

VOLUME ONE

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

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2 COUNTY OF ORANGEBURG) IN THE COURT OF GENERAL SESSIONS
3
4 THE STATE OF SOUTH CAROLINA,) 98-GS-38-1245
5) 98-GS-38-1246
6 -vs-) 98-GS-38-1247
7) 98-GS-38-1248
8 SAMMIE LOUIS STOKES,)
9)
10)
11)
12)
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14)
15)
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21)
22)
23)
24)
25)

B E F O R E:

HONORABLE PAUL M. BURCH, JUDGE, AND A JURY.

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ANNETTE T. MOLE
Court Reporter

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3

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3	Solicitor	790			
4	Mr. Sims		797		
5	OTT, DAVID				
6	Solicitor	805			
7	Mr. Sims		808		
8	MCALHANEY, ADOLPH SUBLETT				
9	Solicitor	810			
10	Mr. Sims		815		
11	JUDY, TROOPER				
12	Solicitor	817		823	
13	Mr. Sims		821		
14	SHEALEY, TED				
15	Solicitor	824			
16	Mr. Sims		832		
17	COLEMAN, JACK				
18	Solicitor	838			
19	Mr. Sims		841		
20	WHETSTONE, CLARK				
21	Solicitor	842			
22	Mr. Sims		844		
23	RUSH, EMERY				
24	Solicitor	846			
25	Mr. Sims		847		
26	SEXTON, DR. JOEL				
27	Solicitor	848		862	
28	Mr. Sims		858		
29	SHEALEY, TED				
30	Solicitor	863			
31	MARTIN, NORRIS				
32	Solicitor	869		929, 933	
33	Mr. Sims		903		932
34					
35					

<u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>RE-D</u>	<u>RE-C</u>
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Solicitor	934			
Mr. Sims		937		
RUSH, EMERY				
Solicitor	939			
Mr. Sims		942		
KINSEY, KENNY				
Solicitor	945			
Mr. Sims		948		
RUSH, EMERY				
Solicitor	949		961	
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2					
3					
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5	Solicitor	1111		1141	
6	Mr. Sims		1139		
7					
8	STEVENS, ROY F.				
9	Solicitor	1143			
10	Mr. Sims		1150		
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13	Solicitor	1152, 1166		1183	
14	Mr. Sims		1163, 1167		1185
15					
16	SHEALEY, TED				
17	Solicitor	1186			
18					
19	SEXTON, DR. JOEL				
20	Solicitor	1193		1231	
21	Mr. Sims		1221		1232
22					
23	SANDERS, TAMMY				
24	Solicitor	1233			
25					
	GOOGE, ROBERT				
	Solicitor	1236			
	Mr. Sims		1238		
	COLEMAN, JACK				
	Solicitor	1238			
	Mr. Sims		1240		
	WHETSTONE, CLARK				
	Solicitor	1241			

	<u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>RE-D</u>	<u>RE-C</u>
1					
2	BAKER, BRETT				
3	Solicitor	1243		1271	
4	Mr. Sims		1266		1271
5					
6	SIMMONS, KEITH				
7	Solicitor	1277		1284	
8	Mr. Sims		1266		1271
9					
10	WHETSTONE, CLARK				
11	Solicitor	1286			
12	Mr. Sims		1310		
13					
14	LAPP, FAITH				
15	Solicitor	1321		1361	
16	Mr. Sims		1349		
17					
18	WHETSTONE, CLARK				
19	Solicitor	1373			
20	Mr. Sims	1370	1375		
21					
22	AIKEN, JAMES EVANS				
23	Mr. Sims	1384,1393		1425,1426	
24	Solicitor		1389,1398		1426
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1 THE COURT: Madam Clerk, would you please swear
2 the entire jury venire.

3 (WHEREUPON, Jury panel was duly sworn.)

4 THE COURT: Call your case, Solicitor.

5 SOLICITOR: State calls indictment #98-GS-38-
6 1247, charging Sammie Louis Stokes with criminal conspiracy,
7 #98-GS-38-1248, charging Sammie Louis Stokes with kidnapping,
8 #98-GS-38-1245, charging Sammie Louis Stokes with criminal
9 sexual conduct in the first degree, #98-GS-38-1246, charging
10 Sammie Louis Stokes with murder.

11 THE COURT: Thank you, Solicitor. Does the defendant
12 agree to consolidate for trial all indictments called?

13 MR. SIMS: The defendant does, Your Honor.

14 THE COURT: Now, is arraignment complete or
15 is it waived or where do we stand on that?

16 SOLICITOR: Your Honor, he has been previously
17 arraigned.

18 THE COURT: Okay. All right, at this time I'm
19 going to ask the attorneys involved in this case if they
20 would, beginning with the State's side first, to introduce
21 themselves as well as their staff and anyone with their
22 respective sides.

23 SOLICITOR: I'm Walter Bailey, I'm First Circuit
24 Solicitor. This is Chris Murphy who is an Assistant Solicitor
25 in the Orangeburg office, Darlene Simmons, who is a secretary

1 down on the end and these other four people are deputies
2 from the Orangeburg County Sheriff's Office, Jack Coleman,
3 Emery Rush, Clark Whetstone and Michelle Snell.

4 THE COURT: Mr. Sims.

5 MR. SIMS: My name is Thomas Sims and I represent
6 Mr. Sammie Stokes, along with attorney Virgin Johnson.
7 We both have practices here in Orangeburg County.

8 THE COURT: Ladies and gentlemen of the jury
9 panel, you have heard the case called and the indictments
10 called for trial and you heard the charges contained therein.
11 An indictment, ladies and gentlemen, is the formal document
12 by which a case is processed into the court system. Indict-
13 ments are not evidence.

14 The defendant, Sammie Louis Stokes, is present
15 and at this time I need Mr. Stokes to stand and face the
16 jury for voir dire purposes.

17 (WHEREUPON, Mr. Stokes stands.)

18 THE COURT: Thank you, sir, you may be seated.
19 Once again, let me repeat this question. Is there anyone
20 on this panel who was a member of the grand jury that
21 found any of these indictments, if so, please stand at
22 this time.

23 (NO RESPONSE.)

24 THE COURT: Seeing none. All right, ladies
25 and gentlemen, if you will bear with me. It's going to

1 take a few minutes to move through this process.

2 The State has called the case of Samuel Louis
3 Stokes charged in the bill of indictments as stated by
4 the Solicitor and in this particular case the State seeks
5 the penalty of death. To these charges the defendant pleads
6 not guilty. I will tell you at this time this is the
7 only case that will be tried at this term of court and
8 therefore if you are not selected for service on this
9 particular case, then you will be excused for the balance
10 of the term. I will tell you that this process is going
11 to take a while and we ask for everybody's patience.

12 The selection process for twelve jurors and
13 two alternates will begin later on. But before we proceed,
14 I need to give you a brief description or give the entire
15 panel a brief description of duties as a juror.

16 What I am telling you and saying to you at this
17 time is intended to serve as an introduction to the trial
18 of this case. It is not a substitute for the detailed
19 instructions on the law which I will give to you at the
20 close of the case and before the jury that is selected
21 retires to consider your verdict.

22 This is a criminal case commenced by the State,
23 which I may sometimes refer to as the prosecution, again
24 Samuel Louis Stokes. This case is based on indictments
25 which the Solicitor has called a few minutes ago out loud

1 to you as far as calling the case for trial. And later
2 on, for those of you seated on the jury, these indictments
3 will be further explained or read to you. You should
4 distinctly understand that an indictment is simply a charge
5 and that it is not, in any sense, evidence of the allegations
6 it may contain.

7 The defendant has pleaded not guilty to the
8 indictments. The State, therefore, has the burden of
9 proving each of the essential elements of the indictment
10 beyond a reasonable doubt. The purpose of the trial is
11 to determine whether the State has met this burden.

12 Ladies and gentlemen, a defendant is presumed
13 in law innocent of all charges contained in the indictments
14 and this presumption of innocence continues in existence
15 to the benefit of the defendant throughout every stage
16 of the trial until the State has proved his guilt beyond
17 a reasonable doubt. Thus a person charged with committing
18 a criminal offense in South Carolina is never required
19 to prove himself innocent. Your purpose as jurors is
20 to find and determine the facts. Under our system of
21 criminal procedure, you are the sole judge of the facts.
22 If, at anytime, I should make any comment regarding the
23 facts, you must disregard that comment.

24 It is especially important that you perform
25 your duty of determining the facts diligently and

1 conscientiously for ordinarily there is no means of
2 correcting an erroneous determination of the facts by
3 a jury.

4 On the other hand and with equal emphasis, I
5 instruct you that the law as given by the Court constitutes
6 the only law for your guidance and it is your duty to
7 accept and follow it. It is your duty to follow the law
8 as I give it to you even though you may disagree with
9 the law.

10 You are to determine the facts from the testimony
11 you hear and other evidence introduced in court. It is
12 up to you to determine the emphases which you feel may
13 properly be drawn from the evidence.

14 The Court will fully and more completely state
15 to the jury the principles of law applicable to all of
16 the issues in the case before the case is submitted to
17 a jury for a decision. However, there are certain principles
18 of law applicable to the framework of every case in general
19 sessions court and now I outline several of these basic
20 principles to you for your guidance.

21 You must not consider anything you may hve read
22 or heard about the case outside the courtroom, whether
23 before or during the trial. From this point on I instruct
24 you not to read, listen to or view any newspaper, radio
25 or TV accounts of any issue in this case. Until this

1 case is submitted to you, you must not discuss it with
2 anyone, even with your fellow jurors. After it is submitted
3 to you, you must discuss it only in the jury room with
4 your fellow jurors. It is important that you keep an
5 open mind and not decide any issue in the case until the
6 entire case has been submitted to you under the instructions
7 of the Court.

8 The case will be opened by the Solicitor reading
9 or explaining to the trial jury the indictment. The defendant
10 then will be afforded an opportunity to make an opening
11 statement. The Court will then receive evidence in the
12 case and when all of the evidence has been received by
13 the Court, counsel for the State and counsel for the defendant
14 and the defendant himself, if he elects to do so, will
15 state to the jury their respective positions. A summation
16 or final argument after which the Court will fully state
17 to the trial jury the applicable law in this case and
18 that, of course, would conclude the trial of the case
19 once I charge you and then you are asked to deliberate.

20 Now, I instruct you, ladies and gentlemen, that
21 you cannot and you must not take any inference from this
22 explanatory instruction as to what your verdict should
23 be in this case should you be chosen to serve on this
24 case for the verdict in this case is to be determined
25 by the jury and not the Court. The only purpose in giving

1 you these explanations is to acquaint you with the charges
2 made against the defendant, Samuel Louis Stokes, and to
3 make clear to you the trial procedures incident to the
4 trial of a capital murder case. The full and complete
5 instructions on all principles of law applicable to this
6 case will be fully stated to you at the appropriate stage
7 of the trial.

8 When, as in this case, the State seeks the death
9 penalty for murder, the law requires what we call a
10 bifurcated or two-stage trial. In the first part of the
11 trial, the jury determines the guilt or innocence of the
12 defendant. If found not guilty, we go no further. If
13 found guilty of murder, we will then proceed to the second
14 phase of the trial which is known as the penalty phase.

15 In the penalty phase the question for the jury
16 is, now that we have found this person guilty of murder,
17 what should his punishment be, life imprisonment or the
18 death penalty. The second proceeding is a time in which
19 the attorneys can bring forth evidence of the defendant's
20 background, character, age, family situation, intelligence,
21 et cetera. The purpose of this separate proceeding is
22 to give the jury as much information as possible so that
23 you can know more about that person you are about to sentence,
24 other than what may have been brought out during the trial
25 to determine whether he was guilty or not guilty.

1 The attorneys for the State will be trying to
2 convince you to recommend the death penalty as the attorneys
3 for the defendant will be trying to convince you to recommend
4 life imprisonment. Although I use the word "recommendation",
5 you should understand that whatever you recommend will
6 be the sentence that will be given to the defendant.

7 Ladies and gentlemen, in a case where the State
8 seeks the death penalty, individual voir dire or questioning
9 of the jury is permitted by the court. The attorney for
10 the State and the attorney for the defendant will be involved
11 in this so that the jury may be empaneled composed of
12 men and women qualified and competent to judge the facts
13 in issue without bias, without prejudice and with partiality ---
14 that is, without prejudice and partiality and jurors who
15 do not have any preconceived opinions related to the case.

16 Now, in order to accomplish this purpose, I
17 will have panels drawn. We will first begin qualifications
18 of panel #1 and then each panel thereafter selected will
19 be asked to return in increments of maybe an hour or two.
20 I will need to discuss the finalization of the schedule
21 with the attorneys before we finalize that.

22 Hopefully this process will not be much of an
23 inconvenience to you and we ask for your patience in doing
24 so. Now, once the panel has been drawn, the jurors will
25 be called into the courtroom individually and questioned

1 by the parties and the Court under oath. At the conclusion
2 of this examination, the juror will be excused and asked
3 to return at a specific time for further consideration
4 or will be excused for the remainder of the term.

5 I instruct you now that you must not in any
6 way whatsoever communicate or discuss with any of your
7 fellow jurors the questions asked of you or the answers
8 given by you during this voir dire examination.

9 When the trial jury has been selected consisting
10 of twelve jurors and two alternates, it will then be
11 sequestered, that is, the trial jury will be kept together
12 as a group and housed in a suitable motel at night during
13 the trial of this case. I know that this is an inconvenience
14 for you and I know that it will be a burden for you. Before
15 we get into that process if you feel that sequestration
16 will be unduly burdensome, please make that known to me
17 when I ask for that. So remember, we need your patience,
18 we need your cooperation in doing this process.

19 If you are selected, I will, of course, provide
20 for telephone communication with your family and business
21 when court is not in session, all of which will be under
22 the supervision of the security and bailiffs of the court
23 and of the agents of the South Carolina Law Enforcement
24 Division.

25 I point out to you now that when we get into

1 the panel selection, it will be important that you know
2 and remember your jury panel number to which you have
3 been assigned so there won't be any misunderstanding about
4 when you are to report.

5 Ladies and gentlemen, please be assured that
6 your duty or duties as a juror will be fully explained
7 to you. Also please understand that the Court will
8 accommodate the jury in every possible way consistent
9 with the law of our state. These processes which I have
10 explained you require time to accomplish. They are going
11 to require everybody's patience and cooperation.

12 I ask once again for your patience and under-
13 standing and I want to, right up front, express my
14 appreciation to all of you for your willingness to serve
15 as a juror in this case and I personally thank you for
16 your cooperation.

17 Now, I have some further questions to go into.

18 Are you related by blood or marriage or have
19 any close social or other relationship with Samuel Louis
20 Stokes, if so, please stand at this time. your name, please?

21 JUROR: Thomas Stokes.

22 THE COURT: All right, Mr. Stokes, will you
23 approach the Bench? Counsel, ya'll may approach.

24 How does that question apply to you?

25 JUROR: I been knowing him since he was a baby

1 and I think I might be kin to him.

2 THE COURT: You're not sure of your relationship
3 as far as kinship?

4 JUROR: I think he's a cousin.

5 THE COURT: Okay, thank you very much. You
6 may be seated. Come on up one at a time, please. Your
7 name, please.

8 JUROR: Ernest Byrd, I think I'm juror #35.

9 THE COURT: How does that question apply to
10 you?

11 JUROR: I know him, I grew up with him.

12 THE COURT: Okay, thank you, you may be seated.
13 Come on up, please, ma'am.

14 JUROR: I'm Katherine Mathis.

15 THE COURT: How does that question apply?

16 JUROR: I live in Branchville and I think that's
17 where this happened. And I also have a close family
18 friendship.

19 THE COURT: Are you related to him in any way?

20 JUROR: I don't think so.

21 THE COURT: Thank you, ma'am. All right, next?

22 JUROR: Andra Goldsmith.

23 THE COURT: Ms. Goldsmith, how does that question
24 apply to you?

25 JUROR: I know him and his family.

1 THE COURT: Are you related to him?

2 JUROR: No, I just know him.

3 THE COURT: Thank you, ma'am, you may have a
4 seat.

5 Next question, are any of you related by blood
6 or marriage or have any close social or other relationship
7 or have you ever been represented by any of the attorneys
8 in this case, if so, please stand at this time.

9 Yes, ma'am, if you will come up, please.

10 JUROR: I'm Pamela Hampton and I know attorney
11 Sims.

12 THE COURT: Okay, you just know him?

13 JUROR: Yes.

14 THE COURT: Has he ever represented you?

15 JUROR: No, he has never represented me, he
16 prosecuted somebody and I was a witness.

17 THE COURT: Oh, okay, you were a victim in that
18 crime?

19 JUROR: I was working at this store that got
20 robbed.

21 THE COURT: And it was an armed robbery?

22 JUROR: No, it was a shoot out.

23 THE COURT: A shooting?

24 JUROR: Yes.

25 THE COURT: And your name again, please?

1 JUROR: Pamela Hampton.

2 THE COURT: All right, thank you. All right,
3 anyone else?

4 JUROR: What do you consider close?

5 THE COURT: Come on up, whoever said that. Your
6 name, again, please?

7 JUROR: Barbara Beach, my brother-in-law is an
8 attorney at the Williams law firm and I'm close to Jimmy
9 Williams' family and Chris and Jimmy used to practice
10 law together.

11 THE COURT: Okay, now, are you related to close
12 friends with any of these attorneys here?

13 JUROR: No, I used to eat lunch with Chris Murphy
14 with my brother-in-law, that's all.

15 THE COURT: Okay, thank you very much. Yes,
16 ma'am?

17 JUROR: I know Mr. Sims, he used to be a patient
18 of ours, my husband is a doctor and I work in his office.

19 THE COURT: What is your name?

20 JUROR: Meg Coultar. But I haven't seen him
21 in years, though.

22 THE COURT: Van Gough? What's your last name?

23 JUROR: C-o-u-l-t-a-r.

24 THE COURT: Coultar. Okay, that's fine, thanks,
25 All right, anyone else?

1 (NO RESPONSE.)

2 THE COURT: Does anyone on the panel have any
3 interest, bias or prejudice in this case, if so, please
4 stand at this time and do not make any comment out loud.

5 (NO RESPONSE.)

6 THE COURT: Do you --- let me back up. Anybody
7 on the panel related by blood or by marriage or close
8 personal friend of have any business relationship with
9 Brett Baker, of the South Carolina Law Enforcement Division.
10 Deborah Barnwell, with the South Carolina Department of
11 Corrections, Internal Affairs. Come on up. Your name,
12 please.

13 JUROR: Nancy Cashen. I don't know which ones
14 are which by names but I work in the emergency room in
15 Orangeburg Medical and I know almost all of the sheriff's
16 officers and two of them sitting over there I know from ---
17 just from work.

18 THE COURT: Okay, all right. You may have a
19 seat.

20 All right, same question, Deborah Barnwell.
21 George Bonnett, with the Coroner's Office. Detective Jack
22 Coleman of the Sheriff's Department. David Collins with
23 the South Carolina Law Enforcement Division. Kenneth
24 Cutter of Conyers, Georgia. Dan DeFreeze of the South
25 Carolina Law Enforcement Division. Dr. Richard Frierson

1 of the William S. Hall Psychiatric Institute over in
2 Columbia. Gail Heath with SLED. Trooper Shane Judy with
3 the Berkeley County Highway Patrol. Deputy Kenny Kinsey
4 with the Sheriff's Department. Faith Lapp of the Orangeburg-
5 Calhoun Regional Detention Center. Norris Martin with
6 the Dorchester County Detention Center. Dr. Thomas Martin
7 with William S. Hall Psychiatric Institute over in
8 Columbia. Sublet McAlhaney of Branchville. Shelia Miles
9 of the Sheriff's Department. David Ott of Branchville.
10 Mark Ott of Branchville. Detective Leon Porter of the
11 Sheriff's Department. Andrean Riley with SLED. Ernest
12 Rowe with the Department of Corrections in the Records
13 Division. Detective Emery Rush of the Sheriff's Department.
14 Tammie Sanders of Bamberg. Dr. Joel Sexton, Newberry
15 County Memorial Hospital. Ted Shealey of SLED. Keith
16 Simmons of Bamberg. Audrey Smith of Branchville. Detective
17 R. Michelle Snell of the Sheriff's Department. Come on
18 us, please, ma'am. What's your name?

19 JUROR: Annie West. I'm the minister at the
20 church where she goes.

21 THE COURT: That's Detective Snell?

22 JUROR: Uh-huh.

23 THE COURT: Okay, you go to the same church?

24 JUROR: Uh-huh.

25 THE COURT: Thank you very much. You can have

1 a seat. Theresa Squires of North, South Carolina. Roy
2 Stevens of Walterboro. Patty Syphrett with the Correctional
3 Institution. James Roy Tooth with Evans Correctional
4 Institution. Detective Clark Whetstone of the Sheriff's
5 Department. Jackie Williams of Willingston, South Carolina
6 or Williston, South Carolina. LaSalle Williams with the
7 Coroner's Office. All right, come on up, please. Give
8 me your name.

9 JUROR: Elizabeth Moseley and LaSalle Williams,
10 he's my cousin.

11 THE COURT: All right, your name is Elizabeth
12 what?

13 JUROR: Moseley.

14 THE COURT: And who is your cousin?

15 JUROR: LaSalle Williams.

16 THE COURT: All right, can you tell me what
17 degree of cousin he is?

18 JUROR: He's my third cousin.

19 THE COURT: Third cousin, okay. Thank you
20 very much, you may have a seat. Come on up here, please.
21 Your name?

22 JUROR: Roy Carson. The lady from North, I
23 think I know her.

24 THE COURT: Theresa Squires?

25 JUROR: I think so, she stays over kinda by---

1 she's got two boys, I think, that go to the school right
2 there in North.

3 THE COURT: Okay, you know her?

4 JUROR: Kinda, yeah.

5 THE COURT: You're not related to her?

6 JUROR: No. I kinda know Clark Kent --- I mean,
7 Clark ---

8 THE COURT: Whetstone?

9 JUROR: Whetstone, a little bit.

10 THE COURT: Are you related to him?

11 JUROR: No.

12 THE COURT: Okay, thank you very much. Come
13 on up, please, your name?

14 JUROR: Geraldine Coffey and my daughter dates
15 Emery Rush's step-son, she has contact with him, you know,
16 I don't, though.

17 THE COURT: Okay, and what was your name again?

18 JUROR: Geraldine Coffey.

19 THE COURT: Thank you, you may have a seat.
20 Sean Winburn or Orangeburg. Kenneth Zaletel of Bamberg.
21 Also, Tammie Sanders. Travis G. Stewart. Wesley Cupp.
22 Stacey Cupp. Evon Miller. Kenneth Cutler, Harold Felder.
23 Ruth Davis of Orangeburg. Sarah Stokes of Roesville.
24 Dr. Donna Watts from Columbia. Dr. Robert Deysach of
25 Columbia. Mr. Augustus Rogers of Columbia.

1 Sheriff, go over there and wake that juror up,
2 I'm going to give him a place to sleep. Bring him on
3 up. Right there is far enough. What's your problem?

4 JUROR: Nothing.

5 THE COURT: You can't come up here on a case
6 in criminal court and sleep when you're supposed to be
7 a juror.

8 JUROR: I tried, I heard everything.

9 THE COURT: Have you got any kind of physical
10 disability or any kind of problem that's causing this?

11 JUROR: No, no, no, no.

12 THE COURT: Do you have anything to say to
13 me before I sentence you to contempt of court?

14 JUROR: No.

15 THE COURT: Well, good, I have something to
16 say. I find you in contempt of court. You've been
17 duly warned, you sat right back there and slept through
18 all of this and you're excused from this jury service
19 but you're going to spend twenty-four hours in jail so
20 you can get plenty of sleep. Madam Clerk, if you will
21 fill out a sentence sheet and Sheriff, he's in your custody.

22 (That was juror #217, Quentin Moore.)

23 THE COURT: Let me start over again, I'm not
24 sure exactly where I stopped. Mr. Augustus Rogers of
25 Columbia. Mr. James Aiken of Brevard, North Carolina.

1 Mr. James A. Springs, Jr. of Chapin, South Carolina. Any
2 further names from the State or the defense?

3 SOLICITOR: Not from the State, Your Honor.

4 MR. SIMS: Nothing, Your Honor.

5 THE COURT: Got everybody covered. A couple
6 of you indicated to the Court that there was some
7 relationship or that you knew some of the parties. I'm
8 going to move through the next line of questions and I
9 need to have you stand and give your name but do not make
10 any comments, please.

11 Do you know of any reason whatsoever why you
12 cannot give both the State and the defendant, Samuel Louis
13 Stokes, a fair and impartial trial? If you feel that
14 you cannot, I need you to stand at this time and give
15 me your name and number, juror number, please.

16 JUROR: Dannie Clark, #46.

17 THE COURT: Thank you, sir, you may be seated.

18 JUROR: Katherine Mathis, #204.

19 THE COURT: Thank you, Mrs. Mathis.

20 JUROR: Deborah Dukes, #66.

21 THE COURT: Thank you.

22 JUROR: Cassandra F. Goldsmith, #110.

23 THE COURT: All right. Once again let me remind
24 you, if you have a strong opinion about this case or
25

1 have any reason, please do not state them and do not discuss
2 any of this with any other person. Is he okay?

3 JUROR: Quincy Perry #228.

4 THE COURT: Okay.

5 JUROR: Could I approach the Bench.

6 THE COURT: Come on up. What was your name,
7 again?

8 JUROR: Quincy Perry, juror #228.

9 THE COURT: All right, you feel like you have
10 a reason you cannot give both the State and the defendant
11 a fair and impartial trial?

12 JUROR: Yes, sir.

13 THE COURT: Okay, just keep it to yourself.
14 All right, anyone else?

15 (NO RESPONSE.)

16 THE COURT: Have any of you formed or expressed
17 an opinion as to the guilt or innocence of the defendant,
18 if so, please stand, give your name and your number but
19 do not make any comment.

20 (NO RESPONSE.)

21 THE COURT: Have any of you discussed this case
22 with anyone, if so, please stand, give your name and your
23 juror number but do not make any comment.

24 (NO RESPONSE.)

25 THE COURT: Have any of you read, viewed or

1 listened to any news accounts or news reports on the subject
2 of this case, if so, please stand and give your name and
3 number but do not make any comment.

4 JUROR: Margereen Richardson, #240.

5 THE COURT: Richardson. All right.

6 JUROR: Carolyn Fritz, my number is #88.

7 THE COURT: All right. Next?

8 JUROR: Renord Green #354.

9 JUROR: #183, James Kinard.

10 JUROR: I'm #35, Ernest Byrd.

11 JUROR: Tracey K. Bird and I'm #19.

12 JUROR: Nancy Cashen, #42.

13 JUROR: Pam Gaskins and I think I'm #95.

14 JUROR: Robert Gibson #97.

15 JUROR: Lucius Varn, #311.

16 JUROR. Elizabeth Moseley, I'm #218.

17 JUROR: Katherine Mathis #204.

18 JUROR: James Jamison, #157.

19 JUROR: #159, Mary Jamison.

20 JUROR: Deborah Hughes, #143.

21 JUROR: Deborah Dukes, #66.

22 JUROR: Curlee Fogle, #82.

23 JUROR: Lionel Caughman, #43.

24 JUROR: James Beck, #18.

25

1 JUROR: Olympia Robinson, #248.

2 JUROR: Thomas Stokes, #293.

3 JUROR: Barbara Beach, #17.

4 JUROR: Arthur Wolfe, #341.

5 JUROR: Steve Cumbee, #56.

6 JUROR: Sheronne Pickering, #230.

7 JUROR: Alvin Jenkins, #161.

8 JUROR: Michael Jeffcoat, #160.

9 JUROR: Bernard Haire, #123.

10 THE COURT: All right, anyone else?

11 (NO RESPONSE.)

12 THE COURT: Any further voir dire from the State
13 at this time? We will take up these other matters on
14 individual voir dire.

15 SOLICITOR: Not at this time.

16 MR. SIMS: Your Honor, I don't know if I heard.
17 Did you ask whether or not there was any close friends
18 or relatives who were related to the Solicitor's Office
19 or knew anyone in the Solicitor's Office?

20 THE COURT: I'll be glad to. I think I just
21 asked about the attorneys. Anybody has any relatives
22 or connection by blood or marriage, presently represented
23 or represented in the past or have any business relationship
24 or close personal relationship with the solicitor's Office
25 or any members of the Solicitor's Office, if so, we need

1 for you to stand. Your name, please, sir?

2 JUROR: Shelly Robinson.

3 THE COURT: All right, and who do you know over
4 there?

5 JUROR: Thomas Sims.

6 THE COURT: Okay, thank you, Mr. Robinson.

7 JUROR: I'm Brian Robinson and I think I'm kin
8 to the secretary of the Solicitor.

9 THE COURT: That's Brian Robinson?

10 JUROR: Yes, sir.

11 THE COURT: You think you might be some kin
12 to one of the secretaries?

13 JUROR: I'm not for sure.

14 THE COURT: Okay, that's juror #246. All right,
15 anything else, Mr. Sims?

16 MR. SIMS: No, sir.

17 THE COURT: All right, ladies and gentlemen,
18 in order for us to go into the next step, we've got to
19 have a little time to get the panels set up and numbers
20 straightened out so what we are going to do is we are
21 going to take a 15 minutes recess.

22 (WHEREUPON, A short recess was taken and then
23 the proceedings resumed.)

24 THE COURT: All right, Madam Clerk, call the
25 first panel, please.

1 CLERK: #332, Cherry I. Williams; #56, Steven
2 Cumbee, #11 Kimberly Atkinson, #17, Barbara Beach, #262,
3 Alfred Seabrook and #340, Hercules Wolfe, that is our first
4 panel.

5 (WHEREUPON, These six jurors were sent into
6 the jury room and the remainder of the panel was told
7 what time to call back in to see what panel they were
8 on.)

9 (WHEREUPON, The following proceedings were
10 held in the absence of all juror.)

11 THE COURT: All right, gentlemen, ya'll help
12 me out here. Let's get the record absolutely crystal
13 clear on these check-off items.

14 Solicitor, have you at least thirty days prior
15 to trial notified defense counsel of your intention to
16 seek the death penalty?

17 SOLICITOR: Yes, I have, Your Honor.

18 THE COURT: Have you, prior to trial, made known
19 to the defendant in writing the prosecution's evidence
20 in aggravation, the punishment to be offered by the State
21 for introduction into evidence?

22 SOLICITOR: Yes, sir, I have.

23 THE COURT: Have you provided the defendant
24 with a true copy of the indictments at least three days
25 before trial and if not, whether or not the defendant

1 waived his right to receive such document?

2 SOLICITOR: They have been provided copies,
3 certified copies of the indictments approximately one
4 year ago.

5 THE COURT: Mr. Sims, what is the status about
6 a Blair hearing?

7 MR. SIMS: Your Honor, in terms of the competency,
8 there's not a question as it relates to the competency
9 of the defendant.

10 THE COURT: Okay. Now, we have to go into the
11 qualifications, the statutory qualifications for counsel.
12 You have provided to the Court ya'll's names and mailing
13 addresses, Mr. Sims and Mr. Johnson?

14 MR. SIMS: Initially when we were appointed,
15 I believe back on March the 19th, I believe the Judge
16 went through the qualifications for both of us at that
17 time, Your Honor.

18 THE COURT: Okay, all of that is on the record?

19 MR. SIMS: Yes, sir.

20 THE COURT: Let me ask you now. Have any of
21 you had any association with the Public Defender's Office?

22 MR. SIMS: No, sir.

23 MR. JOHNSON: No, sir.

24 THE COURT: Mr. Sims, how many years of experience
25 have you had as a licensed attorney?

1 MR. SIMS: Your Honor, this will be my twenty-
2 first year.

3 THE COURT: And, Mr. Johnson?

4 MR. JOHNSON: My eleventh year.

5 THE COURT: And how many years of actual felony
6 trial experience do both of you have?

7 MR. SIMS: Your Honor, I've prosecuted in the
8 Solicitor's Office from 1982 up until 1993 and was
9 responsible at that time for all major felony prosecutions.
10 And since that time as defense counsel, I've been involved
11 in numerous felony trials and have represented defendants
12 also in capital murder cases.

13 THE COURT: Mr. Johnson.

14 MR. JOHNSON: Your Honor, since I've been in
15 private practice I've tried numerous cases. As a matter
16 of fact, I've tried a couple before you right here.

17 THE COURT: That's right, both of you have.
18 Thank you very much. I think we're absolutely clear on
19 that.

20 MR. SIMS: Your Honor, do you have some more
21 questions, because we have an issue.

22 THE COURT: That's it.

23 MR. SIMS: Your Honor, we would like the Clerk
24 to explain the process for choosing the panel, how that
25 was done, whether or not they were done at random, by

1 putting into a cylinder and being pulled or what process
2 did she use in order to pull the jury or to make the panels.

3 THE COURT: We will have to fetch her.

4 (WHEREUPON, Clerk returned to the courtroom.)

5 THE COURT: If you will repeat your question
6 and then she can respond.

7 MR. SIMS: Your Honor, we wanted, for the record,
8 to have the Clerk explain the process in terms of how
9 the jurors were picked for the panels that were drawn,
10 whether or not they were either by cylinder or what other
11 method was used in order to pull the names of those jurors.

12 CLERK: It was done by computer. We give the
13 computer a certain date and tell it how many to pick.

14 MR. SIMS: Not --- I'm sorry, let me clear that
15 up. Not in terms of the actual overall 300 people that
16 were chosen but the process that was utilized for picking
17 the panels from the 350 or so that were chosen, what process
18 was used at that point.

19 CLERK: Okay, up here today, right?

20 MR. SIMS: Yeah.

21 CLERK: All the ones who were qualified I put
22 in the little barrels and they were drawn out randomly
23 and resulted in those lists that I gave each of you.

24 THE COURT: Is that satisfactory?

25 MR. SIMS: Yes, sir, I believe it is. Thank

1 you, Your Honor, that's all we have on that point.

2 THE COURT: From county to county everybody
3 does it a little different and I didn't say anything because
4 I figured ya'll follow your own procedure.

5 MR. SIMS: Yes, sir.

6 THE COURT: Is everything okay with that?

7 MR. SIMS: Yes, sir.

8 MR. JOHNSON: Yes, sir.

9 THE COURT: Okay. I don't believe ya'll had
10 any objections as far as the voir dire that we've completed.
11 Was there anything for the record on that?

12 SOLICITOR: No, sir, not from the State.

13 MR. SIMS: Nothing from the defense, Your Honor.

14 THE COURT: Now, how do you want to proceed
15 about the letter, the three types of juror letter, Madam
16 Clerk? Do you implement that or how do you want to do
17 that?

18 SOLICITOR: If you could just give the jurors
19 an opportunity to review that prior to coming out and
20 then Your Honor could ask them about it in general and
21 let us follow up.

22 MR. SIMS: That's fine.

23 THE COURT: All right, now, who handles that
24 normally? The Clerk?

25 SOLICITOR: Generally the bailiff would hand

1 it to them as they go in.

2 THE COURT: Okay, have you got your letter?

3 CLERK: I will give it to the bailiff.

4 THE COURT: All right.

5 SOLICITOR: Judge, I understand there's no issue
6 of competency but since the defendant was sent for an
7 evaluation, I would like to go ahead and submit the State
8 Hospital's report pursuant to State -vs- Pringle.

9 MR. SIMS: No objection, Your Honor.

10 THE COURT: Without objection it is made a part
11 of the record.

12 (WHEREUPON, Mental evaluation was entered and
13 marked as Court's exhibit #1.)

14 THE COURT: All right, we will bring in the
15 jury one at a time but before that, let's go ahead and
16 put the bailiff staff under oath.

17 (WHEREUPON, All bailiffs were duly sworn.)

18 THE COURT: All right, do you have the list
19 that she has prepared?

20 BAILIFF: No, sir, not yet.

21 THE COURT: Okay, here's one. Call them one
22 at a time to come out and ask them to read the letter
23 and then when they are ready we will bring them out and
24 then just as soon as you clear one, have the next one
25 come, give them the letter, just ask them to relax, okay?

1 BAILIFF: Yes, sir.

2 SOLICITOR: Your Honor, just one matter before
3 we start. I do intend to argue at the appropriate time
4 future dangerousness, the defendant is not eligible for
5 parole and I would like to advise the jurors that life
6 means life without parole during voir dire.

7 THE COURT: Do you have any problem with that,
8 Mr. Sims?

9 MR. SIMS: I think that's settled

10 SOLICITOR: Also there's a racial difference
11 between the defendant and the victim in this case and
12 I think under Turner -vs- Murray we're entitled to have
13 the jurors voir dired on that. I don't know that ---
14 perhaps some of the jurors, dependent on how they viewed
15 that question and their beliefs, might take some offense
16 at it so I would ask the Court if you would consider asking
17 those questions.

18 THE COURT: Okay, I've got it, I had to do it
19 down in Florence.

20 MR. SIMS: I, too, Your Honor would join that
21 in terms of trying to explore that issue, have the Court
22 do it as opposed to one of us.

23 THE COURT: Okay. To save time, do you have
24 a list of those jurors that responded?

25 MR. SIMS: Your Honor, I have juror #240, ---

1 SOLICITOR: Is this just the ones that had heard
2 something?

3 MR. SIMS: Yes. I've got #240, #88, #354, #183,
4 #35, #19, #42, #95, #97, #311, #218, #204, #157, #159,
5 #143, #66, #82, #43, #18, #248, #293, #17, #341, #56,
6 #230, #161, #160, #123 and then there was some question
7 about #246, Quincy Perry, who knows your intern?

8 SOLICITOR: Yes.

9 MR. SIMS: And just for the record, Your Honor,
10 I believe #46, #204 and #66, did they respond that they
11 could not give a fair trial?

12 THE COURT: And #110 and #228. All right, I'm
13 going to have David sit here and as we call each of these,
14 you point them out to us and I'll cover that rather than
15 going back over the same questions over and over.

16 All right, let's bring in our first juror.

17 (WHEREUPON, Juror #332, Cherry I. Williams(BM)
18 entered the courtroom and took the witness chair.)

19 THE COURT: Are you doing alright?

20 MR. WILLIAMS: Yeah.

21 THE COURT: It's been a long day. Mr. Williams,
22 we appreciate your cooperation and first of all I need
23 to remind you that you are under oath and I want you to
24 relax, feel comfortable and if there's any problem, you
25 let me know, okay?

1 MR. WILLIAMS: All right.

2 THE COURT: Because I'm going to ask you some
3 questions and the attorneys are going to ask you some
4 questions, okay?

5 MR. WILLIAMS: Okay.

6 THE COURT: Do you know of any reason whatever
7 why you could not give both the State and the defendant
8 a fair and impartial trial in this case?

9 MR. WILLIAMS: No, sir.

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

12 MR. WILLIAMS: Yes, sir.

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

16 MR. WILLIAMS: I think so.

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

20 MR. WILLIAMS: Yes, sir, I think so.

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

23 MR. WILLIAMS: No, sir.

24 THE COURT: Have you read, viewed or listened
25 to any news accounts or any news reports on the subject

1 of this case?

2 MR. WILLIAMS: No, sir, I didn't.

3 THE COURT: Mr. Williams, the defendant is black,
4 the victim is Caucasian white. Will the fact that the
5 defendant is black and the victim is white prevent you
6 in any way whatsoever from rendering a fair and impartial
7 verdict decision in this case?

8 MR. WILLIAMS: No, sir.

9 THE COURT: Will you, without regard to the
10 race of the defendant and the race of the victim, render
11 a fair and impartial verdict decision based solely upon
12 the law given to you by the court, the evidence in the
13 record, uninfluenced in any way whatsoever by reason of
14 the difference in race between the defendant and the victim?

15 MR. WILLIAMS: uhm --- can you repeat that question
16 to me again?

17 THE COURT: Be glad to. Will you, without regard
18 to the race of the defendant and the race of the victim,
19 render a fair and impartial verdict decision based solely
20 upon the law given to you by the court and the evidence
21 in the record, uninfluenced in any way whatsoever by reason
22 of the difference in race between the defendant and the
23 victim?

24 MR. WILLIAMS: Yes, sir, I can.

25 THE COURT: Now, we will be asking you certain

1 questions at this time relative to your views on the death
2 penalty. There are no right or wrong answers. And I emphasize
3 the mere fact that we are talking about penalties do not
4 indicate anything about this defendant. He is presumed
5 innocent, do you understand that he is presumed innocent?

6 MR. WILLIAMS: Yes, sir, I understand that.

7 THE COURT: I had Madam Bailiff hand you a letter
8 a few minutes ago, have you had a chance to read that
9 letter?

10 MR. WILLIAMS: Yes, sir.

11 THE COURT: I wonder if you could tell me which
12 of the three categories that you might fall into.

13 MR. WILLIAMS: Uhm --- I won't fall in none
14 of them, sir.

15 THE COURT: All right, would you like to review
16 the letter again?

17 MR. WILLIAMS: Yes, sir.

18 THE COURT: Okay.

19 (WHEREUPON, Mr. Williams is handed a copy of
20 the letter and reads it.)

21 MR. WILLIAMS: I think I'm going to go with
22 the first paragraph, Your Honor.

23 THE COURT: All right. Is your position on
24 the death penalty for murder so fixed and so firm that
25 you are irrevocably committed before the beginning of

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

4 MR. WILLIAMS: Yes, sir.

5 THE COURT: Counsel, if ya'll would step forward,
6 please.

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

9 THE COURT: All right, Mr. Williams, you said
10 paragraph number one, that you are a juror that you feel
11 that once a murder has been committed the death penalty
12 is the most appropriate punishment no matter what the
13 circumstances of the case?

14 MR. WILLIAMS: Yes, sir.

15 THE COURT: Is that what you are saying?

16 MR. WILLIAMS: Yes, sir.

17 THE COURT: Solicitor?

18 SOLICITOR: Nothing, Your Honor.

19 THE COURT: Mr. Sims?

20 MR. SIMS: Your Honor, I'm not going to ask
21 any questions. I think the law is clear on this issue.

22 THE COURT: Thank you, sir, you are excused
23 at this time.

24 MR. WILLIAMS: I can go home?

25 THE COURT: Yes, sir. Bring us the next one.

1 (WHEREUPON, Mr. Steven Cumbee, Juror #56 (WM)
2 entered the courtroom and took the witness chair.)

3 THE COURT: Mr. Cumbee.

4 MR. CUMBEE: Yes, sir.

5 THE COURT: All right, let me get ready for
6 you here. I need you to relax, I know it's been a long
7 day and you're probably nervous but we've got a few questions
8 we need to ask you.

9 MR. CUMBEE: Okay.

10 THE COURT: And I will remind you that you are
11 still under oath from early this morning.

12 MR. CUMBEE: Yes, sir.

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. CUMBEE: No, sir.

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

19 MR. CUMBEE: Yes, sir.

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

23 MR. CUMBEE: Yes, sir.

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

1 a defendant guilty?

2 MR. CUMBEE: Yes, sir.

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

5 MR. CUMBEE: No, sir.

6 THE COURT: I believe you indicated earlier
7 that you had read, viewed or listened to a news account
8 or a news report on the subject of the case, is that correct?

9 MR. CUMBEE: Yes, sir, that's correct.

10 THE COURT: What was the nature of the news
11 account?

12 MR. CUMBEE: I just read about the previous
13 people who were on trial, I think it was in the same case,
14 the Syphrett lady and I can't remember -- I don't know
15 who it was but, as a matter of fact, I think it was in
16 the TV this morning.

17 THE COURT: Will the news accounts which you
18 have read, viewed or listened to prevent you from rendering
19 a fair and impartial verdict in this case?

20 MR. CUMBEE: No, sir, I don't think so.

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

1 MR. CUMBEE: I don't think I can erase it from
2 my mind but I believe I could judge it fairly. I don't
3 believe that it will mess with my judgment on the subject
4 anyway.

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

10 MR. CUMBEE: Yes, sir, I think so.

11 THE COURT: Do you understand that your verdict
12 decision must be based exclusively upon the law given
13 to you by the court and the evidence presented to the
14 court and to the jury during the trial. Can you make your
15 verdict decision based upon --- only upon these two
16 considerations, the law and the evidence?

17 MR. CUMBEE: Yes, sir.

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

23 MR. CUMBEE: No, sir.

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

1 a fair and impartial verdict decision based solely upon
2 the law given to you by the court and the evidence in
3 the record uninfluenced in any way whatsoever by reason
4 of the difference in race between the defendant and the
5 victim?

6 MR. CUMBEE: Yes, sir.

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

14 MR. CUMBEE: Yes, sir.

15 THE COURT: You were given a letter a few minutes
16 ago which described some types of jurors. I wonder if
17 you could tell me which of these three categories that
18 you might fall into.

19 MR. CUMBEE: I would probably fall into number
20 one.

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

25 MR. CUMBEE: 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. CUMBEE: I don't know exactly how to answer
6 that one.

7 THE COURT: Let me ask you this further question.
8 Is your position on the death penalty for murder so fixed
9 and so firm that you are irrevocably committed before
10 the beginning of this trial to vote against the death
11 penalty for murder regardless of the facts and circumstances
12 that may develop during trial?

13 MR. CUMBEE: I guess the best way for me to
14 answer that is to say that I think if somebody commits
15 murder that they should get the death penalty.

16 THE COURT: Can your opposition to capital
17 punishment for the death penalty for murder be changed
18 by the evidence presented during the trial?

19 MR. CUMBEE: No, sir, I don't think so.

20 THE COURT: Notwithstanding your opposition of
21 capital punishment, are you willing to consider all of
22 the penalties provided by the law of this state, including
23 the death penalty, and then determine whether the defendant
24 should receive the death penalty or life imprisonment
25 based upon the facts and circumstances developed during

1 the trial?

2 MR. CUMBEE: Yes, sir, I think so.

3 THE COURT: Will your position to the death
4 penalty for murder prevent you from voting for life imprison-
5 ment under any circumstances?

6 MR. CUMBEE: I'm afraid there may be a problem
7 there.

8 THE COURT: Okay, gentlemen?

9 SOLICITOR: If I could just ask a few follow
10 up questions on that.

11 THE COURT: Yes, sir.

12

13 EXAMINATION BY THE SOLICITOR:

14 Q. Mr. Cumbee, I'm Walter Bailey and I want to
15 ask you a few questions, there are no right or wrong answers
16 like the judge said.

17 A. Okay.

18 Q. When we're talking about the penalty that would
19 mean that the defendant had been found guilty of murder
20 in the first part of the trial. So anytime the jury gets
21 into that second phase, they are dealing with somebody
22 they've already convicted of murder ---

23 A. Right.

24 Q. --- and they have two options in sentencing,
25 the death penalty or life and life, in this case, means

1 life without parole. Would the fact that if a life sentence
2 is imposed it would be life without parole cause you to
3 be able to consider that as a possible option, punishment
4 option?

5 A. Uhm --- no, sir, I don't think that we should
6 put people in prison for the rest of their life if they
7 commit murder.

8 Q. Okay, I agree. No further questions.

9 MR. SIMS: The defendant has no questions, Your
10 Honor.

11 THE COURT: MR. Cumbee, we appreciate you coming
12 and taking part, I'm going to excuse you at this time.

13 A. I can go to the house then?

14 THE COURT: You can go home.

15 A. Thank you, sir.

16 THE COURT: All right, bring in the next one,
17 please.

18 (WHEREUPON, Ms. Kimberly Atkinson, Juror #11
19 (WF) entered the courtroom and took the witness chair.)

20 THE COURT: Ms. Atkinson, how are you?

21 MS. ATKINSON: Fine, how are you?

22 THE COURT: Good. You can relax, we've just
23 got a few questions we are going to ask you.

24 MS. ATKINSON: Okay.

25 THE COURT: And I remind you that you are under

1 oath, okay?

2 MS. ATKINSON: 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. ATKINSON: No, sir.

7 THE COURT: Would you, under oath, follow the
8 law in this case given to you by me?

9 MS. ATKINSON: Yes, sir.

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

13 MS. ATKINSON: What was that again?

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

17 MS. ATKINSON: Yes, sir.

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

21 MS. ATKINSON: Yes, sir.

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

24 MS. ATKINSON: 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 MS. ATKINSON: No, sir.

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

9 MS. ATKINSON: No, sir.

10 THE COURT: Will you, without regard to the
11 race of the defendant and the race of the victim, render
12 a fair and impartial verdict decision based solely upon
13 the law given to you by the court and the evidence in
14 the record uninfluenced in any way whatsoever by reason
15 of the difference in race between the defendant and the
16 victim?

17 MS. ATKINSON: Yes, sir.

18 THE COURT: I'm going to ask you some certain
19 questions 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're talking about the penalty does
22 not indicate anything about the defendant. He is presumed
23 innocent and I ask you, do you understand that?

24 MS. ATKINSON: Yes, sir.

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

1 ago by Madam Bailiff. Have you had a chance to read that
2 letter?

3 MS. ATKINSON: Yes, sir, I read it.

4 THE COURT: I wonder if you could tell me which
5 of the three categories that you might fall into.

6 MS. ATKINSON: I can't remember what order they
7 were in.

8 THE COURT: Pardon?

9 MS. ATKINSON: Uhm --- I think I could ---

10 THE COURT: Would you like to look at it again?

11 MS. ATKINSON: Yes, sir.

12 THE COURT: I know you're nervous, just take
13 your time.

14 (WHEREUPON, Ms. Atkinson reads the letter again.)

15 MS. ATKINSON: The third type.

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

20 MS. ATKINSON: Yes, sir.

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

25 MS. ATKINSON: Yes, sir.

1 THE COURT: Ms. Atkinson, if you were selected
2 on this case I will tell you that you will have to be
3 sequestered or what we call separated with the jury and
4 remain in a motel during the length of this trial. Does
5 that pose any undue hardships for you?

6 MS. ATKINSON: No.

7 THE COURT: Thank you very much. I'm going to
8 ask counsel at this time if they have any questions for
9 you, beginning with the State.

10 SOLICITOR: Thank you, Your Honor.

11
12 EXAMINATION BY SOLICITOR:

13 Q. Ms. Atkinson, I'm Walter Bailey and I'll be
14 prosecuting this case and I need to ask you a few back-
15 ground questions and I'm going to apologize ahead of time
16 if I'm getting too personal.

17 A. All right.

18 Q. Are you Scott Atkinson's sister?

19 A. Yes, I am.

20 Q. Okay. And, again, I'm sorry but this is an
21 important case and I need to get your feelings on that.

22 A. That's alright.

23 Q. I prosecuted your brother several years back
24 for murder.

25 A. Uh-huh.

1 Q. This is a murder case and we're seeking the
2 death penalty. Would the fact that I prosecuted your brother
3 spill over into your thought processes in this case?

4 A. It could.

5 Q. Okay. And I'm groping around trying to see
6 how to ask this question but how do you think that might
7 affect your ability to sit as a fair and impartial juror
8 in this case?

9 A. I really don't know how to answer that.

10 Q. Okay. Let me ask you another one. Do you have
11 any hard feelings towards me or the Solicitor's Office
12 because of the fact that your brother was prosecuted?

13 A. No, sir.

14 Q. All right. The Judge went over that letter with
15 you about the three kinds of jurors, the first juror who
16 would always vote for the death penalty, the second juror
17 that would always vote for a life sentence which in this
18 case means life without parole, and the third juror that
19 would fairly consider both sentences and you could vote
20 for life, you could vote for death, depending on what
21 you heard, what the Judge told you. And you said that
22 you're the number three juror?

23 A. Uh-huh.

24 Q. Is the death penalty something you've ever thought
25 about before today when you found out you might be juror

1 on a death penalty case?

2 A. Have I ever thought about it?

3 Q. Yes, ma'am.

4 A. Yes, sir.

5 Q. And in general, what were your thoughts on the
6 death penalty?

7 A. That someone would have to --- I mean, brutally
8 do something to someone, be proven that they did it to
9 be able to put them on the death penalty.

10 Q. All right.

11 A. Not just for anything, you know.

12 Q. Okay, and you understand that the first part
13 of the trial would be the part of the trial where the
14 State has the burden of proving someone guilty of murder
15 beyond a reasonable doubt and if the State can't do that,
16 that's the end of it. If the State does prove that to
17 the jury's satisfaction that the person is guilty of murder,
18 then we go into part two. So anytime that jury gets
19 into part two, they are dealing with someone they have
20 already convicted of murder and in that second phase of
21 the trial, some additional evidence would come out to
22 help the jury decide on those two choices, life without
23 parole on one hand, the death penalty on the other hand.

24 A. Uh-huh.

25 Q. And I'm not going to ask you to predict what

1 you would do in this case because you don't know anything
2 about it, do you?

3 A. No, I don't.

4 Q. If the case was bad enough, could you vote for
5 the death penalty knowing that sentence actually is going
6 to be carried out, that person is going to be executed?

7 A. Yes.

8 Q. Even though the option is life without parole?

9 A. Uh-huh.

10 Q. And if all twelve jurors vote for the death
11 penalty, there's a paper, a death verdict form which each
12 juror is asked to sign their name to. Could you sign
13 your name to a paper like that, along with the other jurors
14 if that was your verdict?

