

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CALHOUN COUNTY
Court of Common Pleas

Doyet A. Early, III, Circuit Court Judge

Case No. 2014- 002131

Mikal D. Mahdi, #5238

Petitioner,

v.

State of South Carolina,

Respondent.

APPENDIX

Vol. VIII of XXVIII

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1 **THE COURT:** All right. Well, let me turn you
2 over to the Solicitor for some questions and then
3 the defense attorney for some questions and then
4 you'll come back to me for some questions.

5 **VOIR DIRE**

6 **BY MR. PASCOE:**

7 **Q** Good evening, Ms. Bonaparte. My name is David
8 Pascoe. I'm the Solicitor. I want to thank you for
9 being here so late and thank you for your service.
10 I just want to make sure we heard your testimony
11 correct, okay? And before I get started, like the
12 Judge said, there are no right or wrong answers, all
13 right? The only wrong answers is if you say things
14 you think we want to hear, okay?

15 Did you testify that you don't know that in
16 fact -- as far as imposing a death sentence, did you
17 testify that you don't think that you could do that;
18 isn't that your testimony, ma'am?

19 **A** Yes.

20 **Q** And didn't you also testify, ma'am, that you
21 wouldn't want to sit on a panel or a jury to have to
22 make that decision?

23 **A** Yes.

24 **Q** And didn't you also testify, ma'am, and this is
25 a quote, I don't think I could give the death

1 penalty; is that your honest answer?

2 A Yes, it is.

3 Q And you have some deeply held beliefs against
4 the death penalty obviously?

5 A I've never thought about it. My only belief is
6 personal within me that I wouldn't want to be
7 responsible for another person's life.

8 Q Absolutely. And I see that you go to Saint
9 Martin's Baptist Church, a real good church.

10 A Yes, I do.

11 Q You have some religious belief that interfere
12 with maybe your ability to sentence somebody to
13 death?

14 A Well, yeah, you can say that.

15 Q And are you aware, ma'am, if you're on a death
16 penalty trial, if you're sitting as a juror on a
17 death penalty trial and you sentenced someone to
18 death, you would actually have to sign your name to
19 a death verdict form? I see you look pretty
20 shocked. Did you know that, ma'am?

21 A No, I did not.

22 Q Could you ever sign your name to a death
23 verdict form sentencing somebody to death? Could
24 you do that?

25 A No.

1 Q You would never want to take somebody's life?

2 A I would never want to do that.

3 MR. PASCOE: Thank you, ma'am.

4 THE COURT: What says the defense, questions?

5 MR. WALTERS: May it please the Court.

6 VOIR DIRE

7 BY MR. WALTERS:

8 Q Ms. Bonaparte, before we started this process
9 of the exchange, and I want to back this all up
10 because I think it got turned on all four wheels,
11 got turned over upside down, His Honor, when he was
12 talking to you, when he talked to you about the
13 sheet with the three different type of jurors, you
14 were sort of boxed in because you were forced to
15 elect one of the three; is that correct?

16 A (Juror nodded head.)

17 Q You're not --

18 A I felt that way.

19 Q We need a verbal answer. You were sort of
20 forced into electing one of the three; is that
21 correct?

22 A Yes.

23 Q And when you're forced into that position,
24 you're forced into making a decision, you said, I'm
25 probably number three; is that correct?

- 1 A Say that again.
- 2 Q You said you were number three; is that right?
- 3 A I said I'm probably that, yeah.
- 4 Q And before you got into the discussion about
- 5 your election as to what your position was with
- 6 regards to the death penalty, you stated that you
- 7 don't watch a lot of news and you watch drama and
- 8 action shows; is that correct?
- 9 A Right.
- 10 Q So you sort of keep a positive disposition
- 11 about things and you don't like hearing negative
- 12 things; is that right?
- 13 A Right.
- 14 Q And as far as the death penalty is concerned,
- 15 to inquire about this, the message I'm getting from
- 16 you is, is that you haven't given that any deep
- 17 thought, you know, it's not a part of your life, is
- 18 it?
- 19 A No, it isn't.
- 20 Q Now, let's back up. The Solicitor quoted some
- 21 of the things that you'd said on the stand, but I'm
- 22 going to go back to some of the things you also said
- 23 on the stand. You said, If called, I'll do whatever
- 24 is necessary. You said that; is that correct?
- 25 A Yes.

1 Q Now, let's carefully go through number three
2 and it looks like, as far as the election is
3 concerned, you sort of jumped into that one and you
4 said, Well, I've got to hear everything before I
5 make a decision; is that right?

6 A Yes.

7 Q Are you the type of person that needs to sit
8 down and hear from each party everything they have
9 to say and then you make a decision?

10 A Yes, because that's the way things are done,
11 you know.

12 Q That's fair and that's logical; isn't that
13 correct?

14 A Uh-huh.

15 Q And by hearing from both parties and all of the
16 facts, then you can make a decision; is that right?

17 A Yes, if I have to.

18 Q Right. And in serving your capacity as a
19 juror, your duty as a juror, you understand that in
20 listening to both sides, at the end of that process,
21 after you've heard everything, because I think your
22 apprehension here was, is that His Honor wanted an
23 answer and you said, I don't know anything and you
24 just want me to make a decision; is that correct?

25 A True.

1 Q And you don't like being put on the spot to
2 make a decision or take a position without having
3 some of the facts?

4 A Right.

5 Q All right. Now, let's go through type number
6 three. It simply says, A juror who, although the
7 guilt of the defendant has been determined, that
8 means that a man's before the court or a woman's
9 before the court and we've had a process where the
10 State has to prove their case beyond a reasonable
11 doubt and the defense is fighting the State and in
12 the process of litigating that issue, a jury has
13 determined that person to be guilty, that's the
14 first part, and it says here, The guilt of the
15 defendant has been determined would not have his or
16 her mind made up in advance concerning punishment.

17 In other words, the person could be found
18 guilty before you, there could be a decision made,
19 but as far as the punishment of that person, are you
20 saying that you want to hear something about the
21 circumstances of the case, maybe how the person grew
22 up, the life that he lived and things of that
23 nature, family and things of that nature before you
24 make a decision? Are you saying you want to know
25 all of the facts before you sit down and simply make

1 a decision like you did with His Honor when he said,
2 Choose one of them?

3 And are you willing to listen to mitigating
4 factors? When I say mitigating factors, it lessens
5 the severity of the punishment itself if you talk
6 about a person's life, the breaks they had in life,
7 the ups and downs they had in life.

8 And the Solicitor comes forward and he talks
9 about the aggravating circumstances. And when we
10 refer to aggravating circumstances, we're referring
11 to things that have been done during the commission
12 of that crime that even make it more egregious, that
13 make it bad, for instance, if a small child was
14 sexually assaulted during a crime or something of
15 that nature or if someone was kidnapped during that
16 crime.

17 Are you willing to listen to all those factors,
18 the aggravating circumstances, the mitigating
19 circumstances about that person so you can get the
20 total package; is that correct?

21 A Yes.

22 Q Is that what you were saying by, I'm a type
23 number three juror?

24 A Yeah, I just have to know the entire thing. I
25 just can't make a decision.

1 Q And when His Honor said, you know, Can you give
2 someone the death sentence, your position was, I
3 haven't heard everything. And when the Solicitor
4 said, you know, You could never do this, your
5 position still is, I haven't heard everything. But
6 then it goes on to state in number three, This juror
7 would need to hear the facts; is that you?

8 A Yes.

9 Q And the circumstances in aggravation and in
10 mitigation, is that you, you would have to hear
11 everything; is that correct, ma'am?

12 A Yes, I would think so.

13 Q Right. And you would want to listen and follow
14 the law as the Judge charges the jury before he or
15 she could make the decision regarding punishment.
16 Are you that type of juror where you've got to hear
17 all the facts and then hear the law from the Judge;
18 is that correct?

19 A I'm that type of person, juror I don't know,
20 but I am that type of person.

21 Q And if the facts are warranted, you could bring
22 a verdict of life imprisonment without the
23 possibility of parole. Also, if the facts are
24 warranted, the juror could bring in a verdict for
25 the death penalty. Now, let's carefully talk about

1 those two different options. Your testimony was, is
2 that, If called, I could do whatever is necessary.
3 Let's first talk about your apprehension. All
4 right, number one, I guarantee you everybody back
5 there in that room, that nobody wants to be here; is
6 that correct? Nobody wants to be bothered with us?

7 **A** Uh-huh.

8 **Q** But you understand it's our civic duty as
9 Americans that we serve on juries, or, maybe we have
10 a country like in Iraq, everyday you go home,
11 something's blown up, something's torn apart and
12 people --

13 **MR. PASCOE:** Objection, Your Honor. He's gone
14 well beyond the scope of whether Ms. Bonaparte is
15 qualified or not. I also ask for him to please ask
16 questions and not go into these narratives.

17 **THE COURT:** If you will not characterize other
18 countries in your questions.

19 **MR. WALTERS:** May it please the Court.

20 **THE COURT:** Yes, sir.

21 **BY MR. WALTERS:**

22 **Q** Now, Ms. Bonaparte, you understand that in
23 serving on your civic duty as a juror, it requires
24 you to come up here and you're sworn in and you
25 engage in this process of evaluating the evidence

1 that's before the court, the prosecution puts
2 forward a case and the defense puts forward a case;
3 you understand that?

4 A Yes.

5 Q Now, you stated that if called, I could do what
6 is necessary. If you were called and you were
7 placed as a juror in this particular process, would
8 you stand by type number three that you alluded to,
9 that you want to hear all of the facts?

10 A Yes.

11 Q You want to hear all of the evidence?

12 A Yes. No matter what type I am, I still want to
13 hear all of the evidence and the facts.

14 Q Right. And then let's move to the crucial
15 point with type number three. After hearing all of
16 the evidence, the aggravating and mitigating
17 circumstances, having full knowledge, instead of
18 being in the position that you're in now where
19 everybody's looking at you and we're saying we want
20 an answer, after having all of the knowledge, the
21 aggravating and mitigating circumstances, the facts
22 of the case, after hearing from each and every
23 witness, at that time, could you believe that you
24 could make a sound decision?

25 And you only have two options. One option is

1 to put this man in prison for life if he's found
2 guilty. Or, if he's found guilty based on the facts
3 and evidence, you could sign your name and put him
4 to death. But before you could either exercise any
5 option, you would want to hear all of the facts and
6 evidence that are before you?

7 A That's your question?

8 Q Yes, ma'am.

9 A Still back to, yes, been -- all the facts and
10 evidence before me?

11 Q Yes, ma'am.

12 A I would want to know, yes.

13 Q And after hearing all that information, could
14 you make a sound decision between the two options?

15 A Honestly, I would be very torn. Trust me, I
16 would be very, very torn.

17 Q I understand it's a draining process. I
18 understand it's a horrific process. This is going
19 to go for two weeks. They're saying this is going
20 into December, you know, it's a time we want to be
21 with our families right after Thanksgiving. And
22 you're torn away from your family. You're staying
23 in a hotel.

24 But after hearing all of the evidence, the
25 testimony, the witnesses, the arguments of counsel

1 that are put before you and if you reach a point, if
2 they prove their case beyond a reasonable doubt and
3 if the defendant is found guilty, only if they prove
4 their case, at that time, could you listen to all of
5 the information and that sentencing process, in
6 addition to the trial which you've already listened
7 to and then make a decision with regards to option
8 number one or option number two?

9 Could you make a decision to exercise either of
10 those options after you've heard all of the
11 information, even though it tears your heart apart,
12 could you serve and exercise your duty as an
13 American citizen on a jury and make a decision
14 between those two options?

15 A At that time, I'll still be torn. I'm telling
16 you, I can't --

17 Q But could you make a decision, ma'am?

18 A Could I make a decision? After all the
19 evidence and everything, of course, I probably could
20 make a decision, but I would be torn between the two
21 decisions that I don't want to write my name or
22 anything.

23 Q Yes, ma'am. And that's what I wanted to hear.
24 You could make a decision, it would tear you apart,
25 but you could make a decision?

1 **A** I'll still be torn. I don't think I'll make a
2 good juror because I'll just be torn. It's just not
3 something that I want to ever have to decide on.

4 **Q** I'm going to ask you one question and leave you
5 alone.

6 **A** Thank you.

7 **Q** Could you make a decision, even though it would
8 tear your heart apart and you sit there and say, I
9 wonder, based on the information that I have, I'm
10 exercising a decision here, could you make a
11 decision as an American juror sitting on a jury,
12 could you make a decision between those two options?

13 **A** I really don't know that I could. I'm telling
14 you, I just don't know.

15 **MR. WALTERS:** I have no further questions, Your
16 Honor.

17 **THE COURT:** Mr. Solicitor.

18 **MR. PASCOE:** Very briefly, Your Honor.

19 RE-VOIR DIRE

20 BY MR. PASCOE:

21 **Q** Again, I want to thank you for your honesty,
22 ma'am, Ms. Bonaparte. And just make sure we clarify
23 your answers, you were honest with us and told us
24 before you came into court today, you really hadn't
25 thought much about the death penalty?

1 A Have not.

2 Q But after being put under the microscope today,
3 you've had to think about it. And you've testified
4 that you could never sign your name to a death
5 verdict form, could you?

6 A I would not want to do that.

7 Q You couldn't do it?

8 A No, no, no. I just don't want to make that
9 decision.

10 Q That's a decision you couldn't make, right, to
11 take somebody's life?

12 A I just would be torn between it. I just can't
13 make that type of decision.

14 Q Okay. You also testified earlier that you had
15 some religious beliefs against the death penalty and
16 that's one reason why you couldn't make that
17 decision; isn't that right?

18 A Yeah, because I believe in Christ.

19 Q And one thing I forgot to tell you -- yes,
20 ma'am, you believe in Jesus?

21 A Yes, I do.

22 MR. PASCOE: Beg the Court's indulgence one
23 minute, Your Honor.

24 (Pause.)

25 MR. PASCOE: That's all I have right now, Your

1 Honor.

2 RE-VOIR DIRE

3 BY THE COURT:

4 Q Ms. Bonaparte, are you opposed to the death
5 penalty?

6 A I don't know. I never had to think about it.

7 Q Well, having the benefit of being questioned
8 about it here today and having come to this jury
9 service today and having been given an orientation
10 sheet and having been here all day with -- and
11 having been explained to you that you might be
12 considered to serve on jury duty on a death penalty
13 case, have you decided whether or not you are
14 opposed to the death penalty?

15 A No.

16 Q You don't know whether you are opposed to it or
17 not?

18 A No, I mean, really, if you're talking about
19 personally, I just can't wrap my mind around that.
20 I'm sorry, I can't wrap my mind around it. I can't
21 say yea or nay. I know that I would not want to be
22 responsible for that and I would not want to sign my
23 name as a bill on that saying put somebody to death,
24 that's just the way I felt.

25 Q Well, if it was necessary for you to sign your

1 name in order for the jury to reach a verdict of
2 death, death penalty, and the jury could not reach a
3 unanimous verdict for the death penalty unless you
4 signed your name, could you sign your name on the
5 verdict form for death?

6 A I don't know that I could do that.

7 Q Well, I think the problem that's perhaps
8 prolonging your questioning, not that it's anything
9 wrong with prolonging it, but when you say that you
10 do not know whether or not you could do that or that
11 you're torn, I need to know whether you can or
12 whether you can't sign a verdict form for death?

13 A If it's left up to me, I would not.

14 Q Well, it obviously would be left up to you
15 because no one on the jury can make you do anything;
16 do you understand that?

17 A Uh-huh.

18 Q When you sit on a jury, you have to make up
19 your own mind as to whether or not the defendant is
20 guilty of the crime and, also, if he's found guilty
21 of the crime, you must make up your own mind as to
22 what the penalty should be; do you understand that?

23 A Uh-huh.

24 Q And even though the process of jury
25 deliberations would involve jurors attempting to

1 convince you as to their position, ultimately you
2 must make up your own mind and no one can make you
3 do anything and no one can make you sign a verdict
4 form for death; do you understand that?

5 A I understand.

6 Q Well, considering the fact that no one can make
7 you do it and it's up to you, could you do it?

8 A No. I just wouldn't want to do it. I just
9 would not want to do it, I just wouldn't.

10 Q Well, in Mr. Walters' questioning of you,
11 obviously he alluded to the fact that it would be
12 painful and difficult on you as it is on anyone else
13 and the question is not whether or not you would
14 want to do it, because no one would want to do it,
15 but could you do it?

16 A I could not make that decision until that time
17 comes. I know the answers are not what y'all are
18 looking for, but that's just me. I cannot make that
19 decision on what would I or could I do until the
20 time has come, that's just me. I can't do that.

21 THE COURT: Anything further by the defense?

22 MR. WALTERS: I have no further questions for
23 Ms. Bonaparte.

24 THE COURT: Anything further by the State?

25 MR. PASCOE: No, Your Honor.

1 BY THE COURT:

2 Q And, ma'am, have you had a chance to look over
3 this witness list?

4 A Yes, sir.

5 Q And do you know anyone on the witness list?

6 A No.

7 Q Have you formed an opinion as to the guilt or
8 innocence of the defendant?

9 A No.

10 THE COURT: All right. Ms. Bonaparte, I ask
11 you to step outside the door there and do not talk
12 with anyone while you're there.

13 (Juror leaves the courtroom.)

14 THE COURT: What says the State?

15 MR. PASCOE: We'd ask that she be disqualified
16 without question from her answers, Your Honor.

17 THE COURT: What says the defense?

18 MR. WALTERS: May it please the Court. Your
19 Honor, if we look at the case law in regards to
20 qualifying witnesses, and on the record the cases
21 that I'm referring to, if we go through Morgan
22 versus Illinois, Wynn versus Virginia, Gray versus
23 Mississippi, Lockhart versus McCree, and Wainwright
24 versus Witt and we go to the Witherspoon case, each
25 one of those cases deals with a juror taking a

1 position with regards to the death penalty.

2 What's happened in this particular case is that
3 there was an inquiry and then she was told, you have
4 to make a decision. And this is what I disagree
5 with about this process, we're bringing people in
6 and we're simply saying, look, you've got to tell us
7 your position. And the position that she's taking
8 is, is that, I have to listen to everything that is
9 said by everyone.

10 And, of course, we inquired, but could you sign
11 your name, you know, sentencing someone to death or
12 could you put someone in jail for life. And her
13 position has been, and Mr. Pascoe is correct when he
14 cited those instances where she simply stated, I
15 couldn't sign under those circumstances, but I also
16 ask the Court to take into consideration what she
17 said during my testimony -- my direct examination,
18 she simply said, if called, I'll do whatever is
19 necessary.

20 The problem with this process is, is that these
21 cases are all based on people taking positions and
22 simply saying, I can't do it, I'm not going to do
23 it. In this particular case, we've got a lady
24 that's come before the Court, she's cognitive, she
25 understands, but her position is simply, what? I

1 don't know what I'll do. I'm willing to listen to
2 everyone, but I can't say exactly what I'll do at
3 this time.

4 And, of course, what the Court is inquiring of
5 is that, well, we're not asking what you'll do with
6 regards to this case, we're asking do you have the
7 ability to exercise the first decision or the second
8 decision. And in this particular case, she's been
9 ambivalent about it, is ambivalent to all of her
10 testimony. She said she could do it, and I'll
11 repeat her words, If called, I'll do whatever is
12 necessary. And, of course, the prosecution in this
13 particular case said, Can you sign your name? And
14 all along she stated one thing, I need to listen to
15 everyone.

16 I think that the case law that we have before
17 us and the cases that we use for the exchange in
18 this process is for someone that's taken a position
19 with regards to the death penalty. And we go
20 through this process of rehabilitating the witness
21 and bringing the witness back, we find more cases
22 where people unequivocally say, you know, if I find
23 aggravating circumstances, the person has to be put
24 away.

25 What's happened here is, is we've got a person

1 that walked in and simply said what? I'm not making
2 up my mind and I'm not doing anything until I hear
3 from everyone. And when the Court says, You've got
4 to take a position, that's when she went on the run
5 and that's when she simply danced around the issue
6 and said, well, whatever. But the point is, is that
7 she came back in the end to her original position, I
8 don't have a position. And that's been her
9 testimony all along, I don't have a position.

10 **THE COURT:** If she doesn't have a position,
11 then she's not qualified under the law of this state
12 and this Country.

13 **MR. WALTERS:** Your Honor, I believe she is
14 qualified if she says, If called, I will do what is
15 necessary.

16 Now, what the prosecution has made some gains
17 with is when she says, I'm torn by making this
18 decision, but each and every juror that comes before
19 us is torn by making the decision with regards to
20 death and life. That has nothing to do with the
21 issue of making a decision. Her position has always
22 been, I want to listen to everything everybody has
23 to say and then I'm willing to make a decision.

24 She indicated to the Court, and I'll repeat
25 what she said, she said, I am a type three. The

1 ambivalence began when we inquired into type three
2 and said, Well, can you sign your name, can you send
3 someone to jail for life? And her position has
4 always been, I need to listen to everyone. I need
5 all of the facts.

6 Moreover, she stated, and she had a positive
7 disposition about life, I don't read the newspapers
8 and I don't watch any news. I watch drama and
9 action shows.

10 All right, you know, maybe there's something
11 special about living a life where you sit down and
12 you watch people wreck cars and run around and shoot
13 at each other and in the end it all comes out
14 positive and you move on with your life, you don't
15 read the newspaper everyday and you hear these
16 stories of death and destruction.

17 But the point is, is that this is a lady who
18 said, I haven't taken a position on the issue. If
19 called, I'll do what is necessary, but I'm torn by
20 what's going on here. And when we put in these
21 scenarios and say, can you sign, can you sign or can
22 you send him to jail for life, her position has
23 always been, I don't know, I don't know. And in the
24 end she comes back to that original position, I
25 don't know, I need to hear everything.

1 **THE COURT:** So do we know any more about her
2 position now than we did when she came in?

3 **MR. WALTERS:** Sure. We do understand her. Her
4 position is simply this, I need to hear everything.
5 She said, I'm type three. I need to hear everything
6 and then I can make a decision. And she said she
7 was a type three.

8 The problem here is, is that -- and let's
9 carefully review the process. Your Honor instructed
10 her, You've got to make a decision --

11 **THE COURT:** She must tell us whether she's a
12 type one, type two or type three.

13 **MR. WALTERS:** Right. Then she catapults into a
14 position. What did she say? She says, I'm type
15 three. Then we inquired into type three, and then
16 what does she say? She says, I've got to listen to
17 the facts. She tells Mr. Pascoe, I can't sign. She
18 tells me, If called, I'll serve if necessary.

19 This lady all along has taken the position that
20 I want to hear all of the facts and all of the
21 evidence and then I'll make a decision. I'll be
22 torn when I do it, but I'll make a decision.

23 **THE COURT:** All right. Mr. Pascoe.

24 **MR. PASCOE:** Briefly, Your Honor. I'll serve
25 if necessary does not make you death penalty

1 qualified. And I'm looking at the case law, State
2 versus Elmore, Opposition to the death penalty does
3 not have to be demonstrated with unmistakable
4 clarity. She was unmistakable. She will not vote
5 for the death penalty.

6 For about the fifth time, and this came when
7 Your Honor asked her the question, Would you sign
8 your name to a death penalty verdict form, her
9 answer was unequivocal, No, no.

10 Now, with Mr. Walters, again, he kept, Would
11 you serve, yes, she would serve. And then she would
12 say, No matter what type of juror I am, I'll still
13 want to listen to all of the facts. But she's been
14 unequivocal, she will not sign a death verdict form
15 and give a death penalty verdict. She won't do it.

16 There's no way this juror should be qualified
17 under the case law. She was very honest and very
18 open, she will never vote for the death penalty.
19 She's unequivocal on that.

20 **THE COURT:** Anything else on this juror?

21 **MR. PASCOE:** Nothing from the State, Your
22 Honor.

23 **THE COURT:** I'm going to have her come back at
24 9:00 tomorrow morning and announce my decision
25 regarding whether she's qualified or not qualified

1 at that time. I'll have her come back at that time.

2 If you'll have her step back in.

3 (Juror returns to the courtroom.)

4 **THE COURT:** Ma'am, I need you to come back at
5 9:00 tomorrow morning. At which time, I'll have you
6 come back and clarify your status as a juror at that
7 time. I need you back at 9:00 a.m. tomorrow morning
8 at the same place. You will not go in with all of
9 the jurors, but you will be outside of the jury room
10 at nine o'clock tomorrow morning. You understand,
11 ma'am?

12 **JUROR:** (Witness nodded head.)

13 **THE COURT:** All right. We'll see you then.
14 Please do not discuss the case or allow anyone to
15 discuss it with you between now and then.

16 **JUROR:** All right.

17 (Juror was excused for the day.)

18 **THE COURT:** And with regard to any legal
19 authority one way or the other, you all have quoted
20 some cases and Mr. Pascoe has cited one, State
21 versus Elmore, Mr. Walters has quoted about five or
22 six U.S. Supreme Court cases and I would like to
23 have y'all provide me that authority from those
24 cases because looking at the cases, I don't know
25 that they speak for the specific -- they speak for

1 the principle that's enunciated by counsel, so I
2 need to see what from those cases say what you all
3 have said that they cite.

4 MR. PASCOE: Yes, Your Honor.

5 THE COURT: And we'll need to have those before
6 leaving here today if you have some of those cases
7 with you.

8 All right. Let's bring the next one in.

9 (Whereupon, Brandon B. Dewitt, a white male,
10 enters the courtroom.)

11 BRANDON B. DEWITT,
12 having been previously duly sworn, testified as
13 follows:

14 VOIR DIRE

15 BY THE COURT:

16 Q Yes, sir, Mr. Dewitt?

17 A Yes, sir.

18 Q Mr. Dewitt, you have appeared as a juror here
19 to talk with us. Has anyone spoken with you
20 concerning this case since you received your juror
21 summons?

22 A No, sir.

23 Q And have you heard anything about this case?

24 A I heard about it.

25 Q And based on what you heard about this case,

1 did you form an opinion as to the guilt or the
2 innocence of the defendant?

3 A No, sir.

4 Q And did you get an opportunity to look at the
5 list of possible witnesses in this case?

6 A Yes, sir.

7 Q And do you know anyone on that witness list?

8 A I know Sheriff Summers.

9 Q And the fact that Sheriff Summers might be a
10 witness in this case, does that affect your ability
11 to be a fair and impartial juror in this case?

12 A No, sir.

13 Q Has anyone attempted to discuss this case with
14 you since you've been here today?

15 A No, sir.

16 Q Now, we need to ask you some questions. And,
17 obviously, there are no right or wrong answers, but
18 we need to get some information from you to ponder
19 your jury service. Where do you work?

20 A Piggly Wiggly on Edisto Drive in Orangeburg.

21 MR. WALTERS: Excuse me, Your Honor, I didn't
22 hear what he said.

23 JUROR: Piggly Wiggly on Edisto Drive in
24 Orangeburg.

25 BY THE COURT:

1 Q Piggly Wiggly?

2 A Yes, sir.

3 Q And what do you do at Piggly Wiggly?

4 A Bagging, sometimes stocking -- well, mainly,

5 I'll be bagging, stay up front, that's what they

6 told me to do.

7 Q All right. Now, we're going ask you some

8 questions concerning your views on the death

9 penalty. Of course, at this point, the issue of

10 penalty is not an issue in this case because the

11 defendant is presumed to be not guilty. And if he's

12 found not guilty, then the issue of punishment would

13 not come into play. But we still must discuss it

14 because this is the only convenient time to talk

15 about it; do you understand that, sir?

16 A Yes, sir.

17 Q Now, the defendant is presumed to be not guilty

18 of these charges; do you understand that?

19 A Yes, sir.

20 Q And if I instructed you of that principle of

21 law as I'm doing now, would you be able to follow

22 it?

23 A Yes, sir.

24 Q Would you be able to follow the law as I

25 instructed you even if you disagree with that

1 principle of law?

2 A Yes, sir.

3 Q Now, if you were in a juror -- a juror in any
4 type of criminal case, and I'm not asking you
5 specifically about this case, since you don't know
6 about this case, it wouldn't be fair to ask you what
7 you might do in this case and that's not what we're
8 doing, but just in a general sense, if you were a
9 juror in any criminal case, would you be willing to
10 listen to the law as you were instructed by the
11 Judge?

12 A Yes, sir.

13 Q And would you be able to follow that law even
14 if you disagree with it?

15 A Yes, sir.

16 Q And could you decide this case solely based on
17 the evidence presented in this courtroom and the law
18 as I instruct you and not based on anything you may
19 have seen or heard outside of this courtroom?

20 A Yes, sir.

21 Q Now, ordinarily, jurors are not concerned with
22 punishment, but if the jury were to find the
23 defendant guilty of murder in this case, the jury
24 would be concerned about punishment; do you
25 understand?

1 A Yes, sir.

2 Q We would have a separate proceeding to
3 determine whether or not the defendant should be
4 sentenced to life imprisonment without the
5 possibility of parole or the death penalty through
6 electrocution or lethal injection; do you understand
7 that, sir?

8 A Yes, sir.

9 Q Did you have a chance to look at the piece of
10 paper back there where three types of jurors are
11 listed?

12 A Yes, sir.

13 Q And do you remember those three types of jurors
14 and what they were?

15 A I know that the first one, if he's proven not
16 guilty, then the case will be thrown out. The
17 second and third, I couldn't understand was -- like
18 I say about lethal injection, I don't know if it
19 would be on the second one or the third one. I
20 mean, I understand the first one, but the second or
21 third, I just really try to understand.

22 Q All right. Mr. Dewitt, how far did you go in
23 school?

24 A All the way through the 12th grade.

25 Q And you've been working at Piggly Wiggly for

1 how long?

2 **A** I used to work one year in Saint Matthews for
3 almost seven years. I got laid off. I drawn
4 unemployment from January to August. From August up
5 to this month, I was at Perez (ph) in Saint
6 Matthews. Then from two days later, I was working
7 at Piggly Wiggly in Orangeburg up to now.

8 **Q** All right. Now, I'm going to explain to you in
9 a little greater detail about these types of jurors.
10 The first type of juror is a juror who favors the
11 death penalty in all cases where the defendant has
12 been convicted of murder. That's type one. In all
13 cases if the defendant has been convicted of murder,
14 the type one juror would always give the defendant
15 the death penalty. Do you understand?

16 **A** Yes, sir.

17 **Q** Now, the type two juror is a juror who is
18 against the death penalty in all cases of murder
19 regardless of how bad it might be. The third juror
20 is a juror who favors the death penalty in some and
21 does not favor the death penalty in others. That
22 juror would listen to the facts and circumstances,
23 the aggravating circumstances and the mitigating
24 circumstances and could vote for life imprisonment
25 without the possibility of parole or could vote for

1 the death penalty if that juror considered the death
2 penalty to be the appropriate punishment. Do you
3 understand the three types of jurors?

4 A Yes, sir.

5 Q Now, which type are you?

6 A Type one.

7 Q You're a type one juror. And a type one juror
8 is a juror who favors the death penalty in all cases
9 of murder. Where the State has proven beyond a
10 reasonable doubt the defendant is guilty of murder,
11 then that juror would feel that he or she is
12 required to give the death penalty in each and every
13 case. This juror feels that once murder has been
14 committed, the death penalty is the only appropriate
15 punishment no matter what the circumstances of the
16 case. Do you understand that?

17 A Yes, sir.

18 Q And are you that type juror?

19 A Well, to me, if the person did something, it's
20 like if you took my eye out, then, therefore, I got
21 the right to take your eye out. It's like an eye
22 for an eye, tooth for tooth, you know, but, I mean,
23 like you're right, if you say he's innocent until I
24 see it proven he is innocent, then, yeah, he's
25 innocent, but until I see the facts and the proof,

1 then maybe he is innocent or maybe he's not. So I'm
2 like borderline.

3 Q Borderline between what and what?

4 A If he's innocent -- I mean, I just heard about
5 it. I mean, I don't know what he did, I just heard.

6 Q What did you hear?

7 A I just heard that somebody went to Sweet Water
8 Lake and shot someone and that's all I heard. Then
9 he fled to Florida, that's all I heard.

10 Q Have you formed an opinion about whether or not
11 he's guilty based on what you've heard?

12 A I mean, I don't know if he did it just for fun
13 or he just did it to protect himself or I don't
14 know.

15 Q Have you decided that he is guilty?

16 A No, sir.

17 Q Are you the type of juror that would wait and
18 listen to the evidence and if the State did not
19 prove beyond a reasonable doubt that he was guilty,
20 you would find him not guilty?

21 A Yes, sir, I'm the type of person right there.

22 Q But if the State proved beyond a reasonable
23 doubt that he was guilty, would you automatically
24 vote for the death penalty or would you want to
25 listen to all of the facts and circumstances and you

1 might vote for the death penalty or you might vote
2 for life imprisonment without the possibility of
3 parole?

4 A I wait until I get all the facts and I'll go
5 from there.

6 Q And when you go from there, could you vote for
7 life imprisonment without the possibility of parole
8 even if he's guilty of murder?

9 A More likely, yeah, but putting somebody to
10 death -- I mean, I understand he shot somebody, I
11 guess -- I guess the family wants to trust us for a
12 right, but I'll just give him life with parole -- I
13 mean, life without parole.

14 Q So, now you have not heard any of the facts in
15 this case, so no one is asking you what you would do
16 in this particular case, we're talking about in
17 murder cases in general.

18 A Yeah, that's what I'm saying. I would like to
19 get the facts and how I go from there and see if
20 that person is guilty or not guilty.

21 Q And based on the facts, you might vote for
22 death or you might vote for life imprisonment even
23 though the defendant is guilty of murder; is that
24 right?

25 A Yeah, I'm just borderline. I just don't know

1 which one to go for until furthermore.

2 Q But you could vote for the death penalty?

3 A I could vote for life with parole.

4 Q You could vote for life without the possibility
5 of parole; is that right?

6 A Yes, sir.

7 Q And you could vote for the death penalty?

8 A Like I said, 50/50.

9 Q Well, after being 50/50, could you vote for the
10 death penalty?

11 A No.

12 Q You could not vote for the death penalty?

13 A (Witness shook head.)

14 Q Well, if you listened to the evidence, could
15 you vote for the death penalty if the State proved
16 beyond a reasonable doubt murder, plus certain
17 aggravating circumstances, are there circumstances
18 under which you could vote for the death penalty?

19 A Yeah, if I'm there, yeah, I would, if I heard
20 the evidence.

21 **THE COURT:** All right. Mr. Solicitor.

22 **MR. PASCOE:** No questions, Your Honor. I would
23 just like maybe to be heard on it later.

24 **THE COURT:** Mr. Walters.

25 **MR. WALTERS:** Your Honor, I concur with the

1 Solicitor to be heard later on this matter.

2 **THE COURT:** If you'll step right outside the
3 courtroom and let me talk with them a minute. Don't
4 talk with anybody out there.

5 **JUROR:** Okay.

6 (Juror leaves the courtroom.)

7 **THE COURT:** Yes, sir, Mr. Solicitor.

8 **MR. PASCOE:** May it please the Court. It's the
9 State's position we think that Mr. Dewitt may have
10 some mental defect or handicaps, obviously, from his
11 testimony. He was all three jurors within a matter
12 of five minutes.

13 He didn't understand the jury form that you
14 sent him. He, I mean, just totally didn't
15 understand what jurors one, two and three were. He
16 first said he would always give the death penalty
17 because eye for an eye, then he said he would never
18 give the death penalty, then he said he would think
19 about it. I think because of his testimony, we'd
20 ask that he be disqualified.

21 **THE COURT:** All right. What do you say about
22 it, Mr. Koger?

23 **MR. KOGER:** Your Honor, May it please the
24 Court. I'm in agreement with Mr. Pascoe. He was
25 all over the map when it came to the type of juror

1 that he was. And I do feel that he had some type of
2 trouble understanding.

3 **THE COURT:** All right. It appeared that he did
4 have trouble understanding and comprehending. He
5 also provided inconsistent answers. And based on
6 the inconsistencies in his responses and the
7 agreement of the parties, I will discharge him as a
8 juror in this case.

9 If you'll bring him back in.

10 (Juror returns to the courtroom.)

11 **THE COURT:** All right. Mr. Dewitt, I want to
12 thank you for coming and for being with us all day
13 today and for giving this your best effort. There
14 are no right or wrong answers to any of these
15 questions. Based on your responses to the
16 questions, we're going to disqualify you from jury
17 service. We're not going to require you to be in
18 the jury pool anymore.

19 I want to thank you for coming. Please do not
20 discuss any of the questions or answers we went over
21 with you with any other juror, okay?

22 **JUROR:** All right.

23 **THE COURT:** But you don't have to come back.
24 You can go to Piggly Wiggly tomorrow.

25 **JUROR:** Thank you.

1 (Juror was excused.)

2 THE COURT: All right. James J. Howell, we're
3 ready for him.

4 (Whereupon, James H. Howell, a white male,
5 enters the courtroom.)

6 JAMES H. HOWELL,
7 having been previously duly sworn, testified as
8 follows:

9 VOIR DIRE

10 BY THE COURT:

11 Q How are you doing? Are you hanging in there
12 with us?

13 A Oh, yeah, getting sleepy and hungry.

14 Q All right. We all are.

15 A James J. Howell.

16 Q Mr. Howell, you're still under oath from
17 earlier today. Do you understand that, sir?

18 A Yes, sir.

19 Q Mr. Howell, where do you work?

20 A I don't, retired.

21 Q And where did you retire from?

22 A Good Year Tire and Rubber Company in Akron,
23 Ohio.

24 Q Up interstate 77?

25 A Yeah, right up on the end of it up there.

1 Q We had you to come in so that you could be
2 asked some questions individually concerning your
3 views on certain issues in this case and to also get
4 your opinion concerning what type of juror you would
5 be in relation to the three types of jurors that are
6 listed on that piece of paper, but, first, I want to
7 ask you, did you get a chance to look over the
8 witness list?

9 A Yes, sir, I did.

10 Q And do you know anyone on that witness list?

11 A No, only by name like the sheriff and people
12 like that I've heard in the paper or whatever.

13 Q Well, based on what you know or might have
14 heard from those names on the witness list, have you
15 formed an opinion as to the guilt or the innocence
16 of the defendant?

17 A Oh, absolutely not.

18 Q And have you heard about this case or did you
19 hear about it?

20 A I read one little blurb on the Internet a year
21 ago or whatever, that's the only recollection I have
22 of it. I don't get a newspaper, so I don't know.

23 Q And the fact that you might have read that on
24 the Internet, did it cause you to form an opinion as
25 to the guilt or the innocence of the defendant?

1 A No, not at all.

2 Q Would you be able to listen to the law as I
3 would instruct it to you and follow that law?

4 A Yes, sir.

5 Q Do you understand that the defendant is
6 presumed to be not guilty?

7 A Yes, sir.

8 Q And cannot be found guilty unless the State
9 proves guilt beyond a reasonable doubt; do you
10 understand that?

11 A Uh-huh.

12 Q And would you be willing to listen and make
13 your decision based on whether or not you're
14 convinced that the person is guilty or not guilty?

15 A Absolutely, it's the only way I would do it.

16 Q Now, as it relates to the choices that you have
17 on the piece of paper, you said you had a chance to
18 look at it and you would notice that it essentially
19 describes three types of persons for you. Do you
20 remember those three types of jurors and what they
21 were?

22 A Yes, sir, I do.

23 Q Which of those three types of jurors best
24 describes you?

25 A Number three.

1 Q And as a number three type juror, does that
2 mean that you could vote for the death penalty or
3 you could vote for life imprisonment without the
4 possibility of parole after the person had been
5 found guilty?

6 A If that's what the facts show, I would pick the
7 one that fit the facts.

8 Q And you would consider the aggravating
9 circumstances as would be presented and the
10 mitigating circumstances as would be presented --

11 A Yes.

12 Q -- then decide what the appropriate punishment
13 would be based on those facts?

14 A Yes, sir. If they come across to me as the
15 facts, yes, sir.

16 Q And you do not believe that there should be an
17 automatic penalty of death or an automatic penalty
18 of life imprisonment as stated in one or two?

19 A Absolutely not. Not without knowing the
20 circumstances, I couldn't do that.

21 Q Now, how old are you now?

22 A Seventy.

23 Q And you have elected to serve on jury duty and
24 we certainly appreciate that civic responsibility.

25 A Well, I thought that's what we were supposed to

1 do.

2 Q And I put on the letter to you and other jurors
3 that you would be housed or sequestered in a motel
4 locally here during this trial and would have to
5 stay together with other jurors until the trial was
6 over. And, of course, it would be at the county's
7 expense. And the case may last from ten days to two
8 weeks, we don't know. Other than the general
9 inconvenience which it would cause anybody who would
10 have to serve in this capacity, would it pose a
11 serious risk of danger to your health or well-being
12 or to that of anybody who is dependent upon you if
13 you had to serve in that capacity?

14 A Not at all.

15 Q You would be able to do that?

16 A Yeah. My wife wouldn't like it, but I would be
17 able to do it.

18 THE COURT: All right. Well, I'm going to see
19 if the State or the defense has any questions for
20 you.

21 First, Mr. Pascoe.

22 MR. PASCOE: Good evening, Mr. Howell. My name
23 is David Pascoe. I'm the Solicitor in Calhoun
24 County. I don't have any questions. Thank you for
25 coming tonight.

1 **THE COURT:** Mr. Koger.

2 **MR. KOGER:** May it please the Court.

3 VOIR DIRE

4 **BY MR. KOGER:**

5 **Q** Mr. Howell, you stated that you do not get any
6 newspapers, correct?

7 **A** That's right.

8 **Q** How do you get your news?

9 **A** How do I what?

10 **THE COURT:** How do you get your news?

11 **JUROR:** The only news I get is when I look on
12 the Internet there and there's them little blurbs
13 there and I look at them and that's it.

14 **BY MR. KOGER:**

15 **Q** Do you watch television?

16 **A** Oh, yeah.

17 **Q** Do you watch any news on television?

18 **A** Specifically sit down and watch the news, no, I
19 don't.

20 **Q** And it's been your testimony in reference to
21 this case that you saw it on the Internet about a
22 year ago?

23 **A** Well -- and, again, yes, whenever I seen that
24 blurb on there and it's the local news, it -- I seen
25 that about the death of the officer or whatever it

1 was. I can't even give you any details on it, I'm
2 sorry.

3 Q And you stated that you're a type three?

4 A Like what?

5 Q You're a type three juror, meaning that you --

6 A Absolutely. If the State can't prove it to me
7 factually what happened, I'm going the other way.
8 If you can't, it's guilty. I mean, that's the way
9 it is.

10 Q Okay. And you realize that as of right now,
11 Mr. Mahdi sits here as an innocent person?

12 A Oh, absolutely.

13 Q And the State has to meet their burden beyond a
14 reasonable doubt?

15 A Yes.

16 Q Okay. And you do know that the reason why this
17 is a death penalty case, because you have what you
18 call aggravating circumstances?

19 A That's what I've heard here today, yes.

20 Q Okay, right. And some of the aggravating
21 circumstances may be that some other crime was
22 committed during the commission of the alleged
23 murder, correct?

24 A Okay. If that's what that means, yes.

25 Q All right. And, of course, you -- in your

1 determination of guilt or not guilty, you would look
2 at all aggravating circumstances?

3 **A** Absolutely.

4 **Q** And in your determination of guilt or not
5 guilty, you'll look at mitigating circumstances?

6 **A** Yes.

7 **Q** Okay. And mitigating circumstances is a
8 person's background, correct?

9 **A** Well, yes, if that's part of the case, yes, I
10 guess it is, yes.

11 **Q** And how he was brought up, correct?

12 **A** I'm going to say, yes. I'm answering questions
13 here. If it's what's presented, yes, I'm going to
14 consider everything that's presented to me.

15 **Q** You're going to consider everything?

16 **A** Yes.

17 **Q** And you have no preconceived notions about
18 guilt or innocence?

19 **A** No, not at all.

20 **MR. KOGER:** Thank you, Mr. Howell.

21 **JUROR:** You bet.

22 **THE COURT:** Anything further?

23 **MR. PASCOE:** No, Your Honor. Thank you.

24 **THE COURT:** Mr. Howell, if you will step right
25 outside that door. Don't talk to anyone while

1 you're standing there because we need to talk about
2 you for a minute.

3 (Juror leaves the courtroom.)

4 **THE COURT:** What says the State?

5 **MR. PASCOE:** We'd ask him to be qualified, Your
6 Honor.

7 **THE COURT:** What says the defense?

8 **MR. KOGER:** We'd ask that he be qualified, Your
9 Honor.

10 **THE COURT:** This juror is qualified. I'm going
11 to tell him to pack his bags and come back to see us
12 Wednesday at noon. If he'll come back in, please.

13 (Juror returns to the courtroom.)

14 **THE COURT:** All right. Mr. Howell, you have
15 been found to be qualified as a potential juror in
16 this case, that does not mean that you're on the
17 jury, but it means that you are a potential juror,
18 you may be selected to be a juror in this case.

19 We're hoping to be able to select this jury
20 Wednesday at noon. And we want you to pack your
21 bags and come back Wednesday at noon and to come to
22 the annex across the street where you pay your
23 taxes. They have a conference room in there. And
24 all jurors who are qualified, I'm going to have them
25 to come there Wednesday at noon. And you'll need to

1 have enough clothes probably for a week or two.

2 And this sheet of paper will give you certain
3 other information about your jury service so your
4 loved ones will know where you are and all that if
5 you are selected. You might want to have it
6 arranged for someone to be able to come get your car
7 or to come with you in the event that you are
8 selected because if you are and we start the case,
9 you won't be able to go back home, that's why we
10 want you to bring things with you.

11 JUROR: And what was the time Wednesday?

12 THE COURT: At 12:00 noon, high noon.

13 JUROR: At the annex?

14 THE COURT: At the annex. Do not discuss
15 anything, do not read any Internet blurbs or any
16 Internet newspaper or any other media accounts of
17 this case from this point on.

18 JUROR: I promise I won't do that.

19 THE COURT: Thank you very much. Do not allow
20 anyone to discuss it with you and if they try to,
21 let me know, please.

22 JUROR: I will right after I smack them.

23 THE COURT: All right. Thank you, Mr. Howell.

24 (Juror was excused for the day.)

25 THE COURT: All right. Do we have some more

1 people out there?

2 THE CLERK: One more.

3 (Whereupon, Tami M. Huggins, a white female,
4 enters the courtroom.)

5 TAMI M. HUGGINS,
6 having been previously duly sworn, testified as
7 follows:

8 VOIR DIRE

9 BY THE COURT:

10 Q Hi there, Ms. Huggins. How are you?

11 A Fine.

12 Q You had some snacks in your purse back there.
13 You're pretty hungry by now.

14 A I'm okay. I'm just tired.

15 Q We all are and we certainly appreciate your
16 hanging in there with us. We thought an hour and a
17 half would do, but it didn't quite work today.
18 Hopefully, we'll do better tomorrow time-wise. Do
19 you work?

