

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

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1 selected, that someone can take your car back home
2 for you or you need to have someone come and wait
3 for you because if you are selected, you won't be
4 able to go home, you'll be here for the case. And
5 so you need to be prepared to do that tomorrow at
6 noon, okay?

7 **JUROR:** Yes, sir.

8 **THE COURT:** Thank you very much. We'll see you
9 tomorrow.

10 (Juror was excused for the day.)

11 **THE COURT:** What I would like to do is to bring
12 all of those jurors, the next crew, bring them all
13 in for me.

14 (Jury panel number six enters the
15 courtroom.)

16 **THE COURT:** Ladies and gentlemen, I want to
17 thank you for coming and we'll be moving into
18 questioning each of you individually in just a few
19 minutes.

20 I want to reiterate a word of instruction that
21 I gave to all jurors yesterday, that is, that you
22 are not allowed to discuss this case with each other
23 or allow anyone to talk about it in your presence.
24 You cannot talk about it while you're waiting in the
25 jury room. It's a violation of your own oath as a

1 juror, as well as the Court's instruction to violate
2 that oath by discussing this matter. And we will
3 question you about that when you come out
4 individually. But I wanted to remind you about that
5 and reiterate that to you as we move forward this
6 afternoon.

7 So if you all will go back in to the room
8 there. We'll start off with the first juror. We're
9 not too far behind schedule, but may be way behind
10 to you all, but we're in pretty good shape as far as
11 we're concerned considering the number of folks we
12 have to talk to. Thank you very much.

13 (Jury panel six leaves the courtroom.)

14 (Whereupon, Alisha M. Hampton, a black
15 female, enters the courtroom.)

16 ALISHA M. HAMPTON,
17 having been previously duly sworn, testified as
18 follows:

19 VOIR DIRE

20 BY THE COURT:

21 Q Alisha M. Hampton, how are you doing?

22 A I'm good.

23 Q Ms. Hampton, you're still under oath. Do you
24 understand?

25 A Yes, sir.

1 Q Where do you work, Ms. Hampton?

2 A I work at Cracker Barrel.

3 Q And where is that located?

4 A Santee.

5 Q Have you heard anything or read anything about

6 this case since yesterday?

7 A No, sir.

8 Q Has anyone tried to talk about this case in

9 your presence?

10 A No, sir.

11 Q And from the time you received the juror

12 summons, did anyone contact you about this case?

13 A No, sir.

14 Q Have you ever heard anything about this case?

15 A No, sir.

16 Q And what area of the county are you from?

17 A Calhoun County.

18 Q I know Calhoun County. What area of --

19 A Ellore, Creston.

20 Q Ellore, Creston, all right. And we need to

21 get your opinion concerning certain matters. And

22 there are no right or wrong answers, but we need to

23 simply ask you some questions. The defendant is

24 charged with the crime of murder and certain other

25 offenses. And the State is seeking the death

1 penalty. He is presumed to be not guilty of these
2 charges.

3 The fact that I'm asking these questions does
4 not presume anything other than this is the time
5 that we ask you -- need to ask you these questions
6 to get your opinion. He is presumed to be not
7 guilty and cannot be found guilty unless the State
8 convinces each and every juror beyond a reasonable
9 doubt that he is guilty. Do you understand that?

10 A Yes, sir.

11 Q Now, in the event that the State should prove
12 that and the jury should find him guilty of murder,
13 then the next phase of the trial would be that of
14 considering what sentence the defendant should
15 receive. And the jury in that instance would either
16 decide that the defendant should serve life without
17 the possibility of parole or be sentenced to death.
18 Now, did you get a chance to look at the list of
19 people who may testify in this case?

20 A Yes, sir.

21 Q And do you know anyone on that list?

22 A No, sir.

23 Q And did you get a chance to look at the second
24 sheet that lists the types of jurors?

25 A Yes, sir.

1 Q And do you remember those three types of
2 jurors?

3 A Yes, sir.

4 Q And which of the three most accurately reflect
5 you?

6 A Type three.

7 Q And when you say you're a type three juror,
8 what do you mean?

9 A Could you repeat that?

10 Q What do you mean when you say you're a type
11 three?

12 A Type three juror that before you can accuse
13 anyone of being guilty, you have to get the facts of
14 the crime.

15 Q And the type three juror, according to this
16 slip, also says that that particular juror could
17 bring in a verdict of life imprisonment without the
18 possibility of parole or that particular juror could
19 bring in a verdict for the death penalty if the
20 evidence so warranted. And could you do that?

21 A Yes, sir.

22 Q And if, in voting for the death penalty, you
23 would be required to sign the verdict form and come
24 into court and announce that that is the verdict of
25 the jury, would you be able to do that?

1 A Yes, sir.

2 Q Now, this case may last a couple of weeks, we
3 don't know. And the jury will be sequestered,
4 meaning will be required to stay together at the
5 county's expense at a local motel for that period of
6 time. Aside from what would obviously be
7 inconvenient to you and Cracker Barrel, is there
8 anything else that might -- is there anything that
9 might seriously affect your health or well-being or
10 that of anyone dependent upon you for you to be
11 sequestered?

12 A Yes, sir.

13 Q And what would that be?

14 A My children.

15 Q And how many children do you have?

16 A Three.

17 Q And what are their ages?

18 A Six, 15 and 16.

19 Q Six, 15 and 16. And would you be able to make
20 arrangements for them to be with someone for that
21 period of time?

22 A Yes, sir.

23 Q And who would take care of the children for you
24 during that time?

25 A My sister.

1 Q And you've talked with her about that?

2 A Yes, sir.

3 Q She's available to do that for you?

4 A Yes.

5 THE COURT: All right. Let's see if the
6 lawyers might have any questions for you.

7 First, from the -- whose turn is it?

8 MR. PASCOE: Whatever you say, Your Honor.
9 You're the boss. I'll start it.

10 THE COURT: All right. Mr. Pascoe.

11 VOIR DIRE

12 BY MR. PASCOE:

13 Q How are you doing, Ms. Hampton? My name is
14 David Pascoe. I'm the Solicitor for Calhoun County.
15 I want to thank you for coming today. What are your
16 personal beliefs about the death penalty? Are you
17 opposed to it or in favor of it?

18 A I'm not in favor of it.

19 Q Okay. So you would have a hard time giving
20 somebody the death penalty?

21 A I would.

22 Q Yeah. And I appreciate your honesty. Let me
23 tell you this. The only wrong answers are if you
24 try to tell us something we want to hear, okay? We
25 need to have your honesty about how you feel about

1 the death penalty. So you said that you might be a
2 number three juror, but then your answer is because
3 you said you would look at all of the facts to
4 determine someone's guilt?

5 A Yes, sir.

6 Q Is that what you thought a number three juror
7 was?

8 A Yes, sir.

9 Q Well, you're now aware -- let me tell you this.
10 A number three juror means you're the type of juror
11 that could impose the death penalty, okay? You
12 couldn't do that?

13 A I would have a hard time doing that.

14 Q Do you know what a number two type of juror is?

15 A No, sir.

16 Q Let me go through these. One type of juror
17 under the Judge's list is the type of juror that
18 even after they found somebody guilty, okay, of
19 murder, they're always going to give the death
20 penalty no matter what. That is definitely not you,
21 correct?

22 A Right.

23 Q Number two type of juror is the type of person
24 who, after they found somebody guilty, okay, of
25 murder, is always going to sentence somebody to life

1 in prison without parole, okay?

2 A Okay.

3 Q And is that the sentence that you feel is
4 always appropriate for murder, which would be life
5 without parole?

6 A Yes.

7 Q And you couldn't give somebody the death
8 penalty for murder if you knew that you could
9 sentence them to life without parole?

10 A No, sir.

11 Q I appreciate your honesty, that's what we need.
12 And, in fact, I'm going to go a little bit further.
13 In order to give somebody the death penalty and to
14 be able to say that you could sit on a death penalty
15 jury, okay, you would have to be able to sign your
16 name to a death penalty verdict form stating that,
17 you know, I, Alisha Hampton, sentence somebody to
18 death. Could you do that? Could you sign your name
19 to a death penalty verdict form sentencing somebody
20 to death?

21 A It would be hard, but I think I would be able
22 to do it.

23 Q Okay. Now, you just testified that you didn't
24 even think you could give somebody the death
25 penalty. What makes you think now that you could

1 actually sign a form sentencing somebody to death?

2 A I mean, I don't believe in the death penalty,
3 but if I'm on a jury that, you know, that's seeking
4 the death penalty, I would be able to do it.

5 Q You can give somebody the death penalty?

6 A Yes, sir.

7 Q Even though you testified that you're against
8 the death penalty, you will give somebody death if
9 they're convicted of murder and you feel the facts
10 warrant that, you can do it?

11 A Yes, sir.

12 Q Can you stand up in open court -- after signing
13 that verdict form sentencing somebody to death, you
14 could stand up in open court saying, I sentence you
15 to death?

16 A Yes, sir.

17 Q You don't have any religious beliefs against
18 the death penalty that would prevent you from doing
19 that?

20 A Not really, no, sir.

21 Q Has anybody -- and y'all have been together,
22 that panel back there for a while, have y'all talked
23 about this case at all before coming out?

24 A No, sir.

25 Q Has any of the other people talked about it?

1 A Not to my knowledge because I was in back. I
2 was never talking in the back.

3 Q And, ma'am, you just testified that you've got
4 three children?

5 A Yes, sir.

6 Q And one of which is a six-year-old daughter?

7 A Yes, sir.

8 Q You don't think you would have any problems
9 sitting on this jury knowing that you would be here
10 for ten days to two weeks without tending to your
11 children, would that be a problem?

12 A No, sir.

13 Q Would that in any way affect your ability to
14 serve as a juror?

15 A Being away from my kids you're saying?

16 Q Yes, ma'am.

17 A No, sir.

18 Q And it's your testimony today that you can give
19 the death penalty?

20 A Yes, sir.

21 Q No doubt about it?

22 A Yes, sir.

23 Q You are in favor of the death penalty now?

24 A Yes, sir.

25 MR. PASCOE: That's all I have.

1 THE COURT: Mr. Koger.

2 MR. KOGER: May it please the Court.

3 VOIR DIRE

4 BY MR. KOGER:

5 Q Ms. Hampton, you say you are a type three
6 juror, correct?

7 A Yes.

8 Q And a type three juror is that you want to hear
9 all of the evidence?

10 A Yes, sir.

11 Q You want to hear all of the facts?

12 A Yes, sir.

13 Q Before you make your determination?

14 A Yes, sir.

15 Q And you do realize this is a two part process,
16 this trial?

17 A Yes, sir.

18 Q At first you have to look at guilt or
19 innocence, correct?

20 A Yes, sir.

21 Q And the second part is looking at sentencing?

22 A Yes, sir.

23 Q And, first, the State has to prove their case
24 beyond a reasonable doubt before we even get to the
25 second part?

- 1 A Yes, sir.
- 2 Q And if they don't prove their case, then you'll
- 3 come back with a not guilty?
- 4 A Yes, sir.
- 5 Q And if we get to the second part, then you'll
- 6 consider life without parole and the death penalty,
- 7 correct?
- 8 A Yes, sir.
- 9 Q Okay. And even though it's hard for you to do,
- 10 because it's hard for anyone to do, you could decide
- 11 between life without parole and the death penalty?
- 12 A Yes, sir.
- 13 Q And if the facts warranted the death penalty,
- 14 you could find for the death penalty, correct?
- 15 A Yes, sir.
- 16 Q But in the guilt phase, you'll listen to
- 17 testimony -- evidence from the State?
- 18 A Yes, sir.
- 19 Q And you'll listen to evidence from the defense?
- 20 A Yes, sir.
- 21 Q As far as any type of background of the
- 22 defendant?
- 23 A Yes, sir.
- 24 Q Upbringing?
- 25 A Yes, sir.

1 Q And other factors that may have occurred during
2 his lifetime?

3 A Yes, sir.

4 Q And you'll be fair and impartial?

5 A Yes, sir.

6 Q And you could -- you could either vote for the
7 death penalty?

8 A Yes, sir.

9 Q Or life without parole?

10 A Yes, sir.

11 Q You just need all the facts?

12 A Yes, sir.

13 MR. KOGER: Thank you. No further questions.

14 THE COURT: All right. Ma'am, would you stand
15 right outside the door?

16 (Juror leaves the courtroom.)

17 THE COURT: What says the State?

18 MR. PASCOE: She's qualified, Your Honor.

19 THE COURT: The defense?

20 MR. KOGER: Qualified, Your Honor.

21 THE COURT: All right. If you'll bring her
22 back.

23 (Juror enters the courtroom.)

24 THE COURT: Okay. Ma'am, you are qualified to
25 serve as a juror in this case. It does not mean

1 that you have been selected, but it means that you
2 are qualified to be selected, you potentially may be
3 selected.

4 We're going to do jury selection at noon
5 tomorrow and we need you to come prepared to stay
6 with us if you are selected. So that means you need
7 to have enough clothing, clothes and medicine and
8 all packed to be with us for about ten days.

9 Now, in the event you are selected, then you
10 will not be able to go home. You'll be with us
11 until the case is over. So you -- with regard to
12 your transportation, you will need to arrange for
13 someone to take your car back or come with you in
14 the event you have to stay. Of course, if you're
15 not selected, then you'll be free to go. I have a
16 sheet of paper explaining some of that to you and
17 giving you some other objections.

18 And we'll see you tomorrow at noon. If you
19 will come over to the annex right across the street
20 here. There's a conference room in there where you
21 and the other jurors will go.

22 Please remember you're not to discuss the case
23 at all, at all, nor allow anyone to discuss it with
24 you in your presence. If anyone should try to do
25 that, tell them they're violating the Judge's order

1 and you must report them immediately to me. In
2 addition, you're not to watch any television
3 accounts of this or read any newspapers that might
4 refer to this case. Do you understand?

5 JUROR: Yes, sir.

6 THE COURT: See you tomorrow.

7 JUROR: Thank you.

8 (Juror was excused for the day.)

9 THE COURT: We're going to take about a three
10 minute break.

11 (Brief Recess.)

12 (Whereupon, Francee M. Sams, a white female,
13 enters the courtroom.)

14 FRANCEE M. SAMS,
15 having been previously duly sworn, testified as
16 follows:

17 VOIR DIRE

18 BY THE COURT:

19 Q Hello, Ms. Sams. How are you doing?

20 A Fine.

21 Q Good. Ms. Sams, you're still under oath from
22 before. Ms. Sams, where do you work?

23 A Palmetto GBA.

24 Q Palmetto GBA?

25 A It's a subsidiary of Blue Cross/Blue Shield,

1 Medicare.

2 Q That's right. And what area of the county do
3 you live in?

4 A I live in Sandy Run.

5 Q And have you heard, seen or read anything about
6 this case since you were here yesterday?

7 A No.

8 Q And prior to yesterday, did you hear anything
9 about this case?

10 A I was unsure yesterday when you asked the
11 question. And I have to be hon -- I didn't stand up
12 whenever you asked if I had seen anything and the
13 reason being is I just wasn't sure because none of
14 the names rung a bell. The wife of the alleged
15 victim, I did -- she did look familiar to me. And
16 after I thought about it for a while, I do know what
17 the case is. So I just wanted to be up front with
18 that.

19 Q Right. And that's what you're -- you are on
20 the witness stand, so if you're able to be up front,
21 now is the time. And your familiarity with the case
22 is based on what?

23 A Just what I saw on T.V.

24 Q And was that some time ago?

25 A Back when it was going on.

1 Q And have you formed an opinion concerning the
2 guilt or the innocence of the defendant based on
3 those past accounts?

4 A As far as his guilt, no, because when it was
5 taking place, I never saw him. I just heard that
6 they had caught somebody related to the case. So as
7 far as me saying that I have formed an opinion that
8 he is guilty, I can't say that I have. Does that
9 make sense?

10 Q Well, would you -- and had you formed an
11 opinion or whatever view that you may have -- or
12 impression that you received based on what you heard
13 at that time, would you be able to set all of that
14 aside and decide this case solely based on the
15 evidence presented in this courtroom?

16 A I think I would.

17 Q Now, in this case, the defendant is presumed to
18 be not guilty and a jury must find him not guilty
19 unless the State proves beyond a reasonable doubt
20 that he is guilty. Do you understand that?

21 A I do.

22 Q And we need to ask you some questions
23 concerning your opinions about certain matters. And
24 the fact that we ask you these opinions does not
25 create any inference or suggestion of guilt because

1 he's presumed to be not guilty, but we must discuss
2 this with you nevertheless because this is the time
3 to do so.

4 Now, should the jury find the defendant guilty
5 of murder, then the jury would next consider what
6 sentence the defendant should receive and the option
7 that the jury would have would be life without the
8 possibility of parole or the death penalty. Do you
9 understand that?

10 A I do.

11 Q Now, did you get a chance to look at this list
12 of possible witnesses?

13 A I did.

14 Q Do you know anyone on that list?

15 A I don't.

16 Q And did you get a chance to look at the other
17 list of types of jurors?

18 A Yes, sir.

19 Q And do you remember those types of jurors?

20 A Yes, sir.

21 Q And which one of the three types of jurors best
22 describe you?

23 A To best describe me, I would say type three.
24 However, I think I have to qualify that by saying it
25 would be difficult for me to hand down a death

1 penalty decision. I'm not saying I couldn't, but
2 that would be the more difficult thing for me to do.

3 Q Well, obviously, jury service in and of itself
4 will be difficult for everyone involved in this
5 entire -- all of the work we do is difficult work.
6 We certainly understand that. But when you say that
7 you are a type three juror, does that mean that
8 based on the facts and circumstances and the
9 aggravating and mitigating circumstances that you
10 hear during the course of the trial, that you could
11 sentence the defendant to life imprisonment?

12 A Yes.

13 Q And based on the facts and circumstances and
14 the aggravating circumstances and considering the
15 mitigating circumstances, you could sentence the
16 defendant to the death penalty?

17 A I could. It would take a considerable -- I
18 guess, it would have to be very severe for me to
19 lean towards the death penalty is what I'm saying.

20 Q And assuming that it is severe and you were
21 convinced that the death penalty was an appropriate
22 sentence, would you hand down that sentence as being
23 your sentence in this case?

24 A Yes.

25 Q And could you sign the verdict form along with

1 other jurors in that instance saying, this is the
2 verdict?

3 A Yes.

4 Q And if you had to come into court and announce
5 that this is your verdict, could you do that?

6 A Yes.

7 Q Now, the jury in this case would be kept
8 together in a local motel at the county's expense,
9 free room, board, food and all. And you'll be
10 together except when you're here in the courtroom.
11 Now, aside from the obvious inconvenience that that
12 would cause you having to be away from family and
13 all, would that pose a serious risk of danger to
14 your health or well-being?

15 A No.

16 THE COURT: I'm going to see if the lawyers
17 might have any questions for you.

18 First, the defense. Mr. Walters.

19 MR. WALTERS: May it please the Court.

20 VOIR DIRE

21 BY MR. WALTERS:

22 Q Ms. Sams, originally when you started talking
23 with His Honor, you discussed the fact that you had
24 some relationship with the decedent's wife; is that
25 correct?

1 A No. I said when I was here yesterday, when
2 everybody was kind of pointed out in the court, she
3 looked familiar to me. And while I was in here, I
4 just couldn't put it together. And then after it
5 was disclosed where the alleged crime had taken
6 place and seeing her, it all came back to me.

7 Q What came back to you? I guess, that's what
8 I'm asking.

9 A The case --

10 Q The case came back?

11 A -- the Judge asked yesterday for the jurors to
12 stand up if they had had any exposure to it. And,
13 at the time, I couldn't stand up because I wasn't
14 sure that -- it just took me a while to put her face
15 together. And then, you know, there's not that many
16 crimes like that that take place in Calhoun County,
17 so that's --

18 Q And I believe your testimony was that you asked
19 if they had caught someone. Who did you ask if they
20 had caught someone?

21 A I don't recall saying that.

22 Q You said something about that you inquired as
23 to whether they had caught someone or something of
24 that nature?

25 A I don't recall. I don't remember asking if

1 somebody had been caught.

2 Q Okay. Maybe I interpreted it wrong as far as
3 what you were saying. Now, in addition to that, you
4 also stated that you're a type three juror; is that
5 correct?

6 A Yes, leaning --

7 Q And when we say a type three juror, what you're
8 saying is -- I want to make sure we're clear on
9 this. First of all, we're talking about the issue
10 of murder.

11 A Uh-huh.

12 Q And that is the unlawful killing of someone
13 with malice aforethought. The State will be
14 required to prove that case beyond a reasonable
15 doubt, not maybe it could have happened or a
16 possibility that it could have happened, they have
17 to prove their case beyond a reasonable doubt. And
18 as a juror, you will be required to hold the State
19 to that burden. If they fail to do so, could you
20 return a verdict of not guilty?

21 A I would have to.

22 Q And if they proved their case, could you return
23 a verdict of guilty?

24 A Yes.

25 Q All right. The second phase, if we go to the

1 second phase, involves the issue of sentencing.
2 And, of course, in sentencing, you'd be required to
3 hear the aggravating circumstances that the State
4 would produce and you're also allowed to hear what's
5 called mitigating circumstances, information about
6 his childhood, his parents, his family and things of
7 that nature. Would you give meaningful
8 consideration to all of these factors in
9 deliberating and coming to a decision?

10 A Yes.

11 Q You sort of hesitated. What made you hesitate?

12 A Well, of course, the aggravation -- to me, the
13 aggravating side of it is going to outweigh, you
14 know, in my opinion, the...

15 Q There are no wrong answers here, so I don't
16 want you to think we're giving you a test and we're
17 looking for the right or wrong answer. We're just
18 asking for you to express your beliefs before this
19 court. You stated that the aggravating factors are
20 very important to you; is that correct?

21 A Right.

22 Q And aggravating factors could be if someone's
23 murdered and there's some criminal sexual conduct
24 involved. Another aggravating factor could be if
25 someone was kidnapped. The statute for aggravating

1 factors, it just lists a number of things that if a
2 murder occurs and also these things occur along with
3 a murder, we consider those to be aggravating
4 circumstances. Does that give you a better idea of
5 aggravating circumstances?

6 A I understand that. I'm just saying that, in my
7 opinion, the past, the family life may not -- won't
8 necessarily outweigh the aggravating factors for me.

9 Q So what you're saying is, is that the
10 mitigating factors that may be presented by the
11 defense, in your opinion, and there are no right or
12 wrong answers here because we respect you 100
13 percent and we've taken you out of your life to be
14 here today, you're stating that the mitigating
15 factors they don't hold that significance -- with
16 regards to your deliberating process, they don't
17 hold great significance in the deliberation process
18 for you; is that correct?

19 A Correct.

20 Q So if someone walks in and says, my dad walked
21 out and my mom was a drunk, you would sit down and
22 say, but the facts in this case are, it involved a
23 murder and what does that have to do with this; is
24 that correct?

25 A Along those lines, yeah, not so extreme.

1 Q I don't want to put words in your mouth, but
2 what I'm getting at is, is that you say you'll
3 strongly consider the aggravating factors in this
4 case because that involves the actual crime itself
5 that you've sat here and tried. And the mitigating
6 factors wouldn't hold that type of significance in
7 your deliberation process?

8 A Right.

9 MR. WALTERS: Your Honor, I have no further
10 questions.

11 THE COURT: Any questions from the State?

12 MR. PASCOE: Yes, Your Honor. Thank you.

13 VOIR DIRE

14 BY MR. PASCOE:

15 Q Ms. Sams, good afternoon. My name is David
16 Pascoe. I'm the Solicitor for Calhoun County. And
17 I also appreciate you coming back up here today.
18 It's been a long couple of days for you. So thank
19 you.

20 You had testified earlier, I think, that you
21 may have heard some things about this case from the
22 news way back when it happened?

23 A Correct.

24 Q Do you remember what you heard about it on the
25 news by any chance?

1 A It was basically just the reporting of, you
2 know, the events that took place.

3 Q Nothing that would cause you not to be able to
4 be a fair and impartial juror in this case? --

5 A No.

6 Q Okay. And you also were very honest under
7 oath, you testified that you would have a difficult
8 time sentencing somebody under the death penalty to
9 death?

10 A Right.

11 Q But you did state that you feel that you're a
12 number three juror?

13 A I can -- I would consider everything that was
14 presented to come to a decision, but it would just
15 be more difficult for me to hand down a death
16 penalty sentence than it would be for life
17 imprisonment. You know, saying somebody's going to
18 die and it's because I said so, that would be
19 difficult.

20 Q Exactly. And, Ms. Sams, you would be a
21 conscientious juror and listen to all of the
22 evidence, aggravation and mitigation and the law the
23 Judge gives you, before you could hand down
24 something as serious as a death penalty verdict?

25 A Yes.

1 Q Okay. Now, you know, we hate to throw these
2 hypotheticals at you, but, hypothetically, in any
3 given case, if you did decide that someone deserved
4 the death penalty sentence, that was your verdict,
5 would you then be able to sign your name to a death
6 penalty verdict form stating that you would sentence
7 that person to that? Could you do it?

8 A I think I could. You know, it's always easy to
9 sit on the sideline and say, yeah, I can do this,
10 but to actually sit there and do it, I'm not going
11 to say it won't be tough, but I think if the
12 circumstances were so extreme that I came to that
13 decision, yes.

14 Q You would have the courage to do that? And
15 would you be able to come into a courtroom, if that
16 was your decision to impose the death penalty, could
17 you come into a courtroom and publish that verdict
18 and say that's your verdict?

19 A Yeah.

20 MR. PASCOE: Beg the Court's indulgence just
21 one second.

22 One second, Ms. Sams.

23 (Pause.)

24 MR. PASCOE: That's all I have. Thank you, Ms.
25 Sams.

1 **THE COURT:** Ms. Sams, if you'll stand right
2 outside the door for a moment, please.

3 (Juror leaves the courtroom.)

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

5 **MR. WALTERS:** May it please the Court. Your
6 Honor, I'd cite the case of Morgan versus Illinois,
7 504 U.S. 719. And in Morgan, it simply states that
8 -- and we believe this juror is mitigation impaired.
9 It simply states that a juror that is unable to
10 fairly consider mitigation should be removed. This
11 is in Morgan, the volume's 504 U.S. at 729.

12 It also states in Morgan, They must be able to
13 give some weight to mitigation. And in this
14 particular case, she made it clear that that would
15 not hold any significance, very little significance
16 in her deliberation process. And we'd cite the
17 Morgan case again, 504 U.S. at 736. So that's pages
18 729 and pages 736.

19 It's clear from her testimony that she is
20 mitigation impaired because she cannot consider --
21 she's unable to fairly consider mitigation and give
22 it the weight and credibility that it deserves under
23 those circumstances. And our U.S. Supreme Court
24 stated in the Morgan case that a juror that is
25 unable to do that should be removed.

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

2 **MR. PASCOE:** No position, Your Honor.

3 **THE COURT:** Well, I didn't hear what you heard,
4 Mr. Walters. She said that she would consider the
5 aggravating circumstances and she would consider the
6 mitigating circumstances. She said that, in her
7 opinion, the aggravating circumstances would
8 generally outweigh the mitigating circumstances in
9 her mind, but when you asked her the question of
10 whether she would give fair consideration to the
11 mitigating circumstances, she said that she would.

12 Now, your conclusion about her totally
13 disregarding the mitigating circumstances, where do
14 you get that from?

15 **MR. WALTERS:** May it please the Court. If I
16 misstated what she said, I apologize to the Court.
17 Morgan simply requires that the juror be able to
18 give some weight to the mitigating circumstances.
19 And in this particular case, it's clear that she's
20 unable to fairly consider the mitigation.

21 What she's engaged in is a burden shifting
22 process. She's saying this aggravation will weigh
23 more heavily than mitigation will. And, of course,
24 we went through the hypothetical, if someone's
25 father drank or something of that nature, and she

1 made it clear that that would not have a bearing on
2 the decision that she would make. I think that's
3 what Morgan is designed exactly to go after.

4 We don't want a burden shifting going on during
5 that process. We ask that it be fairly given the
6 consideration that it deserves and it's clear from
7 her testimony that she would not do so.

8 **THE COURT:** Mr. Pascoe.

9 **MR. PASCOE:** I would just say, Your Honor, with
10 regards, I think that's kind of an improper question
11 to ask a juror anyway about how much you will weigh
12 a certain piece of evidence, you know, asking them
13 what -- especially when we're having to come out
14 with hypotheticals like the way we are this week,
15 you know, are you going to weigh aggravation more
16 than mitigation will. I think that's an improper
17 question for a juror to answer until they've
18 actually heard it and they've gotten the
19 instructions from the Court.

20 And she was certainly, you know, she testified
21 that she would have a -- it would be a difficult
22 decision for her to make and that she was a number
23 three juror.

24 **MR. WALTERS:** May it please the Court. Your
25 Honor, I just also offer another cite out of Morgan.

1 It just simply states, number one, that adequate
2 voir dire is required to identify unqualified
3 jurors. And that's at 729 and 733.

4 In addition to that, I'd also cite that general
5 fairness and follow the law questions are
6 constitutionally insufficient. And I refer to -- it
7 refers to, Delaware and South Carolina agree with
8 Illinois that the reverse Witherspoon inquiry is
9 unnecessary so long as, by questions and oath, each
10 juror swears to be fair and impartial and follow the
11 law.

12 And in this particular case, we believe that
13 adequate voir dire was allowed by the Court. And
14 what happened was, is the juror sat there and said,
15 well, I'm going to engage in a balancing of the
16 scales and I'll decide which one I'll give more
17 credence to in my consideration of the testimony.

18 And Morgan is designed to eliminate that
19 process. It just simply asks that you hear all of
20 it and then make a decision. Of course, we would
21 cite again 504 U.S. at 729 and that's U.S. versus
22 Morgan.

23 May it please the Court. There's one other
24 issue, Your Honor. In your instructions to the jury
25 with regards to the sentencing process, I believe

1 the Court's instruction will be that a juror must be
2 able to consider the Court's instructions and that
3 the juror can vote for life for any reason, no
4 reason or a simple act of mercy.

5 When the juror sits down and says that I'm
6 going to weigh this evidence or expects the defense
7 to present evidence, especially evidence of
8 mitigation or weigh that amount of mitigation, what
9 happens is, is that the juror is imposing implicitly
10 a burden on the defendant because she's simply
11 saying that I don't know if that can carry the
12 weight that it should. And, of course, when we get
13 into that process of a burden shifting -- and your
14 instructions are and I believe the instruction
15 that's normally given in a death penalty case, is
16 that life can be given for any reason, no reason or
17 simply an act of mercy.

18 **THE COURT:** The law is that the juror must
19 consider the statutory mitigating circumstances and
20 the juror must consider the statutory aggravating
21 circumstances. And did she, at any point, say that
22 she would not consider the mitigating circumstances?

23 **MR. WALTERS:** No, sir. Your Honor is correct.
24 She said she would consider it.

25 However, she imposed a litmus test before she

1 could take that evidence in. She simply stated
2 that, well, I'm going to give it a certain amount of
3 credibility, but I will look at aggravating
4 circumstances in a different light. She goes beyond
5 just consideration, she imposes a balancing test
6 there. And she's saying that I'm going to start off
7 on a position that whatever the defense has to say,
8 holds little credence with regards to this issue and
9 what the prosecution has to say, holds greater
10 weight.

11 When a juror invokes a balancing act in that
12 manner, she goes beyond simple consideration. She's
13 imposed her own personal biases on the process when
14 she walks in and simply says, you're going to get
15 consideration, but you're only going to get maybe
16 ten percent of my consideration, the majority has
17 got to go toward the prosecution. That's where
18 she's crossed the line in this. That's exactly what
19 Morgan's designed to prevent.

20 **THE COURT:** Well, you asked her whether or not
21 the mitigating factors -- you told her that, so what
22 she's saying is that the mitigating factors don't
23 hold that significance, with regard to the process,
24 you don't hold great significance -- that they don't
25 hold great significance to you. She says, Correct,

1 and along those lines, but not so extreme. So she
2 said that she could consider the statutory
3 mitigating circumstances.

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

5 **THE COURT:** You stated a hypothetical to her
6 about the dad walking out on the mom and being drunk
7 and so forth. And she responded to your question,
8 but she said, Along those lines, but she doesn't
9 have as extreme a view as your questions pose.

10 **MR. WALTERS:** I believe she said that she
11 wouldn't put it in those terms -- as harsh a terms
12 as I put it in.

13 But, Your Honor, what I'm saying is, is that we
14 have a juror that has actively come into the process
15 and she's shifting the burden in this particular
16 case. The Court only requires that you consider the
17 evidence. And the weight that you give to the
18 evidence should be given at that time when you hear
19 the evidence.

20 So if an argument or a position or mitigation
21 or aggravation is placed in front of that juror, at
22 that time, that juror should consider the weight of
23 the aggravation, the weight of the mitigation issues
24 and then make a decision. We have a juror here that
25 says, I've got my mind made up on how I'm going to

1 weigh this evidence before I even see it. And
2 that's exactly what Morgan is designed to prevent.

3 **THE COURT:** She also said that she would be
4 very hard pressed to vote for the death penalty,
5 that she would strongly favor a life imprisonment
6 sentence. Do you think she is not death qualified
7 based on those responses?

8 **MR. WALTERS:** No, sir. No, sir. I believe
9 that she was honest about how she felt about the
10 death penalty. And her position was, is that it
11 would take the totality of the evidence and the
12 seriousness of the offense for me to consider giving
13 the death penalty. But she did not impose before
14 she saw the evidence the weight that she would put
15 towards that evidence. What she did was she simply
16 stated that, I have to wait and see everything.

17 With regards to aggravation and mitigation, she
18 didn't say, I got to wait and then evaluate the
19 evidence and make a decision. What she said to the
20 Court was, is that this evidence will receive this
21 much consideration and this evidence will receive
22 this much consideration before it's even put in
23 front of her. And that's exactly what Morgan is
24 designed to prevent.

25 **THE COURT:** You don't believe that she's a

1 number three juror when she said that she's a number
2 three and that she would not make up her mind in
3 advance concerning punishment, she would need to
4 hear the facts and circumstances in aggravation and
5 mitigation and would want to listen to and follow
6 the law as the Judge charges the jury before he or
7 she could make the decision regarding punishment?

8 MR. WALTERS: I do not believe she's a number
9 three juror. Number three requires that the juror
10 appear before the Court, hear all of the evidence
11 and after hearing the evidence, you weigh the
12 evidence and then make a decision that you believe
13 is correct.

14 In this particular case, and as Morgan states,
15 if there's a predisposition with regards to the
16 fairness of evidence and what you will consider --
17 and in this particular case, she's assigning the
18 weight of that evidence before it's even put in
19 front of her. She's saying that no matter what you
20 say, it's going to be given this much consideration
21 and I'm going to give the prosecution this much
22 consideration before I even see this evidence.
23 That's exactly what Morgan is designed to stop from
24 happening.

25 They simply want you to do, what? Look at the

1 facts and the evidence and then make a decision, but
2 in this particular case, she's saying, I'm not going
3 to do that. What I'm going to do is, is that I'm
4 going to hear what you've got to say, but this is
5 going to hold more importance than what you have to
6 say.

7 And when you've got a juror that's made a
8 decision on what percentages, on what position she's
9 going to take with regards to evidence before it's
10 even brought into the courtroom, that's exactly what
11 Morgan says, stop this person, they should be
12 unqualified as a juror because they've taken
13 positions. They're shifting the burden. And in
14 this particular case, they're placing that burden on
15 the defendant. And the rules are that he's presumed
16 innocent and he has no burden to present any
17 information.

18 Honestly, in the sentencing process, he doesn't
19 have an obligation to present mitigating
20 circumstances, but this person has sat down and
21 said, but if it does come out, this is the
22 percentage I'm going to assign to it, this is the
23 weight I'm going to give it. And that's exactly
24 what Morgan's designed to do. Number one, adequate
25 voir dire, smoke this person out and find out --

1 **THE COURT:** We're beyond whether or not you
2 have the adequate voir dire. Let's focus on the
3 issue at hand.

4 **MR. WALTERS:** I agree, Your Honor, but the
5 problem here is, is that we've got a juror that's
6 already made a decision on credibility of the
7 evidence that will be presented before her and what
8 consideration she's going to give it and she's not
9 even sworn in as a juror. And that's exactly what
10 Morgan is designed to do.

11 **THE COURT:** She is sworn in as a juror.

12 **MR. WALTERS:** She's not a juror with regards to
13 this case.

14 **THE COURT:** She was sworn in as a prospective
15 juror.

16 **MR. WALTERS:** Prospective juror, but she's not
17 on the jury. And what she's saying is, before I get
18 on the jury, I've got a position I'm going to take
19 with regards to the evidence.

20 **THE COURT:** Mr. Pascoe.

21 **MR. PASCOE:** Briefly, Your Honor, our position
22 is she'd have a very hard time giving somebody the
23 death penalty. I didn't get any of that through her
24 testimony, Your Honor. In fact, she never said that
25 I would only look at the aggravating circumstances

1 and impose the death penalty. She didn't even say
2 that in her testimony. She just said that there
3 might be certain mitigation that she won't take into
4 consideration as much as the aggravation. And there
5 is nothing wrong with that whatsoever.

6 THE COURT: I'll review the Morgan versus
7 Illinois case while we proceed with the next juror.

8 If you'll have that juror sit and wait and
9 bring the next juror.

10 (Whereupon, Sheena Cheeseboro-Staley, a
11 black female, enters the courtroom.)

12 SHEENA CHEESEBORO-STALEY,
13 having been previously duly sworn, testified as
14 follows:

15 VOIR DIRE

16 BY THE COURT:

17 Q Hi there, Ms. Cheeseboro-Staley. Ms.
18 Cheeseboro-Staley, you're still under oath from
19 yesterday. And, ma'am, do you -- where do you work?

20 A I work at Palmetto GBA.

21 Q And do you work with the lady that just left?
22 Do you know her?

23 A No.

24 Q Ms. Sams?

25 A No. If she works in the building, I don't

1 know.

2 Q And have you read anything or been exposed to
3 any information concerning this case between last
4 night and this time?

5 A No.

6 Q Ma'am, this is a case in which the State is
7 seeking the death penalty. And we've given you a
8 list of prospective witnesses. Do you know anyone
9 on that list?

10 A No.

11 Q And what area of the county are you from?

12 A I lived in New York, but I live in Calhoun
13 County now.

14 Q You're from New York, but you live in this
15 county?

16 A Uh-huh.

17 Q And whereabouts do you live?

18 A Not too far from Highway Six. I'm on 21.

19 Q Six and 21?

20 A Yeah.

21 Q Now, the defendant is presumed to be not guilty
22 and cannot be held accountable of these charges or
23 found guilty unless the guilt -- his guilt is proven
24 beyond a reasonable doubt. Do you understand that
25 principle of law?

1 A Yes.

2 Q But despite the fact that he's presumed to be
3 not guilty, we must discuss punishment in the event
4 he is found guilty and no inference is to be drawn
5 from that, but with regard to the possible penalty,
6 we must understand your views regarding the death
7 penalty.

8 A Okay.

9 Q Did you take a look at this list of the various
10 types of jurors, type one, two and three?

11 A Yeah.

12 Q Which of the three best describe you as a
13 person?

14 A Type three.

15 Q And why do you say that type three best
16 describes you?

17 A Because you have to get all the facts and
18 information before you come to a decision on
19 anything. You can't just hear partial information
20 and decide. It will be an incorrect decision.

21 Q And did you notice the portion of that type
22 three that said this juror could bring in a verdict
23 of life imprisonment without the possibility of
24 parole and also if the facts so warranted, the juror
25 could bring in a verdict for the death penalty?

1 A Yes, sir.

2 Q And could you bring in a verdict for life
3 without the possibility of parole?

4 A For that -- for giving all the information,
5 yes.

6 Q And could you bring in a verdict for the death
7 penalty depending on the evidence presented?

8 A Yes.

9 Q And in this case, the jurors will be
10 sequestered or kept together. And aside from an
11 inconvenience to you, is there anything that might
12 affect your health and well-being if you were
13 required to be kept together?

14 A (Witness shook head.)

15 THE COURT: All right. Questions by the State
16 or the defense?

17 MR. PASCOE: Thank you, Your Honor.

18 VOIR DIRE

19 BY MR. PASCOE:

20 Q Hello, Ms. Cheeseboro-Staley. My name is David
21 Pascoe. How are you doing?

22 A I'm good.

23 Q I'm the Solicitor. I want to thank you for
24 coming back today. It's been a long two days for
25 you.

- 1 A No problem.
- 2 Q Did the Judge give you -- I believe you were
3 given a witness list back there to look at?
- 4 A Yes.
- 5 Q Did you look through the names on that witness
6 list, ma'am?
- 7 A Yes.
- 8 Q Did you recognize any names on that witness
9 list?
- 10 A No.
- 11 Q You don't know anybody on the witness list?
- 12 A No.
- 13 Q Good. Thank you. So I just want to make sure
14 we're clear here. You are not opposed to the death
15 penalty?
- 16 A No, I'm not.
- 17 Q You can sentence somebody to death if you think
18 it warrants it?
- 19 A Yes.
- 20 Q So you believe that if someone has committed a
21 murder and they're found guilty of murder, that
22 there can be circumstances where you will give
23 somebody the death penalty?
- 24 A Yes.
- 25 Q Okay. No hesitation, no doubt about that?

1 A No hesitation, no doubt.

2 Q And that's why you're a number three juror,
3 right?

4 A Yes.

5 Q Because -- and I want to make sure I got this
6 -- let me tell you what a number two juror is, okay?
7 A number two juror is the type of person who will
8 still hear all the facts and all the evidence and
9 after they find somebody guilty of murder, the only
10 sentence that they will ever be able to give is life
11 without parole?

12 A Right.

13 Q And you're saying you are not a number two
14 juror?

15 A No.

16 Q And is that under oath, honest?

17 A Yeah, that's under oath.

18 Q That you will actually consider whether you
19 will give somebody life or death?

20 A Yes.

21 Q Now, just a couple more things I want to go
22 over with you, okay?

23 A Uh-huh.

24 Q And, again, this is hypothetical, which is bad,
25 but, hypothetically, if you decided that someone

1 deserved the death penalty because they committed a
2 murder and you believed they were guilty and it was
3 aggravated, you would then have to be able to sign
4 your name to a death penalty verdict form. Could
5 you do that?

6 A Yes.

7 Q If you find that somebody deserves the death
8 penalty, you could sign your name to it?

9 A Uh-huh.

10 Q And, ma'am, would you be able to come into this
11 courtroom and announce your verdict in public to
12 everybody and say that I have sentenced this person
13 to death?

14 A Yes.

15 MR. PASCOE: Thank you again, Ms.

16 Cheeseboro-Staley. I appreciate it.

17 MR. KOGER: May it please the Court.

18 THE COURT: Yes, sir.

19 VOIR DIRE

20 BY MR. KOGER:

21 Q Ms. Cheeseboro-Staley, how are you doing?

22 A Good.

23 Q I know it's late. I won't be too long with
24 you.

25 A No problem.

- 1 Q Okay. Basically, as you stated earlier, you
2 want all the information given to you?
- 3 A Uh-huh.
- 4 Q Then you can make a decision upon that?
- 5 A Exactly.
- 6 Q Do you realize the State has to prove their
7 case beyond a reasonable doubt?
- 8 A Yes.
- 9 Q And if they don't prove their case beyond a
10 reasonable doubt, then you are willing to come in
11 with a not guilty verdict?
- 12 A Yes.
- 13 Q And you realize when you come in with a not
14 guilty verdict, that we don't even get to the second
15 part as far as the sentencing?
- 16 A Exactly, I understand that.
- 17 Q But if we do get to sentencing, then you still
18 want all the evidence?
- 19 A Exactly.
- 20 Q And all the testimony?
- 21 A Exactly.
- 22 Q Before you make a decision?
- 23 A Uh-huh.
- 24 Q You'll want it from the State?
- 25 A Uh-huh.

1 Q You'll also want any information regarding my
2 client's background?

3 A Uh-huh.

4 Q Upbringing or anything that may be applicable
5 or relevant to why he's here this week, correct?

6 A Exactly.

7 MR. KOGER: Thank you. No further questions.

8 THE COURT: All right. Ma'am, if you will step
9 outside for just a moment.

10 (Juror leaves the courtroom.)

11 THE COURT: What says the defense?

12 MR. KOGER: We feel she's qualified, Your
13 Honor.

14 THE COURT: What says the State?

15 MR. PASCOE: Qualified, Your Honor.

16 THE COURT: All right. Have her come back.

17 (Juror enters the courtroom.)

18 THE COURT: Ma'am, you have been found to be
19 qualified to serve, which means that you may be
20 selected as a juror in this case. And jury
21 selection will take place at noon tomorrow. You are
22 not on the jury, but you may be put on the jury.
23 And we need you to come prepared to be on the jury,
24 which means that you need to come packed and ready
25 to stay with us for as long as this case takes which

1 may be up to ten days or so. Would that pose any
2 hardship on you?

3 **JUROR:** No.

4 **THE COURT:** And here's a letter for you to take
5 to review, to consider, ponder what things you need
6 to bring with you and all that. And we'll look
7 forward to seeing you at noon tomorrow.

