY MR. MCNAMARA REGARDING THE SEARCH WARRANT  
18 AT THE DEFENDANT'S RESIDENCE, BUT WE CAN DO THAT.

19 THE COURT: LET'S FIND OUT IF HE HAS ANY OBJECTION TO  
20 IT FIRST. DO YOU HAVE ANY OBJECTION TO IT?

21 MR. NETTLES: TO THE SEARCH WARRANTS?

22 THE COURT: TO OBTAIN A SEARCH WARRANT TO GO TO THE  
23 RESIDENCE?

24 MR. NETTLES: I'D MAKE A MOTION THEY HAVE NOT PROVEN  
25 SUFFICIENT PROBABLE CAUSE AT THIS POINT FOR THE SEARCH

1 WARRANT TO BE --

2 THE COURT: CAN'T WE DO THAT DURING THE TRIAL WHEN IT  
3 COMES UP? IF WE HAVE TO DO IT IN CAMERA, WE WILL. IS  
4 THERE ANY REASON WE CAN'T DO THAT?

5 MR. NETTLES: NO, IT'S NOT GOING TO CHANGE OUR TRIAL  
6 STRATEGY ANY.

7 THE COURT: ANYTHING ELSE WE NEED TO HEAR?

8 MR. ARIAIL: NO.

9 AFTERNOON SESSION

10 (WHEREUPON, COURT IS AGAIN IN SESSION AT 2:30 P.M.

11 WHEN THE FOLLOWING PROCEEDINGS WERE HAD:)

12 THE COURT: HAVE THE ATTORNEYS HAD AN OPPORTUNITY TO  
13 REVIEW THE JURORS? HAS EVERYBODY LOOKED AT THE STRIKE  
14 SHEET.

15 MR. ARIAIL: YES, YOUR HONOR.

16 THE COURT: IS IT IN ORDER OF ALL THE QUALIFIED AS WE  
17 QUALIFIED?

18 MS. STROM: AS FAR AS THE STATE'S CONCERNED, YES.

19 THE COURT: AND ALL THE NUMBERS CORRECT?

20 MR. MAULDIN: YES, SIR.

21 THE COURT: JUROR NUMBER 37, MR. BOTT, WE HAD  
22 PREVIOUS DISCUSSIONS ABOUT. THE DEFENDANT HAS INFORMED ME  
23 THAT HE WOULD LIKE TO ASK SOME QUESTIONS. I TOLD HIM  
24 YESTERDAY WHEN WE GOT THE FULL PANEL IN, I WOULD DO THAT.  
25 SO, I'M GOING TO BRING HIM IN FOR A FEW QUESTIONS. WOULD

1 YOU BRING MR. BOTT IN?

2 (PROSPECTIVE JUROR ENTERS COURTROOM.)

3 EXAMINATION

4 THE COURT: MR. BOTT, HOW YOU DOING THIS AFTERNOON?

5 PROSPECTIVE JUROR: FINE, THANK YOU.

6 THE COURT: IF YOU WOULD JUST RAISE YOUR RIGHT HAND,  
7 I'M GOING TO SWEAR YOU AGAIN.

8 JOHN BOTT, BEING FIRST DULY SWORN,  
9 TESTIFIED AS FOLLOWS:

10 BY THE COURT:

11 Q MR. BOTT, AFTER YOU LEFT THE OTHER DAY, THERE WERE  
12 SOME OTHER QUESTIONS THAT SOME OF THE PARTIES WANT TO ASK.  
13 AND I DID NOT WANT TO BRING YOU IN. I WAS GOING TO WAIT  
14 UNTIL EVERYBODY CAME IN TODAY, ALLOW THE QUESTIONS TO BE  
15 ASKED. SO, I'M GOING TO ALLOW A COUPLE -- A FEW QUESTIONS  
16 TO BE ASKED. OKAY?

17 THE DEFENDANT: YES, SIR.

18 THE COURT: ALL RIGHT. MR. MAULDIN.

19 MR. MAULDIN: THANK YOU, JUDGE.

20 BY MR. MAULDIN:

21 Q MR. BOTTS, GOOD AFTERNOON TO YOU.

22 A YOU TOO.

23 Q I WANT TO MAKE SURE YOU UNDERSTAND, DON'T THINK  
24 YOU'RE BEING SINGLED OUT, THE OTHER PEOPLE HAVE BEEN  
25 EVALUATED BY THE COURT, SINGLED OUT BY THE COURT. I DON'T



1 WANT YOU TO FEEL LIKE, BUT I -- THERE WERE QUESTIONS I  
2 FELT LIKE NEEDED TO BE FOLLOWED UP ON. I'D LIKE TO TAKE A  
3 FEW MINUTES TO DO THAT.

4 ONCE AGAIN, AS WE TALKED ABOUT THE OTHER DAY, YOUR  
5 VIEWS, ATTITUDES, OPINIONS ARE NOT ON TRIAL. WE'RE NOT  
6 HERE TO TRY TO CHANGE THEM OR MAKE ANY CHANGES IN HOW YOU  
7 FEEL. WE JUST NEED TO DETERMINE HOW YOU FEEL TO SEE IF  
8 YOU SHOULD BE IN THE GROUP FROM WHICH JURORS ARE CHOSEN.  
9 DO YOU FOLLOW ME?

10 A YES.

11 Q IF YOU RECALL BACK ON MONDAY, THERE WERE 150 PEOPLE  
12 IN THERE. SO, OBVIOUSLY WE BEEN QUESTIONING PEOPLE ALL  
13 WEEK. A LOT OF PEOPLE HAVE BEEN DISQUALIFIED FOR ANY  
14 NUMBER OF REASONS. SO, I WANT TO BE SURE YOU DON'T FEEL  
15 LIKE YOU'RE BEING PICKED ON.

16 A NOT AT ALL.

17 Q LET ME TELL YOU ONE OF THE THINGS I WANT TO GO  
18 THROUGH FOR A FEW MINUTES. I WANT YOU TO UNDERSTAND WHY  
19 I'M CONCERNED ABOUT THIS. I AM CONCERNED BECAUSE I HAVE A  
20 BLACK CLIENT CHARGED WITH KILLING A WHITE FEMALE. AND ANY  
21 TIME YOU HAVE THAT SITUATION, THE COURT'S HAVE SAID  
22 SIGNIFICANT QUESTIONING NEEDS TO BE DONE TO MAKE SURE  
23 THERE'S GOING TO BE NO ISSUE.

24 NOW, LET'S TALK ABOUT THIS A MINUTE. YOU'VE HEARD  
25 THE PHRASE I AM SURE, THAT YOU JUDGE A BOOK BY IT'S COVER.

1 YOU HEARD -- FIRST IMPRESSION, YOU JUDGE SOMEBODY BY YOUR  
2 FIRST IMPRESSION? AND I KNOW PEOPLE JUDGE ME BECAUSE THE  
3 WAY I TALK. I JUST TALK LIKE I'M FROM THE DEEP SOUTH, AND  
4 I AM. OTHER PEOPLE ARE JUDGED BECAUSE THEY'RE A WOMAN,  
5 THEY WANT TO GO INTO THE COOPERATE BUSINESS AND THEY'RE  
6 ALL OF A SUDDEN PREJUDGED, THEY'RE NOT SUPPOSED TO BE  
7 THERE BECAUSE THEY'RE A WOMAN AND SO FORTH. SO, IT'S NOT  
8 UNUSUAL. IT HAPPENS ALL THE TIME.

9 EVERYBODY IN FACT HAS PREJUDGMENT OR PREJUDICES. WE  
10 ALL HAVE THEM. IT'S NATURAL FOR US TO HAVE CERTAIN  
11 PREJUDICES. AND WHAT I WANT TO DO IS GIVE YOU A COUPLE OF  
12 QUESTIONS, AND I USE MYSELF AS AN EXAMPLE. IF I'M DRIVING  
13 DOWN THE STREET AND I'M STOPPED AT A RED LIGHT AND A FANCY  
14 BMW PULLS UP, GOT A YOUNG BLACK GUY DRIVING, I FIND MYSELF  
15 SAYING, "WELL, HE MUST BE A DOCTOR'S SON OR BANKER'S SON."  
16 ON THE OTHER HAND, I MIGHT SAY, "I WONDER IF THAT CAR IS  
17 STOLEN." YOU KNOW? "I WONDER IF HE'S A DRUG DEALER. IS  
18 THAT HOW HE GOT THE MONEY TO BUY THAT CAR?"

19 IT'S JUST AS NATURAL AS IT CAN BE. AND IF THIS IS  
20 THE KIND OF THING THAT COULD COME INTO PLAY WITH YOU AS A  
21 JUROR, WHERE YOU HAVE A DEFENDANT WHO IS OF ONE RACE AND A  
22 VICTIM ANOTHER, WE NEED TO KNOW IT BEFORE WE PICK THIS  
23 JURY.

24 A YES, SIR.

25 Q AND I WANT TO FOLLOW UP AGAIN ON THE -- YOU ATTENDED

1 BOB JONES AND AT THE TIME, IF I'M NOT MISTAKEN, IN THE  
2 80'S AT THE TIME YOU WERE A STUDENT THERE, THEY HAD A  
3 PUBLIC POLICY THAT PROHIBITED INTERRACIAL DATING. IS THAT  
4 RIGHT?

5 A YES, THEY DID.

6 Q YOU WERE AWARE OF THAT POLICY AS A STUDENT?

7 A YES. YES, I WAS.

8 Q YOU WERE MADE AWARE BY THE SCHOOL?

9 A YES, I'M SURE I WAS AWARE OF IT. I DON'T REMEMBER IT  
10 EVER BEING MADE AN ISSUE OUT OF, OR -- BUT, YES, I'M SURE  
11 I WAS AWARE OF IT.