20 A Yes.

21 Q And where do you work?

22 A Sandy Run Elementary School.

23 Q And you are a --

24 A I'm the librarian, media specialist.

25 Q And I notice you did not seek to transfer the

1 service to any other time.

2 A Well, I debated about that. I originally
3 thought this was going to be, you know, a one or two
4 day thing and, you know, didn't know when I would be
5 called again, so I just decided to go ahead and --

6 Q And the school will be okay? They're able to
7 operate without you?

8 A I think so.

9 Q And if this case should take up to two weeks to
10 try, then you will be available to serve?

11 A I think so.

12 Q Has anyone attempted to contact you about this
13 case since you received your juror summons?

14 A No.

15 Q And has anyone attempted to talk with you about
16 it since you got here today?

17 A No.

18 Q I think you indicated earlier in questioning
19 that you may have heard something about this case?

20 A Just, you know, back when it occurred, I heard
21 just some talking about it.

22 Q And since we talked earlier when you said that,
23 has anything come into your memory that may have
24 jogged your memory and created anything within your
25 knowledge that would change your answers from any

1 answers you gave earlier?

2 **A** No.

3 **Q** Now, we're not trying to invade your privacy,
4 but we need to find out how you might feel about
5 some matters, in other words, what your opinions
6 are. There are obviously no right or wrong answers,
7 but your opinion is just as valid and as good as
8 anyone else's, but we need -- we do not intend to
9 challenge you in any way concerning your opinion,
10 but we need to know about them for jury selection
11 purposes.

12 Now, if you were a juror in any type of
13 criminal case, and I'm not asking you about this
14 case specifically because you don't know anything
15 about the evidence in this case, it would be unfair
16 of me to ask you what you might do in regard to this
17 case, but in a generic sense, if you are a juror in
18 any criminal case, would you be willing to listen to
19 the law as you were instructed to by the judge?

20 **A** Uh-huh.

21 **Q** And would you be willing to accept the law and
22 apply it to the facts as you find the facts to be?

23 **A** Yeah.

24 **Q** You might talk a little louder so that everyone
25 can hear you. Even though you might not

1 particularly like the law and you might even
2 disagree with it, would you still be willing to
3 follow the law as you were instructed to do so by
4 the judge?

5 A Yes.

6 Q Now, if you were asked to serve in the case of
7 the State versus Mahdi, could you decide this case
8 solely based upon what you would hear in this
9 courtroom and disregard anything that you may have
10 seen or heard or read about this case from any other
11 source?

12 A Yes.

13 Q Now, in a criminal case, as you know and as I
14 told you briefly this morning, the State has the
15 burden of proving guilt beyond a reasonable doubt.
16 In other words, the defendant has no burden to prove
17 his innocence. He is presumed innocence under the
18 law. Do you understand that?

19 A Yes.

20 Q So if you were a juror in any criminal case,
21 would you be willing to listen to the facts and
22 circumstances and the law as you were instructed?

23 A Yes.

24 Q And based upon those facts and circumstances,
25 would you be willing to find the defendant not

1 guilty in a criminal case?

2 A Yes.

3 Q And if you -- based on the facts -- based on
4 the facts and circumstances if the defendant was
5 proven guilty beyond a reasonable doubt, would you
6 be willing to find the defendant guilty?

7 A Yes.

8 Q So you would be willing to listen and make your
9 decision based upon whether or not you were
10 convinced that the person is guilty or not; is that
11 right?

12 A Yes.

13 Q Now, most of the time, jurors do not concern
14 themselves with the matter of punishment. Most of
15 the time, it's up to me, the Judge. But in a death
16 penalty case, a case in which the State is seeking
17 the death penalty, our law provides that the matter
18 of punishment is up to the jury to make a
19 recommendation regarding punishment and that
20 recommendation would be followed by the judge.

21 And in a case such as this where the State is
22 seeking the death penalty, the same jury that might
23 find the defendant guilty of murder would come back
24 in a separate proceeding, decide what sentence the
25 defendant would get. And there would only be two

1 choices, one is life imprisonment without the
2 possibility of parole and the other is the death
3 penalty. Do you understand that?

4 A Yes.

5 Q Did you have a chance to look at the form that
6 had the three types of jurors on it?

7 A Yes.

8 Q And do you remember those three types of jurors
9 and what they were?

10 A Yes.

11 Q Which of those three types of jurors best
12 describe you?

13 A Probably juror two.

14 Q And what is a juror number two? What did that
15 say to you, or what was that?

16 A That you would not vote for the death penalty.

17 Q Now, are you saying that you could never vote
18 for the death penalty despite how bad the crime
19 might be?

20 A I believe I am, yeah.

21 Q Well, do you think that under certain
22 circumstances, you could vote for the death penalty
23 depending on how bad the crime might be?

24 A I doubt it.

25 Q Have you had a chance to think about that prior

1 to today?

2 A Yes.

3 Q And are you opposed to the death penalty?

4 A Yes.

5 Q And is that based on some religious conviction
6 or --

7 A Yes.

8 Q And what religious conviction is that that
9 causes you to be opposed to the death penalty?

10 A Christianity.

11 Q And what --

12 A That there's hope. I mean, that, you know, we
13 have to have hope for people and that's, you know,
14 that's the whole basis of my faith.

15 THE COURT: All right. I'm going to give the
16 lawyers an opportunity to ask you some questions and
17 I may ask you some others after they have done so.

18 VOIR DIRE

19 BY MR. PASCOE:

20 Q Good evening, Ms. Huggins.

21 A Hi.

22 Q You are Pastor Huggins' wife from the First
23 Baptist Church?

24 A Yes.

25 Q Are you aware he married me 17 years ago?

1 **A** I just realized that this afternoon.

2 **Q** I want to thank you for coming here. I want to
3 thank you for being honest because there are no
4 right answers or wrong answers. The only wrong
5 answers would be if you tell us something you think
6 we want to hear. And the fact of the matter is, Ms.
7 Huggins, you could never impose a death sentence on
8 another human being?

9 **A** I don't think I could.

10 **Q** You could never -- could you ever sign your
11 name to a death verdict form --

12 **A** A what?

13 **Q** Could you ever sign your name to a death
14 verdict form sentencing somebody to death?

15 **A** I don't think so.

16 **Q** Okay. And you are, without a doubt, as you
17 told the Judge, a number two type of juror?

18 **A** Yes.

19 **MR. PASCOE:** That's all I have, Your Honor.

20 **THE COURT:** All right. Mr. Walters.

21 **MR. WALTERS:** I have no questions, Your Honor.

22 **THE COURT:** All right. Ma'am, if you'll stand
23 right outside the door.

24 (Juror leaves the courtroom.)

25 **THE COURT:** What says the State?

1 **MR. PASCOE:** I'd ask that Ms. Huggins be
2 disqualified, Your Honor.

3 **THE COURT:** What says the defense?

4 **MR. WALTERS:** We agree, Your Honor.

5 **THE COURT:** Have her step back in.

6 (Juror returns to the courtroom.)

7 **THE COURT:** Ms. Huggins, you can stand right
8 there. You don't have to be seated.

9 We are going through this process to select
10 what is called a death qualified jury. And a death
11 qualified jury is a jury that could give the death
12 penalty or life imprisonment based on the juror's
13 view of the evidence and based on the law as I would
14 instruct the jury.

15 It appears that you could not impose the death
16 penalty, which is -- once again, I have no judgment
17 as to whether or not that's good or bad because
18 there are no right or wrong answers as far as the
19 Court is concerned. I'm sure, as far as you are
20 concerned, there are some right or wrong answers on
21 the issue. But based on your responses, you are not
22 qualified to serve on this jury in this case and,
23 therefore, we're going to relieve you of any further
24 responsibility to serve on jury duty this week.

25 I want to thank you very much for your

1 services. I would like you to not discuss with any
2 other jurors our discussion because they still have
3 to come and give -- what we want from them is their
4 candid responses based on what they have to, not
5 plan to present to us, but based on what they have
6 to confront within themselves right before they come
7 in here. So we want to thank you for coming and
8 excuse you from having to come back.

9 JUROR: Thank you.

10 (Juror was excused.)

11 THE COURT: We're locking on four out of eight
12 with one yet to be determined, yet to be ruled on.
13 Regarding this juror, Ms. Bonaparte, juror number
14 308, does the defense have some authority that it
15 wants me to consider?

16 MR. WALTERS: Your Honor, May it please the
17 Court. The cases that we had cited for the analysis
18 as conducted for to serve on -- as a juror, the
19 cases that we cited deal normally with someone that
20 takes a position. And, of course, that position is
21 either, number one, I can't consider aggravating
22 circumstances, I will not consider mitigating
23 circumstances, or I'm adamantly opposed to the death
24 penalty.

25 What we have here is a person that simply

1 walked in and said, I don't have a position. You
2 want me to take a position at this time and I've
3 elected to take type three. But she's also stated
4 that I can't take all -- I just can't make a
5 decision at this time unless I have all of the
6 information.

7 And the ambivalence that goes back and forth
8 between, I can't sign my name to a document and I
9 can do what's necessary, if called, I'll do what's
10 necessary, what we have is a juror that's simply
11 stating that I can't take a position at this time in
12 regards to this issue without having the totality of
13 all the facts. But she states to the Court clearly,
14 I am a type three.

15 For the cases that I referred to with regards
16 to Witherspoon, Morgan, Gray versus Mississippi and
17 Lockhart versus McCree, all of those issues deal
18 with staking out jurors, the type of questions that
19 can be given and, of course, jurors taking
20 positions. I don't think there's case law that
21 deals with the fact that a juror walks in and says,
22 I just want to hear everything before I can give you
23 an answer.

24 And when the Court instructs her, You've got to
25 take a position, and then she says, I'm a type

1 three, then we take her back and forth between the
2 bicker of the prosecution and the defense, but she
3 still remains in that position where she says, if
4 necessary, I'll do what's necessary, but she also
5 stated, I'll be torn.

6 And here's the part that I want the Court to
7 carefully consider. We ask them, What juror are
8 you? Are you number one, number two or number
9 three? And then we undercut that by saying, Well,
10 can you sign your name on a document? All right.

11 And then we turn around, number three is clear
12 as it can be and we presented it to her and she
13 stated, I am a type three. But what we did was we
14 told her her ambivalence and the fact that she's
15 torn on what she would like to do. And, of course,
16 her position has always been, if I hear all the
17 facts and all the information, if necessary, if
18 called, I'll do what's necessary. But she's also
19 stating, I will not sign, I can't sign a document.

20 I believe this woman's under the impression
21 that somehow we're trying to lock her into a
22 decision with regards to this case at this time
23 without her having all of the information, the
24 totality of the circumstances.

25 So when Your Honor asked me, Glenn, can you

1 present this case law, the case law I cited it deals
2 with this analysis where a person is polarized in
3 taking a position and that's not what's happened
4 here. She's just simply saying, I'm a type three,
5 but I want to make it clear, I really, really don't
6 know what I'll do. And she talks about her
7 religious conviction and she talks about Jesus and
8 things of that nature.

9 But the bottom line is this woman all along has
10 stated, I need to hear everything, I want to hear
11 everything. She doesn't even want to be in this
12 position here. She says, I'm torn. She watches
13 drama and action shows and doesn't even read the
14 newspaper.

15 **THE COURT:** All right. Solicitor.

16 **MR. SORENSON:** Your Honor, if I could just
17 briefly. As to the standard, Your Honor, we'd point
18 out as far as authority, Wainwright versus Witt, The
19 standard for determining if a juror is disqualified
20 for cause is whether his or her views would prevent
21 or substantially impair the performance of her
22 duties as a juror in accordance with the
23 instructions and the oath that she took.

24 And in this case, Your Honor, looking through
25 Ms. Bonaparte's responses, I mean, yes, when she was

1 put -- initially told that she had to pick one, she
2 chose choice three, as a type three juror. But when
3 we looked at -- when the Court explored her views,
4 the Solicitor explored her views and when also
5 Mr. Walters did, none of her views supported a type
6 three juror. Her views supported a type two juror.

7 She indicated that she really doesn't know if
8 she could ever vote for the death penalty no matter
9 how bad the crime was, couldn't make that type of
10 decision, indicated at this point doesn't know if
11 she could ever vote for the death penalty, wouldn't
12 want to be responsible for another person's life,
13 indicated several times that she could not sign her
14 name to a death verdict, that because of her
15 religious belief, she felt that she would not make a
16 good juror.

17 And as far as this -- what Mr. Walters keeps
18 falling back on is that she indicated that what
19 makes her a type three juror is the fact that she
20 would want to hear everything before she made a
21 decision. Well, that's not what she said.

22 I mean, yes, she indicated she would want to
23 hear everything, but that still didn't change the
24 fact that she indicated that she could not, in her
25 beliefs, ever vote for the death penalty. In fact,

1 her direct quote was, No matter what type I am,
2 yeah, I'd want to hear everything.

3 It's almost like she didn't want to be put in a
4 position to say, well, no, I mean, I don't want to
5 hear everything, I mean, because that sounds like
6 the right thing to say is that, yes, I want to hear
7 what everybody has to say, but at the same time -- I
8 mean, she was pretty unequivocal that she did not
9 feel that she would ever be able to sign her name to
10 a death verdict form nor would she ever be able to
11 actually return a death sentence.

12 And also, Your Honor, as far as, I think the
13 Solicitor had cited the State versus Elmore earlier,
14 and I think the part of that that we rely on is it
15 references, Opposition to the death penalty does not
16 have to be demonstrated with unmistakable clarity.
17 And, in this case, I think when looking at the
18 totality of her voir dire, that she's not qualified.

19 **THE COURT:** Did she say she couldn't give it or
20 she just refused to answer the question? Was she
21 vacillating juror?

22 **MR. SORENSON:** I think she was -- I mean, maybe
23 vacillated a little bit, but I think she was pretty
24 clear that she couldn't vote for the death penalty.
25 I mean, really, the only vacillating was more just

1 the fact the -- the initial time and then she kind
2 of fell back on it that she just didn't want to make
3 this decision, didn't want to be put on the spot. I
4 mean, that's really the only vacillating that she
5 had. I mean, other than that, I mean, she was
6 pretty clear. I don't want to...

7 **THE COURT:** Well, we told her to come back at
8 9:00 tomorrow morning, that means we have 12 hours
9 and 15 minutes to think about it and we'll render a
10 judgement regarding the issue tomorrow at that time.
11 Anything else before we quit for this day?

12 **MR. PASCOE:** No, sir.

13 **MR. WALTERS:** No, sir, Your Honor.

14 **THE COURT:** All right. We'll take a break and
15 see everyone tomorrow morning at 9:00.

16 (Whereupon, the proceedings were concluded
17 for November 27, 2006.)

18 (The following proceedings were held on
19 November 28, 2006.)

20 **THE COURT:** Let's bring Ms. Bonaparte -- yes,
21 sir.

22 **MR. WALTERS:** May it please the Court, Your
23 Honor. Yesterday you heard arguments with regards
24 to Ms. Bonaparte. And last night I went back and I
25 did some research. And yesterday you wanted us to

1 argue again. And I've asked if Your Honor will
2 please give me two minutes just to argue an
3 additional issue with regard to Ms. Bonaparte.

4 **THE COURT:** Well, I'm going to bring her back
5 in and ask her a couple more questions and give
6 y'all an opportunity to do the same thing. Let's do
7 that before you argue.

8 **MR. WALTERS:** Yes, sir.

9 **THE COURT:** Let's bring Ms. Bonaparte back in.
10 (Juror enters the courtroom.)

11 RE-VOIR DIRE

12 BY THE COURT:

13 **Q** Good morning, Ms. Bonaparte. How are you
14 today?

15 **A** I'm all right.

16 **Q** Are you sure?

17 **A** Not really.

18 **Q** Ms. Bonaparte, I wanted to ask you a few more
19 questions in follow up to the discussion that we had
20 with you yesterday. And, of course, there are no
21 right or wrong answers to any of the questions, but
22 we need to know your opinions on certain matters.
23 Do you understand?

24 **A** Uh-huh.

25 **Q** I need you to speak verbally.

1 **A** Yes.

2 **Q** Now, in asking you questions concerning your
3 opinion, the purpose of the question is not to seek
4 your opinion concerning this case because you don't
5 know anything about this case. We're not speaking
6 specifically about this case, but in general. Do
7 you understand that, ma'am?

8 **A** Yes.

9 **Q** Now, have you had an opportunity to give any
10 additional thought as to what type of juror most
11 closely reflect your views?

12 **A** Honestly, I haven't thought about it.

13 **Q** Pardon me?

14 **A** No.

15 **Q** Can you, as a juror, participate in a jury
16 verdict recommending the penalty of death by
17 electrocution for murder if the evidence and the law
18 warrants such a verdict?

19 **A** Again, I'm not comfortable with that.

20 **Q** What do you mean?

21 **A** I just can't make that decision. I don't know
22 whether I can make the decision or not.

23 **THE COURT:** I have no further questions of this
24 juror. Anything from the State?

25 **MR. PASCOE:** Not at this time, Your Honor. I

1 mean, I think the case law is clear.

2 THE COURT: Anything from the defense?

3 MR. WALTERS: We have no questions, Your Honor.

4 THE COURT: You may step outside the door, the
5 same place where you were before.

6 (Juror leaves the courtroom.)

7 THE COURT: All right. Mr. Walters, you state
8 you want to argue some more.

9 MR. WALTERS: May it please the Court. Your
10 Honor, last night I went back through the process of
11 what was done with Ms. Bonaparte. And I believe
12 what's in error is, is that when the Court
13 instructed Ms. Bonaparte that she had to give an
14 answer.

15 I can't find any case law that requires any
16 juror to simply state your position and we've got to
17 have your position in order to proceed forward. And
18 what happened in this particular case, it's sort of
19 like a free radical floating through the body, all
20 of a sudden it just -- it created cancer and then it
21 metastasized with the prosecution and the defense
22 asking all kinds of questions about a position that
23 she was forced to take.

24 I believe under the case law that exists in the
25 State of South Carolina, the document that's given

1 to Ms. Bonaparte is merely used as a guideline that
2 she's supposed to read. There's no requirement --
3 and the Court instructed her she must choose between
4 one, two or three. And I can't find a case law that
5 says that they have to take a position and they have
6 to choose between one of the three.

7 And in doing so, what happens is, is that we
8 force a possibly qualified juror into a position
9 where they have to polarize on one end of the
10 spectrum. And then essentially what happens is, is
11 once they take that position, an effective Solicitor
12 as Mr. Pascoe is, he certainly knows how to undercut
13 that. And certainly we're sitting down and we're
14 saying, well, we're going to have to rehabilitate
15 her, we're going to have to help her and then she
16 says something that's in our favor.

17 The problem with the entire process here is
18 that by forcing this juror -- and I believe it's
19 unconstitutional to disqualify a qualified juror
20 that can adequately serve because the case law --
21 and Your Honor asked us -- you simply said -- well,
22 you cited a bunch of cases.

23 What the case law requires is, is that they
24 must substantially perform the duties as a juror in
25 accordance with the instructions and the oath that

1 is given by the judge. It does not require that
2 they look at a sheet of paper and make a decision
3 between three different options.

4 And by forcing her to do so, and I'm referring
5 to the Witherspoon case and I'm referring to the
6 Witt case, by forcing her to make an election and
7 giving her that sheet of paper -- I believe that the
8 proper process under the law is, is that you read
9 the sheet of paper. It is used as a guideline to
10 form some type of theoretical framework on the
11 parameters of what we're arguing about and what
12 we're going to discuss, but when the Court takes the
13 position that you must choose a position, then, of
14 course, at that time, we're forcing this person to
15 make an election.

16 And by forcing that individual to make an
17 election, in this particular case, as to whether
18 they're number one, number two or number three, then
19 we end up with the process that we had before us.
20 You couldn't sign your name? No, I couldn't sign my
21 name, but if called, I could do what is necessary.
22 The ambivalence back and forth, over and over again.

23 And I just -- I carefully go through what
24 Witherspoon says, You cannot exclude for cause a
25 juror who voices a general objection to the death

1 penalty or expresses conscientious or religious
2 scruples against it. And, of course, this comes
3 straight from the Witherspoon case. But the
4 Witherspoon and the Witt case go on and state that
5 there's no requirement that you read a sheet and you
6 elect a position and you have to defend it.

7 What Witt and Witherspoon simply say is, is
8 that you must substantially perform your duties as a
9 juror. And what happened to this woman was, and the
10 triggering event that we had here that caused this
11 thing to metastasize is, the lawyers got involved
12 after she was forced to make an election. This is
13 similar to the fruit of the poisonous tree. She
14 never should have been forced to make the election,
15 but she was forced to make the election, and the law
16 didn't require her to do so.

17 And then, of course, the lawyers come in and
18 what do we start doing? We certainly want people to
19 say things that we think are in our favor. And, of
20 course, she said things in favor of the prosecution
21 and things in favor of the defense. So I think that
22 she is a qualified juror.

23 **THE COURT:** Based on what?

24 **MR. WALTERS:** Based on her testimony that if
25 called, I will do what is necessary.

1 She also stated honestly that I am torn by what
2 has to occur here. But then that was undercut by,
3 well, you couldn't sign your name to a sheet of
4 paper, or, you believe in Jesus. If you believe in
5 Jesus, I understand your religious scruples. In a
6 case law, Witherspoon clearly says that they can't
7 be excluded because of their religious beliefs.
8 That's straight out of Witherspoon.

9 The problem we have here is, is that by forcing
10 someone in that back room, after reading that sheet
11 of paper and they look at the three different
12 options, if the Court is going to continue this
13 process of saying, you must choose, we believe
14 that's reversible error. Because, in this
15 particular case, Witherspoon and Witt simply say,
16 what? We just need to know if you can substantially
17 perform your duties. If you could appreciate
18 mitigating and aggravating circumstances and the
19 totality of the circumstances that are before you
20 and fulfill your duties as a juror.

21 What we have here is we have a process where a
22 person is brought in a room and we say, look, and
23 I'll quote what the Court said, You must choose a
24 position. And we believe that that -- that position
25 that the Court is taking is reversible because then

1 we move from the distinction of having a process
2 where we could have a free engagement that should be
3 allowed among lawyers as advocates to argue back and
4 forth.

5 Once that lady's pushed into that zone, she
6 didn't want to go there, but she was pushed there
7 because she was told, you must do this, and when
8 she's told she must do this, then, of course, she
9 sat there and she said, well, I've got to defend
10 what I said. And then she went back and forth.

11 **THE COURT:** Mr. Walters, I think you're
12 essentially rearguing what you argued yesterday.

13 **MR. WALTERS:** I think the only thing -- the
14 difference that I'm arguing is, is that I think the
15 Court is in error when we tell someone they must do
16 something. And in this particular case, when it
17 comes from Your Honor that they must do something,
18 then the process is tainted and then that juror is
19 put in the position where they're simply running all
20 over the place defending themselves with Mr. Pascoe,
21 defending themselves with me and justifying the
22 position that they have to take. And that's the
23 slippery slope. We open a gate where the flood
24 waters come in because, guess what? Okay, I'll go
25 ahead and pick one of the three. And when she

1 picked one of the three --

2 **THE COURT:** You're now rearguing what you
3 argued already this morning.

4 **MR. WALTERS:** I apologize.

5 **THE COURT:** All right. Mr. Sorenson.

6 **MR. SORENSON:** Just very briefly, Your Honor.

7 I mean, we feel, Your Honor, as we indicated
8 yesterday, that, you know, the juror has to tell us
9 her opinions. I mean, in that regard, I think she
10 has to answer the questions. And if part of that is
11 picking a type to at least indicate a starting
12 position on where the questions can then go from, I
13 mean, that's how it has to be done.

14 The fact of the matter with Ms. Bonaparte is,
15 Your Honor, that after all is said and done after
16 extensive questioning, she still, at this point in
17 time, has never indicated that she can give the
18 death penalty.

19 I mean, whether she indicates that she is a
20 type three at one point in time, she still has never
21 in all of the questioning indicated that she could
22 give the death penalty. In fact, it's the exact
23 opposite that she's indicated that she would never
24 be able to. And that the only thing Mr. Walters can
25 then hang his hat on, that he indicated the answers

1 for him would be that she basically indicated that
2 she would want to hear everything.

3 I would just point out one last thing with
4 regard to the Elmore case that we quoted to Your
5 Honor yesterday. In that case, we had a juror that
6 indicated that she was opposed to the death penalty;
7 however, at one point, she said she'd have to listen
8 to the case through, which basically is essentially
9 what this juror indicated, too, she'd want to listen
10 to the case.

11 But the court in Elmore indicated that clearly
12 that juror's responses were viewed -- viewed in
13 their entirety, which the Court has to do with Ms.
14 Bonaparte, indicated that her -- she would be
15 impaired in her performance as a juror. Her brief
16 equivocation did nothing to alter this view.

17 In that case, they also noted that she never
18 stated that she could, in fact, impose the death
19 penalty and her exclusion was proper. And that's
20 essentially exactly what we have with Ms. Bonaparte.

21 I mean, at best, she equivocated and indicated
22 she wanted to hear -- would want to hear everything,
23 but still never indicated that she could do --
24 essentially follow what Your Honor would charge her,
25 that she would have to be able to give the death

1 penalty.

2 **THE COURT:** While in questioning Ms. Bonaparte,
3 the Court took various approaches to question her in
4 an attempt to elicit her opinion concerning the
5 death penalty, which is the purpose of the
6 individual voir dire. And having considered the
7 argument of Mr. Walters yesterday as if the Court
8 had forced her into an opinion, I had her come back
9 this morning to ask her a less forcible question and
10 that is, Which of the three choices most closely
11 reflect your opinion, and she could not say. She
12 refused to say. That my approaching -- telling her,
13 well, you need to make a choice, was simply because
14 she refused to or was unwilling or unable to state
15 what her opinions were.

16 And the purpose of this is to have counsel and
17 the Court know the juror's opinion concerning the
18 matters in order to determine whether or not they
19 are qualified to sit on this jury. The questioning
20 must be taken and considered in its entirety. And I
21 do not believe that the entirety of her questions
22 can be boiled down to the Court's forcing her into a
23 corner as Mr. Walters contends. I find that this
24 juror is not qualified to serve in this case.

25 If you'll have her come back in.

1 (Juror enters the courtroom.)

2 **THE COURT:** Ms. Bonaparte, I want to thank you
3 for your coming and your attempts to answer the
4 questions posed by the Court. I have found that
5 you're not qualified to serve as a juror in this
6 case based on the Court's inability to ascertain
7 your views concerning the death penalty as is
8 required by law. I'm, therefore, relieving you of
9 any further responsibility and releasing you from
10 jury duty. I want to thank you very much and I
11 appreciate your service.

12 **JUROR:** Have a great day.

13 **THE COURT:** You too.

14 (The juror was excused.)

15 **THE COURT:** Any exceptions that counsel wanted
16 to state for the record?

17 **MR. WALTERS:** No, sir, Your Honor. We stand by
18 our argument.

19 **THE COURT:** All right. I think we're ready for
20 Ms. Fritz. Mr. Clerk, did you get juror mileage
21 through any means? We didn't ask them to tell us
22 that when they stood. Do you have means of
23 determining the mileage?

24 **THE CLERK:** No, sir. We can ask them, but we
25 don't normally get mileage. We pay a flat fee.

1 **THE COURT:** Okay.

2 (Whereupon, Annie W. Fritz, a black female,
3 enters the courtroom.)

4 ANNIE W. FRITZ,
5 having been previously duly sworn, testified as
6 follows:

7 VOIR DIRE

8 **BY THE COURT:**

9 **Q** Good morning.

10 **A** Good morning.

11 **Q** Ms. Annie Fritz, how are you doing?

12 **A** Fine.

13 **Q** Good. We wanted you to come this morning to
14 give us an opportunity to ask you some questions and
15 to talk with you individually. You understand the
16 oath that you took yesterday?

17 **A** Yes.

18 **Q** And do you understand that you're still under
19 oath?

20 **A** Right.

21 **Q** Since we talked with you as a collective body
22 of jurors yesterday, has anyone tried to approach
23 you or have you been inadvertently or otherwise
24 exposed to any information about this case?

25 **A** None.

1 Q When you were back in the jury room, you were
2 given -- or back waiting to come in, you were given
3 a list of potential witnesses. Did you get a chance
4 to look over that list?

5 A I did.

6 Q Did you recognize any of the witnesses? Do you
7 know any of the potential witnesses?

8 A No.

9 Q Have you heard anything about this case?

10 A No.

11 Q Now, we need to ask you some questions. And
12 while we're not trying to invade your privacy, we
13 need to find out certain matters. In other words,
14 we need to find out what your opinions are. Do you
15 understand?

16 A (No response.)

17 Q Do you understand that, ma'am?

18 A Yeah.

19 Q And there are no right or wrong answers. And,
20 obviously, your opinions are just as good and valid
21 as anyone else's. We do not challenge or in any way
22 attack your opinion, but we need to try to
23 understand them and see how they might impact on
24 your jury service.

25 One of the things I would want to ask your

1 opinion about in a few moments is penalties,
2 specifically a death penalty because that may be an
3 issue in this case. But understand the mere fact
4 that we're talking about penalty at this point is
5 premature because the defendant, Mr. Mahdi, is
6 presumed to be innocent of these charges, but this
7 is the only time we can talk about the penalty,
8 necessarily before the trial gets underway is the
9 time we must talk about it.

10 Now, if you were a juror in any type of case,
11 and I'm not asking about this case, but any type of
12 case, it would certainly be unfair to ask you what
13 you might do before hearing a case; is that right?

14 A Right.

15 Q So that's not what we're about here. But in a
16 general sense, if you were a juror in any criminal
17 case, would you be willing to listen to the law as
18 you were instructed by the Judge?

19 A Yeah.

20 Q Would you be willing to accept that law and
21 apply it to the facts as you found the facts to be?

22 A Yes.

23 Q Even though you might not particularly like the
24 law or you might even disagree with it, would you
25 still be willing to follow the law as you were

1 instructed to do so by the Judge?

2 **A** Yes.

3 **Q** If you were asked to serve in the case of the
4 State versus Mahdi, could you decide this case
5 solely based on what you hear in this courtroom and
6 disregard anything that you may have seen or heard
7 outside of the courtroom; could you do that?

8 **A** Yes.

9 **Q** Now, in a criminal case, as you know, the State
10 has the burden of proving the defendant guilty
11 beyond a reasonable doubt. In other words, the
12 defendant has no burden to prove his innocence.
13 He's presumed to be innocent under the law. Do you
14 understand that, ma'am?

15 **A** Right.

16 **Q** So if you were a juror in any criminal case,
17 would you follow that principle of law and will you
18 be willing to listen to the facts and circumstances
19 and the law as you were instructed?

20 **A** Yes.

21 **Q** And based upon what those facts and
22 circumstances were, would you be willing to find the
23 defendant not guilty of a criminal charge based on
24 what the facts and circumstances might be?

25 **A** Yes.

1 Q And could you then, depending on what the facts
2 and circumstances were, could you find the defendant
3 guilty of a criminal charge?

4 A Right.

5 Q So you would be willing to listen and make your
6 decision based upon whether or not you are convinced
7 that the person is guilty or not; is that right?

8 A Right.

9 Q Now, most of the time jurors do not concern
10 themselves about punishment, that's usually left up
11 to the judge, but there's one case in our law when
12 the jury has to deal with the matter of punishment
13 and that is a case like this case. It's a case
14 where the individual has been charged with a crime
15 of murder and where the State is seeking the death
16 penalty.

17 In a death penalty case, if a person is
18 convicted of murder, then the same jury that
19 convicted him of murder must come back in a separate
20 and different proceeding and decide the sentence
21 that the person would get. Do you understand that?

22 A It would be the same jury?

23 Q The same jury. And there are only two choices,
24 of course, that the jury can make at that point,
25 that is, life imprisonment without the possibility

1 of parole would be one choice and the other is the
2 death penalty through lethal injection or
3 electrocution. Do you understand that?

4 A Yes.

5 Q Have you had a chance to look at this paper
6 here that listed three types of jurors?

7 A Right.

8 Q And do you remember the three types of jurors?

9 A One, two and three and I agree with the third
10 one.

11 Q Pardon me?

12 A I agree with the third one.

13 Q You agree with the third one. And do you
14 believe that the third type of juror would best
15 describe you?

16 A Right.

17 Q And the third type of juror on this paper says
18 that a -- type three is a juror who, although the
19 guilt of the defendant has been determined, would
20 not have his or her mind made up in advance
21 concerning the punishment, but would need to hear
22 the facts and circumstances in aggravation and in
23 mitigation before he or she could make up his mind
24 or her mind concerning punishment.

25 A Right.

1 Q And if the facts so warranted, this juror could
2 bring a verdict of life imprisonment without the
3 possibility of parole. And also, if the facts so
4 warranted, this juror could bring in a verdict for
5 the death penalty. And does that fit what your
6 opinions are concerning these three types of jurors?

7 A Right.

8 Q And tell me again where do you work?

9 A I work for Katherine Convalescence Center and I
10 also work at the Board of Disability and Special
11 Needs, Calhoun County Board.

12 Q Well, we certainly want to thank you for the
13 time you're spending and coming here yesterday and
14 today. And I want to ask you one more question
15 concerning serving.

16 Certainly, if any juror would have to serve in
17 a case like this, that service would be an
18 inconvenience to them, because if you were selected
19 and the other jurors would be housed, that is,
20 sequestered at a local hotel during the course of
21 the trial and that's where you would have to stay
22 with the other jurors until the trial was over
23 except for the time when you were in the courtroom.
24 And this time could be a week and a half or more.
25 We don't know.

1 Now, as I stated, obviously, that would create
2 an inconvenience to you as it would for all of the
3 other jurors, but other than the inconvenience of it
4 all, would your having to serve in this capacity
5 pose a serious risk of danger to your health?

6 **A** No.

7 **Q** Or would it pose a serious risk of health or
8 danger to anyone else who might be dependent upon
9 you?

10 **A** No.

11 **Q** And would you be able to serve if selected?

12 **A** Yes.

13 **THE COURT:** Any questions by the State?

14 **MR. PASCOE:** Thank you, Your Honor.

15 VOIR DIRE

16 BY MR. PASCOE:

17 **Q** Good morning, Ms. Fritz. My name is David
18 Pascoe. I'm the Solicitor. I just have a few
19 questions for you. I want to thank you for coming
20 this morning. What is your understanding as to what
21 it means to impose the death penalty?

22 **A** What is my...

23 **Q** What do you believe that to mean? What does it
24 mean when you impose the death penalty on somebody,
25 you sentence somebody to the death penalty?

1 A Well, death penalty means just what it says
2 really.

3 Q To sentence them to death. And you understand
4 that's to sentence somebody to death?

5 A Yeah, because, you know, it's only two ways,
6 right, when you sentence them to death is lethal
7 injection or either execution, that's it.

8 Q That's right. Do you have any personal
9 feelings about the death penalty? Are you opposed
10 to it at all?

11 A No. Just like I said, I got to hear and
12 decide, you know, which is which.

13 Q Exactly. And that's my point because you don't
14 know any of the facts of this case, but -- so it's
15 horrible to have to do hypothetical questions, like
16 Mr. Walters said many times, we're putting the cart
17 before the horse, but, hypothetically, if the facts
18 were such that you thought it warranted it, you
19 could sentence somebody to the death penalty?

20 A Yes.

21 Q And you can abide by the law that Judge Newman
22 tells you to take into account to determine whether
23 someone should get the death penalty, you could do
24 that?

25 A Yes.

1 Q And do you have any deeply held feelings
2 against the death penalty?

3 A Not really.

4 Q Now, let me just tell you about this, again,
5 hypothetically. If you decided under the law that
6 someone was entitled to get the death penalty and
7 you wanted to impose the death penalty as a juror,
8 one of the things you would have to do with the
9 other 11 jurors was sign your name, Ms. Fritz, to a
10 death penalty verdict form. Could you do that if
11 the case warranted such, could you sign your name to
12 a death penalty verdict form?

13 A Yes.

14 Q And could you come into open court like today,
15 if you decided that someone should get the death
16 penalty along with the 11 jurors, would you be able
17 to sit there in one of those chairs in open court
18 and state that, I sentence somebody to death; could
19 you do that?

20 A Yes, but, you know, it's going to have to be
21 the decision of all of us, you know, because like
22 when -- just what I'm saying, it's, you know, like
23 one person can give you a point and then, you know,
24 you're really not thinking of that and, you know, I
25 got to see mitigation. I got to hear it.

1 Q And that's where I'm getting at. You're right.
2 It's so difficult to answer, but if you decided
3 personally, okay, you personally decided that
4 someone deserved the death penalty.

5 A Okay. Me, personally, could I get up in court
6 and say so?

7 Q Yes, ma'am.

8 A When I make my decision, I could tell you.

9 Q That's what I'm looking for. Thank you, Ms.
10 Fritz. And, finally, I was looking at the
11 questionnaire that you had to fill out for the
12 clerk's office. I see you've been married 35 years,
13 congratulations. On one of the questions you
14 answered, you said that you have had a member of
15 your family that has worked in law enforcement. Who
16 is that family member?

17 A My son.

18 Q And where does he work, ma'am?

19 A Well, he used to, he's not on the force
20 anymore, Richland County Sheriff's Department.

21 MR. PASCOE: Okay. His last -- okay. Thank
22 you, Ms. Fritz. Answer any questions Mr. Walters
23 has for you. I really appreciate you coming in.

24 THE COURT: Mr. Walters.

25 MR. WALTERS: May it please the Court.

1 VOIR DIRE

2 BY MR. WALTERS:

3 Q Good morning, Ms. Fritz. Thank you for coming
4 today. Ms. Fritz, you read the three types of
5 position with regards to the death penalty. And,
6 evidently, you have a very good memory because you
7 immediately said, I'm a type three. And, certainly,
8 what I would like to do is explore that with you and
9 just ask you some simple questions.

10 First of all, you understand that in this
11 process, the State is required to prove their case
12 beyond a reasonable doubt. In other words, they
13 have to prove beyond a reasonable doubt the guilt of
14 Mr. Mahdi. You do also understand that Mr. Mahdi is
15 an innocent man. He sits before the court an
16 innocent man. And the burden is on the State to
17 prove their case beyond a reasonable doubt.

18 In addition to that, with the sentencing phase,
19 I would ask you this and -- when you said you were
20 type number three, you stated you have to listen to
21 all of the facts; is that correct?

22 A Right.

23 Q You have to listen to the aggravating
24 circumstances, the mitigating circumstances, the
25 total package and then you can make a decision; is

1 that correct?

2 **A** Right.

3 **Q** And you would carefully evaluate all of the
4 evidence and information presented before you?

5 **A** Right.

6 **Q** And in this particular case, you do understand
7 that when you go in that jury room, it will be 12 of
8 you in there, but, of course, it's your individual
9 decision as to what you would like to do?

10 **A** Right.

11 **Q** And you understand that you have a right to
12 make up your mind and stand by your position; is
13 that correct?

14 **A** Right.

15 **MR. WALTERS:** Your Honor, I have no further
16 questions.

17 **THE COURT:** All right. Ms. Fritz, if you'll
18 stand right outside the door, please.

19 (Juror leaves the courtroom.)

20 **THE COURT:** What says the State?

21 **MR. PASCOE:** The State's position, she's
22 qualified, Your Honor.

23 **THE COURT:** What says the defense?

24 **MR. WALTERS:** She's qualified, Your Honor.

25 **THE COURT:** All right. If you'll have her come

1 back in.

2 (Juror enters the courtroom.)

3 **THE COURT:** Ms. Fritz, stand right there for
4 me, please. You've been found qualified as a
5 potential juror in this case, that doesn't mean that
6 you're on the jury, but it means that you might be
7 selected to serve on the jury.

8 We're hoping that we'll be able to select the
9 jury on tomorrow, Wednesday, at noon. And this may
10 be a little ambitious and we may have to change the
11 time, we don't know, so we need to be sure to have
12 your telephone number to be able to call you if we
13 need to. Do you have a cell phone or a regular
14 phone? You can give it to the officer when you go
15 outside, that will be fine.

16 Before you go, though, what we need you to do
17 is when you come tomorrow at noontime, to have
18 clothes packed to be prepared to be here with us for
19 up to ten days and that is if you are selected, so
20 you need to be packed. And I have a sheet here to
21 give you that will give you some information as to
22 like bring medications and clothes and all that.
23 You'll also be able to let your family members know
24 where you will be staying if they need to contact
25 you right here at the Sleep Inn in Orangeburg on 601

1 here.

2 And we'll look forward to seeing you tomorrow
3 at noon. And where you would come is you come to
4 this tax building -- what do you call that building?

5 JUROR: Annex.

6 THE COURT: The annex building, some people
7 call it the tax building. The annex building and
8 that's where we will have everyone meet and then
9 we'll come over here from there. Thank you very
10 much.

11 (Juror was excused for the day.)

12 THE COURT: And if you'll send in the next
13 juror, please.

14 (Whereupon, Beatrice Whetstone, a black
15 female, enters the courtroom.)

16 BEATRICE WHETSTONE,
17 having been previously duly sworn, testified as
18 follows:

19 VOIR DIRE

20 BY THE COURT:

21 Q Ms. Whetstone, how are you doing?

22 A Doing fine, sir. How are you?

23 Q Good. Good morning to you. Thanks for coming
24 back this morning. Ms. Whetstone, where do you
25 work?

1 **A** I work at McEntire International Guard Station
2 in Eastover.

3 **Q** And you recall being sworn yesterday as a
4 member of the jury panel --

5 **A** Yes, sir.

6 **Q** -- swearing to give truthful information?

7 **A** Yes, sir.

8 **Q** And that still applies today. You're still
9 under oath, you understand?

10 **A** Yes, sir.

11 **Q** We need to have you come in to get some of your
12 opinions concerning certain matters and that's why
13 you're here right now. Since you were here
14 yesterday, has anyone tried to talk to you or
15 approach you concerning this case or have you been
16 exposed to reading or hearing anything about this
17 case?

18 **A** No, sir.

19 **Q** And when you were back there waiting to come
20 in, you were given a list of potential witnesses,
21 did you look that over?

22 **A** Yes, sir.

23 **Q** And did you know or recognize any of the people
24 on that list?

25 **A** Yes, sir. There's two of them on there I

1 recognize, a Annie Haigler and a Katrina Brigman.

2 If they are who I think they are, Annie is my first
3 cousin and Katrina is my second cousin.

4 Q Katrina Brigman and Annie Haigler, where do
5 they work?

6 A I don't think Katrina works anywhere, I'm not
7 sure, but I know Annie Haigler works at Belk in
8 Orangeburg.

9 Q Works at Belk in Orangeburg?

10 A Uh-huh.

11 Q And she's your cousin?

12 A Yes.

13 Q And Katrina is what kin to you?

14 A Is my second cousin, that's Annie's niece.

15 Q Now, if either of them were to be a witness in
16 this case, would that affect your ability to be a
17 fair and impartial juror in this case?

18 A No, sir.

19 Q Would you be able to set aside the fact that
20 they are kin to you and decide the case based on --
21 solely based on the evidence and the -- that's
22 presented in your view of the evidence and not based
23 on your relationship with them?

24 A Yes.

25 Q Now, there are no right or wrong answers to any

1 of the questions that we will ask you and we're not
2 trying to challenge or attack your views on
3 anything, but we need to know your views concerning
4 certain things as it might affect your jury service.

5 Now, certainly, we cannot ask you what you
6 might do in a given case because you have not heard
7 any evidence in the case and, ordinarily, we would
8 not ask you anything about a penalty, but this being
9 a case in which the State is seeking the death
10 penalty, it is necessary that I ask you some
11 questions and the lawyers ask you some questions, if
12 they like to, concerning your opinion concerning
13 penalty.

14 Now, at this stage of the proceeding, the
15 defendant is presumed to be not guilty and the State
16 must prove beyond a reasonable doubt that he is, in
17 fact, guilty. If the State fails to do that, then
18 he must be found not guilty. Do you understand
19 that?

20 A Yes, sir.

21 Q Now, in asking your opinion, we're not speaking
22 specifically about this case, but your opinion in
23 general. And the presumption of innocence applies
24 to anyone accused of a crime in any criminal case.
25 Do you understand that, ma'am?

1 A Yes, sir.

2 Q Now, in that sense, would you be willing to
3 listen to the law as you were instructed to by me?

4 A Yes.

5 Q And would you be willing to accept that law and
6 apply that law to the facts as you would find them
7 to be?

8 A Yes.

9 Q And even though you may not particularly like
10 the law or may even disagree with the law that I
11 tell you, would you still be willing to follow it?

12 A Yes, sir.

13 Q And if you were asked to serve as a juror in
14 the case of State versus Mahdi, could you decide
15 this case solely based on the evidence and the law
16 presented in this courtroom?

17 A Yes.

18 Q Most of the time, as I have stated to you,
19 jurors are not concerned about penalty or
20 punishment, but in a death penalty case, the jury is
21 concerned about penalty. This is the one case in
22 which the jury is concerned about penalty or
23 punishment and that is in a case such as this where
24 a person is charged with a crime of murder and where
25 the State is seeking the death penalty.

1 If an individual in a death penalty is
2 convicted of the crime of murder, then the same jury
3 that convicted him of murder must come back in a
4 separate proceeding, the same jury, and decide what
5 sentence that person could get. And there are only
6 two choices, the first being life imprisonment
7 without the possibility of parole and the other one
8 is the death penalty, and that would be determined
9 in a second or a sentencing phase. Do you
10 understand that?

11 A Yes, sir.

12 Q Did you have a chance to look at this sheet of
13 paper outlining the types of -- three types of
14 jurors?

15 A Yes, sir.

16 Q And do you remember the three types of jurors
17 and what they were?

18 A Pretty much.

19 Q Now, which of those three types of jurors best
20 describes you?

21 A I think it would be juror number two because I
22 think I'm against the death penalty. I feel like
23 they should, I mean, get what's coming, but the
24 death penalty is kind of -- that's just not my
25 decision to decide who lives or dies or whatever.

1 And I'm kind of against the death penalty, but I
2 would go with a life without parole.

3 Q Now, is your opposition to the death penalty
4 for murder so fixed and firm that you are
5 irrevocably committed to that point of view before
6 the beginning of the trial?

7 A Yes, sir.

8 Q And would you vote against the death penalty
9 for murder regardless of the facts and circumstances
10 that may develop during the trial?

11 A I guess that's kind of hard, you know. I mean,
12 I want to see justice done, but I just -- I just
13 always been against the death penalty.

14 Q And your opposition to the death penalty that
15 you have generally been against, is that based on --
16 what is that based on?