8 Now, in the meantime, you need to be sure that
9 you do not look at any T.V. reports regarding this
10 case and not read any newspaper reports and not talk
11 about this case with anyone or allow anyone to talk
12 with you about this case. Do you understand that?

13 **JUROR:** Yes, sir.

14 **THE COURT:** All right. Thank you very much.
15 We'll see you at noon tomorrow. When you come,
16 you'll come to the annex building right across the
17 street. And you may need to have it so that someone
18 can take your car back or drop you off or wait to
19 see if you're on the jury before leaving you, okay?

20 **JUROR:** Okay.

21 **THE COURT:** Thank you. We'll see you tomorrow.

22 (Juror was excused for the day.)

23 **THE COURT:** Mr. Walters.

24 **MR. WALTERS:** Yes, sir, Your Honor.

25 **THE COURT:** Would you read for me the portion

1 of the Morgan case that you are arguing? And tell
2 me where that is in that case.

3 MR. WALTERS: 504 U.S. at 729, 504 U.S. at 736.

4 THE COURT: I have the case. I want you to
5 tell the paragraph and then read it.

6 MR. WALTERS: I don't have the case in front of
7 me, Your Honor. It's just the cite.

8 Your Honor, we've got ours printed off
9 Casemaker and it doesn't number it by the page as
10 far as 729. It just numbers it off -- printed off
11 in the system.

12 THE COURT: Mr. Pascoe, do you have a copy of
13 the case?

14 MR. PASCOE: No, sir, I don't.

15 MR. WALTERS: We have a copy, Your Honor. It's
16 just it's not numbered by page 729. It says --

17 THE COURT: Well, just read to me from that
18 case what supports your argument.

19 MR. WALTERS: Your Honor, I'm going to hand you
20 two cites. May I approach?

21 THE COURT: You're going to hand me two cites?

22 MR. WALTERS: I'm going to hand you what we
23 received at the CLE for striking jurors in regards
24 to death penalty cases. And I'm also going to hand
25 you the case and I'm going to cite section E, it's

1 page two of 18. And I'll put the page that deals
2 with section E.

3 **THE COURT:** Before you hand it to me, I wanted
4 you to read to me what you're relying on, the
5 entire --

6 **MR. WALTERS:** Section E says, A juror to whom
7 mitigating evidence is irrelevant...

8 **THE COURT:** Just a moment. You're reading it
9 and she's trying to follow you, so you need to slow
10 down.

11 **MR. WALTERS:** Section E says, A juror to whom
12 mitigating evidence is irrelevant is plainly saying
13 that...

14 **THE COURT:** Well, maybe you need to stand by
15 the reporter. There's no way she can type as fast
16 as you're reading.

17 **MR. WALTERS:** A juror to whom mitigating
18 evidence is irrelevant is plainly saying that such
19 evidence is not worth consideration, a view which
20 has long been rejected by this Court and which finds
21 no basis in Illinois statutory or decisional law.

22 Here, the instruction accords with the State's
23 death penalty statute, which requires that the jury
24 be instructed to consider any relevant aggravating
25 and mitigating factors, lists certain relevant

1 mitigating factors, and directs the jury to consider
2 whether the mitigating factors are sufficient to
3 preclude the death penalty's imposition.

4 Since the statute plainly indicates that a
5 lesser sentence is available in every case where
6 mitigating evidence exists, a juror who would
7 invariably impose a death penalty would not give the
8 mitigating evidence the consideration the statute
9 contemplates.

10 And I'll move to the next section.

11 (Pause.)

12 **THE COURT:** Are you through, Mr. Walters?

13 **MR. WALTERS:** No, sir, Your Honor. I have the
14 cites from the death penalty seminar, but this is
15 printed off of Casemakers, so it does not -- it's
16 not numbered by page 79. And if the Court would
17 allow me just two more minutes to find it in here.

18 I'll start with another paragraph and it refers
19 to, The jury in this case was instructed that
20 aggravating factors are reasons why the defendant
21 should be sentenced to death, and that mitigating
22 factors are reasons why the defendant should not be
23 sentenced to death, and that the jury must consider
24 all the aggravating factors supported by the
25 evidence and all the mitigating factors supported by

1 the evidence, and the jury should impose a death
2 sentence if its found, from consideration of all the
3 evidence, that there are no mitigating factors
4 sufficient to preclude the imposition of a death
5 sentence.

6 The instructions did not in any way further
7 define what constitutes a mitigating or aggravating
8 factor, other than to point out that the jury's
9 finding, at the death eligibility stage, the
10 petitioner -- in this case, it goes into the case
11 for a contract killing that occurred here.

12 **THE COURT:** You're reading about the jury
13 instruction -- the jury charges at this point.

14 **MR. WALTERS:** Right. I'm sorry, Your Honor.
15 It's just not numbered -- it's not numbered based on
16 the cite itself.

17 One other paragraph it just simply says, In the
18 Court's view, a juror who will always impose a death
19 penalty upon proof of the required aggravating
20 factors will fail in good faith to consider the
21 evidence of aggravating and mitigating circumstances
22 as the instructions required him to do.

23 And they stated they would agree with that if
24 it were true that the instructions would require
25 jurors to deem certain evidence to be mitigating and

1 to weigh the evidence in deciding the penalty. On
2 that hypothesis, the juror's firm attachment to the
3 death penalty would demonstrate an absence of the
4 constitutionally required impartiality, which
5 requires the decision maker to be able,
6 conscientiously, to apply the law and find the
7 facts.

8 And, of course, Your Honor, I could go get the
9 actual southeastern -- I mean, the U.S. Reporter and
10 go forward from there, but essentially what we're
11 saying with the Morgan case is, is that when a juror
12 walks in this courtroom and says that I decided what
13 percentage of credibility I'm going to give to the
14 aggravating and mitigating factors that are
15 presented before me --

16 **THE COURT:** Well, now you're re-arguing the
17 case. I just simply asked you to cite what legal
18 authority you have for what you've already argued.

19 **MR. WALTERS:** And, Your Honor, I believe this
20 is over 18 different pages. If I can be allowed to
21 go through and highlight it, I would like to submit
22 into the record also the portions that we referred
23 to, but when it's printed off Casemaker, it's not
24 numbered by the pages as it would be in the original
25 text.

1 **THE COURT:** Well, you can place it in the
2 record. The reason I asked you to read it -- I have
3 a copy of the case. I've reviewed the case. And
4 the case spoke to circumstances where a juror stated
5 that the juror would always vote for the death
6 penalty regardless of any mitigating circumstances.
7 And the court felt that that juror should not have
8 been seated because the juror failed to follow the
9 law and would not consider statutory aggravating
10 circumstances and statutory mitigating circumstances
11 in his decision. I don't see how that applies at
12 all to what you're arguing now other than the
13 reference to the word mitigating circumstances and
14 the opinion.

15 That case involved a case of a type one juror
16 who was seated on the jury, not a type three juror.
17 It appears that you are not contesting the fact that
18 she is a type three juror, who would strongly, it
19 appears, favor life imprisonment over the death
20 penalty, but who said she could consider both the
21 aggravating and mitigating circumstances, but you
22 elected to interrogate her on how would she weigh
23 the mitigating circumstances.

24 But you failed to cite to me any case authority
25 that mandates that the jury give -- mandates what

1 weight the jury is to give to the mitigating
2 circumstances and is there such an authority that
3 requires the jury to give a certain weight to the
4 mitigating circumstances.

5 MR. WALTERS: May it please the Court.

6 THE COURT: Yes, sir.

7 MR. WALTERS: Your Honor, I agree with your
8 interpretation of Morgan, but it also -- what we
9 have here is the exact same thing in this particular
10 case. In Morgan, it said, I'm not giving any
11 consideration to mitigation factors. In this
12 particular case, this lady is saying, I'll give it
13 some consideration, but a very small percentage of
14 consideration.

15 How is that different from Morgan if Morgan
16 says, I won't take it into consideration, and this
17 lady turns around and says, well, I'll give it maybe
18 five or ten percent?

19 THE COURT: Well, you say that she'll give
20 small consideration, she'll give five to ten
21 percent. She says your examples were not so
22 extreme. She did not state what weight except to
23 say that she would favor aggravating circumstances
24 over mitigating circumstances in determining whether
25 or not the mitigating circumstances sufficiently

1 would cause her to accept that, to lessen the
2 responsibility for a criminal act, but despite that
3 fact, she would still be very hard pressed to give
4 someone the death penalty.

5 **MR. WALTERS:** I agree with Your Honor --

6 **THE COURT:** I see why Mr. Pascoe had no
7 argument because it appears that you're attempting
8 to strike a juror who appears to be favorable to the
9 defense based on her responses. By taking it a step
10 further and saying that, well, even though you're
11 very hard pressed and you can find very limited
12 circumstances under which you could grant the death
13 penalty, based on the fact that you did not respond
14 properly to my questions and based on the fact that
15 I'm not satisfied with the manner in which you would
16 weigh aggravating versus mitigating circumstances,
17 then you're not qualified as a juror.

18 **MR. WALTERS:** For the record, what I'm saying,
19 Your Honor, is, is that it may seem as if she's a
20 type three juror and that she may be more inclined
21 to give my client life, but she made it clear to us,
22 and she did not state a percentage, but she made it
23 clear to us that as far as his background, his
24 history and how he grew up, that will not be given
25 significant consideration, implicit, that's what we

1 got from what she said.

2 And, of course, a sentencing phase -- the
3 entire sentencing phase is simply his background,
4 his family, where he grew up and the person that he
5 is. And when we've got a juror sitting on the stand
6 that says, I'm not going to give that the weight
7 that it should be given, and Your Honor is correct,
8 she never stated a percentage, but implicit in her
9 statement is, is that she's got in mind how much
10 consideration she's going to give that. And that's
11 the problem we have with it.

12 Morgan says that there's a juror sitting here
13 that says, I'm not going to consider the mitigating
14 facts, I'm going to impose death every time. We've
15 got a lady sitting here saying, well, I'm going to
16 consider the mitigating factors, but I'm going to
17 consider a small percentage of it. I didn't state
18 what percentage it was, but in my mind, I've got an
19 idea how much credibility I want to give to the
20 mitigating factors before this court. And that's
21 the problem we have with it.

22 She seems as if she's a number three, but if we
23 go into the sentencing phase, we've got a lady that
24 adamantly says, this background stuff, where you
25 grew up and who your mama and daddy were, I'm not

1 going to give it the consideration that I should
2 give it because in my mind, I've got a fixed
3 percentage of what I want to give you or a fixed
4 consideration as to what I'm going to give you.

5 **THE COURT:** Well, as far as a jury charge in a
6 death penalty case, can you mandate that the jury
7 consider mitigating circumstances? Can you mandate
8 that or is it that the jury may consider mitigating
9 circumstances?

10 **MR. WALTERS:** I believe if you say that you're
11 a type three juror, you're stating that I am open to
12 listening to both sides. Implicit in her statement
13 was, I'm open to listening to the aggravating
14 circumstances, but as far as the mitigating
15 circumstances, I'm not going to give it the weight
16 and credibility it should be given. She didn't
17 state a percentage.

18 And as in the Morgan case, this juror said, no,
19 I'm not considering it. In this case, this lady is
20 saying, I'm not going to give it the weight it
21 deserves. That's what's frightening about her as --
22 coming forward and saying she's a type three and
23 that she can simply follow this procedure.

24 **THE COURT:** What's your take on that
25 Mr. Sorenson, Mr. Pascoe? Mr. Sorenson is the legal

1 scholar from his book and he works for you, so go
2 ahead, Mr. Pascoe.

3 MR. PASCOE: She's without a doubt, a number
4 three juror, that's the thing. A lot of what
5 Mr. Walters is arguing is not what she testified on
6 the stand. I mean, she never said that she wouldn't
7 consider mitigating circumstances, first of all.
8 And just like Your Honor pointed out, it's not --
9 the jurors aren't mandated to even judge the two
10 equally, so I don't see how she's not a qualified
11 juror.

12 Under the law, she's without a doubt a
13 qualified juror. In fact, she stated repeatedly
14 that she would have a difficult time giving somebody
15 the death sentence and that she would weigh all the
16 evidence.

17 THE COURT: She's testified that she'll
18 consider any mitigating circumstances. And she has
19 not been instructed on the law, but she says that
20 she will follow the law as the Court will instruct
21 her. I find that she is qualified to serve as a
22 juror in this case. If you'll have her come back
23 in, please.

24 (Juror enters the courtroom.)

25 THE COURT: All right. Ms. Sams, thank you for

1 waiting. Ms. Sams, would you follow the law as the
2 Judge -- as I will instruct you in this case, ma'am?

3 **JUROR:** Yes.

4 **THE COURT:** And even if there is some aspect of
5 the law that you might disagree with, would you
6 nevertheless follow the law if that's the
7 instruction by me?

8 **JUROR:** I will follow the law.

9 **THE COURT:** Thank you very much. Ms. Sams, you
10 are qualified to serve as a juror in this case. And
11 we need you to report back here at noon tomorrow
12 packed up and ready to serve and be prepared to stay
13 with us for about ten days. The jurors will be
14 sequestered locally at the county's expense. Here
15 is a sheet of paper that will explain that to you.

16 Please do not read anything about this case,
17 expose yourself to any newspaper accounts concerning
18 this case or T.V. accounts concerning this case or
19 to discuss with it anyone or allow anyone to discuss
20 it with you, that would violate your oath as a juror
21 and my instruction to you.

22 And when you come tomorrow at 12:00, if you'll
23 come across the street to the annex, there's a
24 conference room there where the other jurors will
25 meet. Please do not discuss the case there or if

1 anyone attempts to discuss this case, including
2 other jurors with you or in your presence, please
3 bring that to my attention immediately through
4 notifying the bailiffs who will be there with you.
5 Thank you very much.

6 (Juror was excused for the day.)

7 (Whereupon, Curtis L. Lake, a white male,
8 enters the courtroom.)

9 CURTIS L. LAKE,
10 having been previously duly sworn, testified as
11 follows:

12 VOIR DIRE

13 BY THE COURT:

14 Q Mr. Lake, how are you doing?

15 A Wonderful. How about you?

16 Q Not so wonderful, but we're making it. You're
17 still under oath and remember that, please.

18 A Yes, sir.

19 Q From between yesterday and today, have you
20 heard or read anything about this case?

21 A No, sir, I have not. There's one thing I would
22 like to bring to your attention, sir. I did know
23 James Myers. He was a customer of mine.

24 Q What type of business do you have or did you
25 have?

1 A I just sold it this year. I had an electric
2 motor repair and he was a customer of mine. And
3 also, at one time, the Orangeburg City Police was
4 right across the street, so that's how I got to know
5 him, also.

6 Q And how well -- did you know him pretty well?

7 A I would not say we were good friends, but when
8 he come in my place of business, I went up and spoke
9 to him and had a conversation with him.

10 Q And would the fact that you knew the victim in
11 this case, alleged victim, Mr. Myers, would that
12 fact affect your ability to sit as a fair and
13 impartial juror in this case?

14 A Well, to be honest with you, I've been
15 wrestling with that last night and all day today and
16 I do not think I would give the man a fair trial.

17 Q You think the fact that you've known Officer
18 Myers over the years and the closeness of the
19 relationship would prejudice you against the
20 defendant?

21 A Yes, sir.

22 THE COURT: Any questions by the State or the
23 defense?

24 MR. WALTERS: No questions, Your Honor.

25 MR. PASCOE: No, Your Honor.

1 Thank you, Mr. Lake.

2 **THE COURT:** Any objection to Mr. Lake being
3 excused as a juror in this case?

4 **MR. PASCOE:** No, Your Honor.

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

6 **THE COURT:** Thank you, Mr. Lake. We appreciate
7 your candor. And I know it's something that you
8 would obviously have to struggle with and you
9 obviously struggled with it since you did not
10 mention it yesterday, but having thought and focused
11 on it, you mentioned it today. And you've done the
12 right thing and the proper thing and we appreciate
13 that.

14 **JUROR:** Thank you, Your Honor.

15 **THE COURT:** Yes, sir. Thank you and you're
16 free to go.

17 (Puror was excused.)

18 **THE COURT:** This juror has not had a chance to
19 look over the paperwork. We'll give him some more
20 time. That will give us a chance to stretch.

21 (Pause.)

22 (Whereupon, James H. Cornelius, Jr., a white
23 male, enters the courtroom.)

24 ****

25 ****

1 JAMES H. CORNELIUS, JR.,
2 having been previously duly sworn, testified as
3 follows:

4 VOIR DIRE

5 BY THE COURT:

6 Q How are you doing, Mr. Cornelius?

7 A Fine, a little nervous.

8 Q We all are. Mr. Cornelius, you're still under
9 oath. And I need to ask you a few questions. Where
10 do you work?

11 A Jim Hudson Pontiac GMC in Columbia.

12 Q And what area of the county do you live in?

13 A Off of 601 on the Orangeburg, Calhoun County
14 line.

15 Q 601, Orangeburg, Calhoun County line, south of
16 here?

17 A Yes, sir.

18 Q And has anyone attempted to contact you or have
19 you heard or read anything about this case since
20 yesterday?

21 A No, sir.

22 Q You haven't read any newspapers?

23 A No, sir.

24 Q Now, you do understand that I have instructed
25 the jurors not to watch any television accounts,

1 read any newspapers or talk about this case in any
2 form or fashion?

3 A Yes, sir.

4 Q Have you complied with that?

5 A Yes, sir.

6 Q Now, the defendant in this case is charged with
7 murder and the State is seeking the death penalty.
8 He is presumed to be not guilty of those charges and
9 we're going to discuss your opinion about the death
10 penalty in just a minute. But the fact that we
11 discuss that does not have any bearing on guilt or
12 innocence because he is presumed to be not guilty.
13 Do you understand?

14 A Yes, sir.

15 Q Simply, we must talk about it at this time.
16 Did you get a chance to look over this list of
17 possible witnesses?

18 A Yes, sir.

19 Q And do you know anyone on that list?

20 A Yes, sir.

21 Q Who do you know on that list?

22 A The person, Adams, does not -- I mean, we don't
23 hang out or do anything together.

24 Q What line of work does Adams do?

25 A Sir?

1 Q What kind of work does he do? Did you say
2 Adams?
3 A Yes, sir, the top one on the list.
4 Q He's what?
5 A The very first one on the list.
6 Q Captain Mike Adams?
7 A Yes, sir.
8 Q And the fact that you know him, would that
9 affect your ability to be a fair and impartial
10 juror?
11 A No, sir.
12 Q And have you heard anything about this case?
13 A Not until I got here yesterday.
14 Q And what you heard about this case yesterday,
15 did you hear about it here in the courtroom?
16 A Yes, sir.
17 Q Have you heard anything else about this case
18 outside of the courtroom?
19 A No, sir.
20 Q And do you believe that you could sit as a fair
21 and impartial juror on this case?
22 A Yeah.
23 Q From the list that you were given, did you see
24 the three types of jurors that are listed?
25 A Yes, sir.

1 Q And which type of juror best describes you?

2 A I would have to say juror number one.

3 Q What does that mean to you?

4 A Take a life, give a life. I don't see where
5 there's no room for -- don't know the whole
6 circumstance, but me, I'm a relatively simple
7 person. I can't bring the victim back if all the
8 evidence was in and that's...

9 Q All right. A person who is a number one juror
10 is a juror who, once murder has been proven, the
11 only appropriate punishment is the death penalty no
12 matter what the circumstances of the case might be.

13 A If all the facts and circumstances, he was
14 proven guilty of murder.

15 Q Yes, sir.

16 A I would have no problem.

17 Q Now, let me just explain the three to you.
18 Now, the first person would always vote for the
19 death penalty in all cases regardless of the
20 circumstances. The second one would always vote for
21 life imprisonment without the possibility of parole
22 in all circumstances. The third would listen to,
23 after having decided -- listen to the evidence --
24 after having decided the person was guilty of
25 murder, would vote either on life imprisonment

1 without the possibility of parole or the death
2 penalty depending on the facts and circumstances of
3 the case and depending on the aggravating
4 circumstances as to how bad it was and the
5 mitigating circumstances as to any lessening of the
6 offense or the circumstances.

7 Would you be able to impose life imprisonment
8 without the possibility of parole under appropriate
9 circumstances?

10 A I don't think -- the victim didn't have that
11 chance. If all the -- and he is -- the victim
12 didn't get a chance to say whether he would be able
13 to -- and that's, I guess, where I look at that
14 side. If everything was presented and I was beyond
15 a shadow of a doubt that he did do it and all the
16 facts and evidence was in, no, sir, I wouldn't have
17 any problem with that.

18 Q You wouldn't have any problem voting for the
19 death penalty?

20 A No, sir.

21 Q Well, depending on the facts and circumstances,
22 could you vote for life imprisonment without the
23 possibility of parole? Would that be a possibility?

24 A Without hearing all the facts, I can't sit here
25 and say -- still there was a life lost.

1 Q Yes, sir.

2 A My personal opinion don't know -- probably
3 couldn't avoid it.

4 Q Couldn't avoid it?

5 A Like I say, I don't know -- but life is
6 valuable and people don't respect it. I like to
7 deer hunt. Once you squeeze that trigger off, you
8 don't get a second chance, the bullet's gone. I'm a
9 relatively simple person. Gray area, I don't really
10 see there's A and B, either it's right or it's
11 wrong. If the gentleman in question committed
12 murder, no, sir.

13 THE COURT: Let's see if the Solicitor wants to
14 ask you any questions?

15 MR. PASCOE: No questions, Your Honor.

16 THE COURT: Defense?

17 MR. WALTERS: No questions, Your Honor.

18 THE COURT: All right. Any objection to this
19 witness being excused from this case?

20 MR. WALTERS: No, sir, Your Honor.

21 MR. PASCOE: No, sir.

22 Thank you, Mr. Cornelius.

23 THE COURT: All right. Mr. Cornelius, in order
24 to be eligible to serve, you must be a juror who
25 could vote life imprisonment or death and would not

1 always vote for the death penalty. And since you
2 are a strong number one, you will not be eligible to
3 serve. The folks who will serve will be number
4 threes.

5 **JUROR:** I can't -- where did the guy's rights
6 that got killed or whatever or supposedly,
7 allegedly, murdered, where did --

8 **THE COURT:** Yes, sir. And that's why we're
9 here for the trial right here for the jury to listen
10 and to decide the appropriate punishment. And,
11 first, the State must prove that he is guilty. And
12 then after proving that, then the jury must decide
13 what the appropriate punishment, whether it should
14 be life imprisonment or the death penalty. And I'm
15 sure you'll keep posted on the case now that you've
16 come and gotten oriented to it a little bit.

17 **JUROR:** I mean, it happened right there where I
18 was born and raised. And I don't think the hunting
19 channel or weather channel, sports, I don't usually
20 watch it, but go to work over the weekend, guy got
21 shot over 20 dollars, shoots his best friend, 20
22 bucks.

23 **THE COURT:** That's right.

24 **JUROR:** I just don't understand it.

25 **THE COURT:** His team won, but he's in jail.

1 Okay, thank you, Mr. Cornelius. We're going to let
2 you go. We appreciate it.

3 (Juror was excused.)

4 (Whereupon, Gwendolyn Snider, a black
5 female, enters the courtroom.)

6 GWENDOLYN SNIDER,
7 having been previously duly sworn, testified as
8 follows:

9 VOIR DIRE

10 BY THE COURT:

11 Q How are you doing?

12 A Fine.

13 Q Who do we have here? Ms. Snider?

14 A Yes.

15 Q Ms. Snider, are you tired?

16 A No.

17 Q You're okay?

18 A I'm fine.

19 Q Good. Well, you're still under oath, remember
20 that now.

21 A Okay.

22 Q Has anyone attempted to talk with you about
23 this case since yesterday?

24 A No.

25 Q Read anything in the paper, saw anything on

1 T.V.?

2 A I did when I was at home, I was -- it came
3 across the news. I was looking at the news in the
4 kitchen. And the news, they was talking about they
5 was picking a jury in Saint Matthews.

6 Q Of course, you already knew that?

7 A Yeah.

8 Q And you know that you're not to watch any T.V.
9 programs or if you see anything on T.V., you're
10 supposed to turn your head and close your ears and
11 all that?

12 A Uh-huh.

13 Q And not allow anyone to discuss it with you.
14 You understand that?

15 A Yeah.

16 Q Have you -- aside from what you saw come across
17 the T.V. earlier today, have you heard anything
18 about this case?

19 A I didn't remember it at first, but when it came
20 across the T.V., then I remember what I heard --
21 looking at the news from that.

22 Q And has that caused you to form an opinion
23 concerning the guilt or innocence of this defendant?

24 A No.

25 Q Now, he's presumed to be not guilty of these

1 charges and unless the State proves that he's guilty
2 beyond a reasonable doubt, he must be found not
3 guilty. Do you understand that?

4 A Yes.

5 Q We're going to talk about your opinion
6 concerning punishment even though he is presumed to
7 be not guilty and that has no bearing on our having
8 a conversation about punishment. Did you look over
9 this list of people who might testify?

10 A Yes.

11 Q Do you know any of those folks?

12 A I recognize some of the names, but I don't know
13 them personally.

14 Q And the fact that you might have recognized
15 some of those names -- are they police officers
16 mainly?

17 A Yeah.

18 Q Would that affect your ability to sit as a fair
19 and impartial juror?

20 A No.

21 Q And did you look at the list of three types of
22 jurors?

23 A Yeah.

24 Q And are you a type one, type two or type three?

25 A Well, you have to explain it to me about type

1 one, type two and type three. And to me, I'm more
2 of like a type three. I need to hear more facts and
3 evidence and everything.

4 Q Are you the type juror that after hearing all
5 of the facts and evidence, if you believe that the
6 death penalty was the appropriate sentence, you
7 could vote for the death penalty?

8 A Yes.

9 Q And you do believe in the death penalty?

10 A Yes, I do.

11 Q And you believe that under appropriate
12 circumstances, you could vote for life imprisonment
13 without the possibility of parole?

14 A Yes.

15 Q You would have to listen to everything and
16 decide based on what you hear?

17 A Yeah.

18 Q Now, the jury, in this case, is going to be
19 kept together in a local motel during the trial. Do
20 you have anything -- any problems that would pose to
21 your own health and safety or anyone dependent upon
22 you if you were sequestered in a motel?

23 A No. I would be able to take care -- arrange
24 for everything to be taken care of.

25 THE COURT: All right. Let me see if the State

1 or the defense wants to ask you any questions.

2 MR. PASCOE: Thank you, Your Honor.

3 VOIR DIRE

4 BY MR. PASCOE:

5 Q It's Ms. Snider, right?

6 A Yes.

7 Q How are you this evening? I want to thank you
8 for coming back today. My name is David Pascoe.
9 I'm the Solicitor for Calhoun County. I just want
10 to make sure about as far as your availability to
11 serve as a juror. There were a couple of times
12 yesterday when you tried to be excused from jury
13 duty. Do you remember that?

14 A Yes.

15 Q I think it was your mother -- is it your mother
16 that lives with you?

17 A Yeah.

18 Q Who takes care of your mother?

19 A Well, actually, mainly me. I mean, like I
20 said, I go to all of her doctors' appointment.
21 She's not fully disabled, but, you know, I be there
22 with her in the daytime.

23 Q Who's going to take care of your mother while
24 you're gone if you're serving on the jury?

25 A My sister, I talked to her.

1 Q So your mother will be okay? You'll be able to
2 serve on a jury?

3 A Yes.

4 Q Okay. Now, you said that you needed somebody
5 to explain what the different types of --

6 A Yeah.

7 Q And I don't blame you. I needed some
8 explanation, too. Do you know what a type one juror
9 is? Do you want me to explain it and then I can ask
10 you if you're that?

11 A Okay. Let's start with type one.

12 Q Type one is the type of juror who, after they
13 find somebody guilty of murder --

14 A Right.

15 Q -- is always going to give that person the
16 death penalty no matter what, no matter what the
17 facts. Are you that type of juror?

18 A I could be.

19 Q Because you're in favor of the death penalty?

20 A Yes, I am.

21 Q Now, type three juror is the type of person
22 who, once they find somebody guilty of murder, will
23 look at all the -- even after finding them guilty of
24 murder, they will still look at all of the facts and
25 all the evidence in the case to determine whether

1 they're going to give the person the death penalty
2 or life without parole, okay?

3 A Okay.

4 Q Are you a type three juror? Or, do you think
5 you would always -- or do you think you would lean
6 towards always giving somebody the death penalty?

7 A Like I said, it depends.

8 Q You'd still want to look at all the evidence,
9 though, right?

10 A Yeah, I do.

11 Q You'd want to weigh all the aggravating
12 circumstances and the mitigation that the defense
13 would put forth before you decide to give somebody
14 the death penalty?

15 A Right. Yeah.

16 Q Okay. But I just want to make clear, Ms.
17 Snider. You're definitely -- overall, in general,
18 you're definitely in favor of the death penalty if
19 you think somebody committed a murder?

20 A Yes.

21 MR. PASCOE: Thank you, Ms. Snider. That's all
22 I have for you, okay.

23 MR. KOGER: May it please the Court.

24 THE COURT: Yes.

25 ****

1 VOIR DIRE

2 BY MR. KOGER:

3 Q Ms. Snider, if the State does not prove the
4 case beyond a reasonable doubt, then you can come
5 back with a not guilty verdict?

6 A Right.

7 Q Correct?

8 A Correct.

9 Q Okay. And then if we get to the second part,
10 you can still look at a murder and decide for life
11 in prison without parole?

12 A I could, yes.

13 Q You could?

14 A Yes.

15 Q You kind of hesitated?

16 A Like I said, it depends on the evidence.

17 Q Okay. It depends -- you need to hear all the
18 evidence?

19 A Yes.

20 Q You'll listen to evidence from the State?

21 A Yes.

22 Q And you'll listen to any evidence that may come
23 from the defense?

24 A Right. Yeah.

25 Q Okay. And then you'll put it all together?

1 A Yes.

2 Q All right. And then come to a decision?

3 A Right.

4 Q Okay. Now, if you are selected to be a juror

5 in this particular case, let me give you an example

6 of one thing that may happen in the jury room, if

7 you have 11 persons wanted to go with guilty and

8 you're the only person that wanted to do not guilty,

9 would you change your vote just to get the case

10 over?

11 A No.

12 Q You would listen to what -- you would listen to

13 what they had to say?

14 A Yes.

15 Q And you would expect them to listen to what you

16 had to say?

17 A Right. Yeah.

18 Q And let's change the situation around. What if

19 you were part of the 11 that wanted to vote guilty

20 and there was one person who was holding out with

21 not guilty, would you try to force that person to

22 come over to the guilty side?

23 A No.

24 Q Will you listen to that person?

25 A Yes, I will listen to him.

1 Q And would you respect that person?

2 A Yes, I would.

3 MR. KOGER: Thank you. No further questions.

4 MR. PASCOE: With the Court's permission,
5 there's one area I forgot to go into. Can I ask her
6 some questions about --

7 THE COURT: All right.

8 RE-VOIR DIRE

9 BY MR. PASCOE:

10 Q What did you hear exactly on the news?

11 A The only thing I heard that they was picking a
12 jury today in Saint Matthews. That's the only thing
13 I heard.

14 Q And like Judge Newman said, you knew that?

15 A Right.

16 Q And you also said that you had heard about this
17 case when it happened?

18 A Yeah, I did. Actually, I didn't remember it at
19 first and that's when I -- it came back to me when I
20 heard it today, I said, I remember.

21 Q Good. What do you remember about hearing about
22 it back then, Ms. Snider?

23 A I remember they said some worker, he worked in
24 Orangeburg, that he was killed on his property. And
25 I mean, I just -- I stopped watching the news.

1 Q But other than that, there was nothing
2 significant?

3 A No.

4 Q And you'll be able to put aside everything
5 you've heard and listen to the evidence in this case
6 before you render a verdict, right?

7 A Yes.

8 Q And if the State proves beyond a reasonable
9 doubt that the defendant committed murder, you would
10 convict him?

11 A Yes, I would.

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

13 THE COURT: Anything further of this witness?

14 MR. KOGER: No, sir.

15 MR. PASCOE: No, sir.

16 THE COURT: All right. If you'll stand right
17 outside the door for us, please.

18 (Juror leaves the courtroom.)

19 THE COURT: What says the State?

20 MR. PASCOE: Qualified, Your Honor.

21 THE COURT: What says the defense?

22 MR. KOGER: Qualified, Your Honor.

23 THE COURT: If you'll have her come back in.

24 (Juror enters the courtroom.)

25 THE COURT: Ma'am, you have been found to be

1 qualified to be a juror in the trial of this case.
2 And as a qualified juror, we need you to pack your
3 bags and be ready to be here tomorrow -- to be here
4 tomorrow at noontime right at the annex right across
5 the street here. There's a conference room that the
6 other jurors will be in. You have not been
7 selected, but you might be selected.

8 In the meantime, you're not to listen to any
9 T.V. shows about it, news flashes or read any
10 newspapers or let anyone talk with you about the
11 case and you cannot talk to anyone about it. Do you
12 understand?

13 **JUROR:** Yes, sir, I understand.

14 **THE COURT:** We also have a paper I want to give
15 you with some information on it concerning where you
16 will be staying if put on the jury and what you
17 should bring with you. All right, we'll see you
18 tomorrow. You need a ride, do you?

19 **JUROR:** Yeah.

20 **THE COURT:** And the deputies will need to pick
21 you up tomorrow as well?

22 **JUROR:** Uh-huh.

23 **THE COURT:** Do they know how to find your
24 house?

25 **JUROR:** Yeah.

1 THE COURT: How far do you live?

2 JUROR: I live outskirts of Cameron.

3 THE COURT: That's not too far away, is it?

4 JUROR: No.

5 THE COURT: All right. Thank you.

6 (Juror was excused for the day.)

7 THE COURT: Let's have our next person.

8 (Whereupon, Devin L. Caldwell, a black male,
9 enters the courtroom.)

10 DEVIN L. CALDWELL,
11 having been previously duly sworn, testified as
12 follows:

13 VOIR DIRE

14 BY THE COURT:

15 Q Mr. Caldwell, how are you doing?

16 A Fine. And you, sir?

17 Q Pretty good. Mr. Caldwell, you're still under
18 oath from yesterday being placed under oath. We
19 want to ask you some questions. Where do you work?

20 A South Carolina Frozen Foods.

21 Q South Carolina?

22 A Frozen Foods.

23 Q And what area of the county do you live in?

24 A Saint Matthews, South Carolina.

25 Q Right in town here?

- 1 A Yes, sir.
- 2 Q And from yesterday to today, have you heard or
- 3 read anything about this case?
- 4 A No, sir.
- 5 Q Did you hear anything about it beforehand?
- 6 A No, sir.
- 7 Q And have you formed an opinion concerning the
- 8 guilt or innocence of the defendant?
- 9 A No, sir.
- 10 Q Now, the defendant is charged with murder and
- 11 the State is seeking the death penalty, but he is
- 12 presumed to be not guilty. And the State must prove
- 13 beyond a reasonable doubt that he's guilty before he
- 14 can be found guilty. Do you understand that?
- 15 A Yes, sir.
- 16 Q Now, did you look over this list of people who
- 17 might testify as witnesses?
- 18 A Yes, sir.
- 19 Q And did you recognize any names on that list?
- 20 A No, sir.
- 21 Q And did you also look at the list as to the
- 22 three types of jurors?
- 23 A Yes, sir.
- 24 Q And do you recall the three types of jurors?
- 25 A Yes, sir.

1 Q And what -- which type of juror would best
2 describe you, number one, two or three?

3 A Number three, sir.

4 Q And as a number three juror, could you vote for
5 life imprisonment without the possibility of parole
6 if you thought that was the appropriate sentence?

7 A Yes, sir.

8 Q And if you thought that the death penalty was
9 the appropriate sentence, could you vote for the
10 death penalty?

11 A Yes, sir.

12 Q And do you believe in the death penalty?

13 A Yes, sir.

14 Q And you could vote to support and impose a
15 death penalty if you're on the jury and that is what
16 you thought was the right verdict?

17 A Yes, sir.

18 Q Now, the jury in this case will be kept
19 together, meaning they'll be sequestered in a local
20 hotel at the county's expense until this case is
21 over. Aside from being an inconvenience, would it
22 pose any danger to your health or safety or anyone
23 dependent upon you if you had to be sequestered
24 during the trial?

25 A No, sir.

1 **THE COURT:** Any questions by the defense?

2 **MR. WALTERS:** May it please the Court, Your
3 Honor.

4 **VOIR DIRE**

5 **BY MR. WALTERS:**

6 **Q** Good evening, Mr. Caldwell. How are you doing?

7 **A** All right. And you?

8 **Q** Okay. You indicated that you're a type three
9 juror. And I want to make sure we go through that
10 and I understand exactly what you're saying. You
11 understand this is a murder trial in this particular
12 case?

13 **A** Yes, sir.

14 **Q** The State is required, the prosecution is
15 required, to prove beyond a reasonable doubt that
16 this murder was committed by Mikal Mahdi. Not maybe
17 it happened, it could have happened, they must prove
18 beyond a reasonable doubt that a murder did occur.
19 If you serve on the jury in this particular case,
20 you understand that you have to hold the State to
21 that burden?

22 **A** Yes, sir.

23 **Q** And if the State fails to do so, you'll be
24 required to return a verdict of not guilty. Do you
25 understand that?

1 A Yes, sir.

2 Q You also understand that when you sit with the
3 jury and deliberate, it's an individual decision as
4 to how you see the evidence and what the facts add
5 up to and what your decision should be?

6 A Yes, sir.

7 Q Now, when you refer to you're a type three type
8 juror, evidently you're saying you're very open
9 minded about the process and you want all the
10 information presented to you?

11 A Yes, sir.

12 Q You're willing to listen to the aggravating
13 circumstances that are presented by the State.
14 You're also willing to listen to the mitigating
15 circumstances presented by the defense; is that
16 correct?

17 A Yes, sir.

18 Q You want all of this information before you do
19 make a decision?

20 A Yes, sir.

21 Q You understand that there are only two options
22 that are available to you if you're a type three
23 juror. And if the case goes beyond the guilt phase,
24 you'll be placed in a position where you have to
25 make a decision as to whether you will give the

1 defendant in this particular case a life sentence
2 without parole or you will give them what's referred
3 to as the death penalty?

4 A Yes, sir.

5 Q And that means that they could be killed
6 through electrocution or lethal injection. You do
7 understand that?

8 A Yes, sir.

9 Q And if you choose to go forward with the death
10 penalty, you'll be required to sign your name to
11 what we refer to as a death warrant. Do you
12 understand that?

13 A Yes, sir.

14 Q And you would be willing to do so?

15 A Yes, sir.

16 Q But before you do anything, you're saying that
17 I want to know all the facts, all the information, I
18 want to hear from the prosecution and the defense,
19 the aggravating and mitigating circumstances and
20 then you're willing to make a decision?

21 A Yes, sir.

22 MR. WALTERS: I have no questions, Your Honor.

23 THE COURT: Solicitor.

24 MR. PASCOE: Thank you, Your Honor.

25 *****

1 VOIR DIRE

2 BY MR. PASCOE:

3 Q Good evening, Mr. Caldwell.

4 A Good evening.

5 Q How are you today?

6 A Fine. And yourself?

7 Q I'm really good. Thank you. My name is David
8 Pascoe and I'm the Solicitor for Calhoun County. I
9 just want to thank you for your service and coming
10 back here tonight. Just a few questions I have for
11 you. What makes you, Mr. Caldwell, a number three
12 juror in your opinion as opposed to a number one or
13 a number two juror?

14 A Because, I mean, you've got to prove if he's
15 guilty or not because you can't just say he's guilty
16 just by not knowing. You've got to have everything
17 that --

18 Q Absolutely, the burden is on the State. But do
19 you realize that that's not what really what number
20 one, number two and number three juror means all
21 together? Do you realize that?

22 A Yes, sir --

23 Q Let me ask you, a number one juror is someone
24 who, after someone has already been found guilty of
25 murder, they believe that a person who commits

1 murder should always get the death penalty. Do you
2 believe in the eye for an eye concept?

3 A No, sir.

4 Q Are you in favor of the death penalty or do you
5 oppose the death penalty?

6 A Depending on the State, sir.

7 Q Give me those circumstances. What does it
8 depend on?

9 A Like -- I said like, whatever he did, if it's
10 like really bad, then, yeah, but...

11 Q Okay. A number two juror, let me ask you that
12 then, is the type of person, they'll hear all of the
13 facts in the case, they're going to listen to it and
14 take in all of the evidence. And even after someone
15 is found guilty of murder, okay, even after they
16 find someone guilty of murder, they're always going
17 to sentence someone to life without parole and they
18 can't give the death penalty. Are you that type of
19 juror?

20 A No, sir.

21 Q Can you give the death penalty?

22 A Yes, sir.

23 Q Without any hesitation, do you think you can --
24 if someone's been found guilty of murder, okay,
25 someone's been found guilty of murder by you, do you

1 think as a juror, you could sentence somebody to
2 death?

3 A Yes, sir.

4 Q No doubt about it?

5 A Yes, sir.

6 Q So when I ask you do you oppose the death
7 penalty in general or are you in favor of it in
8 general, what would your answer be, just in general
9 terms for murder?

10 A Oppose.

11 Q So you do oppose the death penalty? So you
12 would have a difficult time sentencing somebody to
13 death?

14 A No, sir, I wouldn't, but just like I said
15 before, it depends on the type of murder.

16 Q And that's all I'm talking about is murder,
17 okay? I'm not asking about sentencing somebody to
18 death for another type of crime just murder, okay?
19 Would you have a hard time sentencing someone to
20 death if you found that they committed a murder, if
21 you knew that they committed a murder?

22 A No, sir.

23 Q And is that where the confusion is?

24 A Yes, sir.

25 Q All right. If you find that somebody commits a

1 murder, could you sentence them to death?

2 A Yes, sir.

3 Q All right. Now, a couple more areas I want to
4 ask you about. If you found somebody guilty of
5 murder, hypothetically, if you were sitting on a
6 jury, okay, if you found somebody guilty of murder
7 and decided that you wanted to impose the death
8 penalty, you would have to sign your name to the
9 verdict form, a death verdict form. Would you be
10 able to do that?

11 A Yes, sir.

12 Q Are you sure?

13 A Yes, sir.

14 Q You could sign your name to a death penalty
15 verdict form sentencing somebody to die?

16 A Yes, sir.

17 Q And you're under oath. You're telling the
18 truth, right?

19 A Yes, sir.

20 Q All right. The next thing you would have to
21 do, though, is you would have to come into an open
22 courtroom and in front of everybody, announce your
23 verdict that you personally sentenced somebody to
24 death. Could you do that?

25 A Yes, sir.

1 Q Without hesitation?

2 A Yes, sir.

3 MR. PASCOE: Beg the Court's indulgence.

4 Thank you, sir.

5 THE COURT: All right. If you'll stand right
6 outside the door here, sir.

7 (Juror leaves the courtroom.)

8 THE COURT: What says the defense?

9 MR. WALTERS: Qualified, Your Honor.

10 THE COURT: What says the State?

11 MR. PASCOE: Qualified, Your Honor.

12 THE COURT: He is qualified. If you'll bring
13 him back.

14 (Juror enters the courtroom.)

15 THE COURT: Mr. Caldwell, you are qualified to
16 serve as a juror in this case. You have not been
17 selected yet, but you may be selected. We need you
18 to come back tomorrow at noon packed and ready to
19 serve on the jury. And you need to bring enough
20 things to last you for about ten days, along with
21 any medication you may be taking. Here's a sheet of
22 paper that gives you some information about it.
23 You'll need to come right across the walkway here to
24 the annex and there's a conference room in there
25 where all the jurors will report.

1 Now, you're not to listen -- watch any T.V.
2 programs, Internet programs or read any newspapers
3 about this case or allow anyone to talk with you
4 about it or in your presence. Do you understand?

5 **JUROR:** Yes, sir.

6 **THE COURT:** All right, sir. We'll see you
7 tomorrow at noon.

8 (Juror was excused for the day.)

9 **THE COURT:** The jurors who are set to come here
10 at 5:30, where are they?

11 **OFFICER:** They're in the jury room.

12 **THE COURT:** Well, let them come in and then I'm
13 going to talk with them and then we'll switch back
14 to Patricia Craig after talking with all of them.

15 (Jury panel number seven enters the
16 courtroom.)

17 **THE COURT:** All right. Ladies and gentlemen,
18 thank you all for coming back. We're running a
19 little behind schedule. We've been here since 9:00
20 this morning working with the panels. I wanted to
21 speak with you all briefly. You all are -- we're a
22 little behind schedule as you can see.

23 Now, you all are not permitted at all to talk
24 about this case while in the jury room or at any
25 point in time. It would violate your oath as

1 jurors, as well as my instructions to you for you to
2 talk about this case while you're waiting, when you
3 leave or when you're at home at night. And I want
4 to emphasize that instruction to you as you sit back
5 in the jury room waiting to come out here for us to
6 talk with you.

7 I just wanted to tell you that and we'll start
8 talking with you all very soon. I have to speak
9 with one other person from the last group before
10 beginning to talk with you all. So please go to the
11 jury room right here and please do not discuss this
12 matter while you wait.

