

VOLUME ONE OF TWELVE

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STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM ABBEVILLE COUNTY
Court of Common Pleas

Alexander S Macauley, Circuit Judge
2000 CP 01 212

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S C Supreme Court

JOHN KENNEDY HUGHEY, #5055
Respondent/Petitioner,

V

STATE OF SOUTH CAROLINA,
Petitioner/Respondent,

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STATE OF SOUTH CAROLINA)
COUNTY OF ABBEVILLE) COURT OF GENERAL SESSIONS

THE STATE)
-VS-) TRANSCRIPT OF RECORD
JOHN KENNEDY HUGHEY)
VOLUME I

OCTOBER 13, 1997
Abbeville, South Carolina

B E F O R E

HONORABLE JOSEPH DERHAM COLE, Judge

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(DW) DEFENSE WITNESS
(IC) IN CAMERA

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(SW)	KEN GROGAN	
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CROSS EXAMINATION BY MR JONES 2629

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(SW) **JOHN BLACK**

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(SW) **NANCY SKARABA**

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DR JAMES EVANS

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1	Overhead diagram of crime scene area	x	x
2	One (1) photograph of entrance to crime scene	x	x
3	One (1) photograph of Harris residence with truck to the right	x	x
4	One (1) photograph of Harris home with white trailer to left	x	x
5	Diagram of Harris home	x	
6	One (1) instamatic photograph of left side of white trailer	x	x
7	One (1) instamatic photograph of bicycle from rear	x	x
8	One (1) instmatic photograph of bicycle	x	x
9	ATM receipt dated 12/4/95	x	x
10	One (1) photograph of knife in hallway	x	x
11	Empty box of shotgun shells	x	x
12	Letter from Victim to Defendant	x	
13	Diagram of area between Abbeville and Anderson	x	x
14	Suicide note	x	x
15	Consent to search Defendant's home	x	x
16	One (1) photograph of front door of Harris residence	x	x
17	One(1) photograph of inside of Harris home looking from living room back to front door	x	x
18	One (1) photograph of door knob of front door	x	x
19	One (1) photograph of latch on front door	x	x

		INTD	AD
20	One (1) photograph of broken frame on front door	x	x
21	One (1) photograph of living room looking toward kitchen	x	x
22	One (1) photograph of living room looking toward second bedroom	x	x
23	One (1) photograph looking from living room down hallway toward second bedroom	x	x
24	One (1) photograph looking down hallway from second bedroom	x	x
25	One (1) close-up photograph of broken latch on second bedroom door	x	x
26	One (1) close-up photograph of broken latch on second bedroom door	x	x
27	One (1) photograph of second bedroom with bed on right	x	x
28	One (1) photograph of second bedroom with bed on left	x	x
29	One (1) photograph of door to bathroom in second bedroom	x	x
30	One (1) photograph of bathroom from hallway door	x	x
31	One (1) photograph of knife	x	x
32	One (1) knife	x	x
33	One (1) photograph looking from living room into kitchen	x	x
34	One (1) photograph of floor from living room into kitchen with blood drops	x	x
35	One (1) photograph of left side of kitchen	x	x
36	One (1) photograph of chair turned over in kitchen	x	x
37	One (1) photograph of table with broken vase	x	x
38	One (1) photograph of leaf in broken vase	x	x

		INTD	AD
39	One (1) photograph of right side of kitchen leading to hallway to master bedroom	x	x
40	One (1) photograph of snapped telephone line	x	x
41	One (1) photograph of phone on floor in kitchen	x	x
42	One (1) photograph of blood drops on kitchen floor next to chair	x	x
43	One (1) photograph of hallway leading to master bedroom with body of Ms Harris with curtain partially open	x	x
44	One (1) photograph of hallway leading to master bedroom with body of Ms Harris	x	x
45	One (1) photograph of hallway looking from master bedroom to kitchen	x	x
46	One (1) photograph of master bedroom looking toward door	x	x
47	One (1) photograph of shotgun and shell on floor of master bedroom	x	x
48	Shotgun	x	x
49	Shotgun shell from the floor	x	x
50	One (1) photograph of shell in chamber of shotgun	x	x
51	Shotgun shell from chamber	x	x
52	One (1) photograph of bed of master bedroom with legs of Tesheka Jackson	x	x
53	One (1) photograph of phone in master bedroom	x	x
54	One (1) photograph of phone in master bedroom with receiver on the floor	x	x
55	One (1) photograph of front of Mitsubishi	x	x
56	One (1) photograph of back of Mitsubishi	x	x
57	One (1) photograph of driver side door of Mitsubishi	x	x

		INTD	AD
58	One (1) photograph of arm rest on drivers side door	x	x
59	One (1) photograph of backseat of Mitsubishi	x	x
60	One (1) photograph of passenger compartment of Mitsubishi	x	
61	One (1) photograph of bleach in seat of passenger compartment of Mitsubishi	x	
62	One (1) photograph of items found in bag on passenger seat	x	
63	One (1) photograph of back side of Harris home	x	x
64	One (1) photograph of shotgun hole to exterior of Harris home	x	x
65	One (1) photograph of shotgun hole to shower curtain	x	x
66	One (1) photograph of shotgun hole to shower curtain with probe extended	x	x
67	One (1) photograph of shotgun hole to bathtub	x	x
68	One (1) close-up photograph of shotgun hole in bathtub	x	x
69	One (1) photograph of blood drop on inside of door in bathroom	x	x
70	One (1) photograph of bathroom wall with blood drops	x	x
71	One (1) photograph of bag next to couch in master bedroom	x	x
72	One (1) photograph of shotgun shell in bag in master bedroom	x	x
73	Shotgun shell from bag in master bedroom	x	x
74	One (1) ATM card in the name of Tesheka Jackson	x	x

		INTD	AD
75	One (1) drivers license in the name of Tesheka Jackson	x	x
76	One (1) still shot of Anderson ATM transaction	x	x
77	One (1) still shot of Anderson ATM transaction	x	x
78	One (1) video tape of Anderson ATM transaction	x	
79	Distance patterns	x	x
80	Nationsbank statement (Nancy Goff)	x	x
81	Sticker price from car	x	
82	Buckshot and wadding from Ms Harris	x	x
83	Buckshot and wadding from Ms Jackson	x	x
84	One (1) photograph of Ms Harris with phone in foreground	x	x
85	One (1) photograph of Ms Jackson with head on floor	x	x

1 THE COURT MY NAME IS DERHAM COLE,
2 AS THE BAILIFF INDICATED I AM THE RESIDENT
3 CIRCUIT JUDGE IN THE 7TH JUDICIAL CIRCUIT THE 7TH
4 CIRCUIT IS LOCATED IN THE SPARTANBURG AND CHEROKEE
5 COUNTIES I ACTUALLY RESIDE IN SPARTANBURG COUNTY,
6 BUT I HAVE BEEN ASSIGNED TO PRESIDE OVER A TERM OF
7 GENERAL SESSIONS COURT HERE IN ABBEVILLE COUNTY THIS
8 WEEK THAT IS THE THEM OF COURT FOR WHICH YOU HAVE
9 BEEN SUMMONED TO POTENTIALLY SERVE AS JURORS IN

10 I FIRST OF ALL DO WISH TO APOLOGIZE FOR THE
11 DELAY IN BEING ABLE TO BEGIN, BUT THERE WERE SEVERAL
12 MATTERS THAT WERE NOT ANTICIPATED AND I WAS NOT
13 AWARE THAT THESE MATTERS WOULD HAVE TO BE ADDRESSED
14 PRIOR TO YOUR COMING TO COURT TODAY SO SOME OF
15 THOSE MATTERS HAVE BEEN ADDRESSED WE STILL HAVE
16 ADDITIONAL MATTERS THAT MUST BE ADDRESSED BEFORE WE
17 CAN ACTUALLY BEGIN WITH JURY QUALIFICATION AND JURY
18 SELECTION SO THE PURPOSE OF MY COMING OUT PRESENTLY
19 IS TO SIMPLY LET YOU KNOW THAT WE'RE GOING TO EXCUSE
20 YOU FOR THE BALANCE OF THE MORNING WE'VE GOT SOME
21 MATTERS THAT WE'LL NEED TO ADDRESS ONCE WE HAVE
22 THOSE ADDRESSED, THEN WE'LL BE IN A POSITION TO
23 KNOW IF WE CAN BEGIN WITH JURY QUALIFICATION THIS
24 AFTERNOON

25 SO WHAT I'M GOING TO ASK IS THAT YOU EXCUSE

1 YOURSELVES FOR THE MORNING BUT PLEASE REPORT BACK
2 HERE TO THE COURTROOM THIS AFTERNOON AT FOUR P M --
3 AT FOUR O'CLOCK THIS AFTERNOON IS THAT GOING TO
4 CAUSE A PROBLEM FOR ANYONE?

5 JUROR I'VE GOT A BABY SITTER WITH
6 TWO BABIES I CAN'T COME BACK AT FOUR SHE'S GOT
7 TO PICK HERS UP AT TWO-THIRTY

8 THE COURT WELL, LET ME ASK YOU
9 THIS YOU'VE GOT CHILDREN WHO ARE LESS THAN SEVEN?

10 JUROR YES, SIR I HAVE A ONE-YEAR
11 OLD AND A TWO-YEAR OLD

12 THE COURT WELL, THAT WOULD BE AN
13 EXEMPTION FROM JURY SERVICE LET ME ASK ANY JURY
14 WHO HAS A CHILD LESS THAN SEVEN YEARS OF AGE WHO YOU
15 HAVE LEGAL CUSTODY OF, YOU HAVE THE PRIMARY DUTY AND
16 RESPONSIBILITY FOR CARING AND LOOKING AFTER THOSE
17 CHILDS OR CHILDREN, IF YOU'LL COME FORWARD BEFORE
18 YOU LEAVE, YOU'LL NEED TO FILL OUT AN AFFIDAVIT
19 SIMPLY STATING THAT FACT THAT AFFIDAVIT SERVES AS
20 AN EXEMPTION UNDER THE LAW FROM JURY SERVICE, SO
21 THOSE OF YOU WHO HAVE A CHILD OR CHILDREN LESS THAN
22 SEVEN YEARS OF AGE THAT YOU HAVE LEGAL CUSTODY OF
23 AND YOU HAVE NO OTHER MEANS FOR THEM TO BE CARED FOR
24 OR LOOKED AFTER OTHER THAN BY YOU BEING PRESENT FOR
25 THAT PURPOSE, YOU'LL NEED TO FILL OUT ONE OF THESE

1 AFFIDAVITS AND WE CAN RESOLVE THAT PROBLEM YES,
2 SIR?

3 JUROR WHAT ABOUT AGE, JUDGE
4 SEVENTY-FIVE

5 THE COURT WELL, IF YOU ARE 65 YEARS
6 OF AGE OF OLDER YOU ARE ALSO EXEMPT FROM SERVICE
7 NOW UNDERSTAND THAT AN EXEMPTION DOES NOT IN ANY WAY
8 DISQUALIFY YOU FROM SERVING JURY SERVICE IS AN
9 IMPORTANT FUNCTION OF CITIZENSHIP AND REGARDLESS OF
10 YOUR AGE IT'S IMPORTANT THAT YOU'LL BE WILLING TO
11 SERVE IF YOU'RE ABLE TO DO SO, AND IF SUCH A SERVICE
12 WILL NOT POSE AN UNREASONABLE HARDSHIP UPON YOU

13 HOWEVER, UNDER THE LAW, IF YOU'RE SEVENTY-FIVE
14 YEARS OF AGE OR OLDER YOU MAY BE EXEMPT THAT IS
15 YOUR CHOICE I CANNOT REQUIRE THAT YOU SERVE, BUT I
16 WOULD ASK THAT YOU CONSIDER SERVING IF IT'S POSSIBLE
17 FOR YOU TO DO SO SO IF THERE ARE ANY JURORS WHO ARE
18 A LEAST 65 YEARS OF AGE OF OLDER, AND YOU DO NOT
19 WISH TO SERVE, THAT IS, YOU CANNOT SERVE OR YOU
20 SIMPLY WISH TO INVOKE YOUR STATUTORY RIGHT NOT TO
21 SERVE, IF YOU'LL COME FORWARD, WE'LL GET THOSE
22 PERSONS NAMES AS WELL

23 ALL RIGHT, ANY OTHERS? I RECOGNIZE THAT THIS
24 MAY BE POSING SOMEWHAT OF A HARDSHIP UPON YOU
25 PLEASE UNDERSTAND THIS IS SOMETHING THAT COULD NOT

1 BE AVOIDED, AND WE WILL NOT IMPOSE UPON YOUR TIME
2 ANY MORE THAN IS ABSOLUTELY NECESSARY FOR US TO
3 CARRY OUT THE OBLIGATION AND DUTY OF THIS COURT, SO
4 WE DO ASK THAT YOU PLEASE BE PATIENT AND
5 UNDERSTANDING REGARDING YOUR JURY SERVICE WE'LL
6 TRY TO ACCOMMODATE ANY DIFFICULTIES THAT YOU MIGHT
7 HAVE, BUT PLEASE UNDERSTAND THAT JURY SERVICE IS AN
8 EXTREMELY IMPORTANT FUNCTION IT'S A DUTY OF
9 CITIZENSHIP IT'S SIMILAR TO MILITARY SERVICE WE
10 RECOGNIZE THAT THOSE IN THE MILITARY MAY NOT ALWAYS
11 VOLUNTEER FOR SERVICE WHEN CALLED UPON TO SERVE, BUT
12 IT'S IMPORTANT THAT WE HAVE PERSONS WILLING TO
13 SERVE, BECAUSE IT'S IMPORTANT, ESPECIALLY IN COURT
14 AND IN SELECTING JURIES, THEN WE HAVE A CROSS
15 SECTION OF THE COMMUNITY THAT IS, WE HAVE
16 INTERESTED PERSONS REPRESENTING A CROSS SECTION OF
17 THIS COMMUNITY AND THIS COUNTY TO ASSIST US IN
18 RESOLVING MATTERS THAT ARE BROUGHT TO COURT IN THIS
19 FASHION, SO PLEASE, PLEASE BE PATIENT AND
20 UNDERSTANDING AND PLEASE BE WILLING TO SERVE IF YOU
21 ARE CALLED UPON TO DO SO

22 ANY OTHER JUROR HAVE SOME DIFFICULTY THAT YOU
23 NEED TO ADDRESS WITH ME BEFORE WE EXCUSE YOU UNTIL
24 FOUR O'CLOCK? YES, MA'AM

25 JUROR I HAVE A SITUATION WHERE I

1 HAVE AN EIGHTEEN-YEAR OLD SON WHO IS AUTISTIC, SO HE
2 IS MENTALLY LIKE FIVE OR SIX YEARS OLD AND HIS SIZE,
3 AND IT WOULD BE DIFFICULT TO GET A CARE GIVER FOR
4 HIM, AND FOR THAT REASON I'D LIKE TO BE EXCUSED

5 THE COURT DO YOU KNOW WHAT YOUR
6 JUROR NUMBER IS?

7 JUROR YES, SIR IT'S 97

8 THE COURT MS HILL, WE WILL SIMPLY
9 GET BACK IN TOUCH WITH YOU IF NECESSARY, BUT BECAUSE
10 OF YOUR PARTICULAR CIRCUMSTANCE, IT WILL NOT BE
11 NECESSARY THAT YOU REPORT BACK AT FOUR, BUT WE'LL BE
12 IN TOUCH WITH YOU SHOULD IT BE NECESSARY THAT YOU
13 REPORT BACK FURTHER YES, MA'AM?

14 JUROR I AM A DISABILITY PROBLEM
15 MY DOCTOR SENT A STATEMENT

16 THE COURT WOULD YOU BRING YOUR
17 DOCTOR'S STATEMENT FORWARD, PLEASE MA'AM

18 JUROR YES, SIR, I WILL

19 THE COURT IF YOU WOULD JUST HAND
20 THAT DOCTOR'S STATEMENT TO THE CLERK, PLEASE MA'AM

21 JUROR (DOES AS INSTRUCTED)

22 THE COURT MRS WATT, I UNDERSTAND
23 THIS AND I'LL ADDRESS THIS AT A LATER POINT, BUT
24 WOULD THIS PREVENT YOU FROM BEING ABLE TO REPORT
25 BACK AT FOUR P M THIS AFTERNOON?

1 JUROR YES, IT WILL, BECAUSE I HAVE
2 TO TAKE MY MEDICATIONS

3 THE COURT AND YOU'RE NOT ABLE TO---

4 JUROR I CAN'T SIT TOO LONG, NOT IN
5 THOSE SEATS

6 THE COURT IT'S NOT A MATTER OF
7 SITTING I JUST MEAN REPORTING YOU COULD STAND IF
8 YOU NEEDED TO COULD YOU COME BACK AT FOUR?

9 JUROR YOU WANT ME TO COME BACK AT
10 FOUR?

11 THE COURT YES, MA'AM AND WE'LL
12 ADDRESS THIS AT THAT TIME OKAY?

13 JUROR OKAY THANK YOU

14 THE COURT YES, SIR?

15 JUROR JUDGE, WHAT ABOUT RELATIVES
16 ON THE JURY?

17 THE COURT WHAT ABOUT RELATIVES?

18 JUROR YES

19 THE COURT I NOT SURE I UNDERSTAND

20 JUROR YES, IF THERE IS RELATIVES ON
21 THE JURY

22 THE COURT WELL, I'M GOING TO
23 ADDRESS THAT THAT'S WHAT I'M TELLING YOU I CAN'T
24 ADDRESS THE JURY QUALIFICATION QUESTION PRESENTLY,
25 BECAUSE I'VE GOT SOME OTHER MATTER THAT HAVE TO BE

1 ADDRESSED PRIOR TO THAT, BUT UNDERSTAND THERE'S
2 GOING TO BE A QUALIFICATION PROCESS, AND I HOPE TO
3 BE ABLE TO GET TO THAT AT FOUR P M THIS AFTERNOON
4 I'M JUST SIMPLY NOW TRYING TO FIND OUT IF THERE IS
5 SOME EXTREME HARDSHIP FOR A JUROR BEING ABLE TO
6 REPORT BACK AT FOUR P M OKAY? IF NONE OTHERS,
7 THEN YOU ARE EXCUSED UNTIL FOUR O'CLOCK THIS
8 AFTERNOON THANK YOU FOR YOUR PATIENCE

9 (MAJORITY OF JURORS LEAVE)

10 (CLERK GIVES OATH TO MRS HILL)

11 JUROR WHEN DO YOU EXPECT THE COURT
12 TO START THIS TRIAL?

13 THE COURT WELL, I EXPECT TO START
14 AT FOUR O'CLOCK

15 JUROR BUT I MEAN FOR THE -- ONCE
16 THE JUROR ARE ---

17 THE COURT I WON'T KNOW THAT

18 JUROR YOU WON'T KNOW THAT?

19 THE COURT I WON'T KNOW THAT UNTIL
20 WE GET STARTED IN THE JURY SELECTION

21 CLERK ANYBODY'S THAT' OVER 65, IF
22 Y'ALL WOULD JUST COME FORWARD WHAT I DID, I'M
23 GOING TO NEED A STATEMENT I NEED TO GET THOSE 65
24 YEARS OF AGE RIGHT HERE TO BE SWORN AND THEN I'M
25 GOING TO GET YOU TO SIGN ALL RIGHT, RAISE YOUR

1 RIGHT HAND DO YOU SWEAR TO TELL THE TRUTH, THE
2 WHOLE TRUTH AND NOTHING BUT THE TRUTH, SO HELP YOU
3 GOD?

4 (JURORS UNANIMOUSLY RESPOND)

5 CLERK ALL RIGHT THOSE OVER 75 AND
6 UNDER 65 WHO DO NOT WISH TO SERVE AS A JUROR 65'S
7 ARE TO SIGN YOUR SIGN AND PUT YOUR DATE OF BIRTH

8 THE COURT MRS KING?

9 CLERK YES, SIR

10 THE COURT WE CAN'T DO THAT WE'LL
11 HAVE TO DO THAT ON THE RECORD

12 CLERK OH, OKAY

13 THE COURT UNLESS THEY SIGN AN -- DO
14 YOU HAVE AN AFFIDAVIT? YOU CAN GET THEM TO SIGN AN
15 AFFIDAVIT

16 CLERK WHAT I DID IS I MAILED THEM

17 THE COURT WE CAN MAKE ONE

18 CLERK YOU WANT ME TO MAKE ONE AND I
19 CAN SEND THEM TO MY OFFICE OUTSIDE

20 THE COURT WE WANT TO MAKE A LIST
21 IF YOU'RE OVER 65 WE'RE GOING TO GET A LIST, BUT I
22 STILL NEED TO ASK FOR YOU TO PLEASE COME BACK AT
23 FOUR P M NOW I NEED EVERYONE TO COME BACK AT FOUR
24 P M EVEN THOUGH YOU'RE IN THIS LINE FOR WHATEVER
25 REASON, UNLESS THERE'S SOME HARDSHIP THAT PREVENTS

1 YOU FROM BEING ABLE TO COME BACK

2 CLERK ALL WE NEED ARE THE ONES THAT
3 ARE 65

4 JUROR I'M 75

5 THE COURT I WANT THEIR NAMES, BUT I
6 STILL NEED FOR THEM TO EACH COME BACK AT FOUR P M

7 CLERK ALL RIGHT WOULD YOU SIGN?

8 MRS HILL I CAN COME BACK AT FOUR
9 P M TODAY I DO HAVE ARRANGEMENTS FOR MY SON
10 TODAY IF YOU WANT ME TO WAIT AND COME BACK AT FOUR
11 TO BE DISMISSED I'M THE ONE WITH THE AUTISTIC SON

12 THE COURT YES, MA'AM AND YOU
13 HAVE YOUR DOCTOR'S STATEMENT?

14 JUROR YES, SIR I GAVE IT TO MRS
15 KING

16 THE COURT OKAY, IF YOU'LL COME BACK
17 AT FOUR THEN, IF THAT'S NOT GOING TO BE A PROBLEM,
18 WE'LL ADDRESS THAT THEN

19 JUROR OKAY

20 THE COURT THANK YOU, MA'AM

21 JUROR I'M OVER 65

22 THE COURT LET ME GET ALL Y'ALL'S
23 NAMES AND THEN I'LL LET THE CLERK TALK WITH YOU JUST
24 A MINUTE AND THEN I'LL DISCUSS IT WITH YOU

25 JUROR'S DAUGHTER I'M HERE FOR MY

1 MOTHER SHE'S 73 AND SHE'S ABLE TO EVEN COME UP THE
2 STAIRS, SO SHE DOESN'T HAVE TO COME BACK IF SHE
3 CAN'T EVEN COME UP HERE

4 THE COURT IS SHE HERE?

5 JUROR'S DAUGHTER SHE'S DOWNSTAIRS

6 THE COURT OKAY, WHAT'S HER NAME?

7 JUROR'S DAUGHTER GRACE MUNDY

8 THE COURT M-U-N-D-Y?

9 JUROR'S DAUGHTER UH-HUH

10 THE COURT SHE'S 73?

11 JUROR'S DAUGHTER 73

12 THE COURT WE'RE GOING TO PREPARE AN
13 AFFIDAVIT AND TAKE IT DOWNSTAIRS AND LET YOUR MOTHER
14 SIGN IT, AND SHE CAN BE EXCUSED

15 JUROR'S DAUGHTER OKAY

16 CLERK JUDGE, THE ONES WITH SMALL
17 CHILDREN, DO YOU NEED FOR THEM TO COME BACK?

18 THE COURT NOT IF THEY CAN'T COME
19 BACK IF YOUR CHILDREN ARE GOING TO BE LEFT BY
20 THEMSELVES, OBVIOUSLY, WE DON'T WANT YOU TO COME
21 BACK, BUT IF YOU HAVE SOMEBODY TO LOOK OUT FOR THEM,
22 WE PREFER THAT YOU COME BACK AT FOUR

23 JUROR IT'S NO HARDSHIP TO COME
24 BACK

25 THE COURT OKAY, IF YOU'LL COME BACK

1 AT FOUR WE'RE GOING TO ADDRESS THIS ISSUE AT FOUR
2 (ALL POTENTIAL JURORS HAVE NOW LEFT THE COURTROOM)

3 THE COURT WHERE IS THE DEFENDANT?
4 (DEFENDANT HUGHEY IS BROUGHT INTO THE COURTROOM)

5 THE COURT ARE THERE ANY OTHER
6 POTENTIAL JURORS PRESENT IN THE COURTROOM -- ANY
7 POTENTIAL JURORS IN THE COURTROOM? (NO RESPONSE)
8 LET THE RECORD REFLECT THERE ARE NONE
9 (THE ARE NO POTENTIAL JURORS IN THE COURTROOM AT
10 2 11 P M)

11 ALL RIGHT, MR GARRETT, YOU HAVE -- LET THE
12 RECORD REFLECT THE DEFENDANT IS PRESENT, REPRESENTED
13 BY MR GARRETT AND MR TINSLEY AND THE STATE IS
14 PRESENT, REPRESENTED BY MR COULTER MR GARRETT,
15 YOU HAVE A MOTION?

16 MR GARRETT YES, WE DO MR
17 TINSLEY IS GOING TO BE PUT ON THE RECORD

18 THE COURT MR TINSLEY, OKAY
19 MOTION BY MR TINSLEY

20 THANK YOU SO MUCH, YOUR HONOR MAY
21 IT PLEASE THE COURT YOUR HONOR, DR WRIGHT IS HERE
22 AND WE ARE THIS TIME, BASED UPON HER VIEWING,
23 STUDYING AND TESTING MR HUGHEY OVER THIS WEEKEND
24 AND FOR THE FIRST TIME, MAKING A MOTION FOR
25 INCOMPETENCY EVALUATION PURSUANT TO THE STATUTE

1 THE COURT MR COULTER, I NOTICED
2 MR JONES IS NOT PRESENT, BUT I KNOW HE'S HERE ARE
3 YOU HANDLING THIS PORTION OF IT?

4 MR COULTER YOUR HONOR, I AM IN
5 AGREEMENT CHIEF RUCKER, COULD YOU SEE IF YOU CAN
6 LOCATE HIM HE'LL BE IN IN JUST A SECOND, YOUR
7 HONOR, WE CAN PROCEED

8 THE COURT OKAY, MR TINSLEY
9 MOTION CONTINUED BY MR TINSLEY

10 YES, SIR, YOUR HONOR AND AS I TOLD
11 THE COURT, MS WRIGHT IS HERE AND SHE IS -- DR
12 EVANS IS ON HIS WAY HE IMMEDIATELY -- HE HAS NOT
13 ARRIVED YET, AND WE ARE PREPARED TO GO FORWARD AT
14 THIS TIME WITH THE TESTIMONY OF DR EVANS, AND THE
15 TESTIMONY OF -- EXCUSE ME -- OF DR WRIGHT AND THE
16 TESTIMONY OF DR EVANS SUBSEQUENTLY

17 THE COURT ALL RIGHT, THIS IS ON
18 YOUR MOTION FOR A COMPETENCY EVALUATION?

19 MR TINSLEY YES, SIR

20 THE COURT ALL RIGHT

21 MR TINSLEY AT THIS TIME, YOUR
22 HONOR, I CALL DR KATINA WRIGHT TO THE STAND

23 CLERK RAISE YOUR RIGHT HAND AND
24 SWEAR ON THE BIBLE THE EVIDENCE YOU SHALL GIVE IN
25 COURT IN THIS CASE SHALL BE THE TRUTH, THE WHOLE

1 TRUTH AND NOTHING BUT THE TRUTH, SO HELP YOU GOD

2 DR WRIGHT I DO

3 (WITNESS PRESENTED AT 2 12 O'CLOCK P M)

4 CLERK BE SEATED

5 DIRECT EXAMINATION BY MR TINSLEY

6 Q STATE YOUR NAME, PLEASE

7 A MY NAME IS DOCTOR KATINA CLARDY WRIGHT

8 Q AND WHAT IS YOUR POSITION, DOCTOR WRIGHT?

9 A I AM A LICENSED CLINICAL PSYCHOLOGIST IN
10 PRIVATE PRACTICE IN GREENWOOD

11 Q AND HOW MANY YEARS HAVE YOU BEEN DOING THIS?

12 A I RECEIVED MY DEGREE -- I DID MY INTERNSHIP IN
13 1970 RECEIVED MY FINAL PH D IN '74 STOOD FOR
14 THE LICENSE EXAM IN '76, AND HAVE BEEN LICENSED EVER
15 SINCE

16 Q SO APPROXIMATELY THIRTY-ONE YEARS YOU'VE BEEN
17 LICENSED WHERE WERE YOU EDUCATED?

18 A I RECEIVED MY BACHELOR'S DEGREE FROM EMORY
19 UNIVERSITY AND MY MASTER'S AND PH D FROM THE
20 UNIVERSITY OF GEORGIA AND DID MY YEAR'S INTERNSHIP
21 AT WILLIAM S HALL PSYCHIATRIC INSTITUTE IN
22 COLUMBIA

23 Q AND AS SUCH DID YOU CONTINUE YOUR EDUCATION
24 THROUGH THE YEARS WITH SEMINARS AND STUDIES ALONG
25 THOSE LINES AND ---

1 A WE HAVE -- I'M SORRY WE HAVE CERTAIN
2 REQUIREMENTS TO RENEW OUR LICENSE EVERY YEAR, THAT
3 WE HAVE TO PARTICIPATE IN CONTINUING EDUCATION

4 Q HAVE YOU DONE THAT?

5 A YES, I HAVE

6 Q AND DO YOU REGULARLY DO THAT AS PART OF YOUR
7 ONGOING TRAINING?

8 A YES, I DO

9 Q AND, DOCTOR, AS TO THIS MATTER THAT WE'RE HERE
10 ON TODAY, WHEN WERE YOU CONTACTED IN REFERENCE TO
11 JOHN KENNEDY HUGHEY AND BY WHOM?

12 A I WAS CONTACTED BY MR. GARRETT, I BELIEVE ON
13 WEDNESDAY OF LAST WEEK, AND IT TOOK CERTAIN
14 COORDINATION BETWEEN DOCTOR EVANS IN COLUMBIA BY
15 TELEPHONE AND PAIGE TARR AND MYSELF SUCH THAT I
16 FIRST INTERVIEWED MR. HUGHEY IN THE DETENTION CENTER
17 ON SATURDAY AFTERNOON

18 Q AND THIS WAS IN GREENWOOD?

19 A YES, IT WAS

20 Q JUST SATURDAY TWO DAYS AGO?

21 A YES, SIR

22 Q DESCRIBE THE NATURE OF -- EXCUSE ME BEFORE I
23 DO THAT I NEED TO BACKTRACK FOR A SECOND HAVE YOU
24 TESTIFIED IN THE COURTS OF THIS STATE PREVIOUSLY?

25 A YES, I HAVE

1 Q HAVE YOU BEEN DECLARED AN EXPERT IN THE AREA
2 OF CLINICAL PSYCHOLOGY BEFORE COURTS OF THE STATE OF
3 SOUTH CAROLINA?

4 A YES, SIR

5 MR TINSLEY AT THIS TIME, YOUR
6 HONOR, I'D OFFER MS WRIGHT AS AN EXPERT IN THE AREA
7 OF CLINICAL PSYCHOLOGY

8 THE COURT DOES THE STATE WISH TO
9 EXAMINE THE WITNESS AS TO HER QUALIFICATIONS?

10 MR JONES BRIEFLY, YOUR HONOR

11 THE COURT ALL RIGHT, SIR

12 CROSS-EXAMINATION BY MR JONES

13 Q HOW ARE YOU MS -- IS IT DOCTOR WRIGHT?

14 A CORRECT

15 Q DOCTOR WRIGHT? WHEN WAS THE LAST OCCASION YOU
16 WERE QUALIFIED AS AN EXPERT IN THE AREA OF CLINICAL
17 PSYCHOLOGY IN THE CIRCUIT COURTS OF THIS STATE?

18 A IN THE CIRCUIT COURT, I WOULD NOT BE SURE
19 MOST OF MY WORK IS DONE IN FAMILY COURT WITH CHILD
20 CUSTODY SITUATIONS, SO IT HAS BEEN SOME TIME SINCE
21 THE CIRCUIT COURT

22 Q WELL, GIVE US YOUR BEST ESTIMATION AS TO THE
23 LAST TIME YOU WERE QUALIFIED AS AN EXPERT IN THE
24 AREA OF CLINICAL PSYCHOLOGY WITH THE CIRCUIT COURTS
25 OF THIS STATE

1 A I'M GOING TO SAY FIFTEEN YEARS AGO

2 Q FIFTEEN YEARS AGO? AND DO YOU RECALL THE
3 CASE?

4 A IT WAS IN NORTH CAROLINA THAT IS ALL I
5 DON'T RECALL THE SPECIFICS

6 Q NO, I ASKED YOU ABOUT THE CIRCUIT COURTS OF
7 THIS STATE

8 A YES, SIR I'M SORRY NO, I DON'T RECALL THE
9 CASE

10 Q WELL, HOW OFTEN -- HOW MANY TIMES HAVE YOU
11 QUALIFIED AS AN EXPERT IN THE CIRCUIT COURTS OF THIS
12 STATE PRIOR TO FIFTEEN YEARS AGO?

13 A PROBABLY THREE TIMES

14 Q AND DO YOU RECALL ANY CASE WHEREIN YOU WERE
15 QUALIFIED AS AN EXPERT IN THE FIELD OF CLINICAL
16 PSYCHOLOGY IN THIS STATE?

17 A IN THE CIRCUIT COURT I AM QUALIFIED AS AN
18 EXPERT WITNESS IN CLINICAL PSYCHOLOGY IN FAMILY
19 COURT, NOT CIRCUIT COURT

20 Q SO YOU HAVE NOT BEEN QUALIFIED AS AN EXPERT IN
21 THE FIELD OF FORENSIC PSYCHOLOGY IN THE CIRCUIT
22 COURTS --

23 A I DON'T KNOW OF A ---

24 Q -- OF THIS STATE?

25 A I DON'T KNOW OF A SPECIFIC EXAMPLE, NO

1 Q YOU CANNOT THINK OF A CASE WHERE YOU HAVE
2 TESTIFIED AS AN EXPERT AND QUALIFIED AS SUCH IN THE
3 AREA OF A CLINICAL PSYCHOLOGIST IN THE CIRCUIT
4 COURTS OF THIS STATE?

5 A NO

6 Q TELL ME WHAT CONTINUING EDUCATION IN THE AREA
7 OF CLINICAL PSYCHOLOGY YOU HAVE HAD THIS PAST YEAR

8 A THIS PAST YEAR WAS A WORKSHOP ON MARRIAGE
9 COUNSELING AND A WORKSHOP ON POSTTRAUMATIC STRESS
10 DISORDERS

11 Q WHERE WAS THE WORKSHOP ON MARRIAGE COUNSELING?

12 A IN ATLANTA

13 Q AND WHO SPONSORED IT?

14 A THE BEHAVIORAL INSTITUTE OF TECHNOLOGY

15 Q AND HOW LONG DID IT LAST?

16 A TWO DAYS

17 Q WHERE WAS THE WORKSHOP ON POSTTRAUMATIC STRESS
18 DISORDERS?

19 A CHARLOTTE

20 Q HOW LONG DID IT LAST?

21 A IT WAS ONE DAY

22 Q AND WHEN WAS IT?

23 A I CAN'T TELL YOU WHEN SOMETIME THIS CALENDAR
24 YEAR

25 Q WHAT WOULD YOU SAY CONSTITUTES THE BULK OF

1 YOUR PRACTICE TODAY?

2 A INDIVIDUAL COUNSELING AND MARRIAGE COUNSELING
3 AND CHILD CUSTODY WORK

4 Q SO YOU WOULD SAY THAT THE BULK OF YOUR
5 PRACTICE IS EVENLY DIVIDED AMONG THOSE THREE AREAS?

6 A CORRECT

7 Q SO YOU HAVE HOW MANY CLIENTS NOW THAT YOU ARE
8 CONSULTING AND COUNSELING INDIVIDUALLY?

9 A PROBABLY THIRTY TO FORTY

10 Q BEFORE THIS PAST YEAR, THE YEAR BEFORE THAT,
11 THE ENTIRE YEAR BEFORE THAT, WHAT SEMINARS OR
12 STUDIES IN SPECIAL EDUCATION WITH REGARD TO
13 CONTINUING EDUCATION DID YOU ATTEND IN AN EFFORT TO
14 MAINTAIN YOUR STATUS AS A CLINICAL PSYCHOLOGIST?

15 A I KNOW THAT ONE WAS IN COLUMBIA ON CHILD
16 ABUSE I'M NOT SURE THAT I CAN RECALL THE OTHER

17 Q WHAT IS IT THAT YOU HAVE TO DO TO MAINTAIN
18 YOUR CERTIFICATION AS A CLINICAL PSYCHOLOGIST WITH
19 REGARD TO YOUR EDUCATION?

20 A IN TERMS OF CONTINUING EDUCATION, TWELVE HOURS
21 OF C E U 'S A YEAR

22 Q AND AS LONG AS YOU MAINTAIN THOSE TWELVE HOURS
23 OF C E U 'S A YEAR, YOU MAINTAIN YOUR CERTIFICATION
24 AS A PSYCHOLOGIST, IS THAT CORRECT?

25 A AS LONG AS YOU ADHERE TO CERTAIN OTHER

1 STANDARDS

2 Q AND YOU HAVE DONE THAT WITHOUT FAIL SINCE YOU
3 BECAME CERTIFIED IN, I BELIEVE YOU SAID 1976?

4 A SIX YES

5 Q AND YOU HAVE NOT LOST YOUR CERTIFICATION
6 DURING THAT TWENTY-YEAR PERIOD?

7 A NO, I HAVE NOT

8 Q SO YOU HAVE MAINTAINED YOUR CERTIFICATION?

9 A YES, SIR

10 Q NOW, THE FACT THAT YOU HAVE BEEN QUALIFIED AS
11 AN EXPERT IN THE FAMILY COURTS, WHAT WAS THE NATURE
12 OF YOUR TESTIMONY ON -- HOW MANY TIMES WERE YOU
13 QUALIFIED THIS PAST YEAR AS AN EXPERT IN FAMILY
14 COURT IN THE STATE OF SOUTH CAROLINA?

15 A I WOULD GUESSTIMATE FIFTEEN TIMES

16 Q AND WHAT WAS THE NATURE OF YOUR TESTIMONY
17 DURING THOSE OCCASIONS?

18 A THE NATURE OF MY TESTIMONY WAS TO EVALUATE
19 BOTH PARENTS IN THE SITUATION WHERE IT IS CHILD
20 CUSTODY AND TO EVALUATE THE CHILDREN AND TO MAKE
21 RECOMMENDATIONS REGARDING THE MOST APPROPRIATE
22 PLACEMENT FOR CUSTODY

23 Q SO WOULD IT BE SAFE TO SAY ON ALL FIFTEEN
24 OCCASIONS WHAT YOU WERE IS YOU WERE AN EXPERT IN THE
25 AREA OF HOW THIS DIVORCE IS GOING TO AFFECT THE KIDS

1 AND WHICH PARENT THEY WOULD BE MOST BENEFICIAL FOR
2 THEM TO BE PLACED IN THE CUSTODY OF?

3 A AND ALSO THE OVERALL PSYCHOLOGICAL STABILITY
4 OF EACH RESPECTIVE PARENT

5 MR JONES YOUR HONOR, BASED ON THE
6 FACT THAT SHE HAS NOT BEEN OFFERED AND ACCEPTED AS
7 AN EXPERT IN THE CIRCUIT COURTS OF THIS STATE PRIOR
8 TO TODAY, I WOULD NOT CONSENT TO HER BEING
9 CLASSIFIED AS SUCH IN THIS AREA I WOULD OBJECT
10 BASED ON THE FACT THAT SHE HAS NOT REACHED A LEVEL
11 OF COMPETENCY THAT WOULD ALLOW YOU TO PRESENT HER AS
12 AN EXPERT FOR PURPOSES OF HER TESTIMONY IN THIS CASE
13 AT THIS TIME

14 THE COURT WELL, LET ME BE CERTAIN I
15 UNDERSTAND YOUR SOLE OBJECTION TO HER BEING
16 QUALIFIED IS THE FACT THAT SHE HAS NOT PREVIOUSLY
17 BEEN QUALIFIED IN THE CIRCUIT COURT?

18 MR JONES SHE'S NEVER TESTIFIED AS
19 AN EXPERT BEFORE, YOUR HONOR, IN THE AREA OF -- AND
20 BASICALLY, HE'S OFFERING HER AS AN EXPERT IN THE
21 AREA OF CLINICAL PSYCHOLOGY

22 THE COURT THAT'S RIGHT

23 MR JONES AND SHE'S NEVER BEEN
24 QUALIFIED AS AN EXPERT IN THE AREA OF CLINICAL
25 PSYCHOLOGY BEFORE, AND I DIDN'T QUITE UNDERSTAND HER

1 TO SAY THAT SHE HAD TESTIFIED IN THE AREA OF
2 CLINICAL PSYCHOLOGY EVEN WHEN SHE WAS OFFERED AS AN
3 EXPERT IN THE AREA OF THE DOMESTIC CASES THAT SHE
4 TESTIFIED IN

5 THE COURT WELL, LET ME BE CERTAIN
6 THAT I UNDERSTAND DOCTOR WRIGHT, ARE YOU A
7 LICENSED CLINICAL PSYCHOLOGIST IN --

8 WITNESS YES, I AM

9 THE COURT -- THE STATE OF SOUTH
10 CAROLINA?

11 WITNESS YES, I AM

12 THE COURT OKAY ANYTHING FURTHER?

13 MR JONES NO, SIR

14 THE COURT ALL RIGHT I FIND BASED
15 UPON THE TESTIMONY RELATING TO HER EDUCATION AND
16 TRAINING AND EXPERIENCE THAT SHE IS TO BE QUALIFIED
17 AS AN EXPERT IN THE FIELD OF CLINICAL PSYCHOLOGY
18 NOW, OF COURSE, THE SCOPE OF HER TESTIMONY WILL
19 DEPEND UPON ANY EXPERTISE, TRAINING OR EDUCATION OR
20 EXPERIENCE SHE HAS IN WHATEVER PARTICULAR FIELD THE
21 DEFENSE WISHES TO ASK HER QUESTIONS REGARDING
22 REDIRECT EXAMINATION BY MR TINSLEY

23 Q DOCTOR WRIGHT, IN EVALUATING INDIVIDUALS, AND
24 WE'LL LATER ADDRESS THE SPECIFIC INDIVIDUAL HERE
25 TODAY, HOW DO YOU NORMALLY GO ABOUT EVALUATING THEM?

1 A BASICALLY, I EVALUATE AN INDIVIDUAL TAKING
2 INTO ACCOUNT VERBAL AND NONVERBAL BEHAVIOR IN AN
3 INTERVIEW SITUATION AS WELL AS ADMINISTERING
4 SPECIFIC STANDARDIZED PSYCHOLOGICAL ASSESSMENT
5 INSTRUMENTS, A COMBINATION OF THAT, AND ALSO TAKING
6 INTO ACCOUNT ANY SOCIAL HISTORY THAT I HAVE

7 Q WHAT ARE SOME OF THE EXAMPLES OF SOME OF THOSE
8 TESTS THAT YOU ADMINISTER?

9 A THERE IS A SPECIFIC TRAUMA STRESS INDICATOR OR
10 TRAUMA STRESS INVENTORY THERE IS ALSO THE
11 RORSCHACH INKBLOTS, THE M M P I , WHICH IS MINNESOTA
12 MULTIPHASIC PERSONALITY INVENTORY THERE ARE
13 SENTENCE COMPLETIONS THERE'S THE SHIPLEY INSTITUTE
14 OF LIVING, KINETIC FAMILY DRAWINGS, HUMAN FIGURE
15 DRAWINGS THOSE ARE SOME OF THE ONES THAT I USE IN
16 DOING A COMPREHENSIVE EVALUATION

17 Q AND WHEN YOU WERE CONTACTED BY MR GARRETT TO
18 EVALUATE MR HUGHEY, IT WAS TO BE DONE IN WHAT AREA?

19 A I WAS SPECIFICALLY ASKED TO ADMINISTER THE
20 TRAUMA STRESS INVENTORY WHICH IS AN INDICATOR OF
21 POSTTRAUMATIC STRESS DISORDER THIS CAME ABOUT BY
22 VIRTUE OF COLLABORATION WITH DOCTOR EVANS IN
23 COLUMBIA HE HAD DONE ANOTHER PART OF THE
24 EVALUATION THERE WAS SOME SUGGESTION THAT
25 POSTTRAUMATIC STRESS DISORDER MIGHT BE AN INDICATOR

1 IN THIS SITUATION AND THAT IS THE ONE AND ONLY
2 TEST I WAS ASKED TO GIVE ON SATURDAY

3 Q WAS THERE ANY INDICATION FOR YOU TO TEST FOR
4 PSYCHOSIS OR ANYTHING LIKE THAT?

5 A THERE WAS NO QUESTION ON THAT AT THE TIME

6 Q AND, IN FACT, YOU DID MEET WITH MR HUGHEY ON
7 SATURDAY?

8 A YES, I DID

9 Q AND WHAT INTERVIEWS OR TESTS DID YOU CONDUCT
10 WITH MR HUGHEY ON SATURDAY?

11 A I BASICALLY DID NOT DO AN INTERVIEW I ONLY
12 DID THE ADMINISTRATION OF THE T S I BECAUSE THAT
13 WAS THE SPECIFIC REFERRAL QUESTION IT WAS AFTER
14 SCORING THAT INSTRUMENT AND TALKING WITH DOCTOR
15 EVANS IN COLUMBIA AND SPEAKING WITH MR GARRETT THAT
16 HE THEN ASKED ME IF I WAS WILLING TO GO BACK ON
17 SUNDAY TO DO FURTHER TESTING OF THIS INDIVIDUAL

18 Q HE, BEING MR GARRETT?

19 A HE, BEING MR GARRETT, AND DOCTOR EVANS
20 SUGGESTING THAT THAT MIGHT WELL BE IN ORDER

21 Q BUT DOCTOR EVANS HAD NOT PREVIOUSLY MENTIONED
22 ANY SCHIZOPHRENIA PSYCHOSIS OR ANYTHING TO YOU, HAD
23 HE NOT?

24 A IT WAS DOCTOR -- NO, SIR, HE HAD NOT IT WAS
25 DOCTOR EVANS WHO SAID TO ME ONCE I TALKED WITH HIM

1 ABOUT THE SCORES ON THE T S I THAT IT MIGHT WELL BE
2 THAT THIS INDIVIDUAL WAS DETERIORATING OVER TIME,
3 DECOMPENSATING AT THIS POINT, AND WAS NOT -- THAT
4 NOT BEING THE CASE WHEN HE HAD SEEN HIM EARLIER IT
5 WAS DOCTOR EVANS WHO FIRST SUGGESTED THAT TO ME

6 Q BUT HE HAD NOT SEEN THAT?

7 A NO, SIR

8 Q NOW, WOULD YOU DESCRIBE AND DEFINE THE
9 DECOMPENSATING THAT YOU REFERRED TO

10 A WHAT I AM SPEAKING OF IS THE FACT THAT
11 INDIVIDUALS UNDER NORMAL SITUATIONS CAN ADAPT TO
12 INCREASING STRESS IN THEIR LIFE, AND WHILE THEY MAY
13 EXPERIENCE CERTAIN DIFFICULTIES WITH THAT, THEY
14 STILL MAINTAIN ADEQUATE CONTACT WITH REALITY BASED
15 ON A SITUATION WHERE AN INDIVIDUAL MAY, INDEED,
16 DETERIORATE TO THE POINT THAT WHEN THE STRESSORS
17 INCREASE IN HIS LIFE, HE OR SHE IS NOT ABLE TO
18 HANDLE THAT IN A RATIONAL, LOGICAL MANNER THAT'S
19 WHAT I'M TALKING ABOUT BY DECOMPENSATION

20 Q COULD YOU GIVE US EXAMPLES?

21 A AN INDIVIDUAL -- WELL, IN THIS SPECIFIC CASE
22 WHAT I AM TALKING ABOUT IS AN INDIVIDUAL WHO HAS A
23 LONG SOCIAL HISTORY OF DYSFUNCTIONAL FAMILY IN HIS
24 LIFE HE ALSO HAS A HISTORY OF MULTIPLE HEAD
25 TRAUMAS THOSE WERE THE SPECIFIC REASONS DOCTOR

1 EVANS WAS EVALUATING HIM HE ALSO HAS HAD CERTAIN
2 SPECIFIC STRESSORS IN HIS LIFE, AND BASED ON AN
3 OVERVIEW OF THE DATA, IT WAS MY OPINION THAT HE
4 MIGHT WELL BE ABLE TO HANDLE NORMAL, EVERYDAY
5 SITUATIONS, BUT WITH LIMITED CAPACITY THEN AS
6 INCIDENTS OF STRESS INCREASE, SUCH AS THE DEATH OF
7 HIS MOTHER AND THE DEATH OF HIS FATHER, AND THEN MY
8 UNDERSTANDING, THE CONFLICT WITH THE VICTIM IN
9 QUESTION, THEN I THINK HE MAY HAVE REACHED A POINT
10 WHERE HE WAS NOT RESPONDING RATIONALLY AND
11 LOGICALLY I HAVE CONCERNS ABOUT THAT I DON'T
12 HAVE FIRM DATA TO THAT EFFECT BUT THIS YOUNG MAN
13 BEHAVED STRANGELY WITH ME, MORE SO ON SUNDAY THAN HE
14 HAD ON SATURDAY

15 Q WELL, LET'S TALK ABOUT SUNDAY FOR A MINUTE
16 YOU WENT BACK SUNDAY AND DID YOU DO OTHER TESTS?

17 A YES I DID THE RORSCHACH AND I DID THE
18 M M P I -2

19 Q THOSE WERE ON SUNDAY?

20 A YES, SIR

21 Q THOSE WERE ON SUNDAY?

22 A YES, SIR

23 Q HAVE YOU HAD THE OPPORTUNITY TO SCORE THOSE
24 TESTS?

25 A I HAVE BEGUN SCORING THOSE TESTS I HAVE NOT

1 HAD TIME TO STUDY THEM IN DETAIL AS MUCH AS
2 ANYTHING, MY CONCERN WAS CERTAIN BEHAVIORAL
3 INCIDENTS THAT OCCURRED ON SUNDAY WHEN I WAS TESTING
4 HIM THERE'S ALSO THE FACT THAT ON SATURDAY THE
5 TEST HE TOOK REQUIRED HIM TO MAKE A CHOICE BETWEEN
6 ONE, TWO OR THREE ANSWERS, AND HE WAS ABLE TO DO
7 THAT QUITE ACCURATELY ON SUNDAY THE M M P I
8 REQUIRES THAT HE MAKE A CHOICE BETWEEN TRUE AND
9 FALSE ON A NUMBER OF ITEMS HE WAS SPECIFICALLY
10 ASKED TO ONLY MARK ONE ANSWER AND TO TRY TO ANSWER
11 EVERY ONE THAT HE COULD TWENTY-ONE OF THE ITEMS,
12 HE MARKED BOTH TRUE AND FALSE WHICH IS A SUGGESTION
13 TO ME THAT HE WAS NOT ABLE TO FOLLOW THE
14 INSTRUCTIONS AS WELL ON A SOMEWHAT SIMPLER TASK ON
15 SUNDAY ALSO, DURING THE ADMINISTRATION OF THE
16 RORSCHACH, THIS YOUNG MAN BEGAN RUBBING HIS EYES
17 REPEATEDLY ABOUT A THIRD OF THE WAY THROUGH THE
18 ADMINISTRATION AND I SIMPLY STOPPED AND ASKED HIM
19 IF HE WAS HAVING TROUBLE WITH HIS EYES AND HE SAID
20 TO ME -- THE INKBLOT IS A CARD THAT'S ON THE DESK
21 HE POINTED TO THE LEFT OF THE CARD ON THE TABLE AND
22 HE SAID, "I SEE THIS SPOT OVER HERE AND I SEE THIS
23 SPOT HERE," REFERRING TO THE MIDDLE OF THE CARD,
24 "AND THERE'S ANOTHER SPOT OVER HERE," REFERRING OFF
25 THE CARD ON THE TABLE "WHEN I LOOK AT THE CARDS

1 AND THEN I SEE THESE SPOTS AND SOMETIMES THE CARDS
2 AND THE SPOTS BEGIN TO GET BIGGER AND THEN THEY
3 BEGIN TO GET SMALLER AND THEN IT JUST GOES AWAY "
4 AND HE WAS SHAKING HIS HEAD AND THEN HE VERY
5 MATTER-OF-FACTLY SAID, "MAYBE I JUST NEED GLASSES "
6 WE THEN PROCEEDED WITH THE TESTING I GAVE HIM
7 SEVERAL MORE CARDS AND THEN HE WAS AGAIN RUBBING HIS
8 EYES MORE SO AND I ASKED HIM IF HE FELT LIKE
9 CONTINUING, AND HE SAID, "YES, I WANT TO FINISH THIS
10 BUT IT'S JUST THAT I SEE WATER RUNNING OVER HERE,"
11 AND HE POINTED TO THE SIDE OF THE CARD ON THE TABLE,
12 "AND MAYBE IT'S JUST THAT MY EYES ARE WATERING
13 Q DID YOU OBSERVE HIS EYES WATERING?
14 A THEY DID NOT APPEAR TO ME TO BE WATERING
15 Q WHAT HAPPENED NEXT?
16 A AND AT THAT POINT I FINISHED THE
17 ADMINISTRATION OF THE TEST, ASKED HIM IF HE FELT
18 LIKE DOING THE M M P I , AND THEN LEFT THAT TEST
19 BOOKLET WITH HIM I THEN LEFT THE ROOM AND WENT TO
20 SEE MR GARRETT
21 Q DID HE DO THE M M P I ?
22 A HE DID THE M M P I WITH THE EXCEPTION AS I
23 HAVE SAID OF MARKING DOUBLE ANSWERS TO TWENTY-ONE
24 OUT OF THE -- IT'S THREE HUNDRED AND SOME-ODD BUT
25 TWENTY-ONE IS A SIGNIFICANT NUMBER TO MARK BOTH TRUE

1 AND FALSE

2 Q WAS IT APPROPRIATE TO LEAVE THE M M P I WITH
3 HIM?

4 A I MADE CERTAIN WITH THE GUARD THAT -- HE WAS
5 IN A ROOM BY HIMSELF AND I MADE CERTAIN WITH THE
6 CORRECTIONAL OFFICER THAT WHEN HE FINISHED THE TEST
7 HE WOULD GIVE IT TO HER AND THEN SHE WOULD GIVE IT
8 DIRECTLY TO ME WHEN I CAME BACK TO PICK IT UP SHE
9 EVEN MADE A JOKE THAT SHE WOULD NOT LOOK AT THE
10 ANSWERS WHILE SHE HAD IT

11 Q DID YOU COME BACK?

12 A YES, I DID

13 Q AND DID YOU RECEIVE THE ANSWERS?

14 A YES, I DID

15 Q NOW, ARE YOU FAMILIAR WITH THE TERM
16 MALINGERING?

17 A YES, SIR

18 Q AND COULD YOU DEFINE THAT?

19 A MALINGERING ESSENTIALLY MEANS AN INDIVIDUAL IN
20 A CERTAIN SET OF CIRCUMSTANCES MAY FOR WHATEVER
21 REASON TRY TO APPEAR SICKER THAN HE ACTUALLY IS,
22 MAY, IN OTHER WORDS, FAKE BAD

23 Q NOW, IN TESTING JOHN KENNEDY HUGHEY DID YOU
24 FIND ANY EVIDENCE AS TO ANY MALINGERING BY MR
25 HUGHEY?

1 A IT WAS MY CRITICAL IMPRESSION, AND I WILL ALSO
2 SAY IF I'M ALLOWED THAT I SPOKE SPECIFICALLY WITH
3 DOCTOR EVANS ABOUT THAT AND HE INDEED -- I HAD NO
4 CLINICAL IMPRESSION OF HIM MALINGERING SPOKE WITH
5 DOCTOR EVANS WHO SAID THAT TWO OF THE INSTRUMENTS HE
6 HAD WHICH SPECIFICALLY ADDRESSED MALINGERING, AS HE
7 PUT IT, MR HUGHEY PASSED WITH FLYING COLORS,
8 INDICATING HE WAS NOT MALINGERING THAT IS
9 SOMETHING DOCTOR EVANS AND I TALKED ABOUT

10 Q SO THAT'S THE DISTINCTION BETWEEN THE
11 COMPENSATING AND MALINGERING IN THIS CASE, IS THAT
12 RIGHT?

13 A THAT IS MY DISTINCTION, YES, SIR

14 Q AND ON SATURDAY'S TEST DATA THAT YOU
15 EVALUATED, WHAT, INDEED, DID YOU GLEAN FROM THAT?

16 A THERE ARE CERTAIN CRITICAL ITEMS WHICH ARE
17 DELINEATED SUCH AS -- I BELIEVE THERE IS SOMEONE --
18 I THINK IT'S I BELIEVE THERE IS SOMEONE TRYING TO
19 CONTROL MY MIND THE WAY ONE RESPONDS TO THE T S I
20 IS TO MARK ZERO FOR IT'S NEVER HAPPENED TO ME, ONE
21 FOR IT'S HAPPENED SOME, TWO FOR IT'S HAPPENED A GOOD
22 BIT AND THREE FOR IT'S HAPPENED A LOT OF TIMES

23 I BELIEVE HIS RESPONSE TO THAT WAS THE THREE
24 I JUST KNOW THAT THERE WERE ABOUT TEN CRITICAL ITEMS
25 LIKE THAT, ANOTHER ONE BEING I OFTEN SEE THINGS OR

1 HEAR THINGS THAT OTHER PEOPLE WOULDN'T THINK ARE
2 THERE HE ANSWERED APPOSITIVE TO THAT AND I CAN'T
3 REMEMBER WHAT SOME OF THE OTHERS ARE I JUST KNOW I
4 HAD CONCERNS ABOUT IT

5 Q ANY EXAMPLES ABOUT THAT?

6 A LATER ON SUNDAY WHEN I HAD FINISHED
7 ADMINISTERING THE RORSCHACH AND HE HAD SAID THAT
8 ABOUT THE WATER RUNNING ON THE TABLE AND THE SPOTS
9 COMING AND GOING, I SPECIFICALLY ASKED HIM -- NOW, I
10 DID NOT DO AN INTERVIEW WITH HIM, BUT I SPECIFICALLY
11 ASKED HIM IF THERE WERE EVER OCCASIONS WHEN HE
12 THOUGHT HE MAYBE SAW SOMETHING OR HEARD SOMETHING
13 THAT ANOTHER PERSON WOULDN'T IN THAT SAME SITUATION
14 AND HE VERY CALMLY TOLD ME THAT HIS MOTHER OFTEN
15 COMES TO TALK WITH HIM AND HIS WORDS WERE, "SHE'LL
16 JUST POP UP FROM OUT OF NOWHERE AND SHE HAS THAT BIG
17 SMILE ON HER FACE AND MY DAD HAS COME TO TALK TO
18 ME ONE OR TWO TIMES BUT IT'S MOSTLY MY MAMA THAT
19 COMES "

20 HE THEN SAID TO ME, "SOMETIMES WHEN I'M LYING
21 IN BED I THINK I'M PROBABLY ASLEEP BUT I WAKE UP
22 REAL EASILY AT THE LEAST LITTLE SOUND, AND WHEN I
23 OPEN MY EYES I'LL SEE GREEN SPOTS AND I KIND OF
24 SHAKE MY HEAD AND THEY DON'T REALLY GO AWAY SO I'LL
25 GET UP AND WASH MY FACE AND THEN WHEN I DO THAT THEY

1 USUALLY GO AWAY " AND THEN ONCE AGAIN THE YOUNG MAN
2 SAID, 'I DON'T KNOW," SHOOK HIS HEAD AND SAID,
3 "MAYBE I JUST NEED GLASSES "

4 Q AND INCORPORATED INTO THIS IS YOU HAD AN
5 OPPORTUNITY TO STUDY HIS BASIC SOCIAL HISTORY?

6 A YES, I DID WELL, NOT STUDY I READ THROUGH
7 ONE TIME THE EXTENSIVE SOCIAL HISTORY THAT MS TARR
8 HAS I ALSO IRONICALLY LEARNED ON SATURDAY
9 AFTERNOON FOR THE FIRST TIME THAT I HAD EVALUATED
10 TWO OF MR HUGHEY'S SISTERS BACK IN 1992 THEY WERE
11 REFERRED TO ME BY AN ATTORNEY IN GREENVILLE FOR A
12 PSYCHOLOGICAL EVALUATION AND FOR COUNSELING AND
13 WHEN I SAW THE TWO SISTERS -- THIS WAS FOLLOWING THE
14 TRAGIC ACCIDENTAL DEATH OF THEIR MOTHER -- IT WAS MY
15 -- WHAT MADE ME REALIZE THAT WAS IN READING THE
16 SOCIAL HISTORY BECAUSE THE CIRCUMSTANCES WERE SUCH
17 THAT THOSE ARE VERY UNIQUE SITUATIONS, SO I KNEW
18 THAT WAS THE TWO SISTERS SUBSEQUENTLY WENT BACK TO
19 MY OFFICE AND LOOKED UP THE PSYCHOLOGICAL

20 IN BOTH OF THOSE CASES I WAS AWARE NOT ONLY OF
21 HOW DYSFUNCTIONAL THAT FAMILY HISTORY WAS, BUT ALSO
22 OF THE FACT OF HOW TRAUMATIC THE MOTHER'S DEATH WAS
23 ON THESE TWO SISTERS, NEITHER ONE OF WHOM WERE
24 LIVING IN THE HOME WITH HER AND, INDEED, AT THAT
25 TIME MR HUGHEY WAS STILL LIVING WITH HIS MOTHER

1 AND, IN FACT, MADE A COMMENT TO ME, 'WHEN MAMA WAS
2 COOKING -- WHEN MAMA WENT TO LEAVE THAT LAST DAY SHE
3 WAS COOKING SUPPER AND SHE TOLD ME NOT TO EAT UNTIL
4 SHE GOT BACK " AND THEN HE SHOOK HIS HEAD AND HE
5 SAID, "AND SHE NEVER GOT BACK "

6 Q WHAT HAPPENED TO HER?

7 A THAT WAS WHEN SHE WAS KILLED

8 Q HOW WAS SHE KILLED?

9 A SHE WAS RIDING -- SHE WAS CUTTING GRASS RIDING
10 THE RIDING LAWN MOWER AND A DRUNK DRIVER RAN OFF THE
11 HIGHWAY IN A PICKUP TRUCK AND RAN OVER HER AND
12 KILLED HER

13 Q AND DID YOU FIND ANY SIGNS OF POSTTRAUMATIC
14 STRESS IN MR HUGHEY AS A RESULT OF THAT?

15 A IN BOTH -- NOW, I DID NOT SEE MR HUGHEY AT
16 THE TIME MR WILSON IN GREENVILLE REFERRED THE TWO
17 SISTERS I DON'T KNOW WHY NO ONE ELSE WAS REFERRED,
18 BUT AT THE TIME THE TWO SISTERS WERE REFERRED TO ME
19 I DID THEIR EVALUATIONS I DIAGNOSED POSTTRAUMATIC
20 STRESS DISORDER AND, INDEED, SAW BOTH OF THEM IN
21 COUNSELING FOR SEVERAL MONTHS IT IS MY
22 UNDERSTANDING THAT MR HUGHEY NEVER RECEIVED
23 COUNSELING

24 Q AND AS SUCH DID MR HUGHEY SATURDAY SHOW ANY
25 SIGNS OF POSTTRAUMATIC STRESS DISORDER?

1 A ON THAT INVENTORY HE CERTAINLY DID

2 Q HE DID AND BASED UPON YOUR STUDY OF MR
3 HUGHEY, DOCTOR WRIGHT, AT THIS TIME CAN YOU SAY
4 WHETHER HE CAN UNDERSTAND THE NATURE OF THESE
5 PROCEEDINGS AGAINST HIM?

6 A IT IS MY OPINION THAT HE DOES NOT UNDERSTAND
7 THE SERIOUS NATURE OF THE PROCEEDINGS AGAINST HIM

8 Q DO YOU HAVE AN OPINION AS TO HIS ABILITY TO
9 ASSIST MR GARRETT AND MYSELF IN -- IN TERMS OF HIS
10 MENTAL CAPACITY TO ASSIST IN HIS DEFENSE?

11 A I BELIEVE AT THIS TIME HE IS DECOMPENSATING
12 AND IS NOT ABLE TO ADEQUATELY ASSIST

13 Q AND AS A RESULT OF THIS WHAT WOULD YOU
14 RECOMMEND AT THIS TIME?

15 A I WOULD RECOMMEND A COMPREHENSIVE EVALUATION
16 WITH SPECIFIC QUESTION TO LOOK AT WHETHER OR NOT
17 THIS YOUNG MAN NEEDS MEDICATION WHICH WOULD ENABLE
18 HIM TO ASSIST OR TO HANDLE HIS STRESSORS BETTER AT
19 THIS TIME

20 Q I BEG THE COURT'S INDULGENCE ONE MINUTE, YOUR
21 HONOR AND ARE THERE POSSIBLE SUGGESTIONS OF
22 PSYCHOSIS OR SCHIZOPHRENIA IN THIS CASE?

23 A THAT IS WHAT I HAVE QUESTIONS ABOUT, WHICH IS
24 WHY I WOULD RECOMMEND A COMPREHENSIVE EVALUATION

25 Q AND THOSE ARE QUESTIONS THAT YOU CAN'T ANSWER,

1 IS THAT RIGHT?

2 A NOT BASED ON THE LIMITED AMOUNT OF INFORMATION
3 I HAVE

4 Q BUT WITH FURTHER ANALYSIS POSSIBLY YOU COULD?

5 A CERTAINLY THOSE ARE THE REASONS I HAVE
6 CONCERNS, HIS STRANGE BEHAVIOR AND WHAT I THINK IS
7 STRANGE IDEATION

8 Q AND THESE OPINIONS RELATE OR DO THEY RELATE
9 DIRECTLY TO THE ABILITIES THAT WE REFERRED TO, THE
10 ABILITY TO ASSIST HIS COUNSEL AND TO UNDERSTAND THE
11 PROCEEDINGS AGAINST HIM?

12 A THEY RELATE DIRECTLY -- YES THEY RELATE
13 DIRECTLY TO THOSE QUESTIONS THEY RELATE DIRECTLY
14 TO MR HUGHEY'S ABILITY TO INTERPRET HIS REALITY
15 ACCURATELY, THE REALITY OF HIS ENVIRONMENT

16 MR TINSLEY THAT'S ALL YOUR
17 WITNESS

18 THE COURT SOLICITOR?

19 RE-CROSS EXAMINATION BY MR JONES

20 Q DOCTOR WRIGHT, DO YOU HAVE ANY PHYSICAL
21 DOCUMENTATION OF THE TRAUMA STRESS INVENTORY TEST
22 THAT YOU CONDUCTED?

23 A BY THAT -- I'M SORRY, PHYSICAL EVIDENCE?

24 Q YES TEST RESULTS? TESTS THEMSELVES? I'D
25 LIKE TO SEE THEM

1 A I FAXED THOSE TO DOCTOR EVANS I DON'T HAVE
2 IT WITH ME

3 MR JONES YOUR HONOR, I'D INQUIRE
4 OF THE COURT IF DOCTOR EVANS IS HERE? IS THAT ---
5 THE COURT IS DOCTOR EVANS AROUND
6 HERE?

7 MR TINSLEY HE SHOULD BE HERE ANY
8 MINUTE, JUDGE HE'S LATER THAN WE THOUGHT NOW,
9 THIS WEEK ---

10 MR JONES YOUR HONOR, LET ME JUST
11 TRY TO NUTSHELL THIS A LITTLE BIT I FEEL LIKE I'M
12 ENTITLED TO ANY TEST RESULTS AND TESTS THAT SHE
13 ADMINISTERED --

14 THE COURT OH, I UNDERSTAND

15 MR TINSLEY YOUR HONOR --

16 MR JONES -- AND ANY NOTES THAT SHE
17 HAS CONCERNING HER EVALUATION OF HIM

18 THE COURT I UNDERSTAND THAT

19 MR TINSLEY -- THIS IS THE ONLY --
20 HERE'S DOCTOR EVANS NOW, YOUR HONOR HE JUST WALKED
21 IN THE DOOR THIS IS THE ONLY MATTER WE HAVE SO
22 FAR I HAVE PROVIDED -- IN FACT, THAT'S YOUR COPY
23 THAT'S ALL I HAVE AT THIS TIME

24 THE COURT YOU WANT TO TALK WITH
25 DOCTOR EVANS AND SEE IF HE HAS THIS WITNESS'S TEST

1 RESULTS THAT SHE HAS USED IN RENDERING HER OPINION?

2 WITNESS YOUR HONOR, I WOULD ---

3 THE COURT JUST A MINUTE

4 MR JONES MAY I PROCEED, YOUR
5 HONOR?

6 THE COURT WELL, LET ME SEE WHAT WE
7 -- WHAT WE'VE ACCOMPLISHED ---

8 MR TINSLEY THE FORM THAT I GAVE TO
9 THE SOLICITOR IS THE ONLY ONE THAT DOCTOR EVANS HAS
10 FROM DOCTOR WRIGHT HE HAS GOTTEN IT

11 CROSS-EXAMINATION CONTINUED BY MR JONES

12 Q WHAT IS THIS, DOCTOR WRIGHT?

13 A THAT'S THE PROFILE OF THE RESULTS OF THE
14 T S I

15 Q WHAT'S THE T S I ?

16 A TRAUMA STRESS INVENTORY

17 Q WHAT I'D LIKE YOU TO GIVE ME NOW IS ANY NOTES,
18 ANY TESTS, COPIES OF ANY TESTS OR ANY NOTES, ANY
19 NOTES THAT YOU MADE DURING ANY INTERVIEW OF MR
20 HUGHEY, AND ANY TEST RESULTS THAT YOU HAVE FROM ANY
21 TESTS THAT YOU CONDUCTED ON HIM

22 A ALL RIGHT

23 Q MAY I HAVE THOSE?

24 A I'D HAVE TO GO TO THE ROOM TO GET THEM

25 (WITNESS LEAVES TO OBTAIN REQUESTED DOCUMENTS)

1 CROSS-EXAMINATION CONTINUED BY MR JONES

2 Q ALL RIGHT, YOU TESTIFIED BEFORE, DOCTOR
3 WRIGHT, THAT YOU HAD SUPPLIED, I GUESS, DEFENSE
4 COUNSEL, MR TINSLEY OR MR GARRETT, WITH A COPY OF
5 THAT FORM WHICH IS A TRAUMA STRESS INVENTORY TEST
6 RESULT?

7 A CORRECT

8 Q WHICH ONE DID YOU SUPPLY WITH A COPY?

9 A WELL, ACTUALLY, I SUPPLIED IT TO PAGE TARR

10 Q PAGE TARR?

11 A YES

12 Q WHO IS PAGE TARR?

13 A (NO RESPONSE)

14 Q MA'AM?

15 A SHE IS SOMEONE WHO IS ASSISTING MR GARRETT
16 AND MR TINSLEY IS ALL I KNOW

17 Q WHEN DID YOU GET WITH PAGE TARR?

18 A ON SATURDAY

19 Q SATURDAY? WHERE WAS SHE WHEN YOU GAVE IT TO
20 HER?

21 A SHE WAS AT MR GARRETT'S OFFICE

22 Q WHERE WAS MR GARRETT?

23 A I ASSUME HE WAS IN THE OFFICE

24 Q HAD YOU SEEN HIM IN THE OFFICE THERE?

25 A NO I WAS IN THE PARKING LOT BECAUSE I HAD MY

1 DOG IN THE CAR

2 Q AND YOU WENT THERE FOR THE PURPOSE OF?

3 A GIVING HER THIS AND GIVING HER THE TEST
4 BOOKLET TO GIVE BACK TO DOCTOR EVANS

5 Q WELL, THAT'S WHAT I'M GETTING TO YOU TURNED
6 THIS OVER TO GARRETT'S LAW OFFICE ON SATURDAY, IS
7 THAT RIGHT?

8 A CORRECT

9 MR JONES I'D LIKE IT MARKED AS
10 STATE'S -- AS COURT'S EXHIBIT, YOUR HONOR
11 (REPORTER MARKED PERTINENT DOCUMENT, TRAUMA STRESS
12 DISORDER INVENTORY AS COURT'S EXHIBIT #1)

13 CROSS-EXAMINATION CONTINUED BY MR JONES

14 Q WHAT ELSE DID YOU TURN OVER TO GARRETT'S LAW
15 OFFICE ON SATURDAY?

16 A THAT IS ALL I TURNED OVER TO THEM

17 Q THAT'S THE ONLY PIECE OF PAPER YOU TURNED
18 OVER?

19 A CORRECT

20 Q DID YOU GIVE THE LAW CLERK ANYTHING?

21 A NO, SIR

22 Q WHAT'S NEXT IN YOUR HAND?

23 A THAT IS THE BASIS ON WHICH -- THAT IS THE
24 ACTUAL TEST THAT THE YOUNG MAN TOOK

25 Q THIS IS THE TEST THAT HE TOOK?

1 A CORRECT AND I DID NOT GIVE THAT TO THEM AND
2 I ONLY FAXED DOCTOR EVANS THE PROFILE I DID NOT
3 FAX HIM THAT

4 Q YOU DID NOT FAX HIM THE TEST?

5 A NO, SIR

6 Q YOU FAXED HIM THE PROFILE?

7 A CORRECT

8 Q BECAUSE HE WOULD KNOW WHAT THE QUESTIONS WERE
9 FOR THE TEST, IS THAT CORRECT?

10 A YES, SIR

11 MR JONES

12 YOUR HONOR, I'D LIKE THIS TEST
13 MADE AS A COURT'S EXHIBIT ALSO

14 (REPORTER MARKS PERTINENT DOCUMENT AS COURT'S
15 EXHIBIT #2)

16 THE COURT

17 ALL RIGHT

18 CROSS-EXAMINATION CONTINUED BY MR JONES

19 Q NOW, LET ME GO BACK TO YOUR INVOLVEMENT IN THE
20 CASE YOU SAY YOU WERE FIRST BROUGHT INTO THE CASE
21 HOW?

22 A MR GARRETT CALLED ME ON, I BELIEVE, WEDNESDAY
23 AND ASKED IF I WOULD COLLABORATE WITH DOCTOR EVANS
24 IN COLUMBIA AND WITH PAGE TARR REGARDING
25 ADMINISTERING THE T S I TO THIS GENTLEMAN, THAT

1 DOCTOR EVANS HAD DONE PRELIMINARY WORK ON BY WAY OF
2 A NEUROPSYCHOLOGICAL

3 Q YES? AND YOU SAID AT THE TIME?

4 A I KNEW TO TALK WITH DOCTOR EVANS AND I SPOKE
5 WITH DOCTOR EVANS I WAS IN GREENWOOD AND ABLE TO
6 GO TO THE DETENTION CENTER TO ADMINISTER THIS
7 DOCTOR EVANS WAS IN COLUMBIA HE WAS SENDING ME --
8 NOW, THIS IS NOT A TEST THAT I AM FAMILIAR WITH HE
9 SENT ME THE MANUAL PAGE BROUGHT THAT BY MY OFFICE
10 ON SATURDAY MORNING I STUDIED THE MANUAL I WENT
11 TO THE DETENTION CENTER AND ADMINISTERED THE TEST
12 AND THEN WENT BACK TO MY OFFICE AND SCORED IT
13 SUBSEQUENTLY TALKED TO MR GARRETT ON
14 SUNDAY ---

15 Q LET ME STOP YOU IF I CAN ABOUT SATURDAY YOU
16 SAY YOU'VE NEVER ADMINISTERED ONE OF THESE TESTS
17 BEFORE?

18 A NO, SIR, I HAVE NOT

19 Q NEVER ADMINISTERED A TRAUMA STRESS INVENTORY
20 TEST?

21 A NO, SIR, I HAVE NOT

22 Q AND THAT WAS THE SOLE PURPOSE THAT YOU WERE
23 ASKED TO BE BROUGHT IN ON THE CASE, WASN'T IT?

24 A YES, IT WAS IT -- MAY I CONTINUE?

25 Q UH-HUH (AFFIRMATIVE)

1 A IT IS A SIMPLE PAPER AND PENCIL MEASURE THAT
2 YOU

3 READ -- A CLERK CAN GIVE THAT

4 Q RIGHT

5 A AND SO IN THAT SENSE MR GARRETT AND DOCTOR
6 EVANS WERE ASKING THAT I ADMINISTER THAT PARTICULAR
7 INSTRUMENT THAT WAS THE SOLE PURPOSE FOR MY GOING
8 THERE WAS JUST TO DO THAT ONE TEST

9 Q DID THEY TELL YOU WHY DOCTOR EVANS COULDN'T DO
10 IT ON WEDNESDAY?

11 A NO, SIR

12 Q DID THEY TELL YOU WHY HE COULDN'T DO IT ON
13 THURSDAY?

14 A I ASSUMED IT DIDN'T FIT INTO HIS SCHEDULE

15 Q DID THEY TELL YOU WHY HE COULDN'T DO IT ON
16 FRIDAY?

17 A NO, SIR

18 Q DID THEY TELL YOU WHY HE COULDN'T DO IT ON
19 SATURDAY?

20 A NO, SIR

21 Q DID THEY TELL YOU WHY A CLERK COULDN'T DO IT
22 ON SATURDAY?

23 A NO, SIR

24 Q DID THEY TELL YOU WHY A CLERK COULDN'T DO IT
25 ON SUNDAY?

1 A NO, SIR

2 Q BUT THEY WANTED YOU TO COME DO IT?

3 A YES, SIR

4 Q AND YOU DID IT?

5 A YES, SIR

6 Q AND YOU TOOK HIM THE RESULTS OF THE TEST?

7 A YES, SIR

8 Q AND YOU FAXED A COPY OF THE RESULTS TO DOCTOR

9 EVANS?

10 A YES, SIR

11 Q AND WHEN DID YOU FAX A COPY OF THE RESULTS TO

12 DOCTOR EVANS?

13 A I BELIEVE THAT WAS ON SUNDAY AFTERNOON

14 Q UH-HUH (AFFIRMATIVE) BUT YOU LEFT MR

15 GARRETT'S OFFICE ON SATURDAY?

16 A I LEFT THE DETENTION CENTER

17 Q AND YOU LEFT HIS PARKING LOT, MR GARRETT'S

18 PARKING LOT, ON SATURDAY?

19 A YES, SIR

20 Q AFTER HANDING OVER THE TEST RESULTS TO HIS

21 CLERK?

22 A YES, SIR

23 Q WITH AN UNDERSTANDING THAT YOU WOULD COME BACK

24 ON SUNDAY?

25 A NO MR GARRETT AND I TALKED ON SUNDAY WHEN

1 THE DETERMINATION WAS MADE -- I TALKED WITH DOCTOR
2 EVANS ABOUT WHAT -- QUITE FRANKLY, I'M CONFUSED
3 ABOUT BETWEEN SATURDAY AND SUNDAY I TALKED TO
4 DOCTOR EVANS SEVERAL TIMES AND TO MR GARRETT
5 SEVERAL TIMES, AND I'M NOT EXACTLY SURE WHEN THAT
6 WAS I KNOW THAT I WENT ON SATURDAY TO DO THE ONE
7 TEST WHEN I FINISHED SCORING IT AND SPOKE WITH
8 DOCTOR EVANS ON THE PHONE, I HAD CONCERNS,
9 PARTICULARLY ABOUT THE CRITICAL ITEMS AND ABOUT HIS
10 PERFORMANCE ON THE TEST IN GENERAL THEN IT WAS MR
11 GARRETT WHO ASKED IF I WOULD GO BACK ON SUNDAY AND
12 ADMINISTER FURTHER TESTING

13 Q BUT THE TEST THAT YOU GAVE ON SATURDAY, YOU
14 HAD NEVER GIVEN BEFORE YOU REALLY DON'T KNOW THAT
15 MUCH ABOUT THE TEST AND, YET, YOU WERE EVALUATING
16 HIS SCORES ON SATURDAY NIGHT AND TALKING TO DOCTOR
17 EVANS WHOM YOU HAD SENT A COPY OF HIS SCORES TO
18 ABOUT YOUR CONCERNS ABOUT HIS PERFORMANCE ON THIS
19 TEST THAT I ASSUME YOU'VE NEVER EVALUATED ONE OF
20 THESE BEFORE IF YOU'VE NEVER GIVEN ONE BEFORE

21 A NO, I HAVEN'T

22 Q BUT YOU WERE CONCERNED ABOUT HIS SCORE ON THE
23 TEST AND YOU CALLED DOCTOR EVANS AND TOLD HIM?

24 A YES THE CRITICAL ITEMS ARE SIGNIFICANT
25 THAT'S WHAT I WAS CONCERNED ABOUT, AND THAT IS IN

1 BLACK AND WHITE THAT IS WHY I TALKED TO HIM

2 Q AND YOU EXPRESSED THOSE CONCERNS TO HIM?

3 A YES

4 Q DOCTOR EVANS?

5 A YES, SIR

6 Q AND WHAT WAS HIS ADVICE TO YOU?

7 A HIS COMMENT TO ME IN GENERAL -- AND I DON'T
8 REMEMBER SPECIFICS -- WAS THAT IT WAS QUITE POSSIBLE
9 THAT THE REASON HE HAD NOT SEEN ANY PSYCHOTIC-LIKE
10 BEHAVIOR WAS THAT THIS YOUNG MAN WAS, INDEED,
11 DETERIORATING NOW AND THAT IS WHY HE DIDN'T SEE IT
12 WHEN HE SAW HIM THAT WAS DOCTOR EVANS' SUGGESTION
13 OF A POSSIBILITY OF WHAT MIGHT BE HAPPENING

14 Q WELL, DID HE ALSO SUGGEST ANOTHER POSSIBILITY
15 THAT ANYTIME SOMEBODY CHARGED WITH MURDER, A DOUBLE
16 HOMICIDE, FACING THE DEATH PENALTY, ABOUT TO GO TO
17 TRIAL ON MONDAY MORNING MIGHT BE EXHIBITING A LITTLE
18 UNUSUAL STRESSFUL BEHAVIOR ON SATURDAY AND SUNDAY
19 BEFORE THE TRIAL? DID HE SUGGEST THAT THE STRESS OF
20 THIS TRIAL MIGHT BE INDICATING SOME OF THE BEHAVIOR
21 THAT YOU OBSERVED?

22 A OH, I CERTAINLY BELIEVE THE STRESS OF THIS
23 TRIAL IS ADDING TO THAT, AND WHAT WE DID
24 SPECIFICALLY DISCUSS WAS WHETHER OR NOT EITHER ONE
25 OF US THOUGHT THIS YOUNG MAN WAS MALINGERING AND

1 IT WAS DOCTOR EVANS WHO SAID TO ME THAT HE HAD
2 SPECIFICALLY ADMINISTERED TWO TESTS TO THIS YOUNG
3 MAN WHICH -- AND I BELIEVE I QUOTE CORRECTLY -- HE
4 PASSED WITH FLYING COLORS, MEANING THAT HE DID NOT
5 INDICATE MALINGERING

6 Q NOW, WHAT TEST DID YOU ADMINISTER TO HIM TO
7 DETERMINE WHETHER OR NOT HE WAS MALINGERING?

8 A I DID NOT

9 Q DID YOU TELL DOCTOR EVANS THAT YOU THOUGHT HE
10 NEEDED TO COME AND EXAMINE HIM?

11 A I DID NOT SAY THOSE WORDS TO HIM I BELIEVE
12 MS TARR ASKED HIM ABOUT THAT AND LITERALLY HE SAID
13 HE COULD NOT DO IT BECAUSE OF HIS SCHEDULE HE HAD
14 OTHER COMMITMENTS

15 Q WHEN DID MS TARR ASK HIM ABOUT THAT?

16 A I DON'T KNOW IF IT WAS SATURDAY OR SUNDAY

17 Q BUT MR GARRETT CALLED YOU ON SUNDAY TO COME
18 CONDUCT ADDITIONAL TESTS ON THE DEFENDANT, IS THAT
19 CORRECT?

20 A CORRECT

21 Q WHAT TESTS?

22 A I DID THE RORSCHACH AND THE M M P I AND
23 AGAIN, I AM NOT TESTIFYING THAT THIS IS A VALID
24 EVALUATION I AM SUGGESTING THAT HIS BEHAVIOR AND
25 MY CLINICAL IMPRESSIONS SUGGEST WE NEED A

1 COMPREHENSIVE EVALUATION I BASICALLY HAVE HAD
2 ENOUGH TIME WITH THIS YOUNG MAN SOLELY TO DO
3 SCREENING I'M NOT PRETENDING TO HAVE DONE AN
4 EVALUATION

5 Q CAN I HAVE A COPY OF YOUR M M P I ?

6 A YES, YOU MAY

7 MR JONES YOUR HONOR, I OFFER THIS
8 AS A COURT'S EXHIBIT AT THIS TIME
9 (REPORTER MARKS PERTINENT DOCUMENT, M M P I AS
10 COURT'S EXHIBIT #3)

11 THE COURT ADMITTED

12 CROSS-EXAMINATION CONTINUED BY MR JONES

13 Q AND THEN I SUPPOSE WHAT YOU HAVE ---

14 A THIS IS THE RORSCHACH

15 Q THE RORSCHACH TEST?

16 A HIS RESPONSES

17 Q DO YOU HAVE A COPY OF THE TEST WITH YOU?

18 A NO, THOSE ARE HIS RESPONSES

19 Q HIS RESPONSES IN YOUR WRITING?

20 A CORRECT

21 Q YOUR HONOR, I'D LIKE TO OFFER THIS AS A
22 COURT'S EXHIBIT ALSO

23 THE COURT ANY OBJECTION?

24 MR TINSLEY NO OBJECTION

25 THE COURT WITHOUT OBJECTION

1 (REPORTER MARKS PERTINENT DOCUMENT, RORSCHACH TEST,
2 AS COURT'S EXHIBIT NUMBER 4)

3 CROSS-EXAMINATION CONTINUED BY MR JONES

4 A AND THESE ARE SIMPLY A WORK SHEET OF MINE WITH
5 HIS SCORING

6 Q WORK SHEET OF YOURS --

7 A YES

8 Q -- WITH HIS SCORING ON WHAT?

9 A ON THE RORSCHACH

10 MR JONES YOUR HONOR, I WOULD LIKE TO
11 ENTER THIS AS COURT'S EXHIBIT ALSO

12 (REPORTER MARKS PERTINENT DOCUMENT, THE WORK SHEETS,
13 AS COURT'S EXHIBIT NUMBER 5)

14 MR TINSLEY NO OBJECTION

15 THE COURT SO ADMITTED

16 THE COURT BEFORE WE GO ANY FURTHER,

17 LET'S BE CERTAIN I'VE GOT -- WE'VE GOT COURT'S
18 EXHIBIT NUMBER ONE, WHICH IS THE TRAUMATIC STRESS
19 INVENTORY, COURT'S EXHIBIT NUMBER TWO BEING THE
20 ACTUAL TEST ADMINISTERED TO THE WITNESS, COURT'S
21 EXHIBIT NUMBER THREE, THE M M P I , COURT'S EXHIBIT
22 NUMBER FOUR, THE RORSCHACH TEST, COURT'S EXHIBIT
23 NUMBER FIVE BEING THE ACTUAL WORK SHEETS THAT THIS
24 WITNESS USED TO SCORE THAT TEST

25 A THE WORK SHEETS, AND MY SCORED REACTIONS

1 THE COURT AND I UNDERSTAND THERE IS
2 NO OBJECTION TO ANY OF THOSE EXHIBITS, MR TINSLEY?

3 MR TINSLEY AS COURT EXHIBITS, YOUR
4 HONOR

5 THE COURT YES, SIR

6 CROSS-EXAMINATION CONTINUED BY MR JONES

7 Q WHY DID YOU GIVE THEM A COPY OF COURT'S
8 EXHIBIT #1? WHY DID YOU GIVE THE DEFENSE COUNSEL A
9 COPY OF THIS?

10 A I SIMPLY FOUND THEM TO WANT ONE THAT IS WHAT
11 THEY ASKED ME TO GO AND ADMINISTER

12 Q WHY DIDN'T YOU GIVE THEM A COPY OF THE
13 RORSCHACH RESULTS?

14 A WELL, BECAUSE I DIDN'T DO THAT UNTIL SUNDAY,
15 AND I WAS LITERALLY STILL WORKING ON SCORING THAT
16 THIS MORNING I WOULDN'T NORMALLY GIVE ATTORNEYS A
17 COPY OF THE RORSCHACH ANYWAY IT WOULDN'T MAKE VERY
18 MUCH SENSE

19 Q WHY DIDN'T YOU GIVE THEM A COPY OF THE
20 M M P I ?

21 A I LITERALLY DID THAT THIS MORNING I WAS TO
22 TALK WITH DR EVANS WHEN WE GOT HERE, BUT WE HAVE
23 NOT HAD TIME TO DO THAT IT IS ONLY A MATTER OF
24 TIMING THAT I HAVE NOT GIVEN THEM THIS

25 Q BUT YOU HAD COMPLETED THE TEST SUNDAY EVENING?

1 A CORRECT IN THE EVENING ABOUT 7 30 OR EIGHT
2 O'CLOCK

3 Q AND YOU TALKED TO MR GARRETT ABOUT WHAT YOU -
4 - YOUR OPINIONS AT THAT TIME?

5 A YES, SIR

6 Q NOW, WHERE ARE ANY NOTES OF YOUR CONVERSATION
7 WITH DEFENDANT HUGHEY?

8 A THERE ARE NONE

9 Q BUT WHEN YOU WENT BACK TO ADMINISTERED THE
10 M P I AND THE RORSCHACH TEST, WHAT WAS YOUR PURPOSE
11 THEN? WHAT DID MR GARRETT ASK YOU TO DO AT THAT
12 POINT IN TIME?

13 A MY PURPOSE AT THAT POINT WAS TO DETERMINE
14 WHETHER OR NOT FURTHER EVALUATION WAS IN ORDER

15 Q IN ORDER FOR WHAT?

16 A IN ORDER TO SEE THAT THIS MAN COULD ADEQUATELY
17 PARTICIPATE IN HIS DEFENSE

18 Q EVALUATION BY WHOM?

19 A EVALUATION BY ME TO SEE IF THIS YOUNG MAN WAS
20 INDEED EVIDENCING PSYCHOTIC-LIKE SYMPTOMATOLOGY

21 Q OKAY, THAT'S WHAT YOU WENT THERE FOR?

22 A CORRECT

23 Q TO SEE IF FURTHER EVALUATION WOULD HELP?

24 A CORRECT

25 Q AT THE CONCLUSION OF YOUR MEETING ON SUNDAY,

1 YOU ADVISED MR GARRETT THAT IT HAD BEEN BENEFICIAL
2 TO DETERMINE THAT HE COULD NOT PARTICIPATE IN HIS
3 OWN DEFENSE?

4 A I DETERMINED THAT THAT WAS MY OPINION I
5 SPECIFICALLY RECOMMENDED THAT FURTHER EVALUATION BE
6 DONE AGAIN, THAT IS ALL I WAS DOING I WAS
7 FRIENDLY I WAS QUITE FRANKLY SURPRISED THAT AN
8 EVALUATION HAD NOT BEEN DONE

9 Q BUT MR GARRETT WANTED TO KNOW IF HIS CLIENT
10 COULD HELP HIM IN ASSISTING HIS OWN DEFENSE, DIDN'T
11 HE?

12 A YES, SIR

13 Q WHY DID HE WANT TO KNOW THAT?

14 A I ASSUME THAT'S A LEGITIMATE QUESTION

15 Q I MEAN WHAT HAD HE TOLD YOU, MR GARRETT, THAT
16 HE WAS CONCERNED ABOUT? HE WAS CONCERNED THAT HIS
17 CLIENT COULDN'T COMMUNICATE WITH HIM AND COULDN'T
18 HELP ASSIST IN HIS OWN DEFENSE?

19 A THERE WAS NOT THAT MANY CONCERNS AS I
20 UNDERSTAND IT UNTIL SATURDAY WHEN I DID THE T S I

21 Q WHEN YOU DID THE T S I ?

22 A CORRECT

23 Q THAT'S WHEN THE CONCERNS AROSE?

24 A CORRECT

25 Q WHY? THAT WHEN THE CONCERNS AROSE, YOU SAID,

1 HE HAD CONCERNS , MR GARRETT HAD CONCERNS, THAT HE
2 MAY NOT BE ABLE TO ASSIST HE WANTED YOU TO FIND
3 OUT IF HIS CLIENT COULD ASSIST HIM IN HIS OWN
4 DEFENSE, IS THAT CORRECT?

5 A CORRECT

6 Q THAT'S WHAT HE WANTED YOU TO DO?

7 A CORRECT

8 Q AND THAT'S WHAT YOU WENT AND DID SUNDAY?

9 A CORRECT

10 Q AND YOU TOLD HIM SUNDAY EVENING AFTER YOU HAD
11 GIVEN HIM THE M M P I AND THE RORSCHACH TEST, "HE
12 CAN'T ASSIST YOU HE'S NOT COMPETENT HE DOESN'T
13 UNDERSTAND THE SERIOUS NATURE OF THESE CHARGES AND
14 HE CAN'T ASSIST YOU " YOU TOLD HIM THAT THEN,
15 DIDN'T YOU?

16 A I SAID I HAD SOME QUESTIONS ABOUT THAT
17 THAT'S A LEGAL DETERMINATION -- I JUST ---

18 Q SO WHEN DID YOU DETERMINE THAT HE COULDN'T?

19 A IT'S MY CLINICAL IMPRESSION THAT I CAN'T
20 ANSWER THAT QUESTION NO MORE THAN THERE NEEDS TO BE
21 AN EVALUATION

22 Q YOU TOLD THIS COURT THAT YOU HAD AN OPINION
23 THAT THIS DEFENDANT WAS UNABLE TO ASSIST HIS LAWYERS
24 IN HIS OWN DEFENSE YOU SAID THAT TEN MINUTES AGO

25 A ALL RIGHT, THAT IS MY OPINION

1 Q WHEN DID YOU FORM THAT OPINION?

2 A I HAD QUESTIONS SATURDAY BY SUNDAY NIGHT I
3 HAD MORE QUESTIONS AND BY THIS MORNING I HAD
4 SIGNIFICANT QUESTIONS WHEN I LOOKED AT THE DATA
5 THE MORE I THOUGHT ABOUT IT

6 Q I'M NOT ASKING ABOUT THE QUESTIONS YOU HAD
7 I'M ASKING ABOUT WHEN YOU FORMED YOUR OPINION THAT
8 HE WAS UNABLE TO DO THAT?

9 A THIS MORNING

10 Q WHEN THIS MORNING?

11 A (NO RESPONSE)

12 Q DOCTOR?

13 A YES, SIR

14 Q WHEN THIS MORNING?

15 A TEN O'CLOCK

16 Q TEN O'CLOCK?

17 A YES

18 Q ALL RIGHT, WHAT HAPPENED BETWEEN SIX OR SEVEN
19 OR EIGHT O'CLOCK LAST NIGHT -- EIGHT O'CLOCK LAST
20 AND TEN O'CLOCK THIS MORNING THAT CAUSED YOU TO FORM
21 THAT OPINION?

22 A TO SOLIDIFY THAT OPINION I HAD SIGNIFICANT
23 CONCERNS WHEN THIS YOUNG MAN WAS RESPONDING IN THE
24 ROOM WITH ME SUNDAY IN A WAY THAT I FELT WAS BAZAAR,
25 AND WHEN HE WAS EXPRESSING BAZAAR IDEATION TO ME, SO

1 IN THAT SENSE PERHAPS I DID FORM MY OPINION SATURDAY
2 NIGHT

3 Q SATURDAY?

4 A I MEAN SUNDAY NIGHT

5 Q SUNDAY NIGHT? WELL, WHEN SUNDAY NIGHT? WHAT
6 TIME SUNDAY NIGHT?

7 A DURING THE EVALUATION, SIR, BETWEEN FIVE-
8 THIRTY AND SEVEN

9 Q AND YOU TOLD MR GARRETT THEN, THAT YOU HAD
10 FORMED YOUR OPINION, AND THAT HE WAS UNABLE TO
11 ASSIST HIS COUNSEL BETWEEN FIVE-THIRTY AND SIX
12 SUNDAY NIGHT?

13 A CORRECT

14 Q YOU DID? DID YOU, DOCTOR?

15 A I TALKED WITH MR GARRETT THEN

16 Q AND YOU TOLD HIM IT WAS BETWEEN FIVE-THIRTY
17 AND SIX SUNDAY NIGHT, AND IN YOUR OPINION THEIR
18 CLIENT WAS INCOMPETENT?

19 A I BELIEVE I DID

20 Q AND SO YOU HAD ALL THE RESULTS FROM ALL THE
21 TESTS THAT YOU NEEDED TO MAKE THAT OPINION, IS THAT
22 CORRECT?

23 A NO I HAD CLINICAL INTUITION AT THAT POINT

24 Q CLINICAL INTUITION?

25 A YES, SIR, BASED ON THIRTY YEARS OF WORK

1 Q ALL RIGHT AND SO YOUR INTUITION IS WHAT GAVE
2 RISE TO YOUR MEDICAL OPINION?

3 A YES, SIR

4 Q YOU DIDN'T HAVE THE TEST RESULTS THEN YOU
5 DIDN'T HAVE THE M M P I TEST RESULTS, DID YOU?

6 A NO

7 Q YOU DIDN'T HAVE THE RORSCHACH TESTS RESULTS
8 THEN, DID YOU?

9 A NO

10 Q AND YOU HAD NEVER BEFORE ANALYZED A STRESS
11 DISORDER TEST RESULT BEFORE, HAD YOU?

12 A THAT'S CORRECT

13 Q BUT BASICALLY WHAT YOU BASED YOUR INTUITION ON
14 IS THE RESPONSES TO COUNTER QUESTIONS THAT YOU
15 ASKED, RIGHT?

16 A THAT AND RORS -- I DID NOT KNOW THE RORSCHACH
17 SCORING, BUT OBVIOUSLY I WAS IN THE ROOM
18 ADMINISTERING THE RORSCHACH AND HAD HIS RESPONSES
19 STANDING THERE --

20 Q UH-HUH

21 A -- AND YES, HIS OTHER RESPONDING TO DOWN-TO-
22 EARTH QUESTIONS

23 Q ALL RIGHT, WHAT DID HE SAY WHEN YOU ASKED HIM
24 IF HE UNDERSTOOD WHAT WOULD HAPPEN TO HIM IF HE WAS
25 CONVICTED OF MURDER?

1 A I DIDN'T ASK HIM THAT

2 Q YOU DIDN'T?

3 A NO, SIR

4 Q WHAT DID HE SAY WHEN YOU ASKED HIM IF HE
5 UNDERSTOOD WHAT KILLING SOMEBODY MEANT?

6 A I DIDN'T ASK HIM THAT

7 Q WHAT DID HE SAY WHEN YOU ASKED HIM IF HE
8 UNDERSTOOD HIS LAWYER, MR GARRETT, WAS THERE TO TRY
9 TO HELP HIM AND DEFEND HIS RIGHTS IN THIS TRIAL?

10 A I DIDN'T ASK HIM THAT

11 Q WHAT DID HE SAY WHEN YOU EXPLAINED TO HIM AND
12 TOLD HIM THAT MR TINSLEY WAS THERE IN AN EFFORT TO
13 MAKE SURE THAT HIS CONSTITUTIONAL RIGHTS ARE NOT
14 OFFENDED BY THE STATE OF SOUTH CAROLINA IN ANY AND
15 ALL DEFENSES THAT HE HAD IN THESE CHARGES OF CRIMES
16 OF MURDER, THAT MR TINSLEY WAS THERE FOR THE
17 PURPOSE OF HELPING HIM AND PROTECTING HIM?

18 A I DIDN'T ASK HIM THAT QUESTION

19 Q WHAT DID HE SAY WHEN YOU EXPLAINED TO HIM THAT
20 MONDAY MORNING HE WAS GOING BEFORE A JUDGE, WHO WAS
21 GOING TO PRESIDE OVER HIS TRIAL IN COURT?

22 A I DIDN'T ASK HIM THAT

23 Q WHAT DID HE SAY WHEN YOU ASKED HIM IF HE
24 UNDERSTOOD THAT EVIDENCE WAS GOING TO BE PRESENTED
25 IN THE CASE ABOUT THE ALLEGATIONS THAT HE

1 MURDERED ---

2 MR TINSLEY OBJECTION, YOUR HONOR
3 THAT'S BEYOND THE SCOPE AND PURPOSE OF THIS
4 EXAMINATION NO FOUNDATION

5 THE COURT I SUSTAIN THE OBJECTION
6 CROSS-EXAMINATION CONTINUED BY MR JONES

7 Q WHAT DID HE SAY WHEN YOU SAID TO HIM, "YOU
8 UNDERSTAND THESE ARE SOME REAL SERIOUS CHARGES
9 AGAINST YOU "

10 A I DIDN'T SAY THAT TO HIM

11 Q BUT YOU DID TESTIFY THAT IN YOUR OPINION HE
12 DOES NOT UNDERSTAND THE SERIOUS NATURE OF THE
13 CHARGE?

14 A THAT IS MY OPINION I DID NOT ASK HIM THAT
15 QUESTION FOR A YES AND NO ANSWER

16 Q WELL, DID YOU ASK HIM IF HE UNDERSTOOD WHAT
17 HIS LAWYERS WERE PROPOSING TO DO?

18 A NO

19 Q DID YOU ASK HIM IF HE UNDERSTOOD WHAT THE
20 JUDGE WAS PROPOSING TO DO?

21 A NO

22 Q DID YOU ASK HIM IF HE UNDERSTOOD WHAT THE BIG,
23 BAD PROSECUTOR WAS GOING TO DO?

24 A NO, SIR

25 Q BUT YOU KNEW THAT YOU WERE THERE AT MR

1 GARRETT'S REQUEST FOR THE PURPOSE OF DETERMINING
2 WHETHER OR NOT HE WAS COMPETENT TO ASSIST IN HIS OWN
3 DEFENSE, TO HELP HIS LAWYERS, AND TO UNDERSTAND THE
4 SERIOUS NATURE OF THE CHARGES AGAINST HIM, DIDN'T
5 YOU?

6 A I DID NOT GO IN TO SEE THAT MAN WITH THOSE TWO
7 CRITERIA IN MY MIND I WENT IN TO SEE HIM INITIALLY
8 TO TEST FOR POSTTRAUMATIC STRESS DISORDER I HAD
9 CONCERNS AT THAT POINT THAT HE WAS EVIDENCING
10 PSYCHOTIC-LIKE BEHAVIOR AND/OR IDEATIONS MY SOLE
11 PURPOSE AT I UNDERSTOOD IT WAS TO SCREEN THIS YOUNG
12 MAN TO SEE WHETHER OR NOT A MORE COMPREHENSIVE
13 EVALUATION WAS RECOMMENDED, WAS NEEDED, WAS
14 NECESSARY I WAS NOT OPERATING FROM A LEGAL FRAME
15 OF MIND

16 Q I JUST WANT TO TRY TO SEE IF I CAN UNDERSTAND
17 EXACTLY WHAT YOUR PURPOSE WAS ON SUNDAY YOU GAVE
18 HIM A M M P I AND A RORSCHACH TEST, CORRECT? AND
19 YOU ATTEMPTED TO SUBSTANTIATE SOME SORT OF A
20 HISTORY IN OTHER WORDS, TO KNOW A LITTLE BIT ABOUT
21 HIS BACKGROUND

22 A BUT THAT WAS MINE THAT WAS LITERALLY ONLY A
23 COUPLE OF QUESTIONS I WAS NOT THERE TO DO AN
24 INTERVIEW I WAS THERE TO SEE IF THERE WAS INDEED
25 FURTHER EVIDENCE OF PSYCHOTIC-LIKE BEHAVIOR OR

1 IDEATION

2 Q WAS THERE EVEN A THOUGHT OR EFFORT ON YOUR
3 PART ON SUNDAY TO DETERMINE WHETHER OR NOT HE WAS
4 MALINGERING?

5 A ONLY IN THE SENSE THAT I HAD EITHER ALREADY
6 TALKED WITH DR EVANS ABOUT THAT ON SATURDAY OR
7 TALKED WITH HIM ABOUT THAT ON SUNDAY, AND YES, THAT
8 IS ALWAYS A THOUGHT IN MY MIND ANY TIME I'M DOING AN
9 EVALUATION, AND PARTICULARLY KNOWING THESE
10 CIRCUMSTANCES, SO THAT WAS CERTAINLY A QUESTION ON
11 MY MIND

12 Q SO THERE WAS A QUESTION IN YOUR MIND AS TO
13 WHETHER OR NOT HE WAS MALINGERING ON SUNDAY?

14 A UNDER THE GENERAL CIRCUMSTANCES NOT A
15 QUESTION AS TO IS HE MALINGERING, BECAUSE I HAVE NO
16 INDICATION THAT HE WAS

17 Q WAIT A MINUTE WERE YOU CONCERNED ABOUT
18 WHETHER HE WAS MALINGERING SUNDAY OR NOT?

19 A THAT IS ALWAYS A QUESTION THAT IS IN MY HEAD
20 WAS THAT IN THE FOREFRONT WITH THIS PARTICULAR
21 INDIVIDUAL, NO HAD IT BEEN A QUESTION IN MY MIND
22 KNOWING THE CIRCUMSTANCES, YES, I HAD SPECIFICALLY
23 ASKED DR EVANS THAT SAME QUESTION AND HE HAD
24 ADDRESSED IT TO MY SATISFACTION

25 Q WELL, WHEN HE EXAMINED HIM IT WAS MONTHS

1 BEFORE THE DEFENDANT WASN'T FACING TRIAL, AND OF
2 COURSE, DR EVANS DIDN'T SEE ANY MALINGERING,
3 BECAUSE HE WASN'T MALINGERING WHEN DR EVANS
4 EXAMINED HIM DR EVANS DIDN'T HAVE THE SAME
5 FINDINGS THAT YOU HAD DR EVANS DOESN'T THINK --
6 AT THE TIME DIDN'T THINK HE WAS INCOMPETENT,
7 CORRECT?

