STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Horry County
The Honorable Benjamin H. Culbertson, Circuit Court Judge

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S.C. Supreme Court

Court of Common Pleas Case No. 2011-CP-26-3907
(Capital PCR Action)
Appellate Case No. 2014-000904

LOUIS MICHAEL WINKLER, JR.,

Respondent/Petitioner,

vs.

STATE OF SOUTH CAROLINA,

Petitioner/Respondent.

APPENDIX

EMILY C. PAAVOLA, ESQ.
Death Penalty Resource & Defense Center
900 Elmwood Avenue, Suite #101
Columbia, South Carolina 29201

JOHN R. MILLS, ESQ.
The Law Offices of John R. Mills
3145 Geary Blvd, Unit #213
San Francisco, California 94118

ATTORNEYS FOR
RESPONDENT/PETITIONER

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

DONALD J. ZELENKA
Senior Assistant Deputy Attorney General
No. 4425

J. ANTHONY MABRY
Assistant Attorney General

ALPHONSO SIMON, JR.
Assistant Attorney General

Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-6305

ATTORNEYS FOR
PETITIONER/RESPONDENT

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STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM HORRY COUNTY

James E. Lockemy, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

LOUIS MICHAEL WINKLER, JR.,

APPELLANT

RECORD ON APPEAL

ROBERT M. DUDEK
Chief Appellate Defender

ELIZABETH A. FRANKLIN-BEST
Appellate Defender

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

Attorneys for Appellant

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HENRY DARGAN MCMASTER
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

DONALD J. ZELENKA
Assistant Deputy Attorney General

ALPHONSO SIMON, JR.
Assistant Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211

J. GREGORY HEMBREE
Solicitor, Fifteenth Judicial Circuit
Post Office Box 1276
1301 2nd Ave.
Conway, SC 29528-1276
(843) 915-5460

Attorneys for Respondent

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STATE OF SOUTH CAROLINA)
) IN THE COURT OF GENERAL SESSIONS
COUNTY OF HORRY) FIFTEENTH JUDICIAL CIRCUIT
2006-GS-26-2101

THE STATE OF SOUTH CAROLINA,

PLAINTIFF,

VS.

LOUIS MICHAEL WINKLER, JR.,

DEFENDANT.

ORIGINAL

TRANSCRIPT OF RECORD

JANUARY 28, 29, 30, 31, 2008
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CONWAY, SOUTH CAROLINA

B E F O R E:

THE HONORABLE JAMES E. LOCKEMY, JUDGE, AND A JURY

A P P E A R A N C E S:

J. GREGORY HEMBREE, ESQUIRE, SOLICITOR
FRANCIS A. HUMPHRIES, JR., ESQUIRE, ASSISTANT SOLICITOR
SCOTT R. HIXSON, ESQUIRE, ASSISTANT SOLICITOR
ATTORNEYS FOR THE STATE

RALPH J. WILSON, ESQUIRE
PAUL ELBERT RATHBUN, ESQUIRE
ATTORNEYS FOR THE DEFENDANT

ELIZABETH B. HARRIS, CVR
CIRCUIT COURT REPORTER

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MONDAY, JANUARY 28, 2008

THE COURT: I just wanted to have a short meeting before we get going. As to the one juror -- oh, let's wait for the defendant.

(A PAUSE.)

THE COURT: All right, let's, what I want to do is let's go over jurors, if we have any questions about the jurors. We had, we had at the last hearing where we all were present, we had 142 I think it was the sheriff was going to try to find. We went over on a conference call and everybody present on Thursday the records of those, and I think we only had how many left, Ms. Huggins?

CLERK OF COURT: We had five.

THE COURT: We had one person who had the hearing problem. What else?

CLERK OF COURT: Right, and then we had six and now we have that one.

THE COURT: Tell me about those six.

CLERK OF COURT: Okay, the one is the lady that is unable to ---

THE COURT: I got the deaf person here.

CLERK OF COURT: Number 216, Michael Hernandez has a doctor's excuse that he needs surgery. He went to the doctor on Friday. We spoke to the doctor's office, and they have sent him back for the surgery today.

THE COURT: Any objection on 216?

MR. WILSON: No. No objection.

THE COURT: State?

MR. HEMBREE: None from the state, Your Honor.

THE COURT: He's excused. Transferred until he's physically able.

CLERK OF COURT: And this is a reminder on juror 339 that was out of town, would not be in until Tuesday, and you asked that I put him in a pool that does not have to appear until Tuesday, and number 339.

THE COURT: Does anyone have an objection? Basically we're going to be qualifying the jury today. I didn't say put him in a pool. What I said is basically put him in the standard jury pool and if he is -- no matter what number he's selected in, basically we'll just have to interview him tomorrow.

CLERK OF COURT: Right.

THE COURT: And then he'll go in that place. I don't want him in any other type of order. He'll be in the regular order because if he's selected, like, in the first pool, then we'll interview him and he would go in that place and be, be where he was, all right?

CLERK OF COURT: Yes, sir.

THE COURT: Everyone agree to that? State?

MR. WILSON: That was my understanding, Your Honor.

MR. HEMBREE: Yes, Your Honor.

THE COURT: In other words, he would be just like a regular juror.

CLERK OF COURT: Yes, sir.

THE COURT: So, don't treat him any different.

CLERK OF COURT: Yes, sir. Then 367, Mr. Prince, was notified this morning that his brother had died.

THE COURT: All right, and this was 142, or was this one we already had served?

CLERK OF COURT: This is one we already had served.

THE COURT: All right.

CLERK OF COURT: There was five of those.

THE COURT: All right. So, juror 367, his brother passed away. He requested a continuance of his jury service, transfer. Any objection from the state?

MR. HEMBREE: No objection from the state, Your Honor.

THE COURT: Defense?

MR. WILSON: No objection.

THE COURT: All right, transferred.

CLERK OF COURT: Number 483.

THE COURT: Oh, I don't have 483.

CLERK OF COURT: It's in that stack.

THE COURT: I got it. We skipped 476. I've got 476. Sheriff Thompson signed an affidavit. Unable to locate -- Lester ---

CLERK OF COURT: Oh, I'm sorry. It's out of order. Yes, this was a person that we don't really know how to deal with. The deputy left them a card in their box with the paperwork with a note asking them to sign it. The next day the deputy went back. The paperwork was gone, as well as the card, but we still have not been contacted.

THE COURT: The sheriffs made a diligent effort, it sounds to me, to get Mr. Watts and have not been able to get Mr. Watts. Any objection from the state?

MR. HEMBREE: None from the state, Your Honor.

THE COURT: Defense?

MR. WILSON: Well, Judge I mean.

THE COURT: Now, Mr. Wilson, we got at some point in time, call him if he -- I know that we want to get the guy, and I don't want the guy running away, if he is. He may or may not be, but we can't hold the entire trial up to try and find the guy. I don't mind bringing him in later on to find out he was hiding, but I don't want to hold trial up. That's my concern.

MR. WILSON: I understand, and I'm not trying to hold the trial up, and I understand and I agree with what you're saying except that as far as the defendant's concerned, Judge, he apparently is getting the information or at least ---

THE COURT: Or someone.

MR. WILSON: --- it appears, right, or it appears that he may be getting it, and for him not to just show up or not to respond in any way, you know, I can't say that I could agree to excuse him.

THE COURT: Well, what would you like the court to do, Mr. Wilson?

Sheriff, before you leave, Sheriff.

MR. WILSON: I understand he's doing everything he can to find him. I just...

THE COURT: All right, one second. Sheriff, do you know anything in particular -- Sheriff's in the courtroom. If you would, Sheriff, do you know particularly what's going on with Lester Watts yourself or do you ---

SHERIFF: I did not personally, no, but I can find out.

THE COURT: All right, if you would find out what's going on and if, in fact, you can have someone to get him up here before actually the jury, y'all make all efforts this morning to get him here. And if he's actually here before I start dividing in panels, we'll put him -- and he qualifies otherwise, I'll put him on. If not, I'm not going to put him on, but see what y'all can do this morning.

Mr. Wilson, we'll do all we can this morning to get him here but once the jury is qualified and I start put,

start putting them in panels, I really hesitate to bring someone in like that and we don't even know and continue to search for.

MR. WILSON: All right, sir.

THE COURT: Any objection to that?

MR. WILSON: Well, I mean, Judge the only thing I can say is is that, you know, we obviously would like for him to be found and brought here. I understand if the sheriff can't locate him, then he can't locate him. I mean, I...

THE COURT: All right, do your best, Sheriff. Just give me a, give me an update on him.

All right, now 483.

CLERK OF COURT: 483 we have a doctor's excuse that she is a patient in the psychiatric clinic, and this is from the Horry County ---

THE COURT: Any objection on 483?

MR. HEMBREE: No objection from the state, Your Honor.

MR. WILSON: No objections, Your Honor.

THE COURT: All right.

CLERK OF COURT: I have one more that I do not have any paperwork. It was number 290, James Mark, because he's downstairs in my office completing the paperwork at this moment.

THE COURT: So, he's reported?

CLERK OF COURT: Yes, sir.

THE COURT: All right, so 290 will be here. That leaves the only ones of review would be jurors 211 and juror 476, which we'll look at later on, and then juror 339. Now, does 339 know about tomorrow to be here?

CLERK OF COURT: Yes, sir.

THE COURT: All right.

CLERK OF COURT: He has been approved to be here.

THE COURT: All right, now anything else from the state before we go and begin the jury qualification?

MR. HEMBREE: Nothing from the state, Your Honor.

THE COURT: All right.

MR. WILSON: Nothing additionally on the qualifications.

THE COURT: All right, anything else? Mr. Wilson, anything before we begin? Anything at all from anybody? I'm ready to adjourn to take a break a few minutes to go down and start to call the roll of the jurors.

MR. WILSON: I don't have anything in regard to the jury if that's what -- you're asking me that.

THE COURT: Anything else, anything?

MR. WILSON: Yes, sir, but I, in order to do what I need to do, I can't do it with the prosecution here. So, I ---

THE COURT: How about approach the bench and tell me what you got.

(OFF-THE-RECORD BENCH CONFERENCE WITH DEFENSE COUNSEL.)

THE COURT: Mr. Hembree, Mr. Humphries, Humphries and other members of a prosecutor, prosecutorial team and law enforcement, I will see you down there.

(SOLICITOR AND STAFF EXIT THE COURTROOM.)

(*EX PARTE HEARING.*)

THE COURT: All right, now officers stand up. Raise your right hand.

(WHEREUPON, SHERIFF AND DEPUTY SHERIFFS ARE SWORN TO DIVULGE NO INFORMATION FROM *EX PARTE* HEARING.)

THE COURT: All right, Mr. Wilson, yes, sir.

MR. WILSON: Your Honor, please the court? On Thursday when we had the telephone conference with the court, the defendant at that time started to give the court some information about an incident that occurred out at the jail between myself and him, and he also had indicated to me that he wanted both myself and Paul Rathbun relieved from this case as his attorneys. And the court I think made an initial inquiry into it, and he did put some things on the record. The court indicated to him that he would be allowed on Monday to complete whatever information he wanted to put in the record, and I would ask the court to give him the opportunity to do that at this time.

THE COURT: All right, Mr. Winkler, stand up for me,

sir. I want to commend you, sir. Whoever selected your outfit did a good job. But if you want to go over something that we haven't discussed before, I'll be glad to.

Now, we discussed on the record. It's on the record; there's a record of it. As I recall, the court reporter's name is Pam Green as I recall, wasn't it? So, we have it on the record, the things we discussed on Thursday regarding the disagreement you and Mr. Wilson had at the county detention facility, and your concern about you felt that Mr. Wilson said that he -- you said he said he thought you would be found guilty.

I discussed that with you, that his expressing an opinion is really a duty he has a lawyer to give you an opinion. I've also seen many cases where that opinion has ended up coming true, and that opinion has ended up not coming true. Who knows once the actual trial begins. So, the fact he may look at the evidence and give an opinion is only his efforts to give you his best opinion as an attorney. I haven't heard anything about what you said Mr. Rathbun said one way or the other, but what are the things you want to address, Mr. Winkler?

DEFENDANT: Well, that day you had said any, anything that could be taken care of could be taken care of after the trial.

THE COURT: What now?

DEFENDANT: You remember? You, you had told me anything that proceed -- anything that has to do with that incident as far as me pressing ---

THE COURT: Oh, oh, as far as pressing charges.

DEFENDANT: Or anything like that could be taken care of after the trial.

THE COURT: I'm not guaranteeing you can press charges. What I'm saying is ---

DEFENDANT: No, I meant ---

THE COURT: --- your going through with this trial will not prejudice your rights to seek any type of criminal process in the matter later on.

DEFENDANT: Okay. Well, direct, direct of that, they put me in maximum lockup because of that. But here I can't press charges, yet they're going to put me in maximum lockup because of that incident. I've been told that by a couple of the jailers there. They said that Captain Grey put me in maximum because of that incident.

THE COURT: Well, that's an administrative matter.

DEFENDANT: And the incident, the incident, I, I know there's tape. They have tapes of it. And like Mr. Wilson had said, and I surely want Mr. Wilson and I to go through and have a fair trial. But eight months ago I asked to relieve this man and I was turned down and now this

happens.

He got in my face and put his finger in my face and touched my face, Your Honor. That is a confrontation any way you look at it, and they put me in maximum lockup because of it. And, I mean, and then you're telling me that I can't press charges.

THE COURT: No, I didn't tell you can't press charges, sir.

DEFENDANT: Well, the charges are pending and so forth. I mean, the whole thing has been -- I mean, they have told me -- the whole thing about it is is I, I gave my, gave my sister's pictures to Mr. Wilson and I said you see the woman in there? It was her husband and four children. They run a church where -- in my hometown. I said that's the woman that you called a liar. I said now call her a liar again, and he stepped forward, put his finger in my face and said she's
a f-ing liar, and that is exactly what happened, Your Honor, and ---

THE COURT: Well, I mean, I don't particularly know---

DEFENDANT: To get a fair trial ---

THE COURT: Mr. Winkler, I don't condone that type of language, and I'm sorry that there was an altercation in that regard, but I don't find that significant enough to remove Mr. Wilson and appoint a new attorney. I don't see

where that would be in that realm.

DEFENDANT: Well, I mean, how can I get a fair trial with guys that are against me? I mean, they've actually---

THE COURT: When you say against you, sir, they're against you in what regard, sir? You don't think Mr. Wilson is going to do his best to get you acquitted, sir?

DEFENDANT: No, I don't.

THE COURT: Mr. Wilson, what is your response to that, sir?

MR. WILSON: Judge, I have done everything that I know to do to represent this defendant in the best fashion that I know how to do. There's no question about the fact that this defendant is antagonistic. He has been antagonistic from day one. It is been a real uphill battle to defend him and work with him and in spite of that, in spite of that, we have made every effort to protect every right. We have hired every expert we can think of to hire. We have tried to talk to every witness that we could possibly find.

We are more than prepared to go forward with this trial today in spite of his efforts to thwart that from happening. And I would say to this court without any reservation whatsoever I am as prepared and as ready to go with this trial as I've ever been with any trial that I have ever tried.

And the fact that his personality is such that it gets

on my last nerve does not affect me and my ability to represent him in the fashion that I believe he's entitled to and every defendant is entitled to. And I will do that, and I have given my word to this court that I will do that, and I've done that throughout this process.

THE COURT: And, Mr. Rathbun, are you ready, sir?

MR. RATHBUN: I'm ready to go forward, yes, Your Honor.

THE COURT: Now, Mr. Winkler, is your request that I remove these attorneys and get you new attorneys? Is that your request?

DEFENDANT: Well, I don't know. I'd have to talk to my family. There's, there's been other concerns also that I've asked Mr. Wilson to step forward to let you know, Your Honor, according to things pertaining to the courthouse -- I mean, the jail house.

THE COURT: All right. Well, about the trial, sir, is there some evident -- is there some evidentiary, some issues of your defense that are able to be put forth in a trial that you feel Mr. Wilson has not examined and you want some witness that he's not been able to acquire that you ---

DEFENDANT: Yes, there's ---

THE COURT: --- want the court to give you assistance?

DEFENDANT: There's several. There's one particular

witness that we've been able to -- un, un -- to locate.

THE COURT: All right, I want all but the sheriff and one deputy. The rest of y'all go outside, please. Clerk, you can stay in. What about these witnesses, Mr. Wilson? Who are they?

MR. WILSON: Judge, the witness that I assume ---

THE COURT: These two people here.

MR. WILSON: Oh, this is my jury expert and this is my paralegal.

THE COURT: How about y'all stepping out for a second? I just want one deputy and the sheriff.

(NOTED PARTIES EXIT THE COURTROOM.)

THE COURT: Officer, there is a deputy right outside the door, right?

All right, what witness are we talking?

MR. WILSON: I assume he's talking about Jeff Joslin. I'm not certain, but I assume that's who he's talking about. Jeff Joslin, Your Honor, is a witness that actually is a state's witness. I'm not sure why we want him. But this is the witness who says that he gave Mr. Winkler a ride from the playground or this ballpark area to an area near the victim's house on the day of the homicide, and the person is missing. Now, the investigators have made every effort -- whether the state has him or not, I do not know, but we have made an exhaustive effort to find him.

We've talked to his family. His family says they haven't seen him in over a year and a half; they don't know where he is. He's not living at the address that he lived at at the time the incident occurred. This man is somewhat of a, I don't want to call him a vagrant, but he is kind of back and forth, and he's just kind of out there. We don't know where he is; we cannot find him and I'm not even sure that if we found him, he would be of any help to us whatsoever. But he has asked us about finding ---

THE COURT: Is this a person, Mr. Winkler, you think lives in Horry County?

DEFENDANT: He did at the time. He was living with someone, my neighbor, at the time.

THE COURT: All right, do you know of any efforts they could do? I'll be glad -- I'm going to have the sheriff now if you want me to ---

DEFENDANT: No, sir. I believe that they have. I, I, I, I just answered the question, but he answered it for me that, you know, if there's any point pertaining ---

THE COURT: That they have not done their best efforts to find for you, that you feel have been inadequate assistance from your lawyers.

DEFENDANT: Well, Your Honor, I don't know. I'm in lockup. I don't know what they're doing on the outside; I have no idea what they're doing.

THE COURT: So, that's one ---

DEFENDANT: Or if they've exhausted themselves by me.

MR. WILSON: Judge, in order to be fair ---

DEFENDANT: I don't know; I just don't know that.

MR. WILSON: I have, we have met with this defendant repeatedly and spoken to him about this particular witness. I've had the trial phase investigator who made the search and the sentencing ---

THE COURT: I know. That witness I can understand, but what I'm going to do is I'm going to give my list -- if you would, give the name to the sheriff, see if they can help you find him. If they can, they can. If they can't, they can't. I'm also going to ask the prosecution if they have that name if you don't mind.

MR. WILSON: No, sir.

THE COURT: You want me to?

MR. WILSON: That's up to him. I don't want the witness. I don't think that this witness will bring anything that's helpful to us to the table. But he has asked me about this witness repeatedly, and if he wants him there, then I'm going to try my best to get him there. But I think it can do more harm than good ---

THE COURT: Then I'm not going to ask the prosecution. However, I'm going to ask the sheriff without letting

prosecution know to go out and see if they can find this guy.

Ms. Huggins, if you would, prepare me a subpoena and let's get it to the sheriff, and let's see if we can get this guy, all right? If we can, we can and y'all can use him if you want to. You don't have to use him, but if they can find him. They may not be able to find him either.

All right, anything else, Mr. Winkler, that we haven't discussed already?

DEFENDANT: Yes, Your Honor. There -- it's been almost two years now. As far as I know, no one's ever visited the crime scene to measure out the couches, the distances. There's a counter top that's very much in judge -- in the judgment of where what was and this happened and that happened. Nobody has ever been in, inside that unit to investigate that except Horry County investigators.

THE COURT: I don't want you to give too much ---

DEFENDANT: Looks like ---

THE COURT: Mr. Wilson, I don't want you to give me too much about this, but ---

MR. WILSON: Judge, the unit, we have been out to the site. We have not been inside the unit because the unit is no longer available to us to go to it. The unit belongs to the daughter of the victim and not to this defendant.

THE COURT: Was there something in there you feel

would be ---

MR. WILSON: No, sir.

THE COURT: --- significant?

MR. WILSON: Judge, we have pictures. The police have provided us with just dozens and dozens of photographs of the interior of the premises. I don't know that there is anything in there that's going to change anything. We've also, just so you know, hired a crime scene investigator. He has not requested that he be -- that he needs to get in there in order to do what he needs to do.

So, no, the answer to the question is no. Do I believe that we need to go inside of the house in order to see the house? No. With the pictures and with the information that we have, I think it's more than sufficient. I've certainly not had any difficulty, and the crime scene investigator that we hired has not have a difficulty.

THE COURT: Mr. Winkler, I'll let you know this. At the end of the state's case, if there's something there that if y'all were able to look at it yourself, then I would probably give you, your investigator the opportunity. But I'll wait to see how the state's case develops, see whether that's significant.

But any event, I don't want to go point by point with your case, sir, because that's not good for you. It sounds

to me that far as all the efforts that can be made are being made, and for that reason if your request is to remove them, then I see no reason that any other lawyer could do any better than they're doing, any other lawyers. They seem to be doing a pretty thorough job in your case.

DEFENDANT: Well, getting back to that, then there's only one picture of a major piece of evidence in there, and there's no other angle of it. We don't know the distance of it at all, and they haven't looked into it. I know the crime scene investigator has been hired, but he doesn't know the length of that, that bar either. Well, I mean, it's just -- well, if -- you know, I, I trust your judgment, then, Your Honor, because my ---

THE COURT: I'm not giving you my advice, sir. I'm just saying these attorneys seem to have done as good a job as anyone else.

Now, issues you bring up may become issues at the end of the state's case, and Mr. Wilson may want to bring to my attention regarding some matters they need to look at, but we'll wait.

DEFENDANT: Well, right, Your Honor, but ---

THE COURT: We'll get into that at the end of the state's case.

DEFENDANT: Right. If he could -- if he says he's been doing the bust up job he can, the best he can and he

told me straight out many times, and recently -- and my family will be here tomorrow. He's told them over the phone that, you know, I'm going to be convicted.

THE COURT: Well, I mean, once again, sir, you don't want someone -- if that's his opinion, that's his opinion. Whether it is or is not, I don't want to get into, but whether that's -- you want an attorney to give you advice and opinion. That doesn't mean they're not going to represent you and do their best to make sure you don't get convicted. But you can't chastise an attorney for giving you an honest opinion.

Any event, we're going to proceed then. There's been no request for you to represent yourself. You're requesting another attorney. Since that's the case, I do not grant your motion. Now, you always have that option to represent yourself, which would be very inadvisable for this stage, but we will continue on with the case. Thank y'all very much.

Sheriff, I need to talk with you up here. You can bring the officers back in.

(OFF THE RECORD.)

THE COURT: Mr. Winkler, also want to let you know that we're about to go down to the room with all the jurors. I do not want and am going to direct the sheriff do everything so that the jurors themselves do not in any

way see you in any type of restraints. So, please let's not get in any problems that's going to require me to change that rule, which I can if I need to.

In addition, just to let you know, during the jury selection process, I'm not going to let any cameras be operating in the courtroom. However, during a break or something of that nature, if a camera wants to go off, they can go off during the break. But while the jurors are in that courtroom, there will be no cameras going off either during the selection process. Once the trial begins, that will change. Well, unless we're on a break and there are no jurors in the courtroom.

All right, thank y'all very much and, Sheriff, I can see you. I'll see y'all down in the other room.

(*END OF EX PARTE HEARING.*)

(OFF THE RECORD.)

THE COURT: Thank you, everyone. Please be seated. Ladies and gentlemen, I hope we have a -- I am aware there is a major parking problem in Horry County. Some jurors may still be coming in.

My name is James Lockemy. I'm a circuit court judge in the State of South Carolina. In South Carolina, we as judges, we travel all over the state to hold court. I am from Dillon County, South Carolina. Straight up 501 until you get to Marion, turn off to 301 and go right down Main

Street of Dillon, four lane all the way unless you want through the crossroads and go down through Mullins. You have all these choices, all these roads that lead to that major metropolitan area of Dillon, South Carolina. Some of you are not from Horry County originally, which I'm going to guess are a lot of you, came through Dillon to get here. You may have stopped got a sandwich, and we appreciate the business.

We're about to qualify you as a jury. Now, y'all got your notices and all to be here, and I know some of you have questions and all that; we can answer that later on. But right now what we need to do is do some general nature things to get those things done. First of all, we're going to call the roll to see how many of you are here that we thought should be here, to see if we need to go and find somebody who's not here that's supposed to be here.

After we call the roll -- and by the way, when they call the roll, all you need to do is give us the number of miles you live from this courthouse. Give us your best estimate. It ain't like you're going to get a dollar a mile, so don't worry about that. If you miss it by two or three miles, do it to your favor. So, give us your best estimate of the miles from the courthouse.

After that, I'll then have the clerk put you under oath, and there are some questions I need to ask you

generally to make sure you qualify under our constitution and our laws as jurors for the State of South Carolina in the Circuit Court of South Carolina, which is a state court. So, we will now proceed with that.

Ms. Huggins, are you ready?

CLERK OF COURT: Yes, sir.

THE COURT: And if you would, please, when she calls your name out, stand up, stand up and loudly give us those mileage, that mileage information so everyone, everyone can hear, okay?

All right, let's go, Ms. Huggins.

(ROLL CALL.)

THE COURT: Do we have someone from the sheriff's department here? Sir, if you would, that's eight people. On number 492, that person is over the statutory age, but all we're going to do is call that person, see if they wish to serve. If they wish to serve, come on, they need to come on up, okay? That's number 492.

The other ones, I need a reason why they were not here. They returned the documents they were going to be here. That's seven I need to know exactly where they are and why they're not here, and we'll get to them as we go.

For counselors who are interested, number 211 we'll talk to him individually later on. Is the mother of 211 here? How many miles did y'all come?

JUROR: About five.

CLERK OF COURT: Five.

(A PAUSE.)

THE COURT: Okay, all counselors have the number of jurors that are checked that were here, the numbers that we are looking for, and 211, 339, please note those. Do not have any concerns right now. The only concerns I have are on those eight jurors I mentioned that we're looking for. So, if you have any other numbers, at the first break y'all need to let me know.

Now, if you would, ladies and gentlemen of the jury, of this jury panel here, this petit jury, what I'm going to have you do is the clerk is going to put you under oath or affirmation. It doesn't matter to me if you feel you'll rather -- to affirm, that's fine. I just need to make sure you understand that you have a legal duty to tell the truth, and I have a few questions to ask of you. So, if you would, Madame Clerk, ask them to stand and raise their hand and administer their oath or affirmation.

(THE JURY PANEL IS SWORN.)

THE COURT: All right, so everyone then knows they have a legal duty at this time to tell the truth. Everyone be seated now.

I didn't know if you were standing up there or not, blue man, blue shirt. You all right?

All right, here we go. First of all as I told you, I travel around. For you to serve on jury duty, though, you must be a resident of the county for which you are called as a juror. Is anyone out there now not now today living in Horry County? If you don't live in Horry County, please stand up. What is your name, sir? What's you number, sir?

JUROR: 300, Your Honor.

THE COURT: Hold on one second. All right, you're, is it Mr. Moscow?

JUROR: Mascho.

THE COURT: Mr. Mascho, you don't live in Horry County, sir?

JUROR: I have a house here, but I'm currently working in Georgia.

THE COURT: But you actually live here, but you're just doing a job in Georgia?

JUROR: I have a house here.

THE COURT: Where is your driver's license, sir?

JUROR: It's for, for here, Your Honor.

THE COURT: Thank you. Anyone else? All right, anyone not a citizen of the Unites States of America, please stand up.

All right, is anyone on the jury panel who is a clerk of court, deputy clerk of court, magistrate, constable, or someone who has the general power of arrest? That means

you might be a law enforcement officer or if you're a constable or work within the walls of a courthouse or a magistrate or county council person, please stand up.

Yes, ma'am, what is your number, ma'am?

JUROR: 277.

THE COURT: Let me find that, please. All right, you're Kay Lilly?

JUROR: Yes, sir.

THE COURT: And, Ms. Lilly, why did you stand up, ma'am?

JUROR: I'm an assistant clerk with the Conway Municipal Court.

THE COURT: You're the clerk of the Common -- Conway Municipal Court. So, you work in the courthouse there at that court?

JUROR: Yes, sir.

THE COURT: All right, hold on one second, ma'am. Now, you work in the area of the court where they have tickets and things of that nature for people who have charges and all that?

JUROR: Yes, sir.

THE COURT: All right, have a seat. I'll deal with you in a little bit. Thank you, ma'am. Anyone else?

Okay, is there anyone out there who has been on circuit court jury duty for the three years, circuit court

jury duty for the last three years? Not magistrate, not city, not federal, but inside South Carolina have you been on circuit court for in the last three years? If so, please stand up.

(NO ONE STANDS.)

THE COURT: All right, has anyone been on the grand jury in the last five years? If so, please stand up. I could explain the grand jury to you but if you've been on it, you understand what the grand jury is. Grand jury in the last five years?

(NO ONE STANDS.)

THE COURT: Okay. The law says you need to have at least one of these three. If you have one of the three, you're fine. Either driver's license, voter registration certificate, or an ID card from the Highway Department, if you don't have at least one of those three, please stand up.

What is your name, sir? Give me your number, sir.

JUROR: 234.

THE COURT: 34?

JUROR: 234.

THE COURT: Hold on one minute, sir.

JUROR: I have a driver's license in my pickup, but I don't have it on me.

THE COURT: Oh, I'll trust you. That's fine. About

to walk four miles to pickup to get it, but we'll trust you. Anyone else?

THE COURT: All right, the law says that if you have children under the age of seven and you are not employed outside the home and these are your children, not the children or someone else in your family, not children you're taking care of for someone else, but they're your children or that you've been ordered by the court to take care of the children, if these children are under seven and you are not working outside the home, then you have an option of being excused or staying here with jury duty. Does that apply to anyone? Children under the age of seven, you're not employed outside the home, and you wish to be excused from jury duty?

Okay, first the lady, your number again, ma'am?

JUROR: Number 6.

THE COURT: Number 6, okay, you are Angela Atwood?

JUROR: Yes, sir.

THE COURT: Now, Ms. Atwood, you're not employed outside home, ma'am?

JUROR: No, sir.

THE COURT: And you have children under seven?

JUROR: Yes, sir.

THE COURT: All right, and we had had that you had already signed a statement in that regard, ma'am. Had you?

JUROR: I had called three times, and they told me that I'd still have to come.

THE COURT: Okay. All right. All right, Ms. Atwood, how old are your children?

JUROR: A four-year-old and a nine-month-old.

THE COURT: All right, and you realize you're under oath?

JUROR: Yes, sir.

THE COURT: All right, be seated for a second, ma'am. Your name again, ma'am?

JUROR: Tracy Neal.

THE COURT: What's your number? I'm sorry.

JUROR: 335.

THE COURT: 335, let me find that. Tracy Neal. Now, Ms. Neal, did you send some notification in you had children under seven?

JUROR: Yes, sir. They told me I'd still have to come.

THE COURT: All right. Now, Ms. Neal, how old are your children?

JUROR: She's three.

THE COURT: Three years old, and are you working outside the home, ma'am?

JUROR: No, sir.

THE COURT: You don't work anywhere outside the home?

All right, Ms. Neal is 335, and you realize you're under oath?

JUROR: Yes, sir.

THE COURT: Thank you, ma'am. You may be seated.

All right, your name, ma'am? Your number, I'm sorry.

JUROR: 382, Ashley Rivera.

THE COURT: All right, Ms. Rivera, and how old are your children ma'am?

JUROR: Five, seven, eight, and nine, and I can't ---

THE COURT: What happened to six?

JUROR: I took a year.

THE COURT: All right, ma'am, you have one child under seven?

JUROR: Yes.

THE COURT: Now, ma'am, you don't work outside the home, but you work in the home I'm sure.

JUROR: Well, I work in the home. I'm a realtor and I work from home, but my youngest is in school and ---

THE COURT: No, ma'am, I know, but you do, you work in the real-estate business?

JUROR: Yes, but I'm also a substitute teacher, so I work outside.

THE COURT: Well, ma'am, that would still qualify you. We'll talk about it further. Have a seat for right now. Obviously you do great selling homes with a lot of bedrooms

in them.

Okay, ma'am, what is your, what's your number?

JUROR: 141.

THE COURT: 141. Okay, I see you're Ms., is it Facenda?

JUROR: Correct.

THE COURT: Ms. Facenda, and you have children under seven?

JUROR: I have a twenty-month old.

THE COURT: All right, and you don't work outside the home?

JUROR: We run our business from the house, so I, I'm the office manager of our business.

THE COURT: But you stay at home?

JUROR: Yeah.

THE COURT: You don't go anywhere else?

JUROR: We have a home office.

THE COURT: What type of the business is it?

JUROR: Water restoration, carpet cleaning.

THE COURT: Thank you, ma'am. Great advertisement. All right, thank you, ma'am. Be seated.

Just to do a little thing here, I intend to excuse 6, 335, 141, and 277 who works in the court system. Any, anyone wishes to approach the bench with any concerns or objections, please come forward now.

MR. HEMBREE: No objections from the state, Your Honor.

MR. WILSON: No objections from the defense.

THE COURT: All right, number 6, number 335, number 141, number 277, y'all can leave at this time. Make sure you turn those little cards or buttons in.

Now, the law provides that if you are a certain age, we would love to have you as a juror, but we cannot force you or require to be on jury duty. So, you can be on jury duty; we'd love to have you. Know you'd be a great juror, but the law cites a certain age is a situation where you've already served your community, state, and nation well and we give you that option. That age is sixty-five. Anyone over sixty-five who does not wish to be on jury duty may be excused. That does not require you to be off of jury duty. It means you have that option.

Ma'am, why are you standing?

JUROR: I'm sixty-six.

THE COURT: No, you're not. What is your number, ma'am?

JUROR: 127.

THE COURT: 127. Started to say we just finished the under seven children thing. Okay, you're Kay Dyer?

JUROR: Yes, sir.

THE COURT: Okay.

JUROR: My husband is also very sick. That's the main reason I ---

THE COURT: Well, okay, but I have your birthday in March.

JUROR: Of 1941.

THE COURT: I didn't say the year, ma'am. I was only saying -- you're saying you're sixty-six.

Yes, sir, your number, sir?

JUROR: 218, 218.

THE COURT: Okay, and you are James R. Hill, sir?

JUROR: Yes, sir.

THE COURT: Now, both of you now, you both have the option, and we'd love to have you serve on jury duty but as I said, due to age if you wish to be excused, you may do so. You said you had another reason, right, ma'am, so I understand. So, you wish to be excused?

JUROR: Yes, sir.

THE COURT: And, Mr. Hill, we'd love to have you, sir, if you'd like to stay with us.

JUROR: Give me a parking spot and I might.

THE COURT: Sir, I'd end up with two hundred and something requests if I did that.

JUROR: I guess I'll stay.

THE COURT: Thank you, Mr. Hill, thank you very much.

Your number, sir?

JUROR: 353 -- wait a minute. Wait a minute, 345.

THE COURT: 345, all right, Mr. Overby.

JUROR: Correct.

THE COURT: Mr. Overby, once again, sir, if you wish to stay with us, that would be fine but it would be up to you, sir. Would you like to stay with us, or do you want to be excused?

JUROR: Your Honor, if I may go to the restroom, I'll stay.

THE COURT: That's a request I can grant.

If you would -- then, therefore, on age I've excused 127. Any objection on either side?

MR. HEMBREE: None from the state, Your Honor.

MR. WILSON: None from the defense.

THE COURT: Ma'am, you may leave at this time. Sir, if you need to go to the restroom right quick, go ahead, sir.

The next question is -- now, I need to make sure I've got all my jurors in here now on this question. I see some have stepped out. You need to have a seat now. I'll give y'all a break in a minute. Just have a...

Now, Mr. Bailiff, Mr. Officer, if someone has come in after I ask this question, you need to let me know. All right, I know one gentleman, Mr. Overby, stepped out, but any other jurors I can't -- make sure they haven't missed a

question.

My next question is school. The law provides if you are a student or if you are employed in school, then you may be transferred to a time when school is not in session. Doesn't mean you're excused. We'll bring you back when school is not in session. If you are employed by a school or you are a student, is anyone out there who is employed by a school or who's a student that wishes to be transferred to another time, if so please stand up.

(NO ONE STANDS.)

THE COURT: Okay. Now, I'm now going to ask some questions that will be grouped. Now, these questions you don't need to reply to until I ask all of them at one time and they're completed, and then you can come down and talk to me individually.

First of all, the law provides to be on jury duty you must have the basic ability to read, write, speak the English language. Doesn't mean you must be able to understand the most complex text but that you must have the basic ability to read, write, and understand the English language. You must have a sixth grade education or its equivalent. You could have gotten that equivalency, equivalency through your own study, your interpersonal relationships, your work experience of that thing. So, in a minute you don't feel you have a basic ability to read,

write, or speak the English language, or you don't have a sixth grade education, let me ask you to come down.

Number two, there may be someone at your home that you have a moral or legal duty to care of, and your being here could put their health and well-being in serious threat or danger if -- because of some illness they may have or something else. You wish to talk to me about that, I'll be glad to do so in a second.

Number three, you may have some serious mental illness or physical illness that would prevent you from serving on jury duty. Now, just because you may have a back problem, diabetes, those things, doesn't necessarily disqualify you because you can bring food if you needed to. If you want to -- self-injection for diabetes or something of that nature, need to stand up every once in a while to stretch out because of a back situation because you can't sit for over an hour or so, we can handle those things. But if you have a serious mental or physical problem for which you feel you couldn't observe or pay attention, listen, and keep observations on the court system, in the court system through witnesses, through the instructions of the court, then come and talk to me about that.

Next, you cannot, and I emphasize the word cannot, serve on jury duty if you have been convicted of a crime for which you could have received more than one year in

prison. It does not matter what you actually did receive. What matters is what the judge could have imposed upon you. You could have gotten less than one year. You could have gotten, you could have gotten a fine or probation, but if the judge could have imposed more than one year upon you, then you are disqualified from jury service.

Now if you are not sure, the best thing is to come talk to me about it, and I can let you know whether or not it is disqualifying or not. And it doesn't matter where it occurred. This conviction could have occurred in some other state or in the federal system. That doesn't matter. You are still disqualified.

Also, it does not matter how long ago it was. It could have been this millennium or last millennium, twenty, thirty, forty years ago. If you were convicted of a crime for which you could have received more than one year, then you are disqualified from jury service. Once again, if you're not sure, come up and talk with me about it. I'll let you know right quick whether or not it disqualifies you.

Lastly, I know, ladies and gentlemen, that being on jury duty is an inconvenience. I understand you have other things you wish to do, and but also understand that you realize how important your jury services. We cannot operate any type of system without the citizens of a

community. The decisions in a court are not made by the judge. They are made by the jurors, the citizens of that community, and it is very important. America is the only country left in the entire world that no matter what the charge is, you are entitled to a jury trial for the citizens to make the decision. You have people who are serving over this world wearing a uniform with an America flag over one shoulder showing that they stand up for that system, showing that they're willing to give it all for that system so that we may be here today in a courtroom with U.S. citizens here with that right to serve on jury duty. So, please understand it is a very important right to be on jury duty and important privilege and an important obligation of citizenship.

So, ladies and gentlemen, that is so important, but if for some reason this particular time as opposed to others is very, very difficult for you, then I'll be glad to talk with you. I'm going to ask you another question later on about a particular case we're going to try on, but this is just in a general situation if serving on jury duty is some sort of hardship for you. I know that finances are hardship on everybody, but we have to accept that many times because of our obligations to be jurors.

So, let me just reiterate. If you have problems reading, writing, or understanding the English language, or

you don't have a sixth grade education or its equivalent, in a minute I need to talk to you. If you have someone at your home you have a legal or moral duty to take care of and their health is in serious threat if you're here, I need to talk to talk to you. If you have some physical or mental problem for which you feel would make it difficult for you to serve as a juror to observe, listen, pay attention, to be in a jury box, then please let me know. Four, if you have a conviction of a crime for which you could have received more than one year in prison, or you're not sure -- no matter when, no matter where -- then you need to come and talk to me about it. And number five, if you have any other concerns about your jury service, now is the time to come talk to me about it.

Now, what I'm going to do is this. Those of you wish to come talk to me, I'm going to have you all stand up and go over to each side of the aisles. While they're doing that, if you need to go to a restroom, then I have no problem with the rest of you who want to go individual out to the restrooms. I don't want people going *en masse* out there. Just go about one or two at the time, but do not make noise. Do not speak and all that because you will interrupt us trying to talk with those jurors who need to speak to us.

So, anything, those apply to you, please stand up.

Come over to the side.

Be sure and come back in the courtroom now in the next ten to fifteen minutes.

(THE FOLLOWING CONFERENCES ARE HELD AT SIDEBAR.)

THE COURT: Okay, what I'd like to do is ask the juror the number. And, Madame Clerk, if you would then look up the name to give us a name. All right, if you would, call out the ---

BAILIFF: 309.

THE COURT: 309.

CLERK OF COURT: 309, Fernando McCray.

THE COURT: Okay, sir, Mr. McCray.

JUROR: Yes, I'm on, convicted receiving stolen goods for more than a thousand.

THE COURT REPORTER: I'm sorry, I can't hear.

JUROR: Oh. I received -- receiving stolen goods more than a thousand.

THE COURT: Have you gotten a pardon or anything of that nature?

JUROR: I'm on probation.

THE COURT: You're on probation now?

All right, objection from state or defense? Hearing none, you're excused. All right, please step back and hand your badge. Do not talk to anybody about your jury service.

Next person, please.

BAILIFF: 449.

THE COURT: 449, what, what is that name?

CLERK OF COURT: Steven Thompkins.

THE COURT: All right, Mr. Thompkins.

JUROR: Yes, sir. I've been convicted possession of Xanex with intent to distribute, DUI, several other things.

THE COURT: Sir, you're on something today, aren't you, sir?

JUROR: No, sir. I'm just tired. It's been years ago. Like, the possession of Xanex with intent to distribute was four, four or five years ago.

THE COURT: You were in high court for that, sir?

JUROR: Yes, sir.

THE COURT: That would carry more than a year, would it not, or is that a six month sentence, possession with intent to distribute?

MR. WILSON: Intent to distribute would be more than that.

MR. HUMPHRIES: Yes, possession is ---

THE COURT: Any, any ---

MR. WILSON: Possession would be six months.

THE COURT: Any objection?

MR. HUMPHRIES: No.

MR. WILSON: No, sir.

THE COURT: All right, leave, sir. Leave, sir. next person.

BAILIFF: 266.

THE COURT: If you could, be quiet, please.

CLERK OF COURT: Candice Lawson.

JUROR: Yes.

THE COURT: Yes.

JUROR: I could lose my job if I do this because my company won't pay for jury duty, and I have no sick time or vacation that I can take.

THE COURT: No, you can't lose your job. You're employed ---

JUROR: Yes, sir, I can.

THE COURT: You give me your name and the phone number of your employer. I will be glad to call your employer, but your employer'll be violating if your employer causes you to lose your job for jury duty. So, if you'll get me the name and phone number of the employer if you get on this trial and I'll be glad to call the employer, okay? Thank you, ma'am. Stay with us.

CLERK OF COURT: Judge, when they're excused, will you please say it so we can take out of the pool over here?

THE COURT: I just said excused for 309 and 449.

CLERK OF COURT: 309 and 449 excused.

BAILIFF: 252.

THE COURT: 252.

CLERK OF COURT: Anthony Kostecki.

JUROR: Kostecki.

THE COURT: Yes, Mr. Kostecki.

JUROR: I have a physical impairment. My kidneys are functioning at thirty percent, and I cannot always wait to go to the bathroom, so I always have to be around a bathroom.

THE COURT: All right.

JUROR: And I have to drink plenty of water, make sure I don't dehydrate.

THE COURT: Are you employed?

JUROR: Yes, I am employed.

THE COURT: What do you do?

JUROR: I'm a contract underwriter for the financial markets, so I do travel. On my -- I have an assignment starting today in Florence, South Carolina, but it's in an office, and I've been to Florence many times, other financial institutions doing these assignments. And I had bathrooms at the gas stations, so I know every single one of them, and I do ---

THE COURT: Well, sir, what I'll do is this. If you're on this jury, whenever you need to go to the restroom, you raise your hand.

JUROR: It becomes to the point -- it comes to the

point, Your Honor, that right now sometimes because I have to go ---

THE COURT: What do you do if you're in the car? Don't you pull over?

JUROR: I'll have to pull over sometimes.

THE COURT: Well, if you raise your hand, I can get you to the bathroom quicker than you can pull over.

JUROR: Well, because it becomes to the point where my bladder cannot expand because that's how my kidneys were damaged, and I can have renal failure. I mean, it's a serious condition; I've already had renal failure once with this, and I'm under tremendous medication to reduce the prostate. My creatin level is where it's ---

THE COURT: If you would, sir, stand over there.

JUROR: Can I use the bathroom before I ---

THE COURT: Why don't you use the bathroom and come back?

JUROR: Okay. That will be good.

THE COURT: Come back and I'll see you.

It would only have to be compassion. Do you have any objection to excusing him?

MR. HUMPHRIES: Number one, he's going to be a problem with the whole thing.

MR. WILSON: He's going to be a problem, but the problem is ---

THE COURT: Thank you.

All right, next person, please.

BAILIFF: 437.

CLERK OF COURT: 437.

THE COURT: Quiet, please, please.

CLERK OF COURT: 437, Marguerite Stephens.

THE COURT: Good morning, Ms. Stephens.

JUROR: I want to know ---

THE COURT: Speak to her.

JUROR: I'd like to know if I could be excused for this time only. My dad is in the hospital, still in SICU, and has been for a month, and my mom's eighty-six, and it's me and my other sister taking care of him.

THE COURT: All right, ma'am.

JUROR: And I would really appreciate it because I don't think I could do right right now.

THE COURT: All right, ma'am. If you would, stand over there, please.

I just wanted to get any objections.

MR. HUMPHRIES: No objection.

THE COURT: Any objection?

MR. WILSON: No objection.

THE COURT: All right, ma'am, we're going to transfer you. If you would, she'll send you a notice.

You'll send her a notice at some point in time?

CLERK OF COURT: Yes, sir.

THE COURT: They'll send you a notice.

CLERK OF COURT: 437, transferred.

THE COURT: Thank you.

Next person.

BAILIFF: 38.

CLERK OF COURT: 38, Shutoneis Brave.

JUROR: Shutoneis.

THE COURT: Shutoneis, yes, ma'am.

JUROR: I was arrested for a DUI and simple possession back in 2001.

THE COURT: Simple possession of what?

JUROR: Marijuana.

THE COURT: Okay, one DUI and simple possession of marijuana?

JUROR: Uh-huh.

THE COURT: That doesn't disqualify you. You're fine.

JUROR: Yeah. I was just trying to make sure.

THE COURT: Thank you very much.

BAILIFF: 480.

THE COURT: Come around, sir. 480.

CLERK OF COURT: Anthony White.

THE COURT: Yes, sir, Mr. White.

JUROR: I was in jail in '73, '73 for statutory rape, but they took it off my record.

THE COURT: Did you get convicted, or did they dismiss it?

JUROR: Well, I was convicted but when I got out, they took -- well, we went to court, back to court.

THE COURT: How old were you?

JUROR: Seventeen.

THE COURT: So, you were seventeen?

JUROR: Yes, sir.

THE COURT: And you were convicted of rape? What state was this?

JUROR: Charleston, McDougal. Well, South Carolina.

THE COURT: When you said McDougal, did you go to McDougal?

JUROR: Yes, sir.

THE COURT: Well, then, you mean, did you get a pardon for this or something?

JUROR: Yes, sir. Well, they were -- well, I did the year but when I came out and they went, wanted to take it off my record ---

THE COURT: How do you know it's off your record, sir?

JUROR: Because my momma done went to pay a lawyer to try to get it off, I guess, or something like that.

THE COURT: No, that's a pardon is all you can do with that, sir. Do you know if you have a pardon?

JUROR: I don't know. Fine with me. Well, I don't

know, but I thought it was off, but seems to say ---

THE COURT: Does your records check that?

Tell you what. You just stay with me. I'll let you know, okay?

JUROR: All right.

THE COURT: Just have a seat.

JUROR: All right.

THE COURT: I'll let you know later on. Anything else, sir?

JUROR: No, sir.

MR. HUMPHRIES: We can -- we've got it right here, Judge.

THE COURT: Hold on one second and we'll see.

(A PAUSE.)

THE COURT: We'll check on it. I'll let you know during the day. Have a seat.

Next person, please.

BAILIFF: 369.

CLERK OF COURT: 369.

THE COURT: Okay, yes, sir, speak to her. What's your name, sir?

JUROR: William Pryor.

CLERK OF COURT: William Prior.

THE COURT: Yes, sir.

JUROR: Yes, I have a lower back problem. Tore

rotator cuff. Sole provider of my grandson once he get out of school.

THE COURT: You do what now?

JUROR: I'm the sole provider of my grandson once he get out of school. I'm on medication; I'm in a lot of pain.

THE COURT: What kind of medication?

JUROR: I'm on Neurontin, Tylenol.

THE COURT: Are you working?

JUROR: No, I'm not. I'm under doctor's care.

THE COURT: You're under doctor's care now?

JUROR: Yes.

THE COURT: Now, does this medication you have, does it somehow affect your ability to hear things, affect your ability to grasp what somebody's saying, slow you down at all?

JUROR: Yes.

THE COURT: Mentally?

JUROR: Yes.

THE COURT: It's called Neurotin?

JUROR: Uh-huh.

JUROR: That's a painkiller?

JUROR: It's a nerve, induced nerve.

THE COURT: Are you under any type of painkillers other than regular Tylenol?

JUROR: Not at this time.

THE COURT: Well, then what would you have that the affect your ability to understand and hear what's going on?

JUROR: Sir?

THE COURT: Now, when you say you're under a doctor's care, would this -- did you get hurt recently?

THE COURT: With a car accident.

THE COURT: Car accident. How long ago was that?

JUROR: Last year, March 6th.

THE COURT: You haven't been back to work since last year?

JUROR: Correct.

THE COURT: Are you on some sort of workers' comp or something?

JUROR: Yes.

THE COURT: Okay. All right, and who lives in your household?

JUROR: My wife and my seventeen-year-old son, my grandson.

THE COURT: All right, so they're there, too, for your grandchild.

JUROR: They watch him, too.

THE COURT: Well, your son's not in school?

JUROR: Huh-uh. He's out working at a...

THE COURT: How old is your child -- the grandson?

JUROR: Five years old.

THE COURT: So, he goes to kindergarten?

JUROR: He's in kindergarten.

THE COURT: Okay, just stand there for a second over there.

I know your response, sir. Any objection?

MR. WILSON: Yes, sir.

THE COURT: I'm going to just keep him for right now. I might use my discretion later on.

Sir, I'll talk to later on. Go have a seat.

(A PAUSE.)

THE COURT: Sir, once again what I will do is if you get on this jury, if you do, and that's still a long way off, then you will control when I -- when you raise your hand, we'll take a break.

JUROR: Do you, do you understand, Your Honor, that sometimes, like, it comes so quickly that, that it, it's, it becomes unbearable? I've had difficulty on airlines. That, that my fly in to Reagan, I fly in to Reagan, fly, it's like a half hour beforehand. They come and tell me. It might dictate sometimes, you know, how long I'm in the bathroom. I have had -- I've come within twenty-four hours of death. I take that -- I do not take that lightly. I mean, ---

THE COURT: Tell you what.

JUROR: Nothing ---

THE COURT: Tell you what, let me think about it further. Just have a seat.

JUROR: All right.

THE COURT: I'll let you know later on. Just have a seat for there.

JUROR: All right.

THE COURT: Next person, please.

BAILIFF: Number 71.

MR. HUMPHRIES: This is number who?

CLERK OF COURT: 271.

THE COURT: Is it 71 or 271?

MR. HEMBREE: 71.

THE COURT: 71.

MR. HUMPHRIES: 71.

CLERK OF COURT: Anthony Causey.

THE COURT: Yes, sir, Mr. Causey.

JUROR: Yes, I'm, I have two penalties against me.

THE COURT: You were convicted of them? What are they?

JUROR: Grand larceny and burglary third degree.

THE COURT: All right, have you gotten a pardon or anything on those?

JUROR: Well, I was on probation. I got off probation.

THE COURT: That's it? Okay, you're disqualified. You may leave, sir. Disqualified. He's off.

Next person.

BAILIFF: Number 33.

CLERK OF COURT: Mary Bosley.

THE COURT: Okay, Ms. Bosley.

JUROR: I've been convicted of possession before.

THE COURT: Of what?

JUROR: Of marijuana and prescription drugs.

THE COURT: Okay, how much marijuana was it?

JUROR: It was just, it wasn't much at all.

THE COURT: Okay. So, you went to a city or magistrate's court?

JUROR: Yeah.

THE COURT: Okay, you're not disqualified, ma'am.

JUROR: Oh, okay.

THE COURT: Thank you, ma'am.

JUROR: Can I use the restroom?

THE COURT: Yes, ma'am.

JUROR: Thank you.

THE COURT: Next person.

BAILIFF: 170.

CLERK OF COURT: Kristian Gilliland.

THE COURT: All right, yes, sir.

JUROR: Actually, in all seriousness ---

THE COURT: Speak to her now.