13 (Jury panel seven leaves the courtroom.)

14 (Whereupon, Patricia A. Craig, a white
15 female, enters the courtroom.)

16 PATRICIA A. CRAIG,
17 having been previously duly sworn, testified as
18 follows:

19 VOIR DIRE

20 BY THE COURT:

21 Q Ms. Craig, how are you doing?

22 A I'm pretty fine.

23 Q All right. Ms. Craig, you're still under oath
24 from yesterday.

25 A Yes, sir.

1 Q Has anyone contacted you about this case? Have
2 you read anything about it or heard anything about
3 it since from yesterday until now?

4 A No, sir, nothing.

5 Q And did you hear anything about this case
6 before yesterday?

7 A No, not a word.

8 Q And where do you work?

9 A I work in Santee at a golf course. I'm the
10 villa manager. And then I manage apartments in
11 Elloree. I'm the property manager.

12 Q And what area of this county do you live in?

13 A I live in Calhoun County. I don't like to say
14 Stump Hole Road. I call it Stump Hole Holler.
15 That's where I live.

16 Q And how far from Saint Matthews is that?

17 A Probably ten miles.

18 Q Going near -- toward where?

19 A Towards Santee.

20 Q Towards Santee?

21 A Yes.

22 Q Now, the defendant is charged with murder as we
23 announced yesterday and the State is seeking the
24 death penalty. He is presumed to be not guilty of
25 murder. And we have to ask you certain views that

1 you may have concerning the death penalty in the
2 event the jury should find him guilty of murder.
3 Now, he's presumed to be not guilty and cannot be
4 found not guilty unless guilt has been proven beyond
5 a reasonable doubt during the guilt phase of the
6 trial.

7 Did you get a chance to look at the list of
8 people who might testify as witnesses in this case?

9 A Yes, I did.

10 Q Did you recognize any folks from that list?

11 A No. I know no one. I don't have family down
12 here.

13 Q Where is your family from?

14 A Ohio.

15 Q And what part of Ohio?

16 A Up by Toledo.

17 Q Northwestern Ohio?

18 A Uh-huh.

19 Q I went to school in Cleveland. So when I see a
20 Buckeye --

21 A Big town.

22 Q Now, Ms. Craig, did you get a chance to look at
23 the list -- the three choices as to the types of
24 jurors?

25 A Yes, I did.

1 Q And do you remember those three types of
2 jurors?

3 A Yes, I do.

4 Q And which one of the three most closely reflect
5 you?

6 A Number three.

7 Q And when you say that you're a number three
8 juror, what do you mean? Number three type.

9 A I mean, that from what my understanding of what
10 I've read is that I will look at the situation, all
11 the -- everything that is presented to me as a
12 juror, the evidence, look at everything that is
13 presented to me and then from that, decide, you
14 know, guilt or innocence. And then, of course --
15 then the second part of that phase that you
16 explained earlier also is whether if he will receive
17 the death penalty or not, that is, if he is proven
18 guilty.

19 Q So in that connection, you could vote for the
20 death penalty under appropriate circumstances?

21 A It would have to be -- yes, it would have to be
22 proven, yes.

23 Q And you could vote for life imprisonment
24 without the possibility of parole depending on the
25 circumstances?

1 A Yes, exactly.

2 Q And depending on your view of the evidence?

3 A Yes, sir.

4 Q Now, the jury in this case will be sequestered
5 and obviously that would be an inconvenience to
6 everyone who would have to do that, but aside from
7 the inconvenience, would that pose any danger to
8 your health or well-being or anyone dependent upon
9 you if you had to be sequestered during the trial?

10 A No. I just have my puppy.

11 Q And you can make arrangements for your puppy?

12 A Oh, yes.

13 THE COURT: All right. We'll see if the State
14 or the defense might have any questions for you.

15 The defense.

16 MR. KOGER: Yes, Your Honor. May it please the
17 Court.

18 VOIR DIRE

19 BY MR. KOGER:

20 Q Ms. Craig, how are you doing this evening?

21 A I'm doing very well, getting hungry.

22 Q Me, too. Ms. Craig, you stated you're a type
23 three juror, correct?

24 A Yes, sir.

25 Q And you stated that you need to listen to all

1 the evidence?

2 A Absolutely.

3 Q From both sides?

4 A Yes.

5 Q And before we even get to the second part on
6 this trial, they'd have to prove their case beyond a
7 reasonable doubt, correct?

8 A Absolutely.

9 Q And then if they do not prove their case beyond
10 a reasonable doubt, then you'll come up with a not
11 guilty verdict?

12 A Yes.

13 Q If they don't prove their case?

14 A Right.

15 Q Okay. And you're willing, of course, to listen
16 to the evidence from the State?

17 A Yes.

18 Q And you're willing to listen to evidence from
19 the defense?

20 A Yes.

21 Q And you're willing to consider what we call
22 mitigating circumstances?

23 A Yes.

24 Q You're willing to listen to evidence concerning
25 Mr. Mahdi's parents?

1 A Yes.

2 Q Concerning his upbringing?

3 A Uh-huh.

4 Q His childhood, correct?

5 A That would be important.

6 Q Okay. Very important.

7 A Uh-huh.

8 Q And you would give meaningful consideration to
9 those things?

10 A Yes, sir.

11 Q And only then after you receive all that
12 evidence, then you can make some type of
13 determination, first, as to guilt -- in the guilt,
14 innocence phase?

15 A Yes.

16 Q And then if we get to the second phase, then to
17 the sentencing phase?

18 A Yes.

19 MR. ROGER: Thank you. No further questions.

20 THE COURT: From the State.

21 MR. PASCOE: Thank you, Your Honor.

22 VOIR DIRE

23 BY MR. PASCOE:

24 Q Good evening, Ms. Craig.

25 A Good evening.

1 Q My name is David Pascoe. I'm the Solicitor.
2 And I'm not going to ask you too much because I'm
3 going to let you eat, okay? Just a few things I
4 want to ask you real fast. Because basically what
5 we need to find out is do you have an open mind to
6 both the death penalty and life without parole?

7 A Yes, I do.

8 Q In other words, you're not opposed to the death
9 penalty, is that -- I mean, in general, you're not
10 opposed to the death penalty?

11 A No, I'm not.

12 Q There are circumstances where you could
13 sentence somebody to death?

14 A Yes, there would be, but there would be, again,
15 mitigating circumstances to that. They'd have to be
16 proven.

17 Q And that's what -- and, hypothetically, that's
18 why because you're right, first, you'd have to find
19 somebody guilty of murder, but if you found somebody
20 guilty of murder, you testified today that if
21 there's enough aggravation, you could sentence
22 somebody to death?

23 A Yes.

24 Q Or sentence them to life?

25 A Right.

1 Q You're open minded to both sentences? And
2 that's what's important.

3 A Yes.

4 Q Thank you. Now -- but, again, just
5 hypothetically to make sure that, you know, you're
6 the type of juror that can serve, okay? If you
7 decided that someone needed to be sentenced to
8 death, if you decided to sentence someone to the
9 death penalty, would you be able to sign your name
10 to a death penalty verdict form stating that?

11 A Yes, I would as long as everyone else in the
12 room was doing the same thing.

13 Q You made a good point, all right, but I want to
14 get some clarification on that. Would you be
15 signing it just because the other 11 jurors did it
16 or do you mean that you would sign it once the 12 of
17 you decide together to give the death penalty?

18 A No, it would have to be proven to me in order
19 for that to happen, proven to me that that was the
20 needful punishment for the crime.

21 Q Got you. And you are open minded to that? You
22 could sentence somebody to the death penalty?

23 A Yes, I could.

24 Q And if you decide that someone deserved the
25 death penalty because they have a violent past or a

1 violent history, okay, but if they -- because of
2 their past, you -- is it your testimony you could
3 sign the death penalty verdict form?

4 A Yes, I could.

5 Q Would you also be able to come in here with the
6 other jurors and announce your verdict to the public
7 that you would sentence somebody to death?

8 A Yes, I could.

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

10 THE COURT: All right. Ma'am, if you'll stand
11 outside the door there while we have a conversation.

12 (Juror leaves the courtroom.)

13 THE COURT: What says the defense?

14 MR. KOGER: Qualified, Your Honor.

15 THE COURT: What says the State?

16 MR. PASCOE: Qualified, Your Honor.

17 THE COURT: All right. She can come back.

18 (Juror enters the courtroom.)

19 THE COURT: Ma'am, you are qualified to serve
20 as a juror in this case, that means you may be
21 selected as a juror in the case, though, you have
22 not been selected through this process. This is
23 just to determine whether or not you are a potential
24 juror.

25 We hope to select a jury at noon tomorrow. And

1 you need to, therefore, come prepared to stay with
2 us tomorrow, which means that you should be packed
3 with medications and clothes and all that for
4 approximately ten days and report over here to the
5 annex, the building right across the street here.
6 There's a conference room in there. And be prepared
7 to either have someone pick up your car or to wait
8 with you to take your car back so that -- because if
9 you are selected, you will not have an opportunity
10 to take your car back home. So I'm going to give
11 you some information to look at concerning some
12 basic instructions.

13 Now, please do not expose yourself or allow
14 anyone to expose you to any media accounts of this
15 case, including newspapers or T.V.'s. and we'll
16 look to see you tomorrow at noon. Thank you.

17 (Juror was excused for the day.)

18 **THE COURT:** All right. Next juror, please.

19 (Whereupon, Irene Shuler, a black female,
20 enters the courtroom.)

21 IRENE SHULER,
22 having been previously duly sworn, testified as
23 follows:

24 ****

25 ****

1 VOIR DIRE

2 BY THE COURT:

3 Q Ms. Shuler, how are you doing?

4 A Fine.

5 Q Good. And, Ms. Shuler, you're still under oath
6 from yesterday. Have you read or seen anything
7 about this case since yesterday?

8 A (Juror shook head.)

9 Q I can't hear you.

10 A No, sir.

11 Q And where do you work?

12 A No place.

13 Q And where do you live?

14 A In Saint Matthews.

15 Q And have you had a chance to -- have you heard
16 anything about this case?

17 A No, sir.

18 Q And have you had a chance to look over this
19 list of people who might testify in this case?

20 A Uh-huh.

21 Q Do you know anyone from that list?

22 A No, sir.

23 Q And have you had a chance to look at the three
24 types of jurors?

25 A Yes, sir.

1 Q Do you recall the three types, type one, type
2 two and type three?
3 A Yes, sir.
4 Q And which type of juror are you?
5 A Me?
6 Q Yes.
7 A Type three.
8 Q Now, the defendant is charged with murder and
9 the State is seeking the death penalty. He's
10 presumed to be not guilty of the charge, but if he's
11 found guilty of murder, then the jury would either
12 decide that he gets life without the possibility of
13 parole or the death penalty. Are you the type of
14 juror who could listen to all the evidence
15 concerning facts of aggravation and facts of
16 mitigation and then decide either that he should get
17 the death penalty or life imprisonment?
18 A Yes, sir.
19 Q And could you vote for the death penalty?
20 A Yes, sir.
21 Q And could you vote for life imprisonment?
22 A Yes, sir.
23 Q And I realize it would be difficult to vote
24 either way if you're serving on a jury, but if
25 voting for the death penalty required you to sign

1 the verdict form representing your verdict, can you
2 do that?

3 A Yes, sir.

4 Q Now, in this case, the jury would be kept
5 together after selected tomorrow, if you're selected
6 tomorrow. Other than being -- it being an
7 inconvenience to you, would it impose any danger to
8 your health or safety if you were kept together with
9 other jurors for a period of about ten days at a
10 local motel?

11 A No, sir.

12 Q Are you available for that service?

13 A Yes, sir.

14 THE COURT: All right. The State.

15 MR. SORENSON: May it please the Court, Your
16 Honor.

17 VOIR DIRE

18 BY MR. SORENSON:

19 Q Good evening, Ms. Shuler. How are you this
20 evening?

21 A Fine.

22 Q My name is Don Sorenson and I'm with the
23 Solicitor's office. And I just have a few questions
24 for you. I appreciate you coming back this evening.
25 You had indicated to His Honor that you're not

1 employed. Are you disabled?

2 A Yes, sir.

3 Q And is there anything of that, your disability,
4 that might affect your ability to serve as a juror?

5 A No, sir.

6 Q Now, you had indicated that in looking at the
7 three types of jurors, that you feel that you're a
8 type three juror; is that correct?

9 A Yes, sir.

10 Q And let me ask you this. Do you have any
11 opinions one way or another about the death penalty?
12 Are you opposed to it or in favor of the death
13 penalty?

14 A No, sir.

15 Q Are you opposed to it?

16 A Yes, sir.

17 Q You are opposed to the death penalty. Let me
18 ask you, what does a death penalty, what does that
19 mean to you? If somebody's given the death penalty,
20 what's going to happen?

21 A If somebody's given the death penalty, what's
22 going to happen to that person?

23 Q Yes, ma'am.

24 A They'll die.

25 Q Okay. And you indicated a moment ago that

1 you're opposed to the death penalty; is that
2 correct?

3 A Correct.

4 Q Do you think there's any circumstance where you
5 could ever give somebody the death penalty knowing
6 that that sentence -- that that punishment is going
7 to be that they're going to die? Could you ever do
8 that, ma'am?

9 A Yes, sir.

10 Q You could do that?

11 A (Witness nodded head.)

12 Q Even though you're opposed to the death
13 penalty?

14 A Yes, sir.

15 Q And if you would, tell me what -- what is your
16 understanding of what a type three juror is?

17 A I don't have a too much understanding of that,
18 but I really can't say.

19 Q You can't say?

20 A (Witness shook head.)

21 Q But you indicated that you felt that you were a
22 type three juror, though?

23 A (Juror nodded head.)

24 Q Okay. Why is that? Why do you feel -- if
25 you're not too sure of what it is, why did you feel

1 that you're a type three juror?

2 A Well, I can't answer that question neither.

3 Q You can't answer that. Let me, if I could,
4 just maybe take a couple of minutes and kind of go
5 through the three types of jurors with you.

6 A Okay.

7 Q All right. A type one juror, and these are all
8 -- before we get to that at this point and all, you
9 understand that we, the State of South Carolina,
10 would have to first convict somebody of murder. We
11 would have to prove to you as a juror beyond a
12 reasonable doubt that they were guilty of murder.
13 So assuming that was done, a type one juror is
14 somebody that says, no matter what, I don't need to
15 hear anything else, if I've convicted him of murder,
16 the only sentence that's appropriate is the death
17 penalty. Do you feel like that's you?

18 A Yes, sir.

19 Q So you think if somebody's been convicted of
20 murder, that the only appropriate sentence is the
21 death penalty?

22 A Or either life.

23 Q Okay. But a type one juror is somebody that
24 only thinks the death penalty.

25 A Okay.

1 Q All right. So that's not you then, right?

2 A No, sir.

3 Q Now, a type two juror is somebody that once
4 somebody's convicted of murder, they feel that the
5 only appropriate punishment is life imprisonment and
6 do you feel that that's you?

7 A Yes, sir.

8 Q That the only appropriate punishment is life in
9 prison?

10 A Yes, sir.

11 Q And not the death penalty?

12 A No, sir.

13 Q Because you said earlier, you're opposed to the
14 death penalty?

15 A Yeah, life.

16 Q Type three juror, what a type three juror would
17 be is someone that hadn't made up their mind yet,
18 that would want to listen to all the facts about --
19 surrounding the crime, the facts surrounding the
20 defendant and then make up their mind whether they
21 felt the death penalty was appropriate or life
22 imprisonment was appropriate. Okay, that's what a
23 type three juror is.

24 Now, looking at those three, which one do you
25 think you are, type one, somebody who's always for

- 1 death; type two, somebody who's always for life
2 imprisonment; or, type three, somebody that could be
3 for either one depending on the facts?
- 4 A Type two.
- 5 Q Type two?
- 6 A (Juror nodded head.)
- 7 Q And that's because you're opposed to the death
8 penalty?
- 9 A (Juror nodded head.)
- 10 Q Let me ask you about that if I could, ma'am.
11 That opposition to the death penalty is that
12 something -- a belief that you had for a long time?
- 13 A Yes, sir.
- 14 Q And how long do you think?
- 15 A For a long time because I was a victim of the
16 same thing.
- 17 Q Victim of what, ma'am? What is that?
- 18 A Domestic violence.
- 19 Q You were a victim of domestic violence?
- 20 A I almost got killed. Yes, sir, twice.
- 21 Q Do you think the fact that you were a victim of
22 domestic violence, that that may have some affect on
23 your ability to serve as a juror?
- 24 A Yes, sir.
- 25 Q So your beliefs then against the death penalty

1 is something that's -- I mean, it's a deeply held
2 belief?

3 A Yes, sir.

4 MR. SORENSON: Beg the Court's indulgence.

5 (Pause.)

6 MR. SORENSON: I believe that's all I'd have.
7 I appreciate your honesty, Ms. Shuler. Please
8 answer any questions the defense has.

9 THE COURT: Yes, sir.

10 MR. WALTERS: May it please the Court.

11 VOIR DIRE

12 BY MR. WALTERS:

13 Q Good evening, Ms. Shuler. How are you?

14 A Fine.

15 Q You're going through this process and you're
16 getting asked all these questions over and over and
17 over again. And you've made some statements when
18 you said, I'm a number one. Then you told the Judge
19 you're a number three. Then you told the prosecutor
20 that you're a number two. I want to sort of back up
21 because everybody's trying to bombard you out here
22 in front of everyone and you've got to give an
23 answer about who you really are and what you think.

24 The first thing is there's no right or wrong
25 answers here. There's only the truth. So the

1 Solicitor has taken you through three different
2 scenarios. And, of course, in explaining those
3 scenarios to you, some of them you've agreed with,
4 some of them you disagreed with. I just want to
5 make sure that we're clear about your position and
6 how you feel about this process.

7 The first issue is, is that when you talked to
8 Judge Newman, you indicated that, you said you were
9 a number three?

10 A Yes, sir.

11 Q I said it right?

12 A That's right.

13 Q All right. And the number three juror was a
14 person that could listen to both sides, all of the
15 information that's being given, and take into
16 consideration all of the information. You want the
17 full story. And before you make up your mind, you
18 hear from everyone and then you sit down and
19 deliberate and then you make up your mind. Do you
20 agree with that process?

21 A Yes, sir.

22 Q Okay. Is that a better process than, number
23 one, where someone's found guilty of murder, I just
24 automatically put him to death?

25 A That's a better process.

1 Q Okay. And, number two, it simply says that if
2 a person is found guilty of murder, no matter what,
3 I'm going to give them life in prison. Is number
4 three a better process than that when you look at
5 all of the information?

6 A Yes, sir.

7 Q Now, you're agreeing with me that it's always
8 good to take into consideration all of the
9 information, but number three also goes further.
10 Number three says that I'm not only going to listen
11 to everyone and what they have to say, I'm able to
12 make a decision and I'll make a decision between two
13 different options. I've got two choices. And those
14 two choices are, number one, I could put someone to
15 death, that means that they'll die in the electric
16 chair or lethal injection, or, number two, I can
17 send them to prison for life without parole, if we
18 get to that stage in the trial. They first have to
19 prove their case beyond a reasonable doubt and find
20 the defendant guilty?

21 A Right.

22 Q But then the second phase is, is that if you
23 understand number three, number three requires you
24 to sit down and listen to all of the facts and all
25 of the information, but in addition to that, after

1 you listen to all of the facts and all of the
2 information, you individually have to make a
3 decision as to whether you can put someone to death
4 or give them life.

5 Now, I want to explore those two options. The
6 first option is you could put someone to death and
7 that's a process where you would agree with 12 other
8 people -- 11 other people, I'm sorry, you would be
9 one of the 12, and you would sign a document, the
10 verdict, stating that we all agree and it's your own
11 individual decision, you agree with them unanimously
12 that because of the seriousness of what happened
13 here and the totality of the facts and information
14 I've been given, that you can put this person to
15 death. And you would have to come out here
16 publicly, in front of everyone just like you are
17 now, and make the same proclamation, that's my
18 verdict, that's what you would say. Could you do
19 that? If you considered the facts and circumstances
20 of this case to be so serious and heinous where you
21 believe the death penalty is warranted, could you do
22 that?

23 A No, sir.

24 MR. WALTERS: Your Honor, I have no further
25 questions.

1

RE-VOIR DIRE

2

BY THE COURT:

3

Q Ma'am, you've decided that you oppose the death penalty?

4

5

A No, sir.

6

Q Listen to me now. Can you vote for the death penalty?

7

8

A Yes, sir.

9

Q If a person is convicted of murder and you thought that that person should be sentenced to death, would you vote for that person to get the death penalty?

12

13

A No, sir.

14

Q So, therefore, you would always vote for the person to be in jail rather than to die for a crime?

15

16

A Yes, sir.

17

Q And you would not vote for the death penalty?

18

A No.

19

Q No matter what the circumstances?

20

A Yes, sir.

21

Q Let me ask you this. You said you don't work right now?

22

23

A No, sir.

24

Q When is the last time you had a job?

25

A I never had a job.

1 Q You never had a job. So what do you do for a
2 living?

3 A I get disability.

4 Q Disability? What kind of disability do you
5 have?

6 A SSI.

7 Q And you get SSI because you have what kind of
8 problem?

9 A High blood pressure and a bad heart.

10 Q A bad heart and high blood pressure?

11 A Yeah. My bad heart come from when I got beat
12 up and that's how I got that bad heart.

13 Q And who beat you up?

14 A Martin L. Dixon.

15 Q Did he get some time for doing that?

16 A I give him time.

17 Q He went to prison or jail?

18 A Prison.

19 Q How long did he stay?

20 A Five years.

21 Q How badly did he beat you up?

22 A Oh, Lord, pretty bad.

23 Q Did it cause you to have some memory problems?

24 A I almost died, yeah.

25 Q Do you have problems thinking right some time?

1 A Yes, sir.

2 Q And -- you have given some inconsistent
3 answers, is that because you're disabled and can't
4 follow --

5 A Yes, sir. I been beaten by my head a couple of
6 times.

7 Q He beat you in the head and so your head is not
8 totally right?

9 A No, sir.

10 THE COURT: Okay. If you'll stand right
11 outside the door for us.

12 (Juror leaves the courtroom.)

13 THE COURT: What says the defense?

14 MR. WALTERS: I do not believe she's qualified,
15 Your Honor.

16 THE COURT: That she's not qualified?

17 MR. WALTERS: She's not qualified.

18 THE COURT: What says the State?

19 MR. SORENSON: The State would agree, Your
20 Honor.

21 THE COURT: All right. Let's bring her back
22 in.

23 (Juror enters the courtroom.)

24 THE COURT: Okay. Ma'am, we want to thank you
25 for coming through the process and answering the

1 questions. We're not going to keep you any longer.
2 It's getting late. And we're not going to qualify
3 you to serve on this jury. It seems as if you had
4 some trouble because of Mr. -- what's his name?

5 JUROR: Martin L. Dixon.

6 THE COURT: Martin L. Dixon. You're not back
7 together, are you?

8 JUROR: (Juror shook head.)

9 THE COURT: You're through with him?

10 JUROR: Through with him.

11 THE COURT: Good. Well, we'll see you again.
12 You're off jury duty. You don't have to come back.

13 JUROR: Okay. Thanks.

14 (Juror was excused.)

15 THE COURT: Now, you all know some of these
16 people around here. If we were in Kingstree, I
17 wouldn't have any problem pointing out who is not
18 going to make the cut, but we have wasted some time
19 on a few folks here today who --

20 SHERIFF: Judge, if you want me to, I could
21 have told you about several of those and saved us a
22 lot of time. And if you would like for me to do
23 that, I'll be glad to. I know them all, they're
24 good people, but Irene has had a rough go of it.
25 She's a sweet girl. She couldn't serve on that

1 jury.

2 THE COURT: It takes a while to get to that
3 point, but, meanwhile, we've wasted a bunch of time.
4 And I'm giving everyone the benefit of the doubt,
5 but it's the same place everywhere you go, some
6 folks got it and some folks don't.

7 All right. Let's move on to the next on the
8 list.

9 (Whereupon, Thomas Haigler, a black male,
10 enters the courtroom.)

11 THOMAS HAIGLER,
12 having been previously duly sworn, testified as
13 follows:

14 VOIR DIRE

15 BY THE COURT:

16 Q All right, sir. You're Mr. Haigler?

17 A Yes, sir.

18 Q How are you doing?

19 A Fine.

20 Q Mr. Haigler, you're still under oath. Where do
21 you live?

22 A Saint Matthews.

23 Q How far from here?

24 A About two or three miles.

25 Q All right. And where do you work?

1 A Owen Steel in Columbia.

2 Q And how long have you been up there?

3 A About 31 years.

4 Q A long time?

5 A Yes, sir.

6 Q Have you heard anything about this case since

7 last night?

8 A No, sir.

9 Q Did you hear anything about this case before

10 last night?

11 A When it first happened, I think I did.

12 Q Did that cause you to form an opinion as to the

13 guilt or innocence of this defendant?

14 A No, sir.

15 Q Now, you were given a list of folks who might

16 testify as witnesses in this case, were you not?

17 A Yes, sir.

18 Q And do you recognize any of these people?

19 A No, sir.

20 Q And you were also given a list to indicate what

21 type of juror you were, a type one, type two or type

22 three?

23 A Yes, sir.

24 Q Do you know what type juror you are?

25 A Three.

1 Q As a type three juror, could you vote for the
2 death penalty?

3 A Could I vote for the death penalty? Yes, sir.

4 Q Are you in favor of the death penalty under
5 certain circumstances?

6 A Yes, sir.

7 Q And the defendant -- the State is seeking the
8 death penalty, but the defendant is presumed to be
9 not guilty. The State must first prove that he is
10 guilty. And, of course, if the State can't do that,
11 then he is let go, but if the State proves that he
12 is guilty of murder, then the sentence the jury
13 would then have to consider would either be life
14 without the possibility of parole or the death
15 penalty. Could you vote for either one depending on
16 the circumstances?

17 A Yes, sir.

18 Q Now, the jury in this case will be kept
19 together. They'll be sequestered until the end of
20 the trial. And I know that will be inconvenient to
21 you and you will have to miss time out for that job
22 you've been on for 31 years, but aside from that
23 inconvenience, would it pose any danger to your
24 health or well-being?

25 A No, sir, but I have -- my mother is 81 years

1 old and between me and my sister, we look after her.

2 Q Your 81-year-old mother?

3 A Yes, sir.

4 Q Does she have dementia or --

5 A No, she has one of her legs cut off.

6 Q One of her legs cut off?

7 A Yes, sir.

8 Q She's of sound mind otherwise?

9 A Yes, sir.

10 Q And would your sister be able to step in and

11 handle that for that period of time?

12 A Well, she's on medication, too.

13 Q Your sister is?

14 A Yes, sir.

15 Q So do you have to be there to tend to your

16 mother?

17 A Well, I don't be there all the time, but I have

18 to check in on her everyday.

19 Q By going by?

20 A Yes, sir.

21 Q And there's no one else that could do that if

22 you were --

23 A Well, I have another brother, but he lives in

24 Cordova and he works at night. And I really would

25 like to be there, you know, to check on her at night

1 before I go home.

2 Q So do you believe that if you were sequestered
3 on the jury, that that would pose a serious risk of
4 danger to your mother's health?

5 A No, I don't think it would cause a serious
6 risk, but, you know, I just like to be there to
7 check on her at night.

8 Q Does she have a telephone?

9 A Does she have a telephone?

10 Q Yes.

11 A Yes, sir.

12 Q And do you think that being able to call her at
13 night to check in on her would be sufficient under
14 the circumstances?

15 A Yes, sir, I think it would.

16 Q Would you otherwise be able to arrange through
17 your brother and other folks to help check on her
18 while you were on this case?

19 A Yes, sir, I could.

20 THE COURT: Let's see if the State or the
21 defense has any questions.

22 The State.

23 MR. SORENSON: May it please the Court, Your
24 Honor.

25 *****

1 VOIR DIRE

2 BY MR. SORENSON:

3 Q Good evening, Mr. Haigler.

4 A How are you doing?

5 Q I'm doing fine. How about you?

6 A Okay.

7 Q My name is Don Sorenson. I'm with the

8 Solicitor's office and I just have a couple of

9 questions for you. I realize it's getting late.

10 You indicated, sir, that you consider yourself to be
11 a type three juror?

12 A Yes, I think so.

13 Q Is that correct?

14 A Yes, sir.

15 Q And let me just ask you, do you have any
16 specific beliefs or feelings regarding the death
17 penalty either in opposition to it or in favor of
18 it?

19 A No, I don't have neither.

20 Q Neither way?

21 A No.

22 Q Okay. Let me ask you this. As a type three
23 juror, do you feel that you would be able to look at
24 all of the facts and circumstances of the case and
25 then potentially either return a death sentence if

1 the facts warranted it, could you do that?

2 A Yes, sir.

3 Q And if they -- you felt they didn't warrant it,
4 then in return, return a life sentence?

5 A Yes.

6 Q You could do that?

7 A Yes, sir.

8 Q Let me ask you this. If you were to find, you
9 and your other 11 jurors were to find the person
10 that y'all had convicted of murder that the death
11 penalty was warranted, would you be able to then
12 sign your name to a form indicating that I feel the
13 death penalty is the appropriate punishment?

14 A Yes, sir.

15 Q Could you do that?

16 A Yes.

17 Q Mr. Haigler, could you then come out in this
18 courtroom and then public that verdict to the Court
19 and to the public?

20 A Say that again, sir.

21 Q Could you then if -- after signing that form,
22 could you then come out into this courtroom like you
23 are today and publish to the public the fact that
24 you felt that the death penalty was warranted in
25 that case?

1 A Yes, I think so.

2 Q Once again, you don't have any specific

3 opposition to the death penalty?

4 A No, sir.

5 Q And, in fact, in some cases, you -- as far as

6 being in favor of it, you feel that it is

7 appropriate under certain circumstances?

8 A Yes, under certain circumstances.

9 Q Let me ask you just one last thing with regard

10 to your mother. Would the fact that you're not able

11 to go check on her every evening, is that something

12 that would be weighing on your mind while you're

13 sitting here in the jury room -- in the jury box and

14 possibly have some affect on your ability to serve

15 as a juror?

16 A I would think so because I worry about her at

17 times.

18 Q Say that again. I'm sorry.

19 A I said, I would think so because I worry about

20 her at times.

21 Q So you think it would have an affect on you?

22 A Yes, I would.

23 MR. SORENSON: Thank you, Mr. Haigler.

24 THE COURT: What says the defense?

25 MR. KOGER: May it please the Court, Your

1 Honor.

2 VOIR DIRE

3 BY MR. KOGER:

4 Q Mr. Haigler, I didn't hear that last response.

5 I think you responded to a question from the
6 Solicitor's office as it pertains to your mother?

7 A Yes.

8 Q And what was your response?

9 A He asked me would it bother me by sitting in
10 the jury box, would it be on my mind thinking about
11 her and I said, yes.

12 Q All right. And you love your mother very much?

13 A Yes, I do.

14 Q And you've been checking on her everyday for
15 how long?

16 A Ever since she had her leg cut off.

17 Q And how many years was that?

18 A It's been about two or three months.

19 Q Two or three months. So it's still relatively
20 new to her?

21 A Yes.

22 Q And something relatively new to you?

23 A Yes.

24 Q But under the circumstances, if you were called
25 for jury duty, could you, at least for the next two,

1 two and a half weeks, check on her through phone
2 calls from you and your brother? Would that help
3 alleviate your concern as it pertains to your
4 mother?

5 A Well, I could do that, but it would still be on
6 my mind.

7 Q It would still be on your mind?

8 A Yes.

9 Q Okay. That's understandable. And just one
10 other question. You state that you could vote for
11 either life in prison without parole and the death
12 penalty, correct?

13 A Right.

14 Q But that's only if they get to that second
15 stage?

16 A Uh-huh.

17 Q And you do realize it's two parts?

18 A Yes, I do.

19 Q And that they have to prove their case beyond a
20 reasonable doubt at the very beginning?

21 A Yes.

22 Q And if they don't meet that burden, then you
23 will return a verdict of not guilty?

24 A Say that again, please.

25 Q If they don't meet their burden in proving a

1 case, then you would consider returning a verdict of
2 not guilty?

3 A Yes, sir.

4 Q And not even getting to the second stage?

5 A Yes.

6 MR. KOGER: Okay. Thank you.

7 THE COURT: All right, sir. If you'll stand
8 right outside the door for a moment.

9 (Juror leaves the courtroom.)

10 THE COURT: What says the State?

11 MR. SORENSON: Please the Court, Your Honor.

12 While I think Mr. Haigler is otherwise qualified, I
13 do have some concerns. And I think that he may not
14 be qualified due to the fact that he did state that
15 his mother's health concern would be something that
16 would be weighing on his mind and would affect his
17 service as a juror and I think that makes him not
18 qualified.

19 THE COURT: What says the defense?

20 MR. KOGER: Your Honor, may it please the
21 Court. I feel that Mr. Haigler is qualified to
22 serve based on his answers. I do understand his
23 concern for his mother, but he states that he's a
24 type three and he could participate in this trial.

25 THE COURT: Well, he said that he could make

1 suitable arrangements. And, obviously, anyone who
2 might have an elderly parent, they will always be on
3 that person's mind, but I think provisions can be
4 made for him to make phone calls to check on his
5 mother under the supervision of the security team.

6 The test, I believe, is whether or not it would
7 adversely or appreciably impact upon his ability to
8 sit as a fair and impartial juror and he does not
9 indicate that it would. He simply says it's
10 something that will be on his mind that he will be
11 concerned about. I think he is qualified.

12 **MR. SORENSON:** Your Honor, if I could, though,
13 will Your Honor consider that, meaning that
14 terminology that you just used, posing that question
15 to Mr. Haigler?

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

17 **MR. KOGER:** Your Honor, I would object posing
18 that question to Mr. Haigler. Basically, he stated
19 that, you know, he could be fair and impartial, that
20 he can consider both the death penalty and life in
21 prison without parole and I would object to that
22 question -- that question being asked to Mr.
23 Haigler.

24 **MR. SORENSON:** We're not challenging that. As
25 I indicated right from the outset, I feel that

1 otherwise he's a qualified juror, but, I mean, he
2 indicated it would have an affect on him, that he
3 would be sitting here worried about his mother who,
4 I mean, also came out at the very end, who had just
5 lost her leg three months ago. It's not something
6 where she had been in that condition for the last
7 three or four years. I mean, this is...

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

9 **MR. KOGER:** Your Honor, he did indicate
10 earlier, he brought up his concern about his mother,
11 the Court inquired of him would it be suitable -- or
12 could he at least deal with phone calls from the
13 location of sequestration and he also stated that
14 his brother, you know, he works at night, he could
15 arrange something with his brother.

16 **THE COURT:** Well, those are the terms that I
17 used, but I think the gist of his testimony is that
18 this is something that would be on his mind, but
19 despite that, he could serve as a fair and impartial
20 juror. It may call upon us to utilize alternates if
21 something should happen and he has to leave the
22 jury, but other than that, he's qualified to serve
23 and we'll keep him.

24 (Juror enters the courtroom.)

25 **THE COURT:** Yes, sir, Mr. Haigler, you're

1 qualified to serve on the jury. We need you to be
2 here tomorrow at noon packed and ready to stay with
3 us for about ten days. We need to have you bring
4 sufficient clothing and medication and arrange for
5 someone to take your car back home if you are
6 picked. They can wait around to see if you're
7 picked before leaving you. You're not allowed to
8 discuss the case with anyone or allow anyone to
9 discuss it with you or to read any newspapers about
10 it or to watch it on T.V. Do you understand that,
11 sir?

12 **JUROR:** Yes, sir.

13 **THE COURT:** And do you believe you'll be able
14 to do all of that?

15 **JUROR:** Yes, sir.

16 **THE COURT:** With regard to your mother, if
17 you're selected on a jury, we will arrange through
18 the escort team for you to be able to call and check
19 on your mother to assure yourself that she's doing
20 okay during that time. So here's some information
21 that you can read over and keep with you so that the
22 folks will know where you're at. I'm sure you know
23 where the Sleep Inn is, but that's where the jury
24 will be.

25 We'll need you back at noontime. If you'll

1 come right across the street to the annex building,
2 there's a conference room in there where everyone is
3 meeting up at noon tomorrow. Thank you, sir.

4 **JUROR:** Thank you.

5 (Juror was excused for the day.)

6 **THE COURT:** Let's do one more and then take a
7 few minutes.

8 (Whereupon, Ruby R. Keller, a black female,
9 enters the courtroom.)

10 RUBY R. KELLER,
11 having been previously duly sworn, testified as
12 follows:

13 VOIR DIRE

14 **BY THE COURT:**

15 **Q** Are you Ms. Ruby R. Keller?

16 **A** Yes, sir.

17 **Q** How are you doing?

18 **A** Fine. Thank you.

19 **Q** Good. Ms. Keller, you're still under oath from
20 the time you were placed under oath yesterday. And
21 since that time, have you read anything about this
22 case or heard anything else about this case?

23 **A** No, I haven't.

24 **Q** And you heard my admonition that you're not to
25 read anything or observe anything on T.V., Internet

1 or otherwise or discuss this case with your fellow
2 jurors or anyone at your home?

3 A That's true.

4 Q And have you complied with that oath?

5 A Yes, sir.

6 Q Where do you work?

7 A I work for Calhoun County Disabilities and
8 Special Needs.

9 Q And how long have you been working with them?

10 A About three months now.

11 Q And before that, where did you work?

12 A I worked for Orangeburg County Disabilities and
13 Special Needs.

14 Q You're DSS in person.

15 A Yeah. I enjoy working with them.

16 Q Well, good. Now, the State in this case is
17 seeking the death penalty and the defendant is
18 charged with murder and some other charges. The
19 defendant is presumed to be not guilty and cannot be
20 found guilty of anything unless the State has proven
21 its case to a jury beyond a reasonable doubt. And
22 the fact that we're going to talk to you in a minute
23 about your opinion about the death penalty will have
24 no bearing on whether or not he's guilty or innocent
25 because he's presumed to be not guilty. Do you

1 understand?

2 A Yes, sir.

3 Q Now, did you look over that list of people who
4 may testify as witnesses?

5 A Yes.

6 Q Do you know anyone on that list?

7 A No, I don't.

8 Q Have you heard anything about this case before?

9 A When it first happened, yes, I've read in the
10 newspaper about it.

11 Q Based on what you read in the newspaper, did
12 you form an opinion as to the guilt or innocence of
13 this defendant?

14 A I couldn't really say, no.

15 Q Pardon me?

16 A I couldn't really say I did. You know, at the
17 time, I felt it was a terrible thing that happened.

18 Q Well, would you be able to set aside what you
19 previously heard and decide this case based on the
20 evidence presented in this courtroom and decide
21 guilt or innocence based on the evidence presented
22 here in the courtroom as opposed to what you may
23 have read in the past?

24 A I think I could.

25 Q Now, did you look over the list of jurors

1 wherein the jurors -- three types of jurors are
2 categorized?

3 A Yes, sir.

4 Q And do you remember the types, type one, two --
5 type one, two and three?

6 A Yes, sir.

7 Q And which type of juror would best describe
8 you?

9 A Probably type three.

10 Q A type three juror is one who could vote for
11 life imprisonment without the possibility of parole
12 or could vote for the death penalty?

13 A Yes, sir.

14 Q Could you vote for life without the possibility
15 of parole?

16 A Yes, I could.

17 Q Could you vote for the death penalty?

18 A Yes, I could depending on the circumstances.

19 Q Right. Do you favor the death penalty under
20 appropriate circumstances?

21 A Yes, I do.

22 Q And if voting for the death penalty meant that
23 you would have to sign the verdict form stating that
24 that's the verdict of the jury, that you would be
25 able to do that?

1 A Yes, sir.

2 Q And this case may last into next week and maybe
3 ten days, I don't know, and that means that the jury
4 would be sequestered for a period of time.

5 Obviously, that poses an inconvenience on everyone
6 who will have to be sequestered, but aside from that
7 inconvenience, would that pose a serious risk of
8 danger to your health or well-being or to that of
9 anybody who is dependent upon you if you have to
10 serve in that capacity?

11 A The only thing it would interfere with now, on
12 the 9th of December, my son is graduating from
13 college, my baby boy, and I want to be there for
14 that occasion.

15 Q On the 9th of December?

16 A On the 9th of December.

17 Q When is that, next Friday night?

18 A Saturday, next Saturday morning.

19 Q And, of course, we have no way of knowing how
20 long the case may last and that's about ten or 11
21 days from now, I guess. Well, today's the 28th,
22 isn't it?

23 A Yes, sir.

24 Q So that's more than ten days away, but aside
25 from that, do you have any other issues?

1 A No, sir, I don't.

2 Q And he's graduating from where?

3 A Benedict College.

4 Q In Columbia?

5 A Yes.

6 **THE COURT:** Let me have the State and the
7 defense ask you any questions they might want to.
8 Mr. Walters, I think, is first.

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

10 **VOIR DIRE**

11 **BY MR. WALTERS:**

12 Q Good evening, Ms. Keller. How are you?

13 A Good evening.

14 Q It's been a long day. Ms. Keller, you
15 indicated that you're a type three juror; is that
16 correct?

17 A Yes, sir.

18 Q And I want to make sure I got a full
19 understanding of what you're saying. You're saying
20 that you want to hear all of the facts and
21 information with regards to this case; is that
22 correct?

23 A That's correct.

24 Q You want to hear from the prosecution and the
25 defense?

1 A That's right.

2 Q And then after hearing that information, then
3 you would like to make a decision; is that right?

4 A Yes, sir.

5 Q You understand that the State has to prove
6 their case beyond a reasonable doubt?

7 A Yes, sir.

8 Q Not maybe it happened or it could have
9 happened, they must prove it beyond a reasonable
10 doubt?

11 A Uh-huh.

12 Q If they failed to do so, could you return a
13 verdict of not guilty?

14 A Yes, I could.

15 Q Now, the sentencing phase that we're referring
16 to, it puts you in a position where you have exactly
17 two options -- two choices, that's either to put
18 someone to death and that's through electrocution or
19 lethal injection, or to allow them to have life in
20 prison without parole.

21 A Uh-huh.

22 Q And from your conversation with Judge Newman,
23 it appears that you could render either verdict
24 after you hear all of the information and the
25 testimony presented before this court; is that

1 correct?

2 A Yes, sir.

3 Q You understand that if you return a verdict
4 with regards to the death penalty in favor of the
5 death penalty, you would have to sign a document and
6 that would be a death verdict. You would have to
7 come in this courtroom just like you are now and you
8 would have to stand there and say that is my verdict
9 and I stand by my decision?

10 A Yes, sir.

11 Q You understand that you'll be in this process
12 with 12 (sic) other jurors if you're selected for
13 the jury, but it is an individual decision on your
14 part, a decision that you'll make. And, of course,
15 you'll have to listen to the others and the decision
16 that they have made. Are you willing to respect the
17 other jurors?

18 A Yes, sir.

19 Q And you certainly want them to respect you?

20 A Yes, sir, I would.

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

23 THE COURT: From the State?

24 MR. SORENSON: Just very briefly, Your Honor.

25 *****

1 VOIR DIRE

2 BY MR. SORENSON:

3 Q Good evening, Ms. Keller.

4 A Good evening.

5 Q My name is Don Sorenson. I'm with the
6 Solicitor's office and I just have a couple of
7 questions for you. You work with the Department of
8 Disabilities and Special Needs; is that correct?

9 A Yes, I do.

10 Q And you're a nurse there?

11 A Yes.

12 Q And when you worked in Orangeburg, the same
13 capacity there?

14 A Yes, sir.

15 Q Now, just one or two questions about the death
16 penalty, Ms. Keller. Do you have any specific
17 beliefs or opinions regarding the death penalty
18 either opposing it or in favor of it?

19 A Well, as I stated before, it depends on the
20 circumstance as to which it happened.

21 Q So there's certain -- in your mind, there are
22 certain murders that are aggravated enough that they
23 warrant the death penalty?

24 A Yes.

25 Q And those circumstances, as Mr. Walters asked

1 you, you could sign your name to that death verdict
2 form?

3 A Yes, sir.

4 Q And you could come out in this courtroom and
5 publish that verdict to us; is that correct?

6 A Yes, sir.

7 MR. SORENSON: I appreciate you coming back
8 tonight, Ms. Keller. Thank you.

9 THE COURT: Okay. Ma'am, we'll need you to
10 stand right outside just for a moment.

11 (Juror leaves the courtroom.)

12 THE COURT: What says the defense?

13 MR. WALTERS: Your Honor, I believe she's
14 qualified.

15 THE COURT: What says the State?

16 MR. SORENSON: She's qualified, Your Honor.

17 THE COURT: All right. Bring her back, please.

18 (Juror enters the courtroom.)

19 THE COURT: Ma'am, you have been found to be
20 qualified to serve as a juror in this case, that
21 does not mean that you're on the jury yet, that
22 means that you may be selected to serve on the jury.
23 We're going to plan to do jury selection at noon
24 tomorrow, so we need you to come back packed and
25 ready to stay with us for a period of about ten days

1 if you are selected on the jury.

