

VOLUME TWO OF TWELVE

501 1000

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,

APPENDIX

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INDEX

INDEX	1
VOLUME I	
VOIR DIRE	2
COMPETENCY HEARING MOTION	13
DR. KATINA CLARDY WRIGHT (<i>IN CAMERA</i>)	
Direct Examination by the Defense	14
Cross Examination by the Solicitor	16
Redirect Examination by the Defense	22
Recross Examination by the Solicitor	35
Redirect Examination by the Defense	74
Recross Examination by the Solicitor	79
Redirect Examination by the Defense	81
DR. JAMES EVANS (<i>IN CAMERA</i>)	
Direct Examination by the Defense	81
Cross Examination by the Solicitor	83
Redirect Examination by the Defense	84
Recross Examination by the Solicitor	96
GLORIA WHITE HARRISON (<i>IN CAMERA</i>)	
Direct Examination by the Defense	135
Cross Examination by the Solicitor	141
DR. JAMES EVANS (<i>IN CAMERA</i>)	
Direct Examination by the Defense	168
Cross Examination by the Solicitor	180
Redirect Examination by the Defense	196
Examination by the Court	196
MOTIONS AND RULING	198
JURY ROLL CALL	212
VOIR DIRE	308
MOTION ON BRIAN DALY	345
VOIR DIRE EXCUSALS	361

CONTINUED COMPETENCY HEARING

DR KATHRYN LEWIS (IN CAMERA)

Examination by the Court	413
Direct Examination by the Defense	415

VOIR DIRE	423

PATTY GRIFFIN

Examination by the Court	423
Examination by the Defense	431
Direct Examination by the Solicitor	433

MARTHA CROCKETT

Examination by the Court	442
Examination by the Defense	449

ROBERT J ASHE

Examination by the Court	453
Examination by the Defense	459
Examination by the Solicitor	465

RALPH KOERBER

Examination by the Court	470

LINDA MCCALL

Examination by the Court	479
Examination by the Defense	483
Examination by the Solicitor	484

STEVE WHITE

Examination by the Court	486
Examination by the Defense	490
Examination by the Solicitor	495

VOLUME II

WALTER FLEMING

Examination by the Court	501
Examination by the Defense	505

GINA NORRIS

Examination by the Court	508
Examination by the Defense	515
Examination by the Solicitor	516

DAVID HOBBY	
Examination by the Court	524
DANNY BROWN	
Examination by the Court	528
Examination by the Solicitor	536
Examination by the Defense	544
Re-examination by the Court	546
COLLOQUY	551
CURTIS LOMAX	
Examination by the Court	559
DUANNE HALL	
Examination by the Court	567
Examination by the Defense	576
Examination by the Solicitor	579
VICKY MCCLAIN	
Examination by the Court	582
Examination by the Defense	591
Examination by the Solicitor	594
JAMES KLUGH	
Examination by the Court	605
Examination by the Defense	612
Examination by the Solicitor	614
Re-Examination by the Court	621
Re-Examination by the Defense	625
MICHAEL TOMPKINS	
Examination by the Court	629
Examination by the Defense	636
Examination by the Solicitor	639
BRIAN CHRISLEY	
Examination by the Court	642
Examination by the Defense	648
JAMES S. JONES, JR	
Examination by the Court	650
Examination by the Defense	658
Examination by the Solicitor	661

ROY DRAFT		
Examination by the Court	-	664
Examination by the Defense	-	673
Examination by the Solicitor	-	680
COLLOQUY	-	681
ROY DRAFT		
Further Examination by the Court		686
Further Examination by the Defense		690
MARTHA STONE		
Examination by the Court		693
Examination by the Defense	-	700
BARBARA THOMAS		
Examination by the Court	-	702
Examination by the Defense	-	711
Examination by the Solicitor	-	714
WILLIAM L HESSON		
Examination by the Court	-	717
Examination by the Defense	-	724
Re-Examination by the Court	-	735
SUSAN WILLIAMS		
Examination by the Court	-	738
Examination by the Defense	-	746
Examination by the Solicitor	-	749
BETTY GILLIAM		
Examination by the Court		757
FRANCES COWART		
Examination by the Court		762
Examination by the Defense		770
Examination by the Solicitor		771
JENNY CLARK		
Examination by the Court		781
Examination by the Defense		789
LINDA HAYNES		
Examination by the Court		791
Examination by the Defense		799

ALDENE LANGLEY	
Examination by the Court	803
Examination by the Defense	813
Examination by the Solicitor	818
Further Examination by the Defense	828
Further Examination by the Court	829
LEROY MILLS	
Examination by the Court	838
Examination by the Defense	849
EDDIE WILLIAMS	
Examination by the Court	858
Examination by the Solicitor	861
COLLOQUY ABOUT PRISON GUARD DALY	866
BRIAN DALY	
Examination by the Court	872
Examination by the Defense	882
Examination by the Solicitor	885
Further Examination by the Defense	894
SPENCER SORROW	
Examination by the Court	897
Examination by the Defense	906
Examination by the Solicitor	910
JAMES B JONES, JR.	
Examination by the Court	917
Examination by the Defense	924
Examination by the Solicitor	928
ANDREA BRAMLETT	
Examination by the Court	930
Examination by the Defense	939
Examination by the Solicitor	947
ADANELL TALLEY	
Examination by the Court	951
STANLEY ABERNATHY	
Examination by the Court	962
Examination by the Defense	970
Examination by the Solicitor	972

SOPHIA BATTLE	
Examination by the Court	976
Examination by the Defense	986
Examination by the Solicitor	994

VOLUME III

FRAN MORROW	
Examination by the Court	1005
WILLIAM HEATH BOWIE	
Examination by the Court	1022
Examination by the Defense	1028
Examination by the Solicitor	1032
DIANNE DOTSON	
Examination by the Court	1035
SANDRA LOTHBRIDGE	
Examination by the Court	1044
Examination by the Defense	1051
Examination by the Solicitor	1056
Further Examination by the Defense	1066
BOBBY GARNER	
Examination by the Court	1069
Examination by the Defense	1086
Examination by the Solicitor	1091
CHESIREE LOMAX	
Examination by the Court	1102
Examination by the Defense	1110
Examination by the Solicitor	1114
Further Examination by the Defense	1121
Further Examination by the Court	1124
NANCY MURPHEY	
Examination by the Court	1138
Examination by the Defense	1149
Examination by the Solicitor	1149

L T CARTER	
Examination by the Court	1151
Examination by the Defense	1161
Examination by the Solicitor	1167
Further Examination by the Defense	1170
Further Examination by the Court	1170
Further Examination by the Defense	1176
Further Examination by the Court	1179
HAROLD FREESE	
Examination by the Court	1186
Examination by the Defense	1193
Examination by the Solicitor	1198
LINDA S CANFIELD	
Examination by the Court	1200
Examination by the Defense	1209
Examination by the Solicitor	1216
WILLIAM SIMMONS	
Examination by the Court	1239
Examination by the Defense	1248
Examination by the Solicitor	1250
WILLIAM J JONES	
Examination by the Court	1252
Examination by the Defense	1260
Examination by the Solicitor	1263
MOTIONS	1267
ADDITIONAL JURY VOIR DIRE AND EXCUSALS	1284
MOTIONS	1481
	VOLUME IV
NANCY S KING (<i>IN CAMERA</i>)	
Examination by the Solicitor	1502
Examination by the Defense	1518
MOTIONS	1529

SHIRLEY J MCKINSEY (*IN CAMERA*)

Examination by the Court	1533
Examination by the Defense	1545
Examination by the Solicitor	1547
Further Examination by the Court	1555
Further Examination by the Solicitor	1558

MARGARET CADE

Examination by the Court	1561
Examination by the Defense	1563
Examination by the Solicitor	1564

CANDICE J CHARPING

Examination by the Court	1568
Examination by the Solicitor	1571
Examination by the Defense	1579
Further Examination by the Court	1579

SUSAN W MCCAULEY

Examination by the Court	1583
Examination by the Defense	1589
Examination by the Solicitor	1590

TYRONE C PEARSON

Examination by the Court	1592
Examination by the Defense	1603
Examination by the Solicitor	1609

CHAUNCEY COVIN

Examination by the Court	1622
Examination by the Defense	1631
Examination by the Solicitor	1633
Further Examination by the Court	1637

THOMAS A SOUTHERLAND

Examination by the Court	1641

DOROTHY J ROUSEY

Examination by the Court	1648
Examination by the Defense	1658
Examination by the Solicitor	1661
Further Examination by the Defense	1668
Further Examination by the Court	1668
Further Examination by the Solicitor	1674

CARLOS BROWN	
Examination by the Court	1677
Examination by the Defense	1684
Examination by the Solicitor	1687
Further Examination by the Court	1692
LINDA PAYNE MCELRATH	
Examination by the Court	1699
Examination by the Defense	1708
Further Examination by the Court	1713
WILLIE BELTON	
Examination by the Court	1716
Examination by the Defense	1727
Further Examination by the Court	1737
Further Examination by the Defense	1740
Examination by the Solicitor	1741
JAMES R LEE, JR.	
Examination by the Court	1742
Examination by the Defense	1750
Examination by the Solicitor	1751
CHANDELL C BOGGS	
Examination by the Court	1752
Examination by the Defense	1763
Examination by the Solicitor	1770
HAYWOOD BLACK	
Examination by the Court	1773
Examination by the Defense	1784
Examination by the Solicitor	1787
JENNIFER N PIERCE	
Examination by the Court	1792
Examination by the Defense	1799
Examination by the Solicitor	1807
MR CARTER	
Examination by the Court	1815
MS MCCLAIN	
Examination by the Court	1816
CHARLES W BOWIE, JR.	
Examination by the Court	1820

LUCIOUS PARNELL	
Examination by the Court	1824
JAMES L FREEMAN	
Examination by the Court	1831
Examination by the Defense	1837
AUDREY BANNISTER	
Examination by the Court	1839
Examination by the Defense	1845
Examination by the Solicitor	1850
TOMMY TURMAN	
Examination by the Court	1854
Examination by the Defense	1860
Examination by the Solicitor	1860
BESSIE D BRUCE	
Examination by the Court	1861
Examination by the Defense	1872
Examination by the Solicitor	1874
JIMMY GAINEY	
Examination by the Court	1881
CALVINE WASHINGTON	
Examination by the Court	1883
Examination by the Defense	1891
JAMES L FREEMAN	
Examination by the Court	1892
CHRISTOPHER L MACK	
Examination by the Court	1900
Examination by the Defense	1907
Examination by the Solicitor	1912
Further Examination by the Court	1914
MOTIONS	1917
GARY L ELLIS	
Examination by the Court	1937
Examination by the Defense	1945
Examination by the Solicitor	1947
Further Examination by the Court	1949

BOBBY CUTTER	
Examination by the Court	1952
RICHARD E BURTON	
Examination by the Court	1960
Examination by the Defense	1964
Examination by the Solicitor	1966
Further Examination by the Defense	1967
Further Examination by the Solicitor	1967
MAMIE LONDON	
Examination by the Court	1969
Examination by the Defense	1981
CALVIN HILL	
Examination by the Court	1984
Examination by the Defense	1998
Examination by the Solicitor	2002
VOLUME V	
MOTIONS	2005
CAROL A CHRISSLY (<i>IN CAMERA</i>)	
Direct Examination by the Defense	2041
Cross Examination by the Solicitor	2053
Redirect Examination by the Defense	2060
Recross Examination by the Solicitor	2061
MOTION TO QUASH	2063
SONJI HILL (<i>IN CAMERA</i>)	
Examination by the Court	2071
Examination by the Defense	2082
Examination by the Solicitor	2087
SELECTION OF THE JURY	2096
OBJECTIONS TO JURY SELECTION	2108
EXHIBITS MARKED AND/OR INTRODUCED	2120
MOTIONS	2140
PROFERRED TESTIMONY OF MARCUS HARRIS	2143

MOTIONS	2158
JURY ENTERS COURTROOM AND OPENING REMARKS	2168
OPENING STATEMENT BY THE SOLICITOR	2181
OPENING STATEMENT BY THE DEFENSE	2191
MARCUS HARRIS	
Direct Examination by the Solicitor	2208
Cross Examination by the Defense	2221
CORPORAL PATRICK NEIL HENDERSON (<i>IN CAMERA</i>)	
Direct Examination by the Solicitor	2253
Examination by the Court	2258
Cross Examination by the Defense	2260
RULING	2268
ANGELA PATTERSON	
Direct Examination by the Solicitor	2273
Cross Examination by the Defense	2285
Redirect Examination by the Solicitor	2290
CORPORAL PATRICK NEIL HENDERSON	
Direct Examination by the Solicitor	2291
Cross Examination by the Defense	2328
Redirect Examination by the Solicitor	2336
LIEUTENANT BARRY NEW	
Direct Examination by the Solicitor	2338
Cross Examination by the Defense	2373
Re-presented	2437
CORPORAL MITCH CHRISTOPHER	
Direct Examination by the Solicitor	2389
Cross Examination by the Defense	2395
MICHAEL ADAMS	
Direct Examination by the Solicitor	2400
Cross Examination by the Defense	2405
MOTION TO RECONSIDER EXCLUSION OF EVIDENCE	2415

KEN GROGAN	
Direct Examination by the Solicitor	2453
Cross Examination by the Defense	2457
DR JOHN LEWALLEN	
Direct Examination by the Solicitor	2461
Cross Examination by the Defense	2467
CHARLTON COXE	
Direct Examination by the Solicitor	2468
Cross Examination by the Defense	2471
DAVID BLACK	
Direct Examination by the Solicitor	2475

VOLUME VI

BRETT WOODARD	
Direct Examination by the Solicitor	2527
Cross Examination by the Defense	2550
DAVID BLACK	
Cross examination by the Defense	2567
GLORIA HARRISON (IN CAMERA)	
Direct examination by the Defense	2625
Cross examination by the Solicitor	2629
RULING	2643
CORPORAL PATRICK NEIL HENDERSON	
Direct Examination by the Solicitor	2650
Cross Examination by the Defense	2652
JOHN BLACK	
Direct Examination by the Solicitor	2653
Cross Examination by the Defense	2661
NANCY SKARABA	
Direct Examination by the Solicitor	2676
Cross Examination by the Defense	2692
Redirect Examination by the Solicitor	2699

LINDA BROOME	
Direct Examination by the Solicitor	2701
Cross Examination by the Defense	2706
NANCY GOFF	
Direct Examination by the Solicitor	2709
Cross Examination by the Defense	2713
Redirect Examination by the Solicitor	2717
Recross Examination by the Defense	2718
EDDIE CLARK (<i>IN CAMERA</i>)	
Direct Examination by the Solicitor	2721
Cross Examination by the Defense	2728
Redirect Examination by the Solicitor	2842
Recross Examination by the Defense	2861
JERRY SLOAN (<i>IN CAMERA</i>)	
Direct Examination by the Solicitor	2740
Cross Examination by the Defense	2745
Redirect Examination by the Solicitor	2869
Recross Examination by the Defense	2878
Redirect Examination by the Solicitor	2882
ROBIN RUCKER (<i>IN CAMERA</i>)	
Direct Examination by the Solicitor	2750
Cross Examination by the Defense	2754
Redirect Examination by the Solicitor	2763
JOHN KENNEDY HUGHEY (<i>IN CAMERA</i>)	
Direct Examination by the Solicitor	2769
Cross Examination by the Defense	2773
BEVERLY KELLY	
Direct Examination by the Solicitor	2799
Cross Examination by the Defense	2803
Redirect Examination by the Solicitor	2808
Recross Examination by the Defense	2809
Redirect Examination by the Solicitor	2810
DAN DEFREESE	
Direct Examination by the Solicitor	2812
Cross Examination by the Defense	2828
Redirect Examination by the Solicitor	2833

EDDIE CLARK	
Direct Examination by the Solicitor	2842
Cross Examination by the Defense	2861
JERRY SLOAN	
Direct Examination by the Solicitor	2868
Cross Examination by Defense	2878
Redirect Examination by the Solicitor	2882
BERNICE JACKSON	
Direct Examination by the Solicitor	2885
Cross Examination by the Defense	2892
Redirect Examination by the Solicitor	2893
GEORGE MACK HARRIS	
Direct Examination by the Solicitor	2898
MOTIONS	2934
CHRIS JESSIE BURTON	
Direct Examination by the Solicitor	2944
Cross Examination by the Defense	2962
Redirect Examination by the Solicitor	2990
Recross Examination by the Defense	2993
GLORIA WHITE HARRISON	
Direct Examination by the Defense	2993

VOLUME VII

GLORIA WHITE HARRISON	
Cross Examination by the Solicitor	3026
JOHN KENNEDY HUGHEY	
Direct Examination by the Defense	3064
Cross Examination by the Solicitor	3163
Redirect Examination by the Defense	3244
DONALD GIRNDT	
Direct examination by the Defense	3253
Cross Examination by the Solicitor	3284
Redirect Examination by the Defense	3348
MOTIONS	3366
CLOSING ARGUMENTS BY THE SOLICITOR	3384

CLOSING ARGUMENTS BY THE DEFENSE	3413
JURY CHARGE	3444
EXCEPTIONS BY THE DEFENSE	3475
JURY REQUEST FOR FURTHER INSTRUCTIONS	3482
RECHARGE OF THE JURY	3483
EXCEPTIONS REITERATED	3491
VERDICT AND POLLING OF THE JURY	3495

VOLUME VIII

MOTIONS	3502

PENALTY STAGE

EVIDENTIARY MATTERS	3508
MOTIONS	3562
OPENING STATEMENT BY THE COURT	3566
OPENING STATEMENT BY THE SOLICITOR	3570
OPENING STATEMENT BY THE DEFENSE	3576
STATEMENT BY THE COURT	3585
MOTIONS	3588
BARRY NEW	
Direct Examination by the Solicitor	3619
DR BRETT WOODARD	
Direct Examination by the Solicitor	3623
Cross Examination by the Defense	3650
ANITA KNEECE	
Direct Examination by the Solicitor	3659
Cross Examination by the Defense	3668

DAVID BLACK	
Direct Examination by the Solicitor	3677
Cross Examination by the Defense	3680
RUTH CONNOR	
Direct Examination by the Solicitor	3696
Cross Examination by the Defense	3699
DORIS BERNICE JACKSON	
Direct Examination by the Solicitor	3701
Cross Examination by the Defense	3718
MARCUS HARRIS	
Direct Examination by the Solicitor	3722
GEORGE ANTHONY HARRIS	
Direct Examination by the Solicitor	3734
Cross Examination by the Defense	3746
MACK HARRIS	
Direct Examination by the Solicitor	3748
ANTHONY WILSON	
Direct Examination by the Defense	3768
Cross Examination by the Solicitor	3793
Redirect Examination by the Defense	3801
Recross Examination by the Solicitor	3801
ANTHONY SCOTT HARRISON	
Direct Examination by the Defense	3803
Cross Examination by the Solicitor	3809
Redirect Examination by the Defense	3813
Recross Examination by the Solicitor	3814
Redirect Examination by the Defense	3816
JESSIE CHRISTOPHER BURTON	
Direct Examination by the Defense	3816
Cross Examination by the Solicitor	3827
NANCY LEIGH RAMEY	
Direct Examination by the Defense	3837
Cross Examination by the Solicitor	3844
REVEREND WENDALL M COX	
Direct Examination by the Defense	3849

GLORIA WHITE HARRISON	
Direct Examination by the Defense	3852
Cross Examination by the Solicitor	3881
Redirect Examination by the Defense	3896
JEFF YOUNGMAN	
Direct Examination by the Defense	3899
Cross Examination by the Solicitor	3933
Redirect Examination by the Defense	3953
Recross Examination by the Solicitor	3956
PAIGE TARR	
Direct Examination by the Defense	3955
Cross Examination by the Solicitor	3960
DR. JAMES EVANS	
Direct Examination by the Defense	3962
Cross Examination by the Solicitor	3989

VOLUME IX

DR. JAMES EVANS	
Redirect Examination by the Defense	4001
Recross Examination by the Solicitor	4002
Redirect Examination by the Defense	4003
EXAMINATION BY THE COURT	4005
MOTIONS	4010
CHARGE CONFERENCE	4013
FINAL ARGUMENTS BY THE ASSISTANT SOLICITOR	4025
FINAL ARGUMENTS BY THE SOLICITOR	4034
FINAL ARGUMENTS BY THE DEFENSE	4036
MOTIONS	4046
CHARGE OF THE COURT	4049
EXCEPTIONS BY THE DEFENSE	4066
VERDICT	4073

POLLING OF THE JURY	4074
MOTIONS	4080
SENTENCING	4087
PRE-TRIAL TRANSCRIPT DATED SEPTEMBER 19, 1997	4093
INDICTMENT	4110
DEFENDANT’S REQUEST TO CHARGE #10	4113
DEFENDANT’S PENALTY PHASE REQUEST TO CHARGE #11	4116
DEFENDANT’S PENALTY PHASE REQUEST TO CHARGE #12	4118
DEFENDANT’S PENALTY PHASE REQUEST TO CHARGE #13	4120
DEFENDANT’S PENALTY PHASE REQUEST TO CHARGE #14	4122
DEFENDANT’S PENALTY PHASE REQUEST TO CHARGE #15	4124
DEFENDANT’S PENALTY PHASE REQUEST TO CHARGE #16	4126
DEFENDANT’S PENALTY PHASE REQUEST TO CHARGE #17	4128
DEFENDANT’S PENALTY PHASE REQUEST TO CHARGE #18	4128
ADDENDUM TO DEFENDANT’S PENALTY PHASE REQUEST TO CHARGE #18	4132
STATE EXHIBIT #95 (PHOTO of VICTIM) ON FILE WITH COURT (Direct Appeal)	
CERTIFICATE OF COUNSEL ON DIRECT APPEAL OF RECORD	4134
[END OF DIRECT APPEAL RECORD ON APPEAL]	
MATTERS FROM STATE POST-CONVICTION RELIEF PROCEEDINGS	
<i>DIRECT APPEAL PLEADINGS</i>	
FINAL BRIEF OF APPELLANT	4135
¹ FINAL BRIEF OF RESPONDENT	4189

FINAL REPLY BRIEF OF APPELLANT	4249
<u>STATE v JOHN K HUGHEY</u> , 339 S C 439, 529 S E 2d 721 (March 27, 2000)	4272
PETITION FOR REHEARING - APRIL 11, 2000	4288
ORDER DENYING PETITION FOR REHEARING, MAY 11, 2000	4296
STATE POST CONVICTION RELIEF PLEADINGS, TRANSCRIPTS AND ORDERS	
APPLICATION FOR POST-CONVICTION RELIEF - OCTOBER 25, 2000	4298
STATE v HUGHEY - S C S Ct - STAY AND ASSIGNMENT ORDER TO JUDGE SAUNDERS - NOVEMBER 2, 2000	4307
APPOINTMENT OF COUNSEL HEARING TRANSCRIPT - NOVEMBER 13, 2000	4309
ORDER ON APPOINTMENT OF P C R COUNSEL - NOVEMBER 16, 2000	4315
RETURN TO APPLICATION FOR POST-CONVICTION RELIEF - JANUARY 19, 2001	4323
MOTION HEARING TRANSCRIPT Ex Parte Hearings - APRIL 29, 2002	4365
ORDER DENYING REQUESTS TO CONDUCT ALL PROCEEDINGS WITH RESPECT TO APPLICANT'S REQUEST FOR EXPERT INVESTIGATION OR OTHER SERVICES, EX PARTE - JULY 26, 2002	4392
ORDER GRANTING MOTION TO RECONSIDER ORDER DENYING REQUESTS TO CONDUCT ALL PROCEEDINGS WITH RESPECT TO APPLICANT'S REQUEST FOR EXPERT INVESTIGATIVE OR OTHER SERVICES EX PARTE - DECEMBER 19, 2002	4402
AMENDED APPLICATION FOR POST-CONVICTION RELIEF - DEC 15, 2006	4405
RETURN TO AMENDED APPLICATION - JANUARY 7, 2008	4411
HUGHEY V STATE, ORDER, S C S Ct AUGUST 17, 2007 ASSIGNING JUDGE MACAULAY, RESCINDING JUDGE SAUNDERS ASSIGNMENT	4468
ORDER OF CONTINUANCE AND FOR MRI - JUNE 6, 2008	4469

APPLICANT'S TRIAL BRIEF WITH ATTACHMENTS - MARCH 31, 2008	4473

VOLUME X (4501)

RESPONDENTS' TRIAL BRIEF WITH ATTACHMENTS - MAY 2, 2008	4570
MAY 22, 2008 MOTION HEARING TRANSCRIPT	4637
EVIDENTIARY HEARING TRANSCRIPT - OCTOBER 13-15, 2008	4654
Index	4655
Witnesses - Robert Tinsley (11-122) Direct	4664
Jeff Yungman (123-153) Direct	4775
Cross	4792
Julia Perlotte (153-170) Direct	4806
Cross	4815
Re-Direct	4821
Re-Cross	4822
Martha Ann Stewart (170-180) Direct	4823
Cross	4829
Re-Direct	4831
Billy J Garrett, Jr (180-304) Direct	4833
Cross	4879
Re-Direct	4931
Re-Cross	4954
Robert Dudek (305-330) Direct	4958
Cross	4970
Re-Direct	4980
Paige [Tarr] Haas (330-365) Direct	4983

VOLUME XI (5001)

Paige [Tarr] Haas Cross	5005
Re-Direct	5016
Dr Donna Schwartz-Watts (365-461) Direct	5018

	Cross	5094
	Re-Direct	5110
Robert Tinsley, Sr (461-559)	Direct	5114
	Cross	5157
	Re-Direct	5182
CLOSING STATEMENTS		5184
	Mr Grose	5184
	Mr Zelenka	5194
	Mr Grose	5208

EXHIBITS FROM PCR EVIDENTIARY HEARING

APPLICANT'S PCR EXHIBITS

#P-1	Life in the Balance IX Workshop - Handling Your First Case	5212
#P-2	Life in the Balance IX Workshop - Understanding Mental Illness Through Images and Metaphors	5216
#P-3	Outline for Death Penalty Trial	5227
#P-4	Report of Terrence Harvard of 11/5/97	5228
#P-5	Authorization for Expenditure of Funds for Expert Services Dated 5/5/97	5229
#P-6	Affidavit of Paige Munn Tarr	5232
#P-7	Letter of June 17, 1997 and Release - Marlene Eckhardt to Paige Tarr	5245
#P-8	Faxed Statement of 12/9/97 Paige Tarr to Felicia/Robert with Bill and timesheets	5247
#P-9	Patrick B Harris Psychiatric Hospital Reply Notice of 8/21/97 & Subpoena	5252
#P-10	Statement from James R Evans, Ph D Dated 10/20/97 for psychological	5255
#P-11	Letter of 9/10/97 from Jeff Yungman to Robert Tinsley	5256
#P-12	Letter of 10/8/97 and Social History Evaluation Draft (5259) by Yungman	5257
#P-13	Letter and Bill Statement of 10/31/97 from Jeff Yungman to Robert Tinsley	5268

#P-14 Bill Statement of 10/14/97 from Katina Clardy Wright	5272
#P-15 Bill Statement of 11/3/97 from Dr Donald W Morgan	5274
#P-16 Jury Instruction Phase 2 Trial Notes of Robert Tinsley	5276
#P-17 Notice of Evidence in Aggravation of the Punishment - Notes of Tinsley	5278
#P-18 Possible Mitigation Witnesses Notes	5283
#P-19 Handwritten Notes of Robert Tinsley Re Jury Instruction Strategies	5284
#P-20 Handwritten Mitigation Notes	5285
#P-21 Draft Proposed Witness List for Defense	5287
#P-22 Note and Summary of Case Law RE Future Adaptability to Prison Life	5289
#P-23 Handwritten Notes of Robert Tinsley RE Paige Tarr, Denise DelaRue	5295
#P-24 Letter of 1/13/08 Billy J Garrett, Jr to S C Commission on Indigent Defense with timesheet	5296
#P-25 Article Death is Different - Your Approach to a Capital Case Must be Different, Too by Kevin McNalley	5299
#P-26 Memo 12/16/97 Tara Michelle Garrett to Randall Williams	5307
#P-27 Billy Garrett's Handwritten Notes from Meeting 3/6/97 with Family	5308
#P-28 Handwritten Notes from David Bruck Meeting	5310
#P-29 Handwritten Defendant's Possible Witness List	5311
#P-30 Booking Report of Hughey and Detention Center Records	5313
#P-31 Letter of 11/9/97 Jeff Yungman to Paige Tarr about concerns	5366
#P-32 Tarr Handwritten Notes Re Jim Evans and other matters	5368
#P-33 Tarr Mitigation Outline	5369
#P-34 Trial Notes of Paige Tarr about Conflict between counsel	5370

#P-35	Family Court Order of Commitment ,In Re John Kennedy Hughey, 10/6/1986	5371
#P-36	S C Department of Youth Services Plan for Services	5372
#P-37	S C D Y S - Reception and Evaluation Team Report	5373
#P-38	S C D Y S Interdisciplinary Treatment Team Summary (Feb 1987)	5376
#P-39	S C D Y S Interdisciplinary Treatment Team Summary (Sept 1987)	5378
#P-40	S C Vocational Rehabilitation Dept Functional Vocational Assessment Report (3/2/87)	5380
#P-41	S C D Y S R&E Social and Personal Adjustment Form	5383
#P-42	S C D Y S Behavior Reports and Write-ups (May 1987-Aug 1987)	5384
#P-43	S C D Y S Educational Progress Reports (Jan 1987 - Aug 1987)	5393
#P-44	Test of Basic Skills Results from May 1984	5410
#P-45	S C Basic Skills Assessment Program results from May 1984	5411
#P-46	S C D Y S Psychological Evaluation (Dr Siegel) 11/10/86	5412
#P-47	Curriculum Vitae of Dr Donna Schwartz-Watts	5416
#P-48	Psychiatric Evaluation Report of Dr Donna Schwartz-Watts 10/11/2008	5424
#P-49	Final Appellate Brief (Cover) (See App p 4135)	5435
#P-50	Final Reply Brief (Cover) (See App p 4249)	5436
#P-51	Tarr Notes from Phone Conversation with Dr Donald Morgan	5437
#P-52	Discovery Response	5438

RESPONDENT'S PCR HEARING EXHIBITS

#D-1	Defendant's Request to Charge Number 18 with handwritten notation of factors	5440
#D-2	Addendum to Defendant's Request to Charge Number 18 with notations	5442

PLEADINGS AND ORDERS

RESPONDENT'S POST HEARING MEMORANDUM OF LAW - AUGUST 31, 2009	5444

*** VOLUME XII (5501)**

APPLICANT'S POST HEARING MEMORANDUM - JUNE 8, 2009 (With attachments)	5622
APPLICANT'S POST HEARING REPLY BRIEF - DECEMBER 11, 2009	5840
ORDER GRANTING POST-CONVICTION RELIEF - FILED MAY 14, 2010	5921
APPLICANT'S RULE 59(e) MOTION TO ALTER OR AMEND THE JUDGMENT MAY 28, 2010	5929
RESPONDENT'S MOTION TO ALTER OR AMEND JUDGMENT - MAY 28, 2010	5954
ORDER DENYING RESPONDENT'S MOTION TO ALTER OR AMEND JUDGMENT PURSUANT TO RULE 59(e)	5969

1

1 PREVIOUSLY YOU WERE ASKED NOT TO BE EXPOSED TO ANY
2 MEDIA COVERAGE AND NOT TO HAVE ANY DISCUSSIONS ABOUT
3 THE CASE WITH ANYONE DID YOU FOLLOW THAT
4 INSTRUCTION AFTER YOU RECEIVED THE LETTER?

5 A YES, SIR

6 Q PRIOR TO RECEIVING THE LETTER, HAD YOU BEEN
7 EXPOSED TO ANY TYPE OF MEDIA COVERAGE OR OTHER
8 CONTACT OR DISCUSSIONS REGARDING THIS CASE?

9 A ONLY AT -- WHEN IT ORIGINALLY HAPPENED BECAUSE
10 THE VICTIM AND THE ACCUSED DID WORK WHERE I WORKED
11 AT SO IT WAS GOSSIP AT THAT TIME, OR TALK

12 Q SURE

13 A YEAH

14 Q IS THERE ANYTHING THAT YOU HEARD IN THOSE
15 DISCUSSIONS OR CONVERSATIONS AMONG OTHER PERSONS
16 THAT WOULD PREVENT YOU IN ANY WAY FROM BEING ABLE TO
17 BE FAIR AND IMPARTIAL IF YOU WERE SELECTED AS A
18 JUROR IN THIS CASE?

19 A NO, SIR

20 Q NOW, IN THE TRIAL OF A CRIMINAL CASE, IN A
21 CASE SUCH AS THIS, A CAPITAL CASE, IT OCCURS IN TWO
22 STAGES THERE'S WHAT'S CALLED A GUILT PHASE AND
23 THEN A SENTENCING PHASE IN A CRIMINAL CASE, THE
24 STATE BRINGS THE CHARGE AGAINST THE DEFENDANT, AND
25 THE STATE HAS THE BURDEN OF PROVING THE ALLEGATIONS

1 SET FORTH THE WAY THE TRIAL WILL PROCEED IN THIS
2 CASE, OF COURSE, THE DEFENDANT HAS BEEN CHARGED WITH
3 THE CRIME OF MURDER THE STATE WOULD HAVE THE
4 BURDEN OF PROVING THAT FACT BEYOND A REASONABLE
5 DOUBT IF YOU WERE SERVING AS A JUROR IN THE TRIAL
6 OF THE CASE, AND THAT EVIDENCE WAS PRESENTED DURING
7 THE TRIAL OF THE CASE, AND YOU CONSIDERED ALL OF
8 THAT EVIDENCE AND APPLIED THE LAW THAT I WOULD
9 PROVIDE YOU, DEPENDING UPON WHAT THE EVIDENCE WAS,
10 WOULD YOU BE ABLE TO FIND A PERSON GUILTY IF YOU
11 WERE CONVINCED OF THAT FACT BEYOND A REASONABLE
12 DOUBT?

13 A OF THE CRIME? YES, SIR

14 Q WOULD YOU BE ABLE TO FIND A PERSON NOT GUILTY
15 IF YOU WERE NOT CONVINCED OF THAT FACT BEYOND A
16 REASONABLE DOUBT?

17 A YES, SIR

18 Q NOW, UNDER CERTAIN CIRCUMSTANCES UNDER THE LAW
19 WHERE A PERSON HAS BEEN FOUND GUILTY OF THE CRIME OF
20 MURDER, IF CERTAIN STATUTORY AGGRAVATING
21 CIRCUMSTANCES ARE ALSO PROVEN BEYOND A REASONABLE
22 DOUBT, THE STATE HAS A RIGHT TO SEEK THE DEATH
23 PENALTY AGAINST THAT INDIVIDUAL UNDER THOSE
24 CIRCUMSTANCES OR IN THAT TYPE OF CASE, AS I'VE SAID,
25 YOU WOULD HAVE A GUILT PHASE WHERE THE JURY WOULD

1 DETERMINE THE GUILT OF THE DEFENDANT IF AND ONLY IF
2 THE DEFENDANT HAD BEEN FOUND GUILTY BEYOND A
3 REASONABLE DOUBT OF THE CRIME OF MURDER AND SOME
4 AGGRAVATING CIRCUMSTANCE HAD BEEN PROVEN WOULD YOU
5 PROCEED TO THE SECOND STAGE OF THE TRIAL TO THE
6 PENALTY PHASE IN THAT SECOND STAGE OF THE TRIAL,
7 ADDITIONAL EVIDENCE WOULD BE RECEIVED THERE WOULD
8 BE EVIDENCE RELATING TO CIRCUMSTANCES OF AGGRAVATION
9 AND EVIDENCE RELATING TO CIRCUMSTANCES OF
10 MITIGATION THAT SIMPLY MEANS THAT THERE WOULD BE
11 EVIDENCE THAT MIGHT TEND TO SUPPORT A MORE SEVERE
12 PUNISHMENT AND EVIDENCE WHICH MIGHT TEND TO SUPPORT
13 THE LESS SEVERE FORM OF PUNISHMENT IN ANY EVENT,
14 THE JURY WOULD HAVE THAT DECISION TO MAKE THE JURY
15 WOULD DECIDE THE PUNISHMENT THOSE TWO CHOICES
16 WOULD BE THE DEATH SENTENCE OR LIFE IMPRISONMENT
17 NOW, IF YOU WERE PARTICIPATING AND
18 YOU WERE IN THE SENTENCING OR PENALTY PORTION OF
19 THAT TRIAL, WOULD YOU BE ABLE TO FAIRLY CONSIDER ALL
20 OF THE EVIDENCE RECEIVED, BOTH AGGRAVATING AND
21 MITIGATING?

22 A I COULD NOT GIVE ANY ONE THE DEATH PENALTY,
23 SIR

24 Q YOU WHAT?

25 A I COULD NOT GIVE ANY ONE THE DEATH PENALTY

1 Q OKAY LET ME ASK YOU THAT QUESTION THEN IF
2 YOU WERE IN THE SENTENCING PHASE OF A TRIAL WHERE
3 YOU HAD FOUND BEYOND A REASONABLE DOUBT THAT THE
4 PERSON WAS GUILTY OF THE CRIME OF MURDER, AND YOU
5 HAD ALSO FOUND BEYOND A REASONABLE DOUBT THAT THAT
6 MURDER WAS ACCOMPANIED BY SOME AGGRAVATING
7 CIRCUMSTANCE WHICH UNDER THE LAW WOULD PERMIT YOU TO
8 IMPOSE THE DEATH SENTENCE, CAN YOU ENVISION ANY
9 SITUATION OR CIRCUMSTANCE WHERE YOU WOULD BE ABLE TO
10 IMPOSE A DEATH SENTENCE AGAINST AN INDIVIDUAL?

11 A NO, SIR

12 Q IF YOU HAD THE CHOICE OF IMPOSING A DEATH
13 SENTENCE OR A LIFE SENTENCE WHICH, AS I HAVE STATED,
14 YOU WOULD, WOULD YOU ALWAYS CHOOSE ONE FORM OF
15 PUNISHMENT OVER THE OTHER?

16 A LIFE, NOT DEATH

17 Q WOULD YOU ALWAYS CHOOSE THE LIFE SENTENCE?

18 A I DO NOT BELIEVE IN CAPITAL PUNISHMENT

19 Q YOU DO NOT BELIEVE IN CAPITAL PUNISHMENT?
20 THERE IS NO CIRCUMSTANCE WHERE YOU COULD IMPOSE THE
21 DEATH PENALTY?

22 A NOT THE WAY I FEEL TODAY, NO, SIR

23 THE COURT OKAY ANY QUESTIONS FROM
24 THE DEFENDANT?

25 MR TINSLEY VERY BRIEF

1 THE COURT ALL RIGHT

2 EXAMINATION BY MR TINSLEY

3 Q MR FLEMING, SO YOU COULDN'T -- YOU JUST
4 COULDN'T GIVE THE DEATH PENALTY?

5 A NO, SIR

6 Q REGARDLESS OF THE FACT THAT MY -- IF MY CLIENT
7 WAS CONVICTED?

8 A NO, SIR

9 Q AND REGARDLESS OF THE FACT THAT HE MIGHT BE
10 CONVICTED OF AN AGGRAVATING CIRCUMSTANCE, YOU
11 COULDN'T GIVE IT?

12 A NO, SIR

13 Q SO IS THIS JUST A DEEPLY HELD BELIEF OF YOURS
14 OR FAITH OF YOURS OR ---

15 A NOT A RELIGIOUS BELIEF, JUST MY BELIEF

16 Q IT'S JUST YOUR PERSONAL BELIEF?

17 A YES I WOULD NOT TAKE SOMEONE I WOULD NOT
18 MAKE A DECISION THAT MY DECISION WOULD TAKE
19 SOMEONE'S LIFE

20 Q AND YOU COULDN'T ENVISION THAT CHANGING UNDER
21 ANY CIRCUMSTANCES?

22 A NO

23 Q YOU COULDN'T GIVE OUT ANY SITUATION WHERE THAT
24 MIGHT CHANGE, IS THAT RIGHT?

25 A NO, SIR

1 MR TINSLEY OKAY THAT'S ALL
2 THANK YOU

3 THE COURT MR FLEMING, IF YOU'LL
4 STAND DOWN AND STEP OUT THE DOOR WITH THE BAILIFF
5 THERE, I'LL BRING YOU BACK IN JUST A MOMENT
6 (JUROR DOES AS INSTRUCTED)

7 THE COURT IS THERE ANY REASON WHY
8 THE JUROR SHOULD BE FOUND QUALIFIED?

9 MR JONES THERE IS NOT, YOUR HONOR
10 MR TINSLEY YOUR HONOR, ONCE AGAIN
11 UNDER THE CROSS SECTION OF THE ARGUMENT, WE
12 CERTAINLY, OBVIOUSLY LOVE TO HAVE HIM

13 THE COURT WELL, IS THE CROSS
14 SECTION OF THE COMMUNITY THAT YOU ARE OFFERING THE
15 CROSS SECTION THAT WILL NOT IMPOSE CAPITAL
16 PUNISHMENT UNDER ANY CIRCUMSTANCES?

17 MR TINSLEY NO, SIR, YOUR HONOR
18 IT'S MIXED WITH ALL MEMBERS OF THE COUNTY OVER HERE
19 WHO, REGARDLESS OF RACE, SEX, THAT SORT OF THING --
20 WE UNDERSTAND THAT THE RULE IS THAT FOLKS THAT
21 CANNOT GIVE THE DEATH PENALTY ARE DISQUALIFIED WE
22 CERTAINLY UNDERSTAND THAT WE DISAGREE WITH THAT
23 WE MAKE THAT CROSS SECTION ARGUMENT ON THAT BASIS

24 THE COURT ALL RIGHT

25 MR JONES JUDGE, I WOULD JUST NOTE

1 FOR THE RECORD THAT SO FAR WE HAVE QUALIFIED A WHITE
2 WOMAN, A BLACK MAN AND A WHITE MAN WE HAVE
3 INCLUDED GENDER AND RACE IN THE ONES THAT'S BEEN
4 QUALIFIED SO FAR AS FAR AS THE CROSS SECTION OF THE
5 COMMUNITY IS CONCERNED

6 THE COURT ALL RIGHT BASED UPON
7 THE TESTIMONY OF THE JUROR REGARDING HIS BELIEF AS
8 TO CAPITAL PUNISHMENT, HIS TESTIMONY INDICATING THAT
9 THERE IS NO CIRCUMSTANCE WHERE HE COULD IMPOSE THE
10 DEATH SENTENCE AGAINST ANYONE, I FIND THAT HE IS NOT
11 QUALIFIED BECAUSE HIS BELIEF WOULD SUBSTANTIALLY
12 IMPAIR HIS ABILITY TO CONSIDER BOTH FORMS OF THAT
13 PUNISHMENT BRING MR FLEMING IN, PLEASE
14 (JUROR RE-ENTERS THE COURTROOM)

15 THE COURT MR FLEMING, WE'RE GOING
16 TO EXCUSE YOU FROM SERVICE IN THE TRIAL OF THIS
17 CASE IT WILL NOT BE NECESSARY THAT YOU REPORT BACK
18 ANY FURTHER, BUT WE DO APPRECIATE YOUR PARTICIPATION
19 UP TO THIS POINT I WOULD ASK THAT YOU NOT DISCUSS
20 ANYTHING THAT OCCURRED HERE WITH ANY OTHER POTENTIAL
21 JUROR THANK YOU, SIR YOU MAY BE EXCUSED YOU
22 WILL NOT NEED TO COME BACK

23 JUROR ALL RIGHT I WANT TO THANK
24 YOU FOR JUST THE UNUSUAL -- LET ME THANK YOU
25 (JUROR EXITS THE COURTROOM)

1 (JUROR IS NOT QUALIFIED)

2 THE COURT THANK YOU, SIR ALL
3 RIGHT LET'S TAKE A SHORT BREAK WHILE WE WAIT FOR
4 ADDITIONAL JURORS TO APPEAR

5 (COURT RECESSES AT 10 45 A M O'CLOCK)

6 THE COURT MR HOBBY AND MR BROWN?
7 READY TO PROCEED WITH MS NORRIS?

8 MR TINSLEY THE DEFENSE IS READY

9 THE COURT OKAY ASK MS NORRIS TO
10 COME IN, PLEASE

11 (JUROR #149 PRESENTED AT 10 45 O'CLOCK A M)

12 EXAMINATION BY THE COURT

13 Q GOOD MORNING, MS NORRIS IF YOU'LL HAVE A
14 SEAT RIGHT THERE, PLEASE MA'AM MS NORRIS, AS YOU
15 KNOW, YOU'VE BEEN ASKED TO COME BACK FOR THE PURPOSE
16 OF ADDITIONAL QUESTIONS TO BE ASKED, AND THE PURPOSE
17 OF THESE QUESTIONS IS SIMPLY TO FIND OUT YOUR VIEWS
18 AND OPINIONS ABOUT CERTAIN SUBJECTS THERE ARE NO
19 RIGHT OR WRONG ANSWERS IF FOR SOME REASON YOU
20 DON'T UNDERSTAND THE QUESTION OR IT'S NOT ASKED IN A
21 CLEAR FASHION, IF YOU'LL LET ME KNOW, I'LL TRY TO
22 CLARIFY IT OR ASK THE LAWYERS TO DO SO I'LL BE
23 ASKING QUESTIONS, AND THEN THE LAWYERS WILL ALSO BE
24 ABLE TO ASK ADDITIONAL QUESTIONS, AND YOU'RE SIMPLY
25 REQUESTED TO ANSWER THEM AS BEST AS YOU CAN AND AS

1 HONESTLY AS YOU CAN YOU'LL RECALL THAT YOU WERE
2 SWORN IN WHEN THE ENTIRE VENIRE WAS SWORN?

3 A YES

4 Q SO YOU'LL REMAIN UNDER OATH FOR THE PURPOSE OF
5 THESE QUESTIONS, ALSO YOU INDICATED YOU HAD
6 COMPLETED YOUR QUESTIONNAIRE YOU HAD RECEIVED MY
7 LETTER IN THAT LETTER YOU WERE INSTRUCTED NOT TO
8 ALLOW YOURSELF TO BE EXPOSED TO ANY MEDIA COVERAGE
9 AS WELL AS NOT TO HAVE ANY DISCUSSIONS REGARDING THE
10 CASE HAVE YOU FOLLOWED THAT INSTRUCTION?

11 A WELL, I'VE -- AS I NOTED YESTERDAY, I HAD
12 HEARD THE CIRCUMSTANCES RELATING TO THE CASE I
13 FOUND OUT -- DO YOU WANT ME TO TELL YOU WHAT THAT IS
14 NOW?

15 Q UH-HUH (AFFIRMATIVE)

16 A THE SUBJECT, MR HUGHEY'S MOTHER, WAS KILLED
17 WITHIN A MILE OF MY HOUSE

18 Q UH-HUH (AFFIRMATIVE)

19 A AND HIS SISTER IS MY NEIGHBOR, BUT I DID NOT
20 HAVE

21 -- I DO NOT KNOW HER SHE LIVES A COUPLE OF HOUSES
22 UP, BUT I DO NOT KNOW HER

23 Q WOULD YOUR KNOWLEDGE OF THOSE FACTS INTERFERE
24 IN ANY WAY WITH YOUR ABILITY TO BE FAIR IF YOU WERE
25 SELECTED AS A JUROR IN THIS CASE?