17 A Religious beliefs.

18 Q Based on your religious beliefs?

19 A Uh-huh.

20 Q Now, if the law provides that a person who is
21 convicted of murder could get the death penalty
22 depending upon the facts and circumstances of the
23 particular crime, could you, despite your general
24 opposition to the death penalty, still vote to give
25 the death penalty under appropriate circumstances?

1 A I think I could.

2 Q So though you are generally opposed to the

3 death penalty, you still could vote to give the

4 person a death penalty?

5 A I think so.

6 Q You think you could?

7 A I think I could.

8 Q And if, in order to vote for the death penalty,

9 you had to sign the verdict form along with the

10 other jurors representing that the verdict is for

11 death, would you be able to sign your name to that

12 verdict form and come into open court and stand and

13 affirm that I have voted for the death penalty in

14 this case?

15 A I don't think so.

16 Q Pardon me?

17 A No, sir, I don't think I could sign that.

18 Q Well, could you vote for the death penalty?

19 A No.

20 Q You cannot vote for the death penalty?

21 A I don't think so.

22 Q Well, under certain circumstances, could you

23 vote for the death penalty?

24 A Like what circumstances?

25 Q Well, of course, I don't know what the

1 circumstances might be and I'm not specifically
2 asking you about any particular set of
3 circumstances, but are there circumstances under
4 which you could vote for the death penalty?

5 A I can't think of anything right now, no, sir,
6 being that I'm, I guess, so against the death
7 penalty.

8 Q Well, would your opposition to the death
9 penalty for murder prevent you from voting for the
10 death penalty under any circumstances?

11 A I'm not sure of that answer, sir.

12 THE COURT: We'll have Mr. Walters, see if he
13 wants to ask you any questions.

14 MR. KOGER: Mr. Koger.

15 THE COURT: Mr. Koger.

16 VOIR DIRE

17 BY MR. KOGER:

18 Q Ms. Whetstone, how are you doing this morning?

19 A I'm doing fine. How are you?

20 Q I'm doing well. I'm trying to get a little
21 clarification of what you just testified to. Now,
22 you stated that you have a general opposition to the
23 death penalty, correct?

24 A Correct.

25 Q But you also stated that you could listen to

1 the facts and that you could vote for the death
 2 penalty?
 3 A Yes.
 4 Q All right. And then you hesitated again when
 5 the Judge instructed or mentioned that you may have
 6 to sign the death warrant, correct?
 7 A Right.
 8 Q But that does not preclude you for -- after
 9 looking at the facts, correct?
 10 A Okay.
 11 Q After looking at the aggravating circumstances
 12 and any other circumstances, that you could vote for
 13 the death penalty?
 14 A I think -- yeah.
 15 Q It will be hard?
 16 A Yes, it will be very, very hard.
 17 Q It will be hard. Now, you say your opinions
 18 and your philosophy were shaped by, I guess, you
 19 eluded to by your religion, correct?
 20 A Correct.
 21 Q Where do you attend church?
 22 A At Miracle Faith Temple in Holly Hill.
 23 Q How long have you been a member?
 24 A About 22 years there.
 25 Q And was your opinion as it relates to the death

1 penalty formed out of the church or was it formed
2 beforehand?

3 A Kind of before then.

4 Q Around what age?

5 A Probably about, I don't know, maybe 16, 17.

6 Q And you had a general opposition since that
7 particular time?

8 A Pretty much.

9 Q Now, I think you alluded to or stated that
10 again, and I may be a little redundant here, but you
11 need to listen to the facts on both sides?

12 A Correct.

13 Q Correct?

14 A Yes.

15 Q And if there's a situation that the crime is so
16 horrendous, so terrible, that you could vote for the
17 death penalty?

18 A It would be something to think about, yes.

19 Q It would be something to think about?

20 A Yes.

21 Q And you would do your very best to do what you
22 consider the right thing?

23 A Exactly.

24 Q So what you're saying is that you would not
25 automatically be against the death penalty in this

1 case or any particular case?

2 A Correct.

3 Q Okay. You would have to listen to the facts?

4 A Pretty much.

5 Q And once you listened to those facts, then
6 you'll make a decision?

7 A I could make a decision, yes.

8 Q And it would be a difficult thing for you to
9 do?

10 A Yes.

11 Q And it would be difficult for you to come out
12 here in open court and raise your hand or sign the
13 warrant?

14 A Yes.

15 Q But you feel if it was the right thing to do,
16 you would do it?

17 A If I felt it was the right thing, yes.

18 MR. KOGER: Thank you. I have no further
19 questions.

20 THE COURT: Solicitor.

21 VOIR DIRE

22 BY MR. PASCOE:

23 Q Good morning, Ms. Whetstone. My name is David
24 Pascoe. I'm the Solicitor. And I want to thank you
25 for coming this morning and for being very honest.

1 As the Judge told you, there are no right or wrong
2 answers, okay. The only wrong answer is if you tell
3 us something you think we want to hear, something
4 that goes against your conscience and your beliefs.
5 And you testified under oath you've had time to look
6 at the juror questionnaire that Judge Newman gave
7 you?

8 A Yes.

9 Q Jurors one, two and three?

10 A Correct.

11 Q And you, without hesitation, said you were a
12 juror number two?

13 A Right, because of the death penalty, yes.

14 Q And since you were 16 years old, you've been
15 opposed to the death penalty?

16 A Pretty much.

17 Q Even before you started -- how long have you
18 been going to Miracle Faith Temple?

19 A It's about 20 something years.

20 Q So while you were going to Miracle Faith
21 Temple. You've been against the death penalty,
22 though, since you've been 16?

23 A Yes.

24 Q And you testified under oath, did you not,
25 ma'am, you can't think of any circumstances where

- 1 you would give somebody the death penalty?
- 2 **A** I guess I really never had to think about it,
3 you know, I just -- I mean, you read about horrible
4 things all the time and I hate to see that kind of
5 stuff, but I just feel like it's God's decision who
6 lives and who dies. I mean, it would be hard for me
7 to make that decision.
- 8 **Q** Exactly. And don't you think that it would be
9 -- interfere with your ability to sit as a juror in
10 a death penalty trial, those beliefs you have?
- 11 **A** Yes, I think it would.
- 12 **Q** And as you told Judge Newman, and he explained
13 to you, if the 11 jurors and you decided in a case
14 that someone should get the death penalty, you would
15 actually have to sign your name to a death verdict
16 sentencing someone to death and you wouldn't be able
17 to sign your name, Beatrice Whetstone, to that death
18 verdict form?
- 19 **A** It would be very hard to, yes.
- 20 **Q** You don't think you could do that?
- 21 **A** No.
- 22 **Q** Because you can't think of any circumstances
23 where you would give somebody the death penalty,
24 right?
- 25 **A** Correct.

1 Q And I appreciate your honesty. It's a tough
2 decision. And then there's -- is there any way, if
3 the 11 jurors and you decided to give someone the
4 death penalty, there's no way you could come in open
5 court and stand up and announce that I sentence --
6 Beatrice Whetstone, sentence that person to death?

7 A Correct, that's very hard.

8 Q You think that's something only God can do?

9 A For the death, yes, I think so.

10 Q And even after all of these questions, you're
11 still a number two juror?

12 A Yes.

13 Q If you were given an opportunity to give
14 someone life in prison or death, you would give them
15 life in prison?

16 A Yes, I sure would.

17 Q In every circumstance really, as far as you
18 know right now?

19 A Right.

20 MR. PASCOE: I really appreciate your honesty.
21 Thank you, Ms. Whetstone.

22 THE COURT: Mr. Koger.

23 RE-VOIR DIRE

24 BY MR. KOGER:

25 Q Now, Ms. Whetstone, you said as far as you know

1 right now, correct?

2 A Correct.

3 Q But right now you haven't heard any of the
4 facts of the case, correct?

5 A Correct.

6 Q And you said earlier that you want to see
7 justice done, correct?

8 A Right.

9 Q And is there any situation that justice could
10 be done by giving the death penalty?

11 A Not that I can see.

12 Q Not that you can see right now?

13 A Right.

14 MR. PASCOE: He's putting words in her mouth.
15 Objection, Your Honor. She just said, Not that I
16 can see giving somebody the death penalty. She's
17 being honest. She can't give the death penalty. I
18 don't think we should continue to hammer her on
19 these questions.

20 MR. KOGER: I'm allowed to re-cross her, Your
21 Honor.

22 THE COURT: The objection is sustained.
23 Proceed.

24 BY MR. KOGER:

25 Q Does justice equate in some cases to the giving

1 of a death penalty?

2 A No.

3 Q Not in any case?

4 A Nothing that I can think of, I don't know, no.

5 I'm just against the death penalty, period.

6 Q That's your general opposition?

7 A Yes.

8 Q Nothing that you can think of?

9 A Exactly.

10 Q If you get in a case, any case, or listen to
11 the case, you could never vote for the death
12 penalty?

13 A I don't think so.

14 Q You don't think so or you can't?

15 A I can't, period.

16 MR. KOGER: No further questions.

17 THE COURT: Ma'am, if you'll stand right
18 outside that door.

19 (Juror leaves the courtroom.)

20 THE COURT: What says the defense?

21 MR. KOGER: Your Honor, she stated that she was
22 a type two, but I think from her testimony, she went
23 back and forth during the testimony, but I think she
24 wants to listen to the facts. I think she's more of
25 a type three. I think she's qualified.

1 **THE COURT:** What says the State?

2 **MR. PASCOE:** Your Honor, we ask she be
3 disqualified for cause. Not only did she state she
4 was a type two, but she stuck with that her entire
5 testimony. She couldn't give the death penalty.

6 **MR. KOGER:** Your Honor, I don't think she stuck
7 with it her entire testimony. I think she went back
8 and forth with it.

9 **THE COURT:** Well, we have skilled lawyers in
10 this case that can do an effective job in getting
11 what appears to be a certain type of answer, but I
12 think taking her testimony in its entirety, she is a
13 type two and she is not qualified to serve. If
14 you'll bring her back in.

15 (Juror enters the courtroom.)

16 **THE COURT:** Yes, ma'am, Ms. Whetstone, thank
17 you for coming and your cooperation in responding to
18 these questions and they're all obviously difficult
19 questions. The type of juror who will serve in the
20 case will be a type three. You state that you're --
21 that are qualified to serve will be a type three.
22 You started and ended being a type two, a person
23 opposed to the death penalty under all
24 circumstances, and, therefore, you will not be
25 qualified to serve on this jury. And I'm going to

1 release you from further responsibilities as far as
2 jury duty this week.

3 I want to thank you very much and you're free
4 to go. Please do not discuss with anyone else who
5 might be coming in to talk with me anything about
6 the questions or this discussion. It's something
7 that needs to take place in this courtroom. Thank
8 you very much.

9 (The juror was excused.)

10 **THE COURT:** Next one.

11 (Whereupon, Richard L. Rickenbaker, a white
12 male, enters the courtroom.)

13 RICHARD L. RICKENBAKER,
14 having been previously duly sworn, testified as
15 follows:

16 VOIR DIRE

17 BY THE COURT:

18 **Q** Mr. Rickenbaker, how are you today?

19 **A** Good.

20 **Q** I want to thank you for coming in and coming
21 back today. This is the time we have an opportunity
22 to ask you some questions to evaluate your views
23 concerning certain issues. Before getting into
24 that, I want to ask you some questions about where
25 you work and all that. What kind of work do you do?

- 1 A I work maintenance at the Calhoun County Public
2 School.
- 3 Q And how long have you been there?
- 4 A Five years.
- 5 Q And what area of the county do you live in?
- 6 A The north end, Bellville Road, about five miles
7 north of Saint Matthews.
- 8 Q Has anyone attempted to talk with you or
9 contact you about this case since you received your
10 juror summons?
- 11 A No, sir.
- 12 Q Have you read or heard anything about this case
13 at all?
- 14 A I read the newspaper this morning.
- 15 Q And when you read the newspaper this morning,
16 did you read anything about this case?
- 17 A No, sir.
- 18 Q And did you notice an article in the paper
19 today about this case?
- 20 A Yes, sir.
- 21 Q Did you read the article?
- 22 A I read some of it. I read how many jurors was
23 left, you know, I mean, 400 down to a hundred.
- 24 Q And based on what you may have heard or read,
25 did you form an opinion as to the guilt or innocence

1 of the defendant?

2 A No, sir, not on what I read today.

3 Q And did you hear my instructions yesterday that
4 you were not to read anything?

5 A No, sir, I might have missed that.

6 Q When you were back in the -- waiting to come
7 in, did you look over a list of potential witnesses?

8 A Yes, sir.

9 Q And do you know any of the potential witnesses
10 in this case?

11 A I know like Cartwright and stuff, you know, for
12 Calhoun -- I know the Calhoun County Sheriff's
13 Department and stuff.

14 Q And would the fact that you know some of the
15 officers who work for the Calhoun County Sheriff's
16 Department affect your ability to sit as a fair and
17 impartial juror?

18 A No, sir.

19 Q Now, when you noticed something in the paper
20 this morning about this case, would that jog your
21 memory or create anything in your knowledge as
22 causing you to remember this case at any other point
23 in time or from previous months or years?

24 A No, sir. You know, it's a big case here, you
25 know. We know what happened in this county.

1 Everybody knew about it when it happened, you know.

2 It was just a big thing for this little county.

3 Q We've had a number of people to come in who had
4 heard nothing about it, so I want to focus on what
5 you know as opposed to what others --

6 A All I know is, you know, what you read in the
7 paper when it happened and stuff, you know, what
8 they said.

9 Q You read an article about it -- about the
10 matter when it occurred?

11 A Right.

12 Q When the death occurred and also read a
13 follow-up article today?

14 A Yes, sir.

15 Q I want to ask you some questions concerning
16 your personal beliefs involving the -- involving a
17 penalty. And, ordinarily, jurors are not asked
18 opinions concerning a case. And I'm not asking you
19 specifically about this case because you haven't
20 heard any of the evidence in this case. And it
21 would be premature to ask you your opinion as to
22 what you might do in this case.

23 Of course, the defendant in this case,
24 Mr. Mahdi, is presumed to be innocent of the charges
25 and that presumption of innocence remains with him

1 unless or until the State can prove beyond a
2 reasonable doubt that he is guilty, but this is the
3 only time we'll have to talk about penalty.

4 Now, if you were a juror in any criminal case,
5 would you be willing to listen to the law as you
6 were instructed by the judge?

7 A Yes, sir.

8 Q And when I say listen, I mean to not let
9 various things that the judge tells you like not
10 reading newspapers, you won't let that pass you by?

11 A No, sir.

12 Q And would you be willing to accept that law and
13 apply it to the facts as you found them to be?

14 A Yes, sir.

15 Q And even though you might not particularly like
16 the law, you might even disagree with it, would you
17 be willing to follow the law as the judge instructed
18 you?

19 A Yes, sir.

20 Q And could you decide this case solely based on
21 the evidence presented in this courtroom and based
22 on the law as I will tell you and disregard anything
23 that you may have seen or heard or read about this
24 case from any source at all?

25 A I'll do my best.

1 Q Would you be able to disregard those things and
2 decide this case solely based on the evidence
3 presented in this courtroom?

4 A Yes, sir.

5 Q Could you do that?

6 A Yes, sir.

7 Q Now, the State -- the defendant is presumed to
8 be innocent of the charges and the State has the
9 burden of proving the defendant's guilt beyond a
10 reasonable doubt. And the defendant has no burden
11 to prove his innocence. He is presumed innocent
12 under the law. Do you understand that?

13 A Yes, sir.

14 Q And so if you were a juror in a criminal case,
15 this or any other criminal case, would you be
16 willing to listen to the facts and circumstances and
17 the law?

18 A Yes, sir.

19 Q And based on those facts and circumstances and
20 depending on those facts and circumstances, would
21 you be willing to find the defendant not guilty of a
22 criminal charge?

23 A If the evidence shows he's not guilty.

24 Q And could you then, depending on what the facts
25 and circumstances were, find a defendant guilty?

1 A Yes, sir.

2 Q So you would be willing to listen and make your
3 decision based on whether or not you're convinced
4 that the person is guilty or not guilty?

5 A Yes, sir.

6 Q Now, the one case where a jury is concerned
7 about punishment is a case in which the State is
8 seeking the death penalty. Otherwise, penalty and
9 punishment is up to the judge. And in a death
10 penalty case, if a person is found guilty of murder,
11 then the same jury comes back in a separate
12 proceeding and decide punishment. And the two
13 choices that jury would have would either be life
14 imprisonment without the possibility of parole or
15 the death penalty, which would be determined in the
16 sentencing phase of a trial. Do you understand
17 that, sir?

18 A Yes, sir.

19 Q Have you had a chance to look at this paper
20 which essentially describes three types of jurors?

21 A Yes, sir.

22 Q Do you remember the three types of jurors?

23 A (Witness nodded head.)

24 Q And which one of those three types of jurors
25 best describes you?

- 1 **A** Number three.
- 2 **Q** And in indicating that you are a number three
- 3 juror, does that mean that you could vote for the
- 4 death penalty or you could vote for life
- 5 imprisonment based on your view of the evidence in
- 6 the case?
- 7 **A** Yes, sir.
- 8 **Q** And that you would not automatically vote for
- 9 the death penalty where one has been convicted of
- 10 murder?
- 11 **A** Right.
- 12 **Q** You would not automatically vote for life
- 13 imprisonment?
- 14 **A** Right.
- 15 **Q** But you could vote for either one?
- 16 **A** Either one.
- 17 **Q** One other question regarding jury service. If
- 18 you were to be selected as a juror in this case, the
- 19 jury will be sequestered or kept together until the
- 20 trial is over. And other than the fact that that
- 21 would obviously pose an inconvenience to you and
- 22 perhaps your family, would it pose any danger to
- 23 your health or welfare or danger to health or
- 24 welfare of anyone who might be dependent upon you?
- 25 **A** Might put a kink on welfare. I farm, too.

1 Q What kind of crops are ready to come up or need
2 tended to right now?

3 A Cotton.

4 Q Cotton?

5 A Yeah, we got 200 acres of cotton to go get.

6 Q If you were selected to serve, and
7 understanding that the jury would be sequestered for
8 a period of time for this trial which may be up to
9 ten days or so, would you be able to make suitable
10 arrangements to serve on jury duty if called to
11 serve?

12 A I might not like it, but I would do it I
13 reckon, Judge.

14 THE COURT: I understand. I'll give the
15 Solicitor a chance to ask you some questions.

16 VOIR DIRE

17 BY MR. PASCOE:

18 Q Good morning, sir. My name is David Pascoe,
19 the Solicitor. And let me make sure I got it right
20 because I know people pronounce it differently. Is
21 it Rickenbaugh or Rickenbaker?

22 A Baker.

23 Q Mr. Rickenbaker, good morning, sir.

24 A Good morning.

25 Q You testified under oath that you are a number

1 three juror. You've had time to read the jury list
2 that the Judge gave you?

3 A Yes.

4 Q Are you aware of any reason that you can't give
5 both the State and the defendant a fair trial in
6 this case if you were seated as a juror?

7 A No.

8 Q And can you abide by the law that Judge Newman
9 gives you in this case in determining whether
10 someone should be sentenced to death or not?

11 A Right.

12 Q You can abide by that law in this case? And if
13 the evidence you hear in the penalty phase is bad
14 enough, and this is hypothetical because we've got
15 to get there first, could you sentence a person
16 under the death penalty as a juror?

17 A Yes, sir.

18 MR. PASCOE: Answer any questions the defense
19 counsel has for you. Thank you, Mr. Rickenbaker.

20 THE COURT: Mr. Walters.

21 VOIR DIRE

22 BY MR. WALTERS:

23 Q Good morning, Mr. Rickenbaker. It says here
24 you're a graduate of Calhoun Academy; is that
25 correct?

1 A Right.

2 Q And you've lived in this county for 44 years;
3 is that right?

4 A Right.

5 Q And you stated that you believe that you
6 associate with the category of number three; is that
7 right?

8 A Right.

9 Q When you were sitting in here with the other
10 jurors, you didn't hear His Honor's instruction
11 about don't read the paper or talk to anyone with
12 regards to this case or listen to it on television,
13 you were under an order not to do so?

14 A Well, I just messed up on the paper part. I
15 didn't watch no news or nothing.

16 Q Okay. So you heard the instruction and you
17 just messed up with the paper part?

18 A I just happened to be sitting at a big
19 breakfast table and they had it open.

20 Q Okay. I understand. And you said you read the
21 article, but that article wouldn't affect you in
22 your deliberations; is that correct?

23 A Right.

24 Q Tell me the content of the article that you
25 read.

1 **A** All I read is about how many people was left
2 for jury. There was 400 down to a hundred or less.

3 **Q** And it states here that you're -- it says what
4 church -- what church do you attend?

5 **A** Congaree Baptist.

6 **Q** Congaree Baptist, okay. Now, when you read
7 this paper, you said they just had it open and I saw
8 it. Were you eating somewhere for breakfast?

9 **A** Yes, sir.

10 **MR. WALTERS:** Beg the Court's indulgence.

11 (Pause.)

12 **Q** Now, you also stated in your testimony that
13 everybody knows about the case. Tell me the content
14 of what everybody knows.

15 **A** Well, you know, if you listened to it when it
16 first happened, you know, everybody's first thought
17 there he was guilty, you know if you listened to
18 what you heard in the newspaper.

19 **Q** Okay. And tell your own personal knowledge of
20 what you knew at first when it happened.

21 **A** Well, if he'd done what the newspaper said, you
22 know, he's guilty, you know, but I hadn't heard no
23 evidence neither way.

24 **Q** So you read the first article that came out
25 with regards to the crime itself?

1 A Right.

2 Q And what knowledge did you gain from that?

3 A That he was guilty.

4 Q And what made you draw that conclusion?

5 A Just what we read, you know, what the newspaper
6 stated.

7 Q And what was the content of what was stated?

8 A I don't exactly remember what all it was. You
9 know, you heard a lot of people talk at that time,
10 too, you know.

11 Q What type of talk was conveyed to you?

12 A Well, like they caught him in his truck, the
13 fellow's truck that was killed, and had his guns and
14 stuff in the back, his police department guns, that
15 kind of stuff. Small town you hear everything.

16 MR. WALTERS: Your Honor, we have no further
17 questions.

18 THE COURT: All right. Solicitor.

19 RE-VOIR DIRE

20 BY MR. PASCOE:

21 Q Yes, sir, Mr. Rickenbaker, and you can put
22 aside everything you've heard prior to this trial
23 and listen to only the facts presented in this
24 courtroom before determining whether the defendant
25 is guilty or not?

1 **A** Yes, sir.

2 **Q** There's no reason why you can't be a fair and
3 impartial juror in this case to both the State and
4 the defendant, Mr. Mahdi?

5 **A** Yes, sir.

6 **Q** And you'll abide by the law as the Judge gives
7 it to you?

8 **A** Yes, sir.

9 **MR. PASCOE:** That's all I have, Your Honor.

10 **THE COURT:** All right, sir, if you'll stand
11 right outside the door there.

12 . (Juror leaves the courtroom.)

13 **THE COURT:** What says the State?

14 **MR. PASCOE:** Your Honor, we'd ask he be
15 qualified.

16 **THE COURT:** What says the defense?

17 **MR. WALTERS:** May it please the Court. Your
18 Honor, first of all, this is a juror that, from the
19 outset, has violated the Court's order, that's with
20 regards to this newspaper. And, of course, I've
21 taken the clerk's paper, I'll have to buy him
22 another one, but I want to enter it into evidence.
23 And I want to make sure I go through the content of
24 the article that he's alluding to.

25 First of all, this article does discuss an

1 issue with regards to the jurors, but then it goes
2 on and it discusses the North Carolina case. The
3 North Carolina case that under State v. Lyle, the
4 Court ruled was inadmissible. It's on the front
5 page. It refers to the events that are alleged to
6 have occurred in North Carolina.

7 And, of course, in making the State v. Lyle
8 motion to suppress that evidence, the Court ruled
9 that there were certain factors that could come in
10 with regards to Virginia and also Richland County
11 and, of course, Calhoun County and Florida. But
12 this front page, the front page of the article,
13 which I'll have tagged and put into evidence, it
14 alludes to the issues with regards to North
15 Carolina.

16 In addition to that, the article goes on to
17 discuss also the Virginia juvenile record. The
18 article also goes on and discusses the Virginia
19 conviction with regards to this particular case.

20 He sat in this courtroom, was aware of His
21 Honor's instructions with regard to staying away
22 from the newspaper, the television and not getting
23 into this information. If he saw a newspaper
24 somewhere, he had to have sat here in this courtroom
25 and said, I read the article, but I only read about

1 the jurors. But the article itself, and we'll have
2 it tagged and entered into evidence, alludes to
3 three different issues.

4 We believe that he could taint the pool and, of
5 course, in violation of His Honor's orders, we don't
6 believe this juror will consistently abide by those
7 orders after he'd been instructed, and if I'm not
8 clear, the Solicitor's office can correct me, Your
9 Honor repeatedly said this not once, not twice, but
10 on three different occasions to the jurors about
11 getting any information, talking to anyone
12 discussing the case, radio, television, things of
13 that nature over and over and over again. His
14 position is, I just sort of slipped up and I read
15 the article.

16 I believe that during this trial, his past is
17 indicative of what he'll do in the future. Plus,
18 this is a juror that we believe is tainted because
19 he's already gotten information that the Court has
20 ruled would not be put before the jury, three
21 different issues with regards to a juvenile record,
22 the Virginia conviction and also the case in North
23 Carolina.

24 And I just want to have it tagged and put into
25 evidence. And it clearly has a picture of

1 Mr. Mahdi. It simply says, Picking a jury. There's
2 no way you could mistake exactly what this was
3 about. It also has a picture of Mr. Myers with
4 regards to this case.

5 Your Honor, we believe that he's not only
6 unqualified, he has deliberately, and in this
7 particular case, intentionally violated the Court's
8 order. And his position is, is that, oh, I can just
9 forget that and I can move on.

10 He also alludes to the fact that everybody
11 knows. He's also read an article before this trial,
12 and, of course, we inquired into that particular
13 issue. He just simply stated that everybody thought
14 he was guilty.

15 So the facts of this present case and his
16 behavior with regards to the Court's instructions
17 and the actual content of the article, we believe
18 that this juror is unqualified to serve in this
19 particular case.

20 **THE COURT:** Anything further?

21 **MR. PASCOE:** Yes, sir. As far as
22 Mr. Rickenbaker, Your Honor, he testified it was not
23 intentional that he read the paper, but that the
24 paper was open in front of him while he was eating
25 breakfast this morning. He also stated in his sworn

1 testimony under oath that the only thing he learned
2 from today's article was that the jurors had been
3 dwindled down from about 400 to 100 and that's his
4 sworn testimony. He didn't know of anything else
5 that's in that article.

6 Second, Your Honor, he said that he could put
7 aside everything that he's learned or anything he's
8 heard outside of this courtroom and base his verdict
9 solely on what is presented to him in this
10 courtroom. And I think for those reasons, you know,
11 that's the standard of whether a juror should be
12 selected or not and he certainly fits that standard.
13 So we'd ask that he be qualified.

14 **THE COURT:** I'm going to exclude the juror
15 based on violation of the Court's order to refrain
16 from exposing himself to information concerning the
17 case which I repeated to all jurors and wrote in the
18 juror orientation letter. And he has willfully
19 violated that order and disqualified himself from
20 jury service.

21 (Juror enters the courtroom.)

22 **THE COURT:** All right. Mr. Rickenbaker, you've
23 been disqualified from jury service based on your
24 exposing yourself to information concerning the
25 trial that the Court excluded from the hearing of

1 the jury in this case. And so you will not be among
2 the pool of jurors to be eligible for service in
3 this case.

4 I want to thank you for your time and effort in
5 coming here. And I wish you the best. You'll be
6 able to get that cotton.

7 JUROR: Sorry, Judge.

8 THE COURT: That's all right. It happens.
9 Thank you, sir.

10 (The juror was excused.)

11 THE COURT: Do you want it as a defense exhibit
12 or a court's exhibit?

13 MR. WALTERS: Defense exhibit, Your Honor.

14 (Defendant's Exhibit Number 1, newspaper
15 article, was marked for identification purposes.)

16 THE COURT: Next juror.

17 (Whereupon, William C. Holman, III, a white
18 male, enters the courtroom.)

19 WILLIAM C. HOLMAN,
20 having been previously duly sworn, testified as
21 follows:

22 VOIR DIRE

23 BY THE COURT:

24 Q Mr. Holman, how are you doing?

25 A Good, sir. How are you?

1 Q Good. Thanks for coming back today. Remember
2 you're still under oath.

3 A Yes, sir.

4 Q And have you, since yesterday, been exposed to
5 any information concerning this case?

6 A No, sir.

7 Q Has anyone attempted to talk with you or
8 discuss this case with you? Have you read any news
9 articles or anything of that nature?

10 A No.

11 Q And you recall the Court's instruction to you
12 and all other jurors to refrain from allowing anyone
13 to talk with you about the case or reading anything
14 about it or listening to any reports about it and
15 all?

16 A Yes, sir.

17 Q And you followed that instruction?

18 A Yes, sir.

19 Q When you were back there waiting to come in,
20 were you given a list of people who might testify as
21 witnesses in this case to look over?

22 A Yes, sir.

23 Q Do you know any folks whose names are on that
24 list?

25 A Yes, sir.

1 Q And who do you know from that list?

2 A I know Mr. Greg Whetstone and Sheriff Summers.

3 Q Would the fact that you know them affect your
4 ability to sit as a fair and impartial juror in this
5 case?

6 A No, sir.

7 Q Now, your purpose for coming in here and
8 sitting in that chair is so that we can ask you some
9 questions to find out your opinion concerning
10 certain matters. You indicated in standing up
11 yesterday that you had heard something about this
12 case?

13 A Yes, sir.

14 Q And when was that that you might have heard
15 something about it?

16 A That was back when it happened.

17 Q And did that cause you to form an opinion as to
18 the guilt or the innocence of this defendant?

19 A I would have to lean towards, yes.

20 Q And would you -- despite the fact that you --
21 that that initial reading caused you to form an
22 opinion, would you be able to set aside that opinion
23 and decide the case based on the evidence presented
24 in this trial and not any preconceived notions that
25 you might have had based on what you read or heard

1 initially?

2 A I would try. I mean, I have a lot of friends
3 that are in law enforcement and stuff.

4 Q Have you discussed the case with them as well?

5 A No, sir. I mean, when I came here yesterday, I
6 didn't even know this was this until I got here.
7 And, I mean, I didn't talk to any of them since I've
8 been, you know, since we were here yesterday or
9 anything.

10 Q Did you talk with any law enforcement people
11 about this case?

12 A Maybe two years ago.

13 Q And through those discussions, have you formed
14 a fixed opinion as to whether or not the defendant
15 is guilty?

16 A I guess not.

17 Q You have not formed a fixed opinion?

18 A I don't mean any disrespect when I say this,
19 but like you were saying yesterday about innocent
20 until proven guilty, sometimes I always wonder if it
21 should be guilty until proven innocent.

22 Q And what do you mean?

23 A Well, I mean -- I mean, to me, you wouldn't be
24 here if you didn't do something wrong in a way.

25 Q Now, in a criminal case, as you know, and this

1 does not apply only to this defendant, but to any
2 defendant, under the U.S. Constitution, any person
3 accused of a crime is presumed to be innocent of
4 that crime unless guilt has been proven by the
5 State. And the State has the burden of proving
6 guilt of a defendant beyond a reasonable doubt. The
7 defendant has no burden to prove his innocence. He
8 is presumed to be innocent under the law. Do you
9 understand that?

10 A Yes, sir.

11 Q Could you accept that as a principle of law and
12 follow that?

13 A Yes, sir, I think I can.

14 Q Sir?

15 A Yes, sir, I think I can.

16 Q And if you were a juror in any criminal case,
17 would you be willing to listen to the facts and
18 circumstances and the law as you were instructed?

19 A Yes, sir.

20 Q Based upon those facts and circumstances and
21 what they were, would you be willing to find the
22 defendant not guilty of a criminal charge?

23 A I guess if it was proved like you said.

24 Q So you would be willing to find the defendant
25 not guilty if you were not convinced that the

1 defendant was guilty?

2 A Say that --

3 Q If you were not convinced that a defendant was
4 guilty, you would find that defendant not guilty?

5 A If I didn't think -- I mean, if I didn't think
6 he was guilty.

7 Q Would you find him not guilty?

8 A I guess so.

9 Q And if you thought he was guilty, would you
10 find him guilty?

11 A Yes, sir.

12 Q Now, in this case, have you already made up
13 your mind without hearing any evidence?

14 A Just, I guess, just from what -- remembering
15 stuff. I guess, I'm leaning more one way than the
16 other.

17 Q Have you made up your mind based on
18 conversations and newspapers and not based on
19 evidence?

20 A I guess that's all I've been exposed to, so,
21 yes, sir.

22 Q And would you be able to take out of your mind
23 those other things and decide this case solely based
24 on the evidence that you might hear from that
25 witness stand, same chair you're in right now?

1 A Yes, sir.

2 Q Now, ordinarily, jurors are not concerned with
3 questions of punishment or penalty, usually that's
4 up to the judge except in a case where the State is
5 seeking the death penalty. And in that case, if the
6 jury were to find the defendant guilty, and he's
7 presumed to be not guilty, but if the jury were to
8 find the defendant guilty, then we would have a
9 separate sentencing phase of a trial by the same
10 jury where the jury would be asked to decide
11 punishment. And the only two choices would be
12 either life imprisonment without the possibility of
13 parole or the death penalty. Do you understand
14 that?

15 A Yes, sir.

16 Q Now, have you had a chance to look at this
17 paper listing the three types of jurors?

18 A Yes.

19 Q And do you remember the three types of jurors
20 and what they were?

21 A Yes, sir.

22 Q Which of those three types of jurors best
23 describe you?

24 A Type one.

25 Q You're a type one. And what is a type one?

1 **A** I guess, a person is convicted of murder, they
2 should get the death penalty.

3 **Q** So you're a person who favors the death penalty
4 in all cases of murder?

5 **A** I mean, I guess there could be some exceptions.

6 **Q** This paper says that a type one juror, once the
7 crime of murder has been proved by the State and the
8 juror is considering punishment, this juror feels
9 that he or she is required to give the death penalty
10 in each and every case. This juror feels that once
11 a murder has been committed, the death penalty is
12 the only appropriate punishment no matter what the
13 circumstances of the case. Is that your opinion?

14 **A** Yes, sir.

15 **Q** And the last part of it that says, The death
16 penalty is the only appropriate punishment no matter
17 what the circumstances of the case, does that mean
18 that you, under no facts or circumstances, could
19 ever vote for life imprisonment without the
20 possibility of parole?

21 **A** Well, I guess the good example of one, you
22 know, because I know manslaughter is not, you know,
23 like you accidentally did something when you were
24 riding down the road and you didn't mean to kill a
25 person like that, I don't think that deserves, you

1 know, a death penalty or anything like that.

2 Q Well, manslaughter is not murder. We're
3 talking about murder.

4 A No, but, I mean, you accidentally kill
5 somebody.

6 Q Well, that's manslaughter. We wouldn't be here
7 talking about it if the crime was manslaughter.

8 A Yes, sir.

9 Q We're talking about the crime of murder. Could
10 you under any circumstances vote for life
11 imprisonment without the possibility of parole for a
12 person convicted of murder?

13 A No, sir. I feel like if you kill somebody,
14 that's due punishment.

15 THE COURT: Mr. Walters, Mr. Koger.

16 VOIR DIRE

17 BY MR. KOGER:

18 Q Mr. Holman, you testified -- you hesitated --
19 after your prior knowledge of this particular
20 situation here, you hesitated whether you could be
21 fair and impartial, correct?

22 A Yes, sir.

23 Q Okay. And the reason why you hesitated,
24 because you testified that you have a leaning more
25 one way than the other way, correct?

1 A Yes, sir.

2 Q And that leaning is towards Mr. Mahdi being
3 guilty, correct?

4 A Yes, sir.

5 Q Okay. Now, you also stated that --
6 subsequently, you stated that you could follow the
7 law from this Court, correct?

8 A Say that again.

9 Q Subsequently, when Judge Newman asked you
10 whether you could follow instruction from the Court,
11 you stated you could, correct?

12 A Yes.

13 Q But you also stated before that that you think
14 that a defendant that comes to any courtroom should
15 be presumed guilty and then he has to prove his
16 innocence, correct?

17 A Well, yes, sir. I mean, to me, most -- I mean,
18 I know it's not a hundred percent, but most of the
19 people that come into a courtroom, nine times out of
20 ten has probably done something wrong.

21 Q And that's not according to -- that's your
22 opinion, correct?

23 A Yes, sir.

24 Q And how long have you held that opinion?

25 A I don't know. I never really thought about it

1 really until we got here.

2 Q Came from your upbringing I suppose?

3 A I guess so.

4 Q Okay. And you know that in order to follow
5 instruction from this Court or any court, that you
6 have to presume a person innocent until or if
7 they're proven guilty?

8 A Yes, sir.

9 Q Okay. And you admit that you have a hard time
10 doing that?

11 A It's not -- I wouldn't say I have a hard time
12 doing that, but, I mean, just -- I guess that's just
13 my belief.

14 Q You really don't like that rule?

15 A What's that -- about innocent until proven
16 guilty?

17 Q Yes. You really don't like that rule?

18 A In most...

19 MR. KOGER: Thank you. No further questions.

20 THE COURT: Mr. Pascoe.

21 MR. PASCOE: No questions, Your Honor.

22 THE COURT: All right, sir, if you'll stand
23 right outside that door. We're going to talk about
24 you for a minute.

25 (Juror leaves the courtroom.)

1 **THE COURT:** What says the defense?

2 **MR. KOGER:** Not qualified, Your Honor.

3 **THE COURT:** What says the State?

4 **MR. PASCOE:** No position, Your Honor.

5 **THE COURT:** He is not qualified based on being
6 a type one and also forming his opinion.

7 (Juror enters the courtroom.)

8 **THE COURT:** You can stand right there,
9 Mr. Holman.

10 The purpose of this whole process is to get a
11 certain number of qualified jurors. And we're
12 looking for a juror who could go either way despite
13 a person being convicted of murder not manslaughter,
14 but could listen to the aggravating circumstances
15 and the mitigating circumstances and even though the
16 person has committed -- is guilty of murder, they
17 would not always vote for the death penalty, that
18 they may vote either way. And you don't fall in
19 that category, so you won't be able to go in the
20 final pool of jurors qualified to serve.

21 We want to thank you for your candor and your
22 coming and sharing that information with us. So
23 we're through with you. You're off jury duty. We
24 will not need you to come back. I want to thank you
25 for coming. Have a good day.

1 (The juror was excused.)

2 MR. KOGER: Your Honor, may we take a five
3 minute break for us to get organized?

4 THE COURT: All right.

5 (Brief Recess.)

6 THE COURT: If you'll bring in Ms. Brunson.

7 (Whereupon, Pearlle G. Brunson, a black
8 female, enters the courtroom.)

9 PEARLIE G. BRUNSON,
10 having been previously duly sworn, testified as
11 follows:

12 BY THE COURT:

13 Q How are you, Ms. Brunson?

14 A Fine. How are you?

15 Q Good. Ms. Brunson, you're still under oath as
16 you were yesterday. Do you understand?

17 A Yes, sir.

18 Q All right. I want to thank you for coming in
19 this morning. We want to ask you some questions.
20 Where do you work?

21 A Husqvarna Products, Orangeburg.

22 Q Like the ones who make the weed eaters and lawn
23 mowers and all that?

24 A Yes.

25 Q Now, have you been exposed to any information

1 about this case within the past 24 hours, read any
2 newspapers, watched any T.V. or anything about it?

3 A No, sir.

4 Q And has anyone attempted to contact you about
5 this case?

6 A No, sir.

7 Q Since you got your juror summons?

8 A No, sir.

9 Q And have you heard anything about this case at
10 all?

11 A I just -- not the case, but, you know, just
12 what was in the newspaper what happened.

13 Q When did you hear about that or when did you
14 see a newspaper about it?

15 A That was when it happened.

16 Q Did that cause you to form an opinion
17 concerning the guilt or the innocence of the
18 defendant?

19 A No, sir.

20 Q Would you be able to set aside what you might
21 have seen in the newspaper at that time and decide
22 this case solely based on the evidence presented in
23 this courtroom?

24 A Yes, sir.

25 Q Now, the defendant is presumed to be not guilty

1 of these charges and cannot be held accountable for
2 the charges or found guilty unless the State proves
3 beyond a reasonable doubt that he is guilty. Do you
4 understand that?

5 A Yes, sir.

6 Q And we're going to ask you some questions
7 concerning your views regarding punishment, but that
8 does not presuppose guilt because he's presumed to
9 be not guilty, but we simply have to ask you about
10 that at this time. Do you understand?

11 A Yes, sir.

12 Q Have you had a chance to look at this paper
13 that list the three types of jurors?

14 A Yes, sir.

15 Q And do you recall or remember what those three
16 types were?

17 A Yes, sir.

18 Q And which of those three types of jurors best
19 describes you?

20 A Type three.

21 Q And when you say that you are a type three
22 juror, does that mean that you could bring a verdict
23 of life imprisonment without the possibility of
24 parole?

25 A Yes, sir.

1 Q And, also, you could bring a verdict in favor
2 of the death penalty?

3 A Yes, sir.

4 Q But before you do either one, you would want to
5 hear all of the facts and circumstances in
6 aggravation and mitigation before deciding which is
7 the appropriate punishment?

8 A Yes, sir.

9 Q And you can decide either one?

10 A Yes, sir.

11 Q Now, if you are selected as a juror in this
12 case, the trial may take ten days or so and you
13 might be -- you will be sequestered at a local motel
14 until the case is over. Do you understand?

15 A Yes, sir.

16 Q Aside from that being extremely inconvenient to
17 you, would that pose any danger to you or anyone
18 that you care for as far as health or safety?

19 A No, sir.

20 THE COURT: All right. I'm going to also give
21 the parties a chance to ask any questions if they
22 have any. Mr. Solicitor.

23 MR. PASCOE: May it please the Court. Thank
24 you, Your Honor.

25

1 VOIR DIRE

2 BY MR. PASCOE:

3 Q Good morning, Ms. Brunson. My name is David
4 Pascoe. I'm the Solicitor. And I might have missed
5 this question. I just want to make sure it was
6 asked. Did you have an opportunity to look at a
7 witness list that Judge Newman provided for you
8 today or yesterday?

9 A Yes.

10 Q Did you know anybody on that witness list?

11 A Not personally, no.

12 Q Did you know of anybody on that witness list?

13 A Sheriff Summers and Sheriff Larry Williams.

14 Q Those are the two people that you know of?

15 A Yes.

16 Q You're not personal friends with them, though?

17 A No, sir.

18 Q And you can set aside your knowledge of them
19 and be a fair juror in this case?

20 A Yes, sir.

21 Q Okay. And you had testified that you read
22 something about this case way back?

23 A Yes.

24 Q Could you set aside that and base your verdict
25 solely on the facts in this case that are presented

1 in the courtroom?

2 A Yes.

3 Q If you're a juror?

4 A Yes.

5 Q And now I want to ask you some questions about
6 the death penalty, okay, and your views of the death
7 penalty. And just realize that there are no right
8 or wrong answers unless you just tell us what we
9 want to hear, okay? Are you opposed to the death
10 penalty at all?

11 A No.

12 Q And as you told Judge Newman, you can sentence
13 someone to the death penalty if you feel that the
14 facts warrant such?

15 A Yes.

16 Q And just to explain something to you, and this
17 is a hypothetical question, it's like putting the
18 cart before the horse, but if you decided in a case
19 in general that someone deserved the death penalty
20 for their act of murder, you would have to then, as
21 a juror, along with the other 11 jurors, sign your
22 name, Ms. Pearlle Brunson, to a death verdict form.
23 Would you be able to do that?

24 A Yes.

25 Q And, also, ma'am, if you decided that someone

1 deserved the death penalty from the facts of the
2 case and what was presented in court, you would then
3 have to also come in court and stand up and announce
4 your verdict in public. You would have to say, I,
5 Ms. Brunson, sentence such and such to death. Could
6 you do that?

7 **A** Yes.

8 **Q** No doubt about it?

9 **A** Yes.

10 **Q** No hesitation?

11 **A** No.

12 **MR. PASCOE:** Thank you, Ms. Brunson.

13 **THE COURT:** Any questions from the other side?

14 **MR. WALTERS:** May it please the Court.

15 VOIR DIRE

16 **BY MR. WALTERS:**

17 **Q** Good morning, Ms. Brunson.

18 **A** Good morning.

19 **Q** My name is Glenn Walters. As you know, I'm
20 defending Mr. Mikal Mahdi.

21 Ms. Brunson, His Honor, when he inquired about
22 this case with you, you understand that the State in
23 this particular case has to prove their case beyond
24 a reasonable doubt. We're sort of putting the cart
25 before the horse when we talk about the death

1 penalty. The State must first prove their case
2 beyond a reasonable doubt that Mikal Mahdi had
3 malice aforethought and engaged in an unlawful
4 killing of someone. They must prove that beyond a
5 reasonable doubt.

6 Are you willing to listen to all of the
7 evidence presented by both sides and carefully
8 evaluate the facts and the evidence and make an
9 individual decision with regards to that issue?

10 A Yes.

11 Q Okay. And in addition to that, the sentencing
12 phase, His Honor inquired as to your position with
13 regards to position number one, two or three. And I
14 want to make sure I'm clear on what your position
15 is.

16 Number three, it simply says that, as a juror,
17 you're willing to listen to all of the aggravating
18 circumstances, all of the mitigating circumstances,
19 you want to know everything under the sun with
20 regards to this case and then, of course, you'll
21 then turn around and do, what, you will make a
22 decision based on that information; is that correct?

23 A That's correct.

24 Q And you understand that you'll be in that room
25 with 12 other people, but you understand it's your

1 individual decision and you have a right to your
2 decision and to make that decision. And would you
3 respect the other jurors and their decisions that
4 they make even though they might be contrary to
5 yours?

6 A Yes.

7 Q Okay. And in selecting number three, it
8 appears that you're saying, I'm willing to remain
9 open minded about this, I want to see everything
10 that everyone has to offer and then I'll make a
11 decision; is that right?

12 A That's correct.

13 MR. WALTERS: Your Honor, I have no further
14 questions.

15 THE COURT: All right. Ma'am, if you'll stand
16 right outside the door there.

17 (Juror leaves the courtroom.)

18 THE COURT: What says the State?

19 MR. PASCOE: Qualified, Your Honor.

20 THE COURT: What says the defense?

21 MR. WALTERS: She's qualified, Your Honor.

22 THE COURT: All right. Ask her to come back,
23 please.

24 (Juror enters the courtroom.)

25 THE COURT: Ms. Brunson, you've been found to

1 be qualified as a potential juror in this case, that
2 doesn't mean that you're on the jury yet, that means
3 that you are a potential juror along with some other
4 jurors.