15 A. Oh, I don't know.

16 Q. Okay.

17 A. Probably not.

18 Q. All right. Can you tell me --- I'm presupposing
19 now that you voted for the death penalty and the other
20 jurors voted for it, is there anything about the act of
21 signing that paper that would cause you not to sign it?

22 A. I guess I would feel like it was my fault, you
23 know.

24 Q. Okay.

25 A. Because I had my name on that paper.

1 Q. All right. And do you think that that might ---
2 the fact that that's part of the process, that if the
3 jurors would vote for the death penalty, would be asked
4 to sign their name to that paper.

5 A. Uh-huh.

6 Q. Would that prevent you from performing your
7 duties as a juror, if you couldn't sign that paper?

8 A. Well, I guess it could.

9 Q. Okay, and again, I'm not asking you if you would
10 sign because that presupposes that you've already heard
11 the evidence and voted for the death penalty. But my
12 question is, if you did vote of it, would you then be
13 able to sign your name to that paper?

14 A. Yes, sir.

15 Q. Okay. There's another process called polling
16 the jury where if the jury votes for the death penalty,
17 they sign the paper, and they would come out with the
18 verdict and each juror might be asked to stand up when
19 their name is called and say out loud in the courtroom
20 here that that was your verdict. Could you do that?

21 A. I don't know.

22 Q. Okay. And I realize that this is all new to
23 you but this is the only chance we get to find out whether
24 a juror actually can go through the process. If you can't
25 do it, you need to let us know now because once we pick

1 a jury and you can't do the process, then it's too late.

2 A. Probably couldn't do that.

3 SOLICITOR: Ms. Atkinson, that's all I've got
4 right now, I may have a few more questions later.

5 THE COURT: Mr. Sims.

6
7 EXAMINATION BY MR. SIMS:

8 Q. Ms. Atkinson, I just have a few questions. I
9 believe you've indicated that you would be in the third
10 category and that third category is the kind of juror
11 who would be able to listen to all of the evidence and
12 make his or her decision based upon the evidence that
13 they heard in the case.

14 A. Uh-huh.

15 Q. And if you determined that the evidence warrants
16 a death penalty, you could vote for the death penalty.

17 A. Yeah, but when he started talking about putting
18 my name on a paper and all that, I guess that just makes
19 me nervous.

20 Q. That makes you a little nervous but you would
21 follow the law as the Judge gave it to you.

22 A. Of course.

23 Q. And if the Judge in his instruction to you informed
24 you that if you decided to vote for the death penalty
25 that you would have to sign your name, you would be able

1 to follow that, is that correct?

2 SOLICITOR: Your Honor, I'm going to object
3 to that question because I don't think your instructions
4 would ever tell a juror they had to do anything as far
5 as the process of arising at a death penalty.

6 THE COURT: Rephrase your question.

7 Q. If there was a requirement or if you were handed
8 a sheet of paper and all of you were required to sign
9 your name on that document, you would be able to do that,
10 is that correct?

11 SOLICITOR: Same objection, Your Honor.

12 A. Well, that's what I was telling him, I didn't
13 think I could do that.

14 THE COURT: She answered it just like she did
15 before so ---

16 MR. SIMS: Yeah.

17 A. Sorry.

18 Q. Well, let me go --- let me ask you this then.
19 When you, as Mr. Bailey says, not presupposing anything
20 about this case at all, but in a situation in which there
21 were requirements that were given to you by the Court,
22 you would be able to follow those requirements?

23 A. Of course.

24 Q. And I believe Mr. Bailey asked you in terms
25 of whether or not you would be able to stand up, what

1 he called polling, if at the end of everything and someone
2 wanted the jury polled by asking them, is this your verdict,
3 is it still your verdict? Would you be able to answer
4 whether or not that was still your verdict?

5 A. I don't think I could.

6 Q. Is that because of your nervousness or because
7 you would have some hesitancy of doing it? I'm trying
8 just to figure out where we're ---

9 A. Probably a little bit of both.

10 Q. A little bit of both?

11 A. Uh-huh.

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

13 THE COURT: Ms. Atkinson, if you will step outside
14 the door just a minute, please.

15 (WHEREUPON, Ms. Atkinson left the courtroom
16 and the following proceedings took place in her absence.)

17 THE COURT: I would be interested to hear anything
18 ya'll have got on this one, that's unusual.

19 SOLICITOR: Your Honor, would contend she's
20 not qualified because of her expressed inability or unwill-
21 ing to sign the death verdict form if she did vote for
22 the death penalty and also her inability to be polled
23 as to the death penalty. And in support of that, I cite
24 State -vs- Leroy Drayton where the juror in that case
25 said, " I just don't want to sign my name to any document

1 saying that I was part of something to take someone's
2 life."

3 Also State -vs- Ricky George where the juror
4 in that case said they didn't "think" they could sign
5 the verdict form. And under Wayneright the jurors answers
6 don't have to be with unmistakable clarity and that's
7 defining those two cases. There are several other cases
8 that deal with a juror's inability to sign the death verdict
9 form. She's never said that she could sign the form, she
10 said she didn't think she could and that she could not
11 be polled and that's part of the process. If she can't
12 do it, she's not qualified.

13 Your Honor, the other factor is that I did prosecute
14 this young lady's brother for a very brutal murder. It
15 was a potential death penalty case and there was a lot
16 of back and forth with the victim's family and they decided
17 to go ahead and let him plead to a life sentence. And
18 she said that that may spill over into her deliberations
19 of this case. I don't know how that would cut but I think
20 that's just an added factor that would tend to disqualify
21 her.

22 THE COURT: Mr. Sims?

23 MR. SIMS: Your Honor, starting from the last
24 argument to the first one, I don't think that that was
25 ever clear. She never said that she held any malice toward

1 the Solicitor's Office. I don't know, she could be one
2 of those people who say, well, if they find her brother
3 guilty and she's going to find everybody else guilty.
4 So that issue was never made clear.

5 I don't think that she categorically denied
6 that she would be able to sign the death warrant. When
7 I asked her, maybe in artfully, in terms of whether or
8 not if the Court required her to sign a death warrant,
9 she said she would. So there's an indication there that
10 she would, in fact, sign it if it was told to her that
11 the statutory requirements are that if a --- if the jury
12 votes for the death penalty that they would be able to,
13 in fact, do that. I believe that she would. The fact
14 that she was not crystal clear either way, I don't think
15 that under any of the cases that the Solicitor cited would
16 be sufficient in order to say that that would disqualify
17 her because she would not vote. She initially said she
18 was in category three which meant that she would listen
19 to the evidence and make her decision and could, in fact,
20 vote for the death penalty.

21 SOLICITOR: Your Honor, if I could respond to
22 that. I don't think, unless you kind of custom made the
23 instructions to accommodate this situation, no death penalty
24 instructions I've ever heard would tell the jury they
25 would have to sign that death verdict form. I don't even

1 think that's mentioned if I'm not mistaken.

2 THE COURT: Well, ---

3 SOLICITOR: I mean, they are told that if they
4 vote for the death penalty then the next step in the process
5 is they would --- that form would be there but they are
6 not told they have to sign it.

7 THE COURT: And she was vague on the signing
8 of the form but she was pretty clear to me about that
9 business about the polling.

10 SOLICITOR: Yes, sir. And, again, I think that's
11 part of the process, that if you can't vote for it or
12 you can't sign it or you can't be polled on it, the result
13 is the same, they can't go through the process. I think
14 the Drayton case and the George case is pretty much on
15 point because they didn't state with unmistakable certainty
16 that they could not sign it, they just said they didn't
17 think they could or that it would be real difficult.

18 THE COURT: She was pretty clear about that.
19 Anything else?

20 MR. SIMS: Nothing, Your Honor.

21 THE COURT: Bring her back in, please, sir.

22 (WHEREUPON, Ms. Atkinson re-entered the court
23 room.)

24 THE COURT: Ms. Atkinson, I'm going to excuse
25 you at this time, you're free to go home.

1 MS. ATKINSON: Thank you.

2 THE COURT: All right, bring us our next juror.

3 (WHEREUPON, Juror #17, Barbara Beach (WF)
4 entered the courtroom and took the witness chair.)

5 THE COURT: Ms. Beach.

6 MS. BEACH: Yes, sir.

7 THE COURT: How you doing?

8 MS. BEACH: Pretty good.

9 THE COURT: It's been a long day, hasn't it?
10 If you will relax for me, we just have a few questions
11 we want to go over with you. And I remind you that you
12 are still under oath from this morning.

13 MS. BEACH: All right.

14 THE COURT: Let me ask you again now. Do you
15 know of any reason whatsoever why you cannot give both
16 the State and the defendant a fair and impartial trial
17 in this case/

18 MS. BEACH: Not that I know of.

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

21 MS. BEACH: I would.

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

25 MS. BEACH: Repeat that again.

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

4 MS. BEACH: Yes.

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

8 MS. BEACH: Yes.

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

11 MS. BEACH: No.

12 THE COURT: Now, I believe you indicated that
13 you had read something, now let me ask you. Have you read,
14 viewed or listened to any news accounts or news report
15 on the subject of this case?

16 MS. BEACH: Uhm --- well, I read the paper today
17 and whatever, you know, usually shows up in the paper,
18 I read it.

19 THE COURT: What do you recall or remember about
20 the news account?

21 MS. BEACH: Just that they had found a woman
22 near Branchville, I think she was in her bra or something
23 like that and said another guy had been killed and duct
24 taped from the neck up. And I think there was a Knights
25 and a Syphrett involved.

1 THE COURT: Let me ask you this. Will the news
2 accounts which you have read, viewed or listened to, prevent
3 you from rendering a fair and impartial verdict in this
4 case?

5 MS. BEACH: I don't guess so.

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

11 MS. BEACH: I will try.

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

17 MS. BEACH: In other words, if the evidence
18 was different, could I come up with the right answer?

19 THE COURT: Do you understand that your verdict
20 or decision must be based exclusively upon the law given
21 to you by the Court and the evidence presented to you
22 during court and during this trial? Can you make your
23 verdict decision based only upon these two considerations,
24 the law and the evidence?

25 MS. BEACH: Yes.

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

6 MS. BEACH: I don't think so.

7 THE COURT: Will you, without regard to the
8 race of the defendant and the race of the victim, render
9 a fair and impartial verdict decision based solely upon
10 the law given to you by the Court and the evidence in
11 the record uninfluenced in any way whatsoever by reason
12 of the difference in race between the defendant and the
13 victim?

14 MS. BEACH: Would you repeat that?

15 THE COURT: Sure. Will you, without regard to
16 the race of the defendant and the race of the victim,
17 render a fair and impartial verdict based solely upon
18 the law given to you by the Court and the evidence in
19 the record uninfluenced in any way whatsoever by reason
20 of the difference in race between the defendant and the
21 victim?

22 MS. BEACH: Yes.

23 THE COURT: I'm going to ask you at this time
24 certain questions relative to your views on the death
25 penalty. There are no right or wrong answers and I emphasize

1 that the mere fact that we're talking about penalty does
2 not indicate anything about this defendant. He is presumed
3 innocent, and I ask you now, do you understand that?

4 MS. BEACH: I do.

5 THE COURT: You had a letter presented to you
6 a few minutes ago by Madam Bailiff. Did you have a chance
7 to read it?

8 MS. BEACH: I did, yes.

9 THE COURT: I wonder if you can tell me which
10 of the three categories that you might fall into?

11 MS. BEACH: Uhm ---for murder, right?

12 THE COURT: Would you like to look at the letter
13 again?

14 MS. BEACH: No, if the crime is murder, right,
15 I would probably be the death penalty.

16 THE COURT: I'm going to ask you to review the
17 letter again and then respond to my question, please.

18 (WHEREUPON, Ms. Beach reads the letter.)

19 THE COURT: Okay. I'm not sure I made myself
20 clear, that's why I wanted you to review it. Which of
21 those three categories would you fall into?

22 MS. BEACH: More than likely the first one for
23 murder.

24 THE COURT: Is your position to the death penalty
25 for murder so fixed and so firm that you are irrevocably

1 committed before the beginning of this trial to vote for
2 the death penalty for murder, regardless of the facts
3 and circumstances that may develop during the trial?

4 MS. BEACH: I --- probably not.

5 THE COURT: Pardon?

6 MS. BEACH: I said probably not.

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

11 MS. BEACH: I can.

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

16 MS. BEACH: If it warrants it.

17 THE COURT: Can your position on capital punishment
18 or the death penalty for murder be changed by the evidence
19 presented during the trial?

20 MS. BEACH: He murdered somebody, right? I
21 mean ---

22 THE COURT: Allegedly.

23 MS. BEACH: I, you know --- I just sort of feel
24 that if you kill somebody, you ought to sort of be punished
25 for it. I mean, I don't think life imprisonment is really

1 a just punishment for murder.

2 THE COURT: All right. Notwithstanding your
3 position on capital punishment, are you willing to consider
4 all of the penalties provided by the law of this state,
5 including the death penalty and life imprisonment and
6 then determine whether the defendant should receive the
7 death penalty of life imprisonment based upon the facts
8 and circumstances developed during the trial?

9 MS. BEACH: Yes.

10 THE COURT: I ask you, if you were selected
11 on this case, and I tell you that you would have to be
12 sequestered or separated with the jury and remain in a
13 motel during the length of the trial, does that pose any
14 undue hardships for you other than what you've already
15 related about being able to work on some tax returns?

16 MS. BEACH: Other than that and two children
17 and that's --- no other problem.

18 THE COURT: Do you have someone at home who
19 can look after the children?

20 MS. BEACH: I have a husband. I'm not too sure
21 of the quality but ---

22 THE COURT: In response or in regard to what
23 you told me earlier today, and with the understanding
24 now that you could work on the tax forms after court hours,
25 as long as it didn't interfere with your jury service.

1 You understand that that would have to be at the motel
2 room?

3 MS. BEACH: I understand that but can I get
4 people to bring things in and out to me because I don't
5 have all the work at my office now?

6 THE COURT: That would be possible but reviewed
7 by the SLED agents.

8 MS. BEACH: Just, you know, if I can get it
9 all in and out by the 31st of October, there's no problem.

10 THE COURT: Okay. Answer any ---

11 MR. SIMS: Can I take up an issue before we ask
12 her any questions?

13 THE COURT: Sure. If you will step outside
14 the door a minute, let me talk to counsel just a second,
15 please.

16 (WHEREUPON, Ms. Beach left the courtroom.)

17 MR. SIMS: Your Honor, even before we get to
18 the questions that are obviously going to come as it
19 relates to her qualifications, I am extremely concerned
20 of her propensity --- she raised that question this morning
21 about being able to work on her tax returns and having
22 people bring in and having to go through the SLED agents
23 and documents going to and from her when it is my under-
24 standing that even when jurors are sequestered that even
25 though they are not to be talking about the case, that

1 still does not --- her mind is going to be on October
2 31st, whether or not she's going to be able to get all
3 of her documentation done for the IRS because she has
4 indicated on several occasions today that she has to get
5 these documents in, she has many clients who have to have
6 extensions or whatever it is with the IRS because if I
7 recall this morning, one of the first things that she
8 raised, can I get a letter from the Court to send to the
9 IRS so that I can get an extension for these people that
10 she's not going to be able to work with.

11 Logistically I would have strenuous objections to
12 that kind of process and her being able to work on her
13 everyday work because it's going to create different problems
14 and create in her mind the ability to handle their work
15 as opposed to the work of the court. I would just like
16 to raise that or put that on the record at this point,
17 Your Honor.

18 THE COURT: Okay.

19 SOLICITOR: Your Honor, she merely asked if
20 she could work on stuff at night in the motel instead
21 of watching television or whatever else they might be
22 doing. If she can do that and still concentrate on the
23 trial, I don't see where there's going to be a problem.

24 THE COURT: I agree, that's the way I took it,
25 too. Well, let's defer to the Lieutenant and see what

1 he's got to say.

2 LT. EDWARDS: How much work are we talking,
3 sir? And not only that, we would have these people lined
4 up at the door trying to get stuff into her, she won't
5 have any contact with them. If she wants her computer
6 and these people are going to be lined up at the door
7 trying to get stuff in and out to her which they will
8 not be able to have any contact with her, we will have
9 to relay that stuff back and forth and that could be pretty ---

10 THE COURT: Let's see how extensive it is. Bring
11 her back in.

12 (WHEREUPON, Ms. Beach was brought back into
13 the courtroom.)

14 THE COURT: Ms. Atkinson, we need ---

15 MS. BEACH: You mean Ms. Beach.

16 THE COURT: I mean, Mrs. Beach, I'm sorry, I
17 was thinking about the lady before you. We need to know
18 a little more about your work situation. How many clients
19 are we talking about?

20 MS. BEACH: I probably have about 13 quarterly
21 reports to do and about 4 payrolls.

22 THE COURT: We have got to go through this process
23 with each juror for the entire day tomorrow. How would
24 that affect that case load you've got?

25 MS. BEACH: I just would have to work and see.

1 I don't have all the information in, I'll just have to
2 work and see. And, you know, I can work some tonight
3 and tomorrow.

4 THE COURT: In other words, what I'm anticipating
5 we will spend that time with them tomorrow and we would
6 not be able to begin this trial certainly until after
7 tomorrow. Can you give me any idea of how many you may
8 be able to dispose of?

9 MS. BEACH: Maybe --- probably 3 of them. I
10 can't do any of the payrolls until I get the information
11 in and that's a good, probably, four hours worth of work
12 to do four payrolls.

13 THE COURT: And the computer that you said you
14 would have to have, that is solely your personal computer,
15 it would be no internet access.

16 MS. BEACH: Right, my personal computer, no
17 internet.

18 THE COURT: All right, any inquiry?

19 SOLICITOR: Not with regard to that issue, Your
20 Honor. On others, yes, sir.

21 THE COURT: Answer any questions the Solicitor
22 may have.

23

24 EXAMINATION BY THE SOLICITOR:

25 Q. Ms. Beach, I'm Walter Bailey and I want to ask

1 you a few questions, no right or wrong answers. Do you
2 know that the defendant in this case is charged with several
3 crimes including murder and we are seeking the death penalty.
4 Before we even get to the punishment, we have to prove
5 him guilty of murder beyond a reasonable doubt so that's
6 the focus of the first part of the trial, whether or not
7 the State can prove him guilty of murder beyond a reasonable
8 doubt. If an only if he's found guilty of murder, do we
9 go into part two or the second phase and in that second
10 part of the trial is an opportunity for the jury to hear
11 additional evidence, additional instructions from the
12 Judge, to help the jury decide what the appropriate punishment
13 should be, the death penalty or life. And life means
14 life without parole. So that's the process.

15 I'm not going to ask you to predict what you
16 would do in this case because you haven't heard any of
17 the facts and you've read something in the paper but you
18 understand that you have to base your decision on the
19 sworn testimony, right?

20 A. Correct.

21 Q. Okay. Would you be able to sit as a juror if
22 we reached that second phase of the trial, which would
23 mean that you've got a convicted murderer on your hands,
24 would you be able to sit there as a juror and fairly listen
25 to the testimony and instructions and to consider, in

1 good faith, both punishments, life without parole or the
2 death penalty or would you have your mind already made
3 up before you went into that second phase of the trial?

4 A. It's hard to answer that question before.

5 Q. Okay, well, let me ask you this. Going into
6 that second phase of the trial, before you heard any of
7 the evidence in aggravation or any instructions from the
8 Judge, would your mind be open and receptive to whatever
9 came out in that second part or would you say, this guy's
10 a convicted murderer, no matter what I hear, I'm going
11 to come back with the death penalty?

12 A. I can't give an answer, I don't know. I mean,
13 you're trying to make me decide on something that's never
14 even been before so I don't know.

15 Q. No, I'm not trying, you know, I told you that
16 I wasn't going to ask you to predict what you would do
17 because you haven't heard the facts. But what I'm trying
18 to find out is whether or not as a juror you would fairly
19 consider whatever you heard, the law, the facts that came
20 out in the second part of the trial, whether you could
21 listen to that and consider both possible punishments
22 or whether you would already have your mind made up for
23 the death penalty, no matter what you heard.

24 A. Well, I would say my mind is always open but,
25 you know, it would just have to depend on what it was

1 about. I mean, I think it could one way or the other.

2 Q. Okay, and if the case was bad enough, you could
3 vote for the death penalty knowing that that punishment
4 would be carried out?

5 A. Yes.

6 Q. And on the other hand, could you also vote for
7 life without parole if you thought the facts warranted
8 that punishment?

9 A. Maybe.

10 Q. Now, I'm not asking you what you would do, I'm
11 asking if you could do it if you felt like the facts warranted
12 life without parole?

13 A. I might could, I just ---

14 Q. You would have to hear the facts first, is that
15 correct?

16 A. Yes.

17 Q. If the jury votes for the death penalty then
18 each juror is asked to sign their name to a death verdict
19 form which would result in that person being executed.
20 Could you sign your name to a paper like that if it was
21 your vote?

22 A. Uhm --- it would be tough to have to think about
23 living with that.

24 Q. Okay. There's a process called polling the jury
25 where if the jury votes for a particular sentence, they

1 could be asked to stand up when their name was called
2 out and announce that out loud in open court. Could you
3 do that if it was your decision, if the death penalty
4 was your decision, could you say that out loud when your
5 name was called?

6 A. I --- I guess.

7 Q. Okay, I'm not asking what you would do, I'm
8 asking you if you could do it if that was your vote?

9 A. I know, it's hard to make that call when you've
10 never been presented with it before.

11 Q. Okay. Let me go back again to the signing of
12 the paper, the verdict form. If all twelve jurors vote
13 for the death penalty, the next thing in the process is
14 to sign their name to the verdict form. It would just
15 be a piece of paper and it would say something to the
16 effect that we, the jury, having found such and such,
17 unanimously vote for the death penalty. Is there anything
18 about signing that paper as opposed to the actual vote
19 that would cause you to hang up at that step?

20 A. I guess not.

21 Q. Going back over those three types of jurors,
22 number one would never vote for the death penalty. Number
23 two, would always vote for life and number three that
24 could vote for death, could vote for life depending on
25 what they heard. Where would you put yourself now?

1 A. And you said one was never?

2 Q. One is never --- excuse me, one is always. Two
3 is never and three is depends on what I hear.

4 A. For murder--- well, I may could be swayed to
5 three.

6 SOLICITOR: Thank you, that's all I have , Ms.
7 Beach.

8 THE COURT: Mr. Sims.
9

10 EXAMINATION BY MR. SIMS:

11 Q. Ms. Beach, initially when you started out you
12 put yourself in category one and you said that if a person
13 committed a murder, you did not think that a life sentence
14 was an appropriate sentence.

15 A. I usually don't because I just think there should
16 be just punishment and I don't feel like somebody should
17 get away with watching cable TV and all of that.

18 Q. So in that situation then you would then put
19 yourself in category one, if you found --- not having
20 to do with anything in this case, but if you found a person
21 guilty, your propensity would be to also give him the
22 death penalty, is that correct?

23 A. More than likely.

24 Q. Okay. And now I believe in response to the Solicitor's
25 question you said you might be able to go to category

1 three. And would you have to hear something in the trial
2 in order for you to go to number three?

3 A. He would have to have a good reason.

4 Q. He would have to have a good reason.

5 A. Or she or whoever.

6 Q. So then what you're saying is that the defendant
7 would have to have a good reason in order for you to change
8 your mind from category one to category three?

9 A. Right.

10 Q. And that means that you would require the defendant
11 to give you some evidence or some form of evidence which
12 would satisfy in your mind that that was a good reason
13 for that.

14 A. Yes.

15 Q. On other thing, Ms. Beach, you mentioned earlier
16 this morning that you knew Mr. Murphy.

17 A. Correct.

18 Q. And that you went to dinner or lunch with Mr.
19 Murphy and Mr. Williams?

20 A. Correct.

21 Q. And Mr. Williams at one time --- was this when
22 he was the Deputy Solicitor?

23 A. Correct.

24 Q. And how many times or how often did you all go
25 to lunch?

1 A. Not very often, maybe three, maybe four times
2 over a course of two years. I'm not very good on time
3 frame about that.

4 Q. In the course of maybe two years you all went
5 to lunch maybe three times.

6 A. I --- I mean, I know him from sight, just because
7 he was with --- actually he's a judge now, Judge Williams
8 and my brother-in-law.

9 Q. Your brother-in-law?

10 A. Well, he was at lunch with my brother-in-law
11 and Judge Williams.

12 Q. Okay. And you had a question this morning when
13 you came to court and you did talk with Mr. Murphy when
14 you came into the courtroom this morning?

15 A. I probably spoke to him, yes.

16 Q. When he was at the table and you came out of
17 the box and talked with him.

18 A. Oh, I asked him if I was sequestered if I could
19 work.

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

21 SOLICITOR: Nothing further, Your Honor.

22 THE COURT: All right, would you step back outside,
23 please, ma'am.

24 (WHEREUPON, Ms. Beach left the courtroom.)

25 MR. SIMS: Your Honor, I would move to have

1 her excused for cause. There's no question in my mind
2 that she had one, stated her propensity and her preference
3 is always to vote for the death penalty if the person
4 has been convicted of murder. Not only that, she also
5 required that the defendant to be able to present evidence
6 to show that it was justified before she could even think,
7 so she would require the burden to be shifted from the
8 State to the defendant in that particular phase of the
9 case before she would even be able to raise any question
10 in her mind whether or not a sentence other than the death
11 penalty would be appropriate.

12 In addition to my previous concerns as relates
13 to her ability to focus on what we're doing here, her
14 work history, the fact of her relationship with the
15 Solicitor's Office, we feel that all of those factors
16 would disqualify her as a juror in this matter.

17 THE COURT: Anything, Solicitor?

18 SOLICITOR: No, sir.

19 THE COURT: I agree, Mr. Sims, I can see nothing
20 but problems with a cumulative effect. Bring her back
21 in.

22 (WHEREUPON, Ms. Beach re-entered the courtroom.)

23 THE COURT: Ms. Beach, I'm going to excuse you
24 at this time and you won't have to return. Thank you very
25 much.

1 THE COURT: Bring in Mr. Seabrook.

2 (WHEREUPON, Juror #262, Alfred Seabraook (BM)
3 entered the courtroom and took the witness chair.)

4 THE COURT: Mr. Seabrook, how are you?

5 MR. SEABROOK: Fine.

6 THE COURT: It's been a long day, hasn't it?

7 MR. SEABROOK: Uh-huh.

8 THE COURT: We are going to ask you a few questions
9 and you feel free to relax now, okay. I remind you that
10 you are still under oath, do you understand, from this
11 morning?

12 MR. SEABROOK: (Nods head affirmatively.)

13 THE COURT: You need to answer my questions
14 and the attorneys' questions truthfully and honestly.
15 I have my first question for you. Do you know of any reason,
16 and I've asked you this before but I'm going to ask you
17 again. Do you have reason or know of any reason whatsoever
18 why you cannot give both the State and the defendant a
19 fair and impartial trial?

20 MR. SEABROOK: No.

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

23 MR. SEABROOK: What, say that again?

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

1 MR. SEABROOK: Oh, yeah.

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

5 MR. SEABROOK: Yeah.

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

9 MR. SEABROOK: Yeah.

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

12 MR. SEABROOK: No.

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. SEABROOK: No.

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

22 MR. SEABROOK: No.

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

1 the law given to you by the Court and the evidence in
2 the record uninfluenced in any way whatsoever by reason
3 of the difference in race between the defendant and the
4 victim?

5 MR. SEABROOK: (No response.)

6 THE COURT: Let me repeat that, it's confusing
7 and long. Will you, without regard to the race of the
8 defendant and the race of the victim, render a fair and
9 impartial verdict decision based solely upon the law given
10 to you by the Court and the evidence in the record
11 uninfluenced in any way whatsoever by reason of the
12 difference in race between the defendant and the victim?

13 MR. SEABROOK: No.

14 THE COURT: All right, I'm going to ask you
15 to step out the door for just a minute, please.

16 (WHEREUPON, Mr. Seabrook left the courtroom.)

17 THE COURT: Do ya'll think he understood that
18 question?

19 SOLICITOR: Your Honor, he understood it or
20 he didn't. If he understood it, then he's not qualified
21 under Turner -vs- Murray. If he didn't understand it,
22 then he's not qualified under State -vs- Gaskins because
23 he hasn't got the ability to understand what's going on.
24 So either way I think those answers disqualify him.

25 MR. SIMS: I disagree with that, your Honor.

1 I think that question, as it was posed, I believe that
2 the Court has also recognized that it's both long and
3 compound question and the other people who have come into
4 the court and have sat in that chair, the Court has, on
5 some occasions, had to ask that question again. I think
6 if the Court would be inclined to take out some of the
7 compound and ask it and break it up, that's not a question
8 of him not understanding, it's a question of a convoluted
9 complex sentence and I don't think that under the standard
10 as articulated that would disqualify him from jury duty.
11 The fact that he could not understand a complex, convoluted
12 question. And that's not the Court's doing but that's
13 the way it has been asked.

14 SOLICITOR: Your Honor, he never said he didn't
15 understand. You asked him twice, he didn't ask for any
16 clarification. He just clearly said no both times.

17 THE COURT: All right, let's get him back in
18 here.

19 (WHEREUPON, Mr. Seabrook came back in the court
20 room.)

21 THE COURT: Mr. Seabrook, did you understand
22 that question I asked you?

23 MR. SEABROOK: Not that last one, not really.

24 THE COURT: Let me rephrase it. Would the
25 difference in race between the defendant and the victim

1 affect your being able to reach a verdict decision based
2 solely upon the law and the evidence that might be before
3 you?

4 MR. SEABROOK: Yes.

5 SOLICITOR: No questions.

6 MR. SIMS: May I, Your Honor?

7 THE COURT: Yes, sir.

8
9 EXAMINATION BY MR. SIMS:

10 Q. Mr. Seabrook, let me just ask you a question.
11 Whether or not there was a difference in the races, one
12 the defendant being of one race and the victim being another
13 race, would that make a difference to you if you were
14 seated in a jury box, would that make a difference to
15 you in terms of what your decision would be?

16 A. No.

17 Q. That would not make a difference?

18 A. No.

19 Q. Are you telling us then that you would be able
20 to sit there in a jury box, listen to the evidence and
21 make your decision based upon the evidence that you heard
22 in the case without regards to whether one person was
23 black or one person was white?

24 A. No.

25 Q. Are you telling us that you could sit over

1 there in that jury box and listen to the evidence and
2 make your decision based upon what you heard in the court
3 room?

4 A. Yeah.

5 Q. Okay, now, that wouldn't make any difference
6 to you whether or not the person who was on trial was
7 black and the person who may have been killed or murdered
8 or something had happened to them, that would not make
9 any difference if one of them was black and one of them
10 was white.

11 SOLICITOR: Your Honor, I'm going to have to
12 object to the form of the question, he's leading him.

13 THE COURT: Rephrase your question.

14 Q. Listening at the evidence, would it, in your
15 mind, make any difference as to the race of the people
16 involved?

17 A. Yes.

18 Q. It would make a difference?

19 A. Yeah.

20 THE COURT: Thank you, sir, I'm going to excuse
21 you at this time. You're free to go home, thank you very
22 much. All right, bring in the next one.

23 (WHEREUPON, Juror #340, Hercules Wolfe (BM)
24 entered the courtroom and took the witness chair.)

25 THE COURT: Mr. Wolfe, I want you to relax

1 and I want to remind you that you're still under oath
2 and what we are going to do, we're going to ask you some
3 questions, okay?

4 MR. WOLFE: Okay.

5 THE COURT: Are you feeling alright?

6 MR. WOLFE: Yes, sir.

7 THE COURT: I know it's been a long day and
8 I know you might be nervous but if you will just relax.

9 I've already asked this question one time and
10 let me ask it again. 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. WOLFE: Uhm --- no, I can't say no reason
14 why.

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

17 MR. WOLFE: Yeah, I could.

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

21 MR. WOLFE: Could you repeat the thing again?

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

25 MR. WOLFE: I could find him not guilty.

1 THE COURT: Could you, depending on the facts
2 and the evidence and the law as I will instruct you, find
3 a defendant guilty?

4 MR. WOLFE: Find the defendant guilty? Uhm ---
5 no.

6 THE COURT: All right. Have you discussed this
7 case with anyone?

8 MR. WOLFE: No.

9 THE COURT: Counsel, are we in agreement that
10 we need to go no further?

11 SOLICITOR: Yes, sir.

12 MR. SIMS: Yes, Your Honor.

13 THE COURT: I'm going to excuse you at this
14 time, thank you very much. You are free to go home.

15 Well, I guess we can safely assume it can't
16 get any worse tomorrow. We will recess until 9:00 tomorrow
17 morning.

18 (WHEREUPON, Court recessed for the evening
19 and then the proceedings resumed at 9:00 on October 26,
20 1999.)

21 THE COURT: All right, let's get started. Bring
22 in our first juror.

23 (WHEREUPON, Juror #123, Bernard Haire (BM)
24 entered the courtroom and took the witness chair.)

25 THE COURT: Good morning, Mr. Haire.

1 MR. HAIRE: Good morning.

2 THE COURT: Mr. Haire, we appreciate you coming
3 this morning and right off the bat I want to tell you
4 to please relax, we just have a few questions we want
5 to ask you and I don't want you to be nervous. I will
6 remind you that you are still under oath from yesterday
7 to answer our questions honestly.

8 The first thing now that I need to ask you and
9 I've already asked you this in a way before. Do you know
10 of any reason whatsoever why you cannot give both the
11 State and the defendant a fair and impartial trial?

12 MR. HAIRE: No, I do not.

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

15 MR. HAIRE: Yes, sir.

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

19 MR. HAIRE: 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 guilty?

23 MR. HAIRE: Yes.

24 THE COURT: Have you discussed this case with
25 anyone?

1 MR. HAIRE: No, I have not.

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

5 MR. HAIRE: Not since you instructed us yesterday.

6 THE COURT: All right, before yesterday, what
7 was the nature of the news account that you read or heard?

8 MR. HAIRE: I glimpsed the article that was
9 in Monday's paper, I didn't read it in detail. I knew
10 that there was a trial coming up but I didn't read it
11 in detail.

12 THE COURT: All right, do you remember or recall
13 any other things about the account?

14 MR. HAIRE: Well, I recall the previous trial
15 with some defendants that was alleged to have been involved
16 in this crime.

17 THE COURT: Will the news account which you
18 have read, viewed or listened to prevent you from rendering
19 a fair and impartial verdict in this case?

20 MR. HAIRE: No, it would not.

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

1 MR. HAIRE: Yes, I can.

2 THE COURT: Can you, notwithstanding your exposure
3 to these news accounts, based your verdict decision upon
4 the law and the evidence presented to you uninfluenced
5 in any way whatsoever by the news account which you have
6 described?

7 MR. HAIRE: 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 the Court and
11 the jury during the trial?

12 MR. HAIRE: Yes.

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

15 MR. HAIRE: Yes, I can.

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

21 MR. HAIRE: No, it would not.

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

1 uninfluenced in any way whatsoever by reason of the
2 difference in race between the defendant and the victim?

3 MR. HAIRE: Yes.

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

10 MR. HAIRE: Yes, I do.

11 THE COURT: Now you were given a letter a few
12 minutes ago, did you have a chance to read it?

13 MR. HAIRE: Yes, I did.

14 THE COURT: I wonder if you could tell me which
15 of the three categories that you might fall into.

16 MR. HAIRE: I would --- in the case of a death
17 penalty case, I would have to go with the grievous of
18 the events, that is to say that it would depend --- if
19 the person is found guilty, you know, to what how grievous
20 it was. And in answer to whether or not there other
21 mitigating circumstances or just what.

22 THE COURT: Okay, I'm going to hand you another
23 copy of that letter and based on what you said and what
24 you think, if you will tell me which type you think you
25 fall in.

1 MR. HAIRE: I would go with the third, the third ---
2 the third one.

3 THE COURT: Okay. 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. HAIRE: Yes.

8 THE COURT: Can you, as a juror, also 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 MR. HAIRE: Yes, I could.

13 THE COURT: Mr. Haire, if you were selected
14 on this case I will tell you that you will have to be
15 sequestered or separated with the jury and remain in amotel
16 during the length of the trial. Does that pose any undue
17 hardship for you?

18 MR. HAIRE: No, it does not pose an undue hardship.

19 THE COURT: All right, at this time I'm going
20 to ask you, if you would, please, sir, to answer any
21 questions the Solicitor and then then Attorney Sims may
22 have for you after that.

23
24 EXAMINATION BY THE SOLICITOR:

25 Q. Mr. Haire, I'm Walter Bailey and I need to ask

1 you a few questions primarily about the death penalty.
2 Before I do that I need to ask you about the questionnaire
3 that you the others jurors have filled out several weeks
4 ago.

5 One of the questions was whether or not a person
6 had any kind of arrest record and I noticed that you
7 indicated yes on that.

8 A. Yes, I said yes in that that was a civil rights
9 demonstration, I don't consider that major.

10 Q. All right, I just wanted to clear that up since
11 there was no indication that you had any kind of record
12 or anything of that nature.

13 A. Uh-huh.

14 Q. Okay, Mr. Haire, in regard to the death penalty,
15 is that something that you've given any thought to in
16 the past?

17 A. Yes, I've given thought to it, yes.

18 Q. All right, and could you tell us just in general
19 what your thoughts on the death penalty are?

20 A. I think that under certain circumstances that
21 the death penalty is warranted, under certain circumstances.

22 Q. And do you have any religious beliefs in regard
23 to the death penalty that you think might affect your
24 ability to fairly consider that as a possible punishment?

25 A. My religious belief would not prevent me from ---

1 Q. All right. As the Judge explained yesterday,
2 this is potentially a two-part process. We would start
3 off with the guilt phase and if the defendant is convicted
4 of murder beyond a reasonable doubt then we would go into
5 a second phase and that's an opportunity to present
6 additional evidence to the jurors to help them make that
7 decision. And if the decision is life sentence, it's life
8 without parole. If the decision is the death penalty,
9 then, of course, death by lethal injection. Whatever
10 the jury's sentence is, it's not really a recommendation
11 because the Judge is actually going to impose that sentence
12 and the jury makes the decision. If the jury unanimously
13 votes for a life sentence, the Judge will sentence that
14 defendant to life without parole. If the jury votes for
15 the death penalty, the person is actually executed based
16 on that jury's verdict.

17 I'm not going to ask you to predict what you
18 would do in this case because you haven't heard any of
19 the facts and the law from the Judge. But if the case
20 is bad enough, could you vote for the death penalty, knowing
21 that as a result of that vote that person actually will
22 be executed?

23 A. If it's bad enough, yes, I could.

24 Q. If all twelve jurors vote for the death penalty,
25 the next step in the process is that each one is asked

1 to sign their name to a death verdict form that would
2 result in that person being executed. Could you sign your
3 name to a paper like that if it was your vote?

4 A. Yes, I could.

5 Q. And the next thing that happens is that the
6 jury would come out with the verdict and each juror might
7 be asked to stand and announce their decision out loud
8 when their name is called, could you do that?

9 A. Yes, I could, yes.

10 Q. And can you think of any reason at all that
11 we may not have even touched on yet that might prevent
12 you from sitting as a fair and impartial juror to both
13 sides, the State and the defendant?

14 A. No, I do not.

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

17 THE COURT: Mr. Sims.

18 MR. SIMS: Your Honor, we have no questions.

19 THE COURT: Okay, I find him qualified. Mr.
20 Haire, would you please give the clerk a number that we
21 can read you and we will be in touch. Thank you very
22 much.

23 Let's have our next juror.

24 (WHEREUPON, Juror #342, Travis Walley (BM)
25 entered the courtroom and took the witness chair.)

1 THE COURT: Good morning, Mr. Walley, how are
2 you doing this morning?

3 MR. WALLEY: I'm okay, how you doing?

4 THE COURT: Good. If you will just relax there,
5 we have a few questions we need to ask you and I remind
6 you that you are still under oath from yesterday.

7 Do you know of any reason whatsoever why you
8 cannot give both the State and the defendant a fair and
9 impartial trial?

10 MR. WALLEY: Don't have a reason.

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

13 MR. WALLEY: Yes, sir, I would.

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

17 MR. WALLEY: Yes, sir.

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

21 MR. WALLEY: Yes, sir.

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

24 MR. WALLEY: 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. WALLEY: No, sir.

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

9 MR. WALLEY: No, sir.

10 THE COURT: Will you, without regard to the
11 race of the defendant and the race of the victim, render
12 a fair and impartial verdict based solely upon the law
13 given to you by the Court and the evidence in the record
14 uninfluenced in any way whatsoever by reason of the
15 difference in race between the defendant and the victim?

16 MR. WALLEY: No, I wouldn't.

17 THE COURT: Let me repeat that to you. Will
18 you, without regard to the race of the defendant and the
19 race of the victim, render a fair and impartial verdict
20 based solely upon the law given to you by the Court and
21 the evidence in the record uninfluenced in any way whatso-
22 ever by reason of the difference in race between the
23 defendant and the victim?

24 MR. WALLEY: No.

25 THE COURT: Let me ask you this in another way.

1 Would the difference in race between the defendant and
2 the victim affect you in any way from reaching an impartial
3 verdict based upon the law and the evidence in this case?

4 MR. WALLEY: No, sir, it wouldn't.

5 THE COURT: Okay. Mr. Walley, at this time
6 I'm going to ask you some questions relative to your views
7 on the death penalty. I point out to you that there are
8 no right or wrong answers, okay?

9 MR. WALLEY: Okay.

10 THE COURT: And I emphasize that the mere fact
11 that we're talking about penalty does not indicate anything
12 about this defendant. He is presumed innocent, do you
13 understand that?

14 MR. WALLEY: Yes.

15 THE COURT: A few minutes ago you were given
16 a letter and I'm going to hand you this one back where
17 you will have it to look at because I'm going to ask you
18 some questions about it. I wonder if you can tell me
19 which of these three categories or three types of jurors
20 that you see over there that you might fall into.

21 MR. WALLEY: It would be the third paragraph.

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

1 MR. WALLEY: No, I couldn't.

2 THE COURT: Let me repeat that to you to make
3 sure we're on the same level of communication here as
4 far as understanding the question.

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

9 MR. WALLEY: The third paragraph is what I believe
10 in but I couldn't do it so.

11 THE COURT: Very good. Anything further?

12 SOLICITOR: No questions, Your Honor.

13 MR. SIMS: None, Your Honor.

14 THE COURT: Mr. Walley, we appreciate you coming
15 in and taking part in this and I'm going to release you
16 at this time and excuse you from service. You are free
17 to go home and thank you once again.

18 All right, bring in our next juror.

19 (WHEREUPON, Juror #341, Arthur Wolfe (WM) entered
20 the courtroom and took the witness chair.)

21 THE COURT: How are you doing this morning,
22 Mr. Wolfe?

23 MR. WOLFE: Fine, thank you.

24 THE COURT: We've got some questions we want
25 to ask you and I need to tell you to just relax and feel

1 comfortable there. And I need to remind you that you
2 are still under oath from yesterday and answer my questions
3 truthfully, okay?

4 MR. WOLFE: Okay.

5 THE COURT: Now, you've heard this question
6 before but I'm going to ask it again. Do you know of any
7 reason whatsoever why you cannot give both the State and
8 the defendant a fair and impartial trial?

9 MR. WOLFE: No.

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

12 MR. WOLFE: Yeah.

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

16 MR. WOLFE: Yeah.

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

20 MR. WOLFE: Yeah.

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

23 MR. WOLFE: 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 MR. WOLFE: Yes.

3 THE COURT: What is the nature of the news accounts?

4 MR. WOLFE: Television and paper.

5 THE COURT: All right, please relate to me what
6 you remember or recall about these news accounts.

7 MR. WOLFE: That the girl had been taken off
8 to be buried, she was scared --- the fellow got scared
9 and left, he left the shovel and ID and that's all I can
10 remember right at this minute.

11 THE COURT: Will the news accounts which you
12 have read, viewed or listened to prevent you from rendering
13 a fair and impartial verdict in this case?

14 MR. WOLFE: No.

15 THE COURT: Can you erase from your mind the
16 information you acquired from these news accounts and
17 render a fair and impartial and just verdict based on
18 the law and the evidence uninfluenced in any way whatsoever
19 by reason of the news accounts which you have described?

20 MR. WOLFE: Yes.

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

25 MR. WOLFE: Come again with that one.

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1 THE COURT: Okay. Can you, notwithstanding your
2 exposure to these news accounts, base your verdict upon
3 the law and the evidence presented to you uninfluenced
4 in any way whatsoever by the news accounts which you
5 have described?

6 MR. WOLFE: Yes.

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
10 the jury during the trial, I ask you now, can you make
11 your verdict decision based only upon these two considerations,
12 the law and the evidence?

13 MR. WOLFE: Yes.

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

19 MR. WOLFE: No.

20 THE COURT: Will you, without regard to the
21 race of the defendant and the race of the victim, render
22 a fair and impartial verdict based solely upon the law
23 given to you by the Court and the evidence in the record
24 uninfluenced in any way whatsoever by reason of the
25 difference in race between the defendant and the victim?

1 MR. WOLFE: Yes.

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

8 MR. WOLFE: Yes.

9 THE COURT: A few minutes ago you were given
10 a letter, did you have a chance to read that letter?

11 MR. WOLFE: Yes, sir.

12 THE COURT: I'm going to hand you a copy of
13 that back and I'm going to ask you this question. Can
14 you tell me which of the three categories or types of
15 jurors that you might fall into?

16 MR. WOLFE: The third one, I would have to hear
17 more about it.

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

22 MR. WOLFE: No, explanation? I see where I
23 could --- I don't have any problem with life in prison
24 but I can't see where I can judge another person's life,
25 you know.

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

6 MR. WOLFE: One more time.

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

11 MR. WOLFE: Yes.

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

16 MR. WOLFE: Yes.

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

22 MR. WOLFE: No.

23 THE COURT: All right, at this time I'm going
24 to ask you if you would, please, sir, answer any questions
25 the Solicitor or the attorney for the defense may have.

1 EXAMINATION BY THE SOLICITOR:

2 Q. Mr. Wolfe, 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, we're not testing you,
5 okay. The only wrong answer is if you tell us something
6 just because you think that's what we want to hear.

7 But what I want to ask you about is death penalty
8 and you understand from what the Judge said yesterday
9 that this is potentially a two-part process. We would
10 start off with the guilt phase and what that part of the
11 trial is about, it's like any other trial, it's whether
12 or not the State has proved that person guilty in this
13 case of murder beyond a reasonable doubt. If the State
14 can't do that, that's the end of it. But on the other
15 hand, if the State can prove that defendant guilty beyond
16 a reasonable doubt we would go into the second part of
17 the trial and the jury in that case would hear additional
18 evidence, additional instructions from the Judge, and
19 then the jury decides what the punishment is, not the
20 Judge. All the Judge would do to order that jury's verdict
21 to happen and it would happen.

22 If the jury votes for life unanimously, the
23 Judge would order life and he would serve life without
24 parole. If the jury's verdict was the death penalty,
25 that person is actually going to be executed based on

1 that jury's verdict.

2 Now, when Judge Burch asked you about your ability
3 to consider life imprisonment and the death penalty,
4 according to my notes you said I don't see where I can --
5 I may not have this exactly right --- I can't see where
6 I can judge another person's life. Can you explain that
7 to me?

8 A. Okay. Far as life in prison, I have no problem
9 with that but, you know, taking someone life's like the
10 chair or something like that, you know, I can't. That's
11 not for me to judge somebody.

12 Q. Okay, so you feel like --- is that a religious
13 belief that you have?

14 A. Yes.

15 Q. That you couldn't judge somebody else as far
16 as ---

17 A. Yes.

18 Q. Would that affect your ability in the guilt
19 phase, the first part of the trial, to judge a person's
20 guilt or innocence?

21 A. I don't see where it would.

22 Q. Okay, but if the person is found guilty of murder
23 and we get into that second phase, if you had the choice
24 between the death penalty and life without parole, would
25 your choice always be life?

1 A. Probably, yes.

2 Q. Okay, if the jury, all twelve of the, unanimously
3 agreed on the death penalty, then each juror is asked
4 to sign their name to a death verdict form and as a result
5 of doing that, that person actually would be executed.
6 Could you sign your name to a paper like that?

7 A. I would really have to hear the whole verdict
8 about -- hear him talk, hear everything about it before
9 I can answer that.

10 Q. All right, so you would require the defendant
11 to testify in that part of the trial?

12 A. Right.

13 Q. If the jury votes for the death penalty and
14 all twelve of them sign that death verdict form, then
15 the jury would come back with the verdict and each person
16 might be asked to stand up when their name is called and
17 say out loud that's your verdict. Could you, if you voted
18 for the death penalty, come out here in open court when
19 your name was called out, and announce out loud that you
20 had sentenced someone to death?

21 A. By lethal injection?

22 Q. Yes, sir.

23 A. I wouldn't go that way to start with.

24 Q. Okay, so when you say you wouldn't go that way,
25 you mean that you could never vote for the death penalty?

1 A. Right, it would have to be life imprisonment.

2 SOLICITOR: Thank you, sir, that's all I have.

3 THE COURT: Mr. Sims?

4 MR. SIMS: No questions, Your Honor.

5 THE COURT: Mr. Wilfe, we appreciate you coming
6 and taking part and I want to thank you once again for
7 bearing with us yesterday and this morning and I'm going
8 to release you at this time and you're excused. You can
9 return to your home.

10 Bring our next juror out, please.

11 (WHEREUPON, Juror #354, Renord Green (BM)
12 entered the court room and took the witness chair.)

13 THE COURT: Just have a seat right here, please
14 sir. How are you doing this morning?

15 MR. GREEN: Just fine, sir.

16 THE COURT: We've got a few questions we want
17 to ask you and you will just relax and be comfortable
18 in the chair. I need to remind you that you are still
19 under oath from yesterday, okay?

20 MR. GREEN: Okay.

21 THE COURT: Now, I've asked this question before
22 but I'm going to ask it again. Do you know of any reason
23 whatsoever why you cannot give both the State and the
24 defendant a fair and impartial trial?

25 MR. GREEN: No, Your Honor.

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

3 MR. GREEN: Yes, Your Honor.

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. GREEN: Yes, Your Honor.

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. GREEN: Yes, Your Honor.

12 THE COURT: Have you discussed this case with
13 anyone?

14 MR. GREEN: Yes.

15 THE COURT: Can you tell me the nature and extent
16 of such discussion and with whom?

17 MR. GREEN: Well, not so much discussed it.
18 My children, they found out that I was in court yesterday
19 and they came home and started talking about this case.
20 And that's what --- I didn't make any comment about the
21 nature of this case.

22 THE COURT: Okay, as a result of those discussions,
23 have you formed an opinion as to the guilt of innocence
24 of the defendant?

25 MR. GREEN: No, Your Honor.

1 THE COURT: Will the discussions prevent you
2 from rendering a fair and impartial verdict in this case?

3 MR. GREEN: No, Your Honor.

4 THE COURT: Notwithstanding the discussion you
5 have described, can you fairly and impartially render
6 a fair and just verdict in this case uninfluenced in any
7 way whatsoever by the discussion that you have described
8 to me?

9 MR. GREEN: Yes, Your Honor.

10 THE COURT: Can you erase from your mind the
11 discussion you have described and render a fair and impartial
12 verdict based upon the law given to you by the Court and
13 the evidence presented during the trial uninfluenced in
14 any way whatsoever by the discussion you have described?

15 MR. GREEN: Yes, Your Honor.

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

19 MR. GREEN: No, Your Honor.

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

25 MR. GREEN: No, Your Honor.

1 THE COURT: Will you, without regard to the
2 race of the defendant and the race of the victim, render
3 a fair and impartial verdict based solely upon the law
4 given to you by the Court and the evidence in the record
5 uninfluenced in any way whatsoever by reason of the
6 difference in race between the defendant and the victim?

7 MR. GREEN: Yes, Your Honor.

8 THE COURT: At this time I'm going to be asking
9 you some questions relative to your views on the death
10 penalty and I point out to you there are no right or wrong
11 answers, okay. I emphasize the mere fact that we're talking
12 about penalty does not indicate anything about the defendant.
13 He is presumed innocent and I ask you if you understand
14 that?

15 MR. GREEN: Yes, Your Honor.

16 THE COURT: You were given a letter a few minutes
17 ago to read.

18 MR. GREEN: Yes, I was.

19 THE COURT: You've got it there, okay. I wonder
20 if you could tell me which of the three categories or
21 types of jurors that you might fall into.

22 MR. GREEN: The second type.

23 THE COURT: All right. Can you, as a juror,
24 participate in a jury verdict recommending the penalty
25 of death by lethal injection for murder if the evidence

1 and the law warrants such a verdict?

2 MR. GREEN: Would you read that question again?

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. GREEN: Excuse me, Your Honor, I gave you
8 the wrong answer a few minutes ago. And I cannot give
9 the answer on death penalty or any lethal injection or
10 any type.