1 A NO, SIR I DON'T THINK SO

2 Q OKAY WERE YOU EXPOSED TO ANY TYPE OF MEDIA
3 COVERAGE BEFORE YOU RECEIVED MY LETTER OR ANY OTHER
4 CONTACT?

5 A NOT THAT I CAN REMEMBER

6 Q OKAY NOW, YOU UNDERSTAND THAT THE FUNCTION
7 OF A JURY WHEN SELECTED IS TO, IN THEIR
8 PARTICIPATION, IS TO SIMPLY LISTEN TO TESTIMONY,
9 CONSIDER OTHER EVIDENCE THAT MIGHT BE OFFERED DURING
10 THE TRIAL OF THE CASE AND APPLY THE LAW TO THE FACTS
11 AS THE JURY DETERMINES THEM TO BE FROM THAT EVIDENCE
12 AND ARRIVE AT A DECISION, AND A
13 DECISION OR A VERDICT OF A JURY IS SIMPLY A FAIR
14 RESOLUTION OF THE MATTER? IN A CASE WHERE THE STATE
15 BRINGS A CHARGE OF MURDER AGAINST ANOTHER, THE STATE
16 ALWAYS HAS THE BURDEN OF PROVING THE CRIME ALLEGED
17 AGAINST THE DEFENDANT BEYOND A REASONABLE DOUBT, AND
18 A PERSON MAY NOT BE FOUND GUILTY OF A CRIME UNLESS A
19 JURY IS CONVINCED OF THAT FACT BEYOND A REASONABLE
20 DOUBT

21 THE LAW FURTHER PROVIDES THAT UNDER
22 SOME CIRCUMSTANCES WHERE A PERSON HAS BEEN FOUND
23 GUILTY BEYOND A REASONABLE DOUBT OF THE CRIME OF
24 MURDER, IF THERE IS SOME AGGRAVATING CIRCUMSTANCE
25 PROVEN, AND THE STATUTE SETS FORTH WHAT THOSE ARE,

1 THEN THE STATE IS ENTITLED TO SEEK THE DEATH
2 PENALTY THAT SIMPLY MEANS THAT THEY HAVE A RIGHT
3 TO TRY TO HAVE A JURY IMPOSE THE DEATH PENALTY
4 AGAINST THE DEFENDANT IN SUCH A CASE, IT OCCURS IN
5 TWO PHASES OR TWO STAGES, TWO SEPARATE HEARINGS
6 THE FIRST RELATES TO THE ISSUE OF GUILT THE SECOND
7 RELATES TO THE ISSUE OF APPROPRIATE PUNISHMENT, AND,
8 OF COURSE, YOU WOULD NEVER GET TO THE SECOND STAGE,
9 THAT IS, THE PENALTY PHASE, UNLESS FIRST THE JURY
10 HAS FOUND BEYOND A REASONABLE DOUBT THAT THE
11 DEFENDANT COMMITTED THE CRIME OF MURDER AND THAT IN
12 THE COMMISSION OF THAT CRIME OF MURDER, SOME
13 AGGRAVATING CIRCUMSTANCE WAS PRESENT

14 NOW, IF YOU WERE CALLED UPON TO SERVE
15 AS A JUROR IN SUCH A TRIAL, IN THE GUILT PHASE OF
16 THAT TRIAL, WOULD YOU BE ABLE TO FAIRLY CONSIDER ALL
17 OF THE EVIDENCE IN THE CASE? AND IF YOU WERE
18 CONVINCED THE PERSON WAS PROVEN GUILTY BEYOND A
19 REASONABLE DOUBT, COULD YOU RETURN A VERDICT OF
20 GUILTY?

21 A YES, SIR

22 Q IF, AFTER YOU CONSIDERED ALL OF THE EVIDENCE
23 PRESENTED, IF YOU WERE NOT CONVINCED BEYOND A
24 REASONABLE DOUBT THAT THE PERSON WAS GUILTY, WOULD
25 YOU RETURN A VERDICT OF NOT GUILTY?

1 A YES, SIR

2 Q NOW, ASSUME FOR THE MOMENT AND ONLY FOR THE
3 PURPOSE OF THIS QUESTION THAT YOU ARE PARTICIPATING
4 IN THE TRIAL OF THE CASE, AND THE DEFENDANT HAS BEEN
5 GUILTY OF THE CRIME OF MURDER, AND SOME AGGRAVATING
6 CIRCUMSTANCE HAS BEEN PROVEN BEYOND A REASONABLE
7 DOUBT IN THAT EVENT, WE WOULD PROCEED TO A
8 SENTENCING PHASE OR A SENTENCING HEARING, AND IT'S
9 DURING THAT HEARING THAT THE JURY WOULD CONSIDER
10 ADDITIONAL EVIDENCE THAT WOULD BE PRESENTED AND
11 THE JURY WOULD CONSIDER THAT EVIDENCE IN ARRIVING AT
12 ITS DECISION AS TO THE APPROPRIATE FORM OF
13 PUNISHMENT THERE WOULD BE EVIDENCE PRESENTED AS TO
14 AGGRAVATING CIRCUMSTANCES AND AS TO MITIGATING
15 CIRCUMSTANCES, THAT IS, EVIDENCE THAT MIGHT TEND TO
16 SUPPORT THE MORE SEVERE PUNISHMENT AND THE EVIDENCE
17 THAT MIGHT TEND TO SUPPORT THE LESS SEVERE
18 PUNISHMENT BUT THE JURY WOULD HAVE THAT DECISION
19 TO MAKE THE JURY WOULD DECIDE WHETHER OR NOT A
20 DEATH SENTENCE SHOULD BE IMPOSED OR A LIFE SENTENCE
21 SHOULD BE IMPOSED MY QUESTION TO YOU IS SIMPLY
22 IF YOU WERE PARTICIPATING IN A TRIAL SUCH AS THAT,
23 AND YOU WERE PARTICIPATING IN THE SENTENCING PHASE
24 OF THAT TRIAL AFTER A PERSON HAD BEEN FOUND GUILTY
25 OF THE CRIME OF MURDER, COULD YOU FAIRLY CONSIDER

1 ALL OF THAT ADDITIONAL EVIDENCE THAT WOULD BE
2 PRESENTED AT THAT SECOND STAGE OF THAT TRIAL, BOTH
3 AGGRAVATING EVIDENCE AND MITIGATING EVIDENCE?

4 A I THINK SO

5 Q IN CONSIDERING THAT ADDITIONAL EVIDENCE, COULD
6 YOU, IF YOU FOUND THE CIRCUMSTANCES WARRANTED IT,
7 IMPOSE A SENTENCE OF DEATH AGAINST A PERSON?

8 A I'M REALLY NOT SURE I DON'T KNOW IF I COULD
9 OR NOT

10 Q WELL, I RECOGNIZE THAT THIS IS NOT SOMETHING
11 THAT YOU'RE PROBABLY --

12 A REALLY

13 Q -- HAVE SPENT A GREAT DEAL OF TIME THINKING
14 ABOUT OR WONDERING ABOUT, BUT OBVIOUSLY IT IS
15 IMPORTANT IF YOU ARE CALLED UPON TO SERVE AS A JUROR
16 IN THIS CASE FOR US TO KNOW WHETHER OR NOT YOU ARE
17 ABLE TO CONSIDER BOTH FORMS OF THE PUNISHMENT NOW,
18 YOU UNDERSTAND I'M NOT ASKING YOU WHAT YOU WOULD DO
19 OBVIOUSLY, THAT WOULD DEPEND UPON THE EVIDENCE
20 PRESENTED, BUT WHAT I AM ASKING YOU IS WHETHER OR
21 NOT THERE ARE CIRCUMSTANCES WHERE YOU WOULD BE ABLE
22 TO IMPOSE A DEATH SENTENCE?

23 A YES, SIR I THINK I COULD

24 Q OKAY AND ARE THERE ALSO CIRCUMSTANCES WHERE
25 YOU WOULD BE ABLE TO IMPOSE A LIFE SENTENCE?

1 A YES, SIR

2 Q NOW, IN THAT PHASE OF THE TRIAL, AS I TOLD

3 YOU, THE JURY MAKES THAT DECISION, AND THE JURY

4 DETERMINES WHETHER OR NOT A DEATH SENTENCE SHOULD BE

5 IMPOSED OR A LIFE SENTENCE SHOULD BE IMPOSED THAT

6 IS THE DECISION OF THE JURY IF YOU WERE FACED WITH

7 THAT DECISION AND YOU HAD A CHOICE BETWEEN THE DEATH

8 SENTENCE AND A LIFE SENTENCE, WOULD YOU ALWAYS

9 SELECT ONE FORM OF THAT PUNISHMENT OVER ANOTHER, OR

10 WOULD IT DEPEND ON THE CIRCUMSTANCES?

11 A I GUESS IT WOULD DEPEND ON THE CIRCUMSTANCES

12 OF THE CASE

13 Q OKAY SO YOU COULD CONSIDER BOTH FORMS OF

14 PUNISHMENT?

15 A YES, SIR

16 Q UP TO THIS POINT, HAVE YOU ALREADY FORMED OR

17 EXPRESSED ANY OPINION AS TO WHAT YOU BELIEVE THE

18 APPROPRIATE DECISION SHOULD BE IN THIS CASE?

19 A NO, SIR

20 Q DO YOU KNOW OF ANY REASON WHY YOU COULD NOT BE

21 A FAIR AND IMPARTIAL JUROR IF YOU WERE SELECTED TO

22 SERVE?

23 A NO, SIR

24 Q IF YOU WERE SELECTED TO SERVE, YOU UNDERSTAND

25 THAT YOU WOULD BE SEQUESTERED FOR THE DURATION OF

1 THE TRIAL?

2 A YES, SIR

3 Q WOULD THAT SEQUESTRATION, WHICH IS LIKELY TO
4 LAST BETWEEN SEVEN AND TEN DAYS, WOULD THAT POSE AN
5 UNREASONABLE HARDSHIP OR HEALTH RISK TO YOU?

6 A NO, SIR

7 Q WOULD YOU BE WILLING TO ACCOMMODATE THAT
8 INCONVENIENCE IF YOU WERE SELECTED TO SERVE?

9 A YES, SIR

10 THE COURT ALL RIGHT I'M GOING TO
11 ASK YOU, IF YOU WILL, PLEASE ANSWER QUESTIONS THAT
12 THE LAWYERS MIGHT HAVE FOR YOU

13 EXAMINATION BY MR TINSLEY

14 Q THANK YOU, YOUR HONOR MS NORRIS, YOU
15 HAVEN'T TALKED ABOUT THIS CASE IN ANY DETAIL PRIOR
16 TO COMING HERE AS A JUROR WITH ANYONE, HAVE YOU?

17 A NO, SIR

18 Q OKAY AND YOU HAVEN'T BEEN EXPOSED TO
19 EXCESSIVE PUBLICITY IN THIS MATTER, HAVE YOU?

20 A NO, SIR

21 Q AND, MS NORRIS, YOU'D BE WILLING TO FOLLOW
22 THE LAW AS INSTRUCTED BY THE JUDGE, ISN'T THAT
23 CORRECT?

24 A YES, SIR

25 Q AND SHOULD THE JUDGE GIVE YOU THE OPTIONS OF

1 GUILTY OF MURDER OR GUILTY OF MANSLAUGHTER OR NOT
2 GUILTY, COULD YOU CONSIDER ALL THREE VERDICTS?

3 A YES, SIR

4 Q AND IN THE MATTER OF YOUR EMPLOYMENT, YOU WORK
5 FOR GREENVILLE OB-GYN, IS THAT RIGHT?

6 A YES, SIR

7 Q AND YOU'VE WORKED THERE FOR A COUPLE OF YEARS,
8 IS THAT CORRECT?

9 A YES, SIR

10 Q YOU HAVE A RELATIONSHIP WITH DOCTOR BUDROW?

11 A YES, SIR HE'S ONE OF MY BOSSES

12 Q UH-HUH (AFFIRMATIVE), AND HIS -- DO YOU KNOW
13 HIS WIFE?

14 A YES, SIR

15 Q AND IS THE FACT THAT SHE'S MY SISTER AND
16 DOCTOR BUDROW'S MY BROTHER-IN-LAW, WOULD THAT AFFECT
17 YOU IN ANY WAY IN YOUR DELIBERATIONS IN THIS CASE?

18 A I DON'T THINK SO, NO, SIR

19 MR TINSLEY THANK YOU SO MUCH

20 THE COURT MR JONES

21 EXAMINATION BY MR JONES

22 Q GOOD MORNING, MS NORRIS MY NAME IS TOWNES
23 JONES I'M YOUR SOLICITOR HERE IN ABBEVILLE THIS
24 IS MICHAEL COULTER HE'S YOUR DEPUTY SOLICITOR HERE
25 IN ABBEVILLE WE'LL BE PRESENTING THE EVIDENCE IN

1 THIS CASE, AND I JUST HAVE SOME QUESTIONS I WANT TO
2 ASK YOU ABOUT YOUR QUESTIONNAIRE WE HAVE A COPY OF
3 THAT THAT YOU FILLED OUT, AND I HAVE SOME QUESTIONS
4 ABOUT THE QUESTIONNAIRE, AND I ALSO HAVE SOME
5 QUESTIONS ABOUT THE --

6 THE COURT HERE'S A COPY OF YOUR
7 QUESTIONNAIRE

8 EXAMINATION CONTINUED BY MR JONES

9 Q -- KNOWLEDGE THAT YOU HAVE ABOUT THE CASE AND
10 YOUR POSITION ON THE DEATH PENALTY YOU MENTIONED
11 TO THE JUDGE THAT YOU FELT LIKE THERE MIGHT BE A
12 SITUATION WHERE YOU COULD IMPOSE THE DEATH PENALTY?

13 A YES, SIR

14 Q AND, OF COURSE, WE'RE TALKING ABOUT YOUR
15 SERVING ON THE JURY IN A TRIAL WHERE THE STATE IS --
16 IS TO PUT EVIDENCE UP, AND IF AN AGGRAVATING
17 CIRCUMSTANCE IS FOUND BY THE JURY, ASK FOR THE DEATH
18 PENALTY YOU UNDERSTAND THAT?

19 A YES, SIR

20 Q AND THAT CASE INVOLVES JOHN KENNEDY HUGHEY
21 YOU UNDERSTAND THAT?

22 A YES, SIR

23 Q SO WHEN WE'RE TALKING ABOUT YOUR BEING ABLE TO
24 CONSIDER THE DEATH PENALTY, WE'RE TALKING ABOUT THAT
25 CASE

1 A YES, SIR

2 Q AND YOU SAY THAT YOU CAN CONSIDER IMPOSING THE
3 DEATH PENALTY IN THAT CASE?

4 A I CAN, DEPENDING ON THE CIRCUMSTANCES I
5 THINK I COULD

6 Q OKAY WELL, THAT'S THE PRECISE ISSUE THAT I
7 WANTED TO ASK YOU, THOUGH, BECAUSE I'VE LISTENED TO
8 WHAT YOU SAID THAT'S MY JOB THAT'S WHAT I'M
9 SUPPOSED TO DO AND EACH TIME YOU SAY, "I THINK I
10 CAN," AND YOU KIND OF BLINK YOUR EYES A LITTLE BIT,
11 AND I WANT TO ASK YOU IF WHEN YOU SAY, "I THINK I
12 CAN," ARE YOU TRYING TO DECIDE NOW? IN OTHER WORDS,
13 ARE YOU THINKING ABOUT IT AND GOING, "WELL, I THINK
14 I CAN," OR DO YOU KNOW THAT?

15 A WELL, HONESTLY, I KNOW NOW, BUT I JUST -- I
16 KNOW I CAN

17 Q YOU KNOW THAT YOU CAN?

18 A I KNOW THAT I CAN I JUST DON'T WANT TO HAVE
19 TO DO IT

20 Q DON'T WANT TO HAVE TO DO IT? WELL ---

21 A I KNOW THAT I CAN I CAN DO WHAT I HAVE TO
22 DO

23 Q ALL RIGHT AND AS FAR AS YOUR QUESTIONNAIRE
24 IS CONCERNED, HOW LONG HAVE YOU WORKED AT THE OB-
25 GYN, THE GREENWOOD OB-GYN?

1 A IT'LL BE TWO YEARS NEXT MONTH

2 Q AND WAS IT LAST YEAR OR THE YEAR BEFORE THAT
3 DOCTOR BUDROW HAD THAT CHRISTMAS PARTY AT HIS HOUSE?
4 DID YOU GO TO THAT?

5 A HE HAD A SUMMER PARTY IN HIS BACKYARD

6 Q A SUMMER -- DID YOU GO TO THAT?

7 A YES, SIR

8 Q AND HOW LONG WERE YOU THERE?

9 A SEVERAL HOURS, I THINK

10 Q DID YOU ENGAGE IN ANY CONVERSATION WITH THE
11 LAWYERS OVER HERE AT THAT PARTY?

12 A I'VE NEVER SEEN THEM BEFORE

13 Q NEVER SEEN THEM?

14 A NO, SIR

15 Q OKAY SO YOU'RE NOT REALLY ACQUAINTED WITH
16 THEM?

17 A NO I DIDN'T KNOW UNTIL THIS MORNING THAT HE
18 WAS ---

19 Q OKAY GOOD DO YOU FEEL LIKE THAT
20 RELATIONSHIP WOULD PUT PRESSURE ON YOU SERVING AS A
21 JUROR IN THE CASE HERE AS FAR AS YOUR EMPLOYMENT WAS
22 CONCERNED? OR WOULD YOU FEEL THAT BY BEING A JUROR,
23 YOU'VE GOT A JOB TO DO, HE'S GOT A JOB TO DO, WE ALL
24 GOT A JOB TO DO?

25 A THAT'S HOW I FEEL

1 Q AND YOU WOULD HOPE THAT PEOPLE WOULD RESPECT
2 THAT AND UNDERSTAND THAT, WOULDN'T YOU?

3 A YES, SIR

4 Q ONE MINUTE, MS NORRIS, PLEASE I WOULD --
5 WE'RE HERE AND WE'RE HAVING TO ASK YOU SOME DEEPLY
6 PERSONAL QUESTIONS, AND I'M NOT DOING SO TO PRY
7 I'M ONLY DOING SO IN AN ATTEMPT TO DO MY JOB I
8 HOPE YOU'LL UNDERSTAND THAT

9 A YES, SIR

10 Q AND MANY OF US HAVE FAMILY MEMBERS WHO, YOU
11 KNOW, ARE STRICKEN WITH PHYSICAL ILLNESSES AND
12 MENTAL ILLNESSES MANY OF US, AND THAT'S NOT
13 SOMETHING THAT'S, YOU KNOW, A STIGMA UNLESS SOCIETY
14 SO CHOOSES TO MAKE IT IT'S JUST A REALITY THAT WE
15 DEAL WITH, AND YOU MENTIONED YOUR FATHER HAS
16 SUFFERED FROM SUCH, IS THAT CORRECT?

17 A YES, SIR

18 Q WHAT -- WHAT WAS THAT? DO YOU KNOW?

19 A WELL, THE AUTOPSY REPORT, I JUST READ IT
20 RECENTLY, HE WAS -- PARANOIA SCHIZOPHRENIC

21 Q UH-HUH (AFFIRMATIVE) THAT IS A DIAGNOSABLE
22 MENTAL ILLNESS --

23 A UH-HUH (AFFIRMATIVE)

24 Q -- DUE TO CHEMICAL IMBALANCES, I THINK

25 A I'M NOT FAMILIAR THAT'S BEEN TWENTY-THREE

1 YEARS AGO

2 Q HAS IT? A LONG TIME LET ME ASK YOU ONE
3 OTHER QUESTION, AND I'M THROUGH WITH THE
4 QUESTIONNAIRE, THEN I GO BACK TO THE JOB OF A
5 JUROR AND THE ISSUE OF THE DEATH PENALTY YOU
6 UNDERSTAND THAT IF THE JURY HEARS THE EVIDENCE AND
7 DETERMINES THAT BEYOND A REASONABLE DOUBT THEY ARE
8 CONVINCED THAT THE DEFENDANT IS GUILTY OF THE CRIME
9 OF MURDER?

10 A YES, SIR

11 Q AND THAT AN AGGRAVATING CIRCUMSTANCE IS FOUND,
12 THEN WE GO TO A SECOND PHASE WHERE THE PROPER
13 PUNISHMENT CAN BE DETERMINED AND IN THAT PHASE,
14 EVIDENCE OF AGGRAVATION AND EVIDENCE OF MITIGATION
15 IS PUT UP BASICALLY, THE STATE MAKES A STATEMENT
16 ASKING YOU TO FIND THAT THE DEATH PENALTY IS PROPER,
17 AND THE DEFENSE WOULD ASK YOU TO RETURN A VERDICT OF
18 LIFE, TO SPARE THE DEFENDANT'S LIFE

19 A UH-HUH (AFFIRMATIVE)

20 Q IF THE JURY, THE COLLECTIVE JURY, THE TWELVE
21 MEMBERS, DECIDE THAT THE APPROPRIATE PUNISHMENT WAS
22 THE DEATH PENALTY, THE IMPOSITION OF THE DEATH
23 PENALTY, YOU SAID THAT YOU COULD PARTICIPATE AND YOU
24 COULD DO THAT, IS THAT CORRECT?

25 A YES, SIR

1 Q ALL RIGHT AND IF YOU GET THAT FAR, THERE'S
2 ANOTHER REQUIREMENT THAT YOU SIGN YOUR NAME ON A
3 PIECE OF PAPER IMPOSING THE DEATH PENALTY ON AN
4 INDIVIDUAL

5 A YES, SIR

6 Q YOU COULD DO THAT?

7 A YES, I COULD

8 Q AND AS YOU TELL ME THAT TODAY, YOUR ABILITY TO
9 DO THAT, IF THE CIRCUMSTANCES WERE APPROPRIATE, YOU
10 FEEL THAT YOU COULD DO THAT TEN DAYS OR TWO WEEKS
11 FROM NOW?

12 A YES, SIR

13 MR JONES THANK YOU, MA'AM

14 THE COURT ALL RIGHT, MS NORRIS, IF
15 YOU'LL JUST STEP OUTSIDE WITH THE BAILIFF FOR JUST A
16 MOMENT, I'LL BRING YOU BACK SHORTLY

17 (JUROR DOES AS INSTRUCTED)

18 THE COURT ANY REASON WHY THE JUROR
19 SHOULD NOT BE FOUND QUALIFIED?

20 MR JONES NONE ON THE PART OF THE
21 STATE, YOUR HONOR

22 MR TINSLEY NO, YOUR HONOR

23 THE COURT SHE IS SO QUALIFIED,
24 HAVING NO BIAS, INTEREST OR PREJUDICE WHICH WOULD
25 PREVENT HER FROM CARRYING OUT HER DUTIES AS A JUROR

1 SHE HAS INDICATED AN ABILITY TO CONSIDER BOTH FORMS
2 OF THE VERDICT IN THE GUILTY PHASE AS WELL AS THE
3 PENALTY PHASE AND, THEREFORE, IS QUALIFIED BRING
4 MS NORRIS BACK IN
5 (JUROR RE-ENTERS THE COURTROOM)

6 THE COURT MS NORRIS, YOU ARE
7 QUALIFIED TO SERVE ON THE PANEL FROM WHICH THE
8 ACTUAL JURY WILL BE SELECTED THAT WILL BE SOME
9 TIME LATER SOME TIME PERHAPS NEXT WEEK SO I'M
10 GOING TO ASK YOU TO CONTINUE FOLLOWING MY
11 INSTRUCTION NOT TO DISCUSS THE CASE WITH ANYONE
12 ALLOW NO ONE TO DISCUSS IT WITH YOU DO NOT ALLOW
13 YOURSELF TO BE EXPOSED TO ANY MEDIA COVERAGE THE
14 SAME INSTRUCTIONS THAT WERE GIVEN IN THE LETTER

15 BEFORE YOU LEAVE, WE NEED YOU TO GIVE
16 THE CLERK NUMBERS WHERE YOU MAY BE REACHED IT'S
17 LIKELY YOU WOULD NOT BE CALLED BEFORE MONDAY OR
18 TUESDAY, BUT WE NEED TO BE ABLE TO GET A HOLD OF YOU
19 ON SHORT NOTICE WHEN WE NEED THE PANEL TO COME BACK
20 FOR FURTHER JURY SELECTION IF YOU'LL JUST STAND UP
21 THERE AND GIVE HER THOSE NUMBERS, PLEASE

22 JUROR WHEN YOU SAY SHORT NOTICE,
23 HOW SHORT OF A NOTICE? WILL I BE ABLE TO GO INTO
24 WORK AND HAVE TIME TO LEAVE AND COME BACK?

25 THE COURT OH, YEAH OH, SURE,

1 YEAH THANK YOU, MA'AM YOU'RE EXCUSED WE'LL BE
2 IN TOUCH WITH YOU

3 (JUROR EXITS COURTROOM)

4 (JUROR IS QUALIFIED)

5 THE COURT ALL RIGHT ASK MR HOBBY
6 TO COME OUT, PLEASE, SIR

7 (JUROR #99 PRESENTED AT 11 03 O'CLOCK A M)

8 EXAMINATION BY THE COURT

9 Q MR HOBBY, IF YOU'LL JUST HAVE A SEAT RIGHT
10 THERE, PLEASE, SIR WE'RE GOING TO BE ASKING YOU
11 SOME ADDITIONAL QUESTIONS AS I INDICATED TO YOU
12 EARLIER THERE ARE NO RIGHT OR WRONG ANSWERS WE
13 SIMPLY NEED TO KNOW WHAT YOUR VIEWS AND OPINIONS ARE
14 ON CERTAIN SUBJECTS SO I WOULD SIMPLY ASK THAT YOU
15 ANSWER THE QUESTIONS AS BEST THAT YOU CAN AND AS
16 OPENLY AND AS HONESTLY AS YOU CAN SO THAT WE CAN
17 MAKE THAT DETERMINATION ALL RIGHT YOU WERE
18 PREVIOUSLY SWORN DO YOU RECALL WHEN THE ENTIRE
19 VENIRE STOOD AND WAS SWORN?

20 A YES, SIR

21 Q AND YOU REMAIN UNDER OATH FOR THE PURPOSE OF
22 THESE QUESTIONS, ALSO NOW, WE HAVE RECEIVED YOUR
23 QUESTIONNAIRE YOU ALSO INDICATED THAT YOU HAD
24 RECEIVED MY LETTER REGARDING THE INSTRUCTION NOT TO
25 ALLOW YOURSELF TO BE EXPOSED TO ANY MEDIA COVERAGE

1 AND NOT TO HAVE ANY DISCUSSIONS OR CONTACT WITH
2 OTHERS ABOUT THE CASE HAVE YOU FOLLOWED THAT
3 INSTRUCTION SINCE YOU RECEIVED THE LETTER?

4 A YES, SIR

5 Q DID YOU HAVE ANY EXPOSURE TO MEDIA COVERAGE OR
6 ANY CONTACTS OR DISCUSSIONS REGARDING THE CASE
7 BEFORE YOU RECEIVED THAT LETTER?

8 A YES, SIR

9 Q AND WHAT TYPE OF EXPOSURE OR DISCUSSIONS DID
10 YOU HAVE?

11 A JUST IN THE NEWSPAPER AND IN CASUAL
12 CONVERSATION

13 Q OKAY AND IS THERE ANYTHING THAT YOU READ IN
14 THE NEWSPAPER, OR IS THERE ANYTHING THAT CAME UP IN
15 THOSE DISCUSSIONS OR CONVERSATIONS THAT WOULD
16 PREVENT YOU FROM BEING ABLE TO BE FAIR AND IMPARTIAL
17 IF YOU WERE SELECTED AS A JUROR?

18 A YES, SIR I THINK SO, AND IT'S NOT ONLY THAT
19 I MEAN, I GOT A COUPLE OF OTHER THINGS

20 Q OKAY TELL ME WHAT YOU WANT TO TELL ME

21 A WELL, I'M AN EX-DEPUTY SHERIFF AND I'M AN EX-
22 POLICE OFFICER FOR GREENWOOD CITY I'VE BEEN
23 THROUGH THE CRIMINAL JUSTICE ACADEMY, AND I'VE HAD
24 SEVERAL YEARS OF TECHNICAL SCHOOLING FOR CRIMINAL
25 LAW, AND I JUST DON'T THINK I WOULD BE A GOOD

1 CANDIDATE ON THIS I REALLY DON'T

2 Q WELL, OF COURSE, THAT BACKGROUND DOES IN NO
3 WAY DISQUALIFY YOU FROM SERVING AS A JUROR YOU
4 UNDERSTAND THAT?

5 A YES, SIR YES, SIR

6 Q THE ONLY PERSONS THAT ARE ACTUALLY
7 DISQUALIFIED ARE THOSE THAT, FOR SOME REASON, COULD
8 NOT BE FAIR OR IMPARTIAL OR HAVE SOME BIAS OR
9 PREJUDICE IN THE CASE LET ME ASK YOU HAVE YOU
10 ALREADY FORMED OR EXPRESSED SOME OPINION AS TO WHAT
11 YOU BELIEVE THE APPROPRIATE --

12 A YES, SIR I HAVE

13 Q -- DECISION SHOULD BE?

14 A I HAVE

15 Q WOULD YOU BE ABLE TO PUT ASIDE THAT OPINION IF
16 YOU WERE CALLED UPON TO SERVE AS A JUROR AND BASE A
17 DECISION SOLELY UPON THE EVIDENCE RECEIVED DURING
18 THE COURSE OF THE TRIAL?

19 A NO, SIR I DON'T THINK SO, NOT WITH A MAN'S
20 LIFE ON THE LINE I DON'T THINK SO I REALLY
21 DON'T

22 Q EXPLAIN TO ME WHAT YOU MEAN BY THAT

23 A WELL, I JUST DON'T FEEL LIKE I COULD BE THAT
24 IMPARTIAL, YOU KNOW, IN THIS I JUST DON'T

25 Q WELL, WHEN YOU SAY YOU COULD NOT BE FAIR

1 BECAUSE A MAN'S LIFE IS ON THE LINE, WHAT DO YOU
2 MEAN BY THAT?

3 A WELL, JUST I, YOU KNOW, I'VE DONE FORMED MY
4 OPINION ABOUT THIS TRIAL AND, LIKE I SAID I'VE GOT
5 SUCH AN EXTENSIVE BACKGROUND IN LAW ENFORCEMENT, AND
6 I JUST FEEL LIKE THAT IF A PERSON IS BROUGHT THIS
7 FAR, THAT THE FELLOWS -- THAT ABBEVILLE COUNTY HAS A
8 GOOD CASE, AND THAT'S JUST THE WAY I FEEL

9 Q IS IT YOUR OPINION TODAY THAT THE DEFENDANT IS
10 ALREADY, IN YOUR VIEW, GUILTY OF THE CRIMES ALLEGED?

11 A YES, SIR YES, SIR

12 Q DO YOU ALSO HAVE AN OPINION AS TO WHAT THE
13 APPROPRIATE SENTENCE SHOULD BE?

14 A YES, SIR

15 Q IS THERE ANYTHING THAT WOULD ALTER THOSE
16 OPINIONS?

17 A NO, SIR

18 THE COURT ALL RIGHT ANY
19 QUESTIONS?

20 MR TINSLEY NONE, YOUR HONOR

21 MR JONES NO, SIR

22 THE COURT ALL RIGHT LET ME ASK
23 YOU, IF YOU WOULD, JUST STAND OUTSIDE FOR JUST A
24 MOMENT AND I'LL JUST BRING YOU RIGHT BACK
25 (JUROR DOES AS INSTRUCTED)

1 THE COURT ANY REASON WHY THE JUROR
2 SHOULD NOT BE DISQUALIFIED?

3 MR JONES NONE FROM THE STATE, YOUR
4 HONOR

5 MR TINSLEY NO, YOUR HONOR

6 THE COURT ALL RIGHT ASK MR HOBBY
7 TO COME BACK IN

8 (JUROR RE-ENTERS THE COURTROOM)

9 THE COURT MR HOBBY, WE'RE GOING TO
10 EXCUSE YOU FROM SERVICE IN THE TRIAL OF THIS CASE,
11 BUT WE APPRECIATE YOUR PARTICIPATION UP TO THIS
12 POINT AND YOUR WILLINGNESS TO COME BACK IF CALLED
13 UPON YOU MAY BE EXCUSED IT WILL NOT BE NECESSARY
14 THAT YOU REPORT BACK FURTHER

15 JUROR THANK YOU, YOUR HONOR

16 THE COURT THANK YOU

17 (JUROR EXITS COURTROOM)

18 (JUROR IS NOT QUALIFIED)

19 THE COURT ALL RIGHT ASK MR BROWN
20 TO COME IN, PLEASE, SIR

21 (JUROR #26 PRESENTED AT 11 08 O'CLOCK A M)

22 EXAMINATION BY THE COURT

23 Q GOOD MORNING, MR BROWN AS I INDICATED TO
24 YOU EARLIER, WE WILL BE ASKING YOU SOME ADDITIONAL
25 QUESTIONS THE PURPOSE IS TO SIMPLY FIND OUT YOUR

1 VIEWS AND OPINIONS WITH REGARD TO CERTAIN SUBJECTS
2 THERE ARE NO RIGHT OR WRONG ANSWERS, AND IF FOR SOME
3 REASON YOU DO NOT UNDERSTAND THE QUESTION OR IT'S
4 NOT ASKED IN A CLEAR FASHION, JUST LET ME KNOW, AND
5 WE'LL TRY TO CLARIFY THE QUESTION FOR YOU AS BEST
6 THAT WE CAN

7 PREVIOUSLY, YOU WERE SWORN, HAVING
8 BEEN SWORN WHEN THE ENTIRE PANEL WAS SWORN IN THE
9 BEGINNING, AND SO YOU REMAIN UNDER OATH FOR THE
10 PURPOSE OF THESE QUESTIONS, ALSO YOU INDICATED
11 EARLIER THAT YOU HAD COMPLETED YOUR QUESTIONNAIRE
12 AND THAT IT WAS CORRECT AND THAT YOU HAD RECEIVED MY
13 LETTER CONTAINING THE CAUTIONARY INSTRUCTION NOT TO
14 DISCUSS THE CASE WITH ANY PERSON AND NOT TO ALLOW
15 YOURSELF TO BE EXPOSED TO ANY TYPE OF MEDIA COVERAGE
16 RELATING TO THIS CASE HAVE YOU FOLLOWED THAT
17 INSTRUCTION SINCE YOU RECEIVED MY LETTER?

18 A YES, SIR

19 Q WERE YOU EXPOSED TO ANY TYPE OF MEDIA COVERAGE
20 OR ANY OTHER DISCUSSIONS OR CONTACTS PRIOR TO
21 RECEIVING MY LETTER THAT RELATES TO THIS CASE?

22 A YES, SIR

23 Q AND WHAT WAS THE NATURE OF THOSE CONTACTS OR
24 THAT EXPOSURE?

25 A THE T V REPORT AND THEN WE TALKED ABOUT IT

1 SOME AT WORK

2 Q AND WAS THAT AT OR ABOUT THE TIME OF THE EVENT
3 OR SOMETIME LATER?

4 A THAT WAS AT THE EVENT THAT NIGHT ON T V AND
5 THEN THE NEXT MORNING AT WORK

6 Q OKAY AND IS THERE ANYTHING THAT YOU SAW ON
7 TELEVISION OR ANY MATTERS THAT WERE BROUGHT UP IN
8 THOSE DISCUSSIONS THAT WOULD PREVENT YOU FROM BEING
9 ABLE TO BE FAIR AND IMPARTIAL IF YOU WERE SELECTED
10 AS A JUROR?

11 A NO, SIR

12 Q YOU UNDERSTAND IT'S NOT IMPORTANT WHAT YOU
13 MIGHT HAVE SEEN, HEARD OR READ? IT'S SIMPLY
14 IMPORTANT AS TO WHETHER THAT WOULD INFLUENCE YOU IN
15 ANY FASHION, AND YOU'VE INDICATED THAT IT WOULD NOT?

16 A NO, SIR IT WOULDN'T

17 Q ALL RIGHT, SIR DO YOU UNDERSTAND THAT THE
18 PURPOSE OF A JURY SELECTED IN A GIVEN CASE IS TO
19 SIMPLY LISTEN CAREFULLY TO TESTIMONY THAT MIGHT BE
20 PRESENTED AND TO CONSIDER ANY OTHER EVIDENCE THAT
21 MIGHT BE OFFERED DURING A TRIAL OF A CASE? AND
22 BASED UPON THE JURY'S CONSIDERATION OF THAT
23 EVIDENCE, YOU WILL BE CALLED UPON TO DETERMINE WHAT
24 THE FACTS ARE BASED UPON THAT EVIDENCE?

25 A YES, SIR

1 Q THEN YOU WOULD BE ASKED TO APPLY THE LAW AS
2 THE COURT WILL PROVIDE IT FOR YOU IN ORDER TO ARRIVE
3 AT YOUR DECISION OR YOUR VERDICT IN THE CASE YOU
4 UNDERSTAND THAT?

5 A YES, SIR

6 Q NOW, AS YOU KNOW IN THIS CASE, THE DEFENDANT
7 IS CHARGED WITH THE CRIME OF MURDER THE STATE HAS
8 BROUGHT THOSE ALLEGATIONS AND THAT CHARGE AGAINST
9 THE DEFENDANT DO YOU UNDERSTAND THAT THE BURDEN IS
10 UPON THE STATE TO ESTABLISH THE GUILT OF THE
11 DEFENDANT BEYOND A REASONABLE DOUBT BEFORE A JURY
12 COULD FIND A PERSON GUILTY OF A CRIME?

13 A YES, SIR

14 Q DO YOU UNDERSTAND THAT WHEN A PERSON IS
15 CHARGED WITH THE CRIME OF MURDER, THE LAW PROVIDES
16 THAT UNDER CERTAIN CIRCUMSTANCES THE STATE IS
17 PERMITTED TO SEEK THE DEATH PENALTY AS THE
18 APPROPRIATE PUNISHMENT FOR THAT OFFENSE? DO YOU
19 UNDERSTAND THAT?

20 A YES, SIR

21 Q UNDER THOSE CIRCUMSTANCES, THE LAW PROVIDES
22 THAT WHERE A PERSON IS CONVICTED OF MURDER AND WHERE
23 THERE IS AT LEAST ONE AGGRAVATING CIRCUMSTANCE
24 PROVEN AS THE LAW PROVIDES, THEN THE STATE IS
25 ENTITLED TO SEEK THE DEATH PENALTY, AND A JURY WOULD

1 MAKE THAT DECISION YOU UNDERSTAND THAT?

2 A YES, SIR

3 Q NOW, IF YOU WERE CALLED UPON TO PARTICIPATE IN
4 THE TRIAL OF THIS CASE, IT WOULD OCCUR IN TWO
5 SEPARATE PHASES OR TWO STAGES THE FIRST IS CALLED
6 THE GUILT PHASE, AND THE SECOND IS CALLED THE
7 SENTENCING PHASE OR PENALTY PHASE, AND, OF COURSE,
8 IT DOES NOT OCCUR UNLESS THE JURY HAS FOUND THE
9 DEFENDANT TO BE GUILTY BEYOND A REASONABLE DOUBT OF
10 THE CRIME OF MURDER AND SOME AGGRAVATING
11 CIRCUMSTANCE EXISTS NOW, IF YOU WERE CALLED UPON
12 TO SERVE, COULD YOU FAIRLY CONSIDER THE EVIDENCE
13 PRESENTED IN THE GUILTY PHASE? AND IF THAT EVIDENCE
14 PROVED IN YOUR MIND THAT THE DEFENDANT WAS GUILTY OF
15 THE CRIME CHARGED BEYOND A REASONABLE DOUBT, COULD
16 YOU RETURN A VERDICT OF GUILTY?

17 A ABSOLUTELY

18 Q IF YOU CONSIDERED ALL OF THE EVIDENCE
19 PRESENTED DURING THE TRIAL OF THE -- OR DURING THAT
20 PORTION OF THE TRIAL, THAT BEING THE GUILT PHASE,
21 AND IF THAT EVIDENCE DID NOT CONVINCE YOU BEYOND A
22 REASONABLE DOUBT THAT THE DEFENDANT WAS GUILTY ---

23 A START OVER

24 Q OKAY YOU'VE INDICATED YOU COULD CONSIDER THE
25 EVIDENCE, AND IF IT PROVED TO YOU BEYOND A

1 REASONABLE DOUBT THAT THE DEFENDANT WAS GUILTY, YOU
2 COULD RETURN A VERDICT OF GUILTY?

3 A RIGHT

4 Q ON THE CONTRARY, I'M SIMPLY ASKING THAT IF
5 AFTER YOU'VE CONSIDERED ALL THAT EVIDENCE, IF YOU
6 WERE NOT CONVINCED BEYOND A REASONABLE DOUBT THAT
7 THE DEFENDANT WAS GUILTY, COULD YOU RETURN A VERDICT
8 OF NOT GUILTY?

9 A YES

10 Q NO MATTER WHAT THE ALLEGATIONS MIGHT BE?

11 A RIGHT

12 Q NOW, ASSUME FOR THIS QUESTION ONLY THAT YOU
13 ARE PARTICIPATING IN THE TRIAL OF THE CASE YOU
14 HAVE -- YOU AND YOUR FELLOW JURORS HAVE RETURNED A
15 VERDICT OF GUILTY AS TO MURDER, AND YOU DETERMINE
16 THAT THERE IS A STATUTORY AGGRAVATING CIRCUMSTANCE
17 IN THAT EVENT, THE STATE WOULD BE ENTITLED TO SEEK
18 THE DEATH PENALTY THAT BEING THE CASE, THERE WOULD
19 BE AN ADDITIONAL HEARING AT THE SECOND STAGE OF THE
20 TRIAL CALLED THE PENALTY PHASE IT'S DURING THAT
21 STAGE OF THE TRIAL THAT ADDITIONAL EVIDENCE WOULD BE
22 PRESENTED THERE WILL BE EVIDENCE PRESENTED
23 REGARDING CIRCUMSTANCES OF AGGRAVATION THERE WILL
24 BE EVIDENCE PRESENTED REGARDING CIRCUMSTANCES OF
25 MITIGATION THAT SIMPLY MEANS THAT THERE MIGHT BE

1 EVIDENCE PRESENTED WHICH WOULD OR COULD SUPPORT THE
2 MORE SEVERE FORM OF PUNISHMENT BEING IMPOSED, AND
3 THERE MAY BE EVIDENCE PRESENTED WHICH MIGHT TEND TO
4 SUPPORT THE LESS SEVERE PUNISHMENT AS BEING
5 APPROPRIATE THE JURY WOULD HAVE A DECISION THE
6 JURY WOULD DECIDE THE PUNISHMENT THE TWO CHOICES
7 THAT YOU WOULD HAVE WOULD BE A SENTENCE OF DEATH OR
8 A SENTENCE OF LIFE IMPRISONMENT OBVIOUSLY, YOU DO
9 NOT KNOW WHAT THE EVIDENCE IS OR WHAT THE
10 CIRCUMSTANCES ARE, BUT WHAT I NEED TO ASK YOU IS
11 DEPENDING UPON THE CIRCUMSTANCES PRESENTED, WOULD
12 YOU BE ABLE TO CONSIDER ALL THE EVIDENCE FAIRLY,
13 BOTH AGGRAVATING EVIDENCE AND MITIGATING EVIDENCE?

14 A YES, SIR

15 Q DEPENDING UPON WHAT THOSE CIRCUMSTANCES ARE,
16 WOULD YOU BE ABLE TO CONSIDER BOTH FORMS OF THE
17 PUNISHMENT, THAT IS, A SENTENCE OF DEATH OR A
18 SENTENCE OF LIFE?

19 A SEE, I BELIEVE IN THE DEATH PENALTY

20 Q UH-HUH (AFFIRMATIVE)

21 A I MEAN, IT'S -- IF YOU COMMITTED IT, THEN YOU
22 RECEIVE IT

23 Q OKAY WELL, THAT'S WHAT I WANT TO ASK YOU
24 ABOUT YOU UNDERSTAND THAT WHEN YOU ARE IN THE
25 SENTENCING PHASE, YOU WOULD HAVE FOUND THAT THE

1 DEFENDANT WAS GUILTY OF THE CRIME OF MURDER, AND YOU
2 WOULD ALSO HAVE TO HAVE FOUND THAT IT WAS
3 ACCOMPANIED BY SOME AGGRAVATING CIRCUMSTANCE?

4 A YES, SIR

5 Q IF YOU FOUND THAT TO BE THE CASE, WOULD YOU
6 ALWAYS CHOOSE ONE OF THOSE FORMS OF PUNISHMENT OVER
7 THE OTHER?

8 A YES, SIR

9 Q AND WHICH FORM OF PUNISHMENT WOULD YOU CHOOSE?

10 A PUT TO DEATH

11 Q COULD YOU THINK OF A CIRCUMSTANCE? I'M NOT
12 ASKING YOU WHAT IT MIGHT BE, BUT CAN YOU THINK OF A
13 CIRCUMSTANCE WHERE YOU WOULD CONSIDER IMPOSING A
14 LIFE SENTENCE WHERE A PERSON HAS BEEN CONVICTED OF
15 MURDER AND AN AGGRAVATING CIRCUMSTANCE HAS BEEN
16 PROVEN BEYOND A REASONABLE DOUBT?

17 A WELL, IF YOU GET IN A FIGHT IN THE STREET, TWO
18 OF YOU GOING AT IT, ONE OF YOU ENDS UP KILLING
19 ANOTHER ONE THAT'S A LITTLE BIT DIFFERENT THAN
20 SOMEONE JUST KILLING SOMEBODY

21 Q WELL, DO YOU UNDERSTAND, AND I'M NOT CERTAIN
22 WHAT TYPE OF CIRCUMSTANCE YOU MIGHT HAVE IN MIND,
23 BUT YOU UNDERSTAND THAT IN ORDER FOR A PERSON TO BE
24 FOUND GUILTY OF MURDER, IT'S NECESSARY THAT THE
25 STATE PROVE BEYOND A REASONABLE DOUBT THAT A PERSON

1 KILLED ANOTHER WITH MALICE AFORETHOUGHT AND THAT
2 THAT PERSON DIED AS A RESULT OF IT? THAT MEANS THAT
3 THERE IS NO LEGAL JUSTIFICATION OR EXCUSE FOR THE
4 KILLING THAT WOULD BE THE CRIME OF MURDER

5 NOW, MY QUESTION IS IF YOU, AS A
6 JUROR, AND YOUR FELLOW JURORS WOULD HAVE TO BE IN
7 AGREEMENT IT WOULD HAVE TO BE UNANIMOUS IF YOU
8 HAD FOUND THE DEFENDANT TO BE GUILTY OF THAT CRIME,
9 THE CRIME OF MURDER, BEYOND A REASONABLE DOUBT, AND
10 AN AGGRAVATING CIRCUMSTANCE ALSO WAS PROVEN BEYOND A
11 REASONABLE DOUBT, WOULD YOU ALWAYS VOTE TO IMPOSE
12 THE DEATH PENALTY?