JUROR: In all seriousness, I really have no problem doing this. I actually look forward to doing it, but the only problem I have, I work for a small construction company and I'm not sure that my boss is going to pay for my time off. And if I don't get paid for a certain amount of time, my house is going to go under. I have an eight-month-old son now. I just, I'd like to be here. I just, I don't, I don't see him paying this. He's already saying his company is really hurting, and I keep getting all sorts of stuff. So, I never know what that company is going to do. I'm not concerned that I'd get fired. I don't believe he would pay me for my time off.

THE COURT: Well, sir, just stay with us and we'll see how everything goes. Stay with us.

He will, he'll stay with us.

BAILIFF: Number 214.

THE COURT: Your name again, sir? Let us get it.

JUROR: Jared Hendrix.

CLERK OF COURT: Jared Hendrix.

THE COURT: Yes, sir, Mr. Hendrix.

JUROR: My objection is I've already served on one capital murder case. Was in 1997 here in Horry County for Titus Huggins, and I really just don't want to do another murder case, the death penalty. The judge told us at the

end of that time I'd never had to do another one. I don't mind it being postponed to another court case. I just don't want to do another death penalty case.

THE COURT: Well, sir, there is no statutory exclusion involved again, but we'll wait and see if you get in the final group. All right, sir?

JUROR: I got it.

THE COURT: All right, sir.

JUROR: Thank you.

CLERK OF COURT: Staying?

THE COURT: Yes.

All right, next person.

BAILIFF: Number 313.

CLERK OF COURT: Eric McPherson.

THE COURT: 313.

JUROR: Yes, sir.

THE COURT: Yes, sir, Mr. McPherson.

JUROR: How are you doing? I have a child who's under seven. He's six years old, and he has to be picked up at school every day, and also my day job, I'm the only one in charge. I'm a superintendent out there and if I'm not there, there's nobody to conduct business on the building.

THE COURT: But someone does it when you go to pick up your child.

JUROR: When I'm off work at 4:30.

THE COURT: Well, I mean, your child has already gone home by then, hasn't he?

JUROR: No, sir.

THE COURT: Your child doesn't get out of school until 4:30?

JUROR: He out of school and then he goes to the child care until 5.

THE COURT: Do you have a spouse?

JUROR: Yes, sir.

THE COURT: And what about your spouse?

JUROR: She works till 5:30, and we also have a business that we just opened, a restaurant we're running.

THE COURT: Well, sir, you'll just have to try to work out something if you are selected. That's still a long way off. Try to work out something, and we'll give you time to work it out. All right, stay with us.

BAILIFF: Number 5.

CLERK OF COURT: Paulette Arnette.

THE COURT: Hi, Ms. Arnette. What would you like to tell me?

JUROR: Hello. I'm supposed to have eye surgery next Tuesday on the back of my eyelid.

THE COURT: That's very important surgery.

JUROR: Yes, it is. I just saw the doctor and I got my orders.

THE COURT: So, it's surgery when, ma'am?

JUROR: Next Tuesday.

THE COURT: It's says 2/13.

JUROR: What's, what's today? Well, then a week from Tuesday.

THE COURT: We'll be through by then.

JUROR: Oh, you think so?

THE COURT: By the 13th of February I'm sure. If not, then we would replace you.

JUROR: Okay.

THE COURT: But we'll be through by the 13th of February.

JUROR: Okay, that's, I thought it was -- yeah, okay.

THE COURT: All right, so but in the meantime, your eye, your vision, everything's all right?

JUROR: Well, it's not. I mean, I can see, you know.

THE COURT: Okay.

JUROR: But it should be okay.

THE COURT: Okay, you'll be fine.

JUROR: All right. Okay.

THE COURT: Thank you, ma'am.

JUROR: All right.

BAILIFF: 493.

CLERK OF COURT: 493, Ashley Wood.

THE COURT: All right, Mr. Wood.

JUROR: I've got a learning disability. When I graduated school, I had approximately in an eighth grade reading level and sixth grade spelling level.

THE COURT: What type of work do you do?

JUROR: Masonry. I work outside and I really haven't worked since August of last year because everything has gotten real slow, and today actually was the second job I've had since August, and I don't know if I'll get to it today or not. I can read to an extent a little but, but my spelling is just -- I have to look up in the dictionary whenever I write things down for my job. And I didn't know if I could be any help to y'all.

THE COURT: No, I think you'll be fine. You'll be fine. Thank you, sir.

Next person.

BAILIFF: Number 90.

CLERK OF COURT: Sheila Conley.

THE COURT: Okay, Ms. Conley, yes, ma'am.

JUROR: I have longstanding vacation reservations to Hawaii departing on the 14th, and my concern's that this trial will last up to that point is going to interfere with my getting on a plane to Hawaii.

THE COURT: I think everyone can agree that if it lasts to that point, that we would use an alternate. You want to have -- did you say the 14th of February?

JUROR: February 14th.

THE COURT: If it lasts to that point, we would get an alternate.

JUROR: Okay.

THE COURT: I would assure you of that, okay?

JUROR: Okay.

THE COURT: Thank you, ma'am.

Any objection to that assurance?

MR. WILSON: No. None.

CLERK OF COURT: Number 90's excused?

THE COURT: No, no. That's just ---

CLERK OF COURT: Stay.

THE COURT: Just if we last until the 14th, I'll get an alternate.

BAILIFF: 489.

CLERK OF COURT: 489, Robert Wiltshire, Sr.

THE COURT: Yes, sir?

JUROR: Yes, sir. Had multiple DWI charges in the eighties. Got convicted on three counts.

THE COURT: Okay, were you convicted DUI third are you telling me, sir?

JUROR: Yes, sir.

THE COURT: All right, and ---

JUROR: Also had some other charges back in the eighties, too. I was charged with statutory rape.

THE COURT: Were you convicted?

JUROR: That was ---

THE COURT: The question is what you were convicted of.

JUROR: --- a plea. Yeah, it was.

THE COURT: Convicted of what?

JUROR: Convicted of assault.

THE COURT: Simple assault?

JUROR: Yeah, something.

THE COURT: Assault and battery high and aggravated nature?

JUROR: Yeah.

THE COURT: All right. Well, you've been convicted of third offense DUI.

JUROR: Yes, sir. Yes, sir.

THE COURT: Any questions from anyone?

MR. WILSON: No.

THE COURT: All right, you're excused, sir.

JUROR: Thank you.

CLERK OF COURT: 489 has been excused.

THE COURT: Okay, next person, please.

BAILIFF: 445.

CLERK OF COURT: 445, Todd Temple.

THE COURT: Yes, sir?

JUROR: A couple things. One, been in trouble a lot

in the past: possession of marijuana, drunk driving. I don't know what the....

THE COURT: How many drunk drivings?

JUROR: Just one.

THE COURT: Was it an accident involving someone else, or was ---

JUROR: No.

THE COURT: Anything else?

JUROR: Financial burdens, child support payments. State of Michigan and my ex-wife don't take too kindly to me missing payments. I also have a business. I have employees, customers, the season. Loss of income I guess is, is the reason.

THE COURT: What kind of work you in?

JUROR: Painting.

THE COURT: Seems to me it's better this season to get out of, not be painting in the spring or summer.

JUROR: Well, it's the time to make money right now. What's the best way I need to do? I'm not going to get into all my debt right now, but it's....

THE COURT: I'll be thinking about you. Stay with us. Next person.

BAILIFF: Number 357.

THE COURT: Yes, ma'am, what is your name? What is 357?

JUROR: Dixie Penley.

CLERK OF COURT: Dixie Penley.

THE COURT: Yes, ma'am, Ms. Penley?

JUROR: I have two concerns. I'd have to close my business. If I could be moved till May? That's when I close my business anyway. It's a small operation and no money, no mortgage. But more importantly than that, my business is a small grill frequented by local people, and you know how locals gossip, and I've heard some information.

THE COURT: Well, we'll get that later. I just, I don't want to know anything about your case. So, your concern right now as far as general jury duty is your business?

JUROR: My business plus information ---

THE COURT: No, no, no, I'm not talking about the case. I'm just talking about just the general jury service.

JUROR: Okay.

THE COURT: All right. Well, then, I tell you what you do. Stand over there just one second.

Just trying to save time.

MR. RATHBUN: She's going to close in March?

THE COURT: No. I'm trying to save time because the woman says she's going-- I got a feeling she's going to

tell me she's heard a lot about this case. Now, if y'all object, I'll wait and talk to her later, or I can let her go now.

MR. WILSON: Judge, we have to talk to her.

THE COURT: Okay, good.

Ma'am, stay with us.

(A PAUSE.)

THE COURT: Next person, please.

BAILIFF: Number 249.

CLERK OF COURT: 249, 249 is Arlene Kerr.

THE COURT: Yes, ma'am.

JUROR: I have letter from the doctor, but I also have Parkinson's Disease and I have a hard time sitting and standing for any ---

THE COURT: Massachusetts, New Hampshire or?

JUROR: Massachusetts.

THE COURT: Tremors.

MR. HUMPHRIES: I'd let her go.

MR. WILSON: I have no objections.

CLERK OF COURT: 249 is excused.

THE COURT: I haven't ruled on that yet.

CLERK OF COURT: Oh, I thought you said -- I'm sorry. My bad.

THE COURT: 249 is excused.

Next person, please.

BAILIFF: Number 62.

CLERK OF COURT: 62, Alvacee Calfee.

JUROR: Alyce.

CLERK OF COURT: Alyce. You told me that already. I'm sorry.

JUROR: That is all right.

THE COURT: What's the number again?

CLERK OF COURT: 62.

THE COURT: Okay. Yes, ma'am?

JUROR: My husband and I are musicians, and we have a signed contract for Valentine's Day. I want to make sure that I can go.

THE COURT: Where at? I might know it.

JUROR: Sea Mist.

THE COURT: Sea Mist?

JUROR: In Columbia.

THE COURT: Either you will be there, or I'll do with an alternate or something like that. I mean, we'll just wait and see, but either way you won't, you won't miss that.

JUROR: Thank you so much.

THE COURT: Thank you now.

BAILIFF: 52.

CLERK OF COURT: 52. Joseph Busik, Bucksick.

JUROR: Buczek.

CLERK OF COURT: Buczek.

THE COURT: Buczek.

CLERK OF COURT: Sorry.

THE COURT: Mr. Buczek, yes, sir?

JUROR: Sir, I have tinnitus or tinnitus, ringing in my ears, and I'm just afraid I'm not going to be able to hear or understand all the testimony.

THE COURT: Do you work anywhere, sir?

JUROR: I don't. Well, I'm on -- I build houses, but I can't do it now.

THE COURT: So, right now you're retired?

JUROR: Yes, sir.

THE COURT: And the ringing of the ears causes you to miss people speaking and saying words?

JUROR: Yes, sir. Quite a bit. If he -- I mean, you I can understand, but people with higher pitched voice -- I have a high-frequency hearing loss.

THE COURT: Do you see any -- getting any medication for this?

JUROR: There's nothing they can do for it. They don't even know the cause of it. Hearing aids don't help. I miss a lot of what goes on.

THE COURT: All right, stand there for one second.

State, defense?

MR. HUMPHRIES: No objections.

MR. RATHBUN: Your Honor, if tinnitus is a reason to be excused, I'd like to be excused.

THE COURT: He has ringing in his ears. Said he misses what people say.

MR. RATHBUN: Tinnitus, that's, that's what it is. It's a ringing in ---

THE COURT: But he says he misses what people say. Aren't you concerned he's going to miss the testimony of witnesses?

MR. WILSON: I mean, at least without a letter saying that he does, in fact, have this. I mean, we don't have anything that's showing he ---

THE COURT: He's under oath. That's what I have.

MR. WILSON: Without more, I can't consent, but whatever the person ---

THE COURT: I'm going to excuse the man. I mean, my goodness, if he's telling me a lie, then we need to....

Come up. Sir, you realize, sir, you are under oath when you tell me this, sir?

JUROR: Yes, sir.

THE COURT: Are you under the active treatment of a doctor now?

JUROR: No, but I've been to a number of ---

THE COURT: If we could, quiet please.

JUROR: I've been to a number of doctors about it, and

I continually watch the Internet and see if there have been any new developments for treating it, and there's not. Hearing aids don't help.

It just depends on who's speaking. Usually people with higher-pitched voices, particularly like there's background noises. Like in here, the air conditioner running and so. Some of the things you were saying up there I could mostly hear, but there were a few things I couldn't even with your deep voice. So, I'm just ---

THE COURT: Thank you, sir.

JUROR: I ---

THE COURT: I'm going to excuse you, sir. You may leave, sir.

JUROR: I'm sorry?

THE COURT: I'm going to excuse you for medical reasons. You may leave, sir. Thank you, sir. You may leave.

JUROR: Thank you.

THE COURT: Let the record reflect he didn't even hear me when he looked at me and didn't know what I was saying. It's obvious he does -- my observation with this witness, juror, it's obvious that he does, did have trouble hearing everything anyone says. I have no idea what the pitch of the voices of the witnesses are. I'd hate to get in the middle of a trial and have someone that he cannot hear, and

then could prejudice either side. And in the interest of justice, I'm going to excuse him.

Next person, please.

BAILIFF: Number 470.

THE COURT: Hold on one second.

CLERK OF COURT: Jeron Wallingford.

THE COURT: 470. You're convicted of what, sir?

JUROR: Illegal gambling.

THE COURT: What was that?

JUROR: In a local nightclub, was about 1991.

THE COURT: Was that, you went to pay a fine in local magistrate's court or something like that?

JUROR: Yeah. J. Rubin, J. Rubin Long Detention Center, $50.

THE COURT: Okay, anything else?

JUROR: No.

THE COURT: What was it? Tickets, poker game?

JUROR: Just poker game.

THE COURT: They take the money, too?

JUROR: No. Just, we had it all on the table.

THE COURT: Who was winning? You were winning?

JUROR: Little bit.

THE COURT: You lost some, too, huh? Shouldn't be doing that. Anyway, you're qualified. You can stay with us.

JUROR: Okay. Thank you.

THE COURT: Thank you, sir. Just don't bring any cards with you.

BAILIFF: 246.

CLERK OF COURT: 246?

BAILIFF: Yes.

CLERK OF COURT: Frances Kelly.

THE COURT: Yes, Ms. Kelly, come a little closer.

JUROR: Yes. I just wanted to state. I stated it on my form I have ulcerated colitis and that, you know, when I eat, I have issues. So, like today I haven't eaten. All I've had is water and I have diarrhea and stuff.

THE COURT: Okay. Now, but as long as you'd have enough time to get to the bathroom, you're all right?

JUROR: Well, it, the thing of it is, it hits. You know, it's not a case of I can decide. It's immediate, you know.

THE COURT: But, I mean, if you gave me notice and raised your hand and I said we'll take a break, could you -- would that be all right?

JUROR: Yeah.

THE COURT: All right, all right, and you will do that for me if you get on the jury? You'll let me know if you need to go to the restroom and I'll let you go to the restroom?

JUROR: Yeah. Yeah.

MR. HUMPHRIES: Yes, sir.

THE COURT: All right, thank you, ma'am. She'll stay with us. All right.

BAILIFF: 433.

CLERK OF COURT: 433, Johnny Staples, Sr.

JUROR: Yes, sir.

THE COURT: Yes, sir, Mr. Staples?

JUROR: I got a doctor's excuse for my back. Supposed to have surgery done.

THE COURT: When is this, sir?

JUROR: On the 7th.

THE COURT: Of February?

JUROR: February and I have a hard time sitting for any length of time.

THE COURT: But you got, you got surgery scheduled on the 7th of February?

JUROR: Yes, sir. I mean, I enjoyed the court.

THE COURT: Stand over there for me.

To me, that is too close of the time.

MR. HUMPHRIES: Yes, sir.

THE COURT: He would be in surgery. Any objection from the defense?

MR. WILSON: No objection, Your Honor.

THE COURT: Okay, I'm going to excuse you from this

trial, sir. Thank you very much.

JUROR: Yes, sir. Thank you.

THE COURT: Good luck on your surgery.

JUROR: Yes, sir.

THE COURT: He's excused.

BAILIFF: 431.

CLERK OF COURT: Ronnie Stackhouse.

THE COURT: I want to do that. You know that. I really want to do that. A little bit of wind, and I'm looking. It's too few hairs.

All right, Mr. Stackhouse, right?

JUROR: My thing is I'm obligated to the IRS, and I'm making them payments. I make two child support payments at the same time, and keep their health insurance. I'm not a salaried job, so if I'm not there, all that's going to fall through and then they'll come get me on this.

THE COURT: What type of job do you have?

JUROR: I work with the City of Myrtle Beach.

THE COURT: Yes, sir, it's not that we're talking about a month or anything. We're just talking about, you know, week, two weeks, something like that, and we're going to have to see what happens. Just stay with us, all right, sir?

JUROR: Okay.

THE COURT: All right. Thank you, sir.

What number was that?

CLERK OF COURT: 431.

THE COURT: Any objection on that?

MR. WILSON: None, Your Honor.

MR. HUMPHRIES: No.

THE COURT: All right, next person, please.

CLERK OF COURT: He's staying?

THE COURT: Yes, staying.

BAILIFF: 382.

THE COURT: Yes, ma'am.

CLERK OF COURT: Ashley Rivera.

THE COURT: Ms. Rivera with the four children now.

JUROR: I also ---

THE COURT: Come closer.

JUROR: Two months ago, Wednesday, Thursday and Friday, I'm scheduled to work in North Myrtle Beach Primary School for teachers. I was scheduled way in advance also. And then I'm going to -- don't have anybody for my kids because I get them after school because if I'm not working at the school, I'm home. Then also with this being a Winkler case, my step kids ---

THE COURT: No, ma'am.

JUROR: --- the two older ---

THE COURT: Well.

JUROR: As long as it's not Winkler, but my -- Alice

Donovan is ---

THE COURT: Okay, tell you what you do.

JUROR: --- is related and -- okay.

THE COURT: Just have a seat.

MR. HUMPHRIES: Bad news.

THE COURT: Objection?

MR. WILSON: I got to be, I guess I need to be consistent. I, I would, I would at least object ---

THE COURT: She works at the school. I mean, a sub, I don't usually let subs go because they're really basically contractors. They're not employees; they're contractors.

MR. WILSON: Right. So, I, I would object I guess. I guess I'd have to.

THE COURT: I got a feeling she ain't going to make it through, but I'm just trying to save time.

MR. WILSON: I agree.

THE COURT: What number is that?

CLERK OF COURT: 382.

THE COURT: You're staying in this case.

JUROR: Okay.

THE COURT: Just have a seat, stay with us.

JUROR: What my thing was being fair because ---

THE COURT: No, no, ma'am.

JUROR: Okay.

THE COURT: I'll talk to you later.

JUROR: Okay.

THE COURT: Don't discuss this case.

CLERK OF COURT: Is that a stay?

MR. HUMPHRIES: For now.

THE COURT: Next person.

BAILIFF: 387.

CLERK OF COURT: Leah Rogers.

THE COURT: Leah Rogers, yes, ma'am?

JUROR: I have a hip impairment. Dr. Best wrote me a excuse. It's -- I've been out of work for two years due to this. It just stiffens up. I have a hard time sitting for a long period of time or standing, so I have to ---

THE COURT: If you get on this jury, we'll let you stand up and sit down ---

JUROR: Okay.

THE COURT: --- as you wish. Just make sure if you sit on the jury you sit on the back row so you won't affect the person in front you, okay?

JUROR: Okay.

THE COURT: And I -- whenever you stand up and sit down, I'll know what it's about, okay?

JUROR: Thank you very much.

THE COURT: Thank you, ma'am.

Next person.

BAILIFF: 180.

CLERK OF COURT: Megan Grafton.

THE COURT: Megan or Megan?

JUROR: Megan, and it's actually Grafton-Holmes.

CLERK OF COURT: Grafton-Holmes.

THE COURT: You've been married since November?

JUROR: Yes.

THE COURT: Okay, Ms. Grafton-Holmes.

JUROR: My husband and I are closing on our first house this week and beginning about six months of renovations. So, I can serve but I at least have to be there for the closing.

THE COURT: Yes, ma'am.

JUROR: To sign.

THE COURT: Do you know when it's going -- schedule to be?

JUROR: It's supposed to be today, so hopefully this week. If not, then it'll be next week.

THE COURT: Well, is that here in Conway?

JUROR: No, Myrtle Beach.

THE COURT: Okay, but as long as I can get you there and get that done and get back, you'll be fine?

JUROR: Yeah. Absolutely. I just need to be able to sign my name and I'm done.

THE COURT: All right. All right, I'm going to leave you on now to see if -- and hopefully you can get the thing

closed in the next day or so.

JUROR: Thank you.

THE COURT: If not, then I have to worry about it.

JUROR: Yeah, if you can pull some strings about it.

THE COURT: No, I'm not going to pull any strings or anything, but we'll see how it goes towards the end. Just let me know when we start jury selection where we are with that, okay?

JUROR: Okay, thank you.

THE COURT: Thank you.

Next person.

BAILIFF: 299.

CLERK OF COURT: 299, Susan Martino.

JUROR: I have Crohn's Disease. I asked to be excused before. I have unpredictable, uncontrollable bowels. I have to carry a card with me. I went to my doctor again on Friday, and he said if there were any questions ---

THE COURT: Let me hold the card.

JUROR: Sure.

THE COURT: Will you copy that card for me, please?

CLERK OF COURT: I'm getting it right now.

THE COURT: All right, plus it's my experience with this, as far as I've had friends with it, it becomes very painful.

JUROR: Yes, sir. Considering I've been up all night,

yes, sir.

CLERK OF COURT: Judge.

(COURT CONFERS WITH THE CLERK.)

THE COURT: Just give that to the court reporter.

I'll have you step over and pick that up, ma'am, but one thing. You probably could have worked this out with a statement and all that, but they said you were kind of a little short with somebody on the phone, and that might have caused ---

JUROR: Well, well, I sent my letters in ---

THE COURT: --- a problem.

JUROR: And I was told because I work, I had to serve.

THE COURT: Okay. Well, when you work, how do you do it when you're working?

JUROR: I have other people and they understand my condition. When I say I have to go, they take over and I just run. And they know it can be five minutes, it can be half an hour I'm in the bathroom, and it can be five or ten times in a row.

THE COURT: Stand over there for a minute.

JUROR: Yes, sir.

THE COURT: Mr. Wilson, Mr. Humphries?

MR. HUMPHRIES: I say let her ---

MR. WILSON: I have no objections.

MR. HUMPHRIES: I say let her go.

THE COURT: Madame Clerk, if you'd just give that to her with ---

CLERK OF COURT: She's gone to make a copy of it.

THE COURT: If you'll wait over there ---

JUROR: Yes, sir.

THE COURT: --- with the officer, you may be excused.

JUROR: Thank you, sir.

THE COURT: Next person.

BAILIFF: 417.

THE COURT: 299 is excused.

CLERK OF COURT: 299.

THE COURT: Yes, 299 is excused.

MR. RATHBUN: What number is this?

THE COURT: This is 417.

CLERK OF COURT: 417.

MR. RATHBUN Thank you.

CLERK OF COURT: Deborah Smith.

THE COURT: Hello, Ms. Smith. How are you doing?

JUROR: I'm okay.

THE COURT: Come a little bit closer so we can hear you. This lady's got to hear you. All right, Ms. Smith, yes, ma'am.

JUROR: Single mother of three, $1600 mortgage. I have no family to watch them. The only one I had was my brother, and he's been here for molesting my daughter. So,

I tried that, so -- and I had CDV in January 2005. I don't know if that -- I just paid the fine, pled guilty.

THE COURT: That wouldn't, that wouldn't disqualify you. Are you saying the solicitor's office is assisting you in prosecuting your brother?

JUROR: Yeah. Since June.

THE COURT: Okay, and you're the main witness for the state?

JUROR: Yeah, and my seven year-old.

THE COURT: Are you working with a particular lawyer involved in that or officer?

JUROR: I have a solicitor I haven't really talked to much. He's been in since June, but he has two charges against him, some other charge.

THE COURT: Okay, stand right over there a second.

JUROR: Okay.

MR. WILSON: I don't have any objection.

THE COURT: I'm sure you don't, Mr. Wilson.

You're excused, ma'am.

JUROR: That's it?

BAILIFF: Number 22.

MR. HUMPHRIES: 22.

CLERK OF COURT: 22, Vertis Bellamy.

THE COURT: Yes, Mr. Bellamy. Come close, Mr. Bellamy. What do you want to tell me?

JUROR: I got hit in the head with a crowbar, and I can't remember much, and I can't read too good.

THE COURT: How far did you do in school?

JUROR: All the way to twelfth.

THE COURT: Can you read and write at all, sir?

JUROR: No. I can write. I can't read too good.

THE COURT: What type of work do you do?

JUROR: Carpenter.

THE COURT: Sir?

JUROR: Carpenter work.

THE COURT: Carpenter work, and you say -- do you get medication or something for your head?

JUROR: I take pills.

THE COURT: You say you can't remember things very well?

JUROR: Yeah.

THE COURT: Do you see a doctor?

JUROR: Yeah, sir, Sea Coast.

THE COURT: Sir?

JUROR: Sea Coast Hospital.

THE COURT: How often do you go down to see the hospital?

JUROR: I go every once in a while.

THE COURT: Once every ---

JUROR: When my head go to hurting me real bad.

Crowbar fell three stores and hit me there.

THE COURT: You don't have to remember things at work too much?

JUROR: Not too much.

THE COURT: Do you work as someone's assistant, or are you have your business or what?

JUROR: No. I work for somebody.

THE COURT: They just tell you what to do?

JUROR: Yeah. Mr. Henderson.

THE COURT: What now?

JUROR: Bruce Henderson, staining and picture company.

THE COURT: I didn't hear what you said.

JUROR: I worked with, I were working for Bruce Henderson.

THE COURT: You working with him now?

JUROR: Yes, sir. I laid off right now.

THE COURT: All right, stand over there for a second. State?

MR. HUMPHRIES: Excuse.

THE COURT: Defense?

(DEFENSE COUNSELORS CONFER.)

MR. WILSON: Judge, we, we, we would ask that he come and at least us examine him some more in terms of his lick in the head and whether he actually can remember.

THE COURT: I'm not sure how we as -- we are not

experts in that regard. How are we going to know that one way or the other?

JUROR: I, I mean, I know he says he can't remember, but he says that he's able to work and he's able to do carpenter work, and carpentry work certainly requires a great deal of, of knowledge. And you have to be able to measure, and you have to be able to remember what you -- where you put stuff in order to add stuff to it or take stuff. I just, I just think it's very interesting.

THE COURT: I think with his problem reading and writing and all that.

Sir, I'm going to excuse you at this time. Sir, you may go.

JUROR: All right.

THE COURT: 22 is excused.

BAILIFF: Number 211.

CLERK OF COURT: Judge, this is the ---

MR. HUMPHRIES: This is the deaf mute.

(A PAUSE.)

CLERK OF COURT: 211 is Amanda Haynes.

THE COURT: Well, let's do it now. No, let's go ahead and do it now.

Now, if you would come up, please. You are Amanda Haynes?

JUROR: Amanda Haynes.

THE COURT: Now, Ms. Haynes, the requirements on a jury is can you, you know, pay attention, observe, can you hear what people say. And hearing, it could be either by reading lips or something else. My question is how well are you able to read lips?

JUROR: I can read lips, but they can't turn their back. This is the problem. And if anybody, like, turning your back, when I can't see, I can't -- you were saying ---

THE COURT: I noticed that when I mentioned over there about number of miles at the back, you knew the number of miles it was. Five miles, as I recall, from courthouse.

JUROR: Uh-huh.

THE COURT: You could see far to read to lips, huh?

JUROR: Yeah.

MS. HAYNES: Excuse me, but I told her what you were talking about.

JUROR: Yeah.

THE COURT: And come around close, ma'am. What is your name, ma'am?

MS. HAYNES: Patricia Haynes.

THE COURT: Patricia what?

MS. HAYNES: Haynes.

THE COURT: And you're her mother?

MS. HAYNES: Uh-huh.

JUROR: Uh-huh.

THE COURT: Now, we're going to have quiet again, please.

Now, how -- I'm trying to decide if you're on that jury whether or not person doing sign would help out, or whether that would not be of any benefit because maybe you might not know it that well or something like that. How, how is your situation there?

JUROR: Well.

THE COURT: Speak to this lady right here so she can hear you.

JUROR: What do you mean by that? You mean like if -- like, give me, you know, like ---

THE COURT: Do you communicate with other people who use sign language?

JUROR: Uh-huh.

THE COURT: And you do that well?

JUROR: Yeah.

THE COURT: And, Madame Clerk, didn't something -- what did you mention to me?

CLERK OF COURT: Her mother told me that when she gets excited ---

THE COURT: Oh, yeah.

CLERK OF COURT: --- she kind of gets confused with the ---

JUROR: Uh-huh. Whenever I get really nervous or

something, you know, I tend to kind of, like, lose track. And that's why I've got to have an interpreter, you know, to tell me what, what's being said, and I can get it better that way.

THE COURT: What do you mean get it?

JUROR: I mean, if it -- any time I'm, like, it's a situation or any training I have, I've got to have an interpreter, you know, to tell me to -- you know, just in case I miss something and they can tell me what, what was being said because that happens a lot with me. I can't hear anything in this ear. I have about twenty-five percent in this ear.

THE COURT: You have no hearing on your left side and twenty-five percent on your right side?

MS. HAYNES: That's with the hearing aid.

JUROR: With my hearing aid.

THE COURT: With a hearing aid?

JUROR: Uh-huh.

THE COURT: And you rely on other people to tell you what people said?

JUROR: What's that?

THE COURT: You rely and have other people tell you what people said if you missed it?

JUROR: If I miss it, I ask them, you know, repeat it. And if I should have get it, you know, they....

THE COURT: How right. Tell you what, ma'am, if y'all would step over here for a second.

Okay, let me just tell y'all my concerns here. She says that she asks other people what people said. She obviously can't hear people even with her reading lips, and they turn away and no one -- you know good and well we're going to have jurors that -- witnesses are going to turn back and forth.

Even with sign, when she gets nervous she has trouble understanding what everybody says, and she asks other people what, what's done. She needs an interpreter. My concern is other jurors. She may start relying on them to tell her what was said in the course of the trial. I have a serious concern about that.

Any comments from the state?

MR. HUMPHRIES: I think she needs to be excused.

THE COURT: Defense?

MR. WILSON: Of course, Judge, obviously we'd object to her being excused. I think, you know, that -- I mean, if, if she has somebody who's doing sign for her, and I don't know of any particular reason for her to be fearful or be afraid. She's going to be in the jury box, and the signer would be, you know, simply assigned her. So, there won't be anybody else that the signer has any responsibility to or for than her.

THE COURT: Yeah, but I can't have a signer in the jury room with her, and she's going to rely on other people to tell her what other people said even in the jury room during the deliberations since she can't read lips over ten feet away she said. And I'm concerned about that in the sense she's maybe going to over rely on the jurors to be giving her information.

MR. WILSON: Well, Judge, the only problem is that if, if she doesn't have it, if she goes in the jury room and she doesn't have a signer, you then -- her disability is keeping her from being able to function in that setting. And I, I would submit that, that she has a, that she still has, even with her disability, she still has the right to serve, and if it ---

THE COURT: Well, no. You have a right there. I, I'd, I, I would probably send a signer in with instructions. However, my concern, though, is during the course of the trial that if she didn't hear something, she would be asking other people what someone said because she said that even with signers, she relies on people to interpret what people said, and that's my concern there.

MR. WILSON: I, I understand your -- Judge, and of course we object, but whatever the court decides is obviously fine with us.

THE COURT: Ma'am, could I see you? It's my

understanding she wishes to be excused. Is that right?

JUROR: Yes, unless if y'all could guarantee me to have an interpreter present if I do get selected.

THE COURT: Well, see, an interpreter, someone to talk to you, or you mean have someone there who does sign language ---

JUROR: Uh-huh.

THE COURT: --- or someone to talk to you?

JUROR: Someone that would sign to me, you know, interpret what's being said.

THE COURT: All right. So, if someone is doing sign, you can hear pretty well?

JUROR: Uh-huh.

MS. HAYNES: She doesn't hear it. She read lips.

THE COURT: But you can't read lips if somebody turns away.

JUROR: I can read lips. I can do sign language, but my problems is if somebody's turning. There's some people ---

THE COURT: No, I'm worried about the sign language. If someone does sign, you ---

JUROR: Yes.

THE COURT: --- can tell pretty well?

JUROR: Uh-huh.

THE COURT: You have no problems with that?

JUROR: No.

THE COURT: If they do sign language?

MS. HAYNES: Her concern is that if they turn their back. Just like you're talking to her, you turn your back, she had no ---

THE COURT: I know that, but with sign language, you have no problems?

JUROR: No.

THE COURT: So, what about when you get excited? Does that affect your ability to understand sign language?

JUROR: Huh-uh.

THE COURT: So, you're fine, okay, and I'm going to -- and you want to serve? If I have an interpreter, you want to serve?

JUROR: Yeah.

THE COURT: All right, have a seat back there.

JUROR: Okay.

MS. HAYNES: Thank you.

THE COURT: Okay. Would you stay with her, though, please for right now?

MS. HAYNES: Oh, yes. Certainly. And like I say, she has an interpreter.

THE COURT: Okay, great.

MS. HAYNES: She just....

THE COURT: All right. Good. She'll stay with us.

Next person, please.

BAILIFF: Number 340.

CLERK OF COURT: 340.

THE COURT: Yes. Yes, sir.

JUROR: Yeah, I have, I have a fifth-grade education.

CLERK OF COURT: Donald O'Dell, Jr.

JUROR: And assault charges and one of audio piracy.

THE COURT: Audio what?

JUROR: Piracy.

THE COURT: Audio piracy?

JUROR: State of Maryland.

THE COURT: Okay, and what kind of sentence did you get for that?

JUROR: Got five years, suspended down to sixty days with a $100,000 fine.

THE COURT: You don't have a pardon for that, do you, from the State of Maryland?

JUROR: No.

THE COURT: All right, thank you, sir. You're excused.

JUROR: Okay.

THE COURT: Thank you. You may leave. Turn your button in and you may go.

JUROR: Thank you.

Any objection from anyone here?

MR. WILSON: None, Your Honor.

MR. HUMPHRIES: No, sir.

BAILIFF: Number 9.

CLERK OF COURT: Rebecca Bacot.

THE COURT: Rebecca Bacot, yes, ma'am?

JUROR: First, as a matter of fact I'm grateful for the opportunity to be here. I have served on juries in the past, but I work for Community Bank, which has a sister bank in Greenville, and we're in the process of merging and consolidating banks, and I play a key role in that merger.

THE COURT: And that's going on now?

JUROR: Yes, sir, to be hopefully finished, we'll have it finished by June, so we're right in the middle of doing that.

THE COURT: Well, tell me what your role in that is, ma'am.

JUROR: I'm the ---

THE COURT: Come closer.

JUROR: Mortgage loan operations manager, and I, I do operations for the whole state now: Greenville, Columbia, and the coast. And we're trying to take -- relocation ---

THE COURT: Everyone please, keep it down please. Please.

And this situation of course you might not be on the jury until about Wednesday afternoon or Thursday, and don't

you feel that we could get a few days and it won't -- this is going to be June. Then you can stay with us and get this done. And if you do get a little behind, you can catch up, can't you?

JUROR: I probably could.

THE COURT: I'd really appreciate you staying with us. That's a beautiful -- is that called an amulet or what?

JUROR: It's, it's a locket; it has photos in it.

THE COURT: Very good, but stay with us, ma'am. I appreciate your dedication.

JUROR: Thank you.

THE COURT: Thank you.

BAILIFF: 293.

THE COURT: Hello, ma'am. How are you doing?

JUROR: Good. How are you?

THE COURT: What is, what is 293 now?

CLERK OF COURT: 293 is Kitty Martin.

THE COURT: Yes, ma'am?

JUROR: My only concern is I'm being a single mom, if this would take me away from ---

THE COURT: You're what now?

JUROR: I'm a single mom, and if this would take me away from her at night. I'm scared I won't have anybody to take her to school.

THE COURT: All right, do you ---

JUROR: My aunt ---

THE COURT: --- have family?

JUROR: My aunt could keep her, but she owns a daycare. And I don't know if she could be able to take her to school or not.

THE COURT: And how old is your child?

JUROR: Seven.

THE COURT: How about trying to work that out and just give me an update? Try to work out ---

JUROR: Okay.

THE COURT: --- getting someone to do it, okay?

JUROR: Okay.

THE COURT: You go ahead and work on that tonight when you get home tonight and everything else, okay?

JUROR: Okay.

THE COURT: We'll talk to you later about that.

JUROR: All right. Thank you.

THE COURT: Okay.

BAILIFF: Number 2.

CLERK OF COURT: Abdul Akram.

THE COURT: Mr. Akram, how you doing, sir?

JUROR: Fine. How you doing?

THE COURT: Yes, sir, what would you like to tell me, Mr. Akram?

JUROR: One, he's my attorney for one. I don't feel

I'd be a partial judge -- jury if I was on there. And also I was convicted of larceny when I was in the military in '95.

THE COURT: A larceny?

JUROR: Yes, larceny and conspiracy.

THE COURT: Conspiracy to do what?

JUROR: Larceny, commit larceny.

THE COURT: And did you get a general court-martial or a special court-martial?

JUROR: Special court martial.

THE COURT: Special BCD?

JUROR: Uh-huh.

THE COURT: Well, what, the limitation, was that six months?

JUROR: No. I, I was sentenced to eight months actually, but I only served, like, three.

THE COURT: Special BCD only gives you six months and a Bad Conduct Discharge.

JUROR: Well, I had two charges. I mean, I don't -- that's what I was charged.

THE COURT: Oh, they gave you one and stacked on the other one.

All right, the issue of not being fair I'll judge that later, but you'll stay with us now, okay, sir?

By the way, how much did you -- what did they allege

you stole?

JUROR: It was, it was a camcorder over $1,000.

THE COURT: Over $1,000?

JUROR: Yes, sir.

THE COURT: Oh, okay. So, it wasn't under $1,000. Over $1,000. Stand over there one second.

My understanding of the law is that if you were convicted in this state, you could get over a year. Is that your understanding of the law, sir?

MR. HUMPHRIES: That's correct.

MR. WILSON: In our state, that's correct.

THE COURT: And if it's over a thousand, he can get over a year, can he not, sir?

MR. HUMPHRIES: That's correct.

MR. WILSON: In our state.

MR. HUMPHRIES: He'd get five years.

MR. WILSON: Well, but, but my concern, Judge, is that the rule as I understand it is is that the person could have received. And at the time he was convicted in military court, he could not have received a year or more even for both -- for more than a year for both charges. So, if -- even though technically if he had been in a state court, then he would be absolutely right, and the penalty would have been greater than a year. Because he was in military court, penalty was less than a year, and that

would be the prevailing ---

THE COURT: Well, I know. The question, though, is whether or not it is this state, if it's the same thing in this state would you get over a year.

But he also said, Mr. Wilson, that you represent him now.

MR. WILSON: I do. He has pending charges in a court.

THE COURT: And remember I did -- remember you didn't object to me discharging one earlier who had the solicitor working on charges for her.

MR. WILSON: I didn't object.

THE COURT: And he says he doesn't think he can be fair.

MR. WILSON: But I have to object for the record, Judge. I mean, I, I understand, but I ---

THE COURT: Come around, sir. You said that Mr. Wilson represents you now. You don't think you could be fair in the case?

JUROR: No, sir.

THE COURT: And you had a conviction of stealing more than, something of value more than $1,000?

JUROR: Yes, sir.

THE COURT: All right, I'm going to excuse you at this time, sir. You may step outside. You're excused.

Next person.

BAILIFF: Number 99.

CLERK OF COURT: Lula Cox.

THE COURT: Hello, Ms. Cox. How are you doing, ma'am? Now, ma'am, you obviously have some physical problems there. Are you under the care of a doctor? Can you not speak?

JUROR: Yes. Yes.

THE COURT: Okay, and what type of injury do you have there, ma'am?

JUROR: I have CO -- COPD and asthma.

THE COURT: Okay, questions from either side?

MR. WILSON: No.

MR. HUMPHRIES: No objection.

THE COURT: Okay, no objection. No objection, ma'am. This is number 99 is excused. You have asthma. You are in the treatment of a doctor. You cannot stand and have to have oxygen all the time. You wish me to excuse you?

JUROR: Yes.

THE COURT: All right, she's excused with objection. You may leave, sir. You may leave.

JUROR: Thank you.

THE COURT: Next person, please.

BAILIFF: 495.

THE COURT: 495, yes, sir.

JUROR: How you doing?

CLERK OF COURT: Richard Woodward.

JUROR: That's correct.

THE COURT: Richard Woodward. Yes, sir?

JUROR: Mine is simple. That I have a -- I have my own retail establishment, sole proprietor. I am only employee there. I got a father that is watching that. He is watching the store for me now, and he is not in ---

THE COURT: What type of store is it?

JUROR: --- good health. It's a bait and tackle shop here in Conway. We're open seven days a week, and usually daylight to dark. I have a lot of perishables there: crickets, worms. And if we get to where we have to close it, you know, and I'm not moving them, especially this time of year, I'm going to lose a lot of it. So, it's just going to be a financial hardship all the way around.

It's not that I wouldn't mind serving on the jury. I'm afraid that if it was to be a sequestered jury where I can't get in there after court ---

THE COURT: We'll talk about that.

JUROR: --- and take care of it.

THE COURT: But I'm going to leave you on for right now. We'll talk about it.

JUROR: Okay.

THE COURT: Have a seat. Stay here.

Next person.

BAILIFF: 248.

THE COURT: Okay, yes, ma'am. Let me get the name of 248.

CLERK OF COURT: Brenda Kemp.

THE COURT: Is that right? Yes, Ms. Kemp?

JUROR: I have a flight going out of town on Friday.

THE COURT: This coming Friday?

JUROR: Uh-huh.

THE COURT: Okay, what is that to, ma'am?

JUROR: Florida.

THE COURT: Is that a vacation?

JUROR: Uh-huh.

THE COURT: And you've already got the flight paid for?

JUROR: Uh-huh.

THE COURT: When did you do this?

JUROR: Several months ago.

THE COURT: You didn't notify the clerk's office of that?

JUROR: No. I, I didn't think about it.

THE COURT: And you've got some sort of reservation, something?

JUROR: Uh-huh.

THE COURT: How long you going to be gone?

JUROR: Just the weekend, but I'm leaving at 6:35 in

the morning.

THE COURT: And you already have paid for the flight?

JUROR: Uh-Huh.

THE COURT: And do you have some -- could you go ---

JUROR: No, I don't have a thing. I just thought about when I was sitting back here. I thought gosh. I've got that.

THE COURT: Okay, I tell you what, ma'am. During the lunch, would you go get it and bring it back to me, please, ma'am?

JUROR: Uh-huh.

THE COURT: Showing the date of purchase, okay?

JUROR: Uh-huh.

THE COURT: If you bring that back to me, that will be fine.

JUROR: Okay.

THE COURT: Okay? Flight on Friday. You, you, you may go and just bring it back. You go home and just bring it back, so.

JUROR: Okay.

THE COURT: In the courtroom.

JUROR: I can leave now?

THE COURT: Yes, ma'am. Just go get it, bring it back.

All right.

BAILIFF: 439.

THE COURT: 39?

BAILIFF: 439

CLERK OF COURT: Joann Stewart.

THE COURT: Yes, Ms. Stewart?

JUROR: I work for the county. I didn't know if that'd make a difference or not.

THE COURT: No. What do you do?

JUROR: Finance, accounts payable.

THE COURT: Boy, y'all are in a lot better shape than Dillon County is.

JUROR: I don't know.

THE COURT: No, you'll be fine. Thank you, ma'am.

JUROR: Okay.

THE COURT: You don't work in the courthouse? You work in the office?

JUROR: Right. I work in the office.

THE COURT: Thank you.

JUROR: Finance office.

THE COURT: Thank you. You're fine.

BAILIFF: 290.

CLERK OF COURT: James Martin.

THE COURT: Why does that say Brandon?

JUROR: That's my third name. This is what my mom and dad called me all my life.

THE COURT: Okay. All right.

JUROR: I got -- I come to the courthouse this morning to actually fill out the juror questionnaire paperwork because they were sending it to the wrong address. I've been in Pleasantview for going on four months now. I do not have a permanent residence yet. I'm living in a tent on a cleared lot waiting for them to bring my modular out there.

THE COURT: And that will be in Horry County?

JUROR: Yes, in Horry County. The corrections officer, he works B, B block in J. Rubin Long. All right, my daughter's spending the weekend at his place every weekend, and I associate with him and his wife two to three times a week, so.

THE COURT: All right, anything else?

Now, you say he hadn't filled out the paperwork yet?

CLERK OF COURT: Yes, he ---

JUROR: I filled it out this morning.

CLERK OF COURT: --- filled it out this morning.

THE COURT: You're fine. Thank you, sir.

BAILIFF: 218.

THE COURT: Yes, sir.

MR. HUMPHRIES: It's more than an hour, and I've changed my mind.

CLERK OF COURT: 218, James R. Hill.

THE COURT: Come on, Mr. Hill, you don't want to change your mind, do you?

JUROR: I have two health problems, too. I think between the two of them, I probably should opt out.

THE COURT: Ah, you had me excited, Mr. Hill, but if you're over sixty-five and you want to change your mind, that's up to you.

JUROR: I'd better.

THE COURT: All right, sir, you may be excused.

JUROR: God bless you.

THE COURT: Thank you, sir.

BAILIFF: Number 30.

JUROR: Do I leave now or ---

THE COURT: Yes, sir.

I assume no objections on that, right?

MR. WILSON: No objection.

CLERK OF COURT: David Blackburn.

JUROR: They've been giving me headache things that I used to do ---

THE COURT: Let me get that number again.

JUROR: 30.

CLERK OF COURT: Number 30.

THE COURT: David Blackburn, yes, sir?

JUROR: I used to do personal business with ---

THE COURT: No, we'll get to that later. Anything

else?

JUROR: Okay, I got law enforcement in my family.

THE COURT: Anything else?

JUROR: No.

THE COURT: Thank you, sir. Have a seat.

(A PAUSE.)

THE COURT: What is your name again, ma'am?

JUROR: Tracie.

THE COURT: Tracie?

JUROR: Tracie Neal.

THE COURT: Now, Ms. Neal, you have how many children?

JUROR: I have one.

THE COURT: And does that child live with you, ma'am?

JUROR: No, sir. You asked, you asked if anybody had a child.

THE COURT: Okay, but the child doesn't, doesn't live with you?

JUROR: No, sir.

THE COURT: All right. Well, then, ma'am, you would be qualified to serve then, ma'am.

JUROR: Okay.

THE COURT: Now, you have a conviction, ma'am?

JUROR: Yes, sir.

THE COURT: And what is that conviction of?

JUROR: A DUI and simple possession.

THE COURT: Simple possession of what?

JUROR: Narcotics.

THE COURT: Which?

JUROR: It was Darvoset.

THE COURT: Darvoset?

JUROR: Uh-huh.

THE COURT: All right. Now, did you come to high court, or did you go to magistrate and pay a fine?

JUROR: It was in North Carolina.

THE COURT: Okay, but it was a Darvoset for simple possession?

JUROR: Yes, sir.

THE COURT: And then you have a DUI?

JUROR: Yes, sir.

THE COURT: Was that DUI involving an accident with someone else involved?

JUROR: Huh-uh. Huh-uh.

THE COURT: Then you're qualified, ma'am. Have a seat.

MR. HEMBREE: She wasn't in here for the other four questions.

THE COURT: Was she not?

CLERK OF COURT: No. Those were the first questions. She was first.

THE COURT: I'm trying to think what other questions

it could be. Conviction I know I asked her about. I guess I could have asked her reading and writing and mental problem.

Ms. Neal, Ms. Neal, let me see you. I forgot one other thing to ask you. Come back.

Let's see what else we got. She's not over sixty-five. She doesn't -- let's see if she works in a school system.

335. You work anywhere?

JUROR: No, sir, I do not.

THE COURT: Are you a student anywhere?

JUROR: No, sir, I am not.

THE COURT: Do you have any person in your household you're taking care of that has some serious medical problem?

JUROR: No, sir.

THE COURT: Do you have a serious medical problem at all, ma'am?

JUROR: No, sir.

THE COURT: And the only convictions were what you told me, right, ma'am?

JUROR: Yes sir.

THE COURT: And you have -- you can read and write in English?

JUROR: Yes, sir.

THE COURT: You're a citizen of the United States?

JUROR: Yes, sir.

THE COURT: And you have a driver's license?

JUROR: It's suspended.

THE COURT: Suspended?

JUROR: Yes.

THE COURT: Well, but you do one?

JUROR: Yes, yes.

THE COURT: They just won't let you have it right now. All right, and you have an ID card from the Highway Department?

JUROR: Yes, sir, and voter registration.

THE COURT: Voter registration. I'm trying to think of any other question I may have missed I should have asked you. You're not in school. You're not over sixty-five. Do you live in Horry ---

JUROR: I live in this county, and I'm a U.S. citizen.

THE COURT: All right. Thank you, ma'am. You may have a seat.

(A PAUSE.)

THE COURT: Now, let's see. Here's what I'd like to do now. What I'd like to do is to find out generally what they -- I'm going to give them a break. We all need a break for a few minutes. And then when I come back in, I'm going to ask them generally about the lawyers and about the

particular case, and I'll ask them about membership in SADD, MADD and those type of things

MR. HUMPHRIES: Remember we are withdrawing -- we are not advancing the escape charge.

THE COURT: Okay.

MR. HUMPHRIES: It's a multi-count indictment. I just wanted -- if you got to the point if you were actually reading ---

THE COURT: But once you're going to call the case, you're going to read the case -- call the case. I'll read what you hand me.

MR. HUMPHRIES: Okay. Well, it's on the -- only change. It's on the indictment. It's a multi-count indictment.

THE COURT: All right.

MR. HUMPHRIES: One indictment, five counts.

THE COURT: All right. This is count one. Anyway, I won't read it.

MR. HUMPHRIES: All right. Okay.

THE COURT: I won't read that.

MR. HUMPHRIES: Okay.

THE COURT: All right, and then we'll do that, and then we won't go over the witnesses. We'll do that later, and then see if anybody knows anything about the case.

The fact they've, as y'all know, the fact they've

heard something on TV or seen TV doesn't necessarily disqualify them if they can put that aside, be open minded about everything. And I'll say that generally and I'll say those who don't think they can, they can come talk to me.

Any other matters y'all want me to go over generally?

MR. WILSON: Judge, there's just one thing. There is a, there's this other group. It's called, and I'll get the name of it for you, Community Against Violence or something.

MR. HUMPHRIES: CAVE.

MR. WILSON: No, it's not CAVE.

THE COURT: I'll ask if they're involved in any type of organization say that focus on certain crimes, okay? And I can ask them if they've had something in their family where they or somebody's been charged with a violent crime. I'll ask that. Kin to law enforcement. The issues I mentioned about membership in organizations, they know anything about the case and could they put aside that and have any concerns about that. And as far as witnesses, we'll get that later on. Introduce the lawyers. Anything else you want me to ask them generally? If so, let me know after the break, all right?

MR. WILSON: All right, sir.

MR. HUMPHRIES: Thank you, sir.

CLERK OF COURT: Judge, some of the jurors, those

seven, have now been located. Some of them are here waiting. One of them's still not been located as of yet. They're still trying to find them, and these are the results.

THE COURT: After the break, I'll see it, okay?

CLERK OF COURT: Okay.

THE COURT: Yes.

MR. WILSON: Judge, before you do that, the number of the juror who told you about the sister, she's also a juror?

CLERK OF COURT: Which one? I'm sorry.

MR. WILSON: The one that we just did, Ms. Neal, her sister.

CLERK OF COURT: No, she is not.

MR. WILSON: She's not on jury duty?

CLERK OF COURT: No. I don't ---

MR. WILSON: Her sister just called in.

LAW CLERK: I think she is on the jury.

CLERK OF COURT: Is she?

LAW CLERK: Yes.

CLERK OF COURT: What's her name?

LAW CLERK: She's the one back there in the glasses and long hair.

MR. WILSON: I don't think both of them should be on the same jury. And I just needed to know her number.

LAW CLERK: You want me to go get it?

CLERK OF COURT: Please.

THE COURT: No, no.

CLERK OF COURT: No?

THE COURT: Just go ask them.

(END OF CONFERENCES AT SIDEBAR.)

(A PAUSE.)

THE COURT: Now, ladies and gentlemen of the jury, at this time I know some of you all have already been to the restroom. Some of us have not, and so we're going to need to take a few minutes ourselves. What I need for you to do, though, ladies and gentlemen, is this.

I need for you to realize that you're basically being qualified as a jury. So please, you got these badges on. While you're on break outside the courtroom, anywhere on these courthouse grounds, do not talk to anyone unless that person has a badge on saying that person is a juror. Also you see the bailiffs. The bailiffs have little name tags saying they're bailiffs. Back in the back we have the officers helping us here. They're not involved in the case.

Officers, bailiffs, if y'all would step forward? These three people here -- well, are you with the Conway Police Department, sir?

DEPUTY: I'm a Constable.

THE COURT: All right. They're not involved in this case. If you need assistance, you may ask them for assistance, and so that's fine. You need to talk to the clerk, come on up here and talk to them. That's fine. Other than that, don't talk to anyone.