11 THE COURT: In other words, you said you fell
12 under number two?

13 MR. GREEN: Yeah. I made a mistake on that.

14 THE COURT: Are you telling me that you could
15 not give the death penalty, is that what you are saying?

16 MR. GREEN: Yes, sir.

17 THE COURT: Okay. Gentlemen, any questions?

18 SOLICITOR: No, sir.

19 MR. SIMS: Nothing, Your Honor.

20 THE COURT: Thank you, sir, we appreciate you
21 coming, I appreciate your patience yesterday, it was a
22 long day. You're excused at this time.

23 Bring in the next juror.

24 (WHEREUPON, Juror #130, Ray Hartzog (WM)
25 entered the courtroom and took the witness chair.)

1 THE COURT: Good morning.

2 MR. HARTZOG: Good morning.

3 THE COURT: If you will have a seat right there,
4 Mr. Hartzog. And I would ask you, if you would, to please
5 relax and be comfortable in the chair. We've got a few
6 questions we want to ask and I remind you that you are
7 still under oath from yesterday, okay?

8 MR. HARTZOG: Yes, sir.

9 THE COURT: I've asked this question before
10 and I'm going to ask it again. Do you know of any reason
11 whatsoever why you cannot give both the State and the
12 defendant a fair and impartial trial?

13 MR. HARTZOG: No, sir.

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

16 MR. HARTZOG: 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. HARTZOG: Yes, sir.

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

24 MR. HARTZOG: Yes, sir.

25 THE COURT: Have you discussed this case with

1 anyone?

2 MR. HARTZOG: No, sir.

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. HARTZOG: No, sir.

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

12 MR. HARTZOG: No, sir.

13 THE COURT: Will you, without regard to the
14 race of the defendant and the race of the victim, render
15 a fair and impartial verdict based solely upon the law
16 given to you by the Court and the evidence in the record
17 uninfluenced in any way whatsoever by reason of the
18 difference in race between the defendant and the victim?

19 MR. HARTZOG: I'm not sure I understood the
20 question but I think, yes.

21 THE COURT: I'll repeat it, sir, it is a long
22 one.

23 MR. HARTZOG: Okay, sir.

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

1 a fair and impartial verdict based solely upon the law
2 given to you by the Court and the evidence in the record
3 uninfluenced in any way whatsoever by reason of the
4 difference in race between the defendant and the victim?

5 MR. HARTZOG: Yes, sir.

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

12 MR. HARTZOG: Yes, sir.

13 THE COURT: A few minutes ago you were given
14 a letter to read.

15 MR. HARTZOG: Yes, sir.

16 THE COURT: I wonder if you could tell me which
17 of the three categories or types there that you might
18 fall into?

19 MR. HARTZOG: Let me kinda refresh my memory,
20 sir. I would say the third one, sir.

21 THE COURT: Okay. 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. HARTZOG: Yes, sir.

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

5 MR. HARTZOG: Yes, sir.

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

11 MR. HARTZOG: No, sir.

12 THE COURT: All right, at this time I'm going
13 to ask, if you would please, sir, to answer any questions
14 asked by the Solicitor or by counsel for the defense.
15

16 EXAMINATION BY THE SOLICITOR:

17 Q. Mr. Hartzog, I'm Walter Bailey and I want to
18 ask you a few more questions.

19 A. All right, sir.

20 Q. And first of all, in regard to the death penalty,
21 just putting this case aside and just talking in general
22 terms, is the death penalty something that you've thought
23 about in the past?

24 A. Yes, sir.

25 Q. And could you just tell us in your own words

1 briefly what your beliefs are about the death penalty.

2 A. I have mixed emotions. I guess as a Christian,
3 you know, sometimes you just --- you know, you hate to
4 think about having somebody else's life in your own hands
5 but I guess it would be a decision you would have to face
6 at that time. I'm not sure I could tell you a yes or
7 no answer right now until I was really faced with it.

8 Q. Okay, we're not going to ask you for a yes or
9 no on this case because you haven't heard any of facts---

10 A. Yes, sir, okay, I've just got mixed feelings
11 about it.

12 Q. All right, sir. And you understand that this
13 would be a potential two-part process. We would start
14 off with the guilt phase, just like any other criminal
15 trial?

16 A. Yes, sir.

17 Q. Where the State just attempts to prove someone
18 guilty of the charge beyond a reasonable doubt and if
19 we're unable to do that, that's the end of it.

20 A. Right, sir.

21 Q. On the other hand, if the defendant is convicted
22 of murder beyond a reasonable doubt, we go into the second
23 phase and the jury hears additional evidence, additional
24 instructions and the jury, not the Judge, decides the
25 sentence.

1 A. Right.

2 Q. So if the jury votes unanimously for the death
3 penalty, the Judge would sentence that person to death
4 and he actually would be executed based on that jury verdict.

5 A. right.

6 Q. On the other hand, if the jury votes for life
7 in prison, the Judge orders that and he serves life without
8 parole.

9 A. Uh-huh, yes, sir.

10 Q. Now, again, I'm not asking you about this case
11 but if the case that you heard as a juror is bad enough,
12 could you vote for the death penalty, knowing that as
13 a result of that vote that person is actually going to
14 be executed?

15 A. I'm not sure I can give a direct --- I think
16 it's something that I would have to be faced with at that
17 time. I'm just not sure I could just give you a yes or
18 no answer right now, to be honest with you, I think it
19 would be a situation where I would have to be really faced
20 with like anything else, you know.

21 Q. Okay. But do you understand that once we finish
22 the questioning process and the jury is selected, it's
23 too late to find out whether or not somebody could impose
24 the death penalty.

25 A. Right, yes, and I could make that decision at

1 that time. I mean, I'm not saying I could not make that
2 decision at that time, it's just something --- I guess
3 you would say like somebody breaking into your home, you
4 know, you say would you shoot somebody. You don't know
5 at that time, you know, it's just a situation that would
6 be unique for me so I don't know that I could make until
7 I had to make that decision.

8 Q. Okay.

9 A. but I could make it at that time and feel
10 comfortable with my decision.

11 Q. Okay. If all twelve jurors vote for the death
12 penalty, then each one is asked --- the next step in the
13 process -- they are asked to sign their name to a death
14 verdict warrant that would result in that execution taking
15 place. If you were on a jury and all twelve voted for
16 the death penalty, could you sign your name to a paper
17 like that knowing it would result in that person being
18 executed?

19 A. Yes, sir, I think I could.

20 Q. Could you announce that decision out loud if
21 that was your decision?

22 A. Yes, sir.

23 Q. Let me go back again and I'm going to try not
24 to repeat myself. But I want to emphasize again that
25 I'm not trying to get you to predict what you would do

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1 in this case because you don't know the facts of the case
2 and you haven't heard the law from the Judge.

3 A. Yes, sir.

4 Q. But are you in a position now to tell us that
5 if the case was bad enough that you could vote for the
6 death penalty or are you saying that you don't know if
7 you could ever vote for it until you've actually faced
8 that situation?

9 A. I really think that would be my situation. You
10 know, I've thought several times over a period of years,
11 I've seen things, read in the paper like maybe something
12 that happened that was horrendous to someone and, you
13 know, I thought at that time maybe, yeah, I could probably
14 do that if I had to. But it's just something until you're
15 faced, I don't think you would really know. But I have
16 thought about, I thought I probably could if I had to.

17 Q. Okay.

18 A. So I would say it would be a possibility.

19 Q. all right, and when you did have those thoughts,
20 have your thoughts on the death penalty changed any since
21 then or that's how ---

22 A. No, sir, usually when I make my mind up about
23 something like that and I've made that decision, I'm usually
24 comfortable with that decision when I've made it and thought
25 about and prayed through it.

1 Q. Okay. What church do you attend, Mr. Hartzog?

2 A. First Baptist here in Orangeburg.

3 Q. And are you a deacon at the church?

4 A. Yes, sir.

5 Q. All right, sir. And could you just tell us what
6 your religious views are on the death penalty.

7 A. Our religious views on the death penalty?

8 Q. Yes, sir.

9 A. You know, I guess that's why I get mixed feelings,
10 you know, I feel like the Lord has the final say-so in
11 a person's life but I think as a citizen of this country
12 and this state and this county, that I have a legal
13 obligation to serve what the law tells me to do, too,
14 so I guess that's why I'm not opposed to the death penalty
15 either. I'm not going to sit here and tell you that I'm
16 opposed to it because I think there are certain cases
17 that may be needed in.

18 SOLICITOR: All right, sir, I believe that's
19 all I have. Thank you, Mr. Hartzog.

20 THE COURT: Mr. Sims.
21

22 EXAMINATION BY MR. SIMS:

23 Q. Good morning, Mr. Hartzog.

24 A. Good morning.

25 Q. Just one or two questions for you. In general

1 you said you had thought about the death penalty and you
2 had reached in your own mind a conclusion as to the death
3 penalty, is that correct?

4 A. Yes, sir.

5 Q. And I don't want to put words in your mouth
6 but I just want to understand what you said.

7 A. Okay.

8 Q. And you have made a decision in your own life,
9 based upon your own experiences, that there are some
10 situations which would warrant the death penalty?

11 A. Yes, sir.

12 Q. And you have indicated that you were in the
13 third category, that's the category that would have to
14 listen to all of the facts in the fact and make your
15 decision in regards to the death penalty based upon that
16 case, is that correct?

17 A. Yes, sir.

18 Q. And what you're saying is that you would want
19 to sit back, listen to all of the evidence and make a
20 decision after you had heard all of the evidence?

21 A. Exactly.

22 Q. And in your mind if it warranted the death penalty
23 you could find the death penalty, is that what you're
24 saying?

25 A. Yes, if it warranted it.

1 Q. And if it did not, you could also find that
2 a life sentence would be appropriate.

3 A. Right, yes, sir.

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

5 THE COURT: all right, anything else/

6 SOLICITOR: No, sir.

7 MR. SIMS: No, sir.

8 THE COURT: All right, I find him qualified
9 at this time. Mr. Hartzog, what I'm going to do is I'm
10 going to let you go on home with the instructions you
11 are not to discuss this case with anyone, do not read any
12 news accounts or listen to any news accounts. As you leave,
13 if you will check with Madam Clerk, we need a telephone
14 number where we can reach on moment's notice.

15 MR. HARTZOG: Okay, sir.

16 THE COURT: All right, bring in the next juror.

17 (WHEREUPON, Juror #71, denise Ellis (BF) entered
18 the courtroom and took the witness chair.)

19 THE COURT: Good morning, Ms. Ellis.

20 MS. ELLIS: Good morning.

21 THE COURT: Ms. Ellis, I'm going to ask you
22 to relax and be as comfortable as you can there and we
23 have some questions we need to ask you. In regard to
24 that, I need to remind you that you are still under oath
25 from yesterday, okay.

1 MS. ELLIS: All right.

2 THE COURT: Now, I've asked this question once
3 before but I'm going to ask it again. Do you know of any
4 reason whatsoever why you cannot give both the State and
5 the defendant a fair and impartial trial?

6 MS. ELLIS: No.

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

9 MS. ELLIS: Yes, sir.

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

13 MS. ELLIS: Yes.

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

17 MS. ELLIS: Yes.

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

20 MS. ELLIS: 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 MS. ELLIS: No.

25 THE COURT: The defendant in this case is a

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

5 MS. ELLIS: No.

6 THE COURT: Will you, without regard to the
7 race of the defendant and the race of the victim, render
8 a fair and impartial verdict based solely upon the law
9 given to you by the Court and the evidence in the record
10 uninfluenced in any way whatsoever by reason of the
11 difference in race between the defendant and the victim?

12 MS. ELLIS: Could you repeat that? I got
13 confused somewhere in there.

14 THE COURT: Okay, it's a long one. Will you,
15 without regard to the race of the defendant and the race
16 of the victim, render a fair and impartial verdict based
17 solely upon the law given to you by the Court and the
18 evidence in the record uninfluenced in any way whatsoever
19 by reason of the difference in race between the defendant
20 and the victim?

21 MS. ELLIS: Yes.

22 THE COURT: I'm going to ask you some questions
23 at this time concerning your views on the death penalty
24 and I point out to you that there are no right or wrong
25 answers. I emphasize that the mere fact that we're talking

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1 about penalty does not indicate anything about this defendant.
2 He is presumed innocent, and I ask you, do you understand
3 that?

4 MS. ELLIS: Yes.

5 THE COURT: You were given a letter a few minutes
6 ago.

7 MS. ELLIS: Uh-huh.

8 THE COURT: It's right down there. I wonder
9 if you could tell me which of the three categories or
10 the three types of jurors that you might fall into?

11 MS. ELLIS: The third type.

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

16 MS. ELLIS: No.

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

21 MS. ELLIS: Yes, I guess. I'm not sure.

22 THE COURT: Do you understand? Do you need
23 me to repeat it again?

24 MS. ELLIS: Yeah, I guess.

25 THE COURT: Can you, as a juror, participate

1 in a jury verdict ---

2 MS. ELLIS: Oh, yeah, I can participate.

3 THE COURT: -- recommending the penalty of
4 death by lethal injection for murder if the evidence and
5 the law warrants such a verdict?

6 MS. ELLIS: 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. ELLIS: Yes.

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

17 MS. ELLIS: Yes, it does.

18 THE COURT: Tell me.

19 MS. ELLIS: I have three children and my mom
20 works and everybody in my area works so, I mean, that
21 would be really hard.

22 THE COURT: all right, can you find anybody
23 to look after them for several nights?

24 MS. ELLIS: Not three children.

25 THE COURT: Okay. Answer any questions the

1 attorneys may have, beginning with the Solicitor, please.

2 SOLICITOR: No questions, Your Honor.

3 MR. SIMS: None, Your Honor.

4 THE COURT: Do ya'll want to come up?

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

7 THE COURT: How old are you children, Ms. Ellis?

8 MS. ELLIS: 5, 6 and 12.

9 THE COURT: 5, 6 and 12 and you don't have anything
10 that could keep them?

11 MS. ELLIS: No, sir.

12 THE COURT: all right, thank you, ma'am, I'm
13 going to excuse you at this time, you are free to go home,
14 thanks.

15 Bring in the next juror.

16 (WHEREUPON, Juror #266, Edward Sevinsky (WM)
17 entered the courtroom and took the witness chair.)

18 THE COURT: Good morning, Mr. Savinsky.

19 MR. SAVINSKY: Good morning.

20 THE COURT: If you will just relax right there,
21 we have a few questions for you. I need to remind you
22 that you're still under oath from yesterday, okay.

23 MR. SAVINSKY: Yes.

24 THE COURT: I've asked this question and I'm
25 going to ask you again. Do you know of any reason

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

3 MR. SAVINSKY: Yes, sir, up to the sentencing
4 phase, after what I read this morning.

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

7 MR. SAVINSKY: 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. SAVINSKY: 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 guilty?

15 MR. SAVINSKY: Yes, sir.

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

18 MR. SAVINSKY: No, sir, other than my employer
19 telling him I where I was at.

20 THE COURT: That was all it was limited to,
21 was to explain where you were?

22 MR. SAVINSKY: Yes, sir.

23 THE COURT: You did not discuss the case in
24 any way with him?

25 MR. SAVINSKY: No, sir.

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

4 MR. SAVINSKY: It seems like a few months back
5 but it's been so long I can't remember details.

6 THE COURT: All right, now you said something
7 about you read something this morning?

8 MR. SAVINSKY: This paper here.

9 THE COURT: Oh, the paper, okay.

10 MR. SAVINSKY: That was given to me in the jury
11 room.

12 THE COURT: Now, what was the nature of the
13 news account that you read before?

14 MR. SAVINSKY: It's been so long, you know, I
15 can't recall all the facts of it.

16 THE COURT: Can't recall anything?

17 MR. SAVINSKY: No, sir, I remember it was a
18 homicide involved and I don't remember the details.

19 THE COURT: Will the news accounts which you
20 have read, viewed or listened to prevent you from rendering
21 a fair and impartial verdict in this case?

22 MR. SAVINSKY: 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 and impartial and just verdict based

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

4 MR. SAVINSKY: Yes, sir.

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

10 MR. SAVINSKY: Yes, sir.

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
14 to the jury during the trial?

15 MR. SAVINSKY: Yes, sir.

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

18 MR. SAVINSKY: Yes, sir.

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

24 MR. SAVINSKY: No, sir.

25 THE COURT: Will you, without regard to the

1 race of the defendant and the race of the victim, render
2 a fair and impartial verdict based solely upon the law
3 given to you by the Court and the evidence in the record
4 uninfluenced in any way whatsoever by reason of the
5 difference in race between the defendant and the victim?

6 MR. SAVINSKY: Would you repeat that?

7 THE COURT: Will you, without regard to the
8 race of the defendant and the race of the victim, render
9 a fair and impartial verdict based solely upon the law
10 given to you by the Court and the evidence in the record
11 uninfluenced in any way whatsoever by reason of the
12 difference in race between the defendant and the victim?

13 MR. SAVINSKY: Yes, sir.

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

20 MR. SAVINSKY: Yes, sir.

21 THE COURT: You were given a letter a few minutes
22 ago to read. I wonder if you could tell me which of the
23 three categories or types of jurors that you might fall
24 into?

25 MR. SAVINSKY: The center one.

1 THE COURT: Is that one, two or three?

2 MR. SAVINSKY: Two.

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. SAVINSKY: No, sir, I would rather not take
8 a man's life.

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

13 MR. SAVINSKY: Yes, I could give life.

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

19 MR. SAVINSKY: Yes, except as to the guilt.

20 THE COURT: Pardon?

21 MR. SAVINSKY: Yes, sir, I could not vote for
22 the death penalty. It would be too much of a guilt thing
23 for me.

24 THE COURT: Can your opposition to capital punishment
25 or the death penalty for murder be changed by the evidence

1 presented during the trial?

2 MR. SAVINSKY: No, sir, I don't feel so.

3 THE COURT: Solicitor?

4 SOLICITOR: No questions, Your Honor.

5 MR. SIMS: No questions.

6 THE COURT: Thank you, sir. I'm going to excuse
7 you at this time, you're free to go home. We appreciate
8 your patience.

9 Bring out the next one.

10 (WHEREUPON, Juror #220, Marie Nelson (WF) entered
11 the courtroom and took the witness chair.)

12 THE COURT: Good morning, Ms. Nelson, how are
13 you this morning?

14 MS. NELSON: I'm great.

15 THE COURT: Okay, if you will just relax right
16 there and make yourself comfortable, we've got some questions
17 we need to ask you, okay.

18 MS. NELSON: Okay.

19 THE COURT: I remind you that you're still under
20 oath from yesterday and to answer my questions truthfully.

21 MS. NELSON: Yes, sir.

22 THE COURT: I've asked this question before
23 and I'm going to ask it again. Do you know of any reason
24 whatsoever why you cannot give both the State and the
25 defendant a fair and impartial trial?

1 MS. NELSON: No, sir, I don't.

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

4 MS. NELSON: Yes, sir.

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

8 MS. NELSON: I don't quite understand that.

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. NELSON: No, sir.

13 THE COURT: Do you understand the question?

14 MS. NELSON: Not really, sir, I'm sorry.

15 THE COURT: Let me repeat it to you.

16 MS. NELSON: Okay.

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 MS. NELSON: I would do the best I could, Your
21 Honor, I mean.

22 THE COURT: Could you explain yourself a little
23 bit, please.

24 MS. NELSON: Well, under the circumstances I
25 would listen and I would --- in m opinion --- I'll just

1 tell you this. If I felt like, with all the evidence
2 of guilty, I would say guilty. Can you understand me?

3 THE COURT: All right, could you say not guilty?

4 MS. NELSON: Yes, sir.

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

8 MS. NELSON: Yes, sir.

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

11 MS. NELSON: No one.

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 MS. NELSON: No, sir.

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

21 MS. NELSON: No, sir, I would not be prejudice
22 in any way.

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

1 given to you by the Court and the evidence in the record
2 uninfluenced in any way whatsoever by reason of the
3 difference in race between the defendant and the victim?

4 MS. NELSON: No, sir, I would not.

5 THE COURT: Let me repeat that to you now, that's
6 a long question. Listen to me carefully. Will you, without
7 regard to the race of the defendant and the race of the
8 victim, render a fair and impartial verdict based solely
9 upon the law given to you by the Court and the evidence
10 in the record uninfluenced in any way whatsoever by
11 reason of the difference in race between the defendant
12 and the victim?

13 MS. NELSON: No, sir, I would not.

14 THE COURT: All right, do you understand that
15 question?

16 MS. NELSON: Not really, sir, but ---

17 THE COURT: Would the difference in race between
18 the defendant and victim affect your ability in any way
19 to render an impartial verdict in this case based solely
20 upon the law given to you by the Court and by the facts
21 and evidence?

22 MS. NELSON: No, sir, I would not.

23 THE COURT: Counsel, ya'll approach, please.

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

1 THE COURT: Let me ask this question this way
2 and see --- before you answer let me check with the attorneys
3 before you answer it. Let me pose this question to you
4 in a different way.

5 Would the difference in race between the defendant
6 and the victim affect your ability to render a fair and
7 impartial verdict based on the evidence and the law given
8 in this case?

9 MS. NELSON: No, sir, it wouldn't.

10 THE COURT: Is counsel in agreement that we
11 change over and use that terminology?

12 SOLICITOR: State agrees, Your Honor.

13 MR. SIMS: Defense also, Your Honor. I was ---

14 THE COURT: If you've got something better we
15 will certainly entertain it.

16 MR. SIMS: I don't know whether it's any better
17 or not but I've posed it this way.

18 THE COURT: All right. Let me pose it to you
19 in another way. 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 MS. NELSON: Yes, sir.

24 THE COURT: That's a little more understandable
25 like that, isn't it?

1 MS. NELSON: I'm sorry.

2 THE COURT: No, that's quite alright, that was
3 a long question.

4 Now, I want to ask you certain questions at
5 this time relative to your views on the death penalty
6 and I point out to you there is no right or wrong answers,
7 okay?

8 MS. NELSON: Okay.

9 THE COURT: I emphasize that the mere fact that
10 we are talking about penalty does not indicate anything
11 about this defendant. He is presumed innocent, do you
12 understand that?

13 MS. NELSON: Yes, sir.

14 THE COURT: You were given a letter a few minutes
15 ago. Did you have a chance to read that letter?

16 MS. NELSON: Yes, sir, I did.

17 THE COURT: I wonder if you could tell me which
18 of the three categories or types of juror that you might
19 fall into?

20 MS. NELSON: Well, according to the evidence,
21 sir, I would listen and I would give a fair ---

22 THE COURT: All right, do you have that letter
23 right there?

24 MS. NELSON: Oh, excuse me.

25 THE COURT: If you would, review it and tell

1 us which of the three that you would fall into.

2 MS. NELSON: I think the third.

3 THE COURT: Okay. 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 MS. NELSON: Yes, sir.

8 THE COURT: Can you, as a juror, also 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. NELSON: Yes, sir.

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

18 MS. NELSON: No, sir.

19 THE COURT: At this time I'm going to ask you
20 to answer any questions counsel for you, beginning with
21 the Solicitor.

22 SOLICITOR: Thank you, Your Honor.

23
24 EXAMINATION BY THE SOLICITOR:

25 Q. Ms. Nelson, I'm Walter Bailey, how are you doing?

1 A. All right.

2 Q. I want to ask you a few more questions primarily
3 about the death penalty and there are no right or wrong
4 answers, I just want to know what your thoughts are.
5 Do you have any religious beliefs about the death penalty?

6 A. No, sir.

7 Q. Okay, any deeply held personal beliefs about
8 the death penalty, one way or the other?

9 A. No way.

10 Q. And have you ever been on a jury before?

11 A. Only once, that was the grand jury in Charleston
12 about ten years ago.

13 Q. Okay, so this is potentially a two-part process
14 where we start out with what's called the guilt phase,
15 just like any other criminal trial, where the State has
16 the burden of proving a defendant guilty of whatever he's
17 charged with beyond a reasonable doubt. In this case
18 the charge is murder, one of the charges is murder. If
19 we're unable to prove that to the jury's satisfaction,
20 guilt beyond a reasonable doubt, that's the end of it.
21 On the other hand, if the jury is convinced of guilt of
22 murder beyond a reasonable doubt, we go into the second
23 phase of the trial, which is an opportunity to let the
24 jury hear additional evidence, additional law from the
25 Judge and when that happens, the jury and not the Judge

1 makes the decision on punishment. All the Judge does,
2 he orders that jury's verdict to happen. So that after
3 hearing all of the law and the facts of the case, if the
4 jury votes for the death penalty, that person actually
5 is executed based on that jury's verdict.

6 On the other hand, if the jury voted for life
7 in prison, the Judge would order that that sentence be
8 carried out and he would be sentenced to life without
9 parole. Now, the jury never has to impose the death penalty
10 but if they do impose it, it is carried out.

11 I'm not going to ask you to predict what you
12 would do as a juror if you are picked on this case because
13 you haven't heard any of the facts. But my question is
14 if the facts were bad enough, could you vote for the death
15 penalty knowing that person actually would be executed
16 based on that vote?

17 A. Yes, sir.

18 Q. If all twelve jurors vote for the death penalty
19 there's a paper, a death verdict form. Each juror is
20 asked to sign their name to that paper. Could you sign
21 your name to a paper like that?

22 A. Yes, sir, I could.

23 Q. Could you say out loud that was your verdict
24 in open court? There's a process called polling the jury
25 where each juror would be asked when their name was

1 called out to confirm that that was their verdict and
2 is still their verdict. Could you do that?

3 A. Yes, sir, I could.

4 SOLICITOR: Ms. Nelson, that's all I've got,
5 thank you very much.

6 THE COURT: Mr. Sims.

7
8 EXAMINATION BY MR. SIMS:

9 Q. Ms. Nelson, I just wanted to maybe ask you one
10 question. You said that you were in the third category,
11 is that correct?

12 A. Yes, sir.

13 Q. And that's that category that says that you
14 would sit back and listen to all of the evidence and based
15 upon the evidence, you would make a determination as to
16 the severity of whatever punishment is necessary in a
17 case, is that correct?

18 A. Yes, it is.

19 Q. And there are situations and you would, even
20 though a case --- if a person has been found guilty, that
21 you would decide that a life sentence was appropriate.

22 A. Yes, sir.

23 Q. And there are cases in which, after finding
24 a person guilty, you would look at it and determine that
25 the death penalty is an appropriate sentence.

1 A. Yes, sir.

2 Q. And I believe you've been asked that you do
3 understand that if you or any --- in a case, not this
4 case but in any case, if you were seated on the jury and
5 the jury determined that the death penalty was appropriate,
6 you would have to sign your name or you would be asked
7 to sign your name to that form.

8 A. Yes, sir, I would.

9 Q. And you realize that that sentence would be
10 carried out?

11 A. Yes, sir, I do, sir.

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

13 THE COURT: All right, Ms. Nelson, at this time
14 I'm going to release you to go home. I find her qualified
15 for service on the jury. I'm going to release you to
16 go home and we need you to check in with Madam Clerk before
17 you go and make sure we have a telephone number we can
18 reach you on a moment's notice, okay. If you have not
19 heard anything from us by 9:00 tomorrow morning, we need
20 you to call in and double check with us, okay?

21 MS. NELSON: Yes, sir.

22 THE COURT: I instruct you at this time, do
23 not discuss this case with anyone. Do not read or listen
24 or observe any news accounts on this matter until after
25 this case is over, okay?

1 MS. NELSON: Yes, sir.

2 THE COURT: All right, you are excused at this
3 time. Bring us the next juror, please.

4 (WHEREUPON, Juror #221, William Newsome (WM)
5 entered the courtroom and took the witness chair.)

6 THE COURT: Good morning, Mr. Newsome.

7 MR. NEWSOME: Good morning.

8 THE COURT: I'm going to ask you to relax and
9 make yourself comfortable, we have a few questions to
10 ask you, okay.

11 MR. NEWSOME: Okay.

12 THE COURT: How are you doing this morning?

13 MR. NEWSOME: Good.

14 THE COURT: I remind you that you are still
15 under oath from yesterday.

16 MR. NEWSOME: Yes, sir.

17 THE COURT: I've asked this question before
18 and 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 MR. NEWSOME: No, sir.

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

24 MR. NEWSOME: Yes, sir.

25

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

5 MR. NEWSOME: 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. NEWSOME: Yes, sir.

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

12 MR. NEWSOME: 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. NEWSOME: This morning, on the way to class,
17 the only thing I heard was like on the radio, there was
18 something about the jury being picked by Wednesday night.
19 But that was on just the radio station. But I haven't
20 read anything or heard anything else.

21 THE COURT: That's all you heard was about a
22 jury would be picked ---

23 MR. NEWSOME: Yeah, because I was just listening
24 to the radio and it just came after the song was over.
25 It's was on 102.9 the local station here.

THE COURT: Will the news account which you

1 heard prevent you from rendering a fair and impartial
2 verdict in this case?

3 MR. NEWSOME: No, huh-uh.

4 THE COURT: That's all you heard?

5 MR. NEWSOME: Yes, sir, that's all they said,
6 yes, sir.

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

12 MR. NEWSOME: No, sir.

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. NEWSOME: Yes, sir.

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

24 MR. NEWSOME: Yes, sir.

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

1 ago.

2 MR. NEWSOME: Yes, sir.

3 THE COURT: Did you have a chance to read it?

4 MR. NEWSOME: Yes, sir.

5 THE COURT: I wonder if you could tell us which
6 of the three categories or the three types of juror that
7 you might fall into?

8 MR. NEWSOME: Number three.

9 THE COURT: If you need to refresh your memory,
10 there's one right there.

11 MR. NEWSOME: Yes, sir, I read it pretty close
12 and it's number three.

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 MR. NEWSOME: Yes, sir.

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 MR. NEWSOME: Yes, sir.

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

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

3 MR. NEWSOME: No, sir.

4 THE COURT: All right, at this time I'm going
5 to ask you to please answer any questions that the attorneys
6 in this case may have at this time, beginning with the
7 Solicitor.

8 SOLICITOR: Thank you, Your Honor.
9

10 EXAMINATION BY THE SOLICITOR:

11 Q. Mr. Newsome, I'm Walter Bailey and I want to
12 ask you a few more questions and like the Judge said,
13 there are no right or wrong answers.

14 A. Okay.

15 Q. Is the death penalty something that you've ever
16 thought about in the past?

17 A. Uhm --- yes, sir.

18 Q. Okay, and just in general terms, could you tell
19 us what your thoughts on the death penalty are, just
20 forgetting this case.

21 A. Yes, sir. Well, I feel that if a person is
22 found guilty, of course, then you have a sentencing phase
23 and in that sentencing phase if the evidence proves that,
24 you know, maybe he did it with malice aforethought or
25 intent and that kind of thing, yes. But, of course, you

1 can also have a sentencing phase with the death penalty
2 intact and then, of course, the evidence not show that
3 that was present or that the death penalty may not be
4 warranted and life imprisonment would be. So, just kind
5 of the basics, pretty much.

6 Q. Okay. And you understand that the first phase
7 of the trial is where the State would have the burden
8 of proving that person guilty of murder beyond a reasonable
9 doubt.

10 A. Reasonable doubt.

11 Q. And that's when the thing like malice aforethought
12 and all of that come into play.

13 A. Yes, sir.

14 Q. And if the State is successful in proving to
15 that jury's satisfaction that the defendant is guilty
16 of murder with malice aforethought, then we go into the
17 second phase.

18 A. Yes, sir, exactly.

19 Q. And at that point in time additional evidence
20 will come out ---

21 A. Exactly, yes, sir.

22 Q. --- or may come out, additional instructions
23 and the jury has two choices and when I say life, in this
24 case it means life without parole and the death penalty.
25 The Judge does not decide the punishment, the jury makes

1 that decision. All he does, he orders that verdict to
2 be carried out and it will be carried out.

3 A. Yes, sir.

4 Q. So if the jury's verdict is life, the Judge
5 orders a life sentence and he serves life without parole.
6 If the jury's verdict is the death penalty, the Judge
7 would order that and the person actually would be executed.

8 A. Yes, sir.

9 Q. Now, a jury is never required to impose the
10 death penalty under any circumstances. I'm not going
11 to ask you to predict what you would do in this case because
12 you haven't heard the facts.

13 A. Exactly.

14 Q. But if the case is bad enough, could you vote
15 for the death penalty knowing that person actually is
16 going to be executed based on that jury's verdict?

17 A. Yes, sir.

18 Q. When the option is life without parole, the
19 other option.

20 A. Yes, sir.

21 Q. If all twelve jurors vote for the death penalty
22 then there's a death verdict form and each juror is asked
23 to sign their names to that. Could you sign your name
24 to that paper if you had already voted for the death penalty?

25 A. Yes, sir.

1 Q. Could you announce that decision out loud in
2 open court if your name was called and you were asked
3 to affirm that verdict?

4 A. Yes, sir.

5 SOLICITOR: I believe that's all I've got, thank
6 you, sir.

7 THE COURT: Mr. Sims.

8
9 EXAMINATION BY MR. SIMS:

10 Q. Mr. Newsome, let me just ask you a few questions.
11 When you were asked that one, had you thought about the
12 death penalty and you were asked to give your general
13 opinion of what you thought about the death penalty, you
14 talked about the two phases of the trial and you said
15 that after a person had been found guilty and then you
16 go into the second part of that trial and you said some-
17 thing about malice aforethought and that those kinds of
18 things would be the kinds of things that you would look
19 at to determine whether or not to either give life and/or
20 the death penalty in a case.

21 A. Yes, sir.

22 Q. I'm trying to --- I need to understand, are
23 you talking about that you would have to hear something
24 from the person, whoever it was, in order to make a
25 determination as to whether or not life would be

1 warranted or the death penalty would be warranted?

2 A. Well, I was kind of confused, I mean, I was
3 talking about the first phase, of course, malice aforethought
4 in the first phase and then the second phase would just
5 be more evidence proving, you know, guilt of death penalty
6 or guilt of life imprisonment.

7 Q. Okay, it would be more evidence included but
8 from whom?

9 SOLICITOR: Objection. Your Honor, could we
10 approach?

11 THE COURT: Yes.

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

14 Q. Let me just ask you one or two more questions.
15 If the defendant didn't testify, would that have any impact
16 upon your decision as it relates to life and/or death?

17 A. No, sir.

18 Q. Okay. If the defendant didn't put up any evidence,
19 would that have any impact upon your ---

20 SOLICITOR: Objection. Judge, I think he's
21 getting to the point now where he's kinda trying to stake
22 him out.

23 MR. SIMS: No, sir.

24 SOLICITOR: We're getting into hypotheticals
25 about what may or may not come into evidence.

1 THE COURT: You are going to have to be careful
2 because he hasn't been instructed on the law on that one.

3 MR. SIMS: Right, I understand that, Your Honor,
4 but if we can ask him generally in terms of what his opinion
5 would be as it related to just generally thinking about
6 the death penalty, I think that the defendant would be
7 required to or should be able to ask him in terms of those
8 situations, not specific situations, and I'm not trying
9 to stake him out. I just need to know in terms of what
10 his thinking is as it relates to whether or not there
11 would be a requirement on his part to either hear some-
12 thing or not hear something from the defendant.

13 THE COURT: Well, I'm going to let you ask it
14 but it may require me to follow up with a question, okay?

15 MR. SIMS: Yes, sir.

16 A. Okay. I think the prosecution maybe would have
17 to prove that he should die and if they don't prove that
18 he should die, then he should --- if he is found guilty
19 in the first phase, of course, and if the prosecution
20 doesn't find enough evidence that he should die, then
21 it should be life imprisonment, is my assumption of the
22 law.

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

24 THE COURT: Thank you very much. At this time
25 I'm going to ask you to check in with Madam Clerk. We

1 need a number from you that we can reach you on moment's
2 notice. I'm finding you qualified to serve on the jury.
3 We will need you to give us a number so that we can find
4 you immediately. If you have not heard from us by 9 in
5 the morning, double check back with us.

6 MR. NEWSOME: Okay.

7 THE COURT: Do not discuss this case with anyone,
8 keep that radio turned off, do not read anything or listen
9 to any news reports until this trial is over, okay?

10 MR. NEWSOME: Sure.

11 THE COURT: All right, if you will do that,
12 I would appreciate it.

13 All right, let's bring our next one out.

14 SOLICITOR: Before the next one comes in, Judge,
15 if this type question is going to continue to come up,
16 would you consider advising or instructing the jurors
17 preliminarily as part of your general instructions to
18 them, that the defense has no burden?

19 THE COURT: That is what I was going to have
20 to do.

21 SOLICITOR: I think they are getting --- they
22 are being tested on their knowledge of the law before
23 they've been instructed on it.

24 THE COURT: That was just specific to him, you
25 don't plan on doing that with every one?

1 MR. SIMS: That was just specific to him, Your
2 Honor, that's not a trend that I plan to follow but there
3 were some things in his statement when he started talking
4 about malice aforethought and those kind of things that
5 brought that up and I need --- I thought I needed to explore
6 that.

7 THE COURT: Okay.

8 SOLICITOR: But there have been a couple other
9 jurors with the same type questions were asked.

10 THE COURT: I will adjust accordingly if we
11 have to.

12 MR. SIMS: Yes, sir.

13 THE COURT: Bring the next one in.

14 (WHEREUPON, Juror #112, Ethel Graham Hughes
15 (WF) entered the courtroom and took the witness chair.)

16 THE COURT: Good morning.

17 MS. HUGHES: Good morning.

18 THE COURT: How are you?

19 MS. HUGHES: Fine.

20 THE COURT: Ms. Hughes, if you will just relax
21 we have a few questions we want to ask you, Ms. Hughes.

22 MS. HUGHES: all right.

23 THE COURT: I remind you, you are still under
24 oath from yesterday, okay?

25 MS. HUGHES: Yes, sir.

1 THE COURT: I asked you a question yesterday
2 that I'm going to repeat. Do you know of any reason whatsoever
3 why you cannot give both the State and the defendant a
4 fair and impartial trial?

5 MS. HUGHES: No, I don't.

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

8 MS. HUGHES: 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. HUGHES: I could.

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

16 MS. HUGHES: I could.

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

19 MS. HUGHES: No, I haven't.

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 MS. HUGHES: No, I have not.

24 THE COURT: I will tell you at this time that
25 the defendant in this case is black and the victim was

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

4 MS. HUGHES: No, it would not.

5 THE COURT: Will you, without regards to the
6 race 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 MS. HUGHES: I'll do my best.

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

16 MS. HUGHES: I do.

17 THE COURT: You were given a letter a few minutes
18 ago. Did you have a chance to read that letter?

19 MS. HUGHES: I did.

20 THE COURT: I wonder if you could tell me ---
21 the baby is going to have to go. They must be doing blood
22 tests out there today. Now, I've lost my place.

23 I wonder if you could tell me which of the three
24 categories or three types of jurors that you might fall
25 into and if you need to review that letter, it's right

1 there.

2 MS. HUGHES: Closer to number three than the
3 other two.

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

8 MS. HUGHES: In extreme cases.

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

13 MS. HUGHES: Yes.

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

19 MS. HUGHES: No.

20 THE COURT: If you would, answer any questions
21 counsel may have at this time, beginning with the Solicitor.

22 SOLICITOR: Thank you, Your Honor.

23
24 EXAMINATION BY THE SOLICITOR:

25 Q. Ms. Hughes, I'm Walter Bailey and I want to

1 ask you a few more questions and like the Judge said,
2 there's no right or wrong answers.

3 A. Okay.

4 Q. Is the death penalty something that you have
5 thought about the in the past?

6 A. Occasionally.

7 Q. Okay. And could you just tell us in your own
8 words what your beliefs are in regard to the death penalty,
9 just forgetting this case, but just in general?

10 A. I'm not particularly fond of it but in extreme
11 circumstances and it would have to be extreme.

12 Q. Okay, and do you understand that this is potentially
13 a two-part process, we would start off with the guilt
14 phase which is just like any other criminal trial, where
15 the State has the burden of proving the defendant guilty
16 of the charge beyond a reasonable doubt.

17 A. Yes.

18 Q. And if the State does prove the defendant guilty
19 of murder, then we go to the second phase and additional
20 evidence would come out in the second phase, additional
21 instructions from the Judge. Then the jury decides the
22 punishment, not the Judge, in this phase.

23 A. I understand.

24 Q. And there are two choices, life with means in
25 this case life without parole, and the death penalty.

1 And whatever the jury's decision is, the Judge would order
2 that to happen. If the jury votes for the death penalty,
3 that person actually is executed. If the jury votes for
4 a life sentence, the Judge will order the defendant to
5 serve life without parole.

6 You haven't heard any of the facts of this case
7 and I'm not going to ask you to predict what you would
8 do in this case. But if the case was bad enough, could
9 you vote for the death penalty knowing that as a result
10 of that vote, that defendant actually would be executed
11 as opposed to serving life without parole?

12 A. Like I said, it would have to be very extreme.

13 Q. Okay, if it was very extreme and you had the
14 option of life without parole and the death penalty, could
15 you vote for the death penalty if the case was bad enough?

16 A. If it was very extreme.

17 Q. Okay. If all twelve jurors vote for the death
18 penalty, then each juror is asked to sign their name to
19 a death verdict form. Could you sign your name to a paper
20 like that if you had voted for the death penalty?

21 A. Yes.

22 Q. Could you stand up in open court and announce
23 that decision out loud when your name was called if that
24 was your decision?

25 A. Yes.

1 Q. Do you have any religious beliefs about the
2 death penalty?

3 A. Partially, yes.

4 Q. Okay. And can you tell us what the religious
5 beliefs are that you have?

6 A. I was brought up that it wasn't right but my own
7 thinking in extreme circumstances, like I said, it's a
8 possibility.

9 Q. So you would have the ability to basically set
10 aside those religious beliefs and impose the death penalty
11 if you thought the case warranted it?

12 A. I would have to.

13 Q. All right.

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

16 THE COURT: Mr. Sims.

17 MR. SIMS: No questions, Your Honor.

18 THE COURT: We thank you for your patience,
19 especially yesterday. And I'm going to find you qualified
20 for jury service. We need for you, if you would, check
21 in with Madam Clerk, we need a telephone number where
22 you can be contacted on a moment's notice, okay.

23 MS. HUGHES: Okay.

24 THE COURT: If you do not hear something from
25 us by 9 tomorrow, I'm going to ask you to double check

1 with us. Do not discuss this case with anyone. Do not
2 read or listen to any news accounts, okay.

3 MS. HUGHES: All right, sir.

4 THE COURT: All right. Bring in the next juror.

5 (WHEREUPON, Juror # 230, Sheronne Pickering
6 (WF) entered the courtroom and took the witness chair.)

7 THE COURT: Ms. Pickering, if you will have
8 a seat right here, please. How are you this morning?

9 MS. PICKERING: Good.

10 THE COURT: We need for you to relax and be
11 as comfortable as you can, okay?

12 MS. PICKERING: Okay.

13 THE COURT: I need to remind you that you are
14 still under oath and I'm going to be asking you some
15 questions.

16 MS. PICKERING: Okay.

17 THE COURT: You've heard this before and I'm
18 going to ask you again. Do you know of any reason whatsoever
19 why you cannot give both the State and the defendant a
20 fair and impartial trial?

21 MS. PICKERING: No, sir.

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

24 MS. PICKERING: Yes.

25 THE COURT: Could you, depending on the facts

1 and the evidence and the law as I will instruct you, find
2 a defendant not guilty?

3 MS. PICKERING: Yes.

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

7 MS. PICKERING: Definitely.

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

10 MS. PICKERING: No. When I read the article
11 originally I discussed it with my husband but that was
12 a long time ago.

13 THE COURT: What was the nature and extent of
14 your discussion with your husband?

15 MS. PICKERING: My maiden name was Stokes and
16 I was horrified by the --- you know, the article.

17 THE COURT: As a result of that discussion,
18 have you formed an opinion as to the guilt or the innocence
19 of the defendant?

20 MS. PICKERING: To tell you the truth I can't
21 remember that much about it. All I remember -- I remember
22 that it was Stokes.

23 THE COURT: Will this discussion prevent you
24 from rendering a fair and impartial verdict in this case?

25 MS. PICKERING: I honestly don't know, I don't

1 think so.

2 THE COURT: Notwithstanding the discussion you
3 have described, can you fairly and impartially render
4 a fair and just verdict in this case uninfluenced in any
5 way whatsoever by this discussion you have described?

6 MS. PICKERING: Yes.

7 THE COURT: Can you erase from your mind the
8 discussion you have described and render a fair and impartial
9 verdict based upon the law given to you by the Court and
10 the evidence presented during the trial uninfluenced in
11 any way whatsoever by the discussion you have described?

12 MS. PICKERING: Yes.

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 MS. PICKERING: Since then? I haven't seen
17 anything.

18 THE COURT: All right, tell me the nature of
19 the news account that you read back then?

20 MS. PICKERING: It was a newspaper account.

21 THE COURT: What do you recall about those accounts?

22 MS. PICKERING: Basically that it was a violent
23 crime and the person who was accused of it had the same
24 last name that I used to have.

25 THE COURT: Will the news accounts which you

1 have read prevent you from rendering a fair and impartial
2 verdict in this case?

3 MS. PICKERING: I don't think so.

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

10 MS. PICKERING: I think so.

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

16 MS. PICKERING: I think so.

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

21 MS. PICKERING: Yes.

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

25 MS. PICKERING: Yes.

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

5 MS. PICKERING: No.

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. PICKERING: Yes.

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

17 MS. PICKERING: Yes, I do.

18 THE COURT: You were given a letter a few minutes
19 ago. Did you have a chance to read it?

20 MS. PICKERING: Yes, I did.

21 THE COURT: You have it right there for your
22 review if you need it and I ask you this question, can
23 you tell me which of these three categories or types that
24 you might fall into?

25 MS. PICKERING: Actually not one specifically.

1 If a person committed that crime and I thought he was
2 guilty, I would go for the death penalty, but if it was
3 a different sort of crime, I would have to think about
4 it.

5 THE COURT: If you would, review that letter
6 once again and tell us which type you would most likely
7 fall under, please.

8 MS. PICKERING: Death penalty.

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. PICKERING: Yes.

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

18 MS. PICKERING: For this type of crime, no.

19 THE COURT: All right.

20 SOLICITOR: Judge, I've got a couple of questions
21 just to make sure.

22 THE COURT: Sure.

23
24 EXAMINATION BY THE SOLICITOR:

25 Q. Ms. Pickering, I'm Walter Bailey and I want

1 to ask you a few more questions and there are no right
2 or wrong answers.

3 A. Okay.

4 Q. You understand that the first phase of the trial
5 is like any other criminal trial where the State has the
6 burden of proving a person guilty of the charge beyond
7 a reasonable doubt.

8 A. Exactly.

9 Q. And in this case one of the charges is murder
10 which means the killing of someone with malice aforethought.

11 A. Uh-huh.

12 Q. So if the defendant is found guilty of murder
13 with malice aforethought, then we would go into the second
14 phase of the trial which is an opportunity for the jury
15 to hear additional evidence, additional instructions from
16 the Judge and then decide on the punishment, life without
17 parole or the death penalty. So anytime a jury is in
18 that second phase that means they've already found that
19 person guilty of murder with malice aforethought beyond
20 a reasonable doubt or they wouldn't be in that second
21 phase.

22 A. Right, uh-huh.

23 Q. Now, would you enter that second phase with
24 your mind made up?

25 A. Pretty much, yes.

1 Q. Okay. Since this person is guilty of murder
2 with malice aforethought, you would have your mind made
3 up ahead of time?

4 A. Definitely.

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

6 MR. SIMS: Nothing, Your Honor.

7 THE COURT: Thank you for coming and taking
8 part and I'm going to excuse you at this time. You are
9 free to go home.

10 THE COURT: All right, let's have another one.

11 (WHEREUPON, Juror #55, Stephen Creech (WM)
12 entered the courtroom and took the witness chair.)

13 THE COURT: I'm going to ask you to relax, Mr.
14 Creech, and make yourself comfortable, okay.

15 MR. CREECH: All right.

16 THE COURT: How you doing this morning?

17 MR. CREECH: Pretty good, how are you?

18 THE COURT: It's still morning, it's going to
19 be afternoon here in a minute, isn't it? I will remind
20 you that you are still under oath from yesterday and I
21 have some questions to ask you. This one you've heard
22 before but I'm going to ask you again. 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. CREECH: No, sir, I don't know of any reason.

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

3 MR. CREECH: Yes, sir.

4 THE COURT: Could you, depending on the facts
5 and the evidence and the law as I will instruct you, find
6 a defendant not guilty?

7 MR. CREECH: Yes, sir.

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

11 MR. CREECH: Yes, sir.

12 THE COURT: Have you discussed this case with
13 anyone?

14 MR. CREECH: 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. CREECH: I've heard a little bit about it
19 in the newspaper when it happened.

20 THE COURT: All right, anything else other than
21 the newspaper?

22 MR. CREECH: No, sir.

23 THE COURT: What do you recall or remember about
24 the newspaper account?
25

1 MR. CREECH: Just, you know, the incidents that
2 happened and that's about it.

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

6 MR. CREECH: No, sir.

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

12 MR. CREECH: Yes, sir.

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

18 MR. CREECH: Yes, sir.

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

23 MR. CREECH: Yes, sir.

24 THE COURT: Can you make your verdict based
25 upon --- or based only upon these two considerations,

1 that is, the law and the evidence?

2 MR. CREECH: Yes, sir.

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
6 from rendering a fair and impartial verdict in this case?

7 MR. CREECH: No, sir.

8 THE COURT: Will you, without regard 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 MR. CREECH: Yes, sir.

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

19 MR. CREECH: Yes, sir.

20 THE COURT: You were given a letter a few minutes
21 ago to read. Did you have a chance to read it?

22 MR. CREECH: Yes, sir.

23 THE COURT: There's one there if you need to
24 review it. And I'm going to ask you this question. Can
25 you tell me which of the three categories or type of

1 jurors that you might fall into?

2 MR. CREECH: I think I'm the third juror or
3 the third type of juror but I do have the --- I do believe
4 in discipline.

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

9 MR. CREECH: 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. CREECH: Yes, sir.

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

19 MR. CREECH: It will be hard because I work
20 in a factory and I've got about 130 people working for
21 me and you've got to make some arrangements, you know,
22 to handle those issues that will come up during this time.

23 THE COURT: All right, with time to make the
24 arrangements, would it be an undue hardship?

25 MR. CREECH: If I've got time we can make those

1 arrangements.

2 THE COURT: Okay. I can tell you that very
3 seldom in South Carolina a case takes more than two weeks
4 and I don't think anybody would foresee it being longer
5 than that.

6 MR. CREECH: I can handle two weeks.

7 THE COURT: Okay. All right, at this time I'm
8 going to ask you to answer any questions counsel may have
9 for you, beginning with the Solicitor.

10 SOLICITOR: Thank you, Your Honor.

11
12 EXAMINATION BY THE SOLICITOR:

13 Q. Mr. Creech, I'm Walter Bailey and I want to
14 ask you a few more questions and like the Judge said,
15 there are no right or wrong answers. Is the death penalty
16 something that you've thought about before you found out
17 you might be on this jury?

18 A. I've thought it, you know, several times, you
19 know, when you hear about cases.

20 Q. All right, and just in general, what were your
21 thoughts on the death penalty?

22 A. I believe that if a man is guilty and, you know,
23 you've proven he's guilty, then, you know, he should get
24 what he deserves.

25 Q. Okay. Let me ask you a little bit about the

1 process we would be going through here. The Judge has
2 gone over that yesterday and a little bit today. But it's
3 potentially a two-part process. We would start out with
4 the guilt phase and the guilt phase of a death penalty
5 trial is basically like any other criminal trial where
6 the State charges somebody and they have the burden of
7 proof beyond a reasonable doubt to convince that jury
8 that that person is guilty of whatever the charge is.

9 In this case one of the charges is murder which
10 is the killing of somebody with malice aforethought. If
11 the State was unable to prove that person guilty of murder
12 with malice aforethought, that's the end of the process
13 as far as the jury is concerned. On the other hand, if
14 the State is successful in proving that person guilty
15 of murder, then we go into the second phase which is an
16 opportunity to allow additional evidence to come out,
17 additional instructions from the Judge to help that jury
18 decide on the appropriate punishment, which is life, which
19 means life without parole in this case, or the death penalty.

20 Would you, as a juror if you were picked in
21 this case, if the person is found guilty of murder in
22 the first part of the trial, would you enter that second
23 phase with an open mind and listen to the evidence that
24 came out, listen to the instruction before you decide
25 on the appropriate punishment?

1 A. Yes, sir.

2 Q. And if you felt like the facts and circumstances
3 warranted the death penalty, could you vote for the death
4 penalty?

5 A. Yes, sir.

6 Q. On the other hand, if you felt like the facts
7 and circumstances warranted life without parole, could
8 you vote for life without parole?

9 A. Yes, sir.

10 Q. And do you understand that the jury's sentence
11 would be carried out?

12 A. Yes, sir.

13 Q. The Judge doesn't decide the sentence, the jury
14 does. He just orders that sentence to happen and it will
15 happen. So if we reach that second phase, he will either
16 get life without parole or be executed.

17 A. Right.

18 Q. If all twelve jurors vote for the death penalty,
19 the next step is that each of them is asked to sign their
20 name to a verdict form that would result in the execution
21 happening. Could you sign your name to a paper like that?