12 Q AND, THINKING BACK, EVEN IF YOU WEREN'T AWARE OF IT  
13 THEN BUT YOU WERE A STUDENT WHEN THAT WAS THEIR POLICY, I  
14 WANT TO KNOW IF YOU COULD BE AFFECTED BY EITHER THAT  
15 EDUCATIONAL EXPERIENCE, WHAT THE DOCTRINE PROVIDED TO WHEN  
16 YOU WERE A STUDENT OR SOME PERSONAL BELIEFS YOU DEVELOPED  
17 IN SOME OTHER WAY. COULD YOU BE AFFECTED WHERE YOUR  
18 OBJECTIVITY MAY BE AFFECTED BY THAT CIRCUMSTANCE?

19 A NO, THAT DOES NOT AFFECT ME AT ALL. I WAS GLAD WHEN  
20 THEY GOT RID OF THE POLICY.

21 MR. MAULDIN: ALL RIGHT. NO FURTHER QUESTIONS,  
22 JUDGE.

23 THE COURT: ANY QUESTIONS FROM THE STATE?

24 MR. ARIAIL: NONE.

25 THE COURT: MR. BOTT, THANK YOU SO VERY MUCH. IF

1 YOU'LL GO DOWN TO THE COURTROOM NEXT DOOR. THANK YOU SO  
2 VERY MUCH.

3 (PROSPECTIVE JUROR EXITS COURTROOM.)

4 THE COURT: ALL RIGHT. IT APPEARS WE HAVE ALL 37  
5 JURORS. IS THE STATE READY TO STRIKE?

6 MR. ARIAIL: YES, SIR.

7 THE COURT: IS THE DEFENSE READY?

8 MR. MAULDIN: YES, SIR. WE DO RENEW OUR PREVIOUS  
9 MADE OBJECTIONS AS TO EACH JUROR. WE DO RENEW THOSE AND  
10 WE'RE ASKING WHETHER OR NOT WE'RE GOING TO HAVE TO  
11 ACTUALLY STATE ON THE RECORD THE OBJECTIONS AS THEY'RE ON  
12 THE DRY STRIKE.

13 THE COURT: YOU CAN JUST ENCOMPASS ALL OBJECTIONS YOU  
14 HAD DURING THE VOIR DIRE PROCESS. AND THE COURT  
15 RECOGNIZES IT. OKAY? ALL THOSE MOTIONS, BOTH SIDES, ARE  
16 DENIED AS THEY WERE DURING THE VOIR DIRE AND THEY'RE  
17 GRANTED AS THEY WERE DURING THE VOIR DIRE. WE'RE NOT  
18 GOING TO GO THROUGH EVERY ONE OF THEM.

19 MR. MAULDIN: THANK YOU, JUDGE.

20 THE COURT: ANYTHING ELSE?

21 MR. MAULDIN: OKAY. I UNDERSTAND THAT YOU ARE IN  
22 FACT ORDERING THAT, AND THAT DOES NOT CALL FOR AN  
23 ACKNOWLEDGEMENT OR AN AGREEMENT FROM THE STATE.

24 THE COURT: THAT'S CORRECT. NOW, IF YOU FEEL THAT'S  
25 NOT APPROPRIATE FOR YOUR APPELLATE PURPOSES, TELL ME. I'M

1 NOT ON THE APPELLATE BENCH.

2 MR. MAULDIN: THIS, OBVIOUSLY IS ONE OF THE  
3 CHALLENGES OF CAPITAL CASES, BECAUSE WE DON'T HAVE THE  
4 IN-FAVOR-OF-LIFE RULE ANY MORE, I HAVE TO BE OBNOXIOUSLY  
5 ENTERING THE OBJECTIONS. IF YOU ARE ORDERING MY EXCEPTION  
6 AND OBJECTIONS TO INDIVIDUAL JURORS DURING THE PROCESS IS  
7 NOW RENEWED AND DENIED.

8 THE COURT: IT'S RENEWED AND DENIED AND I ORDER IT.

9 MR. MAULDIN: AND THE STATE IS ALSO HELD BY THAT SAME  
10 STANDARD?

11 THE COURT: YES, SIR. THEY ARE RENEWED AND THEY ARE  
12 DENIED.

13 MR. MAULDIN: THANK YOU, JUDGE.

14 THE COURT: ANYTHING ELSE BEFORE WE STRIKE?

15 MR. MAULDIN: NO, SIR.

16 THE COURT: DEFENDANT READY TO STRIKE?

17 MR. MAULDIN: YES, SIR.

18 THE COURT: MADAM CLERK.

19 THE CLERK: NUMBER ONE, MICHAEL WRIGHT. WHAT SAYS  
20 THE STATE?

21 MR. ARIAIL: PRESENT HIM.

22 THE CLERK: WHAT SAYS THE DEFENDANT?

23 MR. MAULDIN: EXCUSE HIM.

24 THE CLERK: YOU'RE EXCUSED. NUMBER TWO, BETTY JO  
25 BRANYON, WHAT SAYS THE STATE?

1 MR. ARIAIL: PRESENT HER.  
2 THE CLERK: WHAT SAYS THE DEFENDANT?  
3 MR. MAULDIN: SWEAR HER.  
4 THE CLERK: NUMBER THREE, VERNON E. MARCHANT, III.  
5 WHAT SAYS THE STATE?  
6 MR. ARIAIL: PRESENT HIM.  
7 THE CLERK: WHAT SAYS THE DEFENDANT?  
8 MR. MAULDIN: EXCUSE HIM.  
9 THE CLERK: NUMBER 4, RUFUS R. HAFFER, WHAT SAYS THE  
10 STATE?  
11 MR. ARIAIL: PRESENT HIM.  
12 THE CLERK: WHAT SAYS THE DEFENDANT?  
13 MR. MAULDIN: EXCUSE HIM.  
14 THE CLERK: NUMBER FIVE, ANNIE FULLER, WHAT SAYS THE  
15 STATE?  
16 MR. ARIAIL: EXCUSE HER.  
17 THE CLERK: NUMBER SIX, LORITHA ANN TODD, WHAT SAYS  
18 THE STATE?  
19 MR. ARIAIL: EXCUSE HER.  
20 THE CLERK: NUMBER SEVEN, BRIAN A. HOLMSTRAND, WHAT  
21 SAYS THE STATE?  
22 MR. ARIAIL: PRESENT HIM.  
23 THE COURT: WHAT SAYS THE DEFENDANT?  
24 MR. MAULDIN: SWEAR HIM.  
25 THE CLERK: NUMBER EIGHT, JACQUELINE POUNTNEY, WHAT

1 SAYS THE STATE?

2 MS. STROM: PRESENT HER.

3 THE CLERK: WHAT SAYS THE DEFENDANT?

4 MR. MAULDIN: EXCUSE HER.

5 THE CLERK: NUMBER NINE, PHILLIP D. ELLENBURG, WHAT  
6 SAYS THE STATE?

7 MR. ARIAIL: PRESENT HIM.

8 THE CLERK: WHAT SAYS THE DEFENDANT?

9 MR. MAULDIN: EXCUSE HIM.

10 THE CLERK: NUMBER TEN, GLENDA J. FULLER, WHAT SAYS  
11 THE STATE?

12 MR. ARIAIL: EXCUSE HER.

13 THE CLERK: NUMBER 11, MICHAEL DUNLAP, WHAT SAYS THE  
14 STATE?

15 MR. ARIAIL: PRESENT HIM.

16 THE CLERK: WHAT SAYS THE DEFENDANT?

17 MR. MAULDIN: SWEAR HIM.

18 THE CLERK: NUMBER 12, JOHN A. BOTT, WHAT SAYS THE  
19 STATE?

20 MR. ARIAIL: PRESENT HIM.

21 THE CLERK: WHAT SAYS THE DEFENDANT?

22 MR. MAULDIN: EXCUSE HIM.

23 THE CLERK: NUMBER 13, JOEL E. MOSS, WHAT SAYS THE  
24 STATE?

25 MR. ARIAIL: PRESENT HIM.

1 THE CLERK: WHAT SAYS THE DEFENDANT?

2 MR. MAULDIN: SWEAR HIM.

3 THE CLERK: NUMBER 14, JOSEPH DANIEL JOHNSON, WHAT  
4 SAYS THE STATE?

5 MR. ARIAIL: PRESENT HIM.

6 THE CLERK: WHAT SAYS THE DEFENDANT?

7 MR. MAULDIN: SWEAR HIM.

8 THE CLERK: NUMBER 15, MARK R. HAGEN, WHAT SAYS THE  
9 STATE?

10 MR. ARIAIL: PRESENT HIM.

11 THE CLERK: WHAT SAYS THE DEFENDANT?

12 MR. MAULDIN: EXCUSE MR. HAGEN.

13 THE CLERK: NUMBER 16, NELSEN C. MILES, II, WHAT SAYS  
14 THE STATE?

15 MR. ARIAIL: PRESENT HIM.

16 THE CLERK: WHAT SAYS THE DEFENDANT?

17 MR. MAULDIN: PRESENT HIM -- OR SWEAR HIM, EXCUSE ME.

18 THE CLERK: NUMBER 17, MARY A. BRADBERRY, WHAT SAYS  
19 THE STATE?

20 MR. ARIAIL: EXCUSE HER.

21 THE CLERK: NUMBER 18, KYLE P. BROWNING, WHAT SAYS  
22 THE STATE?

23 MR. ARIAIL: PRESENT HIM.

24 THE CLERK: WHAT SAYS THE DEFENDANT?

25 MR. MAULDIN: ONE MOMENT. THIS IS MR. BROWNING?



1 THE CLERK: YES, SIR.

2 MR. MAULDIN: EXCUSE MR. BROWNING.

3 THE CLERK: NUMBER 19, STACY S. GONICK, WHAT SAYS THE  
4 STATE?

5 MR. ARIAIL: PRESENT HER.

6 THE CLERK: WHAT SAYS THE DEFENDANT?

7 MR. MAULDIN: SWEAR HER.

8 THE CLERK: NUMBER 20, FRANCES T. ELMORE, WHAT SAYS  
9 THE STATE?

10 MR. ARIAIL: PRESENT HER.

11 THE CLERK: WHAT SAYS THE DEFENDANT?

12 MR. MAULDIN: CAN WE HAVE A MOMENT, YOUR HONOR,  
13 PLEASE? NOT AS TO THIS JUROR, BUT WE'RE JUST TRYING TO  
14 MAKE SURE I'M DOING THIS THE WAY I'M BEING TOLD TO.