8 MR TINSLEY OBJECTION, YOUR HONOR,
9 IS THAT A QUESTION?

10 THE COURT WELL, HE SAID SHE DIDN'T
11 OKAY, GO AHEAD, OVERRULED

12 Q I'M JUST ASKING YOUR A COMMON SENSE QUESTION,
13 DOCTOR, OKAY

14 A ALL RIGHT

15 Q YOU'RE SAYING THAT HE DIDN'T MALINGER WITH DR
16 EVANS, SO WHY SHOULD I THINK HE WAS MALINGERING WHEN
17 DR EVANS RESULTS WERE COMPLETELY DIFFERENT FROM
18 YOUR RESULTS HOW CAN YOU RELY ON WHAT THE
19 DEFENDANT TOLD HIM WHEN WHAT THE DEFENDANT IS
20 TELLING AND EXHIBITING TO YOU IS IN A COMPLETELY
21 DIFFERENT AREA WE'RE INTO INCOMPETENCY NOW EVANS
22 NEVER HAD ANY INCOMPETENCY WHY DIDN'T YOU SEE --
23 WHY DON'T YOU AS A PROFESSIONAL, AS A CLINICAL
24 PSYCHOLOGIST, WHEN YOU'VE GOT SOMEBODY THAT'S
25 EXHIBITING A DIFFERENT BEHAVIOR THAT HAD BEEN NOTED

1 BY A PSYCHOLOGIST WHO HAD EXAMINED HIM ON PREVIOUS
2 OCCASIONS MONTHS PRIOR TO YOU -- HERE YOU'VE BEEN IN
3 THERE TWO DAYS -- EVANS HAS SEEN HIM FOR MONTHS
4 PRIOR TO YOU, AND YOU SEE A DIFFERENT BEHAVIOR WITH
5 YOUR EXAMINATION THAT YOU DO WITH EVANS, AND YET YOU
6 WANT TO RELY ON EVANS ASSESSMENT OF THERE BEING NO
7 MALINGERING AND NOT CONDUCT YOUR OWN EFFORT TO
8 INVESTIGATE WHETHER OR NOT THIS DEFENDANT IS
9 MALINGERING WITH REGARD TO THE ANSWERS AND BEHAVIOR
10 THAT HE'S GIVING YOU WHY NOT?

11 MR TINSLEY YOUR HONOR, IS THAT A
12 QUESTION?

13 THE COURT IT'S A QUESTION
14 CROSS EXAMINATION CONTINUED BY MR JONES

15 Q WHY NOT? WHY WOULDN'T YOU MAKE AN EFFORT TO
16 DETERMINE IF HE'S MALINGERING WITH YOU WHEN, IN
17 FACT, WHAT HE DID WITH DR EVANS IS NO BASIS
18 WHATSOEVER FOR YOU TO DETERMINE THAT HE WOULDN'T BE
19 MALINGERING WITH YOU SINCE HE HADN'T BEEN
20 MALINGERING WITH DR EVANS?

21 A I DON'T HAVE SPECIFIC TESTS FOR MALINGERING,
22 SO THERE WAS NONE THAT I COULD ADMINISTER I DID
23 NOT HAVE A FEELING THAT HE WAS THAT IS ALL I CAN
24 TELL YOU

25 Q LET ME ASK YOU IF THIS TEST MIGHT WORK

1 COULDN'T YOU ASK HIM IF HE UNDERSTOOD THE NATURE OF
2 THE CHARGES IS THAT A PRETTY SIMPLE TEST, TO SEE
3 WHETHER OR NOT HE WAS MALINGERING?

4 A YES, I GUESS

5 Q COULDN'T YOU SAY, "DON'T YOU UNDERSTAND HOW
6 SERIOUS THESE CHARGES ARE?" WHAT KIND OF RESPONSE
7 TO THAT QUESTION WOULD INDICATE TO YOU HE WAS
8 MALINGERING?

9 A I DIDN'T ASK THAT QUESTION I DON'T KNOW WHAT
10 HIS ANSWER WOULD HAVE BEEN

11 Q BASED ON WHAT YOU KNEW ABOUT HIM, WHAT TYPE OF
12 RESPONSE IF YOU HAD ASKED HIM THAT QUESTION WOULD
13 HAVE INDICATED TO YOU HE WAS MALINGERING?

14 A WOULD YOU REPEAT THE QUESTION

15 Q IF YOU ASK HIM THE QUESTION DO YOU UNDERSTAND
16 HOW SERIOUS THESE CHARGES ARE, WHAT ANSWER FROM HIM
17 WOULD HAVE BEEN AN INDICATION TO YOU THAT HE WAS
18 MALINGERING?

19 A WELL, I CAN HYPOTHESIZE THAT SOMETHING LIKE,
20 WELL, I'M NOT SURE WHETHER I UNDERSTAND OR NOT

21 Q WHY DIDN'T YOU ASK HIM THAT QUESTION, DOCTOR?

22 A I'M NOT SURE

23 Q YOU DIDN'T WANT TO KNOW, DID YOU, DOCTOR?

24 A I DON'T BELIEVE THAT'S TRUE

25 Q YOU DON'T BELIEVE THAT'S TRUE? I MEAN IF YOU

1 WANTED TO KNOW, YOU COULD HAVE ASKED THE QUESTION,
2 COULDN'T YOU?

3 A I WAS NOT THERE AS A LEGAL PERSON I WAS
4 THERE AS A CLINICAL PSYCHOLOGIST TO ME THERE IS A
5 DIFFERENCE

6 Q WELL, YOU KNEW THAT HE WAS GOING TO TRIAL
7 TODAY FOR THE DEATH PENALTY, DIDN'T YOU?

8 A YES, I DID

9 Q AND YOU KNEW THAT YOU WERE THERE IN AN EFFORT
10 TO DETERMINE WHETHER OR NOT HE WAS COMPETENT TO
11 STAND TRIAL, DIDN'T YOU?

12 A I KNEW THAT I WAS THERE TO DETERMINE WHETHER
13 OR NOT I DID THINK THERE WAS EVIDENCE OF PSYCHOTIC-
14 LIKE BEHAVIOR AND/OR IDEATION MR GARRETT DID NOT
15 SPECIFICALLY SAY TO ME, "GO SUNDAY AND TELL ME
16 WHETHER OR NOT THIS YOUNG MAN'S CAPABLE OF ASSISTING
17 ME IN THIS DEFENSE " HE SAID, "WILL YOU GO ON
18 SUNDAY AND SEE IF YOU HAVE FURTHER CONCERNS LIKE YOU
19 DID ON SATURDAY "

20 Q RIGHT, BUT YOU TOLD MR GARRETT BETWEEN FIVE-
21 THIRTY AND SIX ON SUNDAY THAT HE WAS INCAPABLE OF
22 ASSISTING IN HIS OWN DEFENSE, THAT HE WAS
23 INCOMPETENT

24 A I SAID THAT BY WAY OF SAYING THAT I FELT THAT
25 COMPREHENSIVE EVALUATION WAS IN ORDER IF THAT'S

1 SAYING THE SAME THING, YES

2 Q AND HOW MANY HOURS DID YOU SPEND WITH THIS
3 DEFENDANT TOTALLY SINCE YOU WERE BROUGHT IN ON THE
4 CASE ON WEDNESDAY?

5 A EXCUSE ME HOW MANY HOURS?

6 Q HOW MANY HOURS DID YOU SPEND WITH THIS
7 DEFENDANT, JOHN KENNEDY HUGHEY, TOTAL SINCE YOU WERE
8 BROUGHT ON THE CASE?

9 A APPROXIMATELY TWO HOURS

10 Q TWO HOURS?

11 A YES, SIR, TWO, TWO AND A HALF

12 Q HOW MANY SATURDAY? HOW MANY HOURS DID YOU
13 SPEND WITH THE DEFENDANT, JOHN KENNEDY HUGHEY, ON
14 SATURDAY?

15 A ABOUT AN HOUR

16 Q ABOUT AN HOUR?

17 A YES

18 Q HOW MANY HOURS DID YOU SPEND WITH HIM ON
19 SUNDAY?

20 A I'M GUESTIMATING AN HOUR, AN HOUR AND A HALF

21 Q HOW LONG DOES IT TAKE TO ADMINISTER THE
22 M M P I ?

23 A IT DEPENDS UPON THE INDIVIDUAL'S READING
24 LEVEL, BUT IT COULD BE ANYWHERE FROM AN HOUR TO AN
25 HOUR AND A HALF

1 Q HOW LONG DID IT TAKE YOU TO ADMINISTER THE
2 M M P I ON SUNDAY TO DEFENDANT JOHN KENNEDY HUGHEY?

3 A I WAS NOT IN HIS PRESENCE WHEN HE DID THE
4 M M P I I WAS ONLY THERE FOR THE RORSCHACH AND FOR
5 THE TIME BEFORE AND AFTER

6 Q HOW LONG DID IT TAKE TO ADMINISTER THE
7 RORSCHACH ON SUNDAY?

8 A ACTUALLY ADMINISTRATION, PROBABLY FORTY-FIVE
9 MINUTES

10 Q HOW MUCH OF THE M M P I WERE YOU THERE FOR?

11 A THE FIRST COUPLE OF MINUTES THAT'S ALL

12 Q WHERE DID YOU GO WHILE HE WAS TAKING IT?

13 A PARDON

14 Q WHERE DID YOU GO WHILE THE DEFENDANT WAS
15 TAKING THE TEST?

16 A BACK TO MY OFFICE

17 Q FOR WHAT?

18 A TO DO PAPERWORK

19 Q AND THEN YOU CAME BACK TO ABBEVILLE?

20 A I CAME BACK TO GREENWOOD I WENT BACK TO THE
21 DETENTION CENTER

22 Q IN GREENWOOD TO PICK IT UP

23 A YES, SIR

24 Q AND IS THAT WHEN YOU CALLED MR GARRETT ON
25 SUNDAY?

1 A NO, I TALKED TO -- MR GARRETT WAS THERE ALSO
2 WORKING IN THE CONFERENCE ROOM, SO I WENT BY FROM
3 SEEING MR HUGHEY TO SEEING MR GARRETT AND THEN
4 LEFT THE DETENTION CENTER

5 Q SO YOU DON'T KNOW WHO ADMINISTERED THE
6 M M P I TO HIM?

7 A IT'S SELF-ADMINISTERED HE TOOK IT HIMSELF IN
8 THE SAME ROOM THAT I LEFT HIM IN

9 Q WAS MR GARRETT THERE?

10 A NO, SIR

11 Q HE WASN'T THERE?

12 A NO, SIR

13 Q WHERE WAS MR GARRETT?

14 A IN THE CONFERENCE ROOM

15 Q IN WHAT CONFERENCE ROOM?

16 A I DON'T KNOW WHAT CONFERENCE ROOM IT'S ON
17 THE OPPOSITE SIDE OF THE JAIL I SAY CONFERENCE
18 ROOM IT HAS SCHOOL CHAIRS IN IT

19 Q YOU DON'T KNOW WHETHER OR NOT HIS LAWYER OR
20 ANY OF HIS FAMILY CAME AND WERE WITH HIM WHILE HE
21 WAS TAKING THE M M P I DO YOU?

22 A I KNOW THAT THE CORRECTIONAL OFFICER ASSURED
23 ME HE WOULD BE SITTING IN THIS ROOM TAKING IT
24 THAT'S ALL I KNOW

25 Q BUT YOU DON'T KNOW WHETHER MR GARRETT CAME IN

1 THERE OR ANYBODY ELSE CAME IN THERE WHILE HE WAS
2 TAKING IT, DO YOU?

3 A NO, I DON'T

4 Q SO ANYBODY COULD HAVE COME IN WHILE HE WAS
5 TAKING IT?

6 A NO, I DON'T

7 Q SO ANYBODY COULD HAVE COME IN WHILE HE WAS
8 TAKING IT?

9 A YES, SIR

10 Q ANYBODY COULD HAVE HELPED HIM DRAW ON THE TRUE
11 AND THE FALSE ANSWER INDICATORS THAT YOU FOUND SO
12 ALARMING? RIGHT?

13 A COULD HAVE, YES, SIR

14 Q I MEAN YOU WEREN'T THERE WATCHING THE
15 ADMINISTRATION OF IT?

16 A NO, SIR, I WASN'T

17 Q AND IF THAT HAPPENED, OF COURSE, IT WOULD
18 TAINT YOUR FINDINGS, WOULDN'T IT?

19 A YES, IT WOULD

20 Q I WANT TO HAND YOU A COPY OF YOUR M M P I
21 COURT'S EXHIBIT NUMBER 3 I WANT YOU TO LOOK AT
22 PAGE FOUR AND I WANT YOU TO READ TO THE COURT THE
23 VALIDITY SCALES, THE FIRST F VALIDITY SCALE F AND
24 TELL ME WHAT THAT SAYS AND WHAT THAT MEANS

25 A "F SCORES IN THIS RANGE MAY INDICATE THAT THE

1 INDIVIDUAL IS EITHER DENYING SERIOUS PSYCHOPATHOLOGY
2 BY UNDER REPORTING ACTUAL PROBLEMS OR IS ACTUALLY
3 RELATIVELY FREE FROM STRESS

4 Q AND WHICH ONE IS HE?

5 A I WOULD SAY THAT IN THIS INSTANCE HE'S UNDER
6 REPORTING

7 Q UNDER REPORTING HIS ACTUAL DISORDER?

8 A YES, SIR

9 Q AND WHERE DID YOU MARK THAT? WHEN DID YOU
10 DETERMINE THAT?

11 A I DIDN'T DETERMINE THAT HE JUST ASKED ME TO
12 READ IT, AND YOU SAID, "WHICH ONE IS HE?"

13 Q AND WHAT DO YOU BASE THAT ON?

14 A MY CLINICAL IMPRESSIONS

15 Q INTUITION OR IMPRESSIONS?

16 A IMPRESSIONS WHICH TAKE INTO ACCOUNT MY
17 INTUITIONS

18 Q ALL RIGHT, TELL ME WHAT SPECIFIC INSTANCES
19 WITH REGARD TO YOUR RELATIONSHIP WITH THIS DEFENDANT
20 YOU USED TO FORM THAT OPINION CONCERNING THE
21 VALIDITY SCALE FOR F T EQUALS 29 TELL ME WHAT
22 INSTANCES YOUR RELATIONSHIP WITH THIS DEFENDANT YOU
23 USED TO FORM THAT OPINION

24 A A SPECIFIC INCIDENT? I DON'T KNOW THAT I CAN
25 TELL YOU THAT IS MY OVERALL IMPRESSION

1 Q ALL RIGHT, READ NUMBER E, F, E, C, D K, K,
2 READ THAT INTO THE COURT

3 A SCORES IN THIS RANGE ARE VERY LOW AND SUGGEST
4 THAT THE INDIVIDUAL MAY HAVE SERIOUS PSYCHOLOGICAL
5 AND EMOTIONAL PROBLEMS AND MAY HAVE DISTORTED AND
6 GREATLY EXAGGERATED THEIR PROBLEMS TO CREATE THE
7 IMPRESSION OF A SEVERE PSYCHOLOGICAL DISORDER
8 PSYCHOLOGICAL DEFENSES MAY BE EXTREMELY WEEK AND THE
9 INDIVIDUAL MAY HAVE LIMITED ABILITY TO COPE WITH
10 STRESS

11 Q WHICH CATEGORY DOES HE FALL IN?

12 A I OBVIOUSLY BELIEVE THAT HIS DEFENSES ARE
13 EXTREMELY WEAK AND THAT HE MAY HAVE LIMITED ABILITY
14 TO COPE WITH STRESS

15 Q IT SAYS, "SCORES IN THIS RANGE ARE VERY LOW
16 AND SUGGEST THAT THE INDIVIDUAL MAY HAVE SERIOUS
17 PSYCHOLOGICAL AND EMOTIONAL PROBLEMS " DO YOU
18 BELIEVE THAT?

19 A CORRECT

20 Q HE HAS SERIOUS PSYCHOLOGICAL AND EMOTIONAL
21 PROBLEMS?

22 A I BELIEVE THAT

23 Q WHAT ARE THOSE PSYCHOLOGICAL PROBLEMS?

24 A HIS ABILITY TO HANDLE STRESS

25 Q HIS ABILITY TO HANDLE STRESS?

1 A YES

2 Q OKAY, AND WHAT HAS HE DONE THAT CAUSED YOU TO
3 BELIEVE THAT HE HAS A SERIOUS INABILITY TO HANDLE
4 STRESS THAT'S RESULTING IN A SERIOUS PSYCHOLOGICAL
5 PROBLEM?

6 A IT'S AN OVERVIEW OF HIS HISTORY AND THE
7 CIRCUMSTANCES OF THE PRESENT SITUATION

8 Q GIVE US ONE SPECIFIC INSTANCE

9 A OF HIS INABILITY TO HANDLE STRESS?

10 Q YES

11 A HIS TALKING TO HIS MOTHER WHEN SHE APPEARS TO
12 HIM

13 Q SO IN THIRTY YEARS OF DEALING WITH HUMAN
14 BEINGS, IF SOMEONE WHO HAS LOST A MOTHER OR A FATHER
15 TALKS TO THEM AT THE GRAVE OR TALKS TO THEM DURING
16 TIMES OF SIGNIFICANT EMOTIONAL TIMES DURING THEIR
17 LIFE, THAT SUGGESTS A PROBLEM IN THE MIND OF AN
18 INDIVIDUAL TO YOU?

19 A NOT AT ALL IT DEPENDS ON THE CONTEXT OF THE
20 SITUATION MANY PEOPLE TALK TO ME ABOUT TALKING TO
21 LOVED ONES WHO HAVE PASSED ON AND THEY TALK IN A
22 SENSE OF KNOWING THAT THEY ARE NOT REALLY THERE I
23 DID NOT GET THE IMPRESSION FROM MR HUGHEY THAT HE
24 KNOWS HIS MOTHER IS NOT REALLY THERE IT IS LIKE
25 SHE TRULY POPS IN ON HIM AND TALKS TO HIM THERE IS

1 A DIFFERENCE

2 Q AND HE SAID THE SAME THING ABOUT HIS DAD?

3 A YES

4 Q RIGHT

5 A FEWER OCCASIONS

6 Q PARDON ME?

7 A FEWER OCCASIONS --

8 Q UH-HUH

9 A (PAUSE) -- FROM THE FATHER

10 Q DID YOU DISCUSS AT ANY LENGTH WITH HIM HER
11 APPEARANCES?

12 A NOT AT ANY LENGTH, NO

13 Q WELL, WHAT WAS IT THAT SHE TALKED WITH HIM
14 ABOUT?

15 A I ASKED HIM IF SHE TOLD HIM ANYTHING SPECIFIC
16 OR TO DO ANYTHING SPECIFIC AND HE SAID, "NO, WE JUST
17 TALKED "

18 Q ABOUT WHAT?

19 A I DID NOT GO INTO THAT

20 Q WELL, THAT IS PRETTY NORMAL, ISN'T IT?

21 A WHAT IS PRETTY NORMAL?

22 Q THAT THEY JUST TALKED IT JUST RELATES TO HIS
23 DECEASED MOTHER

24 A IT WOULD BE NORMAL IF HE SEEMED TO ME TO BE
25 AWARE THAT SHE WAS NOT REALISTICALLY THERE, BUT

1 THERE IN SPIRIT THAT'S NOT ABNORMAL AT ALL

2 Q SO HE TOLD YOU HE FELT LIKE SHE WASN'T REALLY
3 THERE NOT THAT SHE REALISTICALLY EXITED SHE
4 WOULD COME IN THE HOUSE AND SHE WASN'T REALLY THERE

5 A THAT WAS THE IMPRESSION I GOT WHEN HE WAS
6 TALKING ABOUT HER

7 Q SO HE TOLD YOU HIS MOTHER WAS NOT REALLY DEAD?

8 A NO, HE DID NOT SAY THOSE WORDS

9 Q YOU DIDN'T WRITE ANY OF THIS DOWN, DID YOU?

10 A NO

11 Q WHY NOT?

12 A I REALLY DON'T KNOW WHY NOT IF THERE WAS GOING
13 TO BE A SIGNIFICANT TIME LAPSE BETWEEN WHEN I SEE
14 SOMEONE, I WOULD MAKE NOTES I DID NOT MAKE NOTES
15 THEN I CAN'T TELL YOU WHY

16 Q ALL RIGHT, LET ME ASK YOU A FEW LAST THINGS

17 A ALTHOUGH -- LET ME CORRECT THAT I DID START
18 TAKING NOTES ON ONE SHEET OF PAPER, AND I DON'T KNOW
19 WHERE IT IS NOW

20 Q WELL, IT DON'T DO YOU MUCH GOOD IF YOU DON'T
21 KNOW WHERE THEY ARE, DO THEY?

22 A NO, SIR

23 Q LET ME ASK ME IF YOU CAN READ THE TOP OF THE
24 VALIDITY SCALE WHAT'S THAT SAY RIGHT THERE?

25 A WHAT THIS?

1 Q NO, MA'AM, I'M SORRY THIS, DOCTOR, YOU'VE
2 GOT A QUESTION MARK THERE WHERE IT SAYS "RAW EQUALS
3 21"

4 A CORRECT

5 Q WHAT DOES THAT SAY?

6 A "THIS PROFILE MAY BE A QUESTIONABLE VALIDITY
7 AS TO NUMBER OF UNANSWERED ITEMS AS APPROACHING
8 THIRTY THAT'S EXACTLY WHAT I WAS TALKING ABOUT
9 WHEN I SAID IN TERMS OF HE HAD MARKED 21 TRUE OR
10 FALSE, AND HE MARKED THEM BOTH TRUE AND FALSE HE
11 DID NOT NOT ANSWER ANY QUESTIONS I JUST NUMBERED
12 THE ONES HE MARKED BOTH WAYS AS UNANSWERED AS YOU
13 CAN DETERMINE WHICH ANSWER HE'S GIVEN

14 Q BUT, DOCTOR, WHAT YOU'RE SAYING HERE, THIS
15 PROFILE MAY BE A OF QUESTIONABLE VALIDITY AS TO
16 NUMBER OF UNANSWERED ITEMS AS APPROACHING THIRTY

17 A YES

18 Q IS IT QUESTIONABLE OR NOT?

19 A IT IS QUESTIONABLE THAT IS WHY I THINK
20 THERE'S MORE NEED FOR COMPREHENSIVE EVALUATION I'M
21 NOT BASING THIS THAT I SAY ON THIS ONE TEST I'M
22 BASING IT ON THAT TEST AND THE RORSCHACH AND MY
23 BEHAVIORAL EXPERIENCE WITH HIM

24 Q WELL, ACTUALLY YOU DIDN'T BASE IT ON THIS TEST
25 AT ALL, BECAUSE YOU DIDN'T GIVE THIS TEST AND YOU

1 DIDN'T HAVE THE RESULTS OF THIS TEST WHEN YOU TOLD
2 ME, YOU TOLD MR GARRETT 5 30 BECAUSE YOU'D ALREADY
3 DECIDED HE COULDN'T ASSIST

4 A THIS IS TRUE

5 Q SO YOU BASED IT ON THE RORSCHACH TEST?

6 A AND THE P S I AND MY CLINICAL IMPRESSIONS

7 MR JONES THANK YOU JUDGE, NO

8 FURTHER QUESTIONS

9 THE COURT MR TINSLEY?

10 MR TINSLEY JUST A COUPLE, YOUR

11 HONOR

12 REDIRECT EXAMINATION BY MR TINSLEY

13 Q AM I CLEAR, DOCTOR, THAT YOU WENT BACK ON

14 SUNDAY AS A RESULT OF THE TESTING YOU DID ON

15 SATURDAY?

16 A THAT'S CORRECT

17 Q BECAUSE THOSE TESTS ALERTED YOUR ---

18 MR JONES LEADING, YOUR HONOR

19 MR TINSLEY WHY?

20 A BECAUSE THERE WERE SUGGESTIONS IN HIS

21 RESPONDING TO THE T S I THAT I HAVE CONCERNS ABOUT

22 Q WELL, LET'S APPROACH THAT IN ADDITION TO THE

23 HOURS THAT YOU SPENT WITH MR HUGHEY, YOU SPENT

24 HOURS EVALUATING THE TESTS AND THAT SORT OF THING,

25 DID YOU NOT?

1 A OH, YES

2 Q AND THAT COULD BE MORE HOURS THAN THE TIME YOU
3 SPENT WITH MR HUGHEY HIMSELF?

4 A CERTAINLY MORE HOURS

5 Q SUBSTANTIALLY MORE?

6 A CONSIDERABLE, YES

7 Q AND WHEN YOU LEFT HIM TO TAKE THE TEST, YOU
8 INDEED LEFT HIM LOCKED, SECURE, IN THE GREENWOOD
9 JAIL, IS THAT RIGHT?

10 A CORRECT

11 Q AND YOU TOLD THE GUARD THAT HE NEEDED TO BE
12 ISOLATED?

13 MR JONES LEADING, YOUR HONOR

14 THE COURT DON'T LEAD

15 REDIRECT EXAMINATION CONTINUED BY MR TINSLEY

16 Q WHAT INSTRUCTIONS DID YOU LEAVE WITH THE
17 GUARD?

18 A I ASKED THE CORRECTIONS OFFICER IF HE WOULD BE
19 ABLE TO STAY IN THE ROOM BY HIMSELF AND FINISH THE
20 TEST, AND SHE SAID, "YES"

21 AND I SAID, "AND WILL HE GIVE THIS DIRECTLY TO
22 YOU AND THEN FROM YOU DIRECTLY TO ME I DON'T WANT
23 ANYONE ELSE TO SEE THE TEST "

24 AND SHE SMILED AND RAISED HER HAND AND SAID,
25 "I PROMISE, I WON'T EVEN READ IT "

1 AND I SAID, THANK YOU VERY MUCH

2 IT THEN TURNED OUT THAT THAT WAS EXACTLY AT
3 THE TIME OF SHIFT CHANGE, SO SHE GAVE ME THE NAME OF
4 THE OFFICER WHO WOULD BE ON WHEN I CAME BACK

5 Q AND ---

6 A AND I INDEED SAW THAT OFFICER BEFORE I LEFT,
7 WHO SAID, "YOU ARE DR WRIGHT?"

8 I SAID, "YES, I AM "

9 AND SHE SAID, "I'M ON DUTY NOW, AND I'LL BE
10 THE ONE GIVING YOU BACK THE TEST, AND I SAID, "THANK
11 YOU "

12 Q AND IS IT TRUE, DOCTOR, THAT YOU WEREN'T ASKED
13 BY MR GARRETT, INITIALLY, OR AT ANY TIME, FOR
14 CITING THE TEST FOR ANY COMPETENCY?

15 A NO, I WAS NOT

16 Q AND, IN FACT, YOU WERE ASKED TO TEST FOR --

17 A POSTTRAUMATIC STRESS DISORDER

18 Q --POSTTRAUMATIC STRESS DISORDER, IS THAT
19 RIGHT?

20 A THAT'S CORRECT

21 Q AND THAT WAS THE LIMIT OF IT, IS THAT CORRECT?

22 A THAT'S CORRECT

23 Q IN EXHIBIT ONE IS -- MAY I APPROACH, YOUR
24 HONOR EXHIBIT ONE IS?

25 A THE PROFILE GENERATED BY HIS RESPONSES TO THE

1 T S I AND AT THE BOTTOM I HAVE LISTED THE CRITICAL
2 ITEMS AND HIS RESPONSES

3 Q AND T S I STANDS FOR WHAT AGAIN?

4 A TRAUMA STRESS INVENTORY

5 Q DOES THAT BASICALLY EQUATE TO POST-TRAUMATIC
6 STRESS DISORDER?

7 A IT RELATES TO POST-TRAUMATIC STRESS DISORDER
8 AND TO ACUTE STRESS INCIDENCES ALSO THIS IS THE
9 NORMATIVE RANGE AND THESE ARE, ONE, TWO, THREE,
10 FOUR, FIVE, SIX, SEVEN, EIGHT, THAT ARE ELEVATED
11 BEYOND THE NORMAL RANGE OF ONE, WHICH IS RIGHT ON
12 THE LINE AND ONLY ONE THAT IS SIGNIFICANT ON THE
13 LINE

14 Q AND IS THAT THE TEST YOU GAVE ON SATURDAY?

15 A THAT IS THE TEST I GAVE ON SATURDAY

16 Q AND WHEN YOU SCORED THIS TEST, WHAT WAS YOUR
17 FEELING?

18 A MY FEELING WAS THERE'S SOMETHING GOING ON
19 HERE AND I WONDER IF THEY HAVE EVALUATED HIM
20 COMPREHENSIVELY, BECAUSE ALSO, LET ME POINT OUT THAT
21 UNDER THE CRITICAL ITEMS LISTED, FOR EXAMPLE, THERE
22 ARE ONE, TWO, THREE, FOUR, FIVE, SIX, SEVEN, EIGHT,
23 NINE, TEN, ELEVEN, TWELVE OF THEM AND HE HAS
24 RESPONDED IN A POSITIVE DIRECTION TO ALL TWELVE --
25 NO, TO ALL ELEVEN OF THEM

1 Q AM I CORRECT IN SAYING THAT YOU WERE ALERTED
2 BY THIS EXTREMELY ABOVE THE SCALE OR WHAT? YOU TELL
3 ME

4 A I WAS ALERTED BY THE ELEVATION, BUT I WAS
5 EQUALLY OR MORE SO ALERTED BY THE CRITICAL ITEMS
6 FOR EXAMPLE, THINKING THAT SOMEONE WAS READING YOUR
7 MIND HE IS A THREE, HAPPENS FREQUENTLY IN OTHER
8 WORDS SEEING PEOPLE FROM THE SPIRIT WORLD, TWO,
9 FEELING LIKE LIFE ISN'T WORTH LIVING, THREE, HEARING
10 SOMEONE TALK TO YOU WHO WASN'T REALLY THERE, THREE,
11 GETTING INTO TROUBLE BECAUSE OF YOUR DRINKING, ONE,
12 SEXUAL FANTASIES ABOUT BEING DOMINATED OR
13 OVERPOWERED, TWO, INTENTIONALLY HURTING YOURSELF,
14 ONE, WISHING YOU WERE DEAD, TWO, GETTING INTO
15 TROUBLE BECAUSE OF SEX, TWO, THREATENING OR
16 ATTEMPTING SUICIDE, ONE, THOUGHTS OR FANTASIES ABOUT
17 HURTING SOMEONE, ONE THE ONLY ONE HE DIDN'T
18 RESPOND TO IN A POSITIVE WAY WAS USING DRUGS OTHER
19 THAN MARIJUANA

20 Q AND LOOK AT FOUR AND FIVE VERY BRIEFLY, AGAIN
21 DESCRIBE WHAT THOSE ARE

22 A AGAIN, THIS IS THE RORSCHACH, AND IT'S JUST
23 THAT I WAS LITERALLY IN THE PROCESS OF FINISHING
24 SCORING IT WHEN MR GARRETT CALLED AND SAID THAT I
25 WOULD BE NEEDED HERE, BUT WHAT I CAN TELL YOU FROM

1 THE BRIEF VIEW OF IT, IS THAT HE HAS AN AWFUL LOT OF
2 ANIMAL RESPONSES, VERY FEW HUMAN RESPONSES, AND A
3 MIXED BAG WHEN IT COMES TO FORM CONTENT, WHICH IS A
4 TEST OF ONE'S GRASP OF REALITY

5 Q AND I ASK YOU, DOCTOR, ARE THOSE PRODUCTS OF
6 YOUR SUNDAY WORK, THESE HERE IN YOUR HANDS?

7 A YES, SIR

8 Q THREE, FOUR AND FIVE? (REFERRING TO COURT'S
9 EXHIBITS) AND ARE THESE PRODUCTS OF YOUR SATURDAY'S
10 WORK, ONE AND TWO (REFERRING TO COURT'S EXHIBITS)?

11 A THAT IS PRODUCT OF MY SATURDAY WORK THIS IS
12 PRODUCT OF MY SUNDAY AND MONDAY MORNING WORK

13 Q AND YOU WERE ASKED ORIGINALLY TO DO THE
14 SATURDAY WORK ON POSTTRAUMATIC STRESS DISORDER?

15 A YES, SIR

16 Q THAT IS WHAT SIGNED YOUR CONCERN LEADING TO
17 THE SUNDAY WORK?

18 A CORRECT

19 MR TINSLEY NOTHING FURTHER, YOUR
20 HONOR

21 THE COURT ANYTHING FURTHER?

22 RECROSS-EXAMINATION CONTINUED BY MR JONES

23 Q HAVE YOU EVER ISSUED AN OPINION IN A COURT OF
24 THIS STATE AFFIRMING THAT YOU BELIEVE SOMEONE
25 CHARGED WITH A CRIME IS INCOMPETENT TO STAND TRIAL

1 BEFORE TODAY BASED ON INTUITION?

2 MR TINSLEY OBJECTION, YOUR HONOR,
3 SHE'S NOT ISSUING THAT OPINION AT ALL SHE SAID SHE
4 COULD ISSUE AN OPINION THAT HE NEEDED FURTHER
5 TESTING

6 THE COURT I UNDERSTAND YOU CAN
7 ANSWER THE QUESTION

8 Q HAVE YOU EVER ISSUED AN OPINION REGARDING
9 SOMEONE'S COMPETENCY BASED ON INTUITION?

10 A NO, SIR, I HAVE NOT

11 MR JONES THANK YOU

12 MR TINSLEY QUICK RECESS, YOUR
13 HONOR?

14 MR JONES THE STATE'S READY TO GO
15 FORTH, YOUR HONOR

16 THE COURT HOW MUCH TIME DO YOU NEED
17 TO GO FORWARD?

18 MR TINSLEY FIVE MINUTES SHOULD DO
19 THE COURT ALL RIGHT, LET'S TAKE
20 FIVE MINUTES

21 (TESTIMONY CONCLUDES AT 3 35 P M O'CLOCK)

22 (OFF THE RECORD 15-MINUTE RECESS)

23 MR TINSLEY AT THIS TIME WE CALL
24 DR JAMES EVANS TO THE STAND

25 CLERK THE EVIDENCE YOU SHALL GIVE

1 THE COURT IN THIS CASE SHALL BE THE TRUTH, THE WHOLE
2 TRUTH AND NOTHING BUT THE TRUTH, SO HELP YOU GOD?

3 WITNESS YES

4 CLERK HAVE A SEAT

5 (TESTIMONY COMMENCES AT 3 51 P M O'CLOCK)

6 DIRECT EXAMINATION BY MR TINSLEY

7 Q STATE YOUR NAME PLEASE

8 A MY NAME IS JAMES EVANS

9 Q AND WHAT IS YOUR EDUCATION AND WORK, DR
10 EVANS?

11 A I HAVE A PhD IN PSYCHOLOGY I TEACH AT THE
12 UNIVERSITY OF SOUTH CAROLINA I HAVE A PART-TIME
13 PRIVATE PRACTICE IN CLINICAL PSYCHOLOGY AND IN
14 NEUROPSYCHOLOGY

15 Q AND YOUR TRAINING WAS WHERE, SIR?

16 A I HAVE PhD'S FROM PEABODY COLLEGE, WHICH IS
17 NOW PART OF VANDERBILT IT WAS TAKEN OVER BY
18 VANDERBILT UNIVERSITY AND I HAVE POST-DOCTORAL
19 TRAINING AT THE UNIVERSITY OF GEORGIA, MEDICAL
20 COLLEGE OF GEORGIA, AND THE UNIVERSITY OF
21 CALIFORNIA, SAN FRANCISCO

22 Q AND HOW LONG HAVE YOU WORKED IN THIS FIELD?

23 A ABOUT 27 YEARS

24 Q WHAT DO YOU TEACH AT THE UNIVERSITY?

25 A PSYCHOLOGY COURSES

1 Q AND YOU TEACH ADVANCED LEVEL OR GRADUATE LEVEL
2 TYPE COURSES?

3 A GRADUATE AND UNDERGRADUATE, YES, SIR

4 Q AND AS PART OF YOUR WORK, DID YOU HAVE
5 OCCASION TO EVALUATE INDIVIDUALS FOR SUCH MATTERS AS
6 COMPETENCY, ORGANIC BRAIN DAMAGE AND THAT SORT OF
7 THING?

8 A FOR ORGANIC BRAIN DAMAGE, YES I HAVE NOT
9 DONE THE OFFICIAL COMPETENCY EVALUATIONS, BUT
10 ORGANIC BRAIN DAMAGE, YES

11 Q DESCRIBE THE EVALUATIONS THAT YOU DO?

12 A THAT I DID ON?

13 Q THAT YOU DO

14 A DO?

15 Q WELL, PRIMARILY NEUROPSYCHOLOGICAL
16 EVALUATIONS, BUT ALSO GENERAL PSYCHOLOGICAL
17 EVALUATIONS, EVALUATIONS OF LEARNING DISABILITY AND
18 MENTAL RETARDATION

19 Q LEARNING DISABILITIES AND MENTAL RETARDATION?

20 A YES, SIR

21 Q AND DOCTOR, AS SUCH, HAVE YOU TESTIFIED IN THE
22 STATE COURTS OF SOUTH CAROLINA AS BEING QUALIFIED AS
23 AN EXPERT FROM TIME TO TIME?

24 A YES, SIR

25 Q OFTEN OR ---

1 A I BELIEVE THE OTHER DAY I TALLIED UP AND OUT
2 OF STATE, AND INSTATE, WAS I BELIEVE IT WAS 30, BUT
3 I THINK INSTATE WAS ABOUT 25

4 Q AND THAT WOULD INCLUDE CIRCUIT COURTS ACROSS
5 THE STATE, IS THAT RIGHT?

6 A YES, SIR

7 Q YOUR HONOR, AT THIS TIME I WOULD OFFER DR
8 EVANS AS AN EXPERT IN THE FIELD OF NEUROPSYCHOLOGY
9 THE COURT ANY QUESTIONS YOU WANT TO
10 ASK THE WITNESS REGARDING HIS QUALIFICATIONS
11 SOLICITOR?

12 CROSS-EXAMINATION BY MR JONES

13 Q DR EVANS, I BELIEVE YOU TESTIFIED AT A DEATH
14 PENALTY TRIAL I TRIED OVER IN LAURENS BACK IN MARCH
15 IS THAT RIGHT?

16 A YES, SIR

17 Q AND YOU WERE QUALIFIED AS AN EXPERT IN THE
18 AREA OF CLINICAL PSYCHOLOGY THERE, WEREN'T YOU?

19 A YES, SIR

20 Q THAT'S ALL, JUDGE

21 THE COURT AND NEUROPSYCHOLOGY, HE'S
22 OFFERING

23 Q OH, HE'S OFFERING NEUROPSYCHOLOGY? AND YOU
24 HAVE BEEN QUALIFIED AS AN EXPERT IN THE AREA OF
25 NEUROPSYCHOLOGY?

1 A YES, SIR

2 Q HOW LONG?

3 A PROBABLY TWENTY OF THOSE TWENTY FIVE YEARS

4 Q THANK YOU NO OBJECTION

5 THE COURT ALL RIGHT BASED UPON
6 HIS TESTIMONY REGARDING HIS EDUCATION, TRAINING AND
7 EXPERIENCE, I FIND HIM TO BE QUALIFIED AS AN EXPERT
8 IN THE FIELD OF CLINICAL PSYCHOLOGY AND
9 NEUROPSYCHOLOGY AND WILL BE PERMITTED TO RENDER
10 OPINIONS IN THOSE FIELDS

11 REDIRECT EXAMINATION BY MR TINSLEY

12 Q DR EVANS, AS SUCH, WERE YOU BROUGHT ON THIS
13 CASE TO DO A NEUROPSYCHOLOGICAL EVALUATION ON MR
14 HUGHEY?

15 A YES, SIR

16 Q AND WHAT IS A NEUROPSYCHOLOGICAL EVALUATION?

17 A A NEUROPSYCHOLOGICAL EVALUATION, THE PRIMARY
18 EMPHASIS IS UPON SEEING OR TRYING TO DETERMINE OR
19 GATHER EVIDENCE REGARDING WHETHER THE PERSON HAS
20 ORGANIC BRAIN DYSFUNCTION OR WHETHER HIS BRAIN HAS
21 BEEN COMPROMISED IN SOME MANNER THAT WOULD INFLUENCE
22 HIS COMPETENCY

23 Q AND AS SUCH YOU ALSO PRACTICE SOMEWHAT
24 CLINICAL OR GENERAL PSYCHOLOGY ALSO, IS THAT RIGHT?

25 A YES, SIR

1 Q AND YOU WERE BASICALLY APPLYING THAT ALSO TO
2 MR HUGHEY, BUT BECAUSE I HAVE ALERTED YOU TO HEAD
3 INJURIES, HEAD TRAUMAS TO MR HUGHEY FROM HIS PAST,
4 YOU WERE CONCENTRATING IN THE AREA OF THIS NEURO-
5 PSYCHOLOGY, WERE YOU NOT?

6 A THAT'S CORRECT

7 Q AND AS A RESULT OF OUR DISCUSSIONS, ISN'T IT
8 TRUE THAT YOU ULTIMATELY MET WITH AND EXAMINED MR
9 HUGHEY?

10 A YES, SIR

11 Q AND IT WAS SOME MONTHS AGO, BACK IN THE
12 SUMMER,
13 I BELIEVE, THAT YOU FIRST MET WITH MR HUGHEY, WAS
14 IT NOT?

15 A JULY 9TH I SAW HIM FIRST

16 Q JULY 9TH YOU SAW HIM FIRST?

17 A YES

18 Q AND AS SUCH YOU ALSO INCORPORATED SOME SOCIAL
19 HISTORY OF MR HUGHEY AND HIS BACKGROUND WHEN YOU
20 WENT IN TO VISIT HIM, IS THAT CORRECT?

21 A YES, SIR

22 Q AND WHAT TESTS, IF ANY, DID YOU APPLY IN
23 JULY TO MR HUGHEY?

24 A THE TESTS ADMINISTERED AT THAT TIME I
25 ADMINISTERED THE WECHSLER ADULT INTELLIGENCE SCALE,

1 THE WIDE-RANGE ACHIEVEMENT TESTS, SEVERAL SUBTESTS
2 FROM THE REITAN -- THAT'S R-E-I-T-A-N NEURO-
3 PSYCHOLOGICAL TEST BATTERY I ADMINISTERED
4 RORSCHACH AND I ADMINISTERED A WECHSLER MEMORY
5 SCALE, TWO SUBTESTS FROM WECHSLER MEMORY SCALE
6 EXCUSE ME I ADMINISTERED THE WISCONSIN CARD-
7 SORTING TEST

8 Q AND THESE ARE BASICALLY STANDARD TESTS IN YOUR
9 FIELD, IS THAT CORRECT?

10 A YES, SIR, IN THE FIELD OF NEUROPSYCHOLOGY THEY
11 ARE VERY STANDARD

12 Q AND YOU, OF COURSE, AS A RESULT OF THIS SPENT
13 A WHOLE DAY AT THAT TIME WITH MR HUGHEY, IS THAT
14 CORRECT?

15 A APPROXIMATELY SIX HOURS

16 Q AND YOU PROCEEDED ALSO TO SPEAK WITH MS TARR
17 FROM TIME TO TIME ABOUT THE CASE OF MR HUGHEY, DID
18 YOU NOT?

19 A YES, SIR

20 Q AND YOU SPOKE WITH ME FROM TIME TO TIME, IS
21 THAT RIGHT?

22 A YES, SIR

23 Q NOW DURING THIS PERIOD OF TIME, DOCTOR, I HAD
24 NEVER ASKED YOU TO CONSIDER ---

25 MR JONES LEADING, YOUR HONOR

1 THE COURT DON'T LEAD

2 REDIRECT EXAMINATION CONTINUED BY MR TINSLEY

3 Q HAVE I DURING THAT PERIOD OR DID I DURING THAT
4 PERIOD ASK YOU TO CONSIDER ANYTHING IN THE AREA OF,
5 IN PARTICULAR, PSYCHOSIS OR SCHIZOPHRENIA OR
6 ANYTHING LIKE THAT, AND IN PARTICULAR AS IT RELATES
7 TO COMPETENCY TO STAND TRIAL?

8 A NO, SIR

9 Q AND AT THAT TIME AND WITH YOUR TESTS DID YOU
10 SEE A NEED FOR THAT?

11 A NO, SIR HE APPEARED TO BE SOMEWHAT
12 DEPRESSED I THINK HE SCORED IN THE MODERATE RANGE
13 ON THE DEPRESSION INVENTORY, HOWEVER, GIVEN THE
14 CIRCUMSTANCES I WASN'T SURPRISED AND DIDN'T FEEL IT
15 WAS NECESSARY TO PROCEED AT THAT TIME

16 Q AND WHAT OTHER BASIC FINDINGS DID YOU
17 DISCOVER?

18 A I FAILED TO MENTION THAT AT THAT FIRST
19 EVALUATION I ALSO ADMINISTERED QUALITATIVE EEG

20 Q WHAT IS THAT, DOCTOR?

21 A THIS IS A MAJOR BRAIN ELECTRICAL ACTIVITY
22 WHICH IS THEN SCORED BY COMPUTER PROGRAM AND
23 COMPARES HIS BRAIN ELECTRICAL ACTIVITY TO OTHER
24 PERSONS HIS AGE AND GENDER AND TELLS YOU HOW MANY --
25 THERE ARE EIGHT HUNDRED AND SOME MEASURES AND IT

1 SPECIFIES HOW MANY MEASURES WERE ABNORMAL AND WE
2 FOUND QUITE A FEW OF THOSE THAT WERE ABNORMAL

3 Q ARE THOSE BIOLOGICAL OR WHAT'S THE TERM?

4 A IT'S USED AS ONE PART OF A NEUROPSYCHOLOGICAL
5 EVALUATION, AND IF IN CONJUNCTION WITH THE NEURO-
6 PSYCHOLOGICAL TESTS, THEY SEEM TO MATE OR SEEM TO
7 AGREE, THEN IT IS EVIDENCE THAT A BRAIN
8 DYSFUNCTIONED

9 Q IS THAT IN THE NATURE OF ORGANIC BRAIN
10 DYSFUNCTION?

11 A NATURE OF ORGANIC, YES, SIR

12 Q WE'RE NOT TALKING ABOUT INSANITY HERE, ARE WE?

13 A NO, SIR

14 Q WE'RE TALKING ABOUT PHYSICAL BRAIN ORGANIC
15 DYSFUNCTION, IS THAT RIGHT?

16 A YES, SIR

17 Q DID YOU FIND SOME OF THAT?

18 A I FOUND EVIDENCE FOR THAT, YES, SIR

19 Q AND IN FURTHER TESTING, THOUGH, DID I MEET
20 WITH YOU AND WE DISCUSSED THAT AS TO THE SPECIFICS
21 OF THAT ORGANIC DAMAGE, DID WE NOT?

22 A RIGHT, AND WE DECIDED THAT IT WOULD BE OF
23 VALUE TO ADMINISTER YET ANOTHER TEST, THE TEST OF
24 ATTENTION AND I ADMINISTERED THAT

25 Q A TEST OF WHAT, SIR?

1 A ATTENTION, ATTENTIONAL CONTROL AND RESPONSE
2 CONTROL AND I ADMINISTERED THAT ON SEPTEMBER 27TH AS
3 WELL AS AT THAT TIME I THOUGHT IT WOULD BE
4 WORTHWHILE TO CHECK FOR MALINGERING I ADMINISTERED
5 TWO MALINGERING TESTS WHICH HE PASSED EASILY IN
6 OTHER WORDS, NO INDICATION OF MALINGERING, AND ALSO
7 FOUND THAT HE HAD PROBLEMS WITH ATTENTION MILD TO
8 MODERATE PROBLEMS WITH ATTENTIONAL CONTROL

9 Q AND WHAT ABOUT ANY FINDINGS IN TERMS OF
10 LEARNING DISABILITIES, I Q AND THAT SORT OF THING?

11 A ON THE I Q TEST HE HAD A RATHER LARGE
12 DIFFERENCE BETWEEN HIS VERBAL SKILLS AND HIS NON-
13 VERBAL SKILLS, SCORING A 77 ON THE VERBAL PORTION
14 AND A 91 ON THE NON-VERBAL PORTION THE PATTERN
15 THERE WOULD SUGGEST THAT HE HAS SPACIAL DIFFICULTIES
16 WITH VERBAL LEARNING OF THE TYPE WHICH COULD BE
17 RELATED TO SCHOOL PROBLEMS

18 Q AND BASICALLY HIS I Q WAS WHAT?

19 A IN THE LOWER END OF THE LOW/NORMAL RANGE
20 LOW/NORMAL, THINK OF IT AS GOING FROM I Q 80 TO 90
21 HE SCORED 80

22 Q AND HE WAS 80 ON THE I Q SCALES?

23 A RIGHT

24 Q AND DID YOU DETERMINE APPROXIMATELY WHAT GRADE
25 LEVEL THAT HE WAS FUNCTIONING AT?

1 A I ADMINISTERED THE WIDE-RANGE ACHIEVEMENT TEST
2 AND I BELIEVE IT WAS SEVENTH GRADE, BUT I'LL --
3 YEAH, SEVENTH GRADE IN BOTH WORD RECOGNITION AND
4 ARITHMETIC COMPUTATION

5 Q AND, OF COURSE, HE WAS MUCH, MUCH OLDER THAN
6 THAT AT THE TIME?

7 A YES, SIR

8 Q AND DURING YOUR TESTING OF HIM THE SECOND
9 TIME, ISN'T IT TRUE, DOCTOR, THAT YOU ALSO FOUND HIM
10 TO BE SOMEWHAT COMPETENT AND YOUR RED FLAG DID NOT
11 GO UP IN TERMS OF A NEED FOR A COMPETENCY EVALUATION
12 AT THAT TIME?

13 A THAT'S TRUE

14 Q AND I BELIEVE THAT YOU WERE CONTACTED OVER THE
15 WEEKEND BY DR WRIGHT, AM I CORRECT?

16 A YES, SIR I'M NOT SURE, BUT IT MIGHT HAVE
17 BEEN

18 FRIDAY IT WAS TOWARD THE END OF THE WEEK AND I
19 ALSO SPOKE WITH HER ON THE WEEKEND

20 Q DID Y'ALL COLLABORATE ON SOME ADDITIONAL
21 TESTING FOR MR HUGHEY?

22 A YES

23 Q AND WHAT WOULD THAT INCLUDE

24 A THERE HAD BEEN, PRIOR TO TALKING WITH DR
25 WRIGHT I HAD SPOKEN WITH PAIGE TARR, I BELIEVE, AND

1 THEN WITH, PERHAPS WITH YOU, ABOUT SOME QUESTION
2 ABOUT A POST TRAUMATIC STRESS DISORDER

3 Q WHY WAS THAT, DOCTOR?

4 A WHY WAS THAT?

5 Q I BELIEVE THE SOCIAL WORKER HAD SUGGESTED IT,
6 AND HE HAD HAD THE TRAUMA OF HIS MOTHER'S DEATH AND
7 IT SEEMED LIKE IT WAS AN AREA WE HADN'T YET
8 INVESTIGATED, AND I SAID IT MIGHT BE WORTHWHILE TO
9 INVESTIGATE THAT AREA AND I KNEW ABOUT THIS TRAUMA,
10 THIS T S I INVENTORY, AND DIDN'T HAVE TIME TO COME
11 UP AND DO IT MYSELF, AND SO I WOULD BE, IT'S A
12 RATHER SIMPLE TEST TO GIVE, BUT I FELT LIKE A
13 CLINICAL PSYCHOLOGIST SHOULD DO IT, AND DR WRIGHT'S
14 NAME CAME UP AND SHE AGREED TO ADMINISTER THAT
15 INVENTORY

16 Q AND DID YOU LOOK AT THE RESULTS OF THAT?

17 A WELL, I LOOKED AT -- WELL, I GOT THE PROFILE
18 BACK, FAXED TO ME, AND AGAIN THE MAIN CONCERNS WERE
19 THE CRITICAL ITEMS ON IT THEY ARE CALLED CRITICAL
20 ITEMS, BECAUSE IF YOU RESPOND IN A POSITIVE
21 DIRECTION WITH THEM, THESE ARE ITEMS THAT MOST
22 PEOPLE DON'T RESPOND THAT DIRECTION AND IF THEY DO,
23 IT SUGGESTS THERE'S SOMETHING VERY UNUSUAL GOING ON
24 AND HE HAD RESPONDED ACCORDING TO THE PROFILE, I
25 WOULD SAY HE HAD RESPONDED POSITIVELY ON THE

1 MAJORITY OF THOSE ITEMS, AND THEN IN SPEAKING WITH
2 DR WRIGHT, IT WOULD SEEM THAT IT WAS USEFUL TO
3 PROCEED FURTHER BECAUSE THAT SORT OF WAS THE RED
4 FLAG TOWARD THE POSSIBILITY THAT HE HAD
5 DECOMPENSATED

6 Q DEFINE AND EXPLAIN DECOMPENSATION FOR US,
7 DOCTOR

8 A WELL, IT CAN HAPPEN TO ANY OF US IF STRESS
9 GETS GREAT ENOUGH SOME PEOPLE CAN DEAL WITH MORE
10 STRESS THAN OTHERS PERHAPS THE MOST COMMON, I
11 GUESS COMMONLY KNOWN SITUATION, WOULD BE LIKE IN WAR
12 TIME WHERE IN THE SECOND WORLD WAR THEY CALLED IT
13 SHELL SHOCK AND BATTLE FATIGUE AND IT'S GONE UNDER
14 VARIOUS NAMES TODAY THEY CALL IT ACUTE STRESS
15 DISORDER THE TYPE OF PERSON THEY MAY COMPLETELY
16 GET DEBILITATED, DECOMPENSATE TO THE DEGREE WHERE
17 THEY MIGHT TO THE EXTREME BECOME PSYCHOTIC, AND HE
18 ALREADY HAD SOME COMPROMISED NERVOUS SYSTEM --
19 EVIDENCE FOR BRAIN DYSFUNCTION IT WOULD PUT ONE AT
20 HIGHER RISK FOR DECOMPENSATING, AND THERE ALSO HAD
21 BEEN SOME EVIDENCE FROM WHAT I HAD UNDERSTOOD, THAT
22 AROUND THE TIME OF THE CRIME HE WAS ATTEMPTING TO
23 COMMIT SUICIDE AND IT'S USUALLY BELIEVED THAT A
24 PERSON'S UNDER A GREAT STAIN AND THEY MUST HAVE
25 DECOMPENSATED SOMEWHAT TO BE WILLING TO KILL

1 THEMSELVES, WHICH IS FAIRLY COMMON IN THE SUICIDE
2 ATTEMPTS AND IT ALL BEGAN TO ADD UP, AND I THOUGHT,
3 WELL, IF HE WAS DEPRESSED -- WE DID FIND SIGNS OF
4 MORBID DEPRESSION AND SIGNS OF BRAIN DYSFUNCTION --
5 AND HE WAS RESPONDING THIS WAY ON THE TRAUMA SYMPTOM
6 INVENTORY, MAYBE HE HAS DECOMPENSATED MAYBE HE HAS
7 HAD A PSYCHOTIC BREAK AND THIS SHOULD BE
8 INVESTIGATED FURTHER

9 Q YOU AND I HAVE NOT DISCUSSED DECOMPENSATION
10 AND COMPETENCY PRIOR TO THAT, IS THAT RIGHT?

11 A NO, SIR

12 Q IN FACT, I CALLED YOU THIS MORNING YOU WERE
13 IN THE MOUNTAINS UP IN ASHEVILLE, WERE YOU NOT?

14 A RIGHT

15 Q AND DID THAT EFFECT THE CLOTHES THAT YOU ARE
16 WEARING HERE TODAY?

17 A THAT'S CORRECT THIS IS THE FIRST TIME I'VE
18 EVER BEEN IN A COURTROOM WITHOUT MY SUIT

19 Q YES, AND I CALLED YOU ANTICIPATING THAT I
20 WOULD CALL YOU LATER IN THE WEEK AROUND THURSDAY,
21 BUT I CALLED YOU AND ASKED YOU TO COME DOWN THIS
22 MORNING, IS THAT CORRECT?

23 A THAT IS CORRECT

24 Q AND BASED UPON EVERYTHING YOU KNOW ABOUT MR
25 HUGHEY, AND THE T S I IN PARTICULAR, THAT YOU HAD

1 DISCUSSED WITH DR WRIGHT AND LOOKED AT THE ANSWERS
2 AND THE SCORING ON THE T S I , DO YOU HAVE A
3 PROFESSIONAL OPINION, AND THAT IS ONE AND TWO, ISN'T
4 IT, THAT I'M REFERRING TO?

5 A AGAIN THE MAIN THING I SEE THERE, HE WAS
6 ELEVATED ON MANY OF THOSE SCALES, BUT THE CRITICAL
7 ITEMS WERE THE -- HAD I SEEN THOSE CRITICAL ITEMS
8 SCORED IN A POSITIVE DIRECTION LIKE THAT HAD I BEEN
9 ADMINISTERING THIS, I WOULD HAVE THOUGHT THERE WAS
10 SOMETHING GOING ON HERE THAT NEEDS TO BE
11 INVESTIGATED FURTHER

12 Q DO YOU, AS A RESULT OF SEEING ALL THESE ITEMS
13 AND THE TIME AND EXPERTISE THAT YOU'VE PUT INTO THIS
14 CASE, DO YOU HAVE AN OPINION AS TO WHETHER OR NOT
15 MR HUGHEY NEEDS FURTHER EVALUATION AT THIS TIME?

16 A I THINK THERE IS SUFFICIENT DOUBT THAT HE IS
17 CAPABLE OF ASSISTING IN HIS OWN DEFENSE IN THIS
18 SITUATION TO WARRANT PURSUING IT FURTHER, YES, SIR

19 Q AND DO YOU FEEL THE DECOMPENSATION, POSSIBLE
20 DECOMPENSATION IN THIS CASE, HAS AFFECTED HIS
21 CAPACITY -- POSSIBLY?

22 A I BELIEVE THAT A PERSON WHO DECOMPENSATES AND
23 IF HE HAS DECOMPENSATED TO THE POINT THAT SOME OF
24 THE RESPONSES HE MADE ON THERE ARE BECAUSE HE WENT
25 TO THOSE CRITICAL ITEMS AND SOME OF THE OTHER

1 BEHAVIORS, WHICH I'VE HAD REPORTED TO ME THAT PEOPLE
2 HAVE OBSERVED IN THE LAST FEW HOURS OR FEW DAYS,
3 THEN YES, I BELIEVE THAT IS RATHER SEVERE
4 DECOMPENSATION AND IF IT WERE THAT, THAT'S TRUE,
5 THEN MANY OF A QUESTION HAVE BEEN ASKED FOR ABOUT
6 COMPETENCY -- COULD HE UNDERSTAND THIS? COULD HE
7 UNDERSTAND THAT? -- IF HE WERE THAT DECOMPENSATED, I
8 DON'T THINK HE WOULD BE CAPABLE

9 Q AND YOU MIGHT OR MIGHT NOT BE ABLE TO
10 UNDERSTAND THE NATURE OF THE PROCEEDINGS AGAINST
11 HIM?

12 A I THINK IT WOULD BE QUESTIONABLE

13 Q AND DID YOU HAVE AN OPPORTUNITY TO REVIEW THE
14 M M P T AND RORSCHACH TEST AND THE RESULTS THAT DR
15 WRIGHT ADMINISTERED?

16 A ONLY WHAT I HEARD IN THE TESTIMONY AND THE
17 SHORT CONVERSATION REGARDING THE RORSCHACH
18 RESPONSES

19 Q SO YOU HAVE HEARD A GOOD PART OF HER
20 TESTIMONY?

21 A YES, SIR

22 Q AND DID YOU BASICALLY HEAR HER BASIC
23 CONCLUSION AND OPINION IN THE MATTER?

24 A IN WHAT?

25 Q IN THE MATTER OF FURTHER COMPETENCY EVALUATION

1 FOR JOHN KENNEDY HUGHEY?

2 A YES, SIR

3 Q AND DO YOU AGREE OR DISAGREE WITH HER OPINION
4 THAT SUCH EVALUATION IS NECESSARY AT THIS TIME?

5 A I AGREE THAT IT IS -- I WOULD NOT WANT TO
6 PROCEED I BELIEVE THAT FURTHER EVALUATION IS
7 NEEDED

8 Q AND PRIOR TO THE LAST COUPLE OF DAYS YOU AND I
9 ARE BOTH OF THE OPINION THAT A SOUTH CAROLINA STATE
10 HOSPITAL EVALUATION WAS NOT NECESSARY IN THIS CASE?

11 A UP UNTIL THREE DAYS AGO I WOULD NOT HAVE
12 THOUGHT IT WAS

13 MR TINSLEY THANK YOU, SO MUCH,
14 DOCTOR ANSWER ANY QUESTIONS SOLICITOR JONES MAY
15 HAVE

16 RE CROSS EXAMINATION BY MR JONES

17 Q OKAY, DR EVANS UP UNTIL THREE DAYS AGO WHAT
18 WAS IT THAT CAUSED YOU TO BELIEVE THAT HE DIDN'T
19 NEED TO BE FURTHER EVALUATED?

20 A WELL, BECAUSE WHEN I ADMINISTERED THE TESTS HE
21 DID NOT APPEAR TO BE PSYCHOTIC HE APPEARED TO HAVE
22 SOME ORGANIC BRAIN DISFUNCTION WHICH WOULD HAVE
23 CAUSED HIM TO HAVE TROUBLE LEARNING IN SCHOOL AND
24 WHICH WOULD HAVE LED TO SOME, PERHAPS, IMPAIRMENT IN
25 JUDGMENT AT TIMES, BUT I DIDN'T THINK IT WAS

1 SUFFICIENT TO -- CERTAINLY TO SAY THAT HE WOULD NOT
2 HAVE BEEN COMPETENT TO STAND TRIAL

3 Q AS A MATTER OF FACT HE WAS COMPETENT UP UNTIL
4 THREE DAYS AGO, IN YOUR OPINION?

5 A FOR -- IN REGARD TO --

6 Q STANDING TRIAL

7 A -- STANDING TRIAL YES, SIR

8 Q I MEAN, HE WAS COMPETENT

9 A UNTIL ABOUT THREE DAYS AGO I WOULD HAVE NOT
10 QUESTIONED THAT

11 Q RIGHT WOULDN'T HAVE HAD ANY QUESTION ABOUT
12 IT

13 A NO, SIR

14 Q BECAUSE IF YOU HAD YOU'D HAVE BROUGHT IT TO
15 THEIR ATTENTION, WOULDN'T YOU?

16 A YES, SIR

17 Q IF YOU'D FELT LIKE HE WAS INCOMPETENT HE
18 CAN'T ASSIST THEM HE CAN'T COME IN HERE AND
19 UNDERSTAND THE NATURE OF THESE CHARGES, YOU'RE GOING
20 TO TELL THESE GUYS, AREN'T YOU?

21 A YES, SIR

22 Q BECAUSE THEY HIRED YOU, DIDN'T THEY?

23 A YES, SIR

24 Q WHEN DID THEY HIRE YOU?

25 A JULY NINTH -- JULY NINTH, I THINK WAS THE

1 FIRST CONTACT

2 Q WHAT WAS THE NATURE OF THE CONTRACT?

3 WHAT'S THE NATURE OF THE CONTRACT?

4 A NATURE OF THE CONTRACT?

5 Q WERE YOU HIRED ON AN HOURLY BASIS?

6 A I WAS HIRED ON AN HOURLY BASIS

7 Q FOR THE PURPOSE OF EVALUATING THIS DEFENDANT?

8 A YES, SIR

9 Q TO SEE IF THERE ARE ANY NEUROLOGICAL DISORDERS
10 THAT MAY EITHER MAKE HIM INCOMPETENT RIGHT?

11 A MIGHT MAKE HIM INCOMPETENT MIGHT MAKE HIM
12 HAVE A DIMINISHED CAPACITY

13 Q RIGHT

14 A THERE MIGHT BE SERVED AS MITIGATING FACTORS IN
15 DECIDING ON HIS PENALTY

16 Q AND YOU MET WITH HIM ON JULY SEVENTH?

17 A YES, SIR

18 Q AND YOU MET WITH HIM AGAIN WHEN?

19 A SEPTEMBER TWENTY-SEVENTH

20 Q YOU MET WITH HIM AGAIN WHEN?

21 A THAT'S ALL

22 Q THAT'S ALL?

23 A TWICE

24 Q TWICE BUT YOU DID EVALUATE HIS HISTORY?

25 A YES

1 Q AND YOU FELT LIKE THAT YOU HAD ENOUGH
2 INITIALLY OKAY, AND INFORMATION AND -- TO GIVE HIM
3 WHAT THEY ASKED YOU TO DO?

4 A AT THAT TIME YES, SIR

5 Q AND BASICALLY WHAT YOU WERE DOING WAS TO
6 DETERMINE IF THERE WAS ANYTHING ABOUT HIM THAT WOULD
7 MITIGATE THE CRIMES THAT HE HAD COMMITTED --

8 A YES, SIR

9 Q -- AND CAUSE SOMEBODY TO SAY, "OH GEE THIS
10 HORRIBLE THING YOU DID, BUT LOOK HERE -- HE'S GOT A
11 LITTLE BRAIN SCRATCH, AND IT MIGHT CAUSE HIM TO BE
12 VIOLENT EVERY NOW AND THEN," OR SOME KIND OF BRAIN
13 ABNORMALITY -- SOME KIND OF NEUROLOGICAL DISORDER

14 A I'LL GO WITH THE LATTER PART ---

15 Q ALL RIGHT

16 A HE HAS SOME KIND OF NEUROLOGICAL DISORDER
17 YES, SIR

18 Q ALL RIGHT PARDON ME BUT THAT'S WHAT YOU
19 BASICALLY WERE THERE FOR RIGHT?

20 A RIGHT

21 Q BUT YOU ARE EDUCATED ENOUGH AND SMART ENOUGH
22 AND SPENT ENOUGH TIME WITH THIS GUY TO KNOW WHETHER
23 OR NOT HE WAS INCOMPETENT UP UNTIL THREE DAYS AGO

24 A I FELT THAT HE WAS COMPETENT ENOUGH UNTIL
25 THREE DAYS AGO

1 Q HOW LONG DID YOU SPEND WITH HIM ON SEPTEMBER
2 TWENTY-SEVENTH?

3 A SEPTEMBER TWENTY-SEVENTH -- ABOUT FORTY
4 MINUTES

5 Q FORTY MINUTES? WHAT DID YOU DO THEN?

6 A I ADMINISTERED TWO TESTS OF MALINGERING AND AN
7 INTERMEDIATE VISUAL AND AUDITORY CONTINUOUS
8 PERFORMANCE TASK WHICH IS A MAJOR ATTENTION CONTROL

9 Q INTERMEDIATE AUDITORY AND VISUAL ---

10 A INTERMEDIATE VISUAL AND AUDITORY CONTINUOUS
11 PERFORMANCE TASKS USUALLY ABBREVIATED AND CALLED THE
12 I V A

13 Q WHY DID YOU WANT TO ADMINISTER THESE
14 MALINGERING TESTS?

15 A WELL, BECAUSE I'M ALWAYS ASKED IN COURTS
16 WHETHER I ADMINISTERED THEM OR NOT, AND I FELT LIKE
17 I NEEDED TO COVER THAT BASE

18 Q AND PREPARE FOR COURT?

19 A YES, SIR

20 Q THERE WAS NOTHING ABOUT YOUR RELATIONSHIP WITH
21 HIM OR ANY OF HIS HISTORY WHATSOEVER THAT WOULD
22 CAUSE YOU TO THINK THAT HE WAS MALINGERING?

23 A NO, SIR

24 Q AND WHY NOT?

25 A WELL, ORDINARILY I LIKE TO SAY THAT HAVING

1 ADMINISTERED THAT TEST TO A GREAT MANY PEOPLE, I
2 FEEL LIKE I HAVE A FEEL FOR WHETHER THEY ARE
3 MALINGERING OR NOT, AND I DIDN'T HAVE ANY FEEL HE
4 WAS MALINGERING HOWEVER, IT'S GOOD TO HAVE SOME
5 OBJECTIVE EVIDENCE TO SEE IF HE IS OR ISN'T

6 Q AND WHAT WOULD YOU HAVE BEEN CONCERNED THAT HE
7 MAY OR MAY NOT HAVE BEEN MALINGERING ABOUT?

8 A WELL, THE QUESTION I'M ALWAYS OR RATHER
9 ROUTINELY ASKED IS IF THIS PERSON IS FACING THE
10 DEATH PENALTY OR A SEVERE PENALTY, WOULDN'T YOU TRY
11 TO FAKE IT? AND SO I WOULD ASSUME THAT A LOT OF
12 PEOPLE MIGHT TRY TO FAKE IT, AND I WAS CHECKING TO
13 SEE IN THESE SORTS OF TESTS YOU, MORE OR LESS,
14 GIVE THEM A WIDE OPEN OPPORTUNITY TO FAKE AND SEE IF
15 THEY TAKE THE BAIT

16 Q RIGHT FAKE WHAT? BECAUSE THAT'S MY
17 QUESTION WHAT WOULD HE FAKE?

18 A FAKE THAT HE HAD A MEMORY PROBLEM, FAKE THAT
19 HE HAD PERCEPTUAL PROBLEMS, FAKE THAT HE HAD
20 SOMETHING THAT WOULD LOOK LIKE ORGANIC BRAIN
21 DISFUNCTION

22 Q OKAY NOW LET ME LEAVE YOUR AREA OF TESTING
23 HERE FOR A MINUTE AND ASK YOU WHO IS A PAIGE TARR?

24 A PAIGE TARR? T-A-R?

25 Q WHAT'S THE NAME?

1 A PAIGE TARR

2 Q PAIGE TARR

3 A I BELIEVE SHE IS AN INVESTIGATOR WHO WORKS
4 WITH THE ATTORNEYS ON THIS CASE

5 Q AND WHEN WAS THE FIRST TIME YOU MET HER?

6 A I'VE MET HER ON PRIOR OCCASIONS, BUT I DON'T
7 REMEMBER WHEN

8 Q PRIOR DEATH PENALTY CASES?

9 A YES, SIR

10 Q SO MAYBE SHE WORKS WITH THE DEATH PENALTY
11 RESOURCE CENTER?

12 A I DON'T -- NOT OFFICIALLY SHE MAY HAVE SOME
13 CONTACT WITH THEM, BUT I DON'T BELIEVE SHE WORKS OUT
14 OF THERE

15 Q SO PRIOR CASES THAT YOU'VE WORKED WITH THESE
16 TWO LAWYERS ON YOU SAY?

17 A NO, SIR NO, SIR

18 Q PRIOR CASES YOU WORKED WITH LAWYERS OUT OF
19 COLUMBIA ON?

20 A OUT OF GREENVILLE, I BELIEVE

21 Q OUT OF GREENVILLE?

22 A RIGHT

23 Q BUT YOU DON'T KNOW WHERE HER OFFICE IS OR
24 WHERE SHE WORKS?

25 A NO, SIR SHE HAS A COLUMBIA NUMBER

1 Q AND SHE CALLED YOU LAST WEEK?

2 A YES, SIR

3 Q WHEN?

4 A I THINK TWO OR THREE TIMES I DON'T REMEMBER
5 THE DAYS

6 Q OH IS THAT HER SMILING OVER HERE IN THE
7 GREEN AND BLACK SHIRT? THE ONE THAT'S BEEN KIND OF
8 SMILING AND -- IS THAT HER IN THE BLACK AND GREEN-
9 STRIPED SHIRT?

10 A YES, SIR

11 Q AND SHE CALLED YOU WHEN LAST WEEK?

12 A I DON'T REMEMBER THE EXACT DAY

13 Q AND WHAT WAS IT SHE WANTED FROM YOU?

14 A TO CONFER TIMES -- SHE WANTED TO KNOW ---

15 Q I WAS ASKING ABOUT THE FIRST TIME SHE CALLED
16 YOU ABOUT? ABOUT THIS CASE I DON'T CARE ABOUT
17 ANYTHING ELSE BUT THIS CASE

18 A THE FIRST TIME SHE CALLED DIDN'T HAVE ANYTHING
19 TO DO WITH THIS MOST RECENT DEVELOPMENT, SO FAR AS I
20 RECALL IT WAS MORE ABOUT WHAT FINDINGS I HAD ON
21 SEPTEMBER TWENTY-SEVENTH AND WHAT TIMES -- WHEN THE
22 TRIAL -- WHEN THE TRIAL WOULD BE COMING UP AND WHAT
23 DAYS I MIGHT -- IT MIGHT BE MOST CONVENIENT FOR ME
24 TO GET UP HERE

25 Q OKAY SO YOU HAD NOT DISCUSSED YOUR FINDINGS

1 OF THE TWENTY-SEVENTH WITH ANY OF THE LAWYERS OR
2 PAIGE TARR?

3 A BEFORE PAIGE TARR?

4 Q YES

5 A I DON'T REMEMBER WHETHER I DID OR NOT

6 Q ARE THESE THE MATERIALS THAT YOU'VE
7 ASSIMILATED IN YOUR WORK ON THIS CASE?

8 A YES, SIR

9 Q YOUR HONOR, I'D LIKE ---

10 A ONE THING BEFORE HANDING THEM OUT ACCORDING
11 TO THE AMERICAN PSYCHOLOGY ASSOCIATION CODE OF
12 ETHICS, THERE ARE CERTAIN THINGS I CANNOT PUT INTO
13 EVIDENCE, LIKE THE ACTUAL ANSWERS AND THE QUESTIONS,
14 CERTAIN MODES OF THE TESTS, AND I HAD FAXED TO THE
15 ATTORNEYS -- MR GARRETT, AT LEAST -- TO GIVE TO
16 VIEW THE ONES I COULD SENT OUT

17 Q WHEN DID YOU FAX THOSE TO HIM TO GIVE TO ME?

18 A APPROXIMATELY A WEEK AGO WAIT -- I HAVE THE
19 VERY ONES THAT I -- LOOKS LIKE I HAVE THE VERY ONES
20 HERE THAT I FAXED TO YOU (PERUSING HIS FILE)

21 Q SO YOU'RE SAYING THE ONES THAT YOU'RE ALLOWED
22 TO GIVE ME YOU'VE ALREADY GIVEN ME?

23 A YES, SIR

24 Q BUT IF I DON'T WANT TO PUT THEM INTO EVIDENCE
25 I CAN MAKE COPIES OF THEM, CAN'T I?

1 A NO I'M NOT SUPPOSED TO GIVE OUT THE ACTUAL
2 TEST QUESTIONS BECAUSE IT COMPROMISES -- IT POSES A
3 POTENTIAL COMPROMISE OF THE TEST DATA IN OTHER
4 WORDS, IF THEY GOT OUT AND YOU -- IN THE FUTURE YOU
5 COULDN'T USE THAT SAME TEST BECAUSE SOMEONE MIGHT
6 HAVE READ THE TEST QUESTIONS, BUT THERE ARE VERY,
7 VERY FEW THAT ARE OF THAT SORT, AND THEY WOULD BE
8 QUITE IRRELEVANT TO YOU ANYWAY

9 Q WELL, LET ME TRY TO STICK ON THE RELEVANT
10 STUFF, THEN YOU TOLD HER ABOUT THE RESULTS OF YOUR
11 TEST WHEN YOU TALKED TO HER THE FIRST PART OF THIS
12 WEEK RIGHT?

13 A YES

14 Q AND YOU TOLD HER YOU'D BE AVAILABLE TOWARDS
15 THE END OF THIS WEEK TO TESTIFY AND THE FIRST PART
16 OF NEXT WEEK? RIGHT?

17 A THAT'S CORRECT

18 Q ALL RIGHT AND DID YOU TELL HER ANYTHING ELSE
19 ABOUT WHAT YOU WANTED TO DO AS FAR A THIS DEFENDANT
20 IS CONCERNED?

21 A I'M NOT SURE I GET MIXED UP WHETHER I TELL
22 HER OR WHETHER I TOLD MR TINSLEY, BUT I WOULD HAVE
23 CERTAINLY TALKED ABOUT THE EVIDENCE I MIGHT HAVE
24 THAT WOULD BE OF VALUE AND MIGHT SERVE AS MITIGATING
25 CIRCUMSTANCES IN THIS CASE

1 Q OKAY WHEN DID YOU TALK TO HER -- PAIGE TARR
2 -- ABOUT THE STRESS INVENTORY TEST -- THE TRAUMA
3 STRESS INVENTORY TEST?

4 A I BELIEVE IT WAS WEDNESDAY OF LAST WEEK I
5 TALKED -- IT WAS A CONFERENCE CALL SO IT WASN'T
6 JUST US THAT TALKED THERE WERE OTHER PEOPLE THERE

7 Q WHO?

8 A I THINK IT WAS MR GARRETT AND MR TINSLEY

9 Q WEDNESDAY OF LAST WEEK?

10 A IT MUST HAVE BEEN WEDNESDAY BECAUSE THE C S I
11 -- THE QUESTION CAME UP AGAIN ABOUT WHETHER A SOCIAL
12 WORKER HAD A VALID POINT WHEN THEY SAID THAT HE
13 MIGHT HAVE POST TRAUMATIC STRESS DISORDER THAT
14 MIGHT BE A FACTOR THAT WE HADN'T TAKEN INTO ACCOUNT
15 IN THIS CASE AND I --

16 Q WHO HAD SAID THAT?

17 A I DON'T KNOW THE PERSON'S NAME THE SOCIAL
18 WORKER WHO WAS WORKING ON THE CASE

19 Q GO AHEAD

20 A AND I SAID, WELL, THE ONLY WORK I HAD DONE
21 WITH TESTING -- USING ANY TESTS ON POST TRAUMATIC
22 STRESS DISORDER -- THERE'S A T S I A T S I
23 INSTRUMENT WHICH I DID NOT HAVE A COPY OF BECAUSE I
24 HAD USED ONE OF AN ASSOCIATE'S IN THE PAST AND SO
25 I ORDERED ONE EXPRESS MAIL FROM THE TESTING COMPANY

1 AND THAT'S WHAT WE TALKED ABOUT WHETHER I COULD
2 GET THAT IN TIME TO HAVE IT ADMINISTERED

3 Q AND YOU COULD?

4 A IT CAME THE NEXT DAY

5 Q WELL, WHY DIDN'T YOU COME ADMINISTER IT?

6 A BECAUSE I HAVE AN EXTREMELY BUSY SCHEDULE, AND
7 BECAUSE IT'S A TEST THAT IT'S EASY TO ADMINISTER AND
8 SCORE IT'S QUITE OBJECTIVE IN THAT SENSE IT
9 DOESN'T TAKE MUCH TRAINING IT DOESN'T TAKE MUCH
10 -- I THINK, AS WAS TESTIFIED TO EARLIER, IT COULD BE
11 ADMINISTERED BY A CLERK, AND I SAID "WHY NOT HAVE A
12 PSYCHOLOGIST, WHO IS LOCAL, ADMINISTER IT " THAT'S
13 WHY PAIGE TARR PICKED IT UP FRIDAY, I BELIEVE, AND
14 BROUGHT IT UP TO GREENWOOD

15 Q DO YOU THINK HE SUFFERED FROM POST TRAUMATIC
16 STRESS DISORDER?

17 A I DON'T KNOW

18 Q YOU DON'T KNOW?

19 A I DON'T KNOW

20 Q I THOUGHT THAT WAS THE PURPOSE OF GIVING THIS
21 TEST

22 A IT MAY BE, BUT THAT WAS THE PURPOSE OF IT I
23 DID NOT HAVE TIME TO TAKE IT AND GO OVER IT AND
24 CONSULT A MANUAL TO SEE IF IT WAS -- HOW MANY OF THE
25 SYMPTOMS OF POST TRAUMATIC STRESS DISORDER THAT THIS

1 MAN SUFFERED

2 Q HOW LONG IS IT GOING TO TAKE YOU TO DO THAT,
3 DOCTOR?

4 A AN HOUR OR SO

5 Q HOW MUCH ARE YOU CHARGING HIM AN HOUR?

6 A EIGHTY-FIVE

7 Q THAT INCLUDES THE DRIVE DOWN HERE FROM YOUR
8 MOUNTAIN HOME?

9 A NO, SIR I CHARGE HALF PRICE FOR THAT

10 Q GOOD WELL, WHY DIDN'T YOU TAKE A LOOK AT
11 THAT TEST WHEN YOU GOT IT SATURDAY TO SEE IF YOUR
12 PATIENT WAS SUFFERING FROM POST TRAUMATIC STRESS
13 DISORDER?

14 A BECAUSE ALL I GOT WAS THE -- ALL I GOT WAS THE
15 PROFILE, AND I DIDN'T HAVE THE ACTUAL MANUAL

16 Q WELL, WHY DIDN'T YOU ASK FOR THE MANUAL OF
17 THAT?

18 A AT THAT POINT IN TIME, AND SPEAKING WITH THESE
19 PEOPLE WHO WERE INVOLVED IN IT, DOCTOR WRIGHT AND
20 OTHERS -- ESPECIALLY WHEN DOCTOR WRIGHT TOLD ME
21 ABOUT THE POSITIVE RESPONSES TO THE CRITICAL ITEMS
22 AND THAT WAS A RED FLAG THAT SAYS "WAIT A MINUTE" IF
23 THIS GUY'S ANSWER GOES IN THAT DIRECTION AND IF HE
24 ALSO HAD SCORED IN SUCH A MANNER THAT THE PROFILE
25 INDICATOR WAS INVALID BECAUSE HE HAD NOT RESPONDED

1 IN A WAY IT WAS LIKE TOO MANY VERY SERIOUS
2 SYMPTOMS FOR IT TO BE CONSIDERED AN ABSOLUTELY VALID
3 BEHAVIOR I THOUGHT WHY BOTHER TO PURSUE THAT WITH
4 POST TRAUMATIC STRESS DISORDER WHEN IT SOUNDS LIKE
5 WE MIGHT BE DEALING WITH A PSYCHOTIC DECOMPENSATION

6 Q WELL, I'LL GET TO THAT LET ME JUST MAKE SURE
7 THAT THE REASON YOU SUGGESTED THIS TEST TO GIVE HIM
8 WAS IN AN EFFORT TO DETERMINE IF POST TRAUMATIC
9 STRESS DISORDER EXISTED IN YOUR PATIENT?

10 A WELL, THAT'S THE REASON THAT WAS THE
11 ORIGINAL REASON YES, SIR

12 Q LET ME BE CLEAR THAT YOU WERE HIRED BY THIS
13 TEAM OF DEFENSE ATTORNEYS TO MAKE THIS MAN YOUR
14 PATIENT WITH STATE FUNDS ORDERED BY THIS JUDGE IS
15 THAT CORRECT? PUTTING YOU ON THIS CASE IS THAT
16 CORRECT?

17 A I ASSUME THAT'S CORRECT

18 Q WELL, YOU UNDERSTAND THE NATURE OF YOUR
19 CONTRACTUAL RELATIONSHIP WITH THESE PEOPLE, DON'T
20 YOU?

21 A YES, SIR

22 Q ALL RIGHT AND YET YOU KNEW THIS TRIAL --
23 THIS CASE WAS GOING TO TRIAL MONDAY MORNING FOR TWO
24 HUNDRED JURORS HAVING BEEN SUBPOENAED BY THE COUNTY
25 OF ABBEVILLE TO COME IN HERE AND TESTIFY, AND YOU

1 WENT TO THE MOUNTAINS --

2 MR TINSLEY OBJECTION, YOUR HONOR

3 MR JONES -- WHEN YOU HAD BEEN TOLD
4 THAT YOUR CLIENT --

5 THE COURT WELL, LET ME HEAR THE
6 QUESTION

7 RE CROSS EXAMINATION CONTINUED BY MR JONES

8 Q YOU DETERMINED THAT YOU DIDN'T FIND IT
9 NECESSARY TO VISIT YOUR PATIENT ON SATURDAY, SUNDAY
10 OR TODAY, PRIOR TO TRIAL, IN AN EFFORT TO DETERMINE
11 IF HE'S EITHER SUFFERING FROM POST TRAUMATIC STRESS
12 DISORDER OR SOME KIND OF PSYCHOSIS?

13 A IT'S NOT UNUSUAL FOR A PSYCHOLOGIST TO HAVE A
14 FELLOW PSYCHOLOGIST BE PARTICIPATING IN A CASE, AND
15 THAT'S WHAT'S HAPPENING HERE AND HAD I -- I
16 TRUSTED THAT SHE -- IN HER KNOWLEDGE AND HER
17 EXPERIENCE -- SHE WOULD BE ABLE TO DECIDE WHETHER
18 THIS WAS A CASE THAT, YOU KNOW, WHETHER HE IS
19 SUFFERING FROM A PSYCHOTIC DECOMPENSATION

20 Q SO YOU DECIDED TWO DAYS BEFORE TRIAL TO GET
21 OFF THE CASE AND LET SOMEBODY ELSE GET ON IT?

22 A NO I DON'T THINK I COULD SAY -- YOU COULD
23 SAY THAT I DECIDED TO GET OFF THE CASE I FELT LIKE
24 MY PRESENCE WAS NOT NECESSARY FOR DECIDING WHETHER
25 THE MAN NEEDED TO HAVE A FURTHER EVALUATION OR NOT

1 Q RIGHT THAT'S WHY YOU SET THE TEST UP AND
2 TOLD HER TO GIVE IT SHE SENT IT BACK TO YOU AND
3 SAID, "I THINK HE'S GOT A PROBLEM HERE "

4 A RIGHT

5 Q YOU KNEW THAT WHEN SHE FAXED IT BACK UP TO YOU
6 ON FRIDAY, OR WAS IT SATURDAY?

7 A IT WAS SUNDAY

8 Q SUNDAY?

9 A YESTERDAY IT WAS ABOUT THREE O'CLOCK
10 YESTERDAY AFTERNOON

11 Q SHE DIDN'T TELL YOU ABOUT THE TEST RESULTS ON
12 SATURDAY?

13 A I THINK IT WAS SUNDAY THAT -- SUNDAY AFTERNOON
14 ABOUT AN HOUR BEFORE I GOT THE FAX

15 Q WHEN DID YOU GIVE HIM YOUR RORSCHACH TEST?

16 A I GAVE THE RORSCHACH WAY BACK IN JULY

17 Q WHAT WERE YOUR RESULTS ON THAT TEST?

18 A SOME SIGNS OF DEPRESSION, BUT THAT WAS IT

19 Q DID SHE INDICATE TO YOU WHEN YOU TALKED TO HER
20 ON SUNDAY THAT SHE HADN'T EVEN EVALUATED THE
21 M M P I AND THAT SHE WAS BASING HER OPINION THAT HE
22 WAS SUFFERING FROM A PSYCHOSIS ON INTUITION?

23 A I DON'T BELIEVE THAT SHE SAID HE WAS SUFFERING
24 FROM A PSYCHOSIS SHE SAID, "WE'VE GOT A LOT OF RED
25 FLAGS GOING UP HERE ON THIS T S I ," AND WHAT DID I

1 THINK ABOUT THAT?

2 AND I SAID, "YES IT SEEMS THAT THOSE ARE RED
3 FLAGS ALL RIGHT " THAT SOME FURTHER EVALUATION
4 SHOULD BE DONE

5 Q SHE DIDN'T TELL YOU WHEN SHE TALKED TO YOU
6 SUNDAY THAT SHE HAD REAL CONCERNS BASED ON THE
7 RESULTS OF THE -- SHE HAD REAL CONCERNS ABOUT HIS
8 COMPETENCY BASED ON THE TRAUMA STRESS INVENTORY TEST
9 AND THE RORSCHACH TEST THAT SHE HAD ADMINISTERED TO
10 HIM --

11 A SHE HADN'T ADMINISTERED THE RORSCHACH YET WHEN
12 I TALKED TO HER

13 Q WELL, HAVE YOU TALKED TO HER SINCE SHE
14 ADMINISTERED THE RORSCHACH?

15 A ABOUT FORTY-FIVE -- ABOUT FORTY MINUTES AGO

16 Q DID YOU COMPARE THE DIFFERENT RESULTS IN THE
17 TWO RORSCHACH TESTS THAT EACH OF YOU ADMINISTERED?

18 A NOT CARD BY CARD NO, SIR

19 Q WELL, HOW DID YOU COMPARE THEM?

20 A SHE TOLD ME THAT THERE WERE -- THERE WAS ONE
21 PURE COLOR RESPONSE WHICH I DIDN'T GET SHE TOLD ME
22 THAT THERE WERE VARIOUS POOR FORM LEVEL RESPONSES
23 WHICH I DIDN'T GET THIS WOULD ALL BE COMMENSURATE
24 WITH SOME DECOMPENSATION

25 Q SOME DECOMPENSATION?

1 A YES, SIR

2 Q IT'S A PRETTY NORMALLY NATURAL RESPONSE FROM
3 ANYONE CHARGED WITH A MURDER AND FACING THE DEATH
4 PENALTY TO UNDERGO STRESS THE CLOSER YOU GET TO YOUR
5 TRIAL DATE, ISN'T IT?

6 A IT IS YES, SIR

7 Q I MEAN, ISN'T IT REALLY?

8 A SURE

9 Q AND THE CLOSER YOU GET TO HAVING TO GET UP ON
10 THAT STAND YOUR STRESS LEVEL RISES, DOESN'T IT?

11 A YES, SIR

12 Q AND THAT'S REALLY WHAT'S HAPPENING IN THIS
13 CASE, ISN'T IT?

14 A I HAVE EVALUATED A GOOD MANY MEN FOR DEATH
15 PENALTY, AND I'VE NOT SEEN ANY OTHER MEN WHO -- I
16 THINK ABOUT ONE -- WHO SEVERELY DECOMPENSATED AT
17 THAT POINT IN TIME I MEAN, I THINK THAT ONE MIGHT,
18 BUT I HAVEN'T SEEN IT

19 Q WELL, I TRIED TO LISTEN TO YOU PRETTY CLOSE IN
20 DIRECT EXAMINATION, AND I DIDN'T HEAR YOU SAY THAT
21 HE HAD SEVERELY DECOMPENSATED IS THAT WHAT YOU
22 SAID?

23 A I HAVEN'T SAID THAT HE DID I SAID THERE ARE
24 SOME RED FLAGS THAT POINT IN THAT DIRECTION THAT HE
25 MAY HAVE

1 Q WELL, I THINK WHAT YOU SAID IS THAT IF -- WHAT
2 EVERYBODY'S SAYING THAT HE'S DOING AND SAYING IS
3 TRUE, THEN HE MAY BE SEVERELY DECOMPENSATING

4 A THAT'S EXACTLY WHAT I MEAN I THINK THERE'S A
5 QUESTION HERE THAT'S HARD TO IGNORE

6 Q WHEN DID YOU DECIDE THAT YOU WOULD COME HERE
7 AND TALK TO HIM TODAY? THE DEFENDANT -- JOHN
8 KENNEDY HUGHEY

9 A I DIDN'T

10 Q YOU DIDN'T?

11 A OH THAT I MIGHT TALK WITH HIM TODAY?

12 Q UH-HUH (AFFIRMATIVE)

13 A AT ELEVEN O'CLOCK THIS MORNING

14 Q HOW LONG DO YOU THINK IT WOULD TAKE YOU TO
15 TALK TO HIM TO DETERMINE THE LEVEL OF HIS
16 DECOMPENSATION?

17 A I DON'T KNOW I --

18 Q WELL, BASED ON YOUR EXPERIENCE AND THE NUMBER
19 OF MANY OF THE DEATH PENALTY ORIENTED DEFENDANTS
20 THAT YOU HAVE WORKED WITH AND TALKED TO, HOW LONG DO
21 YOU THINK IT WOULD TAKE YOU TO TALK TO HIM AND ASK
22 HIM IF HE KNOWS WHAT HIS LAWYERS ARE HERE FOR AND
23 WHAT THAT JUDGE IS HERE FOR AND WHAT I'M HERE FOR TO
24 DO? TO DETERMINE IF HE'S DECOMPENSATED TO THE POINT
25 THAT HE'S INCOMPETENT?

1 A WELL, I THINK IF I SAW HIM AND ADMINISTERED
2 THE RORSCHACH AND TALKED TO HIM A WHILE I MIGHT HAVE
3 A STRONGER OPINION ONE WAY OR THE OTHER

4 Q YOU WANT TO ADMINISTER YET A THIRD RORSCHACH
5 TEST TO HIM?

6 A IT'S FINE TO DO IT

7 Q HUH?

8 A IT'S NOT -- YES, THAT'S WITHIN THE REALM OF
9 ETHICAL -- IT'S ETHICAL TO DO THAT

10 Q GOOD AND YOU CAN DO THAT IN ABOUT AN HOUR
11 YOU THINK?

12 A I COULD

13 Q LET ME -- I'M ASKING YOU FOR THE TIME THAT YOU
14 NEED TO GIVE US AN OPINION AND BASE YOUR OPINION NOT
15 ON THESE RED FLAGS YOU ALL HAVE BEEN TALKING ABOUT
16 AND NOT ON ALL THIS CONJECTURE BUT ON SOMETHING THAT
17 WE CAN SINK OUR TEETH IN AND HOPEFULLY SOMETHING
18 THAT'S BASED ON AN ETHICAL AND MEDICAL OPINION THAT
19 YOU MIGHT GIVE US

20 A WELL, I'D LIKE TO SPEND AN HOUR AND A HALF
21 WITH HIM

22 Q AND THAT INCLUDES FORTY-FIVE MINUTES FOR
23 ANOTHER RORSCHACH?

24 A ABOUT A HALF HOUR FOR THE RORSCHACH

25 Q YOU'VE NEVER ASKED HIM ANY QUESTIONS ABOUT

1 COMPETENCY, HAVE YOU?

2 A NO, SIR

3 Q DID YOU KNOW WHEN YOU DECIDED BACK ON FRIDAY
4 OR SATURDAY TO ENTRUST THE EVALUATION OF YOUR
5 PATIENT TO DOCTOR WRIGHT THAT SHE WAS GOING TO BASE
6 HER OPINION ON MEDICAL INTUITION?

7 A I HAVE A FEELING -- I HAVE A FEELING WHERE
8 YOU'RE GOING MY IMPRESSION IS THAT THE TERM
9 INTUITION AND CLINICAL SKILL OR CLINICAL HUNCH ARE
10 SYNONYMOUS, AND I DON'T THINK SHE WAS SAYING
11 SOMETHING THAT CAME OUT OF NOWHERE I THINK SHE WAS
12 SAYING THAT BASED ON HER PAST EXPERIENCE THIS IS HOW
13 SHE FELT ABOUT IT, AND I THINK WE ALL DO THAT IN
14 TERMS OF OUR EVALUATION IT'S A BLEND OF TEST
15 SCORES AND HOW WE PERCEIVE A SITUATION THAT WE MAY
16 NOT BE ABLE TO PUT INTO WORDS, BUT IT'S BASED ON
17 THAT EXPERIENCE SO TO SAY THAT SHE BASED THIS
18 WHOLE THING ON INTUITION, I THINK, IS NOT -- IT
19 SOUNDS WORSE THAN IT IS

20 Q SO DID YOU KNOW IT OR DIDN'T YOU KNOW IT WHEN
21 YOU DECIDED TO ENTRUST YOUR PATIENT TO HER
22 EXAMINATION?

23 A KNOW -- DID I NOT KNOW WHAT?

24 Q THAT SHE WAS GOING TO BASE IT ON INTUITION?

25 A I ASSUMED THAT SHE WOULD BASE IT IN PART ON

1 HER CLINICAL HUNCHES

2 Q ALL RIGHT DID YOU HAVE A CHANCE TO REVIEW
3 THE M M P I?

4 A NO, SIR

5 Q SO YOU HAVEN'T REVIEWED IT?

6 A NO, SIR

7 Q WOULD IT HAVE ANY IMPACT ON ANY DECISIONS YOU
8 MIGHT MAKE ABOUT WHETHER OR NOT HE'S COMPETENT TO
9 STAND TRIAL?

10 A WELL, I HEARD THE TESTIMONY A LITTLE BIT AGO,
11 AND I AGREED WITH THE TESTIMONY A LOT OF TIMES
12 THESE SCORES LIKE HE OBTAINED -- I DON'T KNOW WHAT
13 THAT ONE WAS SCORED BY, BUT I GATHER IT WAS SCORED
14 WITH A COMPUTER PROGRAM BUT WHETHER OR NOT IT WAS,
15 USUALLY IN THE SCORING THEY WILL SAY IT COULD BE
16 THAT HE WAS TRYING TO MAKE HIMSELF LOOK BAD IT
17 COULD BE THAT HE REALLY IS IN BAD SHAPE AND CRYING
18 FOR HELP, AND THEREFORE YOU CANNOT -- YOU HAVE TO
19 THEN PRETTY MUCH USE YOUR CLINICAL HUNCH OR
20 INTUITION, AS SHE WAS SAYING, TO DECIDE WHICH IT IS
21 AND GIVE YOUR OWN EDUCATED GUESS SO I DON'T THINK
22 I COULD DO ANY BETTER THAN WHAT SHE DID WITH THAT
23 IT SOUNDED TO ME LIKE SHE WAS RIGHT ON TARGET WITH
24 IT

25 Q IN GIVING US YOUR OPINION ABOUT HIS

1 COMPETENCY, ARE YOU GOING TO USE HER TEST RESULTS ON
2 THE M M P I ON ANY BASIS OF AN OPINION THAT YOU
3 GET?

4 A I'M GOING TO -- ALREADY HAVING HEARD HER
5 TESTIMONY AND CONSIDERING THAT SHE SEEMED TO KNOW
6 WHAT SHE WAS TALKING ABOUT AND IS A SKILLED
7 CLINICIAN, I DON'T THINK I CAN HONESTLY SAY THAT
8 THAT WON'T ENTER INTO MY DECISION BUT I WOULD ALSO
9 BASE IT ON MY OWN OBSERVATIONS FURTHERMORE, I HAVE
10 OTHER THINGS THAT I ALREADY HAVE HEARD THAT
11 CERTAINLY ARE GOING TO ENTER THE PICTURE I'VE
12 HEARD FROM HIS SISTER REGARDING BEHAVIORS THAT SHE
13 HAS OBSERVED RECENTLY THAT SOUNDED LIKE
14 DECOMPENSATION I'VE HEARD ALSO FROM PAIGE TARR AND
15 HER BEFORE AND AFTER NEWS REGARDING HIS BEHAVIORS
16 THAT ARE GOING TO ENTER THE PICTURE SO I CANNOT
17 SAY THAT I AM GOING TO BE ABLE TO GIVE AN OBJECTIVE
18 -- COMPLETELY OBJECTIVE BASED ONLY ON MY
19 OBSERVATIONS OPINION, BUT I'M WILLING TO ADD THAT TO
20 IT

21 Q RIGHT MY QUESTION WAS -- AND JUDGE, I'M
22 COMING TO AN END HERE MY QUESTION WAS ARE YOU
23 GOING TO USE THE M M P I THAT SHE ADMINISTERED JOHN
24 KENNEDY HUGHEY ON SUNDAY AS ANY BASIS OF YOUR
25 OPINION CONCERNING HIS COMPETENCY IF THE JUDGE

1 ALLOWS YOU TO EVALUATE HIM IN THE NEXT HOUR AND A
2 HALF?

3 A I WILL ATTEMPT NOT TO BECAUSE OF ONE VALID
4 POINT THAT I HEARD EARLIER THAT NO ONE KNOWS FOR
5 ABSOLUTELY FOR SURE THAT THERE WASN'T SOMEONE IN
6 THERE COACHING HIM

7 Q RIGHT AND IT'S WORTH NOTHING HERE, IS IT?

8 A WELL, I CAN'T SAY IT'S WORTH NOTHING, BUT I
9 CAN SEE YOUR POINT THAT IT WOULD BE EASILY NOT
10 THROWN OUT BECAUSE HE DIDN'T HAVE SOMEONE -- THEY'RE
11 WATCHING TO MAKE SURE NO ONE COACHED HIM

12 Q LET ME ASK YOU WHAT WAS IT BASED ON YOUR
13 KNOWLEDGE OF HIS -- OF YOUR PATIENT, MR HUGHEY --
14 WHAT WAS IT THAT CAUSED YOU TO THINK THERE MIGHT BE
15 SOME EVIDENCE OF POST TRAUMATIC STRESS DISORDER?
16 THAT HE MIGHT BE SUFFERING FROM POST TRAUMATIC
17 STRESS DISORDER? WHAT WAS IT THAT --

18 A I UNDERSTAND THAT HIS MOTHER WAS MURDERED

19 Q HUH?

20 A I UNDERSTAND THAT HIS MOTHER WAS MURDERED

21 Q YES THAT'S WHAT IT WAS?

22 A THAT'S PRETTY TRAUMATIC

23 Q THAT'S WHAT CAUSED YOU TO THINK HE MIGHT BE
24 SUFFERING FROM POST TRAUMATIC STRESS DISORDER?

25 A MADE ME THINK THAT IT WOULD BE WORTHWHILE

1 CHECKING OUT

2 Q RIGHT AND WHEN DID YOU FIND OUT HIS MOTHER
3 WAS MURDERED?

4 A BACK AT THE TIME OF THE FIRST EVALUATION IN
5 JULY

6 Q JULY SEVENTH?

7 A RIGHT

8 Q YOU FOUND OUT THAT HIS MOTHER WAS MURDERED ON
9 JULY SEVENTH, AND IF THAT IS THE RED FLAG THAT
10 CAUSED YOU TO BELIEVE THAT HE MIGHT BE SUFFERING
11 FROM POST TRAUMATIC STRESS DISORDER, WHY DID YOU
12 WAIT UNTIL OCTOBER THE NINTH -- OCTOBER THE EIGHTH,
13 1997 IN A CALL FROM PAIGE TARR TO TELL YOU THAT THEY
14 THOUGHT IT WOULD BE A GOOD IDEA TO HAVE HIM EXAMINED
15 FOR POST TRAUMATIC STRESS DISORDER?

16 A WELL, SOMETIMES YOU MISS SOMETHING LIKE THAT,
17 AND I ASSUME THE SOCIAL WORKER PICKED UP ON IT MY
18 ORIGINAL PURPOSE WAS TO EVALUATE HIM NEURO-
19 PSYCHOLOGICALLY, AND I DIDN'T SEE ANYTHING IN THE
20 RORSCHACH, AND THERE WAS NO RED FLAG WAVED UNTIL I
21 HEARD THAT THE SOCIAL WORKER WHO IS SOMETIMES A
22 PERSON -- HE WAS PROBABLY BROUGHT IN FOR -- WELL,
23 I'M SURE HE WASN'T BROUGHT IN FOR THE NEURO-
24 PSYCHOLOGICAL HE WAS BROUGHT IN FOR MORE OF THE
25 PURELY PSYCHOLOGICAL ASPECTS OF IT, AND THAT PERSON

1 CAUGHT IT AND I DIDN'T, BUT ONCE THEY TOLD ME IT, I
2 SAID, 'YEAH MAYBE IT'S WORTH CHECKING

3 Q I GUESS I MISSED THE POINT AGAIN, DOCTOR I
4 THOUGHT YOU TOLD ME THAT WHEN YOU LEARNED ON JULY
5 SEVENTH THAT WHEN HIS MOTHER HAD DIED TRAUMATICALLY
6 IN AN AUTOMOBILE CRASH THAT YOU THEN KNEW THAT HE
7 MIGHT BE A CANDIDATE FOR POST TRAUMATIC STRESS
8 DISORDER

9 A ALL RIGHT THAT'S WHAT I SAID

10 Q WHY DIDN'T YOU THEN, BASED ON THE NATURE OF
11 THIS CASE AND THE EMPLOYMENT THAT YOU HAD WITH
12 REGARD TO THESE LAWYERS AND THAT CLIENT AND THEM
13 WANTING TO KNOW ABOUT HIS NEUROPSYCHOLOGICAL
14 PROBLEMS SUGGEST THAT YOU LOOK INTO POSSIBLE POST
15 TRAUMATIC STRESS DISORDER?