22 A. Yes.

23 Q. Could you announce a death verdict out loud
24 if that was your verdict? Could you say out loud in open
25 court that's my verdict and it's still my verdict?

1 A. Yes.

2 SOLICITOR: Mr. Creech, I think that's all I
3 have. Thank you very much.

4 THE COURT: Mr. Sims.

5
6 EXAMINATION BY MR. SIMS:

7 Q. Mr. Creech, a few moments ago when you were
8 asked about your --- how you thought about the death penalty,
9 you made a statement if a man is guilty, then he should
10 get what he deserves and I need to amplify that a few
11 moments with you. Are you saying that if you find a man
12 guilty then what he deserves if a death penalty or what
13 are you saying?

14 A. I'm saying if a man is, you know, has committed
15 a crime and there's no doubt in your mind, it's been proven
16 that he's committed that crime and then the evidence say
17 that, you know, this is what your punishment is, you know,
18 is it life imprisonment or death and that's what the Court
19 charges you to.

20 Q. Now what, in your thinking in terms of generally
21 thinking of the death penalty, what has been your conclusion
22 as it relates to that in terms of if a man is found guilty
23 and you have those two options, which would you opt for
24 most?

25 SOLICITOR: Judge, I'm going to object to that.

1 He doesn't know the facts of this case and he's asking
2 him to predict what he would usually do.

3 THE COURT: See if you can rephrase that question.

4 MR. SIMS: Your Honor, may --- I mean, Mr. Bailey
5 asked about a general opinion about the death penalty
6 and when he gets to a certain point and a person gives
7 a statement like --- and the statement was, that if I
8 find a man guilty, he should get what he deserves. I think
9 that we would have the opportunity to be able to find
10 out what he means by that and that's all we are trying
11 to do in terms of amplifying what he would mean by that.
12 And to ask him which one would he opt for, that's consistent
13 with the statement that Mr. Bailey had asked him to talk
14 about in terms of his general view of the death penalty.

15 THE COURT: All right, pose your question again.

16 Q. Basically when you have reached that first
17 conclusion that a person is guilty, in your mind what
18 would be the appropriate sentence?

19 A. Well, I think, just like the Court has said,
20 we would be given more evidence to base that decision
21 on and then that evidence would determine, you know, would
22 it be life imprisonment or the death penalty.

23 Q. So then you're saying that you would listen
24 to the additional evidence before you make a decision?

25 A. Oh, yeah, yeah.

1 Q. Okay, that's what we need to clear up. You also
2 said that you believe in discipline when you were asked
3 a question, I believe, either by the Judge or Mr. Bailey.
4 Could you tell us what you are talking about in terms
5 of discipline?

6 A. Well, I think, you know, with the problems we
7 have in the world today, a lot of those problems are because
8 of lack of discipline whether it's in a courtroom or whether
9 it's in the home, whether it's at work, you know, that
10 you've got to have that discipline so that you can keep
11 order.

12 MR. SIMS: Nothing further, Your Honor.

13 THE COURT: Anything further, Solicitor?

14 SOLICITOR: No, sir.

15 THE COURT: I find the juror qualified for service
16 and I'm going to do this, please. If you will, check
17 in with Madam Clerk over here, we need a number that we
18 can reach you on a moment's notice. If you do not hear
19 something from us by 9 in the morning, double check back
20 with us.

21 MR. CREECH: Okay.

22 THE COURT: Do not discuss this case with anyone.
23 Do not read or listen to any news accounts. We will be
24 in touch to tell you when to report back, okay.

25 MR. CREECH: Okay.

1 THE COURT: All right, bring in our next juror.

2 BAILIFF: Your Honor, this next juror says she
3 need to talk to you.

4 THE COURT: Okay.

5 (WHEREUPON, Juror #292, Cynthis Stillenger
6 (WF) entered the courtroom and took the witness chair.)

7 THE COURT: Good morning, Ms. Stillenger.

8 MS. STILLENGER: Good morning.

9 THE COURT: The bailiff said you need to talk
10 to me?

11 MS. STILLENGER: Yes, sir, I realized last night
12 that this is the case that happened over on Rivelon Drive
13 and my sister lives on Rivelon Drive and I talked with
14 her about this case and I don't think I can be impartial.

15 THE COURT: Okay. I need to ask you this question
16 and I've asked it before. Do you know of any reason that
17 you cannot give both the State and the defendant a fair
18 and impartial trial?

19 MS. STILLENGER: With the way I already feel,
20 probably not.

21 THE COURT: Can you, notwithstanding your exposure
22 to this information that you've recieved, base your verdict
23 upon the law and the evidence presented to you uninfluenced
24 in any way whatsoever by the discussions or conversations
25 you have described?

1 MS. STILLENGER: With the way I already feel,
2 probably not. I see what you are saying, I mean, I'm
3 supposed to look into the facts and that's what is going
4 to help me determine whether or not he's guilty, right?

5 THE COURT: Yes.

6 MS. STILLENGER: But I don't know that I could
7 do that now, because of everything that I have heard.
8 Like I said, I didn't connect the two cases.

9 THE COURT: All right, think about your position
10 and I'm going to ask you a question.

11 MS. STILLENGER: Okay.

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 MS. STILLENGER: No, sir, I don't think I could.

16 THE COURT: Any point of me going any further?

17 SOLICITOR: No, sir.

18 MR. SIMS: No, sir.

19 THE COURT: Thank you very much for coming.
20 We appreciate you being honest.

21 MS. STILLENGER: I'm sorry, I mean, I'm sorry.

22 THE COURT: We understand. We are going to excuse
23 you at this time and let you go on back home.

24 MS. STILLENGER: Okay, thank you.

25 THE COURT: Thank you very much. How about

1 Mr. Kinard. Bring him on in.

2 (WHEREUPON, Juror #183, James Kinard (WM) entered
3 the courtroom and took the witness chair.)

4 THE COURT: Good morning, Mr. Kinard.

5 MR. KINARD: How are ya'll doing?

6 THE COURT: Fine, how are you doing this morning?

7 MR. KINARD: Good.

8 THE COURT: If you will just relax and make
9 yourself comfortable, we've got some questions we need
10 to ask you.

11 MR. KINARD: Okay.

12 THE COURT: And I remind you that you're still
13 under oath.

14 MR. KINARD: Yes, sir.

15 THE COURT: I've asked this question of you
16 and I'm going to ask you again. Do you know of any reason
17 whatsoever why you cannot give both the State and the
18 defendant a fair and impartial trial?

19 MR. KINARD: No, sir.

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

22 MR. KINARD: Yes, sir.

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

1 MR. KINARD: Yes, sir.

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

5 MR. KINARD: Yes, sir.

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

8 MR. KINARD: No, sir.

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

12 MR. KINARD: Yes, I have. I did in the T &
13 D.

14 THE COURT: What is the nature of the news account
15 now?

16 MR. KINARD: Well, the nature was the Times
17 and Democrat on yesterday, and it was just ---

18 THE COURT: Newspaper?

19 MR. KINARD: Yes, sir.

20 THE COURT: Please relate to me what you remember
21 or recall about that news account.

22 MR. KINARD: Just I guess it was briefly stating
23 what they said had happened in this case as far as they
24 didn't really give any details, just, I guess, and over-
25 view of the case.

1 THE COURT: Will the news account which you
2 have read prevent you from rendering a fair and impartial
3 verdict in this case?

4 MR. KINARD: No, sir.

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

10 MR. KINARD: 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
14 way whatsoever by the news accounts which you have
15 described?

16 MR. KINARD: Yes, sir.

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

21 MR. KINARD: Yes, sir.

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

25 MR. KINARD: Yes, I can.

1 THE COURT: The defendant in this case is black
2 and the victim was white. Will the fact that the defendant
3 is 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 MR. KINARD: No, sir, it will not.

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

11 MR. KINARD: Yes, I will.

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

18 MR. KINARD: Yes, I do.

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

21 MR. KINARD: Yes, sir, I did.

22 THE COURT: There is another one there for you
23 to review if you need to look at it.

24 MR. KINARD: Okay.

25 THE COURT: I ask you this question. Can you

1 tell me which of the three categories or types of jurors
2 that you might fall into?

3 MR. KINARD: It would be the second category.

4 THE COURT: The second category?

5 MR. KINARD: Yes, sir.

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

10 MR. KINARD: No, sir, I cannot.

11 THE COURT: Can you, as a juror, participate
12 in a jury verdict recommending a life sentence or a
13 sentence of life imprisonment for murder if the evidence
14 and the law warrants such a verdict?

15 MR. KINARD: Yes, sir, I can.

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

21 MR. KINARD: Could you repeat that, please?

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

1 circumstances that may develop during trial?

2 MR. KINARD: I wouldn't actually say it's fixed,
3 it's just a belief.

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. KINARD: No, sir.

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

14 MR. KINARD: Yes, sir.

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

18 MR. KINARD: Yes.

19 THE COURT: Would you automatically vote against
20 the imposition of capital punishment without regard to
21 the evidence that might be developed during the trial of
22 a capital murder case?

23 MR. KINARD: No, sir.

24 THE COURT: Would your opposition to capital
25 punishment prevent you from making an impartial decision

1 as to the defendant's guilt?

2 MR. KINARD: No, sir.

3 THE COURT: If you were selected in this case
4 and I tell you that you would be sequestered or separated
5 with the jury and remain in a motel during the length of
6 this trial, does that pose any undue hardship for you?

7 MR. KINARD: Uh --- no, I guess the only thing
8 is --- would pose a hardship is I'm a manager at my work
9 and certain goals need to be met on a monthly basis and
10 that would be the only burden, is meeting my goals at work
11 and monthly reports on time.

12 THE COURT: All right. Answer any questions counsel
13 may have for you, Solicitor.

14 SOLICITOR: Thank you, Your Honor.

15

16 EXAMINATION BY THE SOLICITOR:

17 Q. Mr. Kinard, I'm Walter Bailey and I want to ask
18 you a few questions.

19 A. Okay, sir.

20 Q. And I want to repeat what Judge Burch just said
21 in his opening statement to you. That there's no right
22 or wrong answers.

23 A. Okay.

24 Q. So, please, don't give me an answer just because
25 you think I want to hear it.

1 A. Okay.

2 Q. This is the only chance any of us get to question
3 jurors before we actually pick a jury and, you know, if
4 you don't let us know exactly how you feel and then we
5 pick a jury, then it's too late.

6 A. Okay.

7 Q. There's no right or wrong answers.

8 A. That's fine.

9 Q. An you tell us, just forgetting this case for
10 right now, just in general terms what your thoughts and
11 beliefs are on the death penalty?

12 A. I guess it's just a personal feeling. Death,
13 I guess since I was growing up I really don't like the
14 word "death". I think every person has an opportunity
15 to live, you know, whether they've done right or wrong.
16 And it's just pretty much a personal belief.

17 Q. Okay. Now, this is potentially a two-part process
18 where we have a guilt phase which is like any other criminal
19 trial, where the State has the burden of proving a person
20 guilty beyond a reasonable doubt. If we're able to carry
21 that burden of proof and prove a person guilty of murder,
22 then we go into the second phase and where the jury hears
23 additional evidence that may help them decide between life,
24 which in this case, is life without parole and the death
25 penalty.

1 The jury is never required to vote for the death
2 penalty. Life is always an option. And again, life means
3 life without parole.

4 Now, if you are picked as a juror in this kind
5 of a case and we got into the second part of the trial,
6 that, of course, means that the defendant had already been
7 found guilty of murder beyond a reasonable doubt. You
8 are there to decide the punishment. Whatever the jury
9 says, that sentence --- whatever the jury's verdict is,
10 will be the sentence of the Court. If the jury votes for
11 a life sentence, the Judge would sentence that person to
12 life and they would serve life without parole. If the
13 jury's verdict is the death penalty, the Judge would order
14 that execution to happen and it would happen, he would
15 be executed by lethal injection.

16 In all honesty, you know, taking into consideration
17 the beliefs that you've expressed, if you had the option
18 between life without parole and the death penalty, would
19 your vote always be for life without parole?

20 A. Yes, it would.

21 Q. In every case?

22 A. Yes, pretty much, yes, sir, I mean, every case,
23 yeah.

24 Q. Every case?

25 A. Yes.

1 Q. All right, sir. And could you ever sign your
2 name to a death verdict form that would result in somebody
3 being executed?

4 A. No, I could not.

5 SOLICITOR: Thank you, that's all I have at this
6 time.

7 THE COURT: Any questions, Mr. Sims?

8 MR. SIMS: None, Your Honor.

9 THE COURT: Mr. Kinard, I want to thank you for
10 your service on this case up until this point. I'm going
11 to excuse you at this time and you're free to go home.

12 All right, bring in our next juror.

13 (WHEREUPON, Juror #35, Ernest Byrd (BM) entered
14 the courtroom and took the witness chair?

15 THE COURT: Good morning.

16 MR. BYRD: Good morning.

17 THE COURT: Barely, about ten more seconds. I'm
18 going to ask you, if you would, to just relax and make
19 yourself comfortable because I've got some questions for
20 you and I'm going to remind you that you are still under
21 oath from yesterday, okay?

22 MR. BYRD: Yes, sir.

23 THE COURT: Now, I've got a question I'm going
24 to ask you that I asked you before. Do you know of any
25 reason whatsoever why you cannot give both the State and

1 the defendant a fair and impartial trial?

2 MR. BYRD: Uhm ---well, I know him personally
3 from school. I pretty much grew up around him.

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

6 MR. BYRD: Yes.

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 MR. BYRD: Yes.

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

14 MR. BYRD: Yes.

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

17 MR. BYRD: Not recently, no.

18 THE COURT: All right, have you discussed it
19 in the past with someone?

20 MR. BYRD: Yes.

21 THE COURT: Tell me the nature and extent of
22 that discussion.

23 MR. BYRD: When the incident first came up, when
24 it first happened. It happened in our home town and it
25 was, I guess, everybody in the school was talking about

1 it.

2 THE COURT: As a result of this discussion, have
3 you formed an opinion as to the guilt or innocence of the
4 defendant?

5 MR. BYRD: No.

6 THE COURT: Will this discussion prevent you
7 from rendering a fair and impartial verdict in this case?

8 MR. BYRD: No.

9 THE COURT: Notwithstanding the discussion you
10 have described, can you fairly and impartially render a
11 fair and just verdict in this case uninfluenced in any
12 way whatsoever by the discussion you have described?

13 MR. BYRD: Uhm ---yes.

14 THE COURT: Can you erase from your mind the
15 discussion you have described and render a fair and impartial
16 verdict based upon the law given to you by the Court and
17 the evidence presented during the trial uninfluenced in
18 any way whatsoever by the discussion you have described?

19 MR. BYRD: Yes.

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. BYRD: Newspaper.

24 THE COURT: Please relate to me what you remember
25 or recall about the newspaper account.

1 MR. BYRD: Offhand I can't remember nothing about
2 it. It was uhm --- offhand I can't.

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

6 MR. BYRD: No.

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

12 MR. BYRD: Yes.

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

17 MR. BYRD: Yes.

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

22 MR. BYRD: Yes.

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

25 MR. BYRD: Yes.

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

5 MR. BYRD: No.

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 MR. BYRD: Yes.

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're talking about penalty does not
15 indicate anything about the defendant. He is presumed
16 innocent and I ask you, do you understand that?

17 MR. BYRD: Yes.

18 THE COURT: You were given a letter a few minutes
19 ago and asked to read it that described some type of jurors
20 and there is one there for you to review if you need to
21 do so. And I'm going to ask you this, can you tell me which
22 of the three categories or the three types that you might
23 fall into?

24 MR. BYRD: Two.

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. BYRD: No.

5 THE COURT: Can you, as a juror, 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. BYRD: Yes.

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

15 MR. BYRD: Yes.

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

19 MR. BYRD: No.

20 THE COURT: Notwithstanding your opposition to
21 capital punishment, are you willing to consider all the
22 penalties provided by the law of this state, including
23 the death penalty, and then determine whether the defendant
24 should receive the death penalty or life imprisonment based
25 upon the facts and circumstances developed during the

1 trial?

2 MR. BYRD: Yes.

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. BYRD: Yes.

7 THE COURT: That was yes?

8 MR. BYRD: Yes.

9 THE COURT: Counsel, any need for me to go any
10 further?

11 SOLICITOR: No, sir.

12 MR. SIMS: No, sir.

13 THE COURT: Mr. Byrd, I want to thank you for
14 taking part in this case and especially for your patience
15 yesterday, I know it was a long day yesterday. I'm going
16 to excuse you at this time and you're free to go back to
17 work or home. Thank you very much.

18 Bring in our next one.

19 (WHEREUPON, Juror #264, Clarence Sellers (BM),
20 entered the courtroom and took the witness chair.)

21 THE COURT: Good afternoon.

22 MR. SELLERS: Good afternoon.

23 THE COURT: How you doing?

24 MR. SELLERS: All right.

25 THE COURT: Good. I'm going to ask you to

1 relax, make yourself comfortable. We've got some questions
2 for you, okay?

3 MR. SELLERS: Okay.

4 THE COURT: I'm going to remind you I put you
5 under oath yesterday and it still applies and I'm going
6 to ask you some questions, okay?

7 MR. SELLERS: Yes, sir.

8 THE COURT: I asked this question yesterday and
9 I'm going to ask it again. Do you know of any reason
10 whatsoever why you cannot give both the State and the
11 defendant a fair and impartial trial?

12 MR. SELLERS: No, sir.

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

15 MR. SELLERS: Yes, sir.

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

19 MR. SELLERS: Yes, sir.

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

23 MR. SELLERS: Yes, sir.

24 THE COURT: Have you discussed this case with
25 anyone?

1 MR. SELLERS: 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. SELLERS: No, sir.

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

11 MR. SELLERS: No, sir.

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

16 MR. SELLERS: Yes, sir.

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

23 MR. SELLERS: Yes, sir.

24 THE COURT: You were given a letter a few minutes
25 ago, did you have a chance to read it?

1 MR. SELLERS: Yes, somebody read it to me.

2 THE COURT: Okay. Could you --- and if you need
3 to review it, there's one down there. Could you tell me
4 which of the categories, the three categories or the types
5 that you might fall into?

6 MR. SELLERS: Number three.

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

11 MR. SELLERS: Yes, sir.

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

16 MR. SELLERS: Yes, sir.

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

22 MR. SELLERS: No, sir.

23 THE COURT: At this time I'm going to ask you
24 to answer any questions that counsel may have for you,
25 beginning with the Solicitor.

1 SOLICITOR: Thank you, Your Honor.

2
3 EXAMINATION BY THE SOLICITOR:

4 Q. Mr. Sellers, I'm Walter Bailey and I want to
5 ask you a few more questions and like the Judge said, there
6 are no right or wrong answers, okay, we're not testing
7 you, we just want to see how you really feel.

8 Is the death penalty something you thought about
9 before yesterday when you found out you might be on this
10 jury?

11 A. Yes, you could say so, yes, sir.

12 Q. Okay. And could you tell me, just in your own
13 words, what your thoughts are on the death penalty?

14 A. Well, to be honest, I don't believe in it.

15 Q. I'm sorry?

16 A. I don't believe in it.

17 Q. Don't believe in it? Okay, and is that based
18 on religious beliefs?

19 A. No, I don't believe in taking another life, you
20 know, for it to be my decision.

21 Q. Okay, and that's a personal belief that you have?

22 A. Yes, sir.

23 Q. Have you felt that way for a while ?

24 A. Yes, sir.

25 Q. All your life?

1 A. Just about.

2 Q. Let me talk to you a little bit about the process
3 we go through when the State seeks the death penalty. We
4 start out with the guilt phase which is like any other
5 criminal trial. The State has to prove the defendant guilty
6 of murder beyond a reasonable doubt and if the State
7 does that and the jury comes back with a verdict of guilty
8 to murder, we go into that second part of the trial where
9 the jury hears additional evidence, additional instructions
10 from the Judge on the law. Then the jury decides the
11 punishment, not the Judge. All the Judge does, whatever
12 the jury verdict is, he makes it happen, okay.

13 So if the jury votes for the death penalty, that
14 person is actually executed. If the jury votes for a life
15 sentence, the Judge sentences that person to life and he
16 serves life without parole. The jury never has to give
17 somebody the death penalty.

18 I'm not going to ask you to tell us what you
19 would do if you got picked on this jury because you don't
20 know any of the facts. But if you were on a jury and you
21 had that choice between life without parole and the death
22 penalty, would you always vote for life without parole?

23 A. Most of the time I would.

24 Q. I'm sorry?

25 A. Yes, sir.

1 Q. You would?

2 A. Yes, sir.

3 Q. Mr. Sellers, could you ever sign your name to
4 a death verdict form, a piece of paper that would result
5 in somebody being executed?

6 A. Have I ever?

7 Q. Could you ever do that?

8 A. It would be hard.

9 Q. Okay, but could you do it? Could you sign your
10 name to a piece of paper that would result in somebody
11 being executed? If you can do it, tell us; if you can't
12 do, you need to tell us.

13 A. I don't think I could.

14 Q. Okay. When you say you don't think you could,
15 are you pretty sure you could not do that?

16 A. I'm pretty sure I could not do it.

17 Q. Okay. So looking at those three types of jurors
18 again, the first type juror is the juror that would always,
19 if you've got a convicted murderer, vote for the death
20 penalty. That's not you, is it?

21 A. No.

22 Q. The second type of juror is the type of juror
23 that does not believe in the death penalty and no matter
24 how bad the case was, if they had a choice, death penalty
25 or life without parole, they would always vote for life

1 without parole. Is that you?

2 A. Huh-uh.

3 Q. It's not? Okay. The third type of juror is
4 the type of juror that might vote for a life sentence without
5 parole. On the other hand, depending on what they heard,
6 they may vote for the death penalty. So are you number
7 two or number three juror?

8 A. Uhm ---

9 Q. Just take your time and look at that paper because
10 this is pretty important for us to know.

11 A. Number two, I would vote for number two.

12 Q. Number two?

13 A. Yeah.

14 Q. All right, thank you.

15 SOLICITOR: That's all I have at this time, Mr.
16 Sellers.

17 THE COURT: Mr. Sims.

18

19 EXAMINATION BY MR. SIMS:

20 Q. I just need to clear that up. You say at one
21 time in response to a question you indicated that you were
22 number three juror.

23 A. See, she --- somebody had read it to me, I don't
24 read to good so I misunderstood. After he explain it to
25 me, I figure I would be number two.

1 Q. Okay, so now it has been explained to you you
2 said that you would be a number two juror, that juror who
3 would never, no matter what the circumstances, would never
4 be able to vote for the death penalty.

5 A. Yes, sir.

6 MR. SIMS: I have nothing further.

7 THE COURT: Thank you, sir. We appreciate you
8 taking part in this. I'm going to excuse you at this time
9 and you're free to go back home or to work. Thank you very
10 much.

11 All right, we're ready for Mr. Johnson.

12 (WHEREUPON, Juror #166, Harry Johnson (BM) entered
13 the courtroom and took the witness chair.)

14 THE COURT: Good afternoon, Mr. Johnson.

15 MR. JOHNSON: How you doing, sir?

16 THE COURT: How you doing today?

17 MR. JOHNSON: Fine.

18 THE COURT: If you will just relax and make yourself
19 comfortable there, we've got some questions we need to
20 ask you, okay.

21 MR. JOHNSON: All right, sir.

22 THE COURT: I remind you that you're still under
23 oath from yesterday?

24 MR. JOHNSON: All right, sir.

25 THE COURT: I'm going to ask you a question

1 that I've already asked and I'm going to ask it again,
2 okay. Do you know of any reason whatsoever why you cannot
3 give both the State and the defendant a fair and impartial
4 trial?

5 MR. JOHNSON: No, sir.

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

8 MR. JOHNSON: Yes, sir.

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 MR. JOHNSON: Yes, sir.

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

16 MR. JOHNSON: Yes, sir.

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

19 MR. JOHNSON: 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. JOHNSON: No, sir.

24 THE COURT: The defendant is black and the victim
25 was white. Will the fact that the defendant is black and

1 the victim is white prevent you in any way whatsoever from
2 rendering a fair and impartial verdict in this case?

3 MR. JOHNSON: No, sir.

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

8 MR. JOHNSON: No, sir. I would do right, sir,
9 I would not go against the race, color or whatever, I would
10 go on by what the case is presented in the court.

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

17 MR. JOHNSON: Yes, sir.

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

20 MR. JOHNSON: Yes, sir.

21 THE COURT: And there's another one right there
22 if you need to look at it in response to my questions.
23 Which of the three categories or types do you consider
24 yourself as falling into?

25 MR. JOHNSON: I'll say the third one, 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 MR. JOHNSON: My own --- my belief, yes, I say
6 no, sir.

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. JOHNSON: Yes, sir.

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

17 MR. JOHNSON: Yes, sir.

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

21 MR. JOHNSON: Uhm --- with the death penalty
22 I say, no, sir, but for life in prison I would say yes.

23 THE COURT: Notwithstanding your opposition to
24 capital punishment, are you willing to consider all the
25 penalties provided by law of this state, including the

1 death penalty, and then determine whether the defendant
2 should receive the death penalty or life imprisonment based
3 upon the facts and circumstances developed during the trial?

4 MR. JOHNSON: Life in prison, sir, but the death
5 penalty, I'm against it.

6 THE COURT: All right. Will your opposition to
7 the death penalty for murder prevent you from voting for
8 the death penalty under any circumstances?

9 MR. JOHNSON: I would say, yes, sir.

10 THE COURT: Gentlemen, any point in going on?

11 SOLICITOR: No, sir.

12 MR. SIMS: No, sir.

13 THE COURT: Okay, Mr. Johnson, thank you, sir.
14 We appreciate you coming and taking part and we're going
15 to excuse you at this time, you're free to go home or back
16 to work.

17 All right, the next one.

18 (WHEREUPON, Juror #242, Delores Riley, (BF)
19 entered the courtroom and took the witness chair.)

20 THE COURT: Good afternoon, Ms. Riley, how are
21 you?

22 MS. RILEY: Fine.

23 THE COURT: Good. If you will just relax and
24 make yourself comfortable there, we've got a few questions
25 we need to ask you, okay.

1 MS. RILEY: Okay.

2 THE COURT: I remind you that you're still under
3 oath from yesterday.

4 MS. RILEY: Okay.

5 THE COURT: I'm going to ask you a question that
6 you heard yesterday. 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 MS. RILEY: No.

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

12 MS. RILEY: Yes.

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. RILEY: 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. RILEY: Yes.

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

23 MS. RILEY: No.

24 THE COURT: Have you read, viewed or listened
25 to any news accounts or news reports on the subject

1 of this case?

2 MS. RILEY: No, I never heard of it.

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 was white prevent you, in any way whatsoever,
6 from rendering a fair and impartial verdict in this case?

7 MS. RILEY: No.

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

12 MS. RILEY: Yes.

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

19 MS. RILEY: Yes.

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

22 MS. RILEY: Yes.

23 THE COURT: And there's one there for your review
24 if you need it.

25 MS. RILEY: Okay.

1 THE COURT: I wonder if you can tell me which
2 of the three categories or the types of jurors that you
3 might fall into?

4 MS. RILEY: 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 MS. RILEY: No.

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 MS. RILEY: Yes.

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

20 MS. RILEY: No.

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

24 MS. RILEY: Yes.

25 MS. RILEY: Notwithstanding your opposition

1 to capital punishment, are you willing to consider all
2 of the penalties provided by the law of this state, including
3 the death penalty, and then determine whether the defendant
4 should receive the death penalty or life imprisonment based
5 upon the facts and circumstances developed during the trial?

6 MS. RILEY: Yes.

7 THE COURT: Will your opposition to the death
8 penalty for murder prevent you from voting for the death
9 penalty under any circumstances?

10 MS. RILEY: Yes.

11 THE COURT: Are your beliefs and attitudes against
12 capital punishment or the death penalty such that you
13 would be unable to return a verdict of guilty of murder
14 according to the law of this state?

15 MS. RILEY: Would you repeat that?

16 THE COURT: Are your beliefs and attitudes against
17 capital punishment or the death penalty such that you would
18 be unable to return a verdict of guilty for murder
19 according to the law of this state?

20 MS. RILEY: No.

21 THE COURT: Would you automatically vote against
22 the imposition of capital punishment without regard to
23 the evidence that might be developed during the trial of
24 a capital murder case?

25 MS. RILEY: No.

1 THE COURT: Would your opposition to capital
2 punishment prevent you from making a impartial decision
3 as to the defendant's guilt?

4 MS. RILEY: No.

5 THE COURT: All right. I'm going to ask you
6 one last question. If you were selected on this case,
7 and I tell you or I am telling you at this time, you would
8 have to be sequestered or separated with the jury and remain
9 in a motel during the length of this trial. Does that pose
10 any undue hardship for you?

11 MS. RILEY: Well, no, I have kids but my mom
12 is there.

13 THE COURT: Okay. I'm going to ask you at this
14 time to answer any questions counsel may have for you,
15 beginning with the Solicitor.

16 SOLICITOR: Thank you, Your Honor.

17
18 EXAMINATION BY THE SOLICITOR:

19 Q. Ms. Riley, I'm Walter Bailey and I want to ask
20 you a few more questions and there are no right or wrong
21 answers, we are not trying to test you. Whatever answers
22 you give us is the right answer as long as that's how you
23 really believe, okay?

24 A. Okay.

25 Q. And if I say something and you don't understand

1 my question, please ask me to repeat it and I'll be happy
2 to do that.

3 A. Okay.

4 Q. What I want to do is talk to you a little bit
5 about the death penalty and just kind of forgetting this
6 case, can you tell us in your own words what you think
7 about the death penalty.

8 A. Uhm --- well, I'm not for or against it but,
9 I mean, I would have to really hear something to persuade
10 me to give someone the death penalty.

11 Q. Okay. Have you ever thought about the death
12 penalty before yesterday when you found out what kind of
13 case this is?

14 A. I mean, I've heard of it but never ---

15 Q. Never really gave it any real thought?

16 A. That's right.

17 Q. Okay. I want to make sure you understand the
18 process we would be going through here. We start off with
19 the guilt phase which is like any other trial, any other
20 criminal trial, where the State has the burden of proving
21 somebody guilty beyond a reasonable doubt. If the State
22 can prove that person guilty of murder beyond a reasonable
23 doubt, then we go into the second phase of the trial which
24 is the penalty phase. The jury decides what the punishment
25 is, not the Judge. All that Judge does, in this case,

1 would be whatever the jury's verdict is, he would order
2 it to happen and it would happen.

3 If the jury votes for life, the Judge orders
4 a life sentence and that person serves life without parole.
5 If the jury's verdict is the death penalty, then that person
6 is actually going to be executed. A juror is never required
7 to vote for the death penalty.

8 If you got picked as a juror and you found the
9 defendant guilty of murder in the first part of the trial
10 and you got into the second phase of the trial, you have
11 those two options, life without parole and the death penalty,
12 would you always vote for life without parole?

13 A. I can't say always, I mean, it would be dealing
14 with, you know, what's behind the case, the circumstances.

15 Q. Okay. Let me ask you about some of the answers
16 you gave to the Judge's questions. At one point, one of
17 the first answers you gave him was when he asked you whether
18 or not you could vote for the death penalty and you said
19 that you could not. Do you recall that question and that
20 answer?

21 A. Yeah, but --- yeah, I recall it.

22 Q. Okay. Are you saying now that you can vote for
23 the death penalty?

24 A. I'm just saying that that's kind of like a hard
25 question, I mean.

1 Q. Right. And I want you to understand, I'm not
2 trying to ask you what you would do in this case, you don't
3 know anything about this case.

4 A. No, I don't.

5 Q. You haven't read the newspaper or heard anything
6 on TV, radio or anything.

7 A. Right.

8 Q. So I'm not asking you what you would do in this
9 case. What we're trying to find out is whether or not you
10 could vote for the death penalty, knowing that as a result
11 of that vote, a person is actually going to be executed
12 by lethal injection. If you can do it, you need to tell
13 us now but if in all honesty you can't do, you need to
14 tell us now because once we pick a jury it's too late to
15 find out how you are thinking.

16 A. I think that this is something I would have to
17 hear. I'm kind of --- that's kind of strong, you're giving
18 someone to die, say he's going to die. And I would have
19 to be presented something very strong to tell me that that
20 person is going to die.

21 Q. All right. And at another point when the Judge
22 was asking you about the death penalty, you said that your
23 opposition to the death penalty would prevent you from
24 voting for the death penalty under any circumstances. Do
25 you recall saying that to the Judge?

1 A. Yeah, but you know, all these questions sound
2 sort of similar.

3 Q. Okay. All right, if the jury votes for the death
4 penalty, all twelve of them vote for it, then each juror
5 is asked to sign their name to a death verdict form that's
6 going to result in that person being executed by lethal
7 injection. Could you ever sign your name to a paper like
8 that?

9 A. I mean, if I go along with the other jurors,
10 I mean, I would have to sign my name. But ---

11 Q. You kind of trailed off there at the end, I'm
12 sorry.

13 A. Yeah, I would say that's kind of strong, to sign
14 my name, to ask someone to die.

15 Q. Well, could you do that, in all honesty?

16 A. I probably could but ---

17 Q. Okay, when you say you probably could. Again,
18 I'm not asking you to predict what you would do in this
19 case. But my question is, if you voted for the death penalty,
20 could you then sign your name to a death verdict form that's
21 going to result in somebody actually being executed?

22 A. Yes.

23 Q. Okay. There's a process called polling the jury
24 where if the jury votes for the death penalty, they come
25 out here and they sit in these chairs right here and

1 the verdict is announced and each juror's name would be
2 called up one at a time and you would be asked to say that's
3 your verdict, it's still your verdict. Could you say that
4 out loud if you had voted for the death penalty?

5 A. Yes.

6 Q. Okay. Let me ask you about something the Judge
7 told you about. That once this trial gets started the
8 jury is going to be put in a hotel, motel. And I think
9 you're a single parent?

10 A. Yes.

11 Q. Is that correct? And your youngest child is
12 four years old?

13 A. Uh-huh.

14 Q. Okay. And you have two other children?

15 A. Right.

16 Q. That are a little bit older.

17 A. Uh-huh, 11 and 7.

18 Q. And one's 11 and one's 7.

19 A. Yes.

20 Q. Would being in a motel for roughly a week where
21 you didn't see your children for that long, would that
22 cause you any problems? Would you be thinking about the
23 kids instead of the case?

24 A. Yeah, I would be thinking about my kids, to be
25 honest, yeah.

1 Q. Do you think that would distract you from being
2 able to follow the trial and pay attention to what was
3 going on in court, in other words, would you be sitting
4 here thinking about your children instead of the testimony?

5 A. I don't think it would be a distraction but as
6 a mother, I mean, that's normal to think about my kids.

7 Q. Okay.

8 A. My mom is there and she would take care of them.

9 Q. All right. And are any of the children sick or
10 anything like that?

11 A. No.

12 Q. Any special problems with them?

13 A. No.

14 Q. I notice that you attend a nondemonination church
15 here, Edifying Love Ministries.

16 A. Uh-huh.

17 Q. Where is that located?

18 A. St. George.

19 Q. St. George?

20 A. Uh-huh.

21 Q. Do you know if that church has any position on
22 the death penalty?

23 A. No.

24 Q. Do you have any religious beliefs about the death
25 penalty one way or the other?

1 A. No.

2 Q. And I apologize for going on so long but ---

3 A. That's okay.

4 Q. --- you understand that this is the only chance
5 we get to talk to the jurors.

6 A. Uh-huh.

7 Q. I'm going to ask you just to look at that list
8 one more time, number one, two and three type jurors. Number
9 one that would always vote for the death penalty, number
10 two, would never vote for the death penalty, and number
11 three, that might vote for it and might not, depending
12 on what the evidence and the law was. Where do you put
13 yourself in there, in all honesty?

14 A. I still say number three.

15 SOLICITOR: Thank you, that's all I have.

16 THE COURT: Mr. Sims.

17 MR. SIMS: We have no questions, Your Honor.

18 THE COURT: Ms. Riley, first of all, I'm going
19 to find you qualified for jury service in this case and
20 I need for you to check in with Madam Clerk over here and
21 we need a telephone number that we can reach you on a
22 moment's notice. In other words, we're going to need you
23 to live by that telephone. If you do not get a call from
24 us updating you on this situation, please check in with
25 us about 9 in the morning, okay.

1 MS. RILEY: Okay.

2 THE COURT: Now, I need to instruct you, do not
3 discuss this case with anyone. Do not read or watch any
4 news accounts until this case is over with, okay.

5 MS. RILEY: Okay.

6 THE COURT: All right, we will be in touch with
7 you to let you know when you need to be back. You are
8 excused at this time.

9 All right, Agent Edwards tells me that the next
10 one on the list, Littles, is not here yet. Coffey would
11 be the next one. Do you want to go out of order?

12 SOLICITOR: That's fine.

13 MR. SIMS: Yes, sir, that's fine.

14 THE COURT: all right.

15 SOLICITOR: Judge, as they qualify, they are
16 going to go in the same order they were in initially or
17 are you going to move them up?

18 THE COURT: Let's keep them in the same order
19 but we are just taking them out of order for purposes of
20 here but keep them in the same order, does that suit?

21 SOLICITOR: Yes, sir.

22 MR. SIMS: Yes, sir.

23 THE COURT: I believe that would be the best
24 way to do it. All right, bring in Ms. Coffey.

25 (WHEREUPON, Juror #353, Geraldine Coffey (WF)

1 entered the courtroom and took the witness chair.)

2 THE COURT: Ms. Coffey, how are you today?

3 MS. COFFEY: Fine, thank you.

4 THE COURT: If you will just relax and make your-
5 self comfortable, we've got some questions for you. First
6 of all, I need to remind you that you are still under oath
7 from yesterday.

8 MS. COFFEY: Okay.

9 THE COURT: I'm going to ask you a question that's
10 already been asked. 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 MS. COFFEY: No.

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

16 MS. COFFEY: Yes.

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

20 MS. COFFEY: Could you repeat that/

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 not guilty?

24 MS. COFFEY: No.

25 THE COURT: Let me repeat that again. Could you,

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

3 MS. COFFEY: Yes.

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. COFFEY: Yes.

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

10 MS. COFFEY: No.

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

14 MS. COFFEY: No.

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

19 MS. COFFEY: No.

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 MS. COFFEY: Yes.

25 THE COURT: I'm going to ask you certain questions

1 at this time relative to your views on the death penalty.
2 There are no right or wrong answers. I emphasize that
3 the mere fact that we're talking about penalty does not
4 indicate anything about this defendant. He is presumed
5 innocent, do you understand that?

6 MS. COFFEY: Yes.

7 THE COURT: A few minutes ago you were given
8 a letter by Madam Bailiff. Have you had a chance to read
9 that letter?

10 MS. COFFEY: Yes.

11 THE COURT: I think there's one right there in
12 case you need to refer back to it. I wonder if you could
13 tell me which of these three categories or types of jurors
14 that you might fall into?

15 MS. COFFEY: Three.

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

20 MS. COFFEY: Yes.

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

25 MS. COFFEY: Yes.

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

6 MS. COFFEY: Somewhat.

7 THE COURT: Would you like to explain, please,
8 how it would be?

9 MS. COFFEY: Yes. My husband and I are involved
10 in several businesses and I have two children, school age
11 children, and the oldest one would be okay but the youngest
12 one is 7 and I would have to find someone to care for her
13 because I have no relatives in this state.

14 THE COURT: All right, I'm going to tell you
15 like I did another juror. This case would most likely
16 last approximately a week, very seldom do we have cases
17 that go two weeks.

18 MS. COFFEY: I could handle that.

19 THE COURT: Could you and your husband work that
20 out?

21 MS. COFFEY: Yes.

22 THE COURT: All right. At this time I'm going
23 to ask you if you would answer any questions counsel may
24 have for you, beginning with the Solicitor.

25 SOLICITOR: Thank you, Your Honor.

1 EXAMINATION BY THE SOLICITOR:N

2 Q. Mrs. Coffey, I'm Walter Bailey and I want to
3 ask you a few more questions and I will try not to repeat
4 too much what the Judge said but, again, there are no right
5 or wrong answers.

6 A. Okay.

7 Q. This is potentially a two-part process. We would
8 start off with the guilt phase which is like a regular
9 criminal trial, where the State has the burden of proving
10 the defendant guilty beyond a reasonable doubt. If the
11 State can't do, if we are unable to prove to the jury's
12 satisfaction that the defendant is guilty, that's the end
13 of it. But if we do prove that he's guilty of murder
14 beyond a reasonable doubt, we go into the second phase
15 and that's an opportunity for the jury to hear additional
16 evidence and additional instructions from the Judge and
17 then the jury decides the punishment, the Judge doesn't
18 make that decision. He just orders that jury's verdict
19 to happen. If the jury votes, after hearing all of the
20 evidence, for life, the Judge would sentence that defendant
21 to life without parole and he would serve life without
22 parole. If the verdict was for the death penalty, the
23 Judge would order that and it would happen, this defendant
24 would be executed by lethal injection, based on that jury's
25 verdict.

1 You don't know anything about this case and I'm
2 not going to ask you to predict what you would do if you
3 were a juror. But just in general, if the case is bad enough,
4 could you vote for the death penalty knowing that person
5 actually would be executed?

6 A. Yes.

7 Q. And on the other hand, if you felt like the case
8 was a case that warranted a life imprisonment without parole
9 sentence, you could vote for that also?

10 A Yes.

11 Q. If all twelve jurors vote for the death penalty,
12 they are then asked to sign their names to a death verdict
13 form that's going to result in that person being executed.
14 Do you sign a paper like that knowing that it would result
15 in the execution taking place if you had already voted
16 for the death penalty?

17 A. Yes.

18 Q. Could you announce that that was your verdict
19 if it was your verdict for the death penalty? There's
20 a process called polling of the jury where each juror is
21 asked to stand up and announce their decision, could you
22 do that?

23 A. Yes.

24 Q. And you indicated to the Judge that being put
25 up in a motel for about a week or so is not something

1 anybody wants to do but something you could handle, is
2 that right?

3 A. Right, uh-huh, yes.

4 SOLICITOR: Thank you very much, that's all I
5 have.

6 THE COURT: Mr. Sims.

7
8 EXAMINATION BY MR. SIMS:

9 Q. Mrs. Coffey, you said that you would be in the
10 third category, is that correct?

11 A. Yes.

12 Q. That's a juror who would listen to the evidence
13 and make her decision based upon the evidence that she
14 heard in the court or that you would hear in the court,
15 is that correct?

16 A. Right.

17 Q. By the same token, if you did listen to the case
18 and the evidence did not rise to what you consider to be
19 your level for voting for the death penalty, you would,
20 at that time, also vote for a life sentence, is that correct?

21 A. Uh-huh.

22 Q. Okay. Have you ever, prior to being involved
23 in this court, thought about the death penalty?

24 A. From time to time, yes.

25 Q. From time to time?

1 A. Uh-huh. Like seeing a movie or hearing about
2 it on TV or something like that.

3 Q. So seeing a movie and hearing about it on tele-
4 vision?

5 A. Yes.

6 Q. And you thought about it in what context?

7 A. About how, you know, they arrive at making that
8 decision and that kind of thing and how it would be and
9 the feelings that would occur.

10 Q. Uh-huh.

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

12 THE COURT: Mrs. Coffey, at this time I find
13 you qualified for further jury service. I want to ask
14 you if you would to step down and make sure we have a phone
15 number we can reach you on a moment's notice. We are going
16 to need you to camp out beside the phone so we can call
17 you if necessary. If you have not heard anything from
18 us, we're going to ask you to call back around 9 in the
19 morning just to double check, okay.

20 Now, do not discuss this case with anyone. Do
21 not read or listen to any --- or watch any news casts or
22 news print concerning this case until after it is over,
23 okay.

24 MS. COFFEY: Okay.

25 THE COURT: If you will check in over here, you're

1 free to go on home and just stand by the telephone, please.

2 All right, Mr. Littles has arrived so bring him
3 in.

4 (WHEREUPON, Juror #357, Jessroe Littles (BM)
5 entered the courtroom and took the witness chair.)

6 THE COURT: Good afternoon, Mr. Littles. How
7 are you this afternoon?

8 MR. LITTLES: All right.

9 THE COURT: If you will just relax and make yourself
10 comfortable in that chair, we just have some questions
11 we need to ask you at this time. Since we are going to
12 be asking you questions I need to remind you that you are
13 still under oath from yesterday. I'm going to ask you
14 a question I've already asked. Do you know of any reason
15 whatsoever why you cannot give both the State and the
16 defendant a fair and impartial trial?

17 MR. LITTLES: No, sir.

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

20 MR. LITTLES: Yes, sir.

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

24 MR. LITTLES: Yes, sir.

25 THE COURT: Could you, depending on the facts

1 and evidence and the law as I would instruct you, find
2 a defendant guilty?

3 MR. LITTLES: Yes, sir.

4 THE COURT: Have you discussed this case with
5 anyone?

6 MR. LITTLES: No, sir.

7 THE COURT: Have you read, viewed or listened
8 to any news accounts or news reports on the subject of
9 this case/

10 MR. LITTLES: No, sir.

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

15 MR. LITTLES: No, sir.

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

20 MR. LITTLES: Yes, sir.

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

1 innocent, do you understand that?

2 MR. LITTLES: Yes, sir.

3 THE COURT: A few minutes ago you were given
4 a letter which I believe there's a copy of it right there.
5 I wonder if you can tell me which of the three categories
6 or the types of jurors there that you might fall into?

7 MR. LITTLES: I think the third one.

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

12 MR. LITTLES: 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. LITTLES: Yes, sir.

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

23 MR. LITTLES: No, sir.

24 THE COURT: Thank you very much. Answer any questions
25 counsel may have for you, beginning with the Solicitor.

1 SOLICITOR: Thank you, Your Honor.

2

3 EXAMINATION BY THE SOLICITOR:

4 Q. Mr. Littles, I'm Walter Bailey and I want to
5 ask you a few more questions and like the Judge said, there's
6 no right or wrong answers.

7 A. Okay.

8 Q. Is the death penalty something you've ever thought
9 about before yesterday when you found out you might be
10 on this jury?

11 A. No, sir.

12 Q. Do you think you've had enough time to read over
13 those three types of jurors to put yourself in that third
14 category?

15 A. Yeah.

16 Q. Okay. And do you understand that we wouldn't
17 even be getting to the penalty issue unless the defendant
18 is found guilty of murder beyond a reasonable doubt in
19 the first part of the trial.

20 A. right.

21 Q. If he's convicted in the first part, then we
22 move to part two, the penalty phase and the jury hears
23 additional evidence and additional instructions on the
24 law from the Judge and then the jury decides what the
25 punishment is, not the Judge. All the Judge does, he orders

1 that jury verdict to happen. So if the jury votes and their
2 verdict is for life, the jury orders that person sent to
3 prison for life and it's life without parole. If the jury
4 votes for the death penalty, the Judge would order that
5 and that person actually would be executed. So that's the
6 process, the jury makes that decision.

7 You don't know anything about this case at all,
8 do you?

9 A. No, sir.

10 Q. So I'm not going to ask you to predict what you
11 would do if you got picked as a juror but if the case was
12 bad enough, could you vote for the death penalty knowing
13 that that person is actually going to get executed?

14 A. Uhm --- I don't think so.

15 Q. Okay. All right, and bearing that in mind and
16 looking back at that letter of the three types of jurors,
17 the first type juror would always vote for the death penalty
18 if a person is convicted of murder. That's not you, is
19 it?

20 A. No, sir.

21 Q. The second type juror doesn't believe in the
22 death penalty and even if you had a real bad case, he
23 wouldn't vote for the death penalty, if he had the choice
24 of life without parole. Is that you?

25 A. No.

1 Q. Okay. The third type of juror can vote for the
2 death penalty or they can vote for life imprisonment without
3 parole, depending on the facts and circumstances. You
4 said earlier that's where you were, is that right?

5 A. Yes.

6 Q. But you also told me that you didn't think you
7 could vote for the death penalty so I'm having some problems
8 there, so help me out.

9 A. Well, I believe if he's truly guilty, I believe
10 I can vote the death penalty.

11 Q. I'm sorry?

12 A. If he's truly guilty, if I find him guilty, I
13 believe I can vote for the death penalty and lethal
14 injection, too.

15 Q. Okay. Now you understand that when we talk about
16 guilt, that's what would come up in the first part of the
17 trial.

18 A. Uh-huh.

19 Q. We wouldn't even get to the question of the punish-
20 ment unless he's already found guilty of murder with
21 malice aforethought beyond a reasonable doubt. In other
22 words, guilt is the first part, punishment is the second
23 part if he's convicted.

24 A. right.

25 Q. And, again, and like I said, there are no right

1 or wrong answers.

2 A. Okay.

3 Q. Just tell us how you honestly feel. In all honesty,
4 if the case was bad enough ---

5 MR. SIMS: Your Honor, he's answered that and
6 then the Solicitor is going back again asking him basically
7 the same question and asking him in terms of veracity and
8 I've allowed that to go on but I think that that's kind
9 of redundant and it places an undue pressure on the juror
10 when they are trying to answer the question they've already
11 answered and it puts another element into the same question.

12 THE COURT: If you could move on to your next
13 one about the writing.

14 SOLICITOR: All right.

15 Q. Well, if the jury hears all of that evidence
16 and unanimously, all twelve of them, vote for the death
17 penalty, the next thing that happens is that each juror
18 is asked to sign their name to a death verdict form. Could
19 you sign your name to a paper like that knowing it would
20 result in somebody being executed?

21 A. Yes.

22 Q. And if you voted for the death penalty, you signed
23 the paper, could you come out into open court and stand
24 up by yourself when your name is called out and say that's
25 your verdict and it is still your verdict?

1 A. Yes.

2 Q. Okay. Do you have any religious beliefs about
3 the death penalty that you think might influence your decision
4 in a case like this?

5 A. No.

6 SOLICITOR: Mr. Littles, I think that's all I've
7 got right now, thank you very much.

8 THE COURT: Mr. Sims.

9 MR. SIMS: No questions, Your Honor.

10 THE COURT: Mr. Littles, at this time I'm going
11 to find you qualified for further jury service in this
12 case. I'm going to ask you before you leave to check in
13 with Madam Clerk and make sure we have a phone number that
14 we can reach you on a moment's notice, okay. We will need
15 you to stand by the phone subject to being called back
16 on this case, okay.

17 MR. LITTLES: Okay.

18 THE COURT: Please do not discuss this case with
19 anyone. Do not read any newspaper articles or watch or
20 listen to any news accounts until this trial is over. If
21 you do not hear from us by 9 in the morning, please call
22 in and double check so we can make sure we're not having
23 a breakdown in communications. Thank you very much, you
24 are excused at this time.

25 All right, bring in the next juror.

1 SOLICITOR: Your Honor, before we bring in the
2 next one I would just kind of concerned about the objection
3 Mr. Sims made. I think the objection may have been well
4 taken but it puts me in a position of kinda trying to ask
5 some probing questions because this potential juror was
6 kinda all over the board as far as whether he could do
7 it or couldn't do it. I was trying to explore that and
8 the way the objection was made and the length of the
9 objection, it would kinda, I think, endear the juror to
10 Mr. Sims there, at my expense and I may have to end up
11 accepting this juror. And it was kinda like Mr. Sims was
12 coming to his rescue there and if we could approach the
13 Bench in the future if we're going to get into any extended
14 objection.

15 THE COURT: That's fine.

16 MR. SIMS: That's fine with me.

17 SOLICITOR: Thank you.

18 THE COURT: All right, let's bring in the next
19 one.

20 (WHEREUPON, Juror #314, Dyna Wactor, (WF) entered
21 the courtroom and took the witness chair.)

22 THE COURT: How are you this afternoon?

23 MS. WACTOR: Fine.

24 THE COURT: I'm going to ask you to relax and
25 make yourself comfortable there because we've got some

1 questions we need to ask you, okay.

2 MS. WACTOR: Okay.

3 THE COURT: I'm going to remind you that you
4 are still under oath from yesterday, okay?

5 MS. WACTOR: Okay.

6 THE COURT: I'm going to ask you a question I've
7 already asked one time. Do you know of any reason whatsoever
8 why you cannot give both the State and the defendant a
9 fair and impartial trial?

10 MS. WACTOR: No, sir.

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

13 MS. WACTOR: 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 not guilty?

17 MS. WACTOR: If that's what I determined, yes,
18 sir.

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

22 MS. WACTOR: Yes, sir.

23 MS. WACTOR: Have you discussed this case with
24 anyone?

25 MS. WACTOR: No, sir.

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

4 MS. WACTOR: No, sir.

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

9 MS. WACTOR: 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 give to
13 you by the Court?

14 MS. WACTOR: 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're talking about penalty does not
19 indicate anything about this defendant. He is presumed
20 innocent and I ask you, do you understand that?

21 MS. WACTOR: I do.

22 THE COURT: You were given a letter a few minutes
23 ago and asked to read it.

24 MS. WACTOR: Uh-huh.

25 THE COURT: Did you complete that?

1 MS. WACTOR: Yes, sir.

2 THE COURT: There is one for you to review should
3 you need to right there beside you. I wonder if you could
4 tell me which of the three categories or types that you
5 might fall into?