5 We're hoping to get the jury selected in this
6 case at noon tomorrow. This may be a little
7 ambitious and we may have to change schedules, we
8 don't know, but we'll need to be sure we have your
9 phone number so we can call and let you know if
10 there's a change, but unless you hear from us, we're
11 asking you to be back here at noon tomorrow packed
12 with enough clothes and medicine and all to last you
13 about ten days.

14 And we'll give you a slip of paper with some
15 information on it that will further orientate you
16 concerning this so that you will let folks know
17 where you might be in the event you are selected to
18 be on the jury.

19 We need you at noon tomorrow. When you come,
20 if you'll come right across the street to the annex
21 and have it so that if you're selected, someone can
22 take your car back or come get your car.

23 **JUROR:** Okay.

24 **THE COURT:** Here's your slip of paper. We'll
25 see you later.

1 (Juror was excused for the day.)

2 THE COURT: Next juror.

3 (Whereupon, Karen Pund Hutto, a white
4 female, enters the courtroom.)

5 KAREN PUND HUTTO,
6 having been previously duly sworn, testified as
7 follows:

8 VOIR DIRE

9 BY THE COURT:

10 Q Ms. Hutto, how are you today?

11 A I'm fine. Thank you, sir.

12 Q Good. Good to see you again. Remember you're
13 still under oath from yesterday. Where do you work,
14 Ms. Hutto?

15 A I work full time for Houghton Mifflin College
16 Publishing. And I work part time for the YMCA in
17 Columbia.

18 Q Now, tell us your full name. It seems as if
19 you're the one whose names they were getting mixed
20 up as they called it out.

21 A It's Karen Pund Hutto.

22 Q And, Ms. Hutto, we need to ask you certain
23 questions to determine your views on certain matters
24 as it relates to possible jury service in this case,
25 but it's not our intent to unreasonably pry into

1 your personal affairs. Since yesterday have you
2 been exposed to any knowledge or information,
3 reading material concerning this case?

4 A No, I have not.

5 Q And you heard my instruction to the jurors that
6 they're not to read any newspapers, listen to any
7 T.V. accounts, search the Internet or anything in
8 the like concerning this matter. Do you remember
9 that?

10 A Yes, I do remember that.

11 Q And since receiving the juror summons a month
12 or two ago, has anyone contacted you or attempted to
13 contact you concerning this case?

14 A No, they have not.

15 Q You've had a chance to look over the list of
16 potential witnesses. Do you know anyone on that
17 list?

18 A No, I do not.

19 Q Have you heard anything about this case?

20 A No, I have not.

21 Q Now, the defendant in this case, Mr. Mikal
22 Mahdi, is presumed to be not guilty of these charges
23 and that plea puts the burden upon the State to
24 prove the defendant guilty. Do you understand that
25 principle of law?

1 A Yes, I do.

2 Q And will you be willing to listen to the law
3 and accept the law as I give it to you and also
4 listen to the facts and decide this case solely
5 based on the facts that you might decide them to be
6 and applying the law that I will instruct you?

7 A Yes, I would.

8 Q Regarding the other sheet of paper that you
9 were given regarding what type of juror you might
10 be, ordinarily jurors do not concern themselves with
11 possible punishment except in a case where the State
12 is seeking the death penalty and where one has been
13 proven guilty of murder. And should that occur in
14 this case, though he's presumed to be innocent,
15 should that occur, the jury would then, in a
16 separate proceeding, hear evidence to consider
17 punishment. Do you recall the three types of jurors
18 listed on that sheet of paper?

19 A Yes, I do.

20 Q And which of the three most closely identify
21 you?

22 A Number two.

23 Q And a number two juror, according to this
24 paper, is one who under no circumstances could ever
25 give the death penalty regardless of the

1 circumstances.

2 **A** That's true.

3 **Q** Is that your view --

4 **A** Yes, it is.

5 **Q** -- concerning the death penalty?

6 **A** Yes, it is.

7 **Q** And how long have you had that view?

8 **A** I would say the last 20 years.

9 **Q** And, therefore, no matter what the evidence is,
10 no matter how serious a crime might be, you could
11 never vote for the death penalty?

12 **A** Not even if it affected a family member of my
13 family.

14 **THE COURT:** I'm going to see if the lawyers
15 might have any questions for you. The State or the
16 defense, Mr. Walters.

17 **MR. WALTERS:** No questions, Your Honor.

18 **MR. PASCOE:** No questions, Your Honor.

19 **THE COURT:** Okay. Ma'am, if you'll stand right
20 outside the door.

21 (Juror leaves the courtroom.)

22 **THE COURT:** What says the defense?

23 **MR. WALTERS:** She's unqualified, Your Honor.

24 **THE COURT:** The State?

25 **MR. PASCOE:** We agree, she's unqualified.

1 **THE COURT:** She's not qualified. If she'll
2 come back in.

3 (Juror enters the courtroom.)

4 **THE COURT:** Ms. Hutto, in order to be qualified
5 for consideration of a juror, you must be a type
6 three and you're type two, so you will not be able
7 to be put in the further jury pool, which means that
8 you're through with jury service for this week. I
9 want to thank you for your time and effort in coming
10 and your candor in responding to these questions.
11 And so you're free to go.

12 (Juror was excused.)

13 **THE COURT:** Let's have Ms. Gladden.

14 (Whereupon, Avia S. Gladden, a black female,
15 enters the courtroom.)

16 AVIA S. GLADDEN,
17 having been previously duly sworn, testified as
18 follows:

19 VOIR DIRE

20 BY THE COURT:

21 Q How are you doing, Ms. Gladden?

22 A Fine.

23 Q You had a good night last night?

24 A Yes, sir.

25 Q Remember you're still under oath from

1 yesterday.

2 A Yes, sir.

3 Q And since yesterday, have you been exposed to

4 any information, read anything about this case?

5 A No, sir, I haven't.

6 Q You remembered my admonition to the jurors not

7 to read anything, hear anything about this case?

8 A Yes, sir.

9 Q And you followed that?

10 A Yes, sir, I did.

11 Q Have you ever heard anything about this case?

12 A No, sir.

13 Q And where do you live?

14 A 106 Haynes Street.

15 Q Is that in -- we went through whether that's in

16 town or --

17 A That's in town.

18 Q And you work near Harleyville, Ridgeville or

19 something like that?

20 A No.

21 Q What town did you say?

22 A Calhoun.

23 Q You work at Hardee's near --

24 A Over there.

25 Q Oh, in town. This Hardee's right here?

1 A Yes, that one.

2 Q I'm sorry. And did you get a chance to look at
3 that list of people who might testify as witnesses
4 in this case?

5 A Yes, sir.

6 Q Do you know any of them?

7 A No, sir.

8 Q And did you get a chance to look at the sheet
9 of paper that lists three types of jurors?

10 A Yes, sir.

11 Q Do you remember the three types?

12 A Yes, I believe I do.

13 Q All right. Well, just to refresh your mind
14 about it, a type one juror is one who will always
15 vote for the death penalty if a person is convicted
16 of murder. Type two is one who could never vote for
17 the death penalty regardless of the circumstances of
18 the crime. Type three is a juror who could vote for
19 life imprisonment without the possibility of parole
20 and could vote for the death penalty depending on
21 the facts and circumstances of the case.

22 In this case, the defendant is presumed to be
23 not guilty. And we are talking possible punishment
24 and that would apply only if he is first found
25 guilty, but if he's found guilty of murder, then we

1 have a sentencing phase. And in that instance, the
2 jury would be concerned about punishment. And we
3 need to know -- have your opinion as to whether or
4 not you're a type one, who always favors a death
5 penalty with murder, type two, who could never give
6 the death penalty regardless of the facts and
7 circumstances of the case, or, type three, one who
8 could give the death penalty or who could give life
9 imprisonment without the possibility of parole
10 depending upon the facts and circumstances of the
11 case. Now, which one are you?

12 **A** Three.

13 **Q** You're a type three?

14 **A** (Witness nodded head.)

15 **Q** And you could vote for the death penalty based
16 on the facts and circumstances of the case?

17 **A** Yes, sir.

18 **Q** And if voting for the death penalty required
19 you to sign the verdict form saying that's your vote
20 and coming into court and announcing that that is
21 your vote along with the other jurors, you would be
22 able to do that?

23 **A** Yes, sir.

24 **THE COURT:** Questions from the State.

25 **MR. PASCOE:** Thank you, Your Honor.

1 VOIR DIRE

2 BY MR. PASCOE:

3 Q Good morning, Ms. Gladden.

4 A Good morning.

5 Q My name is David Pascoe. I'm the Solicitor. I
6 appreciate you coming back this morning. Let me
7 just ask you a few questions with regards to the
8 death penalty. What are your personal feelings
9 about the death penalty? Are you opposed to it, are
10 you in favor of it, in general?

11 A Well, in general, I'm in favor for it, in
12 favor.

13 Q In favor. Good. Okay. And let me ask you
14 this. Could you listen to the law as the Judge
15 gives you in this case?

16 A Yes, I can.

17 Q And you know that's the man you have to listen
18 to right there?

19 A Yes.

20 Q Okay. And can you sentence someone to death as
21 a juror? Would you be able to do that if the facts
22 and circumstances warranted it?

23 A Yes, I can.

24 Q Good. And as the Judge asked you, and I want
25 to go into this a little bit, if you and the other

1 11 jurors decided to sentence someone to death,
2 you're aware now that you would have to sign your
3 name, Ms. Avia Gladden, to the death verdict form?

4 A Yes.

5 Q And would you be able to do that?

6 A Yes, sir, I will.

7 Q If you decide someone should be sentenced under
8 the death penalty?

9 A Yes, sir.

10 Q And, Ms. Gladden, could you come into a
11 courtroom -- if you decided someone deserved the
12 death penalty, could you come into a courtroom and
13 say, that is my verdict that that person should be
14 sentenced to death?

15 A Yes, sir, I can.

16 Q No question about it?

17 A No question.

18 MR. PASCOE: Thank you, Ms. Gladden. Answer
19 any questions the defense has for you. Thank you so
20 much.

21 THE COURT: Mr. Koger.

22 MR. KOGER: May it please the Court.

23 VOIR DIRE

24 BY MR. KOGER:

25 Q Ms. Gladden, you also said that you are a type

1 three?

2 A Yes, sir.

3 Q And that you need to hear all of the facts?

4 A Yes, sir.

5 Q You need to hear all of the evidence?

6 A Yes, sir.

7 Q You need to hear facts -- or facts or evidence
8 that the State would be for the death penalty?

9 A Yes, sir.

10 Q And you would listen to any type of facts that
11 the defendant may have in relation to their
12 background, correct?

13 A Yes, sir.

14 Q And how they was brought up?

15 A Correct.

16 Q Correct?

17 A Uh-huh.

18 Q And what other things that may have affected
19 them, correct?

20 A Correct.

21 Q Now, I think the Solicitor asked you when were
22 you -- your opinions on a death penalty form. Well,
23 let me ask you that question. When were your
24 opinions on a death penalty formed?

25 A My opinion?

1 Q Yeah.

2 A Well, I have no opinion on it.

3 Q What now?

4 A I have no opinion -- did you say opinion on a
5 death penalty form?

6 Q No. Opinion on the death penalty whether
7 you're for it or against it?

8 A I'm for it.

9 Q You're for it. Are you for it in all cases or
10 you're for it in certain cases?

11 A Certain cases I'm for it.

12 Q Okay. So, basically, it depends on the
13 evidence?

14 A Yes, sir.

15 Q And that when you come into this courtroom as a
16 juror or any courtroom, that it's your belief that a
17 person is presumed innocent?

18 A Yes, until proven guilty.

19 Q Until proven guilty. And if that person is not
20 proven guilty, then you can vote not guilty?

21 A Yes, sir.

22 Q Correct?

23 A Uh-huh.

24 Q And you understand that the Solicitor or the
25 State has to prove their case beyond a reasonable

1 doubt?

2 A Yes, sir.

3 Q Okay. And after the Solicitor or the State

4 puts up their case, if there's reasonable doubt,

5 then you would vote for not guilty?

6 A Yes, sir.

7 Q All right. Now, I don't have the second page

8 of the questionnaire, so I'm going to need to ask

9 you maybe about four or five questions, okay?

10 A Okay.

11 Q Have you ever worked in law enforcement?

12 A No, I haven't.

13 Q Do you have any family members that have worked

14 in law enforcement?

15 A No, sir.

16 Q Are you married?

17 A No, sir.

18 Q Okay. Do you have any children?

19 A No, sir.

20 Q Okay. And do you attend church or where do you

21 attend church?

22 A I attend church in Fort Motte.

23 Q Fort Motte?

24 A Uh-huh.

25 Q And what's the name of your church?

- 1 A Mount Zion Baptist Church.
- 2 Q And how long have you been a member of Mount
- 3 Zion Baptist Church?
- 4 A All my life.
- 5 Q All your life. It's a family church?
- 6 A Yes, sir.
- 7 Q And what type of groups in the church or what
- 8 type of organizations with the church are you
- 9 involved in?
- 10 A Choir and the usher board.
- 11 Q So you're very involved in your church?
- 12 A Yes.
- 13 Q Okay. So, basically, and I just want to
- 14 clarify this here, that you don't have any type of
- 15 notion either way on this case whether the death
- 16 penalty should be issued?
- 17 A No, I don't have no notions.
- 18 Q And you have to listen to all of the facts?
- 19 A Yes, I have to.
- 20 Q And you'll listen to the facts or the evidence
- 21 that's put forth by the Solicitor's office?
- 22 A Yes, sir.
- 23 Q And you'll listen to any type of facts that may
- 24 come out in favor of the defendant?
- 25 A Yes, sir.

- 1 Q And then you'll make a decision?
- 2 A Yes, sir.
- 3 Q Okay. Now, I need to ask you one more set of
- 4 questions and I'll be finished with you. Now, if
- 5 you go in the jury room and let's say 11 of them,
- 6 the other 11, has voted one way and you vote another
- 7 way, would you just change your vote just to get the
- 8 case over with?
- 9 A In a way, yes, in a way, no.
- 10 Q Could you explain that?
- 11 A In a way, yes, I mean, if a person is guilty, I
- 12 vote guilty. If a person is not guilty, I feel I
- 13 should at least explain why the person is not
- 14 guilty.
- 15 Q Okay. And even if you have a discussion
- 16 between two sides, if the other 11 still want to
- 17 vote guilty and you still want to vote not guilty,
- 18 will you stand up for your vote or will you just
- 19 agree with the guilty just to get the case over
- 20 with?
- 21 A I will stand up for my vote.
- 22 Q You'll stand for your vote?
- 23 A Uh-huh.
- 24 Q Okay. But you will respect the other 11
- 25 opinions?

1 **A** Yes, I will.

2 **Q** And let's flip it around. What if you was
3 among the 11 that voted guilty and there was one
4 other person that was holding out for not guilty,
5 would you listen to that person's point of view?

6 **A** Yes, I will.

7 **Q** And would you respect their vote?

8 **A** Yes, I will.

9 **MR. KOGER:** Thank you. I have no other
10 questions.

11 RE-VOIR DIRE

12 **BY THE COURT:**

13 **Q** Ma'am, if you were selected on this jury, the
14 jury will be sequestered at a local motel for a
15 period of about ten days or so.

16 **A** Okay.

17 **Q** You're available for all that?

18 **A** Sure.

19 **THE COURT:** All right. I want you to stand
20 right outside that door.

21 (Juror leaves the courtroom.)

22 **THE COURT:** What says the State?

23 **MR. PASCOE:** Qualify, Your Honor.

24 **THE COURT:** Defense?

25 **MR. KOGER:** Qualify, Your Honor.

1 **THE COURT:** All right. Have her come back.

2 (Juror enters the courtroom.)

3 **THE COURT:** Yes, ma'am, Ms. Gladden, you're
4 qualified to serve as a juror in this case. It
5 doesn't mean that you're selected. We're going to
6 hopefully pick the jury at noon tomorrow. So we
7 need you to pack your bags and come to this building
8 right across the street, the annex, to be here at 12
9 o'clock packed and ready to stay with us if you are
10 picked. And if you're not picked, then we will let
11 you go.

12 Here's an information sheet that will tell you
13 some things you might want to bring with you and all
14 of that. We look forward to seeing you tomorrow.
15 Remember you're under oath and you're not to read
16 any newspapers, talk to anyone, allow anyone to talk
17 to you about this case.

18 **JUROR:** Yes, sir.

19 **THE COURT:** Thank you and we'll see you
20 tomorrow. Ms. Gladden, be sure you give them your
21 phone number as well.

22 (Juror was excused for the day.)

23 **THE COURT:** Mr. Koger, Mr. Walters, Solicitor,
24 is there any other juror that you don't have juror
25 information on?

1 **MR. WALTERS:** Your Honor, May it please the
2 Court. I know that we pulled the sheeting for at
3 least up to panel number four. I believe there's
4 some others that came in that you provided copies
5 for this morning and some of them do not have the
6 second sheet.

7 So, honestly, what we're going to do is when we
8 broke for lunch, we were going to put the other four
9 panels together. Since panel number four was coming
10 in at 12:30, we figured we would put the other four
11 together and what we didn't have, we would ask the
12 clerk's office for it, if I'm answering your
13 question.

14 **THE COURT:** But we're not going to spend the
15 time for this phase of questioning to receive juror
16 questionnaire information, so you need to be certain
17 that you have the information.

18 **MR. WALTERS:** Yes, sir.

19 **THE COURT:** All right. The next one.

20 (Whereupon, Jack H. Crider, a white male,
21 enters the courtroom.)

22 JACK H. CRIDER,
23 having been previously duly sworn, testified as
24 follows:

25 ****

1 VOIR DIRE

2 BY THE COURT:

3 Q Mr. Crider, how are you?

4 A Just fine.

5 Q Good. Good to see you today. Thanks for
6 coming back. Mr. Crider, where do you work?

7 A Westinghouse.

8 Q And how long have you been there?

9 A About six years.

10 Q And what area of the county do you live in?

11 A Right here in Calhoun County in the Sunny Plain
12 Community.

13 Q Mr. Crider, have you been exposed to any
14 information about this case since yesterday, read
15 any newspapers or anything of that nature?

16 A Not since yesterday, no.

17 Q And do you recall the instructions by me that
18 you're not to read any newspaper, listen to any
19 radio, T.V. or anything concerning this matter?

20 A I do.

21 Q And from the time you received your summons,
22 have you been contacted by anyone concerning this
23 case?

24 A No, I have not.

25 Q Did you get a chance to look over this list of

1 people who might testify in this case?

2 A Yes, I have.

3 Q Do you know anyone on that list?

4 A Lieutenant Bill Cartwright is the only one and
5 maybe Sheriff Summers.

6 Q And the fact that they may testify, would that
7 affect your ability to be fair and impartial in this
8 case?

9 A No, it would not.

10 Q Have you heard anything about this case?

11 A Just what I read years ago and heard on the
12 news.

13 Q Would you be able to set aside what you might
14 have heard or read before and decide this case
15 solely based on the evidence presented in this
16 courtroom if you were picked as a juror?

17 A Yes, I could.

18 Q Do you understand that the defendant is
19 presumed to be not guilty, is presumed to be
20 innocent of these charges and that means that he
21 cannot be found guilty unless the State proves
22 beyond a reasonable doubt to each and every juror
23 that he is, in fact, guilty?

24 A Yes, I understand that.

25 Q And would you be able to follow that principle

1 of law along with all other instructions of law that
2 I give you?

3 A Yes, I could.

4 Q Have you had a chance to look over this sheet
5 outlining three types of jurors?

6 A Yes, I have.

7 Q Now, ordinarily, in a criminal case, the jury
8 is not concerned about punishment or what it should
9 be. And in this case, he is presumed to be not
10 guilty, but in the event he's found guilty of
11 murder, then the jury would be concerned about
12 punishment. And in that connection, we need to know
13 what type of juror best describes you. From looking
14 at this juror sheet, which of those three types of
15 jurors best describe you?

16 A Number three.

17 Q And juror number three basically says that you
18 would not automatically vote for the death penalty
19 in a case of murder, that you would not
20 automatically vote for life imprisonment without
21 possibility of parole in the case of murder, but
22 that you could vote either way depending on the
23 facts and circumstances, the aggravating
24 circumstances and the mitigating circumstances.
25 Does that best describe you?

1 A Yes, it does.

2 Q And, sir, if you were selected as a juror in
3 this case, and the jurors will be sequestered,
4 meaning housed together probably up to ten days or
5 so while the case is going on, and aside from the
6 general inconvenience to you, would that pose any
7 threat to your health or -- health to you or danger
8 to anyone else that might be dependent upon you?

9 A No, sir, it would not.

10 THE COURT: All right. I'm going to give the
11 State and the defense an opportunity to ask you any
12 questions that they might want to ask you.

13 First, Mr. Pascoe.

14 MR. PASCOE: Thank you, Your Honor.

15 VOIR DIRE

16 BY MR. PASCOE:

17 Q Good morning, Mr. Crider. My name is David
18 Pascoe. I'm the Solicitor. Sir, you can give both
19 the State of South Carolina and the defendant a fair
20 trial in this case if you were seated as a juror?

21 A Yes, I could.

22 Q And you can listen to the Judge's instructions
23 even in the penalty phase in determining whether to
24 give a life sentence or the death penalty, you can
25 listen to the law as the Judge gives it to you?

1 A Yes, I could.

2 Q And you could sentence the defendant to either
3 life or the death penalty depending on the facts of
4 the case?

5 A Yes, sir.

6 Q And depending on the law the Judge gives you?

7 A Yes, sir.

8 MR. PASCOE: That's all I have, Your Honor.

9 THE COURT: From the defense.

10 MR. WALTERS: May it please the Court.

11 VOIR DIRE

12 BY MR. WALTERS:

13 Q Mr. Crider, you previously had been in the
14 military?

15 A A short while.

16 Q What branch did you serve in, sir?

17 A In the Army.

18 Q How long were you in the military?

19 A Just about three months.

20 Q And I believe your wife works at Orangeburg
21 National?

22 A That's correct. Well, it changed names. It's
23 not Orangeburg National.

24 Q Community Resource Bank?

25 A There you go.

1 Q And when you indicated that you could -- you
2 believe that you're more aligned with type number
3 three, what you're essentially saying to the Court
4 is, is that, the two step process, number one, you
5 realize the State has to prove their case beyond a
6 reasonable doubt. And, of course, after that phase,
7 if there is a sentencing phase, are you willing to
8 listen to the aggravating circumstances in the case
9 that the Solicitor may present?

10 A Yes, I am.

11 Q And when we say aggravating circumstances, that
12 means a murder has occurred along with another act
13 and they present that to you. Are you also willing
14 to listen to the mitigating factors that may be
15 presented by the defense?

16 A Yes, I can.

17 Q For instance, how someone was raised, the
18 trappings that they grew up in, their family life
19 and things of that nature, are you willing to
20 consider that, also?

21 A Yes, I am.

22 MR. WALTERS: Your Honor, I have no further
23 questions.

24 THE COURT: All right, sir, if you'll step
25 right outside the door.

1 (Juror leaves the courtroom.)

2 THE COURT: What says the State?

3 MR. PASCOE: Qualified, Your Honor.

4 THE COURT: Defense?

5 MR. WALTERS: He's qualified, Your Honor.

6 THE COURT: If you'll have him come back.

7 (Juror enters the courtroom.)

8 THE COURT: Mr. Crider, you are qualified to
9 serve as a juror in this case. It does not mean
10 that you have been selected. We hope to do the jury
11 selection tomorrow around noontime. And for all the
12 folks who are qualified, including you, we'll need
13 them to bring -- to pack as if you are selected and
14 to be at the annex conference room over there at
15 noon tomorrow with enough clothes and medicine to
16 last you for ten days.

17 Now, we have an information sheet that you
18 might give to your -- or keep, at least your folks
19 will know where you'll be if you are selected. You
20 might also arrange for someone to get your car
21 because if you are selected, you will not be able to
22 go back home with your car.

23 Now, please remember that you're not to read
24 anything or expose yourself to any information about
25 this case. It will be a violation of your oath as a

1 juror to do so. We look forward to seeing you
2 tomorrow.

3 JUROR: Okay.

4 THE COURT: Thank you, sir.

5 (Juror was excused for the day.)

6 THE COURT: We now move to panel number three.

7 (Whereupon, Joann Green-Jackson, a black
8 female, enters the courtroom.)

9 JOANN GREEN-JACKSON,
10 having been previously duly sworn, testified as
11 follows:

12 VOIR DIRE

13 BY THE COURT:

14 Q All right. Ms. Jackson, how are you doing?

15 A Fine. Thank you.

16 Q Please have a seat. Ms. Jackson, welcome back.
17 I need to ask you some questions along with the
18 lawyers who may want to ask you some as well. Where
19 do you work, Ms. Jackson?

20 A Orangeburg County Council on Aging.

21 Q And how long have you been there?

22 A Four years.

23 Q And what area of this county do you live in?

24 A Calhoun County, Sweet Water Lake area.

25 Q And have you been exposed to any information

- 1 about this case since yesterday?
- 2 A No.
- 3 Q -Have you read any newspapers or anything?
- 4 A No newspaper.
- 5 Q And has anyone approached you or tried to talk
- 6 with you about this case since you received your
- 7 juror summons?
- 8 A No.
- 9 Q Have you heard anything about this case?
- 10 A When it first happened.
- 11 Q And would you be able to set aside what you
- 12 might have heard about this case since it first
- 13 happened and decide this case solely based on the
- 14 evidence presented in this courtroom?
- 15 A I feel that I could.
- 16 Q And would you be able to follow the
- 17 instructions of law that I would give you?
- 18 A Yes.
- 19 Q And do you know that the defendant is presumed
- 20 to be not guilty of these charges?
- 21 A Yes.
- 22 Q And cannot be found guilty unless the State
- 23 proves his guilt beyond a reasonable doubt?
- 24 A Yes.
- 25 Q Now, ordinarily, a juror is not concerned with

1 question of punishment, but if the jury should find
2 him guilty of murder, then the jury would be
3 concerned about punishment. And in that connection,
4 we need to know what your views are concerning
5 certain issues, particularly the three types of
6 jurors and how you fit into that scheme of thing.
7 Have you had a chance to look over this list of
8 types of jurors?

9 A Yes, I did.

10 Q And which of the three types of jurors best
11 describe you?

12 A Type three.

13 Q A type three juror, according to this paper, is
14 one who could vote and bring in a verdict for life
15 imprisonment without the possibility of parole or
16 could bring in a verdict for the death penalty
17 depending upon the facts and circumstances in
18 aggravation and in mitigation that is presented
19 during court. Is that your view?

20 A Yes, it is.

21 Q Did you know any of the witnesses on that list
22 of prospective witnesses?

23 A The only name that I recognized was Larry
24 Williams. And, of course, we know why I recognize
25 him because he's the Sheriff of Orangeburg.

1 Q And would the fact that you recognize his name
2 and that he might be a witness, would that affect
3 your view in any way?

4 A No, it wouldn't.

5 Q And if voting for the death penalty would
6 require you to sign your name to the verdict form
7 and come into court and stand up and announce that
8 that is your verdict, would you be able to do that?

9 A Yes.

10 THE COURT: All right. I'm going to have the
11 State or the defense ask you any questions that they
12 might have.

13 First, we'll go with the defense. Mr. Koger.

14 MR. KOGER: May it please the Court.

15 VOIR DIRE

16 BY MR. KOGER:

17 Q Ms. Jackson, how are you doing this morning?

18 A Fine. Thank you.

19 Q Ms. Jackson, you stated that you are a type
20 three juror?

21 A Yes.

22 Q And, essentially, that is that you need to
23 listen to all of the facts in the case?

24 A Right.

25 Q You need to listen to all the evidence in the

1 case?

2 A Yes.

3 Q And upon hearing that evidence, then you'll
4 make a determination as to guilt?

5 A Yes.

6 Q And as to sentencing?

7 A Yes.

8 Q And by saying that you are a type three, you'll
9 also listen for evidence pertaining or related to
10 the defendant?

11 A Yes.

12 Q And you're willing to listen to evidence as far
13 as his background?

14 A Yes.

15 Q As far as how he was brought up?

16 A Yes.

17 Q As far as what type of situation he may have
18 encountered growing up?

19 A Yes.

20 Q And, basically, you would listen to the total
21 picture?

22 A Total picture.

23 Q Along with listening to what comes from the
24 Solicitor's office?

25 A Yes.

1 Q Back with what you heard about it back when it
2 happened, did you form any opinion back then about
3 the case?

4 A No, I didn't.

5 Q And yesterday also, I believe, Ms. Jackson, you
6 had stood up and indicated that Mr. Walters, I think
7 it was, had represented your church; is that
8 correct?

9 A Yes.

10 Q How long ago was that that that occurred?

11 A It's been probably about seven years.

12 Q About seven years ago?

13 A Yes.

14 Q And did you have any personal dealings with him
15 at that time yourself?

16 A No.

17 Q And, also, I think -- one other question as far
18 as the questionnaire that you filled out. You had
19 indicated on the back of the questionnaire that a
20 family member of yours works for SLED, the State Law
21 Enforcement Division; is that correct?

22 A No. A former family member, my husband used to
23 work for them years ago, but he's deceased.

24 Q Okay. It says any member of your family ever
25 worked for law enforcement. So that was a former --

1 that was your husband who's deceased. And how long
2 ago was that, ma'am, that he worked for SLED?

3 A He's been dead since 2001 and he was retired
4 probably about 15, 16 years.

5 Q So it's been a while. And you indicated he
6 worked in transportation for SLED?

7 A Right.

8 Q Now, just a couple questions, ma'am, if I
9 could, about your feelings on the death penalty.
10 You had indicated, as you told the Court and also
11 Mr. Koger, that in looking at these three types of
12 jurors, you're a type three juror?

13 A Yes.

14 Q And, basically, by that, that means that you
15 can basically look at everything, look at the
16 evidence presented by the State and also any
17 mitigation presented by the defense before you reach
18 your decision?

19 A Yes.

20 Q And if the facts warranted it, you could give
21 the death penalty?

22 A Yes.

23 Q If you felt it didn't warrant it, you could
24 return a life sentence; is that correct?

25 A Yes.

1 Q And you do understand, ma'am, that you -- if
2 you did -- looking at all those facts, came to the
3 decision with your other 11 jurors that, in fact,
4 the death penalty was warranted, that you then would
5 have to sign your name on a form indicating that
6 y'all were saying the death penalty is what was
7 warranted; is that correct?

8 A That's correct.

9 Q And you could do that?

10 A Yes.

11 Q And you could then come into this courtroom in
12 front of the public and then tell the public that
13 that, in fact, is your verdict; is that correct?

14 A Correct.

15 Q And you are, in fact, then, ma'am, in favor of
16 the death penalty? You don't have any opposition to
17 the death penalty, do you?

18 A No, if it's warranted.

19 MR. SORENSON: Thank you, Ms. Jackson.

20 THE COURT: All right. Ms. Jackson, if you'll
21 stand right by the door there. We'll have you come
22 right back in.

23 (Juror leaves the courtroom.)

24 THE COURT: What says the defense?

25 MR. KOGER: Qualified, Your Honor.

1 **THE COURT:** What says the State?

2 **MR. SORENSON:** She's qualified, Your Honor.

3 **THE COURT:** She can come back.

4 (Juror enters the courtroom.)

5 **THE COURT:** Ms. Jackson, you can stand right
6 there. I don't know if I got into this with you or
7 not. If you were selected to be a juror in this
8 case, the jurors will be kept together during the
9 entire trial and housed together at the Sleep Inn on
10 601 until the case is over. Aside from that
11 inconvenience to you, would that pose any threat or
12 danger to your health or well-being of anybody who
13 is dependent upon you?

14 **JUROR:** No.

15 **THE COURT:** We had hoped to select a jury at
16 noon tomorrow. And we're asking all qualified
17 jurors, including yourself, to be packed with enough
18 clothes for ten days and to come over to the annex
19 where there's a conference room and to wait there
20 until we have you to come over here. And here's an
21 information sheet prepared by Mr. Hasty, your clerk,
22 so that your family will know where you are as well.

23 **JUROR:** Okay.

24 **THE COURT:** Okay. And we'll need to see you
25 tomorrow at noon. Please be certain not to read any

1 newspaper, observe any television or Internet or
2 allow anyone to talk with you about this case.

3 JUROR: Okay. So I'm through for today?

4 THE COURT: You're through for this day. We'll
5 see you tomorrow at noon. Thank you very much.

6 (Juror was excused for the day.)

7 THE COURT: All right. The next person.

8 (Whereupon, Irvin J. Mintz, a black male,
9 enters the courtroom.)

10 IRVIN J. MINTZ,
11 having been previously duly sworn, testified as
12 follows:

13 VOIR DIRE

14 BY THE COURT:

15 Q Good morning. How are you today?

16 A I'm fine.

17 Q Mr. -- is it Mintz?

18 A Yes.

19 Q Mr. Mintz, where do you work?

20 A I'm self-employed. I have a mechanic shop in
21 Saint Matthews.

22 Q A mechanic shop in Saint Matthews. And how
23 long have you operated that shop?

24 A My hours?

25 Q How long have you ran that business?

1 A About a year.

2 Q About a year. And if you were to be selected
3 to be on jury duty, you understand that jurors in
4 this case would be sequestered for a period of time
5 until the case is over, meaning that the jurors
6 would be kept together at a local motel and will be
7 together other than being in the courtroom?

8 A Do I have a problem with that?

9 Q Do you understand that?

10 A Yes.

11 Q And aside from the inconvenience to you that
12 that might be, would that pose any danger to your
13 health or welfare or health or welfare of anyone
14 dependent upon you?

15 A No.

16 Q Have you heard or read anything about this case
17 since you left here yesterday?

18 A No, I haven't.

19 Q Has anyone contacted you about this case since
20 you received your juror summons?

21 A No.

22 Q Have you heard anything about this case,
23 period?

24 A A while back I heard something about it. I
25 heard about the incident.

1 Q And did that cause you to form any opinion
2 about the guilt or innocence of this defendant?

3 A No.

4 Q Would you be able to set aside what you might
5 have heard about this case back when and decide this
6 case solely based on the evidence presented in this
7 courtroom?

8 A Right.

9 Q And would you also be able to follow the law as
10 I will give it to you?

11 A That's right.

12 Q Now, the law is that the defendant is presumed
13 not guilty of these charges and must be found not
14 guilty unless the State proves beyond a reasonable
15 doubt that he is guilty. Do you understand that?

16 A Yes.

17 Q He does not have to prove his innocence. He
18 does not have to testify. The burden is not on him.
19 The burden is on the State. Do you understand that?

20 A Yes.

21 Q And did you get a chance to look at the list of
22 potential witnesses in this case?

23 A Yes.

24 Q Did you know anyone on that list?

25 A Randomly, I saw three people that -- I mean,

1 don't really know them, but I know of them.

2 Q And who were they?

3 A Attorney Glenn Walters, the Calhoun County
4 Sheriff and the Orangeburg County Sheriff.

5 Q And the fact that you may have recognized those
6 names or heard about them, would that affect your
7 ability to be fair and impartial?

8 A No.

9 Q Now, jurors are not normally involved or
10 concerned with punishment, but in the case of a
11 person found guilty of murder where the State seeks
12 the death penalty, the jury is concerned about what
13 penalty or what punishment the person might get, and
14 that's only if the jury finds the person guilty of
15 murder and the State seeks the death penalty. Do
16 you understand?

17 A Yes.

18 Q Now, if you were selected on this jury and if
19 for some reason, the jury found the defendant guilty
20 of murder, then the jury would be concerned about
21 what the punishment the defendant should get. And
22 in that connection, I need to ask you where you fit
23 as to these particular three types of jurors. Do
24 you understand?

25 A (Witness nodded head.)

- 1 Q Do you understand that, sir?
- 2 A Yes.
- 3 Q And do you recall the three types of jurors?
- 4 A Yeah, I read them.
- 5 Q You read the three types, type one, type two
- 6 and type three?
- 7 A (Witness nodded head.)
- 8 Q And which of the three best describes you?
- 9 A The number three.
- 10 Q And the number three juror indicates, according
- 11 to this sheet, that you could vote for life
- 12 imprisonment without the possibility of parole or
- 13 you could vote and bring in a verdict for the death
- 14 penalty depending upon the aggravating circumstances
- 15 and the mitigating circumstances in the case; is
- 16 that your viewpoint?
- 17 A Life sentence.
- 18 Q Sir?
- 19 A Life sentence in prison that's what I would --
- 20 but I was thinking in terms of the death penalty. I
- 21 wouldn't -- that would be a clause (sic) there for
- 22 me.
- 23 Q Would be a what?
- 24 A A clause.
- 25 Q A clause?

1 A Yes.

2 Q Could you vote for the death penalty if you
3 believe that that would -- should be the appropriate
4 sentence?

5 A No, I wouldn't.

6 Q Could you think -- could you -- are you opposed
7 to the death penalty?

8 A Yes.

9 Q And is your opposition to the death penalty so
10 firm that you could never vote for the death penalty
11 regardless to how serious the case -- the facts may
12 be?

13 A There still would be a question in my mind on
14 that.

15 Q What do you mean when you say a question in
16 your mind?

17 A Because I'm thinking if death penalty, I would
18 think, versus life just give them life and keep them
19 away from everybody else, just keep them in prison
20 for life.

21 Q So could you ever vote for the death penalty?

22 A I don't think I will...

23 Q Sir?

24 A No.

25 Q No?

1 **A** No.

2 **THE COURT:** Let me see if the lawyers want to
3 ask you some questions.

4 Mr. Sorenson.

5 **MR. SORENSON:** No, sir, no questions.

6 **THE COURT:** Mr. Walters.

7 **MR. WALTERS:** May it please the Court.

8 VOIR DIRE

9 BY MR. WALTERS:

10 **Q** Mr. Mintz, when you started discussing this
11 issue, you first started off saying, I'm a type
12 three; is that correct?

13 **A** Beg your pardon?

14 **Q** You stated you were a type three; is that
15 correct?

16 **A** Right.

17 **Q** And when you read type three, you -- it says
18 here. Let's carefully go through it because I want
19 to make sure I'm clear about your position. It just
20 says, The juror who, although the guilt of the
21 defendant has been determined, would not have his or
22 her mind made up in advance concerning punishment.
23 So, in other words, what number three is saying is,
24 is that you want to hear both sides?

25 **A** Right.

1 Q You want to hear everything, the aggravating
2 circumstances and the mitigating circumstances; is
3 that correct?

4 A Right.

5 Q All right. So you want the total picture put
6 before you. The second part of this says, This
7 juror would need to hear the facts and circumstances
8 in aggravation and mitigation and would want to
9 listen to and follow the law before he or she could
10 make the decision regarding punishment. In other
11 words, His Honor would instruct you on what the law
12 is. Are you willing to follow the law?

13 A Yes.

14 Q Okay. It then goes on and states, The judge
15 charges the jury before he or she could make a
16 decision regarding punishment and if the facts so
17 warranted, this juror could bring a verdict of life
18 imprisonment. In other words, what they're saying
19 is, is that if you heard facts that were sufficient,
20 you could give someone a life sentence; is that
21 correct?

22 A Yes.

23 Q But then the second part of it says, Without
24 the possibility of parole. That means that you
25 would keep them away from everyone else. They would

1 never get out of jail. However, it also says, Also,
2 if the facts so warranted, the juror could bring in
3 a verdict for the death penalty.

4 And I want to make sure I'm clear about your
5 position with regards to the death penalty. His
6 Honor, when he inquired of you and he said, is there
7 a situation or are there circumstances where
8 something is done that's very, very, very, very bad,
9 under those circumstances, is there a possibility
10 that you could not only consider the death penalty,
11 but you could actually vote for the death penalty if
12 the situation warranted, based upon your beliefs and
13 your ideals and the way you see the events, could
14 there be a situation where you could actually vote
15 for the death penalty?

16 **A** At this time, no.

17 **Q** All right. Let's talk about that. You said,
18 At this time. Of course, at this time, we're all
19 sitting in this courtroom and we're not faced with
20 that dilemma. We're sort of putting the cart before
21 the horse. What I want to ask you is, is that if
22 there were facts that were sufficient, that were
23 egregious, that were very, very bad and they were
24 presented to you and both sides, during the
25 advocacy, had an opportunity to cross-examine and go

1 back and forth and present their witnesses, if there
2 was evidence that showed that something was very,
3 very heinous, very foul, very dirty, is there a
4 possibility that you could actually vote along with
5 jurors to return a death sentence for something?

6 A I still say, no, I wouldn't vote on a death
7 penalty.

8 Q You would never in any case vote for the death
9 penalty?

10 A (Witness shook head.)

11 MR. WALTERS: Your Honor, we have no further
12 questions.

13 THE COURT: All right, sir, if you'll stand
14 right outside the door.

15 (Juror leaves the courtroom.)

16 THE COURT: What says the State?

17 MR. SORENSON: Your Honor, we feel he's not
18 qualified.

19 THE COURT: What says the defense?

20 MR. WALTERS: I would agree, Your Honor.

21 THE COURT: All right. Have him come right
22 back in.

23 (Juror enters the courtroom.)

24 THE COURT: Thank you, Mr. Mintz. In order to
25 be qualified to serve on the jury in this case, you

1 must be able to give the death penalty under certain
2 circumstances. You've expressed your opinion. And,
3 of course, we certainly respect your opinion
4 concerning favoring life imprisonment without the
5 possibility of parole, but because of your opinion,
6 you're not qualified to serve on this jury.

7 So we want to thank you and release you from
8 further jury duty. Please do not discuss anything
9 that we've discussed with you with anyone else who
10 might still have to come in and be asked these
11 questions. Thank you very much. You're free to go.

12 (The juror was excused.)

13 **THE COURT:** All right. The next juror,
14 Mr. Kaiser.

15 (Whereupon, Charles F. Kaiser, a white male,
16 enters the courtroom.)

17 **CHARLES F. KAISER,**
18 having been previously duly sworn, testified as
19 follows:

20 **VOIR DIRE**

21 **BY THE COURT:**

22 **Q** Mr. Kaiser, how are you doing?

23 **A** I'm fine, sir.

24 **Q** Good. Good to see you again. Mr. Kaiser,
25 where do you work?

1 A Bank of America.

2 Q And what do you do over there?

3 A I am in credit inquiry. And what I do is
4 mainly answer phones, provide balances to mortgage
5 companies and businesses looking for balances to
6 give credit or social services, you know, wanting to
7 get balances on people's accounts.

8 Q And have you heard or read anything about this
9 case since yesterday?

10 A No, Your Honor, I have not.

11 Q And has anyone contacted you about this case
12 since you received your juror summons?

13 A No, sir.

14 Q Have you heard anything about this case period?

15 A No, sir.

16 Q And you, of course, heard my admonition to the
17 jurors not to read or allow anyone to talk with you
18 about it, not to be exposed to any information other
19 than what you get from inside the courtroom?

20 A Yes, sir, I did.

21 Q Now, the defendant has pled not guilty and he's
22 presumed to be not guilty of these charges. And he
23 cannot be found guilty unless the State proves his
24 guilt beyond a reasonable doubt. Do you understand
25 that?

1 A Yes, sir.

2 Q But in the event he is found guilty of murder,
3 then the jury would be concerned about punishment.
4 Now, if you were a juror on this case or on any case
5 and you were concerned about punishment in such case
6 where the defendant has been found guilty of murder
7 and the State is seeking the death penalty, then
8 have you considered what type of juror that you are,
9 type one, two or three?

10 A Yes, sir, I have.

11 Q And which of the three types best describe you?

12 A Number three.

13 Q And a number three juror is one who could bring
14 in a verdict of life imprisonment without the
15 possibility of parole or could bring in a verdict
16 for death depending upon the facts and circumstances
17 in aggravation and mitigation in a case where the
18 defendant has been found guilty of murder and the
19 State is seeking the death penalty. Is that your
20 understanding?

21 A Yes, sir.

22 Q And is that the type of juror that you are?

23 A I believe so, yes, sir.

24 Q And, sir, the jurors in this case will be
25 sequestered for a period of time, maybe ten days or

1 so. Aside from the obvious inconvenience that that
2 would be, would that pose any danger to your health
3 or danger to the health of anyone else?

4 A No, sir.

5 THE COURT: Any questions by the State?

6 MR. SORENSON: Just very briefly, Your Honor.

7 VOIR DIRE

8 BY MR. SORENSON:

9 Q Good morning, Mr. Kaiser.

10 A Good morning.

11 Q My name is Don Sorenson. I'm with the
12 Solicitor's office and appreciate you coming back
13 this morning. Sir, do you have any deeply held
14 beliefs either for or against the death penalty?

15 A No, sir, not really.

16 Q And you've indicated to the Court that you
17 consider yourself to be a type three juror?

18 A Yes, sir.

19 Q And by -- what that means essentially is that
20 you'd be able to look at the whole picture?

21 A Correct.

22 Q Look at all of the evidence presented by the
23 State in aggravation and, also, all of the evidence
24 presented by the defense in mitigation and then come
25 to a decision?

1 A Yes, sir.

2 Q And if you felt the facts warranted it, you
3 could return a verdict for the death penalty; is
4 that correct?

5 A Yes, sir, I believe I could, yes, sir.

6 Q And if you feel the facts warranted it, you
7 could also return a verdict of life imprisonment; is
8 that correct?

9 A Yes, sir.

10 Q And just make sure you understand that if you
11 and your other 11 jurors were to reach a decision
12 that you felt the death penalty was the appropriate
13 sentence in this case, would you be able to then
14 sign your name to a piece of paper indicating that
15 you believe the death penalty is the appropriate
16 verdict?

17 A Yes, sir, I would.

18 Q And then be able to come into this courtroom
19 and publish that verdict to the public?

20 A Yes, sir.

21 MR. SORENSON: Thank you, Mr. Kaiser. I don't
22 have any other questions.

23 MR. KOGER: May it please the Court.

24 THE COURT: Yes, sir, Mr. Koger.

25 ****

1

VOIR DIRE

2

BY MR. KOGER:

3

Q Mr. Kaiser, if the State does not prove their
4 case, you could return a verdict of not guilty,
5 correct?

6

A Correct.

7

Q All right. And if a conviction does come back,
8 you could vote for life in prison without parole,
9 correct?

10

A I could, yes, sir.

11

Q Okay. And that would depend upon the evidence
12 that came out during the trial, correct?

13

A That's correct.

14

Q That would depend upon what the State put
15 forward, correct?

16

A Correct.

17

Q And that would depend upon what came out about
18 the defendant?

19

A Correct.

20

Q Would you give meaningful consideration for any
21 information relating to the background of the
22 defendant?

23

A I'm sorry, could you repeat that?

24

Q Would you give meaningful consideration to any
25 type of information that would come out about the

1 background of the defendant?