If you see someone in this building or around this courthouse or in this courtroom that you know, do not talk with them. You may say, well, I'm just going to talk about business, the weather or something else. Well, that doesn't matter. Do not talk with them because if you do, someone may think you were talking something and all of a sudden you end up on a jury, and then that person ends up being involved with the case somehow. And so, therefore, there are thoughts that you were doing something wrong. Then I've got to examine you to see whether you should be held in contempt of court or whatever else. So, the best thing is not to talk with them at all.

Now, I know it is 12:30, so we're getting very much close to y'all's lunch hour, but I want to get y'all generally qualified before I let you go to lunch. So, please know it might be late. But I need to get this done as best we can. If you need to get you a pack of crackers now or whatever or soft drink, now's the time to do it.

We're going to take fifteen minutes. I need, though, for you -- is someone in the jury assembly room?

CLERK OF COURT: I think that, yes, sir, I have another jury in there.

THE COURT: Well, I kind of need for you not to be in the courtroom, but I tell you what. Don't worry about it. You just come back to this courtroom at ten minutes to 1, not before ten to 1. You come on back to the courtroom. We'll see you then. You may step outside. Do not talk to anyone.

(COPY OF MEDICAL CARD OF JUROR #299-MARTINO MARKED INTO EVIDENCE AS COURT'S EXHIBIT NUMBER 1.)

(OFF THE RECORD.)

THE COURT: All right, counselors, and the clerk says her office contacted juror number 492. That indicates on the list he's over sixty-five. She states he does not wish to serve. Do y'all wish for me to put the clerk under oath or something else, or is everyone satisfied with that? His birth date is listed on juror number 492.

MR. HEMBREE: State's satisfied with that procedure, Your Honor.

MR. WILSON: I'm satisfied, Your Honor.

THE COURT: All right.

MR. WILSON: I'm satisfied.

THE COURT: Madame Clerk, you did say the juror did not wish to serve, right?

CLERK OF COURT: That is correct.

THE COURT: All right, Madame Clerk, Madame Court Reporter, you got that down, right?

COURT REPORTER: Yes, sir.

THE COURT: What the clerk said. All right. So, therefore, what about the others? I'm going over the eight we do not have a response. 492 is now off, so now we're up to 79, 66, 281, 317, 398, 442, 482. Who is here?

CLERK OF COURT: 281, they're still trying to locate.

THE COURT: Okay.

CLERK OF COURT: 442 is here. 79 is here. 317 is here.

THE COURT: And did you say one is going to be here at 1:00?

CLERK OF COURT: Yes, sir, number 66. He's to be here at 1:00. He is here.

THE COURT: Okay, that's four that are here. All right, bring me those in.

(THE COURT AND CLERK CONFER.)

THE COURT: Mr. Wilson, Mr. Hembree, Mr. Humphries, approach for any information we have on juror 482.

MR. WILSON: I'm sorry, Your Honor. What was your...

THE COURT: I want y'all to approach if you would, please.

(OFF-THE-RECORD BENCH CONFERENCE.)

THE COURT: All right, if you would bring me the

jurors up. If y'all would come up in front here, please. If y'all would just come up in front of the court reporter here, please.

All right, what's the name of juror number 75?

JUROR: Patricia Chumas.

THE COURT: Timmons?

JUROR: Chumas. C-h-u-m-a-s.

THE COURT: All right, and 66.

CLERK OF COURT: Anthony Carmichael.

JUROR: Anthony Carmichael.

THE COURT: And 370.

JUROR: Troy Metzner.

THE COURT: How do you spell that?

JUROR: M-e-t-z-n-e-r.

THE COURT: 398.

JUROR: Christine Sandler.

THE COURT: Sandler, and 442.

JUROR: Richard Suggs.

THE COURT: All right. Now, y'all were not here this morning. Could you tell me why you were not here this morning?

JUROR: I just totally forgot, Your Honor. I apologize to the court.

THE COURT: All right, and you, Mr. Carmichael?

JUROR: I was late. I brought a note because I have,

like, a heart condition or something like that. I thought I could get by with it. I have high blood pressure and stress and stuff like that. I'm taking medication. So I just ---

THE COURT: All right. I'll talk you in a minute about that. Mr. Metzner?

JUROR: My wife is in the Medical University of Charleston, and I got home late last night. Completely forgot and overslept this morning.

THE COURT: All right, we'll talk about that then. Ms. Sandler.

JUROR: I didn't know I was supposed to be here. I don't recall getting a pink piece of paper. That's why I don't have it. I would have came if I'd known.

THE COURT: Are you Christine Sandler?

JUROR: Yes. I don't have a pink piece of paper. That's all. Yeah, I see that, but I don't have a paper. It maybe got ---

THE COURT: Are you telling me you forgot to sign -- telling me you forgot to sign it?

JUROR: Yeah.

THE COURT: It's signed by your name there.

JUROR: Yeah, I know, but I -- no excuse. I probably lost it.

THE COURT: Mr. Suggs?

JUROR: I was busy this morning, and it slipped my mind.

THE COURT: Busy, sir, or it slipped your mind?

JUROR: Yeah. I, I did know about it.

THE COURT: Yes, sir. I say yes, sir to you. Yes, sir to me.

JUROR: Yes, sir.

THE COURT: All right, if y'all would, please go down the line. Ms. Thomas, how many miles you live from the courthouse, ma'am?

JUROR: Approximately thirty.

THE COURT: Mr. Carmichael?

JUROR: About thirty-five.

THE COURT: Mr. Betzner?

JUROR: Metzner, with an M, sir. Five.

THE COURT: I'm sorry, Metzner. Five.

Ms. Sandler?

JUROR: About thirty.

THE COURT: And Mr. Suggs?

JUROR: About twenty-five.

THE COURT: Okay.

CLERK OF COURT: I have Carmichael with thirty-five.

JUROR: Yes.

CLERK OF COURT: I have Chumas with thirty, Metzner with five, Sandler with five.

JUROR: Me? Thirty.

CLERK OF COURT: Thirty, and Suggs with twenty-five.

THE COURT: Ms. Sandler, it says you live in Myrtle Beach?

JUROR: I live in Surf Side.

THE COURT: Surf Side.

JUROR: What address do they have? It might be the wrong address. I live in Surf Side.

THE COURT: So, you don't live on [redacted]?

JUROR: Huh-uh. I live in [redacted].

THE COURT: Have you lived before on [redacted]?

JUROR: Uh-huh. Yeah.

THE COURT: All right, put them under oath, please.

(THE JURORS ARE SWORN.)

THE COURT: Put your hands down. Now, if any questions I ask apply to you, put your hand back up. Does anyone not to live in Horry County? Anyone not a citizen of the Unites States? Anyone who has children that live with them under the age of seven? Anyone who is employed in the school system goes to school? Anyone who has been on circuit court jury in the last three years? Anyone who's been on the grand jury the last five years? Anyone who doesn't have either a driver's license, ID card from the highway department, or voter registration? You got one

of the three, you're fine; you don't have any of those three, let me know.

Okay, I don't wish to embarrass anyone, but there are only five of you. I feel I have to ask it this way. Everyone can't read, write, speak English language? Is that correct? All right, has everyone got at least a sixth grade education? Does anyone have anyone at home who you're taking care of that you being here on jury duty would cause a serious threat to their physical well-being?

You have someone in the hospital?

JUROR: My wife is in hospital. She has multiple sclerosis, and she'll be coming home this afternoon. She is fairly able to take care of herself if necessary. I'm not required to be there.

THE COURT: So, you work outside the home right now, sir?

JUROR: Well, I'm a pastor and work within the home. My office is in the house.

THE COURT: Your church is outside?

JUROR: Yes, sir. It's outside.

THE COURT: You still -- and other words, you don't, and you don't want to discuss with me about excusing you off jury duty for that, sir?

JUROR: No.

THE COURT: All right, does anyone have any physical

ailments themselves that they want to talk to me about?

If you want, sir, you come around to the side. Wait till we get to the end. We'll do that with you.

Does anyone have a physical ailment or would like to talk to me about any prior convictions they've had? Anyone have any prior conviction that could have gotten you more than a year in jail you want to talk to me about? All right, if -- does anyone have any other reason why you feel you cannot serve on jury duty?

JUROR: I'm self-employed. I'm the only person I have working for me.

THE COURT: Sir, if I asked by raising their hands out there, there would be a lot. Anybody else?

All right, sir, let me talk to you up here right quick, if you would.

Counsel, y'all approach.

(THE FOLLOWING CONFERENCE IS HELD AT SIDEBAR.)

JUROR: Anthony Carmichael.

THE COURT: Mr. Anthony Carmichael, juror number 66. Now, do you work anywhere, Mr. Carmichael?

JUROR: I work at Pizza Hut in North Myrtle Beach. But I just got, like, high blood pressure and get stressed out, stuff like that. So, I mean, my heart, like, go real fast and stuff like that. So, I got a lot of anxiety also. Besides that I'm all right, but I try to take it easy as

much as possible. Too much stress on me ---

THE COURT: I've been to a crowded Pizza Hut before. You can handle that?

JUROR: Yeah. I mean, you got a lot of people working for you.

THE COURT: Are you the manager?

JUROR: Yeah, I'm one of the managers out there. So, I mean, and I'm trying to get myself ready for the summer.

THE COURT: Well, sir, I think if something happens and anxiety takes over, you need to talk to me about it, you let me know. Otherwise, I'll qualify you.

JUROR: Okay.

THE COURT: All right.

JUROR: Thank you.

THE COURT: You have a seat in the audience.

(END OF CONFERENCE AT SIDEBAR.)

THE COURT: All right, y'all are now qualified jurors. Thank you. Welcome to our group. They've all been waiting for you out there. Have a seat if you would.

All right, Madame Clerk, you've done a great job. That only one person who's not here.

(A PAUSE.)

THE COURT: Sir, you want to approach, sir? What is your name, sir?

JUROR: Harvey Brooks.

THE COURT: Harvey Brooks?

JUROR: Yes, sir.

THE COURT: What is your juror number?

JUROR: I don't have ---

THE COURT: Sir, you've been disqualified, sir.

All right, now, at this stage juror 476 we talked about earlier could not find. Sheriffs have been trying to find, that they have not been successful at this point, and juror 281 out of five hundred potential people. That's admirable. At this time, if you find them let me know, but I'm going to proceed on. This is our qualified jury panel, and I will have a couple of matters I am still thinking about regarding qualification or not. But we'll deal with those later.

All right, if you would, ladies and gentlemen, at this time no one is to enter the room. Are all of the jurors back in the room, officer?

SHERIFF DEPUTY: Yes, sir.

THE COURT: All right. If you would, Mr. Solicitor, if you're ready, call your case, sir.

MR. HEMBREE: Thank you, Your Honor. The State of South Carolina calls the case of *State vs. Louis M. Winkler*. This is by way of indictment number as 2006-GS-26-2701. Your Honor, this is an indictment that was presented to the Horry County grand jury and true billed on

May 25th of 2006. This is a three count indictment, Your Honor. The first count murder: that Louis M. Winkler did in Horry County on or about March 6, 2006, willfully, feloniously, and intentionally with malice aforethought kill the victim Rebekah Winkler by means of shooting her in the head, and the victim did die as a proximate result thereof in Horry County on or about March 6, 2006.

Count two, burglary in the first degree: that Louis Michael Winkler did in Horry County on or about March 6, 2006, enter the dwelling of the victim, Rebekah Winkler, without consent and with the intent to commit a crime in the dwelling -- to wit, murder and/or assault and battery. And when any effect -- and when effecting entry or while in the dwelling or in immediate flight, he was armed with a deadly weapon; or caused physical injury to a person who was not a participant in the crime; or used or threatened the use of a dangerous instrument, a semiautomatic handgun; or displayed a pistol or other firearm; or entered the dwelling in the nighttime.

And count three, Your Honor, aggravated assault and battery of a high and aggravated nature: that Louis M. Winkler did in Horry County and on or about March 6, 2006, commit an assault and battery upon the victim J[redacted] G[redacted], constituting an unlawful act of violent injury to the person of said victim accompanying with circumstances

of aggravation, including but not limited to the defendant committed the assault and battery upon the victim while in the commission of a burglary, which is a felony; and/or there exists a great disparity in the ages and or physical conditions of the parties in that the defendant was forty-five, a forty-five year-old adult male and the victim was a fourteen year-old male child.

Your Honor, let the record reflect that I'm now passing the indictment up to the court.

THE COURT: Let the court reporter hold that.

MR. HEMBREE: Thank you, Your Honor.

THE COURT: Ladies and gentlemen of the jury, you've heard the solicitor read the allegations. And once again, ladies and gentlemen, the fact -- well, not once again, but let me tell you this. The fact that someone is charged with a crime is not evidence the person's committed a crime at all. That is the procedure to bring before a jury for a jury to decide whether guilt's proven beyond a reasonable doubt, and the burden is upon the state to prove guilt beyond a reasonable doubt. So, the fact that Mr. Winkler is charged with these crimes is not evidence that he's committed these crimes.

Ladies and gentlemen, with the allegations, it could be that there may or may not have been some media coverage of the allegations, either on TV or newspaper. And you may

or may not have seen something on any type of media about these allegations. Oftentimes when those things are on media, though, they tell you pretty much what was just read when someone is charged with a crime. But if anyone out there because of media coverage or because of anything else regarding this issue, regarding these allegations, you've already formed an opinion about this case one way or the other, if so please stand up. And if you would, please come over to the side.

(THE FOLLOWING CONFERENCES ARE HELD AT THE BENCH.)

BAILIFF: Number 16, Judge.

THE COURT: All right. Come around please, ma'am.

CLERK OF COURT: Helen Barnett.

THE COURT: Yes, Ms. Barnett, what, if anything, do you know about this case? Speak to this lady here.

JUROR: I'd have a very difficult time being impartial in this case because it would dredge up the nightmare of physical and sexual abuse on me by my father.

THE COURT: Because of what, ma'am?

JUROR: Physical and sexual abuse.

THE COURT: What's your number again? Now, what do you, what do you want to tell me about that?

JUROR: That, that I was subject of physical and ---

THE COURT: Okay.

JUROR: And I would have a very difficult time being

impartial.

THE COURT: Okay.

JUROR: On this case because it would dredge up the nightmares of physical and sexual abuse that I suffered from my own father in my childhood.

THE COURT: Okay, I understand, ma'am, and you followed along the allegations in this case?

JUROR: Yes, I have.

THE COURT: And you think they involve allegations of that?

JUROR: Yes, I do, sir. That was -- it was a different incident, but I'm well aware of it and, and I think I would have a very hard time forgetting that.

THE COURT: Okay. Do you feel that if you sat on that jury and listened to the evidence, you could make a decision based on the evidence in the case and put aside what happened to you, or do you feel that would come into play?

JUROR: I honestly don't know. I feel it would come into play. That's my honest, true feelings.

THE COURT: Stand over here for one second, will you?

You wish me to attempt further rehabilitation, or do y'all have objections one way or the other?

MR. WILSON: I have no objection, Judge.

THE COURT: Please know I'm very sorry about what

happened to you. Continue on in life and I hope you enjoy everything at the beach here. There are a lot more people here who have your accent.

JUROR: Thank you.

THE COURT: Listen, we're going to excuse you on this case, okay? Thank you. Thank you so much.

Okay, next person, please

BAILIFF: 186, Judge.

CLERK OF COURT: Gail Greenway.

THE COURT: Okay, Ms. Greenway.

JUROR: Well, it's just that I live in Little River, and I was aware when all of this was going on. I don't know that -- the defendant personally. I just know that there was a lot of publicity and stuff in our area, so I knew pretty much what he's charged with. And I knew that, that the wife and son were involved.

THE COURT: Okay.

JUROR: I just don't know.

THE COURT: Well, I know. But, see, once people write things or have things on news items but when you really get down to it, you know somebody, we just read the charges there, too, that the state alleges he did. You do realize that those are allegations?

JUROR: Yes, I do.

THE COURT: Do you feel, ma'am, that you could sit on

the jury and listen to the evidence presented in the case and make your decision based on the evidence presented in the case and the law as I instruct it to you and put aside any media information and make your decision based on what occurs here in the courtroom?

JUROR: I don't, I don't, I don't know how I can answer that.

THE COURT: Why would you not?

JUROR: I just think I have -- know too much about it.

THE COURT: Other than the media, what else do you know about it?

JUROR: Well, it's just, I don't really know anything personally, so.

THE COURT: Has anyone talked to you about the case?

JUROR: Well, not -- no. I mean, just my husband and I have talked about it when it was going on. Like I said, it was in our community, so of course I was going to talk about it. But, you know, I'll be glad to try to serve ---

THE COURT: No, ma'am. No, ma'am. Have you formed any conclusions or ---

JUROR: I have.

THE COURT: --- made opinions?

JUROR: I have.

THE COURT: You have?

JUROR: Uh-huh. I have. Do you want me to tell you what I think?

THE COURT: Yes, ma'am.

JUROR: I think he's guilty.

THE COURT: All right, you don't think you could put that aside?

JUROR: No, I don't because I think -- he's guilty. I think that's the way it happened. That's why I can't.

THE COURT: All right, if you would, please don't discuss this with anyone else would you, please, ma'am?

JUROR: I will not.

THE COURT: All right. You may step outside.

JUROR: Okay. Thank you.

THE COURT: Any objection?

MR. RATHBUN: None from us.

THE COURT: Next person, please.

BAILIFF: 357, Judge.

CLERK OF COURT: I didn't hear the number.

THE COURT: 357.

CLERK OF COURT: Dixie Penley.

THE COURT: Yes, is it Kenley or Penley?

JUROR: Penley, P-e-n-l-e-y.

THE COURT: Yes, Ms. Penley.

JUROR: Gossip in my restaurant is that when the previous -- after previous hearing there was a threatening

note that was left, besides the fact that I'm a victim of spousal abuse. I just think that I can't be fair. I think he's guilty.

THE COURT: Okay. Now, ma'am, when you say gossip, we all know about gossip and ---

JUROR: And whether it's true or not.

THE COURT: --- whether it's true or not. No one knows.

JUROR: That's exactly right.

THE COURT: And in a court of law what we do is you put up the information. The evidence is there, and then the jury determines whether or not guilt's been proven beyond a reasonable doubt. You don't think you could sit on that jury and listen to the case and make your decision based on the evidence presented in the trial and set aside any gossip or suspicions you may have?

JUROR: No, sir.

THE COURT: Why not?

JUROR: I'm just, I'm very sensitive about this case.

THE COURT: Why are you sensitive about this case other ---

JUROR: Because of the circumstances that I've had in my life.

THE COURT: Okay, and you formed an opinion, already?

JUROR: I certainly have.

THE COURT: And you don't feel you could put that opinion aside?

JUROR: No, sir, I do not. In all fairness, I could not.

THE COURT: Okay, step outside.

Next person, please

BAILIFF: 306, Judge.

THE COURT: Yes, ma'am, what's your name?

JUROR: Debra McCleary.

THE COURT: Yes, ma'am, Ms. McCleary.

JUROR: I have a -- I was employed by CASA, Citizens Against Spouse Abuse, and my sister is presently a victim's advocate for CASA.

THE COURT: So, you work for CASA?

JUROR: I've worked for CASA for three years.

THE COURT: And -- but working with CASA, I'm sure you realize that allegations are not always factual.

JUROR: Yes.

THE COURT: And could you not feel that you could sit on the jury panel and make a decision based on the evidence in the case?

JUROR: No.

THE COURT: So, just by someone saying someone did something, you believe it happened?

JUROR: Well, no, but this one I've also read about,

and I have strong feelings about it.

THE COURT: Well, you read about something other than in the paper?

JUROR: No, Just in the paper.

THE COURT: And the paper just wrote, they just report allegations, don't they?

JUROR: Yes. I believe what I read, so.

THE COURT: So, everything you read in the paper ---

JUROR: Not everything.

THE COURT: --- you believe?

JUROR: This one I tended to.

THE COURT: Why is that?

JUROR: It was very strong as far as I was concerned.

THE COURT: So, other ---

JUROR: Plus the fact, you know, plus the fact being an employee of CASA, I take it very personally.

THE COURT: Step behind me for a minute.

If it were not for her employee status, or her past employee status, I would be doing it. But now I'm concerned about her past employee status, whether that may have ingrained into her anyway. Anybody -- well, I know you want her excused. Anything from the state regarding any further questions y'all may ask her?

MR. HEMBREE: No, Your Honor.

THE COURT: All right. Come around, please. Okay,

ma'am, at this time I'm going to excuse you at this time. Please don't discuss this with anyone else.

JUROR: Okay. Thank you.

THE COURT: Next person, please

BAILIFF: 45.

CLERK OF COURT: Dawn Brooks.

THE COURT: Ms. Brooks, come a little closer. What do you want to tell me?

JUROR: I just know of the case from the *Sun News* and the media, and I live in the Loris area, and I do believe he killed his wife in front of his son or her son.

THE COURT: Well, is that only because the paper said that?

JUROR: Yes, and talk in the community.

THE COURT: You've talked to people about this?

JUROR: Whenever it happened.

THE COURT: You talked to someone who had information about it other than the media?

JUROR: No, just from the media.

THE COURT: Well, ma'am, we all realize the media says nothing more what, say, the item read out a while ago. That they're allegations.

JUROR: Right.

THE COURT: Don't you believe in America we have a right to basically have someone look into the matter and

see what evidence there is of the crime and see if the evidence is such that a person is proven guilty beyond a reasonable doubt?

JUROR: Yes, but my problem is I do believe he's guilty.

THE COURT: I know that, but ---

JUROR: And I can't say anything because I don't.

THE COURT: But other than, but other than the media what, what makes you believe that?

JUROR: I can't say anything else.

THE COURT: Okay. So, could you not just put aside the media and listen in court and see what evidence is presented?

JUROR: Honestly? No.

THE COURT: Why not?

JUROR: Because I do believe he's guilty.

THE COURT: So, every time you read somebody's committed a crime in the media, you believe they're guilty?

JUROR: No, not necessarily.

THE COURT: Well, why not?

JUROR: But on this case, I do.

THE COURT: Why is this different than other ones?

JUROR: I can't tell you that. I guess from all the coverage that took place at the time.

THE COURT: But any time you have something,

allegations like this, you're going to have a lot of coverage. And sometimes people have found they didn't do those things. Would you agree?

JUROR: Yeah.

THE COURT: So, don't you feel in this thing here you could maybe put aside that, and just sit there and listen to the evidence, see if the evidence that's given could convince you beyond a reasonable doubt his guilt?

JUROR: I just have trouble going into it with a preconceived idea of what I do believe already.

THE COURT: But once again, you believe that only from ---

JUROR: Yes, sir.

THE COURT: --- listening to news and reading the paper?

JUROR: Yes, sir.

THE COURT: You can't just put that aside and just say wait a minute, I'm going to listen on the jury and have an open mind and see what evidence there is?

JUROR: I can't guarantee it. I could try, but I cannot guarantee that.

THE COURT: So, you feel that in this case, you would not go with an open mind at all?

JUROR: No, sir.

THE COURT: I don't know. Tell you what. Do not

discuss with anyone else. Just have a seat in the audience, okay.

JUROR: Okay. Thank you.

THE COURT: Honestly, I'm not sure I want to excuse everybody that comes up here right now.

BAILIFF: 246, Judge.

CLERK OF COURT: Frances Kelly.

THE COURT: Hi, Ms. Kelly. Yes, ma'am?

JUROR: Hey.

THE COURT: What do you want to tell me, Ms. Kelly?

JUROR: I've been watching the news and have seen ---

THE COURT: Come closer.

JUROR: I've the -- Grainger in this case. When I first got the form, I didn't put the name together, but then it started coming out and ---

THE COURT: But, I mean, that's no more really than someone reading and says someone's alleged to do that. That's just media reporting. You do realize in this country when somebody says you did something, you're entitled to a trial to determine if the accusations are proven beyond a reasonable doubt?

JUROR: That's not the way I was brought up.

THE COURT: Where were you brought up?

JUROR: Where was I brought up?

THE COURT: Yes, ma'am.

JUROR: In Massachusetts.

THE COURT: In Massachusetts?

JUROR: Yes. You did something, you were guilty.

THE COURT: But what if he didn't do it?

JUROR: I think there's plenty of evidence just by reading.

THE COURT: So, if you read it in the paper, you think they're guilty?

JUROR: It depends. I read the details.

THE COURT: Well, you do know that reporters sometimes report incorrect details?

JUROR: I understand that. I ---

THE COURT: Now, you don't see you sitting in a jury and say well, let me just see if the state can prove a person did something beyond a reasonable doubt?

JUROR: It would have to be pretty strong.

THE COURT: The state will have to prove it pretty strong?

JUROR: Pretty, very strong.

THE COURT: That's what the burden is, you're right. Yes, ma'am. So, you wouldn't find him guilty unless the state proved it pretty strong?

JUROR: Unfortunately, my mind has been made up.

THE COURT: In the United States of America, your mind is made up because of newspapers?

JUROR: By what I read, not just by seeing -- newspaper.

THE COURT: But by reading the article that somebody who wrote it, didn't know anything about it, just basically got stuff from other people and all that?

JUROR: Well, I think there's, there's more, more to it than this.

THE COURT: Why do you think that?

JUROR: There's just a lot. There's just a lot. I mean, it's not one count, it's not two counts, it's three counts.

THE COURT: Of what?

JUROR: Of abuse.

THE COURT: Really?

JUROR: And ---

THE COURT: No, ma'am. It's only an allegation, so one count.

JUROR: Well, if you want me to be on, fine. That's where I, that's where I am now.

THE COURT: Just have a seat. I'll let you know in a minute.

JUROR: Okay.

THE COURT: All right, next person, please

BAILIFF: 490, Judge.

THE COURT: Okay, 490.

CLERK OF COURT: Bonnie Winstead.

THE COURT: Yes, ma'am, Ms. Winstead.

JUROR: Because basically of the media coverage and all, and also I'm an acquaintance of the victim's sister -- of the defendant's sister.

THE COURT: What's her name?

JUROR: Ward. That's her last name.

THE COURT: Okay?

JUROR: Because of the media, I don't feel like I can do this.

THE COURT: Well, about everybody in this room has seen something in the media about it, so that doesn't really disqualify you, the fact you may have seen something in the media. The question is, you know, in a court of law in this country, a jury sits and determines if the state has proven guilt beyond a reasonable doubt by evidence in the courtroom because the media may or may not have things correct. So, the question is could you sit there on the jury and listen and determine if the state's proven guilt beyond a reasonable doubt?

JUROR: I'm sure that I probably could, but I just don't feel that I really could, personally.

THE COURT: Well, why not? I mean, what, other than the fact you read the media? Once again, other people read the media. Why, I mean, why would the fact you've seen

things in the media have you concerned?

JUROR: I'm an ---

COURT REPORTER: I can't hear her, Judge.

JUROR: I'm sorry. I'm acquaintance of the defendant's sister, and I've worked with her ---

THE COURT: And would that, and what effect would that have on you?

JUROR: I kind of feel for him because of, because of her.

THE COURT: So, you feel you would end up tending to be leaning towards him, you think?

JUROR: Probably so.

THE COURT: So, the media had not -- has not convinced you of his guilt?

JUROR: Oh, well, I don't know. Maybe so.

THE COURT: Okay. So you have feelings both ways?

JUROR: I do.

THE COURT: So, therefore, you could be open minded.

JUROR: No, I ---

THE COURT: Well, have you formed any opinion in this matter?

JUROR: I definitely feel he's probably guilty.

THE COURT: Only because of what you read in the media, which may not be correct?

JUROR: True.

THE COURT: So, therefore, other than what you read in the media, you formed any opinions?

JUROR: No, sir.

THE COURT: Oh, well, could you disregard the media?

JUROR: Probably so.

THE COURT: Will you disregard the media and listen to the case and the court, and this court of law and determine whether the state's proven guilt beyond a reasonable doubt?

JUROR: Yes, sir.

THE COURT: You will?

JUROR: Yes, sir.

THE COURT: All right. Have a seat, ma'am. Thank you, ma'am.

CLERK OF COURT: Has she been excused?

THE COURT: No.

BAILIFF: 171, Judge.

CLERK OF COURT: Miranda Gilliland, Gilliland.

JUROR: Gilliland.

THE COURT: 171. Yes, Ms. Gilliland?

JUROR: My stepsister is supposed to testify on behalf of the victim. She's best friends with Ms. Winkler's daughter.

THE COURT: Have you discussed the case with her?

JUROR: Well, she's upset, so she -- I, I don't know.

I didn't know some of the details that I just heard. But so far as discussing, just her personal opinion.

THE COURT: All right, but your stepsister is supposed to testify in this case you understand?

JUROR: Uh-huh.

THE COURT: And you and your stepsister grow up together, or was this separate families?

JUROR: We haven't lived in the same household. My dad is her stepdad.

THE COURT: But the fact that she testified, would that cause you to look upon her differently than you would some other witness that's on the stand?

JUROR: No.

THE COURT: Could you be fair both to the state and to the defense?

JUROR: Yeah, I could be fair.

THE COURT: Has she told you anything about the case?

JUROR: Little odds and ends, nothing, nothing ---

THE COURT: Well, when, when did you and she talk? When do y'all talk?

JUROR: Long time ago. Originally she was supposed to -- this was supposed to happen earlier, and that it was put off. I'm not, I'm not -- I don't know a lot of details. I just know she just told me that she was, she was called to ---

THE COURT: Hold on one second. Stand over there.

Okay, is this someone that's going to be an important witness she's talking about? Let me get the name.

Audrey Stevens.

MR. HUMPHRIES: Audrey Stevens isn't going to testify in this case.

(COUNSELORS CONFER.)

THE COURT: Could you sit on that jury and listen to the case and to make a decision based on the evidence in the courtroom?

JUROR: Yes, sir.

THE COURT: And would you hold the state to the burden of beyond a reasonable doubt?

JUROR: Yes, sir.

THE COURT: And would you follow the instructions of the court?

JUROR: Yes, sir.

THE COURT: Have you formed any conclusions or opinions?

JUROR: No, sir.

THE COURT: Can you be fair to both sides?

JUROR: Yes, sir.

THE COURT: All right, have a seat in the back.

Next person, please.

BAILIFF: 5, Judge.

CLERK OF COURT: What was the number?

THE COURT: Number 5, number 5.

CLERK OF COURT: Paulette Arnette.

THE COURT: Yes, Ms. Arnette?

JUROR: I thought you were going to ask me questions.

THE COURT: Yes, ma'am. Tell me what you you know about the case.

JUROR: Well, I, I'm familiar with it from the beginning because it was, like, right in my backyard basically and, and he was in my friend's backyard hiding actually in the woods behind her house. I've known from the beginning and felt like he's guilty. I mean, there's just no doubt in my mind, and I ---

THE COURT: In other words ---

JUROR: --- I would not change my mind.

THE COURT: Other words, you're saying he was -- there's some allegations he was in in the yard in your neighborhood?

JUROR: I know he was. Went in the back, in the woods behind her yard. That's where he got caught.

THE COURT: How do you know that?

JUROR: Because that's where the police found him. My, my stepdad is a retired policeman, and he brings cases over here and he presents cases. And so I know, and I know other people. The policeman lives across the street.

THE COURT: Just have a seat back there. Step back there.

I'm ready to excuse her. I assume y'all don't have any problems? She seems very much involved in this thing. Her neighbor's house. I'll be glad to *voir dire* further. She said I know he's guilty.

MR. HUMPHRIES: A bunch of them said that.

THE COURT: Come over here, ma'am. Now, you say you live in the same area, next door?

JUROR: No, not next door. No, I did not see him in the backyard.

THE COURT: Okay.

JUROR: I just know that's where he was found.

THE COURT: And that's what people told you?

JUROR: And I remember when it happened. When it happened, my friend and her husband, the police were around there and they went out and they told him they were looking for him in the woods just behind the house. And I remember being afraid, too, that morning he was out there. But I, I think he's guilty. I'm not one to change my mind.

THE COURT: Is that because he's charged with a crime?

JUROR: Well, because the crime, the nature of the crime.

THE COURT: Well, how do you know he committed that crime? Just by the fact that he's charged with it?

JUROR: Well ---

THE COURT: Don't you realize -- I mean, don't you agree it's the burden of the state to prove that he did that crime?

JUROR: Yeah, but, I mean, from what I've read it's---

THE COURT: From the media?

JUROR: Yeah and, and what I've heard over the years. I mean, you know, so I don't know what else to say.

THE COURT: Oh, let's go with the media.

JUROR: Because I wasn't there.

THE COURT: Exactly. You weren't there.

JUROR: That's right.

THE COURT: But don't you know in this country, no matter what the media says, what the allegations are ---

JUROR: Well.

THE COURT: --- you should have the presumption of innocence and see if the state can provide evidence to convince a jury beyond a reasonable doubt?

JUROR: Yeah, but I think in my case I don't -- I mean, to me he's -- well, that would depend on if the media's lying. I believe ---

THE COURT: Well, the media ---

JUROR: No, I don't believe everything anyway.

THE COURT: Remember, now, the media, the media has never said he did anything.

JUROR: I know, allegations, I know.

THE COURT: They repeat what other people say.

JUROR: Uh-huh.

THE COURT: So, they never said anything. They're just repeating other people's allegations.

JUROR: Okay.

THE COURT: Which is what was read to you a while ago, allegations.

JUROR: I understand.

THE COURT: Don't you think you could put aside the allegations?

JUROR: Well, I could, I could probably sit on the jury and listen and, you know, listen to the defense and see the evidence. But I still -- I mean, I just don't see any other outcome for me as far as I'm concerned. I'm not -- look, I'll stay if you want me to, but I ---

THE COURT: No.

JUROR: I don't -- he can -- I don't think there's anything that they can show me that will prove he's not guilty.

THE COURT: So, you would start out with the assumption he's guilty?

JUROR: I think so.

THE COURT: All right. Thank you, ma'am. I'll excuse you on this case.

JUROR: Thanks, Judge.

THE COURT: Next person, please.

BAILIFF: No. 488.

CLERK OF COURT: Shante Wilson.

JUROR: Shante Wilson.

CLERK OF COURT: Shante Wilson.

THE COURT: Ms. Wilson. Step in little closer, Ms. Wilson. Yes, ma'am?

JUROR: This is the one that was on -- is this the person ---

THE COURT: I don't know, but just assume for a second it was.

JUROR: Okay. I just seen that it was on the news. I did see it on the news.

THE COURT: Okay.

JUROR: And I heard that he had been in jail before for assault or domestic violence charges or whatever. He had been let out and came and murdered this lady.

THE COURT: What you've heard is people that have alleged that.

JUROR: Just from whatever was said on the media.

THE COURT: Well, the media repeats what other people say.

JUROR: Right.

THE COURT: Now, you do agree, don't you, in America

people are presumed innocent and they have a right to a trial, and the burden's on the state to prove guilt beyond a reasonable doubt?

JUROR: Uh-huh.

THE COURT: Would you follow that standard here?

JUROR: Uh-huh.

THE COURT: And would you be able to put aside what the media said and make your decision based on the evidence presented in the courtroom?

JUROR: Yeah, I would listen to them.

THE COURT: And would you hold the state to the burden of beyond a reasonable doubt?

JUROR: Repeat that for me.

THE COURT: Would you hold the state to the fact they have the burden of proving beyond a reasonable doubt?

JUROR: Uh-huh.

THE COURT: You would not require the defendant to prove himself innocent?

JUROR: Yeah, I would rather for him to be -- prove himself to be innocent.

THE COURT: But you realize the state has the burden of proving guilt, though?

JUROR: Okay.

THE COURT: If I told you that was a rule, would you follow that rule?

JUROR: That's he's already been ---

THE COURT: No. That the state has the burden of proving it.

JUROR: The state has evidence he's been ---

THE COURT: The state has that burden. That's their job, to see if they could prove it.

JUROR: Oh, yeah.

THE COURT: All right, and would you hold them to that requirement, that they must prove him guilty?

JUROR: Yes.

THE COURT: Would you be fair to both the state and to defense and approach the case with an open mind?

JUROR: Uh-huh.

THE COURT: Would you base your decision based on the evidence in the case?

JUROR: Uh-huh.

THE COURT: And the law as I instruct it to you?

JUROR: Uh-huh.

THE COURT: All right, stand back over there, please.

Any objection from the state?

MR. HEMBREE: Nothing from the state, Your Honor.

THE COURT: Defense?

MR. WILSON: I don't have any objections.

THE COURT: I find her qualified. With that, there are no objections from either side, right?

MR. WILSON: Sir?

THE COURT: So long as I qualified them and they indicate that because I want to be consistent so I don't -- there are no objections, right?

MR. WILSON: I have no objections.

THE COURT: Okay, have a seat. Just don't discuss anything with the jurors. Thank you.

Next juror, please.

BAILIFF: No. 198, Judge.

THE COURT: 198.

CLERK OF COURT: David Harden.

THE COURT: All right.

JUROR: Well, I have read about it in the newspaper, and some of my co-workers were talking about it, and we seem to think he's guilty.

THE COURT: That's only because of the allegations that have been made, right?

JUROR: Yes.

THE COURT: And you do realize that a lot of times what's in the media is just what other people are saying? It may or may not be have been?

JUROR: Yes.

THE COURT: And you know in a court of law, the jurors sits in the jury box and determines whether the state has proven guilt beyond a reasonable doubt, and they make the

decision based on the evidence in the courtroom and put aside any media situation. Can you do that, sir?

JUROR: I think I can.

THE COURT: And you would be fair both to the state into the defense, be fair to both sides?

JUROR: Yes.

THE COURT: And you would make your decision based on the evidence presented in the courtroom?

JUROR: Yes.

THE COURT: And you would follow the law as I instruct it to you?

JUROR: Yes.

THE COURT: And hold the state to the burden of proof beyond a reasonable doubt?

JUROR: Yes.

THE COURT: Thank you, sir. Step back. You're qualified, sir. Oh, I'm sorry. One thing, sir. Now, you said that because of your friends and all, you thought that guilt -- but once again, that was only because of the media?

JUROR: Yes.

THE COURT: You're willing to put that aside, and you would approach that jury with no opinions, no conclusions whatsoever, right, sir?

JUROR: Yes.

THE COURT: All right. Thank you.
Next person, please.
BAILIFF: 321, Judge.
CLERK OF COURT: Mary Millione.
THE COURT: Gillione?
JUROR: No. You just always put an E on it and it confuses the hell out of everyone.
THE COURT: Oh, Million?
JUROR: Yes, and it's not so much what I know about the case as ---
THE COURT: Not too loud.
JUROR: Okay. As me growing up, my father was extremely abusive to my mother and killed her almost, almost killed her on two occasions. So, I had a preconceived notion and a horrible bias against essentially any male that's going to be accused of anything.
THE COURT: Any male who's proven to have done something?
JUROR: Well, yes. I mean, from what I've heard, the kidnapping and restraining order, which is essentially what my father had, and the cops used to come to the house and say, you know, unless he actually kills or does something, we can't really enforce it. And I just have a -- I think he's guilty regardless. I don't really care what anybody else says. So, I'm sure the solicitors would love to have

me. I doubt the defense is really keen on putting me on.

THE COURT: Do you feel that you could put that aside?

JUROR: I doubt it. I mean, honestly I felt that way for -- my father was finally arrested when I was eighteen. So, that was fourteen years ago. And that's just ---

THE COURT: I think that's -- I want to be fair. I'm going to excuse you on this case. Thank you, ma'am.

JUROR: Thank you, sir.

THE COURT: Y'all can note objections if you wish.

MR. WILSON: I have no objections.

BAILIFF: 265, Judge.

CLERK OF COURT: Jeffrey Lawrence.

THE COURT: Yes, sir, Mr. Lawrence. What would you like to tell me, please?

JUROR: Oh, I --

THE COURT: And don't be so loud, okay?

JUROR: I didn't recognize the name until you had just said it. A year ago, like I said, me and my father read the paper and I remember hearing about that.

THE COURT: Okay.

JUROR: Like I said, he's guilty, I mean, as far as I'm concerned.

THE COURT: That's only from what you saw in the media?

JUROR: Yeah.

THE COURT: And are you willing to put that aside and sit on the jury and listen openly to the evidence?

JUROR: No, sir.

THE COURT: Well, what about in the media other than what you generally read and other allegations makes you form an opinion?

JUROR: It's my -- just what I believe from what I've read.

THE COURT: Okay, but you do realize the media is just repeating what other people said.

JUROR: Oh, I understand that. I understand that but, like I said ---

THE COURT: And what they may not have said.

JUROR: I understand but to me, it's all pretty cut and dry. I think he's guilty.

THE COURT: So, any time of the media says -- has reported that, you ---

JUROR: Not any time. I take my own personal beliefs from that.

THE COURT: What about this one then that's different than other ones?

JUROR: Like I said, I feel it's just cut and dried.

THE COURT: But what about this that's different than other allegations you hear in the media on other people?

JUROR: As far as?

THE COURT: Well, I mean, you, you said that sometimes the media may, say, repeat allegations against someone that you may not necessarily form an opinion and believe it. So, what about this one causes you to believe that what people in the media says, says ---

JUROR: He was found at the house, correct?

THE COURT: I don't know.

JUROR: As far as what I know.

THE COURT: But what if the evidence doesn't prove that?

JUROR: Well, then I guess then I'm -- I'm decided on that. He's guilty.

THE COURT: But if the evidence doesn't prove that, would you have an open mind if they don't prove it?

JUROR: No, sir.

THE COURT: So, even if they don't prove he did anything, you'd still find him guilty?

JUROR: Yes, sir.

THE COURT: Because of the media?

JUROR: Yes, sir.

THE COURT: Not because you just want to get off jury duty?

JUROR: No, sir.

THE COURT: Have a seat back there. Don't talk to this case. You're staying with us right now. Step back to

the back.

I honestly feel this guy just wants off jury duty, but I don't know how to break it.

CLERK OF COURT: Excuse him?

THE COURT: No, not yet.

Next person, please.

BAILIFF: 30, Judge.

THE COURT: Yes, ma'am.

CLERK OF COURT: Ashley Rivera.

THE COURT: Come closer, Ms. Rivera.

JUROR: He did the property management at Bay Tree. I have close friend that was -- he actually was a ---

THE COURT: You said he was a, he was a what?

JUROR: He did the property management at Bay Tree.

THE COURT: Who did?

JUROR: A close friend that I work with.

THE COURT: Who did the property management?

JUROR: Winkler.

THE COURT: He did?

JUROR: Yes.

THE COURT: Okay.

JUROR: And ---

THE COURT: How do you know that?

JUROR: A friend that I work with ---

THE COURT: How do you know that?

JUROR: Because I know a lady that lived there, Helen Singles. I teach with her.

THE COURT: But you don't, you didn't know it yourself. Someone told you that?

JUROR: She told me that, but she also said he was guilty as sin and he definitely did it. But also my oldest one is eight and nine. There's stuff -- their ---

THE COURT: Not so loud.

JUROR: Their grandmother was Alice Donovan and I have no sympathy for anybody that would do anything like that because I've seen ---

THE COURT: Well, what if ---

JUROR: Because I've seen the trauma that we've lived through.

THE COURT: Well, but what's, what if it's not proven he did it?

JUROR: Wasn't -- it took forever to prove anything about them, that they killed Alice, and they still haven't found her body.

THE COURT: I'm not sure ---

JUROR: And I had my kids and counseling ---

THE COURT: Get closer to her and don't speak so loudly. See, what I'm saying is I -- what you're saying, I don't know anything about. My question is do you believe that the state should have to prove whether somebody did

something? Or not and if they didn't prove that they did something, would you then find them not guilty?

JUROR: Why would he run?

THE COURT: Well, would you --

JUROR: He wouldn't have ran and hid if he didn't do it.

THE COURT: Ma'am, ma'am, ma'am, ma'am, when you start on a jury trial, you start with you listening and the state must prove any of these things. Running ---

JUROR: I've already ---

THE COURT: If you put -- would you put aside all you've heard and be able to have an open mind and listen to see what the state's proven?

JUROR: I can't because I know what we've gone through with a similar case.

THE COURT: But if the state doesn't prove that this is a similar case, couldn't you then say wait a minute, they haven't proven that?

JUROR: If it was a completely different case, I would be able to.

THE COURT: Well, you don't know what this case is. Nobody's proved a thing yet.

JUROR: Well, as long as it's not the Winkler case and it's not about murder or anything to do with murder or ---

THE COURT: So, any time someone ---

JUROR: --- anybody else then I ---

THE COURT: Any time, any time someone is alleged to have committed murder and some people say they formed an opinion, then you would not give them a fair trial?

JUROR: Not if they -- no, because they ran.

THE COURT: Well, even if they didn't do any of that?

JUROR: I don't believe that he didn't.

THE COURT: Okay, why do you?

JUROR: Because he wouldn't have ran. He wouldn't have hid.

THE COURT: Well, I know, but what if it's not proven he ran and he hid?

JUROR: Well, they wouldn't have been looking for him. He was right down the road from my house.

THE COURT: But that's all what the media says. That doesn't necessarily mean ---

JUROR: That's -- what you're saying ---

THE COURT: Ma'am, if you would, ma'am stand over here.

JUROR: Okay.

MR. HUMPHRIES: There ain't no way on this one. She's fully made up her mind. You've done a good job.

THE COURT: No objections?

MR. WILSON: No objections.

THE COURT: Ma'am, do not discuss this with anyone

else on the jury. Just go outside and leave, okay?

JUROR: Okay.

THE COURT: Next person.

BAILIFF: 219, Judge.

CLERK OF COURT: 219, Deborah Hojos.

JUROR: Hojos.

THE COURT: Hojos. Yes, Ms. Hojos.

JUROR: I've been following this trial for about ---

THE COURT: Talk to her.

JUROR: The past year through media pretty much, and they are also saying that if he is convicted, and I haven't formed an opinion on that yet, this could be a death penalty trial, and that is something that I cannot do. That's my concern.

THE COURT: Okay, as far as this matter, as far is sitting on the jury panel itself, do you feel that you could put aside the media comments and listen to the evidence in the case and law and make your decision based on that?

JUROR: Yes, I could.

THE COURT: And you'd put aside any media matters?

JUROR: I could.

THE COURT: Okay. All right. The other matters we will address later on, okay.

JUROR: Okay.

THE COURT: So, you could be fair both to the state and to the defense? You have to say so she can hear you.

JUROR: Yes.

THE COURT: And you would make your decision based on the evidence in the case and the law as I instruct it to you?

JUROR: Yes.

THE COURT: And you could put aside anything you may have read in the media?

JUROR: Yes.

THE COURT: All right. Thank you, ma'am. Just have a seat back in the audience.

BAILIFF: 72, Judge.

CLERK OF COURT: Johnny Causey, III.

THE COURT: The third?

JUROR: Yes, sir.

THE COURT: Causeys, fancy people, man.

JUROR: Yes, sir.

THE COURT: What you got, Mr. Causey?

JUROR: I've already ---

THE COURT: Not too loud.

JUROR: I've, I watched the news. I used to be a Myrtle Beach police officer for several years, I have law-enforcement friends. And I've heard and read the newspapers and seen the news ever since it happened. I've

already based my opinion on, on that and ---

THE COURT: All right, and many times, as you know from your experience, sometimes the news media gets it wrong.

JUROR: Yeah.

THE COURT: As far as allegations.

JUROR: Right.

THE COURT: And sometimes talking to friends, friends say things that really aren't necessarily true.

JUROR: Yeah.

THE COURT: They think it is, but it doesn't prove out to be the truth.

JUROR: Well, I already have an opinion based what I was ---

THE COURT: I know, but knowing that, don't you feel you could sit on the jury and determine if the, if the state presents evidence to convince you of guilt?

JUROR: No.

THE COURT: So, if they don't present any evidence, you would find him guilty anyway?

JUROR: I, this is -- I already have my, my beliefs.

THE COURT: Well, would you hold the standard, the state to the standard of proving he's guilty?

JUROR: I, I would try to, but with law enforcement in my background, I just -- I just ---

THE COURT: I mean, law enforcement, that's good.

JUROR: Yeah.

THE COURT: I mean, that's, we need that in society, but even law enforcement knows that sometimes people are charged with things that they didn't do.

JUROR: True. I've, I've been there that I've seen both sides of it, so.

THE COURT: Well, since you've seen both sides of it, don't you feel that you could sit on the jury and say I'm going to put aside anything I've ever heard ---

JUROR: I don't think I could, no.

THE COURT: Why?

JUROR: Just for the fact that I've, I've got, I know people and they've -- I've just heard so many things, so it's all been one way. It hasn't been other way. That is pretty much my ---

THE COURT: Have you talked to police officers involved in this case?

JUROR: Not hands on. Not directly, no.

THE COURT: Did you talk to police officers involved in the agency that investigated this?

JUROR: With the agent I did, yes, sir.

THE COURT: Have a seat. Stand back over here for a second. Stand over here.

I'm not sure I can do any more with this one. Do you

want to ask any other questions of him?

MR. WILSON: Nothing from -- nothing.

THE COURT: You're excused from this case, sir.

JUROR: Thank you.

THE COURT: Next person, please.

BAILIFF: Number 30, Judge.

THE COURT: Number 30.

CLERK OF COURT: David Blackburn.

THE COURT: Okay.

JUROR: I'm in the life insurance business.

THE COURT: Step closer.

JUROR: I'm in the life insurance business.

THE COURT: Okay.

JUROR: And I'm a life insurance agent, and we deal with death every day and we talk about these things and this particular case and other cases. And we do our own scenarios and all about things like this, murder, death and all. And I recall this case, talking about this case, and some of the agents in the office knew or thought they knew things about the case.

THE COURT: And that's key, knew or thought they knew, and they may or may not have.

JUROR: Well, you know, we have a lot of veterans in the insurance business. You can pretty well tell what is going on most of the time from certain circumstances and

situations. And as far as a verdict, I think ---

THE COURT: Here's the question. Not the verdict. The question is the beginning, sir. Could you get on the jury and listen with an open mind and make your decision based on the evidence presented in the case?

JUROR: My mind ---

THE COURT: You'd make your decision on what you heard from people knowing nothing about the case?

JUROR: I would make my decision on what I think in my mind, and I couldn't -- I mean, I can't change what's in my mind already and what's been placed in my mind.

THE COURT: So, whatever you read in the papers ---

JUROR: As far as ---

THE COURT: --- and y'all discuss, that always turns out to be true?

JUROR: No, but, but like I say, I've been in the insurance business thirty-something years and I, I've seen a lot of things and I know a lot of things, and I don't speculate. And as far as my wife, and she works in an environment where they talk about these same type things.

THE COURT: What evidence have you gotten that anybody has or has not done something? Have you got any evidence from somewhere that someone has done something other than just people talking?

JUROR: You talking about on this case?

THE COURT: Yeah, because all the news is -- is review, basically report to you other people saying things.

JUROR: Of course. Of course I'd apply the evidence because I'm not in law enforcement, but...

THE COURT: All right. Well, wouldn't you require the evidence be presented to you that person's committed a crime before you ---

JUROR: Yes, sir, but I'm so -- my mind, I mean, I can't change was on my mind already, and I would, I wouldn't be a good juror and I, I'm sorry.

THE COURT: So, you would not be open, be willing to have an open mind and listen to the evidence?

JUROR: My mind would probably be closed if, like I say, because ---

THE COURT: You have somebody charged with a crime of murder, your mind is ---

JUROR: I've worked in the big cities. I, I grew up in the Charlotte area.

THE COURT: What's that got to do with anything?

JUROR: I've been in insurance thirty-something years. I've seen ---

THE COURT: I'm not questioning that.

JUROR: --- the murder and I've seen death and I've seen ---

THE COURT: And you've seen people charged with things

they didn't do, too, haven't you?

JUROR: Definite, but usually law-enforcement officers are ninety-nine percent correct most of the time.

THE COURT: So, you've formed an opinion?

JUROR: I'm sorry, but yes, sir, I have.

THE COURT: And you cannot divorce yourself from that opinion?

JUROR: I'm sorry. I wish I could, but I can't. That's the reason I hesitated on standing up. I just can't, I mean, you know, be unfair.

THE COURT: Thank you, sir. You may step outside, sir.

JUROR: Do I need to return this?

THE COURT: Yes.

Next person.

BAILIFF: Number 229, Judge.

JUROR: Eileen Iazetta.

THE COURT: Ma'am?

JUROR: Eileen Iazetta is my name.

THE COURT: Yes.

JUROR: I feel as if I'm a very personal to this case. I lived in [redacted], which ---

THE COURT: Where is that?

JUROR: In Little River.

THE COURT: That's in this county, okay.

JUROR: Oh, yeah. Uh-huh.

THE COURT: I'm not from here.

JUROR: And the day that Mr. Winkler was arrested, we were on the golf course, and we were all asked to leave. He was arrested not very far from where I live. I remember being very frightened of -- took about two weeks feeling very uncomfortable and told to stay inside. That he was armed and dangerous, and I followed the case very closely and I really don't think I would be very impartial.

THE COURT: Well, now, remember now someone may or may not have committed a crime, but it may or may not have been him.

JUROR: I realize that.

THE COURT: You wouldn't hold the state to the burden of proving beyond a reasonable doubt that he did it?

JUROR: I know people that live in the Bay Tree. I'm very familiar with lots of little details, and I just feel it's just too personal, too close to how, how I feel. I'm married to a New York City retired sergeant. I've been very much involved in the legal system, you know, through all of his dealings. So, I really need to kind of let you know that I feel very strongly about this.

THE COURT: Okay. Now you feel strongly, but could you sit on the jury and say what evidence has been presented that he did it and require the state to present

evidence of his guilt?

JUROR: I could listen.

THE COURT: Okay, and would you require the state to prove his guilt beyond a reasonable doubt?