6 MS. WACTOR: The third type.

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

11 MS. WACTOR: Yes, sir.

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

16 MS. WACTOR: Yes, sir.

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

22 MS. WACTOR: Not undue hardship, no.

23 THE COURT: Okay, very seldom in South Carolina
24 do cases go over two weeks and in discussing it with counsel,
25 our best guessestimate would be about a week, okay,

1 if that eases your mind. Is there any hardship that you
2 need to let us know about at this time?

3 MS. WACTOR: No, sir.

4 THE COURT: All right, at this time I'm going
5 to ask you to answer any questions counsel may have for
6 you, beginning with the Solicitor.

7 SOLICITOR: Thank you, Your Honor.

8
9 EXAMINATION BY THE SOLICITOR:

10 Q. Mrs. Wactor, I'm Walter Bailey and I want to
11 ask you a few more questions about the death penalty. Is
12 the death penalty something you've ever thought about before
13 yesterday when you found out that you could be a juror
14 on this kind of case?

15 A. Uhm --- yesterday was the first time I ever thought
16 about it at length.

17 Q. All right, and do you think you've had enough
18 time to review that form of the three kind of jurors?

19 A. Yes, sir.

20 Q. And you are pretty well in the number three category?

21 A. Uh-huh.

22 Q. And you understand, we wouldn't even be getting
23 to that point until or unless or until the defendant is
24 found guilty of murder beyond a reasonable doubt in the
25 first part of the trial.

1 A. Yes, sir.

2 Q. If that happens we go into the second phase,
3 the jury hears additional evidence that didn't come out
4 earlier and additional instructions from the Judge on what
5 the law is that applies to the sentence. Then the jury
6 makes the decision on punishment, not the Judge. If the
7 jury, after hearing all of that evidence, votes for life,
8 the Judge would order a life sentence and he would serve
9 life without parole. On the other hand, if the verdict
10 is for the death penalty, the Judge would order that person
11 to be executed and he would be executed based on that
12 jury's verdict.

13 A. Yes, sir.

14 Q. So that's the process. I'm not going to ask
15 you to predict what you would do in this case because you
16 haven't heard the facts, you haven't heard the law. But
17 if the case was bad enough, could you vote for the death
18 penalty, knowing that as a result of that vote, that person
19 actually would be executed?

20 A. Yes, sir.

21 Q. If all twelve jurors voted for the death penalty,
22 there's a form that each one of them is asked to sign,
23 a death verdict form that would result in that execution.
24 Now could you sign your name to a paper like that if that
25 was your verdict?

1 A. Yes, sir.

2 Q. Could you stand up in open court and announce
3 out loud that that was your verdict when your name was
4 called out?

5 A. Yes, sir.

6 SOLICITOR: Mrs. Wactor, I think that's all I've
7 got right now, thank you very much.

8 THE COURT: Mr. Sims.

9
10 EXAMINATION BY MR. SIMS:

11 Q. Mrs. Wactor, I just have one question for you.
12 If, after hearing all of the testimony in a case, not this
13 case but in any case, if you determined that the evidence
14 did not warrant the death penalty, would you have any problems
15 in voting for a life sentence?

16 A. No, sir.

17 MR. SIMS: That's all I have, thank you.

18 THE COURT: Correct me if I'm wrong, now. Do
19 you pronounce your name Wactor or Wactor?

20 MS. WACTOR: Wactor.

21 THE COURT: Mrs. Wactor, at this time --- well,
22 let me say this. I find that you are qualified for jury
23 service on this case. I need for you to step down and
24 make sure we have a telephone number that we can reach
25 you on a moment's notice. We are going to need you to

1 stand by the phone until we can give a time to come back
2 in. If you haven't heard from us, double check back in
3 with us about 9 in the morning, okay?

4 MS. WACTOR: Okay.

5 THE COURT: Now, do not discuss this case with
6 anyone. Do not read any newspaper accounts or watch or
7 listen to any news reports until this case is over.

8 MS. WACTOR: Okay.

9 THE COURT: Thank you very much, you are excused.
10 All right, bring in Ms. Salley.

11
12 (WHEREUPON, Juror #255, Patricia Salley(BF)
13 entered the courtroom and took the witness chair.)

14 THE COURT: Good afternoon, Ms. Salley.

15 MS. SALLEY: Hello.

16 THE COURT: How are you?

17 MS. SALLEY: Fine.

18 THE COURT: Good. If you will just relax and
19 make your comfortable there. We've got a few questions
20 we need to ask you and for us to do that, I need to remind
21 you that you are still under oath from yesterday and
22 answer my questions truthfully, okay?

23 MS. SALLEY: Okay.

24 THE COURT: I'm going to ask you one that you've
25 already heard. 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. SALLEY: No, sir.

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

6 MS. SALLEY: 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 MS. SALLEY: Repeat that again.

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

14 MS. SALLEY: Yes, sir.

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

18 MS. SALLEY: Yes, sir.

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

21 MS. SALLEY: No, sir.

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. SALLEY: No, sir.

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

5 MS. SALLEY: 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. SALLEY: 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're talking about penalty does not
15 indicate anything about this defendant. He is presumed
16 innocent, do you understand that?

17 MS. SALLEY: Yes, sir.

18 THE COURT: You were given a letter a few minutes
19 ago.

20 MS. SALLEY: Yes, sir.

21 THE COURT: Which there's a copy, I think, to
22 your right right there.

23 MS. SALLEY: Uh-huh.

24 THE COURT: Have you had a chance to read it?

25 MS. SALLEY: Yes, sir.

1 THE COURT: I wonder if you could tell me which
2 of the three categories or the type of juror that you may
3 fall into?

4 MS. SALLEY: The second.

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 MS. SALLEY: No, sir.

10 THE COURT: Can you, as a juror, 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 MS. SALLEY: Yes, sir.

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

20 MS. SALLEY: Yes, sir.

21 THE COURT: Can your opposition to capital punishment
22 or the death penalty for murder be changed by the evidence
23 presented during the trial?

24 MS. SALLEY: No, sir.

25 THE COURT: Notwithstanding your opposition to

1 capital punishment, are you willing to consider all of
2 the penalties provided by the law of the state, including
3 the death penalty, and then determine whether the defendant
4 should receive the death penalty or life imprisonment based
5 upon the facts and circumstances developed during the trial?

6 MS. SALLEY: That's such a long question. Repeat
7 it, that question is so long. I think my answer is no,
8 though.

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 the 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. SALLEY: No, 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. SALLEY: Repeat that question again.

20 THE COURT: Will your opposition to the death
21 penalty for murder prevent you from voting for the death
22 penalty under any circumstances?

23 MS. SALLEY: Yes, sir.

24 THE COURT: Do ya'll want me to go any further
25 into the inquiry?

1 SOLICITOR: No, sir.

2 MR. SIMS: No, sir.

3 THE COURT: Ms. Salley, at this time I want to
4 thank you for your time and especially your patience
5 yesterday. I know it was quite a long day yesterday. I'm
6 going to excuse you from the trial of this case at this
7 time and you may return home or to your work.

8 All right, Ms. Dukes is next.

9 (WHEREUPON, Juror #66, Deborah Dukes (WF) entered
10 the courtroom and took the witness chair.)

11 THE COURT: Ms. Dukes, if you would, just relax
12 and make your comfortable there. We've got a few questions
13 we need to ask you at this time, if my voice holds up,
14 I'm about to lose it. And in order for me to do so, I
15 need to remind you that you're still under oath. I'm going
16 to ask you a question that has already been asked. Do
17 you know of any reason whatsoever why you cannot give both
18 the State and the defendant a fair and impartial trial?

19 MS. DUKES: I taught Louis in school.

20 THE COURT: All right, would you, under oath,
21 follow the law in this case as given to you by me?

22 MS. DUKES: I feel that I could.

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. DUKES: Would you repeat that, please?

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

5 MS. DUKES: Yes.

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 MS. DUKES: Yes, sir.

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

12 MS. DUKES: In the recent days?

13 THE COURT: Any time.

14 MS. DUKES: When it was newsworthy, when it came
15 out in the paper.

16 THE COURT: Can you give me the nature and extent
17 of such discussion and with whom?

18 MS. DUKES: With my husband and in that I knew
19 Norris and Louis.

20 THE COURT: As a result of this discussion, have
21 you formed an opinion as to the guilt or innocence of the
22 defendant?

23 MS. DUKES: Repeat that again.

24 THE COURT: As a result of this discussion, have
25 you formed an opinion as to the guilt or innocence of the

1 defendant?

2 MS. DUKES: No, sir, not as a result of that
3 discussion.

4 THE COURT: Will this discussion prevent you
5 from rendering a fair and impartial verdict in this case?

6 MS. DUKES: No, sir.

7 THE COURT: Notwithstanding the discussion you
8 have described, can you fairly and impartially render a
9 fair and just verdict in this case uninfluenced in any
10 way whatsoever by the discussion you have described?

11 MS. DUKES: Again.

12 THE COURT: Notwithstanding the discussion you
13 have described, can you fairly and impartially render a
14 fair and just verdict in this case uninfluenced in any
15 way whatsoever by the discussion you have described?

16 MS. DUKES: Yes.

17 THE COURT: Can you erase from your mind the
18 discussion you have described and render a fair and impartial
19 verdict based upon the law given to you by the Court and
20 the evidence presented during the trial, uninfluenced in
21 any way whatsoever by the discussion you have described?

22 MS. DUKES: I'm not sure that I could.

23 THE COURT: Let me repeat that to you. Can you
24 erase from your mind the discussion you have described
25 and render a fair and impartial verdict based upon the

1 law given to you by the Court and the evidence presented
2 during the trial, uninfluenced in any way whatsoever by
3 the discussion you have described?

4 MS. DUKES: I think that my prior knowledge would
5 influence my decision.

6 THE COURT: Can you erase from your mind the
7 discussion and that prior knowledge?

8 MS. DUKES: I don't know if I could. I don't
9 know if I could.

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 MS. DUKES: Yes, I have.

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

15 MS. DUKES: Times and Democrat reporting a crime,
16 television news coverage of a local crime.

17 THE COURT: What can you remember o recall about
18 these accounts?

19 MS. DUKES: That it happened in Branchville,
20 that brought, you know, that was of interest because it
21 was home town. I knew the ---Louis and Norris. I guess
22 that's all.

23 THE COURT: Will the news accounts which you
24 have read, viewed or listened to prevent you from rendering
25 a fair and impartial verdict in this case?

1 MS. DUKES: No.

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

7 MS. DUKES: I think I could.

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

12 MS. DUKES: Yes.

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

17 MS. DUKES: Yes.

18 THE COURT: Can you make your verdict based only
19 upon these two considerations, the law and the evidence?

20 MS. DUKES: That's where I would have trouble,
21 I think.

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

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MS. DUKES: No, sir.

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

MS. DUKES: I would try.

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

MS. DUKES: Yes, sir.

THE COURT: You were given a letter a few minutes ago and asked to read it.

MS. DUKES: Yes, sir.

THE COURT: Did you read it?

MS. DUKES: Yes, sir.

THE COURT: You have one immediately to your right to review if necessary. I wonder if you can tell me which of the three categories or the types of juror you might fall into?

MS. DUKES: The third type.

THE COURT: Can you, as a juror, participate in a jury verdict recommending the penalty of death by

1 lethal injection for murder if the evidence and the law
2 warrants such a verdict?

3 MS. DUKES: Yes.

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

7 MS. DUKES: Yes.

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

12 MS. DUKES: Nothing that I can't arrange, no,
13 sir.

14 THE COURT: All right. Answer any questions counsel
15 may have for you, please, with the Solicitor going first.

16 SOLICITOR: Thank you, Your Honor.
17
18

19 EXAMINATION BY THE SOLICITOR:

20 Q. Mrs. Dukes, I'm Walter Bailey and I want to ask
21 you a few more questions.

22 A. Yes, sir.

23 Q. And just kinda follow up on what the Judge asked
24 you.

25 A. I note from your questionnaire that you're a

- 1 guidance counselor at Branchville.
- 2 A. Yes, sir.
- 3 Q. Okay, and you have some familiarity with Norris
- 4 Martin and Louis Stokes?
- 5 A. Yes, sir.
- 6 Q. Could you tell us what your familiarity is?
- 7 A. At the time they were in school I was the music
- 8 teacher so I had them in music classes.
- 9 Q. Okay. You taught both of them?
- 10 A. Yes, sir.
- 11 Q. Have you maintained any contact with either Norris
- 12 Martin or Louis Stokes or their families since you had
- 13 them in music class?
- 14 A. No, sir, other than extended family members,
- 15 maybe cousins that are still are the school.
- 16 Q. Okay, all right. And were these just students
- 17 that you have?
- 18 A. Yes, sir.
- 19 Q. As far as your being a guidance counselor, did
- 20 you ever counsel with either one of them, Norris Martin
- 21 or Louis Stokes?
- 22 A. No, sir, at that time I was not a guidance counselor.
- 23 Q. All right. And I believe when the jurors were
- 24 asked yesterday whether or not there was any reason they
- 25 may not be able to be fair and impartial, I think that

1 you stood up at that point.

2 A. Yes.

3 Q. What was it that prompted you to stand?

4 A. Because I did know them.

5 Q. Okay, all right. Now, getting to the death penalty
6 questions. This is potentially a two-part process. We
7 would start out with the guilt phase where the issue would
8 be whether or not the State can prove the defendant guilty
9 of murder beyond a reasonable doubt. If we can't do that,
10 that's the end of the process as far as the jury is
11 concerned. But on the other hand, if the defendant is
12 proven guilty beyond a reasonable doubt, we go into the
13 penalty phase where the jury decides the punishment. The
14 two options are life without parole and the death penalty.

15 Looking at the first phase, the guilt phase.
16 Would the fact that Louis Stokes was a student of your
17 cause you any problems in being able to arrive at a decision
18 on guilt or innocence?

19 A. Personally I think I could do it but I wouldn't
20 want it to jeopardize the trial itself, knowing that I
21 know him. And if that was ever a question as to whether
22 I could impartial.

23 Q. In our own mind, regardless of what somebody
24 else may think about the fact that you knew him, in your
25 own mind, could you be impartial in the guilt phase?

1 A. Uh-huh, I believe I could.

2 Q. If we got into the penalty phase, meaning that
3 he's already convicted of murder in the first part of the
4 trial, the jury is making the decision, not the Judge,
5 death by lethal injection or life without parole. Would
6 the fact that you knew Louis Stokes when he was child,
7 do you think that would in any way enter into your deliberative
8 process on the penalty?

9 A. It would be hard to separate it.

10 Q. Would you feel uncomfortable sitting as a juror
11 in a death penalty, in this particular case, because of
12 the fact that you --- that he was a student of yours?

13 A. In this particular one, yes.

14 Q. do you think that your familiarity with Louis
15 Stokes and with some other members of the Stokes family
16 that may still be in the Branchville area, would that,
17 in your opinion, impair your ability to fairly consider
18 both punishments?

19 A. Again, I think I could separate that but I don't
20 know if it would --- I feel like I could but I wouldn't
21 want to have it be a hindrance, the fact that I did know
22 him, be a hindrance to the process.

23 Q. All right. Just forgetting this case right now,
24 just talking in general terms, if you are picked on a jury
25 in death penalty case and the case was bad enough, could

1 you vote for the death penalty, knowing that as a result
2 of that vote that defendant actually would be put to death
3 by lethal injection?

4 A. Yes, sir, I could.

5 Q. If the case was bad enough.

6 A. Yes, sir, I could.

7 Q. And on the other hand, if you felt like the facts
8 warranted a life sentence, could you vote for life without
9 parole?

10 A. Yes, sir, I could.

11 Q. If the jury votes for the death penalty, each
12 juror is asked to sign their name to a death verdict form
13 that would result in an execution taking place. Could
14 you sign your name to a paper like that if that was your
15 verdict?

16 A. Yes, sir.

17 Q. Could you also announce that decision out loud
18 when your name was called if that was your decision?

19 A. Yes, sir.

20 SOLICITOR: Mrs. Dukes, I think that's all I've
21 got right now, thank you very much.

22 THE COURT: Mr. Sims.

23
24 EXAMINATION BY MR. SIMS:

25 Q. Mrs. Dukes, on yesterday you indicated that

1 you could not give a , I believe a fair trial. You indicated
2 and you stood up when the Court asked you that. You indicated
3 that you could not give a fair trial based upon your
4 association and prior knowledge of Mr. Stokes, is that
5 correct?

6 A. Yes.

7 Q. And is that still your position today?

8 A. As I told Mr. Bailey, personally I feel like
9 I could separate it but I wouldn't want it to hinder the
10 process of the trial.

11 Q. I believe when you were asked initially by the
12 Court as it relates to any prior news articles, you said
13 that you had not read anything or not viewed anything on
14 television, is that correct?

15 A. No, I did.

16 Q. I'm sorry, that's why I'm asking you if you did.

17 A. I did stand up. I didn't initially and then
18 I thought because I had stood up before and I realized,
19 hey, I need to stand up for this, too, because I have read
20 the newspapers.

21 Q. Okay. And in reading the newspaper, did you formulate
22 any opinion about guilt or innocence at that time?

23 A. I guess no more than I would normally for any
24 article that I read.

25 Q. And after having read that, you did have a

1 discussion in your home regarding Louis Stokes and Norris
2 Martin, is that correct?

3 A. That's correct.

4 Q. And I believe the Court today asked you whether
5 or not you could separate that from your deliberations
6 that you may have in a case such as this.

7 A. Yes, he did ask me that.

8 Q. And I believe you said yes, but you had some
9 problems, I believe, because of your prior association
10 and you came back to that and you seemed to have some problems
11 because of your prior association, is that correct?

12 A. In that it would be a problem in the trial, that
13 it may create a problem in that I had -- I knew Norris
14 and Louis earlier.

15 Q. And you still think that that would be a problem?

16 A. It could be, I recognize that it could be.

17 Q. And you would have a problem because of your
18 prior association separating all of that and listening
19 to solely the evidence and your prior association would
20 come into play, is that correct?

21 A. I wouldn't have a problem separating it. The
22 question --- the thing that I'm saying is, it could be
23 questioned as to did she separate her prior knowledge.
24 I wouldn't want that fact that I knew them earlier to hinder
25 the process of the trial.

1 Q. But I'm still trying to understand exactly ---
2 you said you taught them music, how long ago has that been?

3 A. Uhm --- I guess ten, eleven, I'm not real sure
4 how many years.

5 Q. And you do live in Branchville or you still teach
6 in Branchville?

7 A. Yes, sir.

8 MR. SIMS: No further questions at this time,
9 Your Honor.

10 THE COURT: Mrs. Dukes, now that you have had
11 time to reflect on the questions I asked and both counsel
12 asked, I need a concise answer. If you were chosen to
13 serve on this jury, could you give both the State and the
14 defendant a fair and impartial trial?

15 MS. DUKES: I'm not sure I can give you a concise
16 answer because if I had to block out all knowledge of them
17 in teaching them, I don't know if I could do that.

18 THE COURT: Okay.

19 SOLICITOR: Your Honor, could I ask a question
20 to follow up on that?

21 THE COURT: Sure.

22

23 EXAMINATION BY THE SOLICITOR:

24 Q. Mrs. Dukes, would you --- I understand that you've
25 got things --- you've read some things, you've heard things,

1 you've, at one time known potentially one of the witnesses
2 and the defendant, ---

3 A. Right.

4 Q. --- that's in your mind and you can't just wipe
5 it out.

6 A. Right.

7 Q. Can you separate that, that knowledge that you
8 already have from whatever source, and make your decision
9 in the guilt phase of the trial strictly on the sworn
10 testimony that you hear and arrive at a just verdict in
11 your opinion?

12 A. (No response.)

13 Q. If my question didn't make any sense, I will
14 try it again.

15 A. I know what you're asking.

16 Q. Okay, I'm not asking if you can forget it because
17 it's in your mind ---

18 A. right.

19 Q. --- but can you kind of compartmentalize it,
20 put it aside and base your decision on the sworn testimony
21 and nothing else?

22 A. Right.

23 Q. You can do that?

24 A. I could do that, yes.

25 Q. Okay, in the penalty phase, could you also

1 do that if we reached the penalty phase?

2 A. Yes.

3 SOLICITOR: Thank you, that's all I have.

4 THE COURT: Mr. Sims, anything else?

5 MR. SIMS: No, sir, Your Honor, but I would like
6 to be heard.

7 THE COURT: Mr. Dukes, would you step outside
8 the door out there, and let me talk with the attorneys.

9 (WHEREUPON, Mrs. Dukes left the courtroom and
10 the following proceeded in her absence.)

11 THE COURT: All right.

12 MR. SIMS: Your Honor, I don't see any way that
13 she could be considered a fair and impartial juror. She
14 has tried to indicate that she might be able to separate
15 her knowledge but then she obviously comes back and says
16 what I know will color and basically what she was saying,
17 what I know about them and my prior association with them
18 is going to color what her decision is going to be and
19 not only her decision, if she gets on a jury that's the
20 opportunity to taint other members of the jury also. This
21 is a clear indication of a situation where a person who
22 has prior knowledge and on yesterday she got up and said
23 that she could not give a fair and impartial verdict. On
24 today, she said that she heard or she read it in the
25 newspaper, she talked about it with her husband. And she

1 has had extreme difficulty in all of the questions in terms
2 of trying to rehabilitate her and bring her to this question
3 as it relates to her being able to make a decision based
4 solely on the evidence that will be presented in this trial.
5 There's no way that I can conceive of that this lady would
6 ever be able to make a decision based solely on the
7 evidence in this trial. She is constantly, over and over
8 again, stated that to the Court and then she has tried
9 to be kinda rehabilitated to the point of saying I could
10 try but I would ask the Court to excuse her for cause.
11 It's a clear indication that any deliberation, not matter
12 how hard she tried, I think it's a legal fiction to ever
13 think that this lady is going to be in a position to make
14 a decision not colored by what she has known in her
15 association with one or both of the people who will be
16 involved in this trial. And we would ask that she be excused
17 for cause.

18 THE COURT: Any response, Solicitor?

19 SOLICITOR: Yes, sir. Your Honor, this witness
20 went to great lengths to advise the Court of her prior
21 relationship with Norris Martin and with Sammie Stokes.
22 She struck me as being a very conscientious person to bring
23 that to the Court's attention. It did concern her, she
24 didn't know how that would play out as far as how other
25 people would perceive it. But she clearly said that she

1 could base her decision on the facts and the evidence and
2 the law does not require somebody to come into court with
3 a complete void. And there are numerous cases where people
4 have read things about cases, have known the victims, have
5 known the defendant and have been qualified as jurors where
6 they could set that aside and base their decision on the
7 facts and that's what she said she could do.

8 And apparently Mr. Sims just doesn't believe
9 her when she says that. And if that's the case, then, of
10 course, he can strike her but I think based on her answers,
11 she's qualified.

12 MR. SIMS: Your Honor, I believe those cases
13 talk about it in the context of having some limited know-
14 ledge and I don't know what the voir dire was on those
15 jurors when they were going through jury qualification.
16 But for a witness or a potential juror to initially get
17 up and say she cannot give a fair trial and then even today
18 indicate that that's going to be a real problem for her,
19 to try to set that aside, we, as attorneys, and officers
20 of the Court have problems in certain things and for us
21 to deal with the legality or legal fiction saying that
22 she's going to set aside all of that baggage that she has
23 coming with her from Branchville and her relationship with
24 this child, with Mr. Stokes and Norris Martin, it just
25 isn't --- it is no only inconceivable but it does not

1 give him the opportunity to have a fair and impartial juror.

2 THE COURT: Before I make a decision on this,
3 do you need to talk to Mr. Stokes?

4 MR. SIMS: Yes, sir, I will.

5 (WHEREUPON, Mr. Sims and Mr. Johnson confer
6 with Mr. Stokes.)

7 MR. SIMS: Your Honor again, we've been talking
8 with our client and both have the same opinion.

9 THE COURT: Okay. Solicitor, I'm going to excuse
10 that juror. With a case such as this and a man's life is
11 on trial, she taught him over there in that small
12 community, I'm just not going to take a chance. Bring
13 her back in, please.

14 (WHEREUPON, Mrs. Dukes came back into the court
15 room.)

16 THE COURT: Mrs. Dukes, we want to thank you
17 for your patience, especially yesterday and with being
18 forthright with use. I'm going to excuse you from this
19 case. You may return home or to work at this time. Thank
20 you very much.

21 Next juror.

22 (WHEREUPON, Juror #163, Antoinette Jennings
23 (WF) entered the courtroom and took the witness chair.)

24 THE COURT: How are you this afternoon, Mrs.
25 Jennings?

1 MRS. JENNINGS: I'm fine.

2 THE COURT: If you will relax and make your comfort-
3 able, we have a few questions that we want to ask you and
4 because of that I need to remind you that you are still
5 under oath, okay.

6 MRS. JENNINGS: Yes, sir.

7 THE COURT: The first question I'm goign to ask
8 you I've already asked. Do you know of any reason whatsoever
9 why you cannot give both the State and the defendant a
10 fair and impartial trial?

11 MRS. JENNINGS: I don't know of any reason.

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

14 MRS. JENNINGS: Yes, I would.

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

18 MRS. JENNINGS: Could I find one? Yes, I could.

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

22 MRS. JENNINGS: Yes, I could.

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

25 MRS. JENNINGS: No, sir.

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

4 MRS. JENNINGS: No, sir, I have not.

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

9 MRS. JENNINGS: 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 MRS. JENNINGS: Yes, I would.

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're talking about penalty does not
19 indicate anything about this defendant. He is presumed
20 innocent, do you understand that?

21 MRS. JENNINGS: Yes, sir.

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

24 MRS. JENNINGS: Yes, sir.

25 THE COURT: You have one to your right down there

1 and you may refer to it, please. 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 MRS. JENNINGS: The third.

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 MRS. JENNINGS: Would you say that agin, please?

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

14 MRS. JENNINGS: Yes, I could.

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

19 MRS. JENNINGS: Yes, I could.

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

24 MRS. JENNINGS: It would be inconvenient but
25 I'm sure everybody else would be, too, but , yes, I could

1 do that.

2 THE COURT: Okay. To ease your mind in regards
3 to that question, very seldom do cases in South Carolina
4 go more than two weeks and counsel are in agreement with
5 me that this case most likely would take around a week,
6 okay.

7 MRS. JENNINGS: Okay.

8 THE COURT: Now, I'm going to ask you to answer
9 any questions counsel may have for you, beginning with
10 the Solicitor.

11 SOLICITOR: Thank you, Your HONor.

12
13 EXAMINATION BY THE SOLICITOR:

14 Q. Mrs. Jennings, I'm Walter Bailey and I wan to
15 ask you a few more questions and there are no right or
16 wrong answers. This is potentially a two-part process
17 where we start off with the guilt phase and in that part
18 of the trial we're dealing with guilt or innocence. The
19 State has the burden of proving the defendant guilty of
20 murder and the other charges beyond a reasonable doubt.
21 If the defendant is convicted of murder, we go into phase
22 two where the jury hears additional evidence, additional
23 instructions from the Judge, and the jury makes the decision
24 on punishment, not the Judge.

25 A. Right.

1 Q. What the Judge does, he orders that jury's
2 sentence to be put into affect. So if the jury's vote is
3 for life, the Judge would sentence that person to life,
4 he serves life without parole. If the verdict is the death
5 penalty, he would order that sentence to be put into affect
6 and that person actually would be executed.

7 You don't know anything about this case, do you,
8 as far as reading or TV or radio or whatever?

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

10 Q. So I'm not going to ask you to predict what you
11 would do in this case because you would want to hear the
12 facts and the law. My question is, if the case is bad
13 enough, if the facts are bad enough, could you vote for
14 the death penalty, knowing that as a result of that vote
15 that person actually will be executed?

16 A. If -- if that, yes.

17 Q. All right, on the other hand, if you felt like
18 the case warranted a life sentence without parole, could
19 you vote for life without parole?

20 A. Yes, I could.

21 Q. If the verdict is for the death penalty then
22 each one of the jurors is asked to sign their name to a
23 death verdict form that would result in that execution
24 taking place. Could you sign your name to a paper like
25 that, knowing the person would be executed?

1 A. Again, I don't think anybody would want to do
2 that but if that's what it came down to, I feel like I
3 could if all the facts were there.

4 Q. Okay, and if all the facts were there and you
5 voted for the death penalty and the other jurors voted
6 for the death penalty and signed the form, could you
7 announce that decision out loud if that was your decision?

8 A. Yes.

9 Q. There's a process called polling the jury where
10 each juror's name is called out and they would be asked
11 to say, was that your verdict, is it still your verdict
12 and you would have to answer out loud, could you do that?

13 A. Yes.

14 SOLICITOR: Mrs. Jennings, 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: Mrs. Jennings, I find that you are
19 qualified for further service on this jury. I'm going
20 to need for you to step down and check in with Madam Clerk
21 and make sure we have a telephone number we can reach you
22 on moment's notice, okay. If you do not hear something
23 from us by 9 o'clock tomorrow morning, we need you just
24 to double check and call in and make sure our lines of
25 communication are open.

1 Do not discuss this case with anyone. Do not
2 read any news accounts or watch or listen to any news accounts
3 until this case is over, okay. Thank you very much.

4 All right, bring in our next juror.

5 (WHEREUPON, Juror #212, Donale McNew (WM)
6 entered the courtroom and took the witness chair.)

7 THE COURT: Good afternoon, Mr. McNew.

8 MR. MCNEW: Good afternoon, sir.

9 THE COURT: How are you today?

10 MR. MCNEW: I'm fine, sir.

11 THE COURT: I'm going to ask you, if you would,
12 to relax and make your comfortable right there. We've got
13 some questions we need to ask you and I'm going to remind
14 you that you are still under oath, okay.

15 MR. MCNEW: Okay.

16 THE COURT: I'm going to ask you a question that
17 I asked yesterday. Do you know of any reason whatsoever
18 why you cannot give both the State and the defendant a
19 fair and impartial trial?

20 MR. MCNEW: No, sir.

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

23 MR. MCNEW: Yes, sir.

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

1 not guilty?

2 MR. MCNEW: Would you repeat that?

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

6 MR. MCNEW: I really don't understand.

7 THE COURT: All right, let me repeat it and I'll
8 slow down a little bit. 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. MCNEW: 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 guilty?

15 MR. MCNEW: Yes.

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

18 MR. MCNEW: No, sir.

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

22 MR. MCNEW: On the way home yesterday I had the
23 radio on and they did mention the case.

24 THE COURT: All right, the newscast, can you
25 tell me the nature of what was said?

1 MR. MCNEW: It was the nature of the trial and
2 it started yesterday when the jury was being polled I think
3 was --- I can't quote verbatim what it said.

4 THE COURT: Would you relate to me what you remember
5 or recall about that news accounts, have you got any other ---

6 MR. MCNEW: No, sir, I do not. Like I say, being
7 as I was here yesterday it caught my attention when it,
8 you know, come on but --on the radio, it was on this Wiggle
9 station and I listen to it all the time. It stays on all
10 my car radio all the time.

11 THE COURT: Okay. Will the news account which
12 you listened to prevent you from rendering a fair and impartial
13 verdict in this case?

14 MR. MCNEW: No, sir.

15 THE COURT: Can you erase from your mind the
16 information you acquired from these news accounts and render
17 a fair, impartial and just verdict based on the law and
18 the evidence, uninfluenced in any way whatsoever by reason
19 of the news account which you have described?

20 MR. MCNEW: Yes.

21 THE COURT: Now, there wasn't any discussion
22 of the facts on the broadcast, was there?

23 MR. MCNEW: No, sir.

24 THE COURT: Can you, notwithstanding your exposure
25 to these news accounts based your verdict decision upon

1 the law and the evidence presented to you, uninfluenced
2 in any way whatsoever by the news accounts which you have
3 described?

4 MR. MCNEW: It wouldn't bother me.

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

9 MR. MCNEW: Yes, sir.

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

13 MR. MCNEW: Yes, 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 MR. MCNEW: 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 MR. MCNEW: 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're talking about penalty does not
3 indicate anything about this defendant. He is presumed
4 innocent, do you understand that/

5 MR. MCNEW: Yes, sir.

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

8 MR. MCNEW: Yes, sir.

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

13 MR. MCNEW: To the best of my recollection it's
14 paragraph three, sir.

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

19 MR. MCNEW: Yes, sir.

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

24 MR. MCNEW: Yes, sir.

25 THE COURT: If you were selected on this case

1 I tell you that you will have to be sequestered or separated
2 with the jury and remain in a motel during the length of
3 this trial. Does that pose any undue hardship for you?

4 MR. MCNEW: Yes, sir, I could not participate
5 in that. I am --- I have sole custody of my 8 year old
6 and we're 300 and some miles from any next of kin and I
7 could not be away from him at night.

8 THE COURT: If I were to tell you that this case
9 most likely would not last more than a week, can you make
10 some arrangements for somebody to look after him?

11 MR. MCNEW: No, sir, I could not. I can serve
12 on any jury and I have been serving on juries anywhere,
13 you know, as long as, you know, 9 to 5 or so forth but
14 if it does get, you know, beyond that, I do have a problem
15 and he gets right upset if he's away from me at night.
16 I did mention that to him last night.

17 THE COURT: Counsel, do ya'll want to approach?

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

20 THE COURT: An you have nowhere you could place
21 him for several night?

22 MR. MCNEW: No, sir.

23 THE COURT: Anything else?

24 SOLICITOR: No, sir.

25 MR. MCNEW: Nothing, Your Honor.

1 THE COURT: Based on undue hardship, I'm going
2 to excuse you at this time. Thank you for coming and taking
3 part.

4 MR. MCNEW: Thank you, sir.

5 THE COURT: All right, let's bring out our next
6 one.

7 (WHEREUPON, Juror #18, James Beck, (WM), entered
8 the courtroom and took the witness chair.)

9 THE COURT: Mr. Beck, have a seat and make yourself
10 comfortable and relax. We have a few questions we want
11 to ask you and because of that, I need to remind you that
12 you're still under oath from yesterday.

13 I'm going to ask you a question I've already
14 asked you. Do you know of any reason whatsoever why you
15 cannot give both the State and the defendant a fair and
16 impartial trial?

17 MR. BECK: Well, I have probably made up my mind
18 in this case.

19 THE COURT: All right, tell us about that.

20 MR. BECK: Well, you know, just reading the facts
21 in the paper, I've kinda formed an opinion.

22 THE COURT: Okay, let me talk with you about
23 that. First of all, let me ask you this. Would you, under
24 oath, follow the law in this case as given to you by me?

25 MR. BECK: Yes, sir.

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 MR. BECK: No, I don't think I would.

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. BECK: Yes.

9 THE COURT: Laying aside this case, talking about
10 cases in general.

11 MR. BECK: In general?

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. BECK: Yes.

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

18 MR. BECK: It's been discussed in my place of
19 business quite often.

20 THE COURT: What was the nature and extent of
21 such discussions?

22 MR. BECK: You know, just the facts and the
23 brutality of it, you know, some of the things that was
24 in the paper, you know, about different aspects of it of
25 how she was murdered, you know, just general talk about

1 it.

2 THE COURT: What kind of business do you have?

3 MR. BECK: I own Stump Hole Landing and Camp
4 Ground.

5 THE COURT: Now, as a result of these discussion,
6 have you formed an opinion as to the guilt or innocence
7 of the defendant?

8 MR. BECK: I feel that I have, yes.

9 THE COURT: Will these discussions prevent you
10 from rendering a fair and impartial verdict in this case?

11 MR. BECK: No, I don't think that I would ---
12 you know, it would be a fair verdict.

13 THE COURT: Notwithstanding the discussions you
14 have described, can you fairly and impartially render a
15 fair and just verdict in this case uninfluenced in any
16 way whatsoever by the discussions you have described?

17 MR. BECK: I wouldn't think so.

18 THE COURT: One last question in regard to that.
19 Can you erase from your mind the discussions you have
20 described and render a fair and impartial verdict based
21 upon the law given to you by the Court and the evidence
22 presented during the trial uninfluenced in any way whatsoever
23 by the discussions that you have described?

24 MR. BECK: No, I don't think I could.

25 THE COURT: Counsel, is there any point in further

1 inquiry?

2 SOLICITOR: Very briefly.

3
4 EXAMINATION BY THE SOLICITOR:

5 Q. Mr. Beck, I'm Walter Bailey and I want to ask
6 you a few more questions and there are no right or wrong
7 answers.

8 A. Yes, sir.

9 Q. You've read stuff in the paper about this case?

10 A. Yes, sir.

11 Q. And you've talked to people at work or out at
12 the landing about it?

13 A. Yes, sir.

14 Q. Have you ever read something in the newspaper
15 that you had some personal knowledge of and found out later
16 on what was in the paper was wrong?

17 A. Well, not too often, no.

18 Q. Okay. Have you ever heard guys talk at work
19 about some situation ---

20 A. Oh, yeah, it was exaggerated, yes.

21 Q. --- and it turned out what they were saying wasn't
22 correct?

23 A. Yes, sir.

24 Q. And you understand that in court the people that
25 are saying what happened is put under oath and they are

1 sworn to tell the truth?

2 A. Yes, sir.

3 Q. And they are questioned and subject to cross-
4 examination?

5 A. Yes, sir.

6 Q. If you got picked as a juror in this particular
7 case, what's in your mind is in your mind, you can't forget
8 about it but you could you kind of separate that and base
9 your decision on the evidence you heard under oath?

10 A. (No response.)

11 Q. Strictly on that evidence under oath?

12 A. I'm not going to say it would be strictly under
13 that evidence.

14 Q. Okay. You think what you heard on the outside
15 might ---

16 A. Yes, I think it would have some influence, yes,
17 sir.

18 SOLICITOR: Thank you, that's all I have, MR.
19 Beck.

20 THE COURT: Mr. Beck, we thank you for taking
21 part and relaying that to us. I'm going to excuse you
22 at this time and you may return to your business or your
23 home.

24 MR. BECK: All right, sir.

25 THE COURT: Thank you very much. Okay, let's

1 bring out the next juror.

2 (WHEREUPON, Juror #120, Dallina Griffin (BF)
3 entered the courtroom and took the witness chair.)

4 THE COURT: I'm going to ask you some questions
5 at this time, Ms. Griffin, and I need to remind you that
6 you're still under oath from yesterday, okay?

7 MS. GRIFFIN: Yes.

8 THE COURT: Now this is a question you've already
9 heard on time but I'm going to ask it again. Do you know
10 of any reason whatsoever why you cannot give both the State
11 and the defendant a fair and impartial trial?

12 MS. GRIFFIN: No.

13 THE COURT: Would you, under oath, follow the
14 law in this case as give to you by me?

15 MS. GRIFFIN: Yes.

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

19 MS. GRIFFIN: Yes.

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 MS. GRIFFIN: Yes.

24 THE COURT: Have you discussed this case with
25 anyone?

1 MS. GRIFFIN: No.

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 MS. GRIFFIN: No.

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

10 MS. GRIFFIN: No.

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

15 MS. GRIFFIN: Yes.

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

22 MS. GRIFFIN: Yes.

23 THE COURT: You were given a letter a few minutes
24 ago. Did you have occasion to read it?

25 MS. GRIFFIN: Yes, I read it.

1 THE COURT: Okay, I think there's a copy to your
2 immediate right. I wonder if you could tell me which of
3 the three categories or the type of juror that you might
4 fall into?

5 MS. GRIFFIN: The last type.

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

10 MS. GRIFFIN: No.

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

15 MS. GRIFFIN: Yes.

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

21 MS. GRIFFIN: No.

22 THE COURT: Can your opposition to capital punishment
23 or the death penalty for murder be changed by the evidence
24 presented during the trial?

25 MS. GRIFFIN: Say that again, please.

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

4 MS. GRIFFIN: No.

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

11 MS. GRIFFIN: Yes.

12 THE COURT: Will your opposition to the death
13 penalty for murder prevent you from voting for the death
14 penalty under any circumstances?

15 MS. GRIFFIN: Yes.

16 THE COURT: Are your beliefs and attitudes against
17 capital punishment, the death penalty, such that you would
18 be unable to return a verdict of guilty of murder according
19 to the law of this state?

20 MS. GRIFFIN: No.

21 THE COURT: Would you automatically vote against
22 the imposition of capital punishment without regard to
23 the evidence that might be developed during the trial of
24 a capital murder case?

25 MS. GRIFFIN: No.

1 THE COURT: Will your opposition to capital punish-
2 ment prevent you from making an impartial decision as to
3 the defendant's guilt?

4 MS. GRIFFIN: No.

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

10 MS. GRIFFIN: No.

11 THE COURT: Answer any questions counsel may
12 have for you, beginning with the Solicitor.

13 SOLICITOR: Thank you, Your Honor.

14
15 EXAMINATION BY THE SOLICITOR:

16 Q. Ms. Griffin, I'm Walter Bailey and I want to
17 ask you a few more questions and there are no right or
18 wrong answers, okay.

19 A. All right.

20 Q. We're not trying to test you because whatever
21 answer you give is a correct answer as long as that's how
22 you really feel, okay.

23 A. Okay.

24 Q. So I just ask you to be completely honest and
25 tell us from your heart what you are thinking, okay?

1 A. Okay.

2 Q. Before yesterday when you found out you might
3 be a juror on this case and it was a case where the State
4 is seeking the death penalty, had you ever thought about
5 the death penalty?

6 A. Not really, no.

7 Q. Okay. And I notice that you attend the Seventh
8 Day Adventist Church?

9 A. Yes.

10 Q. Do you know if that church has a position on
11 the death penalty?

12 A. No, not that I know of.

13 Q. Okay, and have you had a chance since yesterday
14 when you found out this is a case where we are seeking
15 the death penalty and reading over the three kinds of jurors,
16 could you just tell us in your own words what your thoughts
17 are on the death penalty?

18 A. Well, I personally don't believe in it. I don't
19 totally believe in the death penalty, really. I, well ---
20 I've kind of got mixed feelings on it.

21 Q. Well, ---

22 A. Depending on what it is. It would have to be
23 something --- I don't know.

24 Q. Okay.

25 A. I can't answer that.

1 Q. I want to go through a ---

2 A. I can't answer that, really. I personally don't
3 think the death penalty should be but there are some cases
4 that are so bad that you, you know, you would have to
5 consider it.

6 Q. All right. Let me explain a little bit about
7 the process and the Judge has mentioned this but I want
8 to run over it also. We start out with what's called the
9 guilt phase which is like any other criminal trial where
10 the State is attempting to prove somebody is guilty beyond
11 a reasonable doubt of whatever we are charging him with.

12 A. Uh-huh.

13 Q. In this case one of the charges is murder. If
14 the State is successful in proving that defendant guilty
15 of murder beyond a reasonable doubt and he's convicted
16 of murder, then we go into part two, the penalty phase.
17 That would mean, if you get into part two, you are dealing
18 with somebody that you've already convicted of murder.

19 A. Uh-huh.

20 Q. The issue then is the punishment and the two
21 choices are life without parole and the death penalty,
22 that's the only two choices. The way it works is the jury
23 makes that decision, the Judge can't change it. He just
24 orders that jury's verdict to happen and it will happen.

25 So if the jury, after hearing all that evidence,

1 votes for life imprisonment, the Judge orders that sentence
2 and that person serves live without parole. If the jury
3 votes for the death penalty, the person actually is executed
4 by lethal injection. The jury never has to vote for the
5 death penalty, life is always an option.

6 I'm not going to ask you to predict what you
7 would do in this case because you haven't heard the facts
8 but as you're sitting there now, knowing those two options,
9 life without parole and the death penalty that will actually
10 happen, could you vote for the death penalty knowing that
11 person would actually be executed?

12 A. I really doubt that I would.

13 Q. Okay. If the jury does vote for the death penalty,
14 then each one of those jurors is asked to sign their names
15 to a death verdict form that will result in that person
16 being executed by lethal injection. Could you ever sign
17 your name to a paper like that?

18 A. That's a hard one. Oh.

19 Q. And there are no right or wrong answers, I want
20 to just stress that and whatever you tell us, as long as
21 that's how you really feel, is the right answer.

22 A. Well, if all the facts was presented and ---
23 I couldn't say right now. I would have to really go through
24 it and kind of figure it out from there. I really couldn't
25 give a definite answer on that.

1 Q. And, again, I'm not asking you to predict what
2 you would do in this case, but if the facts were bad enough,
3 could you do it knowing that that person actually is going
4 to put to death based on that jury's verdict?

5 A. If it's proved beyond a doubt.

6 Q. If what's proven beyond a doubt?

7 A. That the person has actually murdered or killed
8 somebody.

9 Q. Okay, well, proving beyond a reasonable doubt
10 that a person has committed a murder would be something
11 that would happen in the first part of the trial.

12 A. Well, I don't think I would because I would feel
13 bad because I would figure if the person really didn't
14 do it and I'm sitting down here giving them the death penalty
15 and then come to find out later that I was wrong, I think
16 I would --- I don't think I could do that.

17 Q. Would you require a hundred percent certainty
18 in order to impose the death penalty?

19 A. More or less, almost.

20 Q. If the jury votes for the death penalty then
21 each one of the jurors would be asked, their names would
22 be called out and they would be sitting in these seats
23 out here after the trial is over, and each one of the jurors
24 would be asked --- their name would be called out and they
25 would be asked to say out loud that that's their verdict.

1 Could you do that?

2 A. Yes.

3 Q. Let me ask you a couple of questions and I know
4 I may be repeating myself but what I'm trying to do is
5 take all your answers that you gave the Judge and me and
6 kinda put them together, okay? The Judge asked you whether
7 or not you could participate in a trial that might result
8 in the death penalty, I think that might have been the
9 first question that he asked you and you said no. Do you
10 remember that?

11 A. Right.

12 Q. Do you still feel that way?

13 A. More or less, yes.

14 Q. But you said you could participate in something
15 that would result in a life sentence, is that correct?

16 A. Yes, I could.

17 Q. Is that still the way you feel?

18 A. Yes.

19 Q. And you also said that your opposition to the
20 death penalty could not be changed by the evidence, is
21 that still the way you feel?

22 A. Yes.

23 Q. And you also said that your opposition to the
24 death penalty would prevent you from voting for the death
25 penalty under any circumstances, is that still the way

1 you feel?

2 A. Well, I couldn't say under every circumstance.
3 There may be a time when I would feel that it could be
4 done.

5 Q. Do you think that your feelings against the death
6 penalty which you've expressed here would impair your
7 ability to fairly consider both sentences, life without
8 parole and the death penalty?

9 A. No.

10 Q. Looking at that paper again, the three types
11 of jurors, type one does not believe in the death penalty
12 and would never vote of it, Number two would always vote
13 for a life sentence and number three could vote for the
14 death penalty or could vote for life. Where do you put
15 yourself now that we've talked about it for a while?

16 A. I guess it would be the third one.

17 SOLICITOR: Your Honor, I have nothing further
18 at this time. I might like to ask her something else later.

19 THE COURT: Okay, MR. Sims.
20

21 EXAMINATION BY MR. SIMS:

22 Q. Ms. Griffin, I just have a few questions for
23 you. In discussing the issue of the death penalty with
24 the Solicitor here, you indicated one way on some questions
25 and another way on some questions and we're just trying

1 to get some clarity here. Let me ask you this. If you,
2 not this case but on a case if there was a jury and the
3 jury found him guilty, that's the first part as Mr. Bailey
4 has told you, that's the first part of this process that
5 you would be in. The second part of the process which is
6 what he talked about would be the issue of whether or not
7 the jury would determine that the person should get live
8 in jail or the death sentence.

9 Are you telling us that you would have to listen
10 to all of the facts before you could make that decision?

11 A. Yes.

12 Q. Okay. And are you further telling us that there
13 are situations in your mind where the death penalty would
14 be appropriate?

15 A. Yeah, I think they could --- yes.

16 Q. Okay. Now, that process requires or that process
17 may require that there is a form that everybody sign their
18 name on it, everybody that will be sitting on that jury.
19 If you made the decision that it was an appropriate sentence
20 at that time, could you sign your name on that form?

21 A. Yes.

22 Q. Okay. And there's another process, part of that
23 process, where what we call polling the jury. If you've
24 made the decision that the death penalty is appropriate,
25 you've made the decision and you've signed your name, would

1 you also be able to stand up and say that is your verdict?

2 A. Yes.

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

4 SOLICITOR: I have just one more, Your Honor.

5 THE COURT: sure.

6
7 EXAMINATION BY THE SOLICITOR:

8 Q. Ms. Griffin, I apologize if I'm repeating myself

9 ~~but I want to make sure --- this is the only chance we~~
10 can talk to jurors before a jury is actually picked and
11 then it's too late to find out what they are thinking,
12 okay?

13 A. All right.

14 Q. Going back to the first question the Judge asked
15 you, whether or not you could participate in a process
16 that may result in the death penalty ---

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

18 THE COURT: Yes.

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

21 Q. Ms. Griffin, again, I apologize, I know we've
22 done this before and we are used to it and this is the
23 first time for you and we're not trying to pick at you
24 but just trying to --- really, this is important to all
25 of us, we need to find out exactly how you are thinking.

1 When he Judge asked you if you could participate in a process
2 that might result in the death penalty, you said no. Do
3 you remember that question and that answer?

4 A. Yes, I do.

5 Q. Is that still your position?

6 A. Can I just give what I really --- what I think?

7 Q. Yes, ma'am, that's what we want, what you really
8 think.

9 A. For one person --- if a person kills one person,
10 to me, I don't think they should get the death penalty
11 but if it's like a mass murder or a lot of people, I think
12 they should. I mean, I would consider that.

13 Q. Could you consider it and actually do it if the
14 case is bad enough? I mean, I might consider jumping
15 up and touching the ceiling but I can't do it. Could you
16 actually vote for the death penalty if the case was bad
17 enough knowing that person would be killed as a result
18 of that vote?

19 A. Yes.

20 Q. Could you sign your name to a verdict form that
21 would result in that person being executed?

22 A. Yes, it wouldn't be easy, it would not be easy.

23 Q. And you could announce that decision out loud,
24 is that correct?

25 A. Yes, if I would have to, I would.

1 Q. Okay, you don't have to do anything, that's ---

2 A. If I would have to stand up and say that, yes,
3 you know, if I have to.

4 Q. Okay, you would never be told that you have to
5 vote for the death penalty.

6 A. Okay.

7 MR. SIMS: Your Honor, if we could approach.

8 THE COURT: Yes.

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

11 THE COURT: Ms. Griffin, you stated to the Solicitor,
12 correct me if I'm wrong, that you could not give the death
13 penalty to anyone on a murder but that you could on a mass
14 murder.

15 MS. GRIFFIN: Yes.

16 THE COURT: Let me ask you now, reflecting on
17 everything that you have said and in response to the questions
18 of both myself and counsel, are there any circumstances
19 whereby you've had a conviction of a murder that you could
20 give the death penalty?

21 MS. GRIFFIN: Have I had a conviction?

22 THE COURT: Is there any set of circumstances
23 where a person is convicted of murder, a murder, could
24 you give the death penalty?

25 MS. GRIFFIN: For a murder? No.

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THE COURT: Ma'am?

MS. GRIFFIN: For a murder, one murder?

THE COURT: Yes, ma'am, for a murder.

MS. GRIFFIN: No.

THE COURT: Okay, gentlemen, I have reopened
the door, any further questions from the State?

SOLICITOR: None from the State at this time,
Your Honor.

THE COURT: From the defense?

MR. SIMS: No, sir.

THE COURT: Anybody want to be heard?

SOLICITOR: Yes, sir.

THE COURT: Okay, Mr. Griffin, if you would step
out the door just for a minute and let me talk with
counsel.

(WHEREUPON, Ms. Griffin left the courtroom and
the following proceedings were held in her absence.)

THE COURT: Do ya'll want to step up here before
we get into all of this?

(WHEREUPON, A Bench Conference was held out
of the hearing of the Court Reporter.)

THE COURT: all right, based on her response to
me, I'm going to excuse her and I understand there's no
objection?

MR. SIMS: None, Your Honor.

1 THE COURT: Solicitor, anything you want to develop
2 on the record?

3 SOLICITOR: Just very briefly, Your Honor, on
4 the record. That this juror has the ability to impose the
5 death penalty if certain personal standards are met and
6 our law, I think the case law is clear in State -vs- Drake
7 and State -vs- Cain and State -vs- Davis that that's
8 insufficient to qualify a juror only if some personal standard
9 is met that she can't fairly consider it. If it's a general
10 concept, then she's not qualified.

11 THE COURT: Do you concede that point?

12 MR. SIMS: Yes, sir.

13 THE COURT: all right, bring her back in.

14 (WHEREUPON, Ms. Griffin entered the courtroom
15 and the following proceedings were held in her presence.)

16 THE COURT: Ms. Griffin, we want to thank you
17 for your service on this case and especially your patience
18 with us yesterday. I know it was a long day and I'm going
19 to excuse you at this time. You are free to go back home
20 or to work at this time. Thank you very much.