15 THE COURT: THAT'S FINE. IF YOU WANT TO, YOU CAN LET  
16 HIM DO IT.

17 MR. MAULDIN: NO, THAT'S ALL RIGHT. (PAUSE)

18 AS TO MISS ELMORE, SWEAR HER.

19 THE CLERK: NUMBER 21, MARGARET STEWART, WHAT SAYS  
20 THE STATE?

21 MR. ARIAIL: PRESENT HER.

22 THE CLERK: WHAT SAYS THE DEFENDANT?

23 MR. MAULDIN: SWEAR HER.

24 THE CLERK: NUMBER 22, TRACY L. SHOOK, WHAT SAYS THE  
25 STATE?

1 MR. ARIAIL: PRESENT HER.

2 THE CLERK: WHAT SAYS THE DEFENDANT?

3 MR. MAULDIN: SWEAR HER.

4 THE CLERK: NUMBER 23, MICHAEL L. FOWLER, WHAT SAYS  
5 THE STATE?

6 MR. ARIAIL: PRESENT HIM.

7 THE CLERK: WHAT SAYS THE DEFENDANT?

8 MR. MAULDIN: SWEAR HIM.

9 THE CLERK: NUMBER 24, MARCUS L. GREENE, WHAT SAYS  
10 THE STATE?

11 MR. ARIAIL: PRESENT HIM.

12 THE CLERK: WHAT SAYS THE DEFENDANT?

13 MR. MAULDIN: EXCUSE MR. GREENE, PLEASE.

14 THE CLERK: NUMBER 25, CONSTANCE R. HILL, WHAT SAYS  
15 THE STATE?

16 MR. ARIAIL: PRESENT HER.

17 THE CLERK: WHAT SAYS THE DEFENDANT?

18 MR. MAULDIN: SWEAR HER.

19 THE COURT: OKAY, ALTERNATE NUMBER ONE, STARTING WITH  
20 27.

21 MR. MAULDIN: COULD YOU GIVE US JUST A SECOND PLEASE,  
22 SIR?

23 THE COURT: TWO AND ONE.

24 MR. MAULDIN: GIVE US ONE SECOND.

25 THE COURT: STARTING WITH 26 ON THE ALTERNATE, I'M

1 SORRY.

2 MR. MAULDIN: WOULD YOU GIVE US ONE SECOND BEFORE YOU  
3 CALL THE NAME, MADAM CLERK?

4 THE CLERK: YES, SIR.

5 MR. MAULDIN: ALL RIGHT, WE'RE PREPARED.

6 THE CLERK: NUMBER 26, ROBERT P. MINA, WHAT SAYS THE  
7 STATE?

8 MR. ARIAIL: PRESENT HIM.

9 THE CLERK: WHAT SAYS THE DEFENDANT?

10 MR. MAULDIN: EXCUSE HIM.

11 THE CLERK: NUMBER 27, CHRISTOPHER R. MCCASLAND?  
12 WHAT SAYS THE STATE?

13 MR. ARIAIL: PRESENT HIM.

14 THE CLERK: WHAT SAYS THE DEFENDANT?

15 MR. MAULDIN: EXCUSE HIM.

16 THE CLERK: NUMBER 28, JAMES B. LAVERTY, WHAT SAYS  
17 THE STATE?

18 MR. ARIAIL: EXCUSE HIM.

19 THE CLERK: NUMBER 29, KENNY D. WILLIAMS, WHAT SAYS  
20 THE STATE?

21 MR. ARIAIL: PRESENT HIM.

22 THE CLERK: WHAT SAYS THE DEFENDANT?

23 MR. MAULDIN: SWEAR HIM.

24 THE COURT: ALTERNATE NUMBER TWO, STARTING WITH  
25 NUMBER 30.

1 THE CLERK: NUMBER 30, JAMES L. WYNN, JR. WHAT SAYS  
2 THE STATE.

3 MR. ARIAIL: PRESENT HIM.

4 THE CLERK: WHAT SAYS THE DEFENDANT?

5 MR. MAULDIN: EXCUSE HIM.

6 THE CLERK: NUMBER 31, MELISSA MCGAHA STALLCUP, WHAT  
7 SAYS THE STATE?

8 MR. ARIAIL: PRESENT HER.

9 THE CLERK: WHAT SAYS THE DEFENDANT?

10 MR. MAULDIN: EXCUSE HER.

11 THE CLERK: NUMBER 32, DONNA E. DANDREA, WHAT SAYS  
12 THE STATE?

13 MR. ARIAIL: PRESENT HER.

14 THE CLERK: WHAT SAYS THE DEFENDANT?

15 MR. MAULDIN: SWEAR HER.

16 THE COURT: ALTERNATE THREE, STARTING WITH 33.

17 THE CLERK: NUMBER 33, GAIL J. HUSSEY, WHAT SAYS THE  
18 STATE?

19 MR. ARIAIL: PRESENT HER.

20 THE CLERK: WHAT SAYS THE DEFENDANT?

21 MR. MAULDIN: AS TO MISS HUSSEY?

22 THE COURT: YES.

23 MR. MAULDIN: SWEAR HER.

24 THE COURT: I'D ASK THE ATTORNEYS TO COME UP HERE  
25 JUST A SECOND.

1 (BENCH CONFERENCE HELD.)

2 THE COURT: YES, SIR, WHAT DO YOU WANT TO DO?

3 MR. MAULDIN: TWO THINGS. NUMBER ONE, WE DO NOT WANT  
4 AFORETHOUGHT, THAT QUESTION HAD COME UP.

5 THE COURT: THAT'S FINE.

6 MR. MAULDIN: THE NEXT QUESTION IS WE DO NOT HAVE ANY  
7 OBJECTIONS TO THE PANEL FOR SUCH THINGS AS BATSON, REVERSE  
8 BATSON, ANY SUCH AS THAT, THE GENDER OR ANYTHING. WE  
9 DON'T HAVE ANY OF THOSE OBJECTIONS.

10 THE COURT: DON'T HAVE ANY OF THOSE OBJECTIONS?

11 MR. MAULDIN: AS TO THE MAKE UP OF THIS PANEL, WE DO  
12 NOT.

13 THE COURT: NO BATSON MOTIONS?

14 MR. MAULDIN: THAT'S RIGHT, NO BATSON MOTIONS. AND,  
15 YOU KNOW, WITH REGARD TO WHETHER --

16 THE COURT: DO YOU HAVE ANY OTHER MOTIONS REGARDING  
17 THIS JURY OTHER THAN WHAT YOU MADE DURING THE VOIR DIRE?

18 MR. MAULDIN: AND DURING THE PRETRIAL PROCESS, WE HAD  
19 SOME MOTIONS BUT THOSE WERE RULED ON AND WE ASSUME THOSE  
20 RULINGS ARE STILL GOOD?

21 THE COURT: THEY ARE.

22 MR. MAULDIN: WITH REGARD TO THE MECHANICS, JUDGE, WE  
23 HAVE NO OBJECTION. IF YOU JUST, INSTEAD OF HAVING PEOPLE  
24 CALLED AND EITHER EXCUSED -- EXCUSED AND ALL THAT, JUST  
25 CALL THE 15 THAT ACTUALLY ARE GOING TO BE JURORS AND HAVE

1 THEM TAKEN OUT OF THE ROOM AND THEN EXCUSE THE REST. THAT  
2 SUITS MEAN FINE.

3 THE COURT: YOU TALKING ABOUT BRING ALL 37 OVER HERE  
4 AND JUST CALL THE 15 UP AND BE DONE WITH IT?

5 MR. MAULDIN: YEAH, BRING THE 37 IN, CALL THE 15  
6 NAMES, ASK THEM TO COME FORWARD. THEN THEY NEED TO BE  
7 TAKEN OUT SO THESE OTHER FOLKS CAN BE TOLD THEY GOT LUCKY.

8 THE COURT: SOLICITOR, IS THAT ALL RIGHT WITH YOU?

9 MR. ARIAIL: MY CONCERN IS THEY HAVEN'T SEEN THE  
10 PROCESS. THEY'RE GOING TO GET THE IDEA THAT WE DID  
11 SOMETHING, BUT DON'T KNOW WHAT IT IS. I THINK WE OUGHT TO  
12 JUST STRIKE THEM, BUT I DON'T CARE ABOUT THEM WALKING UP  
13 HERE.

14 THE COURT: ALL RIGHT. EVERYBODY ON THE RIGHT-HAND  
15 SIDE OF THE COURTROOM MOVE TO THE LEFT. AND WILL THE  
16 BAILIFF BRING IN THE 37 JURORS, PLEASE, MA'AM.

17 (WHEREUPON, THE FOLLOWING PROCEEDINGS WERE HAD WITHIN  
18 THE PRESENCE OF THE JURY:)

19 LADIES AND GENTLEMEN OF THE JURY, WHEN THE CLERK  
20 CALLS OUT YOUR NAME, WOULD YOU PLEASE JUST STAND WHEN YOU  
21 HEAR YOUR NAME CALLED, AND THE STATE AND THE DEFENDANT ARE  
22 GOING TO GO THROUGH CERTAIN STRIKES WE REFER TO AS  
23 PEREMPTORY STRIKES. AFTER THEY FINISH, JUST SIT AND  
24 REMAIN IN PLACE.

