

VOLUME TWO

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Orangeburg County

L. Casey Manning, Circuit Court Judge

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S.C. Supreme Court

SAMMIE LOUIS STOKES,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-000635

APPENDIX

KEIR M. WEYBLE

158-B MYRON TAYLOR HALL
CORNELL LAW SCHOOL
ITHACA, NR 14853
(607) 255-3805

ROBERT M. DUDEK
Chief Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEYS FOR PETITIONER

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

DONALD J. ZELENKA
Senior Assistant Deputy Attorney General

P. O. Box 11549
Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

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1 MR. JEFFCOAT: No, sir.

2 THE COURT: All right, and I'll tell you that
3 in this case, very seldom in South Carolina does a case
4 ever go for two weeks. And the attorneys are in agreement
5 with me that this case will probably last a week, if that
6 much, so if that eases your mind in regards to that last
7 question. Now, I need you, if you would, to answer any
8 questions counsel may have for you, beginning with the
9 Solicitor.

10
11 EXAMINATION BY THE SOLICITOR:

12 Q. Mr. Jeffcoat, I'm Walter Bailey, and I want to
13 ask you a few more questions. I'm going to run over the
14 process that we go through in a death penalty case and
15 then I'm going to ask you a few questions about it.

16 We start off with the guilt phase which is like
17 any other criminal trial and I think you've been on a
18 criminal jury before back in 1985?

19 A. Yes, sir.

20 Q. Was that here in this courtroom?

21 A. I think it's in this courtroom, it's been ---
22 and I'm not sure '85 is the correct year, it could have
23 been a little longer but, yes, sir.

24 Q. Okay, did you serve on a jury?

25 A. Yes, sir.

1 Q. In the guilt phase of a death penalty trial is
2 similar to the trial that you sat as a juror on, where
3 the State charges someone with a crime and the State
4 has the burden of proving that person guilty beyond a reason-
5 able doubt. In this case one of the charges is murder.
6 If the defendant is convicted of murder in the first part
7 of the trial, then we will go into the second phase of
8 the trial where the jury is faced with a situation, they've
9 got a convicted murderer, they have to decide the punishment.
10 The two choices are life, which means life without parole,
11 and the death penalty. Whatever that jury's verdict is
12 will be the order of the Court. In other words, the jury
13 makes the decision on punishment and the Judge would order
14 that decision to be carried out and it will be carried
15 out. So based on that jury's verdict, the Judge would
16 order life without parole or the death penalty and he would
17 be executed or serve life without parole, depending on
18 the facts and circumstances and that jury's verdict.

19 You've indicated you are the number three type
20 juror, you would want to hear the facts that came out in
21 the case before you decided on the penalty, is that right?

22 A. Yes, sir.

23 Q. So I'm not going to ask you to predict what you
24 would do in this case because you haven't heard any of
25 the facts. But if the facts are bad enough, could you

1 vote for the death penalty knowing that that person actually
2 would be executed when the option is life without parole?

3 A. Yes, sir.

4 Q. Okay, if all twelve jurors vote for the death
5 penalty, there's a death verdict form each one of them
6 is asked to sign their names to. Could you sign your name
7 to a paper like that if you voted for the death penalty
8 and the other jurors also voted that way?

9 A. Yes, sir.

10 Q. Could you announce that verdict out loud when
11 your name was called, it's a process called polling the
12 jury where each one of the jurors their names would be
13 called out one at a time and they would be asked to stand
14 up and affirm that verdict out loud. Could you do that?

15 A. Yes, sir.

16 SOLICITOR: Mr. Jeffcoat, I think that's all
17 I've got. Thank you very much.

18 THE COURT: Mr. Sims.

19
20 EXAMINATION BY MR. SIMS:

21 Q. Mr. Jeffcoat, I believe you indicated that you
22 had served on a prior criminal jury back in the '80s?

23 A. Yes, sir.

24 Q. And I believe you indicated that you had actually
25 served as a juror on the case.

1 A. Yes, sir, I was the foreman of the jury on one
2 case.

3 Q. Okay, do you recall what the verdict was in that
4 case?

5 A. There was three or four trials and I know there
6 was at least one guilty verdict and I know there was at
7 least one innocent verdict but I can't remember the cases,
8 I can't recall. I know there was at least one guilty verdict.

9 MR. SIMS: Thank you, that's all I have.

10 THE COURT: All right, this juror is qualified.
11 Mr. Jeffcoat, I need you to check in with Madam Clerk over
12 here, we need a number from you that we can reach you on
13 moment's notice after this evening. We are going to need
14 for you to live close by that phone because we may need
15 to call you back in, okay.

16 MR. JEFFCOAT: Yes, sir.

17 THE COURT: Don't read any news accounts or watch
18 any news or listen to any news broadcasts concerning this
19 case until it is over with. The good news is I'm going
20 to let you go on back home but we do need for you to stand
21 by that phone.

22 MR. JEFFCOAT: Yes, sir.

23 THE COURT: Thank you very much, Mr. Jeffcoat,
24 check in with the Clerk, please.

25 All right, let's have the next juror.

1 (WHEREUPON, Juror #274, Marion Shuler (BM) entered
2 the courtroom and took the witness chair.)

3 THE COURT: Good morning, Mr. Shuler, how are
4 you today?

5 MR. SHULER: Pretty good, sir, how are you?

6 THE COURT: Good. If you will just relax and
7 make yourself comfortable, we've got some questions we
8 need to ask you and I need to remind you that you are still
9 under oath from Monday, okay.

10 MR. SHULER: Okay.

11 THE COURT: Do you know of any reason whatsoever
12 why you cannot give both the State and the defendant a
13 fair and impartial trial?

14 MR. SHULER: No, I don't.

15 THE COURT: Would you, under oath, follow the
16 law in this case as given to you by me?

17 MR. SHULER: Yes, sir.

18 THE COURT: Could you, depending on the facts
19 and the evidence and the law as I would instruct you, find
20 a defendant not guilty?

21 MR. SHULER: Yes, I could.

22 THE COURT: Could you, depending on the facts
23 and the evidence and the law as I would instruct you, find
24 a defendant guilty?

25 MR. SHULER: Yes, sir.

1 THE COURT: Have you discussed this case with
2 anyone?

3 MR. SHULER: No, sir.

4 THE COURT: have you read, viewed or listened
5 to any news accounts or news reports on the subject of
6 this case?

7 MR. SHULER: At first I didn't remember it but
8 after hearing it in court the other day, yes, I remember
9 reading about it in the papers.

10 THE COURT: Okay, that was in the local paper?

11 MR. SHULER: Yes, sir.

12 THE COURT: Will you relate to me what you remember
13 or recall about that news account.

14 MR. SHULER: What I recall was it had something
15 to do with a child and another woman and two men somehow,
16 the mother of the child, as I remember, was the one that
17 was killed. And I don't remember the reasoning and all
18 of that.

19 THE COURT: All right, will the news accounts
20 which you have read prevent you from rendering a fair and
21 impartial verdict in this case?

22 MR. SHULER: No, sir.

23 THE COURT: Can you erase from your mind the
24 information you acquired from these news accounts and
25 render a fair, impartial and just verdict based on the

1 law and the evidence uninfluenced in any way whatsoever
2 by reason of the news accounts which you have described?

3 MR. SHULER: Yes, sir, I believe I could.

4 THE COURT: Can you, notwithstanding your exposure
5 to these news accounts, base your verdict upon the law
6 and the evidence presented to you uninfluenced in any way
7 whatsoever by those news accounts?

8 MR. SHULER: Yes, sir, I think I can.

9 THE COURT: Do you understand that your verdict
10 must be based exclusively upon the law given to you by
11 the Court and the evidence presented to the Court and
12 the jury during the trial?

13 MR. SHULER: Yes, sir.

14 THE COURT: Can you make your verdict based only
15 upon these two considerations, that is, the law and the
16 evidence?

17 MR. SHULER: Yes, sir.

18 THE COURT: The defendant is a black and the
19 victim was a white. Will the fact that the defendant is
20 black and the victim is white prevent you in any way
21 whatsoever from rendering a fair and impartial verdict
22 in this case?

23 MR. SHULER: No, sir, they are both human beings.

24 THE COURT: Will you, without regard to the race
25 of the defendant and the victim, render a fair and impartial

1 verdict based solely on the evidence and the law given
2 to you by the Court?

3 MR. SHULER: Yes, sir.

4 THE COURT: I'm going to ask you certain questions
5 at this time relative to your views on the death penalty.
6 There are no right or wrong answers. I emphasize that
7 the mere fact that we're talking about penalty does not
8 indicate anything about this defendant. He is presumed
9 innocent, do you understand that?

10 MR. SHULER: Yes, sir.

11 THE COURT: You were given a letter a few minutes
12 ago to read. Have you read it?

13 MR. SHULER: Yes, sir.

14 THE COURT: There is a letter to your right that
15 you may refer to. I wonder if you could tell me which
16 of the three categories or the jury type that you might
17 fall into?

18 MR. SHULER: I read it and it's not very definite
19 in my view. I'm somewhere between one and the third one.
20 I would say it would be --- I would rather not be involved
21 in determining the death of whether a person lives or died
22 but I also consider myself to be a fair person and would
23 weigh the evidence and if I'm called upon to make that
24 judgment, then I would have to do it based upon that
25 evidence.

1 THE COURT: Can you, as a juror, participate
2 in a jury verdict recommending the penalty of death by
3 lethal injection for murder if the evidence and the law
4 warrants such a verdict?

5 MR. SHULER: Yes, sir, if I'm placed in that
6 position, yes, sir, I could do that.

7 THE COURT: Can you, as a juror, also participate
8 in a jury verdict recommending a sentence of life imprison-
9 ment for murder if the evidence and the law warrants such
10 a verdict?

11 MR. SHULER: Yes, sir.

12 THE COURT: If you were selected on this case
13 I tell you that you will have to be sequestered or separated
14 with the jury and remain in a motel during the length of
15 this trial. Does that pose any undue hardship for you?

16 MR. SHULER: No, sir, I had rather not do it
17 but it's not a hardship.

18 THE COURT: Okay. To ease your mind a little
19 bit, very seldom in this state does a case take over two
20 weeks. Counsel is in agreement with me that this case
21 would probably take a week if that long, okay?

22 Now, I need for you to answer any questions counsel
23 may have for you, with the Solicitor going first.

24 SOLICITOR: Thank you, Your Honor.
25

1 EXAMINATION BY THE SOLICITOR:

2 Q. Mr. Shuler, I'm Walter Bailey and I want to ask
3 you a few questions. First of all, I want to ask you a
4 couple of this about this questionnaire that you and the
5 other jurors filled out. Somebody, either you or somebody
6 in your family worked for CCI at one time?

7 A. I did.

8 Q. Okay, were you a correctional officer there?

9 A. Yes, sir.

10 Q. How long ago was that?

11 A. In '75, somewhere along in there, in the '70s.

12 Q. Okay. Did you ever work on death row or were
13 you exposed to the death row inmates at CCI?

14 A. No, sir.

15 Q. How long were you a correctional officer?

16 A. Maybe two years.

17 Q. Okay, and I notice also that you were in the
18 military. What branch of the military were you in?

19 A. The Air Force.

20 Q. Okay. Are you any relation to Calvin Shuler?

21 A. No, sir.

22 Q. Okay, do you know Calvin Shuler?

23 A. No, I don't.

24 Q. Okay. Let me ask you a little about the questions
25 on the death penalty and like the Judge said, there are

1 no right or wrong answers. We just need to know what your
2 true thoughts are. You said that you are between a number
3 one juror and a number three juror. Could you just explain
4 in your own words what you think about the death penalty.

5 A. Okay. Well, like I said just now, my basic belief
6 is that I shouldn't be the judge of a man's life but if
7 I am placed in that position, then I would carry out my
8 duties according to the evidence if I'm there.

9 Q. Okay, all right.

10 A. But I had rather not.

11 Q. Is the death penalty something that you have
12 thought about before Monday, just maybe at church or in
13 just talking with friends or something you read in the
14 newspaper or anything, has it come up before in your mind?

15 A. Yes, I've heard it and I've heard conversations
16 about it. I've said just about basically what I've said
17 just now about it to whoever has asked.

18 Q. All right. Let me run over a little bit about
19 the process that we would go. It's a potentially two-
20 part process where we would start out with the guilt phase
21 which is similar to any other criminal trial where the
22 State charges somebody and the prosecution has the burden
23 of proving that person guilty of those charges beyond a
24 reasonable doubt. In this case one of the charges is
25 murder. If the defendant is convicted of murder, we then

1 would go into the second phase and the jury then says,
2 we've got a person convicted of murder, we've just convicted
3 of murder. And they have to determine the punishment and
4 the two choices of life which means life without parole
5 and the death penalty. The jury is never required to vote
6 for the death penalty, life without parole is always an
7 option. What ever that jury's verdict is will be the sentence
8 of the Court, the Judge won't change it and that sentence
9 would be carried out. So if the jury's verdict is for
10 the death penalty, that person is executed based on the
11 jury verdict. If the verdict is life, the Judge would
12 order life and he would serve life without parole.

13 I'm not going to ask you what you would do if
14 you got picked as a juror on this case because you haven't
15 heard the facts and you said you would want to hear those
16 facts. But, in general, just putting this case aside, if
17 you were on a jury of this kind of a case and the facts
18 were bad enough, could you vote for the death penalty knowing
19 that as a result of that vote that person actually would
20 be executed when the option would be life without parole?

21 A. If I'm placed in that predicament and there is
22 no doubt in my mind and it's clear to me without a shadow
23 of a doubt that this was the case and the crime warrants
24 the death penalty, then I would have to, according to the
25 law, I would have to go that way.

1 Q. Okay. If the Judge instructed you on the burden
2 of proof and he instructed you that the burden of proof
3 is beyond a reasonable doubt and that was different than
4 a hundred percent or a shadow of a doubt, would you accept
5 that law as the Judge gave it to you?

6 A. Yes, sir.

7 Q. Okay. If all twelve jurors voted for the death
8 penalty then each one of them is asked to sign their names
9 to a piece of paper, it's a death verdict form that would
10 result in that person being executed. If you voted for
11 the death penalty after hearing all of the facts and the
12 rest of the jury did also, could you sign your name to
13 that paper?

14 A. Yes, sir, I could. I wouldn't vote if I couldn't
15 do that.

16 Q. Okay. The next thing that jurors would be asked
17 to do if there's a death verdict, is they would come out
18 here and they would sit in these chairs out here in open
19 court and each juror's name would be called out one at
20 a time and they would be asked to stand up and affirm out
21 loud that that was their verdict and is still their verdict.
22 Could you do that?

23 A. Yes, sir, to stand up is the same thing, I mean,
24 as far as I'm concerned.

25 SOLICITOR: Mr. Shuler, that's all I have. I

1 appreciate your patience.

2 THE COURT: Mr. Sims.

3

4 EXAMINATION BY MR. SIMS:

5 Q. Mr. Shuler, I just have a couple of questions
6 for you. I need to get clear, you said you were somewhere
7 between one and three?

8 A. Yes, meaning that ---

9 Q. Well, basically let me ask you this. Did you
10 fully understand what the number one category was/

11 A. Yes.

12 Q. That person who would always vote for the death
13 penalty.

14 A. Yes.

15 Q. Okay, and number three is the person who would
16 listen to the facts and then make a determination as to
17 whether or not the death penalty is an appropriate penalty
18 or whether or not life is an appropriate punishment. But
19 your answers were --- you said in your answers that --
20 initially, I believe, in response to one question that
21 Mr. Bailey asked you, if you didn't think it was your
22 position to vote or to judge a man's life but if you were
23 put in that position, that's what's kinda put you in all
24 three categories, so to speak, and I'm trying to figure
25 out just exactly which one we are talking about.

1 A. Okay, like I said, I --- if you're asking me
2 to pick one, is that what you are saying?

3 Q. Yes.

4 A. My answer was I had rather not be put in that
5 position but if I was, as a duty such as serving on a jury,
6 then I would be able to listen to the circumstances and
7 the evidence and make my decision based upon that and if
8 it is warranted that someone be put to death or life imprison-
9 ment or however the case may be, in my mind, then I would
10 vote that way accordingly.

11 Q. You said --- I wrote down something else, you
12 said according to the law I would have to go that way and
13 that was in response to the death penalty question, you
14 said according to the law I would have to go that way.
15 You do realize that in our system there are two options,
16 one is life and one is the death penalty and you would
17 be required to listen to the law as the Judge would give
18 it to you and listen to the facts and then those are the
19 two options that you would have available, is that correct?

20 A. Yes, sir.

21 Q. Okay. So life is always an option that's available
22 to you as a juror.

23 A. Yes, sir.

24 MR. SIMS: That's all I have, Your Honor.

25 THE COURT: All right, the juror is qualified.

1 Mr. Shuler, I'm going to give you some good news and I'm
2 going to give you some bad news. The good news is I'm
3 going to allow you to go home but the bad news is you are
4 going to have to camp out beside your telephone. We probably
5 are going to call you a little later tonight. But in the
6 meantime, please don't discuss the case with anyone, don't
7 read any news accounts or listen to any TV until this case
8 is over, okay.

9 MR. SHULER: Yes, sir.

10 THE COURT: Be sure to give your number to Madam
11 Clerk over there so we can reach you on moment's notice.
12 You are excused.

13 MR. SHULER: Yes, sir.

14 THE COURT: All right, bring in the next one.

15 (WHEREUPON, Juror #216, Essie Montgomery (BF)
16 entered the courtroom and took the witness chair.)

17 THE COURT: Ms. Montgomery, just make yourself
18 comfortable and relax. How are you this morning?

19 MS. MONTGOMERY: Fine, how are you?

20 THE COURT: Fine. I'm going to have to ask you
21 some questions and I remind you that you are still under
22 oath from Monday, okay.

23 MS. MONTGOMERY: Okay.

24 THE COURT: Do you know of any reason whatsoever
25 why you cannot give both the State and the defendant

1 a fair and impartial trial?

2 MS. MONTGOMERY: No, sir.

3 THE COURT: Would you, under oath, follow the
4 law in this case as given to you by me?

5 MS. MONTGOMERY: Yes, sir.

6 THE COURT: Could you, depending on the facts
7 and evidence and the law as I would instruct you, find
8 a defendant not guilty?

9 MS. MONTGOMERY: Yes, sir.

10 THE COURT: Could you, depending on the facts
11 and evidence and the law as I would instruct you, find
12 a defendant guilty?

13 MS. MONTGOMERY: Yes, sir.

14 THE COURT: Have you discussed this case with
15 anyone?

16 MS. MONTGOMERY: No, sir.

17 THE COURT: Have you read, viewed or listened
18 to any news accounts or news reports on the subject of
19 this case?

20 MS. MONTGOMERY: No, sir.

21 THE COURT: The defendant is a black, the victim
22 was a white. Will the fact that the defendant is black
23 and the victim was white prevent you in any way whatsoever
24 from rendering a fair and impartial verdict in this case?

25 MS. MONTGOMERY: No, sir.

1 THE COURT: Will you, without regard to the race
2 of the defendant and the victim, render a fair and impartial
3 verdict based solely on the evidence and the law given
4 to you by the Court?

5 MS. MONTGOMERY: Yes, sir.

6 THE COURT: I'm going to ask you certain questions
7 at this time relative to your views on the death penalty.
8 There are no right or wrong answers. I emphasize that
9 the mere fact that we've talking about penalty does not
10 indicate anything about this defendant. He is presumed
11 innocent, do you understand that?

12 MS. MONTGOMERY: Yes, sir.

13 THE COURT: You were given a letter a few minutes
14 ago to read. Have you read that letter?

15 MS. MONTGOMERY: Yes, sir.

16 THE COURT: There is one to your right if you
17 need to refer to it. I wonder if you can tell me which
18 of the three categories or the type of juror that you might
19 fall into?

20 MS. MONTGOMERY: The second one, yes, sir.

21 THE COURT: Can you, as a juror, participate
22 in a jury verdict recommending the penalty of death by
23 lethal injection for murder if the evidence and the law
24 warrants such a verdict?

25 MS. MONTGOMERY: Repeat that again, please.

1 THE COURT: Can you, as a juror, participate
2 in a jury verdict recommending the penalty of death by
3 lethal injection for murder if the evidence and the law
4 warrants such a verdict?

5 MS. MONTGOMERY: Yes, sir, I fall in the second
6 category, if the juror mind is made up, you know, according
7 to what I feel, you know. I mean, I don't feel like I
8 should make a decision whether I should --- if I can say,
9 you know, murder somebody, you know, that is my religious
10 belief, you know, I don't want to say, you know, take someone
11 else's life because I feel if I do that, then I probably
12 be taking that person's life but I mean if the jurors have
13 made their mind up, you know, you know, I will go along
14 with it but, you know, I just can't, you know, say that
15 I, you know, agree with taking someone else's life even
16 though if he take someone else life, you know, I don't
17 want to feel that I, you know, agree to taking someone
18 else's life.

19 THE COURT: All right, with that said, let me
20 ask you again. Can you, as a juror, participate in a jury
21 verdict recommending the penalty of death by lethal
22 injection for murder if the evidence and the law warrants
23 such a verdict?

24 MS. MONTGOMERY: Well, yes, you know, if that's
25 the way, you know, if that's the way it's supposed to be.

1 THE COURT: Can you, as a juror, also participate
2 in a jury verdict recommending a sentence of life imprison-
3 ment for murder if the evidence and the law warrants such
4 a verdict?

5 MS. MONTGOMERY: Yes, sir.

6 THE COURT: Is your opposition to the death penalty
7 for murder so fixed and so firm that you are irrevocably
8 committed before the beginning of this trial to vote against
9 the death penalty for murder regardless of the facts and
10 circumstances that may develop during the trial?

11 MS. MONTGOMERY: I don't quite understand that.
12 Could you repeat that?

13 THE COURT: Is your opposition to the death penalty
14 for murder so fixed and so firm that you are irrevocably
15 committed before the beginning of the trial to vote against
16 the death penalty for murder regardless of the facts and
17 circumstances that may develop during the trial?

18 MS. MONTGOMERY: No.

19 THE COURT: Can your opposition to capital punish-
20 ment or the death penalty for murder be changed by the
21 evidence presented during the trial?

22 MS. MONTGOMERY: No, sir.

23 THE COURT: Let me repeat it. Can your opposition
24 to capital punishment or the death penalty for murder be
25 changed by the evidence presented during the trial?

1 MS. MONTGOMERY: Meaning if I have all the evidence
2 pointing to him that he is guilty?

3 THE COURT: Go ahead and explain yourself.

4 MS. MONTGOMERY: I mean, pointed --- if I have
5 all the evidence that he is guilty of this crime, can I
6 sentence him to death, is that what you are saying?

7 THE COURT: Yes, ma'am.

8 MS. MONTGOMERY: Again, I don't want to say that
9 I'm sending someone to death. But if all the evidence
10 pointed to it and the jury have made their verdict, you
11 know, me can't stop it, me, me one can't stop it.

12 SOLICITOR: May we approach?

13 THE COURT: Yes, sir.

14 (WHEREUPON, A bench conference was held out
15 of the hearing of the juror and the court reporter.)

16 THE COURT: Ms. Montgomery, we are going to excuse
17 you at this time and I want to thank you for coming and
18 especially for your patience Monday, it was a long day
19 for everybody and we do appreciate it. You can go at
20 this time.

21 MS. MONTGOMERY: Okay, thank you.

22 THE COURT: Let the record reflect that everybody
23 was in agreement on that last excused juror. All right,
24 bring in the next juror.
25

1 (WHEREUPON, Juror #165, Deborah Johnson (WF)
2 entered the courtroom and took the witness chair.)

3 THE COURT: Good morning, how are you?

4 MS. JOHNSON: Fine, thank you.

5 THE COURT: Now, you are Ms. Johnson, Juror #165?

6 MS. JOHNSON: Yes, sir.

7 THE COURT: If you will just relax and make
8 yourself comfortable there, we need to ask you some questions
9 and because I'm going to do that, I need to remind you
10 that you are still under oath from Monday, okay?

11 MS. JOHNSON: Okay.

12 THE COURT: Do you know of any reason whatsoever
13 why you cannot give both the State and the defendant a
14 fair and impartial trial?

15 MS. JOHNSON: No, sir.

16 THE COURT: Would you, under oath, follow the
17 law in this case as given to you by me?

18 MS. JOHNSON: Yes, sir.

19 THE COURT: Could you, depending on the facts
20 and evidence and the law as I will instruct you, find
21 a defendant not guilty?

22 MS. JOHNSON: Yes, sir.

23 THE COURT: Could you, depending on the facts
24 and evidence and the law as I will instruct you, find a
25 defendant guilty?

1 MS. JOHNSON: Yes, sir.

2 THE COURT: Have you discussed this case with
3 anyone?

4 MS. JOHNSON: No, sir.

5 THE COURT: Have you read, viewed or listened
6 to any news accounts or news reports on the subject of
7 this case?

8 MS. JOHNSON: No, sir.

9 THE COURT: The defendant is black and the victim
10 was white. Will the fact that the defendant was black
11 and the victim is white prevent you in any way whatsoever
12 from rendering a fair and impartial verdict in this case?

13 MS. JOHNSON: No, sir.

14 THE COURT: Will you, without regard to the race
15 of the defendant and the victim, render a fair and impartial
16 verdict based solely on the evidence and the law given
17 to you by the Court?

18 MS. JOHNSON: Yes, sir.

19 THE COURT: I'm going to ask you certain questions
20 at this time relative to your views on the death penalty.
21 There are no right or wrong answers. I emphasize that
22 the mere fact that we are talking about penalty does not
23 indicate anything about this defendant. He is presumed
24 innocent, do you understand that?

25 MS. JOHNSON: Yes, sir.

1 THE COURT: You were given a letter a few minutes
2 ago. Have you had a chance to read it?

3 MS. JOHNSON: Yes, sir.

4 THE COURT: You have one to your right if you
5 need to refer to it. I wonder if you can tell me which
6 of the three categories or the jury type that you might
7 fall into?

8 MS. JOHNSON: The third.

9 THE COURT: Can you, as a juror, participate
10 in a jury verdict recommending the penalty of death by
11 lethal injection for murder if the evidence and the law
12 warrants such a verdict?

13 MS. JOHNSON: Yes, sir.

14 THE COURT: Can you, as a juror, also participate
15 in a jury verdict recommending a sentence of life imprison-
16 ment for murder if the evidence and the law warrants such
17 a verdict?

18 MS. JOHNSON: Yes, sir.

19 THE COURT: If you were selected on this case
20 I will tell you that you will have to be sequestered or
21 separated with the jury and remain in a motel during the
22 length of this trial. Does that pose any undue hardship
23 for you?

24 MS. JOHNSON: Somewhat.

25 THE COURT: Let me tell you this like I've told

1 all the rest concerning this question. In South Carolina
2 a case very seldom does a case go over two weeks. Counsel
3 is in agreement with me in saying that this case will
4 probably not last more than a week, if that. With that
5 stated, I ask you now would it pose undue hardship for
6 you?

7 MS. JOHNSON: Nothing that I could not work around
8 but it would present somewhat of a problem.

9 THE COURT: But you could work around it?

10 MS. JOHNSON: Probably.

11 THE COURT: Anything else you would like to tell
12 me about that?

13 MS. JOHNSON: My husband owns a business in which
14 I do all the recordkeeping and part of my duties are payroll
15 for the employees.

16 THE COURT: What is their payday?

17 MS. JOHNSON: Friday. Time goes in on Thursday
18 afternoon.

19 THE COURT: Could you go ahead and be working
20 on that?

21 MS. JOHNSON: They are paid hourly so I would
22 need their time. If need be, I could work around it.

23 THE COURT: Okay. Answer any questions counsel
24 may have for you, beginning with the Solicitor, please.

25 SOLICITOR: Thank you, Your Honor.

1 EXAMINATION BY THE SOLICITOR:

2 Q. Ms. Johnson, I'm Walter Bailey and I want to
3 ask you a few questions on the death penalty but before
4 that I want to ask you a little bit about your situation
5 at work with the payroll and all of that. Generally court
6 finishes up around 5:30 or 6:00 in the afternoon and the
7 jury is then, during the trial and I'm going to guess four
8 days maybe, give or take a day or two. The jury would
9 then be in the motel where you would have access if you
10 wanted to bring paperwork with you to work on it at night.
11 Would that help the problem any?

12 A. Yes, it would.

13 Q. Can you tell us just in your words what your
14 thoughts are on the death penalty?

15 A. I have somewhat mixed feelings about it but I
16 believe that every case should be decided on the facts
17 and based on the facts I do not think that I would have
18 a problem with the death penalty.

19 Q. Okay, and you understand that the process that
20 we go through is essentially a two-part process. We start
21 off with the guilt phase which is similar to any other
22 criminal trial. The State charges somebody with an offense
23 or offenses and the State has the burden of proving that
24 person guilty beyond a reasonable doubt. In this case
25 one of the charges is murder. If that defendant is

1 convicted of murder beyond a reasonable doubt, that same
2 jury goes into a second phase and the jury determines the
3 punishment. So the jury is there and they basically confronted
4 with a situation where they've got a convicted murderer,
5 they found him guilty beyond a reasonable doubt. The jury
6 decides the punishment, all the Judge does, he orders that
7 jury verdict to happen and it will happen.

8 And in that second phase of the trial there would
9 be additional evidence that would come out, additional
10 instructions from the Judge to guide the jury in their
11 determination, the death penalty on the one hand or life,
12 which means life without parole. The jury would always
13 have the life without parole option, they would never be
14 required to impose the death penalty.

15 I'm not going to ask you to predict what you
16 would do if you were picked as a juror because you haven't
17 heard the facts that you said you would want to hear before
18 you decided. But if the facts were bad enough, could you
19 vote for the death penalty knowing that as a result of
20 that vote that person actually would be executed when the
21 option would be life without parole?

22 A. I could if the facts warranted.

23 Q. If all twelve jurors vote for the death penalty,
24 then each one of them is asked to sign their name to a
25 death verdict form that would result in that person being

1 executed. Could you sign your name to a paper like that
2 if you had already voted for the death penalty?

3 A. Yes, sir.

4 Q. The last thing the jury would be involved in
5 if they hear the facts and vote for the death penalty and
6 sign the verdict form, they would come out here in open
7 court and sit down in these chairs. Each juror's name would
8 be called out and they would be asked to stand and affirm
9 that that was their verdict and that it is still their
10 verdict. Could you do that if that was your verdict?

11 A. Yes, sir.

12 SOLICITOR: Ms. Johnson, that's all I've got
13 right now, thank you very much.

14 THE COURT: Mr. Sims.

15
16 EXAMINATION BY MR. SIMS:

17 Q. Just one question and that is in regard to your
18 problem with the bookkeeping. How many employees in your
19 husband's business?

20 A. About eight full time.

21 Q. Sorry?

22 A. About eight full time.

23 Q. Eight full time? Are there some part time employees?

24 A. Two.

25 Q. So you're talking about ten people doing payroll

1 for them, the hourly wages, and do you do that manually
2 or do you do that by computer?

3 A. By computer.

4 Q. So then you are saying that you would need your
5 computer with you also?

6 A. Well, I also can do it manually, I did it for
7 a long, long time before I put it on the computer so ---

8 Q. Now you said when you were asked about the question
9 as it relates as to whether or not you would be able to
10 vote for the death penalty or whether you would be able
11 to vote for a life sentence, I believe your response was
12 if the facts of the case or of this case. Did you mean
13 of this case or just the facts of any case?

14 A. No, this case.

15 Q. In the facts of this case indicated ---

16 A. I believe every case should be decided on its
17 own facts. I do not think that every person who is
18 convicted of murder should be put to death or given life
19 in prison. It just depends on the facts.

20 Q. And have you heard any facts of this case?

21 A. None whatsoever.

22 Q. Any newspaper reports?

23 A. Not that I recall.

24 MR. SIMS: Okay, thank you.

25 THE COURT: Anything else?

1 SOLICITOR: No, sir.

2 THE COURT: All right, she is qualified. Ms.
3 Johnson, we need for you to check in with Madam Clerk over
4 here and we need a number from you that we can reach you
5 on moment's notice. I don't think we will be calling you
6 before this evening but please camp out close by the phone,
7 okay?

8 MS. JOHNSON: Okay.

9 THE COURT: All right, the next one is Mr. Pinckney,
10 did he offer any reason as to why he didn't show up on
11 time?

12 BAILIFF: I haven't spoken to him, Judge, do
13 you want me to speak to him or do you want to ask him or
14 what?

15 THE COURT: I'll talk to him and see. Bring
16 him out.

17 (WHEREUPON, Juror #231, David Pinckney (BM)
18 entered the courtroom and took the witness chair.)

19 THE COURT: Good afternoon, Mr. Pinckney.

20 MR. PINCKNEY: Good afternoon.

21 THE COURT: How are you?

22 MR. PINCKNEY: All right.

23 THE COURT: We got a little bit concerned about
24 you, we were expecting you at 11:30, what happened?

25 MR. PINCKNEY: Well, I had some problems yesterday.

1 I had to do some things for my mother and I forgot it.

2 THE COURT: For your mother?

3 MR. PINCKNEY: Uh-huh.

4 THE COURT: Is everything okay now?

5 MR. PINCKNEY: Everything alright.

6 THE COURT: Is she alright?

7 MR. PINCKNEY: Uh-huh.

8 THE COURT: Mr. Pinckney, if you will just relax
9 there and make yourself comfortable, we've got some
10 questions we need to ask you and I need to remind you that
11 you are still under oath from Monday, okay.

12 MR. PINCKNEY: All right.

13 THE COURT: Do you know of any reason whatsoever
14 why you cannot give both the State and the defendant a
15 fair and impartial trial?

16 MR. PINCKNEY: No.

17 THE COURT: Would you, under oath, follow the
18 law in this case as given to you by me?

19 MR. PINCKNEY: Yes.

20 THE COURT: Could you, depending on the facts
21 and evidence and the law as I would instruct you, find
22 a defendant not guilty?

23 MR. PINCKNEY: Repeat that, please.

24 THE COURT: Could you, depending on the facts
25 and evidence and the law as I would instruct you, find

1 a defendant not guilty?

2 MR. PINCKNEY: Yes.

3 THE COURT: Could you, depending on the facts
4 and the evidence and the law as I would instruct you, find
5 a defendant guilty?

6 MR. PINCKNEY: Yes.

7 THE COURT: Have you discussed this case with
8 anyone?

9 MR. PINCKNEY: No.

10 THE COURT: Have you read, viewed or listened
11 to any news accounts or news reports on the subject of
12 this case?

13 MR. PINCKNEY: No, sir.

14 THE COURT: The defendant is a black and the
15 victim was a white. Will the fact that the defendant is
16 black and the victim is white prevent you in any way
17 whatsoever from rendering a fair and impartial verdict
18 in this case?

19 MR. PINCKNEY: No, sir.

20 THE COURT: Will you, without regard to the race
21 of the defendant and the victim, render a fair and impartial
22 verdict based solely on the evidence and the law given
23 to you by the Court?

24 MR. PINCKNEY: Repeat that again, please.

25 THE COURT: Will you, without regard to the race

1 of the defendant and the victim, render a fair and impartial
2 verdict based solely on the evidence and the law given
3 to you by the Court?

4 MR. PINCKNEY: Yes.

5 THE COURT: I'm going to ask you certain questions
6 at this time relative to your views on the death penalty.
7 There are no right or wrong answers. I emphasize the mere
8 fact that we are talking about penalty does not indicate
9 anything about this defendant. He is presumed innocent,
10 do you understand that?

11 MR. PINCKNEY: Yes, sir.

12 THE COURT: You were given a letter to read a
13 few minutes ago. Have you read that letter?

14 MR. PINCKNEY: Yes, sir.

15 THE COURT: Okay, you have a copy of that letter
16 to your right if you need to look at it, okay. I'm going
17 to ask you this, I wonder if you can tell me which of the
18 three categories that you might fall into or which jury
19 type you might fall into?

20 MR. PINCKNEY: The third.

21 THE COURT: Can you, as a juror, participate
22 in a jury verdict recommending the penalty of death by
23 lethal injection for murder if the evidence and the law
24 warrants such a verdict?

25 MR. PINCKNEY: Yes, sir.

1 THE COURT: Can you, as a juror, also participate
2 in a jury verdict recommending a sentence of life imprison-
3 ment for murder if the evidence and the law warrants such
4 a verdict?

5 MR. PINCKNEY: Yes, sir.

6 THE COURT: If you were selected on this case
7 I tell you that you will have to be sequestered or separated
8 with the jury and remain in a motel during the length of
9 this trial. Does that pose any undue hardship for you?

10 MR. PINCKNEY: Somewhat way it do.

11 THE COURT: All right, tell me how it does.

12 MR. PINCKNEY: Because I have to spend some of
13 my time with my mother and then I have a kid I have to
14 spend time with, that's the two most important things.

15 THE COURT: Okay. In South Carolina cases very
16 seldom take over two weeks. Counsel is in agreement with
17 me that this case most likely will not take more than a
18 week. Could you make arrangements for your mother and/or
19 your child for that period of time?

20 MR. PINCKNEY: Yes, for a week, yes.

21 THE COURT: Okay, tell us a little more about
22 your child situation. Is there anybody at the house to
23 watch it? How old is your child?

24 MR. PINCKNEY: Oh, he's 14.

25 THE COURT: Okay, anybody else at home with him?

1 MR. PINCKNEY: No, not --- he's in school now.

2 THE COURT: Okay. Does your mother live in your
3 home?

4 MR. PINCKNEY: No, she lives in Orangeburg Manor.

5 THE COURT: All right, if you would, answer any
6 questions counsel may have for you, beginning with the
7 Solicitor.

8 SOLICITOR: Thank you, Your Honor.

9

10 EXAMINATION BY THE SOLICITOR:

11 Q. Mr. Pinckney, I'm Walter Bailey and I want to
12 ask you a few more questions. Let me ask you first of
13 all about your mother. You said that you had spent some
14 time with her this morning and yesterday?

15 A. Yesterday.

16 Q. Okay, is she --- how is her health?

17 A. It's sort of fair, not very good.

18 Q. And you think if you were in the courtroom during
19 the daytime and at the motel at night for maybe four or
20 five days, would that create any problems for you as far
21 as your mother is concerned?

22 A. No, long as she can hear from me.

23 Q. Okay. Let me ask you a few questions about the
24 death penalty and there are no right or wrong answers,
25 as the Judge told you that, and we're not testing you

1 so anything you tell us is correct as long as that's how
2 you really feel, okay?

3 A. Okay.

4 Q. I notice in the questionnaire it asked what church
5 you attended and you didn't fill that out. Do you attend
6 a church?

7 A. Yes.

8 Q. Okay, do you have any religious beliefs on the
9 death penalty one way or the other?

10 A. No.

11 Q. Okay, is the death penalty something you had
12 thought about before Monday when you found out you might
13 be a juror on this kind of case?

14 A. Uhm--- no.

15 Q. And you think you've had enough time to look
16 over that paper and decide that you were number three kind
17 of a juror?

18 A. Yes.

19 Q. Okay. Let me explain a little bit to you about
20 the process we go through in a case where the State is
21 seeking the death penalty. We start out with the guilt
22 phase which is like any other criminal trial when the State
23 charges somebody and it's up to the prosecution, me and
24 the other people at the table here, to prove that person
25 guilty of what we charge him with beyond a reasonable

1 doubt. In this case one of the charges is murder and we're
2 seeking the death penalty so if the jury finds him guilty
3 of murder, we go into the second part of the trial and
4 then that jury decides what the punishment ought to be.
5 They have two choices, life, which means life without parole,
6 and the death penalty. The jury makes that decision, not
7 the Judge. What the Judge does is he takes that jury verdict
8 and he orders that verdict to happen and it will happen.

9 So if the jury decides based on the evidence
10 that the death penalty is an appropriate sentence, the
11 Judge orders that and that person is executed. If, on
12 the other hand, the jury decides on a life sentence, the
13 Judge would order that and that person would serve life
14 without parole. The jury is never required to impose the
15 death sentence. That may be an option depending on what
16 comes out in the case.

17 I'm not going to ask you to tell us what you
18 would do as a juror in this case because you haven't heard
19 the facts. But just in general, if you were on a jury in
20 a case like this and the facts were bad enough, could you
21 vote for the death penalty knowing that person actually
22 would be executed based on that vote if the other option
23 is life without parole?

24 A. I could if it was bad enough.

25 Q. Okay. If all twelve jurors feel that way, that

1 the case is bad enough for the death penalty and they vote
2 for it, the next thing that happens is there's a death
3 verdict form. Each one of those twelve jurors is asked
4 to sign their name to a paper that would result in that
5 person being executed. Could you sign your name to a paper
6 like that if that was your vote?

7 A. Yes.

8 Q. Could you stand up here in the courtroom, there's
9 a process called polling the jury, where if they vote for
10 the death penalty and sign that paper, each juror's name
11 is called out one at a time and they are asked to stand
12 up and affirm that that was their verdict and it's still
13 their verdict. Could you do that?

14 A. Yes.

15 SOLICITOR: Mr. Pinckney, I think that's all
16 I have, thank you very much.

17 THE COURT: Mr. Sims.

18 MR. SIMS: No questions, Your Honor.

19 THE COURT: All right, he's qualified. Mr. Pinckney,
20 I ---

21 SOLICITOR: Judge, could I ask him one other
22 question, I overlooked one.

23 THE COURT: Sure.

24 EXAMINATION BY THE SOLICITOR:

25 Q. Mr. Pinckney, I apologize for asking personal

1 questions but I do need to ask you a question about your
2 answers on the questionnaire. I notice on the last page
3 there's a question about whether or not you've been arrested
4 for anything and you checked yes. Could you ---

5 A. Oh, that been many years ago.

6 Q. Okay. Do you recall what kind of charge it was?

7 A. Uhm --- I can't remember, it's been so long ago,
8 about twenty or twenty-five years ago.

9 Q. Okay, did you have to go to court on it or did
10 they drop it?

11 A. They drop it.

12 SOLICITOR: Okay, thank you, that's all I have.

13 THE COURT: Mr. Pinckney, I'm going to need you
14 to check in over here with Madam Clerk. We've got to have
15 a number we can reach you on moment's notice. Now, you're
16 okay until this evening but after say 5 or 6 we are going
17 to need for you to stay close by the phone, okay?

18 MR. PINCKNEY: Okay.

19 THE COURT: It's very important. Please do not
20 read any news accounts or watch any newscasts or listen
21 to any newscasts until after this trial is over.

22 MR. PINCKNEY: All right.

23 THE COURT: If you can check in with her and
24 give us a number that we can find you and then you are
25 free to go.

1 MR. PINCKNEY: Okay.

2 THE COURT: All right, let's bring in our next
3 juror.

4 SOLICITOR: Your Honor, before he comes in, just
5 briefly, Mr. Steadman on his questionnaire, again on his
6 question about the jury information form about had he been
7 convicted and he's got no checked on #31, and where he's
8 been arrested he's got no checked and on the rap sheet
9 it shows a 1979 DUI 2nd offense and it appears he got a
10 year suspended on four months with six months probation
11 or a fine. It may be so long ago that he's forgotten about
12 it.

13 THE COURT: Doesn't that question, though, say
14 other than traffic offenses or minor traffic offense?

15 SOLICITOR: It says other than minor traffic
16 offense, he might have considered that a minor traffic
17 offense.

18 THE COURT: Do you want me to inquire of him
19 anything?

20 SOLICITOR: Yes, sir, if you wouldn't mind.

21 THE COURT: Okay. Bring him in.

22 (WHEREUPON, Juror #288, John Steadman (BM) entered
23 the courtroom and took the witness chair.)

24 THE COURT: Good afternoon, Mr. Steadman.

25 MR. STEADMAN: Good afternoon.

1 THE COURT: I need for you to have a seat right
2 there in that witness box and relax and make yourself
3 comfortable, we've got some questions we need to ask you.
4 I remind you that you are still under oath from Monday.
5 I was looking at your form here and we've got a little
6 discrepancy we need you to help us to clear up here and
7 I think it may be from the nature of the question but we
8 need to check on it. Don't mean to embarrass you, we've
9 just got to get it straightened out.

10 MR. STEADMAN: All right, sir.

11 THE COURT: The question #31, have you ever been
12 arrested other than for a minor traffic offenses?

13 MR. STEADMAN: No.

14 THE COURT: Okay, have you been arrested for
15 any traffic offenses?

16 MR. STEADMAN: Uh-huh, 'bout say like fifteen,
17 twenty years ago, something like that.

18 THE COURT: And what was that for, do you remember?

19 MR. STEADMAN: DUI.

20 THE COURT: Okay, that clear it up, thank you,
21 sir. Anything else?

22 MR. STEADMAN: Nay.

23 THE COURT: I've asked this question but I'm
24 going to ask it again, okay. Do you know of any reason
25 whatsoever why you cannot give both the State and the

1 defendant a fair and impartial trial?

2 MR. STEADMAN: No, sir.

3 THE COURT: Would you, under oath, follow the
4 law in this case as given to you by me?

5 MR. STEADMAN: Yeah.

6 THE COURT: Could you, depending on the facts
7 and the evidence and the law as I would instruct you, find
8 a defendant not guilty?

9 MR. STEADMAN: Repeat that again now.

10 THE COURT: Could you, depending on the facts
11 and the evidence and the law as I would instruct you, find
12 a defendant not guilty?

13 MR. STEADMAN: Yeah.

14 THE COURT: Could you, depending on the facts
15 and the evidence and the law as I would instruct you, find
16 a defendant guilty?

17 MR. STEADMAN: Yes.

18 THE COURT: Have you discussed this case with
19 anyone?

20 MR. STEADMAN: No.

21 THE COURT: Have you read, viewed or listened
22 to any news accounts or news reports on the subject of
23 this case?

24 MR. STEADMAN: No, sir.

25 THE COURT: The defendant is black and the victim

1 was white. Will the fact that the defendant is black and
2 the victim is white prevent you in any way whatsoever from
3 rendering a fair and impartial verdict in this case?

4 MR. STEADMAN: It will not.

5 THE COURT: Will you, without regard to the race
6 of the defendant and the victim, render a fair and impartial
7 verdict based solely on the evidence and the law given
8 to you by the Court?

9 MR. STEADMAN: I will.

10 THE COURT: I'm going to ask you certain questions
11 at this time relative to your views on the death penalty.
12 There are no right or wrong answers. I emphasize the mere
13 fact that we are talking about penalty does not indicate
14 anything about this defendant. He is presumed innocent,
15 do you understand that?

16 MR. STEADMAN: Right.

17 MR. STEADMAN: You were given a letter a few
18 minutes ago to read. Have you read that letter?

19 MR. STEADMAN: Yes, sir.

20 THE COURT: You have one to your immediate right
21 that you may refer to if you wish to. I wonder if you
22 can tell me which of the three categories or the type of
23 juror that you might fall into?

24 MR. STEADMAN: Well, I ones that I read, I just
25 like --- it got to be one of them, right?

1 THE COURT: If you will choose one of the three.

2 MR. STEADMAN: Well, I can --- I choose three
3 because two was some things that I could consider in there.

4 THE COURT: All right, let me talk to you a little
5 bit about that. Can you, as a juror, participate in a
6 jury verdict recommending the penalty of death by lethal
7 injection for murder if the evidence and the law warrants
8 such a verdict?

9 MR. STEADMAN: Yeah.

10 THE COURT: Can you, as a juror, also participate
11 in a jury verdict recommending a sentence of life imprison-
12 ment for murder if the evidence and the law warrants such
13 a verdict?

14 MR. STEADMAN: Yeah, I can.

15 THE COURT: If you were selected on this case
16 and I tell you that you will --- I tell you at this time,
17 you would have to be sequestered or separated with the
18 jury and remain in a motel during the length of the trial.
19 Does that pose any undue hardship on you?

20 MR. STEADMAN: Not that I knows of right off
21 hand, I don't think so.

22 THE COURT: Okay. I'll tell you this, normally
23 cases in this state do not take more than two weeks and
24 counsel involved in this case are in agreement with me
25 in saying this, that we do not believe that this will

1 take more than week, okay. Now, if you will answer any
2 questions counsel may have for you, beginning with the
3 Solicitor.

4 SOLICITOR: Thank you, Your Honor.
5

6 EXAMINATION BY THE SOLICITOR:

7 Q. Mr. Steadman, I'm Walter Bailey and I want to
8 ask you a few questions and like the Judge said, there
9 are no right or wrong answers.

10 A. Okay.

11 Q. Any answer you give me is the right answer as
12 long as that's how you honestly feel, okay?

13 A. Right.

14 Q. I want to ask you about the death penalty and
15 when the Judge told you the three kind of jurors that there
16 are, you mentioned number three and number two.

17 A. Right.

18 Q. Could you just tell us in your own words what
19 your thoughts are on the death penalty, what your beliefs
20 are on the death penalty?

21 A. Well, my thoughts are if the crime is harsh or
22 whatever, you know, I believe, you know, in my mind I could
23 impose or inflict the death penalty on it.

24 Q. Okay. Is the death penalty something you've
25 ever thought about before Monday when you found out you

1 might be on a death penalty jury?

2 A. Nay.

3 Q. Never came up, say, in church or in a sermon
4 or talked with your friends or anything like that?

5 A. Nay, just like, you know, I just thought about
6 it and, you know, like I read the Bible and stuff like
7 that.

8 Q. All right, well, let me ask you this since you
9 mentioned the Bible. Do you have any religious beliefs
10 about the death penalty, one way or the other?

11 A. Do I have a religious belief?

12 Q. Religious belief about the death penalty.

13 A. Uhm --- somewhat.

14 Q. Tell us about that.

15 A. Well, you know, certain things I believe that
16 God is, you know, the ruler of all and , you know, in my
17 belief that he's the one, you know, that make all the
18 judgment in certain things. I mean, in everything but,
19 you know, it may be something different or whatever.

20 Q. Okay, well, let me ask you a different way maybe.
21 Do you think that your religious beliefs about the death
22 penalty would have any affect on your ability to be able
23 to vote for the death penalty if you thought the case was
24 serious enough?

25 A. Nay, I don't think so.

1 Q. All right, let me explain a little bit about
2 the process that we will be going through in South Carolina
3 in a death penalty case. We start out with the guilt phase
4 which is like any other criminal trial where a person is
5 charged with a crime and the State has the burden of proving
6 that person guilty to the satisfaction of that jury with
7 whatever he is charged with beyond a reasonable doubt.
8 In this case one of the charges is murder. If we've able
9 to prove him guilty of murder beyond a reasonable doubt,
10 then we go into the second phase of the trial.

11 So the jury, in that second phase, they've got
12 a person convicted of murder and the jury then has to decide
13 the punishment and the jury makes that decision, not the
14 Judge. They've got two choices, life, which means life
15 without parole, and the death penalty. They would never
16 have to vote for the death penalty but that might be an
17 option depending on the circumstances of the case. What-
18 ever that jury's verdict is, the Judge will order that
19 to happen and it will happen. So if the jury votes for
20 life, the Judge sentences that defendant to life in prison
21 and he serves life without parole. If the jury votes for
22 the death penalty, the Judge orders that execution and
23 that person actually is executed by lethal injection.

24 Now, I'm not going to ask you to predict what
25 you would do in this case if you got picked on the jury

1 because you don't anything about the case at all, do you?

2 A. Right.

3 Q. But if the case is bad enough, could you vote
4 for the death penalty knowing that as a result of that
5 vote that person actually will be executed, knowing that
6 the option, the other alternative would be life without
7 parole?

8 A. Yeah, I could.

9 Q. Okay. If all twelve jurors, after hearing the
10 facts of the case, vote for the death penalty, then the
11 next step is that each one of them is asked to sign their
12 name to a death verdict form which would result in that
13 person being executed. Could you sign your name to a paper
14 like that?

15 A. Could I have this person put to death?

16 Q. Yes, sir.

17 A. Yeah, I guess, I mean, that would give me something
18 to think about but I ain't never thought about it that
19 way, no.

20 Q. Okay, I don't want to rush you into it and what
21 we are talking about is, first of all the jury hears all
22 of the facts and then they hear the law from the Judge
23 and then they take a vote. And we're assuming that the
24 vote is all twelve for the death penalty. The next step
25 would be that those twelve jurors who voted for the

1 death penalty would then be asked to sign their name to
2 that form. Could you sign the form if you had already voted
3 for the death penalty?

4 A. Yeah, it would be my duty to do it.

5 Q. Okay. The last thing that happens is that the
6 jury would come out here and they would sit in these
7 chairs out here to your left, and each juror's name would
8 be called out one at a time and they would be asked to
9 stand up when their name was called and this lady over
10 here would ask you, is that your verdict, is it still your
11 verdict. Could you announce that out loud if that was your
12 verdict?

13 A. Yeah.

14 SOLICITOR: Mr. Steadman, I think that's all
15 I've got, thank you very much.

16 THE COURT: Mr. Sims.

17 MR. SIMS: No questions, Your Honor.

18 THE COURT: All right, Mr. Steadman. I'm going
19 to need you to step down, if you would, and check in with
20 Madam Clerk over here to my right and we need a telephone
21 number we can get you on moment's notice. You will not
22 be getting a call until later tonight or the first thing
23 in the morning but we do need you to camp out beside your
24 telephone. Do not discuss this case with anyone. Do not
25 read any news reports or listen to any newscasts until

1 after this case is over with, okay?

2 MR. STEADMAN: Okay.

3 THE COURT: You can go back home now or to your
4 work but stay by that phone.

5 MR. STEADMAN: Okay.

6 THE COURT: All right, let's bring in our next
7 juror.

8 (WHEREUPON, Juror #291, Peggy Still (WF) entered
9 the courtroom and took the witness chair.)

10 THE COURT: Good afternoon, how are you today?

11 MRS. STILL: Fine, and you?

12 THE COURT: Good. If you will relax and make
13 yourself comfortable, I've got some questions for you and
14 I need to remind you that you are still under oath from
15 Monday, okay. Do you know of any reason whatsoever why
16 you cannot give both the State and the defendant a fair
17 and impartial trial?

18 MRS. STILL: No, sir.

19 THE COURT: Would you, under oath, follow the
20 law in this case as given to you by me?

21 MRS. STILL: Yes, sir.

22 THE COURT: Could you, depending on the facts
23 and evidence and the law as I would instruct you, find
24 a defendant not guilty?

25 MRS. STILL: Excuse me?

1 THE COURT: Could you, depending on the facts
2 and evidence and the law as I would instruct you, find
3 a defendant not guilty?

4 MRS. STILL: Uh-huh.

5 THE COURT: Could you, depending on the facts
6 and evidence and the law as I would instruct you, find
7 a defendant guilty?

8 MRS. STILL: Yes, sir.

9 THE COURT: Have you discussed this case with
10 anyone?

11 MRS. STILL: No, sir.

12 THE COURT: Have you read, viewed or listened
13 to any news accounts or news reports on the subject of
14 this case?

15 MRS. STILL: No, sir.

16 THE COURT: The defendant is a black and the
17 victim was a white. Will the fact that the defendant is
18 black and the victim is white prevent you in any way
19 whatsoever from rendering a fair and impartial verdict
20 in this case?

21 MRS. STILL: No, sir.

22 THE COURT: Will you, without regard to the race
23 of the defendant and the victim, render a fair and impartial
24 verdict based solely on the evidence and the law given
25 to you by the Court?

1 MRS. STILL: Yes, sir.

2 THE COURT: I'm going to ask you certain questions
3 at this time relative to your views on the death penalty.
4 There are no right or wrong answers. I emphasize that
5 the mere fact that we are talking about penalty does not
6 indicate anything about this defendant. He is presumed
7 innocent, do you understand that?

8 MRS. STILL: Yes, sir.

9 THE COURT: You were given a letter a few minutes
10 ago to read. Have you read that letter?

11 MRS. STILL: Yes, sir.

12 THE COURT: You may refer to it if you would
13 like to. I'm going to ask you this. I wonder if you could
14 tell me which of the three categories or the type of juror
15 that you might fall into?

16 MRS. STILL: Third.

17 THE COURT: Can you, as a juror, participate
18 in a jury verdict recommending the penalty of death by
19 lethal injection for murder if the evidence and the law
20 warrants such a verdict?

21 MRS. STILL: Yes, sir.

22 THE COURT: Can you, as a juror, also participate
23 in a jury verdict recommending a sentence of life imprison-
24 ment for murder if the evidence and the law warrants such
25 a verdict?

1 MRS. STILL: Yes, sir.

2 THE COURT: If you were selected on this case,
3 I tell you that you will have to be sequestered or separated
4 with the jury and remain in a motel during the length of
5 this trial. Does that pose any undue hardship upon you?

6 MRS. STILL: Do you not see anybody at all during
7 this time?

8 THE COURT: No, ma'am. Let me say this, normally
9 in South Carolina cases do not take more than two weeks.
10 Counsel is in agreement with me that this case most likely
11 will not be more than a week. Now, does that put your
12 mind at ease a little bit.

13 MRS. STILL: Yeah.

14 THE COURT: Now, of course, during the day ---
15 in response to your question, during the day we would be
16 here.

17 MRS. STILL: Oh, yeah.

18 THE COURT: And then at night you would be at
19 the motel.

20 MRS. STILL: The reason I asked this is I have
21 a 7 year old and if it went on for a long time, it would
22 bother me.

23 THE COURT: Okay. Can your husband adequately
24 take care of him?

25 MRS. STILL: Yes.

1 THE COURT: All right, answer any questions counsel
2 may have for you, with the Solicitor beginning first.

3 SOLICITOR: Thank you, Your Honor.
4

5 EXAMINATION BY THE SOLICITOR:

6 Q. Mrs. Still, I'm Walter Bailey, how are you doing?

7 A. Fine.

8 Q. I want to ask you a few more questions and there
9 are no right or wrong answers and you are not being tested.
10 Let me explain a little bit about the process we go through
11 when the State seeks the death penalty. We start out with
12 the guilt phase which is like any other criminal trial
13 where the defendant is charged with certain crimes, he's
14 presumed innocent and the State has the burden of proving
15 that defendant guilty beyond a reasonable doubt. In this
16 case one of the charges is murder. If the defendant is
17 convicted of murder in the first part of the trial, then
18 we go into the penalty phase and that same jury who found
19 him guilty of murder in the first part of the trial, returns
20 the punishment. The jury in South Carolina makes that
21 decision, the Judge doesn't change it. It merely orders
22 that verdict to happen.

23 If the jury verdict is life, the Judge would
24 order that person sentenced to life and he would serve
25 life without parole. If the jury's verdict is for the

1 death penalty, the Judge would order that and that person
2 would be executed. The jury would never have to impose
3 the death penalty, it may be an option depending on the
4 facts that come out in the case but it's never required.

5 I'm not going to ask you to predict what you
6 would do if you got picked in this case because you haven't
7 heard the facts and you haven't heard the law. But if the
8 facts were bad enough, if the case was bad enough, could
9 you vote for the death penalty knowing that as a result
10 of that jury verdict that defendant actually would be
11 executed when the option would be life without parole?

12 A. Yes, sir.

13 Q. If all twelve jurors vote for the death penalty,
14 there's a verdict form that each one of them is asked to
15 sign, a death verdict form, which would result in that
16 person being executed. Could you sign your name to a paper
17 like that if that was your vote and the vote of the rest
18 of the jurors?

19 A. Yes.

20 Q. If the jury votes for the death penalty and sign
21 the paper, they would come out into court and would hand
22 the verdict form to the Clerk of Court and then each juror's
23 name would be called out one at a time and they would be
24 asked to stand up when their name is called and announce
25 that that was their verdict and it's still their verdict.

1 Could you do that?

2 A. Yes, sir.

3 SOLICITOR: Mrs. Still I think that's all I have,
4 thank you very much.

5 THE COURT: Mr. Sims.

6
7 EXAMINATION BY MR. SIMS:

8 Q. Mrs. Still, your 7 year old, is she in school
9 now?

10 A. Yes.

11 Q. And that would not bother you to be away from
12 her in the evenings if you were sequestered on the jury?

13 A. No, not --- I mean, if it's only just for a week,
14 no. I mean, I've been away from her for longer than that.

15 MR. SIMS: That's all I have, Your Honor.

16 THE COURT: Okay, you are qualified, Mrs. Still,
17 and I need you to come around and check in with Madam
18 Clerk's station right here. We need a number that we can
19 reach you on moment's notice. We will not be calling you
20 before 5 or so but we need for you to camp out by that
21 phone after that. Do not discuss this case with anyone,
22 do not read any newspaper coverage or watch or listen to
23 any newscasts until after this case is over, okay.

24 MRS. STILL: Okay.

25 THE COURT: Bring in our next one.

1 (WHEREUPON, Juror #43, Lionel Caughman (WF)
2 entered the courtroom and took the witness chair.)

3 THE COURT: Mrs. Caughman?

4 MRS. CAUGHMAN: Yes.

5 THE COURT: How are you this afternoon?

6 MRS. CAUGHMAN: Fine, thank you.

7 THE COURT: If you will just relax right there
8 and make yourself comfortable in the chair, we've got some
9 questions we need to ask you. And I remind you that you
10 are still under oath from Monday, okay?

11 MRS. CAUGHMAN: Yes, sir.

12 THE COURT: Do you know of any reason whatsoever
13 why you cannot give both the State and the defendant a
14 fair and impartial trial?

15 MRS. CAUGHMAN: No.

16 THE COURT: Would you, under oath, follow the
17 law in this case as given to you by me?

18 MRS. CAUGHMAN: Yes, sir.

19 THE COURT: Could you, depending on the facts
20 and the evidence and the law as I would instruct you, find
21 a defendant not guilty?

22 MRS. CAUGHMAN: Yes.

23 THE COURT: Could you, depending on the facts
24 and the evidence and the law as I would instruct you, find
25 a defendant guilty?

1 MRS. CAUGHMAN: Yes.

2 THE COURT: Have you discussed this case with
3 anyone?

4 MRS. CAUGHMAN: No.

5 THE COURT: Have you read, viewed or listened
6 to any news accounts or news reports on the subject of
7 this case?

8 MRS. CAUGHMAN: No, not since we began on Monday.

9 THE COURT: All right, before that?

10 MRS. CAUGHMAN: Yes, sir.

11 THE COURT: What was the nature of the news accounts?

12 MRS. CAUGHMAN: Newspaper writing at the time
13 of the charges.

14 THE COURT: Can you relate to me what you remember
15 or recall about those news accounts?

16 MRS. CAUGHMAN: There was a lady found in a field
17 out of Branchville, I think, and there was somebody arrested
18 at that time or shortly thereafter and then there was another
19 body found at the Syphrette home which was off Rivelon Road.

20 THE COURT: Will the news accounts which you
21 have read prevent you from rendering a fair and impartial
22 verdict in this case?

23 MRS. CAUGHMAN: No.

24 THE COURT: Can you erase from your mind the
25 information you acquired from these news accounts and

1 render a fair, impartial and just verdict based on the
2 law and the evidence uninfluenced in any way whatsoever
3 by reason of the news accounts which you have described
4 to me?

5 MRS. CAUGHMAN: I think I can.

6 THE COURT: Can you, notwithstanding your exposure
7 to these news accounts base your verdict upon the law and
8 the evidence presented to you uninfluenced in any way
9 whatsoever by the news accounts which you have described?

10 MRS. CAUGHMAN: I think I can.

11 THE COURT: Do you understand that your verdict
12 must be based exclusively upon the law given to you by
13 the Court and the evidence presented to the Court and the
14 jury during the trial?

15 MRS. CAUGHMAN: Yes.

16 THE COURT: Can you make your verdict decision
17 based only upon these two considerations, that is, the
18 law and the evidence?

19 MRS. CAUGHMAN: I think that I can.

20 THE COURT: The defendant is a black and the
21 victim was white. Will the fact that the defendant is
22 black and the victim is white prevent you in any way
23 whatsoever from rendering a fair and impartial verdict
24 in this case?

25 MRS. CAUGHMAN: No.

1 THE COURT: Will you, without regard to the race
2 of the defendant and the victim, render a fair and impartial
3 verdict based solely on the evidence and the law given
4 to you by the Court?

5 MRS. CAUGHMAN: Yes.

6 THE COURT: I'm going to ask you certain questions
7 at this time relative to your views on the death penalty.
8 There are no right or wrong answers. I emphasize that
9 the mere fact that we are talking about penalty does not
10 indicate anything about this defendant. He is presumed
11 innocent, do you understand that?

12 MRS. CAUGHMAN: Yes, I do.

13 THE COURT: You were given a letter a few minutes
14 ago to read. Have you read it?

15 MRS. CAUGHMAN: Yes.

16 THE COURT: There is one to your right if you
17 need to refer to it. I wonder if you could tell me which
18 of the three categories or the type of juror that you might
19 fall into?

20 MRS. CAUGHMAN: Number three.

21 THE COURT: Can you, as a juror, participate
22 in a jury verdict recommending the penalty of death by
23 lethal injection for murder if the evidence and the law
24 warrants such a verdict?

25 MRS. CAUGHMAN: I'm not sure that I can because

1 I have been trained all my life in the preservation of
2 life. I believe that the death penalty is right but I
3 don't know that I could ask that that be imposed on somebody.

4 THE COURT: Can you, as a juror, also participate
5 in a jury verdict recommending a sentence of life imprison-
6 ment for murder if the evidence and the law warrants such
7 a verdict?

8 MRS. CAUGHMAN: Yes.

9 THE COURT: If you were selected on this case,
10 I tell you that you will have to be sequestered or ep arated
11 with the jury and remain in a motel during the length of
12 trial. Does that pose any undue hardship for you?

13 MRS. CAUGHMAN: No.

14 THE COURT: All right, if you will answer any
15 questions counsel may have for you, beginning with the
16 Solicitor.

17 SOLICITOR: Thank you, Your Honor.
18

19 EXAMINATION BY THE SOLICITOR:

20 Q. Mrs. Caughman, I'm Walter Bailey and I want to
21 ask you some questions and just like the Judge told you,
22 there are no right or wrong answers. Any answer you give
23 is the right answer as long as that's how you truly feel.

24 A. Yes, sir.

25 Q. I notice from your questionnaire that you

1 retired as an RN?

2 A. That is correct.

3 Q. Okay, and in response to one of the questions
4 the Judge asked you about the death penalty, you expressed
5 a concern that your training had been in the preservation
6 of life and although you believed the death penalty might
7 be appropriate in some cases, you didn't know whether you
8 could actually be involved in that process.

9 A. That is correct.

10 Q. And, of course, everybody in this court respects
11 your belief as we respect the beliefs of any jurors on
12 the death penalty. It's a complex area but before Monday
13 when you thought you might end up being a juror on a case
14 like this, had you ever given any thought to the death
15 penalty?

16 A. Yes, I've always thought that it would be hard
17 for me in the decision.

18 Q. Okay, do you have any religious convictions or
19 beliefs in regard to the death penalty?

20 A. I'm a Christian and I feel that it's wrong to
21 take the life of another but in the case of the law, I
22 feel that in some cases it is right to impose the death
23 penalty. But personally, I don't know that I could do
24 that.