13 A YES, SIR

14 Q WOULD YOU EVER VOTE TO IMPOSE A LIFE SENTENCE?

15 A NO, SIR

16 THE COURT ALL RIGHT PLEASE ANSWER
17 ANY QUESTIONS THE LAWYERS MAY HAVE FOR YOU?

18 MR TINSLEY NONE, YOUR HONOR

19 MR JONES JUST BRIEFLY, IF I COULD

20 THE COURT SURE

21 EXAMINATION

22 BY MR JONES

23 Q GOOD MORNING, MR BROWN

24 A GOOD MORNING

25 Q MY NAME IS TOWNES JONES, AND I'M YOUR

1 SOLICITOR HERE IN ABBEVILLE THIS IS MICHAEL
2 COULTER, YOUR DEPUTY SOLICITOR WE WILL BE
3 PRESENTING THE EVIDENCE IN THIS CASE, AND,
4 BASICALLY, I WANT TO ASK YOU A COUPLE OF THINGS
5 ABOUT YOUR POSITION ON THE DEATH PENALTY I
6 UNDERSTAND THAT YOU TOLD THE JUDGE THAT IF YOU
7 DETERMINED SOMEBODY'S GUILTY OF MURDER, YOU BELIEVE
8 IN THE DEATH PENALTY AND YOU THINK IT'S THE
9 APPROPRIATE PUNISHMENT BUT I ALSO HEARD YOU TELL
10 HIM WHEN HE ASKED YOU CAN YOU THINK OF A SITUATION
11 WHERE YOU WOULD CONSIDER LIFE IMPRISONMENT, YOU TOLD
12 HIM ONE YOU EXPLAINED ONE, AND WHAT I WANT TO ASK
13 YOU ABOUT THAT IS IS THAT REGARDLESS OF THOSE
14 FACTS THAT YOU WERE THINKING ABOUT? ALL RIGHT YOU
15 DID ENVISION YOURSELF AS BEING ABLE TO CONSIDER
16 IMPOSING LIFE FOR THAT CRIME, IS THAT CORRECT?

17 A YES, SIR

18 Q ALL RIGHT AND WE JUST, YOU KNOW, THERE'S NO
19 RIGHT OR WRONG ANSWER IN HERE WHAT WE'RE TRYING TO
20 FIND OUT IS WHAT YOU KNOW ABOUT YOURSELF, AND HONEST
21 ANSWERS IS ALL WE'RE LOOKING FOR DO YOU FOLLOW
22 THAT?

23 A YES, SIR

24 Q SO YOU KNOW ENOUGH ABOUT YOURSELF TO KNOW THAT
25 YOU CAN, IN CERTAIN CIRCUMSTANCES, IMPOSE A LIFE

1 SENTENCE, IS THAT CORRECT?

2 A YES, SIR

3 Q YOU COULD CONSIDER IT?

4 A I COULD CONSIDER IT

5 Q WELL, COULD YOU?

6 A YES, SIR

7 Q YOU'RE TELLING THIS JUDGE HONESTLY THAT YOU
8 COULD?

9 A UNDER SOME CIRCUMSTANCE

10 Q ALL RIGHT IN SOME CIRCUMSTANCES, AND THAT'S
11 WHAT I'M ASKING YOU I'M NOT SUGGESTING THAT YOU
12 HAVE TO DO THAT YOU FOLLOW WHAT I'M SAYING?

13 A YES, SIR

14 Q WE DON'T KNOW WHAT YOU -- WHAT THE TWELVE
15 PEOPLE WOULD DO IN ANY CASE UNTIL YOU GET THERE
16 WHAT WE'RE ASKING YOU NOW IS IS CAN YOU CONSIDER IT?
17 CAN YOU THINK OF A SITUATION WHERE YOU COULD
18 CONSIDER IMPOSING LIFE IMPRISONMENT?

19 A YES, SIR

20 Q FOR MURDER?

21 A YES, SIR

22 Q ALL RIGHT SO WHAT WE'RE ASKING YOU IS YOU'RE
23 ON THE JURY YOU SIT ON A JURY WITH TWELVE PEOPLE,
24 AND YOU HEAR THE EVIDENCE IN THE CASE, AND THE
25 EVIDENCE COMES OUT WE DON'T KNOW WHAT THAT -- AND

1 WE CAN'T TALK TO YOU ABOUT WHAT THE EVIDENCE WOULD
2 BE YOU UNDERSTAND THAT?

3 A YES, SIR

4 Q BUT THE EVIDENCE COMES OUT, AND YOU'RE GOING
5 TO GET EVIDENCE, LOTS OF PEOPLE TESTIFYING, THAT
6 SORT OF THING SO YOU DON'T KNOW WHAT IT IS, BUT
7 THE EVIDENCE COMES OUT YOU GO BACK THERE AND YOU
8 REACH A VERDICT, AND THEY MAY BE ASKING YOU TO REACH
9 ALL KINDS OF VERDICTS, YOU KNOW, A VERDICT OF
10 MURDER, THE JUDGE READ YOU A CHARGE OF BURGLARY,
11 LESSER INCLUDED OFFENSE OF MANSLAUGHTER, THOSE KINDS
12 OF THINGS YOU GO BACK THERE AND CONSIDER ALL THAT
13 EVIDENCE, AND THEN LET'S ASSUME FOR A MINUTE THAT
14 THE JURY DECIDES, "WELL, WE'RE GOING TO FIND HIM
15 GUILTY OF MURDER," YOU KNOW THERE MIGHT HAVE BEEN
16 THIS GOING ON THERE MIGHT HAVE BEEN THAT GOING ON
17 THERE MIGHT HAVE BEEN A LOT OF STUFF GOING ON, BUT
18 WE THINK THIS IS MURDER YOU COME BACK WITH THAT
19 VERDICT, AND YOU GIVE THE VERDICT OF MURDER AND
20 THEN WE GO TO THE NEXT PHASE, AND WE HAVE MORE
21 EVIDENCE THAT COMES IN AND THEY'RE GOING, "ALL
22 RIGHT YOU FOUND HIM GUILTY OF MURDER, BUT LOOK AT
23 THIS YOU DIDN'T -- LET ME TELL YOU THIS LET ME
24 TELL YOU THIS LET ME TELL YOU THIS LET ME TELL
25 YOU THIS," AND BECAUSE OF THIS, WE WANT YOU TO

1 CONSIDER IMPOSING A LIFE SENTENCE AND YOU'RE
2 TELLING US YOU COULD CONSIDER A LIFE SENTENCE AT
3 THAT POINT IN TIME? CONSIDER IT?

4 A YES, SIR

5 Q ARE YOU SURE ABOUT THAT?

6 A YES, SIR

7 Q ALL RIGHT I WANT YOU TO THINK ABOUT IT FOR A
8 MINUTE, AND YOU SAID -- YOU TOLD ME THAT YOU COULD
9 IS THERE ANYTHING -- AFTER YOU FOUND HIM GUILTY OF
10 MURDER, AFTER THE JURY FOUND HIM GUILTY OF MURDER,
11 YOU FOLLOW THAT POINT? BEEN FOUND GUILTY OF MURDER
12 IS THAT CORRECT?

13 A YES

14 Q THEN YOU GO INTO THE PUNISHMENT PHASE, AND THE
15 JURY HAS TO HEAR EVIDENCE ABOUT WHETHER HE GETS
16 DEATH OR LIFE YOU FOLLOW WHAT I'M SAYING? AND YOU
17 GOT ALL KIND OF EVIDENCE COMING IN THEN ABOUT WHY HE
18 OUGHT -- MAYBE WHY HE OUGHT TO GET DEATH, AND YOU
19 GOT ALL KIND OF EVIDENCE COMING IN AS TO WHY HE
20 OUGHT TO GET LIFE YOU FOLLOW WHAT I'M SAYING?

21 A YES, SIR

22 Q WE'RE NOT ASKING YOU WHAT YOU'D DO THAT'S
23 NOT FAIR BECAUSE YOU DON'T KNOW YET WHAT WE'RE
24 ASKING YOU IS WOULD -- COULD YOU GO INTO THAT
25 PROCESS HONESTLY? COULD YOU GO INTO THAT PROCESS

1 AND SAY, "WELL, THERE COULD BE SOMETHING THEY COULD
2 SHOW TO ME THAT COULD CAUSE ME TO GIVE A LIFE
3 SENTENCE?"

4 A YES, SIR

5 Q EVEN AFTER YOU'VE CONVICTED HIM OF MURDER?

6 A YES, SIR

7 Q ALL RIGHT DO YOU FEEL FIRM ABOUT THAT AS YOU
8 TALK TO ME RIGHT NOW?

9 A YES, SIR

10 Q AND YOU FEEL LIKE IT'S AN HONEST ANSWER?

11 A YES, SIR

12 Q HAVE I EXPLAINED IT TO YOU FAIRLY?

13 A YES, SIR

14 Q DO YOU FEEL LIKE YOU UNDERSTAND THAT WE'RE
15 COMMUNICATING PRETTY WELL HERE?

16 A YES, SIR

17 Q SO YOU'RE TELLING ME THAT YOU COULD CONVICT
18 SOMEBODY OF MURDER AS A JUROR, AND THEN GO TO THE
19 SECOND PHASE IN SENTENCING AND HONESTLY, FAIRLY GIVE
20 CONSIDERATION FOR A LIFE IMPRISONMENT FOR THAT
21 MURDER BASED ON WHAT YOU HEAR AND WHAT YOU SEE IN
22 TERMS OF MITIGATION?

23 A YES, SIR

24 Q YOU COULD DO THAT?

25 A YES, SIR

1 Q HAVE YOU CHANGED YOUR POSITION AS YOU SAT
2 HERE, OR HAVE YOU JUST BEEN MORE CLEARLY GIVEN AN
3 OPPORTUNITY TO UNDERSTAND WHAT THE PROCESS IS?

4 A WELL, YOU GOT TO TAKE WHAT HE DONE FIRST AS --
5 I DON'T KNOW

6 Q WELL ---

7 A I MEAN, YOU KNOW, YOU GOTTA -- I GUESS THE WAY
8 YOU COMMIT THE MURDER I MEAN, IF IT'S BRUTAL AND
9 OUT AND OUT NO DEFENSE FOR THE OTHER PERSON, IT'S
10 JUST NOTHING THERE TO DEFEND HIM WITH

11 Q BUT YOU CAN CONSIDER THERE MIGHT BE MITIGATING
12 FACTORS THAT WOULD CAUSE YOU TO GIVE LIFE?

13 A RIGHT

14 Q IS THAT CORRECT?

15 A YES, SIR

16 Q CERTAIN CIRCUMSTANCES SURROUNDING THE CRIME?

17 A YES, SIR

18 Q NOT A DEFENSE, BUT CIRCUMSTANCES SURROUNDING
19 THE CRIME WHERE YOU MIGHT SAY, "I THINK LIFE
20 IMPRISONMENT IS PROPER HERE, EVEN WITH THIS MURDER "

21 A YES, SIR

22 Q IS THAT CORRECT? YOU COULD GIVE LIFE
23 IMPRISONMENT FOR MURDER?

24 A YES, SIR

25 Q I'M NOT TALKING ABOUT MANSLAUGHTER I'M

1 TALKING ABOUT MURDER YOU UNDERSTAND THAT?

2 A YES, SIR

3 Q AND YOU COULD GIVE A LIFE SENTENCE? YOU COULD
4 CONSIDER IT?

5 A YES, SIR

6 Q SO HAVE YOU BASICALLY CHANGED YOUR POSITION AS
7 FAR AS WHEN YOU TOLD THE JUDGE EARLIER?

8 A I DON'T THINK SO

9 Q UH-HUH (AFFIRMATIVE)

10 A I MEAN, I STILL BELIEVE IN THE DEATH PENALTY

11 Q RIGHT

12 A BUT I -- BUT IT DON'T FIT IN EVERY CASE

13 Q THAT'S RIGHT, AND YOU COULD GIVE LIFE IN EVERY
14 CASE? I MEAN, IN SOME CASES?

15 A SOME CASES

16 Q YOU'RE CERTAIN OF THAT?

17 A YES, SIR

18 Q SO YOU FEEL LIKE YOU COULD BE FAIR TO SOMEONE
19 ON TRIAL FOR MURDER AND SOMEONE CONVICTED OF MURDER
20 --

21 A YES, SIR

22 Q -- IN CONSIDERING EVIDENCE IN MITIGATION AS
23 WHETHER OR NOT TO GIVE THEM LIFE OR DEATH?

24 A YES, SIR

25 Q YOU'RE CERTAIN OF THAT?

1 A YES, SIR

2 Q IS THERE ANYTHING ANYBODY COULD SAY TO YOU
3 THAT COULD CAUSE YOU TO BELIEVE THAT YOU COULDN'T BE
4 FAIR IN CONSIDERING A LIFE SENTENCE FOR SOMEBODY?

5 A NO, SIR

6 MR TINSLEY OBJECTION, YOUR HONOR

7 MR JONES I DON'T HAVE ANY FURTHER
8 QUESTIONS, JUDGE

9 THE COURT I'LL SUSTAIN THE
10 OBJECTION GO AHEAD, MR TINSLEY, IF YOU'D LIKE TO
11 ASK A QUESTION

12 EXAMINATION

13 BY MR TINSLEY

14 Q MR BROWN, IF THE STATE WERE TO CONVICT MR
15 HUGHEY OF ONE MURDER WITH AGGRAVATING CIRCUMSTANCES,
16 COULD YOU THEN GIVE A LIFE SENTENCE?

17 A WHAT DO YOU MEAN BY AGGRAVATING CIRCUMSTANCES?

18 Q WELL, THAT'S JUST THE TERM THAT THE JUDGE WILL
19 EXPLAIN TO YOU LATER I BELIEVE YOU MADE THE
20 COMMENT ---

21 THE COURT YOU CAN ASK HIM ABOUT THE
22 AGGRAVATING CIRCUMSTANCES

23 EXAMINATION CONTINUED BY MR TINSLEY

24 Q ALL RIGHT LET'S SAY THAT THE AGGRAVATING
25 CIRCUMSTANCE WAS THE DEATH OF TWO PEOPLE COULD YOU

1 THEN RETURN A LIFE SENTENCE?

2 MR JONES YOUR HONOR, I BELIEVE THE
3 PROPER FORM OF THE QUESTION IS CONSIDER RETURNING A
4 LIFE SENTENCE?

5 THE COURT CERTAINLY

6 MR TINSLEY CONSIDER IT

7 MR JONES CONSIDER RETURNING A LIFE
8 SENTENCE

9 JUROR I COULD CONSIDER IT

10 MR TINSLEY YOUR HONOR

11 THE COURT HE OBJECTED TO THE FORM
12 OF THE QUESTION YOU REPHRASED IT SO THAT TOOK
13 CARE OF IT

14 EXAMINATION CONTINUED BY MR TINSLEY

15 Q ALL RIGHT IF THE AGGRAVATING CIRCUMSTANCE --
16 ADDITIONAL AGGRAVATING CIRCUMSTANCE OF BURGLARY WERE
17 PROVEN BY THE STATE, COULD YOU THEN CONSIDER A LIFE
18 SENTENCE, OR WOULD YOU OPT ALWAYS FOR THE DEATH
19 PENALTY UNDER THOSE CIRCUMSTANCES?

20 A WELL, GIVE ME A SECOND TO THINK ABOUT IT

21 Q ALL RIGHT I'LL GIVE YOU A SECOND TO THINK
22 ABOUT IT

23 A THE MORE HE DOES, THOUGH, WOULD BE LESS
24 CONSIDERED A LIFE I MEAN, WHEN YOU KEEP ADDING ON
25 TOP OF EACH OTHER AND TOP OF EACH OTHER

1 Q WELL, YOU TALKED ABOUT IF THE PERSON DIDN'T
2 DEFEND THEMSELVES, THAT WOULD BE A FACTOR IN YOUR
3 CONSIDERATION AS TO WHETHER YOU COULD GIVE A LIFE
4 SENTENCE OR A DEATH SENTENCE IF, IN FACT, THE
5 STATE ---

6 A YES, SIR IT'S -- IT'S THE DIFFERENCE FROM
7 DEFENDING YOURSELF AND AGGRESSIVELY STARTING OR
8 BEING AT THE SAME ODDS WITH THE PERSON

9 Q OKAY IF THE VICTIM WERE DEEMED TO NOT BE IN
10 SELF DEFENSE AND NOT START IT, COULD YOU CONSIDER A
11 LIFE SENTENCE, OR WOULD YOU AUTOMATICALLY GIVE THE
12 DEATH PENALTY?

13 A I'D GIVE THE DEATH PENALTY

14 Q EACH AND EVERY TIME?

15 A YES, SIR

16 MR TINSLEY THAT'S ALL

17 THE COURT MR BROWN, LET ME --

18 OBVIOUSLY YOU'RE NOT THINKING ABOUT THESE PARTICULAR
19 CIRCUMSTANCES EVERY DAY, AND I KNOW THESE QUESTIONS
20 ARE NEW TO YOU IT IS IMPORTANT THAT WE UNDERSTAND
21 WHAT YOUR VIEWS AND OPINIONS ARE, AND I RECOGNIZE
22 THAT BECAUSE YOU'VE NOT BEEN ASKED THESE QUESTIONS
23 PREVIOUSLY, IT'S SOMETIMES DIFFICULT TO EXPRESS
24 EXACTLY WHAT YOU THINK ABOUT A PARTICULAR SUBJECT
25 AND, OF COURSE, THAT'S THE REASON WE ASK THESE

1 QUESTIONS AND SO I WANT YOU TO UNDERSTAND THAT NO
2 ONE IS PRESSING YOU NO ONE IS TRYING TO PRESSURE
3 YOU ON AN ISSUE I JUST SIMPLY HAVE TO BE CERTAIN
4 THAT I UNDERSTAND EXACTLY WHAT YOU THINK ABOUT THESE
5 PARTICULAR SUBJECTS, OKAY? SO I'M GOING TO ASK YOU
6 SOME ADDITIONAL QUESTIONS

7 YOU'VE INDICATED SOME CONCERN OVER
8 THE CIRCUMSTANCES THAT RELATE TO THE CRIME ITSELF,
9 AND SPECIFICALLY I'M REFERRING TO THOSE WHEN YOU
10 INDICATED WHERE IF TWO PEOPLE WERE INVOLVED IN A
11 FIGHT OR SOMEONE WAS DEFENDING SOMEONE ALL RIGHT
12 YOU UNDERSTAND THAT THERE ARE VARIOUS FORMS OR TYPES
13 OF HOMICIDE THEY'RE NOT ALL MURDER YOU HAVE
14 MURDER YOU HAVE VOLUNTARY MANSLAUGHTER YOU HAVE
15 INVOLUNTARY MANSLAUGHTER YOU HAVE ACCIDENTAL
16 HOMICIDES AND RECKLESS HOMICIDE AND THINGS OF THAT
17 NATURE AND, OF COURSE, ALL OF THOSE PARTICULAR
18 TYPES OF HOMICIDE, EVEN THOUGH THEY RESULT IN THE
19 DEATH OF A PERSON, DO NOT WARRANT A DEATH PENALTY
20 NOR DO THEY WARRANT THE STATE EVEN BEING ABLE TO
21 SEEK THE DEATH PENALTY IT IS ONLY UNDER THE LAW
22 WHEN A PERSON HAS BEEN CONVICTED OF MURDER AND WHERE
23 THERE IS SOME AGGRAVATING CIRCUMSTANCE PROVEN BEYOND
24 A REASONABLE DOUBT THAT THE STATE CAN SEEK THE DEATH
25 PENALLY AND THAT A JURY MAY EVEN CONSIDER IMPOSING A

1 DEATH PENALTY NOW, ONE OF THOSE AGGRAVATING
2 CIRCUMSTANCES, AND IT IS ALLEGED IN THIS CASE, AND,
3 THEREFORE, I WILL ADDRESS I WITH YOU, IS THE MURDER
4 OF TWO PERSONS IN THE SAME COURSE OF CONDUCT
5 ALSO, THE COMMISSION OF A MURDER IN THE COMMISSION
6 OF A CRIME OF BURGLARY IS AN AGGRAVATING
7 CIRCUMSTANCE THAT MAY BE CONSIDERED BY THE JURY IN
8 ARRIVING AT THAT DECISION BUT YOU NEED TO
9 UNDERSTAND, AND I KNOW THAT YOU DON'T HAVE A LEGAL
10 EDUCATION, AND I CAN'T PROVIDE YOU ALL THE WE KNOW
11 ABOUT THE LAW, BUT I JUST WANT TO BE ABLE TO
12 UNDERSTAND THAT YOU UNDERSTAND THE QUESTIONS IN
13 ORDER FOR A PERSON TO BE FOUND GUILTY OF MURDER, AS
14 I INDICATED TO YOU EARLIER, YOU WOULD HAVE TO BE
15 SATISFIED BEYOND A REASONABLE DOUBT THAT THE PERSON
16 WAS KILLED BY THE OTHER, AND THE PERSON DOING THE
17 KILLING DID IT WITH MALICE, THAT IS, MALICE
18 AFORETHOUGHT, PRIOR TO THE KILLING, AND THE PERSON
19 DIED AS A RESULT THAT MEANS THAT THERE IS NO SELF
20 DEFENSE YOU COULD NOT FIND SELF DEFENSE AND THEN
21 FIND SOMEONE GUILTY OF MURDER BECAUSE SELF DEFENSE
22 MEANS THAT YOU HAVE ACTED PROPERLY UNDER THE LAW
23 IF YOU'RE DEFENDING YOURSELF UNDER THE RIGHT
24 CIRCUMSTANCES, YOU'RE ACTING LEGALLY AND IF YOU'RE
25 FACING DEADLY FORCE AND YOU'RE USING DEADLY FORCE,

1 THEN YOU'VE ACTED APPROPRIATELY UNDER THE LAW SO
2 UNDER THOSE CIRCUMSTANCES, YOU COULD NOT BE
3 CONVICTED OF MURDER IF YOU DON'T ACT WITH MALICE,
4 BUT YOU KILL SOMEONE AND IT'S NOT JUSTIFIED OR
5 LEGALLY EXCUSABLE, THEN YOU MAY BE FOUND GUILTY OF
6 VOLUNTARY MANSLAUGHTER IN THAT CASE, THE STATE
7 COULD NOT SEEK THE DEATH PENALTY, AND, OF COURSE,
8 THE LESSER HOMICIDES THAT I'VE INDICATED WOULD NOT
9 COME INTO PLAY SO FAR AS THE DEATH PENALTY IS
10 CONCERNED

11 BUT WHAT I WANT TO FIND OUT IF YOU
12 WERE PARTICIPATING IN THE TRIAL OF THE CASE, AND YOU
13 AND YOUR FELLOW JURORS HAD FOUND THE DEFENDANT
14 GUILTY OF MURDER BEYOND A REASONABLE DOUBT, YOU HAD
15 FOUND THE AGGRAVATING CIRCUMSTANCE EXISTING TO BE AN
16 ADDITIONAL MURDER IN THE SAME COURSE OF CONDUCT AND
17 THAT THE MURDER TOOK PLACE DURING THE COMMISSION OF
18 A BURGLARY, AND YOU HAD FOUND THE DEFENDANT TO BE
19 GUILTY OF EACH OF THOSE OFFENSES, AND YOU WERE
20 INVOLVED IN THE PENALTY PHASE OF THE TRIAL WHERE YOU
21 WOULD DETERMINE WHAT THE APPROPRIATE SENTENCE SHOULD
22 BE, COULD YOU, DEPENDING UPON THE FACTS OF THE CASE
23 -- NOW, UNDERSTAND YOU FOUND HIM GUILTY OF MURDER OF
24 TWO INDIVIDUALS YOU HAVE FOUND HIM GUILTY OF
25 BURGLARY, BUT YOU WOULD STILL CONSIDER THE

1 CIRCUMSTANCES OF THE CRIMES THEMSELVES COULD YOU
2 CONSIDER BOTH FORMS OF PUNISHMENT? COULD YOU
3 CONSIDER IMPOSING A DEATH PENALTY, AND COULD YOU
4 CONSIDER IMPOSING A LIFE SENTENCE DEPENDING UPON
5 YOUR VIEW OF THE CIRCUMSTANCES THAT RELATE TO THOSE
6 THREE OFFENSES FOR WHICH YOU HAVE FOUND THE
7 DEFENDANT TO BE GUILTY OF?

8 A NO, SIR

9 Q AND EXPLAIN THAT TO ME WHAT YOU MEAN WHEN
10 YOU SAY, "NO, SIR, ' JUST TELL ME WHAT YOU WOULD DO
11 UNDER THOSE CIRCUMSTANCES

12 A WELL, HE HAD COMMITTED TWO MURDERS UNDER
13 MALICE OR ONE OF THE MURDERS UNDER MALICE, AND HE --
14 -

15 Q MURDER HAS TO BE WITH MALICE

16 A YEAH SO ---

17 Q SO, AS A RESULT, IF YOU FOUND A PERSON GUILTY
18 OF MURDER, YOU WOULD HAVE HAD TO HAVE FOUND MALICE
19 BEYOND A REASONABLE DOUBT

20 A YES, I KNOW THE DEATH PENALTY

21 Q YOU WOULD THEN --

22 A YES, SIR

23 Q -- IMPOSE THE DEATH PENALTY? COULD THERE BE
24 ANY CIRCUMSTANCES? UNDERSTAND YOU FOUND THE PERSON
25 TO BE GUILTY OF MURDER, MURDER AND PERHAPS BURGLARY,

1 BUT CONSIDERING THE CIRCUMSTANCES, CAN YOU THINK OF
2 A CIRCUMSTANCE WHERE YOU COULD, UNDER THOSE
3 CIRCUMSTANCES, CONSIDER IMPOSING A LIFE SENTENCE?

4 A NO, SIR

5 Q NOT UNDER ANY CIRCUMSTANCE?

6 A NO, SIR

7 Q YOU WOULD IMPOSE THE DEATH SENTENCE BECAUSE OF
8 THE CONVICTIONS -- TWO CONVICTIONS FOR MURDER?

9 A YES, SIR

10 THE COURT ALL RIGHT ANY OTHER
11 QUESTIONS BY THE DEFENDANT?

12 MR TINSLEY NO, YOUR HONOR

13 THE COURT BY THE STATE?

14 MR JONES NO, SIR

15 THE COURT OKAY MR BROWN, IF YOU
16 WILL, JUST STAND OUTSIDE, AND WE'LL BRING YOU BACK
17 IN JUST A MINUTE

18 (JUROR DOES AS INSTRUCTED)

19 THE COURT ANY QUESTION ABOUT THE
20 QUALIFICATION OF THE JUROR?

21 MR JONES YES, SIR I WOULD LIKE
22 TO PRESENT THE STATE'S POSITION TO YOU

23 THE COURT ALL RIGHT

24 MR JONES JUDGE, OF COURSE, YOU
25 KNOW, WE CAN'T GO INTO THE SPECIFIC FACTS OF THIS

1 CASE WITH THIS JUROR WHEN QUESTIONING HIM, BUT I
2 THINK HIS RESPONSES TO MY QUESTIONS INDICATED HE CAN
3 CONSIDER A LIFE SENTENCE NOW, I KNOW THAT YOU WENT
4 BACK THROUGH IN AN EFFORT TO EDUCATE HIM ON A LEGAL
5 PREMISE AND THE LEGAL DEFINITION OF MURDER AND
6 MANSLAUGHTER AS COMPARED TO THE DISTINCTION BETWEEN
7 THE TWO AND THEN TALKING TO HIM ABOUT WHAT TYPE OF
8 MURDER WE'D BE GETTING INTO

9 NUMBER ONE, MY POSITION IS HE SAID HE
10 COULD CONSIDER LIFE IMPRISONMENT AFTER FINDING
11 SOMEONE GUILTY OF MURDER AND FINDING AGGRAVATING
12 CIRCUMSTANCES WHEN I QUESTIONED HIM, HE SAID HE
13 COULD CONSIDER IT THERE'S NO DIFFERENT ---

14 THE COURT BUT, NOW, YOU UNDERSTAND
15 HE DID SAY HE DIDN'T KNOW WHAT AGGRAVATING
16 CIRCUMSTANCES WERE UNDER THE LAW, AND IN THIS CASE
17 IT'S SPECIFIC THAT THE ONE THAT YOU'RE ALLEGING, AND
18 I THINK THAT THE JUROR HAS A RIGHT TO KNOW WHAT THAT
19 AGGRAVATING CIRCUMSTANCE IS IF THAT IS WHAT THE
20 STATE IS RELYING UPON YOU WOULDN'T DISAGREE WITH
21 THAT, WOULD YOU?

22 MR JONES NO, SIR

23 THE COURT OKAY

24 MR JONES I WOULDN'T DISAGREE WITH
25 HIM HAVING KNOWLEDGE OF THE AGGRAVATING

1 CIRCUMSTANCES WHAT I AM -- MY POSITION FOR YOU IS
2 THAT I FIRMLY BELIEVE IF I WERE ABLE TO TALK TO HIM
3 ABOUT THE FACT THAT HE WOULD RECEIVE EVIDENCE IN THE
4 CASE CONCERNING THE MOTIVE FOR THE KILLINGS BEING
5 THE DEFENDANT'S BELIEF THAT HIS COMMON LAW SPOUSE
6 WAS ENGAGED IN AFFAIRS WITH OTHER MEN, THAT IT WOULD
7 HAVE SHED SOME LIGHT ON WHETHER OR NOT HE COULD
8 CONSIDER LIFE I THINK HE WOULD HAVE ENOUGH
9 INTEREST IN THAT FACT, AND I THINK HIS ANSWERS TO MY
10 QUESTIONS ABOUT IS THERE A SITUATION I DIDN'T ASK
11 HIM ABOUT TWO MEN FIGHTING ON THE STREET, BUT I
12 THINK THAT HIS ANSWERS, HIS GUT INNATE RESPONSES
13 ARE, HE'S -- WHAT HE'S ENVISIONING WHEN YOU TALK TO
14 HIM ABOUT BURGLARY AND DOUBLE MURDER, HE'S TALKING
15 ABOUT A STRANGER BREAKING IN SOMEBODY'S HOME AND
16 SLASHING THEIR THROATS AND STEALING THEIR MONEY AND
17 GETTING OUT OF THE HOUSE THAT'S WHAT HE'S THINKING
18 ABOUT, AND IN THAT SITUATION HE'S TELLING YOU THAT
19 HE COULDN'T CONSIDER LIFE BEING VERY HONEST WITH
20 YOU, AND IN THAT SITUATION, OKAY, TO QUALIFY IF THAT
21 WERE THE ONLY SITUATION, HE WOULD NOT BE QUALIFIED
22 BECAUSE HE COULDN'T CONSIDER LIFE IN THAT SITUATION
23 BUT WHAT I'M SUGGESTING IS IS BY JUST GIVING HIM
24 THESE AGGRAVATING CIRCUMSTANCES AND NOT GIVING HIM
25 AN AREA OF MITIGATION TO CONSIDER THAT HE CAN SINK

1 HIS TEETH IN, THEN HE'S BEING BASICALLY CUT OFF AT
2 THE PASS AND NOT BEING GIVEN A -- HE -- WHEN I
3 TALKED TO HIM IN VAGUE GENERALITIES, HE SAYS, "YEAH,
4 THERE'S MITIGATION WHERE I COULD CONSIDER LIFE "
5 AND HE SAID, I'M PROBABLY NOT GOING TO GIVE IT,"
6 JUST AS SOME OF THESE OTHER JURORS WHO'VE BEEN
7 QUALIFIED HAVE SAID, "I'M PROBABLY NOT GOING TO GIVE
8 DEATH " WELL, ONE QUOTE IS, "I'M LEANING HEAVILY
9 TOWARDS LIFE, BUT I CAN CONSIDER DEATH " AND HE
10 SAID HE COULD CONSIDER LIFE, AND I THINK THAT IF HE
11 WERE QUESTIONED ABOUT -- IF HE HAD A -- IF HE HAD
12 JUST A CLEAR UNDERSTANDING OF WHAT MITIGATION IS AS
13 HE DOES OF WHAT -- HOW YOU EXPLAINED TO HIM WHAT
14 AGGRAVATING IS IN THE FORM OF DOUBLE HOMICIDE AND
15 BURGLARY, I THINK THAT HE WOULD TELL YOU THAT HE
16 COULD CONSIDER UNDER CERTAIN CIRCUMSTANCES RETURNING
17 A LIFE SENTENCE HE WOULD STILL TELL YOU HE'D BE
18 PRONE TO DEATH BUT, YEAH, IF YOU'VE GOT A SITUATION
19 THERE WHERE SOMEBODY'S ACTING IN A -- THAT'S MY
20 POSITION WITH THIS JUROR I THINK THAT HE IS NOT
21 DISQUALIFIED, AND I THINK, AS HE SAID TO ME, HE
22 COULD CONSIDER LIFE IMPRISONMENT EVEN AFTER A MURDER
23 CONVICTION I REALLY DON'T BELIEVE THAT HE WAS, YOU
24 KNOW I WENT INTO A GREAT DEAL OF DETAIL WITH HIM
25 ABOUT THAT

1 THE COURT OKAY MR TINSLEY, DO
2 YOU WISH TO BE HEARD?

3 MR TINSLEY YES, YOUR HONOR I
4 WOULD MERELY CITE THE CASE OF MORGAN VERSUS ILLINOIS
5 AT THIS TIME I THINK CLEARLY THIS FALLS WITHIN THE
6 PARAMETERS OF THOSE -- OF THAT CASE AND THAT THIS
7 JUROR IS DISQUALIFIED

8 THE COURT ALL RIGHT WELL, BASED
9 UPON THE TESTIMONY OF THE JUROR THAT I'VE HEARD, AND
10 I RECOGNIZE A JURY -- A JUROR OR ANY PERSON BEING
11 ASKED QUESTIONS OF THIS NATURE DON'T ALWAYS KNOW
12 EXACTLY HOW THEY FEEL ABOUT A SUBJECT UNTIL THEY'VE
13 HAD A TIME TO THINK ABOUT IT BUT IN THIS CASE,
14 PURSUANT TO TWICE WHEN I QUESTIONED HIM REGARDING
15 HIS ABILITY TO CONSIDER A LIFE SENTENCE WHERE A
16 PERSON IS CONVICTED OF MURDER, HE INDICATED TO ME
17 THAT HE WAS NOT ABLE TO CONSIDER IT THE FIRST TIME
18 HE INDICATED WHEN I SAID, "IF YOU FOUND A PERSON
19 GUILTY BEYOND A REASONABLE DOUBT OF MURDER, THAT IS,
20 WITH MALICE AFORETHOUGHT AND AN AGGRAVATING
21 CIRCUMSTANCE, COULD YOU CONSIDER LIFE?" HE SAID,
22 "NO " OBVIOUSLY, WHEN HE WAS QUESTIONED BY THE
23 LAWYERS IN THE CASE, HE SOMEWHAT WAVERED ON THAT
24 POINT AND SAID, "WELL, IT WOULD DEPEND UPON WHAT
25 THOSE CIRCUMSTANCES ARE " THAT'S THE REASON THAT I

1 ADDRESSED THE ISSUE OF WHAT THE CIRCUMSTANCES ARE
2 THAT THE STATE IS ALLEGING, AND IN THIS CASE, NOT
3 THE FACTUAL CIRCUMSTANCES, BUT THE ACTUAL
4 AGGRAVATING CIRCUMSTANCE THAT THE STATE IS RELYING
5 UPON AND THAT ADDITIONAL OR THAT AGGRAVATING
6 CIRCUMSTANCE IS MURDER OR THE COMMISSION OF TWO
7 MURDERS AND, OF COURSE, ONE SERIES OF CONDUCT BY THE
8 DEFENDANT AND THIS JUROR CLEARLY, AT LEAST IN MY
9 MIND, INDICATED TO ME THAT IF A PERSON WAS CONVICTED
10 OF MURDER, THAT IS, A KILLING WITH MALICE
11 AFORETHOUGHT, AND THE AGGRAVATING CIRCUMSTANCE
12 PROVEN WAS THE KILLING OF ANOTHER PERSON WITH MALICE
13 AFORETHOUGHT, THEN HE WOULD NOT CONSIDER GIVING A
14 LIFE SENTENCE BUT WOULD ALWAYS IMPOSE DEATH
15 NOW, IN THIS CASE, THERE MAY BE SOME
16 CIRCUMSTANCES THAT MIGHT GIVE RISE TO SOME
17 DIMINISHED MENTAL STATE SO FAR AS MALICE IS
18 CONCERNED OR HEAT OF PASSION IS CONCERNED, AND
19 THAT'S THE REASON I EXPLAINED TO HIM THERE ARE
20 VARIOUS FORMS OF HOMICIDE BUT IN ORDER FOR HIM TO
21 FIND THE DEFENDANT GUILTY OF MURDER, I'M SATISFIED
22 THIS JUROR UNDERSTANDS THAT HE HAS GOT TO FIND
23 MALICE BEYOND A REASONABLE DOUBT IN ORDER TO FIND
24 THE AGGRAVATING CIRCUMSTANCE OF MURDER, THAT
25 HOMICIDE WOULD ALSO HAVE TO BE ACCOMPANIED BY MALICE

1 AFORETHOUGHT SO IF YOU HAVE MALICE, HE'S INDICATED
2 THAT WHERE IT WAS MALICE WHICH WOULD HAVE TO BE
3 PROVEN IN ORDER TO FIND HIM GUILTY OF MURDER, AND
4 YOU HAD TO, HE WOULD NOT CONSIDER A LIFE SENTENCE
5 BASED UPON THOSE QUESTIONS, I FIND THAT THE JUROR IS
6 NOT QUALIFIED TO SERVE IN THIS CASE ANYTHING
7 FURTHER BEFORE WE BRING HIM BACK?

8 MR JONES WELL, JUDGE, I
9 RESPECTFULLY UNDERSTAND YOUR FINDING AND THE MAKING
10 OF IT THERE IS TEN MINUTES BEFORE THE NEXT GROUP
11 FOR YOU TO PROCEED I DON'T SUPPOSE YOU WOULD
12 CONSIDER ALLOWING ME TO ASK THIS PARTICULAR JUROR
13 TWO OR THREE QUESTIONS ABOUT WHETHER OR NOT A
14 POTENTIAL MENTAL DEFECT IN THE DEFENDANT AND THE AGE
15 OF THE DEFENDANT AND THOSE CIRCUMSTANCES WOULD BE
16 SOMETHING THAT HE COULD CONSIDER IN DECIDING WHETHER
17 OR NOT TO SPARE THE LIFE OF SOMEONE WHO IS
18 PRESENTING A SENTENCE AFTER THAT?

19 THE COURT WELL, NO I'VE GIVEN
20 EVERYBODY AN OPPORTUNITY TO ASK ALL THE QUESTIONS
21 THAT WE'RE GOING TO ASK

22 MR JONES ALL RIGHT

23 THE COURT BRING MR BROWN BACK IN
24 (JUROR RE-ENTERS THE COURTROOM)

25 THE COURT MR BROWN, WE'RE GOING TO

1 EXCUSE YOU FROM SERVICE IN THE TRIAL OF THIS CASE,
2 BUT I DO SINCERELY APPRECIATE YOUR WILLINGNESS TO
3 PARTICIPATE IF CALLED UPON YOU ARE NOW EXCUSED
4 YOU WILL NOT NEED TO REPORT ANY FURTHER I WOULD
5 ASK THAT YOU NOT DISCUSS WHAT OCCURRED HERE WITH ANY
6 POTENTIAL JUROR

7 JUROR OKAY

8 THE COURT THANK YOU AGAIN FOR YOUR
9 PARTICIPATION

10 (JUROR EXITS COURTROOM)

11 (JUROR IS NOT QUALIFIED)

12 THE COURT HAVE WE GOT THREE MORE
13 JURORS OUT THERE?

14 MR JONES YOUR HONOR?

15 THE COURT YES

16 MR JONES BEFORE WE GO FORWARD, I'D
17 JUST LIKE TO EXPRESS MY CONCERN ABOUT THE DEFENSE'S
18 LACK OF INTEREST IN THE CROSSBOW SECTION OF THE
19 COMMUNITY

20 THE COURT THE LACK OF INTEREST IN
21 THE WHAT?

22 MR JONES CROSSBOW SECTION OF THE
23 COMMUNITY

24 THE COURT OH ALL RIGHT ARE WE
25 READY FOR MR LOMAX?

1 MR JONES WE APPRECIATE YOUR
2 CONCERN, YOUR HONOR

3 THE COURT I'M CERTAIN THAT YOU DO
4 (JUROR #117 PRESENTED AT 11 45 O'CLOCK A M)
5 EXAMINATION BY THE COURT

6 Q GOOD MORNING, MR LOMAX

7 A GOOD MORNING

8 Q AS YOU KNOW, YOU'RE HERE FOR THE PURPOSE OF US
9 ASKING SOME ADDITIONAL QUESTIONS REGARDING YOUR
10 VIEWS AND OPINIONS ON CERTAIN SUBJECTS THERE ARE
11 NO RIGHT AND WRONG ANSWERS WE SIMPLY NEED TO KNOW
12 WHAT YOUR ANSWERS ARE AND YOUR OPINIONS ARE, AND SO
13 WE'RE GOING TO BE ASKING YOU SOME QUESTIONS IN THAT
14 REGARD WE WOULD SIMPLY ASK THAT YOU PLEASE ANSWER
15 THE QUESTIONS AS OPENLY AND AS HONESTLY AS YOU CAN,
16 AND IF FOR SOME REASON YOU DON'T UNDERSTAND A
17 QUESTION OR IT'S NOT ASKED CLEARLY, PLEASE LET ME
18 KNOW OF THAT FACT, AND I'LL TRY TO CLARIFY IT AS
19 BEST THAT I CAN OR THE LAWYERS WILL DO SO

20 NOW, AS I RECALL, WHEN YOU REPORTED YESTERDAY,
21 YOU REPORTED LATE, AND YOU WERE NOT SWORN WITH THE
22 REST OF THE JURY VENIRE IS THAT RIGHT?

23 A YEAH, I WAS LATE

24 Q BUT YOU DID NOT GET SWORN IN?

25 A (SHAKES HEAD NEGATIVELY)

1 THE COURT OKAY WE'RE GOING TO
2 SWEAR YOU NOW BEFORE WE ASK YOU THESE QUESTIONS
3 CLERK WOULD YOU RAISE YOUR RIGHT
4 HAND AND PUT YOUR LEFT ON THE BIBLE? THE EVIDENCE
5 YOU SHOULD GIVE THE COURT IN THIS CASE SHOULD BE THE
6 TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH SO
7 HELP YOU GOD

8 EXAMINATION CONTINUED BY THE COURT

9 Q OKAY NOW THAT YOU'RE SWORN, YOU UNDERSTAND
10 THAT ALL OF THESE QUESTIONS ARE ASKED UNDER OATH,
11 AND AGAIN, AS I SAY, WE'RE JUST SIMPLY WANTING TO
12 KNOW WHAT YOUR VIEWS AND OPINIONS ARE SO THERE ARE
13 NO RIGHT ANSWERS OR CORRECT ANSWERS, AND THERE ARE
14 NO WRONG ANSWERS YOU RECEIVED WITH YOUR SUMMONS MY
15 LETTER INSTRUCTING YOU NOT TO DISCUSS THE CASE AND
16 NOT TO ALLOW YOURSELF TO BE EXPOSED TO TELEVISION,
17 RADIO OR NEWSPAPER COVERAGE?

18 A YES

19 Q DO YOU RECALL THAT?

20 A YES

21 Q HAVE YOU FOLLOWED THAT INSTRUCTION SINCE YOU
22 RECEIVED THE LETTER?

23 A YEAH

24 Q IN OTHER WORDS, HAVE YOU SEEN ANYTHING ON
25 TELEVISION OR HEARD ANYTHING ON THE RADIO OR READ

1 ANYTHING IN THE NEWSPAPER SINCE YOU RECEIVED THAT
2 LETTER?

3 A NO

4 Q HAVE YOU HAD ANY CONVERSATIONS OR DISCUSSIONS
5 WITH ANY PERSON ABOUT THE CASE SINCE YOU RECEIVED
6 THE LETTER?

7 A NO

8 Q NOW, WHAT ABOUT BEFORE YOU RECEIVED THE
9 LETTER? DID YOU TALK ABOUT THIS CASE WITH ANYBODY?

10 A NO

11 Q BEFORE YOU RECEIVED THE LETTER, DID YOU SEE
12 ANYTHING IN THE NEWSPAPER OR SEE ANYTHING ON THE
13 T V OR HEAR ANYTHING ON THE RADIO ABOUT THE CASE?

14 A NO, SIR

15 Q OKAY NOW, YOU UNDERSTAND, OR DO YOU
16 UNDERSTAND WHAT A JURY'S FUNCTION IS? WHAT A JURY
17 DOES IN THE TRIAL OF A CASE?

18 A YEAH

19 Q IF YOU'RE SELECTED, THE JURY WILL BE SITTING
20 OVER THERE IN THAT JURY BOX AND THE JURY IS CALLED
21 UPON TO LISTEN TO WITNESSES TESTIFY AND TO CONSIDER
22 OTHER EVIDENCE THAT MIGHT BE INTRODUCED DURING THE
23 TRIAL OF THAT CASE, AND THE JURY WILL CONSIDER ALL
24 OF THAT EVIDENCE AND DECIDE WHAT THE FACTS ARE THAT
25 RELATE TO THE PARTICULAR CASE THAT YOU'VE BEEN

1 CALLED UPON TO PARTICIPATE IN YOU UNDERSTAND THAT?

2 A YES, SIR

3 Q AND ONCE YOU HAVE RECEIVED ALL OF THE
4 EVIDENCE, THAT IS, ALL THAT EVIDENCE THAT'S
5 PRESENTED IN THE CASE, I'LL GIVE YOU THE LAW I'LL
6 TELL YOU WHAT THE LAW IS, AND THEN THE JURY IS ASKED
7 TO GO BACK INTO DELIBERATE, AND ALL TWELVE JURORS
8 DISCUSS THE CASE, DISCUSS THE EVIDENCE YOU DECIDE
9 THE FACTS YOU APPLY THE LAW, AND YOU ARRIVE AT A
10 DECISION YOU UNDERSTAND THAT?

11 A YEAH

12 Q NOW, IN A CASE WHERE THE STATE HAS CHARGED A
13 PERSON WITH THE COMMISSION OF A CRIME, SOME CRIMINAL
14 OFFENSE, DO YOU UNDERSTAND THAT THE BURDEN IS ALWAYS
15 UPON THE STATE TO ESTABLISH THE DEFENDANT'S GUILT
16 BEYOND A REASONABLE DOUBT BEFORE YOU COULD FIND THE
17 PERSON GUILTY OF THAT CRIME?

18 A YES, SIR

19 Q NOW, DO YOU UNDERSTAND THAT IN THIS CASE THE
20 STATE HAS CHARGED THE DEFENDANT WITH THE CRIME OF
21 MURDER? DO YOU UNDERSTAND THAT?

22 A YEAH YEAH

23 Q DO YOU UNDERSTAND UNDER THE LAW OF THIS STATE
24 THAT THERE ARE CERTAIN CIRCUMSTANCES WHERE A PERSON
25 CONVICTED OF MURDER MAY BE SENTENCED TO DEATH OR MAY

1 BE SENTENCED TO LIFE? THAT WOULD BE A DECISION FOR
2 THE JURY TO MAKE YOU UNDERSTAND THAT?

3 A YEP

4 Q IF YOU WERE SELECTED TO SERVE AS A JUROR IN
5 THIS CASE, WOULD YOU BE WILLING TO CONSIDER ALL OF
6 THE EVIDENCE PRESENTED FAIRLY?