2 This is a sheet that will explain something
3 about what you should bring and, of course, you will
4 bring whatever you would normally bring if you pack
5 to be away from home for a while and also to tell
6 you where the jury will be housed in the event that
7 a family member needs to know that.

8 Now, it's very important that you not read any
9 newspapers, watch any T.V. programs or expose
10 yourself to any media concerning this case, that
11 would be improper. Do you understand?

12 JUROR: Yes, sir.

13 THE COURT: All right. Thank you very much.
14 And we'll see you tomorrow at noon. You'll come
15 over here to the annex building. And there's a
16 conference room in there that the county council
17 normally meets, that's where the jurors will meet
18 initially and then come over here.

19 Okay. Thank you very much. We'll see you
20 tomorrow.

21 (Juror was excused for the day.)

22 THE COURT: I think we're going to take a three
23 minute break.

24 (Brief Recess.)

25 (Whereupon, Alcojon Michael, a black male,

1 enters the courtroom.)

2 ALCOJON MICHAEL,
3 having been previously duly sworn, testified as
4 follows:

5 VOIR DIRE

6 BY THE COURT:

7 Q Pronounce your name for me.

8 A Alcojon.

9 Q Alcojon Michael?

10 A Yes, sir.

11 Q How are you doing today?

12 A Pretty good.

13 Q Good. Now, you're still under oath from being
14 sworn as a juror yesterday. Do you understand?

15 A Yes.

16 Q We need to ask you some questions about certain
17 things. Has anyone attempted to contact you or have
18 you read or heard anything about this case since
19 yesterday?

20 A No, sir.

21 Q Did you hear anything about it before
22 yesterday?

23 A No, sir.

24 Q And where do you work?

25 A I work at Koyo.

1 Q Koyo?

2 A Yes, sir.

3 Q And that's located where?

4 A In Orangeburg on 601.

5 Q And what part of the county do you live in?

6 A Calhoun County.

7 Q What section of Calhoun?

8 A Calhoun Road.

9 Q Calhoun Road. And the defendant is charged
10 with murder and he's presumed to be not guilty of
11 murder. And the State must prove beyond a
12 reasonable doubt that he's guilty of murder. If the
13 State should do that, since the State is seeking the
14 death penalty, then we will go into what's called
15 the penalty phase of the trial in which the jury
16 would be asked to either sentence the defendant to
17 life imprisonment without the possibility of parole
18 or the death penalty depending on which the jury
19 thinks would be the appropriate sentence. Have you
20 had a chance to look at this paper?

21 A Yes, sir.

22 Q It has type one, type two and type three juror?

23 A Yes, sir.

24 Q And you understand the three types of jurors
25 here?

1 A Yes, sir.

2 Q And which type juror do you think you are?

3 A Number three.

4 Q And as a type three juror, could you vote to
5 impose the death penalty?

6 A I would, like it say, got to go through the
7 evidence. I got to listen at the whole case.

8 Q Well, if, after listening to the entire case
9 and you concluded that the death penalty was the
10 most appropriate sentence, could you vote for the
11 death penalty?

12 A Yes, sir.

13 Q And if you, after listening to the case,
14 thought that life imprisonment without the
15 possibility of parole was the most important
16 sentence, could you vote for that?

17 A Yes, sir.

18 Q And so you are not against the death penalty?

19 A No, sir.

20 Q And now this list of people who might be
21 witnesses in this case, did you look over this list?

22 A Yes, sir.

23 Q Do you know anyone on that list?

24 A Yes, sir, not personally, but I know of them.

25 Q Which ones do you know of?

1 A Sheriff...

2 Q Summers?

3 A Summers.

4 Q And probably the sheriff over in Orangeburg,
5 too?

6 A I know Captain Mike Adams.

7 Q Mike Adams. Now, the fact that you might know
8 some of these law enforcement people, would that
9 fact affect your ability to sit as a fair and
10 impartial juror?

11 A No, sir.

12 Q Now, the jury in this case will be sequestered,
13 which means they'll be housed in a separate place
14 over at the Sleep Inn at 601. Aside from the fact
15 that that will be an inconvenience to you and you
16 will have to miss work and all that, would it pose
17 any serious risk of danger to your health or your
18 well-being or anyone dependent upon you?

19 A No, sir.

20 THE COURT: Any questions by the State or the
21 defense?

22 MR. SORENSON: Just very briefly, Your Honor.
23 May it please the Court.

24 ****

25 ****

1 VOIR DIRE

2 BY MR. SORENSON:

3 Q Good evening, Mr. Michael. I appreciate you
4 coming back tonight. My name is Don Sorenson. I'm
5 with the Solicitor's office. I just have a couple
6 questions for you. I know it's getting late. You
7 had indicated when looking at the sheet with the
8 three types of jurors, that you felt that you best
9 fit the type three juror?

10 A Yes, sir.

11 Q Okay. And you understand that what that type
12 means is that basically, after looking at all of the
13 evidence, hearing the facts and the circumstances
14 surrounding the crime, along with facts and
15 circumstances surrounding the defendant's
16 background, that you, at that point in time, would
17 have to come back with a sentence, that could either
18 be the death sentence or life imprisonment; is that
19 correct?

20 A Correct.

21 Q By indicating that you're a type three, you're
22 indicating that you, in certain circumstances, could
23 come back with a death sentence and in other
24 circumstances, could come back with life in prison;
25 is that correct?

1 A Correct.

2 Q It would all depend on the facts and what you
3 heard from that witness stand; is that correct?

4 A Correct.

5 Q All right. Let me ask you, as far as the death
6 penalty goes, do you have any beliefs or opinions
7 that would cause you to never be able to return a
8 death sentence?

9 A Could you repeat that, please?

10 Q I'm sorry. It was a little confusing. It's
11 getting late. Let me ask you this. Are you opposed
12 to the death penalty?

13 A No, I'm not.

14 Q So you, in fact, in certain circumstances if it
15 warranted it, would be in favor of the death
16 penalty, correct?

17 A Correct.

18 Q If the murder was aggravated enough and you
19 felt it was appropriate; is that correct?

20 A Yeah.

21 Q And if, in fact, you and the other 11 jurors
22 had come to that conclusion that the death penalty
23 was, in fact, warranted in this certain case, would
24 you then be able to actually sign your name on a
25 piece of paper indicating that you felt the death

1 penalty was the appropriate sentence, the
2 appropriate punishment?

3 A If it come to that.

4 Q If it came to that, you could do that, you
5 could sign your name?

6 A Yes.

7 Q Could you then come out here in this courtroom
8 and then publish to the public your recommendation
9 that the death penalty be given?

10 A Yes, sir.

11 Q And just one last thing. I don't mean to
12 embarrass you, Mr. Michael, but in looking at the
13 records we have back 20 some odd years ago back in
14 1986, were you arrested for a grand larceny back
15 then?

16 A I was, yes, but I wasn't convicted.

17 Q You weren't convicted of that and that's why I
18 just wanted to double check on it.

19 MR. SORENSON: I appreciate it. Thank you.

20 MR. KOGER: No questions, Your Honor.

21 THE COURT: All right, sir, if you'll stand
22 right outside the door for me for a moment.

23 (Juror leaves the courtroom.)

24 THE COURT: What says the State?

25 MR. SORENSON: He's qualified, Your Honor.

1 **THE COURT:** The defense?

2 **MR. KOGER:** Qualified, Your Honor.

3 **THE COURT:** All right.

4 (Juror enters the courtroom.)

5 **THE COURT:** All right. Mr. Michael, you have
6 been found to be qualified as a potential juror in
7 this case, that does not mean that you're on the
8 jury, but it means that you might be selected on the
9 jury. We're going to do the jury selection tomorrow
10 at noon if all things work out right. So we need
11 you here tomorrow at noon packed up and ready to
12 stay with us because the jury will be sequestered.
13 Here is an information sheet that says a little bit
14 about that.

15 Now, it's extremely important that you not
16 watch any T.V. or go on the Internet or read any
17 newspaper accounts regarding this case because you
18 must decide the case based on evidence presented in
19 court and not by other people at other places.
20 Would you be able to follow that?

21 **JUROR:** Yes, sir.

22 **THE COURT:** Now, should any juror attempt to
23 discuss the case in your presence, then you must
24 bring that to my attention immediately. You might
25 arrange for someone to either come and get your car

1 if you drive here and you're put on the jury or to
2 come with you and wait to see if you're on the jury
3 before leaving. Will you be able to work that out?

4 JUROR: Yes, sir.

5 THE COURT: We'll see you tomorrow at noon.

6 (Juror was excused for the day.)

7 (Whereupon, Alfred Mack, a black male,
8 enters the courtroom.)

9 ALFRED MACK,

10 having been previously duly sworn, testified as
11 follows:

12 VOIR DIRE

13 BY THE COURT:

14 Q Mr. Mack, how are you doing?

15 A Fine, and you?

16 Q Good. Mr. Mack, I think you told us that
17 you're the foreman on a job some place?

18 A Yes, sir.

19 Q Down in?

20 A In Bamberg right now.

21 Q In Bamberg. And what part of this county do
22 you live in?

23 A Calhoun County.

24 Q I think I'm going to have to use a different
25 word for that. What section of the county do you

1 live in?

2 A I live about nine miles down Highway Six, a
3 little town called Creston.

4 Q Creston?

5 A Really between Saint Matthews and Elloree.

6 Q I think I've driven through there coming from
7 Holly Hill heading toward Columbia. Is it across
8 from there, in that town?

9 A Yeah. If you blink your eyes, you be done
10 passed it.

11 Q Now, has anyone tried to talk to you about this
12 case since last night or have you read anything or
13 seen anything about it?

14 A No, sir.

15 Q Before being called to jury duty, had you heard
16 anything about this case?

17 A Very little, very little.

18 Q Will you be able to set aside anything that you
19 might have heard about this case and decide the case
20 only on the evidence presented in this courtroom and
21 not based on what you might have heard outside the
22 courtroom?

23 A Yeah.

24 Q Now, the defendant is charged with murder and
25 he is presumed to be not guilty of murder. And the

1 State must prove beyond a reasonable doubt that he
2 is guilty of murder. But in the event the State
3 proves that, the jury would then consider the
4 sentence and it will be up to the jury to decide
5 whether he should get life imprisonment without the
6 possibility of parole or get the death penalty. Do
7 you understand that?

8 A Yes, sir.

9 Q So because of that, we need to know your
10 opinion about the death penalty. I've given you two
11 things to look at, the first thing was a witness
12 list. Do you know anyone on this list?

13 A No, sir.

14 Q And the second thing you were given is a page
15 with three types of jurors on there, type one, type
16 two and type three. Do you remember that list?

17 A Yes, sir.

18 Q And which of the three types of jurors would
19 best describe you?

20 A Type three.

21 Q And why do you say that?

22 A Because I believe in fairness. I believe in
23 looking things through, hearing things, that I would
24 make an opinion of first sight or either the first
25 thing you ever heard about it.

1 Q Well, after listening to all of the evidence in
2 this case, first deciding -- should you decide the
3 defendant's guilty and then listening to all the
4 evidence in aggravation and mitigation regarding a
5 sentence, could you vote for the death penalty?

6 A I don't know. I'm being honest with you, I do
7 not know.

8 Q Could you vote for life imprisonment without
9 the possibility of parole?

10 A Probably. I don't know. I hadn't heard
11 nothing. I don't know nothing about it.

12 Q Well, I know it's an unfair question to ask you
13 how would you vote. And I'm not -- so, therefore,
14 I'm not asking you about this particular case. I
15 mean, in general, in general, any kind of case, just
16 basically your philosophy. If you were sitting on a
17 case and if, after listening to the evidence, you
18 thought that the death penalty was what a person
19 convicted of murder should get, would you vote for
20 the death penalty?

21 A Yes, I would.

22 Q And if you thought life without the possibility
23 of parole is what the person should get, could you
24 vote for that?

25 A Yes.

1 Q So is it that you're not opposed to the death
2 penalty in all cases?

3 A Me, personally, no.

4 Q You could vote for the death penalty?

5 A I could.

6 Q And if, in voting for the death penalty meant
7 that you would have to sign the verdict form along
8 with all other jurors saying I have voted and the
9 verdict is that you give the death penalty, you
10 could do that?

11 A Yes, sir.

12 Q Now, the -- I know you didn't want to stay with
13 us yesterday or your boss man didn't, somebody
14 didn't want you to, but I determined that you had to
15 stay. Now, if you are selected, the jury would be
16 sequestered in a local motel for a period of up to
17 ten days or so and I realize that that would be an
18 inconvenience to you, but aside from the
19 inconvenience, would that pose a serious threat to
20 your health or -- danger to your health or
21 well-being or to anyone that is dependent upon you?

22 A Not that I know of.

23 Q You'll be able to do that?

24 A Would I want to, no -- well, yeah.

25 Q You would prefer not to, but if you were

1 selected, you would be able to do it; is that right?

2 A (Juror nodded head.)

3 MR. WALTERS: I'm sorry, Your Honor, I didn't
4 hear his response.

5 JUROR: Yes.

6 THE COURT: All right. Questions from the
7 defense.

8 MR. WALTERS: May it please the Court.

9 VOIR DIRE

10 BY MR. WALTERS:

11 Q How are you doing, Mr. Mack?

12 A Fine, and you?

13 Q My name is Glenn Walters and I'm a defense
14 attorney and I'm here for Mr. Mahdi. I want to
15 thank you for coming back tonight. Mr. Mack, you
16 indicated that you're a juror number three; is that
17 correct? Or you believe you agree with the position
18 on number three. I want to make sure I'm clear
19 about what your position is.

20 First of all, you're aware of the fact that
21 this is a murder case and the State must prove that
22 Mikal Mahdi committed a murder beyond a reasonable
23 doubt, not maybe did or he could have done it or
24 there's a possibility that it happened, they must
25 prove their case beyond a reasonable doubt. If they

1 fail to do so, then, of course, you would be
2 required to return a verdict of not guilty. Could
3 you do that, sir?

4 A Yes, sir.

5 Q Now, in addition to that, there's also a second
6 phase, if we get to that phase, that we refer to as
7 the sentencing phase and that puts you in a position
8 where, if we refer to number three, where you have
9 two options available to you, two choices. And
10 certainly it appears from your work in managing
11 people as your letter stated from your employer, you
12 make decisions all the time; is that correct?

13 A Yes, sir.

14 Q And in this particular case, a type three juror
15 is required to listen to all of the aggravating
16 circumstances that the State would present and all
17 of the mitigating circumstances that the defense
18 will present. In other words, you'd like to hear
19 about this person's childhood, their parents, how
20 they grew up in life. Are you willing to listen to
21 all of that, to give it meaningful consideration?

22 A Yes.

23 Q And, of course, after hearing that information,
24 you have the two options available to you. One
25 option is you can put this person to death. And you

1 do understand that means either by electrocution or
2 lethal injection. And you would have to sign a
3 document, the verdict itself, stating that you agree
4 with imposing a death sentence. Could you do that,
5 sir?

6 A I'm not too sure.

7 Q Well, when you say you're not too sure, I know
8 you're torn by it, but if the Judge instructed that
9 if you found that he should be put to death, that
10 you would have to sign a document, could you sign
11 that document, sir? But you would have to listen to
12 all the facts and information before you make a
13 decision. And I know we're putting the cart before
14 the horse by asking you what would be your position,
15 but if you listen to all the facts and the
16 information and everything that was presented to
17 you, could you choose between those two options?

18 A Possibly, sir.

19 Q And I noticed that when you were first
20 answering questions, you were saying possibly so.
21 Are you saying that I need to hear everything, all
22 the facts and information before I make a decision?

23 A That would be the best thing, yes.

24 Q Okay. And the best thing in your mind is, is
25 that I want to hear from everyone and what they have

1 to say and then I'll make a decision?

2 A Yes.

3 Q Because when we bring you in this room, it
4 seems like we're (indicating) pushing you along,
5 saying, give us an answer, give us an answer, what
6 will you do here, what will you do there. Are you
7 saying that you need to hear all of the information
8 and then you can make a decision between the two
9 different options?

10 A Yes.

11 Q All right. Now, of course, you're in this
12 courtroom at this time and you're making
13 declarations and you're actually testifying under
14 oath. Of course, if all 12 of you, all 12 jurors
15 come back and they state that we're going to impose
16 a death sentence, you would have to stand there and
17 say, I agree with everyone else and that was my
18 position, could you do that, sir?

19 A Explain that to me.

20 Q If you make a decision to impose a life
21 sentence or a death sentence, the jury would come
22 back out here, all 12 of you, each of you has your
23 own individual decision, but if you all agree that
24 this person should receive life, you all would have
25 to come out here and the Judge would ask you

1 publicly in front of everyone, is this your
2 decision, he may not make you stand, but you'll sit
3 there in the chair and you'll have to say, yes, it
4 is my decision?

5 A If that is my decision.

6 Q Yes, sir. If it is your decision, you just
7 have to answer affirmatively, yes, it is my
8 decision. Sometimes judges will ask that everybody
9 that voted for the life sentence, raise your hand
10 and they'll have to do that.

11 The other serious offense is -- penalty is, is,
12 of course, if someone imposes the death penalty.
13 And it will be 12 of you inside of that room and
14 each of you has your own individual decision to
15 make. And based upon the evidence, the totality of
16 the circumstances, everything that's been presented
17 to you, you then have to sit down and deliberate and
18 make a decision. If you decide to impose a death
19 penalty, all of you will be brought back out here
20 again, but each of you will have to sign your name
21 to a document stating that this is what we agreed to
22 do. Could you do that, sir?

23 A Yes.

24 Q And, of course, I don't want you to think we're
25 putting the cart before the horse. Your hesitation

1 makes me think we're trying to get a commitment from
2 you now that you go ahead and sign a document. And
3 what I'm saying to you is, is that they first got to
4 prove their case and you've got to decide whether
5 the defendant's guilty or not guilty. And then if
6 we move to the sentencing phase, you'll have to hear
7 everything, about his childhood, his life, the
8 aggravating circumstances and then again you'll make
9 a decision, but you'll have full information before
10 you do so.

11 A (Juror nodded head.)

12 MR. WALTERS: Thank you..

13 MR. SORENSON: Please the Court, Your Honor.

14 VOIR DIRE

15 BY MR. SORENSON:

16 Q Good evening, Mr. Mack. My name is Don
17 Sorenson. I'm with the Solicitor's office and I
18 just have a couple questions for you. You had
19 indicated early on when His Honor was questioning
20 you that you, I believe that I've got it written
21 down here, you didn't know if you could ever vote
22 for the death penalty; is that correct? Do you
23 remember saying that earlier?

24 A Did I say that?

25 THE COURT: You need to answer his question.

1 BY MR. SORENSON:

2 Q Well, let me just ask you, could you vote for
3 the death penalty?

4 A Under circumstance -- certain things, I
5 probably could.

6 Q You probably could? I think you need to be a
7 little -- I mean, are there certain circumstances
8 that you can envision in your mind, certain murders
9 where you found somebody guilty of murder, are there
10 circumstances in your mind where you could find that
11 the death penalty was the appropriate punishment?

12 A Yes.

13 Q And what would those possible circumstances be?

14 A To me, taking the life of someone for no
15 reason, taking the life of a child for no reason,
16 you know, crimes like that.

17 Q It would have to be something pretty severe?

18 A (Juror nodded head.)

19 Q But you could, though, in weighing -- in
20 weighing everything, weighing all of the factors,
21 the facts surrounding the incident, weighing the
22 defendant's background, weighing whatever that may
23 be, taking all of that into consideration, there are
24 certain times where you would be able to vote for
25 the death penalty?

1 A Yes.

2 Q Yes?

3 A (Juror nodded head.)

4 Q In those certain circumstances, you then would
5 be able to sign your name to that piece of paper,
6 like Mr. Walters was talking about, sign your name
7 that, yes, I, Mr. Mack, feel that the death penalty
8 is the appropriate punishment in this case, you
9 would be able to sign your name to that form?

10 A Yes.

11 Q And then come out into this courtroom and tell
12 the Court, tell the lawyers, tell the public that
13 once again, in this case, I, Mr. Mack, along with my
14 other 11 jurors have found that the death penalty is
15 the appropriate punishment in this case. You would
16 be able to do that, also?

17 A I think I could.

18 Q If you found the facts --

19 A Yeah.

20 Q You think you could or you know you could?

21 A I know I could.

22 Q You know you could. Do you have, Mr. Mack,
23 any -- are you opposed to the death penalty? I
24 mean, do you have any beliefs that lead you to be
25 opposed to the death penalty?

1 A Opposed being against it?

2 Q Against it, yes, sir.

3 A Yes, I would say so, yes.

4 Q If you would, tell us what are those beliefs?

5 A Crime or death by accident, something of that
6 nature. I mean, I don't know much about this. This
7 is my first time ever being in a courtroom.

8 Q I understand. But as far as those beliefs,
9 though, I mean, are they against the death penalty?
10 I mean, are those religious beliefs against the
11 death penalty?

12 A No, just what I believe.

13 Q Just general beliefs against that -- I mean, do
14 you believe against the death penalty in all cases
15 that --

16 A Not in all cases.

17 Q Not in all cases, just in some cases?

18 A Yeah.

19 Q Once again, if the crime is severe enough,
20 though, you feel that you would be, in that case, in
21 favor of the death penalty?

22 A Yes.

23 Q If the crime was severe enough and that
24 everything surrounding it told you that -- that that
25 was the appropriate punishment?

1 A Yes.

2 MR. SORENSON: Thank you, Mr. Mack.

3 THE COURT: All right. Mr. Mack, if you'll go
4 right outside that door there. I'll have you come
5 back in a second.

6 (Juror leaves the courtroom.)

7 THE COURT: What says the defense?

8 MR. WALTERS: He's qualified, Your Honor.

9 THE COURT: What says the State?

10 MR. SORENSON: He's qualified, Your Honor.

11 THE COURT: All right. Bring him back, please.

12 (Juror enters the courtroom.)

13 THE COURT: All right. Mr. Mack, you have been
14 found to be qualified as a potential juror in this
15 case. It doesn't mean that you will be on the jury
16 yet. It means that you might be on the jury. We're
17 going to select the jury tomorrow at noon. So we
18 need you to come back tomorrow at noon. You need to
19 be packed and ready to stay with us in case you are
20 selected. Now, if you're not selected, you'll be
21 able to go back home and back to work, but if you
22 are selected, then you'll need to -- you'll have to
23 stay with us.

24 It's also extremely important that you not
25 watch any T.V. accounts of this matter or the

1 Internet or read any newspapers about this case. Do
2 you understand that, sir?

3 JUROR: Uh-huh.

4 THE COURT: Now, you're not to allow anyone to
5 talk with you about it or in your presence. And if
6 anyone should try to do that, you must bring that to
7 my attention and first tell them that you can't talk
8 about it, they're not supposed to be talking about
9 it to you, but -- and also let me know about it.

10 Now, I need you back at 12:00. And all the
11 folks that are coming at 12:00 will be meeting right
12 at the annex across the street there. And there's a
13 conference room in the county council chambers where
14 everyone will meet and then they'll be brought over
15 here for jury selections. Need you here at high
16 noon tomorrow, 12:00 noon.

17 Now, regarding your car, are you planning to
18 drive here or have someone bring you?

19 JUROR: I guess I'll have somebody bring me.

20 THE COURT: If you come and you're selected on
21 the jury, you just need to make arrangements to have
22 your car picked up or have someone to come and wait
23 to see if you're on the jury before leaving, okay?
24 We need you here at noon tomorrow. Thank you very
25 much.

1 (Juror was excused for the day.)

2 THE COURT: All right. Next person.

3 (Whereupon, Jessica A. McKoy, a white
4 female, enters the courtroom.)

5 JESSICA A. MCKOY,
6 having been previously duly sworn, testified as
7 follows:

8 VOIR DIRE

9 BY THE COURT:

10 Q Are you Ms. Jessica McKoy?

11 A Yes, sir.

12 Q How are you doing, Ms. McKoy?

13 A A little tired.

14 Q Sorry to keep you out so late.

15 A That's okay.

16 Q Ms. McKoy, where do you work?

17 A Providence Hospital.

18 Q In Columbia?

19 A Yes, sir.

20 Q And what section of this county do you live in?

21 A I live down in Sandy Run.

22 Q Sandy Run. And, Ms. McKoy, have you read or
23 heard anything about this case since yesterday?

24 A No, sir.

25 Q Have you read any newspaper accounts about this

1 case?

2 A No, sir. I think we lived out of state when it
3 took place, as you said yesterday, in 2004.

4 Q When did you move to Sandy Run or South
5 Carolina?

6 A I'm originally from South Carolina. I've only
7 lived out of the state for two of those years.

8 Q And you've been away for --

9 A We moved back in 2004, in the late part of the
10 year.

11 Q All right. And have you, prior to yesterday,
12 heard anything about this case?

13 A No, sir.

14 Q Now, the defendant is charged with murder and
15 the State is seeking the death penalty. He is
16 presumed to be not guilty of murder. And the fact
17 that we're going to ask you some questions about
18 your opinion of the death penalty has nothing to do
19 with whether or not he's guilty or not guilty of
20 murder. The State must prove beyond a reasonable
21 doubt that he's, in fact, guilty of murder before
22 any question regarding punishment or sentence will
23 ever come into play. Do you understand that?

24 A Yes, sir.

25 Q Should the State prove that, then this case

1 will move to the sentencing phase wherein the jury
2 will decide either that the defendant is to get life
3 without the possibility of parole or the death
4 penalty. Now, did you look over that list of the
5 witnesses who might testify?

6 A Yes, sir.

7 Q Did you know any of those people?

8 A No, sir.

9 Q And did you look over the list of the three
10 types of jurors?

11 A Yes, sir.

12 Q And are you familiar with the three types of
13 jurors?

14 A Yes, sir.

15 Q And which type would you think would most
16 accurately reflect you?

17 A Type three.

18 Q And why do you say you're a type three juror?

19 A Well, I don't necessarily think that everybody
20 that commits the act of murder should be penalized
21 by death, but I certainly don't think that the
22 penalty should be taken off the table.

23 Q So do you believe that you should listen to all
24 of the aggravating circumstances, the mitigating
25 circumstances and then consider whether the death

1 penalty would be the most appropriate sentence or
2 whether life imprisonment without the possibility of
3 parole would be the most appropriate sentence?

4 A Exactly, I would have to hear the
5 circumstances.

6 Q And now the jury in this case will be
7 sequestered, which means the jury will be kept at a
8 local motel under supervision and probably for about
9 ten days, give or take a day or two. Aside from the
10 obvious inconvenience that that would impose upon
11 you, would serving in this capacity, would it pose a
12 serious risk of danger to your health or well-being
13 or to that of anybody who's dependent upon you?

14 A Well, I'm the primary income for my husband and
15 I, so, and I wouldn't get paid if I was on jury
16 duty, so that's one consideration.

17 Q Aside from the financial hardship --

18 A Oh, no, physical, no, sir.

19 Q -- no physical health issues involving anyone
20 dependent upon you?

21 A No, sir.

22 Q It would just set you back financially?

23 A Yes, sir.

24 Q At Christmas time?

25 A Yeah. We would make it, though.

1 THE COURT: Any questions by the State or the
2 defense, Mr. Sorenson?

3 MR. SORENSON: May it please the Court, Your
4 Honor.

5 VOIR DIRE

6 BY MR. SORENSON:

7 Q Good evening, Ms. McKoy. My name is Don
8 Sorenson. I'm with the Solicitor's office. And I
9 just have a few questions for you because I realize
10 it's getting pretty late. I appreciate you bearing
11 with us this evening. With regards to being a type
12 three juror, let me just ask you, Ms. McKoy, do you
13 have any specific beliefs or opinions regarding the
14 death penalty?

15 A I certainly believe it's the State's right to
16 seek it on certain cases.

17 Q Let me ask you this. You had indicated that
18 you're a type three juror and the reason that you
19 gave the Court behind that was that you felt that
20 while not -- not everyone who's convicted of murder
21 deserves the death penalty, but it still should be
22 an option out there, I believe that's -- should
23 still be on the table as a possible sentence; is
24 that correct?

25 A Yes, sir.

1 Q Let me ask you this. You specifically now, if
2 you're sitting on a jury that has convicted a person
3 of murder and the Court has charged you that based
4 on the facts and the circumstances surrounding that
5 murder that the death penalty is an option, that you
6 have two options either death by electrocution or
7 lethal injection or life imprisonment, would you be
8 able to return a verdict of death if you felt the
9 facts and the circumstances warranted that
10 punishment?

11 A Yes, sir.

12 Q You would be able to?

13 A Yes, sir.

14 Q And would you then be able to, after finding
15 that that's the appropriate punishment, would you be
16 able to sign your name on a piece of paper
17 indicating that that's what we feel the appropriate
18 punishment in this case is?

19 A Yes, sir.

20 Q And would you then be able to, Ms. McKoy, come
21 out into this courtroom and then publish that
22 verdict to the public indicating that I feel, in
23 this case, the appropriate punishment is that the
24 defendant be sentenced to death?

25 A Yes, sir.

1 Q You would be able to do that?

2 A Yes, sir.

3 MR. SORENSON: That's all have. Thank you, Ms.
4 McKoy.

5 JUROR: You're welcome.

6 THE COURT: The defense.

7 MR. KOGER: May it please the Court.

8 VOIR DIRE

9 BY MR. KOGER:

10 Q Your husband is a full-time student, Ms. McKoy?

11 A Yes, sir, he is.

12 Q And he doesn't work part time?

13 A He is a musician, so he does receive income
14 through that. He travels probably about three
15 weekends of the month.

16 Q Okay. But you stated you are the primary
17 caretaker or source of income?

18 A Well, I have the majority of the income.

19 Q The majority of income?

20 A Yeah.

21 Q Okay. Would serving for about two weeks make a
22 hardship for you and your husband, a financial
23 hardship?

24 A It would, yeah.

25 Q Would it be an unbearable financial hardship?

1 A No, sir, not unbearable.

2 Q Now, I see on your questionnaire that you have
3 a cousin that works in Lamar, South Carolina?

4 A Yes, sir.

5 Q And he or she?

6 A He.

7 Q He's a member of the Highway Patrol?

8 A Yes, sir.

9 Q And he's still a member of the Highway Patrol?

10 A Yes, sir.

11 Q And how long has he been a member of the
12 Highway Patrol?

13 A I don't know him that well, maybe -- it's less
14 than ten years, so maybe somewhere between five and
15 ten.

16 Q And I see down here that you're a Seventh Day
17 Adventist?

18 A Yes, sir.

19 Q Okay. And would it be a problem if, for some
20 reason, you have to work on a Saturday? Would it be
21 a problem for you to work on Saturday?

22 A I think the Lord would see fit to let me go by
23 on that one. So I think it would be fine.

24 MR. KOGER: I have no further questions.

25 THE COURT: All right. Ma'am, if you'll wait

1 outside for me just a moment.

2 (Juror leaves the courtroom.)

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

4 **MR. SORENSON:** She's qualified, Your Honor.

5 **MR. KOGER:** The defense qualifies, Your Honor.

6 **THE COURT:** She can come back in, please.

7 (Juror enters the courtroom.)

8 **THE COURT:** Okay. Madame, you have been found
9 to be qualified to serve as a juror in this case,
10 that does not mean that you're on the jury, but it
11 means that potentially you may be selected as a
12 juror. We intend to do jury selection tomorrow at
13 noon, tomorrow at 12:00 noon. So we need you to
14 pack your bags and come and be ready to stay with us
15 for the duration of this trial. And I have a sheet
16 for you to look over explaining that particular
17 matter.

18 It's extremely important for you not to listen
19 to the radio, read the newspapers or watch any T.V.
20 accounts of this case, that would violate your oath
21 as a juror and might affect your ability to be a
22 juror, in addition to violating my order to you. Do
23 you understand, ma'am?

24 **JUROR:** Yes, sir.

25 **THE COURT:** We'll see you tomorrow at noon.

1 Now, when you come tomorrow at noon, we're going to
2 have you meet at the annex right across the walkway
3 here. And you need to have some plan as to what to
4 do with your car in the event you are selected,
5 meaning someone will be able to pick it up or
6 someone come here with you to drive it back in the
7 event you are selected.

8 JUROR: Okay.

9 THE COURT: See you tomorrow. Thank you very
10 much.

11 (Juror was excused for the day.)

12 THE COURT: All right. Next person.

13 (Whereupon, Candace S. Haynes, a black
14 female, enters the courtroom.)

15 CANDACE S. HAYNES,
16 having been previously duly sworn, testified as
17 follows:

18 VOIR DIRE

19 BY THE COURT:

20 Q Ms. Haynes, how are you doing?

21 A Fine.

22 Q Good. Ms. Haynes, where do you work?

23 A At Arby's.

24 Q And what town is that in?

25 A Saint Matthews.

1 Q Arby's in Saint Matthews. And what section of
2 this county do you live in?

3 A Saint Matthews.

4 Q And you live in town?

5 A Oh, no, like the country part.

6 Q What section of the country -- what do you call
7 the area you live in?

8 A Highway 176.

9 Q Highway 176?

10 A Uh-huh.

11 Q Now, pull that mike a little bit to you so I
12 can be sure everyone hears you a little better.
13 Now, has anyone tried to contact you since yesterday
14 about anything about this case?

15 A No, sir.

16 Q Have you read any newspaper accounts about this
17 case?

18 A No, sir.

19 Q Have you -- before yesterday, did you hear
20 anything about this case?

21 A No, sir.

22 Q Now, the defendant is charged with murder and
23 the State is seeking the death penalty. He is
24 presumed to be not guilty of murder and he cannot be
25 found guilty of murder unless the State proves to a

1 jury beyond a reasonable doubt that he's guilty of
2 murder. But if the State is able to do that, then
3 the jury would then decide what his sentence should
4 be. And the jury would have the choice of life
5 imprisonment without the possibility of parole or
6 the death penalty. Do you understand that?

7 A Yes, sir.

8 Q Now, did you look over this list of witnesses
9 who might testify?

10 A Uh-huh.

11 Q Do you know anyone on that list?

12 A No, sir.

13 Q And did you look over this list of the three
14 types of jurors?

15 A Uh-huh.

16 Q We need to know your opinion as to which type
17 of juror you are. Are you type one, type two or
18 type three juror? Which one are you?

19 A I think I would be three.

20 Q Type three?

21 A Uh-huh.

22 Q Now, according to this paper, a type three
23 juror would be a juror who, after listening to all
24 of the facts concerning punishment, could bring in a
25 verdict of life imprisonment without the possibility

1 of parole or could bring in a verdict for the death
2 penalty. Do you understand?

3 A (Juror nodded head.)

4 Q Could you bring in a verdict for life without
5 the possibility of parole if you were to serve on a
6 jury in the case?

7 A You say bring in?

8 Q Could you decide that to be the proper verdict?

9 A (Juror nodded head.)

10 Q Can't hear you. Did you understand my
11 question?

12 A Say it again.

13 Q I'll say it again. Let's sit back and relax,
14 make sure I don't have you too nervous. Are you
15 doing okay?

16 A (Juror nodded head.)

17 Q Now, the jury decides the punishment in a death
18 penalty case where a person has been found guilty of
19 murder. Do you understand?

20 A I understand about that part.

21 Q And the type three juror, according to this
22 sheet, is a juror who could decide on either one,
23 life imprisonment or death penalty?

24 A Uh-huh.

25 Q Depending on the facts and circumstances in

1 aggravation and mitigation that is presented during
2 trial. Do you understand?

3 A Yes, sir.

4 Q In other words, a type three juror is not a
5 juror who would always vote for the death penalty
6 regardless of evidence and not a juror that is
7 opposed to the death penalty and would always vote
8 for life imprisonment without the possibility of
9 parole. Do you understand?

10 A Yes, sir.

11 Q Could you vote for the death penalty in a case?

12 A Yeah.

13 Q Do you believe in the death penalty as an
14 appropriate punishment in certain cases?

15 A No, sir.

16 Q You do not believe in the death penalty as --
17 let me ask you the question again. Do you believe
18 that in certain cases, the death penalty is the
19 appropriate sentence in certain cases?

20 A Depending on what the person did.

21 Q Depending on what the person did?

22 A Uh-huh.

23 Q So you're not per se just against the death
24 penalty in all cases?

25 A No, sir.

1 Q You could vote for it in some cases depending
2 on what the case is all about and the facts and
3 circumstances?

4 A Yes, sir.

5 Q Now, do you have any babies, small children?

6 A No, sir.

7 Q Single mother?

8 A No kids at all.

9 Q Are you married or single?

10 A Single.

11 Q Now, the jury in this case will be sequestered,
12 meaning the jury would have to stay in a hotel while
13 the case is going on. You won't be able to go home
14 at night. You'll have to stay together. Do you
15 understand that?

16 A Yes, sir.

17 Q Would that pose any risk of health and safety
18 to you or anyone in your family?

19 A No, sir.

20 THE COURT: Let's see if the defense or the
21 State has anything to ask you.

22 Defense first.

23 MR. WALTERS: May it please the Court.

24 ****

25 ****

1 VOIR DIRE

2 BY MR. WALTERS:

3 Q Good evening, Ms. Haynes. How are you? Ms.
4 Haynes, you indicated that you're the type juror
5 that you referred to as number three; is that
6 correct?

7 A Yes, sir.

8 Q And I want to make sure I'm clear on what
9 you're saying and I don't want to put words in your
10 mouth, so certainly stop me. You understand, in
11 this process, it's a two step process. Number one,
12 the State must prove, the Solicitor's office must
13 prove that a murder occurred in this case, that
14 there was malice aforethought in the unlawful
15 killing of a person. They must prove that beyond a
16 reasonable doubt, not maybe it happened or it could
17 have happened, but they must prove that beyond a
18 reasonable doubt. If they should fail to do so,
19 could you return a verdict of not guilty?

20 A (Juror nodded head.)

21 Q You have to respond verbally so she can take
22 down your answers.

23 A Yes, sir.

24 Q You said, yes, you could do that, ma'am?

25 A (Juror nodded head.)

1 Q Okay. You do also understand that if this case
2 goes into the sentencing phase, that the prosecution
3 will be allowed to present evidence with regards to
4 the crime itself and the aggravating circumstances?

5 A Yes, sir.

6 Q The defense will be allowed to present
7 information with regards to mitigating
8 circumstances, the life that Mr. Mahdi has lived,
9 his family, his parents, how he grew up in this
10 world. Could you give meaningful appreciation and
11 significance to all of these factors as they're
12 presented by both sides? Could you consider all of
13 that in deliberating?

14 A Yes, sir.

15 Q Okay. And you do understand that there will be
16 12 people on the jury, but it's an individual
17 decision?

18 A Yes, sir.

19 Q You have to look at all of the facts and the
20 information that's presented and you make the
21 decision as to what you think is right. And, of
22 course, you would have to listen to the other
23 parties in the jury to determine if -- listen to
24 what they have to say. In other words, there has to
25 be respect among all parties in listening to their

1 positions, but most importantly, it's my
2 understanding when you say you're a type number
3 three, you want all of the facts, all of the
4 information and then you'll make up your mind; is
5 that correct?

6 A Yes, sir.

7 MR. WALTERS: Your Honor, I have no further
8 questions.

9 THE COURT: Mr. Sorenson.

10 MR. SORENSON: May it please the Court.

11 VOIR DIRE

12 BY MR. SORENSON:

13 Q Good evening Ms. Haynes.

14 A How are you doing?

15 Q I'm fine. My name is Don Sorenson. I'm with
16 the Solicitor's office. And I just have a few
17 questions for you. I want to thank you for bearing
18 with us this evening. I know it's getting pretty
19 late. The first thing I want to ask you about, you
20 had indicated that you work at Arby's?

21 A Yes, sir.

22 Q And that's the Arby's that's on the interstate?

23 A Yes, sir.

24 Q Back at, I guess, was it Exit 139?

25 A Yes, sir.

1 Q And it's actually part of the Wilco Travel
2 Plaza, right, the Hess Station?

3 A Yes, sir.

4 Q They're all in the same building; is that
5 correct?

6 A Yes, sir.

7 Q How long have you worked there?

8 A Over a year.

9 Q When did you start; do you recall?

10 A July the 9th of 2005.

11 Q July 9th of 2005?

12 A (Juror nodded head.)

13 Q Okay. And you -- I believe you had told the
14 Court earlier and I guess yesterday also that you
15 don't know anything about this case other than what
16 His Honor told you in the courtroom yesterday; is
17 that correct?

18 A Yes, sir.

19 Q Now, as far as your beliefs, Ms. Haynes, you
20 had indicated, and I just want to make sure I got
21 this straight in my mind because it's getting kind
22 of late, but initially you had indicated to His
23 Honor that you do not believe in the death penalty
24 as an appropriate punishment; is that correct? Do
25 you remember His Honor asking you that question?

1 A Yes, sir.

2 Q And then I think you kind of changed your
3 answer to that and I just want to kind of ask you
4 one more time now. Is it your belief that you are
5 opposed to the death penalty?

6 A (No response.)

7 Q Do you think the death penalty is an
8 appropriate punishment that you could vote for?

9 A It depends on what the case is, like what the
10 person did.

11 Q Okay. Let me kind of go -- kind of go into
12 that a little bit then. So if you're sitting on a
13 jury that has convicted somebody of murder where you
14 found that the State has proven to you beyond a
15 reasonable doubt the person is guilty of murder and
16 His Honor charged you that you now, after looking at
17 all the facts and circumstances surrounding the
18 crime, the evidence in aggravation and any potential
19 mitigation that may be out there, that His Honor
20 charged you now that you could come back with one or
21 two sentences, either the death sentence -- the
22 death penalty or life imprisonment, could you return
23 a verdict for the death penalty?

24 A (Juror nodded head.)

25 Q You would be able to do that? I need you to

1 answer for me so the court reporter can hear you.

2 A Yes, sir.

3 Q So you would be able to -- there are
4 circumstances and facts, situations in your mind
5 where you feel that that would be the appropriate
6 punishment, the death penalty?

7 A Yes, sir.

8 Q And in those cases where you feel that that's
9 the appropriate punishment, would you then be able
10 to write your name on a form, sign your name on a
11 form indicating that that is what you feel the
12 appropriate punishment is?

13 A Yes, sir.

14 Q Ms. Haynes, would you then be able to come into
15 this courtroom and tell us all in front of the open
16 public that that's what my verdict is and I feel
17 that the death penalty is the appropriate punishment
18 in this case?

19 A Yes, sir.

20 Q If you would tell me, Ms. Haynes, what is your
21 understanding of what the death penalty is?

22 A Like if somebody committed a bad crime or
23 whatever and if they're charged with it, then it's
24 the death penalty.

25 Q Okay. But what is the death penalty? What

1 happens if the jury returns a -- indicates that the
2 person should get the death penalty? What happens
3 to that person?

4 A They die.

5 Q They die. And you understand that; is that
6 correct?

7 A Uh-huh.

8 MR. SORENSON: Beg the Court's indulgence.

9 (Pause.)

10 Q And do you have any beliefs or anything that
11 would lead you to be opposed to the death penalty in
12 all cases?

13 A No, sir.

14 MR. SORENSON: That's all I have, Your Honor.

15 THE COURT: Ma'am, if you'll step outside for a
16 moment.

17 (Juror leaves the courtroom.)

18 THE COURT: What says the defense?

19 MR. WALTERS: She's qualified, Your Honor.

20 THE COURT: What says the State?

21 MR. SORENSON: Your Honor, I feel she is
22 qualified. My only concern, and I'm afraid it's
23 something that's going to suddenly pop up and
24 suddenly occur to her, is that the Arby's that she
25 works at is part of that Wilco Hess Travel Plaza

1 where the State is alleging Mr. Mahdi fled leaving
2 that Expedition that morning. It's less than a
3 quarter of a mile from our crime scene. And I'm
4 just afraid that -- I mean, she wasn't working there
5 at the time and has indicated she has not heard
6 anything about it, but I'm just afraid that's
7 something that's all of a sudden going to strike her
8 at some point in time realizing, well, that's where
9 I work.

10 I just don't -- I mean, not necessarily sure
11 that makes her not qualified, but still that's just
12 a concern I have.

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

14 **MR. WALTERS:** May it please the Court. Your
15 Honor, there have been plenty of jurors that have
16 come through that say, I live around the corner from
17 there, I live in Sandy Run. There's even one lady
18 that lives out at Sweet Water.

19 It happened in this county. She went to work
20 there well after his death. It was July 9th of
21 2005. This murder occurred on July 18th of 2004. I
22 think that she's well-equipped to handle the facts
23 and the information that's presented to her. The
24 murder did not occur at the Wilco Station, at the
25 Arby's or at the gas station that's present there.

1 It occurred probably a mile, mile and a half away
2 over at the hunting shed behind this particular
3 exit.

4 So I think she's an adult. She's well-equipped
5 to handle it. And, certainly, I don't think
6 anything will come up that will cause her to refrain
7 from conducting her duties properly.

8 **THE COURT:** Well, what if I asked her whether
9 or not -- first, tell her that evidence may be
10 presented in this case that some of the events
11 concerning this matter occurred where she now works
12 and would that affect her ability to be fair and
13 impartial? Any objection to that?

14 **MR. WALTERS:** I'd object to that, Your Honor,
15 because what we're interjecting in the process is,
16 is that something is going on where you work.
17 That's just not the case.