25 Q. All right, and you understand that this is the

1 only opportunity that we have to talk to jurors to find
2 out whether they can do it.

3 A. Yes, sir.

4 Q. We're not going to ask you what you would do
5 in this case because you haven't heard the facts.

6 A. Right.

7 Q. But the scope of our questions would be geared
8 towards determining whether or not you could do it and
9 if you can't do it, you know, you need to tell us that,
10 and if you can do it, in your opinion, you need to tell
11 us that also. There are no wrong answers.

12 So let me just back up a little back and explain
13 the process that we go through when the State seeks the
14 death penalty. We start out with the guilt phase of the
15 trial which is like any other criminal trial when the State
16 charges somebody with an offense and the State has the
17 burden of proving that person guilty to the satisfaction
18 of that jury beyond a reasonable doubt.

19 If the State produces enough evidence and where
20 the jury convicts that person of murder, then we would
21 go into the second phase of the trial and in this State,
22 the Judge does not determine the sentence when we have
23 a death penalty case, the jury makes that decision. We
24 would enter that second phase of the trial which would
25 mean that the defendant has already been convicted of

1 murder and there would be additional evidence that would
2 come out, additional instructions from the Judge and then
3 the jury decides the punishment, and the Judge does not
4 change the jury's verdict, he mere orders that to happen.
5 If the verdict is for life, the Judge sentences that person
6 to life, he serves life without parole. If the jury votes
7 for the death penalty, the Judge orders that, that person
8 actually is executed.

9 Now, again, I'm not asking you for a prediction,
10 what you would do if you got picked on this jury. But taking
11 into consideration your thoughts about your training as
12 a nurse, if you are picked as a juror in a case of this
13 type and the evidence was severe enough, the case was bad
14 enough, could you vote for the death penalty, knowing that
15 as a result of that vote that person actually would be
16 executed when the alternative would be life without parole?

17 A. I think that I could.

18 Q. Now, when you said --- and, again, I apologize
19 for drawing this out but when you say you think you could,
20 again, I'm not asking for a prediction, I'm asking whether
21 or not if the case was bad enough, could you do it?

22 A. Yes, I think so.

23 Q. Okay. If all twelve jurors vote for the death
24 penalty, each one of those jurors is next asked to sign
25 their name to a death verdict form that would result in

1 that person being executed. Could you sign your name to
2 a paper like that?

3 A. Would you repeat that again?

4 Q. Okay. There's a process we go through is that
5 the jury would vote.

6 A. Yes.

7 Q. The decision has to be unanimous, all twelve
8 would have to agree.

9 A. Right.

10 Q. If all twelve jurors vote for the death penalty,
11 the next step is that there's a death verdict form. Each
12 juror, there would be twelve blanks on it ---

13 A. Right.

14 Q. --- each juror would be asked to sign their name
15 to that paper. And the result of that would be that person
16 would be executed. Could you sign your name to a paper
17 like that, knowing that that person would be executed?

18 A. I think yes, if we reached that verdict, yes.

19 Q. The final thing that happens for the jury is
20 that they would come out and sit in these chairs out here
21 and the Clerk would call out their names one at a time
22 and they would be asked whether or not that was their verdict,
23 and is it still your verdict. Could you answer out loud
24 if that was your verdict?

25 A. Yes.

1 Q. Okay. Final question here, Mrs. Caughman, and
2 I want to again, just one more time, go back to what you
3 said about your training as a nurse and preserving life
4 and all of that.

5 MR. SIMS: Your Honor, may we approach?

6 THE COURT: Sure.

7 (WHEREUPON, A bench conference was held out
8 of the hearing of the juror and the court reporter.)

9 Q. Mrs. Caughman, do you still feel like, bearing
10 in mind your thoughts about your training and preserving
11 life, that you could vote for the death penalty if the
12 case was bad enough?

13 A. Yes, sir.

14 Q. And go through the rest of the process?

15 A. Yes.

16 SOLICITOR: Thank you.

17 THE COURT: Mr. Sims.

18 MR. SIMS: No questions, Your Honor.

19 THE COURT: Okay, the juror is qualified. Mrs.
20 Caughman, I need you to check in with Madam Clerk right
21 here. We need a number, a telephone number, whereby we
22 can reach you on a moment's notice, okay?

23 MRS. CAUGHMAN: Okay.

24 THE COURT: About reporting back. Please do
25 not discuss this case with anyone. Do not read any

1 newspaper accounts or listen to watch any news accounts
2 until after the case is over, okay.

3 MRS. CAUGHMAN: Yes, sir.

4 THE COURT: We will not be calling you before
5 5 or 6 this evening but after that period of time, we do
6 need for you to stay close by a phone where we can reach
7 you, okay?

8 MRS. CAUGHMAN: Yes, sir.

9 THE COURT: All right, who is next?

10 SOLICITOR: Your Honor, Mr. Henry Walker is next
11 and he did indicate no arrests, no convictions and again,
12 has some old charges that he has probably forgotten about.
13 He's got a '71 assault arrest in Florida, no disposition
14 and a '85 DUI first and DUS first.

15 THE COURT: Do you see anything in there serious
16 enough you want me to inquire into?

17 SOLICITOR: No, sir, I don't that is significant,
18 they are so old. I just wanted to bring that to the Court's
19 attention.

20 THE COURT: I don't think I will go into that,
21 there's no disposition on the one and then just a DUI and
22 DUS first. All right, bring in Mr. Walker.

23 (WHEREUPON, Juror #315, Henry Walker (BM) entered
24 the courtroom and took the witness chair.)

25 THE COURT: Good afternoon, Mr. Walker.

1 MR. WALKER: Good afternoon.

2 THE COURT: How are you today?

3 MR. WALKER: Okay.

4 THE COURT: If you will just relax and make
5 yourself comfortable, I've got some questions for you and
6 I need to remind you that you are still under oath from
7 Monday, okay. Do you know of any reason whatsoever why
8 you cannot give both the State and the defendant a fair
9 and impartial trial?

10 MR. WALKER: No, sir.

11 THE COURT: Would you, under oath, follow the
12 law in this case as given to you by me?

13 MR. WALKER: Yes, sir.

14 THE COURT: Could you, depending on the facts
15 and the evidence and the law as I would instruct you,
16 find a defendant not guilty?

17 MR. WALKER: Yes, sir.

18 THE COURT: Could you, depending on the facts
19 and the evidence and the law as I would instruct you, find
20 a defendant guilty?

21 MR. WALKER: Yes, sir.

22 THE COURT: Have you discussed this case with
23 anyone?

24 MR. WALKER: No, sir.

25 THE COURT: Have you read, viewed or listened

1 to any news accounts or news reports on the subject of
2 this case?

3 MR. WALKER: No, sir.

4 THE COURT: The defendant is a black and the
5 victim was a white. Will the fact that the defendant is
6 black and the victim is white prevent you in any way
7 whatsoever from rendering a fair and impartial verdict
8 in this case?

9 MR. WALKER: No, sir.

10 THE COURT: Will you, without regard to the race
11 of the defendant and the victim render a fair and impartial
12 verdict based solely on the evidence and the law given
13 to you by the Court?

14 MR. WALKER: Yes, sir.

15 THE COURT: I'm going to ask you certain questions
16 at this time relative to your views on the death penalty.
17 There are no right or wrong answers. I emphasize that
18 the mere fact that we are talking about penalty does not
19 indicate anything about the defendant. He is presumed
20 innocent, do you understand that?

21 MR. WALKER: Yes, sir.

22 THE COURT: You were given a letter a few minutes
23 ago to read. Have you read that letter?

24 MR. WALKER: Yes, sir, I have.

25 THE COURT: You may refer to it if you would

1 like to. I'm going to ask you this. I wonder if you could
2 tell me which of the three categories or the type of juror
3 that you might fall into?

4 MR. WALKER: Number three.

5 THE COURT: Can you, as a juror, participate
6 in a jury verdict recommending the penalty of death by
7 lethal injection for murder if the evidence and the law
8 warrants such a verdict?

9 MR. WALKER: Yes, sir.

10 THE COURT: Can you, as a juror, also participate
11 in a jury verdict recommending a sentence of life imprison-
12 ment for murder if the evidence and the law warrants such
13 a verdict?

14 MR. WALKER: Yes, sir.

15 THE COURT: If you were selected on this case,
16 I tell you that you will have to be sequestered or separated
17 with the jury and remain in a motel during the length of
18 this trial. Does that pose any undue hardship upon you?

19 MR. WALKER: No, sir.

20 THE COURT: All right, sir, please answer any
21 questions counsel may have for you, beginning with the
22 Solicitor.

23 SOLICITOR: Thank you, Your Honor.

24
25 EXAMINATION BY THE SOLICITOR:

1 Q. Mr. Walker, I'm Walter Bailey and I need to ask
2 you a few more questions and like the Judge said, there
3 are no right or wrong answers, okay. Any answer you give
4 me is the right answer as long as it's the way you really
5 feel, all right?

6 A. Yes, sir.

7 Q. I want to ask you about the death penalty, first
8 of all. Is that something that you've ever thought about
9 before Monday?

10 A. The death penalty?

11 Q. Yes, sir.

12 A. I have.

13 Q. Can you tell us just in your own words what your
14 thoughts are on the death penalty, in general, just kind
15 of forget this case, but just in general.

16 A. Well, I've always thought of it as if it was
17 the death penalty that it was guilty in court, if they
18 find him guilty and ask for the death penalty I feel like
19 he should have the death penalty.

20 Q. Okay, well, let me explain a little bit to you
21 about the process that we go through when the State charges
22 somebody with murder and they are seeking the death penalty.

23 We start out with what's called the guilt phase
24 and that's like a regular criminal trial when the State
25 charges somebody and they have to prove that person guilty

1 beyond a reasonable doubt. If the charge is murder then
2 the State has to prove that person guilty of murder beyond
3 a reasonable doubt. If the jury finds him guilty, then
4 we go into the second part of the trial which is the penalty
5 phase, where the jury decides the punishment. So any time
6 that jury gets into the penalty phase, they are dealing
7 with a fellow or a woman that they have already convicted
8 of murder. So we wouldn't be in that second part of the
9 trial unless you got a convicted murderer on your hands.

10 The issue there is what is the appropriate punish-
11 ment and additional testimony comes out. The Judge
12 instructs the jury on the law that applies to the penalty
13 and then that jury, the same jury that found that person
14 guilty of murder, decides whether he gets life or death.
15 The Judge can't change that, he won't change that. He
16 will order that jury's verdict to happen and it will happen.
17 If the verdict is life, the Judge sentences that person
18 to life and he does life without parole. If the jury says
19 the death penalty, the Judge orders that and he's actually
20 executed, okay.

21 So I'm not asking about this case because you
22 haven't heard the facts but if you got picked as a juror
23 on a death penalty case and the case was bad enough, could
24 you vote for the death penalty knowing that as a result
25 of that vote that person actually is going to get executed

1 when the alternative punishment would be life without parole?

2 A. Could I vote for the death penalty?

3 Q. Yes, sir.

4 A. I could.

5 Q. And if you felt like, based on what you heard,
6 that the most appropriate punishment would be life without
7 parole, could you also vote for that?

8 A. I could.

9 Q. If you voted for the death penalty, could you
10 sign your name to a paper, a death verdict form, that would
11 result in the execution happening?

12 A. I don't understand your question.

13 Q. Okay. There's a process that the jury goes through
14 if they vote for the death penalty, all twelve would have
15 to agree to it. And the next thing is a piece of paper
16 the Judge would give the jury and it's called a death verdict
17 form and it would have twelve blank lines there and each
18 juror would then be asked to sign their name to that paper.
19 Could you sign that paper if that was your verdict?

20 A. I could.

21 Q. Could you say out loud in open court here, that's
22 my verdict if that was your verdict?

23 A. Yes.

24 SOLICITOR: Okay, Mr. Walker, I think that's
25 all I've got, thank you very much.

1 THE COURT: Mr. Sims.

2
3 EXAMINATION BY MR. SIMS:

4 Q. Mr. Walker, I just have a few questions for you.
5 You stated in response to a question by Mr. Bailey that
6 if the --- just to kind of summarize what you said, if the
7 State is asking for the death penalty and he was found
8 guilty, he should get the death penalty? Is that what
9 you said, I need to be clear on that.

10 A. No, I feel like if he is found guilty of the
11 charge then I could vote for the death penalty.

12 Q. If he's found guilty of the charge you could
13 vote for the death penalty, is that what you are saying
14 now?

15 A. I could vote for whatever, either way, for the
16 death penalty or life in prison.

17 Q. Okay, and you would have to hear all of the evidence
18 before you made that decision?

19 A. Right.

20 Q. Or would you have a decision already ---

21 A. No, no, after I heard all of the evidence in
22 the case before I even vote either way.

23 Q. You would have to have all of the evidence before
24 you could go either way?

25 A. Right.

1 MR. SIMS: That's all I have, Your Honor.

2 THE COURT: All right, the juror is qualified.

3 Mr. Walker, I've got good news and bad news for you. I'm
4 going to be able to let you go home but you are going to
5 have to camp out by the telephone, okay. Please do not
6 discuss this case with anyone. Do not watch any TV or
7 listen to any news accounts or read any news accounts until
8 this case is over with, okay?

9 MR. WALKER: Okay.

10 THE COURT: Now, you need to give Madam Clerk
11 a telephone number where we can reach you tonight. All
12 right, you can go now.

13 MR. WALKER: Thank you, sir.

14 THE COURT: All right, bring in the next one,
15 or first, Solicitor, is there anything on her?

16 SOLICITOR: Yes, sir, Mrs. Moseley also indicated
17 no arrests. She has a 1999 CDV arrest.

18 THE COURT: She indicated no arrests?

19 SOLICITOR: No arrests.

20 THE COURT: And when was it?

21 SOLICITOR: 1999.

22 THE COURT: Let me see this questionnaire. She
23 checked yes.

24 SOLICITOR: She's go no checked on mine.

25 THE COURT: She updated it, this is 10/22.

1 SOLICITOR: Okay, I didn't get the new one.

2 THE COURT: All right, do you want to see that
3 one?

4 SOLICITOR: Yes, sir. Okay, false alarm.

5 THE COURT: Okay, bring her on.

6 (WHEREUPON, Juror #218, Elizabeth Moseley (BF)
7 entered the courtroom and took the witness chair.)

8 THE COURT: Good afternoon, Ms. Moseley.

9 MS. MOSELEY: Good afternoon.

10 THE COURT: How are you?

11 MS. MOSELEY: Fine.

12 THE COURT: If you will just relax right there
13 and make yourself comfortable, we've got some questions
14 to ask you. I remind you that you are still under oath
15 from Monday, okay?

16 MS. MOSELEY: Okay.

17 THE COURT: Now, I think I've asked this once
18 but I'm going to ask it again. Do you know of any reason
19 whatsoever why you cannot give both the State and the
20 defendant a fair and impartial trial?

21 MS. MOSELEY: No, sir, I don't.

22 THE COURT: Would you, under oath, follow the
23 law in this case as given to you by me?

24 MS. MOSELEY: Yes, sir, I will.

25 THE COURT: Could you, depending on the facts

1 and the evidence and the law as I would state it to you,
2 find a defendant not guilty?

3 MS. MOSELEY: Yes, sir.

4 THE COURT: Could you, depending on the facts
5 and the evidence and the law as I would instruct you, find
6 a defendant guilty?

7 MS. MOSELEY: Yes, sir.

8 THE COURT: Have you discussed this case with
9 anyone?

10 MS. MOSELEY: No, sir.

11 THE COURT: Have you read, viewed or listened
12 to any news accounts or news reports on the subject of
13 this case?

14 MS. MOSELEY: Yes, sir, I have.

15 THE COURT: Would you tell me what the nature
16 of that news report was?

17 MS. MOSELEY: Newspaper.

18 THE COURT: Can you remember or recall what you
19 read in that newspaper? If you can.

20 MS. MOSELEY: Uhm --- no, sir, it was a while
21 back, in the spring.

22 THE COURT: Will the news account which you have
23 read prevent you from rendering a fair and impartial verdict
24 in this case?

25 MS. MOSELEY: Yes, sir, I think it would.

1 THE COURT: It would?

2 MS. MOSELEY: Yes, sir.

3 THE COURT: Can you erase from your mind the
4 information you acquired from these news accounts and render
5 a fair and impartial and just verdict based on the law
6 and the evidence uninfluenced in any way whatsoever by
7 reason of these news accounts which you have told me about?

8 MS. MOSELEY: Yes, sir.

9 THE COURT: Pardon?

10 MS. MOSELEY: Yes, sir.

11 THE COURT: Can you, notwithstanding your exposure
12 to these news accounts, base your verdict upon the law
13 and the evidence presented to you uninfluenced in any way
14 whatsoever by the news accounts which you have described?

15 MS. MOSELEY: I think so, yes, sir.

16 THE COURT: Do you understand that your verdict
17 must be based exclusively upon the law given to you by
18 the Court and the evidence presented to the Court and the
19 jury during the trial?

20 MS. MOSELEY: Yes, sir.

21 THE COURT: Can you make your verdict based only
22 upon these two considerations, that is, the law and the
23 evidence?

24 MS. MOSELEY: Yes, sir.

25 THE COURT: All right. The defendant is a black

1 and the victim was a white. Will the fact that the defendant
2 is black and the victim is white prevent you in any way
3 whatsoever from rendering a fair and impartial verdict
4 in this case?

5 MS. MOSELEY: No, sir.

6 THE COURT: Will you, without regard to the race
7 of the defendant and the victim, render a fair and impartial
8 verdict based solely on the evidence and the law given
9 to you by the Court?

10 MS. MOSELEY: Yes, sir.

11 THE COURT: I'm going to ask you certain questions
12 at this time relative to your views on the death penalty.
13 There are no right or wrong answers. I emphasize the mere
14 fact that we are talking about penalty does not indicate
15 anything about this defendant. He is presumed innocent,
16 do you understand that?

17 MS. MOSELEY: Yes, sir, I do.

18 THE COURT: You were given a letter a few minutes
19 ago to read. Have you had a chance to read that?

20 MS. MOSELEY: Yes, sir, I have.

21 THE COURT: You have one to your right if you
22 need to refer to it and now I wonder if you can tell me
23 which of the three categories or the type of juror that
24 you might fall into?

25 MS. MOSELEY: Number three, sir.

1 THE COURT: Can you, as a juror, participate
2 in a jury verdict recommending the penalty of death by
3 lethal injection for murder if the evidence and the law
4 warrants such a verdict?

5 MS. MOSELEY: No, sir.

6 THE COURT: You cannot?

7 MS. MOSELEY: No, sir.

8 THE COURT: Can you, as a juror, participate
9 in a jury verdict recommending a sentence of life imprison-
10 ment for murder if the evidence and the law warrants such
11 a verdict?

12 MS. MOSELEY: Yes, sir.

13 THE COURT: Is your opposition to the death penalty
14 for murder so fixed and so firm that you are irrevocably
15 committed before the beginning of this trial to vote against
16 the death penalty for murder regardless of the facts and
17 circumstances that might develop during the trial?

18 MS. MOSELEY: Can I ask you to repeat that again,
19 please?

20 THE COURT: Is your opposition to the death penalty
21 for murder so fixed and so firm that you are irrevocably
22 committed before the beginning of this trial to vote against
23 the death penalty for murder regardless of the facts and
24 circumstances that may develop during trial?

25 MS. MOSELEY: I don't believe that I have an

1 answer for that, sir.

2 THE COURT: Can your opposition to capital punish-
3 ment or the death penalty for murder be changed by the
4 evidence presented during the trial?

5 MS. MOSELEY: Could the evidence ---

6 THE COURT: Pardon?

7 MS. MOSELEY: I think that would depend on the
8 evidence so I can't give you an answer on that also.

9 THE COURT: Notwithstanding your opposition to
10 capital punishment, are you willing to consider all of
11 the penalties provided by the law of this state, including
12 the death penalty, and then determine whether the defendant
13 should receive the death penalty or life imprisonment based
14 upon the facts and circumstances developed during the trial?

15 MS. MOSELEY: Yes, sir.

16 THE COURT: Will your opposition to the death
17 penalty for murder prevent you from voting for the death
18 penalty under any circumstances?

19 MS. MOSELEY: No, sir.

20 THE COURT: Are your beliefs and attitudes against
21 capital punishment such that you would be unable to return
22 a verdict of guilty of murder according to the law of this
23 state?

24 MS. MOSELEY: No, sir.

25 THE COURT: Would you automatically vote against

1 the imposition of capital punishment without regard to
2 the evidence ---

3 MS. MOSELEY: No, sir.

4 THE COURT: --- that might be developed during
5 the trial in a capital murder case?

6 MS. MOSELEY: No, sir.

7 THE COURT: Would your opposition to capital
8 punishment prevent you from making an impartial decision
9 as to the defendant's guilt?

10 MS. MOSELEY: No, sir.

11 THE COURT: If you were selected on this case,
12 I tell you that you would have to be sequestered or
13 separated with the jury and remain in a motel during the
14 length of the trial. Does that pose any undue hardship
15 for you?

16 MS. MOSELEY: Yes, sir, it would.

17 THE COURT: Tell me how.

18 MS. MOSELEY: I'm to be married in two and a
19 half weeks.

20 THE COURT: All right, other than that?

21 MS. MOSELEY: No, sir.

22 THE COURT: Okay, to ease your mind about that,
23 counsel is in agreement with me that this case would probably
24 not take more than a week.

25 MS. MOSELEY: Huh, okay.

1 THE COURT: Does that create a problem, do you
2 have plans or something during the next week?

3 MS. MOSELEY: No, I've got just about everything
4 but the gown, not really, no, sir.

5 THE COURT: Okay. Answer any questions that counsel
6 may have, beginning with the Solicitor.

7 SOLICITOR: Thank you, Your Honor.

8
9 EXAMINATION BY THE SOLICITOR:

10 Q. Ms. Moseley, I want to ask you a couple of questions
11 about your questionnaire and then about the death penalty,
12 okay. I notice that you've got two children, a little
13 girl 5 and a boy 6.

14 A. Yes, sir.

15 Q. And you are a single mother?

16 A. Yes, sir.

17 Q. If you are put up in a motel for four or five
18 days, maybe up to a week, who would take care of your
19 children?

20 A. Their father.

21 Q. Okay. And the other question I wanted to ask
22 you about on the questionnaire was, I noticed that you
23 attended school in Branchville through high school.

24 A. Yes, sir.

25 Q. And now you live in Bowman?

- 1 A. Yes, sir.
- 2 Q. When did you leave Branchville?
- 3 A. My junior year.
- 4 Q. Okay, your junior year in high school?
- 5 A. Yes, sir.
- 6 Q. And there were some names called out of some
- 7 people that one time lived in Branchville, one of them
- 8 was Norris Martin and one was the defendant, Sammie Louis
- 9 Stokes. Do you know either one of them?
- 10 A. No, sir.
- 11 Q. Do you recall ever seeing them at school or around
- 12 town or anything?
- 13 A. No, sir.
- 14 Q. Do you know anybody in their families?
- 15 A. No.
- 16 Q. The Stokes family or Norris Martin's family.
- 17 A. I know some Stokes, I went to school with a
- 18 Renika Renee Stokes, but I don't know if they are related
- 19 to him or not.
- 20 Q. All right. Would the fact that you are from
- 21 Branchville and know somebody named Stokes, would that
- 22 interfere with your ability to be a juror in this case?
- 23 A. I think it would, yes, sir.
- 24 Q. You think that it would?
- 25 A. Uh-huh.

1 Q. Could you tell us how it would?

2 A. Because of the simple fact that I know a Stokes
3 and I'm not sure if they are related to him or not.

4 Q. Okay, if it turned out they were related and
5 you did know somebody from Branchville named Stokes, do
6 you think that might cause you problems as a juror?

7 A. I don't think so, no, sir.

8 Q. All right. Let me ask you a little bit about
9 the death penalty, Ms. Moseley, and I think the Judge told
10 you, there are no right or wrong answers, okay. Everybody
11 has got different beliefs in the death penalty and they
12 are all right, there's no wrong answers. So what I'm going
13 to ask you to do, if you would, is not try to guess what
14 answer I'm asking for, just tell me what you really think,
15 okay?

16 A. Okay.

17 Q. Before Monday when you found out that you might
18 be a juror on this kind of a case, did you ever think about
19 the death penalty?

20 A. Yes, sir.

21 Q. Had it ever come up --- I notice that you attend
22 church and the different church organizations. Do you
23 go to church on a regular basis?

24 A. Yes, sir, I do.

25 Q. Do you know whether it has ever come up in church

1 that you can remember?

2 A. Sir?

3 Q. Has the subject of the death penalty ever come
4 up in church?

5 A. No, sir, not that I recall.

6 Q. Okay. Do you have any religious beliefs about
7 the death penalty?

8 A. No, sir, I don't.

9 Q. Do you have any personal beliefs about the death
10 penalty?

11 A. No, sir, I don't.

12 Q. When you've thought about the death penalty in
13 the past, what have your thoughts been?

14 A. I'm thinking it's cruel.

15 Q. It's cruel?

16 A. I think so, yes.

17 Q. Anything else or just that it's cruel?

18 A. That it's cruel.

19 Q. Okay. The Judge asked you about that piece of
20 paper that you and the other jurors went over about the
21 three kind of jurors there and, like I said, all three
22 of those different kinds, one is no better than the other
23 one, it's just a matter of personal preference. One of
24 the questions that the Judge asked you and I may not be
25 saying it the same way he did, but he asked you something

1 about could you participate in a process that might end
2 up in death by lethal injection and I think that you said
3 no, do you remember that?

4 A. Yes, sir.

5 Q. Is that still your answer?

6 A. Yes, sir, it is.

7 Q. Okay. So looking at the paper again, it's right
8 beside you there, down the middle of the page there where
9 it says the second type of juror. It says that that second
10 type of juror who, although the guilt of the defendant
11 has been determined, in other words, he's been found guilty
12 of murder, under no circumstances could ever give the
13 death penalty. Would that describe you?

14 A. I think it would, yes, sir, more of the second
15 than the third, right.

16 Q. So now that you've had a chance to think about
17 it, you're the number two type juror?

18 A. Yes, sir.

19 SOLICITOR: Ms. Moseley, I think that's all I
20 have right now, I might have some more questions to ask
21 you in a few minutes, but that's all I've got right now,
22 than you.

23 THE COURT: Mr. Sims.

24 EXAMINATION BY MR. SIMS:

25 Q. Ms. Moseley, I guess I, too, am trying to get

1 some things clear. Initially you said that you would not
2 be able to vote for the death penalty in response to one
3 of the Judge's questions. Is that your position? But
4 you said that you were, I believe, a category three juror,
5 that person who would sit back, listen to the evidence
6 and make a decision at that time.

7 A. Uh-huh.

8 Q. Now, you are number three, is that correct?

9 A. I'm thinking --- when I first read this paper,
10 I'm thinking that I would be juror type number three and
11 after the Solicitor here just asked the questions, my mind
12 is made up on number two, simply because I don't believe
13 in it.

14 Q. You don't believe in the death penalty?

15 A. Or lethal injection or anything, no, sir, none
16 of that, no, sir.

17 Q. There are no situations in which you could sit
18 and listen to the evidence and make a decision based upon
19 the evidence that you would hear in a courtroom whether
20 or not you would impose the death penalty?

21 A. Is this what you are asking me?

22 Q. Yes.

23 A. Repeat that again, please.

24 Q. Are there --- could you, as a juror, not just
25 this case, but on any case. If you were chosen as a jury

1 and you sat in that jury box and you heard all of the
2 evidence and after hearing all of the evidence, could you
3 if the facts were such that it warranted the death penalty,
4 could you impose the death penalty?

5 A. Huh-uh, no, sir.

6 MR. SIMS: Thank you.

7 THE COURT: Anything further?

8 SOLICITOR: No, sir.

9 THE COURT: Ms. Moseley, we want to thank you
10 for coming and taking part and especially for your patience
11 Monday, I know that was a long day for everybody. You're
12 excused at this time, you may return home or go to work.

13 MS. MOSELEY: Okay.

14 THE COURT: All right, let's bring out our next
15 one.

16 (WHEREUPON, Juror #57, Robert Curlee (WM)
17 entered the courtroom and took the witness chair.)

18 THE COURT: Mr. Curlee, how are you doing today?

19 MR. CURLEE: Fine.

20 THE COURT: I'm going to ask you to relax and
21 make yourself comfortable, we've got some questions we
22 need to ask you and therefore I remind you that you are
23 still under oath from Monday, okay?

24 MR. CURLEE: Could I say something?

25 THE COURT: Yes, sir.

1 MR. CURLEE: On Monday you asked if we knew certain
2 people and at the time it didn't register but I did
3 recognize one of the people after the fact as someone I
4 know.

5 THE COURT: Who was it?

6 MR. CURLEE: Mark Ott.

7 THE COURT: Mark Ott?

8 MR. CURLEE: Right, it was one of the names that
9 you called out.

10 THE COURT: Is that one of the witnesses?

11 SOLICITOR: Yes, sir.

12 THE COURT: Okay, you know --- tell us how you
13 know him?

14 MR. CURLEE: I just know him at work.

15 THE COURT: Well, let me ask you this. Would
16 the fact that you know Mark Ott, would that affect your
17 ability to give a fair and impartial trial in this case?

18 MR. CURLEE: No.

19 THE COURT: Okay. Do you know of any reason
20 whatsoever why you cannot give both the State and the
21 defendant a fair and impartial trial?

22 MR. CURLEE: No, no reason.

23 THE COURT: Would you, under oath, follow the
24 law in this case as given to you by me?
25

1 MR. CURLEE: Yes, sir.

2 THE COURT: Could you, depending on the facts
3 and the evidence and the law as I would instruct you, find
4 a defendant not guilty?

5 MR. CURLEE: Yes, sir.

6 THE COURT: Could you, depending on the facts
7 and evidence and the law as I would instruct you, find
8 a defendant guilty?

9 MR. CURLEE: Yes, sir.

10 THE COURT: Have you discussed this case with
11 anyone?

12 MR. CURLEE: No, sir.

13 THE COURT: Have you read, viewed or listened
14 to any news accounts or news reports on the subject of
15 this case?

16 MR. CURLEE: I have not read anything lately
17 but I did read something that may pertain to this case,
18 I'm not sure, some number of months ago.

19 THE COURT: What was the nature of that news
20 accounts, was it newspaper or ---

21 MR. CURLEE: It was something in the newspaper
22 a good while ago when I think the incident happened.

23 THE COURT: Can you recall or remember anything
24 about that news account?

25 MR. CURLEE: The only thing that I remember is

1 there were, I believe, two people were killed. The only
2 name in the article that I remember is the name Syphrette
3 but that's all that I can recollect.

4 THE COURT: Okay. Will the news accounts which
5 you have read prevent you from rendering a fair and impartial
6 verdict in this case?

7 MR. CURLEE: No.

8 THE COURT: Can you erase from your mind the
9 information you acquired from these news accounts and render
10 a fair, impartial and just verdict based on the law and
11 the evidence uninfluenced in any way whatsoever by the
12 reading of the news accounts which you have described?

13 MR. CURLEE: Yes, sir.

14 THE COURT: Can you, notwithstanding your exposure
15 to these news accounts, base your verdict upon the law
16 and the evidence presented to you uninfluenced in any way
17 whatsoever by the news accounts which you have described?

18 MR. CURLEE: Can you repeat the question?

19 THE COURT: Can you, notwithstanding your exposure
20 to these news accounts, base your verdict upon the law
21 and the evidence presented to you uninfluenced in any way
22 whatsoever by the news accounts which you have described?

23 MR. CURLEE: Yes, sir.

24 THE COURT: Do you understand that your verdict
25 must be based exclusively upon the law give to you by

1 the Court and the evidence presented to the Court and the
2 jury during the trial?

3 MR. CURLEE: Yes, sir.

4 THE COURT: Can you make your verdict based only
5 upon these two considerations, that is, the law and the
6 evidence?

7 MR. CURLEE: Yes, sir.

8 THE COURT: The defendant is a black and the
9 victim was white. Will the fact that the defendant is black
10 and the victim was white prevent you in any way whatsoever
11 from rendering a fair and impartial verdict in this case?

12 MR. CURLEE: No, sir.

13 THE COURT: Will you, without regard to the race
14 of the defendant and the victim, render a fair and impartial
15 verdict based solely on the evidence and the law given
16 to you by the Court?

17 MR. CURLEE: Yes, sir.

18 THE COURT: I'm going to ask you certain questions
19 at this time relative to your views on the death penalty.
20 There are no right or wrong answers. I emphasize that
21 the mere fact that we are talking about penalty does not
22 indicate anything about this defendant. He is presumed
23 innocent, do you understand that?

24 MR. CURLEE: Yes, sir.

25 THE COURT: You were given a letter a few minutes

1 ago to read. Have you read it?

2 MR. CURLEE: Yes, sir.

3 THE COURT: You have one to your right if you
4 need to refer to it. I wonder if you could tell me which
5 of the three categories or the juror type that you might
6 fall into?

7 MR. CURLEE: The third type.

8 THE COURT: Can you, as a juror, participate
9 in a jury verdict recommending the penalty of death by
10 lethal injection for murder if the evidence and the law
11 warrants such a verdict?

12 MR. CURLEE: Yes, sir.

13 THE COURT: Can you, as a juror, also participate
14 in a jury verdict recommending a sentence of life imprison-
15 ment for murder if the evidence and the law warrants such
16 a verdict?

17 MR. CURLEE: Yes, sir.

18 THE COURT: If you were selected on this case,
19 I will tell you that you will have to be sequestered or
20 separated with the jury and remain in a motel during the
21 length of this trial. Does that pose any undue hardship
22 for you?

23 MR. CURLEE: No, sir.

24 THE COURT: If it will ease your mind in regards
25 to that, I'm telling all the juror concerning that question

1 that counsel is in agreement with me that this case most
2 likely not last over a week, okay. I need you to answer
3 any questions counsel may have for you, beginning with
4 the Solicitor first.

5 SOLICITOR: Thank you, Your Honor.
6

7 EXAMINATION BY THE SOLICITOR:

8 Q. Mr. Curlee, just a few questions following what
9 the Judge asked you and there are no right or wrong answers,
10 okay. I want to kind of run over briefly what the process
11 is when the State seeks the death penalty. We start out
12 with the guilt phase and I notice in the questionnaire
13 that you had some prior criminal jury service a couple
14 of times.

15 A. Yes, sir.

16 Q. The first part of the trial is like any other
17 criminal trial where the State charges someone with an
18 offense and has the burden of proving that person guilty
19 beyond a reasonable doubt. In this particular kind of
20 case, if we convince the jury of guilt of murder beyond
21 a reasonable doubt, we then go into the penalty phase.
22 The jury, in the penalty phase, would hear additional evidence,
23 additional instructions from the Judge and then they would
24 decide the punishment, not the Judge. What the Judge does
25 it, he orders that jury's verdict to happen and it will

1 happen. A jury verdict for life means life without parole
2 and that would be the Judge's order and the defendant would
3 serve life without parole. If the jury is for the death
4 penalty, the Judge would order that and he would be executed.

5 I'm not going to ask you to predict what you
6 would do because you haven't heard the facts of this case
7 but generally speaking, if the case was bad enough, could
8 you vote for the death penalty knowing that as a result
9 of that vote the person actually would be executed when
10 the other option would have been life without parole?

11 A. Yes.

12 Q. If all twelve jurors vote for the death penalty,
13 there is a death verdict form that the jurors are asked
14 to sign. Could you sign your name to a paper like that?

15 A. Yes.

16 Q. Could you announce that verdict out loud if it
17 was your verdict?

18 A. Yes.

19 SOLICITOR: All right, sir, that's all I have,
20 thank you very much.

21 THE COURT: Mr. Sims.

22

23 EXAMINATION BY MR. SIMS:

24 Q. Mr. Curlee, I see that you did serve on a criminal
25 jury before, when was that?

1 A. In Texas.

2 Q. In Texas? How long ago has that been?

3 A. Uhm --- ten years or more.

4 Q. And what was the result of the trial, do you
5 recall whether a verdict was ever entered?

6 A. After the jury sat and heard the State's evidence,
7 there was a plea bargain.

8 Q. So it never got to the opportunity for you all
9 to make a decision.

10 A. That is correct.

11 MR. SIMS: Nothing further, thank you.

12 THE COURT: You are qualified, Mr. Curlee, please
13 do not discuss this case with anyone, do not read any news
14 accounts or watch or listen to any news coverage until
15 after this case is completed.

16 I'm going to send you home but we need for you
17 to make sure Madam Clerk has a telephone number for you
18 where we can reach you on moment's notice. Thank you very
19 much.

20 MR. CURLEE: Yes, sir.

21 THE COURT: All right, bring in the next one.

22 (WHEREUPON, Juror #249, Shellie Robinson (BM)
23 entered the courtroom and took the witness chair.)

24 THE COURT: Mr. Robinson, have a seat and we
25 need for you just to relax and make your comfortable there.

1 We've got some questions we need to ask you. How are you
2 doing today?

3 MR. ROBINSON: All right.

4 THE COURT: Because I'm going to be asking you
5 some questions I need to remind you that you are still
6 under oath from Monday. Do you know of any reason whatsoever
7 why you cannot give both the State and the defendant a
8 fair and impartial trial?

9 MR. ROBINSON: No.

10 THE COURT: Would you, under oath, follow the
11 law in this case as given to you by me?

12 MR. ROBINSON: Yes.

13 THE COURT: Could you ---

14 MR. ROBINSON: Yes.

15 THE COURT: --- depending on the facts and the
16 evidence and the law as I would instruct you, find a
17 defendant not guilty?

18 MR. ROBINSON: Repeat that, please.

19 THE COURT: Could you, depending on the facts
20 and the evidence and the law as I would instruct you, find
21 a defendant not guilty?

22 MR. ROBINSON: According to the law, yes.

23 THE COURT: Could you, depending on the facts
24 and the evidence and the law as I would instruct you, find
25 a defendant guilty?

1 MR. ROBINSON: Yes.

2 THE COURT: Have you discussed this case with
3 anyone?

4 MR. ROBINSON: No.

5 THE COURT: Have you read, viewed or listened
6 to any news accounts or news reports on the subject of
7 this case?

8 MR. ROBINSON: Seen the newspaper.

9 THE COURT: All right, can you tell me when that
10 was?

11 MR. ROBINSON: That was Monday.

12 THE COURT: Can you relate to me what you remember
13 or recall about that newspaper account?

14 MR. ROBINSON: I just looked through it and saw
15 the name of the defendant.

16 THE COURT: Anything else?

17 MR. ROBINSON: No, I just looked at it.

18 THE COURT: Will the news account which you have
19 read prevent you from rendering a fair and impartial verdict
20 in this case?

21 MR. ROBINSON: No.

22 THE COURT: Can you erase from your mind the
23 information you acquired from these news accounts and render
24 a fair, impartial and just verdict based on the law and
25 the evidence uninfluenced in any way whatsoever by the

1 reason of those news accounts?

2 MR. ROBINSON: Yes.

3 THE COURT: Can you, notwithstanding your exposure
4 to these news accounts, base your verdict upon the law
5 and the evidence presented to you uninfluenced in any way
6 whatsoever by those news accounts?

7 MR. ROBINSON: Yes.

8 THE COURT: Do you understand that your verdict
9 must be based exclusively upon the law given to you by
10 the Court and the evidence presented to you and the Court
11 during the trial?

12 MR. ROBINSON: Yes.

13 THE COURT: Can you make your verdict based only
14 upon these two considerations, that is, the law and the
15 evidence?

16 MR. ROBINSON: Yes.

17 THE COURT: The defendant is black and the victim
18 was white. Will the fact that the defendant is black and
19 the victim is white prevent you in any what whatsoever
20 from rendering a fair and impartial verdict in this case?

21 MR. ROBINSON: No.

22 THE COURT: Will you, without regard to the race
23 of the defendant and the victim, render a fair and impartial
24 verdict based solely on the evidence and the law given
25 to you by the Court?

1 MR. ROBINSON: Yes.

2 THE COURT: Now, I notice here that the other
3 day you told me that you knew Attorney Sims, is that correct?

4 MR. ROBINSON: Right.

5 THE COURT: Does he presently represent you or
6 has he represented you in the past?

7 MR. ROBINSON: No.

8 THE COURT: All right. Let me ask you this.
9 The fact that you know Attorney Sims, would that affect
10 your ability to give a fair and impartial trial in this
11 case?

12 MR. ROBINSON: No.

13 THE COURT: I'm going to now ask you some certain
14 questions at this time relative to your views on the death
15 penalty. There are no right or wrong answers. I emphasize
16 to you the mere fact that we're talking about penalty does
17 not indicate anything about this defendant. He is presumed
18 innocent, do you understand that?

19 MR. ROBINSON: Yes.

20 THE COURT: You were given a letter to read a
21 few minutes ago. Have you read that letter?

22 MR. ROBINSON: Yes.

23 THE COURT: You have it to your right if you
24 need to refer to it and I wonder if you could tell me which
25 of the three categories or the juror type that you might

1 fall into?

2 MR. ROBINSON: The third type.

3 THE COURT: Can you, as a juror, participate
4 in a jury verdict recommending the penalty of death by
5 lethal injection for murder if the evidence and the law
6 warrants such a verdict?

7 MR. ROBINSON: No.

8 THE COURT: Could you participate in a jury verdict
9 recommending a sentence of life imprisonment for murder
10 if the evidence and the law warrants such a verdict?

11 MR. ROBINSON: Yes.

12 THE COURT: Would you like to review that letter
13 again and tell me which type you fall under?

14 MR. ROBINSON: Okay.

15 THE COURT: Which type do you fall under?

16 MR. ROBINSON: Three.

17 THE COURT: Three? All right, let me ask you
18 and let me make sure you understood my question. Can you,
19 as a juror, participate in a jury verdict recommending
20 the penalty of death by lethal injection for murder if
21 the evidence and the law warrants such a verdict?

22 MR. ROBINSON: Yes.

23 THE COURT: If you were selected on this case,
24 I will tell you that you will have to be sequestered or
25 separated with the jury and remain in a motel during the

1 length of the trial. Does that pose any undue hardship
2 for you?

3 MR. ROBINSON: No.

4 THE COURT: Answer any questions counsel may
5 have, beginning with the Solicitor.

6 SOLICITOR: Thank you, Your Honor.

7
8 EXAMINATION BY THE SOLICITOR:

9 Q. Mr. Robinson, I'm Walter Bailey, and I want to
10 ask you a few questions here. You told the Judge that
11 you knew Mr. Sims?

12 A. Yes.

13 Q. Can you tell us how you know him?

14 A. Church.

15 Q. Okay. And do you see him every Sunday at church?

16 A. Right.

17 Q. Okay. Would the fact that Mr. Sims is representing
18 the defendant in this case and you see him at least once
19 a week, would that cause you any problems sitting as a
20 juror on this case?

21 A. No, sir.

22 Q. Okay. Let me ask you a little bit about the
23 death penalty. There are no right or wrong answers, any
24 answer you give me or Mr. Sims is the right answer as long
25 as that's how you honesty feel about it, okay?

1 A. Right.

2 Q. We're not testing you. The death penalty is
3 something that everybody has got their own opinions on
4 and we all respect their opinions.

5 You do know whether or not your church that you
6 and Mr. Sims attend has any position on the death penalty?

7 A. No.

8 Q. Okay. Can you tell us just in your own words
9 what your thoughts are on the death penalty? I'm not talking
10 about this case, but just in general.

11 A. On the death penalty?

12 Q. Yes, sir.

13 A. Well, it depends on how the crime is.

14 Q. Let me ask you this, is the death penalty something
15 that you've ever thought about before Monday when you found
16 out you might be a juror on a case where the State seeks
17 the death penalty?

18 A. Did I ever thought about the death penalty?

19 Q. Yes, sir.

20 A. Yeah, I think about it.

21 Q. Okay, and when you did think about it, what
22 did you think about? Just in your words.

23 A. Uhm --- the law is the law, I mean, in my own
24 words, it depends on the crime.

25 Q. All right, now, in South Carolina the way the

1 system works is, it's potentially a two-part process. We
2 start off with the guilt phase and it's just like any other
3 criminal trial. The State charges somebody with different
4 crimes and in this case murder is one of those crimes.
5 The State has the burden to prove to that jury's satisfaction
6 guilty beyond a reasonable doubt. If the defendant is
7 convicted of murder beyond a reasonable doubt, then we
8 go into the second phase and that same jury that convicted
9 him of murder has to decide the punishment. The Judge
10 doesn't make that decision, the jury does.

11 So if the jury's verdict is life, the Judge orders
12 that person to serve life without parole. If the jury's
13 verdict is the death penalty, the Judge would order that
14 person to be executed and he would be executed by lethal
15 injection. So the jury makes that determination.

16 I'm not going to ask you to predict what you
17 would do if you got picked as a juror on this case because
18 you haven't heard any evidence, you haven't heard the law
19 from the Judge. But if the case is bad enough, could you
20 vote for the death penalty knowing that as a result of
21 that verdict the person actually would be executed by lethal
22 injection when the alternative would have been life without
23 parole?

24 A. Depending on what I hear.

25 Q. Okay, if what you heard was bad enough, could

1 you do it?

2 A. If it was bad enough.

3 Q. Okay. If all twelve jurors vote for the death
4 penalty, they are then asked to sign their names to a death
5 verdict form that would result in that person being
6 executed. Could you sign your name to a paper like that?

7 A. Depending on what I heard in evidence.

8 Q. Could you stand up in open court out here, there's
9 a process called polling the jury where if they reach a
10 decision for the death penalty they would all come out
11 here and somebody from the Clerk of Court's office would
12 call everybody's name out one at a time and you would be
13 asked to stand up and say out loud that that was your verdict
14 and it's still your verdict. Could you do that?

15 A. Yes.

16 Q. Okay. Did you grow up in Bowman, the Town of
17 Bowman?

18 A. No.

19 Q. Where do you live now?

20 A. I live in Bowman now.

21 Q. Okay, how long have you lived in Bowman?

22 A. Uhm --- nineteen years.

23 Q. And Bowman isn't that far from Branchville. Have
24 you known anybody in Branchville, the Stokes family or
25 Norris Martin's family?

1 A. No.

2 SOLICITOR: Mr. Robinson, I think that's all
3 I've got, thank you very much.

4 THE COURT: Mr. Sims.

5 MR. SIMS: No questions, Your Honor.

6 THE COURT: All right. Mr. Robinson is qualified.
7 Mr. Robinson, I need you to come around and check with
8 the Clerk's station right here and we need a telephone
9 number from you that we can reach you on moment's notice,
10 okay. We will have to call you back in possibly later.
11 Please do not discuss this case with anyone or read any
12 newspapers or watch or listen to any newscasts until after
13 the trial.

14 MR. ROBINSON: Okay, sir.

15 SOLICITOR: Your Honor, before we bring in another
16 juror, I have been told that this pamphlet was found where
17 Mr. Robinson had been.

18 THE COURT: Let's see it. Seventh Day Adventist.
19 He goes to your church, doesn't he?

20 MR. SIMS: Yeah, he goes to United Methodist.

21 SOLICITOR: Maybe somebody else gave him that
22 back there, I don't know.

23 THE COURT: Do ya'll want to look at it? It
24 just says Steps to Christ. Any problem with it?

25 SOLICITOR: Your Honor, the only reason I brought

1 that to your attention is we had a situation in a prior
2 trial where somebody had a religious anti-death penalty
3 pamphlet out in the hallway and I just didn't know where
4 he got it.

5 THE COURT: Mr. Aiken, if you will return this
6 to him and tell him the Court was concerned that somebody
7 might have given him some kind of improper pamphlet and
8 we just needed to check and make sure and it's okay.

9 BAILIFF: All right, sir.

10 THE COURT: Let's bring in our next one.

11 (WHEREUPON, Juror #159, Mary Jamison (BF)
12 entered the courtroom and took the witness chair.)

13 THE COURT: If you will just relax and make
14 yourself comfortable, we've got some questions to ask you
15 and I need to remind you that you are still under oath
16 from Monday, okay?

17 MRS. JAMISON: Under what?

18 THE COURT: Under oath, to answer my questions
19 truthfully. Do you know of any reason whatsoever why you
20 cannot give both the State and the defendant a fair and
21 impartial trial?

22 MRS. JAMISON: No.

23 THE COURT: Would you, under oath, follow the
24 law in this case as given to you by me?

25 MRS. JAMISON: Repeat that again.

1 THE COURT: Would you, under oath, follow the
2 law in this case as given to you by me?

3 MRS. JAMISON: I don't think so.

4 THE COURT: Ma'am?

5 MRS. JAMISON: I don't know.

6 THE COURT: If I were to explain the law of the
7 case to you during the process of this trial, would you
8 follow what I tell you the law is?

9 MRS. JAMISON: Yes.

10 THE COURT: Could you, depending on the facts
11 and evidence and the law as I would instruct you, find
12 a defendant not guilty?

13 MRS. JAMISON: (Nods head.)

14 THE COURT: You shook your head, did that mean
15 yes?

16 MRS. JAMISON: Say that again, I don't understand
17 you, say that again, I need to hear you again.

18 THE COURT: Okay. Could you, depending on the
19 facts and the evidence and the law as I would instruct
20 you, find a defendant not guilty?

21 MRS. JAMISON: Yes, sir, not guilty, I can't
22 say who's guilty or whatever you know. I just don't
23 know.

24 THE COURT: Could you, depending on the facts
25 and evidence and the law as I would instruct you, find

1 a defendant guilty?

2 MRS. JAMISON: You asking me, I'm going to ask
3 you a question. You're asking me could I find a person
4 guilty?

5 THE COURT: Yes, ma'am.

6 MRS. JAMISON: No, I can't.

7 THE COURT: Okay, could you find someone not
8 guilty?

9 MRS. JAMISON: No, it's not my place.

10 THE COURT: Well, let me try to help you here
11 a little bit. Tell me why you couldn't find anybody guilty.

12 MRS. JAMISON: Because that is against my
13 religion, I don't know, I can't decide that, you know,
14 I'm not the Judge, I'm not going to decide that.

15 THE COURT: Okay.

16 MRS. JAMISON: I'm not the Judge.

17 THE COURT: You are telling me because of your
18 religion you can't sit in judgment of someone else?

19 MRS. JAMISON: Yeah, I can sit in judgment on
20 somebody else but I can't say who, you know, whatever.

21 MR. SIMS: Your Honor, I have some questions
22 that I would like to ask her if you don't mind.

23 THE COURT: I'll be more than glad to defer.

24 EXAMINATION BY MR. SIMS:

25 Q. Mrs. Jamison ---

1 A. This my first time and I don't know about jury.

2 Q, Well, let me ask you, I guess, you know, we do
3 this all the time and sometimes we take for granted that
4 people understand. If you were seated as a juror in a
5 case and you heard all of the facts of a case, could you
6 make a decision whether or not a person was not guilty,
7 after hearing all of the facts?

8 A. Yes, I could.

9 Q. Now, hearing all of the facts again, could you
10 make a decision whether or not a person was guilty?

11 A. No, I can't, I can't, I can't answer that.

12 Q. Well, let me rephrase it to you. I just asked
13 you a few minutes ago if you were sitting as a juror and
14 you were seated as a juror, and you heard all of the case,
15 you heard all of the evidence, you heard the State's side,
16 you heard the defense's side and you said that you could
17 find or make a decision in terms of whether or not a person
18 was not guilty. Yes, ma'am, am I right on that?

19 A. I heard what you're saying.

20 Q. Okay. Now, if you were seated over there in
21 the jury box, and you had to listen to a case and the
22 evidence came back and the State presented the case to
23 you and you heard all of the evidence, if you felt that
24 a person was guilty, could you say that a person was
25 guilty ---

1 A. Yeah, if I --- uh-huh.

2 Q. And that's after listening to the evidence.

3 A. Yes.

4 THE COURT: Anything in regard to that, Solicitor.

5 SOLICITOR: Not at this time, Your Honor.

6 THE COURT: Okay. Let me finish with my questions.
7 Have you discussed this case with anyone?

8 MRS. JAMISON: No.

9 THE COURT: Have you read, viewed or listened
10 to any news accounts or news reports on the subject of
11 this case?

12 MRS. JAMISON: (Nods head.)

13 THE COURT: That's a no?

14 MRS. JAMISON: No.

15 THE COURT: The defendant is a black and the
16 victim was a white. Will the fact that the defendant is
17 black and the victim is white prevent you in any way
18 whatsoever from rendering a fair and impartial verdict
19 in this case?

20 MRS. JAMISON: Well, I feel like this here. The
21 color shouldn't have matter, right? If you are guilty
22 or if you are not guilty, the color should not matter.

23 THE COURT: Okay. Will you, without regard to
24 the race of the defendant and the victim, render a fair
25 and impartial verdict based solely on the evidence and

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1 the law given to you by the Court?

2 MRS. JAMISON: I don't under that, either.

3 THE COURT: Will you, without regards to the
4 race of the defendant and the victim, render a fair and
5 impartial verdict based solely on the evidence and the
6 law?

7 MRS. JAMISON: Well, if it's against the law
8 it doesn't matter what the race, right?

9 THE COURT: Okay. I'm going to ask you certain
10 questions at this time relative to your views on the death
11 penalty. There are no right or wrong answers. I emphasize
12 to you that the mere fact that we are talking about penalty
13 does not indicate anything about this defendant. He is
14 presumed innocent, do you understand that?

15 MRS. JAMISON: I hear you.

16 THE COURT: Okay, you were given a letter to
17 read a few minutes ago. Have you read that letter?

18 MRS. JAMISON: Yes.

19 THE COURT: There's one to your right if you
20 need to review.

21 MRS. JAMISON: I see it.

22 THE COURT: Can you tell me which type of juror
23 that you would call under?

24 MRS. JAMISON: The second.

25 THE COURT: Okay, can you, as a juror, participate

1 in a jury verdict recommending the penalty of death by
2 lethal injection for murder if the evidence and the law
3 warrants such a verdict?

4 MRS. JAMISON: No. Even though I don't understand
5 what you are asking me, would you read that again to me.

6 THE COURT: I'll try to simplify it.

7 MRS. JAMISON: Okay.

8 THE COURT: After you hear all of the evidence
9 and the law of the case, could you give a defendant the
10 death penalty?

11 MRS. JAMISON: No, I can't make that decision.

12 THE COURT: Could you give a defendant a life
13 sentence?

14 MRS. JAMISON: I can't make that decision.

15 THE COURT: All right, after you heard all of
16 the evidence and the law of this case, could you give a
17 defendant a life sentence?

18 MRS. JAMISON: A life sentence?

19 THE COURT: Yes, ma'am.

20 MRS. JAMISON: (Nods head.)

21 THE COURT: That's a no?

22 MRS. JAMISON: That's a no.

23 THE COURT: I appreciate your answers.

24 MRS. JAMISON: I cannot say death or life or
25 nothing.

1 THE COURT: Counsel, come up here, please.

2 (WHEREUPON, A bench conference was held out
3 of the hearing of the juror and the court reporter.)

4 THE COURT: Mrs. Jamison, on behalf of the attorneys
5 and the Court, I want to thank you for coming and taking
6 part in this process and I want to thank you for your
7 patience Monday because I know it was a long day for everybody.

8 MRS. JAMISON: Yes, it was.

9 THE COURT: You're excused at this time, you
10 may return home, thank you very much.

11 MRS. JAMISON: All right.

12 THE COURT: All right, let's bring our next juror
13 out.

14 (WHEREUPON, Juror #101, Krzysztop Glomski (WM)
15 entered the courtroom and took the witness chair.)

16 THE COURT: I'm not going to attempt to try to
17 pronounce your last name nor your first name, but would
18 you tell us how you pronounce your last name?

19 MR. GLOMSKI: Glomski.

20 THE COURT: I had it right. If you will just
21 relax and make yourself comfortable, we've got some questions
22 we need to ask you. And I remind you that you are still
23 under oath from Monday, okay.

24 MR. GLOMSKI: Okay.

25 THE COURT: Do you know of any reason whatsoever

Annette J. Mole

14th Circuit Court Reporter

P. O. Box 974

St. Louis, Mo. 63102

1 why you cannot give both the State and the defendant a
2 fair and impartial trial?

3 MR. GLOMSKI: I don't think so.

4 THE COURT: Would you, under oath, follow the
5 law in this case as given to you by me?

6 MR. GLOMSKI: Yes, sir.

7 THE COURT: Could you, depending on the facts
8 and evidence and the law as I would instruct you, find
9 a defendant not guilty?

10 MR. GLOMSKI: Yes.

11 THE COURT: Could you, depending on the facts
12 and evidence and the law as I would instruct you, find
13 a defendant guilty?

14 MR. GLOMSKI: Yes.

15 THE COURT: Have you discussed this case with
16 anyone?

17 MR. GLOMSKI: No.

18 THE COURT: Have you read, viewed or listened
19 to any news accounts or news reports on the subject of
20 this case?

21 MR. GLOMSKI: I recall sometime back.

22 THE COURT: Do you remember the nature of that
23 news account?

24 MR. GLOMSKI: It's a murder case I know that.

25 THE COURT: Was it the newspaper, television

1 or the radio?

2 MR. GLOMSKI: I think it was television.

3 THE COURT: Can you relate to me what you remember
4 or recall about that account?

5 MR. GLOMSKI: It was a murder case. I don't
6 know, I just moved over here so, really, I don't have much
7 recollection.

8 THE COURT: Okay. Will the news account which
9 you have read, viewed or listened to prevent you from rendering
10 a fair and impartial verdict in this case?

11 MR. GLOMSKI: I don't think so.

12 THE COURT: You said you just moved over here
13 recently. Where ---

14 MR. GLOMSKI: A couple of years ago.

15 THE COURT: Where are you from?

16 MR. GLOMSKI: I'm originally from Poland but
17 I lived in Minnesota.

18 THE COURT: Oh, I see. Can you erase from your
19 mind the information you acquired from these news accounts
20 and render a fair, impartial and just verdict based on
21 the law and the evidence uninfluenced in any way whatsoever
22 by the reason of the news accounts which you told me about?

23 MR. GLOMSKI: Yes, I can.

24 THE COURT: Can you, notwithstanding your exposure
25 to those news accounts, base your verdict upon the law

1 and the evidence presented to you uninfluenced in any what
2 whatsoever by those news accounts?

3 MR. GLOMSKI: Yes, I can.

4 THE COURT: Do you understand that your verdict
5 must be based exclusively upon the law given to you by
6 the Court and the evidence presented to the Court and the
7 jury during the trial?

8 MR. GLOMSKI: Yes, sir, I understand.

9 THE COURT: Can you make your verdict based only
10 upon these two considerations, that is, the law and the
11 evidence?

12 MR. GLOMSKI: Yes, I can.

13 THE COURT: The defendant is a black and the
14 victim was a white. Will the fact that the defendant is
15 black and the victim was white prevent you in any way
16 whatsoever from rendering a fair and impartial verdict
17 in this case?

18 MR. GLOMSKI: No.

19 THE COURT: Will you, without regards to the
20 race of the defendant and the victim, render a fair and
21 impartial verdict based solely on the evidence and the
22 law given to you by the Court?

23 MR. GLOMSKI: Yes, sir, I will.

24 THE COURT: I'm going to ask you certain questions
25 at this time relative to your views on the death penalty.

1 There are no right or wrong answers. I emphasize to you
2 that the mere fact that we are talking about penalty does
3 not indicate anything about this defendant. He is presumed
4 innocent, do you understand that?

5 MR. GLOMSKI: Yes, I do.

6 THE COURT: You were given a letter a few minutes
7 ago to read. Have you read it?

8 MR. GLOMSKI: Yes, I did.

9 THE COURT: There's one to your immediate right
10 there in case you need to refer to it. I wonder if you
11 could tell me which of the three categories or which juror
12 type that you might fall into?

13 MR. GLOMSKI: I oppose the death penalty.

14 THE COURT: Can you, as a juror, participate
15 in a jury verdict recommending the penalty of death by
16 lethal injection for murder if the evidence and the law
17 warrants such a verdict?

18 MR. GLOMSKI: No.

19 THE COURT: Could you participate in a jury verdict
20 recommending a sentence of life imprisonment for murder
21 if the evidence and the law warrants such a verdict?

22 MR. GLOMSKI: Yes, I can.

23 THE COURT: Is your opposition to the death penalty
24 for murder so fixed and so firm that you are irrevocably
25 committed before the beginning of this trial to vote against

1 the death penalty for murder regardless of the facts and
2 circumstances that may develop during trial?

3 MR. GLOMSKI: Yes, I am.

4 THE COURT: Can your opposition to capital punish-
5 ment or the death penalty for murder be changed by the
6 evidence presented during the trial?

7 MR. GLOMSKI: I don't believe so.

8 THE COURT: Gentlemen, do ya'll wish me to continue
9 on with this voir dire?

10 SOLICITOR: No, sir.

11 MR. SIMS: No, sir.

12 THE COURT: Mr. Glomski, we want to thank you
13 for coming and taking part in this process and I especially
14 thank you for your patience Monday, I know that was a long
15 day.

16 MR. GLOMSKI: Yes, a very long day.

17 THE COURT: I'm going to excuse you from service
18 at this time and you are free to go back to work or home.

19 MR. GLOMSKI: Thank you.

20 THE COURT: Thank you very much. Bring out the
21 next juror, please.

22 (WHEREUPON, Juror #318, Richard Walker (BM)
23 entered the courtroom and took the witness chair.)

24 THE COURT: Good afternoon, Mr. Walker, how are
25 you?

1 MR. WALKER: Fine, you?

2 THE COURT: If you will just relax and make your-
3 self comfortable there, I've got some questions I need
4 to ask you, okay.

5 MR. WALKER: Okay.

6 THE COURT: I remind you that you are still under
7 oath from Monday about answering the questions truthfully,
8 okay?

9 MR. WALKER: Okay.

10 THE COURT: Do you know of any reason whatsoever
11 why you cannot give both the State and the defendant a
12 fair and impartial trial?

13 MR. WALKER: No.

14 THE COURT: Could you or would you, under oath,
15 follow the law in this case as given to you by me?

16 MR. WALKER: Yes, sir.

17 THE COURT: Could you, depending on the facts
18 and evidence and the law as I would instruct you, find
19 a defendant not guilty?

20 MR. WALKER: Yes, I could.

21 THE COURT: Could you, depending on the facts
22 and the evidence and the law as I would instruct you, find
23 a defendant guilty?

24 MR. WALKER: Yes, sir.

25 THE COURT: Have you discussed this case with

1 anyone?

2 MR. WALKER: No.

3 THE COURT: Have you read, viewed or listened
4 to any news accounts or news reports on the subject of
5 this case?

6 MR. WALKER: No.

7 THE COURT: The defendant is a black and the
8 victim was a white. Will the fact that the defendant is
9 black and the victim is white prevent you in any what
10 whatsoever from rendering a fair and impartial verdict
11 in this case?

12 MR. WALKER: No.

13 THE COURT: Will you, without regards to the
14 race of the defendant and the victim, render a fair and
15 impartial verdict based solely on the evidence and the
16 law given to you by the Court?

17 MR. WALKER: Yes.

18 THE COURT: I'm going to ask you certain questions
19 at this time relative to your views on the death penalty.
20 There are no right or wrong answers. I emphasize the mere
21 fact that we are talking about penalty does not indicate
22 anything about this defendant. He is presumed innocent,
23 do you understand that?

24 MR. WALKER: Yes, sir.

25 THE COURT: You were given a letter a few minutes

1 to read. Have you read it?

2 MR. WALKER: Yes.

3 THE COURT: You have one to your right if you
4 need to refer to it. And I ask you now, I wonder if you
5 can tell me which of the three categories or the type of
6 juror that you might fall into?

7 MR. WALKER: The third category.

8 THE COURT: Can you, as a juror, participate
9 in a jury verdict recommending the penalty of death by
10 lethal injection for murder if the evidence and the law
11 warrants such a verdict?

12 MR. WALKER: Yes.

13 THE COURT: Can you, as a juror, also participate
14 in a jury verdict recommending a sentence of life imprison-
15 ment for murder if the evidence and the law warrants such
16 a verdict?

17 MR. WALKER: Yes.

18 THE COURT: If you were selected on this case,
19 I tell you you would have to be sequestered or separated
20 with the jury and remain in a motel during the length of
21 the trial. Does that pose any undue hardship for you?

22 MR. WALKER: No.

23 THE COURT: Okay, to possibly ease your mind
24 there, counsel is in agreement with me in me telling you
25 this, we don't foresee this case lasting over a week, okay?

1 MR. WALKER: Okay.

2 THE COURT: I need you to answer any questions
3 counsel may have, beginning with the Solicitor.

4 SOLICITOR: Thank you, Your Honor.

5
6 EXAMINATION BY THE SOLICITOR:

7 Q. Mr. Walker, I'm Walter Bailey and I want to ask
8 you a few more questions just to follow up on what the
9 Judge asked you about the death penalty. And like he said,
10 there are no right or wrong answers. The death penalty
11 is something that people have different views on and all
12 those views are right, it's a matter of personal preference.

13 Let me first of all ask you whether or not you've
14 ever given any thought to the death penalty before Monday
15 when you found out you might be on this jury?

16 A. Yes, I have.

17 Q. And how did it come up, at church or talking
18 to friends or ---

19 A. Just talking to friends.

20 Q. Okay, and could you just tell us, just forgetting
21 this case for now but just in general, what your thoughts
22 are on the death penalty?

23 A. Well, I mean, as far as --- if every --- just
24 like me and my friend was talking about it a good little
25 while ago and he was saying that a lot of times if a person

1 is found guilty and they are given the death sentence and
2 it don't necessarily, you know, we was talking it don't
3 necessarily seem like he should have gotten it, different
4 little stuff like that we were talking about.

5 Q. Okay.

6 A. Yeah, in order words saying like, we was talking
7 like sometimes the punishment don't foot the crime and
8 stuff like that.

9 Q. Okay, that's what your friend was saying?

10 A. That's what we were talking, him and I was
11 generally talking back and forth like that.

12 Q. Okay, and as a result of that conversation, did
13 you come to an opinion about the death penalty?

14 A. Yes, I felt like --- I felt like if a person
15 was guilty, I mean, as far as everything was on a reasonable
16 doubt, yes, he could be --- he could get the death penalty
17 or, you know, I was like he could get or he may be just,
18 you know, get time in prison or whatever.

19 Q. Okay. Let me explain a little bit to you about
20 the process we go through when the State is asking for
21 the death penalty with a person charged with murder. We
22 start off with the guilt phase of the trial which is like
23 any other criminal trial when the State charges somebody
24 and we have the burden of proving that person guilty beyond
25 a reasonable doubt. One of the charges is murder and if

1 the jury is convinced that person is guilty of murder beyond
2 a reasonable doubt, we would then go into the penalty phase.
3 And that's an opportunity for the jury who has found that
4 person guilty of murder, to hear additional evidence and
5 to hear the Judge tell the jury what the law is as it applies
6 to the punishment. Once all that happens, the jury decides
7 the punishment, the Judge does not make that decision.
8 All he does is he orders that verdict to happen. If the
9 jury's vote is for life, the Judge would order life and
10 that defendant would serve life without parole. If the
11 verdict is the death penalty, the Judge orders that and
12 he actually would be executed by lethal injection based
13 on that jury's verdict.