16 A WELL, I REPEAT BACK WHEN I WAS HIRED BY
17 THESE PEOPLE IT WAS TO LOOK FOR NEUROPSYCHOLOGICAL
18 PROBLEMS I DID NOT THINK ABOUT THE POSSIBLE
19 POTENTIAL HE MIGHT HAVE FOR PSYCHOLOGICAL PROBLEMS
20 THERE JUST DID NOT APPEAR TO BE ANY MAJOR
21 PSYCHOLOGICAL PROBLEMS DURING THE TIME I WAS TESTING
22 HIM, AND THEN WHEN I HEARD THAT THE SOCIAL WORKER
23 HAD PICKED UP ON THIS THEN I SAID, "WELL, MAYBE
24 THAT'S A LEAD WE SHOULD PURSUE "

25 Q ALL RIGHT GOOD PURSUE FOR WHAT PURPOSE?

1 A TO SEE IF IN FACT THAT WAS ANOTHER MITIGATING
2 CIRCUMSTANCE THAT HE MIGHT -- SOME OF HIS BEHAVIORS,
3 ESPECIALLY AROUND THE TIME OF THE CRIME, COULD HAVE
4 BEEN RELATED TO POST TRAUMATIC STRESS DISORDER

5 Q RIGHT SO POST TRAUMATIC STRESS DISORDER
6 REALLY HAS NO IMPACT ON ONE'S COMPETENCY TO STAND
7 TRIAL, DOES IT?

8 A ORDINARILY IT DOESN'T HAVE AN IMPACT ON
9 COMPETENCY TO STAND TRIAL, BUT IT MIGHT HAVE AN
10 IMPACT ON THE EVENTS THAT HAPPENED AROUND THE TIME
11 OF THE CRIME

12 Q RIGHT BUT HAS NO IMPACT ON COMPETENCY TO
13 STAND TRIAL?

14 A NOT UNLESS IT'S A VERY, VERY SEVERE ONE WHICH
15 HE OBVIOUSLY DIDN'T HAVE, IN MY OPINION

16 Q SO BASICALLY WHAT YOU'RE FOCUSING ON NOW IS
17 DECOMPENSATION AND DECOMPENSATION ONLY, RIGHT?

18 A AS I TESTIFIED EARLIER, WHEN THE POSITIVE
19 RESPONSES ON THOSE CRITICAL ITEMS CAME UP AND WHEN
20 DOCTOR WRIGHT'S OPINION CAME OUT THAT HE MIGHT HAVE
21 DECOMPENSATED SEVERELY, THAT APPEARED TO ME TO
22 OVERRIDE THE QUESTION OF POST TRAUMATIC STRESS
23 DISORDER AND WOULD BE MORE IN THE REALM OF IS HE
24 EVEN COMPETENT ENOUGH TO STAND TRIAL AT THIS POINT
25 IN HIS LIFE

1 Q BUT YOU CAN FIND OUT FOR US TODAY, CAN'T YOU?

2 A I'M NOT SAYING I CAN FIND OUT I'M SAYING I
3 CAN TAKE A LOOK AT HIM AND SEE WHAT I MAKE OF IT

4 MR JONES THANK YOU

5 THE COURT ANY OTHER QUESTIONS?

6 MR TINSLEY NO, YOUR HONOR

7 (TESTIMONY CONCLUDED AT 4 42 P M)

8 THE COURT ALL RIGHT YOU MAY
9 STAND DOWN WHAT I PROPOSE TO DO, I KNOW THE JURY'S
10 BEEN WAITING SINCE FOUR O'CLOCK I PROPOSE TO HAVE
11 THE PANEL BROUGHT IN I'M GOING TO EXCUSE THEM AND
12 SIMPLY ASK THAT THEY CALL BACK LET ME SEE YOU ALL
13 JUST A MINUTE, PLEASE, ABOUT AN ADMINISTRATIVE
14 MATTER

15 (COUNSEL APPROACHES THE BENCH)

16 THE COURT ASK THE JURY PANEL TO COME
17 IN, PLEASE

18 (JURY PANEL REENTERS THE COURTROOM AT 4 47 P M
19 O'CLOCK)

20 GOOD AFTERNOON LADIES AND GENTLEMEN OF
21 THE JURY PANEL AGAIN, LET ME THANK YOU SINCERELY
22 FOR YOUR PATIENCE AND UNDERSTANDING THERE ARE A
23 NUMBER OF MATTERS THAT I HAVE HAD TO ADDRESS AND
24 SOMETIMES THOSE THINGS TAKE A LITTLE BIT LONGER
25 PERHAPS THAN I DO ANTICIPATE I TRY TO ANTICIPATE

1 THE LENGTH THAT IT WILL TAKE TO ACCOMPLISH THOSE
2 MATTERS AND SOMETIMES I'M NOT ALWAYS VERY ACCURATE
3 AND I RECOGNIZE THAT YOU PERHAPS THINK I'M NOT EVEN
4 CLOSE NEVERTHELESS, I DO SINCERELY APPRECIATE YOUR
5 PATIENCE AND YOUR UNDERSTANDING IN THAT RESPECT

6 WE DO STILL HAVE ADDITIONAL MATTERS THAT
7 MUST BE ADDRESSED BEFORE WE CAN GO FORWARD WITH JURY
8 QUALIFICATION SO WHAT WE'RE GOING TO DO IS TO
9 EXCUSE YOU FOR THE AFTERNOON I'M GOING TO ASK THAT
10 YOU PLEASE CALL BACK TOMORROW, AND I'M GOING TO GIVE
11 YOU THE PHONE NUMBERS, CALL BACK TOMORROW BETWEEN
12 TWELVE O'CLOCK, NOON, AND ONE P M TOMORROW
13 AFTERNOON, BETWEEN TWELVE AND ONE NOW, THERE ARE
14 NUMBER OF YOU JURORS I ANTICIPATE THAT THE PHONE
15 LINE WILL BE BUSY, DO NOT GIVE UP, KEEP CALLING BACK
16 UNTIL YOU RECEIVE AN ANSWER SO THAT YOU CAN RECEIVE
17 THE INFORMATION AS TO WHEN YOU NEED TO REPORT BACK
18 HOPEFULLY, BY THAT TIME, WE WILL HAVE ACCOMPLISHED
19 ALL OF THOSE MATTERS THAT DO NOT REQUIRE YOUR
20 PARTICIPATION AND WE CAN PROCEED WITH JURY
21 QUALIFICATION AT THAT TIME

22 PLEASE CALL THE PHONE NUMBERS BETWEEN
23 TWELVE O'CLOCK NOON TOMORROW AND ONE P M TOMORROW
24 NOW, IS THERE ANYONE THAT DOES NOT HAVE SOMETHING TO
25 WRITE WITH, EITHER A PIECE OF PAPER OR A PEN? THOSE

1 OF YOU WHO HAVE SOMETHING TO WRITE TAKE IT DOWN,
2 THOSE OF YOU WHO DO NOT HAVE SOMETHING, IF YOU WILL
3 ASK ONE OF YOUR NEIGHBOR JURORS TO HELP YOU WITH IT
4 OR, IF BEFORE YOU'RE EXCUSED, IF YOU'LL COME
5 FORWARD, THE CLERK WILL GIVE YOU THOSE PHONE NUMBERS
6 THAT YOU NEED TO CALL THERE ARE TWO NUMBERS SO,
7 HOPEFULLY, THAT'LL BE SUFFICIENT IN ORDER FOR YOU TO
8 RECEIVE THE MESSAGE THOSE TWO NUMBERS ARE 459-5074
9 AND 459-4612 459-5074 AND 459-4612 DOES EVERYONE
10 HAVE THOSE TWO NUMBERS (NO RESPONSE)
11 IS THERE ANY JUROR WHO DOES NOT HAVE THOSE TWO PHONE
12 NUMBERS? (NO RESPONSE)

13 ALL RIGHT NOW, BEFORE I EXCUSE YOU LET ME
14 ASK YOU -- LET ME TELL YOU ONE OTHER THING AND GIVE
15 YOU ONE PRECAUTION IS THERE ANY JUROR WHO DID NOT
16 -- DID NOT RECEIVE THE LETTER FROM ME THAT WAS
17 CONTAINED IN YOUR JUROR SUMMONS? THE LETTER TELLING
18 YOU WHAT CASE THAT YOU WERE BEING CALLED TO
19 POTENTIALLY PARTICIPATE IN AND GIVING YOU AN
20 INSTRUCTION AS TO THINGS YOU SHOULD AVOID ANYONE
21 NOT RECEIVE THAT LETTER?

22 JUROR IF I DID, I LOST IT
23 THE COURT WELL, DID YOU READ IT?

24 JUROR I DIDN'T SEE IT

25 THE COURT YOU DIDN'T SEE IT, OKAY

1 DID YOU RECEIVE A QUESTIONNAIRE? THOSE OF YOU --
2 THERE ARE TWO -- I BELIEVE THERE ARE TWO, WILL YOU
3 PLEASE STAND THOSE TWO WHO DID NOT RECEIVE THE
4 LETTER DID EACH OF YOU -- DID YOU RECEIVE A
5 QUESTIONNAIRE TO FILL OUT?

6 JUROR WAS THAT THE LITTLE PINK
7 SHEET? I FILLED OUT SOMETHING AND SENT BACK
8 THE COURT NO, IT HAD FOUR PAGES TO
9 IT

10 JUROR NO, I DIDN'T GET EITHER ONE
11 OF THOSE

12 THE COURT IF ANYONE DID NOT RECEIVE
13 MY LETTER AND IF ANYONE DID NOT RECEIVE A
14 QUESTIONNAIRE THAT YOU WERE TO RESPOND TO, I'M GOING
15 TO ASK THAT YOU STAY HERE WITH US WHEN THE BALANCE
16 OF THE JURORS ARE EXCUSED DO WE JUST HAVE TWO THAT
17 DID NOT RECEIVE THE LETTER AND DID NOT RECEIVE --
18 YES, MA'AM?

19 JUROR I RECEIVED A QUESTIONNAIRE,
20 BUT I DIDN'T RECEIVE THE LETTER

21 THE COURT YOU DIDN'T RECEIVE MY
22 LETTER?

23 JUROR NO, SIR

24 THE COURT WE'LL GIVE YOU A COPY OF
25 THAT LETTER BEFORE YOU LEAVE LET ME REMIND THOSE

1 OF YOU WHO DID RECEIVE THE LETTER AND THE
2 QUESTIONNAIRE IN THAT LETTER, YOU WERE INSTRUCTED
3 NOT TO HAVE ANY DISCUSSIONS REGARDING THE CASE YOU
4 WERE TOLD NOT TO ALLOW ANYONE TO DISCUSS THE MATTER
5 WITH YOU, YOU WERE TOLD NOT TO ALLOW YOURSELF TO BE
6 EXPOSED TO ANY TYPE OF MEDIA COVERAGE RELATING TO
7 THAT PARTICULAR CASE, NO NEWSPAPER ARTICLES, NO
8 TELEVISION ITEMS, NO RADIO ITEMS YOU ARE NOT TO
9 ALLOW YOURSELF TO BE EXPOSED TO ANY TYPE OF MEDIA
10 COVERAGE SHOULD SOMETHING COME ON THE TELEVISION
11 STATION, NEWS ITEM ON THE RADIO, SOME ARTICLE IN THE
12 NEWSPAPER, PUT IT ASIDE, DO NOT READ IT, DO NOT
13 WATCH IT, DO NOT LISTEN TO IT YOU ARE INSTRUCTED
14 BY THE COURT THAT YOU MAY NOT ALLOW YOURSELF TO BE
15 EXPOSED TO ANY TYPE OF MEDIA COVERAGE, SHOULD THERE
16 BE SOME

17 ALSO, AGAIN, AS I'VE STATED, YOU ARE
18 NOT TO DISCUSS THAT CASE WITH ANY PERSON WHATSOEVER,
19 NOT EVEN AMONG YOURSELVES NOT WITH FELLOW JURORS,
20 NOT WITH FAMILY MEMBERS, NOT WITH FRIENDS OR
21 RELATIVES YOU'RE NOT TO DISCUSS IT ALL AND ALLOW
22 NO ONE TO DISCUSS IT WITH YOU SOMEBODY ASKS YOU
23 ABOUT IT, TELL THEM YOU CAN'T DISCUSS IT, YOU CAN'T
24 TALK ABOUT IT AND DO NOT ALLOW THEM TO PERSIST
25 DOES EVERYONE UNDERSTAND THAT INSTRUCTION? IF

1 ANYONE DOES NOT UNDERSTAND IT, PLEASE INDICATE SO
2 NOW SO THAT I CAN MAKE CERTAIN THAT IT'S CLEAR ALL
3 RIGHT, LET THE RECORD REFLECT THAT NO JUROR HAS
4 RAISED THEIR HAND OR RESPONDED TO THE QUESTION

5 NOW, THOSE JURORS WHO DID NOT RECEIVE
6 MY LETTER, THOSE JURORS WHO DID NOT RECEIVE THAT
7 QUESTIONNAIRE, I'M GOING TO ASK YOU TO PLEASE REMAIN
8 SO THAT WE MAY GIVE YOU A COPY OF THAT LETTER AND
9 QUESTIONNAIRE THE BALANCE OF YOU JURORS MAY BE
10 EXCUSED PLEASE, HOWEVER, DO NOT FAIL TO CALL BACK
11 TOMORROW BETWEEN TWELVE NOON AND ONE O'CLOCK
12 THAT'S OCTOBER THE FOURTEENTH, TUESDAY, BETWEEN
13 TWELVE NOON AND ONE O'CLOCK AND YOU SHOULD RECEIVE
14 INSTRUCTION AS TO WHEN YOU ARE TO REPORT BACK

15 NOW, IN THE EVENT -- I BELIEVE
16 DISCUSSED WITH A NUMBER OF YOU ONES HAVING CHILDREN
17 AND ONES PERHAPS HAVING SOME OTHER DIFFICULTY, IS
18 THERE ANY OTHER JUROR THAT WOULD HAVE SOME
19 DIFFICULTY, NOT SOME DIFFICULTY, BUT SOME
20 UNREASONABLE HARDSHIP OR DIFFICULTY IF YOU WERE TO
21 REPORT BACK TOMORROW AFTERNOON? ANYONE HAVE SOME
22 UNREASONABLE DIFFICULTY IN BEING ABLE TO REPORT
23 AFTER ONE O'CLOCK TOMORROW IF IT'S NECESSARY FOR YOU
24 TO DO AND IF THAT IS THE CASE, I WOULD ASK ANY OF
25 THOSE -- IS THERE ANY JUROR THAT HAS THAT

1 DIFFICULTY? WE HAVE ONE ALL RIGHT, IF YOU REMAIN
2 HERE ALSO, I'LL TAKE THAT MATTER UP WITH YOU

3 OKAY, ALL OTHERS MAY BE EXCUSED
4 HAVE A GOOD EVENING, THANK YOU FOR YOUR PATIENCE
5 AGAIN PLEASE CALL BACK BETWEEN TWELVE AND ONE
6 TOMORROW

7 ALL RIGHT, I SEE THAT WE HAVE SOME
8 POTENTIAL JURORS REMAINING WHAT DIFFICULTIES DO
9 YOU HAVE THAT YOU NEED TO SEE ME ABOUT?

10 JUROR I HAVE CHILDREN UNDER THE AGE
11 OF SEVEN I STAY HOME WITH A TWO YEAR OLD AND A
12 FIVE YEAR OLD I DIDN'T COME THIS MORNING BECAUSE I
13 THOUGHT THAT -- THIS INDICATED THAT I DIDN'T NEED
14 TO I SIGNED THE FORM ORIGINALLY AND STATED THAT I
15 DO HAVE CHILDREN UNDER THE AGE OF SEVEN

16 THE COURT IF YOU'LL COME FORWARD, I
17 NEED YOU TO FILL OUT AN AFFIDAVIT AND THAT'LL -- BE
18 SURE YOU READ THE AFFIDAVIT ALL RIGHT, YES, SIR

19 JUROR I OWN MY OWN BUSINESS AND I'M
20 A SOLE PROPRIETOR AND I FEEL LIKE I CAN'T BE AWAY
21 FROM MY FAMILY AND MY BUSINESS

22 THE COURT I CANNOT DISCUSS THAT
23 FACTOR WITH YOU, HOWEVER, NOW I WILL DISCUSS THAT
24 WITH YOU WHEN YOU COME BACK FOR JURY QUALIFICATION,
25 OKAY? THANK YOU, SIR YES, MA'AM

1 JUROR I DIDN'T SIGN AN AFFIDAVIT
2 THIS MORNING I'M THE ONE WITH THE AUTISTIC CHILD
3 AND I HAD TO LEAVE TO MAKE SURE I HAD SOMEONE TO
4 PICK UP MY KID THIS AFTERNOON CAN I SIGN THE
5 AFFIDAVIT NOW?

6 THE COURT ARE YOU GOING TO BE ABLE
7 TO CALL BACK BETWEEN TWELVE AND ONE TOMORROW?

8 JUROR I CAN CALL BACK

9 THE COURT PLEASE DO THAT AND
10 WE'LL HAVE SOME INFORMATION FOR YOU

11 JUROR THANK YOU

12 THE COURT WHO'S NEXT?

13 JUROR I DID SIGN THE AFFIDAVIT OF
14 HAVING SOME SMALL CHILDREN BUT MY TEMPORARY
15 DISABILITY MIGHT CHANGE IN THE NEXT FIVE MONTHS AND
16 I DID COME BACK THIS AFTERNOON EVEN THOUGH YOU SAID
17 IT WOULD NOT BE ABSOLUTELY NECESSARY

18 THE COURT AND YOUR NAME WAS?

19 JUROR MELANIE REID

20 THE COURT MELANIE REID?

21 JUROR YES, REID

22 THE COURT PLEASE CALL BACK BETWEEN
23 TWELVE AND ONE TOMORROW YES, MA'AM

24 JUROR I'M A TEACHER IN THE
25 ABBEVILLE SCHOOL DISTRICT AND AT THE PRESENT TIME

1 I'M WORKING WITH A STUDENT TEACHER AND I ALSO AM
2 MENTORING TWO OTHER TEACHERS WITHIN OUR SCHOOL AND I
3 NEED TO BE THERE TO OBSERVE THEIR PROGRESS

4 THE COURT PLEASE CALL BACK BETWEEN
5 TWELVE O'CLOCK AND ONE O'CLOCK TOMORROW AND I'LL LET
6 YOU KNOW IF YOU NEED TO REPORT THANK YOU

7 JUROR I'M OVER SIXTY-FIVE AND I'M
8 HEARING IMPAIRED I DON'T UNDERSTAND WHAT'S BEING
9 SAID AND I'D LIKE TO BE DISQUALIFIED

10 THE COURT AND YOUR NAME, PLEASE?

11 JUROR ROBERT GRAHAM

12 THE COURT YOU MAY BE EXCUSED YOU
13 ARE EXEMPT FROM SERVING, YOU MAY BE EXCUSED NEXT

14 JUROR I HAVE A DOCTOR'S STATEMENT
15 FROM MY DOCTOR I ONLY HAVE ONE KIDNEY AND IT'S
16 HARD TO SIT VERY LONG CAN I TURN IT IN TO YOU AND
17 I KNOW I'LL HAVE TO COME BACK TOMORROW

18 THE COURT YOU CAN LEAVE IT HERE BUT
19 YOU'LL NEED TO CALL BACK BETWEEN TWELVE AND ONE
20 O'CLOCK

21 JUROR OKAY, I CAN DO THAT

22 THE COURT THANK YOU WHO'S NEXT?

23 YES, MA'AM

24 JUROR I WON'T BE ABLE TO CALL
25 TOMORROW MY HUSBAND HAS CANCER AND I HAVE TO TAKE

1 HIM FOR CHEMO TREATMENTS

2 THE COURT CAN YOU CALL IN THE
3 MORNING EARLIER THAN BETWEEN --

4 JUROR I ALSO HAVE TWO CHILDREN
5 UNDER SEVEN

6 THE COURT UNDER SEVEN DID YOU
7 FILL OUT THE AFFIDAVIT? PLEASE COME FORWARD
8 PLEASE BE CERTAIN THAT YOU READ THE AFFIDAVIT
9 BECAUSE YOU'RE SWEARING TO THE TRUTH OF THE
10 CONTENTS

11 JUROR MY OLDER CHILDREN CAN BABY
12 SIT IF YOU NEED ME

13 THE COURT THAT'S THE REASON I SAY
14 TO READ THE AFFIDAVIT BECAUSE IF YOU CAN MAKE
15 ARRANGEMENTS -- IN OTHER WORDS, THAT IS AN EXEMPTION
16 BUT IF YOU HAVE SOMEONE WHO CAN CARE FOR YOUR
17 CHILDREN IN YOUR ABSENCE, THEN YOU CAN SERVE
18 YOU'LL CALL BACK IN THE MORNING --

19 JUROR LET ME CALL BACK BECAUSE --
20 THE COURT IF YOU'LL CALL BACK
21 BETWEEN NINE AND TEN YES, MA'AM

22 JUROR I MAILED IN EVERYTHING I
23 GUESS I DON'T KNOW MY NUMBER AND I ALSO HAVE
24 SEIZURES I DO NOT HAVE GRAND MALL I HAVE LIGHT
25 OR SILENT SEIZURES, WHICH MAY OCCUR ANYTIME, AND I

1 TAKE CARE OF A THREE YEAR OLD GRANDCHILD THREE DAYS
2 A WEEK

3 THE COURT DO YOU HAVE A DOCTOR'S
4 STATEMENT REGARDING YOUR --

5 JUROR NO, BUT I CAN GET IT

6 THE COURT WOULD YOU GET ONE AND
7 BRING IT TOMORROW OR DROP IT OFF AT THE CLERK'S
8 OFFICE

9 JUROR OKAY

10 THE COURT LET ME HAVE YOUR NAME
11 THOUGH BEFORE YOU GO

12 JUROR JANE GILMORE

13 THE COURT GILMORE THANK YOU,
14 MA'AM

15 JUROR YEAH, I HAVE A SMALL
16 GRANDCHILD THAT I TAKE CARE OF BUT I DON'T HAVE
17 CUSTODY OF HER BUT I TAKE CARE OF HER IT'S HIS
18 CHILD SO I WANT TO BE EXEMPT

19 THE COURT IT'S WHO'S CHILD?

20 JUROR HIS CHILD

21 THE COURT YOUR NAME, PLEASE?

22 JUROR MARY PHILLIPS

23 THE COURT MS PHILLIPS, IF YOU'LL
24 CALL BACK IN THE MORNING BETWEEN NINE AND TEN, CALL
25 BACK BETWEEN NINE AND TEN TOMORROW YES, SIR

1 JUROR YES, SIR, I'M A SECONDARY
2 SCHOOL ADMINISTRATOR AND I'VE GOT SOME CONFERENCES
3 COMING UP POSSIBLY TOMORROW AND WEDNESDAY ON SCHOOL
4 SITUATIONS

5 THE COURT I'LL HAVE TO ADDRESS THAT
6 WITH YOU TOMORROW THOUGH

7 JUROR ALL RIGHT, SIR

8 THE COURT IF YOU'LL JUST CALL BACK
9 BETWEEN TWELVE AND ONE, WE'LL LET YOU KNOW WHEN YOU
10 NEED TO COME BACK YES, MA'AM

11 JUROR I'VE GOT TWO SMALL CHILDREN
12 UNDER THE AGE OF SEVEN

13 THE COURT UNDER THE AGE OF SEVEN?
14 DID YOU FILL OUT AN AFFIDAVIT?

15 JUROR NO, SIR

16 THE COURT IF YOU'LL PLEASE COME
17 FILL OUT AN AFFIDAVIT BE CERTAIN THAT YOU READ THE
18 AFFIDAVIT

19 ARE THERE ANY OTHER JURORS PRESENT IN
20 THE COURTROOM, IN OTHER JURORS REMAINING IN THE
21 COURTROOM THERE BE NONE ANY OTHER MATTERS WE
22 NEED TO ADDRESS WITH THE DEFENDANT'S FIRST MOTION

23 MR TINSLEY YOUR HONOR, I HAD ONE
24 OTHER BRIEF WITNESS AS TO HIS RECENT DIGRESSION OVER
25 THE WEEKEND UNLESS YOU'RE READING TO RULE ON THAT

1 NOW

2 THE COURT OF COURSE, I'M NOT GOING
3 TO RULE ON IT AT ALL UNTIL YOU PRESENT EVERYTHING
4 YOU WANT TO PRESENT IF YOU HAVE ANY OTHER
5 WITNESSES, I'LL BE GLAD TO HEAR FROM THEM

6 MR TINSLEY ONE BRIEF WITNESS
7 GLORIA HARRISON

8 THE CLERK THE EVIDENCE YOU SHALL
9 GIVE THE COURT AND JURY IN THE TRIAL OF THIS CASE
10 SHOULD BE THE TRUTH THE WHOLE TRUTH AND NOTHING BUT
11 THE TRUTH, SO HELP YOU, GOD

12 MR TINSLEY YOUR HONOR, THERE MAY
13 BE ONE OTHER VERY BRIEF GUARD FROM THE JAIL IN
14 GREENWOOD COMING ALSO AS TO HIS ISOLATION AND
15 DETENTION

16 (WITNESS PRESENTED AT 5 17 O'CLOCK P M)

17 DIRECT EXAMINATION BY MR TINSLEY

18 Q STATE YOUR NAME, PLEASE

19 A GLORIA WHITE HARRISON

20 Q AND DO YOU KNOW JOHN HUGHES?

21 A YES

22 Q HOW'S THAT?

23 A HE'S MY BROTHER

24 Q AND DID YOU LIVE WITH HIM THROUGH MOST OF YOUR
25 CHILDHOOD?

1 A YES

2 Q ARE YOU OLDER THAN HIM OR YOUNGER THAN HIM?

3 A OLDER

4 Q HOW MUCH?

5 A I'M THIRTY-THREE

6 Q AND THERE'S BEEN SOME DISCUSSION HERE TODAY
7 CONCERNING YOUR BROTHER, SOME OF THESE PSYCHOLOGICAL
8 TERMS THAT YOU MAY OR MAY NOT UNDERSTAND, BUT DID
9 YOU HAVE OCCASION TO COME TO GREENWOOD YESTERDAY?

10 A YES

11 Q AND DURING THAT TIME, DID YOU HAVE OCCASION TO
12 MEET WITH YOUR BROTHER?

13 A YES

14 Q AND AS SUCH, DID YOU NOTICE ANY CHANGES IN HIS
15 BEHAVIOR FROM THE LAST TIME YOU SAW HIM?

16 A YES

17 Q CAN YOU DESCRIBE WHAT THOSE CHANGES WERE?

18 A IT'S JUST THE MATTER OF -- HE'S JUST SO
19 DISTANT HE'S NOT REALLY FOCUSING ON WHAT'S
20 HAPPENING OR WHAT'S HAPPENED

21 Q AND DID YOU NOTICE THAT THE LAST TIME THAT YOU
22 AND I WENT OVER TO SEE HIM AT THE JAIL ABOUT A MONTH
23 AGO? HE WASN'T SHOWING THAT INCLINATION ANYWAY?

24 A NOT AS MUCH AS IT HAS NOW

25 Q YOU DIDN'T MENTION A WORD TO ME AT THAT TIME,

1 DID YOU?

2 A NO

3 Q NOW, I BELIEVE YOU AND MR GARRETT WERE WITH
4 HIM YESTERDAY AND WHAT DID YOU OBSERVE YESTERDAY?

5 A WELL, I NOTICED WHERE THE MORE YOU TRY TO TALK
6 TO HIM ABOUT IT, THE MORE DISTANT HE JUST DRIFTS
7 AWAY HE WILL NOT FOCUS ON THE ISSUE

8 Q DID YOU -- HAVE YOU EVER NOTICED HIM LIKE THAT
9 IN THE PAST?

10 A YES, I CAN REMEMBER SEVERAL OCCASIONS IN THE
11 PAST

12 Q WHAT WERE THOSE OCCASIONS?

13 A I REMEMBER ONE WHEN MOM WAS KILLED IT WAS
14 WHERE -- HE'S JUST LOST

15 Q TELL ME ABOUT YOUR MOTHER'S DEATH

16 A WELL, ON SEPTEMBER 19TH OF '91 SHE WAS AT MY
17 SISTER'S HOUSE CUTTING GRASS WHEN A DRUNK DRIVER HIT
18 HER AND HE KILLED HER IN THE FRONT YARD

19 Q WAS THAT JOHN'S MOTHER, TOO?

20 A YES

21 Q SO DID HE SHOW JUST THE SAME KIND OF BEHAVIOR
22 AT THAT TIME?

23 A THE SAME KIND NOW, YES

24 Q DID YOU COME TO COURT ON THAT CASE AND THAT
25 SORT OF THING?

1 A YES, I DID

2 Q AND WHAT HAPPENED ON THAT CASE?

3 A THE GUY THAT DID IT TO OUR MOM, HE SERVED
4 WHAT, 30 DAYS

5 Q THAT'S ALL HE GOT?

6 A HE WALKED FREE

7 Q HE WALKED FREE ARE YOU SURE ABOUT THAT?

8 A HE'S FREE NOW

9 Q AND, IN FACT, AFTER YOUR MOTHER'S DEATH, DID
10 JOHN SHOW DISTANCE AT THAT TIME?

11 A YES, AN EXTREME AMOUNT

12 Q I KNOW YOU AND I DISCUSSED THE CHANGE IN HIS
13 LIFE, THAT SORT OF THING, BUT WHEN WE DISCUSSED IT,
14 IT WAS IN TERMS OF HER SUPPORT FOR HIM AND HIS
15 LIVING WITH HER AND THAT SORT OF THING, ISN'T THAT
16 CORRECT?

17 A YES

18 Q YOU'RE NOT A PSYCHOLOGIST OR ANYTHING, ARE
19 YOU?

20 A NO

21 Q AS YOU LOOK BACK ON THE LIFE OF YOUR BROTHER,
22 HAVE YOU NOTICED ANY OTHER PERIODS IN HIS LIFE WHERE
23 HE WAS THAT WAY?

24 A GOING BACK AS FAR AS I CAN REMEMBER, I ALWAYS
25 HAVE KNOWN HE HAS HAD A PROBLEM BUT BEING THAT --

1 WHEN THAT HAPPENED TO MOM IS WHERE IT JUST STARTED
2 BRINGING IT ALL OUT

3 Q AND, OF COURSE, HE ALSO -- AND WE'RE NOT GOING
4 INTO TOO MUCH DETAIL HERE, I WANT TO LIMIT THIS TO
5 YOUR OBSERVATIONS OF THE LAST FEW DAYS BUT HE ALSO
6 RECEIVED SOME FAIRLY SERIOUS HEAD INJURIES THROUGH
7 THE YEARS, IS THAT RIGHT?

8 A YES, HE DID

9 Q AND THERE WAS SOME HISTORY OF SOME PROBLEMS
10 THAT YOU ARE JUST NOW REVEALING TO MR GARRETT AND I
11 WITHIN THE FAMILY OF SOME MENTAL ILLNESS, IS THAT
12 RIGHT?

13 A YES

14 Q BUT DID YOU, IN TALKING WITH HIM YESTERDAY,
15 NOTICE A CHANGE IN HIM THAT YOU HAVEN'T SEEN IN THE
16 PRECEDING MONTHS THAT YOU WENT TO VISIT HIM AT THE
17 GREENWOOD COUNTY JAIL?

18 A YES

19 Q AND DID YOU HAVE ANY TROUBLE COMMUNICATING
20 WITH HIM YESTERDAY?

21 A YES

22 Q AND DID YOU BRING THAT TO MR GARRETT'S
23 ATTENTION?

24 A YES

25 Q AND DID ANY OF THAT CONTINUE THIS MORNING?

1 A YES

2 Q DID YOU TRY TO TALK WITH HIM THIS MORNING?

3 A YES, I DID

4 Q AND, IN FACT, THE INDIVIDUAL WHO HIT YOUR
5 MOTHER DID PLEAD TO A SERIOUS OFFENSE, DIDN'T HE?

6 A YES, HE DID

7 Q SOMETHING LIKE RECKLESS HOMICIDE THAT SORT OF
8 THING?

9 MR JONES WHAT'S THE RELEVANCE,
10 JUDGE? I OBJECT, YOU KNOW, IT'S GETTING TO BE A
11 WAIST OF TIME

12 MR TINSLEY YOU KNOW, THIS IS NOT A
13 JURY, YOUR HONOR IN FACT, HE WAS --

14 THE COURT I STILL WANT TO GET IT TO
15 ANY RELEVANCE BUT IF THERE IS SOME RELEVANCE TO IT,
16 I'LL BE HAPPY TO HEAR IT

17 MR TINSLEY I'LL ASK IT AND YOU
18 DECIDE

19 EXAMINATION CONTINUED BY MR TINSLEY

20 Q AND, IN FACT, HIS NAME IS ON THIS VERY JURY
21 LIST THAT WE'RE DRAWING THIS JURY OUT OF, ISN'T THAT
22 RIGHT?

23 A YES, IT IS

24 Q THE MAN THAT KILLED YOUR MOTHER

25 A YES

1 Q NOW, JOHN FOUND THAT OUT IN THE LAST DAY OR
2 SO?

3 A YES

4 Q COULD THAT HAVE AFFECTED HIM, DO YOU THINK?

5 A YES, IT DID

6 Q DID YOU OBSERVE ANY CHANGES IN HIM AT THAT
7 POINT?

8 A I NOTICED THEN WAS WHEN HE JUST GOT -- JUST
9 TOTALLY IN ANOTHER WORLD

10 MR TINSLEY YOUR WITNESS

11 CROSS EXAMINATION BY MR JONES

12 Q MS HARRISON, HOW YOU DOING TODAY?

13 A I'M FINE

14 Q NOW, WHEN WAS HE FOUND OUT ABOUT THIS MAN
15 BEING ON THE JURY PANEL, WHEN DID HE FIND THAT OUT?

16 A SUNDAY

17 Q SUNDAY WHO TOLD HIM?

18 A YESTERDAY

19 Q WHO TOLD HIM?

20 A I DID

21 Q YOU TOLD HIM?

22 A YES

23 Q WHY DID YOU TELL HIM?

24 A WHY DID I TELL HIM?

25 Q YES, MA'AM

1 A WOULDN'T YOU THINK ANYONE WOULD WANT TO KNOW
2 IF IT WAS THEIR MAMA

3 Q SO YOU TOLD HIM BECAUSE YOU THOUGHT HE WOULD
4 WANT TO KNOW

5 A I THOUGHT HE WOULD

6 Q WHAT TIME DID YOU TELL HIM THAT?

7 A I DON'T REMEMBER THE TIME

8 Q WHAT TIME DID YOU GO OVER THERE?

9 A I DON'T REMEMBER

10 Q WHAT TIME DOES THE JAIL OPEN UP FOR VISITATION
11 IN GREENWOOD, MS HARRISON?

12 A I DON'T KNOW THAT EITHER

13 Q WELL, NOW, MS HARRISON, DID YOU GO TO CHURCH
14 YESTERDAY?

15 A NO, I DIDN'T

16 Q WHAT DID YOU DO INSTEAD OF GOING TO CHURCH
17 YESTERDAY?

18 A I WAS TRAVELING TO SOUTH CAROLINA

19 Q YOU WERE WHAT TIME DID YOU LEAVE GEORGIA TO
20 COME OVER HERE?

21 A I DON'T REMEMBER THE TIME

22 Q WELL, MS HARRISON, WAS IT DAYLIGHT?

23 A DAYLIGHT

24 Q HUH?

25 A IT WAS DAYLIGHT

1 Q AROUND SEVEN OR EIGHT O'CLOCK?

2 A I DON'T REMEMBER

3 Q HOW LONG DOES IT TAKE FOR YOU TO GET OVER
4 THERE TO OVER HERE?

5 A TWO HOURS, MAYBE TWO AND A HALF

6 Q SO IF YOU LEFT AROUND EIGHT O'CLOCK, YOU GOT
7 HERE AROUND TEN OR TEN THIRTY?

8 A I WOULD THINK SO

9 Q WHERE DID YOU GO WHEN YOU GOT OVER HERE?

10 A I WENT TO GREENWOOD

11 Q WHAT DID YOU DO OVER IN GREENWOOD, MS
12 HARRISON?

13 A I WENT TO TALK TO ATTORNEY GARRETT

14 Q OH, YOU WENT TO HIS OFFICE

15 A YES, I DID

16 Q WHO ALL WAS OVER THERE?

17 A I DON'T REMEMBER EVERYONE ELSE BEING --

18 Q DO YOU KNOW PAIGE TARR?

19 A I KNOW PAIGE TARR

20 Q TARR DID YOU TALK TO HER OVER THERE?

21 A YES

22 Q HAD YOU HAD LUNCH WHEN YOU TALKED TO HER? HAD
23 YOU EATEN ANY LUNCH WHEN YOU TALKED TO HER? HAD YOU
24 ALREADY HAD LUNCH BEFORE YOU TALKED TO PAIGE TARR IN
25 MR GARRETT'S OFFICE?

1 A I DON'T BELIEVE SO

2 Q DID YOU GO OUT TO LUNCH WITH THEM?

3 A NO, NO

4 Q YOU DIDN'T DO YOU REMEMBER THEM GOING TO
5 LUNCH?

6 A I REMEMBER ATTORNEY GARRETT GOING

7 Q GOING TO LUNCH?

8 A YES

9 Q WHERE DID YOU GO WHEN HE WENT TO LUNCH?

10 A WHERE DID I GO?

11 Q WHERE DID YOU GO WHEN HE WENT TO LUNCH?

12 A I STAYED WITHIN HIS OFFICE

13 Q IN THE OFFICE?

14 A YES

15 Q SO YOU SKIPPED LUNCH YESTERDAY?

16 A I MAY HAVE

17 Q WAS YOUR HUSBAND WITH YOU?

18 A YES

19 Q HE WAS?

20 A YES

21 Q AFTER MR GARRETT CAME BACK FROM LUNCH, WHERE
22 WERE YOU?

23 A I DON'T REMEMBER WHEN HE CAME BACK

24 Q DID YOU GO OVER TO SEE YOUR BROTHER BEFORE MR
25 GARRETT CAME BACK FROM LUNCH OR DID YOU GO OVER TO

1 SEE YOUR BROTHER AFTER MR GARRETT CAME BACK FROM
2 LUNCH AND YOU ALL WENT OVER THERE TOGETHER?

3 A IT WAS AFTER

4 Q MR GARRETT CAME BACK

5 A YES

6 Q YOU ALL WENT OVER THERE TOGETHER?

7 A YES

8 Q AND YOU AND MR GARRETT WERE TALKING TO YOUR
9 BROTHER WHILE YOU'RE OVER THERE IN THE JAIL?

10 A WAS HE AND I TALKING TO HIM?

11 Q YES, MA'AM

12 A YES

13 Q WHERE?

14 A WHAT DO YOU MEAN, WHERE?

15 Q WHERE WERE YOU TALKING TO HIM, WHERE WERE YOU
16 IN THE JAIL IN GREENWOOD TALKING TO HIM? IN THE
17 ISOLATION ROOM?

18 A WELL, IT WAS WHERE -- HE WAS ON ONE SIDE OF
19 THE WINDOW AND I WAS ON THE OTHER SIDE

20 Q RIGHT AND MR GARRETT WAS WITH YOU?

21 A NO

22 Q WHERE'D MR GARRETT GONE?

23 A I DON'T KNOW WHERE HE WENT

24 Q I MEAN, YOU ALL WENT OVER TO THE JAIL
25 TOGETHER, DIDN'T YOU?

1 A YES, WE WENT OVER THERE TOGETHER
2 Q FROM HIS OFFICE
3 A UM-HMM
4 Q AND YOU ASKED TO SEE YOUR BROTHER
5 A UM-HMM
6 Q AND THEN MR GARRETT DISAPPEARED?
7 A NO, I'M NOT GOING TO SAY HE DISAPPEARED
8 Q WHAT HAPPENED?
9 A THAT'S WHERE MY BROTHER WAS ON ONE SIDE OF THE
10 WINDOW AND I WAS ON THE OTHER SIDE AND WE WERE IN
11 THIS ROOM WHERE VISITORS MEET
12 Q I CAN PICTURE THAT
13 A AND I DON'T KNOW EXACTLY WHERE MR GARRETT
14 WENT AND I DON'T KNOW EXACTLY WHERE MR GARRETT
15 WENT
16 Q YOU DON'T KNOW WHERE HE WENT?
17 A NO
18 Q SO THEN YOU SAID, "HEY, JOHN KENNEDY HUGHEY,
19 GUESS WHO'S ON THE JURY PANEL?", IS THAT WHAT YOU
20 SAID?
21 A NO
22 Q WHAT DID YOU SAY?
23 A I REALLY CAN'T REMEMBER WORD FOR WORD WHAT I
24 SAID
25 Q WHAT DID YOU GO OVER THERE TO TALK WITH HIM

1 ABOUT, MS HARRISON?

2 A WE WENT OVER THERE TO TALK ABOUT IF HE WAS
3 GOING TO BE READY FOR THE CASE

4 Q HUH?

5 A I TALKED TO HIM ABOUT THE CASE

6 Q WHAT DID YOU WANT TO ASK HIM ABOUT THE CASE,
7 MS HARRISON?

8 A HOW HE FELT

9 Q WHAT DO YOU MEAN, HOW HE FELT?

10 A EXACTLY WHAT I SAID, HOW HE FELT BECAUSE HE
11 HASN'T BEEN FOCUSED IT

12 Q HOW DO YOU KNOW HE HASN'T BEEN FOCUSED ON IT?

13 A BECAUSE EVERY TIME I TRY TO TALK TO HIM, HE
14 WON'T COMPLY

15 Q WHEN WAS THE TIME YOU TRIED TO TALK TO HIM
16 BEFORE YESTERDAY?

17 A ANY TIME THROUGHOUT THIS WHOLE TIME

18 Q RIGHT, BUT WHAT I'M ASKING YOU IS WHEN DID YOU
19 TRY TO TALK TO HIM BEFORE YESTERDAY ABOUT THIS CASE?

20 A I CAN'T REALLY REMEMBER OR GIVE YOU THE DATE -
21 -

22 Q WAS IT SATURDAY?

23 A NO

24 Q WAS IT FRIDAY?

25 A NO

1 Q WAS IT THURSDAY?

2 A NO

3 Q WEDNESDAY?

4 A NO

5 Q TUESDAY?

6 A NO

7 Q WAS IT ANY TIME THIS MONTH BEFORE YESTERDAY?

8 HAD YOU BEEN OVER HERE ANY TIME DURING THE MONTH OF
9 OCTOBER TO SEE YOUR BROTHER?

10 A I DON'T THINK SO

11 Q HAVE YOU BEEN OVER HERE ANY TIME DURING THE
12 MONTH OF SEPTEMBER TO SEE YOUR BROTHER?

13 A I THINK I DID VISIT HIM ONCE

14 Q DO YOU REMEMBER WHEN IT WAS IN SEPTEMBER?

15 A NO

16 Q HAD YOU TALKED TO HIM OVER THE PHONE ABOUT HIS
17 CASE?

18 A NO

19 Q SO SOMETIME IN SEPTEMBER YOU SAW HIM AND THEN
20 YESTERDAY, SUNDAY, YOU SAW HIM AND IT WAS BASED ON
21 WHAT YOU HEARD FROM HIM YESTERDAY THAT HE HAD BEEN
22 UNWILLING TO TALK ABOUT THE CASE?

23 A NOT JUST YESTERDAY

24 Q ALL RIGHT, WHEN?

25 A THROUGHOUT THIS WHOLE TRAUMA

1 Q BACK IN SEPTEMBER HE WAS UNWILLING TO TALK
2 ABOUT IT?

3 A THROUGHOUT THE WHOLE TRAUMA, SINCE THIS ALL
4 BEGAN

5 Q WHEN YOU CAME TO GREENWOOD TO SEE HIM IN
6 SEPTEMBER, AND YOU DID SAY THAT, DIDN'T YOU?

7 A YES, I DID

8 Q WHEN YOU CAME TO GREENWOOD TO SEE HIM IN
9 SEPTEMBER, WAS HE UNWILLING TO DISCUSS THE CASE WITH
10 YOU THEN?

11 A IT'S NOT A MATTER OF HIM BEING UNWILLING, IT'S
12 WHERE HE'S WILLING BUT, WHAT HAPPENS IS, HE JUST
13 GETS DISTANCED TO WHERE HE WON'T FOCUS ON IT HE
14 WON'T STAY WITH ME

15 Q AND WHEN YOU CAME OVER HERE IN SEPTEMBER, WHAT
16 DID YOU WANT TO TALK TO HIM ABOUT AS FAR AS THIS
17 CASE WAS CONCERNED, WHAT DID YOU WANT TO TALK WITH
18 HIM ABOUT?

19 A I WANTED TO, POTENTIALLY, TALK TO HIM ABOUT
20 THE WHOLE MATTER

21 Q BUT DID YOU WANT TO HELP HIM PREPARE HIS
22 DEFENSE?

23 A IT'S NOT A MATTER OF HELPING HIM TO PREPARE
24 HIS DEFENSE IT'S A MATTER OF WE WANT TO KNOW
25 WHAT'S HAPPENED

1 Q WHAT'S HAPPENED?

2 A YES

3 Q WELL, HE TOLD YOU WHAT HAPPENED WHEN HE CAME
4 OVER TO YOUR HOUSE AFTER THESE PEOPLE HAD BEEN
5 MURDERED, DIDN'T HE, HE TOLD YOU THAT DAY?

6 A YES HE SAID SOME THINGS ABOUT IT

7 MR TINSLEY OBJECTION TO THE FORM
8 OF THE QUESTION, YOUR HONOR IT GOES TO THE VERY
9 ISSUE WE'RE HERE FOR

10 THE COURT YOU CAN REPHRASE IT IF
11 YOU NEED TO

12 CROSS EXAMINATION CONTINUED BY MR JONES

13 Q MS HARRISON, YOU SAY YOU WENT TO TALK TO HIM
14 ABOUT HIS CASE YESTERDAY, RIGHT?

15 A YES

16 Q WHAT DID YOU WANT HIM TO TELL YOU ABOUT HIS
17 CASE YESTERDAY?

18 A WHEN THEY WOULD TRY TO TALK TO HIM TO REVIEW
19 THE JURORS IS WHERE HE WON'T SAY ANYTHING, HE WON'T
20 RELATE TO IT

21 Q SO WHAT YOU WANT HIM TO DO IS TO GO REVIEW
22 JURORS WITH HIM YESTERDAY?

23 A WANTED TO TALK TO HIM ABOUT IT

24 Q AND THAT'S WHY YOU BROUGHT UP THE ONE JUROR
25 THAT WAS ON THE CASE

1 A THAT'S WHEN IT WAS BROUGHT TO MY ATTENTION AND
2 I WANTED TO BRING IT TO HIS AND I DID

3 Q SO THAT WAS THE FIRST THING YOU SAID TO HIM?

4 A WASN'T THE FIRST THING THE FIRST THING I
5 SAID TO HIM WAS HELLO

6 Q WOULD HE REVIEW THE JURORS WITH YOU?

7 A NO

8 Q WHAT WAS HIS REACTION WHEN YOU TOLD HIM ABOUT
9 THE JUROR WHO HAD RUN OVER YOUR MOTHER AND KILLED
10 HER?

11 A WHAT WAS HIS REACTION?

12 Q YES

13 A JUST LIKE I TOLD YOU, HE WENT DISTANT

14 Q DID HE GO DISTANT BEFORE THAT OR DID HE GO
15 DISTANT WHEN YOU TOLD HIM THAT?

16 A BOTH

17 Q BOTH

18 A IT'S A MATTER OF HE WAS DISTANT AND NOT
19 WANTING TO REALLY GET INTO IT BUT THEN WHEN I TOLD
20 HIM ABOUT THAT, HE JUST WENT TOTALLY INTO ANOTHER
21 WORLD

22 Q TOTALLY INTO ANOTHER WORLD

23 A YES

24 Q WOULDN'T TALK TO YOU ANY MORE

25 A NOT ABOUT THAT HE JUST CHANGED THE WHOLE

1 SUBJECT

2 Q WHAT DID HE WANT TO TALK ABOUT?

3 A HIS CAR

4 Q HIS CAR?

5 A UM-HMM

6 Q NOW, EVEN THOUGH HE'S YOUR LITTLE BROTHER, YOU
7 WOULD AGREE THAT HE IS OF MANHOOD, HE'S GROWN-UP,
8 HE'S A MAN OR IS HE, IS HE A LITTLE BOY, WHAT IS HE
9 IN YOUR OPINION?

10 A IN WHAT STATE?

11 Q IN THE STATE OF WHETHER OR NOT HE WAS A FATHER
12 TO HIS CHILDREN

13 A OH, HE WAS DEFINITELY A FATHER --

14 Q IN WHAT SENSE, AS AN ADULT OR AS A LITTLE BOY
15 WOULD BE TO ANOTHER LITTLE BOY?

16 A TO HIS CHILDREN?

17 Q YES

18 A HE WAS A MAN

19 Q A MAN?

20 A YES

21 Q WHAT KIND OF A MAN IS HE?

22 A WHAT KIND OF A MAN IS HE?

23 Q YES

24 A HE WAS A PROVIDER

25 Q PROVIDER

1 A HE TOOK CARE OF HIS CHILDREN

2 Q TOOK CARE OF HIS CHILDREN

3 A HE LOVED HIS CHILDREN

4 Q LOVED HIS CHILDREN HE ASKS ABOUT THIS KIDS
5 NOW, DOESN'T HE?

6 A HE --

7 Q HE WANTED TO KNOW IF YOU SAW THEM YESTERDAY,
8 DIDN'T HE?

9 A IF I SAW HIS KIDS YESTERDAY?

10 Q YEAH, YEAH DID HE WANT TO KNOW ABOUT HIS
11 KIDS YESTERDAY?

12 A HE DIDN'T ASK ABOUT THEM YESTERDAY

13 Q DIDN'T ASK ABOUT THE KIDS?

14 A NOT YESTERDAY, NO

15 Q BUT HE'S GROWN-UP, RIGHT?

16 A HE'S TWENTY-ONE YEARS OLD, OVER

17 Q AND HE'S AN ADULT, RIGHT?

18 A HE'S OVER TWENTY-ONE

19 Q YOU THINK HE'S AFRAID TO GO TO TRIAL?

20 A DO I FEEL LIKE HE IS AFRAID?

21 Q YEAH, DO YOU THINK HE'S AFRAID TO GO TO TRIAL?

22 A BASED ON MY OPINION?

23 Q YES

24 A I DON'T THINK THE FEAR -- I DON'T THINK IT'S
25 FEAR I BELIEVE WHAT IT IS HE'S REALLY JUST NOT

1 FOCUSING ON HOW SERIOUS THIS IS

2 Q RIGHT, BUT YOU DON'T THINK HE'S AFRAID -- YOU
3 DON'T THINK HE'S TURNED INTO A LITTLE BOY AND HE'S
4 AFRAID TO GO TO TRIAL HE CAN BE A MAN WITH HIS
5 KIDS, AND A MAN WITH HIS WIFE, BUT WHEN IT COMES
6 DOWN TO DEALING WITH WHAT HE'S DONE, YOU DON'T THINK
7 HE'S AFRAID OF THAT AND TURNS INTO A LITTLE BOY, A
8 LITTLE BABY, DO YOU?

9 A I DON'T THINK HE'D DO THAT

10 Q HUH?

11 A BASED ON MY OPINION, NO

12 Q YOU THINK HE'D STAND UP AND DEAL WITH THIS AS
13 AN ADULT?

14 A I THINK SO

15 Q SO WHAT IS IT ABOUT HIM THAT YOU KNOW ABOUT
16 HIM THAT'S CAUSING HIM TO BE SO DISASSOCIATED WITH
17 EVERYTHING AND SO UNWILLING TO COOPERATE AND WORK
18 WITH EVERYBODY?

19 A LIKE I SAID EARLIER, THROUGHOUT THE YEARS,
20 HE'S BEEN A LITTLE DISTANT BUT THEN WHEN THAT
21 HAPPENED TO MOM, THAT JUST TRIGGERED EVERYTHING HE
22 DOESN'T FOCUS ON LIFE, HE DOESN'T FOCUS ON HIS SELF,
23 HE JUST DOESN'T FOCUS, HE'S IN HIS OWN LITTLE WORLD

24 Q WELL, DIDN'T HE HAVE HIS CHILDREN AFTER THAT
25 HAPPENED TO YOUR MOM?

1 A YES

2 Q I MEAN, HE HAD BOTH CHILDREN AFTER THAT
3 HAPPENED TO YOUR MOM, RIGHT?

4 A UM-HMM

5 Q AND HAVEN'T YOU BEEN AN ADULT AND MUCH MORE OF
6 A MAN SINCE HE HAD THOSE CHILDREN AND BEGAN
7 ACCEPTING RESPONSIBILITY OF THEM?

8 A WHEN IT COMES DOWN TO HIS KIDS?

9 Q UM-HMM

10 A WHEN HE COMES TO MY HOUSE, HE'S A FATHER TO
11 HIS KIDS HE PROVIDES, LIKE I SAID, FOR HIS
12 CHILDREN AND HE LOVES HIS CHILDREN, LIKE I SAID

13 Q YOU WEREN'T AROUND THERE WHEN THE DOCTOR CAME
14 AND GAVE HIM THE TEST, WERE YOU, YESTERDAY?

15 A WHICH DOCTOR?

16 Q WERE YOU AROUND THERE WHEN ANY DOCTOR CAME AND
17 GAVE HIM A TEST YESTERDAY?

18 A I MEAN, THERE'S BEEN SEVERAL DOCTORS

19 Q MY QUESTION IS, WERE YOU AROUND HIM YESTERDAY
20 WHEN ANY DOCTOR CAME AND GAVE HIM ANY KIND OF TEST?

21 A NO, I WASN'T AROUND, NO

22 Q WERE YOU THERE WHEN ANY DOCTOR CAME AND GAVE
23 HIM A TEST?

24 A WAS I WHERE?

25 Q AT THE JAIL IN GREENWOOD

1 A I WAS AT THE JAIL YESTERDAY

2 Q WERE YOU AT THE JAIL YESTERDAY WHEN A DOCTOR
3 CAME TO GIVE HIM A TEST, SO HE COULD TAKE A TEST
4 WITH A DOCTOR?

5 A I REMEMBER BEING AT THE JAIL YESTERDAY

6 Q WERE YOU THERE WHEN THE DOCTOR CAME TO GIVE
7 HIM THE TEST?

8 A I DON'T KNOW I DON'T KNOW BECAUSE WHERE I
9 WAS, I WAS IN A SEPARATE ROOM FROM HIM SO I CAN'T
10 SAY I DON'T KNOW WHO THIS, THAT, THESE OR THOSE AT
11 THAT TIME

12 Q YOU DON'T REMEMBER ANYBODY SAYING WE'VE GOT TO
13 GIVE HIM A TEST NOW, IT'S GOING TO TAKE ABOUT AN
14 HOUR TO TAKE THE TEST, WE'LL ASK YOU TO WAIT UNTIL
15 IT'S OVER AND YOU CAN TALK TO HIM LATER?

16 A MAYBE THAT WAS WHEN I WAS REMOVED AND THEY PUT
17 ME OVER IN THE CLASSROOM -- YEAH, THE GREENWOOD
18 DETENTION CENTER AND I HAD TO SIT THERE AND GO
19 FARTHER THAN WHAT I WAS DOING AND THEN ABOUT
20 SEVERAL HOURS LATER, IT WAS WHEN ONE OF THE FEMALE
21 SHERIFF LADIES, SHE CAME AND GOT ME --

22 Q TOOK YOU BACK --

23 A -- SO I COULD GO SEE HIM

24 Q NOW, WHEN YOU WENT BACK TO HIM, HOW WAS HE
25 THEN, AFTER HE'D TAKEN THE TEST, WAS HE STILL IN

1 ANOTHER WORLD?

2 A UM-HMM

3 Q HE WAS?

4 A YES

5 Q DIDN'T KNOW WHO YOU WERE OR WHERE YOU WERE OR
6 WHAT WAS GOING ON?

7 A HE KNEW WHO I WAS

8 Q HE DID? HE JUST DIDN'T WANT TO TALK TO YOU
9 ABOUT ANYTHING IMPORTANT

10 A HE'S JUST WORRYING ABOUT HOW GOOD HE LOOKS,
11 WHAT HE'S GOING TO DRIVE, THAT'S WHAT HE WAS MOSTLY
12 FOCUSING ON

13 MR JONES MY GOODNESS AIN'T THAT
14 SOMETHING, MS HARRISON THANK YOU

15 THE COURT ANYTHING FURTHER? YOU
16 CAN STEP DOWN ANY OTHER WITNESSES?

17 (TESTIMONY CONCLUDED AT 5 40 O'CLOCK P M)

18 MR TINSLEY YOUR HONOR, FOR A
19 LIMITED PURPOSE AND I WOULD MAKE A PROFFER AT THIS
20 TIME, IF THE COURT MAY ALLOW, YOUR HONOR, THAT WE
21 ISSUE SUBPOENAS TO PROVIDE TO THE SHERIFF'S OFFICE
22 THAT DR WRIGHT LEFT MR HUGHEY TO TAKE THE TEST --
23 JUST FOR THE LIMITED PURPOSE OF TESTIFYING THAT HE
24 WAS LEFT ALONE AND THAT THE TEST WASN'T CONTAMINATED
25 ON THAT, AND THE BASIS WE NEED TO WAIT FOR IT AND

1 THAT REALLY DOESN'T GO TO THE ISSUE, WE'RE TALKING
2 ABOUT ANYONE ALL IT GOES TO IS THE LIMITED PURPOSE
3 OF WHAT FUNCTION IN AND OUT OF THAT ROOM WHEN IT WAS
4 TAKEN AT THIS POINT -- BARE WITH ME ONE SECOND
5 FURTHER, THAT MR GARRETT WAS OVER THERE AT THE JAIL
6 BUT NOT IN THE ROOM WHEN JOHN WAS TAKING THE
7 EXAMINATION REFERRED TO EARLIER

8 MR GARRETT CAN I MAKE A STATEMENT
9 FOR OUR COURT RECORD --

10 THE COURT YES

11 MR GARRETT -- WITH REGARDS TO THIS
12 AS AN OFFICER OF THE COURT I JUST WANT THE COURT
13 TO BE AWARE THAT I IN NO WAY HAD ANY DISCUSSION WITH
14 JOHN ABOUT THE TEST I SIMPLY TURNED IT OVER TO THE
15 PSYCHOLOGIST AS A MATTER OF FACT, I LEFT OUT OF
16 THE ROOM I DID NOT SEE JOHN ANY MORE THAT EVENING
17 THE SPECIFIC INSTRUCTIONS LEFT WITH THE
18 GUARDS THERE WAS THAT HE WAS NOT TO HAVE ANYBODY
19 INTERRUPT HIM DURING THE PROCESS OF TAKING THAT
20 TEST THAT HIS SISTER COULD TALK TO HIM, WHO WAS AT
21 ANOTHER FACILITY, ANOTHER AREA OF THE COURTROOM
22 COULD SEE HIM AFTER HE HAD COMPLETED THE TEST MY
23 INFORMATION IS THAT WHAT OCCURRED AND NO ONE
24 CONTAMINATED THE TEST AND SO JUST FOR THE COURT
25 RECORD, IF THERE'S SOME SUGGESTION BY THE

1 SOLICITOR'S OFFICE THAT I OR MS PAIGE TARR OR
2 ANYONE ELSE FROM OUR OFFICES OR THE OFFICES OF THE
3 DEFENSE TEAM TRIED TO IN ANY WAY ENCOURAGE HIM OR
4 TEACH HIM OUT TO TAKE THE TEST OR BOTHER THE TEST,
5 I'LL TELL THIS COURT THAT DID NOT OCCUR ON ANY
6 CIRCUMSTANCES

7 MR JONES JUDGE, IF I MIGHT, GIVE
8 ME ONE MINUTE THERE MY POINT OF EXAMINATION WAS I
9 THOUGHT BROUGHT OUT BY DR EVANS WHEN HE -- I DON'T
10 KNOW WHAT THEY DID AND I DON'T CARE WHAT THEY DID,
11 OKAY, THAT'S NOT MY PROBLEM MY ISSUE AND MY
12 CONCERN IS THE TEST VALID IF THE DOCTOR WHO
13 ADMINISTRATES IT WALKS OFF AND LEAVES THE ROOM AND
14 IS GONE FOR AN HOUR AND COMES BACK AND DR EVANS SAY
15 NO AND ANY OTHER DOCTOR IS GOING TO BE HONEST WITH
16 YOU IN THIS COURT AND TELL YOU WHETHER OR NOT YOU
17 CAN BASE AN OPINION ABOUT -- AND GIVE THAT TEST ANY
18 INCREDIBILITY AT ALL IS GOING TO TELL YOU IF YOU
19 DIDN'T SIT THERE WHILE IT WAS BEING DONE, YOU CAN'T
20 VOUCH FOR ITS AUTHENTICITY AND I DON'T CARE HOW
21 MANY PEOPLE YOU PARADE IN HERE, IF THE DOCTOR AIN'T
22 THERE GIVING THE TEST, THE DOCTOR CAN'T SAY THE TEST
23 WAS ANY GOOD, THAT'S MY POINT

24 THE COURT I UNDERSTAND THAT, BUT IF
25 SOMEONE'S IN THE JAIL CELL AND THE SUPERVISOR,

1 WHOMEVER, THAT'S WHAT, I BELIEVE, MR TINSLEY'S
2 REFERRING TO SAYS THAT THE DEFENDANT WAS NOT ALLOWED
3 ACCESS TO ANY INDIVIDUAL WHILE THAT TEST WAS TAKEN
4 THEN, OBVIOUSLY, THAT MIGHT GO TOWARDS THE VALIDITY
5 OF THE TEST IF YOU DON'T KNOW WHETHER OR NOT HE
6 HAD ACCESS TO ANYONE, OBVIOUSLY, YOU WOULDN'T KNOW
7 WHETHER IT'S VALID OR NOT MR TINSLEY, I THINK
8 WHAT HE'S TRYING TO SAY, AND I'M SATISFIED THAT
9 YOU'RE NOT GOING TO ANSWER THE QUESTION, BUT HE'S
10 TRYING TO SAY IF YOU WANT ME TO BRING THIS OTHER
11 WITNESS UP HERE, THEN I'LL BRING HIM, BUT IT'LL TAKE
12 SOME TIME SO THAT'S WHERE WE ARE

13 MR JONES MY ONLY QUESTION IS WHY
14 WILL IT TAKE SOME TIME I MEAN, WHY --

15 THE COURT I DON'T KNOW THAT I
16 DON'T KNOW THAT -- I THOUGHT HE WAS HERE

17 MR TINSLEY WE'VE SENT THE
18 SUBPOENA, YOUR HONOR, AND MR McCALLUM'S GOING -- GO
19 AHEAD AND CHECK ON IT

20 MR McCALLUM YOUR HONOR, I SPOKE
21 WITH SHERIFF RILEY ABOUT FIFTEEN MINUTES AGO, HE'S
22 TRYING TO TRACK THAT OFFICER DOWN AND THAT OFFICER
23 IS NOT ON DUTY THIS EVENING, THIS AFTERNOON HE'S
24 TRYING TO TRACK THAT OFFICER DOWN TO SERVE THAT
25 SUBPOENA ON THAT OFFICER AND GET THAT OFFICER OVER

1 THE COURT SO HE'S NOT BEEN SERVED
2 WITH A SUBPOENA?

3 MR McCALLUM THE SUBPOENA HAS BEEN
4 SERVED ON THE LAW ENFORCEMENT CENTER, THE JAIL, BUT
5 THE PARTICULAR OFFICER REQUESTED HAS NOT YET BEEN
6 LOCATED BY THE SHERIFF OF COURSE, YOUR HONOR, THIS
7 IS IN THE NATURE OF REBUTTAL, WE HAD NO WAY OF
8 KNOWING THIS ISSUE WAS EVEN GOING TO COME UP UNTIL
9 IT CAME UP IN CROSS-EXAMINATION

10 THE COURT LET ME ASK THIS NOW, I
11 NOTICED DURING THE EXAMINATION AND THE CROSS-
12 EXAMINATION, THERE WAS SOME DISCUSSION AND SOME
13 QUESTIONS OF DR EVANS AS TO WHETHER OR NOT HE'S
14 GOING TO EXAMINE THE DEFENDANT THIS EVENING AND
15 CONDUCT SOME TYPE OF EXAMINATION OR EVALUATION, IS
16 THAT -- ARE WE REQUESTING THAT OR WHAT ARE WE DOING?

17 MR JONES I WAS WAITING FOR AN
18 APPROPRIATE TIME TO BRING THAT TO THE FOREFRONT
19 YOU SAID YOU WANTED TO HEAR FROM ALL THEIR
20 WITNESSES BUT, YES, THAT IS AN ISSUE I'D LIKE THE
21 COURT TO ADDRESS

22 THE COURT DO BOTH SIDES CONCUR IN
23 THAT REQUEST?

24 MR JONES WELL, YOUR HONOR, TO THE
25 EXTENT THAT I WOULD CONCUR IN IT OR INITIATE, I

1 WOULD WANT TO MAKE IT WITH SOME DEGREE OF
2 QUALIFICATION NUMBER ONE, I THINK I WOULD BE MOST
3 APPROPRIATE IF THE COURT WOULD ORDER THAT MAN TO DO
4 THAT, DR EVANS, TO CONDUCT AN EXAMINATION WE'RE
5 HERE ON A COMPETENCY HEARING AND THE DOCTOR WHO WAS
6 INITIALLY BROUGHT IN ON THIS CASE HAS SAID THAT HE
7 THINKS HE CAN CONDUCT AN EXAMINATION IN AN HOUR AND
8 A HALF TO TWO HOURS AND TELL THIS COURT WHETHER OR
9 NOT HE THINKS THIS PATIENT IS COMPETENT AND I
10 THINK THAT WOULD GO A LONG TOWARDS HELPING, YOUR
11 HONOR

12 THE COURT I DON'T DISAGREE WITH
13 THAT BUT I WANT YOU TO UNDERSTAND THAT IF I
14 DETERMINE IT APPROPRIATE TO ORDER THE DEFENDANT TO
15 BE EVALUATED FOR THE PURPOSE OF DETERMINING
16 COMPETENCY, I'M GOING TO ORDER THAT IT BE DONE BY AN
17 INDEPENDENT EXAMINER AND NOT BY ONE THAT IS RETAINED
18 BY THE DEFENSE IN THE CASE

19 HOWEVER, IF YOU DON'T OBJECT AND THE DEFENSE
20 WISHES FOR DR EVANS TO BE ALLOWED THE OPPORTUNITY
21 TO CONDUCT HIS EXAMINATION OR EVALUATION SO THAT HE
22 CAN ANSWER WHATEVER QUESTIONS HE WAS UNABLE TO
23 ANSWER TODAY BECAUSE HE SAID IT REQUIRED ADDITIONAL
24 OBSERVATION, EVALUATION AND EXAMINATION, THEN I
25 CERTAINLY WOULD AFFORD THEM THAT OPPORTUNITY THIS

1 EVENING TO HAVE THAT EXAMINATION CONDUCTED THEN WE
2 CAN HEAR FROM DR EVANS AND I CAN MAKE A
3 DETERMINATION AS TO WHETHER I THINK AN INDEPENDENT
4 EXAMINER SHOULD BE APPOINTED BASED UPON ALL OF THE
5 EVIDENCE TO BE PRESENTED TO THE COURT ON THAT ISSUE
6 MR JONES YES, SIR AND YOU MIGHT
7 DEEM MY POSITION TOTALLY UNFAIR AND WITHOUT ANY
8 AUTHORITY BUT WHAT I WAS PREPARED TO ASK THE COURT
9 TO CONSIDER IS THAT IF THEY WANT DR EVANS TO
10 EXAMINE HIM AND I CONSENT TO HAVE IT DONE HERE THIS
11 EVENING, THAT YOU'LL ALLOW ME FOR THE LIMITED
12 PURPOSE OF A COMPETENCY HEARING TO HAVE A
13 PSYCHOLOGIST OF THE STATE'S CHOOSING TO ALSO COME IN
14 THIS EVENING AND CONDUCT AN EXAMINATION EITHER WITH
15 DR EVANS OR AT THE CONCLUSION OF DR EVANS'
16 EXAMINATION TOWARDS THE END OF PUTTING UP EVIDENCE
17 TOMORROW ON THIS ISSUE THAT WILL ALLOW THE JUDGE TO
18 REACH A DECISION BASED ON THE PREPONDERANCE OF THE
19 EVIDENCE IN DETERMINING AS TO WHETHER OR NOT YOU
20 NEED TO THEN ORDER THAT HE BE EVALUATED IN AN EFFORT
21 TO DETERMINE WHETHER OR NOT HE'S COMPETENT
22 THAT'S WHAT I WANTED TO BRING BEFORE THE
23 COURT'S ATTENTION AT THE APPROPRIATE JUNCTURE IN
24 OTHER WORDS, I'M ASKING YOU TO ALLOW ME TO EXERCISE
25 WHAT I BELIEVE TO BE THE STATE'S RIGHT TO HAVE ITS

1 OWN PSYCHOLOGIST EXAMINE THIS DEFENDANT FOR PURPOSES
2 OF COMPETENCY, A LIMITED PURPOSE OF COMPETENCY, NOT
3 GETTING INTO HIS BEING OFF OR ANYTHING LIKE THAT I
4 WOULD WANT TO RESERVE MY RIGHT TO HAVE A STATE
5 PSYCHIATRIST DO THAT IF WE EVER GET TO THAT POINT
6 IF WE DON'T, OF COURSE, THERE'S NO NEED TO WORRY
7 ABOUT BUT THAT'S WHAT I WANTED YOU TO CONSIDER
8 ALLOWING ME TO DO AND I'M PREPARED TO DO THAT THIS
9 EVENING OR IN THE MORNING

10 I HAVE SOMEBODY ON STAND-BY, THAT CAN SIT IN
11 WITH DR EVANS' EXAMINATION OR CONDUCT HIS OWN
12 EXAMINATION AT THE CONCLUSION OF DR EVANS

13 THE COURT MR TINSLEY

14 MR TINSLEY WHAT CONCERNS ME ABOUT
15 THAT, YOUR HONOR, IS AFTER WE TALKED EARLIER WE
16 PULLED THE STATUTE 44-23-410 RELATING TO THAT
17 MATTER AND IT APPEARS THAT THAT STATUTE IS QUITE
18 STRICT AND DELINEATES IN GREAT DETAIL WHAT SHOULD BE
19 DONE, SHOULD THE COURT DETERMINE THAT SUCH AN
20 EVALUATION BE NECESSARY IF THAT'S THE CASE, THEN I
21 WOULD REFER TO THE STATUTE ITSELF AT THIS TIME WE
22 OBJECT

23 THE COURT LET'S JUST DO THIS, LET'S
24 JUST TAKE IT ONE STEP AT A TIME ARE YOU REQUESTING
25 THAT DR EVANS BE ALLOWED AN OPPORTUNITY NOW TO

1 ADDITIONALLY EVALUATE AND EXAMINE YOUR CLIENT FOR
2 THE PURPOSE OF TESTIFYING ON THE ISSUE AS TO WHETHER
3 OR NOT HE BELIEVES THE DEFENDANT TO BE COMPETENT OR
4 NEEDS ADDITIONAL EVALUATION?

5 MR TINSLEY YES, YOUR HONOR, I AM
6 AND I WOULD ASK THAT DR EVANS BE ALLOWED TO, IN
7 FACT, DO THAT THIS EVENING

8 THE COURT THAT'S WHAT I'M TALKING
9 ABOUT RIGHT NOW

10 MR TINSLEY YES, SIR

11 THE COURT DOES THE STATE OBJECT
12 THAT?

13 MR JONES YOUR HONOR, THE BASIS OF
14 IT WOULD BE FOR THE PURPOSE OF COMPETENCY IT'S A
15 COMPETENCY EVALUATION BY THIS PSYCHOLOGIST, IS THAT
16 RIGHT?

17 THE COURT THAT'S RIGHT

18 MR JONES NO OBJECTION

19 THE COURT IT WOULD JUST BE A
20 CONTINUATION, BASICALLY, OF THEIR PRESENTATION SINCE
21 THIS WITNESS TESTIFIED HE HAS NOT HAD THE
22 OPPORTUNITY TO CONDUCT THAT ADDITIONAL EXAMINATION
23 IN ORDER FOR HIM TO ARRIVE AT A CONCRETE OPINION AS
24 TO WHETHER OR NOT THE DEFENDANT IS COMPETENT,
25 INCOMPETENT OR NEEDS SOME TYPE OF ADDITIONAL

1 EVALUATION FOR THAT DETERMINATION

2 HE SIMPLY SAID, AS I UNDERSTOOD HIS TESTIMONY,
3 THAT IN HIS OPINION, THERE IS A SERIOUS QUESTION,
4 BASED UPON CERTAIN TESTING AND CERTAIN -- WELL,
5 CERTAIN CHARACTERISTICS THAT HAVE BEEN EXHIBITED BY
6 THE DEFENDANT TO PERSONS RECENTLY AND THAT HE SAYS
7 THAT RAISES SERIOUS QUESTION AS TO WHETHER OR NOT
8 THE DEFENDANT IS PRESENTLY COMPETENT BUT IT WOULD
9 REQUIRE ADDITIONAL EVALUATION IN ORDER TO MAKE THAT
10 DETERMINATION AND, FROM YOUR QUESTIONING, I GATHERED
11 THAT HE MIGHT BE ABLE TO MAKE THAT ADDITIONAL
12 EVALUATION PRESENTLY AND PERHAPS ARRIVE AT SOME
13 OPINION IN THAT REGARD AND ONCE THAT ADDITIONAL
14 INFORMATION OR TESTIMONY IS RECEIVED, I'LL ADDRESS
15 THE FURTHER ISSUE OF ANY OTHER EXAMINATION

16 SO WE AGREED THEN THAT WE'LL BE IN RECESS
17 WHILE DR EVANS CONDUCTS ADDITIONAL EXAMINATIONS OF
18 THE DEFENDANT AND THEN WE'LL RECEIVE THAT TESTIMONY
19 UPON HIS CONCLUSION

20 MR McCALLUM YOUR HONOR, IT'S MY
21 UNDERSTANDING THAT HE HAD ASKED FOR THE INK BLOT
22 CARDS OF THAT TEST TO BE PERFORMED THIS EVENING AS A
23 PART OF HIS EVALUATION I OVERHEARD THAT THOSE WERE
24 NOT AVAILABLE HERE IN ABBEVILLE AND DR WRIGHT WILL
25 HAVE TO TRAVEL BACK TO GREENWOOD TO GET THAT

1 EQUIPMENT TO PERFORM THAT EVALUATION SO WE MAY BE
2 LOOKING AT ANOTHER FORTY-FIVE MINUTE TO HOUR DELAY
3 ON THAT BASIS

4 THE COURT I GUESS HE CAN BEGIN WITH
5 SOME OTHER EXAMINATION PRIOR TO THE INK BLOT TEST
6 UNLESS THAT'S THE ONLY ONE THAT'S GOING TO BE
7 PERFORMED, I DON'T KNOW I'LL LEAVE THAT TO THE
8 DISCRETION OF THE WITNESS, THE EXPERT, IN CONDUCTING
9 THAT EXAMINATION SO WE'LL BE IN RECESS UNTIL SUCH
10 TIME AS THAT HAVE BEEN CONDUCTED

11 MR TINSLEY WHICH SHOULD ALSO GIVE
12 US TIME TO HAVE THAT OTHER, VERY BRIEF, JAILER, IF
13 NECESSARY

14 THE COURT THAT'S RIGHT

15 MR JONES JUDGE, MIGHT I SUGGEST,
16 AT THIS JUNCTURE, IF YOU WOULD, ALLOW THE DEFENDANT
17 AND DR EVANS TO GET TO EACH OTHER AGAIN, TO GO IN A
18 ROOM AND START TALKING AND SEEING ---

19 THE COURT THAT'S WHAT WE'RE GETTING
20 READY TO DO RIGHT NOW

21 MR JONES GOOD

22 THE COURT WE'LL BE AT EASE WHILE
23 THAT ADDITIONAL EXAMINATION IS CONDUCTED
24 (OFF THE RECORD)

25 THE COURT ALL RIGHT, MR TINSLEY,

1 ARE YOU READY TO PROCEED FURTHER WITH THE MOTION?

2 MR TINSLEY YES, YOUR HONOR AT
3 THIS POINT I'LL RECALL DR JIM EVANS TO THE STAND

4 THE COURT DR EVANS, COME BACK
5 AROUND, PLEASE YOU REMAIN UNDER OATH HAVING
6 PREVIOUSLY BEEN SWORN

7 (WITNESS PRESENTED AT 7 40 O'CLOCK P M) (RECALLED
8 TO THE STAND AT 7 40 P M AFTER EVALUATING DEFENDANT
9 FOR A PERIOD OF TIME, APPROXIMATELY THREE HOURS)
10 RE-DIRECT EXAMINATION CONTINUED BY MR TINSLEY

11 Q DR EVANS, HAVE YOU HAD AN OPPORTUNITY TO
12 FURTHER EXAMINE JOHN KENNEDY HUGHEY IN THE LAST
13 HOUR, HOUR AND A HALF?

14 A I FURTHER EVALUATED HIM IN THE LAST HOUR AND A
15 HALF, YES, SIR

16 Q AND WHAT TEST DID YOU APPLY?

17 A I RE-ADMINISTERED THE RORSCHACH AND I GAVE HIM
18 SOME THREE CARDS FROM THE THEMATIC, T-H-E-M-A-T-I-C,
19 T A T AND T F C , THEMATIC APPERCEPTION TEST, ALSO
20 KNOWN AS THE T A T THEN I HAD HIM DRAW THE DESIGNS
21 FROM THE BENDER GESTALT TEST

22 Q SO YOU, BASICALLY, DID THREE ADDITIONAL
23 TESTINGS?

24 A PIECES OF THE T A T AND THE FULL BENDER AND
25 GESTALT AND THE FULL RORSCHACH AND THEN I

1 INTERVIEWED HIM FOR A WHILE

2 Q SO IT WAS BASED ON THREE TESTS AND THE
3 INTERVIEWS, IS THAT RIGHT?

4 A YES

5 Q AND WHAT DID THE RORSCHACH SHOW YOU AT THIS
6 TIME?

7 A THE RORSCHACH WAS QUITE SIMILAR TO THE ONE I
8 HAD ADMINISTERED IN JULY THERE WERE SOME CHANGES
9 IN A NEGATIVE DIRECTION HE HAD ONE -- HUMAN
10 MOVEMENT RESPONSE OF FORM FOUR LEVEL WHICH HE DIDN'T
11 HAVE BEFORE SO THERE WAS A SLIM DECREMENT IN
12 PERFORMANCE NOT MAJOR BUT SOME DECREMENT

13 Q SO YOU, UNDER THE RORSCHACH, WERE YOU ALERTED
14 TO PSYCHOSIS OR --

15 A NO, THAT WOULD NOT BE SUFFICIENTLY STRONG TO
16 INDICATE PSYCHOSIS FROM THE RORSCHACH

17 Q WHAT WOULD THE RORSCHACH INDICATE TO YOU
18 INCLUDING PROPER?

19 A IT INDICATED THAT HE WAS CONSIDERABLY MORE
20 TENSE AND ANXIOUS THAN BEFORE AND, AS I SAID,
21 THERE WAS SOME DETERIORATION IN THE QUALITY OF HIS
22 RESPONSES BUT NOT ENOUGH TO SAY THAT HE WAS
23 COMPLETELY OUT OF TOUCH WITH REALITY

24 Q WHAT ABOUT ANY IN THE AREA, THAT WE HAD
25 DISCUSSED EARLIER, IN THE AREA OF DECOMPENSATION?

1 A WELL, I THINK THAT HE -- HIS THOUGHT PROCESSES
2 APPEARED TO BE MUCH SLOWER THAN BEFORE IT TOOK HIM
3 LONGER TO RESPOND TO SOME OF MY QUESTIONS HE
4 SEEMED TO BE, IN A TERM THAT'S BEEN USED EARLIER,
5 "SOMEWHAT OUT OF IT " I'LL PUT THE SEMI IN FRONT OF
6 IT HE WAS WITH IT ENOUGH TO -- HE KNEW WHAT I WAS
7 TALKING ABOUT HE -- THAT'S ALL I NEED TO SAY THE
8 THAT QUESTION

9 Q TURNING TO THE T A T TEST

10 A YES

11 Q DESCRIBE THAT TEST, PLEASE

12 A THIS IS A TEST WHERE YOU SHOW THEM PICTURES
13 AND ASK THEM TO TELL A STORY ABOUT THE PICTURE AND
14 HE RESPONDED TO TWO OF THE CARDS WITH STORIES THAT
15 WERE THE SAME THEME, WHICH IS THE THEME THAT HE
16 SEEMS TO BE STUCK, HAVE BEEN STUCK ON FOR SIX YEARS,
17 THE THEME OF HIS MOTHER'S DEATH AND WHAT SHE HAD
18 SAID TO HIM JUST BEFORE SHE LEFT THAT DAY BEFORE SHE
19 WAS KILLED IN THE CAR WRECK

20 Q SO THAT WAS A RECURRING ---

21 A I COULD SAY THAT THERE WAS EVIDENCE THAT HE
22 WAS OBSESSED WITH THAT

23 Q WAS THAT EVIDENCE OF POST TRAUMATIC STRESS
24 DISORDER?

25 A YES, IT COULD BE IT COULD BE CONSIDERED

1 THAT, BUT IT COULD ALSO BE -- IT'S ALMOST LIKE TIME
2 STOOD STILL FOR HIM IN THAT RESPECT SINCE THAT DAY

3 Q DID NO DEVELOPMENT ---

4 A HE HAS DEVELOPMENT SINCE THAT DAY IN SOME
5 RESPECTS

6 Q AND HAVE YOU HAD ANY ADDITIONAL OBSERVATIONS
7 FROM THE T A T ?

8 A NO, THAT WAS PRETTY MUCH IT, THAT HE WAS STUCK
9 ON THAT THEME THAT'S WHY THEY CALL IT THEMATIC AND
10 PERCEPTION TEST YOU'RE LOOKING TO SEE IF ANY
11 THEMES RUN THROUGH IT, AND THAT SEEMED TO BE HIS
12 DOMINANT THEME

13 Q AND THEN THE DRAWINGS?

14 A THAT JUST ALL JUST ASKS PEOPLE TO DRAW DESIGNS
15 OF -- COPY GEOMETRIC DESIGNS HE HAD NO TROUBLE
16 WITH THAT HE DID FINE

17 Q YOU BASICALLY SHOW HIM ONE DESIGN AND ASK HIM
18 TO COPY IT ON ANOTHER?

19 A RIGHT

20 Q HE DID PRETTY GOOD WITH THAT?

21 A RIGHT

22 Q DID YOU COME TO ANY CONCLUSIONS FROM THAT?

23 A NO IT'S ONE OF THOSE THINGS, IT LOOKS LIKE
24 IF YOU DON'T HAVE A TEMPERATURE, THAT DOESN'T MEAN
25 YOU DON'T HAVE A DISEASE, BUT IF HE HAD MESSED UP

1 SOME OF THEM, IT WOULD HAVE BEEN IN A POSITIVE
2 DIRECTION OF SAYING THERE WAS A DISORDER BUT HE DID
3 FINE ON THEM AND I CAN'T SAY ANYTHING OTHER THAN HE
4 DID FINE ON THEM

5 Q AND THEN YOU DID ADDITIONAL INTERVIEW, RIGHT?

6 A YES, SIR

7 Q AND WHAT DID THAT RESULT IN?

8 A HE WAS OBVIOUSLY TIRED AND DISTRAUGHT AND
9 RESPONDED SLOWLY TO QUESTIONS I ASKED HIM SOME OF
10 THE QUESTIONS THAT ARE OFTEN ASKED IN A COMPETENCY
11 EXAM DID HE KNOW WHO HIS ATTORNEYS WERE? WHAT
12 THEIR ROLE WAS? AND DID HE KNOW WHAT A SOLICITOR
13 WAS AND WHAT HIS ROLE WAS? AND WHAT DID HE THINK
14 ABOUT THE TESTIMONY I GAVE? HE ANSWERED VERY SLOWLY
15 AND HESITANTLY, BUT HE SAID HE KNEW YOU WERE THERE
16 TO HELP HIM AND I ASKED HIM WHAT HE MEANT BY THAT HE
17 SAID, "HELP HIM TO GET HOME "

18 THEN I ASKED HIM WHAT A SOLICITOR WAS
19 AND HE SAID, "HE HELPS PEOPLE "

20 I SAID, "TELL ME MORE "

21 AND HE SAID, "HE'S A GOOD GUY AND A
22 BAD GUY "

23 I SAID, "IF HE'S A BAD GUY, WHY WOULD
24 HE BE DOING TO YOU?"

25 AND HE SAID, "KEEP ME FROM GOING

1 HOME "

2 Q DID YOU NOTE ANY UNREALISTIC EXPECTATIONS OR
3 RESPONSES THERE?

4 A WELL, I WOULD THINK THAT BY THIS POINT HE
5 WOULD THINK THAT WAS A RATHER UNREALISTIC THING AT
6 LEAST FROM WHAT YOU'RE GOING TO DO FOR HIM

7 Q AND ---

8 A EXCUSE ME I ALSO ASKED HIM IF HE KNEW WHAT --
9 I THINK I HAD TESTIFIED A LITTLE BIT AGO THAT I
10 ASKED HIM IF HE KNEW WHAT MY TESTIMONY MEANT IN HERE
11 AND DID HE UNDERSTAND IT, AND HE SAID, "TO TELL YOU
12 THE TRUTH, I WAS OUT OF IT "

13 Q SO BASICALLY HIS RESPONSE WAS THAT HE DIDN'T
14 UNDERSTAND IT?

15 A I WOULD TAKE IT THAT WAY

16 Q YOU WOULD AND NOW IN TERMS OF ANY MALINGERING
17 I BELIEVE YOU TESTIFIED EARLIER THAT YOU HAD
18 EXAMINED HIM FOR ANY POSSIBLY MALINGERING IN THE
19 PAST?

20 A WELL, THOSE MALINGERING TESTS I GAVE ON
21 SEPTEMBER 27TH TONIGHT I MADE SOME INFORMAL TESTS
22 TO CHECK THE MALINGERING I ASK HIM IF HE HAD ANY
23 VISIONS OR DID HE SEE THINGS THAT OTHER SAID WEREN'T
24 THERE, AND HE SAID, YES, HE SAW HIM MOTHER
25 PERIODICALLY THAT SHE POPS IN AND POPS OUT DID

1 HE HEAR ANY VOICES OR HEAR ANYTHING, AND HE SAID,
2 YES, HE HEARD HIS MOTHER AND HE HEARD MUSIC
3 PERIODICALLY AND I ASKED HIM WHAT HIS MOTHER SAID,
4 AND HE SAID SHE ALWAYS SAID THE VERY SAME THING
5 THE SAID THE LAST WORDS HE EVER HEARD FROM HER THAT
6 SHE JUST KEPT REPEATING THOSE WORDS, AND SO THEN I
7 ASKED HIM A FEW OTHER THINGS

8 I GAVE HIM A LEAD I ASKED HIM DID
9 HE SMELL THINGS THAT OTHER PEOPLE DIDN'T SMELL AND
10 HE SAID OCCASIONALLY I ASKED HIM DID HE TASTE
11 THINGS THAT OTHER PEOPLE -- DID HE HAVE PECULIAR
12 TASTES EVER AND HE SAID NO SO I GAVE HIM OPENINGS
13 AND THOUGHT THAT MAYBE IF HE WAS MALINGERING HE
14 WOULD SAY YES TO EVERYONE

15 I ASKED HIM DID HE THINK THAT IF HE
16 CUT HE WOULD BLEED OR WOULD HE BLEED WATER AND HE
17 SAID, NO, WHAT WOULD HAPPEN WAS NOTHING BECAUSE HE
18 THINKS HE'S FILLED WITH AIR, AND I SAID, WHY DO YOU
19 THINK YOU'RE FILLED WITH AIR, AND HE SAID, JUST THE
20 WAY HE FELT, AND SO I THOUGHT THAT WASN'T
21 MALINGERING OR HE WOULD HAVE TAKEN THE BAIT AND SAID
22 WATER, AND THEN I ASKED HIM DID I THINK HE WAS DEAD
23 OR ALIVE AND I THOUGHT HE WOULD HAVE SAID DEAD BUT
24 HE SAID BOTH HE SAID SOMETIMES DEAD, SOMETIMES
25 ALIVE

1 Q DID HE HAVE ANY SUICIDAL IDEATIONS OR ANYTHING
2 LIKE THAT?

3 A WE DIDN'T DISCUSS THAT I ASKED HIM IF HE
4 REMEMBERED THE SUICIDE ATTEMPT AND HE SAID, NO, HE
5 DIDN'T REMEMBER IT

6 Q DID HE ASK YOU ABOUT ANY BLACKOUTS?

7 A NO

8 Q DISASSOCIATION OR ANYTHING LIKE THAT?

9 A YEAH IN A WAY I ASKED HIM DID HE REMEMBER
10 ANYTHING ABOUT WHAT HE WAS SUPPOSED TO HAVE DONE,
11 AND HE SAID, PEOPLE, SORT OF, IN A WAY, AND I
12 THOUGHT -- I GIVE HIM AN OPENING TO SEE IF HE'D TAKE
13 THE BAIT AGAIN, AND I SAID, "IN A FOG, LIKE IN A
14 FOG"?

15 AND HE SAID, "NO, NO, I THINK IT'S
16 LIKE WHAT PEOPLE HAVE TOLD ME I DID AND SO SOMETIMES
17 I WONDER DID I DO IT " AND THAT SOUNDS LIKE
18 DISASSOCIATION TO ME, BUT I DIDN'T ASK HIM
19 SPECIFICALLY ABOUT ASSOCIATION

20 Q DID HE SHOW ANY OTHER IMPROPER RESPONSES TO
21 QUESTIONS THAT YOU ASKED?

22 A WELL, ANOTHER THING ABOUT MALINGERING, AS HE
23 WAS DESCRIBING THAT, HE SAID, HE VOLUNTEERED THIS,
24 "I AIN'T CRAZY OR NOTHING I JUST DON'T KNOW WHAT'S
25 GOING ON "

1 Q WHAT ABOUT AGAIN, DOCTOR, THE AREA OF
2 DECOMPENSATION? DID YOU FIND ANY OF THAT?

3 A AS I SAID, THE RORSCHACH WAS A LITTLE WORSE,
4 BUT I CAN'T SAY THAT HE HAD DECOMPENSATED TO THE
5 POINT THAT HE'S -- I BELIEVE TO BE OUT OF TOUCH WITH
6 REALITY, I THINK THERE IS SOME DECOMPENSATION, BUT I
7 DON'T SEE HIM AS, TO SAY, I DON'T KNOW HOW TO SAY
8 IT IT'S A DECOMPENSATION THERE IT MAY WELL BE
9 SIGNIFICANT ENOUGH TO HAVE AN IMPACT ON HIS
10 UNDERSTANDING OF COURT PROCEEDINGS AND SO ON, BUT
11 IT'S NOT A FULL-BLOWN DECOMPENSATION HE'S NOT --
12 HE'S ABLE TO TALK TO ME, WAS COHERENT THROUGH MOST
13 OF THE TIME HE GAVE SIMILAR RESPONSES IN GENERAL
14 TO WHAT HE DID BEFORE ON THE RORSCHACH, SO I CAN'T
15 CALL IT -- I OBVIOUSLY CANNOT CALL IT A COMPLETE
16 DETERIORATION IT MAY OR MAY NOT BE A SIGNIFICANT
17 DEGREE OF DETERIORATION, VIS-A-VIS, AS UNDERSTANDING
18 COURT PROCEEDINGS

19 Q CAN YOU EXPLAIN THE DIFFERENCES BETWEEN
20 POSSIBLY YOUR EXAMINATION AND THE EXAMINATION BY DR
21 WRIGHT RESULTING IN ---

22 A WELL, AS I HAD SPOKEN WITH HER EARLIER, SHE
23 WAS SAYING THERE ARE RORSCHACH ADMINISTRATION WAS
24 NOT SO MUCH WHAT HE GAVE, THE ACTUAL RESPONSES HE
25 GAVE, BUT MORE HIS BEHAVIORS DURING THE EVALUATION,

1 IN WHICH HE RUBBED HIS EYES AND SAID HE WAS SEEING
2 COLORS AND WAS HAVING TO TAKE A BREAK IN ORDER TO
3 AVOID THOSE VISUAL IMAGES HE RUBBED HIS EYES WITH
4 ME TOO, AND TOLD ME THAT HE WAS SEEING HIS MOTHER
5 AND I DON'T WHY HE WAS RUBBING HIS EYES TO GET RID
6 OF THAT IMAGE AND GET BACK TO THE INK BLOTS OR WHAT,
7 BUT I CAN SEE WHY SHE THOUGHT IT WAS PECULIAR
8 BEHAVIOR I'VE NEVER HAD ANYONE RUB THEIR EYES LIKE
9 THAT DURING THE ADMINISTRATION, BUT WHEN IT GOT DOWN
10 TO WHAT HE ACTUALLY SAID, IT WAS SOMEWHAT POORER
11 QUALITY THAN BEFORE, BUT NOT INDICATIVE OF ANY FULL-
12 BLOWN PSYCHOTIC OUT OF CONTACT WITH REALITY

13 Q AND WITHOUT FURTHER TESTING BASED ON THE LEVEL
14 OF HIS DECOMPENSATION, CAN HE REASONABLY ASSIST IN
15 HIS OWN DEFENSE BASED UPON HIS MEDICAL CAPACITY OR
16 DO YOU HAVE ANY OPINION ABOUT THAT?

17 A WELL, THIS IS A VERY CRITICAL QUESTION, OF
18 COURSE, AND I HAVE TO HAVE THE DISCLAIMER THAT IN MY
19 WORK, MY FORENSIC WORK HAS BEEN MAINLY IN REGARD TO
20 NEUROPSYCHOLOGICAL STATUS ALSO, THIS WAS A RATHER
21 RELEVANTLY RUSHED TO JUDGMENT SORT OF THING HERE,
22 AND WITH THOSE DISCLAIMERS, NOW ASK ME THE QUESTION
23 AGAIN

24 Q OKAY, DOC, I'LL ASK IT IN A LITTLE DIFFERENT
25 WAY DO YOU HAVE AN OPINION, BASED UPON YOUR

1 TRAINING AND EXPERTISE AND OBSERVATIONS IN TESTING
2 MR HUGHEY, WHETHER OR NOT HE WOULD BE ABLE TO
3 EFFECTIVELY ASSIST IN HIS DEFENSE?

4 A I WOULD HAVE SOME QUESTION ABOUT IT, YES, IF
5 HE IS OUT OF IT AND DIDN'T UNDERSTAND MY TESTIMONY,
6 COULDN'T TELL ME ANYTHING THAT I HAD TESTIFIED TO
7 EARLIER, IF HE SEES HIS MOTHER ROUTINELY AND IS
8 DISTRACTED BY IT TO THE POINT THAT HE'S RUBBING HIS
9 EYES AND TRYING TO GET RID OF IT, IF THAT'S WHY HE
10 WAS DOING THAT, GET RID OF THE HALLUCINATION, IF HIS
11 THOUGHT PROCESSES ARE EXTREMELY SLOW REGARDING THE
12 NATURE OF THE SOLICITOR'S ROLE AND HIS ATTORNEY'S
13 ROLE, THEN I THINK THAT THIS IS DIMINISHED CAPACITY
14 TO DO THAT, BUT I DON'T KNOW WHETHER IT'S GONE
15 ACROSS THE BORDER IN TERMS OF WHAT A FORENSIC
16 PSYCHIATRIST MIGHT SAY

17 Q WHAT ABOUT IN THE AREA OF CAPACITY TO
18 UNDERSTAND THE NATURE OF THE PROCEEDINGS OF THE
19 CASE? DO YOU HAVE AN OPINION AS TO HIS CURRENT
20 ABILITY TO SOLELY UNDERSTAND?

21 A OTHER THAN I JUST TESTIFIED EARLIER, THE
22 QUESTIONS ASKED AND HE SEEMED TO BE VERY VAGUE ABOUT
23 IT, ABOUT THE PROCEEDINGS

24 Q DID YOU HAPPEN TO ASK HIM ANY OTHER ROLES OF
25 INDIVIDUALS IN THE CASE? THE WITNESSES OR THE

1 JUDGE, THE BAILIFF?

2 A NO, SIR, I DIDN'T ASK HIM ANYTHING LIKE THAT,
3 NO, SIR

4 Q BASICALLY YOU LIMITED IT TO THE ATTORNEYS OR
5 THE SOLICITOR AND HIS TEAM?

6 A RIGHT

7 Q AND BASED UPON THIS ADDITIONAL TESTING, YOU,
8 THE WAY I UNDERSTAND IT, BASED UPON SOME NON-VERBAL
9 RESPONSES, CHARACTERIZED BY DR WRIGHT, YOU DID NOT
10 AGREE OR INTERPRET AS STRONGLY THE PSYCHOTIC RED
11 FLAGS AS DR WRIGHT?

12 A THAT IS CORRECT

13 Q COULD THAT HAVE CHANGED BETWEEN YESTERDAY AND
14 TODAY?

15 A IT COULD HAVE YES, SIR PSYCHOTIC EPISODES
16 COME AND GO

17 Q AS A RESULT OF YOUR EXAMINATIONS AND
18 OBSERVATIONS, DO YOU HAVE A RECOMMENDATION AT THIS
19 TIME FOR MR HUGHEY TO CONTINUE AND GO ON INTO TRIAL
20 OR DO YOU FEEL THAT HE NEEDS FURTHER TESTING IN YOUR
21 PROFESSIONAL OPINION?

22 A I LIKE TO ERR ON THE CONSERVATIVE SIDE AND SAY
23 THIS MAN LIFE IS AT STAKE AND I, THERE WERE A LOT OF
24 THINGS THAT CAME OUT IN THERE THAT I WASN'T AWARE OF
25 BEFORE REGARDING THE LONG TERM, HE CLAIMED THIS HAS

1 BEEN A LONG TERM THING SINCE HIS MOTHER DIED AND
2 SEEING HER AND I ASKED HIM WHY HE NEVER TOLD ANYBODY
3 AND HE SAID HE DIDN'T WANT PEOPLE TO KNOW HE
4 HADN'T TOLD ANYBODY ABOUT THE HALLUCINATIONS
5 EARLIER, APPARENTLY I THINK THERE'S A WHOLE LOT OF
6 NEW MATERIAL THAT'S SURFACED THAT WOULD BE RELEVANT
7 TO THE CASE, AND THAT'S ALL ASIDE FROM WHETHER HE'S
8 COMPETENT OR NOT AT THE PRESENT TIME

9 MR TINSLEY THAT'S ALL I HAVE
10 THANK YOU
11 THE COURT

12 MR JONES?

13 RECROSS EXAMINATION BY MR JONES

14 Q DR JAMES EVANS, HOW LONG HAVE YOU BEEN
15 EMPLOYED BY THE UNIVERSITY OF SOUTH CAROLINA?

16 A TWENTY-SIX YEARS

17 Q AND IN WHAT CAPACITY ARE YOU PRESENTLY
18 EMPLOYED BY THE UNIVERSITY OF SOUTH CAROLINA?

19 A PROFESSOR -- ASSOCIATE PROFESSOR OF
20 PSYCHOLOGY

21 Q AND WHO WOULD BE YOUR IMMEDIATE SUPERVISOR IN
22 THAT CAPACITY?

23 A IMMEDIATE SUPERVISOR?

24 Q YES, SIR

25 A HEAD OF THE SCHOOL PSYCHOLOGY PROGRAM

1 Q WHO IS THAT?

2 A DOCTOR FRED MEDWAY

3 Q MEDWAY?

4 A MEDWAY M-E-D-W-A-Y

5 Q HAVE YOU ACHIEVED TENURE AT THE UNIVERSITY OF
6 SOUTH CAROLINA?

7 A YES, SIR

8 Q WHEN DID YOU DO THAT?

9 A 1976, I BELIEVE

10 Q DO YOU PRACTICE WITH ANYBODY IN THIS PART TIME
11 PRACTICE THAT YOU HAVE?

12 A NO, SIR

13 Q BY YOURSELF? DO YOU HAVE AN OFFICE ANYWHERE?

14 A YES, SIR

15 Q WHERE IS YOUR OFFICE?

16 A 2016 ASSEMBLY STREET, COLUMBIA

17 Q DOES JOHN KENNEDY HUGHEY KNOW WHERE HE IS
18 TONIGHT?

19 A I SUSPECT HE KNOWS WHERE HE IS YES, SIR

20 Q I MEAN, DOES HE KNOW HE'S IN A COURTHOUSE IN
21 ABBEVILLE, SOUTH CAROLINA?

22 A YES, SIR I'M SURE HE DOES HE'S --

23 Q HOW ARE YOU SURE THAT HE DOES?

24 A WELL, BECAUSE THE OTHER THINGS HE TOLD ME
25 ABOUT WERE HE KNEW WHO HIS ATTORNEYS WERE, AND HE

1 KNEW THAT HE WANTED TO GET BACK HOME AGAIN, AND IT
2 JUST WOULD BE IMPOSSIBLE FOR ME TO BELIEVE THAT HE
3 DOESN'T KNOW HE'S IN THE COURTHOUSE IN ABBEVILLE

4 Q BUT YOU DIDN'T ASK HIM IF HE KNEW WHERE HE
5 WAS?

6 A NO, SIR, I DID NOT

7 Q WHY DIDN'T YOU DO THAT, DOCTOR?

8 A I DIDN'T KNOW WHY I SHOULD?

9 Q WELL, DID YOU ASK HIM IF HE KNEW WHO HE WAS?

10 A I ASKED HIM TO WRITE HIS NAME, AND HE WROTE
11 JOHN HUGHEY

12 Q SO THAT WAS YOUR WAY OF ASKING IF HE KNEW WHO
13 HE WAS?

14 A NO, BUT IT SEEMS LIKE A GOOD WAY

15 Q ALL RIGHT DO YOU BELIEVE HE KNOWS WHO HE IS?

16 A YES, SIR

17 Q DO YOU BELIEVE HE KNOWS WHERE HE IS?

18 A YES, SIR

19 Q DO YOU BELIEVE HE KNOWS WHAT'S GOING ON AROUND
20 HIM?

21 A WITHIN LIMITS

22 Q WELL, HE UNDERSTANDS WHAT'S GOING ON HERE,
23 DOESN'T HE?

24 A I THINK HE KNOWS HE'S AT A TRIAL

25 Q TRIAL FOR WHAT?

1 A I THINK HE KNOWS THAT HE WAS ACCUSED OF
2 MURDER

3 Q RIGHT HE UNDERSTANDS THAT, DOESN'T HE?

4 A YES, SIR

5 Q AND HE UNDERSTANDS HE'S ON TRIAL FOR HIS LIFE,
6 DOESN'T HE?

7 A I DON'T KNOW WHETHER HE KNOWS THAT OR NOT I
8 KNOW HE KNOWS HE'S ON TRIAL FOR MURDER, BUT I DON'T
9 KNOW WHETHER HE UNDERSTANDS THAT THAT MIGHT HAPPEN

10 Q YOU DIDN'T ASK HIM THAT IF HE KNEW HE WAS
11 CONVICTED OF THIS THAT HE COULD BE DEATH OR THAT HE
12 COULD BE SPARED AND PUT IN FOR LIFE?

13 A NO, SIR NO, SIR

14 Q YOU DIDN'T TALK TO HIM ABOUT THAT?

15 A NO, SIR

16 Q DIDN'T THINK IT WAS IMPORTANT? THE AFTERMATH
17 -- TO LEARN WHETHER OR NOT HE APPRECIATED THE
18 SERIOUS NATURE OF HIS OFFENSES AND UNDERSTOOD THE
19 NATURE OF THE CHARGES AGAINST HIM?

20 A I THINK THERE ARE A GOOD MANY THINGS I COULD
21 HAVE ASKED HIM, BUT I COULDN'T ASK THEM ALL AND I
22 ASKED A SAMPLING IN THAT LIMITED TIME I HAD I
23 THOUGHT IT WOULD BE SOMEWHAT MORE APPROPRIATE TO ASK
24 IF HE KNEW THE ROLE OF THE SOLICITOR THAT'S A LITTLE
25 MORE COMPLICATED THAN WHETHER HE'S ON TRIAL FOR HIS

1 LIFE OR NOT

2 Q IN THE TWENTY-SIX YEARS YOU'VE BEEN WORKING IN
3 THIS STATE AT THE UNIVERSITY OF SOUTH CAROLINA AS A
4 PSYCHOLOGIST, YOU DON'T -- THEY DON'T TEACH YOU THAT
5 BASICALLY THIS COMPETENCY EVALUATION IN CRIMINAL
6 DEFENDANTS IS TWO PRONG ONE, TO FIND OUT IF THEY
7 UNDERSTAND THE NATURE OF THE CHARGES AGAINST THEM
8 DO YOU UNDERSTAND THAT PRINCIPLE, DOCTOR?

9 A I UNDERSTAND THAT QUESTION, BUT AS I TOLD YOU
10 EARLIER I'M NOT FUNCTIONING AS A FORENSIC
11 PSYCHOLOGIST IN THE SENSE OF LOOKING FOR COMPETENCY
12 OTHER THAN WHETHER HE HAD DECOMPENSATED TO THE POINT
13 THAT I FELT HE WOULD BE UNABLE TO COMPREHEND A LOT
14 OF THINGS INCLUDING THOSE TYPE OF QUESTIONS

15 Q BUT YOU KNOW THAT THIS JUDGE WANTS YOU TO GO
16 BACK THERE AND FIND OUT IF HE'S COMPETENT -- IF HE
17 UNDERSTANDS THE NATURE OF THE CHARGES AGAINST HIM
18 AND THE ROLES OF THE PARTIES IN THIS COURT DON'T
19 YOU UNDERSTAND THAT, DOCTOR?