7 A YEAH

8 Q IF YOU WERE CONVINCED BEYOND A REASONABLE
9 DOUBT THAT THE DEFENDANT WAS GUILTY, WOULD YOU BE
10 WILLING TO RETURN A VERDICT OF GUILTY?

11 A YEAH

12 Q IF YOU WERE NOT CONVINCED THAT THE DEFENDANT
13 HAD BEEN PROVEN GUILTY BEYOND A REASONABLE DOUBT,
14 WOULD YOU BE WILLING TO RETURN A VERDICT OF NOT
15 GUILTY?

16 A YEAH

17 Q NOW, I'M GOING TO ASK YOU SOME ADDITIONAL
18 QUESTIONS ABOUT YOUR VIEWS OR YOUR OPINIONS AS TO
19 THE DEATH PENALTY, AND SO I WANT YOU TO ASSUME ONLY
20 FOR THE PURPOSE OF THIS QUESTION THAT YOU WERE
21 SELECTED AS A JUROR YOU HEARD THE EVIDENCE IN THE
22 CASE YOU AND YOUR FELLOW JURORS HAVE FOUND THE
23 DEFENDANT TO BE GUILTY OF THE CRIME OF MURDER, AND
24 YOU AND YOUR FELLOW JURORS HAVE FOUND SOME
25 AGGRAVATING CIRCUMSTANCE THAT ALSO ACCOMPANIED THAT

1 MURDER IN THAT CASE, WE WOULD HAVE ANOTHER
2 HEARING, AND IN THAT HEARING OTHER EVIDENCE WOULD BE
3 PRESENTED THERE WILL BE EVIDENCE OFFERED THAT
4 MIGHT TEND TO SUPPORT A MORE SEVERE PUNISHMENT SUCH
5 AS THE DEATH PENALTY THERE MIGHT BE EVIDENCE
6 PRESENTED THAT WOULD SUPPORT THE IMPOSITION OF THE
7 LESS SEVERE PUNISHMENT, THAT IS, A LIFE SENTENCE
8 NOW, IF YOU WERE CALLED UPON TO SERVE, AND IF YOU
9 WERE PARTICIPATING IN THAT PENALTY PHASE OR THE
10 SENTENCING PHASE OF THAT TRIAL, WOULD YOU BE WILLING
11 TO CONSIDER ALL OF THAT ADDITIONAL EVIDENCE, BOTH
12 AGGRAVATION AND MITIGATION, BEFORE MAKING A
13 DECISION?

14 A YEAH

15 Q AND AFTER YOU HAVE CONSIDERED ALL OF THE
16 EVIDENCE, AND I UNDERSTAND THAT YOU DON'T KNOW WHAT
17 THAT EVIDENCE IS BECAUSE IT HAS NOT BEEN PRESENTED,
18 BUT AFTER YOU HAVE FAIRLY CONSIDERED ALL OF THAT
19 EVIDENCE, DEPENDING UPON WHAT THAT EVIDENCE IS AND
20 DEPENDING UPON THE CIRCUMSTANCES OF THE CASE, WOULD
21 YOU BE WILLING TO SENTENCE A PERSON TO DEATH?

22 A NO

23 Q WOULD YOU BE WILLING TO SENTENCE A PERSON TO
24 LIFE?

25 A YEAH

1 Q NOW, UNDERSTAND THAT IN A TRIAL SUCH AS THIS
2 WHERE IT DOES GO TO THE PENALTY PHASE AND WHERE THE
3 JURY DOES RECEIVE THAT ADDITIONAL EVIDENCE, DO YOU
4 UNDERSTAND THAT THE DECISION WOULD ALWAYS BE THE
5 JURY'S AS TO WHETHER A SENTENCE OF DEATH OR A
6 SENTENCE OF LIFE IS TO BE IMPOSED?

7 A YEAH

8 Q NOW, WHAT I WANT TO ASK YOU IS FACED WITH
9 THAT CHOICE, FACED WITH THAT DECISION, WOULD YOU
10 ALWAYS CHOOSE ONE FORM OF PUNISHMENT OVER THE OTHER?

11 A YEAH

12 Q WHICH FORM OF PUNISHMENT WOULD YOU ALWAYS
13 CHOOSE OVER THE OTHER?

14 A LIFE, I MEAN, IN THE PENITENTIARY LIFE

15 Q LIFE IMPRISONMENT?

16 A YEAH

17 Q CAN YOU THINK OF ANY CIRCUMSTANCE WHERE YOU
18 THINK IT WOULD BE APPROPRIATE TO SENTENCE A PERSON
19 TO DEATH?

20 A NO I CAN'T THINK OF IT

21 Q CAN YOU THINK OF ANY CIRCUMSTANCE WHERE YOU
22 HAVE FOUND A PERSON GUILTY OF THE CRIME OF MURDER
23 AND AN AGGRAVATING CIRCUMSTANCE HAS BEEN PROVEN
24 WHERE YOU COULD SENTENCE THAT PERSON TO DEATH?

25 A WOULD I SENTENCE HIM TO DEATH?

1 Q COULD YOU SENTENCE THAT PERSON TO DEATH?

2 A NO UH-UH (NEGATIVE)

3 THE COURT OKAY ANY QUESTIONS BY
4 THE DEFENDANT?

5 MR TINSLEY NO QUESTIONS, YOUR
6 HONOR

7 THE COURT BY THE STATE?

8 MR JONES JUST THANK MR LOMAX FOR
9 COMING AND JOINING US

10 THE COURT OKAY MR LOMAX, IF
11 YOU'LL JUST STAND OUTSIDE ONE MINUTE, I'LL BRING YOU
12 RIGHT BACK (JUROR DOES AS INSTRUCTED)

13 THE COURT ANY OBJECTION TO THE
14 JUROR BEING FOUND NOT QUALIFIED?

15 MR JONES NONE FROM THE STATE, YOUR
16 HONOR

17 MR TINSLEY NO, YOUR HONOR

18 THE COURT ALL RIGHT THE JUROR IS
19 NOT QUALIFIED BASED UPON HIS TESTIMONY THAT HE IS
20 UNABLE TO CONSIDER BOTH FORMS OF THE PUNISHMENT
21 BRING MR LOMAX BACK IN, PLEASE

22 (JUROR RE-ENTERS THE COURTROOM)

23 THE COURT MR LOMAX, IF YOU'LL JUST
24 STAND RIGHT THERE WE'RE GOING TO EXCUSE YOU FROM
25 ANY FURTHER PARTICIPATION SO IT'S NOT NECESSARY

1 THAT YOU REPORT BACK ANYMORE, BUT WE DO APPRECIATE
2 YOUR WILLINGNESS TO PARTICIPATE UP TO THIS POINT
3 AS I'VE SAID, YOU ARE EXCUSED NOW I WOULD SIMPLY
4 ASK THAT YOU NOT DISCUSS WHAT WENT ON DURING THIS
5 HEARING WITH ANY POTENTIAL JURORS

6 JUROR ALL RIGHT

7 THE COURT THANK YOU, SIR

8 JUROR YOU'RE WELCOME

9 (JUROR EXITS COURTROOM)

10 (JUROR IS NOT QUALIFIED)

11 THE COURT ALL RIGHT ARE WE READY
12 FOR MR HALL? BRING HIM IN

13 (JUROR #88 PRESENTED AT 11 55 O'CLOCK A M)

14 EXAMINATION BY THE COURT

15 Q GOOD MORNING, MR HALL

16 A GOOD MORNING

17 Q AS WE INDICATED TO YOU EARLIER, WE'RE GOING TO
18 BE ASKING YOU SOME QUESTIONS, AND THERE ARE NO RIGHT
19 OR WRONG ANSWERS WE SIMPLY NEED TO FIND OUT WHAT
20 YOUR VIEWS AND OPINIONS ARE ON CERTAIN TOPICS AND
21 SUBJECTS SO I'M GOING TO ASK YOU TO ANSWER THE
22 QUESTIONS AS OPENLY AND AS HONESTLY AS YOU CAN IF
23 FOR SOME REASON YOU DO NOT UNDERSTAND A QUESTION OR
24 IT'S NOT ASKED CLEARLY, LET ME KNOW AND I'LL TRY TO
25 HAVE IT REPHRASED OR CLARIFIED FOR YOU DO YOU

1 RECALL HAVING PREVIOUSLY BEEN SWORN WHEN THE JURY
2 PANEL APPEARED HERE THIS WEEK?

3 A YES, SIR

4 Q DO YOU UNDERSTAND THAT YOU ARE NOW STILL UNDER
5 OATH IN RESPONSE TO THE QUESTIONS THAT WILL BE ASKED
6 OF YOU?

7 A YES, SIR

8 Q NOW, YOU RECEIVED THE QUESTIONNAIRE YOU'VE
9 INDICATED THAT YOU'VE COMPLETED YOU ALSO RECEIVED
10 MY LETTER YOU INDICATED YOU UNDERSTOOD THE
11 INSTRUCTION DID YOU COMPLY WITH MY INSTRUCTION NOT
12 TO DISCUSS THE CASE OR ALLOW YOURSELF TO BE EXPOSED
13 TO ANY MEDIA COVERAGE AFTER RECEIVING THE LETTER?

14 A NO I HADN'T DISCUSSED IT WITH NO ONE

15 Q YOU'VE NOT? HAVE YOU SEEN ANY TELEVISION OR
16 HEARD ANY RADIO OR READ ANY NEWSPAPER ARTICLES SINCE
17 YOU GOT THE LETTER?

18 A I'VE SEEN NOTHING NO INFORMATION ON IT

19 Q WHAT ABOUT BEFORE YOU GOT THE LETTER? WERE
20 YOU EXPOSED TO ANY MEDIA COVERAGE OR ANY DISCUSSIONS
21 OR CONVERSATIONS?

22 A AT WORK THERE WAS A COUPLE OF GIRLS FROM
23 ABBEVILLE THAT TALKED OF THE MURDER, BUT NO DETAIL

24 Q OKAY AND WOULD ANYTHING THAT YOU HEARD IN
25 THOSE CONVERSATIONS INTERFERE IN ANY WAY WITH YOUR

1 ABILITY TO BE FAIR AND IMPARTIAL IF YOU WERE
2 SELECTED AS A JUROR?

3 A I DON'T THINK SO, SIR

4 Q YOU UNDERSTAND THAT THE FUNCTION OF A JURY IS
5 TO CONSIDER EVIDENCE THAT WILL BE PRESENTED DURING
6 THE TRIAL OF THE CASE, TO APPLY THE LAW THAT THE
7 COURT WILL GIVE TO THAT JURY PANEL, AND TO DECIDE A
8 FAIR DECISION OR VERDICT?

9 A YES, SIR

10 Q YOU UNDERSTAND THAT WHEN THE STATE ACCUSES A
11 PERSON OF HAVING COMMITTED A CRIMINAL OFFENSE, THAT
12 THE BURDEN IS ALWAYS UPON THE STATE TO ESTABLISH
13 THAT PERSON'S GUILT BEYOND A REASONABLE DOUBT?

14 A YES, SIR

15 Q YOU UNDERSTAND THAT IN THIS CASE THE STATE HAS
16 CHARGED THE DEFENDANT WITH THE CRIME OF MURDER?

17 A YES, SIR

18 Q YOU UNDERSTAND THAT THEY ARE ALSO ALLEGING
19 CERTAIN AGGRAVATING CIRCUMSTANCES WHICH UNDER THE
20 LAW WOULD PERMIT THEM TO SEEK THE DEATH PENALTY
21 AGAINST THE DEFENDANT?

22 A NOW, THAT -- I'M NOT SO SURE IS THAT LIKE
23 THAT SOME PREMEDITATED THING OR SOMETHING?

24 Q WELL, LET ME SAY THAT UNDER THE LAW MURDER IS
25 DEFINED AS THE KILLING OF ANOTHER HUMAN BEING WITH

1 MALICE AFORETHOUGHT AND THAT THE PERSON DIES AS A
2 RESULT OF THAT CONDUCT OF THE DEFENDANT BUT ANY
3 KILLING THAT TAKES PLACE, IT MUST BE ACCOMPANIED BY
4 MALICE -- MALICE AFORETHOUGHT

5 A OKAY

6 Q DO YOU UNDERSTAND THAT THE BURDEN WOULD BE
7 UPON THE STATE TO ESTABLISH THE PERSON GUILTY OF
8 MURDER BEYOND A REASONABLE DOUBT BEFORE A JURY COULD
9 FIND THAT PERSON GUILTY?

10 A SAY THAT AGAIN NOW

11 Q DO YOU UNDERSTAND THAT BEFORE -- IF YOU WERE
12 SERVING AS A JUROR, BEFORE YOU COULD FIND THE
13 DEFENDANT TO BE GUILTY OF THE CRIME OF MURDER, IT
14 WILL BE NECESSARY THAT IT HAS BEEN PROVEN TO YOUR
15 SATISFACTION BEYOND A REASONABLE DOUBT THAT HE WAS
16 GUILTY OF THAT CRIME

17 A YES, SIR

18 Q IF YOU WERE CONVINCED OF THAT FACT BEYOND A
19 REASONABLE DOUBT, COULD YOU RETURN A VERDICT OF
20 GUILTY?

21 A IF THE EVIDENCE PROVED IT, YES, SIR

22 Q IF YOU WERE NOT CONVINCED BEYOND A REASONABLE
23 DOUBT THAT THE DEFENDANT COMMITTED THE CRIME, COULD
24 YOU RETURN A VERDICT OF NOT GUILTY?

25 A YES, SIR

1 Q NOW, AS I INDICATED TO YOU, THERE ARE CERTAIN
2 CIRCUMSTANCES UNDER THE LAW THAT THE STATE IS
3 PERMITTED TO SEEK THE DEATH PENALTY AGAINST A
4 DEFENDANT THOSE CIRCUMSTANCES ARE WHERE A PERSON
5 HAS BEEN CONVICTED OF THE CRIME OF MURDER, THAT IS,
6 THEY HAVE BEEN FOUND GUILTY BEYOND A REASONABLE
7 DOUBT OF THE CRIME OF MURDER AND THAT THEY HAVE ALSO
8 PROVEN SOME AGGRAVATING CIRCUMSTANCE BEYOND A
9 REASONABLE DOUBT OTHERWISE, THEY ARE NOT PERMITTED
10 TO SEEK THE DEATH PENALTY YOU UNDERSTAND IF YOU
11 WERE CALLED UPON TO PARTICIPATE IN THIS TRIAL, IT
12 WOULD OCCUR IN TWO STAGES? THE FIRST STAGE WOULD BE
13 WHERE THE JURY WOULD DETERMINE WHETHER OR NOT THE
14 DEFENDANT IS GUILTY IF AND ONLY IF THE JURY FINDS
15 THE DEFENDANT TO BE GUILTY OF MURDER AND SOME OTHER
16 AGGRAVATING CIRCUMSTANCE HAVING BEEN PROVEN, WOULD
17 WE PROCEED TO THE SECOND STAGE OF THE TRIAL, THAT
18 IS, THE PENALTY PHASE YOU UNDERSTAND THAT?

19 A YES

20 Q NOW, ASSUME, AND ONLY ASSUME FOR THE PURPOSE
21 OF THIS QUESTION, THAT YOU WERE SELECTED, YOU
22 PARTICIPATED, YOU HAVE FOUND THE DEFENDANT GUILTY OF
23 THE CRIME OF MURDER AND HAVE FOUND SOME AGGRAVATING
24 CIRCUMSTANCE BEYOND A REASONABLE DOUBT WE WOULD
25 THEN PROCEED TO THE SECOND STAGE OF THE TRIAL WE

1 WOULD PROCEED TO THE PENALTY PHASE OF THAT TRIAL
2 DURING THAT ADDITIONAL HEARING, THERE WOULD BE
3 ADDITIONAL EVIDENCE RECEIVED THERE WOULD BE
4 EVIDENCE OFFERED IN AGGRAVATION THERE WOULD BE
5 EVIDENCE OFFERED IN MITIGATION THAT SIMPLY MEANS
6 THAT THERE WOULD BE ADDITIONAL EVIDENCE OFFERED
7 WHICH MIGHT TEND TO SUPPORT THE MORE SEVERE
8 PUNISHMENT BEING IMPOSED, THAT IS, THE DEATH
9 PENALTY, AND THERE WOULD BE EVIDENCE OFFERED WHICH
10 MIGHT SUPPORT A LESS SEVERE PUNISHMENT BEING
11 IMPOSED, THAT IS, LIFE IMPRISONMENT UNDERSTAND THE
12 JURY WOULD MAKE THAT DECISION THE TWO CHOICES THAT
13 YOU WOULD HAVE UNDER THOSE CIRCUMSTANCES WOULD BE A
14 SENTENCE OF DEATH OR A SENTENCE OF LIFE IN PRISON
15 NOW, IF YOU WERE PARTICIPATING, WOULD YOU BE WILLING
16 TO FAIRLY CONSIDER ALL OF THAT EVIDENCE THAT WOULD
17 BE OFFERED IN THAT ADDITIONAL HEARING, BOTH AS TO
18 AGGRAVATION AND AS TO MITIGATION?

19 A YEAH

20 Q AND AFTER YOU HAD CONSIDERED ALL OF THAT
21 EVIDENCE, DEPENDING UPON WHAT IT WAS, OF COURSE,
22 WOULD YOU BE WILLING TO SENTENCE A PERSON TO DEATH
23 IF THEY WERE CONVICTED OF MURDER AND AN AGGRAVATING
24 CIRCUMSTANCE HAD BEEN PROVEN?

25 A I HAVE NO PROBLEM WITH THAT I DON'T HAVE A

1 PROBLEM WITH THAT AS FAR AS THE DEATH PENALTY

2 Q COULD YOU IMPOSE A DEATH SENTENCE --

3 A YES

4 Q -- IF YOU THOUGHT IT APPROPRIATE UNDER THE
5 CIRCUMSTANCES OF A CASE?

6 A IF IT WERE APPROPRIATE, YES

7 Q COULD YOU ALSO CONSIDER IMPOSING A LIFE
8 SENTENCE IF YOU THOUGHT IT TO BE APPROPRIATE UNDER
9 THE CIRCUMSTANCES OF THE CASE?

10 A YEAH IF IT'S THE APPROPRIATE THING, YEAH
11 ANY WAY I DON'T HAVE A PROBLEM

12 Q IT WOULD DEPEND UPON THE EVIDENCE PRESENTED?

13 A YEAH

14 Q AND THE CIRCUMSTANCES RELATING TO THE CRIME?

15 A YES, SIR

16 Q NOW, HAVE YOU ALREADY FORMED OR EXPRESSED ANY
17 OPINION AS TO WHAT YOU BELIEVE THE ULTIMATE DECISION
18 SHOULD BE IN THIS CASE WHETHER IT BE AS TO
19 PUNISHMENT OR WHETHER IT BE AS TO GUILT?

20 A NO I BELIEVE A PERSON IS INNOCENT TILL HE'S
21 PROVEN GUILTY

22 Q AND YOU UNDERSTAND THAT IS THE LAW?

23 A YEAH

24 Q WOULD YOU FOLLOW THAT LAW?

25 A YES, SIR

1 Q DO YOU KNOW OF ANY REASON WHY YOU COULD NOT BE
2 FAIR AND IMPARTIAL IF YOU WERE SELECTED AS A JUROR?

3 A NO, SIR

4 Q YOU UNDERSTAND THAT IF YOU WERE SELECTED AS A
5 JUROR YOU WOULD BE SEQUESTERED FOR THE DURATION OF
6 THE TRIAL I ANTICIPATE THAT TO BE SEVEN TO TEN
7 DAYS IT WOULD NOT BEGIN TODAY IF YOU WERE
8 SELECTED AND IF YOU WERE SEQUESTERED, WOULD IT POSE
9 AN UNREASONABLE HARDSHIP OR HEALTH RISK TO YOU?

10 A YOU KNOW, IF THAT -- THAT PUT ME OUT OF
11 CONTACT WITH EVERYONE RELATED IN MY FAMILY?

12 Q YES, SIR

13 A IT WOULD BE SOMEWHAT A HARDSHIP, BUT I COULD
14 DO IT

15 Q WOULD YOU BE WILLING TO ACCOMMODATE THAT
16 HARDSHIP OR INCONVENIENCE IF CALLED UPON TO SERVE?

17 A I SUPPOSE I COULD DO IT

18 THE COURT OKAY PLEASE ANSWER THE
19 QUESTIONS THE LAWYERS MAY HAVE FOR YOU

20 MR JONES YOUR HONOR, I HAVE A
21 MATTER FOR THE COURT BEFORE WE GO FORWARD

22 THE COURT OH, OKAY

23 MR JONES COULD I ASK YOU TO
24 CONSIDER THAT?

25 THE COURT ALL RIGHT MR HALL, IF

1 YOU WILL, LET ME JUST ASK YOU TO STEP OUTSIDE FOR
2 ONE MOMENT (JUROR DOES AS INSTRUCTED)

3 MR JONES YOUR HONOR, THE STATE'S
4 POSITION IS THAT AT THIS POINT IN TIME YOU COULD
5 CLEARLY HAVE HIM QUALIFIED AS A JUROR, AND I WOULD
6 ASK THAT YOU CONSIDER LIMITING OUR QUESTIONS TO THAT
7 -- TO HIS POSITION CONCERNING THE DEATH PENALTY AND
8 NOT GET INTO THE SPECIFIC FACTS OF THIS CASE

9 THE COURT WELL, WE'RE NOT GETTING
10 INTO THE SPECIFIC FACTS OF THIS CASE AT ANY TIME

11 MR JONES ALL RIGHT, SIR

12 THE COURT OR WE'RE NOT SUPPOSED TO,
13 AND I DON'T NOTICE THAT WE'VE DONE THAT TO THIS
14 POINT BUT THEY'VE GOT A RIGHT TO INDIVIDUAL VOIR
15 DIRE AS TO ANY BIAS, INTEREST OR PREJUDICE WHETHER
16 IT RELATES TO THE DEATH PENALTY OR OTHERWISE

17 MR JONES ALL RIGHT

18 THE COURT OKAY ASK MR HALL TO
19 COME BACK, PLEASE IF HE GETS UNWILLINGLY, I'LL
20 ADDRESS IT

21 (JUROR RE-ENTERS THE COURTROOM)

22 THE COURT ALL RIGHT, MR HALL
23 PLEASE RESUME YOUR SEAT THE LAWYERS ARE GOING TO
24 ASK YOU SOME QUESTIONS

25 JUROR OKAY

1 EXAMINATION BY MR TINSLEY

2 Q GOOD AFTERNOON, MR HALL MR HALL, YOU
3 MENTIONED THAT YOU DID HEAR SOME FOLKS TALKING ABOUT
4 THIS CASE, IS THAT RIGHT?

5 A YES, SIR I MEAN, NO DETAIL JUST THAT IT
6 HAD TAKEN PLACE, YOU KNOW, HERE IN ABBEVILLE

7 Q DO YOU REMEMBER WHO IT WAS OR ANYTHING LIKE
8 THAT, OR WHAT THEY DID SAY?

9 A NO, SIR I GUESS IT WAS AT THE TIME IT
10 HAPPENED AND, YOU KNOW ---

11 Q SO IT WASN'T RECENT?

12 A NO

13 Q DO YOU TAKE *THE INDEX JOURNAL*?

14 A NO, SIR

15 Q *THE PRESS AND BANNER*?

16 A MY FATHER GETS IT, BUT I DON'T READ IT

17 Q SO YOU HAVEN'T READ ANYTHING THIS WEEK?

18 A NO

19 Q OKAY AND YOU HAVEN'T TALKED ABOUT ANYTHING
20 THIS WEEK?

21 A NO, SIR

22 Q NOW, IN THE JUDGE TALKING ABOUT THE LAW IN THE
23 CASE AND INSTRUCTING YOU, WOULD YOU BE ABLE TO
24 CONSIDER, FOR EXAMPLE, IN THE CHARGE OF MURDER,
25 WOULD YOU BE ABLE TO CONSIDER A VERDICT OF GUILTY, A

1 LESSER INCLUDED VERDICT, SAY, MANSLAUGHTER, GUILTY
2 OR NOT GUILTY OR A JUST STRAIGHT OUT NOT GUILTY IN
3 THE CASE? COULD YOU CONSIDER ALL THREE?

4 A IT WOULD BE UP TO THE -- WHAT I HEARD ON A
5 CASE, YOU KNOW

6 Q SO YOU'D BASE IT ON THE EVIDENCE THAT YOU GET
7 HERE IN THIS COURTROOM?

8 A YEAH RIGHT

9 Q AND YOU HAVE NO RELATIONSHIP WITH ANY OF THE
10 PARTIES, IS THAT RIGHT?

11 A NO, SIR

12 Q AND YOU DON'T HAVE ANY RELATIONSHIP WITH ANY
13 OF THE LAWYERS OR WITNESSES THAT YOU HEARD ANNOUNCED
14 YESTERDAY AND THAT SORT OF THING, IS THAT RIGHT?

15 A RIGHT

16 Q AND, MR HALL, YOU -- YOU WOULD BASICALLY
17 PERFORM YOUR DUTIES TO THE BEST OF YOUR ABILITY?

18 A YES, SIR

19 Q AND YOU DID MENTION THAT IN THE APPROPRIATE
20 CASE YOU COULD GO WITH THE DEATH PENALTY, RIGHT?

21 A CORRECT

22 Q AND YOU ALSO MENTIONED THAT IN THE APPROPRIATE
23 CASE YOU COULD GO WITH A LIFE SENTENCE, IS THAT
24 RIGHT?

25 A THAT'S CORRECT

1 Q AND YOU COULD CONSIDER MITIGATING FACTORS?

2 A EXPLAIN THAT NOW

3 Q WELL, DO YOU UNDERSTAND WHAT THE WORD
4 MITIGATION OR MITIGATING MEANS?

5 A I DON'T THINK SO

6 Q WELL, I'LL PHRASE IT A DIFFERENT WAY COULD
7 YOU CONSIDER REASONS WHY THE DEFENDANT MAY HAVE
8 ACTED THE WAY HE DID THAT WOULD EXPLAIN HIS
9 SITUATION, HIS LIMITATIONS, HIS PROBLEMS? COULD YOU
10 CONSIDER ALL OF THOSE?

11 A YES, SIR

12 Q AND WOULD YOU CONSIDER THOSE AS WELL AS ANY
13 AGGRAVATING CIRCUMSTANCES THAT MAY BE -- YOU
14 UNDERSTAND THAT, DO YOU NOT, MR HALL?

15 A YEAH

16 Q AND IN EVALUATING THE MITIGATING
17 CIRCUMSTANCES, DO YOU FEEL THAT YOU COULD WEIGH THEM
18 APPROPRIATELY IN TERMS OF THE INSTRUCTIONS THAT THE
19 JUDGE GAVE YOU AS TO WHAT TO CONSIDER?

20 A WELL, I KNOW I WOULD TRY MY BEST I MEAN, I
21 THINK I WOULD

22 Q YOU THINK YOU WOULD? SO YOU WOULDN'T JUST
23 THROW THEM OUT THE WINDOW AND SAY, "WELL, WE
24 CONVICTED HIM OF MURDER AND SO I'M GOING TO GO WITH
25 THE DEATH PENALTY?"

1 A THAT'S CORRECT

2 Q OKAY SO YOU WOULD CONSIDER --

3 A YEAH

4 Q -- THOSE REASONS THAT THE DEFENDANT MAY OFFER
5 AS TO HIS STATE OF MIND, ETCETERA, AT THE TIME OF
6 THE INCIDENT?

7 A YES

8 MR TINSLEY OKAY THAT'S ALL

9 MR JONES MR HALL, MY NAME'S

10 TOWNES JONES I'M YOUR SOLICITOR HERE IN ABBEVILLE

11 THIS IS MICHAEL COULTER HE'S YOUR DEPUTY

12 SOLICITOR, AND HE'S GOT A QUESTION OR TWO FOR YOU

13 EXAMINATION

14 BY MR COULTER

15 Q MR HALL, AS I UNDERSTAND IT, YOU'VE SAID THAT
16 YOU'VE GOT TO CONSIDER ALL OF THE EVIDENCE BEFORE
17 MAKING ANY DECISION IN THE CASE?

18 A THAT'S CORRECT

19 Q YOU'VE GOT TO HAVE THE EVIDENCE IN FRONT OF
20 YOU FIRST, CORRECT?

21 A RIGHT

22 Q ALL RIGHT AND YOU'VE SAID THAT IN LISTENING
23 TO THE EVIDENCE, IF IT'S WARRANTED, YOU COULD, IN
24 FACT, RECOMMEND THAT A PERSON RECEIVE THE DEATH
25 PENALTY GIVEN THE FACTORS WARRANTED?

1 A YEAH CORRECT

2 Q ALL RIGHT AND I'M GOING TO TAKE IT A STEP
3 FURTHER IF YOU AND THE TWELVE MEMBER JURY FOUND
4 THAT A DEATH SENTENCE WAS APPROPRIATE, YOU WOULD
5 SIGN YOUR NAME YOU WOULD HAVE TO SIGN YOUR NAME ON
6 WHAT WE REFER TO AS THE DEATH WARRANT RECOMMENDING
7 THAT THAT PERSON RECEIVE THE DEATH SENTENCE, AND AS
8 I UNDERSTAND IT, YOU COULD SIGN YOUR NAME TO THAT
9 DEATH WARRANT?

10 A YEAH I FEEL LIKE I COULD SIGN IT

11 Q IF THE CIRCUMSTANCES WERE BAD?

12 A IF IT AROSE THAT

13 MR COULTER OKAY THANK YOU, MR
14 HALL

15 THE COURT ALL RIGHT, MR HALL IF
16 YOU WILL, JUST STEP OUTSIDE WITH THE BAILIFF FOR
17 JUST A MINUTE, AND WE'LL BRING YOU RIGHT BACK

18 JUROR OKAY

19 (JUROR DOES AS INSTRUCTED)

20 THE COURT ANY REASON WHY THE JUROR
21 SHOULD NOT BE FOUND QUALIFIED?

22 MR JONES NONE ON THE PART OF THE
23 STATE, YOUR HONOR

24 MR TINSLEY NO, YOUR HONOR

25 THE COURT ALL RIGHT HE IS SO

1 QUALIFIED

2 (JUROR RE-ENTERS THE COURTROOM)

3 THE COURT MR HALL, YOU ARE
4 QUALIFIED TO SERVE AS A JUROR IN THE POOL FROM WHICH
5 THE ACTUAL JURY WILL BE SELECTED, AND, OBVIOUSLY, WE
6 HAVE OTHER JURORS WE HAVE TO TALK TO BEFORE WE'LL
7 COMPLETE THAT JURY POOL FROM WHICH WE WILL SELECT
8 THOSE TO PARTICIPATE WE DO NEED TO GET YOUR PHONE
9 NUMBERS WHERE WE CAN REACH YOU WHEN WE NEED YOU TO
10 COME BACK FOR POTENTIAL JURY SELECTION I'M ALSO
11 GOING TO REMIND YOU OF THE CAUTION CONTAINED IN THE
12 LETTER YOU'RE STILL NOT TO DISCUSS THE CASE
13 DON'T ALLOW ANYONE TO DISCUSS IT WITH YOU DON'T
14 ALLOW YOURSELF TO BE EXPOSED TO ANY TYPE OF MEDIA
15 COVERAGE OF THIS PARTICULAR CASE IF YOU'LL GIVE
16 THE CLERK YOUR PHONE NUMBERS, HOME, WORK AND
17 ANYWHERE ELSE YOU CAN BE REACHED, WE'LL CALL YOU AND
18 TRY TO GIVE YOU AS MUCH NOTICE AS WE CAN WHEN YOU
19 NEED TO COME BACK

20 JUROR OKAY WORK PHONE IS 369-
21 7395, AND VOICE MAIL BOX 23 HOME PHONE IS 861-
22 3585 THAT'S ALL

23 THE COURT THANK YOU YOU MAY BE
24 EXCUSED WE'LL BE IN TOUCH WITH YOU

25 JUROR THANK YOU

1 (JUROR EXITS COURTROOM)

2 (JUROR IS QUALIFIED)

3 THE COURT WE READY FOR MS McCLAIN?

4 BRING HER IN

5 (JUROR # 129 PRESENTED AT 12 13 O'CLOCK P M)

6 EXAMINATION BY THE COURT

7 Q GOOD AFTERNOON, MS McCLAIN

8 A GOOD AFTERNOON

9 Q AS YOU KNOW, WE TOLD YOU WE WERE GOING TO BE
10 ASKING SOME ADDITIONAL QUESTIONS INDIVIDUALLY OF THE
11 JURORS THERE ARE NO RIGHT OR WRONG ANSWERS TO
12 THESE QUESTIONS WE SIMPLY JUST NEED TO FIND OUT
13 YOUR VIEWS AND OPINIONS ON CERTAIN SUBJECTS YOU
14 WILL RECALL THAT YOU WERE SWORN COLLECTIVELY WITH
15 THE JURY VENIRE OR PANEL WHEN THEY APPEARED, I
16 BELIEVE, FRIDAY MORNING?

17 A YES

18 Q OR FRIDAY AFTERNOON PERHAPS, AND SO YOU REMAIN
19 UNDER OATH FOR THE PURPOSE OF THESE QUESTIONS, ALSO
20 NOW, YOU'VE INDICATED THAT YOU COMPLETED THE
21 QUESTIONNAIRE AND THAT YOU RECEIVED MY LETTER
22 INSTRUCTING YOU NOT TO BE EXPOSED TO ANY MEDIA
23 COVERAGE OR DISCUSSIONS REGARDING THE CASE HAVE
24 YOU FOLLOWED THAT INSTRUCTION SINCE YOU RECEIVED THE
25 LETTER?

1 A YES, SIR

2 Q DID YOU HAVE ANY DISCUSSIONS OR HAVE YOU BEEN
3 EXPOSED TO ANY MEDIA COVERAGE PRIOR TO HAVING
4 RECEIVED THAT LETTER?

5 A NO, SIR

6 Q NOW, IN THIS CASE, AS YOU KNOW, THE DEFENDANT
7 IS CHARGED WITH THE CRIME OF MURDER, AND THE LAW
8 PROVIDES THAT UNDER CERTAIN CIRCUMSTANCES WHERE A
9 PERSON IS CONVICTED OF THE CRIME OF MURDER, THE
10 STATE MAY SEEK THE DEATH PENALTY IN THAT CASE DO
11 YOU UNDERSTAND THAT ANY TIME THE STATE CHARGES A
12 PERSON WITH THE COMMISSION OF A CRIME, THE BURDEN IS
13 ALWAYS UPON THE STATE TO PROVE THAT PERSON TO BE
14 GUILTY? THE BURDEN IS NEVER UPON THE PERSON CHARGED
15 TO PROVE THAT HE IS NOT GUILTY?

16 A YES, SIR

17 Q YOU UNDERSTAND THAT? NOW, IF YOU WERE
18 SELECTED TO SERVE AS A JUROR IN THIS PARTICULAR
19 CASE, THE CASE WOULD OCCUR IN TWO SEPARATE STAGES OR
20 TWO PHASES ONE, THE FIRST WOULD BE THE GUILT
21 PHASE THE SECOND WOULD BE THE PENALTY PHASE OR THE
22 SENTENCING PHASE WE WOULD NEVER PROCEED TO THE
23 PENALTY OR SENTENCING PHASE UNLESS FIRST IN THE
24 GUILT PHASE THE DEFENDANT HAS BEEN PROVEN TO BE
25 GUILTY OF THE CRIME OF MURDER BEYOND A REASONABLE

1 DOUBT, AND THERE IS SOME AGGRAVATING CIRCUMSTANCE
2 ALSO PROVEN BEYOND A REASONABLE DOUBT DO YOU
3 UNDERSTAND THAT THE JURY'S PURPOSE AND FUNCTION IS
4 TO CONSIDER THE EVIDENCE IN THE CASE, AND BASED UPON
5 CONSIDERATION OF THAT EVIDENCE, DECIDE WHETHER OR
6 NOT A PERSON HAS BEEN PROVEN TO BE GUILTY?

7 A YES, SIR

8 Q COULD YOU, DEPENDING UPON THE EVIDENCE
9 RECEIVED DURING THE TRIAL OF THE CASE, FIND A PERSON
10 GUILTY IF YOU WERE CONVINCED OF THEIR GUILT BEYOND A
11 REASONABLE DOUBT?

12 A YES, SIR

13 Q COULD YOU FIND A PERSON NOT GUILTY IF YOU WERE
14 NOT CONVINCED OF THEIR GUILT BEYOND A REASONABLE
15 DOUBT?

16 A YES, SIR

17 Q NOW, I WANT YOU TO ASSUME, AND IT'S ONLY FOR
18 THE PURPOSE OF THIS QUESTION, THAT YOU ARE
19 PARTICIPATING IN THE TRIAL OF THE CASE, THAT YOU AND
20 YOUR FELLOW JURORS HAVE UNANIMOUSLY FOUND THE
21 DEFENDANT TO BE GUILTY OF THE CRIME OF MURDER BEYOND
22 A REASONABLE DOUBT, AND YOU HAVE ALSO FOUND SOME
23 AGGRAVATING CIRCUMSTANCE BEYOND A REASONABLE DOUBT
24 IN THE SENTENCING PHASE OF THE TRIAL, YOU WOULD ALSO
25 BE CONSIDERING ADDITIONAL EVIDENCE EVIDENCE IN

1 AGREATION, EVIDENCE IN MITIGATION THAT SIMPLY
2 MEANS EVIDENCE THAT MIGHT SUPPORT THE MORE SEVERE
3 PUNISHMENT, BEING THE DEATH PENALTY, AND EVIDENCE
4 WHICH MIGHT SUPPORT THE LESS SEVERE PUNISHMENT,
5 BEING LIFE IMPRISONMENT BUT THOSE WOULD BE THE TWO
6 CHOICES THAT THAT JURY WOULD HAVE DEATH PENALTY OR
7 LIFE IMPRISONMENT AND, OF COURSE, THE DEATH
8 PENALTY COULD NOT BE IMPOSED UNLESS THE JURY
9 UNANIMOUSLY FOUND BEYOND A REASONABLE DOUBT THAT A
10 MURDER WAS COMMITTED AND AN AGGRAVATING CIRCUMSTANCE
11 ACCOMPANIED THAT MURDER NOW, IF YOU WERE
12 PARTICIPATING AND YOU WERE IN THE PENALTY PHASE OF
13 THE TRIAL, AND ADDITIONAL EVIDENCE WAS RECEIVED,
14 BOTH IN AGGRAVATION AND IN MITIGATION, WOULD YOU BE
15 WILLING TO FAIRLY CONSIDER ALL OF THAT EVIDENCE?

16 A WITH PRAYERFUL CONSIDERATION

17 Q OKAY AND AFTER YOU HAD CONSIDERED ALL OF
18 THAT ADDITIONAL EVIDENCE, IF YOU FOUND IT TO BE
19 APPROPRIATE UNDER THE CIRCUMSTANCES OF THAT CASE,
20 WOULD YOU BE ABLE TO IMPOSE A DEATH SENTENCE AGAINST
21 AN INDIVIDUAL?

22 A I'VE NEVER HAD TO THINK ABOUT THAT SO, WITH
23 PRAYERFUL CONSIDERATION AGAIN, I WOULD HAVE TO THINK
24 ABOUT IT

25 Q CERTAINLY

1 A I'VE NEVER HAD TO THINK ABOUT THE DEATH
2 PENALTY

3 Q I UNDERSTAND THAT, AND I RECOGNIZE THAT THIS
4 IS NEW TO YOU, AND IT PERHAPS IS DIFFICULT TO
5 EXPRESS AN OPINION OR EVEN GIVE AN OPINION WHEN
6 ASKED ON THE SPUR OF THE MOMENT BUT, OBVIOUSLY,
7 IT'S IMPORTANT TO US TO KNOW WHAT YOU ARE THINKING
8 AND WHAT YOU COULD CONSIDER IF YOU WERE CALLED UPON
9 TO SERVE AS A JUROR OBVIOUSLY, YOU DON'T KNOW WHAT
10 THE EVIDENCE IS YOU DON'T KNOW WHAT MIGHT BE
11 PRESENTED, AND SO WE'RE NOT TRYING TO GET YOU TO
12 DECIDE THE CASE OR GIVE US SOME IDEA AS TO WHAT YOU
13 MIGHT DO, YOU NOT KNOWING WHAT THE EVIDENCE IS ALL
14 WE'RE TRYING TO FIND OUT SIMPLY IS WHETHER YOU ARE
15 OPPOSED TO CERTAIN FORMS OF PUNISHMENT OR WHETHER
16 YOU CAN IMPOSE CERTAIN FORMS OF PUNISHMENT AND I'M
17 SIMPLY ASKING THAT IF YOU FOUND A PERSON TO BE
18 GUILTY OF THE CRIME OF MURDER AND IF SOME
19 AGGRAVATING CIRCUMSTANCE HAD BEEN PROVEN BEYOND A
20 REASONABLE DOUBT, COULD YOU CONSIDER, UNDER THOSE
21 CIRCUMSTANCES, AFTER CONSIDERING ALL OF THE EVIDENCE
22 OF AGGRAVATION AND OF MITIGATION, IMPOSE A DEATH
23 SENTENCE IF YOU THOUGHT THAT THE CIRCUMSTANCES
24 WARRANTED THAT PARTICULAR PUNISHMENT?

25 A I WOULD CONSIDER THAT

1 Q OKAY AND COULD YOU ALSO CONSIDER IMPOSING
2 THE LIFE SENTENCE IF YOU THOUGHT THE CIRCUMSTANCES
3 WARRANTED THAT?

4 A I WOULD CONSIDER THAT

5 Q GIVEN THE CHOICE, AND, OF COURSE, AS I
6 INDICATED TO YOU, THE JURY WOULD ALWAYS HAVE THAT
7 CHOICE OF IMPOSING A DEATH SENTENCE IF THEY THOUGHT
8 IT APPROPRIATE OR IMPOSING A LIFE SENTENCE IF THEY
9 THOUGHT IT APPROPRIATE, GIVEN THAT YOU WOULD HAVE A
10 CHOICE, WOULD YOU ALWAYS CHOOSE ONE FORM OF
11 PUNISHMENT OVER ANOTHER?

12 A WELL, I BELIEVE IN LAWS I'M A CHRISTIAN I
13 BELIEVE IN LIFE

14 Q WELL, GIVEN THAT YOU WOULD HAVE THAT CHOICE,
15 WOULD YOU ALWAYS OPT FOR ONE OVER THE OTHER, OR
16 WOULD IT DEPEND ON THE CIRCUMSTANCES?

17 A THERE AGAIN, I WOULD HAVE TO CONSIDER, YOU
18 KNOW, WHAT WENT ON DURING THE TRIAL I HAVE -- I
19 HAVE NO WAY TO ANSWER THE QUESTION IN A POSITIVE OR
20 A NEGATIVE MANNER

21 Q OKAY LET ME ASK IT AGAIN AND, UNDERSTAND,
22 I'M NOT TRYING TO PRESS YOU, BUT IT'S IMPORTANT THAT
23 I UNDERSTAND AND WE UNDERSTAND WHAT YOU DO THINK
24 ABOUT THESE MATTERS WHAT I'M REALLY SIMPLY ASKING
25 IS OBVIOUSLY, YOU'RE GOING TO BE ASKED TO CONSIDER

1 ALL OF THE EVIDENCE IN THE CASE, ALL THE EVIDENCE
2 THAT RELATES TO THE CRIMES THEMSELVES, ALL THE
3 EVIDENCE THAT RELATES TO AGGRAVATION, ALL THE
4 EVIDENCE THAT RELATES TO MITIGATION AND TO CONSIDER
5 EVERYTHING BEFORE YOU WOULD ARRIVE AT ANY DECISION
6 IN THE CASE BUT WHAT I SIMPLY NEED TO KNOW IS
7 AFTER YOU'VE CONSIDERED ALL OF THAT EVIDENCE, AND
8 YOU ARE FACED WITH A CHOICE AS TO WHETHER THE PERSON
9 SHOULD BE SENTENCED TO DEATH OR WHETHER THE PERSON
10 SHOULD BE SENTENCED TO LIFE, AND UNDERSTAND THAT'S
11 ALWAYS GOING TO BE THE JURY'S CHOICE THEY'VE GOT
12 THOSE TWO, ONE OR THE OTHER BUT WOULD YOU ALWAYS
13 CHOOSE ONE OVER THE OTHER, OR COULD YOU CONSIDER
14 BOTH, DEPENDING UPON WHAT THAT EVIDENCE IS?

15 A THE WAY YOU WORDED THAT, I WOULD CONSIDER
16 EITHER

17 Q YOU COULD CONSIDER EITHER, DEPENDING UPON THE
18 EVIDENCE IN THE CASE?

19 A YES, SIR

20 Q IS IT FAIR TO SAY, THEN, THAT YOU WOULD NOT
21 OPT FOR ONE OVER THE OTHER SIMPLY BECAUSE YOU ALWAYS
22 HAD THAT CHOICE?

23 A EXACTLY

24 Q OKAY NOW, HAVE YOU UP TO THIS POINT ALREADY
25 FORMED OR EXPRESSED ANY OPINION AS TO WHAT YOU THINK

1 THE ULTIMATE DECISION IN THIS CASE SHOULD BE?

2 A NO, SIR

3 Q DO YOU KNOW OF ANY REASON WHY YOU COULD NOT BE
4 FAIR AND IMPARTIAL IF YOU WERE SELECTED AS A JUROR
5 IN THIS CASE?

6 A NO, SIR

7 Q YOU ARE WELL AWARE OF THE FACT THAT IF YOU
8 WERE SELECTED IT WOULD BE NECESSARY THAT YOU BE
9 SEQUESTERED FOR A PERIOD OF TIME BETWEEN SEVEN AND
10 TEN DAYS WOULD THAT IMPOSE AN UNREASONABLE
11 HARDSHIP UPON YOU OR POSE ANY HEALTH RISK TO YOU?

12 A HEALTH RISK? NO, AND I'VE ALREADY DISCUSSED
13 WITH THE COURT THE MATTERS OF MY BEING A TEACHER AND
14 BEING OUT OF THE CLASSROOM I FEEL WOULD HURT MY
15 CHILDREN THAT I TEACH EVERY DAY AND, ALSO, I'M
16 WORKING WITH A STUDENT TEACHER AND MENTORING TWO
17 OTHER TEACHERS IN THE CLASSROOM, AND AT THIS POINT
18 IT'S VERY DIFFICULT TO BE OUT OF THE ROOM FOR THAT
19 LENGTH OF TIME

20 A OKAY AND I UNDERSTOOD THAT YOU WERE GOING
21 TO, AND I DON'T KNOW WHETHER YOU'VE HAD THE
22 OPPORTUNITY OR NOT, BUT I UNDERSTOOD THAT YOU WERE
23 GOING TO TRY TO MAKE THOSE ARRANGEMENTS AND BE
24 CERTAIN THAT THAT COULD BE COVERED OBVIOUSLY, I
25 WOULD ASSUME THAT YOU COULD HAVE I'M NOT SAYING

1 THAT IT'S GOING TO BE AS GOOD AS IF YOU WERE THERE,
2 BUT SO LONG AS THEY'RE NOT -- THEY'RE NOT DEPRIVED
3 TO THEIR DETRIMENT OF ANYTHING OF LONG LASTING
4 NATURE COULD SOMEONE COVER FOR YOU IN THE EVENT
5 THAT YOU WERE SELECTED?