JUROR: My, in my mind I, I'm, I'm almost formed an opinion.

THE COURT: Almost, but could you divorce yourself from that opinion and see if the state ---

JUROR: I don't think so.

THE COURT: --- could prove guilt? So, even if the state couldn't prove he did it, you'd still find him guilty?

JUROR: In my heart, uh-huh.

THE COURT: So, you say although the state didn't prove him guilty, I'll find him guilty?

JUROR: As I say, in my heart that's how I would feel. I mean, the evidence could be completely different, but as I say, I, I remember being frightened and uncomfortable with this whole thing, and I don't know that I would go into this whole thing with a clear, open mind.

THE COURT: Okay, but let's just talk about our system for a minute. System in America, somebody charged with a crime would ---

JUROR: I understand that.

THE COURT: --- require other people to sit on the

jury and say we're going to put aside anything we may have heard about it. We're going to see if the state can prove guilt beyond a reasonable doubt. Would you be able to do that?

JUROR: I don't see how he's going to get a fair trial in Horry County or in the Little River area. I just don't see how it's going to go that. That's my opinion.

THE COURT: Okay. Just don't discuss it with anyone else, okay?

JUROR: Yes, sir.

THE COURT: You may be excused.

JUROR: Thank you.

THE COURT: Next one.

BAILIFF: 182, Judge.

THE COURT: Okay, what is your name? What is his name?

CLERK OF COURT: William Grainger.

THE COURT: Okay, Mr. Grainger.

JUROR: I just wanted to say that the daughter of the deceased in this case and her husband are very good friends of my family and me, as well as her husband owns land adjacent to me and he rents some of my land. Also, her father and I are best friends, and I feel like I could not ---

THE COURT: Have you talked with him about the case?

JUROR: I, I talked with her and her husband and several times about it, but not her father. And I ---

THE COURT: Her, meaning the daughter?

JUROR: Daughter.

THE COURT: And have you formed an opinion because of that?

JUROR: Yes, I have. I feel like I could not make an impartial decision on this case.

THE COURT: Which would you make a decision on it?

JUROR: It would be guilty.

THE COURT: Now, you say these people rent property from you?

JUROR: Yes, sir, and own the land adjacent to mine.

THE COURT: And they still rent to this day?

JUROR: Yes, and they, they own a building about a mile from there and we see them frequently. Matter of fact, I ---

THE COURT: And they're friends of yours?

JUROR: Yes, sir, and we attend the same church.

THE COURT: All right, sir. You're excused. Thank you, sir.

JUROR: Okay.

THE COURT: All right, that leaves me with 265 and 246 and 45 I'm going to excuse. So, it's probable at the next break I'm going to call them up. Okay, 45, 246, and 265.

Other than those that I'm probably going to excuse, any objection to those I did excuse or didn't excuse, number 316, 186, 357? These are all of them. Anyway, 16 I excused. 186 I excused. 357 I excused. 306 I excused. 45 and 246 I am going to excuse. 490, I think it's -- or 496.

CLERK OF COURT: 490.

THE COURT: 490 I qualified. 171 I qualified. 5 I excused. 488 I qualified. 198 I qualified. 32 I excused. 265 I'm going to excuse ---

CLERK OF COURT: 32, I don't have a 32.

THE COURT: 321, I'm sorry, 321. 265 I'm going to excuse. 382 I excused. 219 I qualified for this, although they may not make it to the next phase. We'll wait and see. I qualified -- 72 I excused. 30 I've excused. 229 I've excused, and 182 I've excused. Any objection or comments from the state?

MR. HUMPHRIES: None, Your Honor.

THE COURT: And from the defense?

MR. WILSON: None other than what we've already made.

THE COURT: Okay, but no other objections. Okay. Thank y'all.

(END OF CONFERENCES AT SIDEBAR.)

(A PAUSE.)

THE COURT: Okay, ladies and gentlemen, almost there.

Almost there. Ladies and gentleman, there are organizations that focus on various crimes. You've heard Mothers Against Drunk Driving and Students Against Drunk Driving, Citizens Against Violent Crime and other types of organizations and all that. If you are a number of one of those organizations or contribute within more than $100 a year to those organizations, just for information purposes any type of organization that focus on certain types of crimes, if you would please stand up. Anyone else?

All right, what is your name?

JUROR: Rebecca Roupe.

THE COURT: Rebecca Roupe?

JUROR: Roupe.

THE COURT: What's your number?

JUROR: 391.

THE COURT: And what organization are you a member of, ma'am?

JUROR: CASA.

THE COURT: C-a-s-a?

JUROR: Uh-huh.

THE COURT: All right. Thank you, ma'am. You may be seated.

Your name, ma'am?

JUROR: Judith Lawson.

THE COURT: And what is your number, ma'am?

JUROR: 266.

THE COURT: 266, and what organization are you a member of, ma'am?

JUROR: The Task Force.

THE COURT: Said The Task Force?

JUROR: Yes, sir.

THE COURT: All right, and, and that's -- is that a local organization here?

JUROR: It's not a local organization. It's a national organization.

COURT REPORTER: I can't hear her, Judge.

THE COURT: Come up here, ma'am, and let me talk to you up here, please.

(THE FOLLOWING CONFERENCE IS HELD AT SIDEBAR.)

THE COURT: If you would, stand about right there. What is the organization's name?

JUROR: It's called The Task Force?

THE COURT: The Task Force?

JUROR: Yes, sir.

THE COURT: And as an organization for what?

JUROR: We work with gays, lesbians, transgenders and bisexuals.

THE COURT: All right, and that has focus on crimes against people?

JUROR: Hate crimes.

THE COURT: Thank you, ma'am.

(END OF CONFERENCE AT SIDEBAR.)

THE COURT: Now, I've talked with some of you about various events, and if we've already talked about it, we don't need to discuss it again. But if anyone out there who has in your family -- when I say family, I mean someone very, very close to you or your spouse, your parents, your siblings, your children, brothers and sisters -- that either has been the victim of what you would term a violent crime, or has been charged with a violent crime. Violent crime like armed robbery, like murder, assault and battery high and aggravated nature with intent to kill, or burglary, things of that nature. If that is something that occurred to you in the past, was a victim or being charged, or someone in your family -- that means you identify as your family member -- or somebody else very, very close to you, please step up. Tell me about it. If you would, come on up here, please. Be quiet. We're almost, almost there. Everyone else, if you would, just keep order, please.

(THE FOLLOWING CONFERENCES ARE HELD AT SIDEBAR.)

THE COURT: Yes, sir.

BAILIFF: 369.

THE COURT: 369. What's your name again, sir?

JUROR: William Pryor.

THE COURT: Yes, sir.

JUROR: My sister, Patricia Borne, convicted, serving eighteen years for armed robbery, crack cocaine.

THE COURT: Okay. Thank you, sir. If you would, sir, have a seat over there in the jury box.

BAILIFF: 442.

THE COURT: Yes, sir. Give me your name.

JUROR: Richard Suggs.

THE COURT: Yes, sir, Mr. Suggs.

JUROR: Years back, I was assault ---

THE COURT: No, no. Go ahead.

JUROR: I been, I was assaulted and got stabbed nine times, and nothing happened to the gentleman.

THE COURT: Okay. Would that affect your ability to be fair and impartial in a trial?

JUROR: Probably.

THE COURT: Why is that, sir?

JUROR: Well, I just, just nothing ever happens. He stabbed me, about killed me. Was in the hospital a week and nothing ever happened to him.

THE COURT: Okay, but how would that affect this case?

JUROR: I don't know. I mean, because I don't know what this case is.

THE COURT: You heard them read the allegation, didn't you, sir?

JUROR: I, I maybe did. I can't remember it so good,

sir. It's a hard time. I have a hard time keeping up with everything.

THE COURT: What do you do for a living again, sir?

JUROR: Window tinting.

THE COURT: Okay. The allegations are, sir, that someone committed the crime of murder and other crimes. The question is, sir, could you sit on the jury box and make your decision based on the evidence in this case, in this case and not have what affect -- happened to you in the past have anything to do with decision?

JUROR: I, I'm not sure.

THE COURT: Well, why would anything in the past have, have an affect?

JUROR: I, I, I'm not sure. I don't know, sir.

THE COURT: Well, how is it any different than, say, something else in your life? I mean, why would that have an affect?

JUROR: I, I mean, I don't, I don't, I don't know the answer to that.

THE COURT: All right. Well, could you listen to the evidence?

JUROR: Yeah, I can try. Yes, sir.

THE COURT: Well, would you make your decision based on the evidence and the law as I instruct it to you?

JUROR: I'll do my best.

THE COURT: Okay. Well, can you tell me one reason why you wouldn't?

JUROR: I don't have a good one, sir.

THE COURT: And then, therefore, you would?

JUROR: Okay.

THE COURT: I'm asking you.

JUROR: I, I would do my best to my ability.

THE COURT: Well, let me ask you this. If you had instructions -- you said, what type of work you do again?

JUROR: Window tinter.

THE COURT: If you got instructions on how to do window tinting on certain jobs, but you'd try to do that, would you not?

JUROR: Yes, sir.

THE COURT: You'd do your best?

JUROR: Uh-huh.

THE COURT: And that's what you'd do in a case like this, too. You're going to do your best to do what the instructions, your requirements are by the law and the evidence presented to you?

JUROR: Yes, sir.

THE COURT: And can you be fair to both sides?

JUROR: I would try, yes, sir.

THE COURT: Okay, can you tell me any reason you couldn't be fair to both sides?

JUROR: No, sir, I can't.

THE COURT: So, you'd be fair to both sides. All right, take off your sunglasses for me unless those are prescription glasses.

JUROR: They're not.

THE COURT: Okay. Have a seat in the jury box over there for me. Yes, sir.

BAILIFF: 46.

CLERK OF COURT: Joseph Brady.

THE COURT: 46. Yes, sir, Mr. Brady?

JUROR: My sister-in-law was murdered in November of '05.

THE COURT: Where? Where was that?

JUROR: Kaiser, West Virginia.

THE COURT: Was someone arrested for that?

JUROR: He took his own life as well.

THE COURT: Okay. Was that some sort of relationship they had?

JUROR: She was at a friend's house and a ex-boyfriend showed up, broke into the house. Shot her, shot the girlfriend, turned the gun on himself.

THE COURT: All right. Now, you've heard the allegations here in this case?

JUROR: Yes, sir.

THE COURT: Would this affect your ability to be fair

and impartial in this case?

JUROR: For me, it's hard to say, you know? It was a pretty emotional thing for our whole family. But, I mean, I've had to look at the evidence. I think I could be fair, I guess.

THE COURT: Would you make a decision ---

Everyone please. Court reporter's having trouble hearing.

Would you make your decision based on the evidence in this case and the law as I instruct it to you?

JUROR: Yes.

THE COURT: And would you put aside what happened to your sister in regards to your decision in this case?

JUROR: I believe so.

THE COURT: And would you -- would that have anything to do with your decision in this case?

JUROR: No.

THE COURT: So, you'd make your decision based on the evidence in this case?

JUROR: Yes.

THE COURT: And hold the state to the burden of guilt beyond a reasonable doubt?

JUROR: Correct.

THE COURT: All right. Have a seat over here for me, please.

Next person, please.

BAILIFF: 244.

CLERK OF COURT: What number?

Bailiff: 244.

MR. HUMPHRIES: 244.

THE COURT: All right, yes, ma'am?

CLERK OF COURT: Catherine Kammerer.

THE COURT: Yes, ma'am?

JUROR: It's just a minor issue. My home was burglarized about six weeks after my husband passed away.

THE COURT: Okay. Would that have any affect on your ability to be fair and impartial in this case?

JUROR: No, sir.

THE COURT: Would you make your decision based on the evidence in this case and the law as I instruct it to you?

JUROR: Yes, sir.

THE COURT: Thank you.

Next person, please?

BAILIFF: 474.

THE COURT: 474, and she is?

CLERK OF COURT: Debra Warrington.

THE COURT: Ms. Warrington?

JUROR: My sister was kidnapped and -- by her estranged husband. He tried to murder her, and he spent five years in Maryland state penitentiary for attempted

murder.

THE COURT: All right, and do you know anything about the allegations in this case?

JUROR: Quite a bit, yes.

THE COURT: All right, would that affect your ability to be fair and impartial, what happened to your sister, and the allegations and make ---

JUROR: It possibly could, yes.

THE COURT: Do you feel you could divorce yourself from that, make your decision in this case based on the evidence in this case presented in the courtroom?

JUROR: To the best of my ability, I would try.

THE COURT: Well, my question is can you?

JUROR: It would be tough to put it aside because it, it was very -- she was very close to me.

THE COURT: Well, the promise of the law for a fair trial is a juror who can sit in the jury box and listen to the evidence presented and will listen to the instructions made by the judge. The juror would follow the law and instructions given by the judge and determine through the evidence has the state proven guilt beyond a reasonable doubt. They would not let anything outside in her own life affect their decision. Could you do that, yes or no?

JUROR: I could follow the judge's orders, yes, sir.

THE COURT: What about making your decision on the

guilt or innocence based on the evidence in the case ---

JUROR: Yes.

THE COURT: --- without regard to what happened to your sister?

JUROR: Yes, I could look at just the evidence.

THE COURT: All right, have a seat.

BAILIFF: 378.

JUROR: Theresa Raynor.

CLERK OF COURT: Theresa Raynor.

THE COURT: Theresa Raynor. Yes, Ms. Raynor?

JUROR: A few years ago my husband got in with the wrong crowd and drugs and alcohol and I had a restraining order. We were separated for a year and a half, and he stalked me for most of that time, was ---

THE COURT: Are y'all back together now?

JUROR: --- put in jail for -- oh, yeah. He is fine. It's been four years now, but they were talking about keeping him in there for a while.

THE COURT: Oh, so you've dealt with the solicitor on this?

JUROR: Well, I talked with him, you know ---

THE COURT: Years ago?

JUROR: Yeah. This was way back.

THE COURT: Now, with the fact that you dealt with the solicitor's office and the fact that your husband was

involved as he was with, with the activity, would that affect your ability to be fair and impartial in this case?

JUROR: No.

THE COURT: Could you make your decision in this case based on the evidence presented in the case and the law as I instruct it to you?

JUROR: Right.

THE COURT: And do you feel that the fact that you've dealt with the solicitor's office or your husband, would that in any way cause you not to be fair to both sides?

JUROR: No.

THE COURT: You'd be fair to both sides?

JUROR: Both sides.

THE COURT: All right, go have a seat in the jury box.

BAILIFF: 439.

CLERK OF COURT: Joann Stewart.

THE COURT: Yes, Ms. Stewart.

JUROR: My brother.

THE COURT: Yes, ma'am?

JUROR: Was shot and killed by his mother-in-law, 1979.

THE COURT: Was she prosecuted for it?

JUROR: No. Accidental.

THE COURT: Accident, okay. Would the fact there was an accident there, would that if any way affect your

ability to be fair and impartial in this case? Okay, you be fair to both sides? You've got to say so she can hear you.

JUROR: Yes.

THE COURT: Okay, and you would, you would make your decision based on evidence in the case and the law as I instruct it to you?

JUROR: Yes.

THE COURT: Okay. Have a seat in the jury box.

BAILIFF: 46.

CLERK OF COURT: Latavius Stephens.

JUROR: Latavius.

CLERK OF COURT: Latavius, excuse me.

MR. HUMPHRIES: What number?

CLERK OF COURT: 436.

THE COURT: Yes, Mr. Stephens, Mr. Stephens?

JUROR: Yeah, my dad. Murder.

THE COURT: Your father was murdered by somebody?

JUROR: No. My dad murdered somebody.

THE COURT: Murdered someone? All right, did he get prosecuted for it?

JUROR: Yes.

THE COURT: Is he in jail now?

JUROR: Yeah.

THE COURT: Okay. Would that affect your ability to

be fair and impartial in this case?

JUROR: Yeah.

THE COURT: Why is that?

JUROR: Well, I don't want to go through it again.

THE COURT: What you mean go through it again?

JUROR: Yeah, I've been, like, murder cases. Been there, every one we went through.

THE COURT: What you mean every one?

JUROR: The one we went through. The trial we had.

THE COURT: Yes, sir?

JUROR: And that hurt me. I just don't want to go through it again.

THE COURT: I know, but -- well, the facts -- I can understand you may not want to do it.

JUROR: Yeah.

THE COURT: But I'm saying if you're on that jury, would you make a decision based upon the evidence presented in the case and the law as I instruct it to you?

JUROR: On the evidence.

THE COURT: On the evidence and you would also follow the law?

JUROR: Yeah.

THE COURT: You will follow the law as ---

JUROR: Yes.

THE COURT: --- I tell you? Well, then, you'd be able

listen to both sides, then, wouldn't you, sir?

JUROR: Yes, sir.

THE COURT: It'd just be you wouldn't like to do it, but you could do it and you would base it on the evidence and the law?

JUROR: Yes, sir.

THE COURT: All right, thank you. Have a seat.

BAILIFF: 493.

CLERK OF COURT: Ashley Wood.

JUROR: My brother-in-law got convicted of breaking and entering and got convicted, two years in prison in Northern Virginia. And that's the only person I know of.

THE COURT: Okay. Would that affect your ability to be fair and impartial in this case?

JUROR: No.

THE COURT: Wouldn't affect you at all in this case, would it?

JUROR: No.

THE COURT: And you would make your decision based on the evidence in this case and the law as I instruct it to you?

JUROR: Uh-huh.

THE COURT: Right, sir?

JUROR: Yes.

THE COURT: Okay, have a seat in the box.

Next person, please.

BAILIFF: 62.

CLERK OF COURT: Alyce Calfee.

THE COURT: Yes, Ms. Calfee, yes?

JUROR: My mother was a victim of an assault, and Lori Johnson is good friends of mine. They're raising ---

THE COURT: Who are they?

JUROR: They're raising two children due to the killing of the mother by their, by their father last year, been this year, last year sometime.

THE COURT: That's some other case, now. I'm not sure ---

JUROR: They're just good friends of ours.

THE COURT: Okay, step closer to this lady here so she can hear you better. So, in other words, you're saying some good friends of yours are taking care of children who you think were killed -- the father ---

JUROR: Uh-huh.

THE COURT: --- what?

JUROR: Killed the mother.

THE COURT: Okay, and you know that, but would that affect your ability to be fair and impartial in this case?

JUROR: I don't think so.

THE COURT: Would you make your decision in this case based on the evidence in the case and the law as I instruct

it to you?

JUROR: I believe I could.

THE COURT: Well, would you follow the law as I instruct it to you?

JUROR: Yes.

THE COURT: All right, and would you make your decision based on the evidence in this case?

JUROR: Yes.

THE COURT: And would you make it on the evidence in the case and put aside any thoughts you have about what happened in that other case dealing with the people you know?

JUROR: To the best of my ability, yes.

THE COURT: Well, would that have anything to do with your decision in this case?

JUROR: No. I would be conscious about that.

THE COURT: Okay, and you would hold the state, in this case, to the burden of proof beyond a reasonable doubt?

JUROR: Yes.

THE COURT: Okay. Thank you, ma'am. Have a seat over there in the jury box.

BAILIFF: 455.

CLERK OF COURT: 455, Wanda Truett.

THE COURT: 455?

JUROR: Uh-huh.

THE COURT: Yes, ma'am, Ms. Truett?

JUROR: I have a son that has a criminal domestic violence against him. I didn't know if that's applied. You said violent.

THE COURT: That's fine. That's fine. Would the fact he does have a charge like that against him, would that affect your ability to be fair and impartial in this case?

JUROR: I don't think so.

THE COURT: You'd be fair to both sides?

JUROR: Yes.

THE COURT: You'd make your decision based on the evidence in this case and the law as I instruct it to you?

JUROR: Yes, sir.

THE COURT: All right. Thank you, ma'am. Have a seat in the jury box.

BAILIFF: 431.

CLERK OF COURT: Ronnie Stackhouse.

JUROR: I had two brothers. One was in gang violence and possibly drug charges. The second one, he was beaten by the police and had stitches, had to get stitches and everything to his head. Cops beat him in his head.

THE COURT: All right. Now in this case, would that affect your ability to be fair and impartial?

JUROR: Doesn't know how to -- I didn't deal about --

I mean, what they done to my brother far as the cops.

THE COURT: Well, we do know that good or bad, that happens sometimes. But, but the question in this case, would you make your decision in this case based on the evidence in this case?

JUROR: I would try not to make it personal, but it will be tough.

THE COURT: Well, how would that interfere with your decision in this case?

JUROR: I don't know. But, I mean, what the cops had done at that time. Like I said, I'd try to keep it fair. I would try to, you know, not hold anything over anyone's head.

THE COURT: The question is could you make your decision, sit on a jury, and listen to the evidence and make your decision about whether the state's proven guilt beyond a reasonable or not based on the evidence presented in the case?

JUROR: I think I can.

THE COURT: All right, and would you follow the law as I instruct it to you?

JUROR: Sure.

THE COURT: And so what happened to your family members would have nothing to do with your decision in this case?

JUROR: I'll try not to make it anything.

THE COURT: Well, do you think it would, or do you think it wouldn't?

JUROR: It probably would, to be honest.

THE COURT: It would?

JUROR: It probably would.

THE COURT: Well, why would it? Why would it in this case?

JUROR: I would, I would try and keep it out the case. I mean, ever since that has happened to my brother, it seemed like the justice system has been, to me, hasn't been fair. But I'll try and make it, you know, nothing to do with my brothers.

THE COURT: Well, my question to you, and you need to know you're under oath, and you tell me this, and this is the last question I'm going to have. If you're sitting on this jury, would you make your decision based on the evidence presented in this case and nothing about what happened to your brother?

JUROR: Yeah.

THE COURT: Sir?

JUROR: Yeah.

THE COURT: And would you follow the law as I ---

JUROR: Yeah.

THE COURT: --- instruct it to you? All right, sir,

have a seat in the jury box.

BAILIFF: 266.

CLERK OF COURT: Candice Lawson.

THE COURT: Ms. Lawson. Yes, ma'am. Come closer, Ms. Lawson. Yes, ma'am, Ms. Lawson?

JUROR: As far as abuse and everything like that, I grew up in a very abusive family, my brother and my father.

THE COURT: Okay. Would that have any affect upon your decision in this case? If you sat on the jury, would you be able to listen and make your decision based on the evidence in that case?

JUROR: It would be real hard.

THE COURT: No matter what the charges is?

JUROR: If, if it has anything to do with abuse or anything like that, I'm afraid I would probably be biased. I grew up with it all my life.

THE COURT: All right. Would you be able to put that aside and make your decision based on the evidence presented in that case?

JUROR: I honestly can't say that I could.

THE COURT: Have a seat over there.

All right. The three I have I have concerns with, 369, 42, and that one. 42 said she would try.

MR. WILSON: 442, my concern is that ---

THE COURT: 42.

MR. WILSON: 42?

CLERK OF COURT: I have 442.

THE COURT: I'm sorry. I messed up. 442, okay.

MR. WILSON: He's the one that's got ADD.

THE COURT: Yes.

MR. WILSON: And he didn't, he doesn't remember the indictment being read.

THE COURT: That did cause me some concern. What about 369? Sister was convicted of armed robbery?

MR. HUMPHRIES: Sister was in jail. She's in jail for armed robbery.

THE COURT: But she's qualified. So, I'm down to 442 and 266.

MR. RATHBUN: And 474, whose sister was kidnapped by the ex-husband who tried to kill her, that's close.

THE COURT: Okay. I know it's close, but she said she could be fair and impartial.

MR. HEMBREE: I suggest we keep her for now. She gets into it now, we can go into more detailed *voir dire* when that starts.

MR. WILSON: Okay.

THE COURT: I'm going to excuse 442 and 266. Any objections?

CLERK OF COURT: What number is that? I'm sorry.

THE COURT: 442 and 266. Any objections, Mr. Wilson?

MR. WILSON: I don't have any objections to those being excused.

THE COURT: Other than who was the one that had -- with the mother, 436?

MR. WILSON: 474.

MR. HUMPHRIES: 474.

(COUNSELORS CONFER.)

THE COURT: Anybody have any objection to qualifying 474?

MR. WILSON: 474 and 36?

THE COURT: You have exception on that?

MR. WILSON: Yes, sir.

THE COURT: Okay. Well, I'm going to qualify them right now. Okay.

(A PAUSE.)

THE COURT: If y'all would come up and look at 281. We have a doctor's statement here. Just see it. Mr. Wilson?

MR. WILSON: Yes, sir.

(OFF-THE-RECORD BENCH CONFERENCE.)

THE COURT: Madame Court Reporter, 281 is excused. She's ill at this time with a doctor's statement. No objection from the state or the defense.

MR. WILSON: That is correct.

(A PAUSE.)

THE COURT: The lady out there with the plane tickets that brought me this note, come up, please, ma'am. Come on up here.

THE COURT: Ma'am, I'm trying to decide. Were these tickets bought three days ago?

JUROR: Yes.

THE COURT: All right, so when they were bought, you already knew about jury duty? This is -- if you would, back up so she can hear you. She says they were bought three days ago. She forgot about jury service. Ma'am, I couldn't excuse you for that. I'm sorry, but you still -- We will know by Thursday, probably by tomorrow. Well, maybe on Wednesday. We'll need to keep these.

JUROR: No, that's my plane ticket.

THE COURT: Okay, well, you may not be able to use it. Do you understand?

JUROR: Okay, yeah.

THE COURT: I'll be glad to sign what you need for the airline to see if they'll give you a rebate.

JUROR: Just wait to Tuesday to see if I make it or not?

THE COURT: All right. Thank you.

She's staying.

(END OF CONFERENCES AT SIDEBAR.)

THE COURT: All right, now, if you would, Mr. Hembree

and Mr. Humphries, introduce yourself to the jury, please.

MR. HEMBREE: My name is Greg Hembree. I'm the solicitor of the 15th Judicial Circuit.

MR. HUMPHRIES: Fran Humphries. I'm the deputy solicitor of the 15th Judicial Circuit.

THE COURT: Is anybody on the jury panel related by blood or marriage to Mr. Hembree or Mr. Humphries, or have any business relation, social relationship with them that you haven't already talked to me about? If so, please stand up.

Okay, what is your number, ma'am?

JUROR: 255.

THE COURT: Okay, and what is your name, ma'am?

JUROR: Susan Kreuger.

THE COURT: Ms. Kreuger, yes, ma'am?

JUROR: I attend church with Greg, I go to Sunday school and serve on session with him.

THE COURT: All right. Now, Ms. Kreuger, would the fact that occurs, would that affect your ability to be fair and impartial in the case?

JUROR: No, it would not.

THE COURT: Would you sit on the jury and make a decision based on the evidence in the case and the law as I instruct it to you?

JUROR: Yes.

THE COURT: Thank you, Ms. Kreuger. You may be seated.

Go over here. What is your number, sir?

JUROR: 152.

THE COURT: 152. What is your name, sir?

JUROR: Richard Floyd.

THE COURT: Mr. Floyd, yes, sir?

JUROR: My mother works with him.

THE COURT: Your mother is, is that an attorney?

JUROR: She works for the solicitor's office.

THE COURT: All right, I'm going to excuse you on this case, Mr. Floyd. You may step outside. Thank you, sir. Unless there's an objection from either side?

MR. HUMPHRIES: No, Your honor.

THE COURT: You have an objection?

MR. WILSON: No objection.

THE COURT: All right. Just wanted to make sure, 152. And your name, ma'am?

JUROR: I'm juror number 90. My name is Sheila Conley, and I --

THE COURT: Juror number 90, juror number 90. Sheila Conley.

THE COURT: Yes, Ms. Conley.

JUROR: I attend the same church with Mr. Hembree.

THE COURT: Do you know Ms. Truett?

JUROR: I do.

THE COURT: All right. Would that affect your ability to be fair and impartial?

JUROR: I don't think it would.

THE COURT: Well, ma'am, would you be able to sit on the jury and be fair to both sides?

JUROR: I think so.

THE COURT: You're not sure, or you will be?

JUROR: I will.

THE COURT: All right, and would you make your decision based on the evidence in the case and the law as I instruct it to you?

JUROR: I will.

THE COURT: Thank you, ma'am. You may be seated. Your number, please, ma'am?

JUROR: 289.

THE COURT: 289. Yes, ma'am?

JUROR: My mother worked for the solicitor's office.

THE COURT: Your mother works there also? What's your mother's name?

JUROR: Suzanne Wilson.

THE COURT: Suzanne Wilson.

JUROR: Yes.

THE COURT: All right. All right, ma'am, I will excuse you on this particular case, ma'am. You can step

outside. What number are you again, Ms. Wilson?

JUROR: 289.

THE COURT: 289.

All right, if you would now, Mr. Rathbun, Mr. Wilson, if y'all would introduce yourself to the jury, please.

MR. RATHBUN: My name is Paul Rathbun. I'm with the Horry County Public Defender's Office.

MR. WILSON: My name's Ralph Wilson. I'm an attorney. I practice in Conway with my son, Ralph Wilson, Jr.

THE COURT: Okay, any member of the jury panel related by blood or marriage to Mr. Wilson, Mr. Rathbun, have any business, personal, or social relationship with them, including representation by either one of them, you or your family now or in the past or any other type of association? If so, please stand up.

Okay, did we talk about this already, sir? I remember. All right, and what relationship is that and who is it with?

JUROR: Previous attorney.

THE COURT: All right, and your number, number again, sir?

JUROR: 369.

THE COURT: 369, and your name again?

JUROR: William Pryor.

THE COURT: All right, William Pryor, and how long ago

was that, sir?

JUROR: Oh, a couple of years back.

THE COURT: Okay. Would that affect your ability to be fair and impartial? You can be fair to both sides?

JUROR: Yes.

THE COURT: Make decisions based on the evidence indicated in the case and the law as I instruct it to you?

JUROR: Yes.

THE COURT: Thank you, Mr. Pryor. You may have a seat.

Who else? Did I hear someone else stand up? What is your number, ma'am?

JUROR: 375.

THE COURT: And what is your name?

JUROR: Amy Raye.

THE COURT: Amy Raye. Okay. Yes, ma'am?

JUROR: I don't know the attorneys, and I don't know the man, but I'm an acquaintance with Tammy Hill through the theater group.

THE COURT: All right. Now, would that in any way affect your ability to be fair and impartial?

JUROR: No, sir.

THE COURT: Be fair to both sides?

JUROR: Yes, sir.

THE COURT: Make decisions based on the evidence in

the case and the law as I instruct it to you?

JUROR: Yes, sir.

THE COURT: Thank you, ma'am. You may be seated.

No one else stood up over here? I thought, thought I saw someone stand up a while ago, but I -- okay.

All right. Counselors, could y'all approach, please?

(OFF-THE-RECORD BENCH CONFERENCE.)

THE COURT: I see it's about 12:00. Now, ladies and gentlemen of the jury, let me just tell you what we're going to do. I'm going to let y'all go for an hour and a half. And while y'all are gone for that time, we're going to be selecting various panels. I'll tell you about that when you get back as far as the division.

But when you get back, about maybe ten to fifteen of you will be staying with me. The rest of you will be coming back tomorrow. But we don't know who those are going to be yet until we start doing the selection process.

So, if you would, I want to see if I can number 252, if he would stay, and 369 for a minute. The -- and 480, 480, the three of you stay with me.

The rest of you I will see at 4:00. You may leave at this time. Please be back at 4:00. Do not discuss this case with anyone. Do not talk to anyone at all, please, family members or otherwise. Be back at 4:00.

(THE JURY PANEL EXITS.)

THE COURT: Reverend, come over here. What's your number?

JUROR: 317.

THE COURT: All right, 317 wishes to talk to me. If y'all want to come forward, please do so. Mr. Wilson.

MR. WILSON: Yes?

THE COURT: 317 wishes to talk to me.

(THE FOLLOWING CONFERENCES ARE HELD AT THE BENCH.)

THE COURT: Yes, sir.

JUROR: Yes, sir. I was referring to the question about my wife's ability to take care of herself. She is able to take care of herself at home, but she is to be released from the hospital this afternoon. I was supposed to be picking her up at 6:00 p.m. this evening.

THE COURT: Where is that, though?

JUROR: The Medical University in Charleston.

THE COURT: Take care of that. Please, everyone, be quiet.

JUROR: And I am the only person that is able to go and get her today. My ---

THE COURT: But let's first wait and see. You might be all right.

JUROR: Okay.

THE COURT: But first wait and see. If not, you may have to go there a little late, but we'll work that out,

okay, sir?

JUROR: Okay. That's fine.

THE COURT: All right.

JUROR: I just wanted to check on that. Okay.

THE COURT: Okay.

MR. HEMBREE: Judge, we can put him on a panel and notify by phone because ---

MR. HUMPHRIES: At 4:00, he's going to need two hours to get there.

THE COURT: Well, I know, but...

(OFF-THE-RECORD BENCH CONFERENCE.)

THE COURT: Now, sir, number 480.

JUROR: Yes, sir.

THE COURT: Sir, we do not find a card anywhere on you at all, sir.

JUROR: All right. So, I got to go home?

THE COURT: So, Mr. Wilson, you want to challenge that? I have no card anywhere.

MR. WILSON: I have no challenge.

THE COURT: All right. You're excused, sir.

JUROR: I can go home?

THE COURT: Adios.

All right, if you would, the two of y'all approach, please.

Juror 252, tell me again regarding your kidney

problem, sir.

JUROR: Yes, my kidney. I had ---

THE COURT: Back up, sir, so she can hear you.

JUROR: I've had -- started out with enlarged prostate. I've had three operations. Because the bladder -- because the prostate would not drain the bladder, my bladder backed up and damaged my kidneys. Also caused me hypertension, okay?

I take, I take also blood pressure medication, of which right now I am two hours and almost forty-five minutes past that medication because I take it every day like clockwork at 12:00 with my lunch. My blood -- without having food now, my blood, blood sugar level changed dramatically. So, I might a little upset, Judge, okay? I -- the first part of ---

THE COURT: And you would have to go to the bathroom a lot?

JUROR: I have -- pardon?

THE COURT: Have to go to the bathroom a lot?

JUROR: I'm unemployable. I can only take jobs where it meets a certain situation. I'm sixty-one years old, and this has happened to me. My insurance company pulled, pulled the plug out of me. And down at MUSC for a kidney transplant, had two treatment donors. I lost both of them. So, now I'm having to find where my insurance company does

take it, which is up north.

THE COURT: All right, sir.

JUROR: Okay.

THE COURT: Sir, I'll excuse you on this case.

JUROR: Thank you, Judge.

THE COURT: I find that you could not properly serve because of the medical condition he's under, and his needs to -- his urge to hurry to go to the bathroom at all times, sometimes without notice. And his mind would be on that and could not focus on this trial. So, sir, you're excused at this time.

JUROR: Okay. Good luck, Judge.

THE COURT: Good luck. Good luck to you.

All right, sir, come around here if you would, sir. You know, I really need you to be ready to serve. I think you want to serve.

JUROR: Oh, no.

THE COURT: I think you'd be a good juror to serve.

JUROR: I don't want to serve. I don't want to convict him. I don't want to be nothing, no part of this right here.

THE COURT: Well, I think you'd be a good juror, sir. Can you not get someone to take care of your child?

JUROR: No.

THE COURT: Tell me about the car accident again.

JUROR: It was March 6th of last year. I was going down 501. Someone t-boned me. I'm fighting the insurance company now on that. I got a lot going on on my mind. I'm trying to quit smoking, and then it's just -- this is not going to work. It's your call.

THE COURT: I know, sir. I think this is -- it's going to be my call. And I think under the law, sir, I have no choice. I'm going to have to qualify you, sir.

JUROR: Okay.

THE COURT: Just come on back at 4:00.

MR. HEMBREE: What's his number?

THE COURT: That was juror 369.

JUROR: If I could bring in documentation from my doctor, would that -- it -- get me off?

THE COURT: If you can find something to document that, I'll look at it and see. It may or may not depending on what the doctor says.

JUROR: Okay.

THE COURT: This is to say -- it has to say why you can't serve.

JUROR: Okay.

THE COURT: Oh, I'm sorry. Over here. What's your name?

JUROR: Latavious Stephens.

THE COURT: Do you know what your juror number is?

JUROR: 236.

THE COURT: 436.

JUROR: 436.

THE COURT: Yes, sir.

JUROR: I got to go pick up my son at 3:30 from daycare. I don't have no babysitter. My baby momma, she go to school. She in Georgia. I don't have no babysitter, so there's, there's no possible way to come back out here at 4:00.

THE COURT: How old is the child?

JUROR: Three. My mom live in Georgetown.

THE COURT: Well, why can't the babysitter stay until 5?

JUROR: No, I don't have no babysitter.

THE COURT: Well, who's got the child?

JUROR: Daycare.

THE COURT: Well, why can't the daycare keep her until 5?

JUROR: Huh?

THE COURT: Until 5?

JUROR: Because I'm on a schedule with him.

THE COURT: Well, let them know you need the child to stay there until 5. We can probably get you there by 5.

JUROR: All right.

THE COURT: All right, see you back at 4. And if

somebody is staying there later, let me know.

JUROR: All right.

THE COURT: And you better be working on some family members because you don't -- if you get on the jury, you're going to have to have somebody to take care of your child.

What's your number, sir?

JUROR: My number's 200, Thomas Hardwick.

THE COURT: Mr. Hardwick, Thomas Hardwick, juror 200. Yes, sir, Mr. Hardwick.

JUROR: I had -- you asked about crimes a while ago.

THE COURT: Yes, sir.

JUROR: I have never done one, but I had a sister that got in some trouble probably thirty-some year ago.

THE COURT: All right.

JUROR: She misplaced some money at the bank.

THE COURT: Like investments or stuff like that?

JUROR: Yes, sir. They just put her on probation. It wasn't violent.

THE COURT: Would that affect your ability to be fair and impartial in this case?

JUROR: No, sir.

THE COURT: You could be fair to both sides?

JUROR: Yes, sir.

THE COURT: And make your decision based on the evidence presented in the case and the law as I instruct it

to you?

JUROR: Yes, sir.

THE COURT: Thank you, sir. I'll see you at 4:00.

(END OF CONFERENCES AT THE BENCH.)

(A PAUSE.)

THE COURT: All right, here's what I'm going to do. I instruct the, I instruct the clerk to go ahead and get me twenty panels of five. Once we get that, we'll stop and if anybody's left over, I'm not sure. How many you got left over?

CLERK OF COURT: We've got 137.

THE COURT: All right. Well, just make it, make it ten, ten panels of five and the rest of them we'll -- that doesn't work. It won't hurt to have twenty panels of five. And I'll, I'll think about how to structure them.

We're going to try to do two panels tonight if we can and then we'll come, come back tomorrow. Let y'all know I have a dental consultation in Myrtle Beach at 9 tomorrow about a potential root canal. I just want to talk to the physician, see if my tooth can be saved. If it can't be saved, then he'll probably schedule an extraction, but that won't happen this week. I want to talk to him. So, therefore, we probably won't start until 10 tomorrow.

So, we'll try to do two panels. And doing these, we'll go over various questions, and also might be some

other matters. Let me know. But when we get back at 4, we'll announce those two. I'll then have them come back about one hour in ten minute integral, integrals -- intervals for tomorrow. We'll just go through them and see.

I plan to get about four jurors before we think about quitting. But I do plan to try to have four alternates. Maybe we'll need to -- may have to do forty-five. We'll see.

Any questions from anyone? State?

MR. HEMBREE: No, Your honor.

THE COURT: Defense?

MR. WILSON: No, Your Honor.

THE COURT: All right, you'll enjoy your lunch and we'll see you back here at 4:00.

(OFF THE RECORD.)

THE COURT: All right, counselors, could I see y'all here just a second before we start here? If y'all would approach the bench?

(OFF-THE-RECORD BENCH CONFERENCE.)

THE COURT: All right, any other *voir dire* requests of the state, or any other objections regarding this jury as impaneled?

MR. HEMBREE: Nothing from the state, Judge Lockemy.

THE COURT: Okay, any further *voir dire* requests from

the defense, or any other objections on the jury as impaneled at this time?

MR. WILSON: None, Your Honor.

THE COURT: All right. Now, ladies and gentlemen, I mentioned to you earlier about the indictments. The fact someone's charged with a crime is not evidence that person has committed a crime whatsoever. The burden is upon the state to prove guilt beyond a reasonable doubt. A person is presumed innocent unless guilt has been proved beyond a reasonable doubt.

As you heard in this case, three charges in this case. The allegations are charges of murder, burglary, and assault and battery of a high and aggravated nature. The procedure we do in this trial is that I am going to, and this will be a bifurcated trial.

What that means is that the first thing that the jury would do would be to listen and to determine whether or not the state has proven the guilt beyond a reasonable doubt. If the jury determines that the state has proven guilt beyond a reasonable doubt and has found that the state has proven guilt not only of murder beyond a reasonable doubt but also of an aggravating circumstance beyond a reasonable doubt, which I'll explain to the jury later in more detail, then we will move to another phase where the jury would then determine what would be the penalty for the crime.

So, it's sort of a bifurcated trial, two phases.

Now, the way we're going to select a jury is this. We're going to separate you into groups of five. I am going to try to get ten of you done today, ten groups of five. The other groups of five will begin reporting tomorrow at 10.

The reason is tomorrow at 10 is that I have a important dental appointment at 9 in Myrtle Beach that is just consultation, hopefully to determine whether I need a tooth extracted or not. And so I'm going to see the dentist hopefully for fifteen minutes at 9 and then be here at 10 just to talk with him and then come back.

But then we will then go into groups of five throughout the day, and the fives will be broken up into one hour for each. So, we'll have tonight the first group of five, second group of five, and then groups of five every hour tomorrow and then into Wednesday.

Now, during these groups, what will happen during these groups are that we will interview you individually as a juror. And there will be certain things that I will be asking you, and there will also be certain things that the attorneys will be asking you. And so that's what will happen when you are separated into the groups of five.

You'll come into the courtroom by yourself, and we'll talk with you about a few things, and that's the process we

do until we get a sufficient number of jurors qualified. And then after that, we'll then from those qualified select the jury on this particular case.

Now, ladies and gentlemen, we can discuss this individually with you when you come in, but let me just let you know this. That the -- my plans are that somewhere around Wednesday or it could be Thursday, but the jury that we have selected -- and it could very well be Thursday -- that that jury then will be impaneled in this particular case. We have lodging available for that jury, and we'll take care of your every need and all that. So, but we'll discuss that further with you, and that will be local lodging and very nice lodging. All your food will be taken care of everything else, and transportation and all that. But as we get to you individually, I'll discuss that more particularly, particularly with you, okay?

Now, at this time I'm going to have the clerk begin to randomly through the computer select the groups of five.

Any objection from state or from the defense by the selection process of the clerk at this time doing this randomly and selecting into panels of five? Any objection from the state?

MR. HEMBREE: No objection from the state, Your Honor.

THE COURT: From the defense?

MR. WILSON: No objection from the defense.

THE COURT: All right.

(A PAUSE.)

THE COURT: Now, when you get to your room, you first group of five, you'll be going to a jury room. The first person that I'm going to talk with, you're going to come out into an anteroom, and at that point in time we're going to show you a document, some documents for you to review, names of potential witnesses and some other things. You're to look those things over.

The list of potential witnesses, I just want you to circle by a number anyone you know or are related or have any association with. So, anybody on the list that you know or have any relationship to, if you would please circle. And then I'll discuss that further when you come out.

While you are there in the, in the room, if you are there with other people, do not discuss this case, any allegations about it or anything else. Until you are released as a juror in this case, until you are released and are through with your service in this case, you're not to discuss this case with anyone, including your fellow jurors. You're not to discuss it all: anything about it, anything you may think about it, or anything what somebody else told you, or whatever else. Do not discuss this case at all unless I ask questions and instruct you to discuss

it with me. So, please, ladies and gentlemen, do not discuss this case with anyone or anything about it or anything at all except as I instruct you.

So, even with your fellow jurors, talk about the weather or anything else but not, not about this case or anything else that has any regard to this case.

All right, Ms. Barfield, if you would please, ma'am, I'm going to have you put under oath now, which means that while you're back there with the panels, if anybody does say anything about this case, they relate anything or discuss it with you or anyone else, you are to report it to the court immediately under, under your duty. Do you understand, ma'am?

DEPUTY CLERK: Yes, sir.

THE COURT: If you would, put your papers down for a second.

If you would, Madame Clerk, put this person under oath, just that she will not discuss this case with anyone, permit anyone to discuss it with her. And if this does occur, she will report it to the court forthwith.

(WHEREUPON, THE DEPUTY CLERK IS SWORN.)

THE COURT: And you know one of those orders are they are not talk about it among themselves either, okay?

Okay, if you would, the first panel of five. You have someone that will remove the panel of five for me to the

jury room?

CLERK OF COURT: Yes. Oliver is going to take care of that.

A is 313, Eric McPherson.

THE COURT: Come on up. Stand up here, Mr. McPherson, if you would with the officer next to the jury box right here. We only have five.

CLERK OF COURT: 242, Shirley Jones; 138, Daniel English, Jr.; 19, Vicki Bell; and 200, Thomas R. Warwick, Sr.

THE COURT: Now I'm going to do the other one, the other group also. Do we have another room for them?

CLERK OF COURT: Yes, sir. Oliver's taken care of it.

THE COURT: All right. Now the second group, y'all end up going to a room, and you just stay there, but I don't need you. Once I read your name out, if you want to report back at 5:00, you can do that. But why don't you first go in the room, and he will show you where it is and they will show you how to get back to it. In fact, 5:15 will be fine, but just try to be back in that room at 5:15.

This group, y'all can go and go now, and y'all stay in here. We'll let you know something in a little bit.

(JURY PANEL A EXITS.)

All right, our second group. Okay, if you would read out the names of the second group.

CLERK OF COURT: 378, Theresa Raynor; 327, Stephanie Morris; 414, Mary Skipper; 345, Pleasant Overby, Jr.; and 374, Philip Randall

THE COURT: Philip Randall?

Now, if you would, who's going to be going -- all I want you to do with them is to show them the room. And then once you see that room, if y'all want to sit there for a while -- it's going to be a while -- or you can go and come back in forty-five minutes, whatever. It's up to you, but go right to that room. Do not come back in the courtroom, okay?

(JURY PANEL B EXITS.)

(A PAUSE.)

THE COURT: What the clerk is going to do now, ladies and gentlemen, is she is now going to read me another group of five. We're going to do about fifteen or sixteen more groups of five. When your name is called up, you're going to come up here and I'm going to put -- tell you what time to come. The first one will come back tomorrow at 10 a.m. The next will come back tomorrow at 11:15. The next one will come back -- I don't know if she's got lunch scheduled at 12 or 1. There will be a lunch hour there somewhere, but I'll tell you when you come up. So, you got to make sure you know what time you're coming back tomorrow, what time you're coming back tomorrow.

And what I'd like for you to do is when you come back tomorrow, until we say otherwise, the clerk may have an instruction when she gets here. She may have some sort of logistics worked out. But it's probable we're going to have somebody waiting outside for you, and they'll have the list and then take you to a jury room right outside the door of this courtroom when you come back in tomorrow morning. And this will go on and will probably go on into Wednesday. Let's wait for the clerk get back and we'll get the next one.

As you know, this is taking a while, so we're going to try to let the backlog be done today. So, now you're here late today so we can move tomorrow with this.

(A PAUSE.)

THE COURT: All right, now for our group C. I'm going to have her give you -- the list to you, to everybody later. She's just reading them out right now.

(A PAUSE.)

THE COURT: All right, give me group C.

CLERK OF COURT: Panel C.

THE COURT: If you would, come up front so we know you're here.

CLERK OF COURT: Okay, 426, Jackqueline Spivey; number 9, Rebecca Bacot; 368, Melinda Prussman; 335, Tracie Neal; and 454, Christopher Trout.

THE COURT: Now, you all are group C. I'm going to let you go at this time. If you would, tomorrow morning at 10:00 please be outside that door there, okay, and there will be someone there to take you somewhere.

Do not discuss this case with anyone at home, friends, family, or anything, all right? Do not watch any media. Do not look at any television news or read any local papers. Everyone clear with that, okay? Do not read any papers, and do not look at local news at all. Everyone clear with that? I'll ask you that again tomorrow.

All right, good. We'll see you then tomorrow morning at 10. You can leave at this time. Just be at the door tomorrow morning at 10. All right.

(JURY PANEL C EXITS.)

CLERK OF COURT: This group is panel D to report at 11:10 a.m. 467, Stanley Waletkus; 253, Joseph Kowalkowski; 438, Joseph Stevens; 10, Melody Badurski; and 255, Susan Kreuger. This is 11:10 tomorrow.

THE COURT: Okay, as Ms. Kreuger comes up, you heard me tell the other people. Do not look at any local media. Do not listen to any local news. Don't look at any local papers at all. And if you would, at 11:10 tomorrow morning be outside this door right here. There will be someone to take you to your room.

Please do not discuss with any family members or

anyone else or among yourselves. Is that clear with everyone? See you tomorrow at 11:10. You may leave at this time.

(JURY PANEL D EXITS.)

CLERK OF COURT: This group is for 12:20 tomorrow. 474, Debra Warrington; 33, Mary Bosley; 47, Kevin Brown; 469, Marthina Wallace; 103, Douglas Craig, II.

THE COURT: As Ms. Wallace is coming and as you heard me tell everyone else, don't look at any news. Don't look at any local papers. Don't discuss with anyone at all. Be outside that door at 12:20 tomorrow. Any questions? Okay, we'll see you at 12:20 tomorrow afternoon outside the door. See you then. Thank you.

(JURY PANEL E EXITS.)

THE COURT: Okay, this next group will be reporting at what time?

CLERK OF COURT: 2:00.

THE COURT: Now, wait a minute now.

(A PAUSE.)

CLERK OF COURT: Okay 2:15 tomorrow. 450, Sandra Thompson; 403, Kitty Schisler; 154, Harold Foster, Jr.; 496, Lorene Wright; and 28, Keith Benton.

THE COURT: Okay, 2:15 tomorrow afternoon. So, please come in tomorrow and report outside the door. Someone will be there to check to make sure you're all here and take you

back to your jury room.

As I said, no local news, no local TV news or newspapers, and don't discuss this matter with anyone, including members of your family or anyone else. And I'll ask you tomorrow whether someone's discussed it with you. Make sure no one talks with you about this case. See you tomorrow at 2:15. You may leave at this time.

(JURY PANEL F EXITS.)

CLERK OF COURT: This is panel G.

THE COURT: Panel G.

CLERK OF COURT: 3:25.

THE COURT: 3:25.

CLERK OF COURT: 390, Lauren Roughton; 431, Ronnie Stackhouse; 38, Shuntoneis Brave; 108, Julie Daniels; 11, Ricky Ballen. That's at 3:25.

THE COURT: Okay, y'all heard me tell everything that I mentioned to everyone else regarding no media. Don't talk about it with your family or your friends or anyone else. Outside the door tomorrow at 3:20. You are group G. I have a list with your name on it, group G. All right, see you tomorrow 3:25. Remember G.

(JURY PANEL G EXITS.)

CLERK OF COURT: This is 4:35 tomorrow. 363, JohnPaul Plewa; 66, Anthony Carmichael; 84, Glenn Cole; 486, Allen Wilson; 62, Alyce Calfee.

THE COURT: What time?

CLERK OF COURT: 4:35.

THE COURT: That is group H?

CLERK OF COURT: That is group H.

THE COURT: All right, you're group H, H as in hotel. See you tomorrow afternoon at 4:35. 4:35 be outside the door tomorrow at 4:35 in the afternoon. Everybody clear with that? All right, 4:35. You're group H. All right, see you tomorrow afternoon.

Do not discuss this with anybody. Don't read any local media or look at any local TV news or don't talk to anybody, anybody talk to you about. All right.

(JURY PANEL H EXITS.)

CLERK OF COURT: This for 5:40 tomorrow.

THE COURT: 5:40

CLERK OF COURT: 225, Earle Hoxie; 68, Steven Carrigan; 79, Patricia Chumas; 244, Catherine Kammerer; and 455, Wanda Truett.

THE COURT: Okay, you all are on second shift tomorrow, 5:40. 5:40 be outside the door.

Now, Ms. Huggins, you'll make sure the courtroom is open so they can get in -- court building is open so they can get in?

CLERK OF COURT: Yes, sir. Oliver is going to assist me in that.

THE COURT: We need any particular door we need to tell them to come in tomorrow?

BAILIFF: No, sir.

THE COURT: They can come in the front door?

Okay, you can come in the front door tomorrow, but be outside the courtroom there at 4:40 p.m. tomorrow afternoon. You're group I, I as in India, group I. All right, see y'all tomorrow afternoon, 5:40.

(JURY PANEL I EXITS.)

THE COURT: This will be for 9:00 Wednesday morning, 9:00 Wednesday morning in group J.

CLERK OF COURT: 234, David Johnson; 170, Kristian Gilleland, Your Honor; 20, Randy Bell; 470, Jeron Wallingford; and 294, Marie Martin.

THE COURT: Okay, you are group J as in jugs or James. You are group J. 9:00 Wednesday morning outside the door there. 9:00 Wednesday morning, and we will take you to a room.

Okay, please now, that means you got tonight and tomorrow night. Do not discuss this case with anyone at all. Do not look at any local media at all. Do not read any papers from the local at all from the state really, and do not discuss it with family members, anyone else. See you 9:00 Wednesday morning, 9:00 Wednesday morning. See you then.

(JURY PANEL J EXITS.)

CLERK OF COURT: January 30th Wednesday at 10:10 a.m. 402, C.D. Scaggs; 115, Shonta Dennison; 398, Christine Sandler; 464, Eddie Velez; 466, Terry Walden.