14 You don't know anything about this case, do you?

15 A. No.

16 Q. And it wouldn't be fair to ask you to predict
17 what you would do because you would need to hear the
18 evidence. But if the case was bad enough, could you vote
19 for the death penalty knowing that person actually would
20 be executed by lethal injection based on that jury's verdict
21 when the alternative would have been life without parole?

22 A. Well, yes, if there's enough evidence I could.

23 Q. Okay. If all twelve jurors vote for the death
24 penalty there's a verdict form, a death verdict form, and
25 each one of them is asked to sign their name to that

1 paper. Could you sign your name to a paper like that know-
2 ing that it would result in that person being executed?

3 A. Yes.

4 Q. Could you stand up in court and announce that
5 as being your verdict if it was your verdict?

6 A. Yes.

7 Q. Could you say it out loud?

8 A. Yes.

9 Q. I notice on your questionnaire --- excuse me
10 a second. That you have a five year old daughter?

11 A. Yes.

12 Q. Does she live with you?

13 A. No, she doesn't.

14 Q. Okay. And the fact that you would be in a motel
15 for four or five days would not create any undue hardship
16 with you, as far as your work and all of that?

17 A. No, not with my daughter.

18 Q. All right. I notice that the questionnaire they
19 asked what different organizations that you belong to and
20 you belong to Bull Swamp Lodge?

21 A. Yes.

22 Q. Does anybody --- the Judge read a list of people
23 out, the lawyers and different witnesses. Do any of those
24 people, to your knowledge, belong to that organization?

25 A. Not as I know of because I'm not originally

1 from Orangeburg, I stay here in Orangeburg. I may see
2 a person's face but don't really know their name, you know,
3 to that person, to that affect like that.

4 Q. Okay, but none of those names are familiar with
5 you that were read out on Monday?

6 A. Not to my knowledge.

7 SOLICITOR: Okay, Mr. Walker, I think that's
8 all I have, thank you very much.

9 THE COURT: Mr. Sims.

10 MR. SIMS: No questions, Your Honor.

11 THE COURT: All right, the juror is qualified.

12 Mr. Walker, we need a telephone number from you and I'm
13 going to ask you to give to Madam Clerk where we can reach
14 you on moment's notice. Do not discuss this case with
15 anyone, do not read any news accounts or listen to any
16 newscasts on this case until it is over, okay?

17 MR. WALKER: Okay.

18 THE COURT: Just give your number to the Clerk,
19 and thank you very much.

20 All right, bring out our next juror, please.

21 (WHEREUPON, Juror #53, Faye Coulter (WF)
22 entered the courtroom and took the witness chair.)

23 THE COURT: Is it Mrs. Coulter?

24 MRS. COULTER: Yes, uh-huh.

25 THE COURT: If you will have a seat right there

1 and relax and make yourself comfortable, we've got some
2 questions we need to ask you. I need to remind you that
3 you are still under oath from Monday, okay.

4 MRS. COULTER: Okay.

5 THE COURT: Do you know of any reason whatsoever
6 why you cannot give both the State and the defendant a
7 fair and impartial trial?

8 MRS. COULTER: No.

9 THE COURT: Would you, under oath, follow the
10 law in this case as given to you by me?

11 MRS. COULTER: Yes.

12 THE COURT: Could you, depending on the facts
13 and evidence and the law as I would instruct you, find
14 a defendant not guilty?

15 MRS. COULTER: Yes.

16 THE COURT: Could you, depending on the facts
17 and evidence and the law as I would instruct you, find
18 a defendant guilty?

19 MRS. COULTER: Yes. I mean, say that again. I'm
20 scared to death here you will have to remember that.

21 THE COURT: Just relax, relax. I promise you
22 nobody is going to bite you, okay.

23 MRS. COULTER: I don't know.

24 THE COURT: My voice is sort of getting strained
25 and I might sound like I'm mean or something, but I'm not.

1 MRS. COULTER: Okay.

2 THE COURT: Could you, depending on the facts
3 and the evidence and the law as I would instruct you, find
4 a defendant guilty?

5 MRS. COULTER: Depending on the laws and what
6 you are saying, yes, if they are guilty.

7 THE COURT: Have you discussed this case with
8 anyone?

9 MRS. COULTER: No.

10 THE COURT: Have you read, viewed or listened
11 to any news accounts or news reports on the subject of
12 this case?

13 MRS. COULTER: No, sir.

14 THE COURT: The defendant is a black and the
15 victim was white. Will the fact that the defendant is black
16 and the victim is white prevent you in any way whatsoever
17 from rendering a fair and impartial verdict in this case?

18 MRS. COULTER: No, sir.

19 THE COURT: Will you, without regard to the race
20 of the defendant and the victim, render a fair and impartial
21 verdict based solely on the evidence and the law given
22 to you by the Court?

23 MRS. COULTER: Yes, sir.

24 THE COURT: I'm going to ask you certain questions
25 at this time relative to your views on the death penalty.

1 There are no right or wrong answers. I emphasize that
2 the mere fact that we are talking about penalty does not
3 indicate anything about this defendant. He is presumed
4 innocent, do you understand that?

5 MRS. COULTER: Yes, sir.

6 THE COURT: You were given a letter a few minutes
7 ago to read. Have you read it?

8 MRS. COULTER: Yes, sir.

9 THE COURT: There is one to your right there
10 if you need to refer to it. I wonder if you tell me which
11 of the three categories or type of juror that you might
12 fall into?

13 MRS. COULTER: The last one.

14 THE COURT: Can you, as a juror, participate
15 in a jury verdict recommending the penalty of death by
16 lethal injection for murder if the evidence and the law
17 warrants such a verdict?

18 MRS. COULTER: Yes.

19 THE COURT: Can you, as a juror, also participate
20 in a jury verdict recommending a sentence of life imprison-
21 ment for murder if the evidence and the law warrants such
22 a verdict?

23 MRS. COULTER: Yes.

24 THE COURT: If you were selected on this case,
25 I tell you that you would have to be sequestered or

1. separated with the jury and remain in a motel during the
2 length of the trial. Does that pose any undue hardship
3 for you?

4 MRS. COULTER: Other than emotionally, no.

5 THE COURT: Okay, to ease your mind I've been
6 telling everybody that, with counsel's permission, we are
7 all in agreement that this case most likely would not take
8 over a week, possibly less. Now, I need you to answer
9 any questions counsel may have for you, and we are going
10 to begin with the Solicitor first.

11 SOLICITOR: Thank you, Your Honor.

12

13 EXAMINATION BY THE SOLICITOR:

14 Q. Mrs. Coulter, I'm Walter Bailey and I want to
15 ask you a few questions and like the Judge said, there
16 are no right or wrong answers. Before Monday when you
17 found out you might have to serve on this case in which
18 the State is seeking the death penalty, had you ever given
19 any thought to the death penalty?

20 A. In other cases, you know, I would always think
21 I'm ambivalent about these things. It depends on the
22 situation and whether the case is presented and they are
23 actually guilty. I had had a problem with whether I could
24 make that decision, yes, sir.

25 Q. Okay, and have your opinions changed any since

1 Monday when you found out that it might kind of shift from
2 an academic situation to your direct involvement?

3 A. I would have to be honest, I'm a little nervous
4 about it but I feel like I could --- hopefully I could
5 be fair.

6 Q. Okay, let me kind of run through the process
7 that we will be going through here. We would start out
8 with the guilt phase which is like a regular criminal trial
9 where the State charges someone and the State has the burden
10 of proving that person guilty beyond a reasonable doubt
11 to the satisfaction of the jury. One of the charges is
12 murder and if that defendant is convicted of murder, we
13 then move into the second phase and that same jury that
14 found the person guilty of murder has to determine the
15 punishment. The jury under our system, not the Judge,
16 decides what that punishment is. The Judge's role is just
17 to order that jury verdict to happen and it will happen.

18 So if the verdict is for life imprisonment, it
19 would result in Judge Burch ordering that person to serve
20 life in prison which would be life without parole. If
21 the jury votes for the death penalty, the Judge would order
22 that sentence and that person actually would be executed
23 by lethal injection.

24 I'm not going to ask you to predict what you
25 would do in this case because you haven't heard the law,

1 you haven't the facts. But just in general, if the case
2 was bad enough, could you vote for the death penalty knowing
3 that as a result of that vote the sentence would actually
4 be carried out with the alternative punishment would have
5 been life without parole?

6 A. If it were presented and I felt that that person
7 were guilty, yes, I could possibly --- I could do it.

8 Q. Now, the guilt of the different charges, including
9 the murder charge, would be addressed in the first part
10 of the trial, the guilt phase. So we wouldn't even be
11 talking about punishment or considering punishment unless
12 that jury has already found that person guilty of murder
13 with malice aforethought beyond a reasonable doubt in the
14 first part of the trial. Then we would move into stage
15 two and there would be additional evidence and I can't
16 go into the specifics of what that evidence may be but
17 there would be additional evidence, additional law from
18 the Judge to help guide that jury in making a determination.
19 So does that --- am I confusing or helping you?

20 A. (No response.)

21 Q. The person is already guilty or we wouldn't be
22 in that stage.

23 A. Yeah, I see. You're asking if I would have
24 a problem finding them guilty or punishing them doing the
25 penal phase?

1 Q. Well, we're past the punishment and we're addressing
2 guilt--- excuse me. We're addressing the punishment for
3 murder and the two options are life without parole and
4 the death penalty. My question is, if the case is bad
5 enough, could you impose the death penalty ---

6 A. Yes, sir.

7 Q. --- knowing that person really is going to be
8 executed as per that jury's verdict?

9 A. Yes.

10 Q. If all twelve jurors vote for the death penalty,
11 there's a death verdict form each juror is asked to sign
12 their name to that paper. Could you do that if that was
13 your verdict?

14 A. Yes.

15 Q. Could you announce that verdict out loud if that
16 was your verdict?

17 A. Yes.

18 SOLICITOR: Mrs. Coulter, I think that's all
19 I have right now, thank you very much.

20 THE COURT: Mr. Sims.

21

22 EXAMINATION BY MR. SIMS:

23 Q. Good afternoon, Mrs. Coulter.

24 A. Hi.

25 Q. Let me just clear up something. When you were

1 talking about the penalty phase, which is the phase after
2 a person has been found guilty, you kept responding that
3 if a person was guilty, you could give him the death penalty.

4 A. Uh-huh.

5 Q. The way that our system works and the process
6 that Mr. Bailey talked to you about it, is that after a
7 individual has been found guilty, then there's additional
8 evidence that is presented and, of course, we can't go
9 into that at this point, but are you saying that the mere
10 fact that a person is found guilty, you would give him
11 the death penalty or are you saying that when he's found
12 guilty, you would require additional evidence before you
13 make that decision?

14 A. Yeah, it would have to be proven to me that that
15 person was actually guilty of that set of crimes and it
16 would have to be a pretty bad crime and, yes, I could.

17 Q. Okay, that's what I wanted to clear up.

18 MR. SIMS: Thank you very much.

19 THE COURT: Anything else, Solicitor?

20 SOLICITOR: No, sir.

21 THE COURT: Mrs. Coulter, I find that you are
22 qualified as a juror. I'm going to need for you to check
23 in with Madam Clerk right here and we need a phone number
24 we can reach you on moment's notice. Do not discuss this
25 case with anyone, do not read any news accounts or listen

1 to any news accounts on this case until it is over, okay.

2 MRS. COULTER: Okay.

3 THE COURT: check with the Clerk, please, and
4 then you are excused.

5 MRS. COULTER: Okay.

6 THE COURT: Bring in the next juror, please.

7 (WHEREUPON, Juror #245, Thomas Rivers (BM)
8 entered the courtroom and took the witness chair.)

9 THE COURT: Mr. Rivers, how are you doing today?

10 MR. RIVERS: I'm okay.

11 THE COURT: Good. If you will just relax and
12 make yourself comfortable, we've got some questions for
13 you, okay.

14 MR. RIVERS: Yes, sir.

15 THE COURT: And I remind you that you are still
16 under oath from Monday, okay?

17 MR. RIVERS: Okay.

18 THE COURT: And answer my questions truthfully.
19 Do you know of any reason whatsoever why you cannot give
20 both the State and the defendant a fair and impartial trial?

21 MR. RIVERS: Uhm --- according to what the
22 defender is tried for, you know, you know what I'm saying.

23 THE COURT: All right. I'll refresh you with
24 the charges. The defendant is Sammie Louis Stokes, who
25 is seated to the right of the table in the light blue

1 shirt.

2 MR. RIVERS: Okay.

3 THE COURT: He's charged in the bill of indictments
4 here in Orangeburg County with the offenses of criminal
5 conspiracy, kidnapping, criminal sexual conduct, first
6 degree, and murder. Now, do you know of any reason whatsoever
7 why you cannot give both the State and the defendant a
8 fair and impartial trial?

9 MR. RIVERS: Well, first of all I would say like
10 I don't think I could do it because of --- it would be
11 kinda like a little bit against my religion because that
12 is, that does have a affect with the death penalty, right,
13 if I'm not mistaken?

14 THE COURT: The death penalty is being sought
15 in this case.

16 MR. RIVERS: Okay, and with me, I'm just a little
17 against the death penalty because I'm like this, if you
18 can't give life, you shouldn't take it. I'm only speaking
19 freely and truthfully.

20 THE COURT: Well, laying the death penalty aside,
21 let me ask you, would you, under oath, follow the law in
22 this case as given to you by me?

23 MR. RIVERS: I would follow it, I would do whatever
24 you say, you know.

25 THE COURT: Could you, depending on the facts

1 and the evidence and the law as I would instruct you, find
2 a defendant not guilty?

3 MR. RIVERS: I would go with the evidence. I
4 would, you know, weigh both sides of the evidence.

5 THE COURT: Could you, depending on the facts
6 and evidence and the law as I would instruct you, find
7 a defendant guilty?

8 MR. RIVERS: If the evidence points to that.

9 THE COURT: Okay, now a few minutes ago you told
10 me that you had some religious views concerning that. Is
11 that just with the capital punishment or are you comfortable
12 with sitting in the actual trial as far as guilt or innocence?

13 MR. RIVERS: Uhm --- I think with me it would
14 be, you know, it's really difficult because, you know,
15 you are judging someone. You are talking without a shadow
16 of a doubt, do you understand what I'm saying? And without
17 a shadow of a doubt, it's like you almost have to like
18 to really be there, you know what I'm saying? So I guess
19 what I'm actually saying is I'm not sure.

20 THE COURT: All right.

21 MR. RIVERS: Okay, that's the way it is.

22 THE COURT: The standard of proof is what we
23 call by a reasonable doubt, proof by a reasonable doubt.

24 MR. RIVERS: Okay. I don't know the law that
25 good, okay? I understand what you are saying.

1 THE COURT: Have you discussed this case with
2 anyone?

3 MR. RIVERS: No one. I don't even know about
4 the case.

5 THE COURT: Have you read, viewed or listened
6 to any news accounts or news reports on the subject of
7 this case?

8 MR. RIVERS: Nothing.

9 THE COURT: The defendant is a black and the
10 victim was a white. Will the fact that the defendant is
11 black and the victim is white prevent you in any way
12 whatsoever from rendering a fair and impartial verdict
13 in this case?

14 MR. RIVERS: Not really because color is color.

15 THE COURT: Will you, without regard to the race
16 of the defendant and the victim render a fair and impartial
17 verdict based solely on the evidence and the law given
18 to you by the Court?

19 MR. RIVERS: Yes, I will.

20 THE COURT: I'm going to ask you certain questions
21 now relative to your views on the death penalty. There
22 are no right or wrong answers, okay?

23 MR. RIVERS: Okay.

24 MR. RIVERS: I emphasize that the mere fact that
25 we're talking about penalty does not indicate anything

1 about this defendant. He is presumed innocent, do you
2 understand?

3 MR. RIVERS: Okay.

4 THE COURT: You were given a letter a few minutes
5 ago to read. Have you read it?

6 MR. RIVERS: Yeah.

7 THE COURT: And there's a copy of it to your
8 right there if you need to look at it. Can you tell me
9 which of the three categories or the type of juror that
10 you might fall into?

11 MR. RIVERS: Probably I would fall into number
12 three myself.

13 THE COURT: All right. Can you, as a juror,
14 participate in a jury verdict recommending the penalty
15 of death by lethal injection for murder if the evidence
16 and the law warrants such a verdict?

17 MR. RIVERS: Uhm --- just like I said before,
18 with me it's like, you know, you know, I don't know
19 if I can do that. And that's truthful, I'm being really
20 truthful.

21 THE COURT: If at all possible we need for you
22 to give us an answer.

23 MR. RIVERS: I would have to go with no, I don't
24 think I could do it, I have to go with no.

25 THE COURT: all right. Could you participate

1 in a jury verdict recommending a sentence of life imprison-
2 ment for murder if the evidence and the law warrants such
3 a verdict?

4 MR. RIVERS: Yeah, I could go with that.

5 THE COURT: Is your opposition to the death penalty
6 for murder so fixed and so firm that you are irrevocably
7 committed before the beginning of the trial to vote against
8 the death penalty for murder regardless of the facts and
9 circumstances that may develop during the trial?

10 MR. RIVERS: I'm afraid so.

11 THE COURT: Can you opposition to capital punish-
12 ment or the death penalty for murder be changed by the
13 evidence presented during the trial?

14 MR. RIVERS: No, I'm afraid not.

15 THE COURT: Notwithstanding your opposition to
16 capital punishment, are you willing to consider all of
17 the penalties provided by the law of this state, including
18 the death penalty, and then determine whether the defendant
19 should receive the death penalty or life imprisonment based
20 upon the facts and circumstances developed during the
21 trial?

22 MR. RIVERS: Yes, but just like I said, I would
23 have to go with the life imprisonment.

24 THE COURT: Will your opposition to the death
25 penalty for murder prevent you from voting for the death

1 penalty under any circumstances?

2 MR. RIVERS: Could you repeat that again?

3 THE COURT: Will your opposition to the death
4 penalty for murder prevent you from voting for the death
5 penalty under any circumstances?

6 MR. RIVERS: Just like I said, I would have to
7 be against it.

8 THE COURT: Gentlemen, do ya'll want me to go
9 further with the inquiry?

10 SOLICITOR: No, sir.

11 MR. SIMS: No, sir.

12 THE COURT: Mr. Rivers, on behalf of the attorneys
13 and all the litigants and the Court I want to thank you
14 for taking part in this court. I especially want to thank
15 you for your patience Monday, I know that was a long day
16 for everybody, including me. I'm going to excuse you at
17 this time and thank you for coming.

18 MR. RIVERS: Thank you, sir.

19 THE COURT: All right, let's bring in the next
20 one.

21 (WHEREUPON, Juror #330, Bruce Wiles (WM)
22 entered the courtroom and took the witness chair.)

23 THE COURT: All right, Mr. Wiles, if you will
24 just relax and make yourself comfortable, we need to ask
25 you some questions. I need to remind you that you are

1 still under oath from Monday, okay?

2 MR. WILES: Yes, sir.

3 THE COURT: Do you know of any reason whatsoever
4 why you cannot give both the State and the defendant a
5 fair and impartial trial?

6 MR. WILES: No, sir.

7 THE COURT: Would you, under oath, follow the
8 law in this case as given to you by me?

9 MR. WILES: Yes, sir.

10 THE COURT: Could you, depending on the facts
11 and evidence and the law as I would instruct you, find
12 a defendant not guilty?

13 MR. WILES: Yes, sir.

14 THE COURT: Could you, depending on the facts
15 and evidence and the law as I would instruct you, find
16 a defendant guilty?

17 MR. WILES: Yes, sir.

18 THE COURT: Have you discussed this case with
19 anyone?

20 MR. WILES: No, sir.

21 THE COURT: Have you read, viewed or listened
22 to any news accounts or news reports on the subject of
23 this case?

24 MR. WILES: No, sir.

25 THE COURT: The defendant is a black and the

1 victim was a white. Will the fact that the defendant is
2 black and the victim is white prevent you in any what
3 whatsoever from rendering a fair and impartial verdict
4 in this case?

5 MR. WILES: No, sir.

6 THE COURT: Will you, without regards to the
7 race of the defendant and the victim, render a fair and
8 impartial verdict based solely on the evidence and the
9 law given to you by the Court?

10 MR. WILES: Yes, sir.

11 THE COURT: I'm going to ask you certain questions
12 at this time relative to your views on the death penalty.
13 There are no right or wrong answers. I emphasize that
14 the mere fact that we are talking about penalty does not
15 indicate anything about this defendant. He is presumed
16 innocent, do you understand that?

17 MR. WILES: Yes, sir.

18 THE COURT: You were given a letter a few minutes
19 ago to read. Have you read it?

20 MR. WILES: Yes, sir..

21 THE COURT: There is one to your right if you
22 need to refer to it, please. I wonder if you can tell
23 me which of the three categories or the type of juror that
24 you might fall into?

25 MR. WILES: The third type.

1 THE COURT: Can you, as a juror, participate
2 in a jury verdict recommending the penalty of death by
3 lethal injection for murder if the evidence and the law
4 warrants such a verdict?

5 MR. WILES: Yes, sir.

6 THE COURT: Can you, as a juror, also participate
7 in a jury verdict recommending a sentence of life imprison-
8 ment for murder if the evidence and the law warrants such
9 a verdict?

10 MR. WILES: Yes, sir.

11 THE COURT: If you were selected on this case,
12 I will tell you that you will have to be sequestered or
13 separated with the jury and remain in a motel during the
14 length of the trial. Does that pose any undue hardship
15 for you?

16 MR. WILES: No, sir.

17 THE COURT: To possibly ease your mind on that
18 with agreement of counsel I am telling the jurors that
19 this case most likely will not last than a week, okay?

20 MR. WILES: Yes, sir.

21 THE COURT: All right, that's all the questions
22 I have but you need to answer any questions the Solicitor
23 and Counsel Simms may have for you.

24 SOLICITOR: Thank you, Your Honor.
25

1 EXAMINATION BY THE SOLICITOR;

2 Q. Mr. Wiles, I'm Walter Bailey and I want to ask
3 you a few more questions and like the Judge said, there
4 are no right or wrong answers.

5 A. All right, sir.

6 Q. And what I want to ask you about is the death
7 penalty and I want to explain the process that the State
8 goes through in a case like this where it is seeking the
9 death penalty. We start out with the guilt phase which
10 is like any other criminal trial. The defendant is charged
11 with certain offenses and the State has the burden of proving
12 the defendant guilty of the charges beyond a reasonable
13 doubt. In this case one of the charges is murder. If
14 the defendant is convicted of murder, then we go into the
15 second phase and that same jury that found him guilty of
16 murder would hear additional evidence, additional instructions
17 from the Judge and the jury would then decide what the
18 punishment is. The Judge does not change that, the only
19 thing the Judge would do is to order that jury's verdict
20 to happen.

21 So if the verdict is life imprisonment, the Judge
22 would order that and he would serve life without parole.
23 If the jury, after hearing all the facts and evidence,
24 votes for the death penalty, the Judge orders that and
25 that defendant is executed by lethal injection.

1 I'm not going to ask you to predict what you
2 would do in this case, you haven't heard the facts yet
3 or the law. But just in general, if you were on a jury
4 in a case like this, and if the case was bad enough, could
5 you vote for the death penalty ---

6 A. Yes, sir.

7 Q. --- knowing as a result of that vote that person
8 actually would be executed when the alternative could be
9 life without parole?

10 A. Yes, sir.

11 Q. If all twelve jurors vote for the death penalty,
12 they are then asked to sign their names to a form, a death
13 verdict form that would result in that person being
14 executed. Could you sign that paper?

15 A. Yes, sir.

16 Q. There's a process called polling the jury where
17 if the jury votes for the death penalty, they sign the
18 form, then each one of them's name would be called out
19 one at a time and they would be asked to stand up and
20 affirm that as being their verdict. Could you do that?

21 A. Yes, sir.

22 SOLICITOR: Mr. Wiles, that's all I have, thank
23 you very much.

24 THE COURT: Mr. Sims.

25 MR. SIMS: Thank you, Your Honor.

EXAMINATION BY MR. SIMS:

Q. Mr. Wiles, I see on your application that you are with the Air National Guard?

A. Yes, sir.

Q. Are you still with them?

A. Yes, sir.

Q. And how often do you have to go?

A. I'm a full time technician up there and I pull drill one weekend a month.

Q. And there are no other opportunities, you don't have to go at any other time?

A. Huh-uh, except for the two weeks out of the summer.

Q. And you've fulfilled that obligation, have you not?

A. Yes, sir.

Q. And I believe the Judge did talk to you as it relates to being sequestered if you were chosen on this jury. Would that create a problem for you?

A. No, sir.

Q. And I don't know if I heard or not but could you tell us in terms of whether or not you had talked about the death penalty or formulated any opinion on the death penalty prior to coming in here on Monday?

A. No, sir.

Q. You had never discussed it, you never discussed

1 it, you never talked about it?

2 A. No, sir. This case here?

3 Q. No, not this case here but the death penalty
4 in general.

5 A. Oh, I've discussed it with my wife and different
6 friends, yes, sir.

7 Q. Okay. And in the nature of discussing it, in
8 terms of from what standpoint?

9 A. Just if the person is guilty of the crime or
10 whatever.

11 Q. If the person is guilty of the crime?

12 A. Yes, sir, with all of the evidence that they
13 get out of it.

14 Q. Let me clear that up. You say if a person is
15 guilty of the crime. Does that mean that if the person
16 is guilty of the crime you would always vote for the death
17 penalty?

18 A. No, sir.

19 Q. Well, what I'm trying to ---

20 A. You would have to listen to the facts that were
21 given.

22 Q. Okay, so you would have to listen to all of the
23 facts?

24 A. Yes, sir.

25 MR. SIMS: That's all I have, Your Honor.

1 THE COURT: The juror is qualified. Mr. Wiles,
2 I need for you to give Madam Clerk over here a telephone
3 number that we can reach you on moment's notice. Please
4 do not discuss this case with anyone. Do not read any
5 newspapers or listen or observe any news accounts until
6 after the case is over. We will be most likely calling
7 you in at a later time, possibly in the morning or later
8 so we need to have a number where we can reach you, okay?

9 MR. WILES: Yes, sir.

10 THE COURT: All right, let's bring in our next
11 juror, please.

12 (WHEREUPON, Juror #47, Ricky Clark (BM)
13 entered the courtroom and took the witness chair.)

14 THE COURT: Good afternoon, Mr. Clark.

15 MR. CLARK: Good afternoon.

16 THE COURT: How are you today?

17 MR. CLARK: Fine, sir.

18 THE COURT: If you will just make yourself comfort-
19 able there and relax. I've got some questions for you,
20 okay?

21 MR. CLARK: All right, sir.

22 THE COURT: I'm going to remind you that you
23 are still under oath from Monday about answering questions
24 truthfully.

25 MR. CLARK: Yes, sir.

1 THE COURT: Do you know of any reason whatsoever
2 why you cannot give both the State and the defendant a
3 fair and impartial trial?

4 MR. CLARK: No, sir, I don't.

5 THE COURT: Would you, under oath, follow the
6 law in this case as given to you by me?

7 MR. CLARK: Yes, sir.

8 THE COURT: Could you, depending on the facts
9 and evidence and the law as I would instruct you, find
10 a defendant not guilty?

11 MR. CLARK: That's depending on the facts, yes,
12 sir.

13 THE COURT: Could you, depending on the facts
14 and evidence and the law as I would instruct you, find
15 a defendant guilty?

16 MR. CLARK: Yes, sir.

17 THE COURT: Have you discussed this case with
18 anyone?

19 MR. CLARK: No, sir.

20 THE COURT: Have you read, viewed or listened
21 to any news accounts or news reports on the subject of
22 this case?

23 MR. CLARK: No, sir.

24 THE COURT: The defendant is a black and the
25 victim was a white. Will the fact that the defendant

1 is black and the victim is white prevent you in any way
2 whatsoever from rendering a fair and impartial verdict
3 in this case?

4 MR. CLARK: No, sir.

5 THE COURT: Will you, without regard to the race
6 of the defendant and the victim, render a fair and
7 impartial verdict based solely on the evidence and the
8 law given to you by the Court?

9 MR. CLARK: Yes, sir.

10 THE COURT: I'm going to now ask you certain
11 questions relative to your views on the death penalty.
12 There are no right or wrong answers. I emphasize to you
13 that the mere fact that we are talking about penalty does
14 not indicate anything about this defendant. He is presumed
15 innocent, do you understand that?

16 MR. CLARK: Yes, sir.

17 THE COURT: You were given a letter a few minutes
18 ago to read. Have you read it?

19 MR. CLARK: Yes, sir.

20 THE COURT: There is one to your right if you
21 need to refer to it. And I wonder if you could tell me
22 which of the three categories or the type of juror that
23 you might fall into?

24 MR. CLARK: The third one.

25 THE COURT: Can you, as a juror, participate

1 in a jury verdict recommending the penalty of death by
2 lethal injection for murder if the evidence and the law
3 warrants such a verdict?

4 MR. CLARK: Yes, sir.

5 THE COURT: Can you, as a juror, also participate
6 in a jury verdict recommending a sentence of life imprison-
7 ment for murder if the evidence and the law warrants such
8 a verdict?

9 MR. CLARK: Yes, sir.

10 THE COURT: If you were selected on this case
11 I tell you that you will have to be sequestered or
12 separated with the jury and remain in a motel during the
13 length of this trial. Does that pose any undue hardship
14 for you?

15 MR. CLARK: No, sir.

16 THE COURT: I will tell you to ease your mind
17 in regards to that, counsel is in agreement with me to
18 tell the jurors that this case most likely would not take
19 over a week, okay.

20 MR. CLARK: All right, sir.

21 THE COURT: I need you to answer any questions
22 counsel may have for you, beginning with the Solicitor.

23 SOLICITOR: Thank you, Your Honor.

24 EXAMINATION BY THE SOLICITOR:

25 Q. Mr. Clark, I'm Walter Bailey and I want to ask

1 you a few questions. And I'm not trying to embarrass you
2 or anything but this is the only time we get to talk to
3 jurors before we actually pick a jury. I think you've
4 been in the PTI program with our office before, haven't
5 you?

6 A. Yes, sir.

7 Q. Okay, and do you recall what the charge was that
8 you were placed in PTI on?

9 A. Drug charges.

10 Q. Okay. What type drug, crack?

11 A. Yes.

12 Q. Okay. And are you still in PTI or have you finished
13 that?

14 A. No, I'm not, I'm finished.

15 Q. When did you finish up?

16 A. Uhm --- I'm not exactly sure, it was either February
17 or March of this year.

18 Q. Okay, and do you recall who the Assistant Solicitor
19 was that handled your case?

20 A. I don't remember right at this time.

21 Q. Do you recognize Mr. Murphy over here?

22 A. Yes, I do.

23 Q. Okay, is he the one that handled your case?

24 A. I'm pretty sure it was.

25 Q. Okay. Now, let me ask you this, Mr. Clark. Would

1 the fact that Mr. Murphy is assisting me in this case in
2 the prosecution and that he also initiated the prosecution
3 against you, would that create any problems with you in
4 this case?

5 A. No, I don't think so.

6 Q. Okay, you say you don't think so. I need to
7 kind of ask you to, you know, there are no right or wrong
8 answers but we just need to know if that would spill over
9 into this case?

10 A. No, no.

11 Q. Okay. Let me ask you a little bit about the
12 death penalty. Is that something that you've ever thought
13 about before Monday when you found out that you might be
14 a juror in this kind of a case?

15 A. Yes, I have.

16 Q. And how did it come up, how did you happen to
17 think about it?

18 A. Well, reading the paper and seeing that people
19 being sent to the death sentence, you know, in the papers
20 and just talking about it.

21 Q. Okay, and when you would read that kind of stuff
22 and talk about it, did you form any opinion on the death
23 penalty, not talking about this case here, but just in
24 general?

25 A. No, sir.

1 Q. Since Monday, when you found out you might be
2 a juror in this kind of a case, have you formed an opinion
3 on the death penalty?

4 A. No, sir.

5 Q. You have no opinion on it?

6 A. No, sir.

7 Q. The Judge went over that letter, the three different
8 kinds of jurors on there.

9 A. Yes, sir.

10 Q. After reading that letter, did you form an opinion
11 on the death penalty?

12 A. No, sir.

13 Q. At the time that you filled the form out, that's
14 been a few weeks ago, you were not working at that time,
15 is that correct?

16 A. That's correct.

17 Q. Are you working now?

18 A. No, sir.

19 Q. Let me run over a little bit about the process
20 that we go through when the State seeks the death penalty
21 against somebody. We start off with the guilt phase, that's
22 like any other criminal trial, where the State has to prove
23 somebody guilty beyond a reasonable doubt of whatever the
24 charge is. In this case one of the charges is murder.
25 If the jury is convinced beyond a reasonable doubt that

1 he's guilty of murder, then we go into the penalty phase.
2 That same jury has to decide what the punishment ought
3 to be. They have two choices, life in prison and the death
4 penalty. Whatever that verdict is, the Judge will order
5 that to happen and it will happen. So if the verdict is
6 for a life sentence, that's what the Judge orders and that
7 person serves life without parole. If the verdict is the
8 death penalty, the Judge would order that person to be
9 executed, he would be executed by lethal injection.

10 Now, I'm not talking about this case because
11 you haven't heard the facts but just in general, if you
12 got picked as a juror on a death penalty case, and you
13 went through that first stage and you found that person
14 guilty and the other jurors did too of murder. We go into
15 the second phase of the trial and if the case was bad enough,
16 could you vote for the death penalty knowing that as a
17 result of that vote that person would be executed by lethal
18 injection based on that jury's verdict when the alternate
19 sentence would have been life without parole?

20 A. Yes, sir.

21 Q. You could do that?

22 A. Yes, sir.

23 Q. If all twelve jurors vote for the death penalty,
24 they are then asked to sign their name to a death verdict
25 form that would result in that person being executed.

1 Could you do that?

2 A. Yes, sir.

3 Q. Could you stand up and come out here and sit
4 in one of these chairs and stand up when your name is called
5 out and say out loud that's your verdict?

6 A. Yes, sir.

7 Q. Can you think of any reason at all, Mr. Clark,
8 we may not have even mentioned yet, that would in any way
9 prevent you from sitting as a fair juror to both sides,
10 the State and the defendant?

11 A. No, sir.

12 SOLICITOR: Mr. Clark, that's all I have right
13 now, thank you.

14 THE COURT: Mr. Sims.

15 MR. SIMS: Thank you, Your Honor.

16
17 EXAMINATION BY MR. SIMS:

18 Q. Mr. Clark, just one or two questions for you.
19 You indicated that you had been given PTI by the Solicitor's
20 Office, is that correct?

21 A. Yes, sir.

22 Q. You're not longer on PTI, is that correct?

23 A. No, sir.

24 Q. The fact that you were given PTI, placed in the
25 PTI program, that did not create any idea of beholding

1 or to the Solicitor's Office, did it?

2 A. No, sir.

3 MR. SIMS: That's all I have, Your Honor.

4 THE COURT: The juror is qualified. Mr. Clark,
5 I need you to give Madam Clerk over here a telephone number
6 that we can reach you on moment's notice. You need to
7 stay close by that phone because we may call you back in
8 here, probably not tonight but mostly likely tomorrow,
9 so we need you to stay close by and camp out by that
10 telephone, okay.

11 MR. CLARK: Yes, sir.

12 THE COURT: Do not discuss this case with anyone.
13 Do not read any news accounts or listen to watch any
14 news reports, okay?

15 MR. CLARK: Okay.

16 THE COURT: All right, you are excused to go
17 back home. All right, let's bring in our next juror.

18 (WHEREUPON, Juror #324, Robert Washington(BM)
19 entered the courtroom and took the witness chair.)

20 THE COURT: Good afternoon, Mr. Washington.

21 MR. WASHINGTON: Hello.

22 THE COURT: How are you?

23 MR. WASHINGTON: Fine.

24 THE COURT: If you will have a seat right up
25 here, please. I need you just to relax and make yourself

1 comfortable, okay.

2 MR. WASHINGTON: Yes, sir.

3 THE COURT: We were expecting you at 3:00, is
4 everything okay?

5 MR. WASHINGTON: I try to call last night until
6 after 8 and I never could get nobody on the --- I don't
7 know if I had the wrong number or what, I don't know.

8 THE COURT: Okay, but you tried?

9 MR. WASHINGTON: Yes, I tried.

10 THE COURT: Okay. I remind you that you are
11 still under oath, okay?

12 MR. WASHINGTON: Okay.

13 THE COURT: From Monday.

14 MR. WASHINGTON: Monday.

15 THE COURT: I put you under oath to answer all
16 the questions correctly, do you remember that?

17 MR. WASHINGTON: No.

18 THE COURT: Do you remember on Monday that I
19 put all the jurors under oath to answer all the questions
20 truthfully?

21 MR. WASHINGTON: Yes, sir.

22 THE COURT: Okay, you are still under oath, do
23 you understand that?

24 MR. WASHINGTON: Yes, yes, sir.

25 THE COURT: Do you know of any reason whatsoever

1 why you cannot give both the State and the defendant a
2 fair and impartial trial?

3 MR. WASHINGTON: I don't know.

4 THE COURT: Okay, I need you to answer in the
5 microphone because Madam Court Reporter has got to hear
6 you.

7 MR. WASHINGTON: Yeah. No, sir, I don't see
8 nothing.

9 THE COURT: Would you, under oath, follow the
10 law in this case as given to you by me?

11 MR. WASHINGTON: Yes, sir.

12 THE COURT: Could you, depending on the facts
13 and evidence and the law as I would instruct you, find
14 a defendant not guilty?

15 MR. WASHINGTON: You mean, me find him not guilty?

16 THE COURT: Yes, sir, depending on the facts
17 and evidence and the law as I would instruct you, could
18 you find a defendant not guilty?

19 MR. WASHINGTON: Yeah, about the evidence.

20 THE COURT: Could you, depending on the facts
21 and the evidence and the law as I would instruct you, find
22 a defendant guilty?

23 MR. WASHINGTON: Yes, sir.

24 THE COURT: Have you discussed this case with
25 anyone?

1 MR. WASHINGTON: No, sir, no, sir.

2 THE COURT: Have you read, viewed or listened
3 to any news accounts or news reports on the subject of
4 this case?

5 MR. WASHINGTON: No, sir.

6 THE COURT: The defendant is a black and the
7 victim was a white. Will the fact that the defendant is
8 black and the victim was white prevent you in any way
9 whatsoever from rendering a fair and impartial verdict
10 in this case?

11 MR. WASHINGTON: No, sir.

12 THE COURT: Will you, without regards to the
13 race of the defendant and the victim, render a fair and
14 impartial verdict based solely on the evidence and the
15 law given to you by the Court?

16 MR. WASHINGTON: Yes, sir.

17 THE COURT: I'm going to ask you certain questions
18 at this time relative to your views on the death penalty.
19 There are no right or wrong answers. I emphasize to you
20 that the mere fact that we are talking about penalty does
21 not indicate anything about this defendant. He is presumed
22 innocent, do you understand that?

23 MR. WASHINGTON: Would you repeat that?

24 THE COURT: I am going to ask you certain questions
25 at this time relative to your views on the death penalty.

1 There are no right or wrong answers, okay?

2 MR. WASHINGTON: Yes, sir.

3 THE COURT: I emphasize that the mere fact that
4 we are talking about penalty does not indicate anything
5 about this defendant. He is presumed innocent, do you
6 understand that?

7 MR. WASHINGTON: Yeah, yeah.

8 THE COURT: Okay. You were given a letter a
9 few minutes ago. Did you read it?

10 MR. WASHINGTON: Yeah, yes.

11 THE COURT: You have one right to your right
12 right there that you can refer to if you need to. I wonder
13 if you could tell me which of the three categories or which
14 type of juror that you might fall into?

15 MR. WASHINGTON: Who me?

16 THE COURT: Yes, sir.

17 MR. WASHINGTON: Neither one, neither one of
18 them.

19 THE COURT: Did you read the letter?

20 MR. WASHINGTON: Yes, I read it.

21 THE COURT: Okay. Can you tell me which of those
22 three types you might fall into?

23 MR. WASHINGTON: (No response.)

24 MR. SIMS: Your Honor, we would have no objection
25 if the Court would read those categories to him.

1 THE COURT: Mr. Washington, would you prefer
2 that I read these categories to you?

3 MR. WASHINGTON: Yes, sir.

4 THE COURT: All right, the first type. There
5 is a type of juror who once the crime of murder has been
6 proved by the State and the juror is considering punishment
7 feels that he or she is required to give the death penalty
8 in each and every case. The juror simply feels that once
9 a murder has been committed, the death penalty is the most
10 appropriate punishment, no matter what the circumstances
11 of the case. That's the first type juror.

12 The second type of juror is one who, although
13 the guilt of the defendant has been determined, under no
14 circumstances could ever give the death penalty. This
15 juror would not need to hear what the facts and circumstances
16 in aggravation in this particular case were, because the
17 juror would have his or her mind made up concerning
18 punishment no matter what he or she heard.

19 The third type of juror is one who, although
20 the guilt of the defendant has been determined, would not
21 have his or her mind made up in advance concerning punish-
22 ment. This juror would need to hear the facts and
23 circumstances in aggravation and in mitigation and would
24 want to listen to and follow the law as the Judge charges
25 the jury before he or she could make the decision regarding

1 punishment, and if the facts presented so warranted, this
2 juror could bring in a verdict for life imprisonment. Also
3 if the facts presented so warranted, the juror could bring
4 in a verdict for the death penalty.

5 Can you tell me which of those three types you
6 think you would fall under?

7 MR. WASHINGTON: Life in prison?

8 THE COURT: Are you telling me that you could
9 not give the death penalty in a murder case?

10 MR. WASHINGTON: Yes, sir.

11 THE COURT: All right, are you telling me that
12 you could give life imprisonment in a murder case?

13 MR. WASHINGTON: Yeah.

14 THE COURT: Okay, but you could not give the
15 death penalty?

16 MR. WASHINGTON: (No response.)

17 THE COURT: Is that correct?

18 MR. WASHINGTON: Well, I don't know.

19 THE COURT: Pardon?

20 MR. WASHINGTON: Well, would I have to say ---
21 what do you want me to say, give him the death penalty?

22 THE COURT: I don't want you to say anything
23 but what you truthfully and honestly want to tell me, okay?

24 MR. WASHINGTON: Yeah.

25 THE COURT: Mr. Washington, we understand your

1 position. We are going to excuse you at this time. You
2 may return home, okay?

3 MR. WASHINGTON: Okay.

4 THE COURT: Thank you very much in coming. Be
5 careful getting down out of that box, now.

6 MR. SIMS: Your Honor, just for the record, we
7 would point out that after consultation with our client
8 we did not object to the action taken by the Court.

9 THE COURT: All right, and is the Solicitor in
10 agreement?

11 SOLICITOR: Yes, sir.

12 THE COURT: All right, let's bring in the next
13 juror.

14 (WHEREUPON, Juror #206, Michelle McClatchie
15 (BF) entered the courtroom and took the witness chair.)

16 THE COURT: Ms. McClatchie, am I pronouncing
17 your name correctly?

18 MS. MCCLATCHIE: Yes, sir.

19 THE COURT: If you will just relax and make your-
20 self comfortable, we've got some questions we need to ask
21 you and I need to remind you that you are still under oath
22 from Monday, okay?

23 MS. MCCLATCHIE: Yes, sir.

24 THE COURT: You need to answer our questions
25 truthfully. Do you know of any reason whatsoever why

1 you cannot give both the State and the defendant a fair
2 and impartial trial?

3 MS. MCCLATCHIE: No.

4 THE COURT: Would you, under oath, follow the
5 law in this case as given to you by me?

6 MS. MCCLATCHIE: Yes, sir.

7 THE COURT: Could you, depending on the facts
8 and the evidence and the law as I would instruct you, find
9 a defendant not guilty?

10 MS. MCCLATCHIE: Could you repeat that?

11 THE COURT: Could you, depending on the facts
12 and the evidence and the law as I would instruct you,
13 find a defendant not guilty?

14 MS. MCCLATCHIE: Yeah.

15 THE COURT: Could you, depending on the facts
16 and the evidence and the law as I would instruct you, find
17 a defendant guilty?

18 MS. MCCLATCHIE: Yes.

19 THE COURT: Have you discussed this case with
20 anyone?

21 MS. MCCLATCHIE: No.

22 THE COURT: Have you read, viewed or listened
23 to any news accounts or news reports on the subject of
24 this case?

25 MS. MCCLATCHIE: No.

1 THE COURT: The defendant is a black and the
2 victim was a white. Will the fact that the defendant is
3 black and the victim is white prevent you in any way
4 whatsoever from rendering a fair and impartial verdict
5 in this case?

6 MS. MCCLATCHIE: No.

7 THE COURT: Will you, without regard to the race
8 of the defendant and the victim, render a fair and impartial
9 verdict based solely on the evidence and the law given
10 to you by the Court?

11 MS. MCCLATCHIE: Yes.

12 THE COURT: I'm going to ask you certain questions
13 at this time relative to your views on the death penalty.
14 There are no right or wrong answers. I emphasize the mere
15 fact that we are talking about the penalty does not indicate
16 anything about this defendant. He is presumed innocent,
17 do you understand that?

18 MS. MCCLATCHIE: Yes.

19 THE COURT: A few minutes ago you were given
20 a letter to read. Have you read the letter?

21 MS. MCCLATCHIE: Yes.

22 THE COURT: There is one to your immediate right
23 if you need to refer to it. Now, I wonder if you can tell
24 me which of the three categories or the type of juror that
25 you might fall into?

1 MS. MCCLATCHIE: The third one.

2 THE COURT: Can you, as a juror, participate
3 in a jury verdict recommending the penalty of death by
4 lethal injection for murder if the evidence and the law
5 warrants such a verdict?

6 MS. MCCLATCHIE: Yes.

7 THE COURT: Can you, as a juror, also participate
8 in a jury verdict recommending a sentence of life imprison-
9 ment for murder if the evidence and the law warrants such
10 a verdict?

11 MS. MCCLATCHIE: Yes.

12 THE COURT: If you are selected on this case,
13 I tell you that you will have to be sequestered or
14 separated with the jury and remain in a motel during the
15 length of this trial. Does that pose any undue hardship
16 on you?

17 MS. MCCLATCHIE: Yes.

18 THE COURT: All right, before I ask you to
19 elaborate on that, let me tell you what I've told all the
20 other jurors, and this is in agreement with counsel that
21 I tell you this. This case will most likely not last
22 over a week. Okay, now with that in mind, tell us what
23 hardship you would have.

24 MS. MCCLATCHIE: Well, number one, I'm supposed
25 to start a job Monday. Number two, I wouldn't have nobody

1 to take care of --- I have a 15 month old son.

2 THE COURT: Okay, where is your son now?

3 MS. MCCLATCHIE: My mother has him.

4 THE COURT: Okay. 15 month old?

5 MS. MCCLATCHIE: Uh-huh.

6 THE COURT: Does she ever watch him overnight?

7 MS. MCCLATCHIE: On the weekends sometimes but
8 not during the week.

9 THE COURT: Counsel, I'll be glad to hear from
10 you or I can inquire further.

11 SOLICITOR: I think we are in agreement, Your
12 Honor.

13 MR. SIMS: Yes, sir.

14 THE COURT: Because of those hardships, we are
15 going to excuse you at this time and we do appreciate you
16 coming and helping us and being here Monday and your patience
17 Monday, okay?

18 MS. MCCLATCHIE: Okay.

19 THE COURT: Thank you very much, you are excused.
20 All right, let's go with the next one.

21 (WHEREUPON, Juror #299, Sheri Sumpter (BF)
22 entered the courtroom and took the witness chair.)

23 THE COURT: Ms. Sumpter, if you will just relax
24 there and make yourself comfortable. We have some questions
25 we need to ask you and in regards to that, I remind you

1 that you are still under oath from Monday, okay.

2 MS. SUMPTER: Okay.

3 THE COURT: Do you know of any reason whatsoever
4 why you cannot give both the State and the defendant a
5 fair and impartial trial?

6 MS. SUMPTER: No, not really.

7 THE COURT: Would you, under oath, follow the
8 law in this case as given to you by me?

9 MS. SUMPTER: Yes, sir.

10 THE COURT: Could you, depending on the facts
11 and the evidence and the law as I would instruct you, find
12 a defendant not guilty?

13 MS. SUMPTER: Yes, sir.

14 THE COURT: Could you, depending on the facts
15 and the evidence and the law as I would instruct you, find
16 a defendant guilty?

17 MS. SUMPTER: Yes, sir.

18 THE COURT: Have you discussed this case with
19 anyone?

20 MS. SUMPTER: No, sir.

21 THE COURT: Have you read, viewed or listened
22 to any news accounts or news reports on the subject of
23 this case?

24 MS. SUMPTER: No, sir.

25 THE COURT: The defendant is a black and the

1 victim was a white. Will the fact that the defendant is
2 black and the victim is white prevent you in any way
3 whatsoever from rendering a fair and impartial verdict
4 in this case?

5 MS. SUMPTER: No, sir.

6 THE COURT: Will you, without regards to the
7 race of the defendant and the victim, render a fair and
8 impartial verdict based solely on the evidence and the
9 law given to you by the Court?

10 MS. SUMPTER: Yes, sir.

11 THE COURT: I'm now going to ask you certain
12 questions relative to your views on the death penalty.
13 There are no right or wrong answers. I emphasize that the
14 mere fact that we are talking about penalty does not indicate
15 anything about this defendant. He is presumed innocent,
16 do you understand that?

17 MS. SUMPTER: Yes, sir.

18 THE COURT: Let me ask you now, you were given
19 a letter a few minutes ago to read. Have you read it?

20 MS. SUMPTER: Yes, sir.

21 THE COURT: There is one to your immediate right
22 if you need to refer to it and I wonder if you could tell
23 me which of the three categories or the type of juror that
24 you might fall into?

25 MS. SUMPTER: The second one.

1 THE COURT: Can you, as a juror, participate
2 in a jury verdict recommending the penalty of death by
3 lethal injection for murder if the evidence and the law
4 warrants such a verdict?

5 MS. SUMPTER: No, sir.

6 THE COURT: You can't?

7 MS. SUMPTER: No, sir, I can't.

8 THE COURT: Okay. Can you, as a juror, participate
9 in a jury verdict recommending a sentence of life imprison-
10 ment for murder if the evidence and the law warrants such
11 a verdict?

12 MS. SUMPTER: Yes, sir.

13 THE COURT: Is your opposition to the death penalty
14 for murder so fixed and so firm that you are irrevocably
15 committed before the beginning of this trial to vote against
16 the death penalty for murder regardless of the facts and
17 circumstances that may develop during the trial?

18 MS. SUMPTER: It's hard to say, sir. I can't
19 really say.

20 THE COURT: Can your opposition to capital punish-
21 ment or the death penalty for murder be changed by the
22 evidence presented during the trial?

23 MS. SUMPTER: Maybe, maybe, maybe not.

24 THE COURT: Notwithstanding your opposition to
25 capital punishment, are you will to consider all the

1 penalties provided by the law of this state, including
2 the death penalty, and then determine whether the defendant
3 should receive the death penalty or life imprisonment based
4 upon the facts and circumstances developed during the trial?

5 MS. SUMPTER: Hummm. Not the death sentence,
6 for right now, not the death sentence.

7 THE COURT: Let me ask you one more question.
8 Will your opposition to the death penalty for murder prevent
9 you from voting for the death penalty under any circumstances?

10 MS. SUMPTER: Right now, I don't know.

11 THE COURT: Okay. Gentlemen, do ya'll want me
12 to continue with that line of questioning?

13 MR. SIMS: Your Honor, I would like to ask her
14 some questions.

15 THE COURT: Well, I can continue if you want
16 me to.

17 MR. SIMS: All right, sir.

18 THE COURT: Are you beliefs and attitudes against
19 capital punishment such that you would be unable to return
20 a verdict of guilty of murder according to the law of this
21 state?

22 MS. SUMPTER: I can say guilty. No.

23 THE COURT: Would you automatically vote against
24 the imposition of capital punishment without regard to
25 the evidence that might be developed during the trial

1 of a capital murder case?

2 MS. SUMPTER: No, sir.

3 THE COURT: Let me repeat that to you. Would
4 you automatically vote against the imposition of capital
5 punishment without regard to the evidence that might be
6 developed during the trial of a capital murder case?

7 MS. SUMPTER: Explain that.

8 THE COURT: Would you automatically vote against
9 the death penalty without regard to the evidence that might
10 be presented during the trial of a murder case?

11 MS. SUMPTER: It's hard to say.

12 THE COURT: Would your opposition to capital
13 punishment prevent you from making an impartial decision
14 as to the defendant's guilt?

15 MS. SUMPTER: No.

16 THE COURT: Okay. If you were selected on this
17 case, I tell you that you would have to be sequestered
18 or separated with the jury and remain in a motel during
19 the length of the trial. Does this pose any undue hardship
20 for you?

21 MS. SUMPTER: As a mother, yes.

22 THE COURT: Tell me about it.

23 MS. SUMPTER: I have four teenage daughters,
24 my husband works at night, and it would be like, you know,
25 opening the jail cells and telling the prisoners not to

1 go anywhere. I don't mean to put it that way but anybody
2 with teenagers ---

3 THE COURT: I can relate to what you are saying.

4 MS. SUMPTER: Okay, teenage daughters.

5 THE COURT: I've got two and then one under 10.
6 I'm going to tell you like I told all the other jurors.
7 This case is probably, and I do this with permission of
8 counsel, this case will probably take approximately take
9 a week, maybe a little less. Now, do you still feel like
10 that that would be a hardship on you?

11 MS. SUMPTER: I would be wondering, like I say,
12 four teenage daughters.

13 THE COURT: And your husband works at night?

14 MS. SUMPTER: Yes, sir.

15 THE COURT: I'm going to excuse you at this time.
16 Thank you for coming and you have my sympathy.

17 MS. SUMPTER: Thank you, sir.

18 MR. SIMS: Your Honor, I would like to point
19 out that before we consented to excuse Ms. McClatchie and
20 Mrs. Sumpter, we conferred with our client with regard
21 to those to the actions that were taken and he agreed.

22 THE COURT: Okay. Is that correct, Mr. Stokes?

23 MR. STOKES: Yes, sir.

24 THE COURT: All right, and I haven't even spoken
25 to you this afternoon because we have been moving right

1 along. Are you okay?

2 MR. STOKES: Yeah, I'm alright.

3 THE COURT: All right, we have double checked
4 on the two missing jurors, Ms. Shivers and Mr. Mack. Ms.
5 Shivers has undoubtedly flown the coop and I'm going to
6 have them try to find her but at some point we will have
7 to make a decision. On James Mack, so it will be absolutely
8 clear on the record, he did not show up Sunday and was
9 not served. So that one slipped through the hoop somehow.
10 So is everybody satisfied with that?

11 SOLICITOR: Yes, sir.

12 MR. SIMS: Yes, sir.

13 THE COURT: That's all I know to do, gentlemen.

14 MR. SIMS: Your Honor, has anyone from the Sheriff's
15 Department gone to her home? There may be some ---

16 DEPUTY SHERIFF: I just said we have been by
17 her house.

18 THE COURT: Yeah, they have. Okay, if ya'll
19 will try one more time at her house. Maybe somebody will
20 be there now that it's after 5 and we can get an explanation
21 as to what happened to her. And I'm doing this also because
22 of security for the jurors, too, we just need to know.

23 DEPUTY SHERIFF: Yes, sir, we will go back again.

24 THE COURT: All right, let's move along with
25 the next juror.

1 (WHEREUPON, Juror #88, Carolyn Fritz (BF)
2 entered the courtroom and took the witness chair.)

3 THE COURT: How are you, Mrs. Fritz?

4 MRS. FRITZ: Okay.

5 THE COURT: If you will have a seat right there
6 and just relax and make yourself comfortable. We've got
7 some questions we need to pose to you at this time. I need
8 to remind you that you are still under oath, okay.

9 MRS. FRITZ: Yes, sir.

10 THE COURT: Do you know of any reason whatsoever
11 why you cannot give both the State and the defendant a
12 fair and impartial trial?

13 MRS. FRITZ: No.

14 THE COURT: Would you, under oath, follow the
15 law in this case as given to you by me?

16 MRS. FRITZ: Yes.

17 THE COURT: Could you, depending on the facts
18 and evidence and the law as I would instruct you, find
19 a defendant not guilty?

20 MRS. FRITZ: I think so.

21 THE COURT: Could you, depending on the facts
22 and the evidence and the law as I would instruct you, find
23 a defendant guilty?

24 MRS. FRITZ: Yes, sir.

25 THE COURT: Have you discussed this case with

1 anyone?

2 MRS. FRITZ: Since Monday, no.

3 THE COURT: Have you discussed it in the past
4 with anyone?

5 MRS. FRITZ: When I first heard about the case,
6 yes, I did.

7 THE COURT: Who did you discuss it with?

8 MRS. FRITZ: Well, family, friends, we talked
9 about it and we saw it in the papers.

10 THE COURT: As a result of those discussions
11 have you formed an opinion as to the guilt or innocence
12 of the defendant?

13 MRS. FRITZ: No.

14 THE COURT: Will this discussion prevent you
15 from rendering a fair and impartial verdict in this case?

16 MRS. FRITZ: No.

17 THE COURT: Notwithstanding the discussion you
18 have described, can you fairly and impartially render a
19 fair and just verdict in this case uninfluenced in any
20 way whatsoever by those discussions?

21 MRS. FRITZ: Yes.

22 THE COURT: Can you erase from your mind the
23 discussions you have described and render a fair and
24 impartial verdict based upon the law given to you by
25 the Court and the evidence presented during the trial?

1 MRS. FRITZ: Yes.

2 THE COURT: Have you read, viewed or listened
3 to any news accounts or news reports on the subject of
4 this case?

5 MRS. FRITZ: Not since Monday.

6 THE COURT: All right, what accounts have you
7 reviewed?

8 MRS. FRITZ: I only read the stories when they
9 first --- I mean, when the incident first happened and
10 that is when it was talked about.

11 THE COURT: Do you remember or recall anything
12 about those news accounts?

13 MRS. FRITZ: In detail, no.

14 THE COURT: Will the news accounts which you
15 have read, viewed or listened to prevent you from rendering
16 a fair and impartial verdict in this case?

17 MRS. FRITZ: No.

18 THE COURT: Can you erase from your mind the
19 information you acquired from these news accounts and render
20 a fair and impartial and just verdict based on the law
21 and the evidence uninfluenced in any way whatsoever by
22 reason of the news accounts which you have described?

23 MRS. FRITZ: I think so.

24 THE COURT: Can you, notwithstanding your exposure
25 to those accounts, base your verdict upon the law and

1 the evidence presented to you uninfluenced in any way
2 whatsoever by those accounts?

3 MRS. FRITZ: Yes.

4 THE COURT: Do you understand that a verdict
5 must be based exclusively upon the law given to you by
6 the Court and the evidence presented to the Court and the
7 jury during the trial?

8 MRS. FRITZ: Yes.

9 THE COURT: Can you make your verdict based only
10 upon these two considerations, that is, the law and the
11 evidence?

12 MRS. FRITZ: Yes.

13 THE COURT: The defendant is a black and the
14 victim was a white. Will the fact that the defendant is
15 black and the victim is white prevent you in any way
16 whatsoever from rendering a fair and impartial verdict
17 in this case?

18 MRS. FRITZ: I don't think so, no.

19 THE COURT: Will you, with regard to the race
20 of the defendant and the victim, render a fair and impartial
21 verdict based solely on the evidence and the law given
22 to you by the Court?

23 MRS. FRITZ: Yes.

24 THE COURT: I'm going to ask you certain questions
25 at this time relative to your views on the death penalty.

1 There are no right or wrong answers. I emphasize the mere
2 fact that we are talking about penalty does not indicate
3 anything about this defendant. He is presumed innocent,
4 do you understand that?

5 MRS. FRITZ: Yes.

6 THE COURT: You were given a letter a few minutes
7 ago to read. Have you read it?

8 MRS. FRITZ: Yes.

9 THE COURT: There is one to your right if you
10 need to refer to it. I wonder if you can tell me which
11 of the three categories or the type of juror that you might
12 fall into?

13 MRS. FRITZ: I would think juror three.

14 THE COURT: Can you, as a juror, participate
15 in a jury verdict recommending the penalty of death by
16 lethal injection for murder if the evidence and the law
17 warrants such a verdict?

18 MRS. FRITZ: Well, that would be hard for me.

19 THE COURT: I don't want to upset you or cause
20 you any discomfort on this but I need a direct answer if
21 I could.

22 MRS. FRITZ: It's something that you can't take
23 lightly and I think once it's proven to me personally that
24 I could be fair about it.

25 THE COURT: Okay. Let me repeat the question

1 to you. Can you, as a juror, participate in a jury verdict
2 recommending the penalty of death by lethal injection for
3 murder if the evidence and the law warrants such a verdict?

4 MRS. FRITZ: Yes.

5 THE COURT: Can you, as a juror, also participate
6 in a jury verdict recommending a sentence of life imprison-
7 ment for murder if the evidence and the law warrants such
8 a verdict?

9 MRS. FRITZ: Yes.

10 THE COURT: If you were selected on this case,
11 I tell you that you will have to sequestered or
12 separated with the jury and remain in a motel during the
13 length of this trial. Does that pose any undue hardship
14 for you?

15 MRS. FRITZ: I have only one problem.

16 THE COURT: Okay.

17 MRS. FRITZ: On tomorrow, I would not be able
18 to be here tomorrow if I am selected.

19 THE COURT: Can you tell me why?

20 MRS. FRITZ: Yes. To appear with my son tomorrow
21 with Judge Robinson.

22 THE COURT: She has to appear with her son tomorrow
23 before Judge Robinson.

24 MRS. FRITZ: Yes.

25 MR. SIMS: He's the local magistrate, Your Honor.

1 THE COURT: If I would tell you that I can take
2 care of having that case continued, do you have any other
3 problem?

4 MRS. FRITZ: I would rather have this done with.

5 THE COURT: Did you ask for it to be rescheduled
6 or was it something they did?

7 MRS. FRITZ: No, no they did. It was supposed
8 to be October the 14th.

9 THE COURT: Okay, I can assure you that this
10 case will not come up tomorrow, okay, so don't even worry
11 about it. And let me tell you something that will give
12 you a little ease. I have permission from the attorneys
13 to tell you this. This case will not take over a week,
14 maybe less, okay. Now any other hardship other than
15 this problem that you need to let me know about now?

16 MRS. FRITZ: No.

17 THE COURT: All right, I'm going to ask you to
18 answer any questions counsel may have for you, the Solicitor
19 will be going first.

20 SOLICITOR: Thank you, Your Honor.

21
22 EXAMINATION BY THE SOLICITOR;

23 Q. Mrs. Fritz, I'm Walter Bailey and I will be
24 prosecuting the case. I need to ask you some questions
25 and like the Judge said, there are no right or wrong answers.

1 When we talk about the death penalty people have different
2 opinions and your opinion is as good as anybody else's,
3 there are no right or wrong and we're not testing you.
4 So the only thing I'm going to ask you is just please,
5 when I ask you these questions, just give me your honest
6 beliefs and don't tell me something because you think that's
7 what I want to hear.

8 Before Monday when you found out that you might
9 be a juror on a death penalty case, had you ever thought
10 about the death penalty?

11 A. Yes.

12 Q. Okay, and what is it that, like something came
13 up at church or talking to friends or reading something
14 in the paper or how did it come up?

15 A. I have a relative that is on death row.

16 Q. Okay, in South Carolina?

17 A. In South Carolina.

18 Q. Okay, and do you mind telling us who that is?

19 A. His name is Hughes.

20 Q. Okay, is thta Herman Hughes?

21 A. Yes.

22 Q. And how are you related to Herman Hughes?

23 A. Uhm --- I'm his third cousin.

24 Q. Are you close to him?

25 A. No.

1 Q. Did you follow the trial when it occurred in
2 Calhoun County?

3 A. No, I wasn't living here at the time.

4 Q. Okay. I should tell you now that I prosecuted
5 Herman Hughes for that trial. Would that create any problems
6 with you sitting as a juror in a case I am prosecuting?

7 A. I don't think so.

8 Q. And when you did hear that Herman Hughes received
9 the death penalty, did you form any opinions or conclusions
10 about the death penalty?

11 A. It is the law, I felt very bad about it because
12 of his age and the circumstances as they were told to me.
13 I, you know, I wasn't living here so.

14 Q. Is that the only time you've thought about the
15 death penalty in any detail before Monday?

16 A. It's not the first time, no, for years it's been
17 said that it's a deterrent to crime and I don't believe
18 that. I mean, people are going to do what they are going
19 to do regardless.

20 Q. Okay, well, kind of putting the Herman Hughes
21 aside and putting this case aside, just tell us in general
22 terms what your thoughts are on the death penalty.

23 A. It's something that I would hope that I would
24 never have to go through or any other of my family members
25 would have to go through, that they would never commit

1 a crime where they would have to be faced with it.

2 Q. Okay. Let me go through a little bit about the
3 process we go through in South Carolina when the State
4 seeks the death penalty for a person charged with murder.

5 We start off with a trial in the guilt phase
6 which is like any other criminal crime. The State charges
7 someone and they introduce evidence in an attempt to
8 convince a jury that that person is guilty beyond a reasonable
9 doubt. In a case where one of the charges is murder and
10 the jury comes back with a verdict of guilty of murder,
11 then we go into the second phase of the trial and that
12 same jury then determines the punishment. The Judge does
13 not make that decision here in this state, the jury makes
14 that decision. What the Judge does, he orders that jury
15 verdict to happen. So if the jury votes for life imprison-
16 ment, the Judge would sentence that person to life without
17 parole. If the jury votes for the death penalty, then
18 the Judge would sentence that person to death and he would
19 be executed by lethal injection based on that jury's
20 verdict.

21 Now, I'm not going to ask you to predict what
22 you would do if you get picked as a juror on this case
23 because you don't know any of the facts and you would have
24 to wait and hear those facts.

25 A. Right.

1 Q. But my question to you, Mrs. Fritz, is if the
2 facts were bad enough, taking into consideration what you've
3 told us about your beliefs in the death penalty, could
4 you vote for the death penalty knowing that as a result
5 of that vote that that person actually would be executed
6 when the alternative punishment would be life without
7 parole?

8 A. If I felt they were bad enough, the circumstances
9 were bad enough.

10 Q. Okay. If all twelve jurors vote for the death
11 penalty they are then asked to sign their names to a death
12 verdict form. Could you sign your name to a paper like
13 that knowing it would result in someone being executed?