6 A IN THE EVENT OF MY CLASSROOM, IT WOULD BE MORE
7 DIFFICULT TO FIND SOMEONE TO START THE MENTORING
8 PROCESS FOR THE TWO TEACHERS THAT I BEGAN WORKING
9 WITH AT THE BEGINNING OF THE YEAR AND ALSO THROUGH
10 MIDWAY WITH THE STUDENT TEACHER IT WOULD BE MORE
11 DIFFICULT TO FIND SOMEONE TO SUB IN THAT SITUATION
12 INSTEAD OF THE CLASSROOM

13 Q WELL, IF YOU WERE CALLED UPON TO SERVE, WOULD
14 IT SIMPLY MEAN THAT THAT PRACTICE TEACHER'S
15 SUCCESSFUL COMPLETION OF THAT PART OF THE PROGRAM
16 WOULD BE POSTPONED FOR A WEEK OR TEN DAYS?

17 A WELL, SHE'S TO GRADUATE, AND THIS IS DEPENDENT
18 UPON HER GRADUATING SO IT WOULD BE -- HER
19 GRADUATION WOULD BE POSTPONED BECAUSE OF THIS

20 Q DO YOU MEAN THAT SHE WOULD NOT -- WHEN IS SHE
21 TO GRADUATE?

22 A IN DECEMBER

23 Q AND YOU'RE TELLING ME THAT SHE COULD NOT
24 GRADUATE IN DECEMBER IF YOU WERE SELECTED TO SERVE
25 AS A JUROR?

1 A HER TIME WOULD BE PUSHED BACK, AND SHE WOULD
2 BE FORCED TO STAY IN WITH ME LONGER THAN THE NEXT
3 SIX WEEKS

4 Q BUT WHAT WOULD THAT MEAN SO FAR AS HER
5 GRADUATING? I MEAN, WOULD IT -- WOULD IT MEAN SHE
6 COULD NOT GRADUATE IN DECEMBER AND WOULD HAVE TO BE
7 NEXT JUNE, OR WOULD IT MEAN HER GRADUATION ---

8 A NO JUST HER TIME WOULD BE EXTENDED WITHIN
9 THE SCHOOL

10 Q FOR THE TIME THAT YOU'RE HERE?

11 A YES, SIR

12 THE COURT OKAY ALL RIGHT PLEASE
13 ANSWER ANY QUESTIONS THAT EITHER LAWYER HAS FOR YOU

14 JUROR YES, SIR

15 EXAMINATION

16 BY MR TINSLEY

17 Q THANK YOU, YOUR HONOR GOOD AFTERNOON, MS
18 McCLAIN

19 A GOOD AFTERNOON

20 Q JUST A FEW QUESTIONS THE QUESTION WHERE YOU
21 MENTIONED SOME OF YOUR GROUP AFFILIATIONS, AND I
22 JUST HAD A QUESTION ABOUT THREE OF THEM

23 A OKAY

24 Q WHAT DOES A D K STAND FOR?

25 A ALPHA DELTA KAPPA THAT'S A SORORITY FOR

1 TEACHERS

2 Q OKAY I R A ?

3 A AND THAT'S THE INTERNATIONAL READING

4 ASSOCIATION I'M A MEMBER OF THE READING

5 ASSOCIATION THROUGH THE STATE AND NATIONAL LEVEL

6 Q AND N C T M ?

7 A THAT'S THE NATIONAL COUNCIL FOR TEACHERS OF

8 MATHEMATICS

9 Q OKAY AND WHAT GRADE DO YOU TEACH?

10 A FIFTH GRADE

11 Q FIFTH GRADE? AND I WANTED TO ASK YOU ABOUT

12 QUESTION SIXTEEN YOU RESPONDED THAT SOMEONE IN

13 YOUR FAMILY HAD BEEN A VICTIM OF A CRIME, IS THAT

14 RIGHT?

15 A YES

16 Q AND WHO WAS THAT?

17 A MY SISTER

18 Q AND I THINK THAT YOU RESPONDED THAT IT WAS A

19 ROBBERY OR ---

20 A YES, SIR

21 Q WOULD THAT IN ANY WAY AFFECT YOUR SERVICE IN

22 THIS CASE?

23 A NO, SIR

24 Q OKAY YOU CAN PUT THAT BESIDE -- ASIDE, IS

25 THAT RIGHT?

1 A YES, SIR

2 Q OKAY AND YOU DON'T HAVE ANY RELATIONSHIP
3 WITH ANY PARTIES IN THIS CASE, DO YOU, THAT YOU KNOW
4 OF?

5 A NO, SIR

6 Q OKAY AND YOU DON'T HAVE ANY RELATIONSHIP
7 WITH MR HUGHEY HERE, DO YOU?

8 A NO, SIR

9 Q AND ASSUMING THAT THE JUDGE GAVE YOU THE
10 OPTION OF GUILTY OF MURDER OR GUILTY OF MANSLAUGHTER
11 OR NOT GUILTY, COULD YOU CONSIDER ALL THREE VERDICTS
12 AS A POSSIBILITY?

13 A YES, SIR

14 Q OKAY AND INDEED YOU COULD, BASED UPON THE
15 EVIDENCE, RETURN A VERDICT OF NOT GUILTY, IS THAT
16 RIGHT?

17 A YES, SIR

18 Q OR GUILTY OF MANSLAUGHTER, IS THAT RIGHT?

19 A YES, SIR

20 Q AND -- OR GUILTY OF MURDER DEPENDING ON WHAT
21 THE EVIDENCE MAY BE?

22 A YES, SIR

23 Q OKAY AND YOU COULD ALSO CONSIDER ANY
24 MITIGATING CIRCUMSTANCES THAT MR HUGHEY MAY OFFER
25 IN HIS DEFENSE, IS THAT RIGHT?

1 A YES, SIR

2 MR TINSLEY THANK YOU SO MUCH, MS
3 McCLAIN

4 JUROR THANK YOU

5 THE COURT MR JONES?

6 MR JONES MAY IT PLEASE THE COURT

7 EXAMINATION

8 BY MR JONES

9 Q MS McCLAIN

10 A YES, MR JONES

11 Q YES, TOWNES JONES IS MY NAME, AND I'M YOUR
12 SOLICITOR I JUST WANTED TO MAKE SURE, AND THIS IS
13 MICHAEL COULTER YOUR DEPUTY SOLICITOR HE AND I
14 WILL BE PRESENTING THE BULK OF THE EVIDENCE IN THIS
15 CASE FROM OUR STANDPOINT, FROM OUR SIDE OF THE CASE,
16 AND I HAVE A FEW QUESTIONS THAT I WANTED TO ASK YOU
17 ABOUT A SUBJECT THAT YOU SAID YOU REALLY HADN'T
18 GIVEN A LOT OF THOUGHT ABOUT, AND THAT IS THE DEATH
19 PENALTY OR AT LEAST YOUR INVOLVEMENT IN THE DEATH
20 PENALTY

21 A RIGHT

22 Q AND THE REASON I WANT TO ASK YOU TO THINK
23 ABOUT YOUR INVOLVEMENT IN THE DEATH PENALTY VERY
24 SERIOUSLY AND VERY HONESTLY BECAUSE I KNOW THAT
25 YOU'RE TRYING TO ADDRESS BOTH OF THOSE ISSUES

1 A RIGHT

2 Q THE SERIOUSNESS OF THIS AND THE NEED FOR
3 HONESTY, AND, OF COURSE, YOU CAN'T BE HONEST WITH ME
4 UNTIL YOU'RE HONEST WITH YOURSELF AND KNOW YOURSELF
5 WHAT I WANT TO ASK YOU NOW IS THAT YOU UNDERSTAND
6 THAT BEGINNING ON MONDAY OF THIS PAST WEEK A LOT OF
7 QUESTIONS HAVE BEEN ASKED OF A LOT OF PEOPLE, AND
8 YOU HAVE TO -- AND ALONG THE WAY YOU ANSWER THESE
9 AND YOU ANSWER THESE, AND YOU HAVE MADE IT TO THIS
10 POINT SOME PEOPLE DIDN'T SOME PEOPLE DIDN'T
11 YOU SAW SOME LEAVE YOU SAW THE JUDGE TELL SOME
12 THEY COULD GO YOU'RE AT THIS POINT IN TIME, AND
13 THE NEXT STEP IS OVER HERE IN THE JURY BOX

14 A YES, SIR

15 Q OKAY SO YOU UNDERSTAND WHERE YOU ARE IN THE
16 PROCESS AT THIS POINT IN TIME, AND, OF COURSE, AS WE
17 GO FORWARD WITH THIS TRIAL, THE DEFENDANT IS CHARGED
18 WITH MURDER AND HE'S ON TRIAL FOR MURDER, AND THE
19 STATE, REPRESENTED BY ME AND MR COULTER, IS SEEKING
20 THE DEATH PENALTY

21 A YES, SIR

22 Q AND IF YOU SIT ON THIS JURY OR ON ANY JURY AND
23 YOU LISTEN TO THE FACTS AND YOU DECIDE THE
24 APPROPRIATE VERDICT IS GUILTY, THEN YOU GO INTO A
25 SECOND PHASE OF THE CASE ALONG WITH THE OTHER ELEVEN

1 JURORS, AND YOU LISTEN TO EVIDENCE WE CALL IT
2 EVIDENCE IN AGGRAVATION, THAT IS, WHY IS THIS A
3 MURDER WHERE DEATH PENALTY IS THE APPROPRIATE
4 PUNISHMENT? AND YOU LISTEN TO EVIDENCE IN
5 MITIGATION, AND THAT'S EVIDENCE AS TO WHY YOU SHOULD
6 NOT IMPOSE THE DEATH PENALTY ON ANOTHER HUMAN BEING
7 AND IF YOU CAN'T HONESTLY AND SERIOUSLY SAY THAT YOU
8 WOULD CONSIDER SERIOUSLY IMPOSING THE DEATH PENALTY,
9 IF YOU KNOW YOURSELF WELL ENOUGH TO KNOW THAT YOU
10 CAN'T SAY THAT YOU WOULD SERIOUSLY CONSIDER IMPOSING
11 THE DEATH PENALTY UNDER THE APPROPRIATE
12 CIRCUMSTANCES, THEN YOU SHOULD TELL US THAT NOW
13 YOU KNOW, I'M GOING TO ASK YOU IF THIS MAKES ANY
14 SENSE TO YOU SOMETIMES PEOPLE MIGHT GET TOGETHER
15 IN AN EFFORT TO SUPPORT THE WAY YOU FEEL
16 ABOUT ---

17 MR TINSLEY OBJECTION TO THE FORM
18 OF THE QUESTION, YOUR HONOR

19 THE COURT WELL, LET ME HEAR THE
20 QUESTION, THEN I'LL LET YOU ---

21 EXAMINATION CONTINUED BY MR JONES

22 Q CAN YOU ENVISION A GROUP OF PEOPLE GETTING
23 TOGETHER, A GROUP OF GUYS GETTING TOGETHER AND
24 TALKING ABOUT BUNGEE JUMPING OR SOMETHING LIKE THAT,
25 AND ONE OF THEM SAYS, "SURE I'D PROBABLY DO THAT"?

1 BUT THEN WHEN THEY GET RIGHT UP ON THE EDGE TO JUMP,
2 THEY MIGHT DECIDE THAT, 'NO I SHOULDN'T HAVE TOLD
3 Y'ALL I WAS GOING TO COME BUNGEE JUMPING BECAUSE I
4 AIN'T GONNA DO IT " IN OTHER WORDS, JUST KIND OF IN
5 AN EFFORT TO SAY WHATEVER THEY'RE SAYING, THEY SAY,
6 "YEAH I MIGHT BUNGEE JUMP," YOU KNOW

7 A VERY NICE ANALYSIS

8 Q ALL RIGHT

9 MR TINSLEY EXCUSE ME, YOUR HONOR
10 I DIDN'T HEAR THE RESPONSE

11 THE COURT SHE SAID, "VERY NICE
12 ANALYSIS "

13 MR JONES ALL RIGHT AND MY
14 QUESTION ---

15 MR TINSLEY I STILL HAVEN'T HEARD
16 THE QUESTION, YOUR HONOR THIS HAS BEEN A SPEECH
17 FOR THE LAST TWO OR THREE MINUTES

18 THE COURT OH, I'M SORRY I THOUGHT
19 YOU WANTED TO KNOW WHAT HER RESPONSE WAS

20 MR TINSLEY WELL, I DID I DID,
21 BUT I HAVEN'T HEARD THE QUESTION HE'S BEEN GOING
22 ON AND ON AND ON, AND I THINK IT'S AN IMPROPER
23 QUESTION AT THIS POINT I CAN'T UNDERSTAND IT

24 THE COURT OKAY PUT THE QUESTION
25 TO THE WITNESS

1 MR JONES FIRST OF ALL, JUDGE, IF
2 THE LENGTH OF MY QUESTION HAS OFFENDED YOU OR THE
3 WITNESS, I APOLOGIZE I'LL TRY TO BE MORE ---

4 MR TINSLEY INAPPROPRIATE, YOUR
5 HONOR, AND I OBJECT TO THIS

6 THE COURT ALL RIGHT PLEASE ASK
7 THE QUESTION

8 EXAMINATION CONTINUED BY MR JONES

9 Q ALL RIGHT MY QUESTION IS, MS McCLAIN, CAN
10 YOU UNDERSTAND WHERE A GROUP OF PEOPLE MIGHT BE PUT
11 TOGETHER, AND ONE OF THEM MIGHT MAKE A STATEMENT
12 ABOUT WHAT THEY WOULD DO OR MIGHT DO OR COULD DO?
13 AND THEN WHEN THEY GET TO THE POINT OF DOING IT,
14 IT'S DEEMED WITHIN THEMSELVES THAT THEY WERE NOT
15 REALLY BEING, YOU KNOW, HONEST WITH THEMSELVES ABOUT
16 WHAT THEY COULD AND WOULD DO?

17 A YES, SIR

18 Q ALL RIGHT AND HAVING UNDERSTOOD THAT, I WANT
19 TO ASK YOU YOU UNDERSTAND THAT THAT'S WHAT WE'RE
20 TRYING TO GET YOU TO DO HERE TODAY? TO DETERMINE
21 IF, IN FACT, YOUR ANSWER IS BASED ON A REALISTIC,
22 LOGICAL, FAIR AND HONEST ENVISIONMENT OF YOURSELF
23 BEING ABLE TO DO SOMETHING THAT WE'RE ASKING YOU IF
24 YOU COULD CONSIDER DOING?

25 A YES, SIR

1 Q ALL RIGHT AND HAVE YOU DONE THAT HERE TODAY?

2 A YES, SIR

3 Q AND MY QUESTION IN FOLLOWING THOSE FOUR OR
4 FIVE IS COULD YOU IMPOSE THE DEATH PENALTY IN THE
5 APPROPRIATE CIRCUMSTANCES?

6 A YES

7 Q ALL RIGHT AND ONE LAST ADDITIONAL QUESTION,
8 AND YOU UNDERSTAND HOW CLOSE WE ARE TO GETTING INTO
9 THE PROCESS NOW?

10 A YES

11 Q AND YOU UNDERSTAND HOW CLOSE YOU ARE TO BEING
12 INVOLVED IN THE PROCESS?

13 A YES, SIR

14 Q ALL RIGHT COULD YOU ALSO, AND THE LAW
15 REQUIRES THAT IF YOU LOOK AT THE CASE AND YOU ACCEPT
16 THE CASE AND YOU DECIDE THAT THE FACTS OF THE CASE
17 WARRANT THE IMPOSITION OF THE DEATH PENALTY ON
18 ANOTHER HUMAN BEING, WOULD YOU SIGN YOUR NAME, MS
19 McCLAIN, IMPOSING THAT DEATH SENTENCE?

20 A YES, SIR

21 Q AND YOU ARE ABLE TO DO THAT?

22 A YES, SIR

23 MR JONES THANK YOU

24 THE COURT ALL RIGHT, MS McCLAIN
25 IF YOU'LL JUST STEP OUTSIDE THAT DOOR ONE MINUTE,

1 AND I'LL BRING YOU RIGHT BACK

2 (JUROR DOES AS INSTRUCTED)

3 THE COURT ANY REASON WHY THE JUROR
4 SHOULD NOT BE QUALIFIED?

5 MR JONES NONE ON THE PART OF THE
6 STATE, YOUR HONOR

7 MR TINSLEY NO, YOUR HONOR

8 THE COURT SHE IS SO QUALIFIED

9 MR JONES YOUR HONOR, MAY I -- MAY
10 I ---

11 THE COURT WAIT, WAIT JUST A MINUTE

12 MR JONES I WOULD ASK THAT IF WE
13 HAVE OBJECTIONS ABOUT QUESTIONS FROM THIS POINT
14 FORWARD, THAT THE JUROR CAN BE ASKED TO LEAVE
15 BECAUSE IF I'M GOING TO BE DERIDED ABOUT MY PERSONAL
16 STYLE AND MY PERSONAL WAY OF ASKING THE QUESTIONS
17 AND WHETHER IT BE INEPT OR JUST UNAPPRECIATED, I
18 DON'T THINK IT'S FAIR FOR ONE LAWYER TO BE ABLE TO
19 BERATE ME AND DERIDE MY STYLE IN FRONT OF A JUROR
20 WITHOUT SOME ADMONISHMENT AND I WOULD ASK THAT YOU
21 CONSIDER IF THERE'S AN OBJECTION, I'LL STOP, AND WE
22 CAN ASK THE JUROR TO STEP OUT AND YOU CAN ADDRESS
23 THE ISSUE WITHOUT THERE BEING SOME PERSONAL COMMENTS
24 BEING MADE ABOUT EITHER LAWYER AND I'M PERSONALLY
25 -- I'M SPECIFICALLY REFERRING TO, "YOUR HONOR, HE'S

1 GOING ON AND ON AND ON AND ON AND ON, AND HE'S JUST
2 GIVING A SPEECH," AND ALL THAT WHEN I WAS, YOU KNOW,
3 QUITE FRANKLY TRYING TO GET TO THE POINT WITH HER

4 THE COURT OKAY IN THE FUTURE,
5 PLEASE CONFINE ANY STATEMENTS OR COMMENTS WHEN THE
6 JURORS ARE PRESENT TO AN OBJECTION STATE A GROUND
7 OF YOU NEED TO DO NOT COMMENT UPON THE QUESTION
8 ITSELF ALL RIGHT BRING MS McCLAIN BACK IN
9 (JUROR RE-ENTERS THE COURTROOM)

10 THE COURT MS McCLAIN, YOU ARE
11 QUALIFIED TO SERVE AS A JUROR IN THE TRIAL OF THIS
12 CASE THAT DOESN'T MEAN YOU'VE BEEN SELECTED IT
13 JUST SIMPLY MEANS THAT YOU WILL BE IN THE POOL OF
14 JURORS FROM WHICH THE ACTUAL JURY WILL BE SELECTED

15 JUROR YES, SIR

16 THE COURT SO I'M GOING TO ASK YOU
17 IF YOU WILL, PLEASE, TO GIVE THE CLERK PHONE NUMBERS
18 WHERE YOU MAY BE REACHED WHEN WE NEED TO GET IN
19 TOUCH WITH YOU AGAIN IT'S NOT LIKELY TO BE UNTIL
20 SOMETIME NEXT WEEK WE'LL TRY TO GIVE YOU AS MUCH
21 NOTICE AS WE CAN, PERHAPS A DAY OR MORE IF WE CAN
22 WE'LL NEED TO HAVE NUMBERS WHERE YOU CAN BE REACHED
23 IN THE EVENT WE DO NEED TO CALL YOU BACK

24 JUROR MY HOME NUMBER IS 446-3644
25 MY WORK PHONE, 459-9604, AND MY SISTER'S PHONE IS

1 446-8941 THAT'S IT

2 THE COURT THANK YOU, MA'AM YOU
3 MAY BE EXCUSED TODAY OH, MS McCLAIN, LET ME JUST
4 SAY BEFORE YOU GO KEEP IN MIND THE INSTRUCTION
5 GIVEN PREVIOUSLY YOU'RE NOT TO DISCUSS THE CASE
6 WITH ANYONE DO NOT ALLOW YOURSELF TO BE EXPOSED TO
7 ANY MEDIA COVERAGE THAT RELATES TO THE TRIAL OR
8 MIGHT RELATE TO THE TRIAL, AND DON'T DISCUSS WHAT'S
9 GONE ON HERE WITH ANY POTENTIAL JUROR

10 JUROR SHOULD I MAKE ARRANGEMENTS
11 FOR MY CLASSROOM?

12 THE COURT OH, YES, MA'AM YOU MAY
13 DO THAT YOU JUST SIMPLY SAY THAT THERE'S A
14 POSSIBILITY THAT YOU MAY BE SELECTED TO SERVE I
15 JUST SIMPLY MEAN YOU CAN'T DISCUSS WHAT THE CASE IS
16 ABOUT OR ANYTHING, BUT YOU CAN TELL THEM, OBVIOUSLY,
17 THAT -- THAT YOU MIGHT BE SELECTED TO SERVE, AND IF
18 YOU ARE YOU WOULD BE SEQUESTERED FOR THAT PERIOD SO
19 THAT THEY CAN MAKE THOSE ARRANGEMENTS I DO WANT
20 YOU TO MAKE THOSE ARRANGEMENTS THANK YOU, MA'AM
21 OKAY

22 (JUROR EXITS COURTROOM)

23 (JUROR IS QUALIFIED)

24 THE COURT ANYTHING WE NEED TO
25 ADDRESS BEFORE WE RECESS? OKAY WE'LL BE IN RECESS

1 TILL ONE FORTY-FIVE AT WHICH TIME THE NEXT PANEL
2 WILL BE HERE
3 (COURT RECESSES UNTIL 1 45 P M O'CLOCK FOR LUNCH)
4

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TRANSCRIPT CONTINUED IN

VOLUME III

PAGE 604

REPETATIVE TRANSCRIPT COVER PAGE

AND NOT REPRINTED

1 (DAY SIX, OCTOBER 18, 1998, COURT RECESSES UNTIL
2 1 45 P M O'CLOCK FOR LUNCH)

3 THE COURT ALL RIGHT ARE WE READY
4 FOR MR KLUGH? ASK MR KLUGH TO COME IN KLUGH
5 (JUROR #113 PRESENTED AT 1 50 O'CLOCK P M)

6 EXAMINATION BY THE COURT

7 Q GOOD AFTERNOON YOU ARE JAMES KLUGH?

8 A YES

9 Q MR KLUGH, AS I TOLD YOU EARLIER, WE'RE GOING
10 TO BE ASKING YOU SOME QUESTIONS, AND THE PURPOSE OF
11 THESE QUESTIONS IS TO SIMPLY FIND OUT YOUR VIEWS AND
12 OPINIONS ON CERTAIN TOPICS AND SUBJECTS

13 A OKAY

14 Q THERE ARE NOT ANY RIGHT OR WRONG ANSWERS
15 IT'S SIMPLY IMPORTANT THAT YOU SHARE WITH US YOUR
16 VIEWS AND OPINIONS AND ANSWER THE QUESTIONS AS
17 OPENLY AND HONESTLY AS YOU CAN NOW, YOU WERE
18 PREVIOUSLY SWORN WITH THE ENTIRE JURY VENIRE, AND SO
19 YOU WILL BE REMAINING UNDER OATH FOR THE PURPOSE OF
20 THESE QUESTIONS, ALSO NOW, YOU HAVE FILLED OUT A
21 QUESTIONNAIRE, AND YOU INDICATED EARLIER THAT YOU
22 HAD RECEIVED MY LETTER REGARDING CERTAIN
23 INSTRUCTIONS NOT TO DISCUSS THE CASE WITH ANY PERSON
24 AND NOT TO ALLOW YOURSELF TO BE EXPOSED TO ANY MEDIA
25 COVERAGE, WHETHER IT BE TELEVISION, RADIO OR

1 NEWSPAPER DID YOU FOLLOW THAT INSTRUCTION AFTER
2 RECEIVING MY LETTER?

3 A YEAH

4 Q HAD YOU BEEN EXPOSED TO ANY MEDIA COVERAGE
5 BEFORE YOU RECEIVED THE LETTER?

6 A NO, SIR

7 Q HAD YOU ENGAGED IN ANY DISCUSSIONS OR
8 OVERHEARD ANY CONVERSATIONS THAT MIGHT RELATE TO
9 THIS CASE BEFORE YOU RECEIVED MY LETTER?

10 A UH-UH (NEGATIVE)

11 Q SIR?

12 A NO, SIR

13 Q OKAY A JURY'S FUNCTION IN THE TRIAL OF THE
14 CASE IS TO LISTEN TO TESTIMONY AND TO CONSIDER OTHER
15 EVIDENCE THAT MIGHT BE ADMITTED, AND BASED UPON THE
16 JURY'S CONSIDERATION OF THAT EVIDENCE, THEY WILL
17 DETERMINE WHAT THE FACTS ARE

18 A YEAH

19 Q AND THEN THE JURY PANEL WILL APPLY THE LAW AS
20 I WILL PROVIDE IT FOR THEM IN ORDER TO ARRIVE AT A
21 DECISION BASED UPON THE LAW AND EVIDENCE IN THE
22 CASE IN THIS PARTICULAR CASE, AS YOU ARE AWARE,
23 THE STATE HAS CHARGED THE DEFENDANT WITH THE CRIME
24 OF MURDER AND ALSO ADDITIONAL OFFENSES THAT I READ
25 THE INDICTMENT TO YOU EARLIER DO YOU UNDERSTAND

1 THAT THE STATE HAS THE BURDEN OF PROVING THE GUILT
2 OF THE DEFENDANT BEFORE A JURY COULD FIND THAT
3 PERSON GUILTY OF THE CRIME ALLEGED AGAINST THEM?

4 A YES

5 Q YOU UNDERSTAND THE BURDEN IS NEVER UPON THE
6 DEFENDANT TO PROVE THAT HE IS NOT GUILTY?

7 A THAT'S RIGHT

8 Q YOU UNDERSTAND THAT BEFORE A JURY COULD FIND
9 THE PERSON GUILTY, THEY WOULD ALL TWELVE HAVE TO BE
10 CONVINCED OF THAT FACT BEYOND A REASONABLE DOUBT?

11 A YEAH

12 Q NOW, IF YOU WERE SELECTED TO SERVE IN THE
13 TRIAL OF THIS CASE, DO YOU UNDERSTAND THAT IT WOULD
14 TAKE PLACE IN TWO SEPARATE STAGES?

15 A YES, SIR

16 Q UNDER THE LAW, THERE ARE CERTAIN CIRCUMSTANCES
17 THAT PERMIT THE STATE TO SEEK THE DEATH PENALTY
18 AGAINST AN INDIVIDUAL WHO HAS BEEN FOUND GUILTY BY A
19 JURY OF THE CRIME OF MURDER THE LAW PERMITS THAT
20 TO BE DONE WHEN THE MURDER IS ACCOMPANIED BY SOME
21 CIRCUMSTANCE OF AGGRAVATION, AND THAT CIRCUMSTANCE
22 OF AGGRAVATION HAS BEEN PROVEN BEYOND A REASONABLE
23 DOUBT TO THE SATISFACTION OF THAT JURY PANEL IF
24 YOU WERE CALLED UPON TO PARTICIPATE, THE FIRST STAGE
25 OF THE TRIAL WOULD CONSIST OF THE GUILT PHASE

1 WHEREIN THE JURY WOULD DECIDE WHETHER OR NOT THE
2 DEFENDANT HAS BEEN PROVEN TO BE GUILTY THE SECOND
3 STAGE WOULD BE THE PENALTY PHASE THAT WE WOULD ONLY
4 GO TO IF THE JURY HAS FOUND THE DEFENDANT GUILTY OF
5 MURDER AND SOME AGGRAVATING CIRCUMSTANCE BEYOND A
6 REASONABLE DOUBT IF YOU WERE SELECTED TO SERVE,
7 AND YOU PARTICIPATED IN EACH OF THOSE PHASES, IN THE
8 GUILT PHASE, IF YOU WERE CONVINCED THE EVIDENCE
9 SUPPORTED A VERDICT OF GUILTY, COULD YOU RETURN A
10 VERDICT OF GUILTY?

11 A I DON'T UNDERSTAND THAT QUESTION

12 Q OKAY WELL, AS I INDICATED EARLIER, THE
13 JURY'S FUNCTION IS TO CONSIDER THE EVIDENCE IN THE
14 CASE AND TO DECIDE WHETHER OR NOT, BASED UPON THAT
15 EVIDENCE, THE DEFENDANT IS GUILTY OF THE CRIME THAT
16 THE STATE ALLEGES HE COMMITTED OR THE CRIMES MY
17 QUESTION IS SIMPLY IF YOU WERE PARTICIPATING AND
18 YOU LISTENED TO ALL OF THE EVIDENCE TO BE PRESENTED,
19 AND YOU BELIEVED THAT THAT EVIDENCE PROVED THE
20 DEFENDANT GUILTY OF THE CRIME BEYOND A REASONABLE
21 DOUBT, COULD YOU RETURN A VERDICT OF GUILTY OF THE
22 CRIME?

23 A YEAH

24 Q NOW, IF YOU CONSIDERED ALL THE EVIDENCE AND
25 YOU BELIEVED THAT THE EVIDENCE DID NOT CONVINCE YOU

1 BEYOND A REASONABLE DOUBT THAT THE DEFENDANT WAS
2 GUILTY, COULD YOU RETURN A VERDICT OF NOT GUILTY?

3 A I DON'T BELIEVE SO

4 Q WELL, LET ME PERHAPS CLARIFY THAT QUESTION
5 MY QUESTION IS SIMPLY AFTER YOU CONSIDER THE
6 EVIDENCE, IF YOU WERE NOT CONVINCED BEYOND A
7 REASONABLE DOUBT THAT THE DEFENDANT COMMITTED THE
8 CRIME, WOULD YOU BE ABLE TO FIND HIM NOT GUILTY?

9 A YES

10 Q YOU COULD?

11 A UH-HUH (AFFIRMATIVE)

12 Q ALL RIGHT NOW, ASSUME FOR THE MOMENT, AND
13 ONLY ASSUME IT FOR THE PURPOSE OF THIS QUESTION AND
14 FOR NO OTHER PURPOSE, ASSUME THAT YOU WERE SELECTED
15 AND ASSUME THAT YOU HAVE PARTICIPATED IN THE TRIAL
16 OF THE CASE, AND ASSUME THAT YOU FOUND THE DEFENDANT
17 TO BE GUILTY OF THE CRIME OF MURDER AND THAT YOU
18 HAVE FOUND SOME AGGRAVATING CIRCUMSTANCE WHICH WOULD
19 PERMIT THE STATE TO SEEK THE DEATH PENALTY DO YOU
20 UNDERSTAND THAT WE WOULD GO TO A SEPARATE
21 PROCEEDING, A SEPARATE HEARING, FOR ADDITIONAL
22 EVIDENCE TO BE PRESENTED? THE STATE MIGHT BE
23 PRESENTING EVIDENCE THAT WOULD TEND TO SUPPORT A
24 MORE SERIOUS PUNISHMENT SUCH AS THE DEATH PENALTY
25 THE DEFENSE MIGHT PRESENT EVIDENCE, IF THEY WISH TO,

1 THAT WOULD -- MIGHT SUPPORT THE IMPOSITION OF A LESS
2 SEVERE PUNISHMENT, BEING LIFE IMPRISONMENT AND YOU
3 UNDERSTAND THAT THE JURY WOULD MAKE THE DECISION AS
4 TO THE PUNISHMENT IF YOU GOT TO THE SECOND PHASE OF
5 THE TRIAL? DO YOU UNDERSTAND THE JURY WOULD DECIDE
6 THE PUNISHMENT?

7 A YEAH

8 Q THE TWO POSSIBLE CHOICES THAT THE JURY WOULD
9 HAVE WOULD BE LIFE IMPRISONMENT OR IMPOSITION OF THE
10 DEATH PENALTY IN OTHER WORDS, THE JURY WOULD DO
11 THE SENTENCING IT WOULD BE LIFE OR DEATH IF YOU
12 WERE PARTICIPATING, AND ADDITIONAL EVIDENCE WAS
13 OFFERED TENDING TO SUPPORT PERHAPS THE DEATH PENALTY
14 OR TENDING TO SUPPORT A LIFE SENTENCE ONLY, WOULD
15 YOU BE ABLE TO FAIRLY CONSIDER ALL OF THAT EVIDENCE?

16 A YEAH

17 Q AND AFTER YOU HAD CONSIDERED ALL OF THAT
18 EVIDENCE, IF YOU THOUGHT IT WAS APPROPRIATE UNDER
19 THE CIRCUMSTANCES OF THAT CASE, COULD YOU SENTENCE A
20 PERSON TO DIE?

21 A YEAH

22 Q COULD YOU ALSO CONSIDER SENTENCING A PERSON TO
23 LIFE IMPRISONMENT?

24 A YES

25 Q NOW, AS I HAVE STATED, THE JURY HAS THAT

1 DECISION TO MAKE THE JURY WOULD HAVE THAT CHOICE
2 YOU COULD ALWAYS CHOOSE LIFE FOR WHATEVER REASON
3 THAT YOU WISH TO YOU CAN ONLY CHOOSE DEATH IF YOU
4 THOUGHT IT APPROPRIATE UNDER THE CIRCUMSTANCES AND
5 AN AGGRAVATING CIRCUMSTANCE WERE ESTABLISHED BEYOND
6 A REASONABLE DOUBT IF YOU WERE FACED WITH A
7 CHOICE, WHICH, AS I'VE STATED, YOU WOULD HAVE, IF
8 YOU WERE FACED WITH THE CHOICE OF SENTENCING SOMEONE
9 TO DEATH OR SENTENCING SOMEONE TO LIFE, WOULD YOU
10 ALWAYS CHOOSE ONE OF THOSE CHOICES OVER THE OTHER?

11 A I DON'T -- I BELIEVE I WOULD

12 Q YOU BELIEVE THAT YOU WOULD?

13 A YES

14 Q CAN YOU THINK OF A CIRCUMSTANCE, OR DO YOU
15 BELIEVE THAT THERE COULD BE ESTABLISHED
16 CIRCUMSTANCES WHERE YOU WOULD THINK IT APPROPRIATE
17 TO SENTENCE SOMEONE TO DIE?

18 A I DON'T BELIEVE SO

19 Q YOU DON'T BELIEVE SO?

20 A UH-UH (NEGATIVE)

21 Q DO YOU UNDERSTAND THAT IF, IN FACT, YOU
22 DETERMINED THAT IT WAS APPROPRIATE TO SENTENCE
23 SOMEONE TO DEATH, YOU UNDERSTAND YOU'D HAVE TO SIGN
24 A FORM INDICATING THAT YOU WERE RECOMMENDING THAT
25 THAT PERSON BE PUT TO DEATH?

1 A YEAH

2 Q COULD YOU SIGN SUCH A FORM?

3 A WELL, IF I HAD TO

4 Q WELL, YOU UNDERSTAND YOU WOULD NOT HAVE TO
5 UNLESS YOU DETERMINE THAT THAT PERSON SHOULD BE PUT
6 TO DEATH? COULD YOU EVER SENTENCE A PERSON TO
7 DEATH?

8 A NO, SIR

9 THE COURT ALL RIGHT PLEASE ANSWER
10 ANY QUESTIONS THAT THE DEFENSE OR STATE MIGHT HAVE

11 EXAMINATION

12 BY MR TINSLEY

13 Q GOOD AFTERNOON, MR KLUGH MR KLUGH, YOU
14 MENTIONED THAT YOU FIRST, I THINK, THAT YOU POSSIBLY
15 COULD GIVE THE DEATH PENALTY, IS THAT CORRECT?

16 A UH-HUH (AFFIRMATIVE)

17 Q WELL, THEN, IS THE PROBLEM THAT YOU WOULD HAVE
18 TROUBLE SIGNING YOUR NAME TO THE DEATH WARRANT?

19 A I DON'T BELIEVE SO

20 Q WELL, CAN YOU EXPLAIN WHAT THE PROBLEM IS,
21 SIR?

22 A IT'S LIKE I SAY IF I HAD TO, I, YOU KNOW, I
23 WOULD

24 Q YOU COULD IF YOU HAD TO?

25 A UH-HUH (AFFIRMATIVE)

1 Q WELL, WHAT DO YOU MEAN BY, "IF I HAD TO"?

2 A WELL, SOMETIMES WE PRESSURED INTO IT, YOU
3 KNOW

4 Q PRESSURED BY OTHER JURORS, OR WHAT DO YOU
5 MEAN?

6 A BY MY PEERS

7 Q OTHER PEOPLE? HAVE YOU FELT ANY PRESSURE IN
8 THIS CASE SO FAR?

9 A NO

10 Q COULD YOU CONSIDER ALL THE EVIDENCE PRESENTED
11 IN THIS CASE AND ARRIVE AT THE APPROPRIATE
12 PUNISHMENT FOR MY CLIENT, MR HUGHEY?

13 A YES

14 Q YOU COULD CONSIDER ALL THE EVIDENCE?

15 A YEAH

16 Q AND IF YOU THOUGHT IT WERE SO BAD, COULD YOU
17 GIVE THE DEATH PENALTY AT THAT POINT?

18 A YES, SIR

19 Q AND DO YOU KNOW ANY OF THE PARTIES IN THIS
20 CASE OR HAVE A RELATIONSHIP WITH THEM?

21 A NO, SIR

22 Q OKAY BUT YOU TELL ME THAT YOU, IN CERTAIN
23 CIRCUMSTANCES, ALBEIT RARE, YOU COULD GIVE THE DEATH
24 PENALTY, IS THAT CORRECT?

25 A YES

1 Q IT WOULD BE DIFFICULT FOR YOU, BUT IF YOU HAD
2 TO, YOU COULD DO IT?

3 A YES, SIR

4 Q WOULD YOU -- YOU WOULD BE RELUCTANT TO GIVE
5 IT, IS THAT CORRECT?

6 A I DON'T SEE WHAT YOU MEAN

7 Q I MEAN YOU WOULDN'T WANT TO GIVE IT, BUT IF
8 YOU FELT OBLIGATED TO GIVE IT, YOU COULD GIVE THE
9 DEATH PENALTY, IS THAT CORRECT?

10 A YEAH

11 MR TINSLEY THAT'S ALL

12 THE COURT MR JONES?

13 EXAMINATION

14 BY MR JONES

15 Q MR KLUGH, HOW YOU DOING THIS AFTERNOON?

16 A ALL RIGHT

17 Q MY NAME'S TOWNES JONES I'M YOUR SOLICITOR
18 HERE IN ABBEVILLE COUNTY THIS IS MIKE COULTER
19 HE'S THE DEPUTY SOLICITOR IN ABBEVILLE COUNTY THE
20 QUESTIONS I HAVE TO ASK YOU CONCERN THE DEATH
21 PENALTY, AND WE'RE JUST TRYING TO FIND OUT WHAT YOUR
22 FEELINGS ARE, AND I WANT TO ASK YOU THIS QUESTION I
23 THINK THE JUDGE ASKED YOU I CAN'T REMEMBER EXACTLY
24 WHAT YOUR ANSWER WAS IF YOU'VE GIVEN YOURSELF
25 FREEDOM IN A MURDER CASE TO DECIDE THE PUNISHMENT,

1 AND, YOU KNOW, THERE'S NO PRESSURE FROM ANYBODY
2 IT'S JUST YOU YOU RIGHT THERE YOURSELF, MR KLUGH,
3 MAKING THE DECISION IN A MURDER CASE, AND YOU HAVE A
4 CHOICE YOU COULD CHOOSE LIFE OR YOU COULD CHOOSE
5 DEATH WHICH ONE WOULD YOU CHOOSE?

6 A WELL, I'LL BE HONEST I'D CHOOSE LIFE

7 Q ALL RIGHT AND I THINK THE JUDGE ASKED YOU IF
8 YOU WOULD ALWAYS CHOOSE LIFE IF YOU HAD A CHOICE, IF
9 IT WAS YOUR CHOICE TO DECIDE WHAT THE PUNISHMENT IS
10 IN A MURDER CASE YOU GOT TWO CHOICES TO DECIDE
11 WHAT THE PUNISHMENT IS IN A MURDER CASE DEATH OR
12 LIFE WHAT WOULD YOUR CHOICE BE?

13 A LIFE

14 Q WOULD THAT BE YOUR CHOICE ALL THE TIME?

15 A ACCORDING TO, YOU KNOW, WHAT THE CIRCUMSTANCE

16 Q UH-HUH (AFFIRMATIVE) WELL, AND SO YOU'RE
17 SAYING, THEN, THAT UNDER CERTAIN CIRCUMSTANCES, AND
18 THE REASON I'M ASKING THIS QUESTION IS BECAUSE
19 THERE'S NO RIGHT OR WRONG ANSWER YOU UNDERSTAND
20 THAT, DON'T YOU?

21 A UH-HUH (AFFIRMATIVE)

22 Q THERE'S NO RIGHT OR WRONG ANSWER IT'S JUST -
23 - IT'S JUST THE WAY YOU FEEL IT'S JUST -- YOU KNOW
24 WHAT THE RIGHT ANSWER IS?

25 A I BELIEVE SO

1 Q WHAT IS THE RIGHT ANSWER?

2 A LIFE

3 Q NO, SIR THE RIGHT ANSWER IS THE HONEST
4 ANSWER I SUGGEST TO YOU, AND I ASK YOU TO THINK
5 ABOUT THE FACT THAT THE RIGHT ANSWER IS THE HONEST
6 ANSWER WHATEVER THE TRUTH IS

7 A YES, SIR

8 Q AND WHATEVER -- YOU HAVE TO BE HONEST WITH
9 YOURSELF BEFORE YOU CAN BE HONEST WITH OTHERS

10 A THAT'S RIGHT

11 Q AND DON'T YOU AGREE THAT THE ONLY WAY YOU CAN
12 BE HONEST WITH YOURSELF IS TO REACH DOWN DEEP INSIDE
13 YOUR MIND AND YOUR HEART AND YOUR SOUL SO YOU CAN
14 KNOW YOURSELF AND KNOW WHAT YOU'RE CAPABLE OF DOING
15 AND WHAT YOU'RE NOT CAPABLE OF DOING?

16 A YEAH

17 Q ARE YOU CAPABLE OF SENTENCING ANOTHER HUMAN
18 BEING TO DEATH?

19 A I BELIEVE SO

20 Q YOU BELIEVE SO?

21 A UH-HUH (AFFIRMATIVE)

22 Q AND SO YOU'RE TELLING US THAT IF YOU SIT ON A
23 JURY AND YOU FIND A DEFENDANT GUILTY OF MURDER AND
24 YOU LISTEN TO THE CIRCUMSTANCES IN AGGRAVATION AND
25 THE CIRCUMSTANCES IN MITIGATION, THAT IS, REASONS

1 WHY THE PUNISHMENT SHOULD BE DEATH AND THE REASONS
2 WHY THE PUNISHMENT SHOULD BE LIFE?

3 A YEAH

4 Q YOU HAVE TO GO ONE MORE STEP THEY MAY HAVE
5 TOLD YOU ABOUT THIS YOU HAVE TO SIGN YOUR NAME ON
6 A PIECE OF A PAPER SENTENCING THAT HUMAN BEING TO
7 DEATH YOU HAVE TO WRITE DOWN THAT YOU, MR JAMES
8 KLUGH, DO SENTENCE HIM TO DEATH IS THAT SOMETHING
9 THAT YOU WOULD BE ABLE TO DO, ALSO?

10 A WELL, THAT'S KIND OF A HARD QUESTION

11 Q SIR?

12 A THAT'S KIND OF A HARD QUESTION

13 Q YES, SIR, AND I'M SORRY I HAVE TO ASK YOU
14 THESE HARD QUESTIONS, BUT THIS IS A HARD, SERIOUS
15 BUSINESS WE'RE DOING YOU UNDERSTAND THAT, DON'T
16 YOU?

17 A YEAH

18 Q AND WE HAVE TO KNOW SO THAT WE CAN KNOW, YOU
19 KNOW, WHAT KIND OF DECISION TO MAKE YOU UNDERSTAND
20 THAT, DON'T YOU?

21 A YEAH

22 Q AND WE BASICALLY, YOU KNOW -- IT'S NO
23 REFLECTION ON ANYBODY WHAT THEIR ANSWER IS IT'S
24 JUST A MATTER OF WHAT THE TRUTH IS, AND THAT'S ALL
25 WE'RE TRYING TO FIGURE OUT WHAT THE TRUTH IS AND

1 WHAT THE HONEST ANSWER IS YOU KNOW, MR KLUGH, I'M
2 GOING TO ASK YOU DON'T YOU THINK THAT THE BEST WAY
3 TO GIVE THE MOST HONEST ANSWER IS TO REALLY PUT
4 YOURSELF IN THAT SITUATION?

5 A YES, SIR

6 Q YOU KNOW WHAT LIKE SOME PEOPLE JUMP OFF A
7 CLIFF WITH A PIECE OF RUBBER BAND TIED AROUND THEIR
8 LEG AND IT JERKS THEM UP AND DOWN ON IT? YOU KNOW
9 WHAT I'M TALKING ABOUT THERE? THAT KIND OF THING
10 THERE?

11 A UH-UH (NEGATIVE)

12 Q BUNGEE JUMPING? HAVE YOU EVER HEARD OF THAT?

13 A YEAH

14 Q WOULD YOU DO THAT?

15 A NO, SIR

16 Q YOU KNOW YOU WOULDN'T DO THAT, DON'T YOU?

17 A UH-HUH (AFFIRMATIVE)

18 Q WELL, I WANT YOU TO THINK ABOUT SENTENCING
19 SOMEBODY TO DEATH THE SAME WAY YOU THINK ABOUT
20 BUNGEE JUMPING IN THAT CONCEPTUAL FRAME OF ACTIVITY
21 COULD YOU SIGN YOUR NAME ON A PIECE OF PAPER
22 SENTENCING SOMEBODY TO DIE?

23 A I DON'T BELIEVE I WOULD I WOULDN'T WANT TO
24 DO THAT

25 Q YES, SIR THAT'S AFTER THINKING ABOUT IT,

1 PUTTING IT INTO A REALISTIC SENSE AND FRAME OF MIND,
2 AND BEING HONEST WITH YOURSELF AND ME, ISN'T IT?

3 A YES

4 Q SIR?

5 A YES

6 Q SO AFTER YOU'VE THOUGHT ABOUT IT CAREFULLY AND
7 THOUGHT ABOUT IT DEEPLY AND HONESTLY, THE FACT OF
8 THE MATTER IS YOU WOULD NOT BE ABLE TO SIGN YOUR
9 NAME SENTENCING ANOTHER HUMAN BEING TO DEATH, WOULD
10 YOU?

11 A NO, SIR

12 Q I MEAN, THAT'S THE TRUTH, ISN'T IT?

13 A YES

14 Q AND YOU WOULDN'T DO IT, WOULD YOU?

15 A WELL, I WOULDN'T DO IT ON MY OWN

16 Q JUST A MINUTE, MR KLUGH I HAVE TO LOOK AT
17 YOUR

18 --- EXCUSE ME, MR KLUGH, ONE SECOND MR KLUGH,
19 BASICALLY WHAT I WANT TO ASK YOU NOW INVOLVES SOME
20 OF THE ANSWERS YOU'VE GIVEN US HERE THIS AFTERNOON
21 AND THE REASON I ASK YOU TO TRY TO BE AS HONEST WITH
22 US AS YOU CAN, YOU KNOW, WITH REGARD TO THE EXTENT
23 THAT YOU KNOW WHAT THE ANSWER IS IS THAT YOU
24 WOULDN'T WANT TELL US SOMETHING TO BE SO TODAY, AND
25 THEN ONCE, YOU KNOW, WE GET YOU ON THE JURY AND GET

1 GOING INTO TRIAL AND GET A WEEK OR SO INTO THE
2 PROCESS AND YOU GO, "OOPS I SHOULDN'T HAVE TOLD
3 THEM I COULD DO IT BECAUSE I CAN'T " THAT WOULDN'T
4 BE FAIR, WOULD IT?