2 A Yes, sir, I would.

3 Q Okay. About the defendant's upbringing?

4 A Yes, sir, I would.

5 Q About some things that might have happened in
6 his childhood that could have affected later
7 actions, you would give meaningful consideration to
8 that?

9 A Yes, sir.

10 Q And you would use that consideration in
11 determining whether a person would get the death
12 penalty or life without parole?

13 A Yes, sir, along with the facts.

14 Q Along with the facts?

15 A Along with the facts, yes, sir.

16 Q And even if the facts don't bear that it's a
17 guilty conviction, you could vote for not guilty?

18 A I'm sorry?

19 Q Okay. Even if the facts come back that it does
20 not equate to a conviction, if the State does not
21 prove their case beyond a reasonable doubt, that you
22 could come in with a not guilty verdict?

23 A Yes, sir.

24 MR. KOGER: Thank you. No further questions.

25 THE COURT: Did you get a chance to look over

1 the witness list?

2 JUROR: Yes, sir, I did.

3 THE COURT: Did you know anyone on that list?

4 JUROR: No, sir, I did not.

5 THE COURT: All right. If you'll stand right
6 beside the door for a moment, we're going to talk
7 with the lawyers and have you come right back in.

8 (Juror leaves the courtroom.)

9 THE COURT: What says the State?

10 MR. SORENSON: He's qualified, Your Honor.

11 THE COURT: What says the defense?

12 MR. KOGER: Qualified, Your Honor.

13 THE COURT: All right. He can come back in.
14 He is qualified.

15 (Juror enters the courtroom.)

16 THE COURT: All right, sir. Mr. Kaiser, you're
17 qualified to serve as a juror in this case. We hope
18 to select this jury tomorrow at noon. We need to
19 have you come packed and ready to stay with us until
20 the case is over, which may be for a period of ten
21 days. The jurors will be sequestered in the Sleep
22 Inn in Orangeburg.

23 Now, you have not been selected for the jury,
24 but you still may be selected. You're in the final
25 pool for the jury to be selected.

1 I need you to meet over at the annex at noon
2 tomorrow and be prepared for someone to be able to
3 pick up your car if you have to stay with us. And
4 please do not read any newspapers, watch T.V. or be
5 exposed to any media accounts because that may
6 disqualify you and also would be a violation of your
7 oath as a juror.

8 **JUROR:** Okay.

9 **THE COURT:** Here's the sheet of paper. Be sure
10 that we have your phone number as well in the event
11 there's any change, but unless you hear from us,
12 we'll need you here at noon tomorrow. Thank you
13 very much.

14 (Juror was excused for the day.)

15 **THE COURT:** All right, Ms. Gunter.

16 (Whereupon, Mary B. Gunter, a white female,
17 enters the courtroom.)

18 MARY B. GUNTER,
19 having been previously duly sworn, testified as
20 follows:

21 VOIR DIRE

22 BY THE COURT:

23 **Q** Hello, Ms. Gunter. How are you?

24 **A** Good. How are you today?

25 **Q** Good. Thanks for coming back, Ms. Gunter. We

- 1 need to ask you some questions. Where do you work?
- 2 A Orangeburg Area Mental Health Center.
- 3 Q How long have you been there?
- 4 A Fourteen years I think.
- 5 Q And whereabouts do you live in this county?
- 6 A On Bellville Road.
- 7 Q And, Ms. Gunter, have you read or heard
- 8 anything about this case since yesterday?
- 9 A No.
- 10 Q You haven't read any newspapers, T.V. or
- 11 anything?
- 12 A No.
- 13 Q Has anyone attempted to contact you about this
- 14 case since you received service of your juror
- 15 summons?
- 16 A No.
- 17 Q And I think you indicated through the
- 18 questioning yesterday that you had heard something
- 19 about this case?
- 20 A Yes.
- 21 Q And when was that?
- 22 A When the incident occurred, I just saw it in
- 23 the paper.
- 24 Q And did that cause you to form an opinion as to
- 25 the guilt or the innocence of this defendant?

1 A No.

2 Q And would you be able to set aside what you may
3 have heard or read about this case at the time of
4 the alleged occurrence and decide this case solely
5 based on the evidence presented in the courtroom
6 along with the law as I will instruct you?

7 A Yes.

8 Q Now, the defendant is presumed to be not guilty
9 and cannot be found guilty unless the State proved
10 his guilt beyond a reasonable doubt. Do you
11 understand that?

12 A Yes, sir.

13 Q He has no obligation or no -- he's not
14 obligated to -- no burden to prove his innocence.
15 Do you understand that, ma'am?

16 A Yes.

17 Q Now, ordinarily, a jury is not concerned about
18 punishment, but in a case where the State seeks the
19 death penalty for murder, if the defendant, and only
20 if the defendant is found guilty of murder, then the
21 jury must consider punishment. And in that
22 connection, we would like to know your views
23 concerning the death penalty and punishment. Did
24 you look over the type one, type two and type three
25 jurors?

1 A Yes.

2 Q And do you recall those three types?

3 A Yes, sir.

4 Q And which of the three best describes you?

5 A Three.

6 Q And a type three juror, according to this
7 paper, is one who could vote for life imprisonment
8 without the possibility of parole or could vote for
9 the death penalty, but would vote for one versus the
10 other in a case where that was your consideration
11 such as where a person has been found guilty of
12 murder and the State seeks the death penalty, but
13 would not automatically vote for either one or the
14 other. They would not automatically vote for the
15 death penalty, would not automatically vote for life
16 imprisonment, but could vote for one or the other
17 depending upon the aggravating circumstances and the
18 mitigating circumstances of the case. Does that
19 best describe you?

20 A Yes.

21 Q And if you were to find the defendant guilty of
22 the criminal offense of murder and if you were to
23 find that the appropriate punishment was the death
24 penalty, then could you sign your name on the
25 verdict form and come into court and publish that

1 verdict as being your individual decision, as well
2 as the collective decision of all the jurors?

3 A Possibly.

4 Q Pardon me?

5 A Possibly.

6 Q Well, when a jury makes a decision in a case of
7 this nature, each juror signs the verdict form. And
8 if the death penalty was the verdict that the jury
9 reached, could you sign that verdict form?

10 A Yeah, if we reached that decision.

11 Q And if the jury reached that decision and
12 they'd come into the courtroom and announced that
13 decision and you were asked individually, is that
14 your decision, would you stand up and say, yes,
15 that's my decision?

16 A Yes.

17 Q And, conversely, if your decision along with
18 other jurors' decision was life imprisonment without
19 the possibility of parole, could you do the same
20 thing?

21 A Yes.

22 Q Come in and announce your verdict?

23 A Yes.

24 Q Now, did you look at the witness list?

25 A Yes, I did.

1 Q Did you know anyone on that list?

2 A No.

3 THE COURT: Let me see if the State or the
4 defense has any questions for you. First, the
5 defense.

6 MR. WALTERS: May it please the Court.

7 VOIR DIRE

8 BY MR. WALTERS:

9 Q Good morning, Ms. Gunter. Thank you for coming
10 in today. My name is Glenn Walters and I'm part of
11 the defense team. Ms. Gunter, you stated that
12 you're a type three; is that correct?

13 A Uh-huh.

14 Q And, essentially, I want to make sure I'm clear
15 on your position, number one, you understand the
16 State has to prove their case beyond a reasonable
17 doubt, that is in the first phase. And you, as a
18 juror, will have to make an individual decision as
19 to whether they've proven their case beyond a
20 reasonable doubt. And what you're telling us is, is
21 that based on the facts and the information that's
22 presented to you, you would either vote guilty or
23 not guilty; is that correct?

24 A Yes.

25 Q And, of course, in the second phase, if there's

1 a sentencing phase, of course, you would be required
2 to listen to information that we refer to as
3 aggravating circumstances and the Solicitor will
4 present that. And, of course, we will present
5 mitigating circumstances, something about the
6 defendant's childhood, how he was raised, the family
7 and things of that nature. Would you consider all
8 of that in making your decision?

9 A Yes.

10 Q Do you have any family in law enforcement?

11 A No.

12 Q And, again, your position is, is that you're a
13 type three juror in this particular case, ma'am?

14 A Yes. I've served on a death penalty trial
15 before.

16 Q You have?

17 A Yes.

18 Q What death penalty case did you serve on,
19 ma'am?

20 A Herman Hughes.

21 Q Herman Hughes. What year was that, ma'am?

22 A 1995, I believe. I'm not sure.

23 Q And what verdict was returned by the jury?

24 A Guilty.

25 Q He was found guilty in the guilt phase and

1 then, of course, you had to go through the
2 sentencing phase; is that correct?

3 **A** Yes.

4 **Q** And what was the verdict that was returned in
5 regards to the sentencing phase?

6 **A** He received the death penalty.

7 **Q** So you served on a jury before where you've met
8 your civic duty. And in that particular case, you
9 were open minded, you listened to the facts and you
10 decided that, evidently, he was guilty beyond a
11 reasonable doubt. And then, of course, you believed
12 that the facts and circumstances, mitigating and
13 aggravating circumstances, warranted that the death
14 penalty should be issued?

15 **A** Yes.

16 **MR. WALTERS:** Thank you for being very honest
17 with us.

18 **THE COURT:** Any questions by the State?

19 **MR. SORENSON:** No.

20 Thank you, Ms. Gunter.

21 **THE COURT:** Ms. Gunter, let me say this to you.

22 If you were selected as a juror in this case, the
23 jury would be sequestered for a period of the trial
24 in a local motel at the county's expense. And other
25 than the inconvenience that that would cause you,

1 would that pose a danger to your health or the
2 health of anyone who you're responsible for taking
3 care of?

4 JUROR: No.

5 THE COURT: Thank you very much. If you'll
6 stand right by the door.

7 (Juror leaves the courtroom.)

8 THE COURT: What says the defense?

9 MR. WALTERS: Your Honor, I believe she's open
10 minded and she's very honest. I don't think I have
11 grounds to say that she's unqualified.

12 THE COURT: What says the State?

13 MR. SORENSON: I agree, Your Honor, she's
14 qualified.

15 THE COURT: All right. If you'll bring her
16 back in.

17 (Juror enters the courtroom.)

18 THE COURT: Ms. Gunter, you are qualified to
19 serve as a juror in this case. And we're going to
20 try to select this jury at noon tomorrow. We need
21 all of the qualified jurors, including yourself, to
22 meet at the annex here at noon tomorrow.

23 Please do not discuss the case, do not read
24 anything about it or allow anyone to discuss it with
25 you. And you might want to -- you're not on the

1 jury at this point, but you potentially may be on
2 the jury and we'll find out tomorrow. We'll need
3 you to come back at noon tomorrow packed and be
4 prepared to stay with us for ten days.

5 JUROR: Okay.

6 THE COURT: Thank you very much and we'll see
7 you tomorrow.

8 (Juror was excused for the day.)

9 THE COURT: All right. The next juror, Theresa
10 Huggins.

11 (Whereupon, Theresa N. Huggins, a black
12 female, enters the courtroom.)

13 THERESA N. HUGGINS,
14 having been previously duly sworn, testified as
15 follows:

16 VOIR DIRE

17 BY THE COURT:

18 Q Ms. Theresa Huggins, how are you?

19 A I'm kind of hoarse.

20 Q You've gotten hoarse. You're still under oath
21 as you were yesterday. Ms. Huggins, where do work?

22 A I don't work. I'm a stay-at-home mom.

23 Q How many children do you have?

24 A One.

25 Q And how old is your child?

1 A She's 13.

2 Q And if you were to be put on this jury, do you

3 have someone that can take care of that child for a

4 couple of weeks?

5 A Yes, sir.

6 Q And have you heard anything or read anything

7 about this case since yesterday?

8 A No, sir.

9 Q Has anyone contacted you about this case since

10 you got your juror summons?

11 A No, sir.

12 Q Have you ever heard anything about this case?

13 A No, sir.

14 Q Did you take a look at this witness list here?

15 A Yes, sir.

16 Q Do you know anyone on that list?

17 A No, sir.

18 Q Did you look at the sheet of paper that says

19 what type of juror you are, type one, two or three?

20 A Yes, sir.

21 Q And which type juror most closely reflects you?

22 A Three.

23 Q And a type three juror is one who could give

24 life imprisonment or could give the death penalty

25 depending on the aggravating circumstances and

1 mitigating circumstances --

2 A Yes, sir.

3 Q -- once a person has been found guilty of
4 murder and the State seeks the death penalty. Is
5 that the type juror you are?

6 A Yes, sir.

7 Q Now, you understand that the defendant is
8 presumed to be not guilty and cannot be found guilty
9 of any crime unless the State proves beyond a
10 reasonable doubt that the defendant is guilty?

11 A Yes, sir.

12 Q And do you understand that any jury would only
13 be concerned about punishment if the defendant is
14 first found guilty of murder? Do you understand
15 that?

16 A Yes, sir.

17 Q And do you believe you would be able to follow
18 the law as I instruct you and decide this case
19 solely based on the facts?

20 A Yes, sir.

21 THE COURT: Let me see if the lawyers have any
22 questions for you.

23 First, from the State.

24 MR. SORENSON: May it please the Court, Your
25 Honor.

1

VOIR DIRE

2

BY MR. SORENSON:

3

Q Thank you, Ms. Huggins, for coming back this

4

morning. My name is Don Sorenson. I'm with the

5

Solicitor's office. And you had indicated to the

6

Court that you're a stay-at-home mom?

7

A Yes, sir.

8

Q And you're a single parent; is that correct?

9

A Yes, sir.

10

Q So does anybody else live with you besides you

11

and your daughter?

12

A My sister and my nephew and my brother.

13

Q And how old are all those --

14

A Well, my sister she's 40 -- no -- 38, excuse

15

me. And my brother he's 28. He'll be 29 next

16

month.

17

Q So is that who would take care of your daughter

18

if you were to happen to be selected on this case

19

and have to be sequestered for up to maybe two

20

weeks?

21

A Yes, sir.

22

Q Now, you had indicated, Ms. Huggins -- let me

23

ask you one thing real quick. Have you had an

24

opportunity, back while you were waiting, to look

25

over the list of potential witnesses in this case?

- 1 A Yes, sir.
- 2 Q Did you recognize or know anybody on that list?
- 3 A No, sir.
- 4 Q Okay. Thank you. Now, you had indicated to
- 5 the Court that when you had a chance to look at the
- 6 list of the three types of jurors, that you're a
- 7 type three juror; is that correct?
- 8 A Yes, sir.
- 9 Q Let me ask you, ma'am, Ms. Huggins, do you
- 10 favor the death penalty?
- 11 A No, I don't favor it.
- 12 Q Are you opposed to it?
- 13 A Somewhat, you got to hear the facts to really
- 14 -- to say about the death penalty for me, you know,
- 15 because it's not right for anybody to take nobody's
- 16 life.
- 17 Q Yes, ma'am. Let me ask you this. Could you --
- 18 after hearing all of the facts, can you envision --
- 19 are there certain circumstances that you feel are so
- 20 aggravated that the death penalty is warranted?
- 21 A I don't understand the question.
- 22 Q Are there certain -- I mean, you indicated that
- 23 you have to hear all of the facts, right?
- 24 A Yes.
- 25 Q Are there certain circumstances that you could

1 envision that are aggravated enough that you would
2 return a verdict of the death penalty?

3 A Yes, sir.

4 Q And those situations when you hear those facts
5 and return that verdict, would you be able to then
6 sign your name, ma'am, on a piece of paper saying
7 that I sentence this person to death?

8 A Yes, sir. Can I say why, sir?

9 Q Yes, ma'am.

10 A My mother was shot. She was an innocent
11 bystander, got shot in New York City. And the man
12 who did it we were seeking the death penalty for him
13 because my mother is no longer here. I had to grow
14 up without her.

15 Q And how long ago did that happen, ma'am?

16 A About 15, 16 years ago.

17 Q And is that something that has affected your
18 beliefs over time, over the last 15, 16 years?

19 A In a way. In a certain way, certain things.

20 Q Let me ask you this, ma'am. The fact that your
21 mom was killed in New York City 15, 16 years ago,
22 would you be able to set that aside and decide this
23 case based on just the facts that you hear in this
24 courtroom?

25 A Yes, I can, sir.

1 Q And you had indicated that they were seeking
2 the death penalty in that case up in New York. What
3 happened in that case?

4 A He got life in prison.

5 Q He got life in prison?

6 A Yes, sir.

7 Q And would the fact that that happened, would
8 that affect your ability to serve as a juror here in
9 this courtroom today?

10 A No, sir.

11 Q Let me back up where I was before we got on to
12 that. I think I had asked you about whether you
13 would be able to sign your name on a piece of paper
14 and you had indicated that, yes, you could do that?

15 A Yes, sir.

16 Q Okay. Would you then be able to come into this
17 courtroom, Ms. Huggins, and tell the Court and the
18 lawyers and the public that's here that you, in
19 fact, had returned a verdict of the death penalty
20 here in this case?

21 A After hearing all of the facts, yes, sir.

22 Q If you felt that it was warranted?

23 A Yes, sir.

24 Q So in general, ma'am, kind of going back to one
25 of my first questions I asked you about the death

1 penalty, in general, you're in favor of it in
2 certain circumstances?

3 A Yes, sir, in certain circumstances.

4 Q Is that correct?

5 A Yes, sir.

6 MR. SORENSON: Thank you, Ms. Huggins.

7 MR. KOGER: May it please the Court.

8 VOIR DIRE

9 BY MR. KOGER:

10 Q Ms. Huggins, but if the State does not prove
11 their case beyond a reasonable doubt, you could come
12 back with a verdict of not guilty, correct?

13 A True.

14 Q And you say you're a type three juror?

15 A Yes.

16 Q And, again, you need to listen to all of the
17 facts?

18 A Yes, sir.

19 Q And if they have not proven the facts, then you
20 could return a verdict of not guilty?

21 A Yes, sir.

22 Q Now, you stated about a person who was
23 connected with your mother. You said that he or she
24 received life in prison?

25 A He received life in prison.

1 Q Was it life in prison without parole or does he
2 have parole?

3 A Life in prison without parole because other
4 people had got hurt just as well as my mother got
5 killed.

6 Q All right. And that would not affect you in
7 determining guilt or innocence or penalty in this
8 particular case?

9 A Yeah, in a way, a little bit, not too much.

10 Q Okay. Now, you say it may affect you or --

11 A No, it won't affect me because this is -- I'm
12 done over that, but you're not guilty until all of
13 the facts is proved as you say. I got to hear all
14 of the facts to really know about the person and the
15 situation.

16 Q And would you consider -- in a trial of this
17 type, would you consider any type of background
18 information as it relates to the defendant?

19 A It might help.

20 Q It may help you. You will at least give
21 meaningful consideration to it?

22 A That's right because he is somebody, too.

23 Q All right. And the things that he or she may
24 have gone through, correct?

25 A True.

1 Q Let me ask you one more question and I will sit
2 down. If you're in the jury room and let's say out
3 of the 12, 11 was voting guilty and you were voting
4 not guilty, would you change your vote to guilty
5 just to get the case over with?

6 A No.

7 Q You would listen to a discussion?

8 A That's right.

9 Q And y'all try to talk it out?

10 A That's right, come to a conclusion.

11 Q Come to a conclusion?

12 A Yes.

13 Q So you will respect their side?

14 A I'll respect their side, but the reason why --
15 I mean, they have to give me more details about why
16 they, you know.

17 Q Fair enough.

18 A For me to change my answer.

19 Q Okay. And you would expect them to respect
20 your side?

21 A Yes, hear me out just as well as I hear them
22 out.

23 Q Okay. And let's say the situation was
24 reversed, say like you were in the 11 that wanted
25 guilty and there was one person not guilty, would

1 you still want to hear their side?

2 **A** Yeah, I still want to hear it.

3 **Q** And you will respect their side?

4 **A** Yeah, I just want to hear what they have to say
5 or whatever because I might have made a mistake in
6 my opinion, too.

7 **MR. KOGER:** Okay. Thank you.

8 **JUROR:** You're welcome.

9 **THE COURT:** Ma'am, I'm going to have you stand
10 outside for a moment. We're going to discuss you
11 for just a moment.

12 (Juror leaves the courtroom.)

13 **THE COURT:** What says the State?

14 **MR. SORENSON:** She's qualified, Your Honor.

15 **THE COURT:** What says the defense?

16 **MR. KOGER:** Qualified, Your Honor.

17 **THE COURT:** All right. Have her come back,
18 please.

19 (Juror enters the courtroom.)

20 **THE COURT:** All right. Ms. Huggins, you've
21 been found qualified to be a juror in this case,
22 that doesn't mean that you have been selected. It
23 means that you might be selected. We're going to
24 pick the jurors tomorrow at noon in this case we
25 hope.

1 So in that connection, we need you to be here
2 tomorrow at noon across the street at 12 o'clock
3 right over there at that annex building with enough
4 clothes packed to be with us for ten days because
5 the jurors will be kept together at a local motel
6 for a period of ten days. So we need you packed to
7 be here ten days. Do you drive up here or do you
8 have someone drop you off?

9 **JUROR:** No. I catch a ride from one of your
10 officers.

11 **THE COURT:** Okay. We need you to be here at
12 noon tomorrow and prepared to be with us. And I
13 have a sheet of paper to give you to give to anyone
14 that you might want to give it to so they'll know
15 where you might be in the event you get put on the
16 jury. Thank you very much. We'll see you then.

17 **JUROR:** Thank you, too.

18 (Juror was excused for the day.)

19 **THE COURT:** Let's stand and stretch for a
20 moment or two before we get rolling again.

21 (Pause.)

22 (Whereupon, Marion B. Williams, a white
23 female, enters the courtroom.)

24 ****

25 ****

1 MARION B. WILLIAMS,
2 having been previously duly sworn, testified as
3 follows:

4 VOIR DIRE

5 BY THE COURT:

6 Q Ms. Marion Williams?

7 A Yes, sir, everybody calls me Kate, though.

8 Q How are you doing today?

9 A I'm doing good.

10 Q Good. You're still under oath from yesterday,
11 okay?

12 A Yes.

13 Q And has anyone attempted to contact you or have
14 you read anything or heard anything about this case?

15 A There was something in the paper, but I made it
16 a point not to read it.

17 Q Very good. And that was my instruction to you
18 and all other jurors and I appreciate your complying
19 with that requirement. Did anyone attempt to
20 contact you since the time you got your juror
21 summons?

22 A No.

23 Q And have you heard anything about this case?

24 A I think it's strange that I really haven't. I
25 don't know where I was when it happened. I remember

1 something -- I must have been out of state. I have
2 a number of children and they live in all parts of
3 the country. And I read something, but I really
4 didn't remember much about it, so I must not have
5 been in town at the time.

6 Q And what type of work do you do?

7 A Right now, I'll a full-time grandmother. I
8 have 11 grandchildren, but I have worked over the
9 years at the hospital and Doctor Huff here in town.
10 So I have worked, but now I've reached an age I just
11 baby-sit.

12 Q All right. Now, if you were put on the jury --
13 the baby-sitting has not become a job for you?

14 A No.

15 Q You're able to be away if you need to?

16 A Right. I just do that for pleasure.

17 Q Did you get a chance to look over that list of
18 potential witnesses who may testify in this case?

19 A I did. I didn't know anyone.

20 Q And on that list, it also lists three types of
21 jurors.

22 A I'm a definite three.

23 Q Now, the defendant in this case has pled not
24 guilty. And he's presumed to be innocent of these
25 charges and cannot be found guilty unless the State

1 proves beyond a reasonable doubt that he is guilty.

2 Do you understand that legal requirement?

3 A Yes.

4 Q And he has no burden to prove his innocence.

5 He does not have to testify. And the jury cannot

6 consider that in any way as to guilt or innocence

7 because the burden is on the State to prove him

8 guilty. Do you understand that?

9 A I do understand that.

10 Q And, ordinarily, the jury is not concerned

11 about punishment because that's normally up to the

12 judge what the punishment or the sentence would be.

13 And the only case where the jury is concerned about

14 punishment is a case where a defendant has been

15 found guilty of murder and the State is seeking the

16 death penalty. Now, if the defendant is found

17 guilty of murder in a case where the State seeks the

18 death penalty, then the jury is concerned about

19 punishment and what the punishment should be. Do

20 you understand that?

21 A I do.

22 Q Now, you have heard nothing about the facts of

23 this case and you know nothing about the evidence,

24 so in asking your opinion, we're speaking in a

25 general sense your opinion and philosophy as to the

1 type juror that you are. And you say that you're a
2 type three?

3 A Absolutely.

4 Q And what do you mean when you say that you're a
5 type three?

6 A You know, I've really thought about this since
7 I found out that it was a murder trial. And if
8 somebody were to hurt one of my children or
9 grandchildren, I could do anything I had to do. I
10 mean, I could, you know, shoot them. I'd do
11 whatever I had to do. But in a case like this, I'd
12 be hard pressed to -- I'd have to really know and
13 understand the facts before I could make a decision.
14 There would be no that I say I believe in the death
15 penalty. I think there are a lot of things worse
16 than death and life in prison would be one of them.

17 Q Now, as the paper indicates, a number three
18 juror is a juror who could vote --

19 A Either way.

20 Q -- for life without the possibility of parole.

21 A Yes, I think that would be worse.

22 Q But that same juror could vote for the death
23 penalty.

24 A If I thought -- but I'd have to be pretty
25 convinced. I mean, I couldn't just say -- in fact,

1 if you put me on the spot and said, you have to say
2 one way or the other, I would say, no, I would not
3 vote for it, but I'd have to -- I would have to hear
4 a whole lot more than that.

5 Q Well, at this point, you've heard nothing?

6 A Right, I'd have to really --

7 Q So no one is asking you to determine what you
8 would do in this case.

9 A I don't know what I would do. I really don't
10 know what I would do. I do personally think that if
11 it were me, it would be worse to be put in jail for
12 the rest of my life than to be put to death. I have
13 no fear of death and, therefore, if you were to say
14 you were going to incarcerate me for the rest of my
15 natural life, I would rather you put me to death.

16 Q So you are not opposed to the death penalty?

17 A No, no, I'm not.

18 Q And under the appropriate circumstances, you
19 could sign a verdict form finding and recommending
20 the death penalty under an appropriate set of
21 circumstances?

22 A I wouldn't want to, but I could.

23 Q And under appropriate set of circumstances, you
24 could sign a verdict form indicating life
25 imprisonment without the possibility of parole?

1 **A** Yes. I think that would be worse.

2 **Q** Right. But you're not firmly in one camp or
3 the other as to the punishment --

4 **A** No.

5 **Q** -- you could vote either way?

6 **A** Either way.

7 **THE COURT:** All right. Let's see if the State
8 or the defense might have any questions for you.

9 First, the State.

10 **MR. SORENSON:** Please the Court, Your Honor.

11 **VOIR DIRE**

12 **BY MR. SORENSON:**

13 **Q** Good afternoon, Ms. Williams.

14 **A** Hello.

15 **Q** My name is Don Sorenson. I'm with the
16 Solicitor's office. And I just have a few questions
17 for you. You had indicated, in looking at these
18 three types of jurors, that you felt, and pretty
19 emphatically, a type three initially --

20 **A** Absolutely.

21 **Q** I want to just kind of explore that a little
22 bit with you if I could, ma'am. You had indicated
23 that you feel that you could return a death
24 sentence?

25 **A** Yes, I could.

1 Q And you could do that, it would not be easy,
2 but you could do that?

3 A It would be very -- I would be very hard
4 pressed to do it, but I could do it.

5 Q Let me ask you this. If you found --
6 obviously, you would want to hear everything that
7 you could possibly know about the case; is that
8 correct?

9 A I'd have to know and really consider like --
10 yes.

11 Q Everything about the facts about the case,
12 about the background of the defendant, you would
13 want to know all of that, right?

14 A I've been a guardian ad litem for about 20
15 years and I'm very in tune to children that have
16 been abused and what happens to them later in life.
17 And I would hope that in the trial, it would come
18 out what kind of background there was.

19 Q And after considering all of that, you can
20 envision there being certain circumstances that are
21 so bad or so aggravated that you could then find
22 that the death penalty is the appropriate
23 punishment; is that correct?

24 A I could. I wouldn't want to.

25 Q Yes, ma'am. Of course, in your opinion, you

1 feel that life imprisonment would be worse than
2 being sentenced to death, though; is that correct?

3 A I do.

4 Q But if you found that the death penalty was the
5 appropriate punishment, you then would be able to
6 sign your name to a form indicating that, I, along
7 with my fellow jurors, feel that this person should
8 be put to death for whatever it was that they had
9 done?

10 A I'd just have to live with it.

11 Q But you could do that, though, you could sign
12 your name to that form?

13 A Yes, I think I could.

14 Q And then come into this courtroom in front of
15 everybody in this courtroom and then publish that
16 verdict, that decision to sentence that person to
17 death. You could do that when asked by the Court,
18 that you, in fact, Ms. Williams, find that the death
19 penalty --

20 A That's asking a lot of a person.

21 Q I understand.

22 A And I'd really -- I'd really have to think
23 about it. I could do it, but I wouldn't want to do
24 it.

25 MR. SORENSON: Beg the Court's indulgence.

1 (Pause.)

2 MR. SORENSON: Thank you, Ms. Williams.

3 THE COURT: Any questions?

4 MR. KOGER: Yes. May it please the Court.

5 VOIR DIRE

6 BY MR. KOGER:

7 Q Now, Ms. Williams, I'm going to discuss the
8 question that dealt primarily with the penalty
9 phase. And you have a keen sense of fairness when
10 it comes to whether to decide between life without
11 parole and the death penalty. Now, I would imagine
12 you could use that same sense of fairness if the
13 Solicitor does not prove their case beyond a
14 reasonable doubt, correct?

15 A Oh, absolutely.

16 Q Okay. And you, again, I think you stated
17 several times that you need to look at everything,
18 review all of the evidence, review all of the facts.
19 And once you do that, you could, if they do not
20 prove their case beyond a reasonable doubt, you
21 could come in with a not guilty verdict?

22 A My husband said I'm too opinionated, that I
23 will make a decision and stick by it. There's no
24 doubt about that. I have a reputation for that.
25 But you'd really have to prove it to me before I

1 could pronounce the death penalty. I mean, I'd have
2 to know all of the facts. I'd want to know about
3 his background, but I could make a decision. I'm
4 capable of a decision.

5 Q And as far as when it comes to the actual guilt
6 phase of his trial, they would really have to prove
7 the facts to you before you come in with a guilty
8 conviction, correct?

9 A We're talking about a person's life, yes, they
10 would have to prove it to me.

11 MR. KOGER: Thank you. No further questions --
12 beg the Court's indulgence, Your Honor.

13 (Pause.)

14 Q Ms. Williams, I just want to clarify one other
15 thing. I think on yesterday you stood up when the
16 Judge inquired about any victims of violent crime.
17 Did you stand up on yesterday?

18 A Yes, I did.

19 Q Okay. Can you clarify that for me?

20 A My son, who runs a restaurant for my husband,
21 his dishwasher put a knife to his throat and made
22 him open the safe. And my son, who's a very --
23 appears to be a very mild-mannered person, was on
24 the boxing team at the Citadel and he was able to
25 disarm him and he was arrested and put in jail. I

1 didn't have any thoughts of putting him to death. I
2 thought about setting him on fire.

3 Q Personally?

4 A Personally. Personally, I could have done him
5 a lot of harm, but I didn't think about the death
6 penalty. He was on drugs and I'm sure out of his
7 mind. But I felt a lot of animosity toward him and
8 had he not been arrested and I had had to confront
9 him, I don't know what I might have done, but I
10 didn't think about putting him to death because of
11 it.

12 Q And how many years ago did that occur?

13 A Probably three or four.

14 Q Three or four years ago?

15 A Uh-huh.

16 Q And you mentioned about animosity that you had
17 towards him because he attempted to do harm to your
18 son, is that still present here today?

19 A No, no. The system worked. We went to court
20 and he was put in jail and that was it.

21 Q And how many years did he get for that crime?

22 A Ten.

23 MR. KOGER: Beg the Court's indulgence, Your
24 Honor.

25 THE COURT: All right. Ma'am, if you'll stand

1 outside for a moment please.

2 MR. KOGER: I have one more question.

3 BY MR. KOGER:

4 Q When did your son graduate from the Citadel?

5 A 1990.

6 MR. KOGER: No further questions. Thank you.

7 (Juror leaves the courtroom.)

8 THE COURT: What says the State?

9 MR. SORENSON: She's qualified.

10 THE COURT: What says the defense?

11 MR. KOGER: Qualified, Your Honor.

12 THE COURT: All right. If you'll have her come
13 back.

14 (Juror enters the courtroom.)

15 THE COURT: Yes, ma'am, you are qualified to
16 serve as a juror in this case, that does not mean
17 you've been selected, but you may be selected.

18 Now, we'll need you to come tomorrow packed to
19 be ready to serve on the jury. The jury will be
20 sequestered for a period of up to ten days or so
21 until we get through with this trial. So we need
22 you to come, be prepared to stay with us tomorrow at
23 noon over at the annex building. There's a
24 conference room there.

25 Now, please do not discuss the case or read any

1 newspaper articles or allow anyone to discuss it
2 with you in your presence and we will see you
3 tomorrow.

4 Now, service would not pose a health risk to
5 you or anyone that you care for, would it?

6 JUROR: No.

7 THE COURT: All right. Thank you very much.
8 And we'll see you tomorrow.

9 (Juror was excused for the day.)

10 (Whereupon, Ronnie L. Bozard, a white male,
11 enters the courtroom.)

12 RONNIE L. BOZARD,
13 having been previously duly sworn, testified as
14 follows:

15 VOIR DIRE

16 BY THE COURT:

17 Q How are you?

18 A Good morning.

19 Q Mr. Bozard?

20 A Yes, sir.

21 Q Sir, I want to thank you for coming back today.
22 You're still under oath.

23 A Yes, sir.

24 Q Have you been exposed to any information about
25 this case within the past 24 hours.

- 1 A No, sir.
- 2 Q You heard about it some time in the past?
- 3 A Yes, sir.
- 4 Q And did that cause you to form an opinion as to
- 5 the guilt or innocence of the defendant?
- 6 A No, sir.
- 7 Q Has anyone attempted to contact you since you
- 8 received your juror summons?
- 9 A No, sir.
- 10 Q And, of course, you remember the admonition
- 11 that I gave you that jurors are not to read or hear
- 12 anything or attempt to get any information about
- 13 this case or allow anyone to discuss it in your
- 14 presence?
- 15 A Yes, sir.
- 16 Q And, sir, where do you work?
- 17 A I'm self-employed. I'm a farmer.
- 18 Q And what area of the county are you from?
- 19 A About eight miles out of Saint Matthews.
- 20 Q And did you say that you have heard something
- 21 about this case in the past, but not --
- 22 A I've kept up with it in the newspaper for what
- 23 good that is.
- 24 Q And did that cause you to form an opinion about
- 25 the guilt or innocence of this defendant?

1 A No, sir.

2 Q And would you be able to set aside what you may
3 have heard about this case and decide the case
4 solely based on the evidence and the law presented
5 in this courtroom?

6 A Yes, sir.

7 Q And, sir, the defendant is presumed to be not
8 guilty of these charges and he has no burden to
9 prove his guilt, but the State must prove him guilty
10 by presenting evidence which convinces a jury of his
11 guilt beyond a reasonable doubt. Do you understand
12 that and agree with that?

13 A Yes, sir.

14 Q And, ordinarily, the jury is not concerned
15 about punishment, but should the defendant find --
16 should the jury find this defendant guilty of
17 murder, the State is seeking the death penalty and
18 in that instance, the jury would be concerned about
19 the punishment. Do you understand that?

20 A Yes, sir.

21 Q Now, are you -- did you have a chance to look
22 at this list of possible State's witnesses?

23 A Yes.

24 Q Do you know anyone on this list?

25 A Mr. Cartwright and Sheriff Summers.

1 Q And the fact that they might be jurors, would
2 that fact affect your ability to sit as a fair and
3 impartial juror?

4 A No, sir.

5 Q Concerning the list of what type of juror that
6 you are, did you look over that list as well?

7 A Yes, sir.

8 Q And which type of juror most accurately
9 reflects --

10 A Number three.

11 Q Number three?

12 A Yes, sir.

13 Q And a number three juror, according to that
14 list, is a juror who might vote for life
15 imprisonment or might vote for the death penalty
16 depending upon the aggravating circumstances and the
17 mitigating circumstances, but could vote for either
18 one; is that you?

19 A Yes, sir.

20 Q And if you were to conclude that the death
21 penalty is the appropriate verdict, could you sign
22 your name to the verdict form and come into the
23 courtroom and publicly announce that as being your
24 verdict?

25 A Yes, sir.

1 Q And would service on the jury in this case,
2 considering that the jurors will be sequestered for
3 probably ten days or so, would that -- other than
4 the inconvenience to you, would that cause any risk
5 to your health or the health of anyone dependent
6 upon you?

7 A No, sir.

8 THE COURT: All right. Let's see if the State
9 or the defense might have any questions for you.

10 The defense, Mr. Walters.

11 MR. WALTERS: May it please the Court.

12 VOIR DIRE

13 BY MR. WALTERS:

14 Q Good afternoon, Mr. Bozard. How are you?

15 A Fine.

16 Q It says here that you're a farmer. And I was
17 looking at your age, you've been farming since you
18 were 20, 21, 22 years old?

19 A The last 20 years.

20 Q The last 20 years. It says here you're married
21 to a Diane R. Bozard?

22 A Right.

23 Q A marriage of longevity, it's been 34 years; is
24 that correct?

25 A Right.

1 Q When we discussed what type of juror you are,
2 you indicated that you're a type number three; is
3 that correct?

4 A Yes, sir.

5 Q You understand, in this process, the State will
6 have to prove their case beyond a reasonable doubt.
7 And in this particular case, they would be required
8 to present evidence. And, of course, the defense
9 will be present. But Mr. Mahdi will sit before the
10 court an innocent man. And, of course, the State
11 will have to prove his guilt beyond a reasonable
12 doubt. Are you willing to hold the State to that
13 burden, sir?

14 A Yes, sir.

15 Q And, of course, if there is a sentencing phase,
16 you will hear aggravating circumstances presented by
17 the State. When we say aggravating circumstances,
18 those are other events that occur along with a
19 murder. Are you aware of that?

20 A Yes, sir.

21 Q You're also aware of the fact that you will
22 also hear information with regards to mitigating
23 circumstances. When we say mitigation, we're
24 referring to maybe a history about the young man's
25 life, his childhood, his parents, the family and

1 things of that nature. Would you give meaningful
2 consideration of those factors, also?

3 A Yes, sir.

4 Q It states here that you served on a jury back
5 in 1970; is that correct?

6 A Yes, sir.

7 Q And what type of jury was that and what type of
8 case was it?

9 A That was a highway right-of-way case I think it
10 was.

11 Q Okay. So it was a civil case?

12 A Yes, sir.

13 Q All right. You said you knew something about
14 the case because you had read the newspaper; is that
15 correct?

16 A Right.

17 Q Did you read today's newspaper?

18 A No, sir.

19 Q So as far as the information that you know
20 about this case, it's from previous articles that
21 you may have glanced at before you even arrived here
22 today?

23 A Yes, sir.

24 MR. WALTERS: Your Honor, we have no further
25 questions.

1 **THE COURT:** State?

2 **MR. PASCOE:** Good morning, Mr. Bozard. My name
3 is David Pascoe and I'm the Solicitor. I have no
4 questions, Your Honor. Thank you.

5 **THE COURT:** Sir, if you'll stand right outside
6 the door for me.

7 (Juror leaves the courtroom.)

8 **THE COURT:** What says the State?

9 **MR. PASCOE:** Qualified, Your Honor.

10 **THE COURT:** Defense?

11 **MR. WALTERS:** I believe he's qualified, Your
12 Honor.

13 **THE COURT:** All right. If he'll come back in.

14 (Juror enters the courtroom.)

15 **THE COURT:** Mr. Bozard, you've been found to be
16 qualified to serve as a juror in this case, that
17 doesn't mean that you're on the jury, but it means
18 that you may be selected. We need you to come
19 tomorrow packed and be ready to serve if you are
20 selected. And we're going to try to pick this jury
21 at noon tomorrow. So we need you to come to the
22 annex and there's a conference room in there where
23 all of the jurors will come.

24 And please do not discuss this case with you or
25 any of your -- with anyone or -- you can discuss it

1 with yourself, but do not discuss it with anyone
2 else or allow anyone else to discuss it with you, do
3 not read any news articles or listen to any news
4 accounts of this case. That would present a severe
5 problem.

6 We have an information sheet for you to look
7 over and to take that with you. And we'll see you
8 tomorrow at noon.

9 (Juror was excused for the day.)

10 **THE COURT:** That juror is qualified. And next,
11 Mr. Gladden.

12 (Whereupon, Nathaniel J. Gladden, a black
13 male, enters the courtroom.)

14 **NATHANIEL J. GLADDEN,**
15 having been previously duly sworn, testified as
16 follows:

17 **VOIR DIRE**

18 **BY THE COURT:**

19 **Q** Mr. Gladden, how are you doing?

20 **A** Good morning.

21 **Q** Are you doing okay today?

22 **A** Yes, sir.

23 **Q** Good. You're still under oath from the time we
24 put you under oath yesterday. Where do you work,
25 Mr. Gladden?

1 **A** Husqvarna Home Products there in Orangeburg,
2 South Carolina.

3 **Q** And what do you do over there?

4 **A** I'm a robot technician.

5 **Q** A robot technician. And what do you do with
6 those robots?

7 **A** I, basically, do all of the maintenance that
8 requires on a day-to-day schedule, p.m.'s. Anything
9 that's pertaining to our welding department, I
10 repair it, do it, whatever.

11 **Q** And what part of the county do you live in?

12 **A** Calhoun County.

13 **Q** What part of it, section?

14 **A** It's actually the Brook Hill area, which is out
15 Calhoun Road.

16 **Q** I'm just asking. None of it means anything to
17 me, but for the folks who are from here, they'll
18 know where we're talking about. Has anyone
19 attempted to contact you about this case or give you
20 any information concerning this case since you got
21 your summons?

22 **A** No.

23 **Q** Have you read anything about this case within
24 the past 24 hours?

25 **A** No.

1 Q And you recall the admonition that I gave to
2 all jurors that you're not to read any newspapers,
3 watch any T.V. or search the Internet and receive
4 any information about this case other than through
5 the testimony in this courtroom; do you remember
6 that?

7 A Yes, I do.

8 Q And you followed that instruction?

9 A Yes, I did.

10 Q And have you heard anything about this case
11 before?

12 A Well, during the time that it was on the news
13 when it first occurred, but not -- I mean, I hadn't
14 actually done any following because basically I
15 don't have a lot of time to keep up with the news.

16 Q Did that cause -- what you might have heard
17 about it back then, did it cause you to form an
18 opinion as to the guilt or innocence of this
19 defendant?

20 A No, it hasn't.

21 Q And would you be able to set aside what you
22 might have heard about the case back then and decide
23 this case solely based on the evidence presented in
24 this courtroom and the instructions of law that I
25 will give to you?

1 A Yes, I will.

2 Q Now, with respect to this list of potential
3 witnesses, did you look it over?

4 A Yes, I did.

5 Q And did you know anyone on that list?

6 A No more than the local sheriff's office
7 personnel.

8 Q And the fact that some of them might testify in
9 this case, from this county or Orangeburg County,
10 would that affect your ability to give the defendant
11 a fair and impartial trial?

12 A No, it wouldn't.

13 Q Now, ordinarily, the jury is not concerned
14 about punishment. And the defendant in this case is
15 presumed to be not guilty of any charges and that
16 burden puts -- that plea puts the burden on the
17 State to prove the defendant guilty and the State
18 must meet that burden by presenting evidence which
19 convinces a jury of his guilt beyond a reasonable
20 doubt. And should the State fail to do that, the
21 jury must find the defendant not guilty. Do you
22 understand that, sir?

23 A Yes, I do.

24 Q But now should the jury find the defendant
25 guilty of murder, then we will move into a

1 sentencing phase of this trial where that same jury
2 would be concerned about the appropriate penalty or
3 punishment. Do you follow that?

4 A Yes, I do.

5 Q And in that connection, did you look at that
6 list to see which type of juror you are, a type one,
7 two or three?

8 A Yes, I did.

9 Q And where do you fall in -- which category do
10 you fall into?

11 A Juror number three.

12 Q And juror number three is a juror who, if the
13 facts are warranted, could bring in a verdict of
14 life imprisonment without the possibility of parole
15 or if the facts so warranted, could bring in a
16 verdict for the death penalty; is that where you
17 fall into?

18 A Correct.

19 Q And that juror would not have made up his mind
20 in advance concerning punishment, but would need to
21 hear the facts and circumstances in aggravation and
22 in mitigation before determining punishment; is that
23 you?

24 A Correct.

25 Q So you're not opposed to the death penalty?

1 **A** No, I'm not.

2 **Q** And you could vote for the death penalty or
3 life imprisonment without the possibility of parole,
4 depending on your view of the facts?

5 **A** Yes, I can.

6 **Q** Now, if you were called upon to serve on this
7 jury, the jury would be sequestered, meaning they
8 would be kept together for a period of time until
9 the case is over. Aside from the obvious
10 inconvenience to you, would that put you at a risk
11 of danger to your health or the health of anyone
12 dependent upon you?

13 **A** No, it shouldn't.

14 **THE COURT:** All right. Let me see if any of
15 the lawyers might have any questions for you.

16 First, from the defense, Mr. Koger or
17 Mr. Walters.

18 **MR. KOGER:** May it please the Court.

19 **VOIR DIRE**

20 **BY MR. KOGER:**

21 **Q** Mr. Gladden, you used to work for the
22 department of corrections?

23 **A** Yes, I did.

24 **Q** And from what year to what year did you work
25 there?

- 1 A It's been a while.
- 2 Q Just approximately.
- 3 A I think '86, it was in the year of '86, I
- 4 think. I might have been about six months, I might.
- 5 Q Six months. All right.
- 6 A Yeah.
- 7 Q And have you ever had any family members work
- 8 at the department of corrections?
- 9 A Yes, I have.
- 10 Q And what family members work there?
- 11 A My brother worked at the department of
- 12 corrections for, I would say, no more than a year
- 13 and a half at the most, I think.
- 14 Q And during the six months you were at the
- 15 department of corrections, what was your title, your
- 16 position?
- 17 A Just a basic C.O.
- 18 Q How long have you been in your present
- 19 position?
- 20 A This January coming would be 14 years, I think.
- 21 Q Now, you indicated to the Court that you are a
- 22 type three and that you need to hear all of the
- 23 facts?
- 24 A Yes.
- 25 Q Listen to all of the evidence?