14 A. If I felt the circumstances warranted it.

15 Q. If the jury votes for the death penalty, they
16 sign the death verdict form, and then they would come out
17 here and they would sit in these chairs out here and each
18 juror's name would be called out one at a time and they
19 would asked to stand up and announce out loud that that
20 was their verdict and is still their verdict. Could you
21 do that?

22 A. I think so.

23 Q. Now, I know this is sort of emotional for you
24 and I hate to keep on asking but when you say I think so,
25 I need to go ahead and see if I can't get a definite answer

1 because this is the only opportunity the lawyers have to
2 talk to jurors. We can't talk to jurors before they are
3 individually questioned, we can't talk to them afterwards,
4 this is our only chance. So if you can tell us --- if
5 you could give a yes or no on that, we would appreciate
6 it.

7 A. Yes.

8 Q. I'm sorry, I couldn't hear you.

9 A. Yes.

10 Q. Okay. Mrs. Fritz, is there anything at all that
11 we may not even have mentioned yet that would in any way
12 prevent you from sitting as a fair and impartial juror
13 for the State and the defense in a case of this type where
14 we are seeking the death penalty?

15 A. No.

16 SOLICITOR: Thank you, that's all I have, Mrs.
17 Fritz.

18 THE COURT: Mr. Sims.

19 MR. SIMS: No questions, Your Honor.

20 SOLICITOR: Your Honor, I would like to be heard.

21 THE COURT: Mrs. Fritz, if you will step outside
22 just a second with Mr. Aiken, please.

23 (WHEREUPON, The juror left the courtroom and
24 the following proceedings were held in her absence.)

25 THE COURT: The juror is clear.

1 SOLICITOR: Your Honor, my concern is the fact
2 that I prosecuted this lady's cousin in Calhoun County
3 and he received the death penalty, she's obviously upset
4 about it and despite the answers that she gave, I can't
5 help but feel that it might spill over in her deliberations.
6 And I think she is sort of in the same position as far
7 as emotional attachment and involvement as Ms. Dukes was
8 who was the guidance counselor that knew Norris Martin
9 and the defendant here. I just think she couldn't separate
10 that.

11 MR. SIMS: Your Honor, her response to that was
12 that she was upset that anyone basically would commit a
13 crime and then she clarified that and she said that she
14 would hope that none of her family would ever have to go
15 through that by committing such a crime. And she did say
16 that she would make a decision, as all of them have said,
17 that it would basically be hard for them to do but that
18 she would make that decision if she felt and she reiterated
19 that on a number of occasions that if the case was such
20 that she felt that it warranted the death penalty that
21 she could, in fact, give the death penalty and follow the
22 process that has been outlined by our courts and the way
23 our cases run.

24 So we think that she is definitely qualified.

25 THE COURT: All right, thank you very much.

1 I find the juror qualified. We need to get her back in
2 here so we can square up with her.

3 (WHEREUPON, The jury was brought back into the
4 courtroom and the following proceedings were held in her
5 presence.)

6 THE COURT: Mrs. Fritz, I'm going to need you
7 to give Madam Clerk, your telephone number where we can
8 reach you on a moment's notice, please, about when to report.
9 And once again, let me assure you, do not worry about this
10 case tomorrow. Should you be drawn on this case, I will
11 take care of that, okay. It will be postponed, I guarantee
12 that.

13 Now, don't discuss this case with anyone, don't
14 read any more newspapers or listen or watch any newscasts
15 until after the case is over, okay. Just check in with
16 Madam Clerk and we do need a telephone number. Thank you
17 very much.

18 MRS. FRITZ: Okay.

19 THE COURT: At the break, we called Ms. Shivers'
20 house one more time and finally got her on the phone. She
21 claimed that she tried to call here numerous times last
22 night and couldn't get back in. We told her that she needed
23 to come on up and she was very defiant and I listened to
24 the conversation and he told her, said, you need to come
25 on in, if you don't it could possibly lead to a bench

1 warrant. She agreed then to come on up so I don't know
2 what her problem is but I'm just putting you on notice
3 that she could be hostile, okay. We will just have to
4 see.

5 Bring in Ms. Shivers.

6 (WHEREUPON, Juror #270, Jackie Shivers (BF)
7 entered the courtroom and took the witness chair.)

8 THE COURT: Good evening, Ms. Shivers.

9 MS. SHIVERS: Hi.

10 THE COURT: How are you?

11 MS. SHIVERS: I'm fine, and you?

12 THE COURT: Okay. We need you just to relax
13 and make yourself comfortable. I understand from the Clerk's
14 office that you had trouble getting through on the phone
15 last night.

16 MS. SHIVERS: Yes.

17 THE COURT: I want to apologize for that. It
18 was probably a matter of hitting the right time when someone
19 else was calling in. Are you okay?

20 MS. SHIVERS: I'm fine.

21 THE COURT: You're not mad with me, are you?

22 MS. SHIVERS: No, I'm not mad.

23 THE COURT: Okay. You're not upset with anyone
24 else in the courtroom, are you?

25 MS. SHIVERS: No, sir.

1 THE COURT: Okay, we need to ask you some questions
2 and I need to remind you that Monday that you were put
3 under oath to answer the questions truthfully.

4 MS. SHIVERS: Uh-huh.

5 THE COURT: Do you know of any reason whatsoever
6 why you cannot give both the State and the defendant a
7 fair and impartial trial?

8 MS. SHIVERS: No reason.

9 THE COURT: Would you, under oath, follow the
10 law in this case as given to you by me?

11 MS. SHIVERS: Yes, I would.

12 THE COURT: Could you, depending on the facts
13 and the evidence and the law as I would instruct you, find
14 a defendant not guilty?

15 MS. SHIVERS: To me, it really depends and what
16 I mean by depends is that I would really have to hear both
17 sides of the story, you know, to give a fact opinion on
18 that.

19 THE COURT: Could you, depending on the facts
20 and the evidence and the law as I would instruct you, find
21 a defendant guilty?

22 MS. SHIVERS: Uhm --- I'm not really saying,
23 I mean, because they might be not guilty so I'm not going
24 to really say that.

25 THE COURT: Are you telling me you could go

1 either way according to the facts, evidence and the law?

2 MS. SHIVERS: Oh, that's what you're saying.

3 No.

4 THE COURT: All right, what are you telling me?

5 MS. SHIVERS: What I'm saying is that --- okay,
6 I misunderstood what you were saying the first time but
7 I would.

8 THE COURT: Have you discussed this case with
9 anyone?

10 MS. SHIVERS: No, sir.

11 THE COURT: Have you read, viewed or listened
12 to any news accounts or news reports on the subject of
13 this case?

14 MS. SHIVERS: No, sir.

15 THE COURT: The defendant is a black and the
16 victim was a white. Will the fact that the defendant is
17 black and the victim is white prevent you in any way
18 whatsoever from rendering a fair and impartial verdict
19 in this case?

20 MS. SHIVERS: No, sir.

21 THE COURT: Will you, without regards to the
22 race of the defendant and the victim, render a fair and
23 impartial verdict based solely on the evidence and the
24 law given to you by the Court?

25 MS. SHIVERS: Repeat that again.

1 THE COURT: Will you, without regards to the
2 race of the defendant and the victim, render a fair and
3 impartial verdict based solely on the evidence and the
4 law given to you by the Court?

5 MS. SHIVERS: No.

6 THE COURT: Can you tell me why?

7 MS. SHIVERS: Okay, wait. I'm trying to under-
8 stand what you are saying. Could you just try to slow
9 it down a little bit?

10 THE COURT: I sure will. Will you, without regards
11 to the race of the defendant and the victim, render a fair
12 and impartial verdict based solely on the evidence and
13 the law given to you by the Court?

14 MS. SHIVERS: Yes.

15 THE COURT: I'm going to ask you certain questions
16 at this time relative to your views on the death penalty.
17 There are no right or wrong answers, okay?

18 MS. SHIVERS: Okay.

19 THE COURT: I emphasize that the mere fact that
20 we're talking about penalty does not indicate anything
21 about this defendant. He is presumed innocent, do you
22 understand that?

23 MS. SHIVERS: Uh-huh.

24 THE COURT: You were given a letter a few minutes
25 ago. Did you have a chance to read it?

1 MS. SHIVERS: Yes.

2 THE COURT: There should be one to your right
3 there if you need to refer to it, okay?

4 MS. SHIVERS: Uh-huh.

5 THE COURT: I wonder if you can tell me which
6 of the three categories or the type of juror that you might
7 fall into?

8 MS. SHIVERS: (Juror is reading the letter.)

9 THE COURT: Take your time and read it again
10 if you need to, that's perfectly fine.

11 MS. SHIVERS: I'll probably say number two.

12 THE COURT: Okay. Can you, as a juror, participate
13 in a jury verdict recommending the penalty of death by
14 lethal injection for murder if the evidence and the law
15 warrants such a verdict?

16 MS. SHIVERS: For me, I don't really believe
17 in lethal injections or the death penalty because I don't
18 think that anybody should be, you know, should be, you
19 know, on death penalty or either lethal injection because
20 I think everybody has a right to live.

21 THE COURT: Ms. Shivers, I'm going to ask you,
22 if you would, to step down just a minute and step out with
23 Mr. Aiken, please.

24 (WHEREUPON, Juror left the courtroom and the
25 following proceedings were held in her absence.)

1 THE COURT: Counsel, would you come up here,
2 please?

3 (WHEREUPON, A Bench Conference was held out
4 of the hearing of the Court Reporter.)

5 THE COURT: Bring her back in.

6 (WHEREUPON, The juror returned to the courtroom
7 and the following proceedings were held in her presence.)

8 THE COURT: Ms. Shivers, we appreciate you coming
9 and I'm sorry you had problems last night about the
10 telephone. I'm going to excuse you at this time, you can
11 go back home or to work wherever you need to be.

12 MS. SHIVERS: Okay, thank you.

13 THE COURT: All right, let's bring in the next
14 juror.

15 (WHEREUPON, Juror #23, Tanya Bonaparte (BF)
16 entered the courtroom and took the witness chair.)

17 THE COURT: Ms. Bonaparte, how are you this
18 evening?

19 MS. BONAPARTE: Fine.

20 THE COURT: We need for you to relax and make
21 yourself comfortable. I've got some questions that I'm
22 going to ask you and I need to remind you that you are
23 still under oath, okay?

24 MS. BONAPARTE: Okay.

25 THE COURT: Do you know of any reason whatsoever

1 why you cannot give both the State and the defendant a
2 fair and impartial trial?

3 MS. BONAPARTE: I don't have any.

4 THE COURT: Pardon?

5 MS. BONAPARTE: I don't have any reasons.

6 THE COURT: Okay. Would you, under oath, follow
7 the law in this case as given to you by me?

8 MS. BONAPARTE: Yes.

9 THE COURT: Could you, depending on the facts
10 and evidence and the law as I would instruct you, find
11 a defendant not guilty?

12 MS. BONAPARTE: Repeat that.

13 THE COURT: Could you, depending on the facts
14 and evidence and the law as I would instruct you, find
15 a defendant not guilty?

16 MS. BONAPARTE: Yes.

17 THE COURT: Could you, depending on the facts
18 and evidence and the law as I would instruct you, find
19 a defendant guilty?

20 MS. BONAPARTE: Yes.

21 THE COURT: Have you discussed this case with
22 anyone?

23 MS. BONAPARTE: No.

24 THE COURT: Have you read, viewed or listened
25 to any news accounts or news reports on the subject of

1 this case?

2 MS. BONAPARTE: No.

3 THE COURT: The defendant is black and the victim
4 was white. Will the fact that the defendant is black and
5 the victim is white prevent you in any way whatsoever from
6 rendering a fair and impartial verdict in this case?

7 MS. BONAPARTE: No.

8 THE COURT: Will you, without regards to the
9 race of the defendant and the victim, render a fair and
10 impartial verdict based solely on the evidence and the
11 law given to you by the Court?

12 MS. BONAPARTE: No.

13 THE COURT: Pardon?

14 MS. BONAPARTE: No.

15 THE COURT: Let me repeat that for you.

16 MS. BONAPARTE: Okay, I'm sorry.

17 THE COURT: These questions are long and I know
18 you can misunderstand them. Will you, without regards
19 to the race of the defendant and the victim, render a fair
20 and impartial verdict based solely on the evidence and
21 the law given to you by the Court?

22 MS. BONAPARTE: Yes.

23 THE COURT: I'm going to ask you certain questions
24 at this time relative to your views on the death penalty.
25 There are no right or wrong answers. I emphasize the mere

1 fact that we are talking about penalty does not indicate
2 anything about this defendant. He is presumed innocent,
3 do you understand that?

4 MS. BONAPARTE: Yes.

5 THE COURT: You were given a letter a few minutes
6 ago. Did you have a chance to read it?

7 MS. BONAPARTE: Yes.

8 THE COURT: There is one to your immediate right
9 if you need to refer to it. I wonder if you could tell
10 me which of the three categories or the type of juror that
11 you might fall into?

12 MS. BONAPARTE: The third one.

13 THE COURT: Can you, as a juror, participate
14 in a jury verdict recommending the penalty of death by
15 lethal injection for murder if the evidence and the law
16 warrants such a verdict?

17 MS. BONAPARTE: Yes.

18 THE COURT: Can you, as a juror, also participate
19 in a jury verdict recommending a sentence of life imprison-
20 ment for murder if the evidence and the law warrants such
21 a verdict?

22 MS. BONAPARTE: Yes.

23 THE COURT: If you were selected on this case,
24 I tell you that you will have to be sequestered or separated
25 with the jury and remain in a motel during the length of

1 this trial. Does that pose any undue hardship for you?

2 MS. BONAPARTE: No.

3 THE COURT: I will tell you for the ease of your
4 mind and with permission of counsel that we are in agreement
5 that this case most likely would not last more than a week,
6 okay.

7 MS. BONAPARTE: Okay.

8 THE COURT: Now, I need for you to answer any
9 questions counsel may have for you, beginning with the
10 Solicitor.

11 SOLICITOR: Thank you, Your Honor.

12 THE COURT: Solicitor.

13
14 SOLICITOR: Your Honor, could we approach briefly
15 before I begin my examination?

16 THE COURT: Sure.

17 (WHEREUPON, A bench conference was held out
18 of the hearing of the juror and the court reporter.)

19 THE COURT: Ms. Bonaparte, I overlooked something.
20 On the questionnaire that you turned in, it asked if you
21 had ever been arrested other than for a minor traffic offense
22 and you checked no. Is that correct?

23 MS. BONAPARTE: I checked yes if it was traffic
24 thing. I was arrested for tickets.

25 THE COURT: For traffic tickets?

1 MS. BONAPARTE: Uh-huh.

2 THE COURT: Do you remember anything about a
3 criminal domestic violence?

4 MS. BONAPARTE: I was found not guilty on that
5 and the other victim was found guilty.

6 THE COURT: Okay, I see. You thought because
7 of the the not guilty that you didn't need to report that
8 and you went by the traffic offense?

9 MS. BONAPARTE: Uh-huh.

10 THE COURT: Anything else there that I need to
11 know about?

12 MS. BONAPARTE: No.

13 THE COURT: Well, wait a minute. Do you remember
14 anything about a failure to appear somewhere? Is that
15 what you were talking about on the traffic offenses?

16 MS. BONAPARTE: Yes.

17 THE COURT: Okay. All right, Solicitor, you
18 may proceed.

19 SOLICITOR: Thank you, Your Honor.

20
21 EXAMINATION BY THE SOLICITOR;

22 Q. Ms. Bonaparte, I'm Walter Bailey and I want to
23 ask you a few more questions and there are no right or
24 wrong answers, okay?

25 A. Okay.

1 Q. Whatever answer you give if the right answer
2 as long as how you really feel, all right?

3 A. Okay.

4 Q. Let me ask you first of all, you have two
5 children?

6 A. Yes.

7 Q. And how old are you children?

8 A. 6 and 5.

9 Q. Okay. Now, the Judge mentioned that the jury
10 would be put up in a motel for maybe up to a week, give
11 or take a day or two. Would that be a problem with you
12 as far as someone taking care of your children?

13 A. No.

14 Q. Your mother or somebody could help out there?

15 A. My grandmother.

16 Q. Grandmother, okay. All right, let me ask you
17 about the death penalty and, again, everybody has got
18 different opinions on the death penalty and everybody's
19 opinion is as good as anybody else's. Is that something
20 you have ever thought about before Monday when you found
21 out you might be on this jury?

22 A. No.

23 Q. Never came up, say, at church or in talking with
24 friends of something?

25 A. No, I never heard anything about it.

1 Q. And do you think you've had enough time to look
2 over those three kind of jurors that we have in a death
3 penalty case?

4 A. I read it twice.

5 Q. Okay. And you're pretty sure you are a number
6 three type juror?

7 A. Yes.

8 Q. Okay. Let me go through just real quickly what
9 we go through in this courtroom when we are seeking the
10 death penalty. We start out with the guilt phase and that's
11 like any other criminal crime, when that person is charged
12 the State introduces evidence in an attempt to prove to
13 the jury's satisfaction that person is guilty beyond a
14 reasonable doubt. One of the charges in this case is murder.
15 If that defendant is convicted of murder, then we go into
16 the second phase of the trial where that same jury has
17 to decide what the penalty is going to be for murder. They
18 have two choices, life, which means life without parole,
19 or the death penalty which is death by lethal injection.
20 The Judge doesn't make that decision, the jury makes it.
21 What the Judge does, he orders that decision to happen.
22 So if that jury vote is for life, the Judge orders that
23 person sent to prison for life without parole. If the
24 jury says the death penalty, the Judge orders that and
25 the defendant is actually executed.

1 I'm not going to ask you what you would do if
2 you got picked on this case because you haven't heard the
3 facts, you don't know what the law is.

4 A. Right.

5 Q. But, in general, if you got picked as a juror
6 in a case like this and the case was bad enough, could
7 you vote for the death penalty knowing,---

8 A. Yes.

9 Q. --- knowing that as a result of that vote, that
10 person actually would be executed instead of going to prison
11 for life without parole?

12 A. Yes.

13 Q. Could you sign your name to a paper, a death
14 verdict form, that would result in that person being executed?

15 A. Yes.

16 Q. Could you say out loud when your name was called
17 out that that's your verdict?

18 A. Yes.

19 SOLICITOR: That's all I have, thank you, Ms.
20 Bonaparte.

21 THE COURT: Mr. Sims.

22 MR. SIMS: No questions, Your Honor.

23 THE COURT: You are qualified and, Ms. Bonaparte,
24 I'm going to need for you, if you would, well, first of
25 all, let me tell you this. Please do not discuss this

1 case with anyone. Do not read any news accounts or watch
2 or listen to any news coverage until after this case is
3 over, okay.

4 MS. BONAPARTE: Yes, sir.

5 THE COURT: Now, we need for you to leave a telephone
6 number with Madam Clerk over here to my right where we
7 can reach you on a moment's notice. We are going to need
8 for you to stay close by the phone tonight, okay.

9 MS. BONAPARTE: Okay.

10 THE COURT: All right, you are excused. Let's
11 bring our next juror in.

12 (WHEREUPON, Juror #9, Thomas Ashe, III (WM)
13 entered the courtroom and took the witness chair.)

14 THE COURT: Good evening, Mr. Ashe, how are you
15 sir?

16 MR. ASHE: Fine.

17 THE COURT: If you will make yourself comfortable
18 there and relax, we've got some questions we need to ask
19 you and I'm going to remind you that you are still under
20 oath, okay?

21 MR. ASHE: Yes, sir.

22 THE COURT: That's from Monday. Do you know of
23 any reason whatsoever why you cannot give both the State
24 and the defendant a fair and impartial trial?

25 MR. ASHE: No, sir.

1 THE COURT: Would you, under oath, follow the
2 law in this case as given to you by me?

3 MR. ASHE: Yes, sir.

4 THE COURT: Could you, depending on the facts
5 and evidence and the law as I would instruct you, find
6 a defendant not guilty?

7 MR. ASHE: Yes, sir.

8 THE COURT: Could you, depending on the facts
9 and evidence and the law as I would instruct you, find
10 a defendant guilty?

11 MR. ASHE: Yes, sir.

12 THE COURT: Have you discussed this case with
13 anyone?

14 MR. ASHE: No, sir.

15 THE COURT: Have you read, viewed or listened
16 to any news accounts or news reports on the subject of
17 this case?

18 MR. ASHE: I think I might have seen something
19 in the past but I don't remember what it said.

20 THE COURT: Do you remember the nature of that
21 news accounts?

22 MR. ASHE: No, sir, I think I started reading
23 it and stopped.

24 THE COURT: Can you relate to me what it was
25 about, remember anything or recall anything?

1 MR. ASHE: What I remembered was and I don't
2 even know if I have the right case but it's the last thing
3 that I remember that was in the paper.

4 THE COURT: Tell me about it.

5 MR. ASHE: I'm not even sure if it's this case,
6 where somebody paid somebody to kill somebody in Orangeburg
7 or something.

8 THE COURT: Will the news accounts that you have
9 read, viewed or listened to, prevent you from rendering
10 a fair and impartial verdict in this case?

11 MR. ASHE: No, sir.

12 THE COURT: Can you erase from your mind the
13 information you acquired from these news accounts and render
14 a fair and impartial and just verdict based on the law
15 and the evidence uninfluenced in any way whatsoever by
16 reason of the news accounts which you have described?

17 MR. ASHE: Yes, sir.

18 THE COURT: Can you, notwithstanding your exposure
19 to these news accounts, base your verdict upon the law
20 and the evidence presented to you uninfluenced in any way
21 whatsoever by the news accounts which you have described?

22 MR. ASHE: Yes, sir.

23 THE COURT: Do you understand that your verdict
24 must be based exclusively upon the law given to you by
25 the Court and the evidence presented to the Court and

1 the jury during the trial?

2 MR. ASHE: Yes, sir.

3 THE COURT: Can you make your verdict based only
4 upon these two considerations, that is, the law and the
5 evidence?

6 MR. ASHE: Yes, sir.

7 THE COURT: Do you understand that your verdict
8 must be based exclusively upon the law given to you by
9 the Court and the evidence presented to the Court and the
10 jury?

11 MR. ASHE: Yes, sir.

12 THE COURT: All right. And you could base your
13 decision on the law and the evidence?

14 MR. ASHE: That's basically all I would have
15 to base it on.

16 THE COURT: Okay. The defendant is a black and
17 the victim was a white. Will the fact that the defendant
18 is a black and the victim was white prevent you in any
19 way whatsoever from rendering a fair and impartial verdict
20 in this case?

21 MR. ASHE: No, sir.

22 THE COURT: Will you, without regards to the
23 race of the defendant and the victim, render a fair and
24 impartial verdict based solely on the evidence and the
25 law given to you by the Court?

1 MR. ASHE: Yes, sir.

2 THE COURT: I'm going to ask you certain questions
3 at this time relative to your views on the death penalty.
4 There are no right or wrong answers. I emphasize the mere
5 fact that we are talking about penalty does not indicate
6 anything about this defendant. He is presumed innocent,
7 do you understand that?

8 MR. ASHE: Yes, sir.

9 THE COURT: You were given a letter a few minutes
10 ago which described some type of jurors. Have you had
11 a chance to read it?

12 MR. ASHE: Yes, sir.

13 THE COURT: I wonder if you could tell me which
14 of the three categories or the types of juror that you
15 might fall into?

16 MR. ASHE: I believe I'm the third one. I do
17 believe in the death penalty but yet I think there are
18 circumstances that would make it where you would get life
19 so I would have to say the third one.

20 THE COURT: All right. Can you, as a juror,
21 participate in a jury verdict recommending the penalty
22 of death by lethal injection for murder if the evidence
23 and the law warrants such a verdict?

24 MR. ASHE: Yes, sir.

25 THE COURT: Can you, as a juror, also participate

1 in a jury verdict recommending a sentence of life imprison-
2 ment for murder if the evidence and the law warrants such
3 a verdict?

4 MR. ASHE: Yes, sir.

5 THE COURT: If you were selected on this case
6 I tell you that you will have to be sequestered or separated
7 with the jury and remain in a motel during the length of
8 the trial. Does this pose any undue hardship for you?

9 MR. ASHE: I'm not thrilled about it but since
10 I don't have any children, no, sir, it wouldn't make a
11 difference.

12 THE COURT: To put your mind at ease I'll tell
13 you like I told all the other jurors with the permission
14 of counsel, we do not expect this case to take over a week,
15 okay.

16 MR. ASHE: Okay.

17 THE COURT: Now, I need for you to answer any
18 questions counsel may have for you, beginning with the
19 Solicitor.

20 MR. SIMS: Thank you, Your Honor.

21

22 EXAMINATION BY THE SOLICITOR:

23 Q. Mr. Ashe, just a few questions to follow up on
24 what the Judge said. Let me just run over very briefly
25 the process where the State seeks the death penalty in

1 this state. We start out with the guilt phase where the
2 State introduces evidence in an effort to prove beyond
3 a reasonable doubt the defendant's guilt of what he is
4 charged with. In this case one of the charges is murder.
5 If the defendant is found guilty of murder, we would then
6 go on to the second phase and additional evidence comes
7 out, additional instructions from the Judge and then the
8 jury, not the Judge, decides what the punishment will be.
9 Whatever the jury says the punishment should be will be
10 the order of the Court and be carried out. So if the verdict
11 is for life, the Judge would order a life sentence and
12 that person would serve life without parole. If the jury's
13 verdict is for the death penalty, the Judge orders that
14 to happen which is death by lethal injection.

15 I'm not going to ask you to predict what you
16 would do if you get picked as a juror, you haven't heard
17 the facts, you haven't heard the law. But if the case
18 was bad enough, could you vote for the death penalty knowing
19 that as a result of that vote that person actually would
20 be executed as opposed to going to prison for life without
21 parole?

22 A. Yes, sir.

23 THE COURT: If all twelve jurors vote for the
24 death penalty, there's a death verdict form each one of
25 them is asked to sign. Could you sign that form if you

1 voted for the death penalty?

2 A. Yes, sir.

3 Q. Could you announce that decision out loud if
4 it was your decision?

5 A. Yes, sir.

6 SOLICITOR: Mr. Ashe, that's all I have, thank
7 you very much.

8 THE COURT: Mr. Sims.
9

10 EXAMINATION BY MR. SIMS:

11 Q. Mr. Ashe, just a few questions. I see by your
12 juror questionnaire that you had served on a jury before,
13 a criminal jury?

14 A. Yes, sir.

15 Q. Where was that?

16 A. That was in this court, it was --- I guess it
17 was a criminal court case, I'm not familiar with how the
18 law judges it but it was someone who got arrested or
19 something so and that was probably four years ago now.

20 Q. Okay. Four years ago?

21 A. Yes, sir.

22 Q. Okay, and did you reach a --- you were on the
23 jury, did you all reach a conclusion?

24 A. Yes, sir.

25 Q. And what was that?

1 A. Guilty.

2 Q. And there was one other question I had. When
3 you testified initially in regards to the death penalty
4 in response to the Judge's question, I believe you
5 indicated that there were some instances in which even
6 though a person was found guilty, you felt that the death
7 penalty may not be warranted.

8 A. Yes, sir, I would agree. I know that's what I
9 said and that's the way I feel, yes, sir.

10 MR. SIMS: All right, thank you. No further
11 questions.

12 THE COURT: Was the case you served on up here
13 in the circuit court or was it a magistrate court's case?

14 MR. ASHE: I don't know the difference to tell
15 you the truth. It was -- I know I was in this building
16 and in this court room before, and I don't think it was ---
17 it was nothing serious like this, it was ---

18 THE COURT: Was the judge me?

19 MR. ASHE: I don't think so. But it was four
20 years ago so I'm not really sure.

21 THE COURT: Well, let's see, I was here in '94,
22 that's why I was asking.

23 MR. ASHE: It wasn't real serious thought, I
24 mean, it was --- I believe it was a fellow got arrested
25 or something and the deputies tackled him or something

1 into an ant bed and they knocked the ants off of him or
2 something and he said that they had hit him or something.
3 It was something along that nature, sir, I don't know what
4 that would fall under.

5 THE COURT: Did he have the deputies sued?

6 MR. ASHE: No, sir, they wasn't being sued, I
7 think that was his defense. It might have been resisting
8 arrest or something, I'm not sure.

9 THE COURT: The fire ants lit him up in other
10 words.

11 MR. ASHE: And they were knocking the ants off
12 of him.

13 THE COURT: Okay. The juror is qualified. Mr.
14 Ashe, I need for you, before you leave, just to check in
15 Madam Clerk, we need to get a number that we reach you
16 later tonight that you will be camped out by. Do not discuss
17 this case with anyone. Do not read any news accounts or
18 listen to any news or watch any news accounts until after
19 this case is over with, okay.

20 MR. ASHE: Okay.

21 THE COURT: If you will give her that number,
22 you may be excused.

23 MR. ASHE: Thank you, sir.

24 THE COURT: All right. That's thirty-six
25 qualified. Let's bring in the next juror.

1 (WHEREUPON, Juror #260, Eloise Scott (BF) entered
2 the courtroom and took the witness chair.)

3 THE COURT: Good evening, Ms. Scott?

4 MS. SCOTT: Good evening.

5 THE COURT: How are you this evening?

6 MS. SCOTT: Okay.

7 THE COURT: Good, we appreciate your patience
8 in waiting on us this evening. I've got a few questions
9 that I need to ask you and I remind you, please, to remember
10 that you are under oath from Monday. If you will just
11 relax and make yourself comfortable. The first question
12 I want to ask you, do you know of any reason whatsoever
13 why you cannot give both the State and the defendant a
14 fair and impartial trial?

15 MS. SCOTT: No, I don't have no reason.

16 THE COURT: Would you, under oath, follow the
17 law in this case as given to you by me?

18 MS. SCOTT: Yes, I would.

19 THE COURT: Could you, depending on the facts
20 and evidence and the law as I would instruct you, find
21 a defendant not guilty?

22 MS. SCOTT: Repeat that again.

23 THE COURT: Could you, depending on the facts
24 and evidence and the law as I would instruct you, find
25 a defendant not guilty?

1 MS. SCOTT: I could.

2 THE COURT: Could you, depending on the facts
3 and evidence and the law as I would instruct you, find
4 a defendant guilty?

5 MS. SCOTT: I could.

6 THE COURT: Have you discussed this case with
7 anyone?

8 MS. SCOTT: No, I haven't.

9 THE COURT: Have you read, viewed or listened
10 to any news accounts or news reports on the subject of
11 this case?

12 MS. SCOTT: No, I haven't.

13 THE COURT: The defendant is a black and the
14 victim was a white. Will the fact that the defendant is
15 a black and the victim was white prevent you in any way
16 whatsoever from rendering a fair and impartial verdict
17 in this case?

18 MS. SCOTT: No, it would not.

19 THE COURT: Will you, without regards to the
20 race of the defendant and the victim, render a fair and
21 impartial verdict based solely on the evidence and the
22 law given to you by the Court?

23 MS. SCOTT: Yes, I will.

24 THE COURT: I'm going to ask you certain questions
25 at this time relative to your views on the death penalty.

1 There are no right or wrong answers. I emphasize that
2 the mere fact that we are talking about penalty does not
3 indicate anything about this defendant. He is presumed
4 innocent, do you understand that?

5 MS. SCOTT: Yes, I do.

6 THE COURT: You were given a letter a few minutes
7 ago and asked to read it. Did you read it?

8 MS. SCOTT: Yes, sir, I did.

9 THE COURT: You've got one to your right right
10 there if you need to refer to it. I wonder if you can
11 tell me which of the three categories or the type of juror
12 that you might fall into?

13 MS. SCOTT: The third type.

14 THE COURT: Can you, as a juror, participate
15 in a jury verdict recommending the penalty of death by
16 lethal injection for murder if the evidence and the law
17 warrants such a verdict?

18 MS. SCOTT: Yes, I could.

19 THE COURT: Could you, as a juror, participate
20 also in a jury verdict recommending a sentence of life
21 imprisonment for murder if the evidence and the law
22 warrants such a verdict?

23 MS. SCOTT: Yes, sir, I could.

24 THE COURT: If you were selected on this case
25 I tell you that you will have to be sequestered or separated

1 with the jury and remain in a motel during the length of
2 this trial. Does that pose any undue hardships for you?

3 MS. SCOTT: No, sir.

4 THE COURT: Okay, I will tell you, with permission
5 of counsel, we do not expect this case to take over a week,
6 okay.

7 MS. SCOTT: Okay.

8 THE COURT: Answer any questions counsel may
9 have for you, beginning with the Solicitor.

10 SOLICITOR: Thank you, Your Honor.

11

12 EXAMINATION BY THE SOLICITOR:

13 Q. Ms. Scott, I'm Walter Bailey and I want to ask
14 you a few more questions and there are no right or wrong
15 answers, okay.

16 A. Okay.

17 Q. So I would just ask you to give me your honest
18 feelings about the death penalty and don't tell me something
19 that you think I want to hear.

20 A. Okay.

21 Q. Let me first of all start off with the process
22 that we go through in a case like this when the State is
23 seeking the death penalty. We start out with the guilt
24 phase where a person is charged and we introduce evidence
25 and we have the burden of proving that person guilty

1 beyond a reasonable doubt. If that jury that's picked
2 in this case find the person guilty of murder, then we
3 go into the second phase of the trial. And the jury that
4 found him guilty of murder has to decide what the punish-
5 ment is. They have two choices, life or death. Life means
6 life without parole, death means death by lethal injection.
7 The Judge does not decide what the verdict is going to
8 be, he just orders that jury verdict to happen and it will
9 happen. So if they vote for life, the Judge would sentence
10 that person to life and he would serve life without parole.
11 If they vote for the death penalty, then he would order
12 that execution to occur and it would happen, that person
13 would actually be executed by lethal injection.

14 I'm not going to ask you to predict what you
15 would do if you got picked as a juror in this case because
16 you haven't heard the facts, but if the facts were bad
17 enough, could you vote for the death penalty knowing that
18 as a result of that vote, that defendant actually would
19 be executed by lethal injection instead of getting life
20 without parole?

21 A. If it was bad enough and I feel that that's what
22 should happen, I could.

23 Q. All right. And if all twelve jurors vote for
24 the death penalty, there's a piece of paper called a death
25 verdict form and each one of those jurors is asked to

1 put their name to that paper. Could you sign that paper
2 if it was your verdict?

3 A. Yes, I could.

4 Q. Could you announce that out loud that that was
5 your verdict if it was your verdict?

6 A. Yes, I could.

7 Q. I notice that you are active in your church,
8 that you sign in the choir and all?

9 A. Yes, sir.

10 Q. Do you have any religious beliefs about the death
11 penalty?

12 A. No, sir.

13 Q. Has it ever come up in church, in a sermon or
14 anything on the death penalty that you can remember?

15 A. Not that I recollect.

16 SOLICITOR: Ms. Scott, I think that's all the
17 questions I've got, thank you very much.

18 THE COURT: Mr. Sims.

19

20 EXAMINATION BY MR. SIMS:

21 Q. Just one question. I saw on your application
22 that you had for your church ECCP and church choir?

23 A. ECCP is related to the job where I work, it's
24 an Employee Charitable Contribution Program where we help
25 with the March of Dimes and stuff like that.

1 Q. Oh, okay.

2 MR. SIMS: That's all I have, Your Honor,
3 thank you, Ms. Scott.

4 THE COURT: Ms. Scott, first of all I find Ms.
5 Scott qualified and I need for you to tell Madam Clerk
6 over here a number, a telephone number, that we can reach
7 you on moment's notice, okay.

8 MS. SCOTT: Is that tonight or tomorrow?

9 THE COURT: That's tonight.

10 MS. SCOTT: 802--

11 THE COURT: No, you can privately tell her. Please
12 do not discuss this case with anyone. Do not read any
13 news accounts or listen or view any news reports until
14 this case is over, okay?

15 MS. SCOTT: Yes, sir.

16 THE COURT: You are excused. All right, that's
17 thirty-seven jurors. Is there anything in regards to the
18 jury list, is everybody satisfied with what we have done?

19 SOLICITOR: Yes, sir.

20 MR. SIMS: Yes, sir. Your Honor, I would ask
21 that we get a copy of the order. I know we chose some,
22 we heard some people out of order but it's my understanding,
23 even though we heard them out of order, if a person came
24 in who was before them and was qualified, they would move
25 down into the appropriate spot. And I want just to make

1 we are all on the same level in terms of where and how
2 they were actually qualified.

3 THE COURT: All right, even though they may have
4 come in late they were put back in their original spot.

5 MR. SIMS: Yes, sir.

6 THE COURT: And what I want done there, we need
7 to prepare a list of the thirty-seven, let ya'll review
8 it and make sure we are all in agreement on that.

9 MR. SIMS: Yes, sir.

10 THE COURT: Then in the morning, and ya'll are
11 in agreement on this, with the defendant present, the names
12 will be put into the capsule. We can watch that process,
13 everybody can watch that, be put in the capsules and then
14 we can move from there. Does that suit everybody?

15 SOLICITOR: Your Honor, just to make sure I under-
16 stand what you are saying. They are put in a capsule and
17 they will be put in a new list of thirty-seven and then
18 we will draw from that list?

19 THE COURT: Right. Does that suit everybody?

20 MR. SIMS: Your Honor, I was wondering, I thought
21 at one time that we were going to go by the order of
22 qualification?

23 THE COURT: Tell me what ya'll want to do.

24 MR. SIMS: Your Honor, the defense would rather
25 go with the order of qualification.

1 SOLICITOR: Your Honor, could you indulge me
2 a minute?

3 THE COURT: Sure.

4 SOLICITOR: We've done it both ways and my personal
5 preference would be to scramble them again just to make
6 sure it's a random order but, again, whatever the Court
7 says. If we do scramble them again, Judge, I would prefer
8 to do it today so we can have a chance to look at it and
9 make a maybe more intelligent decision in the morning.

10 THE COURT: Ya'll come up here a minute.

11 (WHEREUPON, A Bench Conference was held out
12 of the hearing of the Court Reporter.)

13 THE COURT: All right, we will do it in the way
14 they were qualified. We need the list prepared. Can we
15 go ahead and square the jury away and then take up any
16 unattended matters afterwards or how do ya'll want to do
17 that?

18 SOLICITOR: Your Honor, before we strike the
19 jury there is a Jackson -vs- Denno motion outstanding and
20 if we could get a resolution on that today it might help
21 us just concentrate on the jury tomorrow.

22 THE COURT: All right, tell me which one.

23 SOLICITOR: There was a taped statement and then
24 there was a spontaneous letter that was mentioned, those
25 two.

1 THE COURT: Right.

2 SOLICITOR: And Your Honor has those under
3 advisement.

4 THE COURT: Right, and also you mailed me a motion.

5 SOLICITOR: Your Honor, that was an amended motion
6 and cited the Maurice Hughes case that I mentioned to you,
7 I didn't have it with me at the time.

8 THE COURT: Right.

9 SOLICITOR: So I just updated the memorandum.

10 THE COURT: Did you have any problem with that?

11 MR. SIMS: On the proportionality, I have read
12 it also, Your Honor, and I believe the Court had ruled
13 already and that simply supplemented that.

14 THE COURT: Right.

15 MR. SIMS: Your Honor, even though, I understand
16 how the Court has ruled on the matter of proportionality,
17 I did raise those issues as it relates to the constitutionality
18 of the interpretation of the proportionality statute and
19 how this court has done it. And, of course, I know that
20 under the contemporaneous objection rule I would have to
21 make that objection again during court when we get to that
22 issue so that I can preserve it but I wanted to bring it
23 to the Court's attention.

24 THE COURT: Okay. All right, I need, before
25 I get into announcing my decision on the motions, I have

1 with me the original warrant that I want to put in as a
2 Court exhibit, which was the warrant for murder that was
3 issued here in Orangeburg County on 5/29/98 indicating
4 that that warrant was served on the defendant on 5/29/98.
5 We will put a copy of that in since that's a part of the
6 record.

7 (WHEREUPON, Warrant was entered and marked as
8 Court's Exhibit #1.)

9 THE COURT: I also want to put a copy of the
10 Order of Appointment of Legal Counsel for Mr. Stokes,
11 originally appointing Attorney Douglas Brackett dated the
12 4th day of June, 1998.

13 (WHEREUPON, Order of Appointment of Counsel
14 was entered and marked as Court's Exhibit #2.)

15 THE COURT: Based on that finalizing my concerns
16 in regard to that, the taped statement will be allowed
17 in and from prior agreement of counsel, if I did that,
18 counsel was in agreement that the tape, the regular
19 cassette that was made by SLED would be the one entered
20 into.

21 As far as the transcribed statement, that will
22 not come into evidence but may be used. I guess the
23 appropriate word is "demonstrative", ya'll correct me.
24 It may be handed out to the jury to follow along the taped
25 statement but will be taken back up. It will not be into

1 evidence. In other words, I'm only allowing it to be used
2 as an aid to the jury. And, of course, I will instruct
3 the jury that they will have to go by the actual tape if
4 there's any discrepancy but I certainly hope that ya'll
5 are going to let me know if there's any discrepancy you
6 found.

7 Based on what was presented to the Court about
8 the letter, contact originated from the defendant, the
9 redacted, some type of redacted letter cleaning up all
10 the problems there, would be admissible.

11 SOLICITOR: Your Honor, we had, Mr. Sims and
12 I had discussed redaction of the letter and we're together
13 on about 99 percent of it. There's a little bit of
14 discrepancy there, I think, some stuff I wanted in or out
15 and ---

16 MR. SIMS: Some stuff he wanted out and some
17 stuff I wanted in. And, for example, one of the statements
18 in there was that Connie, I believe it had to do with
19 Connie thought that she was going to go out there and kill
20 Doug first. He wanted that out, I wanted that in. That's
21 an example of where we are in terms of it. I think there
22 may be one other part that there was some question about
23 in terms of whether or not he wanted out and I wanted in.

24 THE COURT: Can ya'll continue to try to work
25 that out and then at the appropriate time, if you haven't

1 got it worked out, then let me rule on it?

2 MR. SIMS: Yes, sir.

3 THE COURT: Can we do that?

4 SOLICITOR: Yes, sir, Your Honor, we have discussed
5 that in depth and I do not think we are going to be able
6 to resolve it, it's just a brief portion of it and I don't
7 think we can resolve it. I think, in all honesty, we are
8 going to have to let you decide on that.

9 THE COURT: All right, let me do that whenever
10 we get to it.

11 SOLICITOR: All right, I can leave that with
12 you or your clerk and I've got one version that's his version
13 and one that's mine highlighted.

14 THE COURT: Okay. I think that covers all my
15 notes about the motions.

16 MR. SIMS: I just want to be clear which tape
17 we are talking about, are we talking about the taped state-
18 ment that was done on 5/29?

19 SOLICITOR: There was only one taped statement.

20 MR. SIMS: Okay, that was the one on 5/29.

21 THE COURT: And ya'll were in agreement if I
22 allowed it in, after I heard everything and studied this,
23 that we would use SLED's copy?

24 MR. SIMS: The SLED copy, yes, sir.

25 THE COURT: Everybody is in agreement on that?

1 MR. SIMS: Yes, sir.

2 SOLICITOR: Yes, sir.

3 THE COURT: Even though you had an objection
4 to the original.

5 MR. SIMS: Your Honor, again, as it relates,
6 because of my objection as it relates to the transcription
7 or the transcription of the letter that was written by
8 the defendant, of course, we indicated that that was, in
9 fact, written by the defendant and instituted by the
10 defendant, the subsequent contact by the Sheriff's Depart-
11 ment which was initiated by them to verify whether or not
12 this was, in fact, his writing, that was done on June the
13 8th and then four days later, another transcribed or
14 typewritten statement from that letter, we would again
15 renew our objection to the introduction of those two
16 statements.

17 THE COURT: Wait a minute, I'm getting confused
18 now. I thought there was going to be a redacted copy of
19 the original letter we were going to use.

20 MR. SIMS: If you ruled that --- if you ruled
21 that it was, and that's true, we did agree to that. But
22 I did not give up my right to just preserve my objection
23 to the transcribed letter. If you will recall, there were
24 three things that were done, there was a statement taken
25 on May 29th when the defendant was initially arrested.

1 On June the 4th, after having been brought over and his
2 attorney appointed for him, a letter was given to the
3 Sheriff's Department. That letter, as a result of that
4 letter, then the Sheriff's deputies sent over to the
5 complex to get him, to get my client, to verify whether
6 or not that was in fact his letter.

7 As a result of that, four days after that, then
8 the Sheriff's Department, at that point, had typed up the
9 letter and took it over and brought him back again to verify
10 and to go through the letter to be sure that it was
11 consistent with what his handwritten letter was. And we
12 objected to the contact after the letter was sent over,
13 that they initiated that contact and the subsequent contact
14 four days after that to go through the transcribed state-
15 ment by the Sheriff's Department. And we want to preserve
16 those two issues and I understood that because of the nature,
17 that there are two murders involved, there were some things
18 on the statement that referred to the second murder that
19 my client is charged with and we agreed that if you were
20 going to allow that in, that we would redact all of those
21 references as related to the second murder.

22 THE COURT: And we went through and thoroughly
23 researched that because, as I understood it, the initial
24 contact was made by the defendant concerning the letter.
25 That is allowed in, it's all in one --- it all connects

1 back.

2 MR. SIMS: Yes, sir, I understand but I just
3 wanted to preserve that for the record and at the time
4 also preserve it when we get into the actual trial, Your
5 Honor.

6 THE COURT: It is preserved. All right, what
7 time do ya'll want to crank up in the morning and I'm going
8 to tell you ahead of time, I do not want to work past 5
9 tomorrow.

10 SOLICITOR: Is 9:00 good, Judge?

11 MR. SIMS: If that's what the Court says, that's
12 fine.

13 THE COURT: All right, we want the jury to report
14 at 9:00.

15 SOLICITOR: Yes, sir, what I would suggest is
16 when the jury reports, just take a roll and see who is
17 here and assume we have enough to go ahead and strike,
18 strike out of their presence and in the event there's a
19 Batson motion, they wouldn't be tainted.

20 THE COURT: All right, and I understand they
21 have a room upstairs?

22 LT. EDWARDS: Large enough to hold them, yes,
23 sir.

24 THE COURT: All right. We need to go ahead and
25 start contacting the 37 jurors and tell them the room

1 to report to. All right, we will recess until in the morning
2 at 9:00.

3 (WHEREUPON, below is a list of the 37 jurors
4 that were qualified.)

- 5 1. #123, Bernard Haire (BM)
- 6 2. #130, Ray Hartzog (WM)
- 7 3. #220, Marie Nelson (WF)
- 8 4. #221, William Newsome (WM)
- 9 5. #112, Ethel Hughes (WF)
- 10 6. #55 , Stephen Creech (WM)
- 11 7. #242, Delores Riley (BF)
- 12 8. #357, Jessrse Littles (BM)
- 13 9. #314, Dyna Wactor (WF)
- 14 10. #353, Geraldine Coffey (WF)
- 15 11. #163, Antonette Jennings (WF)
- 16 12. #143, Debora Hughes (WF)
- 17 13. #294, Glenda Stickland (WF)
- 18 14. #108, Loretta Godfrey (WF)
- 19 15. #133, Derwin High (BM)
- 20 16. #309, Leatha Turner (BF)
- 21 17. #193, Donna Holman (WF)
- 22 18. #225, Antoine Payton (BM)
- 23 19. #179, Deborah Keller (WF)
- 24 20. #231, David Pinckney (BM)
- 25 21. #274, Marion Shuler (BM)

- 1 22. #160, Michael Jeffcoat (WM)
2 23. #165, Deborah Johnson (WF)
3 24. #288, John Steadman (BM)
4 25. #291, Peggy Still (WF)
5 26. #43 , Lionel Caughman (WF)
6 27. #315, Henry Walker (BM)
7 28. #57, Robert Curlee (WM)
8 29. #249, Shellie Robinson (BM)
9 30. #318, Richard Walker (BM)
10 31. #53, Faye Coulter (WF)
11 32. #330, Bruce Wiles (WM)
12 33. #47, Ricky Clark (BM)
13 34. #88, Carolyn Fritz (BF)
14 35. #23, Tanya Boneparte (BF)
15 36. #9 , Thomas Ashe, III (WM)
16 37. #260, Eloise Scott (BF)
17 (WHEREUPON, Court recessed for the evening and
18 the proceedings resumed the next morning out of the presence
19 of the jury.)
20 THE COURT: Good morning, everybody, what have
21 we got/
22 SOLICITOR: Your Honor, as to this statement,
23 here it is and it has been redacted and we agree on every-
24 thing except what I have circled and in yellow on page
25 5 and 6. I wanted that to go out and Thomas wanted it

1 to stay in.

2 THE COURT: All right, anything else I need to
3 look at?

4 SOLICITOR: I've got some law on that if you
5 need it.

6 THE COURT: Let me read it and then we will hear
7 it out. Now I've got some exhibits here that we need to
8 check off on that and turn that over to Madam Court Reporter
9 to be secured. Ya'll check those while I read over this.

10 (WHEREUPON, A short break was taken and then
11 the proceedings resumed.)

12 THE COURT: All right, gentlemen, I want to go
13 back to the Jackson -vs- Denno matter that I covered last
14 night. Now, even though we don't have any conflicting
15 evidence about the confession, which invokes the formal
16 findings as required by State -vs- Child, I still want
17 to touch on that on the record to make crystal clear that
18 I reviewed this matter, I went through the court documents,
19 and the Court is convinced beyond a reasonable doubt and
20 I find that the statements are admissible and that they
21 were obtained from the defendant after he was fully advised
22 of his rights under Miranda and the Fifth and Sixth
23 Amendments to the Constitution.

24 I also find that he knowingly and intelligently
25 waived those rights and therefore made those statments

1 and they were given, as I see it from the evidence, without
2 duress, coercion, without undue influence, without reward,
3 without promise or hope of reward, without promise of
4 leniency, without threat of injury, without compulsion
5 or inducement. And they were a product of a free and
6 unconstrained will of the defendant.

7 Now, as to the matter you asked me to take a
8 look at on page 5, this last statement. It appears that
9 Rule 804(b) (3) is directly on point. Now I realize right
10 off the bat that you have a situation of what I would commonly
11 call double hearsay, but as you will see, the last sentence
12 of 804(b) (3) says, " A statement tending to expose the
13 declarant to criminal liability" --- which this does---
14 "--- and offered to exculpate the accused is not admissible
15 unless corroborating circumstances clearly indicate the
16 trustworthiness of the statement." So from that rule,
17 as I see it unless ya'll convince me different, we've got
18 a problem right off the bat. Now, does anybody want to ---
19 before we get into this, does anybody want to put anything
20 on the record about Denno or is everybody comfortable with
21 what they've got on the record about the statements?

22 SOLICITOR: Your Honor, I'm not entirely clear
23 as far as reference to 804, does that apply to the two
24 brief portions, I think it's on page 5 and 6, that Mr.
25 Sims and I could not get together on redacting, is that

1 what you are addressing?

2 THE COURT: I was referring to 5. I don't know
3 that 6 is that big of a problem. Tell me ya'll's thoughts
4 on it. Am I barking up the wrong tree?

5 SOLICITOR: Your Honor, the way I analyze that
6 was that that's, of course, a letter drafted by Mr. Stokes.
7 And it is not hearsay under 801 (d) (2) because it's an
8 admission by a party opponent. Since it is an admission
9 by a party opponent, that gives me the right to introduce
10 that.

11 THE COURT: Right.

12 SOLICITOR: It would not give Mr. Sims the right
13 to introduce that because that statement is self-serving.
14 My understanding of it is that I'm entitled to introduce
15 any portion of that statement since it's not hearsay, it's
16 a statement by a party opponent. I had a similar situation
17 in State -vs- Billy Taylor, that was the case that Judge
18 Brown heard in Dorchester County where there was a statement
19 that was introduced in an attempt to rehabilitate a witness.
20 I went back and tried to get in portions of a statement.
21 The defense got in portions of it, I tried to get in
22 additional portions and basically got the whole prior
23 statement in. Judge Brown allowed that, the Supreme Court
24 said that was error but harmless error. That if part of
25 the statement comes in and under the Rule you are entitled

1 to get another part of the statement in, that is in Rule ---
2 it's in the 600's, I can get the exact cite. That the
3 part of the statement that you are trying to get in has
4 to have some relevance to the portion of the statement
5 that is already in, it has to expand on that, has to have
6 some relevance to it.

7 The portion of the statement that we're concerned
8 with is not an incriminating statement. What it is is
9 it's self-serving to a certain extent where he is addressing
10 Connie Snipes' motives for being out in the woods with
11 them. It does not incriminate him, it doesn't exculpate
12 him, it's collateral to the reason I'm trying to get that
13 statement in.

14 THE COURT: All right, you want the statement
15 in?

16 SOLICITOR: I want the letter in as a declaration
17 against interest and I think the only issue on that would
18 be whether or not those two portions of the letter should
19 be redacted and those are the portions in which Mr. Stokes
20 is quoting Connie Snipes and saying that she's out in the
21 woods for the purpose of watching them kill Doug Ferguson.

22 THE COURT: All right, I totally --- I misinterpreted
23 the whole problem here. Mr. Sims.

24 MR. SIMS: Your Honor, I don't think that he
25 is quoting, he's saying as a matter of fact that she went

1 out there thinking that she was going to commit a crime,
2 that she was going to commit a crime and she went out there
3 to kill Doug Ferguson, and that's what he said on that
4 particular part of the statement. That one sentence, I
5 believe, specifically says that. That was the first one,
6 if I might see if a moment, Your Honor.

7 THE COURT: Yes, sir.

8 MR. SIMS: When he had asked him about --- when
9 they had asked him about going down to Branchville, if
10 she was in the car, and he said that she said that ---
11 according to the words on this, " Doug ain't shit, he's
12 going to get his, I had something to do but this is better."
13 And he was giving them a full statement in terms of what
14 was actually going on which implies or specifically indicates
15 that she was going out there to commit a crime herself.
16 And I think it's very relevant and if you take out that
17 fact, that's a part of probably the defense that we would
18 raise in terms of what her intentions were. Because he's
19 been charged with kidnapping also, an indication that she
20 was kidnapped to be brought out there and kidnapped and
21 out there while she was in the woods and our point is that
22 this is an indication which shows that, in fact, there
23 was no kidnapping, that she was out there voluntarily looking
24 to commit a crime herself. eta

25 THE COURT: Well, all that goes --- now we're

1 right back to where we started from. Am I wrong? 806
2 (B) (3).

3 MR. SIMS: I don't see it that way.

4 SOLICITOR: Your Honor, I think that 804 (B) (3)
5 would apply to hearsay with an unavailable declarant. Of
6 course, Mr. Stokes is available, he can testify to what
7 he says Mrs. Snipes said when they went in the woods if
8 he wants to. Of course, he's got a Fifth Amendment right
9 not to do that. But I don't see --- even if that statement
10 has no logical bearing on anything at issue, if, in fact,
11 it is true that Mrs. Snipes was out in the woods because
12 she wanted to see Doug Ferguson killed, that wouldn't be
13 any justification for Mr. Stokes to kill her. I just don't
14 see the relevance of it.

15 If I put a statement in, I think, under the rules,
16 Mr. Sims has a right to put any additional part of that
17 statement in that bears relevance to the part that I'm
18 putting in. But that's got nothing to do with --- it doesn't
19 exculpate him in any respect.

20 And, Your Honor, if I could hand that State -vs-
21 Taylor case up, this is, I think, the only case in which
22 our Supreme Court has addressed Rule 106 which is a rule
23 that allows you to put --- if one party puts a portion
24 of a statement in the other party can put the rest of the
25 statement in. They limited that to say that the rest

1 of the statement had to have some logical relevance to
2 the statement that came in.

3 MR. SIMS: Your Honor, I don't see how in the
4 world this could not be relevant when you have charged
5 him with kidnapping, physically taking the body, bringing
6 the body down to the place, he's got a kidnapping charge
7 against him and to show that she voluntarily went down
8 there of her own accord and went down there for a specific
9 purpose, that is definitely relevant to all of the facts
10 and it's part of the Ras Gestae of what was going on out
11 there as it relates to this crime and what was going on
12 and what was going on and the reason for being there. I
13 mean, it would be--- it would be a --- to say on the one
14 hand that he can testify, it means that he would have to
15 give up his Fifth Amendment right in order to get on the
16 stand and say that himself, to take away his Fifth Amendment
17 right when they intend to use that statement, they intend
18 to introduce that statement as to his own admissions and
19 then not be allowed to use another part of the statement
20 which is also a part of his admissions would be in violation
21 of his rights to force him to have to take the stand. If
22 they are going to be able to use that statement, then that
23 part of the statement should also be made a part of the
24 record in terms of what was out there and what was going
25 on and the purpose of them even being down there.

1 THE COURT: Okay, well, I apologize. I had in
2 mind the declarant being her and I can see your point,
3 too, Solicitor.

4 SOLICITOR: Again, my point is, Your Honor, that
5 there's nothing in the portion of the statement that Mr.
6 Sims wants to get in that exculpates his client or that
7 inculpates his client, really, it's just not relevant.
8 All he wants that in for is basically character assassination
9 of the victim here and even if she was in the woods for
10 the purpose of seeing somebody else killed and that's why
11 they told her to be out there, it's still kidnapping because
12 she was inveigled to be out in the woods. Certainly she
13 wouldn't have gone out there if she had known she was going
14 to be killed.

15 THE COURT: Is there any other evidence to corroborate
16 what he is maintaining here?

17 MR. SIMS: The only other evidence and I was
18 going to cross-examine the defendant, I'm being forced
19 to basically give up part of my theory, Your Honor, in
20 terms of cross-examining Roy Tooth because in a statement
21 that he had made to Detective Emery Rush and Jack Watson,
22 he specifically said that Connie would have helped his
23 momma do anything is she wanted to do --- Connie would
24 have helped his mom commit a crime. And that's the son
25 who the State intends to call as a witness and he told

1 this to the police officers during their interrogation
2 of him, that Connie would have helped his mom. Again,
3 showing the voluntariness of Connie being able to go out
4 and help his mom and in theory that if Pattie Syphrette
5 said we're going out here to kill Doug, Connie would have
6 gone to help her. This corroborates what that part of
7 the statement says, that she went out there under the idea
8 or with the theory that she was going to commit a crime
9 against someone else.

10 SOLICITOR: Roy Toth gave four lengthy taped
11 statements and I don't recall any statement which Roy Toth
12 said that Connie Snipes was going out in the woods to help
13 his mother kill Doug Ferguson.

14 MR. SIMS: He said --- no, he did not say that
15 she was going out in the woods to help his mother kill
16 Doug Ferguson. What he said in response to interrogation
17 by the police was that Connie would help my mom do anything
18 she wanted to do. I believe that can be verified in the
19 statements and the tapes that I got.

20 SOLICITOR: Your Honor, maybe the major point
21 in not allowing that in is that Doug Ferguson is the second
22 murder victim and we've gone to extreme efforts to redact
23 any reference to Doug Ferguson from this guilt phase and
24 Mr. Sims is wanting to stick Doug Ferguson's name into
25 it and it's not going to make any sense. If that's in

1 there, the jury is going to wonder, who is Doug Ferguson?
2 And we redacted out all of the other references to Ferguson
3 that are before and after those particular statements.

4 MR. SIMS: Your Honor, making sense to the jury
5 and relevance and fairness to what my client has to do
6 in order to show what's going on in his case are two
7 different issues. They are apples and oranges as far as
8 I'm concerned. The point that we're trying to determine
9 is to show that there was a reason for this young lady
10 being out there. They've taken his statement, he gave them
11 this statement, he gave them this statement voluntarily,
12 according to the Court, the Court has ruled that he gave
13 it to them voluntarily, so therefore by saying that she
14 was out there to kill somebody or thought that she was
15 going to be out there to kill somebody is very relevant
16 to her being there because the State wants to show is that
17 she was inveigled or whatever to be brought out there,
18 that they kidnapped her, they raped her, they did all of
19 these things which is what they have charged him with and
20 he is basically explaining to the police officers in his
21 letter the full parameters of things that went on out there.
22 We think it's definitely relevant to this trial.

23 SOLICITOR: One final thing on that. Of course,
24 what Mrs. Snipes said as quoted by Mr. Stokes would be
25 hearsay. I don't know of any exception to the hearsay

1 rule. He is saying what she said and she's dead.

2 MR. SIMS: Your Honor, just one other last thing.
3 He says how to look at this in terms of our thinking, in
4 terms of present of his impression, when she was out there
5 and her idea of why she was out there and why she was going
6 out there, that also is relevant and related to whether
7 or not this is a hearsay that should not be allowed, the
8 presence of his impression Connie was going out there with
9 the idea, this was her concept of why she was going out
10 there, to kill somebody, and he was perceiving that and
11 said that at the time. That's why she was out there.

12 THE COURT: Solicitor, restate as precisely as
13 you can now why you feel like the items that you have
14 circled on this page 5 should not come in.

15 SOLICITOR: Your Honor, I've got to back up and
16 say why I think the entire thing should come in. It should
17 come in as a declaration by a party opponent therefore
18 it is not hearsay. Since they cannot put the statement
19 in, it's a self-serving statement of theirs and I can put
20 it in because he's a party opponent, I believe that I'm
21 entitled to put in the parts that are relevant for
22 consideration by the jury. I don't need to put the entire
23 statement in. The portions of it that Mr. Sims and I are
24 disagreeing on pertain to what Mr. Stokes says that the
25 victim said was why she was out in the woods on that

1 occasion, because she thought Doug Ferguson was tied up
2 out there and that he would be killed out there. That's
3 uncorroborated, it's hearsay as far as Mrs. Snipes making
4 that statement. It does not exculpate Mr. Stokes, it doesn't
5 inculcate him, therefore it's not relevant.

6 And also, the reference to Doug Ferguson, the
7 other references have been redacted since he was the second
8 murder victim, they have been redacted in order to protect
9 Mr. Stokes' interest here and just have the jury concentrate
10 on the one murder that he's being tried on. And Mr. Sims
11 wants to pick and choose what references to Ferguson that
12 the jury is going to know about. He wants to cut out the
13 part about Mr. Ferguson actually being murdered by Mr.
14 Stokes and others; he wants to leave in a reference to
15 Mr. Ferguson which serves the purpose. I don't think that's
16 his option, I think that's my option because I'm the only
17 one that can put that in as a declaration by a party opponent.

18 And I think that the Taylor case addresses Rule
19 106, although maybe not controlling, the logic would apply
20 there. Just because a part of a statement comes in doesn't
21 mean that you can put in other parts --- that the other
22 party can put in other parts of the statement that don't
23 have any logical relevance to the portion that was initially
24 put in.

25 MR. SIMS: Your Honor, I would also refer the

1 Court to Rule 801 (1) and (3). (1) talks about presence
2 sense impressions and (2) the existing mental, emotional
3 and physical condition and it specifically talks about
4 in that particular provision (3), the plan or motive of
5 the declarant being not hearsay in this situation where
6 you have, if you are going to say that what she was saying
7 is hearsay. I don't believe--- I believe that this is
8 one of the controlling areas that we are talking about
9 here in terms of him being able to say physically and
10 specifically why she was out there and it shows her plan
11 or motive for being out there. And it's definitely relevant
12 in that in this case with a charge of kidnapping and all
13 of the other things that were going on and the other charges
14 that have been charged --- that have been raised against
15 my client, it shows that her motive, that she had a reason
16 for being out there, not because they forced her out there,
17 not because they inveigled her to be out there. But she
18 went out --- not because he inveigled her out there, she
19 would be out there anyway because she was not even poked
20 up and the evidence is going to show that he didn't pick
21 her up, they picked him up and took him and they went down
22 there. So it definitely would show that their own reason
23 and purpose of being there, what her reason and purpose
24 of being there. I think the one reference to Doug Ferguson
25 on the entire statement is not going to cause this jury

Annette J. Mole

14th Circuit Court Reporter

P. O. Box 374

" " " " " "

1 to go and think about other matters. I believe that it's
2 relevant, that it is not hearsay, that it's a part of the
3 statement. He wants to put in part of it and leave out
4 those parts that are going to be detrimental to the State's
5 case. I think this jury has a right to know that the victim
6 in this case went out there for a specific purpose or plan
7 and had a motive for being out there. That is a definite
8 factor that the jury should hear and know about in this
9 matter as it relates to my client, because otherwise, the
10 only thing that they are going to be able --- that they
11 are going to put in are those statements that are going
12 to be specifically advantageous to the State and this is
13 not an exculpatory, it is simply a statement in terms of
14 what the whole --- the whole thing that was going on out
15 there and why all of them were out there and we also say
16 that it's part of the Res Gestae of everything that was
17 going on when he gave a statement and they are going to
18 use it as a declaration against his interest, then he gave
19 a statement in terms of everything that was going on out
20 there back on May 22, 1998 in terms of why she was there.
21 We think that definitely, that part of that statement is
22 definitely admissible.

23 THE COURT: Rule 105 and 106 and also reviewing
24 803(1) and those other related items there, I do not see
25 that 803(1) applies. I'm going to have to agree with the

1 Solicitor based on that.

2 MR. SIMS: Your Honor, I would also then like
3 to make that part of the statement, that statement a Court
4 exhibit for the purpose of preserving that issue on appeal.

5 THE COURT: Make the entire one?

6 (WHEREUPON, Statement was entered and marked
7 as Court's exhibit #3.)

8 THE COURT: Now, according to how this trial
9 develops, I foresee some things that could possibly happen
10 that might cause me to review this.

11 MR. SIMS: Yes, sir. Now that's on that first
12 statement. What about the --- there were two parts on ---

13 THE COURT: We're talking now about the two pages
14 there that ya'll yellowed out.

15 SOLICITOR: Yes, sir, it was on two pages and
16 it was yellowed out and circled with ink.

17 THE COURT: Just one sentence on page 6, " That's
18 when Connie said, well, where is he at?"

19 MR. SIMS: Are you doing out the redacted version
20 that the Court has ruled on? You gave two versions and
21 I need to get a copy of the one so that I can be sure that
22 I'm on the same page. I don't want to make a mistake on
23 it.

24 THE COURT: We can make this one a Court's exhibit.

25 MR. SIMS: Yeah, I want that one to be made a

1 Court's exhibit, Your Honor, but in terms of --- we had
2 agreed that we would argue this motion with the Court and
3 use the redacted statement according to your version and
4 my version.

5 SOLICITOR: Right, I've got yours and mine here.
6 and I'll give you a copy of each.

7 MR. SIMS: All right. Your Honor, I would like
8 to make as a Court's exhibit my version of what the state-
9 ment should have been also.

10 THE COURT: Okay.

11 (WHEREUPON, Statement was entered and marked
12 as Court's exhibit #4.)

13 THE COURT: How about the missing juror?

14 SOLICITOR: Judge, could we ask which juror is
15 missing?

16 BAILIFF: It's #315, Henry Walker.

17 THE COURT: Other than meeting roll call, we
18 know he's on the way. What's ya'll's pleasure, wait on
19 him or what?

20 SOLICITOR: If we know he's on the way and he's
21 the only one missing, I think we can go ahead and strike.

22 BAILIFF: He's on the way.

23 THE COURT: I want this on the record that at
24 this time the bailiff and SLED security detail has already
25 been sworn and we have one more officer that will be

1 here later that we will need to put under oath and we will
2 take care of that later.