20 A NO, SIR I DON'T UNDERSTAND THAT THAT ISN'T
21 WHAT I THOUGHT IT WAS DESIGNED TO DO

22 Q YOU DIDN'T GET THE IMPRESSION THAT THIS JUDGE
23 AND THESE LAWYERS WANTED YOU TO GO BACK THERE AND
24 FIND OUT IF THAT YOUNG MAN THERE WAS COMPETENT TO
25 STAND TRIAL?

1 A I GOT THE IMPRESSION THAT THEY WERE WANTING ME
2 TO SEE IF HE HAD DECOMPENSATED TO THE DEGREE THAT --
3 TO GATHER FURTHER EVIDENCE TO SEE IF HE MIGHT HAVE
4 DECOMPENSATED TO THE DEGREE THAT WE NEEDED TO HAVE A
5 FURTHER EVALUATION DONE ON HIM

6 Q AND YOU'RE SAYING THAT IN YOUR OPINION HE HAD
7 DECOMPENSATED TO THE DEGREE THAT WE NEED TO HAVE A
8 FURTHER EVALUATION DONE?

9 A I SAID THAT THERE IS SOME EVIDENCE FOR
10 DECOMPENSATION NOTED AT THIS -- MY EVALUATION I JUST
11 COMPLETED MAY ALSO HAVE EVIDENCE FROM HIS -- THE
12 TESTIMONY OF HIS SISTER I HAVE EVIDENCE FROM
13 TESTIMONY BY DOCTOR WRIGHT, AND I SAID THAT SINCE
14 HIS LIFE'S AT STAKE I WOULD LIKE TO ERR ON THE
15 CONSERVATIVE SIDE AND SAY I THINK THAT I WOULDN'T
16 WANT TO SAY THAT HE'S COMPETENT RIGHT NOW AND LET IT
17 GO AT THAT, PROCEED, BECAUSE I THINK THERE ARE STILL
18 SOME QUESTIONS ABOUT THAT

19 Q ABOUT HIS COMPETENCY?

20 A ABOUT WHETHER HE HAD DETERIORATED TO THE POINT
21 THAT FURTHER EVALUATION OF HIS COMPETENCY NEEDS TO
22 BE MADE BY FORENSIC PSYCHIATRISTS OR SOMEONE WHO
23 SPECIALIZES IN THESE QUESTIONS YOU'RE ASKING I
24 KNOW THERE'S A LIST OF THEM THEY ASK, BUT I'VE NEVER
25 -- THAT'S NEVER BEEN MY ROLE TO ASK THOSE SPECIFIC

1 QUESTIONS

2 Q IT HASN'T?

3 A NO, IT HAS NOT

4 Q ARE YOU CAPABLE OF DOING THAT?

5 A I COULD PREPARE THE QUESTIONS, BUT IT'S NOT
6 SOMETHING THAT I WOULD -- I'VE NOT DONE THEM BEFORE,
7 SO IT WOULD BE A FIRST TIME

8 Q WHEN YOU TALK ABOUT DECOMPENSATION, WOULD YOU
9 BRIEFLY EXPLAIN TO ME WHETHER OR NOT THAT PHENOMENON
10 OCCURS IN ALL OF US TO VARYING DEGREES OR JUST THOSE
11 OF US THAT ARE PRONE TO OR WHO HAVE AN INCLINATION
12 TOWARDS OR MIGHT BE AFFECTED BY SOME MENTAL ILLNESS
13 OR PSYCHOSIS?

14 A WELL, BOTH IT OCCURS TO ALL OF US -- COULD
15 OCCUR TO ALL OF US IN VARYING DEGREES FOR EXAMPLE,
16 IF I WERE TO SIT UP HERE FOR ANOTHER HOUR OR SO I
17 MIGHT NOT HAVE AS NEARLY AS GOOD A REASONING POWER
18 AS I DO NOW BECAUSE EVENTUALLY I'M GOING TO GET
19 TIRED AND DECOMPENSATE TO SOME EXTENT IF I HAD A
20 HISTORY OF MENTAL ILLNESS I MIGHT DECOMPENSATE
21 FASTER IF I HAD A HISTORY OF HEAD INJURY I MIGHT
22 DECOMPENSATE FASTER IF I HAD BEEN DEPRESSED I
23 MIGHT DECOMPENSATE FASTER THAN NORMAL, BUT WE ALL
24 WOULD DO IT IF THE STRESS GOT GREAT ENOUGH, I
25 BELIEVE

1 Q WELL, WHAT GREATER STRESS CAN YOU THINK OF
2 THAT ANY OF US WOULD GO THROUGH IN THIS ROOM HERE
3 OTHER THAN TO BE PUT ON TRIAL FOR OUR LIFE,
4 BASICALLY, THE DEATH PENALTY?

5 A THAT'S MAJOR STRESS

6 Q MY QUESTION IS WHAT GREATER STRESS COULD ANY
7 OF US BE PUT UNDER IN THIS COURTROOM HERE TODAY THAN
8 THAT? CAN YOU THINK OF ANY?

9 A NO, SIR I COULD SPECULATE IF SOMEONE HAD A
10 GUN TO YOU -- IF I WALK OUT THERE AND SOMEONE PUT A
11 GUN TO MY HEAD THAT WOULD PROBABLY BE THE EQUIVALENT
12 OF IT

13 Q EQUIVALENT OF IT?

14 A YES, SIR

15 Q OKAY SO YOU WOULD EXPECT HIM TO DECOMPENSATE
16 A LITTLE BIT, WOULDN'T YOU?

17 A YES, SIR

18 Q OKAY AND HOW MUCH HAS HE DECOMPENSATED? IS
19 HE SUFFERING FROM PSYCHOSIS? HAS IT REACHED THE
20 POINT THAT HE'S MENTALLY ILL RIGHT NOW?

21 A HE MAY HAVE BEEN MENTALLY ILL ALL ALONG TO A
22 DEGREE

23 Q WHAT MENTAL ILLNESS DO YOU THINK HE MAY BE
24 SUFFERING FROM?

25 A DEPRESSION

1 Q DEPRESSION?

2 A DEPRESSION OBSESSIVE -- SOME SORT OF
3 OBSESSIVE DISORDER POSSIBLY POST TRAUMATIC STRESS
4 DISORDER, AND ---

5 Q POSSIBLY?

6 A POSSIBLY AND POSSIBLE DISASSOCIATIVE
7 DISORDER

8 Q SO IF HE IS TO BE FURTHER EVALUATED, YOU WOULD
9 WANT HIM EVALUATED FOR -- GIVE ME THOSE AGAIN POST
10 TRAUMATIC STRESS DISORDER

11 A DISASSOCIATIVE DISORDER

12 Q DISASSOCIATIVE DISORDER

13 A POST TRAUMATIC STRESS DISORDER

14 Q WHAT ELSE? WHAT OTHER --

15 A DEPRESSION

16 Q DEPRESSION?

17 A DEPRESSION

18 Q WHAT ELSE?

19 A WELL, I DON'T KNOW HE'S OBSESSED, BUT I
20 DON'T KNOW WHETHER THAT -- I COULDN'T CALL IT
21 OBSESSIVE COMPULSIVE DISORDER

22 Q WHY NOT?

23 A I WOULD NOT

24 Q WHY NOT?

25 A BECAUSE I DON'T SEE ANY COMPULSION SIGNS, BUT

1 HE MAY HAVE -- OBSESSION MAY BE ANOTHER ONE OF THEM
2 YOU DON'T NECESSARILY HAVE TO HAVE BOTH OBSESSIONS
3 AND COMPULSIONS SO O C D IS A POSSIBILITY

4 Q OBSESSIVENESS IS A MENTAL ILLNESS -- O C D --
5 IT REACHES A CERTAIN POINT OBSESSIVE
6 COMPULSIVENESS?

7 A OBSESSIVE DISORDER

8 Q ALL RIGHT WHAT ELSE?

9 A THE DEGREE OF DEMENTIA THAT GOES WITH THE
10 BRAIN DISFUNCTION

11 Q AND BASICALLY YOU PICKED UP ON THOSE FIVE
12 MENTAL ILLNESSES IN THE LAST HOUR AND A HALF IS
13 THAT RIGHT?

14 A NOT THE LAST ONE THE DEMENTIA WAS THE ONE I
15 PICKED UP ON BEFORE DEPRESSION I PICKED UP ON, BUT
16 I DIDN'T KNOW HOW SEVERE IT WAS I STILL DON'T, BUT
17 AT THE TIME I THOUGHT HE WAS DEPRESSED BUT I DIDN'T
18 KNOW I DIDN'T KNOW HOW SEVERE IT WAS I THINK I
19 TOLD HIM MILD TO MODERATE DEPRESSION WHICH, HOWEVER,
20 I WOULD NOT CONSIDER HIGHLY UNUSUAL GIVEN HIS
21 CIRCUMSTANCES

22 Q SO YOU'VE TOLD HIS LAWYER THAT YOU FELT LIKE
23 HE WAS SUFFERING FROM SOME MENTAL ILLNESS, AND ONE
24 WAS DEPRESSION?

25 A I SAID HE WAS MILDLY TO MODERATELY DEPRESSED,

1 BUT I DIDN'T PUT IT IN THE REALM OF CLINICAL
2 DEPRESSION WHICH WOULD BE A MENTAL ILLNESS

3 Q WHICH IS IT? DO YOU KNOW IS IT MENTAL? IS
4 IT DEPRESSION THAT --

5 A NO ALL I DID WAS ADMINISTER A BECK
6 DEPRESSION INVENTORY HIS RESPONSES ON THAT CAME
7 OUT IN THE MODERATE RANGE WHEN I LOOKED AT THAT
8 THE SPECIFIC ITEMS THAT HE RESPONDED TO THAT LEAD TO
9 THE MODERATE RANGE, SOME OF THEM WERE THINGS THAT GO
10 WITH BEING IN PRISON SO I DIDN'T THINK AT THE TIME
11 THAT IT WAS SUFFICIENTLY EXTREME TO WARRANT CALLING
12 IT CLINICAL DEPRESSION OR TO MAKE A SUFFICIENT ISSUE
13 OF IT TO BRING IT UP WITH HIM

14 Q OKAY DID YOU ASK HIM WHAT THE JUDGE'S ROLE
15 WAS HERE TODAY?

16 A NO, SIR

17 Q YOU DIDN'T?

18 A NO, SIR

19 Q YOU DON'T THINK HE'S MALINGERING?

20 A NO, SIR I DON'T THINK HE'S MALINGERING

21 Q YOU DON'T? THAT'S YOUR PROFESSIONAL OPINION?

22 A THAT'S HOW I'D EXPRESS IT AN OPINION --

23 STRONG OPINION I DON'T BELIEVE HE'S MALINGERING

24 Q ALL RIGHT I'VE JUST GOT TWO LAST QUESTIONS
25 FOR YOU NUMBER ONE I'D LIKE FOR YOU TO TELL ME

1 IN AS SIMPLE PHRASEOLOGY AS YOU CAN USE WHETHER OR
2 NOT YOU ARE WILLING TO PUT YOUR PROFESSIONAL OPINION
3 ON THE LINE HERE WITH REGARD TO WHETHER OR NOT THIS
4 MAN IS COMPETENT TO STAND TRIAL TODAY?

5 A YOU WANT TO KNOW AM I WILLING TO PUT MYSELF ON
6 THE LINE AND SAY THAT I BELIEVE THIS MAN IS
7 COMPETENT OR INCOMPETENT TO STAND TRIAL?

8 Q CORRECT

9 A AND I SAID THAT I WAS NOT RESPONDING TO THAT
10 BECAUSE I DIDN'T FEEL THAT I WAS AS QUALIFIED TO
11 MAKE THAT DECISION AS SOMEONE WHO HAS MADE -- WHO IS
12 A FORENSIC PSYCHOLOGIST OR PSYCHIATRIST WHO ASKS THE
13 QUESTIONS LIKE YOU'RE ASKING US TO FIND OUT DID I
14 UNDERSTAND THE NATURE OF ALL THE DIFFERENT COURT
15 PROCEEDINGS AND THEN FORM AN OPINION LIKE THAT I
16 SAID THAT I WAS HIRED TO CHECK OUT HIS NEURO-
17 PSYCHOLOGICAL STATUS PRIMARILY, AND THAT AFTER THIS
18 OTHER STUFF AROSE I WAS HIRED TO TODAY TO COME IN
19 AND WEIGH THE EVIDENCE AND SEE IF I FELT THAT
20 FURTHER EVALUATION WAS NEEDED IN ORDER TO I GUESS
21 DETERMINE WHETHER HE'S COMPETENT TO STAND TRIAL
22 THE ONLY OTHER THING I WOULD HAVE DONE IS TO SAY
23 THAT I COULD ASK HIM A COUPLE OF QUESTIONS ALONG THE
24 LINE IF YOU'RE ASKING, AND HE IS HESITANT TO RESPOND
25 TO THEM HE SEEMED TO BE SLOW TO RESPOND, BUT WHEN

1 HE DID RESPOND HAD RATHER VAGUE NOTIONS

2 Q NOT ONLY THEN ARE YOU UNWILLING TO GIVE US AN
3 OPINION AS TO THE COMPETENCY, BUT YOU'RE TELLING ME
4 THAT YOU'RE NOT QUALIFIED CORRECT?

5 A I FEEL THAT I HAVE NEVER BEEN ASKED TO
6 SPECIFICALLY STATE WHETHER THIS PERSON IS COMPETENT
7 TO STAND TRIAL, AND THERE ARE PEOPLE THAT SPECIALIZE
8 IN THAT AFTER HAVING REVIEWED ALL THE INFORMATION
9 I'VE COME IN HERE TODAY SORT OF TAKEN BY SURPRISE IN
10 A WAY AS TO WHAT MY ROLE WOULD BE, AND I DON'T FEEL
11 LIKE I COULD BE STATING THAT THIS MAN IS COMPETENT
12 OR INCOMPETENT NOW IF HE HAD COME OUT COMPLETELY
13 OUT OF CONTACT WITH REALITY I COULD SAY IT, YOU
14 KNOW, EXPERT OR NO EXPERT IN THAT AREA -- HE'S
15 INCOMPETENT BUT IT DIDN'T COME OUT THAT STRONG
16 LIKE -- I'M SAYING THAT I THINK THAT NEEDS TO BE
17 LEFT UP TO SOMEONE ELSE, AND MY MAIN CONCERN AND MY
18 ROLE WOULD BE TO SAY THAT THERE ARE ISSUES HERE THAT
19 NEED TO BE EXPLORED, AND HE MAY OR MAY NOT BE
20 COMPETENT I DON'T WANT TO -- WELL, I'M NOT GOING
21 TO SAY BECAUSE I DON'T KNOW

22 Q I RECOGNIZE THE LATENESS OF THE HOUR, YOUR
23 HONOR, AND I RECOGNIZE I INTERJECT ON MY OWN THAT I
24 ONLY HAD TWO QUESTIONS FOR YOU BUT YOUR LAST
25 RESPONSE -- IF I COULD JUST HAVE A BIT MORE LEEWAY

1 WITH REGARD TO THE LAST RESPONSE THAT YOU GAVE TO MY
2 LAST QUESTION

3 THE COURT ALL RIGHT

4 RE-CROSS EXAMINATION CONTINUED BY MR JONES

5 Q I THOUGHT YOU TESTIFIED UNDER CROSS
6 EXAMINATION A COUPLE OF HOURS AGO THAT, WHEN YOU
7 WERE EXAMINING THIS MAN, IF YOU HAD EVER FOUND HIM
8 TO BE INCOMPETENT YOU WOULD HAVE GONE TO HIS LAWYERS
9 AND SAID, "LOOK HERE THIS GUY IS INCOMPETENT YOU
10 ALL NEED TO MOVE HIM RIGHT AWAY " IF AT ANY POINT
11 IN TIME -- DIDN'T YOU TELL ME THAT EARLIER TODAY?
12 DON'T YOU RECALL TESTIFYING TO ---

13 A BACK IN -- BACK IN JULY?

14 Q WHEN I WAS TALKING TO YOU EARLIER TODAY,
15 DIDN'T I ASK YOU WHEN YOU WERE ON THE STAND -- I
16 SAID IF YOU HAD BEEN EXAMINING THIS OLD FELLOW OVER
17 HERE AND AT ANY POINT IN TIME YOU DEEMED HIM TO BE
18 INCOMPETENT YOU WOULD HAVE GONE STRAIGHT TO THESE
19 BOYS THAT HIRED YOU AND YOU WOULD HAVE SAID, "HEY,
20 FELLOWS WE GOT TO GET HIM TO A DOCTOR HE'S GOT
21 TO BE EXAMINED " WOULDN'T YOU HAVE DONE THAT?

22 A I DON'T KNOW -- THE WORD INCOMPETENT OR
23 COMPETENT -- YOU'RE USING THAT IN A VERY SPECIFIC
24 SENSE HERE IF BY THAT I INTERPRET IT TO MEAN THAT
25 I FEEL HE HAD A MENTAL ILLNESS OR SOMETHING THAT

1 WOULD NEED TO BE PURSUED FURTHER

2 Q WELL, I'M NOT TALKING ABOUT MENTAL ILLNESS
3 I'M TALKING ABOUT COMPETENCE WHICH IS WHAT WE'VE
4 BEEN TRYING TO FOCUS ON FOR THE MOST PART HERE YOU
5 DON'T RECALL SAYING IT?

6 A IF HE HAD BEEN --

7 Q INCOMPETENT

8 A -- INCOMPETENT

9 Q THAT YOU WOULD HAVE TOLD HIS LAWYERS, "YES I
10 THINK HE'S INCOMPETENT I THINK YOU NEED TO HAVE
11 HIM EVALUATED RIGHT NOW "

12 A RIGHT AND THAT IS A CERTAIN LINE WOULD BE
13 CROSSED WHERE THERE WOULD BE NO QUESTION OF HIS
14 BEING COMPETENT OR INCOMPETENT, AND I CERTAINLY DID
15 NOT SEE BEFORE, AND I HAVE NOT SEEN IT TODAY

16 Q SO YOU ARE QUALIFIED TO DETERMINE WHETHER HE
17 IS COMPETENT OR INCOMPETENT?

18 A ONLY AT THE EXTREMES IT'S LIKE I'M COMPETENT
19 TO -- LET ME SAY IF I OBSERVE SOMEONE DRIVING A
20 HUNDRED AND TWENTY MILES AN HOUR I WOULD KNOW THEY
21 WERE SPEEDING IF THEY'RE GOING SEVENTY, I WOULDN'T
22 -- I'D LEAVE THAT UP TO A RADAR DETECTOR

23 Q SO SINCE HE'S NOT IN THE EXTREME, YOU'RE
24 UNABLE TO DETERMINE WHETHER HE'S COMPETENT OR NOT?

25 A THAT'S TRUE

1 Q YOU'RE QUALIFIED AT THE EXTREMES, BUT NOT TO
2 THE UNEXTREMES?

3 A THAT'S -- YES I MAY HAVE GONE TO AN EXTREME
4 STATING THAT, BUT TO GET THE POINT ACROSS I GAVE
5 ENOUGH OF A BORDERLINE CASE NOW, BUT BACK THEN IN
6 JULY I DIDN'T EVEN THINK THERE WAS A QUESTION OF IT
7 I MEAN, I HAVE BEEN INVOLVED IN A LOT OF CASES WHERE
8 THEY WERE DEBATING AND BEEN INVOLVED WHERE I WAS
9 SITTING IN LISTENING TO THE OTHER TESTIMONY, AND
10 THEY WERE DEBATING WHETHER A PERSON WAS COMPETENT OR
11 INCOMPETENT, AND IN THE CASES WHERE THEY WERE FOUND
12 TO BE INCOMPETENT, THERE WERE SOME EXTREMES OF
13 PROBLEMS I DIDN'T OBSERVE ANYTHING THAT CAME CLOSE
14 TO THAT IN JULY THEREFORE, I'M SURE I WOULD NOT
15 HAVE TALKED TO THE ATTORNEYS ABOUT WHETHER HE WAS
16 COMPETENT OR INCOMPETENT OR WHETHER THEY NEEDED
17 FURTHER EVALUATION AFTER THESE LAST EVENTS WITH
18 DOCTOR WRIGHT, AND THEN YOU HAD SAID, "DO YOU THINK
19 HE'S COMPETENT OR INCOMPETENT," I WOULD HAVE SAID HE
20 NEEDS FURTHER EVALUATION ON THAT POINT AND WHEN IT
21 COMES DOWN TO THE SPECIFIC, YOU KNOW, QUOTE, UNQUOTE
22 "COMPETENT OR INCOMPETENT" WHICH IS A FORENSIC
23 ISSUE, AND I'M NOT AN EXPERT IN THAT REGARD

24 MR JONES

25 THANK YOU, JUDGE

1 THE COURT ANY OTHER QUESTIONS?

2 REDIRECT EXAMINATION CONTINUED BY MR TINSLEY

3 Q JUST ONE, DOCTOR, YOU WERE PRIMARILY HIRED IN
4 AN AREA OF MITIGATION, IS THAT CORRECT?

5 A YES, SIR

6 EXAMINATION BY THE COURT

7 Q DOCTOR, LET ME JUST ASK YOU A COUPLE OF THINGS
8 BEFORE YOU STEP DOWN THE TESTS IN SOUTH CAROLINA
9 FOR COMPETENCY IS SIMPLY WHETHER OR NOT THE
10 DEFENDANT HAS THE PRESENT ABILITY TO CONSULT WITH
11 HIS LAWYER WITH A REASONABLE DEGREE OF RATIONAL
12 UNDERSTANDING AND WHETHER HE HAS A RATIONAL AS WELL
13 AS A FACTUAL UNDERSTANDING OF THE PROCEEDINGS
14 AGAINST HIM IN ORDER FOR A PERSON TO STAND TRIAL
15 THEY MUST MEET EACH OF THOSE TESTS IN ORDER TO BE
16 COMPETENT UNDER THE LAW NOW WHAT I'M SIMPLY TRYING
17 TO DETERMINE IS WHETHER OR NOT BASED UPON YOUR
18 EXAMINATION THE DEFENDANT AS WELL AS YOUR
19 CONSIDERATION OF ANY TESTS THAT HAVE BEEN CONDUCTED
20 THAT YOU TOOK INTO ACCOUNT IN ARRIVING AT ANY
21 OPINION THAT YOU MIGHT HAVE, DO YOU BELIEVE, BASED
22 UPON THE KNOWLEDGE THAT YOU HAVE, YOUR EXPERTISE AND
23 THE INFORMATION THAT YOU HAVE CONSIDERED THAT THE
24 DEFENDANT MEETS THAT TEST OR IS IT YOUR OPINION THAT
25 THERE IS SOME QUESTION ABOUT IT THERE IS SOME

1 ISSUE THAT YOU HAVE SOME REASON TO BELIEVE THAT HE
2 DOES NOT MEET THAT TEST, OR CAN YOU GIVE AN OPINION
3 AT ALL?

4 A YES, SIR, I CAN GIVE AN OPINION REGARDING THE
5 LATTER STATEMENT THERE IS REASONABLE DOUBT IN MY
6 MIND THAT HE NEEDS THE TEST WAS THAT NOT THE LAST-
7 --

8 Q THAT'S WHAT I'M ASKING

9 A YES, SIR

10 Q I DIDN'T SAY "REASONABLE DOUBT", I SAID YOU
11 HAVE REASON TO BELIEVE BASED UPON YOUR EXPERTISE AND
12 CONSIDERATION OF THE TESTING AND WHATEVER ELSE YOU
13 CONSIDERED, DO YOU HAVE REASON TO BELIEVE THAT THERE
14 IS A QUESTION AS TO HIS COMPETENCY?

15 A YES, SIR, I DO

16 Q AND YOU COULD NOT SAY THAT HE NEEDS THAT TEST,
17 THE LEGAL STANDARD OF COMPETENCY?

18 A I COULD NOT SAY THAT HE DOES OR, YES, SIR,
19 THAT'S TRUE

20 THE COURT ANY OTHER QUESTIONS?

21 MR JONES NONE, YOUR HONOR

22 MR TINSLEY NO, SIR

23 THE COURT YOU CAN STEP DOWN NOW

24 (TESTIMONY CONCLUDED AT 8 24 P M)

25 THE COURT ANYTHING FURTHER?

1 MR McCALLUM YOUR HONOR, SUBSEQUENT
2 TO OUR RECESSING, IN CONJUNCTION WITH MR JONES, I
3 THINK WE GOT A CONTACT WITH SHERIFF RILEY AGAIN WITH
4 REGARD TO THIS ISSUE OF THE GENTLEMAN THAT WERE
5 OUTSIDE THE CELL WHEN THE M M P I TEST WAS GIVEN
6 YESTERDAY AFTERNOON OR EVENING, I'M TOLD THAT MS
7 STEWART, WHO WAS THE PRIMARY JAILER OUTSIDE THE CELL
8 WILL BE AVAILABLE AT NINE O'CLOCK IN THE MORNING
9 THAT WAS NOT THE SUBPOENA THAT I SENT OVER, BUT
10 EVIDENTLY EITHER SHE OR UNDER SHERIFF RILEY'S
11 DIRECTION HAS CHOSEN NOT TO APPEAR OVER HERE THIS
12 AFTERNOON

13 MR JONES IS TAKING THE POSITION THAT DR
14 WRIGHT'S TESTIMONY IS TAINTED ON THE BASIS THAT THAT
15 TEST MAY HAVE BEEN TAINTED BY SOMEONE GOING IN THE
16 ROOM WE WOULD LIKE TO RESERVE THAT ISSUE AND HAVE
17 THAT OFFICER TESTIFY WE BELIEVE THAT OFFICER, VERY
18 STRONGLY BELIEVE THAT OFFICER WILL TESTIFY THAT
19 NOBODY INTERRUPTED OR GUIDED OR OTHERWISE
20 MANIPULATED THAT M M P I TESTING PROCEDURE

21 THE COURT WELL, AS FAR AS I'M
22 CONCERNED, I'VE HAD ENOUGH TESTING TO RULE ON THAT
23 AS TO WHETHER OR NOT THERE SHOULD BE ADDITIONAL
24 TESTS OF COURSE, IT INCUMBENT UPON THE TRIAL JUDGE
25 TO INSURE THAT A PERSON CHARGED WITH A CRIMINAL

1 OFFENSE IS COMPETENT TO STAND TRIAL, COMPETENCY
2 BEING AS I RELATED TO THE DOCTOR EARLIER, THAT IS,
3 WHETHER OR NOT HE HAS A SUFFICIENT PRESENCE ABILITY
4 AND TO CONSULT WITH HIS LAWYERS WITH A REASONABLE
5 DEGREE OF RATIONAL UNDERSTANDING NOW WHETHER HE
6 HAS A RATIONAL AS WELL AS A FACTUAL UNDERSTANDING OF
7 THE PROCEEDINGS AGAINST HIM, THERE HAS BEEN EXPERT
8 TESTIMONY PRESENTED INDICATING THAT THERE IS SOME
9 REASON TO BELIEVE OR SOME QUESTION ABOUT THE
10 DEFENDANT'S ABILITY TO CONSULT RATIONALLY WITH HIS
11 LAWYERS AND TO RATIONALLY AND TACITLY UNDERSTAND THE
12 PROCEEDINGS AGAINST HIM BASED UPON THAT TESTIMONY
13 BEING PRESENTED FROM EXPERTS IN THE FIELD OF
14 PSYCHOLOGY, I THINK IT IS INCUMBENT UPON ME BECAUSE
15 OF THE STATUTORY REQUIREMENT TO ORDER THAT THE
16 DEFENDANT SUBMIT TO A PSYCHOLOGICAL EVALUATION THAT
17 WILL BE ORDER IMMEDIATELY HE'LL BE TRANSFERRED TO
18 THE WILLIAM S HALL PSYCHIATRIC INSTITUTE FOR
19 EXAMINATION BY A FORENSIC PSYCHIATRIST AND
20 PSYCHOLOGIST THERE WITH THEIR REPORT TO BE SUBMITTED
21 AS SOON AS ABSOLUTELY POSSIBLE UPON COMPLETION OF
22 THEIR EXAMINATION

23 NOW I HAVE EARLIER, WITH THE KNOWLEDGE AND
24 UNDERSTANDING OF THE SOLICITOR AND THE DEFENDANT'S
25 LAWYERS, TALKED WITH DR KATHERINE LEWIS, WHO IS A

1 FORENSIC PSYCHIATRIST AT THE WILLIAM S HALL
2 INSTITUTE AND SHE HAS INDICATED THAT THEY WILL BE
3 ABLE TO CONDUCT SUCH AN EXAMINATION OBVIOUSLY,
4 GOING BACK TO THE EXAMINATION, WILL DEPEND UPON WHAT
5 THEY FIND, BUT IN ORDER FOR THEM TO CONDUCT THAT
6 EXAMINATION, IT IS NECESSARY AND SHE REQUESTS THAT
7 ALL RECORDS, PSYCHOLOGICAL RECORDS, NEURO-
8 PSYCHOLOGICAL RECORDS, LAB TESTS, REPORTS, REPORTS
9 OF ANY TYPE OF TESTING CONDUCTED ON THE DEFENDANT AS
10 WELL AS ANY TYPE OF M R I , C A T SCANS, ANY
11 SIMILAR TYPES OF TESTING CONDUCTED BE SENT WITH THE
12 DEFENDANT TO WILLIAM S HALL INSTITUTE FOR THEIR
13 CONSIDERATION IN MAKING THAT EXAMINATION ANY
14 ADDITIONAL REQUESTS OBVIOUSLY WILL BE WITHIN THE
15 DISCRETION OF WILLIAM S HALL INSTITUTE

16 IS THERE ANY DIFFICULTY, ANY OBJECTION, ANY
17 PROBLEM WITH THE DEFENDANT'S RECORDS BEING SENT TO
18 WILLIAM S HALL FOR THEIR USE IN MAKING THEIR
19 EXAMINATION?

20 WHO WILL BE TRANSPORTING THE DEFENDANT?

21 MR TINSLEY YOUR HONOR, THIS IS,
22 OF COURSE, AN AREA OF CONFIDENCE I HAVE NO
23 PROBLEMS WITH ANYTHING I'VE GOT TO SEND ON WITH HIM,
24 AND I DID THINK DR EVANS, WHEN HE TESTIFIED EARLIER
25 SAID SOMETHING ABOUT A PROBLEM WITH THE ETHICAL

1 CONSIDERATIONS HE HAD OF COURSE, BASED UPON YOUR
2 ORDER, I WOULD THINK THAT ANYTHING THAT YOU ORDERED
3 THAT WAS RELEVANT COULD BE COPIED AND SENT

4 THE COURT OF COURSE, PRIMARILY, I
5 DON'T KNOW WHAT MIGHT HAVE BEEN -- WHAT TESTS MIGHT
6 HAVE BEEN CONDUCTED, BUT I KNOW OF THOSE THAT HAVE
7 BEEN TESTIFIED TO HERE IN COURT, AND THOSE RECORDS
8 AND THOSE TEST RESULTS I WOULD LIKE TO HAVE SENT
9 WITH THE DEFENDANT FOR THE PURPOSE OF THEIR
10 EVALUATION

11 MR TINSLEY YES, SIR MR GARRETT
12 EXPRESSED TO ME THAT, YOU KNOW, THEY WOULD BE UNDER
13 THE SAME ETHICS, ETHICAL CONSIDERATION, JUST TO
14 MAINTAIN THOSE ONGOING ETHICAL CONSIDERATIONS

15 THE COURT OH, SURE WHO'S IN CHARGE
16 OF TRANSPORTATION OF THE DEFENDANT?

17 MR JOHNSON THE CITY

18 THE COURT THE CITY OF ABBEVILLE?
19 ALL RIGHT, ANYTHING FURTHER BEFORE WE RECESS

20 MR JONES WELL, JUDGE, BASICALLY,
21 WHO IS THAT ASKING? WHO ARE WE REFERRING TO AS
22 "THEY ARE UNDER THE SAME ETHICAL CONSIDERATION?"
23 HALL INSTITUTE OR THE PROSECUTION?

24 THE COURT HE'S TALKING ABOUT HALL
25 INSTITUTE

1 MR JONES EXCUSE ME?

2 THE COURT HE'S TALKING ABOUT HALL
3 INSTITUTE WITH REGARD TO THE INFORMATION THEY
4 RECEIVED FROM ANOTHER PROFESSIONAL THAT THEY WOULD
5 USE IN THEIR DETERMINATION AND IN THEIR EXAMINATION

6 MR JONES I WANT YOU TO INQUIRE
7 WE UNDERSTAND THERE'S C A T SCAN AND THE E K G ,
8 E E G

9 THE COURT E E G YEAH, DR EVANS
10 TESTIFIED THAT REGARDING THE E E G , OBVIOUSLY THAT
11 WOULD BE ONE THAT WOULD BE IMPORTANT

12 MR GARRETT WE CAN EDUCATE THE
13 COURT, I THINK, ON WHAT TESTS WE'RE TALKING ABOUT
14 THAT HAVE THOSE CONSIDERATIONS

15 DR EVANS THERE'S NO QUESTION
16 THERE'S NO PROBLEM WITH THAT THEY HAVE FORENSIC
17 PSYCHOLOGISTS THERE AND ANY ETHICS, THEY SEND THEM
18 TO ANOTHER PSYCHOLOGIST, SO GIVE THEM THE WHOLE
19 RECORD

20 THE COURT SO THERE IS NO PROBLEM
21 WITH YOU?

22 DR EVANS NO, SIR

23 THE COURT OKAY, THEN ALL OF THOSE
24 RECORDS WILL BE PROVIDED TO BE SENT WITH THE
25 DEFENDANT ANYTHING FURTHER?

1 MR JONES THAT'S ALL THE RECORDS IN
2 WRITING I TRIED TO GET EVERYTHING I HAD AS COURT'S
3 EXHIBITS IN WRITING, OF COURSE, AND BECAUSE OF THIS
4 ETHICAL CONSIDERATION, DR EVANS WOULDN'T GIVE ME
5 HIS, BUT YOU'VE GOT ALL THE RIGHTS AND ALL THE
6 EVIDENCES SHOULD GO DOWN TOO

7 THE COURT WELL, I THINK WHAT DR
8 EVANS CONCERN WAS WAS DIVULGING THE RESULTS OF THOSE
9 TESTS AND INFORMATION IN COURT, BUT HE HAS STATED
10 THAT HE HAS NO RESERVATION OR CONCERN ABOUT
11 RELEASING THOSE TO ANOTHER PROFESSION FOR THE
12 PURPOSE OF THEIR EVALUATION

13 MR JONES WELL, JUDGE, DO YOU WANT
14 TO DISCUSS ON THE RECORD WHERE WE GO FROM HERE? DO
15 YOU WANT TO DO THAT OFF THE RECORD, OR WHAT?

16 THE COURT WELL, ---

17 MR JONES AS FAR AS THE TRIAL IS
18 IT CONTINUED?

19 THE COURT WELL, THAT WILL DEPEND
20 UPON ON WHAT THE RESULT IS SO FAR AS THE WILLIAM S
21 HALL INSTITUTE AND REGARDING TO THEIR EVALUATION
22 IF THE DEFENDANT IS TAKEN THERE TONIGHT AND IF AN
23 EVALUATION IS CONDUCTED TONIGHT OR TOMORROW, YOU
24 SEE, I DON'T KNOW HOW LONG THAT'S GOING TO TAKE IF
25 THEY CAN DO THAT -- BASED UPON MANY OF THE TESTS

1 ALREADY HAVING ACCOMPLISHED, THAT OBVIOUSLY MIGHT
2 HAVE THEM SOME TIME IT MIGHT BE THAT THEY WILL NOT
3 NEED TO CONDUCT ADDITIONAL TESTS AND THEY CAN TAKE
4 THAT TESTING AND WITH INTERVIEWS OF THE DEFENDANT,
5 THEY MAY BE ABLE TO RENDER AN EVALUATION BY
6 TOMORROW AND IF SO, THE TRIAL WILL PROCEED
7 OBVIOUSLY, WHATEVER TIME THEY NEED TO MAKE THAT
8 DETERMINATION WILL BE DETERMINATIVE AS TO WHEN WE
9 CAN PROCEED FURTHER WITH THE TRIAL OF THE CASE

10 MR JONES ALL RIGHT, THEN YOU WANT
11 ME TO TELL MY VICTIM'S FAMILY MEMBERS FROM ATLANTA
12 AND THE MIDWEST THAT WE'RE GOING TO GO ON A DAY-BY-
13 DAY BASIS, WHICH IS FINE JUST DAY BY DAY BY DAY

14 THE COURT I EXPECT WE'LL HAVE SOME
15 INFORMATION FROM WILLIAM S HALL INSTITUTE TOMORROW
16 AS TO WHETHER THEY EXPECT IT TO BE COMPLETED
17 TOMORROW OR RIGHT AWAY OR WHETHER IT'S GOING TO TAKE
18 SOME BEARING LENGTH OF TIME I OBVIOUSLY HAVE NO
19 WAY OF KNOWING HOW LONG THAT MIGHT TAKE THEY, I'M
20 CERTAIN, CAN GIVE US AN IDEA OF THAT ONCE THE
21 DEFENDANT HAS ARRIVED AND THEY'VE HAD A CHANGE TO
22 LOOK AT THE RECORDS

23 MR JONES ALL RIGHT, DO YOU WANT US
24 TO MEET BACK HERE TOMORROW OR ---

25 THE COURT DEFINITELY, WE NEED TO BE

1 BACK HERE TOMORROW WE'VE GOT OTHER MATTERS THAT WE
2 CAN ADDRESS PERHAPS

3 MR COULTER JUDGE, WE CAN GET HIM,
4 IF WILLIAM S HALL TAKES PEOPLE AT NIGHT, WE CAN GET
5 HIM THERE TONIGHT AND GET HIM TESTED

6 THE COURT ABSOLUTELY

7 MR COULTER I UNDERSTAND THAT IT'S
8 ALSO GOING TO BE ENCUMBERED UPON THEM TO GET ALL
9 THEIR STUFF THERE AT THE SAME TIME TO BE ABLE TO
10 EXPEDITE THE PROCESS

11 THE COURT I ASSUME WE HAVE ALL
12 THESE RECORDS RIGHT HERE

13 MR TINSLEY ARE THERE ENOUGH PEOPLE
14 HERE? I NEED FOR THEM TO PUT ALL THAT TOGETHER AND
15 ADD TO WHAT WE'VE GOT HERE, AND I ASSUME AT THIS
16 POINT THAT CODE SECTION 4423 (410) JUST KICKS IN ON
17 THE EVALUATION DOWN THERE

18 THE COURT THAT'S RIGHT, SUBSECTION
19 (1)

20 MR TINSLEY I'M JUST GOING TO PUT
21 ALL THAT TOGETHER RIGHT NOW AND PROVIDE ALL THAT
22 WITH THE TRANSPORTER TO THE HOSPITAL IT SHOULDN'T
23 TAKE US LONG

24 THE COURT BEFORE WE LEAVE, I WANT
25 US TO BE CERTAIN THAT WE AGREE ON ALL THE RECORDS

1 BEING PRESENT TO BE SENT WITH THE DEFENDANT SO THERE
2 WON'T BE ANY ISSUE TOMORROW ABOUT WHAT HAS NOT
3 ARRIVED OR WHAT NEEDS TO BE GATHERED SO WE'LL
4 ADDRESS THAT BEFORE WE LEAVE TONIGHT WE'LL BE AT
5 EASE UNTIL AFTER CONFERENCE

6 MR JONES JUDGE, WE DO HAVE SOME
7 WITH OUR SOCIAL WORKER THAT WE WILL MAKE AVAILABLE
8 FOR HIM TO SEND UP TO COLUMBIA FROM CHARLESTON

9 THE COURT ALL RIGHT, MR TINSLEY,
10 REPEAT THAT PLEASE

11 MR JONES HIS HOSPITAL RECORDS
12 RELATING TO THE HEAD INJURIES AND THAT SORT OF
13 THING, OR JEFF YOUNG, THE SOCIAL WORKER IN
14 CHARLESTON, WE'LL ARRANGE TO HAVE HIM FAX A COPY OF
15 THOSE UP OR RUN THOSE UP FROM CHARLESTON

16 THE COURT LET'S DO THAT RIGHT AWAY

17 MR JONES I'LL CALL HIM RIGHT NOW,
18 OTHERWISE, WE CAN MEET WITH MY FOLKS AND WE CAN GET
19 EVERYTHING TOGETHER AND GIVE IT TO THE SHERIFF OR
20 THE POLICE DEPARTMENT

21 THE COURT THE CITY OF ABBEVILLE
22 (DEFENDANT WAS SUBMITTED TO WILLIAM S HALL
23 INSTITUTE FOR A PSYCHIATRIC EVALUATION)
24 (COURT RECESSES AT 8 45 P M)

25 ***** END OF DAY 1 *****

1 (DAY 2, OCTOBER 14, 1998, COURT RECONVENES AT 4 42
2 O'CLOCK P M)

3 THE COURT ALL RIGHT LET THE
4 RECORD REFLECT THAT WE ARE BACK IN SESSION MR
5 TINSLEY IS PRESENT REPRESENTING THE DEFENDANT MR
6 COULTER IS PRESENT REPRESENTING THE STATE MR
7 TINSLEY, DO YOU HAVE AN ADDITIONAL MOTION?

8 MR TINSLEY YES, YOUR HONOR MAY
9 IT PLEASE THE COURT? YOUR HONOR, AT THIS TIME, IN
10 LIGHT OF OUR FINDINGS -- TO YOUR HONOR'S FINDINGS
11 YESTERDAY AND ORDERING MY CLIENT TO THE STATE
12 HOSPITAL FOR AN EVALUATION AS TO COMPETENCY TO STAND
13 TRIAL AND UNDERSTAND THE NATURE OF THE PROCEEDINGS
14 AGAINST HIM AND HIS ABILITY TO ASSIST COUNSEL IN HIS
15 OWN DEFENSE, WE FURTHER FEEL AT THIS TIME THAT IT'S
16 APPROPRIATE THAT ADDITIONALLY HE BE EVALUATED ON THE
17 BASIS OF, IN ADDITION TO COMPETENCY, ON THE BASIS OF
18 -- OF HIS CRIMINAL RESPONSIBILITY, IF ANY, IN THE
19 ADJOINING CODE SECTION, 44-23-420, IN ADDITION TO
20 THE PRIORITY OF THE COURT CONCERNING CODE SECTION
21 44-23-410, PARTICULARLY IN LIGHT OF THE FACT THAT
22 HE'S ALREADY DOWN THERE BEING EXAMINED MAKES SENSE
23 THAT AT THIS TIME THAT HE GO ON AND HAVE THIS
24 ADDITIONAL EVALUATION AND I DON'T THINK THERE'S --
25 THERE'S ANY OPPOSITION TO IT, BUT I CERTAINLY WILL

1 LET MR COULTER SPEAK ON THAT

2 MR COULTER NO, YOUR HONOR THE
3 STATE WILL CONSENT TO THAT

4 THE COURT AND DO YOU WISH TO
5 INCORPORATE ALL OF THE TESTIMONY RECEIVED YESTERDAY
6 REGARDING THE MOTION FOR A COMPETENCY EVALUATION TO
7 BE CONSIDERED BY THE COURT IN MAKING THIS
8 DETERMINATION AS TO WHETHER OR NOT AN ADDITIONAL
9 EVALUATION SHOULD BE CONDUCTED FOR CRIMINAL
10 RESPONSIBILITY?

11 MR TINSLEY YES, SIR, YOUR HONOR,
12 AND INCLUDING ANY EXHIBITS AND MEDICAL TESTIMONY,
13 PSYCHIATRIC -- EXCUSE ME -- PSYCHOLOGICAL THAT WAS
14 ENTERED YESTERDAY

15 THE COURT ALL RIGHT

16 MR TINSLEY CERTAINLY

17 THE COURT ALL RIGHT BASED UPON
18 THE SHOWING MADE, THE DEFENDANT'S MOTION WITH
19 CONSENT OF THE STATE IS GRANTED, AND I'LL DO A
20 WRITTEN ORDER IN THAT RESPECT

21 MR TINSLEY THANK YOU SO MUCH,
22 JUDGE

23 THE COURT ANYTHING FURTHER?

24 MR TINSLEY NO, SIR, NOT AT THIS
25 TIME

1 ***** END OF DAY 2 *****

2 (THE COURT IS IN RECESS UNTIL FURTHER NOTICE)

3 (DAY 3, OCTOBER 14, 1998, IN RECESS PENDING RESULTS
4 OF EVALUATION)

5 STATE'S EXHIBITS 1 - 85 MARKED

6 ***** END OF DAY 3 *****

7 (DAY 4, OCTOBER 15, 1998, IN RECESS PENDING RESULTS
8 OF EVALUATION)

9 ***** END OF DAY 4 *****

10 (DAY 5, OCTOBER 17, 1998, 9 30 O'CLOCK A M)THE

11 THE COURT GOOD AFTERNOON, LADIES AND

12 GENTLEMEN OF THE JURY PANEL AS I TOLD YOU AT THE

13 BEGINNING OF THE WEEK, MY NAME IS DERHAM COLE I'M

14 A RESIDENT CIRCUIT JUDGE FROM THE SEVENTH CIRCUIT

15 I RESIDE IN SPARTANBURG I WILL BE PRESIDING OVER

16 THE TRIAL OF THE CASE THAT WILL BE CALLED THIS WEEK

17 THIS IS A TERM OF GENERAL SESSIONS COURT WHICH IS

18 THE CRIMINAL SIDE OF THE CIRCUIT COURT, AND DURING

19 THIS WEEK YOU HAVE BEEN SUMMONED TO POTENTIALLY

20 SERVE AS A JUROR IN THE TRIAL OF A CRIMINAL CASE

21 AS YOU ARE AWARE FROM THE LETTER THAT YOU HAVE

22 PREVIOUSLY RECEIVED WITH YOUR JUROR SUMMONS, YOU

23 HAVE BEEN SUMMONED TO POTENTIALLY SERVE AS A JUROR

24 IN THE TRIAL OF THE CASE OF THE STATE VERSUS JOHN

25 KENNEDY HUGHEY

1 THERE ARE A NUMBER OF MATTERS THAT
2 WE'LL NEED TO ADDRESS WITH YOU BEFORE WE CAN
3 ACTUALLY BEGIN WITH JURY SELECTION AS YOU KNOW,
4 DURING THE COURSE OF THIS WEEK WE HAVE BEEN INVOLVED
5 IN SOME OTHER MATTERS THAT DID NOT REQUIRE YOUR
6 PARTICIPATION NOR DID IT REQUIRE YOUR PRESENCE, AND
7 SOME OF THOSE MATTERS TOOK A LITTLE BIT LONGER THAN
8 I HAD ANTICIPATED, AND THAT'S THE REASON THAT WE ARE
9 DELAYED IN HAVING YOU BROUGHT BACK FOR JURY
10 QUALIFICATION AND POTENTIAL JURY SELECTION WE DO
11 SINCERELY APPRECIATE YOUR PARTICIPATION WE
12 APPRECIATE YOUR PATIENCE AND YOUR UNDERSTANDING IN
13 THAT REGARD

14 NOW, THE FIRST THING THAT WE WILL DO
15 BEFORE WE BEGIN WITH JURY QUALIFICATION IS TO SIMPLY
16 HAVE YOUR CLERK OF COURT, NANCY KING, CALL THE ROLL
17 OF THE JURY PANEL WE WILL NOT NEED ANY INFORMATION
18 FROM YOU PRESENTLY BECAUSE YOU HAVE PREVIOUSLY
19 PROVIDED US WITH A JUROR QUESTIONNAIRE WE WOULD
20 SIMPLY ASK THAT YOU PLEASE STAND IN RESPONSE TO YOUR
21 NAME BEING CALLED SO THAT WE CAN SEE THAT YOU ARE
22 PRESENT, AND ONCE THE CLERK HAS CONCLUDED THE
23 CALLING OF THE ROLL OF THE JURY PANEL, I WILL THEN
24 HAVE A NUMBER OF QUESTIONS THAT I WILL BE ASKING YOU
25 IN ORDER TO DETERMINE WHETHER OR NOT YOU ARE

1 QUALIFIED UNDER THE LAW TO SERVE AS A JUROR IN THE
2 TRIAL OF THIS PARTICULAR CASE

3 NOW, THIS QUALIFICATION WILL TAKE
4 PLACE IN A COUPLE OR THREE STAGES FIRST, THE ROLL
5 WILL BE CALLED AS I INDICATED I WILL ASK YOU
6 CERTAIN QUESTIONS IN ORDER TO DETERMINE YOUR LEGAL
7 QUALIFICATION TO SERVE AS A JUROR THIS WEEK HERE IN
8 THE CIRCUIT COURT, AND ONCE THOSE LEGAL
9 QUALIFICATIONS HAVE BEEN DETERMINED, WE WILL THEN
10 HAVE ADDITIONAL QUESTIONS TO ASK OF YOU REGARDING
11 THE SPECIFIC CASE FOR WHICH YOU HAVE BEEN SUMMONED
12 TO POTENTIALLY SERVE IN THAT WILL TAKE SOME PERIOD
13 OF TIME I ASK AGAIN TO HAVE YOUR PATIENCE AND
14 UNDERSTANDING

15 PLEASE RESPOND FULLY TO ANY QUESTION
16 THAT IS ASKED SHOULD YOU NOT UNDERSTAND THE
17 QUESTION, SIMPLY RAISE YOUR HAND, AND I'LL TRY TO
18 HAVE IT EXPLAINED FOR YOU, BUT PLEASE ANSWER UP WHEN
19 YOUR NAME IS CALLED JUST STAND SO THAT WE CAN SEE
20 WHO YOU ARE AND THAT YOU ARE HERE, THEN YOU MAY BE
21 SEATED, AND ONCE WE HAVE CONCLUDED THE CALLING OF
22 THE ROLL OF THE JURY PANEL, I WILL THEN HAVE THOSE
23 QUALIFYING QUESTIONS TO ASK YOU MS KING?

24 CLERK I'M GOING TO ASK THE ENTIRE
25 JURY PANEL TO PLEASE STAND TO BE SWORN NOW, IF YOU

1 WOULD RAISE YOUR RIGHT HAND

2 (JURORS DO AS INSTRUCTED)

3 CLERK EACH OF YOU JURORS DO HEREBY
4 VOLUNTEER -- SWEAR THAT THE STATMENTS AND THE
5 RESPONSES TO THE QUESTIONS ASKED BY THE COURT SHALL
6 BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE
7 TRUTH SO HELP YOU GOD? JUST INDICATE BY SAYING, "I
8 WILL "

9 JURORS I WILL

10 CLERK YOU MAY BE SEATED NOW, AS I
11 CALL YOUR NAME I'M GOING TO ASK YOU TO PLEASE STAND
12 AND JUST REMAIN STANDING FOR JUST A FEW MINUTES
13 JUROR NUMBER ONE, STANLEY ABERNATHY NUMBER TWO,
14 BREWER ADAMS YOU MAY BE SEATED, MR ABERNATHY
15 NUMBER TWO, BREWER ADAMS WE ARE UNABLE TO LOCATE
16 JUROR NUMBER TWO NUMBER SIX, TANYA ANDERSON
17 NUMBER SEVEN, ROBERT J ASHE NUMBER EIGHT, MARIE
18 ASHLEY IS DECEASED NUMBER TEN, SOPHIA BATTLE
19 NUMBER ELEVEN, REMLE BEARD REMLE BEARD NUMBER
20 THIRTEEN, MARY BELCHER MARY BELCHER NUMBER
21 FOURTEEN, ALVIS BELTON YOU MAY BE SEATED NUMBER
22 FIFTEEN, MINNIE BENJAMIN, UNABLE TO LOCATE NUMBER
23 SIXTEEN, LILLIAN BLANCHETT NUMBER SEVENTEEN,
24 ROBERT BLANCHETT WE HAVE A DOCTOR'S EXCUSE
25 NUMBER FIFTEEN, GLORIA BOWIE NUMBER TWENTY-ONE,

1 WILLIAM BOWIE NUMBER TWENTY-TWO -- NUMBER TWENTY-
2 THREE, ANDREA BRAMLETT NUMBER TWENTY-FOUR, LEE
3 BROOKS NUMBER TWENTY-FIVE, ARLENE BROWN NUMBER
4 TWENTY-SIX, DANNY BROWN NUMBER TWENTY-SEVEN, JANA
5 BROWN, LIVES IN DORCHESTER COUNTY NUMBER TWENTY-
6 EIGHT, PEARLY BRYANT NUMBER TWENTY-NINE, ROBERTA
7 BRYANT NUMBER THIRTY, DEWEY BURNS NUMBER THIRTY-
8 ONE, CAROLYN BURTON THIRTY-TWO, FRANCES M BURTON
9 NUMBER THIRTY-FOUR, MARGARET CADE NUMBER THIRTY-
10 FIVE, DAVID CANN NUMBER THIRTY-SIX, GEORGE CANNON,
11 DECEASED NUMBER THIRTY-SEVEN, HAZEL CARROLL,
12 UNABLE TO LOCATE NUMBER THIRTY-EIGHT, L T CARTER
13 NUMBER THIRTY-NINE, RAY CHANDLER NUMBER FORTY,
14 AZALEA CHARPING, DECEASED NUMBER FORTY-ONE, SONG
15 CHOI, UNABLE TO LOCATE NUMBER FORTY-TWO, BRIAN
16 CHRISLEY NUMBER FORTY-THREE, JENNY CLARK NUMBER
17 FORTY-FOUR, SONJA CLARK, UNABLE TO LOCATE NUMBER
18 FORTY-FIVE, HOLLIS COLEMAN, DOES NOT LIVE IN
19 ABBEVILLE COUNTY NUMBER FORTY-SIX, LOUISE COLEMAN
20 NUMBER FORTY-SEVEN, GLENN COLLINS NUMBER FORTY-
21 EIGHT, FRANCES COWART NUMBER FORTY-NINE, CHARLES
22 CRANE NUMBER FIFTY, HAROLD B CRAWFORD NUMBER
23 FIFTY-TWO, ROBIN CROCKER NUMBER FIFTY-THREE,
24 MARTHA CROCKETT NUMBER FIFTY-FOUR, JOSIE CUMMINGS
25 NUMBER FIFTY-FIVE, BRIAN DALY NUMBER FIFTY-SIX,
26 ANITA DAVIS, DOCTOR'S STATEMENT NUMBER FIFTY-
27 SEVEN, MARTHA DEMEREST NUMBER FIFTY-EIGHT, DIANNE

1 DOTSON NUMBER FIFTY-NINE, ROY DRAFT NUMBER
2 SIXTY, TENA DUKE NUMBER SIXTY-ONE, JOE DUKES
3 NUMBER SIXTY-TWO, HUGH B ELLIS, DECEASED NUMBER
4 SIXTY-FOUR, JAMES ELMORE SIXTY-FIVE, SHIRLEY
5 ELMORE SIXTY-SIX, CATHY ERSKINE, LIVES IN
6 NEWBERRY SIXTY-SEVEN, WALTER FLEMING SIXTY-
7 EIGHT, HAROLD FREESE SIXTY-NINE, TIMOTHY FULLER
8 NUMBER SEVENTY, BOB GABLE, DOCTOR'S STATEMENT
9 NUMBER SEVENTY-ONE, VERONCIA GADSDEN NUMBER
10 SEVENTY-TWO, JUDY GAMBRELL, DOCTOR'S STATEMENT
11 NUMBER SEVENTY-THREE, MARCUS GAMBRELL IS A FULL-TIME
12 STUDENT NUMBER SEVENTY-FOUR, BOBBY GARNER NUMBER
13 SEVENTY-FIVE, JAMES E GARRETT, DOCTOR'S STATEMENT
14 NUMBER SEVENTY-SIX, CATHY GEER -- GARY GEER NUMBER
15 SEVENTY-SEVEN, BETTY GILLIAM -- HUGHES I BELIEVE
16 THAT'S HUGHES ON -- ADDED TO THAT END HER NAME'S
17 BETTY HUGHES -- BETTY HUGHES
18 JUROR WELL, I MARRIED A GILLIAM
19 CLERK OKAY NUMBER SEVENTY-EIGHT,
20 LISA GILMER, SMALL CHILDREN NUMBER SEVENTY-NINE,
21 NANCY GILMER NUMBER EIGHTY, JOANNE GOKEY, DOES NOT
22 LIVE IN ABBEVILLE COUNTY NUMBER EIGHTY-ONE,
23 SANFORD GRAY NUMBER EIGHTY-TWO, SARAH GRIDER,
24 LIVES IN NORTH CAROLINA NUMBER EIGHTY-THREE, PATTY
25 GRIFFIN NUMBER EIGHTY-FOUR, ANGELA HAGEN, SMALL
26 CHILDREN NUMBER EIGHTY-FIVE, DIANE HAGEN, EXCUSED
27 BY THE JUDGE BY THE STATUTE NUMBER EIGHTY-SEVEN,

1 CHARLES W HALL NUMBER EIGHTY-EIGHT, DUANNE HALL
2 NUMBER EIGHTY-NINE, PEGGY HARMON, UNABLE TO LOCATE
3 NUMBER NINETY, LIZZIE HARRIS NUMBER NINETY-ONE,
4 RHONDA HARRISON NUMBER NINETY-TWO, LINDA HAYNES
5 NUMBER NINETY-THREE, ETHEL HEMBREE, DOCTOR'S
6 STATEMENT NUMBER NINETY-FOUR, LESLIE HENRY, SMALL
7 CHILDREN NUMBER NINETY-FIVE, WILLIAM L HESSON
8 NUMBER NINETY-SIX, CHERYL HILL NUMBER NINETY-
9 EIGHT, THOMAS HILLEY NUMBER NINETY-NINE, DAVID
10 HOBBY ONE HUNDRED ONE, WILLIAM HORTON NUMBER ONE
11 HUNDRED THREE IS MACK HUDSON WHO IS DECEASED ONE
12 HUNDRED FOUR, FREDDIE HUGHEY ONE HUNDRED FIVE,
13 SAMUEL JACKS ONE HUNDRED SIX, JOHN JOHNSON, UNABLE
14 TO LOCATE ONE HUNDRED EIGHT, WILLIAM J JONES
15 ONE HUNDRED NINE, JAMES B JONES, JUNIOR ONE
16 HUNDRED TEN, JAMES S JONES, JUNIOR ONE HUNDRED
17 ELEVEN, CYRUS KELSO ONE HUNDRED TWELVE, BILLY
18 KIMSEY ONE HUNDRED THIRTEEN, JAMES W KLUGH ONE
19 HUNDRED FOURTEEN, RALPH KOERBER ONE HUNDRED
20 FIFTEEN, ALDENE LANGLEY ONE HUNDRED SIXTEEN, PEGGY
21 LOLLIS ONE HUNDRED SEVENTEEN, CURTIS LOMAX ONE
22 HUNDRED EIGHTEEN, JOHN LOMAX, DOCTOR'S STATEMENT
23 ONE HUNDRED NINETEEN, CHESIREE LOMAX ONE HUNDRED
24 TWENTY, SANDRA LOTHRIIDGE ONE TWENTY-ONE, ELLA
25 LOWE ONE TWENTY-THREE, EVAN MANN, LIVES IN PICKENS
26 COUNTY ONE TWENTY-FOUR, ANTHONY MARTIN ONE
27 TWENTY-FIVE, CARY MATHEWS, LIVES IN GREENWOOD

1 COUNTY 126, QUANSAH MATHIAS, UNABLE TO LOCATE
2 ONE TWENTY-SEVEN, LINDA McCALL ONE TWENTY-EIGHT,
3 JAMES McCALLA ONE TWENTY-NINE, VICKY McCLAIN ONE
4 THIRTY, GINGER McCURRY ONE THIRTY-ONE, SAMUEL
5 McGILL ONE THIRTY-TWO, EDWARD McGOWAN IS DECEASED
6 ONE THIRTY-THREE, WILLIAM McNEILL, DECEASED ONE
7 THIRTY-FOUR, ROBERT McWHORTER ONE THIRTY-FIVE,
8 TRACY MILFORD ONE THIRTY-SIX, ADDIE MILLER,
9 DOCTOR'S STATEMENT ONE THIRTY-SEVEN, LEROY MILLS
10 ONE THIRTY-EIGHT, ALMA MIMS, DECEASED ONE THIRTY-
11 NINE, FRAN MORROW ONE FORTY, PEARLENA MORTON ONE
12 FORTY-ONE, ARLINE MOSS, UNABLE TO LOCATE NUMBER
13 ONE FORTY-TWO, MARGARET MOSS ONE FORTY-FOUR, NANCY
14 MURPHY ONE FORTY-FIVE, JAMES T NABORS NUMBER
15 ONE FORTY-EIGHT, HARPER NORMAN, DOCTOR'S STATEMENT
16 NUMBER ONE FORTY-NINE, GINA NORRIS NUMBER ONE
17 FIFTY, JOE OGLESBY NUMBER ONE FIFTY-ONE, DORIS
18 OWENS BEAUFORT NUMBER ONE FIFTY-THREE, ELOISE
19 PARKER NUMBER ONE FIFTY-FOUR, JANICE PARKER,
20 DECEASED ONE FIFTY-FIVE, JANIE PATTERSON ONE
21 FIFTY-SIX, MARTHA PAUL, UNABLE TO LOCATE ONE
22 FIFTY-SEVEN, CORA PENDLETON ONE FIFTY-EIGHT,
23 ESTORIA PHILLIPS, DOCTOR'S STATEMENT ONE FIFTY-
24 NINE, JOHN PHILLIPS, DOCTOR'S STATEMENT ONE SIXTY
25 IS MICHAEL POLOVITZ ONE SIXTY-TWO, BENJAMIN
26 POWELL ONE SIXTY-THREE, CLAUD PRINCE ONE SIXTY-
27 FIVE, ABBIE REDD ONE SIXTY-SIX, MELANIE REID ONE

1 SIXTY-SEVEN, CHRISTINE RHODES ONE SIXTY-EIGHT,
2 LILLIAN RICHEY ONE SIXTY-NINE, JOSEPH RIDGEWAY IS
3 DECEASED ONE SEVENTY, EDWARD RILEY, JUNIOR LIVES
4 IN GREENVILLE ONE SEVENTY-ONE, ARLENE RIVERA ONE
5 SEVENTY-TWO, DELANIE ROBINSON IS A FULL-TIME STUDENT
6 AT U S C NUMBER ONE SEVENTY-THREE, WILLIAM ROGERS
7 ONE SEVENTY-FOUR, BETTY ROONEY, DOCTOR'S STATEMENT
8 ONE SEVENTY-FIVE, MARY SANDERS ONE SEVENTY-SIX,
9 ROSEMARY SCHALL ONE SEVENTY-SEVEN, DOUGLAS SCOTT
10 IS A DOCTOR'S STATEMENT ONE SEVENTY-EIGHT, TRACIE
11 SCOTT ONE SEVENTY-NINE, MITCHELL SHERARD --
12 MICHAEL SHERARD I'M SORRY, MICHAEL NUMBER ONE
13 EIGHTY, WILLIAM SIMMONS
14 JUROR IT'S SUPPOSED TO BE WILLIE
15 CLERK WILLIE SIMMONS?
16 JUROR UH-HUH (AFFIRMATIVE)
17 CLERK OKAY WILLIE ONE EIGHTY-
18 ONE, GLENDA SIMPSON ONE EIGHTY-THREE, BILLY SMITH
19 ONE EIGHTY-FOUR, REGGIE SMITH ONE EIGHTY-FIVE,
20 SPENCER SORROW ONE EIGHTY-SIX, MARTHA STONE ONE
21 EIGHTY-SEVEN, NANCY SULLIVAN ONE EIGHTY-EIGHT,
22 ADANELL TALLEY ONE EIGHTY-NINE, BARBARA THOMAS
23 ONE NINETY, CYNTHIA THOMAS ONE NINETY-THREE, JOHN
24 THOMPSON ONE NINETY-FOUR, ADGER TIMMS HE'S
25 DECEASED ONE NINETY-FIVE, MALTA TINCHER ONE
26 NINETY-SIX, MICHAEL TOMPKINS ONE NINETY-SEVEN,
27 RICHARD TUCKER ONE NINETY-NINE, PATRICIA TURNER

1 LINVES IN ANDERSON COUNTY TWO HUNDRED, TYRUS
2 VAUGHAN IS DECEASED TWO-O-ONE, WILLIAM VAUGHN
3 TWO-O-TWO, KEVIN WAGLER TWO-O-THREE, GEORGE WARD
4 IS DECEASED TWO-O-FOUR, ELIZABETH WARE TWO-O-
5 FIVE, BRENDA WASHINGTON TWO-O-SIX, MATTHEW WATERS
6 TWO-O-SEVEN IS NAOMI WATERS TWO-O-EIGHT, ANNIE
7 WATT TWO-O-NINE, SHAE WELLS TWO TEN, FRED WEST,
8 JUNIOR TWO ELEVEN, GEORGIA WHARTON TWO TWELEV,
9 SHARON WHARTON WE HAVE A DOCTOR'S STATEMENT TWO
10 THIRTEEN, RUTH WHITE, A DOCTOR'S STATEMENT TWO
11 FOURTEEN, STEVE WHITE TWO FIFTEEN, WILLIE WHITE
12 TWO SIXTEEN, EDDIE WILLIAMS TWO SEVENTEEN, SUSAN
13 WILLIAMS TWO EIGHTEEN, TERRENCE WILLIS, UNABLE TO
14 LOCATE TWO TWENTY, PAULINE WILSON, A DOCTOR'S
15 STATEMENT TWO TWENTY-TWO, HARRELL WREYFORD TWO
16 TWENTY-THREE, JAMES L YOUNG IS DECEASED AND TWO
17 TWENTY-FIVE, JONATHAN YOUNG
18 OKAY DID I CALL NUMBER TWELVE,
19 ARCHIE BEATY?
20 JUROR UH-UH (NEGATIVE)
21 CLERK OKAY I DIDN'T MEAN TO LEAVE
22 YOU OUT NUMBER TWELVE, ARCHIE BEATY IS THERE
23 ANYONE ON THIS JURY'S NAME THAT I DID NOT CALL? I
24 WOULD ASK YOU TO PLEASE STAND AT THIS TIME THANK
25 YOU
26 THE COURT ALL RIGHT, LADIES AND
27 GENTLEMEN AS I INDICATED TO YOU, I'VE GOT A NUMBER

1 OF QUESTIONS THAT I'M GOING TO ASK YOU, AND THE
2 PURPOSE IS TO SIMPLY FIND OUT WHETHER OR NOT YOU ARE
3 QUALIFIED UNDER THE LAW TO SERVE AS A JUROR IN THE
4 CIRCUIT COURT DURING THE TRIAL OF A CRIMINAL CASE
5 ONCE I HAVE CONCLUDED WITH THOSE QUESTIONS, WE WILL
6 THEN GET INTO OTHER ADDITIONAL QUESTIONS THAT RELATE
7 TO THE PARTICULAR CASE FOR WHICH YOU HAVE BEEN
8 SUMMONED TO POTENTIALLY SERVE IN

9 FIRST OF ALL, LET ME ASK IF EACH
10 JUROR WAS SUMMONED BY YOUR CORRECT AND PROPER NAME
11 HAS ANY JUROR'S NAME BEEN CHANGED BY REASON OF A
12 MARRIAGE OR DIVORCE OR OTHERWISE AND IT WAS NOT
13 CORRECTLY REFLECTED ON YOUR JUROR SUMMONS? IF SO,
14 PLEASE STAND ALL RIGHT YOUR NAME, PLEASE MA'AM?

15 JUROR GLENDA SIMPSON IT'S NUMBER
16 181 IT SHOULD BE CANFIELD

17 THE COURT AND IT SHOULD BE WHAT?

18 JUROR CANFIELD

19 CLERK CANFIELD

20 THE COURT CANFIELD? C-A-N-F-I-E-L-
21 D?

22 JUROR YES, SIR

23 THE COURT ALL RIGHT THANK YOU,
24 MA'AM ANYONE ELSE WHOSE NAME IS NOT CORRECTLY
25 REFLECTED ON YOUR SUMMONS? YES, SIR?

26 JUROR RORRY DRAFT THAT'S SPELLED
27 RORRY R-O-R-Y

1 THE COURT YOU RECALL WHAT YOUR
2 NUMBER WAS?
3 JUROR FIFTY-NINE
4 CLERK FIFTY-NINE
5 THE COURT IT SHOULD BE R ---
6 JUROR R-O-R-Y
7 THE COURT RORY ALL RIGHT, SIR
8 THANK YOU, SIR IS THIS A JUROR? WHAT'S YOUR NAME,
9 PLEASE SIR?
10 JUROR ANTHONY MARTIN
11 THE COURT ANTHONY?
12 JUROR MARTIN
13 THE COURT MARTIN? OKAY THANK
14 YOU YOU CAN HAVE A SEAT BACK THERE ANYONE ELSE
15 WHOSE NAME IS NOT CORRECTLY REFLECTED ON YOUR JUROR
16 SUMMONS? YES, MA'AM
17 JUROR SHE SAID WILLIAMS IT'S
18 SUPPOSED TO SAY WILLIE THEY GOT THE WRONG ---
19 THE COURT IT -- IT DID SAY WILLIE
20 SHE JUST MISREAD IT
21 JUROR OKAY
22 THE COURT OKAY THANK YOU ANYONE
23 ELSE? IS THERE ANY MEMBER OF THE JURY PANEL WHO IS
24 NOT NOW A CITIZEN AND RESIDENT OF THE UNITED STATES
25 AS WELL AS A CITIZEN AND RESIDENT OF ABBEVILLE
26 COUNTY, SOUTH CAROLINA? IF YOU ARE NOT NOW EACH OF
27 THOSE, I WOULD ASK THAT YOU PLEASE STAND

1 (JURORS DO AS INSTRUCTED)

2 THE COURT YOUR NAME, PLEASE?

3 JUROR SANDRA LOTHBRIDGE

4 THE COURT LOTHBRIDGE? ALL RIGHT,

5 MS LOTHBRIDGE WHAT IS YOUR ---

6 JUROR I'M IN THE PROCESS OF MOVING

7 TO GREENVILLE COUNTY I'M STILL IN ABBEVILLE, BUT

8 I'M IN THE PROCESS OF MOVING I'VE ALREADY FOUND A

9 PLACE THERE

10 THE COURT BUT YOU'RE A RESIDENT OF

11 ABBEVILLE NOW?

12 JUROR AS -- YEAH, BUT LIKE I SAID,

13 I'M IN THE PROCESS OF MOVING

14 THE COURT I UNDERSTAND, BUT YOU'RE

15 LIVING NOW HERE IN ABBEVILLE?

16 JUROR KIND OF HALFWAY BETWEEN THE

17 TWO, REALLY

18 THE COURT WELL, WHERE DID YOU SLEEP

19 LAST NIGHT?

20 JUROR OKAY I JUST WANTED TO MAKE

21 SURE

22 THE COURT OKAY THANK YOU, MA'AM

23 ANYONE ELSE WHO IS NOT NOW A CITIZEN AND RESIDENT OF

24 THE UNITED STATES OR ABBEVILLE COUNTY? YES, SIR?

25 JUROR MY NAME'S JONATHAN YOUNG

26 THE COURT ALL RIGHT, MR YOUNG

27 WHAT IS YOUR PRESENT RESIDENCE?

1 JUROR GREENVILLE

2 THE COURT GREENVILLE? WHAT IS YOUR
3 ADDRESS IN GREENVILLE?

4 JUROR 25 PELHAM ROAD

5 THE COURT 25 PELHAM ROAD? AND
6 THAT'S A GREER ADDRESS?

7 JUROR GREENVILLE

8 THE COURT GREENVILLE COUNTY? BUT
9 IT'S NOT A GREER ADDRESS?

10 JUROR I DON'T THINK SO

11 THE COURT OKAY AND HOW LONG HAVE
12 YOU LIVED AT THAT ADDRESS?

13 JUROR ABOUT FIVE MONTHS

14 THE COURT FIVE MONTHS? AND -- BUT
15 YOUR PAST ADDRESS FROM ABBEVILLE OR IN ABBEVILLE WAS
16 ROUTE 1, BOX 352?

17 JUROR YES, SIR

18 THE COURT AND YOU'VE NOT BEEN THERE
19 FOR FIVE MONTHS?

20 JUROR NO NO, SIR

21 THE COURT YOU'VE NOT? AND YOU'RE
22 NOW A RESIDENT OF GREENVILLE COUNTY?

23 JUROR YES

24 THE COURT ALL RIGHT THEN THAT
25 WOULD DISQUALIFY YOU FROM SERVING SO YOU MAY BE
26 EXCUSED THANK YOU, SIR ANYONE ELSE WHO IS NOT
27 NOW A RESIDENT? IS THERE ANY MEMBER OF THE JURY

1 PANEL WHO IS UNABLE TO READ, WRITE, SPEAK OR
2 UNDERSTAND THE ENGLISH LANGUAGE? IF YOU ARE UNABLE
3 TO DO ANY ONE OF THOSE THINGS, I WOULD ASK THAT YOU
4 PLEASE STAND
5 (JURORS DO AS INSTRUCTED)

6 THE COURT ALL RIGHT YOUR NAME,
7 PLEASE MA'AM?

8 JUROR MARY SANDERS

9 THE COURT MARY SANDERS? ALL RIGHT
10 YOU MAY BE SEATED I'LL DISCUSS IT WITH YOU
11 SHORTLY ANYONE ELSE UNABLE TO READ, WRITE,
12 UNDERSTAND OR SPEAK THE ENGLISH LANGUAGE? IF SO,
13 PLEASE STAND
14 (JURORS DO AS INSTRUCTED)

15 JUROR I HAVE A PROBLEM READING
16 THE COURT ALL RIGHT YOUR NAME,
17 PLEASE SIR?

18 JUROR BILLY KIMSEY

19 THE COURT DO YOU RECALL WHAT YOUR
20 JUROR NUMBER WAS?

21 CLERK ONE TWELVE

22 THE COURT HUH?

23 CLERK ONE TWELVE

24 JUROR I THINK IT'S ONE SIXTEEN, ONE
25 SEVENTEEN

26 THE COURT ONE TWELVE ONE TWELVE
27 OKAY ALL RIGHT I'LL TALK WITH YOU JUST IN A FEW

1 MINUTES YOU MAY BE SEATED ANYONE ELSE? IS THERE
2 ANY MEMBER OF THE JURY PANEL WHO HAS LESS THAN A
3 SIXTH GRADE EDUCATION OR ITS EQUIVALENT? LESS THAN
4 A SIXTH GRADE EDUCATION OR ITS EQUIVALENT? IF SO,
5 PLEASE STAND ALL RIGHT YOUR NAME, PLEASE, SIR?
6 JUROR WILLIAM VAUGHN
7 THE COURT I'M SORRY?
8 JUROR WILLIAM VAUGHN
9 THE COURT VAUGHN?
10 CLERK TWO-O-ONE
11 THE COURT ALL RIGHT THAT'S JUROR
12 NUMBER TWO-O-ONE ALL RIGHT THANK YOU YOU MAY
13 BE SEATED ANYONE ELSE LESS THAN A SIXTH GRADE
14 EDUCATION OR ITS EQUIVALENT? YOUR NAME, PLEASE?
15 JUROR MALTA TINCHER
16 THE COURT TINCHER?
17 JUROR YES
18 CLERK NUMBER ONE NINETY-FIVE
19 THE COURT ALL RIGHT THANK YOU,
20 MA'AM YOU MAY BE SEATED ANYONE ELSE? IS THERE
21 ANY MEMBER OF THE JURY PANEL WHO IS INCAPABLE
22 BECAUSE OF A PHYSICAL OR A MENTAL INFIRMITY FROM
23 BEING ABLE TO RENDER EFFICIENT JURY SERVICE? ANY
24 JUROR SUFFERING FROM SOME PHYSICAL OR MENTAL
25 DISABILITY WHICH PREVENTS YOU FROM BEING ABLE TO
26 SERVE AS A JUROR? IF SO, PLEASE STAND? IS EVERYONE
27 STANDING THAT NEEDS TO RESPOND TO THAT STATEMENT OR

1 THAT QUESTION? ALL RIGHT YOUR NAME, PLEASE?
2 JUROR SHIRLEY ELMORE, JUROR NUMBER
3 SIXTY-FIVE
4 THE COURT NUMBER SIXTY-FIVE?
5 JUROR YES, SIR
6 THE COURT AND DO YOU HAVE A
7 DOCTOR'S STATEMENT?
8 JUROR I BROUGHT IT THE OTHER DAY
9 THE COURT YOU PROVIDED THE DOCTOR'S
10 STATEMENT?
11 JUROR YES, SIR
12 THE COURT OKAY THANK YOU PLEASE
13 BE SEATED YES, MA'AM? YOUR NAME, PLEASE?
14 JUROR NANCY GILMER, AND I'VE GOT A
15 DOCTOR'S STATEMENT
16 THE COURT ALL RIGHT, MS GILMER,
17 NUMBER SEVENTY-NINE, AND YOU HAVE A DOCTOR'S
18 STATEMENT WITH YOU?
19 JUROR PARDON?
20 THE COURT YOU HAVE A DOCTOR'S
21 STATEMENT WITH YOU?
22 JUROR YES
23 THE COURT OKAY THANK YOU, MA'AM
24 PLEASE BE SEATED YES, MA'AM?
25 JUROR NUMBER FIFTY-TWO, ROBIN
26 CROCKER
27 THE COURT FIFTY-TWO? DO YOU HAVE A

1 DOCTOR'S STATEMENT WITH YOU?

2 JUROR YES

3 THE COURT OKAY THANK YOU PLEASE

4 BE SEATED I'LL TALK WITH YOU SHORTLY ABOUT THAT

5 ANYONE ELSE HAVE A PHYSICAL OR MENTAL DISABILITY

6 WHICH PREVENTS YOU FROM BEING ABLE TO SERVE AS A

7 JUROR? IF SO, PLEASE STAND IS THERE ANY MEMBER OF

8 THE JURY PANEL WHO HAS BEEN CONVICTED, THAT IS,

9 FOUND GUILTY, OF OF A CRIMINAL OFFENSE FOR WHICH YOU

10 COULD HAVE RECEIVED MORE THAN ONE YEAR IN JAIL AND

11 YOUR CIVIL RIGHTS HAVE NOT BEEN RESTORED BY WAY OF

12 AMNESTY OR PARDON OR OTHERWISE? NOW, THAT DOESN'T

13 MEAN THAT YOU ACTUALLY WENT TO JAIL FOR GREATER THAN

14 ONE YEAR IT SIMPLY MEANS THAT IF YOU WERE FOUND

15 GUILTY OF A CRIME WHERE YOU COULD HAVE RECEIVED MORE

16 THAN ONE YEAR IN JAIL AND YOUR CIVIL RIGHTS HAVE NOT

17 BEEN RESTORED, THEN YOU ARE DISQUALIFIED FROM

18 SERVING THAT SIMPLY MEANS THAT YOU MAY HAVE BEEN

19 CONVICTED OF AN OFFENSE YOU MAY HAVE RECEIVED A

20 PROBATIONARY SENTENCE, OR A FINE MAY HAVE BEEN

21 IMPOSED, BUT IF THE POSSIBLE SENTENCE WAS GREATER

22 THAN ONE YEAR, YOU WOULD BE DISQUALIFIED IS THERE

23 ANYONE WHO HAS BEEN CONVICTED OF SUCH AN OFFENSE?

24 IF SO, PLEASE STAND YOUR NAME, PLEASE SIR?

25 JUROR ALVIS BELTON ALVIS BELTON

26 CLERK FOURTEEN FOURTEEN

27 THE COURT BATTLE?

1 JUROR BELTON

2 THE COURT BELTON?

3 CLERK IT'S BELTON FOURTEEN

4 THE COURT BELTON EXCUSE ME

5 NUMBER FOURTEEN ALL RIGHT YOU MAY BE SEATED

6 YES, SIR?

7 JUROR GLENN COLLINS, FORTY-SEVEN

8 CLERK FORTY-SEVEN

9 THE COURT FORTY-SEVEN, COLLINS

10 ALL RIGHT, SIR YOU MAY BE SEATED ANYONE ELSE WHO

11 HAS BEEN CONVICTED OF AN OFFENSE THAT CARRIED MORE

12 THAN ONE YEAR? YOUR NAME, PLEASE SIR?

13 JUROR MICHAEL SHERARD

14 CLERK ONE SEVENTY-NINE

15 THE COURT ALL RIGHT THANK YOU,

16 SIR YOU MAY BE SEATED YES, SIR?

17 JUROR JOHN THOMPSON

18 THE COURT THOMPSON?

19 CLERK ONE NINETY-THREE

20 THE COURT NUMBER ONE NINETY-THREE

21 ALL RIGHT THANK YOU YOU MAY BE SEATED ANYONE

22 ELSE BEEN CONVICTED OF AN OFFENSE THAT CARRIES MORE

23 THAN ONE YEAR IN JAIL AND YOUR CIVIL RIGHTS WERE NOT

24 RESTORED? ALL RIGHT IS THERE ANY MEMBER OF THE

25 JURY PANEL WHO IS A CLERK OR A DEPUTY CLERK OF

26 COURT, A STATE CONSTABLE, A SHERIFF OR DEPUTY

27 SHERIFF, A HIGHWAY PATROLMAN, PROBATE JUDGE, COUNTY

1 COMMISSIONER, A MAGISTRATE, OR ANY OTHER COUNTY
2 OFFICER OR ANY OTHER PERSON WHO IS EMPLOYED WITHIN
3 THE WALLS OF THE COURTHOUSE? IF YOU FIT INTO ONE OF
4 THOSE CATEGORIES, I WOULD ASK THAT YOU PLEASE STAND
5 YOUR NAME, PLEASE SIR?

6 JUROR WILLIAM HESSON HESSON
7 WILLIAM HESSON

8 THE COURT HESSON?

9 CLERK NINETY-FIVE

10 THE COURT ALL RIGHT, MR HESSON
11 HOW DOES THAT QUESTION RELATE TO YOU?

12 JUROR I WORK IN LAW ENFORCEMENT
13 CERTIFICATION DUTY THROUGH THE SHERIFF'S DEPARTMENT

14 THE COURT YOU -- YOU ---

15 JUROR DEPUTY COMMISSION

16 THE COURT YOU'RE EMPLOYED BY THE
17 SHERIFF'S DEPARTMENT?

18 JUROR NO, SIR I WAS HOLDING A
19 COMMISSION THROUGH -- AS A DEPUTY THROUGH THE
20 SHERIFF'S DEPARTMENT

21 THE COURT BUT YOU'RE NOT EMPLOYED
22 BY THE SHERIFF'S DEPARTMENT?

23 JUROR NO, SIR

24 THE COURT YOU'RE NOT A DEPUTY
25 SHERIFF?

26 JUROR NO, SIR I JUST HOLD A
27 COMMISSION

1 THE COURT ALL RIGHT THAT WOULD
2 NOT DISQUALIFY YOU THANK YOU YOU MAY BE SEATED
3 YES, SIR?

4 JUROR DEPARTMENT OF CORRECTIONS
5 THE COURT YOUR NAME, PLEASE?

6 JUROR BRIAN DALY

7 THE COURT DALY?

8 CLERK FIFTY-FIVE

9 THE COURT AND YOU ARE CERTIFIED
10 THROUGH THE SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY?

11 JUROR S C D C

12 THE COURT SIR?

13 JUROR S C D C

14 THE COURT SOUTH CAROLINA DEPARTMENT
15 OF CORRECTIONS?

16 JUROR YES, SIR

17 THE COURT BUT ARE YOU CERTIFIED
18 THROUGH THE CRIMINAL JUSTICE ACADEMY?

19 JUROR NO, SIR

20 THE COURT YOU DO NOT ATTEND THAT?

21 JUROR NO

22 THE COURT ALL RIGHT THAT WOULD
23 NOT DISQUALIFY YOU ANYONE ELSE? IS THERE ANY
24 MEMBER OF THE JURY PANEL WHO HAS SERVED AS A JUROR
25 HERE IN THE CIRCUIT COURT DURING ONE OF THE LAST
26 THREE CALENDAR YEARS, THIS YEAR BEING INCLUDED AS
27 ONE OF THOSE YEARS? ANY JUROR PREVIOUSLY SERVED AS

1 A JUROR HERE IN THE CIRCUIT COURT, WHETHER IT BE THE
2 COURT OF COMMON PLEAS OR THE COURT OF GENERAL
3 SESSIONS DURING ONE OF THE LAST THREE CALENDAR
4 YEARS? YOUR NAME, PLEASE?

5 JUROR DIANNE DOTSON, FIFTY-EIGHT
6 DIANNE DOTSON

7 THE COURT ALL RIGHT, MS DOTSON
8 WHEN DID YOU PREVIOUSLY SERVE?

9 JUROR IN '95

10 THE COURT AND WAS THAT HERE IN THIS
11 COURTROOM?

12 JUROR YES, SIR

13 THE COURT DO YOU RECALL WHETHER IT
14 WAS GENERAL SESSIONS OR WHETHER IT WAS COMMON PLEAS?

15 JUROR COMMON PLEAS

16 THE COURT IT WAS COMMON PLEAS?

17 JUROR YES, SIR

18 THE COURT ALL RIGHT YOU
19 UNDERSTAND THAT IF YOU SERVED WITH IN THE LAST THREE
20 YEARS, IT WOULD NOT DISQUALIFY YOU FROM SERVING AS A
21 JUROR, BUT IT WOULD ALLOW YOU AN EXEMPTION OR A
22 CHOICE AS TO WHETHER OR NOT YOU WISH TO SERVE OF
23 COURSE, WE WOULD BE PLEASED TO HAVE YOU STAY AND
24 SERVE IF YOU WISH TO I SIMPLY CANNOT REQUIRE YOU
25 TO UNDER THE LAW WOULD YOU LIKE TO STAY AND SERVE?

26 JUROR NO, SIR

27 THE COURT YOU WOULD NOT?

1 JUROR NO, SIR

2 THE COURT OKAY ALL RIGHT IF
3 YOU'LL JUST HAVE A SEAT SO THAT WE CAN VERIFY THIS
4 PRIOR SERVICE, AND THEN WE'LL BE BACK WITH YOU
5 SHORTLY FIFTY-EIGHT YES, SIR?

6 JUROR I WAS OVER HERE IN SEPTEMBER
7 OF '94 ON A JURY I DID NOT SERVE

8 THE COURT BUT THAT WAS IN 1994?

9 JUROR SEPTEMBER OF '94

10 THE COURT ALL RIGHT THAT WOULD
11 NOT BE AN EXEMPTION THEN SO YOU MAY STAY THANK
12 YOU ANYONE ELSE? YES, SIR?

13 JUROR I WAS HERE IN MAGISTRATE'S
14 COURT, I GUESS LAST YEAR ON A D U I CASE

15 THE COURT OKAY THAT WOULD NOT
16 COUNT IT WOULD HAVE TO BE HERE IN THE CIRCUIT
17 COURT THANK YOU ANYONE ELSE WHO SERVED AS A
18 JUROR IN THE CIRCUIT COURT DURING THE LAST THREE
19 CALENDAR YEARS? NOW, THE GENERAL ASSEMBLY HAS
20 PROVIDED FOR CERTAIN EXEMPTIONS FROM JURY SERVICE
21 AN EXEMPTION SIMPLY ALLOWS YOU THE OPPORTUNITY OR
22 CHOICE AS TO WHETHER OR NOT YOU WISH TO SERVE AS A
23 JUROR IT DOES NOT IN ANY WAY DISQUALIFY YOU FROM
24 SERVING AS A JUROR, AND WE, OF COURSE, WOULD
25 CERTAINLY APPRECIATE YOUR WILLING TO STAY AND TO
26 PARTICIPATE IF CALLED UPON TO DO SO EVEN THOUGH AN
27 EXEMPTION MIGHT APPLY TO YOU BUT YOU DO HAVE THAT

1 CHOICE AS TO WHETHER OR NOT YOU WISH TO SERVE THE
2 FIRST EXEMPTION IS ANY PERSON WHO IS AT LEAST SIXTY-
3 FIVE YEARS OF AGE OR OLDER IS THERE ANY MEMBER OF
4 THIS JURY PANEL WHO IS AT LEAST SIXTY-FIVE YEARS OF
5 AGE OR OLDER WHO DOES NOT WISH TO SERVE AS A JUROR
6 THIS WEEK? IF SO, PLEASE STAND

7 JUROR NUMBER TWO TEN, FRED WEST,
8 AND I SAY THAT WITH REGRET

9 THE COURT AND YOUR NUMBER WAS WHAT?
10 CLERK TWO TEN

11 THE COURT TWO TEN

12 JUROR TWO TEN

13 THE COURT ALL RIGHT, MR WEST YOU
14 ARE OVER SIXTY-FIVE YEARS OF AGE AND YOU DO NOT WISH
15 TO SERVE THIS WEEK?

16 JUROR RIGHT

17 THE COURT ALL RIGHT, SIR THEN YOU
18 ARE EXEMPT THANK YOU, SIR ANYONE ELSE? IS THERE
19 ANY JUROR WHO HAS A CHILD OR CHILDREN LESS THAN
20 SEVEN YEARS OF AGE THAT YOU CANNOT PROVIDE ADEQUATE
21 CARE FOR IF YOU WERE CALLED UPON TO SERVE AS A JUROR
22 IN THE TRIAL OF THIS CASE, THAT IS, IT'S YOUR
23 PRIMARY RESPONSIBILITY TO BE AT HOME, TO LOOK AFTER
24 THOSE CHILDREN OR THAT CHILD, AND YOU HAVE NO OTHER
25 MEANS FOR THEM TO BE CARED FOR OTHER THAN BY YOU
26 BEING PRESENT IN ORDER TO CARRY OUT THAT
27 RESPONSIBILITY? IF SO, PLEASE STAND

1 (JURORS DO AS INSTRUCTED)

2 THE COURT YES, MA'AM?

3 JUROR ROBERTA BRYANT, TWENTY-NINE

4 THE COURT ALL RIGHT, MS BRYANT

5 YOU HAVE A CHILD OR CHILDREN LESS THAN SEVEN?

6 JUROR YES, SIR

7 THE COURT AND YOU CANNOT PROVIDE

8 ADEQUATE CARE FOR THEM IF YOU WERE REQUIRED TO

9 SERVE?

10 JUROR YES, SIR

11 THE COURT YES, SIR YOU COULD OR

12 COULD NOT?

13 JUROR I COULD NOT

14 THE COURT ALL RIGHT IF YOU'LL

15 PLEASE COME DOWN, YOU'LL HAVE TO SIGN AN AFFIDAVIT

16 TO THAT EFFECT

17 (JUROR DOES AS INSTRUCTED)

18 THE COURT BE CERTAIN THAT YOU READ

19 THE AFFIDAVIT BEFORE YOU SIGN IT

20 CLERK RAISE YOUR RIGHT HAND DO

21 YOU SOLEMNLY SWEAR TO TELL THE TRUTH, THE WHOLE

22 TRUTH, AND NOTHING BUT THE TRUTH SO HELP YOU GOD?

23 JUROR I DO

24 THE COURT ALL RIGHT ANY OTHER

25 JUROR NEED TO RESPOND TO THAT QUESTION, CHILD OR

26 CHILDREN LESS THAN SEVEN? IF SO, PLEASE STAND IS

27 THERE ANY MEMBER OF THE JURY PANEL WHO IS A FULL-

1 TIME STUDENT PRESENTLY ENROLLED IN SOME EDUCATIONAL
2 INSTITUTION WHOSE EDUCATION WOULD BE INTERRUPTED IF
3 YOU WERE REQUIRED TO SERVE AS A JUROR? IF ANY FULL-
4 TIME STUDENTS ARE PRESENT, I WOULD ASK THAT YOU
5 PLEASE STAND

6 ALL RIGHT, LADIES AND GENTLEMEN
7 NOW, AS I INDICATED TO YOU EARLIER IN THE WEEK, WE
8 RECOGNIZE FULLY THAT SERVING AS A JUROR MAY POSE
9 SOMEWHAT OF A HARDSHIP OR INCONVENIENCE FOR SOME OF
10 YOU IF NOT ALL OF YOU IT IS EXTREMELY IMPORTANT,
11 HOWEVER, AND IT'S A RESPONSIBILITY AND DUTY OF
12 CITIZENSHIP THAT YOU SERVE WHEN CALLED UPON WE
13 CANNOT CONDUCT THE BUSINESS OF THE COURT UNLESS WE
14 HAVE PERSONS SUCH AS YOU TO PARTICIPATE TO ASSIST US
15 IN THE RESOLUTION OF CASES AND DISPOSING OF CASES,
16 AND IF IT WERE NOT FOR FOLKS SUCH AS YOU, WE COULD
17 NOT CONDUCT ANY BUSINESS OF THE COURT NO CASES
18 WOULD BE ABLE TO BE DISPOSED OF

19 THE LAW DOES PROVIDE, HOWEVER, THAT IF
20 REQUIRING YOU TO SERVE AS A JUROR WOULD POSE SOME
21 UNREASONABLE HARDSHIP OR UNREASONABLE INCONVENIENCE
22 UPON YOU, AND YOU HAVE SUCH A CIRCUMSTANCE THAT IS
23 PERMANENT IN NATURE AND WILL PREVENT YOU FROM BEING
24 ABLE TO SERVE, AND YOU CANNOT MAKE ANY OTHER
25 ACCOMMODATIONS OR YOU CANNOT MAKE ANY OTHER
26 ALLOWANCE TO ALLOW YOU TO SERVE AS A JUROR THIS
27 WEEK, THEN I CAN CONSIDER THOSE PARTICULAR

1 CIRCUMSTANCES AND IF THEY MEET THE GOOD AND
2 SUFFICIENT TEST, I CAN CONSIDER HAVING YOUR JURY
3 SERVICE EXCUSED

4 AGAIN, AS I INDICATED TO YOU EARLIER,
5 I WOULD REQUEST THAT IF YOU HAVE SUCH A CIRCUMSTANCE
6 THAT YOU THINK CAREFULLY ABOUT IT DO NOT SIMPLY
7 ASK TO BE EXCUSED BECAUSE YOU HAVE OTHER PRESSING
8 MATTERS THAT YOU HAVE EMPLOYMENT, THAT YOU HAVE
9 FAMILIES, OR THAT YOU HAVE SOMETHING THAT YOU WOULD
10 PREFER TO BE DOING OTHERWISE, IT'S LIKELY WE WOULD
11 NEVER BE ABLE TO HAVE A PANEL THAT WOULD PARTICIPATE
12 EXCEPT FOR THOSE PERSONS WHO HAD ABSOLUTELY NOTHING
13 ELSE TO DO SO IT'S EXTREMELY IMPORTANT, AND IT'S
14 AN OBLIGATION AND DUTY OF CITIZENSHIP TO PARTICIPATE
15 AS A JUROR WHEN CALLED UPON IF SUCH CAN BE DONE
16 WITHOUT POSING AN UNREASONABLE HARDSHIP UPON YOU

17 IS THERE ANY MEMBER OF THE JURY PANEL
18 WHO HAS SOME CIRCUMSTANCE OR CIRCUMSTANCES THAT YOU
19 BELIEVE POSES SUCH AN UNREASONABLE HARDSHIP UPON YOU
20 THAT YOU SHOULD NOT BE REQUIRED TO SERVE AS A JUROR?
21 IS THERE ANY JUROR THAT WOULD LIKE FOR ME TO
22 CONSIDER SUCH CIRCUMSTANCES AND MAKE THAT
23 DETERMINATION AS TO WHETHER OR NOT IT MEETS THE GOOD
24 AND SUFFICIENT TEST IN ORDER TO HAVE YOU EXCUSED
25 FROM JURY SERVICE IN THIS CASE? IF SO, PLEASE
26 STAND ALL RIGHT IS EVERYONE STANDING WHO WOULD
27 LIKE TO RELATE SOME CIRCUMSTANCE TO ME THAT SHOULD

1 ALLOW YOU TO BE EXCUSED FROM JURY SERVICE? IF YOU
2 HAVE SUCH A REASON, NOW IS THE TIME TO STAND AND LET
3 ME KNOW OF THOSE CIRCUMSTANCES IS EVERYONE
4 STANDING WHO NEEDS TO ADDRESS ME ON THAT POINT?
5 OKAY I'M SIMPLY GOING TO START ON THE FRONT ROW
6 I'LL START TO MY LEFT THAT'LL BE YOUR RIGHT I'M
7 GONNA START EACH ROW AND START BACK PLEASE SIMPLY
8 GIVE ME YOUR NAME AND YOUR JUROR NUMBER IF YOU KNOW
9 IT START RIGHT HERE YOUR NAME, PLEASE SIR?
10 JUROR JAMES T NABORS, JUROR NUMBER
11 ONE FORTY-FIVE
12 THE COURT ONE FORTY-FIVE ALL
13 RIGHT PLEASE BE SEATED NEXT ROW?
14 JUROR WALTER FLEMING, NUMBER SIXTY-
15 SEVEN
16 THE COURT SIXTY-SEVEN ALL RIGHT
17 DOWN THAT ROW?
18 JUROR ARCHIE BEATY, NUMBER TWELVE
19 THE COURT TWELVE ALL RIGHT YES,
20 MA'AM?
21 JUROR VICKY M McCLAIN, JUROR ONE
22 TWENTY-NINE
23 THE COURT ONE TWENTY-NINE ALL
24 RIGHT
25 JUROR RALPH KOERBER, ONE FOURTEEN
26 THE COURT YES, MA'AM?
27 JUROR PEARLY BRYANT, TWENTY-EIGHT

1 THE COURT TWENTY-EIGHT?

2 JUROR YES, SIR

3 THE COURT ALL RIGHT YES, MA'AM?

4 JUROR RHONDA HARRISON, NINETY-ONE

5 THE COURT NINETY-ONE?

6 JUROR YES, SIR

7 THE COURT ALL RIGHT BEHIND MS

8 HARRISON?

9 JUROR MY NAME IS LIZZIE HARRIS, BUT
10 I'VE FORGOTTEN MY NUMBER

11 THE COURT HARRIS?

12 JUROR UH-HUH (AFFIRMATIVE)

13 CLERK NINETY

14 THE COURT NUMBER NINETY ALL
15 RIGHT NEXT TO MS HARRIS?

16 JUROR ANNIE WATT, TWO-O-EIGHT

17 THE COURT TWO-O-EIGHT YES, MA'AM

18 JUROR PATTY GRIFFIN, NUMBER EIGHTY-
19 THREE

20 THE COURT EIGHTY-THREE YES,
21 MA'AM?

22 JUROR TRACIE SCOTT, NUMBER ONE
23 SEVENTY-EIGHT

24 THE COURT TRACIE SCOTT, ONE
25 SEVENTY-EIGHT YES, MA'AM?

26 JUROR SANDRA LOTHBRIDGE, BUT I'M NOT
27 SURE OF MY NUMBER

1 CLERK ONE TWENTY SHE'S ONE
2 TWENTY
3 THE COURT ALL RIGHT YES, SIR?
4 JUROR HAROLD FREESE, NUMBER SIXTY-
5 EIGHT
6 THE COURT YES, MA'AM?
7 JUROR TOYA THOMAS, ONE NINETY-TWO
8 JUROR MICHAEL SHERARD, ONE EIGHTY-
9 NINE, I THINK
10 THE COURT ONE EIGHTY-NINE?
11 CLERK SHERARD'S ONE SEVENTY-NINE
12 THE COURT ONE SEVENTY-NINE YES,
13 SIR?
14 JUROR WILLIAM ROGERS, ONE SEVENTY-
15 THREE
16 THE COURT ONE SEVENTY-THREE ALL
17 RIGHT ANYONE ELSE? ANYONE ELSE WHO WOULD LIKE TO
18 ADDRESS SOME MATTER TO THE COURT, SOME CIRCUMSTANCE
19 THAT SHOULD ALLOW YOU TO BE EXCUSED? IF SO, PLEASE
20 STAND ALL RIGHT NOW, I'VE GOT TO ASK AGAIN THE
21 PATIENCE OF THE JURY PANEL I'VE GOT TO DISCUSS
22 WITH THOSE INDIVIDUALS WHO NEED TO TALK TO ME
23 PRIVATELY REGARDING THOSE PARTICULAR CIRCUMSTANCES
24 WE'VE GOT A PLACE SET UP BACK HERE IN A -- IN AN
25 ADJOINING ROOM WHERE I WILL BE TALKING TO THOSE
26 INDIVIDUALS I'M GONNA ASK THOSE OF YOU WHO ARE
27 REMAINING TO PLEASE SIMPLY STAY HERE IN THE

1 COURTROOM AS SOON AS I HAVE CONCLUDED TALKING WITH
2 THOSE INDIVIDUALS, THEN WE WILL BE BACK TO CONTINUE
3 WITH FURTHER QUESTIONING

4 LET ME ASK -- LET ME ASK IF THOSE ON
5 THIS SIDE, ON MY RIGHT HAND SIDE, IF YOU'LL SIMPLY
6 MOVE BACK ABOUT FOUR ROWS, AND WE'LL PUT THOSE WHO
7 NEED TO TALK WITH ME ON THE FIRST TWO OR THREE

8 JUROR YOUR HONOR?

9 THE COURT SIR?

10 JUROR EXCUSE ME MAY I LEAVE?

11 THE COURT YES, SIR YOU MAY

12 JUROR THANK YOU

13 THE COURT THANK YOU ALL RIGHT I
14 NEED JURORS SIXTY-FIVE -- SIXTY-FIVE, SEVENTY-NINE,
15 FIFTY-TWO PLEASE COME DOWN FRONT AND HAVE A SEAT
16 OVER HERE IN THE FRONT ROW OR TWO ALL RIGHT I
17 ALSO NEED JURORS FOURTEEN, FORTY-SEVEN, ONE SEVENTY-
18 NINE, ONE NINETY-THREE HAVE A SEAT ON THE FIRST
19 ROW OR TWO ALL RIGHT I NEED JUROR NUMBER ONE
20 SEVENTY-FIVE AND ONE TWELVE ONE SEVENTY-FIVE AND
21 ONE TWELVE YOU DON'T KNOW WHO YOU ARE? IT'LL BE
22 MR -- MS SANDERS SHE'S HERE, AND ONE TWELVE
23 WOULD BE MR KIMSEY WE NEED JUROR NUMBER TWO-O-ONE
24 AND ONE NINETY-FIVE ONE NINETY-FIVE, TWO-O-ONE
25 MS TICHNER -- TINCHER MS TINCHER, IF YOU'LL COME
26 DOWN, PLEASE ALL RIGHT ALL RIGHT WE'RE GONNA
27 NEED SOME MORE SEATS LET ME ASK THOSE WHO I HAVE

1 NOT YET CALLED ON MY RIGHT HAND SIDE TO SIMPLY
2 PLEASE KEEP MOVING BACK ALL RIGHT NOW, THESE ARE
3 JURORS WHO HAVE INDICATED YOU WOULD LIKE TO ADDRESS
4 THE GOOD AND SUFFICIENT CIRCUMSTANCE OF THE COURT
5 JUROR NUMBER ONE FORTY-FIVE, JUROR NUMBER SIXTY-
6 SEVEN, NUMBER TWELVE PLEASE JUST MOVE ALL THE WAY
7 DOWN SO WE CAN FILL UP THOSE ROWS ONE TWENTY-NINE,
8 ONE-FOURTEEN, NUMBER TWENTY-EIGHT, NINETY-ONE,
9 NUMBER NINETY NUMBER NINETY? TWO-O-EIGHT, EIGHTY-
10 THREE, ONE SEVENTY-EIGHT, ONE TWENTY ONE TWENTY?
11 SIXTY-EIGHT, ONE NINETY-TWO ONE NINETY-TWO? ONE
12 SEVENTY-NINE ONE SEVENTY-NINE AND ONE SEVENTY-
13 THREE

14 ALL RIGHT AS I INDICATED --
15 INDICATED, I WILL BE TALKING WITH THESE JURORS
16 PRIVATELY SO PLEASE SIMPLY BE PATIENT BEAR WITH
17 US AS SOON AS WE DISCUSS THOSE MATTERS WITH THOSE
18 JURORS, I WILL BE BACK WITH YOU

19 (THE FOLLOWING VOIR DIRE WAS HELD IN THE JURY ROOM,
20 ANNEXED TO THE COURTROOM IN THE PRESENCE OF THE
21 COURT REPORTER, JUDGE COLE, HIS LAW CLERK, ALAN
22 LAZENBY, ALONG WITH MESSRS JONES AND COULTER,
23 TINSLEY, GARRETT, McCALLUM, AND THE DEFENDANT, JOHN
24 KENNEDY HUGHEY MARION JOHNSON WAS THE ATTENDING
25 BAILIFF)

26 THE COURT ALL RIGHT THE FIRST ONE
27 IS SIXTY-FIVE

1 MR JONES JUDGE?

2 THE COURT SIR?

3 MR JONES I SAW THE FIRST FIFTEEN
4 AS BEING DISQUALIFIED, PER SE

5 THE COURT THE FIRST WHAT?

6 MR JONES WELL, WAIT A MINUTE I
7 TAKE THAT BACK YOU'RE TAKING THE FIRST ONE EXCUSED
8 -- ONE WAS EXCUSED FROM -- OKAY I SEE I SEE
9 (JUROR #65 PRESENTED)

10 THE COURT I THOUGHT I HAD MY LIST
11 DID YOU BRING YOUR DOCTOR'S STATEMENT? YOU SAID
12 THIS WAS ---

13 JUROR I GAVE IT THE OTHER DAY,
14 MONDAY

15 THE COURT YOU ALREADY BROUGHT IT?
16 OKAY

17 JUROR I GAVE IT MONDAY I CAN TELL
18 YOU WHAT IT SAID

19 THE COURT OKAY LET ME GET --
20 EXCUSE ME

21 JUROR UH-HUH (AFFIRMATIVE)

22 THE COURT OKAY MS ELMORE, DO YOU
23 HAVE ANYTHING TO ADD TO THE STATEMENT GIVEN BY YOUR
24 PHYSICIAN? ANYTHING YOU CAN ADD TO IT OR TAKE AWAY
25 FROM IT?