1 A Uh-huh.

2 Q You'll listen to evidence from the Solicitor's
3 office?

4 A Uh-huh.

5 Q You'll listen to any evidence that may come
6 from the defense, correct?

7 A True.

8 Q And you could vote for either life without
9 parole or the death penalty, correct?

10 A Yes.

11 Q Now, before we even get to that part, because
12 it's a two part trial here, that -- you understand
13 that the State has to prove their case beyond a
14 reasonable doubt?

15 A Yes, I do.

16 Q And if they do not prove their case beyond a
17 reasonable doubt, then you can return a verdict of
18 not guilty?

19 A Yes.

20 Q And then from that, we don't even get to the
21 next phase?

22 A Uh-huh.

23 MR. KOGER: Thank you. No further questions.

24 MR. SORENSON: May it please the Court, Your
25 Honor.

1 **THE COURT:** Yes.

2 **VOIR DIRE**

3 **BY MR. SORENSON:**

4 **Q** Good afternoon, Mr. Gladden. My name is Don
5 Sorenson. I'm with the Solicitor's office. I just
6 have just a couple of questions. Your six months
7 that you were employed as a correctional officer,
8 what institution were you employed at?

9 **A** I was at the Manning Correctional Institution
10 off of Farrow Road.

11 **Q** Now, in indicating that you're a type three
12 juror, Mr. Gladden, essentially, you understand that
13 to mean that you would basically take everything
14 into consideration before making a decision?

15 **A** Yes.

16 **Q** And if the case was warranted, was aggravated
17 enough, you could return a verdict of the death
18 penalty?

19 **A** Yes, I could.

20 **Q** And, likewise, if you don't feel like it was,
21 then you could return a verdict of life without
22 parole; is that correct?

23 **A** Yes.

24 **Q** All right. Let me just ask, do you understand
25 that if you and your other 11 jurors were to feel

1 that the death penalty was the appropriate sentence
2 in a case, do you understand that you would also
3 have to then sign your name to a verdict form
4 indicating that?

5 A Yes.

6 Q You and all 11 of your other jurors would have
7 to, you would be able to do that?

8 A Yes.

9 Q If the facts warranted it?

10 A If it's warranted.

11 Q And then, also, you would have to then come in
12 here in this courtroom and publish that sentence to
13 the Court and to the public. Do you understand
14 that?

15 A Right.

16 Q And you would be able to do that?

17 A Yes.

18 Q And you had indicated, when the Court was
19 questioning you earlier, that you have no opposition
20 to the death penalty; is that correct?

21 A No, I don't.

22 Q In fact, favor it if the facts warranted it; is
23 that correct?

24 A Yes.

25 MR. SORENSON: Thank you, Mr. Gladden.

1 **THE COURT:** All right. Mr. Gladden, if you'll
2 step outside the door, we're going to talk about you
3 for just a moment.

4 (Juror leaves the courtroom.)

5 **THE COURT:** What says the defense?

6 **MR. KOGER:** Qualified, Your Honor.

7 **THE COURT:** What says the State?

8 **MR. SORENSON:** Qualified, Your Honor.

9 **THE COURT:** Have him come back in, please.

10 (Juror enters the courtroom.)

11 **THE COURT:** All right. Mr. Gladden, you have
12 been qualified to serve as a juror in this case,
13 that doesn't mean that you've been selected, but you
14 potentially may be selected. We're hoping to get
15 this jury selected at noon tomorrow. And we'll need
16 you to pack up as if you're on the jury and to be
17 here at noon tomorrow in the annex building across
18 the street where there's a conference room.

19 Here's a slip of paper that will tell you where
20 the jury will be sequestered, if you are selected.
21 And you'll need to bring your clothing and medicine
22 for a period of maybe ten days or so, if you are
23 selected, and have it where someone can get your car
24 if you drive up here. It might be best to have
25 someone to bring you. You can work that out.

1 And we'll need to get your phone number in the
2 event that there's a change of plans of the timing,
3 but unless you hear from us, we're going to need you
4 here tomorrow at that time. We look forward to
5 seeing you again. Please do not read any
6 newspapers, watch any T.V. that might include any
7 information about this case because it would affect
8 your ability to serve. And we'll look forward to
9 seeing you tomorrow.

10 **JUROR:** And that time is 12:00?

11 **THE COURT:** 12:00 noon. All right, have a good
12 evening.

13 (Juror was excused for the day.)

14 **THE COURT:** All right. We're done with that
15 panel. Panel number four, Catlin Craven. Is Catlin
16 Craven out there?

17 **THE CLERK:** He's on his way, Your Honor.

18 **THE COURT:** He is on the way. All right,
19 Madame Clerk, did you have some information about
20 Catlin Craven as to why he's not here?

21 **MADAME CLERK:** His mother called and said that
22 he had flipped out. That was her exact words.

23 **THE COURT:** He flipped out?

24 **MADAME CLERK:** That he had flipped out, that he
25 has ADD problems. He came this morning, reported.

1 They told him he was not to be here until 12:30. He
2 went back home and started flipping out and saying
3 that he wasn't coming back.

4 **THE COURT:** She's making him come anyway?

5 **THE CLERK:** Yes, sir, him and his mother is on
6 the way.

7 **THE COURT:** All right. We'll skip over him and
8 do the second person, Ms. McKnight, and we'll tend
9 to him when he gets here.

10 **BAILIFF:** She hasn't looked at anything yet,
11 Your Honor.

12 **THE COURT:** Well, she needs a little time,
13 we'll take a break.

14 (Brief Recess.)

15 **THE COURT:** Let's bring in our next person, Ms.
16 McKnight.

17 (Whereupon, Teresa McKnight, a black female,
18 enters the courtroom.)

19 TERESA MCKNIGHT,
20 having been previously duly sworn, testified as
21 follows:

22 VOIR DIRE

23 BY THE COURT:

24 **Q** How are you doing, Ms. McKnight?

25 **A** All right.

1 Q Welcome back. You're still under oath from
2 yesterday, do you know that?

3 A Yes, sir.

4 Q And has anyone tried to contact you about this
5 case since the time you got your summons?

6 A No, sir.

7 Q Have you read anything about it in the paper
8 today or at all?

9 A No, sir.

10 Q Have you ever heard anything about this case?

11 A No, sir.

12 Q Now, as you know, that I've told all jurors not
13 to read anything, listen to anything and talk with
14 anyone about this case. You're going to follow
15 that?

16 A Yes, sir.

17 Q Now, the defendant is charged with murder and
18 the State is seeking the death penalty, but he is
19 presumed to be not guilty of this charge and cannot
20 be found guilty unless the State proves to a jury
21 beyond a reasonable doubt that he is guilty. Do you
22 understand that?

23 A Yes, sir.

24 Q He doesn't have to prove anything. The State
25 must prove him guilty. If the State can't do that,

1 he must be found not guilty. Do you understand?

2 A Yes, sir.

3 Q Now, if the State proves that he is guilty of
4 murder, then the jury would then consider what
5 punishment he should get. Do you understand that?

6 A Yes, sir.

7 Q So, in that connection, we want to know your
8 opinion about various things. The first thing I
9 want to ask you about is, did you look over the
10 witness list of people who might testify?

11 A Yes, sir.

12 Q And did you notice any -- or recognize anyone
13 on that list that you know?

14 A Yes, sir.

15 Q And who is that?

16 A Summers and Chris Golden.

17 Q Sheriff Summers and who else?

18 A Chris Golden.

19 Q Golden, right here?

20 A Yes, sir.

21 Q And the fact that you know them, would that
22 affect your ability to be fair and impartial as a
23 juror?

24 A No, sir.

25 Q Where do you work?

1 A At Calhoun Convalescence Center Nursing Home.

2 Q And how long have you been over there?

3 A Four years.

4 Q What do you do there?

5 A Housekeeper.

6 Q And what part of this county do you live in?

7 A Calhoun County, right in Saint Matthews here.

8 Q In Saint Matthews?

9 A Yes, sir.

10 Q In the event the jury should find the defendant

11 guilty of murder, then the jury would then be

12 concerned about punishment and that's in any case of

13 this nature. And we're not asking you specifically

14 about this case, but your opinion in general. Now,

15 did you look at the slip to determine which type of

16 juror you were?

17 A Yes, sir.

18 Q And which type of juror best describes you?

19 A Type number three.

20 Q Now, a type three juror is one who could vote

21 for the death penalty or who could vote for life

22 imprisonment depending upon that juror's view of the

23 facts and circumstances, taking into consideration

24 the aggravating circumstances and the mitigating

25 circumstances in this case. You're that type of

1 juror?

2 A Yes, sir.

3 Q Now, could you -- do you oppose the death
4 penalty?

5 A Well, I've got to hear the case, you know, I
6 want to hear everything that --

7 Q After hearing the case, could you vote for the
8 death penalty?

9 A Yes, sir.

10 Q And if you and the other jurors were to
11 conclude that the death penalty was the appropriate
12 penalty in a case, could you sign your name on the
13 verdict forms stating that that's your verdict?

14 A Yes, sir.

15 Q And when the jurors came into court to announce
16 the verdict, would you stand and say that, I vote
17 for the death penalty?

18 A Yes, sir.

19 Q And, conversely, if you felt that the
20 appropriate penalty would be life imprisonment
21 without the possibility of parole, you would vote
22 for that?

23 A Yes, sir.

24 Q All right. The jury in this case would be
25 sequestered, that means kept together, housed

1 together and will be together until the case is
2 over. Would that pose any danger to you or anyone
3 who you're responsible for taking care of?

4 **A** No, sir.

5 **THE COURT:** Let's see if the State or the
6 defense would like to ask you any questions.

7 VOIR DIRE

8 BY MR. PASCOE:

9 **Q** Good afternoon, Ms. McKnight?

10 **A** Good afternoon.

11 **Q** My name is David Pascoe. I'm the Solicitor.
12 Thank you so much for coming back today. What are
13 your personal feelings with regards to the death
14 penalty? Are you opposed to the death penalty or do
15 you favor it?

16 **A** I'm opposed to it.

17 **Q** You oppose the death penalty?

18 **A** (Witness nodded head.)

19 **Q** All right. And let me ask you this. The Judge
20 told you about three types of jurors, okay? You
21 have juror number one, who, if somebody is convicted
22 of murder, they're always going to give the death
23 penalty. That is definitely not you, right,
24 because, first of all, you're opposed to the death
25 penalty?

1 A Yes, sir.

2 Q Then there's juror number two, who, after
3 someone has been convicted of murder, they believe
4 that the person should only be sentenced to life
5 without parole, in other words, spend the rest of
6 their life in prison, but they couldn't give the
7 death penalty. And because of your views of the
8 death penalty, is that who you are, somebody that
9 can't give the death penalty, but would always
10 sentence somebody to life without parole?

11 A (No response.)

12 Q And let me tell you this, there are no right
13 answers or wrong answers. The only wrong answer is
14 if you tell me something you think I want to hear,
15 okay? We just need to find out what your views are.

16 A Well, I can't say right now because I need to
17 hear everything, but just like I said, I'm opposed
18 to the death penalty.

19 Q You are opposed to the death penalty?

20 A Yes, sir.

21 Q And if somebody has been convicted of murder
22 and they're going to either get a life sentence
23 without parole or the death penalty and it was up to
24 you to sentence that person, you would always
25 sentence them to life without parole?

1 A No, not all the time. I would have to hear
2 everything first.

3 Q What circumstances would you sentence somebody
4 to death?

5 A Maybe if -- like if -- like if they killed
6 maybe two times or whatever, something like that,
7 commit murder two times or more than once or
8 whatever, like that.

9 Q Can you think of any other times?

10 A (Witness shook head.)

11 Q Let me ask you this. If, after listening to
12 the case, if you found that somebody was guilty of
13 murder, okay, and the other 11 jurors decided that
14 they wanted to sentence someone to death and that
15 you wanted to sentence somebody to death, you would
16 then have to sign your name, Ms. McKnight, to a
17 death penalty verdict form, your name would have to
18 be on that sentencing somebody to death, could you
19 do that?

20 A Yes, sir.

21 Q You could? Could you stand up in open court
22 after determining that someone should be sentenced
23 to death and announce your verdict publicly that
24 somebody should be sentenced to death?

25 A Yes, sir.

1 Q Do you have any religious views or opinions
2 opposed to the death penalty?

3 A If they commit the crime, then -- do the crime,
4 you've got to pay the time or whatever.

5 Q You pay the time. And you believe that if
6 someone commits a murder and they're guilty of
7 committing a murder, that they should be able to
8 face the death penalty?

9 A Yes, sir.

10 Q And if it's proven to you beyond a reasonable
11 doubt, okay, that someone committed a murder, could
12 you give that person the death penalty?

13 A Yes, sir.

14 Q Without hesitation?

15 A No. If they killed --

16 Q No problem --

17 A Yes, sir.

18 Q And, of course, you would weigh all of the
19 facts that the State would present and the defense
20 would present in making that determination as to
21 whether somebody should get the death penalty or
22 not?

23 A Yes, sir.

24 MR. PASCOE: Beg the Court's indulgence.

25 (Pause.)

1 **MR. PASCOE:** Thank you, Ms. McKnight.

2 **THE COURT:** Any questions by the defense?

3 **MR. WALTERS:** May it please the Court.

4 **VOIR DIRE**

5 **BY MR. WALTERS:**

6 **Q** Good afternoon, Ms. McKnight.

7 **A** Good afternoon.

8 **Q** Thank you for coming again. Ms. McKnight, in
9 discussing this matter with Judge Newman, you
10 indicate you were a type three juror; is that
11 correct?

12 **A** Yes, sir.

13 **Q** And, essentially, what you're telling the Court
14 is, is that, number one -- there's a two part
15 process to this case and we're sort of putting the
16 cart before the horse, but do you understand that in
17 this process, the State has to prove their case
18 beyond a reasonable doubt, that's with regards to
19 the issue of murder. They have to prove that
20 someone had malice aforethought and they unlawfully
21 took someone's life. You understand that?

22 **A** Yes, sir.

23 **Q** And in serving as a juror, you would hold the
24 State to that burden and if they were able to prove
25 that, you would vote guilty; is that correct?

- 1 A Yes, sir.
- 2 Q If they were unable to prove that, you would
- 3 vote not guilty; is that correct?
- 4 A Yes, sir.
- 5 Q You understand this is an individual decision.
- 6 In other words, you make up your own mind, you
- 7 evaluate the facts and you make a decision. Do you
- 8 understand that?
- 9 A Yes, sir.
- 10 Q You understand also that if it enters into a
- 11 sentencing phase, the sentencing phase, it requires
- 12 that you take in consideration aggravating
- 13 circumstances that may be presented by the State.
- 14 Are you aware of that?
- 15 A Yes, sir.
- 16 Q Are you willing to sit down and take into
- 17 consideration, meaningful consideration, of those
- 18 aggravating circumstances?
- 19 A Yes, sir.
- 20 Q In addition to that, the defense in this
- 21 particular case, we would present information with
- 22 regards to this person, with regards to their
- 23 childhood or their parents, how they were raised and
- 24 things of that nature, that's referred to as
- 25 mitigating circumstances. Would you also give

1 meaningful consideration to those factors, also?

2 A Yes, sir.

3 Q And what you're saying as a type juror number
4 three, that you would listen to both sides, all of
5 the information, the totality of everything that's
6 presented before you and then you would make a
7 decision as to whether this person should receive
8 life in prison or whether they should receive the
9 death penalty; is that correct?

10 A Yes, sir.

11 Q And I noticed your hesitation. What you're
12 telling us is, and you correct me if I'm wrong, is
13 that I've got to get the total picture presented
14 before me, I've got to hear everything and then I
15 can make up my mind. What you're saying is, is that
16 you could actually sentence someone to spend the
17 rest of their life in jail; is that right?

18 A Yes, sir.

19 Q But in addition to that, you could also, if the
20 crime is bad enough, if the facts warranted based on
21 what you see and what you understand and your own
22 personal knowledge, because it's a personal
23 decision, if you determine that the crime is bad
24 enough, the factors that have been presented by the
25 Solicitor's office, you could also return a verdict

1 to sentence someone to death; is that correct?

2 A Yes, sir.

3 Q And it's my understanding that you're willing
4 to sign your name to a death warrant; is that right?

5 A Yes, sir.

6 Q And you could also stand publicly in this
7 courtroom and state that that is my position and I
8 stand by my position and that is my vote; is that
9 correct?

10 A Yes, sir.

11 MR. WALTERS: Your Honor, I have no further
12 questions.

13 THE COURT: All right. Ma'am, if you'll stand
14 right outside the door for a moment.

15 (Juror leaves the courtroom.)

16 THE COURT: What says the State?

17 MR. PASCOE: Qualify, Your Honor.

18 THE COURT: Defense?

19 MR. WALTERS: She's qualified, Your Honor.

20 THE COURT: Have her come back, please.

21 (Juror enters the courtroom.)

22 THE COURT: Ms. McKnight, you can stand right
23 there. You've been found qualified to serve as a
24 juror in this case and -- qualified as a potential
25 juror, that does not mean that you're on the jury,

1 it just means that you may be on the jury. And we
2 intend to select the jury tomorrow at noon. And we,
3 therefore, need you to pack up and have about a week
4 or two worth of clothes with you.

5 When you come, we're going to meet at the annex
6 there in the conference room over there tomorrow at
7 noon and then select a jury. And if you're on the
8 jury, you'll stay with us. If you're not selected,
9 you'll be able to go. Do you understand that,
10 ma'am?

11 **JUROR:** Yes, sir.

12 **THE COURT:** We need you here at noon tomorrow.
13 And here's a slip of paper that will give you some
14 information about the jury and what you need to do,
15 be sure and bring any medication that you're taking
16 with you as well.

17 Now, please do not discuss this case, do not
18 read any newspaper articles, do not watch any
19 television news reports, do not do any Internet
20 searching, do not allow anyone to discuss the case
21 with you or in your presence. If anyone should
22 attempt to do that, please let me know about that
23 immediately.

24 **JUROR:** Yes, sir.

25 **THE COURT:** Okay. Thank you very much. And

1 we'll see you tomorrow.

2 JUROR: All right. Thank you.

3 (Juror was excused for the day.)

4 BAILIFF: Number one just -- he's downstairs,
5 but they said they're holding him down there until
6 we need him.

7 THE COURT: Let's bring Ms. Russell in and then
8 he'll be next.

9 (Whereupon, Sheryl B. Russell, a white
10 female, enters the courtroom.)

11 SHERYL B. RUSSELL,
12 having been previously duly sworn, testified as
13 follows:

14 VOIR DIRE

15 BY THE COURT:

16 Q Hey there, Ms. Russell.

17 A How are you?

18 Q How are you doing?

19 A I'm wonderful, marvelous.

20 Q Good. Ms. Russell, you're still under oath
21 from the time we placed you under oath yesterday.
22 Where do you work, Ms. Russell?

23 A I work at the Orangeburg Hospital. I work in
24 the laboratory. I'm a phlebotomist. I draw blood
25 samples for a living.

1 Q And what area of Calhoun County do you live in?

2 A It's over on Calhoun Road.

3 Q And have you read any newspaper accounts or
4 heard anything about this case since yesterday?

5 A No, sir.

6 Q And you recall my admonition that jurors are
7 not to read anything or watch any news reports or to
8 do any Internet search or allow anyone to discuss
9 the case in their presence?

10 A Correct.

11 Q And you'll abide by that, won't you?

12 A Yes, sir.

13 Q Now, prior to coming yesterday, did anyone
14 attempt to contact you about this case from the time
15 you received your juror summons?

16 A No, sir.

17 Q Have you heard anything about this case?

18 A No, sir.

19 Q Now, the defendant in this case is charged with
20 an offense in which the State is seeking the death
21 penalty as we talked about in here yesterday. He is
22 presumed to be not guilty of these charges. And, of
23 course, he cannot be found guilty unless the State
24 proves beyond a reasonable doubt that he is guilty.
25 And, ordinarily, we do not have to discuss

1 punishment with a jury because that's generally up
2 to the judge, but in the event the jury should find
3 the defendant guilty of murder in a death penalty
4 case, the jury would then consider what punishment
5 the defendant should receive.

6 Have you had a chance to take a look at the
7 list of possible witnesses in this case?

8 A Yes, sir.

9 Q Do you know anyone on that list?

10 A Sheriff Summers, I mean, I know him as passing
11 him on the street or seeing him at a store and
12 speaking to him, not personal, you know, personal,
13 personal.

14 Q And would the fact that he might be a witness,
15 would that affect your ability to sit as a fair and
16 impartial juror?

17 A No, sir.

18 Q As to the type of juror that you are from the
19 slip that we gave you, type one, type two, type
20 three, do you remember those three choices?

21 A (Witness nodded head.)

22 Q And which one most accurately reflect you?

23 A I would say number three.

24 Q Now, juror number three is the type of juror
25 who could vote for life imprisonment without the

1 possibility of parole or could vote for the death
2 penalty depending on the aggravating circumstances
3 and the mitigating circumstances shown to exist in a
4 case. Is that the type juror you are?

5 A Yes, sir.

6 Q Now, this case may take a couple of weeks to do
7 and jurors will be sequestered during that period of
8 time. Aside from the inconvenience to you for
9 having to serve, would that pose any danger to you
10 or anyone else?

11 A No, sir.

12 THE COURT: All right. Let's see if the State
13 or the defense may have any questions.

14 The defense.

15 MR. KOGER: May it please the Court.

16 VOIR DIRE

17 BY MR. KOGER:

18 Q Ms. Russell, you indicated once again that you
19 are a type three, correct?

20 A Yes, sir.

21 Q And, basically, you want to hear all of the
22 evidence?

23 A Yes, sir.

24 Q You want to listen to all of the testimony?

25 A Yes, sir.

1 Q Okay. You want to hear the evidence from the
2 State?

3 A Yes, sir.

4 Q You want to hear the evidence from the defense?

5 A Yes, sir.

6 Q And you can make a determination from that?

7 A Yes, sir.

8 Q But this is a two part process. Before we even
9 get to any type of sentencing phase, they have to
10 prove guilt beyond a reasonable doubt.

11 A Correct.

12 Q Correct? And you understand that if they do
13 not prove their case beyond a reasonable doubt, that
14 we don't even get to the sentencing phase?

15 A Right.

16 Q And that you would be willing to vote not
17 guilty if they do not prove their case?

18 A Right.

19 Q Now, as far as if we get to the next stage, are
20 you willing to listen to any type of information
21 about the defendant's background?

22 A Yes, sir.

23 Q About the defendant's childhood?

24 A Yes, sir.

25 Q About some things that may have occurred that

1 may have affected his future course of actions?

2 A Yes, sir.

3 Q And you're willing to give meaningful
4 consideration to those items?

5 A Yes, sir.

6 Q And, again, you're willing to listen to
7 everything that comes out?

8 A Everything you got.

9 Q Okay. And just several more questions. And
10 suppose you get selected for this jury and you go in
11 the jury room and you have 11 persons -- 11 people
12 that want to vote guilty and you want to vote not
13 guilty, would you change your vote just to get the
14 case over with?

15 A No, sir.

16 Q Okay. And would you conduct any meaningful
17 discussions between the two groups, between you and
18 the other group?

19 A Yes, sir.

20 Q You'll listen to their arguments?

21 A Yes, sir.

22 Q And you will expect them to listen to your
23 argument?

24 A Exactly, yes, sir.

25 Q And you would expect for the two of you, that

1 group and you, too, to respect each other?

2 A Exactly, yes, sir.

3 Q And vice versa, if you was among the 11 that
4 wanted guilty and there was another person that
5 wanted not guilty, you would listen to the other
6 person?

7 A Yes, sir.

8 Q And you would respect their decision?

9 A Yes, sir.

10 MR. KOGER: Thank you. No further questions.

11 THE COURT: From the State.

12 MR. PASCOE: May it please the Court.

13 VOIR DIRE

14 BY MR. PASCOE:

15 Q Good afternoon, Ms. Russell. My name is David
16 Pascoe. I'm the Solicitor. I just have a few
17 questions for you. Is it fair to say that, ma'am,
18 you do not oppose the death penalty?

19 A No, sir.

20 Q Is that right?

21 A No, sir.

22 Q And you will be able to look at all of the
23 evidence in this case before you reach a verdict on
24 guilt or not guilty?

25 A Yes, sir.

1 Q And if you decide that someone is guilty of
2 murder, could you, depending on the circumstances,
3 sentence someone to death as a juror?

4 A Yes, sir.

5 Q You would have no problem sitting on a death
6 penalty jury?

7 A No, sir.

8 Q And would you be able, in this instance --
9 like, again, a hypothetical, if you found someone
10 did commit a murder and that circumstances did exist
11 where the death penalty was warranted and you
12 decided to vote for the death penalty, would you be
13 able to sign your name to a death penalty verdict
14 form stating that you sentence somebody to death?

15 A If I hear everything that needs to be heard and
16 I feel in my heart and my soul and what I've heard
17 is that, yes, sir.

18 Q And that's my point. This is hypothetical. If
19 you felt someone deserved it, you could sign your
20 name to a death penalty verdict form?

21 A Yes, sir.

22 Q Would you also be able to come into open court
23 -- if you felt someone deserved the death penalty,
24 could you come into court and sit in one of those
25 chairs and state that that was my verdict to

1 sentence somebody to death?

2 A Yes, sir.

3 Q Would you have any problem doing that
4 whatsoever?

5 A No, sir.

6 Q Are you sure?

7 A I'm sure.

8 MR. PASCOE: Thank you so much for coming.

9 That's all I have, Your Honor.

10 THE COURT: Ma'am, if you'll stand right
11 outside the door for just a moment.

12 (Juror leaves the courtroom.)

13 THE COURT: What says the defense?

14 MR. KOGER: Qualified, Your Honor.

15 THE COURT: Says the State?

16 MR. PASCOE: Qualified, Your Honor.

17 THE COURT: All right. She can come back in.

18 (Juror enters the courtroom.)

19 THE COURT: Okay, ma'am, you've been found
20 qualified to serve as a juror in this case. It
21 doesn't mean that you're on the jury, but you
22 potentially may be on the jury. You may be
23 selected. We're going to do jury selection, we
24 hope, at noon tomorrow, so we need you to come
25 packed and come to the annex there at noon tomorrow.

1 And the jurors will be there in a conference room.
2 And we'll have you all come over here at a certain
3 time.

4 This here is an information sheet concerning
5 your service. And we need you to be certain not to
6 read any news accounts or listen to -- and watch any
7 news accounts concerning this case, read any
8 newspaper articles. And we look forward to seeing
9 you tomorrow. Okay, thank you.

10 (Juror was excused for the day.)

11 **BAILIFF:** We've got Mr. Craven out there and he
12 is prepped.

13 **THE COURT:** All right, Mr. Craven.

14 (Whereupon, Catlin D. Craven, a white male,
15 enters the courtroom.)

16 CATLIN D. CRAVEN,
17 having been previously duly sworn, testified as
18 follows:

19 VOIR DIRE

20 BY THE COURT:

21 **Q** All right. Mr. Craven, how are you doing?

22 **A** All right, sir.

23 **Q** Good. Did you come earlier today?

24 **A** No, sir, I did not.

25 **Q** What time today did you get here at the

1 courthouse?

2 A About 15 minutes ago.

3 Q About 15 minutes ago.

4 THE COURT: And, Madame Clerk, the juror you
5 referred to earlier, was it Mr. Craven or someone
6 else?

7 THE CLERK: It was Mr. Craven.

8 BY THE COURT:

9 Q And, Mr. Craven, where do you work?

10 A Where do I work?

11 Q Yeah.

12 A I don't work. I'm about to be a student in
13 January at O.C. Tech.

14 Q Do you have any health problems that might
15 affect your ability to serve as a juror in this
16 case?

17 A No, sir.

18 Q And have you been exposed to any information
19 concerning this case since yesterday?

20 A No, sir.

21 Q Did you read any newspaper accounts or hear
22 anyone talking about this case?

23 A No, sir.

24 Q Have you heard anything about this case at all?

25 A No, sir.

1 Q And the defendant is presumed to be not guilty
2 of these charges. And the State must prove beyond a
3 reasonable doubt that he is guilty. Do you
4 understand that?

5 A Yes, sir.

6 Q In a case where the State is seeking the death
7 penalty, should the State prove beyond a reasonable
8 doubt that the defendant is guilty and he's found
9 guilty of murder, then the jury would consider what
10 sentence he should get. Obviously, we're not
11 presupposing anything because he's presumed to be
12 not guilty, but if he is found guilty, we need to
13 know some of your opinions as it might affect your
14 jury service. Did you read over the paper as to the
15 list of possible witnesses in this case?

16 A Yes, sir.

17 Q Do you know anyone on that list?

18 A No, sir.

19 Q And did you look over the list as to what type
20 juror you might be?

21 A Yes, sir.

22 Q And the list has type one, type two and type
23 three. Do you remember seeing that?

24 A Yes, sir.

25 Q And which of the three most accurately

1 describes you?

2 A Probably type three.

3 Q And a type three juror is one who might vote
4 for the death penalty or might vote for life
5 imprisonment without the possibility of parole based
6 on the aggravating circumstances and the mitigating
7 circumstances presented during the trial. Do you
8 understand that?

9 A Yes, sir.

10 Q And are you opposed to the death penalty?

11 A It's according to -- I guess so.

12 Q Sir?

13 A Sir?

14 Q Are you opposed to the death penalty?

15 A Oh, no, sir.

16 Q You can vote for it?

17 A Yes, sir.

18 Q And you can also vote for life imprisonment
19 without the possibility of parole if you thought
20 that was appropriate?

21 A Yes, sir.

22 Q The jury in this case will be sequestered for
23 about ten days or so, meaning the jurors would be
24 kept together, not going home at night. Would that
25 pose any danger to you or to your health?

1 **A** No, sir.

2 **THE COURT:** All right. Let's see if the State
3 or the defense would like to ask you any questions.

4 Mr. Solicitor.

5 **MR. PASCOE:** Thank you, Your Honor.

6 **VOIR DIRE**

7 **BY MR. PASCOE:**

8 **Q** Good afternoon, Mr. Craven. My name is David
9 Pascoe. I'm the Solicitor. What time did you get
10 here this afternoon approximately?

11 **A** Probably about 1:15, 1:10.

12 **Q** Did you not want to come in today?

13 **A** Not really. I didn't have my medicine for my
14 ADD today. I ran out of medicine.

15 **MR. WALTERS:** I'm sorry, Your Honor, I can't
16 hear him when he talks.

17 I need you to speak up, please.

18 **BY MR. PASCOE:**

19 **Q** Do me a big favor, Mr. Craven, speak up so we
20 can all hear you, okay?

21 **A** The medicine for my ADD didn't come in today.
22 I didn't have my medicine, so I really didn't want
23 to come in.

24 **Q** Until you had your medication?

25 **A** Until I had my medication.

- 1 Q And have you had your medication?
- 2 A Not yet, no, sir.
- 3 Q Are you going to take it today?
- 4 A Yes, sir.
- 5 Q Has it come in today?
- 6 A I don't think so.
- 7 Q Is your mother here today?
- 8 A Yes, sir, she's downstairs.
- 9 Q Did she bring you to court today?
- 10 A Yes, sir.
- 11 Q Okay. So she's your ride for now?
- 12 A Yes, sir.
- 13 Q Let me ask you some questions about the death
- 14 penalty. You just told the Judge you do not oppose
- 15 the death penalty, right, that you would favor the
- 16 death penalty?
- 17 A Yes, sir.
- 18 Q In general?
- 19 A Yes, sir.
- 20 Q And, hypothetically speaking, if somebody was
- 21 found guilty of murder, you could look at all of the
- 22 evidence and determine whether that person should be
- 23 sentenced to life or death?
- 24 A Yes, sir.
- 25 Q And could you sentence a person to death under

1 the death penalty?

2 A Yes, sir.

3 Q Would you be able to sign your name, because
4 what happens is if you find somebody guilty and you
5 find that someone needs to be sentenced to death as
6 a juror, you would have to sign your name,
7 Mr. Craven, to a death penalty verdict form, would
8 you be able to do that, sentencing somebody to
9 death?

10 A Yes, sir.

11 Q You could sign your name to that form?

12 A Yes, sir.

13 Q And just like you're doing today, could you
14 come into an open courtroom, if that was your
15 decision and your verdict to sentence someone to
16 death, could you come in here and announce that in
17 public, in an open courtroom?

18 A Yes, sir.

19 Q You wouldn't have any problems doing that?

20 A I wouldn't think so.

21 Q And I see you went to both Orangeburg Prep and
22 Edisto High School?

23 A Yes, sir.

24 Q And graduated from high school?

25 A Yes, sir.

1 Q And you're going to O.C. Tech in January?

2 A Yes.

3 MR. PASCOE: Beg the Court's indulgence, Your
4 Honor.

5 (Pause.)

6 MR. PASCOE: Thank you very much, Mr. Craven.
7 Answer any questions either Mr. Koger or Mr. Walters
8 have for you.

9 THE COURT: All right, defense.

10 VOIR DIRE

11 BY MR. WALTERS:

12 Q Good afternoon, Mr. Craven.

13 A Good afternoon.

14 Q Mr. Craven, you've indicated that you suffer
15 with ADD, attention deficit disorder; is that
16 correct?

17 A That's correct.

18 Q All right. And what's the name of the
19 medication you're taking, sir?

20 A I think it's Strattera.

21 Q Strattera?

22 A Yes, sir.

23 Q And when are you required to take the
24 medication, sir?

25 A In the morning times on most days, in the

1 weekdays in the morning times.

2 Q You take it before you go to school?

3 A Yes, sir, I did, but I'm out of school now.

4 Q And you're out of school now. Do you have to
5 take it to go to work?

6 A I don't work, sir. I'm about to be a student.
7 I'm going to have to start taking it again soon.

8 Q All right. So let me make sure I'm clear about
9 the Strattera that you're taking. The Strattera was
10 taken when you were in school because it helps you
11 to focus; is that correct?

12 A Yes, sir.

13 Q And, evidently, you graduated from school and
14 you're not working at this time, so when are you
15 required to take your Strattera?

16 A Mostly when I have like work or I'm going to
17 school so I can focus. If I'm just -- if I'm not
18 doing anything, I don't have to take it, but I do
19 anyway most of the time.

20 Q So, in other words, you're an adult, you're out
21 of the classroom setting, so the Strattera is really
22 a voluntary choice at this time; is that correct?

23 A Yes, sir.

24 Q So if you've got something that you've got to
25 do, you may take the Strattera, it allows you to

1 focus. And then if you just want to go out with the
2 guys and play around, you don't take the Strattera?

3 A I still take it because, I mean, I want to take
4 it so I can be able to focus and stuff.

5 Q All right. And what are some of the side
6 effects if you don't take the Strattera?

7 A If I don't take it, I just -- I'll doze off, I
8 won't focus as much and that's probably about it.

9 Q Could you speak up, please?

10 A I'll doze off and like daydream. I just won't
11 focus as much.

12 Q So you'll doze off and you may even daydream
13 and you don't focus; is that correct?

14 A Yes, sir.

15 Q Now, you indicated to us that your mother is
16 downstairs; is that right?

17 A Yes, sir.

18 Q Do you still live with your mother?

19 A I live with my parents, yes, sir.

20 Q Okay. And the medication that you're given,
21 does your mother pick that up from the pharmacy and
22 does she sort of monitor when you're taking it and
23 when you're not taking it still?

24 A Yes, sir.

25 Q And how old are you now?

1 A Nineteen.

2 Q And your mother, she monitored the medication
3 all during the time that you were in school; is that
4 right?

5 A Since third grade, yes, sir.

6 Q What's that?

7 A Since the third grade.

8 Q Since the third grade. And now that you're an
9 adult, you have more of a say so as to whether you
10 want to take the Strattera or you don't?

11 A Yes, sir.

12 Q You also indicated that if you don't take the
13 Strattera, you said you'll doze off. You actually
14 go to sleep?

15 A I don't go to sleep, but I'll just like -- I'll
16 daydream and just won't be paying attention to
17 what's going on. And I'll be like tired sometimes.

18 Q And you understand this trial could last up to
19 two weeks?

20 A Yes, sir.

21 Q And you understand that your mother will not be
22 with you and you'll be required to monitor that
23 medication, make sure you take it on a daily basis
24 at the required time?

25 A Yes, sir.

1 Q And, of course, you've had situations when you
2 were in school where you forgot to take it that
3 morning and then you had to take it maybe midday and
4 then it gets into your system and then you go to
5 classes, but the classes that you didn't have it,
6 you sort of dozed off or you daydreamed and you
7 didn't focus; is that correct?

8 A That's correct. I mean, I still focus pretty
9 good without the medicine. It's just I'm a lot
10 better with the medicine.

11 Q I completely understand. Do you like video
12 games?

13 A Not really.

14 Q It says here you go to Corner Stone Church; is
15 that right?

16 A That's correct.

17 Q All right. And how long have you been going
18 there, sir?

19 A For like about three years now.

20 Q Okay. You understand that in this particular
21 case that the State is required to prove their case
22 beyond a reasonable doubt?

23 A Yes, sir.

24 Q And are you willing to hold the State to that
25 burden of proving their case beyond a reasonable

1 doubt?

2 A Yes, sir.

3 Q And, of course, if the State fails to do so,
4 are you willing to return a verdict of not guilty?

5 A Yes, sir.

6 Q And if they prove their case, if they prove
7 their case beyond a reasonable doubt, you would
8 return a verdict of guilty; is that right?

9 A Yes, sir.

10 Q And tell me why you believe you're a type three
11 juror.

12 A Because I believe it's the -- I mean, I believe
13 in the death penalty, but you have to do a certain
14 crime to plead the death penalty.

15 MR. WALTERS: Beg the Court's indulgence, Your
16 Honor.

17 (Pause.)

18 Q When you say you're a type three, what you're
19 saying is you want to listen to all of the
20 information before you make a decision?

21 A Yes, sir.

22 Q And you want to focus in on that information,
23 the aggravating and mitigating circumstances, and
24 then you'd make an individual decision as to what
25 you believe is correct?

1 **A** Yes, sir.

2 **MR. WALTERS:** Your Honor, we have no further
3 questions.

4 **THE COURT:** All right, sir, if you'll stand
5 right outside the door.

6 (Juror leaves the courtroom.)

7 **THE COURT:** What says the State?

8 **MR. PASCOE:** Your Honor, I think, from his
9 testimony, Mr. Craven is certainly qualified. My
10 only concern is what the clerk has relayed to the
11 Court, which is when the mother said that he was
12 wiggling out, and that was the quote, today. She is
13 downstairs. I guess, my request would be is maybe
14 just to have the Court question her about the
15 condition of Mr. Craven and what did she mean by
16 that, you know, what it took to get him here.

17 We certainly don't want to have him impanelled
18 as a juror and then have him, you know, wig out as a
19 juror.

20 **THE COURT:** What says the defense?

21 **MR. WALTERS:** May it please the Court. Your
22 Honor, I believe he's unqualified. It appears that
23 this man has gone through, say, high school and he's
24 graduated, but his mother always monitored his
25 medication. As most children on ADD medication, the

1 parents issue it in the morning. He's graduated
2 from high school and now he's had the freedom of
3 working and he's had the choice of determining
4 whether he wants to take the Strattera or doesn't.

5 But I put great credibility on what the clerk
6 has said, when his mother says that he's wiggling out
7 in this particular case, I don't want a juror that
8 can't focus on the issues that are before the court
9 or that can't focus on important issues before the
10 court. And I'll use his words, he'll doze off,
11 daydream.

12 And, Your Honor, he's going to have to
13 administer his medication on his own, but all
14 indications are he's not administering his
15 medication on his own. His mother is downstairs.
16 His mother can't attend the trial with him and give
17 him his medication during the trial.

18 So out of an abundance of precaution, I would
19 argue that he's not qualified because I believe he's
20 impaired because he does not have the independent
21 ability to take his medication and monitor what he's
22 doing. He's simply out of high school and he
23 doesn't have to take it on a daily basis anymore
24 because he's not going to class. And I believe
25 he'll start school in January so he has the freedom

1 of deciding when he wants it and when he doesn't
2 want it and that may be the problems that his mother
3 is running into.

4 (Pause.)

5 THE COURT: Did she have some hesitancy about
6 coming?

7 THE CLERK: No, sir, not at all.

8 THE COURT: How far away was she?

9 THE CLERK: She was in the car.

10 THE COURT: All right. Let's move to the next
11 juror.

12 THE CLERK: Ms. Craven is back in the back.

13 THE COURT: Have her come in.

14 (Ms. Craven enters the courtroom.)

15 THE COURT: Ma'am, are you Ms. Craven?

16 MS. CRAVEN: Yes, I am.

17 THE COURT: And your son is Catlin?

18 MS. CRAVEN: Catlin.

19 THE COURT: Does he have some problem that
20 would prevent him from serving on jury duty?

21 MS. CRAVEN: He's not real focused. He's --
22 attention deficit disorder, has been since third
23 grade. He takes Concerta. Without his Concerta,
24 no, he's not focused, he's not -- can make a good
25 decision.

1 **THE COURT:** And who monitors his medication?

2 **MS. CRAVEN:** His grandmother and myself. Well,
3 he's 19 now. I mean, he knows to take his
4 medication, but you have to make him take it. You
5 have to stand there like a little child, make sure
6 he swallows it because I have found it behind his
7 bed, under his dresser.

8 **THE COURT:** So if he was on a jury and away
9 from home, he probably wouldn't take the medicine.

10 **MS. CRAVEN:** No, sir.

11 **THE COURT:** All right. Thank you very much.

12 (Ms. Craven leaves the courtroom.)

13 **THE COURT:** I find he's not qualified to serve
14 based on his condition.

15 (Juror returns to the courtroom.)

16 **THE COURT:** Okay. Mr. Craven, the jury in this
17 case would be sequestered. And due to your medical
18 issues and the fact that you would not have your
19 parents or anyone around to help you with the
20 medicine and make sure, we don't want to take the
21 risk of your having any kind of problems with that
22 medication, so we're not going to consider you for
23 this jury. We thank you for coming, though. I hope
24 things go well for you at O.C. Tech.

25 **JUROR:** Thank you.

1 (Juror was excused.)

2 (Whereupon, James E. Cornelius, a black
3 male, enters the courtroom.)

4 JAMES E. CORNELIUS,
5 having been previously duly sworn, testified as
6 follows:

7 VOIR DIRE

8 BY THE COURT:

9 Q All right. Mr. Cornelius, how are you doing?

10 A Fine. And you?

11 Q Good. And, Mr. Cornelius, you're still under
12 oath from yesterday. And, Mr. Cornelius, do you
13 recall me asking the question of all jurors
14 yesterday, Could you read or write and understand
15 the English language?

16 A I can understand English, but I can't read and
17 write.

18 Q You cannot read and write?

19 A No, sir.

20 Q And the papers that you were given outside to
21 read, were you able to read those papers?

22 A No, sir.

23 THE COURT: Any questions by the State or the
24 defense?

25 MR. PASCOE: No, Your Honor.

1 VOIR DIRE

2 BY MR. KOGER:

3 Q Mr. Cornelius, what is your opinion of the
4 death penalty?

5 A Excuse me?

6 Q What is your opinion on the death penalty?

7 A I don't agree on it. No, sir, I don't believe
8 in it. I don't believe in the death penalty.

9 Q You don't believe in the death penalty?

10 A I don't believe in that.

11 Q Would you listen -- say like if you were
12 selected as a juror in this particular case, would
13 you listen to testimony?

14 A Yeah, but I won't be -- I won't be -- I
15 wouldn't agree with it. I wouldn't disagree -- I
16 mean, just like I say, I don't believe in it. I
17 mean, I would listen to what you got to say and
18 that's it, but voicing my opinion on it, no.

19 Q So in every circumstance regardless of what
20 comes out in the court, you would vote against the
21 death penalty -- I mean, you would not vote for the
22 death penalty?

23 A I wouldn't.

24 Q And what is the basis of your opinion? That's
25 something that you held all your life?

1 **A** All my life. Practically all my life.
2 Something happened to me when I was younger with one
3 of my brothers and ever since then, that was it.

4 **Q** And that incident well -- shaped your opinion
5 for -- up until this day?

6 **A** All the way to this day.

7 **MR. KOGER:** Thank you.

8 **THE COURT:** All right, sir, if you'll stand
9 right outside.

10 (Juror leaves the courtroom.)

11 **THE COURT:** What says the State?

12 **MR. PASCOE:** We'd ask that he not be qualified,
13 Your Honor.

14 **THE COURT:** What says the defense?

15 **MR. KOGER:** Unqualified.

16 **THE COURT:** All right. You can have him come
17 back.

18 (Juror returns to the courtroom.)

19 **THE COURT:** Mr. Cornelius, based on your views
20 and also your inability to read, write and
21 understand -- read and write, which is a
22 qualification to serve on jury duty -- I think you
23 did stand up and say you had less than a 6th grade
24 education. And I think you said you had a driver's
25 license.

1 **JUROR:** Yes, sir, I do.

2 **THE COURT:** You didn't have to read anything to
3 get that?

4 **JUROR:** Basically, I took an oral test.

5 **THE COURT:** You took an oral test. I
6 understand. All right, well, you've been
7 disqualified to serve as a juror in this case. I
8 want to thank you for coming and you don't have to
9 come back. Thank you very much.

10 (Juror was excused.)

11 (Whereupon, Linda I. Inabinet, a white
12 female, enters the courtroom.)

13 LINDA I. INABINET,
14 having been previously duly sworn, testified as
15 follows:

16 VOIR DIRE

17 **BY THE COURT:**

18 **Q** Ms. Inabinet, how are you doing?

19 **A** Just fine.

20 **Q** Good. You're still under oath from earlier.
21 Ms. Inabinet, have you been exposed to any
22 newspapers, magazines or has anyone contacted you
23 about this case in the past 24 hours?

24 **A** No.

25 **Q** Have you ever -- have you heard something about

1 this case in the past?

2 A Yes.

3 Q And did that cause you to form an opinion as to
4 the guilt or innocence of the defendant?

5 A No.

6 Q And where do you work?

7 A I'm a homemaker.

8 Q You're a homemaker?

9 A Yeah.

10 Q All right. Have you had a chance to look at
11 the paper containing the list of names of people who
12 might testify?

13 A I was down to 12 whenever they called me in.

14 Q You were down to 12?

15 A Yeah.

16 Q All right. We'll need to have you take a look
17 at that list in greater detail.

18 A (Juror reviewing list.)

19 Q Do you know anyone on that list?

20 A Lieutenant Cartwright. Do you want me to name
21 them?

22 Q Yes.

23 A Wendell Davis, Greg Whetstone.

24 Q You know some of the local law enforcement
25 officers?

1 **A** Right. Some of these names sound familiar, but
2 I don't know them personally.

3 **Q** Have you formed an opinion concerning the guilt
4 or innocence of this defendant?

5 **A** No.