5 A NO

6 Q SO IF YOU CAN DO IT, FINE BUT IF YOU CAN'T
7 DO IT, TELL US NOW SO WE'LL KNOW

8 A WELL, LIKE I SAID, IF I HAD TO SIGN IT, I
9 WOULD SIGN IT

10 Q BUT THE JUDGE TOLD YOU YOU DON'T HAVE TO THE
11 JUDGE SAID THAT'S PART OF BEING A JUROR NOBODY CAN
12 MAKE YOU DO ANYTHING YOU DON'T HAVE TO DO
13 ANYTHING YOU HAVE A RIGHT AS A JUROR TO DO WHAT
14 YOU WANT TO DO

15 A OKAY

16 Q SO YOU DON'T HAVE TO DO ANYTHING WHAT I'M
17 ASKING YOU -- SINCE YOU KNOW THAT YOU DON'T HAVE TO,
18 WOULD YOU? YOU KNOW YOU DON'T HAVE TO NOBODY'S
19 GONNA MAKE YOU DO ANYTHING IF YOU GET ON THIS
20 JURY, YOU'LL KNOW THAT THE JUDGE WILL TELL YOU
21 THAT EVERYBODY WILL TELL YOU THAT NOBODY CAN
22 MAKE YOU DO ANYTHING IT'S YOUR DECISION YOU
23 DON'T HAVE TO DO ANYTHING SO WHAT I'M ASKING IS
24 KNOWING THAT YOU DON'T HAVE TO, WOULD YOU?

25 A WELL -- WELL, I WOULD IF HE'S FOUND GUILTY

1 Q YES, SIR AND, MR KLUGH, I HAVE TO GO BACK
2 TO THE ONE OTHER SITUATION THERE YOU WOULD THEN
3 ALSO BE ABLE TO SIGN YOUR NAME?

4 A YES, SIR

5 Q AND DO YOU FEEL THE SAME WAY ABOUT SIGNING
6 YOUR NAME AS YOU DO THE SENTENCE, TOO? YOU COULD DO
7 THAT, MR KLUGH?

8 A YEAH

9 MR JONES WELL, MR KLUGH, ON
10 BEHALF OF THE STATE OF SOUTH CAROLINA AND THE
11 VICTIMS IN THIS CRIME, I APPRECIATE YOUR RESPONSES

12 FURTHER EXAMINATION

13 BY THE COURT

14 Q MR KLUGH, LET ME JUST ASK YOU A COUPLE OF
15 ADDITIONAL QUESTIONS SO I CAN BE CERTAIN IN MY MIND
16 THAT I UNDERSTAND PERHAPS YOU HAVE EXPRESSED YOUR
17 OPINION AS BEST THAT YOU KNOW HOW I JUST WANT TO
18 BE CERTAIN THAT I HAVE A CLEAR UNDERSTANDING AS TO
19 WHAT YOUR VIEW AND OPINION IS SO I DON'T WANT YOU
20 TO FEEL LIKE THAT I'M PRESSING YOU FOR ANY MORE
21 INFORMATION OR THAT THERE'S ANY REASON FOR ME TO ASK
22 THESE QUESTIONS OTHER THAN I SIMPLY WANT TO BE
23 CERTAIN THAT I UNDERSTAND WHAT YOUR VIEW IS, OKAY?

24 A OKAY

25 Q NOW, YOU INDICATED EARLIER WHEN ASKED IF YOU

1 COULD SENTENCE SOMEONE TO DEATH OR IF YOU COULD SIGN
2 A FORM SENTENCING A PERSON TO DEATH, YOU INDICATED
3 THAT YOU COULD OR YOU WOULD SIGN IF YOU HAD TO AND
4 WHY I WANT TO BE CERTAIN THAT I UNDERSTAND AND THAT
5 YOU UNDERSTAND IS DO YOU APPRECIATE THE FACT THAT
6 YOU WILL NEVER HAVE TO SENTENCE SOMEBODY TO DEATH?
7 IN OTHER WORDS, THE LAW NEVER REQUIRES THAT A JURY
8 SENTENCE SOMEONE TO DIE NO MATTER WHAT THE
9 CIRCUMSTANCES ARE THE LAW SIMPLY ALLOWS A JURY TO
10 MAKE THAT DECISION IF THE JURY FINDS THAT TO BE THE
11 RIGHT THING TO DO AS THEY SEE IT IN THE CASE YOU
12 UNDERSTAND THAT?

13 A YES

14 Q SO THE LAW NEVER REQUIRES THAT YOU SENTENCE
15 SOMEBODY TO DEATH, AND, THEREFORE, THE LAW WOULD NOT
16 REQUIRE THAT YOU SIGN A FORM UNLESS -- UNLESS YOU
17 MADE THE DECISION THAT THAT PERSON SHOULD DIE NOW,
18 IF YOU MAKE THAT DECISION THAT THAT PERSON SHOULD
19 DIE BASED UPON YOUR VIEW OF THE EVIDENCE, THEN THE
20 LAW DOES REQUIRE YOU TO SIGN A FORM INDICATING THAT
21 THAT IS WHAT YOU THINK IS APPROPRIATE BUT DO YOU
22 UNDERSTAND THAT YOU CAN NEVER BE REQUIRED NO MATTER
23 WHAT THE CIRCUMSTANCES ARE AS MAY BE ESTABLISHED BY
24 THE EVIDENCE, YOU ARE NEVER REQUIRED TO SENTENCE
25 SOMEONE TO DIE? YOU ALWAYS HAVE THE CHOICE BETWEEN

1 A DEATH SENTENCE AND A LIFE SENTENCE, AND YOU CAN
2 SENTENCE SOMEONE TO LIFE FOR SOME REASON OR FOR NO
3 REASON DURING THE SENTENCING PHASE OF THE TRIAL DO
4 YOU UNDERSTAND THAT?

5 A YEAH

6 Q IN OTHER WORDS, THAT'S YOUR CHOICE, AND YOU
7 CAN GIVE A REASON FOR IT OR GIVE NO REASON FOR IT
8 NO ONE WILL ASK YOU WHY YOU MADE THAT DECISION FOR
9 LIFE, BUT IF YOU MAKE THE DECISION FOR DEATH, THEN
10 THE LAW WOULD AND THEN AND ONLY THEN WOULD THE LAW
11 REQUIRE THAT YOU SIGN THE FORM DO YOU UNDERSTAND
12 THAT?

13 A YES

14 Q ALL RIGHT NOW, I SIMPLY WANT TO ASK YOU THIS
15 ONE ADDITIONAL TIME, AND THAT IS GIVEN THE FACT
16 THAT YOU WOULD ALWAYS HAVE THAT CHOICE, IT WOULD
17 ALWAYS BE YOUR CHOICE, AND NO ONE COULD REQUIRE YOU
18 TO DO ANYTHING GIVEN THE FACT THAT YOU WOULD
19 ALWAYS HAVE THAT CHOICE, COULD YOU, UNDER SOME
20 CIRCUMSTANCE, SENTENCE A PERSON TO DIE?

21 A NO, SIR

22 Q IF YOU WERE GIVEN THE CHOICE, AND YOU WOULD
23 ALWAYS HAVE THE CHOICE, WOULD YOU ALWAYS CHOOSE THE
24 LIFE IMPRISONMENT OPTION AS OPPOSED TO THE DEATH
25 SENTENCE?

1 A NO

2 Q WHEN WOULD YOU NOT CHOOSE LIFE IMPRISONMENT?

3 WAS MY QUESTION CLEAR OR NOT?

4 A IT WAS -- I WOULD HAVE TO GO ALONG WITH THE
5 JURY

6 Q YOU WOULD GO ALONG WITH THE JURY?

7 A YES

8 Q IN OTHER WORDS, ARE YOU SAYING THAT IF THE
9 MAJORITY OF PEOPLE SAID, "WELL, WE THINK IT OUGHT TO
10 BE THIS," THEN YOU WOULD GO ALONG WITH THEM SIMPLY
11 BECAUSE THEY WERE IN THE MAJORITY?

12 A I BELIEVE SO

13 Q WELL, IF SOME PEOPLE BELIEVED ONE THING, AND
14 YOU BELIEVED DIFFERENTLY, THAT IS, YOU BELIEVE THE
15 OPPOSITE OF WHAT THEY BELIEVE, WOULD YOU GO ALONG
16 WITH THEM SOLELY BECAUSE THEY TOLD YOU TO DO SO?

17 A NO, SIR

18 Q WELL, WOULD YOU BE WILLING TO STICK TO YOUR
19 OWN OPINION AND OWN VIEW IF IT DIFFERED WITH THAT OF
20 SOME OTHER JUROR IF YOU THOUGHT IT TO BE REASONABLE?

21 A WELL, JUST LIKE I SAID I WOULD I WOULD GO,
22 YOU KNOW, GO ALONG WITH THE OTHER

23 Q WELL, THAT'S WHAT I'M ASKING YOU WOULD YOU
24 LET SOMEONE ELSE DECIDE THE CASE FOR YOU?

25 A NO, SIR

1 Q WELL, IF YOU HAD A -- IF YOU HAD A FIRM BELIEF
2 AND A FIRM REASONABLE BELIEF, AND SOME OTHER JUROR
3 HAD A DIFFERENT BELIEF, WOULD YOU GO ALONG WITH HIM
4 SIMPLY BECAUSE THEY WANTED YOU TO GO ALONG WITH IT?

5 A NO, SIR

6 Q WELL, THEN, WHAT DID YOU MEAN WHEN YOU WOULD
7 GO ALONG WITH THE OTHER JUROR?

8 A I DON'T KNOW

9 Q WELL, LET ME JUST SIMPLY ASK YOU ONE MORE
10 TIME I'M NOT GOING TO PRESSURE YOU ANYMORE ABOUT
11 IT, AND I'LL LEAVE YOU ALONE BUT IF YOU HAD A
12 CHOICE BETWEEN THE TWO, SENTENCING SOMEONE TO LIFE
13 OR SENTENCING SOMEONE TO DEATH, IS THERE SOME TIME
14 WHERE YOU COULD SENTENCE A PERSON TO DEATH?

15 A NO, SIR

16 THE COURT DOES THE DEFENSE WISH TO
17 ASK ANY ADDITIONAL QUESTIONS?

18 MR TINSLEY JUST ONE, YOUR HONOR

19 FURTHER EXAMINATION

20 BY MR TINSLEY

21 Q I BRIEFLY -- I -- MR KLUGH, I BELIEVE ON YOUR
22 QUESTIONNAIRE THAT YOU SAID YOU DID SERVE ON A
23 MURDER TRIAL ONCE BEFORE, IS THAT RIGHT?

24 A NO, SIR

25 Q WHAT DID YOU MEAN BY YOUR RESPONSE TO QUESTION

1 NUMBER THIRTEEN? IT SAID, HAVE YOU PREVIOUSLY BEEN
2 ON JURY DUTY? YOU SAID YES DID YOU SERVE? YES
3 AND THEN IT ASKED IF YOU WERE THE FOREPERSON YOU
4 SAID YOU CAN'T RECALL THEN IT SAID, NATURE OF THE
5 CASE, AND YOU PUT MURDER WHAT WAS THAT ALL ABOUT?

6 A I AIN'T NEVER BEEN ON NO CASE LIKE THAT --
7 LIKE THAT

8 Q THE JUDGE IS GOING TO SHOW IT TO YOU NOW
9 COULD YOU LOOK AT IT AND EXPLAIN -- POSSIBLY EXPLAIN
10 YOUR RESPONSE?

11 THE COURT MR KLUGH, HERE'S A COPY
12 OF YOUR -- OF YOUR QUESTIONNAIRE DOES THAT APPEAR
13 TO BE A COPY OF YOUR QUESTIONNAIRE?

14 JUROR YEAH

15 THE COURT ALL RIGHT MR TINSLEY
16 IS REFERRING TO THIS QUESTION NUMBER THIRTEEN YOU
17 CAN TAKE THAT

18 JUROR I HAVEN'T BEEN ON A CASE LIKE
19 THAT

20 EXAMINATION CONTINUED BY MR TINSLEY

21 Q THEN IS YOUR ANSWER REFERRING TO THIS CASE?

22 A NO, SIR

23 Q WELL, CAN YOU EXPLAIN THE ANSWER, SIR?

24 A I AIN'T NEVER BEEN ON A MURDER CASE --
25 APPEARED ON A MURDER CASE

1 Q I WAS JUST CURIOUS HOW THAT GOT ON THAT PIECE
2 OF PAPER DID SOMEBODY HELP YOU FILL THIS OUT OR
3 WRITE IT WRONG OR ---

4 A WELL, THE ONE THAT FILLED IT OUT PROBABLY
5 WROTE IT WRONG

6 MR TINSLEY OH, OKAY OKAY I
7 SEE THAT'S ALL, JUDGE

8 THE COURT ALL RIGHT, MR KLUGH, IF
9 YOU'LL JUST STAND DOWN WITH THE BAILIFF AND STEP
10 OUTSIDE THAT DOOR, I'LL BRING YOU BACK IN JUST A
11 MINUTE

12 (JUROR DOES AS INSTRUCTED)

13 THE COURT WHAT SAY THE STATE?

14 MR JONES THE STATE'S A LITTLE
15 CONFUSED, YOUR HONOR

16 THE COURT I UNDERSTAND

17 MR JONES THE FIRST JUROR WE'VE HAD
18 THAT'S BEEN VACILLATED TO THE EXTENT THAT HE HAS
19 HE WENT -- WITH YOU AT FIRST, HE COULDN'T DO IT
20 WITH THE DEFENSE HE COULD WITH ME HE COULDN'T
21 THEN WITH ME HE COULD THEN BACK TO YOU HE
22 COULDN'T SO, YOU KNOW, HE'S TWO COULDN'TS -- THREE
23 COULDN'TS AND TWO COULDS, AND I JUST DON'T, YOU KNOW
24 -- OUR POSITION IS THAT IT'S UP TO YOU, JUDGE

25 THE COURT OKAY MR TINSLEY?

1 MR TINSLEY JUDGE, A SERIOUS
2 QUESTION IS COMPETENCE, AND I THINK WITH THIS
3 PARTICULAR JUROR, I MEAN, BEYOND ALL THE OTHER
4 ISSUES ---
5 THE COURT YOU BELIEVE HIM NOT TO BE
6 QUALIFIED?
7 MR TINSLEY SIR?
8 THE COURT DO YOU BELIEVE HIM NOT TO
9 BE QUALIFIED?
10 MR TINSLEY I BELIEVE SO, SIR
11 THE COURT I AGREE WITH YOU I'M
12 GOING TO DISQUALIFY THE JUROR
13 (JUROR RE-ENTERS THE COURTROOM)
14 THE COURT MR KLUGH, WE'RE GOING
15 TO EXCUSE YOU FROM SERVICE IN THE CASE, BUT WE DO
16 APPRECIATE YOU COMING DOWN AND PARTICIPATING TO THIS
17 POINT IT WILL NOT BE NECESSARY THAT YOU CALL BACK
18 OR COME BACK ANY FURTHER
19 JUROR OKAY
20 THE COURT THANK YOU, SIR
21 JUROR ALL RIGHT
22 THE COURT MR TINSLEY, I UNDERSTOOD
23 CORRECTLY YOU ARE AGREEING TO DISQUALIFY THE
24 JUROR?
25 MR TINSLEY THAT'S CORRECT, YOUR

1 HONOR

2 THE COURT YES, SIR ALL RIGHT

3 (JUROR EXITS COURTROOM)

4 (JUROR IS NOT QUALIFIED)

5 THE COURT ARE WE READY FOR MR

6 TOMPKINS? TOMPKINS TOMPKINS

7 (JUROR #196 PRESENTED AT 2 30 O'CLOCK P M)

8 EXAMINATION BY THE COURT

9 Q THANK YOU, MR TOMPKINS IF YOU'LL HAVE A
10 SEAT RIGHT THERE, I'LL BE RIGHT WITH YOU GOOD
11 AFTERNOON, MR TOMPKINS AS YOU KNOW, I INDICATED
12 TO YOU EARLIER, YOU ARE HERE FOR THE PURPOSE OF
13 ANSWERING SOME ADDITIONAL QUESTIONS PRIOR TO US
14 BEGINNING WITH JURY SELECTION IN THIS CASE YOU'LL
15 BE ASKED SOME QUESTIONS BY MYSELF AS WELL AS THE
16 LAWYERS INVOLVED IN THE CASE FOR EACH SIDE, AND ALL
17 WE'RE ASKING IS THAT YOU GIVE US THE BEST ANSWER
18 THAT YOU CAN TRY TO BE AS OPEN AND HONEST AS YOU
19 CAN IN RESPONDING TO THE QUESTIONS THERE ARE NO
20 RIGHT ANSWERS THERE ARE NO WRONG ANSWERS WE JUST
21 SIMPLY NEED TO KNOW HOW YOU FEEL ABOUT PARTICULAR
22 SUBJECTS AND YOUR VIEWS AND OPINIONS ON THOSE
23 PARTICULAR SUBJECTS

24 YOU WILL RECALL THAT WHEN YOU WERE
25 BROUGHT INTO COURT WITH THE OTHER JURORS, THAT THE

1 JURY PANEL WAS PLACED UNDER OATH, AND SO YOU HAVE
2 PREVIOUSLY BEEN SWORN, AND YOU REMAIN UNDER OATH FOR
3 THE PURPOSE OF THESE QUESTIONS, ALSO YOU INDICATED
4 THAT YOU HAD FILLED OUT YOUR QUESTIONNAIRE, AND I
5 HAVE A COPY OF THAT YOU ALSO INDICATED THAT YOU
6 HAD RECEIVED MY LETTER WHICH SET FORTH CERTAIN
7 INSTRUCTIONS WHICH I REQUESTED THAT YOU NOT ALLOW
8 YOURSELF TO BE EXPOSED TO ANY TYPE OF MEDIA COVERAGE
9 AND THAT YOU NOT HAVE ANY DISCUSSIONS OR
10 CONVERSATIONS ABOUT THE CASE DO YOU RECALL THAT
11 INSTRUCTION?

12 A YES, SIR

13 Q HAVE YOU COMPLIED WITH THAT INSTRUCTION?

14 A YES, SIR

15 Q HAVE YOU BEEN EXPOSED TO ANY MEDIA COVERAGE OR
16 ANY CONVERSATIONS SINCE YOU RECEIVED THE LETTER?

17 A NO, SIR

18 Q WHAT ABOUT BEFORE YOU RECEIVED THAT LETTER?

19 A NO, SIR

20 Q YOU HAD NO MEDIA EXPOSURE OR DISCUSSIONS ABOUT
21 THE CASE?

22 A NO, SIR

23 Q ALL RIGHT NOW, IN THIS CASE THE DEFENDANT IS
24 CHARGED WITH THE CRIME OF MURDER THE STATE IS
25 ALLEGING CERTAIN AGGRAVATING CIRCUMSTANCES THAT ARE

1 SET FORTH IN THE LAW, AND WHEN A PERSON IS FOUND
2 GUILTY OF MURDER AND THERE IS AN AGGRAVATING
3 CIRCUMSTANCE PROVEN, THE LAW PERMITS THE STATE TO
4 SEEK THE DEATH PENALTY AGAINST THAT INDIVIDUAL
5 NOW, IN A CASE SUCH AS THAT, IT WOULD BE
6 ACCOMPLISHED IN TWO SEPARATE PHASES OR STAGES THE
7 FIRST PHASE OR THE FIRST STAGE WOULD BE THE STAGE
8 WHERE THE JURY WOULD DECIDE WHETHER OR NOT THE
9 PERSON IS GUILTY OF THE CRIME OF MURDER IF THE
10 JURY DOES FIND THAT PERSON TO BE GUILTY OF MURDER
11 BEYOND A REASONABLE DOUBT, THEN WE WOULD PROCEED TO
12 THE SECOND STAGE OF THE TRIAL WHERE THERE WOULD BE
13 ADDITIONAL EVIDENCE RECEIVED, AND THE JURY WOULD
14 THEN DECIDE WHAT PUNISHMENT SHOULD BE IMPOSED,
15 WHETHER IT BE A SENTENCE OF DEATH OR A SENTENCE OF
16 LIFE IMPRISONMENT NOW, IF YOU WERE SELECTED TO
17 SERVE AS A JUROR, DO YOU UNDERSTAND THAT THE BURDEN
18 IS ALWAYS UPON THE STATE IN BRINGING A CHARGE
19 AGAINST ANOTHER INDIVIDUAL TO PROVE THAT THEY ARE
20 GUILTY BEYOND A REASONABLE DOUBT BEFORE A VERDICT OF
21 GUILTY CAN BE RETURNED?

22 A YES, SIR

23 Q YOU UNDERSTAND THE BURDEN IS NEVER UPON A
24 DEFENDANT TO PROVE THAT HE IS NOT GUILTY OR TO PROVE
25 THAT HE IS INNOCENT?

1 A YES, SIR

2 Q AND IF YOU WERE SELECTED TO SERVE IN THE TRIAL
3 OF A CASE WHERE A PERSON IS CHARGED WITH A CRIME,
4 COULD YOU FAIRLY CONSIDER ALL OF THE EVIDENCE
5 PRESENTED? AND IF YOU WERE CONVINCED BASED UPON
6 THAT EVIDENCE THAT THE PERSON HAD BEEN PROVEN GUILTY
7 BEYOND A REASONABLE DOUBT, COULD YOU RETURN A
8 VERDICT OF GUILTY?

9 A YES, SIR

10 Q IF YOU CONSIDERED ALL OF THE EVIDENCE AND YOU
11 WERE NOT CONVINCED BEYOND A REASONABLE DOUBT THAT
12 THAT PERSON WAS GUILTY OF THE CRIME, COULD YOU
13 RETURN A VERDICT OF NOT GUILTY?

14 A YES, SIR

15 Q NOW, I WANT YOU TO ASSUME FOR THE MOMENT, AND
16 I WANT YOU TO ONLY ASSUME IT FOR THE PURPOSE OF THIS
17 QUESTION, AND THAT IS TO ASSUME THAT YOU'VE BEEN
18 SELECTED, ASSUME YOU'VE PARTICIPATED IN THE TRIAL OF
19 THE CASE, AND ASSUME THAT YOU AND ELEVEN OTHER
20 JURORS HAVE FOUND BEYOND A REASONABLE DOUBT THE
21 DEFENDANT TO BE GUILTY OF THE CRIME OF MURDER AND
22 YOU'VE ALSO FOUND THAT THERE IS SOME AGGRAVATING
23 CIRCUMSTANCE THAT ACCOMPANIED THAT MURDER, AND YOU
24 ALSO FOUND THAT BEYOND A REASONABLE DOUBT IN THAT
25 EVENT, THERE WOULD BE ADDITIONAL EVIDENCE PRESENTED

1 THERE WOULD BE EVIDENCE PRESENTED THAT RELATES TO
2 CIRCUMSTANCES OF AGGRAVATION THERE WOULD BE
3 EVIDENCE PRESENTED THAT RELATES TO CIRCUMSTANCES OF
4 MITIGATION, AND BY THAT I SIMPLY MEAN THAT THERE
5 WOULD BE EVIDENCE PRESENTED THAT MIGHT TEND TO
6 SUPPORT THE MORE SERIOUS PUNISHMENT BEING IMPOSED,
7 AND THERE MIGHT BE EVIDENCE PRESENTED THAT WOULD
8 SUPPORT THE LESS SERIOUS PUNISHMENT BEING IMPOSED
9 BUT THE JURY WOULD ALWAYS HAVE THAT DECISION THE
10 JURY WOULD DECIDE IF A PERSON WAS TO BE SENTENCED TO
11 DEATH OR WHETHER THE PERSON WOULD BE SENTENCED TO
12 LIFE NOW, IF YOU WERE FACED WITH THAT DECISION,
13 AND YOU PARTICIPATED IN THE PENALTY PHASE OF THE
14 TRIAL, AND YOU HAD HEARD ALL THE EVIDENCE, BOTH IN
15 AGGRAVATION AND IN MITIGATION, WOULD YOU BE ABLE TO
16 FAIRLY CONSIDER ALL THAT EVIDENCE IN ARRIVING AT
17 YOUR DECISION?

18 A YES, SIR

19 Q AND AFTER YOU HAD CONSIDERED ALL OF THAT
20 EVIDENCE, COULD YOU SENTENCE A PERSON TO DEATH IF
21 YOU THOUGHT THAT THE CIRCUMSTANCES SUPPORTED THAT
22 DECISION?

23 A YES, SIR

24 Q AND COULD YOU SENTENCE A PERSON TO LIFE
25 IMPRISONMENT IF YOU THOUGHT THE CIRCUMSTANCES

1 SUPPORTED THAT DECISION?

2 A YES, SIR

3 Q AS I'VE STATED, YOU WOULD ALWAYS HAVE THE
4 DECISION, YOU AND YOUR FELLOW JURORS EACH JUROR
5 WOULD MAKE UP HIS OR HER OWN MIND REGARDING THAT,
6 BUT THE DECISION OF THE JURY MUST BE UNANIMOUS IN
7 ORDER FOR A DECISION TO BE RETURNED IF YOU WERE
8 FACED WITH THAT DECISION, THAT IS, WHETHER TO IMPOSE
9 A DEATH SENTENCE OR WHETHER TO IMPOSE A LIFE
10 SENTENCE, WOULD YOU ALWAYS ELECT ONE OF THOSE FORMS
11 OF PUNISHMENT OVER THE OTHER?

12 A YES, SIR

13 Q AND WHICH WOULD YOU ELECT? WHICH WOULD YOU
14 SELECT IF YOU HAD THE CHOICE? IS MY QUESTION CLEAR
15 OR ---

16 A YEAH YOU'RE CLEAR

17 Q IT WAS?

18 A UH-HUH (AFFIRMATIVE)

19 Q OKAY

20 A DEATH

21 Q IF A PERSON WAS FOUND GUILTY OF MURDER AND AN
22 AGGRAVATING CIRCUMSTANCE WERE PROVEN, AND YOU WERE
23 CONVINCED OF EACH OF THOSE FACTS BEYOND A REASONABLE
24 DOUBT, WOULD YOU ALWAYS CHOOSE THE DEATH SENTENCE
25 OVER THE LIFE SENTENCE?

1 A YES, SIR

2 Q IS THERE SOME CIRCUMSTANCE THAT YOU COULD
3 CONSIDER GIVING A PERSON LIFE IMPRISONMENT EVEN
4 THOUGH THEY HAVE BEEN CONVICTED OF MURDER AND AN
5 AGGRAVATING CIRCUMSTANCE HAS BEEN PROVEN?

6 A MAYBE

7 Q I'M JUST SIMPLY ASKING, AND I UNDERSTAND THAT
8 THESE ARE DIFFICULT QUESTIONS PERHAPS AND, OF
9 COURSE, YOU DON'T KNOW WHAT THE EVIDENCE IS GONNA
10 BE, AND I'M NOT ASKING YOU TO MAKE A DECISION AS TO
11 WHAT YOU WOULD DO I'M SIMPLY TRYING TO DETERMINE
12 WHETHER OR NOT YOU COULD FAIRLY CONSIDER BOTH OF
13 THOSE SENTENCING OPTIONS DEPENDING UPON WHAT THE
14 FACTS SHOWED

15 A YES, SIR I COULD

16 Q AND SO YOU COULD CONSIDER BOTH AS A
17 POSSIBILITY DEPENDING UPON THE FACTS?

18 A RIGHT

19 Q OKAY UP TO THIS POINT, HAVE YOU FORMED OR
20 EXPRESSED ANY OPINION AS TO WHAT YOU BELIEVE THE
21 ULTIMATE DECISION OF THE JURY SHOULD BE?

22 A NO, SIR

23 Q DO YOU KNOW OF ANY REASON WHY YOU COULD NOT BE
24 FAIR AND IMPARTIAL IF YOU WERE SELECTED AS A JUROR
25 IN THE TRIAL OF THIS CASE?

1 A NO, SIR

2 Q DO YOU UNDERSTAND THAT IF YOU ARE SELECTED,
3 THAT IT WOULD BE NECESSARY THAT YOU BE SEQUESTERED
4 FOR A PERIOD OF TIME BETWEEN SEVEN AND TEN DAYS AS I
5 INDICATED TO YOU EARLIER?

6 A YES, SIR

7 Q IF YOU WERE SO SEQUESTERED, WOULD THAT POSE
8 ANY UNREASONABLE HARDSHIP OR HEALTH RISK TO YOU?

9 A NO, SIR

10 Q WOULD YOU BE WILLING TO ACCOMMODATE THAT
11 INCONVENIENCE AND THAT HARDSHIP IF CALLED UPON TO
12 SERVE?

13 A YES, SIR

14 THE COURT ALL RIGHT THANK YOU,
15 SIR PLEASE ANSWER ANY QUESTIONS THAT MR TINSLEY
16 AND MR JONES MIGHT HAVE FOR YOU

17 MR TINSLEY THANK YOU, YOUR HONOR
18 EXAMINATION BY MR TINSLEY

19 Q MR TOMPKINS, ASSUMING THAT MY CLIENT, MR
20 HUGHEY, WAS CONVICTED OF A MURDER AND AN AGGRAVATING
21 CIRCUMSTANCE, COULD YOU CONSIDER A LIFE SENTENCE IN
22 LIEU OF THE DEATH PENALTY IN THIS CASE?

23 A YES

24 Q OKAY AND ASSUMING THAT HE WERE CONVICTED OF
25 TWO MURDERS WITH AN ACCOMPANYING AGGRAVATING

1 CIRCUMSTANCE SUCH AS BURGLARY, COULD YOU STILL
2 CONSIDER A LIFE SENTENCE, OR WOULD YOU BE DEATH
3 SENTENCE ONLY?

4 A WELL, IT'S A POSSIBILITY

5 Q STILL A POSSIBILITY?

6 A THAT'S RIGHT

7 Q YOU TALKED ABOUT EARLIER WITH THE JUDGE THAT
8 THERE WAS -- YOU HAVEN'T READ ANYTHING ABOUT THIS
9 CASE, IS THAT RIGHT?

10 A THAT'S RIGHT

11 Q HAVE YOU HEARD ANYTHING ABOUT IT ON THE STREET
12 OR FRIENDS OR ANYBODY LIKE THAT?

13 A NOT REALLY

14 Q NOT REALLY? NOW ---

15 A I HAVEN'T TALKED TO ANYBODY ABOUT THIS

16 Q WELL, HAVE YOU LISTENED TO ANYBODY?

17 A NO, SIR

18 Q NOW, YOU LIVE OVER IN DUE WEST, IS THAT RIGHT?

19 A THAT'S RIGHT

20 Q AND YOU DON'T HAVE ANY RELATIONSHIP WITH THE
21 HARRIS', DO YOU?

22 A NO, SIR

23 Q DO YOU HAVE ANY RELATIONSHIP WITH THE
24 JACKSONS?

25 A NO, SIR

1 Q HOW ABOUT THE HUGHEYS?

2 A NO, SIR

3 Q SO YOU DON'T HAVE ANY TIES WITH ANY OF THE

4 PARTIES IN THE CASE?

5 A THAT'S RIGHT

6 Q BUT YOU -- EVEN THOUGH YOU SAID AT FIRST YOU

7 WOULD ALWAYS GIVE THE DEATH PENALTY, RIGHT?

8 A THAT'S RIGHT

9 Q BUT NOW YOU'RE SAYING THAT YOU COULD CONSIDER

10 A LIFE SENTENCE, IS THAT RIGHT?

11 A THAT'S RIGHT

12 Q OKAY WHAT MADE YOU CHANGE YOUR ANSWER THERE?

13 A I WAS THINKING ABOUT WHAT THE JUDGE SAID ABOUT

14 THE EVIDENCE

15 Q AND DO YOU UNDERSTAND THE TERM AGGRAVATION?

16 A YES, SIR

17 Q AND DO YOU UNDERSTAND THE TERM MITIGATION SUCH

18 AS REASONS WHY SOMETHING HAPPENED?

19 A YES, SIR

20 Q OKAY AND AS SUCH, COULD YOU SIT BACK, CLEAR

21 YOUR HEAD ON THIS CASE, AND LISTEN TO THE EVIDENCE

22 FROM THE WITNESS STAND BECAUSE YOU DON'T KNOW

23 ANYTHING ABOUT THE EVIDENCE, RIGHT?

24 A THAT'S RIGHT

25 Q COULD YOU WEIGH IT IN AN UNBIASED MANNER? AND

1 BY THAT, I MEAN NOT HAVING ANY INCLINATION TOWARDS
2 ONE SIDE OR THE OTHER?

3 A YES, SIR

4 Q OKAY AND AS SUCH, YOU WOULD BE WILLING TO
5 CONSIDER WHATEVER MITIGATION THAT MR HUGHEY OFFERED
6 IN THE CASE OR NOT?

7 A YES, SIR

8 Q SIR?

9 A YES, SIR

10 Q YOU COULD?

11 A YES

12 Q OKAY AND YOU -- WOULD YOU REFRAIN FROM
13 MAKING UP YOUR MIND TILL YOU HEARD EVERYTHING?

14 A THAT'S RIGHT NOT UNTIL I'VE HEARD
15 EVERYTHING

16 MR TINSLEY ALL RIGHT THANK YOU
17 SO MUCH

18 THE COURT SOLICITOR?

19 EXAMINATION BY MR JONES

20 Q MR TOMPKINS, MY NAME IS TOWNES JONES I'M
21 YOUR SOLICITOR HERE IN ABBEVILLE HOW YOU DOING
22 THIS AFTERNOON?

23 A ALL RIGHT

24 Q THIS IS MIKE COULTER HE'S THE DEPUTY
25 SOLICITOR FOR THE TOWN, AND HE'LL BE PUTTING UP MOST

1 OF THE EVIDENCE IN THE CASE, THAT IS, QUESTIONING
2 THE WITNESSES AND INTRODUCING EVIDENCE AND THAT SORT
3 OF THING I JUST WANTED TO MEET YOU AND SPEAK TO
4 YOU AND ASK YOU ONE OTHER QUESTION THERE'S A
5 REQUIREMENT THAT IF THE JURY, YOU KNOW, MEETS AND
6 DECIDES THE CRIME HAS BEEN PROVED --

7 A THAT'S RIGHT

8 Q -- AND HE'S GUILTY OF MURDER, THEN YOU GO TO
9 THAT SECOND PHASE AND YOU DECIDE WHAT THE PUNISHMENT
10 IS AND IF THE JURY DECIDES THAT THE PROPER
11 PUNISHMENT IS THE DEATH PENALTY, EACH JUROR HAS TO
12 SIGN THEIR NAME ON A PIECE OF PAPER IMPOSING THE
13 DEATH SENTENCE YOU COULD DO THAT, COULDN'T YOU,
14 SIR?

15 A YES, SIR

16 MR JONES THANK YOU THAT'S ALL I
17 HAVE

18 THE COURT ALL RIGHT THANK YOU,
19 MR TOMPKINS IF YOU'LL JUST STAND OUT AT THAT DOOR
20 ONE MINUTE, WE'LL BRING YOU BACK
21 (JUROR DOES AS INSTRUCTED)

22 THE COURT ANY OBJECTION TO THE
23 JUROR BEING FOUND QUALIFIED?

24 MR JONES NONE FROM THE STATE, YOUR
25 HONOR

1 MR TINSLEY WELL, OBVIOUSLY, YOUR
2 HONOR, HE VACILLATED, BUT NO OBJECTION

3 THE COURT OKAY ALL RIGHT ASK
4 MR TOMPKINS TO COME BACK IN
5 (JUROR RE-ENTERS THE COURTROOM)

6 THE COURT MR TOMPKINS, YOU HAVE
7 BEEN QUALIFIED TO SERVE AS A JUROR IN THE POOL FROM
8 WHICH THE JURY WILL ACTUALLY BE SELECTED WE HAVE
9 OTHER JURORS WE MUST QUESTION ONCE WE HAVE A LARGE
10 ENOUGH POOL, THEN WE WILL BRING YOU ALL BACK IN
11 ORDER TO SELECT AN ACTUAL JURY THAT WILL
12 PARTICIPATE SO WE'LL BE GETTING IN TOUCH WITH YOU
13 SOMETIME NEXT WEEK, HOPEFULLY EARLY NEXT WEEK WE
14 NEED YOUR PHONE NUMBERS WHERE WE CAN REACH YOU THE
15 CLERK WILL NEED TO HAVE THOSE

16 JUROR OKAY

17 THE COURT AND WE WILL CALL YOU AND
18 TRY TO GIVE YOU AS MUCH NOTICE AS POSSIBLE BEFORE WE
19 ASK YOU TO COME BACK SO IF YOU'LL JUST COME AROUND
20 AND GIVE THE CLERK THOSE NUMBERS, HOME, WORK, AND
21 ANY OTHER PLACE YOU CAN BE LOCATED

22 JUROR 379-8507 IS MY HOME PHONE
23 WORK IS 459-4206

24 CLERK YOU CAN BE REACHED AT ANY ONE
25 OF THOSE NUMBERS?

1 JUROR THAT'S RIGHT COULD I GO
2 BACK TO WORK OR ---

3 THE COURT YEAH BEFORE YOU GO, LET
4 ME TELL YOU THAT YOU'RE ALSO TO KEEP IN MIND THE
5 CAUTION I HAVE GIVEN YOU EARLIER, AND THAT'S YOU NOT
6 ALLOW YOURSELF TO BE EXPOSED TO ANY MEDIA COVERAGE
7 AND HAVE NO DISCUSSIONS ABOUT THE CASE WITH ANYONE
8 YOU'RE PERMITTED TO GO BACK TO WORK --

9 JUROR OKAY

10 THE COURT -- JUST ON YOUR REGULAR
11 SCHEDULE SO LONG AS WE HAVE THAT NUMBER --

12 JUROR ALL RIGHT

13 THE COURT -- WHERE WE CAN GET IN
14 TOUCH WITH YOU

15 JUROR OKAY ALL RIGHT

16 THE COURT ALL RIGHT THE NEXT

17 JUROR IS BRIAN CHRISLEY

18 (JUROR #42 PRESENTED AT 2 40 O'CLOCK P M)

19 EXAMINATION BY THE COURT

20 Q GOOD AFTERNOON, MR CHRISLEY AS I INDICATED
21 TO YOU EARLIER, WE'VE GOT SOME ADDITIONAL QUESTIONS
22 TO ASK YOU, AND THE PURPOSE IS TO SIMPLY FIND OUT
23 YOUR VIEWS AND OPINIONS AND CERTAIN SUBJECTS SO
24 IT'S IMPORTANT THAT YOU ANSWER THE QUESTIONS AS
25 OPENLY AND AS HONESTLY AS YOU CAN IF FOR SOME

1 REASON YOU MISUNDERSTAND A QUESTION OR IT'S NOT
2 STATED CLEARLY, PLEASE LET ME KNOW WE'LL TRY TO
3 CLARIFY IT FOR YOU AS BEST THAT WE CAN AS I SAY,
4 WE'RE SIMPLY JUST TRYING TO FIND OUT WHAT YOUR VIEWS
5 AND OPINIONS ARE ON PARTICULAR SUBJECTS SO THERE
6 ARE NO RIGHT OR WRONG ANSWERS WE JUST SIMPLY NEED
7 TO KNOW HOW YOU THINK AND FEEL ON PARTICULAR
8 MATTERS

9 YOU WILL RECALL THAT WHEN YOU REPORTED WITH
10 YOUR FELLOW JURORS, YOU WERE SWORN AND PLACED UNDER
11 OATH AT THAT TIME? YOU DO RECALL THAT?

12 A YES, SIR

13 Q YOU REMAIN UNDER OATH FOR THE PURPOSE OF THESE
14 QUESTIONS, ALSO SO THESE QUESTIONS ARE BEING
15 ASKED, AND YOU ARE ANSWERING THEM UNDER OATH YOU
16 INDICATED YOU HAVE FILLED OUT THE QUESTIONNAIRE
17 WHICH I HAVE A COPY OF AND THAT YOU HAD RECEIVED MY
18 LETTER INSTRUCTING YOU NOT TO DISCUSS THE CASE NOR
19 TO ALLOW YOURSELF TO BE EXPOSED TO ANY TYPE OF MEDIA
20 COVERAGE THAT RELATES TO THIS CASE FOR WHICH YOU MAY
21 BE SELECTED DID YOU FOLLOW THOSE INSTRUCTIONS?

22 A YES, SIR

23 Q WERE YOU EXPOSED TO ANY MEDIA COVERAGE OR ANY
24 CONVERSATIONS OR DISCUSSIONS REGARDING THE CASE?

25 A NO, SIR

1 Q WERE YOU EXPOSED TO ANY TYPE OF MEDIA COVERAGE
2 OR CONVERSATIONS ABOUT THE CASE BEFORE YOU RECEIVED
3 MY LETTER?

4 A NO, SIR

5 Q NOW, IN THIS CASE AS YOU ARE AWARE, THE STATE
6 HAS CHARGED THE DEFENDANT WITH THE CRIME OF MURDER
7 UNDER CERTAIN CIRCUMSTANCES, THE LAW PROVIDES THAT A
8 PERSON WHO IS CONVICTED OR FOUND GUILTY OF THE CRIME
9 OF MURDER AND WHERE THERE ARE CERTAIN OTHER
10 CIRCUMSTANCES ESTABLISHED, THE LAW PERMITS THE STATE
11 TO SEEK THE DEATH PENALTY THAT SIMPLY MEANS THAT
12 IT PERMITS THEM TO SEEK IT, BUT THE JURY MAKES THE
13 DECISION AS TO WHETHER OR NOT A DEATH SENTENCE OR A
14 LIFE SENTENCE WOULD BE IMPOSED DEPENDING UPON THEIR
15 VIEW OF THE FACTS IN THE CASE NOW, IN A CASE SUCH
16 AS THIS, IT WOULD TAKE PLACE IN TWO SEPARATE STAGES
17 OR PHASES THE FIRST PHASE WOULD BE THE GUILT
18 PHASE THAT WOULD BE THE PART OF THE TRIAL WHERE
19 THE JURY WOULD CONSIDER THE EVIDENCE AND DECIDE
20 WHETHER OR NOT THE PERSON HAS BEEN FOUND GUILTY OF
21 THE CRIME OF MURDER AND ANY OTHER CRIME THAT MIGHT
22 BE ALLEGED THE SECOND PHASE OF THE TRIAL WOULD BE
23 WHERE THE JURY WOULD CONSIDER ADDITIONAL EVIDENCE
24 THAT RELATES TO WHAT THE APPROPRIATE SENTENCE OR
25 PUNISHMENT MIGHT BE YOU UNDERSTAND THAT?

1 A YES, SIR

2 Q AND, OF COURSE, YOU WOULD ONLY GO TO THE
3 SECOND PHASE, THE SENTENCING PHASE, IF THE JURY HAD
4 FOUND BEYOND A REASONABLE DOUBT A PERSON TO BE
5 GUILTY OF MURDER AND SOME AGGRAVATING CIRCUMSTANCE
6 HAD ALSO BEEN PROVEN BEYOND A REASONABLE DOUBT IF
7 YOU WERE SELECTED TO SERVE IN THE TRIAL OF THIS
8 CASE, COULD YOU FAIRLY, IN THE GUILT PHASE, CONSIDER
9 ALL THE EVIDENCE OFFERED, AND IF YOU WERE CONVINCED
10 BEYOND A REASONABLE DOUBT THAT THE DEFENDANT WAS
11 GUILTY, COULD YOU RETURN A VERDICT OF GUILTY?

12 A YES, SIR

13 Q IF YOU WERE NOT CONVINCED BEYOND A REASONABLE
14 DOUBT THAT THE INDIVIDUAL HAD BEEN PROVEN GUILTY,
15 COULD YOU RETURN A VERDICT OF NOT GUILTY?

16 A YES, SIR

17 Q DO YOU UNDERSTAND THAT IN BRINGING THESE
18 CHARGES AGAINST THE DEFENDANT, THE BURDEN IS ALWAYS
19 UPON THE STATE TO PROVE THAT HE IS GUILTY?

20 A YES, SIR

21 Q THE BURDEN IS NEVER UPON A DEFENDANT TO PROVE
22 THAT HE IS NOT GUILTY OR TO PROVE THAT HE IS
23 INNOCENT?

24 A YES, SIR

25 Q AND YOU COULD FOLLOW THAT PROPOSITION OF LAW?

1 A YES, SIR

2 Q NOW, I WANT YOU TO ASSUME, AND I WANT YOU TO
3 ASSUME IT ONLY FOR THE PURPOSE OF THESE QUESTIONS
4 THAT I'M ABOUT TO ASK, ASSUME THAT YOU HAVE
5 PARTICIPATED IN THE TRIAL ASSUME THAT YOU AND YOUR
6 FELLOW JURORS HAVE FOUND THE DEFENDANT GUILTY OF THE
7 CRIME OF MURDER, AND ASSUME THAT YOU FIND SOME
8 AGGRAVATING CIRCUMSTANCE THAT
9 -- TO HAVE BEEN PROVEN BEYOND A REASONABLE DOUBT
10 IN THAT EVENT, WE WOULD PROCEED TO A PENALTY PHASE
11 THERE WOULD BE ADDITIONAL EVIDENCE RECEIVED THERE
12 WILL BE EVIDENCE OFFERED IN AGGRAVATION, EVIDENCE
13 OFFERED IN MITIGATION AGGRAVATION MEANING EVIDENCE
14 THAT MIGHT TEND TO SUPPORT THE MORE SEVERE
15 PUNISHMENT BEING IMPOSED MITIGATING EVIDENCE MEANS
16 EVIDENCE THAT MIGHT TEND TO SUPPORT THE LESS SERIOUS
17 PUNISHMENT BEING IMPOSED, WITH THE TWO CHOICES THAT
18 THE JURY WOULD HAVE AND THE ONLY TWO, THAT IS, A
19 SENTENCE OF DEATH OR A SENTENCE OF LIFE
20 IMPRISONMENT IF YOU WERE PARTICIPATING IN THE
21 TRIAL OF THE CASE, COULD YOU FAIRLY CONSIDER ALL OF
22 THE EVIDENCE IN AGGRAVATION AND ALL OF THE EVIDENCE
23 IN MITIGATION BEFORE ARRIVING AT YOUR DECISION?

24 A YES, SIR

25 Q AFTER YOU HAD CONSIDERED ALL THAT EVIDENCE, IF

1 YOU THOUGHT IT APPROPRIATE UNDER THE CIRCUMSTANCES
2 AS YOU FOUND THEM TO BE, WOULD YOU BE ABLE TO
3 SENTENCE A PERSON TO DEATH?