26 JUROR EXCEPT THAT I HAVE TO DRINK
27 TEN TO TWELVE GLASSES OF WATER A DAY

1 THE COURT OKAY

2 JUROR AND THAT'S HARD TO DO --

3 THE COURT OKAY

4 JUROR -- COMING TO COURT

5 THE COURT I UNDERSTAND IF YOU'LL
6 JUST STAND OUTSIDE, THE BAILIFF WILL -- WILL ASK YOU
7 STAND OUTSIDE FOR JUST A MOMENT --

8 JUROR UH-HUH (AFFIRMATIVE)

9 THE COURT -- AND WE'LL BE BACK WITH
10 YOU

11 JUROR OKAY THIS RIGHT HERE?

12 (JUROR DOES AS INSTRUCTED)

13 BAILIFF NO, MA'AM RIGHT THERE AT
14 THE OTHER DOOR

15 THE COURT I'M JUST GONNA SHOW EACH
16 OF THE PARTIES THE DOCTOR'S STATEMENT AND ASK YOU IF
17 YOU HAVE ANY OBJECTION

18 MR TINSLEY KIDNEY REMOVED AND -- I
19 DON'T HAVE A PROBLEM WITH IT

20 MR JONES WE'LL -- WE'LL CONCEDE TO
21 EXCUSING HER BASED ON THAT MEDICAL REQUEST

22 THE COURT OKAY SHE'S EXCUSED
23 ASK HER TO STEP BACK IN

24 (JUROR RE-ENTERS THE ROOM)

25 THE COURT MS ELMORE, YOU'RE GONNA
26 BE EXCUSED WE APPRECIATE YOU COMING BACK

27 JUROR OKAY THANK YOU I

1 APPRECIATE IT

2 THE COURT OKAY? THANK YOU

3 (JUROR #65 EXCUSED)

4 (JUROR #65 EXITS THE ROOM)

5 (JUROR #79 ENTERS THE ROOM)

6 THE COURT MS GILMER?

7 JUROR UH-HUH (AFFIRMATIVE)

8 THE COURT YOU SAID YOU HAD A
9 DOCTOR'S STATEMENT?

10 JUROR YES, SIR

11 THE COURT AND ASKED TO BE EXCUSED?
12 ALL RIGHT BASED UPON YOUR DOCTOR'S STATEMENT, DO
13 YOU HAVE ANYTHING ELSE THAT YOU'D LIKE TO ADD TO
14 WHAT THE DOCTOR'S INDICATED IN THE LETTER?

15 JUROR I TAKE CARE OF MY GRANDCHILD
16 THAT'S ALL, BUT IT CAN BE PUT IN A NURSERY, I GUESS

17 THE COURT OKAY BUT YOU BELIEVE
18 THAT YOUR MEDICAL DIFFICULTY WOULD PREVENT YOU FROM
19 BEING ABLE TO SERVE?

20 JUROR WELL, THIS IS SOMETHING THAT
21 HAPPENS NORMALLY ONCE A MONTH, SOMETIMES TWICE A
22 MONTH

23 THE COURT AND YOU DON'T KNOW WHEN
24 IT MIGHT OCCUR?

25 JUROR AND -- WELL, MOST OF THE TIME
26 I DO I GET A REAL SEVERE HEADACHE WHEN IT'S GONNA
27 COME

1 ON --

2 THE COURT OKAY

3 JUROR -- AND THEN IT JUST PASSES

4 IT'S JUST FOR JUST A FEW SECONDS AND THEN IT'S GONE,

5 BUT, YOU KNOW, I DON'T WANT TO LOSE MY TRAIN OF

6 THOUGHT, AND SOMETIMES I DO THAT

7 THE COURT I UNDERSTAND OKAY

8 JUROR AND, YOU KNOW, IT MIGHT BE

9 SOMETHING IMPORTANT GOING ON THAT I NEED TO LISTEN

10 TO --

11 THE COURT UH-HUH (AFFIRMATIVE)

12 JUROR -- AND, YOU KNOW, I MIGHT

13 COULD MISS OUT

14 THE COURT OKAY

15 JUROR SO THAT WAS THE ONLY REASON I

16 DID THAT

17 THE COURT OKAY LET ME ASK YOU, IF

18 YOU WILL, JUST STAND OUTSIDE WITH THE BAILIFF --

19 JUROR OKAY

20 THE COURT -- AND I'LL LET YOU KNOW

21 SOMETHING IN JUST A MINUTE

22 (JUROR #79 EXITS THE ROOM)

23 MR TINSLEY I DON'T HAVE A PROBLEM

24 WITH IT

25 MR JONES NEITHER DOES THE STATE

26 THE COURT OKAY ASK MS GILMER TO

27 COME BACK IN

1 MR JONES THE STATE WOULD EXCUSE
2 HER BASED UPON HER MEDICAL REQUEST
3 (JUROR #79 RE-ENTERS THE ROOM)

4 THE COURT MS GILMER, BASED UPON
5 YOUR MEDICAL CONDITION AND THE STATEMENT OF YOUR
6 DOCTOR, WE'RE GOING TO EXCUSE YOU FROM SERVICE IN
7 THE TRIAL OF THIS CASE, BUT WE APPRECIATE YOU COMING
8 BACK

9 JUROR THANK YOU

10 THE COURT THANK YOU

11 JUROR THANK YOU

12 (JUROR #79 EXITS THE ROOM)

13 (JUROR #79 EXCUSED)

14 THE COURT NUMBER FIFTY-TWO

15 (JUROR #52 ENTERS THE ROOM)

16 THE COURT YOU'RE MS CROCKER?

17 JUROR YES, SIR

18 THE COURT MS CROCKER, YOU
19 INDICATED A REQUEST TO BE EXCUSED BASED UPON A
20 MEDICAL CONDITION?

21 JUROR YES, SIR

22 THE COURT AND YOU INDICATED THAT
23 YOU HAD A DOCTOR'S STATEMENT?

24 JUROR YES, SIR

25 THE COURT DO YOU HAVE ANYTHING THAT
26 YOU'D LIKE TO ADD TO THE STATEMENT GIVEN BY YOUR
27 DOCTOR IN HIS LETTER?

1 JUROR WELL, LIKE THE TYPES OF
2 MEDICATION I'M ON, LIKE PAXIL AND TRANXENE, THINGS
3 LIKE THAT

4 THE COURT AND IS IT YOUR BELIEF
5 THAT YOUR MEDICAL CONDITION PREVENTS YOU FROM BEING
6 ABLE TO SERVE AS A JUROR?

7 JUROR YES, SIR

8 THE COURT OKAY IF YOU'LL STEP
9 OUTSIDE WITH THE BAILIFF, I'LL BRING YOU BACK IN
10 JUST A MINUTE

11 (JUROR #52 EXITS THE ROOM)

12 MR JONES THE STATE WOULD EXCUSE
13 HER BASED ON HER MEDICAL REQUEST

14 MR TINSLEY WE DON'T HAVE ANY
15 PROBLEMS WITH THAT ARTHRITIC AS WELL AS THOSE
16 MEDICATIONS

17 THE COURT NO OBJECTIONS? BRING MS
18 CROCKER IN

19 (JUROR #52 RE-ENTERS THE ROOM)

20 THE COURT MS CROCKER, BASED UPON
21 YOUR MEDICAL CONDITION AND STATEMENT OF YOUR DOCTOR,
22 WE'RE GONNA EXCUSE YOU FROM SERVICE IN THE TRIAL OF
23 THIS CASE, BUT WE DO APPRECIATE YOU COMING DOWN TO
24 HELP US THANK YOU

25 JUROR THANK YOU

26 (JUROR #52 EXCUSED)

27 (JUROR #52 EXITS THE ROOM)

1 THE COURT FOURTEEN
2 MR JONES ARE THESE THE PRISON
3 RECORDS COMING IN NOW?
4 THE COURT YEAH
5 MR JONES ACCORDING TO MY NOTES,
6 YOU JUMPED OVER THE TROUBLE READING AND THE SIXTH
7 GRADE EDUCATION DID YOU JUMP OVER THOSE?
8 THE COURT YEAH, BUT I HADN'T
9 FORGOTTEN THEM
10 MR JONES SIR?
11 THE COURT I KNOW I JUMPED OVER
12 THEM, BUT I HAVEN'T FORGOTTEN THEM
13 MR JONES OH, SORRY
14 (JUROR #14 ENTERS THE ROOM)
15 THE COURT OKAY YOU'RE MR BELTON?
16 JUROR RIGHT
17 THE COURT YOU INDICATED YOU'D BEEN
18 CONVICTED OF A CRIMINAL OFFENSE FOR WHICH YOU COULD
19 HAVE RECEIVED MORE THAN A YEAR?
20 JUROR YES
21 THE COURT WHAT WAS THAT OFFENSE?
22 JUROR CRIMINAL SEXUAL CONDUCT WITH
23 A MINOR
24 THE COURT CRIMINAL SEXUAL CONDUCT?
25 DOES EVERYONE AGREE HE WAS CONVICTED OF THAT
26 OFFENSE?
27 MR JONES THE STATE DOES, YOUR

1 HONOR

2 MR TINSLEY I WOULD AGREE THAT IT
3 CERTAINLY CARRIES MORE THAN A YEAR, BUT DOES IT
4 EXCUSE HIM, SIR?

5 THE COURT WELL, I MEAN, THERE'S NO,
6 I MEAN THERE'S NO ---

7 MR JONES WHY DON'T YOU STEP BACK
8 AND GET THE COURT RECORDS

9 THE COURT YEAH LET'S GET -- LET'S
10 GET THOSE I NEED -- I'VE GOT FOUR THAT HAVE
11 INDICATED, AND THERE MAY BE OTHERS THAT DIDN'T STAND
12 UP

13 MR JONES JUDGE, IF WE HAD A DATE
14 ON THAT, MAYBE WE COULD GET ONE RUN

15 THE COURT WHEN WERE YOU CONVICTED?
16 BAILIFF I'VE ALREADY RUN IT,

17 SOLICITOR

18 MR JONES DO YOU HAVE IT?

19 BAILIFF THAT'S THE ONE'S MY ---

20 JUROR LIKE IN THE 80'S

21 THE COURT IN THE 80'S? HOW MUCH
22 TIME DID YOU DO?

23 JUROR I DID A YEAR AND ABOUT A YEAR
24 PROBATION

25 THE COURT WHAT KIND OF SENTENCE DID
26 YOU RECEIVE, DO YOU RECALL?

27 JUROR THAT'S WHAT IT WAS

1 THE COURT SOMETHING SUSPENDED TO
2 ONE?

3 JUROR YEAH, SUSPENDED IT WAS LIKE
4 TWENTY SUSPENDED

5 THE COURT OKAY YOU DID FIVE YEARS
6 PROBATION? DO YOU RECALL WHO THE JUDGE WAS?

7 JUROR I THINK IT WAS HOUSTON

8 THE COURT WAS THAT IN ABBEVILLE
9 GENERAL SESSIONS COURT?

10 JUROR YES, SIR

11 (RECESS)

12 THE COURT MR BELTON, I HAVE WHAT
13 APPEARS TO BE A CRIMINAL RECORD SHEET OR CRIMINAL
14 HISTORY SHEET AS ALVIS ELLIS BELTON

15 JUROR YES, SIR

16 THE COURT BIRTHDATE 8/10/57?

17 JUROR FIFTY-SEVEN RIGHT, SIR

18 THE COURT SOCIAL SECURITY 251-06-
19 5867?

20 JUROR THAT'S RIGHT

21 THE COURT INDICATES A CONVICTION
22 1975 FOR HOUSE BREAKING, GRAND LARCENY RECEIVED A
23 YOUTHFUL OFFENDER'S SENTENCE?

24 JUROR THAT, TOO

25 THE COURT THAT'S YOU?

26 JUROR UH-HUH (AFFIRMATIVE)

27 THE COURT OCTOBER 13TH, 1975,

1 BREAKING AND ENTERING, GRAND LARCENY, FIVE YEARS?
2 JUROR YEAH YES, SIR
3 THE COURT SUSPENDED TWO YEARS
4 PROBATION APRIL 19TH, 1989, CRIMINAL SEXUAL
5 CONDUCT, SECOND DEGREE?
6 JUROR YES, SIR
7 THE COURT ALL RIGHT THAT WILL
8 DISQUALIFY YOU FROM SERVICE, OKAY?
9 JUROR ALL RIGHT, SIR
10 THE COURT YOU'RE EXCUSED
11 (JUROR #14 DISQUALIFIED)
12 JUROR #14 EXITS THE ROOM)
13 THE COURT FORTY-SEVEN
14 (JUROR #47 ENTERS THE ROOM)
15 THE COURT OKAY YOU'RE MR
16 COLLINS?
17 JUROR YES, SIR
18 THE COURT MR COLLINS, YOU
19 INDICATED YOU'D BEEN PREVIOUSLY CONVICTED OF SOME
20 CRIME THAT CARRIED MORE THAN ONE YEAR? WHAT WAS
21 THAT?
22 JUROR DRUG TRAFFICKING
23 THE COURT AND WHEN WERE YOU
24 CONVICTED?
25 JUROR '92
26 THE COURT WHAT DRUG WAS IT?
27 JUROR COCAINE

1 THE COURT WHAT WAS YOUR SENTENCE?
2 JUROR FIVE MINIMUM -- FIVE YEARS
3 MINIMUM MANDATORY

4 THE COURT OKAY AND YOU DID THAT?

5 JUROR YES, SIR

6 THE COURT OKAY IT APPEARS TO BE
7 VERIFIED BY THE CRIMINAL HISTORY RECORD YOU'VE
8 SEEN THAT, MR TINSLEY?

9 MR TINSLEY YES, SIR I'LL SEE IT
10 RIGHT NOW

11 THE COURT OKAY MR COLLINS, THAT
12 WILL DISQUALIFY YOU FROM SERVING THANK YOU, SIR
13 YOU MAY BE EXCUSED

14 (JUROR #47 DISQUALIFIED)

15 (JUROR #47 EXITS THE ROOM)

16 THE COURT ONE SEVENTY-NINE
17 (JUROR #179 ENTERS THE ROOM)

18 THE COURT YOU PRONOUNCE IT SHERARD
19 OR SHERARD?

20 JUROR SHERARD

21 THE COURT SHERARD YOU INDICATED
22 EARLIER THAT YOU HAD A PREVIOUS CRIMINAL CONVICTION
23 FOR AN OFFENSE THAT CARRIED MORE THAN ONE YEAR
24 WHAT OFFENSE WAS THAT?

25 JUROR MARIJUANA CHARGE

26 THE COURT WHAT WAS THE NATURE OF
27 THE CHARGE?

1 JUROR I HAD -- I GOT CAUGHT WITH
2 MARIJUANA

3 THE COURT I MEAN, WAS IT
4 DISTRIBUTION, POSSESSION WITH INTENT TO DISTRIBUTE,
5 OR SIMPLE POSSESSION?

6 JUROR I THINK IT WAS -- I HAD ONE
7 POUND I THINK THEY CALLED THAT BACK THEN A
8 DISTRIBUTOR OR SOMETHING LIKE THAT

9 THE COURT POSSESSION WITH INTENT TO
10 DISTRIBUTE? IS THAT THE OFFENSE THAT YOU PLEAD
11 GUILTY TO?

12 JUROR YES, SIR

13 THE COURT WHAT WAS YOUR SENTENCE,
14 DO YOU RECALL?

15 JUROR I THINK IT WAS TWO YEARS
16 PROBATION

17 THE COURT SOMETHING SUSPENDED TO
18 TWO YEARS PROBATION?

19 JUROR YEAH YES, SIR

20 THE COURT WAS THAT HERE IN
21 ABBEVILLE COUNTY?

22 JUROR ANDERSON COUNTY

23 THE COURT ANDERSON COUNTY

24 MR COULTER JUDGE, I DON'T HAVE
25 THAT

26 THE COURT BUT YOU'RE CERTAIN IT WAS
27 A POSSESSION WITH INTENT TO DISTRIBUTE? YOU WERE IN

1 CIRCUIT COURT?

2 JUROR YES, SIR

3 THE COURT AND IT WAS MORE THAN A
4 POUND OF MARIJUANA?

5 JUROR IT WAS -- WELL, IT WAS --
6 THEY SAID ONE POUND WAS THE -- THAT WAS WHEN I WAS
7 AT ANDERSON COLLEGE

8 THE COURT OKAY DO YOU RECALL THE
9 YEAR?

10 JUROR '72

11 THE COURT '72?

12 JUROR MAYBE 1973

13 THE COURT OKAY OKAY IF YOU'LL
14 JUST STAND OUTSIDE FOR JUST A MINUTE
15 (JUROR #179 EXITS THE ROOM)

16 THE COURT ANY QUESTION ABOUT IT?

17 MR JONES JUDGE, WE JUST DON'T HAVE
18 -- HIS RAP SHEET DID NOT COME UP AND INDICATE THAT
19 HE HAS THAT CONVICTION I UNDERSTAND THIS JUROR
20 ALSO HAS A REQUEST BASED ON A PERSONAL HARDSHIP
21 OUR POSITION WITH REGARD TO THIS CHARGE WOULD BE
22 THAT HE COULD HAVE PLEAD GUILTY TO POSSESSION OF
23 MORE THAN AN OUNCE HE SEEMS TO BE A LITTLE BIT
24 CONFUSED ABOUT WHAT HE PLEAD TO HE SAYS
25 DISTRIBUTION, BUT IF HE WASN'T TRYING TO SELL IT
26 THEN IT COULDN'T HAVE BEEN DISTRIBUTION

27 THE COURT OR POSSESSION WITH

1 INTENT

2 MR JONES RIGHT

3 THE COURT A POUND YOU THINK
4 THEY'D LET HIM PLEAD TO SIMPLE POSSESSION OVER THAT?

5 MR JONES WELL, HE SAID HE GOT TWO
6 YEARS PROBATION WHICH IS, YOU KNOW, I WAS -- I GUESS
7 THEY COULD GO FOR POSSESSION

8 THE COURT CONCEIVABLY THEY COULD
9 HAVE

10 MR JONES IT JUST ---

11 THE COURT WHAT IF THEY DON'T COME
12 UP BEFORE '76? IS THAT WHAT IT IS MAYBE?

13 MR COULTER IT MAY BE, JUDGE I
14 HADN'T SEEN THAT BEFORE

15 MR JONES WE'LL LET HIM GO I'M
16 JUST TELLING YOU WE DON'T -- I DON'T KNOW WHAT HE
17 PLEAD TO HE KNOWS WHAT HE PLEAD TO

18 THE COURT WELL, I AGREE I
19 UNDERSTAND WELL, WE CAN CHECK IT I MEAN, WE CAN
20 CALL IF THERE'S ANY QUESTION ABOUT IT

21 MR TINSLEY I DON'T HAVE A PROBLEM
22 WITH LETTING HIM GO

23 THE COURT NO ONE HAS ANY OBJECTION
24 TO HIM BEING EXCUSED?

25 MR JONES THE STATE DOESN'T

26 MR TINSLEY NO, SIR

27 THE COURT DO YOU WANT ME TO DISCUSS

1 WITH HIM HIS REASON FOR BEING EXCUSED? I MEAN, HIS
2 HARDSHIP?

3 MR JONES I DON'T THINK IT'S
4 NECESSARY BASED ON HIS CRIMINAL RECORD

5 THE COURT OKAY WELL ---

6 MR COULTER AS HE PURPORTS IT TO
7 BE

8 THE COURT I UNDERSTAND BRING HIM
9 IN

10 (JUROR #179 RE-ENTERS THE ROOM)

11 THE COURT MR SHERARD, LET ME JUST
12 ASK SO I CAN BE CERTAIN ARE YOU -- ARE YOU FAIRLY
13 CERTAIN AS TO WHAT YOU PLEAD GUILTY TO WHEN YOU WENT
14 TO COURT, OR DO YOU RECALL WHAT THE SENTENCE
15 ACTUALLY WAS?

16 JUROR I -- I DON'T KNOW THE EXACT
17 SENTENCE I MEAN, I KNOW I HAD TWO -- EITHER TWO OR
18 THREE YEARS PROBATION

19 THE COURT OKAY

20 JUROR IT WAS SUS ---THE WORDS WERE
21 ---

22 THE COURT SOME SENTENCE SUSPENDED?

23 JUROR YES, SIR THAT WAS WHAT ---

24 THE COURT DO YOU RECALL WHAT WAS
25 SUSPENDED?

26 JUROR NO, SIR I DON'T

27 THE COURT YOU DON'T KNOW IF IT WAS

1 MONTHS OR YEARS?

2 JUROR NO, SIR THAT'S BEEN TOO
3 LONG AGO TO ---

4 MR TINSLEY YOUTHFUL OFFENDER
5 MAYBE, JUDGE?

6 THE COURT YOU DON'T KNOW IF IT WAS
7 A YOUTHFUL OFFENDER SENTENCE OR ---

8 JUROR IT WASN'T THAT I WAS
9 ALREADY OUT OF THE SERVICE

10 THE COURT OH, YEAH OKAY OKAY
11 WE'RE GOING TO EXCUSE YOU FROM SERVICE, OKAY? THANK
12 YOU

13 (JUROR #179 DISQUALIFIED)

14 (JUROR #179 EXITS THE ROOM)

15 THE COURT ONE NINETY-THREE
16 (JUROR #193 ENTERS THE ROOM)

17 THE COURT MR THOMPSON, YOU
18 INDICATED THAT YOU HAD BEEN CONVICTED OF A CRIME FOR
19 WHICH YOU COULD HAVE RECEIVED MORE THAN A YEAR DO
20 YOU RECALL WHAT THE OFFENSE WAS?

21 JUROR IT WAS TWO ONE WAS GRAND
22 LARCENY, AND THE OTHER WAS MALICIOUS INJURY TO
23 PERSONAL PROPERTY

24 THE COURT DID YOU COME TO GENERAL
25 SESSIONS COURT?

26 JUROR IN McCORMICK

27 THE COURT IN McCORMICK?

1 JUROR YEAH

2 THE COURT DO YOU RECALL WHAT THE
3 SENTENCE WAS THAT YOU RECEIVED?

4 JUROR I RECEIVED SIX MONTHS ON ONE
5 AND TEN MONTHS ON THE OTHER

6 THE COURT ACTIVE TIME?

7 JUROR WELL, IT WAS -- IT WASN'T AT
8 THE TIME

9 THE COURT BUT, I MEAN, YOU DID THE
10 SIX MONTHS AND YOU DID THE TEN MONTHS?

11 JUROR YEAH I DID THE TEN MONTHS,
12 YES, SIR

13 THE COURT OKAY ALL RIGHT
14 THAT'LL DISQUALIFY YOU FROM SERVING SO YOU CAN BE
15 EXCUSED THANK YOU

16 JUROR THANK YOU

17 (JUROR #193 DISQUALIFIED)

18 (JUROR #193 EXITS THE ROOM)

19 MR JONES WHAT'S HIS NUMBER, JUDGE?

20 THE COURT IT'S ONE NINETY-THREE

21 GRAND LARCENY, MALICIOUS INJURY ALL RIGHT

22 DISQUALIFIED ALL RIGHT I NEED NUMBER ONE TWELVE
23 ONE TWELVE AND ONE SEVENTY-FIVE ARE UNABLE TO READ
24 AND WRITE

25 MR COULTER JUDGE, ONE SEVENTY-FIVE
26 ALSO HAS A RECORD THAT WOULD DISQUALIFY HIM

27 THE COURT WHICH ONE IS COMING?

1 BAILIFF ONE TWELVE, YOUR HONOR

2 THE COURT OKAY

3 (JUROR #112 ENTERS THE ROOM)

4 THE COURT MR KIMSEY, YOU INDICATED
5 WHEN I ASKED YOU SOME QUESTIONS EARLIER THAT YOU
6 WERE UNABLE TO READ, WRITE, SPEAK OR UNDERSTAND THE
7 ENGLISH LANGUAGE TELL ME ABOUT THAT

8 JUROR NO I MEANT I HAVE A PROBLEM
9 READING I CAN READ SOME, BUT I HAVE A PROBLEM
10 READING

11 THE COURT OKAY DO YOU READ THE
12 NEWSPAPER?

13 JUROR SOME, BUT THERE'S MORE TO IT
14 THAN JUST THAT

15 THE COURT MORE TO IT THAN WHAT?

16 JUROR THAN ME HAVING TO SERVING AND
17 ANYTHING I DIDN'T ASK -- YOU DIDN'T ASK ALL THE
18 QUESTIONS I MEAN, I HADN'T -- WHAT I MEAN -- I
19 DON'T KNOW IF I OUGHT TO DISCUSS IT NOW OR NOW WITH
20 THE ---

21 THE COURT SURE GO AHEAD AND TELL
22 ME

23 JUROR OKAY THE MAN RIGHT HERE, I
24 WORKED WITH HIM TWENTY YEARS HE'S A GOOD FRIEND OF
25 MIND

26 THE COURT WHO IS THAT?

27 JUROR MR HARRIS

1 THE COURT MR HARRIS?

2 JUROR MR MACK

3 THE COURT WHICH HARRIS IS THAT?

4 JUROR GEORGE GEORGE HARRIS

5 THE COURT WOULD -- WOULD THE FACT
6 THAT YOUR CONNECTION WITH MR HARRIS, WOULD THAT
7 INTERFERE IN ANY WAY WITH YOUR ABILITY TO BE FAIR
8 AND IMPARTIAL IF YOU WERE SELECTED?

9 JUROR WELL, SEE, THAT'S HARD TO
10 SAY, REALLY

11 THE COURT WELL, DO YOU BELIEVE THAT
12 IT'S LIKELY THAT IT WOULD OR THAT YOU COULD PUT THAT
13 RELATIONSHIP ASIDE?

14 THE COURT I DON'T KNOW ABOUT THAT,
15 YOU KNOW, BECAUSE LIKE I SAID, WE WORKED TOGETHER
16 SIDE BY SIDE FOR TWENTY YEARS, AND I DON'T FEEL LIKE
17 SOMETHING LIKE THIS -- THIS IS SERIOUS I MEAN, IT
18 WORRIES ME, YOU KNOW?

19 THE COURT SURE, AND THAT'S ALL I'M
20 ASKING DO YOU NEED TIME TO THINK ABOUT THAT? I
21 MEAN, IT'S IMPORTANT TO KNOW THERE'S NO RIGHT OR
22 WRONG ANSWER OBVIOUSLY, BUT IT IS IMPORTANT FOR US
23 TO KNOW IF YOU BELIEVE THAT YOU COULD NOT BE FAIR
24 AND IMPARTIAL BECAUSE OF THAT RELATIONSHIP

25 JUROR I BELIEVE IT MIGHT

26 THE COURT YOU BELIEVE IT WOULD
27 AFFECT YOUR ABILITY --

1 JUROR YES, SIR

2 THE COURT -- TO BE FAIR AND

3 IMPARTIAL IF YOU WERE SELECTED?

4 JUROR I THINK SO

5 THE COURT OKAY LET ME ASK YOU TO

6 STEP OUTSIDE JUST A MINUTE

7 (JUROR #112 EXITS THE ROOM)

8 THE COURT ANY OBJECTION TO MR

9 KIMSEY BEING EXCUSED BASED UPON THAT STATEMENT?

10 MR JONES NONE BY THE STATE, YOUR

11 HONOR

12 MR TINSLEY NO, SIR NO, SIR

13 THE COURT ALL RIGHT ASK MR

14 KIMSEY TO COME IN

15 (JUROR #112 RE-ENTERS THE ROOM)

16 THE COURT MR KIMSEY, WE'RE GOING

17 TO EXCUSE YOU FROM SERVICE IN THIS CASE, BUT WE

18 APPRECIATE YOU COMING DOWN TO POSSIBLY PARTICIPATE

19 THANK YOU

20 JUROR THANK YOU

21 (JUROR #112 EXCUSED)

22 (JUROR #112 EXITS THE ROOM)

23 MR JONES JUDGE?

24 THE COURT SIR?

25 MR JONES HE ACTS A LITTLE BIT LIKE

26 MR HARRIS, DOESN'T HE? I GUESS THAT'S WHAT WORKING

27 NEXT TO SOMEBODY FOR TWENTY YEARS WILL DO

1 THE COURT WELL, YOU GOT A LOT TO
2 LOOK FORWARD TO, MIKE

3 MR COULTER YEAH

4 THE COURT ASK ONE SEVENTY-FIVE TO
5 COME IN

6 (JUROR #175 ENTERS THE ROOM)

7 THE COURT HEY, MS SANDERS HOW
8 ARE YOU?

9 JUROR ALL RIGHT

10 THE COURT YOU WANT TO HAVE A SEAT
11 IF YOU LIKE YOU INDICATED PURSUANT TO MY QUESTIONS
12 THAT YOU WERE UNABLE TO READ, WRITE, UNDERSTAND OR
13 SPEAK, THE ENGLISH LANGUAGE?

14 JUROR UH-HUH (AFFIRMATIVE)

15 THE COURT TELL ME ABOUT THAT

16 JUROR SEE, I -- I DIDN'T GO NO
17 FARTHER THAN SIXTH OR THE EIGHTH GRADE

18 JUROR UH-HUH (AFFIRMATIVE) I HAD
19 TO BE IN THE FIELDS

20 THE COURT UH-HUH ARE YOU ABLE TO
21 READ AT ALL?

22 JUROR NO I CAN WRITE MY NAME AND
23 STUFF LIKE THAT

24 THE COURT YOU CAN WRITE YOUR NAME?
25 CAN YOU WRITE ANYTHING OTHER THAN YOUR NAME?

26 JUROR THAT'S ABOUT IT

27 THE COURT THAT'S IT? AND CAN YOU

1 READ ANYTHING?

2 JUROR NOT THAT MUCH

3 THE COURT WELL, WHAT DO YOU MEAN BY
4 NOT MUCH?

5 JUROR (JUROR LAUGHS) NOT MUCH I
6 CAN'T READ THAT WELL, YOU KNOW

7 THE COURT COULD YOU READ A
8 NEWSPAPER, MAGAZINE OR BOOK?

9 JUROR NO NO

10 THE COURT YOU COULD NOT? OKAY
11 ALL RIGHT IF YOU'LL STAND OUTSIDE FOR JUST A
12 MINUTE, I'LL BE BACK WITH YOU IN JUST A COUPLE OF
13 SECONDS

14 JUROR ALL RIGHT
15 (JUROR #175 EXITS THE ROOM)

16 THE COURT ANY OBJECTION TO HER
17 DISQUALIFICATION?

18 MR JONES NONE FROM THE STATE, YOUR
19 HONOR

20 MR COULTER JUDGE, I'D ALSO POINT
21 OUT SHE ALSO HAS A FORGERY CONVICTION

22 THE COURT THAT'S ONE SEVENTY-FIVE?

23 MR COULTER SHE ALSO HAS A FORGERY
24 CONVICTION

25 THE COURT OH, EXCUSE ME I DIDN'T
26 REALIZE SANDERS, YEAH

27 MR COULTER EXCUSE ME?

1 THE COURT JUST A MINUTE ASK HER
2 TO COME IN

3 MR COULTER YEAH

4 (JUROR #175 RE-ENTERS THE ROOM)

5 THE COURT MS SANDERS, I FORGOT TO
6 ASK YOU ONE OTHER THING IS YOUR -- WHAT IS YOUR
7 DATE OF BIRTH?

8 JUROR SIXTH MONTH, SECOND DAY,
9 THIRTY-EIGHT YEAR

10 THE COURT 1938? AND IS YOUR SOCIAL
11 SECURITY NUMBER 250-72-9276?

12 JUROR IT'S 250-72-92-76

13 THE COURT SAY THAT AGAIN

14 JUROR (JUROR LAUGHS

15 THE COURT 250 --

16 JUROR UH-HUH (AFFIRMATIVE)

17 THE COURT -- 729-276

18 JUROR I DON'T SEE IT THAT GOOD
19 YEAH THAT'S IT

20 THE COURT THAT'S IT?

21 JUROR UH-HUH (AFFIRMATIVE)

22 THE COURT WERE YOU CONVICTED IN
23 1987 OF FORGERY? WERE YOU FOUND GUILTY IN GENERAL
24 SESSIONS COURT OF THE CRIME OF FORGERY?

25 JUROR NOW WHEN?

26 THE COURT IN 1987

27 JUROR UH-UH (NEGATIVE)

1 THE COURT ARE YOU MARY F SANDERS
2 FROM CALHOUN FALLS?

3 JUROR UH-HUH (AFFIRMATIVE)

4 THE COURT YOU'VE NOT BEEN CONVICTED
5 OF FORGERY?

6 JUROR NO I AIN'T FORGED NOTHING
7 NOT AS I KNOW OF

8 THE COURT YOU'VE -- HAVE YOU EVER
9 BEEN ON PROBATION?

10 JUROR I WAS ON SOMETHING WHERE
11 SOMEBODY'S HOLDING MY SON FOR HOSTAGE OR SOMETHING
12 LIKE THAT

13 THE COURT WELL, THAT WAS HARBORING
14 AN ESCAPED INMATE, BUT YOU WENT TO PRE-TRIAL
15 INTERVENTION ON THAT, DIDN'T YOU?

16 JUROR WELL, PRE-TRIAL

17 THE COURT PRE-TRIAL INTERVENTION?

18 JUROR SOMETHING LIKE THAT

19 THE COURT BUT YOU SAY THAT'S NOT
20 YOU ON THE FORGERY CHARGE?

21 JUROR I AIN'T NEVER FORGED NOTHING

22 THE COURT DID YOU GO TO COURT MAY
23 THE 6TH OF 1987?

24 JUROR UH-UH (NEGATIVE) NOT -- NOT
25 THAT I RECALL

26 THE COURT NOT THAT YOU RECALL?

27 JUROR UH-UH (NEGATIVE) (JUROR

1 LAUGHS) I BEEN OVER THERE A LOT, BUT I WASN'T
2 GOING FOR MYSELF

3 THE COURT OKAY ALL RIGHT IF
4 YOU'LL STAND OUTSIDE FOR JUST A MOMENT, I'LL BE WITH
5 YOU SHORTLY

6 (JUROR #175 EXITS THE ROOM)

7 THE COURT ANYONE DISAGREE SHE'S NOT
8 QUALIFIED UNDER THE STATUTE FOR BEING UNABLE TO READ
9 OR WRITE?

10 MR TINSLEY CAN -- CAN I LOOK AT
11 THAT FOR A SECOND?

12 THE COURT UH-HUH (AFFIRMATIVE)

13 MR TINSLEY BACK THEN FORGERY
14 CARRIED SEVEN WE DON'T OBJECT

15 THE COURT ALL RIGHT DISQUALIFIED
16 (JUROR #175 RE-ENTERS THE ROOM)

17 THE COURT ALL RIGHT MS SANDERS,
18 BASED UPON THE ANSWERS TO MY QUESTIONS, YOU'RE
19 DISQUALIFIED FROM SERVING UNDER THE STATUTE SO
20 WE'RE GONNA EXCUSE YOU, OKAY?

21 JUROR ALL RIGHT

22 THE COURT THANK YOU

23 (JUROR #175 DISQUALIFIED)

24 (JUROR #175 EXITS THE ROOM)

25 THE COURT ONE NINETY-FIVE AND TWO-
26 O-ONE JUST LET TWO-O-ONE STNAD THERE WHILE ONE
27 NINETY-FIVE COMES IN THESE ARE EDUCATION LESS THAN

1 SIX

2 MR COULTER SHE COULDN'T WRITE,

3 JUDGE, BUT SHE DID HAVE A PEN IN HER BACK POCKET

4 THE COURT SHE COULD WRITE HER NAME

5 THAT'S WHERE THAT FORGERY COMES IN

6 MR COULTER AND POSSIBLY SOMEBODY

7 ELSE'S NAME

8 MR JONES POSSIBLY THE NAMES OF

9 OTHERS

10 THE COURT WELL, SHE DIDN'T SAY SHE

11 COULD WRITE ANYBODY ELSE'S

12 MR JONES UH-UH (NEGATIVE)

13 (JUROR #195 ENTERS THE ROOM)

14 THE COURT YOU ARE MS TINCHER?

15 JUROR YES, SIR

16 THE COURT MS TINCHER, IF YOU'D

17 LIKE TO HAVE A SEAT, PLEASE DO YOU INDICATED WHEN

18 I ASKED THOSE QUESTIONS THAT YOU HAD LESS THAN A

19 SIXTH GRADE EDUCATION OR ITS EQUIVALENT? HOW FAR

20 DID YOU GO IN SCHOOL?

21 JUROR PART OF THE SECOND GRADE

22 THE COURT PART OF THE SECOND? ARE

23 YOU NOW ABLE TO READ AND WRITE?

24 JUROR YES, BUT I CAN'T COMPREHEND

25 WHAT

26 -- I'VE HAD A SERIES OF STROKES HERE SINCE '83

27 THE COURT UH-HUH (AFFIRMATIVE)

1 JUROR I CAN'T UNDERSTAND I CAN'T
2 REMEMBER

3 THE COURT DOES THAT CONDITION --
4 ARE YOU PRESENTLY BEING TREATED BY A PHYSICIAN ON A
5 REGULAR BASIS?

6 JUROR YES

7 THE COURT DOES YOUR PHYSICAL
8 CONDITION, WOULD THAT PREVENT YOU FROM BEING ABLE TO
9 SERVE AS A JUROR?

10 JUROR I HAVE BACK PROBLEMS,
11 ARTHRITIS, AND I JUST CAN'T UNDERSTAND WHAT'S -- I
12 DON'T SEE OUT OF THE SIDE OF MY EYES, AND I DON'T
13 LIKE TO BE AROUND PEOPLE

14 THE COURT DID YOU ---

15 JUROR ONE OR TWO I'M FINE, BUT MORE
16 THAN THAT, I JUST CAN'T HANDLE IT

17 THE COURT ALL RIGHT DID YOU BRING
18 A DOCTOR'S STATEMENT REGARDING YOUR MEDICAL
19 CONDITION?

20 JUROR NO, NOT THAT I WAS DISABLED
21 I, YOU KNOW, I COULDN'T -- HE SAID THAT HE COULD
22 WRITE IT DOWN THAT I HAD COMPLAINTS, BUT IT PROBABLY
23 WOULDN'T BE LOOKED AT AND HE MADE ME FEEL LIKE
24 THAT HE DIDN'T BELIEVE ME, BUT I HAVE A WHOLE BOTTLE
25 -- BUNCH OF PRESCRIPTIONS IN HERE THAT THEY KEEP
26 PRESCRIBING FOR ME

27 THE COURT WHAT KIND OF MEDICATIONS

1 ARE YOU TAKING?

2 JUROR I TAKE PAIN PILLS FOR MY
3 BACK OF COURSE, I TAKE TYLENOL DURING THE DAY FOR
4 IT I'M ON BLOOD PRESSURE MEDICATION, THYROID I
5 DON'T KNOW I CAN'T REMEMBER WHERE I KEEP IT I
6 HAVE TO WRITE IT ON MY BOX (SEARCHING HER PURSE)
7 IT'S LODINE THAT'S FOR BACK PAIN THAT'S
8 SOMETHING I CAME OFF OF THEM THAT'S ASPIRIN I TAKE
9 A THOUSAND GRAINS -- MILLIGRAMS A DAY, BLOOD
10 PRESSURE, AND THIS ONE I HAVE TO TAKE AT NIGHT TO
11 REST

12 THE COURT AND DO THOSE MEDICATIONS
13 OR YOUR MEDICAL CONDITION, DOES IT PREVENT YOU FROM
14 BEING ABLE TO CONCENTRATE FOR ANY LENGTH OF TIME?

15 JUROR WELL, THE DOCTORS HAVE TOLD
16 ME THAT WHEN I HAVE ONE OF THESE STROKES IT DOES A
17 LITTLE MORE DAMAGE TO MY BRAIN AND ---

18 THE COURT BUT IT DOES NOT PREVENT
19 YOU FROM BEING ABLE TO CONCENTRATE OR COMPREHEND?

20 JUROR I DON'T -- I'VE BEEN LIKE
21 THIS EVERY SINCE I STARTED HAVING THE STROKES THAT I
22 CAN'T CONCENTRATE AND CAN'T REMEMBER THINGS

23 THE COURT THAT'S WHAT I'M ASKING
24 IT DOES CAUSE YOU TO BE UNABLE TO REMEMBER AND TO
25 CONCENTRATE?

26 JUROR YES, SIR IT ---

27 THE COURT OKAY ALL RIGHT LET ME

1 ASK YOU IF YOU WILL JUST TO STAND OUTSIDE FOR JUST A
2 FEW MINUTES, AND THEN I'LL BE WITH YOU SHORTLY

3 JUROR THANK YOU

4 (JUROR #195 EXITS THE ROOM)

5 THE COURT ANY OBJECTION TO MS
6 TINCHER BEING EXCUSED?

7 MR JONES NONE BY THE STATE

8 MR TINSLEY NO, YOUR HONOR

9 THE COURT YOU'VE OBSERVED HER I
10 THINK HER PHYSICAL AND MENTAL CONDITION AND MEDICAL
11 CONDITION WOULD PREVENT HER FROM BEING ABLE TO
12 SERVE BRING HER BACK

13 (JUROR #195 RE-ENTERS THE ROOM)

14 THE COURT MS TINCHER, WE'RE GOING
15 TO EXCUSE YOU FROM SERVICE IN THIS CASE SO YOU CAN
16 BE EXCUSED, BUT WE DO APPRECIATE YOU COMING DOWN

17 JUROR THANK YOU

18 THE COURT THANK YOU, MA'AM

19 (JUROR #195 EXCUSED)

20 (JUROR #195 EXITS THE ROOM)

21 THE COURT TWO-O-ONE

22 (JUROR #201 ENTERS THE ROOM)

23 THE COURT MR VAUGHN, IF YOU WOULD,
24 HAVE A SEAT IF YOU'D LIKE YOU INDICATED EARLIER
25 WHEN I ASKED THE QUESTIONS THAT YOU HAD LESS THAN A
26 SIXTH GRADE EDUCATION OR ITS EQUIVALENT? TELL ME
27 ABOUT YOUR EDUCATION, WOULD YOU?

1 JUROR HOW FAR I WENT?

2 THE COURT YES, SIR

3 JUROR TO THE FIFTH GRADE

4 THE COURT AND ARE YOU ABLE TO READ
5 AND WRITE?

6 JUROR I CAN READ SOME AND WRITE
7 SOME, BUT THERE'S SOME WORDS I DON'T KNOW AND I
8 CAN'T SPELL

9 THE COURT CAN YOU READ THE
10 NEWSPAPER?

11 JUROR I DON'T READ THE NEWSPAPER

12 THE COURT YOU DO NOT?

13 JUROR I DO NOT

14 THE COURT HAVE YOU ATTEMPTED TO DO
15 SO?

16 JUROR I HAVE TRIED

17 THE COURT AND YOU'RE UNABLE TO DO
18 SO?

19 JUROR I -- A FEW WORDS I CAN READ
20 IN A PAPER

21 THE COURT OKAY

22 JUROR BUT SOME I DON'T KNOW

23 THE COURT CAN YOU READ ENOUGH IN AN
24 ARTICLE TO KNOW WHAT THE ARTICLE IS ABOUT OR TO
25 UNDERSTAND THE ARTICLE?

26 JUROR I DON'T KNOW I MIGHT COULD
27 IT'S BEEN A LONG TIME SINCE I BEEN TO SCHOOL

1 THE COURT OKAY ARE YOU ABLE TO
2 WRITE?

3 JUROR A LITTLE BIT I CAN WRITE MY
4 NAME AND ALL THAT

5 THE COURT NOW, WHEN YOU SAY, 'ALL
6 THAT," NOW, WHAT DO YOU MEAN?

7 JUROR WELL, LIKE TWO, THREE, FOUR,
8 FIVE, SIX, SEVEN, EIGHT, NINE, TEN

9 THE COURT YOU CAN WRITE YOUR NAME?
10 YOU CAN WRITE NUMBERS?

11 JUROR UH-HUH (AFFIRMATIVE)

12 THE COURT CAN YOU WRITE A LETTER TO
13 SOMEONE?

14 JUROR NO

15 THE COURT YOU CANNOT?

16 JUROR THAT QUESTIONNAIRE YOU SENT
17 ME?

18 THE COURT YES, SIR

19 JUROR I HAD TO GET A LADY TO FILL
20 IT OUT FOR ME 'CAUSE I DIDN'T KNOW HOW

21 THE COURT YOU WERE UNABLE ---

22 JUROR I SIGNED MY NAME TO IT,
23 THOUGH

24 THE COURT I UNDERSTAND, BUT YOU
25 WERE NOT ABLE TO READ THE QUESTIONNAIRE AND ANSWER
26 THE QUESTIONS WITHOUT ASSISTANCE?

27 JUROR WITHOUT ASSISTANCE

1 THE COURT YOU COULD NOT WITHOUT
2 ASSISTANCE?

3 JUROR UH-UH (NEGATIVE)

4 THE COURT OKAY IF YOU WILL, JUST
5 STAND OUTSIDE FOR JUST A MINUTE, AND I'LL BE BACK
6 WITH YOU

7 JUROR OKAY

8 (JUROR #201 EXITS THE ROOM)

9 THE COURT ANY OBJECTION TO HIM
10 BEING DISQUALIFIED BASED UPON HIS BEING UNABLE TO
11 READ AND WRITE?

12 MR JONES JUDGE, IF I COULD
13 BRIEFLY, I WANT TO STATE THAT ALTHOUGH HE APPEARS TO
14 PROBABLY BE LESS EDUCATED THAN THE PREVIOUS JUROR,
15 MY POSITION WOULD BE THAT HE'S MORE QUALIFIED THAN
16 THE PREVIOUS JUROR BASED ON HIS INTEREST AND EFFORT
17 IN TRYING TO COMPREHEND THE PROCESS I -- I -- I'M
18 TROUBLED BY THIS A LITTLE BIT, AND THE ONLY THOUGHT
19 I HAD WAS TO ASK IF YOU WOULD BE INCLINED TO
20 QUESTION HIM ABOUT HIS ABILITY TO WORK AND MAINTAIN
21 A HOUSEHOLD, WHETHER HE'S MARRIED, RAISED CHILDREN,
22 PROVIDED THEM WITH EDUCATIONS, ETCETERA, ETCETERA
23 THE REASON I ASK YOU THAT IS I HEARD THAT THERE --
24 THAT WE'RE BASING IT NOW ON HIS ABILITY TO ENGAGE IN
25 SOCIETY AND ITS WELFARE AND CARRY ON AS A PRODUCTIVE
26 MEMBER OF SOCIETY

27 THE COURT WELL, IF WE WERE

1 ADDRESSING THE QUESTION OF HAVING A SIXTH GRADE
2 EDUCATION OR ITS EQUIVALENT --

3 MR JONES RIGHT

4 THE COURT -- BUT THE QUESTION I'M
5 ADDRESSING IS WHETHER HE CAN READ OR WRITE

6 MR JONES OKAY WELL, THEN I HAVE
7 NO OBJECTION

8 THE COURT I MEAN, HE ANSWERED THE
9 QUESTION TO LESS THAN A SIXTH GRADE EDUCATION, NOT
10 READING OR WRITE, BUT WHAT HE'S TOLD ME, HE CANNOT
11 READ OR WRITE, COULD NOT FILL OUT THE QUESTIONNAIRE

12 MR JONES NO OBJECTION --

13 MR TINSLEY NONE

14 MR JONES -- TO HIS BEING EXCUSED

15 THE COURT OKAY ALL RIGHT TWO-O-
16 ONE DISQUALIFIED

17 (JUROR #201 RE-ENTERS THE ROOM)

18 THE COURT OKAY MR VAUGHN, WE'RE
19 GOING TO EXCUSE YOU FROM SERVICE IN THE TRIAL OF
20 THIS CASE, BUT WE DO APPRECIATE YOU COMING DOWN TO
21 PARTICIPATE

22 JUROR OKAY MAY I GO HOME?

23 THE COURT YES, SIR

24 JUROR OKAY

25 THE COURT THANK YOU, SIR

26 (JUROR #201 DISQUALIFIED)

27 (JUROR #201 EXITS THE ROOM)

1 THE COURT ALL RIGHT JUROR NUMBER
2 TWELVE, MR BEATY

3 MR COULTER OKAY HE'S OUR ---

4 THE COURT THESE ARE EXCUSES

5 MR COULTER OKAY

6 MR JONES OKAY SO YOU EXCUSED THE
7 ONE RESIDENT -- THE ONE NON-RESIDENT? YOU'VE
8 ALREADY EXCUSED THE ONE NON-RESIDENT?

9 THE COURT WELL, I THINK THERE WERE
10 TWO

11 MR JONES AND YOU EXCUSED THE ONE
12 THAT HAD SERVED THAT SERVED WITHIN THE LAST THREE
13 YEARS?

14 THE COURT NOT YET THE CLERK'S GOT
15 TO VERIFY THAT

16 MR TINSLEY THE NON-RESIDENT, FROM
17 MY RECOLLECTION, WAS THE LADY THAT SAID SHE HAD
18 SLEPT HERE LAST NIGHT AND KEPT --

19 THE COURT HOLD HIM OUTSIDE JUST ONE
20 SECOND NO, THAT WAS MS LOTHBRIDGE, BUT MR
21 THOMPSON, I THINK -- WELL, NOT THOMPSON HE'S ON
22 THE RIGHT HE'S THE ONE THAT LIVES IN GREENVILLE ON
23 PELHAM ROAD

24 MR TINSLEY HAD A TOYOTA SHIRT ON
25 THOMAS, I THOUGHT IT WAS

26 THE COURT THOMAS, YES

27 MR JONES YOU EXCUSED HIM?

1 THE COURT HE'S EXCUSED HE'S A
2 NON-RESIDENT MS LOTHBRIDGE SPENT THE NIGHT HERE
3 SO SHE'S STILL A RESIDENT

4 MR JONES I NOTICED SHE ---

5 THE COURT BUT SHE'S ON HERE FOR
6 ANOTHER REASON OKAY ASK MR BEATY TO COME IN
7 (JUROR #12 ENTERS THE ROOM)

8 THE COURT GOOD AFTERNOON

9 JUROR GOOD AFTERNOON

10 THE COURT HAVE A SEAT IF YOU'D
11 LIKE WHEN I ASKED QUESTIONS ABOUT IF YOU HAD A
12 CIRCUMSTANCE THAT YOU BELIEVE OUGHT TO ALLOW YOU TO
13 BE EXCUSED AS A JUROR, YOU INDICATED YOU DID HAVE
14 SUCH A CIRCUMSTANCE?

15 JUROR YES, SIR

16 THE COURT WHAT -- WHAT IS YOUR
17 DIFFICULTY?

18 JUROR I OWN A FEED AND SEED STORE,
19 ABBEVILLE FARM SUPPLY I OPENED IT SEVENTEEN YEARS
20 AGO THERE'S NO EMPLOYEES OTHER THAN MYSELF AND MY
21 WIFE WE OPEN FIFTY-FOUR HOURS A WEEK I HAVE
22 SERVED ON A JURY THIRTEEN YEARS AGO AT THE TIME IT
23 WAS INCONVENIENT, BUT MY FATHER WAS RETIRED HE WAS
24 SIXTY-THREE YEARS OLD, AND HE COULD KEEP MY BUSINESS
25 OPEN PLUS THE FACT COURT WOULD START AT TEN, BE
26 DISMISSED AT FOUR OR FIVE IT WASN'T A SEQUESTERED
27 TRIAL IN THIS CASE, MY FATHER IS SEVENTY-SIX YEARS

1 OLD, AND HE'S NEITHER MENTALLY NOR PHYSICALLY ABLE
2 TO RUN MY BUSINESS MY WIFE CERTAINLY CAN'T RUN IT
3 WE HAVE NO HEISTERS, HAND TRUCKS EVERYTHING'S
4 PHYSICAL UNLOADING, LOADING TRUCKS SO I BASICALLY
5 WOULD HAVE TO CLOSE MY BUSINESS IF I WAS PICKED AND
6 SEQUESTERED

7 THE COURT YOU'RE SAYING YOUR WIFE
8 COULD NOT COVER THE BUSINESS WHILE YOU WERE AWAY?

9 JUROR NO, SIR

10 THE COURT AND THE REASON FOR THAT?

11 JUROR SHE'S THIRTY-FIVE YEARS OLD
12 SHE CANNOT UNLOAD TRUCKS AND LOAD TRUCKS
13 EVERYTHING'S FIFTY-POUND BAGS, AND I DO IT

14 THE COURT AND YOU DON'T HAVE ANY
15 OTHER EMPLOYEES THAT COULD HANDLE THAT?

16 JUROR NO, SIR, NO EMPLOYEES

17 THE COURT OR ASSIST HER IN THAT
18 REGARD?

19 JUROR NO, SIR WE HAVE NO
20 EMPLOYEES

21 THE COURT DO YOU HAVE SOMEONE YOU
22 COULD HIRE PART-TIME TO DO THAT WORK WHILE YOU'RE
23 AWAY?

24 JUROR NO, SIR I DON'T I ALSO DO
25 THE ORDERING, EVERYTHING I ORDER ON A DAILY BASIS
26 I'VE GOT TRUCKS COMING AND GOING WITH THE NATURE
27 OF THE BUSINESS YOU CAN'T PLAN AHEAD ON WHAT TO

1 ORDER, HOW MUCH TO MURDER SO IT'S BASICALLY I
2 WOULD HAVE TO CLOSE MY BUSINESS IF I WASN'T THERE
3 THE COURT WHAT FINANCIAL IMPACT
4 WOULD THAT HAVE UPON YOU?

5 JUROR MY WIFE DOES NOT WORK OTHER
6 THAN HELP ME, I HAVE THREE CHILDREN, SEVEN, TEN AND
7 THIRTEEN THIS IS OUR SOLE SOURCE OF INCOME SO IT
8 WOULD BE DEVASTATING

9 THE COURT OKAY IF YOU'LL STAND
10 OUTSIDE FOR JUST A MINUTE, WE'LL BE BACK WITH YOU
11 SHORTLY

12 (JUROR #12 EXITS THE ROOM)

13 THE COURT WHAT SAY THE STATE?

14 MR JONES JUDGE, AT THE OUTSET
15 HERE, I WOULD LIKE TO MAKE THE STATE'S POSITION
16 OPEN, AND THAT IS THESE ARE THE TOUGH DECISIONS THAT
17 YOU ARE GOING TO HAVE TO MAKE ABOUT -- FOURTEEN AS I
18 COUNTED THAT STOOD UP AND SAID THEY HAD PRIVATE AND
19 PERSONAL PROBLEMS THAT WOULD PREVENT THEM FROM BEING
20 ABLE TO SERVE THIS MAN HAS PRESENTED A FAIRLY
21 BLEAK PICTURE EXCEPT FOR THE FACT THAT YOU KNOW, AND
22 I DON'T -- I'M NOT TRYING TO BE CYNICAL HERE I'M
23 JUST TRYING TO BE SPECIFIC AND TO THE POINT HIS
24 WIFE CAN OPEN THE DOOR OF THE STORE, AND SHE CAN RUN
25 THE STORE SHE JUST CAN'T LOAD AND UNLOAD FIFTY-
26 POUND BAGS OF GRAIN WHICH MEANS ANYBODY THAT WANTS A
27 RAKE, A SHOVEL OR SOME OTHER GOODS CAN BUY THEM

1 ANYBODY THAT WANTS A FIFTY-POUND BAG OF THE SEED
2 AIN'T GONNA GET THEM UNLESS THEY LOAD THEM
3 THEMSELVES I MEAN, THE BOTTOM LINE IS THE STORE
4 DON'T CLOSE IT'S JUST IT'D LOSE ITS BUSINESS
5 NOW, UNDERSTAND HE DOESN'T WANT HER THERE RUNNING
6 THE STORE BY HERSELF THAT'S UNDERSTANDABLE, AND HE
7 MENTIONED ORDERS THAT HE MAKES THAT SHE'S NOT
8 ACQUAINTED APPARENTLY WITH AND WOULD MAYBE LOSE SOME
9 BUSINESS THERE

10 ALL I'M ASKING YOU TO DO IS AT THE
11 OUTSET, LET'S -- LET'S TRY TO UNDERSTAND THAT EVEN
12 THOUGH THESE EXCUSES ARE PROBABLY GOING TO SOUND A
13 LOT ALIKE, THERE ARE THOSE THAT MAYBE OUGHT TO BE
14 EXCUSED, AND MAYBE THERE ARE SOME THAT SHOULDN'T BE
15 EXCUSED AND I'D LIKE YOU TO CONSIDER HEARING SOME
16 OF THE OTHER ONES BEFORE YOU MAKE A DECISION ON THIS
17 ONE IS WHAT I'D LIKE YOU TO CONSIDER DOING

18 THE COURT WELL, NOW HOW IS THAT
19 GONNA HELP ME?

20 MR JONES WELL ---

21 THE COURT I MEAN, HOW IS SOMEBODY
22 ELSE'S CIRCUMSTANCE GOING TO HELP ME WITH MR
23 BEATY'S CIRCUMSTANCE? HE SAYS HE'S BASICALLY A SOLE
24 PROPRIETOR HE HAS NO OTHER HELP OTHER THAN HIS
25 WIFE THEY GOT THREE CHILDREN DEPENDING ON THEM FOR
26 SUPPORT HE'S NOT THERE OBVIOUSLY, SHE CAN'T OPEN
27 THE STORE, BUT HE WON'T BE THERE FOR A WEEK OR TEN

1 DAYS

2 MR JONES ALL RIGHT THEN WE
3 CONSENT TO EXCUSE HIM BASED ON THE HARDSHIP

4 THE COURT WE DON'T HAVE TO CONSENT
5 TO IT I'M JUST ASKING WHAT YOUR POSITION IS

6 MR JONES I THINK HIS WIFE CAN OPEN
7 THE STORE AND RUN THE STORE SO I WOULDN'T WANT TO
8 CONSENT EXCUSING HIM

9 THE COURT OKAY

10 MR TINSLEY NO OBJECTION

11 THE COURT ALL RIGHT ASK MR BEATY
12 TO COME IN

13 (JUROR #12 RE-ENTERS THE COURTROOM)

14 THE COURT MR BEATY, IF I CAN, LET
15 ME ASK YOU JUST A COUPLE OF OTHER QUESTIONS

16 JUROR YES, SIR

17 THE COURT YOU -- YOU -- YOU HEARD
18 EARLIER, AS I INDICATED, OBVIOUSLY THERE ARE PEOPLE
19 THAT HAVE A LOT OF OTHER THINGS THAT THEY NEED TO BE
20 DOING, THEY'D RATHER BE DOING IT'S IMPORTANT TO
21 THEM IT'S IMPORTANT TO THEIR FAMILILES, BUT ON THE
22 OTHER HAND IT'S -- IT'S ALSO IMPORTANT THAT WE HAVE
23 A CROSS SECTION OF PEOPLE IN ABBEVILLE COUNTY TO
24 PARTICIPATE IN THE TRIAL OF THE CASES OBVIOUSLY,
25 THAT'S WHAT YOU WANT YOU NEED PEOPLE NOT ONLY WHO
26 ARE -- WHO MAY NOT BE BUSY BUT PEOPLE WHO ARE BUSY
27 AND PEOPLE WHO HAVE VARIOUS TYPES OF EXPERIENCES AND

1 LIVELIHOODS AND LIFE EXPERIENCES IF JURY SERVICE
2 IS GOING TO POSE AN UNREASONABLE HARDSHIP ON
3 SOMEONE, OBVIOUSLY, WE'RE NOT TRYING TO REQUIRE YOU
4 TO SERVE IF IT'S SOMETHING THAT CAN BE
5 ACCOMMODATED IN ANY WAY, WE WANT IT TO BE
6 ACCOMMODATED SIMPLY BECAUSE WE NEED A CROSS SECTION
7 OF JURORS AND NOT JUST THOSE WHO HAVE NOTHING ELSE
8 PRESSING I RECOGNIZE YOUR CIRCUMSTANCE OF HAVING
9 YOUR OWN BUSINESS AND JUST BEING YOU AND YOUR WIFE
10 IT'S LIKELY THAT IF YOU WERE SELECTED
11 AND, OF COURSE, YOU HAVE NOT BEEN SELECTED BUT
12 IT'S LIKELY THAT IF YOU WERE SELECTED, YOU WOULD NOT
13 BE SEQUESTERED UNTIL AFTER THE JURY IS ACTUALLY
14 PICKED AND ACTUALLY SELECTED THAT WILL BE PROBABLY
15 A COUPLE OR THREE DAYS PERHAPS OF COURSE, AT THAT
16 TIME THE JURY WOULD THEN BE SEQUESTERED, BUT IT'S
17 LIKELY THAT IT WOULD ONLY BE FOR A PERIOD OF BETWEEN
18 SEVEN AND TEN DAYS DO YOU THINK, BASED UPON THE
19 FACT THAT YOU'VE INDICATED THE REAL PROBLEM IS
20 HAVING SOMEBODY TO DO THE LIFTING AND THROWING BAGS
21 ON THE TRUCK OR IN THE CAR, DO YOU THINK THAT YOU
22 COULD FIND SOMEONE, FIND A HIGH SCHOOL KID OR
23 SOMEBODY OUT OF SCHOOL THAT MIGHT BE WILLING TO WORK
24 ON A PART-TIME BASIS FOR THOSE TYPES OF ORDERS, OR
25 DO YOU THINK YOUR CUSTOMERS WOULD BE WILLING TO PUT
26 THOSE BAGS IN THE -- IN THE CAR?
27 JUROR YES, SIR THAT -- THAT WOULD

1 POSSIBLY BE POSSIBLE THE BIGGEST PROBLEM IS -- IS
2 THE KEEPING OF THE STOCK, THE SHELVES STOCKED, AND
3 BY THAT I DON'T MEAN MAYONNAISE, MUSTARD AND
4 KETCHUP FERTILIZER, SEED THIS IS A BUSY TIME FOR
5 ME IN THE FALL MAINLY, FARMERS ARE PLANTING SEEDS
6 NOW, IT'S FINALLY STARTING TO RAIN ALSO HOMEOWNERS
7 LIKE MAYBE YOURSELF THIS WEEKEND, YOU'RE GONNA PUT
8 RYE GRASS OUT I DON'T KNOW TODAY IF I NEED TWENTY
9 BAGS OF RYE GRASS OR TWO HUNDRED THERE'S A LOT OF
10 CONSTRUCTION GOING ON IN ABBEVILLE THEY COME IN
11 THEY SAY, "WHAT WILL YOU SELL US TWO TONS OF TEN-
12 TEN-TEN FERTILIZER FOR?" NO ONE CAN MAKE THAT
13 DECISION EXCEPT MYSELF THEY WANT A QUOTE "CHEAPER
14 PRICE ' I'M THE ONLY ONE THAT KNOWS WHAT THE
15 FERTILIZER COSTS I'M THE ONLY ONE THAT CAN GIVE --
16 THIS HAPPENED YESTERDAY THANK GOODNESS I WAS THERE
17 OR I WOULD HAVE MISSED THE SALE

18 MY SYMPATHY GOES OUT TO THE VICTIMS
19 OF THIS TRAGEDY THAT HAPPENED IN ABBEVILLE, BUT IN
20 MY CASE, MY FAMILY IS GONNA BE HURT IF I AM
21 SEQUESTERED, AND I'M NOT TRYING TO GET OUT OF
22 SERVING ON A JURY I SERVED ON ONE THIRTEEN YEARS
23 AGO IT'S THE SEQUESTERED PART OF IT THAT WILL HURT
24 MY BUSINESS WHAT'S HAPPENED THIS WEEK HAS BEEN, AS
25 YOU SAID, INCONVENIENT, AGGRAVATING TO PEOPLE I
26 HADN'T HURT MY BUSINESS BECAUSE I WAS THERE UNTIL
27 TEN MY FATHER OR MY WIFE WOULD SAY, "HE SHOULD BE

1 BACK LATER ON THIS AFTERNOON HE'S JURY GOING ON
2 CAN IT WAIT TILL FIVE O'CLOCK? GIVE ME YOUR PHONE
3 NUMBER, AND HE'LL CALL YOU TONIGHT SO ON AND SO
4 FORTH THAT I CAN WORK AROUND AND I HAVE WORKED
5 AROUND IN THE PAST AS A CITIZEN IN THIS CASE, WE
6 DON'T, I MEAN, I'M SURE YOU DON'T KNOW HOW LONG THIS
7 TRIAL WILL LAST IT MAY LAST TWO DAYS IT MAY LAST
8 THREE WEEKS BECAUSE I'M ASSUMING YOU DIDN'T FIGURE
9 WE'D BE DOING THIS ON FRIDAY I FIGURED WE'D BE
10 DOING THIS ON MONDAY

11 SO, I MEAN, I'M A BUSINESSMAN YOU'RE
12 A LAWYER -- A JUDGE WE DON'T KNOW WHAT'S GONNA
13 HAPPEN, AND THAT'S WHAT SCARES ME TO DEATH IS THAT I
14 CAN'T CALL MY EMPLOYER AND SAY, "WELL, KEEP THE
15 CHECK COMING I'M GONNA HAVE TO TAKE SICK LEAVE
16 TIME IF MY EMPLOYER DOESN'T HONOR THE COURT SYSTEM "

17 WELL, I AM THE EMPLOYER IF I DON'T
18 SELL THAT BAG OF RYE GRASS, I DON'T MAKE ANY INCOME,
19 AND IT'S NOT SOMETHING WHERE PEOPLE WILL COME BACK
20 LIKE AN INSURANCE OFFICE WHERE, WELL, THEY CAN COME
21 BACK AND IF YOU WANT A BAG OF RYE GRASS MONDAY
22 MORNING OR WHATEVER AND MY DOORS ARE CLOSED, YOU'RE
23 GONNA GO TO THE COMPETITOR OR TO GREENWOOD OR TO
24 ANDERSON AND GET YOUR RECEIPT, AND THAT'S WHERE IT'S
25 GONNA HURT ME AND MY FAMILY AND MY FAMILY IS
26 IMPORTANT I MEAN, I SUPPORT MY FAMILY, AND I'M A
27 HUSBAND AND MY WIFE DOESN'T WORK, AND THAT'S WHY I

1 REQUEST THAT YOU CONSIDER EXEMPTING ME NOT FROM
2 SERVING ON A JURY PUT ME DOWN FOR THE NEXT ONE
3 THAT'S COMING UP IF IT'S NOT SEQUESTERED, I DON'T
4 HAVE A PROBLEM BECAUSE I CAN WORK AROUND IF I CAN
5 BE AT MY BUSINESS AT NIGHT, EARLY IN THE MORNING,
6 LATE IN THE AFTERNOON TO KEEP MY BUSINESS ROLLING
7 THE ONLY PROBLEM I HAVE IN THIS PARTICULAR SITUATION
8 IS THAT I WANT TO SEE TO MY BUSINESS, AND I CAN'T
9 HAVE CONTACT, I'M ASSUMING, WITH SALESMEN AND
10 EVERYTHING ELSE FOR UP TO FOURTEEN DAYS, THE LETTER
11 SAID

12 THE COURT WELL, ---

13 JUROR SO THAT'S MY MAJOR PROBLEM
14 IT IS MY BUSINESS, NOT THE INCONVENIENCE OF IT

15 THE COURT I UNDERSTAND THAT WELL,
16 ARE YOU REPRESENTING TO ME THAT IT'S YOUR VIEW,
17 BASED UPON FACTS AS YOU KNOW THEM TO BE, THAT IF YOU
18 WERE REQUIRED TO SERVE ON THIS PARTICULAR JURY THAT
19 IT WOULD BE -- HAVE A SIGNIFICANT FINANCIAL IMPACT
20 UPON YOU?

21 JUROR YES, SIR

22 THE COURT OKAY ALL RIGHT WE'RE
23 GONNA EXCUSE YOU FROM SERVING IN THE CASE

24 JUROR THANK YOU VERY MUCH

25 THE COURT OKAY THANK YOU

26 (JUROR #12 EXCUSED)

27 (JUROR #12 EXITS THE ROOM)

1 MR JONES JUDGE, I'M GONNA HAVE TO
2 MAKE A PHONE CALL, AND MIKE'S GONNA HANDLE IT FOR
3 US I'LL BE BACK IN A SECOND

4 THE COURT OKAY NUMBER TWENTY-
5 EIGHT

6 THE COURT I UNDERSTOOD THE DEFENSE
7 HAD NO OBJECTION TO NUMBER TWELVE BEING EXCUSED?

8 MR TINSLEY THAT'S CORRECT
9 (JUROR #28 ENTERS THE ROOM)

10 THE COURT GOOD AFTERNOON

11 JUROR HOW YOU DOING?

12 THE COURT YOU'RE MS BRYANT?
13 PEARLY BRYANT?

14 JUROR YES, SIR

15 THE COURT MS BRYANT, YOU INDICATED
16 WHEN I WAS ASKING QUESTIONS EARLIER THAT YOU HAD A -
17 - A CIRCUMSTANCE OR CIRCUMSTANCES THAT IMPOSED AN
18 UNREASONABLE HARDSHIP ON YOU IF YOU WERE REQUIRED TO
19 SERVE?

20 JUROR WELL, I REALLY DON'T WANT TO
21 SERVE BECAUSE I KNOW HIM REAL GOOD I WORK WITH HIM
22 AND ALL THAT

23 THE COURT YOU KNOW WHO REAL GOOD?

24 JUROR HIS WIFE, YOU KNOW, HE KILL
25 THE WIFE

26 THE COURT YOU KNEW WHO?

27 JUROR THAT MAN SITTING RIGHT THERE

1 I DON'T KNOW HIS NAME

2 THE COURT MR HUGHEY?

3 JUROR YEAH I KNOW HIM REAL GOOD

4 THE COURT YOU KNOW HIM REAL GOOD?

5 JUROR YEAH

6 THE COURT THIS MR HUGHEY RIGHT

7 HERE?

8 JUROR NOT HIM THE OTHER ONE

9 HARRIS

10 THE COURT MR HARRIS?

11 JUROR YEAH I KNOW HIM REAL GOOD

12 THE COURT MR -- WHAT'S HIS FIRST

13 NAME?

14 MR JONES CALL HIM GEORGE

15 JUROR GEORGE, YEAH

16 THE COURT DO YOU KNOW MR HARRIS?

17 JUROR YEAH

18 THE COURT HOW LONG HAVE YOU KNOWN

19 HIM?

20 JUROR WELL, WE'VE WORKED TOGETHER

21 AT WESTPOINT STEVENS

22 THE COURT OKAY AND HOW LONG HAVE

23 YOU WORKED TOGETHER THERE?

24 JUROR BEEN NINE YEARS

25 THE COURT AND YOU'VE GOTTEN TO KNOW

26 HIM WELL --

27 JUROR YEAH

1 THE COURT -- THROUGH THAT
2 EMPLOYMENT?

3 JUROR YEAH

4 THE COURT DO YOU BELIEVE THAT THAT
5 RELATIONSHIP THAT YOU HAVE WITH MR HARRIS WOULD
6 IMPAIR YOUR ABILITY TO BE FAIR AND IMPARTIAL? DO
7 YOU UNDERSTAND WHAT I MEAN BY THAT?

8 JUROR UH-UH (NEGATIVE)

9 THE COURT WELL, YOU UNDERSTAND WHAT
10 FAIR MEANS?

11 JUROR YEAH

12 THE COURT DO YOU THINK BECAUSE OF
13 YOUR RELATIONSHIP WITH MR HARRIS YOU COULD BE FAIR
14 TO THE DEFENDANT WHO'S CHARGED WITH THE CRIMES IN
15 THIS CASE?

16 JUROR NOT REALLY

17 THE COURT YOU BELIEVE THAT YOUR
18 RELATIONSHIP WITH MR HARRIS MIGHT CAUSE YOU TO SIDE
19 WITH THE STATE OR BE ON THE STATE'S SIDE?

20 JUROR NOT REALLY

21 THE COURT WELL, THAT'S WHAT I'M
22 TALKING ABOUT ABOUT FAIRNESS YOU THINK IF YOU WERE
23 -- IF YOU WERE PICKED AND YOU WERE SELECTED TO SERVE
24 AS A JUROR THAT YOU COULD LISTEN TO ALL THE EVIDENCE
25 AND MAKE A FAIR DECISION?

26 JUROR NO

27 THE COURT NOW, TELL ME WHAT YOU

1 MEAN BY THAT

2 JUROR WELL, REALLY I -- I HAVE --
3 I'M A SINGLE PARENT, AND I GOT THREE -- TWO TEENAGE
4 KIDS, AND I'D RATHER BE AT HOME I REALLY DON'T
5 WANT -- HE CALLED AND THREATENED MY SISTER ANYWAY

6 THE COURT WHO?

7 JUROR MARY JACKSON

8 THE COURT WHO CALLED AND ---

9 JUROR HIM WELL, I DON'T KNOW HIS
10 NAME

11 THE COURT WHO?

12 JUROR THE PLAINTIFF YEAH

13 THE COURT MR HUGHEY?

14 JUROR YEAH

15 THE COURT YOU SAID HE CALLED YOUR
16 SISTER?

17 JUROR HE CALLED MY SISTER AND
18 THREATENED HER

19 THE COURT OKAY AND THAT'S WHAT
20 I'M GETTING AT WHATEVER EXPERIENCE THAT YOU HAVE
21 HAD OR WHATEVER KNOWLEDGE THAT YOU MIGHT HAVE, DO
22 YOU THINK THAT WOULD CAUSE YOU TO BE UNFAIR IN THE
23 CASE?

24 JUROR NOT -- I REALLY DON'T WANT TO
25 BE ON THE JURY

26 THE COURT I UNDERSTAND THAT, BUT MY
27 QUESTION IS WHETHER OR NOT YOU COULD BE FAIR

1 JUROR NO I COULDN'T BE FAIR

2 THE COURT YOU DON'T BELIEVE YOU

3 COULD BE FAIR TO MR HUGHEY?

4 JUROR UH-UH (NEGATIVE) NO

5 THE COURT OKAY ALL RIGHT IF YOU

6 WILL, JUST STEP OUTSIDE FOR JUST ONE MINUTE

7 (JUROR #28 EXITS THE ROOM)

8 THE COURT ANY REASON WHY SHE SHOULD

9 NOT BE EXCUSED?

10 MR JONES NO, SIR

11 MR TINSLEY NO

12 THE COURT SIR?

13 MR TINSLEY NOT FROM US

14 THE COURT OKAY

15 MR JONES JUDGE I WOULD LIKE TO ASK

16 YOU ON THE RECORD BEFORE SHE'S BROUGHT BACK IN, DO

17 YOU PLAN TO EXCUSE HER?

18 THE COURT YES, I AM

19 MR JONES I'D LIKE TO BE ABLE TO

20 GET YOUR PERMISSION TO ASK LAW ENFORCEMENT TO

21 CONTACT HER WITH REGARD TO THE STATEMENT SHE MADE AS

22 FAR AS THE THREATS FROM THE DEFENDANT WHEN IT GETS

23 TO THE AGGRAVATION STAGE, IF IT GETS THAT FAR, I

24 WOULD INTEND TO LIST THE PRIOR BAD ACTS OF THE

25 DEFENDANT AS FAR AS AGGRAVATING CIRCUMSTANCES, AND

26 I'D LIKE TO BE ABLE TO CONTACT HER NOT AS A JUROR

27 BUT AS A WITNESS BASED ON THE INFORMATION SHE'S

1 PROVIDED HERE TODAY

2 MR TINSLEY OF COURSE WE OBJECT TO
3 THAT, YOUR HONOR THIS ISN'T A DISCOVERY DEVICE
4 THIS IS A PART OF A JURY PANEL, AND IF A JURY HEARD
5 A MEMBER OF A PANEL COME OUT AND TESTIFY AGAINST OUR
6 CLIENT, IT WOULD FURTHER COMPOUND THE MATTER

7 THE COURT WELL, I DON'T IMAGINE
8 THAT THIS JUROR WOULD BE THE PERSON THAT WOULD
9 TESTIFY IT WOULD SIMPLY BE TO GATHER INFORMATION
10 THAT MIGHT LEAD TO SOMETHING ELSE SHE INDICATED
11 THAT IF THERE WAS SUCH A THREAT MADE, IT WAS TO --
12 TO HER SISTER, NOT TO HER SHE -- APPARENTLY SHE'S
13 RELATING INFORMATION SHE'S HEARD FROM SOMEWHERE
14 ELSE THAT'S THE REASON I ASKED HER IF -- IF SHE
15 COULD PUT ASIDE SOMETHING THAT SHE'S HEARD BUT NOT
16 EXPERIENCED, AND APPARENTLY SHE SAID SHE COULD NOT
17 BUT I DON'T -- I DON'T SEE HER AS BEING THE WITNESS
18 IF AT ALL

19 MR TINSLEY WELL, WE'LL JUST SEE
20 HOW IT GOES, YOUR HONOR

21 THE COURT OKAY I DON'T -- I DON'T
22 THINK I CAN PROHIBIT THE STATE FROM, BASED UPON WHAT
23 SHE SAID, TO SIMPLY TALK WITH HER OR -- AND THEN WE
24 CAN ADDRESS ANY OTHER ISSUE THAT MIGHT -- MIGHT
25 ARISE LATER

26 MR JONES RIGHT

27 THE COURT AND SHE MAY BE MISTAKEN

1 FOR THAT MATTER I MEAN, WE DON'T KNOW OKAY ASK
2 MS BRYANT TO COME BACK IN

3 (JUROR #28 RE-ENTERS THE ROOM)

4 THE COURT MS BRYANT, WE'RE GONNA
5 EXCUSE YOU FROM SERVICE IN THE CASE SO YOU CAN
6 LEAVE IT WON'T BE NECESSARY THAT YOU COME BACK

7 JUROR THANK YOU

8 (JUROR #28 EXCUSED)

9 (JUROR #28 EXITS THE ROOM)

10 THE COURT NUMBER SIXTY-SEVEN

11 (JUROR #67 ENTERS THE ROOM)

12 THE COURT THANK YOU, SIR HAVE A
13 SEAT YOU'RE MR FLEMING?

14 JUROR YES, SIR

15 THE COURT MR FLEMING, YOU
16 INDICATED YOU HAD SOME CIRCUMSTANCE YOU'D LIKE TO
17 TELL ME ABOUT THAT SHOULD ALLOW YOU TO BE EXCUSED?

18 JUROR I'M TECHNICAL SUPERINTENDENT
19 OF THE RUG BARN, AND WE'RE PREVIOUSLY ABOUT FOUR
20 HUNDRED STRONG GOING TO SIX HUNDRED STRONG THE
21 ACCUSED HAS BEEN EMPLOYED WITH US, WAS AT THE TIME
22 THE VICTIM WAS NOTICING THE FAMILY MEMBERS, AND
23 I'M NOT COMFORTABLE WITH THAT AT ALL

24 THE COURT YOU SAID THE DEFENDANT
25 WAS EMPLOYED WITH THE SAME COMPANY THAT YOU'RE WITH
26 --

27 JUROR YES, SIR

1 THE COURT -- AS WELL AS THE
2 VICTIM'S -- SOME MEMBERS OF THE VICTIM'S FAMILY?

3 JUROR YES, SIR I BELIEVE THE
4 VICTIM WAS, AT THAT PARTICULAR TIME, ON LAY OFF
5 THE COURT OKAY BUT YOU KNOW THESE
6 PERSONS?

7 JUROR I COME IN CONTACT WITH
8 EVERYBODY AT THE PLANT, DAILY, WEEKLY, BECAUSE I AM
9 THE PLANT TECHNICAL SUPERINTENDENT IT IS A BIG
10 PLANT

11 THE COURT OKAY WELL, WOULD --
12 WOULD ANY CONTACT THAT YOU'VE HAD WITH THOSE
13 INDIVIDUALS OR ANY RELATIONSHIPS THAT YOU'VE HAD
14 WITH ANY OF THOSE INDIVIDUALS, WOULD IT PREVENT YOU
15 FROM BEING ABLE TO BE FAIR?

16 JUROR I THINK IT WOULD

17 THE COURT IN WHAT WAY?

18 JUROR IN THE PAST IN THE FACT THAT
19 I WOULD STILL BE WORKING WITH ONE OF THE FAMILY
20 MEMBERS

21 THE COURT WELL, WOULD IT CAUSE YOU
22 TO TAKE ONE SIDE OR THE OTHER SIMPLY BECAUSE OF THAT
23 RELATIONSHIP?

24 JUROR IT'S VERY POSSIBLE

25 THE COURT YOU BELIEVE THAT IT
26 MIGHT?

27 JUROR YES, SIR I'M A PEOPLE

1 PERSON SO ---

2 THE COURT DO YOU KNOW ANYTHING
3 ABOUT THE FACTS THAT RELATE TO THIS CASE?

4 JUROR NO, SIR

5 THE COURT YOU'VE NOT HEARD ANYTHING
6 ABOUT IT?

7 JUROR JUST -- WELL, NO

8 THE COURT BUT THERE'S CERTAIN
9 PERSONS THAT YOU DO KNOW THAT MIGHT CAUSE YOU TO
10 SIDE WITH THEIR POSITION?

11 JUROR IT'S POSSIBLE

12 THE COURT WELL, OF COURSE,
13 ANYTHING'S POSSIBLE

14 JUROR YES, SIR (JUROR LAUGHS)

15 THE COURT BUT WHAT I'M REALLY
16 ASKING IS IS IT LIKELY?

17 JUROR WELL, THE -- THE HARDSHIPS AS
18 FAR AS THE POSITION I WOULD BE IN PLUS THE PEOPLE I
19 WOULD BE WORKING WITH COULD BE TREMENDOUS BECAUSE AS
20 A MANAGER OF A BIG COMPANY, YOU CAN'T RUN YOUR JOB
21 DEFENSIVELY OR ANYTHING LIKE THAT

22 THE COURT WELL, DO YOU THINK IT
23 WOULD HAVE AN IMPACT ON YOUR DECISION IF YOU WERE
24 SELECTED AS A JUROR? IN OTHER WORDS, YOU WOULD MAKE
25 A DECISION BASED UPON THAT FACT AND NOT UPON THE
26 EVIDENCE ITSELF?

27 JUROR AS FAR AS THE DECISION OF THE

1 TRIAL, I DO NOT THINK THAT WOULD INFLUENCE THAT IT
2 WOULD BE THE AFTERWARDS WHEN I WENT BACK TO NORMAL
3 LIFE, BACK TO WORK

4 THE COURT OKAY YOU THINK THAT YOU
5 MIGHT BE UNCOMFORTABLE HAVING MADE A DECISION IN THE
6 CASE?

7 JUROR IT'D BE VERY UNCOMFORTABLE
8 THE COURT BUT YOU DON'T BELIEVE
9 THAT THOSE RELATIONSHIPS WOULD HAVE AN IMPACT UPON
10 THE DECISION THAT YOU WOULD BE CALLED UPON TO MAKE?

11 JUROR PROBABLY NOT

12 THE COURT YOU THINK YOU COULD BE
13 FAIR TO BOTH THE DEFENDANT AND THE STATE?

14 JUROR BASED ON THE EVIDENCE

15 THE COURT EXACTLY, AND YOU COULD
16 RENDER A DECISION BASED UPON THAT EVIDENCE?

17 JUROR AS FAR AS HAVING TO DECIDE ON
18 THAT IT'S JUST THE AFTER EFFECTS WOULD BE VERY,
19 VERY HARMFUL

20 THE COURT IS THAT THE ONLY
21 CIRCUMSTANCE THAT YOU HAD THAT YOU WANTED TO BRING
22 TO MY ATTENTION?

23 JUROR YES, SIR IT MAY BE THE
24 INAPPROPRIATE TIME TO DO IT I DIDN'T KNOW (JUROR
25 LAUGHS)

26 THE COURT NO THAT'S FINE OKAY
27 IF YOU'LL JUST HAVE A -- JUST STAND OUTSIDE FOR JUST

1 A MOMENT, I'LL TALK WITH YOU IN A MOMENT

2 (JUROR #67 EXITS THE ROOM)

3 THE COURT WHAT SAY THE STATE?

4 MR JONES JUDGE, I THINK HE'S
5 QUALIFIED, SIR

6 THE COURT OKAY WHAT SAY THE
7 DEFENSE?

8 MR TINSLEY WELL, I WOULD ASK HE BE
9 EXCUSED ON THE BASIS OF THE FACT THAT HE HAS ALREADY
10 STATED THAT HE HAS TO GO BACK TO WORK WITH THE
11 VICTIM'S FAMILY MEMBERS AND ALL HE'S GOING TO FEEL
12 AN UNDUE AWKWARDNESS BASED UPON HIS DECISION THEREBY
13 TAINTING HIS MENTAL PROCESS AND TO THE POINT WHERE
14 HE WOULD WHETHER SUBCONSCIOUSLY OR OTHERWISE WON'T
15 BE ABLE TO MAKE AN UNBIASED DECISION BECAUSE OF SUCH
16 PRESSURE THAT HE'S ALREADY ADMITTED TO, AND ALSO, AT
17 FIRST HE SAID HE COULDN'T MAKE A FAIR DECISION SO
18 THOSE ARE THE TWO BASES FOR OUR ASKING THAT HE BE
19 EXCUSED

20 THE COURT OKAY I'M NOT GOING TO
21 EXCUSE HIM AT THE PRESENT TIME, BUT OBVIOUSLY IF HE
22 IS SELECTED, HE'LL BE SUBJECT TO ADDITIONAL VOIR
23 DIRE

24 MR TINSLEY PLEASE -- PLEASE NOTE
25 OUR OBJECTION

26 (JUROR #67 RE-ENTERS THE ROOM)

27 THE COURT MR FLEMING, WE'RE GONNA

1 ASK YOU TO REMAIN WITH US PRESENTLY, AND WE'LL
2 DISCUSS IT WITH YOU LATER, ALL RIGHT?

3 JUROR OKAY

4 (JUROR #67 NOT EXCUSED)

5 (JUROR #67 EXITS THE ROOM)

6 THE COURT ALL RIGHT NUMBER SIXTY-
7 EIGHT

8 MR TINSLEY WHAT NUMBER, JUDGE?

9 THE COURT SIXTY-EIGHT

10 (JUROR #68 ENTERS THE ROOM)

11 THE COURT GOOD AFTERNOON HAVE A
12 SEAT THERE, PLEASE SIR

13 JUROR THANK YOU

14 THE COURT YOU'RE MR FREESE?

15 JUROR YES, SIR

16 THE COURT MR FREESE, YOU INDICATED
17 YOU HAD SOME CIRCUMSTANCE YOU'D LIKE TO ADDRESS TO
18 ME REGARDING BEING EXCUSED?

19 JUROR YES, SIR I'M THE OWNER OF
20 DUNHILL PROFESSIONAL SEARCH IN GREENWOOD WHICH IS A
21 PERSONNEL PLACEMENT AGENCY

22 THE COURT UH-HUH (AFFIRMATIVE)

23 JUROR I'M THE SOLE PROPRIETOR, AND
24 IT CERTAINLY WOULD BE DETRIMENTAL TO MY BUSINESS TO
25 BE AWAY TEN DAYS TO TWO WEEKS

26 THE COURT WELL, OF COURSE, I
27 RECOGNIZE ANYBODY IN BUSINESS OR IN ANY PROFESSION

1 FOR THAT MATTER IF -- WHEN YOU'RE AWAY IT OBVIOUSLY
2 CAUSES SOME DIFFICULTY OR SOME PROBLEMS BUT YOU
3 UNDERSTAND IT'S IMPORTANT IN ANY KIND OF CASE WHERE
4 WE NEED JURORS TO DECIDE FACTS AND MAKE DECISIONS,
5 IT'S IMPORTANT THAT WE HAVE ALL TYPES OF PEOPLE FROM
6 ALL TYPES OF BACKGROUNDS AND ALL TYPES OF
7 EXPERIENCES I MEAN, THAT'S THE POINT OF THE JURY
8 SYSTEM IS TO HAVE A CROSS SECTION OF THE COMMUNITY
9 TO -- TO SHARE THEIR IDEAS AND OPINIONS AND RENDER
10 DECISIONS OF COURSE, ON THE OTHER HAND, WE'RE NOT
11 INTERESTED IN -- IN DISRUPTING PEOPLE'S LIVES TO THE
12 POINT THAT IT CAUSES THEM SOME UNREASONABLE
13 HARDSHIP, BUT IF YOU'RE -- IF BEING AWAY, AND LET ME
14 SAY THIS YOU -- IF YOU WERE SELECTED, WE'VE GOT
15 OBVIOUSLY ADDITIONAL QUESTIONS TO GO THROUGH LATER
16 ON, YOU WOULD NOT BE SEQUESTERED UNTIL THE PANEL IS
17 ACTUALLY PICKED, THAT IS, THOSE PERSONS THAT ARE
18 GOING TO PARTICIPATE ARE PICKED THAT MIGHT BE IN -
19 - WELL, IT WON'T BE UNTIL WE CONCLUDE TALKING WITH
20 ALL THE JURORS, BUT YOU WON'T BE SEQUESTERED UNTIL
21 THAT TIME AND THEN WHEN YOU ARE SEQUESTERED, I'M
22 ANTICIPATING IT TO BE BETWEEN SEVEN AND TEN DAYS
23 THAT YOU WOULD ACTUALLY BE SEQUESTERED WHAT I'M
24 ASKING OF YOU IS DO YOU BELIEVE THAT YOU COULD
25 MAKE ARRANGEMENTS AND ACCOMMODATE THAT PERIOD OF
26 TIME IF YOU WERE CALLED UPON TO SERVE AS A JUROR?
27 JUROR WELL, I REALLY DON'T HAVE

1 ANYONE IN MY OFFICE OTHER THAN THE SECRETARY, AND
2 IT'S A COMMISSION SALES BUSINESS WHERE THE CLIENT
3 COMPANY'S PAYING ME THE FEES TO TRY TO FIND
4 CANDIDATES, ENGINEERS, ACCOUNTANTS, PLANT MANAGERS,
5 AND THERE WON'T BE ANYONE THERE THAT CAN DO THAT
6 WORK AND ANYTHING THAT I HAVE PENDING UP TO THIS
7 TIME WILL JUST, YOU KNOW, I ASSUME YOU'RE NOT GOING
8 TO ALLOW ME A PHONE IN THE --

9 THE COURT THAT'S RIGHT

10 JUROR -- JURY ROOM

11 THE COURT NO YOU WOULDN'T BE ABLE
12 TO CONDUCT BUSINESS WHILE YOU WERE SEQUESTERED

13 JUROR ALL MY WORK IS BY PHONE

14 THE COURT AND THERE'S NO OTHER
15 EMPLOYEES THAT HANDLE THAT TYPE OF WORK FOR YOU?

16 JUROR NO, SIR

17 THE COURT YOU'RE THE SOLE
18 REPRESENTATIVE OF YOUR COMPANY AND MAKES THE ---

19 JUROR AND THE SECRETARY

20 THE COURT THE SECRETARY, AND SHE
21 DOES NONE OF THAT WORK?

22 JUROR NO

23 THE COURT WHAT -- WHAT FINANCIAL
24 IMPACT WOULD IT HAVE UPON YOU OR YOUR FAMILY? ARE
25 YOU MARRIED?

26 JUROR WELL, MY AVERAGE -- AM I
27 MARRIED? YES MY WIFE IS THE DEAN OF NURSING AT

1 LANDER UNIVERSITY

2 THE COURT OKAY

3 JUROR MY ANNUAL INCOME IS IN EXCESS
4 OF A HUNDRED THOUSAND GROSS SO IF IT'S A HUNDRED
5 AND TWENTY, THAT'S TEN THOUSAND DOLLARS A MONTH THAT
6 I HAVE SUBSTANTIAL -- IT'S AN HONORS THING TO BE
7 CONSIDERED, AND I HAVE SERVED, YOUR HONOR, IN
8 MAGISTRATE COURT IN THE LAST TWO YEARS AND CITY
9 COURT I'VE BEEN A PETIT JUROR YEARS AGO, THREE
10 YEARS IN A ROW SO I'M NOT OPPOSED SERVING, BUT
11 JUST THE CIRCUMSTANCES AND THE TIME FRAME BEING AWAY
12 FROM MY BUSINESS I MEAN, I CAN DO IT

13 THE COURT WELL, THAT'S WHAT I'M
14 ASKING

15 JUROR I CAN DO IT

16 THE COURT WELL, THAT'S WHAT I'M
17 ASKING WOULD YOU BE WILLING TO ACCOMMODATE TO DO
18 IT IF YOU WERE CALLED UPON?

19 JUROR WITH THE CONSIDERATION TO THE
20 FINANCIAL LOSS PLUS THE COMPANIES THAT WILL NOT HEAR
21 FROM ME, THAT SORT OF THING

22 THE COURT DO YOU THINK THAT THOSE
23 COMPANIES, I MEAN, ASSUMING THAT YOUR SECRETARY
24 WOULD PROVIDE THEM WITH AN EXPLANATION AS TO WHY YOU
25 WERE THERE -- WHY YOU'RE NOT THERE, DO YOU THINK
26 THAT THEY WOULD HAVE AN UNDERSTANDING THAT YOU --
27 IT'S KIND OF LIKE MILITARY SERVICE THAT YOU'RE

1 BEING CALLED TO DUTY, AND THEY WOULDN'T HOLD THAT
2 AGAINST YOU?

3 JUROR VERY POSSIBLE, YES

4 THE COURT LET ME ASK THAT YOU
5 REMAIN WITH US THIS DOESN'T MEAN THAT YOU'RE GONNA
6 BE SELECTED, YOU UNDERSTAND IT JUST MEANS THAT
7 YOU'LL BE A PART OF THE POOL FROM WHICH YOU MAY BE
8 SELECTED

9 JUROR I WILL, RELUCTANTLY

10 THE COURT THANK YOU WE APPRECIATE
11 THAT IF YOU'LL JUST GO BACK OUT AND HAVE A SEAT IN
12 THE AUDIENCE WITH THE OTHER JURORS DON'T HAVE ANY
13 DISCUSSIONS WITH THEM ABOUT THE QUESTIONS THAT ARE
14 BEING ASKED OF THE JURORS, AND THEN WE'LL BE BACK
15 WITH Y'ALL SHORTLY

16 JUROR THANK YOU

17 THE COURT THANK YOU, SIR

18 (JUROR #68 NOT EXCUSED)

19 (JUROR #68 LEAVES THE ROOM)

20 THE COURT NUMBER EIGHTY-THREE

21 (JUROR #83 ENTERS THE ROOM)

22 THE COURT GOOD AFTERNOON, MS

23 GRIFFIN?

24 JUROR YES, SIR

25 THE COURT YOU INDICATED YOU HAD A
26 CIRCUMSTANCE YOU'D LIKE TO ADDRESS TO ME REGARDING
27 BEING EXCUSED FROM SERVICE?

1 JUROR RIGHT I'M A FULL-TIME
2 INSTRUCTOR, AND I TEACH ONE CLASS PART-TIME AND
3 DEPENDING ON HOW LONG THE TRIAL LASTS, I'LL MISS MY
4 CLASSES, AND I WON'T BE THERE TO HELP STUDENTS
5 BETWEEN CLASSES, EITHER

6 THE COURT YOU'RE A FULL-TIME
7 INSTRUCTOR IN WHAT CAPACITY?

8 JUROR AT PIEDMONT TECHNICAL
9 COLLEGE, AND I TEACH ONE COURSE FOR LANDER
10 UNIVERSITY

11 THE COURT OKAY AND IF YOU ARE --
12 IS THERE SOMEONE TO COVER FOR YOU WHEN YOU ARE
13 TEACHING?

14 (JUROR #90 ENTERS THE ROOM)

15 THE COURT YOU'RE MS HARRIS?

16 JUROR YES, SIR

17 THE COURT MS HARRIS, YOU INDICATED
18 EARLIER THAT YOU HAD SOME CIRCUMSTANCE THAT YOU'D
19 LIKE TO ADDRESS TO ME REGARDING BEING EXCUSED?

20 JUROR I HAVE A SICK MOTHER AT HOME
21 THAT I HAVE TO TAKE CARE OF

22 THE COURT OKAY TELL ME ABOUT
23 THAT

24 JUROR WELL, SHE'S -- SHE HAVE
25 CANCER AND SHE DON'T KNOW IT SO SHE HAVE A GOOD
26 DAY, AND SHE HAVE A BAD DAY

27 THE COURT HOW OLD IS YOUR MOTHER?

1 JUROR SEVENTY-FIVE
2 THE COURT AND -- AND SHE'S BEEN
3 DIAGNOSED, AND Y'ALL KNOW THAT BUT SHE DOES NOT?
4 JUROR SHE DON'T KNOW THAT
5 THE COURT YOU DON'T WANT HER TO
6 KNOW IT FOR HER OWN --
7 JUROR NO
8 THE COURT -- HEALTH AND WELFARE?
9 JUROR JUST FOR HER OWN HEALTH
10 THE COURT I UNDERSTAND, AND SO
11 SOMEONE HAS TO BE THERE TO --
12 JUROR UH-HUH (AFFIRMATIVE)
13 THE COURT -- LOOK AFTER HER?
14 JUROR AND IT'S ONLY ME IT'S
15 NOBODY ELSE
16 THE COURT IT'S ONLY YOU? ARE YOU
17 HER ONLY CHILD?
18 JUROR I HAVE THREE BROTHERS, BUT
19 THEY'RE NOT AROUND HERE
20 THE COURT THEY'RE NOT HERE?
21 JUROR UH-UH (NEGATIVE)
22 THE COURT SO YOU'RE THE ONE THAT
23 TAKES CARE OF HER EACH DAY?
24 JUROR UH-HUH (AFFIRMATIVE)
25 THE COURT DO YOU WORK OUTSIDE THE
26 HOME?
27 JUROR I WORK AT ABBEVILLE HOSPITAL,

1 BUT I HAVE SOMEBODY TO LOOK IN AFTER HER, YOU KNOW,
2 WHILE I'M WORKING

3 THE COURT OKAY

4 JUROR AND SO I UNDERSTOOD IF YOU ON
5 THIS TRIAL, THAT, YOU KNOW, YOU MIGHT NOT CAN'T GO
6 BACK HOME AND --

7 THE COURT THAT -- THAT'S RIGHT

8 JUROR -- AND I WOULDN'T HAVE
9 ANYBODY TO TAKE CARE OF HER

10 THE COURT OKAY SO WHEN YOU'RE AT
11 WORK, YOU'VE GOT SOMEBODY TO COVER FOR YOU?

12 JUROR TO CHECK IN ON HER THEY
13 DON'T STAY THERE WITH HER THEY JUST CHECK IN ON
14 HER

15 THE COURT OKAY

16 JUROR UH-HUH (AFFIRMATIVE)

17 THE COURT AND THEN THE REST OF THE
18 DAY OR NIGHT, YOU'RE THERE --

19 JUROR I'M WITH HER

20 THE COURT -- TO LOOK OUT FOR HER,
21 AND YOU DON'T HAVE ANYBODY ELSE THAT CAN --

22 JUROR NOBODY

23 THE COURT -- ACCEPT THAT
24 RESPONSIBILITY?

25 JUROR UH-UH (NEGATIVE) IT'S ONLY
26 ME

27 THE COURT OKAY DOES SHE REQUIRE A

1 SPECIAL KIND OF TREATMENT? ARE YOU A NURSE OR
2 SOMETHING?

3 JUROR NURSING ASSISTANT

4 THE COURT YEAH DOES SHE REQUIRE A
5 SPECIAL KIND OF TREATMENT?

6 JUROR NOT REALLY, YOU KNOW JUST
7 CARE FOR HER, YOU KNOW, JUST -- WELL, REALLY, SHE
8 CAN'T CONTROL HER BOWELS, YOU KNOW, AND STUFF LIKE
9 THAT

10 THE COURT OKAY SO YOU'RE KIND OF
11 LIKE A NURSE TO HER?

12 JUROR YEAH

13 THE COURT OKAY AND THERE'S NOBODY
14 ELSE THAT --

15 JUROR NOBODY

16 THE COURT -- YOU KNOW OF THAT CAN
17 ACCOMPLISH THAT OR TAKE OVER THAT RESPONSIBILITY?

18 JUROR NOBODY

19 THE COURT OKAY IF YOU WILL, JUST
20 LET ME ASK YOU TO STAND OUT FOR JUST A MINUTE, AND
21 WE'LL GET BACK WITH YOU SHORTLY

22 JUROR OKAY

23 (JUROR #90 EXITS THE ROOM)

24 MR TINSLEY NO OBJECTION FROM THE
25 STATE, YOUR HONOR

26 MR JONES NO OBJECTION

27 THE COURT OKAY ASK HER TO COME

1 BACK IN

2 (JUROR #90 RE-ENTERS THE ROOM)

3 THE COURT MS HARRIS, BASED ON THAT
4 CIRCUMSTANCE, WE'RE GONNA EXCUSE YOU --

5 JUROR OKAY THANK Y'ALL

6 THE COURT -- BUT WE DO APPRECIATE
7 YOU COMING DOWN, AND I WISH YOU THE BEST -- WISH THE
8 BEST OF LUCK TO YOU

9 JUROR OKAY

10 (JUROR #90 EXCUSED)

11 (JUROR #90 EXITS THE ROOM)

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***** CONTINUED IN VOLUME 2 *****

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1 THE COURT NINETY-ONE NINE ONE
2 (JUROR #91 ENTERS THE ROOM)

3 THE COURT GOOD AFTERNOON YES,
4 MA'AM IF YOU'LL JUST HAVE A SEAT RIGHT THERE IF
5 YOU'D LIKE YOU'RE MS HARRISON?

6 JUROR YES, SIR

7 THE COURT MS HARRISON, YOU
8 INDICATED YOU HAD SOME CIRCUMSTANCE THAT YOU'D LIKE
9 TO DISCUSS WITH ME REGARDING BEING EXCUSED?

10 JUROR YES, SIR I KNOW HIM AND I
11 ALSO KONW THE OTHER TWO GUYS

12 THE COURT TWO -- WHAT TWO GUYS?

13 JUROR ANTHONY AND MARCUS WE ALL
14 WENT TO SCHOOL TOGETHER

15 THE COURT THE HARRIS'?

16 JUROR UH-HUH (AFFIRMATIVE)

17 THE COURT OKAY

18 JUROR AND I WORKED IN A CONVENIENCE
19 STORE, AND I HAD A CONFRONTATION WITH THIS FELLOW
20 ONE TIME, AND I FEEL THAT IF I MADE SOME KIND OF
21 DECISION IT MIGHT BE PREJUDICED

22 THE COURT OKAY DO YOU THINK BASED
23 UPON YOUR RELATIONSHIP OR KNOWLEDGE OF THE DEFENDANT
24 AND OF THE HARRIS' THAT THAT MIGHT PREVENT YOU FROM
25 BEING ABLE TO BE FAIR AND IMPARTIAL IF YOU WERE

1 SELECTED AS A JUROR?

2 JUROR YES, SIR

3 THE COURT COULD YOU PUT ANY OF THAT
4 ASIDE AND -- AND BASE A VERDICT SOLELY ON THE
5 EVIDENCE, OR DO YOU -- ARE YOU SATISFIED THAT IT
6 WOULD INTERFERE WITH YOUR ABILITY TO BE FAIR?

7 JUROR I'M PRETTY SURE IT WOULD
8 INTEREFERE WITH MY ABILITY TO BE FAIR

9 THE COURT OKAY ALL RIGHT IF
10 YOU'LL JUST STAND OUTSIDE FOR JUST A MINUTE, I'LL BE
11 RIGHT BACK WITH YOU

12 (JUROR #91 EXITS THE ROOM)

13 THE COURT ANY OBJECTION?

14 MR JONES NONE, YOUR HONOR

15 MR TINSLEY NO

16 THE COURT OKAY ASK HER TO COME
17 IN

18 JUROR #91 RE-ENTERS THE ROOM)

19 THE COURT OKAY MS HARRISON,
20 WE'RE GONNA EXCUSE YOU IN THE CASE, AND SO YOU CAN
21 LEAVE DON'T -- DON'T DISCUSS ANYTHING WITH ANY
22 JUROR, OKAY?

23 JUROR OKAY, THANKS YOUR HONOR

24 THE COURT THANK YOU, MA'AM

25 (JUROR #91 EXCUSED)

1 (JUROR #91 EXITS THE ROOM)

2 THE COURT NUMBER ONE FOURTEEN

3 (JUROR #114 ENTERS THE ROOM)

4 THE COURT GOOD AFTERNOON

5 JUROR GOOD AFTERNOON

6 THE COURT JUST HAVE A SEAT IF YOU'D
7 LIKE RIGHT THERE YOU'RE MR KOERBER?

8 JUROR YES

9 THE COURT IS THAT PRONOUNCED
10 CORRECTLY?

11 JUROR YES IT IS

12 THE COURT YOU INDICATED YOU HAD
13 SOME DIFFICULTY THAT YOU'D LIKE TO ADDRESS TO ME
14 REGARDING BEING EXCUSED?

15 JUROR YEAH IT'S COMMITMENTS THAT
16 I MADE ON THE STAFF AT THE HIGH SCHOOL BAND THAT'S
17 ONE OF THEM WE'RE IN THE MIDDLE OF UPPER STATE AND
18 STATE CONTESTS, AND I'M THEIR WOODWIND INSTRUCTOR
19 WE'RE GOING TO UPPER STATE TOMORROW AND STATE NEXT
20 SATURDAY

21 THE COURT THOSE ARE THE
22 CHAMPIONSHIPS ARE WHAT THEY'RE CALLED?

23 JUROR YEAH YEAH

24 THE COURT AND THEY HAPPEN --
25 THEY'RE HAPPENING TOMORROW?

1 JUROR UPPER STATE'S TOMORROW, AND
2 STATE'S THE NEXT SATURDAY

3 THE COURT DO YOU -- DO YOU MAKE IT
4 NEXT SATURDAY IF YOU DON'T MAKE IT TOMORROW?

5 JUROR YOU HAVE TO PLACE WITHIN THE
6 TOP SIX --

7 THE COURT OKAY

8 JUROR -- TOMORROW TO BE INVITED --
9 TO BE IN THE STATE CHAMPIONSHIP NEXT WEEK

10 THE COURT OKAY WELL, LET ME ASK
11 YOU THIS IF YOU DIDN'T MAKE IT IN THE TOP SIX, YOU
12 WOULDN'T BE GOING NEXT SATURDAY?