21 Bring in the next juror.

22 (WHEREUPON, Juror #44, Carrolin Christburg (BF)
23 entered the courtroom and took the witness chair.)

24 THE COURT: Ms. Christburg, if you will have
25 a seat right there and relax and make your comfortable.

1 How are you today?

2 MS. CHRISTBURG: Just fine.

3 THE COURT: I have some questions I need to ask
4 you but I need to remind you that you're still under oath
5 from yesterday, okay.

6 MS. CHRISTBURG: Okay.

7 THE COURT: The first question I have is one
8 that you've already heard. Do you know of any reason whatso-
9 ever why you cannot give both the State and the defendant
10 a fair and impartial trial?

11 MS. CHRISTBURG: No, sir.

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

14 MS. CHRISTBURG: Yes.

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

18 MS. CHRISTBURG: Yes.

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

22 MS. CHRISTBURG: Yes.

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

25 MS. CHRISTBURG: No.

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

4 MS. CHRISTBURG: No.

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

9 MS. CHRISTBURG: No.

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 MS. CHRISTBURG: 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. I emphasize the mere
18 fact that we're talking about penalty does not indicate
19 anything about this defendant. He is presumed innocent,
20 do you understand that?

21 MS. CHRISTBURG: Yes.

22 THE COURT: You were given a letter a few minutes
23 ago and asked to read it. Did you read it/

24 MS. CHRISTBURG: Yes.

25 THE COURT: There's one to your right if you

1 need to refer to it. I wonder if you could tell me which
2 of the three categories or the types of jurors that you
3 might fall into?

4 MS. CHRISTBURG: The second.

5 THE COURT: Can you, as a jury, participate in
6 a 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 MS. CHRISTBURG: No.

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 MS. CHRISTBURG: Yes.

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

20 MS. CHRISTBURG: Yes.

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

24 MS. CHRISTBURG: No.

25 THE COURT: Notwithstanding your opposition to

1 capital punishment, are you willing to consider all of
2 the penalties provided by the law of this state, including
3 the death penalty, and then determine whether the defendant
4 should receive the death penalty or life imprisonment based
5 upon the facts and circumstances developed during the trial?

6 MS. CHRISTBURG: No.

7 THE COURT: Will your opposition to the death
8 penalty for murder prevent you from voting for the death
9 penalty under any circumstances?

10 MS. CHRISTBURG: Yes.

11 THE COURT: Gentlemen, any point in me going
12 with the further questions?

13 MR. SIMS: What was the answer to the last question,
14 Your Honor?

15 THE COURT: Yes. You did say yes, didn't you?

16 MS. CHRISTBURG: Yes.

17 MR. SIMS: None, Your Honor.

18 SOLICITOR: No, sir.

19 THE COURT: Ms. Christburg, on behalf of the
20 attorneys and the Court I want to thank you for your
21 willingness to come and serve as a juror and especially
22 for your patience yesterday, I know it was a long day.
23 I'm going to excuse you at this time and you may return
24 to work or to your home.

25 MS. CHRISTBURG: Okay, thank you.

1 THE COURT: Thank you very much. All right, bring
2 out the next one.

3 (WHEREUPON, Juror #143, Debra Hughest (WF) entered
4 the courtroom and took the witness chair.)

5 THE COURT: Ms. Hughes, good afternoon.

6 MS. HUGHES: Good afternoon.

7 THE COURT: How are you?

8 MS. HUGHES: Fine.

9 THE COURT: I'm going to ask you to relax, make
10 yourself comfortable. We have some questions we need to
11 ask you and because of that I need to remind you that you're
12 still under oath from yesterday.

13 MS. HUGHES: Yes, sir.

14 THE COURT: The first question I'm going to ask
15 you has already been asked but I'm going to ask it again.
16 Do you know of any reason whatsoever why you cannot give
17 both the State and the defendant a fair and impartial trial?

18 MS. HUGHES: No, sir.

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

21 MS. HUGHES: 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 MS. HUGHES: Repeat that again.

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 MS. HUGHES: I'm not sure, i understand.

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

8 MS. HUGHES: Yes, sir.

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

12 MS. HUGHES: Yes, sir.

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

15 MS. HUGHES: No, sir.

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

19 MS. HUGHES: As of yesterday?

20 THE COURT: Anytime.

21 MS. HUGHES: Yes, sir.

22 THE COURT: What is the nature of the news
23 accounts?

24 MS. HUGHES: It was the newspaper.

25 THE COURT: Yesterday?

1 MS. HUGHES: No, sir, prior to then.

2 THE COURT: Prior?

3 MS. HUGHES: Yes, sir.

4 THE COURT: Please relate to me what you remember
5 or recall about the news accounts.

6 MS. HUGHES: I need to remind you, I live in
7 Branchville.

8 THE COURT: Okay.

9 MS. HUGHES: Okay. There was a body found in
10 our town that was in the newspaper and it gave the names
11 of the people and that's my account.

12 THE COURT: Will the news account which you have
13 read, viewed or listened to prevent you from rendering
14 a fair and impartial verdict in this case?

15 MS. HUGHES: No, sir.

16 THE COURT: Can you erase from your mind the
17 information you acquired from these news accounts and render
18 a fair, impartial and just verdict based on the law and
19 the evidence uninfluenced in any way whatsoever by reason
20 of the news accounts which you have described?

21 MS. HUGHES: Yes, sir.

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

1 MS. HUGHES: Yes, sir.

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

6 MS. HUGHES: Yes, sir.

7 THE COURT: Can you make your verdict based only
8 upon these two considerations, that is, the law and the
9 evidence/

10 MS. HUGHES: Yes, sir.

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

15 MS. HUGHES: No, sir.

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

20 MS. HUGHES: Would you repeat that?

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

25 MS. HUGHES: Yes, sir.

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

7 MS. HUGHES: Yes, sir.

8 THE COURT: You were given a letter a few minutes
9 ago. Did you have a chance to read it?

10 MS. HUGHES: Yes, sir.

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

15 MS. HUGHES: The last one, the third one.

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

20 MS. HUGHES: Yes, sir.

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

25 MS. HUGHES: Yes, sir.

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

6 MS. HUGHES: No, sir.

7 THE COURT: For your information and I've relayed
8 to everyone in regards to that question. Normally in South
9 Carolina cases do not take over two weeks and counsel and
10 everybody is in agreement that this one would take
11 approximately a week, okay?

12 MS. HUGHES: Yes, sir.

13 THE COURT: Please answer any questions that
14 counsel may have for you, beginning with the Solicitor.

15 SOLICITOR: Thank you, Your Honor.

16
17 EXAMINATION BY THE SOLICITOR:

18 Q. Ms. Hughes, I'm Walter Bailey and I want to ask
19 you a few more questions and there are no right or wrong
20 answers. Before yesterday when you found out you might
21 be a juror on a case where we are seeking the death penalty,
22 had you ever given any thought to the death penalty?

23 A. Yes, sir.

24 Q. And could you tell us --- just forgetting this
25 case right now --- could you tell us just in general terms

1 in your own words what your thoughts are on the death penalty?

2 A. My thoughts are if you commit a crime bad enough
3 to kill someone else, then that's your penalty as well.

4 Q. Okay. Let me ask you a little bit about that.
5 Do you understand that the first part of the trial is like
6 any other criminal trial and it's called the guilt phase.

7 A. Yes, sir.

8 Q. Where the State is attempting to prove a person
9 guilty of murder and the other charges beyond a reasonable
10 doubt. If we're unsuccessful, if we cannot convince that
11 jury beyond a reasonable doubt that that person is guilty
12 of murder, that's the end of the process as far as the
13 jury is concerned.

14 On the other hand, if the State proves that defendant
15 guilty of murder beyond a reasonable doubt, then we would
16 go into the second phase. At that second phase there would
17 be additional evidence that would come out. Anytime you're
18 in that second phase, you're dealing with somebody already
19 convicted of murder.

20 A. Yes, sir.

21 Q. And that additional evidence would hopefully
22 help that jury make their decision of life without parole
23 or the death penalty. Whatever that jury's decision is,
24 the Judge will order it to happen and it will happen. Where
25 there's life, the Judge orders life and that defendant

1 serves life without parole. If the jury votes for death,
2 the Judge orders that and he's actually executed.

3 Now, would you take the position if you were
4 a juror in this kind of a case, if we got this guy
5 convicted of murder in the first part of the trial, would
6 you go on to that second part with your mind already made
7 up, we've got a guy we found guilty of murder, we're going
8 to give him the death penalty, or would you want to hear
9 what came out in that second part of the trial and hear
10 what the Judge told you the law was before you decided?

11 A. I would want to hear what the rest of the evidence
12 was and see what the Judge told me and then decide.

13 Q. All right. And if you felt like the facts and
14 circumstances warranted the death penalty, could you vote
15 for the death penalty knowing that person would be executed?

16 A. Yes, sir.

17 Q. And if you felt like the facts and circumstances
18 warranted a life sentence, even though that person was
19 guilty of murder, could you vote for life without parole?

20 A. Yes, sir.

21 Q. Could you sign your name to a death verdict form
22 if that was your decision that would result in that
23 execution taking place?

24 A. Yes, sir.

25 Q. Could you announce that decision out loud if

1 that was your decision?

2 A. Yes, sir.

3 SOLICITOR: Ms. Hughes, I believe that's all I've
4 got, thank you very much.

5 THE COURT: Mr. Sims.
6

7 EXAMINATION BY MR. SIMS:

8 Q. Ms. Hughes, in response to your question about
9 generalities as it relates to the death penalty, you made
10 a statement that if you killed --- if you were convicted
11 of murder, then that's what you should get, did I under-
12 stand that right?

13 A. Yes, sir.

14 Q. And that's your position?

15 A. That's how I feel if you hurt one of my children,
16 I felt like you would deserve the same punishment that
17 you gave them.

18 Q. All right, so then you're saying that if you
19 find somebody guilty of killing somebody then that's what
20 they deserve.

21 A. That or life without parole, I don't think you
22 should walk the streets.

23 Q. And are you then saying that you would have to
24 listen to the evidence to make a determination of whether
25 or not life without parole was appropriate?

1 A. Yes, sir.

2 Q. And I believe you said that you had heard about
3 this matter because you are from Branchville, is that correct?

4 A. Yes, sir.

5 Q. Did you read it in the paper or did you discuss
6 it or ---

7 A. No, sir, I read it in the paper.

8 Q. And was that recently or prior to yesterday?

9 A. That was prior to yesterday, not recently.

10 Q. And you didn't discuss it with anyone?

11 A. No, sir, it was just in our town, that's all,
12 it's not something I would talk about with my children
13 or anything.

14 Q. You didn't tell you children?

15 A. No, sir.

16 Q. Did you and your husband discuss it?

17 A. Yes, sir, but not yesterday.

18 Q. Okay, if you didn't discuss it yesterday, you
19 all discussed it when it first happened?

20 A. Yes, sir.

21 Q. Okay, when you discussed it with your husband,
22 you all had an indepth discussion about what had happened,
23 is that correct?

24 A. Just what had been found in our town.

25 Q. And that discussion that you had with your husband,

1 can you set that aside in a case and can you set that aside
2 and make your decision based solely on the evidence that
3 you would hear in this courtroom?

4 A. Yes, sir, I can.

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

6 THE COURT: Counsel, anything else?

7 SOLICITOR: No questions, Your Honor.

8 THE COURT: Any further questions you want me
9 to pose?

10 SOLICITOR: No, sir.

11 MR. SIMS: No, sir.

12 THE COURT: Ms. Hughes, I'm going to ask you
13 at this time to provide to Madam Clerk a phone number that
14 we can reach you on moment's notice. I find that you are
15 qualified to continue in service in this case. We need
16 to know that so we can reach you on moment's notice.

17 Do not discuss this case with anyone. Do not
18 read or view any news accounts until this case is over,
19 okay?

20 MS. HUGHES: Yes, sir.

21 THE COURT: You are now excused to go home or
22 to work. Thank you for coming.

23 Gentlemen, I think that is the last one for today.
24 Let's start again tomorrow morning at 9:00.

25 (WHEREUPON, Court was recessed for the evening

1 and then resumed the next morning.)

2 THE COURT: All right, bring us our next juror.

3 (WHEREUPON, Juror #25, Denolia Brantley (BF)
4 entered the courtroom and took the witness chair.)

5 THE COURT: Ms. Brantley, if you would have a
6 seat right here, please. How are you today?

7 MS. BRANTLEY: Okay.

8 THE COURT: I want you to relax and make yourself
9 comfortable because I've got some questions to ask you,
10 okay?

11 MS. BRANTLEY: Okay.

12 THE COURT: And I want to remind you now that
13 you're still under oath from yesterday, okay?

14 MS. BRANTLEY: Okay.

15 THE COURT: Now I'm going to ask the first question
16 and I've already asked it one time but I'm going to repeat
17 it. Do you know of any reason whatsoever why you cannot
18 give both the State and the defendant a fair and impartial
19 trial?

20 MS. BRANTLEY: No, I don't know of any reason
21 why.

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

24 MS. BRANTLEY: Yes.

25 THE COURT: Could you, depending on the facts

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

3 MS. BRANTLEY: Could you repeat that, please?

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 not guilty?

7 MS. BRANTLEY: Yes.

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

11 MS. BRANTLEY: Yes.

12 THE COURT: Have you discussed this case with
13 anyone?

14 MS. BRANTLEY: No. But can I say something?

15 THE COURT: Yes, ma'am.

16 MS. BRANTLEY: I am hard of hearing.

17 THE COURT: Okay, can you hear me?

18 MS. BRANTLEY: Yes, I can hear you. But sometimes
19 when you don't speak loud enough I can't hear you.

20 THE COURT: All right, should you not be able
21 to hear me or any of the attorneys, you feel ---

22 MS. BRANTLEY: Well, yesterday I couldn't really
23 hear a lot of what was going on over there.

24 THE COURT: Okay, I'll have everybody speak up.
25 Have you read, viewed or listened to any news accounts

1 or news reports on the subject of this case?

2 MS. BRANTLEY: 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. BRANTLEY: 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. BRANTLEY: Yes.

13 THE COURT: I'm going to 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 that 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 MS. BRANTLEY: The defendant is presumed innocent?

20 THE COURT: The defendant is presumed innocent,
21 do you understand that?

22 MS. BRANTLEY: Yeah.

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

1 MS. BRANTLEY: Yes.

2 THE COURT: There's one down there you may refer
3 to if you need to. I wonder if you could tell me which
4 of the three categories or the type of juror that you might
5 fall into?

6 MS. BRANTLEY: The third one.

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

11 MS. BRANTLEY: Honestly?

12 THE COURT: Yes, ma'am.

13 MS. BRANTLEY: I don't believe in capital punish-
14 ment.

15 THE COURT: Okay. Let me repeat the question
16 then. Can you, as a juror, participate in a jury verdict
17 recommending the penalty of death by lethal injection for
18 murder if the evidence and the law warrants such a verdict?

19 MS. BRANTLEY: I guess.

20 THE COURT: Ma'am?

21 MS. BRANTLEY: Yes.

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

1 MS. BRANTLEY: Yes.

2 THE COURT: Now, you told me that you were opposed
3 to capital punishment, is that correct?

4 MS. BRANTLEY: I don't believe in it.

5 THE COURT: Ma'am?

6 MS. BRANTLEY: I don't believe in it.

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

12 MS. BRANTLEY: I don't think I really understand
13 what you are saying.

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

20 MS. BRANTLEY: No.

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

24 MS. BRANTLEY: Probably.

25 THE COURT: Notwithstanding your opposition

1 to capital punishment, are you willing to consider all
2 of the penalties provided by the law of this state, including
3 the death penalty, and then determine whether the defendant
4 should receive the death penalty or life imprisonment based
5 upon the facts and circumstances that develop during the
6 trial?

7 MS. BRANTLEY: Yes.

8 THE COURT: Will your opposition to the death
9 penalty for murder prevent you from voting for the death
10 penalty under any circumstances?

11 MS. BRANTLEY: No.

12 THE COURT: Okay. Are your beliefs and attitudes
13 against capital punishment or the death penalty such that
14 you would be unable to return a verdict of guilty of murder
15 according to the law of this state?

16 MS. BRANTLEY: No.

17 THE COURT: Would you automatically vote against
18 the imposition of capital punishment without regard to
19 the evidence that might be developed during the trial in
20 a capital murder case?

21 MS. BRANTLEY: Would I be ----

22 THE COURT: I'll repeat it for you. Would you
23 automatically vote against the imposition of capital
24 punishment without regard to the evidence that might be
25 developed during the trial in a capital murder case?

1 MS. BRANTLEY: Uhm --- I think I could, yes.

2 THE COURT: Pardon?

3 MS. BRANTLEY: Yes.

4 THE COURT: Would your opposition to capital
5 punishment prevent you from making an impartial decision
6 as to the defendant's guilt?

7 MS. BRANTLEY: I think it would, yes.

8 THE COURT: All right, if you were selected on
9 this case I tell you that you would have to sequestered
10 or separated with the jury and remain in a motel during
11 the length of the trial. Does that pose any undue hardships
12 for you?

13 MS. BRANTLEY: Not really, I'm the only one in
14 my house, living in my house. I'm alone so that's the
15 only thing.

16 THE COURT: Okay. If it will ease your mind,
17 counsel is in agreement with me that this case would probably
18 take around a week. In South Carolina very seldom do cases
19 take more than two weeks. Okay. Now, at this time I need
20 you to answer any questions that counsel may have for you,
21 beginning with the Solicitor.

22 SOLICITOR: Thank you, Your Honor.

23 MS. BRANTLEY: May I say something?

24 THE COURT: Yes, ma'am.

25 MS. BRANTLEY: You say would it pose a burden

1 on me? As far as financially it would because I'm the
2 only sole supporter right now of me so financially it probably
3 would.

4 THE COURT: All right.

5 MS. BRANTLEY: That's the only thing.

6 THE COURT: Okay. Solicitor.

7
8 EXAMINATION BY THE SOLICITOR:

9 Q. Ms. Brantley, I'm Walter Bailey and I want to
10 ask you a couple of questions. First of all in your
11 questionnaire you said you were a sales clerk?

12 A. Beg your pardon?

13 Q. I'm sorry, you obviously can't hear me. Can
14 you hear me okay now if I stand here?

15 A. Yes, that's fine.

16 Q. And what type work do you do? You're a sales
17 clerk at a ---

18 A. Yeah.

19 Q. Okay, and before that, did you work at the
20 detention center or have some relatives at the jail?

21 A. Have a what?

22 Q. Did you work at the detention center at one time?

23 A. No.

24 Q. As a correctional officer?

25 A. No.

1 Q. Okay. I want to ask you a little bit, Ms. Brantley,
2 about your feelings on the death penalty and there are
3 no right or wrong answers, okay. We're not testing you
4 so whatever answer you give me is right as long as that
5 is truly the way you feel, okay.

6 A. (No response.)

7 Q. Can you tell us in your own words what your thoughts
8 are about the death penalty or capital punishment?

9 A. As far as my beliefs and my religion I just don't
10 believe in the death penalty.

11 Q. Okay.

12 A. I just --- I just don't.

13 Q. And have you felt that way for a while before
14 yesterday?

15 A. Well, not all my life, no.

16 Q. Okay.

17 A. Until only since I became involved in the church
18 and was saved.

19 Q. All right, and I noticed on your questionnaire
20 that you attend Hickory Grove Baptist Church in Rowesville?

21 A. Yes.

22 Q. And how long have you held a religious belief
23 that the death penalty is wrong?

24 A. Has it been --- have I felt this way?

25 Q. Yes, ma'am.

1 A. For the last nine years.

2 Q. All right. And are those deeply held religious
3 beliefs, do you feel strongly that the death penalty is
4 wrong?

5 A. Yes.

6 Q. And do you also have personal beliefs that the
7 death penalty is wrong?

8 A. Beg your pardon?

9 A. Do you also have personal beliefs that the death
10 penalty is wrong?

11 A. Yes, personal beliefs.

12 Q. Let me ask you, I'm going to get off the death
13 penalty for a minute here and I'm not trying to embarrass
14 you but as far as your hearing, do you have any problems
15 hearing me now?

16 A. No.

17 Q. Okay.

18 A. As long as you speak loud I can hear you.

19 Q. Okay, when I'm back here, can you hear me okay
20 now?

21 A. I can hear you now but sometimes it's very
22 difficult.

23 Q. Do you think that you would have any difficulty
24 if you were picked on the jury, sitting out here, let's
25 say you were sitting on this front row here and the witness

1 is up there, would you have any difficulty hearing the
2 witness?

3 A. Sometimes, yes.

4 Q. You think you may miss something that the witness
5 might say?

6 A. If I'm facing you I can hear you pretty good
7 but if not, I guess a lot of it comes from a reading of
8 the lips.

9 Q. Okay, you have to lip read?

10 A. I say I guess it comes from a lot of it.

11 Q. All right. In South Carolina the way the system
12 works is when the State seeks the death penalty we start
13 out with the guilt phase. That's like any other criminal
14 trial.

15 A. right.

16 Q. The State is attempting to prove somebody is
17 guilty and in this case of murder and some other charges
18 and the State has the burden of proving that person guilty
19 beyond a reasonable doubt. If that defendant is convicted
20 of murder, then we go into the second part of the trial
21 and if we reach that second phase, the jury hears some
22 additional evidence and the Judge tells the jury what the
23 law is, the jury decides the punishment, not the Judge.
24 The jury has two choices, life without parole and the
25 death penalty. Whatever that verdict is, the Judge orders

1 that sentence to be carried out and it will happen. So
2 if that jury votes for a life sentence, the Judge would
3 order that, that person serves life without parole. If
4 the jury votes for the death penalty, the Judge would order
5 that and that person actually would be executed.

6 Now, a jury is never told they have to bring
7 back the death penalty, life without parole is always an
8 option. Now, Ms. Brantley, as a juror, taking into consider-
9 ation your religious beliefs about the death penalty, could
10 you as a juror vote for the death penalty in a capital
11 murder case knowing that person actually would be executed?

12 A. I don't think so.

13 Q. Okay. Could you ever sign your name to a piece
14 of paper, a death verdict form, that would result in that
15 person actually being put to death by lethal injection?

16 A. Have I ever signed my name on what?

17 Q. Could you?

18 A. Could I?

19 Q. Yes, ma'am.

20 A. For a death penalty?

21 Q. Yes, ma'am.

22 A. I don't think so.

23 Q. You say I don't think so and I'm not asking you
24 to predict what you would do in this case. I'm talking
25 about ---

1 A. The way I feel, no.

2 SOLICITOR: Thank you, ma'am, that's all I have,
3 Ms. Brantley at this time.

4 THE COURT: Mr. Sims.

5
6 EXAMINATION BY MR. SIMS:

7 Q. Ms. Brantley, just a few questions for you. You
8 indicated that for about nine years you've held this
9 religious belief that the death penalty is wrong, is that
10 correct?

11 A. Yes, through my faith and my religion.

12 Q. Okay. And I guess I'm trying to figure out where
13 we are here because did you not answer that there may be
14 a situation, and I may have misheard you. Did you not answer
15 that there may be --- that there may have been a situation
16 in which you could vote for the death penalty?

17 A. No, I don't --- no, I could not vote for it,
18 no. If I had to vote personally, no.

19 Q. Not vote for it but if you were a juror, not
20 in this case but if you were on a jury and you had the
21 opportunity to listen to all of the evidence and the first
22 part of the trial has already been held and the jury has
23 found the person guilty of a murder.

24 A. Right.

25 Q. The second part of that trial or the process

1 says that the jury would then consider whether or not a
2 life sentence would be appropriate or whether or not the
3 death penalty would be appropriate. Could you under those
4 set of facts, if the case or the facts warranted it, vote
5 for the death penalty?

6 A. No.

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

8 THE COURT: Ms. Brantley, I want to sincerely
9 thank you for coming and taking part in this process and
10 especially for your patience yesterday, it was a long day
11 for everybody. I'm going to excuse you from this case
12 at this time and you're free to go back home or to work.
13 Thank you very much.

14 MS. BRANTLEY: Thank you.

15 THE COURT: All right, let's bring in our next
16 juror.

17 (WHEREUPON, Juror #248, Olympia Robinson Lee
18 (BF) entered the courtroom and took the witness chair.)

19 THE COURT: How are you today?

20 MS. LEE: Tired.

21 THE COURT: I am, too. If you will relax and
22 make your feel comfortable, we've got some questions we
23 want to ask you and because of that I need to remind you
24 that you're still under oath from yesterday. I'm going
25 to ask you a question I asked yesterday, too, to start

1 off with. Do you know of any reason whatsoever why you
2 cannot give both the State and the defendant a fair and
3 impartial trial?

4 MS. LEE: No, I don't.

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

7 MS. LEE: Yes.

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 MS. LEE: Would you repeat that, please?

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. LEE: Yes.

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

19 MS. LEE: Yes.

20 THE COURT: Have you discussed this case with
21 anyone?

22 MS. LEE: No.

23 THE COURT: have you read, viewed or listened
24 to any news accounts or news reports on the subject of
25 this case?

1 MS. LEE: Are you talking about since yesterday
2 or before?

3 THE COURT: Anytime, anytime.

4 MS. LEE: I've heard about it before.

5 THE COURT: What is the nature of the news account?

6 MS. LEE: Uhm --- like newspaper and television.

7 THE COURT: Newspaper and television?

8 MS. LEE: Uh-huh.

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

11 MS. LEE: I remember in the newspaper like, I
12 think it was like last year, kinda like when it happened
13 and kinda like what happened and when they found the body,
14 that's what I remember and then it related to this case.
15 It was in the newspaper and it was on the news.

16 THE COURT: Will the news accounts which you
17 have read, viewed or listened to prevent you from rendering
18 a fair and impartial verdict in this case?

19 MS. LEE: No.

20 THE COURT: Okay. Can you erase from your mind
21 the information you acquired from these news accounts and
22 render a fair, impartial and just verdict based on the
23 law and the evidence uninfluenced in any way whatsoever
24 by reason of the news accounts which you have described?

25 MS. LEE: (No response.)

1 THE COURT: Do you want me to repeat that?

2 MS. LEE: Yeah.

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

8 MS. LEE: I don't --- I don't know. I could try
9 it, I mean, I don't know. I'm not --- I don't know.

10 THE COURT: All right, let me go a little further.
11 Can you, notwithstanding your exposure to these news accounts,
12 base your verdict upon the law and the evidence presented
13 to you uninfluenced in any way whatsoever by the news
14 accounts which you have described?

15 MS. LEE: Repeat it, please.

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

20 MS. LEE: I think I'm understanding the question
21 right and yes.

22 THE COURT: Okay. Do you understand that your
23 verdict must be based exclusively upon the law given to
24 you by this Court and the evidence presented to the Court
25 and the jury during the trial?

1 MS. LEE: Yes.

2 THE COURT: Can you make your verdict based only
3 upon these two considerations, the law and the evidence?

4 MS. LEE: Yes.

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

10 MS. LEE: No.

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

15 MS. LEE: Yes.

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

22 MS. LEE: Yes.

23 THE COURT: You were given a letter a few minutes
24 ago. Did you have a chance to read it?

25 MS. LEE: Yes.

1 THE COURT: All right, and you have a copy of
2 it there, I believe, to your right to refer to if you need
3 to. I wonder if you can tell me which of these three
4 categories or jury types or juror types, excuse me, that
5 you might fall into?

6 MS. LEE: The second type.

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

11 MS. LEE: No.

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

16 MS. LEE: Yes.

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

22 MS. LEE: Yes.

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

1 MS. LEE: No.

2 THE COURT: Notwithstanding your opposition to
3 capital punishment, are you willing to consider all of
4 the penalties provided by the law of this state, including
5 the death penalty, and then determine whether the defendant
6 should receive the death penalty or life imprisonment based
7 upon the facts and circumstances developed during trial?

8 MS. LEE: I still don't believe in the death
9 penalty.

10 THE COURT: All right. Will your opposition to
11 the death penalty for murder prevent you from voting for
12 the death penalty under any circumstances?

13 MS. LEE: If I don't believe in it I don't think
14 that I should have to vote for the death. I just don't
15 believe that I should have to vote for the death.

16 THE COURT: Are your beliefs and attitudes against
17 capital punishment, the death penalty, such that you would
18 be unable to return a verdict of guilty for murder according
19 to the law of this state?

20 MS. LEE: Repeat that.

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

25 MS. LEE: No.

1 THE COURT: Would you automatically vote against
2 the imposition of capital punishment without regard to
3 the evidence that might be developed during the trial of
4 a capital murder case?

5 MS. LEE: Yes.

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

9 MS. LEE: Repeat that one more time.

10 THE COURT: Would your opposition to capital
11 punishment prevent you from making an impartial decision
12 as to the defendant's guilt?

13 MS. LEE: No.

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

19 MS. LEE: As far as if it was just me, that would
20 be fine, but I have children.

21 THE COURT: What are their ages?

22 MS. LEE: My oldest will be 3 in December and
23 the youngest will be 2. And I have a husband, he's there,
24 I mean, he could take care of the children, that's just
25 something I would have to get used to.

1 THE COURT: Answer any questions counsel may
2 have for you, beginning with the Solicitor.

3 SOLICITOR: No questions, Your Honor.

4 THE COURT: Mr. Sims?

5 MR. SIMS: None.

6 THE COURT: Ms. Lee, I want to thank you for
7 your service on this case, especially for your patience
8 yesterday. I know it was a long day and you told me you
9 were tired. I'm going to excuse you at this time, you're
10 free to go back home or to work.

11 MS. LEE: Thank you.

12 THE COURT: Thank you. All right, bring in the
13 next one.

14 (WHEREUPON, Juror #294, Glenda Strickland (WF)
15 entered the courtroom and took the witness chair.)

16 THE COURT: Ms. Strickland, how are you today?

17 MS. STRICKLAND: Pretty good, thank you.

18 THE COURT: Ms. Strickland, now if you will just
19 relax and make yourself comfortable there, we've got some
20 questions we need to ask you and in order for us to do
21 that I need to remind you that you're still under oath
22 from yesterday.

23 MS. STRICKLAND: Yes, sir.

24 THE COURT: I'm going to ask you a question that
25 has already been asked but I'm going to ask it again. Do

1 you know of any reason whatsoever why you cannot give both
2 the State and the defendant a fair and impartial trial?

3 MS. STRICKLAND: I have no reason why I cannot.

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

6 MS. STRICKLAND: 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. STRICKLAND: Uhm --- under circumstances
11 I could find someone not guilty.

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 guilty?

15 MS. STRICKLAND: Certainly.

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

18 MS. STRICKLAND: No, sir.

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

22 MS. STRICKLAND: On the headlines on yesterday's
23 paper there was something about it but I did not read it,
24 I just saw something about a --- I don't know what it said
25 and I don't know what the name was. I saw a picture but

1 I didn't look at it and I didn't read any of what it was
2 about, no, sir.

3 THE COURT: So do you know the nature of that
4 news account?

5 MS. STRICKLAND: No, sir.

6 THE COURT: Does counsel want me to go into anything
7 further about the news account or is does that satisfy
8 everybody?

9 SOLICITOR: That's fine, Your Honor.

10 MR. SIMS: That's fine.

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

15 MS. STRICKLAND: No, sir.

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

20 MS. STRICKLAND: Yes, sir.

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

1 do you understand that?

2 MS. STRICKLAND: Yes, sir.

3 THE COURT: A few minutes ago you were given
4 a letter to read. Did you read it/

5 MS. STRICKLAND: Yes, sir.

6 THE COURT: There is one that you may refer to
7 I think down there to your right. I wonder if you could
8 tell me which of the three categories or the juror type
9 that you might fall into?

10 MS. STRICKLAND: Number one.

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

15 MS. STRICKLAND: I certainly could, sir.

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

20 MS. STRICKLAND: Yes, sir.

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

1 MS. STRICKLAND: No, sir.

2 THE COURT: Can your position on capital punishment
3 or the death penalty for murder be changed by the evidence
4 presented during the trial?

5 MS. STRICKLAND: Certainly, sir.

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

13 MS. STRICKLAND: Yes, sir.

14 THE COURT: Will your position on the death penalty
15 for murder prevent you from voting for life imprisonment
16 under any circumstances?

17 MS. STRICKLAND: No, sir.

18 THE COURT: Would you automatically vote for
19 the imposition of capital punishment without regard to
20 the evidence that might be developed during the trial of
21 a capital murder case?

22 MS. STRICKLAND: I would have to hear the evidence
23 and then go from there, sir. I wouldn't just automatically
24 go for the death penalty.

25 THE COURT: Would your position on capital

1 punishment prevent you from making an impartial decision
2 as to the defendant's guilt?

3 MS. STRICKLAND: No, sir.

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

8 MS. STRICKLAND: I have a medical problem that
9 could --- I have an excuse from my doctor that I did not
10 have yesterday if you would like to read it and it might
11 not --- it might would keep it or it would not necessarily ---
12 two years ago I had seventy percent of my small intestines
13 removed and so I have a digestive system problem. And
14 a bathroom and I have very close relationship.

15 THE COURT: Okay, let me explain this to you.
16 Very seldom in South Carolina does a trial take over two
17 weeks. Counsel and I are in agreement that this case would
18 take approximately a week. Would you have any problems
19 being in a motel for approximately that period of time?

20 MS. STRICKLAND: I probably wouldn't but my roommate
21 might. Sorry, sir.

22 THE COURT: That's alright. I think arrangements
23 could be made in regards to that, counsel. That's all
24 the questions I have. Solicitor, do you have anything?

25 SOLICITOR: Yes, sir, thank you.

1 EXAMINATION BY THE SOLICITOR:

2 Q. Ms. Strickland, I'm Walter Bailey and I want
3 to ask you a few more questions.

4 A. All right, sir.

5 Q. There are no right or wrong answers. This is
6 potentially a two-part process where we start off with
7 the guilt phase and in that guilt phase it's like any other
8 criminal trial basically. The State has the burden of
9 proving the defendant guilty of whatever the charges are
10 beyond a reasonable doubt. In this case one of the charges
11 is murder. If we've successful in proving that defendant
12 guilty of murder beyond a reasonable doubt, then we go
13 into the second phase. The jury, anytime you talk about
14 the jury in the second phase that, of course, means they've
15 already been convicted of murder in the first part of the
16 trial. And in that second phase additional evidence comes
17 out to guide that jury, additional instructions from the
18 Judge comes out to guide that jury into making that decision,
19 life without parole or the death penalty.

20 Whatever the jury's verdict is the Judge is going
21 to order that that sentence be carried out. So if the verdict
22 is for life, the Judge orders life and that person serves
23 life without parole. If the jury votes for death, the
24 Judge orders that and that person is actually executed.

25 Now, I'm not going to ask you about this case

1 particularly because you don't know any of the facts.

2 A. No, sir.

3 Q. No sworn testimony or anything. But just in general.

4 If you were on a jury in a case like this and you get into
5 that second phase meaning that you've convicted that person
6 of murder, would you continue to have an open mind and
7 listen to the testimony that came out in the second phase,
8 listen to the Judge before you made up your mind?

9 A. Yes, sir.

10 Q. And if you felt like that the case was appropriate
11 for the death penalty, could you vote for the death penalty
12 knowing that sentence would be carried out?

13 A. Yes, sir.

14 Q. On the other hand, if you felt like a life sentence
15 was appropriate, could you vote for life without parole?

16 A. Yes, sir.

17 Q. If you voted for the death penalty, could you
18 sign your name to a verdict form that would result in that
19 person being executed?

20 A. If I voted for that I could certainly sign my
21 name to it.

22 Q. Okay, and could you announce that decision out
23 loud if your name was called out?

24 A. Yes, sir.

25 Q. Okay, now when the Judge asked you about the

1 three kinds of jurors, number one juror, number two juror
2 and number three juror. The number one juror in any case
3 for murder would always, without listening to any of the
4 facts or circumstances in the penalty phase, he would always
5 vote for the death penalty. Does that describe you or
6 are a number three juror, might vote for death, might vote
7 for life, depending on what you heard?

8 A. Well, it would depend on what I heard. So I
9 guess I'm maybe number three.

10 Q. Okay, well, take a look at number one and then
11 look at number three and see if you can't, you know, bearing
12 in mind what we've talked about, you and me and then you
13 and the Judge, would you be a number one or a number three?

14 A. (Juror looks at the letter). After hearing
15 all of the testimony, I could vote for a death penalty
16 if I thought that was warranted.

17 Q. Okay.

18 A. Or life imprisonment if I --- though I --- it's
19 according to what I would hear.

20 Q. Okay, thank you. I think you've answered my
21 question and thank you very much.

22 THE COURT: Mr. Sims.

23
24 EXAMINATION BY MR. SIMS:

25 Q. Ms. Strickland, good evening. I have just a

1 few questions. I was concerned, you said you had a doctor's
2 excuse or a doctor's report on your medical condition and
3 I'm not trying to embarrass you but we are going to be
4 in court, if you were chosen on a jury, we are going to
5 be in court for an extended periods of time. And I was
6 wondering how that may affect you?

7 A. Well, some days it doesn't affect me at all.
8 I'm as normal as I can be but then there are some days
9 that I go --- I will hit the bathroom fifteen times and
10 I have a very --- sometimes very short notice.

11 Q. Yes, ma'am.

12 A. I carry an extra changing of clothes with me
13 everywhere I go.

14 Q. Uh-huh.

15 A. I don't have one with me now but I have one in
16 the car.

17 Q. Yes, ma'am, and that's what I was concerned with,
18 I was not in any way trying to embarrass you or anything
19 like that but ---

20 A. I wouldn't want to embarrass myself either in
21 that happening or needing a changing of clothes or anything
22 like that either, sir.

23 Q. Okay, and you do have your doctor's excuse. May
24 I see it?

25 A. Yes.

1 Q. Thank you.

2 A. It's very short and to the point.

3 MR. SIMS: That's all I have.

4 THE COURT: I don't have anything further, either.

5 SOLICITOR: No questions, Your Honor.

6 THE COURT: I find the juror qualified.

7 MR. SIMS: Your Honor, before you do that, I
8 wanted to --- may I approach?

9 THE COURT: Sure, or I can ask her to step out.

10 MR. SIMS: Well, that may be appropriate.

11 THE COURT: Would you step right outside the
12 door, Ms. Strickland.

13 MS. STRICKLAND: Certainly.

14 (WHEREUPON, Ms. Strickland left the courtroom
15 and the following proceedings were held in her absence.)

16 THE COURT: The juror is clear.

17 MR. SIMS: Your Honor, I , of course, pursuant
18 to the standards in terms of her responses to the questions
19 I do believe that there may be --- that there wouldn't
20 be any questions in terms of her qualifications. However
21 what does concern me is her medical problem and how that
22 may affect her if she is ultimately chosen on the jury
23 in terms of by her own testimony, some days she's fine
24 and then some days she may have to go to the bathroom fifteen
25 times a day. That creates a problem in my mind as she's

1 indicated she has very short notice and she keeps an extra
2 change of clothes in, you know, with her. I don't ---
3 I question whether or not she's going to be in a jury box
4 paying attention to everything that's going to be going
5 on or whether or not she's going to be concerned with
6 wondering whether or not at any given moment she may have
7 to jump up out of the jury box and run to the bathroom.

8 Those are legitimate concerns in terms of whether
9 or not we would be able to effectively continue the flow
10 of the trial if this happened to be one of those days that
11 she has to go fifteen times a day. And I wanted to raise
12 that issue with the Court.

13 THE COURT: Bring her back in, please.

14 (WHEREUPON, Ms. Strickland came into the courtroom
15 and the following proceedings were held in her presence.)

16 THE COURT: Ms. Strickland, you can stand right
17 there. If you were to be chosen as a juror in this case
18 and you were to have one of your problem days. If you
19 were placed next to the jury box wall over here with the
20 bathroom available in the jury room, could you give me
21 sufficient notice to allow me to stop the trial so that
22 you could use the restroom?

23 MS. STRICKLAND: If you could do that in about
24 three seconds or two or three minutes.

25 THE COURT: Seriously, tell me the time.

1 MS. STRICKLAND: Sometimes it's only two or three
2 minutes but my intake has a lot --- what I eat has a lot
3 to do with my problem.

4 THE COURT: All right, could you control your
5 intake to help in regards to that?

6 MS. STRICKLAND: I could eat grits all day and
7 probably be alright all day. Very bland food but any greens
8 or that type thing ---

9 THE COURT: Should you be seated on this jury
10 I would ask that you do so. I'm going to find her qualified
11 for further consideration on this case. I'm going to ask
12 you to check in with Madam Clerk and we need to have a
13 telephone number we can reach you on moment's notice. Do
14 not discuss this case with anyone. Do not read any newsprint
15 or listen to any news or watch any news accounts on this
16 until this case is over. Please check in with us tomorrow
17 morning around 9 o'clock to make sure our lines of
18 communication is still open, okay?

19 MS. STRICKLAND: Yes, sir.

20 THE COURT: And we will need you to stay close
21 by the phone.

22 MS. STRICKLAND: Yes, sir, that's no problem.

23 THE COURT: All right, let's bring out our next
24 juror.

25

1 (WHEREUPON, Juror #243, Georgia Riley (BF) entered
2 the courtroom and took the witness chair.)

3 THE COURT: Ms. Riley, we need you to sit right
4 up here in the witness box, please. How are you today?

5 MS. RILEY: Pretty good.

6 THE COURT: I'm going to ask you to relax and
7 make yourself comfortable because we've got some questions
8 we need to ask you, okay?

9 MS. RILEY: All right.

10 THE COURT: I'm going to remind you at this time
11 that you're still under oath from yesterday. I'm going
12 to ask a question I've already asked once. Do you know
13 of any reason whatsoever why you cannot give both the State
14 and the defendant a fair and impartial trial?

15 MS. RILEY: No, sir.

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

18 MS. RILEY: No, sir.

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. RILEY: No.

23 THE COURT: Let me repeat that for you. Could
24 you, depending on the facts and evidence and the law as
25 I would instruct you, find a defendant not guilty?

1 MS. RILEY: Yes.

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. RILEY: Yes.

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

8 MS. RILEY: No, sir.

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. RILEY: Yes, sir.

13 THE COURT: What is the nature of the news account?

14 MS. RILEY: I read it in the paper.

15 THE COURT: And would you relate to me what you
16 remember or recall about that news account?

17 MS. RILEY: No, 'cause I didn't finish it.

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

21 MS. RILEY: No, sir.

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

1 by reason of the news accounts that you have described?

2 MS. RILEY: Yes, sir.

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 the news account which you have described?

7 MS. RILEY: No, sir.

8 THE COURT: Let me repeat that. Can you, notwith-
9 standing your exposure to these news accounts, base your
10 verdict upon the law and the evidence presented to you
11 that is uninfluenced in any way whatsoever by the news
12 accounts that you told me about?

13 MS. RILEY: Yes, sir.

14 THE COURT: Do you understand that your verdict
15 must be based exclusively upon the law given to you by
16 the Court and the evidence presented to you in court ---
17 I'm sorry, the evidence presented to the Court and the
18 jury during the trial?

19 MS. RILEY: No, sir.

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

23 MS. RILEY: Yes, 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 MS. RILEY: No, sir.

5 THE COURT: Will you, without regards to the
6 race 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 MS. RILEY: Yes.

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 --- are you okay?

13 MS. RILEY: Yes, sir.

14 THE COURT: Okay, there are no right or wrong
15 answers. I emphasize that the mere fact that we're talking
16 about penalty does not indicate anything about this defendant.
17 He is presumed innocent, do you understand that?

18 MS. RILEY: Yes, sir.

19 THE COURT: You were given a letter a few minutes
20 ago to read. Did you read it?

21 MS. RILEY: Yes, sir.

22 THE COURT: You have one right there to your
23 right to refer to if you need to. I wonder if you can
24 tell me which of the three categories or the type of jurors
25 that you might fall into?

1 MS. RILEY: The second 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. RILEY: No, sir, yes, sir.

7 THE COURT: Can you as, a 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. RILEY: Yes, sir.

12 THE COURT: Now you told me number two. Let
13 me ask you some questions in regards to that. Is your
14 opposition to the death penalty for murder so fixed and
15 so firm that you are irrevocably committed before the
16 beginning of this trial to vote against the death penalty
17 for murder regardless of the facts and circumstances that
18 may be develop during the trial?

19 MS. RILEY: No, sir.

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. RILEY: No, sir.

24 THE COURT: Let me repeat that. Can your opposition
25 to capital punishment or the death penalty for murder

1 be changed by the evidence presented during the trial?

2 MS. RILEY: Yes, sir.

3 THE COURT: Notwithstanding your opposition to
4 capital punishment, are you willing to consider all the
5 penalties provided by the law of this state, including
6 the death penalty, and then determine whether the defendant
7 should receive the death penalty or life imprisonment based
8 upon the facts and circumstances developed during the trial?

9 MS. RILEY: Yes.

10 MR. SIMS: I'm sorry, Your Honor, I could hear
11 her response.

12 MS. RILEY: Yes, sir.

13 THE COURT: She said yes. Will your opposition
14 to the death penalty for murder prevent you from voting
15 for the death penalty under any circumstances?

16 MS. RILEY: No, sir.

17 THE COURT: Are your beliefs and attitudes against
18 capital punishment, the death penalty, such that you would
19 be unable to return a verdict of guilty of murder according
20 to the law of this state?

21 MS. RILEY: No, sir.

22 THE COURT: Would you automatically vote against
23 the imposition of capital punishment without regard to
24 the evidence that might be developed during the trial of
25 a capital murder case?

1 MS. RILEY: Yes, sir.

2 THE COURT: Let me repeat that now. Would you
3 automatically vote against the imposition of capital punish-
4 ment without regard to the evidence that might be developed
5 during the trial of a capital murder case?

6 MS. RILEY: 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. RILEY: Yes, sir.

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

15 MS. RILEY: No, sir.

16 THE COURT: Answer any questions counsel may
17 have for you, beginning with the Solicitor.

18 SOLICITOR: Your Honor, could I take up a brief
19 matter of law prior to cross-examination?

20 THE COURT: Sure. Could I ask you to step outside
21 of the courtroom, Ms. Riley?

22 (WHEREUPON, Ms. Riley left the courtroom and
23 the following proceedings were held in her absence.)

24 SOLICITOR: Your Honor, on Ms. Riley's questionnaire,
25 question #31, have you ever been arrested other than for

1 minor traffic offenses? She has checked no, and on her
2 rap sheet she has a 1979 simple assault conviction and
3 a 1996 CDV conviction. I can understand how she may forget
4 the '79 conviction but I'm kinda puzzled why she would
5 forget the 1996 CDV conviction. I didn't want to ask her
6 about it because I've only got five strikes and I may have
7 to take her and I didn't want to alienate her but I would
8 request the Court to ask her about it. And if she has
9 no valid reason for not being truthful on the questionnaire,
10 to excuse her for that reason.

11 THE COURT: Okay.

12 SOLICITOR: It's just sort of compounded, Your
13 Honor, just for the record by the fact that when she answered
14 your questions she changed her answers on a couple of
15 occasions, she would give a yes answer and then when you
16 would ask her again she would give a no. She appeared
17 to be kinda just giving whatever answer she thought was
18 the answer you wanted to hear.

19 THE COURT: Bring her back in, please.

20 (WHEREUPON, Ms. Riley re-entered the courtroom
21 and the following proceedings were held in her presence.)

22 THE COURT: Come back up, please, Ms. Riley.
23 Ms. Riley, I have the questionnaire that was sent to you
24 before court that you filled out. There was a question
25

1 #31 on there that asked if you had ever been arrested other
2 than for minor traffic offenses.

3 MS. RILEY: I don't have a car.

4 THE COURT: Have you ever been arrested for anything
5 other than traffic offenses?

6 MS. RILEY: No, I ain't never been arrested.
7 One time for fighting, that's all.

8 THE COURT: For fighting?

9 MS. RILEY: That's all.

10 THE COURT: Do you remember when that was?

11 MS. RILEY: No. I don't even own a car.

12 THE COURT: Okay, the question is not for minor
13 traffic offenses, I think that may be confusing.

14 MS. RILEY: Uh-huh.

15 THE COURT: Have you ever been arrested for anything
16 other than a traffic offense?

17 MS. RILEY: No.

18 THE COURT: You told me for fighting.

19 MS. RILEY: That's all.

20 THE COURT: Anything else?

21 MS. RILEY: No.

22 THE COURT: Can you tell me how long ago that
23 was?

24 MS. RILEY: It done been about six months or
25 seven months ago now.

1 THE COURT: Do you remember being charged with
2 criminal domestic violence?

3 MS. RILEY: Huh-uh.

4 THE COURT: Back in January of '96 or thereabouts?

5 MS. RILEY: Huh-uh.

6 THE COURT: Do you remember being arrested for
7 simple assault back in 1979?

8 MS. RILEY: Simple assault? No.

9 THE COURT: Are either one of these two are in
10 regards to what you were telling me about the fighting?

11 MS. RILEY: No.

12 THE COURT: Georgia Mae Riley, your date of birth
13 is [REDACTED], is that correct?

14 MS. RILEY: Yes, sir.

15 THE COURT: I've got a record sheet here that
16 indicates that Georgia Mae Riley, born on [REDACTED], is
17 your social security number [REDACTED]?

18 MS. RILEY: Yes.

19 THE COURT: It indicates that you were charged
20 with simple assault and convicted of that in 1979 and also
21 a criminal domestic violence, 1/20/96.

22 MS. RILEY: I shore don't remember that.

23 THE COURT: It doesn't disqualify you from jury
24 service.

25 MS. RILEY: Uh-huh, I shore don't remember that.

1 THE COURT: You don't remember that?

2 MS. RILEY: No, sir.

3 THE COURT: But you remember an arrest seven
4 or eight months ago or six or seven months ago?

5 MS. RILEY: Yeah, for fighting, that's all.

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

7 THE COURT: Sure, or I can ask her to step back
8 out.

9 MR. SIMS: Okay, that will be fine.

10 THE COURT: Step back out the door just a few
11 minutes, please.

12 (WHEREUPON, Ms. Riley left the courtroom and
13 the following proceedings were held in her absence.)

14 THE COURT: Okay.

15 MR. SIMS: Your Honor, in order to kinda help
16 this issue out, the Court may ask her if she's ever gone
17 to the magistrate's court because the one in '96 appears
18 to be like it's a two day thing and a lot of times around
19 in this area where people just go to the magistrate's court
20 and they either walk out the door and they don't see it
21 as a conviction. They think that everything is gone. I
22 think we had a lady who came up yesterday who was found
23 guilty from New York and she was let go and she didn't
24 consider that as a conviction. So if the Court would
25 kinda inquire as to whether or not she's ever gone to

1 the magistrate's court and before a magistrate. That may
2 give her a different ground of reference to deal with.

3 SOLICITOR: Your Honor, the question was had
4 she been arrested, not convicted. The little short form
5 requested whether or not she had been convicted but on
6 this particular form, if I'm not mistaken, the question
7 is whether you've been arrested.

8 MR. SIMS: For anything other than, and the Court
9 clearly found out initially she thought that you were
10 referring to a car when she said she didn't even own a
11 car.

12 THE COURT: Yes.

13 SOLICITOR: But she also apparently doesn't remember
14 the 1996 or the 1979 conviction.

15 THE COURT: She remembered one that happened
16 since these.

17 MR. SIMS: Yeah, she remembered that one, she
18 was pretty forthright about that.

19 SOLICITOR: Well, she wasn't when she filled
20 the paper out and, of course, you asked them all if there
21 was any change yesterday, was it still accurate, and she
22 didn't indicate that it was inaccurate at that point. So
23 she's really ---

24 THE COURT: I think she was probably confused
25 about the traffic offense. But I'm sort of amazed that

1 she doesn't remember anything after I inquired about it.

2 SOLICITOR: Your Honor, the State's position
3 would be that if she can't remember the 1996 conviction
4 for CDV, then she's not mentally competent under State vs-
5 Gaskins to serve as a juror in a case of this magnitude.
6 And if she can remember it, she can't be trusted on anything
7 she says. If she can't remember it, then she' mentally
8 infirmed, so either way, I don't think she should be
9 qualified in this kind of a case.

10 MR. SIMS: Your Honor, I don't think that the
11 basis, especially in light of the fact that in magistrate's
12 court people walk in and walk out all during the day. None
13 of these cases, none of the cases that are on her record
14 would be a case which would disqualify her pursuant to
15 our statute from serving in a case of this magnitude and
16 in light of the looseness and things that go on in
17 magistrate's court, that's why I asked the Court if they
18 would inquire if she could remember anything about that.
19 So I don't think that that disqualifies her because she
20 may not have understood something on the questionnaire.

21 THE COURT: I'm not going to disqualify her at
22 this time. I'm going to follow up on it a little bit and
23 then I'm going to listen very carefully to what ya'll may
24 have to ask her and, of course, I know that necessarily
25 might not go to this point but I'm going to pay close

1 attention. Ask her to come back in.

2 (WHEREUPON, Ms. Riley re-entered the courtroom
3 and took the witness chair again.)