6 **Q** The defendant is presumed to be not guilty of
7 these charges and cannot be found guilty unless the
8 State proves beyond a reasonable doubt that he's
9 guilty, but should the jury find him guilty, then
10 because the State is seeking the death penalty, the
11 jury would be concerned about the issue of penalty.
12 And I, therefore, need to know your opinion
13 concerning the death penalty. Did you look at this
14 list to determine what type of juror you are, one,
15 two or three?

16 **A** Three.

17 **Q** You're type number what?

18 **A** Three.

19 **Q** And a type three juror is one who could vote
20 for the death penalty or life imprisonment without
21 the possibility of parole depending on that juror's
22 view of the evidence and listen to the aggravating
23 circumstances and the mitigating circumstances. Are
24 you that type of juror?

25 **A** Yes.

1 Q Now, this jury would be sequestered for --
2 until the trial is over and it may last well into
3 next week. Would that pose a risk to your health or
4 safety or anyone dependent upon you if you were put
5 on the jury and held together at a local motel while
6 the case is going on?

7 A I don't think so.

8 THE COURT: Questions by the lawyers, see if
9 they want to ask you any, by the defense?

10 MR. WALTERS: May it please the Court.

11 VOIR DIRE

12 BY MR. WALTERS:

13 Q Good afternoon, Ms. Inabinet. Thank you for
14 coming back today. My name is Glenn Walters. I
15 represent Mr. Mahdi, along with Attorney Koger. Ms.
16 Inabinet, it says here you work for an attorney,
17 Furman R. Gressette. Where does he practice, ma'am?

18 A That was a long time ago. In 1961 -- in Saint
19 Matthews.

20 Q In Saint Matthews? All right. And that was,
21 you indicated, from '61 to '65?

22 A Right.

23 Q You indicated that you were a type number
24 three; is that correct?

25 A Yes.

1 Q In other words, if you served as a juror, the
2 State is required to prove their case beyond a
3 reasonable doubt and you're willing to listen to the
4 facts, the evidence that's presented before you and
5 then you'll make your own mind up as to whether the
6 State has proven their case beyond a reasonable
7 doubt. And if they've proven it beyond a reasonable
8 doubt, you could find someone guilty; is that
9 correct?

10 A Right.

11 Q And if they failed to prove their case beyond a
12 reasonable doubt, you could find someone not guilty;
13 is that correct?

14 A Right.

15 Q Also, if the case enters into the sentencing
16 phase, you understand that the State will be allowed
17 to present -- present aggravating circumstances,
18 that means they'll present not only the murder that
19 they had presented in the guilt phase, but other
20 factors along with that murder. You also understand
21 that we will be allowed to present mitigating
22 factors with regards to the young man's childhood,
23 his family, his parents, how he grew up and things
24 of that nature. Will you give meaningful
25 consideration to all of these factors in making your

1 decision?

2 A Yes.

3 Q Okay. And, of course, after you evaluate all
4 of the evidence, the totality of what we present
5 before you, it's your position that you could either
6 return a verdict of life imprisonment without parole
7 or you could actually sentence someone to death; is
8 that correct?

9 A Right.

10 MR. WALTERS: Your Honor, I have no further
11 questions.

12 THE COURT: Any questions by the State?

13 MR. PASCOE: Good afternoon, Ms. Inabinet. My
14 name is David Pascoe. I'm the Solicitor. I have no
15 questions.

16 THE COURT: All right. Ma'am, if you'll stand
17 right outside the door, we'll have you come right
18 back in.

19 (Juror leaves the courtroom.)

20 THE COURT: What says the defense?

21 MR. WALTERS: Your Honor, I believe she's
22 qualified.

23 THE COURT: What says the State?

24 MR. PASCOE: Qualified, Your Honor.

25 THE COURT: All right. Have her come back in,

1 please.

2 (Juror enters the courtroom.)

3 **THE COURT:** Ms. Inabinet, you have been found
4 to be qualified to serve and that doesn't mean that
5 you're on the jury, but you're a potential juror.
6 We hope to select the jury tomorrow at noon, so we
7 need you to pack up enough clothing and medication
8 for a couple weeks and come to the annex at noon
9 tomorrow. The jurors who have to come tomorrow will
10 meet in the conference room over in the building
11 across the street. Here's a sheet of paper that you
12 can take to give you some orientation about that.

13 Please do not discuss the case, read any news
14 accounts or watch any television accounts concerning
15 this case. It will be improper for you to do that.
16 And we'll see you tomorrow at noon. Thank you very
17 much. And the officer will take your phone number
18 in the event there is any change of plans, but
19 unless you hear from us please, be here at noon.

20 **JUROR:** Okay.

21 (Juror was excused for the day.)

22 (Whereupon, Maxine B. Bonaparte, a black
23 female, enters the courtroom.)

24 *****

25 *****

1 MAXINE B. BONAPARTE,
2 having been previously duly sworn, testified as
3 follows:

4 VOIR DIRE
5 BY THE COURT:

6 Q Ms. Maxine Bonaparte, how are you doing?

7 A Fine. How are you?

8 Q Good. You're still under oath from yesterday.

9 Ms. Bonaparte, where do you work?

10 A I work for Bi-Lo in Denmark.

11 Q Bi-Lo in Denmark. And what area of this county
12 are you from?

13 A Calhoun County.

14 Q Have you read anything or heard anything about
15 this case since yesterday?

16 A No, sir.

17 Q Have you heard anything about this case before
18 yesterday?

19 A No, sir.

20 Q Now, the defendant is presumed to be not guilty
21 of these charges, but where the State seeks the
22 death penalty, if he is found guilty of murder, then
23 we have the second phase of the trial in which the
24 penalty is determined. And in that connection, we
25 need to ask you some questions concerning your

1 opinion concerning the death penalty because in the
2 penalty phase of the trial, should we get there, the
3 only two choices the jury would have would be life
4 imprisonment without the possibility of parole or
5 the death penalty. Have you had a chance to look at
6 this paper to determine what type of juror you are?

7 A Yes, sir.

8 Q And which of those three types best describe
9 you?

10 A Number three.

11 Q And a number three juror is one who could vote
12 for the death penalty or could vote for life
13 imprisonment without the possibility of parole
14 depending upon that juror's view of the evidence and
15 based on the consideration by that juror of the
16 aggravating circumstances and mitigating
17 circumstances presented during the trial. That's
18 the type juror you are?

19 A Yes, sir.

20 Q And this State witness list, did you look it
21 over?

22 A Yes, sir, I did.

23 Q And did you recognize anyone on that list?

24 A No, sir.

25 THE COURT: Let's see if the State or the

1 defense would have any questions for you.

2 VOIR DIRE

3 BY MR. PASCOE:

4 Q Good afternoon, Ms. Bonaparte. My name is
5 David Pascoe. I'm the Solicitor for Calhoun County.
6 How are you today?

7 A Fine. Thank you.

8 Q I want to thank you for coming back.

9 A You're welcome.

10 Q You had indicated yesterday when we were all
11 here with the large panel, that you had been
12 represented by Mr. Walters in the past?

13 A Yes, sir.

14 Q What type of matter was that?

15 A It was a divorce.

16 Q Okay. So in family court, divorce?

17 A Uh-huh.

18 Q How long ago was that?

19 A About ten years ago.

20 Q Did he do a good job?

21 A Yes, he did.

22 Q Would the fact that he represented you, would
23 that in any way, you think, affect your ability to
24 be a fair juror in this case?

25 A No, sir.

1 Q What are your basic feelings about the death
2 penalty? Do you oppose it or favor it?

3 A Well, at this point, I really don't have an
4 opinion one way or the other and that's being
5 honest.

6 Q Thank you. And that's what we're here to do is
7 get honest answers. The only wrong answer is if you
8 tell me something I just want to hear, okay? If you
9 don't know whether you oppose or favor the death
10 penalty or not, how do you know that you could
11 sentence somebody to death?

12 A Because I feel once I listen to the evidence, I
13 can kind of determine for myself whether I feel that
14 person is innocent or guilty and I can go from
15 there.

16 Q Okay. Let me ask you this. What do you think
17 -- sentencing someone to the death penalty, what
18 does that mean to you?

19 A Well, if you sentence them to the death
20 penalty, they could either stay in prison for the
21 rest of their lives or get a lethal injection.

22 Q And, actually, let me correct you, that's not
23 actually what the death penalty means. If you
24 sentence somebody to the death penalty, that means
25 they're going to die, that they will be executed.

1 Does that maybe change your mind a little bit about
2 what type of juror you are?

3 A No, sir.

4 Q Can you actually -- could you sentence someone
5 to death?

6 A I believe I could.

7 Q Without hesitation, do you think you could
8 sentence somebody to death?

9 A Yes, sir.

10 Q So let me ask you again. Do you oppose the
11 death penalty or do you favor the death penalty in
12 general?

13 A I don't oppose, so I would say I favor it.

14 Q Okay. If you found somebody guilty of murder
15 and if the other 11 jurors agreed with you and you
16 decided to impose the death penalty, you would have
17 to sign your name, Ms. Bonaparte, to a death verdict
18 for a defendant. Would you be able to sign your
19 name sentencing somebody to death?

20 A Yes, sir.

21 Q Would you be able to come into a courtroom and
22 stand up in front of everybody in the courtroom and
23 say that I sentenced that person to death?

24 A Yes, I would.

25 MR. PASCOE: Beg the Court's indulgence.

1 (Pause.)

2 MR. PASCOE: Thank you, Ms. Bonaparte.

3 THE COURT: All right. Mr. Koger.

4 MR. KOGER: May it please the Court.

5 VOIR DIRE

6 BY MR. KOGER:

7 Q Ms. Bonaparte, but before you could decide on
8 death, the case would have to be proven, correct?

9 A Correct.

10 Q And the State would have to prove the case
11 beyond a reasonable doubt, correct?

12 A Correct.

13 Q And if they do not meet that burden, then you
14 could return a verdict of not guilty?

15 A True.

16 Q And then from that point, we wouldn't even get
17 to the sentencing phase, correct?

18 A Right.

19 Q And that is what you mean by being a type three
20 juror, correct?

21 A Correct.

22 Q That you need to listen to all of the evidence
23 from both sides, evidence from the State, evidence
24 from the defense, correct?

25 A Correct.

1 Q And you could take into consideration, in any
2 type of phase of the trial, the defendant's
3 background, could you?

4 A Correct.

5 Q About their childhood, correct?

6 A Yes.

7 Q About some things that may have happened in
8 their childhood?

9 A Yes.

10 Q And their upbringing, correct?

11 A Correct.

12 Q And, basically, you could be fair and
13 impartial?

14 A Correct.

15 Q And as far as after we get to -- if you're
16 selected for this jury and when you go to the jury
17 room, let's say you have 11 people that's for the
18 death penalty or let's say -- I'm going too fast --
19 let's say we go to the jury room and you have 11
20 people for guilty and you're the sole person, the
21 only person, for not guilty, would you change your
22 vote just to get the case over with?

23 A No, sir.

24 Q And would you want to discuss the case further
25 with them?

1 **A** Yes.

2 **Q** And would you respect their opinion?

3 **A** Yes, I would.

4 **Q** And would you expect them to respect your
5 opinion?

6 **A** Yes.

7 **Q** Okay. And let's say it was changed around, say
8 like you was in the 11 that wanted to vote guilty
9 and there was one person not guilty, would you
10 respect that one person who would vote not guilty?

11 **A** Yes.

12 **Q** Would you listen to what that person would have
13 to say?

14 **A** Yes, I would.

15 **MR. KOGER:** All right. Thank you.

16 **THE COURT:** Ma'am, if you'll step outside for
17 just a moment. Before you do that, I want to find
18 out for sure that if you, for some reason, were
19 selected on this jury, do you have any health issues
20 that would prevent you or any folks you're
21 responsible for would have any health issues that
22 would prevent you from being sequestered as a juror?

23 **JUROR:** No, sir.

24 **THE COURT:** All right. Thank you.

25 (Juror leaves the courtroom.)

1 **THE COURT:** What says the State?

2 **MR. PASCOE:** Qualify, Your Honor.

3 **THE COURT:** What says the defense?

4 **MR. KOGER:** Qualify, Your Honor.

5 **THE COURT:** If you'll bring her back.

6 (Juror enters the courtroom.)

7 **THE COURT:** All right. Ms. Bonaparte, you're
8 qualified to serve as a juror in this case. It does
9 not mean that you have been selected, but you
10 potentially may be selected.

11 We need you to come back at 12 noon tomorrow,
12 packed to be ready to be with us ten days or so, if
13 you are selected. Of course, if you're not
14 selected, then you'll be released to go home, but if
15 you are selected, you'll need to be prepared to stay
16 with us and have someone to pick up your car or
17 bring you here and stick around to see if you are
18 selected.

19 And here's an information sheet that you can
20 take with you to give you some information about
21 where we will be and what you need to tell your
22 loved ones. Thank you. We'll see you at 12 noon
23 tomorrow. Come to the annex right across the
24 street, that's where the jurors will meet in the
25 conference room over there.

1 JUROR: Okay.

2 (Juror was excused for the day.)

3 (Whereupon, Bobby J. Hicks, a black female,
4 enters the courtroom.)

5 BOBBY J. HICKS,
6 having been previously duly sworn, testified as
7 follows:

8 VOIR DIRE

9 BY THE COURT:

10 Q Ma'am, what is your full name?

11 A Bobby Jean Hicks.

12 Q Ms. Bobby Jean Hicks, how are you doing?

13 A I'm doing okay.

14 Q Ms. Hicks, you're still under oath. Where do
15 you work, ma'am?

16 A Calhoun Academy.

17 Q What do you do over there?

18 A I'm a custodian.

19 Q And has anyone attempted to contact you or talk
20 with you about this case since you left yesterday?

21 A No, sir.

22 Q And have you read anything about it?

23 A No, sir.

24 Q And you remembered my admonition to the jurors
25 not to read, listen, watch or be exposed to anything

1 about it?

2 A Yes, sir.

3 Q Now, in this case, there are a number of people
4 who may testify. Did you look over this witness
5 list?

6 A Yes, sir.

7 Q Do you know any of those folks?

8 A No, sir.

9 Q Now, in this case, the defendant is -- the
10 State is seeking the death penalty. The defendant
11 has pled not guilty and he's presumed to be not
12 guilty. And the State must prove beyond a
13 reasonable doubt that he's guilty. And if the State
14 can do that and does that, then the case goes to a
15 penalty phase where the jury will consider whether
16 or not he should be sentenced to life imprisonment
17 without the possibility of parole or be sentenced to
18 the death penalty. In that connection, we need to
19 know your opinion about the death penalty. Did you
20 look at this sheet of paper to determine whether
21 you're juror number one, number two or number three?

22 A Yes, sir.

23 Q And which of the three best describes you?

24 A I think three.

25 Q And juror number three is one who can vote for

1 the death penalty, if that's what the juror decides
2 is the most appropriate punishment, or can vote for
3 life imprisonment without the possibility of parole
4 if the jury thought that would be the best. Is that
5 you?

6 A Yes, sir.

7 Q And could you vote for the death penalty and
8 come into court and announce that that is your
9 decision in this case?

10 A Yes, sir.

11 THE COURT: All right. Let's see if the State
12 or the defense will have any questions for you.

13 Mr. Walters.

14 MR. WALTERS: May it please the Court.

15 VOIR DIRE

16 BY MR. WALTERS:

17 Q Good afternoon, Ms. Hicks. How are you?

18 A I'm okay.

19 Q Thank you for coming back today.

20 A Thank you.

21 Q Ms. Hicks, you indicated that you're a type
22 number three; is that correct?

23 A Yes.

24 Q And I want to make sure we're clear about what
25 you mean when you say type number three. You

1 realize that the State in this particular case, they
2 must prove their case beyond a reasonable doubt?

3 A Yes.

4 Q Mr. Mahdi sits here an innocent man. He does
5 not have to put up any witnesses. He does not have
6 to testify. The State must prove their case beyond
7 a reasonable doubt. And when you deliberate over
8 that particular issue after hearing the facts and
9 the circumstances and the evidence, you'll be in a
10 room with 12 other people, you understand that that
11 is an individual decision that you have to make --

12 A Yes.

13 Q -- based on the information that's presented to
14 you?

15 A Yes.

16 Q And that information that's presented to you,
17 you will have to sit down and say, this is what I
18 believe is correct. And there's only one or two
19 verdicts you can produce. If the State proves their
20 case beyond a reasonable doubt, you'd find the
21 defendant guilty?

22 A Right.

23 Q If they failed to prove their case beyond a
24 reasonable doubt, you would find the defendant not
25 guilty?

1 A True.

2 Q In addition to that when we refer to type
3 number three, it also indicated that in punishing
4 someone, if it should reach that point, you would
5 consider aggravating circumstances and that will be
6 produced by the State. In other words, they've
7 already produced the case that produced murder as a
8 result, but they would show other factors along with
9 that murder that you should consider.

10 A Right.

11 Q The defense, in this particular case, we would
12 be allowed to present evidence with regards to the
13 upbringing of Mr. Mahdi, his family, his parents and
14 things of that nature. Will you give meaningful
15 consideration to that, also?

16 A Yes.

17 Q So what you're saying is, is that you want the
18 full picture?

19 A Yes.

20 Q You want knowledge with regards to all of the
21 facts and circumstances, the totality of what's gone
22 on here and then you'll make a decision; is that
23 right?

24 A That's right.

25 Q And, of course, in that sentencing phase, there

1 are only one of two verdicts that could be produced
2 and that will be a verdict of either life in prison
3 without parole or the person will be sentenced to
4 death. Do you understand when we talk about death,
5 we're referring to either -- the person is going to
6 die?

7 A Right.

8 Q And you understand that?

9 A Yes.

10 Q And are you willing to sign your name on a
11 document with regards to that position if you have
12 to take it?

13 A If I have to take it.

14 Q And you're willing to stand in this courtroom
15 and stand behind anything that you sign and the
16 position that you take?

17 A I do.

18 Q So what you're telling me is, is that you're
19 going to keep an open mind, you're going to
20 carefully evaluate what's put before you and after
21 you've seen all of the evidence, then you'll make a
22 decision?

23 A That's what I'm saying.

24 MR. WALTERS: I have no further questions, Your
25 Honor.

1 **THE COURT:** By the State.

2 **MR. PASCOE:** Thank you, Your Honor.

3 VOIR DIRE

4 **BY MR. PASCOE:**

5 **Q** Good afternoon, Ms. Hicks. I want to thank you
6 for coming back. It's been a long two days for you,
7 so thank you for coming back. You testified, when
8 the Judge asked you what type of juror you were,
9 that you think you're a number three. What makes
10 you think that you're a number three juror?

11 **A** Because I'd like to think that I'm a fair, open
12 minded citizen. And I believe before I would make a
13 decision that's going to take somebody's life from
14 them, I would like to know the whole picture,
15 everything that's going on surrounding it. That's
16 what I think would make me...

17 **Q** And let me ask you, do you -- in general now,
18 not talking about in this case, but in general, do
19 you favor or oppose the death penalty?

20 **A** I guess it would all depend on the
21 circumstances of the case, what's going on with it.

22 **Q** If you find somebody guilty of a murder and you
23 find that under the law, you could sentence that
24 person to death, could you do that?

25 **A** Yes.

1 Q No doubt about it in your mind?

2 A No doubt.

3 Q Let me ask you -- and the Judge also asked you
4 about if you and the other jurors decide that the
5 death penalty is warranted, you found somebody
6 guilty of murder and you wanted to issue the death
7 penalty as a sentence, you know that you would have
8 to sign your name to a verdict form that says that
9 you, Ms. Hicks, sentenced that person to death?

10 A Yes.

11 Q Could you do that, Ms. Hicks?

12 A Yes.

13 Q No doubt in your mind?

14 A No doubt in my mind.

15 Q And do you know what that means when you
16 sentence somebody to death?

17 A That means that they die.

18 Q And you would then have to come into a
19 courtroom like this and announce your verdict
20 publicly for the public. If you decided someone
21 deserved the death penalty, would you be able to do
22 that?

23 A Of course.

24 Q So do you favor the death penalty, in general?

25 A Just like I said, it all depends on what's

1 surrounding the phase of the death penalty. It all
2 depends on why it's there and why are you asking for
3 it and stuff like that.

4 Q And, Ms. Hicks, I hate to ask you these
5 personal questions, but have you ever been arrested
6 before?

7 A Yes.

8 Q When was that, approximately?

9 A I can't remember, but it's been about five, six
10 years ago.

11 Q And what was that for?

12 A This girl came into my house, she was drunk,
13 and I asked her to leave and she wouldn't. And she
14 slapped me and she tried to run. And my brother --
15 I tried to hit her back, but my brother wouldn't let
16 me, so I threw this glass and it cut her face.

17 Q And that was in your own home, too, wasn't it?

18 A Yeah, this was in my place.

19 Q You were protecting yourself?

20 A That's right.

21 Q And even though you were charged, you weren't
22 guilty?

23 A No.

24 Q That's right. And I think, as I recall now,
25 you actually mentioned that to the Court yesterday

1 about how you'd been charged?

2 A Yes, I did.

3 Q Thank you for coming forward. You were,
4 though, arrested, I think now, originally by the
5 sheriff's office?

6 A Yes, I stayed -- they came to my house and they
7 locked me up. And I was arrested for about three or
8 four hours and then they let me out.

9 Q Good. For assault and battery?

10 A I don't know. They just told me -- he just
11 told me I could go.

12 Q And did the sheriff's office end up dismissing
13 the charge for you?

14 A Yes.

15 Q They did the right thing?

16 A Yes.

17 Q So you don't have any -- do you have any bias
18 or prejudice against the sheriff's office?

19 A Oh, no.

20 Q And you could sit on this jury as a fair and
21 impartial juror even though the sheriff's office
22 dismissed the charges for you?

23 A Yes, I could.

24 Q And you mentioned that you work at Calhoun
25 Academy. Do you happen to know my wife, Kristin

1 Pascoe, who works at Calhoun Academy?

2 A I probably know her by face, but not by name
3 because there's so many teachers and stuff down
4 there and some of them I know by name and some of
5 them I just know by faces.

6 Q But the mere fact that you may actually know my
7 wife or may have even talked to her in the past or
8 know her by face, would that prevent you from being
9 able to come in here and being a fair and impartial
10 juror?

11 A No, because we don't talk about anything that
12 has to do with the law.

13 Q That's right. Thank you, ma'am. And you can
14 give both the State of South Carolina and the
15 defendant a fair trial in this case, correct?

16 A Yes, I think I can.

17 MR. PASCOE: Thank you, ma'am.

18 THE COURT: Ms. Hicks, if you were put on this
19 jury, the jury would be sequestered at a local motel
20 for probably ten days or so. Is there anything that
21 would affect your health or safety by having to be
22 sequestered?

23 JUROR: No, sir.

24 THE COURT: All right. If you'll stand right
25 outside the door for us.

1 (Juror leaves the courtroom.)

2 THE COURT: What says the defense?

3 MR. WALTERS: She's qualified, Your Honor.

4 THE COURT: What says the State?

5 MR. PASCOE: Qualified, Your Honor.

6 THE COURT: All right. Bring her back.

7 (Juror enters the courtroom.)

8 THE COURT: All right. Ms. Hicks, you're
9 qualified to serve as a juror in this case. It does
10 not mean that you're on the jury, but you might be
11 put on the jury.

12 We need you to pack up and be ready to stay
13 with us. We'll need you to come back at 12 noon
14 tomorrow and go over to the annex building there in
15 the conference room and have your suitcase ready to
16 stay with us. If you're put on the jury, then
17 you'll stay with us. If you're not put on the jury,
18 you'll be released to go.

19 Here's an information sheet that will tell you
20 about that. Be sure and bring any medication that
21 you may be taking with you.

22 All right. Thank you. We'll see you tomorrow.

23 Ms. Hicks, I also want to caution you that
24 you're not to read any newspaper articles, watch any
25 television reports or allow anyone to discuss the

1 case in your presence, not even with your other
2 jurors, okay?

3 JUROR: Okay.

4 THE COURT: All right. Thank you. We'll see
5 you tomorrow.

6 JUROR: Thank you.

7 (Juror was excused for the day.)

8 (Whereupon, April A. Mills, a black female,
9 enters the courtroom.)

10 APRIL A. MILLS,
11 having been previously duly sworn, testified as
12 follows:

13 VOIR DIRE

14 BY THE COURT:

15 Q How are you doing, Ms. Mills.

16 A All right.

17 Q Good. Ms. Mills, you're still under oath from
18 yesterday. Do you know what that oath was?

19 A (Juror nodded head.)

20 Q You do?

21 A I think so, yeah.

22 Q That you would come and tell the truth and
23 answer all questions truthfully. You'll do that?

24 A Yes, sir.

25 Q Talk up loud so those folks out there can hear

1 you, okay? Ms. Mills, where do you work?

2 A Carolina Health and Rehab.

3 Q And how long have you been out there?

4 A Two years.

5 Q And what part of the county are you from?

6 A Calhoun County.

7 Q What section of Calhoun County do you live in?

8 A Sandy Run.

9 Q And have you read anything about this case
10 within the past couple of days?

11 A No, sir.

12 Q Has anyone attempted to contact you and talk
13 with you about this case since you got your juror
14 summons?

15 A No, sir.

16 Q Have you ever heard anything about this case?

17 A No, sir.

18 Q Now, the defendant -- the State in this case is
19 seeking the death penalty against the defendant.

20 He's presumed to be not guilty of these charges.

21 And so the fact that we're discussing punishment

22 with you does not in any way affect whether or not

23 he's guilty of these charges. He can be found not

24 guilty of the charges or guilty of the charges, but

25 if he's found guilty of murder, then we'll have a

1 second phase of the trial in which the jury discuss
2 and decides penalty. And the two choices would be
3 life imprisonment without the possibility of parole
4 or the death penalty. Did you have a chance to look
5 at the list of possible jurors?

6 A Yes, sir.

7 Q Do you know any folks on that list?

8 A No, sir.

9 Q And did you get a chance to look at the list
10 that contains the three types of jurors?

11 A Yes, sir.

12 Q And do you remember the three types of jurors
13 and what they were?

14 A Yes, sir.

15 Q And which of those three types of jurors best
16 describe you?

17 A Type three.

18 Q Now, a type three juror is one who could vote
19 for the death penalty or could vote for life
20 imprisonment depending on that juror's view of the
21 evidence after listening to all of the aggravating
22 circumstances and mitigating circumstances presented
23 in the case. Is that the type of juror that you
24 are?

25 A Yes, sir.

1 Q And if you decided that the best or most
2 appropriate sentence was the death penalty, could
3 you sign the paper saying that that's your vote and
4 come into court and stand and announce that as being
5 your verdict in this case?

6 A Yes, sir.

7 Q And, conversely, if you thought that life
8 imprisonment without parole was the best and most
9 appropriate verdict, would you be prepared to stand
10 by that verdict?

11 A Yes, sir.

12 Q Let's see if the State or the defense would
13 have any questions -- let me ask you one other thing
14 first. Do you have any small children?

15 A No, sir.

16 Q Any children?

17 A No, sir.

18 Q So you have nothing that would prevent you from
19 being kept together, sequestered, at a local motel
20 while the case is going on?

21 A No, sir.

22 THE COURT: From the State.

23 MR. PASCOE: Thank you, Your Honor.

24 ****

25 ****

1 VOIR DIRE

2 BY MR. PASCOE:

3 Q Good afternoon, Ms. Mills.

4 A Good afternoon.

5 Q My name is David Pascoe. I'm the Solicitor for
6 Calhoun County. I appreciate you coming back. Did
7 you have -- and you came forward yesterday and said
8 you had to leave early yesterday?

9 A Uh-huh.

10 THE COURT: Is that yes or no, ma'am?

11 JUROR: Yes.

12 THE COURT: And why did you leave early
13 yesterday?

14 JUROR: I was using somebody else's vehicle.

15 THE COURT: Someone else's car, that's right.

16 BY MR. PASCOE:

17 Q That's right. I couldn't remember. Thank you.
18 Did you ever come back yesterday?

19 A I never left. She told me she'll find somebody
20 to pick her kids up for her.

21 Q Oh, good. So, actually, you stayed?

22 A Yes.

23 Q Great. Thank you, Ms. Mills, for straightening
24 that out. What are your personal feelings about the
25 death penalty? Do you oppose it or are you in favor

1 of it in general?

2 A I'm in favor of it.

3 Q Do you have any beliefs against the death
4 penalty, any deep feelings against the death
5 penalty?

6 A Not really.

7 Q Any religious feelings against the death
8 penalty?

9 A No.

10 Q If you find that someone is guilty of murder,
11 okay, hypothetically, if you found somebody guilty
12 of murder and that the law warranted a possible
13 death penalty sentence, could you give a death
14 penalty sentence as a juror?

15 A Yes.

16 Q Can you give somebody the death penalty?

17 A Yes.

18 Q Would you have any hesitation in giving
19 somebody the death penalty if you thought it was
20 warranted?

21 A No.

22 Q Are you sure?

23 A Yes, I'm sure.

24 Q Okay. What does it mean to give somebody the
25 death penalty? What do you believe that to mean?

1 A What does it mean?

2 Q Uh-huh.

3 A The death penalty, don't they give them like

4 electric chair --

5 Q They sentence them to death, either --

6 A -- or lethal injection?

7 Q Either the electric chair or lethal injection,

8 that's right. I just wanted to make sure that you

9 knew what that was.

10 A Yes.

11 Q And I'm going to go into something the Judge

12 asked you about, too. If you decided, and the other

13 11 jurors with you decided, that a person deserves

14 the death penalty, you would then have to sign your

15 name to a death penalty verdict form, okay. Ms.

16 Mills, would you be able to sign your name to a form

17 sentencing somebody to death?

18 A Yes.

19 Q You wouldn't have any problems doing that?

20 A No.

21 Q Would you then be able to come into an open

22 courtroom like this and sit on that jury and

23 publicly state that your verdict was to vote for

24 death?

25 A Yes.

1 Q You could do that?

2 A Yes.

3 Q And I see, finally, because the writing on your
4 questionnaire, the copy, was real light and I want
5 to make sure I got this right, that you are a --
6 you're a nursing -- a certified nursing assistant?

7 A Yes.

8 MR. PASCOE: That's all I have, Your Honor.

9 Thank you, Ms. Mills.

10 MR. KOGER: May it please the Court.

11 THE COURT: Yes, sir.

12 VOIR DIRE

13 BY MR. KOGER:

14 Q Ms. Mills, you indicated you're a type three,
15 type three juror, correct?

16 A Yes.

17 Q And that you need to listen to all of the
18 evidence?

19 A Yes.

20 Q Listen to all of the testimony?

21 A Yes.

22 Q Before you come to a decision?

23 A Yes.

24 Q And you do realize that this trial is a two
25 part trial?

1 A Uh-huh.

2 Q Okay. The first part deals with guilt and
3 innocence, correct?

4 A Yes.

5 Q And the second part deals with sentencing. And
6 you do realize that the Solicitor has the burden of
7 proof to actually prove their case beyond a
8 reasonable doubt, correct?

9 A Correct.

10 Q And if they do not prove the case beyond a
11 reasonable doubt, then you can come back with a not
12 guilty?

13 A Right.

14 Q If you come back with a not guilty, we don't
15 even get to the sentencing phase, correct?

16 A Correct.

17 Q And, also, are you willing -- when you say
18 you're willing to listen to all of the evidence and
19 all of the testimony, along with information and
20 evidence that come from the State's side, you wish
21 -- you also are willing to listen for evidence that
22 comes from the defendant's side?

23 A Yes.

24 Q All right. And that's maybe any childhood
25 events?

1 A Uh-huh.

2 Q The defendant's upbringing?

3 A Yes.

4 Q And things that may have affected him back then
5 and brought forward to today?

6 A Yes.

7 Q Correct?

8 A Correct.

9 MR. KOGER: All right. Thank you.

10 THE COURT: Ms. Mills, if you'll stand right
11 outside the door there for just a moment.

12 (Juror leaves the courtroom.)

13 THE COURT: What says the State?

14 MR. PASCOE: Qualified.

15 THE COURT: What says the defense?

16 MR. KOGER: Qualified.

17 THE COURT: If you'll bring her back.

18 (Juror enters the courtroom.)

19 THE COURT: All right. Ms. Mills, you have
20 been found to be qualified as a potential juror in
21 this case. That doesn't mean that you'll be on the
22 jury, but it means that you might be on the jury.
23 We plan to select the jury at noon tomorrow, so we
24 need you to pack up your bags and be ready to come
25 and serve on the jury and stay with us beginning at

1 noon tomorrow.

2 The jurors will meet right across there at the
3 annex in a conference room in there. If you'll
4 bring your bags -- how are you going to get here
5 tomorrow?

6 **JUROR:** Probably my mom.

7 **THE COURT:** She's going to drop you off. She
8 might stay with you to make sure as to find out for
9 sure whether you'll be staying or going back with
10 her. And here's an information sheet as to where
11 the jurors will be staying and all that, but come
12 here at noon tomorrow.

13 Be sure not to read anything about this case,
14 don't read any newspapers, don't listen, watch any
15 T.V. news stories about it and do not allow anyone
16 to discuss it with you or in your presence.

17 **JUROR:** Yes, sir.

18 **THE COURT:** We'll see you tomorrow.

19 **JUROR:** Okay. Thank you.

20 (Juror was excused for the day.)

21 **THE COURT:** Do we have any jurors here for the
22 2:30 panel?

23 **BAILIFF:** No, sir.

24 **THE COURT:** It's 2:30 and they haven't gotten
25 here yet?

1 **BAILIFF:** They're not back here.

2 **THE COURT:** Because if so, I would tell them to
3 come back at three o'clock, but I would rather just
4 bring them in to tell them that if they're here.

5 **BAILIFF:** I'll go check the other room real
6 quick, Your Honor.

7 **OFFICER:** They're not back there.

8 **THE COURT:** Well, we're going to go to lunch
9 and come back at three o'clock, short lunch, three
10 o'clock. And someone will tell them we're to be
11 here at 3:00 instead of the regular time, except the
12 first one who can start reading the paper a few
13 minutes before 3:00.

14 (Whereupon, there was a luncheon recess.)

15 **THE COURT:** Everyone's in place. Panel number
16 five.

17 (Whereupon, Jacqueline Culcleasure, a black
18 female, enters the courtroom.)

19 JACQUELINE CULCLEASURE,
20 having been previously duly sworn, testified as
21 follows:

22 VOIR DIRE

23 BY THE COURT:

24 **Q** Hello. Ms. Culcleasure, how do you say your
25 last name?

1 A Culcleasure.

2 Q If you'll pull that mike up to you a little
3 closer, Ms. Culcleasure. I wanted to remind you,
4 ma'am, that you're still under oath as you were
5 yesterday. Where do you work?

6 A I work at the Regional Medical Center in
7 Orangeburg.

8 Q And what do you do there?

9 A I am a lead registrar.

10 Q And since we talked with you yesterday, has
11 anyone talked with you about this case or tried to
12 approach you about the case or have you read
13 anything about this case or otherwise been exposed
14 to anything about it?

15 A No, sir.

16 Q You have not read any newspapers?

17 A No, sir.

18 Q And you recall my instruction to the jury not
19 to read anything about the case?

20 A Yes, sir.

21 Q When you were back in the waiting area to come
22 in, did you look over the State's witness list?

23 A Yes, sir.

24 Q And did you know any of the folks on this list?

25 A A couple of them.

1 Q Who do you know? Speak louder, please.

2 A I remember seeing Thomas Summers on there.

3 Q Sheriff Summers?

4 A Yes.

5 Q And who else?

6 A I didn't have a chance to look at all the list

7 on the last page because that's when y'all called me

8 in.

9 Q And you were looking at the last page?

10 A Yes, sir. (Pause) Sheriff Larry Williams.

11 Q And the fact that you might know the Sheriff of

12 this county and the Sheriff of Orangeburg County,

13 would that affect your ability to sit as a fair and

14 impartial juror in this case?

15 A No, sir.

16 Q And since we have been talking about this case,

17 has anything come into your memory that -- or might

18 have jogged your memory to cause you to want to

19 change any answers to any of the questions that you

20 responded to earlier or to the questionnaire that

21 you sent in?

22 A No, sir.

23 Q Now, we need to ask you some questions. And

24 we're not trying to invade your privacy, but we need

25 to find out how you might feel about certain

1 matters, in other words, what your opinions are, and
2 there are no right or wrong answers, but because
3 your opinion is just as valid as anyone else's.
4 And, ordinarily, in a criminal case, the jury is not
5 concerned about the punishment. And, in this case,
6 Mr. Mahdi is charged with a crime in which the State
7 is seeking the death penalty. He is presumed to be
8 not guilty of that charge and cannot be found guilty
9 of that charge unless each and every juror is
10 convinced beyond a reasonable doubt that he's
11 guilty. Do you understand that, ma'am?

12 A Yes, sir.

13 Q Now, in the event the jury should find him
14 guilty, then there will be a second phase of this
15 trial referred to as the sentencing phase in which
16 the jury would then decide what the appropriate
17 punishment should be. Have you had an opportunity
18 to look at the second sheet of paper that you were
19 asked to look at to determine what type juror you
20 are?

21 A Yes, sir.

22 Q And do you remember those three types of
23 jurors?

24 A Yes, sir.

25 Q Which of those three types of jurors best

1 describe you?

2 A Type two.

3 Q And when you say that you are a type two juror,
4 what does that mean?

5 A That means that I couldn't give the death
6 penalty.

7 Q You could not give the death penalty?

8 A Yes, sir.

9 Q Are you opposed to the death penalty?

10 A Yes, sir.

11 Q Is your opposition to the death penalty for
12 murder so fixed and so firm that you are irrevocably
13 committed to that?

14 A Yes, sir.

15 Q And are you the type of juror who would vote
16 against the death penalty for murder regardless of
17 the facts and circumstances that may develop during
18 the trial?

19 A Yes, sir.

20 Q And regardless to the case itself, you would
21 just never vote for anything other than the death
22 penalty?

23 A I'm opposed to the death penalty, sir.

24 Q And how long have you been opposed to the death
25 penalty?

1 **A** That's just my belief.

2 **Q** How long have you held that belief?

3 **A** Since I was 18 and knew about the judicial
4 system.

5 **Q** Pardon me?

6 **A** Since I was over 18 and knew about the judicial
7 system.

8 **THE COURT:** All right. We'll give counsel a
9 chance to ask you any questions if they would like
10 to. We'll start with the State.

11 **MR. PASCOE:** Thank you, Your Honor.

12 Thank you, Ms. Culcleasure. My name is David
13 Pascoe. I'm the Solicitor. I just want to thank
14 you for your honesty today and I have no questions
15 for you. Thank you.

16 **THE COURT:** The defense?

17 **MR. WALTERS:** Your Honor, I have no questions.

18 **THE COURT:** All right. Ma'am, if you'll step
19 right outside the courtroom.

20 (Juror leaves the courtroom.)

21 **THE COURT:** What says the State?

22 **MR. PASCOE:** She's not qualified, Your Honor.

23 **THE COURT:** What says the defense?

24 **MR. WALTERS:** I believe she's not qualified,
25 Your Honor.

1 **THE COURT:** All right. Let's bring her back
2 in.

3 (Juror enters the courtroom.)

4 **THE COURT:** Ma'am, the type of juror who is
5 qualified to serve in this case is the type of juror
6 who could vote for life imprisonment without the
7 possibility of parole or who could vote for the
8 death penalty depending on the facts and
9 circumstances of the case. And since you cannot do
10 that, you're not qualified to serve as a juror in
11 this case and, therefore, we'll excuse you from any
12 further jury service. I want to thank you for your
13 taking the time and your participation in this
14 matter.

15 **JUROR:** Thank you.

16 (Juror was excused.)

17 (Whereupon, Monty S. Cochran, a white
18 female, enters the courtroom.)

19 MONTY S. COCHRAN,
20 having been previously duly sworn, testified as
21 follows:

22 VOIR DIRE

23 BY THE COURT:

24 **Q** Good afternoon, Ms. Cochran.

25 **A** How are you?

1 Q Fine. How are you this afternoon?

2 A Good.

3 Q Ms. Cochran, you're still under oath from the
4 oath that you were placed under yesterday. And
5 we'll need to ask you some questions and talk with
6 you for a little bit.

7 A Okay.

8 Q Now, have you read anything about this case or
9 heard anything about this case or has anyone exposed
10 you to any information concerning this case since
11 yesterday?

12 A Not since yesterday, no.

13 Q And did you hear something about the case prior
14 to yesterday?

15 A Oh, yeah, I followed it in the paper.

16 Q And in following the case in the paper, have
17 you formed an opinion concerning the guilt or the
18 innocence of the defendant?

19 A Based on what I read and heard, yes, sir, I
20 have.

21 Q And would you be able to set aside that opinion
22 that you previously formed and totally disregard
23 that opinion and decide this case solely based on
24 the evidence presented in this courtroom concerning
25 this case?

1 **A** Probably not.

2 **Q** Do you believe that you have made up your mind
3 and you're -- concerning guilt or innocence and you
4 would not -- could you follow the law that provides
5 that the defendant is presumed to be innocent?

6 **A** I understand that, but I have formed my
7 opinion.

8 **Q** And do you believe that opinion that you have
9 formed is so fixed that your mind is made up
10 regarding guilt or innocence?

11 **A** Yes, sir.

12 **Q** And you formed that opinion based on what type
13 of information?

14 **A** Just what I read in the newspaper and by what,
15 you know, I've heard and talked with different
16 people.

17 **THE COURT:** I'll give the lawyers an
18 opportunity to ask you any questions they might want
19 to.

20 From the defense?

21 **MR. WALTERS:** I have no questions, Your Honor.

22 **THE COURT:** From the State?

23 **MR. SORENSON:** No, sir, no questions.

24 **THE COURT:** All right. Thank you, Ms. Cochran.
25 If you'll stand right outside the door, we're going

1 to discuss this for just a moment.

2 (Juror leaves the courtroom.)

3 **THE COURT:** What says the defense?

4 **MR. WALTERS:** Your Honor, I believe she's
5 unqualified.

6 **THE COURT:** What says the State?

7 **MR. SORENSON:** We agree, Your Honor.

8 **THE COURT:** All right. Have her come back.

9 (Juror enters the courtroom.)

10 **THE COURT:** Ms. Cochran, since you have already
11 formed your opinion concerning the issues that a
12 juror is not allowed to form an opinion concerning
13 prior to the case, you will not be qualified to
14 serve in this case, but we certainly want to thank
15 you for your candidness in expressing that and also
16 your service in this case. I know that it has been
17 an inconvenience to you and to others.

18 **JUROR:** So I do not have to come back?

19 **THE COURT:** But you do not have to come back
20 unless you want to come back as a spectator, but
21 please do not share any questions or information
22 that you have received with any other jurors.

23 **JUROR:** Thank you.

24 **THE COURT:** Thank you.

25 (Juror was excused.)

1 **THE COURT:** Ms. Lottie R. Rush.

2 (Whereupon, a discussion was held off the
3 record.)

4 **THE COURT:** Where is Ms. Rush?

5 **BAILIFF:** She's right here.

6 **THE COURT:** Ms. Rush, come stand in the
7 doorway. We'll talk with you there. What's wrong?

8 **JUROR:** (No response.)

9 **THE COURT:** Are you upset because of being
10 called to jury duty or do you have some other issues
11 that are bothering you?

12 **JUROR:** (No response.)

13 **THE COURT:** Any objection to me going back and
14 talking with Ms. Rush in the hallway?

15 **MR. PASCOE:** No objection.

16 **MR. WALTERS:** No objection, Your Honor.

17 **THE COURT:** All right. We'll be in recess for
18 a moment.

19 (Pause.)

20 **THE COURT:** That juror says she just can't
21 handle it. She's been crying all day and she gets
22 nervous and cannot stand the pressure of the
23 situation at hand. What says the State?

24 **MR. SORENSON:** Your Honor, we don't feel she's
25 qualified.

1 **THE COURT:** And the defense?

2 **MR. WALTERS:** We would agree, Your Honor.

3 **THE COURT:** All right. She will be excused
4 from further service in this case. That was Ms.
5 Rush. And now we need Crystal Bell.

6 (Whereupon, Crystal L. Bell, a white female,
7 enters the courtroom.)

8 CRYSTAL L. BELL,
9 having been previously duly sworn, testified as
10 follows:

11 VOIR DIRE

12 **BY THE COURT:**

13 **Q** Hello, Ms. Crystal Bell. How are you?

14 **A** Fine.

15 **Q** Good. Ma'am, you're still under oath from
16 yesterday. We need to ask you some questions. You
17 understand?

18 **A** Yes, sir.

19 **Q** Where do you work, Ms. Bell?

20 **A** South Carolina Department of Transportation.

21 **Q** And what area of this county do you live in?

22 **A** The part of the county between Saint Matthews
23 and Sandy Run.

24 **Q** And since you were here yesterday, have you
25 been exposed to any information about this case or

1 seen anything on T.V. or in the newspapers about it?

2 A No, sir.

3 Q And you do recall the instruction I gave the
4 jurors to not read anything, listen to anything or
5 talk to anyone about this case?

6 A Yes, sir.

7 Q And you're following those instructions?

8 A Yes, sir.

9 Q Have you ever heard anything about this case?

10 A Yes, sir.

11 Q And when was that?

12 A When it happened and afterwards.

13 Q And the fact that you might have heard
14 something about this case would not be extremely
15 unusual in a county this size, so that's not a
16 problem necessarily, but would you be able to set
17 aside what you might have heard about this case and
18 decide this case solely based on the evidence
19 presented in this courtroom?

20 A No, sir.

21 Q Have you already made up your mind in this case
22 concerning the guilt or innocence of the defendant?

23 A Yes, sir.

24 Q And could you be a fair and impartial juror?

25 A No, sir. I don't think so, no.

1 **THE COURT:** Any questions by the State or the
2 defense?

3 **MR. WALTERS:** No questions, Your Honor.

4 **MR. SORENSON:** No, sir.

5 **THE COURT:** Okay. Any objection to this juror
6 being disqualified?

7 **MR. SORENSON:** Not from the State.

8 **MR. WALTERS:** No, sir, Your Honor.

9 **THE COURT:** Okay. Ma'am, based on your
10 responses, you're not qualified to serve as a juror
11 and we will, therefore, excuse you from further jury
12 service in this case. We want to thank you for
13 coming and for being candid in your expressions.

14 (Juror was excused.)

15 (Whereupon, Shirley E. Simmons, a black
16 female, enters the courtroom.)

17 SHIRLEY E. SIMMONS,
18 having been previously duly sworn, testified as
19 follows:

20 VOIR DIRE

21 **BY THE COURT:**

22 **Q** Ms. Shirley Simmons, how are you doing?

23 **A** How are you doing? All right.

24 **Q** Fine. You're still under oath, ma'am, from
25 yesterday, remember?