18 She looked at the list of witnesses and she
19 didn't indicate that she knew Annie or Katrina that
20 worked over in the gas station part of the Wilco
21 Station. So what we've got is we've got a young
22 lady who's just going to work and there's nothing
23 bad that occurred at the Wilco Station. There's
24 some information that'll come in that someone tried
25 to use some credit cards there and they called the

1 police. Well, that's a daily event in the Wilco
2 Station, people come in with credit cards and they
3 don't work. There's no murder that occurred there.

4 She worked there July of 2005. And she doesn't
5 even know Annie and Katrina, which were the cashiers
6 that were over the gas station part of the Wilco
7 Station. I think when we interject that in the
8 process, it makes her think, well, something did
9 happen where I work. Nothing happened where she
10 worked. It happened over a mile away behind there.

11 **THE COURT:** When you said nothing occurred
12 where she worked, I thought that's a major part of
13 the State's case is that Mr. Mahdi went to the place
14 where she works, though she wasn't working there at
15 the time, and the officers responded to the scene
16 there and that's where he fled from that scene
17 leaving the vehicle. So that evidence concerning
18 that particular scene is a very significant aspect
19 of the evidence the State intends to offer in the
20 case as I understand it.

21 **MR. WALTERS:** Your Honor, nothing happened in
22 the Arby's and that's where those employees worked,
23 in the Arby's. If she worked with Katrina and Annie
24 over at the Wilco Station, I would understand that,
25 but absolutely nothing happened in the Arby's.

1 **THE COURT:** So your point is that because it
2 was the Wilco Station and not the Arby's, that,
3 therefore, it doesn't really matter. Perhaps had
4 she been an employee of Wilco where the credit cards
5 were brought, then that might be a different story.

6 **MR. WALTERS:** I would expect her to say that
7 she knew Annie and Katrina that worked at the Wilco
8 Station, but it appears they don't turn those
9 employees -- they don't circulate them between the
10 two businesses.

11 **MR. SORENSON:** I think the two of them had left
12 -- I'm not sure they were still there when she
13 started working.

14 **MR. WALTERS:** But my point is there's no
15 interaction, I don't believe, between the two and --

16 **THE COURT:** I understand your point and Hess is
17 not Arby's. And if anything occurred, it occurred
18 at Hess even though it's in the same complex.

19 **MR. SORENSON:** It's actually the same building.
20 I mean, they share the same restrooms. I mean,
21 it's...

22 **THE COURT:** Probably owned by the same person.

23 **MR. WALTERS:** They don't open at the same
24 times. You can't enter in the same way. Arby's
25 works a regular schedule just like a restaurant.

1 The Wilco Station is open 24 hours, seven days a
2 week.

3 **THE COURT:** I will not comment on it. It may,
4 in some way, amount to -- not that it will amount to
5 commenting on the facts, but I see both sides. I
6 don't think there's any harm in doing anything
7 either way. Anything further, Mr. Sorenson?

8 **MR. SORENSON:** No, sir.

9 **THE COURT:** All right. Let's bring her in.
10 (Juror enters the courtroom.)

11 **THE COURT:** Yes, ma'am. You can stand up this
12 time or you can sit down, if you want to.

13 You've been found to be qualified as a
14 potential juror in this case, that means that you
15 have not been selected to be on the jury, but you
16 might be selected to be on the jury. And we need
17 you to come tomorrow at noon packed as if you will
18 be on the jury. And then after jury selection,
19 we'll know whether you're on the jury or not. So I
20 have a sheet of paper for you. And if you are
21 selected on the jury, you're going to need to be
22 with us for about ten days, give or take a day or
23 two.

24 Now, it's important that you not watch any
25 television programs concerning this case, not read

1 any newspaper concerning this case. And you're not
2 going back to work tonight, are you?

3 JUROR: Huh-huh.

4 THE COURT: Because you're on jury duty, you'll
5 be here.

6 JUROR: (Juror nodded head.)

7 THE COURT: So we'll see you tomorrow. Need
8 you to be here at noon tomorrow and report right to
9 that building right across the walkway, the tax
10 building, the annex. There's a conference room in
11 there where all the jurors will go. And do you
12 drive here or ride with someone?

13 JUROR: I'll ride with somebody.

14 THE COURT: Okay. We'll see you at noon
15 tomorrow.

16 (Juror was excused for the day.)

17 THE COURT: Next person.

18 (Whereupon, Perry L. Jones, a black male,
19 enters the courtroom.)

20 PERRY L. JONES,
21 having been previously duly sworn, testified as
22 follows:

23 VOIR DIRE

24 BY THE COURT:

25 Q Mr. Jones, how are you doing?

- 1 A I'm all right.
- 2 Q You're the last person for the night. What
- 3 time did you come here today?
- 4 A 5:30.
- 5 Q 5:30 and it's now 8:30. We're running way
- 6 behind. We started at nine o'clock this morning
- 7 with panel number two. Has anyone contacted you or
- 8 discussed this case with you or have you read
- 9 anything about this case since you were here
- 10 yesterday?
- 11 A No.
- 12 Q And before yesterday, had you heard anything
- 13 about this case?
- 14 A Yeah.
- 15 Q And what have you heard about this case before
- 16 yesterday?
- 17 A Other than someone getting killed. I don't
- 18 read the paper. I don't look at the news.
- 19 Q Now, the fact of what you might have heard
- 20 about the case before yesterday, did it cause you to
- 21 form an opinion about the guilt or innocence of the
- 22 defendant in this case?
- 23 A No, I control my own. I don't think about
- 24 nobody else.
- 25 Q Now, where do you work?

- 1 A Zeus Industrial in Orangeburg.
- 2 Q Pull that mike closer to you. Zeus Industrial
- 3 in Orangeburg; is that right?
- 4 A Yes, sir.
- 5 Q And what area of the county do you live in?
- 6 What section of this county do you live in?
- 7 A Highway Six.
- 8 Q Highway Six, going toward?
- 9 A Columbia.
- 10 Q Now, the defendant is charged with murder and
- 11 the State is seeking the death penalty. Do you
- 12 understand that?
- 13 A Yeah.
- 14 Q Now, he's presumed to be not guilty. And the
- 15 jury may find him not guilty of murder. He's
- 16 presumed to be not guilty. And the State must prove
- 17 him guilty by presenting evidence which convinces a
- 18 jury of his guilt beyond a reasonable doubt. But if
- 19 the jury finds him guilty of murder, then the jury
- 20 would then decide what sentence he should get. And
- 21 the jury will decide whether he should get life
- 22 imprisonment without the possibility of parole or
- 23 the death penalty. Do you understand that?
- 24 A Yeah.
- 25 Q Now, we, therefore, need to know your opinions

1 concerning the death penalty and a few other
2 matters. Now, did you look over that list of people
3 who might testify in this case?

4 A Yeah.

5 Q Did you know anyone on that list?

6 A I only know two names I ever seen on that list.

7 Q I don't think she can understand you. Say that
8 again.

9 A I only know of two names I ever seen on that
10 list.

11 Q And who are they?

12 A Williams out of Orangeburg and the Sheriff
13 here.

14 Q The Sheriff here and the Sheriff in Orangeburg?

15 A Yeah.

16 Q And would that,-- the fact that they may
17 testify, would that affect your ability to be fair
18 and impartial as a juror?

19 A Don't know them that well.

20 Q Now, did you look over the second page that
21 lists the three types of jurors?

22 A Yeah.

23 Q And which type of juror would best describe
24 you, number one, number two or number three?

25 A Maybe two and three, but I don't judge me -- I

1 can't see me as -- I don't know. I really don't
2 know.

3 Q You don't know if you're a two or a three?

4 A No.

5 Q Now, the number two type of juror is a juror
6 who would vote for life imprisonment in all cases of
7 murder regardless of the circumstances, that's
8 number two. A number three type juror can vote for
9 the death penalty or can vote for life imprisonment
10 without the possibility of parole depending on the
11 facts and circumstances of the case and considering
12 the aggravating and mitigating circumstances. So
13 are you a number two or a number three?

14 A I guess two would be more me.

15 Q And a number two person is a person who would
16 never vote for the death penalty regardless of the
17 circumstances, regardless of how bad the case might
18 be; is that you?

19 A Yeah.

20 Q Now, considering the fact that you are opposed
21 to the death penalty or you think that you're
22 opposed to the death penalty, is that opinion one
23 that's so firmly fixed in your mind that you would
24 never give the death penalty regardless of the
25 circumstances of a case?

1 A I can't see killing, so I'm -- I'm a nonviolent
2 person. I just can't do that.

3 Q You can't what?

4 A I don't see killing. I mean, I'm just a
5 nonviolent person.

6 Q Are you opposed to the death penalty?

7 A Yeah, kind of, sort of.

8 Q Could you ever vote for the death penalty in a
9 case?

10 A I don't think so.

11 THE COURT: All right. We'll let the lawyers
12 have a chance to ask you some questions.

13 Mr. Koger.

14 MR. KOGER: May it please the Court.

15 VOIR DIRE

16 BY MR. KOGER:

17 Q Mr. Jones, you say that you think you could
18 never vote for the death penalty, correct?

19 A Yeah, as of me now, I don't think I could.

20 Q Okay. That's fine. There's no right or wrong
21 answer. We're just trying to get your opinion on
22 this. Suppose you hear a case, and, of course, the
23 case is for murder, and there are just horrific
24 circumstances around the murder, could you still not
25 vote for the death penalty?

1 A Just my own personal opinion?

2 Q Yes.

3 A I don't think so.

4 Q All right. How was your opinion about the
5 death penalty formed? Have you held these opinions
6 for a long time?

7 A Yeah, I guess it comes with how you grew up in
8 life.

9 Q Okay. And these were opinions that were held
10 by your parents or people around you, I suppose?

11 A Yeah, I think so.

12 Q So it's your testimony, I just want to clarify,
13 it's your testimony that you could never vote for
14 the death penalty?

15 A I probably wouldn't, yeah. I don't think so.

16 Q Even if you hear facts about a particular case?

17 A It's depending on what I know -- what I know or
18 not, just hearing stuff, it's depending on what you
19 know.

20 Q Okay. And you say it depends on what you know.
21 Is that based upon on what comes out in the case as
22 far as evidence and testimony?

23 A That's depending on what I know about the case.
24 I don't know what no one bring to me, just depending
25 on what I know, my personal -- what I personally

1 know about the case or what I personally know about
2 what happened in a case or whatever.

3 Q Okay. Now, in this particular case, I think
4 you testified that you didn't have any personal
5 knowledge of what happened?

6 A Say that again.

7 Q In this particular case, I think you testified
8 you don't have any real personal knowledge of what
9 happened?

10 A No.

11 Q And I think you also testified that you do not
12 read a newspaper, correct, or look at the news?

13 A No.

14 Q And so you get your information by word of
15 mouth or --

16 A Just people talking.

17 Q People talking, okay. And, again, just to
18 clarify, in this particular case, you haven't heard
19 anyone talking?

20 A No.

21 MR. KOGER: Thank you. I have no further
22 questions.

23 THE COURT: Yes, sir, Mr. Sorenson.

24 MR. SORENSON: May it please the Court, Your
25 Honor.

1 VOIR DIRE

2 BY MR. SORENSON:

3 Q Good evening, Mr. Jones. I've got just a
4 couple of questions for you. I know it's getting
5 late and you're ready to get out of here, but in
6 listening to everything you've told us, looking back
7 at those three types of jurors that His Honor talked
8 to you about initially, you would fit into a type
9 two, is that correct, person that's always going to
10 feel that life imprisonment would be the appropriate
11 punishment?

12 A That's rough enough.

13 Q That's rough enough?

14 A Yeah.

15 Q And the fact is, I believe, that you indicated
16 to His Honor before that you're opposed to the death
17 penalty and just don't ever see a situation where
18 you could give the death penalty; is that correct?

19 A Yeah.

20 MR. SORENSON: I appreciate it, Mr. Jones.
21 Thank you.

22 THE COURT: Any objection to this juror being
23 excused?

24 MR. KOGER: No objection, Your Honor.

25 THE COURT: Mr. Sorenson.

1 Honor, could you inquire and make sure no one saw
2 the news last night because what they showed on
3 television was, was not only the issues in South
4 Carolina, but then they also have the film of the
5 issues that occurred in North Carolina? They
6 actually showed that on television.

7 THE COURT: I think I'll, at this point, just
8 ask them not to talk with each other and then when
9 they come out individually, they'll be questioned as
10 to that.

11 MR. WALTERS: Yes, sir.

12 THE COURT: With regard to -- with respect to
13 Mr. Mahdi and the restraints that he may have on
14 him, what type -- does he have on leg irons or --

15 OFFICER: Yeah, he has leg irons.

16 THE COURT: So Mr. Walters or Mr. Koger, where
17 will Mr. Mahdi be seated, which place will he be
18 seated?

19 MR. WALTERS: I believe the Sheriff wanted him
20 seated there, could we move him?

21 OFFICER: Yes.

22 MR. WALTERS: That way he's behind the bar
23 there and they can't see --

24 THE COURT: Well, my concern is for the jurors
25 from this angle not -- so it seems as if you moved

1 him to the worst possible spot, of course -- because
2 you have a chain dragging on the floor and so if
3 he's to be shielded, then he should probably be in
4 that particular spot.

5 Now, the other thing we can consider doing is
6 putting a shield in front of the table there or
7 draping the table so it wouldn't be open and then,
8 at that point, it wouldn't matter whether he's
9 seated right where he is now or where Mr. Koger is
10 as far as the view being obscured, but that corner
11 seat would not work. Where your consultant is
12 seated would not be a proper place for Mr. Mahdi to
13 sit.

14 MR. WALTERS: Your Honor, if it can be draped,
15 that would be perfect because we're moving around.

16 THE COURT: Mr. Clerk, then we want to arrange,
17 by the time we start the actual jury selection, to
18 have the table draped with something, if you can be
19 thinking about that.

20 All right. If you can bring them all in.

21 (Jury panel number eight enters the
22 courtroom.)

23 THE COURT: Good morning, ladies and gentlemen.
24 I want to thank you all for coming as you were
25 instructed to do. In just a moment, we're going to

1 him to the worst possible spot, of course -- because
2 you have a chain dragging on the floor and so if
3 he's to be shielded, then he should probably be in
4 that particular spot.

5 Now, the other thing we can consider doing is
6 putting a shield in front of the table there or
7 draping the table so it wouldn't be open and then,
8 at that point, it wouldn't matter whether he's
9 seated right where he is now or where Mr. Koger is
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18 have the table draped with something, if you can be
19 thinking about that.

20 All right. If you can bring them all in.

21 (Jury panel number eight enters the
22 courtroom.)

23 THE COURT: Good morning, ladies and gentlemen.
24 I want to thank you all for coming as you were
25 instructed to do. In just a moment, we're going to

1 have you all come in individually and talk with you
2 for a moment. And I want to reemphasize to you that
3 you are to not -- you're not to discuss this case in
4 any form or fashion or allow anyone to discuss it
5 with you or in your presence at any point in time,
6 including while you're in the jury room waiting to
7 come out here for us to talk with you. So we'll
8 have you to go back to the jury room and follow the
9 bailiffs instructions.

10 (Jury panel leaves the courtroom.)

11 **THE COURT:** Since they're just coming up, I
12 guess the first person we'll talk with will need
13 some time to review the sheets and the witness list
14 before we can get going, that will be Michael
15 Walling is the first one.

16 Are there any other matters or issues while
17 we're waiting on Mr. Walling to review the jury list
18 is and the question sheet?

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

20 **MR. SORENSON:** No, Your Honor.

21 **THE COURT:** All right. We'll be at ease then
22 for about five minutes.

23 (Brief recess.)

24 (Whereupon, Michael P. Walling, a white
25 male, enters the courtroom.)

1 MICHAEL P. WALLING,
2 having been previously duly sworn, testified as
3 follows:

4 VOIR DIRE

5 BY THE COURT:

6 Q Good morning, Mr. Walling. How are you doing?

7 A Good.

8 Q Are you doing okay today?

9 A Yes, sir.

10 Q Good. Mr. Walling, have you been exposed to
11 any information about this case since you were
12 placed on this panel Monday?

13 A No, sir.

14 Q Did you hear about the case prior to that time?

15 A Yes, sir.

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

19 A Yes, sir, it did.

20 Q And do you believe that you could set aside
21 that previously formed opinion and decide this case
22 based on the evidence presented in this courtroom
23 and not based on what you previously heard?

24 A No, sir.

25 Q You have a fixed opinion as to his guilt or

1 innocence?

2 A Yes, sir, I do.

3 Q And what is that opinion that you have?

4 A I feel he's guilty.

5 Q And based on that opinion, do you believe that
6 you can sit as a fair and impartial juror in this
7 case?

8 A No, sir, I can't.

9 THE COURT: Any question by the State or the
10 defense?

11 MR. WALTERS: No questions, Your Honor.

12 MR. SORENSON: No, sir.

13 THE COURT: Okay. Any objection to this juror
14 being excused?

15 MR. WALTERS: No, sir, Your Honor.

16 MR. SORENSON: No, sir.

17 THE COURT: Thank you, Mr. Walling, for coming
18 in and for your candor. You'll excused from further
19 service on this case.

20 JUROR: Thank you, Judge.

21 (Juror was excused.)

22 THE COURT: That doesn't give much time for the
23 next person to read.

24 OFFICER: We can sit them outside with two
25 papers.

1 **THE COURT:** Is somebody outside with them to
2 make sure they don't talk?

3 **OFFICER:** Yes, sir.

4 **THE COURT:** Any objection about that by either
5 side?

6 **MR. WALTERS:** No, sir.

7 **MR. SORENSON:** No, sir.

8 **THE COURT:** Let's do that so we can be ready
9 and not have to wait.

10 (Pause.)

11 **MR. SORENSON:** Can we approach?

12 **THE COURT:** Yes.

13 (Whereupon, a bench conference was held off
14 the record.)

15 **THE COURT:** You can have her come in.

16 (Juror Shirley E. Simmons enters the
17 courtroom.)

18 **THE COURT:** Ma'am, you can stand right there,
19 that will be all right.

20 **JUROR:** How are you doing, Your Honor?

21 **THE COURT:** I'm doing fine.

22 **JUROR:** Good morning. I just came in -- I
23 wanted -- I had a home emergency and I'm trying to
24 get it taken care of this afternoon. And I was
25 seeing whether you could excuse me. I have to get

1 -- my hot water heater messed up on me last night.
2 It was running water and stuff and I'm trying to get
3 it fixed. So somebody is supposed to be coming out
4 to fix it this afternoon. It's leaking water. My
5 carpet is wet. I'm trying to get that taken care
6 of.

7 **THE COURT:** Who do you live with?

8 **JUROR:** Just me, I live with, you know, just
9 me, me and my little son.

10 **THE COURT:** And your son is what age?

11 **JUROR:** Huh?

12 **THE COURT:** What age is your son?

13 **JUROR:** Sixteen.

14 **THE COURT:** And did you make arrangements for
15 someone to care for him?

16 **JUROR:** Yeah, someone supposed to be coming out
17 this afternoon.

18 **THE COURT:** Did you make arrangements for
19 someone to care for your son while serving on the
20 jury, if you are picked on the jury?

21 **JUROR:** No.

22 **THE COURT:** If your hot water heater didn't go
23 out on you, what plans did you have arranged for
24 your son?

25 **JUROR:** I don't know. I guess he would have to

1 stay with my mom.

2 THE COURT: Would have to stay where?

3 JUROR: I guess he would have to stay with my
4 mom or somebody because it's just the two of us
5 there.

6 THE COURT: How far does your mother live from
7 you?

8 JUROR: She lives in Orangeburg.

9 THE COURT: Have you talked with her about your
10 son being with her?

11 JUROR: No, not yet.

12 THE COURT: And when did you plan to do that?

13 JUROR: Huh?

14 THE COURT: When did you plan to do that?

15 JUROR: I don't know. I just wait -- I talked
16 to her, I told her I wasn't, you know, picked or
17 nothing yet, so I didn't discuss that with her yet
18 when I talked to her. Then when I went home last
19 night, the heater started acting up on me.

20 THE COURT: And what happened to your hot water
21 heater?

22 JUROR: It started leaking water.

23 THE COURT: It started leaking water?

24 JUROR: Yeah. The carpet is wet. I called
25 someone this morning to check it for me. I think

1 it's because where it's leaking, I noticed because
2 the carpet is wet, it's in my closet. And when I
3 pulled the panel down, you can see the water coming
4 out of it and it's leaking.

5 So what I did, he told me, he said until he got
6 there, to cut the hot water off so it won't burn up
7 my, you know, my tank. So I cut -- he told me to
8 cut that off from the box. So I cut that off, but
9 it's still leaking. He said it wouldn't be burning
10 my heater. He told me to cut the hot water heater
11 part off, so I did that. So he's supposed to be
12 coming out this afternoon to check it for me.

13 I called this guy up from here. I forgot his
14 name, but I called him. He's supposed to be coming
15 out this afternoon to fix it for me because I would
16 hate for it to burn up on me. I would have to buy
17 another hot water heater.

18 **THE COURT:** You said you turned it off, didn't
19 you?

20 **JUROR:** Yeah, I got it off.

21 **THE COURT:** So it can't burn up if you've
22 turned it off.

23 **JUROR:** It's still leaking water, though.

24 **THE COURT:** How much water is it leaking?

25 **JUROR:** The carpet is wet. So I moved all of

1 the things out of the closet and the carpet down
2 there is wet.

3 THE COURT: Which room of the house do you have
4 the hot water heater in?

5 JUROR: It's in my closet in my room.

6 THE COURT: Which room, bedroom the kitchen?

7 JUROR: Yeah, in my bedroom.

8 THE COURT: Questions by the State?

9 MR. PASCOE: No questions, Your Honor.

10 THE COURT: By the defense?

11 MR. WALTERS: I have no questions, Your Honor.

12 THE COURT: Do you have his name and his number
13 in that phone book there?

14 JUROR: Uh-huh.

15 THE COURT: Who is it?

16 JUROR: I'm looking now. I called the guy this
17 morning. And he's supposed to be coming out -- but
18 he had to do some work in Columbia.

19 (Pause.)

20 THE COURT: Have you talked with him already or
21 are you still trying to find him?

22 JUROR: No, I talked to him this morning. I'm
23 trying to find the number. I already spoke with
24 him. It's right here.

25 THE COURT: Can you read out his name?

1 JUROR: (No response.)

2 THE COURT: Ms. Simmons, are you still trying
3 to find the name?

4 THE CLERK: It's G.F. Hodges and Sons.

5 THE COURT: You talked to Mr. Hodges?

6 JUROR: He said he got some work to do in
7 Columbia, but he'll get to me this afternoon.

8 THE COURT: What are you doing about the leak
9 while waiting for him?

10 JUROR: Well, I got a little thing under there.
11 He told me to put a little pan under there to catch
12 that water to keep it from going on my carpet
13 because I moved the boxes, I had some boxes in my
14 closet, so I moved them, you know, where it's
15 leaking on my carpet, I moved them out the way until
16 he get there.

17 THE COURT: Is it dripping or running?

18 JUROR: No, it's -- sound like it's a little
19 stream because, see, it's behind my panel and I had
20 to take the panel down, you know, to see coming
21 through the little --

22 THE COURT: Do you think it might mess up your
23 house if you don't stay there and tend to it?

24 JUROR: Yeah, because the little pipes, the
25 water is coming out the little, you know, the little

1 pipes that go to the thing, I see it coming out of
2 there. And the carpet is already wet.

3 THE COURT: Can you make arrangements for
4 someone else to be there and take care of this for
5 you?

6 JUROR: I don't have anyone.

7 THE COURT: You don't have anyone to take care
8 of it for you?

9 JUROR: No, it's only me there. It's only me
10 there. See, everything is on me.

11 THE COURT: You can't get your brother or
12 sister or anyone else, cousin, to meet the man over
13 there?

14 JUROR: No everybody's working. Everybody's
15 working.

16 THE COURT: So do you want to be excused from
17 the jury?

18 JUROR: Yes, sir, Your Honor.

19 THE COURT: Is that your only reason?

20 JUROR: Yes, sir, Your Honor, the only reason.
21 You know, other than that, I would be willing to
22 serve, you know, but this thing just happened,
23 started doing that last night because, see, when I
24 was walking by, I heard the noise. When I heard the
25 noise, then I opened it and I saw where the water

1 was coming, then I called the guy, he said he
2 couldn't come out, it was too late. So I said,
3 well, let me call somebody, I called back and I
4 didn't get an answer. So that's when I called
5 Mr. Hodges.

6 **THE COURT:** All right. Ms. Simmons, sorry
7 about your trouble. We'll excuse you from jury
8 service.

9 **JUROR:** Okay. Thank you, Your Honor.

10 **THE COURT:** We'll see you later. I hope you
11 have a happy holiday.

12 **JUROR:** Okay. You, too. You know, when you're
13 by yourself, everything is on you.

14 **THE COURT:** I understand.

15 (Juror was excused.)

16 **THE COURT:** Any exceptions by the State or the
17 defense?

18 **MR. PASCOE:** None, Your Honor.

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

20 **THE COURT:** All right. We'll have our next
21 juror, please.

22 (Whereupon, Robert L. Greenwaldt, a white
23 male, enters the courtroom.)

24 ****

25 ****

1 ROBERT L. GREENWALDT,
2 having been previously duly sworn, testified as
3 follows:

4 VOIR DIRE

5 BY THE COURT:

6 Q Good morning, Mr. Greenwaldt. How are you
7 doing?

8 A Pretty good.

9 Q Good. Remember you're still under oath from
10 before?

11 A Yes.

12 Q Mr. Greenwaldt, where do you work?

13 A I work for Martin Marietta Rock Quarry.

14 Q And where is that located?

15 A That's over in the Cayce area.

16 Q And what area of this county do you live in?

17 A I live in Calhoun County.

18 Q And what section of the county?

19 A Sandy Run.

20 Q And have you been exposed to any information
21 about this case or talked with anyone or read any
22 newspaper article or have you seen any news accounts
23 concerning this case since you were selected on --
24 since you were placed in the panel on Monday?

25 A No, I haven't.

1 Q And prior to that time, had you heard anything
2 about this case?

3 A I haven't.

4 Q And did you get an opportunity to look over the
5 list of people who may testify in this case?

6 A Yes, I have.

7 Q And do you know any of those folks?

8 A No, I don't.

9 Q We have some questions that we need to ask you
10 and it's not for the purpose of invading your
11 privacy. And there are no right or wrong answers to
12 these questions. It's just essential that we get
13 some information from you that might impact on your
14 jury service.

15 One of the things we'll talk with you about in
16 a few minutes will be your opinion concerning the
17 death penalty because that may be an issue in this
18 case. The mere fact that we may ask you questions
19 about it, however, is -- it's somewhat premature.

20 The defendant, Mr. Mahdi, is presumed to be
21 innocent of the charges against him and that
22 presumption of innocence remains with him unless or
23 until the State proves that he is guilty beyond a
24 reasonable doubt. Do you understand that, sir?

25 A Sure do.

1 Q And have you formed an opinion, at this point,
2 concerning the guilt or innocence of the defendant?

3 A Well, I go with the type three on the sheet
4 that I've read.

5 Q Yes, sir.

6 A And so I believe in you've got to be proven
7 guilty by the law and only by the law and that's it.

8 Q And would you be able to follow the law as I
9 will instruct you during the course of the trial?

10 A Oh, sure, yes.

11 Q Now, you indicated that you believe that you're
12 a number three based on your view of the three types
13 of jurors in that sheet. And a type three juror is
14 a juror who could give the death penalty or who
15 could give a sentence of life imprisonment without
16 the possibility of parole, could give either
17 verdict, but would first want to listen and consider
18 all of the aggravating circumstances and mitigating
19 circumstances that might apply in the case. Is that
20 the type of juror that you are?

21 A Yes, I am.

22 Q And the -- this particular case may last up to
23 ten days or so and the jurors will be housed
24 together while the case is going on. Obviously,
25 that would be an inconvenience to you as it will to

1 all other jurors, but aside from the inconvenience,
2 would that -- would having to serve in this capacity
3 pose a serious risk of danger to your health or
4 well-being or to that of anybody who is dependent
5 upon you?

6 A I don't think so. I don't -- I wouldn't know
7 how to really answer that one, but I wouldn't think
8 so. It probably could, but then I would say, no,
9 more so.

10 Q Of course, obviously, if you're not at your
11 job, it will have some adverse impact on your income
12 and that will be -- constitute an inconvenience, but
13 aside from that --

14 A Well, of that there, I've already found out and
15 everything about, as far as from my job and
16 everything, I don't think I have any concern with
17 that. I do get paid for two weeks, you know, so I
18 don't have a problem with that. My company pays up
19 to two weeks for jury duty.

20 THE COURT: Mr. Greenwaldt, the State or the
21 defense may have some questions for you. And I will
22 give them an opportunity to ask you some questions
23 at this time.

24 Mr. Sorenson.

25 MR. SORENSON: May it please the Court, Your

1 Honor.

2 VOIR DIRE

3 BY MR. SORENSON:

4 Q Good morning, Mr. Greenwaldt. I appreciate you
5 coming back this morning. My name is Don Sorenson.
6 I'm with the Solicitor's office. I just have a
7 couple of questions for you. It's my understanding
8 you told the Court that you feel that you're a type
9 three juror; is that correct?

10 A Yes.

11 Q So, therefore, as you said, you would want to
12 listen to all of the evidence, hear all of the facts
13 before making a decision as to what the appropriate
14 punishment would be, assuming the defendant had been
15 -- you had found him guilty of murder; is that
16 correct?

17 A Sure. And I also think that everyone else
18 would do the same thing, too.

19 Q Yes. All 12 of you; is that correct?

20 A Right.

21 Q Let me just make sure I understand that if you
22 felt, in fact, that after hearing all of the facts,
23 all of the circumstances surrounding the crime
24 itself and the defendant, you felt that the death
25 penalty was the appropriate punishment, would you be

1 able to return a punishment of the death penalty?

2 **A** Sure would.

3 **MR. SORENSON:** Thank you, Mr. Greenwaldt.

4 **THE COURT:** Mr. Koger.

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

6 VOIR DIRE

7 BY MR. KOGER:

8 **Q** Mr. Greenwaldt, on the other side of that,
9 after hearing all of the facts and evidence in the
10 case, could you return, first, in the guilt phase, a
11 not guilty if the State does not prove the case
12 beyond a reasonable doubt?

13 **A** Sure would.

14 **Q** Okay. And if it goes to the sentencing phase
15 after hearing evidence from both the State
16 aggravating circumstances and what we would call
17 mitigating circumstances from the defense as far as
18 how a person was brought up, a childhood and other
19 factors that may have an affect and that's termed as
20 mitigating circumstances, could you consider that in
21 whether to determine between the death penalty and
22 life without parole?

23 **A** I think that I would, I'd have to -- yeah, I'd
24 have to look at all factors.

25 **Q** And you would give meaningful consideration to

1 all factors?

2 A I would give consideration, yes.

3 MR. KOGER: Okay. Thank you.

4 THE COURT: All right, sir. If you'll stand
5 right outside the door just for a moment.

6 JUROR: Sure.

7 (Juror leaves the courtroom.)

8 THE COURT: What says the State?

9 MR. SORENSON: I feel he's qualified, Your
10 Honor.

11 THE COURT: What says the defense?

12 MR. KOGER: Qualified, Your Honor.

13 THE COURT: All right. If he can step back in.

14 (Juror enters the courtroom.)

15 THE COURT: Mr. Greenwaldt, you have been found
16 to be qualified to serve as a potential juror in
17 this case. It does not mean that you're on the jury
18 yet, but it means that you may be selected.

19 We plan to do jury selection around 12 o'clock
20 or so and -- it might be a little ambitious, but
21 that is the current plan. What we need you to do is
22 to go home and pack and come back and to be back at
23 around 12 o'clock so that if you are selected on the
24 jury, you will be able to stay with us.

25 I have an information sheet with some

1 information on it, just a means of suggestions to
2 you. You and the other jurors will meet right
3 across the walkway here at the annex. There's a
4 conference room over there. We need you to be
5 prepared to be on the jury. And the jury will be
6 locally here at the Sleep Inn, but you'll need to
7 come back here and we'll go from there.

8 And please do not listen to any news reports,
9 watch any television accounts or discuss the case
10 with anyone or allow anyone to discuss it with you.

11 JUROR: Okay. One question.

12 THE COURT: Yes, sir.

13 JUROR: When I come back, what about my
14 vehicle?

15 THE COURT: Yes, sir. Thanks for mentioning
16 that. I've been telling everyone up to this point,
17 I forgot to mention to you, that you should arrange
18 for someone to come back with you or to arrange for
19 someone to be able to pick up your vehicle. Now, if
20 you don't have that --

21 JUROR: I can have my wife bring me here and
22 drop me off.

23 THE COURT: You'll probably just want her to
24 stick around to make sure you're on the jury before
25 she leaves you here because if you're not selected,

1 then you'll be free to go. And if you are selected,
2 then she can go.

3 **JUROR:** Okay. So it's going to be kind of a
4 waiting process?

5 **THE COURT:** It will not be very long. We're
6 trying to meet that schedule. It's ten o'clock now,
7 that's a couple hours from now. And others will be
8 meeting at the same time.

9 **JUROR:** Okay.

10 **THE COURT:** Is she at work some place?

11 **JUROR:** Well, no, I got -- so I've got to come
12 back here today at 12 o'clock?

13 **THE COURT:** Today at 12:00, in two hours.

14 **JUROR:** So I've got to call the work up and let
15 them know or something?

16 **THE COURT:** If you are selected on the jury,
17 then you'll have an opportunity to make some phone
18 calls if you want to tell your job after you're
19 selected or you can tell them that you may be
20 selected.

21 **JUROR:** Okay.

22 **THE COURT:** Thank you, sir.

23 (Juror was excused for the morning.)

24 (Whereupon, Bertha L. Fredrick, a black
25 female, enters the courtroom.)

1 BERTHA L. FREDRICK,
2 having been previously duly sworn, testified as
3 follows:

4 VOIR DIRE
5 BY THE COURT:

6 Q Good morning.

7 A Good morning.

8 Q How are you doing, Ms. Fredrick?

9 A I'm good.

10 Q Good. Ms. Fredrick, you're still under oath
11 from the time we put you under oath on Monday. And
12 since that time, have you heard anything about this
13 case, heard anything about this case, seen anything
14 about this case?

15 A No.

16 Q Before that time, did you read anything about
17 it, hear anything about it or know anything about
18 it?

19 A No.

20 Q Where do you work?

21 A I'm a housewife. I don't work.

22 Q And where do you live?

23 A Redacted
24 in Saint Matthews.

25 Q In Saint Matthews?

- 1 **A** Uh-huh.
- 2 **Q** And the State in this case is seeking the death
3 penalty and we need to ask you some opinions that
4 you might have concerning that. Of course, the
5 defendant is presumed to be not guilty and cannot be
6 found guilty of any crime unless the State proves
7 that beyond a reasonable doubt. Do you understand
8 that?
- 9 **A** Yes.
- 10 **Q** And would you be able to follow the law in
11 regard to that, as well as any other instructions of
12 law that I might give you?
- 13 **A** Yes.
- 14 **Q** And did you take a look at the list of people
15 who might testify in this case?
- 16 **A** Yes, I did.
- 17 **Q** And do you know anyone on that list?
- 18 **A** I think it's a Annie Haigler on that.
- 19 **Q** And would the fact that you might know Annie
20 Haigler, would that fact affect your ability to be
21 fair and impartial as a juror in this case?
- 22 **A** No.
- 23 **Q** Did you also get a chance to look at the three
24 types of jurors list?
- 25 **A** Yes.

1 Q Sheet. And which type of juror most closely
2 reflect you?

3 A The number three.

4 Q And in saying that you are number three, what
5 do you mean?

6 A I mean that I would look at the law and all the
7 evidence in the case and I wouldn't just already
8 assume that somebody's guilty or already assume that
9 there's a death penalty as a punishment.

10 Q And after considering all of the evidence, the
11 mitigating circumstances, the aggravating
12 circumstances, could you vote for life imprisonment
13 without the possibility of parole if you decided
14 that was the proper thing to do?

15 A Yes.

16 Q And could you vote for the death penalty if you
17 thought that was the proper thing to do?

18 A Yes.

19 Q And if, after voting for the death penalty, you
20 would be required to sign the verdict form
21 representing the jury's verdict and also be required
22 to come into court and announce that as being the
23 jury's verdict, would you be able to do that?

24 A Yes.

25 Q Now, this case may take up to ten days or so

1 and the jurors will be kept together during that
2 time in a local motel at the county's expense.
3 Aside from the obvious inconvenience that that would
4 have to you, would that pose a serious risk of
5 danger to your health or the health of anyone
6 dependent upon you?

7 A No.

8 THE COURT: We'll see if the lawyers might have
9 any questions to ask you.

10 Mr. Walters.

11 MR. WALTERS: May it please the Court.

12 VOIR DIRE

13 BY MR. WALTERS:

14 Q Good morning, Ms. Fredrick.

15 A Good morning.

16 Q How are you?

17 A Good.

18 Q Ms. Fredrick, I won't keep you long. I just
19 want to make sure we're clear about your position
20 with regards to type three. You understand that in
21 this particular case, it's a two part process. The
22 State, the prosecution, they're required to prove
23 beyond a reasonable doubt that Mr. Mikal Mahdi
24 committed a murder, not maybe he did it, there's a
25 possibility he may have done it, they have to prove

1 that beyond a reasonable doubt. Are you willing to
2 hold the State to that burden, ma'am?

3 A Yes.

4 Q And if they failed to do so, could you return a
5 verdict of not guilty?

6 A Yes.

7 Q In addition to that, when we refer to type
8 number three, we also stated in that statement that
9 you are willing to listen to any aggravating
10 circumstances that may be presented by the State and
11 you're also willing to listen to any of the
12 mitigating factors that may be presented by the
13 defense. Mitigating factors, of course, would be
14 his childhood, his parents, how he grew up and
15 things of that nature. Are you willing to give
16 meaningful consideration to all of those factors?

17 A Yes.

18 Q So what you're telling me is that you're the
19 type person that wants the full picture, you want to
20 understand everything and then you'll make a
21 decision; is that correct?

22 A Yes.

23 Q Now, you understand that when you have that
24 option, if we reach that stage of the sentencing
25 phase, if we reach that stage, there are two options

1 that are available to you, one, is that the
2 defendant would be put in jail for life without the
3 probability of parole and the second option is, is
4 that he receive the death penalty. And you're aware
5 of the fact that that would be either through
6 electrocution or lethal injection?

7 A Yes.

8 Q And, of course, you would have to come into
9 court, along with the other jurors, if you all
10 agree, first of all, remember it's an individual
11 decision, you have to make up your mind, listen to
12 all of the other parties, and then you would have to
13 come in this courtroom and you would have to stand
14 or either raise your hand and state, that is my
15 verdict. Are you willing to do that just like
16 you're in this courtroom right now?

17 A Yes.

18 Q Of course, they'll require you to sign a
19 document stating that our verdict is the death
20 penalty, if it does reach that stage, and you would
21 have to sign your name. Are you willing to sign
22 your name, also?

23 A Yes.

24 Q So what you're telling me is, is that you can
25 follow the instructions of the Judge, you want to

1 know all of the facts, all of the information and
2 then you would like to make a decision; is that
3 correct?

4 A That's correct.

5 Q And you will hold the State to the burden of
6 proving their case beyond a reasonable doubt?

7 A Yes.

8 MR. WALTER: Your Honor, I have no further
9 questions.

10 THE COURT: From the State, Mr. Pascoe.

11 MR. PASCOE: Thank you, Your Honor.

12 VOIR DIRE

13 BY MR. PASCOE:

14 Q Good morning, Ms. Fredrick.

15 A Good morning.

16 Q My name is David Pascoe. I'm the Solicitor for
17 Calhoun County. It's great to meet you this
18 morning. And I want to thank you for coming back.
19 I know it's been a long week for you already, hasn't
20 it?

21 A It is.

22 Q Let me ask you this with regards to reasonable
23 doubt. If the State proves the defendant's guilt
24 beyond a reasonable doubt, would you be able to
25 convict him of murder?

1 A Yes.

2 Q Without hesitation, you'll be able to convict
3 him, right?

4 A Yes.

5 Q Okay. And with regards to your feelings about
6 the death penalty, would you say that -- and I'm
7 asking you in general without knowing any facts of
8 the case, but in general, are you in favor of the
9 death penalty?

10 A Yes, under certain circumstances, yes.

11 Q Like you wouldn't favor the death penalty just
12 for like a robbery, right?

13 A No.

14 Q Or a burglary?

15 A No.

16 Q But you would favor it for certain murders?

17 A Yes.

18 Q Okay. No hesitation, no doubt about it?

19 A Yes.

20 Q And would you give meaningful consideration to
21 any aggravating circumstances the State would put
22 forward about a person's character who's been
23 convicted of murder like their violent past or that
24 person's character?

25 A Yes.

1 Q Would you look at that in making a
2 determination of whether someone should get the
3 death penalty or not?

4 A Yes.

5 Q And would that be important to you to hear
6 about the person's past before you gave them the
7 death penalty?

8 A Yes.

9 Q And you could give a person the death penalty
10 under certain circumstances?

11 A Yes.

12 Q And a few other areas now that I want to hit
13 that the Judge already hit and I'll be finished,
14 okay? If you decided that a person committed a
15 murder and was warranted the death penalty, that was
16 your individual decision along with the other 11
17 jurors, could you sign your name to a death penalty
18 verdict form stating Ms. Fredrick sentences that
19 person to death?

20 A Yes.

21 Q No doubt about it, you could do that?

22 A Yes.

23 Q And would you be able to come into this
24 courtroom, Ms. Fredrick, and stand up and be able to
25 say that you sentence that person to death?

1 A Yes.

2 MR. PASCOE: I want to thank you, Ms. Fredrick.

3 THE COURT: Ms. Fredrick, if you'll stand right
4 outside the door there.

5 (Juror leaves the courtroom.)

6 THE COURT: What says the defense?

7 MR. WALTERS: She's qualified, Your Honor.

8 THE COURT: Says the State?

9 MR. PASCOE: Qualified, Your Honor.

10 THE COURT: All right. If she'll come back.

11 (Juror enters the courtroom.)

12 THE COURT: Ms. Fredrick, you have been found
13 to be qualified as a potential juror in this case.
14 It does not mean that you are on the jury yet, it
15 means that you might be selected on the jury. We're
16 going to select the jury in this case, we plan to at
17 least, at noon today. And that might be a little
18 ambitious, but we want all potential jurors to come
19 at noon today.

20 You're not allowed to read any newspapers,
21 watch any television account of this case or discuss
22 this case with anyone or allow anyone to discuss it
23 with you. If anyone should attempt to do that,
24 please first tell them that they're not allowed to
25 discuss it or you're not allowed to discuss it and

1 please let me know as well.

2 Now, we need you to go home and get packed and
3 come back at noon -- back at noon today and meet
4 right outside the annex -- or in the conference room
5 there in the annex, not outside the annex. And I
6 have a sheet that will give you some information on
7 that.

8 We need to have you prepared to be with us for
9 the duration of the trial, which may be ten days.
10 And, of course, if you're not selected, you'll be
11 allowed to go back home, but if you are selected,
12 then you'll be with us.

13 Thank you very much. And we'll see you at noon
14 today. Do you have any questions about that?

15 **JUROR:** No.

16 **THE COURT:** Now, as far as your car is
17 concerned, you need to have some plans there about
18 either having someone come with you -- of course,
19 you don't live very far away.

20 **JUROR:** No.

21 **THE COURT:** But you would need to have someone
22 to be able to come get your car.

23 **JUROR:** Okay.

24 **THE COURT:** Very good. We'll see you then.

25 (Juror was excused for the morning.)

1 (Whereupon, Charlie R. Rucker, a white male,
2 enters the courtroom.)

3 CHARLIE R. RUCKER,
4 having been previously duly sworn, testified as
5 follows:

6 VOIR DIRE

7 BY THE COURT:

8 Q Good morning, Mr. Rucker. How are you today?

9 A Fine. How are you?

10 Q Good. Mr. Rucker, you're still under oath from
11 previously being sworn. Where do you work?

12 A I work with Edisto Surveyors out of Orangeburg.

13 Q And have you been exposed to any information
14 concerning this case since leaving here on Monday?

15 A No, sir.

16 Q And heard anything about it, read anything
17 about it, seen anything about it on T.V.?

18 A No, sir.

19 Q And prior to that time, had you heard about
20 this case?

21 A No, sir.

22 Q And has anyone attempted to discuss this case
23 with you in any form or fashion?

24 A No, sir.

25 Q And you were able to take a look at this list

1 of people who might testify as witnesses in this
2 case?

3 A Yes, sir.

4 Q Do you know anyone on that list?

5 A Thomas Summers.

6 Q The Sheriff?

7 A The Sheriff.

8 Q And would that fact affect your ability to sit
9 as a fair and impartial juror?

10 A No.

11 Q Would you be able to set aside the fact that
12 you know him and that he might be a witness and
13 judge this and decide this case solely based on the
14 evidence presented in this courtroom?