THE COURT: You are group K as in a key, group K as in key, 10:10 Wednesday, 10:10 on Wednesday morning outside the door. We'll take you then to a room. Someone will have the list there, but make sure once again and no media. Don't talk about it to anyone or among yourselves or with anyone else. If it happens, I will ask you about it. You can tell me on Wednesday. We'll see you Wednesday at 10:10. See you then. You may leave at this time.

(JURY PANEL K EXITS.)

THE COURT: Group L, 11:20.

CLERK OF COURT: 300, Gregory Mascho; 434, Helen Staton; 320, Franklin Miller, Jr.; 259, Matthew Lane; and 395, Kasi Sain.

THE COURT: All right, you're group L. You're going to be here at 11:20 on Wednesday, 11:20. You heard what I told everyone else about the media, don't talk to -- with anyone about this at all, anyone. If anyone does speak to you about it, or you do did end up seeing something on the media, let me know Wednesday when you come in at 11:20 outside the door. Remember, you are group L, L, L, okay? See you then.

(JURY PANEL L EXITS.)

CLERK OF COURT: This is panel M. This is panel M January 30th at 12:30 p.m. 436, Latavius Stephens; 419, Janna Smith; 125, Patsy Dozier; 399, James Santos; 439, Joann Stewart. This is 12:30 on the 30th, panel M.

THE COURT: All right, if you would, you report back here on Wednesday at 12:30. No, your group is M as in mop, M and you're here at 12:30 on Wednesday, February 20th outside the door. Anybody got any questions about what I said about not looking at any media, not reading anything about it court, or any newspapers at all or any TV news, or talking about it with anybody in your family or any friends, anything else from any questions? If not, at 12:30 on Wednesday outside the door.

(JURY PANEL M EXITS.)

THE COURT: All right, and this will be the afternoon on Wednesday group N.

CLERK OF COURT: 317, Troy Metzner. I need to call him; he's the one I will need to call after 8:00 tonight.

THE COURT: That works good and when he's coming back, he'll know to come in at that time on Wednesday.

CLERK OF COURT: 217, James Hetherington; 91, Debra Conroy; 293, Kitty Martin; 334, William Naylor.

THE COURT: If that's a cell phone, that needs to go. Should not be in this courtroom.

Now, there are only four of you. That's because there was one juror who was going out of town and was not going to be back until tonight. So, that person I did not excuse off jury duty. I said will probably not need him until Tuesday anyway. That person's coming in tonight. We'll have him for tomorrow to qualify him and assuming they qualify, they'll be with you on Wednesday afternoon at what? About 2:40?

CLERK OF COURT: 2:40.

THE COURT: 2:40. So, if you would, be outside the door Wednesday at 2:40. Your group N as in November. We'll see you at that time. Do not read any local papers or seen any news about this matter, or talk about it with anyone at all. We'll see you then at 2:40 on Wednesday. You may leave at this time

(JURY PANEL N EXITS.)

(A PAUSE.)

THE COURT: Next group.

CLERK OF COURT: O, which is 3:50 p.m. on the 30th, Wednesday. 134, Ina Eells; 43, Veora Brewer; 391, Rebecca Roupe; 495, Richard Woodward, II; 339, David Noel, and that's one that is reporting another day is 339. 339 is the one that was at of town and would not be able to report.

THE COURT: All right. So, that will be, he will be

here also Wednesday, Wednesday at 3, what time, 3?

CLERK OF COURT: 50.

THE COURT: 50. You're group O as in Oscar, so be here Wednesday 3:50 outside the door there. Group O as in Oscar at 3:50, we'll see you then. You may leave at this time. Please don't discuss it with anyone look or at any media, read any newspapers at all.

(JURY PANEL O EXITS.)

CLERK OF COURT: 5:00 p.m. on Wednesday the 30th: 55, Robert Burke; 248, Brenda Kemp; 13, Arthur Baribault; 180, Megan Grafton; 353, Timothy Parry.

THE COURT: All right, you are all 5:00 on Wednesday, 5:00 on Wednesday. Once again as I told everyone else, don't look at any local papers. Don't look at any news on TV. Don't discuss with anyone, and you got two days, almost three really before you're back here So, please do not discuss this with anybody. Don't look at any local media. We'll discuss it with you if you have when you get back on Wednesday. Outside the door, outside the door of this courtroom. We'll see you Wednesday at 5:00 Wednesday 5:00, and you're group P as in a Paul. See you then.

(JURY PANEL P EXITS.)

(A PAUSE.)

THE COURT: The rest of you, it is probable that we're going to need you, but there's no use going way off down

the day. So, what I'm going to have you do is to have you call back on Wednesday night, and it will tell you what time to come in on Thursday. If for some reason you have some confusion, you're not certain, then you'd go ahead and just come on in here Thursday at 9:00 if you have some confusion. Now, y'all were given a pamphlet when y'all came in here. Everyone have that's pamphlet? It has a number on it. Now, hold on one second.

(A PAUSE.)

THE COURT: But what I'm going to do is this. It's probably we're going to need you, so we have another jury out, too, and I don't want to have any confusion getting a different message conveyed with the same day. So, what I want you to do is you report back into this courtroom Thursday morning at 9:00 a.m., Thursday morning and you just don't worry about calling. You just come back here Thursday morning at 9:00 a.m. Anybody got any questions all about that? Anybody get a question, let me know. Yes, sir?

JUROR: I work for a local media company. Am I allow to go to work tomorrow?

THE COURT: You can go to work, yes, but cannot discuss this case with anyone at all. Do not look at any local media and, like, don't read any newspapers for at all. Don't let's anybody at work discuss this with you at

all, please. You got to make sure you don't have any discussions at all with anyone. If someone says you're on jury duty, I can't talk about that, and do not talk about it among the families or with any friends or anybody. So, the best thing is don't talk about it with your, and with your -- don't look it news. Don't look at the TV news. Don't talk about it with your friends, your family, enemies, the dog, your cats, or your mirror. Just don't talk about it with anyone, and just be back here Thursday morning. All of you back here Thursday morning at 9:00 a.m.

Before you leave, let me have the attorneys come up.

(OFF-THE-RECORD BENCH CONFERENCE.)

THE COURT: Come up here, sir. I maybe didn't hear you. You said you worked for Media Co? You work for a media company.

(THE FOLLOWING CONFERENCE IS ARE HELD AT THE BENCH.)

THE COURT: You said you work for a company. What company you work for, sir?

JUROR: The *Weekly Surge*. It's put out by the Sun Company.

THE COURT: What is that?

JUROR: The *Weekly Surge*.

THE COURT: What is it?

JUROR: It's put out by the Sun Company.

THE COURT: What is it?

JUROR: Oh, it's a weekly paper that comes out every Thursday.

THE COURT: No, sir, don't go to work.

(A PAUSE.)

THE COURT: This is juror number 393. All right, thank you for clearing that up with us.

(END OF CONFERENCE AT THE BENCH.)

THE COURT: Anything else before we let this go jury go? From anyone? Yes, ma'am?

JUROR: I deliver the *Sun News* in the morning. I don't ever read it, but I do deliver it.

THE COURT: No, ma'am, I would rather you not do that either, ma'am.

JUROR: Oh, okay.

THE COURT: What is your number?

JUROR: My number is 447.

THE COURT: 447. No, ma'am, just come back Thursday. They'll just have to get someone else to deliver it until then.

JUROR: Okay.

THE COURT: You know what? I delivered the *Charlotte Observer*. I was in college, and I learned how to use my left hand while in the vehicle, throw the paper, even though I'm right handed. Was amazing. After a while I

could hit the porch and once in a while hit the -- no, no, I'd get the porch once in a while. It's amazing. You do it in a car also?

JUROR: Yeah.

THE COURT: Yeah, it's great, isn't? Do you do it over the roof?

JUROR: Three years.

THE COURT: Yes, ma'am?

JUROR: I just wanted to let you know I work at the wellness center, and there are televisions all over the place.

THE COURT: If you -- are you concerned about that?

JUROR: Yes.

THE COURT: Then don't go to work, ma'am. What's your number?

JUROR: 268.

THE COURT: 268, very good. All right, any other questions at all? All right, what time you coming back here?

JURY PANEL: 9:00.

THE COURT: Thursday, January 31st. We'll see you 9:00 Thursday morning.

(THE REMAINING JURY PANEL EXITS.)

THE COURT: Go over with you the procedure I would like to do in this matter. We have Mr. McPherson, or Mr.

McPherson is already out in the anteroom now reviewing the three types of jurors. I gave him copies of those things. In addition, I'm going to put my law clerk under oath, and I'm going to ask him certain questions. If you would come forward, Mr. Daniel. Raise your right hand.

(WHEREUPON, THE LAW CLERK IS SWORN.)

THE COURT: Now, Mr. Daniel, speak real loud. I directed you, did I not, to get the list of witnesses provided by both sides?

MR. DANIEL: Yes, sir.

THE COURT: And from that, how did you compile a list by basically -- or how did you do once I gave you both lists?

MR. DANIEL: I basically put both lists into one word document and alphabetized them A to Z.

THE COURT: So, you did it regardless whether it's defense or state witness, you just put it in alphabetical order?

MR. DANIEL: Yes, sir.

THE COURT: And, in fact, you had -- and so on a -- in alphabetical order?

MR. DANIEL: Yes, sir.

THE COURT: All right, and that is a list that we have prepared and you gave the clerk to show jurors to see if they know anyone?

MR. DANIEL: Yes, sir.

THE COURT: In fact, a couple of them are going to be sort of the same names twice, but just to make sure you didn't miss anybody, I instructed you -- because I didn't want you to think there was a double name, it was the same name, a different person -- you kept everything in it just as it was, just as it was given you?

MR. DANIEL: That is correct.

THE COURT: All right, and any questions by the state of Mr. Daniel? Any objections of that process?

MR. HEMBREE: None from the state, Your Honor.

THE COURT: Mr. Wilson or Mr. Rathbun?

MR. WILSON: Nothing, Your Honor.

THE COURT: All right. Now -- Mr. Wilson, you may sit down. Now, Ms. Huggins has been instructed that no one is to get a copy of this witness list, neither the state nor the defense. I assume we'll have done your Rule 5 and so, therefore, once a juror comes out, that juror, only one juror is to be given this list at the time, and that juror is to bring this list out with him. If there are circles on it, then I will of course give that to the court reporter to mark. If there are not circles on it, they're all -- the person said they didn't mark anybody, I'll probably reuse that, that list. So, Ms. Huggins, you understand?

CLERK OF COURT: Yes, sir.

THE COURT: Only one juror at the time gets a list so I can keep up with it, and that juror is to bring that list out with them.

CLERK OF COURT: Yes, sir. I instructed Ms. Barfield with those instructions.

THE COURT: And she knows not to give them to anybody else?

CLERK OF COURT: That's correct.

THE COURT: All right. Okay. Any objection to that process from the state?

MR. HEMBREE: None from the state, Your Honor.

THE COURT: The defense?

MR. WILSON: No objections to that, Your Honor.

THE COURT: Had nothing to say, Mr. Wilson?

MR. WILSON: No, sir.

THE COURT: Okay. Now, when the, when the juror comes out, I will remind them that they are still under oath when they were put under oath early today, and then I'll ask them some general questions about the trial procedure. I'll then find out further if there have been any discussions they've had with anyone about the case. Any media manners, I'll ask that again, and then I will see if they reviewed the witness list and see if they know anybody on the witness list. And then I will talk to them about

the three types of jurors, ask which type of juror they are, or he or she is, and go into various questions about that.

Once I have completed, if the juror makes it through that process, then I'll turner it over to the state for questions permitted by law, and alternate over to the defense for questions permitted by law. Any follow up I need to do, then I'll, then I'll follow up on that issue.

We are seeking a juror who is one who can listen and make a decision based on the evidence in the case and the law as I instruct it to them, that's not going to be affected by any media they may or may not have seen, or any things that they have heard from anyone else outside the courtroom. And we're seeking a juror that will be open minded if a decision if guilt were to come about, a juror would be open minded about the potential penalties there and would not have one set decision already made that they would do if a, you know, if verdict of guilty were brought back.

I will also remind the jurors in a situation of if we got to the phase of deciding the sentence and if the sentence was a decision of death, they'd also have sign, they would have to sign the verdict. All jurors would have to sign, and would they have in problem in that regard.

Any matters the state wishes to bring to the court's attention?

MR. HEMBREE: No, Your Honor.

THE COURT: Defense?

MR. WILSON: Nothing.

THE COURT: All right. I need about two minutes, and then come out and we'll start. Take a moment to go to restroom or get a drink of water or whatever, let's do that. And then we'll come out and get started on the first panel.

Media, once I bring that jury in, no more media after that, okay? Thank you.

(OFF THE RECORD.)

THE COURT: Okay. Is the state ready?

MR. HEMBREE: State's ready to proceed, Your Honor.

THE COURT: Defense ready?

MR. WILSON: We're ready, Your Honor.

THE COURT: All right. If you would, please bring Mr. McPherson in, please, and then after that, let the next person come out and be sitting in the room looking at a jury, the jury thing.

(JUROR #313 ENTERS THE COURTROOM.)

EXAMINATION BY THE COURT:

Q. Mr. McPherson?

A. Yes, sir.

Q. It's been a long day, hasn't it?
A. Yes, sir.
Q. Have a seat if you would please, sir. It says here you are originally from Pittsburgh, Pennsylvania?
A. Yes, sir.
Q. Happy, happy for those Steelers, what, last year, were you?
A. Two years ago I guess.
Q. Two years. My nephew, his favorite team is the Steelers. I have been up that way. You know where in New River is in West Virginia?
A. Yes, sir.
Q. I went white water rafting with the kids on that river.
A. Okay.
Q. The bridge there says it's the tallest bridge that cars can pass over in America.
A. I have been over it quite a few times.
Q. Now, what I'm going to do here is ask you just a few questions, and please understand this is a conversation. You're not on trial.
A. Okay.
Q. This not a part of -- this is just a conversation we're having.

Now, I gave you a list of people's names and asked you

to circle anybody you knew. Did you circle anybody at all?
A. Phyllis Richardson.
Q. Well, no, no, I just asked you did you.
A. Oh. Yes. I'm sorry.
Q. Now, if you would, what number is that?
A. 96.
Q. 96. Now, how do you know number 96?
A. She is the sister-in-law of my wife's ex-stepfather.
Q. Sister-in-law of your wife's ex-stepfather?
A. Uh-huh.
Q. Now, how did you know that? How did you know that, your wife's ex-stepfather's sister-in-law? It's amazing you would know that.
A. Because I've been with my wife now for almost thirteen years, and I've actually visited her at her house.
Q. With Ms. Richardson?
A. Yes.
Q. Have you ever discussed this case with her?
A. Oh, no. It's been a while.
Q. All right, what you mean it's been a while?
A. It's been a while since I've seen her.
Q. Oh, since you've seen her?
A. Yes.
Q. When is the last time you saw her?
A. Several years ago.

Q. Okay. If for some reason she were involved in testifying on whatever level of involvement in this case, would that make you look upon her differently than you would any other witness?

A. I don't suppose so, no, sir.

Q. Would you look upon her just like you would any other witness testifying in the case?

A. Yes.

Q. And, and so that would not cause you to believe or disbelieve her more or less because of the fact she has some distant relationship with your current wife's ex-husband you say?

A. Current wife's ex-stepfather.

Q. Stepfather, ex-stepfather. Oh, I see. He's divorced from her mother?

A. From my wife's mother, yes, sir.

Q. Okay. The fact that she is somewhat related to him, would that in any way cause you to look at her testimony differently or treated it differently?

A. No, sir.

Q. All right. Did you know anybody else on this list?

A. No, sir.

Q. All right, can I have it?

THE COURT: Okay, let the record reflect I have reviewed the list, too, and there are no other names

circled, and this will be marked for him. No one is to see it, okay?

(QUESTIONNAIRE OF JUROR #313-McPHERSON MARKED INTO EVIDENCE AS COURT'S EXHIBIT NUMBER 2-A.)

Q. Now, let me ask you another thing. I asked about the attorneys. You don't know any of the attorneys involved in this case?

A. Personally? No.

Q. Okay. Do you know the defendant at all, Mr. Winkler?

A. No.

Q. Okay. Have you formed or expressed an opinion at all about the guilt or innocence of the defendant?

A. Somewhat, yes, sir.

Q. Who did you, who did you -- have you expressed it to someone?

A. No, sir.

Q. So, you say you've formed an opinion?

A. Somewhat, yes, sir.

Q. What does that somewhat mean?

A. A little bit, it's kind of hard not to, not to, you know, when you hear some of the charges and whatnot against him.

Q. And have you heard all, heard that from newspaper accounts or TV or something or some other way?

A. Newspaper.

Q. And you do realize the newspaper really isn't any kind of -- it's just repeating what other people ---

A. Of course.

Q. --- have said and could or could not be reliable?

A. Yes.

Q. You feel that if you're on the jury in this case that you could divorce yourself from what you may have read in the newspaper, divorced yourself about what matters you may have thought you formed opinions about and be fair to both sides, and listen and make decisions based on the evidence presented in the case?

A. Yes.

Q. Okay. Other words, you could listen and put aside anything you may have read and decide the issues in this case based on the evidence you hear in the courtroom and the law as I instruct it to you?

A. Yes.

Q. And you do realize that under our system of law, the jurors decide what the facts are based on the evidence and the standard of proof, the state having the burden of proving beyond a reasonable doubt, and they make those decisions? But they must follow the law as the judge instructs them. They must follow the instructions from the judge, and would you do that?

A. Yes.

Q. Okay. Then could you, depending on the facts and the evidence and the law, could you find the defendant not guilty in this case if, if the evidence, facts, and law warranted it?

A. Yes, I -- yes.

Q. Could you, if the evidence and facts and the law so warranted it, find him guilty?

A. Yes.

Q. Okay. Have you discussed this case with anyone?

A. No.

Q. I gave you a sheet paper of types of jurors back there. Do you remember what I gave you?

A. Yes, sir.

Q. Do you have it with you, or did you leave it, too?

A. No. They kept it back there.

THE COURT: Okay, just as soon they bring it out with them.

BY THE COURT:

Q. But let me give you this one here again, okay?

A. Okay.

Q. Now, were you able, did you have enough time to go over the three types of jurors?

A. Yes, sir.

Q. And you saw the three types. Of those three types, Mr. McPherson, which would you consider yourself?

A. Probably type one.

Q. Type one. Now, type one says that you feel that once a murder is committed, the death penalty is the most appropriate punishment no matter what the circumstances of the case are?

A. If he's guilty, yes.

Q. All right. So, if say the evidence was there and the jury determines the person is guilty, no matter what circumstances or mitigation or anything else, you would think a person should receive the death penalty and never should receive any other, life imprisonment or any of that?

A. Oh, I guess it would depend somewhat on what the circumstances are. I guess which one I would mostly be is I would probably be type one.

Q. Okay. Did you read type two and type three?

A. Yes, sir. I did.

Q. And if you -- could you read them again and maybe go over those with me again?

A. Yes.

(A PAUSE.)

Q. And, I would, I want to make sure you understand. Although they're talking about what sentence or decision on punishment the jury would do, that in no way implies anything here. Just -- this is just, the defendant is presumed innocent. This is just ---

A. Right.

Q. --- if for some reason with the evidence the jury were to find beyond a reasonable doubt the defendant was guilty, then we would move to another phase where the jury would decide, jurors would decide what the punishment would be. Now as you see, juror number one there is someone that feels that, that they're required to give the death penalty in each and every case. And that they feel once a murderer's been convicted, the death penalty is the most appropriate, appropriate punishment in every case no matter what the circumstances are based on.

And juror number two is the defendant who feels that under no circumstances could he ever give the death penalty. They wouldn't hear or listen to any facts or circumstances in aggravation. They would feel that that the penalty should be something other than death no matter what the circumstances.

Juror number three is the one who would listen, who would not have their mind made up regarding what the appropriate punishment would be. And that they would need to hear the facts and circumstances in aggravation and in mitigation, and would listen to and follow law the judge charges the jury before the jury could make their decision regarding punishment. And if the facts presented by the state or by the defendant so warranted it, the juror could

bring in a verdict or life imprisonment. Also, if the facts presented by the state or by the defendant so warranted it, the juror could bring in a verdict of life imprisonment. Also, if the facts so presented by the state of our defendant so warranted, the juror could also bring in a verdict for the death penalty, depending on what facts and circumstances in aggravation or mitigation were presented.

Knowing those three types of jurors now, which one do you feel you are?

A. In most cases, type one.

Q. Well, you say in most cases. What we're trying to determine is if you're on that jury, would you listen to the facts and evidence in aggravation and mitigation, and if those facts and evidence so warranted, could you bring back a sentence of death if the facts and evidence so moved -- so, so presented warranted that? Could you bring back a sentence of death?

A. Yes.

Q. Well, if the facts and the circumstances in aggravation and mitigation so warranted it, could you bring back a sentence of life imprisonment?

A. Yes. Yes.

Q. And would you be open minded and listen to all that before you made in your mind up?

A. Yes.
Q. Listen to all the facts in aggravation and all the facts in mitigation?
A. Yes.
Q. All right. Now, you do realize that if the jurors were to decide that the sentence were to be death, that all the jurors would have to sign the verdict form. I'm telling you that. You understand?
A. Yes.
Q. Okay. That's where the case -- and if the jurors were to decide that after listening to the facts and circumstances in aggravation and mitigation, that be the case, you could sign that verdict form?
A. Yes.
Q. I'd tell you now that if you were selected on this trial, this case could last about ten days, two weeks. And you would be, we would have a hotel room for you. We will let you make some contact with your family and your business, but it would be kind of supervised with someone on the phone. But you'd have a private room, and there would be also rooms where y'all could enjoy some entertainment, TV, stuff like that. But do you wish to tell me any undue hardships that would provide if that be the case?
A. It'd be very difficult for me. Like I said, I would

actually -- my day job, he would actually have to shut, shut down his job site because I'm the one that takes care of it. There's no one else out there that can do it. I have a restaurant that I've just opened two months ago.

Q. Where is your restaurant?

A. Dewars 52, a restaurant.

Q. Where is that?

A. Right next to where Chestnut Hill is.

Q. Yes.

A. And I have a child under seven. That would be very difficult.

Q. It would be very difficult, but if say you were selected and only the duties would be on jury duty, you be able to work it out? We're talking about that short period of time. After today, you would not -- you'd have a couple of days before you'd have to report back.

A. I, I would, I would have to check with the people involved, I mean.

Q. Okay, I want you to check on that but, I mean, if you qualified, but we'll discuss that further. At this time, I'm going to let both the attorney for the state and the attorney for the defense ask you a couple of questions.

A. Okay.

Q. They're not in any way trying to be intrusive, but they'll ask you a few questions also. And if for some

reason you feel they are, let me know and I'll be glad to stop the questions and look into it further, okay?

A. Okay.

THE COURT: All right, for the state, Mr. Humphries.

MR. HUMPHRIES: Thank you.

EXAMINATION BY MR. HUMPHRIES:

Q. Good afternoon, Mr. McPherson.

A. Hello, how are you.

Q. I'm pretty good. Let me be, but me be clear about one thing in particular. We haven't asked jurors to come into this courtroom and change their minds about the death penalty; that's not our purpose at all. Really what both the state and the defense are trying to do is find out where someone is in regard to the death penalty. No one's trying to change your mind, but we need to know what your mind is.

A. Okay.

Q. As I understand what you've told the court is that after hearing, and let's assume that there's been the first part of the trial, the defendant's been found guilty. We're in the second phase of the trial, and that's when the question becomes what's the appropriate sentence. What I understand you've told the court is that under the right set of circumstances, given the right amounts of evidence you could return either a life sentence or the death

penalty depending on those facts and circumstances?

A. Yes.

Q. That is your position?

A. Yes.

Q. Not only could you consider life imprisonment, but you could impose life imprisonment if it's right?

A. Yes.

Q. Not only could you consider the death penalty, but you could impose the death penalty if that were the right verdict based on the facts and circumstances of the case?

A. Yes.

Q. And let me ask you this as one final thing. The law requires in this particular kind of case at the time of sentencing that the verdict form be signed. Now, in a regular case, only the foreperson signs indicating the vote of all twelve. But in the death penalty case, if the jury returns a verdict of death, each juror would have to sign his or her name indicating their vote for that particular sentence. Would the fact that you would have to sign your name to a death verdict substantially impair your ability to not only fairly consider but impose the death penalty under the right set of circumstances?

A. With the ---

Q. Would ---

A. Yeah, I understand what you're saying, but my question

would be what would my name -- why would it have to go on there? What, what reasoning is for it?

Q. The law.

THE COURT: I'll let you know. The law is that if the verdict the jurors give, if the decision on the sentence is death, all twelve jurors sign the sentencing sheet. All twelve sign that because the verdict must be unanimous. The only way to know it's unanimous is all twelve sign it.

JUROR: Okay.

THE COURT: All right? Go ahead, Mr. Humphries.

BY MR. HUMPHRIES:

Q. Would the fact that you'd have to sign your name to the form, would that substantially impair your ability not only to consider but oppose the death penalty under the right set of circumstances given the right amount of evidence?

A. I don't believe so, but I've never been in these shoes.

Q. I understand, and you know we've asked you to sort of to come in here in a vacuum and imagine yourself some week or so down the road. I understand that, but that's a fair response and I appreciate it.

A. Okay.

Q. And finally, can you be a fair and impartial juror both to the state of South Carolina and the defendant in

this case?

A. Yes.

MR. HUMPHRIES: That's all we can ask of you. Thank you, sir.

THE COURT: Thank you, Mr. Humphries. Mr. Wilson.

MR. WILSON: Thank you, Your Honor.

EXAMINATION BY MR. WILSON:

Q. Mr. McPherson, let me ask you. In regards to the types of jurors that the court had asked you about.

A. Yes, sir.

Q. And you initially said that type one would, would mostly fit you. Is that correct?

A. Yes.

Q. Did you read that while you were back in your jury room before you came out here?

A. Yes, sir.

Q. All right, did you understand while you had read it?

A. Yes, sir.

Q. All right, and so when you read it and you understood it, and then you decided that that was what was most like you. Is that correct?

A. Yes, sir.

Q. All right, and now your feeling about the death penalty and when it's appropriate, is that something that you have just formulated today as a result of coming here?

Or have you held that opinion for some time now?
A. I held it for some time.
Q. Okay.
A. But it always depends on the circumstances I guess.
Q. All right. Well, let me -- in part, in the type one juror says this juror simply feels that once a murder has been committed, the death penalty is the most appropriate punishment no matter what the circumstances of the case. Is that, was that your reading and understanding of that particular paragraph?
A. Yes, but except for the most appropriate. I mean, that, you know, means to me kind of open as well as depending on the circumstances.
Q. Okay, so ---
A. So, dependent on how, I guess, you evaluate the question.
Q. All right. So, then you're saying that type one is not what you are now? You're saying you're not type one. Is that correct?
A. No. I mean, I would say that I was still type one, but like I said, it would depend on the circumstances.
Q. So, you're still saying you're type one, but it would depend on the circumstances?
A. Yes.
Q. Type one says that it's the most appropriate

punishment no matter what the circumstances. Is that correct? Is that your understanding of type one?

THE COURT: You want to review the three types, you can do that at any time.

A. No. Like I said, to me the most appropriate is just -- to me, that leaves it kind of open also. So, I mean, maybe in a way yeah, maybe I'm changing. I mean, I don't know.

Q. Maybe you're changing what? I'm not ---

A. To, I guess, you know, possibly a juror type three because of, I mean, you know, it would depend on the circumstances.

Q. Okay, but are you saying to me that prior to coming in here today that you were -- you considered yourself a type one, but then after coming in and talking to the judge and talking to the solicitor, you consider yourself now a type three? Is that your opinion? Is that what you're saying?

A. I -- it's a, to me it's difficult because, you know, when you see stuff on TV, you know, in general you're hearing mostly what's happened. So, you say well, you know, you're type one because I would consider the death penalty is very appropriate. But in a case like this, I don't know what's coming. So, yeah, I'm a fan of the death penalty and at the same that time, I mean, it would just depend.

I mean, if somebody, you know, somebody ran out in front of a car and it was, you know, they charged him with murder, I mean, it's an accident. So, I mean, would I give him the death penalty? Probably not.

Q. So, if it's an accident, then you would not consider it. But if a person could come to this court and the jury, you as a member of that jury panel, find that person guilty of murder, which means that there is no defense to it, that -- that you found as a matter of law that they have no defense to the killing that they did and that they're guilty of that and you're satisfied of that beyond a reasonable doubt, you and the other members of your panel, and you find that person guilty of that murder, which, with no defense to it, then you're saying that you would then give the death penalty in those cases?

A. Yes, I could.

THE COURT: Now, Mr. Wilson, are you asking the juror would he then consider all the facts and circumstances in mitigation?

MR. WILSON: Well, what I'm asking him is would he in every situation where he finds that the person is guilty of murder without a defense, in every situation would he then automatically give the death penalty. That's, that's what I'm asking.

THE COURT: Well, I know, but I think we need to make

sure the full question would be if you find the person guilty of murder, that he committed murder, which you give the death penalty in every case without regard to considering circumstances in aggravation and mitigation. Would you consider those matters before you would decide what penalty you would give, whether it would be life or the death penalty. Isn't that what you're really asking?

MR. WILSON: No, sir. I'm, I'm simply trying to ask him whether or not once he is a member of a panel who finds a defendant guilty of murder without a defense -- that is, with no defense to the crime itself -- that once he makes that determination of guilt on the issue of murder, whether or not -- that he doesn't care what the facts are beyond that. But he's going to vote for the death penalty if they're found guilty of that murder.

THE COURT: Well, you can ask the question. I may follow up with it, but you can ask that question.

BY MR. WILSON:

Q. Do you understand my question?

A. I believe so, yes, sir. No.

Q. Your answer then is that you would not then give the person, automatically give them the death penalty once you found them guilty of murder?

A. Right.

Q. Right. You would then be willing to be open minded

and then consider the other facts and circumstances surround the -- surrounding the killing and the particular facts and circumstances of the particular defendant involved?

A. Yes.

Q. Before you would then decide on whether you're going to vote for life or death?

A. Yes.

Q. All right, and are you saying to me that you could, in fact, vote for life even if you have found a person guilty of murder? That you could then still vote for life if you felt that that was what the appropriate thing to do was?

A. Yes.

Q. Is that what you're saying?

A. Uh-huh.

Q. Now, I noticed that when the court asked you have you formed an opinion about this case, you said that you had, in fact, formed some type of an opinion or at least partially formed an opinion about this case. Is that a fair statement?

A. Yes.

Q. All right, and would you tell us what that opinion was? What was your opinion? What opinion have you formed prior to coming in here today?

A. Guilty.

Q. You have formed the opinion that he was guilty. And that opinion that you formed was based on what?

A. Some of the readings in the newspaper.

Q. Okay, and that was sufficient for you to form your opinion? Is that correct?

A. Yes.

Q. And based on the opinions that you -- well, let me ask. Let me rephrase and ask you this way. Would it require some effort on the part of the defendant to convince you otherwise?

MR. HUMPHRIES: Your Honor, I believe that's a matter of law.

THE COURT: It would have to -- would you follow law as I instruct it to you?

JUROR: Would I follow the law? Yes, sir.

BY MR. WILSON:

Q. Court also asked you whether or not you could set aside that, what you've heard, and base your opinion or your verdict on the evidence and testimony and exhibits that you might receive in this court and you hesitated. Then you indicated that you could?

A. Yes.

Q. Is that fair?

A. Yes.

Q. And was your hesitation based on the fact that you've

had a preconceived notion as to the innocence or guilt of the defendant?

A. No. My hesitation is the fact that I've never done this before. So, I mean, I don't know how I would react to it. You know, I guess that's kind of like with children. They do something wrong. You assume they did wrong until you find something else out and then maybe, you know, things change. So, never being in that these shoes, I couldn't tell you.

Q. I also notice that you hesitated when asked could you find the defendant not guilty if the facts and evidence warranted it. Was there any particular reason for that?

A. For what?

Q. For your hesitation in saying yes.

A. Just thinking through the question.

Q. It had nothing to do with the fact that you had a preconceived notion that he was guilty?

A. No. I don't believe so.

Q. Okay.

MR. WILSON: I don't, I don't think I have any other questions.

THE COURT: Let me just ask you once again.

MR. WILSON: Judge, I'm, I'm sorry, Your Honor. Could I ask one other thing of the juror?

THE COURT: Yes, sir. Yes, sir.

MR. WILSON: I apologize for interrupting you. And I would say to the court, Your Honor, that that being the case, that he is not qualified and that his views and his opinions have not changed even though when he asked -- he said some of the magic words in order to make that.

But the underlying premise is that he still, even when you ask him now when, you know, when I asked him whether or not it would require some effort on the part of the defendant in order to have him find the defendant not guilty, while he never really said that that's what would happen, the inference was certainly that that's what it would require.

I just believe that with all these things taken into account, the other concern that I have is that the court, the court's -- you know, in the court's dialogue with him, one of the things the court asked him was whether or not the -- whether or not it was required that he give the death penalty, and in, in this particular case on type one. And then didn't -- and really what it says is that that is the most -- that juror believes that that is the most appropriate sentence after having found a person guilty of murder. And so I'm saying all those things combined together, I would suggest that this particular juror is not qualified and should not be qualified to serve.

THE COURT: It appears to me, though, that sometimes

we require jurors who know nothing about the law to act as if they've been involved in many court cases before and understand various burdens of proof and those things. The juror says that the juror will follow the law as instructed by the judge, including my requirement that the state has the burden of law, requires that the state has the burden of proof beyond a reasonable doubt. And I think he explained very well.

You know, he looked at these things. He didn't consider the ramifications of all three and look at them now. Hey, he's a number three type juror and, and he gave a good illustration to you. That's sometimes somebody does something and you think they'd do it. Then you find out differently, and then if they apply law or the burden there -- I, I think that this juror seemed to be someone just from my discussion with him would be someone that would follow the law, both for the state and for the defense. And we're obviously -- don't have someone who's just saying things because they want to be on the jury.

This person obviously does not want to be on jury because of their requirements to the job. So, I think this person is being very sincere, and I think this juror is a type three juror, and I'm going to qualify, I find this juror qualified to serve on this case.

I'm going to have the jurors report back, those I find

qualified, at 10:00 on Thursday, and then we'll see where we are at that time. I'm trying to think if I should do it at 10:00 on Thursday, maybe do it 1:00 on Thursday just to be safe. Maybe it should say 1:00 on Thursday to give everybody time to be qualified, get some time for rest and relaxation. So, anybody got any problem with just say come back at 1:00 on Thursday?

MR. HUMPHRIES: Your Honor, and this is just a suggestion, but it seems to me if we could have them come back just before the lunch hour for the striking of the jury, then we can use an elongated lunch hour in order to have the jurors settled and come back and we get started ---

THE COURT: Well, my concern is we've got about seventy-five jurors we've selected, groups in five. We did fifteen or sixteen, and I need, I'm going to need about thirty-eight or forty.

MR. HUMPHRIES: Yes, sir.

THE COURT: I'm just wondering if we get to thirty-eight or forty having seventy-five and, therefore, might need in that morning. We'll do 11:30.

All right, bring him in. Guess we'll see what happens.

(THE JUROR ENTERS THE COURTROOM.)

THE COURT: Mr. McPherson, I'm going to find you

qualified. That does not mean you're going to be on this jury panel, you know. There's still a lot of little things to go. What I'd like for you to do is to report back here outside the courtroom, and they'll let you know if you can come on in or not. But at 11:30 on Thursday morning, 11:30 on Thursday.

JUROR: Okay.

THE COURT: Now in the meantime, like I said earlier, do not discuss this case with anyone. Don't, don't in any way read any local newspapers at all. Don't look at any local news accounts. So, that's very important, sir. If someone attempts to talk to you about it, you can't talk about it at all, and, and we'll see you at 11:30.

If say you are selected, if you are selected -- and once again, it's a long way before that -- if you are selected, I'll they give you the opportunity to go and get goods that you needed at home or wherever else that afternoon, and come back, okay?

JUROR: I guess that sounds fine.

THE COURT: All right, I'll see you 11:30 on Thursday.

BAILIFF: Bring the next one, Judge?

THE COURT: Yes, sir.

MR. RATHBUN: Judge, could I ask you to use the microphone and the witness use the microphone? I'm having a hard time picking up everything you're saying.

THE COURT: I am so sorry. That's the first time anyone's ever said that to me.

(JUROR #242 ENTERS THE COURTROOM.)

EXAMINATION BY THE COURT:

Q. Ms. Jones, come on around and have a seat and relax here.

A. I'm trying to warm up.

Q. Is it cold back there?

A. Uh-huh.

Q. Well, it's warm in here. Now, what we're trying to do, I'm going to be talking with you, but you need to try and speak into that microphone, okay? I want to remind you. You remember we put you under oath earlier, so you understand you're still under oath?

A. Yeah.

Q. And one thing also -- what was that? That microphone fell.

MR. HUMPHRIES: I'll fix it.

Q. That will be $150. We'll get it fixed. Here you go.

(A PAUSE.)

Q. I see you like to read Stephen King. Is that right?

A. Yeah.

Q. And your least favorite reading comic books, funny books. You know, a lot of people read comic books.

A. I read them sometimes.

Q. I used to read them all the time, too, and reading is one of your hobbies, so you really enjoy reading. I noticed you have five children. Okay, very good, and you work at the Dorchester Human Development Board. So, you live -- that's a long drive, isn't it? No, you're -- well, in fact, that was a former employer?

A. Yeah, that's ---

Q. You worked there twenty-five years, all right, and your husband worked -- worked on a farm?

A. Yeah.

Q. Right. Now, you're not far from where I'm from. You're from Fair Bluff?

A. Yeah. I'm from the other side of Fair Bluff.

Q. You know ---

A. The -- coming back, it's on this side of Fair Bluff.

Q. You know where Lake View is?

A. Yeah. Between Nichols and Mullins.

Q. Yeah, that area. Lake View's part of Dillon County where I'm from.

Now, what I'm going ask you, Ms. Jones, is just a few questions here. And remember you're not on trial or anything. I'm just going to ask you a few things. I did, I asked you before and ask you again. Do you know any of the attorneys here at all?

A. Huh-uh.

Q. Do you know Mr. Winkler at all? You got to say something, yes or no.

A. No, I don't.

Q. There you go. Now, I gave you a list back there. Had them show you a list with a bunch of names on it. On that list, is anyone on the list that you know?

A. No, sir.

Q. Could I see it, please? Don't worry about that. That's fine. Too loud is okay. Can I see it, and I'm going to give you this back, okay? You didn't circle anybody because you don't know anybody on this list at all?

A. No, sir.

Q. All right.

A. No, sir.

Q. Now, do you know of any reason why you couldn't be fair both to the state into the defense in this trial? If you were sitting as a juror, could you be fair to both sides?

A. Yes.

Q. Have you formed an, an opinion of guilt or innocence of the defendant one way or the other?

A. Huh-uh.

Q. All right. The judge instructs the jury on the law, under law must -- the jury must accept the law as the judge instructs it. Would you follow the law as I gave it to

you?

A. Yes, sir.

Q. Okay, and so the jurors will decide what evidence, will decide what facts occurred from the evidence, but the burden would be on the state to prove guilt beyond a reasonable doubt, and law would come from the judge. Once you heard all the evidence and you've made a decision on that and you've heard my -- the law as I give it to you, under that situation, if you felt it so warranted after you heard all the evidence and law, if you felt it so warranted, could you find the defendant not guilty based on the evidence and law if you felt that was the right thing to do?

A. No, sir.

Q. Ma'am?

A. No. All the evidence that we went over, it pointed directly to the defendant?

Q. What evidence?

A. Is that what, what is you're saying?

Q. No, ma'am. If after you heard all the evidence in the case --

A. Uh-huh.

Q. --- and I gave you the law, if you felt that after hearing all the evidence, if you felt the defendant was not guilty, could you find him not guilty?

A. Yes, sir.
Q. All right. If after hearing all the evidence in the case and my giving you the law, if you felt the defendant was guilty, could you find him guilty?
A. No, sir.
Q. No, if you felt the defendant was guilty after hearing all the evidence and, and law as I instruct it to you, could you find the defendant guilty if you felt he was guilty?
A. Yes, sir.
Q. Okay. Now, have you discussed this case with anyone?
A. No, sir.
Q. Have you seen anything in the media about it, in the newspapers or TV or anything?
A. No, sir.
Q. Now ---
A. Once a guy came to my house after the trial was over.
Q. What trial?
A. No, this, this been way back in 2002 I think.
MR. HUMPHRIES: Judge, she's talking about a trial that she previously served in a jury on.
Q. Oh, I'm talking about in this case.
A. No. No, no, no, no, no. No.
Q. Okay. So, you haven't seen anything in the newspapers about ---

A. No, no.
Q. --- this case?
A. No, sir.
Q. And so you haven't formed any opinion one way or the other on this case?
A. Huh-uh.
Q. Okay. Now, I've showed you and gave you back -- you still have this sheet of paper?
A. Yes, sir.
Q. You got these three types of jurors on it that says really the first juror that had been -- and by the way, by talking about this, I'm not suggesting what the jury may find in this case as far as guilt or innocence. But just for the sake of discussion, we need to say if the evidence, the jury found the evidence so warranted it and applied the law as I gave it to them, and if the jury found the defendant guilty, well then the next thing the jury would have to do is decide what the sentence would be, and the jurors will have one or two possible sentences, either death or life imprisonment.

Now, what this says is that there's three types of jurors in that situation. The first juror, if the decision was guilt, that they would feel they were required to give the death penalty in each and every case. And they feel that once a murder's been committed, the death penalty is

the most appropriate punishment no matter what the circumstances are. That's one juror.

Another juror could be a juror who says that, although the guilt of the defendant's been determined, under no circumstances could they ever give the death penalty. This jurors would not -- juror would not need to hear what the facts and circumstances in aggravation or mitigation are in this particular case because they would have made their mind up that matter what they hear, that life imprisonment would be the appropriate punishment, and they could never give the death penalty.

The third type of juror, juror is one that, that if they determine that the defendant's guilt is proven, they would not have her mind -- they would, they would -- this juror would not have her mind made up in advance concerning the punishment. This juror would need to hear the facts and circumstances in aggravation and in mitigation and would want to listen to and follow the law as the judge charges the law before she could make up her mind regarding punishment. And if the facts presented by the state or the defendant so warranted it, this juror could bring in a verdict of life imprisonment. Also, if the facts presented by the state or by the defendant so warranted it, this juror could bring in a verdict for the death penalty.

Now, you reviewed these three types of jurors, did you

not?

A. Yes, sir.

Q. Which one of these three types do you feel you are?

A. Two.

Q. Two. Does that mean that you don't feel you could ever bring in the death penalty?

A. No, sir.

Q. Now, understand that once -- if the jury were to determine that the defendant is guilty, then at that point in time both sides would present evidence they feel in aggravation and the -- I mean, one side present evidence of aggravation. We'd also maybe hear evidence in mitigation, and do you feel you could have an open mind? And after hearing this information, do you feel that you could have an open mind and bring back a verdict of death or bring back a verdict of life depending on what the evidence was as far as punishment? Or do you feel you'd always bring back life?

A. Well, life. Life.

Q. Can you, could you consider the death penalty, and could you in some circumstances bring back a sentence of death?

A. The death penalty.

Q. Ma'am?

A. I would consider the death penalty.

Q. Could you ever bring back a verdict in that regard?
A. Yes.
Q. You could?
A. Well, no.
Q. Well, I really don't know just whether you could or could not.
A. No, sir, I couldn't.
Q. No matter what the evidence is, ma'am? Remember now you're not on trial. I do want to know how you really feel, ma'am.
A. Well.
Q. Just tell me how you really feel.
A. Well, to me, I have to hear, you know, all of the evidence and then, you know, I could come to a decision whether it's as to death or life, whatever that person's done.
Q. Well, do you ---
A. I just out and say the death penalty regardless of what they did? I just can't say.
Q. I know, but, but that's what I'm saying. Would you be open minded and if the evidence that was presented was sufficient, would you be open minded and ---
A. Yes, sir.
Q. --- would you consider the death penalty?
A. Yes, sir.

Q. And you would consider life imprisonment? You could be open minded. You could do one or the other?
A. Life in prison.
Q. Well, ma'am, would there be any situation where you would bring back the death penalty?
A. Yes, sir.
Q. So, you could bring back the death penalty if the facts and circumstances so warranted it?
A. Yes, sir.
Q. You could sign it, and in doing so, the jury would have to sign their name on the verdict if the death penalty was given. Could you sign your name on the verdict for death penalty?
A. Yes, sir.
Q. Okay, and so you would be open minded, and you would consider both sides and you would, you could bring back a sentence of death or you could bring back a sentence of life, depending on what the facts were?
A. Yes, sir.
Q. In aggravation and mitigation, okay.

This case, if you are selected, would be one that would require you all to be put up in a hotel room for a week or so. And you would be able to have some contact with your family, but you would be in a hotel room for a week or so. Would that cause an undue hardship for you,

ma'am?

A. Yes, sir. I have someone to take care of my children. Is that what you're saying?

Q. No. Could you do that?

A. Yes, sir.

Q. Okay, you then have someone take care of your children. How old are your children?

A. I have one ten, eight, and six.

Q. Are these your children or your...

A. Yes. My husband would take, put them on the bus.

Q. But these are your children, ma'am?

A. Yeah.

Q. Okay. All right.

THE COURT: Any questions by the state?

MR. HEMBREE: Yes, Your Honor.

THE COURT: Answer any questions they have for you if you would please, ma'am.

JUROR: I'll do my best.

THE COURT: All right, thank you, ma'am.

EXAMINATION BY MR. HEMBREE:

Q. Hi, Ms. Jones. I'm Greg Hembree. I was introduced to you a little while ago. And I, along with Fran Humphries and Scott Hixson who was here a little while ago, will also would be trying this case on behalf of the state.

And let me start by saying there is not, there is no

right or wrong answers. We're not trying to guide you or get you to say something that that's -- you know, there's no right answer. We're not looking for a right answer. We're looking just for a truthful answer, and it's a tough spot to put you in because we're asking you sort of in this hypothetical situation can you impose and consider the death penalty or life sentence. And that's very difficult because you don't know anything about the case, and we can't tell you about that. We just ---

A. I understand.

Q. We just have to ask you about your general feelings about the death penalty. That's, that's what we're, that's ultimately what we're looking for here today. With that in mind, tell me just, you tell me in your own words what you think about the death penalty.

A. Okay, if it's come to the point of children, if a grownup would do something to a child, if it even was someone in my family, I'll say when they go to court they have to take it, you know. They did wrong or they did wrong they pay the time for it, you know. I can't say no, the death penalty wouldn't be right or whatever because I don't know.

Q. And I think you told Judge Lockemy this, but you said, you said at one point. You're pretty clear that life, that a life sentence, you kind of repeated that again and again

that that was the sentence that you would impose?

A. Uh-huh.

THE COURT: Now, you've got answer yes or no. See, this lady has got to take down what you're saying. So, you've got to say yes or no.

JUROR: Well, I know.

THE COURT: So, what was your answer to his question?

BY MR. HEMBREE:

A. I'll say...

Q. I'll repeat my question. My question was that, that's in answering Judge Lockemy and these questions, you repeated again and again that a life sentence, that life in prison would be the sentence that you would impose. You kind of repeated that on a number of different occasions.

A. But if I don't know the, the case, I can't really make a decision whether death, or life in prison.

Q. Fair enough. Now, let me make something really clear because I don't want to -- I want you to fully understand what, what's, what's happening in this case. It is a death penalty case. And assuming the defendant is found guilty, you, you will be called upon if you're on this jury, you'll be called upon with the other jurors to make the decision whether this defendant receives the death sentence or life in prison without the possibility of parole. That's the question that you'll have before you in the second phase.

That will be your decision. Now, the judge asked you about considering the death penalty.

A. I understand.

Q. And you understand that and you answered that. I guess my question, understanding that it will be your decision, along with the other jurors, could you not only consider the death penalty, but could you personally impose the death penalty on this defendant given the appropriate facts and circumstances?

A. Well, not just out and say you give the death penalty is best for you. No, just like I told the judge. I have to hear, try to hear everything, you know, hear all the, all the evidence, and then I probably could make a decision then. I just can't out and say.

Q. And I understand I'm not giving you the facts. I'm saying if there's sufficient facts in evidence are presented to you ---

A. I understand.

Q. --- could you impose the death penalty on this defendant?

A. Well, yes, I -- then just say, you know, if I had to read the verdict I would come up and say guilty or whatever the jury decided?

Q. Yes, ma'am, and maybe I just didn't understand your answer. You seem to say when I asked if you could impose

the death penalty on this defendant, even if you were given, assuming you're given sufficient facts and circumstances, enough evidence, could you impose the death penalty, and you said no?

A. Oh, no. No, sir.

Q. You could not impose the death penalty on this defendant?

A. Huh-uh.

Q. Even if you had sufficient facts and circumstances?

A. Yes, sir.

MR. HEMBREE: Please answer any questions the defense has.

THE COURT: Mr. Wilson. We're going to let Mr. Wilson ask you some questions. Did you want to say something else?

JUROR: No, sir.

THE COURT: All right. Mr. Wilson.

EXAMINATION BY MR. WILSON:

Q. Ms. Jones, let me ask you. You understand as we stand here today that the defendant is presumed to be not guilty. You, you understand that?

A. Yes, sir.

Q. And can you accept that as a matter of law if the judge tells you that?

A. Yes, sir.

Q. Okay, and can you follow any instructions that the court might give you regarding this case?
A. Can you repeat that question?
Q. If the judge gives you some directions, some instructions and tells you that you have to follow those, will you listen to him and will you follow those instructions that he gives you?
A. Yes, sir. I would do so, right.
Q. And let me ask you. Judge asked you whether or not you could listen to all the evidence and then make up your mind as to whether to give life or death. Can you do that? Can you listen to all the evidence and then make up your mind as to whether or not it should be life or whether it should be death?
A. Yes, sir.
Q. Okay, and would you always vote for life or always vote for death, or will you listen to the evidence and then make up your mind?
A. I have to listen to the evidence before I make a decision.
Q. Okay, and at this point, you have no opinion one way or the other as to life or death in this particular case. Is that correct?
A. Correct.
Q. All right, and because you have not yet heard any of

the facts or circumstances?

A. Correct.

Q. Is that correct? All right, you have to say yes or no. I'm sorry because she's taking down everything. She can't ---

A. All right.

Q. When you nod your head, she can't hear.

A. I'm sorry.

Q. You have a hearing loss?

A. Yes.

Q. In which ear?

A. My right, right here.

Q. How much of a loss, hearing loss do you ---

A. I can hear you talk, you know.

Q. Loud like I'm doing?

A. If you like "um," I can't understand it. You know, some people have a tendency to talk low.

Q. Okay, all right, and so -- all right, but back to my question, you can, depending on the evidence and facts, find the defendant guilty or not guilty if you believe the evidence one way or the other. Can you do that?

A. Yes, sir.

Q. All right, and can you give him life or death depending on the facts and circumstances as you see them, depending on how you feel about it?

A. Yes, sir.
Q. After you've heard all those things, all right, and you have to say yes or no.
A. Yes.
Q. All right, and can you consider any aggravating circumstances that the state -- and aggravating circumstances mean things that make it, make the killing worse than what they might otherwise be. Can you consider those things if the judge tells you that's what you're supposed to do?
A. Could you repeat that, please?
Q. During the, during the trial of this case, as we get into the sentencing phase the state will introduce what's called aggravating circumstances. And aggravating circumstances are simply things that make a killing worse than what it might otherwise be.
A. No, I couldn't make a decision right off like that.
Q. I understand, and you would want to wait and hear those aggravating circumstances, would you not?
A. Yes, sir.
Q. All right, and likewise would you also be willing to wait and hear any mitigating circumstances or mitigating factors that might be offered by the defense? Would you also want to hear that, too?
A. Uh-huh.

Q. And then after you hear all of that and getting His Honor's instructions as to the law, then you would make your decision on the life or death?

A. Sure.

Q. Okay, and you're willing to do that, are you?

A. Yes, sir.

MR. WILSON: All right. Thank you, ma'am.

THE COURT: Ms. Jones, if you would, step outside the door there. The gentleman will show you -- the gentleman will show you where to stand right outside the door, please.

(THE JUROR EXITS THE COURTROOM.)

THE COURT: State?

MR. HEMBREE: She's not qualified, Your Honor. She's the definition of a vacillating juror. She went from a two to sort of a three, then back to the two, and I wrote down I know no less than five, six times did she say that she could only impose life. I mean, that's why I kept going back over it with her to try to glean from her where she was. And, of course, Mr. Wilson came back to her and kind of led her the other way and she said, you know, she would follow instructions and listen to everything. But at the same time she was very clear. The clearest answer she gave was that she was -- she would not impose the death penalty.

And number two, I think the thing, I guess when you

read a record you don't have the benefit of it. But when she considered that, as she began pondering those questions, you could tell the difficulty that she was having just by her body language, the way that she hung her head. And when she looked at it, it was not -- it was a very uncomfortable place when she was having to say that she, or she was considering whether she could impose the death penalty. I believe that was just as convincing as the words itself, saying that she could not.

THE COURT: Defense?

MR. WILSON: Judge, you know I'm amazed because when we did juror 313, that was my very argument: that that juror was vacillating, that he was going back and forth. He first said he could and then he said he couldn't, and then he said he was number one. Then he said he was number three, and then he really didn't know what he was. But the fact that this particular juror ---

THE COURT: That's your representation.