13 JUROR IF WE DON'T MAKE IT IN THE
14 TOP SIX, THE BAND WOULD NOT BE GOING NEXT SATURDAY
15 RIGHT

16 THE COURT DO YOU FEEL PRETTY GOOD
17 ABOUT IT?

18 JUROR OH, DARN CERTAIN THEY'RE
19 GONNA WIN (JUROR LAUGHS)

20 THE COURT OKAY (JUDGE LAUGHS)
21 OKAY

22 JUROR AND THEN -- AND THEN I MANAGE
23 AN ENGINEERING FACILITY FOR A CORPORATION OVER IN
24 ANDERSON, AND I'M THE MANAGER THERE THERE'S NOBODY
25 ELSE THERE WHEN I'M NOT THERE SO --

1 THE COURT OKAY

2 JUROR -- A LONG PERIOD OF TIME

3 WOULD BE DETRIMENTAL FROM THAT STANDPOINT

4 THE COURT OKAY WELL, HERE -- LET

5 ME TELL YOU IF -- IF YOU WERE SELECTED, IN OTHER

6 WORDS, THEY'RE GONNA BE ADDITIONAL QUESTIONS TO BE

7 ASKED OF THE JURORS COLLECTIVELY AND INDIVIDUALLY,

8 AND IT MIGHT BE THAT WE COULD ACCOMMODATE YOUR

9 SCHEDULE FOR TOMORROW --

10 JUROR RIGHT

11 THE COURT -- IF YOU WERE TO GO AND

12 NEEDED TO BE THERE THAT MIGHT NOT BE THE CASE FOR

13 NEXT SATURDAY, BUT, OBVIOUSLY, YOU KNOW, I MEAN, YOU

14 MAY NOT BE THERE I DON'T KNOW ANYTHING ABOUT THE

15 BANDS, YOU KNOW

16 JUROR YEAH I MAY NOT

17 THE COURT BUT, I MEAN, YOU MAY BE

18 THE NATIONAL CHAMPION AS FAR A I KNOW BUT SO THAT

19 MAY NOT BE A PROBLEM UNLESS THAT OCCURS IS THERE

20 ANYBODY ELSE? THERE'S NO ONE ELSE THAT CAN INSTRUCT

21 THE WOODWINDS OTHER THAN YOU?

22 JUROR WELL, WE HAVE A STAFF THERE,

23 AND MY NOT BEING THERE WOULD NOT, YOU KNOW, MEAN

24 THAT THE BAND'S, YOU KNOW, NOT GOING TO BE ABLE TO

25 DO THEIR PERFORMANCE I'VE JUST BEEN WORKING WITH

1 THEM SINCE THE BEGINNING OF THIS YEAR, AND THEN, YOU
2 KNOW, IT WOULD BE A HELP TO FINIS OUT WITH THEM
3 IT'S NOT ---

4 THE COURT YOU FEEL YOU'RE AN
5 INTEGRAL PART AND NEED TO BE THERE --

6 JUROR CERTAINLY

7 THE COURT -- BECAUSE OF THE
8 PARTICULAR CIRCUMSTANCES?

9 JUROR YEAH

10 THE COURT IS THERE SOMEONE WHO CAN
11 LOOK AFTER YOUR OTHER RESPONSIBILITY, YOUR
12 EMPLOYMENT?

13 JUROR NO IF I'M NOT THERE, THEN
14 THAT WILL JUST BE VOID MY EMPLOYEES WILL HAVE TO
15 BE GIVEN THINGS TO DO WHILE I'M GONE, AND ALL MY
16 WORK WILL STACK UP TILL I GET BACK

17 THE COURT OKAY WELL, WOULD YOU BE
18 WILLING TO ACCOMMODATE THAT INCONVENIENCE IF YOU
19 WERE SELECTED TO SERVE? I'M SAYING IT'S PROBABLY
20 GOING TO BE IN THE NEIGHBORHOOD OF SEVEN TO TEN DAYS
21 AT THE OUTSIDE I'M GUESSING, YOU KNOW THAT'S A
22 GUESS, BUT THAT'S A PRETTY FAIR GUESS, I THINK

23 JUROR RIGHT

24 THE COURT WOULD YOU BE WILLING TO
25 ACCOMMODATE THAT INCONVENIENCE FOR THAT PERIOD OF

1 TIME IF YOU WERE SELECTED?

2 JUROR I'D ASSUME THAT THERE WOULD
3 NOT BE A CHOICE, YOU KNOW

4 THE COURT WELL, THAT'S WHAT I'M
5 ASKING YOU I MEAN, OF COURSE, IT IS, I MEAN, YOU
6 KNOW, I GOT TO MAKE THE DECISION --

7 JUROR YEAH

8 THE COURT -- BUT I'D LIKE TO, YOU
9 KNOW, I'M TRYING TO BE -- TRYING TO BE FAIR ABOUT
10 IT, YOU UNDERSTAND I CAN'T JUST SIMPLY, YOU KNOW,
11 EXCUSE PEOPLE HERE BECAUSE THEY'VE GOT SOMETHING
12 ELSE TO DO IS WHAT IT AMOUNTS TO

13 JUROR SURE

14 THE COURT I HAVE TO WEIGH THE
15 GRAVITY OF YOUR CIRCUMSTANCES AND MAKE THAT
16 DECISION, OBVIOUSLY, BECAUSE IT'S -- IT'S EXTREMELY
17 IMPORTANT THAT WE HAVE JURORS LIKE YOU AND YOUR
18 FELLOW JURORS OUT THERE TO PARTICIPATE BECAUSE WE
19 NEED A CROSS SECTION WE DON'T JUST NEED PEOPLE WHO
20 DON'T HAVE SOME OTHER RESPONSIBILITIES, AND SO IT'S
21 EXTREMELY IMPORTANT THAT YOU SERVE IF YOU CAN
22 WITHOUT IT, YOU KNOW, CAUSING AN UNREASONABLE
23 HARDSHIP OR DISRUPTION

24 JUROR I COULD NOT TRUTHFULLY SAY
25 THAT IT WOULD CAUSE AN EXTREME HARDSHIP AT WORK

1 BECAUSE I DO TAKE VACATION, AND I DO WORK AROUND
2 THAT WHEN I DO, AND I DO TAKE THE WORKLOAD WHEN I
3 GET BACK, YOU KNOW TO COVER FOR IT SO I COULD NOT
4 TRUTHFULLY SAY THAT THAT WOULD BE A HARDSHIP FOR ME
5 AT WORK AND THE OTHER IS JUST, YOU KNOW, THE
6 COMMITMENT THAT I MADE IF I CAN BE THERE, I WOULD
7 CERTAINLY LIKE TO FINISH OUT THE COMMITMENT I MADE
8 TO IT AND, YOU KNOW, BE ON THE STAFF OF THE BAND
9 AND, YOU KNOW, THAT WOULD BE -- THEY'LL GO ON
10 WITHOUT ME, OBVIOUSLY, BUT I'M CERTAIN THAT THEIR
11 PERFORMANCE WILL BE BETTER WITH ME SO ---

12 THE COURT SURE WELL, I MEAN, DO
13 THEY HAVE OTHER, I MEAN, WHO'S -- WHO'S ACTUALLY IN
14 CHARGE OF THE BAND?

15 JUROR WE HAVE A DIRECTOR IN CHARGE
16 HE WILL BE THERE

17 THE COURT HE'LL BE THERE? OKAY
18 OKAY

19 JUROR YES HE WILL BE THERE

20 THE COURT SO THERE ARE OTHER PEOPLE
21 TO -- TO ASSIST?

22 JUROR YES

23 THE COURT YOU UNDERSTAND

24 JUROR I UNDERSTAND

25 THE COURT OKAY IF YOU'LL -- IF

1 YOU'LL STAND OUT FOR JUST A MINUTE, WE'LL TALK TO
2 YOU IN JUST A FEW SECONDS

3 (JUROR #114 EXITS THE ROOM)

4 THE COURT WHAT SAY THE STATE?

5 MR JONES I THINK HE OUGHT TO
6 SERVE

7 THE COURT THINK HE OUGHT TO?

8 MR JONES YES, SIR

9 MR TINSLEY JUDGE, YOU KNOW HIS
10 WORK IS HONESTLY NOT A PROBLEM I WOULD ASK YOU TO
11 ASK HIM HOW MANY HE -- IS IN THAT WOODWIND SECTION
12 MEMBER-WISE HOW MANY'S UNDER HIS TUTELAGE IF
13 IT'S A BIG NUMBER, I WOULD -- 'CAUSE I DO A LOT OF
14 COACHING OF TEAMS AND STUFF LIKE THAT, AND I KNOW
15 WHAT HE'S TALKING ABOUT

16 THE COURT WELL, I CAN APPRECIATE
17 THE FACT THAT HE WOULD WANT TO BE THERE THERE
18 OBVIOUSLY ARE MANY OTHERS -- WELL, NOT MANY OTHERS,
19 BUT THERE ARE OTHERS THAT CAN TAKE OVER HIS
20 RESPONSIBILITIES

21 MR TINSLEY THE REASON I WAS SAYING
22 THE WOODWIND SECTION, HOW MANY WOULD BE IN THE
23 WOODWIND SECTION?

24 THE COURT I DO NOT KNOW THAT I
25 DIDN'T ASK HIM THAT

1 MR TINSLEY WELL, THAT SHOULDN'T
2 MATTER

3 (JUROR #120)

4 THE COURT WE DON'T WANT ANY
5 HARDSHIP TO ANYONE

6 JUROR I JUST LOSE EVERYTHING, YOU
7 KNOW, LIKE MY APARTMENT I JUST RENTED

8 THE COURT WELL, I WANT YOU TO
9 UNDERSTAND I AM NOT GOING TO MAKE YOU SERVE IF
10 YOU'RE GONNA LOSE AN AUTOMOBILE OR AN APARTMENT AND
11 THINGS LIKE THAT BUT IF IT'LL BE A HARDSHIP, BUT
12 YOU CAN RIDE THROUGH IT, THEN WE'D PREFER THAT YOU
13 STAY AND PARTICIPATE IF CALLED UPON AND, OF
14 COURSE, YOU ARE PAID SOME AS A JUROR NOW, IT'S NOT
15 PERHAPS WHAT YOU'RE MAKING

16 JUROR NO

17 THE COURT WHAT IS IT? I'LL FIND
18 OUT ABOUT THAT, BUT -- BUT NOTWITHSTANDING THAT
19 FACT, WOULD YOU BE WILLING TO SERVE IF YOU WERE
20 CALLED ON?

21 JUROR SURE LIKE I SAID, YOU KNOW,
22 IF I CAN -- SO LONG AS I DON'T, YOU KNOW, LOSE
23 EVERYTHING I HAVE I DON'T WANT TO ---

24 THE COURT HOW WE GONNA KNOW THAT?

25 JUROR I DON'T KNOW I MEAN, IF I

1 KNEW HOW MUCH I WAS GONNA GET PAID FOR THIS

2 THE COURT OKAY WELL, LET ME --

3 LET ME EXPLAIN THIS TO YOU, AND I DON'T KNOW IF IT'S

4 GONNA HELP YOU OR NOT, BUT YOU WILL NOT BE

5 SEQUESTERED UNTIL YOU ARE ACTUALLY SELECTED IF YOU

6 ARE SELECTED NOW, THAT MAY BE THE FIRST OF NEXT

7 WEEK WE'VE GOT OTHER QUESTIONS, INDIVIDUAL VOIR

8 DIRE AND ALL THE QUESTIONING THAT WILL HAVE TO BE

9 DONE SO IT'S NOT LIKELY TO ACTUALLY BEGIN UNTIL

10 THE FIRST OF NEXT WEEK AT THAT TIME, OF COURSE, IF

11 YOU'RE PICKED, YOU WOULD BE SEQUESTERED ALL RIGHT

12 YOU'D BE STAYING ---

13 JUROR AND IT'S DEFINITE THAT WE'D

14 BE SEQUESTERED?

15 THE COURT THAT'S RIGHT MOST --

16 YEAH MOST DEFINITELY, BUT WE'RE ANTICIPATING NOW

17 THAT IT WILL PERHAPS LAST BETWEEN SEVEN AND TEN DAYS

18 AT THE OUTSIDE DO YOU THINK YOU COULD ACCOMODATE

19 THAT IF YOU WERE CALLED UPON TO SERVE?

20 JUROR THAT'S POSSIBLE IT SOUNDS

21 BETTER THAN THE WHOLE FOURTEEN DAYS --

22 THE COURT OKAY

23 JUROR -- ESPECIALLY I MEAN, IF I

24 GOT A COUPLE OF WEEKENDS IN, THEN I, YOU KNOW, THAT

25 WOULD HELP BECAUSE I GET -- I CAN WORK FULL DAYS ON

1 SATURDAYS

2 THE COURT WELL, NOW, THIS -- IF
3 YOU'RE SEQUESTERED, WE RUN STRAIGHT THROUGH NOW,
4 YOU WOULDN'T BE TOMORROW YOU'D BE AVAILABLE
5 TOMORROW

6 JUROR RIGHT

7 THE COURT BUT IT MIGHT -- NEXT
8 SATURDAY YOU MAY NOT BE COULD YOU -- COULD YOU
9 ACCOMODATE THAT?

10 JUROR IT'D BE TIGHT, BUT I'D DO
11 WHAT I CAN

12 THE COURT WOULD YOU BE WILLING TO?

13 JUROR I'LL TRY YES, SIR LIKE I
14 SAID, 'CAUSE I DON'T MIND SERVING I JUST -- YOU
15 UNDERSTAND WHAT I'M SAYING?

16 THE COURT CERTAINLY I DO, AND WE'LL
17 TRY TO HELP YOU IF WE CAN

18 JUROR SURE

19 THE COURT I'LL HAVE TO SEE WHAT --
20 WHAT WE CAN DO ABOUT THAT

21 JUROR BECAUSE THAT WILL GIVE ME
22 SOME -- IF I'M ABLE TO WORK SOME OF THE FIRST PART
23 OF NEXT WEEK, THAT'LL GIVE ME SOME ON MY NEXT
24 PAYCHECK SO THAT -- THAT WOULD HELP

25 THE COURT OKAY ALL RIGHT WELL,

1 LET'S ASK YOU TO REMAIN --

2 JUROR OKAY

3 THE COURT -- AND I'LL BE BACK

4 SHORTLY WITH THE ENTIRE PANEL DO NOT DISCUSS

5 ANYTHING WITH ANY JURORS ABOUT WHAT'S GOING ON IN
6 HERE

7 JUROR OKAY

8 THE COURT THANK YOU

9 (JUROR #120 NOT EXCUSED)

10 (JUROR #120 EXITS THE ROOM)

11 THE COURT ONE TWENTY-NINE ANY
12 TIME Y'ALL HAVE ANY COMMENTS, I MEAN, OBJECTIONS OR
13 CONCERNS AFTER THE JURORS LEFT, JUST ASK ME

14 MR GARRETT YOUR HONOR, I WAS JUST
15 GOING TO SAY SHE MIGHT BE A GOOD CANDIDATE TO TALK
16 TO ON SUNDAY AFTERNOON IF SHE HAS TO WORK ALL DAY
17 TOMORROW

18 (JUROR #129 ENTERS THE ROOM)

19 THE COURT GOOD AFTERNOON YOU'RE
20 MS McCLAIN?

21 JUROR YES, SIR

22 THE COURT HAVE A SEAT IF YOU'D
23 LIKE YOU INDICATED EARLIER THAT YOU HAD SOME
24 CIRCUMSTANCE THAT YOU'D LIKE FOR ME TO CONSIDER IN
25 HAVING YOUR JURY SERVICE EXCUSED?

1 JUROR YES, SIR I'M A TEACHER IN
2 ABBEVILLE COUNTY, AND I TEACH SIXTY-TWO CHILDREN
3 WHO'S DEPENDENT UPON ME I ALSO HAVE A STUDENT
4 TEACH AT THE PRESENT TIME FROM LANDER UNIVERSITY,
5 AND HER GRADE IS DPEENDENT UPON MY BEING THERE TO
6 OBSERVE I ALSO AM MENTORING TWO OTHER FIRST YEAR
7 TEACHERS AT MY LEVEL, AND WHAT THEY TRY TO DO, THEY
8 TRY TO MATCH A TEACHER WITH THAT GRADE LEVEL SO I
9 CAN MENTOR THOSE TEACHERS THE REST OF THE YEAR SO,
10 BUT I APPRECIATE YOUR WILLINGNESS TO LET US GO HOME
11 EACH DAY SO I CAN GO BACK TO SCHOOL AND WORK WITH MY
12 STUDENTS

13 THE COURT WELL, LET ME ASK YOU
14 ABOUT THAT IF YOU WERE -- IF YOU WERE SELECTED TO
15 SERVE, TO ACTUALLY SERVE --

16 JUROR YES, SIR

17 THE COURT -- YOU'D BE SEQUESTERED
18 IN A MOTEL WHEN YOU'RE NOT HERE FOR A PERIOD LIKELY
19 TO BE SEVEN DAYS TO TEN DAYS AND LIKELY THAT WOULD
20 BE THE MOST

21 JUROR UH-HUH (AFFIRMATIVE)

22 THE COURT WOULD IT BE POSSIBLE FOR
23 YOU TO MAKE SOME TYPE OR ARRANGEMENTS TO ACCOMODATE
24 THAT SCHEDULE IF YOU WERE CALLED UPON TO SERVE?

25 JUROR FOR THE STUDENTS IT WOULD

1 THE STUDENT TEACHER THAT I'M WORKING WITH NOW, I
2 HAVE BEEN WORKING WITH HER FOR SIX WEEKS

3 THE COURT UH-HUH (AFFIRMATIVE)

4 JUROR AND SHE HAS SIX MORE WEEKS
5 NOW, THE FIRST FOUR WEEKS SHE WAS DOING OBSERVING OF
6 MY TEACHING THE NEXT TWO WEEKS I HAVE BEEN
7 OBSERVING HER, AND I HAVE TO GRADE HER, AND HER
8 GRADE IS DEPENDENT UPON MY OBSERVATIONS SO AT THIS
9 POINT IN TIME, I DON'T KNOW WHAT LANDER WOULD DO TO
10 ACCOMODATE, YOU KNOW, MY BEING OUT OF THE CLASSROOM
11 TO OBSERVE

12 THE COURT WELL, WHAT ORDINARILY
13 HAPPENS IF SOME -- IF A TEACHER -- IF AN ILLNESS OR
14 SOMETHING BEFELL HER OR HIM AND COULD NOT OBSERVE
15 THAT PRACTICE STUDENT? WHAT WOULD HAPPEN?

16 JUROR WE REALLY NEVER EXPERIENCE
17 THAT SO I'M NOT CERTAIN AS TO THE PROCEDURE THAT
18 THEY WOULD FOLLOW

19 THE COURT WELL, YOU UNDERSTAND IT'S
20 EXTREMELY IMPORTANT, AND, I MEAN, JURY SERVICE IS
21 IMPORTANT ALSO

22 JUROR YES, SIR

23 THE COURT AND IT'S EXTREMELY
24 IMPORTANT THAT WE HAVE A CROSS SECTION OF THE PEOPLE
25 WITH DIFFERENT BACKGROUNDS AND EXPERIENCES AND

1 PROFESSIONS SO WE NEED THAT CROSS SECTION IT'S
2 IMPORTANT THAT WE HAVE THAT CROSS SECTION
3 OBVIOUSLY, WE DON'T WANT TO DO THAT TO -- TO
4 ANYONE'S DETRIMENT IF IT POSES AN UNREASONABLE
5 HARDSHIP OR CIRCUMSTANCE, AND SO THAT'S KIND OF WHAT
6 I HAVE TO WEIGH AND TO -- TO ASSESS IS WHAT THE
7 POSSIBILITIES ARE OF YOU BEING ABLE TO ACCOMMODATE
8 ANY DIFFICULTY OR CIRCUMSTANCE OR SITUATION, AND DO
9 YOU THINK YOU COULD -- YOU COULD LOOK INTO THAT FACT
10 AND SEE OR SEE WHAT THE -- WHAT THE -- WHAT THE
11 POSSIBILITIES ARE OF HAVING SOMEBODY ELSE COME IN
12 AND MAKE THAT OBSERVATION FOR JUST THAT PERIOD OF
13 TIME IT'S LIKELY TO BE, YOU KNOW, SOME PORTION OF
14 A WEEK OR TWO WEEKS I'M SAYING THAT -- IN OTHER
15 WORDS, IF WE STARTED ON TUESDAY, YOU'D BE THERE
16 MONDAY YOU'RE NOT SEQUESTERED UNTIL YOU'RE
17 ACTUALLY SELECTED IF YOU ARE, AND, OF COURSE, THEN
18 YOU'RE SEQUESTERED UNTIL THE CONCLUSION, BUT WE
19 ANTICIPATE THAT TO BE ABOUT SEVEN OR TEN DAYS SO
20 IT MAY BE THAT IF YOU WERE PICKED, YOU'D ONLY
21 ACTUALLY BE OUT OF THE CLASSROOM FOR, YOU KNOW,
22 THREE TO SIX DAYS, THE ACTUAL CLASSROOM TOTAL I
23 MEAN, IF WE'RE TALKING ABOUT WEEKENDS YOU THINK
24 YOU COULD TRY TO MAKE THOSE ARRANGEMENTS FOR US IF
25 YOU'RE ASKED TO STAY?

1 JUROR I'LL SEE WHAT I CAN DO

2 THE COURT WOULD YOU DO THAT?

3 JUROR YES, SIR

4 THE COURT AND THEN JUST LET ME

5 KNOW YOU'LL BE COMING BACK, AND YOU CAN LET ME

6 KNOW AT THAT TIME IF YOU'RE ABLE TO ACCOMODATE IT OR

7 WHAT DIFFICULTIES YOU RUN INTO, OKAY? THANK YOU,

8 MA'AM

9 JUROR THANK YOU FOR YOUR TIME

10 THE COURT IF YOU'LL JUST HAVE A

11 SEAT BACK OUT THERE IN THE COURTROOM AND DON'T

12 DISCUSS ANYTHING WITH ANYBODY OUT THERE ABOUT WHAT'S

13 GOING ON IN HERE, OKAY? THANK YOU

14 (JUROR #129 NOT EXCUSED)

15 (JUROR #129 EXITS THE ROOM)

16 THE COURT ONE FORTY-FIVE

17 (JUROR #145 ENTERS THE ROOM)

18 THE COURT MR NABORS, IF YOU'D HAVE

19 A SEAT RIGHT THERE, PLEASE SIR

20 JUROR ALL RIGHT

21 THE COURT YOU INDICATED EARLIER YOU

22 HAD SOME CIRCUMSTANCE YOU'D LIKE FOR ME TO CONSIDER

23 IN HAVING YOUR SERVICE EXCUSED?

24 JUROR YES, SIR

25 THE COURT AND WHAT WAS THAT?

1 JUROR ACTUALLY, I HAVE TWO THINGS
2 I HAVE VACATION THAT'S COMING UP NEXT WEEK THAT I
3 HAD PUT IN FOR IN FEBRUARY OF THIS YEAR IT'S A
4 HUNTING TRIP THAT ME AND FIVE OF MY FRIENDS TAKE
5 EVERY YEAR THAT PLUS I RECEIVED MY SUMMONS TO
6 APPEAR UP HERE LAST WEEK I DID NOT KNOW ANYTHING
7 ABOUT THIS TILL LAST WEEK

8 THE COURT UH-HUH (AFFIRMATIVE)

9 JUROR A LOT -- BEING AS HOW I'M
10 ASSOCIATED WITH THE FIRE DEPARTMENT AND KNOW A LOT
11 OF POLICE OFFICERS HERE IN TOWN, AND PRETTY MUCH MY
12 MIND HAS BEEN MADE UP ABOUT THIS CASE BEFORE I EVER
13 KNEW ANYTHING, YOU KNOW, AS FAR AS I WAS GONNA BE A
14 POTENTIAL JUROR, AND ---

15 THE COURT LET ME ASK YOU ABOUT
16 THAT YOU -- YOU MEAN THAT YOU'RE ALREADY FORMED AN
17 OPINION AS TO WHAT YOU THINK THE ULTIMATE DECISION
18 SHOULD BE?

19 JUROR BY WHAT I'VE HEARD, AND BY
20 WHO, YOU KNOW, PEOPLE I'VE TALKED TO AND WHAT I'VE
21 READ

22 THE COURT WELL, COULD YOU PUT ASIDE
23 ANY OF THAT THAT YOU'VE HEARD OR READ OR SEEN ABOUT
24 IT AND BASE A VERDICT SOLELY UPON THE EVIDENCE THAT
25 WOULD BE RECIEVED IN THE TRIAL?

1 JUROR WELL, IT'D BE KIND OF
2 DIFFICULT, BUT ---

3 THE COURT WELL, OF COURSE, YOU
4 KNOW, THERE ARE A LOT OF THINGS THAT ARE DIFFICULT,
5 BUT IT'S IMPORTANT TO -- AND THERE IS NO RIGHT OR
6 WRONG ANSWER I SIMPLY NEED TO KNOW HOW YOU FEEL
7 ABOUT IT BECAUSE IT IS IMPORTANT FOR US TO KNOW IF
8 YOU COULD OR IF YOU COULD NOT OR IF IT'S LIKELY OR
9 IT'S UNLIKELY THAT'S JUST SIMPLY WHAT I NEED TO
10 KNOW

11 JUROR I'LL BE -- BEING WHAT I'VE
12 BEEN HEARING AROUND TOWN AND EVERYTHING, I DOUBT,
13 YOU KNOW, THAT I COULD BE VERY OPINIONATED AS, YOU
14 KNOW, VERY OPEN MINDED TO IT

15 THE COURT YOU'RE SAYING YOU COULD
16 NOT BE OPEN MINDED?

17 JUROR I DOUBT IT COULD

18 THE COURT OKAY DO YOU THINK IT'S
19 LIKELY THAT YOUR DECISION WOULD BE BASED UPON
20 SOMETHING OUTSIDE OF COURT?

21 JUROR I DON'T THINK SO

22 THE COURT WELL, YOU UNDERSTAND
23 THAT'S EXACTLY MY POINT IF YOU CAN -- IF YOU CAN
24 BASE A DECISION UPON ONLY WHAT YOU HEAR IN THE
25 COURTROOM, THAT'S WHAT A JUROR IS ASKED TO DO

1 JUROR WELL, SEE, THAT'S -- WELL,
2 YOU'S RIGHT ABOUT THAT BECAUSE I'M JUST SAYING BY
3 THE STUFF THAT I'VE HEARD THAT I FEEL THAT I WOULD
4 BE HINDERING YOU IN SERVING

5 THE COURT WELL, MAYBE I'M
6 MISUNDERSTANDING, AND I WAS JUST -- I'M NOT PRESSING
7 YOU

8 JUROR YEAH

9 THE COURT AS I SAY, WHATEVER YOUR
10 OPINION IS IT DOESN'T MATTER TO US

11 JUROR YEAH

12 THE COURT WE JUST SIMPLY NEED TO
13 KNOW IT WHAT I'M ASKING IS ARE YOU SAYING THAT
14 BASED UPON WHAT YOU HAVE HEARD UP TO THIS POINT,
15 THAT YOU WOULD BE LIKELY TO CONSIDER THOSE --

16 JUROR WHAT I'VE ALREADY HEARD?

17 THE COURT -- THOSE FACTS THAT
18 YOU'VE HEARD --

19 JUROR YES, SIR

20 THE COURT IN ARRIVING AT YOUR
21 DECISION?

22 JUROR YES, SIR

23 THE COURT SO IS IT FAIR OR UNFAIR
24 TO SAY THAT YOU HAVE ALREADY FORMED AN OPINION AS TO
25 WHAT YOU THINK THE DECISION SHOULD BE?

1 JUROR IT'S -- WELL, IT'S PRETTY
2 MUCH FAIR AS TO SAYING I -- I PRETTY MUCH HAD MY
3 MIND MADE UP AS TO WHAT I FEEL I DON'T SEE ANY --
4 I DON'T SEE ANYTHING THAT COULD BE PRESENTED TO
5 CHANGE IT, REALLY

6 THE COURT YOU DON'T SEE ANYTHING
7 THAT COULD BE PRESENTED --

8 JUROR NO, SIR

9 THE COURT -- THAT WOULD CHANGE YOUR
10 OPINION AS TO WHAT THE ULTIMATE OUTCOME SHOULD BE?

11 JUROR NO, SIR

12 THE COURT ALL RIGHT IF YOU WOULD,
13 JUST LET ME ASK YOU TO STAND OUTSIDE FOR JUST A
14 MINUTE, AND I'LL BE RIGHT BACK WITH YOU
15 (JUROR #145 EXITS THE ROOM)

16 THE COURT WHAT SAY THE STATE?

17 MR JONES I THINK YOU'RE GONNA HAVE
18 TO EXCUSE HIM

19 MR TINSLEY OF COURSE, WE AGREE TO
20 THAT, YOUR HONOR WE HAVE GREAT CONCERN FOR SOME OF
21 THE COMMENTS HE MADE, IN PARTICULAR ANYTHING THAT HE
22 READ OR HEARD THAT SHOWED PREJUDICE AGAINST MY
23 CLIENT OF COURSE, IT'S A SMALL TOWN, AND THAT'S A
24 FACTOR I THINK HE DID MENTION SOMETHING ABOUT THE
25 POLICE CALL

1 THE COURT I'M GONNA EXCUSE HIM
2 MR TINSLEY CAN WE INQUIRE AS TO
3 WHAT HE HAD READ, JUDGE? DO YOU THINK THAT MIGHT BE
4 IMPORTANT AS TO THE TOTAL PANEL BECAUSE THERE WAS AT
5 LEAST ONE ARTICLE OF COURSE, HIS HONOR ADMONISHED
6 THE JURY NOT TO READ ANYTHING SO I'M ASSUMING THAT
7 THAT READING HAD OCCURED PRIOR SO IF THERE WAS
8 SOME DOCUMENTS OR SOME READING THAT HAD BEEN
9 DISSEMATED TO THE COMMUNITY PRIOR TO YOUR
10 ADMONITION, I'M A LITTLE CONCERNED ABOUT THAT I'D
11 LIKE TO KNOW ABOUT THAT

12 THE COURT WELL, IF -- IF HE'S GONNA
13 BE EXCUSED, WHAT DIFFERENCE DOES THAT MAKE? YOU CAN
14 ASK THAT ---

15 MR TINSLEY IT'S AFFECTED ONE OTHER
16 JUROR

17 THE COURT WELL, HE'S NOT GONNA BE
18 TALKING TO HIM IN OTHER WORDS, YOU'RE GONNA BE
19 ABLE TO ASK THOSE QUESTIONS OF ANY OTHER POTENTIAL
20 JUROR

21 THE COURT OKAY
22 JUROR YOUR HONOR, CAN WE HAVE
23 PERMISSION TO GO AFTER THE FACT IF WE WISH TO SPEAK
24 TO THEM AND FIND OUT WHAT WAS READ?

25 THE COURT SURE I MEAN, I DON'T

1 SEE ANY REASON WHY ONCE HE'S EXCUSED

2 (JUROR #145 RE-ENTERS THE ROOM)

3 THE COURT ALL RIGHT MR NABORS,
4 WE'RE GOING TO EXCUSE YOU FROM SERVICE IN THE CASE
5 YOU WON'T NEED TO COME BACK WE APPRECIATE YOU
6 COMING DOWN HERE, HOWEVER

7 JUROR ALL RIGHT

8 THE COURT LET ME ASK THAT YOU NOT
9 DISCUSS IT WITH ANY OTHER JURORS OR POTENTIAL JURORS
10 --

11 JUROR YES, SIR

12 THE COURT -- ABOUT WHAT'S GONE ON
13 HERE, OKAY?

14 JUROR YES, SIR

15 THE COURT THANK YOU

16 (JUROR #145 EXCUSED)

17 (JUROR #145 EXITS THE ROOM)

18 THE COURT NUMBER ONE SEVENTY-THREE

19 MR JONES I WANTED TO ASK HIM WHERE
20 HE'S GOING HUNTING

21 THE COURT PROBABLY GOING TO MOUNT
22 CARMEL

23 MR JONES YEAH

24 MR TINSLEY ABOUT THE BEST PLACE TO
25 GO, I'M TELLING YOU

1 THE COURT WELL, I'M SERIOUS
2 MR TINSLEY THAT'S HOLY GROUND OVER
3 THERE

4 (JUROR #173 ENTERS)

5 THE COURT GOOD AFTERNOON HAVE A
6 SEAT THERE, IF YOU'D LIKE

7 JUROR THANK YOU, SIR

8 THE COURT AND YOU'RE MR ROGERS?

9 JUROR YES, SIR

10 THE COURT MR ROGERS, YOU INDICATED
11 YOU HAVE A CIRCUMSTANCE THAT WOULD -- THAT YOU WOULD
12 LIKE TO BE EXCUSED FROM SERVICE BECAUSE OF?

13 JUROR YES, SIR

14 THE COURT TELL ME ABOUT THAT

15 JUROR IN 1989, MY WIFE HAD A
16 STROKE SHE IS CURRENTLY MEDICALLY DISABLED SHE'S
17 ON MEDICARE AND SOCIAL SECURITY DISABLEMENT I AM
18 THE SOLE PROVIDER THERE IS NOBODY WITHIN A HUNDRED
19 MILES TO TAKE CARE OF HER

20 THE COURT SO YOU'RE THERE TWENTY-
21 FOUR HOURS A DAY TAKING CARE OF HER?

22 JUROR NO, SIR I WORK

23 THE COURT WELL, WHO LOOKS AFTER
24 YOUR WIFE WHILE YOU'RE WORKING?

25 JUROR OKAY SHE FIXES A COLD

1 CEREAL BREAKFAST AND HAS A SANDWICH FOR LUNCH

2 THAT'S IT AND I FIX SUPPER FOR HER

3 THE COURT OKAY IS SHE ABLE TO

4 LOOK AFTER HERSELF IF YOU'RE NOT THERE?

5 JUROR SHE CAN TAKE CARE OF HERSELF

6 ON A TEMPORARY BASIS

7 THE COURT NOW, WHAT DO YOU MEAN BY

8 TEMPORARY?

9 JUROR LIKE, MAYBE ONE NIGHT

10 THE COURT YOU'RE TALKING ABOUT LIKE

11 DAILY --

12 JUROR YEAH

13 THE COURT -- TEMPORARY, BUT NOT ANY

14 SIGNIFICANT PERIOD OF TIME?

15 JUROR NO, SIR

16 THE COURT IF YOU WERE SELECTED TO

17 SERVE IN THIS CASE AND IT WOULD BE NECESSARY THAT

18 YOU BE SEQUESTERED FOR SEVEN TO TEN DAYS, WOULD THAT

19 POSE AN UNREASONABLE HARDSHIP --

20 JUROR YES, SIR

21 THE COURT -- UPON YOU AND YOUR

22 WIFE?

23 JUROR YES, SIR

24 THE COURT WOULD IT, IN YOUR VIEW OR

25 IN YOUR OPINION, WOULD IT BE DETRIMENTAL TO HER

1 WELFARE AND HER HEALTH?

2 JUROR I DON'T KNOW WHAT SHE'D DO

3 I REALLY DON'T

4 THE COURT WHAT TYPE OF DISABILITY
5 DOES SHE HAVE?

6 JUROR SHE HAD A STROKE

7 THE COURT OKAY IS SHE ABLE TO
8 WALK?

9 JUROR WITH A WALKER

10 THE COURT WALKER? AND THERE'S
11 NOBODY ELSE AVAILABLE TO ASSIST FOR SOME PERIOD OF
12 TIME?

13 JUROR NO, SIR

14 THE COURT OKAY IF YOU WILL, JUST
15 LET ME ASK YOU TO STAND OUTSIDE FOR JUST A MINUTE,
16 AND I'LL BE RIGHT BACK WITH YOU

17 JUROR SURE

18 THE COURT WHAT SAY THE STATE?

19 MR JONES ALL OUR WIVES SHOULD BE
20 SO LUCKY TO HAVE SUCH A COMMITTED HUSBAND

21 MR TINSLEY NO OBJECTION HERE, YOUR
22 HONOR

23 THE COURT MINE DOES

24 MR JONES NO OBJECTION HERE, JUDGE

25 THE COURT OKAY HE'S EXCUSED ALL

1 RIGHT ASK MR ROGERS TO COME IN THAT'S 173

2 JUROR YES, SIR

3 THE COURT MR ROGERS, WE'RE GOING
4 TO EXCUSE YOU FROM SERVICE IN THE CASE BECAUSE OF
5 THAT CIRCUMSTANCE WE APPRECIATE YOUR COMING DOWN,
6 AND GOOD LUCK TO YOU

7 JUROR THANK YOU YES, SIR

8 (JUROR #173 EXITS)

9 (JUROR #173 EXCUSED)

10 THE COURT THANK YOU 178

11 MR McCALLUM SPEAKING OF DEDICATED
12 WIVES, YOURS IS OUT THERE

13 MR JONES OH, REALLY? SHE DOESN'T
14 GIVE ME MUCH ROOM TO STRAY

15 (JUROR #178 ENTERS)

16 THE COURT GOOD AFTERNOON, MS

17 SCOTT HAVE A SEAT RIGHT THERE

18 JUROR OKAY

19 THE COURT YOU INDICATED YOU HAD
20 SOME REASON THAT YOU'D LIKE FOR ME TO CONSIDER IN
21 HAVING YOUR SERVICE EXCUSED?

22 JUROR YES I'VE GOT VACATION ON
23 THURSDAY THE 23RD WE'RE GOING TO THE MOUNTAINS

24 THE COURT IS THIS SOMETHING THAT'S
25 BEEN PLANNED FOR SOME TIME?

1 JUROR YES

2 THE COURT HOW LONG HAVE YOU HAD IT
3 PLANNED?

4 JUROR WE PLANNED IT BACK LAST YEAR
5 BECAUSE IT LOOKS UP AT THE MOUNTAINS

6 THE COURT WHERE DO YOU GO?

7 JUROR WE'RE GOING TO DUDLEY CREEK
8 IN GATLINBURG IT'S A CAMPGROUND

9 THE COURT AND YOU ALREADY HAVE
10 RESERVATIONS THERE?

11 JUROR YES, SIR

12 THE COURT WOULD IT BE SOMETHING
13 THAT YOU'D LOSE MONEY ON IF YOU DIDN'T GO?

14 JUROR PROBABLY SO, YES

15 THE COURT AND IS THIS A FAMILY
16 VACATION?

17 JUROR YES IT'S A FAMILY VACATION
18 MY GRANDPARENTS ARE ALREADY THERE

19 THE COURT OKAY, AND WHO ELSE IS
20 GOING WITH YOU?

21 JUROR MY HUSBAND

22 THE COURT OKAY DO Y'ALL HAVE
23 CHILDREN?

24 JUROR NO, AND, ALSO, I'VE GOT A
25 PHYSICAL ON THE 5TH OF NOVEMBER

1 THE COURT WE'LL BE THROUGH BY THEN
2 JUROR YEAH, AND THEN I START SCHOOL
3 IN SPARTANBURG ON THE 8TH
4 THE COURT OKAY, OF NOVEMBER?
5 JUROR YEAH THAT'S ON A SATURDAY
6 THE COURT YOU'D BE THROUGH BY THEN
7 JUROR YEAH, BUT ---
8 THE COURT WHAT WE'RE LOOKING AT IS
9 SEVEN TO TEN DAYS, BUT YOU'RE SUPPOSED TO BE ON
10 VACATION --
11 JUROR THE 23RD
12 THE COURT -- THE 23RD?
13 JUROR WHICH IS NEXT THURSDAY
14 THE COURT NEXT THURSDAY?
15 JUROR UH-HUH (AFFIRMATIVE)
16 THE COURT OKAY, AND IF YOU DON'T
17 GET TO GO, WHAT HAPPENS?
18 JUROR WELL, I REALLY WOULD LIKE ---
19 THE COURT IS YOUR HUSBAND GOING
20 WITHOUT YOU?
21 JUROR OH, NO HE WOULDN'T GO
22 THE COURT HE'D STAY HERE?
23 JUROR YEAH
24 THE COURT IS IT SOMETHING THAT
25 Y'ALL HAVE ALREADY PAID FOR IN ADVANCE?

1 JUROR YES, SIR YES, SIR

2 THE COURT OKAY ALL RIGHT IF YOU
3 WILL, JUST STAND OUTSIDE FOR JUST A MINUTE, AND I'LL
4 BE RIGHT BACK WITH YOU

5 JUROR OKAY

6 (JUROR #178 EXITS)

7 THE COURT WHAT SAY THE STATE?

8 MR JONES WELL, JUDGE, IF THE LOSS
9 OF THE MONIES THAT SHE'S PAID FOR THE -- I MEAN, AS
10 FAR AS THE TRIP IS CONCERNED, I DON'T THINK THAT'S
11 ENOUGH IF HER LOSING THE MONEY IS IT, THEN THAT'S
12 WHAT, YOU KNOW, WE CONCEDE THAT, YOU KNOW, MAYBE SHE
13 OUGHT TO BE EXCUSED

14 THE COURT ANY OBJECTION FROM THE
15 DEFENSE?

16 MR TINSLEY I DON'T HAVE ANY
17 OBJECTION, YOUR HONOR THE ONLY QUESTION YOU MIGHT
18 CONSIDER IS HOW LONG IS SHE GOING TO BE THERE?

19 JUROR YOU WANT HER TO STAY?

20 MR TINSLEY NO, SIR, I DON'T OBJECT
21 TO YOU LETTING HER GO

22 THE COURT YOU WANT HER TO BE
23 EXCUSED? OKAY BRING HER IN

24 (JUROR #178 RE-ENTERS)

25 THE COURT MS SCOTT, REGARDING YOUR

1 VACATION, YOU'RE GOING TO GO DOWN -- YOU'RE GOING ON
2 THURSDAY AND COME BACK WHEN?

3 JUROR WE'RE PROBABLY GOING TO BE
4 COMING BACK NEXT TUESDAY WHICH IS THE 28TH

5 THE COURT THE NEXT WEEK? AND IF
6 YOU DON'T GO THAT WEEK, YOU'RE NOT GOING TO GET TO
7 GO?

8 JUROR NO

9 THE COURT OKAY YOU'RE THEN
10 EXCUSED FROM SERVICE

11 JUROR OKAY THANK YOU VERY MUCH

12 THE COURT THANK YOU FOR COMING IN

13 179

14 THE COURT 179

15 (JUROR #178 EXITS)

16 MR TINSLEY HE'S ALREADY GONE,

17 JUDGE HE'S THE ONE ON THE ---

18 THE COURT OH, THAT'S SHERARD?

19 MR TINSLEY YEAH

20 THE COURT HE HAD THE RECORD?

21 MR TINSLEY ON THAT WARRANT CHARGE

22 THE COURT YEAH HE'S GONE OKAY

23 192

24 THE COURT 192

25 (JUROR #192 ENTERS)

1 THE COURT MS THOMAS, HAVE A SEAT
2 PLEASE YOU INDICATED YOU HAD A REASON YOU NEEDED
3 TO BE EXCUSED?

4 JUROR YES FIRST OF ALL, I'M
5 ALREADY REAL LATE FROM PICKING UP MY CHILD FROM
6 SCHOOL IN GREENWOOD SO SHE OVER THERE STRANDED

7 THE COURT HOW OLD IS YOUR CHILD?

8 JUROR SHE'S NINE, AND THEN I HAD TO
9 GET SOMEBODY FROM THE DAYCARE I HAD TO PAY THEM TO
10 BRING MY LITTLE BOY TO THE COURT HE'S OUT THERE
11 NOW THE PLACE CLOSED UP AT FIVE O'CLOCK, AND I
12 HAVE TO PAY FOR WHEN I'M LATE PICKING HIM UP PLUS,
13 MY HUSBAND HAD A STROKE, AND I HAVE TO TAKE CARE OF
14 HIM

15 THE COURT OKAY WELL, WHAT ARE YOU
16 DOING ABOUT YOUR CHILD IN GREENWOOD NOW?

17 JUROR WELL, NOTHING I CAN DO I
18 COULDN'T LEAVE THEY TOLD ME I COULDN'T GO

19 THE COURT WELL, I WISH YOU WOULD
20 HAVE TOLD ME THAT DID -- HAVE YOU GOT SOMEBODY? I
21 MEAN, SHE'S AT SCHOOL?

22 JUROR NO SHE'S -- I -- SHE'S AT
23 THE SCHOOL, AND THE SCHOOL HAS CLOSED UP AND I
24 TRIED TO CALL TO THE OFFICE, AND THE OFFICE WAS
25 CLOSED AND BY THE TIME I GET OVER THERE, IT'S

1 GOING -- THEY USUALLY LEAVE BETWEEN FIVE-FIFTEEN AND
2 FIVE-THIRTY BY THE TIME I GET TO GREENWOOD, I
3 DON'T KNOW WHERE SHE GOING TO BE AT

4 THE COURT OKAY WELL, WE'LL HELP
5 YOU ON THAT LET ME ASK YOU TO STAND OUTSIDE JUST
6 ONE SECOND, PLEASE

7 (JUROR #192 EXITS)

8 THE COURT DO YOU HAVE ANY
9 OBJECTION TO HER BEING EXCUSED?

10 MR JONES THE STATE DOES NOT

11 MR TINSLEY NO, SIR

12 THE COURT LET ME GET SOMEBODY TO --
13 CAN WE GET SOMEBODY TO HELP HER LOCATE THAT CHILD?
14 WE NEED TO GET SOMEBODY TO CALL FROM THAT SCHOOL, I
15 RECKON

16 THE COURT YES, SIR

17 MR JONES EITHER THE SCHOOL, OR IF
18 YOU CAN'T GET AN ANSWER, YOU KNOW, FIND OUT WHERE
19 THE SCHOOL IS AND GET THEM TO HELP HER WITH TRYING
20 TO FIND OUT

21 THE COURT YEAH DO THAT ASK HER
22 TO COME BACK

23 MR TINSLEY ASK HER TO CALL
24 GREENWOOD CITY AND SEND SOMEBODY ON OVER TO KEEP ---
25 (JUROR #192 RE-ENTERS)

1 THE COURT MS THOMAS, WE'RE GOING
2 TO EXCUSE YOU FROM SERVICE BASED ON THOSE
3 CIRCUMSTANCES IF YOU'LL TALK TO THIS GENTLEMAN,
4 THEY'LL TRY TO GET SOMEBODY TO HELP YOU WITH GETTING
5 YOUR DAUGHTER I WISH -- IF YOU'D LET THE CLERK
6 KNOW, THEY COULD HAVE GOTTEN IN TOUCH WITH ME, AND
7 WE COULD HAVE HAD THAT TAKEN CARE OF

8 JUROR WELL, THEY -- THEY TRIED, BUT
9 THEY SAID THAT YOU COULDN'T -- YOU WASN'T GOING OUT
10 OF THE SEQUENCE OF THE NUMBERS WHEN WE WAS CALLED

11 THE COURT WELL, GOOD LUCK THEY'LL
12 HELP YOU THEY'LL HELP YOU WITH YOUR CHILD YEAH
13 GET SOMEBODY

14 (JUROR #192 EXITS)

15 THE COURT NO OBJECTION TO
16 HER BEING EXCUSED? 208, IT SHOULD JUST BE ONE, 208
17 I DON'T BELIEVE THAT WAS HER THAT WAS MS WATT
18 RIGHT THERE, WASN'T IT?

19 MR TINSLEY NO, MS THOMAS
20 REPORTER MS THOMAS, UH-HUH
21 (AFFIRMATIVE)

22 (JUROR #208 ENTERS)

23 THE COURT OH, THERE'S MS WATT
24 MS WATT, HOW ARE YOU DOING?

25 JUROR FINE, FINE

1 THE COURT YOU INDICATED EARLIER
2 THAT YOU HAD SOME REASON THAT YOU WOULD LIKE TO BE
3 EXCUSED FROM SERVICE AS A JUROR?

4 JUROR UH-HUH (AFFIRMATIVE)

5 THE COURT WHAT IS THAT REASON?

6 JUROR NUMBER ONE, THAT'S MY NEPHEW
7 OVER THERE

8 THE COURT THIS IS YOUR NEPHEW?

9 JUROR UH-HUH (AFFIRMATIVE), YES

10 THE COURT THAT'S A PRETTY CLOSE
11 RELATIONSHIP WOULD IT AFFECT YOUR ABILITY TO BE
12 FAIR IN THE CASE?

13 JUROR I'LL BE HONEST IN ANYTHING I
14 COULD, YOU KNOW

15 THE COURT I UNDERSTAND THAT I
16 MEAN, YOU WOULD ALWAYS TRY TO BE AND WANT TO BE

17 JUROR YEAH

18 THE COURT BUT DO YOU THINK BECAUSE
19 OF YOUR CLOSE RELATIONSHIP, THAT FAMILY
20 RELATIONSHIP, IT WOULD INTERFERE?

21 JUROR YEAH I BELIEVE IT WOULD

22 THE COURT OKAY ALL RIGHT IF
23 YOU'LL STAND OUTSIDE FOR JUST A MINUTE, WE'LL BE
24 BACK WITH YOU SHORTLY

25 (JUROR #208 EXITS)

1 THE COURT ANY OBJECTION TO HER BEING
2 EXCUSED?

3 MR JONES NONE FROM THE STATE

4 MR TINSLEY I'D LOVE TO HAVE HER,
5 JUDGE, BUT I BELIEVE IT'S WITHIN THOSE DELINEATED
6 DEGREES OF ---

7 THE COURT CONSANGUINITY?

8 MR TINSLEY THAT'S IT

9 THE COURT ALL RIGHT ASK HER TO
10 COME BACK

11 (JUROR #208 RE-ENTERS)

12 THE COURT MS WATT, WE'RE GOING TO
13 EXCUSE YOU FROM SERVICE IN THIS CASE WE APPRECIATE
14 YOUR COMING DOWN TO PARTICIPATE DO NOT DISCUSS
15 ANYTHING THAT OCCURRED HERE WITH ANY OTHER POTENTIAL
16 JUROR, OKAY?

17 JUROR OKAY

18 THE COURT THANK YOU YOU CAN
19 LEAVE

20 (JUROR #208 EXITS)

21 ((JUROR #208 EXCUSED))

22 THE COURT OKAY IS THAT ALL OF
23 THEM? ASK MR COPELAND IF THAT'S ALL HE SEES
24 SITTING THERE ON THOSE ---

25 BAILIFF THAT APPEARS TO BE IT, YOUR

1 HONOR

2 THE COURT DID Y'ALL GET TWENTY?

3 MR JONES JUDGE, I WOULD -- THE
4 TWENTY WERE EXCUSED?

5 THE COURT THAT'S WHAT -- THAT'S MY
6 COUNT IS THAT RIGHT? WHAT YOU GOT?

7 MR TINSLEY TWENTY

8 MR McCALLUM YOUR HONOR, SINCE WE ARE ON THE
9 RECORD WITH THE REPORTER HERE AND OUTSIDE THE
10 PRESENCE OF THE JURY, WE WOULD BRING THIS STATUTE TO
11 YOUR ATTENTION IT'S 24-3-930 IT APPEARS, YOUR
12 HONOR, THAT A PRISON GUARD DOES HAVE AN EXEMPTION
13 FROM JURY SERVICE UNDER THAT STATUTE I THINK THAT
14 THERE'S SOME SUBSEQUENT LAW, AND I'LL BE HAPPY TO
15 BRING IT TO YOU, YOUR HONOR, THAT THE DEPARTMENT --
16 IF HE'S AN EMPLOYEE OF THE DEPARTMENT OF
17 CORRECTIONS, THERE'S SOME STATUTES THAT MAKE
18 PENITENTIARY AND DEPARTMENT OF CORRECTIONS NOW
19 SYNONYMOUS SINCE THAT'S BEEN RENAMED

20 THE COURT Y'ALL GOT ANY QUESTION
21 ABOUT IT, SOLICITOR?

22 MR JONES JUDGE, I'D NEVER SEEN
23 THAT BEFORE, AND, I MEAN ---

24 THE COURT THAT'S NUMBER -- JUROR
25 NUMBER 25, MR HESSON? I MEAN, 95, HESSON?

1 MR JONES JUDGE, FIRST OF ALL, HE
2 SAID HE WORKS WITH THEM I DON'T KNOW IF HE TEACHES
3 OUT THERE OR IF HE IS A GUARD OR ---

4 THE COURT HE SAID HE WAS A
5 COMMISSIONER HE SAID HE HAD A COMMISSION THROUGH
6 THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS I
7 THOUGHT THEY ALL WENT TO THE ---

8 MR JONES THE GUARDS DO

9 MR TINSLEY HESSON WAS THE ONE WHO
10 WAS ASSOCIATED WITH THE SHERIFF'S DEPARTMENT, AND HE
11 WAS THE OTHER ONE

12 THE COURT OH, EXCUSE ME ALL
13 RIGHT DALEY

14 MR GARRETT YES, SIR BRIAN DALEY I
15 THINK'S THE ONE THAT WORKS AT MCDC

16 MR JONES IS HE A GUARD?

17 THE COURT HE WORKS AT McCORMICK
18 CORRECTIONAL INSTITUTE

19 THE COURT YEAH, BRIAN J DALEY,
20 JUNIOR

21 MR GARRETT HE'S A GUARD?

22 THE COURT HE'S A -- WELL, YEAH

23 MR JONES JUDGE, WHEN IT SAYS THAT
24 HE SHALL BE EXEMPTED, IT DOESN'T MEAN THAT YOU SHALL
25 EXCUSE HIM AND THAT YOU SHALL ALLOW THEM TO EXERCISE

1 EXEMPTION IF THEY SO CHOOSE I WOULD ARGUE THAT IT
2 WOULD ALLOW YOU TO EXERCISE AN EXEMPTION IF THEY SO
3 CHOOSE, THE SAME THING AS SIXTY-FIVE YEARS OR OLDER
4 IN OTHER WORDS, IT DOESN'T SAY SHALL BE EXCUSED IT
5 SAYS SHALL BE EXEMPTED, AND THAT WOULD BE THE
6 POSITION IS THAT IT'S MY INTERPRETATION WOULD BE
7 THAT IT SHOULD GIVE YOU A ---

8 THE COURT I MEAN, IT SHALL BE IF
9 THEY REQUEST IT?

10 MR JONES YES, SIR

11 MR McCALLUM YOUR HONOR, ON THAT
12 SPECIFIC POINT, THERE ARE SOME OTHER EXEMPTION
13 STATUTES THAT THE ATTORNEY GENERAL HAS CHOSEN TO
14 ADDRESS AND HAS ADDRESSED THAT IN THE MANNER IN
15 WHICH MR JONES WOULD LIKE TO HAVE IT INTERPRETED
16 AND I WOULD STATE FOR THE RECORD, YOUR HONOR, WE
17 TAKE THE POSITION THAT SINCE THE ATTORNEY GENERAL
18 CHOSE TO ADDRESS THOSE OTHER EXEMPTIONS AND MADE
19 THAT DECISION OR AT LEAST THAT RECOMMENDATION
20 THROUGH HIS OPINION THAT, SPECIFICALLY EXCLUDING
21 THIS EXEMPTION, WOULD INDICATE THAT IT SHOULD BE
22 INTERPRETED TO BE MANDATORY SINCE IT DOES USE THE
23 WORD SHALL

24 THE COURT WELL, I UNDERSTAND IT'S
25 MANDATORY, BUT WHAT -- I DON'T KNOW WHAT THE

1 LEGISLATIVE INTENT WAS, BUT IT MIGHT VERY WELL BE
2 THAT IT SHALL BE EXEMPTED JUST LIKE A PERSON SIXTY-
3 FIVE YEARS OF AGE OR OLDER SHALL BE EXEMPT IN
4 OTHER WORDS, THEY HAVE THE CHOICE I CANNOT REQUIRE
5 THEY SERVE THAT'S THEIR DECISION THEY SHALL BE -
6 - THEY SHALL HAVE AN EXEMPTION IS WHAT I WOULD
7 ASSUME THAT IT MEANS

8 MR McCALLUM YOUR HONOR, IF YOU'LL
9 REVIEW SECTION, I BELIEVE IT'S 840, THAT IS THE
10 SECTION YOU'RE SPEAKING OF, HAS SOME REAL SPECIFIC
11 LANGUAGE IN THAT SECTION THAT MAKES IT THAT WAY,
12 THAT IT MAKES IT THE JUROR'S ALTERNATIVE TO CHOOSE
13 ONE WAY OR THE OTHER THIS SECTION, ON THE OTHER
14 HAND, DOES NOT HAVE THAT LANGUAGE, DOES NOT HAVE
15 THAT ALTERNATING LANGUAGE IT ALSO DOES NOT HAVE
16 THE, AS I WAS STATING, THE ATTORNEY GENERAL'S
17 OPINION THAT IMPLIES THAT AS WELL THAT SOME OF THE
18 OTHER EXEMPTION STATUTES DO

19 THE COURT ALL RIGHT I'LL TAKE A
20 LOOK AT IT OKAY ANY OTHER MATTERS WE NEED TO
21 ADDRESS BEFORE WE GO BACK TO THE JURY POOL?

22 MR JONES JUDGE, I'D LIKE TO MAKE A
23 SUGGESTION TO YOU AT THIS JUNCTURE IF IT'S ALL
24 RIGHT IT WON'T TAKE BUT A SECOND

25 THE COURT ALL RIGHT

1 MR JONES YOU KNOW, WHATEVER WAY
2 YOU USE IS FINE WITH ME IN GROUPING THESE JURORS FOR
3 OUR INDIVIDUAL VOIR DIRE, VOIR DIRE, VOIR DIRE I
4 WOULD SUGGEST THAT SINCE WE'VE KIND OF DISCUSSED THE
5 FACT THAT WE WOULD HOPE TO TRY TO ADDRESS THREE AN
6 HOUR, THAT YOU WOULD PUT THEM IN GROUPS OF SIX
7 BRING THE FIRST GROUP IN AT WHATEVER HOUR IF YOU
8 DON'T INTEND TO START THIS EVENING, THEN MAYBE NINE
9 IN THE MORNING, AND BRING THE SAME GROUP IN AT
10 ELEVEN-THIRTY

11 MR TINSLEY TEN

12 THE COURT WELL, YOU'RE SAYING SIX
13 EVERY TWO HOURS INSTEAD OF THREE EVERY HOUR? WELL,
14 WHAT DO YOU THINK THE BENEFIT OF THAT IS? I MEAN,
15 WHAT HAPPENS IF WE RUN THROUGH SIX IN THE FIRST
16 HOUR?

17 MR JONES THEN WE'VE GOT A PROBLEM
18 THE COURT I MEAN, YOU KNOW, IF YOU
19 HAVE SOME REASON THAT WE DON'T HAVE ANYTHING TO DO,
20 WHEREAS IF WE DO THREE AN HOUR, THEN WE'RE NEVER
21 DOWN MORE THAN THIRTY MINUTES OR SOMETHING

22 MR JONES SO GROUPS OF SIX EVERY
23 HOUR?

24 THE COURT NO, GROUPS OF THREE EVERY
25 HOUR WHAT YOU'RE SAYING, AND WE GOT THE SAME

1 NUMBER, THREE AN HOUR OR SIX EVERY TWO HOURS BUT
2 WHAT I'M SAYING IS IF WE RUN THROUGH SIX IN AN HOUR,
3 WE'RE WAITING AN HOUR, WHEREAS IF WE RUN THROUGH
4 THREE IN THIRTY MINUTES, WE'RE ONLY WAITING THIRTY
5 MINUTES UNTIL THE NEXT GROUP COMES I MEAN, I'M --
6 WHAT I'M WANTING TO KNOW IS HOW DO YOU THINK THAT
7 BENEFITS US?

8 MR JONES I'M GLAD I BROUGHT IT UP
9 FOR DISCUSSION BECAUSE I'M LEANING TO AGREE WITH YOU
10 NOW I THINK THAT WHAT WE OUGHT TO TRY TO DO IS TO
11 HAVE NO FEWER THAN BETWEEN EIGHTEEN AND -- EIGHTEEN
12 BETWEEN NINE AND ONE TOMORROW, AND ANOTHER EIGHTEEN
13 AVAILABLE BETWEEN TWO AND SIX IS WHAT I'M
14 SUGGESTING SO YOU HAVE THIRTY-SIX AVAILABLE
15 TOMORROW, EIGHTEEN BETWEEN NINE AND ONE, AND
16 EIGHTEEN BETWEEN TWO AND SIX

17 THE COURT WELL ---

18 MR JONES OR HAVE ---

19 MR McCALLUM THERE WOULD BE TWELVE
20 AND TWELVE, NOT EIGHTEEN AND EIGHTEEN I'M ERRING
21 ON THE SIDE OF RUNNING THROUGH, IF WE RUN THROUGH
22 SIX AN HOUR AS OPPOSED TO SIX IN TWO HOURS I'M
23 SAYING EIGHTEEN

24 THE COURT YOU THINK WE CAN DO SIX
25 AN HOUR?

1 MR JONES IT COULD HAPPEN IT
2 COULD HAPPEN YOU COULD HAVE SIX IN A ROW THAT COME
3 IN AND SAY, I CAN'T GIVE THE DEATH PENALTY TO
4 ANYBODY AND I ALWAYS GIVE THE DEATH PENALTY IF YOU
5 CAN PROVE MURDER TO ME BOOM, BOOM, BOOM, WE HIT
6 SIX LIKE THAT IN A ROW AND THEN WE'RE SITTING DOWN
7 FOR AN HOUR WITHOUT ANYBODY HERE YOU DON'T HAVE
8 THEM COMING IN HOWEVER YOU'RE STAGGERING THEM IN
9 THE COURT WELL, I'M OBVIOUSLY OPEN
10 TO SUGGESTIONS, BUT IT JUST SEEMS TO ME IF YOU
11 SCHEDULE FOUR AN HOUR, IF YOU DON'T GET TO THEM,
12 THEN YOU'VE GOT THEM BACKING UP AND THEN THEY SAY,
13 WELL, WHY DID THEY SCHEDULE THIS -- WHAT -- WE'VE
14 BEEN DOING THAT SO FAR I MEAN, THEY KIND OF --
15 THEY GETTING BACKED UP YOU'RE RIGHT WE MAY GET
16 THROUGH FOUR AND, YOU KNOW, HAVE SOME DOWN TIME I
17 DON'T KNOW THAT THAT'S GOING TO OCCUR I MEAN,
18 THERE MAY BE SOME TIME, BUT, I MEAN, BUT I THINK BY
19 THE TIME WE GET THROUGH EVERYBODY ASKING WHATEVER
20 QUESTIONS THEY WANT TO ASK, THERE'S NOT LIKELY TO BE
21 TOO MUCH DOWN TIME AND THE DOWN SIDE OF HAVING TOO
22 MANY IS THAT ONCE THEY GET BACKED UP, I MEAN, WE'VE
23 GOT A PROBLEM UNLESS YOU'RE JUST GOING TO TELL THEM
24 TO LEAVE AND COME BACK, AND THEN THE JURORS GET
25 IRRITATED AGAIN WHAT I WAS THINKING, AND Y'ALL

1 TELL ME WHAT YOU THINK, SIMPLY STARTING AT EIGHT-
2 THIRTY SCHEDULE THREE AN HOUR HAVE FIFTEEN
3 MINUTES OR SO IN THERE IN CASE IT WORKS OUT
4 -- I'VE FORGOTTEN WHAT IT WORKS OUT TO, ABOUT
5 TWENTY-SEVEN OR SO

6 MR JONES YEAH THAT SOUNDS GOOD
7 THAT'S ABOUT TWENTY-FOUR YEAH, TWENTY-FOUR A DAY
8 THAT SOUNDS GOOD THAT'S GOOD THAT'S PLENTY
9 THE COURT OKAY WELL, WE'VE GOT TO
10 DO THE COLLECTIVE VOIR DIRE NOW

11 MR TINSLEY IS THE DOCTOR HERE OR -
12 --

13 THE COURT I ASSUME SO

14 MR JONES AS FAR AS YOUR COLLECTIVE
15 VOIR DIRE IS CONCERNED, WERE YOU PLANNING ON, I
16 MEAN, ASKING THEM ABOUT ANYTHING THEY MAY HAVE HEARD
17 AND READ ABOUT THIS CASE? I MEAN, WE ASK HAS
18 ANYBODY HEARD AND READ ABOUT THE CASE, AND FIFTEEN
19 OR TWENTY, THIRTY OF THEM STAND UP ALL RIGHT
20 DOES WHAT YOU'RE HEARD, READ, SEEN ABOUT THE CASE
21 CAUSE YOU TO FEEL LIKE YOU COULDN'T GIVE A FAIR AND
22 IMPARTIAL VERDICT? IF THAT'S THE CASE, THEN REMAIN
23 STANDING HOW ARE YOU GOING TO WORK -- WHAT I'M
24 ASKING IS ARE YOU GOING TO ASK THAT GENERAL
25 QUESTION OF ALL OF THEM AS A GROUP, AND THOSE THAT

1 REMAIN STANDING THEN ASK THEM INDIVIDUALLY AS YOU
2 HAVE BACK HERE?

3 THE COURT WELL, WHAT I REALLY
4 PROPOSE TO DO IS IT'S SOMETIMES DIFFICULT FOR PEOPLE
5 TO BE ABLE TO ANSWER A QUESTION LIKE, WELL, WOULD IT
6 AFFECT YOUR IMPARTIALITY? IF THEY HAVE TO SAY YES
7 OR NO, THEN THEY SAY SOMETHING

8 MR JONES RIGHT

9 THE COURT WE DON'T WANT THEM TO
10 EXPLAIN OBVIOUSLY

11 MR JONES RIGHT RIGHT

12 THE COURT I THINK THE BETTER
13 PRACTICE IS TO SIMPLY ASK ANYONE WHO'S BEEN EXPOSED
14 TO MEDIA COVERAGE TO STAND WE GET THEIR NAMES
15 THEY SIT BACK DOWN WE'LL ADDRESS THAT WHEN WE HAVE
16 INDIVIDUAL VOIR DIRE ANY OBJECTION TO THAT?

17 MR JONES OKAY NO

18 MR McCALLUM YOUR HONOR, SINCE WE
19 DO HAVE A COURT REPORTER, WHICH WE DID NOT
20 PREVIOUSLY WHEN WE WERE IN YOUR CHAMBERS, THE COURT
21 INDICATED A DESIRE IN DIRECTING THE ORDER TO CALL
22 ADDITIONAL JURY POOL MEMBERS IN, I UNDERSTOOD, ON
23 MONDAY PERHAPS OR MONDAY AFTERNOON

24 THE COURT UH-HUH (AFFIRMATIVE)

25 MR GARRETT AND WE'D LIKE TO PUT

1 OUR OBJECTION TO THAT ON THE RECORD THERE HAS BEEN
2 ADDITIONAL PUBLICITY AS LATE AS IN TODAY'S PAPER IN
3 GREENWOOD THAT'S COME OUT I'VE GOT A COPY OF IT
4 FOR YOU TO LOOK AT, YOUR HONOR, BUT WE BELIEVE THAT
5 HAVING A SECOND JURY POOL AFTER RECENT ARTICLES HAVE
6 COME OUT BOTH IN THE ABBEVILLE AND THE GREENWOOD
7 PAPERS PREJUDICES OUR CLIENT

8 THE COURT WELL, HOW DOES IT? HOW
9 CAN YOU SHOW THAT PREJUDICE UNLESS THEY SAY THEY'VE
10 READ SOME ARTICLE?

11 MR GARRETT YOUR HONOR, IN THAT --
12 IN THOSE ARTICLES, IN THE GREENWOOD PAPER
13 SPECIFICALLY, THE REPORTER INDICATES THAT MR JONES
14 HAS MADE COMMENTS THAT THE DEFENSE TEAM HAS DELAYED
15 JURY SELECTION BY RAISING THE ISSUE OF COMPETENCY
16 IT SEEMS TO IMPLY THAT IT WILL BE DIFFICULT TO
17 SELECT A JURY BECAUSE OF THE DWINDLING NUMBERS IN
18 THE JURY POOL, AND WE FEEL THAT THAT PUTS THE
19 DEFENSE ATTORNEYS' CREDIBILITY AT ISSUE BEFORE THE
20 JURY BEFORE WE EVEN START THE TRIAL OF THE CASE

21 THE COURT ARE Y'ALL INTERVIEWING
22 THE PRESS?

23 MR JONES NO, SIR UH-UH

24 (NEGATIVE)

25 MR GARRETT I CAN ONLY GO BY WHAT'S

1 IN THE PAPER, AND I'LL BE HAPPY TO LET YOUR HONOR
2 REVIEW THAT ARTICLE

3 THE COURT WELL, OBVIOUSLY THAT'LL
4 BE SOMETHING YOU'LL NEED TO PRESENT AS A GROUND I
5 HAVE ORDERED THE CLERK TO MAKE THOSE ARRANGEMENTS,
6 AND SHE HAS DONE SO THERE'S A STATUTE THAT
7 PROVIDES THAT THAT MAY BE DONE WHERE I DEEM IT
8 NECESSARY, AND IN THIS CASE I FIND IT OBVIOUSLY
9 NECESSARY BECAUSE OF THE NUMBER OF JURORS ANY
10 PREJUDICE THAT MIGHT RESULT BASED UPON INFORMATION
11 RECEIVED BY A POTENTIAL OR PERSPECTIVE JUROR WILL BE
12 ADDRESSED IN VOIR DIRE, BOTH COLLECTIVE AND
13 INDIVIDUAL, AND IF THERE'S ANY QUESTION ABOUT THE
14 JUROR'S ABILITY TO BE FAIR AND IMPARTIAL, THAT JUROR
15 OBVIOUSLY WILL NOT SERVE BUT I'M GOING TO DIRECT
16 THE LAWYERS NOT TO DISCUSS THIS CASE WITH ANY
17 MEMBERS OF THE PRESS THERE'S NO POINT IN
18 DISCUSSING WHAT'S GOING ON IN THE COURTROOM WHEN
19 WE'RE TRYING TO KEEP POTENTIAL JURORS FROM KNOWING
20 ABOUT THIS CASE THERE'S NO POINT IN DISCUSSING IT
21 WITH THE PRESS SO THAT SOME JUROR MIGHT READ AN
22 ARTICLE IN THE PAPER OR HAVE SOME FAMILY MEMBER THAT
23 MIGHT MENTION IT THERE'S SIMPLY NO REASON TO
24 DISCUSS IT AT ALL WITH THE PRESS UNTIL A JURY'S BEEN
25 SELECTED AND SEQUESTERED THEN THERE MAY BE SOME

1 DISCUSSIONS, BUT RIGHT NOW WE NEED TO PROTECT THE
2 INTEGRITY OF THE JURY POOL AND ANY POTENTIAL JURY
3 POOL AND I FEEL THE ONLY WAY TO DO THAT IS NOT TO
4 ENGAGE IN ANY INTERVIEWS WITH NEWSPAPERS OR
5 TELEVISION

6 MR JONES JUDGE, I ASSURE YOU I
7 HAVE NOT -- I HAVEN'T SAID ANYTHING TO *THE INDEX*
8 *JOURNAL THE INDEX JOURNAL* REPORTER WAS OVER HERE
9 MONDAY OR TUESDAY I SAW HIM I DIDN'T TALK TO HIM
10 ABOUT THE CASE HE WAS SITTING RIGHT OUT IN THE --
11 WASN'T IT RICK FARMER SITTING OUT THERE?

12 MR COUNTER UH-HUH (AFFIRMATIVE),
13 YEAH

14 MR JONES HE CAME OVER WE GAVE
15 HIM A COPY OF THE INDICTMENT HE ASKED FOR THAT
16 WE GAVE HIM A COPY OF THE INDICTMENT THAT WAS THE
17 EXTENT OF ANY CONVERSATION THAT I HAD WITH HIM

18 MR McCALLUM TODAY'S ARTICLE
19 IMPLIES, AND I CERTAINLY DON'T KNOW ONE WAY OR THE
20 OTHER

21 MR JONES DOES IT QUOTE ME?

22 MR McCALLUM IT APPEARS TO, YEAH
23 I'LL CERTAINLY LET YOU TAKE A LOOK AT IT

24 MR TINSLEY JUDGE, I'D ASK YOU TO
25 TAKE A LITTLE SHORT BATHROOM BREAK NOW, AND THEN ARE

1 WE GOING TO GO INTO THE PANEL VOIR DIRE --

2 THE COURT YES, SIR

3 MR TINSLEY -- OR ARE WE GOING TO
4 GO INTO THE COMPETENCY HEARING OR ---

5 THE COURT I WANT TO GO INTO -- I
6 WANT TO LET THIS JURY BE RELEASED IT DOESN'T
7 APPEAR RIGHT NOW THAT WE'RE GOING TO BE ABLE TO GET
8 TO INDIVIDUAL VOIR DIRE TONIGHT WE'VE GOT -- I'VE
9 GOT TO DO THE COLLECTIVE VOIR DIRE OF THE JURY, AND
10 THEN WE'VE GOT TO DO THE COMPETENCY HEARING SO
11 WHAT I PROPOSE TO DO IS DO THE COLLECTIVE VOIR DIRE,
12 AND THEN HAVE THE CLERK DRAW THOSE PANELS OF THREE
13 BEGINNING AT EIGHT-THIRTY IN THE MORNING AND
14 BEGINNING AT TWO O'CLOCK ON SUNDAY AFTERNOON WE'LL
15 GET THEIR PHONE NUMBERS, BOTH HOME AND OFFICE AND,
16 YOU KNOW, SHOULD WE NEED TO CALL THEM IF WE RUN
17 THROUGH AND GET SOME TO COME BACK IN EARLIER, THEN
18 WE CAN DO THAT

19 MR McCALLUM YOUR HONOR, THE LAST
20 ISSUE WE'D LIKE TO RAISE IS WE'D MADE A WRITTEN
21 MOTION TO BE ALLOWED TO SEE THE STATE'S INFORMATION
22 ON THE JURY PANEL, WHAT THEY HAD OBTAINED THROUGH
23 RAP SHEETS AND THINGS OF THAT NATURE YOU HAD
24 WITHHELD JUDGMENT ON THAT POINT I THINK WE'RE
25 GETTING TO A POINT WHERE WE NEED TO -- IF IT'S GOING

1 TO BE MEANINGFUL TO US, WE NEED TO BE ABLE TO SEE IT
2 AND REVIEW IT

3 THE COURT WELL, I HADN'T WITHHELD
4 JUDGMENT ON IT WE SIMPLY HAVEN'T HEARD IT YET, BUT
5 WE CAN HEAR IT RIGHT NOW YOU'VE MADE A MOTION TO
6 HAVE THE STATE RELEASE THE INFORMATION THEY'VE
7 GATHERED ON BACKGROUND INFORMATION, CRIMINAL
8 HISTORIES ON POTENTIAL JURORS WHAT'S THE STATE'S
9 POSITION?

10 MR JONES THE STATE'S POSITION IS
11 THAT BASED ON THE CASE LAW, AND THERE'S SPECIFIC
12 DEATH PENALTY CASES I'M POINT TO THAT SAY THAT
13 THAT'S NOT DISCOVERABLE I KNOW MATTHEWS IS THE
14 FIRST ONE TO DEATH WITH THIS, AND THEN THERE'S A
15 RECENT CASE SINCE THAT I HAVE OUT IN THE COURTROOM
16 BUT THERE ARE TWO DEATH PENALTY CASES THAT DEATH
17 SPECIFICALLY WITH THAT ISSUE THAT ABSENT THE
18 STATUTE, THERE IS NO DISCOVERY, AND IT WOULD BE OUR
19 POSITION THAT THAT IS WORK PRODUCT, A PROSECUTORIAL
20 WORK PRODUCT AND SHOULD NOT BE DISCOVERABLE

21 THE COURT WHAT STATUTE OR COURT
22 RULE DO YOU THINK PROVIDES YOUR RIGHT OR ENTITLEMENT
23 TO THAT INFORMATION?

24 MR TINSLEY WE WOULD ARGUE THE
25 CONSTITUTION OF THE STATE AND THE FEDERAL GOVERNMENT

1 AS CITED IN OUR PRETRIAL WRITTEN MOTION AS WELL AS
2 THE FREEDOM OF INFORMATION ACT AND, IN PARTICULAR,
3 AS TO CRIMINAL RECORDS AND THAT SORT OF THING

4 THE COURT WELL, LET ME ASK YOU
5 HAS THE DEFENSE MADE ANY EFFORT TO OBTAIN THE
6 CRIMINAL RECORDS OR HISTORIES BASED UPON PUBLIC
7 RECORDS HERE IN THE ABBEVILLE COUNTY COURTHOUSE?

8 MR TINSLEY WE HAVE TO AN EXTENT,
9 AND BASICALLY THIS IS NOT THEIR OPINION AS TO WHO
10 THEY WANT AND DON'T WANT WE OBVIOUSLY DON'T THINK
11 WE'RE ENTITLED TO ANYTHING RIGHT NOW

12 THE COURT WELL, LET ME ASK, THEN
13 ARE YOU SPECIFICALLY ASKING SOLELY FOR THE CRIMINAL
14 HISTORIES?

15 MR TINSLEY AT THIS TIME I THINK
16 THAT WOULD BE -- GO AHEAD

17 MR GARRETT JUDGE, IT WOULD INCLUDE
18 ANYTHING THAT THE STATE HAS THAT WE DON'T HAVE THAT
19 THEY HAVE BECAUSE THEY ARE THE STATE WE FEEL LIKE
20 IN ORDER TO HAVE FAIRNESS IN PROCESS, AND THE DUE
21 PROCESS LAW IS THE FOURTEENTH AMENDMENT, IN THE JURY
22 SELECTION METHODS, WE SHOULD BE ENTITLED TO ANYTHING
23 THE STATE HAS SIMPLY BECAUSE THEY'RE THE STATE FOR
24 INSTANCE, THESE CRIMINAL HISTORIES, THEY'RE ENTITLED
25 TO HAVE THOSE JUST ASK FOR THEM AND THEY'VE GOTTEN

1 THEM FOR US TO BE ABLE TO TRY TO GARNER THOSE,
2 IT'S MUCH MORE DIFFICULT FOR US TO BE ABLE TO GET
3 THAT INFORMATION THAN IT IS FOR THE STATE IT GIVES
4 THE STATE THE ABILITY TO GET IT A LOT QUICKER, AND
5 WE GOT TO GO OUT HERE AND SCROUNGE FOR IT AND DO THE
6 BEST WE CAN TO GET IT, AND THAT IN AND OF ITSELF IS
7 AN UNFAIR CIRCUMSTANCE

8 WE'RE NOT ASKING THEM WHO THEY WANT ON THEIR --
9 WE'RE JUST ASKING FOR ANY INFORMATION THAT WOULD BE
10 HELPFUL OR EQUALLY AVAILABLE TO THE STATE THAT'S NOT
11 AVAILABLE TO THE DEFENSE EQUALLY, TO GIVE ANY OF
12 THAT TYPE OF INFORMATION TO US I'M NOT SURE WHAT
13 OTHER INFORMATION THEY HAVE

14 THE COURT WELL, THAT'S WHAT I WANT
15 TO ASK

16 MR GARRETT THE ONLY ONE THAT I'M
17 AWARE OF ARE THE CRIMINAL HISTORIES WE CITE A FEW
18 DIFFERENT KINDS OF THINGS, AND THE ONLY THING I CAN
19 RECALL -- I DON'T HAVE THAT MOTION WITH US RIGHT
20 NOW YOU MAY ---

21 MR JONES I APOLOGIZE

22 MR GARRETT BUT THAT CRIMINAL
23 HISTORIES

24 MR McCALLUM IF THERE ARE ANY
25 INCIDENT REPORTS, FOR EXAMPLE, YOUR HONOR, THAT THEY

1 MAY HAVE BEEN ABLE TO PULL OFF COMPUTER SYSTEMS OR
2 OUT OF POLICE FILES ON ANY POTENTIAL JURORS

3 THE COURT WELL, POLICE REPORTS ARE
4 PUBLIC INFORMATION I MEAN, YOU'VE GOT THE SAME
5 ABILITY TO ACCESS THOSE AS THEY DO

6 MR GARRETT THEY DO IT BY COMPUTER
7 WE HAVE TO GO OUT AND BEG FOR THEM

8 MR McCALLUM AND PAY -- I THINK
9 THERE ARE EVEN SOME FEES THAT ARE CHARGED FOR COPIES
10 OF THOSE FOR MOST PEOPLE

11 THE COURT YEAH I UNDERSTAND, AND
12 THE STATE'S PICKING UP ALL THOSE FEES AND EXPENSES

13 MR COULTER JUDGE, I'LL TELL YOU
14 RIGHT NOW WE DON'T HAVE, THAT I'M AWARE OF, ANY
15 INCIDENT REPORTS OR ANYTHING LIKE THAT SO THAT'S
16 NOT AN ISSUE WE DON'T HAVE THOSE WE HAVEN'T
17 PULLED THOSE, YOU KNOW WE DO HAVE ---

18 THE COURT DO YOU HAVE AN OBJECTION
19 TO PROVIDING THEM WITH THE CRIMINAL HISTORIES OF
20 POTENTIAL JURORS?

21 MR JONES NO

22 MR COULTER NO I WILL HAVE TO
23 LOOK THROUGH THIS TO MAKE SURE I HAVEN'T MADE ANY
24 NOTES ON THESE, BUT, NO, I DON'T HAVE ANY PROBLEM
25 WITH THAT

1 THE COURT OKAY THEY'LL PROVIDE
2 YOU WITH THE CRIMINAL HISTORIES ANY OTHER MATTERS
3 THAT YOU WISH FOR THEM TO DISCLOSE THAT WE NEED TO
4 ADDRESS? ALL RIGHT WE'LL ADDRESS IT WHEN WE GO
5 BACK LET ME -- WAIT JUST A MINUTE WE'VE GOT TWO
6 OTHER JURORS WHO HAVE SMALL CHILDREN AND FILED AN
7 AFFIDAVIT, DESIRE TO BE EXCUSED JUROR 151 AND 155
8 ARE THEY HERE?

9 THE COURT THE CLERK BROUGHT THAT TO
10 ME, YOUR HONOR

11 BAILIFF 151 AND -- WHICH ONES,
12 JUDGE?

13 THE COURT 151 AND 155 IT LOOKS
14 LIKE

15 MR TINSLEY LET'S SEE I'VE GOT --
16 I'VE GOT 151, LESS THAN SEVEN EXERCISED ON MINE, BUT
17 SHE DID ANSWER SHE WAS OUT THERE THAT WAS FROM
18 THE OTHER DAY, AND DON'T HAVE ANYTHING ON MS
19 PATTERSON, 155

20 THE COURT WE GOT TWO JURORS THAT
21 HAVE COME IN SINCE WE'VE BEEN BACK HERE, OF COURSE,
22 JUROR 58 AND JUROR 117

23 MR TINSLEY I THOUGHT YOU TOLD THEM
24 TO SPEAK NOW OR FOREVER HOLD YOUR PEACE IN THERE

25 THE COURT I KNOW THESE JUST

1 SHOWED UP

2 MR TINSLEY OH WELL, JUDGE, I'D
3 STILL LIKE TO TAKE A LITTLE BATHROOM BREAK IF YOU
4 COULD WE'VE BEEN IN HERE FOR -- A LITTLE FRESH AIR
5 IS GREAT, TOO

6 THE COURT ALL RIGHT WE'LL TAKE
7 FIVE MINUTES, BUT THEN WE NEED TO GO TALK TO THIS
8 JURY

9 CLERK JUDGE, I GOT TWO ADDITIONS TO
10 OUR WITNESS LIST RIGHT HERE

11 THE COURT YOU GOT YOUR LIST THERE?

12 THE COURT THIS LIST?

13 (OFF THE RECORD FOR A BREAK)

14 THE COURT OUT OF YOUR PRESENCE, I
15 DO HAVE A COUPLE OF OTHER MATTERS I'M GOING TO HAVE
16 TO ADDRESS BEFORE WE CAN BEGIN WITH THE COLLECTIVE
17 VOIR DIRE OF THE JURY PANEL, AND THEN WE WILL BE
18 EXCUSING YOU FOR THE EVENING AND WILL START BACK IN
19 THE MORNING SO IF YOU'LL JUST GIVE US ABOUT FIVE
20 MINUTES, WE'LL NEED TO TAKE A SHORT FIVE MINUTE
21 BREAK SO THAT WE CAN GET SOME OTHER INFORMATION THAT
22 WILL BE NECESSARY TO DISCUSS WITH YOU ONCE WE DO
23 THAT, WE WILL COME BACK TO PROCEED WITH THAT
24 COLLECTIVE VOIR DIRE THANK YOU AGAIN FOR YOUR
25 PATIENCE ALL RIGHT 151 AND 155, I NEED TO SEE

1 THOSE TWO JURORS WHICH JUROR ARE YOU?
2 JUROR 155, DORIS BEAUFORT
3 THE COURT 155?
4 JUROR YES, SIR
5 THE COURT OKAY, AND YOU'VE SIGNED
6 AN AFFIDAVIT?
7 JUROR YES, SIR
8 THE COURT YOU HAVE CHILDREN LESS
9 THAN SEVEN?
10 JUROR SEVEN AND FOUR
11 THE COURT OKAY, AND YOU DON'T HAVE
12 A METHOD OR MEANS FOR THEM TO BE CARED FOR?
13 JUROR DURING THE DAY I CAN, BUT NOT
14 AT NIGHT
15 THE COURT OKAY IT WOULD REQUIRE
16 SEQUESTRATION SO YOU COULD NOT DO THAT?
17 JUROR NO, SIR
18 THE COURT OKAY OKAY THEN YOU
19 ARE EXCUSED
20 JUROR OKAY
21 THE COURT WE APPRECIATE YOUR COMING
22 DOWN
23 JUROR THANK YOU
24 THE COURT THANK YOU
25 CLERK I NEED TO CHECK ON THAT

1 THE COURT THAT'S 155, MS
2 PATTERSON?

3 CLERK NO THAT'S NOT RIGHT
4 THE COURT EXCUSE ME JUST A MINUTE,
5 PLEASE LET ME SEE YOU JUST A MINUTE WE'VE GOT
6 THE WRONG NUMBER HERE

7 CLERK SHE'S RIGHT NUMBER 151 IS
8 HER

9 JUROR OH, OKAY

10 THE COURT NUMBER 151

11 CLERK DORIS BEAUFORT RIGHT
12 SHE'S RIGHT

13 THE COURT DORIS OWENS? DORIS
14 OWENS?

15 JUROR YEAH, BEAUFORT

16 THE COURT OKAY THANK YOU YOU
17 CAN BE EXCUSED

18 JUROR OKAY

19 THE COURT JUROR 155, MS PATTERSON
20 155, MS PATTERSON WE'VE GOT TWO THAT CAME AFTER
21 ROLL CALL

22 CLERK THIS IS A HIGH SCHOOL
23 PRINCIPAL THAT CANNOT STAY

24 THE COURT LET ME ASK IF ALL THOSE POTENTIAL

25 JURORS, I BELIEVE WE CAN ALL FIT IN ONE SECTION SO

1 LET ME ASK -- THERE'S A SMALLER GROUP HERE LET ME
2 JUST SIMPLY ASK Y'ALL TO MOVE OVER, AND THOSE OVER
3 HERE PLEASE JUST MOVE DOWN SO THEY CAN MOVE IN
4 EASILY ALL RIGHT NOW, I HAVE TWO JURORS THAT
5 HAVE COME IN AFTER THE ROLL CALL WAS ACCOMPLISHED,
6 THOSE BEING JUROR NUMBER 58 WHERE IS JUROR NUMBER
7 58? NANCY MURPHY?

8 JUROR HERE I AM
9 THE COURT MS MURPHY? OKAY, AND
10 JUROR NUMBER 117, MR LOMAX? MR LOMAX? ALL RIGHT
11 I NEED TO ASK EACH OF YOU SOME QUESTIONS THAT WERE
12 ASKED OF ALL THE OTHER JURORS SINCE YOU WERE NOT
13 PRESENT THOSE QUESTIONS ARE ARE EACH OF YOU NOW
14 CITIZENS AND RESIDENTS OF THE UNITED STATES AND
15 ABBEVILLE COUNTY?

16 JURORS YES, SIR

17 THE COURT ARE EACH OF YOU ABLE TO
18 READ, WRITE, UNDERSTAND, AND SPEAK THE ENGLISH
19 LANGUAGE?

20 JURORS YES, SIR

21 THE COURT DO EITHER OF YOU HAVE
22 LESS THAN A SIXTH GRADE EDUCATION OR ITS EQUIVALENT?
23 DO BOTH OF YOU HAVE AT LEAST A SIXTH GRADE EDUCATION
24 OR ITS EQUIVALENT?

25 JURORS YES

1 THE COURT DO EITHER OF YOU SUFFER
2 FROM ANY MENTAL OR PHYSICAL INFIRMITY WHICH PREVENTS
3 YOU FROM BEING ABLE TO SERVE AS A JUROR THIS WEEK?

4 JUROR NO

5 THE COURT IS THE ANSWER NO FROM
6 BOTH?

7 JURORS YES

8 THE COURT HAVE EITHER OF YOU BEEN
9 CONVICTED OF A CRIMINAL OFFENSE THAT CARRIES A
10 PUNISHMENT OF MORE THAN ONE YEAR?

11 JURORS NO

12 THE COURT ARE EITHER OF YOU A CLERK
13 OR DEPUTY CLERK OF COURT, A STATE CONSTABLE, A
14 SHERIFF, DEPUTY SHERIFF, PROBATE JUDGE, COUNTY
15 COMMISSIONER, ANY OTHER COUNTY OFFICER, MAGISTRATE,
16 OR ANY PERSON EMPLOYED WITHIN THE WALLS OF THE
17 COURTHOUSE?

18 JURORS NO

19 THE COURT HAVE EITHER OF YOU SERVED
20 AS A JUROR HERE IN THE CIRCUIT COURT DURING ONE OF
21 THE LAST THREE CALENDAR YEARS?

22 JURORS NO

23 THE COURT ARE EITHER OF YOU SIXTY-
24 FIVE YEARS OF AGE OR OLDER?

25 JURORS NO

1 THE COURT DO EITHER OF YOU HAVE THE
2 RESPONSIBILITY OF CARING FOR A CHILD OR CHILDREN
3 LESS THAN SEVEN, AND YOU HAVE NO OTHER MEANS FOR THE
4 CHILD TO BE CARED FOR OTHER BY YOU BEING PRESENT?

5 JURORS NO

6 THE COURT ARE EITHER OF YOU A FULL-
7 TIME STUDENT?

8 JURORS NO

9 THE COURT DO EITHER OF YOU HAVE
10 SOME REASON WHY YOU SHOULD NOT SERVE AS A JUROR IN
11 THE TRIAL OF THIS CASE BASED UPON SOME UNREASONABLE
12 HARDSHIP?

13 JURORS NO

14 THE COURT OKAY THANK YOU EACH
15 OF YOU MAY BE SEATED

16 ALL RIGHT, LADIES AND GENTLEMEN, AS I
17 INDICATED TO YOU WE HAVE ADDITIONAL QUESTIONS TO BE
18 ASKED OF THE JURY PANEL THESE QUESTIONS WILL BE
19 ASKED OF YOU AS A WHOLE ONCE THAT HAS BEEN
20 CONCLUDED, THE PANEL WILL BE BROKEN DOWN INTO
21 SMALLER GROUPS WHEREIN WE WILL CONDUCT WHAT'S CALLED
22 INDIVIDUAL VOIR DIRE THAT SIMPLY MEANS THAT YOU
23 WILL BE QUESTIONED INDIVIDUALLY ABOUT PARTICULAR
24 CIRCUMSTANCES THAT RELATE TO THIS CASE OR SOME VIEWS
25 OR OPINIONS THAT YOU MIGHT HAVE THAT WILL NOT BE

1 ACCOMPLISHED TONIGHT ONCE I CONCLUDE WITH THIS
2 COLLECTIVE VOIR DIRE, THEN WE ARE GOING TO EXCUSE
3 YOU UNTIL IN THE MORNING BEFORE YOU LEAVE, WE WILL
4 GIVE YOU THOSE PANELS AS THEY WILL BE DRAWN, AND YOU
5 WILL BE GIVEN A SPECIFIC HOUR AT WHICH TIME YOU WILL
6 BE ASKED TO REPORT AND WE WILL HAVE APPROXIMATELY
7 THREE PER HOUR IN ORDER TO ACCOMPLISH THAT
8 INDIVIDUAL QUESTIONING THAT WAY ALL OF YOU WILL
9 NOT BE PRESENT UNLESS YOU'RE ABSOLUTELY NEEDED FOR
10 THE PURPOSE OF THAT INDIVIDUAL VOIR DIRE

11 FIRST OF ALL, LET ME BE CERTAIN
12 AGAIN HAS EVERY JUROR RECEIVED MY LETTER AND THE
13 QUESTIONNAIRE THAT WAS IN YOUR JUROR SUMMONS PACKET?
14 IF ANYONE DID NOT RECEIVE THE LETTER OR
15 QUESTIONNAIRE, LET ME ASK YOU TO PLEASE RAISE YOUR
16 HAND

17 (NO RESPONSE)

18 LET THE RECORD REFLECT THAT THE
19 JURORS HAVE RESPONDED NEGATIVELY IS THERE ANY
20 JUROR WHO HAS NOT COMPLETED THE QUESTIONNAIRE AND
21 TURNED IT IN TO THE CLERK'S OFFICE? ANYONE NOT
22 COMPLETED THE QUESTIONNAIRE AND RETURNED IT TO THE
23 CLERK?

24 (NO RESPONSE)

25 REMEMBER THAT THESE QUESTIONS THAT

1 YOU'VE PREVIOUSLY BEEN PLACED UNDER OATH, AND SO
2 EACH OF THE QUESTIONS THAT YOU WILL BE RESPONDING TO
3 WILL BE UNDER OATH, THAT IS, IT WILL BE SWORN
4 TESTIMONY IS THERE ANY MEMBER OF THE JURY PANEL
5 WHO NEEDS TO ALTER, CHANGE OR AMEND ANY INFORMATION
6 CONTAINED IN YOUR JUROR QUESTIONNAIRE?

7 (NO RESPONSE)

8 LET THE RECORD REFLECT THAT THE
9 JURORS HAVE ANSWERED NEGATIVELY IS ALL OF THE
10 INFORMATION CONTAINED IN YOUR JUROR QUESTIONNAIRE
11 TRUE, CORRECT AND ACCURATE? IF NOT, PLEASE STAND
12 (NO RESPONSE)

13 LET THE RECORD REFLECT NO JUROR HAS
14 STOOD

15 NOW, AS YOU ARE AWARE, YOU HAVE BEEN
16 SUMMONED TO POTENTIALLY SERVE AS A JUROR IN THE
17 TRIAL OF A CRIMINAL CASE THAT CRIMINAL CASE IS
18 CALLED THE STATE OF SOUTH CAROLINA VERSUS THE
19 DEFENDANT BEING JOHN KENNEDY HUGHEY MR HUGHEY IS
20 HERE BY VIRTUE OF AN INDICTMENT IN THAT INDICTMENT
21 MR HUGHEY HAS BEEN CHARGED, THAT IS, HE HAS BEEN
22 ACCUSED WITH HAVING COMMITTED FOUR SEPARATE AND
23 DISTINCT OFFENSES, ALTHOUGH THEY ARE ALLEGED TO HAVE
24 ARISEN OUT OF ONE PARTICULAR CIRCUMSTANCE OR SERIES
25 OF CIRCUMSTANCES

1 IN THE INDICTMENT, THE DEFENDANT HAS
2 BEEN CHARGED IN COUNT ONE OF THAT INDICTMENT WITH
3 THE OFFENSE OF MURDER HE'S ALSO CHARGED IN COUNT
4 TWO OF THAT INDICTMENT WITH THE OFFENSE OF MURDER
5 HE IS CHARGED IN COUNT THREE OF THAT INDICTMENT WITH
6 THE OFFENSE OF BURGLARY HE IS CHARGED IN COUNT
7 FOUR OF THAT INDICTMENT WITH THE OFFENSE OF GRAND
8 LARCENY THE STATE ALLEGES, BY WAY OF THIS
9 INDICTMENT, THAT MR HUGHEY DID ON OR ABOUT DECEMBER
10 THE 4TH OF 1995, WITH MALICE AFORETHOUGHT, KILL ONE
11 TESHEKA LANYRA JACKSON BY SHOOTING TESHEKA LANYRA
12 JACKSON, AND THE INDICTMENT FURTHER ALLEGES THAT SHE
13 DID DIE AS A PROXIMATE RESULT OF THAT GUNSHOT WOUND
14 ON OR ABOUT DECEMBER THE 4TH OF 1995

15 COUNT TWO OF THE INDICTMENT ALLEGES
16 THAT JOHN KENNEDY HUGHEY DID, ON DECEMBER THE 4TH OF
17 1995, WITH MALICE AFORETHOUGHT, KILL ONE LUEVINIA H
18 HARRIS BY MEANS OF SHOOTING HER WITH A FIREARM AND
19 THAT MS HARRIS DID DIE AS A PROXIMATE RESULT OF
20 THAT GUNSHOT WOUND

21 MR HUGHEY, IN COUNT THREE OF THE
22 INDICTMENT, IS CHARGED WITH UNLAWFULLY ENTERING A
23 DWELLING WITHOUT THE CONSENT OF THE OWNER OR PERSON
24 IN POSSESSION AND WITH THE INTENT TO COMMIT A CRIME
25 THEREIN AND DID EITHER, WHEN AFFECTING THE ENTRY OR

1 WHILE IN THE DWELLING OR IMMEDIATE FLIGHT THEREFROM,
2 DID BECOME ARMED WITH A DEADLY WEAPON OR DID CAUSE
3 PHYSICAL INJURY TO A PERSON WHO WAS NOT A
4 PARTICIPANT IN THE OFFENSE, AND THEY FURTHER ALLEGE
5 THAT THE DWELLING WAS ONE BEING OCCUPIED BY TESHEKA
6 LANYRA JACKSON AND LUEVINIA H HARRIS, THAT ALLEGING
7 THE OFFENSE OF BURGLARY

8 COUNT FOUR OF THE INDICTMENT ALLEGES
9 THAT ON OR ABOUT DECEMBER THE 4TH OF 1994 JOHN
10 KENNEDY HUGHEY DID TAKE, STEAL AND CARRY AWAY THE
11 PERSONAL PROPERTY OF TESHEKA LANYRA JACKSON, BEING A
12 1995 MITSUBISHI AUTOMOBILE AND THAT HE TOOK THAT
13 AUTOMOBILE WITH THE INTENTION OF PERMANENTLY
14 DEPRIVING THE OWNER PERMANENTLY OF POSSESSION OF
15 THAT PROPERTY, THE PROPERTY ALLEGED TO BE VALUED AT
16 GREATER THAN ONE THOUSAND DOLLARS ALLEGING THE
17 OFFENSE OF GRAND LARCENY

18 NOW, THE INDICTMENT ITSELF IS SIMPLY
19 THE MEANS BY WHICH A PERSON IS FORMALLY ACCUSED OF A
20 CRIMINAL OFFENSE AND THEN IS BROUGHT INTO THIS
21 COURTROOM, THAT IS, THE CIRCUIT COURT, FOR THE
22 PURPOSE OF STANDING TRIAL AS TO THOSE PARTICULAR
23 CHARGES THE INDICTMENT ALSO SERVES TO PUT A PERSON
24 CHARGED WITH A CRIME ON NOTICE AS TO WHAT THE STATE
25 IS ALLEGING THAT THEY HAVE DONE BY WAY OF THE

1 COMMISSION OF A CRIMINAL OFFENSE

2 NOW, AS TO EACH OF THE CHARGES
3 CONTAINED IN EACH OF THOSE COUNTS OF THIS
4 INDICTMENT, THE DEFENDANT HAS ENTERED A PLEA OF NOT
5 GUILTY THAT PLEA OF NOT GUILTY PLACES UPON THE
6 STATE THE BURDEN OF PROVING ALL OF THE ALLEGATIONS
7 SET FORTH IN THE INDICTMENT, THE BURDEN OF PROVING
8 ALL OF THE ESSENTIAL ELEMENTS OF EACH OF THOSE
9 CRIMINAL OFFENSES THAT ARE SET FORTH IN THAT
10 INDICTMENT, AND THEREFORE, THE BURDEN IS UPON THE
11 STATE TO ESTABLISH THE GUILT OF THE DEFENDANT TO THE
12 SATISFACTION OF A JURY BEYOND A REASONABLE DOUBT
13 AND THEREFORE IT WILL BE NECESSARY THAT WE SELECT A
14 NUMBER OF YOU TO PARTICIPATE IN THE TRIAL OF THIS
15 CASE, AND YOU WILL BE CALLED UPON BY THAT
16 PARTICIPATION TO CONSIDER CAREFULLY ALL TESTIMONY
17 AND OTHER EVIDENCE RECEIVED DURING THE COURSE OF
18 THIS TRIAL

19 AND BASED UPON YOUR CONSIDERATION OF
20 THAT EVIDENCE, YOU WILL DECIDE WHAT YOU BELIEVE THE
21 TRUE FACTS TO BE YOU WILL APPLY THE LAW TO THE
22 FACTS AS YOU DETERMINE THOSE FACTS TO BE, AND YOU
23 WILL DECIDE WHETHER OR NOT THE DEFENDANT HAS BEEN
24 PROVEN TO BE GUILTY OF THE CRIMES SET FORTH IN THE
25 INDICTMENT

1 IN THIS PARTICULAR CASE, AS YOU MAY
2 BE AWARE, THE DEFENDANT IS CHARGED WITH TWO COUNTS
3 OF MURDER THE STATE IS FURTHER ALLEGING THAT THERE
4 ARE CERTAIN AGGRAVATING CIRCUMSTANCES THAT
5 ACCOMMODATED EACH OF THOSE COUNTS OF MURDER WHERE
6 THE STATE ALLEGES MURDER ACCOMPANIED BY SOME
7 CIRCUMSTANCE OF AGGRAVATION, THE STATE MAY SEEK THE
8 DEATH PENALTY IN THAT CASE IF MURDER IS PROVEN,
9 AND IF ONE OR MORE STATUTORY AGGRAVATING
10 CIRCUMSTANCES HAVE BEEN PROVEN, THE STATE CAN SEEK
11 THE DEATH PENALTY IN THAT CASE

12 THIS IS A TRIAL THAT IS ACCOMPLISHED
13 IN A BIFURCATED PROCESS IT SIMPLY MEANS THAT IT
14 OCCURS IN TWO STAGES THE FIRST STAGE WOULD BE ONE
15 WHERE EVIDENCE WOULD BE PRESENTED BY THE STATE
16 REGARDING -- OR THEIR ATTEMPT TO PROVE THAT THE
17 DEFENDANT IS GUILTY OF THE CRIMES SET FORTH IN THE
18 INDICTMENT IF THE STATE SATISFIES A JURY BEYOND A
19 REASONABLE DOUBT THAT THE DEFENDANT IS GUILTY OF
20 MURDER, AND IF THERE IS SOME STATUTORY AGGRAVATING
21 CIRCUMSTANCE OR CIRCUMSTANCES, THEN THEY MAY ALSO
22 SEEK, AS I HAVE INDICATED, THE DEATH PENALTY IN THAT
23 CASE THAT BEING THE CASE, IF A PERSON HAS BEEN
24 FOUND GUILTY AND AN AGGRAVATING CIRCUMSTANCE OR
25 CIRCUMSTANCES HAS BEEN FOUND, THEN THE JURY WOULD

1 ALSO, THAT SAME JURY, WOULD ALSO MAKE THE DECISION
2 AS TO WHAT THE APPROPRIATE SENTENCE OR PUNISHMENT
3 SHOULD BE, WHETHER IT BE ONE OF LIFE IMPRISONMENT OR
4 WHETHER IT BE ONE OF THE IMPOSITION OF THE DEATH
5 PENALTY

6 SO A JURY SELECTED FOR PARTICIPATION
7 IN THE TRIAL OF THIS CASE WILL BE DETERMINING BOTH
8 GUILT, AND IF THE JURY FINDS THE DEFENDANT TO BE
9 GUILTY WITH THOSE AGGRAVATING CIRCUMSTANCES, THEN
10 THE JURY WILL ALSO DETERMINE THE APPROPRIATE
11 PUNISHMENT IN A SEPARATE PROCEEDING WHICH WILL
12 FOLLOW THE INITIAL GUILT PHASE OF THE TRIAL

13 NOW, WE WILL BE SELECTING FIFTEEN OF
14 YOU TO PARTICIPATE IN THE TRIAL OF THIS CASE
15 TWELVE JURORS WILL BE SELECTED FOR THE PURPOSE OF
16 RENDERING A DECISION THERE WILL BE THERE ALTERNATE
17 JURORS SELECTED TO PARTICIPATE DURING THE COURSE OF
18 THE TRIAL, BUT THOSE TWELVE JURORS WILL NOT ACTUALLY
19 PARTICIPATE IN ANY DECISION UNLESS ONE OF THE
20 ORIGINAL TWELVE JURORS CANNOT PARTICIPATE FOR SOME
21 REASON OR CANNOT CONTINUE TO PARTICIPATE DURING THE
22 COURSE OF THE TRIAL AS JURORS SELECTED FOR THAT
23 PURPOSE, A PANEL MUST BE CAPABLE OF LISTENING TO
24 TESTIMONY, CONSIDERING EVIDENCE WITH AN OPEN MIND IN
25 ORDER TO DETERMINE FACTS, AND THEN CALLED UPON TO

1 APPLY THE LAW AS THE COURT WILL INSTRUCT YOU AT THE
2 CONCLUSION OF THE TRIAL IN ORDER TO RENDER A FAIR
3 DECISION IN THE CASE A VERDICT IN THE CASE OR A
4 DECISION BY A JURY IS ONE THAT MUST BE BASED UPON
5 THE EVIDENCE RECEIVED DURING THE COURSE OF THE TRIAL
6 AND THE LAW THAT IS APPLICABLE TO THAT EVIDENCE, AND
7 A JURY IS NOT TO BE INFLUENCED BY ANY EXTRANEOUS OR
8 OUTSIDE CONSIDERATION THEREFORE, WE DO HAVE SOME
9 QUESTIONS THAT WE WILL BE ASKING YOU AS I INDICATED
10 COLLECTIVELY, AND THE PURPOSE OF ASKING THESE
11 QUESTIONS IS TO SIMPLY FIND OUT IF THERE IS SOME
12 BIAS OR INTEREST OR REASON WHY ANY ONE OF YOU JURORS
13 SHOULD NOT BE SELECTED TO SERVE IN THE TRIAL OF THIS
14 PARTICULAR CASE

15 AS THESE QUESTIONS ARE ASKED OF YOU, I
16 WOULD ASK THAT YOU SIMPLY PLEASE STAND IN RESPONSE
17 AND RESPOND TO THAT QUESTION THAT HAS BEEN ASKED
18 ONCE WE CONCLUDE THIS COLLECTIVE VOIR DIRE OR
19 QUESTIONING PROCESS, WE WILL THEN, AS I HAVE
20 INDICATED, RECESS, AND WE WILL BEGIN WITH INDIVIDUAL
21 QUESTIONING IN THE MORNING OF THOSE JURORS

22 NOW, THE FIRST QUESTION IS SIMPLY, AS
23 I HAVE TOLD YOU, THE PERSON WHO IS CHARGED WITH
24 HAVING COMMITTED THE OFFENSES AS SET FORTH IN THE
25 INDICTMENT IS JOHN KENNEDY HUGHEY MR HUGHEY, I

1 WOULD ASK THAT YOU PLEASE STAND, FACE THE JURY PANEL
2 SO THAT THEY MAY SEE WHO YOU ARE
3 (DEFENDANT DOES AS REQUESTED)

4 THE COURT THANK YOU YOU MAY BE
5 SEATED IS THERE ANY MEMBER OF THE JURY PANEL WHO
6 IS RELATED BY BLOOD OR WHO IS CONNECTED BY MARRIAGE
7 TO THE DEFENDANT, JOHN KENNEDY HUGHEY, OR TO ANY
8 MEMBER OF HIS FAMILY, OR DO YOU HAVE ANY CLOSE,
9 PERSONAL OR SOCIAL RELATIONSHIP WITH MR HUGHEY OR
10 WITH ANY MEMBER OF HIS FAMILY? IF SO, I WOULD ASK
11 THAT YOU PLEASE STAND
12 (JUROR STANDS AS REQUESTED)

13 ALL RIGHT, YOUR NAME, PLEASE SIR?

14 JUROR FREDDIE HUGHEY

15 THE COURT FREDDIE HUGHEY?

16 JUROR HUGHEY, 104

17 THE COURT NUMBER 104 ALL RIGHT,
18 MR HUGHEY WHAT IS YOUR CONNECTION WITH THE
19 DEFENDANT OR SOME MEMBER OF HIS FAMILY?