25 THE CLERK: NUMBER ONE, MICHAEL L. WRIGHT. WHAT SAYS

1 THE STATE?

2 THE COURT: MR. WRITE, JUST STAND AND REMAIN  
3 STANDING. I'LL TELL YOU WHEN TO SIT.

4 THE CLERK: WHAT SAY THE STATE?

5 MR. ARIAIL: PRESENT HIM.

6 THE CLERK: WHAT SAYS THE DEFENDANT?

7 MR. MAULDIN: EXCUSE MR. WRIGHT IN THIS CASE.

8 THE CLERK: YOU MAY BE EXCUSED IN THIS CASE.

9 THE COURT: HAVE A SEAT, MR. WRIGHT.

10 THE CLERK: NUMBER TWO, BETTY JO BRANYON. WHAT SAYS  
11 THE STATE?

12 MR. ARIAIL: PRESENT MISS BRANYON.

13 THE CLERK: WHAT SAYS THE DEFENDANT?

14 MR. MAULDIN: SWEAR HER.

15 THE COURT: MISS BRANYON, IF YOU'LL COME HAVE A SEAT  
16 IN THE JURY BOX.

17 THE CLERK: NUMBER THREE, VERNON E. MERCHANT, III,  
18 WHAT SAYS THE STATE?

19 MR. ARIAIL: PRESENT THE JUROR.

20 MR. MAULDIN: EXCUSE HIM.

21 THE CLERK: YOU MAY BE EXCUSED FROM THIS CASE.  
22 NUMBER FOUR, RUFUS R. HAFFER, WHAT SAYS THE STATE?

23 MR. ARIAIL: PRESENT HIM.

24 THE CLERK: WHAT SAYS THE DEFENDANT?

25 MR. MAULDIN: EXCUSE MR. HAFFER FROM THIS CASE PLEASE,

1 MA'AM.

2 THE CLERK: YOU MAY BE EXCUSED FROM THIS CASE,  
3 PLEASE. NUMBER FIVE, ANNIE FULLER. WHAT SAYS THE STATE?

4 MR. ARIAIL: EXCUSE MS. FULLER, PLEASE, MA'AM.

5 THE CLERK: YOU MAY BE EXCUSED, MA'AM, PLEASE.

6 NUMBER SIX, LORITHA ANN TODD, WHAT SAYS THE STATE?

7 MR. ARIAIL: EXCUSE MISS TODD, PLEASE, MA'AM.

8 THE CLERK: YOU MAY BE EXCUSED IN THIS CASE. NUMBER  
9 SEVEN, BRIAN A. HOLMSTRAND, WHAT SAYS THE STATE?

10 MR. ARIAIL: PRESENT HIM.

11 THE CLERK: WHAT SAYS THE DEFENDANT?

12 MR. MAULDIN: SWEAR MR. HOLMSTRAND.

13 THE CLERK: COME FORWARD, PLEASE, SIR, AND HAVE A  
14 SEAT IN THE JURY BOX. NUMBER EIGHT, JACQUELINE POUNTNEY,  
15 WHAT SAYS THE STATE?

16 MR. ARIAIL: PRESENT HER.

17 THE CLERK: WHAT SAYS THE DEFENDANT?

18 MR. MAULDIN: EXCUSE HER FROM THIS CASE, PLEASE.

19 THE CLERK: YOU MAY BE EXCUSED FROM THIS CASE.

20 NUMBER 9, PHILLIP D. ELLENBURG, WHAT SAYS THE STATE?

21 MR. ARIAIL: PRESENT HIM.

22 THE CLERK: WHAT SAYS THE DEFENDANT?

23 MR. MAULDIN: EXCUSE MR. ELLENBURG IN THIS CASE,  
24 PLEASE.

25 THE CLERK: YOU MAY BE EXCUSED IN THIS CASE. NUMBER



1 10, GLENDA J. FULLER. WHAT SAYS THE STATE?

2 MR. ARIAIL: EXCUSE MISS FULLER.

3 THE CLERK: YOU MAY BE EXCUSED IN THIS CASE. NUMBER

4 11, MICHAEL DUNLAP. WHAT SAYS THE STATE?

5 MR. ARIAIL: PRESENT HIM.

6 THE CLERK: WHAT SAYS THE DEFENDANT?

7 MR. MAULDIN: SWEAR MR. DUNLAP.

8 THE CLERK: COME FORWARD PLEASE, SIR, AND HAVE A SEAT  
9 IN THE JURY BOX. NUMBER 12, JOHN A BOTT, WHAT SAYS THE  
10 STATE?

11 MR. ARIAIL: PRESENT MR. BOTT.

12 THE CLERK: WHAT SAYS THE DEFENDANT?

13 MR. MAULDIN: EXCUSE MR. BOTT IN THIS CASE, PLEASE.

14 THE CLERK: YOU MAY BE EXCUSED ON THIS CASE. NUMBER

15 13, JOEL E. MOSS, WHAT SAYS THE STATE?

16 MR. ARIAIL: PRESENT HIM.

17 THE CLERK: WHAT SAYS THE DEFENDANT?

18 MR. MAULDIN: SWEAR MR. MOSS.

19 THE CLERK: COME FORWARD, PLEASE, SIR. NUMBER 14,

20 JOSEPH DANIEL JOHNSON, WHAT SAYS THE STATE?

21 MR. ARIAIL: PRESENT MR. JOHNSON.

22 THE CLERK: WHAT SAYS THE DEFENDANT?

23 MR. MAULDIN: SWEAR MR. JOHNSON.

24 THE CLERK: COME FORWARD, PLEASE, SIR. NUMBER 15,

25 MARK R. HAGIN. WHAT SAYS THE STATE?

1 MR. ARIAIL: PRESENT MR. HAGEN.

2 THE CLERK: WHAT SAYS THE DEFENDANT?

3 MR. MAULDIN: EXCUSE MR. HAGEN, PLEASE.

4 THE CLERK: YOU MAY BE EXCUSED IN THIS CASE. NUMBER  
5 16, NELSON C. MILES, II, WHAT SAYS THE STATE?

6 MR. ARIAIL: PRESENT MR. MILES.

7 THE CLERK: WHAT SAYS THE DEFENDANT?

8 MR. MAULDIN: SWEAR HIM.

9 THE CLERK: COME FORWARD PLEASE, SIR. NUMBER 17,  
10 MARIE A. BRADBERRY, WHAT SAYS THE STATE?

11 MR. ARIAIL: EXCUSE MISS BRADBERRY IN THIS CASE  
12 PLEASE, MA'AM.

13 THE CLERK: YOU MAY BE EXCUSED. NUMBER 18, KYLE P.  
14 BROWNING. WHAT SAYS THE STATE?

15 MR. ARIAIL: PRESENT HIM.

16 THE CLERK: WHAT SAYS THE DEFENDANT?

17 MR. MAULDIN: EXCUSE MR. BROWNING IN THIS CASE.

18 THE CLERK: YOU MAY BE EXCUSED IN THIS CASE. NUMBER  
19 19, STACY S. GONICK. WHAT SAYS THE STATE?

20 MR. ARIAIL: PRESENT MISS GONICK.

21 THE CLERK: WHAT SAYS THE DEFENDANT?

22 MR. MAULDIN: SWEAR HER.

23 THE CLERK: COME FORWARD PLEASE, MA'AM. NUMBER 20,  
24 FRANCES T. ELMORE. WHAT SAYS THE STATE?

25 MR. ARIAIL: PRESENT MISS ELMORE.

1 THE CLERK: WHAT SAYS THE DEFENDANT?

2 MR. MAULDIN: SWEAR MRS. ELMORE.

3 THE CLERK: COME FORWARD PLEASE, MA'AM. NUMBER 21,

4 MARGARET STEWART. WHAT SAYS THE STATE?

5 MR. ARIAIL: PRESENT MISS STEWART.

6 THE CLERK: WHAT SAYS THE DEFENDANT?

7 MR. MAULDIN: SWEAR MISS STEWART.

8 THE CLERK: COME FORWARD PLEASE, MA'AM. NUMBER 22,

9 TRACY L. SHOOK. WHAT SAYS THE STATE?

10 MR. ARIAIL: PRESENT MISS SHOOK.

11 THE CLERK: WHAT SAYS THE DEFENDANT?

12 MR. MAULDIN: SWEAR MISS SHOOK.

13 THE CLERK: COME FORWARD, PLEASE, MA'AM. NUMBER 23,

14 MICHAEL L. FOWLER. WHAT SAYS THE STATE?

15 MR. ARIAIL: PRESENT MR. FOWLER.

16 THE CLERK: WHAT SAYS THE DEFENDANT?

17 MR. MAULDIN: SWEAR MR. FOWLER.

18 THE CLERK: COME FORWARD, PLEASE, SIR. NUMBER 24,

19 MARCUS L. GREEN. WHAT SAYS THE STATE?

20 MR. ARIAIL: PRESENT MR. GREEN.

21 THE CLERK: WHAT SAYS THE DEFENDANT?

22 MR. MAULDIN: EXCUSE MR. GREEN FROM THIS CASE.

23 THE CLERK: YOU MAY BE EXCUSED IN THIS CASE. NUMBER

24 25, CONSTANCE R. HILL. WHAT SAYS THE STATE?