4 A NO, SIR

5 Q AS I TOLD YOU, THE JURY WOULD HAVE A CHOICE,
6 AND IT WOULD DEPEND UPON THE EVIDENCE IN THE CASE,
7 BUT THE JURY MAKES THE DECISION BUT THE JURY WOULD
8 ALWAYS HAVE A CHOICE OF SENTENCING A PERSON
9 CONVICTED TO LIFE OR TO SENTENCE THAT PERSON TO
10 DEATH UNDER THE RIGHT CIRCUMSTANCES IF YOU ALWAYS
11 HAD THAT CHOICE, IF YOU WERE FACED WITH A CHOICE,
12 BUT THE DECISION WAS ALWAYS YOURS, WOULD YOU ALWAYS
13 CHOOSE ONE FORM OF PUNISHMENT OVER ANOTHER?

14 A YES, SIR

15 Q WHICH ONE WOULD YOU CHOOSE?

16 A WELL, I DON'T BELIEVE IN THE DEATH PENALTY I
17 DON'T THINK IT'S RIGHT SO I WOULDN'T BE ABLE TO DO
18 THAT

19 Q OKAY SO YOU WOULD ALWAYS CHOOSE --

20 A I WOULD ALWAYS CHOOSE THE OPTION OF ---

21 Q -- THE OPTION OF LIFE IMPRISONMENT?

22 A YES, SIR

23 Q CAN YOU THINK OF ANY CIRCUMSTANCE THAT YOU
24 BELIEVE IT WOULD BE APPROPRIATE TO SENTENCE A PERSON
25 TO DIE FOR?

1 A NO, SIR

2 Q AND SO YOU COULD NEVER DO THAT?

3 A NO, SIR

4 THE COURT ALL RIGHT ANY QUESTIONS
5 FROM MR TINSLEY?

6 MR TINSLEY JUST A COUPLE, YOUR
7 HONOR THANK YOU

8 THE COURT ALL RIGHT

9 EXAMINATION BY MR TINSLEY

10 Q SO THERE WOULD BE NO CASE WHERE YOU WOULD --
11 YOU WOULD VOTE FOR THE DEATH PENALTY, IS THAT RIGHT,
12 MR CHRISLEY?

13 A YES, SIR

14 Q AND THAT'S REGARDLESS OF HOW BAD YOU THOUGHT A
15 CRIME WAS OR ANYTHING LIKE THAT?

16 A YES, SIR

17 Q AND IS THAT BASED UPON YOUR BELIEF AND FAITH
18 AND THAT SORT OF THING?

19 A YES, SIR

20 Q OKAY AND CAN YOU TELL ME FURTHER WHY YOU
21 FEEL THAT WAY OR WHY YOU COULDN'T DO THE DEATH
22 PENALTY?

23 A WELL, I JUST -- I DON'T BELIEVE NO MATTER HOW
24 BAD A CRIME SOMEBODY DONE, THEY DON'T DESERVE TO
25 DIE

1 MR TINSLEY OKAY THANK YOU

2 THE COURT WELL, MR CHRISLEY, IF
3 YOU'LL JUST STAND OUTSIDE WITH THE BAILIFF OUTSIDE
4 THAT DOOR, I'LL BRING YOU BACK IN JUST A MINUTE
5 (JUROR DOES AS INSTRUCTED)

6 THE COURT ANY REASON WHY THE JUROR
7 SHOULD BE QUALIFIED?

8 MR JONES NONE FROM THE STATE, YOUR
9 HONOR

10 MR TINSLEY YOUR HONOR, WE WOULD
11 ASK THAT UNDER THE CROSS SECTION OF THE COMMUNITY
12 ARGUMENT THAT HE BE DETAINED IN THE POOL

13 THE COURT ALL RIGHT WELL, I FIND
14 BASED UPON THE TESTIMONY PRESENTED THAT HE HAS
15 INDICATED CLEARLY WITHOUT QUESTION, WITHOUT
16 HESITATION, HE WOULD IN NO CIRCUMSTANCES BE ABLE TO
17 IMPOSE THE DEATH PENALTY UPON ANOTHER INDIVIDUAL NO
18 MATTER WHAT THE CIRCUMSTANCES OF THE CASE ARE, NO
19 MATTER HOW HEINOUS THE CRIME, AND, THEREFORE, I FIND
20 THAT BASED UPON THE FACT THAT HE COULD NOT CONSIDER
21 BOTH FORMS OF PUNISHMENT HE'S NOT QUALIFIED TO
22 SERVE IN THE TRIAL OF THIS CASE ASK MR CHRISLEY
23 TO COME BACK
24 (JUROR RE-ENTERS THE COURTROOM)

25 THE COURT MR CHRISLEY, WE'RE

1 GOING TO EXCUSE YOU FROM SERVICE IN THE TRIAL OF
2 THIS CASE WE APPRECIATE YOUR COMING DOWN HERE
3 WE'RE SORRY FOR THE INCONVENIENCE I HOPE IT HAS
4 NOT BEEN TOO HARD UPON YOU IT WILL NOT BE
5 NECESSARY THAT YOU CALL BACK OR COME BACK ANY
6 FURTHER THANKS AGAIN

7 JUROR OKAY CAN I LEAVE OUT?
8 THE COURT YOU JUST GO OUT THE BACK
9 DOOR, PLEASE

10 JUROR OKAY

11 (JUROR EXITS COURTROOM)

12 (JUROR IS NOT QUALIFIED)

13 THE COURT ALL RIGHT WE SHOULD
14 HAVE MR JONES AND MR DRAFT BACK THERE, AND WE'VE
15 ALREADY HEARD FROM MR FLEMING
16 ALL RIGHT ARE WE READY FOR THE NEXT JUROR, MR
17 JONES?

18 (JUROR #110 PRESENTED AT 2 50 O'CLOCK P M)

19 EXAMINATION BY THE COURT

20 Q GOOD AFTERNOON, MR JONES

21 A GOOD AFTERNOON

22 Q ARE YOU JAMES S JONES, JUNIOR?

23 A THAT'S RIGHT CORRECT

24 Q MR JONES, AS I INDICATED TO YOU EARLIER,
25 WE'VE GOT ADDITIONAL QUESTIONS THAT WE'RE GOING TO

1 BE ASKING YOU I'LL ASK YOU SOME THE LAWYERS FOR
2 EACH SIDE MAY BE ASKING YOU SOME THE PURPOSE OF
3 THE QUESTIONS IS NOT IN ANY WAY TO PRY INTO YOUR
4 PERSONAL OPINIONS OR AFFAIRS, BUT THERE ARE CERTAIN
5 MATTERS THAT WE NEED TO KNOW YOUR VIEWS AND OPINIONS
6 ON, AND SO WE WOULD APPRECIATE IT IF YOU WOULD
7 RESPOND TO THE QUESTIONS AS OPENLY AND AS HONESTLY
8 AS YOU CAN, KEEPING IN MIND THAT THERE ARE NO RIGHT
9 AND WRONG ANSWERS WE JUST SIMPLY NEED TO KNOW HOW
10 YOU FEEL ABOUT CERTAIN MATTERS

11 NOW, YOU WERE PREVIOUSLY SWORN WHEN THE ENTIRE
12 JURY VENIRE APPEARED AND THE CLERK PLACED YOU UNDER
13 OATH, AND SO YOU REMAIN UNDER OATH FOR THE PURPOSE
14 OF THESE QUESTIONS, ALSO YOU INDICATED THAT YOU
15 COMPLETED THE QUESTIONNAIRE IT DID NOT NEED TO BE
16 CHANGED OR AMENDED, AND THAT YOU ALSO RECEIVED MY
17 LETTER INSTRUCTING YOU NOT TO DISCUSS THE CASE OR BE
18 EXPOSED TO ANY TYPE OF MEDIA COVERAGE DID YOU
19 FOLLOW THOSE INSTRUCTIONS UPON RECEIPT OF THE
20 LETTER?

21 A I DID, SIR

22 Q SO YOU'VE HAD NO MEDIA EXPOSURE OR
23 CONVERSATIONS OR DISCUSSIONS ABOUT THE CASE?

24 A NO, SIR

25 Q WHAT ABOUT BEFORE YOU RECEIVED MY LETTER?

1 A NO, I DIDN'T -- DIDN'T HAVE ANY DISCUSSIONS

2 Q NO MEDIA COVERAGE OR DISCUSSIONS?

3 A I HAD ONE PERSON TRY TO DISCUSS IT WITH ME,
4 BUT I ELECTED NOT TO DISCUSS IT WITH HIM

5 Q OKAY AND WAS THAT BEFORE YOU RECEIVED THE
6 LETTER OR AFTER?

7 A AFTERWARDS

8 Q OKAY THAT WAS AFTERWARDS?

9 A RIGHT

10 Q AND YOU JUST REFUSED TO DISCUSS IT WITH HIM?

11 A RIGHT

12 Q BUT YOU'VE HAD NO MEDIA EXPOSURE?

13 A NO MEDIA EXPOSURE

14 Q ALL RIGHT NOW, AS I INDICATED TO YOU, THERE
15 ARE CERTAIN QUESTIONS WE NEED TO ASK SIMPLY TO GET
16 YOUR VIEW AND OPINION ON CERTAIN THINGS A JURY IS
17 SELECTED FOR THE PURPOSE OF CONSIDERING EVIDENCE,
18 APPLYING LAW, DETERMINING FACTS, AND ARRIVING AT
19 DECISIONS, AND THAT'S WHAT A JUROR DOES WHEN THEY'RE
20 CALLED UPON TO SERVE IN THIS CASE, IT'S A CRIMINAL
21 CASE THE STATE HAS CHARGED THE DEFENDANT WITH THE
22 CRIME OF MURDER UNDER SOME CIRCUMSTANCES, THE LAW
23 PERMITS THE STATE TO SEEK THE DEATH PENALTY AGAINST
24 AN INDIVIDUAL WHO IS CONVICTED OF THE CRIME OF
25 MURDER, AND THE LAW SETS FORTH WHAT THOSE

1 CIRCUMSTANCES ARE BUT BASICALLY, IN ORDER FOR THE
2 STATE TO SEEK THE DEATH PENALTY, A PERSON MUST BE
3 FOUND GUILTY OF THE CRIME OF MURDER, AND THERE MUST
4 BE SOME AGGRAVATING CIRCUMSTANCE THAT ACCOMPANIES
5 THAT PARTICULAR CRIME, THE CRIME OF MURDER

6 NOW, IF YOU WERE SELECTED TO SERVE IN
7 THE TRIAL OF THIS AND ANY CASE OF THIS TYPE, IT
8 OCCURS IN TWO STAGES THE FIRST STAGE IS CALLED THE
9 GUILT PHASE THE SECOND STAGE IS CALLED THE PENALTY
10 PHASE THAT SIMPLY MEANS GUILT MUST BE DETERMINED
11 BEFORE YOU COULD PROCEED TO ANY SUBSEQUENT STAGE
12 SO IN THE FIRST PHASE, EVIDENCE WOULD BE PRESENTED,
13 AND THE JURY WOULD BE CALLED UPON TO DECIDE WHETHER
14 OR NOT THE DEFENDANT HAS BEEN PROVEN TO BE GUILTY OF
15 THE CRIMES ALLEGED AGAINST HIM BY THE STATE DO YOU
16 UNDERSTAND THAT THE BURDEN IS ALWAYS UPON THE STATE
17 IN BRINGING A CRIMINAL CHARGE TO PROVE THAT PERSON
18 GUILTY TO THE SATISFACTION OF A JURY BEYOND A
19 REASONABLE DOUBT BEFORE THE PERSON CAN BE FOUND
20 GUILTY OF THAT CRIME?

21 A I UNDERSTAND THAT

22 Q DO YOU UNDERSTAND THAT THE BURDEN IS NEVER
23 UPON A DEFENDANT TO PROVE THAT HE IS NOT GUILTY OR
24 TO PROVE THAT HE IS INNOCENT?

25 A RIGHT

1 Q IF YOU WERE SELECTED TO SERVE, AS IN THE GUILT
2 PHASE, AFTER YOU CONSIDERED ALL THE EVIDENCE
3 PRESENTED, IF YOU WERE CONVINCED BEYOND A REASONABLE
4 DOUBT THAT A DEFENDANT WAS GUILTY, COULD YOU FIND
5 HIM GUILTY?

6 A I SURE COULD

7 Q IF YOU WERE NOT CONVINCED BASED UPON THE
8 EVIDENCE THAT THE DEFENDANT HAD BEEN PROVEN GUILTY,
9 COULD YOU FIND HIM NOT GUILTY?

10 A NOT GUILTY

11 Q NOW, I WANT YOU TO ASSUME, AND ASSUME IT ONLY
12 FOR THE PURPOSE OF THIS QUESTION THAT I'M ABOUT TO
13 ASK YOU ASSUME THAT YOU HAVE BEEN SELECTED
14 ASSUME THAT YOU HAVE PARTICIPATED IN THE GUILT
15 PHASE ASSUME THAT YOU AND YOUR FELLOW JURORS HAVE
16 RETURNED A VERDICT OF GUILTY AS TO THE CRIME OF
17 MURDER ALSO ASSUME THAT YOU HAVE FOUND AN
18 AGGRAVATING CIRCUMSTANCE BEYOND A REASONABLE DOUBT
19 TO HAVE ACCOMPANIED THAT MURDER IN THAT EVENT, THE
20 JURY WOULD BE CALLED UPON TO DECIDE THE PUNISHMENT
21 IN THE CASE BEFORE YOU WOULD DECIDE THE
22 PUNISHMENT, THERE WOULD BE ADDITIONAL EVIDENCE
23 PRESENTED THERE WOULD BE EVIDENCE RELATING TO
24 CIRCUMSTANCES OF AGGRAVATION THERE WOULD BE
25 EVIDENCE RELATING TO CIRCUMSTANCES OF MITIGATION

1 THAT SIMPLY MEANS THAT THERE WOULD BE EVIDENCE
2 PRESENTED THAT MIGHT TEND TO SUPPORT THE MORE
3 SERIOUS PUNISHMENT BEING IMPOSED, THAT BEING THE
4 DEATH PENALTY, AND THERE WILL BE EVIDENCE PRESENTED
5 THAT MIGHT SUPPORT THE LESS SERIOUS FORM OF
6 PUNISHMENT BEING IMPOSED, THAT BEING LIFE
7 IMPRISONMENT BUT THE JURY WOULD ALWAYS HAVE THAT
8 CHOICE THERE WOULD BE TWO, A SENTENCE OF DEATH OR
9 A SENTENCE OF LIFE NOW, IF YOU WERE PARTICIPATING
10 IN THE PENALTY PHASE, WOULD YOU BE ABLE TO FAIRLY
11 CONSIDER ALL OTHER EVIDENCE OFFERED IN AGGRAVATION
12 AND IN MITIGATION?

13 A I THINK I COULD BE FAIR, YES, SIR

14 Q AFTER YOU HAVE CONSIDERED ALL THAT ADDITIONAL
15 EVIDENCE, AND YOU HAD DECIDED WHAT YOU THOUGHT THE
16 APPROPRIATE PUNISHMENT SHOULD BE, WOULD YOU,
17 DEPENDING UPON WHAT THE CIRCUMSTANCES ARE, BE ABLE
18 TO SENTENCE A PERSON TO DEATH?

19 A I -- I -- I BELIEVE I COULD UNDER THE
20 CIRCUMSTANCES IF IT WAS A SITUATION THAT I THOUGHT
21 WOULD RENDER THE DEATH PENALTY, I COULD

22 Q ALL RIGHT AND COULD YOU ALSO CONSIDER
23 SENTENCING A PERSON TO LIFE IF YOU THOUGHT IT
24 APPROPRIATE UPON THE FACTS OF THE CASE?

25 A YES, I COULD

1 Q OKAY SO YOU COULD CONSIDER BOTH FORMS OF THE
2 PUNISHMENT?

3 A CORRECT

4 Q YOU'RE NOT PREDISPOSED TO ONE OR THE OTHER?

5 A NO

6 Q IT WOULD DEPEND UPON THE FACTS?

7 A RIGHT

8 Q UP TO THIS POINT, HAVE YOU ALREADY FORMED OR
9 EXPRESSED ANY OPINION AS TO WHAT YOU BELIEVE THE
10 APPROPRIATE DECISION SHOULD BE?

11 A NO

12 Q DO YOU HAVE ANY REASON TO BELIEVE THAT YOU
13 COULD NOT BE A FAIR AND IMPARTIAL JUROR IF YOU WERE
14 SELECTED TO SERVE IN THIS CASE?

15 A NO

16 Q AS I INDICATED TO YOU EARLIER, IF YOU ARE
17 SELECTED TO SERVE, IT WOULD BE NECESSARY THAT YOU BE
18 SEQUESTERED FOR THE DURATION OF THE TRIAL THAT
19 WOULD NOT START TODAY IT WOULD START SOMETIME NEXT
20 WEEK THE PERIOD OF SEQUESTRATION WOULD LIKELY BE
21 BETWEEN SEVEN AND TEN DAYS IF YOU WERE SELECTED TO
22 SERVE, WOULD THAT SEQUESTRATION POSE AN UNREASONABLE
23 HARDSHIP UPON YOU OR A HEALTH RISK TO YOU?

24 A NO, BUT LET ME JUST MENTION ONE THING I'M A
25 -- I'M NOT AN INSULIN DEPENDENT DIABETIC, BUT

1 YESTERDAY POSED A LITTLE PROBLEM TO ME BEING HERE
2 FROM ONE-THIRTY UNTIL EIGHT I HAVE TO EAT EVERY
3 FOUR OR FIVE HOURS, AND I DEPEND ON TABLETS, BUT I
4 CAN FUNCTION AS LONG AS I CAN EAT EVERY FOUR TO FIVE
5 HOURS OR SOMETHING YEAH

6 Q YOU UNDERSTAND NOW THAT WE KNOW OF THAT
7 CIRCUMSTANCE, THAT THAT WOULD BE PROVIDED FOR YOU?

8 A IF IT'S PROVIDED FOR ME, I'M ALL RIGHT

9 Q YOU WOULD BE ABLE TO DO THAT?

10 A OH, YEAH RIGHT

11 Q AND HAD I KNOWN IT ---

12 A I'M FINE AS LONG AS I HAVE SOMETHING TO EAT

13 Q WHAT I'M SAYING, HAD I KNOWN IT YESTERDAY, IT
14 WOULD HAVE BEEN PROVIDED FOR YOU YESTERDAY, TOO
15 BUT NOW THAT WE KNOW OF YOUR CIRCUMSTANCE, THAT CAN
16 BE ACCOMMODATED EVEN IF YOU ARE SERVING

17 A RIGHT I'M ALL RIGHT AS LONG I HAVE SOMETHING
18 TO EAT EVERY FOUR TO FIVE HOURS

19 Q OKAY WOULD THAT BE THE ONLY DIFFICULTY THAT
20 YOU WOULD HAVE IN SERVING?

21 A THAT'S RIGHT

22 THE COURT ALL RIGHT, SIR PLEASE
23 ANSWER THE QUESTIONS THE DEFENSE OR THE STATE MAY
24 HAVE FOR YOU

25 EXAMINATION

1 BY MR TINSLEY

2 Q GOOD AFTERNOON, MR JONES MR JONES, WHEN
3 WERE YOU BORN?

4 A PARDON?

5 Q WHEN WERE YOU BORN?

6 A 1938

7 Q OKAY I WONDERED ABOUT THAT BECAUSE THE
8 QUESTIONNAIRE HAD THIRTY-TWO ON IT IF I'M -- ARE YOU
9 JAMES B JONES, JUNIOR?

10 A JAMES S --

11 Q JAMES S ?

12 A -- JONES, JUNIOR

13 Q OKAY I GOT THE WRONG QUESTIONNAIRE THANK
14 YOU AND YOUR WIFE YOU PUT DOWN AS AN EXECUTIVE
15 SECRETARY, IS THAT RIGHT?

16 A THAT'S CORRECT

17 Q OKAY AND FOR WHOM?

18 A FOR SOCIAL SERVICES

19 Q D S S ?

20 A THAT'S RIGHT

21 Q AND WHERE IS THAT?

22 A HERE IN ABBEVILLE COUNTY

23 Q AND DOES SHE WORK HERE IN THE COURTHOUSE OR --

24 -

25 A NO SHE WORKS IN A D S S BUILDING NEXT TO

1 THE HOSPITAL

2 Q D S S NEXT TO THE HOSPITAL? OKAY, SIR AND
3 WHAT'S THE NATURE OF HER POSITION, MORE OR LESS IS
4 WHAT I WANT TO ASK YOU?

5 A WELL, OFFICE MANAGER FOR THE DIRECTOR OF
6 D S S MORE OR LESS, AND IN LINE WITH THE TOTAL
7 OPERATIONS OF THE OFFICE

8 Q OKAY AND NOW YOU'RE RETIRED, IS THAT RIGHT?

9 A THAT'S CORRECT

10 Q OKAY AND YOU -- YOU HAVE ADDITIONAL
11 EDUCATION BEYOND THE HIGH SCHOOL LEVEL, CORRECT?

12 A RIGHT

13 Q I'M HAVING A LITTLE TROUBLE READING ON THE
14 OHIO STATE UNIVERSITY WHAT DID YOU STUDY THERE?

15 A I DID SOME GRADUATE WORK IN PLANT PATHOLOGY

16 Q OKAY AND YOU'RE -- YOU'RE B S , OF COURSE,
17 IS FROM CLEMSON?

18 A RIGHT

19 Q AND YOU'RE -- YOU MENTIONED SOMETHING IN HERE
20 ABOUT CHARLIE MURDOCK WHO IS HE?

21 A CHARLIE MURDOCK WAS A FORMER LAWYER HERE AND
22 ALSO HEAD OF THE VETERAN'S SERVICES HERE MY WIFE
23 WORKED WITH HIM FOR A WHILE

24 THE COURT THERE'S YOUR
25 QUESTIONNAIRE IN CASE YOU NEED IT

1 EXAMINATION CONTINUED BY MR TINSLEY

2 Q AND YOU ALSO MENTIONED THAT SOMEONE TRIED TO
3 SPEAK WITH YOU AFTER YOU GOT THAT LETTER WHO WAS
4 THAT?

5 A WELL, I DON'T REMEMBER IT WAS JUST THE
6 COFFEE CLUB CROWD AT THE COFFEE SHOP, YOU KNOW, AND
7 ---

8 Q DID THEY KNOW YOU HAD GOTTEN THE LETTER?

9 A I THINK THEY ASKED ME DID I GET A LETTER
10 MAYBE ONE OF THEM DID, TOO I DON'T KNOW FOR SURE
11 RIGHT NOW, BUT I SAID, "WELL, LET'S DON'T DISCUSS IT
12 RIGHT NOW "

13 Q OKAY AND ARE YOU ANY KIN TO SOLICITOR JONES
14 SINCE YOUR LAST NAME IS JONES?

15 A (JUROR LAUGHS) NO, I'M NOT I DON'T THINK
16 SO

17 Q AND ARE YOU RELATED IN ANY OTHER FASHION TO
18 ANY OF THE PARTIES IN THIS CASE? THE HARRIS' -- THE
19 HARRIS' OR THE JACKSONS OR THE HUGHEYS?

20 A NO

21 Q AND YOU DON'T KNOW THEM?

22 A DON'T KNOW THEM

23 Q AND YOU DON'T HAVE ANY OPINION AT THIS POINT
24 ABOUT ANY OF THE MATTERS OF THE ULTIMATE ISSUES OF
25 THE CASE?

1 A NO OPINION

2 Q AND AS SUCH, MR JONES, THE JUDGE HAS
3 MENTIONED SOME SERIOUS MATTERS, AND JUST, FOR
4 EXAMPLE, CONSIDER IF THE JUDGE GAVE YOU THE OPTIONS
5 OF GUILTY OF MURDER, GUILTY OF MANSLAUGHTER, OR NOT
6 GUILTY, COULD YOU CONSIDER ALL THREE CHOICES?

7 A I COULD

8 Q AND IF THE EVIDENCE WARRANTED, SAY, A CHOICE
9 OTHER THAN MURDER, COULD YOU GO ALONG WITH THAT IN
10 THE GUILT MATTER?

11 A YES, SIR I COULD IF I WEIGH ALL
12 CIRCUMSTANCES AND EVIDENCE AND EVERYTHING, I COULD
13 WEIGH ALL THREE CATEGORIES

14 MR TINSLEY VERY WELL THANK YOU
15 SO MUCH

16 MR JONES MR JONES, I -- THIS IS
17 MICHAEL COULTER, YOUR DEPUTY SOLICITOR HERE IN
18 ABBEVILLE HE'S JUST GOT A COUPLE OF QUESTIONS FOR
19 YOU HE'S GOING TO BE PRESENTING MOST OF OUR
20 EVIDENCE IN THE CASE ALONG WITH ME, AND HE'S GOT A
21 COUPLE OF QUESTIONS FOR YOU

22 EXAMINATION

23 BY MR COULTER

24 Q JUST REAL BRIEFLY, MR JONES AS I UNDERSTAND
25 IT, YOU SAID THAT YOU NEED TO LISTEN TO EVERYTHING,

1 ALL THE EVIDENCE, BEFORE YOU CAN MAKE A DECISION IN
2 THIS CASE?

3 A THAT'S CORRECT

4 Q ON ANY OF THE ISSUES INVOLVED?

5 A RIGHT

6 Q AND IF YOU GOT TO THE POINT WHERE, BASED ON
7 THE EVIDENCE, YOU FELT WITH THE MURDER CONVICTION
8 AND AN AGGRAVATING CIRCUMSTANCE, THE DEATH PENALTY
9 WAS APPROPRIATE, YOU COULD RETURN THAT SENTENCE?

10 A I COULD YES, SIR

11 Q RIGHT AND I'LL LET YOU KNOW THAT IF, IN
12 FACT, YOU AND YOUR OTHER MEMBERS OF THE JURY FIND
13 THAT THAT'S THE APPROPRIATE SENTENCE, THAT YOU ALL
14 WOULD HAVE TO SIGN WHAT'S REFERRED TO AS A DEATH
15 WARRANT YOU SIGN YOUR NAME ON IT IMPOSING DEATH ON
16 ANOTHER HUMAN BEING, AND YOU COULD DO THAT?

17 A YES, SIR

18 Q ALL RIGHT IF THE CIRCUMSTANCES WERE BAD
19 ENOUGH?

20 A THAT'S CORRECT

21 MR COULTER ALL RIGHT THANK YOU
22 THE COURT ALL RIGHT, MR JONES, IF
23 YOU'LL JUST STEP OUTSIDE WITH THE BAILIFF FOR JUST A
24 MINUTE, I'LL BRING YOU BACK SHORTLY LET ME HAVE
25 YOUR QUESTIONNAIRE BACK, PLEASE THANK YOU

1 (JUROR DOES AS INSTRUCTED)

2 THE COURT ANY OBJECTION TO THE
3 JUROR BEING QUALIFIED?

4 MR JONES NONE ON THE PART OF THE
5 STATE, YOUR HONOR

6 MR TINSLEY NO, YOUR HONOR

7 THE COURT ALL RIGHT HE IS
8 QUALIFIED

9 (JUROR RE-ENTERS THE COURTROOM)

10 THE COURT MR JONES, YOU ARE
11 QUALIFIED TO SERVE AS A JUROR IN THE TRIAL OF THIS
12 CASE RIGHT NOW THAT SIMPLY MEANS THAT YOU WILL BE
13 IN THE POOL OF JURORS FROM WHICH THE ACTUAL JUROR --
14 JURY WILL BE SELECTED WE ARE NOT IN A POSITION TO
15 BEGIN SELECTING THAT AS OF YET BECAUSE WE HAVE OTHER
16 JURORS THAT WE HAVE TO QUESTION AS WE DID YOU SO
17 I'M GOING TO ASK THAT YOU PLEASE BEFORE YOU LEAVE
18 GIVE THE CLERK ALL PHONE NUMBERS WHERE YOU CAN BE
19 REACHED IF WE NEED TO GET A HOLD OF YOU ON SHORT
20 NOTICE IT'S NOT LIKELY WE WILL BE CALLING YOU TO
21 COME BACK BEFORE MONDAY OR TUESDAY OR NEXT WEEK SO
22 YOU CAN CONTINUE WITH YOUR DAILY ROUTINE WE JUST
23 SIMPLY NEED TO BE ABLE TO GET A HOLD OF YOU IN ORDER
24 TO ASK YOU TO COME BACK SO IF YOU'LL GIVE THE
25 CLERK THOSE NUMBERS BEFORE YOU LEAVE, WE WOULD

1 APPRECIATE THAT AND ALSO SIMPLY KEEP IN MIND THAT
2 INSTRUCTION THAT YOU'VE PREVIOUSLY BEEN GIVEN IN THE
3 LETTER, AND THAT IS NOT TO DISCUSS THE CASE WITH
4 ANYONE, AND DO NOT ALLOW YOURSELF TO BE EXPOSED TO
5 ANY MEDIA COVERAGE

6 JUROR OKAY, SIR

7 THE COURT THANK YOU

8 JUROR LET'S SEE HOME IS 246-3695
9 459-2400

10 (JUROR EXITS COURTROOM)

11 (JUROR IS QUALIFIED)

12 THE COURT ALL RIGHT THE NEXT
13 JUROR IS MR DRAFT

14 (JUROR #59 PRESENTED AT 3 05 O'CLOCK P M)

15 EXAMINATION BY THE COURT

16 Q GOOD AFTERNOON, MR DRAFT

17 A GOOD EVENING

18 Q AS I INDICATED TO YOU EARLIER, WE'RE GOING TO
19 BE ASKING YOU SOME ADDITIONAL QUESTIONS, AND THE
20 PURPOSE IS TO SIMPLY FIND OUT YOUR VIEWS AND
21 OPINIONS ON CERTAIN THINGS AND CERTAIN TOPICS
22 THERE ARE NO RIGHT ANSWERS THERE ARE NO WRONG
23 ANSWERS WE JUST SIMPLY NEED TO KNOW WHAT YOUR
24 ANSWERS ARE AS THEY RELATE TO THESE QUESTIONS

25 A ALL RIGHT, SIR

1 Q I'LL BE ASKING YOU SOME QUESTIONS THE
2 LAWYERS MAY ALSO ASK YOU SOME ADDITIONAL QUESTIONS
3 YOU WILL RECALL WHEN YOU FIRST ARRIVED THE ENTIRE
4 JURY PANEL WAS SWORN?

5 A YES, SIR

6 Q YOU REMAIN UNDER OATH FOR THE PURPOSE OF THESE
7 QUESTIONS, ALSO

8 A OKAY

9 Q NOW, YOU INDICATED YOU HAD COMPLETED YOUR
10 QUESTIONNAIRE AND DID NOT NEED TO CHANGE ANYTHING,
11 AND YOU ALSO INDICATED YOU HAD RECEIVED MY LETTER
12 GIVING YOU INSTRUCTIONS ABOUT CONTACT, CONVERSATIONS
13 AND MEDIA EXPOSURE

14 A RIGHT

15 Q HAVE YOU COMPLIED WITH THAT INSTRUCTION?

16 A YES, SIR

17 Q HAVE YOU HAD ANY MEDIA COVERAGE EXPOSURE OR
18 CONVERSATIONS REGARDING THE CASE SINCE YOU RECEIVED
19 THAT LETTER?

20 A NO, SIR

21 Q WHAT ABOUT BEFORE YOU RECEIVED THE LETTER?

22 A I WATCHED T V , SEEN IT ON T V I THINK IN
23 THE PRESS & BANNER WHICH IS THE NEWSPAPER HERE PRIOR
24 -- AT THE TIME IT HAPPENED

25 Q AT ABOUT THE TIME IT'S ALLEGED TO HAVE

1 OCCURRED?

2 A THAT'S RIGHT

3 Q OKAY AND IS THERE ANYTHING THAT YOU SAW ON
4 TELEVISION OR ANYTHING THAT YOU READ IN THE
5 NEWSPAPER THAT WOULD PREVENT YOU FROM BEING ABLE TO
6 BE FAIR AND IMPARTIAL IF YOU WERE SELECTED?

7 A WELL -- EXCUSE ME I REALLY JUST GOT A
8 HIGHLIGHT WITH WHAT HAPPENED SO I REALLY CAN'T SAY
9 THAT I CAN MAKE A JUDGMENT ON ANYTHING AT THE MOMENT
10 BECAUSE ONLY THING -- I JUST KNOW WHAT I SEEN AS,
11 LIKE I SAY, AS HIGHLIGHTED ON T V , AND I WAS KIND
12 OF LIKE JUST GLANCING AT IT AT THE MOMENT SO TO
13 SAY EXACTLY GIVE A JUDGMENT NOW OR SOMETHING LIKE
14 THAT, NO I REALLY COULDN'T

15 Q OKAY WELL, WHAT I'M REALLY JUST TRYING TO
16 FIND OUT YOU UNDERSTAND THERE'S NOTHING WRONG WITH
17 YOUR, PRIOR TO YOUR HAVING RECEIVED MY LETTER,
18 THERE'S NOTHING WRONG WITH YOUR HAVING HEARD ABOUT
19 IT THERE'S NOTHING WRONG WITH YOUR HAVING READ AN
20 ARTICLE ABOUT IT THERE'S NOTHING WRONG WITH YOUR
21 HAVING SEEN SOMETHING ON TELEVISION ABOUT IT IT'S
22 NOT IMPORTANT NECESSARILY WHAT YOU MIGHT HAVE SEEN,
23 HEARD OR READ, BUT IT IS IMPORTANT TO KNOW WHETHER
24 OR NOT ANY OF THAT EXPOSURE WOULD AFFECT YOUR
25 ABILITY TO BE IMPARTIAL IN ANY FASHION SO I'M JUST

1 SIMPLY TRYING TO FIND OUT THAT IF YOU WERE EXPOSED
2 TO ANYTHING, WHATEVER IT WAS, COULD YOU SIMPLY PUT
3 IT ASIDE AND NOT CONSIDER IT AND BASE A VERDICT, IF
4 SELECTED, SOLELY UPON THE EVIDENCE RECEIVED DURING
5 THE TRIAL OF THE CASE?

6 A YES, SIR

7 Q OKAY NOW, AS YOU KNOW IN THIS CASE, THE
8 DEFENDANT IS CHARGED WITH THE CRIME OF MURDER THE
9 STATE IS ALLEGING CERTAIN AGGRAVATING CIRCUMSTANCES,
10 AND THEY ARE SEEKING TO HAVE THE DEATH PENALTY
11 IMPOSED IF THE DEFENDANT IS FOUND TO BE GUILTY OF
12 MURDER AND AN AGGRAVATING CIRCUMSTANCE IS PROVEN
13 UNDER THE LAW OF THIS STATE, THE LAW PERMITS THE
14 STATE TO SEEK THE DEATH PENALTY UNDER CERTAIN
15 CIRCUMSTANCES, AND THOSE CIRCUMSTANCES ARE WHERE A
16 PERSON HAS BEEN CONVICTED OR FOUND GUILTY OF THE
17 CRIME OF MURDER AND FURTHER, WHERE SOME AGGRAVATING
18 CIRCUMSTANCE HAS ALSO BEEN PROVEN BEYOND A
19 REASONABLE DOUBT THAT ACCOMPANIED THAT MURDER IN
20 THAT EVENT, THE STATE IS PERMITTED TO SEEK THE DEATH
21 PENALTY HOWEVER, THE DECISION OR THE CHOICE AS TO
22 WHETHER OR NOT IT WILL BE IMPOSED IS UP TO A JURY
23 THAT IS SELECTED FOR THAT PURPOSE DO YOU
24 UNDERSTAND THAT?

25 A YES, SIR

1 Q IN A CASE SUCH AS THAT, IN A CASE SUCH AS
2 THIS, IT OCCURS IN TWO STAGES THE FIRST STAGE OF
3 THE TRIAL IS WHERE EVIDENCE IS RECEIVED ON THE ISSUE
4 OF GUILT THE SECOND STAGE OF THE TRIAL IS WHERE
5 EVIDENCE IS RECEIVED ON THE ISSUE OF PUNISHMENT WE
6 NEVER PROCEED TO THE SECOND STAGE UNLESS IN THE
7 FIRST STAGE A JURY OF TWELVE PEOPLE HAS FOUND BEYOND
8 A REASONABLE DOUBT THAT THE DEFENDANT WAS GUILTY OF
9 THE CRIME OF MURDER AND SOME AGGRAVATING
10 CIRCUMSTANCE HAS BEEN ESTABLISHED YOU UNDERSTAND
11 THAT?

12 A I UNDERSTAND

13 Q OKAY NOW, IF YOU WERE PARTICIPATING IN THE
14 TRIAL OF THE CASE, AND YOU AND YOUR FELLOW JURORS
15 CONSIDERED ALL OF THE EVIDENCE ON THE ISSUE OF
16 GUILT, WOULD YOU BE ABLE TO RETURN A VERDICT OF
17 GUILTY AS TO A CRIME IF YOU WERE CONVINCED BEYOND A
18 REASONABLE DOUBT THE EVIDENCE SUPPORTED THAT
19 DECISION?

20 A SURE GIVEN EVIDENCE, PROOF, I COULD

21 Q OKAY AND IF YOU WERE NOT CONVINCED BEYOND A
22 REASONABLE DOUBT THAT THE EVIDENCE SUPPORTED A
23 VERDICT OF GUILTY, COULD YOU RETURN A VERDICT OF NOT
24 GUILTY?

25 A YES, I COULD

1 Q NOW, I WANT YOU TO ASSUME, AND ASSUME IT ONLY
2 FOR THE PURPOSE OF THIS QUESTION WELL --WELL, LET
3 ME BACK UP JUST A MINUTE YOU UNDERSTAND THAT THE
4 BURDEN IS ALWAYS ON THE STATE WHEN BRINGING THE
5 ACCUSATION TO ESTABLISH A DEFENDANT'S GUILT BEYOND A
6 REASONABLE DOUBT BEFORE SUCH A VERDICT CAN BE
7 RETURNED?

8 A TRUE

9 Q YOU UNDERSTAND THAT THE BURDEN IS NEVER UPON
10 THE PERSON ACCUSED TO PROVE THAT THEY ARE NOT GUILTY
11 OR TO PROVE THAT THEY ARE INNOCENT?

12 A RIGHT

13 Q NOW, ASSUME, AND ONLY ASSUME IT FOR THE
14 PURPOSE OF THIS QUESTION, THAT YOU HAVE BEEN
15 SELECTED, YOU HAVE PARTICIPATED IN THE CASE YOU
16 AND YOUR FELLOW JURORS HAVE RETURNED A VERDICT OF
17 GUILTY AS TO THE CRIME OF MURDER YOU HAVE
18 DETERMINED THAT THERE IS AN AGGRAVATING CIRCUMSTANCE
19 ALSO PROVEN BEYOND A REASONABLE DOUBT YOU WOULD BE
20 ASKED TO CONSIDER OTHER EVIDENCE, THAT IS, EVIDENCE
21 IN AGGRAVATION, EVIDENCE IN MITIGATION, SIMPLY
22 MEANING YOU WOULD BE ASKED TO CONSIDER OTHER
23 EVIDENCE THAT MIGHT TEND TO SUPPORT THE MORE SERIOUS
24 PUNISHMENT, BEING THE DEATH PENALTY, AS THE
25 APPROPRIATE PUNISHMENT YOU MAY BE ASKED TO

1 CONSIDER EVIDENCE THAT MIGHT SUPPORT THE LESS
2 SERIOUS PUNISHMENT BEING IMPOSED, THAT IS, LIFE
3 IMPRISONMENT BUT UNDERSTAND THE JURY ALWAYS HAS
4 THAT CHOICE THE JURY MAKES THAT DECISION YOU ARE
5 NEVER REQUIRED TO DO ONE OR THE OTHER YOU JURORS
6 WOULD MAKE THE DECISION BASED UPON YOUR OWN VIEW OF
7 THE EVIDENCE IN THE CASE YOU UNDERSTAND?

8 A RIGHT

9 Q NOW, IF YOU HAD PARTICIPATED, IF YOU HAD FOUND
10 THE DEFENDANT TO BE GUILTY OF MURDER, AND IF YOU HAD
11 FOUND A -- AN AGGRAVATING CIRCUMSTANCE BEYOND A
12 REASONABLE DOUBT, AND YOU HAD CONSIDERED ALL THAT
13 ADDITIONAL EVIDENCE THAT RELATED TO AGGRAVATION AND
14 MITIGATION --

15 A UH-HUH (AFFIRMATIVE)

16 Q -- AFTER YOU HAD CONSIDERED ALL OF THAT
17 EVIDENCE, DEPENDING UPON WHAT IT WAS, OF COURSE,
18 WOULD YOU BE ABLE TO IMPOSE A SENTENCE OF DEATH
19 AGAINST AN INDIVIDUAL IF YOU THOUGHT IT APPROPRIATE
20 UNDER THE CIRCUMSTANCES OF THE CASE?

21 A IF APPROPRIATE

22 Q AND COULD YOU ALSO CONSIDER IMPOSING A
23 SENTENCE OF LIFE IF YOU THOUGHT THE CIRCUMSTANCES
24 WARRANTED THAT FINDING?

25 A YES TRUE DEFINITELY

1 Q UNDERSTAND THAT YOU ALWAYS HAVE THE CHOICE,
2 BUT THERE ARE ONLY TWO A SENTENCE OF DEATH OR LIFE
3 IMPRISONMENT IF YOU ALWAYS HAD THE CHOICE, WHICH,
4 OF COURSE, YOU WILL HAVE, WOULD YOU ALWAYS CHOOSE
5 ONE FORM OF THAT PUNISHMENT OVER ANOTHER?

6 A YES, I WOULD

7 Q AND WHAT FORM OF PUNISHMENT WOULD YOU SELECT?

8 A WELL, I LOOK AT IT LIKE THIS IT'S POSSIBLE
9 LIFE IMPRISONMENT TO THE SAME DEGREE, I MEAN, IF
10 IT'S A REAL DRAWN OUT -- ALL THE EVIDENCE SHOWED
11 THAT IT WAS JUST A COLD BLOODED, I GUESS, THEN THAT
12 WOULD BE A DIFFERENT CASE THAT'S WHERE I WOULD
13 SAY, "WELL, MAYBE IT'S JUST THAT THE DEATH PENALTY
14 IS A GOOD THING TO HAVE "

15 Q OKAY AND THAT'S ALL I'M ASKING I JUST NEED
16 TO FIND OUT IF YOU COULD FAIRLY CONSIDER BOTH AS
17 REASONABLE AND VIABLE OPTIONS AND SENTENCES
18 DEPENDING UPON THE FACTS OF THE CASE?

19 A YES

20 Q IN SOME CASES YOU COULD IMPOSE A DEATH
21 SENTENCE? IN OTHER CASES YOU COULD IMPOSE A LIFE
22 SENTENCE?

23 A YES I BELIEVE I COULD DO THE FAIR THING, YOU
24 KNOW, AS THE FAIR OR RIGHT THING TO DO I WOULD
25 LOOK AT IT THE WHOLE THING

1 Q OKAY AND MY ORIGINAL QUESTION WAS IF YOU
2 HAD A CHOICE, AS I SAY YOU ALWAYS WOULD, WOULD YOU
3 ALWAYS SELECT ONE OVER THE OTHER OR WOULD IT DEPEND
4 ON THE FACTS?

5 A IT WOULD DEPEND ON THE FACTS, AND THEN I WOULD
6 BE ABLE TO MAKE MY JUDGMENT FROM THAT

7 Q SURE OKAY NOW, UP TO THIS POINT, HAVE YOU
8 ALREADY FORMED OR EXPRESSED ANY OPINION THAT YOU
9 HAVE ABOUT THE CASE OR AS TO WHAT YOU THINK THE
10 APPROPRIATE DECISION SHOULD BE?

11 A NO I HAVEN'T BECAUSE I DON'T HAVE ENOUGH
12 EVIDENCE I HAVEN'T BEEN GIVEN ANYTHING TO REALLY
13 BASE MY OPINION ON

14 Q OKAY DO YOU HAVE ANY REASON TO BELIEVE THAT
15 YOU COULD NOT BE A FAIR AND IMPARTIAL JUROR IF YOU
16 WERE SELECTED?

17 A I WOULD WANT -- I WOULD WANT FAIRNESS SO I
18 WOULD THINK I SHOULD BE ABLE TO, IF CALLED UPON, I
19 SHOULD BE ABLE TO GIVE FAIRNESS

20 Q OKAY ALSO, AS YOU -- AS YOU, I'M SURE, ARE
21 AWARE, IF YOU ARE SELECTED TO SERVE, IT WOULD BE
22 NECESSARY THAT YOU BE SEQUESTERED FOR A PERIOD TIME
23 BETWEEN SEVEN AND TEN DAYS, I'M EXPECTING

24 A UH-HUH (AFFIRMATIVE)

25 Q THAT WOULD NOT BEGIN IMMEDIATELY IT WOULD BE

1 NECESSARY THAT YOU COME BACK SOME TIME NEXT WEEK
2 AFTER WE CONCLUDE THIS PROCESS BUT IF YOU WERE
3 SELECTED, AND IT WAS REQUIRED THAT YOU BE
4 SEQUESTERED, WHICH IT WOULD BE, WOULD THAT POSE ANY
5 UNREASONABLE HARDSHIP OR HEALTH RISK TO YOU?

6 A I DON'T THINK SO NO MORE THAN JUST MY
7 EMPLOYEES

8 Q WOULD YOU BE WILLING TO ACCEPT THAT
9 INCONVENIENCE OR HARDSHIP IF YOU WERE CALLED UPON TO
10 SERVE?

11 A WELL, IT'S MORE LIKE MY DUTIES TO ACCEPT,
12 WELL, SURE

13 THE COURT THANK YOU PLEASE ANSWER
14 THE LAWYERS' QUESTIONS

15 MR TINSLEY THANK YOU, YOUR HONOR
16 EXAMINATION BY MR TINSLEY

17 Q GOOD AFTERNOON, MR DRAFT

18 A GOOD EVENING

19 Q MR DRAFT, I NOTICED IN YOUR QUESTIONNAIRE,
20 AND UNDER THE ONE QUESTION YOU STATED THAT, YES, YOU
21 HAVE BEEN INVOLVED IN A SITUATION OF DOMESTIC
22 VIOLENCE, IS THAT CORRECT?