15 A Yes, sir.

16 Q Now, I need to ask you some questions to gauge
17 your opinion about certain matters. And there are
18 no right or wrong answers to these questions, but we
19 must get your opinion particularly and specifically
20 about the death penalty because it may be an issue
21 in this case because the State is seeking the death
22 penalty. Of course, the fact that we're talking
23 about it does not presuppose anything because the
24 defendant is presumed to be not guilty. Unless the
25 State proves beyond a reasonable doubt that he is

1 guilty, he must be found not guilty. Do you
2 understand that, sir?

3 A Yes, sir.

4 Q But in the event the State proves that he is
5 guilty of murder, the jury would be asked to decide
6 his sentence. And the sentence choices the jury
7 would have would either be life imprisonment without
8 the possibility of parole or the death penalty.
9 Have you had a chance to look at this list of the
10 three type jurors?

11 A Yes, sir.

12 Q Which of the type -- which type juror most
13 closely describes you?

14 A Type one.

15 Q And in saying that you're a type one juror,
16 what do you mean?

17 A I believe strongly in the death penalty.

18 Q And do you believe that the death penalty is
19 the only appropriate punishment no matter what the
20 circumstances of the case of murder might be?

21 A Yes, sir.

22 Q And could you ever bring in a verdict of life
23 imprisonment without the possibility of parole if a
24 person was convicted of murder and were able to show
25 certain mitigating circumstances concerning either

1 the crime or that person's personal circumstances?

2 A No.

3 Q Despite those other considerations, you would
4 always vote for the death penalty?

5 A Yes, sir.

6 Q One hundred percent of the time?

7 A Yes, sir.

8 THE COURT: Questions by the defense?

9 MR. WALTERS: No, sir, Your Honor.

10 THE COURT: By the State?

11 MR. SORENSON: No, sir.

12 THE COURT: Any question as to the
13 qualification of this juror or lack of qualification
14 of this juror?

15 MR. SORENSON: Not from the State.

16 MR. WALTERS: No, sir, Your Honor.

17 THE COURT: Okay. Mr. Rucker, the type of
18 juror that would be eligible to serve would be the
19 type of juror who could consider either the death
20 penalty or life imprisonment without the possibility
21 of parole. Certainly, we appreciate your opinion
22 concerning it and also appreciate your candor
23 concerning your opinion, but we're going to release
24 you from any further jury responsibility concerning
25 this case. Thank you very much and good to see you.

1 JUROR: Good to see you.

2 (Juror was excused.)

3 (Whereupon, Santana S. Favor, a black
4 female, enters the courtroom.)

5 SANTANA S. FAVOR,
6 having been previously duly sworn, testified as
7 follows:

8 VOIR DIRE

9 BY THE COURT:

10 Q Good morning. How are you doing, Ms. Favor?

11 A Fine.

12 Q Ms. Favor, you're still under oath. Do you
13 understand?

14 A Uh-huh.

15 Q Ms. Favor, where do you work?

16 A I work at Westinghouse Nuclear Fuel Facility.

17 Q What do you do over there?

18 A I'm a chemical operator. I work with uranium
19 and we make field assemblies for SCE&G and
20 Mitsubishi.

21 Q Hazardous materials?

22 A Yes, sir.

23 Q And have you read, seen or heard anything about
24 this case since you left here on Monday?

25 A No, sir.

1 Q And did you hear anything or have you ever
2 heard anything about this case or did you hear
3 anything about this case before Monday?

4 A No, sir.

5 Q And what area or section of this county do you
6 live in?

7 A I live in Sandy Run.

8 Q And we need to ask you some questions to gauge
9 your opinions concerning certain things, including
10 the death penalty. Did you get a chance to look at
11 this list of possible witnesses?

12 A Yes, sir.

13 Q Do you know anyone on this list?

14 A No, sir.

15 Q And did you have a chance to look at these
16 three types of jurors?

17 A Yes, sir.

18 Q And which type juror most closely describes
19 you?

20 A Right now, type two.

21 Q And what do you mean when you say you're right
22 now a type two?

23 A I mean, as far as the death penalty, I have
24 mixed emotions about that. I mean, no matter what a
25 person does, I don't think they deserve to die.

1 Q So could you give the death penalty under
2 certain circumstances?

3 A Yes, sir.

4 Q So you are not opposed to the death penalty in
5 all cases?

6 A No.

7 Q And I'm not asking you specifically about this
8 case, but in your opinion in general, are there
9 certain types of cases or certain circumstances
10 under which you could vote for the death penalty?

11 A Yes, sir.

12 Q Now, a type two juror is a juror who would have
13 made up his or her mind concerning punishment no
14 matter what he or she hears and could never give the
15 death penalty, would always give life imprisonment
16 without the possibility of parole. That's a type
17 two juror. A type three juror is a juror who could
18 give a verdict of life imprisonment without the
19 possibility of parole or -- but, also, that juror
20 could also bring in a verdict for the death penalty.
21 So which type are you?

22 A Well, type three best describes me.

23 Q Type three best describes you?

24 A Yeah.

25 Q And there are circumstances under which you

1 could give the death penalty?

2 A Yes, sir.

3 Q Do you believe that in a case where there are
4 certain aggravating circumstances and the
5 aggravating circumstances or the nature of the crime
6 outweighs any mitigating circumstances in the favor
7 of the person opposing the death penalty, that if
8 those aggravating circumstances are severe enough,
9 that you could impose a death penalty?

10 A Yes.

11 Q And in imposing a death penalty, if you had to
12 sign your name to a form saying, I vote for the
13 death penalty, could you do that?

14 A Yes, sir.

15 Q And if you have to come into court and stand
16 over there with other jurors and say, I vote for the
17 death penalty, could you do so here in open court?

18 A Yes, sir.

19 THE COURT: All right. Let me see if the
20 lawyers might have any questions for you.

21 Mr. Sorenson.

22 MR. SORENSON: Thank you. May it please the
23 Court.

24 ****

25 ****

1 VOIR DIRE

2 BY MR. SORENSON:

3 Q Good morning, Ms. Favor. My name is Don
4 Sorenson. I'm with the Solicitor's office. And I
5 just have a few questions for you. I appreciate you
6 coming back here this morning. Now, when Judge
7 Newman first asked you about the type of juror that
8 you were, you had indicated that type two best
9 described you; is that correct?

10 A Yes, sir.

11 Q And I believe the next statement out of your
12 mouth was -- after that was that no matter what a
13 person does, doesn't deserve to die; is that
14 correct?

15 A Yes, sir.

16 Q Is that your feelings?

17 A Yes, it is.

18 Q And that -- and in that regard, could you ever
19 then be a person that could sit on a jury and
20 sentence a person to death?

21 A Um...

22 Q Knowing that you were going to have to write
23 your name on a piece of paper saying that I, Ms.
24 Favor, sentence this defendant to death?

25 A Honestly, I mean, I could -- I mean, if -- I

1 mean, I'm not against the death penalty and I'm not
2 for it either, but...

3 Q Let me just make sure that you understand how
4 the process works. This is, as His Honor described
5 to you on Monday and then a little bit maybe today
6 also, it's called a bifurcated process, that means
7 there are two steps. The first step would be
8 essentially a regular trial where we would have --
9 the State would have the burden of proving the
10 defendant guilty beyond a reasonable doubt.

11 Assuming that we met that burden and the jury,
12 you as part of that jury, found the defendant guilty
13 beyond a reasonable doubt of murder, we would then
14 move on to the sentencing phase. It's during that
15 phase that you hear facts surrounding the -- further
16 facts surrounding the event, certain aggravating
17 factors that the State would present and any
18 mitigating factors the defense might present. And
19 then it would be on the jury, you as part of that
20 jury, to then determine what the penalty is. In
21 other words, your two choices would either be the
22 death penalty or life imprisonment, okay?

23 A Okay.

24 Q Now, do you understand that if the jury returns
25 the death penalty, you understand what that means,

1 right?

2 A Yes, sir.

3 Q That the person's going to die as a result of
4 that decision. You understand that?

5 A Yes.

6 Q Now, taking all of that into mind, would you
7 ever be able to sign your name to that document and
8 then come into this courtroom and tell this court
9 that you recommended that defendant be put to death
10 for his crime?

11 A No, sir, I couldn't.

12 Q You couldn't do that?

13 A No.

14 Q And that's because you're a type two juror as
15 you indicated. And I appreciate your candor. I
16 mean, as you've probably been told, there are no
17 right or wrong answers to these questions. The only
18 wrong answer is if you're just telling us what we
19 want to hear as opposed to what you really believe.
20 But as you indicated from the outset, no matter what
21 a person does, don't think they deserve to die; is
22 that correct?

23 A Yes, sir.

24 Q And that's your feelings. I mean, your deep
25 felt beliefs; is that correct, Ms. Favor?

1 A Yes.

2 Q And, essentially, you're a type two juror as
3 you indicated right from the start; is that correct?

4 A Yes.

5 MR. SORENSON: Thank you, Ms. Favor.

6 MR. WALTERS: May it please the Court.

7 THE COURT: Yes, sir.

8 VOIR DIRE

9 BY MR. WALTERS:

10 Q Ms. Favor, when you were answering His Honor's
11 questions with regards to your position with regards
12 to the death penalty, you then indicated that you
13 could possibly be a type three; is that correct?

14 A Yes, sir.

15 Q Are there are certain instances where you
16 believe the death penalty is appropriate?

17 A Yes, sir.

18 Q But, of course, you would have to hear all of
19 the facts and the information presented by the
20 prosecution and the defense; is that correct?

21 A Yes, sir.

22 Q In other words, you don't want to be
23 pigeonholed here today to a position unless you hear
24 all of the information; is that right?

25 A Yes, sir.

1 Q When you stated that you were a type two juror,
2 that was one of your beliefs or ideals; is that
3 correct?

4 A Yes, sir.

5 Q But you're now telling me that it's a
6 possibility that you can give someone the death
7 penalty, but you have to have all of the facts and
8 information; is that right?

9 A Yes, sir.

10 Q Now, you understand that if you return a death
11 verdict where someone has to be put to death, you,
12 along with the other 12 jurors, would have to sign a
13 document, you know, indicating that that was your
14 vote. And just as you're out here today speaking
15 into that microphone, you would be placed over there
16 with the rest of the jury and the Judge may inquire
17 is this your verdict and he may ask you to stand or
18 raise your hand. Could you do that, ma'am?

19 A Yes, sir.

20 Q Okay. So when the Solicitor is asking you
21 about whether you were a type two juror or a type
22 three, I want to make sure that we're definitive
23 about what your position is. Are there certain
24 instances where you believe the death penalty is
25 appropriate?

1 A Yeah, there's certain -- it depends on the
2 circumstances.

3 Q Right. But you have to have all of the facts
4 and information?

5 A Yes, sir.

6 Q And is there certain instances where you
7 believe someone should spend their life in jail as
8 opposed to dying?

9 A Uh-huh.

10 Q You understand the death penalty is a process
11 where a person is either electrocuted or they
12 receive lethal injection?

13 A Yes, sir.

14 Q So to make sure we're clear about your
15 position, because the lawyers are back and forth,
16 you know, we're asking you questions all over the
17 place, are you a type one, type two or a type three?

18 A Right now, my honest feelings right now, I
19 would be a type two juror right now.

20 MR. WALTERS: I have no further questions, Your
21 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. SORENSON: She's not qualified, Your Honor.

2 THE COURT: What says the defense?

3 MR. WALTERS: I would agree.

4 THE COURT: She's not qualified. She can come
5 back.

6 (Juror enters the courtroom.)

7 THE COURT: Ma'am, I want to thank you for your
8 information and your candor. Type two jurors are
9 not qualified to serve on the jury. You were a type
10 two, then you became a type three and then you went
11 back to a type two and you have ended at a type two
12 and so we're going to excuse you from any further
13 service on the case.

14 We certainly appreciate your honesty and
15 candor. And as we stated, there are no right or
16 wrong answers, just a matter of opinion. And so
17 thank you for your opinion. You do not have to come
18 back. You're free to go.

19 (Juror was excused.)

20 (Whereupon, Carolyn M. Wright, a black
21 female, enters the courtroom.)

22 CAROLYN M. WRIGHT,
23 having been previously duly sworn, testified as
24 follows:

25 *****

1 VOIR DIRE

2 BY THE COURT:

3 Q Good morning, Ms. Wright. How are you?

4 A Fine, and you?

5 Q Fine. Ms. Wright, you're still under oath.

6 Where do you work, Ms. Wright?

7 A Husqvarna, Old Elloree Road, Orangeburg, South

8 Carolina.

9 Q And what area or section of the county are you

10 from?

11 A Calhoun County, sir.

12 Q And what part of the county?

13 A Orangeburg.

14 Q Orangeburg part of Calhoun County?

15 A No, I'm from Saint Matthews. I'm sorry.

16 Q You live in town here?

17 A No, sir.

18 Q Where do you live?

19 A Redacted

20 Q How far out is that?

21 A On Redacted , sir.

22 Q And have you read, seen or heard anything about

23 this case since you left here on Monday?

24 A No, sir.

25 Q Did you know or hear anything about it before

1 that?

2 **A** Yes, sir.

3 **Q** And the fact that you might have heard
4 something about this case, did you form an opinion
5 as to the guilt or innocence of the defendant,
6 Mr. Mahdi?

7 **A** No, sir.

8 **Q** Would you be able to set aside what you might
9 have heard in the past and decide this case solely
10 based on the evidence presented in this courtroom?

11 **A** Yes, sir.

12 **Q** And, ma'am, the State is seeking a death
13 penalty in this case and that doesn't presuppose
14 anything because the defendant is presumed to be not
15 guilty and can be found not guilty -- must be found
16 not guilty unless the State proves beyond a
17 reasonable doubt that he is guilty. Do you
18 understand that?

19 **A** Yes, sir.

20 **Q** But if the State should prove that he is guilty
21 beyond a reasonable doubt, then the jury would then
22 decide what his sentence should be and that choice
23 would either be life imprisonment without the
24 possibility of parole or the death penalty. And we
25 need to ask you some questions to know your opinion

1 concerning the death penalty. Did you get a chance
2 to look at the list of the people who might testify
3 in this case?

4 A Yes, sir.

5 Q Do you know anyone on that list?

6 A No, sir.

7 Q Did you get a chance to look at this list of
8 the three types of jurors?

9 A Yes, sir.

10 Q And which type juror most closely describes
11 you?

12 A Type three, sir.

13 Q And what do you mean, in saying that you're a
14 type three juror, what does that mean to you?

15 A That means I will listen and understand this
16 ask me before -- before I could decide the case,
17 sir.

18 Q Now, a type three juror is a juror who could
19 vote for the death penalty if that juror thinks
20 that's the appropriate sentence. Is that you?

21 A Yes, sir.

22 Q And that juror could also vote for life
23 imprisonment without the possibility of parole if
24 the juror thinks that that is the right decision?

25 A Yes, sir.

1 Q And if you thought the death penalty was the
2 appropriate sentence, could you vote for the death
3 penalty?

4 A Yes, sir.

5 Q And could you sign your name stating that
6 that's your decision?

7 A Yes, sir.

8 Q Now, the jury in this case will be sequestered,
9 meaning kept together until the case is over which
10 may be into next week some time. Now, aside from
11 the fact that that would pose an inconvenience to
12 you, would it pose any danger to you, your health or
13 well-being or that of anyone dependent upon you?

14 A No, sir, I don't think so.

15 THE COURT: We'll see if the State or the
16 defense might have any questions for you.

17 First, from the State.

18 MR. SORENSON: May it please the Court, Your
19 Honor.

20 VOIR DIRE

21 BY MR. SORENSON:

22 Q Good morning, Ms. Wright. How are you this
23 morning?

24 A Fine. And you, sir?

25 Q Good. I appreciate you coming back this

1 morning. If I could, I just have a few questions to
2 ask you, okay? In looking at your questionnaire, I
3 see your husband is a police officer with Saint
4 Matthews Police Department?

5 A Yes, sir.

6 Q And how long has he been a police officer?

7 A Four years, sir.

8 Q All with Saint Matthews?

9 A Yes, sir.

10 Q Now, going back to some of the questions His
11 Honor asked you regarding what type of juror you
12 are, you had indicated that you're a type three
13 juror?

14 A Yes, sir.

15 Q And part of that reason you indicated you were
16 a type three juror is you indicated you wanted to
17 make sure you heard all of the facts and
18 circumstances before you made the decision; is that
19 correct?

20 A Yes, sir.

21 Q And that would go towards initially determining
22 whether the defendant was guilty or not; is that
23 correct?

24 A Yes, sir.

25 Q All right. And then after that also, because

1 you understand in this process, the jury also has to
2 decide what the punishment is, you understand that,
3 right?

4 A Yes, sir.

5 Q And you would also want to hear all of the
6 facts and circumstances before you determined what
7 the appropriate punishment is; is that correct?

8 A Yes, sir.

9 Q And let me ask you, Ms. Wright, do you have any
10 strong beliefs either for or against the death
11 penalty?

12 A No, sir.

13 Q Do you feel that there's certain circumstances
14 when the death penalty is warranted?

15 A Yes, sir.

16 Q And if you found, after looking at all of the
17 facts and circumstances, that the death penalty was
18 warranted in this case, would you be able to do
19 that? Would you be able to return a verdict
20 sentencing a person to death?

21 A If that's the case, yes, sir.

22 Q Okay. You would be able to do that?

23 A Yes, sir.

24 Q And you would be able to sign your name to that
25 death verdict form indicating that I, Ms. Wright,

1 feel the appropriate punishment in this case is
2 sentencing this person to death?

3 A Yes, sir.

4 Q Would you then be able, Ms. Wright, to come out
5 into this courtroom and publish that to this
6 courtroom that that is my determination, my verdict?

7 A Yes, sir.

8 MR. SORENSON: Thank you, Ms. Wright.

9 THE COURT: Yes, sir, Mr. Koger.

10 MR. KOGER: May it please the Court.

11 VOIR DIRE

12 BY MR. KOGER:

13 Q Now, Ms. Wright, you said that your husband has
14 been a police officer with Saint Matthews Police
15 Department for four years?

16 A Yes, sir.

17 Q And that was during the time of this alleged
18 incident, correct?

19 A Yes, sir.

20 Q Okay. And I think you also testified, too,
21 that you do not have any prior knowledge of this
22 offense -- of this situation, correct?

23 A Say again, sir.

24 Q You testified, too, that you didn't have any
25 prior knowledge of this incident?

1 A No, I heard about it.

2 Q You heard about it?

3 A Yes, sir.

4 Q Did you discuss it with your husband during the

5 time it happened?

6 A Yeah, he talked a little about it.

7 Q He talked a little bit about it?

8 A Yes.

9 Q About how many days did he talk about it with

10 you?

11 A Just when it happened.

12 Q Just when it happened?

13 A Yes, sir.

14 Q Approximately, two and a half years ago?

15 A Yes, sir.

16 Q Okay. And you stated that you could be fair

17 and impartial?

18 A I think I can, yes, sir.

19 Q And I think you testified that you're not

20 having any strongly held opinions either way as far

21 as being for the death penalty or against the death

22 penalty?

23 A Yes, sir.

24 Q And, of course, since your husband is a police

25 officer, you are aware that the State will need to

1 prove their case beyond a reasonable doubt?.

2 A Yes, sir.

3 Q And if they do not prove their case beyond a
4 reasonable doubt, then you can find for a not guilty
5 verdict?

6 A If that's the case, yes, sir.

7 Q If they don't prove their case?

8 A Yes, sir.

9 Q Okay. And if it goes to the second stage of
10 the process, the sentencing process, you would look
11 at any aggravating circumstances that the State may
12 put forth, correct?

13 A Yes, sir.

14 Q And you would look at any type of mitigating
15 circumstances, as far as with Mr. Mahdi's background
16 and things that may have happened in his life,
17 coming up, you'll be able to give meaningful
18 consideration to those factors, correct?

19 A Yes, sir.

20 Q Okay. And just one short hypothetical. If you
21 go into the jury room and there's 11 people voting
22 guilty and you're the only one voting not guilty,
23 would you change your mind just to get the case
24 over?

25 A I don't think so.

1 Q Okay. Would you listen to what they have to
2 say?

3 A Yes, sir.

4 Q And you would expect them to listen to what you
5 have to say?

6 A Yes, sir.

7 Q In other words, y'all -- you would want to
8 respect each other?

9 A Exactly.

10 Q And if we flip it around and you was in the 11
11 that wanted guilty and there was one person that
12 wanted not guilty, then you would respect that
13 person that wanted to vote not guilty?

14 A Yes, sir.

15 Q And y'all would discuss it?

16 A Yes, sir.

17 MR. KOGER: Thank you. No further questions.

18 THE COURT: All right. Ma'am, if you'll step
19 right outside the door there for a moment, please.

20 (Juror leaves the courtroom.)

21 THE COURT: What says the State?

22 MR. SORENSON: She's qualified, Your Honor.

23 THE COURT: What says the defense?

24 MR. KOGER: Qualified, Your Honor.

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

1 back, please.

2 (Juror enters the courtroom.)

3 **THE COURT:** Ms. Wright, you have been found to
4 be qualified to serve as a juror in this case. It
5 doesn't mean you have been selected, but it means
6 that you might be selected. We intend to do the
7 jury selection at noon today and we, therefore, need
8 you to go home and get packed and come back and
9 packed enough to be prepared to be away from home
10 for ten days.

11 And here's a sheet of paper that just gives you
12 a couple suggestions, including telling you to bring
13 medications if you have some to take. You'll need
14 to be certain that someone can get your car and all
15 that.

16 **JUROR:** Yes, sir.

17 **THE COURT:** Please do not discuss the case,
18 watch any T.V., read any newspapers or allow anyone
19 to discuss it with you or in your presence. If
20 anyone should attempt to do so, you must tell them
21 that you're not allowed to discuss the case, also
22 you need to bring it to my attention.

23 Thank you very much and we'll see you at noon.
24 If you'll come right back to that annex -- when you
25 come at noon, it will be over at the annex in the

1 conference room over there where you will meet.

2 JUROR: All right. Thank you.

3 (Juror was excused for the morning.)

4 (Whereupon, Patricia A. Mitchell, a black
5 female, enters the courtroom.)

6 PATRICIA A. MITCHELL,
7 having been previously duly sworn, testified as
8 follows:

9 VOIR DIRE

10 BY THE COURT:

11 Q Hello, Ms. Mitchell.

12 A Hi. How are you?

13 Q Fine. How are you doing?

14 A Pretty good.

15 Q Good. Ms. Mitchell, you're still under oath.
16 You do know that you were placed under oath the
17 other day, you and the other jurors. You're still
18 under oath at this time. Ms. Mitchell, where do you
19 work?

20 A Cable Craft, Saint Matthews.

21 Q And what area or section or part of the county
22 do you live in?

23 A I live in Calhoun County. Do you want the
24 address? It's --

25 Q Well, the north, south, east, west part of the

1 county, in town, Elloree, Saint Matthews, Crestor,
2 Sandy Run?

3 A I live right in Saint Matthews, but not in the
4 town limits.

5 Q And have you heard, read or seen anything about
6 this case since you left here on Monday?

7 A My T.V. was on, you know, it was on the news
8 somewhat.

9 Q And did you listen to the news story?

10 A Not too much.

11 Q And what do you mean when you say not too much?

12 A Well, my T.V. is constantly going when my sons
13 are there and I didn't really pay any attention that
14 much to it. I just left out and went in the other
15 room.

16 Q And when was that?

17 A Yesterday, last night, seven o'clock.

18 Q And would you be able to set aside what you
19 might have seen or heard on the news and put that
20 out of your mind and decide the case based on
21 evidence that's presented in the courtroom?

22 A Yes, I will.

23 Q Now, the defendant is charged with murder and
24 the State is seeking the death penalty. And he's
25 presumed to be not guilty and cannot be found guilty

1 unless the State proves his guilt beyond a
2 reasonable doubt by presenting evidence in this
3 courtroom that convinces a jury of his guilt beyond
4 a reasonable doubt. Do you understand that
5 principle of law?

6 A Yes, somewhat.

7 Q Would you be able to follow that law?

8 A Yes.

9 Q Now, have you made up your mind as to whether
10 or not the defendant is guilty or not guilty in this
11 case?

12 A No, sir, I haven't.

13 Q Now, Ms. Mitchell, even though the defendant is
14 presumed to be not guilty, he cannot be found guilty
15 unless proven guilty beyond a reasonable doubt, we
16 nevertheless have to discuss your opinion concerning
17 the death penalty because if he is found guilty, the
18 jury would then decide whether he should be
19 sentenced to life imprisonment without the
20 possibility of parole or sentenced to death. Do you
21 understand, ma'am?

22 A Yes, sir.

23 Q Now, did you take a look at the sheet of paper
24 where the list of people who might be witnesses is
25 on there?

1 A Yes.

2 Q Did you know any of those people?

3 A Just Sheriff Thomas Summers, Calhoun County
4 Sheriff's Office.

5 Q And would the fact that Sheriff Summers might
6 be a witness, would that affect your ability to be
7 fair and impartial to the defendant?

8 A No, it wouldn't.

9 Q Now, did you also look at the sheet that lists
10 the three types of jurors?

11 A Yes, I did.

12 Q And which type would most closely reflect you?

13 A Type three.

14 Q And when you say that you are a type three
15 juror, what do you mean?

16 A Well, I would like to hear the -- just like
17 it's listed on here, I couldn't make a decision
18 without hearing, you know, what the defendant has
19 done.

20 Q And after listening to everything, could you
21 bring in a sentence of death if you thought that was
22 the appropriate sentence?

23 A Well, I wouldn't want to be the one to make
24 that decision.

25 Q Well, we don't have any volunteers here as far

1 as the jurors in jury duty. All jurors have been
2 summoned to appear. So no one is here voluntarily,
3 including you. So if you were selected on the jury
4 and put on the jury to decide this case, could you
5 bring in a verdict for the death penalty?

6 A (No response.)

7 Q Depending, of course, you know, nothing about
8 the case, depending upon the aggravating
9 circumstances that might exist and also considering
10 the mitigating circumstances, could you bring in a
11 verdict for the death penalty as stated in number
12 three? Or, are you a type two juror who could never
13 vote for the death penalty regardless of the
14 circumstances?

15 A This is hard.

16 Q And there are no right or wrong answers. We
17 just simply want to know your opinion.

18 A Right. Well, after listening to everything,
19 there's a possibility I could.

20 Q So you are not a person who is against the
21 death penalty in all cases?

22 A No, I'm not against it, no.

23 Q And you could vote for it depending on the
24 facts and circumstances of a particular case?

25 A Yes.

1 Q Of course, any jury service is going to be hard
2 on anyone who serves and that's understandable.
3 Because this case may take ten days, it's going to
4 be hard on everyone involved in the case. Aside
5 from the fact of any -- of the obvious inconvenience
6 to you, would it pose any danger to your health or
7 welfare if you had to serve for that period of time
8 and to be sequestered or kept together with all of
9 the other jurors during that period of time?

10 A No, sir, I don't think so.

11 THE COURT: Now, let me see if the lawyers
12 might have any questions for you. If you will
13 answer their questions, please.

14 First, from the defense.

15 MR. WALTERS: May it please the Court.

16 VOIR DIRE

17 BY MR. WALTERS:

18 Q Good morning, Ms. Mitchell. How are you?

19 A I'm fine. Thank you.

20 Q Ms. Mitchell, when you answered His Honor's
21 questions with regards to what type of juror you
22 are, you indicated you were a type three. And we're
23 sort of putting the cart before the horse because it
24 feels that we're trying to pigeonhole you on what
25 you would do. And, of course, you haven't heard

1 anything; is that correct?

2 A Correct.

3 Q Well, you understand, in this case, there's a
4 two part process. The State must prove their case
5 beyond a reasonable doubt. They must first do that.
6 They can't show that it might have happened or it
7 could have happened, they must prove their case
8 beyond a reasonable doubt. And they have to show
9 that there was a malicious killing, an unlawful
10 taking of a life with malice aforethought. They
11 must prove that beyond a reasonable doubt. If they
12 fail to prove that beyond a reasonable doubt, could
13 you return a verdict of not guilty?

14 A Well, at this time, I don't think I could. At
15 this time, I don't think I could.

16 Q And why is that, ma'am?

17 A Well, I hadn't heard, you know --

18 Q That's exactly right. You hadn't heard
19 anything. I was using a hypothetical. If the State
20 failed to do that, could you return a verdict of not
21 guilty?

22 A Possibly, yes.

23 Q And if the State was able to prove their case
24 beyond a reasonable doubt, could you return a
25 verdict of guilty?

1 A Yes.

2 Q All right. I want to make sure we're
3 communicating properly. I'm not saying that these
4 are the actual facts and circumstances. I need to
5 know where you stand as a juror and sometimes we'll
6 put a hypothetical before you. Certainly, we want
7 to know that you'll exercise your own independent
8 judgment, it's your decision. You're among 12 other
9 jurors, but you understand it's your individual
10 decision as to how you see the facts and
11 circumstances and then you must draw your own
12 conclusions and make a decision. Are you willing to
13 do that?

14 A Yes.

15 Q Now, in addition to that, when we say type
16 number three, we're referring to if the case -- if
17 they prove their case beyond a reasonable doubt and
18 it goes into the sentencing phase, that leaves you
19 two choices, two options. One option is, is that
20 the person will receive the death penalty. You
21 understand that means that they may receive
22 electrocution or a lethal injection. You understand
23 that?

24 A Yes.

25 Q Or there's a possibility that a person may

1 serve the rest of their life in jail, do a life
2 sentence without parole. You understand the two
3 options?

4 A Correct.

5 Q So what I'm saying is, is that if it reaches
6 the sentencing phase, if they're able to prove their
7 case and it does go into the sentencing phase,
8 you'll have those two options before you. Now, if
9 it does go into the sentencing phase, are you
10 willing to listen to all of the aggravating
11 circumstances that will be presented by the State?

12 A Yes.

13 Q And are you willing to listen to all of the
14 mitigating circumstances, for instance, how he grew
15 up, his family, his parents, the trappings that, you
16 know, he incurred as he grew up, are you willing to
17 listen to all of that in the process of
18 deliberating?

19 A Yes.

20 Q Will you give meaningful consideration to what
21 everyone has to say in this courtroom?

22 A Yes.

23 Q And after doing that, will you then make up
24 your mind, your own decision as to what you think is
25 right?

1 A Yes.

2 Q Now, you understand that you only have two
3 options available to you. If you find that the
4 crime is so egregious, it's so bad and in your mind,
5 based on your personal beliefs, you determine that
6 it is serious enough, could you return a verdict for
7 a death sentence, ma'am?

8 A Well, can I say something before I answer that?

9 Q Sure. Go ahead.

10 A It's not that I don't believe in the death --
11 excuse me -- I don't believe in the death penalty --
12 I'm not saying that I don't believe in the death
13 penalty in certain cases, and I know in this case,
14 you know, it's bad, but I wouldn't want to be the
15 one to be known no matter -- well, I can't say no
16 matter what the person did, I don't feel that I
17 should have the right to make that decision on what
18 -- to take someone's life, you know.

19 Q So you're saying you don't want your name
20 associated with making a decision to put someone to
21 death; is that correct?

22 A Yes, but that does not mean that I don't
23 believe in the death penalty.

24 Q You're saying you believe in the death penalty,
25 but you don't want to participate in the process?

1 **A** Yes, because I didn't give life, so I don't
2 want to be one to have -- make that decision. And
3 I'm sure, you know, a lot of people don't want to
4 believe -- I mean, in this circumstances, it is bad
5 if it was my family member or something, I might
6 have a different decision, but I, you know, I
7 just --

8 **Q** Let me make sure I understand what you're
9 saying. You live your day-to-day life and you might
10 express an opinion about the death penalty, but
11 certainly you don't want to be involved in the
12 process of putting that -- or facilitating that
13 process of putting someone to death; is that
14 correct?

15 **A** Yes.

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

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

19 **MR. SORENSON:** May it please the Court, Your
20 Honor.

21 **VOIR DIRE**

22 **BY MR. SORENSON:**

23 **Q** Good morning, Ms. Mitchell. My name is Don
24 Sorenson. I'm with the Solicitor's office. I just
25 have a few questions for you, okay? I understand

1 that this is not easy for you. Back up to, you
2 stood up on Monday, I believe, and raised your hand
3 when His Honor asked if anybody had heard about the
4 case; is that correct?

5 A Yes.

6 Q And when was that that you had initially heard
7 about the case?

8 A You're talking about the trial itself?

9 Q On Monday, and maybe I've gotten this -- I was
10 just jotting down numbers, but I had your number
11 down as being one of the persons who raised your
12 hand when the Judge asked if anyone had seen, heard
13 or knew anything about the case back on Monday, when
14 all of y'all were here Monday morning?

15 A What I saw on T.V.

16 Q Okay. And when was that that you had seen that
17 on T.V.?

18 A When it first happened.

19 Q So that was back two years ago when it
20 happened?

21 A 2004.

22 Q And what do you recall seeing and hearing about
23 it back in 2004?

24 A Well, when I really first heard about it, that
25 I guess I can say this, I heard about, there was a

1 captain that was shot on his property and, you know,
2 they were looking for this person, the defendant,
3 and, you know, just what all they had on the news
4 about it and, you know, that he had his truck, some
5 guns and different things was missing, whatever that
6 was on the news because I'm fairly always listening
7 to the news.

8 Q And you had indicated also that last night
9 while your kids were watching T.V., the T.V. was on,
10 the seven o'clock news came on, and you heard part
11 of the story last night, also?

12 A Yes.

13 Q Do you recall what that was that you heard last
14 night?

15 A Just vaguely something about in Calhoun County
16 there were having court and they were screening
17 jurors for this trial. And that's -- I didn't
18 listen to all of it. I kind of walked away.

19 Q And you had made the comment right towards the
20 very end of Mr. Walters' questioning of you
21 indicating that it's not, and I may be paraphrasing
22 a little bit here, but that it's not that you don't
23 believe in the death penalty, but then you made the
24 comment that, but in this case, I know it's bad; is
25 that correct, talking about this case?

1 A Yes.

2 Q You formed some opinion as to the facts about
3 this case; is that correct?

4 A Yes.

5 Q Okay. But that you didn't want to be the
6 person that actually sentenced somebody to death; is
7 that correct?

8 A Yes.

9 Q Okay. And when it boils down to it, kind of
10 cutting to the chase, you have no opposition to the
11 death penalty; is that correct?

12 A When you say no opposition, that means do not
13 believe in it?

14 Q No, you're not -- I mean, you believe that
15 there are certain situations that it's appropriate;
16 is that correct?

17 A Right.

18 Q But the fact of the matter is, ma'am, that
19 there's never going to be a time where you feel that
20 you can be the person that could actually sign your
21 name to that form sentencing somebody else to death;
22 is that correct?

23 A I would think so, yes.

24 Q And you'd never be able to do that because you
25 don't want to be, as you said, you didn't give that

1 person life and you don't want to be the person
2 responsible for sentencing him to death; is that
3 correct?

4 A Yeah.

5 MR. SORENSON: Thank you, Ms. Mitchell.

6 RE-VOIR DIRE

7 BY THE COURT:

8 Q Ms. Mitchell, based on your responses to the
9 lawyers' questions, are you a type two juror, who
10 could never give the death penalty, or you are a
11 type three juror, who could give the death penalty
12 depending on the circumstances of the case?

13 A A type three.

14 Q And when the Solicitor just asked you whether
15 or not you could ever sign your name to a form
16 giving the death penalty, explain your answer to
17 him.

18 A Well, it's just like it read down here on the
19 bottom down here where it said this juror could
20 bring a verdict of life in prison without
21 possibility of parole. Also, if the fact would
22 warrant, the juror could bring a verdict of the
23 death penalty. I mean, I could, but -- like I told
24 him, I just wouldn't want to be the one to say, well
25 yes, you know.

1 Q Well, I can certainly appreciate you would
2 rather not be here and would rather someone else
3 having been called to jury duty than you, but you
4 are the one who has been called to serve on jury
5 duty and you might be selected to serve in this
6 case. If you were selected as a juror in this case
7 and if you decided that the death penalty was the
8 appropriate punishment for the defendant, then could
9 you sign the verdict form stating that the defendant
10 will get the death penalty?

11 A Yes.

12 Q And could you then come into this courtroom and
13 stand up and say, I vote for the death penalty in
14 this case?

15 A Yes.

16 THE COURT: Any further questions by the State
17 or the defense?

18 MR. WALTERS: No, sir, Your Honor.

19 MR. SORENSON: Beg the Court's indulgence.

20 (Pause.)

21 MR. SORENSON: No, sir.

22 THE COURT: All right. Ma'am, if you'll stand
23 right outside the door for just a moment.

24 (Juror leaves the courtroom.)

25 THE COURT: What says the defense?

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

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

3 **MR. SORENSON:** Our position is she's not
4 qualified. I mean, she -- I mean, clearly, it
5 depends on who asks her the question is what the
6 answer is going to be, but the fact of the matter is
7 I just don't think that she, when push comes to
8 shove, would ever be able to sign her name to that
9 form. I mean, she indicated that over and over
10 again that she does not feel that she could ever be
11 the person that could sentence somebody to death.
12 And -- I mean, indicated on several occasions that
13 she couldn't sign the form.

14 And then, of course, the last -- and I suspect
15 if I got back up and questioned her again, she would
16 have ended with I couldn't sign it. I mean, I just
17 think that she is not qualified in that regard as a
18 juror.

19 **THE COURT:** Well, I took from her testimony
20 that she wouldn't want to be the person to have to
21 make that decision, that she wished that someone
22 else were in her shoes today. But she said that if
23 she were sitting on the jury and if she decided that
24 that was the appropriate punishment, that she could
25 sign the form and she could come into court and say

1 that that is her decision and her verdict in this
2 case. I find that she is qualified to serve.

3 (Juror enters the courtroom.)

4 **THE COURT:** Ms. Mitchell, you are qualified to
5 serve as a juror in this case. The jurors in this
6 case will be housed together. You have not been
7 selected on the jury. You might be selected. We're
8 going to do jury selection around noon today. And
9 so how far away do you live?

10 **JUROR:** About a five minutes drive.

11 **THE COURT:** We need you to go home and pack up
12 real fast and come back and pack enough things for
13 you to be prepared to be here on this jury for ten
14 day. And then you need to have some situation so
15 that someone can get your car if you're put on the
16 jury, but if you're not selected on the jury, then
17 you'll be able to go back home. And we need you to
18 be back around noon and meet over at the annex right
19 across the way. Will you be able to do that?

20 **JUROR:** Yes.

21 **THE COURT:** And here's a sheet of paper that
22 you should take a look at regarding where the jury
23 will be and all that. And you can share that with
24 your family as to where the jury will be staying.
25 We'll see you at noon.

1 (Juror was excused for the morning.)

2 (Whereupon, Jeremiah A. Backmon, a black
3 male, enters the courtroom.)

4 JEREMIAH A. BACKMON,
5 having been previously duly sworn, testified as
6 follows:

7 VOIR DIRE

8 BY THE COURT:

9 Q Mr. Backmon, how are you doing? Mr. Backmon,
10 you're still under oath. Where do you work?

11 A For Decca Lab.

12 Q Where is that?

13 A In Orangeburg.

14 Q And where do you live in this county, what
15 area?

16 A Cameron.

17 Q And have you read, seen or heard anything about
18 this case since you left here on Monday?

19 A No, sir.

20 Q Have you read, seen or heard anything about
21 this case before coming here Monday?

22 A No, sir.

23 Q And has anyone attempted to talk with you about
24 this case?

25 A No, sir.

1 Q Now, Mr. Backmon, the defendant in this case is
2 charged with murder and the State is seeking the
3 death penalty. He is presumed to be not guilty of
4 murder and cannot be found guilty of murder unless
5 the State proves him guilty beyond a reasonable
6 doubt. But in the event the State proves that he is
7 guilty of murder, then the jury would then decide --
8 after deciding that he's guilty of murder, the jury
9 would then decide what the sentence should be. And
10 the choices the jury would have would be life
11 imprisonment without the possibility of parole or
12 the death penalty. Now, did you take a look at
13 those list of people who might testify in this case?

14 A Yes, sir.

15 Q Do you know anyone on that list?

16 A No, sir.

17 Q And did you take a look at the second sheet
18 about what type of jurors we have?

19 A Yes, sir.

20 Q And which juror most accurately -- which type
21 juror most accurately describes you?

22 A I would like to say number three.

23 Q And what do you mean being a type three juror?

24 A Type three, yeah.

25 Q What does that mean to you?

1 A I guess exactly what, you know, what it was
2 wrote out, what was on the paper.

3 Q All right. So a type three juror is a juror
4 who could vote for the death penalty if they thought
5 that was the proper verdict or they could vote for
6 life imprisonment without the possibility of parole
7 if they thought that was the proper verdict, but
8 after finding the defendant guilty before deciding
9 the sentence, they would have to listen to all of
10 the aggravating and mitigating circumstances. So
11 does that best describe you?

12 A Yes, sir.

13 Q And are you against the death penalty in all
14 cases?

15 A No, not in all cases.

16 Q You could return a verdict for the death
17 penalty under appropriate circumstances?

18 A Yeah, that would depend on -- yeah, the
19 circumstances.

20 Q And if you believe that the death penalty was
21 the appropriate verdict, would you be able to sign
22 your name and come into court and say so?

23 A Say again.

24 Q Would you be able to sign the verdict form
25 stating that that's your verdict and your vote on

1 this case?

2 **A** Yes, sir.

3 **Q** And, also, come into court and stand behind
4 your verdict and your vote?

5 **A** Yes, sir.

6 **Q** Now, the jury in this case will be kept
7 together in a local area motel until the case is
8 over. Aside from the fact that that will greatly
9 inconvenience you, will that pose any danger to your
10 health or safety or anyone who is dependent upon
11 you?

12 **A** No, sir.

13 **THE COURT:** Let's see if the State or the
14 defense might have any questions for you.

15 Mr. Koger.

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

17 **VOIR DIRE**

18 **BY MR. KOGER:**

19 **Q** Mr. Backmon, so you say you are a type three
20 juror?

21 **A** Yes, sir.

22 **Q** Basically, you want to keep an open mind?

23 **A** Yes, sir.

24 **Q** You want to listen to all of the evidence?

25 **A** Uh-huh.

1 Q And all of the information?

2 A Yes, sir.

3 Q And you know the State has the burden of proof
4 in the case beyond a reasonable doubt, correct?

5 A Correct.

6 Q And if the State fails to meet that burden,
7 then you'll return a verdict of not guilty?

8 A Yes, sir.

9 Q Okay. Now, if we get to the second part of
10 this trial, the sentencing phase, then you'll listen
11 to all aggravating circumstances from the State?

12 A Yes, sir.

13 Q Okay. And you'll listen to information from
14 the defense, as far as background, as far as the
15 person's childhood and how they were brought up,
16 correct?

17 A Yes, sir.

18 Q And you will consider both of those types of
19 information?

20 A Yes, sir.

21 Q And then you'll come to a decision between life
22 without parole and the death penalty?

23 A Yes, sir.

24 Q Okay. Let me cite a short hypothetical for
25 you. If you're in the jury room and there are 11

1 people voting not guilty in this case and you --
2 excuse me -- 11 people voting guilty and you're
3 voting not guilty, would you change your mind just
4 to get the case over with?

5 A No, sir.

6 Q You would expect to further discuss the case?

7 A Uh-huh.

8 Q And you would respect their side?

9 A Uh-huh.

10 Q And they'll respect your side?

11 A Uh-huh.

12 Q Okay. Now, if you are among the 11 that are
13 voting guilty, would you still respect the person
14 that's voting not guilty?

15 A Definitely.

16 Q And y'all would discuss it back and forth?

17 A Uh-huh.

18 MR. KOGER: Thank you.

19 THE COURT: Yes, sir, Mr. Sorenson.

20 MR. SORENSON: May it please the Court, Your
21 Honor.

22 VOIR DIRE

23 BY MR. SORENSON:

24 Q Good morning, Mr. Backmon.

25 A How are you doing?

1 Q I'm going fine. How about you?

2 A Good.

3 Q I appreciate you coming back up here this
4 morning. I just have a couple questions for you.
5 The first one, I didn't hear your answer. Where is
6 it that you're employed?

7 A Decca Lab, that's right there in Orangeburg.

8 Q And how long have you worked there?

9 A For about three weeks.

10 Q About three weeks, okay. And I don't mean to
11 embarrass you, but I just need to ask you a question
12 about back in 2003, were you arrested for some drug
13 charges by the Calhoun County Sheriff's Office?

14 A Yes, sir.

15 Q And what -- are those charges still pending?
16 Have they been disposed of?

17 A I believe everything is done with. I think it
18 was thrown out in a preliminary or something like
19 that.

20 Q Okay. And that was the Calhoun County
21 Sheriff's Office that arrested you on that charge;
22 is that correct?

23 A Yes, sir.

24 Q And do you have any bias or prejudice against
25 the sheriff's office for having arrested you back in

1 2003?

2 A No, sir.

3 Q I just want to check, there may be some
4 officers with the sheriff's office that may testify.
5 So you wouldn't have any grudge against them as a
6 result of you being arrested by them back in 2003,
7 would you?