25 MR. ARIAIL: PRESENT MISS HILL.

1 THE CLERK: WHAT SAYS THE DEFENDANT?  
2 MR. MAULDIN: SWEAR MISS HILL.  
3 THE COURT: ALL RIGHT. FIRST ALTERNATE, TWO AND ONE.  
4 START WITH 26.  
5 THE CLERK: NUMBER 26, ROBERT P. MINA. WHAT SAYS THE  
6 STATE?  
7 MR. ARIAIL: PRESENT MR. MINA.  
8 THE CLERK: WHAT SAYS THE DEFENDANT?  
9 MR. MAULDIN: EXCUSE MR. MINA FROM THIS CASE, PLEASE.  
10 THE CLERK: YOU MAY BE EXCUSED IN THIS CASE. NUMBER  
11 27, CHRISTOPHER R. MCCASLAND. WHAT SAYS THE STATE?  
12 MR. ARIAIL: PRESENT MR. MCCASLAND.  
13 THE CLERK: WHAT SAYS THE DEFENDANT?  
14 MR. MAULDIN: EXCUSE MR. MCCASLAND IN THIS CASE,  
15 PLEASE.  
16 THE CLERK: YOU MAY BE EXCUSED IN THIS CASE. NUMBER  
17 28, JAMES B. LAVERTY. WHAT SAYS THE STATE?  
18 MR. ARIAIL: EXCUSE MR. LAVERTY IN THIS CASE, PLEASE,  
19 MA'AM.  
20 THE CLERK: YOU MAY BE EXCUSED. NUMBER 29, KENNY D.  
21 WILLIAMS. WHAT SAYS THE STATE?  
22 MR. ARIAIL: PRESENT HIM.  
23 THE CLERK: WHAT SAYS THE DEFENDANT?  
24 MR. MAULDIN: SWEAR MR. WILLIAMS.  
25 THE CLERK: YOU'LL BE AN ALTERNATE IN THE CASE. MR.

1 WILLIAMS.

2 THE COURT: ALTERNATE NUMBER TWO, STARTING WITH  
3 NUMBER 30.

4 THE CLERK: NUMBER 30, JAMES L. WYNN, JR. WHAT SAYS  
5 THE STATE?

6 MR. ARIAIL: PRESENT MR. WYNN.

7 THE CLERK: WHAT SAYS THE DEFENDANT?

8 MR. MAULDIN: EXCUSE MR. WYNN IN THIS CASE, PLEASE.

9 THE CLERK: YOU MAY BE EXCUSED IN THIS CASE. NUMBER  
10 31, MELISSA MCGAHA STALLCUP. WHAT SAYS THE STATE?

11 MR. ARIAIL: PRESENT MS. STALLCUP.

12 THE CLERK: WHAT SAYS THE DEFENDANT?

13 MR. MAULDIN: EXCUSE MISS STALLCUP, PLEASE, MA'AM.

14 THE CLERK: NUMBER 32, DONNA E DANDREA. WHAT SAYS  
15 THE STATE?

16 MR. ARIAIL: PRESENT HER.

17 THE CLERK: WHAT SAYS THE DEFENDANT?

18 MR. MAULDIN: SWEAR HER.

19 THE CLERK: YOU MAY HAVE A SEAT, PLEASE, MA'AM.

20 THE COURT: NUMBER 33, TWO AND ONE.

21 THE CLERK: NUMBER 33, GAIL J. HUSSEY. WHAT SAYS THE  
22 STATE?

23 MR. ARIAIL: PRESENT HER.

24 THE CLERK: WHAT SAYS THE DEFENDANT?

25 MR. MAULDIN: SWEAR HER.

1 THE CLERK: COME FORWARD, PLEASE, MA'AM.

2 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN OF THE  
3 JURY, WHAT I'M GOING TO ASK YOU TO DO. I'M GOING TO ASK  
4 YOU TO GO TO THE JURY ROOM AND I WANT YOU TO ELECT EITHER  
5 A FOREMAN OR FORELADY. YOU MAY ELECT ANYONE BUT ONE OF  
6 THE ALTERNATES, MR. WILLIAMS, MRS. DANDREA, OR  
7 MISS HUSSEY. AFTER YOU'VE DONE THAT, WRITE THE NAME ON A  
8 PIECE OF PAPER, KNOCK ON THE DOOR GIVE IT TO THE BAILIFF  
9 AND I'LL GET YOU, BRING YOU BACK FROM THE JURY ROOM. AT  
10 THIS TIME PLEASE GO WITH THE BAILIFF FOR THAT PURPOSE OF  
11 ELECTING A FORELADY OR FOREMAN.

12 (JURY RETIRES FROM COURTROOM AT 3:25 P.M.)

13 THE COURT: ALL RIGHT. REMAINING MEMBERS OF THE JURY  
14 PANEL, I WANT TO THANK YOU FOR YOUR PATIENCE THIS WEEK. I  
15 KNOW IT'S BEEN A LOT OF WAITING FOR SOME OF YOU.  
16 APPRECIATE YOUR PATIENCE. WE COULDN'T FUNCTION THE  
17 COURT'S WITHOUT YOU. I WANT TO TELL YOU, HAVE A GOOD  
18 WEEKEND, AT LEAST WHAT'S LEFT OF IT. YOU'RE FREE TO GO.  
19 THANK YOU SO VERY MUCH.

20 (REMAINING PANEL EXCUSED.)

21 THE COURT: SOLICITOR, 1:00. WE'RE GOING TO SWEAR  
22 THE SLED AGENTS AND BAILIFFS. BRING THE BAILIFFS UP THE  
23 TWO BAILIFFS IN THE BACK. COME FORWARD. (BAILIFFS COMPLY)  
24 IF YOU WOULD ALL RAISE YOUR RIGHT HANDS.

25 MADAM CLERK, IF YOU'LL SWEAR THE BAILIFFS, PLEASE.

1 (WHEREUPON, THE CLERK OF COURT ADMINISTERS THE OATH  
2 TO THE BAILIFFS AND SLED AGENTS WORKING THE CASE.)

3 THE COURT: WHEN -- I FIVE MEN, FOUR FEMALES. WHEN I  
4 TELL THEM ABOUT THE NEWSPAPERS, TV'S, IF THEY HAVE -- I'LL  
5 GIVE THEM SOME INFORMATION AS SOON AS THEY GET BACK INTO  
6 THE COURTROOM. HAVE A GOOD DAY. OKAY? SEE YOU TOMORROW.

7 ALL RIGHT. SOLICITOR AND MR. MAULDIN, THE FOREMAN  
8 THAT WAS ELECTED BY THE JURY PANEL IS JUROR NUMBER 252,  
9 NUMBER 16 ON YOUR STRIKE SHEET, NELSON C. MILES, II. I'M  
10 GOING TO BRING THE JURY BACK HERE, GIVE THEM SOME  
11 INSTRUCTIONS. I'M NOT GOING TO SWEAR THEM UNTIL WE COME  
12 BACK TOMORROW. BUT I AM GOING TO GIVE INSTRUCTIONS  
13 CONCERNING THEIR RESPONSIBILITIES TONIGHT AND WORKING WITH  
14 THE BAILIFFS AND SLED AGENTS. ANYTHING ELSE BEFORE WE  
15 BRING THE JURY IN FROM EITHER PARTY?

16 (NO RESPONSE ELICITED.)

17 BEFORE THE JURY PANEL GETS IN HERE, MARK RANDOM  
18 STRIKE SHEET, CLEAN COPY, AS EXHIBIT ONE. YOU CAN MATCH  
19 UP THE NUMBER YOU WERE CALLING OUT. IT IS A CLEAN SHEET  
20 I'M GOING TO MARK AS COURT'S EXHIBIT. EXCEPT WE USED THE  
21 NUMBERS ON THE LEFT-HAND SIDE, MR. MAULDIN, INSTEAD OF THE  
22 JURY NUMBER.

23 MR. MAULDIN: PARDON?

24 THE COURT: I SAID I'M MARKING THAT SINCE WE USED THE  
25 NUMBERS ON THE LEFT-HAND SIDE RATHER THAN THE ACTUAL

1 NUMBER.

2 MR. MAULDIN: YES, SIR.

3 (COURT'S EXHIBIT NUMBER 12 IS MARKED FOR  
4 IDENTIFICATION.)

5 THE COURT: SO THERE WILL BE A REFERENCE IN THE FILE  
6 FOR THEM.

7 MR. MAULDIN: YES, SIR.

8 (THE FOLLOWING PROCEEDINGS WERE HAD WITHIN THE  
9 PRESENCE OF THE JURY:)

10 THE COURT: MR. MILES, IF YOU'LL ALWAYS SIT IN THAT  
11 SEAT, PLEASE, SIR. AND THE THREE ALTERNATES, IF YOU COULD  
12 SIT IN THOSE THREE SEATS. WHERE THE REST OF THE JURORS  
13 SIT, THAT WILL BE STRICTLY UP TO YOU.

14 MISS GONICK, I'LL TALK TO YOU ABOUT YOUR INDIVIDUAL  
15 PROBLEM AS SOON AS WE FINISH HERE. WE'RE GOING TO WORK  
16 THAT OUT FOR YOU.

17 WHAT I WANT TO TELL YOU IS SIX RETIRED SLED AGENTS  
18 ARE GOING TO BE THE BAILIFFS IN THIS CASE. THEY'RE GOING  
19 TO BE YOUR KEEPERS, FOR LACK OF A BETTER WORD. THEY'RE  
20 GOING TO PROVIDE YOU WITH FOOD, THEY'RE GOING TO PROVIDE  
21 YOU WITH EVERYTHING. NOW, THEY'RE GOING TO PUT YOU IN A  
22 MOTEL. IN THAT MOTEL THERE IS NOT GOING TO BE ANY  
23 NEWSPAPERS, NO TV, NO CELL PHONES. THERE'S GOING TO BE NO  
24 COMPUTERS. IF YOU'RE GOING TO WATCH TV OR USE THE PHONE,  
25 IT'S GOING TO BE IN A COMMON ROOM. ANYTHING THE BAILIFFS



1 TELL YOU TO DO, I'D APPRECIATE YOU DOING IT, IT COMES FROM  
2 INSTRUCTION FROM THE COURT.

3 QUITE FRANKLY, YOU'RE GOING TO BE CUT OFF FROM THE  
4 OUTSIDE WORLD COMPLETELY EXCEPT GOING TO BREAKFAST, LUNCH,  
5 AND SUPPER AND BEING IN THIS COURTROOM AND BEING IN THE  
6 MOTEL. SO PLEASE FOLLOW THEIR INSTRUCTION.