4 THE COURT: Ms. Riley, thank you. Let me ask
5 you, in 1996 or thereabouts, do you remember going to a
6 magistrate for anything, having to go before a city judge
7 or a magistrate about a fight you might have had at home
8 with our husband or anything like that?

9 MS. RILEY: I'm not married, I'm not married.

10 THE COURT: You don't ever remember going before
11 a magistrate in 1996?

12 MS. RILEY: In '96? No, me and my boyfriend
13 get in trouble.

14 THE COURT: Tell me about that.

15 MS. RILEY: He slapped me and I slapped him back.

16 THE COURT: Okay, and both of you had to go before
17 a judge then?

18 MS. RILEY: No, just me.

19 THE COURT: Just you?

20 MS. RILEY: Yes, sir.

21 THE COURT: Let me ask you. I want you to make
22 it plain to me and I think I know what you're saying but
23 I need to hear it from you. Why did you put that you had
24 never been arrested on that question #31?

25 MS. RILEY: I ain't know they had no record

1 of it.

2 THE COURT: Ma'am?

3 MS. RILEY: I didn't know they had a record of
4 it. I didn't know they had a record of it, I didn't know.

5 THE COURT: All right, any questions, Solicitor?

6 SOLICITOR: Yes, sir.

7
8 EXAMINATION BY THE SOLICITOR:

9 Q. Ms. Riley, let's just make sure I understand.

10 You do remember the 1996 arrest?

11 A. Yes, sir.

12 Q. And the reason you didn't put that on the form
13 is because you didn't think we had a record of it?

14 A. Yes, sir.

15 Q. And when you told the Judge before you went out
16 the last time that you didn't remember being arrested in
17 1996, that wasn't correct?

18 A. Sir?

19 Q. Do you remember telling the Judge that you did
20 not remember being arrested in 1996?

21 A. Yes, sir.

22 Q. But you do remember now?

23 A. Yes, sir.

24 Q. So in the last five minutes you have remembered
25 it now?

1 A. When I went out there and think about it, I
2 remembered.

3 Q. Okay. And the reason you didn't disclose that
4 is that you thought that nobody would find out about it?

5 A. Yes, sir.

6 SOLICITOR: Nothing further.

7 THE COURT: Mr. Sims.

8

9 EXAMINATION BY MR. SIMS:

10 Q. Ms. Riley, you were just asked that you didn't
11 think anybody would find out about it is it because you
12 didn't think anybody would find out about it or you didn't
13 think there was a record?

14 A. I didn't think there was no record.

15 Q. And you went before a magistrate or into the
16 magistrate's court?

17 A. One up there to the jailhouse.

18 Q. You went up to the jailhouse?

19 A. Uh-huh.

20 Q. And they let you go?

21 A. No, I made five days.

22 Q. You made five days?

23 A. Uh-huh.

24 Q. And then they let you go?

25 A. Yes, sir.

1 Q. And that was all there was to it?

2 A. Yes, sir.

3 Q. So you did not know whether or not a record was
4 made of that, is that what you are saying?

5 A. Yes, sir.

6 Q. And that's what you meant when you said that
7 you didn't think there was a record of it?

8 A. Yes, sir.

9 MR. SIMS: That's all I have on that, Your Honor.

10 THE COURT: All right, anything on any other
11 matter?

12 SOLICITOR: Your Honor, it will depend on your
13 ruling. I can get into other issues but I don't know if
14 I need to.

15 THE COURT: Let me go ahead and hear the rest
16 of it out while I think about this.

17 SOLICITOR: Okay.

18
19 EXAMINATION BY THE SOLICITOR:

20 Q. Ms. Riley, I'm Walter Bailey and I need to ask
21 you a few more questions and I apologize if you think we're
22 picking at you but this is a real important case and this
23 is the only chance we get to talk to jurors before we start
24 the trial, okay?

25 A. Yes, sir.

1 Q. Tell me in your own words, if you would, what
2 your thoughts and beliefs are on the death penalty.

3 A. I think it's --- say that again.

4 Q. What are your thoughts on the death penalty,
5 what are your beliefs on the death penalty, just in your
6 own words.

7 A. I believe that the death penalty is --- they
8 deserve it.

9 Q. I'm sorry, I couldn't understand you.

10 A. Yeah, I think they deserve the death penalty
11 for whatever they did.

12 Q. Who deserves the death penalty?

13 A. Whatever the person that done something wrong
14 deserve it.

15 Q. Okay. You said --- excuse me a second, I'll
16 be right back.

17 SOLICITOR: No questions, Your Honor.

18 MR. SIMS: No questions, Your Honor.

19 SOLICITOR: I think we can agree on something.

20 THE COURT: Okay. Ms. Riley, I want to thank
21 you for coming and taking part and especially for your
22 patience yesterday, I know it was a long day for every-
23 body. I'm going to go ahead and excuse you at this time.
24 You may go back home or to work. Thank you for coming.

25 MS. RILEY: Uh-huh.

1 SOLICITOR: Mr. Sims and I agreed on that and
2 I would just like the record to reflect that both of us
3 agreed that she was not qualified based on her answers.

4 MR. SIMS: Yes, sir.

5 THE COURT: Okay. Bring in our next juror.

6 (WHEREUPON, Juror #125, Pemela Hampton (BF)
7 entered the courtroom and took the witness chair.)

8 THE COURT: Good evening, Ms. Hampton.

9 MS. HAMPTON: Hi.

10 THE COURT: How are you?

11 MS. HAMPTON: Fine.

12 THE COURT: If you will relax and make yourself
13 comfortable, we have a few questions we need to ask you.
14 And in order to do that, I need to remind you that you're
15 still under oath from yesterday, okay?

16 MS. HAMPTON: Uh-huh.

17 THE COURT: And I'm going to repeat a question
18 to you once again. Do you know of any reason whatsoever
19 why you cannot give both the State and the defendant a
20 fair and impartial trial?

21 MS. HAMPTON: No, sir.

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

24 MS. HAMPTON: Yes, sir.

25 THE COURT: Could you, depending on the facts

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

3 MS. HAMPTON: 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 guilty?

7 MS. HAMPTON: Yes, sir.

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

10 MS. HAMPTON: No, sir.

11 THE COURT: You indicated to me yesterday that
12 you knew Mr. Sims, is that correct?

13 MS. HAMPTON: Yes, sir.

14 THE COURT: Would that affect your ability in
15 this case to give a fair and impartial trial in the case?

16 MS. HAMPTON: 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. HAMPTON: No, sir.

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

1 MS. HAMPTON: No, sir.

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

6 MS. HAMPTON: Yes, sir.

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

13 MS. HAMPTON: Yes, sir.

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

16 MS. HAMPTON: Yes, sir.

17 THE COURT: Can you tell me which of the three
18 categories or type of juror that you might fall into?

19 MS. HAMPTON: Third type.

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

24 MS. HAMPTON: No, 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 MS. HAMPTON: Yes, sir.

5 THE COURT: You said you fell under which number?

6 MS. HAMPTON: The third.

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

11 MS. HAMPTON: No, sir.

12 THE COURT: Taking that response let me ask you
13 this, is your opposition to the death penalty for murder
14 so fixed and so firm that you are irrevocably committed
15 before the beginning of the trial to vote against the
16 death penalty for murder regardless of the facts and
17 circumstances that may develop during the trial?

18 MS. HAMPTON: Yes, sir.

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. HAMPTON: No, sir.

23 THE COURT: Notwithstanding your opposition to
24 capital punishment, are you willing to consider all of
25 the penalties provided by the law of this state, including

1 the death penalty, and then determine whether the defendant
2 should receive the death penalty or life imprisonment based
3 upon the facts and circumstances developed during the trial?

4 MS. HAMPTON: Yes, sir.

5 THE COURT: Will your opposition to the death
6 penalty for murder prevent you from voting for the death
7 penalty under any circumstances?

8 MS. HAMPTON: Yes, sir.

9 THE COURT: Are your beliefs and attitudes against
10 capital punishment, that is the death penalty, such that
11 you would be unable to return a verdict of guilty of murder
12 according to the law of this state?

13 MS. HAMPTON: No, sir.

14 THE COURT: Would you automatically vote against
15 the imposition of capital punishment without regard to
16 the evidence that might be developed during the trial of
17 a capital murder case?

18 MS. HAMPTON: No, sir.

19 THE COURT: Would your opposition to capital punish-
20 ment prevent you from making an impartial decision as to
21 the defendant's guilt?

22 MS. HAMPTON: No, sir.

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

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

3 MS. HAMPTON: No, sir.

4 THE COURT: Answer any questions counsel may
5 have for you, beginning with the Solicitor.
6

7 EXAMINATION BY THE SOLICITOR:

8 Q. Ms. Hampton, I'm Walter Bailey and I want to
9 ask you a few more questions and like the Judge said, there
10 are no right or wrong answers. We've been doing this for
11 two days and I realize each juror it's new to them.

12 A. Right.

13 Q. Did you understand all the questions the Judge
14 asked you about the death penalty?

15 A. Yes.

16 Q. Let me ask you to do this. Instead of just going
17 over the form and the questions, tell us in your own words
18 what your thoughts are about the death penalty.

19 A. I don't believe in it.

20 Q. Okay. And is that belief, does that have a
21 religious basis?

22 A. Well, sort of but I just don't believe in it,
23 because it's not going to bring the other person back.

24 Q. All right, and have you thought about it before
25 yesterday when you found out that you might be a juror

1 on a death penalty case?

2 A. I mean, yeah, that was my belief along.

3 Q. Okay, and is that a --- would you characterize
4 that as a deeply held belief?

5 A. Yes.

6 Q. Do you feel kinda strong about that?

7 A. Uh-huh.

8 Q. Okay. There's a process that we go through in
9 a death penalty case where we would start out like any
10 other trial, we would have the guilt phase where the jury
11 is just there to determine whether or not the State has
12 proved that person guilty of whatever the crime he's charged
13 with beyond a reasonable doubt. If the State can do that
14 and the person is convicted of murder, we then go into
15 the second part of the trial and in that second part of
16 the trial the jury decides the punishment. The Judge doesn't
17 decide that. All that Judge does is, he orders that jury's
18 verdict to happen. And in that second part of the trial
19 you would have additional evidence that would come out,
20 additional instructions from the Judge, and then you would
21 make a decision, the jury would make a decision. They have
22 two choices, life which means life without parole, or the
23 death penalty. And the jury would never have to impose
24 the death penalty, life without parole would always be
25 an option for the jury.

1 Whatever that jury says the verdict is, the Judge
2 would order. If the jury verdict is life, the Judge orders
3 that, he serves life without parole. If the jury says
4 the death sentence, the Judge orders that and that person
5 is executed.

6 Taking into consideration what you said your
7 beliefs were about the death penalty, could you, as a juror,
8 vote for the death penalty knowing that person actually
9 would be executed?

10 A. No, sir.

11 Q. Could you ever sign your name to a piece of paper,
12 a death verdict for, that would result in that person being
13 executed by lethal injection?

14 A. No, sir.

15 SOLICITOR: That's all I have, Ms. Hampton, at
16 this time.

17 THE COURT: Mr. Sims.

18

19 EXAMINATION BY MR. SIMS:

20 Q. Ms. Hampton, just one or two questions. The
21 process has already been explained to you by Mr. Bailey
22 but I need to ask you a question because there were some
23 differences in your questions to the Judge. In your mind,
24 is there ever a situation in which you could vote for the
25 death penalty?

1 A. No, sir.

2 MR. SIMS: That's all I have.

3 THE COURT: Ms. Hampton, I want to sincerely
4 thank you for coming and taking part in the jury service
5 and especially for your patience yesterday, it was a long
6 day for everybody. I'm going to excuse you at this time
7 and you may return to your home or to your business at
8 this time. Thank you very much.

9 MS. HAMPTON: Uh-huh.

10 THE COURT: All right, let's have our next one.

11 (WHEREUPON, Juror #108, Loretta Godfrey (WF)
12 entered the courtroom and took the witness chair.)

13 THE COURT: Good evening.

14 MS. GODFREY: Hey.

15 THE COURT: How are you this evening?

16 MS. GODFREY: Good.

17 THE COURT: I'm going to ask you to relax and
18 make yourself comfortable there because we have some question
19 we need to ask you at this time. In order for me to do
20 that I need to remind you that you're still under oath
21 from yesterday, okay?

22 MS. GODFREY: Yes, sir.

23 THE COURT: Do you know of any reason whatsoever
24 why you cannot give both the State and the defendant a
25 fair and impartial trial?

1 MS. GODFREY: No.

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

4 MS. GODFREY: Yes, sir.

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

8 MS. GODFREY: Could I find --- say that again
9 for me.

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. GODFREY: 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 MS. GODFREY: Yes, sir.

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

20 MS. GODFREY: 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. GODFREY: I don't think so.

25 THE COURT: All right, do you remember reading

1 any newspaper account or hearing any news report?

2 MS. GODFREY: Not anything that I recognize anything
3 from what you said.

4 THE COURT: All right. The defendant is a black
5 and the victim was a white. Will the fact that the defendant
6 is 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 MS. GODFREY: 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 MS. GODFREY: Could you ask that again, I'm sorry.

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

19 MS. GODFREY: Yes, sir.

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

1 MS. GODFREY: Yes, sir.

2 THE COURT: You were given a letter a few minutes
3 ago to read. You have one to your immediate right if you
4 need to refer to it. I wonder if you can tell me which
5 of these three categories or juror types that you might
6 fall into?

7 MS. GODFREY: The third one.

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 MS. GODFREY: If the evidence and law, 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 MS. GODFREY: Yes, sir.

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

23 MS. GODFREY: Just your regular stuff like a
24 two year old and a fourteen year old and things like that.
25 But I guess that's normal, what you're supposed to do, huh?

1 THE COURT: Okay, let me tell you, I told all
2 the others that have responded in that way to me that
3 normally in South Carolina a case does not go past two
4 weeks. Counsel and I are in agreement that this case will
5 take approximately a week. Does that ---

6 MS. GODFREY: I don't think that anybody would
7 have a --- I mean, I would be upset, I would miss my two
8 year old but ---

9 THE COURT: Have you got somebody that could
10 look after him?

11 MS. GODFREY: Yes, sir.

12 THE COURT: Okay. Any questions?

13 SOLICITOR: Yes, sir.

14
15 EXAMINATION BY THE SOLICITOR:

16 Q. Ms. Godfrey, I'm Walter Bailey and I want to
17 ask you a few more questions and like the Judge said, there
18 are no right or wrong answers.

19 A. Okay.

20 Q. As far as the death penalty, is that something
21 you've given any thought to before yesterday when you found
22 out you might be a juror on this case?

23 A. I have thought about it because you see things
24 happen and that kind of thing but what you might see if
25 one way --- all right, if you see it and it kinda happens

1 in your everyday life and you think, God, that was awful,
2 I totally think that that was the right thing to do. And
3 then in another situation you may see and think well, I
4 don't know if I totally believe that so, sometimes, you
5 know, you just --- I have thought about it.

6 Q. Okay, do you have any religious beliefs about
7 the death penalty one way or the other?

8 A. No, I don't.

9 Q. In South Carolina the way the system work when
10 we're seeking the death penalty is that we go through a
11 guilt phase which is like any other trial. The State is
12 attempting to prove a person that was charged guilty
13 beyond a reasonable doubt and when the charge is murder
14 we are seeking the death penalty. If we are successful
15 in proving that person guilty of murder, then we go into
16 the second phase. So anytime a jury enters that second
17 phase, that means they've already convicted that person
18 of murder.

19 A. Right.

20 Q. And additional evidence comes out and the Judge
21 instructs the jury and the jury decides the punishment,
22 not the Judge. It's not really a recommendation, it will
23 be the sentence. So if after hearing all of the facts
24 and the law and the jury votes for life, the Judge sentences
25 that person to life and they would do life without parole.

1 A. Right.

2 Q. If the jury votes for the death penalty, the
3 Judge would orders that and that person would be executed.
4 A jury would never have to impose the death penalty. Life
5 without parole would always be an option.

6 I'm not going to ask you to predict what you
7 would do in this case because you haven't heard any of
8 the facts. But just in general, if the case is bad enough,
9 could you vote for the death penalty knowing that person
10 actually would be executed based on that jury's vote?

11 A. I think that if I thought it was horrible, probably
12 so. All death is horrible but just some things are just
13 awful and you just see where that would be justified and
14 some things just happen by accident or by some craziness
15 that runs through your head or whatever and I don't necessarily
16 think that I would believe that it would work for that.

17 Q. Okay. So you would want to wait and hear the
18 facts and depending on those facts---

19 A. Right.

20 Q. --- you could vote for the death penalty or you
21 could vote for life without parole?

22 A. Right.

23 Q. If the jury votes for the death penalty, it will
24 have to be a unanimous vote, whatever it is, but all twelve
25 jurors would be asked to sign their name to a death verdict.

1 form that would result in that person being executed. Could
2 you sign that paper, along with the other jurors, if you
3 had already voted for the death penalty?

4 A. If I believed that that was the right thing to
5 do at the time.

6 Q. Okay. There's a process called polling the jury
7 where if the jury comes back with the death penalty, each
8 juror's name is called out one at a time and they re asked
9 to say out loud that was their verdict and it's still their
10 verdict. Could you do that if it was your verdict?

11 A. Could you say that again, I'm sorry.

12 Q. I'm getting tired, too, so I'm running through
13 this kind of fast. There's a process at the end of the
14 trial where if the jury comes back with a death verdict,
15 each juror's name is called out by the Clerk of Court and
16 they are asked to say out loud, is that your verdict, is
17 it still your verdict. Could you announce that as being
18 your verdict in open court if that was your verdict?

19 A. If it was my verdict, yes.

20 Q. Okay. Let me ask you a little bit your situation
21 with your two year old. Being in the motel for three or
22 four days or however long it takes, it's an inconvenience
23 and two and a half years old is pretty young.

24 A. Right.

25 Q. Do you think that you would be able to follow ---

1 this is as serious as it gets as far as a trial. Would
2 you be able to concentrate and follow the trial testimony
3 for several days, despite the fact that you were kind of
4 isolated from your child? Is that something you could
5 do?

6 A. How isolated?

7 Q. Well, you would be in a motel, there would be
8 telephone contact but I don't know how much conversation
9 you can have with a two and a half year old.

10 A. Right, she can talk. Just like her momma.

11 Q. All right, if you could talk to her every night
12 on the phone for three or four days or however long it
13 took, is that something that you could do if you had to?

14 A. If I had to.

15 SOLICITOR: Ms. Godfrey, thank you, that's all
16 I've got. Thank you very much.

17 THE COURT: Mr. Sims.

18
19 EXAMINATION BY MR. SIMS:

20 Q. Ms. Godfrey, again, two years old are special,
21 they are going through the terrible twos and I know that
22 that would be a consideration for you. Is the fact that ---
23 and this is a little girl?

24 A. Uh-huh.

25 Q. Okay. And the fact that you may not be there

1 with her and I think that --- I don't know how much
2 telephone conversation you would have with her, but would
3 that bother you, would that create a situation in your
4 mind where your concern would be more for the child and
5 what's going on with the child as opposed to the trial
6 during the day?

7 A. Well, during the day I normally work and she
8 has a nanny so I guess it would just be like being at work
9 and then at night is probably when I would miss her.

10 Q. Okay, now, let me ask you, in regards to some
11 of the things that you have said about the death penalty,
12 you put yourself in the third category, is that correct?

13 A. Yes, sir.

14 Q. And that's the situation in which a juror would
15 sit back and listen to all of the evidence and then make
16 a determination as it relates to whether or not the defendant
17 should be given the death penalty or a life sentence, is
18 that correct?

19 A. Right, where they listen and make sure of everything,
20 right.

21 Q. You said in response to the question from the
22 Solicitor, you indicated that under certain circumstances
23 you may decide that you would find that there is a reason
24 to give a person a life sentence.

25 A. Yes.

1 Q. And you would be the kind who would have to sit
2 back and listen to all of the evidence that had been put
3 forth before you could make a decision like that, is that
4 correct?

5 A. Right, you don't want to do anything drastic
6 unless you know that's the right thing.

7 Q. Unless you know that that's the right thing to
8 do?

9 A. Right.

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

11 THE COURT: Anything else, Solicitor/

12 SOLICITOR: No, sir.

13 THE COURT: All right, Ms. Godfrey, I find her
14 qualified to continue on in this case. I'm going to instruct
15 you at this time if you would to come around to Madam
16 Clerk's station. We need to check and make sure we have
17 a phone number we can reach you on moment's notice. Please
18 check in with us tomorrow to double check to make sure
19 we have an open line of communication around 9 o'clock,
20 okay.

21 MS. GODFREY: Okay.

22 THE COURT: We've got to have a place we can
23 reach you. Do not discuss this case with anyone. Do not
24 read any news accounts, watch or listen to any news accounts
25 until this case is over, okay.

1 MS. GODFREY: Okay.

2 THE COURT: All right, you need to stay close
3 by the phone, double check in the morning with us to make
4 sure we are in contact with you, okay.

5 Okay, let's get our next juror out here.

6 (WHEREUPON, Juror #38, Parthelia Carpenter (BF)
7 entered the courtroom and took the witness chair.)

8 THE COURT: How are you this evening?

9 MS. CARPENTER: Just fine.

10 THE COURT: If you will make yourself comfortable
11 there and relax, we need to ask you some questions and
12 in order to do so, I will remind you that you are still
13 under oath from yesterday. I'm going to ask you a question
14 that's already been asked of you. Do you know of any reason
15 whatsoever why you cannot give both the State and the
16 defendant a fair and impartial trial?

17 MS. CARPENTER: No.

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

21 MS. CARPENTER: Yes.

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 MS. CARPENTER: Yes.

THE COURT: Could you, depending on the facts

1 and evidence and the law as I would instruct you, find
2 a defendant guilty?

3 MS. CARPENTER: Yes.

4 THE COURT: Have you discussed this case with
5 anyone?

6 MS. CARPENTER: No, I have not.

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

10 MS. CARPENTER: Not recently.

11 THE COURT: How about in the past?

12 MS. CARPENTER: In the past, about a year or
13 two ago.

14 THE COURT: What was the nature of that news
15 account?

16 MS. CARPENTER: It was an article in the paper.

17 THE COURT: Can you tell me what you remember
18 or recall about that news account?

19 MS. CARPENTER: A young woman being killed, I'm
20 not very clear.

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

24 MS. CARPENTER: No, sir.

25 THE COURT: Can you erase from your mind the

1 information you acquired from that news account and render
2 a fair, impartial and just verdict based on the law and
3 the evidence uninfluenced in any way whatsoever by reason
4 of the news account which you have described?

5 MS. CARPENTER: Yes.

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

10 MS. CARPENTER: Yes.

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 MS. CARPENTER: Yes.

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

19 MS. CARPENTER: Yes.

20 THE COURT: The defendant is a black and the
21 victim was a 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 MS. CARPENTER: No.

1 THE COURT: Will you, without regard to the race
2 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. CARPENTER: Yes.

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

12 MS. CARPENTER: Yes, I do.

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

15 MS. CARPENTER: Yes, I did.

16 THE COURT: You have one to your right down there
17 that you may refer to. I wonder if you could tell me which
18 of the three categories or juror type that you might fall
19 into?

20 MS. CARPENTER: Type two.

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. CARPENTER: I can't.

1 THE COURT: Can you, as a juror, 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. CARPENTER: I can.

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. CARPENTER: Yes.

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

15 MS. CARPENTER: No.

16 THE COURT: Notwithstanding your opposition to
17 capital punishment are you willing to consider all of the
18 penalties provided by the law of this state, including
19 the death penalty, and then determine whether the defendant
20 should receive the death penalty or life imprisonment based
21 upon the facts and circumstances developed during trial?

22 MS. CARPENTER: Could you repeat that one for
23 me, please?

24 THE COURT: Sure. Notwithstanding your opposition
25 to capital punishment are you willing to consider all of

1 the 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 trial?

5 MS. CARPENTER: No.

6 THE COURT: Will your opposition to the death
7 penalty for murder prevent you from voting for the death
8 penalty under any circumstances?

9 MS. CARPENTER: Yes.

10 THE COURT: Counsel, any point in going further?

11 SOLICITOR: No, sir.

12 MR. SIMS: No, sir.

13 THE COURT: Ms. Carpenter, I want to thank you
14 for your patience and your service as a juror in this case.
15 I especially want to thank you for your patience yesterday,
16 it was a long day for everybody. I'm going to excuse you
17 at this time and you are free to return to your home or
18 to work. Thank you very much.

19 All right, counsel, I think that's all the jurors
20 we have for today.

21 SOLICITOR: Your Honor, I have one matter we
22 need to take up. Your Honor, I believe all of the indict-
23 ments reflect the defendant's first name as being Samuel
24 and it's actually, in talking with Mr. Sims, his given
25 name is Sammie and I move to amend the indictments to

1 reflect the correct name.

2 MR. SIMS: No objection, Your Honor.

3 THE COURT: S-a-m-m-y?

4 SOLICITOR: S-a-m-m-i-e. Thank you, Your Honor.

5 THE COURT: All right, we are going to stop for
6 the night.

7 (WHEREUPON, Court was recessed for the evening
8 and the proceedings resumed the next morning at 9:00.)

9 THE COURT: All right, so we will be clear on
10 the record, we had a repetitious juror that we discovered
11 last night, Kinard, is everybody in agreement to replace
12 him?

13 SOLICITOR: Yes, sir.

14 MR. SIMS: Yes, sir, that's fine. We were made
15 aware of it yesterday, Your Honor.

16 THE COURT: all right.

17 SOLICITOR: Your Honor, the first juror this
18 morning is Roy Carson, Juror #40, he's the same situation
19 as Ms. Riley is in, I believe, in that he said on the
20 questionnaire that he had no arrests, had not been arrested,
21 that question #31. His rap sheet shows a 1985 shoplifting
22 conviction, '85 DUI 2nd conviction, '86 simple assault
23 conviction, '91 cruelty to animals arrest, '87 DUS 4th
24 conviction and 1997 pointing a firearm, no disposition.

25 THE COURT: DUS 4th, that's still --- DUI 4th

1 would knock him out.

2 MR. SIMS: Yes, sir, but DUS 4th is less than ---

3 SOLICITOR: If you wouldn't mind asking him about
4 that.

5 THE COURT: He had a lapse of memory.

6 SOLICITOR: I think so. He probably figured
7 there was no record of it.

8 THE COURT: All right, bring out Mr. Carson.

9 (WHEREUPON, Juror #40, Roy Carson, (WM) entered
10 the courtroom and took the witness chair.)

11 THE COURT: Mr. Carson, how you doing this morning?

12 MR. CARSON: Fair, pretty good.

13 THE COURT: Good. If you will just relax right
14 there and make yourself comfortable we have some questions
15 of you at this time and I need to remind you that you're
16 under oath, okay?

17 MR. CARSON: Okay.

18 THE COURT: On your questionnaire, we need to
19 make sure that we are straight about one of the questions.
20 You were asked on question #31 if you had ever been arrested
21 other than for any minor traffic offenses and you checked
22 no, is that correct?

23 MR. CARSON: Yes, sir, I think so, yeah, I'm
24 pretty sure.

25 THE COURT: Can you remember being arrested for

1 anything other than traffic offense?

2 MR. CARSON: Uhm --- well, I shot a dog one time
3 and I think they booked me or something for that, cruelty
4 for animals.

5 THE COURT: Okay, and what traffic offenses were
6 you arrested for, can you remember?

7 MR. CARSON: DUI.

8 THE COURT: DUI?

9 MR. CARSON: First and one second.

10 THE COURT: Anything else on traffic offenses?

11 MR. CARSON: No, sir.

12 THE COURT: All right, now, you were arrested
13 for shooting a dog?

14 MR. CARSON: Yes, sir.

15 THE COURT: Why didn't you check yes?

16 MR. CARSON: I --- I don't know.

17 THE COURT: Have you been arrested for anything
18 else other than the shooting?

19 MR. CARSON: That was about it, I think, I'm
20 not --- that I remember.

21 THE COURT: And how long ago was that?

22 MR. CARSON: This has been three, four years
23 maybe.

24 THE COURT: Did you go before a judge on that?

25 MR. CARSON: Magistrate.

1 THE COURT: Did you plead guilty or what happened
2 to the case, do you know?

3 MR. CARSON: Uhm --- they found me guilty, the
4 Magistrate did.

5 THE COURT: Okay, let me ask you some other questions.
6 One of which I've already asked you the other day. Do
7 you know of any reason whatsoever why you cannot give both
8 the State and the defendant a fair and impartial trial?

9 MR. CARSON: No, sir.

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

12 MR. CARSON: Uhm --- could you repeat that?

13 THE COURT: sure. Would you, under oath, follow
14 the law in this case as given to you by me/

15 MR. CARSON: Yes, sir.

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

19 MR. CARSON: Uhm --- I don't know.

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 not guilty?

23 MR. CARSON: I don't 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 MR. CARSON: Uhm -- yes or no, I don't know.

3 SOLICITOR: Your Honor, could we approach?

4 THE COURT: Yes.

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

7 THE COURT: Mr. Carson, I'm going to go ahead
8 and excuse you at this time. We thank you for coming and
9 especially for your patience the other day, Monday was
10 a long day. We are going to go ahead and excuse you and
11 you are free to go back to work.

12 MR. CARSON: Okay.

13 THE COURT: All right, bring in our next juror.

14 (WHEREUPON, Juror #309, Leatha Turner (BF)
15 entered the courtroom and took the witness chair.)

16 THE COURT: Let the record show on that last
17 juror that everybody was in agreement to excuse him.

18 SOLICITOR: Yes, sir.

19 MR. SIMS: That's correct, Your Honor.

20 THE COURT: Ms. Turner, how are you this morning?

21 MS. TURNER: Fine, you?

22 THE COURT: Good. If you will just relax and
23 make yourself comfortable, we're going to ask you a few
24 questions, okay. I need to remind you that you are still
25 under oath from the oath that you were put under Monday.

1 MS. TURNER: Okay.

2 THE COURT: I'm going to ask you a question that
3 has already been asked. 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. TURNER: No, sir.

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

9 MS. TURNER: 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 MS. TURNER: 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 MS. TURNER: Yes, sir.

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

20 MS. TURNER: No, sir.

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

24 MS. TURNER: No, sir.
25

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 was white prevent you in any what
4 whatsoever from rendering a fair and impartial verdict
5 in this case?

6 MS. TURNER: No, sir.

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

11 MS. TURNER: Yes, sir.

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 and I emphasize that
15 the mere fact that we're talking about penalty does not
16 indicate anything about this defendant. He is presumed
17 innocent, do you understand that?

18 MS. TURNER: Yes, sir.

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

21 MS. TURNER: Yes, sir.

22 THE COURT: I believe there's one to your right
23 in case you need to refer to it. I wonder if you could
24 tell me which of the three categories or the jury type
25 that you might fall into?

1 MS. TURNER: Juror type #3.

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. TURNER: Yes, sir.

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. TURNER: 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 the trial. Does that pose any undue hardships for you?

16 MS. TURNER: Yes, sir.

17 THE COURT: Tell me about it.

18 MS. TURNER: I have a child.

19 THE COURT: All right.

20 MS. TURNER: But my husband, I have a husband,
21 too, so I assume that he can take care of her.

22 THE COURT: Okay. What I've told everybody else
23 when we get to this point, normally in South Carolina cases
24 do not take over two weeks. The attorneys are in agreement
25 with me that this case would last approximately a week.

1 Do you think your husband can take care of the child for
2 that period of time?

3 MS. TURNER: Yes, sir.

4 THE COURT: All right, any questions, Solicitor/

5 SOLICITOR: Yes, thank you, Your Honor.
6

7 EXAMINATION BY THE SOLICITOR;

8 Q. Ms. Turner, I'm Walter Bailey, and I'm the pro-
9 secutor and I'll be asking you a few more questions. Let
10 me ask you first of all about the questionnaire that you
11 and the other jurors filled out. One of the questions
12 was whether or not you or any family member was a part
13 of the Solicitor's Office and you had checked yes on that.

14 A. No.

15 Q. Maybe I misread it. Okay, let me --- this is
16 question #16 here.

17 A. I must have checked that by mistake.

18 Q. Okay, you just checked the wrong thing?

19 A. Yes, sir.

20 Q. Okay. That's easy to do.

21 A. Sorry.

22 Q. Also another one of the questions asked was whether
23 or not anybody had been arrested other than for minor
24 traffic offenses and you had checked yes on that?

25 A. Yes, sir.

1 Q. Okay, could you tell us about that? I'm not
2 trying to embarrass you but that's what we have to ask.

3 A. Okay. My brother.

4 Q. Okay, it wasn't you, it was your brother?

5 A. Yes, sir.

6 Q. Okay, and what was he arrested for?

7 A. For speeding.

8 Q. Okay, just for a speeding ticket?

9 A. Yes, sir.

10 Q. Okay, that settles that. Let me ask you a little
11 bit, Ms. Turner, about the death penalty. Before Monday
12 when you found out that you might be a juror in this kind
13 of a case, had you ever given any thought to the death
14 penalty?

15 A. No, sir.

16 Q. Has the subject of the death penalty ever come
17 up, say, at church or anywhere, to your knowledge, where
18 you've had any occasion to discuss it with anybody else?

19 A. My husband.

20 Q. Okay, so you've talked about it generally with
21 your husband?

22 A. Yes, sir.

23 Q. And could you tell us what you thought about
24 it or what you told your husband about it?

25 A. Yeah, about a year, a year or two ago, we

1 talked about it.

2 Q. Okay. And can you remember generally what your
3 feelings were on the death penalty, were you either for
4 it or against it?

5 A. Well, you know, it depends on the evidence, you
6 know, whether the evidence was in favor or was not in favor.

7 Q. Okay. And in South Carolina, the way it works,
8 it is a potentially a two-part process where we start off
9 with the guilt phase which is like any other criminal trial.
10 The State attempts to prove somebody guilty or whatever
11 they are charged with beyond a reasonable doubt and if
12 the jury is satisfied with that evidence, beyond a reason-
13 able doubt, and they convict that person of murder, then
14 we go into the second phase. And in that second phase of
15 the trial the jury is dealing with the person that they've
16 already convicted of murder and additional evidence comes
17 out and the Judge gives the jury additional instructions
18 and then the jury decides the punishment, not the Judge.

19 The two choices are death by lethal injection
20 or life, which means life without parole. Whatever that
21 verdict is, the Judge is going to order that to happen.
22 So if the jury votes for life, the Judge orders that sentence
23 and that person serves life without parole. If the verdict
24 is the death penalty, the Judge orders that and that person
25 actually is executed based on that jury's verdict.

1 The jury never has to impose the death penalty,
2 okay. Now, you don't know anything about this case at
3 all, do you, you haven't read anything, talked to anybody
4 about it?

5 A. No, sir.

6 Q. So I'm not going to ask you to predict what you
7 would do in this case but just in general, if the case
8 is bad enough, could you vote for the death penalty, knowing
9 that person actually is going to be executed?

10 A. Depends on the evidence.

11 Q. Okay, and if the evidence was bad enough, could
12 you vote for the death penalty, knowing that person would
13 be executed?

14 A. Yes, sir.

15 Q. If all twelve jurors vote for the death penalty,
16 there's a piece of paper that they are asked to sign a
17 death verdict form that would result in the execution taking
18 place. Could you sign your name to a paper like that,
19 along with the other jurors if that was your verdict?

20 A. Yes, sir.

21 Q. There's a process called polling the jury where
22 if the jury votes for the death penalty and that verdict
23 is brought out, each juror might be asked when their name
24 is called, to stand up and acknowledge out loud that that's
25 their verdict. Could you do that if that was your verdict?

1 A. No, sir.

2 Q. Okay, and tell me about that, why you would not
3 be able to do that, to announce that if that was your verdict?

4 A. Because I really wouldn't want, you know, nobody
5 really to know what I voted.

6 Q. Okay. So you could not be able to announce that
7 out loud?

8 A. No, sir.

9 Q. Okay. And, again, Ms. Turner, there are no right
10 or wrong answers, we're not testing you on that. And I
11 apologize for trying to, you know, ask personal questions
12 but this is important to all of us. But after thinking
13 about it, you could vote for the death penalty if the case
14 was bad enough, you could sign your name to that form,
15 but you could not get up here in open court and say that
16 out loud, is that correct?

17 A. Yes, sir.

18 SOLICITOR: Thank you, that's all I have right
19 now, Ms. Turner, I may have a few questions after Mr. Sims
20 finishes.

21 THE COURT: Mr. Sims.

22

23 EXAMINATION BY MR. SIMS:

24 Q. Ms. Turner, I just have one question of you and
25 that's in regard to the last question by the Solicitor.

1 And that in terms of the poll. I believe what that process
2 asks is, whether or not that's your verdict, and it's not
3 a statement that, yes, I did this. It's asking you whether
4 or not the verdict of the other jurors and yours, is that
5 your verdict. Could you say, yes, that's your verdict?

6 A. I could say it's my verdict.

7 Q. Okay, so that's all, that's all, I believe, that
8 the process would ask. If the Judge or someone says, is
9 that your verdict, is that still your verdict, would you
10 be able to say yes?

11 A. Yes, sir.

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

13 THE COURT: Solicitor?

14 SOLICITOR: Your HONor, could I go back into
15 that a little bit?

16 THE COURT: Sure.

17
18 EXAMINATION BY THE SOLICITOR:

19 Q. And, again, Ms. Turner, I apologize for going
20 back over the same stuff again but I just want to make
21 sure that you could go through the process. It's a process
22 called polling the jury where after the verdict is reached
23 by the jury and all the paperwork is filled out, that's
24 given to the Clerk of Court and then each juror might be
25 asked, as their name be called out one at a time, they

1 might be asked to stand up and they might be asked, is
2 this your verdict and is it still your verdict, meaning,
3 of course, the verdict of the death penalty. Could you
4 do that?

5 A. So in order words you are saying that we would
6 have to stand up and say ---

7 Q. That's part of the process, you would have to
8 stand up and say it when your name was called, stand up
9 and say out loud that that is your verdict, the death penalty,
10 and that it's still your verdict.

11 A. Well, I guess if we have to do it.

12 Q. Okay. You don't have to do anything, okay. Could
13 you do it, if that was ---

14 A. I could do it.

15 Q. Okay. Well, if that was your verdict and you
16 had signed the paper, would you announce that out loud?

17 A. Yes, I would if I had to.

18 THE COURT: Couldn't hear you.

19 A. I said if I had to, I would.

20 THE COURT: Counsel, ya'll correct me now, I
21 don't want to say too much here but it would be a matter
22 of saying yes or no.

23 SOLICITOR: That's correct.

24 THE COURT: Okay, does that help any?

25 Q. The verdict would be read out loud and we are

1 presupposing that it's a verdict for the death penalty.
2 Then each juror's name would be called out and they would
3 be asked to stand up and this lady over here would say,
4 after your name was called and you stand, was that your
5 verdict, is it still your verdict.

6 A. So you could just have to say yes or no?

7 Q. Yes, ma'am, could you do that?

8 A. Yes.

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

10 THE COURT: Mr. Sims?

11 MR. SIMS: Nothing further, Your Honor.

12 THE COURT: All right, Ms. Turner, let the record
13 reflect that she' qualified to continue on in service of
14 a juror in this case. We are going to let you go on home
15 now and we are going to need you to check in with Madam
16 Clerk and make sure we have got a phone number we can reach
17 you on moment's notice. That's the good news, we're going
18 to let you go back home right now. The bad news is that
19 you are going to have to live beside that telephone, okay.
20 I don't think you will be getting a call within the next
21 few hours, but stay close by because we will need to get
22 in touch with you a little later, okay.

23 MS. TURNER: Okay.

24 THE COURT: If you will make sure we've got the
25 right number. Thank you very much. All right, let's

1 go on to our next juror.

2 (WHEREUPON, Juror #293, Thomas Stokes (BM)
3 entered the courtroom and took the witness chair.)

4 THE COURT: Good morning, Mr. Stokes.

5 MR. STOKES: Good morning, how you doing?

6 THE COURT: Fine. If you will just relax there
7 and make yourself comfortable, we have some questions for
8 you. When I spoke with you Monday, I believe you told
9 me you might possibly be some relation to the defendant.
10 Have you given more thought to that?

11 MR. STOKES: Yes, sir.

12 THE COURT: Can you tell us a little more about
13 that?

14 MR. STOKES: Well, I suppose to be kin to his
15 mother, Lord bless her.

16 THE COURT: Okay, I'm going to ask you a question
17 at this time. Do you know of any reason whatsoever why
18 you cannot give both the State and the defendant a fair
19 and impartial trial?

20 MR. STOKES: I just don't think I could do it.

21 THE COURT: All right. Can you tell us --- well,
22 that's alright.

23 MR. SIMS: No objection, Your Honor.

24 THE COURT: Mr. Stokes, based on what you've
25 just told the Court we are going to excuse you and we

1 thank you very much for coming and spending a long day
2 with us Monday and coming back.

3 MR. STOKES: Okay.

4 THE COURT: You can follow the bailiff out the
5 front.

6 MR. STOKES: Okay.

7 MR. SIMS: Your Honor, I just would like to point
8 out for the record that we consented to that with the
9 consent of our client, Mr. Stokes, and I wanted to put
10 that on the record.

11 THE COURT: Okay. Let's bring out the next one.

12 (WHEREUPON, Juror #97, Robert A. Gibson (WM)
13 entered the courtroom and took the witness chair.)

14 THE COURT: Good morning, Mr. Gibson.

15 MR. GIBSON: Good morning.

16 THE COURT: Just relax and make yourself comfortable,
17 we've got some questions we need to ask you and I need
18 to remind you that you are still under oath from Monday,
19 okay.

20 MR. GIBSON: Okay.

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

24 MR. GIBSON: Yes, sir, I do.

25 THE COURT: Okay.

1 MR. GIBSON: I know, because I've been reading
2 the papers, and I --- the girl that got killed, I knew
3 of her. The woman that also had been charged in this,
4 I knew her and I knew of her. My wife used to work with
5 her and I feel that I cannot give an honest and fair
6 judgment call on this particular case. Like I say, because
7 I knew of the girl and also the boy that had -- that was
8 murdered. He used to call my wife grandma, and my wife,
9 all the time when she come home, she would tell me about
10 this. Like I say, I feel like I don't --- I can't give
11 a fair to the State or to him or to give anybody a fair
12 judgment on this case.

13 THE COURT: All right.

14 SOLICITOR: No questions, Your Honor.

15 MR. SIMS: No questions.

16 THE COURT: We thank you for coming, thank you
17 for being straightforward with us about this and I'm going
18 to excuse you at this time. You can go out this way.

19 MR. GIBSON: All right, sir.

20 THE COURT: Let me record show that there was
21 an agreement to go ahead and excuse him with no further
22 questions.

23 Bring the next one out, please.

24 (WHEREUPON, Juror #133, Derwin High, (BM) entered
25 the courtroom and took the witness chair.)

1 THE COURT: Good morning, Mr. High, how are you?

2 MR. HIGH: Fine.

3 THE COURT: If you will make yourself comfortable
4 right there and relax, we've got some questions we need
5 to ask you. I need to remind you that you are still under
6 oath from Monday, okay.

7 MR. HIGH: Okay.

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

11 MR. HIGH: No, sir.

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

14 MR. HIGH: Yes, sir.

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 not guilty?

18 MR. HIGH: Can you repeat that again?

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. HIGH: (No response.)

23 THE COURT: Do you want me to repeat it again?

24 MR. HIGH: Yeah, I didn't understand it.

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. HIGH: If the fact that you're giving me
4 is true, then I would find him not guilty.

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. HIGH: Yes, if it's true.

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

11 MR. HIGH: 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 MR. HIGH: Huh-uh, 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 MR. HIGH: 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 MR. HIGH: Repeat that again.

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

6 MR. HIGH: Yes, sir.

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

13 MR. HIGH: Yes, sir.

14 THE COURT: You were given a letter a few minutes
15 ago to read.

16 MR. HIGH: Yeah, this letter right here.

17 THE COURT: All right, you've got one right there
18 to go by. Did you read that letter?

19 MR. HIGH: Yes, I read it.

20 THE COURT: I wonder if you could tell me which
21 of the three categories or the juror type that you might
22 fall into?

23 MR. HIGH: The last one.

24 THE COURT: All right. Can you, as a juror,
25 participate in a jury verdict recommending the penalty

1 of death by lethal injection for murder if the evidence
2 and the law warrants such a verdict?

3 MR. HIGH: I think so.

4 THE COURT: Pardon?

5 MR. HIGH: Say that again.

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

10 MR. HIGH: Well, yes, I guess.

11 THE COURT: I couldn't hear you.

12 MR. HIGH: I say, yes, I guess so. I don't really
13 know.

14 THE COURT: Pardon?

15 MR. HIGH: I don't really know.

16 THE COURT: Well, we need an answer.

17 MR. HIGH: 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 MR. HIGH: Yes.

23 THE COURT: If you were selected on this jury
24 I tell you that you would 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 on you?

3 MR. HIGH: No, sir.

4 THE COURT: Thank you very much. If you will
5 answer any questions that counsel may have, beginning with
6 the Solicitor.

7 SOLICITOR: Thank you, Your Honor.
8

9 EXAMINATION BY THE SOLICITOR:

10 Q. Mr. High, I'm Walter Bailey and I want to ask
11 you a few more questions and like the Judge said, there
12 are no right or wrong answers, okay. So all of us want
13 you to tell us exactly how you feel and what you think
14 about these questions, okay.

15 A. All right.

16 Q. We're not testing you, okay. Let me ask you
17 a little bit about the questionnaire that you and the other
18 jurors filled out. You filled this out a few weeks ago,
19 didn't you?

20 A. Uh-huh, yes.

21 Q. Okay. And one of the questions was what type
22 work you do and at that time you did not have a job, is
23 that correct?

24 A. Yes, I work in masonry, brick laying.

25 Q. Okay, so you work as a mason right now?

1 A. Yes.

2 Q. Okay. And is that the kind of work that you
3 normally do?

4 A. Yes, sir.

5 Q. Okay, all right. Let me ask you a little bit
6 about the death penalty. Is that something that you've
7 ever thought about before Monday?

8 A. Nay.

9 Q. Did it ever come up in church or school or any
10 talking with your friends or anything like that?

11 A. No, sir.

12 Q. And you think you've had enough time since Monday
13 to think about the death penalty in general and the three
14 different types of jurors that are on that piece of paper?

15 A. Yes, sir.

16 Q. Okay. The way the system works in South Carolina
17 is that we start off with the guilt phase, that's like
18 any other criminal trial where the State charges somebody
19 and we have to prove to the jury's satisfaction that that
20 person is guilty of the charge beyond a reasonable doubt.
21 In this case one of the charges is murder so we will be
22 attempting to prove to that jury that that person committed
23 murder.

24 If he's found guilty, then we go into part two,
25 the second phase of the trial where the jury is there and

1 they are saying we've got a guy who is convicted of murder.
2 They have to decide the punishment. The jury decides the
3 punishment, not the Judge in a death penalty trial and
4 they have got two choices, death by lethal injection or
5 life which means life without parole. The Judge is going
6 to order that jury verdict to happen, okay. So whatever
7 that jury verdict is, the Judge would --- that would be
8 his order. If the jury verdict is for life, the Judge
9 orders life and the person serves life without parole.
10 If the verdict is death, the Judge orders that and the
11 person is executed. So I want to make sure you understand
12 that process.

13 A. Yes, I understand.

14 Q. The jury would never have to vote for the death
15 penalty, that may be an option but they would never have
16 to. You don't know anything about this case at all, do
17 you?

18 A. No, sir.

19 Q. Nothing on TV, radio, newspapers, street talk,
20 anything?

21 A. No, sir.

22 Q. Just putting aside this case now, forget this
23 particular case, but in general, if you're on the jury
24 in a case like this and the defendant is found guilty of
25 murder. If the case is bad enough, could you vote for

1 the death penalty knowing that as a result of that vote
2 that person is actually going to be executed?

3 A. I don't --- I don't really know right now, I
4 don't really know.

5 Q. You need to speak up, I know you are kind of
6 soft spoken.

7 THE COURT: I couldn't hear you.

8 A. I say I don't really know right now.

9 Q. Okay. And I know this is all new to you but,
10 of course, this is the only chance we get to find out whether
11 or not a juror can do it, not if they would do it, because
12 you haven't heard the facts, whether or not you could do
13 it. Because once we pick a jury, it's going to be too
14 late --- we can't talk to you then.

15 A. All right.

16 Q. So this is the only chance that we have to find
17 out what you are thinking and there are no right or wrong
18 answers but what we all want to know, the Judge, Mr. Sims
19 and me, is if the case is bad enough, could you vote for
20 the death penalty knowing that as a result of that vote
21 of the jury that person is going to be executed?

22 A. I could but I don't feel like anybody should
23 die. But then again, if they get life then --- that's
24 why I can't figure out the thing.

25 Q. Okay, you say that you don't feel like anybody

1 should die?

2 A. Yeah.

3 Q. So if you had the choice between the death penalty
4 and life without parole, would you always vote for life?

5 A. No, not --- it's according to how bad the case
6 is.

7 Q. Okay, and that's really what I'm trying to get
8 at. If the case is bad enough, could you vote for the
9 death penalty? I'm not asking if you would do it in this
10 case because you don't know anything about it.

11 A. Yeah, I could.

12 Q. Okay. All right, if all twelve jurors vote for
13 the death penalty, there's a piece of paper that each one
14 of them is asked to sign their name to, it's a death verdict
15 form. Could you sign your name to a paper like that, knowing
16 it would result in somebody being executed?

17 A. Yeah.

18 Q. Okay. There's a process called polling the jury
19 where if the jury votes for the death penalty and they
20 come out here. Each person's name would be called out one
21 at a time and they would be asked to stand up when their
22 name is called and they would be asked, is that your verdict
23 and is it still your verdict. If you voted for the death
24 penalty and signed that paper, could you stand up out loud
25 and say that?

1 A. Yes.

2 Q. The Judge already asked you about being in a
3 motel for maybe a week, probably not quite that long. and
4 that's something that you could handle okay?

5 A. Yeah, I can.

6 Q. Okay, you wouldn't have any job problems or anything
7 like that?

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

9 Q. Okay. Let me go back to this questionnaire,
10 it's four pages, and the third page is not filled out on
11 my copy. Let me ask you to look at this. That might have
12 stuck to one of the other pages and you didn't see it.
13 Let me just run over that with you since it's blank if
14 you don't mind.

15 A. All right.

16 Q. Okay, you've never been married, have you?

17 A. Nay.

18 Q. Okay, any children?

19 A. Nay, I had a child.

20 Q. Huh?

21 A. I had one.

22 Q. You had one?

23 A. Yeah.

24 Q. Okay, do you still have the child?

25 A. Nay, my child died.

- 1 Q. Okay, all right. And have you ever been a witness
2 in a criminal case?
- 3 A. No, sir.
- 4 Q. Never been on jury before?
- 5 A. Huh-uh.
- 6 Q. And do you go to a church?
- 7 A. Once in a while.
- 8 Q. Okay. What church is that?
- 9 A. Uhm -- the Delivery Church.
- 10 Q. Okay.
- 11 A. The Delivery.
- 12 Q. Do you belong to any kind of clubs or organizations
13 or anything like that?
- 14 A. No.
- 15 Q. Mason, Shriner, anything like that?
- 16 A. No, sir.
- 17 Q. Okay, all right. Again, I'm going to ask you
18 the same thing the Judge asked you, knowing the kind of
19 case this is, do you think you could sit as a fair juror
20 to both sides, the State and the defendant?
- 21 A. Yeah.
- 22 SOLICITOR: Mr. High, that's all I have, thank
23 you.
- 24 MR. SIMS: No questions, Your Honor.
- 25 THE COURT: All right. Mr. High, I'm going to

1 ask you at this time to come around and check in with Madam
2 Clerk. We need a telephone number that we can reach you
3 on moment's notice. In other words, we will be calling
4 you possibly to report at a later time and we need to be
5 able to get ahold of you. So the good news is I'm going
6 to be able to let you go for the morning and the bad news
7 is that you about going to have to live by the telephone,
8 okay.

9 MR. HIGH: All right.

10 THE COURT: Because we are going to need to get
11 in touch with you. If you would do that, we will let you
12 go and we will be calling you later, okay?

13 MR. HIGH: All right.

14 THE COURT: All right, bring in our next juror.

15 (WHEREUPON, Juror #193, Donna Holman (WF) entered
16 the courtroom and took the witness chair.)

17 THE COURT: Good morning.

18 MRS. HOLMAN: Good morning.

19 THE COURT: How are you?

20 MRS. HOLMAN: Fine.

21 THE COURT: We need to ask you to relax and make
22 yourself comfortable and we need to ask you some questions.
23 I need to remind you that you're still under oath because
24 I'm going to be asking you some questions, okay.

25 MRS. HOLMAN: Okay.

1 THE COURT: This is one that I've already asked
2 but I'm going to ask it again. Do you know of any reason
3 whatsoever why you cannot give both the State and the
4 defendant a fair and impartial trial?

5 MRS. HOLMAN: No, sir.

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

8 MRS. HOLMAN: Yes, sir.

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 MRS. HOLMAN: Yes.