8 A Definitely not.

9 Q Now, as far as -- you indicated you're a type
10 three juror; is that correct, Mr. Backmon?

11 A Uh-huh.

12 Q And if you looked at all of the facts and
13 circumstances around the case and felt that the
14 appropriate punishment in that case was the death
15 penalty, would you be able to then return that as a
16 sentence?

17 A If I felt it was appropriate?

18 Q Yes, sir.

19 A Yes, sir.

20 Q And would you able to, if you felt that those
21 facts warranted the death penalty, warranted
22 sentencing a person to death, would you be able to
23 sign your name to a verdict form indicating that's
24 your decision?

25 A If that was my decision.

1 Q That's your decision. Would you then be able
2 to come out into this courtroom and publish that
3 decision to the court?

4 A Yes, sir.

5 Q And let me ask you, do you have any beliefs
6 against the death penalty?

7 A No, sir.

8 Q Let me ask you this as far as the death penalty
9 is concerned. What would you feel would be
10 appropriate circumstances to -- for you to return a
11 verdict of death?

12 A I really have to say, you know, like a double
13 murder or a triple murder or something like that.

14 Q Are there any other circumstances that might
15 warrant it or would it have to be more than one
16 person being killed?

17 A I guess, you know, I guess, you know, yeah,
18 that's it for me.

19 Q That's it for you. So no other circumstance
20 where you be able to return the death -- I mean, no
21 matter how aggravated that -- if there was just one
22 homicide, one person was killed, I mean, is there
23 any time where you could find that that was so
24 aggravated, that you would return a death penalty
25 for that one homicide or would it have to be, as you

1 indicated, a double or a triple or more?

2 A I'd have to look at everything that, you know,
3 that happened, you know, everything that's
4 presented. .

5 Q But if everything -- once everything was
6 presented -- I mean, understanding if there was only
7 one homicide that you're dealing -- one count of
8 murder, would there ever be a situation where you
9 could say that the death penalty is the appropriate
10 sentence?

11 A Yeah, I could. I could say that.

12 Q Okay. For that one count of murder?

13 A Uh-huh.

14 Q And what would -- I mean, because you had
15 indicated earlier that you had only felt it was
16 appropriate in a double or a triple homicide. I
17 mean, what would have to be so aggravated for you --

18 THE COURT: Mr. Sorenson, are you posing
19 hypothetical questions to this juror?

20 MR. SORENSON: I'm trying to get what his
21 opinion is.

22 THE COURT: Are you attempting to do that by
23 posing hypothetical questions to him?

24 MR. SORENSON: I mean, I can do that, yes, sir.

25 THE COURT: Well, hypothetical questions are

1 not appropriate questions.

2 MR. SORENSON: I don't think I was offering it
3 necessarily hypothetical, more trying to get his
4 opinion of what he would require to be --

5 THE COURT: Proceed without posing any
6 hypothetical questions.

7 MR. SORENSON: That's all I have, Your Honor.
8 Thank you, Mr. Backmon.

9 THE COURT: Thank you, sir. If you will stand
10 right outside the door.

11 (Juror leaves the courtroom.)

12 THE COURT: What says the defense?

13 MR. KOGER: Qualified, Your Honor.

14 THE COURT: What says the State?

15 MR. SORENSON: He's qualified, Your Honor.

16 THE COURT: All right. If you'll bring him
17 back.

18 (Juror enters the courtroom.)

19 THE COURT: Mr. Backmon, you have been found to
20 be qualified to serve as a juror in this case. It
21 doesn't mean that you have been selected. We're
22 going to do jury selection around noon today, but
23 you may be selected. We need you to go home and get
24 some clothes and get packed up and come back because
25 the jurors will be sequestered for the duration of

1 the trial and we need you to -- how far away do you
2 live? How many miles?

3 JUROR: 25, 20.

4 THE COURT: Twenty, 25 miles. It will be kind
5 of tough to get you back here at 12 o'clock,
6 wouldn't it?

7 JUROR: Yeah, that would kind of be pushing it.

8 THE COURT: Probably about 12:30 you could be
9 back?

10 JUROR: I've got to get some other things
11 together, too, so -- yeah, about 12:30, 1:00,
12 something like that.

13 THE COURT: 12:30 sounds okay, 1:00 does not.

14 JUROR: Well, see, I have to -- if I leave
15 right now, I'll be there at 11:30 and then I have to
16 get things situated, that will probably take me
17 about 45 minutes to an hour, but I can try my best
18 to be back here at 12:30.

19 THE COURT: Your option is either to go and be
20 back at 12:30 or to stay and then if you're on the
21 jury, then go and get things situated after being
22 selected under the supervision of the team who will
23 be responsible for the jury.

24 JUROR: I can be back at 12:30.

25 THE COURT: I know you'll be doing some fast

1 packing, but we need you to go and be back around
2 12:30 and meet right across the walkway at the annex
3 there. Do you have someone to bring you so they can
4 come and get your car if you're picked on the jury?

5 **JUROR:** I can do that.

6 **THE COURT:** You can make those arrangements
7 later on, but we need to get you back is the main
8 thing, okay? And here's a sheet of paper that you
9 can look over.

10 Please do not discuss the case with anyone,
11 don't read anything in the papers or watch any news
12 stories or allow anyone to discuss it with you or in
13 your presence. Please bring it to my attention if
14 anyone should attempt to discuss the case with you
15 including any other jurors, okay?

16 **JUROR:** All right, sir.

17 **THE COURT:** We'll see you when you get back.

18 (Juror was excused for the morning.)

19 **THE COURT:** All right. We're on to the next
20 list, panel number nine.

21 (Whereupon, Debra S. Brown, a black female,
22 enters the courtroom.)

23 **DEBRA S. BROWN,**
24 having been previously duly sworn, testified as
25 follows:

1 VOIR DIRE

2 BY THE COURT:

3 Q Are you Ms. Debra Brown?

4 A Yes, I am.

5 Q How are you doing?

6 A I'm fine.

7 Q Are you doing okay this morning?

8 A I am.

9 Q Well, good. Ms. Brown, you're still under
10 oath. Where do you work?

11 A I work at Daybreak Adult Care.

12 Q And where is that?

13 A Lexington, South Carolina.

14 Q And what section of the county do you live in?

15 A I live up 176.

16 Q Going towards?

17 A Columbia.

18 Q Toward Columbia?

19 A Uh-huh.

20 Q And have you heard, read or seen anything about
21 this case since you left here on Monday?

22 A I saw a little bit on the news yesterday.

23 Q You saw a little bit on the news yesterday.

24 What time was that?

25 A It was about 6:00.

1 Q And did you recall my admonition that you're
2 not to see, listen or be exposed --

3 A I know, that's what I'm saying, when I was
4 walking to the room, it was on, that's why I said a
5 little bit, I went out.

6 Q You went out?

7 A Uh-huh.

8 Q So you didn't --

9 A No, I didn't really just sit there and listen
10 to it or anything, no.

11 Q And based on what you've seen or heard, would
12 that affect your ability to give the State or the
13 defendant a fair and impartial trial?

14 A No.

15 Q Would you set aside what you might have seen or
16 heard and decide this case solely based on the
17 evidence presented in this courtroom?

18 A Yes, sir.

19 Q And have you formed an opinion concerning the
20 guilt or the innocence of the defendant?

21 A No, sir.

22 Q Before walking by the T.V. and seeing something
23 on the news about this case yesterday, had you heard
24 anything about it before yesterday?

25 A No, sir.

1 Q Now, the defendant is charged with murder and
2 he's presumed to be not guilty of murder and cannot
3 be found guilty unless the State proves beyond a
4 reasonable doubt that he is guilty of murder. Do
5 you understand?

6 A Yes, sir.

7 Q But, now, if the State should prove beyond a
8 reasonable doubt that he is guilty of murder, since
9 the State is seeking the death penalty, then the
10 jury will decide whether his sentence should be life
11 imprisonment without the possibility of parole or
12 the death penalty. Do you understand that?

13 A Yes, sir.

14 Q So, therefore, we need to get your opinion --
15 certain opinions from you, including your opinion
16 concerning the death penalty. Did you get a chance
17 to look at that list of people who might testify in
18 this case?

19 A Yes, sir.

20 Q Do you know anyone on that list?

21 A No, sir.

22 Q Did you also get a chance to look at the sheet
23 of paper listing the three types of jurors?

24 A Yes, sir.

25 Q And which type most closely describes you?

1 A Number three.

2 Q And when you say number three most closely
3 describes you, what does that mean?

4 A That means -- really what that means is I have
5 to hear all of the arguments and everything or
6 whatever about the case before I could determine
7 death penalty or whatever, but I've got something to
8 say about that.

9 Q All right.

10 A I'm not really for death penalty, but maybe
11 life imprisonment, but not death penalty.

12 Q If you had the two choices and those would be
13 the two choices of the jury, life imprisonment
14 without the possibility of parole or the death
15 penalty, would you always vote for life imprisonment
16 regardless of the circumstances?

17 A Probably so.

18 Q Probably so?

19 A Uh-huh.

20 Q Are there instances or situations in which you
21 could vote for the death penalty?

22 A I don't think so.

23 Q You don't think you could ever vote for the
24 death penalty?

25 A (No response.)

1 Q There are no right or wrong answers. This is
2 not a test. We just want to know your opinions.

3 A Right. I'm trying to -- I don't think I could.

4 Q You don't think you could ever vote for the
5 death penalty?

6 A No, sir.

7 Q And why do you say that?

8 A Because I don't believe in taking no one's
9 life.

10 Q You don't believe in taking --

11 A No matter what the circumstance, I just don't
12 believe in taking no one's life.

13 Q You just don't believe in it?

14 A No.

15 THE COURT: Let me see if the State or the
16 defense might want to ask you any questions.

17 From the State?

18 MR. SORENSON: Nothing from the State, Your
19 Honor.

20 THE COURT: From the defense?

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

22 THE COURT: All right. Any objection to
23 relieving this juror?

24 MR. SORENSON: Not from the State.

25 THE COURT: Any objection from the defense to

1 excusing this juror?

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

3 **THE COURT:** All right. Ma'am, we want to thank
4 you for giving us your opinions concerning the
5 matter. Based on your opinions, you're not
6 qualified to serve in this case. And, again, it
7 doesn't mean you're right or wrong, it just means
8 that a certain type of juror who could give the
9 death penalty has to be the one who sits in judgment
10 of this case. So thank you very much and you have a
11 good day. Keep smiling, it's a good thing.

12 **JUROR:** Thank you.

13 (Juror was excused.)

14 (Whereupon, Clevis D. Harrison, a black
15 male, enters the courtroom.)

16 CLEVIS D. HARRISON,
17 having been previously duly sworn, testified as
18 follows:

19 VOIR DIRE

20 BY THE COURT:

21 **Q** Mr. Harrison, how are you doing today?

22 **A** Tired.

23 **Q** You got your exams taken care of okay?

24 **A** I got one more tomorrow and next week is the
25 last week.

1 Q You have an exam tomorrow. Now, if you were
2 selected to be on this jury, do you understand the
3 jury will be sequestered in this case?
4 A Uh...
5 Q Sequestered as in will be here in the courtroom
6 during the day and at a motel at night and not at
7 school, class or work or anything of that nature?
8 A Yeah, I'm still in school, full-time student.
9 Q Full-time student at...
10 A Claflin.
11 Q Claflin University. And the exam that you have
12 scheduled for tomorrow, what kind of exam is that?
13 A That's my ceramics exam, my ceramics final.
14 Q Ceramics, like in making pottery?
15 A Yeah, I'm an art major.
16 Q Is that an exam that you can reschedule if you
17 were selected to be on the jury in this case?
18 A I talked to my Dean because I'm trying to
19 finish up in December and she said that she can try,
20 but since it's final week, everyone signs their name
21 on the list for a -- like the appointment that you
22 take the test.
23 Q What does all of that mean?
24 A I just sign my name on the list and she gave
25 the time and she's like it's on you to take it or --

1 Q Or not graduate or --

2 A Or don't take it.

3 Q Okay. If you were picked to be on the jury and
4 can't take that test tomorrow, do you believe that
5 you can make other suitable arrangements to take it
6 after the jury service is over?

7 A I believe I can.

8 Q All right. Well, let me ask you this question.
9 And you're still under oath. From the time that you
10 were here on Monday until now, have you seen or
11 heard anything about this case on T.V., newspapers
12 or anything in the like?

13 A I just saw a newspaper yesterday.

14 Q And did you read the newspaper?

15 A Yeah, I read it.

16 Q You read the article concerning this case?

17 A Yes, sir.

18 Q And did that cause you to form an opinion
19 concerning the guilt or the innocence of the
20 defendant?

21 A No, it just made me kind of think -- I mean,
22 his age, but not really. I just couldn't understand
23 just what was going on because I wasn't here. I've
24 been away on intern, so.

25 THE COURT: Solicitor.

1 **MR. PASCOE:** Thank you, Your Honor. May it
2 please the Court. I just want to bring to the
3 Court's attention, as Your Honor remembers,
4 Mr. Harrison couldn't be here Monday afternoon.
5 He's already checked that he wanted to be exempt
6 from jury duty because he is a student at school.
7 We have no objections to him exercising that
8 exemption. He doesn't need to be here, Your Honor.

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

10 **MR. KOGER:** No objection, Your Honor.

11 **THE COURT:** All right. Mr. Harrison, seems
12 like you would have been a real good juror. You
13 seem to be a quite intelligent fellow with a lot
14 going for yourself. And we would love to have had
15 you, but I understand that you're very busy and got
16 a lot of things going on, so we have to --

17 **JUROR:** Trying to walk.

18 **THE COURT:** -- have to let you go. So, very
19 good, and give Mr. Williams our regards.

20 **JUROR:** I'll do that.

21 **MR. SORENSON:** Thank you, Mr. Harrison.

22 (Juror was excused.)

23 **MR. PASCOE:** And I'm sorry, Your Honor. If I
24 had seen that earlier, I would have brought it to
25 the Court's attention, but I just saw that he had

1 checked --

2 THE COURT: Okay. Good.

3 (Whereupon, Arthur L. Mosley, a black male,
4 enters the courtroom.)

5 ARTHUR L. MOSLEY,
6 having been previously duly sworn, testified as
7 follows:

8 VOIR DIRE

9 BY THE COURT:

10 Q Good morning. Mr. Mosley. How are you doing?

11 A I'm doing okay.

12 Q Mr. Mosley, you're still under oath from your
13 previously being sworn in as a juror in this case.

14 A Yes, sir.

15 Q Where do you work?

16 A In Columbia up in Cayce.

17 Q And what section of this county do you live in?

18 A Out on Sweet Water Road.

19 Q From between Monday and now, have you heard,
20 seen or read anything about this case?

21 A No, sir.

22 Q And before that time, had you heard anything
23 about it?

24 A No, sir.

25 Q And have you formed an opinion about the guilt

1 or the innocence of the defendant in this case?

2 A No, sir.

3 Q The defendant is charged with murder and the
4 State is seeking the death penalty. He's presumed
5 to be not guilty of these charges and he cannot be
6 found guilty of these charges unless the State
7 proves that he is guilty of murder. If the State
8 proves that he's guilty of murder and the jury finds
9 him guilty, then the jury will then decide what his
10 sentence should be and that would be either a
11 sentence of life imprisonment without the
12 possibility of parole or the death penalty. Do you
13 understand that?

14 A Yes, sir.

15 Q So because of that, we need to get your
16 opinions concerning the death penalty and a few
17 other matters. Did you look at that list of people
18 who might testify?

19 A I looked at it.

20 Q Do you know any of those people?

21 A No, sir.

22 Q And did you look at the other list showing the
23 three types of jurors?

24 A I looked at most of it because I told them, you
25 know, I can't read too good, so I just looked over

1 it.

2 Q You can't read too good. How far did you go in
3 school?

4 A To the eighth grade.

5 Q And what kind of work have you been doing since
6 you got out of school?

7 A Just little pity pat work, you know, on the
8 farm and all of that.

9 Q Can you count money and keep track of your
10 money?

11 A Yes, sir.

12 Q When you go to the store and buy something,
13 they can't just give you the amount of change they
14 want you to have?

15 A I know about my change now.

16 Q And do you have a driver's license?

17 A Yes, sir.

18 Q You said you couldn't read too good. Let me
19 explain to you, there are three types of jurors.
20 The first type of juror is the juror that once
21 murder has been proven, that juror will always vote
22 for the death penalty regardless of the
23 circumstances of the case.

24 A Yes, sir.

25 Q The second type of juror is that once murder

1 has been proven, that juror will always vote for
2 life imprisonment without the possibility of parole
3 regardless of the circumstances of the case.

4 A Yes, sir.

5 Q The third type of juror is a juror who, after
6 having found the person guilty of murder and
7 listening to the aggravating circumstances and the
8 mitigating circumstances, could vote for life
9 imprisonment without the possibility of parole or
10 could vote for the death penalty --

11 A Yes, sir.

12 Q -- depending on what the juror feels and
13 believes the proper sentence should be, but that
14 juror could vote for the death penalty. Now, what
15 type of juror are you?

16 A I'd say the third.

17 Q You're a third. You could vote for the death
18 penalty if you think it was the right thing given
19 the case that you heard?

20 A Yes, sir.

21 Q And if you had to then come into court and
22 raise your hand that says, I voted for the death
23 penalty in this case, you'd be able to do that?

24 A Yes, sir.

25 Q All right. Now, the jury in this case will be

1 kept together, sequestered, for a period of probably
2 ten days at a local motel.

3 A Yes, sir.

4 Q And aside from the obvious inconvenience to
5 you, would that pose any danger to you or anyone you
6 would have to support?

7 A No, sir, it won't.

8 THE COURT: All right. Questions by the
9 defense.

10 MR. KOGER: May it please the Court.

11 VOIR DIRE

12 BY MR. KOGER:

13 Q Mr. Mosley, you indicated that you were a type
14 three juror?

15 A Yes, sir.

16 Q That you need to listen to all of the evidence?

17 A Yes, sir.

18 Q And you want to keep an open mind?

19 A Right.

20 Q And if the State -- you know, the State has the
21 burden of proof?

22 A Right.

23 Q They'd have to prove their case beyond a
24 reasonable doubt?

25 A Right.

1 Q And if they failed to prove their case beyond a
2 reasonable doubt, then you can vote not guilty?
3 A Right. I understand.
4 Q Now, you know this is a two part process?
5 A True.
6 Q First part, guilt or innocent. And if we get
7 to the second part, it's the sentencing phase?
8 A Right.
9 Q And during that part, the State is going to set
10 forth information as far as what they consider
11 aggravating?
12 A True.
13 Q The reason why, it is a death penalty case?
14 A I understand.
15 Q And the defense is going to set forth some
16 information -- or may set forth some information
17 about the defendant's background and how he was
18 brought up, information about his parents and any
19 other factors that may be important?
20 A I understand.
21 Q And you agree that you will give meaningful
22 consideration to both of them?
23 A Right.
24 Q Okay. Now, if you get selected on this jury
25 and you are in the jury room and there's 11 people

1 voting guilty and you vote not guilty, would you
2 change your mind just to get the case over with?

3 A Yes, I think I would, but I would, you know, I
4 have to make that decision myself because I have to
5 listen at it and see -- have to see about how he
6 was, you know, just like you say, how he was brought
7 up and all of that, you know, to see how things
8 were.

9 Q So, basically, it would be your individual
10 decision?

11 A Right.

12 Q And you would listen to what the other group
13 had to say?

14 A Right.

15 Q And you would expect them to listen to what you
16 had to say?

17 A Right.

18 Q Okay. And if the situation was reversed and
19 you was in the 11 that voted guilty and there was
20 one person voting not guilty, then you would listen
21 to what that person had to say?

22 A True.

23 Q And you would expect that person to listen to
24 what you had to say?

25 A Yes, sir.

1 Q Okay. Or your group had to say?

2 A Yes, sir.

3 MR. KOGER: Thank you. No further questions.

4 THE COURT: State.

5 MR. SORENSON: May it please the Court, Your
6 Honor.

7 VOIR DIRE

8 BY MR. SORENSON:

9 Q Good morning, Mr. Mosley. How are you this
10 morning?

11 A Okay.

12 Q My name is Don Sorenson. I'm with the
13 Solicitor's office. And I just have a few questions
14 for you, okay?

15 A Okay.

16 Q You had indicated to His Honor earlier that the
17 form describing the three types of jurors, you're
18 unable to read that; is that correct?

19 A Yes, sir.

20 Q Let me ask you this. Your jury questionnaire
21 that was filled out, did you fill that out or did
22 somebody else just fill it out for you?

23 A Somebody else filled it out for me.

24 Q Somebody else filled it out for you?

25 A My wife did.

1 Q Your wife did. Were you able to read any of
2 that questionnaire or did she read it to you?

3 A She read it to me.

4 Q Okay. And how about as far as writing, were
5 you able to write your answers or did you have to
6 have her --

7 A I write some of it and she wrote, you know, the
8 rest of it what I didn't know.

9 Q Okay. As far as when His Honor went over the
10 three types of jurors with you, did you understand
11 those when he was describing those three types of
12 jurors to you?

13 A Yes, sir, I did.

14 Q Okay. Type one, what is your understanding of
15 what a type one juror is?

16 A You know, if...

17 Q Do you remember?

18 A I done forgot.

19 Q I know. It's been a few minutes. You've had a
20 whole bunch of questions thrown at you in the
21 meantime. All right, a type one juror is somebody
22 that -- and this is all -- we're all dealing with
23 after a person has been convicted of murder. So
24 he's been convicted already by the jury, okay, and
25 that type one type of juror is a juror that says

1 that every time I'm going to give the person the
2 death penalty no matter what. Don't care, don't
3 need to hear anymore about it. We convicted him of
4 murder, he's going to get the death penalty. Is
5 that you? Are you that type of juror?

6 A I'm not that type.

7 Q Then type two is kind of the exact opposite of
8 that. A person, once again, has been convicted of
9 murder. They've heard all of the facts and you've
10 heard all of the facts about the case, convicted the
11 person of murder. In that type of case, though, we
12 don't need to hear anything else because we're going
13 to give him life whether we hear it or not. You can
14 tell us everything, but we're still going to give
15 him life no matter what. Are you that type of
16 juror?

17 A I like that type of person.

18 Q You're that type of person?

19 A Yes, sir.

20 Q Okay. As opposed to type three, type three is
21 the type of person while they want to hear
22 everything, but they can give the person the death
23 penalty. I mean, could you do that or are you more
24 like that type two person that's going to find life
25 imprisonment to be the appropriate punishment no

1 matter what the facts and circumstances are?

2 A Let's change that to three because three it
3 sound like, you know, more interesting to me about,
4 you know, I want to hear the facts and, you know, to
5 know what's what, you know, listen to what the
6 people are saying, whatever.

7 Q Okay. But if you listen to what the people
8 say, would you be able to, sir, sign your name
9 sentencing somebody to death, would you be able to
10 do that?

11 A I think I could.

12 Q You think you could or you know you could if
13 you felt it was appropriate?

14 A It's appropriate, I think I -- I'll do it. I
15 could do it.

16 Q You could sentence somebody to death?

17 A Yes, sir.

18 Q Let me just ask you your understanding, sir,
19 what -- by the term the death penalty, what is your
20 understanding of what that means?

21 A Like if somebody did a crime, so -- I mean,
22 just like it say, for the death penalty, I mean...

23 Q What happens to somebody if a jury comes back
24 and says, our recommendation is that they get the
25 death penalty, what happens to them? What happens

1 to that person?

2 A Well, he go lethal injection or get in the

3 electric chair.

4 Q He's going to die as a result of that. You

5 understand that; is that correct?

6 A Right. I understand that.

7 Q I just want to make sure you understand that.

8 But you indicate, Mr. Mosley, that in certain

9 circumstances, that you could say the death penalty

10 is the appropriate punishment?

11 A Right.

12 Q And in those circumstances, you could sign your

13 name on a form indicating that I, Mr. Mosley, feel

14 that the death penalty is the appropriate

15 punishment?

16 A I can do that.

17 Q Okay. Could you then come into this courtroom

18 and tell the Judge, tell the lawyers, tell the

19 defendant, tell the public that that's my decision?

20 A Yes, sir.

21 Q You could do that?

22 A Yes, sir.

23 Q Let me ask you if in -- kind of going back to

24 what I started, as far as your ability to read and

25 write and understand, I mean, you obviously don't

1 have any problem understanding communication, but as
2 far as reading, you indicated to His Honor that you
3 could read a little bit?

4 A A little bit.

5 Q I mean, if there were exhibits and stuff like
6 that that were introduced into evidence, would you
7 be able to read those exhibits?

8 A I probably could. I'm not sure.

9 Q You're not sure. I mean, that could have some
10 impairment on your ability to serve as a juror if
11 there were --

12 A True. I understand.

13 MR. SORENSON: Thank you, Mr. Mosley. That's
14 all of the questions I have.

15 RE-VOIR DIRE

16 BY THE COURT:

17 Q Mr. Mosley, if you had some exhibits back there
18 that you could not clearly read, would you have any
19 problem with the other jurors helping you read and
20 understanding them?

21 A No, sir, I don't think I would.

22 Q That's the way you've been making it all of
23 these years. If you need someone to help you read
24 something, you'll ask them to read it?

25 A Yes, sir.

1 Q If you can't pronounce a word, you'll ask them
2 how to pronounce that word or what is that word?

3 A Right.

4 Q I think we all do that, don't we?

5 A Yes, sir we do.

6 THE COURT: All right. Sir, if you'll stand
7 right outside that door there, I would appreciate
8 it.

9 (Juror leaves the courtroom.)

10 THE COURT: What says the defense?

11 MR. KOGER: Qualified, Your Honor.

12 THE COURT: What says the State?

13 MR. SORENSON: We take no position on
14 Mr. Mosley.

15 THE COURT: He is qualified to serve. He can
16 come back in.

17 (Juror enters the courtroom.)

18 THE COURT: All right. Mr. Mosley, you've been
19 qualified to serve as a juror in this case and that
20 means that you have not been selected, but you might
21 be selected to be on this jury.

22 Now, we plan to pick this jury probably in an
23 hour or so. And the jurors will be kept together
24 until the case is over and put up in a local motel.
25 I'll give you a sheet of paper here that talks a

1 little bit about that. It basically says jurors
2 will be at the Sleep Inn in case your folks might
3 want to know where you are.

4 When you get ready to go on a trip, do you pack
5 up or do you let your wife pack up for you?

6 JUROR: No, I pack up myself.

7 THE COURT: How far away do you live?

8 JUROR: From where, from here?

9 THE COURT: Yes, from this spot right where
10 you're standing.

11 JUROR: About five miles.

12 THE COURT: Right up the road.

13 JUROR: Yes, sir.

14 THE COURT: All right. We need you to go home
15 and get together some clothes and come back in about
16 an hour. We need you back at 12:30 now. I know it
17 might be pushing it.

18 Now, don't discuss the case, watch the T.V.,
19 read any papers and come back at 12:30 right across
20 there at the annex, okay? We'll see you then.

21 JUROR: Okay.

22 THE COURT: Now, you might need to, and you can
23 do it after you get back, but you might have to
24 arrange for someone to get your car, but you'll have
25 time to call.

1 JUROR: Okay.

2 (Juror was excused for the morning.)

3 THE COURT: We'll do one more and take a break
4 after this one.

5 (Whereupon, Richard M. Boone, a white male,
6 enters the courtroom.)

7 RICHARD M. BOONE,
8 having been previously duly sworn, testified as
9 follows:

10 VOIR DIRE

11 BY THE COURT:

12 Q Mr. Boone, how are you doing?

13 A Fine.

14 Q Good. Mr. Boone, you're still under oath from
15 the other day when you took the oath to give
16 truthful answers to all questions. Where do you
17 work, Mr. Boone?

18 A At Jim Hudson Pontiac GMC in Columbia, South
19 Carolina.

20 Q And what area of this county do you live in?

21 A The Sandy Run area.

22 Q Now, have you seen, heard or read anything
23 about this case since you left here on Monday?

24 A No, sir.

25 Q And before that, had you heard anything about

1 this case?

2 A No, sir.

3 Q Have you formed an opinion concerning the guilt
4 or the innocence of the defendant?

5 A No, sir.

6 Q Now, we need to ask you your opinions
7 concerning certain matters. And, first, I want to
8 ask you about this list here. Did you take a look
9 at this list? Did you know anyone on this list?

10 A No, sir.

11 Q And the second sheet of paper lists the various
12 types of jurors, type one, type two and type three.
13 Because the State is seeking the death penalty, the
14 death penalty may become an issue in this case, he's
15 presumed to be not guilty and cannot be found guilty
16 unless the State proves beyond a reasonable doubt
17 that he's guilty, but if the State should do that
18 and the jury finds him guilty, then the jury would
19 have to decide what his sentence should be. And the
20 two choices the jury would have would be death
21 penalty or life imprisonment without the possibility
22 of parole. Do you understand that, sir?

23 A Yes, sir.

24 Q And which type of juror are you?

25 A I believe I'm type three.

1 Q And as a type three juror, could you listen to
2 the evidence and either vote for the death penalty
3 or life imprisonment without the possibility of
4 parole depending on what you think the proper
5 verdict should be?

6 A Yes, sir, I believe so.

7 Q Now, this case may take about ten days to do
8 it. And aside from the fact that it obviously would
9 inconvenience you, as well as other jurors, would it
10 pose any serious danger to your health, the welfare
11 of anyone dependent upon you?

12 A No, sir.

13 THE COURT: I'll see if the State or the
14 defense might have any questions for you.

15 The State.

16 MR. SORENSON: May it please the Court, Your
17 Honor.

18 VOIR DIRE

19 BY MR. SORENSON:

20 Q Good morning, Mr. Boone. How are you this
21 morning?

22 A Fine.

23 Q My name is Don Sorenson. I'm with the
24 Solicitor's office. I just have a couple of
25 questions for you. You had indicated to the Court

1 that you're a type three juror and by that, you --
2 let me ask you this specifically. Do you have any
3 opposition to the death penalty?

4 A No, sir.

5 Q And by indicating that you're a type three
6 juror, are there certain circumstances where you
7 could find that a -- the death penalty is the
8 appropriate punishment?

9 A Yes, sir.

10 Q And also certain circumstances where you could
11 find life imprisonment is an appropriate punishment;
12 is that correct?

13 A Yes, sir.

14 Q And if you were to find the death penalty is
15 the appropriate punishment, would you be able to
16 sign your name to a verdict form indicating that?

17 A Yes, sir.

18 Q And would you be able then to come into the
19 courtroom and publish that to the Court?

20 A Yes, sir.

21 Q Let me just ask you, and I don't mean to
22 embarrass you, but just in looking at your juror
23 information form you turned in, you had indicated on
24 here that you had been convicted of a crime before?

25 A Yes, sir. In 1983, I was convicted for driving

1 under the influence.

2 Q Okay. And was that in South Carolina?

3 A Yes, sir, Richland County.

4 Q And in looking, and I'm not -- I saw that you
5 were born in Texas; is that correct?

6 A Yes, sir.

7 Q In looking here, and I'm not a hundred percent
8 sure this is you, but back in 1981, were you
9 arrested for assault and battery of a high and
10 aggravated nature in Texas?

11 A No, that was in Richland County.

12 Q That was in Richland County. What happened
13 with that charge?

14 A It was dropped.

15 Q It was dropped. And you don't have any bias
16 against law enforcement as a result of that or
17 anything, do you, Mr. Boone?

18 A No, sir.

19 MR. SORENSON: I appreciate it. Please answer
20 any questions the defense has.

21 MR. WALTERS: May it please the Court.

22 VOIR DIRE

23 BY MR. WALTERS:

24 Q How are you doing, sir?

25 A Fine.

1 Q Mr. Boone, you indicated you were a type three.
2 You understand this is a two part process. It's a
3 bifurcated process. You understand that the State
4 will have to prove their case beyond a reasonable
5 doubt?

6 A Yes, sir.

7 Q Not maybe it happened or it could have
8 happened, but beyond a reasonable doubt that Mikal
9 Mahdi committed a murder?

10 A Yes, sir.

11 Q And that's malice aforethought and the unlawful
12 taking of someone's life. If we should reach the
13 sentencing phase, you would have to listen to the
14 mitigating and aggravating circumstances of this
15 case. Are you willing to give meaningful
16 consideration to all of those factors?

17 A Yes, sir.

18 Q That would be with regards to his upbringing,
19 his family, his mother, his father and things of
20 that nature?

21 A Yes, sir.

22 Q And once you've heard all of the information,
23 you'll make an individual decision about what you
24 think is correct; is that right?

25 A Yes, sir.

1 **MR. WALTERS:** Your Honor, I have no further
2 questions.

3 **THE COURT:** All right. Sir, if you'll stand
4 right outside the door for a moment, please.

5 (Juror leaves the courtroom.)

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

7 **MR. SORENSON:** Qualified, Your Honor.

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

9 **MR. WALTERS:** He's qualified, Your Honor.

10 **THE COURT:** All right. If you'll have come
11 back in, please.

12 (Juror enters the courtroom.)

13 **THE COURT:** Mr. Boone, you have been found to
14 be qualified to serve as a juror in this case, that
15 means you may be selected. Of course, you may not
16 be selected. We won't know until we do the jury
17 selection, which we intend to do around 12:30 today,
18 but we need you to be packed up and be prepared to
19 be on the jury, which means you may have to stay
20 with us if you are selected. Sandy Run is about how
21 far?

22 **JUROR:** It's about 12 miles.

23 **THE COURT:** Do you think you can go to Sandy
24 Run and get enough clothes and things for ten days
25 and medication and all of that and be back in an

1 hour?

2 JUROR: Yes, sir, I believe so.

3 THE COURT: I need you to come back to the
4 annex right across the street and have someone who
5 could possibly come get your car if you are
6 selected.

7 JUROR: Yes, sir, I can handle that.

8 THE COURT: Okay. So we'll let you be on your
9 way. Please do not talk with anyone about the case,
10 read anything, watch any T.V. and do not allow any
11 other jurors or anyone else to discuss it with you.
12 If they attempt to do so, please tell them you can't
13 talk about it and also let me know. Thank you, sir.

14 (Juror was excused for the morning.)

15 THE COURT: We're going to take a couple
16 minutes. I think, in going through this whole
17 panel, we have 42 qualified with a couple sending
18 messages of various things that I have not had a
19 chance to hear, but regarding the folks who are
20 coming over there at 12 o'clock, Mr. Hasty, do you
21 have someone prepared to greet them over there?

22 THE CLERK: Yes, sir. We'll get a deputy or a
23 bailiff.

24 THE COURT: Of course, we need someone to be
25 there also to make sure that they do not discuss --

1 the bailiffs need to be in there with them to make
2 sure they do not talk about the case. And, of
3 course, they can't talk about it with them. And
4 they should be -- if a person that's in there with
5 them, it should be a bailiff and not a deputy.

6 THE CLERK: Yes, sir.

7 THE COURT: Any objection to that by either
8 side?

9 MR. WALTERS: No, sir, Your Honor.

10 MR. PASCOE: No, Your Honor.

11 THE COURT: Well, we'll take about two minutes
12 and come right back.

13 (Brief Recess.)

14 (Whereupon, Charles E. Jeffery, a black
15 male, enters the courtroom.)

16 CHARLES E. JEFFERY,
17 having been previously duly sworn, testified as
18 follows:

19 VOIR DIRE

20 BY THE COURT:

21 Q Mr. Jeffery, how are you doing?

22 A How are you doing, sir?

23 Q Good. Mr. Jeffery, you're still under oath to
24 tell the truth and give us complete and accurate
25 information. Mr. Jeffery, where do you work?

- 1 A Stock Builders (ph) in Columbia.
- 2 Q And what area of this county do you live in?
- 3 A Calhoun County.
- 4 Q And what area of the county?
- 5 A On Turkey Hike.
- 6 Q Turkey Hike?
- 7 A Yeah.
- 8 Q And since Monday, have you heard, seen or read
- 9 anything about this case?
- 10 A No, sir.
- 11 Q Before Monday, did you see or hear anything
- 12 about this case?
- 13 A No, sir.
- 14 Q And have you formed an opinion concerning the
- 15 guilt or the innocence of the defendant?
- 16 A No, sir.
- 17 Q Now, the defendant is charged with murder and
- 18 the State is seeking the death penalty. He is
- 19 presumed to be not guilty. He's presumed to be
- 20 innocent of this charge. And he cannot be found
- 21 guilty of any charge unless the State proves beyond
- 22 a reasonable doubt that he is guilty of the murder
- 23 or any -- all other charges. Do you understand
- 24 that, sir?
- 25 A Yes, sir.

1 Q Now, if he should be found guilty of murder,
2 because the State is seeking the death penalty,
3 there will be a second phase of the trial where the
4 jury will decide what sentence he should get. And
5 the jury would have the choice of sentencing him to
6 life without the possibility of parole or the death
7 penalty. Because of that, we need to know your
8 opinion concerning the death penalty should the jury
9 get to that point. Have you had a chance to look at
10 the list of people who might testify in this case?

11 A Yes, sir.

12 Q And do you know anyone on that list?

13 A The only one I know is Chief Summers.

14 Q Sheriff Summers?

15 A Sheriff.

16 Q And would that affect your ability to be fair
17 and impartial, the fact that you know him?

18 A Yeah.

19 Q You do not think you can be fair and impartial
20 in this case?

21 A No, sir.

22 Q And why is that?

23 A Because I have a history, one of my brothers
24 been in an incident and he got evidence planted on
25 him and he died afterward. And ever since that day,

1 since '98, it's been on my mind, it bothered me.

2 Q And do you think that would cause you to be
3 prejudiced against the State or against the defense?

4 A Neither one.

5 Q Could you be a fair and impartial juror or you
6 cannot be?

7 A I cannot be.

8 Q You cannot be fair and impartial?

9 A (Juror shook head.)

10 THE COURT: All right. Any questions by the
11 State or the defense?

12 MR. PASCOE: None, Your Honor.

13 MR. WALTERS: No questions, Your Honor.

14 THE COURT: Any objection to him being excused
15 as a juror?

16 MR. PASCOE: No, sir.

17 MR. WALTERS: No objection, Your Honor.

18 THE COURT: I thank you for being honest with
19 us, Mr. Jeffery. And we'll let you go.

20 (Juror was excused.)

21 (Whereupon, Kathleen A. Link, a white
22 female, enters the courtroom.)

23 KATHLEEN A. LINK,
24 having been previously duly sworn, testified as
25 follows:

1 VOIR DIRE

2 BY THE COURT:

3 Q Ms. Link, how are you doing?

4 A I'm fine. Thank you.

5 Q Good. Good to see you again. You're still
6 under oath from the other day. Remember that oath
7 you took?

8 A I do.

9 Q Now, where do you work?

10 A I work at Calhoun Academy. I'm a school
11 teacher.

12 Q And what area of the county do you live in?

13 A I live in -- about three miles out in the
14 country.

15 Q And since Monday, have you seen, heard or read
16 anything about this case?

17 A I have not.

18 Q Before Monday, had you heard anything about
19 this case?

20 A I never heard of it.

21 Q Now, in this case, the defendant is charged
22 with murder and some other crimes. And the State is
23 seeking the death penalty. He is presumed to be not
24 guilty of those charges and cannot be found guilty
25 unless the State proves beyond a reasonable doubt

1 that he's guilty and the jury finds him guilty. Do
2 you understand that?

3 A Yes, I do.

4 Q Should the jury find him guilty of murder, the
5 jury would then decide what sentence he should get,
6 whether it should be life without the possibility of
7 parole or whether he should get the death penalty.
8 Because of that fact and how it may impact on your
9 jury service, we need to ask you some questions
10 about your opinion concerning the death penalty.
11 Did you take a look at the witness list in this
12 case?

13 A I did.

14 Q Do you know anyone on that witness list?

15 A The only person I'm familiar with is Sheriff
16 Summers.

17 Q And would that fact affect your ability to be
18 fair and impartial?

19 A No, sir.

20 Q Did you look at the other sheet, that list of
21 three types of jurors?

22 A I did.

23 Q Which type most closely describes you?

24 A Number three.

25 Q And as a number three juror, could you vote for

1 life imprisonment without the possibility of parole
2 or the death penalty depending on the evidence in
3 the case?

4 A I could.

5 Q All right. And the jury in this case will be
6 sequestered, meaning they will be kept together
7 until the trial is over. And aside from the obvious
8 inconvenience to you, would that affect your health
9 or welfare? Or, would it pose a danger to your
10 health or welfare or to anyone who's dependent upon
11 you?

12 A No, sir.

13 THE COURT: All right. Let's see if the State
14 or the defense might have any questions for you.

15 From the defense.

16 MR. KOGER: May it please the Court.

17 VOIR DIRE

18 BY MR. KOGER:

19 Q Ms. Link, you identify yourself as a type
20 three?

21 A Yes, sir.

22 Q And, basically, you want to keep an open mind
23 about the case. You want to receive evidence from
24 both sides, correct?

25 A Right.

1 Q And you do realize that the State has the
2 burden of proof in this case and have to prove the
3 case beyond a reasonable doubt?

4 A Right.

5 Q And if they fail to meet that burden, then
6 you're obligated to come in with a not guilty
7 verdict, correct?

8 A Correct.

9 Q And you realize it's a two part process, the
10 one I just mentioned is guilt or innocence, the
11 second portion is the sentencing phase. If we get
12 to the sentencing phase, the State is going to put
13 forth some aggravating circumstances as evidence and
14 the State (sic) is going to put forth, as we call,
15 mitigating circumstances, relating to a person's
16 background, upbringing and things of that nature.
17 And you're saying by being a type three, that you're
18 able to give meaningful consideration to both types
19 of evidence?

20 A I feel that I could.

21 Q And you'll be fair and impartial?

22 A I feel that I could.

23 MR. KOGER: Thank you, Ms. Link.

24 THE COURT: From the State.

25 MR. SORENSON: Thank you for coming, Ms. Link.

1 We don't have any questions.

2 **THE COURT:** All right. Ms. Link, if you'll
3 stand right outside the door, please, just for a
4 moment.

5 (Juror leaves the courtroom.)

6 **THE COURT:** What says the State -- what says
7 the defense?

8 **MR. KOGER:** Qualified, Your Honor.

9 **THE COURT:** And the State?

10 **MR. SORENSON:** Qualified, Your Honor.

11 **THE COURT:** If you'll have her come back in.

12 (Juror enters the courtroom.)

13 **THE COURT:** Ms. Link, you have been found to be
14 qualified as a potential juror in this case, that
15 doesn't mean that you will be on the jury, it means
16 that you are a potential juror and you may be
17 selected. And we plan to do jury selection in about
18 45 minutes.

19 Now, the jurors who came this morning have the
20 disadvantage of us not having to give them time to
21 pack and prepare to come and serve, but if you are
22 selected, you will be sequestered with the other
23 jurors. Did you do any advanced packing just in
24 case?

25 **JUROR:** No.

1 **THE COURT:** I don't know how long it might take
2 you to get packed. How long would you say?

3 **JUROR:** For how long?

4 **THE COURT:** For up to ten days.

5 **JUROR:** I don't know.

6 **THE COURT:** What we will do is have you to meet
7 over at the -- if you can make some preliminary
8 arrangements and then come back in 45 minutes over
9 at the annex. And then, obviously, if there are
10 some other things you need to retrieve or to get
11 based on the quickness of this, we'll have to
12 arrange for you to be able to do that a little later
13 under the supervision of the sequestration team of
14 officers who will then go with you while you're
15 getting any other items you might need to get.

16 But we need you to come back at 12:45 over at
17 the annex right across the walkway here to determine
18 whether or not you will be selected on this jury.

19 **JUROR:** So I should come prepared, though?

20 **THE COURT:** If you can, if you can, but if you
21 -- I realize it's a -- I would suspect that you
22 might leave a few things because of the rushness of
23 it and if you do, then we'll make provisions for you
24 to be able to go back with the officers a little
25 later as well, okay?

1 **JUROR:** Okay.

2 **THE COURT:** Thank you very much. In the
3 interim, please do not read any newspapers,
4 including the State Newspaper that may have anything
5 on it, the Times and Democrat or the T.V. station,
6 don't watch anything and don't discuss the case with
7 anyone, don't allow anyone to discuss it with you or
8 in your presence. It will be a violation of my
9 order, as well as your oath as a juror.

10 Thank you very much and we'll see you a little
11 later. The jurors will meet in the council chambers
12 right across the street.

13 **JUROR:** Okay.

14 (Juror was excused for the morning.)

15 (Whereupon, Evelyn M. Jackson, a black
16 female, enters the courtroom.)

17 EVELYN M. JACKSON,
18 having been previously duly sworn, testified as
19 follows:

20 VOIR DIRE

21 **BY THE COURT:**

22 **Q** Ms. Jackson, how are you doing?

23 **A** Good. Thank you.

24 **Q** Good. That's good to know. You're still under
25 oath. We had you under oath the other day, you're

1 still under oath. Where do you work, Ms. Jackson?

2 A Calhoun County Disability and Special Needs
3 Board.

4 Q And have you seen, heard or read anything about
5 this case from the time -- since Monday, between
6 Monday and now?

7 A No.

8 Q Have you heard anything about this case before
9 that?

10 A I can remember slightly, but not really
11 anything. I can remember when it happened, but...

12 Q Have you formed an opinion concerning the guilt
13 or the innocence of the defendant?

14 A No.

15 Q And can you set aside what you might have heard
16 and decide this case solely based on the evidence
17 presented in this courtroom?