7 IF YOU SMOKE, YOU'RE GOING TO HAVE TO BUY YOUR OWN  
8 CIGARETTES. IF YOU WANT A DRINK IN THE EVENING OR AT  
9 NIGHT, I'LL ALLOW YOU TWO DRINKS. BUT YOU HAVE TO PAY FOR  
10 IT YOURSELVES. THE COUNTY WILL NOT PAY FOR THE CIGARETTES  
11 OR THE ALCOHOL. I DON'T MEAN TWO BEERS AND TWO DRINKS,  
12 TWO DRINKS COMPRISED OF BEER OR ALCOHOL ONLY IN THE  
13 EVENINGS.

14 NO TALKING ABOUT THE CASE AMONGST YOURSELVES. YOU  
15 CAN TALK ABOUT ANYTHING YOU WANT AMONG YOURSELVES EXCEPT  
16 THIS PARTICULAR CASE. DOES EVERYBODY UNDERSTAND? (NO  
17 NEGATIVE RESPONSE ELICITED.)

18 ALL RIGHT. I HAVE MADE ARRANGEMENTS FOR 11:00  
19 TOMORROW THERE WILL BE A PREACHER THAT'S GOING TO GIVE A  
20 NON DENOMINATIONAL TALK. IF YOU WANT TO HAVE IT TOMORROW  
21 MORNING, 11:00, THAT'S FINE. HE WILL BE AVAILABLE TO DO  
22 IT. THE SLED AGENTS WILL SHOW YOU WHERE IT'S GOING TO BE.  
23 IF YOU DON'T WANT TO PARTICIPATE, THAT'S FINE. BUT I DID  
24 MAKE IT AVAILABLE TOMORROW AT 11:00. WE'RE GOING TO START  
25 THE TRIAL TOMORROW AT 1:00. WE'LL GET STARTED AT 1:00.

1           FOR YOUR INFORMATION, WE'LL GET STARTED EVERY DAY AT  
2           9:00 OR HOPEFULLY AS CLOSE TO NINE AS WE CAN GET YOU HERE,  
3           AND WE'LL RUN UNTIL ABOUT 6:00 EVERY DAY. WE WILL TAKE AN  
4           HOUR AND A HALF AT LUNCH. THAT WILL BE OUR SCHEDULE UNTIL  
5           THE CASE IS OVER WITH.

6           THEY WILL PROVIDE YOUR TRANSPORTATION. WHAT THEY'RE  
7           GOING TO DO IS TAKE YOU TO THE MOTEL. I UNDERSTAND  
8           EVERYBODY HAS THEIR BAGS WITH THEM AND EVERYTHING WITH  
9           THEM THEY NEED. IF YOU DON'T, TALK TO THE AGENTS THEY  
10          WILL MAKE ARRANGEMENTS FOR YOU GET YOUR BAGS OR WHATEVER  
11          YOU NEED FROM YOUR HOUSE THIS AFTERNOON AND GET YOU SET UP  
12          IN THE MOTEL.

13          ALL RIGHT. IF YOU WILL FOLLOW THE BAILIFFS TO THE  
14          JURY ROOM, THE BAILIFFS WILL TAKE CONTROL. AND,  
15          MISS GUNTER, IF YOU'LL JUST WAIT OUTSIDE THE DOOR AND  
16          WE'LL TALK TO YOU ABOUT YOUR SON. OKAY?

17          (JURY EXCUSED FOR EVENING RECESS.)

18          ALL RIGHT. FOR THE RECORD, MISS GONICK'S CHILD HAS  
19          STREP THROAT AND THE CHILD IS DOWNSTAIRS IN THE JURY  
20          ASSEMBLY ROOM, HAS BEEN FOR A COUPLE OF HOURS. HE'S ON  
21          MEDICATION. HE'S BEEN TO THE DOCTOR. I'M GOING TO GIVE  
22          MS. GONICK THE CHOICE, SHE CAN KEEP THE CHILD WITH HER  
23          TONIGHT AT THE MOTEL UNTIL 1:00 IN THE MORNING, OR SHE CAN  
24          GET HER MOTHER TO PICK THE CHILD UP THIS AFTERNOON OR HER  
25          EX-HUSBAND. I'M GOING TO LEAVE THAT CHOICE TO HER.

1 THAT'S THE PROBLEM I WANTED TO PUT ON THE RECORD, LET  
2 EVERYBODY KNOW. I WANTED TO GIVE HER THAT OPTION.  
3 ANYTHING ELSE BEFORE WE BREAK?

4 MR. MAULDIN: I CAN'T REMEMBER IF THE CHILD ACTUALLY  
5 LIVES WITH HER.

6 THE COURT: LIVES WITH HER AND SHE'S DIVORCED.

7 MR. NETTLES: DID SHE SAY IF SHE WAS SEQUESTERED THE  
8 CHILD WOULD STAY WITH HER MOTHER OR EX-HUSBAND DID .

9 THE COURT: IT WAS ALL RIGHT EITHER ONE. ANYTHING  
10 ELSE BEFORE WE BREAK UNTIL 1:00 TOMORROW?

11 MS. STROM: NOTHING FROM THE STATE.

12 THE COURT: ALL RIGHT. SEE YOU AT 1:00 TOMORROW.

13 (WHEREUPON, THE PROCEEDINGS ARE ADJOURNED TO THE  
14 FOLLOWING DAY.)

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1                                    SUNDAY, FEBRUARY 13, 2005

2                    (WHEREUPON, COURT RECONVENED WITH ALL PARTIES  
3                    PRESENT, WHEN THE FOLLOWING PROCEEDINGS WERE HAD:)

4                    THE COURT:    IS THERE ANYTHING FROM THE STATE BEFORE  
5                    WE BRING THE JURORS?

6                    MR. ARIAIL:    NO.

7                    THE COURT:    ANYTHING FROM THE DEFENDANT?

8                    MR. MAULDIN:    A COUPLE OF MATTERS, YOUR HONOR.    FIRST  
9                    OF ALL, YOU WILL RECALL THE HEARINGS WE HAD IN ANDERSON ON  
10                   I THINK THE TWENTY-FIFTH OR SIXTH OF JANUARY REGARDING  
11                   ADMISSIBILITY OF MATERIAL THAT AROSE OUT OF THE  
12                   INVOLVEMENT OF DR. PAM CRAWFORD.    WE DO AT THIS POINT WANT  
13                   TO RENEW AND RESERVE ALL ISSUES FOR THE RECORD FOR  
14                   APPELLATE PURPOSES CONCERNING YOUR RULING ON THOSE  
15                   MATTERS.    WE UNDERSTAND YOU HAVE DENIED OUR MOTION, WE DO  
16                   RENEW THAT MOTION.    AND I WOULD LIKE TO PUT A COUPLE OF  
17                   THINGS ON THE RECORD REGARDING OUR RENEWALS IF THE COURT,  
18                   PLEASE.

19                   THE COURT:    OKAY.

20                   MR. MAULDIN:    YOUR HONOR, WE UNDERSTOOD AT THE TIME  
21                   OF YOUR RULING FROM THE BENCH THAT YOU GAVE BASICALLY  
22                   THREE REASONS FOR THE DENIAL.    NUMBER ONE, THE  
23                   DISTINGUISHED CASES THAT WE CITED BECAUSE IN ESTELL, WHICH  
24                   CERTAINLY WAS A CRITICAL CASE, THE JUDGE IN THAT CASE HAD  
25                   ORDERED THE COMPETENCY HEARING AND NO MIRANDA WARNINGS

1 WERE GIVEN. THOSE WERE CRITICAL ISSUES TO YOU.

2 I WANT TO MAKE SURE, YOUR HONOR, THAT WE PUT ON THIS  
3 RECORD THAT THE RIGHTS WAIVER, IF YOU COULD CALL IT THAT,  
4 THAT DR. CRAWFORD DID PROVIDE TO OUR CLIENT, THE  
5 INFORMATION SHE PROVIDED TO OUR CLIENT PRIOR TO THE  
6 QUESTIONING, WAS CLEARLY DEFECTIVE AND FAULTY. NEVER MADE  
7 ANY REFERENCE, FOR EXAMPLE, TO THE FACT INFORMATION COULD  
8 BE, IN FACT, USED AGAINST HIM.

9 THE COURT: I THINK I SAID AT THE TIME IF YOU TAKE  
10 EVERYTHING THAT WAS SAID, THE WAIVER OF RIGHTS WAS NOT  
11 SIGNED UNTIL THE NEXT DAY. BUT IF YOU TAKE HER TESTIMONY  
12 ON PAGE TWO AND THREE AND TAKE IT AS A WHOLE, I THINK IT  
13 WAS ADEQUATE MIRANDA WARNING.

14 MR. MAULDIN: YES. AND WE UNDERSTOOD THAT.

15 THE COURT: THAT'S WHAT I SAID.

16 MR. MAULDIN: I JUST WANTED TO MAKE SURE WE ARE  
17 RENEWING.

18 THE COURT: I AGREE WITH YOU THERE WAS NO TECHNICAL  
19 WAIVER OF RIGHTS SIGNED AND TECHNICALLY READ; BUT IF YOU  
20 TAKE IT IN IT'S ENTIRETY, I THINK HE WAS ADVISED OF THE  
21 MIRANDA RIGHTS.