3 All right, I think we have all the housekeeping
4 matters caught up with as far as we can go at this time.
5 We are ready to proceed.

6 CLERK: Does the State waive the presence of
7 a jury boy and allow the Clerk to draw?

8 SOLICITOR: Yes.

9 MR. SIMS: Defense does also.

10 (WHEREUPON, The State and the Defendant proceeded
11 to strike the jury and the strikes were as follows:)

12 STATE STRUCK:

13 #1, #7, #8, #19.

14 DEFENSE STRUCK:

15 #4, #6, #9, #10, #12, #13, #21, #22.

16 AS TO ALTERNATES:

17 STATE STRUCK:

18 #26.

19 DEFENSE STRUCK:

20 #27, #28.

21 THE COURT: All right, gentlemen, I understand
22 that we've got one up there squalling, wanting off. Now,
23 normally in a trial you have two alternates, I have had
24 more than two but only with consent of both sides.

25 SOLICITOR: State consents to a third alternate.

1 MR. SIMS: Defense does also, Your Honor.

2 THE COURT: Okay, let's get the grounds rules
3 if we have to invoke an alternate. Normally you've got
4 two alternates, if we have to invoke an alternate, we put
5 the names in a capsule and whoever is drawn will be the
6 one that's bumped up. Now, if we are going to have three
7 alternates, we need to get the ground rules laid now before
8 we get into it. If we have three alternates and we have
9 to bump one up, are we going to go with the first two in
10 capsules or all three in capsules?

11 SOLICITOR: All three, give them all equal.

12 MR. SIMS: Three, Your Honor, we would agree
13 with that.

14 THE COURT: Okay. The juror that was late, #27,
15 he's moot now.

16 SOLICITOR: Your Honor, what was the problem,
17 if I could ask of Mr. Walker.

18 THE COURT: He was struck.

19 SOLICITOR: Okay. Is there somebody else, though,
20 some other juror that ---

21 LT. EDWARDS: We had one there that wanted to
22 talk with you, JURor #88, Ms. Fritz, came out in the hall
23 and said that she had been up all night and needed to see
24 you, that she didn't think she could do it. I told her
25 not to say anything more until she talked with you.

1 THE COURT: She's a moot point, too. All right,
2 Mrs. Godfrey, Juror #108, is the one Madam Clerk has
3 informed us that wants to talk to us. We've still got
4 her. Let's go ahead and see what her problem is, okay?
5 Bring us Mrs. Godfrey, #108.

6 (WHEREUPON, Juror #108, Loretta Godfrey, entered
7 the courtroom.)

8 THE COURT: Mr.s Godfrey, have a seat right there,
9 please. Madam Clerk said you needed to talk to the Court.

10 MRS. GODFREY: Yes, sir, just being this far
11 and never imagining that this will happen and this is a
12 major deal and I don't think that I could do this, make
13 a decision either way. I feel all not qualified is what
14 I feel. I mean, I have a million excuses I could give
15 you why but that's the major one, I mean.

16 THE COURT: Why didn't you tell me all this the
17 other day?

18 MRS. GODFREY: I was just --- I was extremely
19 nervous and I still am but and it doesn't seem real like
20 it's going to happen to you until it's starting to happen
21 and then you freak out, you're just panicking.

22 THE COURT: Well, everybody in the courtroom
23 at times, even the most experienced judges and attorneys,
24 get nervous at times. Just relax, everything is going
25 to be okay. I can assure you this case is not going to

1 be as long as you probably anticipate it to be. You just
2 relax and let us go forward with this trial and if you
3 have further problems or whatever that we need to address,
4 you feel free to let me know, okay?

5 MRS. GODFREY: Okay.

6 THE COURT: Now we are not going to run long
7 hours, okay.

8 MRS. GODFREY: Okay. But I don't think the hours
9 is what worries me.

10 THE COURT: Solicitor?

11 SOLICITOR: Your Honor, I just wanted to be heard
12 prior to your making a decision if I could.

13 THE COURT: Okay. Anything else you would like
14 to tell me at this time?

15 MRS. GODFREY: Just that being in a situation
16 where you have to make a decision about justice and about
17 another person's life, it's a big, big decision. I've
18 made some pretty rotten ones in my life and I'm like I
19 don't trust myself. (Juror is crying.)

20 THE COURT: Okay, just step back with Madam Bailiff
21 and relax a minute or two.

22 MRS. GODFREY: Okay.

23 (WHEREUPON, Juror leaves the courtroom.)

24 THE COURT: Solicitor?

25 SOLICITOR: Your Honor, just noting Mrs. Godfrey's

1 demeanor she, of course, spontaneously asked to see the
2 Court, she appeared to be visibly upset, she was crying,
3 she grabbed a napkin and she is not the first juror I've
4 seen in this situation where when it really comes home
5 to them they realize they can't impose the death penalty,
6 even though in the abstract they may think they could
7 earlier. And I would like the opportunity to question
8 her further to see if she is qualified under Waynewright
9 -vs-Wick at this point. Once she's on the jury it's going
10 to be too late if she can't follow the rules.

11 THE COURT: She talked to you first about her
12 problem?

13 CLERK: Yes, sir, when I called her last night.

14 THE COURT: Tell the attorneys exactly what she
15 told you on the phone.

16 CLERK: Well, actually when I called her she
17 was okay. She was just asking what time and was she actually
18 on the jury, and I told her, no, we would pick the 14 from
19 the 37 that were coming in today. And she works with,
20 I didn't know it, but she works with a cousin of mine.
21 She called my cousin last night later and told her that
22 she was real upset, she was crying and said that she just
23 didn't --- she had a small child, it would be her first
24 Halloween that she would really enjoy and she wanted to
25 be home with her. And that her husband was not happy

1 with her having to be on the jury.

2 THE COURT: I think that probably hit the nail
3 on the head. I wonder why she didn't tell us about the
4 child.

5 MR. SIMS: She did.

6 SOLICITOR: I think she did have a 2½ year old
7 child a home and, Your Honor, of course that brings up
8 another potential problem. If she's discussing things
9 with other people, I don't know what she is saying back
10 to them about that might change her mind. She wasn't
11 supposed to discuss the case and apparently she may have
12 been doing that also. And we have three alternates.

13 MR. SIMS: Your Honor, I've had the opportunity
14 to discuss this issue with my client and basically he has
15 the same concerns that I do is whether or not if we allow
16 this lady to actively take part, her mind is not going
17 to be on the evidence, her mind is going to be on the
18 problems that she's having that are associated with her
19 and we feel that that would be distracting to her and she
20 may decide to go one way, whatever the majority say as
21 opposed to using her own mind to make a decision if there's
22 any question, she may decide to just jump on anything,
23 as he put it, that goes on in the jury room. We would
24 want someone back there who would be independent and has
25 their own mind to think about the issues and make an

1 independent decision, not based upon trying to get out
2 of here quick. And based upon what he's told me, I would
3 join the State in asking that we put the three alternates
4 in the hat and pull one of them.

5 THE COURT: Okay, I'll defer to ya'll's wisdom
6 and consent.

7 SOLICITOR: Thank you, Your Honor.

8 THE COURT: All right, let's go ahead and do
9 that. We need the three alternates.

10 MR. SIMS: Are we going to draw another alternate?

11 THE COURT: We can but let me point out one thing
12 to you. Lieutenant, we are set up for 14?

13 LIEUTENANT: Yes, sir.

14 THE COURT: If we get another alternate, we are
15 going to have to make arrangements for another room which
16 we can do, I don't think there will be any problem. Let
17 me put it this way, both of ya'll agree that you want another
18 alternate, if you do, I'm game for it.

19 SOLICITOR: Could we ask just one question? It
20 looks like we would get to Mrs. Fritz possibly in the next
21 alternate and she has some problems.

22 MR. SIMS: Yes, she did have a problem. According
23 to the Lieutenant, she came out in the hall and said she
24 had a problem.

25 LIEUTENANT: Yes, Mrs. Fritz wanted to, if

1 she was chosen, she wanted to have a word with the Court.

2 SOLICITOR: If they use 2 and I use 1, we are
3 going to reach her. Judge, I will waive my strike on the
4 next alternate and that would eliminate that problem.

5 THE COURT: Well, like I said now, unless both
6 of ya'll agree, we are going with two, two alternates,
7 as soon as we replace her. If both of you tell me to go
8 forward and you waive your strike, then that's fine.

9 SOLICITOR: Judge, I think two is fine unless
10 somebody else pops out of there with problems, because
11 I think it will be a short trial and nobody appears to
12 be sick or anything.

13 THE COURT: Okay. All right, unless both of
14 you and which you are not in agreement to do that now,
15 then we will leave it at two.

16 MR. SIMS: Two is fine.

17 THE COURT: That settles it. All right, let's
18 see who it is.

19 CLERK: Juror #291, Peggy B. Still.

20 THE COURT: Which is alternate #1 anyway. Bring
21 Mrs. Godfrey back in.

22 (WHEREUPON, Mrs. Godfrey enters the courtroom.)

23 THE COURT: Mrs. Godfrey, we are going to excuse
24 you at this time.

25 MRS. GODFREY: Thank you so much.

1 THE COURT: All right, if you are ready, let's
2 bring them down and do a roll call and make sure we've
3 got all of the right people and then we will draw our jury.

4 MR. SIMS: Your Honor, before we do there is
5 a motion for the defense.

6 THE COURT: Okay.

7 MR. SIMS: The State is striking jurors, struck
8 three blacks from the jury, Your Honor, of the four strikes
9 they used I believe three of them were used to strike
10 minorities from the jury list. The defendant is, of course,
11 a black male and under Batson -vs- Kentucky, Your Honor,
12 we would ask that the Court inquire as to a racially neutral
13 reason for the striking of those three persons.

14 THE COURT: All right, any motions from the State?

15 SOLICITOR: None from the State, Your Honor.

16 THE COURT: Okay, Solicitor, we need to hear
17 from the State.

18 SOLICITOR: Your Honor, I first struck juror
19 #123, Bernard Haire. My reasons for striking Mr. Haire
20 were actually two-fold. It's my understanding that Mr.
21 Johnson who is co-counsel, his wife is employed as Assistant
22 Athletic Director for South Carolina State. She is on
23 the faculty there. Mr. Haire is also on the faculty of
24 South Carolina State. I felt like that that's a small
25 school and that they would know each other and that might

1 have some bearing on his ability to be a fair and impartial
2 juror to the State. Also, Your Honor, after Mr. Haire
3 was qualified as the first juror, as each one of the jurors
4 would qualify, we try to do as much background investigation
5 as we could on the jurors. And we contacted approximately
6 five people that knew Mr. Haire professionally and socially
7 and they overall said good things about him but what
8 concerned me was that the consensus of most of the people
9 that we talked to --- first of all, he's a member of
10 Orangeburg City Council, he's in a leadership position
11 and based on the information we had, we felt like that
12 he would basically kind of take over if he got in there
13 and he stood a one to twelve chance of being the foreman
14 which were not good odds and we felt like if he was not
15 the foreman and there was somebody else was foreman, they
16 would be at loggerheads. Based on the information I got
17 I felt like that Mr. Haire would probably get entranced
18 early, would not deliberate well with the other jurors
19 and would kind of try to take over without a whole lot
20 of sense of deliberation. Basically that he would try
21 to take over as the foreman if he was placed in that
22 position and we felt like he might be a polarizing influence
23 if that occurred and also at least one of the people that
24 we spoke to felt like that they knew Mr. Haire and didn't
25 feel like he could impose the death penalty.

Annette J. Mole
14th Circuit Court Reporter
P. O. Box 374
Unionville, S.C. 29084

1 THE COURT: Let me ask you something. Are there
2 any other elected officials or were there on this jury
3 strike?

4 SOLICITOR: No, sir.

5 THE COURT: All right. Well, we can do all three
6 if you want to or do you want to make a response?

7 MR. SIMS: Your Honor, I would respond to that.
8 The fact that he works at South Carolina State College
9 and the fact that Attorney Johnson's wife works at South
10 Carolina State College and it's a small school, Your Honor,
11 that just stretches the imagination to believe that for
12 no other reason other than the fact that Mr. Haire is a
13 black male that you would strike him. And to say that
14 on the one hand that because he's an elected official he's
15 going to take over in the jury room, again, that is just
16 what we would consider to be a sham reason that the State
17 has utilized in order to come up with some kind of justifica-
18 tion to strike Mr. Haire. The fact that there are over
19 4,000 people out there on that campus at any given time
20 and the fact that they work in the same campus as a reason
21 for striking him, Your Honor, I think the Court needs to
22 look in depth at that reasoning that is given by the State
23 and to call other people and to say that he has given glowing
24 responses in terms of his ability, but to say that because
25 he is an elected official that you would, in fact, think'

1 that he's going to take over in the jury room, he has a
2 one in twelve chance of being the foreman. Everybody back
3 there has a one in twelve chance of being the foreman and
4 to use those two reasons, Your Honor, we think that those
5 are sham reasons and for no other purpose other than the
6 fact that Mr. Haire is a black man, that they would excuse
7 him for that and that is in violation of Batson -vs- Kentucky
8 and in reviewing the cases on Batson -vs- Kentucky and
9 the cases that have come down since, the Courts have always
10 looked closely at those kinds of excuses when the State
11 has given those kinds of excuses to inquire in terms of
12 to make a determination whether or not this is a sham
13 reasons, something that was simply put up to get around
14 the fact that the State failed --- that because he's a
15 black man, because he is an articulate black man that he
16 may, in this situation, raise a question or be on one side
17 or the other. That could work either both ways. If he
18 was for the State he could be very pronounced and take
19 a position which would be contrary to the defense. So
20 that is not a good reason when you look at it, that he
21 could take over the jury room. If he's for the State and
22 decides that he wants to find the defendant guilty and
23 finds that he wants to give the defendant the death penalty,
24 that could work against the defendant but just to say that
25 because he is articulate, a leader in the community here

1 that you don't want to get him because he might get back
2 in the jury room and take a position and be at loggerhead,
3 Your Honor, we would ask the Court to really look into
4 that and to see, as we see it, as a sham reason and for
5 no other reason other than the fact that he is an articulate
6 black man that he would be excused for this jury.

7 SOLICITOR: Your Honor, if I might, I can assure
8 the Court as an officer of the Court that I didn't strike
9 Mr. Haire because he was a black male. If that was my
10 intention I wouldn't have --- we would not have seated
11 four other black males that I presented and were ultimately
12 seated on the jury. I would have struck them instead of
13 the two white females that I struck. My reason for striking
14 Mr. Haire were as I articulated to the Court. And just
15 for the record, Your Honor, if I might, Juror John Steadman,
16 #288, black male, I presented him, he's on the jury. David
17 Pinckney, black male, #231 is on the jury. I presented
18 the black male, #274, that was struck by the defense.
19 Juror Derwin High, black male #133 and Antoine Payton,
20 #225, I presented five black males.

21 THE COURT: Not that it has anything to do with
22 what I decide here but how many times in the past I've
23 heard attorneys say they would not allow a preacher, a
24 politician or an attorney on a jury. I don't know this
25 man, I've never seen him before until he came before the

1 Court on voir dire. Certainly to me, a town councilman
2 or city councilman is an elected official and therefore
3 a politican and just that one answer alone there is racially
4 neutral so I would have to overrule your motion on that.

5 MR. SIMS: Your Honor, I probably could have
6 lived with it if he said he was a politican and I just
7 want to get him off because I do --- I think all of us
8 have our built in prejudices about certain groups of people
9 but that's not what he said that he was a politician. He
10 said ---

11 THE COURT: Well, he said elected official or
12 whatever, city council. All right, and who else have we
13 got?

14 SOLICITOR: Your Honor, I struck Delories Riley,
15 Juror #242, I struck Mrs. Riley because of her opposition
16 to the death penalty. At one point in time she said that
17 she could not impose the death penalty by lethal injection.
18 Then she equivocated. She said she could vote for life
19 and at one point, according to my notes, she said that
20 her opposition to the death penalty would prevent her from
21 voting for the death penalty under any circumstances. She
22 was later rehabilitated. She said she was a number three
23 juror but the answers to the questions, in my opinion,
24 put her in the number two category. And I note that the
25 defense was so pleased with her they didn't ask her any

1 questions at all. So, as far as death penalty qualifications,
2 I tried to rate these people, disregarding any other factors,
3 just on their responses to the death penalty questions
4 and I gave her a zero on a scale of from one to ten. That
5 was my reason on her, Your Honor.

6 THE COURT: Anything on that one, Mr. Sims?

7 MR. SIMS: Your Honor, I need a moment to look
8 but I know that there were several other jurors that have
9 been put on here, I believe, who had similar questions
10 as it relates to the death penalty. I notice that he did
11 strike number --- another white female, Deborah Keller,
12 who had a two or three --- started off with a two or a
13 three interpretation but -- and I'm looking --- I need
14 to look at my notes a few moments but I do think that there
15 were other people on there who initially --- who have been
16 placed on this jury who initially started out with a number
17 two and if I could have a moment to review my notes, Your
18 Honor.

19 SOLICITOR: Your Honor, Mr. Sims is correct on
20 that, there are more people on there that expressed
21 reservations about the death penalty. If I had more than
22 five strikes, I would have used them. But I'm limited to
23 five and I just try to size up these people and strike
24 the ones that I thought were least likely to vote for the
25 death penalty. She fell into the low end of that group.

1 Along with Mrs. Keller, the white female, and Mrs. Caughman
2 who was a white female that I struck, I struck two white
3 females for the same reason I struck Mrs. Riley.

4 THE COURT: All right, anybody else?

5 MR. SIMS: Well, Your Honor, that basically
6 substantiates what I was talking about and I believe that
7 under Batson -vs- Kentucky, if you are going to create
8 a category, you have to create everybody and treat every-
9 body the same in that category. And when you create a
10 category where there are people whom you say have a preference
11 or had a problem with the death penalty, if that's going
12 to be a standard that's going to be used and you create
13 that category, then everybody in that category should be
14 treated the same.

15 SOLICITOR: If I had ten strikes maybe I could,
16 Judge, but I'm limited to five so, again, I struck her
17 for the same reason I struck the two white jurors.

18 THE COURT: Well, that's racially neutral to
19 me, I mean, ya'll know the rules I have to go by on this
20 but if you see something after you review your notes and
21 you want me ---

22 MR. SIMS: Well, Your Honor, that's what I'm
23 talking about. He basically verified that there were
24 others on there who are on there --- there are other white
25 members or people on that jury who have expressed the

1 same kind of reservation and he admits that, that there
2 are others that have that same reservation that he allowed
3 on there.

4 THE COURT: I thought he said he struck two.

5 MR. SIMS: He said he struck two others but there
6 were other people on the jury who had the same kind of
7 reservations that he allowed on.

8 THE COURT: Yeah, but with the multiplicity of
9 questions I asked he said he had his own grid that he did,
10 zero to ten.

11 MR. SIMS: I understand what he was saying, Your
12 Honor, but the reality of the situation is that he created
13 a category, he created that scenario and used that as a
14 standard in terms of him being able to strike jurors and
15 when you create that standard, you create a situation where
16 you are going to say that people who initially had reservations
17 against the death penalty and then you decide that you
18 are going to strike the lone black female on the panel
19 who had those reservations, then because you had two other
20 strikes you strike two whites but let the others go on
21 there, I think that that creates, in my mind, it creates
22 the inference that that strike was racially motivated.

23 THE COURT: In your scale of zero to ten, is
24 that bases solely on the response to the questions or does
25 race come into play on that scale in any way?

1 SOLICITOR: Solely in response to the questions,
2 Your Honor, it was on a scale of zero to ten and she was
3 a zero and Mrs. Keller, a white female, was the only other
4 person I gave a zero to.

5 THE COURT: I have no problem with that.

6 SOLICITOR: The next juror was a black male,
7 Juror Jessroe Littles. Mr. Littles was juror #357. When
8 I asked him if he could impose the death penalty, he told
9 you that he was a juror number three, but when I asked
10 him if he could impose the death penalty he said I don't
11 think so, I'm not for death. He later on said that he
12 could impose the death penalty if he was truly guilty and
13 he emphasized truly. Again, Mr. Sims had no questions
14 of him. On my rating scale I rated him a one. I felt
15 like he could not impose the death penalty based on his
16 demeanor and his responses to my questions and that was
17 the sole reason I struck Mr. Littles.

18 Mrs. Caughman, I also --- white female, Juror
19 #43, was number one and I struck her for the same reason.

20 THE COURT: Anything in regards to that, Mr.
21 Sims?

22 MR. SIMS: Yes, sir, again when you look at the
23 totality of the situation, that is the second black person
24 that has been struck because they initially had reservations
25 against the death penalty and the fact that I didn't ask

1 him any questions that didn't mean anything. I just didn't
2 ask him any questions, they were definitely qualified and
3 no sense in beating a dead horse. If you've got somebody
4 that is qualified than to go into additional things. But
5 that's the second black person that was struck solely
6 because they initially started out with --- I mean, his
7 category with the reservations against the death penalty
8 and then after having been qualified choosing them when
9 there are a number of people on this jury who are white
10 and have that same --- had that same category --- had that
11 same category --- that same reservation but were allowed
12 to be on there. I mean, it doesn't make any difference
13 that he only have five strikes, that's the statute and
14 you have to utilize those strikes in a racially neutral
15 way. He struck two blacks because of this and he struck
16 one black man because he was a politician. So that's three
17 blacks right there that he has struck and two of them
18 fall into a category where there were a number of people
19 on the jury who have that same category.

20 THE COURT: Anything else?

21 SOLICITOR: Your Honor, Juror #19, Debroah Keller,
22 I struck --- a white female --- I struck her also because
23 of her opposition to the death penalty and Lionel Caughman,
24 I mentioned her, too, Juror #43, a white female, I struck
25 her because of her responses as to the death penalty. I

1 didn't feel like she could impose it. Your Honor, in
2 summary, on those last four, the four lowest ranked ones
3 on the death penalty, two just happened to be black and
4 two were white, it had nothing to do with their race.

5 THE COURT: I find that it was racially neutral.
6 All right, anything else?

7 SOLICITOR: Not from the State, Your Honor.

8 MR. SIMS: Nothing, Your Honor, but again we
9 just want the record to reflect our position on that and
10 note our objection.

11 THE COURT: Motion and objections are noted.
12 Here's the other SLED agents for security purposes. Let's
13 swear him in before we go forward.

14 (WHEREUPON, Additional SLED agent was sworn.)

15 THE COURT: All right, are we ready for the jury?

16 SOLICITOR: Yes, sir.

17 MR. SIMS: Yes, sir.

18 (WHEREUPON, The jury roll was called and then
19 the fourteen jurors were called to be seated in the box.
20 The jury consisted of the following jurors:)

21 #130 Ray Hartzog (WM)

22 #220 Marie Nelson (WF)

23 #112 Ethel Hughes (WF)

24 #163 Antonette Jennings (WF)
25

1 #133 Derwin High (BM)

2 #309 Leatha Turner (BF)

3 #193 Donna Holman (WF)

4 #225 Antoine Payton (BM)

5 #231 David Pinckney (BM)

6 #165 Deborah Johnson (WF)

7 #288 John Steadman (BM)

8 #291 Peggy Still (WF)

9 Alternates:

10 #249 Shellie Robinson (BM)

11 #318 Richard Walker (BM)

12 THE COURT: I'm going to appoint JURor #193,
13 Donna Holman, as foreperson, based on her background after
14 reviewing all of the information sheets.

15 (WHEREUPON, Jury was duly empanled.)

16 THE COURT: Let the record reflect I'm appointing
17 Donna Holman as foreperson of the jury. Any matters to
18 take up before we swear the jury?

19 SOLICITOR: Not from the State, Your Honor.

20 MR. SIMS: None from the defense, Your Honor.

21 THE COURT: Madam Clerk, if you will swear the
22 jury.

23 (WHEREUPON, Jury was duly sworn.)

24 THE COURT: Thank you very much ladies and gentlemen
25 of the jury. I'm going to ask all of you but Mr. Payton

1 to step to the jury room. Do not discuss this case, just
2 relax back there just a minute or two and let me take up
3 a matter with Mr. Payton.

4 (WHEREUPON, Jury retired to the jury room and
5 the following proceedings were held in the absence of the
6 jury.)

7 THE COURT: Mr. Payton, Lt. Edwards told me that
8 you had some kind of exam Saturday.

9 MR. PAYTON: Yes, sir.

10 THE COURT: Can you tell us about that and what
11 time and what all it entails?

12 MR. PAYTON: Just an English proficiency examina-
13 tion for graduate school.

14 THE COURT: And do you take it here in Orangeburg?

15 MR. PAYTON: Right on campus at 8:30 on Saturday
16 morning.

17 THE COURT: How long will it take?

18 MR. PAYTON: Take no longer than about an hour
19 and a half, two hours.

20 THE COURT: All right, you can step back with
21 the other members of the jury. Counsel, let's talk about
22 that, ya'll can come up.

23 (WHEREUPON, Mr. Payton retired to the jury room
24 and a Bench Conference was held out of the hearing of the
25 Court Reporter.)

1 THE COURT: All right, let's bring the jury in.

2 (WHEREUPON, The jury returned to the courtroom
3 and the following proceedings were held in their presence.)

4 THE COURT: Ladies and gentlemen of the jury,
5 I have a few comments to make to you to begin with and
6 then I will turn it over to counsel for opening statements.

7 I'm sure that all of you now fully appreciate
8 that this Court, the Court of General Sessions for Orange-
9 burg County, exists for the purpose of resolving questions
10 of alleged criminal conduct arising between the State of
11 South Carolina and the defendant. It is a guaranteed right
12 of every citizen that is charged with criminal conduct
13 be presented in open court according to certain rules and
14 procedures. The State has not only an equal right but
15 the duty to present a charge of criminal conduct in open
16 court according to the same rules and procedures. Each
17 of the parties, therefor, both the State and the defendant,
18 then have an equal right to the opportunity of this judicial
19 proceeding and have you, as a jury, selected and sworn
20 for the trial of this case.

21 One of the most important aspects of your duty
22 as a jury lies essentially in the oath that you have now
23 taken. That is, to well and truly try and determine the
24 facts of this case. That oath, in a very essential way,
25 says that you are the sole judges of the facts in this

1 case and obviously any case tried in court will involve
2 a question about what happened or how something came to
3 happen or who, if anyone, did anything in a particular
4 occurrence or circumstance.

5 From this point forward no one concerned with
6 this trial has a right to decide any question of fact in
7 the trial or the truth of it except you, the jury. The
8 facts are for your resolution and for decision, that is,
9 yours alone. And after you heard all of the evidence in
10 the case it will be your duty by your mutual and joint
11 discussions to determine the truth of the case by deciding
12 the weight and believability of each part of the evidence
13 and by applying the law of the case thereto.

14 The trial judge is the judge of the law in the
15 case. I have the responsibility, among other duties, to
16 preside over the trial, to rule on the admissibility of
17 evidence offered during the progress of the trial and to
18 state to the jury the law applicable to the case.

19 The constitution of South Carolina mandates that
20 the trial judge cannot directly or indirectly comment about
21 the facts in this case. Then the process of a verdict
22 is simply that you, the jury, first determine what is the
23 truth of the facts and then apply to that true state of
24 facts the principles of law that will be applicable and
25 by that process determine and report to the Court your

1 final verdict in the case, speaking the truth of the case
2 as you determine it.

3 The Court will fully and more completely state
4 to you the principles of law applicable to the issues in
5 this case before the case is submitted to the jury for
6 a decision. However, there are certain principles of law
7 applicable to the framework of every case in general sessions
8 court and now in a very basic fashion I will outline several
9 of these basic principles to you for your guidance.

10 The defendant has entered a plea of not guilty
11 to the charges contained in the indictments and I point
12 out to you that indictments are not evidence, they are
13 simply the written instruments that contain the charges
14 or charge against the defendant and they serve as the formal
15 document by which the case is processed into the court
16 system.

17 This plea of not guilty places upon the State
18 the burden of proving the case. And let me speak with
19 you a minute about the burden of proof. The defendant
20 is presumed in law innocent of all charges contained in
21 an indictment. The burden of proof requires the State
22 to prove guilt beyond a reasonable doubt and therefore
23 consistent with that burden the defendant or the accused
24 party shall be presumed innocent and that presumption of
25 innocence is sufficient to compel a verdict of not guilty

1 or a verdict of acquittal unless the jury concludes that
2 the State has satisfied its obligation to prove the defendant
3 guilty beyond a reasonable doubt.

4 The case will be opened by the Solicitor reading
5 or explaining to you the indictments, it will be an opening
6 statement. And then the defense will have an equal opportunity
7 to make a statement to you. Then we will have the evidentiary
8 portion of the case where you will receive the evidence.
9 After that, closing arguments will occur, after that the
10 charge of the law and then only after all that is completed
11 will you be asked to deliberate.

12 Now, all of you are aware from my previous charge
13 to you that this type of proceeding could involve what
14 is called bifurcation, in other words, two stages in the
15 trial. I have explained that to you. Now obviously all
16 parts of a case is important and you don't know which
17 witness in the case will most impress you, whether it's
18 the first witness or the last witness in reaching your
19 final conclusion. So you will need the guidance and
20 judgment of other jurors, you will need the guidance and
21 the principles of law that will be stated to you by the
22 Court. For all these reasons, then when we have recess
23 periods, when you retire to the jury room or during over-
24 night or meal recesses, the Court instructs you you are
25 not to undertake to discuss this case amongst yourselves

1 until the case is finally given to you for deliberation.

2 I instruct you at this time do not discuss this
3 case with anyone. Should anybody try to approach you and
4 discuss this case with you, do not discuss it with them,
5 whether it be in person, by telephone or whatever, do not
6 discuss it with them and immediately notify Lt. Edwards
7 of that type of conduct.

8 The last thing that I have to say to you before
9 turning this over to counsel. The verdict in the case must
10 be a unanimous verdict, that is, all twelve deliberating
11 jurors have to be in agreement.

12 That's all I have to say at this time and I'm
13 going to turn it over to the Solicitor for opening.

14 SOLICITOR: I want to thank y'all for being here.
15 I introduced myself to you earlier, I'm Walter Bailey and
16 I'm the Solicitor for this Judicial Circuit. Chris Murphy,
17 who is seated at the table here, is an assistant in my
18 office. Darlene Simmons works for us and Emery Rush is
19 a Detective with the Orangeburg County Sheriff's Department
20 and he worked on the case. Clark Whetstone, who is seated
21 in the back here, and he's also one of the Detectives that
22 worked this case.

23 I represent the State of South Carolina in this
24 case and the citizens of Orangeburg County.

25 Sammie Stokes, Sammie Louis Stokes, who is seated

1 over here with his attorneys at the other table, is charged
2 by the State of South Carolina with the rape and murder
3 of a 21 year old young woman from Orangeburg named Connie
4 Lee Snipes. He is also charged with kidnapping and criminal
5 conspiracy to commit these three crimes. Some of ya'll
6 have had jury service before, maybe in this courtroom,
7 maybe in other courtrooms, but this is the most important
8 case that you can serve as jurors on and as the Judge says
9 it demands your strict attention throughout the trial.

10 I have in my hand here the indictments, these
11 are not evidence, these are the charging papers that brings
12 Mr. Stokes in to the court to face a jury. And there are
13 four separate charges that are going to be tried together
14 and the State contends that all four of these offenses
15 are related and are a part of the same series of events
16 that occurred in May of 1998.

17 Judge Burch went over the trial procedure and
18 a trial in South Carolina is basically, you can think of
19 it as having five parts. We start out with the opening
20 statements which is what I'm doing now. What I'm saying
21 and when the defense gives their opening statement, what
22 they are saying, is not evidence, this is just a preview.
23 I'm going to touch lightly on the law and tell ya'll what
24 I anticipate some of the evidence we will bring out in
25

1 this case. Following the opening statements, you are going
2 to have the trial itself. I'm going to call witnesses,
3 a series of witnesses, that will get up in this witness
4 chair where all of ya'll were at one point or another earlier
5 this week and they will be put under oath and sworn to
6 tell the truth and each person has something to say about
7 the case. Some of the witnesses will identify photographs
8 and other items that may be put into evidence.

9 When all that testimony is over, the lawyers
10 get another opportunity to get up here and give a summary
11 of what they think are the important facts that came out.
12 That's not evidence either. Nothing a lawyer says is
13 evidence. The questions a lawyer asks are not evidence,
14 the answers would be evidence.

15 After that occurs, Judge Burch will charge you
16 or instruct you on the law and it will be your duty to
17 take the law as he gives it to you and you will go back
18 in that final stage, you deliberate, you bring back a
19 verdict in this case that speaks the truth. That's all
20 a trial is, it's a search for the truth and the jury are
21 the finders of the truth. You and only you can determine
22 what those true facts are from the witness stand.

23 At the end of the case the Judge will instruct
24 you on the elements of each of the four offenses that Sammie
25 Stokes is charged with. Murder is the unlawful killing

1 of someone with malice aforethought. He will define malice
2 to you, it's a depraved and evil state of mind and he will
3 instruct you that you can infer malice under certain
4 circumstances, a wrongful act without legal justification,
5 a homicide was committed with the intent to use a deadly
6 weapon. And the aforethought means that that mind set
7 has to occur at some point in time prior to the actual
8 killing. He will instruct you on that in more detail
9 later on.

10 The evidence in this case will show that Sammie
11 Stokes, in the commission of these crimes, did not act
12 alone, there were other people involved and you will hear
13 about Pattie Syphrette and Norris Martin and perhaps another
14 name will come up. And because of that, one of the things
15 that the Judge may charge you on at the end of the case
16 or instruct you on is accomplice liability or the hand
17 of one is the hand of all and that simply means that if
18 you're participating in a crime and in the course of that
19 crime someone is killed, is murdered, then everybody who
20 knowingly participated in that crime is guilty. For example,
21 if Mr. Murphy and Ms. Simmons and I decide to go rob the
22 7-11, I drive the car, Mr. Murphy goes in there grabs the
23 money and Ms. Simmons shoots the clerk, we're all guilty
24 of murder because we're all participating even though she's
25 the only one that pulled the trigger.

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1 Your sworn duty in this case is to judge the
2 guilt or innocence of one person, Sammie Louis Stokes.
3 So bear that in mind as you hear this case.

4 Judge Burch will also instruct you as to the
5 elements of kidnapping and criminal sexual conduct in the
6 first degree and criminal conspiracy. Kidnapping basically
7 involves restricting somebody's freedom of movement, making
8 them go where they don't want to go, or stay when they
9 want to go somewhere else. It can be accomplished by force,
10 it can be accomplished by trickery, deceit, tricking somebody
11 into going where they don't want to go. And it's a
12 continuous offense, it starts when a person's liberty is
13 deprived and ends when that liberty is restored, or in
14 this case, when that person is killed.

15 Criminal sexual conduct in the first degree in
16 the context of this case means simply forcible rape.

17 Criminal conspiracy is an agreement of one or
18 more people to commit a crime. In other words, it's a
19 separate crime for more than one person to agree with some-
20 body else to commit that crime.

21 So very basically those are the four charges
22 that Sammie Stokes is charged with that you will be
23 considering at the end of the case.

24 Now we all have our jobs to do in this courtroom.
25 My job is to present evidence on behalf of the State of

1 South Carolina concerning the offenses that Mr. Stokes
2 is charged with, to prove his guilt beyond a reasonable
3 doubt. I accept that burden of prove as I do in every
4 case that I prosecute. Mr. Sims and Mr. Johnson represent
5 the defendant. The Judge has two roles, he acts --- the
6 first role is he presides over the trial. He acts
7 basically as a referee and when objections are made he
8 rules on those objections and he basically runs the court.
9 At the end of the trial he will assume that second role
10 as an instructor, he will tell you what the law is and
11 then you will have to follow the law as he gives it to
12 you.

13 Your job as jurors is more important than anybody's
14 job in the courtroom, more important than my job, more
15 important than the Judge's job, because you are judges,
16 too. You judge the facts, you determine what those true
17 facts are and you do that based on the evidence, the sworn
18 testimony and again, a trial is a search for the truth
19 and you are the people that find the truth. And the way
20 you do that, when you listen to these witnesses you size
21 them up like you size somebody up that you deal with in
22 your everyday life, you judge their credibility or
23 believability. You ask yourselves if what that witness
24 is saying has the ring of truth about it, is it consistent
25 with the physical evidence, is it consistent with other

1 testimony that you find credible and just your good every-
2 day common sense. We don't want you to leave your common
3 sense at home, we want you to bring it to the courtroom
4 with you and use it and apply it and come back with a verdict
5 that speaks the truth in the case.

6 Now, what I want to do and, again, what I am
7 saying is not evidence, it's basically a preview of what
8 I anticipate the evidence is going to be when the case
9 actually starts. I'm going to talk to ya'll about what
10 I anticipate you are going to hear and what you are going
11 to hear is not a pleasant story, it's not a pretty story,
12 and ya'll aren't going to like some of the witnesses that
13 you hear from that is subpoenaed by the State. I can't
14 control the facts of the case. The facts are dictated by
15 who the witnesses are and the people who have knowledge
16 of it are subpoenaed to come here and testify.

17 You are going to find that one or more of these
18 people have plea agreements with the State of South Carolina
19 and that will be discussed with these witnesses and you
20 can certainly take that into consideration when you judge
21 the credibility of these witnesses. Some of the people
22 you are going to hear from aren't too bright, they're not
23 smart, take that into consideration.

24 Now in the presentation of the case, you're going
25 to hear that the defendant in this case, Sammie Stokes,

1 was a prisoner in the South Carolina Department of Corrections
2 and in April of 1997, or somewhere around that time frame,
3 he became roommates or cellmates with a guy named Roy
4 Toth. And Roy Toth had a girlfriend, Connie Snipes, who
5 was the murder victim in this case. As I said earlier,
6 Connie Snipes was 21 years old, and at different times
7 during this period of time that Roy Toth was locked up
8 in the Department of Corrections, Connie Snipes lived with
9 Pattie Syphrette who was Roy Toth's mother. Along with
10 her children, she had two children, Nicole and Brian.

11 You are going to hear that difficulties arose
12 between Roy Toth and his mother, Pattie Syphrette and Connie
13 Snipes and these difficulties involved disputes over the
14 children and Connie Snipes' unfaithfulness to Roy Toth
15 and other matters. You are going to hear that Stokes was
16 introduced to Pattie Syphrette by her son, Roy Toth, and
17 a relationship developed between Pattie Syphrette and Sammie
18 Stokes while Stokes was still locked up in prison.

19 You're going to hear evidence that Stokes made
20 plans with Pattie Syphrette that Roy Toth was also involved
21 in, to kill Connie Snipes after he got released from
22 prison. This was to be accomplished after his release
23 date which was May 5, 1998. Stokes was released from prison
24 on May 5, 1998 and ultimately he got together with Pattie
25 Syphrette here in Orangeburg County and on May 23, 1998,

1 or thereabouts, Stokes and Syphrette and Connie Snipes
2 with Pattie Syphrette driving, went to Branchville where
3 they picked up a friend of Stokes named Norris Martin.
4 You will hear from Norris Martin later on in the case.
5 They were in Pattie Syphrette's 1989 Chrysler LaBaron
6 automobile. Pattie Syphrette drove this group of four
7 people, herself, Connie Snipes, Norris Martin and the
8 defendant in this case, Stokes, to a wooded area in Branch-
9 ville. You are going to hear that Stokes produced a pistol,
10 at least three of the people in the group, Stokes, Connie
11 Snipes and Norris Martin, walked down a dirt road into
12 a field in a wooded area in the Town of Branchville.
13 You will hear that Stokes had a .38 caliber pistol that
14 he produced and told Norris Martin to have sexual inter-
15 course with Connie Snipes while he held the gun on her
16 and on Norris Martin.

17 Norris Martin had sexual intercourse with Connie
18 Snipes at gunpoint and then you're going to hear that Stokes
19 anally raped her. Following that, he shot her in the head
20 two times with the .38 caliber pistol. He and Norris Martin
21 dragged her body from the edge of the field into the woods.

22 On May 27th, Norris Martin's wallet that he left
23 at the scene, was found by a farmer plowing the field.
24 He got down off his tractor and then discovered Connie
25 Snipes' body in the woods.

1 You're going to hear that the following day,
2 May the 28th, after the police had gotten Norris Martin's
3 wallet and ID card, questioned him and got certain other
4 information about the car, the Chrysler LaBaron, at the
5 scene of that location. They went to Pattie Syphrette's
6 house at [REDACTED] in Orangeburg where they arrested
7 Pattie Syphrette and Sammie Stokes.

8 That's basically the facts of the case. There
9 will be other evidence, those are just the highlights.
10 I'm confident that at the end of this case the facts which
11 will be presented to you will prove Stokes guilty of all
12 four of these charges beyond any reasonable doubt. Guilt
13 or innocence is all that we are concerned with here this
14 morning at this point in time. As to each one of these
15 charges the question for ya'll to answer is does the evidence
16 show if he did it, did he do it, that's really the issues,
17 it's as simple as I can make it. The trial won't be like
18 on television where it's over in half an hour or an hour.
19 I'm hoping to be able to finish the State's case today.
20 I can't promise you I can, it may go into tomorrow, but
21 I can't imagine it lasting longer than maybe about midday
22 tomorrow.

23 Each witness has something to say and I ask you
24 to listen carefully to all of them. And to use your common
25 sense based on the facts and the law and judge whether

1 or not the State has proven Stokes of these crimes beyond
2 a reasonable doubt. My sole purpose here is to present
3 the truth to you and I ask for a verdict that speaks the
4 truth in this case as it is submitted to you. Thank you.

5 THE COURT: Mr. Sims.

6 MR. SIMS: May it please the Court, Mr. Bailey.
7 I always had difficulty in standing behind one of those
8 things. Good morning, Madam Forelady, ladies and gentlemen
9 of the jury. My name is Thomas Sims and I represent Sammie
10 Stokes. Sammie, would you stand up for a moment, please?

11 (WHEREUPON, Mr. Stokes stands.)

12 MR. SIMS: You can be seated. That's Sammie
13 Stokes and at the table with me is attorney Virgin Johnson.
14 We've been retained to represent Mr. Stokes on the charges.

15 Now, the State has told you that they have charged
16 Sammie Stokes with murder, criminal conspiracy, criminal
17 sexual conduct and kidnapping. When you were chosen as
18 a juror, we've been here three days now and you've had
19 the opportunity to go through this long process. Whenever
20 I get before a jury, I always tell them one thing. There's
21 no requirement that you leave your common sense outside
22 of that door. You bring your common sense in here with
23 you, you take it to the jury box, and you will take it
24 to your jury room when you get ready to deliberate.

25 Each one of you now has been elevated from just

1 a common citizen of the State of South Carolina, but rather
2 you are also now judges. You twelve individuals will now
3 judge the facts of this case. Each one of you, if I had
4 a robe I could give it to you at this point, and you could
5 put it on because no one will be able to judge the facts
6 in this case but you. And how do you do that? You judge
7 the facts of a case by listening to the witnesses as they
8 are brought into the courtroom. They will sit here, they
9 will take an oath and tell you what their version of the
10 facts are.

11 Now, as a juror, you would have the opportunity
12 to judge the demeanor of that witness and the credibility
13 of that witness. And we're going to talk about that in
14 a few moments just briefly about the credibility of the
15 witnesses. But that is your job, and no one, not I, not
16 the Judge, not Mr. Bailey, can intervene on your ability
17 to judge the facts.

18 Madam Forelady, ladies and gentlemen of the jury,
19 I, too, will give you a brief capsulation of what the facts
20 are going to show. Sammie Stokes was in jail and he met
21 Roy Toth, the son of Pattie Syphrette. Now, you will find
22 out when you listen and I believe the evidence is going
23 to show you that long before Sammie got involved with this
24 group, there was a conspiracy here to kill Connie Snipes.
25 Pattie Syphrette, Roy Toth. You are going to hear about

1 all the things that went on while they were in prison together
2 and how this all evolved. And one thing you will hear is
3 that Sammie never said that he would kill anybody.

4 You're going to hear that after he got out of
5 prison there was supposed to be some arrangement between
6 him and Pattie Syphrette but he never --- Pattie Syphrette
7 never showed up. You're going to hear that Sammie talked
8 to his friend, Norris Martin. Now, when you listen to
9 Norris Martin I want you to have the opportunity, you will
10 have that opportunity to sit here and observe the credibility
11 of Mr. Martin.

12 On the 28th of May in 1998, Norris Martin gave
13 a statement supposedly under oath. On the 29th of May
14 of 1998, Norris Martin gave another statement supposedly
15 under oath. On June 4th of 1998, Norris Martin gave another
16 statement supposedly under oath. In July, July 2nd of
17 1999, Norris Martin then gave a another version of his
18 story. And then on September the 12th of 1999, Norris
19 Martin gave another version of what happened out there.
20 Five different versions of what happened. You will have
21 that opportunity to observe him and see how --- what an
22 oath means to him.

23 We are not going to deny that Sammie Stokes had
24 some involvement. But what I will tell you is that the
25 State made a deal with the devil, Norris Martin.

1 SOLICITOR: Judge, I hate to object but this
2 is the type rhetoric that would better be reserved for
3 closing argument. Deals with the devil and stuff, this
4 is opening.

5 MR. SIMS: Your Honor, it's opening but I do
6 have the latitude to point out what my version of it is.
7 Mr. Bailey has sat here and given a version of everything
8 that was going on.

9 THE COURT: I'm going to let you proceed but
10 remember, it's the opening statement, so let's reel it
11 back in.

12 MR. SIMS: Yes, sir. Madam Forelady and ladies
13 and gentlemen of the jury, you are going to hear some
14 people and you may not like all of these people. You probably
15 won't like all of these people. You are probably going
16 to hear some things in this case that you don't hear
17 ordinarily. But I want you to --- and I know that you will
18 because you've been very conscientious, you've come in
19 here and you've told both the State and the defense that
20 you can be fair about this matter. And I want you to sit
21 back and listen to the evidence, judge the credibility
22 of the witnesses and make your decision based not upon
23 passion, not upon prejudice, but make your decision based
24 solely on the evidence that you are going to hear from
25 this chair and whether or not you can believe the people

1 who are testifying to you from this chair.

2 I'm not going to belabor the point any further
3 but I just simply want to say to you, thank you for giving
4 us of your valuable time today. This is a very important
5 day in the State of South Carolina, it's a very important
6 day in the life of Sammie Stokes. Thank you.

7 THE COURT: Solicitor.

8 SOLICITOR: If it please the Court, Your Honor,
9 I would like to open the State's case first of all by reading
10 a stipulation to the jury, if I could.

11 THE COURT: All right.

12 SOLICITOR: Your Honor, may I advise the jury
13 what a stipulation is?

14 THE COURT: Sure.

15 SOLICITOR: Ladies and gentlemen, a stipulation
16 is a fact or a situation where the attorneys have agreed
17 is correct without the necessity of calling a witness.
18 And the stipulation that the defense and I have agreed
19 to present to you is that the witness, Kennth Cutter, would
20 testify that he picked up Connie Snipes on May 21, 1998
21 from the home of Pattie Syphrette and that Connie Snipes
22 stayed with him overnight. That on May 22, 1998, Pattie
23 Syphrette came and picked up Connie Snipes from his house
24 and that Pattie Syphrette was alone when she came to pick
25 up Connie Snipes.

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1 Your Honor, the State would call Mark Ott.

2 THE COURT: Tell Mr. Ott to come into the courtroom.

3
4 MARK OTT, AFTER FIRST BEING
5 DULY SWORN, TESTIFIED AS FOLLOWS:

6 DIRECT EXAMINATION BY THE SOLICITOR:

7 Q. You are Mark Ott?

8 A. Yes, sir.

9 Q. Mr. Ott, would you tell the jury where you live,
10 please?

11 A. 148 Snoppy Drive in Branchville.

12 Q. All right, sir, and what type work do you do?

13 A. I'm a maintenance mechanic at Albemarle.

14 Q. All right, sir, and back in May of 1998, did
15 you live at the same address in Branchville?

16 A. Yes, sir.

17 Q. I want to call your attention to the approximate
18 date of Saturday, May 23, 1998, at about 11 P.M. and ask
19 whether or not you had occasion to be in your truck?

20 A. Yes, sir.

21 Q. Okay. And what were you doing that evening?

22 A. Out riding around.

23 Q. Were you by yourself?

24 A. Yes, sir.

25 Q. Are you familiar with the location called

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1 Jackson Road, it's off of Highway 78 in the Town of
2 Branchville?

3 A. Yes, sir.

4 Q. Okay. And how far is Jackson Road from your house?

5 A. Through the woods less than a quarter of a mile.

6 Q. Okay. And why did you happen to be in that area
7 driving your truck that night?

8 A. There's a road that comes off of there that is
9 a back entrance to my property and I was checking to see
10 if the cable was up.

11 Q. All right, sir, and is there a cable across Jackson
12 Road?

13 A. I think Jackson is probably the main dirt road
14 and this is a road that turns off of that.

15 Q. Okay. I'm going to show you just a rough sketch
16 and ask if you've seen that before.

17 A. Yes, sir.

18 Q. And does that accurately, not to scale of course,
19 but does that show the area that we're talking about, Jackson
20 Road and where the cable is that you're talking about?

21 A. Yes, sir.

22 SOLICITOR: Your Honor, we would offer this into
23 evidence.

24 MR. SIMS: No objection.

25 THE COURT: Without objection.

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1 (WHEREUPON, Sketch was entered and marked as
2 State's Exhibit #1.)

3 Q. Mr. Ott, I'm going to put this on the pedestal
4 and if you would, please, if you would just step around
5 here.

6 A. (Witness complies.)

7 Q. Show the jury where highway 78 is, across the
8 bottom, and Jackson Road is the left turn off of 78?

9 A. Yes, sir.

10 Q. And where is the cable that you're referring
11 to?

12 A. Right about in here.

13 Q. Okay. And when you drove up to the area of the
14 cable, did you make any observation there?

15 A. Yes, sir, there was a car parked in front of
16 the cable.

17 Q. Okay. And could you tell what kind of car it
18 was?

19 A. It was a red car with a black top and it looked
20 to be a convertible but I wasn't sure.

21 Q. Okay, did you note the tag number when you pulled
22 up there?

23 A. I wrote down a tag number.

24 Q. Okay, let me show you a photograph and ask if
25 this appears to be the car that you saw.

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1 A. Yes, sir, that appears to be it.

2 Q. And what is the tag number on that photograph?

3 A. TBD 770.

4 SOLICITOR: I would offer this, Your Honor.

5 MR. SIMS: No objection.

6 THE COURT: Without objection.

7 (WHEREUPON, Photograph of car was entered and
8 marked as State's exhibit #2.)

9 Q. Mr. Ott, if you could look up there behind you,
10 that's not projecting too well on that, but is that about
11 the view you had of the car as you pulled in behind it?

12 A. It was a little clearer than that.

13 Q. Okay, but that's the angle that you saw it at?

14 A. I was straight behind it.

15 Q. Okay. And that tag number is TBD 770, is that
16 correct, I had you back State's #2?

17 A. Yes, sir, TBD.

18 Q. And did you write it down or note it as TDB?

19 A. Yes, sir.

20 Q. Okay, but other than that, that's the tag that
21 you recall seeing on the car?

22 A. Yes, sir, I wrote it down as I was driving off
23 and I evidently ---

24 Q. Just got one letter out of place?

25 A. --- swapped a letter around.

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1 Q. Okay. Did you see anybody around the car?

2 A. No, sir.

3 Q. About how long do you think you were behind the
4 car in your truck observing?

5 A. Couple of minutes.

6 Q. Okay. And what did you do then? You can have
7 a seat back up there.

8 A. I backed out and drove down Jackson Road.

9 Q. How long were you gone?

10 A. Uhm --- I'm not exactly sure. Probably at least
11 five minutes or so. I drove down the road away and turned
12 around and came back.

13 Q. Okay, and when you came back, what, if anything,
14 did you observe?

15 A. The car was still sitting there and everything
16 appeared to be the same.

17 Q. Did you see anybody in the car or around the
18 car?

19 A. No, sir.

20 Q. Did you leave?

21 A. Yes, sir, I left again and drove out to highway
22 78 and stopped just across the road.

23 Q. And did you go back?

24 A. Yes, sir, I waited there a few minutes and went
25 back again and the car was still there and then I ---

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P. O. Box 374
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1 Q. And this would have been, what, the third time
2 that you went back out there?

3 A. Right.

4 Q. All right, after observing the car the third
5 time, did you see anybody in the car, around the car or
6 anywhere?

7 A. No, sir.

8 Q. Did you leave then?

9 A. Yes, sir.

10 Q. Where did you go?

11 A. Went and got my brother and asked him to come
12 ride with me.

13 Q. And your brother is David Ott?

14 A. Yes, sir.

15 Q. And when you got your brother and went back out
16 to where the car was or where you had seen the car, what
17 did you see?

18 A. The car was gone.

19 Q. Okay. What did you and your brother do when you
20 realized the car was no longer there?

21 A. We got out of the truck and we looked to see
22 if we could tell if anybody had been there outside of the
23 car.

24 Q. Okay.

25 A. And we saw footprints across the cable so we

1 got out and walked into the property.

2 Q. Can you come on up to the drawing here and show
3 the jury where you went.

4 A. We parked here and walked in, around in here,
5 and back over in here and then we came back out.

6 Q. Now, if you could stand a little bit to the side
7 so that the jurors on the end could see, Mr. Ott. Where
8 it says, " open field ", what was the condition of the
9 field at that time of the year, May of 1998?

10 A. I don't remember what was actually in that field.

11 Q. Okay. And over to the right of the field, right
12 over here, is there a wooded area?

13 A. Yes, sir.

14 Q. Where did you and your brother go when you went
15 up and got into the field, what part of the field did you
16 go to?

17 A. We walked in and there's a old road that went
18 around this way and then it goes over into my property.

19 Q. Your property being over to the left?

20 A. Yes, sir.

21 Q. All right, sir. And did you notice anything about
22 the field?

23 A. No, sir, not at that time.

24 Q. What did you do then?

25 A. We turned around and walked back out headed

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1 back to the truck.

2 Q. Did you observe anything when you went back to
3 your truck?

4 A. Yes, sir, we found a hat laying in the road.

5 Q. Okay, what type hat was it?

6 A. A baseball cap type hat.

7 Q. Did you take that cap with you?

8 A. Yes, sir.

9 SOLICITOR: Mr. Ott, I would ask you to please
10 answer any questions that Mr. Sims or Mr. Johnson may have.

11 THE COURT: Mr. Sims.

12
13 CROSS-EXAMINATION

14 BY MR. SIMS:

15 Q. You may have a seat, Mr. Ott. Mr. Ott, I'm going
16 to hand you a picture here and ask if you can identify
17 that picture as that area.

18 A. I would have to figure out which way I'm looking
19 at here.

20 Q. Let me see if I can give you a little bearing
21 here. This road coming down in here and that road back
22 out there, is that not Jackson Road?

23 A. Okay, all right.

24 Q. And that's 178 over there?

25 A. Okay, I got you.

1 Q. Now, after looking at that, can you --- do you
2 know where that is now?

3 A. Yes, sir.

4 Q. And is that your property or that the road that
5 leads back into your property, is that correct?

6 A. Yes, sir, my property is back over this way.

7 Q. Now, I'm going to hand you ---

8 A. Now, this is the field here where it comes out.

9 Q. That's the field right there, is that correct?

10 A. Right.

11 Q. All right, we're going to go into more depth
12 in a minute.

13 A. All right, I got you now.

14 Q. I'm going to hand you another one, is that just
15 a close up of the field?

16 A. It appears to be.

17 Q. Here's another picture of that same area with
18 the close up of the field and the road, is that correct?

19 A. Yes, sir.

20 MR. SIMS: Your Honor, at this time we would
21 move to introduce these three photographs.

22 SOLICITOR: Without objection, Your Honor.

23 THE COURT: Without objection they are entered.

24 (WHEREUPON, Three photographs of the field was
25 entered and marked as Defendant's exhibits #1,2 and 3.)

Mr. M. Ott-Cross by Mr. Sims

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1 Q. Mr. Ott, that is Defendant's #1, you can step
2 down for a moment. When you were talking about on Jackson
3 Road where you came from and is this area up here, that's
4 Jackson Road, is that correct?

5 A. Yes, sir.

6 Q. And this is the road that you were talking about
7 that came down into where your property, back out here
8 in this field?

9 A. Yes, sir.

10 Q. So you have --- there's a kind of chain or ---

11 A. A cable.

12 Q. ---a cable that goes across back up here, is
13 that correct?

14 A. Yes, sir.

15 Q. And the car was parked up to the cable, is that
16 correct?

17 A. Yes, sir.

18 Q. And the first time you came --- how long did
19 you stay behind that car?

20 A. Couple of minutes.

21 Q. Couple of minutes?

22 A. Yes, sir.

23 Q. Now, where were you coming from when you got
24 there the first time?

25 A. Branchville, I would have been coming off 78.

Mr. M. Ott-Cross by Mr. Sims

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1 Q. You would have been coming off of 78 into
2 Branchville. Now, when you were standing there a few moments,
3 did you hear any noise, hear any screaming?

4 A. I never got out of the truck.

5 Q. You never got out of the truck?

6 A. I did on the last time that we came back and
7 the car was gone.

8 Q. Okay. Now, that is kind of an isolated area,
9 there are no houses, nothing to obstruct noise from
10 magnifying, is that correct?

11 A. Uhm ---

12 Q. At night if somebody did something or, in your
13 opinion, at night if somebody was out there screaming or
14 hollering, you would have heard it?

15 A. I don't know, I probably had my radio on in the
16 truck, I don't recall that long ago.

17 Q. Okay. But you didn't hear anything. If someone
18 had shot a gun you would have heard it, isn't that correct?

19 A. Possibly, I didn't hear anything.

20 Q. Now, I'm going to put Defendant's #2 on the
21 projector, now this is the road coming into --- this is
22 the field that you and your brother walked into on that
23 night, is that correct?

24 A. Yes, sir.

25 Q. And you all came down in this direction?

Mr. M. Ott-Cross by Mr. Sims

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1 A. Right.

2 Q. And when you got down in here, you didn't see
3 anything at that point and you walked back out of the field
4 and that's where you say you found a baseball hat?

5 A. Yes, sir, cap.

6 Q. Baseball cap. Now, this is Defendant's #3,
7 another view. Now, that's just another aerial photograph
8 of --- back here is where the car would have been, isn't
9 that correct?

10 A. Yes, sir.

11 Q. And the field is over --- this is the field.

12 A. Right.

13 Q. This is the road that you and your brother walked
14 down or anyone would have to walk down to get back there,
15 is that correct?

16 A. Right.

17 Q. Now, let me ask you this. You can have a seat.
18 This was in May of 1998, is that correct?

19 A. Yes, sir.

20 Q. Were the trees in full foliage at that time?

21 A. Now, I would assume so, they should have been.

22 Q. So that would have been --- you could not see
23 from where you were to the back of that field, could you?

24 A. No, sir, not really. It was dark anyway.

25 Q. And you wouldn't have been able to see what

1 was back there.

2 A. Uh-huh.

3 Q. Now you were out there, you say about three minutes
4 the first time?

5 A. Roughly.

6 Q. And you left that area, you went down Jackson
7 Road some?

8 A. Right.

9 Q. And how long were you gone?

10 A. I don't know exactly, probably anywhere from
11 five to ten minutes. I rode down slowly and turned around
12 and came back.

13 A. Let's say five minutes, you were there three
14 minutes, about three minutes, according to you, and then
15 you left and were gone for about five minutes, so now we're
16 at eight minutes. And you came back and how long did you
17 stay at the car at this time?

18 A. I just pulled up and looked around to see whether
19 I saw anybody around.

20 Q. Now when you first pulled up to the car, how
21 close did you get to the car?

22 A. Probably 20 to 30 feet, I wasn't real close,
23 I didn't want to pull up that close to it.

24 Q. And did you see anybody either outside or in
25 the car?

Mr. M. Ott-Cross by Mr. Sims

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1 A. No.

2 Q. When you came back from going down Jackson Road,
3 did you see anybody inside or out of the car at that point?

4 A. No.

5 Q. So you left and you went back to the 78 side,
6 is that correct?

7 A. Yes.

8 Q. And how long were you gone this time?

9 A. Couple of minutes.

10 Q. Couple of minutes, and you came back to the car
11 again?

12 A. Right.

13 Q. Did you get closer to the car this time?

14 A. No, sir.

15 Q. About the same distance?

16 A. About the same.

17 Q. And you didn't see anyone inside or outside of
18 the car?

19 A. No, sir.

20 Q. Then you went and got your brother, is that correct?

21 A. Yes, sir.

22 Q. How long were you gone in order to get your
23 brother?

24 A. Probably ten or fifteen minutes. I don't now,
25 he was sitting down watching the sports, the 11 o'clock

Mr. M. Ott-Cross by Mr. Sims

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1 news, watching the sports part, and he got his shoes on
2 and his coat and we left, it wasn't long but probably ten
3 or fifteen minutes.

4 Q. About ten or fifteen minutes. So now you're at
5 ten or fifteen minutes, you got back to the site and the
6 car was gone?

7 A. Yes, sir.

8 Q. And you and your brother got out of the car,
9 walked to the back of the field.

10 A. Right.

11 Q. Didn't see anybody, you saw footprints and it
12 looked like you said, I believe at one time you saw maybe
13 two sets and then as you got back further, you saw more
14 footprints.

15 A. You could tell there was more than one set of
16 prints, you know, different type shoes. There were spots
17 that the ground was clear where you could see good, you
18 know, a lot of spots there was just grass and you couldn't
19 tell but there was one spot that was open and you could
20 tell it looked almost like somebody had stood up and moved
21 around a little bit, it was jumbled up with footprints
22 but, yes, sir.

23 Q. And was this on the road or back in the field?

24 A. On the road.

25 Q. Okay. And then basically you picked up the

Mr. M. Ott-Cross by Mr. Sims

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1 baseball cap and you kept that cap, is that correct?

2 A. We took it and gave it to the town policeman,
3 Boone Walters.

4 Q. Okay, so you just gave it to the town police,
5 that's all you know about this matter, is that correct?

6 A. Yes, sir.

7 MR. SIMS: That's all I have, Your Honor.

8 SOLICITOR: No re-direct, Your Honor.

9 THE COURT: Thank you, sir, you're excused.

10 SOLICITOR: State calls David Ott.

11

12 DAVID OTT, AFTER FIRST

13 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

14 DIRECT EXAMINATION BY THE SOLICITOR:

15 Q. Sir, you're David Ott?

16 A. Yes, sir.

17 Q. And you're Mark Ott's brother that testified?

18 A. Yes, sir.

19 Q. Mr. Ott, where do you live and work?

20 A. [REDACTED] Branchville is where I live,
21 and Don's Auto Electric in Orangeburg is where I work.

22 Q. Calling your attention back to May of last year,
23 around May 23rd, that evening around 11:20 P.M., did you
24 see your brother?

25 A. Yes, sir.

Mr. D. Ott-Direct by Solicitor

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1 Q. And what were you doing that evening?

2 A. I was watching the news when he came up.

3 Q. Okay, and did you go off anywhere with him?

4 A. Yes, sir.

5 Q. Where did ya'll go?

6 A. He noticed this suspicious vehicle around on
7 the dirt road by a cable and he was kinda curious as to
8 what it was doing there and decided he ought to take some-
9 body with him to go see. We rode around and the vehicle
10 was already gone so we decided to look past the cable to
11 see if there was any footprints and we saw footprints ---

12 Q. Let me show you a little map that we've got that
13 your brother testified about, State's #1, are you familiar
14 with that, have you seen that before?

15 A. Yes, sir.

16 Q. That's a rough map there we are talking about.

17 A. Right, right.

18 Q. Just come up here and show the jury where you
19 went.

20 A. We came and went up the dirt road to the cable,
21 the cable is somewhere right in here, I would expect it
22 to be. We got out and looked and saw footprints so we
23 got out and walked and follow the feet prints down. You
24 could see footprints sometimes, sometimes you couldn't.
25 We got on to the back and we went, you know, went off this

Mr. D. Ott-Direct by Solicitor

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1 way, in that direction. We lost track of footprints somewhere
2 along in here. And we walked on around to the back side
3 of his place and then we came back out.

4 Q. Okay, and on the way back out, did you go back
5 down that same dirt road?

6 A. Right, right.

7 Q. Did ya'll find anything on the way out?

8 A. Yes, sir, we found a hat.

9 Q. Okay, you can have a seat back up there, Mr.

10 Ott. Okay, what did ya'll do with the hat?

11 A. Took it to the police, Boone Walters.

12 Q. And did ya'll tell Mr. Walters what had occurred?

13 A. Yes, sir.

14 Q. And later on, did both you and y our brother
15 give information, basically the same information that you
16 are telling the jury, did you give that to the deputies?

17 A. Yes, sir.

18 Q. And give a statement?

19 A. Yes, sir.

20 Q. Did ya'll give the tag number that your brother
21 had written down to the police?

22 A. Yeah, yeah.

23 SOLICITOR: Mr. Ott, please answer any questions
24 that Mr. Sims may have of you.

25 THE COURT: Mr. Sims.

1 CROSS-EXAMINATION

2 BY MR. SIMS:

3 Q. Mr. Ott, I just have a few quick questions for
4 you. When your brother came and got you and you all went
5 out there, you didn't see anything or hear anything at
6 that point, did you?

7 A. No, sir.

8 Q. And the only thing you saw were some prints?

9 A. Right.

10 Q. And this is an aerial photo of that area. Can
11 you identify if that's the area that you are talking about?

12 A. Let me see, 78 is here, dirt road in there, cable
13 should be here. Yeah, I would think that's it.

14 Q. Well, let's let you do that again. Now if you
15 would look up at the television monitors here, if you would
16 just explain to me about that whole area. Would you do
17 that again, you can go up to the television and point it
18 out.

19 A. Let me look just a second here. It's a lot better
20 on the photograph. I would think from what I see here
21 that this would be highway 78, that would be the dirt road
22 coming in, the main dirt road.

23 Q. That's Jackson Road?

24 A. I would think so.

25 Q. That you're coming in, talking about the one

Mr. D. Ott-Cross by Mr. Sims

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1 that you pointed out as coming in?

2 A. Yes, that should be that main dirt road, you
3 say Jackson Road?

4 Q. Yes, sir.

5 A. All right, and then that's your drop off of there
6 and come back in to the opening here. The way we came,
7 we came in here and back into this opening.

8 Q. So you all walked the tree line back to your
9 left ---

10 A. Uh-huh.

11 Q. --- and then went all the way back over here
12 to this opening over here?

13 A. Yeah, if that's the opening I think it is, that
14 should be it.

15 Q. Okay. And on the way back out is when --- can
16 you --- I know this has been a long time and I'm about
17 to ask you something that I don't even know if you can
18 do or not. Can you tell us basically where you found that
19 hat from looking at that picture?