MR. WILSON: That's my recollection, Judge. But let me in this regard, let me saying that in regards to this particular juror, she had no problem telling this court that she could follow this court's directions, that she could find this defendant guilty if the evidence warranted it, that she could find him not guilty if the evidence warranted it. She also had no problems at all saying to

this court that she could listen to all the evidence and make up her mind as to whether or not it was going to be life or death. When I got up and I asked her those questions after the solicitor did, she reiterated that a second time.

The only time that she was confused was when the solicitor was asking her some questions. And I don't know if she didn't quite understand his question, but she was very clear and very definite both when I asked her those questions and when the court asked her those questions, and I think that she's qualified.

MR. HEMBREE: Your Honor, actually, for me the time that she was most I guess you could say clear and -- was when she was for life was when the court was asking her questions. So, that's my recollection. And the fact that she could -- I'm not having any concern for her being a fair juror in the guilt phase. I completely -- you know, she answered all those questions, and she was very consistent in that, as she could be very fair and impartial in determining the guilt. She didn't vacillate on those areas, so I think she has an understanding that she could be fair and impartial in determining the guilt of the defendant.

What she has difficulty with is the death penalty. That's where she vacillated, and she continuously

vacillated, you know, depending on who was asking the question.

THE COURT: After reviewing the juror's responses, considering the responses, I find this juror qualified. Bring her in, please.

(THE JUROR ENTERS THE COURTROOM.)

THE COURT: Ms. Jones, Ms. Jones, what I need for you to do now, ma'am, is this. I'm going to let you go home, but I want you to come back to the courthouse Thursday at 11:30, okay? Thursday at 11:30. At that point in time, they'll then be selecting the jury.

If you are selected on the jury, I'll then provide means for you to get home and get your stuff together, and then you'll be coming back and we will start the trial that day and you'll be housed in a hotel for the next week maybe, okay? Now, do not discuss this case with anyone. Do not read, read any local newspapers at all or watch any news, all right?

JUROR: All right.

THE COURT: All right, we'll see you at 11:30 on Thursday, this Thursday at 11:30, okay, ma'am?

JUROR: Oh, okay.

THE COURT: We'll see you then. All right, you can go out this way. All right.

Bring in Daniel English, 138.

(JUROR #138 ENTERS THE COURTROOM.)

EXAMINATION BY THE COURT:

Q. Hello there, Mr. English.

A. How are you, sir?

Q. Did you bring in the mail with you?

A. No, sir.

Q. Have do you like -- how you like dogs?

A. Dogs?

Q. Dogs are always mail carriers' worst. So, how long have you worked for the mail, U.S. Postal Service, fourteen years?

A. Yes, sir.

Q. I notice that a friend of mine, and they have two types of employees. Some are part-time who work varying hours.

A. Yes.

Q. And some are full-time, and many times the part-timers work as many hours. They're just not full-time employees. Now, are you full-time?

A. Full-time.

Q. Full-time. Is that, is the difference between that benefits you get if you're part-time, full-time, or what?

A. No benefits for part-time.

Q. Oh, that's the big difference. The work you do all those many hours and get no benefits. It says here you're

originally from Sumter?

A. Yes.

Q. Okay. Now, please understand that you're still under oath. You remember we put you under oath earlier today?

A. Yes, sir.

Q. And I'm going to need for you when you can to speak into that mic so this lady here can hear you and all the people involved in the room can hear you at those two tables there.

A. Okay.

Q. And you're not on trial here and what I'm going to ask you, there's no right, wrong answer, no right answer, no wrong answers. Just want to just talk with you for a little while.

Now the attorneys, do you know any of the attorneys involved in this case? They identified themselves to a year earlier. Do you know any of them?

A. Only by name.

Q. Only by name. So, does that cause you to have any interest or bias one way or the other involving cases that they're involved in?

A. No, sir.

Q. All right. Have, have you formed or expressed any type of opinion in this case far as the guilt or the innocence of the defendant, Mr. Winkler?

A. No, sir.
Q. Okay. Do you know of any reason why you couldn't give the state and the defense a fair and impartial trial in this case?
A. No, sir.
Q. And would you follow the law as I instruct it to you in this case?
A. To the letter.
Q. All right. Now, obviously the jury will have two choices: either guilty or not guilty, not guilty or guilty. No preference in the way I say that. If you sat on that jury and if hearing, after hearing all the evidence in the case and law as I give it to you, if you felt that the defendant was guilty, could you find the defendant guilty if you felt after hearing all the evidence and the law?
A. Yes, I could.
Q. Well, after hearing all the evidence and the law, if you felt the defendant was not guilty, could you find the defendant not guilty?
A. Yes, I could.
Q. All right. Have you discussed this case with anyone?
A. No, I haven't.
Q. Okay. Have you seen any news accounts of this matter or whatever?
A. Well, briefly in the newspaper I did see something to

that nature about the trial, about when it was coming and possibility of the trial probably starts on Thursday. Saw that in the newspaper just the other day.

Q. The fact that it's been in the news or whatever, has that caused you to form any opinions at all one way or the other on this case?

A. No, sir.

Q. All right. I gave you a list of potential witnesses. Did they give you that sheet of paper, three sheets?

A. Yes. I have it right here.

Q. Did, did you know anybody on that list?

A. Not any one.

Q. Could I see that, please?

THE COURT: And let the record reflect that I have looked this over and there are no circles on it.

Q. So, you know no one on this sheet at all?

A. No, I don't.

Q. All right. Now, I gave you another sheet of paper I wanted you to look at and had three types of jurors on it. You got that with you?

A. Have it right here.

Q. Have you had a chance to read that over?

A. I read it over two or three times.

Q. All right. Do you understand it?

A. I understand it.

Q. Now, looking at those three types of jurors, the juror one would be the one who would feel that if -- now, this in any, no way, by the way, Mr. English, this in no way implies that defendant will be found guilty or whatever. This is just if the jury were to make a decision the defendant was guilty, we'd move to another phase. Well, then the jury would decide what the punishment would be.

Now, this thing talks about three types of jurors. One type is a juror that once the guilt has been found, that that juror would feel that the death penalty is the most appropriate punishment to give no matter what the circumstances are.

The second juror is the one that, once they made the decision that the defendant is guilty, would not need to hear facts or circumstances in aggravation and mitigation because they feel that, that the sentence should in all cases be life imprisonment and never should be the death penalty.

And then the third type of juror is the one who, although the guilt of the defendant has been determined, that juror would have an open mind and not have their mind made up concerning what punishment would be. And that juror would hear the facts and circumstances in aggravation and mitigation and would want to listen to and follow the law as the judge tells that juror where they could make a

decision. And if the facts in aggravation and mitigation so warrants it, that juror could come back with the death penalty. Or if the facts in evidence so warranted it, that juror could come back with the sentence of life imprisonment, all depending on the facts and circumstances. Which of those three jurors describes you?

A. I went over this carefully, and I'm more leaning to being a juror type two. I don't believe I could honestly come up with a death penalty sentence; I don't think I could live with that.

Q. Okay, and once again, sir, we're not trying in any way to change you in any way. I'm just trying to determine, you know ---

A. Yes.

Q. --- what you are and there's no ---

A. I'm just trying to be honest.

Q. Well, you're not on trial, too, you know.

A. I'm just as honest as I can.

Q. And you can be who you are. There's no problem there. Do you feel, though, if you heard facts and circumstances in aggravation, that could change your mind and you could impose the death penalty?

A. I don't think I could do that. I don't believe in the death penalty.

Q. Okay, that's a firm belief you have?

A. Yes.
Q. And you don't feel anything could change your mind in that belief?
A. No. I do not believe in the death penalty.
Q. Okay, and once again it's your choice there.
THE COURT: Questions by the state?
MR. HUMPHRIES: None from the state, Your Honor.
THE COURT: By the defense?
MR. WILSON: I'd just had a couple of questions. Thank you, Your Honor.
EXAMINATION BY MR. WILSON:
Q. Mr. English, is your view about the death penalty, is that something that you've given some thought to, or is it, or is it a religious belief or combination of religious and moral beliefs?
A. It's morally moral. I don't believe I can actually sentence anybody to death. That's my...
Q. Okay, and ---
A. I don't feel it's right.
Q. Okay, and have you thought about this before today, the issue of the death penalty and what your opinion about it is? Is that something you had considered before today, or is this something that you just kind of thought about after you got your jury notice and you knew that you're coming to a capital case?

A. Well, I've always felt that way.
Q. All right, all right. So, this is a long held opinion that you've had, and you are against the death penalty?
A. I'm against the death penalty.
Q. All right, and there are no set of circumstances or facts no matter what they were and no matter how atrocious they were that you couldn't possibly consider that. Is that what you're saying?
A. That's what I'm saying.
THE COURT: Thank you, sir. If you would, step outside the door then for a minute for me. And that sheet. Thank you very much.
(THE JUROR EXITS THE COURTROOM.)
THE COURT: Position of the state?
MR. HUMPHRIES: He's disqualified.
THE COURT: Position of defense?
MR. WILSON: I would like to have him. He is disqualified, Your Honor.
THE COURT: Very good person, though; he'd be a good juror on some other some other type of case. Bring him back in, please.
(THE JUROR ENTERS THE COURTROOM.)
THE COURT: Mr. English.
JUROR: Yes, sir.
THE COURT: Thank you very much, sir. Could I have

the pleasure and honor of shaking your hand, sir? Thank you for coming, sir, and honestly like I said. You're not on trial. We just wanted to find out your views, and so with that we're going to excuse you for jury duty here for the rest of the week, and so you don't need to come back, okay, sir?

JUROR: Okay.

THE COURT: And thank you very much for coming today.

JUROR: Thank you.

THE COURT: Give him that badge on the way out, and we'll see you later.

Okay, bring the next person in, please. Again, on the record, I find that person disqualified.

(JUROR #19 ENTERS THE COURTROOM.)

EXAMINATION BY THE COURT:

Q. Ms. Bell?

A. Hello.

Q. Just have a seat there in the witness chair. Now, although you're on the witness chair, now you're not a witness. This is just a place where we can converse simply while you're there. I see you're originally from Greenville?

A. Yes, sir.

Q. A long way from here.

A. Well, four hours. Not so bad.

Q. Well, as far as for the state, there's only about one or two places further away, I think, in South Carolina. What brought y'all to Horry County?

A. My husband was transferred here; he was in the construction business.

Q. All right. I want you to be very comfortable. I'll remind you that you're still under oath, and this is not anything other than discussions between us, and I would let the attorneys ask you a few questions in a little bit. But you're not on trial for anything so don't, you know -- we just want to honestly know how you feel and to get to know you a little bit, and that's the only purpose of this. And so feel free to tell me how you feel and not necessarily what you think anybody will think one way or the other. One thing I do ask for you to do, though, is to try to speak into that microphone.

A. Okay.

Q. And that when I ask you questions, although when you and I are conversing said at a coffee shop, you could do uh-huh or shake your head and I would understand what you meant. But this lady's got to take down your responses, so they pretty much always need to be in word form, all right?

A. Okay.

Q. Now, are you related by blood or marriage, or do you

know any of the attorneys involved in this case?
A. No, sir.
Q. And do you know the defendant at all, Mr. Winkler?
A. No, sir.
Q. Okay. So, you don't have any interest or bias or prejudice in this case one way or the other?
A. No, sir.
Q. Do you understand in this case the jurors would be impaneled and, and they would hear evidence in this case, and the burden would be on the state to prove guilt beyond a reasonable doubt, the defendant proved innocent -- I mean, presumed innocent. So, juror -- the burden again -- make sure I state that correctly. The burden on the state to prove guilt beyond a reasonable doubt. The presumption of innocence is with the defendant. And the jurors will then hear instructions from the judge and will be required to follow the law as the judge gave the jurors. Could you follow the law, and would you follow the law I instructed you?
A. Yes, sir.
Q. All right. Then after they've heard the evidence and the law, then the jurors are going to have one of two possible verdicts: either guilty or not guilty. Now, do you feel that sitting on that jury if after hearing all the evidence and the law the judge gave you, that if you felt

that the correct thing to do based on the evidence and the law, could you find the defendant not guilty if that was the decision you all made based on the evidence and the law as instructed to you?

A. Yes, sir.

Q. And if you felt based on the evidence presented, the law as I instruct it to you that the defendant should be found guilty, could you find him guilty?

A. Yes, sir.

Q. All right. Now, have you formed any opinion one way or the other as to the guilt or the innocence of the defendant at this time?

A. No, sir.

Q. All right. Have you discussed this case with anyone?

A. No, sir.

Q. Okay. Now, it's not uncommon in the case of this nature that you have media reports out there and, whether it be newspaper, TV, stuff of that nature. Have you seen any newspaper accounts or heard anything on the TV about this case?

A. Not that I recall. Only this morning on the way into work I heard something on the radio, but that was all.

Q. And would that cause you to form any opinions or whatever?

A. No, sir.

Q. Would you make your decision on the jury based on evidence presented in this case and law as I instruct it to you?

A. Yes, sir.

Q. And would you put aside anything you may have heard in the media?

A. Yes, sir.

Q. Okay. Now, I put, put a list in the room I wanted you to look over, a group of names. Did you have a chance to look over all those names?

A. Yes, sir.

Q. Do you know anybody on that list?

A. No, sir.

Q. Okay. Hand that to me, up to me, please. Okay, and did you did not circle any names at all. I notice that.

A. No, sir.

Q. You know no one on this list, okay?

A. No, sir.

Q. Now, I also gave you a sheet that described three types of jurors, and in juror number one is a juror that -- and this gets into an area. I'm not trying to suggest one thing the jury may or may not do. This is saying if the jurors were to determine the evidence warranted it and following the law that the judge instructed, if the jury were to find the defendant guilty, we would then move into

another phase where the jurors would decide what the penalty would be. And the jurors will have the choice of either life imprisonment or the death penalty.

Now, there are three types of jurors. This one type of juror that, after hearing in that phase evidence in aggravation and mitigation, that juror would feel that once a murder's been committed, regardless what evidence there is in aggravation and mitigation, the sentence would always be death. That that's always the most appropriate punishment.

There's another type of juror that, once the guilt has decided, that that juror feels no matter what the facts, circumstances, evidence in aggravation or in mitigation are, that juror feels that the penalty should always be life and could never impose the death penalty no matter what the circumstances in aggravation and mitigation are.

Then there's the third type of juror that, once the decision of guilt had been made, that that juror would not have her mind made up in advance concerning punishment. That juror would want to hear the facts and circumstances in aggravation and in mitigation and would want to listen and follow the law from the judge before they could make their decision regarding the punishment. And after hearing all the facts in aggravation and mitigation if it so warranted it, that juror could bring back a decision of

life imprisonment. Or if the facts in evidence so warranted it in aggravation and mitigation, that juror could bring back a verdict for the death penalty. Do you understand those three types of jurors?

A. Yes, sir.

Q. Now, which type are you?

A. I'm type three.

Q. All right, so you would be open minded and if the jury were to decide the defendant guilty, you would listen to all the facts and circumstances in aggravation and in mitigation before making up your mind as to what punishment would be appropriate?

A. Yes, sir.

Q. All right. This trial may be a week, ten days, who knows, and we will have the jurors sequestered. That means, that's a term meaning you have a hotel room and we will provide food and lodging for you of course, and there would be some opportunity for you to have some contact with your family by phone or business people, but it would be supervised. Would that cause any undue hardship that you couldn't overcome?

A. No, sir.

Q. All right, thank you.

THE COURT: Any questions from the state?

MR. HEMBREE: No questions from the state, Your Honor.

THE COURT: From the defense?

MR. WILSON: I'd just have a few questions, Your Honor.

THE COURT: Okay.

EXAMINATION BY MR. WILSON:

Q. Ms. Bell, let me ask you, ma'am. You understand that as the defendant is here today, that he is presumed to be not guilty?

A. Yes, sir.

Q. Innocent.

A. Yes, sir.

Q. Do you understand that?

A. Innocent, yes, sir.

Q. And you can accept that from the court, if the court tells you -- if the court tells you that he is presumed to be innocent, you could accept that?

A. Yes, sir.

Q. All right and, ma'am, let me ask you. In terms of, in terms of the sentencing phase of the trial, you understand that we only get to that second part of the trial if the jury does not acquit the defendant?

A. Yes, sir.

Q. And that if he is acquitted, then obviously we don't go to that second phase in the trial?

A. Correct.

Q. And if he is convicted of murder, and then we would go to the second phase of that, of the trial?

A. Yes, sir.

Q. Called the sentencing phase and in that sentencing phase, certain aggravating circumstances might be offered by the state and that you would then be willing to consider those aggravating circumstances before making your decision?

A. Yes, sir.

Q. All right, and do you also understand that there may be some mitigating facts or circumstances, mitigating facts or circumstances, things which may lessen the moral culpability of the person accused of the crime or having been convicted of the crime?

A. Yes, sir.

Q. All right, and you, are you willing to consider that if the court tells you that you could consider that?

A. Yes, sir.

Q. All right, and after having considered both the aggravating and the mitigating circumstances, then you would be willing to make your decision about what is the most appropriate sentence, be that life or death?

A. Yes, sir.

Q. All right, and, and you're not a juror number two, which would either always vote for life in prison. Is that

correct?
A. No, sir.
Q. And not under number one, which would always vote for the death penalty?
A. No, sir.
Q. And so you would want to know about the facts and circumstances so that you could decide what's the most appropriate verdict. Is that correct?
A. Yes, sir.
Q. Have you ever served on a jury before?
A. About four or five years ago I was called here, but then the case was dropped. So, I didn't really serve.
Q. And you don't know any of the parties involved?
A. No, sir.
Q. Now as I understand it, you said that on the way to work this morning, you heard something on the news or on the radio about this particular case?
A. Yes, sir.
Q. What was it that you heard this morning?
A. I heard that jury selection would be started today.
Q. Okay. Did you hear anything about the facts and circumstances of the case?
A. No.
Q. Have you heard anything about the facts and circumstances of the case prior to this morning?

A. No, sir.
Q. All right. So, you know nothing about the case and you've heard nothing about it?
A. No, sir.
Q. All right, and let me ask you, ma'am. In terms of your decision to vote for the death penalty or vote for life in prison, are you -- once you make up your mind and -- are you committed to hold your verdict regardless of what other people do?
A. Yes, sir.
THE COURT: Now, I will instruct them that as jurors they talk among themselves before they make up their mind and deliberate. I don't want to be any misunderstanding there.
MR. WILSON: No, sir. What I'm asking, and in case my question's not clear, Judge, my question to her is once she decides what her opinion is ---
THE COURT: After talking it up with everyone else, once she makes up her mind in ---
MR. WILSON: Yes, sir, and I'm ---
THE COURT: But you're not asking would she not listen to other people, are you?
MR. WILSON: No, sir. No, sir. I'm asking that, and I'll rephrase it to make it clearer.
BY MR. WILSON:

Q. What I'm asking you, ma'am, is that after you and your jury deliberate, and you reach a decision and you've reached your decision, as well as the other members of the panel reaching their decision, and whatever that firm conviction is that you have, whether it be life or death, are you willing to stick with that in the process?

A. Yes, sir.

Q. Once that's your decision?

MR. WILSON: That's all I have. Thank you.

THE COURT: Any other questions?

MR. HEMBREE: Your Honor, just one thing I should have asked earlier. I apologize.

EXAMINATION BY MR. HEMBREE:

Q. Hey, Ms. Bell.

A. Hello.

Q. I'll be very brief. It's sort of a technical question. If the defendant is found guilty, if the state proved sufficient aggravating circumstances and in accordance with law and there's sufficient evidence the jury determines that the appropriate sentence is death, there's a procedure that our state law requires in that circumstance. And procedure requires each member of the jury to sign that this is their verdict and death is the appropriate punishment. So, there's an actual document that you must sign. Typically only the foreman signs that

document. Because it's the death penalty case, every juror signs that document. Is there anything about signing your name to that document that would give you hesitation in your ability to impose the punishment that you believe, based on the evidence and the law, was appropriate?

A. No, sir.

Q. Okay.

MR. HEMBREE: That's the only question I have, Your Honor.

EXAMINATION BY THE COURT:

Q. One thing I want to make sure, Ms. Bell. When you're in that jury room, you will consider the opinions and discussions and the deliberations of all the jurors in the jury room?

A. Right.

Q. All right. So, making your decision, you will consider everyone else's thoughts also?

A. Yes, sir.

THE COURT: If you would, ma'am, step outside the door.

(THE JUROR EXITS THE COURTROOM.)

THE COURT: Position of the state?

MR. HEMBREE: Juror's qualified.

THE COURT: Defense?

MR. WILSON: She's qualified.

THE COURT: All right, thank you very much. Bring her back in.

(THE JUROR ENTERS THE COURTROOM.)

THE COURT: Now, Ms. Bell, what I need for you to do is do not listen to any local media stations, radio or TV. Do not read any local papers at all, and do not discuss this case with anyone at all, family members, friends, associates or anyone at all. And then I need for you to come back at 11:30 on Thursday. Come back at 11:30 on Thursday, and there will be somebody outside the courtroom there to let you know where to go, okay? Come back at 11:30 on Thursday, all right? And so we'll see you then.

And by the way, when you come back, doesn't mean you're going to be on this jury. There will be a selection process, all those that are qualified and if you are selected, though, then we'll give you means to get home and get some clothes and everything else to be ready to go back for the jury. They want to get things preliminary ready just in case but, but we will know that Thursday, okay? So, we'll see you at 11:30 on Thursday here in this courtroom.

JUROR: All right, sir.

THE COURT: Thank you, ma'am. See you later, and if you would hand me that sheet of paper if you would. Thank you.

All right, bring in Mr. Hardwick.

(JUROR #200 ENTERS THE COURTROOM.)

EXAMINATION BY THE COURT:

Q. Come right over here, Mr. Raynor. It's been a long day, hasn't?

A. Yes, sir.

Q. And, Mr. Raynor, I want to remind you again that you're under oath and that we're going to talk a little bit now. There are no right answers, no wrong answers. Just honestly want to know how you feel.

CLERK OF COURT: This is Mr. Hardwick.

THE COURT: I know, Hardwick, not Mr. Raynor. Mr. Raynor is after you. I'm sorry.

BY THE COURT:

Q. You're Mr. Thomas Hardwick?

A. Yes, sir.

Q. Mr. Hardwick, there are no wrong answers, no right answers, and this is juror number 200, and I just want to talk with you a bit, see how you feel and everything about certain things. So, you do remember you're still under oath right, sir?

A. Yes, sir.

Q. We did that this morning. Shows you're from Mullins. Is that right?

A. No, sir. I'm out in the country about fifteen mile

out of Conway.

Q. Well, I wonder why it's says city, county, state of birth you've got Mullins in Marion, South Carolina.

A. That's where I was born, in Mullins.

Q. Right. Now, how long had you lived there in Mullins?

A. Never have. I was just born in the hospital over there.

Q. Oh, really? My brother was born there, too, in the Mullins hospital. It's no longer there.

A. Right.

Q. But they got one between here and there, and he was born over there. So, your home has always been here in Horry County?

A. Yes, sir.

Q. Did you ever work in tobacco at any time?

A. All my life.

Q. Yeah, me, too.

A. Until the last six, seven years.

Q. So, if I say the word sand lug, you know what a sand lug is, don't you?

A. Yes, sir.

Q. And you remember the barns they had for curing, the bulk barns. They tell me now they've gone beyond bulk barns. They've got something even better than that now, but I remember when bulk barns came in. In fact, people

weren't sure how to use them. A lot of people lost their shirts those first years because they either make it too hot or too cold for that tobacco. But I cropped tobacco many a day.

Now, Mr. Hardwick, are you related by blood or marriage, or do you know any of the attorneys in this case? They've already introduced themselves to you, but I just want to make sure again. Do you know any of them?

A. No, sir.

Q. All right. Do you know Mr. Winkler, the defendant in this case?

A. No, sir.

Q. All right. The jury in this case, once that jury is selected, the jury sits over there. They listen to the evidence presented in the case, and the judge would give the jury the law. The jury must accept the law has the judge gives it to them. Now, you will accept the law as I instruct you, would you not, sir?

A. Yes, sir.

Q. Now, a person charged with a crime is presumed innocent, and the burden's upon the state to prove guilt beyond a reasonable doubt. Do you understand that?

A. Yes, sir.

Q. And you accept that as a principle of law?

A. Yes, sir.

Q. And you would follow that as a juror?
A. Yes, sir.
Q. All right. Now, have you formed, expressed any opinion in this case one way or the other?
A. No, sir.
Q. Do you have any interest or bias or prejudice in this case in any way at all?
A. No, sir.
Q. Do you know of any reason why you could not be fair to both the state and to the defendant in this case?
A. No, sir.
Q. Have you expressed any opinion or formed an opinion of guilt or innocence at all?
A. No, sir.
Q. Are right, and you would follow the law as I instructed you?
A. Yes, sir.
Q. And if you sat on that jury, if after hearing all the evidence and my instructions on the law, if you felt after hearing all the evidence and my instructions and law you felt the defendant was not guilty, could you make a decision and find a verdict of not guilty?
A. Yes, sir.
Q. And if after hearing all the evidence and my instructions on the law you felt the defendant was guilty,

could you come back with a verdict of guilty of the crime?
A. Yes, sir.
Q. All right. Now, I may have asked you this already. I'll do it again. Have you discussed this case with anyone?
A. No, sir.
Q. Have you, and it's not, it's not uncommon in cases with allegations of this nature you might have some media coverage. Have you seen any media coverage or anything in the newspaper, TV, or radio about this case?
A. Not that I can recall. If I had, it would have been some time back, and I'd even forgot the case.
Q. Okay. So, you don't remember at any time seen anything in the media about it?
A. No, sir.
Q. Okay. If for some reason some time during the course of the trial and you're on the jury you remembered something you read in the newspaper or saw on TV and heard on the radio, would you be able to put that aside and not consider that in your decision and make your decision based on the evidence presented in the case and the law as I instruct it to you?
A. Yes, sir.
Q. Okay. Now, I gave you three sheets of paper, stapled three sheets of paper with names of people on there. Did

you get that sheet?
A. Yes, sir.
Q. Have you looked over that sheet? Do you know anybody here you know you're related to or have any relationship with?
A. Yes, sir.
Q. Okay, and I'm not saying the name. Just tell me the number. Did you circle the number?
A. Yes, sir.
Q. What number?
A. Number 41, I'm not sure. I knew a doctor by that name, but I'm not sure if that's the one or not.
Q. All right, Dr. Edward L. Proctor?
A. Yes, sir.
Q. And how did you know that doctor?
A. Some time back in years past, I think he might have, I might have went to him.
Q. Okay, and if in fact that is that the doctor -- it may or may not be -- would that cause you to look upon him differently than you would any other witness?
A. No, sir.
Q. Would you consider him just like anybody else?
A. Yes, sir.
Q. All right, anyone else on the list?
A. Yes, sir.

Q. All right, what number?
A. Number 96.
Q. Okay, Phyllis Richardson. How would you know a Phyllis Richardson?
A. She goes to my church; we go to the same church.
Q. Now, if she were a witness in this case, the fact y'all go to church, would that make you look upon her differently than you would any other witnesses in the case?
A. No, sir.
Q. You will consider her just like anybody else?
A. Yes, sir.
Q. You have any close relationship with her at all?
A. No, sir.
Q. Okay, you just know she goes to your church. What church is that?
A. Berea Baptist.
Q. Berea Baptist. All right, anyone else?
A. Number 99.
Q. Person with Horry County 911, Renee Hardwick?
A. Yes, sir. I know a Renee Hardwick. I'm not sure if that's her or not.
Q. How would you know that person? What relationship do you have?
A. She works with the county.
Q. All right, but how do you know her?

A. We're distant kin.
Q. Would you say that's more than third cousin, beyond a third cousin?
A. Probably third or beyond.
Q. Okay, and would that cause you to look upon her differently than you would any other witness?
A. No, sir.
Q. And would you, even though you might have knowledge of these people, if they testified, would that in any way affect your ability to be fair and impartial?
A. No, sir.
Q. All right, anybody else?
A. Number 110.
Q. Okay, Tammy Cox?
A. I'm not sure. I know a Tammy Cox. I'm -- there's just a name on the sheet that I had.
Q. Well, how do you know Tammy Cox?
A. She used to live in our community.
Q. Okay. If -- you're right. That's a name a lot of people have. If that turns out to be that person, would that any way cause you to look upon her differently than you would any other witness?
A. No, sir.
Q. Would it cause, in any way affect your ability to be fair and impartial?

A. No, sir.

Q. Okay. What age group is that Tammy Cox or the one you know?

A. Tammy Cox that I know used to be a Richardson. She married a Cox and I'm not -- that's why I'm saying I'm not sure that's...

Q. And about what age would she be? Thirties, twenties, forties, fifties?

A. I'd say probably early thirties.

Q. Okay, what's color hair? Do you know what color hair she has?

A. No, sir, I sure don't.

Q. Okay, so you don't know her well at all. Okay, anyone else?

A. No, sir.

Q. Okay, let me hold your sheet there.

THE COURT: Madame Court Reporter, I should ask you. Also put down the name of the juror on this.

(QUESTIONNAIRE OF JUROR #200-HARDWICK MARKED INTO EVIDENCE AS COURT'S EXHIBIT NUMBER 3-A.)

BY THE COURT:

Q. But that's one, two, three, four people to hand to her. Okay. Now, also I gave you a sheet of paper there that talks about types of jurors. You remember that sheet of paper?

A. Yes, sir.

Q. Now, it goes over the types of jurors. It says like a juror -- and by the way, let me tell you this. Suppose, say, and this is in no way implying it will do so. Just mentioning it. That if the juror, jury after hearing all the evidence in the case and the law as I instruct it, that if the jury decided the defendant was not guilty, then we would end the case at that point in time. If, however, the jury after hearing the evidence in the case and the law as I instruct it to it, to the jury, if the jury determines the defendant was guilty of, of the crime and the circumstances of aggravation, we would then go into another phase where the jury then would decide what punishment to give. The jury would decide one of two punishments: either life imprisonment or the death penalty.

Now, I told you, showed you three types of jurors. Juror number one is was the juror that even though they found the defendant guilty, that juror simply feels that once a murder's been committed, the death penalty is the most appropriate punishment, and they would feel they would be required to give the death penalty in each and every case if murder was proven regardless of the circumstances in aggravation or mitigation.

The juror number two is the one that would not, would not -- it wouldn't matter what the evidence was in

aggravation or in mitigation. That juror would feel that life imprisonment is the only appropriate punishment if guilt was found, and that they could never impose the death penalty. And they would have their mind made up and would not need to hear anything about mitigation or aggravation.

And juror number three, though, is the type of juror that if guilt were proven and they determine the defendant was guilty, that that juror would want to hear the facts and circumstances of aggravation and mitigation because that juror had not made his mind up yet in advance concerning what the punishment would be. They want to hear the evidence first in aggravation and mitigation and want to listen to, follow the law as the judge charges the jury before he could make a decision regarding punishment.

And after hearing all the facts in aggravation and mitigation, if after hearing all of that, if that juror felt that the facts in aggravation and mitigation so warranted it, that juror could come back with a verdict of life imprisonment. Or after hearing all the facts in aggravation and mitigation presented, if that juror felt it was appropriate, that juror could bring back a verdict for the death penalty. It would all depend on the, the decision the juror made after hearing evidence in aggravation and mitigation. Do you understand those three types of jurors?

A. Yes, sir.
Q. Which of those three types of jurors are you?
A. The third one.
Q. All right. So, you would not automatically feel one, either life imprisonment or death penalty, was appropriate? You want to first hear the facts and circumstances? Then you could decide which one was appropriate in your view?
A. Yes, sir.
Q. All right. Let me also mention this to you. That this case would start we think around Thursday, and it might last a week or so. And you will be housed in a hotel, and we would let you have some contact with family by phone call and that type of thing. And of course we would feed you and everything else, too. Would this cause any undue burden that you couldn't sort of handle for about a week?
A. No, sir. The only thing, I'm taking some medication. Kidney transplants patient. As long as I could have my medicine, I, I could be okay.
Q. Okay. So, as long as you got your medicine, you'll be fine?
A. Yes, sir.
Q. Does that medicine in any way affect your ability to listen and pay attention and observe?
A. No, sir.

Q. Okay. One other thing, too, I forgot. That if a jury were to decide that the death penalty were appropriate, each juror has to sign the verdict form. Would that cause you any problem at all if that's what you all decided was the appropriate punishment?

A. No, sir. If I decided that, I'd be happy to sign it.

Q. Okay, and also if you decided that life was appropriate, you'd be happy if you were asked to sign that, too?

A. Yes, sir.

Q. Okay. All right.

THE COURT: Any questions by the state?

MR. HUMPHRIES: No, Your Honor.

THE COURT: Okay, by the defense?

MR. WILSON: Yes, sir, Your Honor.

EXAMINATION BY MR. WILSON:

Q. Mr. Hardwick, you understand that as we speak, the defendant is presumed to be innocent?

A. Yes, sir.

Q. All right and, and if His Honor instructs you that's the law, and you could accept that, could you not?

A. Yes, sir.

Q. All right, and you would abide by that?

A. Yes, sir.

Q. And, and you understand that we only get to the

sentencing phase of the trial if and when the jury were to find the defendant guilty of the crime of murder?

A. Yes, sir.

Q. And if the jury were to find him guilty of a lesser crime or not guilty, then we would never get to that second phase. So, there will never be a sentencing.

A. Yes, sir.

Q. At least by the jury, and do you also understand that if we get to that second part, if the jury were to find the defendant guilty of the murder in this particular case, and then we would go to the sentencing phase of that trial. And at that time, the state would then produce aggravating circumstances, or at least what they believe to be aggravating circumstances for your consideration. And you'd be willing to wait and hear what those aggravating circumstances were, would you not?

A. Yes, sir.

Q. All right, and the defense would present whatever mitigating facts or circumstances that we believe are appropriate, and you would be willing to listen to those and consider them also, would you not?

A. Yes, sir.

Q. All right, and you'd be able to, you be able and willing to do both those things before you make up your mind as to whether or not the appropriate sentence would be

life or death?

A. Yes, sir.

Q. All right. Now, let me ask you. Have you ever served on the jury before?

A. Just in city court.

Q. Okay, and let me ask you about your views on the death penalty. Now, you have said that you're a type three juror. Is that correct?

A. Yes, sir.

Q. All right, and when, or do you know when it was that you determined that you're a type three juror?

A. I guess if I listened to all the evidence, I'd, I'd base it on the evidence that was presented.

Q. What I'm asking you is that some time in your past, in your history, or in your life you decided that you were a type three juror, and do you know when that was when you made up, when you decided that you were the kind of juror who are in favor of the death penalty and in some circumstances in favor of life but you wanted to hear the facts and circumstances? How did you come to that determination is what I'm asking you. Do you know?

A. No, not really.

Q. Okay.

A. I, I don't have an explanation for it.

Q. All right. Do you know when you decided it?

A. No, sir.
Q. All right. Now, is it a long-held belief, or is it something that you had never thought about until now?
A. Repeat your question.
Q. Well, what I'm asking you is in being a type three juror, is this something that you have always believed growing up as a child or as a young adult or as a man? Or is it just something that you just really never thought about until you got drug over here to do this with the subpoena to comes court?
A. No, I guess I thought of it in the past.
Q. All right, and ---
A. And now a time frame, I couldn't really give you a time frame.
Q. Would you, would you say that it's been a considerable period of time?
A. Yes, sir.
Q. But not something recent?
A. No, no, it's not recent, no.
Q. Okay. All right.
MR. WILSON: I don't think I have any other questions. Thank you.
THE COURT: If you would, Mr. Hardwick, step outside there if you would. Let you know something soon. Right outside that door. Thank you very much.

(THE JUROR EXITS THE COURTROOM.)

THE COURT: Position of the state?

MR. HUMPHRIES: He's qualified.

THE COURT: Defense?

MR. WILSON: Judge, I, I think he's qualified but, but let me, let me add something to that just so that it's in the record anyway. While I think he's qualified, Judge, there are -- he named several witnesses, several people that he said he knew. And obviously I'd understand that that in and of itself does not disqualify him as a, as a juror. But I will say to the court for the record that several of these people are friends of the deceased.

THE COURT: Well, I didn't hear him say anyone who he really knew that well.

MR. WILSON: Well, he said he knew Phyllis Richardson, Renee Hardwick, and Tammy, Tammy Cox Richardson.

THE COURT: He said she used to live in the neighborhood. He didn't know what color hair she had. Well, I mean, the statement. Is there anything else you want to say about it?

MR. WILSON: No, sir. That's, that's all I need to put in.

THE COURT: Okay. All right, I find this juror is qualified. Also this juror has formed no opinion in the case, and this juror will be a fair and impartial juror to

both sides.

Bring the juror in, please.

(THE JUROR ENTERS THE COURTROOM.)

THE COURT: Okay, Mr. Hardwick, I'm going to let you go home now. I need for you to come back Thursday at 11:30 in here. There will probably, probably be somebody outside the door to let y'all come in here or go somewhere else, but be back here Thursday at 11:30.

Now, this doesn't mean you're on the jury. What this means is you'll get a pool of people from which the jury will be selected. But if you are selected on the jury, then I'll give you time to go home and get to your goods and come on back. But just to be safe, you might want to go ahead and pack a few things just to be ready okay, sir, and, and, and we'll let you know.

But do not discuss this case with anyone. Do not listen to any media. Don't, don't listen to any local news. Don't read any local newspapers, and don't discuss this case with anyone else okay, sir?

JUROR: Okay.

THE COURT: All right. We'll see you Thursday at 11:30.

JUROR: Do you keep this pin or ---

THE COURT: Yes, you, if you bring it back, that'll be fine. Bring it back with you, okay? Please go out that

way there.

Y'all want to go to the next one, or do you need a break? She needs a break. All right, we'll take a minute.

THE COURT: Okay, bring in juror 378, Theresa Raynor.

(JUROR #378 ENTERS THE COURTROOM.)

EXAMINATION BY THE COURT:

Q. Hello, Ms. Raynor.

A. Hello, sir.

Q. If you would, come on around and have a seat right there. We've already talked briefly. I think you came up one time and talked a little bit?

A. Yes.

Q. I see like, you like crossword puzzles?

A. Yeah. In fact, we've been doing them out there. I did have a book today while I was here.

Q. Looking at some of the books you read, too.

A. That was just the last one.

Q. Now, you do understand -- of course, it's getting late.

A. Oh, yeah.

Q. Do you understand that you're still under oath?

A. Yes.

Q. Now, what we're going to do, Ms. Raynor, is I'm just going to talk and ask you a few questions, and you're not on trial. This is not an interrogation. This is just

discussion, and please know that just answer to the best of your ability. There's no wrong answers, no right answers at all.

A. Gotcha.

Q. And so the first thing I, I want to do is this. Let me ask you. Do you know -- I know I've asked you already. Let me ask you again. Do you know any of the attorneys involved in this case?

A. Just briefly from, you know, years ago I had a problem when my husband...

Q. That's right. You mention that ---

A. Yes.

Q. --- up here that you had a problem with ---

A. And that was ---

Q. --- and, in fact, he was stalking you?

A. You know, just in the hallway conversation. It wasn't at length, you know.

Q. Now, that situation with your husband, did it cause you in any way to form any type of feeling of the solicitor's office that you feel you have a bond or anything ---

A. No.

Q. --- any relationship with them?

A. Huh-uh.

Q. And also one thing also. This lady over here, she has

to record what you say.

A. Okay. Yes.

Q. And when you -- sometimes it's hard to understand that on the tape. And so please answer with words if you can, ma'am.

A. Yes, sir.

Q. And I think this situation with your husband now is all worked out ---

A. All better now.

Q. Getting along?

A. Getting through.

Q. And I had another sheet and can't find it. Now, the next thing is this. Jurors if, when the jury is selected in this case, the jury will hear the evidence in the case, and the judge will instruct the law. The jurors are required to accept the law as the judge instructs it, and one of those laws, rules are that the defendant is presumed innocent. And the state has the burden of proving guilt beyond a reasonable doubt. Do you feel you could accept and follow that rule of law?

A. Yes, sir.

Q. All right. Further, that in looking at the evidence, the jurors would make the decision of guilty or innocence based on the evidence presented with the law as far as the burden on the state. Now, do you feel that if you're

sitting on that jury and after hearing all the evidence in the case and the law from the judge, if you felt the defendant was not guilty, could you vote for not guilty?

A. Yes.

Q. If after hearing all the evidence in the case and the law from the judge, if you felt the defendant was guilty, could you vote guilty?

A. Yes.

Q. Okay. How do you -- do you feel you could be fair and impartial to both sides in this case?

A. Well, I've had teenagers so yeah, I can be pretty fair and impartial when I have to be.

Q. Okay. Now, have you discussed this case with anyone?

A. No.

Q. Have you formed an opinion one way or the other about the guilt or innocence of the defendant?

A. No.

Q. Do you have any interest, bias, or prejudice at all in this case?

A. No.

Q. Okay. Now, understanding the allegations as they are, the media may have some coverage by TV or newspapers or radio. Have you seen anything in the newspapers or TV or anything, heard anything on the radio?

A. And long time ago on the news, but.

Q. Okay. Have you ---
A. There are so many changes from five minutes to the next, you don't really know what's going on anyway.
Q. Okay. Do you remember at all what was it you may have seen in the newspaper or read?
A. Just that they were hunting for him in North Myrtle Beach. That was at a, that's the only thing I can remember. I don't remember where it happened or anything.
Q. That didn't cause you to form an opinion one way or the other?
A. Oh, no.
Q. Is that correct?
A. That's correct. I've not.
Q. You do understand that no matter what the media says, the burden is on the state to prove ---
A. Yes.
Q. --- guilt beyond a reasonable doubt and the person is presumed innocent?
A. Yes.
Q. And you'd follow that?
A. Uh-huh.
Q. And you would be able to disregard what it was even if you remember the other things you may have seen? You be able to disregard anything you may have seen in the papers or media?

A. Yes.
Q. And make your decision based on the evidence in the case and the law as I instruct it to you?
A. Yes.
Q. Okay. I gave you a stapled list with a group of names on it. Did you look over that list?
A. Every one.
Q. Do you know anybody on there?
A. Nothing rings a bell at all.
Q. Okay, let me see. Okay, you didn't circle any names and I note you did not circle any names. No names are circled. So, you do not know anyone on this list at all?
A. Huh-uh.
Q. If for some reason during the course of the trial someone testifies and you associate a face, you'd let me know?
A. Right, yes.
Q. Okay. Also after all the evidence is presented and the judge instructs on the law, after that, then the jurors are asked to make a decision on the charges. It'll be either guilty or not guilty. If the jury were to find the defendant -- and this is not to suggest anything ---
A. Right.
Q. --- while we're sitting here. If the jury were to find the defendant guilty of murder and aggravated

circumstance, then the jury would go into another phase where they decide what punishment to impose, whether life imprisonment or death, and that would be the jurors' decision. Have you had an opportunity to look at the sheet I gave you about the types of jurors?

A. Uh-huh.

Q. Now as you recall, it had three types. One is a juror that once they determine the guilt of the defendant, that juror then would feel they are required to give the death penalty in each and every case, either by personal commitment or otherwise, and they feel that would be the most appropriate punishment regardless of what the circumstances or facts given in the phase for punishment because in that punishment phase, both -- you'll be able to hear the evidence in aggravation and mitigation, but juror number one would say no matter what that evidence is, I feel the death penalty is appropriate.

Number two would say no matter what that evidence is in aggravation and mitigation, I feel life imprisonment is always the appropriate punishment, and I would never give the death penalty.

Juror number three is a juror who said well, I haven't made my mind up yet concerning punishment. I've got to listen and hear the facts and circumstances in aggravation and mitigation, and I want to listen and follow the law as

the judge charges the jury before I make up my mind. And if the facts presented in aggravation and mitigation, if it so warrants it, I could come back with life imprisonment as appropriate punishment. Or if the facts and evidence in mitigation and aggravation so warranted it, I could come back with a verdict for the death penalty.

Do you understand those three types?

A. Yes, I do.

Q. Which one best describes you?

A. That would be three. I have to hear everything and then make the decision.

Q. Okay, and so after hearing everything, if you felt it was appropriate, you could bring back a sentence of life imprisonment if you felt it was appropriate?

A. Uh-huh. Yes, sir.

Q. And after hearing everything, you could bring back a verdict of the death penalty if you felt it was appropriate?

A. Yes, sir.

Q. All right. Also, if the jury were to decide the sentence was death, each juror has to sign the verdict form.

A. Right.

Q. Because it requires a unanimous decision. Could you sign that verdict form?

A. Yes, I could.

Q. Okay. This case may last a week or so, who knows. Once you get going, you just go as long as you need to, and the jurors will be housed in a hotel. They can have some contact with their family by phone, whatever, but we would make sure you were adequately fed with food.

A. I'm on a diet, so I don't eat much.

Q. That's all right. We'll have salads for you, but would that cause you such an undue hardship you couldn't overcome that?

A. No. I only got one child left, and she's seventeen, at the house, and she can take care of Daddy.

THE COURT: Okay, thank you very much. What I'd like to do now is have -- let each attorney ask you ---

JUROR: Okay.

THE COURT: --- questions if they wish to.

JUROR: Okay.

THE COURT: And for the state, Mr. Hembree?

MR. HEMBREE: No questions for Ms. Raynor, thank you.

THE COURT: All right. Mr. Wilson?

MR. WILSON: Yes, sir.

JUROR: Okay.

EXAMINATION BY MR. WILSON:

Q. Ms. Raynor, I notice that you indicated on your jury questionnaire that you had been the victim of, of domestic

abuse at some point?

A. My husband got into a couple of bad friends and got some drugs and alcohol, and I got a little tired of it and told him to leave, and he wasn't ready to leave. He wanted to keep following me, and that's when it got to be a problem. And I couldn't -- I mean, if I went to my girlfriend's house, he would try to find out which girlfriend it was, and I had to get a restraining order.

Q. Okay.

A. Things have since improved greatly.

Q. In getting that restraining order, I also noticed that you said that you had some contact with the solicitor's office in regards to your husband and/or your son?

A. It was a conversation because he was -- he was basically violating the restraining order.

Q. Okay.

A. And I wanted to see if there was -- if we could add stalking to it. I mean, at this point I was, you know, out of my head.

Q. When ---

A. And it was just in a conversation in the hallway.

Q. How long ago would this have been that all of this was going on?

A. Four, five years.

Q. Okay, and was that all pretty upsetting to you?

A. At the time it was.
Q. Okay, and upsetting enough that you came down to the solicitor's office to try to get the charges upped?
A. Yeah. Well, this was after the second or third violation, yeah.
Q. Okay.
A. But it was just...
Q. So, he repeatedly violated the restraining order?
A. Right.
Q. And it caused you to have to contact the solicitor's office ---
A. Well, I went to talk to him one time. That was because I happened to be at the CASA office, and he walked by and I said is there any way we could -- you know, it's a stalking thing and stuff and -- because I had seen him on TV, and I just noticed there's a lawyer walking by. That was the only reason. I didn't know who he was at the time.
Q. And you had said you had also gone to CASA about this ---
A. Yes. That's where it started.
Q. Okay. Did you actually have to stay there for any length of ---
A. No. I stayed at the house with my kids.
Q. Okay. Now, and having gone through all of that and

you realize that -- or are you aware that -- you said that you have heard something about the facts in this case. Is that right?

A. I remember at -- all I remember is I was working in North Myrtle Beach and they -- there was a manhunt and that was -- I didn't realize, pay attention to who it was or if it, you know.

Q. Well, would it bother you to sit on a case where the facts are ---

MR. HEMBREE: Your Honor, I would object to staking out the witness.

THE COURT: Let me do this. Let me ask you a few questions.

JUROR: Okay.

EXAMINATION BY THE COURT RESUMES:

Q. If allegations are that the defendant was involved in -- the allegations were that the defendant was involved in abuse, if there's evidence presented in allegations -- once again, the burden's on the state to prove guilt beyond a reasonable doubt.

A. Right.

Q. If those allegations are there, in fact, somebody introduces some evidence, would that any way affect your ability to be fair and impartial?

A. No, because I believe there's -- you got to hear all

the facts and situations before you make any decisions. That's what I have been through.

Q. And what happened in your life, would that affect your ability to be fair and impartial?

A. No.

Q. Would you be able ---

A. Because I know things ---

Q. --- to put that aside?

A. Yes.

Q. Would you be able to make your decision based on the evidence in this case?

A. Yes.

Q. And the law as I instruct it to you?

A. Uh-huh.

Q. What occurred to you, no matter what evidence or allegations are in this case ---

A. Right.

Q. --- would what occurred to you have any affect on your decision whatsoever?

A. No.

THE COURT: All right and limited, Mr. Wilson, if you want to ask something else.

MR. WILSON: Well, I don't know that I have any other questions. I have some matters I'd like to put on the record, but I don't know that I have any other questions.

THE COURT: All right. What about your qualifications on the sentencing part? Have you forgot about that?

MR. WILSON: Well, I think -- let me be heard and then we can ---

THE COURT: Okay.

MR. WILSON: --- move to the next step.

THE COURT: Okay.

MR. WILSON: But I need to be heard, but I don't know that ---

THE COURT: Okay, all right.
If you would, Ms. Raynor, could you step outside the doorway for a minute?

JUROR: Sure. Do you want this?

THE COURT: Thank you, ma'am.

(THE JUROR EXITS THE COURTROOM.)

MR. WILSON: Judge, my concern is that I was asking this witness questions about her abuse and her and her relationship with the solicitor's office and contact she had with them. And before I get an answer, before my question would have allowed to elicit the answer, the court intervened obviously at the insistence of the state, intervenes before I can ask the question ---

THE COURT: Well, I was about to myself. The only -- in doing the questions in this type of case, I thought the main questions were to determine if this person could be

fair in regard to the sentence and somewhat also into when they formed an opinion on the case. And when you started asking those things, I then realized this lady, who had come up before, and I did feel maybe I should ask her some questions, too, by the court, sort of set a foundation.

And then I permit -- I was going to permit you then -- and you're right. Mr. Hembree did stand up and say something, and I guess him saying something also, I was ready to say something. Then he said, he was saying what I simultaneous thought. But I don't make any inference or any kind of meaning by that. But I was then going to permit you to ask other questions to see if the lady is unbiased and not prejudiced.

MR. WILSON: Well, Your Honor, the problem with it is is that once the, once I am asking questions and I'm trying to get to a particular point, if the court interjects at that point and cuts me off so I can't finish my thoughts and can't finish the questioning process and the court intervenes, then I can't get to where I need to get with that particular juror. And that's what I'm objecting to is is that it does not allow me as defense counsel to fully explore with this juror.

And this, and this is very germane because this witness has testified, this juror has testified that she had contacted the solicitor's office. That she was abused.

There was a restraining order. She had multiple violations of the restraining order, all which are facts which are in this particular case, and that does cause me concern and it may affect her being biased or not biased. And I'm entitled to seek that out.

But I am prevented from doing that if, if the solicitor objected and the court intervenes and stops me before I can finish my thoughts and before I can finish my cross-examination, and that's my point that I need to make for the record.

THE COURT: All right. Mr. Hembree?

MR. HEMBREE: Your Honor, my objection was that, it was my -- I was concerned that Mr. Wilson was about to go into the specific facts of this case. And staking out a juror in such a manner has long been prohibited by our appellate courts. The most -- a more recent case, *State vs. Tucker*, prohibited that.

THE COURT: I know, but I think I as a judge can pass on the qualifying of jurors in all cases -- you mentioned that the allegations are. There's no way that you can determine the juror's reaction, given the fact that juror has been involved in similar things that the allegations are in trial, unless you sort of let the jury know there may be allegations of this to see if that would affect the juror's ---

MR. HEMBREE: And, Judge Lockemy, when you, when you sort of took, took, took the questioning over at that point or began questioning and stated there may be allegations of this nature in this case would that bother you, I certainly don't object to that type of question. That's more broad; that's more generic. I think it is certainly relevant to, to Mr. Wilson's effort in trying to figure out where this jury -- juror is.

What I'm more concerned about and what my objection is to the specific facts of anything more direct than that. I don't believe that's necessary. I don't ---

THE COURT: Well, Mr. Wilson said and this gentleman on this night, this may have occurred or that ---

MR. WILSON: Your Honor, simply what I was going to ask her was whether or not it would cause her concern if she was involved in a case where these similar kinds of facts existed.

THE COURT: Well, sir, when you say fact, you mean allegations.

MR. WILSON: Allegation, allegations, but she -- I mean, and clearly ---

THE COURT: What if these aren't similar? I don't know if they are or not.

MR. WILSON: And they're similar in the great, in the great degree -- in a great degree because there was a

restraining order allegedly. There was obviously purportedly violations of that restraining order, which is what she's saying happened to her. And there was in fact a court hearing in, you know, with, with this case. Well, actually it was the 2005 case that led to the restraining order. So, yeah, there are a multitude of similarities in what she has described.

And I think it's almost unfair to the juror to let her go through this whole process, never raise that issue to her. Then she says I didn't know that this was the kind of case that I was on. If I had, I would've not ---

THE COURT: I agree with you. Mr. Wilson, I agree with you one hundred percent on that. I just don't want to go step by step by step.

MR. WILSON: No, sir.