22 MR. MAULDIN: SECONDLY, YOUR HONOR, WE BELIEVE THAT  
23 THE PROCEDURE FOR SUCH AN ACTION BY A STATE EMPLOYED  
24 PSYCHIATRIST IS CONTROLLED BY OUR STATUTE AND WHAT HAPPENS  
25 THE SOLICITOR'S OFFICE ESSENTIALLY VIOLATED WHAT WE WOULD

1 DESCRIBE AS THE SEPARATION OF POWERS IN THAT HE MADE A  
2 DETERMINATION FROM HIS POINT OF VIEW ABOUT AN EVALUATION  
3 BY A PSYCHIATRIST.

4 THE COURT: MADE A DETERMINATION OF WHAT?

5 MR. MAULDIN: HE MADE A DETERMINATION REGARDING AN  
6 EVALUATION BY A PSYCHIATRIST WITHOUT A COURT ORDER OR  
7 REPRESENTATION OF THE DEFENDANT, BOTH OF WHICH ARE  
8 PROVIDED IN THE STATUTE THAT ALLOWS THE COURT TO ORDER A  
9 STATE EVALUATION. SO, WE BELIEVE THERE'S A VIOLATION OF  
10 THE SEPARATION OF POWERS THERE. ANOTHER REASON WAS THE  
11 IDEA THAT THE SOLICITOR HAD NOT DECIDED OR DETERMINED  
12 WHETHER OR NOT TO SEEK THE DEATH PENALTY.

13 FIRST OF ALL, WE TAKE THE POSITION THAT THAT DECISION  
14 BY THE SOLICITOR IN THIS CONTEXT IS IRRELEVANT. THE  
15 SOLICITOR AND DR. CRAWFORD KNEW THAT IT WAS A POTENTIAL  
16 CAPITAL CASE, CERTAINLY CLEARLY KNEW IT WAS A POTENTIAL  
17 CAPITAL CASE. AND THE FACT OF THE MATTER IS THE RESPONSE  
18 FROM THE SOLICITOR ON OUR MOTION STATES THAT IT WAS A  
19 CONSIDERATION ABOUT WHETHER TO SEEK THE DEATH PENALTY;  
20 AND, SECONDLY, WHETHER MENTAL HEALTH EVIDENCE WOULD BE  
21 AVAILABLE IN MITIGATION, SO THEY WERE ESSENTIALLY  
22 PREEMPTING A MITIGATION PATTERN IN A POTENTIAL CAPITAL  
23 CASE. I DON'T KNOW IF THAT'S CLEAR TO THE STATE, BUT I  
24 KNOW WHAT I'M TRYING TO SAY.

25 THE COURT: OKAY.

1           MR. MAULDIN: THE, IF THE SOLICITOR HAD FOLLOWED THE  
2     STATUTE AND GONE TO COURT, THE PERSON CHARGED WOULD HAVE  
3     HAD AN ATTORNEY APPOINTED AND PRESENT AND THE ISSUE OF  
4     WHETHER OR NOT IT COULD POTENTIALLY BE USED IN A CAPITAL  
5     CASE WOULD HAVE BEEN CLEAR AT THAT POINT. DID NOT TELL  
6     HIM -- DID NOT TELL THE PERSON THEY WERE INTERVIEWING THE,  
7     DEFENDANT IN THIS CASE, HOW IT COULD BE USED AND ESTELL  
8     SAYS TO INFORM HIM HOW THE INFORMATION IS TO BE USED IS  
9     IMPORTANT. WE'RE SAYING THAT THAT CLEARLY WAS NOT DONE IN  
10    THIS CASE. CLEARLY.

11           THE SOLICITOR ESSENTIALLY HAS ADMITTED, FOR ALL  
12    INTENTS AND PURPOSES, THAT HE DID IN FACT USED IT TO SEEK  
13    THE DEATH PENALTY. THAT IS, IN FACT, PART OF WHAT WENT  
14    INTO THE PROCESS.

15           THE COURT: IF YOU READ PAM CRAWFORD'S REPORT SHE  
16    DOESN'T SAY ANYTHING ABOUT THE DEATH PENALTY. SHE SAYS  
17    SHE MADE A MCNAUGHTEN EVALUATION AS TO WHETHER HE WAS  
18    COMPETENT TO ASSIST COUNSEL. THAT'S THE BASIS OF HER  
19    REPORT. THAT'S WHAT IT SAID IN THE CAPTION OF HER REPORT.

20           MR. MAULDIN: AND THERE'S NO QUESTION THAT IN THEIR  
21    RESPONSES TO US, WHICH IS A PLEADING IN THIS CASE, THE  
22    SOLICITOR SAYS THAT IS WHY SHE WAS CALLED IN. AND IT'S ON  
23    THE FACE OF THOSE DOCUMENTS. WE OF COURSE, CONTINUE TO  
24    MOVE ALL DOCUMENTS INTO THE RECORD FOR PURPOSES OF  
25    APPELLATE REVIEW. SHE NEVER SAID THE INFORMATION COULD BE

1 USED AGAINST HIM. SHE NEVER SAID IT COULD BE USED AGAINST  
2 HIM TO SEEK THE DEATH PENALTY, WHICH IS WHERE WE ARE  
3 TODAY.

4 WE BELIEVE THAT THAT ENHANCES WHAT WE BELIEVE TO BE  
5 AN APPARENT VIOLATION, NOW IS WHAT WE SAY A CLEAR  
6 VIOLATION BECAUSE OF WHAT WE STAND BEFORE YOU. WE HAVE  
7 NOW PICKED A CAPITAL JURY AND GETTING READY TO GO INTO THE  
8 TRIAL.

9 SO, I DO WANT THE COURT TO PRESERVE OUR OBJECTIONS TO  
10 THAT PROCESS. WE WILL ACCEPT YOUR RULING AND PROCEED IN  
11 THE TRIAL WITH THOSE RULINGS IN MIND. WE HAVE TO. BUT WE  
12 STILL WANT IT RENEWED AND RECONSIDERED BY YOU.

13 THE COURT: THAT'S FINE. IF YOU'RE MAKING IT IN FORM  
14 OF A MOTION, THE MOTION IS DENIED. SOLICITOR, ANYTHING  
15 YOU WANT TO PUT ON THE RECORD?

16 MR. ARIAIL: NO, SIR, YOUR HONOR. JUST WHAT HAS BEEN  
17 STATED EARLIER.

18 THE COURT: YOUR MOTION IS DENIED. YOU WANT TO GO  
19 THROUGH THIS LITANY AGAIN WHEN THIS EVIDENCE SUPPOSEDLY  
20 COMES UP AGAIN?

21 MR. MAULDIN: WELL, OF COURSE I HAVE TO FOLLOW THE  
22 COURT'S INSTRUCTIONS, BUT IF EVERY TIME SOMETHING COMES  
23 UP, I HAVE TO GET UP AND SAY, YOUR HONOR, WE WANT YOU TO  
24 RECONSIDER YOUR RULING, I MEAN, I'M EXCEPTING.

25 THE COURT: THAT'S WHAT I JUST ASKED YOU, ARE WE



1 GOING INTO THIS LITANY AGAIN WHEN THEY OFFER PAM CRAWFORD  
2 AS A WITNESS OR ARE YOU JUST GOING TO MAKE YOUR MOTION AND  
3 OBJECT.

4 MR. MAULDIN: YOUR REMEMBER THAT RULING THEY RECENTLY  
5 HAD ABOUT IN LIMINE RESTITUTION MOTION VERSUS TRIAL  
6 MOTION.

7 THE COURT: I UNDERSTAND. JUST MAKE YOUR OBJECTION  
8 AT THE PROPER TIME. I JUST DON'T WANT TO GO THROUGH THIS  
9 15-MINUTE DISSERTATION AGAIN.

10 MR. MAULDIN: YOUR HONOR, THIS IS A MOTION ACTUALLY  
11 MEMORANDUM. THIS IS THE ORIGINAL AND A COPY. THE  
12 ORIGINAL, OF COURSE, FOR THE CLERK AND COPY FOR YOU. THIS  
13 REGARDS THE USE OF PHOTOGRAPHIC EVIDENCE IN THIS CASE.  
14 YOU WILL RECALL WE MADE THOSE MOTIONS IN LIMINE, AND YOU  
15 HELD THEM IN AB ABEYANCE. WE HAVE BEEN PROVIDED WITH  
16 PHOTOS FROM THE STATE.

17 THE COURT: LET ME SEE THEM SO I CAN BE LOOKING AT  
18 THEM. THE ONES HE'S INTENDING TO USE YOU OBJECTING TO?

19 MR. MAULDIN: DON'T OBJECT TO ALL OF THEM.

20 THE COURT: TELL ME WHICH ONES YOU OBJECT TO AND LET  
21 ME SEE THEM.

22 MR. MAULDIN: REFERENCE WAS MADE IN THE MOTION AS TO  
23 THE CHARACTER OF THE PHOTOGRAPHS.

24 THE COURT: I UNDERSTAND, BUT LET ME SEE THE PICTURES  
25 YOU OBJECT TO. I'D LIKE TO SEE THEM AND LOOK AT THEM.

1 ONLY WAY I CAN MAKE A DECISION.

2 MR. MAULDIN: WE CAN HAVE THOSE PICKED OUT FOR YOU  
3 WHILE WE'RE INVOLVED IN OPENING STATEMENTS.

4 THE COURT: THAT'S FINE.

5 MR. MAULDIN: HOLD ON ONE MOMENT.

6 THE COURT: ALL I'M SAYING, MR. MAULDIN, I CAN'T VERY  
7 WELL RULE ON THE PICTURES UNLESS I SEE THEM. TAKE THEM  
8 UNDER ADVISEMENT AT THIS POINT IN TIME. ARE YOU READY TO  
9 BRING THE JURY?