20 A. Not exactly for sure. It was in this section
21 of the road, sir, you know, it was up further towards the
22 field than it was back here.

23 Q. Okay.

24 A. Because we had walked for a while and it was
25 somewhere along in here.

1 Q. In the back part there?

2 A. Yeah.

3 MR. SIMS: Okay, thank you, sir. That's all
4 I have.

5 SOLICITOR: No re-direct and may he be excused?

6 THE COURT: Thank you, sir, you are excused.

7 SOLICITOR: Call Sublett McAlhaney.

8

9 ADOLPH SUBLETT MCALHANEY, AFTER

10 FIRST BEING DULY SWORN, TESTIFIED AS FOLLOWS:

11 DIRECT EXAMINATION BY THE SOLICITOR:

12 Q. Mr. McAlhaney, please tell the jury what your
13 full name is and your occupation.

14 A. It's Sublett Adolph McAlhaney, III and I'm a
15 farmer.

16 Q. Okay. And where do you farm?

17 A. Down in Branchville.

18 Q. Okay. How long have you been farming Branchville?

19 A. About five years.

20 Q. All right, I want to call your attention back
21 to May 27th of last year, 1998, and ask whether or not
22 you were farming then?

23 A. Yeah.

24 Q. Where were you on May 27, 1998?

25 A. There's a field about a half a mile back in

Mr. McAlhaney-Direct by Solicitor

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1 Branchville town limits.

2 Q. Okay, and what were you doing out there that
3 day?

4 A. Uhm --- we was discing the land to get started
5 to plant.

6 Q. Ya'll were discing a field out there?

7 A. Uh-huh.

8 Q. Let me ask you about this picture here, this
9 map that has been marked as State's #1, does that appear
10 to be a rough sketch of the area we're talking about.

11 A. Yeah.

12 Q. Have you seen that before?

13 A. Uh-huh.

14 Q. If you would, please, what I'm going to ask you
15 to do, if you will step beside the map you can use this
16 pointer so the jurors can see and just indicate --- there's
17 an open field on that, is that where you were discing?

18 A. Yeah.

19 Q. And as you were discing the field that day on
20 May 27th of last year, tell the jury what you saw.

21 A. Well, I came, you know, down the road and I turned,
22 I was turning with my disc and I saw a shovel laying right
23 here and ---

24 A. Somebody has written "shovel" on there, is that
25 the approximate location of where you saw it?

Mr. McAlhaney-Direct by Solicitor

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1 A. Yeah, that's where it was at.

2 Q. All right.

3 A. And I got off to see what was going on and then
4 I saw a bunch of clothes and stuff out here in the field.

5 Q. Do you recall what kind of clothes they were?

6 A. Yeah, a pair of shorts, some underwear, uhm ---
7 and that was about, you know, and there was a shirt right
8 on the edge of the woods, about right here.

9 Q. All right, and where that line is that goes up
10 above there, this line here on the other side of that,
11 is that woods?

12 A. Yeah, it's woods all in there.

13 Q. And you were down off your tractor, is that right.
14 by that time?

15 A. Yeah, I got out to see what, you know, what all
16 was going on.

17 Q. Did you observe anything else in the corner of
18 the field over there?

19 A. Yeah, there was a wallet, looked like a badge
20 and a driver's license on the ground, too.

21 Q. And did you see anything else?

22 A. That was all in the field I saw.

23 Q. Okay, did you walk into the woods at all?

24 A. No, I walked right on the edge, on the edge and
25 that's when I saw ---

Mr. McAlhaney-Direct by Solicitor

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1 Q. You walked on the edge of the field near the
2 woods?

3 A. Yeah.

4 Q. Did you look into the woods?

5 A. Yeah, I looked in the woods because I was looking
6 at the shirt right on the edge of the woods.

7 Q. And when you looked into the woods, did you see
8 anything?

9 A. Yeah, I saw, you know, a body down in the woods.

10 Q. And did you approach the body, walk up to it,
11 or just looked at it from the edge of the field?

12 A. I just stayed in the field and I could see it
13 down a path, a deer path or something.

14 Q. Okay. And could you tell this was a dead body?

15 A. Yeah.

16 Q. And how good of a look did you get at it from
17 where you were?

18 A. I could see her head, you know, the head, the
19 chest, the stomach and the upper part of her legs. I was
20 looking kind of straight, right straight down the path.

21 Q. Could you tell if it was a woman?

22 A. Yeah.

23 Q. Okay, was she laying on her front or on her back?

24 A. She was laying on her back.

25 Q. Could you tell if she had any clothing on her?

Mr. McAlhaney-Direct by Solicitor

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1 A. I didn't see none, I didn't see anything on her.

2 Q. All right, after seeing this body in the woods
3 and the clothing and shovel and the wallet and the license
4 or ID card or whatever, what did you do then?

5 A. I just got back on the tractor and went to my
6 parents' house. We called the Sheriff.

7 Q. Okay, you called the Sheriff or did you see the
8 Branchville police?

9 A. Yeah, well, yeah, it's the Branchville Police,
10 we went up to the town hall.

11 Q. All right, do you recall who you talked to?

12 A. Uhm --- Officer Judy came up and we talked to
13 him.

14 Q. Did you go back out to the field with Officer
15 Judy?

16 A. Yeah, I rode back out there.

17 Q. Now, let me ask you this. When you saw the license
18 and all the stuff, the body and the clothing, did you touch
19 anything?

20 A. No, I didn't touch anything.

21 Q. And when you went back out there with Officer
22 Judy, was everything still in the same location that you
23 had first seen it in?

24 A. Yeah, everything was the same.

25 Q. And did either you or Officer Judy move anything?

Mr. McAlhaney-Direct by Solicitor

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1 A. No, we didn't touch anything.

2 Q. Okay, how long did you stay out there?

3 A. When we went back?

4 Q. Yeah.

5 A. I just waited until, you know, most of the deputies
6 got there and stuff.

7 Q. And did anybody, in your presence, move anything
8 or disturb the scene in any way?

9 A. Not that I saw.

10 Q. Okay.

11 SOLICITOR: MR. McAlhaney, please answer any
12 questions Mr. Sims may have for you.

13 THE COURT: Mr. Sims.

14
15 CROSS-EXAMINATION

16 BY MR. SIMS:

17 Q. Mr. McAlhaney, just a few questions for you.
18 Up here on the monitor is an aerial photograph of that
19 area. Could you come down for a moment, please?

20 A. (Witness complies.)

21 Q. This is the --- and you correct me if I'm wrong ---
22 this is the field that you were in, is that correct?

23 A. Yes, sir.

24 Q. And you came out into this field on your tractor,
25 is that correct?

Mr. McAlhaney- Cross by Mr. Sims

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1 A. Uh-huh.

2 Q. About how far out in this field was the shovel?

3 A. The shovel was right on the edge, right here
4 in the tree line.

5 Q. Okay, and about from that point you say you saw
6 some clothes.

7 A. Yeah.

8 Q. Where were they?

9 A. They were kinda over right in the corner out
10 in the field about 20 feet.

11 Q. Out in the field?

12 A. Yeah, they were out in the field.

13 Q. Okay. Now, when you looked and you got down
14 off of your tractor, did you see any place where a hole
15 had been dug?

16 A. Yeah.

17 Q. Where was that?

18 A. The hole was over here by this shovel, right
19 under the trees and the roots, like they were trying to
20 dig through the roots.

21 Q. Okay. And then you got off and you looked and
22 you found --- you saw a wallet, you saw something that
23 looked like a little police badge, too, is that correct?

24 A. Yeah.

25 Q. And an identification?

Mr. McAlhaney-Cross by Mr. Sims

817

1 A. Yeah.

2 Q. And that's when you said you looked in the woods
3 from that point or did you move over any further?

4 A. I just walked around a little bit more and saw
5 the shirt on the edge of the woods there.

6 Q. Okay, and you saw the shirt on the edge of the
7 woods, about what point? If you could just kind of ---

8 A. It was kind of over in here, over there about
9 3 feet in the woods.

10 Q. Okay. You can take your seat. And you got off,
11 you went to your mother's house and that's when you basically
12 went down to the police, is that correct?

13 A. We called and went up there.

14 MR. SIMS: That's all I have, Your Honor.

15 SOLICITOR: No re-direct.

16 THE COURT: Thank you very much, the witness
17 is excused.

18 SOLICITOR: Shane Judy.

19
20 SHANE JUDY, AFTER FIRST
21 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

22 DIRECT EXAMINATION BY THE SOLICITOR:

23 Q. Mr. Judy, you are a trooper with the Highway
24 Patrol at this time?

25 A. Yes, I am.

Mr. Judy-Direct by Solicitor

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1 Q. Okay, back in May of 1998 where were you working?

2 A. At the Branchville City Police Department.

3 Q. And calling your attention to May 27th of last
4 year, 1998, were you on duty that day?

5 A. Yes, I was.

6 Q. Do you recall seeing Sublett McAlhaney?

7 A. Yes, I do.

8 Q. Okay, and did Mr. McAlhaney give you some
9 information that caused you to go somewhere with him?

10 A. Yes, he did.

11 Q. Where did ya'll go?

12 A. I met Mr. McAlhaney at the Branchville Police
13 Department. He then rode with me and directed me out towards
14 a field that was owned by his family.

15 Q. And there's a map here, State's #1, and I ask
16 you if you've seen that before and if you are familiar
17 with it?

18 A. Yes, I have.

19 Q. Does that show the field where ya'll went?

20 A. Yes, sir.

21 Q. Now is that field located in the city limits
22 of Branchville?

23 A. Yes, it is.

24 Q. And that's in Orangeburg County?

25 A. Yes, it is.

Mr. Judy-Direct by Solicitor

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1 Q. When you and Mr. McAlhaney got out there, just
2 briefly tell the jury what you saw.

3 A. We drove down to the end of the road which opens
4 up into the mouth of the field. Myself and Mr. McAlhaney
5 got out of the car, he took me to the right headed to the
6 corner of the field and there I found --- do you want me
7 to go ahead with what I found?

8 Q. Yes, sir.

9 A. There I found a wallet that was open. Also I
10 saw a shovel where the ground was kinda disced up, but
11 the wallet was opened. There was a small plastic badge
12 that we gave out to different little kids as a little play
13 badge. Also I found an ID and other articles, just articles
14 that belonged in that wallet. And there was also female
15 clothing that was lying on the ground also.

16 Q. Did you observe a body?

17 A. After Mr. McAlhaney had pointed into the corner
18 of the woods where he had found it, I also had witnessed
19 that body, yes, sir.

20 Q. Okay. How close did you get to the body?

21 A. Within -- just the corner of the woods, probably
22 would have been 20 yards, 20 feet, somewhere in there.

23 Q. Could you tell if it was a male or a female?

24 A. I could tell it was a female.

25 Q. And what position was the body in?

Mr. Judy-Direct by Solicitor

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1 A. The body was laying flat on its back. I noticed
2 that it did have one shoe on and one shoe off. Other than
3 that it appeared from that angle to be nude. The body ---
4 I couldn't tell the exact position but I know that the
5 body was laying flat on its back facing upward.

6 Q. Okay. And you were the first law enforcement
7 officer to arrive at that death scene?

8 A. Yes, I was.

9 Q. Were other law enforcement officers called or
10 contacted?

11 A. Yes, they were.

12 Q. Who was contacted?

13 A. I got back to my patrol car and I advised Orangeburg
14 County Sheriff's Department that I had found a body and
15 then the detectives were dispatched and also SLED was
16 called.

17 Q. And did you stay there until other law enforcement
18 officers arrived?

19 A. Yes, I did. I secured the scene.

20 Q. Tell the jury what you mean by secured the scene.

21 A. After I identified what I had as far as having
22 a body in the woods, I went back, closed the road off and
23 we roped the road off with caution tape and keep out tape
24 to keep anybody else out. The only people that were there
25 were myself and Mr. McAlhaney was sent back to his vehicle.

Mr. Judy-Direct by Solicitor

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1 Q. Okay. And did anybody disturb the crime scene,
2 move any of the clothing or the shovel or the body or anything
3 of that nature?

4 A. No, they did not.

5 Q. And if they had done that you would have seen
6 that?

7 A. Yes, sir.

8 Q. And the body was in the same position, the clothing
9 in the same position when the other law enforcement officers
10 arrived as when you first saw it?

11 A. Yes, sir.

12 SOLICITOR: Mr. Judy, please answer any questions
13 Mr. Sims may have for you.

14 THE COURT: Mr. Sims.

15

16 CROSS-EXAMINATION

17 BY MR. SIMS:

18 Q. Mr. Judy, just a few questions for you. When
19 you saw the wallet and the identification, did you look
20 to see whose name was on it?

21 A. The ID, yes, I did look down at it. It was facing
22 upward.

23 Q. It was facing upward and there was a picture
24 and everything on the ID?

25 A. Right.

1 Q. And did you see whose name was on that?

2 A. The name on it was Norris Martin.

3 Q. Okay, and how far away from the clothing that
4 you found was the wallet and the ID?

5 A. They were in the proximity to each other. I
6 would say the whole proximity may have been 10 feet from,
7 you know, just that area of --- it was not a big gap, from
8 me to you.

9 Q. About from me to you, is that what you are talking
10 about?

11 A. Right.

12 Q. So the wallet would be, for example, where you
13 were --- where you are now and the clothing would be right
14 here where I'm standing.

15 A. Right, and the shovel and everything was all---

16 Q. And the shovel was all in that same area. Now,
17 the ID, was the ID inbetween there or closer to the clothes?

18 A. The ID was with the wallet.

19 Q. The ID was with the wallet?

20 A. Yes.

21 Q. And did you know Norris Martin before that day?

22 A. He worked with the town.

23 MR. SIMS: That's all I have, Your Honor.

24 THE COURT: Any re-direct?

25 SOLICITOR: Yes, sir.

Mr. Judy-Re-Direct by Solicitor

823

1 RE-DIRECT EXAMINATION BY THE SOLICITOR:

2 Q. Let me ask you a couple of things. You said
3 the little badge that you saw, it was like a toy police
4 badge, plastic badge.

5 A. Yes, sir.

6 Q. And had you seen those kind of badges before?

7 A. Yes, sir.

8 Q. And what did ya'll use them for?

9 A. They were just a promotional, just to give to
10 the kids to, you know, enhance law enforcement around town.
11 Just a play badge.

12 Q. All right. Did you ever give Mr. Martin one
13 of those badges, the play badge?

14 A. No, I did not.

15 Q. Let me hand you an envelope and ask if you will
16 take a look at that. Does that appear to be one of the
17 plastic badges that you've been talking about?

18 A. It appears to be, yes.

19 Q. And is that similar to the one that you saw out
20 there at the scene?

21 A. It's similar, yes.

22 SOLICITOR: I would like this marked for
23 identification.

24 THE COURT: All right.

25 (WHEREUPON, Plastic police badge was entered

Mr. Judy-Re-Direct by Solicitor

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1 and marked as State's exhibit #3 for Identification Only.)

2 SOLICITOR: Your Honor, may I publish this to
3 the jury?

4 MR. SIMS: Your Honor, it's not in evidence,
5 he said it was marked for identification and I would object
6 to him showing it to the jury.

7 SOLICITOR: I move it into evidence then.

8 THE COURT: Any objection?

9 MR. SIMS: No.

10 (WHEREUPON, Plastic police badge was entered
11 and marked as State's exhibit #3.)

12 Q. Junior Police, Knoxville Police Department.

13 SOLICITOR: Mr. Judy, that's all I have, thank
14 you.

15 THE COURT: Anything else, Mr. Sims?

16 MR. SIMS: Nothing further.

17 THE COURT: You may be excused, thank you, sir.

18 SOLICITOR: Call Ted Shealey.

19

20 TED SHEALEY, AFTER FIRST BEING
21 DULY SWORN, TESTIFIED AS FOLLOWS:

22 DIRECT EXAMINATION BY THE SOLICITOR:

23 Q. So you are Ted Shealey?

24 A. Yes, sir.

25 Q. Okay, and what is your educational background?

Mr. Shealey-Direct by Solicitor

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1 A. I'm a graduate of the University of South Carolina,
2 I have a four year degree in Criminal Justice. I had been
3 a certified police officer for approximately 13 years.
4 Of that 13 years, around 7 have been at SLED.

5 Q. And SLED is the State Law Enforcement Division?

6 A. Yes, sir.

7 Q. All right, sir, and what do you do at SLED now?

8 A. I'm assigned to the latent print and crime scene
9 unit.

10 Q. And what does the latent print and crime scene
11 unit do?

12 A. At the request of any law enforcement agency
13 throughout the state, we will respond to a crime scene
14 and assist them with the collection, preservation and
15 documentation of any evidence. From there, this evidence
16 is returned to the lab where it is distributed to the
17 particular disciplines and given a scientific analysis.
18 My particular area is impression evidence.

19 Q. All right, sir, and I'm going to call your attention
20 to May 27, 1998 and ask whether or not in the course of
21 your duties at SLED you responded to an area in Branchville
22 in Orangeburg County?

23 A. Yes, sir, I did.

24 Q. And at whose request was that?

25 A. That would have been Officer Jody with the Branch-

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1 ville PD.

2 Q. I want to show you what has been marked as State's
3 exhibit #1 which has been identified as a rough sketch
4 of an area in Branchville. Does that appear to be a rough
5 sketch of the location that you went to?

6 A. Yes, sir, it is.

7 Q. Was the area around that field, was that secured
8 when you got there?

9 A. Yes, sir, it was.

10 Q. Were there other law enforcement officers present
11 before you got there?

12 A. Yes, sir, there were.

13 Q. And were you by yourself or was there another
14 agent with you?

15 A. No, sir, there were two other agents present
16 with me.

17 Q. And using your notes if you need to refresh your
18 recollection, it's been over a year, about what time was
19 it when you arrived at the field?

20 A. Received the call at 7:06 P.M., we arrived on
21 the scene at 8:40 P.M.

22 Q. Okay, did you bring lights out there or was it
23 still daylight?

24 A. It was still partially daylight, kinda that dusk
25 gray area, but there was lights already present and set

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1 up for us there.

2 Q. And when you go to a crime scene like this in
3 the course of your duties at SLED, do you generally carry
4 a camera with you to document what you have seen?

5 A. Yes, sir, we do.

6 Q. Tell the jury, please, in general what you
7 observed when you arrived at that field.

8 A. Basically once you entered into the field, we
9 made a right hand to where the crime scene tape was set
10 up and the lights were set up and the other officers were
11 at. On the edge of the field there were several cones set
12 up, orange cones or marker cones. It's what we use in
13 our job to mark potential pieces of evidence. There were
14 several at the edge of the field and moving on further
15 into the wood line, we found where the body was located
16 and several other pieces of evidence.

17 Q. And did you take some photographs of the scene?

18 A. Yes, sir, I did.

19 Q. I want to hand you a series of photographs, I
20 think there are five of them, and ask whether or not you
21 took these pictures on May 27, 1998?

22 A. Yes, sir, I took these photographs.

23 Q. Do those pictures accurately depict what you
24 observed through your camera lens on that evening?

25 A. Yes, sir, it is.

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1 SOLICITOR: Your Honor, I would offer these.
2 I've shown them to Mr. Sims and I believe without
3 objection.

4 MR. SIMS: No objection, Your Honor.

5 THE COURT: All right.

6 (WHEREUPON, Five photographs of the crime scene
7 was entered and marked as State's exhibits #4,5,6,7 and
8 8.)

9 Q. Mr. Shealey, what I'm going to do is I'm just
10 going to read the exhibit numbers in the record one at
11 a time and put them on the monitor and ask you to look
12 up there and tell the jury what they depict and then I'm
13 going to hand them to the jurors so they can pass them
14 around because the monitor is not that clear. This is
15 State's #4.

16 A. This is a photograph depicting cone #3 and at
17 cone #3 there was a pair of blue shorts.

18 Q. I show you State's #6.

19 A. This is a photograph depicting cones #1 and #3,
20 next to cone #1 is a shovel. Next to it would be a
21 partially dug hole and to the left would be #3 marker which
22 here again is the blue shorts.

23 Q. They are the same shorts that were shown in the
24 previous picture?

25 A. Yes, sir.

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1 Q. Okay. State's #7.

2 A. Here again this is a picture depicting cone #1,
3 here again you've seen the shovel and the partially dug
4 hole. It's just at a different angle from the prior picture.

5 Q. State's #5.

6 A. This is a photograph depicting cone #2 and in
7 it is a pair of pink panties.

8 Q. And the final picture would be State's #8.

9 A. In this photograph you're seeing cones #2 and
10 #3. This is looking from the field in towards the woods
11 and you see, again, cone #2 which is the pink panties and
12 on further back would be cone #3, which would be the blue
13 shorts.

14 Q. Okay, just to sum it up, what articles of clothing
15 did you find in the edge of the field?

16 A. We found a pair of pink panties and a pair of
17 blue shorts.

18 Q. All right, sir. I hand you this and ask you
19 if this appears to be the shovel which is shown in those
20 photographs?

21 A. Yes, sir, this is the shovel that was collected
22 at the scene. You will note that it bears my lab number,
23 my item number and my initials.

24 Q. And you retrieved that from the scene?

25 A. Yes, sir, I did.

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1 SOLICITOR: Your Honor, I would offer this into
2 evidence.

3 MR. SIMS: No objection.

4 THE COURT: Entered without objection.

5 (WHEREUPON, Shovel was entered and marked as
6 State's exhibit #9.)

7 Q. Mr. Shealey, did you go into the woods and observe
8 the body?

9 A. Yes, sir, I did.

10 Q. Would you tell the jury what you observed as
11 far as the location, the position of the body, the clothing
12 of the body.

13 A. At about 37 feet inside the wood line from the
14 field going inward, we found a decomposing body laying
15 on its back, hands above its head. We found what appeared
16 to be a sports bra or a tank top that had been pushed up
17 over the breasts. The body was missing the shoe and sock
18 on the left foot and had a sock and shoe on the right foot.
19 And it was in advance stages of decomposition and by saying
20 that I mean, we already had insects activity and other
21 things.

22 Q. All right, now, the position of the body on it
23 s back ---

24 A. On its back, yes, sir.

25 Q. --- what was the position of the legs?

Mr. Shealey-Direct by Solicitor

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1 A. The body, if you can picture me lying flat, the
2 hands were above the head like this and the legs were some-
3 what opened, not closed like this but rather somewhat
4 opened.

5 Q. Would you state whether or not you observed a
6 wallet in the area of the crime scene?

7 A. Yes, sir, a wallet was found.

8 Q. And was there an ID found?

9 A. Yes, sir.

10 Q. And was a plastic police badge, a toy police
11 badge found?

12 A. Yes, sir, that was also found, yes, sir.

13 Q. I hand you what has been marked as State's #3
14 and ask if that appears to be the plastic badge?

15 A. Yes, sir, this is the badge that was found at
16 the scene. It bears my lab number, my item number and
17 my initials.

18 Q. And I'm going to hand you this and ask if this
19 appears to be the Highway Department license found at the
20 scene?

21 A. Yes, sir, this was the South Carolina ID found
22 at the scene. Here again, it bears my lab number, my initials
23 and item number.

24 SOLICITOR: ^{FEI}We would offer this into evidence.

25 MR. SIMS: No objection.

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1 THE COURT: Without objection it is entered.

2 (WHEREUPON, South Carolina ID card was entered
3 and marked as State's exhibit #10.)

4 Q. I'm going to put this up on the monitor here,
5 Mr. Shealey, State's #10, that black stuff on there is
6 what?

7 A. That is black fingerprint powder. It is a chemical
8 technique that we use in the development of fingerprints
9 to help enhance a fingerprint if one is pressed on that
10 particular item.

11 Q. And for the record, whose card is that, what
12 is the name on that?

13 A. It bears the name Norris Martin.

14 SOLICITOR: Your Honor, I have no further questions
15 of Mr. Shealey at this time. I would like to reserve the
16 right to recall him.

17 THE COURT: All right. Mr. Sims.

18
19 CROSS-EXAMINATION

20 BY MR. SIMS:

21 Q. Mr. Shealey, did you do any fingerprint analysis
22 of this shovel? Were you able to lift any latent prints
23 off of it?

24 A. No fingerprints were developed on the shovel.

25 Q. And the ID information that you found, that

Mr. Shealey-Cross by Mr. Sims

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1 belonged to Norris Martin, too, is that correct?

2 A. The ID, here again, had the name Norris Martin
3 on it and the wallet had some contents in it that bore
4 his name.

5 Q. There were other items that were found out there
6 that you all put cones on, is that correct? I'm going
7 to hand you a picture and ask you if you took this picture?

8 A. Yes, sir, I took that picture.

9 MR. SIMS: We would move this into evidence,
10 Your Honor.

11 SOLICITOR: No objection.

12 THE COURT: Entered without objection.

13 (WHEREUPON, Photograph of the scene was entered
14 and marked as Defendant's exhibit #4.)

15 Q. Did you also secure this and was this analyzed
16 by you or someone at SLED?

17 A. That particular item of evidence was collected
18 however it was turned over to the coroner.

19 Q. And you don't know if anyone --- do you know
20 if anyone at SLED did any analysis on this material?

21 A. No, sir, I don't know.

22 Q. Okay. And this is State's #6, you took that
23 picture, is that correct?

24 A. Yes, sir, I did.

25 Q. And that's the one that showed the shovel and

Mr. Shealey-Cross by Mr. Sims

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1 a partially dug hole?

2 A. Yes, sir.

3 MR. SIMS: That's all I have.

4 SOLICITOR: No re-direct at this time, Your Honor.

5 Call Jack Coleman.

6 MR. SIMS: May we approach, Your Honor?

7 THE COURT: Yes.

8 (WHEREUPON, A bench conference was held out
9 of the hearing of the jury and the court reporter.)

10 THE COURT: Madam Foreman and ladies and gentlemen
11 of the jury, we are going to break for lunch now. Remember
12 don't discuss the case and we will try to be back here
13 ready to go at 2:15. The jury is dismissed for lunch.

14 (WHEREUPON, The jury took the luncheon break
15 and the following proceedings were held in their absence.)

16 SOLICITOR: Judge, Jack Coleman who is the State's
17 next witness is a Detective-Sergeant and I was going to
18 call him at this point for basically the sole purpose of
19 getting into his investigation of the case and the circum-
20 stances leading up to Mr. Stokes' arrest and Pattie Syphrette's
21 arrest and stopping the testimony at the time of the
22 arrest.

23 He was involved later on in the taped statement
24 that was part of what came out in the Jackson -vs- Denno
25 hearing. After going over that and just reviewing the

1 evidence, at this time it's not my intention to introduce
2 that taped statement. And Mr. --- I didn't want to lead
3 Mr. Sims to believe that I was going to do that and then
4 not do it. But I'm advising him at this time that I'm
5 not going to introduce that taped statement. As far as
6 him introducing that, I would object to it, it's partly
7 self-serving, it's conflicts with the letter that came
8 along later and I don't know of any basis for him to put
9 that taped statement in himself. As I said earlier, I think
10 I can introduce that if I choose to introduce it as a
11 statement of a party opponent, he's not in that position.
12 So I wasn't going to introduce the statement, the taped
13 statement.

14 MR. SIMS: Well, I guess I'm a little incredulous
15 about this. He took a statement, he was involved in the
16 investigation. He should be able to testify as to what
17 the person whom he arrested said at the time that he was
18 arrested. They took a lengthy taped statement of what
19 my client said. They took that statement and that was
20 part of the statement that the Court said it would not
21 let the transcript in but would allow the --- would allow
22 the taped statement itself in. This is a part of his
23 investigation, this is a --- and he took that statement
24 and it should be allowed in as a statement. It is not
25 all exculpatory or it's not all self-serving to my client.

1 It admits his involvement in the matter and it admits that
2 he had some involvement in it and it talks about what his
3 involvement was at that time. So it is not --- it is not ---
4 it is a statement that's basically against his interests.
5 If it had said that he was not out there and not around,
6 not anywhere around, I may be able to agree somewhat with
7 the limited interpretation that Mr. Bailey is using as
8 it relates to self-serving statements but this is not a
9 self-serving statement. He actually, at this time, talks
10 about his involvement in the matter and I should be able
11 to cross-examine the State's witness, the person who did
12 the investigation, as to whether or not he made a statement
13 and the contents of that statement.

14 SOLICITOR: Your Honor, I don't believe Mr. Sims,
15 the defense attorney, can tell me what evidence to put
16 in. That's a matter of trial --- although the Court has
17 said I can put it in under Jackson -vs- Denno, I don't
18 think I've got to put it in. And as far as Mr. Sims, if
19 I call him for one purpose, Mr. Coleman for one purpose,
20 and cross-examination, I don't know what the basis for
21 Mr. Sims' eliciting that statement would be. If I don't
22 put it in as a declaration of a party opponent and he attempts
23 to put it in, it's hearsay under the hearsay rule. It's
24 an out of court statement made by his client that he's
25 trying to put in.

1 MR. SIMS: Your Honor, unlike the federal jurisdic-
2 tion where you have --- may be bound by those kinds of
3 parameters, you are bound by the scope of the direct examina-
4 tion, in the state of South Carolina that is not the law.
5 When you put a person up, I have the right to cross-examine
6 him about what he did and where --- what was his involvement,
7 whether he took a statement and the contents of those state-
8 ments.

9 SOLICITOR: It's hearsay if he tries to put it
10 in under Rul 801 (d)(2). I mean, the definition of hearsay,
11 it's a statement, his client is the declarant making a
12 statement out of court. The only time it wouldn't be hearsay
13 would be if it's an admission by a party opponent. It
14 says the statement is offered against the party. I can
15 offer it against him but he can't offer it for him. It's
16 hearsay.

17 THE COURT: Wait just a minute.

18 MR. SIMS: We will withdraw our request as it
19 relates to that first statement, that one that was taken
20 on, I believe it was the 4th.

21 SOLICITOR: The taped statement.

22 MR. SIMS: The taped statement.

23 THE COURT: All right. Let's go to lunch and
24 be back in an hour.

25 (WHEREUPON, A short luncheon recess was taken

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1 and then the proceedings resumed.)

2 THE COURT: All right, counsel, are you ready
3 for the jury?

4 SOLICITOR: State's ready.

5 MR. SIMS: Yes, sir.

6 THE COURT: Bring them in.

7 (WHEREUPON, The jury returned to the courtroom
8 and the following proceedings were held in their presence.)

9 THE COURT: Solicitor.

10 SOLICITOR: State calls Jack Coleman.

11

12 JACK COLEMAN, AFTER FIRST
13 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

14 DIRECT EXAMINATION BY THE SOLICITOR:

15 Q. State your full name, please.

16 A. It's Detective Sergeant Jack Coleman.

17 Q. And you are employed as a Detective Sergeant
18 at the Orangeburg County Sheriff's Office?

19 A. Yes, I am.

20 Q. How long have you been a detective?

21 A. Approximately 12 years. I've been at the Sheriff's
22 Department for 12 years, the detective division for
23 approximately 6.

24 Q. I want to call your attention to May 27, 1998,
25 last year, and ask whether or not you went to the wooded

Mr. Coleman-Direct by Solicitor

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1 area in the Town of Branchville in Orangeburg County where
2 a body had been found?

3 A. Yes, I did.

4 Q. And is that location in Orangeburg County for
5 the jurisdiction of your agency?

6 A. That's correct.

7 Q. And I'm going to ask whether or not you saw State's
8 #10 which has been identified as Norris Martin's ID card.

9 A. Yes, I did.

10 Q. And I also ask you whether or not the Ott brothers
11 reported to law enforcement that they observed a car with
12 the tag number TDB 770?

13 A. Yes, they did.

14 Q. And ya'll got that tag number, did you make ---
15 is there a computer where you can run that tag and try
16 to find out who owns the vehicle is?

17 A. That's correct, through dispatch.

18 Q. And did ya'll run that tag to try to find out
19 whose car had been seen out in the area where that body
20 as found?

21 A. Yes, we did.

22 Q. And who did the car come back to?

23 A. It came back to a Greenville address, registered
24 to a subject in Greenville.

25 Q. All right, and what did you do then when the

Mr. Coleman-Direct by Solicitor

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1 tag came back to this Greenville car?

2 A. The area that it was in was remote so I notified
3 dispatch to change the letters around and to try to run
4 it different ways to see if we could get another identifica-
5 tion make on the vehicle.

6 Q. And did they change the TDB to TBD 770?

7 A. Yes, they did.

8 Q. And did the car come back to a particular individual
9 then?

10 A. Yes, it did.

11 Q. Who did it come back to?

12 A. Pattie Syphrette.

13 Q. And what kind of a car was it?

14 A. It was a Chrysler LeBaron.

15 Q. Now were you familiar with Pattie Syphrette?

16 A. Yes, I was.

17 Q. How did you know her?

18 A. I had known her actually before I started working
19 with the Sheriff's Department, known her approximately
20 15 years.

21 Q. All right, state whether or not once ya'll found
22 this ID car, this driver's license card, near where the
23 body was found, was Norris Martin arrested on May the 27th?

24 A. Yes, he was.

25 Q. What kind of shape was he in when you arrested

Mr. Coleman-Direct by Solicitor

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1 him?

2 A. He was highly intoxicated, he was arrested for
3 public disorderly conduct.

4 Q. Was he too drunk to be interviewed?

5 A. Yes, he was.

6 Q. The next day, the morning of May the 28th, 1998,
7 was Norris Martin interviewed?

8 A. That's correct.

9 Q. And based on the information that you got from
10 running that tag and based on the information from Norris
11 Martin and your investigation of the case, was a warrant
12 taken out for Pattie Syphrette?

13 A. Yes, it was.

14 Q. A murder warrant?

15 A. Yes, sir, that's correct.

16 SOLICITOR: Your Honor, that's all I have for
17 Mr. Coleman at this time.

18 THE COURT: Any questions, Mr. Sims?

19 MR. SIMS: Yes, sir.
20

21 CROSS-EXAMINATION

22 BY MR. SIMS:

23 Q. That car was in the name of Pattie Syphrette,
24 is that correct?

25 A. That's correct.

Mr. Coleman-Cross by Mr. Sims

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1 Q. And you had Norris Martin's ID and that's why
2 you went and arrested him, is that correct?

3 A. That's correct.

4 Q. And when you arrested him I believe you said
5 that was on the 27th of May?

6 A. I believe that's correct.

7 Q. And he was highly intoxicated at that time and
8 you did not have the opportunity to talk with him.

9 A. No, sir.

10 Q. And when you talked with him on the 28th of May,
11 as a result of your conversation with him at that point,
12 you went looking for Pattie Syphrette, is that correct?

13 A. That's correct.

14 Q. And the information that he actually gave you
15 was only that Pattie Syphrette was involved, isn't that
16 right?

17 A. That's correct.

18 MR. SIMS: That's all at this time, Your Honor.

19 SOLICITOR: No re-direct, Your Honor.

20 THE COURT: You may step down.

21 SOLICITOR: Call Clark Whetstone.

22
23 CLARK WHETSTONE, AFTER FIRST
24 BEING DULY SWORN, TESTIFIED AS FOLLOWS:
25 DIRECT EXAMINATION BY THE SOLICITOR:

Mr. Whetstone-Direct by Solicitor

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1 Q. All right, sir, you are Clark Whetstone?

2 A. Yes, sir.

3 Q. Where are you employed?

4 A. Orangeburg County Sheriff's Office.

5 Q. How long have you been in law enforcement?

6 A. Approximately 9 years.

7 Q. Are you in the detective division at the Sheriff's
8 Office?

9 A. Yes, sir.

10 Q. And are you the case officer in this case, do
11 you maintain the case file?

12 A. Yes, I do.

13 Q. I want to call your attention to May 28, 1998
14 and ask whether or not you and Jack Coleman, Emery Rush
15 and other law enforcement officers had occasion to go to
16 the Syphrette house located at [REDACTED] in Orange-
17 burg for the purpose of serving a murder warrant on Pattie
18 Syphrette?

19 A. Yes, we did.

20 Q. That location, [REDACTED], is that located
21 in Orangeburg County?

22 A. Yes, it is.

23 Q. And did you enter the house?

24 A. Yes, I did. ^{ES}

25 Q. Okay, and would you state whether or not you

Mr. Whetstone-Direct by Solicitor

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1 observed the defendant, Sammie Stokes, inside that house?

2 A. Yes, I did.

3 Q. Where did you observe him?

4 A. He was located in a rear bedroom.

5 Q. Okay, where in the rear bedroom?

6 A. Located underneath a bed.

7 Q. And when you observed him hiding under the bed
8 in the rear bedroom at the Syphrette house, would you state
9 whether or not you then placed him under arrest.

10 A. Yes, we did.

11 Q. Can you identify the person you placed under
12 arrest at that time?

13 A. Yes, I can.

14 Q. Who?

15 A. The gentleman sitting to my far right in the
16 olive drab suit.

17 SOLICITOR: Your Honor, that's all I have of
18 Detective Whetstone at this time but I would like to recall
19 him later.

20 THE COURT: All right, Mr. Sims.

21

22 CROSS-EXAMINATION

23 BY MR. SIMS:

24 Q. Detective Whetstone, just a few questions. When
25 you went to the house and you all went there to arrest

Mr. Whetstone-Cross by Mr. Sims

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1 Pattie Syphrette, is that correct?

2 A. Yes, that is correct.

3 Q. And as a matter of fact, you had been in the
4 house for a period of time and did not know that Sammie
5 was there, is that correct?

6 A. Yes, that is correct.

7 Q. And at no time did Mr. Stokes ever make any attempt
8 to hurt either you or any of the other police officers
9 that were out there, isn't that correct?

10 A. Yes, that's correct.

11 Q. And how long possibly had you been there before
12 you discovered he was there?

13 SOLICITOR: Your Honor, may we approach?

14 THE COURT: Yes.

15 (WHEREUPON, A bench conference was held out
16 of the hearing of the jury and the court reporter.)

17 Q. Detective Whetstone, how long had you all been
18 at the house before you discovered Mr. Stokes at the house?

19 A. Approximately 15 minutes.

20 Q. And all during that time he never made any effort
21 to hurt you or to harm you or any other police officer
22 out there?

23 A. No, he did not.

24 MR. SIMS: That's all I have at this time, Your
25 Honor.

Mr. Rush-Direct by Solicitor

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1 SOLICITOR: No re-direct, Your Honor.

2 THE COURT: You may step down, thank you.

3 SOLICITOR: Call Emery Rush.

4

5

EMERY RUSH, AFTER FIRST

6

BEING DULY SWORN, TESTIFIED AS FOLLOWS:

7

DIRECT EXAMINATION BY THE SOLICITOR:

8

Q. Okay, Mr. Rush, you are a deputy with the Orangeburg
9 County Sheriff's Office?

10

A. Yes, sir, that's correct.

11

Q. How many years of law enforcement experience
12 do you have?

13

A. Twenty-nine, sir.

14

Q. Okay. And are you employed in the detective
15 division at this time?

16

A. I am.

17

Q. Were you employed that way last year in May and
18 June of 1998?

19

A. Yes, sir.

20

Q. I want to call your attention to June the 2nd,
21 1998 and asked whether or not you made arrangements to
22 have a 1989 Chrysler LeBaron with the vend number of
23 1C3XJ45J9KG2217811 registered to Pattie Syphrette towed
24 to SLED from Elloree?

25

A. Yes, sir.

Mr. Rush-Direct by Solicitor

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1 Q. And did you obtain a search warrant for that
2 vehicle the next day?

3 A. Yes, sir, I did.

4 Q. Were you present when SLED Agent Ted Shealey
5 and Agent Nancy Strable processed that car?

6 A. I was.

7 Q. And you signed the return on the search warrant
8 for that vehicle?

9 A. Yes, sir.

10 SOLICITOR: Please answer any questions the defense
11 may have of you.

12 THE COURT: Mr. Sims.

13
14 CROSS-EXAMINATION

15 BY MR. SIMS:

16 Q. Just one question. This was Pattie Syphrette's
17 car, is that correct?

18 A. Yes, sir.

19 Q. And it was processed by Nancy Strable and Ted
20 Shealey of SLED?

21 A. Yes, sir, at SLED headquarters.

22 MR. SIMS: That's all I have.

23 THE COURT: You may step down.

24 SOLICITOR: Your Honor, at this time I would
25 call Dr. Joel Sexton.

Dr. Sexton-Direct by Solicitor

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1 DR. JOEL SEXTON, AFTER FIRST
2 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

3 DIRECT EXAMINATION BY THE SOLICITOR:

4 Q. Sir, you are Dr. Joel Sexton?

5 A. Yes, that's correct.

6 Q. Doctor, what's your educational background?

7 A. I graduated from the Medical University in Charleston,
8 finishing in 1968. I then studied in the field of pathology
9 as a resident and in 1972 I became nationally certified ---

10 MR. SIMS: Your Honor, we would stipulate to
11 Dr. Sexton's qualifications.

12 THE COURT: All right.

13 SOLICITOR: Your Honor, I appreciate the stipulation
14 but just for the edification of the jury, I would just
15 like to ask a few more questions.

16 THE COURT: All right, that's fine, too.

17 Q. Go ahead and continue, please, Doctor.

18 A. I was nationally certified in anatomical, clinical
19 and forensic pathology. I stayed on at the Medical University
20 and taught in those areas and was in charge of the forensic
21 section of the Department of Pathology until 1983 when
22 I moved to Newberry to go into private practice as a hospital
23 pathologist and then continued doing consulting work for
24 approximately 30 of the county coroners in the western
25 part of the state.

Dr. Sexton-Direct by Solicitor

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1 Q. All right, what is a forensic pathologist.

2 A. A pathologist, to begin with, is a physician
3 who after finishing medical school studies how to recognize
4 disease and illness from tissue. And we examine tissue
5 that's removed at surgery to determine if its got cancer
6 or some other condition. We do autopsies to determine if
7 a person, to what extent their disease is or particularly
8 what the disease is if it's unknown.

9 We also supervise the laboratory where fluids
10 are examined to determine if you have some abnormal
11 constituent or a constituent in an abnormal quantity and
12 we help monitor that and help your physician to determine
13 whether you have a particular illness or disease and whether
14 you are getting better or worse as those various levels
15 change.

16 Now, a forensic pathologist has this knowledge.
17 In addition, they are trained to recognize what various
18 injuries look like and what causes various injuries on
19 the body and how to interpret the findings at a scene of
20 death and how to evaluate toxicology. So a forensic
21 pathologist is a physician, trained in recognizing tissue,
22 disease and illness and further in recognizing trauma to
23 the body.

24 Q. What is an autopsy?

25 A. An autopsy is basically a physical examination

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1 of the body, externally and internally, documenting photo-
2 graphs and diagrams and a written report of the findings
3 that were detected, as well as collecting any evidence
4 that might be examined by the State Law Enforcement Division
5 or others to help learn more about not just the cause of
6 death which often times is obvious, but how the death occurred,
7 what certain advances transpired just before the death.

8 Q. All right, sir, and approximately how many
9 autopsies have you performed?

10 A. Over 8,000.

11 Q. And you've testified on previous occasions in
12 court?

13 A. Right, over 700 times.

14 Q. Doctor, I want to call your attention to May
15 the 28th and ask whether or not you had occasion to perform
16 an autopsy on the body of a white female identified to
17 you as Connie Snipes?

18 A. Yes, I did.

19 Q. And could you tell the Court and the jury briefly
20 what condition the body was in when it arrived at Newberry
21 for the autopsy?

22 A. The body was dressed only in a sports bra that
23 was pushed up around the neck and one shoe and sock on
24 the body. The body had been outdoors in May for a period
25 of time, approximately 5 days, and was undergoing some

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1 decomposition, most of which was related to the maggot
2 infestation that was present.

3 Q. And did you perform an autopsy to determine the
4 cause of death?

5 A. Yes, I did.

6 Q. And do you routinely use drawings to depict what
7 you observed during the autopsy procedure?

8 A. Yes, we make diagrams as well as take photographs.

9 Q. Did you make diagrams in this case?

10 A. Yes, I did.

11 Q. I'm going to show you two diagrams and ask if
12 these are enlargements of diagrams that you made at Connie
13 Snipes' autopsy?

14 A. Yes, they are. They are duplicates of the smaller
15 diagrams that I made at the time of autopsy.

16 SOLICITOR: Your Honor, I would offer these into
17 evidence and I believe without objection.

18 MR. SIMS: Without objection, Your Honor.

19 THE COURT: All right.

20 (WHEREUPON, Two diagrams were entered and marked
21 as State's exhibits #11 and 12.)

22 Q. Now, Doctor, these have been marked as State's
23 #11 and #12 and I will ask you, if you would please, to
24 step up to the podium and we have a pointer here and using
25 either one of both of those, tell the jury what appears

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1 on that.

2 A. Let me first indicate the one that's on the easel.

3 You see a side view of the right side of the head, a side
4 view of the left side of the head, as well as the right
5 and left side of the skull. If you will notice on the
6 side view of the left side of the head, which is the lower
7 right portion of this diagram, here on the back left side
8 of the skull is a round circle. That's to represent the
9 entrance hole where the bullet entered the back of the
10 head. The bullet then ---

11 Q. Let me do this for me, Doctor, and I don't mean
12 to interrupt you, but I've got a red marker. If you could
13 use that to mark the entrance hole.

14 A. (Witness complies.)

15 Q. All right.

16 A. The red marker I've used to circle the entrance
17 hole here in the back of the head is to the left of midline.
18 It passes, the bullet passes to the front, hits right here
19 in front of the head from the inside, fracturing the bone
20 here between the eyes, but not leaving the skull, falling
21 back down inside the skull in the brain tissue. And that
22 was one of the gunshot wounds. That same hole is also
23 shown here on the bottom left on the skull and I circled
24 it in red also.

25 In addition, if you will notice on the bottom

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1 left, there is a outline of the skull because the lower
2 jaw was pretty much skeletonized from the maggot infestation
3 and was fractured. But when I put it back together it
4 was an obvious bullet hole that passed through the lower
5 jaw and the location here on the left of the lower jaw
6 about an inch from the midline, where I have again circled
7 or outlined with a red marker. This bullet passed to the
8 right, upward, and struck the temporomandibular joint,
9 which is where your jaw pivots, right here on the right
10 side and fractured that joint and there was only a small
11 fragment of lead left there. The rest passed on through
12 the right side of the face.

13 So there were two gunshot wounds evident, one
14 that entered the back of the head and went to the front
15 passing through a vital part of the brain that we refer
16 to as the ventricle system. The brain floats in fluid. The
17 fluid is generated inside the brain in the ventricle system
18 and then escapes out of the brain and circles the brain,
19 so it's like a shock absorber. So if you do have a fall
20 or a injury to the head, it tends to protect the brain.

21 In this particular case, it passed through the
22 ventricle system and we know from science that any force
23 that's applied to a liquid is transmitted equally in every
24 direction and that means it also is transmitted to the
25 base of the brain through that same ventricule system

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1 and can cause rapid death and trauma to the base of the
2 brain where the vital centers of respiration and heart
3 beat are located in the medulla and pons. Where as this
4 went in here on the left jaw was a superficial wound, probably
5 not contributing to death, however, I can't totally exclude
6 the fact that it did strike the under surface of the skull
7 where it hit the edge of the jaw and that can produce a
8 severe blow to the brain itself. So it may have been a
9 contributory cause of death. I listed it as a potential
10 fatal wound where as this obviously was a fatal wound.

11 On the other diagram, it simply ---

12 Q. There's no way to tell from the autopsy what
13 sequence those shots came in, is that correct?

14 A. That's right, we cannot tell which shot came
15 first. In some cases when a person is shot and they die
16 and they are not decomposed, we can tell by the examination
17 of the wound that one came after the heart stopped beating
18 but in this case where the tissue, the soft tissue, was
19 not available on the surface of the skin and the skull
20 or the jaw to evaluate that.

21 The first exhibit I was discussing was exhibit
22 #12 and this is exhibit #11. #11 shows the outside of
23 the skull with four different views. And it just reiterates
24 the fact that there was an entrance wound in the back of
25 the skull on the left side. Again, I'm outlining it in

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1 red, that passed to the front, hit the inside of the skull
2 and then was found loose inside the skull. This shows it
3 from a different direction. From the rear it's entering,
4 passing to the front, nearly horizontally but slightly
5 upward, hitting the front and then falling back into the
6 brain cavity. I've outline this last one also in red and
7 that's on exhibit #11.

8 Q. Okay. The bullet to the back of the head is
9 fatal and the other one is potentially fatal?

10 A. Yes, that's correct.

11 Q. Now during the autopsy procedure, did you remove
12 the bullets from Mrs. Snipes' head?

13 A. I did.

14 Q. All right, you can have a seat, Doctor, if you
15 would, and I'm going to hand you two containers and ask
16 if you can identify those, please.

17 A. The one I have here is the fragment from the
18 jaw. I labeled it arbitrarily as gunshot wound #2. It's
19 a small lead fragment from a bullet, it does have some
20 lands and grooves markings on it and it is from the gunshot
21 wound of the jaw. It also bears my mark, has the label
22 on the outside of the container that we put on it and has
23 my initials on the outside of the container.

24 So that's the fragment of gunshot wound #2.

25 Q. All right.

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1 A. This is the bullet and the small fragment that
2 came from the skull, or gunshot wound #1. Again, it bears
3 my mark in a container with my initials on it and it's
4 labeled as the bullet that came from the head and it again
5 matches the two views that I took of the bullet at the
6 time of autopsy. So this is the bullet removed from the
7 skull of Connie Snipes which was the fatal bullet, which
8 I arbitrarily designated as #1.

9 SOLICITOR: We would offer these bullets into
10 evidence at this time.

11 MR. SIMS: Without objection.

12 THE COURT: All right, without objection.

13 (WHEREUPON, Two containers with the bullets
14 retrieved at autopsy were entered and marked as State's
15 exhibit #13 and #14.)

16 A. I might add that those were turned over to Leon
17 Porter of the county sheriff's department here in Orangeburg.

18 Q. All right, thank you, sir. And did you photograph
19 the bullets after you removed them?

20 A. I did.

21 Q. I hand you three photographs and ask if you took
22 these and do they accurately represent the way those bullets
23 appeared that you removed from Mrs. Snipes' skull.

24 A. Yes, they do. These are duplicates of the photo-
25 graphs that I took.

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1 SOLICITOR: I would offer these at this time.

2 MR. SIMS: I have no objection.

3 THE COURT: Entered without objection.

4 (WHEREUPON, Three photographs of the bullets
5 were entered and marked as State's exhibit #15, 16 and
6 17.)

7 Q. Doctor, I'm going to put these on the monitor
8 and ask you to explain to the jury what these show. First
9 of all, State's exhibit #17.

10 A. What you're seeing is a fragment of the bullet
11 that was found in the jaw. The vertical dark line there
12 in the shiny area is an edge of a groove in the bullet
13 that's produced by the rifling in the gun indicating that
14 it's actually a fragmented bullet as opposed to some other
15 lead fragment. And it was found in the right side of the
16 jaw at the point of exit.

17 Q. State's #15.

18 A. This is one side of the bullet that was in the
19 head and as you can see, it's gnarled up, has a lot of
20 crevices on it from impacting the bone of the skull in
21 the back of the head and tumbling and then impacting the
22 inside of the skull. The other side of the bullet which
23 is shown elsewhere in the other photograph shows lands
24 and grooves and just to the right of that is a small
25 fragment that was also present.

1 Q. State's #16.

2 A. This shows the opposing side of that bullet that
3 we just saw and you can see lands and grooves on the outside
4 of that bullet. Again, it is the bullet that was fatal
5 that was found inside the skull, having entered the back
6 of the head.

7 Q. Doctor, in observing those bullets that you have
8 in front of you and the photographs, can you determine
9 the approximate caliber?

10 A. They are approximately .38 caliber.

11 Q. And to a reasonable degree of medical certainty,
12 your opinion of the cause of death is a gunshot wound to
13 the head?

14 A. That's correct, in my opinion within reasonable
15 medical certainty it was the gunshot wound to the back
16 of the head was the cause of death.

17 SOLICITOR: Doctor, please answer any questions
18 Mr. Sims may have for you, please.

19 THE COURT: Mr. Sims.

20 MR. SIMS: Thank you, Your Honor.

21

22 CROSS-EXAMINATION

23 BY MR. SIMS:

24 Q. Dr. Sexton, when you talked about the ventricle
25 system, that's the fluid that the brain rests in, is that

Dr. Sexton-Cross by Mr. Sims

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1 correct?

2 A. It's the chamber where the fluid is located.
3 It's inside the brain and as you cut through a section
4 through the brain, you see that there's a system on either
5 side that's linear and roughly cylindrical inside the brain
6 that is hollow and has this fluid in it. We call those
7 the ventricular portions of the cerebrum hemisphere and
8 they communicate with the brain stem.

9 Q. And the --- when you said that the bullet called ---
10 it's like a pebble effect, when you drop a pebble in water
11 and you see the rings flow out, that's the same kind of
12 effect that that would have --- that first bullet would
13 have had when it went in the back of the head, is that
14 correct?

15 A. That's correct, going through that fluid it would
16 have same distribution of energy throughout the brain and
17 would therefore have damaged the brain stem which is much
18 lower, even though it comes in above it.

19 Q. Now a person receiving a wound like that to the
20 back of the head, death would have been very shortly there-
21 after, is that correct?

22 A. Unconsciousness would have been immediate and
23 usually death within a very short period of time.

24 Q. So unconscious, you mean that a person would
25 have been just laying there, there would not have been

1 any additional screaming or hollering or anything like
2 that, is that correct?

3 A. People that are unconscious do sometimes make
4 sounds, make movements, usually they are non-purposeful
5 movements but flailing type movements. I couldn't say
6 that she wouldn't have some movements and sounds that some
7 person might interpret as being conscious but unconscious
8 people can do that.

9 Q. Okay. Let me ask you, the second bullet that
10 you arbitrarily labeled as bullet #2, the direction ---
11 the entry wound was from where?

12 A. It came in from the decedent's --- let me refer
13 to my notes to make sure. It came in from the decedent's
14 left side, it enters the left jaw and goes to the right
15 side of the jaw, hitting the mandibular joint over here,
16 it was coming in from the left.

17 Q. The --- would that bullet, let's say the first
18 bullet that you said to the back of the head, would it
19 more probable than not that that person was either standing
20 or kneeling at that time?

21 A. At the time of the second bullet?

22 Q. The first bullet.

23 A. The first bullet? Could be any number of positions
24 because it's simply going straight to the front. A person
25 lying down could have their head tilted the right way

Dr. Sexton-Cross by Mr. Sims

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1 to receive a bullet of that sort or a person standing or
2 sitting or kneeling, because your head is so mobile. So
3 it would be impossible for me to say what position a person
4 would be in because you can move your head in so many
5 different directions.

6 Q. And so you would not be able to give us a probability
7 in terms of whether or not she was standing, whether she
8 was lying down or anything like that?

9 A. That's correct, not in the head region because
10 of the mobility.

11 Q. And I just want to be clear. You're telling
12 the Court and the jury today that the bullet to the back
13 of the head was the fatal bullet?

14 A. Yes, in my opinion it was the fatal bullet. As
15 I mentioned, the bullet that went in the jaw hit the inside
16 of the base of the skull and boxers that get hit on the
17 base of the skull with gloved fists and die from that punch
18 because of the force. And certainly a bullet would have
19 more force than that and I can't really measure that force.
20 I can simply say it hit the base of the skull. Depending
21 on how tangential it was, it may have imparted a lot of
22 energy to the brain. If it was less tangential, the more
23 tangential, the less energy. So the one to the jaw may
24 have been fatal, but I know the one to the back of the
25 head would have been if the person was still alive at

1 that time.

2 MR. SIMS: Thank you, Doctor.

3 SOLICITOR: Just a couple of things, Your Honor.

4
5 RE-DIRECT EXAMINATION BY THE SOLICITOR:

6 Q. Just to follow up on Mr. Sims' questions, Doctor.
7 You've testified that the bullet to the back of the head,
8 as you've depicted here, State's #11, would have caused
9 immediate unconsciousness?

10 A. Yes, that's correct.

11 Q. Hypothetically if after the first of the two
12 shots the victim had screamed, would you have an opinion
13 to a reasonable degree of medical certainty which of the
14 two shots occurred first?

15 A. More commonly a conscious person can scream but
16 as I mentioned earlier, a person who is unconscious can
17 make non-purposeful movements and sounds. Usually at the
18 time of getting a fatal wound of this sort, you wouldn't
19 necessarily expect to hear a sound. It may be sometime
20 afterwards when they are having maybe a seizure activity
21 caused by the lack of oxygen and usually that's 10 or 15
22 seconds after the heart has stopped. A person in the
23 ICU who is on a monitor will oftentimes have their heart
24 stop, the nurses will come to check on them very quickly
25 and a person will wonder why because they feel fine

Dr. Sexton-Re-Direct by Solicitor

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1 because they don't realize their heart stopped. And after
2 10 or 15 seconds they become unconscious and after a longer
3 period of time they generally will have a seizure from
4 lack of oxygen. So normally you wouldn't expect a sound
5 at the time of impact, more likely afterwards, but I can't
6 exclude that possibility.

7 SOLICITOR: Thank you, Doctor, that's all I have.

8 MR. SIMS: Nothing further, Your Honor.

9 THE COURT: You may be excused.

10 SOLICITOR: State recalls Ted Shealey.

11
12 TED SHEALEY, HAVING ALREADY
13 BEEN SWORN, TESTIFIED AS FOLLOWS:

14 DIRECT EXAMINATION BY THE SOLICITOR:

15 Q. Mr. Shealey, you've previously testified that
16 you are with the latent prints and crime scene section
17 of SLED.

18 A. Yes, sir.

19 Q. Could you tell the jury, please, what training
20 you've had in fingerprint comparison.

21 A. As I testified to earlier, I've been at SLED
22 for approximately seven years. During my first two years
23 I completed a comprehensive in-training program. This was
24 to include training in fingerprint and development thereof
25 and comparison to any known standards. This included

Mr. Shealey-Direct by Solicitor

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1 foot wear, tire wear, crime scene processing. The specialized
2 training that I've had in this area includes basic finger-
3 prints through the South Carolina Criminal Justice Academy,
4 basic fingerprints through the FBI and advanced fingerprint
5 techniques through the FBI. Also during my time at SLED,
6 I have completed numerous other training classes in this
7 same area. Also I have testified approximately 47 times
8 in this area.

9 Q. All right.

10 SOLICITOR: Your Honor, I would Mr. Shealey as
11 an expert in fingerprint comparison.

12 MR. SIMS: No questions.

13 THE COURT: All right, so qualified.

14 Q. Mr. Shealey, tell the jury, please, what a latent
15 print is.

16 A. If you look on your hands you have a very unique
17 type of skin. This skin is not smooth but rather it's rough
18 and corrugated. It is composed of a series of ridges and
19 valleys, like a mountain range or a plowed field. Now
20 on top of these ridges, you have tiny pores. These pores
21 are constantly exuding sweat and other containments. These
22 sweat and other containments adhere to these ridges. So
23 when you touch an item, you may transfer these containments
24 and sweat to that particular item. Hence we have what
25 is called a latent. A latent is accidental, random, and

Mr. Shealey-Direct by Solicitor

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1 it is through a chemical process such as black powder that
2 you see on TV which we can make the latent visible to the
3 naked eye ---

4 MR. SIMS: Your Honor, may we approach one moment,
5 please?

6 THE COURT: Sure.

7 (WHEREUPON, A bench conference was held out
8 of the hearing of the jury and the court reporter.)

9 Q. Go ahead and continue, Mr. Shealey.

10 A. Where I was at was with the black powder technique.
11 This is a technique that we use to make the latent more
12 visible to the naked eye which we can capture through
13 photography for a latent lift. From there we can compare
14 it to any known standards that we may have.

15 Q. And when you say known standards, that's what
16 you call known prints?

17 A. That is a known fingerprint of an individual.

18 Q. Now, does a person always leave a fingerprint
19 when they touch something?

20 A. No, sir, as I just spoke to, a latent is again
21 is a fragmented or a piece of a fingerprint. It's accidental
22 and random. Just because you touch a particular item does
23 not mean you are going to transfer any residue from your
24 finger to that particular item. You have to take into
25 consideration the particular item that you're touching,

Mr. Shealey-Direct by Solicitor

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1 you know, how rough it is, how smooth it is, the weather
2 conditions when this particular item was touched. Was it
3 raining, cold, hot, and you have to take into consideration
4 conditions of the individual's finger. Does he have rough
5 ridges, is he a sweater, were the ridges worn down from
6 work.

7 Q. Are every person's fingerprints unique, does
8 everyone have a different fingerprint pattern?

9 A. No two fingerprints are the same.

10 Q. If you find somebody's latent fingerprint and
11 compare that with their known prints, you would know they
12 had been at that location, is that correct?

13 A. That is correct.

14 Q. Would the lack of finding someone's fingerprints
15 mean that that particular person had not been at that
16 location?

17 A. No, sir. Just because you touch an item does
18 not mean you are going to leave a fingerprint on that
19 particular item.

20 Q. I want to ask you whether or not you processed
21 a 1989 Chrysler LeBaron registered to Pattie Syphrette
22 for fingerprints pursuant to a search warrant?

23 A. Yes, sir, I did.

24 Q. And was that done in SLED in Columbia?

25 A. Yes, sir.

Mr. Shealey-Direct by Solicitor

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1 Q. Were you able to lift any readable latent finger-
2 prints from that car?

3 A. Yes, sir, I did.

4 Q. All right. And could you state whether or not
5 you obtained the known prints of Connie Snipes, Sammie
6 Stokes, Norris Martin and Pattie Syphrette?

7 A. I retained the known prints of Connie Snipes
8 from our SLED data base and the other fingerprints I got
9 from the detention center here in Orangeburg.

10 Q. And did you compare all four of those known prints
11 for latent prints in Mrs. Syphrette's automobile?

12 A. I compared them to all, yes, sir.

13 Q. Did you find any matches?

14 A. Yes, sir, I did.

15 Q. Okay, what matches did you find?

16 A. Of the three identifiable latent lifts which
17 were taken from the car, they were identified to as
18 follows: One was identified to the number 2 finger or
19 the right index of Snipes; One was identified to the number
20 three finger, the right middle of Snipes; the other three
21 was to the number four finger, the right ring of Snipes.
22 There was also another lift taken which had the number
23 five finger which is the right little identified to Snipes
24 and the other one was the number three finger, right middle
25 identified to Snipes.

Annette J. Mole

14th Circuit Court Reporter
P. O. Box 374

Mr. Shealey-Direct by Solicitor

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1 Q. What part of the car did you find the prints
2 in?

3 A. It would have been on the passenger rear window
4 interior.

5 Q. Okay. Who is Nancy Strable?

6 A. Nancy Strable is a serologist assigned to the
7 lab, she is also a SLED agent.

8 Q. And to your knowledge, did she process the car
9 for potential DNA evidence?

10 A. Yes, sir, she did.

11 SOLICITOR: Mr. Shealey, would you please answer
12 any questions Mr. Sims may have for you.

13 MR. SIMS: No questions, Your Honor.

14 THE COURT: Thank you, sir, you may step down.

15 SOLICITOR: Your Honor, we have another stipulation
16 that we would like to present at this time.

17 THE COURT: All right.

18 SOLICITOR: It is stipulated that the DNA test
19 conducted on blood found inside of Pattie Syphrette's 1989
20 Chrysler LeBaron automobile and blood that was found on
21 a flannel shirt in the back seat of this automobile shows
22 that this blood is that of the victim, Connie Snipes.

23 Your Honor, the State would next call Norris
24 Martin.

25 THE COURT: All right.

Mr. Martin-Direct by Solicitor

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1 NORRIS MARTIN, AFTER FIRST
2 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

3 DIRECT EXAMINATION BY SOLICITOR:

4 Q. Okay, Norris, I want you to look over to me and
5 talk up loud so these people on the end can hear you and
6 tell the jury your full name, all right?

7 A. My name is Norris Allen Martin.

8 Q. Norris, how old are you?

9 A. Thirty-eight.

10 Q. And where are you from?

11 A. Branchville.

12 Q. And were you born and raised in Branchville?

13 A. Yes, sir.

14 Q. Lived there all of your life?

15 A. Yes, sir.

16 Q. Are you still in Branchville?

17 A. Yes, sir.

18 Q. What school did you go to?

19 A. Branchville High.

20 Q. What kind of work --- you're obviously in jail,
21 right, from your clothes?

22 A. Yes, sir.

23 Q. You've been locked up since last year?

24 A. Yes, sir.

25 Q. May of last year?

Mr. Martin-Direct by Solicitor

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- 1 A. Yeah.
- 2 Q. Okay, and before you got arrested, what kind
- 3 of work did you do?
- 4 A. Maintenance.
- 5 Q. And who did you work for?
- 6 A. Town of Branchville.
- 7 Q. How long did you work for Branchville altogether
- 8 before May of last year?
- 9 A. Couple of years.
- 10 Q. Now, as a maintenance worker for Branchville,
- 11 what kind of work did you do?
- 12 A. Cleaned sidewalks, cut trees, et cetera.
- 13 Q. All right. Where did you live in Branchville?
- 14 A. Branchville Villa, apartment 13.
- 15 Q. Did you live by yourself?
- 16 A. Yes, sir.
- 17 Q. Are you in jail now, Mr. Martin, for your
- 18 participation in the rape and murder of Connie Snipes?
- 19 A. Yes, sir.
- 20 Q. Do you have a lawyer representing you?
- 21 A. Yes, sir.
- 22 Q. And what's hi name?
- 23 A. Michael Kulp.
- 24 Q. And would you state whether or not you have a
- 25 plea agreement with the State of South Carolina relative

Mr. Martin-Direct by Solicitor

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1 to your charges?

2 A. Yes, sir, I do.

3 Q. And would you tell the jury what your plea agreement
4 with the State of South Carolina is?

5 A. If I plead guilty, I get me a life in prison
6 without parole. If I don't, the death penalty.

7 Q. And in exchange for life without parole and not
8 facing the death penalty, what are you supposed to do?

9 A. Tell the truth.

10 Q. And do you know what it means to tell the truth?

11 A. Yes.

12 Q. And are you prepared to testify here truthful
13 today, Mr. Martin?

14 A. Yes, sir.

15 Q. Do you know the defendant in this case, Sammie
16 Louis Stokes?

17 A. Yes, sir, I do.

18 Q. Would you point him out?

19 A. Right over there, right over there.

20 Q. okay, at the end of that table?

21 A. Yes, sir.

22 Q. Tell the jury how you know Sammie Stokes.

23 A. Well, one night he came to my apartment ---

24 Q. Let's back up. How long have you known him?

25 A. A couple of years.

Mr. Martin-Direct by Solicitor

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1 Q. Did you go to school with him?

2 A. Yeah.

3 Q. When you say a couple of years, Norris, how many
4 years are you talking about?

5 A. 'Bout four or five.

6 Q. All right, and you're how old now?

7 A. Thirty-eight.

8 Q. But you say you went to school with Sammie?

9 A. Yeah.

10 Q. Were you in school four years ago?

11 MR. SIMS: Your Honor, he's answered the question
12 and he's leading and trying to bolster his own witness.

13 SOLICITOR: Your Honor, I ma leading him but
14 it's background and it's just to develop his testimony,
15 I think that's proper.