THE COURT: And that's why I feel in these cases that it's more appropriate, and that was my shortcoming for not approaching her first because I remember now when the juror came up, I asked her a few things but not a lot, saying I'd ask for more when we got to the qualification area. And I should have done that. I'd rather -- I do those type of things here because I get concerned a little bit that if you do get into it, you get too much into comparing such that you may ---

Well, anyhow, I want the jury to hear there is an

allegation in a general sense, not in a specific sense. So, you want ask her any question about that? I'll be glad to let you do so as long as you don't get too much into specifics.

MR. WILSON: Well, I don't know what else -- I will ask her some additional questions about the sentencing. I don't know that it's obviously going to do me any good at this point to go back and rehash with her what the court has already talked with her about. I just ---

THE COURT: Well, I didn't make anything suggestive in my questions to her I didn't think.

MR. WILSON: Well, you know, I ---

THE COURT: If I did, let me know. Let me know what you think I said was suggestive one way or the other.

MR. WILSON: No. I mean, I just, I just feel like -- and that this is really difficult. I, I think that we were -- my questioning with her was at a very delicate point as far as I'm concerned, and I think when the court intercedes at that point in the midst of my questioning her, and then, then the impression is either, one, that I'm asking her something improper or two, that's, that's, that what -- that her answers are not what they need to be or whatever.

And that's -- the other concern I have is that whenever I'm trying, if I'm cross-examining -- I apologize. I'm not using the term cross-examining her, but if I am

questioning the juror, I just, it just puts me in real awkward situation and so I ---

THE COURT: I don't want to put you in an awkward situation. I think we may do is before we bring another juror, we may see if there are some things we have concern about the juror before the juror comes in that y'all want me to ask, and then I'll permit you all to follow through with that. But I do not want us to get to the point that we're discussing too many things specifically about the case at hand.

MR. WILSON: No, sir. Judge, this was a very limited, specific things because the juror specifically said ---

THE COURT: You say that word so well. I do not say specific very well. My law clerk mentions I leave off the "S" too much. I try to say pacific, but you said it very well. I want the record to reflect that.

MR. WILSON: Thank you, Your Honor.

MR. HEMBREE: We'll stipulate to that, Your Honor.

MR. WILSON: But I, I was just concerned and about, about the fact that she had expressed some concern about having been abused, and about the fact that her husband had been, you know, restrained from, from harassing her and that type of thing and because there are similarities. But that, that's my concern.

THE COURT: Well, I'm going to bring her back in, and

I may her let know that I should have asked her those questions first and that me asking later on, it was really because I had forgotten to ask her as I mentioned I would when she came down here initially earlier today. Then I'll let you ask her the other questions.

MR. WILSON: All right, sir.

THE COURT: About the sentencing part, also.

MR. WILSON: Thank you.

THE COURT: Bring her back in, please.

(THE JUROR ENTERS THE COURTROOM.)

THE COURT: Come on around here please, ma'am. Ms. Raynor, a while ago you know when you came up here earlier today and I mentioned to you I thought that I would ask you more about that, whether ---

JUROR: Right. You did, sir.

THE COURT: And it was my shortcoming that I forgot to ask you those things. And when Mr. Wilson asked them, that made me realize I was supposed to have been the one to ask you about it. So, that was my fault.

JUROR: Okay.

THE COURT: And I forgot to ask you those questions, and if Mr. Wilson or Mr. Hembree need to ask you a couple more questions about that, we'll go into that and then we'll go into the things about the jury.

JUROR: Okay.

THE COURT: Mr. Wilson, you may continue on.

MR. WILSON: Thank you, Your Honor.

EXAMINATION BY MR. WILSON RESUMES:

Q. Ms. Raynor, let me ask you. In regards to the sentencing phase of this case, you understand that as we speak now, the defendant's presumed to be innocent?

A. Yes, sir.

Q. All right, and His Honor instructed you that's the law, and you will follow that, won't you?

A. Yes.

Q. All right, and in regards to getting to the sentencing phase you, do you understand that if he is found not guilty in the trial phase, then we won't go to a sentencing phase?

A. You won't need it, yes.

Q. Or if he's found guilty of a lesser crime.

A. Right.

Q. Then we will go -- than murder.

A. Yes, sir.

Q. Then we will go to the sentencing phase. Okay, but even if we do go to a sentencing phase and -- which would mean that the jury, you and the members of your panel, had unanimously found him guilty of the crime of murder, you understand at that point that the state would then present to you some aggravating circumstances or what might be considered aggravating circumstances?

A. Yes, sir.
Q. All right, and those aggravating circumstances would be things which make the murder or the crime worse than what it might normally be considered to be?
A. Yes, sir.
Q. Okay, and -- but even with that, even if they prove an aggravating circumstance, you understand that you're not obligated to give the death penalty?
A. Yes.
Q. Even after that?
A. Yes.
Q. All right, and do you understand that the defense could also present mitigating circumstances or factors, which are things which might lessen the moral culpability of the person? Not a defense, but which lessen the severity or moral culpability of the crime itself?
A. Yes. I understand that, too.
Q. All right, and that you could consider that?
A. Yes, sir.
Q. And would you be willing to also consider that?
A. Yes, sir.
Q. And you could do that?
A. Yes, I can.
Q. And based on what your belief is, after hearing all the aggravating and mitigating factors, you would then

decide, based on what His Honor's instructions to you on law, whether or not it's life or death?

A. Yes.

Q. And you're comfortable with doing that?

A. I can, I can do that.

MR. WILSON: Thank you, ma'am.

THE COURT: Okay, if you would, step outside one more time.

JUROR: Take another walk, huh?

THE COURT: It's part of the exercise program.

JUROR: I told you I'm on a diet. It's good for me.

(THE JUROR EXITS THE COURTROOM.)

THE COURT: State's position?

MR. HEMBREE: Juror's qualified, Your Honor.

THE COURT: Defense?

MR. WILSON: Judge, she's qualified. I mean, again I made my objection for the record on the, on the statements I made earlier. I mean, I think based on everything that transpired, she is qualified.

THE COURT: Okay. I wish we all had as good a demeanor at this time as long as she has, she seems to be.

Bring her in, please.

(THE JUROR ENTERS THE COURTROOM.)

THE COURT: Okay, Ms. Raynor, I'm going to let you go at this time you can come back Thursday at 11:30 in the

courtroom here. Now, this does not necessarily mean that you're on the jury.

JUROR: Okay.

THE COURT: But there will be somebody outside to let you know whether you can come in or have you stay outside. This does not mean you're on the jury; this means that you'll be in the pool from which the jury is selected.

And it's very important that you not discuss this case with anyone at all. Not with family members or with anyone else. Don't look at any local media or like newspapers or the news on TV, radio news, and come on back Thursday.

Now if you are selected, then we'll give you time to get home and you get some things together and come back, but the best thing is to go ahead and get some things packed just in case so you won't have to be too long, all right? You can go out this way, but we'll see you Thursday at 11:30.

JUROR: Okay.

THE COURT: Thursday at 11:30.

JUROR: Okay. Thank you.

(A PAUSE.)

THE COURT: All right, bring in juror number 327. Would y'all ask the lady that just stepped out to step back in? If not, I need to ask her something Thursday.

(JUROR #327 ENTERS THE COURTROOM.)

THE COURT: Is it Morris or Morris-Vaught?

JUROR: Morris-Vaught.

THE COURT: Okay, have you been, have you been married since you sent your registration card?

JUROR: Uh-huh.

THE COURT: Have a seat if you would, Ms. Morris-Vaught.

(JUROR #378 REENTERS THE COURTROOM.)

THE COURT: What I need ask you, Ms. Raynor, your sheet says, initially checked you are not a citizen of this country.

JUROR: I made a mistake on that. I had my daughter talking in one ear about her school project that we were working on and I initialed it, but --

THE COURT: Okay, so you are a citizen of the United States and a citizen of Horry County? Thank you, ma'am. Thank you.

(THE JUROR EXITS THE COURTROOM.)

EXAMINATION BY THE COURT:

Q. Now, Ms. Morris-Vaught, I want to talk with you just a little bit. Please understand that you're not on trial or anything of that nature. Do remember you are still under oath from the oath we did earlier today. And what I'm going to need you also to do is to speak into the microphone and give word answers to my questions because

she's got to take everything and repeat everything and you say.

The first thing is is you're one of those people that grew up that your first birthday is kind of bad because Christmas is so soon, you don't know whether you're going to have a party or people are going to do Christmas, or is double good or dismissing your birthday because it's so close to Christmas?

A. I was lucky and I had family that celebrated both.

Q. So, you had a birthday on the [redacted] of [redacted], and then you have Christmas on the ---

A. Yes.

Q. Do you usually get for Christmas what you didn't get for your birthday since you already had a list?

A. Sometimes, yeah.

Q. And you were born in Mecklenburg County. That's where, Charlotte area?

A. Yes.

Q. Did you grow up there in that area?

A. I was born there and moved to Shelby, North Carolina, when I was two.

Q. And what brought you here?

A. My mother.

Q. Okay, and how long have you been married?

A. Seven years.

Q. Seven years, okay. Now, I want to ask you just a few things. One is, I asked you before but I'm going to ask you again, though. Do you know any of the attorneys involved in this case? You know Mr. ---

A. No, sir.

Q. --- Hembree, Mr. Humphries, Mr. Wilson, Mr. Rathbun?

A. No, sir.

Q. You don't know any of them? This case, if we select a jury in the case, we want a jury that would make their decision based on the evidence presented in the case and law as I instruct it as a judge. Now, the law that I would instruct the jury is that the burden is upon the state to prove guilt beyond a reasonable doubt and that the defendant is presumed innocent. So, the burden's on the state to prove guilt, not on the defendant to prove himself innocent. Do you feel you could follow that instruction from the court?

A. Yes, sir.

Q. All right. Further, the jury would listen and -- to the evidence and the law, and we want a jury that had not already formed any opinion regarding the guilt or the innocence of the defendant in the beginning. Now, have you formed any opinion one way or the other?

A. No, sir.

Q. Okay, would you give both the state and defense a fair

and impartial trial in this case?

A. Yes, sir.

Q. If after you heard all the evidence in the case and my instruction on law, after hearing all the evidence in the case and my instruction on the law, if you felt the defendant was not proven guilty, could you find him not guilty if he was not proven guilty?

A. Yes, sir.

Q. All right. If you felt after hearing all the evidence in the case that the defendant was proven guilty beyond a reasonable doubt, do you feel that you could find him guilty?

A. Yes, sir.

Q. All right. Have you discussed this case with anyone?

A. No. No, sir.

Q. All right.

A. Not...

Q. Have you?

A. Prior to today?

Q. Yes.

A. No.

Q. What about today?

A. No. I mean, I've discussed it in the newspaper when it first happened, when it came out.

Q. When you say you discussed it, you mean you saw the

newspaper and talked to someone about it?

A. Yeah. Just then absent talking.

Q. All right. Do you remember what it was you saw in the newspaper?

A. Not specifically. No, I don't remember the article.

Q. Has it caused you to form any opinions at all about this matter?

A. No, sir. I don't even remember the specifics.

Q. All right. If say you're on the trial, on this trial and you suddenly remembered some of the things, could you put all those aside and make your decision based on the evidence presented in the case and the law as I instruct it to you?

A. Yes, sir. I'm a fair person.

Q. Okay, and once again I wasn't sure about what you meant when you said up until today. I mean, have you discussed this with anyone today?

A. No, sir.

Q. Okay, all right. I gave you a list back there with a lot of names on it.

A. Uh-huh.

Q. Do you know anyone on that list?

A. No, sir.

Q. Could I see the list?

A. Yes, sir.

Q. So, you didn't circle anyone's name at all?
A. I don't know anybody on there, on the list.
Q. Okay, no names are circled. So, you don't know anyone at all on this list?
A. No, I don't.
Q. Once the jury is impaneled, they will hear evidence in the case and the law from the court. And if the jurors were to decide that the defendant had not been proven guilty beyond a reasonable doubt, the jury would find him not guilty and that would end the matter there. However, if the jury felt that the defendant had been proven guilty beyond a reasonable doubt of the crime of murder plus of an aggravated circumstance, then we get to another phase with the jury would, would decide what sentence would be imposed on the defendant. And there's one or two possible decisions. The jury would either find that life, life imprisonment was more appropriate sentence, or they would determine that the death penalty was the more appropriate sentence, one or the other. I gave you a sheet of paper there listing what three types of jurors. Did you review that sheet of paper?
A. Yes, sir.
Q. And did you understand the three types?
A. Yes, sir.
Q. The first type being -- and by the way, in that, that

second phase determining sentence, and by discussing that, this is by no way implying in one way or the other because once again, the jury has to decide that.

A. Uh-huh.

Q. But in that second phase, the jurors will hear evidence in aggravation, evidence in mitigation and after hearing the evidence there and the judge would instruct them, then the jury would decide what would be the appropriate punishment.

One type of juror would be one that no matter what was presented to that juror in aggravation and mitigation, that juror would, would feel that the death penalty is the appropriate punishment in each and every case no matter what evidence was presented in aggravation or mitigation.

That second type of juror would be one that would feel that no matter what the evidence presented in aggravation and mitigation, they could never impose the death penalty and that the only sentence they could ever impose would be life imprisonment no matter what evidence was presented to them.

And the third type of juror would be the juror that would have her mind not made up in advance concerning punishment. That juror would want to hear the facts and circumstances in aggravation and mitigation. They want to listen and follow the law as given by the judge before she

makes the decision regarding punishment. And if the facts presented by the state or the defense so warranted it, that juror could bring in a verdict for life imprisonment. Or if the facts presented by the state or by the defense so warranted it, that juror could bring in a verdict for the death penalty.

You say you understand those three types?

A. Yes, sir.

Q. Which one best describes you?

A. Number three.

Q. Okay. So, say that if you all decided that the state would prove his guilt beyond a reasonable doubt of murder and that of the aggravating circumstance, that you could then have an open mind as to what the appropriate punishment that you recommend?

A. Yes, sir.

Q. And you wouldn't make up your mind until after you've heard all the evidence in that phase of the trial?

A. Yes, sir.

Q. Now, Ms. -- do you prefer Morris-Vaught or what?

A. Vaught, please.

Q. Ms. Vaught. Ms. Vaught, if the jury -- once again not suggesting anything at all as what the jury would decide -- but if the jury were to decide that death was the appropriate punishment to recommend, that, that all the

jurors will have to sign that sheet as a verdict. It's a unanimous requirement. Do you feel you could also sign the verdict form?

A. Yes, sir.

Q. Okay. Now, if you are selected as a juror on this case, it would be one that the jurors would be put up in a hotel room for a few days. It could be as much as a week to ten days. Now, do you feel that if -- that's required. We would let you have some limited access to your family, phone calls, but at all times it would be supervised.

A. Uh-huh.

Q. And could you do that without too much undue hardship?

A. Yes, sir.

THE COURT: I'm going to now let both sides ask you a few questions and if you'll answer their questions.

JUROR: Yes, sir.

THE COURT: And I'll keep that sheet.

JUROR: Okay.

THE COURT: Any questions from the state?

MR. HEMBREE: We have no questions for Ms. Vaught. Thanks very much.

THE COURT: Mr. Wilson?

MR. WILSON: Yes. Thank you very much.

EXAMINATION BY MR. WILSON:

Q. Ms. Vaught, you understand that defendant is presumed

to be innocent as we speak?

A. Yes, sir.

Q. All right, and you're willing to accept that if Your Honor tells you that that's the law and that you're to accept that? You're willing to do that, are you not?

A. Yes, sir.

Q. All right, ma'am, you understand that if the defendant is found not guilty, then we won't have a second part of the trial?

A. I understand.

Q. All right, and you indicated to the court that if the facts and circumstances warranted it, you will be willing to vote for not guilty if that's what you believe based on the evidence that is produced during the course of the trial. Is that correct?

A. Yes, sir.

Q. And likewise, if you think that the evidence is of guilt, then you're willing to vote for that, too?

A. Yes, sir.

Q. And if we get to the sentencing phase of the trial, you are -- also understand that at that point in time that the state will offer what's called aggravating circumstances or things which tend to make the murder or the crime worse than what it might normally be considered to have been?

A. Uh-huh.

Q. All right, and you're willing to consider those things?

A. Yes, sir.

Q. All right, and if the defense offers mitigating circumstances, not a defense but things which, which lessen the moral culpability of the accused, of the person who's been convicted, you're willing to also consider those things?

A. Yes, sir.

Q. And then once you hear all of those things and once His Honor gives you the law, you will follow that and come back with a verdict that you believe is fair and just under the circumstances and facts. Is that correct?

A. Yes, sir.

Q. All right, and that could be life or death depending on your view of the facts and circumstances?

A. Yes, sir.

Q. Is that fair?

MR. WILSON: Okay, thank you.

JUROR: You're welcome.

FURTHER EXAMINATION BY THE COURT:

Q. Okay, ma'am, I did notice that here that that you had someone who's, childhood friend that was convicted of murder?

A. Uh-huh.
Q. Would that in any way affect your ability to be fair and impartial in this case?
A. No, sir.
Q. Have you known that person after they became adults or just knew them in childhood?
A. Just as a child.
Q. Okay. I notice also it says a some of your favorite hobbies, you have riding. It also has a motorcycle. Is that motorcycle riding or horseback riding?
A. Motorcycle.
Q. Why, my brother-in-law and sister, they have motorcycles and actually went out to South Dakota this year.
A. Oh, really?
Q. That place, Sturgis?
A. Sturgis.
THE COURT: If you would, could you step outside?
JUROR: Yes, sir.
THE COURT: And let me talk to them for a minute? I'll bring you back. Stand right outside that door.
(THE JUROR EXITS THE COURTROOM.)
THE COURT: Okay, position of the state?
MR. HEMBREE: Ms. Vaught is qualified, Your Honor.
THE COURT: Defense?

MR. WILSON: Qualified, Your Honor.

THE COURT: Okay, bring her back in, please.

(THE JUROR ENTERS THE COURTROOM.)

THE COURT: Ms. Vaught, I would let you go now, but I need for you to return Thursday at 11:30. There'll be somebody out there to let you know whether to come in this courtroom or go to another room somewhere.

Now when you return, at that point in time you'll be in a pool from which the jury will be selected. Doesn't mean that you'll be on the jury, but you'll be in that pool. If you are selected, then of course we'll have someone they'll either give you a ride back to your home or we will let you go back and we'll get you, bring you back with your luggage and all that to go to the hotel. So, the best thing is probably go and pack things up and be ready just in case, okay?

JUROR: Yes, sir.

THE COURT: All right, please do not look at any local media news in the evening; do not read any local newspapers. Do not discuss this case with anyone at all, okay, and we'll see you Thursday at 11:30. You go out this way. Thank you, ma'am.

You can get them, but don't bring them in yet. Just go ahead and get them on the way. You walk in first, okay.

MR. HUMPHRIES: The form, I think she's still got your

form.

THE COURT: Oh, ma'am, you still have that form, too. If you would, bring me that up here. I forgot that; I meant to get that. Thank you.

I meant to do this before the last one, but any particular things that we have concerning with the next juror you'd like to bring to my attention before bringing them in?

MR. HUMPHRIES: Your Honor, this was the juror that told on her sister.

THE COURT: Oh, it is?

MR. HUMPHRIES: Yes, sir. I don't, I don't know how you want to deal with that. Is the sister, did she make the main panel?

THE COURT: She made one of the panels. I forget which one; I know she made one of them.

MR. HUMPHRIES: Just letting you know.

THE COURT: Okay, that she tells the truth on her sister or sister-in-law.

MR. HUMPHRIES: I'm liking her.

THE COURT: Believe it or not, the sister's in the next panel. Mr. Wilson, any special thoughts you have have on that one?

MR. WILSON: No, sir. I mean, I think that this one, I -- she told on her sister, so she can't be all bad.

THE COURT: But y'all both expressed the concern about having both of them on the jury.

MR. WILSON: Yes, sir.

MR. HUMPHRIES: I don't want to jump Mr. Wilson, but really when -- of course probably, I should probably should have said something when she came up and yes, she might have been technically correct. But I think in my opinion she was clearly attempting to mislead the court. I wouldn't have any problem in excusing her for cause based on her, her representations to the court.

MR. WILSON: It's not this one.

MR. HUMPHRIES: No, that's the liar, not this one. That way ---

MR. WILSON: If you're going to go that far, I ---

THE COURT: Wait one second.

MR. WILSON: I agree, Judge, that we probably have a problem if we had them both on the same jury panel.

THE COURT: Well, who knows if we're going to qualify this one or not.

MR. WILSON: Right, and that's what -- we may not get that far. I mean, we may decide that without having to, to do anything.

THE COURT: But Mr. Humphries' position is that 335, that she said that I only asked if she had children, and I said children that are yours or in your custody. I said

that are in your custody, at least ---

MR. HUMPHRIES: For whom you have care, custody and control and don't have anybody else to ---

THE COURT: Well, no, I didn't say all that. I just said in your custody, but, I mean, I think I made it pretty clear. The question is what's your position on that person.

MR. WILSON: Well, I thought that the question was sufficiently clear, and I thought you said it in a way that was clear. I mean, a lot of times I'm doing other things and I'm not always listening, but I thought that you were very clear about what you asked because you asked it to several other prospective jurors. And my initial feeling was that she misled the court, but I'm going to leave that to you ---

THE COURT: Well, Mr. Humphries feels she should be disqualified for cause because she misled the court.

MR. WILSON: Well ---

THE COURT: Intentionally.

MR. WILSON: Well, again, I'm not going to take a step on that. I'll leave that to the court.

THE COURT: I'll let you know by the end of the day. Bring her in, please. This is not her, by the way.

(JUROR #414 ENTERS THE COURTROOM.)

EXAMINATION BY THE COURT:

Q. Ms. Mary Skipper. Is that right, ma'am?
A. Yes.
Q. And a seat, please. A lot of Skippers in the Lake View area and Horry County, but I see you're from Selma, Alabama?
A. Yes.
Q. And you, if you can, speak in that microphone for me, okay?
A. Okay.
Q. Now, you're from Selma, Alabama. How long have you been here in Horry County?
A. Since I was about twelve. My father was in the Air Force; we moved a lot.
Q. Oh, okay. Now, Ms. Skipper, I want to remind you you're still under oath. You understand?
A. Yes, sir.
Q. And I do remember also that you're the one that let me know that one of the jurors may not have been totally candid with me about child care. How are you related to that person?
A. She is my sister.
Q. She is your blood sister, okay.
A. Yes.
Q. I didn't know if she was your sister-in-law, but she is your sister?

A. Yes.
Q. All right, and so that concerns you that what she said wasn't accurate?
A. Correct. I know that she was lying.
Q. I want to thank you very much for letting me know about that. Now, once again, I said you're still under oath and please understand you're not being interrogated here.
A. I understand.
Q. You're not being questioned or anything. You're just, just like all the other jurors, we're just trying to determine certain things on jurors and see if they qualified for a case of this type. The lawyers themselves, Mr. Hembree, Mr. Humphries, Mr. Rathbun, Mr. Wilson, do you know any of them at all?
A. Not personally, no.
Q. You just know that they're lawyers and ---
A. I know of Mr. Ralph Wilson from the Crystal Todd case. I graduated in '92 with actually his daughter, who I know her name but don't know her personally, and I had a class with his son. But other than that, I don't know him at all.
Q. So, you had classes with his daughter?
A. No, I had -- I didn't have any classes with his daughter. We just graduated the same year.

Q. Okay, and then you ---
A. In '92.
Q. And a class with his son?
A. And have a -- yes, a singing class with his son.
Q. Oh, a singing class?
A. Yeah.
Q. Okay, you sing?
A. Yeah. Long time ago.
Q. Now, the fact that -- what is this Todd, tell me about that.
A. Crystal, the Crystal Faith Todd case that he was the solicitor on.
Q. Okay, you remember that case. Now, would any of those things, would that cause you to form any opinions about Mr. Wilson that may affect your decision in this case at all?
A. No.
Q. All right, that wouldn't affect your decision in this case one way or at all?
A. No.
Q. Now, have you, do you have any interest or bias or prejudice in this case at all?
A. No. I actually am clueless about this case.
Q. All right. So, you've not formed any opinion or expressed any opinion about the guilt or the innocence of

Mr. Winkler, the defendant in this case?

A. No.

Q. All right.

A. I'm assuming that's him. I don't know his name or who he is.

Q. All right. Do you know of any reason why you couldn't give the state and defendant a fair trial in this case?

A. No.

Q. Now, the jury would sit in the box over there and listen to the evidence in the case and then follow the instructions of the judge, my instructions to jury, and they would have to be required under their oath to follow my instructions. And if not, you need to let me know before you go on the jury.

One instruction would be that the defendant is presumed innocent of any and all charges, and guilt is the burden of the state to prove beyond a reasonable doubt. The defendant does not have to prove himself innocent; the state has to prove him guilty. Would you follow that instruction?

A. Yes.

Q. Now, sitting on the jury and after hearing all the evidence in the case and my instructions on the law, if you felt the defendant had not been proven guilty beyond a reasonable doubt, would you find the defendant not guilty

if he wasn't proven guilty?
A. If not by reasonable doubt, no. I mean, reasonable doubt, if they didn't prove it with solid evidence with me, if I had any kind of doubt, I could not prove guilty, no.
Q. So, once again the standard is the state has the burden of proving guilt beyond a reasonable doubt. If you felt that ---
A. If they didn't, to me, if they didn't prove it, then no, I would not say guilty.
Q. All right. What if they did prove guilt in your view beyond a reasonable doubt? Could you find the defendant guilty?
A. Yes, I could.
Q. All right. Have you discussed this case with anyone at all?
A. No.
Q. And you say you haven't seen any media about this, any news?
A. I very rarely read the paper or watch TV and if I do, I have two small children. So, it's Scooby-Doo or Animal Planet, or my daughter dances four times a week, so I'm not at home much.
Q. All right. I gave you a list there with a lot of names on it. Were you able to review that list?
A. Yes, I was.

Q. Did you know anybody on that list?
A. No, I do not.
Q. Okay, can I see the list?
A. Uh-huh.
Q. And looking at it, you did not circle any names, so you know no one on this list at all?
A. No. I do know members of the police department that are not on that list if that helps.
Q. Okay. Now, the fact that you know members of the police department, does that in any way cause you to feel like people who are testifying, if they're members of the police department, would look upon them differently than you would someone else who is not?
A. No, because there's -- the person I know is a city person, so I don't think they're involved in this, but I wouldn't.
Q. I know, but my question is that would you look upon people in uniform the same way you look at people not in uniform?
A. Yes.
Q. Also, I gave you a sheet of paper there that are the type of jurors. In a case of this nature, Ms. Skipper, the jurors will hear the evidence involved in the case and law as the judge instructs it, instructs the jury. If after hearing the evidence and the law, if the jury were to find

the defendant not guilty, then the case would end there, or if the jury found the defendant guilty but not guilty of such, of something that would cause it to go to the next phase. But if the jury were to find beyond a reasonable doubt the defendant had been proven guilty of murder as well as aggravating circumstances, then we get to the next phase where the sentence would be determined. And then you would have evidence presented on both sides in aggravation and evidence in mitigation, and the jurors should listen to both sides.

And there are three types of jurors. The first type would be one that even though both sides had put up evidence in aggravation and mitigation, that juror would feel they're always required to give the death penalty in each and every case regardless of the evidence in aggravation and mitigation. And would feel that once the defendant had been proven guilty of murder, the death penalty is the most appropriate punishment no matter the circumstances.

Juror number two would feel that no matter what the circumstances, what the evidence in aggravation and mitigation are, that that juror would always feel life imprisonment is appropriate and could never impose the death penalty. And they would have their mind made up and would not listen, would not consider evidence in

aggravation, mitigation in deciding what the punishment is because they felt it should always be life imprisonment.

The third juror is the juror that would not have made her mind up in advance concerning punishment. That juror would want to hear the facts and circumstances in aggravation and mitigation. Would want to listen to and follow the law as the judge charges the jury before she can make her decision regarding punishment. And after hearing the evidence in aggravation and mitigation, if that juror felt that it so warranted it, that juror would feel again that a verdict of life imprisonment would be appropriate. Then that juror could bring back a verdict of the life imprisonment if they felt it was appropriate after the evidence. Also if after the evidence was presented, if that juror feels or felt that a verdict of the death penalty was the appropriate one, that juror would bring back the verdict for the death penalty.

Do you understand the three types of jurors?

A. Yes, sir.

Q. And which of the three best describes you?

A. I'm the third.

Q. You are third?

A. Yes.

Q. So, you feel that you would listen to evidence in aggravation and mitigation and depending on all that and

depending on your view of all that and your deliberation and consideration, you could bring back a verdict of life imprisonment if you felt it's appropriate?

A. Yes.

Q. And if after considering everything, you could bring back a verdict of the death penalty if you felt it was appropriate?

A. Correct. Yes.

Q. Now, if the jurors were to decide that the death penalty was the appropriate verdict, all jurors will have to sign. All twelve must agree. Do you feel you could sign the verdict form?

A. Yes.

Q. If you are selected as a juror in this case, then you would be put up in a hotel room for a week to ten days, and listen to all the evidence while we're going through the case, the evidence and everything else, and you would have very limited contact with your family. If there was contact, it would probably be on a phone and there would be somebody supervising. You feel you could do that?

A. I can. My husband would just have to take my daughter to dance would be the only thing.

Q. Okay, but you could make arrangements for that?

A. Yes, I can make arrangements.

Q. It wouldn't be that, it wouldn't be that convenient,

but you could do it?

A. Yes. I mean, I could make arrangements to have her taken to dance and things, yes.

THE COURT: I'm going to let the attorneys ask you a few questions now. If you would, please answer the questions.

JUROR: Okay.

THE COURT: Questions from the state?

MR. HUMPHRIES: None from the state.

THE COURT: Questions from the defense?

MR. WILSON: Thank you, Your Honor.

EXAMINATION BY MR. WILSON:

Q. Ms. Skipper, you understand that as the defendant sits here today, he is presumed to be innocent.

THE COURT: Excuse me just one second. Who is this gentleman? Oh, you're with maintenance? Oh, good. Thank you. Thank you. I'm sorry, Mr. Wilson.

MR. WILSON: That's all right, Your Honor. Thank you.

BY MR. WILSON:

Q. Do you understand that the defendant is presumed to be innocent as we speak?

A. Until proven guilty, yes.

Q. And if His Honor instructs you that's the law, you're willing to accept that, are you not?

A. Yes.

Q. All right, do you understand, ma'am, in the -- we'll have two phases or two parts to this trial. The first part will be the, what we call the guilt phase where you'll have to decide whether or not you and the other members of your panel, whether or not the defendant is guilty or not guilty of the charges. And that is the burden of the state to prove him guilty beyond a reasonable doubt before you can find him guilty.

A. Yes.

Q. And they have to satisfy you as to that.

A. Yes.

Q. And, and if His Honor instructs you that's the law, you're willing to accept that as to law ---

A. Yes.

Q. --- correct? Now, okay, ma'am, if, even if you and members of your jury find him guilty of the crime of murder, that there will be then a second phase of this trial which is the sentencing or penalty phase of the trial. You understand that?

A. Yes.

Q. And during that sentencing or penalty phase, the state would offer what's called aggravating circumstances or factors into the trial of the case, and those are things which might make the crime of murder worse than what it might normally be. And you would be willing to consider

those things?

A. Yes.

Q. And if defense offered what are called mitigating factors or circumstances, things which might lessen the moral culpability of the crime itself or of the defendant, would you be willing to consider those things?

A. Yes.

Q. And only after hearing both the aggravating and the mitigating, would you then make up your mind as to whether or not you're going to vote for life or for death?

A. Yes. I always have to hear everything before I make a decision.

Q. All right, and do you believe that your decision is your decision?

A. Yes.

Q. All right. Do you make your own decisions?

A. Yes.

Q. After hearing all the other jurors and listening to everybody else's opinion make up your own mind?

A. Yes.

MR. WILSON: All right, thank you.

THE COURT: Okay, if you would, please stand outside for me just for a second.

(THE JUROR EXITS THE COURTROOM.)

THE COURT: Position of this state?

MR. HUMPHRIES: She's qualified.

THE COURT: Defense?

MR. WILSON: She's qualified, Your Honor.

THE COURT: Bring her back in, please.

(THE JUROR ENTERS THE COURTROOM.)

THE COURT: Okay, Ms. Skipper, we ask you to come back on Thursday at 11:30. This does not mean you're on the jury. What this means is you're going to be in the pool from which the jury will be selected.

JUROR: Thursday?

THE COURT: Ma'am?

JUROR: Thursday at 11:30?

THE COURT: Thursday at 11:30 a.m. come back. There will be somebody outside. They're either let you come in this courtroom, or we'll have you someplace else to go and wait for us. In the meantime, do not discuss this case at all with anyone. And also continue your process of not looking at any news or reading any papers, all right, ma'am?

JUROR: Yes.

THE COURT: And if someone does discuss this case with you, you let me know. Don't talk about it at all. Obviously you can say you're on jury duty. Just say anything about the case.

JUROR: Okay.

THE COURT: All right, ma'am?

JUROR: Sure.

THE COURT: All right, we'll see you at 11:30 Thursday. By the way, it would probably be better to make sure because if you are selected, you'll have to go home and get your bags and come back and get to the hotel in not much time. So, you might want to go ahead and pack a little bit just to be safe.

JUROR: Okay.

THE COURT: All right, we'll see you Thursday.

JUROR: Okay.

THE COURT: 11:30. All right, the next juror, I know this is the eighty years or eighty-five years old, almost eighty-five. Eighty-five, born in 1922. Okay, any, any concerns before I bring him in?

MR. HUMPHRIES: I don't -- I didn't record any during voir dire.

THE COURT: All right, bring the juror in.

(JUROR #345 ENTERS THE COURTROOM.)

EXAMINATION BY THE COURT:

Q. Mr. Overby, how are you doing?

A. Fine, fine, fine.

Q. It's been a long wait back there, hasn't it? You still, you feeling okay?

A. Sir?

Q. You feeling all right?
A. Not really. After all, I'm eighty-five. I was going to ask to be excused.
Q. Well, and you get that option if you want to, sir.
A. Well, I would certainly like it.
Q. Okay, sure, if that's what you want. You want to be excused?
A. Yes, sir.
Q. All right.
A. I've been here since 9:00 this morning.
Q. I know, but I -- you, at one time you thought you wanted to ---
A. Right, right, but I would like -- if I can exercise that option, I would like to be excused.

THE COURT: Okay, any objection from the state or from the defense?

MR. HEMBREE: No, Your Honor.

MR. WILSON: None, Your Honor.

THE COURT: Thank you, sir. Your -- just leave those with him. Thank you very much, Mr. Overby. You're excused at this time. Thank you, sir.

JUROR: Thank you, sir.

(THE JUROR EXITS THE COURTROOM.)

THE COURT: Okay, any matters y'all wish to bring up regarding juror number 374?

MR. HEMBREE: Nothing from the state, Your Honor.

MR. RATHBUN: Nothing from defense, Your Honor.

THE COURT: All right, bring in Mr. Randall, please. I just wonder, though, first ask him if he's had enough time to look at the list and the types of jurors. Tell him he can come on in once he's ready to come in. If you'll just stand there with him and just when he comes in -- ready to come in, bring him on in.

(A PAUSE.)

THE COURT: I think we wore Mr. Overby out. By the way, my understanding is now since we have qualified Ms. Skipper, that doesn't mean she's going to be on the jury, and she will be on that panel. I do have the situation of this other juror, 335, I do feel was misleading. Y'all wish for me to excuse her at this time without qualifying her tomorrow? She is on the first panel. State's position?

MR. HUMPHRIES: Yes.

THE COURT: Defense?

MR. WILSON: Judge, I don't have a position.

THE COURT: You don't object to my ruling if I excuse her because of being misleading to the court?

MR. WILSON: No, sir.

THE COURT: As well as her situation with her sister?

MR. WILSON: I don't object; I don't object.

THE COURT: All right, then when she gets in tomorrow, I'll go ahead and excuse her when she gets in here.

(JUROR #374 ENTERS THE COURTROOM.)

EXAMINATION BY THE COURT:

Q. Okay. Come around, Mr. Randall.

A. Yes.

Q. Been a long day, hasn't it?

A. For some of us. Where do you want me?

Q. Just come have a seat right there if you would, sir. Let's see, go ahead and have a seat and relax. See you're from Atlanta, Georgia.

A. Yes, sir. I was born outside of Atlanta.

Q. And you worked with Marriott Corporation?

A. Yes, sir.

Q. Hotel?

A. Actually, I was in the food and services division of Marriott.

Q. Is that for the hotel?

A. Yes.

Q. Do you get pretty good rates at the hotel, stay there a lot?

A. Yes, sir. Free.

Q. Oh, that's a good rate.

A. That's a good rate.

Q. I travel. Like I told you this morning, I travel and

stay in a, stay at Marriott every once in a while if we can get the rate down low enough that we can afford it. They have a nice one up there in Spartanburg right close to the courthouse.

A. That one in Spartanburg, that's excellent.

Q. It's right downtown. It's got all the amenities, restaurants and everything else. Almost walking distance from the courthouse.

A. I did twenty-five years with them.

Q. Okay. You didn't work at the one in Spartanburg, did you?

A. No, sir.

Q. And I see that your wife was at Caravele Resort, so she did hotel work, too?

A. She's still at the Caravele.

Q. Caravele?

A. Yes. Yes, sir.

Q. That one down at the south end of Myrtle Beach?

A. Actually it's 72nd north side of Myrtle Beach.

Q. 72nd, okay.

A. The Marriott and the Caravel and all those are up that way.

Q. I have a hard time keeping all them straight, there's so many of them. They keep building them.

A. Well, that's a big one. They're about 700 rooms

there.

Q. You remember that I put you under oath earlier today and you're still under oath?

A. Okay.

Q. And I want to ask you just a few things, and this is just for discussion, so nobody's interrogating you. We just talking.

A. Good.

Q. And I didn't want to hurry you back there. Did you have enough time to look over the list and then those juror things and all?

A. Yes, sir, I sure did.

Q. And I'm going to ask you about that in a minute. I just wanted to make sure you had enough time.

A. Sure. I had plenty of time.

Q. As far as the attorneys themselves, you know any of these attorneys, Mr. Hembree, Mr. Humphries, Mr. Wilson, Mr. Rathbun?

A. I think I've met Mr. Humphries.

Q. Okay, and which one? You say Mr. Humphries, but...

A. Greg.

Q. Okay, that's Mr. Hembree.

A. Hembree.

Q. The one in the red tie?

A. The one with the red tie.

Q. Okay. Now, how do you know him?
A. I think it was recently after he was elected, I had a little situation where I, I ran a nightclub here in Myrtle Beach, and I ---
Q. What was that nightclub?
A. 2001.
Q. Yeah, that's one that's been here for a long time.
A. April of 1980. I was a very small owner and was the general manager there.
Q. Okay.
A. And we had a little problem with an employee that followed me around for a little while. We actually had a stalking situation.
Q. Someone that you had discharged?
A. Yes, sir. Yes, sir.
Q. Problem, and is that ---
A. There was a problem of him taking money.
Q. Oh, okay.
A. So that it became my fault for some reason.
Q. Okay. Now, the fact that -- how long ago was that?
A. It's been ten years at least, ten or twelve years.
Q. Well then, therefore, when you saw Mr. Hembree, he was not the chief prosecutor at the time. He was a lawyer?
A. I believe that Mr. Wilson had just got out of the office, and he had just come in.

Q. Okay, well that's probably more like six or seven or eight years, something like that. Doesn't matter at any rate.

A. Okay.

Q. But would the fact that all occurred and you talked with the fellow at the solicitor's office, would that in any way cause you to form an opinion such that you could not be fair and impartial in a trial in which the solicitor was prosecuting and other attorneys defending?

A. No, sir, it wouldn't be a problem.

Q. It wouldn't affect your decision whatsoever?

A. No, sir.

Q. All right. You didn't form any friendships with Mr. Hembree at all, did you?

A. No, sir.

Q. Now, what about Mr. Winkler? Do you know Mr. Winkler at all?

A. No, sir.

Q. Do you have any interest, bias, or prejudice in this case?

A. No, sir.

Q. Now, the procedure in a court of law is once a jury is impaneled, that jury would hear evidence in the case and would follow the law as the judge instructed the law. And the jury would be required under oath to follow the law.

The judge would instruct the jury that the defendant, although charged with this crime, these charges are not evidence he's committed any crime whatsoever, and the defendant is presumed innocent.

The presumption of innocence is there such that the state has the burden of proving guilt beyond a reasonable doubt. The defendant does not have to prove himself innocent. Defendant does not -- yeah, does not have to prove himself innocent. Would you follow that rule of law, sir?

A. Yes, sir.

Q. Further, sir, if after all the evidence in the case is presented, and if you felt that the state had not proven guilt beyond a reasonable doubt, and after the judge had instructed you on the law, and if you felt the state had not proving guilt beyond a reasonable doubt, could you enter a verdict of not guilty if you felt that was the appropriate thing to do?

A. Yes, sir.

Q. If after hearing all the evidence in the case and instruction of the law from the judge, if you felt the defendant was guilty, could you, having been proven guilty beyond a reasonable doubt, could you enter a verdict of guilty?

A. Yes, sir.

Q. Have you formed any bias or prejudice or expressed an opinion in this case at all?

A. No, sir.

Q. Have you discussed this case with anyone?

A. When I received that questionnaire, I went online to see who -- I did find the name of the person that was involved, but I've been out of the country for the last couple of weeks. So, no, I haven't spoken with anyone.

Q. And what did you find online?

A. What the case was. The same thing that I read in the paper yesterday.

Q. And, I mean, did you spend hours online?

A. No, no, just curiosity.

Q. All right. Did looking at the matters online or anything in the paper, you don't recall reading anything in the paper a while back? Just recently is all you recall?

A. Yesterday. I've been, I've been out of the country for two and a half weeks. The first thing I saw is I got -- I came back because I was required to be here today. Happened to see yesterday's paper.

Q. Where were you out of the country?

A. Costa Rica.

Q. Warm down there?

A. 85.

Q. Really?

A. The water was 85.
Q. I haven't been there before, but I guess that's a nice place I'm sure. Thank you for coming back, and now what you've read in the Internet or media, has that caused you to form an opinion as to the guilt or innocence of the defendant one way or the other?
A. Absolutely not.
Q. In sitting on this jury, could you disregard and put aside anything you've read and make your decision based on the evidence presented in the case in the courtroom and the law as I instruct it to you?
A. Yes, sir.
Q. I gave you a list as you -- that you looked over of names. Did you know anybody on that list?
A. The only one that I am familiar with is Detective Neil Livingston. It was the detective who I was involved with.
Q. Let's look at that number. What number is ---
A. Number 29.
Q. 29. Now, how do you know Mr. Livingston?
A. Same situation I was involved with.
Q. He was who was involved in that case?
A. He was the officer who arrested the person.
Q. Now, the fact that he was involved with that case a few years ago, would that cause you not to be fair and impartial in this case if he turned out to be a witness in

the case?
A. No, sir.
Q. Would that cause you to look upon him differently than you would any other witness in the case?
A. No, sir.
Q. Anyone else?
A. That's the only one I recognize.
Q. All right, let me look at that. If during the course of the trial, if you saw a face and something else came to mind, let the court know about if something else should ---
A. I'm sorry. Would you say again?
Q. If during the course of the trial because you saw someone that you may not know their name but you might know their face or you saw them or something else came to mind, you'd let me know about it, would you not?
A. Yes, sir.
THE COURT: All right, let me give this to the court reporter.
(QUESTIONNAIRE OF JUROR #374-RANDALL MARKED IN EVIDENCE AS COURT'S EXHIBIT NUMBER 4-B.)
BY THE COURT:
Q. I also gave you a list of types of jurors. Let me just explain this to you, Mr. Randall. In a trial of this nature, the jurors first would be presented the evidence to consider in deciding whether or not the defendant has been

proven guilty beyond a reasonable doubt, and the judge would instruct the jury on the law. As I said, the jury would accept the law as the judge instructs. And then they themselves would make a decision of whether or not the state has proven guilt beyond a reasonable doubt.

If the jury felt the state had not proven guilt beyond a reasonable doubt, then the jury would enter a verdict of not guilty and it would end there. Or if the jury felt the defendant was not guilty of murder and aggravated circumstance, it would end there.

If, however, the jury felt the state had proven guilt beyond a reasonable doubt of murder and the aggravating circumstance, we then would go into another phase where the jury then would consider the appropriate punishment based on that finding. And in that phase, the jury would be presented evidence in aggravation and evidence in mitigation. And after they had been presented all of that evidence and the judge gave them a further instruction on the law, the jury then would come back with either a verdict for life imprisonment or a verdict for the death penalty.

Now, I gave you a list of three types of jurors, and the first type is a juror that in that phase, that juror would feel that they're required -- or feel that they should give the death penalty in each and every case. They

feel that once a murder's been committed, the death penalty is the most appropriate punishment no matter what the evidence in aggravation or mitigation had been presented, no matter what the circumstances are.

The next juror is the juror that feels that in that phase that he, after hearing all the evidence in aggravation and mitigation, they would always come back with a verdict of life imprisonment because they do not feel the death penalty is ever appropriate as a punishment in a case, no matter what the circumstances are in evidence in aggravation and mitigation are.

The third juror is the juror that would have to wait and listen to the evidence in aggravation and mitigation before they could make up their mind concerning punishment. That juror would want to hear the facts and circumstances in aggravation and mitigation as well as listen to the instruction of law by the, by the judge. And if after hearing the evidence in aggravation and mitigation and instruction by the judge, if the juror felt that that evidence so warranted it, that juror could bring back a verdict of life imprisonment. Or if the juror felt the evidence so warranted it, that juror could bring in a verdict of the death penalty. Do you understand those three types of jurors, Mr. Randall?

A. Yes, sir.

Q. Which of those three types best describes you?
A. I would say juror type number three.
Q. All right. So, you would listen to evidence in aggravation and mitigation before making up your mind about what the proper punishment is?
A. Yes, sir.
Q. You also realize that you'd never even get to that phase, though. That's -- unless you decided the state had prove guilt beyond a reasonable doubt?
A. Yes, sir.
Q. And if state did not prove guilt beyond a reasonable doubt, you bring back a verdict of not guilty. Is that right, sir?
A. Yes, sir.
Q. Now, if you were to determine as a juror that, that death as a sentence was the appropriate verdict, all jurors would have to sign the verdict form. That would be the verdict of, of -- if they determined that was the appropriate verdict. Could you sign that verdict form, sir?
A. Yes, sir.
Q. Now, if you are selected on this case, this would be one that would require the jurors to stay in a hotel for several days. Could be a week, could be longer, could be less, somewhere around that time, and you have some contact

with family and business, but it would be supervised by telephone. And you feel that would be a hardship you could not overcome, sir?

A. No, sir.

Q. Okay, all right, and what if it's not a Marriott? Would that be all right with you?

A. I stayed in enough Marriotts.

Q. All right. Well, it may be the Marriott, who knows. I don't know one way or the other.

A. No, sir. I understand but no, sir, I've stayed in those for twenty-five years.

THE COURT: I'm going to let the attorneys ask you a few questions.

Any questions from the state?

MR. HEMBREE: No, Your Honor. Thank you for your patience, Mr. Randall.

THE COURT: Any questions from defense?

MR. RATHBUN: Yes, Your Honor.

THE COURT: Yes, Mr. Rathbun.

EXAMINATION BY MR. RATHBUN:

Q. Good evening, Mr. Randall.

A. Good evening, sir.

Q. You indicated you had a part of the 2001 nightclub?

A. Yes, sir.

Q. And as a result of that, you were stalked by an

employee?
A. I don't know as a result of having a nightclub, but it was a, it was as a result of terminating that employee.
Q. Okay, and you had some interaction with the solicitor's office and Mr. Hembree?
A. Yes, sir.
Q. And that was, that outcome was satisfactory to you?
A. Yes, sir. It was fine.
Q. And Detective Livingston helped you with that?
A. It was, there were two detectives involved, as I recall. I think the other one was Andy Christiansen. I didn't see his name on that list.
Q. Right.
A. But I think they were the two who actually picked up the employee.
Q. But you had a good outcome and you have good feelings about the solicitor's office?
A. It was fine. I mean, the man pled guilty and that was it.
Q. Okay. You understand that as we stand here tonight, Mr. Winkler is presumed innocent of these, of these allegations?
A. Yes, sir.
Q. Okay, and you also understand that should you and the other jurors, after proper deliberation, determine in the

guilt phase that he's found guilty, we're going to go on to the other phase, which is the sentencing phase?

A. Yes, sir.

Q. And in the sentencing phase, there could be more than two verdicts, either life without parole or the death penalty?

A. I understand.

Q. And in the guilt phase, it's possible that he could be found guilty of a lesser included charge, and we wouldn't get into the second phase with the jury. Do you understand that?

A. Yes, sir.

Q. Do you understand that in the second phase, the state is going to put up matters of aggravation that's going to exacerbate, exacerbate the guilt and complicity of the defendant ---

THE COURT: I'm sorry, you mean the state is going to put in evidence they submit ---

MR. RATHBUN: That's correct. I, misstated.

BY MR. RATHBUN:

Q. And the defense will be putting up matters of mitigation to put a more favorable light on the defendant.

A. Is that a question?

Q. Do you understand that that's what's going on?

A. Yes.

Q. And it's your testimony that you can make up your decisions, and it would be your decision only?

A. Yes, sir.

Q. And you'd do that after deliberating with the other jurors, that you would be able to make up your decision and would be able to sign your name if you had to for whatever that was?

A. Yes, sir.

MR. RATHBUN: No further questions. Thank you.

THE COURT: If you would, Mr. Randall, just step outside the door for a second.

(THE JUROR EXITS THE COURTROOM.)

THE COURT: Okay, position of the state?

MR. HEMBREE: Mr. Randall is qualified.

THE COURT: Defense?

MR. RATHBUN: He's qualified, Your Honor.

THE COURT: All right, bring him back in, please.

(THE JUROR ENTERS THE COURTROOM.)

THE COURT: Okay, Mr. Randall, what I'm going to do then, we're going to let you go home now. It's quarter to 9, and want you to come back Thursday at 11:30, Thursday at 11:30.

And sir, when you come back at that time, you'll be in a pool from which the jurors will be selected. If you are selected, I will let you go home and get your, your, your

bag and all and come back. It might be good to go ahead and pack some things so it won't take longer to get there and get back, okay?

JUROR: Yes, sir.

THE COURT: All right, we'll see you Thursday at 11:30. In the meantime, do not look at any local media about this case. Don't look at any news. Don't read any local papers, and don't discuss case with anyone at all, okay, sir?

JUROR: All right.

THE COURT: Thursday at 11:30.

JUROR: Here?

THE COURT: Yes, sir. Wait outside the door there. Come on in. There'll be somebody outside to let you know to come in or not, okay? See you then.

JUROR: Thank you.

THE COURT: Yes, sir.

(A PAUSE.)

THE COURT: We ended up getting eight out of the first ten. That's a pretty good record. We keep going in that regard, we might have enough jurors by Wednesday morning with no problem. Wednesday morning we will wait and see.

Anything before we adjourn from anyone? Anything from the state?

MR. HEMBREE: Nothing from the state, Your Honor.

THE COURT: Anything from the defense before we adjourn?

MR. WILSON: Nothing, Your Honor.

THE COURT: All right, we'll then see y'all tomorrow at 10:00, 10:00 a.m.

(WHEREUPON, THE CASE IS AT EASE.)

TUESDAY, JANUARY 29, 2008

(COURT RESUMES AT 10:30 A.M.)

THE COURT: All right, any matters that we need to discuss before, before we get started with our first juror on panel C?

MR. HUMPHRIES: No matters from the state, Judge Lockemy.

THE COURT: Defense?

MR. HEMBREE: Nothing from defense.

(A PAUSE.)

THE COURT: All right, if you would, see if Ms. Spivey is ready, if you would.

(JUROR #426 ENTERS THE COURTROOM.)

EXAMINATION BY THE COURT:

Q. Now, this is not an interrogation or anything else. All this is just you and me, and I'll let lawyers talk with you a little bit, too, just to learn a little bit about you. And I see here that you were born in Georgetown County.

A. Yes.

Q. And you work there for clerk eye. What is that?

A. It's operational clerk. It's clerk one at Blue Cross Blue Shield.

Q. Oh, yeah, Blue Cross Blue Shield. That's one of the biggest employers in the state, isn't it?

A. Yes, sir.

Q. I just had to go to a dentist this morning, so I got in a little later. They wanted my insurance information, and I never can find that card. It's Blue Cross Blue Shield.

Now, what I want to do a little bit is to remind you first you're still under oath. You remember yesterday the clerk put you under oath?

A. Yes, sir.

Q. And first of all, I asked you about the attorneys, they've already introduced themselves to you, but just to ask you again. Do you know Mr. Humphries or Mr. Hembree or Mr. Wilson or Mr. Rathbun? Do you know any of them at all or have any relationship with them at all?

A. No, sir.

Q. All right, and Mr. Winkler, do you know him, the defendant?

A. No, sir.

Q. All right. Now if you can, see the microphone there?

I'm not sure if they can hear you as well as I can, so you might want to get just a little closer.

Do you have any interest or bias or prejudice at all in this particular case?

A. No, sir.

Q. All right. Have -- let me just explain to you a trial, the procedures of a trial. The jury is selected and is sitting in that box over there, and they're presented evidence through witnesses, exhibits and things of that nature. And the judge instructs them on the law. And one thing the judge will tell the jury is that in courts of law in this state, and really in this nation, a person charged with a crime is presumed innocent of the crime, and the burden is upon the state to prove guilt beyond a reasonable doubt and not upon the defendant to prove himself innocent. Now, could you follow that rule of law?