18 A Yes, I can.

19 Q Now, the defendant is charged with murder and
20 other things and the State is seeking the death
21 penalty. He's presumed to be not guilty of those
22 crimes, but should the State prove him guilty of
23 murder and the jury finds him guilty of murder, the
24 jury would then decide what the sentence should be
25 and that means the jury could decide either that he

1 should have to receive life without the possibility
2 of parole or the death penalty. Do you understand?

3 A Yes, I do.

4 Q So, therefore, we need to know your opinion
5 concerning the death penalty. Did you take a look
6 at the list of possible witnesses in this case?

7 A Yes, I did.

8 Q And do you know any of those people?

9 A No, I do not.

10 Q And did you also take a look at the list of the
11 type three jurors?

12 A Yes.

13 Q And which type juror most closely identifies
14 you?

15 A Type three.

16 Q And as a type three juror, could you vote for
17 the death penalty if you think that was the proper
18 punishment?

19 A Yes, I could.

20 Q And could you vote for life imprisonment
21 without the possibility of parole if you thought
22 that was the proper punishment?

23 A Yes, I could.

24 Q And the jury in this case will be sequestered
25 or kept together for the duration of the trial,

1 you've never been convicted of a crime; is that
2 correct?

3 A No.

4 Q You haven't been?

5 A No.

6 Q Let me ask you, ma'am, back in October of 2005,
7 were you convicted of a shoplifting in Forest Acres?

8 A It was like, I was with someone. I was with a
9 neighbor of mine and that's what occurred then.

10 Q Okay. But you were convicted of that in
11 October of 2005; is that correct?

12 A Yes.

13 Q That was of shoplifting; is that correct?

14 A Yes.

15 MR. SORENSON: Your Honor, at this time, we
16 would have a motion.

17 THE COURT: You said you have a motion?

18 MR. SORENSON: Yes, sir.

19 THE COURT: Ms. Jackson, if you would stand
20 right outside the door for a moment.

21 (Juror leaves the courtroom.)

22 THE COURT: Yes, sir.

23 MR. SORENSON: Your Honor, we believe that Ms.
24 Jackson should be struck for cause. She was under
25 oath today, indicated she had never been convicted

1 of a crime, which is the same thing she checked on
2 her juror questionnaire. When, in fact, I mean,
3 just about a year ago, she was convicted of
4 shoplifting, which is, I mean, also a crime of
5 dishonesty. I feel that she has, therefore, not
6 been truthful and should be struck for cause as a
7 result of that.

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

9 **MR. WALTERS:** May it please the Court. Your
10 Honor, on her juror questionnaire, one of the
11 State's disqualifications, she didn't check the
12 block, but simply said that, you know, imprisonment
13 for more than one year. Of course, when asked the
14 question, her response was simply this, I was with
15 my neighbor. Implicitly, the only thing I can draw
16 from that is that she accompanied someone in the
17 store and, evidently, they were shoplifting and they
18 took everybody and the hand of one is the hand of
19 all. And evidently, there was a conviction.

20 Other than that, the facts speak for themselves
21 when she answered that she was not convicted of a
22 crime, I don't know what light she holds -- opinion
23 but, of course, under disqualifications, she would
24 be qualified to serve.

25 **MR. SORENSON:** That's not what I'm pointing at,

1 Your Honor. About halfway down, there's the line,
2 Have you ever been convicted of a crime, and in
3 parentheses, Other than a minor traffic offense.
4 She checked no. Then I asked her the same question
5 under oath here, while this could just be something
6 that she kind of went -- I mean, she's under oath
7 today and indicated, no, to that same question.

8 THE COURT: I find that the offense of
9 shoplifting does not disqualify a juror from jury
10 service. She did not accurately complete the form.
11 As a result of your questions of her, you now have
12 the accurate information that she has acknowledged
13 that she was convicted of shoplifting. I do not
14 find that that is cause to strike her from the jury.

15 MR. SORENSON: I mean, not even the fact that
16 she is under oath? I mean, I asked her that
17 question under oath, Your Honor, and she said, no.
18 I mean that -- I mean, any other juror --

19 THE COURT: I do not find that that is cause to
20 strike her from the jury. If you'll bring her back
21 please.

22 (Juror enters the courtroom.)

23 BY MR. SORENSON:

24 Q I just have a few more questions for you, Ms.
25 Jackson. You had indicated when His Honor asked you

1 earlier about what type of juror you would fall
2 under, you had indicated, I believe, that you felt
3 that you were a type three?

4 A Yes, sir.

5 Q What is your understanding of what a type three
6 juror is?

7 A That I can listen to the evidence presented and
8 form an opinion from that.

9 Q An opinion as to what?

10 A I may be wrong, but there's certain
11 circumstances surrounding where you ask for either
12 life imprisonment or the death penalty. I can form
13 an opinion from that, from the evidence that's
14 presented, you know, after hearing the case.

15 Q So you feel that after listening to all of the
16 evidence in the case and all of the facts
17 surrounding the incident and other factors that may
18 be presented to you, that you then could make a
19 decision what the appropriate punishment is?

20 A Yes, sir.

21 Q And you could, if you felt that it was
22 appropriate, sentence somebody to death, you could
23 do that?

24 A Yes, sir.

25 Q And in doing that, you could then sign your

1 name to a verdict form indicating that I feel that
2 this person should be sentenced to death for what
3 they did?

4 A Yes, sir.

5 Q And could you then come out here in this
6 courtroom and tell everyone in this courtroom that
7 that was your findings?

8 A Yes, sir.

9 MR. SORENSON: Thank you, ma'am.

10 THE COURT: From the defense.

11 MR. WALTERS: May it please the Court.

12 VOIR DIRE

13 BY MR. WALTERS:

14 Q Good afternoon, Ms. Jackson. Ms. Jackson, you
15 indicated you were a type three; is that correct?

16 A Yes, sir.

17 Q And I want to make sure we're clear about type
18 three and implicitly what you're saying to us, okay?
19 You understand that the State has to prove their
20 case beyond a reasonable doubt?

21 A Yes, sir.

22 Q Not maybe this happened or it could have
23 happened or there's a possibility. They have to
24 prove their case beyond a reasonable doubt?

25 A Yes.

1 Q If they failed to do so, could you return a
2 verdict of not guilty?

3 A If they failed to prove it beyond a shadow of a
4 doubt.

5 Q Beyond a reasonable doubt?

6 A Beyond a reasonable doubt.

7 Q Could you return a verdict of not guilty?

8 A Could I?

9 Q Yes, ma'am.

10 A Yes.

11 Q And in this particular case, as it says under
12 type three, in addition to that, if we reach the
13 sentencing phase, because they first must meet their
14 burden and you must hold them to that burden, if we
15 reach the sentencing phase, you'll be required to
16 listen to aggravating circumstances presented by the
17 State, also the mitigating circumstances that are
18 presented by the defense and that's with regards to
19 his childhood, his parents, his upbringing and
20 things of that nature. Are you willing to give
21 meaningful consideration to both of those factors?

22 A Yes, sir.

23 Q And then after deliberating, now remember it's
24 an individual decision, you'll be with 12 other
25 people, but no matter what, you make up your mind

1 and you decide what is best. After you deliberated
2 and you've made up your mind, you have two options
3 available to you, if we reach the sentencing phase.
4 And one option is the death penalty and, of course,
5 the other option is life imprisonment. You
6 understand the death penalty, we're referring to
7 death by electrocution or lethal injection?

8 A Yes.

9 Q And, of course, the other option is the person
10 will spend the rest of their life in prison without
11 parole?

12 A Uh-huh.

13 Q And what you're telling us is, is that you're
14 able to, after you hear all of the information,
15 after they've first proven their case, if they prove
16 their case, you're then allowed to sit down and
17 deliberate over all of this information and you can
18 make a decision as to what you believe is best in
19 this case?

20 A Yes.

21 Q And you understand it's an individual decision?

22 A Yes, I do.

23 MR. WALTERS: Your Honor, I have no further
24 questions.

25

1 RE-VOIR DIRE

2 BY THE COURT:

3 Q Ms. Jackson, you received this juror form
4 information sheet and the question was asked of you,
5 Have you ever been convicted of a crime other than a
6 minor traffic offense, did you complete this form?

7 A Yes, I did.

8 Q And why did you check no there?

9 A Because I was not guilty. I was not guilty.
10 Like I stated earlier, I was with my neighbor and
11 she had some things in her possession, we were
12 together.

13 Q And as far as your case, you were charged with
14 it as well?

15 A Yes, but we were together.

16 Q Did you go to court for this? Did you go
17 before the judge for this?

18 A We went before the judge.

19 Q And what happened when you went before the
20 judge?

21 A We went before the judge. It was in Forest
22 Acres in October 2005 and we went before the judge.
23 To get a lawyer, you know, I would have to plead my
24 case, so I just pleaded guilty.

25 Q And so in the -- did you understand the

1 question, Have you ever been convicted of a crime,
2 and you checked no, why didn't you check yes since
3 you pled guilty to that crime? Why didn't you check
4 yes?

5 A (No response.)

6 Q If you pled guilty to that crime, why didn't
7 you check yes as opposed to checking no?

8 A Because I wasn't -- well, after, I guess,
9 because -- I'm saying that I'm guilty when I pled
10 guilty, right, I'm saying that I did the crime?

11 Q Yes.

12 A Okay. In my opinion, I wasn't guilty, so I
13 checked no.

14 THE COURT: If you'll stand right outside the
15 door there, ma'am.

16 (Juror leaves the courtroom.)

17 THE COURT: What says the State?

18 MR. PASCOE: Your Honor, she is certainly not
19 qualified. She wouldn't be qualified to sit on any
20 jury. Not only did she check the form incorrectly
21 where she stated she's never been convicted of a
22 crime before, which in itself would cause her to be
23 struck for cause off of any jury, but she also,
24 under oath, didn't tell the truth when she was asked
25 if she had ever been convicted of a crime.

1 And not only did we learn that she was
2 convicted of a crime just about a year ago, she
3 remembers the facts of it and remembers the
4 conviction, yet under oath says she wasn't convicted
5 of a crime. There's no way she should be qualified.
6 We can't believe anything she testified to today.

7 I just want to point -- she would be cut off of
8 any jury trial much less a death penalty trial.
9 There's no way she's qualified to serve as a juror.

10 **THE COURT:** I've found that she is qualified as
11 a juror regarding the issue of her being qualified
12 for a -- based on her -- whether she's death
13 qualified, what's the State's position?

14 **MR. PASCOE:** The State's position is that she's
15 not qualified because we can't believe anything she
16 said. She lied under oath, Your Honor. She said
17 she's never been convicted of a crime under oath.

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

19 **MR. WALTERS:** Honest mistake, Your Honor. She
20 didn't understand, that's obvious. If we're going
21 to hold everyone that comes into this room to the
22 standards that lawyers are held to as officers of
23 the court, appearing before the court, then, of
24 course, I would agree with the Solicitor.

25 **THE COURT:** I've ruled on the issue of being

1 qualified to serve on jury duty. As the issue of
2 being death qualified, what's the defense's
3 position?

4 MR. WALTERS: She's qualified, Your Honor. She
5 understands type number three. She clearly
6 articulated her position and she's able to make a
7 rational decision between the options that are
8 available.

9 THE COURT: She is qualified to serve. If
10 you'll bring her back in.

11 (Juror enters the courtroom.)

12 THE COURT: All right. Ms. Jackson, ma'am, you
13 have been found by me to be qualified to serve as a
14 juror on this case. It does not mean that you will
15 serve. It means that you're qualified to serve.
16 You may or may not be selected to serve.

17 Now, we intend to proceed with jury selection
18 in this case shortly, but the jury, once selected,
19 will be sequestered, so arrangements will have to be
20 made for you to be able to go and get clothing and
21 all of that and medications if you are selected to
22 serve on the jury.

23 We'll need you to stick around and meet with
24 the other jurors over there in the next 15 or 20
25 minutes. If you'll go over to council chambers

1 across the hall and then come over to see if you are
2 selected to serve. Now, if you will go over there
3 at 12:45, that will be a good time. Please do not
4 discuss the case in any form or fashion or read
5 anything about it or listen to any T.V. accounts.

6 (Juror was excused for the morning.)

7 (Whereupon, William W. Crawford, a white
8 male, enters the courtroom.)

9 WILLIAM W. CRAWFORD,
10 having been previously duly sworn, testified as
11 follows:

12 VOIR DIRE

13 BY THE COURT:

14 Q Mr. Crawford, how are you doing?

15 A Fine.

16 Q And, Mr. Crawford, you're still under oath,
17 remember that?

18 A Yes, sir.

19 Q Where do you work, Mr. Crawford?

20 A FedEx Freight.

21 Q FedEx Freight?

22 A Yes, sir, in West Columbia.

23 Q And what area of the county do you live in?

24 A Halfway between here and Sandy Run.

25 Q And have you heard anything or read anything

1 about this case since you were here on Monday?

2 A No, sir. I'm not really sure which case this
3 is.

4 Q Have you heard anything about this case before
5 Monday, the case of the State versus Mikal Mahdi?

6 A Like I said, I'm not really familiar with the
7 case, which one it is.

8 Q All right. Now, the State in this case is
9 seeking the death penalty against the defendant. He
10 is presumed to be not guilty of the charges, but we
11 have to ask your opinion concerning the death
12 penalty just in case in the event he is found guilty
13 of murder because then the State decides whether he
14 gets -- I mean, the jury decides whether he is
15 sentenced to life imprisonment without the
16 possibility of parole or the death penalty. Do you
17 understand?

18 A Yes, sir.

19 Q Now, did you take a look at the list of
20 potential witnesses?

21 A Yes, sir.

22 Q And do you know any of the people who are
23 witnesses or may be witnesses?

24 A Not personally, no, sir.

25 Q And did you look at the three type of jurors?

1 A Yes, sir.

2 Q And which type of juror are you?

3 A The first one.

4 Q You're a type one juror?

5 A Yes, sir.

6 Q Now, a type one juror is a juror who, once
7 murder has been proven, this juror believes that the
8 only appropriate punishment, no matter what
9 circumstances, is the death penalty?

10 A Yes, sir.

11 Q And that juror would never vote for life
12 imprisonment under any circumstances?

13 A No, sir.

14 Q That juror will not listen to any other
15 evidence, will not consider any other evidence, will
16 not consider the aggravating circumstances or
17 mitigating circumstances, but would automatically,
18 in all cases, vote for the death penalty?

19 A Yes, sir.

20 Q Is that you?

21 A Yes, sir.

22 **THE COURT:** All right. Any questions by the
23 State or the defense? First, by the defense?

24 **MR. KOGER:** No, Your Honor.

25 **THE COURT:** By the State?

1 **MR. SORENSON:** No, sir.

2 **THE COURT:** Any objection to this juror being
3 excused?

4 **MR. SORENSON:** No, sir.

5 **MR. KOGER:** No, Your Honor.

6 **THE COURT:** Sir, you're excused based on the
7 fact that you cannot consider any other options but
8 the death penalty and the jury must be able to do
9 that. Thank you, sir, for coming. Please do not
10 discuss your responses with anyone. And you're free
11 to go.

12 (Juror was excused.)

13 **THE COURT:** Let's have the next juror to come
14 in.

15 **OFFICER:** Your Honor, he's still reading.

16 **THE COURT:** Concerning juror number 307, Tiara
17 Bochette, Madame Clerk or Mr. Clerk.

18 **THE CLERK:** She had some problems. She never
19 discussed with me what kind of problems she had, but
20 she said she had some problems with serving.

21 **THE COURT:** And juror number 192, Jessica
22 McKoy, what's the situation with her?

23 **THE CLERK:** Ms. McKoy said that she had some
24 financial problems with serving and that she could
25 not serve because of some financial problems that

1 would occur.

2 Juror 112, Mary B. Gunter has problems, also.
3 Ms. Gunter said that she had some problems that she
4 didn't wish to serve, that she had some problems
5 that she didn't get into them with me.

6 All the three jurors that were just called out,
7 all said that they had problems, that they did not
8 want to serve for various problems that they may
9 have had. And they're all at the annex over there.

10 THE COURT: What says the State?

11 MR. PASCOE: Maybe we can bring them before the
12 Court and find out what the problems are, Your
13 Honor.

14 THE COURT: What says the defense?

15 MR. KOGER: Yes, Your Honor, we'll have the
16 examination in court, Your Honor.

17 THE COURT: We can have someone bring those
18 three jurors over.

19 (Whereupon, Darius Murph, a black male,
20 enters the courtroom.)

21 DARIUS MURPH,
22 having been previously duly sworn, testified as
23 follows:

24 *****

25 *****

1 VOIR DIRE

2 BY THE COURT:

3 Q All right, sir. How are you doing?

4 A All right.

5 Q And, sir, you're Mr. Darius Murph?

6 A Yes.

7 Q And, Mr. Murph, you're still under oath. I

8 noticed when you -- you gave some information

9 earlier during the course of the trial -- of your

10 jury service, can you give the defendant a fair and

11 impartial in this case?

12 A Yes, I could, but could I --

13 Q Yes, sir.

14 A But the death penalty, you know, I would rather

15 not.

16 Q Well, no juror -- all jurors would rather not,

17 they're -- and perhaps human nature is that I would

18 love for someone else to do it other than me or to

19 serve other than me, but aside from that, what do

20 you want to tell me on that issue?

21 A I'll see what -- if it's fair, I will be fair

22 about it.

23 Q Since Monday, have you heard or read anything

24 about this case?

25 A No.

1 Q Before Monday, did you hear anything about this
2 case?

3 A No. This is the first time I ever heard
4 anything about this.

5 Q And where do you work?

6 A Columbia Hanson Brick Yard.

7 Q And what area or section or part of this county
8 do you live in?

9 A Calhoun County off of highway -- across highway
10 121 -- I mean, 21 and 172.

11 Q And looking at that list of potential
12 witnesses, do you know any of them?

13 A Just looking at it at the time I had, I didn't
14 know anyone.

15 Q And looking at the -- there are three types of
16 jurors that's on this sheet of paper. One type will
17 always give the death penalty in every case of
18 murder regardless of the circumstances, the second
19 type will never give the death penalty, would always
20 give life imprisonment without the possibility of
21 parole in every case, and the third type might give
22 the death penalty or life without the possibility of
23 parole depending on the evidence in the case. Which
24 type of juror are you?

25 A I'll pick the second.

1 Q You would never give the death penalty?

2 A No, not me.

3 Q You would never give the death penalty?

4 A No.

5 Q Regardless of the circumstances?

6 A No.

7 THE COURT: Any questions by the State or the
8 defense?

9 MR. PASCOE: No, Your Honor.

10 MR. KOGER: No questions by the defense, Your
11 Honor.

12 THE COURT: All right, sir. You're excused
13 from service. You can go back to your business.
14 Thank you very much.

15 (Juror was excused.)

16 (Whereupon, Gregory M. Smith, a white male,
17 enters the courtroom.)

18 GREGORY M. SMITH,
19 having been previously duly sworn, testified as
20 follows:

21 VOIR DIRE

22 BY THE COURT:

23 Q Good morning, Mr. Loftis.

24 A I'm not Mr. Loftis.

25 Q I'm sorry. Who are you?

1 **A** Mr. Smith.

2 **Q** Oh, Gregory Smith. Are you doing okay today?

3 **A** Yes, sir.

4 **THE COURT:** Is Ms. Loftis out there?

5 **OFFICER:** She had to run and get her glasses,

6 Your Honor.

7 **THE COURT:** All right. We'll talk to Mr. Smith

8 then.

9 **BY THE COURT:**

10 **Q** Mr. Smith, you're still under oath. Since

11 Monday, have you heard, seen or read anything about

12 this case?

13 **A** Yes, sir.

14 **Q** And what is it that you heard, saw or read?

15 **A** Just saw it on the news yesterday, but no

16 details.

17 **Q** When you say no details, what do you mean?

18 **A** I didn't really hear any facts of the case, saw

19 that there was a case in Saint Matthews.

20 **Q** And do you recall the instruction that I gave

21 to the jury on Monday to not listen or be exposed to

22 any information concerning the case?

23 **A** Yes, sir.

24 **Q** And did you keep that commitment?

25 **A** Yes, sir.

1 Q And did you form an opinion concerning -- have
2 you formed an opinion concerning the guilt or the
3 innocence of the defendant?

4 A No, sir.

5 Q Before Monday, had you heard about this case?

6 A Yes, sir.

7 Q Would you be able to set aside what you might
8 have heard about this case in the past and decide
9 this case solely based on the evidence that is
10 presented in this courtroom?

11 A Yes, sir.

12 Q Now, the defendant is presumed to be not guilty
13 and cannot be found guilty unless the State proves
14 beyond a reasonable doubt that he is guilty. Can
15 you follow that principle of law?

16 A Yes, sir.

17 Q And can you follow all other instructions that
18 I might give you concerning your jury service?

19 A Yes.

20 Q Now, there -- should the jury find the
21 defendant guilty of murder, the jury must then
22 decide the sentence and the two choices being either
23 life without the possibility of parole or the death
24 penalty. Did you notice that on this slip, the
25 three choices?

1 A Yes, sir.

2 Q Now, are you a type one, type two or type three
3 juror?

4 A Type three, I guess.

5 Q Now, a type three juror can vote for the death
6 penalty or can vote for life without the possibility
7 of parole depending on that juror's view of the
8 evidence. Of course, the defendant must first be
9 found guilty of murder in order for any
10 consideration of sentence to be made. Is that the
11 type juror that you are?

12 A Yes, sir.

13 Q The jury in this case will be sequestered,
14 meaning be kept together until the end of the case.
15 Aside from the obvious inconvenience, would that
16 pose any danger to your health or well-being to
17 serve on this jury?

18 A No, sir.

19 Q Or the health or well-being of anyone dependent
20 upon you?

21 A I guess not.

22 Q And what area of the county did you tell me
23 you're from?

24 A Between here and Cameron.

25 Q And how many miles out is that?

1 A Four.

2 Q And where do you work?

3 A I farm.

4 Q And you live in what area of the county -- you
5 told me that.

6 THE COURT: All right. Questions by the
7 defense?

8 MR. KOGER: May it please the Court.

9 VOIR DIRE

10 BY MR. KOGER:

11 Q Mr. Smith, how are you doing this afternoon?

12 A Doing good.

13 Q You stated initially that you know Mr. Pascoe?

14 A Correct.

15 Q And are y'all friends, I suppose?

16 A Yes.

17 Q And how long have you known Mr. Pascoe?

18 A Five, six, seven years, maybe.

19 Q Between five and seven years?

20 A Yeah.

21 Q Okay. And you indicated you are a type three?

22 A Uh-huh.

23 Q And, basically, you want to hear all of the
24 evidence as far as being a type three juror?

25 A Correct.

1 Q And you'll make a decision from -- after
2 hearing that evidence, correct?

3 A Correct.

4 Q You do realize that the State has the burden of
5 proof?

6 A Uh-huh.

7 Q And they have to prove their case beyond a
8 reasonable doubt?

9 A Right.

10 Q And if they don't -- if they do not prove their
11 case beyond a reasonable doubt, then you're
12 obligated to find him not guilty, correct?

13 A Uh-huh.

14 Q You realize it's a two part process. If we get
15 to the sentencing phase, then the State would have
16 to set forth any aggravating circumstances, correct?

17 A Right.

18 Q And the defense will get a chance to set forth
19 any mitigating circumstances?

20 A Right.

21 Q Now, would you give meaningful consideration to
22 any type of mitigating circumstances as far as
23 upbringing, childhood and things that might have
24 occurred that could have affected the present
25 position of the defendant?

1 A Probably not.

2 Q Probably not, okay. And could you explain that
3 further?

4 A If somebody commits a crime, to me, it doesn't
5 matter what their upbringing is, they're either
6 guilty or not guilty.

7 Q So it's your testimony that you would not give
8 hardly any -- or any consideration to mitigating
9 circumstances?

10 A Correct.

11 Q And you say you are a type three?

12 A Yeah.

13 Q Okay. Not a type one?

14 A No, I would say type three.

15 Q You're a type three juror, but when it come to
16 mitigating circumstances, you put no weight on that?

17 A Right.

18 Q Do you agree with the law that a person is
19 presumed innocent until proven guilty?

20 A Yes.

21 Q And that's based upon what is set before you --
22 set before you in relationship to what evidence is
23 set before you, correct?

24 A Right.

25 MR. KOGER: Thank you, Mr. Smith.

1 **THE COURT:** Mr. Smith, the issue of mitigating
2 circumstances or aggravating circumstances, that
3 does not apply to the question of guilt or
4 innocence. One can't say, I had mitigating
5 circumstances, so, therefore, I'm not guilty, or,
6 mitigating circumstances because I'm guilty. The
7 question of mitigating circumstances or aggravating
8 circumstances, that applies only regarding the
9 possible sentence. And the question is, is that
10 would you weigh both the aggravating circumstances
11 and the mitigating circumstances in deciding what
12 the proper sentence should be, would you do that?

13 **JUROR:** Yeah, I guess so.

14 **THE COURT:** You guess so?

15 **JUROR:** Yes, sir.

16 **THE COURT:** Well, we can't have any guess in
17 any response. We have to have affirmative responses
18 of whether or not you could hear and consider the
19 aggravating circumstances. Can you do that?

20 **JUROR:** Yes, sir.

21 **THE COURT:** And can you hear and consider the
22 mitigating circumstances, also?

23 **JUROR:** Yes, sir.

24 **THE COURT:** All right. Any further questions
25 by the defense?

1 **MR. KOGER:** Yes, Your Honor.

2 **BY MR. KOGER:**

3 **Q** So, Mr. Smith, I just want to clarify your
4 position and clarify it just for the Court. If for
5 some reason we get past the guilt and innocence
6 phase that the State has proven their case beyond a
7 reasonable doubt and we get to the second stage with
8 sentencing, can you -- or will you consider any
9 mitigating circumstances in relation to the
10 defendant when it comes to deciding between life in
11 prison without parole and the death penalty,
12 information, again upbringing --

13 **MR. SORENSON:** Objection, Your Honor. He's
14 going into specifics now.

15 **MR. KOGER:** I've been using that for the last
16 three days, Your Honor.

17 **MR. SORENSON:** It's a hypothetical.

18 **THE COURT:** , Yes, sir. You must refrain from
19 specific references to the parties in the case.

20 **BY MR. KOGER:**

21 **Q** Any mitigating circumstances, when you're in
22 the second part again, when you're trying to
23 determine between life without parole and the death --
24 penalty, would you give any consideration to any
25 mitigating circumstances that may come out?

1 **A** Yes.

2 **MR. KOGER:** Okay. Thank you.

3 **THE COURT:** Anything from the State?

4 **MR. SORENSON:** No, sir.

5 **THE COURT:** All right, sir. If you'll stand
6 right outside the door, please.

7 (Juror leaves the courtroom.)

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

9 **MR. KOGER:** Your Honor, we take no position on
10 Mr. Smith.

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

12 **MR. SORENSON:** Qualified, Your Honor.

13 **THE COURT:** He's qualified to serve. If you'll
14 have him come back in.

15 (Juror enters the courtroom.)

16 **THE COURT:** Mr. Smith, you're qualified to
17 serve as a juror in this case, that means that
18 you're eligible to be selected. We will select the
19 jury in, hopefully, in about a half an hour. Please
20 do not discuss the case, read any newspapers or
21 expose yourself to any information. Please do not
22 allow anyone to discuss it with you. It would be a
23 violation of my order to you, as well as your oath
24 as a juror to allow anyone to discuss the case, to
25 read anything about it or to watch any news accounts

1 of this case. Do you understand, sir?

2 JUROR: Yes, sir.

3 THE COURT: Now, we'll need you to meet with
4 the other jurors at one o'clock over across the way
5 there at the conference room at that annex building.
6 If you're selected on the jury, then you'll be given
7 an opportunity to go home and get some items that
8 you will need for jury sequestration purposes.

9 (Juror was excused for the morning.)

10 (Whereupon, Mary G. Loftis, a white female,
11 enters the courtroom.)

12 MARY G. LOFTIS,
13 having been previously duly sworn, testified as
14 follows:

15 VOIR DIRE

16 BY THE COURT:

17 Q Ms. Loftis, how are you doing?

18 A I'm fine, sir. How are you?

19 Q I'm doing fine. You're still under oath,
20 remember?

21 A Yes, sir.

22 Q Ms. Loftis, where do you work?

23 A I'm retired as of July of last year.

24 Q For what type of work?

25 A I worked for Pirelli Cable Corporation in

1 Lexington.

2 Q And what area of the county do you live in?

3 A Straight up 176, Sandy Run community.

4 Q Sandy Run. That's a pretty big place it sounds
5 like.

6 A Not very.

7 Q Have you been exposed to any information about
8 this case or read or heard anything about it since
9 Monday?

10 A Since Monday, no, sir.

11 Q And prior to Monday, had you heard anything
12 about this case?

13 A Yes, sir. I watched it and read about it in
14 the news and on T.V.

15 Q And when was that?

16 A I don't remember exactly.

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

19 A Kind of and mostly because I've got family that
20 lives in that community and, you know, it could have
21 been one of them.

22 Q Would you be able to set aside what you heard
23 at that time and decide this case solely based on --
24 the evidence presented in this courtroom?

25 A I would try, but I couldn't guarantee a hundred

1 percent.

2 Q Have you already made a decision as to whether
3 or not this defendant is guilty or not guilty?

4 A No, sir.

5 Q You have not made a decision?

6 A I've not made a decision, but I could -- I
7 mean, I would try not to let what I know persuade me
8 one way or the other or think I know.

9 Q Well, can you set aside what you had previously
10 heard and decide this case solely based on the
11 testimony and evidence in this case presented by the
12 Solicitor, Mr. Pascoe or Mr. Sorenson, and the
13 evidence presented through defense attorneys as well
14 and not based on what you may have seen or heard
15 outside of the courtroom, can you do that?

16 A I would try, yes, sir.

17 Q You would try?

18 A Yes, sir.

19 Q Do you believe you could do that?

20 A Yes, sir.

21 Q Now, the defendant is presumed to be not guilty
22 of these charges and that's a constitutional right
23 afforded every American citizen or anyone charged
24 with a crime within the United States and that means
25 he does not have to prove his innocence, but the

- 1 State must prove his guilt by presenting evidence
2 which establishes his guilt beyond a reasonable
3 doubt. Do you understand that?
- 4 A Yes, sir.
- 5 Q And would you be able to follow that
6 instruction of law?
- 7 A Yes, sir.
- 8 Q And would you be able to follow the law as I
9 instruct you whether you disagree with it or not?
- 10 A Yes, sir.
- 11 Q Now, ordinarily, we do not discuss punishment
12 and the jury is not concerned with punishment, but
13 in the event the jury should find this defendant
14 guilty, then the jury would decide what sentence he
15 should receive and that sentence would either be
16 life imprisonment without the possibility of parole
17 or the death penalty. So, therefore, we need to
18 know your opinion concerning the death penalty. Did
19 you take a look at the list of potential witnesses?
- 20 A Yes, sir, I did.
- 21 Q Do you know people on this list?
- 22 A No, sir.
- 23 Q Did you take a look at the three type jurors?
- 24 A Yes, sir, I did.
- 25 Q And what type juror are you?

1 A Number three.

2 Q You're a number three?

3 A Yes, sir.

4 Q Now, a number three juror is a juror who could
5 give life imprisonment without the possibility of
6 parole of a person convicted of murder or could give
7 the death penalty, but would not automatically give
8 either one or the other, but would first listen to
9 the aggravating circumstances and the mitigating
10 circumstances and then follow the law as the Judge
11 would charge you and then evaluate which of the two
12 would be the proper verdict. Is that what you would
13 do?

14 A Yes, sir.

15 Q And you would not automatically go with one or
16 the other?

17 A No, sir.

18 Q Now, the jury in this case will be sequestered
19 or kept together at a local motel under the
20 supervision of court officers that I will appoint --
21 swear and it may take up to ten days. Now, aside
22 from the obvious inconvenience to you, would that
23 pose a danger to your health or safety or to that of
24 anyone dependent upon you?

25 A Not anyone. My husband is a long-haul truck

1 driver, he's gone and I've got pets I take care of.

2 Q What kind of pets do you have, dogs, cats?

3 A Two dogs.

4 Q Do you have someone else who could feed your
5 dogs and keep them minimally?

6 A The one I usually do, you've already got.

7 Q I've got him already?

8 A Her.

9 Q Her?

10 A Yes, sir.

11 Q Of course, we haven't selected any jurors yet,
12 but if we select both of you, then it will be a
13 problem. Which juror is that?

14 A Gerringer, Wendy Gerringer.

15 Q And would you be able to arrange for someone
16 else to do it?

17 A I would have to.

18 THE COURT: Okay. Let's see if the State has
19 any questions.

20 MR. SORENSON: Nothing further, Your Honor.

21 THE COURT: The defense?

22 MR. WALTERS: May it please the Court.

23 VOIR DIRE

24 BY MR. WALTERS:

25 Q Good afternoon, Ms. Loftis. How are you? His

1 Honor, when he started this exchange where he was
2 asking you questions, he asked you whether you had
3 formulated any opinion with regards to this case; is
4 that correct?

5 A Yes, sir.

6 Q And you stated that you were hesitant about
7 answering the question. Could you tell me the basis
8 of your hesitation or what opinion you had
9 formulated?

10 A Um...

11 Q First of all, let me say this. There's no
12 right or wrong answers.

13 A Yes, sir.

14 Q There's only the truth and we have to accept
15 what you say. So certainly I don't want you to feel
16 that you're under some type of inquiry here where
17 you may say something wrong. Whatever you say is
18 perfectly fine.

19 A I guess my main reasoning behind that was, like
20 I said before, that I had family in the vicinity.
21 And, I mean, he, or whoever, you know, could have
22 gone there instead and, you know.

23 Q How did that make you feel, ma'am?

24 A Pardon me?

25 Q How did that make you feel?

- 1 A It's kind of hard to say.
- 2 Q Could you describe it for me?
- 3 A I can't really. I'm sorry.
- 4 Q Did it make you angry?
- 5 A Yes, because we've got choices, you know.
- 6 Q Tell me about that.
- 7 A And I mean, you know, we've got choices and if
- 8 you choose to do wrong, then, you know, whatever you
- 9 get, that's what you deserve.
- 10 Q And in your opinion, if the person has chosen
- 11 to do wrong, what do you believe they should
- 12 receive?
- 13 A Well, it depends on the crime or of the deed
- 14 that they did.
- 15 Q In this case, we have an issue with regards to
- 16 murder.
- 17 A Yes, sir.
- 18 Q And we define murder as malice aforethought, an
- 19 evil or wicked heart with planning and the result is
- 20 an unlawful taking of life.
- 21 A Yes, sir. That's not always the case. It's,
- 22 you know, some it's spur of the moment kind of
- 23 thing.
- 24 Q Sure. But in this particular case, we're
- 25 talking about murder?

1 A Yes, sir.

2 Q And you're exactly right, there's different
3 ways of people dying. What is your opinion of
4 murder?

5 A There again, I guess it depends on who's
6 murdered and who's doing the murdering.

7 Q Yes, ma'am. Did you have any other knowledge
8 of this particular case other than you've heard
9 about what happened over in the little town where
10 your family is located?

11 A None other than seeing what they had in the
12 news and the newspaper.

13 Q Now, could you come in this courtroom and
14 listen to both sides and the evidence that's
15 presented and remain impartial and just listen to
16 all of the facts and evidence?

17 A I think so, yes, sir.

18 Q You sort of hesitate, why --

19 A I'm trying to do the best I can here, but I --
20 I mean, overall I've tried to watch court on T.V.
21 and I get bored with it. And, I mean, I know this
22 is totally different, but...

23 Q Do you think you'll get bored during this
24 process?

25 A Possibly.

1 Q It doesn't hold your attention?

2 A Yes, sir.

3 Q Let me ask you this. When you indicated that
4 you had family members that lived around there and
5 that you believe that maybe you had formulated an
6 opinion, do you have an opinion of the case at this
7 time?

8 A No, sir because, you know, it's just come back.
9 Well, I mean, I didn't know this was what it was
10 until Monday. And really, I hadn't thought about it
11 since then.

12 Q Okay. Have you heard any other information
13 with regards to this case other than when you first
14 heard about it?

15 A No, sir.

16 Q Okay. Now, are you willing to listen to the
17 aggravating circumstances that will be presented by
18 the prosecution?

19 A Yes, sir.

20 Q And when we say aggravating circumstances, that
21 means a murder has occurred along with other events
22 that occurred, but are you also willing to listen to
23 mitigating factors with regards to this young man's
24 childhood, his parents and his family?

25 A Yes, sir.

1 Q So you're willing to listen to both sides, all
2 of the information that's presented?

3 A Yes, sir.

4 Q How do you feel about someone getting a life
5 sentence if they're convicted of murder?

6 A If that's what's decided, you know, that's
7 what's decided.

8 Q I understand that, but do you have a general
9 opinion about that?

10 A No, sir.

11 Q How do you feel about the death penalty?

12 A If the occasion calls for it, yes, sir.

13 Q But you're willing to listen to everything
14 before you make that decision?

15 A Yes, sir.

16 Q And you understand that the State must prove
17 their case beyond a reasonable doubt, not maybe this
18 happened or it could have happened?

19 A Yes, sir.

20 Q Or this is what someone said. They have to
21 prove their case beyond a reasonable doubt?

22 A Yes, sir.

23 Q And are you willing to hold the State to that
24 burden of proving their case?

25 A Yes, sir.

1 Q And if they fail to do so, could you return a
2 verdict of not guilty?

3 A Yes, sir.

4 MR. WALTERS: Your Honor, I have no further
5 questions.

6 THE COURT: Ma'am, if you'll step right
7 outside.

8 (Juror leaves the courtroom.)

9 THE COURT: What says the State?

10 MR. SORENSON: Qualified, Your Honor.

11 THE COURT: What says the defense?

12 MR. WALTERS: I believe she's qualified, Your
13 Honor.

14 THE COURT: All right. She is qualified. She
15 can come back in.

16 (Juror enters the courtroom.)

17 THE COURT: Ms. Loftis, you are qualified to
18 serve as a juror in this case and if you -- you
19 haven't been selected. We'll do jury selection in
20 15 or 20 minutes.

21 If you are selected, we'll then arrange at some
22 point today for you to be able to go and get things
23 necessary for you to be sequestered as part of the
24 jury panel and to figure out who's going to feed
25 those dogs. And I'll give you a list here of some

1 information for you to look over as to suggestions
2 as to what you might bring with you.

3 We'll need you to come over to that room over
4 there in the council chambers in about ten minutes.
5 You can have a break and meet over there in about
6 ten minutes with the other jurors.

7 Now, very important, critically important that
8 you not discuss the case with anyone, attempt to
9 discuss the case with any other jurors. If you hear
10 talking about the case, it's improper, please bring
11 it to my attention, please tell them they can't do
12 it. Please do not read any newspaper articles or
13 listen to any other news accounts concerning the
14 case. And we'll see you in a few minutes.

15 (Juror was excused for the morning.)

16 **THE COURT:** Do we have some of those new
17 problem jurors?

18 **THE CLERK:** Yes, sir, they're in the back. If
19 you would have the first one to come out.

20 **OFFICER:** They went back downstairs.

21 **THE COURT:** Do you have the next available
22 juror?

23 **OFFICER:** Yes, sir.

24 **THE COURT:** Bring that juror in.

25 (Whereupon, Jacob Cheeseboro, a black male,

1 enters the courtroom.)

2 JACOB CHEESEBORO,

3 having been previously duly sworn, testified as
4 follows:

5 VOIR DIRE

6 BY THE COURT:

7 Q Mr. Cheeseboro, you're still under oath. Let
8 me ask you, sir, where do you work?

9 A I'm a laborer. I work in Cameron, South
10 Carolina.

11 Q And where do you live? How many miles from
12 here?

13 A Five miles approximately.

14 Q Toward Cameron?

15 A Between Cameron and Saint Matthews on
16 Belleville Road. I live in Cheeseboro Court.

17 Q And have you seen, heard or read about this
18 case since Monday?

19 A Yes, sir.

20 Q What did you hear?

21 A About what happened in that wooded area. I
22 didn't read too much about it because I remembered
23 what you said in court the other day, you know, I
24 shoved the paper back up.

25 Q You remembered the oath that you took not to

1 read or hear or be exposed to anything about it?

2 A Yes, sir.

3 Q Did you comply with that oath?

4 A Not really, no, sir.

5 Q You did not comply. You read the newspaper
6 article?

7 A I read it, yes, sir.

8 Q You watched it on T.V.?

9 A No, sir.

10 Q You read the newspaper?

11 A I read the newspaper.

12 Q And when was that?

13 A Yesterday and today.

14 THE COURT: Any objection to excusing this
15 juror?

16 MR. SORENSON: Not from the State.

17 MR. KOGER: No objection, Your Honor.

18 THE COURT: All right, sir. You're excused for
19 violating the Court's order. Mr. Cheeseboro, that
20 could subject you to being in contempt of court, but
21 we will just press ahead and worry about other
22 matters right now rather than you. We'll let you
23 go.

24 JUROR: All right. Thank you, sir.

25 (Juror was excused.)

1 **THE COURT:** The jurors that y'all were looking
2 for.

3 **THE CLERK:** We've got all of them.

4 **THE COURT:** All right. Let's bring them in.

5 (Juror Francee M. Sams enters the
6 courtroom.)

7 FRANCEE M. SAMS,
8 having been previously duly sworn, testified as
9 follows:

10 **BY THE COURT:**

11 **Q** All right. Ms. Sams, how are you doing?

12 **A** I'm okay.

13 **Q** Ms. Sams, you were here yesterday and you went
14 through the juror qualification's process and we
15 qualified you to serve as a juror in this case. You
16 work at Palmetto GBA did you say?

17 **A** That's correct.

18 **Q** And then did you return yesterday indicating
19 you had some problems or called or what?

20 **A** I came back.

21 **Q** You came back. And what problems do you have?

22 **A** I just -- I don't think I will be good to do
23 this. I just I think I'll be impaired from --
24 sorry -- I mean, you asked if we have children under
25 seven, but I've got one eight and she's very

1 dependant. So to be away from her and not -- I
2 mean, I just don't know that I'll be able to
3 function the way you need me to.

4 Q Do you think you will have a problem
5 functioning on the jury emotionally?

6 A Yes.

7 Q Have you ever had a need to seek any kind of
8 medical attention for any type of nerve, stress or
9 emotional problem?

10 A No.

11 Q And what is it about this particular matter
12 that you think you cannot handle emotionally?

13 A I know everyone has a family and very attached
14 to them, but I just, you know, the fact that not
15 being able to be with my family for up to ten days,
16 not being able to just, you know, to talk to them.

17 Q Well, you'll be able to talk with your family.
18 We have officers who are experts in supervising
19 jurors. You'll be able to talk with your family.
20 You'll be able, perhaps, to have visitation with
21 your family at some point, but it will be supervised
22 visitation in the presence of an officer?

23 It's not as if you're going to be taken away as
24 a prisoner from your family. Provisions will be
25 made for you to be able to call and speak with your

1 family on a daily basis. Provisions will be made
2 for you to be able to meet with your family at a
3 convenient time when court's not in session under
4 supervision of the court personnel.

5 It's simply that you will have to otherwise be
6 with the jury or the court personnel and not away
7 from the -- not away from the jury or the court
8 personnel such that you could be exposed to
9 information about the case, that's the only purpose
10 of it. It's not to unduly burden you in any other
11 way, but it is essential that we have jurors to
12 serve. It's a very important case for the victims,
13 a very important case for the defendant, a very
14 important case for all of the citizens of Calhoun
15 County and you were selected.

16 We understand that you didn't volunteer. You
17 were selected randomly to serve. Providence has
18 called you to serve on this case and you are
19 qualified to serve.

20 And I, certainly, asked the question yesterday
21 whether or not it would pose a serious danger to
22 your health and welfare or the health and welfare of
23 anyone dependent upon you. And, certainly, I
24 understand that if you have a child, that that child
25 loves mother, mother loves child and family and all,

1 but it's a matter of weighing the importance of jury
2 service in this very important matter that is an
3 imposition and an inconvenience for everyone who is
4 called obviously, and we have no volunteers in this
5 case, but you were selected to serve. And,
6 certainly, I will do all that I can considering your
7 circumstances and the circumstances of all other
8 jurors to make it as palatable as possible under the
9 circumstances.

10 I know they are difficult circumstances, but
11 we'd spent quite a bit of time speaking with you
12 yesterday and had you to wait for a while and had
13 you to come back in and you have been found to be
14 qualified to serve. And given all that I have now
15 explained to you, do you believe that you will be
16 able to serve?

17 A If I'm selected, I guess I'll have to do what I
18 can, but, emotionally, I don't, you know, I'll try
19 to hold it together. I've just never experienced
20 it. I've never had to be away from them this amount
21 of time, so I apologize to the Court.

22 Q I understand. It's no -- I'm impressed by the
23 fact that you are as devoted and committed as you
24 are that you would feel as you do. If you will
25 recall what I put in the jury orientation letter