16 THE COURT: Well, proceed but try t stay away
17 from leading questions.

18 Q. Okay. Norris, you say you went to school with
19 Sammie Stokes?

20 A. Yes, sir.

21 Q. Okay, what grade were you in in school when you
22 first met Sammie Stokes?

23 A. Seventh.

24 Q. How old were you when you were in the seventh
25 grade?

Mr. Martin-Direct by Solicitor

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- 1 A. Uhm --- sixteen, seventeen.
- 2 Q. So you're thirty-eight now?
- 3 A. Yes, sir.
- 4 Q. And you've known him since you were sixteen or
- 5 seventeen.
- 6 A. Yeah.
- 7 Q. And you were seventeen in the seventh grade?
- 8 A. Yes, sir.
- 9 Q. Did you have problems in school?
- 10 A. No.
- 11 Q. Would you describe to the jury what your relationship
- 12 with Sammie Stokes was when ya'll were growing up in
- 13 Branchville when you were going to school.
- 14 A. First we was friends.
- 15 Q. What do you mean at first you were friends.
- 16 A. It was kinda close.
- 17 Q. Did that change?
- 18 A. And that changed, yes, sir.
- 19 Q. When did that change?
- 20 A. Before he went to prison.
- 21 Q. I want to call your attention to early May of
- 22 1998 and ask whether or not you saw Sammie Stokes then?
- 23 A. Yes, I seen Sammie Stokes.
- 24 Q. Okay. And how did you happen to see him, what
- 25 was going on?

Mr. Martin-Direct by Solicitor

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1 A. He came to my house one night. I was coming
2 from Branchville, I had just got off from work and I was
3 messing around, you know, in Branchville and I came home
4 and I seen this guy from my back door and I approached
5 him and I seen who it was and so he asked ---

6 Q. Who was it?

7 A. Sammie Stokes, Sammie Stokes asked me to spend
8 the night at my house and so I said yeah.

9 Q. And were you thinking one night or what?

10 A. One night, yeah.

11 Q. Okay, did he spend the night with you?

12 A. Couple of nights.

13 Q. And how did ya'll get along when he stayed with
14 you for a couple of nights?

15 A. Pretty well.

16 Q. How long did he stay with you?

17 A. Three weeks, at the longest.

18 Q. Norris, is this your wallet?

19 A. Yeah.

20 SOLICITOR: I would like to have this marked
21 for identification.

22 MR. SIMS: We don't have any objection to that.

23 SOLICITOR: We would offer the wallet without
24 objection, Your Honor.

25 THE COURT: So marked and entered into evidence.

Mr. Martin-Direct by Solicitor

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1 (WHEREUPON, Wallet was entered and marked as
2 State's exhibit #18.)

3 Q. Norris, I'm going to hand you what has been marked
4 as State's #10 and ask you to take a look at that and tell
5 me what that is.

6 A. That's my ID card.

7 Q. Is it --- it's hard to tell with that black finger-
8 print stuff there, but is that an ID card or a driver's
9 license?

10 A. That's a ID card.

11 Q. Highway Department ID card?

12 A. Yes, sir.

13 Q. Do you have a driver's license?

14 A. No.

15 Q. Never had one?

16 A. No, sir.

17 Q. Why not?

18 A. I don't know.

19 Q. Can you drive a car?

20 A. A little.

21 Q. Let me hand you this, this has been marked as
22 State's #2, do you recognize that? you can go ahead and
23 take it.

24 A. Yeah, I recognize it.

25 Q. What is that, Norris?

- 1 A. It's a badge.
- 2 Q. And it's a plastic police badge?
- 3 A. Yeah.
- 4 Q. Where did you get that from?
- 5 A. Boone give it to me.
- 6 Q. Boone is Chief Boone Walters, Chief of Branchville?
- 7 A. Yes, sir.
- 8 Q. Okay, why did he give you that?
- 9 A. Uhm --- for good works, you know.
- 10 Q. All right, and you carried that plastic police
- 11 badge around with you?
- 12 A. Yes, sir.
- 13 Q. How long had you had it with you?
- 14 A. I had it for quite a while.
- 15 Q. Proud of it?
- 16 A. Yes.
- 17 Q. Norris, I want to call your attention to May
- 18 22nd and May 23rd, 1998, after Stokes had been at your
- 19 apartment for a while. Do you remember going to Mrs. Mary's
- 20 Video Store?
- 21 A. Yes.
- 22 Q. Okay, who is Mrs. Mary?
- 23 A. Mrs. Mary is a person that I work for at the
- 24 video place.
- 25 Q. Okay, now you told the jury that you worked

Mr. Martin-Direct by Solicitor

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1 for the Town of Branchville, you had another job, too?

2 A. Yes, sir.

3 Q. Did you work full time for Branchville?

4 A. Part time.

5 Q. Part time, and part time for Mrs. Mary?

6 A. Right.

7 Q. What did you do for Mrs. Mary?

8 A. I did a lot of stuff like, you know, like put
9 up videos, sweep the floor, carry out the trash, et cetera.

10 Q. All right, and did you go to that store during
11 that time frame we are talking about, May 22nd and May
12 23rd of last year?

13 A. Yes, sir.

14 Q. And what did you do that evening?

15 A. Well, I cashed my check and I went over to Mrs.
16 Mary's to ask her did she need anything, you know, for
17 me to do and she said, no.

18 MR. SIMS: Objection, Your Honor.

19 Q. Don't say what Mrs. Mary said ---

20 THE COURT: Sustained.

21 Q. ---you talked to Mrs. Mary about some work to
22 do?

23 A. Yeah.

24 Q. And she didn't have anything for you?

25 A. Right.

Mr. Martin-Direct by Solicitor

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- 1 Q. So what did you do?
- 2 A. So I left.
- 3 Q. Where did you go?
- 4 A. I then went to the Easy Shop to get a couple
- 5 of beers.
- 6 Q. The Easy Shop, is that a convience store in Branch-
- 7 ville?
- 8 A. Yes.
- 9 Q. So you went there and got some beer, right?
- 10 A. Right.
- 11 Q. And did you have plan for that evening?
- 12 A. Yeah.
- 13 Q. What were you doing to do?
- 14 A. Chill out at home.
- 15 Q. By yourself?
- 16 A. By myself.
- 17 Q. Did you see anybody you knew?
- 18 A. Yeah, I seen J.T. Miller and Brock Gadson.
- 19 Q. Okay, and who are they?
- 20 A. They are close friends of mine.
- 21 Q. And did you have a conversation with them?
- 22 A. Yes, sir, I did.
- 23 Q. All right, what happened as you were talking
- 24 to Mr. Miller and Mr. Gadson?
- 25 A. This woman came up, I guess her name was Connie

Mr. Martin-Direct by Solicitor

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1 Snipes.

2 Q. All right, had you ever seen this woman before?

3 A. No, sir.

4 Q. What did she look like?

5 A. Medium built, long brown hair, white.

6 Q. Okay, do you recall how she was dressed?

7 A. Yes, sir.

8 Q. How was she dressed?

9 A. She had a Mickey Mouse shirt on, blue spandex
10 pants and white tennis shoes.

11 Q. And you had never seen her before?

12 A. No, sir.

13 Q. And when she walked up to you, what occurred,
14 if anything, between you and her?

15 A. She told me that Samuel Stokes wanted to see
16 me.

17 Q. And what did you say to her?

18 A. I said okay, so I left with her.

19 Q. You left how?

20 A. Walking.

21 Q. What direction did you walk in?

22 A. I was headed back to my apartment.

23 Q. And what did this girl, Mrs. Snipes, do when
24 you started walking back towards your apartment?

25 A. Uhm --- really, nothing.

Mr. Martin-Direct by Solicitor

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- 1 Q. What's the next thing that happened, Norris?
- 2 A. Well, as we was going back to the apartment,
- 3 this red car pulled up behind us.
- 4 Q. Hang on a second, Norris. I show you a picture
- 5 marked State's #2, does that look like that car you saw?
- 6 A. Yes, exactly.
- 7 Q. Is that it?
- 8 A. Yeah.
- 9 Q. Let's put it up there on the screen. That red
- 10 convertible there is the car that they came up in?
- 11 A. Yes.
- 12 Q. Did the car stop?
- 13 A. Yes.
- 14 Q. And did you stop when the car stopped?
- 15 A. Yeah.
- 16 Q. Who was in the car?
- 17 A. Pattie Syphrette and Samuel Stokes.
- 18 Q. All right, let's take it slow now. Where was
- 19 Pattie Syphrette?
- 20 A. She was driving the car.
- 21 Q. Had you ever seen her before?
- 22 A. No, sir.
- 23 Q. Describe her to the jury, what did she look like.
- 24 A. She had long brown hair, kinda fat, white, medium
- 25 build.

Mr. Martin-Direct by Solicitor

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1 Q. Okay. You had never seen her before in your
2 life?

3 A. No, sir.

4 Q. Was anybody else in the car?

5 A. Stokes.

6 Q. Sammie Louis Stokes?

7 A. Yes, sir.

8 Q. Where in the car was he sitting?

9 A. Passenger side.

10 Q. Front or back seat?

11 A. Front.

12 Q. Okay. Did you have a conversation with anybody
13 in the car?

14 A. Yeah.

15 Q. What was the first thing that was said by anybody
16 according to your ability to remember now?

17 A. Stokes told me to get in the car.

18 Q. What were his exact words?

19 A. Get the F in the car.

20 Q. What were his exact words, Norris?

21 A. He told me to get the fuck in the car.

22 Q. Okay, did you respond to him?

23 A. Yes, sir.

24 Q. Did you get in the car?

25 A. Yes, sir.

Mr. Martin-Direct by Solicitor

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- 1 Q. What part of the car did you get in?
- 2 A. Passenger side.
- 3 Q. Front or the back?
- 4 A. Back.
- 5 Q. How about Connie Snipes, where did she go?
- 6 A. She got in the back seat of the car, too.
- 7 Q. Any conversation with Louis Stokes after you
- 8 got in the car?
- 9 A. No.
- 10 Q. Where did the car go?
- 11 A. Well, it went down Doreen's Road, a dirt road,
- 12 and stopped.
- 13 Q. Who was directing where the car would go?
- 14 A. Sammie Stokes.
- 15 Q. And how was he doing that?
- 16 A. He was telling Pattie Syphrette to go down this
- 17 dirt road and stop.
- 18 Q. And did she do that?
- 19 A. Yes, sir.
- 20 Q. Tell us again where this dirt road was.
- 21 A. Doreen's Road in Branchville.
- 22 Q. That's in the town limits of Branchville?
- 23 A. Yes, sir.
- 24 Q. All right. And at that time, what was in your
- 25 mind, Norris, where did you think you were going, what

Mr. Martin-Direct by Solicitor

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1 were you going to be doing?

2 A. I don't know.

3 Q. Why did you get in the car?

4 A. Why did I get in the car?

5 Q. Yes.

6 A. Well, I don't know.

7 Q. Okay. Did the car stop?

8 A. Yes, sir.

9 Q. How did it come about that the car stopped?

10 A. A sudden halt, real quick like.

11 Q. Well, who said stop the car here?

12 A. Stokes.

13 Q. And when he said that, did Pattie Syphrette stop
14 the car?

15 A. Yes.

16 Q. What happened then?

17 A. Then me and Stokes, we got out, and we walked
18 down the dirt road a little piece.

19 Q. What prompted you to get out of the car? When
20 the car stopped, why did you get out?

21 A. He told me to get out.

22 Q. You've got to use names.

23 A. Stokes told me to get out of the car.

24 Q. Did you get out?

25 A. Yes, sir.

- 1 Q. Did he get out?
- 2 A. Both of us got out.
- 3 Q. What happened then?
- 4 A. And we went down the dirt road a little piece.
- 5 Q. How far?
- 6 A. I can't recall.
- 7 Q. Were you still in sight of the car?
- 8 A. Yeah.
- 9 Q. And what happened then?
- 10 A. Then Stokes told me that he wanted me to do a
- 11 job.
- 12 Q. Did he say what kind of job?
- 13 A. Yeah.
- 14 Q. What did he say?
- 15 A. He wanted me to dig a grave.
- 16 Q. What did you tell him?
- 17 A. I said no at first.
- 18 Q. And when you said no, I don't want to dig a grave,
- 19 what happened then?
- 20 A. He pulled out a pistol.
- 21 Q. When you say he ---
- 22 A. Stokes, pulled out a pistol.
- 23 Q. This man over here?
- 24 A. Yes, sir.
- 25 Q. In the green coat?

Mr. Martin-Direct by Solicitor

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1 A. Yes, sir.

2 Q. All right, where did he pull the pistol out from?

3 A. From out his pants.

4 Q. Okay, what did he do or say when he pulled the
5 pistol out?

6 A. He didn't say actually nothing. He loaded the
7 pistol and I looked at the pistol and I said okay.

8 Q. Then what did he do?

9 A. He put the pistol back in his pants and walked
10 back to the car and he told me do not say anything.

11 Q. Did he say that before you got to the car or
12 after you got to the car?

13 A. Before.

14 Q. Did you get a look at the pistol?

15 A. Yeah.

16 Q. What color was it?

17 A. Brown, brown handle, .38 snub nose.

18 Q. What color was the metal on the gun?

19 A. Silver, silver barrel.

20 Q. When you saw that gun, when he pulled the gun
21 out, what went on in your mind?

22 MR. SIMS: Objection, Your Honor, the calls for
23 a conclusion on the part of the witness.

24 SOLICITOR: It's state of mind, Your Honor.

25 THE COURT: His, he can do that. I'll overrule

1 that.

2 Q. What did you think when Stokes pulled that gun
3 out of his waistband, Norris?

4 A. Something was about to happen.

5 Q. How did you feel?

6 A. Scared.

7 Q. You got back in the car?

8 A. Yes, sir.

9 Q. When you got back in the car, did you get back
10 in the same place you had been?

11 A. Yes, sir.

12 Q. And how about Sammie Stokes, where did he get?

13 A. He got back in the front.

14 Q. What happened then?

15 A. Sammie Stokes told Pattie Syphrette to go somewhere
16 else.

17 Q. Did she do it?

18 A. Yes, sir.

19 Q. Was she still driving?

20 A. Yes, sir.

21 Q. Where did she go?

22 A. Outskirts of Branchville and turnt down this
23 dirt road.

24 Q. Why did she turn down the dirt road?

25 A. He directed her to turn down the dirt road.

Mr. Martin-Direct by Solicitor

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1 Q. When you say he, are you talking about Stokes?

2 A. Stokes.

3 Q. All right. At that point in time, did you know
4 what was going to happen?

5 A. No.

6 Q. What happened when ya'll went down the dirt road?

7 A. When we went down the dirt road and the car stopped
8 in front of this cable and he told --- Stokes told everybody
9 to get out the car. Everybody got out the car.

10 Q. Okay, all four of you got out.

11 A. Right.

12 Q. You got out, Stokes got out ---

13 A. Syphrette got out and Connie got out.

14 Q. What happened then?

15 A. Stokes told Syphrette to stay at the car.

16 Q. Then what happened?

17 A. So all three of us, we went down ---

18 Q. Slow down just a minute now, you're kind of rushing,
19 Norris. Did ya'll take anything with you before you left
20 the car?

21 A. Yes, sir.

22 Q. What did you take?

23 A. A shovel and a bag, a crocus bag.

24 Q. Where did the shovel and the bag come from?

25 A. From out of the trunk of the car.

Mr. Martin-Direct by Solicitor

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1 Q. Who opened the trunk?

2 A. Louis Stokes.

3 Q. When you say crocus bag, that's cloth, like a
4 burlap bag?

5 A. A burlap bag, yes, sir.

6 Q. Okay. Look at State's exhibit #9, does that
7 look like the shovel we're talking about?

8 A. Yeah.

9 Q. Who actually reached in the trunk and got this
10 shovel out and got that burlap bag out?

11 A. Mr. Stokes.

12 Q. What did he do with it?

13 A. He handed me the shovel and he kept the bag.

14 Q. What happened next? Let me ask you this. When
15 the shovel and the burlap bag came out of the trunk, did
16 you observe Connie Snipes, did you look at her?

17 A. Yes, sir.

18 Q. What did she look like?

19 A. She was scared.

20 Q. How do you know she was scared?

21 A. She was shaking a little bit.

22 Q. Did she say anything?

23 A. No.

24 Q. What happened next?

25 A. So all three of us down this road into the woods.

Mr. Martin-Direct by Solicitor

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1 Q. Why did you go down the road?

2 A. Uhm --- Stokes told me to follow him.

3 Q. What happened, ya'll walked down the road ---

4 A. Yes, sir.

5 Q. --- where did the road lead to?

6 A. A dead end.

7 Q. It dead ended into what?

8 A. On the edge of a field, woods.

9 Q. Where was Pattie Syphrette when ya'll walked
10 down the road to the field?

11 A. At the car.

12 Q. So the three of ya'll walked down that road from
13 the car to the field, right?

14 A. Yes, sir.

15 Q. You and Louis and Connie Snipes.

16 A. Yes, sir.

17 Q. And Pattie Syphrette stayed with the car?

18 A. Yes, sir.

19 Q. What happened when ya'll got to the field?

20 A. Stokes told me to start digging.

21 Q. Did you start digging?

22 A. Yeah.

23 Q. How much time did you spend digging?

24 A. I can't recall.

25 Q. Huh?

Mr. Martin-Direct by Solicitor

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- 1 A. I can't recall.
- 2 Q. You can't recall? Did you dig a deep hole?
- 3 A. No.
- 4 Q. Let me show you a picture, Norris, and this is
- 5 State's #7, does that look like the hold you dug?
- 6 A. Yeah.
- 7 Q. Look up there on that TV, why did you quit digging?
- 8 A. Because of roots.
- 9 Q. Because of what?
- 10 A. The roots.
- 11 Q. The roots?
- 12 A. Right.
- 13 Q. What about the roots?
- 14 A. The roots was kinda thick and heavy and I couldn't
- 15 penetrate the ground so I quit.
- 16 Q. So you quit and when you quit, what did you do?
- 17 A. I threw the shovel down.
- 18 Q. Now, when you were digging that hole, Norris,
- 19 what did you think that hole was for?
- 20 A. A grave that he wanted me to dig.
- 21 Q. Did you know whose grave?
- 22 A. No.
- 23 Q. What happened after you couldn't dig the hole
- 24 any more because of the roots and threw the shovel down,
- 25 what happened next?

Mr. Martin-Direct by Solicitor

891

1 A. Stokes pulled out the gun, the pistol.

2 Q. The same pistol he had pulled out before?

3 A. Yes, sir.

4 Q. After he pulled out the pistol, what happened?

5 A. He told Snipes to take off her clothes.

6 Q. When he told her that, where was the gun?

7 A. Pointed at her.

8 Q. And did she do it, did she take her clothes off?

9 A. Yes, sir.

10 Q. What did you do after she took her clothes off?

11 A. I had sex with her.

12 Q. And while you were having sex with her, what
13 was Louis Stokes doing?

14 A. Watching.

15 Q. Okay, how far away was he from where ya'll were
16 having sex?

17 A. Real close.

18 Q. Where was the gun?

19 A. Pointed at both of us.

20 Q. Okay.

21 SOLICITOR: Your Honor, could we approach the
22 Bench briefly?

23 THE COURT: Yes.

24 (WHEREUPON, A bench conference was held out
25 of the hearing of the jury and the court reporter.)

Mr. Martin-Direct by Solicitor

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1 Q. Norris, after you finished having sex with Connie
2 Snipes, state whether or not Louis Stokes had sex with
3 her?

4 A. Yes.

5 Q. Did you see him have sex with her?

6 A. Yes.

7 Q. What kind of sex did he have with her?

8 A. Anal sex.

9 Q. And did you hear her saying anything or making
10 any noises?

11 A. Yeah.

12 Q. What did you hear?

13 A. She was screaming.

14 Q. Where was the gun when this was happening?

15 A. He still had it.

16 Q. After you had sex with Connie Snipes at gunpoint
17 and Stokes had anal sex with her and she screamed ---

18 A. Yes, sir.

19 Q. --- was she shot?

20 A. Yeah.

21 Q. Who shot her?

22 A. Stokes.

23 Q. How many times?

24 A. Twice.

25 Q. Tell the jury how he shot her.

Mr. Martin-Direct by Solicitor

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1 A. Well, I was off guard, I was looking and he ran
2 up to me and tried to put the gun in my hand and I was
3 trying to get away from it and he shot once. Then he shot
4 again.

5 Q. After her shot once, what happened?

6 A. She was still screaming.

7 Q. She screamed after she was shot the first time?

8 A. Yes, sir.

9 Q. Then what happened?

10 A. Then the second shot went off.

11 Q. Okay, when the second shot went off, where was
12 the gun?

13 A. He still had it in his hand.

14 Q. And after the second shot, did she quit screaming?

15 A. Right, she wasn't moving.

16 Q. How much time went by between the first shot
17 and the second shot?

18 A. I don't know.

19 Q. Was it quick?

20 A. Pretty quick.

21 Q. But she quit screaming. This happened where
22 in relation to the field and the woods?

23 A. Uhm --- on the edge of the field.

24 Q. Where was the cloth sack when Stokes shot Connie
25 Snipes?

Mr. Martin-Direct by Solicitor

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- 1 A. Underneath her, Snipes.
- 2 Q. Was she lying on that sack when she was raped?
- 3 A. Yes.
- 4 Q. Did ya'll leave her in the field?
- 5 A. No.
- 6 Q. How did she get from the field to the woods?
- 7 A. We dragged her in the woods.
- 8 Q. And whose idea was that?
- 9 A. Stokes.
- 10 Q. What, if anything did he say to get you to drag
- 11 her in the woods?
- 12 A. Yes, he told me we can't leave her out.
- 13 Q. So what part of her body did you grab and drag?
- 14 A. Her feet.
- 15 Q. Who got the head?
- 16 A. Stokes.
- 17 Q. Did you see anything else about that time?
- 18 A. Yes, Syphrette.
- 19 Q. Pattie Syphrette?
- 20 A. Yeah.
- 21 Q. Had you seen her before that, before the killing
- 22 did you see her?
- 23 A. Yeah.
- 24 Q. You said you left her at the car.
- 25 A. Right.

Mr. Martin-Direct by Solicitor

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1 Q. Did you see her between that time and the time
2 Stokes shot her two times?

3 A. After the second shot.

4 Q. After the second shot you became aware of Pattie
5 Syphrette and that she was there?

6 A. Yes.

7 Q. How did you become aware of that?

8 A. She was standing right close to me.

9 Q. Did she say anything?

10 A. Yeah.

11 Q. What did she say?

12 A. She was glad the bitch is dead.

13 Q. What happened after that?

14 A. After that, we dragged her in the woods and Stokes ---

15 Q. Wait a minute. You dragged her in the woods,
16 did something scare you?

17 A. Yeah.

18 Q. What?

19 A. Car light.

20 Q. And what happened when ya'll saw the car light?

21 A. Stokes told everybody to hit the dirt.

22 Q. How long did the car lights stay there?

23 A. Split second.

24 Q. Okay, and what happened then?

25 A. We headed back to the car real fast.

- 1 Q. What happened when you got back to the car?
- 2 A. Stokes got in the driver's side, I got in the
- 3 back and Syphrette got in the front and we took off.
- 4 Q. Let me ask you this. Did you leave anything?
- 5 A. Yeah.
- 6 Q. What did you leave?
- 7 A. I left my hat, shovel, that's about it.
- 8 Q. How about your wallet?
- 9 A. And my wallet.
- 10 Q. And the plastic police badge that Chief Walters
- 11 gave you?
- 12 A. Yes, sir.
- 13 Q. And you Highway Department ID card?
- 14 A. Yeah.
- 15 Q. What about this crocus sack, this burlap bag
- 16 that Connie Snipes had been laying on, what happened to
- 17 that?
- 18 A. I throw it out the window.
- 19 Q. Wait a minute. When ya'll left the woods and
- 20 went to the car, what happened to it?
- 21 A. Well, Stokes handed the crocus bag to me.
- 22 Q. Do you know why he did that?
- 23 A. Yeah.
- 24 Q. Did he say why he wanted you to take the bag?
- 25 A. To get rid of it.

Mr. Martin-Direct by Solicitor

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- 1 Q. So waht did you do with the bag?
- 2 A. I took it to the car and threw it in the car
- 3 with the blood stuff on it.
- 4 Q. With the blood on it?
- 5 A. Yes.
- 6 Q. Whose blood?
- 7 A. Snipes.
- 8 Q. Where did you throw the bag?
- 9 A. 'Cross the first bridge when you're going ---
- 10 Q. No, when you got in the car, where did you put
- 11 it?
- 12 A. On the uhm --- seat.
- 13 Q. Okay, when you got into the car, when ya'll ran
- 14 out of the woods after you saw the light, what part of
- 15 the car did you get into?
- 16 A. The back seat.
- 17 Q. Where did the other two people get?
- 18 A. Stokes got in the front, Syphrette got in the
- 19 front.
- 20 Q. Who was behind the wheel?
- 21 A. Stokes.
- 22 Q. Okay, Stokes got behind the wheel this time?
- 23 A. Right.
- 24 Q. Do you know why?
- 25 A. No.

Mr. Martin-Direct by Solicitor

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- 1 Q. What happened when ya'll got in the car?
- 2 A. We left.
- 3 Q. Where did you go?
- 4 A. To a club, Alan Murray.
- 5 Q. That's a beer joint?
- 6 A. Yes.
- 7 Q. When did you realize that you had left your wallet,
- 8 your ID card, your plastic police badge and all that stuff
- 9 back out there in the woods?
- 10 A. When we was down the road a little piece.
- 11 Q. Did you look at the bag once you got in the car?
- 12 A. Yeah.
- 13 Q. And what did you see on the bag?
- 14 A. I saw a lot of blood.
- 15 Q. Was there anything else in the back seat?
- 16 A. Yeah.
- 17 Q. What?
- 18 A. A flannel shirt, kotex and what not.
- 19 Q. Did blood get on the flannel shirt?
- 20 A. No.
- 21 Q. You didn't see any blood on it?
- 22 A. No, not as I recall.
- 23 Q. Was it dark in the back of the car?
- 24 A. Was it dark?
- 25 Q. Yes.

Mr. Martin-Direct by Solicitor

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- 1 A. Yeah.
- 2 Q. What did ya'll do with the bag after you realized
- 3 it had blood on it?
- 4 A. I threw it out the window.
- 5 Q. Was anything else thrown out the window?
- 6 A. Yeah.
- 7 Q. What?
- 8 A. Her ID and whatnots.
- 9 Q. Who threw that out the window?
- 10 A. Syphrette.
- 11 Q. Now you said that ya'll went to Alan Murray's
- 12 club?
- 13 A. Yes.
- 14 Q. Where is that at?
- 15 A. It's at Bowman, South Carolina.
- 16 Q. Was there any conversation in the car after ya'll
- 17 left? Anybody say anything?
- 18 A. Yeah.
- 19 Q. What?
- 20 A. Stokes said if you say anything I'll kill you.
- 21 Q. Who was he talking to?
- 22 A. He was talking to me.
- 23 Q. And when he said that, did you believe him?
- 24 A. Yes.
- 25 Q. Were you scared?

Mr. Martin-Direct by Solicitor

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1 A. Oh, yeah.

2 Q. Did you think he would kill you?

3 A. Yeah.

4 Q. How long were ya'll at --- was this before or
5 after you went to Alan Murray's club?

6 A. Before.

7 Q. What happened when you got to Alan Murray's club?

8 A. Stokes got out, went in the club to get a beer
9 and some sodas.

10 Q. Okay, and when he came back, where did ya'll
11 go?

12 A. We head back to Branchville.

13 Q. Did he drop you off?

14 A. Yeah.

15 Q. Did they drop you off at your apartment?

16 A. No, at Horton's Field in Branchville.

17 Q. And when they dropped you off, who was driving
18 then?

19 A. Stokes.

20 Q. Did he say anything to you at that point when
21 he dropped you off?

22 A. Yes.

23 Q. What did he say?

24 A. He said if I say anything or go to the cops,
25 he know where I stay at, he will kill me.

Mr. Martin-Direct by Solicitor

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1 Q. Did you believe him?

2 A. Yes.

3 Q. After they dropped you off, did you see or hear
4 from either one of them again before you got arrested?

5 A. No, sir.

6 Q. On May the 27th, a few days after that, you got
7 arrested, is that correct?

8 A. Yes, sir.

9 Q. Were you drunk?

10 A. Yes.

11 Q. Did you spend the night in jail?

12 A. Yeah.

13 Q. The next morning did you talk to the deputies?

14 A. Yes, sir.

15 Q. Did you give them some information?

16 A. Yes, sir.

17 Q. Okay, NORRIS, shortly after this thing happened
18 and the detectives interviewed you and you gave some written
19 statements, didn't you?

20 A. Yes, sir.

21 Q. You lied to them, didn't you?

22 A. Yes.

23 Q. You lied to them on both statements.

24 A. Yeah.

25 Q. In the first statement you said that you didn't

Annette J. Mole

14th Circuit Court Reporter

P. O. Box 374

1 know anything about anybody getting killed, didn't you?

2 A. Yes, sir.

3 Q. You lied.

4 A. Yes, sir.

5 Q. Why?

6 A. I was scared.

7 Q. Scared of who or what?

8 A. Two things, I was scared of the cops, going to
9 jail, and I was scared of Louis.

10 Q. The second time you gave a statement you lied
11 again, right?

12 A. Right.

13 Q. Why did you lie?

14 A. Same thing.

15 Q. You were scared?

16 A. Yes.

17 Q. Of who?

18 A. The cops and Stokes.

19 Q. Norris, under oath here today, is what you have
20 told the jury the truth the best you can remember it?

21 A. Yes.

22 Q. Swear to God.

23 A. Swear to God.

24 SOLICITOR: Your Honor, I have nothing further
25 at this time of Mr. Martin.

Mr. Martin-Cross by Mr. Sims

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1 THE COURT: Mr. Sims.

2
3 CROSS-EXAMINATION

4 BY MR. SIMS:

5 Q. Mr. Martin, when you gave your statement back
6 on the 28th of May that you were just asked about by the
7 Solicitor, you were in jail at that time, isn't that correct?

8 A. Yes, sir.

9 Q. You didn't have to be worried about the police,
10 you were already in jail, isn't that right?

11 A. Yes, sir.

12 Q. And then the next day on the 29th, you gave another
13 statement and you were already in jail then, isn't that
14 right?

15 A. True.

16 Q. Mr. Martin, you've lived basically n Branchville
17 all your life, isn't that right?

18 A. Yes, sir.

19 Q. And you've known Sammie Stokes for a while, too,
20 isn't that right?

21 A. Yes, sir.

22 Q. And before today, just want to be clear about
23 this, you've given five different statements about what
24 happened out there that night, isn't that right?

25 A. Yes.

1 Q. You gave one on the 28th of May of 1998, is that
2 correct?

3 A. Yes.

4 Q. You gave one on the 29th of May of 1998, is that
5 correct?

6 A. Yes.

7 Q. You gave one on June 4th of 1998, is that correct?

8 A. Correct.

9 Q. You talked to the Solicitor and Clark Whetstone
10 back on July 2nd of 1999, is that correct?

11 A. Yes.

12 Q. And you testified once before back in September
13 of this year, is that correct?

14 A. Yes.

15 Q. And on each one of those statements you gave
16 a different statement, isn't that right?

17 SOLICITOR: Objection, Your Honor, if he has
18 some specific contradictions ---

19 MR. SIMS: I'm going to get into that.

20 SOLICITOR: --- he needs to bring that to his
21 attention, not generalize it like that.

22 THE COURT: Okay.

23 Q. Now, let me ask you, before we go into the
24 statement, on the 22nd you were in Branchville, is that
25 right?

Mr. Martin-Cross by Mr. Sims

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1 A. Yes.

2 Q. And you had just left, you bought you some beer,
3 and you were talking to J. T. and Rock?

4 A. Yes, correct.

5 Q. Okay, this girl came up to you and told you that
6 Sammie Stokes wanted to see you.

7 A. Correct.

8 Q. Now, when she came up to you, nobody --- she
9 came up by herself, is that right?

10 A. Right.

11 Q. There was nobody around her, right?

12 A. Right.

13 Q. She didn't appear afraid.

14 A. No.

15 Q. She wasn't scared of you, wasn't scared of anything,
16 is that correct?

17 A. No.

18 Q. Nobody had a gun on her.

19 A. No.

20 Q. Nobody tied her up.

21 A. No.

22 Q. So when she came up to you she was walking freely
23 and you were in the Town of Branchville, isn't that right?

24 A. Correct.

25 Q. Okay. When you got to the car, you saw --- you

1 say you saw Pattie Syphrette and Sammie Stokes in the car.

2 A. Yes.

3 Q. Now, at that time, if you didn't want to go with
4 them, you didn't have to go, did you?

5 A. No.

6 Q. Nobody had a gun on you.

7 A. No.

8 Q. Nobody got out of the car and physically put
9 you in the car.

10 A. No. If I had known that there was a gun ---

11 Q. You didn't know whether there was a gun.

12 A. No.

13 Q. You hadn't seen a gun.

14 A. No.

15 Q. Nobody had pulled a gun and pointed it at you
16 and said get in the car.

17 A. No.

18 Q. So you --- there was nobody --- they just told
19 you to get in the car.

20 A. Correct.

21 Q. And you, of your own volition, got in the car
22 on the main street of Branchville.

23 A. Correct.

24 Q. Now, when you got in the car you said that ya'll
25 drove a little place, a little while, and got out of the

Mr. Martin-Cross by Mr. Sims

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1 car and began --- and Stokes got out of the car with you.

2 A. Right.

3 Q. Now, you got out of the car and you went to the
4 back of the car and that was in the Town of Branchville,
5 too, wasn't it?

6 A. Right.

7 Q. And there were houses around.

8 A. Yeah, a few.

9 Q. There were a few houses around, right?

10 A. Correct.

11 Q. And you got out and you went to the back of the
12 car and went to talking with him and that's when you
13 allegedly said he told you that he wanted you to handle
14 some business or take care of something.

15 A. No, no, he asked it.

16 Q. He asked you to take care of something and you
17 said no.

18 A. Right.

19 Q. And that's when you, based on one of your stories,
20 you said that he pulled a gun and started putting bullets
21 in it.

22 A. Right.

23 Q. You didn't walk off.

24 A. I was scared to.

25 Q. You're in the Town of Branchville, you said a

1 few houses are around there, you're standing on the street
2 and you didn't walk off.

3 A. No, I didn't.

4 Q. You didn't just walk away from Sammie Stokes,
5 go to one of the houses in the Town of Branchville, you
6 got back in the car.

7 A. (No response.)

8 Q. When you got to the place where you say ya'll
9 went down that dirt road, that dirt road is less than a
10 mile from your house, isn't it?

11 A. Yeah.

12 Q. You live right down at the -- what's the name
13 of those apartments?

14 A. Branchville Villa.

15 Q. Branchville Villa.

16 A. Right.

17 Q. Apartments. You went down less than a mile from
18 your house to Jackson Road, isn't that right?

19 A. Uhm --- no, not Jackson Road.

20 Q. Well, you went down to the dirt road which is
21 less than a mile from your house.

22 A. Right.

23 Q. And that's a road that you knew existed, you
24 knew where that road is, don't you?

25 A. Yeah.

Mr. Martin-Cross by Mr. Sims

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1 Q. You pass there, you walk there all the time,
2 don't you?

3 A. Yeah.

4 Q. And that's part --- you walk that way all the
5 time, isn't that right?

6 A. Mostly.

7 Q. Mostly. You went down that dirt road and you
8 went to the back of that field, you knew where that field
9 was, didn't you?

10 A. No.

11 Q. You never knew where that field was.

12 A. No, sir.

13 Q. Okay. Now, when you all got --- getting a little
14 ahead but --- when you got out of the car, all four of
15 you got out, right?

16 A. Yes, sir.

17 Q. Now, when you got out of that car, nobody knew
18 where the gun was but you, did you?

19 A. Right, I knew where it was.

20 Q. You knew where it was.

21 A. Yeah.

22 Q. And you didn't say to Connie Snipes or to Pattie
23 Syphrette, Stokes has got a gun.

24 A. No.

25 Q. You didn't make any effort to warn anybody or

Mr. Martin-Cross by Mr. Sims

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1 to say anything to anybody that there was a gun present.

2 A. No.

3 Q. This same girl who had come into Branchville
4 and had gotten you voluntarily, she wasn't afraid or anxious
5 or anything when she got out of that car, was she?

6 A. Yeah.

7 Q. There was no gun present, she didn't know there
8 was a gun there, did she?

9 A. No.

10 Q. You had not threatened her, had you?

11 A. No.

12 Q. Sammie Stokes had not threatened her, had he?

13 A. No.

14 Q. Connie Syphrette had not threatened her, had
15 she?

16 A. I wouldn't know that.

17 Q. Well, while you were in the car nobody did that.

18 A. No.

19 Q. So with nobody threatening her, nobody showing
20 her any gun, nobody forcing her, she was not angry or she
21 was not anxious or nervous about anything, was she?

22 SOLICITOR: Objection, he can't answer to somebody
23 else's state of mind.

24 MR. SIMS: Your Honor, he said that she was nervous
25 so he can give an opinion about that.

Mr. Martin-Cross by Mr. Sims

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1 A. Yes, she was nervous.

2 THE COURT: He can't go into her state of mind.

3 Go ahead.

4 Q. I'm going to hand you a statement that you gave
5 the police back on May 28th of 1998. That is your state-
6 ment, isn't it?

7 A. Yes.

8 Q. In that statement you told the detectives of
9 Orangeburg County that you were on the main streets of
10 Branchville ---

11 A. Which is true.

12 Q. --- this girl came up to you, this woman came
13 up to you in a car, didn't you say that?

14 A. Yes, sir.

15 Q. And that she had battery trouble.

16 A. I lied.

17 Q. You lied, that's right. So you lied about that.

18 A. Right.

19 Q. Then you told them that once you helped her with
20 the cable, you got in the car and she told you she had
21 a dead body in the back of the car and she wanted your
22 help.

23 A. I lied.

24 Q. You lied about that, and that's when you were
25 first arrested, isn't that right?

1 A. Right.

2 Q. And on the bottom of that statement it says that
3 basically that you swore that you were telling the truth.

4 A. Right.

5 Q. Okay, the next day you gave another statement
6 about 12:10 P.M. you were talking to the police again,
7 isn't that right?

8 A. Correct.

9 Q. Now in that statement, you said that a girl came
10 up to you, you've got it there, and told you that Sammie
11 Stokes wanted you.

12 A. Yes.

13 Q. You got in the car.

14 A. Yeah.

15 Q. And you rode out there, you said about the ---
16 and you got out of the car and that's when you and Sammie
17 Stokes talked.

18 A. Correct.

19 Q. And you got back in the car.

20 A. Right.

21 Q. Now in that statement you said that you were
22 having sex with Pattie Syphrette, isn't that right?

23 A. Right, I was crossed up.

24 Q. And that Sammie Stokes was having sex with Connie
25 Snipes. Isn't that what you said?

Mr. Martin-Cross by Mr. Sims

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1 A. Yeah.

2 Q. So you lied about that.

3 A. No, I was crossed up.

4 Q. You were crossed up about the fact of your having
5 sex with somebody?

6 A. Yeah.

7 Q. One moment, Your Honor. Now in this statement
8 you said that he told you, I believe, and you've got it
9 right there, that he was going to kill somebody.

10 A. Yeah.

11 Q. That's different from what you said today, isn't
12 that right?

13 A. Right, but it means the same thing.

14 Q. Now this gun that you've talked about, the silver
15 gun with a brown handle, you knew an awful lot about that
16 gun, didn't you?

17 A. Yeah, the way it looked.

18 Q. But not to have handled the gun, not to have
19 put the gun in your possession, you knew an awful lot about
20 it.

21 A. Yeah.

22 Q. Then on the 4th of June, 1998, you gave another
23 statement to the detectives of Orangeburg County.

24 A. Right.

25 Q. Do you want to see that one?

Mr. Martin-Cross by Mr. Sims

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SOLICITOR: I would like to see it.

MR. SIMS: Okay.

Q. Now, Mr. Martin, in this statement you said that he told you that he was going to kill the girl named Connie.

A. No, he didn't tell me.

Q. So that was a lie.

A. Yeah.

Q. You knew that the police --- you knew that Connie Snipes was dead because your wallet, your ID and your badge was found out there, isn't that right?

A. Yeah.

Q. You knew that you had to get the heat off of you so you had to tell them something else on somebody else, didn't you?

A. Yeah.

Q. And you just chose to tell them that Sammie Stokes said he was going to kill the girl named Connie.

A. (No response.)

Q. In this statement, you said that when you got out of the car and you went walking back in the woods, you said that you asked him why did he want to give you the shovel.

A. No, I didn't say anything.

Q. Right here, Norris Martin --- do you mind if

Mr. Martin-Cross by Mr. Sims

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1 I read this to you?

2 A. (No response.)

3 Q. " So we went walking back in the woods but before
4 then he gave me a shovel and I said, what is this for?"
5 That's a little different than what you've been saying,
6 isn't it?

7 A. Right.

8 Q. Now in this statement, when you were talking
9 about being in the back with them, you began to tell them,
10 after three statements, and I believe in your other state-
11 ment you said and I'll clear this up, the statement of
12 the 29th, let me be sure. On the statement on the 29th,
13 you said, " He put the gun in my hand and pulled the trigger."

14 A. Right.

15 Q. Sammie Stokes took a revolver, put it in your
16 hand and pulled the trigger.

17 A. Right.

18 Q. Two people hand on a gun and he pulled the trigger.

19 A. Yes.

20 Q. That was the shot to the back of the head, isn't
21 that right?

22 A. Right.

23 Q. That's the one that you talked about in the back
24 of the head when the gun was in your hand.

25 A. Right.

1 Q. So the gun was in your hand, she got shot in
2 the back of the head, that's the shot that was in the back
3 of the head.

4 A. Right.

5 Q. That's when she fell over, isn't that right?

6 A. I believe.

7 Q. Now, you said --- you gave another statement
8 after you had been in jail from the 27th of May in '98,
9 you gave another statement when the Solicitor was present
10 and Detective Clark Whetstone was present, didn't you?

11 A. Right.

12 SOLICITOR: Can we approach, Your Honor?

13 THE COURT: Sure.

14 (WHEREUPON, A bench conference was held out
15 of the hearing of the jury and the court reporter.)

16 THE COURT: Ladies and gentlemen, would you please
17 step back to your room for just a moment.

18 (WHEREUPON, Jury retired to the jury room and
19 the following proceedings were held in the absence of the
20 jury.)

21 SOLICITOR: Your Honor, I think Mr. Martin needs
22 to go to the bathroom, he's giving me a time out sign here.

23 THE COURT: Okay. Sheriff, if you will assist
24 him.

25 MR. SIMS: I would ask that you admonish the

Mr. Martin-Cross by Mr. Sims

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1 defendant from talking with anyone about this.

2 THE COURT: Mr. Norris, do not talk with anyone
3 during this restroom break, okay.

4 MR. MARTIN: Okay.

5 SOLICITOR: Judge, if I could just state for
6 the record my concerns there. I had advised Mr. Sims that
7 I was going to try to sanitize the guilt phase of this
8 trial, keep out the mutilation and keep out the torture,
9 to reserve that and keep out anything involving Doug
10 Ferguson in the penalty phase, and it appears to me that
11 Mr. Sims wants to cross-examine Norris Martin leaving those
12 details out and I instructed Mr. Martin not to get into
13 that because in this penalty phase material it's not
14 appropriate, in my opinion, in this phase of the trial.
15 And for Mr. Sims to get up there and cross-examine Norris
16 Martin and make it look like he's holding back and telling
17 me different things that he's not saying now, is just unfair.

18 MR. SIMS: Your Honor, he told --- not only did
19 he tell the Solicitor that back in his statement of July
20 the 2nd, he testified to that and we have the transcript
21 of his testimony in court in September where he testified
22 to those facts.

23 SOLICITOR: Mr. Sims is missing my point. Those
24 facts did happen, he did tell me that, he's given statements
25 to that affect, I've advised Mr. Sims of that. What I'm

1 trying to do is protect the record for his client during
2 the guilt phase of the trial by doing a bare bones case
3 in the guilt phase and not getting into those things that
4 might prejudice the jury.

5 THE COURT: I don't know what all I can say in
6 regards to that except that you are putting him on notice
7 why you were careful to do and if you open the door ---

8 MR. SIMS: I know. I'm aware of that, Your
9 Honor.

10 SOLICITOR: Your Honor, and I had advised Mr.
11 Sims that I wasn't getting into this so he knows the reason
12 Norris Martin isn't talking about that, it's not because
13 he's lying about it. He's lying about it because I had
14 an agreement with Mr. Sims that we wouldn't get into these
15 issues in the guilt phase.

16 THE COURT: All right, ya'll take a minute or
17 two and talk it over and see if you can resolve it and
18 if you need a further ruling from me, I'll do it but if
19 that's the agreement you had, there's just so much I can
20 do, I mean, I can't restrict you on your cross-examination,
21 you have a full right to do that but you are on thin ice
22 with this other situation---

23 MR. SIMS: Yeah, I know.

24 THE COURT: --- about the torture and ---

25 MR. SIMS: If I had --- if I had that agreement

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1 and I will look back over my stuff, if I had that agreement
2 I will fully honor it. I knew that we were going to keep
3 out everything as it relates to Doug Ferguson, there's
4 not a question about that, and I agreed to that and I state
5 that on the record. But today is the first time that I
6 heard that he was not going to get into any of the stuff
7 about the knife.

8 SOLICITOR: Judge, Dr. Sexton testified and left
9 all of that out. I mean, that was part of what we were
10 doing, I mean, he didn't raise that issue with Dr. Dexton
11 because he couldn't impeach Dr. Sexton but he wants to
12 do it with this man here. And Mr. Sims knows that that
13 was the understanding we had.

14 THE COURT: Ya'll come up here a minute.

15 (WHEREUPON, A bench conference was held out
16 of the hearing of the jury and the court reporter.)

17 THE COURT: All right, everybody on the same
18 wave length now?

19 MR. SIMS: Yes, sir. Can we do the stipulation
20 orally about the white material ---

21 SOLICITOR: Yeah, we can do it anytime you want
22 to.

23 MR. SIMS: --- that the white material is tampon
24 material.

25 SOLICITOR: Right.

1 MR. SIMS: I want to do that now.

2 THE COURT: Okay, we've got everybody, you can
3 bring them in.

4 (WHEREUPON, The jury returned to the courtroom
5 and the following proceedings were held in their presence.)

6 THE COURT: All right, counsel.

7 Q. Now, Mr. Martin ----

8 MR. SIMS: Your Honor, before I would go any
9 further, earlier I introduced Defendant's exhibit #4 as
10 white cotton material that had been found at the scene.
11 There is a stipulation by the State that that white cotton
12 material is tampon material.

13 SOLICITOR: That's correct, Your Honor.

14 THE COURT: Okay.

15 Q. Mr. Martin, the young lady who went back there
16 in the woods with you, she voluntarily went back in the
17 woods, didn't she?

18 A. Suphrette?

19 Q. No, Connie.

20 A. Connie Snipes?

21 Q. Yes.

22 A. Yeah.

23 Q. When you got out of the car, there was no gun
24 put on her, was there?

25 A. No.

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- 1 Q. No one pushed or forced or threatened her to
2 go in the back of the woods, isn't that right?
- 3 A. I don't know.
- 4 Q. You didn't threaten her, did you?
- 5 A. No.
- 6 Q. You didn't hear Sammie Stokes threaten her, did
7 you?
- 8 A. No.
- 9 Q. You didn't hear Pattie threaten her, did you?
- 10 A. No.
- 11 Q. So nobody threatened her to walk back there
12 on her own.
- 13 A. I guess, I don't know.
- 14 Q. You were there, you don't know?
- 15 A. No, I don't know.
- 16 Q. When you got into the back of the woods --- now,
17 first of all, Connie Snipes was not a little bitty girl,
18 was she?
- 19 A. No.
- 20 Q. She was bigger than you, isn't that right?
- 21 A. (No response.)
- 22 Q. Taller than you.
- 23 A. Taller than me, yeah.
- 24 Q. And bigger than you, is that right?
- 25 A. Yeah.

1 Q. So when she got back there in the back of the
2 woods, she never tried to run away from Sammie Stokes or
3 you or anyone back there, did she?

4 A. No.

5 Q. Nobody tied her hands, nobody tied her feet at
6 all, did they?

7 A. No.

8 Q. When she got back there and the three of you
9 were back there, isn't it true that she voluntarily had
10 sex with you all?

11 A. Yes.

12 Q. Because as a matter of fact, this was the time
13 of her period, isn't that right?

14 A. I don't know.

15 Q. Well, that tampon material that was found back
16 there, she voluntarily took that out, isn't that right?

17 A. I don't know.

18 Q. To have sex with you all.

19 A. I don't know.

20 Q. And you said in response to the direct examination
21 that Sammie Stokes had a gun on you when you were having
22 sex.

23 A. Yes.

24 Q. that didn't seem to bother you or interfere with
25 you in any way, did it?

Mr. Martin-Cross by Mr. Sims

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1 A. Yes.

2 Q. You had sex with her.

3 A. Yes.

4 Q. Okay. And so the fact that someone is standing
5 over you, according to you, with a gun on you did not
6 interfere with your performance of the sexual act, did
7 it?

8 A. Yes.

9 Q. All right, are you now saying that you didn't
10 have sex with her?

11 A. No, I had sex with her.

12 Q. Okay. And at no time did anybody do anything
13 to her back there other than when you all got back there
14 to have sex with her, right?

15 A. Correct.

16 Q. Now, you're saying, in one of your statements,
17 that he put the gun in your hand.

18 A. Yes.

19 Q. Now, nobody had a gun on you at that time, did
20 they?

21 A. Yes.

22 Q. But the gun is in your hand.

23 A. I was trying to get away from the gun.

24 Q. But that's not what you said in your second state-
25 ment on the 29th and it's up there if you want to read

1 it. It's up there if you want to read it. That's what
2 you said in that statement that you gave on the 29th. You
3 said he put the gun in your hand and pulled the trigger.

4 A. Yes.

5 Q. With the gun in your hand, you've got control
6 of the weapon, you don't take the weapon and try to do
7 anything with it to protect yourself?

8 A. (No response.)

9 Q. It's because you had the gun in your hand, you
10 aimed the gun and you shot her in the back of the head.

11 A. No.

12 Q. You stood behind her and fired the first shot
13 into the back of her head with the gun being in your hand.

14 A. No.

15 Q. When you gave that statement in May, on the 29th,
16 the second statement, you put the gun in your hand.

17 SOLICITOR: Judge, that's the third time he's
18 asked the same question, I object to the repetition of
19 it.

20 THE COURT: Asked and answers.

21 Q. Okay. On the 4th, when you testified in court,
22 you said that you were trying to run away from that ---

23 A. No, I didn't say that. I said I was trying to
24 get away from the gun.

25 Q. You were trying to get away from the gun which

Mr. Martin-Cross by Mr. Sims

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1 is different from what you said initially.

2 A. No, it's not.

3 Q. When you gave that statement on the 29th saying
4 he put the gun in your hand and when you testified that
5 you were trying to get away from the gun, those are not
6 different statements?

7 A. Yes, that's different statements but I meant
8 the same thing.

9 Q. You meant the same thing?

10 A. Yeah, I was trying to get away from the gun to
11 get it out of my hand.

12 Q. Well, if you're trying to get away from the gun,
13 trying to run away, move your hand, you had to aim the
14 gun.

15 A. No, I didn't.

16 Q. Well, let me ask you this. If you're putting
17 the gun in your hand and you're moving your hand away and
18 everybody is moving and trying --- he's trying to push
19 it in your hand and you're trying to pull your hand away,
20 the gun is not aimed at anybody, is it?

21 A. No.

22 Q. This young lady is not tied up, her hands not
23 bound, feet not bound, and she's going to stand there and
24 watch the two of you wrestle over a gun to try to shoot
25 her with.

1 A. (No response.)

2 Q. Now, in each one of those statements, you swore
3 to tell the truth.

4 A. Yes.

5 Q. But in each one of those statements, you lied.

6 A. Yes, I did.

7 Q. You knew that when you gave your first statement,
8 the police weren't going to believe that lie, didn't you?

9 A. Correct.

10 Q. So you had to come up with a better lie.

11 A. No.

12 Q. And that's when you came up with the lie on the
13 next day, on the 29th, and you told another lie then, didn't
14 you?

15 A. Yeah.

16 Q. Then after having sat in the jail for three or
17 four more days and the police officers coming to talk to
18 you again, you knew that that lie wasn't going to stand
19 up so you had to give them another lie that you told them
20 back on the 4th of Jun of '98, didn't you?

21 A. Yes, I lied.

22 Q. And then subsequent to that ---

23 SOLICITOR: Judge, I hate to object again but

24 Mr. Martin has testified under direct examination that

25 he did lie. There's nothing to impeach him on, he's admitted

Mr. Martin-Cross by Mr. Sims

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1 that. And Mr. Sims goes back over and over and over again.
2 If he denied lying, I could see the relevancy to these
3 questions but he's said he lied.

4 THE COURT: I don't want to limit your cross
5 but we don't need to be repetitious. If something has
6 been asked and answered, then you should move on.

7 Q. You got a deal out of this deal, didn't you?

8 A. Yes.

9 Q. You got a plea agreement out of it, isn't that
10 right?

11 A. Sort of, yeah.

12 Q. And your whole testimony has been with the idea
13 of getting an agreement and getting a deal, isn't that
14 right?

15 A. True.

16 Q. You knew that you had to tell them something
17 in order to keep your deal, isn't that right?

18 A. No.

19 Q. And you knew that you had a life sentence that
20 you had agreed to for coming into this courtroom and
21 testifying, isn't that right?

22 A. Yeah.

23 Q. And so you know that you have to tell them some-
24 thing on somebody else in order to keep your life sentence,
25 isn't that right?

1 A. No.

2 Q. You signed your life sentence or your lawyer
3 signed that life sentence for you back on, I believe, it
4 was April the 11th of 1999, is that right?

5 A. Yes.

6 Q. Or do you know?

7 A. I don't know, maybe.

8 Q. But in any event, you were told that based upon
9 your testimony and what you said in here, you had a life
10 sentence.

11 A. Yeah.

12 Q. And you know you've got to say certain things
13 in order to keep your life sentence.

14 A. (No response.)

15 MR. SIMS: Court's indulgence one minute.

16 THE COURT: Yes, sir.

17 Q. Mr. martin, an oath doesn't mean very much to
18 you, does it?

19 A. Yes, it does.

20 Q. You gave three or four different oaths prior
21 to today ---

22 SOLICITOR: Again, I object to the that, Judge,
23 he's asked the same thing over and over and over. And Norris
24 Martin has just said under oath repeatedly that he lied
25 in those previous statements.

1 MR. SIMS: No. Your Honor, I've asked him about
2 the oath and I'm asking him about the oath and that fact
3 that he lied in the other oaths.

4 THE COURT: Go ahead and wrap it up.

5 Q. You gave the oath before and you lied, you put
6 your hand on the Bible and you lied again today, isn't
7 that right?

8 A. No.

9 MR. SIMS: That's all I have, Your Honor.

10 THE COURT: Any re-direct?

11 SOLICITOR: Yes, sir.
12

13 RE-DIRECT EXAMINATION BY THE SOLICITOR:

14 Q. Norris, I've got a few more questions that I
15 need to ask you. Mr. Sims asked you whether or not when
16 you made those first statements you were in jail, do you
17 remember that?

18 A. Yes.

19 Q. Who else was in jail with you?

20 A. Who else was in --- Samuel Stokes.

21 Q. Were you still scared of him?

22 A. Yes.

23 Q. Why are you scared of Sammie Stokes?

24 A. The way he do people.

25 Q. How long have you been afraid of him?

Mr. Martin-Re-direct by Solicitor

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1 MR. SIMS: Objection, Your Honor, may we approach?

2 THE COURT: Yes.

3 (WHEREUPON, A bench conference was held out
4 of the hearing of the jury and the court reporter.)

5 Q. Norris, do you recall where the cloth bag was
6 at the time Mrs. Snipes was shot?

7 A. It was underneath her.

8 Q. Mr. Sims asked you about whether or not Mrs.
9 Snipes walked in the woods voluntarily with ya'll. That
10 shovel was out, right?

11 A. Yes.

12 Q. Out of the trunk of the car.

13 A. Yes, sir.

14 Q. How did she react to the shovel?

15 A. She was nervous.

16 MR. SIMS: Your Honor, that's been asked and
17 answered on direct and again on cross-examination. He
18 asked that and I asked on cross-examination also. So that's
19 been asked and answered several times.

20 SOLICITOR: He's correct, Your Honor, but he
21 asked some questions in regard to whether or not she
22 voluntarily went out in the woods and I was just bringing
23 that up for that purpose and no other purpose.

24 THE COURT: That's okay.

25 Q. When ya'll got into the woods, Mr. Sims asked

Mr. Martin-Re-direct by Solicitor

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1 you whether or not Mrs. Snipes voluntarily had sex with
2 you, is that correct?

3 A. Yes.

4 Q. And this occurred before or after that grave
5 started to be dug?

6 A. It was before.

7 Q. And when you were voluntarily having sex with
8 her, or she was voluntarily having sex with you, the gun
9 was out?

10 A. Yes.

11 Q. Pointed at you and her.

12 A. Yeah.

13 Q. When you were having sex, it was pointed at
14 both of you, right?

15 A. Right.

16 Q. And at the time she was having sex with Sammie
17 Stokes, did she voluntarily engage in anal sex?

18 A. No.

19 Q. How do you know she wasn't voluntarily doing
20 that?

21 A. She was trying to get him off of her.

22 Q. How?

23 A. Trying to pushing him off.

24 Q. As far as your plea agreement with the State
25 and the content of your testimony, have you ever been

Mr. Martin-Re-direct by Solicitor

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1 told to say anything but the truth?

2 A. I was told to tell the truth.

3 Q. Were you ever told by me to say anything besides
4 the truth?

5 A. No.

6 Q. Is your plea agreement conditioned on you testifying
7 to any specific thing?

8 A. No.

9 Q. Or just to tell the truth.

10 A. Just to tell the truth.

11 Q. Is that what you are doing here under oath, the
12 other that you took?

13 A. Yes.

14 SOLICITOR: That's all I have at this time.

15 THE COURT: Any re-cross?

16 MR. SIMS: Yes, sir.

17
18 RE-CROSS-EXAMINATION

19 BY MR. SIMS:

20 Q. Mr. Martin, you're saying that he's having anal
21 sex with her and she was trying to push him off?

22 A. Yeah.

23 Q. Correct me if I'm wrong, but anal sex from behind
24 means that she is turned away from him so she could not
25 be trying to push him off.

Mr. Martin-Re-Cross by Mr. Sims

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1 A. Yes, she was.

2 Q. Now, also in your previous statement, when you
3 were asked about that question, you said --- and you've
4 got all three of your statements there --- you said that
5 he was having sex with her from behind. You never said
6 anything about anal sex.

7 A. That's what I meant, from behind, anal sex.

8 Q. You don't know what he was doing from behind
9 her, do you?

10 A. (No response.)

11 Q. It could have been anal, it could have been having
12 sex with her from behind vaginally.

13 A. That was her behind.

14 Q. But you can't say that it was anal sex, can you,
15 because you don't know.

16 A. (No response.)

17 MR. SIMS: I have nothing else, Your Honor.

18 SOLICITOR: Briefly, Your Honor, if I might follow
19 up on that.

20 THE COURT: Go ahead.

21

22 RE-RE-DIRECT EXAMINATION BY THE SOLICITOR:

23 Q. When you testified about Connie Snipes trying
24 to push him off during the process of anal sex, can you
25 describe to the jury how she was doing that or how she

Mr. Martin-Re-Re-Direct by Solicitor

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1 was attempting to do that.

2 A. Uhm --- she was pushing him from behind.

3 Q. How, twisting around?

4 A. Yeah.

5 SOLICITOR: That's all I have.

6 THE COURT: Anything in regards to that?

7 MR. SIMS: Nothing further, Your Honor.

8 THE COURT: You may step down, thank you, sir.

9 SOLICITOR: State would recall Clark Whetstone.

10
11 CLARK WHETSTONE, HAVING BEEN

12 ALREADY DULY SWORN, TESTIFIED AS FOLLOWS:

13 DIRECT EXAMINATION BY THE SOLICITOR:

14 Q. Mr. Whetstone, I want to call your attention
15 to June 2, 1998 about 10.40 A.M. and ask whether or not
16 you had occasion to see Sammie Stokes?

17 A. Yes, I did.

18 Q. Where did you see him?

19 A. At the ---

20 MR. SIMS: Your Honor, we would raise our objection
21 previously noted as regards to the statement.

22 THE COURT: All right, noted.

23 Q. Mr. Whetstone, again, calling your attention
24 to June 2, 1998 at about 10:40 A.M., did you see the
25 defendant, Sammie Stokes?

Mr. Whetstone-Direct by Solicitor

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1 A. Yes, I did.

2 Q. Where did you see him?

3 A. At the Sheriff's Office.

4 Q. And state whether or not Emery Rush was also
5 with you?

6 A. Yes, he was.

7 Q. And what part of the Sheriff's Office were ya'll
8 in?

9 A. We were in our interview room.

10 Q. And do you recall Mr. Stokes' appearance and
11 demeanor at that time?

12 A. He was very calm.

13 Q. And were you present when he was given his Miranda
14 Rights?

15 A. Yes, I was.

16 Q. Who advised Mr. Stokes of his Miranda Rights?

17 A. Detective Rush.

18 Q. And how was that done, verbally or in writing?

19 A. Verbally.

20 Q. And were you present when he did that?

21 A. Yes, I was.

22 Q. And did Mr. Stokes verbally state that he under-
23 stood the rights that were given to him by Mr. Rush?

24 A. Yes, he did.

25 Q. And when he gave those rights to him, did you

1 witness the signature signed in acknowledgement of rights
2 and waiver of rights?

3 A. Yes, I did.

4 Q. I hand you a document and ask if this is the
5 Miranda form that you heard Mr. Rush go over with Sammie
6 Stokes.

7 A. Yes, it is.

8 Q. And that's your signature in the bottom left
9 hand corner?

10 A. Yes, it is.

11 Q. All right, and you observed Mr. Stokes sign it
12 in both places?

13 A. Yes, I did.

14 SOLICITOR: Your Honor, I would offer the Miranda
15 form into evidence at this time.

16 THE COURT: All right, it's in.

17 (WHEREUPON, Miranda Rights form was entered
18 and marked as State's exhibit #19.)

19 THE COURT: I note your objection.

20 MR. SIMS: Yes, sir, note my objection.

21 SOLICITOR: Please answer any questions that
22 Mr. Sims may have for you.

23 THE COURT: Mr. Sims.

24 MR. SIMS: Yes, sir.

25

Mr. Whetstone-Cross by Mr. Sims

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CROSS-EXAMINATION

BY MR. SIMS:

Q. Mr. Whetstone, this was on June the 2nd, this was after Mr. Stokes had been taken before the magistrate, is that correct?

A. No, sir, that is not correct.

Q. He had not been taken to the magistrate?

A. No, sir, he had not.

Q. That was in the afternoon of June the 2nd?

A. No, sir. May I review that form again, please?

That was in the morning at approximately 10:40 a.m.

Q. In the morning at 10:40 a.m.?

A. Yes, sir.

MR. SIMS: May we approach, Your Honor?

THE COURT: Sure.

(WHEREUPON, A bench conference was held out of the hearing of the jury and the court reporter.)

Q. Let me ask you, if I could, Mr. Whetstone. This was on June the 2nd, is that correct?

A. Yes, sir, it is.

Q. The warrant was served on Mr. Stokes on May the 29th, is that correct?

A. No, sir, that is not correct. Which warrant are you speaking of?

Q. The warrant of ---

1 A. Do you have the document that I could look at?

2 MR. SIMS: Your Honor, we're going to need to
3 take up a matter right quick.

4 THE COURT: Okay, ladies and gentlemen of the
5 jury, if you will step back to your room for just a few
6 minutes.

7 (WHEREUPON, Jury retired to the jury room and
8 the following proceedings were held in the absence of the
9 jury.)

10 THE COURT: The simplest way to do that is to
11 let him look at that.

12 MR. SIMS: That's what I wanted to do, Your Honor.
13 I didn't want to do it in front of the jury. Just look
14 at the warrant and the date of service of that warrant.

15 Q. That was on 5/29, wasn't it?

16 A. I don't have any knowledge of this warrant. I
17 don't know anything about it.

18 THE COURT: That was the warrant for murder?

19 A. Yes, sir.

20 MR. SIMS: Well, that's what I wanted to be sure,
21 that's why I didn't want to do it in front of the jury,
22 Your Honor, I think that is a Court's exhibit and then
23 when I ask him about it he will know about it.

24 A. I've never seen this document before today.

25 Q. But you will agree that it was served as a

Mr. Whetstone-Cross by Mr. Sims

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1 murder warrant on that time?

2 A. Yes, I will.

3 THE COURT: Will that do it?

4 MR. SIMS: That will do it, Your Honor.

5 THE COURT: All right, bring the jury back in,
6 please.

7 (WHEREUPON, The jury returned to the courtroom
8 and the following proceedings were held in their presence.)

9 Q. Just one other question for you, Detective
10 Whetstone. The defendant was served with a murder warrant
11 on May 29th of '98, is that correct?

12 A. Yes, he was.

13 MR. SIMS: Thank you, that's all I have of this
14 witness, Your Honor.

15 SOLICITOR: No re-direct, Your Honor.

16 THE COURT: Thank you, sir, you may step down.

17 SOLICITOR: Call Emery Rush.

18
19 EMERY RUSH, HAVING ALREADY BEEN
20 DULY SWORN, TESTIFIED AS FOLLOWS:

21 DIRECT EXAMINATION BY THE SOLICITOR:

22 Q. Mr. Rush, I call your attention to June 2nd of
23 1998 at about 10:40 a.m., were you with Detective Whetstone
24 and Sammie Stokes that morning?

25 A. Yes, sir.

Mr. Rush-Direct by Solicitor

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1 Q. All right, sir, and what do you recall of his
2 appearance and demeanor?

3 A. I recall that Mr. Stokes was in a good mood.
4 He did not appear to be nervous, he didn't appear to be
5 agitated. I think the term "mellow" would probably describe
6 him.