1 A Yes, sir.

2 Q Ms. Simmons, where do you work?

3 A Hospital services.

4 Q Where is that located?

5 A In Columbia.

6 Q And what area of this county do you live in?

7 What part of the county, section of the county?

8 A In Lone Star area.

9 Q Lone Star?

10 A Yeah.

11 Q And, ma'am, have you read anything or heard

12 anything about this case between yesterday and

13 today?

14 A No.

15 Q Have you heard anything about this case at all?

16 A Yeah, you know, when it first happened.

17 Q When it first happened?

18 A Right.

19 Q Can you talk a little louder for us?

20 A Yeah, I heard it when it first happened.

21 Q Would you be able to set aside what you might

22 have heard about this case in the past and decide

23 this case based solely on the evidence presented in

24 this courtroom?

25 A- Yeah.

1 Q Can you be a fair and impartial juror and
2 decide this case based only on the evidence
3 presented here and not based on what you might have
4 heard before?

5 A Right.

6 Q You can do that?

7 A (Juror nodded head.)

8 Q You can do that?

9 A I think so.

10 Q Now, the defendant has pled not guilty to these
11 charges and he is presumed to be not guilty of these
12 charges. Do you understand that?

13 A Right, innocent until proven guilty.

14 Q Innocent until proven guilty. And unless the
15 State proves beyond a reasonable doubt that he is
16 guilty, you must find him not guilty. Do you
17 understand that?

18 A Right.

19 Q Now, normally, a jury is not concerned with
20 punishment, but should the jury in this case find
21 that he is guilty of murder, then the jury would
22 then, in a separate phase of the trial, listen to
23 evidence to decide a sentence. Did you know that?

24 A No, I didn't know that's how it worked.

25 Q I told you yesterday that it's a bifurcated

1 trial, a two part. If the jury decides that he is
2 guilty, the same jury would decide his sentence. Do
3 you understand?

4 A Right.

5 Q And the choices that that jury would have would
6 be to find him guilty of life imprisonment without
7 the possibility of parole or to sentence him to
8 death. Do you understand?

9 A Right.

10 Q Now, you were given a sheet of paper to look at
11 back there to look at and to evaluate which type of
12 juror you are, a type one, type two or type three.
13 Do you recall those three types of jurors?

14 A Well, I would say type three because I would
15 need to hear the facts.

16 Q You believe in hearing the facts. Pull that
17 mike to you a little bit more, talk into it.

18 A Hearing the fact before I form an opinion, you
19 know.

20 Q Could you vote for the death penalty?

21 A I don't know. I can't say right now. It
22 depends on, you know, on the evidence and, you know,
23 feeling I form. I can't say right now.

24 Q Well, the type three juror is a juror who
25 could, after listening to all of the facts, could

1 decide to sentence the defendant to life
2 imprisonment without the possibility of parole or
3 could decide to sentence the defendant to the death
4 penalty, so that a type three juror could decide
5 either one --

6 A Right, that's what I'm saying.

7 Q -- based on that juror's view of the evidence.
8 in the case and considering the aggravating
9 circumstances and mitigating circumstances. Could
10 you do that?

11 A Yeah, I think I could.

12 Q I can't hear you.

13 A I said I think I could.

14 Q Well, that's why I'm asking you the question.
15 Could you sentence the defendant to the death
16 penalty if you thought that was the appropriate
17 thing to do?

18 A I'm not sure of my feelings, you know, quite
19 yet on that.

20 Q Have you ever thought about it before today?

21 A No.

22 Q Well, let me ask you this. Did you take a look
23 at the list of people who might testify as witnesses
24 in this case?

25 A Yeah.

1 Q And do you know any people on this list?

2 A I didn't recognize nobody.

3 Q You didn't recognize any names?

4 A No.

5 THE COURT: Let me see if the lawyers have any
6 questions for you.

7 Mr. Sorenson.

8 MR. SORENSON: Thank you. May it please the
9 Court.

10 VOIR DIRE

11 BY MR. SORENSON:

12 Q Good afternoon. Ms. Simmons. My name is Don
13 Sorenson. I'm Deputy Solicitor here in Calhoun
14 County. I appreciate you coming back and answering
15 questions for us this afternoon. First thing, I
16 want to kind of back up to one of the first things
17 His Honor asked you about. I think you had told the
18 Court that you had heard something about this when
19 it first happened; is that correct?

20 A Yes, I did.

21 Q What is it that you recall hearing about this
22 case back when it happened?

23 A You know, I just heard it on the news, you
24 know, that's the normal thing. The only thing I
25 heard was on the news and, you know, what I read in

1 the papers.

2 Q Do you remember what that was that you heard on
3 the news and read in the papers?

4 A Yeah, just about, you know, what the man,
5 Captain Myers, and, you know, what happened and
6 that's all I heard. And then I read about, you
7 know, I read about it.

8 Q You read about it also in the newspaper?

9 A Right.

10 Q And that was back when it happened?

11 A Right.

12 Q Is there anything that you heard or read about
13 that would influence your decision here in court
14 today or if you were to end up on this jury?

15 A No, because I didn't hear, you know, nothing
16 that much, you know, it wouldn't be enough to know.

17 Q You would be able to put that aside and decide
18 this case just based on the evidence that you hear
19 from that witness stand, where you're sitting right
20 now?

21 A Yeah, because I didn't read that much about it.

22 Q You didn't read that much about it?

23 A (Witness shook head.)

24 Q Okay. Now, I want to ask you a few questions,
25 ma'am, if I could, Ms. Simmons. His Honor asked you

1 about the three types of jurors and you indicated
2 that you're a type three juror, right?

3 A Right.

4 Q And I think you -- you indicated that's because
5 you believe in hearing all of the facts, right.

6 A (Witness nodded head.)

7 Q Let me ask you this, though, ma'am, because
8 then you said after that, that you didn't know if
9 you could ever vote for the death penalty; is that
10 correct?

11 A (Witness nodded head.)

12 Q Do you have some beliefs or opinions regarding
13 the death penalty? Are you opposed to it?

14 A I never had to, you know, decide, so it's kind
15 of hard right now. I never had to, you know, dealt
16 with it before.

17 Q Okay. But you did tell the Court that you're
18 not sure that you could ever sentence somebody to
19 death; is that correct?

20 A Right.

21 Q All right. So is that -- judging by that, does
22 that mean that you're kind of opposed to the death
23 penalty?

24 A Kind of in between, you know.

25 Q You said you didn't know if you could vote for

1 the death penalty and not sure if you could ever
2 sentence somebody to death; is that correct?

3 **A** Right.

4 **Q** Let me ask you this, ma'am. If you were on
5 this jury, or on a jury, and asked to decide
6 ultimately whether somebody lives or dies, do you
7 think you could ever be one of those jurors that
8 could tell -- that could come back with a decision
9 that I think the death penalty is the proper
10 sentence in that case?

11 **A** I don't know. It just depends on, you know,
12 you know, what I've seen or heard with the case and,
13 you know, feeling, you know, what I, you know,
14 depend -- I have to form my opinion after, you know,
15 hearing the evidence and stuff.

16 **Q** Let me ask you this. After hearing all of the
17 evidence and hearing all of the facts, could you
18 think of a situation where you would ever -- it
19 would be bad enough where you said, yes, I could
20 vote for the death penalty and I could vote to have
21 that person put to death?

22 **A** I guess if it's, you know, if it's a, you know,
23 bad enough, you know, crime or whatever, you know,
24 situation.

25 **Q** Okay. So even though you said before you're

1 not sure if you could ever sentence somebody to
2 death, you're saying now that maybe --

3 A It just depends on -- right, it just depends
4 on...

5 Q Let me ask you this. If you and 11 other
6 jurors were to come back and find that case that was
7 so bad that y'all voted for the death penalty, would
8 you then be able to sign your name, actually write
9 your name on that verdict form recommending that
10 that person be put to death?

11 A Maybe I could.

12 Q You could write your name on that?

13 A Maybe, you know, if I, you know, get to that
14 point and form --

15 Q Let me ask you this, because we need a little
16 more than maybe. I mean, could you do it or
17 couldn't you do it, ma'am, because that's what,
18 ultimately, the point in time where you would be at,
19 Ms. Simmons?

20 A I don't know right now.

21 Q Let me ask you this. Assuming we got past that
22 point, would you then be able to come out in this
23 courtroom in front of all these people that are in
24 this courtroom and then tell them, publish to the
25 court, yes, I said that person should be put to

1 death, would you be able to do that?

2 A I don't know. I might or might not.

3 Q You might or might not?

4 A (No response.)

5 MR. SORENSON: Beg the Court's indulgence.

6 (Pause.)

7 Q Let me back up to one of the first questions I
8 asked you, ma'am. I mean, do you have an opinion
9 one way or the other about the death penalty? I
10 mean, are you for it, in favor of it or opposed to
11 it?

12 A Just depends on, you know, the crime. I feel
13 like, you know, it depends on the crime and, you
14 know, and, you know, what kind of crime it is and,
15 you know, that, you know, once you get all that,
16 then I guess, you know.

17 Q I mean, how bad would it have to be for you to
18 be able to sign your name to recommend, to say that
19 this person needs to be put to death --

20 A I mean, a brutal -- I say like, you know, a
21 brutal crime or taking an innocent life, you know,
22 like that.

23 Q So hypothetically speaking, ma'am, if you had
24 that brutal crime, that taking of an innocent life,
25 I mean, would you then be able to say that that

1 person needs to be put to death and that's my
2 decision and I'm going to sign my name on this form,
3 come out here in this courtroom and tell everybody
4 that that -- that is what my decision was?

5 A Maybe.

6 MR. SORENSON: Beg the Court's indulgence.

7 (Pause.)

8 MR. SORENSON: That would be all I'd have at
9 this time, Your Honor.

10 Thank you, Ms. Simmons.

11 THE COURT: Mr. Koger.

12 MR. KOGER: May it please the Court.

13 VOIR DIRE

14 BY MR. KOGER:

15 Q Ms. Simmons, you stated that you were a type
16 three juror, correct?

17 A Right.

18 Q And the meaning of a type three juror is that
19 you wanted to hear all of the evidence?

20 A Right.

21 Q And listen to all of the testimony?

22 A Right.

23 Q And I think earlier when the Judge was talking
24 with you, that he told you about a person being
25 innocent until they're proven guilty?

1 A Right.

2 Q And I also think that Your Honor stated to you
3 that the State would have to prove the case beyond a
4 reasonable doubt?

5 A Right.

6 Q Correct?

7 A Right.

8 Q And you do realize that this is a two part
9 process?

10 A Right.

11 Q Correct?

12 A Right.

13 Q The first process deals with guilt or
14 innocence, correct?

15 A Right.

16 Q And then if you get past that part, the second
17 part deals with life without parole and the death
18 penalty, correct?

19 A Right.

20 Q And you do realize that they have to prove
21 their case beyond a reasonable doubt to get to the
22 second portion -- the second part?

23 A Right.

24 Q And you are willing, if they don't prove their
25 case, to come back with a not guilty verdict,

1 correct?

2 A Right.

3 Q Now, you was asked several times what's your
4 opinion on the death penalty, correct?

5 A Right.

6 Q And your response was that you never really
7 thought about it?

8 A Right. I never really, you know, had to dealt
9 with it.

10 Q Okay. So because you didn't have to deal with
11 it, you didn't really think about how -- what's your
12 opinion when it comes to that?

13 A Right.

14 Q But what you are saying is that if the crime,
15 and this is according to what you say, if the crime
16 is bad enough, you could consider the death penalty,
17 correct?

18 A Right.

19 Q Okay. Just like you'll consider any evidence
20 that comes from the State, right?

21 A (Witness nodded head.)

22 Q And just like you'll consider evidence that
23 comes from this table over here?

24 A Right.

25 Q And you'll consider evidence about the

- 1 defendant's background, correct?
- 2 **A** Right.
- 3 **Q** You can consider evidence from the defendant's
- 4 childhood, correct?
- 5 **A** Right.
- 6 **Q** Okay. And any other thing that you would deem
- 7 to be important, correct?
- 8 **A** Right.
- 9 **Q** And if somehow you get selected on this jury
- 10 and have to go into the jury room and make a
- 11 decision, okay, and if you've got 11 voting for
- 12 guilty and you're the only person holding out for
- 13 not guilty, would you change your vote just to get
- 14 the case over with?
- 15 **A** Well, I feel like, you know, for my opinion,
- 16 you know, how -- I would stick to my opinion.
- 17 **Q** You'll stick to your opinion?
- 18 **A** (Witness nodded head.)
- 19 **Q** But you would listen to what the other group
- 20 has to say?
- 21 **A** Right.
- 22 **Q** And you would expect them to listen to what you
- 23 have to say?
- 24 **A** Right.
- 25 **Q** And if the case was turned and you was in the

1 11 that wanted guilty, correct, and there was one
2 person that wanted not guilty, then y'all would
3 discuss it back and forth?

4 A Right, until we come to a decision.

5 Q Until you come to a decision, okay. And y'all
6 would respect each other, correct?

7 A Right.

8 Q And just so happened, worse case scenario, that
9 if you were to vote for the death penalty, you could
10 come out and you could sign the paperwork, correct,
11 if you voted for the death penalty?

12 A Right.

13 Q But what you're saying, that depends upon the
14 facts that come out in this case?

15 A Right.

16 MR. KOGER: Thank you. No further questions.

17 RE-VOIR DIRE

18 BY THE COURT:

19 Q Ms. Simmons, if you were selected to serve on
20 this case, do you have anything going on in your
21 life that would affect your health or welfare that
22 would prevent you from being sequestered, put
23 together with jurors for about ten days?

24 A Say that again.

25 Q Jurors in this case will be sequestered. Do

1 you have any health dangers or problems of anyone
2 who might be put in danger if you were sequestered?

3 A Talking about health problems?

4 Q Right. Are you healthy?

5 A Kind of like sometimes I get a lot of headache
6 and sick, you know, headache and problems and stuff.

7 Q You get a headache sometimes?

8 A Yeah.

9 Q What do you take for that?

10 A I take different kind of medicine. The doctor
11 medicine I get --

12 Q You're on medication from a doctor now?

13 A Yeah.

14 Q For what?

15 A I have bad headaches. I don't know whether
16 it's a migraine or what.

17 Q Do they come and go?

18 A Yeah.

19 Q Are you having one now?

20 A No, not yet. I took some medicine before I
21 leave home, but I do have them. I take medicine.

22 Q But you have no other serious health problems
23 that would prevent you from serving on jury duty, do
24 you?

25 A No.

1 **THE COURT:** If you'll stand right outside the
2 door there while we review your situation.

3 (Juror leaves the courtroom.)

4 **THE COURT:** What says the State?

5 **MR. SORENSON:** Your Honor, we don't feel Ms.
6 Simmons is qualified. She has never been able to
7 come out directly and say she could give the death
8 penalty. I mean, at most, maybe was the answer as
9 to giving the death penalty. And, I mean, prior to
10 that, she actually was the other way around. She
11 indicated several times that she didn't think she
12 ever could.

13 And as far as signing her name on the death
14 warrant and coming out and publishing that in the
15 courtroom, I mean, the strongest we got out of her
16 was maybe. I mean, that was -- and I just don't
17 feel that she is qualified to be a juror.

18 **THE COURT:** Mr. Koger.

19 **MR. KOGER:** Your Honor, may it please the
20 Court. She was able to articulate the standard of a
21 defendant of innocent until proven guilty. She
22 stated that if the crime was bad enough, that she
23 could vote for the death penalty. Throughout the
24 conversation that Your Honor had with her and
25 throughout examination from the State's side, she

1 said she needed to listen to the facts. She needed
2 to listen to the evidence. And, basically, once she
3 received that, then she could make a determination.

4 Of course, her hesitation was that she doesn't
5 walk around and think about the death penalty. And
6 this is probably, if not the first time, that she
7 was placed in a position to have to articulate an
8 opinion in reference to the death penalty because
9 she stated -- I don't know when she stated it, as
10 far as in the conversation with you or when
11 Solicitor Sorenson was cross-examining her, that if
12 the crime was bad enough, she could vote for the
13 death penalty and, therefore, we feel she's
14 qualified.

15 **THE COURT:** Taking her responses as a whole,
16 she is qualified and she'll be qualified. If you'll
17 have her to come back in.

18 (Juror enters the courtroom.)

19 **THE COURT:** Ms. Simmons, you're qualified to
20 serve as a juror in this case. We need you to --

21 **JUROR:** But I don't have no transportation to
22 get up here back and forth.

23 **THE COURT:** Well, we'll arrange transportation
24 to get here tomorrow. And, of course, if you're
25 selected on the jury, then transportation will be

1 provided for you.

2 We need you to pack enough clothes to be
3 prepared to be with us for ten days because the jury
4 will be sequestered, meaning the jury will be kept
5 together during the course of the trial. And you
6 have not been picked to be on the jury, but you
7 might be picked to be on the jury.

8 **JUROR:** Oh, okay.

9 **THE COURT:** You're qualified to be picked on
10 the jury. And the jury will be kept together at a
11 hotel while the case is going on. And please do not
12 discuss the case, don't read anything about it and
13 don't watch anything on T.V. about the case at all.
14 Do you understand? And do not discuss it with
15 anyone or allow anyone to talk with you about it.

16 We need you to come back at 12 noon tomorrow,
17 noontime tomorrow. Do you know what time that is?

18 **JUROR:** Yeah. I can get somebody to pick me
19 up?

20 **THE COURT:** Somebody's going to pick you up.
21 You're going to talk with the officer about that.

22 Who's in charge of making sure that they get
23 here?

24 **OFFICER:** I'm notating it on here, Judge.

25 **THE COURT:** You be sure that you're picked up.

1 You live in what area of the county?

2 JUROR: Lone star.

3 THE COURT: How far is that from here?

4 JUROR: Not that far.

5 THE COURT: Fifteen or 20 miles?

6 JUROR: Something like that.

7 THE COURT: They'll come pick you up and bring
8 you here. Have your luggage packed and bring your
9 medicines with you. And take this sheet with you so
10 that you can read about that and then also know
11 where you'll be if you are selected.

12 Now, if you'll give the officer your phone
13 number as well in the event we need to call you, but
14 please be here at noon tomorrow.

15 (Juror was excused for the day.)

16 (Whereupon, Tammy W. Gerringer, a white
17 female, enters the courtroom.)

18 TAMMY W. GERRINGER,
19 having been previously duly sworn, testified as
20 follows:

21 VOIR DIRE

22 BY THE COURT:

23 Q Hello, Ms. Gerringer. How are you?

24 A Good. How are you doing?

25 Q Doing fine. Thank you. Ms. Gerringer, please

1 remember that you're still under oath, to give full
2 and complete responses to all of the questions.
3 We're going to ask you some questions about your
4 views on various issues. First, let me ask you
5 where do you work?

6 A I work at C.R. Jackson, Incorporated.

7 Q And what type of operation is that?

8 A It's an asphalt grading, construction company.
9 We do mostly asphalt.

10 Q And what area of this county are you from?

11 A Sandy Run.

12 Q Have you read anything about this case or seen
13 any media accounts concerning this case within the
14 past 24 hours?

15 A No, sir.

16 Q And prior to that time, from receiving a
17 summons, has anyone contacted you or tried to
18 contact you about this case?

19 A No, sir.

20 Q Prior to that time, did you hear something
21 about this case?

22 A Yes, sir.

23 Q And would you be able to set aside what you
24 might have heard about this case initially and
25 decide this case solely based on the evidence

1 presented in this courtroom?

2 **A** Yes, sir.

3 **Q** Now, the defendant is charged with a crime of
4 murder and some other offenses. He's presumed to be
5 not guilty of those offenses. He has no burden of
6 proving himself innocent. The State must prove
7 beyond a reasonable doubt that he is guilty. Do you
8 understand that?

9 **A** Yes, sir.

10 **Q** Should the State fail to prove beyond a
11 reasonable doubt that he is guilty of the crimes,
12 then you must find him not guilty. On the other
13 hand, should the State prove his guilt beyond a
14 reasonable doubt, the jury would then consider the
15 sentence that he should receive. And the choices
16 would be life without the possibility of parole or
17 the death penalty. Do you understand?

18 **A** Yes, sir.

19 **Q** And have you had a chance to look at the
20 witness list in this case?

21 **A** Yes, sir.

22 **Q** Do you know anyone on that list?

23 **A** No one.

24 **Q** And have you had a chance to look at the second
25 sheet outlining three types of jurors?

1 A Yes, sir.

2 Q And which of those three types of jurors best
3 describe you?

4 A Juror number three.

5 Q And when you say you're a juror number three,
6 what do you mean?

7 A Because I wouldn't form an opinion and I would
8 go with what the case evidence is to what y'all
9 present the jury and then I'll base my opinion on
10 that.

11 Q And in that connection, could you vote either
12 for life imprisonment without the possibility of
13 parole or the death penalty?

14 A Yes, sir.

15 Q And would you consider the aggravating
16 circumstances presented by the State and the
17 mitigating circumstances presented by the defense
18 before deciding which is the most appropriate
19 sentence?

20 A Yes, sir.

21 Q And now the jury in this case would be
22 sequestered, meaning you'll be kept together and
23 obviously that presents an inconvenience for
24 everyone who will be called upon to serve, but aside
25 from the inconvenience that would result from having

1 to serve, would that pose a serious risk of danger
2 to your health or well-being or to that of anyone
3 who is dependant upon you if you had to serve?

4 A No, sir.

5 THE COURT: We'll see if the State or the
6 defense may have any questions for you.

7 The State, Mr. Sorenson.

8 MR. SORENSON: May it please the Court, Your
9 Honor.

10 VOIR DIRE

11 BY MR. SORENSON:

12 Q Good afternoon, Ms. Gerringer. My name is Don
13 Sorenson. I just have a couple questions for you,
14 okay?

15 A Okay.

16 Q I appreciate you coming back this afternoon.
17 You had indicated that you're a type three juror?

18 A Yes, sir.

19 Q And let me ask you this. Do you have any
20 opinions or beliefs regarding the death penalty,
21 either in favor of it or opposed to it?

22 A Not really.

23 Q So -- but you could -- in indicating you're a
24 type three juror, you indicated that you wanted to
25 wait for all of the facts and then decide at that

1 point in time what sentence to return; is that
2 correct?

3 A That is correct.

4 Q And by indicating that you could -- there's
5 certain situations where you could return a death
6 sentence; is that correct?

7 A That is correct.

8 Q So, therefore, it would be fair to say that
9 you're obviously not opposed to the death penalty;
10 is that correct?

11 A That's correct.

12 Q And after looking at all of the aggravating
13 circumstances, along with any mitigating
14 circumstances, there are situations where you could,
15 in fact, return a sentence of the death penalty --

16 A Yes.

17 Q -- and also other circumstances where you could
18 return a life sentence; is that correct?

19 A That's correct.

20 Q And if you and your 11 other jurors were, in
21 fact, to return or feel that the death penalty is
22 the appropriate sentence, could you then sign your
23 name on a verdict form indicating that that's your
24 sentence in this case?

25 A I guess, I wouldn't have a choice, would I?

1 Q I guess, you always have a choice, but that's
2 part of your obligations under the law --

3 A That's right.

4 Q -- would be that if you felt that that is the
5 appropriate penalty, that you'd have to be able to
6 sign your name. Do you think you could do that?

7 A Yes.

8 Q If you felt it was the appropriate punishment?

9 A Right.

10 Q Okay. Would you then also be able to, after
11 doing that, come into this courtroom and publish
12 that verdict to the court?

13 A Yes.

14 Q So, therefore, if you felt it was appropriate,
15 could you, in fact, sentence somebody to death?

16 A Yes.

17 MR. SORENSON: Thank you, Ms. Gerringer.

18 THE COURT: Mr. Walters.

19 MR. WALTERS: May it please the Court.

20 VOIR DIRE

21 BY MR. WALTERS:

22 Q Good afternoon, Ms. Gerringer. Ms. Gerringer,
23 in your discussions with Judge Newman, you indicated
24 that you had previously heard about the case; is
25 that correct?

1 A That is correct.

2 Q Tell me the substance of what you heard, ma'am.

3 A I've read in the newspaper and I've seen some
4 stuff on WIS T.V. 10.

5 Q Okay. What exactly did you read in the
6 newspaper?

7 A Just that there was a murder of a police
8 officer on his land.

9 Q And what exactly did you see on Channel 10?

10 A Basically, the same thing.

11 Q Okay. Other than that, no other information?

12 A That's all.

13 Q Okay. Your position is this -- sort of like an
14 accounting background and you keep up with audits
15 and payroll and financial statements; is that
16 correct?

17 A That is correct.

18 Q How long have you been doing that, ma'am?

19 A Nine years at C.R. Jackson, but about 20 years.

20 Q Okay. So you've always worked in sort of an
21 accounting field, financial field?

22 A Yes.

23 Q Where did you work before C.R. Jackson?

24 A I worked at Baptist Medical Center.

25 Q And what department at Baptist Medical Center?

1 **A** In payroll.

2 **Q** You indicated that you had a family member that
3 is associated with the Richland County Sheriff's
4 Department?

5 **A** Yes, sir, that's my husband.

6 **Q** Your husband is a deputy with Richland County?

7 **A** Used to be.

8 **Q** Used to be?

9 **A** Used to be.

10 **Q** When did he stop working there, ma'am?

11 **A** 1995.

12 **Q** And did he leave the sheriff's department and
13 then go with Norfolk Southern, ma'am?

14 **A** Yes, sir, he did.

15 **MR. WALTERS:** Your Honor, we have no further
16 questions.

17 Thank you, Ms. Gerringer.

18 **JUROR:** You're welcome.

19 **THE COURT:** If you'll stand right outside the
20 door there for us.

21 (Juror leaves the courtroom.)

22 **THE COURT:** What says the State?

23 **MR. SORENSON:** Qualified, Your Honor.

24 **THE COURT:** What says the defense?

25 **MR. WALTERS:** Your Honor, I believe she's

1 qualified.

2 THE COURT: She is qualified. If she'll come
3 back in.

4 (Juror enters the courtroom.)

5 THE COURT: Okay. Ms. Gerringer, you are
6 qualified to serve as a juror in this case, which
7 means that you may be selected to serve as a juror
8 or you may not be. We intend to select the jury at
9 noon tomorrow. We need you to come prepared to stay
10 with us, meaning to be packed and have enough things
11 for ten days or so in the event you are selected.
12 Of course, if you're not selected, then you'll be
13 free to go. You might have some arrangements set up
14 for someone to take your car back or to drop you
15 off, either way, until you know for sure whether
16 you're on the case.

17 I have a letter from the Clerk that outlines
18 some basic information concerning that and where you
19 will be so that you can let your family know. And
20 we look forward to seeing you tomorrow at noon. And
21 when you come tomorrow, you'll come to the annex
22 building right across the walkway here where you pay
23 your taxes. And there's a conference room in there
24 where all of the jurors will meet with their things.

25 JUROR: Okay.

1 **THE COURT:** Very good. We'll see you tomorrow.
2 Now, please, in the interim, please do not read any
3 newspaper accounts, do not watch any television
4 accounts, WIS or otherwise, because it would affect
5 your juror eligibility and also it would violate the
6 Court's order.

7 **JUROR:** Okay.

8 (Juror was excused for the day.)

9 (Whereupon, Pamela M. Fogle, a white female,
10 enters the courtroom.)

11 PAMELA M. FOGLE,
12 having been previously duly sworn, testified as
13 follows:

14 VOIR DIRE

15 BY THE COURT:

16 **Q** Ms. Fogle, how are you doing?

17 **A** Fine. How are you?

18 **Q** Good. Welcome back, Ms. Fogle. We need to ask
19 you some questions. You are still under oath. Ms.
20 Fogle, where do you work?

21 **A** I'm retired.

22 **Q** From what type of work are you retired?

23 **A** I taught school for 31 years.

24 **Q** Which school did you teach?

25 **A** Calhoun County High School.

1 Q And within the past 24 hours, have you read
2 anything about this case in the newspaper or heard
3 anything about it?

4 A I've heard about the jury selection that was on
5 in the news earlier today while I was waiting on the
6 weather, but other than that, no, sir.

7 Q And you recall my instruction that you are to
8 not read any newspaper, listen to any T.V. accounts,
9 news programs in the like?

10 A Yes, sir.

11 Q And you were able to follow that instruction?

12 A Yes, sir.

13 Q Have you formed an opinion concerning the guilt
14 or innocence of the defendant?

15 A No, sir.

16 Q I believed you indicated that you may have
17 heard something about this case in the past?

18 A Uh-huh.

19 Q And would you be able to set aside what you may
20 have heard in the past and decide this case solely
21 based on the evidence presented in this courtroom
22 and the law as I will instruct you?

23 A Yes, sir.

24 Q All right. Now, the defendant is presumed to
25 be not guilty of these charges. And unless the

1 State proves beyond a reasonable doubt that he's
2 guilty of the charges, then the jury must find him
3 not guilty. Do you understand that?

4 A Yes, sir.

5 Q On the other hand, the State is seeking the
6 death penalty in this case and if the jury finds him
7 guilty of murder, then there will be a sentencing
8 phase of the trial in which the sentence must be
9 decided by the jury. Do you understand that?

10 A I do.

11 Q Now, in connection with that, have you had an
12 opportunity to take a look at the list of potential
13 witnesses?

14 A I did.

15 Q Do you know anyone on this list?

16 A Greg Whetstone, I know him.

17 Q All right. And would the fact that you know
18 Greg Whetstone affect your ability to be a fair and
19 impartial juror?

20 A No, sir.

21 Q And did you look at the sheet that lists three
22 types of jurors?

23 A I did.

24 Q And do you remember those three type of jurors?

25 A Yes, sir.

1 Q And which of the three would describe you?

2 A Probably type one.

3 Q And your understanding of a type one juror is
4 what?

5 A That if they are found guilty in a death
6 penalty case, that the death penalty would be
7 issued.

8 Q All right. Now, the type one juror, it's
9 indicated that that would be the only punishment
10 that this type of juror would ever consider to be
11 appropriate. And type two, of course, is that life
12 imprisonment is the only punishment option that a
13 type two juror would consider to be appropriate.
14 Type three juror is one that would listen to the
15 facts and circumstances and may vote for life
16 imprisonment or may vote for the death penalty
17 depending upon the aggravating circumstances and
18 also depending upon the mitigating circumstances
19 that would be shown to exist. Do you understand
20 those three types?

21 A I do.

22 Q And you believe that you're a number one?

23 A I do.

24 Q Is your -- your being in favor of the death
25 penalty in all murder cases, is that what you think?

1 A If proved to have been guilty of a murder, yes.

2 Q Well, we would not get to the sentencing phase
3 of the trial unless the person has first been proven
4 to be guilty of murder. You understand that?

5 A Right.

6 Q So at the beginning of the sentencing phase, if
7 you were to have first found the defendant guilty of
8 murder, would you go into that second phase of the
9 trial with your mind already made up that the only
10 option is for the defendant to get the death
11 penalty?

12 A I believe so.

13 Q And is your opinion in that connection so fixed
14 and so firm that you are irrevocably committed to
15 voting for the death penalty in every instance in
16 which someone has been found guilty of murder?

17 A Yes.

18 Q And is that -- what is that belief based on, if
19 I might ask?

20 A That if you're found guilty of murder, that it
21 was premeditated or that it was not -- you were not
22 defending yourself, that you took somebody else's
23 life and I'd have a problem with that being an
24 intentional, first degree assault on someone else.

25 Q And you do understand that in every murder

1 case, the death penalty is not given?

2 A Right.

3 Q And that the -- in this particular case, should
4 the jury find the defendant guilty of murder, the
5 law would provide that the jury would make the
6 choice and that the jury would have the two choices
7 that I just mentioned?

8 A Uh-huh.

9 Q And would you ever vote for life imprisonment
10 without the possibility of parole?

11 A Not likely.

12 Q Not likely?

13 A Not likely. I've never been in such a
14 situation, but it's not likely.

15 Q Not likely. But are there circumstances under
16 which you would vote for life imprisonment without
17 the possibility of parole for one having been
18 convicted of murder?

19 A Not likely, but if you want a definitive
20 answer, no. I mean, I would definitely vote for the
21 death penalty.

22 Q Not likely, definitely?

23 A If it's got to be one way or the other, then,
24 yes, I would vote for the death penalty.

25 Q In every instance, regardless to the facts and

1 circumstances of the case?

2 **A** Murder's murder, that's just how I look at it.

3 **THE COURT:** Questions?

4 **MR. PASCOE:** Can I ask a few questions, Your
5 Honor?

6 **THE COURT:** Yes.

7 **MR. PASCOE:** Thank you, Judge Newman.

8 VOIR DIRE

9 BY MR. PASCOE:

10 **Q** Good afternoon, ma'am, Ms. Fogle. My name is
11 David Pascoe. I'm the Solicitor. It's great to
12 meet you.

13 **A** Nice to meet you.

14 **Q** Appreciate you coming back. Are you a law
15 abiding person?

16 **A** Yes, sir, I am.

17 **Q** Will you follow the law in this case as the
18 Judge instructs you?

19 **A** Yes.

20 **Q** If you were to serve as a juror, you will
21 follow the law as Judge Newman tells you?

22 **A** Yes, sir.

23 **Q** And can you put aside any beliefs or personal
24 opinions that you may have and follow the law that
25 the Judge gives you before you render any type of

1 verdict in this case?

2 A Yes, sir.

3 Q Regardless of what your personal opinions are?

4 A Yes.

5 Q So this is important. Let me see if I can get
6 this right, okay, this question. See if you can
7 follow me. If, under the law as the judge gives
8 you, Judge Newman gives you, if there are no
9 circumstances under the law where you could impose
10 the death penalty on somebody even if they've been
11 convicted of murder, would you then be able to
12 sentence that person to life without parole?

13 A (No response.)

14 Q To rephrase it, the law dictates that a life
15 sentence is all you can give even for murder, would
16 you be able to impose that life sentence?

17 A If that's what the law states, yes.

18 Q And that's what I'm getting at. You will
19 follow the law in this case?

20 A I'm not above the law.

21 Q Yes, ma'am. So even if, with your personal
22 beliefs that you think the death penalty should be
23 warranted in all murder cases, if you find, under
24 the law that the Judge gives you and with the
25 circumstances of the case, if the only thing you can

1 impose is a life sentence, you will impose a life
2 sentence?

3 A If that's all the law allows, yes.

4 Q So when you say, yeah, you believe in the death
5 penalty --

6 A Within the confines of the law.

7 Q Within the confines of law, and that's what I'm
8 getting at. You're going to abide by the law and
9 the instructions of Judge Newman even over your own
10 beliefs?

11 A That's right.

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

13 MR. KOGER: May it please the Court.

14 VOIR DIRE

15 BY MR. KOGER:

16 Q Ms. Fogle, but if the law allows the death
17 penalty in relation to life without parole, you'll
18 vote for the death penalty?

19 A Yes, sir.

20 Q And in every case of murder, you're going to
21 vote for the death penalty?

22 A Yes.

23 Q And even if the defense put up evidence of a
24 bad childhood or things in the defendant's past,
25 you're not going to consider it?

1 **A** No, sir.

2 **Q** Because, according to your words, murder is
3 murder?

4 **A** Yes, sir.

5 **Q** So, let me get it straight, I don't want to
6 belabor the point. If the law allows the death
7 penalty as an option, you got a choice between the
8 death penalty and life imprisonment without parole,
9 you will 100 percent always go for the death
10 penalty?

11 **A** That's right.

12 **MR. KOGER:** Thank you.

13 **THE COURT:** All right. Ma'am, if you'll step
14 right outside for just a moment.

15 (Juror leaves the courtroom.)

16 **THE COURT:** What says the State?

17 **MR. PASCOE:** Your Honor, we'd ask her to be
18 qualified. She says she could follow the law if
19 there were no aggravating circumstances and the
20 instructions were such where she couldn't give a
21 death sentence, then she wouldn't do it.

22 **THE COURT:** What says the defense?

23 **MR. KOGER:** We ask that she not be qualified.
24 She stated that when the death penalty is an option,
25 she will always vote for the death penalty. And she

1 also stated, in so many words, that she would not
2 give consideration to any mitigating circumstances.
3 We ask that she not be qualified.

4 **THE COURT:** She says she's a number one and
5 considering the totality of her responses, she
6 remains a number one and she's not qualified.

7 (Juror enters the courtroom.)

8 **THE COURT:** All right. Ms. Fogle, thank you
9 very much for all of your responses. And the
10 purpose of those questions were to determine whether
11 you were a type of juror who could give the death
12 penalty or give life imprisonment depending on the
13 facts and circumstances of the case, in other words,
14 a number three. And you are number one, who would
15 give the death penalty, as you stated, in all
16 instances of murder. So you're not qualified to
17 serve, so we're going to release you from further
18 responsibility concerning jury duty.

19 I'd ask that you not discuss any of your
20 responses or any of the questions with any other
21 prospective juror that you might know. And I want
22 to thank you for coming and you are free to go.

23 **JUROR:** Thank you, sir.

24 (Juror was excused.)

25 (Whereupon, Carroll H. Hudson, Jr., a white

1 male, enters the courtroom.)

2 CARROLL H. HUDSON, JR.,

3 having been previously duly sworn, testified as
4 follows:

5 VOIR DIRE

6 BY THE COURT:

7 Q Mr. Hudson, how are you doing today?

8 A I'm doing okay.

9 Q We're going to need to talk with you for a
10 moment, Mr. Hudson. Have you had a chance to read
11 both the sheets of paper?

12 A Yes, sir.

13 Q You're still under oath from yesterday. Where
14 do you work, Mr. Hudson?

15 A Spirax Sarco. It's a machining place.

16 Q And where is that located?

17 A Blythewood, South Carolina.

18 Q And what area of this county do you live in?

19 A Towards the Sandy Run area.

20 Q Within the past 24 hours, has anyone attempted
21 to talk with you about this case?

22 A No, sir.

23 Q Have you seen or heard or read about anything
24 concerning this case?

25 A They talked about it somewhat in the room in

1 there.

2 Q Who talked about it in the room?

3 A A couple of the ladies. I don't know --

4 MR. WALTERS: Excuse me, Your Honor, I can't
5 hear him.

6 MR. PASCOE: I can't hear either, Your Honor.

7 BY THE COURT:

8 Q A couple of ladies in the room?

9 A Yes.

10 Q Jurors?

11 A Yes, sir.

12 Q And are they still in the room or now out of
13 the room?

14 A No, I'm the last one.

15 Q You're the last one. And what did they say in
16 the room about the case?

17 A Murder case, from -- somebody from Virginia
18 come down -- I guess they said they were caught in
19 Florida or -- it's the first I've heard of the case.

20 Q Would you be able to set aside what you may
21 have heard about it in the room and discuss and
22 decide this case solely based on the evidence
23 presented in this courtroom?

24 A Yes, sir.

25 Q Based on what those ladies might have said in

1 the jury room, have you formed an opinion as to the
2 guilt or the innocence of the defendant?

3 A No, sir.

4 Q And would you be able to set all of that aside
5 and decide this case based on evidence that you hear
6 here and the law as I will instruct it to you?

7 A Yes, sir.

8 Q And you heard me tell the jury yesterday that
9 the jury members are not to discuss the case with
10 each other or with anyone else?

11 A Yes, sir.

12 Q And have you complied with that discussion?

13 A Yes, sir.

14 Q That order. And do you know why those ladies
15 would discuss the case despite my order to them?

16 A I don't know.

17 Q Now, you've indicated this is the first that
18 you have heard about this case?

19 A Yes, sir.

20 Q The defendant is charged with murder and other
21 charges and the State is seeking the death penalty.
22 He is presumed to be not guilty of these charges.
23 And he cannot be found guilty of these charges
24 unless the State proves beyond a reasonable doubt
25 that he is guilty of these charges. Do you

1 understand that?

2 A Yes, sir.

3 Q And would you be able to follow that principle
4 of the law as I might instruct you?

5 A Yes, sir.

6 Q Now, did you look over the list of prospective
7 witnesses in this case?

8 A Yes, sir.

9 Q And did you know any people on that list?

10 A No, sir.

11 Q Did you look at the list of the three types of
12 jurors?

13 A Yes, sir.

14 Q And do you remember those three types of
15 jurors?

16 A Yes, sir.

17 Q And which type of juror would you say most
18 accurately reflect you?

19 A Number three.

20 Q And when you say you're a number three juror,
21 what do you mean?

22 A I could look over the case and I could pick
23 death penalty or I could do life imprisonment.

24 Q So you're the type of juror that could vote
25 either for the death penalty or life imprisonment

1 without the possibility of parole based on the
2 evidence presented at the trial?

3 A Yes, sir.

4 Q And you work -- the place you work is where
5 again?

6 A It's in Blythewood.

7 Q In Blythewood. And aside from the
8 inconvenience of having to serve on a case of this
9 nature, would it pose any danger to your health or
10 well-being to have to serve on this jury and be
11 sequestered for a period of time until the case is
12 over?

13 A No, sir.

14 THE COURT: Let's see if the State or defense
15 has any questions for you.

16 Mr. Walters.

17 MR. WALTERS: May it please the Court.

18 VOIR DIRE

19 BY MR. WALTERS:

20 Q Good afternoon, Mr. Hudson. I was looking at
21 the information that you turned into the court. You
22 went to high school in Lexington County; is that
23 correct?

24 A Yes, sir.

25 Q And you were born in Charleston; is that right?

1 A Yes, sir.

2 Q And maybe I'm confused about something. You
3 checked the married block and then you scratched
4 through it and then you checked single; is that
5 correct?

6 A Well, I'm common-law married. When I read that
7 question and then I got down to the other parts of
8 the question, then I figured I better go back and
9 change it.

10 Q So Jessica Wright is your common-law wife?

11 A Yes, sir.

12 Q And you have two little girls that are 11 and
13 eight; is that correct?

14 A Yes, sir.

15 Q Now, you indicated that you were the type of
16 juror when you referred to number three; is that
17 right?

18 A Yes, sir.

19 Q I want to make sure I'm clear about what you're
20 saying and what you're implying to the Court here.
21 First of all, you understand this is a murder case?

22 A Yes.

23 Q And the State is required to prove beyond a
24 reasonable doubt that there was an unlawful taking
25 of a life, that person did this with malice

1 aforethought. In other words, they had a wicked
2 heart, they planned it and there was an unlawful
3 killing. They must prove that beyond a reasonable
4 doubt. If they fail to prove it beyond a reasonable
5 doubt, could you return a verdict of not guilty?

6 A Yes, sir, I could.

7 Q And if they proved their case beyond a
8 reasonable doubt, could you return a verdict of
9 guilty?

10 A Yes, sir.

11 Q And, of course, the next phase, if we move to
12 the sentencing phase, it requires that you take into
13 consideration aggravating circumstances. And, of
14 course, the State will present those aggravating
15 circumstances. They'll show the murder along with
16 the events that they consider to be aggravating.
17 You would have to consider that. Would you consider
18 that?

19 A Yes, sir.

20 Q And in addition to that, the defense would come
21 forward and they would present evidence with regards
22 to mitigation, where this particular person grew up,
23 the parents he was raised by, his life and why he's
24 the person that he is. Would you also give
25 meaningful consideration to those factors, also?

1 A Yes, sir.

2 MR. WALTERS: All right. Beg the Court's
3 indulgence just one moment.

4 (Pause.)

5 Q You said you're employed at -- is it Spirax
6 Sarco?

7 A Yes, sir.

8 Q Now, I want to go back to what went on in the
9 jury room. And I'm sure you heard His Honor's
10 instructions that people were not supposed to
11 discuss the case, but you indicated that the case
12 was discussed in the room and it was some ladies
13 that were having a conversation; is that correct?

14 A Yes, sir.

15 Q So you didn't violate the Court order, you were
16 just present when the Court order was being
17 violated. All right, what exactly or specifically
18 was said by these ladies in front of you?

19 A What I told the Judge is they talked about how,
20 I guess, the guy was from Virginia. And they talked
21 about the past where it happened at and something
22 the Judge said yesterday and overall effects 139.
23 And they ended up catching him down in Florida
24 somewhere and that's about it.

25 Q And you had never heard about the case other

1 than that discussion that the ladies were having
2 inside of the jury room; is that correct?

3 **A** Yes, sir.

4 **MR. WALTERS:** Your Honor, I have no further
5 questions.

6 Thank you, sir.

7 **MR. SORENSON:** Very briefly, Your Honor.

8 VOIR DIRE

9 BY MR. SORENSON:

10 **Q** Good afternoon, Mr. Hudson. I appreciate you
11 coming back and your candor with the Court. If I
12 could just follow up on a couple of those things
13 that Mr. Walters just asked you about. You
14 indicated it was a couple of ladies that were
15 speaking -- that were talking to each other back in
16 the jury room there?

17 **A** Yes, sir.

18 **Q** I mean, by a couple, do you mean were there
19 just two of them that were talking? Was it more
20 than that?

21 **A** I would say, yes, sir.

22 **Q** There were two. Besides yourself, was there
23 anybody else in the room at the time those two women
24 were talking about what had happened?

25 **A** Yes, sir.

1 **Q** How many of y'all were back there when all that
2 occurred?

3 **A** I think it was four of us.

4 **Q** Four of you. So you, the two women talking and
5 one other person?

6 **A** (Juror nodded head.)

7 **Q** And how long ago did this happen? Was it right
8 after you got there or after we had started?

9 **A** After you had started.

10 **Q** After we had started?

11 **MR. SORENSON:** I appreciate it, Mr. Hudson.
12 Thank you.

13 **THE COURT:** All right, sir. If you'll stand
14 right outside the door.

15 (Juror leaves the courtroom.)

16 **THE COURT:** What says the defense?

17 **MR. WALTERS:** Your Honor, I believe he's
18 qualified.

19 **THE COURT:** What says the State?

20 **MR. SORENSON:** We agree, Your Honor.

21 **THE COURT:** All right. Have him come back.

22 (Juror enters the courtroom.)

23 **THE COURT:** Sir, you are qualified to serve on
24 this case. And it does not mean that you have been
25 selected, but you may be selected to serve. We need

1 you to report back at noon tomorrow packed up and
2 prepared to stay with us in the event you are
3 selected to serve.

4 Now, it's very important that you not read
5 anything, watch anything on T.V. or talk with anyone
6 about this case or allow anyone to talk with you
7 about it or in your presence. And if there is any
8 instance of anyone talking about this case in your
9 presence, then you must bring it to my attention
10 immediately. You must notify the bailiffs or
11 contact me and say, I've got to tell the Judge that
12 these folks are talking about this case, because
13 it's a violation of my instruction, as well as the
14 oath that the jurors take in attempting to discuss
15 the matter.

16 I have a sheet of paper -- do you understand
17 what I've explained to you?

18 **JUROR:** Yes, sir.

19 **THE COURT:** I have a sheet of paper, which is
20 prepared by the Clerk's office there. It just gives
21 you some information about your coming and offering
22 some suggestions about what you will need.

23 We need you to be here at noon tomorrow and
24 report to that building right across the street, the
25 annex. And you may have it so that if you are