20 JUROR COUSIN

21 THE COURT YOU'RE HIS COUSIN? DO
22 YOU KNOW IN WHAT DEGREE THAT YOU ARE?

23 JUROR BY MARRIAGE

24 THE COURT DO YOU KNOW IF IT'S FIRST
25 DEGREE, SECOND DEGREE OR THIRD DEGREE OR MORE REMOTE

1 THAN THAT?

2 JUROR I'M SECOND

3 THE COURT SECOND COUSIN? WOULD THE
4 FACT THAT YOU ARE A SECOND COUSIN TO MR HUGHEY,
5 WOULD IT INTERFERE IN ANY WAY WITH YOUR ABILITY TO
6 BE FAIR AND IMPARTIAL IF YOU WERE SELECTED AS A
7 JUROR IN THE TRIAL OF THIS CASE?

8 JUROR YES, SIR

9 THE COURT DO YOU BELIEVE THAT IT
10 MIGHT?

11 JUROR YES, SIR

12 THE COURT IT WOULD IMPAIR YOUR
13 ABILITY TO BE FAIR?

14 JUROR YES, SIR

15 THE COURT ALL RIGHT, MR HUGHEY
16 WE'RE GOING TO EXCUSE YOU FROM SERVICE IN THE TRIAL
17 OF THIS CASE IT WILL NOT BE NECESSARY THAT YOU
18 REPORT FURTHER OKAY? THAT'S JUROR NUMBER 104
19 ALL RIGHT AND YOUR NAME, PLEASE MA'AM

20 JUROR CAROLYN BURTON

21 THE COURT DO YOU RECALL YOUR
22 NUMBER?

23 JUROR 31

24 THE COURT 31? ALL RIGHT, MS
25 BURTON HOW DOES THAT QUESTION RELATE TO YOU?

1 JUROR MR HUGHEY'S SISTER, RUTH
2 WHITE SHE LIVES WITH MY BROTHER-IN-LAW

3 THE COURT MR HUGHEY'S SISTER LIVES
4 WITH YOUR BROTHER-IN-LAW?

5 JUROR YES

6 THE COURT AND WOULD THAT CONNECTION
7 OR THAT RELATIONSHIP INTERFERE IN ANY WAY WITH YOUR
8 ABILITY TO BE FAIR AND IMPARTIAL IF YOU WERE
9 SELECTED AS A JUROR IN THIS CASE?

10 JUROR I THINK IT WOULD
11 THE COURT YOU BELIEVE THAT IT
12 WOULD?

13 JUROR UH-HUH (AFFIRMATIVE)

14 THE COURT MA'AM?

15 JUROR YES

16 THE COURT ALL RIGHT, MS BURTON
17 WE WILL EXCUSE YOU FROM SERVICE IN THE TRIAL OF THIS
18 CASE YOU MAY BE EXCUSED IT WILL NOT BE NECESSARY
19 THAT YOU RETURN ANY OTHER JUROR RELATED BY BLOOD,
20 CONNECTED BY MARRIAGE, OR HAVING ANY CLOSE PERSONAL
21 OR SOCIAL RELATIONSHIP WITH THE DEFENDANT OR ANY
22 MEMBER OF HIS FAMILY? IF SO, PLEASE STAND IN THIS
23 CASE, THE DEFENDANT IS BEING REPRESENTED BY ROBERT
24 TINSLEY, BILLY GARRETT, AND ED McCALLUM IS THERE
25 ANY MEMBER OF THE JURY PANEL WHO HAS ANY PERSONAL,

1 SOCIAL OR PROFESSIONAL RELATIONSHIP WITH ANY OF
2 THOSE LAWYERS? IF SO, PLEASE STAND
3 (JUROR STANDS AS REQUESTED)

4 YOUR NAME, PLEASE MA'AM?

5 JUROR DIANNE DOTSON, 58

6 THE COURT NUMBER 58, MS DOTSON?

7 AND WITH WHICH ONE OF THOSE LAWYERS DO YOU HAVE SUCH
8 A RELATIONSHIP?

9 JUROR BILLY GARRETT

10 THE COURT MR GARRETT? AND IS HE
11 PRESENTLY REPRESENTING YOU OR ASSISTING YOU IN ANY
12 LEGAL MATTER?

13 JUROR HE'S MY HUSBAND'S LAWYER

14 THE COURT OKAY WOULD THAT FACT
15 AND THAT RELATIONSHIP INTERFERE IN ANY WAY WITH YOUR
16 ABILITY TO BE FAIR AND IMPARTIAL IF YOU WERE
17 SELECTED AS A JUROR IN THIS CASE?

18 JUROR I THINK SO

19 THE COURT WOULD IT PREVENT YOU FROM
20 BEING ABLE TO GIVE THE DEFENDANT OR THE STATE A FAIR
21 TRIAL?

22 JUROR YES, SIR

23 THE COURT IT WOULD?

24 JUROR YES

25 THE COURT ALL RIGHT, MS DOTSON

1 I'M GOING TO MAKE NOTE OF THAT FACT I'M GOING TO
2 ASK YOU, THOUGH, TO PLEASE REMAIN WITH US AND DON'T
3 BE EXCUSED QUITE YET

4 JUROR ALL RIGHT

5 THE COURT ALL RIGHT, LADIES AND
6 GENTLEMEN, AS I INDICATED TO YOU IN THIS CASE, THE
7 DEFENDANT IS CHARGED WITH THE KILLING OF TESHEKA
8 LANYRA JACKSON AND WITH LUEVINIA H HARRIS I WOULD
9 ASK IF ANY MEMBER OF THE JURY PANEL IS RELATED BY
10 BLOOD OR CONNECTED BY MARRIAGE OR HAD ANY CLOSE,
11 PERSONAL OR SOCIAL RELATIONSHIP WITH EITHER OF THOSE
12 TWO INDIVIDUALS, TESHEKA LANYRA JACKSON OR LUEVINIA
13 H HARRIS, OR ANY MEMBER OF THEIR PROSPECTIVE
14 FAMILIES? IF SO, PLEASE STAND
15 (JURORS STAND)

16 ALL RIGHT NOW, LET ME SIMPLY START
17 ON THE FRONT ROW, AND IF YOU'LL GIVE ME YOUR NAME
18 AND YOUR JUROR NUMBER, IF YOU RECALL IT, AND THEN
19 TELL ME WHAT CONNECTION THAT YOU HAVE YES, SIR?

20 JUROR MY NAME IS JOE OGLESBY, JUROR
21 NUMBER 150

22 THE COURT AND HOW DOES THAT
23 QUESTION RELATE TO YOU?

24 JUROR I'VE KNOWN THE HARRIS FAMILY
25 BASICALLY ALL MY LIFE MR HARRIS AND I LIVED IN

1 THE SAME NEIGHBORHOOD I USED TO VISIT HIM A LOT
2 I USED TO PLAY WITH HIS SON'S STUFF A LOT

3 THE COURT OKAY WOULD THAT --
4 WOULD THE FACT OF THAT RELATIONSHIP AND THOSE
5 EXPERIENCES, WOULD IT INTERFERE IN ANY WAY WITH YOUR
6 ABILITY TO BE FAIR IF YOU WERE SELECTED AS A JUROR?

7 JUROR I DON'T REMEMBER I DON'T
8 KNOW

9 THE COURT WELL, DO YOU BELIEVE THAT
10 THERE IS A SUBSTANTIAL LIKELIHOOD THAT IT WOULD OR
11 THAT IT WOULD NOT?

12 JUROR MORE POSSIBLE, YES, SIR

13 THE COURT WELL, DO YOU BELIEVE THAT
14 IT WOULD?

15 JUROR YES, SIR

16 THE COURT ALL RIGHT JUROR NUMBER
17 150, YOU ARE TO BE EXCUSED

18 JUROR THANK YOU, SIR

19 THE COURT YES, MA'AM, FRONT ROW

20 JUROR I'M SORRY I'M A NURSE, AND
21 I'VE BEEN HERE FOR THIRTY -- EXCISE ME -- TWENTY-SIX
22 YEARS, AND I HAVE KNOWN THE FAMILY DURING THAT TIME

23 THE COURT ALL RIGHT AND WOULD THE
24 FACT THAT YOU KNOW -- AND WHICH FAMILY WOULD YOU BE
25 REFERRING TO?

1 JUROR BOTH OF THEM

2 THE COURT WHEN YOU SAY BOTH, ARE

3 YOU REFERRING TO BOTH THE --

4 JUROR THE STATE AND ---

5 THE COURT -- DEFENDANT AND MS

6 JACKSON AND MS HARRIS' FAMILY?

7 JUROR YES, SIR

8 THE COURT OKAY, AND WOULD THAT FACT

9 INTERFERE IN ANY WAY WITH YOUR ABILITY TO BE FAIR

10 AND IMPARTIAL IF YOU WERE SELECTED AS A JUROR?

11 JUROR NO

12 THE COURT ALL RIGHT YOUR NAME,

13 PLEASE?

14 JUROR ALDENE LANGLEY, 116

15 THE COURT 116? OKAY THANK YOU,

16 MA'AM YOU MAY BE SEATED ALL RIGHT YES, MA'AM

17 JUROR SOPHIA BATTLE, NUMBER 10

18 THE COURT NUMBER 10? ALL RIGHT,

19 MS BATTLE HOW DOES THAT QUESTION RELATE TO YOU?

20 JUROR I'VE KNOWN THEM FOR A LONG

21 TIME WE WORKED IN NATIONAL GUARD TOGETHER

22 THE COURT ALL RIGHT WOULD THAT

23 RELATIONSHIP INTERFERE IN ANY WAY WITH YOUR ABILITY

24 TO BE FAIR AND IMPARTIAL IF YOU WERE SELECTED AS A

25 JUROR?

1 JUROR NO, SIR

2 THE COURT ALL RIGHT THANK YOU,
3 MA'AM YOU MAY BE SEATED YES, MA'AM MS DOTSON?

4 JUROR OKAY I WORK WITH TWO OF THE
5 DECEDENTS' UNCLES

6 THE COURT ALL RIGHT YOU WORK WITH
7 TWO UNCLES OF MS JACKSON AND MS HARRIS?

8 JUROR YES

9 THE COURT OKAY ALL RIGHT THANK
10 YOU, MA'AM YOU MAY BE SEATED ALL RIGHT YES,
11 SIR?

12 JUROR YES, SIR MY NAME IS RORRY
13 DRAFT, AND I'M NUMBER 59 ALL RIGHT I'M RELATED
14 TO LUEVINIA HARRIS ON HER MOTHER'S SIDE SO THAT
15 WOULD MAKE ME RELATED TO BOTH THE FAMILIES I ALSO
16 WORKED WITH LUEVINIA FOR ABOUT FIVE YEARS, AND I
17 KNOW HER FAMILY GOOD

18 THE COURT WOULD THAT FACT INTERFERE
19 IN ANY WAY WITH YOUR ABILITY TO BE FAIR AND
20 IMPARTIAL IF YOU WERE SELECTED AS A JUROR?

21 JUROR WELL, I FEEL LIKE I WOULD
22 REALLY DO WHAT'S RIGHT

23 THE COURT SO YOU COULD PUT ASIDE
24 THAT RELATIONSHIP AND BASE A VERDICT SOLELY UPON THE
25 EVIDENCE IN THE CASE?

1 JUROR IF I WAS GIVEN EVIDENCE AS
2 PROOF

3 THE COURT OKAY THANK YOU, SIR
4 YOU MAY BE SEATED YES, MA'AM?

5 JUROR MY NAME'S PEARLEANA MORTON
6 IT'S 140

7 THE COURT ALL RIGHT, MS MORTON
8 HOW DOES THAT QUESTION RELATE TO YOU?

9 JUROR LUEVINIA WAS ONE OF MY BEST
10 FRIENDS WE GREW UP TOGETHER AND ALSO, I KNOW THE
11 HUGHEY FAMILY WE ALL LIVED TOGETHER AROUND HERE
12 AND I WOULD FEEL, YOU KNOW, GUILTY ABOUT SERVING ON
13 THE JURY HERE BECAUSE OF KNOW BOTH OF THEM'S FAMILY
14 ALMOST

15 THE COURT DO YOU BELIEVE THAT
16 BECAUSE OF YOUR RELATIONSHIP WITH THE FAMILIES IT
17 WOULD INTERFERE IN YOUR ABILITY TO BE FAIR?

18 JUROR YES, SIR

19 THE COURT YOU BELIEVE THAT IT
20 WOULD?

21 JUROR YES, SIR

22 THE COURT ALL RIGHT, MS MORTON
23 WE WILL EXCUSE YOU FROM SERVICE IN THE TRIAL IN THIS
24 CASE ALL RIGHT YOUR NAME, PLEASE SIR?

25 JUROR YES WILLIAM HORTON, JUROR

1 101

2 THE COURT ALL RIGHT, MR HORTON

3 JUROR I WORKED WITH MACK HARRIS FOR
4 NINETEEN YEARS, AND MACK WORKS DIRECTLY FOR MY WIFE
5 IN THE SAME COMPANY AND I'VE HEARD A LOT OF
6 EVIDENCE ON THE CASE, AND I DON'T FEEL LIKE I COULD
7 MAKE A WISE DECISION

8 THE COURT ALL RIGHT DO YOU
9 BELIEVE THAT ANY CONNECTION THAT YOU HAVE WITH THOSE
10 PERSONS WOULD INTERFERE IN YOUR ABILITY TO BE FAIR
11 AND IMPARTIAL IF YOU WERE SELECTED IN THE CASE?

12 JUROR YES, SIR

13 THE COURT ALL RIGHT, MR HORTON,
14 YOU MAY BE EXCUSED

15 JUROR THANK YOU, SIR

16 THE COURT YES, SIR?

17 JUROR JAMES ELMORE I'M TESHEKA'S
18 UNCLE

19 THE COURT ELMORE?

20 JUROR JAMES ELMORE, 64

21 THE COURT OKAY ALL RIGHT, MR
22 ELMORE TELL ME ABOUT YOUR CONNECTION

23 JUROR I'M HER UNCLE

24 THE COURT SIR?

25 JUROR I'M HER UNCLE

1 THE COURT YOU'RE AN UNCLE?

2 JUROR I'M TESHEKA'S UNCLE

3 THE COURT YOU'RE WHOSE UNCLE?

4 JUROR TESHEKA'S

5 THE COURT TESHEKA?

6 JUROR YEAH

7 THE COURT OKAY ALL RIGHT THEN

8 WE WILL EXCUSE YOU FROM SERVICE IN THE TRIAL OF THIS
9 CASE THANK YOU, SIR YES, SIR?

10 JUROR SANFORD D GRAY, JUROR NUMBER
11 81 I WENT TO SCHOOL WITH MARCUS HARRIS OR THE
12 HARRISES I'VE KNOW THEM FOR FIFTEEN OR TWENTY
13 YEARS I WOULDN'T WANT TO

14 THE COURT WOULD THAT INTERFERE IN
15 ANY WAY WITH YOUR ABILITY TO BE FAIR AND IMPARTIAL
16 IF YOU WERE SELECTED AS A JUROR?

17 JUROR YES, SIR

18 THE COURT YOU BELIEVE THAT IT
19 WOULD?

20 JUROR YES, SIR

21 THE COURT ALL RIGHT, SIR WE WILL
22 EXCUSE YOU FROM SERVICE IN THE TRIAL OF THIS CASE
23 YES, SIR?

24 JUROR I'M ANTHONY MARTIN, 124

25 THE COURT 124? ALL RIGHT, MR

1 MARTIN HOW DOES THAT QUESTION RELATE TO YOU?

2 JUROR I'VE KNOWN THEM FOR SEVERAL
3 YEARS

4 THE COURT WOULD THAT IN ANY WAY
5 INTERFERE WITH YOUR ABILITY TO BE FAIR AND IMPARTIAL
6 IF YOU WERE SELECTED IN THE CASE?

7 JUROR YES, SIR

8 THE COURT YOU BELIEVE THAT IT
9 WOULD?

10 JUROR YES

11 THE COURT ALL RIGHT WE'LL EXCUSE
12 YOU FROM SERVICE IN THE TRIAL OF THIS CASE THEN
13 THANK YOU, SIR ANYONE ELSE? IS THERE ANY MEMBER
14 OF THE JURY PANEL WHO HAS ANY PERSONAL OR
15 PROFESSIONAL RELATIONSHIP WITH EITHER TOWNES JONES,
16 THE SOLICITOR FOR THE EIGHTH JUDICIAL CIRCUIT, OR
17 MIKE COULTER, THE DEPUTY SOLICITOR FOR THE EIGHTH
18 JUDICIAL CIRCUIT, OR DO YOU HAVE ANY RELATIONSHIP
19 WITH ANY OTHER LAWYER OR EMPLOYEE IN THE EIGHTH
20 JUDICIAL CIRCUIT SOLICITOR'S OFFICE? IF SO, PLEASE
21 STAND

22 (NO RESPONSE)

23 NOW, I HAVE A NUMBER OF POTENTIAL
24 WITNESSES THAT I'M GOING TO LIST THE FACT THAT I
25 LIST THESE WITNESSES DOES NOT NECESSARILY MEAN THAT

1 THEY WILL ALL BE CALLED, BUT THEY ARE POTENTIAL
2 WITNESSES SO WE NEED TO RECITE THIS LIST SO THAT
3 WE CAN DETERMINE WHETHER OR NOT THERE IS ANY
4 RELATIONSHIP WITH ANY POTENTIAL JUROR AND ANY OF
5 THESE POTENTIAL WITNESSES SO SHOULD YOU HAVE SUCH
6 A RELATIONSHIP, I WOULD SIMPLY ASK THAT YOU PLEASE
7 STAND SO THAT WE CAN DETERMINE WHAT THAT
8 RELATIONSHIP IS AND LET ME ASK THAT IF THE WITNESS
9 IS PRESENT TO PLEASE STAND SO THAT THE JURY MAY SEE
10 WHO YOU ARE ALL RIGHT
11 (ALL WITNESSES DO AS INSTRUCTED)

12 THE FIRST ON THE LIST IS MARCUS
13 HARRIS, CORPORAL NEAL HENDERSON, ABBEVILLE POLICE
14 DEPARTMENT, BERNICE JACKSON YOU MAY BE SEATED ONCE
15 YOU'VE STOOD SO THAT JURY CAN SEE WHO YOU ARE
16 SERGEANT ANGELA PATTERSON, ABBEVILLE POLICE
17 DEPARTMENT, MACK HARRIS, NEAL JACKSON, DOCTOR BRETT
18 WOODARD, LIEUTENANT BARRY NEW, ABBEVILLE POLICE
19 DEPARTMENT, DOCTOR MARY BETH SHEA, CORPORAL MITCH
20 CHRISTOPHER, DAVID BLACK WITH THE SOUTH CAROLINA LAW
21 ENFORCEMENT DIVISION, CHARLTON COXE, ABBEVILLE
22 POLICE DEPARTMENT, JOHN BLACK, SOUTH CAROLINA LAW
23 ENFORCEMENT DIVISION, LINDA BROOME, FIRST CITIZENS
24 BANK, MICHAEL ADAMS, JIM EMMONS, ANTHONY HARRISON,
25 JEFF STRICKLAND, HALL COUNTY SHERIFF'S DEPARTMENT,

1 DAN DeFREEZE, SOUTH CAROLINA LAW ENFORCEMENT
2 DIVISION, DALE LONG AND J N WIMPY, HALL COUNTY
3 SHERIFF'S DEPARTMENT, EDDIE REAVES, HALL COUNTY
4 SHERIFF'S DEPARTMENT, KEVIN HEAD, HALL COUNTY
5 SHERIFF'S DEPARTMENT, DEMI JONES, SOUTH CAROLINA LAW
6 ENFORCEMENT DIVISION, JOHN ORTUNO, EDDIE CLARK, AND
7 JERRY SLOAN, EACH OF SOUTH CAROLINA LAW ENFORCEMENT
8 DIVISION, CHIEF ROBIN RUCKER, ABBEVILLE POLICE
9 DEPARTMENT, NANCY SKRABA, SOUTH CAROLINA LAW
10 ENFORCEMENT DIVISION, LAURI JOHNSON, SOUTH CAROLINA
11 LAW ENFORCEMENT DIVISION, DOCTOR LINWOOD ZOLLER,
12 HALL COUNTY HOSPITAL, KEN GROGAN, HALL COUNTY
13 SHERIFF'S DEPARTMENT, DOCTOR GEOFF McKEE, WILLIAM S
14 HALL INSTITUTE, OFFICER BILLY ROBERTS, HALL COUNTY
15 SHERIFF'S DEPARTMENT, NANCY GOFF, NATIONSBANK, PENNY
16 ELLIOTT, ALCOHOL, TOBACCO AND FIREARMS DEPARTMENT,
17 SUSAN BROOKS OF DICK BROOKS MITSUBISHI, AND DOCTOR
18 KATHRYN LEWIS, WILLIAM S HALL INSTITUTE IN
19 ADDITION, DOCTOR JAMES EVANS, JEFF YOUNGMAN, DOCTOR
20 KATINA WRIGHT, PAGE TARR, DONALD C GURNT, GLORIA
21 HARRISON, TONY WILSON, CHRIS BURTON, KITTY TUCKER,
22 JAMES BOWIE, DOROTHY HUGHEY, SCOTT HARRISON, DOCTOR
23 HAL MORGAN, RUBY WHITE, NANCY RAMEY, BARBARA HUGHEY,
24 ANNIE RUTH WATT, VIRGINIA CRAWFORD, AND JUDY WHITE
25 ANY JUROR HAVE ANY TYPE OF CONNECTION OR

1 RELATIONSHIP WITH ANY OF THOSE POTENTIAL WITNESSES?
2 IF SO, PLEASE STAND
3 (JURORS STAND)
4 ALL RIGHT FIRST, IS EVERYONE
5 STANDING THAT NEEDS TO RESPOND TO THAT QUESTION?
6 OKAY YOUR NAME, PLEASE SIR?
7 JUROR LEROY MILLS
8 THE COURT MR MILLS, DO YOU RECALL
9 YOUR NUMBER?
10 JUROR 137
11 THE COURT 137?
12 JUROR UH-HUH (AFFIRMATIVE)
13 THE COURT WITH WHICH WITNESS DO YOU
14 HAVE A RELATIONSHIP?
15 JUROR ANNIE RUTH WATT
16 THE COURT ANNIE RUTH WATT?
17 JUROR YES
18 THE COURT WHAT IS THE CONNECTION?
19 JUROR SHE'S A GOOD FRIEND I'M
20 OVER AT HER HOUSE DAILY
21 THE COURT OKAY YOU MAY BE SEATED
22 YES, MA'AM?
23 JUROR NANCY MURPHY, I THINK I'M 59
24 THE COURT ALL RIGHT, MS MURPHY
25 WHICH WITNESS?

1 JUROR I THINK I TAUGHT ANTHONY IN
2 FIRST GRADE I PROBABLY MAY HAVE TAUGHT JOHN
3 HUGHEY I'M NOT SURE

4 THE COURT OKAY THANK YOU, MA'AM
5 YOU MAY BE SEATED YES, MA'AM?

6 JUROR SOPHIA BATTLE, NUMBER 10

7 THE COURT WHICH WITNESS?

8 JUROR ANTHONY

9 THE COURT OKAY THANK YOU YOU
10 MAY BE SEATED YES, SIR?

11 JUROR RORRY DRAFT, NUMBER 59

12 THE COURT ALL RIGHT

13 JUROR

14 THE COURT OKAY THANK YOU, SIR

15 YES, MA'AM?

16 JUROR BETTY GILLIAM, 77

17 THE COURT WHICH WITNESS, MS

18 GILLIAM?

19 JUROR MITCHELL CHRISTOPHER

20 THE COURT MA'AM?

21 JUROR MITCHELL CHRISTOPHER

22 THE COURT MITCHELL CHRISTOPHER?

23 JUROR DIDN'T YOU CALL THAT NAME?

24 THE COURT WELL, I MIGHT HAVE

25 MR JONES YOU DID, YOUR HONOR I

1 BELIEVE HE'S ON THE STATE'S LIST, ABBEVILLE POLICE
2 DEPARTMENT

3 THE COURT ABBEVILLE POLICE
4 DEPARTMENT? OKAY THANK YOU, MA'AM YOU MAY BE
5 SEATED YES, SIR?

6 JUROR SPENCER SORROW, JUROR 185
7 I'M A CITY COUNCILMAN WITH THE CITY OF ABBEVILLE

8 THE COURT WHAT CONNECTION DID YOU
9 HAVE

10 JUROR WELL, THE CITY POLICE
11 DEPARTMENT

12 THE COURT OKAY ALL RIGHT THANK
13 YOU, SIR YES, SIR?

14 JUROR DAVID HOBBY, JUROR 99

15 THE COURT YES, SIR WHICH WITNESS?

16 JUROR THE SOUTH CAROLINA LAW
17 ENFORCEMENT DIVISION OFFICERS

18 THE COURT ALL RIGHT, SIR THANK
19 YOU YES, SIR?

20 JUROR WILLIAM HESSON, NUMBER 95 I
21 WORK WITH THE CITY POLICE DEPARTMENT AND AT THE FIRE
22 DEPARTMENT WHICH IS NEXT DOOR TO THE BUILDING THERE

23 THE COURT OKAY THANK YOU, SIR
24 YES, MA'AM?

25 JUROR MARTHA CROCKETT I WORK WITH

1 TONY

2 THE COURT DO YOU RECALL YOUR
3 NUMBER?

4 JUROR I DON'T KNOW THE NUMBER
5 THE COURT BUT YOUR LAST NAME IS?

6 JUROR CROCKETT

7 THE COURT CROCKETT?

8 JUROR YES, SIR

9 THE COURT ALL RIGHT WHICH
10 WITNESS, PLEASE?

11 JUROR I WORK WITH TONY

12 THE COURT WITH TONY?

13 JUROR TONY

14 THE COURT YOUR NAME WAS?

15 JUROR TONY WILSON

16 THE COURT TONY WILSON? OKAY

17 THANK YOU, MA'AM ANYONE ELSE?

18 (NO RESPONSE)

19 NOW, THERE MAY HAVE BEEN SOME TYPE OF
20 MEDIA COVERAGE AT SOME POINT REGARDING THIS
21 PARTICULAR CASE, WHETHER IT BE TELEVISION, RADIO OR
22 NEWSPAPER I SIMPLY WOULD LIKE TO ASK IF THERE'S
23 ANY MEMBER OF THE JURY PANEL WHO HAS BEEN EXPOSED TO
24 ANY TYPE OF MEDIA COVERAGE OF THIS PARTICULAR CASE
25 OR ANY CIRCUMSTANCES THAT MIGHT RELATE TO IT,

1 WHETHER IT BE TELEVISION, RADIO, OR NEWSPAPER IN
2 ADDITION, HAVE YOU HEARD ANYTHING ABOUT IT FROM ANY
3 OTHER SOURCE? IF SO, I WOULD ASK THAT YOU PLEASE
4 STAND

5 (JURORS STAND AS REQUESTED)

6 ALL RIGHT IS EVERYONE STANDING THAT
7 NEEDS TO RESPOND TO THAT QUESTION? ALL RIGHT LET
8 ME START ON THE FRONT ROW, AND I'LL ASK AGAIN TO
9 PLEASE GIVE ME YOUR NAME AND NUMBER IF YOU RECALL
10 IT

11 JUROR NANCY MURPHY

12 THE COURT MS MURPHY?

13 JUROR I THINK I'M 58

14 THE COURT 58

15 JUROR AND I'VE READ THE NEWSPAPER
16 ABOUT THE PROBLEM

17 THE COURT YOU'VE READ SOMETHING IN
18 THE NEWSPAPER?

19 JUROR YES, SIR

20 THE COURT OKAY THANK YOU, MA'AM
21 YOU MAY BE SEATED YES, SIR?

22 JUROR I LIVE APPROXIMATELY TWO
23 BLOCKS FROM THE CRIME SCENE AND HAVE READ THE
24 NEWSPAPER ACCOUNTS AND I'VE TALKED TO MY DAUGHTER
25 WHO'S IN SCHOOL WITH TESHEKA

1 THE COURT ALL RIGHT ALL RIGHT
2 DO YOU RECALL YOUR NUMBER, MR FREESE?
3 JUROR 68
4 THE COURT 68?
5 JUROR YES, SIR
6 THE COURT ALL RIGHT THANK YOU,
7 SIR YOU MAY BE SEATED YES, SIR?
8 JUROR LEROY MILLS, 157
9 THE COURT ALL RIGHT, MR MILLS
10 WHAT SOURCE?
11 JUROR I'VE HEARD PEOPLE TALK ABOUT
12 THE CASE
13 THE COURT YOU'VE HEARD --
14 JUROR YES, SIR
15 THE COURT -- SOME PEOPLE TALKING
16 ABOUT THE CASE?
17 JUROR YEAH
18 THE COURT HAVE YOU READ ABOUT IT IN
19 THE NEWSPAPER?
20 JUROR YEAH
21 THE COURT HAVE YOU HEARD ABOUT IT
22 ON RADIO OR TELEVISION?
23 JUROR NO, SIR
24 THE COURT OKAY THANK YOU YOU
25 MAY BE SEATED MS DOTSON?

1 JUROR I'VE READ ABOUT IT IN THE
2 NEWSPAPER AS WELL AS SEEING IT ON TELEVISION

3 THE COURT OKAY THANK YOU, MA'AM
4 MR DRAFT?

5 JUROR YES I'VE HEARD ABOUT IT ON
6 T V , AND I HEAR IT HAPPENED

7 THE COURT THANK YOU, SIR YES,
8 SIR?

9 JUROR DANNY BROWN, 26

10 THE COURT 26?

11 JUROR 26

12 THE COURT THANK YOU

13 JUROR I'VE HEARD ABOUT IT ON T V
14 AND WE'VE TALKED IT AROUND AT WORK A LITTLE BIT

15 THE COURT THANK YOU, SIR YOU MAY
16 BE SEATED YES, SIR?

17 JUROR 38, TRACEY CARTER, NEWSPAPER
18 ACCOUNTS AS IT OCCURRED

19 THE COURT THANK YOU, SIR YES,
20 SIR?

21 JUROR NUMBER 114, RALPH KOERBER
22 OBVIOUSLY, I'VE READ IT IN THE NEWSPAPER, AND IT IS
23 MY UNDERSTANDING THAT THE DEFENDANT WORKED FOR MY
24 BROTHER AT HIS PLACE OF EMPLOYMENT AND OBVIOUSLY
25 AT THE TIME OF THE ARREST ---

1 THE COURT WELL, ALL I WANT YOU TO -
2 - I DON'T WANT YOU TO TELL ME ANYTHING ABOUT WHAT
3 YOU'VE HEARD JUST SIMPLY HAVE YOU HEARD IT FROM A
4 MEDIA SOURCE OR AN INDIVIDUAL?

5 JUROR BOTH

6 THE COURT OKAY THANK YOU ALL
7 RIGHT YES, MA'AM?

8 JUROR LINDA McCALL, 127, AND I
9 HEARD IT ON THE TELEVISION AND IN THE NEWSPAPER

10 THE COURT THANK YOU, MA'AM YOU
11 MAY BE SEATED YES, MA'AM?

12 JUROR JUROR NUMBER 149, GINA
13 NORRIS, AND I'VE HEARD OF THE CIRCUMSTANCES FROM
14 INDIVIDUALS, NOT THE MEDIA

15 THE COURT IN THE ---

16 JUROR FROM INDIVIDUALS

17 THE COURT FROM AN INDIVIDUAL? NO
18 MEDIA?

19 JUROR NO, SIR

20 THE COURT OKAY THANK YOU, MA'AM
21 ANYONE ELSE? ANY OTHER QUESTIONS FROM THE STATE?

22 MR JONES NONE, YOUR HONOR

23 THE COURT FROM THE DEFENDANT?

24 MR TINSLEY NO, YOUR HONOR

25 THE COURT OKAY

1 MR TINSLEY EXCUSE ME EXCEPT FOR
2 A FOLLOW-UP ON THAT LAST QUESTION ABOUT HEARING IT
3 INDIVIDUALLY AND NOT THE MEDIA DID YOU UNDERSTAND
4 THAT?

5 THE COURT WELL, LET ME SEE LET ME
6 JUST SEE YOU HERE FOR A CONFERENCE
7 (BENCH CONFERENCE)

8 ALL RIGHT, LADIES AND GENTLEMEN WHAT
9 WE PROPOSE TO DO AT THIS TIME IS TO SIMPLY -- WE
10 WILL HAVE THE CLERK DRAW YOUR NAMES RANDOMLY OUT OF
11 THE -- WE'RE GOING TO PREPARE A LIST OF THOSE WHO
12 ARE REMAINING, AND WE WILL BE DRAWING YOUR NAMES OUT
13 AT RANDOM AND PREPARE THOSE IN DIFFERENT GROUPS OR
14 PANELS SO THAT YOU CAN REPORT AT VARIOUS TIMES
15 TOMORROW WE WILL BEGIN THOSE AT EIGHTY-THIRTY IN
16 THE MORNING WE WILL TRY TO DO THREE OR FOUR PER
17 HOUR WE'LL MAKE THAT DETERMINATION, BUT YOU'LL
18 SIMPLY BE ASKED TO REPORT BACK AT A PARTICULAR HOUR
19 THAT WAY IT WILL NOT INCONVENIENCE YOU ANY MORE THAN
20 IS ABSOLUTELY NECESSARY IN ORDER FOR US TO CONDUCT
21 OUR BUSINESS SO LET ME ASK THAT YOU PLEASE BE
22 PATIENT WITH US JUST A FEW MOMENTS WHILE WE MAKE
23 ARRANGEMENTS TO MAKE THAT DRAWING WE'RE GOING TO
24 BE AT EASE FOR A FEW MOMENTS WHILE THE CLERK
25 PREPARES THAT LIST IF YOU'D LIKE TO STAND UP AND

1 STRETCH AND TALK, YOU'RE WELCOME TO DO SO PLEASE
2 DO NOT LEAVE, HOWEVER LET ME SEE THE LAWYERS ON
3 THE SCHEDULING MATTER, PLEASE
4 (RECESS, 7 10 P M O'CLOCK)

5 WELL, I'M HAPPY TO SEE THAT Y'ALL ARE
6 STILL IN A GOOD MOOD LADIES AND GENTLEMEN, AS I
7 INDICATED TO YOU, WHAT WE HAVE DONE, WE'VE TAKEN ALL
8 OF YOUR NAMES THEY HAVE BEEN DRAWN AT RANDOM OUT
9 OF THE JURY POOL OR JURY DRUM, AND THEY'VE BEEN
10 LISTED HOURLY FOR PURPOSES OF INDIVIDUAL
11 QUESTIONING THAT MEANS WHEN YOU COME BACK, EACH OF
12 YOU WILL BE ASKED INDIVIDUALLY AND PRIVATELY
13 ADDITIONAL QUESTIONS SO IT'S IMPORTANT THAT YOU BE
14 PROMPT IN REPORTING AND IT'S PROMPT THAT YOU BE HERE
15 ON TIME BECAUSE IF YOU DON'T REPORT ON TIME, THEN
16 THAT MEANS THOSE OTHER JURORS WILL BE WAITING WHILE
17 YOU ARE SET TO ARRIVE AND, OF COURSE, THINGS WILL
18 BECOME BACKED UP IF WE BECOME TOO LATE SO PLEASE
19 PAY ATTENTION TO YOUR TIME, AND PLEASE BE PROMPT IN
20 REPORTING AT THE TIME THAT YOU'VE BEEN SCHEDULED TO
21 REPORT AS I SAY, WE WILL BE DOING IT HOURLY
22 BEGINNING AT EIGHT-THIRTY IN THE MORNING

23 NOW, LET ME ALSO CAUTION YOU BEFORE
24 WE CALL OUT THE LIST OF NAMES, AND THAT IS YOU WILL
25 RECALL IN MY LETTER TO YOU AND, OF COURSE, DURING

1 THE COURSE OF TODAY, I HAVE INSTRUCTED YOU THAT THE
2 PURPOSE OF THE JURY IS TO CONSIDER TESTIMONY,
3 CONSIDER OTHER EVIDENCE, TO DECIDE THE FACTS OF THE
4 CASE BASED UPON THE EVIDENCE RECEIVED DURING THE
5 COURSE OF THE TRIAL, AND YOU'RE NOT TO BE INFLUENCED
6 BY ANY OUTSIDE CONSIDERATION SO YOU ARE TO
7 CONTINUE ADHERING TO THE CAUTIONARY INSTRUCTION THAT
8 WAS SET FORTH IN THE LETTER THAT YOU RECEIVED WHEN
9 YOU RECEIVED YOUR JUROR SUMMONS, THAT IS, YOU ARE
10 NOT TO DISCUSS THIS CASE IN ANY FASHION WITH ANY
11 PERSON YOU ARE NOT TO DISCUSS IT WITH YOUR
12 HUSBANDS OR WIVES OR FRIENDS OR RELATIVES YOU ARE
13 NOT TO ALLOW ANYONE TO DISCUSS IT WITH YOU, AND YOU
14 ARE NOT EVEN TO DISCUSS IT AMONG YOURSELVES, THAT
15 IS, WITH YOUR FELLOW JURORS A JURY IS NEVER
16 PERMITTED TO DISCUSS A CASE UNTIL THEY ARE ENGAGED
17 IN DELIBERATIONS, AND THAT, OF COURSE, IS NOT UNTIL
18 THE END OF THE TRIAL AFTER ALL OF THE EVIDENCE HAS
19 BEEN RECEIVED AND YOU'VE BEEN INSTRUCTED AS TO THE
20 LAW YOU ARE ALSO TO CONTINUE AVOIDING ANY TYPE OF
21 MEDIA EXPOSURE THAT MIGHT RELATE TO THE CASE DO
22 NOT ALLOW YOURSELF TO BE EXPOSED TO ANY TELEVISION
23 COVERAGE, ANY RADIO ITEM, ANY NEWSPAPER ARTICLE IF
24 SOMETHING SHOULD APPEAR ON TELEVISION, SIMPLY TURN
25 IT OFF UNTIL IT'S OVER, AND THEN YOU CAN WATCH T V

1 AGAIN DO NOT LISTEN TO ANY RADIO ITEM TURN IT
2 OFF IF THERE IS SOME ARTICLE THAT APPEARS IN THE
3 NEWSPAPER, SIMPLY PUT IT ASIDE DO NOT READ IT, OR
4 YOU COULD HAVE A FRIEND OR RELATIVE OR YOUR HUSBAND
5 OR WIFE LOOK AT THE NEWSPAPER AND TAKE OUT ANY
6 ARTICLE THOSE MAY BE SAVED IF YOU WANT TO READ
7 THEM LATER, BUT YOU MAY NOT READ THEM DURING THIS
8 PROCESS YOU MAY NOT READ THEM DURING THE COURSE OF
9 THIS TRIAL YOU ARE ONLY PERMITTED TO BE EXPOSED TO
10 THOSE THINGS AFTER THE CASE IS OVER AND AFTER YOU OR
11 THE JURY THAT IS EMPANELED FOR THAT PURPOSE HAS
12 RENDERED THEIR DECISION SO KEEP THAT IN MIND

13 YOU ARE SWORN UNDER YOUR OATH THAT YOU
14 HAVE TAKEN TO ADHERE TO THOSE INSTRUCTIONS YOU ARE
15 NOT TO DISCUSS THE CASE IN ANY FASHION WHATSOEVER
16 WITH ANY PERSON ALLOW NO ONE TO DISCUSS IT WITH
17 YOU, AND DO NOT ALLOW YOURSELF TO BE EXPOSED TO ANY
18 TYPE OF MEDIA COVERAGE IT'S PERFECTLY NATURAL THAT
19 YOU MIGHT GO HOME AND YOUR FAMILY MEMBERS OR FRIENDS
20 MIGHT SAY, "WHAT HAVE YOU BEEN DOING? WHERE HAVE
21 YOU BEEN?" YOU SIMPLY TELL THEM THAT YOU'RE
22 INVOLVED IN JURY SERVICE YOU'RE NOT PERMITTED TO
23 DISCUSS IT YOU CAN DISCUSS IT AFTER IT'S OVER WITH
24 BUT NOT UNTIL THAT TIME SO BE CERTAIN THAT YOU
25 KEEP THOSE CAUTIONS IN MIND DURING THE COURSE OF THE

1 TRIAL AND DURING THIS ADDITIONAL PROCESS

2 ALL RIGHT NOW, I'M GOING TO CALL

3 OUT THE LIST AS IT WAS DRAWN THE FIRST TIME WILL

4 BE EIGHT-THIRTY THOSE OF YOU THAT HAVE BEEN DRAWN

5 FOR EIGHT-THIRTY, YOU WILL SIMPLY BE ASKED TO REPORT

6 BACK HERE TO THE COURTROOM AT THAT TIME AT EIGHT-

7 THIRTY, SIMPLY COME IN AND HAVE A SEAT WHERE YOU ARE

8 NOW YOU CAN HAVE A SEAT ON THE FRONT ROW IF YOU'D

9 LIKE, AND ONCE YOU GET HERE, THEN WE WILL BEGIN WITH

10 THOSE JURORS WITH THAT INDIVIDUAL VOIR DIRE SO

11 PLEASE, THOSE OF YOU WHO HAVE BEEN SELECTED FOR

12 EIGHT-THIRTY, PLEASE REPORT AT EIGHT-THIRTY, AND

13 KEEP IN MIND MY REMINDER OF THOSE CAUTIONARY

14 INSTRUCTIONS EIGHT-THIRTY TIME IN THE MORNING,

15 SATURDAY, OCTOBER THE 18TH AT EIGHT-THIRTY MARTHA

16 CROCKETT, NUMBER 53, PATTY GRIFFIN, NUMBER 83 LET

17 ME ASK THOSE TO STAND WHEN I CALL YOUR NAME MARTHA

18 CROCKETT, PATTY GRIFFIN, AND ROBERT ASHE, NUMBER 7

19 ALL RIGHT

20 (JURORS STAND AS REQUESTED)

21 THE COURT EACH OF YOU KNOW YOUR

22 TIME, EIGHT-THIRTY IN THE MORNING? NOW, EACH OF YOU

23 HAVE FILLED OUT YOUR JUROR QUESTIONNAIRE DID YOU

24 PUT YOUR PHONE NUMBERS, YOUR HOME PHONE AND A

25 BUSINESS PHONE OR AN EMERGENCY PHONE IF YOU HAVE ONE

1 ON THAT QUESTIONNAIRE? HAVE EACH OF YOU DONE THAT?

2 JUROR HOME PHONE

3 THE COURT HOME PHONE? THAT'S WHERE
4 YOU'LL BE IF WE NEED TO GET IN TOUCH WITH YOU?

5 JUROR THAT'S RIGHT

6 THE COURT OKAY ALL RIGHT YOU
7 ARE EXCUSED UNTIL EIGHT-THIRTY IN THE MORNING ALL
8 RIGHT NINE-THIRTY IN THE MORNING LINDA P
9 McCALL, JUROR 127, STEVE WHITE, JUROR 214, AND RALPH
10 KOERBER, JUROR 114

11 (JURORS STAND AS REQUESTED)

12 THE COURT NOW, MR KOERBER, I KNOW
13 YOU HAD A CONFLICT POTENTIALLY TOMORROW WHAT TIME
14 WAS THAT CONFLICT?

15 JUROR THE EARLIER, THE BETTER IT
16 WOULD BE FOR ME

17 THE COURT IS NINE-THIRTY GOING TO
18 BE OKAY?

19 JUROR DO YOU KNOW THE APPROXIMATE
20 TIME?

21 THE COURT OH, YOU'LL BE GONE BY
22 TEN-THIRTY NINE-THIRTY WILL WORK?

23 JUROR YES, SIR

24 THE COURT OKAY ALL RIGHT LINDA
25 McCALL, STEVE WHITE, RALPH KOERBER NINE-THIRTY IN

1 THE MORNING

2 (JURORS STAND AS REQUESTED)

3 THE COURT YOU MAY BE EXCUSED THANK
4 YOU NEXT TIME IS TEN FORTY-FIVE GINA NORRIS,
5 JUROR 149, DAVID HOBBY, JUROR 99, DANNY BROWN, JUROR
6 26

7 (JURORS STAND AS REQUESTED)

8 THE COURT ALL RIGHT TEN FORTY-FIVE
9 IN THE MORNING, REPORT HERE TO THE COURTROOM HAVE
10 A GOOD EVENING NOW, LET ME BE CERTAIN WE HAVE
11 YOUR NUMBERS ALSO ON YOUR QUESTIONNAIRE?

12 JURORS (JURORS UNANIMOUSLY
13 RESPOND)

14 THE COURT OKAY NEXT TIME IS
15 ELEVEN FORTY-FIVE THOSE ARE CURTIS LOMAX, 117,
16 DUANNE HALL, 88, VICKY McCLAIN, 129 DO WE HAVE
17 YOUR PHONE NUMBERS?

18 JURORS (JURORS UNANIMOUSLY RESPOND)
19 (JURORS STAND AS REQUESTED)

20 THE COURT ALL RIGHT HAVE A GOOD
21 EVENING PLEASE REPORT AT ELEVEN FORTY-FIVE IN THE
22 MORNING ONE FORTY-FIVE TOMORROW AFTERNOON JAMES
23 W KLUGH, 113, MICHAEL TOMPKINS, 196, BRIAN
24 CHRISLEY, 42 ALL RIGHT THOSE JURORS, DO WE HAVE
25 YOUR PHONE NUMBERS?

1 JURORS (JURORS UNANIMOUSLY
2 RESPOND)

3 THE COURT ALL RIGHT EACH OF YOU
4 MAY BE EXCUSED PLEASE REPORT AT ONE FORTY-FIVE
5 TOMORROW AFTERNOON TOMORROW AFTERNOON NEXT TIME
6 IS TWO FORTY-FIVE JAMES S JONES, JUNIOR, 110,
7 WALTER FLEMING, 67, AND RORRY DRAFT, 59 DO WE HAVE
8 EACH OF YOUR NUMBERS?

9 JURORS (JURORS UNANIMOUSLY
10 RESPOND)

11 THE COURT ALL RIGHT YOU MAY BE
12 EXCUSED TWO FORTY-FIVE TOMORROW AFTERNOON RIGHT
13 HERE AT THE COURTROOM HAVE A GOOD EVENING FOUR
14 O'CLOCK TOMORROW AFTERNOON FOUR O'CLOCK SANDRA
15 LOTHBRIDGE, NUMBER 120, MARTHA STONE, NUMBER 186,
16 BARBARA THOMAS, NUMBER 189
17 (JURORS STAND AS REQUESTED)

18 THE COURT BARBARA THOMAS? OKAY
19 ALL RIGHT NOW, MS LOTHBRIDGE, I KNOW THAT YOU HAD
20 A POTENTIAL CONFLICT TOMORROW AFTERNOON?

21 JUROR YES, I DO YOU JUST KNOCKED
22 ME OUT OF A FULL DAY

23 THE COURT ALL RIGHT WELL, I'M
24 GETTING READY TO TAKE CARE OF THAT THAT'S WHY I'M
25 ASKING WOULD SUNDAY AFTERNOON AT TWO O'CLOCK ---

1 JUROR NO, SIR THAT WOULD KNOCK
2 OUT SUNDAY, TOO

3 THE COURT ALL RIGHT MONDAY
4 MORNING AT EIGHT-THIRTY?

5 JUROR THAT'LL BE FINE

6 THE COURT ALL RIGHT MONDAY
7 MORNING AT EIGHT-THIRTY YOU WILL REPORT RIGHT HERE
8 TO THE COURTROOM, OKAY? MONDAY MORNING AT EIGHT-
9 THIRTY SANDRA LOTHIDGE, NUMBER 120 OKAY THEN
10 WE HAVE MARTHA STONE AND BARBARA THOMAS? OKAY
11 EACH OF YOU, WE HAVE YOUR NUMBERS?

12 JURORS (JURORS UNANIMOUSLY
13 RESPOND)

14 THE COURT ALL RIGHT YOU MAY EACH
15 BE EXCUSED PLEASE REPORT AT THE TIMES INDICATED
16 JUROR NUMBER 95, WILLIAM HESSON, WILL REPORT AT FOUR
17 P M TOMORROW AFTERNOON FOUR P M TOMORROW
18 AFTERNOON ALL RIGHT THE NEXT TIME IS FIVE P M
19 SUSAN WILLIAMS, NUMBER 217, BETTY GILLIAM, NUMBER
20 77 BETTY GILLIAM, NUMBER 787 FRANCES COWART,
21 NUMBER 48

22 (JURORS STAND AS REQUESTED)

23 THE COURT ALL RIGHT EACH OF YOU
24 WILL BE REPORTING AT FIVE O'CLOCK TOMORROW
25 AFTERNOON DO WE HAVE EACH OF YOUR NUMBERS?

1 JURORS (JURORS UNANIMOUSLY
2 RESPOND)

3 THE COURT ALL RIGHT HAVE A GOOD
4 EVENING WE'LL SEE YOU TOMORROW AFTERNOON AT FIVE
5 P M SIX P M TOMORROW AFTERNOON JENNY CLARK, 43,
6 LINDA HAYNES, 92, ALDENE LANGLEY, 115 SIX O'CLOCK
7 TOMORROW EVENING
8 (JURORS STAND AS REQUESTED)

9 THE COURT DO WE EACH HAVE -- DO WE
10 HAVE EACH OF YOUR NUMBERS?

11 JUROR NO, YOU DO NOT

12 THE COURT IF YOU'LL BRING THAT UP
13 AND HAND THAT TO THE CLERK, PLEASE MA'AM AND DO WE
14 HAVE YOUR QUESTIONNAIRE?

15 JUROR YES, BUT THE NUMBERS HAS
16 CHANGED

17 THE COURT OKAY OKAY ALL RIGHT
18 THANK YOU, MA'AM WE'LL SEE EACH OF YOU AT SIX
19 O'CLOCK TOMORROW EVENING ALL RIGHT NOW, THE NEXT
20 TIME IS GOING TO BE SUNDAY WE WILL NOT START UNTIL
21 AFTER EVERYONE HAS HAD AN OPPORTUNITY TO GO TO
22 CHURCH, SHOULD YOU WISH TO, AND HAVE LUNCH SO WE
23 WILL BEGIN AT TWO P M SUNDAY AFTERNOON TWO P M
24 THE FOLLOWING JURORS ARE TO REPORT SUNDAY AT TWO
25 O'CLOCK ROBERTA BRYANT, NUMBER 29 WHERE'S MS

1 BRYANT? ROBERTA BRYANT, 29? OKAY EXCUSE ME
2 ROBERTA BRYANT WAS EXCUSED HAVING A CHILD LESS THAN
3 SEVEN ALL RIGHT TWO P M TOMORROW
4 AFTERNOON WILL BE LEROY MILLS, 137, EDDIE WILLIAMS,
5 216, AND BRIAN DALY, 55 ALL RIGHT DO WE EACH
6 HAVE YOUR -- DO WE HAVE EACH OF YOUR PHONE NUMBERS?
7 (JURORS STAND AS REQUESTED)

8 JURORS (JURORS UNANIMOUSLY
9 RESPOND)

10 THE COURT ALL RIGHT YOU WILL BE
11 REPORTING AT TWO O'CLOCK SUNDAY AFTERNOON TWO
12 O'CLOCK SUNDAY AFTERNOON RIGHT HERE HAVE A GOOD
13 EVENING ALL RIGHT AT THREE O'CLOCK SUNDAY
14 AFTERNOON SPENCER SORROW, NUMBER 185, JAMES JONES,
15 NUMBER 109, AND ANDREA BRAMLETT, NUMBER 23 DO WE
16 HAVE EACH OF YOUR PHONE NUMBERS?
17 (JURORS STAND AS REQUESTED)

18 JURORS (JURORS UNANIMOUSLY
19 RESPOND)

20 THE COURT ALL RIGHT YOU ARE
21 EXCUSED UNTIL THREE P M SUNDAY AFTERNOON HAVE A
22 GOOD WEEKEND ALL RIGHT NEXT TIME IS FOUR-FIFTEEN
23 SUNDAY AFTERNOON ALL RIGHT FOUR-FIFTEEN SUNDAY
24 AFTERNOON ADANELL TALLEY, NUMBER 188, STANLEY
25 ABERNATHY, NUMBER 1, AND SOPHIA BATTLE, NUMBER 10

1 SOPHIA BATTLE, NUMBER 10 ALL RIGHT

2 (JURORS STAND AS REQUESTED)

3 THE COURT YOU WILL REPORT AT FOUR-
4 FIFTEEN SUNDAY AFTERNOON DO WE HAVE YOUR PHONE
5 NUMBERS?

6 JURORS (JURORS UNANIMOUSLY
7 RESPOND)

8 THE COURT OKAY HAVE A GOOD
9 EVENING ALL RIGHT FIVE-FIFTEEN ON SUNDAY,
10 OCTOBER 19TH FIVE-FIFTEEN FRAN MORROW, NUMBER
11 139, WILLIAM BOWIE, NUMBER 21, DIANNE DOTSON, NUMBER
12 3

13 (JURORS STAND AS REQUESTED)

14 THE COURT ALL RIGHT YOU WILL BE
15 REPORTING AT FIVE-FIFTEEN ON SUNDAY EVENING ALL
16 RIGHT YOU MAY BE EXCUSED DO WE HAVE YOUR PHONE
17 NUMBERS?

18 JURORS (JURORS UNANIMOUSLY
19 RESPOND)

20 THE COURT OKAY THANK YOU HAVE A
21 GOOD EVENING ALL RIGHT MONDAY MORNING, OCTOBER
22 THE 20TH MONDAY MORNING, OCTOBER THE 20TH AT
23 EIGHT-THIRTY EIGHT-THIRTY BOBBY GARNER, NUMBER
24 74, CHESIREE LOMAX, 119, NANCY MURPHY, 144

25 (JURORS STAND AS REQUESTED)

1 THE COURT MONDAY MORNING AT EIGHT-
2 THIRTY DO WE HAVE YOUR PHONE NUMBERS?

3 JURORS (JURORS UNANIMOUSLY
4 RESPOND)

5 THE COURT ALL RIGHT HAVE A GOOD
6 WEEKEND NINE-THIRTY MONDAY MORNING L T CARTER,
7 NUMBER 38 WHERE'S MR CARTER? HAROLD A FREESE,
8 NUMBER 68, GLENDA H CANFIELD, NUMBER 181
9 (JURORS STAND AS REQUESTED)

10 THE COURT DO WE HAVE EACH OF YOUR
11 NUMBERS?

12 JURORS (JURORS UNANIMOUSLY
13 RESPOND)

14 THE COURT ALL RIGHT HAVE A GOOD
15 WEEKEND NINE-THIRTY MONDAY MORNING, OCTOBER THE
16 20TH ALL RIGHT AND THE REMAINING TWO FOR TEN-
17 THIRTY MONDAY MORNING, WILLIE SIMMONS AND WILLIAM
18 HESSON OH, EXCUSE ME WAIT A MINUTE

19 THE COURT ALL RIGHT JAMES B
20 JONES?

21 JUROR NO IT'S WILLIAM, YOUR
22 HONOR

23 THE COURT EXCUSE ME?

24 JUROR WILLIAM JONES, JUNIOR

25 THE COURT YOU'RE WILLIAM JONES,

1 JUNIOR?

2 JUROR YES, SIR

3 THE COURT IS HE CHECKED OFF? OKAY

4 YEAH ALL RIGHT MR HESSON'S AT FOUR O'CLOCK ON

5 SATURDAY THAT'S RIGHT ALL RIGHT SO WILLIE

6 SIMMONS? WILLIE SIMMONS AND WILLIAM J JONES, YOU

7 WILL BE REPORTING AT TEN-THIRTY ON MONDAY MORNING

8 JUROR ALL RIGHT

9 MR JONES WHAT NUMBERS ARE THOSE,

10 JUDGE?

11 THE COURT EXCUSE ME? WILLIAM JONES

12 IS 108 AND WILLIE SIMMONS IS 180 ALL RIGHT HAVE

13 ALL JURORS EXITED THE COURTROOM? ANY JURORS IN THE

14 LOBBY? OKAY

15 THE NEXT MATTER ON OCTOBER THE 13TH

16 OF 1997, THE DEFENDANT FILED A MOTION FOR A

17 COMPETENCY EVALUATION AND A PSYCHIATRIC EVALUATION

18 SUBSEQUENT TO A HEARING BEING HELD IN THAT MATTER ON

19 THE SAME DATE, AFTER CONSIDERING THE EVIDENCE, I

20 ORDERED THAT THE DEFENDANT WAS TO BE COMMITTED TO

21 THE SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH,

22 WILLIAM S HALL INSTITUTE, FOR THE PURPOSE OF A

23 COMPETENCY EVALUATION BEING CONDUCTED AND A REPORT

24 MADE TO THE COURT IT WAS ADDITIONALLY REQUESTED

25 SUBSEQUENT TO HIS BEING COMMITTED TO THE SOUTH

1 CAROLINA DEPARTMENT OF MENTAL HEALTH FOR THAT
2 EVALUATION THAT AN ADDITIONAL EXAMINATION AND
3 EVALUATION BE MADE FOR A DETERMINATION AS TO MENTAL
4 CAPACITY THAT EVALUATION WAS ALSO CONDUCTED AND A
5 REPORT WAS GENERATED BY DOCTOR KATHRYN LEWIS A
6 COPY OF THE REPORT HAS BEEN FORWARDED TO THE COURT
7 A COPY HAS ALSO BEEN PROVIDED BY THE COURT TO THE
8 STATE AND TO THE DEFENDANT'S COUNSEL DO EACH OF
9 YOU HAVE THE COPY OF THAT REPORT?

10 MR GARRETT WE'RE LOOKING FOR OURS
11 RIGHT NOW WE DO HAVE A COPY WE DID RECEIVE IT

12 MR COULTER WE DO, YOUR HONOR

13 THE COURT ALL RIGHT THE PURPOSE
14 OF THIS HEARING BEING SCHEDULED IS PURSUANT TO
15 SECTION 44-23-430, THE PURPOSE OF THE HEARING TO BE
16 RECEIVING THE REPORT OF THE DESIGNATED EXAMINERS AND
17 TO HEAR ANY OTHER EVIDENCE ON THE ISSUE OF THE
18 DEFENDANT'S FITNESS TO STAND TRIAL ANY MATTERS WE
19 NEED TO ADDRESS BEFORE WE CALL THE FIRST WITNESS?

20 MR JONES NONE ON THE PART OF THE
21 STATE, YOUR HONOR

22 MR GARRETT NOTHING FOR THE
23 DEFENSE, YOUR HONOR

24 THE COURT ALL RIGHT DOCTOR LEWIS,
25 IF YOU WOULD, PLEASE COME AROUND

1 CLERK THE EVIDENCE YOU SHOULD GIVE
2 IN THE TRIAL OF THIS CASE SHOULD BE THE TRUTH, THE
3 WHOLE TRUTH, AND NOTHING BUT TRUTH SO HELP YOU GOD?

4 WITNESS YES

5 (WITNESS TAKES STAND AT 7 58 P M O'CLOCK)

6 DIRECT EXAMINATION

7 BY THE COURT

8 Q DOCTOR LEWIS, ON OCTOBER THE 13TH OF 1997, THE
9 DEFENDANT WAS COMMITTED TO THE SOUTH CAROLINA
10 DEPARTMENT OF MENTAL HEALTH FOR THE PURPOSE OF A
11 COMPETENCY EVALUATION TO BE CONDUCTED BY EXAMINERS
12 THERE I UNDERSTAND BASED UPON YOUR REPORT THAT YOU
13 WERE, IN FACT, ONE OF THOSE EXAMINERS?

14 A YES

15 Q HAVE YOU CONCLUDED YOUR EXAMINATION OF THE
16 DEFENDANT PURSUANT TO THE ORDER SEEKING A COMPETENCY
17 EVALUATION?

18 A YES

19 Q BASED UPON YOUR EVALUATION, HAVE YOU ARRIVED
20 AT AN OPINION?

21 A YES

22 Q AND WHAT IS YOUR OPINION AS TO THE DEFENDANT'S
23 COMPETENCY AND FITNESS TO STAND TRIAL AT THE
24 PRESENT?

25 A IT IS MY OPINION THAT HE HAS A GOOD

1 UNDERSTANDING OF THE NATURE OF THE PROCEEDINGS
2 AGAINST HIM AND IS ABLE TO ASSIST IN HIS DEFENSE AT
3 THE TIME OF THE EVALUATION AND TODAY

4 Q AND WHEN WAS THE LAST TIME THAT YOU EXAMINED
5 THE DEFENDANT?

6 A I SAW MR HUGHEY APPROXIMATELY FIFTEEN MINUTES
7 AGO HERE IN THE COURTHOUSE

8 Q AND YOUR OPINION REMAINS THE SAME?

9 A IT DOES

10 Q AND DID YOU MAKE A WRITTEN REPORT REGARDING
11 YOUR OPINIONS AND FINDINGS?

12 A YES

13 Q AND DO YOU HAVE A COPY OF THAT REPORT WITH
14 YOU?

15 A I DO

16 Q DO YOU HAVE AN EXTRA COPY?

17 A YES

18 Q WE CAN MAKE A COPY

19 A YES

20 THE COURT OKAY ANY OBJECTION TO
21 THE REPORT BEING ADMITTED AS AN EXHIBIT?

22 (REPORTER MARKED PERTINENT DOCUMENT, DR LEWIS'
23 REPORT, AS COURT'S EXHIBIT #9)

24 MR JONES NONE FROM THE STATE, YOUR
25 HONOR

1 MR GARRETT YOUR HONOR, AS TO A
2 RECORD BEFORE A TRIAL JURY, JUST ASK FOR THE COURT
3 RECORD

4 THE COURT AS FOR THE COMPETENCY
5 HEARING IT'S EVIDENCE AS TO THE -- IT'S EVIDENCE
6 ADMITTED SOLELY FOR THE PURPOSE OF THIS HEARING

7 MR GARRETT WITHOUT OBJECTION
8 THE COURT OKAY ANY QUESTIONS OF
9 THE WITNESS BY THE STATE?

10 JUROR NONE FROM THE STATE, YOUR
11 HONOR

12 THE COURT BY THE DEFENDANT?

13 MR GARRETT VERY, VERY BRIEFLY ON
14 JUST SEVERAL MATTERS

15 DIRECT EXAMINATION

16 BY MR GARRETT

17 Q DOCTOR, THANK YOU FOR COMING AND STAYING ALL
18 THAT TIME I APPRECIATE YOUR TIME DOCTOR, YOU HAD
19 INDICATED ON YOUR REPORT A COMPLICATED BEREAVEMENT
20 SECONDARY TO DEATH OF THE MOTHER, ALCOHOL ABUSE AND
21 ADDICTION AND CONTROLLED ENVIRONMENT, AXIS TWO,
22 BORDERLINE INTELLECTUAL FUNCTIONING CAN YOU HELP
23 US UNDERSTAND THAT, PLEASE?

24 A SURE I'LL ACTUALLY GO THROUGH AND TAKE THEM
25 ONE AT A TIME, OKAY? COMPLICATED BEREAVEMENT IS A B

1 CODE WHICH, AS DEFINED IN D S M FOUR, DESCRIBES A
2 CLINICAL CONDITION AFFECTING THE PATIENT OTHER THAN
3 A MAJOR PSYCHIATRIC DIAGNOSIS SO SOMETHING THAT
4 AFFECTS THE PATIENT BUT IS NOT IN AND OF ITSELF A
5 PSYCHIATRIC DIAGNOSIS THIS WOULD -- B CODES
6 INCLUDE SUCH THINGS AS MALINGERING, PARENT-CHILD
7 PROBLEMS IT CAN INCLUDE MARITAL PROBLEMS AND, IN
8 ADDITION, INCLUDES BEREAVEMENT BEREAVEMENT WOULD
9 BE DESCRIBED AS GRIEF FOLLOWING THE DEATH OF A LOVED
10 ONE I SPECIFIED COMPLICATED BEREAVEMENT BECAUSE
11 MR HUGHEY'S SYMPTOMS OF MISSING HIS MOTHER, HEARING
12 HER VOICE, AND OCCASIONALLY SEEING HER HAVE LASTED
13 FAR LONGER THAN THE NORM FOR BEREAVEMENT, AND SO
14 THAT IS HOW THAT DIAGNOSIS IS JUSTIFIED ALCOHOL
15 ABUSE REFERS TO A RECURRENT PATTERN OF USE LARGE
16 OR SIGNIFICANT QUANTITIES OF ALCOHOL RESULTING IN
17 NEGATIVE CONSEQUENCES IN VARIOUS AREAS OF THE
18 PERSON'S LIFE, AND FROM COLLATERAL SOURCES, I WAS
19 ABLE TO ASCERTAIN THAT MR HUGHEY HAS A PATTERN OF
20 ALCOHOL ABUSE I DID NOT DIAGNOSE HIM WITH ALCOHOL
21 DEPENDENCE BECAUSE I DID NOT HAVE ADEQUATE DATA TO
22 SUPPORT SYMPTOMS OF WITHDRAWAL OR NEEDING INCREASING
23 AMOUNTS SO THAT IS WHY I DIAGNOSED HIM WITH ABUSE
24 RATHER THAN DEPENDENCE
25 ON AXIS TWO, BORDERLINE INTELLECTUAL

1 FUNCTIONING REFERS TO PEOPLE WITH AN I Q IN THE
2 RANGE OF SEVENTY-ONE TO EIGHTY-FOUR, THE I Q BEING
3 THE INTELLIGENCE QUOTIENT AS MEASURED ON TESTING
4 PEOPLE WHO ARE RETARDED USUALLY HAVE -- THEY HAVE
5 I Q 'S OF LESS THAN SEVENTY SO BORDERLINE
6 INTELLECTUAL FUNCTIONING REFERS TO SOMEONE WHO ISN'T
7 RETARDED BUT HAS A LOW I Q , IS IN THE NEXT STEP UP
8 FROM BEING RETARDED

9 Q ALTHOUGH COMPETENT AT THIS TIME, AS YOU SAID A
10 FEW MOMENTS AGO, AND AT THE TIME THAT YOU EXAMINED
11 HIM AT THE HALL, DOES THAT MEAN THAT THROUGHOUT THE
12 REMAINDER OF THE TRIAL JOHN KENNEDY HUGHEY WILL
13 REMAIN COMPETENT?

14 A I -- AT THIS TIME, I AM NOT TESTIFYING TO ANY
15 PREDICTION FOR THE FUTURE AT THIS TIME I CAN
16 TESTIFY WITH REASONABLE MEDICAL CERTAINTY THAT HE IS
17 COMPETENT TO STAND TRIAL

18 Q ALL RIGHT AND AS TO MATTERS OF
19 DECOMPENSATION, IS THAT A VALID TERM UNDER YOUR
20 SCIENCE?

21 A IT IS A VAGUE TERM IT CAN MEAN DIFFERENT
22 THINGS TO DIFFERENT PEOPLE SO PERHAPS YOU COULD
23 CLARIFY WHAT YOU MEAN BY IT FOR ME

24 Q WELL, IS IT A TERM USED BY PSYCHIATRISTS OR A
25 FORENSIC PSYCHIATRIST WHEN HE TALKS ABOUT A PATIENT

1 OR A PERSON UNDER GREAT STRESS FOR A GIVEN
2 CIRCUMSTANCE?

3 A I THINK -- EXCUSE ME IT'S MY OPINION THAT
4 DECOMPENSATION IS A GENERAL TERM THAT IS USED BY
5 PHYSICIANS WHEN A PATIENT HAS A DECLINE IN THEIR
6 CONDITION SO IT'S NOT A PSYCHIATRIC SPECIFIC TERM
7 IT CAN BE USED CERTAINLY BY A SURGEON, BY ANY
8 DIFFERENT

9 -- ANY DIFFERENT KIND OF PHYSICIAN OR EVEN BY A LAY
10 PERSON WHAT WE WOULD DESCRIBE IN A PSYCHIATRIC
11 PATIENT WOULD BE THE SYMPTOMS THAT LEAD TO A DECLINE
12 IN FUNCTION THAT WOULD BE A BETTER WAY TO DESCRIBE
13 DECOMPENSATION IT'S MORE SPECIFIC SO IF SOMEONE
14 HAS A PSYCHOTIC BREAK, THEY WOULD -- THEY WOULD BE
15 EXHIBITING PSYCHOTIC SYMPTOMS, AND YET THAT'S A
16 DECOMPENSATION, BUT DECOMPENSATION IS A VAGUE TERM

17 Q I UNDERSTAND, AND MR HUGHEY'S CIRCUMSTANCE
18 WITH HIS COMPLICATED BEREAVEMENT --

19 A UH-HUH (AFFIRMATIVE)

20 Q -- SYNDROME THAT YOU HAVE IDENTIFIED IT AS,
21 WOULD IT BE UNUSUAL THAT THAT DISCUSSION ABOUT MAYBE
22 SOMEONE WHO HAS KILLED HIS MOTHER MAY TRIGGER THAT
23 SYNDROME OR THAT BEREAVEMENT CIRCUMSTANCE TO THE
24 POINT THAT A PERSON CAN DECOMPENSATE AS A RESULT OF
25 THAT?

1 A SURE THAT WOULD BE POSSIBLE

2 Q AND IF A PERSON DECOMPENSATES TO THE POINT
3 THAT THEY ARE HAVING DIFFICULTY CONCENTRATING OR
4 FOLLOWING INSTRUCTIONS AND/OR ANSWERING QUESTIONS,
5 WOULD THAT BE UNUSUAL?

6 A IT'S MY OPINION THAT THAT COULD CERTAINLY
7 OCCUR

8 Q OKAY AND HOW CAN WE PREVENT THAT TYPE OF
9 THING FROM HAPPENING?

10 A IT'S MY OPINION THAT WITH MR HUGHEY, GIVEN
11 HIS INTELLECTUAL FUNCTIONING AND ALSO HIS SYMPTOMS
12 OF COMPLICATED BEREAVEMENT, THERE ARE SEVERAL THINGS
13 WHICH MAY BE HELPFUL TO HIM DURING -- DURING HIS
14 TRIAL THE FIRST WOULD BE IF HE'S EXHIBITING
15 SYMPTOMS OF HAVING DIFFICULTY UNDERSTANDING WHAT'S
16 HAPPENING, OR IF HE'S EXPERIENCING INABILITY TO
17 ANSWER HIS ATTORNEY'S QUESTIONS, A SHORT RECESS
18 WHERE HE COULD SPEAK WITH HIS ATTORNEYS AND HIS
19 SISTER MAY BE HELPFUL TO HIM

20 THE SECOND COMPONENT WOULD BE TO
21 INSURE THAT NO THREATS ARE MADE TO MR HUGHEY AS HE
22 COMES AND GOES FROM THE COURTROOM HE HAD RELATED
23 TO ME PARTICULAR FEARS WITH FACING THE VICTIM'S
24 FAMILY WHILE HE WAS AT WILLIAM S HALL SO A
25 NEGATIVE INTERACTION WITH THEM WOULD BE SOMETHING

1 THAT COULD CAUSE HIM TO EXPERIENCE SIGNIFICANT
2 ANXIETY AND TO NOT BE ABLE TO COOPERATE WITH HIS
3 ATTORNEYS IN THE COURTROOM

4 Q SIGNIFICANT ANXIETY TO HIM WOULD NOT BE
5 SIGNIFICANT ANXIETY, SAY, TO A NORMAL PERSON WHO WAS
6 FACED WITH A DEATH PENALTY BECAUSE OF THE
7 BEREAVEMENT FACTOR?

8 A I WOULD ANSWER THAT IN THIS WAY TO ANYONE
9 HAVING SIGNIFICANT ANXIETY BY DEFINITION, IT IS MY
10 OPINION IT WOULD BE SIGNIFICANT WHAT, FOR MR
11 HUGHEY, THE LEVEL OF STRESS NEEDED TO CAUSE HIM
12 ANXIETY IS LOWER BECAUSE OF HIS SYMPTOMS OF
13 COMPLICATED BEREAVEMENT AND ALSO BECAUSE OF HIS
14 LIMITED INTELLECT SO IF HE -- IF HE IS THREATENED,
15 HE MAY INTERPRET THAT IN A VERY CONCRETE WAY AND
16 ASSUME IT'S A REAL VALID THREAT AND BECOME SO
17 FRIGHTENED THAT HE SHUTS DOWN SO THAT'S THE
18 DIFFERENCE GIVEN HIS INTELLECTUAL FUNCTIONING, A
19 THREAT WOULD HAVE A BIGGER IMPACT ON MR HUGHEY THAN
20 SOMEONE WITH A HIGHER I Q IN HIS LEVEL OF
21 FUNCTIONING

22 Q I BEG THE COURT'S INDULGENCE, YOUR HONOR SO
23 IN YOUR OPINION, IN ORDER TO MAKE SURE THAT HE'S AS
24 COMPETENT AS POSSIBLE DURING THE TRIAL OF THIS CASE,
25 IT WOULD BE GOOD, THEN, IF FROM TIME TO TIME HE

1 NEEDS A RECESS OR IF WE WOULD BE ALLOWED TO DO THAT?

2 A IT'S MY OPINION, OBVIOUSLY TO THE JUDGE'S
3 DISCRETION, BUT I THINK WITH MR -- IT'S MY OPINION
4 THAT WITH MR HUGHEY, WHEN HE BEGINS TO EXPERIENCE
5 ANXIETY, AND I'VE SEEN THIS ACTUALLY AT WILLIAM S
6 HALL IN MY EVALUATION WITH HIM, HE -- HIS EYES GLAZE
7 OVER HE WILL NOT ANSWER QUESTIONS, AND WHEN
8 RESTRUCTURED, WHEN YOU SIT DOWN WITH HIM AND
9 INSTRUCT HIM EXACTLY WHAT HE NEEDS TO DO AND HOW --
10 WHAT HE NEEDS -- WHAT TASKS HE NEEDS TO PERFORM AND
11 GIVE HIM A MINUTE, HE'S ABLE TO DO IT BUT
12 -- SO THAT WOULD BE MY OPINION THAT IF HE IS HAVING
13 THAT ANXIETY, LIKE A SHORT BREAK WOULD BE HELPFUL TO
14 HIM

15 Q AT ANY TIME IN YOUR TESTING OF HIM DID YOU
16 FIND ANY MALINGERING ON HIS PART?

17 A WE DID NOT

18 MR GARRETT THANK YOU, DOCTOR
19 THAT'S ALL THE QUESTIONS I HAVE

20 THE COURT ANYTHING FURTHER? I DID
21 GET AHEAD OF MYSELF WHEN I PUT YOU ON THE WITNESS
22 STAND YOU WERE GOING TO BRING A COPY OF YOUR
23 CURRICULUM VITAE DID YOU BRING ---

24 WITNESS YES, SIR I BROUGHT THREE
25 COPIES ONE FOR THE COURT AND ONE FOR EACH OF THE

1 ATTORNEYS

2 MR GARRETT WE STIPULATE, YOUR

3 HONOR

4 THE COURT OKAY ANY OBJECTION TO

5 HER ---

6 MR GARRETT HER CURRICULUM VITAE?

7 THE COURT -- CURRICULUM VITAE?

8 MR GARRETT SHE GAVE ME A COPY OF

9 THAT WITH IN YOUR OFFICE, YOUR HONOR

10 THE COURT AND YOU STIPULATE TO HER

11 EXPERTISE?

12 MR GARRETT QUALIFICATIONS AS AN

13 EXPERT IN THE FIELD OF FORENSIC PSYCHIATRISTS

14 THE COURT OKAY ALL RIGHT

15 ANYTHING FURTHER? THANK YOU, DOCTOR YOU MAY STEP

16 DOWN WE APPRECIATE YOU COMING UP AND SPENDING SOME

17 TIME WITH US THANK YOU ANYTHING FURTHER BEFORE

18 WE RECESS?

19 MR GARRETT NOTHING FROM THE

20 DEFENSE, YOUR HONOR

21 THE COURT ANYTHING FROM THE STATE?

22 (WITNESS EXITS STAND AT 8 15 O'CLOCK P M)

23 COURT'S IN RECESS UNTIL EIGHT-THIRTY IN THE MORNING

24 (COURT RECESSES AT 8 17 O'CLOCK P M)

25

1 ***** END OF DAY 5 *****
2 (DAY SIX, OCTOBER 18, 1998, 8 30 O'CLOCK A M)
3 THE COURT ALL RIGHT LET THE
4 RECORD REFLECT EVERYONE IS PRESENT THE DEFENDANT
5 IS PRESENT ACCOMPANIED BY HIS LAWYERS THE STATE IS
6 PRESENT LET ME ASK IF THREE JURORS WHO ARE TO
7 REPORT AT EIGHT-THIRTY, MS CROCKETT, MS GRIFFIN
8 AND MR ASHE MS CROCKETT'S NOT APPEARED? ALL
9 RIGHT WE NEED TO GET IN TOUCH WITH MS CROCKETT
10 AND HAVE HER COME DOWN EIGHT-THIRTY, SHE'S NUMBER
11 ONE ALL RIGHT LET ME ASK MS GRIFFIN AND MR
12 ASHE, IF YOU'LL JUST PLEASE GO WITH THE BAILIFF INTO
13 THAT JURY ROOM, AND WE'LL TAKE YOU ONE AT A TIME
14 BACK IN HERE ANY MATTERS WE NEED TO ADDRESS BEFORE
15 WE BEGIN WITH THE FIRST JUROR?
16 MR JONES THERE'S NONE FROM THE
17 STATE, YOUR HONOR
18 MR GARRETT NONE FROM THE DEFENSE,
19 YOUR HONOR
20 THE COURT ALL RIGHT ASK MS
21 GRIFFIN TO COME IN, PLEASE
22 (JUROR #83 PRESENTED AT 8 40 O'CLOCK A M)
23 THE COURT OKAY
24 EXAMINATION BY THE COURT
25 Q COME ON IN YOU CAN JUST HAVE A SEAT RIGHT

1 THERE, PLEASE MS GRIFFIN, YOU WERE PREVIOUSLY
2 SWORN WHEN THE ENTIRE JURY VENIRE WAS SWORN DO YOU
3 RECALL THAT?

4 A RIGHT

5 Q SO YOU REMAIN UNDER OATH FOR THE PURPOSE OF
6 THESE QUESTIONS, ALSO FIRST OF ALL, LET ME JUST
7 ASK YOU IF YOU RECEIVED THE LETTER THAT I SENT WITH
8 THE JUROR QUESTIONNAIRE?

9 A YES, I DID

10 Q AND DID YOU READ THAT LETTER?

11 A YES, I DID

12 Q DO YOU UNDERSTAND THE CAUTIONARY INSTRUCTIONS
13 THAT WERE CONTAINED IN IT?

14 A YES, SIR

15 Q HAVE YOU FOLLOWED THOSE INSTRUCTIONS?

16 A YES

17 Q AND HAVE YOU HAD ANY TYPE OF CONTACT,
18 DISCUSSIONS OR MEDIA EXPOSURE OF THIS TRIAL SINCE
19 THE TIME THAT YOU RECEIVED THE LETTER?

20 A NO, SIR

21 Q DID YOU HAVE ANY PRIOR TO THAT TIME?

22 A I THINK I MAY HAVE SEEN IT WHEN IT FIRST --
23 WHEN IT HAPPENED, BUT THAT'S -- I THINK I REMEMBER
24 LIKE THE SCENE AND WHEN IT HAPPENED THEY SHOWED THAT
25 HOUSE, BUT I DON'T REMEMBER ANYTHING OTHER THAN THAT

1 ABOUT IT

2 Q OKAY WOULD ANYTHING THAT YOU MIGHT HAVE SEEN
3 OR HEARD OR READ INTERFERE IN ANY WAY WITH YOUR
4 ABILITY TO BE FAIR AND IMPARTIAL IF YOU WERE
5 SELECTED?

6 A NO, SIR

7 Q NOW, WE'RE GOING TO BE ASKING YOU SOME
8 QUESTIONS I'LL BE ASKING QUESTIONS FIRST, AND THEN
9 THE LAWYERS WILL HAVE AN OPPORTUNITY TO ASK
10 ADDITIONAL QUESTIONS THERE ARE NO RIGHT OR WRONG
11 ANSWERS WE JUST SIMPLY NEED TO KNOW WHAT YOUR
12 VIEWS AND OPINIONS ARE ON CERTAIN SUBJECTS

13 A UH-HUH (AFFIRMATIVE)

14 Q SO IF YOU'LL JUST ANSWER THOSE QUESTIONS AS
15 BEST THAT YOU CAN, AND IF FOR SOME REASON YOU DON'T
16 UNDERSTAND ANY QUESTION, PLEASE LET ME KNOW, AND
17 WE'LL TRY TO HAVE IT CLARIFIED FOR YOU SO THAT WE
18 CAN BE CERTAIN OF WHAT YOUR VIEWS AND OPINIONS ARE

19 A OKAY

20 Q YOU UNDERSTAND THAT IN ANY CASE -- CRIMINAL
21 CASE, THE FUNCTION OF A JURY IS TO CONSIDER
22 EVIDENCE, WHETHER IT BE TESTIMONY OR OTHERWISE, AND
23 BASED UPON THEIR CONSIDERATION OF THAT EVIDENCE, TO
24 DECIDE WHAT THE FACTS ARE?

25 A RIGHT

1 Q AND THEN A JURY APPLIES THE LAW THAT THE COURT
2 PROVIDES TO THAT JURY PANEL, AND THEY DETERMINE
3 WHETHER OR NOT A PERSON HAS BEEN FOUND GUILTY OF A
4 CRIMINAL OFFENSE?

5 A YES, SIR

6 Q AND IN SOME CIRCUMSTANCES THEY MAY DETERMINE
7 WHAT THE PUNISHMENT IS, AND THAT WOULD BE THE CASE
8 IN THIS PARTICULAR CASE SHOULD CERTAIN MATTERS BE
9 ESTABLISHED DO YOU UNDERSTAND THAT THE BURDEN OF
10 THE PROOF IS ALWAYS UPON THE STATE IN BRINGING A
11 CHARGE AGAINST SOMEONE ELSE TO ESTABLISH THAT THEY
12 ARE GUILTY BEYOND A REASONABLE DOUBT BEFORE A
13 VERDICT OF GUILTY CAN BE RETURNED?

14 A YES

15 Q DO YOU UNDERSTAND THAT IN A CASE SUCH AS THIS,
16 THIS IS WHAT WE CALL A BIFURCATED PROCESS? IT
17 SIMPLY MEANS THAT IT OCCURS IN TWO STAGES THE
18 FIRST STAGE IS THE STAGE WHERE EVIDENCE IS PRESENTED
19 AS TO THE ISSUE OF GUILTY, AND A JURY WILL DETERMINE
20 WHETHER OR NOT THE DEFENDANT HAS BEEN PROVEN TO BE
21 GUILTY BEYOND A REASONABLE DOUBT OF THE OFFENSES
22 ALLEGED IN THE INDICTMENT IF A PERSON HAS BEEN
23 FOUND GUILTY OF MURDER BEYOND A REASONABLE DOUBT,
24 THERE ARE CERTAIN CIRCUMSTANCES WHERE THE STATE MAY
25 SEEK THE DEATH PENALTY WHERE CERTAIN AGGRAVATING

1 CIRCUMSTANCES HAVE BEEN PROVEN AND SO IF A PERSON
2 HAS BEEN FOUND GUILTY, WE WOULD PROCEED TO A SECOND
3 STAGE OF THE TRIAL OR A SECOND HEARING, AND IT'S
4 DURING THAT HEARING THAT A JURY WOULD CONSIDER
5 ADDITIONAL EVIDENCE, BOTH OF AN AGGRAVATING NATURE
6 AND BOTH -- AND ALSO OF A MITIGATING NATURE SO YOU
7 WOULD BE CONSIDERING EVIDENCE THAT MIGHT SUPPORT AN
8 ENHANCEMENT OF THE PUNISHMENT, AND YOU WOULD
9 CONSIDER EVIDENCE THAT MIGHT SUPPORT A LESSER FORM
10 OF PUNISHMENT DO YOU UNDERSTAND THAT?

11 A YES, SIR

12 Q NOW, IF YOU WERE SELECTED AS A JUROR IN THE
13 CASE, WOULD YOU BE ABLE TO LISTEN CAREFULLY TO ALL
14 THE EVIDENCE PRESENTED, AND WOULD YOU BE ABLE,
15 DEPENDING UPON THE CIRCUMSTANCES THAT HAVE BEEN
16 PROVEN, TO CONSIDER BOTH FORMS OF A VERDICT AS TO
17 GUILT? BY THAT, I MEAN IF YOU WERE SATISFIED BEYOND
18 A REASONABLE DOUBT, COULD YOU FIND A PERSON GUILTY
19 OF A CRIMINAL OFFENSE?

20 A YES, SIR

21 Q IF YOU WERE NOT SATISFIED BEYOND A REASONABLE
22 DOUBT OF THAT PERSON'S GUILT, COULD YOU RETURN A
23 VERDICT OF NOT GUILTY?

24 A YES, SIR

25 Q NOW, ASSUMING, AND ONLY ASSUME FOR THIS

1 QUESTION, THAT A PERSON HAS BEEN FOUND GUILTY OF THE
2 CRIME OF MURDER --

3 A UH-HUH (AFFIRMATIVE)

4 Q -- AND WE PROCEED TO THE SECOND STAGE OF THE
5 TRIAL ADDITIONAL EVIDENCE IS PRESENTED, AS I
6 INDICATED, BOTH AGGRAVATING AND MITIGATING TYPE OF
7 EVIDENCE WOULD YOU BE ABLE TO CONSIDER ALL OF THAT
8 EVIDENCE FAIRLY?

9 A YES, SIR

10 Q UNDER THOSE CIRCUMSTANCES, IF YOU THOUGHT THE
11 CIRCUMSTANCES WARRANTED IT, WOULD YOU BE ABLE TO
12 IMPOSE A DEATH SENTENCE?

13 A I'M NOT SURE ABOUT THAT

14 Q WELL, DO YOU UNDERSTAND THAT IN THE SENTENCING
15 PHASE OF THE TRIAL, BEFORE A PERSON COULD BE
16 SENTENCED TO DEATH, THERE WOULD HAVE TO BE CERTAIN
17 AGGRAVATING CIRCUMSTANCES THAT HAD BEEN PROVEN
18 BEYOND A REASONABLE DOUBT?

19 A RIGHT

20 Q AND IF THOSE AGGRAVATING CIRCUMSTANCES HAD
21 BEEN PROVEN AND THAT PERSON, OF COURSE, HAD BEEN
22 FOUND GUILTY OF MURDER, DO YOU BELIEVE THERE IS A
23 CIRCUMSTANCE WHERE YOU WOULD BE ABLE TO CONSIDER THE
24 DEATH PENALTY AS AN APPROPRIATE FORM OF SENTENCE OR
25 PUNISHMENT?

1 A I THINK I COULD CONSIDER IT, BUT IT WOULD BE
2 HARD FOR ME TO SENTENCE SOMEONE TO DEATH

3 Q WELL, LET ME ASK YOU THIS IN THE SENTENCING
4 PHASE OF A CAPITAL TRIAL, A JURY, AFTER CONSIDERING
5 ALL OF THE EVIDENCE, WOULD HAVE THOSE TWO OPTIONS
6 THE JURY COULD SENTENCE THE DEFENDANT TO DEATH, OR
7 THE JURY COULD SENTENCE THE DEFENDANT TO LIFE IN
8 ANY CASE, THE JURY COULD ALWAYS SENTENCE A DEFENDANT
9 TO DEATH TO -- EXCUSE ME -- COULD ALWAYS SENTENCE A
10 DEFENDANT TO LIFE NO MATTER WHAT THE CIRCUMSTANCES
11 ARE YOU WOULD ALWAYS HAVE THAT OPTION

12 A UH-HUH (AFFIRMATIVE)

13 Q IF YOU HAVE AN OPTION BETWEEN IMPOSING A
14 SENTENCE OF DEATH AND IMPOSING A SENTENCE OF LIFE,
15 WOULD YOU ALWAYS SELECT ONE OPTION OVER ANOTHER?

16 A I DON'T -- I DON'T KNOW IF I WOULD ALWAYS
17 SELECT ONE OVER THE OTHER, BUT I MAY BE MORE
18 INCLINED TO SELECT LIFE IN PRISON OR LIFE -- MORE
19 HEAVILY TOWARD THAT SIDE

20 Q OKAY BUT DO YOU BELIEVE THAT IF THE
21 CIRCUMSTANCES WARRANTED IT IN A PARTICULAR CASE THAT
22 YOU COULD CONSIDER IMPOSING A DEATH SENTENCE IF YOU
23 BELIEVE IT TO BE APPROPRIATE UNDER THE CIRCUMSTANCES
24 OF THAT CASE?

25 A YES, SIR

1 Q YOU COULD?

2 A UH-HUH (AFFIRMATIVE)

3 Q OKAY NOW, AS I INDICATED TO YOU EARLIER, IF
4 YOU WERE SELECTED TO SERVE AS A JUROR, YOU WOULD BE
5 SEQUESTERED THAT SEQUESTRATION WOULD TAKE PLACE AT
6 THE TIME THAT ALL OF THE JURORS HAD BEEN SELECTED
7 AND WE'RE READY TO BEGIN THE TRIAL IF YOU WERE
8 SEQUESTERED FOR THAT PERIOD OF SEVEN TO TEN DAYS,
9 WOULD THAT POSE ANY UNREASONABLE HARDSHIP OR POSE
10 ANY HEALTH RISK UPON YOU?

11 A NO, SIR

12 Q AND WOULD YOU BE WILLING TO ACCOMMODATE THAT
13 INCONVENIENCE IF SELECTED TO SERVE?

14 A YES, SIR

15 Q HAVE YOU NOW UP TO THIS POINT FORMED ANY
16 OPINION OR EXPRESSED ANY OPINION AS TO WHAT THE
17 APPROPRIATE DECISION SHOULD BE IN THIS CASE?

18 A NO, SIR

19 Q DO YOU KNOW OF ANY REASON WHY YOU COULD NOT BE
20 FAIR AND IMPARTIAL IF YOU WERE SELECTED AS A JUROR?

21 A NO, SIR

22 THE COURT ALL RIGHT PLEASE ANSWER
23 THE QUESTIONS THAT THE DEFENDANT'S LAWYER MAY ASK
24 YOU

25 MR TINSLEY THANK YOU, YOUR HONOR

1 EXAMINATION BY MR TINSLEY

2 Q GOOD MORNING, MS GRIFFIN

3 A GOOD MORNING

4 Q MS GRIFFIN, YOU BRIEFLY MENTIONED THAT YOU
5 HAD HEARD SOMETHING ABOUT THIS CASE CAN YOU TELL
6 ME IN ANY DETAIL WHAT THAT IS?

7 A WELL, WHEN IT FIRST OCCURRED YEARS AGO, I
8 REMEMBER SEEING A NEWS CLIP THAT TWO PEOPLE HAD BEEN
9 SHOT AND MAYBE A SCENE OF THE OUTSIDE OF THE HOUSE
10 OR SOMETHING, BUT THAT'S -- THAT'S ALL I REMEMBER
11 ABOUT IT

12 Q YOU HAVEN'T READ THE ARTICLES THIS WEEK IN *THE*
13 *INDEX JOURNAL* OR *THE PRESS AND BANNER*?

14 A NO, SIR

15 Q AND I BELIEVE THAT YOU DON'T KNOW MR HUGHEY,
16 IS THAT CORRECT?

17 A NO, SIR

18 Q AND YOU DON'T OR DIDN'T KNOW MS HARRIS OR MS
19 JACKSON, IS THAT CORRECT?

20 A THAT'S CORRECT

21 Q OKAY AND IN THE COURSE OF THE TRIAL, YOU
22 WOULD BE WILLING TO LISTEN TO THE EVIDENCE, THEN,
23 WITH A CLEAR SLATE AND EVALUATE THE EVIDENCE AS
24 PRESENTED?

25 A YES, SIR

1 Q AND IF THE DEFENSE WERE ABLE TO ESTABLISH THAT
2 MR HUGHEY DID NOT COMMIT THESE CRIMES, WOULD YOU BE
3 ABLE TO VOTE NOT GUILTY?

4 A YES, SIR

5 Q AND IN SO DOING, YOU REALIZE, OF COURSE, THAT
6 THE DEFENSE HAS NO BURDEN OF PROOF IN THE MATTER,
7 WOULD YOU NOT?

8 A SAY THAT AGAIN

9 Q I SAID WOULD YOU FOLLOW THE LAW AND REALIZE
10 AND APPLY THE FACT THAT THE DEFENSE HAS NO BURDEN OF
11 PROVING ANYTHING?

12 A RIGHT

13 Q OKAY AND YOU WOULD FOLLOW THE INSTRUCTIONS
14 AS THE JUDGE GAVE THEM TO YOU?

15 A YES, SIR

16 Q AND IN THE MATTER OF POSSIBLY -- IF THE JUDGE
17 GAVE YOU THE OPTION OF A LESSER CHARGE THAN MURDER,
18 WOULD YOU BE WILLING TO CONSIDER THAT, SUCH AS
19 MANSLAUGHTER?

20 A YES, SIR

21 Q SO THAT'S ALL ALONG THE LINES OF FOLLOWING THE
22 LAW?

23 A UH-HUH (AFFIRMATIVE)

24 MR TINSLEY THAT'S ALL I HAVE
25 THANK YOU

1 THE COURT SOLICITOR?

2 EXAMINATION BY MR JONES

3 Q GOOD MORNING, MS GRIFFIN

4 A GOOD MORNING

5 Q MY NAME IS TOWNES JONES, AND I'M YOUR
6 SOLICITOR HERE IN ABBEVILLE AND I HAVE SOME
7 QUESTIONS FOR YOU, PARTICULARLY ABOUT YOUR VIEWS ON
8 THE DEATH PENALTY

9 A OKAY

10 Q I'M GOING TO TELL YOU THAT WE HAVE THE SHEETS
11 THAT YOU FILLED OUT

12 A RIGHT

13 Q SO I HAVE LOOKED OVER THAT, AND I HAVE SOME
14 INFORMATION ABOUT YOU I KNOW --

15 A OKAY

16 Q -- THAT YOU'RE MARRIED, AND APPARENTLY ON HERE
17 YOU AND YOUR HUSBAND DON'T HAVE CHILDREN?

18 A RIGHT

19 Q YOU TOLD SOME THINGS ABOUT SOME FRIENDS OF
20 YOURS THAT HAD COMMITTED SUICIDE?

21 A YES, SIR

22 Q AND WHAT WAS THE EXTENT OF THAT FRIENDSHIP
23 THAT YOU HAD WITH THOSE PEOPLE?

24 A ONE WAS MY UNCLE

25 Q UH-HUH (AFFIRMATIVE)

1 A AND HE SHOT HIMSELF, AND THAT WAS DALE GIVE
2 ME THOSE NAMES I WROTE IT ALL DOWN

3 Q SURE SURE NOW, WHEN I READ IT ---

4 A OKAY MY COUSIN ---

5 Q WHEN I READ IT, IT APPEARED THAT MAYBE THEY --
6 -

7 THE COURT MS GRIFFIN, HERE'S A
8 COPY OF YOUR QUESTIONNAIRE IF YOU'D LIKE IT

9 JUROR OKAY

10 EXAMINATION CONTINUED BY MR JONES

11 A OKAY DALE BROWN WAS MY UNCLE, AND HE SHOT
12 HIMSELF, AND ROBBIE JOE PRICE WHICH IS MY FIRST
13 COUSIN HE SHOT HIMSELF

14 Q SEPARATE TIMES?

15 A YES, SEPARATE TIMES

16 Q UH-HUH (AFFIRMATIVE)

17 A JOSH WILSON, HE'S MARRIED TO MY COUSIN, AND I
18 THINK HE TRIED TO HE DIDN'T ACTUALLY KILL HIMSELF,
19 BUT I THINK HE LIKE GLAZED THE SIDE OF HIS HEAD

20 Q SURE

21 A AND THAT'S THE EXTENT

22 Q I SEE, AND THEN YOU ALSO MENTIONED THAT YOUR
23 MOM HAD HAD A BRIEF PERIOD OF A MENTAL DISORDER?

24 A YEAH MANY YEARS AGO SHE HAD A MENTAL
25 BREAKDOWN, AND SHE HAD TO HAVE SOME TREATMENT FOR

1 THAT

2 Q WELL, MANY OF US HAVE FAMILY MEMBERS WHO DO
3 FROM TIME TO TIME HAVE MENTAL PROBLEMS, MENTAL
4 ILLNESSES, AND MENTAL DISORDERS HAS THAT BEEN
5 SOMETHING THAT HAS CAUSED YOU TO BE MORE SENSITIVE
6 TO MENTAL PROBLEMS, MENTAL ILLNESSES THAN YOU WERE
7 BEFORE YOU EXPERIENCED YOUR MOTHER'S PROBLEMS?

8 A WELL, I WAS SO YOUNG THAT I DON'T EVEN
9 REMEMBER OTHER THAN BEING TOLD ABOUT IT

10 Q DO YOU KNOW WHAT TYPE OF MENTAL DISORDER IT
11 WAS?

12 A NO I JUST KNOW THAT SHE HAD A NERVOUS
13 BREAKDOWN AND HAD TO HAVE SOME TREATMENT FOR IT BUT
14 ---

15 Q IS SHE ALIVE TODAY?

16 A YES SHE'S ALIVE AND SHE'S FINE

17 Q SHE'S DOING FINE?

18 A YES

19 Q WELL, I MENTIONED TO YOU THAT I PRIMARILY
20 WANTED TO ASK YOU QUESTIONS ABOUT YOUR VIEWS ON THE
21 DEATH PENALTY COULD I HAND YOU YOUR FORM BACK?

22 A SURE

23 Q JUDGE? AND YOU TOLD THE JUDGE THAT YOU COULD
24 CONSIDER THE DEATH PENALTY?

25 A YES

1 Q WHEN YOU HESITATE WHEN I ASK YOU THAT, IF I'M
2 OBSERVING YOU PROPERLY I DON'T MEAN TO SAY THINGS
3 THAT AREN'T

4 A YES WELL, I ALSO SAID THAT I WOULD LEAN MORE
5 HEAVILY TOWARDS LIFE WHEN I -- I WOULD LISTEN TO THE
6 EVIDENCE, AND I WOULD WEIGH IT ACCORDINGLY, BUT I,
7 MYSELF, FEEL LIKE IT WOULD BE HARD FOR ME TO SAY,
8 "TAKE THIS PERSON'S LIFE "

9 Q YES, AND THAT'S EXACTLY WHERE I WANT TO GO
10 WITH MY QUESTION --

11 A OKAY

12 Q -- BECAUSE WHEN THE JUDGE ASSURED YOU THAT YOU
13 WERE UNDER OATH BEFORE, YOU'RE UNDER OATH AGAIN
14 THAT'S SO YOU'LL BE TRUTHFUL BUT WHAT I WANT YOU
15 TO TRY TO BE, AND I KNOW YOU'RE BEING TRUTHFUL, IS
16 HONEST

17 A OKAY

18 Q TRUTHFUL AND HONEST HONEST WITH ME, THE
19 COURT

20 A UH-HUH (AFFIRMATIVE)

21 Q AND YOU CAN'T BE HONEST WITH ME AND THE COURT
22 UNTIL YOU'RE HONEST WITH YOURSELF

23 A UH-HUH (AFFIRMATIVE)

24 Q AND TO BE HONEST WITH YOURSELF YOU HAVE TO
25 KNOW YOURSELF

1 A OKAY

2 Q AND YOU HAVE TO HAVE THOUGHT ABOUT YOURSELF
3 IN OTHER WORDS, WHAT AM I CAPABLE OF DOING? WHEN
4 THE JUDGE ASKS YOU TO CONSIDER SOMETHING, WHEN HE
5 SAYS, "CAN YOU CONSIDER GIVING DEATH?" IT MIGHT BE
6 EASIER TO SAY, "SURE, I CAN CONSIDER THAT " BUT
7 WE'RE ASKING YOU TO SERIOUSLY CONSIDER, NOT JUST TO
8 SAY, "WELL, YEAH, I CAN DO THAT," BUT HAVE YOU
9 THOUGHT ABOUT IT? HAVE YOU THOUGHT ABOUT IT
10 SUFFICIENTLY IN YOUR MIND AND IN YOUR HEART TO PUT
11 YOURSELF IN THAT POSITION?

12 MR TINSLEY YOUR HONOR, OBJECTION
13 I HAVEN'T -- IT SEEMS LIKE IT'S A SPEECH INSTEAD OF
14 QUESTION

15 THE COURT OKAY LET'S TRY TO
16 SHORTEN UP THE QUESTION SO SHE CAN UNDERSTAND IT

17 MR JONES OKAY

18 EXAMINATION CONTINUED BY MR JONES

19 Q WHAT I'M ASKING YOU IS DO YOU UNDERSTAND
20 THAT WHEN YOU'RE ASKED IF YOU CAN CONSIDER IMPOSING
21 THE DEATH PENALTY, WE'RE ASKING YOU IF YOU CAN
22 SERIOUSLY IMPOSING THE DEATH PENALTY?