10 MR. ARIAIL: YES, YOUR HONOR.

11 THE COURT: ANYTHING ELSE YOU WANT TO PUT ON THE  
12 RECORD, MR. MAULDIN?

13 MR. MAULDIN: I CAN'T THINK OF ONE AT THIS POINT. MY  
14 BRAIN SPINS, BUT I BELIEVE I GOT WHAT I NEED.

15 THE COURT: YOU WANT TO CONFER WITH YOUR LEARNED  
16 COUNSEL BEFORE YOU --

17 MR. MAULDIN: IF I CAN FIND SOME LEARNED COUNSEL.

18 THE COURT: YOU'VE GOT THREE OF THEM THERE.

19 MR. MAULDIN: IF THE COURT PLEASE?

20 THE COURT: YES, SIR.

21 MR. MAULDIN: ONE FINAL MATTER, YOUR HONOR. THIS  
22 AGAIN GOES BACK TO THE IN LIMINE MOTION AND THE  
23 RECONSIDERATION. I WILL MAKE AN OPENING STATEMENT AND I,  
24 YOU HAVE TOLD ME AS THIS YOUNG MAN'S LAWYER, THAT  
25 EVIDENTIARY MATTERS THAT YOU HAVE REVIEWED WILL COME INTO

1 THE RECORD. SO, MY SUBSEQUENT OBJECTIONS, UNLESS THINGS  
2 JUST CHANGE AS TO THAT EVIDENCE, ARE REALLY GOING TO BE  
3 OVERRULED, I'M ASSUMING. WELL, I'M GOING TO MAKE AN  
4 OPENING STATEMENT AND I AM GOING TO MAKE REFERENCE TO SOME  
5 OF THESE MATERIALS. AND THE REASON I'M GOING TO DO THAT  
6 IS BECAUSE I TRUST YOU, THAT YOU'RE GOING TO RULE THE SAME  
7 WAY.

8 THE COURT: YOU CAN DEPEND ON THAT.

9 MR. MAULDIN: I JUST DON'T WANT TO WAIVE SOMETHING  
10 FOR THIS MAN IN A CAPITAL TRIAL BY SOMETHING I SAY IN  
11 OPENING. THEN SOME APPELLATE COURT SAYS, WAIT A MINUTE,  
12 HE CAN'T NOW OBJECT BECAUSE HE SAID SOMETHING IN OPENING  
13 ABOUT IT. YOU SEE THE DILEMMA I'M IN?

14 THE COURT: THE ONLY THING I KNOW I HAVEN'T RULED ON  
15 IS THE PICTURES AT THIS POINT IN TIME.

16 MR. MAULDIN: THERE IS ONE OTHER THING, RELIABILITY.

17 THE COURT: WHAT'S THAT?

18 MR. MAULDIN: THERE IS ONE OTHER MATTER, WE SUBMITTED  
19 A MOTION REGARDING THE USE OF THE AUDIO, THE RELIABILITY  
20 OF THE AUDIOTAPES THAT WERE TRANSCRIBED IN THE CRAWFORD  
21 INTERVIEW, THERE WERE GAPS AND SO FORTH. THAT WAS PASSED  
22 UP TO YOU I GUESS LAST MONDAY. THAT HAS NOT BEEN RULED  
23 ON, OF COURSE, IT'S NOT TIMELY YET.

24 THE COURT: SO, THOSE ARE THE ONLY TWO THINGS THAT  
25 HAVEN'T BEEN RULED ON YOU KNOW OF? SO SOME PHOTOGRAPHS

1 YOU JUST HANDED UP AND THE RELIABILITY OF THE TAPE BECAUSE  
2 OF THE INAUDIBLE PORTIONS OF THE TAPE?

3 MR. MAULDIN: RIGHT.

4 THE COURT: TO ANSWER YOUR QUESTION, YES. I PLAN ON  
5 NOT CHANGING HAD ABOUT IN LIMINE RESTITUTION OF THOSE  
6 RULINGS.

7 MR. MAULDIN: THANK YOU, JUDGE.

8 THE COURT: ANYTHING ELSE?

9 MR. ARIAIL: I WANT TO MAKE ONE POINT WITH REGARD TO  
10 THAT. THE STATE MAY OR MAY NOT USE WHATEVER EVIDENCE YOU  
11 RULE ADMISSIBLE.

12 THE COURT: I UNDERSTAND.

13 MR. ARIAIL: OKAY. I WANT TO MAKE SURE HE  
14 UNDERSTANDS THAT. WE -- IF HE SAYS SOMETHING WE DON'T  
15 USE, THAT'S HIS PREROGATIVE.

16 THE COURT: YOU MAY NOT EVEN USE PAM CRAWFORD.

17 MR. ARIAIL: THAT'S RIGHT.

18 THE COURT: THAT'S UP TO YOU, MR. MAULDIN.

19 MR. MAULDIN: AND I HAVE NO CRYSTAL BALL.

20 THE COURT: ALL RIGHT. WOULD YOU BRING US THE JURY,  
21 PLEASE. MR. MAULDIN, ON A SEPARATE SUBJECT, THE SOLICITOR  
22 HAS GIVEN ME THREE PAGES OF EXHIBITS THAT HAVE BEEN  
23 MARKED. HAVE YOU AGREED TO ADMISSIBILITY TO HAD ABOUT IN  
24 LIMINE RESTITUTION OF THESE.

25 MR. MAULDIN: NO.

1 THE COURT: ARE YOU GOING TO --

2 MR. MAULDIN: THEY GAVE ME A COPY OF THAT LIST AT MY  
3 REQUEST. I DO APPRECIATE THAT, THEY DIDN'T HAVE TO. JUST  
4 FOR MANAGEMENT OF OUR TRIAL PURPOSE. I DON'T KNOW ABOUT  
5 THE ADMISSIBILITY OF IT. WE'VE ENTERED SOME STIPULATIONS  
6 THAT WILL GO IN; BUT IN TERMS OF ADMISSIBILITY, I BELIEVE  
7 IT'S GOING TO BE UP TO THE GOVERNMENT TO ESTABLISH.

8 MR. ARIAIL: WHAT OUR PLAN IS WE'VE SHOWN HIM THE  
9 EVIDENCE WE INTEND TO DO, PHOTOGRAPHS, HE'S LOOKED AT THE  
10 STUFF, BUT WE HAVEN'T ASKED FOR HIM TO CONSENT TO  
11 ADMISSIBILITY. WE'LL SHOW EACH ONE OF THE DOCUMENTS, OR  
12 ITEMS WE PUT IN. HE CAN ENTER OBJECTION. I DON'T THINK  
13 WE'RE GOING TO HAVE A PROBLEM THERE, BUT JUST FOR PURPOSES  
14 OF THE RECORD.

15 MR. MAULDIN: THE ONLY THING I ASK, AS IN EVERY CASE,  
16 I WOULD WANT TO HAVE IT SHOWN TO ME BEFORE IT IS SHOWN  
17 OUTWARDLY TO THE JURY.

18 THE COURT: OKAY. THAT'S FINE. AND LET ME ADMONISH  
19 ALL THE PARTIES AGAIN, WHEN YOU MAKE AN OBJECTION, TELL ME  
20 YOUR LEGAL BASIS FOR YOUR OBJECTION. I DON'T WANT ANY  
21 CLOSING ARGUMENT ON THE FACTUAL BASIS. IF YOU WANT TO GET  
22 INTO THE FACTS, EITHER COME UP HERE OR LET'S SEND THE JURY  
23 OUT. DOES EVERYBODY UNDERSTAND?

24 MR. MAULDIN: YES, SIR.

25 MR. ARIAIL: YES, SIR.

1 THE COURT: AND I DON'T WANT LAWYERS INTERRUPTING  
2 EACH OTHER. I'LL BE GLAD TO HEAR ANYTHING YOU WANT TO  
3 SAY, BUT DON'T INTERRUPT THE OTHER LAWYER. THOSE TWO  
4 GUIDELINES RUN THROUGHOUT THE TRIAL. OKAY?

5 MR. ARIAIL: YES, SIR.

6 THE COURT: ALL RIGHT. BRING US THE JURY.

7 (WHEREUPON, THE JURY ENTERS AND THE CLERK OF COURT  
8 ADMINISTERS THE OATH TO THE JURY, AFTER WHICH THE  
9 FOLLOWING PROCEEDINGS ARE HAD WITHIN THEIR PRESENCE:)

10 LADIES AND GENTLEMEN OF THE JURY, I'M GOING TO GIVE  
11 YOU A BRIEF OVERVIEW OF THE TRIAL. I'M NOT GOING INTO ANY  
12 EVIDENCE OR NOT GOING INTO ANY FACTS. EACH AND EVERY ONE  
13 OF YOU WENT THROUGH VOIR DIRE. I EXPLAINED TO YOU THE  
14 TWO-PHASE PORTION OF THIS TRIAL IF IT'S NECESSARY.

15 THE ATTORNEYS WILL MAKE OPENING STATEMENT. IN THE  
16 OPENING STATEMENT THEY WILL TELL YOU BASICALLY THE FACTS  
17 THEY PLAN ON PROVING OR WHATEVER THEY WANT TO TELL YOU IN  
18 OPENING STATEMENTS.

19 AFTER THE OPENING STATEMENTS, THE STATE WILL START  
20 CALLING WITNESSES. THE STATE WILL HAVE THAT WITNESS ON  
21 WHAT WE REFER TO AS DIRECT EXAMINATION. AFTER EACH  
22 WITNESS HAS FINISHED TESTIFYING, THE DEFENSE ATTORNEY WILL  
23 HAVE THAT WITNESS ON CROSS EXAMINATION. THE DIFFERENCE  
24 BETWEEN DIRECT EXAMINATION AND CROSS EXAMINATION IS ON  
25 DIRECT EXAMINATION YOU CANNOT ASK A LEADING QUESTION. .A