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 MRS. HOLMAN: Yes, sir.

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

19 MRS. HOLMAN: No.

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

23 MRS. HOLMAN: I saw a headline but I did not
24 read the article.

25 THE COURT: Tell us what the headline was.

1 MRS. HOLMAN: Uhm ---

2 THE COURT: If you can.

3 MRS. HOLMAN: I just remember something about
4 double murder, Stokes and I think it was Monday's paper.

5 THE COURT: And you didn't read anything else?

6 MRS. HOLMAN: No.

7 THE COURT: Would the headline from the news
8 account that you read prevent you from rendering a fair
9 and impartial verdict in this case?

10 MRS. HOLMAN: No.

11 THE COURT: Counsel, do ya'll want me to go forward
12 with the other questions on that or is everybody satisfied
13 about the headlines?

14 SOLICITOR: Satisfied, Your Honor.

15 MR. SIMS: Satisfied, Your Honor.

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 was white prevent you in any way
19 whatsoever from rendering a fair and impartial verdict
20 in this case?

21 MRS. HOLMAN: 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 as given
25 to you by the Court?

1 MRS. HOLMAN: Yes.

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 MRS. HOLMAN: Yes, sir.

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

11 MRS. HOLMAN: Yes, sir.

12 THE COURT: You have one that you can refer to
13 to your right down there. I wonder if you could tell me
14 which of the three categories or the juror types that you
15 might fall into?

16 MRS. HOLMAN: The last one.

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. HOLMAN: Yes.

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. HOLMAN: Yes.

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

6 MRS. HOLMAN: Yes.

7 THE COURT: All right, let me explain to you
8 at this time, like I have everybody else that has answered
9 the question. In South Carolina very seldom does a case
10 take over two weeks. Counsel is in agreement with me that
11 this case would take approximately a week. With that in
12 mind now, does it still pose a hardship?

13 MRS. HOLMAN: I believe so.

14 THE COURT: All right, tell us about it.

15 MRS. HOLMAN: Well, I have two small children
16 and my husband is the only one home and he does work full
17 time so that would be a little bit difficult on him to
18 get them to school and everything each day and to pick
19 them up.

20 THE COURT: Could he do it, though?

21 MRS. HOLMAN: Possibly, I would have to make
22 sure with him.

23 THE COURT: Other than that ---

24 MRS. HOLMAN: But he said it would be difficult,
25 he said he could do it but it would be difficult.

1 THE COURT: He could do it but it would be difficult.

2 MRS. HOLMAN: Uh-huh.

3 THE COURT: What are the ages of your children?

4 MRS. HOLMAN: Four and six.

5 THE COURT: Okay. Solicitor?

6 SOLICITOR: Thank you, Your Honor.

7
8 EXAMINATION BY THE SOLICITOR:

9 Q. Mrs. Holman, I'm Walter Bailey and I want to
10 ask you a few questions about the death penalty and then
11 later on about your situation with the children.

12 A. Okay.

13 Q. The way the process works in South Carolina when
14 the State seeks the death penalty, we start out with the
15 guilt phase and it's just like any other criminal trial
16 where the State charges someone and the State has to put
17 up the evidence to prove that person guilty of those
18 charges beyond a reasonable doubt. In this case one of
19 the charges is murder and if the person is convicted of
20 murder in the first part of the trial, then the jury goes
21 into the second phase, the penalty phase. And the issue
22 there is the person is a convicted murderer and the jury
23 has to decide the punishment, the Judge doesn't make that
24 decision. All he does, he orders that jury's verdict to
25 be put into affect. So if the jury, after hearing all

1 of the evidence in that second trial, second part of the
2 trial, votes for life, the Judge would sentence that person
3 to life without parole. If the verdict is death, the Judge
4 would order that to be carried out and that person actually
5 would be executed based on that jury's verdict.

6 I'm not going to ask you to predict what you
7 would do in this case if you got picked because you haven't
8 heard the facts but if the facts were bad enough, could
9 you vote for the death penalty knowing that sentence would
10 actually be carried out based on that jury's verdict?

11 A. Yes.

12 Q. Each juror would be asked to sign their name
13 to a death verdict form if they voted for the death penalty.
14 Could you sign your name to a paper like that?

15 A. I think so.

16 Q. And, of course, that question presupposes you
17 had already voted for the death penalty. The final thing
18 that the jury would be involved in is a process called
19 polling the jury where if the jury comes back with the
20 death penalty, that's announced as it's written on the
21 verdict form and each juror's name would be called out
22 one at a time and they would be asked to stand and asked
23 is that your verdict and is it still your verdict. Could
24 you do that if that was your verdict?

25 A. Yes.

1 Q. Would there be anything besides the fact that
2 you've got small children at home that would prevent you
3 from serving as a juror in this case?

4 A. Well, the only other thing is that I'm a full
5 time schoolteacher. I think it would be ---

6 Q. Okay, I think you're a language teacher at South
7 Carolina State?

8 A. Right.

9 Q. Okay. And, of course, if you were in court or
10 in the motel, I'm going to estimate probably four days.
11 Would that be something that you could handle if you had
12 to?

13 A. I think so.

14 Q. Okay.

15 SOLICITOR: Mrs. Holman, I think that's all I
16 have, thank you.

17 THE COURT: Mr. Sims.

18
19 EXAMINATION BY MR. SIMS:

20 Q. Mrs. Holman, just a few questions for you.
21 Primarily in regards to your children, do they go to school
22 or kindergarten?

23 A. Yes.

24 Q. And your husband would be able to take care of
25 them?

1 A. I think so.

2 Q. Because what we are asking that because we want
3 to make sure that you would feel comfortable and not worried
4 about your children but paying attention to what's going
5 on in the courtroom.

6 A. I think I would, I don't think he will be happy
7 about it but --- I will have to deal with that but ---

8 Q. Okay. And do you teach at Felton?

9 A. Yes.

10 Q. And you said you were a French instructor?

11 A. French and Spanish.

12 MR. SIMS: May we approach, Your Honor.

13 THE COURT: Yes.

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

16 THE COURT: Does your husband work on the weekends?

17 MRS. HOLMAN: Sometimes, not officially working
18 but yes, he does things on the weekends. He own Home and
19 Small Engines so he works on small engines things all week
20 and then he does some things on the weekends.

21 THE COURT: Normally he's free on weekends?

22 MRS. HOLMAN: He can be.

23 THE COURT: Anything else?

24 MR. SIMS: Nothing else, Your Honor.

25 SOLICITOR: No further questions, Your Honor.

1 THE COURT: Mrs. Holman, I am going to find that
2 you are qualified at this time. Mrs. Holman, you need
3 to come around and check with Madam Clerk and make sure
4 we have a phone that we can reach you on moment's notice.
5 The good news is that I'm going to be able to let you go
6 back home at this time. The bad news is we're going to
7 need you to live by that phone, especially after this
8 evening. We will be working here most of the day but we
9 need to be able to reach you, okay?

10 MRS. HOLMAN: Okay.

11 THE COURT: Thank you. Let's bring in our next
12 juror.

13 (WHEREUPON, Juror #179, Deborah Keller (WF)
14 entered the courtroom and took the witness chair.)

15 THE COURT: Good morning, Ms. Keller.

16 MS. KELLER: Morning.

17 THE COURT: If you will have a seat and relax
18 and make yourself comfortable. We have some questions we
19 need to ask you at this time and I need to remind you that
20 you're still under oath.

21 MS. KELLER: All right.

22 THE COURT: I'm going to ask you a question that
23 has already been asked. Do you know of any reason whatsoever
24 why you cannot give both the State and the defendant a
25 fair and impartial trial?

1 MS. KELLER: No.

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

4 MS. KELLER: Yes.

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

8 MS. KELLER: Yes.

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

12 MS. KELLER: Yes.

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

15 MS. KELLER: No.

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

19 MS. KELLER: When it happened.

20 THE COURT: What is the nature of the news account
21 that you read or viewed?

22 MS. KELLER: Just that they had arrested him
23 and charged him with the crime.

24 THE COURT: Please relate to me what you remember
25 or recall about that news account.

1 MS. KELLER: You know, it was tied in with that
2 other case, the Syphrette case, and, you know, they were
3 all related and this girl was killed.
4

5 THE COURT: Will the news accounts which you
6 have read, viewed or listened to prevent you from rendering
7 a fair and impartial verdict in this case?

8 MS. KELLER: No.

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

14 MS. KELLER: Yes.

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

19 MS. KELLER: Yes.

20 THE COURT: Do you understand that your verdict
21 must be based exclusively upon the law given to you by
22 the Court and the evidence presented to the Court and the
23 jury during the trial?

24 MS. KELLER: Yes.

25 THE COURT: Can you make your verdict based only
upon these two considerations, the law and the evidence?

1 MS. KELLER: Yes.

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

7 MS. KELLER: No.

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

12 MS. KELLER: Yes.

13 THE COURT: I'm not going to ask you 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 that 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 MS. KELLER: Yes.

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

22 MS. KELLER: Right.

23 THE COURT: Have you had the occasion to read
24 it?
25

1 MS. KELLER: Yes.

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

6 MS. KELLER: Number two.

7 THE COURT: Number two.

8 MS. KELLER: Uh-huh.

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. KELLER: Yes.

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

18 MS. KELLER: Yes.

19 THE COURT: I am going to ask you at this time,
20 if you would, to reread that letter and let me ask you
21 some questions whenever you finish it.

22 (WHEREUPON, Ms. Keller reads the letter.)

23 THE COURT: All right, now, that I have asked
24 you the questions and you have reread this letter, I ask
25 you, which juror type do you fall under? Do you still

1 say two or do you wish ---

2 MS. KELLER: Yeah, I agree with number two still.

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

8 MS. KELLER: No.

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

12 MS. KELLER: Yes.

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

19 MS. KELLER: Yes.

20 THE COURT: Will your opposition to the death
21 penalty for murder prevent you from voting for the death
22 penalty under any circumstances?

23 MS. KELLER: No.

24 THE COURT: Are your beliefs and attitudes against
25 capital punishment for the death penalty such that you

1 would be unable to return a verdict of guilty of murder
2 according to the law of this state?

3 MS. KELLER: No.

4 THE COURT: Would you automatically vote against
5 the imposition of capital punishment without regard to
6 the evidence that might be developed during the trial of
7 a capital murder case?

8 MS. KELLER: No.

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

12 MS. KELLER: No.

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

18 MS. KELLER: No.

19 THE COURT: If you would, please answer any
20 questions counsel may have, beginning with the Solicitor.

21 SOLICITOR: Thank you, Your Honor.

22

23 EXAMINATION BY THE SOLICITOR:

24 Q. Ms. Keller, I'm Walter Bailey and I want to ask
25 you some questions.

1 A. All right.

2 Q. And I'm going to have to kinda repeat what the
3 Judge asked you to make sure I understand your position.
4 And like he said, there are no right or wrong answers,
5 we're not testing you. Any answer you give is the right
6 answer as long as that's your truthful answer.

7 A. Okay.

8 Q. I want to ask you about the three kinds of jurors
9 on this sheet that you went over. The second type of juror
10 on this sheet, under no circumstances, could ever give
11 the death penalty. The third type juror might give the
12 death penalty under certain circumstances, might give life.
13 You said on two occasions that you were the number two
14 type juror.

15 A. Right.

16 Q. That could never impose the death penalty but
17 then when the Judge asked the followup questions, you
18 indicated that you may be able to impose the death penalty ---

19 A. Right.

20 Q. --- so what I'm trying to do is ---

21 A. Make sure.

22 Q. --- try to reconcile the answers you gave to
23 the Judge with the fact that you said on two occasions
24 that you're number two juror.

25 A. Right.

1 Q. That could not impose the death penalty.

2 A. I guess that would change to three then.

3 Q. Okay. Let me go over the process that we will
4 be going through in a death penalty case in South Carolina.
5 We start off with the guilt phase which is like any other
6 criminal crime where the State charges somebody, they
7 introduce evidence and we would be attempting to prove
8 to that jury's satisfaction the guilt of those charges
9 beyond a reasonable doubt. One of the charges is murder.
10 If the jury convicts that person of murder, then we go
11 on to the second phase of the trial, the penalty phase
12 and that's an opportunity for the jury to hear additional
13 evidence, additional instructions from the Judge, to hope-
14 fully help that jury arrive at a decision on penalty.

15 The jury has two choices, the death penalty or
16 life which is life without parole. The jury would never
17 have to impose the death penalty, that may be an option
18 but it's never required.

19 A. Right.

20 Q. Whatever that jury's verdict is will happen,
21 the Judge will order that, he won't change it. so if the
22 verdict is for the death penalty, that person is executed.
23 If the verdict is for life imprisonment, that person is
24 sentenced to life imprisonment by the Judge and he would
25 serve life without parole.

1 Now, I'm not going to ask you what you would
2 do in this case if you get picked as a juror because you
3 haven't heard any of the facts.

4 A. Right.

5 Q. But my question is and this is going to have
6 to come from you, how you really feel, if the case was
7 bad enough, could you vote for the death penalty knowing
8 that as a result of that vote that person who you have
9 convicted and you've tried as a juror is actually going
10 to be executed by lethal injection?

11 A. Yes, I could.

12 Q. Okay. If all of the jurors vote for the death
13 penalty, then they are asked to sign their name to a verdict
14 form, a death verdict form, that would result in that person
15 being executed. Could you sign your name to a paper like
16 that?

17 A. I could.

18 Q. I'm sorry?

19 A. I could.

20 Q. Okay. There's a process called polling the jury
21 where if the jury votes for the death penalty, they come
22 out here in open court and sit in these chairs out here
23 and each juror's name is called out one at a time and they
24 would be asked to stand up and announce that that was their
25 verdict and it is still their verdict. Could you do that?

1 A. I could do that.

2 Q. Okay. Before Monday, when you found out you
3 might be a juror on a death penalty case, had you ever
4 thought about the death penalty in any detail?

5 A. Yeah, a little bit, you know, when you hear about
6 it in the news.

7 Q. Okay, had it ever come up, say, in church?

8 A. No, huh-uh.

9 Q. And when the death penalty subject did come up
10 and you thought about it, just in general terms, what were
11 your thoughts?

12 A. Well, I really don't think it's going to solve ---
13 it's not going to bring the person back that they killed.
14 I know it's hard for the family. Like I say, we really
15 shouldn't make that decision. You know, they're going
16 to have to pay for it when they die themselves.

17 Q. Okay, when you say we really shouldn't make that
18 decision. Of course, that's what the jury would have to
19 do.

20 A. Right, I know.

21 Q. And, again, I'm not trying to push you in one
22 direction or another and we're not testing you, there are
23 no wrong answers but once we pick a jury, there can't be
24 any contact, we can't talk to you.

25 A. Right, I know.

1 Q. So, we need to find out exactly what your position
2 is now before we pick a jury.

3 A. Right. I understand that.

4 Q. Okay, and when you say we really shouldn't do
5 it, I'm trying to ---

6 A. Well, yeah, I know what you're trying to get
7 to.

8 Q. Okay.

9 A. I guess it's our legal obligation to make the
10 right choices but if we have to put someone to death,
11 you know, we really should have a reason, you know, for
12 doing it.

13 Q. Okay, but you would never have to, life without
14 parole would always be an option.

15 A. Right.

16 Q. Under our law. If you always had the option
17 of life without parole, would you always give that person
18 life without parole as a juror?

19 A. Probably so.

20 Q. So going back to the types of jurors, the first
21 type of juror that would always impose the death penalty,
22 obviously that's not you, is it?

23 A. Right.

24 Q. The second type of juror is one who although
25 the guilt of the defendant has been determined, under

1 no circumstances could ever give the death penalty and
2 the number three type juror wouldn't have your mind made
3 up in advance, would want to hear facts and circumstances,
4 and then could vote for the death penalty or could vote
5 for life imprisonment?

6 A. Right.

7 Q. Now that we've gone over it a few times, are
8 you a number two or a number three?

9 A. Number three.

10 Q. Number three still?

11 A. Yes.

12 Q. Is it still your position if given the choice
13 between life without parole and the death penalty, you
14 would give life without parole?

15 A. Yes, it would depend on the crime.

16 Q. Pardon?

17 A. It would depend on the crime. And I guess we're
18 talking about this trial, right?

19 Q. Well, I'm talking --- you haven't heard the
20 facts in this case, you haven't heard the law so I have
21 to talk in generalities.

22 A. Okay.

23 Q. So not about this case particularly.

24 A. Okay.

25 Q. Does that change you?

1 A. No, huh-uh.

2 Q. Okay. Are you telling us now under oath that
3 you're a number three juror?

4 A. Yes, uh-huh.

5 Q. That can vote for the death penalty knowing that
6 decision would be carried out?

7 A. Right.

8 Q. The jury is going to be put in a motel for several
9 days. I notice that you are the office manager at a
10 brokerage company.

11 A. Right.

12 Q. Would that create any undue hardship for you
13 if you are put in a motel for up to a week?

14 A. No.

15 Q. Okay. I notice in your questionnaire that you've
16 had some prior criminal jury service.

17 A. Yes, I have.

18 Q. Where was that?

19 A. It was here. And it was just, I don't know what
20 type court it was, it was just on some robbery type thing.

21 Q. All right, was it here in this courtroom?

22 A. It was.

23 Q. Did you actually get picked on the jury?

24 A. I did.

25 Q. How long ago was that?

- 1 A. I want to say about ten years.
- 2 Q. Okay, and do you remember what the verdict was?
- 3 A. Not guilty.
- 4 Q. Okay. The questionnaire has four pages and I
- 5 notice that my copy of the last page is not filled out,
- 6 it might have stuck together with the third page.
- 7 A. I don't remember that.
- 8 Q. Let me ask you could you give us that information.
- 9 A. Okay. I do presently have a magazine subscription
- 10 and it's on McCall's and TV Guide and my primary source
- 11 of news, it has to be TV and newspaper and I have never
- 12 been arrested for a traffic offense. And I have been a
- 13 victim of a crime.
- 14 Q. Okay, and what type crime, again, I apologize ---
- 15 A. Home burglary, home burglary.
- 16 Q. Okay. How long ago was that?
- 17 A. It was '97.
- 18 Q. All right. Was an arrest made in that case?
- 19 A. Yes, uh-huh, several.
- 20 Q. And did the case go to trial?
- 21 A. No.
- 22 Q. Is it still pending?
- 23 A. No.
- 24 Q. What happened to the case?
- 25 A. It was just juveniles and they were, you know,

1 locked up for a little while.

2 Q. Okay, and the fact that you're a crime victim
3 of a recent burglary, do you think that would enter into
4 your ---

5 A. No, huh-uh.

6 SOLICITOR: Okay, Ms. Keller, that's all I have
7 right now. Thank you.

8 THE COURT: Mr. Sims?

9 MR. SIMS: No questions, Your Honor.

10 SOLICITOR: I would like to be heard, Your Honor.

11 THE COURT: If you would step out of the door
12 for just a few minutes, please.

13 (WHEREUPON, Ms. Keller left the courtroom and
14 the following proceedings were held in her absence.)

15 THE COURT: All right, sir.

16 SOLICITOR: Your Honor, I'm concerned about the
17 amount of equivocation from Ms. Keller. On two occasions,
18 at least two occasions, she said she was a number two juror.
19 She at one point said she didn't believe in the death
20 penalty and would vote for life without parole in every
21 case if that was an option. Her answers were just totally
22 inconsistent as we went through it. And, of course, under
23 Wainwright -vs- Webb, a juror's opposition to the death
24 penalty doesn't have to be stated with unmistakable clarity.
25 I think just taking the totality of her responses, she's

1 not qualified under Wainwright.

2 MR. SIMS: Your Honor, we would definitely take
3 the opposite of that. After having had the opportunity
4 to go through the discourse with the Court and with the
5 Solicitor, she was very clear that depending upon the factual
6 content of the case that she could vote for the death penalty.
7 She had her own ideas about it but she felt that there
8 were situations where she could vote for the death penalty.
9 The Solicitor did one thing, when she said that I would
10 have to vote for the death penalty, then he said to her,
11 you don't have to do anything, life is always --- a life
12 sentence is always an option. And then he went the next
13 step and said, well, if you had your opportunity, would
14 you always vote for the life sentence, which is basically
15 loading her or leading her down. Initially she said she
16 would. Then he said, you don't have to do that, life is
17 always an option. Giving her an option and then taking
18 that option away from her by saying, would that always
19 be your answer --- would you always want to do that if
20 you had that choice. And she said, yes. But she always
21 and she clearly said that given the opportunity she would
22 vote for the death penalty and there are situations where
23 she thinks that she would. I think that the Solicitor's
24 questions and the way he asked them were designed for one
25 thing and that was to try to elicit that kind of testimony

1 which may disqualify her. I think when you take the totality
2 of her statements, she was very clear and concise. She
3 may have been a little confused initially and you asked
4 her twice about that because I wrote that down. You asked
5 her twice about that but after having hearing what the
6 process is and knowing what the process is, she made it
7 very clear that she could vote for the death penalty. And
8 even when she said that her choices were number two, when
9 the Court began to ask her the initial questions, whether
10 or not her opposition to the death penalty, that she could
11 never vote, she --- you had to let her read it again
12 because her --- her --- her answers to those questions
13 as they relate to our position on the death penalty were
14 inconsistent with what she said her category was. She read
15 it again and she said, okay, then I'm still a number two
16 and then you read those --- she answered each one of the
17 questions that the Court asked in that yes, she could do
18 or find someone and give them the death penalty, she could
19 vote for them. All those questions that she asked --- that
20 the Court asked when a person indicates that they are a
21 category two juror were definitely answered in the
22 affirmative which meant that she could, in fact, give the
23 death penalty and I think that she is qualified.

24 THE COURT: All right. Bring her back in.

25 (WHEREUPON, Ms. Keller entered the courtroom

1 and the following proceedings were held in her presence.)

2 THE COURT: Ms. Keller, I've got a further
3 question that I'm going to ask you and that I need for
4 you to clear up for me.

5 MS. KELLER: Okay.

6 THE COURT: If a matter were to come down between
7 the sentence of life imprisonment or the death penalty,
8 are you telling the Court that you would never give the
9 death penalty?

10 MS. KELLER: No.

11 THE COURT: What are you telling me?

12 MS. KELLER: The uhm --- it just depends on how
13 the facts came out, you know, how much evidence was toward
14 the accused.

15 THE COURT: So you could go either way according
16 to the facts and the evidence?

17 MS. KELLER: Right.

18 THE COURT: And the law of this state?

19 MS. KELLER: Right.

20 THE COURT: Anybody want to be heard further?

21 SOLICITOR: No, sir.

22 MR. SIMS: No, sir.

23 THE COURT: All right, she's qualified and, Ms.
24 Keller, I need you to come around and check in with Madam
25 Clerk. We need a telephone number we can reach you on

1 a moment's notice. And we thank you and we will be in
2 touch with you.

3 MS. KELLER: Okay.

4 THE COURT: All right, bring in our next juror.

5 (WHEREUPON, Juror #145, Kevin Hughes (WM) entered
6 the courtroom and took the witness chair.)

7 THE COURT: Mr. Hughes, how are you today?

8 MR. HUGHES: All right.

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

13 MR. HUGHES: Yes, sir.

14 THE COURT: I'm going to ask you a question I've
15 already been asked. Do you know of any reason whatsoever
16 why you cannot give both the State and the defendant a
17 fair and impartial trial?

18 MR. HUGHES: No.

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

21 MR. HUGHES: Could you repeat that, please?

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

24 MR. HUGHES: Yes, sir.

25 THE COURT: Could you, depending on the facts

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

3 MR. HUGHES: No, sir.

4 THE COURT: Listen to the question now. Could
5 you, depending on the facts and evidence and the law as
6 I would instruct you, find a defendant not guilty?

7 MR. HUGHES: No, sir.

8 THE COURT: All right. Do you understand that
9 question?

10 MR. HUGHES: Uhm ---

11 THE COURT: In other words, if you listen to
12 a case, listen to all of the evidence and the facts and
13 I gave you the law and you applied the law to the facts
14 as you understood them, could you find a defendant not
15 guilty?

16 MR. HUGHES: Yes.

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

20 MR. HUGHES: (No response.)

21 THE COURT: In other words, could you listen
22 to a case, the facts and the evidence and apply the law
23 as I would give it to you, and find a defendant guilty?

24 MR. HUGHES: Yes.

25 THE COURT: Have you discussed this case with

1 anyone?

2 MR. HUGHES: No, sir.

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. HUGHES: No, sir.

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

11 MR. HUGHES: 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. HUGHES: 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 that
20 the mere fact that we are talking about penalty does not
21 indicate anything about this defendant. He is presumed
22 innocent, do you understand that?

23 MR. HUGHES: Yes, sir.

24 THE COURT: You were given a letter a few minutes
25 ago to read. Did you have an occasion to read that letter?

1 MR. HUGHES: Yes, I read it.

2 THE COURT: Okay, there is one to your right
3 there if you need to refer to. I wonder if you could tell
4 me which of the three categories or the juror type that
5 you might fall into?

6 MR. HUGHES: I would have to say the first one.

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

11 MR. HUGHES: Yes.

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

16 MR. HUGHES: Uhm --- no, sir.

17 THE COURT: Do ya'll want me to go any further
18 with this?

19 SOLICITOR: I would like to ask a few questions
20 if you're not.

21 THE COURT: Go ahead.

22
23 EXAMINATION BY THE SOLICITOR:

24 Q. Mr. Hughes, I'm Walter Bailey and I want to ask
25 you a few more questions. And like the Judge said, there

1 are no right or wrong answers.

2 A. Okay.

3 Q. As far as your beliefs on the death penalty,
4 if we reach that point in a trial like this, that would
5 mean that the defendant was found guilty of murder in the
6 first part of the trial. Two options that the jury has
7 are life without parole and the death penalty. The first
8 part of that trial will be the guilt phase, where the State
9 would be trying to prove that person guilty of murder beyond
10 a reasonable doubt. If we can't do it, that's the end
11 of it. But if, on the other hand, if the defendant is proven
12 guilty of murder beyond a reasonable doubt, we would go
13 into a second phase. Anytime the jury, in a capital case,
14 in the second phase it means that they have already been
15 convicted of murder in the first part of the trial. The
16 issue then becomes the appropriate punishment, life without
17 parole or the death penalty. There would be additional
18 evidence that would come out in that second part of the
19 trial and the Judge would instruct the jury on what the
20 law is that applied to that punishment choice.

21 I'm not asking you about this particular case
22 but just in general. If you were on a jury in a case like
23 this, the defendant is found guilty of murder, would you
24 go into that second part of the trial with the mind set
25 this guy is convicted of murder, I'm going to give him

1 the death penalty no matter what, or would you wait and
2 listen to that testimony that came out, listened to what
3 the Judge said the law was before you made up your mind?

4 A. Uhm --- well, I guess it would be better to listen
5 to the facts and listen to that but uhm ---

6 Q. When you say it's better, there are no right
7 or wrong answers, everybody has got a right to their opinion
8 but we want to know what your opinion is in all honesty,
9 whether you would have your mind made up ahead of time
10 for the death penalty if he had been convicted of murder
11 or whether you would want to listen to the facts and circum-
12 stances that came out and then decide whether or not you
13 would sentence him to death or to life without parole.

14 A. Well, if he was found guilty of murder I would,
15 I believe, I believe I would have my mind made up.

16 SOLICITOR: Okay, Mr. Hughes, that's all I have,
17 thank you.

18 THE COURT: Any questions?

19 MR. SIMS: No, sir.

20 THE COURT: Mr. Hughes, I want to thank you taking
21 part in this trial, especially for your patience Monday,
22 I know it was a long day.

23 MR. HUGHES: Yes, sir.

24 THE COURT: I'm going to excuse you at this time
25 and you may return to your work or home.

1 MR. HUGHES: Okay..

2 THE COURT: Thank you very much. Bring in the
3 next one.

4 (WHEREUPON, Juror #19, Tracey Bird (WF),
5 entered the courtroom and took the witness chair.)

6 THE COURT: Ms. Bird, how are you this morning.

7 MS. BIRD: I'm fine, thank you.

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

12 MS. BIRD: Yes, sir.

13 THE COURT: The first question I'm going to ask
14 you I've already asked one time but I'm going to ask it
15 again. Do you know of any reason whatsoever why you
16 cannot give both the State and the defendant a fair and
17 impartial trial?

18 MS. BIRD: No, sir.

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

21 MS. BIRD: Yes, sir.

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

25 MS. BIRD: Yes, sir.

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

4 MS. BIRD: Yes, sir.

5 THE COURT: Have you discussed this case with
6 anyone?

7 MS. BIRD: No, sir.

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

11 MS. BIRD: Yes, sir.

12 THE COURT: What is the nature of the news accounts?

13 MS. BIRD: Newspaper, mainly. I think I've seen
14 in on TV, too. One of the crimes happened within two miles
15 of my employment and so, of course, we were real interested
16 in it. So I did pay, you know, particular attention to
17 the case.

18 THE COURT: Can you relate to me what you remember
19 or recall about the news accounts?

20 MS. BIRD: As to what happened?

21 THE COURT: Yes.

22 MS. BIRD: Yes, sir. Well, there's a house,
23 like I said, within two miles of us and there was, of course,
24 a person found dead there and then there was a girl found
25 dead in a field and, of course, they are accusing them

1 --- well, they found the body and they found an identification
2 card and then they went from there to locate the suspects.

3 THE COURT: All right, anything else?

4 MS. BIRD: And she was raped, found partially
5 clothed.

6 THE COURT: Will the news accounts which you
7 had read, viewed or listened to, prevent you from rendering
8 a fair and impartial verdict in this case?

9 MS. BIRD: I think the newspaper, I mean, you
10 have a tendency for your opinion to be sort of swayed already,
11 you know, I mean I don't know for sure that's who did it
12 or anything but, I mean, your mind --- your opinion is
13 swayed, I think.

14 THE COURT: All right, let me repeat the question.
15 Will the news accounts which you have read, viewed or
16 listened to prevent you from rendering a fair and impartial
17 verdict in this case?

18 MS. BIRD: No, sir, I could listen to the evidence
19 or listen to the case.

20 THE COURT: Can you erase from your mind the
21 information that you acquired from these news accounts
22 and render a fair, impartial and just verdict based on
23 the law and the evidence uninfluenced in any way whatsoever
24 by reason of the news accounts which you have described?

25 MS. BIRD: Yes, sir.

1 THE COURT: Can you, notwithstanding your exposure
2 to these news accounts, base your verdict on the law and
3 the evidence presented to you uninfluenced in any way
4 whatsoever by the news accounts that you have described?

5 MS. BIRD: Yes, sir.

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

10 MS. BIRD: Yes, sir.

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

14 MS. BIRD: Yes, 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. BIRD: 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. BIRD: Yes, sir.

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

7 MS. BIRD: Yes, sir.

8 THE COURT: A few minutes ago you were given
9 a letter to read. Have you read it?

10 MS. BIRD: Yes, sir.

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

15 MS. BIRD: Number two.

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

20 MS. BIRD: No, sir.

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

25 MS. BIRD: Yes, sir.

1 THE COURT: Is your opposition to the death penalty
2 for murder so fixed and so firm that you were you are
3 irrevocably committed before the beginning of this trial
4 to vote against the death penalty for murder regardless
5 of the facts and circumstances that may develop during
6 trial?

7 MS. BIRD: Can I elaborate on that?

8 THE COURT: Yes.

9 MS. BIRD: I just don't feel like I can be
10 responsible for actually imposing death on someone.
11 It's not like I'm totally against the death penalty, I
12 just don't feel like I could be responsible for sentencing
13 someone to death. So I guess, no, sir.

14 THE COURT: Okay. Can your opposition to capital
15 punishment or the death penalty for murder be changed by
16 the evidence presented during the trial?

17 MS. BIRD: No, sir.

18 THE COURT: Notwithstanding your opposition to
19 capital punishment are you willing to consider all of the
20 penalties provided by the law of this state, including
21 the death penalty, and then determine whether the defendant
22 should receive the death penalty or life imprisonment,
23 based on the facts and circumstances developed during the
24 trial?

25 MS. BIRD: Would you read that again, please?

1 THE COURT: Notwithstanding your opposition to
2 capital punishment are you willing to consider all of the
3 penalties provided by the law of this state, including
4 the death penalty, and then determine whether the defendant
5 should receive the death penalty or life imprisonment based
6 upon the facts and circumstances developed during the trial?

7 MS. BIRD: No, sir.

8 THE COURT: Will your opposition to the death
9 penalty for murder prevent you from voting for the death
10 penalty under any circumstances?

11 MS. BIRD: Yes, sir.

12 THE COURT: Are your beliefs and attitudes against
13 the capital punishment such that you would be unable to
14 render a verdict of guilty for murder according to the
15 law of this state?

16 MS. BIRD: No, sir.

17 THE COURT: Would you automatically vote against
18 the imposition of capital punishment without regard to
19 the evidence that might be developed during the trial in
20 a capital murder case?

21 MS. BIRD: Would you repeat that, please?

22 THE COURT: Would you automatically vote against
23 the imposition of capital punishment without regard to
24 the evidence that might be developed during the trial in
25 a capital murder case?

1 MS. BIRD: Yes, sir.

2 THE COURT: Would your opposition to capital
3 punishment prevent you from making an impartial decision
4 as to the defendant's guilt?

5 MS. BIRD: No, sir.

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

11 MS. BIRD: Yes, sir.

12 THE COURT: Tell me about it.

13 MS. BIRD: First of all, I have two small children
14 that I have to do homework with at night and all. My
15 husband has to be to work earlier than I do so I take my
16 child to school and now that it's running over to next
17 week, I've got important responsibilities at work that
18 would cause me undue hardship now. Because I have to be
19 there the first week of close, the first week in the month.

20 THE COURT: All right, answer any questions counsel
21 may have for you.

22 SOLICITOR: No questions, Your Honor.

23 MR. SIMS: Nothing further.

24 THE COURT: All right. We are going to excuse
25 you at this time. Thank you for taking part and especially

1 for your patience Monday, it was a long day for everybody.
2 You are free to go at this time.

3 MS. BIRD: Okay, thank you.

4 THE COURT: Bring in the next juror. But before
5 that, we still have no found Shivers so we will go on and
6 keep picking away. We are on 10:15 and we're down to Payton.
7 Bring him in.

8 (WHEREUPON, Juror #224, Antoine Payton (BM)
9 entered the courtroom and took the witness chair.)

10 THE COURT: Good morning, how are you, Mr. Payton?

11 MR. PAYTON: All right.

12 THE COURT: If you will just relax and make yourself
13 comfortable, we have some questions we are going to need
14 to ask you and in order to do that, I need to remind you
15 that you are still under oath from Monday.

16 MR. PAYTON: Yes, sir.

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

20 MR. PAYTON: No, sir.

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

23 MR. PAYTON: Yes, sir.

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. PAYTON: Would you repeat that, please?

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 not guilty?

6 MR. PAYTON: Yes.

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

10 MR. PAYTON: Yes.

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

13 MR. PAYTON: No.

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

17 MR. PAYTON: No.

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

22 MR. PAYTON: No.

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

1 to you by the Court?

2 MR. PAYTON: Yes.

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

9 MR. PAYTON: Correct.

10 THE COURT: Now, a few minutes ago you were given
11 a letter to read. Have you read it?

12 MR. PAYTON: Yes.

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

17 MR. PAYTON: The third one.

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

22 MR. PAYTON: Yes.

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

1 such a verdict?

2 MR. PAYTON: Yes.

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

8 MR. PAYTON: No.

9 THE COURT: Thank you very much. If you will
10 answer any questions counsel may have for you, beginning
11 with the Solicitor.

12 SOLICITOR: Thank you, Your Honor.

13

14 EXAMINATION BY THE SOLICITOR:

15 Q. Mr. Payton, I'm Walter Bailey and I want to ask
16 you a few more questions primarily about your thoughts
17 on the death penalty. Is the death penalty something you
18 have ever thought about in any detail before Monday?

19 A. Yes.

20 Q. Could you tell us when you thought about it,
21 just in your own words, what your thoughts were?

22 A. Well, I feel that, I mean, if the crime warrants
23 it or if it's that harsh of a crime, then I do believe
24 in the death penalty.

25 Q. Okay. And in South Carolina, the way the

1 process works, we start off with the guilt phase which
2 is like any other criminal trial and I know that you've
3 got a degree in criminal justice from State?

4 A. Yes, sir.

5 Q. Okay, so you are probably kind of familiar with
6 at least the guilt phase where the State has to prove a
7 person guilty beyond a reasonable doubt.

8 A. Yes.

9 Q. In this case, one of the charges is murder. If
10 the jury is convinced beyond a reasonable doubt that the
11 defendant is guilty of murder, then we go into the penalty
12 phase which would, of course, mean that that person is
13 convicted of murder and then the issue is the appropriate
14 punishment for the act of murder.

15 A. Right.

16 Q. There are two choices that the jury has, life
17 which means life without parole, and the death penalty
18 which is death by lethal injection. The jury makes that
19 decision, not the Judge. All the Judge does is he orders
20 that jury's verdict to happen and it will happen.

21 A. Uh-huh.

22 Q. So after hearing all of the facts and circumstances
23 if the jury comes back with a life sentence, the Judge
24 would sentence that person to life and that would be life
25 without parole. On the other hand, if the verdict is

1 the death penalty, that person would be ordered to be
2 executed and he would be executed by lethal injection based
3 on the jury's decision.

4 Now, you don't know a whole lot about this case
5 or actually anything about this case, do you?

6 A. No, I don't.

7 Q. So I'm not going to ask you to predict what you
8 would do as a juror in this case because you would want
9 to wait and hear the facts and the law from the Judge.
10 But my question is, if the facts are bad enough, could
11 you vote for the death penalty, knowing that sentence actually
12 would be carried out based on the jury's vote, not what
13 the Judge would do?

14 A. Yes.

15 Q. If all twelve jurors vote for the death penalty,
16 there's a death verdict form that each of them is asked
17 to put their names to. Could you sign your name to a paper
18 like that if you had already voted for the death penalty?

19 A. Yes.

20 Q. Could you announce that decision out loud when
21 your name is called out?

22 A. Yes.

23 Q. In open court.

24 A. Yes.

25 Q. The Judge already asked you about being in a

1 motel at night, that's to keep the jurors away from any
2 outside influence. That wouldn't be a problem for you?

3 A. No.

4 SOLICITOR: Mr. Payton, I think that's all I've
5 got. Thank you very much.

6 THE COURT: Mr. Sims.

7 MR. SIMS: No questions, Your Honor.

8 THE COURT: All right, the juror is qualified.
9 Mr. Payton, I need for you to please check in with Madam
10 Clerk to my right. We need a number that we can reach you
11 on moment's notice. The good news is I'm going to release
12 you for the day but we need to keep you close by a phone.

13 MR. PAYTON: All right.

14 THE COURT: I don't foresee us calling you back
15 in or making a call to you before this evening. Please
16 don't read any newspapers or listen to any news accounts
17 until after this case is over with.

18 MR. PAYTON: All right.

19 THE COURT: Thank you very much. All right,
20 bring in out next one.

21 (WHEREUPON, Juror #29, Elease Brown (BF) entered
22 the courtroom and took the witness chair.)

23 THE COURT: Ms. Brown, just have a seat right
24 there in that witness box and relax and make yourself
25 comfortable.

1 MS. BROWN: Thank you.

2 THE COURT: How are you this morning?

3 MS. BROWN: I'm fine.

4 THE COURT: I've got some questions we want to
5 ask you and I remind you that you are still under oath
6 from Monday.

7 MS. BROWN: Yes, sir.

8 THE COURT: Okay. I'm going to ask you a question
9 that has already been asked. Do you know of any reason
10 whatsoever why you cannot give both the State and the
11 defendant a fair and impartial trial?

12 MS. BROWN: No, sir, I don't know of any reason.

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

15 MS. BROWN: Yes, sir.

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

19 MS. BROWN: Can I hear that question again?

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 MS. BROWN: (No response.)

24 THE COURT: In other words, could you sit down
25 on a jury and listen to a case and listen to all the

1 facts and evidence and then take the law as the Court would
2 give to you and reach a verdict of not guilty?

3 MS. BROWN: No, sir. I would have --- if I take
4 the laws that the law give us, yes, sir.

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

8 MS. BROWN: Yes, sir.

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

11 MS. BROWN: 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 MS. BROWN: I have seen it, yes, sir.

16 THE COURT: Okay, can you tell me what the nature
17 of the news accounts that you may have seen?

18 MS. BROWN: The newspaper, what was printed in
19 the paper, sir.

20 THE COURT: And can you relate to me what you
21 remember or recall about that account?

22 MS. BROWN: Very few things, no, sir.

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

1 MS. BROWN: No, sir.

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

8 MS. BROWN: Yes, sir.

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

13 MS. BROWN: Could you read that again?

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 MS. BROWN: Yes, sir.

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

23 MS. BROWN: Yes, sir.

24 THE COURT: Can you make your verdict based only
25 upon these two considerations, the law and the evidence?

1 MS. BROWN: Yes, sir.

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

7 MS. BROWN: No, sir.

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

12 MS. BROWN: Yes, sir.

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

19 MS. BROWN: Yes, sir.

20 THE COURT: A few minutes ago you were given
21 a letter. Did you have a chance to read it?

22 MS. BROWN: Yes, sir.

23 THE COURT: There's one to your right if you
24 need to refer to it. I wonder if you can tell me which
25 of the three categories that you might fall into?

1 MS. BROWN: The second type, sir.

2 THE COURT: All right, 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. BROWN: Yes, sir.

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. BROWN: Yes, sir.

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

17 MS. BROWN: No, sir.

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

21 MS. BROWN: Yes.

22 THE COURT: Notwithstanding your opposition to
23 capital punishment, are you willing to consider all of
24 the penalties provided by the law of this state, including
25 the death penalty, and then determine whether the defendant

1 should receive the death penalty or life imprisonment based
2 upon the facts and circumstances developed during the trial?

3 MS. BROWN: Yes, sir.

4 THE COURT: Will your opposition to the death
5 penalty for murder prevent you from voting for the death
6 penalty under any circumstances?

7 MS. BROWN: No, sir.

8 THE COURT: Are your beliefs and attitudes against
9 capital punishment such that you would be unable to return
10 a verdict of guilty of murder according to the law of this
11 state?

12 MS. BROWN: No, sir.

13 THE COURT: Would you automatically vote against
14 the imposition of the capital punishment without regard
15 to the evidence that might be developed during the trial
16 of a capital murder case?

17 MS. BROWN: Yes, sir.

18 THE COURT: Would your opposition to capital
19 punishment prevent you from making an impartial decision
20 as to the defendant's guilt?

21 MS. BROWN: No, sir.

22 THE COURT: If you were selected on this case
23 I tell you that you would have to be sequestered or
24 separated with the jury and remain in a motel room during
25 the length of the trial. Does that pose you any undue

1 hardship?

2 MS. BROWN: No, sir.

3 THE COURT: Answer any questions, please, counsel
4 may have for you, beginning with the Solicitor.

5 SOLICITOR: Thank you, Your Honor.
6

7 EXAMINATION BY THE SOLICITOR:

8 Q. Ms. Brown, I'm Walter Bailey and I want to ask
9 you a few more questions and I'm going to repeat what the
10 Judge said, there are no right or wrong answers, okay.

11 A. Okay.

12 Q. And we're not trying to test you because any
13 answer you give us is the right answer as long as it's
14 your truthful feelings, okay? All right, let me just ask
15 you to tell us in your own words what your beliefs are
16 on the death penalty. Just forget about this trial and
17 the paper and all of that, just tell us what your thoughts
18 are.

19 A. On the death penalty?

20 Q. Yes, ma'am.

21 A. Well, I believe in capital punishment or whatever
22 but to me, if it goes in front and goes to that where when
23 you hear the evidence and everything, if it leads that
24 way, I could vote on it.

25 Q. All right. Now, let me go back to the paper

1 again, the one --- if you want to just follow along with
2 that, if you would please. The number one type juror would
3 always vote for the death penalty if you get a fellow
4 convicted of murder. That's not you, is it?

5 A. If the evidence is there, sir, yes, sir.

6 Q. Okay. Let me go on to the number two type. The
7 number two type is the type of juror that you at first
8 told the Judge that you were and that's the juror that
9 says that although the guilt of the defendant has been
10 determined, he's been found guilty, under no circumstances
11 would ever get the death penalty. Do you still think that
12 describes you or ---

13 A. No, sir.

14 Q. Okay. So you're the third type, that could vote
15 for life, could vote for the death penalty depending on
16 what you heard?

17 A. Yes, sir.

18 Q. Okay. Let me go on a little bit, Ms. Brown,
19 about the process we go through when the State seeks the
20 death penalty. We start off with the guilt phase which
21 is like any other criminal trial. What we are doing is
22 when someone is charged and in this case one of the charges
23 is murder and it's the State's burden to prove that person
24 guilty of those charges beyond a reasonable doubt. If
25 we don't do that, that's the end of it as far as the jury.

1 is concerned. But if the defendant is found guilty of
2 murder, we then go into the second phase, the penalty phase.
3 Of course that means that the person has been convicted
4 of murder and then the issue is what should the punishment
5 be. The two choices are the death penalty and life without
6 parole and under our system, the Judge doesn't make that
7 decision, the jury decides that. All the Judge does is,
8 he orders that jury's verdict to happen and it will happen.

9 So if the vote is for a life sentence, the Judge
10 orders that, he would serve life without parole. If the
11 vote is for the death penalty, the Judge would order that
12 and that person would be executed based on that jury's
13 verdict.

14 Now if you were on a jury in this kind of a case,
15 and the facts of the case was bad enough, could you vote
16 for the death penalty knowing that the option is life without
17 parole and also knowing that that sentence would be carried
18 out, that person would be executed?

19 A. Yes, sir.

20 Q. And if all twelve jurors vote for the death penalty,
21 there's a death verdict form which each juror is asked
22 to sign their names to that would result in that person
23 being executed. Could you sign your name to a paper like
24 that?

25 A. No, sir.

1 Q. You could not sign that paper?

2 A. No, sir.

3 SOLICITOR: All right, Ms. Brown, that's all
4 I have right now. I may have some other questions later
5 on.

6 THE COURT: Mr. Sims.

7
8 EXAMINATION BY MR. SIMS:

9 Q. Ms. Brown, I just have a few questions for you.
10 You basically indicated that you are a juror of the third
11 category. That means a person who would listen to all
12 the facts of the case and then make a decision as it
13 relates to whether or not the death penalty would be
14 warranted or whether or not a life sentence would be
15 warranted, is that correct?

16 A. Yes, sir.

17 Q. Now, we have a process that is used in the State
18 of South Carolina and that process is --- well, first of
19 all, the trial is basically divided into two parts. One
20 part is whether you would go back and listen to the evidence
21 and find a person guilty or not guilty, okay.

22 A. Uh-huh.

23 Q. The second part, if a person is found guilty,
24 then we would deal with it in terms of the penalty and
25 you've indicated that you would listen to the evidence

1 and make a decision as to what is the appropriate sentence,
2 either the death penalty or whether it would be a life
3 sentence. If a person or a jury decides, all twelve, that
4 the death penalty is the appropriate sentence, then they
5 are given a form and they are asked to sign that form.
6 As a part of a jury that would be sitting in that situation,
7 could you sign the form if it was asked of you?

8 A. No, sir.

9 Q. You could not?

10 A. No, sir.

11 Q. Are there any --- is there a religious belief
12 that you could not sign it or is there a belief in your
13 own heart that you could not sign it?

14 A. My own heart.

15 Q. Okay. Would you mind explaining that to us, please.

16 SOLICITOR: Objection, Your Honor, she's answered
17 the question that she couldn't sign it and I don't think
18 it's relevant why she can't sign it. The fact that she
19 can't sign it would disqualify her.

20 MR. SIMS: Again, I'm trying to determine whether
21 that would be --- if we want to come up here to the Bench.

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

24 Q. Ms. Brown, we're not trying to embarrass you
25 or to make you uncomfortable, we're just trying to

1 understand that part of the process and I've just basically
2 asked you whether or not it was your own belief and if
3 you would not mind, just telling us that part of your
4 belief.

5 A. It's my own belief. To me, I would not want
6 to be the one to sentence life or death over no one. I
7 would not want to be the one that signed my name to a
8 certificate that states whether someone live or die, I
9 don't have that right, sir. I'm not God.

10 MR. SIMS: Thank you.

11 SOLICITOR: No questions, Your Honor.

12 THE COURT: Ms. Brown, I want to thank you for
13 coming, I want to thank you for your patience, especially
14 Monday when we kept everybody here it seemed like forever.
15 I'm going to excuse you at this time and you can go on
16 home or back to work. Thank you.

17 MS. BROWN: Thank you, sir.

18 THE COURT: Call the next one.

19 (WHEREUPON, Juror #157, James Jamison (BM) entered
20 the courtroom and took the witness chair.)

21 THE COURT: Mr. Jamison, if you would have a
22 seat, how are you this morning?

23 MR. JAMISON: Fine.

24 THE COURT: If you will just relax and make yourself
25 comfortable, we've got some questions we need to ask you,

1 okay?

2 MR. JAMISON: All right.

3 THE COURT: I need to remind you that you're
4 still under oath from Monday. The first question I need
5 to ask you is one I've already asked before. Do you know
6 of any reason whatsoever why you cannot give both the State
7 and the defendant a fair and impartial trial?

8 MR. JAMISON: The reason I wouldn't want to do
9 that because I would not want to judge anyone because of
10 my Christian background.

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

13 MR. JAMISON: If it would not mean judging another
14 person, I would.

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 not guilty?

18 MR. JAMISON: Could you read that again?

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. JAMISON: Depending --- depending on what
23 it's about.

24 THE COURT: Could you find a defendant not guilty?

25 MR. JAMISON: I would say not guilty to all of

1 them.

2 THE COURT: Okay, now, could you, depending on
3 the facts and evidence and the law as I would instruct
4 you, find a defendant guilty?

5 MR. JAMISON: No, sir.

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

8 MR. JAMISON: No, sir.

9 THE COURT: Counsel, do ya'll want to approach?

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

12 THE COURT: Mr. Jamison, we want to thank you
13 for coming and taking part in this and especially for your
14 patience Monday, it was a long day for everybody and I
15 know that was tough. I'm going to excuse you at this time
16 and thank you once again, and you are free to go back home.

17 MR. JAMISON: Okay.

18 THE COURT: Thank you very much.

19 MR. JAMISON: Do I have to come back again?

20 THE COURT: No, sir.

21 MR. JAMISON: Thank you.

22 THE COURT: Bring in the next one.

23 (WHEREUPON, Juror #160, Michael Jeffcoat (WM)
24 entered the courtroom and took the witness chair.)

25 THE COURT: Mr. Jeffcoat, if you will just relax

1 and make yourself comfortable. We've got some questions
2 that we need to ask you at this time and I would remind
3 you that you are still under oath.

4 MR. JEFFCOAT: Yes, sir.

5 THE COURT: How are you doing this morning?

6 MR. JEFFCOAT: Fine, sir.

7 THE COURT: Good. Do you know of any reason
8 whatsoever why you cannot give both the State and the defendant
9 a fair and impartial trial?

10 MR. JEFFCOAT: No, sir.

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

13 MR. JEFFCOAT: 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 not guilty?

17 MR. JEFFCOAT: Yes, sir.

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

21 MR. JEFFCOAT: Yes, sir.

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

24 MR. JEFFCOAT: 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. JEFFCOAT: Yes, sir, I guess back when the
4 incident first happened, I did see the article in the Times
5 and Democrat.

6 THE COURT: Can you relate to me what you remember
7 or recall about that news account?

8 MR. JEFFCOAT: I remember that they found a girl's
9 body near Rowesville and I knew that there was another
10 body found in the home or something and it was related
11 somehow but that's about it.

12 THE COURT: Will the news accounts which you
13 have read prevent you from rendering a fair and impartial
14 verdict in this case?

15 MR. JEFFCOAT: No.

16 THE COURT: Can you erase from your mind the
17 information you acquired from these news accounts and
18 render a fair, impartial and just verdict based on the
19 law and the evidence uninfluenced in any way whatsoever
20 by reason of the news accounts which you have described?

21 MR. JEFFCOAT: Yes, sir.

22 THE COURT: Can you, notwithstanding your exposure
23 to these news accounts, based your verdict upon the law
24 and the evidence presented to you uninfluenced in any
25 whatsoever by the news accounts that you have described?

1 MR. JEFFCOAT: Yes, sir.

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

6 MR. JEFFCOAT: Yes, sir.

7 THE COURT: Can you make your verdict based only
8 upon these two considerations, the law and the evidence/

9 MR. JEFFCOAT: Yes, sir.

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

15 MR. JEFFCOAT: No, sir.

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

20 MR. JEFFCOAT: Yes, sir.

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

1 innocent, do you understand that?

2 MR. JEFFCOAT: Yes, sir.

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

5 MR. JEFFCOAT: Yes, sir.

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

10 MR. JEFFCOAT: The third type.

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

15 MR. JEFFCOAT: Yes, sir.

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

20 MR. JEFFCOAT: Yes, sir.

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