A. Yes, sir.

Q. All right. Now, have you formed or expressed any opinion in this case about the guilt or the innocent -- innocence of the defendant?

A. No, sir.

Q. All right. Do you know of any reason why you couldn't be fair and impartial to both sides?

A. No, sir.

Q. If after hearing all the evidence of the case and my

instruction on the law, after hearing all the evidence, if you felt the state has proven guilt beyond a reasonable doubt, could you find the defendant guilty of the charges?

A. Yes, sir.

Q. Okay. If after hearing all the evidence in the case and my law as I instruct it to you, if you felt the defendant was not guilty in the case, could you return a verdict of not guilty?

A. Yes, sir.

Q. All right. Have you discussed this case with anyone?

A. No, sir.

Q. Now this case, like several cases with the allegations in a case like this, has had some coverage by TV stations, newspapers, radio, things of that nature. Have you seen anything in the newspapers or radio or TV about this case? Heard anything on the radio, seen anything on the TV, read anything in the papers?

A. Just heard on the radio where they're going to start the trial.

Q. All right, before that, had you heard anything about it or read anything about it?

A. No, sir.

Q. Okay, and do you remember, did you, did you remember hearing anything other about it other than that they were going to start the trial?

A. No, sir, because I don't look at that.
Q. Okay.
A. That much.
Q. And has that caused you to form any opinion or anything about the case?
A. No, sir.
Q. Now, I gave you back there enough time, I hope, to look over a list of witnesses. Where you able to look over that list of names?
A. Yes, sir.
Q. Did you see anybody there you knew?
A. No, sir.
Q. Could I have that list, please?
THE COURT: Madame Court Reporter, am I not speaking loud enough? I noticed you're looking at me.
COURT REPORTER: If you could speak a bit louder.
THE COURT: Okay. You notice I stepped up my voice a little when you did that.
Q. And so you didn't circle anything whatsoever?
A. No, sir.
Q. All right, okay. Now, I told you about when the case starts with the jurors listening to evidence and the law from the judge, and the jurors making the decision about whether guilt's been proved beyond a reasonable doubt.
Well, if the jury were to decide that the defendant

were guilty of the allegations of murder and then also found the defendant guilty of aggravated circumstance, then we would go to another phase where that jury then would listen to evidence in aggravation and mitigation and would decide what verdict they would give regarding punishment. It would be two possible verdicts: either the death penalty or life imprisonment. And there's no preference in regard to me discussing that.

And I told you or showed you three types of jurors back there. The first you see is that juror that, although evidence would be presented in aggravation and mitigation, that juror would feel that no matter what they heard, they would be required to give the death penalty in every case. And that in all cases, that'd be the most appropriate punishment no matter what the circumstances are and what the evidence is in aggravation and mitigation.

The second type of juror would be the juror that, no matter what the evidence was in aggravation, mitigation, that person would feel they never could give the death penalty. And whether they heard or didn't hear the evidence in aggravation, mitigation, that person would have his mind made up about punishment and, and would never impose the death penalty.

And the third juror is the juror that they would listen to the evidence in aggravation and mitigation, and

she would not have made up her mind in advance concerning punishment, and they'd want to listen to and follow law as the judge instructed them. And that juror would listen to all the evidence presented. And if after hearing all the evidence and the law, if that juror felt it so warranted it, that that juror could come back and say that their verdict was for life imprisonment. Further, if that juror felt the evidence so warranted it, that juror could come back and say their verdict was for the death penalty.

Now, of those three types, which best describes you?

A. Three.

Q. Okay. You had to read them over again before you looked at this. Would you agree that that's the type of person you've been is a three? That you'd listen to everything and you could give life imprisonment or you could give the death penalty?

A. Yes, sir.

Q. On the -- depending on the circumstances?

A. Yes, sir.

Q. So, if you hear circumstances that so warranted, you could say life imprisonment? And if you heard circumstances that so warranted it, you could say the death penalty?

A. Yes, sir.

Q. Okay. If the jury were to decide that the death

penalty was the appropriate verdict, each juror would have to sign the verdict form for the death penalty. Would you have -- could you sign that verdict form and if that was the decision, would you sign that verdict form?

A. Yes, sir.

Q. Okay. Now this case, if -- I'm looking to get started, it's going to be a week, a week long, maybe a little more, maybe a little less, who knows. But during that period of time, you would be housed in a hotel not too far away. But we'd get you transportation back and forth and provide your food. You could have limited contact with your family on the phone. And that normally somebody would be supervising you when you talked to see what you're talking -- make sure you don't talk about the case. Do you feel you could do that? I know it would be inconvenient, but could you do that for us?

A. Yes, sir.

THE COURT: All right, what I'm going to do now is I'm going to let the attorneys ask you any questions, if they have any questions. And then after that, I'll speak to you again.

All right, any questions from the state?

MR. HEMBREE: Yes, Your Honor, thank you.

EXAMINATION BY MR. HEMBREE:

Q. The morning, Ms. Spivey.

A. Good morning.

Q. I'm Greg Hembree. I was introduced to you yesterday and together with Fran Humphries and Scott Hicks, who's sort of all the way to the right there, the three of us will be trying this case on behalf of the state.

Couple of, a few questions. Just most of it's going to sound -- you've been asked this in a different form already by Judge Lockemy, but I just want to make sure I have a clear understanding of how you feel about the death penalty because that's really what we're trying to sort out here in this process here, in this conversation.

First off, you understand, and I think you've already said this, but you understand here that, that Louis Winkler as he sits here today is, is presumed innocent?

A. Yes, sir.

Q. And that the way this, excuse me, the way this process would work, that we would have, excuse me, we would have a the guilt phase where the jury's question to decide is did Mr. Winkler commit the crimes charged or not. And only after he had been found guilty of murder, at least murder, would he -- would the jury move on to the second part of the trial where there's a penalty phase. Did that -- the judge explained that to you. Is that -- it's kind of unusual. Does that make sense?

A. Yes, sir.

Q. Great. So, for purposes of my questions, we've got to assume, you know, kind of in this hypothetical that Mr. Winkler has been found guilty of murder.

You indicated that you felt like you were a type three juror. Is that correct?

A. Yes, sir.

Q. And as Judge Lockemy described, that's a juror that can, can listen to all the facts and circumstances, can keep an open mind about punishment and consider both sides, both the aggravating circumstances that might be presented by the state. Some of them may be things that make the crime worse, or mitigating circumstances offered by the defense that might lessen the culpability and responsibility, or at least the view of the defendant on the defense side. You can listen to both of those?

A. Yes, sir.

Q. Fairly consider those?

A. Yes, sir.

Q. And that only then would you make up your mind about penalty?

A. Yes, sir.

Q. The one thing that it's important for you to understand is that it will be the jury's decision, and the jury never has to decide. There is -- the law does not say that you have to decide death under any circumstance.

You're never going to be made to do that. Do you understand that?

A. Yes, sir.

Q. So, and you as a juror when you make that decision to, to, or -- it's one thing to consider the death penalty. It's maybe another to impose it. Do you believe that if you were given sufficient facts and circumstances that you would be able to not only consider the death penalty but to impose the death penalty upon this defendant given the appropriate facts, sufficient facts and circumstances?

A. Yes, sir.

Q. Of course the fundamental thing we want to achieve here is a fair trial for everybody. Fair for the victims, fair for the defendant, fair for the State of South Carolina, and I know you've testified that you can be fair to all three of those.

A. Yes, sir.

Q. And that's the most we can ask of you, and we appreciate your time, and I appreciate your patience with me.

MR. HEMBREE: Please answer any questions defense counsel might have for you.

THE COURT: Mr. Wilson?

MR. WILSON: Thank you, Your Honor.

EXAMINATION BY MR. WILSON:

Q. Ms. Spivey, my understanding is you have two children or three?

A. Two.

Q. Two?

A. Well, I have three children.

Q. You have three children?

A. Yes.

Q. And two of your children are in law enforcement?

A. Yes, sir.

Q. All right, and one of your children work for the Horry County Police Department?

A. Yes, sir.

Q. How long has that child worked there?

A. Five years.

Q. Okay, and Horry County Police Department, let me ask you. Did you hear anything from your -- is that your son and your daughter?

A. A daughter.

Q. Right, and did she discuss this case with you at all?

A. No, sir.

Q. She never mentioned the fact that this was going on and that the Horry County Police Department was -- had arrested for this young man, charged, that he was ---

A. No, sir.

Q. --- charged with offenses?

A. No, sir.
Q. And even after you were selected to come to court as a potential juror, she never brought it up to you that this was a case that was going to be coming up?
A. No, sir. Actually, when I got my papers and I was reading over it, she couldn't even remember, you know, the name. So, no, sir.
Q. So, you did ask her about it?
A. Yes, sir.
Q. All right, and she couldn't remember who it was that was coming up for trial? Is that what you're saying?
A. Right.
Q. All right, and my understanding is that you also have a son that works for, what, Myrtle Beach Police Department?
A. Myrtle Beach.
Q. All right, and how long has that son been in law enforcement?
A. It's been a long time; I want to say ten years or more.
Q. And has he been with Myrtle Beach the whole ten years?
A. Yes, sir.
Q. All right, and did you discuss any of this with that particular son about this particular case?
A. No, sir.
Q. All right, and so you have two children both in law

enforcement, one working for the agency which charged that this defendant and -- but there was never any discussion by you or them about this particular case, and you had no information about it before coming in here today is what you're saying?

A. No, sir. My children don't discuss their job with me.

Q. All right, and how often do you see your children?

A. I see my daughter maybe three or four times a week when she picks up her daughter from me.

Q. Okay.

A. I see my son maybe once a week.

Q. Okay, and so your daughter keeps your child -- keep, you keep your daughter's child?

A. I picks her up from the babysitter.

Q. Okay, so you see her on a fairly, fairly recent -- sorry, fairly regular basis. Is that correct?

A. Yes, sir. Mostly late at night when she picks the baby up.

Q. Okay. All right. Now, and let, let me ask you this, ma'am. Having two children in law enforcement and one working for the agency, the arresting agency in this case, do you know any other county, other county police officers?

A. No, sir.

Q. You don't know any county police officers other than your, your daughter?

A. No, sir, I don't. I've seen them but I don't know, you know, I don't know them. Like, I can walk up to someone and say their name. I don't know them.

Q. Okay, all right, and now the fact that your daughter works for the Horry County Police Department and the fact that your son's in law enforcement also with Myrtle Beach, does that any way make you in any way biased towards law enforcement in any way whatsoever?

A. No, sir.

Q. And does it cause you any hesitation about whether or not you can be fair to the defendant as opposed to being fair to the state in this particular case?

A. Yes, sir.

THE COURT: Now, wait a minute. You mean fair to both, sir.

MR. WILSON: Well, what I'm asking, Your Honor, is whether or not because of her, because of her family's background with law enforcement whether or not that was -- in some way prejudice her in favor of the state as opposed to the defendant.

THE COURT: Okay.

A. No, sir.

Q. And, ma'am, just one last thing. Let me ask you this. In terms of your views about the death penalty, this is something that you have believed for a substantial period

of time?

A. Yes, sir.

Q. All right, and can you tell me in any way what your, what your feeling about the death penalty is, or do you have a particular feeling about it?

A. No, sir.

Q. You don't?

A. Just hear the facts and go from there.

MR. WILSON: All right, I, I don't have any other questions. Thank you.

THE COURT: Okay, thank you, ma'am. If you would, just step out the door for me, and hand me that sheet, if you would. See where the officers is? I'm going to let you step out that door for one second, and I'll bring you back in.

(THE JUROR EXITS THE COURTROOM.)

THE COURT: Position of the state?

MR. HEMBREE: Ms. Spivey is qualified, Your Honor.

THE COURT: Defense?

MR. WILSON: Judge, I would object to her qualifications. I think that I know that, that just the fact a person's daughter works for the Horry County Police Department is not an automatic disqualification. But this is a death penalty case. This is a case where her daughter has been a member of the arresting agency for five years.

She says that she never discussed this case, which I find incredulous to believe that. Her daughter has worked with the arresting agency five years. She gets her notice for jury service. She has a son who's been in law enforcement for ten years with the Myrtle Beach Police Department. And so to have this juror sit in judgment on this case with her daughter being a member of the arresting agency I think is really highly prejudicial and unfair for this particular defendant in this circumstance.

And again, I agree with -- or I, I don't have any problem recognizing that generally the fact that somebody is in law enforcement is not a bar to them serving. That's not the case. It's one step beyond that. This is a case where she is actually -- her daughter actually works for this agency and to say that -- that's like having one of the solicitor employees be on this jury. What is -- I, I can't see the difference between the two, saying that a member of the solicitor's staff can serve.

But a person whose mother -- and she is the mother which is the, which is the other thing. That concerns me even more. The fact she is the mother of this daughter who works for this agency, I have a real problem with that. And I understand that she just said that she can be fair and she can do all these things. I honestly have a hard time accepting that even though she has said it. And I

would ask the court to not qualify her.

THE COURT: The state?

MR. HEMBREE: Your Honor, the juror in her responses was clear. She was direct. She was very alert. She paid very close attention to, to all three of us when we -- she -- we asked her questions. Listened carefully, and she, she was very direct in her responses. To somehow suggest that she just an outright liar, it, it -- her, her, the way she responded, the method she responded, it is totally -- it's totally inconsistent with the way she answered the questions. I don't ---

THE COURT: What about Mr. Wilson's point that we excluded two jurors whose spouses -- were they spouses or children? Children. No one had an objection there to that. But there some difference in the fact that her daughter works for -- is it -- and I assume Horry County is the chief agency here?

MR. HEMBREE: Well, we would have been -- actually, we would have, we, we would have been glad to keep Richard Floyd and the other young lady who was here. I didn't, I didn't, didn't, I didn't object to that. I deferred to the court on that and kind of gave that one away. Quite frankly, if the court would give -- if the court wants to hear arguments on that, I agree with you. I think there's no reason in the world they can't serve. We can, we can

bring them in and ask them questions and if they're qualified, I think they should be allowed to qualify.

Under *State vs. Elmore*, this very question was dealt with where the court held that the assistant solicitor that was trying the case was the juror's daughter's best friend. This juror knew the assistant solicitor well. As I said, the court found that that juror was qualified to serve, and that was affirmed on appeal. So, there is a case that's directly on point on this particular issue.

Your Honor, this, this lady doesn't know anything about the case. She's testified clearly that the fact that her children work in law enforcement wouldn't affect her on the case. And the Horry County, when you talk with the Horry County Police, we're not talking about four or five officers. We're talking about three hundred people who work in that department. It's a huge department, so it's not, it's not so crazy or unusual that her daughter works there, yet she doesn't know, you know, about this particular case because this was a case handled by the detectives and she's, Your Honor, she is, she's clearly ---

THE COURT: Well, one of the differences I see is that this case, the management of the case is, through our Constitution, through the solicitor's office. The decisions are made through the solicitor's office. Once an arrest has been made, the police agency basically then is

used by the solicitor to present the case the solicitor thinks should be presented. Or if the solicitor wishes to, he or she can dismiss the case. And it's sort of a management then, and they're the ones presenting these matters to the court and through witnesses. And the witnesses may be through the police agency that made the arrest. It may be also through other agencies and other witnesses in the, in the community.

And I can see a little difference there between the mother of someone on a police agency of a large, large, large police force. Probably one of the top five in the state and, and she doesn't even know anybody else who works there apparently. And her daughter didn't discuss the case with her. She hasn't discussed it with her daughter, and she says that the only thing she knows about this case is she heard on the radio that it was coming to trial. The juror also has a right to be there.

The other thing, the child or someone worked with the solicitor's office who is pursuing the case, that juror knows the solicitor who is pursuing this case. That solicitor has the exclusive right of hiring and firing anybody right then and is the one with the chief job of prosecuting the case.

I see a little difference there, Mr. Wilson, I do. I'm going to qualify the juror. I find that she's

qualified. That will be juror number 9.

Bring her back in if you would, please.

(THE JUROR ENTERS THE COURTROOM.)

THE COURT: Ms. Spivey, I'm going to ask you to come back Thursday at 11:30. Now, if you would, that -- this doesn't mean that you're actually going to be on the trial of this case. It means that you'll be in the pool from which the jury is selected. And as I said, y'all will be housed beginning Thursday. So, make arrangements in that regard because Thursday you will probably from that time on be housed until this trial is over.

Do not discuss this case with anyone, no one in your family. Do not discuss it at all. Don't discuss it with any of your friends or anyone else. Do not listen to any local news media or read any local papers about the case, all right, ma'am?

And you might want to go ahead and pack up just in case you are drawn so that when we do, if you are drawn, I'll probably let you go back and hopefully somebody can bring you back and drop you off at the courthouse, so you might want to try to make arrangements with some of your family. But I would prefer it not be with your daughter or your son, so someone else. And do not discuss the case at all, okay?

JUROR: All right.

THE COURT: All right, we'll see you Thursday at 11:30.

JUROR: Thank you.

THE COURT: Okay, you go out the other way.

We need to confirm the candidate you have back there, juror number 335. I'm going to let her go if everyone agrees that she should be excused from this trial. As I understand, the state makes that motion. The defense does not object ---

MR. HEMBREE: That's correct.

MR. WILSON: That's correct.

THE COURT: --- to the motion.

MR. WILSON: I have no objection.

THE COURT: Let's go ahead and have 335 then. You can tell 335 -- why don't you go ahead and bring her out and then the next juror, number 9. Okay, bring Ms. Neal with her.

MR. HUMPHRIES: Judge, you asked if there were any special considerations, and we ---

THE COURT: Oh, I'm sorry. Yeah, stop if you would. Tell them to wait a second on Ms. Bacot.

MR. HUMPHRIES: She requested an excusal based on her job. She had a bank merger. I just -- that was the reason she came forward. I think you dealt with that, and -- but just so you know.

THE COURT: The way I dealt with it, I told her that if she is selected for the trial, she's -- this thing is going on until June.

MR. HUMPHRIES: Correct.

THE COURT: And I cannot imagine ten or two weeks would make a big difference in a six-month merger.

You can have them come to the door. I just wanted them not to come in the door.

Anything else you'd like to say about Ms. Bacot, Mr. Wilson?

MR. WILSON: No, sir.

THE COURT: She's the one that said the bank merger's going on.

You can bring her on out, bring them on out.

(JUROR #9 ENTERS THE COURTROOM.)

EXAMINATION BY THE COURT:

Q. Ms. Bacot, how you doing?

A. I'm doing good. How are you today?

Q. How's the banking business doing? According to the economy, the last couple of weeks, there's been all kind of news about financial stuff. I guess you watch that all the time, don't you?

A. I do.

Q. Have a seat and relax.

A. Except for yesterday.

Q. Except for yesterday. Last week was an interesting week.

A. Yes. 75 point drop in ---

Q. Yeah, I wonder how often -- I think I heard in the news that's happened maybe twice in recent memory where somehow they actually reduce it without having a meeting.

A. That's right.

Q. It's just, it's reduced.

A. Yeah.

Q. And you know Ben Bernanke's from Dillon?

A. I do know that, yes, sir.

Q. And now ---

A. Do you know him?

Q. I know him. I know his family.

A. Oh, you do?

Q. Know his family very well, too. In fact, his brother Sanford's a lawyer up in North Carolina. Worked with me when he was in law school. Came with me with intern work. His father run the drug -- ran the drug store. In a small town, you called the druggist doctors.

A. That's right.

Q. I just called him Dr. Bernanke all my life. Gave me suggestions about this and that, something else.

Looking at your chart here, I see you're originally from Marion.

A. Yes, sir.

Q. All right, and what brought you here? The bank or what?

A. Yes, sir, the bank.

Q. Have you worked in the bank over there in Marion?

A. I worked for a savings and loan in Marion.

Q. The one there with the statute in front of it with the trees and all that sitting back off the road?

A. That's Pee Dee Federal. No, I've worked for -- I think there's a orthodontist office that's the old post office.

Q. Oh, yeah.

A. It's Palmetto.

Q. Yeah, it's right where the old post office and the bank there, too, yes. That's something interesting. I've never seen a dentist's office look so...

A. I know.

Q. I mean, a lot of people go over there to make a deposit and he'll say I'll take it out. You know.

A. That's right.

Q. Your tooth because it looks like a bank.

Now, I know that, you know, we talked yesterday regarding the bank merger going on and everything else. I let you know that, you know, I just feel that it's going to gone on until June. I really feel that if-- now, once

again this -- even if you are put in the pool, doesn't mean you're going to be selected as a juror. But, you know, we really need you as a juror.

Your spouse was an Army Ranger?

A. Yes, sir.

Q. All right, and he's a lawyer?

A. Yes, sir.

Q. Okay. Does he practice down here, John Bacot?

A. Yes, sir.

Q. Is his sister also a lawyer?

A. Yes, sir.

Q. Okay, I know Mr. Bacot.

And you're Presbyterian?

A. Yes, sir.

Q. Did you go to the Presbyterian church there in North Marion when you were there?

A. No. I was a Methodist, Southern Methodist. I now go to a church out in the Spring Branch community.

Q. Oh, okay. All right. Now, you do remember yesterday we put you under oath. Remember that?

A. Yes, sir.

Q. And I just want to ask you just a few questions just to get to know you a little better.

A. Okay.

Q. Do you know Mr. Humphries, Mr. Hembree, Mr. Wilson,

Mr. Rathbun, these lawyers involved in this case?
A. Well, I know Mr. Wilson and his wife.
Q. Okay, and how do you know them? Socially or what?
A. His -- I actually know his wife through the gym. Many years ago, we went to the gym together and ---
Q. And you don't go to the gym now?
A. No. Can you tell?
Q. No. I started going to one this year, a New Year's resolution.
A. Good for you, yeah.
Q. Dillon has a fitness center, a very nice one, but so you knew her through that, so not really the fact that your husband's an attorney with the, say, lawyer organizations?
A. Well, that's kind of how I know Ralph, just from what's -- you know, I met Mary John, and that community is Christmas parties and, you know, things like that.
Q. Okay. Do you feel that knowing him has caused you to be such that you couldn't be fair and impartial in this case to both sides?
A. No. I, I could be.
Q. All right. Do you have any interest or bias or prejudice in regard to this case at all?
A. No, sir.
Q. All right. You know that if you are selected on the jury, the jury would be sitting in that jury box there,

and, and they would be the one required -- that would be listening to the evidence, the testimony, exhibits, and things of that nature and also to the instructions given by the judge. The jurors would have to follow the law as instructed by the judge. Did you feel that you could follow the law as I instructed you?

A. Yes, sir.

Q. One thing I would tell the jury is that it is a principle of law, a very important principle of law in our nation is that a person charged with a crime is presumed innocent. And the state has the burden of guilt, of proving a person guilty beyond a reasonable doubt. A person does not have to prove himself innocent. Would you follow that rule of law?

A. Yes, sir.

Q. Okay. Have you formed or expressed an opinion in this case about the guilt or innocence of the defendant?

A. No, sir.

Q. And do you know the defendant or ---

A. No, sir.

Q. Have you discussed this case with anyone?

A. Yes, sir.

Q. Okay, who is that?

A. My husband.

Q. All right, and when was this?

A. Right before all this. Obviously when it happened we discussed it. And, quite frankly, we discussed it before yesterday.

Q. Okay, and could you tell me in general what y'all talked about?

A. Just the procedures as to how a jury would be selected and, you know, what could happen and that kind of thing.

Q. All right.

A. Just courtroom general things. Not, not about the trial part itself.

Q. Well, in your discussions with him, though, did that cause you in any way to feel one way or the other about the guilt or innocence of the defendant? Or one way or the other about potential penalty?

A. No, sir.

Q. Not at all?

A. No, sir.

Q. You're open minded?

A. I am.

Q. All right. Now, the fact that you discussed it leads one to believe that you have read something in the media or seen something on TV or heard something on the radio. Is that right?

A. That is correct.

Q. And was this recently or back awhile back or what?

A. Well, recently there have been things in the paper. I think it was something in the paper as recently as Sunday.

Q. Okay, and what about before that? Have you seen something in the papers, say, even a year ago or whatever or more?

A. I'm sure I did, yeah, because I do read the paper.

Q. Do you recall the substance of what you've seen in the media about this case? Summarize what you think you felt you've seen in the media about it.

A. As far as what happened or what, what the case is about?

Q. Well, what -- was it about what happened? Did it cause you to form some opinion about what did happen or, or not?

A. Well, if, you know, what was in the paper was true, I, you know, I guess yes, I did form an opinion of some sorts. I mean, but I don't have all the facts. I've never been in a situation before. So, not quite certain what answer you're looking for.

Q. Just a real answer. So, what you've read in the paper are basically the allegations of what -- people's, the allegations about the events?

A. Right.

Q. But has that caused you to form opinion such that you

feel you have formed opinion as to what did occur?

A. No, sir.

Q. All right. If you're on that jury, whatever you read or talked about with your husband, could you put all that aside and listen to the evidence and make your decision based on the evidence in the court presented in the courtroom and the law as I instruct it to you without regard to any discussions with your husband or with anything you've seen in the news?

A. Yes, sir. I could.

Q. All right. Now, I gave you a list there of names, about three pages of names.

A. Yes, sir.

Q. Did you know anybody on that list?

A. I did not know anyone on that list.

Q. So, you didn't know anyone at all on that list?

A. No, sir.

Q. Can I have the list back, please? No circles on there of anyone at all?

A. No, sir.

Q. All right. Now, on a trial of this nature, as I said the jury would be impaneled and evidence would be presented, and the judge would instruct on the law. If the jury were to determine the state had not proven guilt beyond a reasonable doubt, would you be able to find a

verdict of not guilty if you felt the state had not proven guilt beyond a reasonable doubt?

A. Yes, sir.

Q. And if you felt the state had proven guilt beyond a reasonable doubt, would you be able to bring back a verdict for guilty?

A. Yes, sir.

Q. Now, if the jury were to determine guilt was not proven beyond a reasonable doubt and they brought back a verdict of not guilty, or if the jury found guilty of something less than murder without aggravating circumstances, well that would end the case.

However, if the jury determined beyond a reasonable doubt that guilt had been proven of murder and an aggravating circumstance, we would then move to another phase. And in that phase, you would hear evidence in aggravation and mitigation, and then the jury would bring back a verdict in that phase of, of either a verdict of life imprisonment or the death penalty.

Now, I gave you a sheet there with three types of jurors, and you see that the juror number one there is the juror that, although the evidence in aggravation, mitigation had been presented, that juror would be one who would feel they should always bring back a verdict of the death penalty. They would feel that would be the

appropriate thing to do in all cases regardless of the evidence in mitigation and aggravation. That's one, juror one.

Juror type two is a juror that, although evidence was presented in aggravation and mitigation, that juror would feel that regardless of that evidence that the appropriate penalty would always be life imprisonment, and they could never bring back a verdict of the death penalty.

Juror number three is a juror that would want to listen to the evidence in aggravation, mitigation before they made up their mind. And after listening to the evidence in aggravation, mitigation and the law as the judge instructed them, that juror, if the evidence so warranted it, could bring back a verdict for life imprisonment. Or if the evidence in aggravation and mitigation so warranted it, that juror could bring back a verdict of the death penalty.

Now, of those three juror types, which one best describes you?

A. Probably juror number three.

Q. Three. So, you would have an open mind and you would listen to the evidence in aggravation and mitigation, and make a decision whether to bring back a verdict of life imprisonment or the death penalty depending on the evidence that was presented and the law as I instruct it to you and

your deliberations with the other jurors?

A. Yes, sir.

Q. One thing also the law requires. That if the jury feels the evidence does warrant it, brings back the verdict for the death penalty, each juror has to sign the verdict form because it requires a unanimous decision. Could you sign the verdict form?

A. Yes, sir.

Q. Okay. This trial, as I mentioned to you, could last a week to ten days, maybe less, maybe more. You've already mentioned to me about the bank situation, and this would mean that if you are selected that you would be in, housed in a hotel. And you would have limited access to your business and to the -- your family, but it would be sort of a supervised thing. That someone would be listening on the other line.

A. Right.

Q. That type. But other than what we've discussed regarding the banking thing, would there be any other undue hardship that you would experience if we did this for about a week?

A. No, sir.

THE COURT: All right. Thank you very much. What I'm going to do now is I'm going to permit the lawyers to ask you a few questions if they wish to.

JUROR: Okay.

THE COURT: Mr. Humphries?

EXAMINATION BY MR. HUMPHRIES:

Q. Good morning, Ms. Bacot. What we're really trying to do here, and it's really sort of in a vacuum. It's not sort of in a vacuum. It is in a vacuum. What we're doing is we're taking potential jurors and pretending that we've moved through a guilt phase, reached a guilty verdict, and then moved into the penalty phase because what we have to do is try and attempt to sort of glean your position or your ideas about capital punishment.

And as the judge has instructed you, a juror that sits in this case must be a juror who can in that penalty phase consider both the aggravating circumstances -- those are things that worsen the crime or put the defendant in a worse light -- mitigating circumstances which may tend to reduce the culpability of the defendant or somehow lessen the severity of the crime. And then and only then after hearing both the evidence in aggravation and mitigation decide to impose either a life or death verdict, depending on those facts and circumstances.

The juror that sits in this case must be able to not only fairly consider both options, but under the right set of circumstances impose the death penalty. So, that's why we have to talk to you at the beginning about a penalty

phase when we haven't even had the guilty phase yet.

A. I understand.

Q. I don't want to take anything away from the way you responded when the judge asked you about what category or type juror you were. But I believe you told the court that you said you were probably a three.

A. Uh-huh.

Q. One thing that, that I want you to be certain of is that we've not called jurors, and particularly you, here today to try and convince you to be or to believe something other than what you believe because really what we're trying to find is where you are.

Capital punishment, have you given substantial thought to capital punishment in the past and where you sort of fall in terms of support of or opposition to capital punishment?

A. Well, I have given it thought.

Q. Where, and where did those thoughts lead you to in terms of conclusion? Had you reached a conclusion until you arrived here today about how you felt about capital punishment?

A. Probably not. I'm a, I'm a -- if I could ---

Q. Absolutely.

A. --- describe myself?

Q. Certainly.

A. Can this be conversation?
Q. Yes, and that's what we're having.
A. Okay. I'm a rules and procedures kind of person.
Q. I've got a son like that, yeah.
A. So, until I know the rules and I'm put in the situation, I find it difficult to ---
Q. Sure.
A. --- respond.
Q. And, and ---
A. So, I can't say one way or the other.
Q. That is the ---
A. I need aggravation and I need, well, the other thing.
Q. And that ---
A. The mitigating.
Q. Mitigation and that's an excellent point and that's something that -- and I'm not saying that you're confused about this. But there are jurors who believe when they come into a courtroom, and particularly -- well, in a capital case that there may be some circumstances under which the court will put them in a position where they -- say, for instance, the state proves certain aggravating circumstances and then the juror must return a death penalty verdict.

What I need to tell you today is there is never any circumstance under which a juror will have to return a

death verdict. The juror always has the option, and let's just say just for the sake of argument that there is nothing in -- and this is certainly not the case here I'm sure. But let's say that in this case there is nothing mitigating about this case, nothing that lessens the culpability of the defendant. And let's say that the aggravating circumstances are horrific. Even in that case, under the law in South Carolina a juror is entitled to return a death verdict, often called a mercy verdict, life for no reason at all.

So, I want you to understand that -- and I appreciate that you're a rules and protocol person. Like I said, I've got a son exactly like that except when they, they don't apply to him but everybody else. There are never any sets of rules or a protocol which will require twelve jurors to return a death verdict. They will always have the option to return a life verdict.

Now, and, and I don't know if you had a clear understanding about that, but I want to make sure you did now for the purposes of our discussion. Knowing that there is never any circumstance, any set of rules or protocol which will require a juror to return a death verdict, could you not only fairly consider the death penalty but impose the death penalty under the right set of circumstances given the right amount of evidence?

A. It's a double-edged sword.

Q. It really is.

A. You know, as much as I would like to say no, I couldn't. I can't answer the question.

Q. And that's all we're trying to get at.

A. I, I think I could.

Q. Okay.

A. If the circumstances were right, say, one or over the other, given two choices. I, I don't know how else to...

Q. You have answered it.

A. Okay.

Q. You have answered it. Thank you very much. And again, really the one central thing that both the defense and the state require of you in the trial of the case is that you can be fair and impartial to both the state and the defendant and render a fair and true verdict based on your, your observations and your gleaning of the facts and your position regarding what the penalty should be. Can you do that?

A. I could do that.

MR. HUMPHRIES: That's all we can ask. Thank you, ma'am.

JUROR: Thank you.

THE COURT: Mr. Wilson?

MR. WILSON: Thank you, Your Honor.

EXAMINATION BY MR. WILSON:

Q. Ms. Bacot, let me ask you. You, as you sit here today, and after His Honor has given you some preliminary instructions, and you see the defendant sitting there, and the court tells you that he is presumed to be innocent, even as he sit here, even as he's charged, and even as we begin this trial and the court tells you that, can you accept that?

A. Yes, sir.

Q. And can you then, once accepting that, require the State of South Carolina, if they can, to prove to you beyond a reasonable doubt that something else is true? That he is, in fact, guilty as opposed to just assuming that he's guilty based of something you've read or you've heard? And you're willing to follow those instructions if it, if the court gives you those instructions?

A. Yes, sir.

Q. Now, you understand that in this process that the defendant has no burden of proof? He doesn't have to prove anything to you in this trial. That is the responsibility of the State of South Carolina to prove to you beyond a reasonable doubt, if they can, that he committed the crime and that he's guilty as charged?

A. Yes, sir. I understand that.

Q. Do you also understand that if they fail to do that --

well, let me rephrase that and ask you. If they failed to live up to that responsibility -- that is, if the state fails to prove to your satisfaction beyond a reasonable doubt -- can you find this defendant not guilty?

A. Yes, sir.

Q. If and only if the defendant is found guilty of murder in the first phase of this trial do we then go to the second phase of the trial, which would be the penalty or sentencing phase of the trial. In that phase of the trial, you will have two choices: life or death. And as, as the solicitor has indicated to you already, you could vote for life for no reason at all. Simply because it's just what you want to do. But you also have to be willing and able to consider death.

MR. HUMPHRIES: Your Honor, I, it's a -- I have to object to the form of the question, Your Honor. She can't just consider. She has to be able to impose death. That's the complete question.

MR. WILSON: Well, if, if ---

THE COURT: Just re -- just restate it.

MR. WILSON: All right, sir. All right.

Q. Let me rephrase and ask you this way. During the course of the, of this trial, if His Honor instructed you that there were going to be -- and let me get back. If His Honor instructed you there are going to be aggravating

circumstances during the -- offered by the State of South Carolina in this case, could you consider those aggravating circumstances?

A. Yes, sir.

Q. All right, and if His Honor also instructed you that there'd be mitigating circumstances offered by the defense, could you then consider those mitigating circumstances?

A. Yes, sir.

Q. And after having considered both the aggravating and mitigating circumstances and His Honor instructs you as to the law, could you then make a decision as to whether or not life is appropriate or death is appropriate?

A. Yeah, I, I think I could.

Q. Okay, and you say yeah, you could. Are you certain of that, that you could ---

A. I am certain. I think I am certain of that.

Q. All right.

A. I think I would know the difference. I think I could.

Q. All right, and in your beliefs about the death penalty, this is not something new. This is something that you have felt for a while, that you are a type three juror as the court has described?

A. Yes, sir.

Q. All right, that is a juror who can in certain circumstances impose the death penalty if you believe it's

appropriate?

A. Yes, sir.

Q. And after you've heard all of the evidence in aggravation and in mitigation?

A. Yes, sir.

MR. WILSON: I have no other questions.

THE COURT: Okay, if you would, Ms. Bacot, would you step outside the door, ma'am?

JUROR: Okay.

THE COURT: And hand me that sheet of names.

(THE JUROR EXITS THE COURTROOM.)

(JUROR #335 ENTERS THE COURTROOM.)

THE COURT: Ms. Neal, would you come around, please? Stand right over here in front of me. Right over here, right in front of the court reporter there.

Ms. Neal, be honest with you, I had some concern, ma'am, regarding your answers that you gave yesterday. You had told me that I didn't ask did they live with you, but I did ask. And I've checked to see that, you know, that you had custody of the children that were in your custody. And I'm concerned about that. Plus, we have your sister on the jury pool in this other group. I'm going to discharge you from this case, ma'am, and so you'll be discharged from this case.

Did not discuss anything about this case or anything

else with your sister or anything else with your family, all right, ma'am?

JUROR: Yes, sir. My sister and I don't get along anyway.

THE COURT: I sort of guessed that. If you would, please, you may step out the door.

Okay, position of the state on Ms. Bacot?

MR. HUMPHRIES: She's qualified.

THE COURT: Position of the defense?

MR. WILSON: She's qualified, Judge.

THE COURT: Bring her back in, please.

(THE JUROR ENTERS THE COURTROOM.)

THE COURT: Ms. Bacot, you're qualified to be in the jury pool that we're going to have here on Thursday. Now, that doesn't mean you're going to be actually on the jury. You'll be among the group from which the jury will be pulled.

I need you back here Thursday at 11:30. About how far do you live from the courthouse here? You live in Conway?

JUROR: No, sir. I live in Surf Side.

THE COURT: Surf Side. If you would, go ahead and pack some things up just in case you actually get on the jury. And what I'll do is, and I hope you can have someone, you can go back home and have someone bring you back to the courthouse if you're on the jury, you know, so

we can get you there and get you back so you won't have to have your car standing at the courthouse. So, sort of make some arrangements there and sort of pack some things. You don't need to bring your goods packed with you, though. Just get them packed and almost be ready to go.

All right, now do not discuss this case with anyone. Don't discuss it with John, your husband, and don't discuss it with anyone else at the bank or anything else. And don't look at any local media, news, radio, or whatever, or TV about this. And we'll see at 11:30 on Thursday in the courtroom here, 11:30 on Thursday. You go out this way.

All right, let's bring in Ms. Prussman. Anything on Ms. Prussman? I don't think we talked to her before.

MR. HUMPHRIES: I didn't, I didn't get anything.

THE COURT: Anything about, any review of her record, anything else y'all want to bring up before we bring her in?

MR. WILSON: No, sir.

THE COURT: Okay, bring her on in.

(A PAUSE.)

(JUROR #368 ENTERS THE COURTROOM.)

EXAMINATION BY THE COURT:

Q. Come around here if you would now, Ms. Prussman.

A. Thank you.

Q. If you would, have a seat and get comfortable there.

Talk to you a little bit.

A. Thank you.

Q. I was trying to read here where it says you're originally from.

A. It's ---

Q. It says Forest City. Is that North Carolina? It looks like it says Missouri.

A. It is Missouri, uh-huh, a little town of Forest City is where I was born and, and grew up there and then ---

Q. But it says something after. Holt or Hart?

A. It's Holt County.

Q. Holt County?

A. H.o.l.t. County

Q. Ah, city, county, state.

A. Uh-huh.

Q. That's Forest City in Holt County, Missouri?

A. Uh-huh. Uh-huh.

Q. What brought you here to South Carolina, Horry county?

A. Well, we -- my husband's mother originally was from around Greenville, and she had big, large family. And when his father was in the Air Force, he met his mother and they got married. And then they moved to Florida for seven years and then they -- he took his bride back home to Oregon, Missouri where he grew up and his family was, and that's where she raised her family.

So, we used to -- after we got married, we used to vacation out here every summer. One week we spent with all his aunts and uncles and cousins, and then the next week we had rented either a condo or a beach house or something with his cousins in Pelzer, and then their family and we ---

Q. Pelzer?

A. Uh-huh, yeah.

Q. Ah. You know what the older town is next to Pelzer?

THE COURT: Anybody know what the older town is next Pelzer?

A. West Pelzer.

Q. West Pelzer.

A. That's actually where his mother grew up was -- but a lot of people don't know where Pelzer's at.

Q. Well, I know. Right off there when you cut off there off of 32 -- 385.

A. 385.

Q. And cut across towards Anderson.

A. Right, uh-huh.

Q. Go through Pelzer.

A. Uh-huh.

Q. And then all of a sudden you're -- it's a small little place.

A. Oh, yeah.

Q. And the next thing, now you're in West Pelzer.
A. The Saluda River and, and she showed me the -- a couple -- before she, she passed away, we were out there a few years ago. They came to see us after we moved here, and she showed me the house where -- she's a twin -- where she was born, and it was, uh-huh, it was interesting.
Q. So, y'all decided to come back here?
A. Uh-huh.
Q. And I see he works at Bi-lo, is the manager of Bi-lo? Is that in ---
A. No, he's, he's here at the one at Surf Side Beach.
Q. Manager of the Bi-lo at Surf Side?
A. Yes.
Q. Is that -- is he the meat manager?
A. Yes. He, he's called a market manager, but that -- actually he's the manager, supervisor of the meat department. That's his department but they, they label it ---
Q. So, y'all eat good steaks.
A. Well, he works on them.
Q. Now, if you remember the other day, yesterday the clerk put y'all under oath. You remember that?
A. Yes, sir.
Q. And you're still under oath as I talk to you, and there's no right, wrong answers. I just want to get to

know you a little bit. I'm going to let the attorneys also ask you some things.

A. Okay.

Q. Just to get to know you. Now, y'all lived here now about how long?

A. Well, in -- we moved here in July of 2000.

Q. 2000?

A. Uh-huh.

Q. Do you know any of the attorneys involved in this case?

A. No, I do not.

Q. And do you know the defendant at all?

A. No, I do not.

Q. Do you have any interest or bias or prejudice in this particular case at all?

A. No.

Q. Okay. Have you formed or expressed an opinion about the guilt or innocence of the defendant?

A. Well, I, as I noted on my questionnaire, I can remember reading about it in the newspaper. And then I really couldn't -- I didn't put that together until actually in this -- you know, we were here and then I thought, yeah, that's the person I remembered reading about. But it's been, you know, a couple of years ago. So, you read about so much in the paper, every day about

something like that. But that's all I know is what I...
Q. Okay.
A. Because I usually read my paper every morning. That's just part of my routine with my coffee. So, you know, I just ---
Q. So, you read the paper Monday morning before you came here yesterday and ---
A. I read the paper, yes, and Sunday morning.
Q. And did it have anything about this ---
A. It did Sunday.
Q. I noticed the question that says: Do you ever go to the courthouse. And you said: Yes, to pay my taxes.
A. Well, we had to in Holt County. That's where you paid your taxes. And I was called to jury duty once and when we lived back there. But we were on our way out here for a vacation that summer and had planned for it for months and, and I had bronchitis and the doctor wrote the me a release and they said no. And the morning we were ready to take off, my family, they called and canceled it. So, I've never, I've never done -- I've never served on it.
Q. Okay. Now, if you were on this jury, the, the jury would listen and pay attention to all the evidence introduced in the case, testimony, exhibits, things of that nature. And also the jury would have to follow the instructions of the judge.

And one of the instructions I will give you is that the defendant is presumed innocent. The state has the burden of proving guilt beyond a reasonable doubt, and the defendant does not have to prove himself innocent. Could you follow that instruction if you're on the jury?

A. Yes.

Q. All right, and if after hearing all the evidence presented in the case and my instructions on the law, if after hearing all the evidence in the case and my instruction on the law, if you felt the state had not proven guilt beyond a reasonable doubt, could you find the defendant not guilty?

A. Yes, I think I -- yes, I could.

Q. All right, and please make sure you speak loud enough in that ---

A. Okay. Okay.

Q. --- microphone.

A. Okay.

Q. And if you felt the state had proven guilt beyond a reasonable doubt, could you find the defendant guilty?

A. Yes.

Q. Okay. Now, have you discussed this case with anyone at all?

A. No.

Q. All right. Now, you had mentioned to me that you had

seen some things in paper about it Sunday, as well as a couple of years ago. Do you remember what it was, was that you saw or read in the paper about this?

A. I, I don't exactly remember two years ago, no, because there, I think there was another incident at the same time and it, and it -- but I can't remember the case because I had that confused.

But in Sunday's, it was just going over that it was going to start. Monday it was going to be -- they were going to start trying to, you know, do the jury pool and...

Q. And so you don't remember a lot of the things in the paper about the allegations or the details?

A. I remember that it said the solicitor was going after murder, for murder.

Q. Now whatever you saw in the paper, would that be such that you could not be a fair and impartial juror and listen to the evidence in the case and make your decision based on the evidence in the case and not ---

A. No.

Q. --- upon what was in the newspaper?

A. No, I wouldn't. I wouldn't use the newspaper, no, no.

Q. So, your decision in this case would be based on the evidence presented in the courtroom and the law as I instruct it to you?

A. Correct. Yes.

Q. You would not base your decision at all on what was in the newspaper?

A. No.

Q. All right. I gave you a list of names on a sheet of paper there. Did you look over that list?

A. Yes.

Q. Did you see anybody you knew?

A. No, no one.

Q. Nobody, so you didn't circle anybody's name?

A. I circled no one. Huh-uh, no, I didn't. I thought there might be somebody.

Q. Okay, no names are circled.

All right, a case of this nature is one that could potentially be in two parts. If, say, from all evidence presented and the jury hears the instruction of the judge on the law, if the jury feels like the state has not proven guilt beyond a reasonable doubt, then as I said the jury would find the defendant not guilty.

If, however, the jury feels that the guilt of the defendant has been proven beyond a reasonable doubt and in addition finds an aggravating circumstance, then we, we would go to another phase. And in that phase the jurors would be asked to bring back a verdict regarding the penalty.

And I gave you a sheet of paper of three types of

jurors that would be considered on qualifying the jury. Now, the first type of juror would be one who, although the evidence was presented in aggravation and mitigation, that juror would feel that the death penalty is appropriate in each and every case no matter what the circumstances are, no matter what the evidence in aggravation and mitigation are.

Juror number two is a juror that, although evidence would be presented in aggravation and mitigation, that juror would feel under no circumstances could she ever impose the death penalty. And that juror, even though hearing all the evidence, would always come back with a verdict of life imprisonment because they could never impose the death penalty.

Then there's a third juror who would have not made her mind up in advance concerning punishment. That juror would want to hear the facts and circumstances in aggravation and mitigation and would want to listen and follow the law as instructed by the judge before she could make her decision regarding punishment. And if the facts so warranted it, after hearing the evidence in aggravation, mitigation, that juror could bring back a verdict of life imprisonment. And also, though, if the facts so warranted it, that juror could bring back a verdict of the death penalty. It all depends on the view that that juror has of the evidence in

aggravation, mitigation. But the juror would not have made her mind up until after that has all been presented and the judge has instructed the jurors on the law and they have done with deliberation with other jurors.

Which of those three jurors best describes you?

A. Three.

Q. Three. So, you would go through -- if you were to go into that next phase, you would go in that next phase with an open mind?

A. Yes.

Q. And if the facts warranted it, you could impose life imprisonment?

A. Yes.

Q. If the facts warranted it, you could bring back a verdict for the death penalty?

A. Yes.

Q. All right. This case may last a week or longer or less. We don't know, but it's -- we're right now projecting that we'll start on Thursday. Once it begins, the jury that is selected will be housed in a hotel. And you can have limited access to your family through the phone and -- but it would be supervised. Someone would be listening and all that because you won't be permitted to talk about the case, and we want to make sure that that could always be verified.

Do you feel you could do that without too much hardship? I know it would be an inconvenience and hardship, but do you, could you do that?

A. Yes.

Q. One other thing, too, I forgot to mention is that, that if the jury were to determine after hearing the aggravation and mitigation evidence, if the jury were to determine that they would bring back a verdict of the death penalty, each juror must sign the verdict. It would have to be unanimous, all twelve. If you felt it so warranted it, could you sign the verdict form?

A. Yes.

THE COURT: All right, I'm now going to let the attorneys ask you a few questions.

JUROR: Okay.

THE COURT: And then we'll proceed from there.

JUROR: Okay. Thank you.

THE COURT: Mr. Hembree?

MR. HEMBREE: Thank you, Your Honor.

Ms. Prussman, thank you for your patience with us. I don't have any questions for you. Appreciate it.

JUROR: Thank you.

THE COURT: Mr. Wilson?

MR. WILSON: Thank you, Your Honor.

EXAMINATION BY MR. WILSON:

Q. Ms. Prussman, I just have a couple of questions. Ma'am, your views about the death penalty, I mean, have you held them for a long time, or is this something that you'd never really thought about before today, or can you help me with that at all?

A. I've thought about it more since it's presented in this way. You know, I have had that -- what do I want to say? Block. Sometimes when you think something's so wrong that that's what should be. But that as it's presented and I look into it more, I would be willing to -- I mean, I would want to, I would want to be able to know everything, to weigh it back and forth. That's the only way that I think it could be done.

Q. Okay.

A. Properly.

Q. And, and, ma'am, in terms of this, of this, of this process, is it your -- do you understand that the defendant is at this point presumed to be innocent?

A. Yes, sir.

Q. All right, and that only if the State of South Carolina can present sufficient evidence to you and the other members of the panel, the jury panel, to convince you beyond a reasonable doubt that he is, in fact, guilty of the crime for which he is charged will we then go to the second phase.

A. Yes.
Q. Of this trial, which is the sentencing or penalty phase of the trial.
A. Correct. Yes.
Q. All right, and during that sentencing or penalty phase, the state would offer what's called a aggravating circumstances, those things which make the homicide, the murder worse than what might normally be. Do you understand that?
A. Yes, sir.
Q. All right, and that there would be mitigating factors also offered in that phase of the, of the trial. And then you would consider both the aggravating and mitigating factors, and you'd be willing to do that?
A. Yes, sir.
Q. All right, and is it -- do you understand that regardless of the aggravating circumstances, no matter how overwhelming you might find them to be, that you still have the right as a juror to invoke a life sentence? Do you understand?
A. Yes, I do.
Q. Okay, and you also understand that you must be able to vote for the death penalty if you think it's appropriate?
A. Yes.

Q. After having heard all of the evidence and all of the facts and circumstances surrounding the case, both mitigating and aggravating?

A. Yes, I understand.

Q. All right, and you believe that you could follow the instructions that His Honor will give you?

A. Yes.

Q. All right, you're willing to do that?

A. Yes.

Q. And do you believe that you can be fair and impartial both to the State of South Carolina and to this defendant?

A. Yes.

MR. WILSON: Thank you, ma'am.

JUROR: You're welcome. Thank you.

FURTHER EXAMINATION BY THE COURT:

Q. You mentioned in this thing also, ma'am, that you've been taking some injections for your spine, your back, and leg pain?

A. Yes, uh-huh.

Q. You still doing that?

A. No. I completed that. I was with Dr. Rosenberg, and ---

Q. Successful?

A. Well, it's -- I'm, I'm getting better, yes. It, it takes time.

Q. Well, please know if you do get on the jury, if you need to stand up or whatever, just don't worry about it. Stand up, you know. It will be fine because we don't want you to be in any discomfort or anything.

A. Thank you.

THE COURT: All right, if you would, would you step outside just a minute, back outside that door?

JUROR: Do you like this back?

THE COURT: Yes, please.

JUROR: Thank you, sir.

(THE JUROR EXITS THE COURTROOM.)

THE COURT: Position of the state?

MR. HEMBREE: Juror's qualified, Your Honor.

THE COURT: Defense?

MR. WILSON: Qualified, Your Honor.

THE COURT: All right, bring her back in, please.

(THE JUROR ENTERS THE COURTROOM.)

THE COURT: Ms. Prussman, we're going to put you on the jury pool from which the jury will be selected. And I need you back here Thursday at 11:30.

Now, go ahead and pack some things just in case you actually get on the jury panel, and you may not, but just in case you do. And if you would, it might be good if Thursday if someone maybe would come with you who could then take your car back and bring you back or something,

okay? Or someone at home will be there you could get to bring you back, all right?

JUROR: Thank, thank you.

THE COURT: All right, you can go out this way. Do not discuss this case. By the way, we mentioned how you read the newspaper. Don't read any more newspapers at all until after you're released from this case, all right?

JUROR: I understand that.

THE COURT: And don't look any local news either. All right, and don't discuss the case with anyone in your family, friends, or anybody else. We'll see you at 11:30 on Thursday. You can go out this door.

Now bring in ---

MR. HUMPHRIES: Judge, I have one quick ---

THE COURT: All right.

MR. HUMPHRIES: I hesitate to even mention it. I thought the first time when I, when I heard you say it. In any event, the court has said on, on at least three occasions when you're talking about going from the guilt phase to the penalty phase that if the state proves the defendant guilty beyond a reasonable doubt and if the jury finds aggravating circumstances, then we'll go to the penalty phase. Obviously the jury doesn't, the jury doesn't deliberate or hear about the aggravating circumstances until the penalty phase. And I just didn't

want there to be some jurors ---

THE COURT: You're right, you're right.

MR. HUMPHRIES: I don't want them to hear one thing and then hear another from the court and be confused about that, so...

THE COURT: Well, you're right. Okay.

Anything on Mr. Trout?

MR. HUMPHRIES: No. I didn't have anything.

MR. WILSON: No, sir. Nothing.

THE COURT: Seemed like he came up. Did he or did he not? Try to remember.

MR. HUMPHRIES: I don't, I don't show him as having come up.

MR. WILSON: I, I don't, Judge.

THE COURT: All right. All right, if you would, bring in Mr. Trout, please.

(JUROR #454 ENTERS THE COURTROOM.)

EXAMINATION BY THE COURT:

Q. Hi, how you doing?

A. Fine, sir. Yourself?

Q. If you would, please have a seat there and we'll talk a little bit.

A. Okay.

Q. Now, you do remember you're still under, under oath?

A. Yes, sir.