23 A YES I THINK I COULD

24 Q AND DO YOU UNDERSTAND THAT WHEN WE ASK YOU TO
25 SERIOUSLY CONSIDER IT, YOU MIGHT EQUATE THAT TO

1 WOULD YOU CONSIDER BUNGEE JUMPING?

2 A NO

3 Q OKAY AND YOU KNOW YOU WOULDN'T DO THAT?

4 A RIGHT

5 Q ALL RIGHT AND YOU'VE THOUGHT ABOUT THAT?

6 A UH-HUH (AFFIRMATIVE)

7 Q OKAY AND TO THE SAME EXTENT YOU'VE THOUGHT
8 ABOUT THAT, YOU'VE THOUGHT ABOUT BEING IN A TRIAL,
9 CONVICTING SOMEONE OF TWO MURDERS, TWO SEPARATE
10 MURDERS --

11 A UH-HUH (AFFIRMATIVE)

12 Q -- AND THEN LISTENING TO THE REASONS AND
13 AGGRAVATION AS TO WHY THOSE MURDERS WARRANT THE
14 IMPOSITION OF THE DEATH PENALTY, AND THEN LISTENING
15 TO EVIDENCE AND MITIGATION AS TO WHY YOU SHOULD
16 IMPOSE THE DEATH PENALTY?

17 A YES I UNDERSTAND THAT

18 Q ALL RIGHT AND THEN YOU HAVE CONSIDERED
19 SIGNING YOUR NAME, WHICH YOU MUST DO, ON A PIECE OF
20 PAPER IMPOSING THE DEATH PENALTY ON ANOTHER HUMAN
21 BEING?

22 MR TINSLEY OBJECTION TO THE FORM
23 OF THE QUESTION, YOUR HONOR

24 THE COURT WELL, WHAT WAS IT YOU'RE
25 OBJECTING TO?

1 MR TINSLEY WELL, IT DOESN'T
2 CLARIFY IT THAT MAKES IT AS HER ONLY ALTERNATIVE
3 THE WAY THE QUESTION IS STATED

4 THE COURT WELL, THAT CAN BE CLEAR
5 I'LL LET YOU ASK HER SOMETHING ELSE IF YOU NEED TO
6 GO AHEAD

7 EXAMINATION CONTINUED BY MR JONES

8 A I FEEL LIKE, ACCORDING TO THE LAW AND ALL THE
9 EVIDENCE, IF I FELT, YOU KNOW, THAT THAT WAS THE
10 RIGHT THING, I MEAN, I BELIEVE I COULD DO THAT
11 ACCORDING -- LISTEN TO AGGRAVATING INFERENCES OR
12 WHATEVER YOU'RE TALKING ABOUT I BELIEVE I COULD
13 SIGN MY NAME TO IT DID THAT ANSWER YOUR QUESTIONS?

14 Q YES, MA'AM BASICALLY, MY QUESTION WAS
15 COULD YOU SIGN YOUR NAME IMPOSING THE DEATH PENALTY
16 ON ANOTHER HUMAN BEING IF THE CIRCUMSTANCES WERE
17 SUCH THAT YOU FELT THE DEATH PENALTY WAS THE PROPER
18 PUNISHMENT? YOU COULD TAKE THAT ADDITIONAL STEP BY
19 SIGNING YOUR NAME? THAT'S MY QUESTION

20 A YES I BELIEVE I COULD

21 Q WELL, YOU SAY YOU BELIEVE YOU COULD COULD
22 YOU?

23 A YES, I COULD

24 Q YOU COULD?

25 A UH-HUH (AFFIRMATIVE)

1 Q AND IF THE CIRCUMSTANCES WARRANTED IT, YOU
2 WOULD?

3 A YES

4 Q AND WHEN YOU TELL US THAT TODAY, YOU FEEL THAT
5 YOUR STATEMENT HERE TODAY, IF THE CIRCUMSTANCES
6 WARRANTED TEN DAYS TO TWO WEEKS FROM NOW, YOU'D
7 MAINTAIN THAT SAME POSITION?

8 A YES, SIR

9 MR JONES THANK YOU, MA'AM
10 THE COURT ANY OTHER QUESTIONS?

11 MR TINSLEY NO, YOUR HONOR

12 THE COURT ALL RIGHT MS GRIFFIN,
13 LET ME ASK YOU, IF YOU WOULD, TO JUST STAND OUTSIDE
14 THAT DOOR FOR JUST A MOMENT, AND WE'LL BRING YOU
15 BACK SHORTLY

16 JUROR OKAY

17 (JUROR DOES AS INSTRUCTED)

18 THE COURT ANY OBJECTION TO THE
19 JUROR BEING QUALIFIED?

20 MR JONES NOT ON THE PART OF THE
21 STATE, YOUR HONOR

22 MR TINSLEY NO, YOUR HONOR

23 THE COURT ALL RIGHT SHE IS SO
24 QUALIFIED I FIND THAT BASED UPON HER TESTIMONY SHE
25 HAS NO BIAS, PREJUDICE, OR INTEREST WHICH WOULD

1 PREVENT HER FROM CARRYING OUT HER DUTIES AS A JUROR
2 SHE INDICATED SHE COULD CONSIDER BOTH FORMS OF THE
3 PUNISHMENT IN THE GUILTY PHASE AS WELL AS BOTH FORMS
4 OF THE PUNISHMENT IN ANY SENTENCING PHASE, AND,
5 THEREFORE, SHE'S QUALIFIED TO SERVE BRING MS
6 GRIFFIN BACK IN

7 (JUROR RE-ENTERS THE COURTROOM)

8 THE COURT MS GRIFFIN, YOU HAVE BEEN
9 QUALIFIED TO SERVE AS A JUROR IN THE POOL FROM WHICH
10 THE ACTUAL JURY WILL BE SELECTED OBVIOUSLY, WE
11 HAVE A NUMBER OF OTHER JURORS THAT MUST BE
12 QUESTIONED JUST AS YOU WERE LET ME CAUTION YOU AND
13 ASK YOU TO REMEMBER THE CAUTION GIVEN YOU EARLIER
14 YOU'RE STILL NOT TO DISCUSS THE CASE IN ANY FASHION
15 YOU'RE STILL NOT TO ALLOW YOURSELF TO BE EXPOSED TO
16 ANY TYPE OF MEDIA COVERAGE, AND YOU'RE NOT TO TALK
17 WITH ANY OTHER PERSON OR ANY OTHER POTENTIAL JUROR
18 REGARDING THE QUESTIONS THAT YOU'VE BEEN ASKED HERE
19 TODAY NOW, WHAT I WOULD SIMPLY ASK THAT YOU DO --
20 LET ME BE CERTAIN THAT WE HAVE NUMBERS WHERE WE CAN
21 REACH YOU

22 JUROR UH-HUH (AFFIRMATIVE) MY
23 HOME IS 446-3939 YOU SHOULD BE ABLE TO REACH ME
24 THERE

25 THE COURT OKAY IS THERE ANY OTHER

1 NUMBER THAT YOU WOULD BE AVAILABLE IF YOU'RE NOT AT
2 HOME?

3 JUROR MY MOM'S NUMBER IS 459-5498
4 WELL, YOU WOULDN'T BE CALLING ME WITHIN LIKE THE
5 NEXT THREE HOURS BECAUSE I WAS GOING TO RUN OVER TO
6 THE STORE

7 THE COURT NO IT'LL BE -- IT'LL
8 PROBABLY BE MONDAY OR PERHAPS ---

9 JUROR RIGHT THE SCHOOL NUMBER'S
10 941-8528, AND THAT'S IT

11 THE COURT ALL RIGHT WE'LL BE IN
12 TOUCH WITH YOU

13 JUROR OKAY THANK YOU

14 THE COURT THANK YOU, MA'AM

15 (JUROR EXITS COURTROOM)

16 (JUROR IS QUALIFIED)

17 THE COURT ALL RIGHT ASK MS
18 CROCKETT TO COME OUT, PLEASE

19 (JUROR #53 PRESENTED AT 9 00 O'CLOCK A M)

20 THE COURT ALL RIGHT YOU ARE MARTHA
21 CROCKETT?

22 JUROR YES

23 EXAMINATION BY THE COURT

24 Q GOOD MORNING

25 A GOOD MORNING

1 Q MS CROCKETT, I KNOW YOU PREVIOUSLY FILLED OUT
2 A JUROR QUESTIONNAIRE THAT YOU RECEIVED WHEN YOU
3 RECEIVED YOUR SUMMONS YOU ALSO HAVE INDICATED
4 EARLIER THAT YOU RECEIVED MY LETTER AND, OF COURSE,
5 IN THAT LETTER IT SET FORTH CERTAIN CAUTIONARY
6 INSTRUCTIONS REGARDING DISCUSSIONS WITH ANY PERSONS
7 ABOUT THE CASE AND TO AVOID ANY TYPE OF MEDIA
8 COVERAGE OF THIS PARTICULAR CASE DID YOU COMPLY
9 WITH THOSE INSTRUCTIONS?

10 A YES, SIR

11 Q HAVE YOU HAD ANY EXPOSURE TO MEDIA COVERAGE OR
12 DISCUSSIONS WITH PERSONS SINCE YOU RECEIVED THAT
13 LETTER?

14 A NO, SIR

15 Q HAD YOU RECEIVED ANY EXPOSURE TO MEDIA
16 COVERAGE PRIOR TO RECEIVING THAT LETTER?

17 A NO, SIR

18 Q OKAY NOW, WE'RE GOING TO BE ASKING YOU SOME
19 QUESTIONS I'LL BE GOING FIRST, AND THEN THE
20 LAWYERS FOR EACH SIDE WILL ASK YOU SOME ADDITIONAL
21 QUESTIONS THE QUESTIONS THAT ARE ASKED, THERE ARE
22 NO RIGHT OR WRONG ANSWERS TO THEM WE JUST SIMPLY
23 NEED TO KNOW YOUR VIEWS AND OPINIONS ON CERTAIN
24 SUBJECTS SO I WOULD SIMPLY ASK THAT YOU ANSWER THE
25 QUESTION AS BEST THAT YOU CAN AND AS HONESTLY AS YOU

1 CAN, AND IF YOU DO NOT UNDERSTAND THE QUESTION,
2 SIMPLY LET ME KNOW THAT FACT, AND I'LL TRY TO
3 CLARIFY IT FOR YOU, OKAY?

4 A YES, SIR

5 Q NOW, DO YOU UNDERSTAND THAT IN A CRIMINAL
6 TRIAL THE FUNCTION OF A JURY IS TO CONSIDER EVIDENCE
7 THAT WOULD BE PRESENTED DURING THE COURSE OF THE
8 TRIAL, AND IN CONSIDERING THAT EVIDENCE, TO DECIDE
9 WHAT THE FACTS ARE IN A CASE?

10 A YES

11 Q THEN, OF COURSE, THE JURY IS CALLED UPON TO
12 TAKE THE LAW AS THE COURT WILL PROVIDE IT AND APPLY
13 IT TO THE FACTS AS THAT JURY PANEL DETERMINES THOSE
14 FACTS TO BE IN ORDER TO ARRIVE AT A DECISION IN A
15 CASE DO YOU UNDERSTAND THAT?

16 A YES YES, SIR

17 Q NOW, IN THIS PARTICULAR CASE, THE STATE HAS
18 CHARGED THE DEFENDANT WITH MURDER, AND THEY ARE ALSO
19 ALLEGING CERTAIN AGGRAVATING CIRCUMSTANCES UNDER
20 THE LAW OF THIS STATE WHERE CERTAIN AGGRAVATING
21 CIRCUMSTANCES ARE PROVEN, IN ADDITION TO A MURDER
22 HAVING BEEN PROVEN, THE STATE IS ENTITLED TO SEEK
23 THAT THE DEATH PENALTY BE IMPOSED UPON THAT
24 INDIVIDUAL DO YOU UNDERSTAND THAT?

25 A YES, SIR

1 Q NOW, THIS IS WHAT'S CALLED A BIFURCATED
2 PROCEEDING, AND IT SIMPLY MEANS THAT IT OCCURS IN
3 TWO SEPARATE STAGES A JURY IS SELECTED, AND THERE
4 IS WHAT'S CALLED A GUILT PHASE DURING THAT PHASE
5 OF THE TRIAL, EVIDENCE IS PRESENTED ON THE ISSUE OF
6 WHETHER OR NOT THE PERSON IS GUILTY OF THE CRIMES
7 ALLEGED, AND THE JURY, IN CONSIDERING THAT EVIDENCE
8 AND APPLYING THAT LAW THAT THE COURT PROVIDES,
9 DECIDES WHETHER OR NOT THE PERSON HAS BEEN PROVEN TO
10 BE GUILTY OF THE CRIMES ALLEGED

11 A YES

12 Q IF A PERSON IS FOUND GUILTY OF THE CRIME OF
13 MURDER, AND IF SOME STATUTORY AGGRAVATING
14 CIRCUMSTANCE HAS BEEN PROVEN, THEN THE STATE HAS A
15 RIGHT TO SEEK THE DEATH PENALTY AND IN THAT EVENT,
16 WE WOULD PROCEED TO A SECOND PHASE OR SECOND STAGE
17 OF THE TRIAL IT'S DURING THAT STAGE OF THE TRIAL
18 THAT THE JURY WOULD CONSIDER ADDITIONAL EVIDENCE
19 THAT MIGHT BE OFFERED THERE WOULD BE CERTAIN
20 AGGRAVATING -- DO NOT LET ANYONE IN THAT DOOR WHILE
21 A JUROR IS IN THE COURTROOM BEING QUESTIONED,
22 PLEASE I CAN'T HAVE TRAFFIC COMING AND GOING WHILE
23 WE'RE IN THIS PROCESS, SOLICITOR

24 MS CROCKETT, YOU UNDERSTAND THAT IN
25 THE SECOND PHASE OF THE TRIAL, THERE WOULD BE

1 ADDITIONAL EVIDENCE PRESENTED, AND THERE WOULD BE
2 CERTAIN EVIDENCE THAT RELATES TO AGGRAVATION,
3 CERTAIN EVIDENCE THAT RELATES TO MITIGATION? THAT
4 SIMPLY MEANS THAT THERE WILL BE EVIDENCE PRESENTED
5 THAT MIGHT TEND TO SUPPORT A MORE SEVERE PUNISHMENT
6 THERE WOULD BE EVIDENCE PRESENTED THAT MIGHT TEND TO
7 SUPPORT A LESSER FORM OF PUNISHMENT IN THAT PHASE
8 OF THE TRIAL, THE JURY, BASED UPON THEIR
9 CONSIDERATION OF THAT EVIDENCE, WOULD HAVE TWO
10 CHOICES THE JURY WOULD DECIDE THE FORM OF
11 PUNISHMENT THE JURY MAY IMPOSE A SENTENCE OF
12 DEATH THE JURY MAY IMPOSE A SENTENCE OF LIFE

13 NOW, WHAT I WANT TO ASK YOU IS IF
14 YOU WERE SELECTED TO SERVE AS A JUROR IN THE FIRST
15 PART OF THE TRIAL, IN THE GUILT PHASE OF THE TRIAL,
16 WOULD YOU BE ABLE TO CONSIDER ALL OF THE EVIDENCE
17 PRESENTED? AND IF YOU WERE CONVINCED BEYOND A
18 REASONABLE DOUBT THAT THE DEFENDANT WAS GUILTY OF
19 THE CRIME ALLEGED, WOULD YOU BE ABLE TO FIND THAT
20 PERSON GUILTY?

21 A YES, SIR

22 Q IF YOU WERE NOT CONVINCED BEYOND A REASONABLE
23 DOUBT AFTER YOU CONSIDERED ALL THE EVIDENCE IN THE
24 CASE, WOULD YOU BE ABLE TO FIND THAT PERSON NOT
25 GUILTY?

1 A YES

2 Q NOW, I WANT YOU TO ASSUME ONLY FOR THE PURPOSE
3 OF THIS QUESTION THAT THE PERSON HAS BEEN FOUND
4 GUILTY OF THE CRIME OF MURDER, AND THERE HAS BEEN
5 SOME AGGRAVATING CIRCUMSTANCE PROVEN UNDER THE LAW
6 AND YOU HAVE NOW PROCEEDED INTO THE SECOND STAGE OF
7 THE TRIAL WHERE THE JURY IS GOING TO CONSIDER
8 ADDITIONAL EVIDENCE, AND THE JURY IS GOING TO DECIDE
9 WHAT THE APPROPRIATE PUNISHMENT SHOULD BE AS I'VE
10 INDICATED, THOSE TWO CHOICES OR THE TWO
11 POSSIBILITIES WOULD BE A SENTENCE OF DEATH AND A
12 SENTENCE OF LIFE IF YOU WERE SELECTED AS A JUROR,
13 AND YOU WERE PARTICIPATING IN THAT SENTENCING PHASE,
14 AND YOU CONSIDERED ALL OF THE EVIDENCE, BOTH OF
15 AGGRAVATION AND OF MITIGATION, WOULD YOU BE ABLE TO
16 CONSIDER IMPOSING A DEATH SENTENCE AGAINST SOMEONE?

17 A I -- I DON'T KNOW HOW TO ANSWER THE QUESTION

18 Q MA'AM?

19 A I DON'T KNOW DIRECTLY HOW TO ANSWER THAT
20 QUESTION

21 Q OKAY WELL, LET ME SEE IF I CAN -- PERHAPS
22 IT'S A LITTLE BIT CONFUSING, AND I RECOGNIZE FULLY
23 THAT YOU MIGHT NOT HAVE SAT DOWN AT ANY TIME AND
24 ACTUALLY THOUGHT ABOUT WHAT YOUR VIEWS OR OPINIONS
25 MIGHT BE REGARDING THE DEATH PENALTY BUT WHAT I

1 NEED TO UNDERSTAND IS IF YOU WOULD BE ABLE TO
2 CONSIDER BOTH FORMS OF THE PUNISHMENT AS BEING
3 POSSIBILITIES DEPENDING UPON WHAT YOUR VIEW OF THE
4 EVIDENCE WAS I'M SIMPLY ASKING IF YOU BELIEVE THAT
5 THERE IS SOME CIRCUMSTANCE THAT, IF IT WERE PROVEN,
6 THAT YOU WOULD BE ABLE TO CONSIDER IMPOSING A DEATH
7 SENTENCE AGAINST AN INDIVIDUAL WHO HAS BEEN
8 CONVICTED OF MURDER AND SOME AGGRAVATING
9 CIRCUMSTANCE HAS BEEN PROVEN?

10 A I WOULDN'T DIRECTLY SAY THE DEATH PENALTY
11 I'D SAY HE SHOULD BE PUNISHED

12 Q OKAY WELL, NOW, YOU UNDERSTAND THAT IN THE
13 SENTENCING PHASE, AND ONLY ASSUMING THAT WE GET TO
14 THAT POINT, THAT YOU WOULD HAVE TWO CHOICES? YOU
15 WOULD BE ABLE TO SENTENCE A PERSON TO DEATH UNDER
16 THE APPROPRIATE CIRCUMSTANCES, OR YOU COULD SENTENCE
17 THAT PERSON TO LIFE NOW, IF YOU HAD THOSE CHOICES,
18 WOULD YOU ALWAYS CHOOSE ONE OVER THE OTHER?

19 A YES

20 Q AND WHAT WOULD YOU CHOOSE?

21 A I WOULD CHOOSE LIFE BECAUSE I -- LIKE I SAY,
22 YOU SHOULD BE PUNISHED

23 Q OKAY NOW, IF YOU HAD THOSE TWO CHOICES, THAT
24 IS, YOU COULD SENTENCE A PERSON TO DEATH, OR YOU
25 COULD SENTENCE THAT PERSON TO LIFE, WOULD YOU ALWAYS

1 SENTENCE THAT PERSON TO LIFE IF YOU WERE FACED WITH
2 THE CHOICE AND IT WAS YOUR CHOICE TO MAKE?

3 A WITH MY OPINION, YES

4 Q OKAY CAN YOU THINK OF ANY CIRCUMSTANCE WHERE
5 YOU MIGHT BE WILLING TO SENTENCE A PERSON TO DEATH?

6 A NO, SIR

7 Q OKAY ANSWER ANY QUESTIONS THAT MR TINSLEY
8 MIGHT HAVE FOR YOU

9 EXAMINATION BY MR TINSLEY

10 Q GOOD MORNING, MS CROCKETT

11 A GOOD MORNING

12 Q MS CROCKETT, COULD YOU SERVE AS A JUROR AND
13 LISTEN WITH NO BIAS, NO PREJUDICE TO ALL THE
14 EVIDENCE?

15 A YES, SIR

16 Q AND COULD YOU SUBSEQUENTLY FOLLOW THE LAW AS
17 GIVEN BY JUDGE COLE IN THIS CASE WHEN YOU
18 DELIBERATED IN THE JURY ROOM?

19 A YES, SIR

20 Q AND IF THE STATE PROVED THE OFFENSE CHARGED,
21 PROVED THAT A CIRCUMSTANCE OF AGGRAVATION, IS IT
22 POSSIBLE FOR YOU TO CONSIDER IMPOSING A DEATH
23 SENTENCE?

24 A NO, SIR

25 Q UNDER NO CIRCUMSTANCES CAN YOU IMPOSE A DEATH

1 SENTENCE, IS THAT CORRECT?

2 A NO, SIR LIKE I SAID, I THINK HE SHOULD BE
3 PUNISHED, YOU KNOW THAT'S JUST THE WAY I FEEL

4 Q IS THAT TRUE IN EACH AND EVERY CASE?

5 A IN MY OPINION

6 Q IN YOUR OPINION WELL, IF YOU FELT THAT THE
7 CIRCUMSTANCES WERE SO AGGRAVATING, WOULD THAT AFFECT
8 YOUR OPINION?

9 A NOT AS OF NOW

10 Q NOT AS OF NOW?

11 A UH-UH (NEGATIVE) NOT ---

12 Q COULD YOU KEEP AN OPEN MIND AND CONSIDER
13 IMPLEMENTING A SENTENCE OTHER THAN LIFE, THAT IS, A
14 DEATH SENTENCE AT THE END OF A TRIAL IF -- IF THE
15 CIRCUMSTANCES WERE SUCH THAT IT MET THE LEVEL OF,
16 SAY, WHAT WOULD BE CALLED A HEINOUS CRIME?

17 A WHAT DO THAT MEAN?

18 Q THAT MEANS A VERY SERIOUS BAD CRIME

19 A UH-HUH (AFFIRMATIVE)

20 Q WOULD YOU RECONSIDER YOUR POSITION ON THE
21 DEATH PENALTY?

22 A I JUST -- I GUESS, YOU KNOW, IF -- NO, SIR
23 REPORTER SORRY, I CAN'T HEAR YOU

24 A NO, SIR

25 THE COURT HER ANSWER WAS NO

1 JUROR NO, SIR

2 EXAMINATION CONTINUED BY MR TINSLEY

3 Q IN YOUR EXPERIENCE IN LIFE, HAVE YOU EVER
4 HEARD ABOUT OR ARE FAMILIAR WITH ANY CRIME THAT MAY
5 RISE TO A LEVEL LIKE THIS?

6 A NO, SIR

7 Q SO NONE WOULD EVER?

8 A NO

9 Q OKAY SO THERE'S NO SUCH CRIME THAT YOU COULD
10 THINK OF AND DESCRIBE TO ME?

11 A I -- IN MY OPINION, I FEEL LIKE YOU SHOULD BE
12 PUNISHED, BUT GOD WILL, I MEAN, YOU KNOW -- IT'S UP
13 TO HIM THAT'S MY OPINION THAT'S JUST THE WAY I
14 FEEL

15 MR TINSLEY I APPRECIATE THAT NO
16 FURTHER QUESTIONS

17 THE COURT ANY QUESTIONS BY THE
18 STATE?

19 MR JONES NO, YOUR HONOR WE'D
20 JUST LIKE TO THANK MS CROCKETT FOR COMING AND
21 JOINING US THIS MORNING AND BEING PART OF THE
22 PROCESS

23 THE COURT ALL RIGHT, MS CROCKETT
24 IF YOU'LL JUST STAND OUTSIDE FOR JUST ONE MOMENT,
25 I'LL BRING YOU RIGHT BACK

1 (JUROR DOES AS INSTRUCTED)

2 THE COURT DOES EITHER SIDE HAVE ANY
3 REASONS WHY THIS JUROR SHOULD NOT BE FOUND TO BE
4 DISQUALIFIED BECAUSE OF HER INABILITY TO CONSIDER
5 BOTH FORMS OF PUNISHMENT?

6 MR JONES THE STATE DOES NOT, YOUR
7 HONOR

8 MR TINSLEY BASICALLY, YOUR HONOR,
9 OUR POSITION IS THAT HER -- HER DENIAL OF
10 PARTICIPATION WOULD LIMIT OUR CROSS SECTION OF THE
11 COMMUNITY REPRESENTATION AT THIS TIME WE WOULD ASK
12 THAT SHE BE INCLUDED IN THE PANEL

13 THE COURT DO YOU BELIEVE UNDER THE
14 LAW THAT SHE IS QUALIFIED TO SERVE AS A JUROR ON
15 THIS PANEL?

16 MR TINSLEY WELL, UNDER THE -- I
17 BELIEVE IT'S THE WITHERSPOON CASE AND SOME OTHERS
18 THAT PROBABLY SHE'S NOT

19 THE COURT OKAY I FIND THE JUROR
20 NOT TO BE QUALIFIED BASED UPON HER INABILITY TO
21 CONSIDER BOTH FORMS OF THE PUNISHMENT ALL RIGHT
22 ASK MS CROCKETT TO COME IN, PLEASE

23 (JUROR RE-ENTERS THE COURTROOM)

24 THE COURT MS CROCKETT, WE'RE GOING
25 TO EXCUSE YOU FROM ANY FURTHER SERVICE, BUT WE DO

1 APPRECIATE YOU COMING DOWN HERE IT WILL NOT BE
2 NECESSARY THAT YOU REPORT BACK ANY FURTHER

3 JUROR THANK YOU

4 THE COURT THANK YOU

5 (JUROR EXITS THE COURTROOM)

6 (JUROR IS NOT QUALIFIED)

7 MR TINSLEY JUDGE, I'M CONCERNED
8 ABOUT THE SITTING ARRANGEMENT OVER HERE, AND I WOULD
9 AT THIS TIME -- WE'RE GOING TO BE BRINGING JURORS
10 RIGHT BY THAT CORNER

11 MR JONES JUDGE, WE CAN GET THEM TO
12 SIT ON THE FIRST ROW

13 MR TINSLEY AND I JUST ---

14 MR JONES Y'ALL COME RIGHT UP HERE

15 ALL RIGHT ASK MR ASHE TO COME OUT, PLEASE

16 (JUROR #07 PRESENTED AT 9 13 O'CLOCK A M)

17 EXAMINATION BY THE COURT

18 Q GOOD MORNING IF YOU'LL JUST HAVE A SEAT
19 RIGHT THERE MR ASHE, YOU WERE PREVIOUSLY SWORN
20 WHEN THE ENTIRE PANEL WAS SWORN DO YOU RECALL
21 THAT?

22 A YES

23 Q AND SO YOU REMAIN UNDER OATH FOR THE PURPOSE
24 OF THESE QUESTIONS, ALSO WE'RE GOING TO BE ASKING
25 YOU SOME QUESTIONS, AND BOTH MYSELF AS WELL AS THE

1 LAWYERS FOR EACH SIDE SO WE'D APPRECIATE YOUR
2 ANSWERING THOSE JUST AS BEST AS YOU CAN AND IF YOU
3 HAVE ANY QUESTION ABOUT IT OR YOU NEED A QUESTION
4 CLARIFIED, IF YOU'LL LET ME KNOW, WE'LL TRY TO DO
5 THAT FOR YOU

6 A ALL RIGHT

7 Q NOW, YOU PREVIOUSLY HAVE RECEIVED MY LETTER
8 ASKING YOU NOT TO HAVE ANY DISCUSSIONS ABOUT THIS
9 PARTICULAR CASE, ALSO NOT TO ALLOW YOURSELF TO BE
10 EXPOSED TO ANY MEDIA COVERAGE THAT RELATES TO THE
11 CASE HAVE YOU FOLLOWED THAT INSTRUCTION?

12 A YES, SIR

13 Q HAVE YOU BEEN EXPOSED TO ANY TYPE OF MEDIA
14 COVERAGE, WHETHER IT BE TELEVISION, RADIO OR
15 NEWSPAPER, SINCE YOU RECEIVE THE LETTER?

16 A NO, SIR

17 Q AND DID YOU -- WERE YOU EXPOSED TO ANY MEDIA
18 COVERAGE PRIOR TO RECEIVING THAT LETTER?

19 A PROBABLY WHEN IT FIRST HAPPENED, BUT NOT SINCE
20 THEN

21 Q DO YOU RECALL WHETHER THAT WAS BY TELEVISION,
22 RADIO OR NEWSPAPER?

23 A PROBABLY JUST BY PEOPLE TALKING

24 Q OKAY AND IS THERE ANYTHING THAT YOU HEARD IN
25 THOSE DISCUSSIONS OR ANYTHING THAT YOU HAVE HEARD

1 ABOUT THE CASE THAT WOULD PREVENT YOU FROM BEING
2 ABLE TO BE FAIR AND IMPARTIAL IF YOU WERE SELECTED
3 AS A JUROR?

4 A NO, SIR

5 Q NOW, WE'RE GOING TO NEED TO KNOW YOUR VIEWS
6 AND OPINIONS ON CERTAIN SUBJECTS, AND, THEREFORE,
7 WE'LL BE ASKING THOSE QUESTIONS DESIGNED TO FIND OUT
8 THAT INFORMATION AS I'VE PREVIOUSLY STATED, SIMPLY
9 GIVE US THE BEST AND MOST HONEST ANSWER THAT YOU
10 CAN IF YOU DON'T UNDERSTAND A QUESTION, LET ME
11 KNOW THAT FACT, AND WE'LL TRY TO HAVE THAT
12 CLARIFIED

13 A ALL RIGHT

14 Q YOU UNDERSTAND THAT THE FUNCTION OF A JURY IS
15 TO PARTICIPATE -- OR WHEN THEY'RE CALLED UPON TO
16 PARTICIPATE IN A TRIAL OF A CASE, IS TO SIMPLY
17 LISTEN TO TESTIMONY AND TO CONSIDER ANY OF THE
18 EVIDENCE THAT MAY BE OFFERED DURING THE TRIAL OF
19 THAT CASE AND BASED UPON THE JURY'S CONSIDERATION
20 OF THAT EVIDENCE, THEY DECIDE WHAT THE FACTS ARE
21 THAT RELATE TO THAT PARTICULAR CONTROVERSY DO YOU
22 UNDERSTAND THAT?

23 A YES, SIR

24 Q AND THEN YOU APPLY LAW IN OTHER WORDS, AT
25 THE END OF THE TRIAL THE COURT WILL PROVIDE THE LAW

1 TO THE JURY THAT THEY WILL APPLY TO THE FACTS AS
2 THEY DETERMINE THE FACTS TO BE IN ORDER TO ARRIVE AT
3 THEIR DECISION YOU UNDERSTAND THAT?

4 A YES, I DO

5 Q YOU UNDERSTAND THAT IN A CRIMINAL CASE, THE
6 BURDEN IS ALWAYS UPON THE STATE IN BRINGING A CHARGE
7 OR CRIMINAL CHARGE AGAINST ANOTHER INDIVIDUAL TO
8 ESTABLISH THAT PERSON'S GUILT BEYOND A REASONABLE
9 DOUBT BEFORE THAT PERSON COULD BE FOUND GUILTY? DO
10 YOU UNDERSTAND THAT?

11 A YES, I UNDERSTAND THAT

12 Q NOW, IN THIS CASE THE STATE, AS YOU KNOW, HAS
13 CHARGED THE DEFENDANT WITH MURDER, AND THEY ALSO
14 ALLEGE CERTAIN AGGRAVATING CIRCUMSTANCES NOW, IN
15 THE TRIAL OF A CASE SUCH AS THIS, IT PROCEEDS IN TWO
16 SEPARATE STAGES THE FIRST STAGE OF THE TRIAL IS
17 CALLED THE GUILT PHASE, AND THE SECOND STAGE OF THE
18 TRIAL IS CALLED THE SENTENCING PHASE AND, OF
19 COURSE, YOU DO NOT GET TO THE SENTENCING PHASE
20 UNLESS THE JURY HAS FOUND THE PERSON TO BE GUILTY
21 BEYOND A REASONABLE DOUBT OF THE CRIME OF MURDER,
22 AND ADDITIONALLY THAT THEY HAVE FOUND SOME
23 AGGRAVATING CIRCUMSTANCE TO BE PRESENT

24 I WANT YOU TO ASSUME, AND ONLY ASSUME
25 FOR THE PURPOSE OF THIS QUESTION, THAT A PERSON HAS

1 BEEN FOUND GUILTY BEYOND A REASONABLE DOUBT OF THE
2 CRIME OF MURDER, AND SOME AGGRAVATING CIRCUMSTANCE
3 HAS BEEN PROVEN BEYOND A REASONABLE DOUBT IN THAT
4 EVENT, WE WOULD PROCEED TO THE SECOND STAGE OF THAT
5 TRIAL WHICH IS THE SENTENCING PHASE IF YOU WERE
6 PARTICIPATING, THERE WOULD BE ADDITIONAL EVIDENCE
7 PRESENTED THERE WOULD BE EVIDENCE PRESENTED THAT
8 IS CIRCUMSTANCES OF AGGRAVATION THERE WOULD BE
9 EVIDENCE PRESENTED OF CIRCUMSTANCES OF MITIGATION
10 THAT SIMPLY MEANS THAT THERE WILL BE EVIDENCE
11 PRESENTED WHICH MIGHT TEND TO SUPPORT THE MORE
12 SEVERE FORM OF PUNISHMENT, AND THERE WOULD BE
13 EVIDENCE PRESENTED THAT MIGHT TEND TO SUPPORT THE
14 LESSER OR A LESS SEVERE FORM OF PUNISHMENT IN ANY
15 EVENT, THOSE TWO POSSIBLE FORMS OF PUNISHMENT, THE
16 TWO CHOICES THAT THE JURY WOULD HAVE, WOULD BE A
17 SENTENCE OF DEATH AND A SENTENCE OF LIFE DEPENDING
18 UPON THE EVIDENCE THAT WAS PRESENTED AT THAT STAGE
19 OF THE TRIAL, WOULD YOU BE ABLE TO CONSIDER BOTH
20 FORMS OF THAT PUNISHMENT?

21 A YES, SIR

22 Q LET ME STEP -- GO BACK ONE STEP IN THE GUILT
23 PHASE OF THE TRIAL, EVIDENCE WOULD BE PRESENTED IF
24 A PERSON HAD BEEN PROVEN BEYOND A REASONABLE DOUBT
25 TO BE GUILTY OF A CRIME, COULD YOU FIND THAT PERSON

1 GUILTY?

2 A YES, SIR

3 Q IF YOU WERE NOT CONVINCED THAT A PERSON WAS
4 GUILTY BEYOND A REASONABLE DOUBT, WOULD YOU BE ABLE
5 TO FIND THAT PERSON NOT GUILTY?

6 A YES, SIR

7 Q IF YOU HAD FOUND THAT PERSON GUILTY, AND AN
8 AGGRAVATING CIRCUMSTANCE HAD BEEN PROVEN, AND YOU'RE
9 CONSIDERING ADDITIONAL EVIDENCE IN THE SENTENCING
10 PHASE OF THE TRIAL, AFTER CONSIDERING ALL THAT
11 ADDITIONAL EVIDENCE, WOULD YOU BE ABLE TO CONSIDER
12 SENTENCING A PERSON TO DEATH IF YOU THOUGHT THE
13 CIRCUMSTANCES WARRANTED IT?

14 A YES, SIR

15 Q AND WOULD YOU ALSO BE ABLE TO CONSIDER A
16 SENTENCE OF LIFE IMPRISONMENT IF YOU THOUGHT THE
17 CIRCUMSTANCES WARRANTED IT?

18 A YES, SIR

19 Q HAVE YOU, UP TO NOW, ALREADY FORMED OR
20 EXPRESSED ANY OPINION THAT YOU MIGHT HAVE ABOUT THE
21 PROPER DECISION IN THIS CASE?

22 A NO, SIR

23 Q DO YOU KNOW OF ANY REASON WHY YOU COULD NOT BE
24 A FAIR AND IMPARTIAL JUROR IF SELECTED?

25 A NO, SIR

1 Q YOU UNDERSTAND THAT IF YOU WERE SELECTED THAT
2 YOU WOULD BE SEQUESTERED FOR A PERIOD PROBABLY SOME
3 TIME BETWEEN SEVEN AND TEN DAYS?

4 A YES, SIR

5 Q IF YOU WERE CALLED UPON TO SERVE AND YOU WERE
6 SEQUESTERED, WOULD THAT POSE ANY UNREASONABLE
7 HARDSHIP OR HEALTH RISK TO YOU?

8 A NO, SIR

9 Q WOULD YOU BE WILLING TO ACCOMMODATE THAT
10 INCONVENIENCE IF CALLED UPON TO SERVE?

11 A YES, SIR

12 Q PLEASE ANSWER ANY QUESTIONS MR TINSLEY AND
13 MR JONES MAY HAVE FOR YOU

14 EXAMINATION BY MR TINSLEY

15 Q GOOD MORNING, MR ASHE

16 A GOOD MORNING

17 Q NOW, MR ASHE, I BELIEVE YOU USED TO BE A
18 DEPUTY OVER HERE, IS THAT RIGHT?

19 A YES, SIR

20 Q WORKED FOR ABBEVILLE COUNTY SHERIFF'S
21 DEPARTMENT?

22 A THAT'S RIGHT

23 Q EVER WORK WITH SOLICITOR JONES ON ANY CASES?

24 A NO, SIR I DON'T THINK SO

25 Q YOU HAVE A -- HAVE I EVER CROSS EXAMINED YOU?

- 1 A NO, SIR I DON'T THINK SO
- 2 Q OKAY YOU WITH THE RAILROAD NOW?
- 3 A YES, SIR
- 4 Q AND WITH THE RAILROAD, YOU ARE AN ENGINEER, IS
- 5 THAT RIGHT?
- 6 A THAT'S RIGHT
- 7 Q OKAY AND DID YOU GO TO SOUTH CAROLINA OR
- 8 SOUTH CAROLINA STATE?
- 9 A SOUTH CAROLINA STATE
- 10 Q I COULDN'T QUITE TELL FROM THE QUESTIONNAIRE
- 11 WHEN DID YOU GRADUATE?
- 12 A IN THE SUMMER OF '88
- 13 Q SUMMER OF '88 SO YOU LIVED DOWN IN
- 14 ORANGEBURG THEN, IS THAT RIGHT?
- 15 A THAT'S RIGHT
- 16 Q NOW, MR ASHE, DO YOU HAVE A -- ANY
- 17 RELATIONSHIP WITH THE HARRIS -- WITH MR MACK HARRIS
- 18 OR HIS FAMILY?
- 19 A NO, SIR I KNOW THEM, BUT I DON'T REALLY HAVE
- 20 A RELATIONSHIP WITH THEM
- 21 Q YOU KNOW THEM? OKAY HOW LONG HAVE YOU KNOWN
- 22 THEM?
- 23 A WELL, I -- I THINK I KNOW THE -- THEIR SONS
- 24 I THINK MY MOTHER TAUGHT THEM
- 25 Q YOUR MOTHER TAUGHT THEM IN SCHOOL?

1 A YES

2 Q HAVE YOU TALKED TO YOUR MOTHER ABOUT THIS CASE
3 AT ALL?

4 A NO, SIR

5 Q HAVE YOU TALKED TO HER ABOUT THE FACT THAT
6 YOU'RE ON JURY DUTY?

7 A NO, SIR

8 Q HAVE YOU -- HAVE YOU TALKED WITH ANYONE ABOUT
9 THE FACT THAT YOU'RE ON JURY DUTY OUTSIDE THIS
10 COURTHOUSE?

11 A NO, SIR

12 Q HAS -- DO YOU KNOW -- DID YOU KNOW TESHEKA
13 JACKSON?

14 A YES, SIR

15 Q DESCRIBE THE NATURE OF Y'ALLS RELATIONSHIP

16 A I JUST KNEW HER FROM SEEING HER AROUND SHE
17 WAS A LOT YOUNGER THAN I WAS, AND I JUST KNOW HER
18 FROM SEEING HER THAT'S ALL

19 Q HOW ABOUT JOHN HENRY -- KENNEDY HUGHEY?

20 A YES, SIR I KNOW MR HUGHEY

21 Q HOW DO YOU KNOW HIM?

22 A REALLY FROM ANOTHER ONE OF MY FRIENDS AND MR
23 HUGHEY WAS GOOD FRIENDS

24 Q WOULD ANY OF THESE RELATIONSHIPS AFFECT YOUR
25 JUDGMENT IN THIS CASE?

1 A NO, SIR

2 Q OKAY AND COULD YOU KEEP AN OPEN MIND
3 THROUGHOUT THE CASE?

4 A YES, SIR

5 Q AND COULD YOU CONSIDER LESSER INCLUDED
6 OFFENSES SUCH AS MANSLAUGHTER?

7 A YES, SIR

8 Q NOW, IN A CASE WHERE THE STATE DID, IN FACT,
9 MEET ITS BURDEN OF PROOF, AND YOU FELT ALONG WITH
10 THE OTHER JURORS THAT MURDER WAS THE APPROPRIATE
11 VERDICT, AND YOU DID INDEED FIND A STATUTORY
12 AGGRAVATING CIRCUMSTANCE, WOULD YOU ALWAYS GIVE THE
13 DEATH PENALTY?

14 A WELL, I GUESS THAT WOULD DEPEND ON THE
15 EVIDENCE THAT I'VE HEARD, AND I WOULD JUST HAVE TO
16 MAKE UP MY MIND AFTER HEARING IT

17 Q YOU OBVIOUSLY WOULD NOT ALWAYS GIVE A LIFE
18 SENTENCE, IS THAT RIGHT?

19 A NO, SIR

20 Q WOULD YOU BE MORE INCLINED TO GIVE A DEATH
21 SENTENCE?

22 A I DON'T THINK SO I'D PROBABLY BE MORE
23 INCLINED TO GIVE A LIFE SENTENCE

24 Q OKAY SO YOU WOULD BE, BASED UPON YOUR
25 TESTIMONY, COMPLETELY OPEN MINDED IN THIS MATTER?

1 A THAT'S RIGHT

2 Q AND YOUR PRIOR EXPOSURE TO THIS CASE IS MOSTLY
3 THROUGH HEARSAY ON THE STREETS, THAT SORT OF THING?

4 A THAT'S CORRECT

5 Q HAVE YOU READ *THE INDEX JOURNAL* OR *THE PRESS*
6 *AND BANNER* THIS WEEK WITH ANY OF THESE ARTICLES
7 ABOUT THE CASE?

8 A NO, SIR

9 Q OKAY AND IN YOUR RELATIONS WITH THE FOLKS
10 WE'VE TALKED ABOUT, YOU HAVEN'T DISCUSSED THE CASE
11 WITH ANY OF THEM, IS THAT RIGHT?

12 A THAT'S RIGHT

13 Q OKAY AND YOU UNDERSTAND THE MEANING OF THE
14 WORD MITIGATION, DO YOU NOT?

15 A YES

16 Q AND AGGRAVATION?

17 A YES

18 Q AND IN THE COURSE OF THE CONVERSATIONS THAT
19 YOU'VE HEARD ABOUT MAYBE A WHILE BACK ABOUT THIS
20 CASE, COULD YOU DESCRIBE BASICALLY WHAT THAT WAS IN
21 A LITTLE MORE DETAIL?

22 A WELL, BASICALLY, IT WAS JUST SAID THAT THE
23 CRIME WAS COMMITTED, AND THAT'S BASICALLY ALL I
24 COULD HEAR ON IT

25 Q YOU JUST HEARD PEOPLE TALKING?

1 A YES

2 Q DO YOU REMEMBER WHO IT WAS OR WHEN IT WAS OR
3 THAT SORT OF THING?

4 A KIND OF LIKE EVERYBODY AROUND TOWN, YOU KNOW

5 Q EVERYBODY AROUND TOWN?

6 A YEAH

7 Q WELL ---

8 A DIFFERENT PEOPLE, BUT YOU HEAR SO MUCH BUT YOU
9 DON'T -- YOU CAN'T ---

10 Q YOU HEARD A LOT?

11 A YEAH

12 Q WOULD YOU SAY YOU HEARD FIFTY PEOPLE TALKING
13 ABOUT IT DURING THE TIME OR A HUNDRED OR ---

14 A I WOULD SAY ABOUT TEN PEOPLE

15 Q ABOUT TEN?

16 A YEAH

17 Q OKAY AND DO YOU THINK THAT MIGHT AFFECT YOU
18 SUBCONSCIOUSLY EVEN TO -- AND I KNOW THAT'S A HARD
19 QUESTION -- TO MAYBE AFFECT YOUR PREJUDICE OR BIAS
20 TOWARDS MAKING UP YOUR MIND?

21 A NO I DON'T THINK IT WOULD

22 Q AND YOU SAID ABOUT TEN PEOPLE CAN YOU --
23 WERE THOSE CONVERSATIONS RECENT, OR WAS IT BACK IN
24 '95 OR '96?

25 A I'M THINKING '95

1 Q AND WHEN WAS THE LAST TIME THAT YOU THINK YOU
2 HEARD SOMEBODY TALKING ABOUT IT?

3 A PROBABLY -- PROBABLY BACK THEN

4 Q PROBABLY BACK THEN? OKAY AND WOULD YOU FEEL
5 ANY UNDUE PRESSURE KNOWING SOME OF THE HARRIS' AND
6 JACKSONS? DID YOU FEEL ANY UNDUE PRESSURE FROM
7 THOSE FOLKS OR FUTURE RELATIONSHIPS TO LEAN ONE WAY
8 OR ANOTHER IN TERMS OF IMPOSING A SENTENCE?

9 A NO I DON'T THINK SO

10 Q AND YOU COULD MAINTAIN YOUR INDEPENDENCE AND
11 LACK OF BIAS?

12 A YES, SIR

13 Q CAN YOU THINK OF A PARTICULAR TYPE OF
14 CIRCUMSTANCE OR CRIME THAT MAY -- YOU MAY CONSIDER
15 APPROPRIATE FOR ---

16 MR JONES OBJECTION, YOUR HONOR

17 THE COURT SUSTAINED

18 MR TINSLEY THAT'S ALL THANK YOU

19 EXAMINATION BY MR JONES

20 Q GOOD MORNING, MR ASHE

21 A GOOD MORNING

22 Q MY NAME IS TOWNES JONES I'M YOUR SOLICITOR
23 HERE IN ABBEVILLE, AND MICHAEL COULTER WILL BE
24 PRESENTING THE EVIDENCE IN THIS CASE HE'S SEATED
25 HERE WITH THE BLUE COAT ON I JUST WANTED TO ASK

1 YOU A COUPLE OF QUICK QUESTIONS

2 ONE, UNDER THE LAW OF THIS STATE, IF
3 YOU SIT ON A JURY AND YOU LISTEN TO THE EVIDENCE AND
4 YOU RETURN A VERDICT OF GUILTY FOR MURDER, THEN YOU
5 GO INTO A SECOND PHASE WHERE YOU DECIDE WHAT THE
6 PROPER PUNISHMENT IS AND YOU LISTEN TO THE
7 CIRCUMSTANCES IN AGGRAVATION, WHAT MAKES IT A BAD
8 CRIME OR BAD MURDER, AND YOU LISTEN TO THE
9 CIRCUMSTANCES IN MITIGATION, WHY YOU SHOULDN'T
10 IMPOSE THE DEATH PENALTY FOR WHATEVER REASONS EXIST
11 EITHER WAY AND IF YOU, AS A JURY, DECIDE THAT IN
12 THIS CASE, IN THAT CASE, THE PROPER PUNISHMENT IS
13 THE DEATH PENALTY, YOU SAID TO THE JUDGE THAT YOU
14 COULD CONSIDER IMPOSING THAT PUNISHMENT, IS THAT
15 CORRECT?

16 A THAT'S CORRECT

17 Q AND THEN YOU HAVE TO GO ONE STEP FURTHER AND
18 SIGN YOUR NAME, MR ASHE SIGN IT ON A PIECE OF
19 PAPER THAT YOU HAND TO THE JUDGE IMPOSING THE DEATH
20 PENALTY COULD YOU SIGN YOUR NAME?

21 A YES

22 Q AND IF CIRCUMSTANCES WERE PROPER, YOU WOULD DO
23 THAT?

24 A YES

25 MR JONES THANK YOU, SIR

1 THE COURT ALL RIGHT, MR ASHE, YOU
2 MAY STEP DOWN IF YOU'LL SIMPLY GO OUT THAT DOOR
3 WITH THE BAILIFF, THEY'LL BRING YOU BACK IN JUST A
4 MINUTE

5 (JUROR DOES AS INSTRUCTED)

6 THE COURT ANY OBJECTION TO THE JUROR
7 BEING FOUND QUALIFIED?

8 MR JONES NONE ON THE PART OF THE
9 STATE, YOUR HONOR

10 MR TINSLEY I'M CONCERNED ABOUT THE
11 CONVERSATIONS HE'S HEARD, OBVIOUSLY, AND HIS
12 RELATIONSHIP WITH SOME OF THE PARTIES IN THIS CASE
13 OF COURSE, HE'S ADAMANT THAT HE COULD BE UNBIASED
14 AND PREJUDICE I UNDERSTAND THAT, AND QUITE
15 POSSIBLY HE MAY HAVE SOME -- FEEL SOME UNDUE
16 PRESSURE ABOUT ALL OF THIS SO I WOULD OBJECT ON
17 THAT BASIS

18 THE COURT ALL RIGHT I FIND BASED
19 UPON THE TESTIMONY OF THE JUROR THAT HE DOES NOT
20 HAVE ANY BIAS, PREJUDICE OR INTEREST WHICH WOULD
21 PREVENT HIM FROM BEING ABLE TO CARRY OUT HIS DUTIES
22 AS A JUROR HE INDICATED HE IS ABLE TO CONSIDER
23 BOTH FORMS OF THE VERDICT IN THE GUILT PHASE HE
24 WOULD ALSO BE ABLE TO CONSIDER BOTH FORMS OF THE
25 SENTENCING IN THE SENTENCING PHASE HE UNDERSTANDS

1 HIS DUTIES AS A JUROR I SEE NO REASON THAT HE
2 SHOULD NOT BE FOUND QUALIFIED, AND, THEREFORE, I DO
3 SO ASK MR ASHE TO COME BACK IN (JUROR RE-ENTERS
4 THE COURTROOM)

5 THE COURT MR ASHE, YOU ARE
6 QUALIFIED TO SERVE ON THE PANEL OF JURORS FROM WHICH
7 THE JURY WILL ACTUALLY BE SELECTED WHAT WE NEED TO
8 BE CERTAIN IS THAT WE HAVE YOUR PHONE NUMBERS WHERE
9 WE CAN REACH YOU IN THE EVENT WE NEED TO GET YOU ON
10 SHORT NOTICE

11 JUROR RIGHT

12 THE COURT IT'S NOT LIKELY THAT
13 WE'LL CALL YOU BEFORE MONDAY, BUT WE NEED TO BE ABLE
14 TO GET IN TOUCH WITH YOU WHENEVER IT MIGHT BE SO
15 THAT WE CAN HAVE YOU COME DOWN TO THE COURTHOUSE FOR
16 ADDITIONAL PARTICIPATION

17 JUROR RIGHT

18 THE COURT WILL YOU GIVE THE CLERK
19 YOUR PHONE NUMBERS?

20 JUROR 227-0580 THAT'S AT HOME

21 CLERK WORK?

22 JUROR WORK -- WELL, I WON'T BE AT
23 WORK

24 CLERK YOU WON'T BE?

25 JUROR NO IF I GO TO WORK, I MIGHT

1 HAVE TO GO OUT OF TOWN

2 CLERK IS THERE A NUMBER WE CAN
3 REACH YOU?

4 JUROR 459-2912

5 CLERK AND WHOSE NUMBER IS THAT?

6 JUROR MY GRANDMOTHER'S HOUSE

7 THE COURT ANY TIME OF THE DAY WE
8 CAN REACH YOU AT THOSE NUMBERS?

9 JUROR THAT'S RIGHT

10 THE COURT OKAY THANK YOU OH,
11 KEEP IN MIND, MR ASHE, THE CAUTIONARY INSTRUCTIONS
12 YOU'RE NOT TO DISCUSS THE CASE, AND DO NOT ALLOW
13 YOURSELF TO BE EXPOSED TO ANY MEDIA COVERAGE

14 JUROR ALL RIGHT

15 THE COURT THANK YOU

16 (JUROR EXITS THE COURTROOM)

17 (JUROR IS QUALIFIED)

18 THE COURT ALL RIGHT THE NEXT THREE
19 JURORS SHOULD BE PRESENT THEY ARE McCALL, WHITE
20 AND KOERBER SIR?

21 MR TINSLEY YOUR HONOR, I WOULD
22 SIMPLY ASK WHAT WAS THAT COMMENT THAT THE GOOD
23 BAILIFF MADE? I DIDN'T QUITE UNDERSTAND IT?

24 THE COURT I THOUGHT HE SAID WE HAD
25 ONE JUROR OUT THERE I DIDN'T HEAR WHAT HE SAID

1 EITHER

2 MR TINSLEY OH, WANTED TO TALK TO
3 THE JUDGE IS WHAT IT IS, JUDGE ONE ---

4 THE COURT OH ONE OF THESE THREE,
5 YOU MEAN? WELL, WOULD YOU GET THAT JUROR'S NAME?

6 BAILIFF WALT FLEMING I TOLD HIM
7 HE'D HAVE TO WAIT UNTIL WE HAD A BREAK THAT'S WHAT
8 I TOLD HIM EARLIER

9 THE COURT HUH?

10 BAILIFF I TOLD THE JUROR YOU'D JUST
11 HAVE TO WAIT TILL WE HAD A BREAK TO TALK TO YOU

12 THE COURT OKAY ALL RIGHT WHAT I
13 PROPOSE TO DO IS TAKE MR KOERBER AS YOU KNOW, HE
14 INDICATED HE HAD A MATTER HE NEEDED TO TAKE CARE OF
15 TODAY, AND SO I THINK WE'LL TAKE HIM FIRST HE'LL
16 STILL BE QUALIFIED IN THE SAME ORDER HE WAS DRAWN
17 WE'LL SIMPLY DO THE QUESTIONING IN A DIFFERENT
18 ORDER ASK MR KOERBER TO COME OUT, PLEASE

19 (JUROR #114 PRESENTED AT 9 30 O'CLOCK A M)

20 EXAMINATION BY THE COURT

21 Q GOOD MORNING, MR KOERBER

22 A GOOD MORNING

23 Q MR KOERBER, AS YOU KNOW, YOU WERE PREVIOUSLY
24 SWORN WHEN THE ENTIRE VENIRE WERE SWORN, AND SO YOU
25 REMAIN UNDER OATH FOR THE PURPOSE OF THESE

1 QUESTIONS, ALSO

2 A YES, SIR

3 Q WE'RE GOING TO BE ASKING YOU SOME QUESTIONS
4 THERE ARE NO RIGHT OR WRONG ANSWERS WE SIMPLY NEED
5 TO KNOW YOUR VIEWS AND OPINIONS ON CERTAIN SUBJECTS
6 YOU ALSO INDICATED EARLIER YOU HAD RECEIVED MY
7 LETTER INSTRUCTING YOU NOT TO HAVE ANY DISCUSSIONS
8 REGARDING THE CASE OR ALLOWING YOURSELF TO BE
9 EXPOSED TO ANY MEDIA COVERAGE RELATING TO THE TRIAL
10 DID YOU FOLLOW THAT INSTRUCTION UPON RECEIVING THE
11 LETTER?

12 A YES, SIR

13 Q HAVE YOU BEEN EXPOSED TO ANY DISCUSSIONS OR
14 MEDIA COVERAGE RELATING TO THIS PARTICULAR CASE?

15 A PRIOR TO OR AT ANY TIME?

16 Q SINCE YOU RECEIVED THAT LETTER

17 A NO MEDIA COVERAGE OR EXPOSED TO ANYTHING SINCE
18 THE LETTER

19 Q ALL RIGHT PRIOR TO RECEIVING THE LETTER, DID
20 YOU HAVE SUCH EXPOSURE OR CONTACT?

21 A YES, SIR

22 Q AND WHAT WAS THE NATURE OF THAT CONTACT OR
23 EXPOSURE?

24 A WHATEVER ARTICLES WERE WRITTEN IN *THE PRESS*
25 *AND BANNER* OR THE LOCAL *ANDERSON INDEPENDENT* I READ,

1 AND ALSO I HAD DISCUSSIONS WITH, YOU KNOW, FAMILY
2 MEMBERS AT AROUND THE TIME OF THE -- WHEN THE
3 MURDERS TOOK PLACE AND ALL SO WHEN THE DEFENDANT
4 WAS ARRESTED

5 Q IN ANY GIVEN CASE IT'S NOT NECESSARILY AS TO
6 WHAT YOU'VE HEARD, SEEN OR READ SIMPLY BECAUSE IT'S
7 NATURAL THAT WHEN SOMETHING OCCURS, IF IT IS
8 REPORTED IN THE PRESS, THAT YOU MIGHT READ IT NOT
9 KNOWING THAT SOMETIME LATER YOU MIGHT BE CALLED UPON
10 TO SERVE AS A JUROR SO IT'S NOT REALLY IMPORTANT
11 AS TO WHETHER OR NOT YOU HAD BEEN EXPOSED TO THAT
12 MEDIA COVERAGE OR HAD SOME DISCUSSIONS REGARDING THE
13 CASE, BUT IT IS IMPORTANT TO KNOW WHETHER OR NOT
14 THOSE DISCUSSIONS OR THAT MEDIA EXPOSURE WOULD
15 INTERFERE IN ANY WAY WITH YOUR ABILITY TO BE FAIR IF
16 YOU WERE SELECTED AS A JUROR IN THE CASE SO I
17 SIMPLY WANT TO KNOW, IF YOU WERE SELECTED TO SERVE
18 AS A JUROR, COULD YOU PUT ASIDE ANYTHING THAT YOU
19 MIGHT HAVE HEARD ABOUT THE CASE OR READ ABOUT THE
20 CASE AND BASE YOUR VERDICT SOLELY UPON THE EVIDENCE
21 THAT WOULD BE RECEIVED DURING THE COURSE OF THIS
22 TRIAL?

23 A I WOULD BE CONCERNED ABOUT WHETHER SOME OF THE
24 CHARACTER REFERENCES THAT WERE DISCUSSED ABOUT THE
25 DEFENDANT WOULD POSSIBLY TAINT MY VIEWS, ESPECIALLY

1 CONSIDERING THE GRAVITY OF THE CASE AND WHAT WOULD -
2 - WHEN YOU'RE TALKING ABOUT SOMEBODY'S LIFE

3 Q SURE WELL, YOU UNDERSTAND WHEN YOU HEAR
4 THINGS OUTSIDE OF THE COURTROOM, YOU READ SOMETHING
5 IN A NEWSPAPER OR YOU HAVE SOME DISCUSSIONS WITH
6 INDIVIDUALS, YOU UNDERSTAND THE INFORMATION THAT YOU
7 RECEIVE MIGHT VERY WELL NOT BE TRUE?

8 A I UNDERSTAND

9 Q WOULD YOU BE ABLE TO PUT ASIDE, IF YOU HAD
10 RECEIVED SUCH INFORMATION, COULD YOU PUT IT ASIDE
11 AND NOT CONSIDER IT IF YOU WERE CALLED UPON TO SERVE
12 AS A JUROR AND BASE YOUR DECISION SOLELY UPON THAT
13 EVIDENCE THAT IS RECEIVED DURING THE TRIAL OF THE
14 CASE?

15 A I WOULD HOPE THAT I WOULD I MIGHT HAVE DOUBT
16 IN MY MIND, BUT I WOULD HOPE THAT I WOULD

17 Q WELL, DO YOU BELIEVE THAT ANY INFORMATION THAT
18 YOU HAVE PREVIOUSLY RECEIVED OR ANY EXPOSURE YOU'VE
19 HAD TO MEDIA COVERAGE WOULD SUBSTANTIALLY IMPAIR
20 YOUR ABILITY TO FAIRLY CONSIDER THE EVIDENCE IN THIS
21 CASE?

22 A NOT SUBSTANTIALLY I DON'T BELIEVE IT WOULD
23 SUBSTANTIALLY IT MIGHT -- I WOULD PROBABLY START
24 OFF WITH SOMEWHAT OF A FORMED OPINION, PROBABLY AS
25 ANYBODY ELSE WOULD IT WOULD BE UNSURE AS HOW MY,

1 YOU KNOW, OPINION WOULD CONTINUE TO CHANGE

2 Q WELL, HAVE YOU -- LET ME ASK THAT HAVE YOU
3 ALREADY FORMED OR EXPRESSED SOME OPINION AS TO WHAT
4 YOU BELIEVE THE ULTIMATE DECISION SHOULD BE IN THIS
5 CASE?

6 A I HAVE NOT PERFORMED OR GAINED AN OPINION
7 ALONG THOSE LINES, PROBABLY MORE SO ALONG THE LINES
8 OF THE CHARACTER OF THE DEFENDANT BASED ON
9 DISCUSSIONS AND THINGS THAT WERE TOLD TO ME, NOT
10 WHETHER THE DEFENDANT ACTUALLY DID OR DID NOT DO
11 WHAT HE IS CHARGED WITH

12 Q WELL, LET ME ASK YOU IN THAT RESPECT YOU
13 UNDERSTAND THAT A JURY'S FUNCTION IS TO CONSIDER
14 EVIDENCE IN A CASE AND TO DECIDE THE FACTS BASED
15 UPON THE CONSIDERATION OF THAT EVIDENCE AND THEN
16 APPLY THE LAW THAT THE COURT WOULD PROVIDE FOR YOU
17 IN ORDER TO ARRIVE AT A DECISION?

18 IN A CASE SUCH AS THIS, THE CASE
19 WOULD PROCEED IN TWO PHASES THERE'S WHAT'S CALLED
20 A GUILT PHASE AND WHAT'S CALLED A SENTENCING PHASE
21 OBVIOUSLY, YOU DO NOT -- YOU DO NOT PROCEED TO THE
22 SENTENCING PHASE UNLESS CERTAIN THINGS HAVE BEEN
23 ESTABLISHED IN THE GUILT PHASE OF THE TRIAL UNDER
24 THE LAW OF THIS STATE, WHERE A PERSON HAS BEEN FOUND
25 GUILTY BEYOND A REASONABLE DOUBT OF THE CRIME OF

1 MURDER, AND WHERE CERTAIN AGGRAVATING CIRCUMSTANCES
2 HAVE BEEN ESTABLISHED, THE JURY IS ALSO CALLED UPON
3 TO DETERMINE WHAT THE APPROPRIATE PUNISHMENT SHOULD
4 BE THOSE TWO CHOICES OR TWO FORMS OF PUNISHMENT
5 THAT THE JURY WOULD CONSIDER WOULD BE A SENTENCE OF
6 LIFE IMPRISONMENT OR A SENTENCE OF DEATH IF YOU
7 WERE CALLED UPON TO SERVE AS A JUROR IN THE TRIAL OF
8 THIS CASE, COULD YOU CONSIDER ALL OF THE EVIDENCE
9 FAIRLY, AND IF THE DEFENDANT HAD BEEN PROVEN TO BE
10 GUILTY OF THE CRIME BEYOND A REASONABLE DOUBT,
11 RETURN A VERDICT OF GUILTY?

12 A IN THE GUILTY PHASE IS WHAT YOU'RE ASKING?

13 Q YES

14 A I BELIEVE I COULD, YES

15 Q COULD YOU ALSO CONSIDER ALL THE EVIDENCE
16 RECEIVED DURING THE TRIAL OF THAT CASE, AND IF YOU
17 WERE NOT SATISFIED BEYOND A REASONABLE DOUBT THAT
18 THE DEFENDANT HAD BEEN PROVEN GUILTY, COULD YOU
19 RETURN A VERDICT OF NOT GUILTY?

20 A I WOULD BELIEVE I COULD, YES, SIR

21 Q LET'S ASSUME FOR THE MOMENT, AND ONLY FOR THE
22 PURPOSE OF THIS QUESTION, THAT THE DEFENDANT HAS
23 BEEN FOUND GUILTY OF THE CRIME OF MURDER, AND SOME
24 AGGRAVATING CIRCUMSTANCE HAS BEEN PROVEN TO THE
25 SATISFACTION OF A JURY BEYOND A REASONABLE DOUBT

1 IN THE SENTENCING PHASE OF THE TRIAL, ADDITIONAL
2 EVIDENCE IS RECEIVED, THAT IS, EVIDENCE OF
3 AGGRAVATION, EVIDENCE OF MITIGATION THAT SIMPLY
4 MEANS EVIDENCE THAT MIGHT TEND TO SUPPORT THE MORE
5 SEVERE FORM OF PUNISHMENT BEING IMPOSED AND ALSO
6 EVIDENCE THAT MIGHT TEND TO SUPPORT THE LESS SEVERE
7 PUNISHMENT BEING IMPOSED IF YOU WERE SERVING AS A
8 JUROR UNDER THOSE CIRCUMSTANCES, WOULD YOU BE ABLE
9 TO FAIRLY CONSIDER BOTH FORMS OF THAT PUNISHMENT
10 DEPENDING UPON THE CIRCUMSTANCES AND EVIDENCE
11 PRESENTED?

12 A I HAVE A PROBLEM WITH ANOTHER HUMAN BEING
13 DETERMINING THE LIFE OF ANOTHER HUMAN BEING

14 Q OKAY THAT'S WHAT I WANT TO ASK YOU ABOUT
15 IF YOU WERE CALLED UPON TO PARTICIPATE IN THE TRIAL
16 OF THE CASE, AND YOU HAD FOUND THE DEFENDANT TO BE
17 GUILTY OF THE CRIME OF MURDER, AND SOME AGGRAVATING
18 CIRCUMSTANCE HAD BEEN PROVEN BEYOND A REASONABLE
19 DOUBT, UNDER THAT CIRCUMSTANCE, YOU WOULD BE ABLE
20 UNDER THE LAW TO CONSIDER IMPOSING THE DEATH
21 PENALTY YOU WOULD NEVER BE REQUIRED TO, BUT YOU
22 WOULD BE ALLOWED UNDER THE LAW TO CONSIDER THAT FORM
23 OF PUNISHMENT IF YOU WERE PARTICIPATING IN THAT
24 CASE, AND IF THOSE FACTS HAD BEEN ESTABLISHED, WOULD
25 YOU BE ABLE TO IMPOSE THE DEATH PENALTY AGAINST AN

1 INDIVIDUAL?

2 A I DON'T GO DEER HUNTING BECAUSE I DON'T
3 BELIEVE I SHOULD KILL A DEER I FEEL THAT I WOULD
4 HAVE THAT SAME

5 -- OBVIOUSLY WOULD HAVE THAT SAME PHILOSOPHY WITH
6 ANOTHER HUMAN BEING

7 Q ALL RIGHT LET ME ASK YOU THIS QUESTION IF
8 YOU WERE TO CONSIDER THE EVIDENCE, WOULD YOU BE ABLE
9 TO IMPOSE A LIFE SENTENCE AGAINST AN INDIVIDUAL?

10 A I BELIEVE I PROBABLY COULD ON THAT, YES, SIR

11 Q OKAY NOW, MY NEXT QUESTION IS SIMPLY THIS
12 IF YOU ARE PARTICIPATING IN THE CASE, IF YOU'RE IN
13 THE SENTENCING PHASE OF THE TRIAL, YOU'RE CALLED
14 UPON TO DETERMINE THE APPROPRIATE PUNISHMENT BASED
15 UPON YOUR CONSIDERATION OF ALL OF THAT EVIDENCE IF
16 YOU WERE FACED WITH THOSE TWO CHOICES, THE DEATH
17 PENALTY OR LIFE IMPRISONMENT, WOULD YOU ALWAYS
18 CHOOSE ONE OF THOSE FORMS OF PUNISHMENT OVER THE
19 OTHER?

20 A YES, SIR

21 Q WHICH WOULD YOU CHOOSE?

22 A LIFE IMPRISONMENT

23 Q IF YOU HAD THAT CHOICE, AND YOU WOULD HAVE
24 THAT CHOICE, WOULD YOU EVER BE ABLE TO IMPOSE THE
25 DEATH SENTENCE?

1 A I DO NOT FEEL I WOULD, SIR THAT'S NOT MY
2 DECISION ON SOMEBODY'S LIFE

3 Q WOULD YOU ALWAYS OPT FOR THE LIFE IMPRISONMENT
4 SENTENCE IF YOU HAD THAT CHOICE?

5 A YES, SIR

6 THE COURT ALL RIGHT ANSWER ANY
7 QUESTIONS MR TINSLEY OR MR JONES MAY HAVE FOR YOU
8 MR TINSLEY NO QUESTIONS, YOUR
9 HONOR

10 THE COURT MR JONES?

11 MR JONES MR KOERBER, MY NAME IS
12 TOWNES JONES, THE SOLICITOR I APPRECIATE YOUR
13 COMING FORWARD AND BEING VERY HONEST AND FRANK WITH
14 US ABOUT YOUR POSITION ON THESE MATTERS

15 JUROR YOU'RE WELCOME

16 MR JONES I HAVE NO QUESTIONS OF
17 HIM, YOUR HONOR

18 THE COURT WELL, NOW, MR KOERBER,
19 IF YOU'LL JUST STEP DOWN AND HAVE -- STEP OUT THAT
20 DOOR FOR ONE SECOND, I'LL BE RIGHT BACK WITH YOU
21 (JUROR DOES AS INSTRUCTED)

22 THE COURT ANY REASON WHY THE JUROR
23 SHOULD NOT BE FOUND NOT QUALIFIED?

24 MR JONES NO REASON FROM THE STATE,
25 YOUR HONOR

1 MR TINSLEY NO, YOUR HONOR

2 THE COURT ALL RIGHT HE IS NOT

3 QUALIFIED BRING THE JUROR IN, PLEASE

4 (JUROR RE-ENTERS THE COURTROOM)

5 THE COURT MR KOERBER, WE'RE GOING

6 TO EXCUSE YOU FROM SERVICE IN THE TRIAL OF THIS

7 CASE SO IT WILL NOT BE NECESSARY THAT YOU REPORT

8 BACK ANY FURTHER, BUT WE DO APPRECIATE YOUR COMING

9 DOWN HERE TO PARTICIPATE IF CALLED UPON, AND WE WISH

10 YOU AND YOUR FELLOW BAND MEMBERS GOOD LUCK IN THE

11 UPPER STATE CHAMPIONSHIP

12 JUROR THANK YOU, SIR

13 THE COURT YOU CAN BE EXCUSED

14 JUROR THANK YOU

15 (JUROR EXITS THE COURTROOM)

16 (JUROR IS NOT QUALIFIED)

17 THE COURT ALL RIGHT ASK MS McCALL

18 TO COME IN LINDA McCALL

19 (JUROR #127 PRESENTED AT 9 45 O'CLOCK A M)

20 EXAMINATION BY THE COURT

21 Q GOOD MORNING, MS McCALL

22 A GOOD MORNING

23 Q MS McCALL, AS YOU KNOW, WE'VE GOT SOME

24 ADDITIONAL QUESTIONS TO ASK OF YOU I'LL BE ASKING

25 SOME QUESTIONS AS WILL THE LAWYERS FOR BOTH SIDES

1 ALL WE SIMPLY WANT YOU TO DO IS TO ANSWER THE
2 QUESTIONS AS BEST THAT YOU CAN AND AS HONESTLY AS
3 YOU CAN IF FOR SOME REASON YOU DON'T UNDERSTAND
4 SOME QUESTION, OR THE QUESTION BECOMES KIND OF
5 COMPLICATED IN THE WAY THAT IT'S ASKED, SIMPLY TELL
6 ME THAT YOU DON'T UNDERSTAND ASK ME TO REPEAT IT
7 OR CLARIFY IT, AND I'LL TRY TO DO SO AS BEST THAT I
8 CAN

9 A OKAY

10 MR JONES YOUR HONOR, I BEG THE
11 COURT'S INDULGENCE JUST A MOMENT IF I COULD THANK
12 YOU, YOUR HONOR

13 EXAMINATION CONTINUED BY THE COURT

14 Q NOW, MS McCALL, YOU PREVIOUSLY RECEIVED MY
15 LETTER AND A JUROR QUESTIONNAIRE, AND YOU'VE
16 COMPLETED THAT QUESTIONNAIRE IN THE LETTER I
17 REQUESTED THAT YOU NOT HAVE ANY DISCUSSIONS ABOUT
18 THE CASE AND NOT ALLOW YOURSELF TO BE EXPOSED TO ANY
19 TYPE OF MEDIA COVERAGE HAVE YOU FOLLOWED THAT
20 REQUEST?

21 A YES, SIR

22 Q HAVE YOU BEEN EXPOSED TO ANY MEDIA COVERAGE OR
23 DISCUSSIONS ABOUT THE CASE SINCE YOU RECEIVED THAT
24 LETTER?

25 A NO, SIR

1 Q WERE YOU EXPOSED TO ANY MEDIA COVERAGE OR
2 DISCUSSIONS ABOUT THE CASE BEFORE YOU RECEIVED MY
3 LETTER?

4 A NO, SIR THE ONLY THING I KNEW, YOU KNOW,
5 WHEN IT FIRST HAPPENED, I READ IT IN THE NEWSPAPER
6 AND SAW IT ON TELEVISION WHEN IT FIRST HAPPENED

7 Q OKAY SO YOU WERE EXPOSED TO T V AND
8 NEWSPAPER COVERAGE ON OR ABOUT THE DATE THAT IT
9 OCCURRED?

10 A YES, SIR

11 Q WOULD ANYTHING THAT YOU SAW IN THAT ARTICLE OR
12 READ IN THAT ARTICLE, WOULD THAT INTERFERE IN ANY
13 WAY WITH YOUR ABILITY TO BE FAIR AND IMPARTIAL IF
14 YOU WERE SELECTED AS A JUROR?

15 A WELL, YOUR HONOR, I'M A CHRISTIAN, AND I DON'T
16 THINK I COULD BE THE CHRISTIAN I NEED TO BE AND
17 JUDGE SOMEONE TO DESERVE A DEATH SENTENCE I DON'T
18 THINK I COULD DO THAT AND BE THE CHRISTIAN THAT I
19 WOULD WANT TO BE

20 Q OKAY LET ME JUST -- ON THAT, SINCE YOU
21 BROUGHT THAT UP AT THIS POINT, LET ME SIMPLY GO INTO
22 THAT JUST A LITTLE BIT IF YOU DON'T MIND

23 A OKAY

24 Q YOU UNDERSTAND THAT IN A CASE SUCH AS THIS,
25 THAT UNDER THE LAW, THE STATE HAS A RIGHT TO SEEK

1 THE DEATH PENALTY AGAINST A PERSON IF THAT PERSON IS
2 CONVICTED OF A CRIME OF MURDER AND IF CERTAIN
3 STATUTORY AGGRAVATING CIRCUMSTANCES ARE PROVEN
4 BEYOND A REASONABLE DOUBT IF YOU WERE
5 PARTICIPATING IN A TRIAL OF A CASE WHERE A PERSON
6 WAS CHARGED WITH MURDER, AND IF YOU HAD FOUND THAT
7 PERSON TO BE GUILTY BEYOND A REASONABLE DOUBT, AND
8 YOU HAD FOUND THAT THERE WAS A CIRCUMSTANCE PROVEN
9 BEYOND A REASONABLE DOUBT, UNDER THOSE
10 CIRCUMSTANCES, YOU AND YOUR FELLOW JURORS WOULD BE
11 ABLE TO DECIDE WHAT THE PUNISHMENT SHOULD BE THE
12 TWO CHOICES THAT YOU WOULD HAVE WOULD BE LIFE
13 IMPRISONMENT OR THE DEATH PENALTY NOW, GIVEN THAT
14 PARTICULAR CIRCUMSTANCE, IF YOU WERE PARTICIPATING
15 IN THAT DECISION, WOULD YOU BE ABLE TO CONSIDER
16 IMPOSING EITHER OF THOSE FORMS OF PUNISHMENT?

17 A NO, SIR I DON'T THINK SO

18 Q IS THERE EVER A CIRCUMSTANCE THAT YOU CAN
19 ENVISION WHERE YOU WOULD BE ABLE TO SENTENCE A
20 PERSON TO DEATH?

21 A NO, SIR

22 Q AND IF YOU HAD A CHOICE BETWEEN LIFE
23 IMPRISONMENT AND A SENTENCE OF DEATH, WOULD YOU
24 ALWAYS CHOOSE ONE OF THOSE OPTIONS OVER THE OTHER?

25 A IF I HAD TO CHOOSE, I WOULD CHOOSE LIFE --

1 SERVING LIFE I WOULDN'T GIVE DEATH

2 Q YOU WOULD NEVER IMPOSE A DEATH SENTENCE
3 AGAINST SOMEONE?

4 A NO, SIR

5 THE COURT OKAY ANY QUESTIONS THAT
6 NEED TO BE ASKED BY EITHER SIDE?

7 EXAMINATION BY MR TINSLEY

8 Q AND THAT WOULD BE TRUE IN ALL CIRCUMSTANCES,
9 IS THAT CORRECT, MS McCALL?

10 A YES, SIR

11 Q AND NO MATTER WHAT WAS PROVEN, YOU JUST
12 COULDN'T BUDGE?

13 A NO, SIR I COULD NOT

14 Q AND YOU COULD -- NO CIRCUMSTANCES THAT YOU
15 COULD RECONSIDER, NO MATTER WHAT, AND ADDRESS THIS
16 MATTER IF YOU JUST COULD NOT GIVE ANYONE -- YOU
17 COULD NOT -- WHY IS THAT OR WHY DO YOU FEEL THAT
18 WAY?

19 A WELL, I FEEL LIKE -- I'M A CHRISTIAN, LIKE I
20 SAID, AND I JUST DON'T THINK THAT I COULD LIVE A
21 CHRISTIAN LIFE AND PUT SOMEBODY TO DEATH OR ANYBODY
22 LIKE THAT I JUST DON'T THINK I COULD BECAUSE THE
23 BIBLE SAYS, "THOU SHALL NOT KILL," AND I DON'T THINK
24 I COULD DO IT

25 Q AND THAT'S TRUE NO MATTER WHAT?

1 A THAT IS TRUE NO MATTER WHAT THAT IS TRUE

2 Q AND IT'S BASED ON YOUR RELATIONSHIP WITH GOD -

3 -

4 A YES, SIR IT IS

5 Q -- AND THAT SORT OF THING AND YOUR FAITH --

6 A YES, SIR

7 Q -- AND YOUR CHRISTIANITY?

8 A YES, SIR

9 Q AND REGARDLESS OF ---

10 A REGARDLESS OF WHO IT IS, I COULD NOT DO IT, NO
11 SIR

12 Q YOU JUST CAN'T SIT IN JUDGMENT IN THAT KIND OF
13 A WAY BASED UPON THE FACT THAT GOD AND YOUR
14 RELATIONSHIP WITH GOD WILL NOT LET YOU DO THAT AS A
15 CHRISTIAN? DO YOU FEEL THAT TO DO THIS, YOU JUST
16 WOULD VIOLATE YOUR FAITH

17 OR ---

18 A THAT'S RIGHT I COULDN'T DO THAT

19 MR TINSLEY THAT'S ALL THANK YOU
20 SO MUCH

21 JUROR YOU'RE WELCOME

22 MR JONES MS McCALL, MY NAME IS
23 TOWNES JONES I'M YOUR SOLICITOR I JUST WANT TO
24 THANK YOU FOR BEING PATIENT WITH US THIS WEEK AND
25 COMING UP HERE AND SERVING AND BEING PART OF THE

1 PROCESS

2 JUROR THANK YOU

3 THE COURT ANY OBJECTION TO THE
4 JUROR BEING EXCUSED?

5 MR TINSLEY JUST THAT CROSS SECTION
6 ARGUMENT I MADE EARLIER, YOUR HONOR WE CERTAINLY
7 WANT A CHRISTIAN JURY IN THIS MATTER, TOO

8 THE COURT ALL RIGHT MS McCALL,
9 I'M GOING TO EXCUSE YOU FROM ANY FURTHER
10 PARTICIPATION IN THE TRIAL OF THE CASE, BUT WE DO
11 SINCERELY APPRECIATE YOUR COMING DOWN HERE AND THE
12 INCONVENIENCE THAT'S BEEN IMPOSED UPON YOU BUT YOU
13 ARE NOW EXCUSED, AND IT WILL NOT BE NECESSARY THAT
14 YOU REPORT BACK ANY FURTHER

15 JUROR THANK YOU

16 THE COURT BUT PLEASE DON'T DISCUSS
17 ANYTHING --

18 JUROR I WON'T

19 THE COURT -- THAT'S OCCURRED HERE
20 WITH ANY POTENTIAL JUROR, OKAY?

21 JUROR OKAY THANK YOU

22 THE COURT THANK YOU WELL, I FIND
23 BASED UPON THE TESTIMONY GIVEN BY THE JUROR THAT SHE
24 IS NOT QUALIFIED UNDER THE LAW AND THAT SHE IS
25 UNABLE TO CONSIDER BOTH FORMS OF THE PUNISHMENT

1 (JUROR EXITS THE COURTROOM)

2 (JUROR IS NOT QUALIFIED)

3 THE COURT ALL RIGHT MR WHITE'S
4 BACK THERE? ALL RIGHT

5 (JUROR #214 PRESENTED AT 9 52 O'CLOCK A M)

6 EXAMINATION BY THE COURT

7 Q YOU'RE MR STEVE WHITE?

8 A YES, SIR

9 Q GOOD MORNING, MR WHITE AS I INDICATED TO
10 YOU, WE'VE GOT SOME QUESTIONS THAT WE'LL BE ASKING
11 OF YOU THERE ARE NO RIGHT OR WRONG ANSWERS WE
12 SIMPLY NEED TO KNOW YOUR VIEWS AND OPINIONS ON
13 CERTAIN SUBJECTS SO WE WOULD SIMPLY ASK THAT YOU
14 ANSWER THE QUESTIONS AS BEST THAT YOU CAN IF YOU
15 DON'T UNDERSTAND A QUESTION OR IF IT'S NOT ASKED
16 CLEARLY, SIMPLY LET ME KNOW WE'LL TRY TO REPHRASE
17 IT OR CLARIFY IT AS BEST THAT WE CAN YOU INDICATED
18 EARLIER, AND YOU UNDERSTAND YOU WERE SWORN BEFORE OR
19 WHEN THE PANEL WAS ASSEMBLED, AND YOU REMAIN UNDER
20 OATH FOR THE PURPOSE OF THESE QUESTIONS, ALSO YOU
21 INDICATED YOU HAD RECEIVED MY LETTER SINCE YOU
22 RECEIVED MY LETTER, HAVE YOU FOLLOWED THAT
23 INSTRUCTION NOT TO ALLOW YOURSELF TO BE EXPOSED TO
24 MEDIA COVERAGE OR ANY DISCUSSIONS OR CONTACT ABOUT
25 THE CASE?

1 A YES, SIR

2 Q DID YOU HAVE ANY DISCUSSIONS OR MEDIA EXPOSURE
3 PRIOR TO RECEIVING THAT LETTER?

4 A NO, SIR

5 Q IN THIS CASE, AS YOU ARE AWARE, THE STATE HAS
6 CHARGED THE DEFENDANT WITH THE CRIME OF MURDER, AND
7 THEY ARE SEEKING THE DEATH PENALTY AND UNDER THE
8 LAW OF THIS STATE, UNDER CERTAIN CIRCUMSTANCES, THE
9 STATE IS ENTITLED TO SEEK THE DEATH PENALTY, AND THE
10 DEATH PENALTY MAY BE IMPOSED WHERE A PERSON IS
11 CONVICTED OF MURDER AND CERTAIN AGGRAVATING
12 CIRCUMSTANCES HAVE BEEN PROVEN BEYOND A REASONABLE
13 DOUBT DO YOU UNDERSTAND THAT THE PURPOSE AND
14 FUNCTION OF A JURY IS TO CONSIDER EVIDENCE THAT
15 MIGHT BE OFFERED DURING THE TRIAL OF THE CASE, AND
16 BASED UPON CONSIDERATION OF THAT EVIDENCE, TO DECIDE
17 THE FACTS?

18 A YES, SIR

19 Q THEN, OF COURSE, YOU'RE CALLED UPON TO APPLY
20 THE LAW AS THE COURT WILL PROVIDE IT IN ORDER TO
21 ARRIVE AT A DECISION OR A VERDICT YOU UNDERSTAND
22 THAT?

23 A YES, SIR

24 Q IN THIS PARTICULAR TYPE OF CASE, THE TRIAL
25 OCCURS IN TWO STAGES THE FIRST STAGE IS CALLED THE

1 GUILT PHASE THE SECOND STAGE IS CALLED THE
2 SENTENCING PHASE OR PUNISHMENT PHASE IN THE FIRST
3 STAGE OF THE TRIAL, EVIDENCE IS PRESENTED THE JURY
4 IS CALLED UPON TO DETERMINE WHETHER OR NOT THE
5 PERSON HAS BEEN PROVEN TO BE GUILTY OF THE CRIME SET
6 FORTH IF YOU WERE CALLED UPON TO SERVE AS A JUROR,
7 COULD YOU CONSIDER THE EVIDENCE FAIRLY PRESENTED
8 DURING THE TRIAL OF THAT CASE? AND IF YOU WERE
9 CONVINCED OF THE DEFENDANT'S GUILT BEYOND A
10 REASONABLE DOUBT, COULD YOU RETURN A VERDICT OF
11 GUILTY?

12 A YES, SIR

13 Q IF AFTER YOU CONSIDER ALL THE EVIDENCE IN THE
14 CASE YOU WERE NOT CONVINCED OF THAT PERSON'S GUILTY
15 BEYOND A REASONABLE DOUBT, COULD YOU RETURN A
16 VERDICT OF NOT GUILTY?

17 A YES, SIR

18 Q NOW, ASSUME FOR THE MOMENT, AND ONLY FOR THE
19 PURPOSE OF THIS QUESTION, THAT YOU ARE PARTICIPATING
20 IN THE TRIAL OF THE CASE, AND YOU AND YOUR FELLOW
21 JURORS HAVE RETURNED A VERDICT OF GUILTY AS TO
22 MURDER, AND YOU HAVE FOUND SOME AGGRAVATING
23 CIRCUMSTANCE TO EXIST BEYOND A REASONABLE DOUBT IN
24 THE SENTENCING PHASE OF THE TRIAL OR THE PUNISHMENT
25 PHASE, ADDITIONAL EVIDENCE WOULD BE RECEIVED THERE

1 WOULD BE EVIDENCE AS TO AGGRAVATION AND EVIDENCE AS
2 TO MITIGATION THAT SIMPLY MEANS EVIDENCE THAT
3 MIGHT TEND TO SUPPORT THE MORE SEVERE FORM OF
4 PUNISHMENT BEING IMPOSED, THAT IS, THE DEATH
5 PENALTY, AND EVIDENCE WHICH MIGHT SUPPORT A MORE --
6 OR A LESS SEVERE PUNISHMENT BEING IMPOSED, THAT IS,
7 LIFE IMPRISONMENT THE CHOICES THAT THE JURY WOULD
8 HAVE WOULD BE LIFE IMPRISONMENT OR A SENTENCE OF
9 DEATH UNDER THOSE CIRCUMSTANCES DEPENDING UPON THAT
10 JURY'S VIEW OF THAT EVIDENCE IF YOU WERE
11 PARTICIPATING IN THAT SENTENCING PHASE OF THE TRIAL,
12 AFTER YOU HAD FAIRLY CONSIDERED ALL OF THAT
13 EVIDENCE, WOULD YOU BE ABLE TO IMPOSE A DEATH
14 SENTENCE AGAINST A PERSON IF YOU FELT THE
15 CIRCUMSTANCES WARRANTED IT?

16 A YES, SIR

17 Q COULD YOU ALSO CONSIDER IMPOSING A LIFE
18 SENTENCE FOR A PERSON WHO HAS BEEN CONVICTED OF
19 MURDER AND SOME AGGRAVATING CIRCUMSTANCE SHOWN TO
20 HAVE EXISTED?

21 A YES, SIR

22 Q YOU CAN CONSIDER BOTH FORMS OF THE PUNISHMENT?

23 A YES, SIR

24 Q I'M GOING TO ASK YOU TO PLEASE -- WELL, LET ME
25 ASK YOU THIS UP TO THIS POINT, HAVE YOU FORMED OR

1 EXPRESSED ANY OPINION AS TO WHAT YOU BELIEVE THE
2 APPROPRIATE DECISION SHOULD BE IN THIS CASE?

3 A NO, SIR

4 Q DO YOU KNOW OF ANY REASON WHY YOU COULD NOT BE
5 FAIR AND IMPARTIAL IF SELECTED AS A JUROR TO
6 PARTICIPATE?

7 A NO, SIR

8 THE COURT PLEASE ANSWER ANY
9 QUESTIONS MR TINSLEY AND MR JONES MAY HAVE FOR
10 YOU

11 EXAMINATION BY MR TINSLEY

12 Q MR WHITE, YOU, I BELIEVE, SHARED THAT YOU
13 DIDN'T HEAR ANYTHING ABOUT THIS CASE HAVE YOU
14 HEARD ANYBODY TALKING ABOUT IT, NOT WHEN IT
15 HAPPENED?

16 A NOT THAT I RECALL WHEN IT HAPPENED I MIGHT
17 HAVE, BUT I FORGOT IF I DID NOT THAT I TALKED

18 Q OKAY HOW ABOUT NEWSPAPER OR ANYTHING? DO
19 YOU TAKE THE NEWSPAPER?

20 A TWO DAYS A WEEK, I THINK IT'S ON THE
21 WEEKEND

22 Q WHICH ONE IS THAT?

23 A ANDERSON INDEPENDENT

24 Q ANDERSON ON THE WEEKEND? OKAY AND YOU WORK
25 OVER IN GREENWOOD, IS THAT RIGHT?

1 A RIGHT

2 Q MR WHITE, DO YOU FEEL THAT YOU WOULD BE PRONE
3 TO SENTENCE AN INDIVIDUAL CONVICTED OF A SERIOUS
4 CRIME LIKE THIS SUCH AS MURDER TO THE DEATH PENALTY
5 MOST OF THE TIME?

6 A I -- IT JUST -- IT WOULD DEPEND I MEAN, I
7 DON'T KNOW

8 Q DEPEND ON THE CIRCUMSTANCE? COULD YOU JUST AS
9 EQUALLY CONSIDER A LIFE SENTENCE?

10 A YEAH

11 Q DO YOU KNOW ANY OF THE HARRIS' OR THE
12 JACKSONS?

13 A JUST SEEN THEM I SEEN SOME OF THE PEOPLE
14 OVER HERE, BUT I DON'T KNOW THEM PERSONALLY

15 Q DON'T KNOW THEM PERSONALLY?

16 A NO

17 Q WOULD THAT AFFECT YOUR DECISION IN ANY WAY?

18 A NO

19 Q AND I BELIEVE THAT ON YOUR JURY QUESTIONNAIRE
20 THAT YOU DID SAY THAT ONE MEMBER OF YOUR FAMILY HAD
21 BEEN CHARGED WITH A CRIME, IS THAT RIGHT?

22 A I DON'T THINK SO

23 MR TINSLEY QUESTION SEVENTEEN,
24 YOUR HONOR COULD YOU SHOW THAT TO HIM?

25 THE COURT HERE'S A COPY OF YOUR

1 QUESTIONNAIRE

2 EXAMINATION CONTINUED BY MR TINSLEY

3 Q NOW, SIXTEEN SAYS, "HAVE YOU OR ANY MEMBER OF
4 YOUR FAMILY BEEN A VICTIM OF A CRIME?" YOU PUT NO,
5 I BELIEVE, ON THAT?

6 A OH, YES SEVENTEEN?

7 Q AND I'M NOT LOOKING TO EMBARRASS YOU ANY

8 A NO

9 Q YOU SEE WHAT I'M SAYING? I JUST WANTED TO ASK
10 YOU ABOUT THAT

11 A I GOT IN SOME TROUBLE WHEN I WAS A TEENAGER,
12 BUT I DIDN'T GO TO JAIL OR NOTHING

13 Q NO BIG DEAL?

14 A YEAH

15 Q AND AS SUCH, THAT WOULDN'T AFFECT YOUR
16 DECISION MAKING OR ANYTHING ONE WAY OR THE OTHER?

17 A NO

18 Q YOU'D BE WILLING TO LISTEN TO THE EVIDENCE AND
19 CONSIDER THE CHARGE ON THE LAW AS THE JUDGE GAVE IT
20 IN THIS CASE?

21 A UH-HUH (AFFIRMATIVE)

22 Q AND YOU DON'T HAVE ANY PREDISPOSITION TOWARDS
23 GUILT OR INNOCENCE, DO YOU?

24 A UH-UH (NEGATIVE)

25 Q AND YOU WOULD LISTEN TO THE LAW OF HOMICIDE,

1 IS THAT RIGHT?

2 A I DIDN'T UNDERSTAND

3 Q YOU WOULD LISTEN TO THE LAW OF HOMICIDE, WOULD
4 YOU NOT?

5 A UH-HUH (AFFIRMATIVE)

6 Q AND IF THE JUDGE CHARGED YOU ON THE LAW OF
7 MURDER AND VOLUNTARY MANSLAUGHTER AND NOT GUILTY,
8 COULD YOU CONSIDER ALL THREE VERDICTS GUILTY OF
9 MURDER, GUILTY OF MANSLAUGHTER, OR NOT GUILTY AT
10 ALL?

11 A YEAH

12 Q AND YOU WOULD BASE YOUR DECISION ON THE
13 EVIDENCE PRESENTED, IS THAT CORRECT?

14 A THAT'S RIGHT

15 Q AND YOU'RE A MASON, CORRECT?

16 A RIGHT

17 Q AND YOU BELONG TO ANY OTHER ORGANIZATIONS?

18 A UH-UH (NEGATIVE)

19 Q OKAY AND WHAT DO YOU DO AT FUJI?

20 A MANUFACTURING TECHNICIAN

21 Q AND YOU WORK IN YOUR SPARE TIME ON, I BELIEVE,
22 ELECTRONIC GAMES?

23 A WASHING MACHINES I HAVE A LAUNDROMAT I OWN

24 Q YOU OWN A LAUNDROMAT, TOO?

25 A UH-HUH (AFFIRMATIVE)

1 Q WHERE IS THAT?

2 A CALHOUN FALLS

3 Q OVER IN CALHOUN FALLS?

4 A THAT'S RIGHT IT SAYS COIN OPERATED MACHINES
5 SO YOU OWN A LAUNDROMAT OVER THERE, AND I BELIEVE
6 YOUR WIFE WORKS AT WHERE?

7 A GREENWOOD OB-GYN

8 Q THAT'S RUN BY ---

9 A DOCTOR SHANNON, DOCTOR LEARY, DOCTOR
10 EICHELBERGER THERE'S ABOUT FOUR OR FIVE DOCTORS

11 Q OKAY OKAY AND AS SUCH, DO YOU KNOW DOCTOR
12 BUDROW?

13 A UH-HUH (AFFIRMATIVE)

14 Q WOULD THE FACT THAT HE'S MY BROTHER-IN-LAW
15 HAVE ANY EFFECT ON YOU?

16 A NO

17 MR JONES JUDGE, I OBJECT TO ---

18 MR TINSLEY QUITE APPROPRIATE, YOUR
19 HONOR

20 THE COURT WELL, IT'S A CONNECTION
21 WITH THE LAWYERS INVOLVED IN THE CASE

22 MR JONES ALL RIGHT ALL RIGHT

23 MR TINSLEY THANK YOU SO MUCH I
24 DON'T HAVE ANY FURTHER QUESTIONS

25 THE COURT MR JONES?

1 MR JONES MR WHITE --- GO AHEAD

2 JUROR NO I WAS TRYING TO SCOOT

3 BACK I DON'T WANT TO FALL OFF THE END

4 MR JONES MY NAME IS TOWNES JONES

5 I'M YOUR SOLICITOR HERE IN ABBEVILLE SEATED NEXT

6 TO ME IS MICHAEL COULTER HE'S THE DEPUTY

7 SOLICITOR HE HAS A COUPLE OF QUESTIONS FOR YOU

8 JUROR ALL RIGHT

9 EXAMINATION BY MR COULTER

10 Q GOOD MORNING, MR WHITE AS I UNDERSTOOD WHAT

11 YOU WERE TALKING ABOUT DURING THIS TESTIMONY, YOU

12 COULD -- YOU NEED TO HEAR EVERYTHING BEFORE YOU

13 COULD MAKE ANY DECISION IN THIS CASE DURING THE

14 GUILT PHASE AND DURING THE PENALTY PHASE?

15 A RIGHT

16 Q OKAY AND IF, IN FACT, YOU GOT TO THE POINT

17 WHERE YOU AS A JURY HAD FOUND THE DEFENDANT GUILTY

18 ON TWO COUNTS OF MURDER, AND YOU ALSO FOUND AN

19 AGGRAVATING CIRCUMSTANCE, AS I UNDERSTOOD YOUR

20 TESTIMONY, YOU COULD STILL CONSIDER GIVING A LIFE

21 SENTENCE AT THAT POINT, CORRECT?

22 A AFTER ALL THE EVIDENCE, I MEAN, I'D HAVE TO --

23 IT WOULD DEPEND

24 Q IT WOULD DEPEND ON ALL THE CIRCUMSTANCES?

25 A YEAH

1 Q YOU'D HAVE TO HEAR IT ALL?

2 A YEAH

3 Q OKAY SO YOU COULD CONSIDER THAT LIFE
4 SENTENCE IF DEPENDING ON WHAT ALL THE CIRCUMSTANCES
5 WERE?

6 A RIGHT

7 Q OKAY AS I UNDERSTAND AS WELL, YOU COULD ALSO
8 CONSIDER GIVING THE DEATH SENTENCE AFTER HEARING ALL
9 THE CIRCUMSTANCES?

10 A RIGHT

11 Q NOW, LET ME TAKE IT JUST ONE STEP FURTHER AND
12 WOULD POINT OUT THAT, AS A JUROR, IF YOU, THE TWELVE
13 MEMBERS OF THE JURY, FOUND THAT THE DEATH PENALTY
14 WAS APPROPRIATE, YOU WOULD HAVE TO SIGN YOUR NAME ON
15 A DEATH WARRANT STATING THAT YOU COULD -- THAT YOU
16 ARE, IN FACT, IMPOSING THE DEATH PENALTY ON ANOTHER
17 PERSON

18 A RIGHT

19 Q COULD YOU SIGN YOUR NAME ON THAT WARRANT?

20 A RIGHT

21 Q IF IT WERE FACT, YOU COULD SIGN YOUR NAME ON
22 IT?

23 A UH-HUH (AFFIRMATIVE)

24 MR COULTER OKAY THANK YOU

25 THE COURT ALL RIGHT MR WHITE, IF

1 YOU'LL STEP DOWN AND JUST STEP OUT THE DOOR, THE
2 BAILIFF WILL BRING YOU BACK IN IN JUST A MINUTE
3 (JUROR DOES AS INSTRUCTED)

4 THE COURT ANY OBJECTION TO THE JUROR
5 BEING FOUND QUALIFIED?

6 MR JONES NONE FROM THE STATE, YOUR
7 HONOR

8 MR TINSLEY NO, YOUR HONOR

9 THE COURT ALL RIGHT I FIND, BASED
10 UPON THE TESTIMONY PRESENTED, THE JUROR HAS NO BIAS,
11 PREJUDICE OR INTEREST WHICH WOULD PREVENT HIM FROM
12 CARRYING OUT HIS DUTIES UNDER THE LAW AS A JUROR
13 HE CAN CONSIDER BOTH PUNISHMENT FORMS HE CAN
14 CONSIDER BOTH FORMS OF THE VERDICT IN THE GUILT
15 PHASE, AND, THEREFORE, IS QUALIFIED AS A JUROR ASK
16 MR WHITE TO COME IN
17 (JUROR RE-ENTERS THE COURTROOM)

18 THE COURT MR WHITE, YOU'RE GOING TO
19 BE QUALIFIED TO SERVE IN THE PANEL FROM WHICH THE
20 JURY WILL ACTUALLY BE SELECTED THAT MAY BE SOME
21 TIME FROM NOW SO WE SIMPLY ARE GOING TO EXCUSE YOU
22 NOW, BUT WE NEED TO GET PHONE NUMBERS WHERE WE CAN
23 GET IN CONTACT WITH YOU ON SHORT NOTICE WHEN WE NEED
24 YOU TO COME BACK SO IF YOU'LL GIVE THE CLERK YOUR
25 PHONE NUMBERS WHERE WE CAN REACH YOU, THEN WE'LL

1 CALL YOU WHEN WE NEED FOR YOU TO REPORT BACK

2 JUROR OKAY 446-8693 IS MY HOME
3 PHONE, AND WORK PHONE, 223-2888 EXTENSION 3142
4 THAT'S IT, I RECKON

5 THE COURT ALL RIGHT

6 JUROR I HAVE AN ANSWERING MACHINE
7 YOU CAN CALL BECAUSE NINE TIMES OUT OF TEN I AIN'T
8 GONNA BE AT HOME I'LL BE, YOU KNOW, WORKING
9 AROUND SO ---

10 THE COURT OKAY JUST BE SURE THAT
11 YOU STAY IN CONTACT WITH YOUR ANSWERING MACHINE SO
12 THAT YOU CAN GET OUR MESSAGE, AND PLEASE KEEP IN
13 MIND THE CAUTION I'VE GIVEN YOU EARLIER YOU'RE
14 STILL NOT TO DISCUSS THE CASE WITH ANYONE DO NOT
15 ALLOW YOURSELF TO BE EXPOSED TO ANY TYPE OF MEDIA
16 COVERAGE RELATING TO THE TRIAL

17 JUROR OKAY

18 THE COURT THANK YOU

19 JUROR I'M SUPPOSED TO WORK LIKE
20 THIS WEEKEND SO I KNOW I CAN GO TO WORK NOW, CAN'T
21 I?

22 THE COURT YOU CAN

23 JUROR IT'LL PROBABLY BE MONDAY,
24 TUESDAY?

25 THE COURT YOU CAN IT'S LIKELY TO

1 BE MONDAY OR TUESDAY WE'LL CALL YOU

2 JUROR OKAY

3 THE COURT THANK YOU

4 JUROR THANK YOU

5 (JUROR EXITS THE COURTROOM)

6 (JUROR IS QUALIFIED)

7 THE COURT ALL RIGHT YOU WANT TO

8 ASK MR FLEMING TO COME IN? WE'LL ADDRESS HIS

9 DIFFICULTY

10 (JUROR #67 PRESENTED AT 10 08 O'CLOCK A M)

11 THE COURT MR FLEMING, IF YOU'LL

12 JUST COME DOWN FRONT AND HAVE A SEAT OVER HERE, AND

13 I'LL TALK WITH YOU THAT'S RIGHT THAT'S GOOD

14 YOU NEED TO TALK WITH ME ABOUT YOUR SERVICE IN THE

15 CASE, YOUR POSSIBLE SERVICE?

16 JUROR I WAS -- I WAS SCHEDULED FOR

17 TWO FORTY-FIVE

18 THE COURT THAT'S RIGHT

19 JUROR YES, AND I'M -- I'M

20 SPONSORING A GOLF TOURNAMENT SO I WAS HOPING TO BE

21 ABLE TO WORK IN PRIOR TO THAT FOR THAT TIME IT'S

22 RIGHT IN THE MIDDLE OF MY TOURNAMENT

23 THE COURT OKAY ANY OBJECTION TO

24 TAKING THIS JUROR AT THE PRESENT TIME?

25 MR JONES NONE ON THE PART OF THE

1 STATE, YOUR HONOR

2 MR TINSLEY NO, YOUR HONOR I NEED
3 TO GET A QUESTIONNAIRE

4 THE COURT SURE OKAY READY TO
5 PROCEED?

6 MR TINSLEY YES, SIR

7 EXAMINATION BY THE COURT

8 Q ALL RIGHT YOU ARE WALTER FLEMING?

9 A YES, SIR

10 Q MR FLEMING, YOU WERE PREVIOUSLY SWORN WHEN
11 THE ENTIRE JURY VENIRE WAS SWORN DO YOU RECALL
12 THAT?

13 A YES, SIR

14 Q SO YOU REMAIN UNDER OATH FOR THE PURPOSE OF
15 THESE QUESTIONS, ALSO WE'RE GOING TO BE ASKING YOU
16 SOME QUESTIONS, AND THE PURPOSE OF ASKING THESE
17 QUESTIONS IS TO SIMPLY FIND OUT YOUR VIEWS AND
18 OPINIONS ON CERTAIN SUBJECTS SO WE WOULD SIMPLY
19 ASK THAT YOU PLEASE ANSWER THE QUESTIONS AS BEST
20 THAT YOU CAN IF YOU NEED TO HAVE A QUESTION
21 CLARIFIED OR REPHRASED OR ASKED IN SOME OTHER
22 FASHION, JUST LET ME KNOW WE'LL TRY TO CLARIFY IT
23 FOR YOU IT'S IMPORTANT THAT WE GET YOUR OPEN AND
24 HONEST ANSWERS REGARDING THE QUESTION

25 NOW, YOU'VE RECEIVED MY LETTER