7 Q. He had been in jail between May the 28th and
8 June the 2nd, the day that we are talking about?

9 A. Yes, sir.

10 Q. And did you give Mr. Stokes his Miranda Rights?

11 A. Yes, sir, I did.

12 Q. Did you use the form to do it?

13 A. Yes, sir.

14 Q. There's a form in front of you that Mr. Whetstone
15 has testified on and for the record it is State's #14.

16 A. Yes, sir.

17 Q. Go over that form with the jury the same way
18 you did with Mr. Stokes on that day.

19 A. Yes, sir. This is a Miranda form and we are
20 required by law to advise a defendant of his Miranda Rights
21 before we question him. And this particular form that
22 we use at the Sheriff's Office states:

23 "These are your rights, please read them carefully.
24 Before we ask you any questions, you must understand your
25 rights. Please initial beside each sentence.

1 You have the right to remain silent. Anything
2 you say can be used against you in court. You have the
3 right to talk to a lawyer for advice before we ask you
4 any questions and to have him with you during questioning.
5 If you cannot afford a lawyer, one will be appointed for
6 you before any questioning if you wish. If you decide
7 to answer questions now without a lawyer present, you will
8 still have the right to stop answering at any time. You
9 also have the right to stop answering at any time until
10 you talk to a lawyer."

11 The next line says, " I understand my rights."
12 And on this particular form, it is signed Sammie Stokes.

13 Q. Okay, and there are some marks out to the left
14 of each one of those rights, is that correct?

15 A. Yes, sir. We ask that they put their initials
16 in these blocks out on the side of each sentence, on these
17 lines beside each sentence. Mr. Stokes would not put his
18 initials, he put check marks.

19 Q. Okay.

20 A. Below his signature there's a waiver of rights
21 and this waiver reads:

22 " I have read the statement of my rights and
23 I understand what my rights are and I wish to make a
24 statement and answer questions. I do not want a lawyer
25 at this time. I understand and know what I am doing.

1 No promises or threats have been made to me and no threats
2 or coercion of any kind has been used against me."

3 And just below that paragraph is a place for
4 a signature and it's signed Sammie Stokes. Below that
5 on the left hand corner of this form are two lines for
6 witness signatures. The first line contains my name, F.
7 Emery Rush, and the next line, just below that, it says
8 Clark Whetstone.

9 Q. To the best of your knowledge, did Sammie Stokes
10 sign the acknowledgement of rights and the waiver of rights
11 freely and voluntarily and of his own free will and accord?

12 A. Yes, sir, he did.

13 SOLICITOR: Please answer any questions Mr. Sims
14 may have for you.

15 THE COURT: Mr. Sims.

16
17 CROSS-EXAMINATION

18 BY MR. SIMS:

19 Q. Mr. Rush, you swore out the warrant for murder,
20 is that correct?

21 A. Yes, sir.

22 Q. And you served that warrant on the 29th?

23 A. If I could see it, I think that's right, but
24 I would like to look at it for a minute.

25 Q. For the purposes of this ---

Mr. Rush-Cross by Mr. Sims

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1 A. I obtained the warrant on the 29th of May, yes,
2 sir.

3 Q. Did you serve it on that day?

4 A. It was served --- yes, sir, it was served on
5 the 29th also.

6 Q. Okay, thank you. Now when you all serve a warrant
7 on a defendant, you all take him before a magistrate, is
8 that correct?

9 A. Yes, sir.

10 Q. And when you take him before a magistrate, in
11 this case you took him before Magistrate Peggy Davis, is
12 that correct?

13 A. (No response.)

14 Q. There's an attached sheet on there and I believe
15 it has her name on it, you can look at it.

16 A. Judge Willie Robinson issued the warrant. Yes,
17 Peggy Davis was the magistrate that held the arraignment,
18 yes, sir.

19 Q. Now, when you do that, when Judge Davis did that,
20 you've been before her on a number of occasions, is that
21 correct?

22 A. Yes, sir.

23 Q. And she has a set pattern that she follow.

24 A. Yes, sir.

25 Q. And in her pattern she has a little check form

1 that she uses all the time, that she goes through with
2 defendants where people have been charged, is that correct?

3 A. Yes, sir.

4 Q. And her pattern didn't deviate on that day, did
5 it?

6 A. No, sir.

7 Q. It was the same pattern that she always uses.

8 A. Yes, sir.

9 Q. As a part of that pattern, doesn't she always
10 ask whether or not a person wants an attorney appointed?

11 A. Yes, sir.

12 Q. And if they want an attorney appointed for them,
13 she will give them a preliminary hearing sheet and tell
14 them to fill that out, isn't that right?

15 A. That's true, she gives them the form and she
16 tells them to fill it out and pass it to the correctional
17 officer in the back, yes, sir.

18 Q. And isn't it true that Mr. Stokes said he wanted
19 an attorney that day?

20 A. I think her question was, can you afford your
21 own attorney and I think --- I don't recall what he said
22 at that time but I do recall her saying --- and he may
23 have said yes, but she said in the event, I want you to
24 fill this form out and in the event you can't afford one
25 down the road, you will still have this form.

Mr. Rush-Cross by Mr. Sims

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1 Q. Okay. But you don't recall whether --- the exact
2 conversation.

3 A. No, sir, I don't.

4 Q. But there's no question that he was before the
5 judge and had been informed of his right to an attorney
6 and ---

7 A. I'm sorry, Mr. Sims.

8 Q. I'm sorry, I forgot. There's no question that
9 he had been before the magistrate and she always asks them
10 if they want an attorney.

11 A. She always tells them they have a right to an
12 attorney and she asks them can they afford their own attorney.

13 MR. SIMS: That's all I have, Your Honor.

14 SOLICITOR: No re-direct.

15 THE COURT: Thank you, sir, you may step down.

16 SOLICITOR: Call Kenny Kinsey.

17
18 KENNY KINSEY, AFTER FIRST
19 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

20 DIRECT EXAMINATION BY SOLICITOR:

21 Q. Mr. Kinsey, you are a deputy with the Orangeburg
22 County Sheriff's Office?

23 A. Yes, sir.

24 Q. And how long have you been in law enforcement?

25 A. Approximately eight years.

Mr. Kinsey-Direct by Solicitor

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1 Q. And calling your attention to June of last year,
2 were you a uniformed deputy with Orangeburg?

3 A. Yes, sir.

4 Q. Calling your attention to June 8th, 1998, did
5 you have occasion to transport Sammie Stokes, the defendant
6 over here, from the jail to the courthouse?

7 A. Yes, sir, I did.

8 Q. And can you point out the person I'm talking
9 with, Sammie Stokes.

10 A. The gentleman in the green suit.

11 Q. And was there any communication between you and
12 Mr. Stokes during the course of that trip?

13 A. Yes, sir.

14 Q. Either to the courthouse or returning from the
15 courthouse.

16 A. Yes, sir it was.

17 Q. Who initiated that communication?

18 A. Mr. Stokes did.

19 Q. What, if anything, did he tell you?

20 A. He told me that he had a package for me to give
21 to Emery.

22 Q. Okay, Emery, meaning Emery Rush?

23 A. Detective Rush, yes, sir.

24 Q. Okay, and did you accept the latter from him?

25 A. I -- it was a letter and I didn't at first. I

Mr. Kinsey-Direct by Solicitor

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1 wanted to check with Emery first and make sure that it
2 was okay for me to take it.

3 Q. So you refused to take the letter initially?

4 A. Yes, sir.

5 Q. And did you take Mr. Stokes back from the court-
6 house to the jail?

7 A. I did.

8 Q. What did you do next, who did you talk to?

9 A. Well, that's when I asked Emery if it was okay
10 and Emery said, yes, go get it, Detective Rush said, yes,
11 go get it and so I went back over and picked the letter
12 up.

13 Q. You went back from the Sheriff's Office to the
14 jail?

15 A. From the detective division, just a short ways
16 across the hall to the jail.

17 Q. All right, and you encountered Mr. Stokes again,
18 is that correct?

19 A. Yes, sir.

20 Q. What occurred between you and Mr. Stokes then?

21 A. He handed me a letter.

22 Q. Let me hand you this and see if that appears
23 to be the letter he handed you.

24 MR. SIMS: Your Honor, again, all of this is
25 subject to my previous objection.

1 THE COURT: Noted.

2 A. Yes, sir, it appears to be.

3 SOLICITOR: Your Honor, right now I would like
4 this marked for identification only.

5 THE COURT: All right.

6 (WHEREUPON, Letter was entered and marked as
7 State's exhibit #20 for Identification Only.)

8 Q. Did you say anything to Stokes to persuade him
9 to give you that letter?

10 A. No, sir.

11 Q. And after you received the letter from Stokes,
12 did you turn that over to Emery Rush?

13 A. Yes, sir.

14 SOLICITOR: Thank you. Please answer any questions
15 Mr. Sims may have for you.

16 THE COURT: Mr. Sims.

17

18 CROSS-EXAMINATION

19 BY MR. SIMS:

20 Q. I have just a few questions for you. You brought
21 him over here to the courthouse, is that correct?

22 A. I was one of several who escorted him, yes, sir.

23 Q. Okay. And you knew that he was coming over here
24 to appear before a Judge, is that correct?

25 A. Yes, sir.

Mr. Kinsey-Cross by Mr. Sims

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1 Q. And you also knew that at that time an attorney
2 was appointed for him?

3 A. That wasn't my concern at that time, Mr. Sims,
4 I was just merely an escort.

5 Q. Okay, so you knew that you brought him over here,
6 you brought him before a Judge of the general sessions
7 court and he came into the courtroom, is that right?

8 A. Yes, sir, he did.

9 Q. On the way back, he had spent time in court here
10 and he had an attorney appointed for him and he talked
11 to you about that letter.

12 A. He did not talk to me about the letter, Mr. Sims,
13 he just merely said I have a letter for Emery, as I said,
14 that was the total conversation.

15 Q. Okay, well, that's what I mean. He told you
16 that he had a package for Emery.

17 A. Yes, sir.

18 MR. SIMS: That's all I have.

19 SOLICITOR: No re-direct, Your Honor.

20 THE COURT: You may step down, thank you.

21 SOLICITOR: Recall Emery Rush.

22
23 EMERY RUSH, HAVING ALREADY BEEN

24 DULY SWORN, TESTIFIED AS FOLLOWS:

25 DIRECT EXAMINATION BY SOLICITOR:

Annette J. Mole
14th Circuit Court Reporter
P. O. Box 374
Varnville, S.C. 29944

Mr. Rush-Direct by Solicitor

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1 Q. Mr. Rush, did you at anytime ever ask Sammie
2 Stokes to write out a statement for you, write out a letter?

3 A. No, sir.

4 Q. I call your attention to June the 8th, 1998,
5 do you recall seeing Deputy Kenny Kinsey who just testified?

6 A. Yes, sir.

7 Q. And based on some information that he gave you,
8 did you give him instructions?

9 A. Yes, sir. Deputy Kinsey came to my office and
10 said that --- or to our office and said that Sammie Stokes
11 had told him that he had a letter that he wanted him to
12 give to me. And I said, well, do you have it and he said,
13 no, he said, I didn't know whether to take it or not. I
14 said, well, go back to the jail if he got it and can get
15 it. And he did that and brought it to me.

16 Q. And I'm going to hand you what has been marked
17 as State's #20 for Identification and I ask if that appears
18 to be the letter Mr. Kinsey brought back to you from Mr.
19 Stokes.

20 A. Yes, sir, it is.

21 Q. And after you reviewed that letter, did you have
22 a conversation with Sammie Stokes that afternoon around
23 3 o'clock?

24 A. Yes, sir.

25 Q. Where did that conversation take place?

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1 A. At the interview room at the Sheriff's Office.

2 Q. And who else was with you when you interviewed
3 Sammie Stokes?

4 A. Uhm ---

5 Q. Was Detective Whetstone there?

6 A. Yeah, Clark Whetstone, I was thinking --- I was
7 about to say Jack Coleman but it was Clark Whetstone, yes,
8 sir.

9 Q. All right. What room did ya'll interview Mr.
10 Stokes in?

11 A. It's an old radio room, it's a big room that
12 we use for interviews.

13 Q. Okay.

14 A. It's, I guess, about 15 from the main detective's
15 office.

16 Q. And I'll ask whether or not you again went over
17 the Miranda Rights with Sammie Stokes on that occasion?

18 A. Yes, sir.

19 Q. Let me hand you a form and ask you if you can
20 identify this.

21 A. Yes, sir, this is the form that we used that
22 afternoon.

23 Q. So that would have been the second Miranda form
24 that you went over with Mr. Stokes?

25 A. Yes, sir, this is the second one and it's dated

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1 6/8/98 at 3:15 p.m.

2 SOLICITOR: Your Honor, I would move to introduce
3 this into evidence.

4 MR. SIMS: Again, Your Honor, subject to my prior
5 objection.

6 THE COURT: All right, subject to your prior
7 objection.

8 (WHEREUPON, Second Miranda form was entered
9 and marked as State's exhibit #21.)

10 Q. What do you recall of Mr. Stokes' appearance
11 and demeanor on June the 8th when you went over the form
12 for the second time?

13 A. He appeared to be even a little more relaxed
14 than he was the first time. It was almost as if he had
15 a weight lifted off his shoulders, I don't know, he seemed
16 to be a little more free in his actions.

17 Q. And I won't ask you to go over the form again
18 but did you go over that form with him, did you read it
19 to him the same way that you read the form on June the
20 2nd for the benefit of the jury?

21 A. Yes, sir, it was done in an identical manner
22 and, of course, this time I asked him to please initial
23 each line, which he did, instead of putting a check.

24 Q. Did he do that?

25 A. Yes, sir, he has his initials on each line.

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1 Q. Did he sign the acknowledgement of those rights?

2 A. Yes, sir, I understand my rights, I am Sammie
3 Stokes, and then the wavier is signed Sammie Stokes.

4 Q. All right, and you observed him sign both of
5 those places?

6 A. Yes, sir.

7 Q. Does your signature appear there as well as
8 Detective Whetstone's?

9 A. Yes, sir, it does.

10 Q. Did you make any promises or inducements to Mr.
11 Stokes to get him to talk to you?

12 A. No, sir.

13 Q. Did you threaten him if he wouldn't talk to you?

14 A. No, sir.

15 Q. Did he ask for anything that he didn't get, like
16 food, water, go to the bathroom?

17 A. No, sir.

18 Q. Anything of that nature?

19 A. No, sir.

20 Q. Did he appear to understand the rights when you
21 gave them to him?

22 A. Yes, sir, he did.

23 Q. To the best of your knowledge, did he sign that
24 from freely, voluntarily and of his own free will?

25 A. Yes, sir.

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1 Q. I'm going to hand you another form and ask if
2 you can identify that.

3 A. Yes, sir, I can.

4 Q. And what is that?

5 A. This is a form that we had made up at the office
6 that afternoon. We did not have a form that --- for a
7 defendant to sign if they had initiated contact with us.
8 If we initiate the contact we have the Miranda, but so
9 we had a form drawn up stating and I'll be glad to read
10 it, but stating that he made contact with us and he
11 initiated the contact, we did not go over and ask him to
12 write us a letter or anything. But this just says that
13 he initiated the contact with the Sheriff's Office.

14 Q. And that's the form that you've got in your hand?

15 A. Yes, sir, it is.

16 SOLICITOR: Let me move to introduce that, Your
17 Honor.

18 MR. SIMS: Again, Your Honor, subject to my
19 previous objection.

20 THE COURT: It's in subject to the prior objection.

21 (WHEREUPON, Sheriff's Department form letter
22 was entered and marked as State's exhibit #22.)

23 Q. Mr. Rush, I'm going to hand you what has been
24 marked as State's #22 and ask if you would go ahead and
25 read that form to the jury the same way you read it to

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1 Mr. Stokes on June the 8th.

2 A. Okay, yes, sir. The top line says, place, and
3 it says OCSO, which is the Orangeburg County Sheriff's
4 Office, the dated 6/8/98, the time 3:32 p.m. It says,
5 I and there's a blank for the name and it has Sammie Louis
6 Stokes, have been advised of my Miranda Rights by F, Emery
7 Rush of the Orangeburg County Sheriff's Office. I'm fully
8 aware of what I am doing and I have initiated contact with
9 the investigators of the Orangeburg County Sheriff's Office.

10 As of this present date and time I know that
11 I have had counsel appointed for me in reference to the
12 case that I am about to give a statement for. I waive
13 to have counsel present with me at this time and I give
14 this statement freely and voluntarily and no promises or
15 threats have been made to me and no pressure or coercion
16 of any kind has been used against me.

17 And it's signed Sammie Stokes and it is witnessed
18 by myself and Detective Clark Whetstone.

19 Q. And, again, he signed that form freely and
20 voluntarily?

21 A. Yes, sir.

22 Q. To the best of your knowledge?

23 A. Yes, sir, he did.

24 Q. Did you offer him any promises or inducements
25 to sign that form?

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1 A. None, none.

2 Q. Any threats, coercion of any type?

3 A. That's right.

4 Q. Now after he signed both of those forms, that
5 form and the Miranda form, would you state whether or not
6 you discussed that handwritten letter with him?

7 A. Yes, sir.

8 Q. Tell the jury, to the best of your recollection,
9 how that discussion went.

10 A. Well, ---

11 Q. Did he acknowledge that that was his letter?

12 A. Oh, yes, sir, I mean, there was not a question.
13 He said he wanted --- he said I want to straighten things
14 out, he said, and those were his exact words. He said
15 I know I'm going to fry, but he said I'm going to take
16 some other fuckers with me. That was his exact words.

17 Q. All right, sir, and Detective Whetstone and you
18 were present when that occurred?

19 A. Yes, sir.

20 SOLICITOR: Thank you, Mr. Rush, answer any questions
21 that Mr. Sims might have for you at this time.

22 THE COURT: Mr. Sims.

23

24 CROSS-EXAMINATION

25 BY MR. SIMS:

Mr. Rush-Cross by Mr. Sims

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1 Q. And that statement that you had, you have it
2 in front of you, do you not?

3 A. Yes.

4 Q. And when he said that he wanted to straighten
5 things out, he was remorseful, wasn't he?

6 A. Well, I guess you could say that, yes, sir.

7 Q. And he showed some remorse and emotion about
8 what had happened and he wanted to straighten things out?

9 A. Well, I guess you could put it like that but ---
10 and I said maybe remorseful but I'm not sure if that's
11 the right term or not. During the course of the conversation,
12 he did tell me, he said, you know, this was just a job
13 for me, this was a way for me to get jump started.

14 Q. But he wanted to straighten things out with you?

15 A. Yes, sir, well, he did say that, yes, sir.

16 Q. Now, in that statement that he talked to you
17 about, isn't it true that when he was telling you about
18 what was going on, when he was up at Turbeville with Roy
19 Toth, about Pattie Syphrette and Roy Toth bringing weed
20 into the prison?

21 A. Yes, sir.

22 Q. Okay, and he said that when they asked him about
23 it, when Roy Toth and everybody asked him about it, he
24 told them that he had been gone a while and he didn't know
25 who he would trust out there, isn't that right?

1 A. Yes, sir, yes, sir, that's right.

2 Q. And he told them that he --- basically what he
3 told them was I won't do it but I know somebody who would.

4 A. He told them it would cost them \$2,000 is what
5 he told them. And he said you will have ten months to
6 come up with the money because that's when I'm getting
7 out and to give me \$2,000 and a gun.

8 Q. Uh-huh.

9 A. That's what his statement says.

10 Q. So he didn't even have a gun?

11 A. Not in jail, no.

12 Q. And he told them that he --- that I could have
13 a gun and she was glad to talk with him, meaning Pattie
14 Syphrette.

15 A. Bear with me, please. That's right.

16 Q. That's what he said?

17 A. Yes, sir.

18 Q. Okay, so he was basically saying that he wasn't
19 going to do it but somebody else.

20 SOLICITOR: Your Honor, I'm going to object to
21 Mr. Sims characterizing what's in the letter, because the
22 letter speaks for itself and Mr. Stokes wrote the letter.
23 Mr. Sims can't characterize it, Mr. Rush can't characterize
24 it, it just speaks for itself.

25 MR. SIMS: Your Honor, it speaks for itself

1 but I have the right to cross-examine him on it. He was
2 there, he heard this same, all he's got to do is say yes
3 or no if he doesn't agree with what was on there. I mean,
4 I have the right to question him about it, what was said
5 in the letter.

6 SOLICITOR: My intention, Your Honor, is to
7 publish the letter in its entirety, the typed version of
8 it, so I don't know that this is going to really add anything
9 to it.

10 THE COURT: Well, you can cross-examine him but
11 don't editorialize, let's just put it that way.

12 Q. Okay. In part of the statement it says, " I've
13 been gone a while and I don't know who to trust out there,
14 all you have to do is stay in touch with me and Pattie,
15 basically she said, that's no problem."

16 A. That's right.

17 Q. On another page it says, " Pattie was supposed
18 to pick me up but never showed up so I took the bus to
19 Orangeburg."

20 A. What page are you on?

21 Q. I'm on the third page. Look on the third page.

22 A. Okay.

23 Q. Right after, " Well, I got out in May of '98."

24 A. Yes, sir, I see that.

25 Q. " Pattie was suppose to pick me up, but never

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1 showed up, so I took the bus to Orangeburg. Right then
2 I knew she was just bull shitting about the money and the
3 deal."

4 A. That's what it says.

5 Q. And so, " I said I will catch up with her one
6 day and get my money for my shit." Basically that's what
7 he said, right?

8 A. Yes, sir.

9 Q. And down further, after ex-wife all kinds of
10 lies, he said, " One night I told Norris about the deal
11 with Pattie and about the \$2,000. He said, oh, yeah. I
12 said, yeah, but the bitch wasn't serious and besides, I
13 was going to yank her ass anyway and we laughed. Then I
14 said ---"

15 SOLICITOR: Your Honor, could we approach, please?

16 THE COURT: Yes, sir.

17 (WHEREUPON, A bench conference was held out
18 of the hearing of the jury and the court reporter.)

19 THE COURT: Madam Bailiff, if you will assist
20 the Solicitor, please, with the copies of the letter.

21 (WHEREUPON, Jurors were given copies of the
22 letter so they could follow along with it.)

23 SOLICITOR: Your Honor, with Mr. Sims' permission,
24 what I intend to do is just re-open my testimony with Mr.
25 Rush and have him publish the letter, the typed version

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1 of the letter, in its entirety. And I think you've got
2 a copy of it.

3 THE COURT: Yes, sir.

4 SOLICITOR: And I've got copies for the jurors
5 so they can follow along with the letter.

6 THE COURT: Ladies and gentlemen of the jury,
7 Madam Bailiff will be distributing the copies to you. We
8 will need those back when this is completed as far as this
9 testimony is concerned.

10

11 DIRECT EXAMINATION BY THE SOLICITOR:

12 Q. Mr. Rush, if you would, please, just to kind
13 of bring us up to date on this letter. Would you state
14 whether or not after you and Norris Martin and Mr. Whetstone
15 went over this handwritten letter on June the 8th, did
16 a secretary at the Sheriff's Office type the letter out?

17 A. It was Sammie Stokes instead of Norris Martin.

18 Q. I'm sorry, it's late and I'm losing my concentration
19 but --

20 A. Yes, sir.

21 Q. --- the letter that was submitted to you by Sammie
22 Stokes was typed out by a secretary at the Sheriff's
23 Office?

24 A. Yes, sir, that's right.

25 Q. And calling your attention to June 12, 1998,

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1 shortly after 3:00 p.m., did you again see Sammie Stokes
2 at the Sheriff's Office?

3 A. Yes, sir, I saw him at the detention center.

4 Q. Okay, and was the purpose of that confrontation
5 or that visitation with Mr. Stokes to go over the typed
6 letter with him?

7 A. Yes, sir.

8 Q. Okay, and did you do that?

9 A. Yes, sir, I did.

10 Q. All right, and go ahead, if you would please,
11 read along with the jury, it says " Defendant Affidavit"
12 but it's actually just his letter that has been typed,
13 is that right?

14 A. Yes, sir.

15 Q. Start with the date and just run through that
16 thing with us.

17 A. Okay, 6/12/98 at 3:08 p.m. at the Orangeburg
18 County Detention Center. The defendant, Sammie L. Stokes,
19 a.k.a Nasty.

20 Q. Let me interrupt you for a second. Where it
21 say defendant, Sammie L. Stokes, a.k.a. and then it's got
22 L.Rusty and Rusty is scratched out and Nasty is put in
23 there?

24 A. Yes, sir.

25 Q. How did that come about?

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1 A. Well, the secretary understood it to say L. Rusty,
2 but he told us it was L. Nasty, and I think instead of
3 the initial L, it's supposed to be El, like El Nasty.

4 Q. Okay, so he changed it from Rusty to Nasty?

5 A. Yes, sir.

6 Q. Okay.

7 A. Page 31, date of birth [REDACTED], phone number

8 [REDACTED], address [REDACTED] Orangeburg, S.C.

9 Again, he was advised of his Miranda Rights, you will notice
10 that top paragraph and the Miranda Rights is the same as
11 he was advised on the other occasions and he has initialed
12 each of those. It says:

13 " My rights are as follows: a. I have the right
14 to remain silent, anything I say can be used against me
15 in court. a. I have a right to talk to a lawyer for advice
16 before I am asked any question. If I cannot afford a lawyer,
17 one will be appointed for me before any questions if I
18 wish. 3. If I decide to answer questions now without
19 a lawyer present, I will still have the right to stop
20 answering at any time. 4. I also have the right to stop
21 answering at any time until I talk with a lawyer.

22 I understand the rights above and initialed each.
23 I have been advised of the rights by F. Emory Rush of the
24 Orangeburg County Sheriff's Office and wish to make the
25 following statement."

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1 The statement states: " Well, it all started
2 one evening when I was in my room at Turbeville Corr. Ins.
3 just chilling out watching t.v. My roommate, James Roy
4 Tooth, came into the room upset and cursing. He said
5 that bitch Connie has done it again, not only has she got
6 me in here now, the bitch got my daughter taken away by
7 DSS, all that whoring, hanging out and leaving the baby
8 home alone. I said I thought Connie lived with your mother
9 and he said, yeah, she do. The only reason my mother lets
10 her stay there is because of my daughter. He said my mother
11 don't like Connie and I hate the bitch, too. Hell, she
12 isn't nothing but a whore and we want the bitch dead
13 anyway so my mother could get custody of Nicole. I said,
14 man stop joking, your mother isn't with that. He said,
15 shit, you just don't know, my mom is down, homie. Hell,
16 you see she brings us weed all the time and if you think
17 that you can get the job done, you will be paid well. I
18 said, man, shit that costs. He said, money is no problem,
19 I am going to call my mom. I said, hole up because I've
20 been gone awhile and right now I don't know who to trust
21 out there. He said, you still should talk to my moms.
22 I said, okay, call her. Well, there wasn't any sham in
23 Pattie's game because as soon as I got on the phone after
24 Roy was done and told her that I could have it done, she
25 was glad to talk with me. I asked her right off the top

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1 was she serious about having Connie killed? She said,
2 hell, yeah, and I asked why. She said because the bitch
3 isn't any good, she caused my son to be locked up, plus
4 I caught her fucking my old man on the couch, and she treats
5 my son like shit. The only reason I let her stay with
6 me is because of Nicole, my grand baby. She said, I owe
7 her and Lee big tim. I said, who's lee? She said my
8 boyfriend. I said, what has he done? She said he almost
9 killed me by beating me up until I passed out and Connie
10 stood there laughing at me, plus he tried to get my son
11 killed. I said, damn, and you're still fucking around
12 with him and Connie after all that shit. She said, that's
13 to only keep up with them until I could get them and believe
14 me, honey, I owe them both big time. So what's up, do
15 you think that you could handle it. What is it going to
16 cost and don't be playing any games because I done went
17 through all the games with fake people just trying to get
18 my money and then run out on me. I said it will cost
19 \$2,000 and you'll have 10 months to come up with the money
20 and the gun. I'll be getting out in May, '98 and right
21 now, I've been gone awhile and I don't know who to trust
22 out there, all you have to do is stay in touch with me.
23 She said, that's no problem. I'll write and come to see
24 you because I want to see how you look and talk with you
25 face-to-face. I said, okay, but do you think you can keep

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P. O. Box 374
" " " " " "

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1 up with Connie and Lee that long? She said, hell, yeah,
2 and besides I've got him pussy whipped. I just laughed
3 and said, I hear you, girl. She wrote and stayed in touch
4 with me and a month later, Roy came into the room again
5 looking crazy. I said, what's up, Roy? He said that bitch
6 is pregnant again by god knows who. I said, damn. He
7 said mommie wants you to call her tonight after 9:30 count.
8 I said, okay. I called her and Pattie said, I told you
9 the bitch was a whore, she is pregnant again. I kicked
10 her ass out and I'm trying to get custody of Nicole from
11 DSS. She said, the bitch is living with Robbie, which is
12 Lee's brother. I said, is Robbie the father? She said,
13 no, Connie don't know who's the father. I said, will you
14 still be able to keep up with her and she said, yes, I
15 said and Lee? And she said he is under my control. I
16 said okay. She just went on talking about the baby and
17 that she wanted her granddaughter back and how it was all
18 Connie's fault the little girl got taken.

19 Well, as time went by, Pattie and I grew closer
20 as friends or so called friends. I mailed her two gold
21 rings and a Pulsar watch to hold for me till I got out.
22 And Connie had the baby, her and Robbie broke up because
23 she was too wild and didn't want to stay home (so Pattie
24 say). Pattie told me in a letter that her and Connie were
25 back living together, that Connie had to go and do some

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1 time for some money she had owed and that she was going
2 to be in custody of Connie's baby boy while she is locked
3 up. She also said that Connie will beat me out and that
4 nothing has changed in the plan.

5 Well, in April or earlier, Connie had gotten
6 out and was living with Pattie (so Pattie say). Well,
7 I got out in May, 98. Pattie was suppose to pick me up
8 but never showed up, so I took the bus to Orangeburg. Right
9 then I knew she was just bull shitting about the money
10 and the deal. I said to myself, I will catch up with her
11 one day and get the money for my shit. I took the bus
12 to Branchville and went to my partner's Norris Martin's
13 apartment and cool out with him for a few days. We drank
14 and laughed and took night walks only and talked about
15 the good ole days. The night walks was just to keep every-
16 body from sweating me and running back telling my ex-wife
17 all kinds of lies. One night I told Norris about the deal
18 with Pattie and about the \$2,000. He said, oh, yeah? I
19 said, yeah, but the bitch wasn't serious and besides, I
20 was going to yank her ass anyway and we laughed. Then I
21 said that I'm going to still get my money from her for
22 my shit. He said, how? I said, I got her phone number
23 and address and she has been wanting me to fuck her for
24 the longest, but I don't dig fat girls (we laughed).
25 He said, I'll fuck her and I said I know you will, after

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1 all, you haven't had any pussy yet and you're damn near
2 40 years old. I said, man, let's go call her and we did,
3 but got no answer. I asked him did he have a stamp and
4 envelope. He said, no, but I got a box full of plain
5 envelopes. You write the letter and I'll mail it tomorrow.
6 I wrote the letter talking shit to her. The day after I
7 mailed the letter, she came over in a blue station wagon,
8 Norris wasn't home. She told me that she still wanted her
9 business taken care of. I said, after you didn't show
10 up, I didn't take you seriously and now I'll have to talk
11 with my boy when he gets in. Then we started talking about
12 sex and I told her my partner Norris hasn't had no pussy
13 all his life. She said, stop lying. I said, I'm serious.
14 She said I ought to bring Connie here and let him have
15 a field day. I said, he would love that and I said he'll
16 fuck you, too. She laughed and said I bet he will. Then
17 she said, I got to go and get things straight. I'll be
18 back in a few. Puncho has the baby and I need to get him.
19 I said I'll be right here. Well, a hour later, the police
20 and some probation officer came and locked me up talking
21 about I didn't report in. I got out in a week and went
22 to stay with my sister on Windsor Street. The next night
23 I went back to Branchville and got up with Norris and I
24 told him about Pattie stopping by that day I got locked
25 up in his apartment. He said, oh, yeah? I said, man, here's

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1 the deal. Here's your chance to get paid plus get you
2 some pussy finally. All you have to do is break me off proper
3 because she got \$2,000 for you. I haven't seen the money
4 yet. He said, hell, I'm down. I said to be ready at any
5 given time. I'll be going back to Orangeburg and we will
6 be back to pick you up. He said, I'll be ready whenever.

7 Well, to keep people out of our business, I
8 left the next night and went back to Orangeburg. I called
9 Pattie the next day. Before I could say anything, she said,
10 man, Connie got to go and tonight. And I said, dman, what's
11 the hurry? She said, because DSS told me that Connie could
12 no longer live with me. If she stay here another night,
13 they are going to take the boy away from me, so she's got
14 to go tonight. I said, well, I talked with Norris and
15 everything is straight on his end. She said, I'll pick
16 you up at Woody's Pawn Shop at 9:30 p.m. You just better
17 not flip on me for her. I laughed and said, see ya'll
18 at 9:30 p.m.

19 They both showed up at 9:30 at Wood's and I went
20 to the passenger side and Connie got out. I said, what's
21 up girl, pulled her to me and hugged her tight. She said,
22 ain't nothing. So I got in and we drove off. I just laughed
23 and looked at Pattie. We got to Branchville and rode
24 straight through town and came up through shake-rag and
25 came on a back street, but you can still see the town.

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1 I spotted Norris or thought I did but it wasn't him. So
2 we went to his apartment and Connie went and knocked on
3 the door, but there wasn't no answer. We drove back down
4 town the same back route. That's when I spotted Norris
5 coming out the store walking over to two parked cars with
6 a bag in his hand. So we stopped and was trying to decide
7 who should go call him. So Connie said, fuck it, I'll go
8 get him and she got out and walked down the road and
9 called Norris. They both came back and got in. I asked
10 hi, what's up bro and he said that he came down town to
11 get some beer.

12 So we went down that dirt road passed Owen's
13 home and I told Pattie to stop. Norris and I got out and
14 I asked him was he ready to handle the business. He said,
15 yeah, but let's go back to my apartment so I can get the
16 pussy first. I said, we can't go there because people
17 is out walking about in the projects. I said, well, I
18 know that I can get the pussy because she likes me anyway.
19 I said you want Pattie? He said, I'd rather have the other
20 one first. Well, I was thinking right there, I know she
21 isn't going to be willing to do it with him. So I said,
22 well, once you get her in your spot, handle your business.
23 I asked him where did he want to go and he said, I'll show
24 you. So we got back in the car and he showed us the spot.
25 Then once we got there I got the gun out from behind the

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1 seat and passed it to Norris. Then we all got out and
2 Pattie opened the trunk and tried to pass me the shovel,
3 but I wouldn't take it. Then she gave it to Norris. Then
4 Connie said, let's go and Pattie said, I'll stay here and
5 watch the car just in case anybody comes, I'll say Im
6 tricking and we all laughed. Then Connie and Norris walked
7 off and Pattie said, is he going to fuck her, too? I said,
8 yes. Then she said, you better not. I ran and caught
9 up with them and we walked over some bushes and broken
10 limbs and got to the back of the field or on the side.
11 I said, baby, I'm sorry, but it's you that Pattie wants
12 dead and Connie said, oh, my god, that fat bitch. She said,
13 ya'll don't rust her because she will only turn on ya'll,
14 too. I said she's paying us \$2,000. Connie said, that
15 fat bitch hasn't got two cents. Then Connie said, please
16 dont' kill me and Norris said, I want some pussy. Connie
17 said okay and then Norris passed me the gun and said hold
18 that. Then Connie spread a crocker sack bag on the ground,
19 a bag I didn't even know she had. Her and Pattie must
20 of had it up front in the car because she sure didn't get
21 it out of the trunk.

22 Well, while her and Norris was doing their thing,
23 I was looking across the field. When they got finished,
24 Connie said, you want some, too? I wanted so bad to say
25 let's wait till we get back, but deep in my heart I knew

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1 she wasn't leaving with us. So I said, why not. Then I
2 passed the gun back to Norris and Connie and I did our
3 thing. Afterward, I got up and looked at Norris and he
4 looked back at me. Connie said, ya'll, please dont' do
5 it, Pattie is only setting ya'll up. Then I said, give
6 me the crocker sack bag you're sitting on and she did.

7 While she was still sitting on the ground, I
8 put the bag over her head and Norris and I tried to pull
9 the bag all the way down over her shoulders, which we only
10 got the bag to go just a little way over her shoulders.
11 I then asked Norris what's up? He said, let me get behind
12 her and when he stepped completely behind her, I stepped
13 completely behind him. Then he moved over a little to
14 the left. I also moved right behind him. He pulled and
15 the gun fired once. He passed me the gun and got behind
16 me then I, too, fired the gun at her head.

17 Then we walked back to get Pattie and when we
18 got to the car, Pattie said, well, is she dead? I said,
19 let's go see, but before we left I took all the bullets
20 out the gun and passed Pattie the gun. Then she said,
21 yeah, I got to take that back because it belongs to my
22 best friend. Then we all walked back down to the field
23 and Connie was still there and Norris was just about to
24 dig a hole when a truck pulled up behind Pattie's car.
25 We all ran and jumped in the woods. After the truck left,

Annette J. Mole

14th Circuit Court Reporter

P. O. Box 374

Vernonville, S.C. 29088

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1 Pattie said, fuck it, ya'll, let's go before the damn police
2 come. I said, we just can't leave her laying out like
3 that. Then Norris said, let's put her in the woods. I
4 told Pattie to get Connie's ID card and her shorts off
5 the ground and she did. Norris went to the head and
6 shoulders and tried to pick Connie up while I had her legs.
7 He couldn't pick her up with the crocker sack bag still
8 over her. So he took the bag off her then we picked her
9 up and put her in the woods while Pattie stood there watching.

10 Then we came out the woods and Pattie said, Norris
11 get that bag and he did and we ran out of the woods. Pattie
12 asked me to drive because she claimed she could hardly
13 breathe. So I took the keys and ran ahead of her and Norris.
14 When they got to the car, Pattie got in the front and Norris
15 got in the back seat sitting right behind her and we drove
16 off.

17 We went to Bowman at a club called Allen Murray.
18 I went in to get some wine and got Pattie a soda. Norris
19 had already had beer and we just sat there and talked about
20 everybody keeping their mouth shut. Then Norris said,
21 guess what, ya'll? I said, what. Norris said, we left
22 the damn shovel. Then he asked us was he wearing a white
23 hat. Pattie nor I could remember. I said, we need to
24 go back and check it out. Pattie said, no, I've got a
25 bad feeling about going back. Then Norris said, fuck it.

1 After sitting there for a while, Norris said, ya'll can
2 drop me off on the outside of Branchville and I'll walk
3 the rest, so we pulled off. Pattie said, damn, we need
4 to get rid of her shit and Norris said, yeah, I still got
5 the bag. We rode around and went the back way to Reesville
6 from Bowman. On our way, Pattie cut up Connie's ID card
7 and let it fly out of the window, took her short and the
8 rest of her clothes she already had in the car and let
9 them all go out the window one by one. Then we stopped
10 and turned around and went back to Bowman. On our way,
11 we stopped on the same bridge and Norris got out and tossed
12 the bag over. I'm not sure if it was the bag because Norris
13 asked me to stop again along side the road and he got out
14 and ran to the field and got rid of something. Then we
15 took him to Branchville and the only thing we all was
16 talking about was everybody keeping their mouth shut. We
17 let Norris out on a dirt road that runs into Branchville.
18 Norris got out and he said, when will you be coming back?
19 I said, hopefully tomorrow night to straighten you out.
20 Norris said, I'll see ya'll then. So Pattie and I drove
21 off. Pattie said, I need to make a phone call when we get
22 in Roseville. She said, I need to call Poncho and let him
23 know that Im alright. So before we got there, I turned
24 the light on and asked her was there anything else in the
25 car. She looked in the back and said, damn, there is

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1 blood all over the back seat off the bag Norris had.

2 Then she said, I'll tell Poncho to bring something
3 to clean the car out. I said, do you think he'll come
4 and she said, hell, yeah, besides he wanted her dead, too.
5 If anything goes wrong, he is willing to take the blame
6 for me. So she made the call in Roseville, I stayed in
7 the car while she talked. Then when she got back in the
8 car, she said, we'll take the back road to Orangeburg
9 because Poncho is meeting us. On our way, all we talked
10 about was Norris acting crazy. Pattie said, do you think
11 he will talk? I said, well, if he do, he would only be
12 telling on himself and she laughed. She spotted Poncho's
13 truck when it passed by us so we pulled over and he did,
14 too. I turned around and pulled up behind him. She got
15 out and went to talk with him. She got back in and she
16 said, follow him back down the road and I did. We followed
17 him down that road we came on. Poncho stopped on the bridge
18 and got out the truck. Poncho came to the car and he said,
19 no, we better get off this bridge. He went back and pulled
20 off and we followed him for maybe another mile or less.
21 Then he pulled over and I pulled over right behind him.
22 Poncho got out his truck, reached in the back and got a
23 bucket with some water in it and brought it over to the
24 car. Pattie and I got out. Poncho gave me the bucket and
25 a rag and I wiped the blood off the back seat. Poncho

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" " " "

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1 said, give me the floor mats and I did. He tossed them
2 in the woods. He said, hell, we could get some more
3 mats (speaking out loud because he and I never said a
4 word to each other). When I got finished cleaning the
5 back seat, Pattie said, Poncho, take the car and give us
6 the truck so he did so. Pattie asked me to drive and I
7 did. Pattie said, where do you want to go? I said to
8 my sister's house on Windsor Street and that's where we
9 went (that was her first time going there.)

10 Now, on our way to Orangeburg from Roseville,
11 I asked Pattie what was she going to do with that gun she
12 left in the car with Poncho. Pattie said, that gun belongs
13 to my best friend, Fay. She stole it from her old man
14 so I could use it on Connie. I got to give it back to
15 her before he misses it. I said, damn, I hope you didn't
16 tell Fay about me. She don't know who's helping me, so
17 don't worry about that and besides, she wants her old man
18 dead, too.

19 So we entered Orangeburg and we just stop talking
20 until I got at my sister's house. Before I got out Pattie
21 said, call me in a day or so and I said, okay, got out
22 and she slid on over under the wheel and drove off."

23 The past page says: " I declare that the statement
24 above is made freely and voluntarily without promise or
25 hope of reward or leniency and without fear or threat

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1 or physical harm, by any person.

2 I swear or affirm that this statement is the
3 truth, the whole truth and nothing but the truth, so help
4 me God."

5 And this statement or affidavit is signed Sammie
6 Stokes. This was witnessed by Detective Michelle Snell
7 and myself. Michelle was the detective that I asked to
8 walk with me to the jail that day to have a witness.

9 Q. And, again, he scratched out Rusty and put Nasty
10 on there, is that his signature?

11 A. Yes, sir. Well, he told me what it was and I
12 scratched it out and wrote that and initialed it and he
13 signed it.

14 SOLICITOR: Your Honor, I would like to introduce
15 a copy of the letter as it was read.

16 THE COURT: All right, and that is subject to
17 your prior objection.

18 MR. SIMS: Yes, sir.

19 (WHEREUPON, Copy of letter was entered and marked
20 as State's exhibit #23.)

21 SOLICITOR: Your Honor, the State rests. I guess
22 I should wait --- I may ask some questions after Mr. Sims
23 so I'll wait.

24 THE COURT: Okay, Mr. Sims.

25 MR. SIMS: Thank you, Your Honor.

1 RE-CROSS-EXAMINATION

2 BY MR. SIMS:

3 Q. Mr. Rush, when he said I was going to yank her
4 ass anyway, do you know what he meant?

5 A. No, sir, I could only speculate what he meant,
6 I don't know exactly what he meant, no, sir.

7 Q. Mr. Rush, you've been a police officer for how
8 many years?

9 A. Long time.

10 Q. Long time, and you know what the talk is on the
11 street, don't you?

12 A. Yes, sir.

13 Q. And you know what he meant by that, don't you?

14 A. Well, I know what I interpret it to mean.

15 Q. That meant that he was going to just take the
16 money and run, isn't that right?

17 A. Well, that's the impression I had, yes, sir.

18 Q. Thank you. Now, I believe I was on the last
19 part where he said "One night he told Norris about the deal
20 with Pattie and about the \$2,000 and Norris said, oh, yeah?
21 I said, yeah, but the bitch wasn't serious and besides,
22 I was going to yank her ass anyway and we all laughed.
23 Then I said, I'm still going to get my money from her for
24 my shit."

25 You knew what he was talking about on there,

1 don't you?

2 A. Yeah, the money he was talking about there was
3 for his watch and rings.

4 Q. So his watch and his rings that he had sent her
5 while he was in prison?

6 A. Yes, sir.

7 Q. So he wanted his money for that from her.

8 A. Yes, sir, yes, sir.

9 Q. And on page four when he said, " I said, man,
10 here's the deal, here's your chance to get paid, plus you
11 get some pussy, too. All you have to do is break me off
12 proper because she got \$2,000 for you. I haven't seen
13 the money yet." You know what he meant on that, too, don't
14 you?

15 A. Yes, sir.

16 Q. So basically he wanted some of the money from
17 Norris Martin, isn't that right?

18 A. Say that again.

19 Q. When he said, "break me off proper" and he was
20 talking to Norris Martin and he said, " all you've got
21 to do is break me off proper."

22 A. Well, he had already told Norris that he hadn't
23 gotten the money and that he thought that she was lying
24 about the money. I --- on page three.

25 Q. On page three.

1 A. Yeah, he said when I told Norris about the deal
2 for the \$2,000 and he said, oh, yeah? And I said, yeah,
3 but the bitch wasn't serious but over here on page four,
4 all you have to do is break me off proper, she's got \$2,000
5 for you. I mean, I ---

6 Q. So she's got \$2,000 for Norris Martin?

7 A. Well, that's what he said.

8 Q. Yeah.

9 A. But he hadn't gotten the \$2,000 for what, you
10 know, he hadn't seen any money so I don't know how he
11 proposed that she would have some for Norris.

12 Q. So basically in that statement he said, she's
13 got \$2,000 for you, Norris Martin ---

14 A. I think he's trying to lead Norris down the primrose
15 path is what it sounds like to me.

16 Q. And then it says, that's when he said that Norris
17 said, I'll be ready whenever.

18 A. Yeah, he said that.

19 Q. Now, they --- and according to this statement,
20 they came to -- they, meaning Pattie and Connie Syphrette,
21 came to pick up Sammie Stokes, isn't that right?

22 A. Yeah.

23 Q. As a matter of fact, Connie was an active
24 participant ---

25 SOLICITOR: Judge, I'm going to object and I

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1 know this is cross-examination but the letter has been
2 put in in its entirety, the jury has it, and he's asking
3 Mr. Rush to characterize what his client meant. And I
4 don't think that's appropriate cross-examination.

5 MR. SIMS: I wasn't about to ask him at that
6 time, I was about to ask him according to the statement
7 that Connie was an active participant in everything that
8 was going on.

9 SOLICITOR: That's my objection, he's characterizing.

10 THE COURT: You have to be careful with that.

11 Q. Well, let me go down here to the middle of the
12 page. But you still see the town, where it say, " I spotted
13 Norris, I thought I did but it wasn't him. So we went
14 to his apartment and Connie went and knocked on the door
15 but there was no answer." That's on page four.

16 A. Yeah, I got it.

17 Q. " So Connie said, fuck it. I'll go get him and
18 she got out and walked down the road and called Norris."

19 A. Yes, sir.

20 Q. Then, " Connie said let's go and Pattie said,
21 I will stay here---"

22 SOLICITOR: Your Honor, is this a question?

23 MR. SIMS: I'm reading from the statement.

24 SOLICITOR: I know but I would object unless
25 he's asking a question. He's just reading ---

1 THE COURT: You have to pose a question.

2 Q. And in this statement, isn't it true, they said
3 that Connie said, let's go and Pattie said, I'll stay here
4 and watch the car, just in case anybody comes, I'll say
5 I'm tricking and we all laughed.

6 A. That's what the statement says, yes, sir.

7 Q. And isn't it also true that he said in the state-
8 ment, " That Connie and Norris walked off and Pattie said
9 she was going --- Pattie said, is he going to fuck her,
10 too?"

11 A. Right.

12 Q. Okay.

13 MR. SIMS: Your Honor, that's all I have at this
14 time but I do have a matter I would like to take up with
15 the Court.

16 SOLICITOR: May we approach the Bench?

17 THE COURT: Sure.

18 (WHEREUPON, A bench conference was held out
19 of the hearing of the jury and the court reporter.)

20 THE COURT: Anything else?

21 SOLICITOR: No, sir.

22 MR. SIMS: I have no further questions of this
23 witness, Your Honor.

24 SOLICITOR: No re-direct and the State rests,
25 Your Honor.

1 THE COURT: Madam Bailiff, I need for you to
2 take up those statements and I need you to number them
3 one through fourteen, put them in an envelope and turn
4 them over to the Court Reporter, please.

5 Okay, we are going to stop here for the evening,
6 ladies and gentlemen, it's been a long day. It's already
7 past 5:30 and we will send you on to the mote. Lt. Edwards,
8 I hope ya'll have a good night and good mean. Remember,
9 do not discuss this case with anyone and follow the
10 instructions that you are given by the Lieutenant and
11 everything will be fine. We will see you in the morning
12 at 9:30 in the morning.

13 (WHEREUPON, The jury was dismissed for the
14 evening and the follow proceedings took place in their
15 absence the following morning.)

16 THE COURT: All right, the State has rested.
17 Any motions at this time?

18 MR. SIMS: Yes, sir. On yesterday, before
19 we left, I indicated to the Court and I wanted to put
20 it on the record again this morning, my desire to include
21 the statement that was excluded from my client's statement.
22 Earlier in the day the Court had indicated that it would
23 possibly re-visit that issue, depending on how the trial
24 moved forward.

25 As I indicated yesterday, part of the statement

1 which was read to the jury talked about an aspect of
2 the victim wanting to be out there and I raised the
3 question that it absolutely corroborated the reason
4 that he had stated initially, that when he gave the
5 initial statement that Connie was out there to kill
6 Doug Ferguson basically, and in reading that statement
7 again and reading it into the jury, it left that particular
8 part out and put in the other part about Connie wanting
9 to be out there so that because of the inclusion of
10 the entire statement with the information that was included
11 in terms of her reasoning for being out there, that
12 we should also at this point be allowed to put in that
13 statement, that part of the statement, which gave a
14 clear understanding of why she was there. And I said
15 that I would raise that again with the Court, just put
16 it on the record. I think the Court ruled and I did
17 put it on the record and I wanted it on the record again.

18 THE COURT: All right.

19 SOLICITOR: The quote that Mr. Sims is referring
20 to is not a quote from Connie Snipes, it's a quote from
21 Stokes in which he says he told Connie Snipes, it's
22 you that Pattie wants dead. There's no reference to
23 Ferguson, no indication that this jury could construe
24 that that was a reference to Doug Ferguson or why they
25 were out there. It's just that Pattie wants you dead.

1 He said it, she didn't. I mean, he was presumably there
2 listening and heard it but ---

3 THE COURT: All right, I'll stand by my ruling
4 on that and once again, for the record, all of that
5 is contained in Court exhibit #4.

6 MR. SIMS: Your Honor, also at this time I
7 would move for a directed verdict on the issue of kid-
8 napping. I think I'm going to take each one of them
9 separately, Your Honor.

10 On the issue of kidnapping, we do not have any
11 evidence in this record that Mr. Stokes had ever done
12 anything in order to kidnap the victim to bring her
13 to that point or to hold her at that point. The testimony,
14 as it stands today, is that Pattie Syphrette and Connnie
15 Snipes came to pick him up at the pawn shop, at Woody's
16 Pawn Shop. There's no indication that he had ever said
17 anything to try to truck her or to try to inveigle or
18 go with them. If anyone did anything of that nature
19 it was Pattie Syphrette who got her in the car for an
20 ulterior purpose. The only thing that my client did
21 was get in the car when they got there. There is absolutely
22 no testimony that he ever said anything to her, that
23 he ever tried to do anything to restrain her, that he
24 did anything whatsoever as it relates to the kidnapping
25 of Connie Snipes. When they got --- and the record

1 is also clear that when they got to Branchville, Connie
2 Snipes was the one who got out of the car, went to Norris
3 Martin's apartment to try to see if he was home. She
4 got back in the car, she got out of the car, she went
5 and when Norris Martin was seen on the streets of Branch-
6 ville, she got out of the car. When they got to the
7 place where they were going in the woods, she again
8 voluntarily got out of the car. Even out there in the
9 woods there's absolutely no evidence that my client
10 did anything to restrain her, to keep her from going
11 or that she was under any restraints whatsoever and
12 I specifically asked Norris Martin, as it relates to
13 this matter, whether she ever was bound, gagged, tied
14 up, whether her hands were free or anything like that.
15 Even to the point when there was supposed to be some
16 question as to where the gun was, she did nothing ---
17 there was no evidence that anyone tried to restrain
18 her to keep her from going anywhere she wanted to.

19 So we feel that the record is completely devoid
20 of any evidence as it relates to Sammie Stokes doing
21 anything pursuant to either the case law or the statutory
22 law that talks about the issue of kidnapping.

23 SOLICITOR: Your Honor, of course there's
24 ample evidence in the record of the conversation between
25 Pattie Syphrette and Sammie Stokes where she said

1 something to the affect that Connie has got to go now
2 and the whole thing was contrived to get her out into
3 the woods to kill her. They placed a trunk --- or that
4 shovel in the trunk of the car and obviously she would
5 not have gotten in the car and ridden out in the woods
6 with these two guys knowing that she was going to be
7 raped and shot in the head two times.

8 The kidnapping started, under the inveigle and
9 decoy portion of the kidnapping statute, and for whatever
10 reason she was persuaded to go out into that wooded
11 area with that shovel in the trunk and Sammie Stokes
12 armed with a pistol. When the shovel came out of the
13 trunk, Norris Martin says that Connie was visibly shaken
14 and upset and she went back into the woods with them
15 and when they got to the field, according to the letter
16 written by Stokes, and according to Norris Martin, Stokes
17 produced the gun, the grave starts to be dug by Norris
18 Martin, she's standing there with somebody digging her
19 grave and a gun there with two grown men. Stokes then
20 tells her that she is going to be killed, a gun is held
21 on her by Norris Martin has sex with her, the gun is
22 out, either in Stokes' hand or handed to Norris Martin
23 depending on what version you believe, but in any event
24 the gun is present while Stokes is having anal sex with
25 her and after she is raped at gun point, a bag is put

1 over her head. She's not free to go and I would contend,
2 Your Honor, that from the time she got into that car
3 she was kidnapped under the inveigle and decoy and certainly
4 there was a forceful kidnapping and confinement when
5 she was in the woods with the gun held on her and the
6 bag over her head. She was not free to leave.

7 MR. SIMS: Just one briefly --- one thing
8 in reply, Your Honor. And that is that this was the
9 issue of that when Mr. Bailey said that they put the
10 shovel in the car. There's no testimony that my client
11 ever put a shovel in the trunk of the car. There was
12 no --- the only testimony --- the testimony was that
13 the shovel was gotten out of the car but there was no
14 indication as to who put it in there. My client indicated
15 that --- and the testimony bears it out, that all he
16 did was get in the car and ride along with them. So
17 everything that was done was done by Pattie Syphrette
18 and not my client. We take, you know, it's a matter
19 of interpretation of the information that had happened
20 out there while they were in the woods in terms of the
21 versions of the story in terms of who had the actual
22 gun and whether or not she was free to go. We take
23 the evidence in the light most favorable to the State
24 at this time and it would only require the jury to have
25 to surmise or go through conjecture as it relates to

1 those facts and we would again reiterate our motion
2 that we have a directed verdict on the issue of kidnapping.

3 THE COURT: Based on the evidence before the
4 Court at this time I will have to deny that motion.

5 MR. SIMS: Your Honor, the next motion is
6 then the motion for a directed verdict on the issue
7 of criminal sexual conduct. When you look at all of
8 the evidence and you take Mr. Stokes' statement, he
9 says that the sex was voluntary. On cross-examination,
10 Mr. Martin, the State's own witness, said that the sex
11 was voluntary. He indicated that it was --- and he
12 basically, after cross-examination, indicated that the
13 sexual act was voluntary. My client, in his statement,
14 says that the sexual act was voluntary. They have not
15 produced any evidence to the contrary on the issue of
16 criminal sexual conduct. There's no indication that
17 there was any force, threat of force or anything that
18 was being used at that time, and if you look at the
19 record it's completely devoid of the elements that are
20 necessary to prove criminal sexual conduct in the first
21 degree. We would therefore move the Court for a directed
22 verdict on the issue of criminal sexual conduct.

23 SOLICITOR: Your Honor, I think the jury could
24 possibly infer from the evidence that Connie Snipes
25 initially went out into that area voluntarily, although

1 not knowing what lay in wait for her. And possibly
2 she thought that there was going to be some sexual
3 intercourse, but I would submit that when the shovel
4 was produced and when the pistol was produced and pointed
5 at her, and when they began to dig her grave and she
6 was told to get undressed at gunpoint, that any consent
7 is over with and whatever happened after that would,
8 under our first degree criminal conduct statute, apply.
9 First degree criminal sexual conduct requires sexual
10 battery accompanied by the use of aggravated force or
11 where the victim is a victim of forcible confinement
12 or kidnapping. Your Honor has already ruled that kidnapping
13 would go to the jury so if she's subjected to kidnapping
14 and the intercourse takes place after that, that's first
15 degree criminal sexual conduct.

16 Also the definition of aggravated force is the
17 use of physical violence of a high and aggravated nature
18 to overcome the victim or includes the use of threat,
19 the use of a deadly weapon. She had sexual intercourse
20 at gunpoint after she was told that she was going to
21 be killed and I submit that any apparent consent was
22 her effort to preserve her life. She's there at gunpoint
23 with these two guys who have told her they were going
24 to kill her, the gun is pointing at her.

25 We also have Norris Martin testifying that when

1 Stokes was anally having intercourse with her she resisted
2 and tried to push him off and screamed during the sequence
3 of this anal intercourse and then she is shot immediately
4 afterwards. I think there's ample evidence to go to
5 the jury on criminal sexual conduct in the first degree.

6 Also, of course, the position of the body when
7 it was found, unclothed with the bra pushed up is another
8 piece of evidence on that.

9 MR. SIMS: Your Honor, we take the position
10 that if she consented to go and he basically admits
11 that, that she was going to go out there and that sexual
12 intercourse was going to take place. She's admitting
13 that she's going to go out there to have sexual intercourse,
14 that's a consent. The fact that other things happened
15 after her consent, then that is not an indication of
16 aggravated force. If they decided to kidnap after she
17 is going to have sex and they are going to keep her
18 out there, that means that she either initially had
19 sex, that the sex was voluntary and if you --- even
20 if you construe it under the way that that Solicitor
21 has interpreted it, when you talk about the consent,
22 the consent is given. If they're going to have sex,
23 they're going to have sex and now after the sex act
24 if they decide to complete or go beyond what that is,
25 that's a separate issue altogether and the Court may
say, well, there may have been kidnapping to keep her

1 out there after they engaged in a sexual act but the
2 sexual act, having been consented to or agreed to by
3 the parties, that is not --- that is not the accomplishment
4 of sex by aggravated force or battery or by kidnapping.
5 They didn't kidnap her to have sex, they may have kidnapped
6 her, under their interpretation, they may have kidnapped
7 her after having sex. And so that's a separate issue
8 and it goes to whether or not they had committed criminal
9 sexual conduct. If you have sex with a person and then
10 they want to keep you there, kidnap you and hold you
11 there, the sex is consensual. I mean, the kidnapping
12 may be a separate issue.

13 SOLICITOR: Your Honor, the uncontradicted
14 evidence is that the digging of the grave occurred prior
15 to the first act of sex, the producing of the gun and
16 pointing that --- occurred to the first act of sex and
17 they told her she would be killed prior to the first
18 act of sex.

19 THE COURT: You can have consent and the consent
20 can be withdrawn. Based on that evidence before the
21 Court, the motion is denied.

22 MR. SIMS: Yes, sir, one other issue and I
23 know you've ruled on that and I'm not belaboring the
24 point, but just to point that there's no evidence in
25 the record that there the consent was ever withdrawn.

1 There's no one, not Norris Martin or anyone, who has
2 ever testified that Connie Snipes decided that she did
3 not want to have sex.

4 SOLICITOR: Your Honor, it would just be ludicrous
5 to say that she knows she's going to die, she's going
6 to be shot and says well, since I'm going to be shot,
7 I might as well have sex with this guy that is getting
8 ready to murder me, I'll let him anally have intercourse
9 with me and then he can kill me.

10 THE COURT: Okay. I'll stand by my ruling.

11 MR. SIMS: Yes, sir. Your Honor, on the issue
12 of criminal conspiracy. The criminal conspiracy indicates
13 that there's an agreement to do an unlawful act or an
14 agreement to do a lawful act in an unlawful manner.
15 There's no evidence in the record in this matter which
16 states that there was an agreement. There was initial
17 talk about an agreement while Mr. Stokes was in prison
18 but Mrs. Pattie Syphrette did not fulfill her part
19 of the agreement. She was supposed to pick him up and
20 there was no --- there was not every any indication
21 that she picked him up. As a matter of fact, he said
22 she did not pick him up.

23 There was an indication that she had ten months
24 to come up with the money. She never produced any money.
25 As a matter of fact, in his statement to Emery Rush,

1 he indicated that he was not -- that he wanted to just
2 yank her off. Meaning that he wanted to get the money
3 in order to do --- just get the money and go.

4 If you look at it in the context of a straight
5 contract, if there's no meeting of the minds, there's
6 no meeting of the minds for the parties to commit an
7 act or for him to commit an act, but he's just trying
8 through trickery or subterfuge to get her money, then
9 there's no agreement between the parties in order to
10 consummate the act of a criminal conspiracy to do something
11 illegal.

12 Now he said initially, he said, you know, I
13 talked to her and I didn't believe that she was serious.
14 He told her son that he didn't believe that she was
15 serious. She did not come to pick him up. He told her
16 initially that he thought that she wasn't serious and
17 he even told Emery Rush in his statement that all he
18 wanted to do was to get the money. So there's no meeting
19 of the minds of a conspiracy in this situation in order
20 to try to say that he conspired to have this young lady
21 killed. And we would ask the Court to direct a verdict
22 on the issue of criminal conspiracy.

23 SOLICITOR: Your Honor, there is ample evidence
24 in the record to go to the jury on the issue criminal
25 conspiracy, a conspiracy with Roy Tooth, a conspiracy

1 with Connie Syphrette, as well as a conspiracy with
2 Norris Martin. Mr. Stokes' letter is in evidence and
3 he quotes a conversation with Roy Tooth in which Tooth
4 is referring to Connie Snipes and says, " Hell, she
5 ain't nothing but a whore, we want the bitch dead anyway
6 so my mother can get custody of Nichole. I said, man,
7 stop joking, your mother isn't with that. He said,
8 shit, you just don't know my mom, she's down home.
9 Hell, you see she brings us weed all the time and if
10 you think you can get the job done, you will be paid
11 well. I said, man, shit, that costs. And he said,
12 money is no problem, I'm going to call my mom."

13 And then Stokes said, " I said, hold up because
14 I've been gone awhile away and I don't know who to trust
15 out there and he said, you still should talk to my mom
16 and I said, okay, call her. Well, there wasn't any
17 shame in Pattie's game because as soon as I got on the
18 phone after Roy was done and told her that I could have
19 it done, she was glad to talk to me."

20 So he's agreeing to do it with her. He then
21 quotes Pattie Syphrette as saying, " So, what's up,
22 do you think that you can handle it? What is it going
23 to cost. Don't be playing any games because I don't
24 went through all the games with fake people just trying
25 to get my money and then run out on me. I said, well,

1 it will cost \$2,000 and you will have ten months to
2 come up with the money and the gun. I will be getting
3 out in May of 1998."

4 And then he goes on to talk about conversations
5 with Norris Martin about the \$2,000 and about yanking
6 her ass and then he has further conversation with Norris
7 Martin. " Here's your chance to get paid, et cetera.
8 I haven't seen the money yet and he quotes Norris Martin
9 as saying, " Hell, I'm down. and then Stokes says, "
10 Be ready at any given time. I'll be going back to Orangeburg,
11 I'll be back to pick you up. And he says, I'll be ready
12 whenever."

13 Your Honor, I think there is ample evidence
14 that there was a conspiracy to commit murder and the
15 conspiracy was carried out and consummated and the murder
16 occurred.

17 Also Norris Martin corroborated the conversations
18 he had with Stokes so this corroboration of conspiracy
19 between Stokes and Norris Martin.

20 MR. SIMS: I'm not so sure, Your Honor, I
21 would have to question whether or not there's evidence
22 in the record of Norris Martin corroborating. Norris
23 Martin basically denied any knowledge of who was going
24 to be killed or what was going to happen out there.
25 As a matter of fact, I believe that Norris Martin

1 testified that Sammie said he was going --- in one of
2 these statements he said that he was going to dig a
3 grave for somebody, not knowing who it was. He didn't
4 know anything and he specifically testified in the record
5 that he didn't know who was going to be killed and he
6 didn't know anything anybody being killed until after
7 he got there.

8 THE COURT: Laying aside Martin, there is
9 ample evidence in the record and I will have to deny
10 that motion.

11 MR. SIMS: Your Honor, the last issue that
12 we would raise is on the issue of murder, that the testimony
13 that has been presented to the Court is that the defendant,
14 along with Norris Martin, and if you take the evidence
15 that's in the record now, the evidence is that the young
16 lady was shot twice, the fatal bullet being the bullet
17 to the back of the head. Mr. Stokes testified through
18 his letter, basically testified, that the shot was carried
19 out by Norris Martin and he stood behind Norris Martin
20 and when he shot her and Norris Martin said, let me
21 get behind her. He got behind her and he shot her in
22 the back of the head, the fatal bullet being fired by
23 Norris Martin. Mr. Stokes, at that time, did not shoot
24 and the doctor, Dr. Sexton, having testified that the
25 fatal bullet that killed the victim in this case was

1 the shot to the back of the head so therefore, she was
2 killed by Norris Martin and not by the defendant. So
3 therefore, that evidence is in the record and it's very
4 clear and we would ask the Court to direct a verdict
5 on the issue of murder.

6 SOLICITOR: And of course under that version
7 of the hand of one is the hand of all is accomplice
8 liability, Stokes would still be guilty of murder. But
9 then in the letter, Stokes said, " I then asked Norris
10 what's up? And he said, let me get behind her and when
11 he stepped behind her, I stepped completely behind him.
12 Then he moved over a little to the left and I also moved
13 right behind him and he pulled and the gun fired once.
14 He passed me the gun and got behind me. Then I fired
15 the gun at her head."

16 Your Honor, there's testimony from Norris Martin
17 that after the --- let me back up. Stokes' testimony
18 was that the burlap bag was over her head at the time
19 of the shooting. Stokes is saying that he fired the
20 gun at her head. It's dark out there, she has a bag
21 over her head, and they are not going to know exactly
22 which bullet -- who shot where, just in the general
23 direction of her head.

24 Norris Martin's testimony is that after the
25 first shot she screamed and it's uncontradicted that