23 A HAVE I BEEN -- EXCUSE ME?

24 Q YOU ANSWERED YES, YOU ARE CLOSE TO SOMEONE OR
25 ARE AWARE OF -- I'M REFERRING TO QUESTION NUMBER

1 TWENTY-ONE

2 A YES

3 Q AND THEN YOU GO ON TO SAY THAT THIS CASE --

4 A UH-HUH (AFFIRMATIVE)

5 Q -- WE TALKING ABOUT THE CASE HERE THAT WE'RE

6 ABOUT TODAY? STATE VERSUS HUGHEY?

7 A YES, SIR

8 Q AND THEN YOU GO ON TO SAY THE LADY WAS MY

9 COUSIN

10 A RIGHT

11 Q WHO WAS YOUR COUSIN?

12 A THE VICTIM, LUEVINIA HARRIS

13 Q MS HARRIS IS YOUR COUSIN?

14 A RIGHT

15 Q OKAY NOW, HAVE -- A SUCH, YOU GO ON TO SAY,

16 ALSO, SHE WAS A GOOD FRIEND

17 A YES

18 Q AND ALSO YOU GO ON TO SAY THAT SHE WAS A CO-

19 WORKER

20 A YES

21 Q OKAY WHAT COUSIN TO YOU WAS SHE?

22 A I GUESS SOMEWHERE AROUND THIRD COUSIN OR SO

23 Q WELL, WAS SHE ON YOUR MOMMY'S SIDE OR YOUR

24 DADDY'S SIDE?

25 A ON MY MOTHER'S SIDE

1 Q AND WHAT WAS SHE KIN TO YOUR MOTHER?

2 A I REALLY CAN'T SAY EXACTLY, BUT SOMEWHERE IN
3 THERE

4 Q BUT YOU SAY ABOUT THIRD COUSIN?

5 A UH-HUH (AFFIRMATIVE)

6 Q OKAY AND WHERE DID Y'ALL WORK TOGETHER?

7 A AT BLOOMSBURG MILL

8 Q AND HOW LONG DID Y'ALL WORK TOGETHER?

9 A ABOUT FIVE YEARS

10 Q AND IN ADDITION TO BEING A COUSIN AND A CO-
11 WORKER, YOU ALSO SAY SHE WAS A GOOD FRIEND?

12 A RIGHT,

13 Q YOU SPENT TIME WITH HER?

14 A WE WAS GOOD FRIENDS AS WORKING TOGETHER

15 Q MOSTLY AT WORK?

16 A RIGHT

17 Q DID Y'ALL CHAT TOGETHER, TALK TOGETHER?

18 A YEAH WE WORKED IN THE SAME DEPARTMENT

19 Q SO YOU WERE IN THE SAME DEPARTMENT?

20 A RIGHT UH-HUH (AFFIRMATIVE)

21 Q SAME SHIFT?

22 A SAME SHIFT

23 Q SO FOR FIVE YEARS, YOU SAW HER, WHAT, EIGHT
24 HOURS A DAY FOR FIVE DAYS A WEEK OR SOMETHING LIKE
25 THAT?

1 A SOMETHING LIKE THAT

2 Q OKAY AND DID YOU -- OUTSIDE, DID YOU GO TO

3 HER FUNERAL?

4 A NO I DIDN'T

5 Q YOU DIDN'T MAKE THE FUNERAL?

6 A NO

7 Q DID YOU DISCUSS WITH ANY OF THE COUSINS OR

8 RELATIVES ANYTHING ABOUT THE CASE?

9 A NO I HAVEN'T

10 Q AND YOU WEREN'T AROUND THEM WHEN THEY'D

11 DISCUSS IT?

12 A NO I HAVEN'T

13 Q OKAY AND DID YOU EVER -- WELL, WE'LL GO ON

14 FOR A MINUTE EXCUSE ME YOU ALSO SAY THAT YOU, ON

15 TWENTY-FOUR, TREATMENT FOR A MENTAL ILLNESS OR

16 EMOTIONAL DISORDER NOW, YOU SAY, YES, AND THEN IT

17 SAYS, EXPLAIN YOU SAY, THIS COUSIN

18 A YES, SIR

19 Q BY THAT DO YOU MEAN LUEVINIA HARRIS?

20 A NO THAT'S A DIFFERENT COUSIN

21 Q OH, I WAS CONFUSED

22 A YES, SIR

23 Q OH, YOU JUST MEAN THIS OTHER COUSIN?

24 A THIS OTHER COUSIN I DID NOT STATE THE NAME

25 OF THIS COUSIN THAT I PUT DOWN

1 Q OKAY THAT'S FINE I'M NOT GOING TO ASK YOU
2 ABOUT IT AND YOU ALSO SAID THAT A COUSIN COMMITTED
3 SUICIDE, IS THAT RIGHT?

4 A THAT'S TRUE

5 Q AND DO YOU HAVE ANY RELATIONSHIP WITH THE
6 JACKSONS? TESHEKA JACKSON OR ANY OF HER FAMILY?

7 A NO MORE THAN I THINK RELATED TO THEM ON THE
8 SAME SIDE OF THE FAMILY, I THINK I'M NOT SURE

9 Q YOU THINK YOU'RE ALSO RELATED TO THEM?

10 A I THINK

11 Q NOW, DUE TO THOSE RELA -- HOW ABOUT THE HUGHEY
12 FAMILY?

13 A NO

14 Q DO YOU KNOW THEM? MY CLIENT AND HIS FAMILY?

15 A NO I REALLY DON'T

16 Q YOU DON'T KNOW THEM?

17 A UH-UH (NEGATIVE)

18 Q BUT IN ADDITION TO YOUR KINSHIP WITH THE
19 JACKSONS AND THE HARRIS', YOU'RE ALSO FRIENDS WITH
20 THEM?

21 A WELL, I KNOW OF THEM PRETTY GOOD, YES

22 Q OKAY ARE YOU CERTAIN ABOUT YOUR DEGREE OF
23 KINSHIP WITH THE JACKSONS BY ANY CHANCE, OR IS IT
24 ABOUT LIKE THE OTHER?

25 A ABOUT LIKE THE OTHER

1 Q ABOUT LIKE THE OTHER OKAY AND DO YOU FEEL
2 OR DID YOU FEEL ANY SADNESS WHEN YOU HEARD ABOUT
3 THIS INCIDENT?

4 A SURE

5 Q YOU DID? DID YOU GRIEVE ABOUT IT?

6 A I FELT SADNESS, SURE I FELT SADNESS FOR BOTH
7 SIDES

8 Q OKAY AND DID YOU GROW UP WITH THE -- ANY OF
9 THE PARTIES INVOLVED IN SCHOOL OR THAT SORT OF
10 THING?

11 A EXCUSE ME?

12 Q DID YOU GO TO SCHOOL WITH THE HARRIS',
13 JACKSONS?

14 A NO I DIDN'T

15 Q ANYBODY ELSE INVOLVED IN THE CASE?

16 A NO NOT WITH THEM, DEFINITELY

17 Q OKAY WHAT ABOUT TESHEKA'S FATHER, NEAL
18 WERE Y'ALL GOOD FRIENDS, TOO?

19 A I DON'T EVEN KNOW HIM THAT GOOD

20 Q BUT DO YOU KNOW HIM?

21 A NOT REALLY I'VE SEEN HIS FACE AROUND
22 ABBEVILLE FROM PREVIOUS YEARS, BUT THAT'S ALL

23 Q THAT'S ALL OKAY I ASK YOU THE -- WOULD IT
24 PUT YOU IN AN AWKWARD POSITION TO SIT IN THIS CASE
25 CONSIDERING YOUR FRIENDSHIP AND YOUR RELATIONSHIP TO

1 THE HARRIS AND JACKSON FAMILIES?

2 A TO ME? IF I HAVE A JOB TO DO, I CAN DO THAT
3 JOB IT DON'T MAKE NO DIFFERENCE WHAT THE JOB IS

4 Q MAKES NO DIFFERENCE WHAT THE JOB IS?

5 A MAKES NO DIFFERENCE WHAT IT IS, NO

6 Q SO YOU DON'T THINK THAT YOU WOULD HAVE HAD ANY
7 SUBCONSCIOUS OR ANY BIAS TOWARDS THE -- THE FAMILIES
8 OF HARRIS AND JACKSON IN THIS CASE?

9 A NO I FEEL LIKE THIS JUSTICE IS NOT
10 SUPPOSED TO BE BASED ON THAT

11 Q RIGHT YOU'VE HEARD THE EXPRESSION JUSTICE IS
12 BLIND, RIGHT?

13 A IT'S SUPPOSED TO BE BLIND

14 Q RIGHT WELL, BUT DO YOU FEEL THAT SOMETIMES
15 THE EXPRESSION BLOOD IS THICKER THAN WATER IS ALSO A
16 VIABLE EXPRESSION?

17 A THAT IS A EXPRESSION, BUT SOMETIMES IT DON'T
18 ALWAYS LIVE UP TO ITS TRUE VALUES, EITHER

19 Q RIGHT RIGHT BUT -- OKAY AND YOU SAY THAT
20 YOU COULD LISTEN TO THE JUDGE'S INSTRUCTIONS IN THE
21 LAW, IS THAT RIGHT?

22 A YES, I COULD

23 Q COULD YOU CONSIDER A VERDICT OF NOT GUILTY IN
24 THE CASE?

25 A SURE I COULD

1 Q COULD YOU CONSIDER A LESSER VERDICT OF GUILTY
2 OF MANSLAUGHTER IN THE CASE?

3 A YES I COULD

4 Q AND COULD YOU CONSIDER, OF COURSE, A VERDICT
5 OF GUILTY OF MURDER?

6 A YES I COULD

7 Q UNDER -- ASSUMING THAT MY CLIENT, MR HUGHEY
8 WERE CONVICTED OF TWO MURDERS AND AN AGGRAVATING
9 CIRCUMSTANCE, WOULD YOU BE INCLINED TO RETURN A
10 DEATH PENALTY VERDICT?

11 A I'M SORRY I COULDN'T ANSWER THAT RIGHT NOW

12 MR TINSLEY THANK YOU SO MUCH

13 JUROR UH-HUH (AFFIRMATIVE)

14 THE COURT SOLICITOR?

15 MR JONES GOOD AFTERNOON, MR

16 DRAFT

17 JUROR GOOD EVENING

18 MR JONES MY NAME IS TOWNES JONES

19 I'M YOUR SOLICITOR HERE IN ABBEVILLE COUNTY THIS

20 IS MICHAEL COULTER HE'S YOUR DEPUTY SOLICITOR IN

21 ABBEVILLE COUNTY WE'LL BOTH BE PRESENTING SOME OF

22 THE EVIDENCE IN THIS CASE HE JUST HAD A BRIEF

23 QUESTION HE WANTED TO ASK YOU

24 EXAMINATION

25 BY MR COULTER

1 Q AS I UNDERSTAND, MR DRAFT, FROM YOUR ANSWERS,
2 YOU SAID YOU NEED TO LISTEN TO ALL THE EVIDENCE?

3 A YES

4 Q ALL THE EVIDENCE BEFORE YOU MAKE ANY DECISION
5 IN THIS CASE?

6 A TRUE

7 Q AND IT'S NOT BASED ON ANY -- ANY TYPE OF
8 RELATIONS, BASED ON THE EVIDENCE HERE IN COURT?

9 A THAT'S TRUE

10 MR COULTER OKAY THANK YOU
11 THAT'S ALL I HAVE

12 THE COURT ALL RIGHT, MR DRAFT, LET
13 ME JUST ASK YOU, IF YOU WILL, TO STEP OUTSIDE WITH
14 THE BAILIFF FOR JUST A MINUTE I'LL BRING YOU BACK
15 SHORTLY

16 (JUROR DOES AS INSTRUCTED)

17 THE COURT WHAT SAY THE STATE?

18 MR JONES HE QUALIFIES

19 THE COURT SAY THE DEFENSE?

20 MR TINSLEY YOUR HONOR, WE WOULD
21 MOVE THAT HE BE EXCUSED FROM THE PANEL REGARDLESS
22 OF HIS POSITION ON THE DEATH PENALTY, WE FEEL THAT
23 HE IS CERTAINLY WITHIN A SIXTH DEGREE OF KINSHIP
24 I'D CITE THE CASE OF SMITH VERSUS QUATTLEBAUM, 76
25 S E 2D 154, WHICH SAYS THAT THE COURT'S NOT REQUIRED

1 TO, BUT USUALLY WITHIN THE SIXTH DEGREE AND
2 CERTAINLY IN A CAPITAL CASE OUT OF AN ABUNDANCE OF
3 CAUTION, WE -- WE FEEL THAT THE -- BEING RELATED TO
4 ONE OF THE VICTIM'S FAMILY AND THE VICTIM IS BAD
5 ENOUGH, AND BEING RELATED TO A SECOND IS POISON IN
6 THIS MATTER AND REGARDLESS OF WHAT HE SAYS,
7 SUBCONSCIOUSLY OR OTHERWISE, WE FEEL THAT HE WOULD
8 BE PREJUDICED AGAINST MR HUGHEY DUE TO HIS BEING A
9 RELATIVE OF BOTH INDIVIDUALS, AND FURTHER, THAT THE
10 NEED FOR EXTREME CAUTION IN A CAPITAL CASE, AVOIDING
11 ANY APPEARANCE OF CONFLICT OR IMPROPRIETY, THE
12 FUNDAMENTAL FAIRNESS RULES WE -- WE FEEL THAT HIS
13 RELATIONSHIP IS TOO CLOSE IN THIS CASE

14 THE COURT YOU MEAN THE QUATTLEBAUM
15 CASE SAYS THE SIXTH -- SIXTH DEGREE KINSHIP?

16 MR TINSLEY IT'S NOT BY REASON OF
17 CONSANGUINITY OR AFFINITY THAT A JUROR BECOMES
18 DISQUALIFIED BUT IN THE EXERCISE OF DISCRETION OF A
19 TRIAL JUDGE, HE IS SUBJECT TO DISQUALIFICATION
20 BECAUSE OF POSSIBLE INTEREST IN THE COST THOSE
21 RELATED WITHIN THE SIX DEGREE ARE GENERALLY EXCUSED
22 WITHOUT CERTAIN CETERA

23 THE COURT DO YOU WANT TO REST THAT?

24 MR TINSLEY THAT'S ALL

25 MR McCALLUM IT SAYS THOSE RELATED

1 WITHIN THE SIXTH DEGREE ARE GENERALLY EXCUSED
2 WITHOUT BEING QUESTIONED IN COMPLIANCE WITH THE
3 SALUTARY RULE

4 THE COURT SOLICITOR, YOU GOT ANY
5 OTHER LAW THAT MIGHT ASSIST ME ON THAT POINT?

6 MR JONES WELL, JUDGE, I WOULD SAY
7 FIRST OF ALL, WITH REGARD TO THE JACKSONS, HE'S NOT
8 SURE HE'S EVEN RELATED TO THEM, AND THEY PASSED A
9 NOTE TO ME THAT SAYS THEY DON'T KNOW THAT THEY'RE
10 RELATED TO HIM, EITHER SO THAT'S JUST A -- JUST AS
11 MR JONES, THE OTHER JUROR, DOESN'T THINK HE'S
12 RELATED TO ME, MY DADDY COULD PROBABLY FIND OUT ---

13 THE COURT YEAH, BUT HE SAID HE KNEW
14 HE WASN'T RELATED TO YOU

15 MR JONES BUT MY DADDY COULD FIND
16 SOME WAY TO CONNECT HIM TO THE JONES FAMILY

17 THE COURT HE MIGHT DO IT, BUT, I
18 MEAN, HE SAYS THAT HE WAS HE THOUGHT HE HAD THE
19 SAME DEGREE OF SAME OF KINSHIP WITH THE JACKSONS AS
20 HE DID WITH THE HARRIS'

21 MR JONES WELL, HE SAID IF HE HAD -
22 - IF HE HAD TO ---

23 THE COURT OH, I UNDERSTAND

24 MR JONES BUT THE THIRD DEGREE,
25 JUDGE, REGARDLESS OF THE DEGREE OF RELATIONSHIP, CAN

1 WE DISREGARD WHAT HIS ANSWERS ARE? I MEAN, HE NOT
2 ONLY GAVE ANSWERS, BUT HE GAVE YOU A VERY LOGICAL
3 AND WE MUST -- IF WE START ASSUMING THAT THEY AREN'T
4 BEING HONEST OR THAT THEY DON'T KNOW WHAT THEIR
5 SUBCONSCIOUS IS TELLING THEM OR WHAT THEIR
6 CONSCIENCE IS TELLING THEM, THEN WE'RE GOING TO
7 START, YOU KNOW, WE CAN JUST STARTING TRIPPING THEM
8 ALL WE CAN JUST -- WE CAN JUST COME UP AND SAY,
9 "HE CAN'T MEAN THAT LOOK AT THAT MAN HOW COULD
10 HE MEAN THAT HE COULD BE HONEST AND OPEN AND FAIR
11 WHEN HE'S -- WHEN HE'S REAL THE NEWSPAPER ARTICLE?
12 WHY, HE'S JUST TRYING TO DO WHAT HE'S SUPPOSED TO
13 DO " MY ARGUMENT IS, JUDGE, IS THAT THAT JUROR HAS
14 GIVEN YOU RESPONSES ASK HIM EXTENSIVELY ASK HIM
15 IF HE COULD BE FAIR ASK HIM JUST POINT BLANK, YOU
16 AND HE, AND SEE -- AND HE'S -- HE SAID, "I CAN " HE
17 SAID, "I FEEL FOR BOTH SIDES I FEEL FOR ALL OF
18 THEM " HE SAID, "YOU'VE GOT TO BE FAIR YOU'VE GOT
19 TO BE PROPER " WHY, HE EVEN SAID HE WASN'T SURE HE
20 COULD GIVE THE DEATH PENALTY, THAT HE WOULD INCLINED
21 -- BE INCLINED TOWARDS LIFE, BUT IN A COLD BLOODED
22 VICIOUS FASHION, HE WOULD CONSIDER IT THAT'S THE
23 POINT THAT HE POINTED OUT I -- HE'S SAYING THAT TO
24 WHATEVER EXTENT HE MIGHT BE RELATED TO THESE
25 FAMILIES, AND HE'S SAYING THAT EVEN HIS RELATIONSHIP

1 AT WORK WOULD NOT PREVENT HIM FROM GOING I'LL HAVE
2 TO TELL YOU I WAS IN SHOCK HE DIDN'T GO TO THE
3 FUNERAL HE WORKS WITH A LADY FOR FIVE YEARS SIDE
4 BY SIDE FIVE DAYS A WEEK WE GONNA QUESTION HIM ON
5 THAT? IF HE DIDN'T GO TO THE FUNERAL, DOES THAT
6 TELL YOU SOMETHING ABOUT THE WAY HE LOOKS AT LIFE?
7 WHEN HE'S ASKED IF HE CAN DO THIS, "A JOB'S A JOB
8 WE'RE TALKING ABOUT BEING FAIR HERE I WOULD WANT
9 HIM TO TREAT ME THE SAME WAY IF I'M ON TRIAL FOR
10 MURDER THE WAY I'M GONNA TREAT HIM " HE SAID, "I'M
11 GONNA BE FAIR I'M GONNA DO WHAT'S RIGHT I'M
12 GONNA TREAT IT AS A JOB, NOT AS SOME VENDETTA
13 OPERATION NOT AS SOME WAY FOR ME TO SNEAK IN HERE
14 AND ---"

15 THE COURT OKAY

16 MR JONES ALL RIGHT

17 THE COURT I'M GONNA QUALIFY HIM FOR
18 THE MOMENT I'M GONNA DO SOME RESEARCH ON THAT
19 POINT, HOWEVER, SO THAT CAN BE TAKEN CARE OF

20 MR TINSLEY THAT'S FINE, YOUR
21 HONOR JUST NOTE OUR POSITION, AND WE'LL -- WE'LL
22 LOOK INTO IT FURTHER

23 THE COURT SURE

24 (JUROR ENTERS THE COURTROOM)

25 THE COURT MR DRAFT, WE'RE GONNA

1 QUALIFY YOU FOR SERVICE IN THE JURY POOL THAT
2 DOESN'T MEAN YOU'VE BEEN SELECTED IT JUST SIMPLY
3 MEANS THAT YOU ARE A MEMBER OF THE POOL FROM WHICH
4 THE ACTUAL JURY WILL BE SELECTED SO I'M GOING TO
5 ASK YOU TO CONTINUE FOLLOWING MY INSTRUCTION WHICH
6 YOU MUST, AND THAT IS NOT TO DISCUSS THE CASE WITH
7 ANYONE, ALLOW NO ONE TO DISCUSS IT WITH YOU, DO NOT
8 ALLOW YOURSELF TO BE EXPOSED TO ANY TYPE OF MEDIA
9 COVERAGE THAT RELATES TO THE TRIAL, AND WE'LL NEED
10 FOR YOU TO GIVE THE CLERK ANY PHONE NUMBERS AND ALL
11 PHONE NUMBERS WHERE YOU CAN BE REACHED IN ORDER FOR
12 US TO CALL YOU TO COME BACK FOR FURTHER
13 PARTICIPATION THAT WILL BE SOME TIME NEXT WEEK
14 FURTHER EXAMINATION BY THE COURT

15 Q BEFORE YOU DO GO, HOWEVER, I WANT TO ASK YOU
16 I WANT TO BE CERTAIN OF YOUR RELATIONSHIP OR KINSHIP
17 WITH THE JACKSON OR THE HARRIS FAMILY TELL ME
18 AGAIN WHAT YOU BELIEVE THE KINSHIP TO BE WITH THE
19 HARRIS'?

20 A I WAS RELATED TO THE HARRIS -- LUEVINIA
21 HARRIS, I KNOW, ON HER MOTHER'S SIDE OF THE FAMILY,
22 AND IT GOES SOMETHING I CAN'T UNDERSTAND, BUT IT WAS
23 A DISTANT COUSIN

24 Q A DISTANT COUSIN?

25 A IT WASN'T SOMETHING LIKE FIRST OR SECOND I

1 KNOW THAT

2 Q OKAY

3 A SO I WOULD SAY SOMEWHERE MAYBE THIRD

4 Q OKAY NOW, WERE YOU -- WERE YOU CLOSE FRIENDS
5 OR ACQUAINTANCES WITH MS HARRIS?

6 A PRETTY GOOD AS CLOSE FRIENDS WE WORKED
7 TOGETHER FOR FIVE YEARS AS WELL AS -- WELL, I'D SAY
8 WORKED TOGETHER THAT WAS IT MOSTLY RIGHT THERE

9 Q JUST A WORKING RELATIONSHIP?

10 A THAT'S RIGHT

11 Q DID YOU VISIT IN HER HOME OR DID SHE VISIT IN
12 YOURS?

13 A NO NO MORE THAN I MIGHT HAVE WENT BY AND GOT
14 MY TAXES FILLED OUT OR SOMETHING LIKE THAT

15 Q OKAY AND WHAT ABOUT MS JACKSON?

16 A NO

17 Q YOU'RE NOT CERTAIN OF ANY RELATIONSHIP,
18 KINSHIP WITH HER?

19 A I CAN REMEMBER HER GRANDMOTHER, I THINK, BACK
20 IN SOME YEARS BACK, AND SO THAT'S BEEN BACK IN THE
21 SIXTIES OR SOMETHING LIKE THAT THAT I CAN REMEMBER
22 GOING OVER TO HER HOUSE, AND THAT'S BEEN A LONG
23 TIME

24 Q WHEN WAS THE LAST TIME THAT YOU HAD SEEN MS
25 JACKSON?

1 A I REALLY DIDN'T KNOW MS JACKSON IF I -- YOU
2 SHOWED ME A PICTURE OF HER NOW, I WOULDN'T EVEN KNOW
3 HER

4 Q OKAY SO YOU WEREN'T -- YOU WEREN'T FRIENDS
5 WITH HER AT ALL?

6 A NO NO NOT AT ALL

7 Q OKAY AND HAD NO SOCIAL CONTACT WITH HER?

8 A NOT AT ALL, NOT THAT I KNEW OF

9 THE COURT OKAY ALL RIGHT YOU
10 CAN BE EXCUSED GIVE US YOUR PHONE NUMBERS BEFORE
11 YOU LEAVE SO THAT WE CAN CALL YOU WHEN WE NEED YOU
12 TO COME BACK

13 MR JONES MAY I ASK HIM A QUESTION?
14 MAY I ASK A QUESTION BEFORE THE JUROR'S EXCUSED?

15 THE COURT ALL RIGHT, SIR

16 MR JONES OUTSIDE THE PRESENCE OF
17 THE JUROR?

18 THE COURT OH, OKAY ALL RIGHT, MR
19 JACKSON, LET ME ASK YOU TO GO OUTSIDE ONE MORE TIME,
20 AND I'LL BRING YOU BACK (JUROR DOES AS INSTRUCTED)

21 MR JONES YOUR HONOR, I'VE TALKED
22 WITH MACK HARRIS, AND HE TELLS ME HE DOESN'T BELIEVE
23 THAT THIS JUROR IS EVEN A THIRD COUSIN OF HIS HE
24 SAYS THAT YOU KNOW HOW SOMETIMES PEOPLE, ELDERLY
25 PEOPLE TALK, "OH, WE RELATED WE RELATED," YOU

1 KNOW, AND HE SAYS, AND I'D ASK YOU IF YOU WANT TO
2 TRY TO FIND OUT WHAT DEGREE HE IS, I WOULD ASK YOU
3 TO GET A LITTLE MORE INFORMATION FROM HIM BECAUSE I
4 DON'T -- I DON'T BELIEVE HE'S GOING TO BE ABLE TO
5 CONNECT EVEN A -- EVEN A SIXTH OR SEVENTH DEGREE
6 COUSIN

7 THE COURT WELL, MAYBE -- MAYBE YOU
8 MISUNDERSTOOD ME THAT'S WHAT I WAS TRYING TO GET
9 FROM HIM I THOUGHT -- THAT'S WHAT I ASKED HIM, AND
10 HE SAID HE WASN'T SURE HOW IT GOT BACK THERE --

11 MR JONES RIGHT

12 THE COURT -- IS THE WAY I
13 UNDERSTOOD IT I THOUGHT HE COULDN'T TELL US

14 MR JONES RIGHT HE CAN'T EVEN
15 TELL US HE'S A THIRD COUSIN TO THE POINT

16 THE COURT THAT'S RIGHT HE SAID HE
17 WAS GUESSING AT THAT HE SAID HE KNEW HE WAS NOT A
18 FIRST OR SECOND HE WAS ONLY GUESSING IT WAS A
19 THIRD, BUT IT WAS ONLY SOME DISTANT COUSIN AS FAR AS
20 HE KNEW, BUT HE WASN'T SURE WHAT THE CONNECTION WAS

21 MR JONES ALL RIGHT

22 MR TINSLEY YOUR HONOR, I'M
23 CONCERNED ABOUT HIS LACK OF FORTHRIGHTNESS IN THE
24 FIRST PLACE WHEN HE -- THEN HE COMES BACK WITH THE
25 TAX RETURN INFORMATION AM I CORRECT WHEN HE SAID

1 THAT MR HARRIS FILLED THE TAX RETURN OUT?

2 THE COURT I DIDN'T HEAR THAT

3 MR TINSLEY AND FURTHER -- AND

4 FURTHER, AT MR HARRIS' HOUSE WHICH WOULD -- WOULD
5 BOTH INDICATE TO ME THAT HE WAS NOT FORTHRIGHT WHEN
6 I FIRST QUESTIONED HIM

7 THE COURT WELL, DO Y'ALL WISH TO
8 ASK HIM THOSE QUESTIONS? I DIDN'T PICK THAT UP

9 MR TINSLEY I'LL -- I'LL BE GLAD TO
10 DO IT, JUDGE

11 THE COURT ALL RIGHT WELL, BRING
12 MR DRAFT BACK IN

13 (JUROR RE-ENTERS THE COURTROOM)

14 THE COURT MR DRAFT, IF YOU'LL JUST
15 HAVE SEAT HERE APPARENTLY, THERE'S SOME CONFUSION
16 ABOUT THE CONNECTION, SO THEY'RE GOING TO BE ASKING
17 YOU A COUPLE OF ADDITIONAL QUESTIONS BEFORE YOU GO
18 FURTHER EXAMINATION BY MR TINSLEY

19 Q NOW, MR DRAFT, DID YOU SAY THAT MR HARRIS
20 FILLED OUT -- HELPED YOU FILL OUT YOUR TAX RETURN?

21 A YES, SIR, ONCE OR TWICE

22 Q MR MACK HAD?

23 A UH-HUH (AFFIRMATIVE)

24 Q AND IS THAT WAS AT HIS HOUSE, IS THAT CORRECT?

25 A TRUE

1 Q WELL, I THOUGHT YOU HAD INDICATED TO ME
2 PREVIOUSLY THAT -- THAT, YOU KNOW, YOU HAD NOT BEEN
3 OVER THERE AND THAT SORT OF THING? WAS I CONFUSED
4 ON THAT?

5 A NO YOU'RE NOT CONFUSED ON THAT POINT WHAT
6 I CONSIDER THEN IS THAT I DROPPED THEM OFF, PICKED
7 THEM UP AS FAR AS SAYING STOPPED BY THERE, I THINK
8 I GAVE THEM TO HER, AND SHE CARRIED THEM BY THERE
9 I THINK HE FILLED THEM OUT, AND I MIGHT HAVE PICKED
10 THEM UP OR SHE BROUGHT THEM BACK TO WORK OR
11 SOMETHING LIKE THAT

12 Q DID YOU DO IT EVERY YEAR OR ONE YEAR OR FIVE
13 YEARS OR THREE YEARS?

14 A I THINK EITHER ONCE OR TWICE NOT OVER TWICE

15 Q NOT OVER TWICE? BUT -- OKAY THAT'S ALL
16 EXCUSE ME -- ONE MORE BUT YOU'RE NOT SURE ABOUT
17 THE RELATIVE? I MEAN, YOU CAN'T REMEMBER IF IT WAS
18 ON YOUR MOMMY'S OR YOUR DADDY'S SIDE?

19 A NO I'D REALLY HAVE TO GO BACK TO THE OLD
20 FOLKS CAN TELL YOU MORE ABOUT THAT I CAN'T

21 MR TINSLEY THANK YOU SO MUCH

22 THE COURT THANK YOU YOU MAY BE

23 EXCUSED GIVE THE CLERK YOUR PHONE NUMBERS WE'LL
24 BE IN TOUCH WITH YOU

25 (JUROR EXITS COURTROOM)

1 (JUROR IS QUALIFIED FOR PRESENT)

2 MR TINSLEY JUDGE, DID YOU ADMONISH
3 HIM NOT TO DISCUSS THAT CASE? I DIDN'T HEAR YOU

4 THE COURT MR DRAFT, MR DRAFT, MR
5 DRAFT, MR DRAFT

6 MR JONES BRING HIM BACK

7 (JUROR RE-ENTERS COURTROOM)

8 THE COURT I JUST WANTED TO BE
9 CERTAIN THAT I CAUTIONED YOU YOU'RE STILL TO FOLLOW
10 MY INSTRUCTION NOT TO DISCUSS THE CASE ALLOW NO
11 ONE TO DISCUSS IT WITH YOU DON'T ALLOW YOURSELF TO
12 BE EXPOSED TO MEDIA COVERAGE

13 JUROR THANK YOU

14 (JUROR EXITS COURTROOM)

15 THE COURT THANK YOU, SIR ALL
16 RIGHT WE'LL BE AT EASE FOR A FEW MINUTES WHILE THE
17 NEXT PANEL ARRIVES

18 (COURT IS IN RECESS UNTIL 4 07 O'CLOCK P M)

19 WE GOT -- WHO WE GOT IN THE BACK NOW?

20 MS STONE, THOMAS AND BRYANT? WHO WE GOT? OKAY

21 WHO ELSE? STONE, THOMAS AND HESSON? OKAY ALL

22 RIGHT STONE, THOMAS AND HESSON ASK THEM TO COME

23 IN, PLEASE ARE WE READY FOR MS STONE? MS STONE

24 (JUROR #186 PRESENTED AT 4 07 O'CLOCK P M)

25 EXAMINATION BY THE COURT

1 Q GOOD AFTERNOON, MS STONE

2 A GOOD AFTERNOON

3 Q OF COURSE, AS YOU KNOW, WE'VE ASKED YOU TO
4 COME BACK TO GO THROUGH SOME INDIVIDUAL QUESTIONING
5 THERE ARE NO RIGHT OR WRONG ANSWERS WE JUST SIMPLY
6 NEED TO KNOW YOUR VIEWS AND OPINIONS ON CERTAIN
7 SUBJECTS IF FOR ANY REASON YOU DON'T UNDERSTAND
8 THE QUESTION OR IT'S NOT ASKED CLEARLY, PLEASE LET
9 ME KNOW WE'LL TRY TO CLARIFY THAT FOR YOU NOW,
10 YOU RECALL HAVING BEEN SWORN WHEN THE ENTIRE PANEL
11 WAS PRESENT?

12 A UH-HUH (AFFIRMATIVE)

13 Q YOU REMAIN UNDER OATH FOR THE PURPOSE OF THESE
14 QUESTIONS BEING ASKED, ALSO NOW, WE HAVE YOUR
15 QUESTIONNAIRE THAT YOU SENT BACK YOU INDICATED
16 THAT IT WAS ACCURATE YOU ALSO INDICATED YOU HAD
17 RECEIVED MY LETTER INSTRUCTING YOU NOT TO HAVE ANY
18 DISCUSSIONS OR CONTACT ABOUT THE CASE AND NOT TO
19 ALLOW YOURSELF TO BE EXPOSED TO ANY MEDIA COVERAGE
20 HAVE YOU COMPLIED WITH THE INSTRUCTION SINCE YOU
21 RECEIVED MY LETTER?

22 A YEAH I HAVEN'T TALKED TO ANYBODY

23 Q WHAT ABOUT BEFORE YOU RECEIVED THE LETTER?

24 A I HAVE TALKED ABOUT IT

25 Q YOU'VE DISCUSSED IT WITH PEOPLE?

1 A UH-HUH (AFFIRMATIVE)

2 Q AND WERE YOU EXPOSED TO ANY TYPE OF MEDIA
3 COVERAGE BEFORE YOU RECEIVED THE LETTER?

4 A UH-HUH (AFFIRMATIVE)

5 Q ALL RIGHT NOW, I WANT YOU TO UNDERSTAND THAT
6 IT'S REALLY NOT IMPORTANT THAT YOU HAVE HAD SOME
7 CONTACT OR DISCUSSIONS REGARDING THE CASE IN FACT,
8 IT MIGHT BE NATURAL THAT YOU WOULD IF YOU HEAR ABOUT
9 SOMETHING AT THE TIME THAT IT OCCURS OF COURSE, IT
10 IS IMPORTANT TO COMPLY WITH ANY INSTRUCTION I GIVE
11 YOU NOT TO DISCUSS IT AFTER YOU HAVE BEEN TOLD NOT
12 TO BUT WHAT I REALLY NEED TO FIND OUT, IN ADDITION
13 TO THE FACT THAT YOU TELL ME YOU HAVE DISCUSSED IT,
14 I SIMPLY NEED TO FIND OUT WHETHER OR NOT ANY
15 INFORMATION THAT YOU DERIVED AS A RESULT OF THOSE
16 CONVERSATIONS WOULD IN ANY WAY INTERFERE WITH YOUR
17 ABILITY TO BE FAIR AND IMPARTIAL IF YOU WERE
18 SELECTED AS A JUROR TO SERVE IN THE TRIAL OF THIS
19 CASE?

20 A NO

21 Q COULD YOU PUT ASIDE ANYTHING THAT YOU MIGHT
22 HAVE HEARD AND BASE A DECISION SOLELY UPON THE
23 EVIDENCE RECEIVED DURING THE TRIAL OF THE CASE IF
24 YOU WERE SELECTED?

25 A YES, SIR

1 Q ALL RIGHT NOW, YOU UNDERSTAND THAT THE
2 PURPOSE AND THE FUNCTION OF A JURY IS TO CONSIDER
3 EVIDENCE, DECIDE FACTS, APPLY THE LAW THAT THE COURT
4 GIVES YOU --

5 A UH-HUH (AFFIRMATIVE)

6 Q -- AND THEN ARRIVE AT A DECISION THAT'S FAIR
7 AND JUST BASED UPON THAT LAW AND THAT EVIDENCE IN
8 THIS CASE, AS YOU ARE AWARE, THE DEFENDANT IS
9 CHARGED WITH MURDER UNDER THE LAW OF THIS STATE,
10 UNDER CERTAIN CIRCUMSTANCES, IF A PERSON IS
11 CONVICTED, FOUND GUILTY, OF THE CRIME OF MURDER, THE
12 STATE IS PERMITTED TO SEEK THE DEATH PENALTY IF
13 CERTAIN CIRCUMSTANCES ARE ESTABLISHED

14 A UH-HUH (AFFIRMATIVE)

15 Q IN THIS CASE, THE STATE IS ALLEGING NOT ONLY
16 THAT THE DEFENDANT IS GUILTY OF THE CRIME OF MURDER,
17 BUT THE STATE IS ALLEGING THAT THAT MURDER WAS
18 ACCOMPANIED BY SOME CIRCUMSTANCE OF AGGRAVATION IF
19 THAT IS ESTABLISHED, THE LAW PERMITS THE STATE TO
20 SEEK THE DEATH PENALTY THAT DECISION AS TO WHETHER
21 OR NOT IT WILL BE IMPOSED IS STILL LEFT IN THE
22 DISCRETION OF A JURY SELECTED FOR THAT PURPOSE DO
23 YOU UNDERSTAND THAT?

24 A UH-HUH (AFFIRMATIVE)

25 Q NOW, IN A TRIAL OF THAT TYPE, IT OCCURS IN TWO

1 STAGES THE FIRST STAGE RELATES TO GUILT THE
2 SECOND STAGE RELATES TO PUNISHMENT YOU NEVER GET
3 TO THE STAGE OF PUNISHMENT UNLESS YOU FIRST GET PAST
4 THE STAGE OF GUILT, AND A PERSON HAS BEEN FOUND
5 GUILTY OF THE CRIME OF MURDER, AND AN AGGRAVATING
6 CIRCUMSTANCE HAS BEEN ESTABLISHED IF YOU WERE
7 SELECTED TO SERVE AS A JUROR IN THE TRIAL OF A CASE
8 OR THIS CASE, DO YOU UNDERSTAND THAT THE BURDEN IS
9 ALWAYS UPON THE STATE IN BRINGING THE ALLEGATIONS
10 AGAINST THE DEFENDANT TO PROVE THAT HE IS GUILTY OF
11 THE CRIME CHARGED BEYOND A REASONABLE DOUBT BEFORE
12 YOU COULD FIND THAT PERSON GUILTY?

13 A UH-HUH (AFFIRMATIVE)

14 Q DO YOU UNDERSTAND THAT THE BURDEN IS NEVER
15 UPON A DEFENDANT OR A PERSON ACCUSED OF HAVING
16 COMMITTED A CRIME TO PROVE THAT THEY ARE NOT GUILTY
17 OR TO PROVE THAT THEY ARE INNOCENT? I'LL NEED YOU
18 TO ANSWER OUT LOUD SO THE --

19 A YES

20 Q -- COURT REPORTER CAN TAKE DOWN YOUR ANSWERS
21 NOW, IF YOU WERE SELECTED TO PARTICIPATE IN THE
22 TRIAL OF THIS CASE, COULD YOU FAIRLY CONSIDER
23 EVIDENCE THAT WOULD BE ADMITTED DURING THE GUILT
24 PHASE OF THE TRIAL?

25 A YES

1 Q YOU WOULD BE WILLING TO TAKE ALL OF THAT
2 EVIDENCE INTO CONSIDERATION BEFORE ARRIVING AT YOUR
3 DECISION?

4 A YES, SIR

5 Q IF YOU ARE CONVINCED BEYOND A REASONABLE DOUBT
6 THAT THE EVIDENCE SUPPORTED A VERDICT OF GUILTY,
7 COULD YOU RETURN A VERDICT OF GUILTY?

8 A YES, SIR

9 Q IF YOU WERE NOT CONVINCED BEYOND A REASONABLE
10 DOUBT THAT THE EVIDENCE SUPPORTED A VERDICT OF
11 GUILTY, COULD YOU RETURN A VERDICT OF NOT GUILTY?

12 A YES, SIR

13 Q NOW, I WANT TO ASK YOU TO ASSUME SOMETHING,
14 BUT ASSUME IT ONLY FOR THE PURPOSE OF THIS QUESTION
15 LET'S ASSUME THAT YOU HAVE BEEN SELECTED YOU ARE
16 PARTICIPATING YOU AND YOUR FELLOW JURORS HAVE
17 RETURNED A VERDICT OF GUILTY AS TO MURDER, AND YOU
18 HAVE FOUND SOME AGGRAVATING CIRCUMSTANCE EXISTING
19 BASED UPON THAT EVIDENCE IN A PENALTY HEARING, THE
20 SENTENCING PHASE OF THE TRIAL, THE NEXT STEP, THERE
21 WOULD BE ADDITIONAL EVIDENCE OFFERED THERE WOULD
22 BE EVIDENCE RELATING TO CIRCUMSTANCES OF
23 AGGRAVATION THERE WOULD BE EVIDENCE RELATING TO
24 CIRCUMSTANCES OF MITIGATION THAT SIMPLY MEANS THAT
25 THERE WOULD BE EVIDENCE OFFERED TENDING TO SUPPORT

1 THE MORE SERIOUS PUNISHMENT, BEING THE DEATH
2 PENALTY THERE WOULD BE EVIDENCE OFFERED TENDING TO
3 SUPPORT A LESS SERIOUS PUNISHMENT, THAT BEING LIFE
4 IMPRISONMENT UNDERSTAND THAT THAT CHARGE WOULD BE
5 FOR THE JURY TO MAKE YOU WOULD ALWAYS HAVE A
6 CHOICE IT WOULD BE ONE OF TWO YOU COULD SENTENCE
7 A PERSON TO DEATH IF YOU DEEMED IT APPROPRIATE YOU
8 COULD SENTENCE A PERSON TO LIFE IF YOU DEEMED IT
9 APPROPRIATE THE LAW WOULD NEVER REQUIRE THAT YOU
10 DO ONE OR THE OTHER THE DECISION WOULD BE YOURS NO
11 MATTER WHAT THE FACTS ARE AS HAD BEEN ESTABLISHED
12 OF COURSE, YOU COULD NOT IMPOSE THE DEATH SENTENCE
13 UNLESS CERTAIN THINGS WERE ESTABLISHED, THAT IS, AN
14 AGGRAVATING CIRCUMSTANCE, BUT YOU COULD ALWAYS
15 IMPOSE A LIFE SENTENCE FOR WHATEVER REASON THAT YOU
16 WISH TO IF YOU DETERMINED IT APPROPRIATE

17 WHAT I WANT TO ASK YOU NOW IS SIMPLY
18 IF YOU HAD PARTICIPATED AND YOU HAD FOUND THE
19 DEFENDANT GUILTY YOU HAD PARTICIPATED IN THE
20 SENTENCING PHASE YOU HAD FOUND AN AGGRAVATING
21 CIRCUMSTANCE BEYOND A REASONABLE DOUBT YOU HAD
22 CONSIDERED ALL OF THE OTHER EVIDENCE AS TO
23 AGGRAVATION AND MITIGATION THAT WOULD ALSO BE
24 OFFERED IF, AFTER CONSIDERING ALL OF THAT
25 EVIDENCE, IF YOU DETERMINE THAT IT WAS APPROPRIATE,

1 WOULD YOU BE ABLE TO SENTENCE A PERSON TO DEATH?

2 A WELL, IT WOULD BE HARD I DON'T REALLY
3 BELIEVE IN BUT ---

4 Q OKAY AND NATURALLY, DECISIONS LIKE THAT
5 CERTAINLY WOULD BE HARD, AND A LOT OF DECISIONS YOU
6 MAKE IN THE COURSE OF YOUR LIFETIME ARE HARD
7 NEVERTHELESS, AFTER YOU GIVE DUE DELIBERATION AND
8 DUE CONSIDERATION TO ALL THE FACTORS INVOLVED, YOU
9 MAY BE ABLE TO MAKE A DECISION ON THE OTHER HAND,
10 IT MAY BE SOMETHING THAT YOU CANNOT MAKE A DECISION
11 ABOUT

12 A UH-HUH (AFFIRMATIVE)

13 Q AND THAT'S WHAT WE NEED TO FIND OUT, AND I'M
14 JUST SIMPLY TRYING TO FIND OUT AT THIS MOMENT AS TO
15 WHETHER OR NOT, AFTER YOU CONSIDER ALL THE EVIDENCE
16 THAT WOULD BE PRESENTED, IF YOU BELIEVED THAT
17 EVIDENCE SUPPORTED A DEATH SENTENCE, COULD YOU
18 ACTUALLY IMPOSE THAT SENTENCE?

19 A NOT REALLY

20 Q WOULD YOU BE ABLE TO IMPOSE A LIFE SENTENCE IF
21 YOU THOUGHT IT TO BE APPROPRIATE?

22 A YEAH

23 Q AND YOU UNDERSTAND THAT THOSE ARE THE ONLY TWO
24 CHOICES --

25 A UH-HUH (AFFIRMATIVE)

1 Q -- THAT YOU WOULD HAVE UNDER THAT CIRCUMSTANCE
2 WOULD BE EITHER LIFE OR DEATH NOW, WHAT I WANT TO
3 ASK YOU IS SIMPLY IF YOU HAD A CHOICE, AND, AS
4 I'VE TOLD YOU, YOU WOULD HAVE A CHOICE THAT IS
5 WHAT THE JURY DOES YOU ALWAYS HAVE A CHOICE
6 NOBODY CAN REQUIRE THAT YOU IMPOSE A DEATH SENTENCE,
7 AND YOU CAN ALWAYS IMPOSE A LIFE SENTENCE FOR
8 WHATEVER REASON THAT YOU WISH TO OR FOR NO REASON AT
9 ALL IF YOU HAD THAT CHOICE BETWEEN HAVING A DEATH
10 SENTENCE AND IMPOSING A LIFE SENTENCE, WOULD YOU
11 ALWAYS CHOOSE ONE OF THOSE OPTIONS OVER THE OTHER?

12 A YEAH

13 Q WHAT WOULD YOU CHOOSE?

14 A LIFE IN PRISON

15 Q AND WOULD YOU DO THAT NO MATTER WHAT THE
16 CIRCUMSTANCES MIGHT BE THAT RELATE TO THE CRIME?

17 A YES, SIR

18 THE COURT OKAY PLEASE ANSWER ANY
19 QUESTIONS THAT THE LAWYERS MAY HAVE FOR YOU

20 EXAMINATION BY MR TINSLEY

21 Q JUST ONE QUESTION, MS STONE SO YOU CAN'T
22 ENVISION OR IMAGINE OR PICTURE IN YOUR MIND ANY
23 CIRCUMSTANCES BY WHICH YOU WOULD VOTE FOR THE DEATH
24 PENALTY, IS THAT CORRECT?

25 A UH-HUH (AFFIRMATIVE)

1 Q OKAY AND I COULD SIT HERE AND TILL I WAS
2 BLUE IN THE FACE, AND YOU DON'T THINK YOU WOULD
3 CHANGE THAT ANSWER?

4 A NO, SIR

5 MR TINSLEY THAT'S ALL

6 THE COURT SOLICITOR?

7 MR JONES MS STONE, I'M TOWNES

8 JONES, YOUR SOLICITOR MIKE COULTER IS YOUR DEPUTY
9 SOLICITOR WE APPRECIATE YOUR PARTICIPATING IN THE
10 PROCESS I JUST WANTED TO THANK YOU FOR
11 PARTICIPATING IN THE PROCESS

12 THE COURT ALL RIGHT MS STONE, IF
13 YOU'LL JUST STEP OUT THAT DOOR WITH THE BAILIFF FOR
14 ONE SECOND, WE'LL BRING YOU RIGHT BACK
15 (JUROR DOES AS INSTRUCTED)

16 THE COURT DOES EITHER SIDE BELIEVE
17 THE JUROR TO BE QUALIFIED?

18 MR JONES THE STATE DOES NOT

19 MR TINSLEY THE ONLY ARGUMENT I CAN
20 MAKE, YOUR HONOR, IS THE CROSS SECTION ARGUMENT
21 WHICH I'VE MADE PREVIOUSLY

22 THE COURT OKAY BASED UPON THE
23 TESTIMONY OF THE JUROR THAT SHE WOULD NOT BE ABLE TO
24 CONSIDER THE VERDICT FORM BEING A SENTENCE OF DEATH
25 UNDER ANY CIRCUMSTANCES, I FIND THAT HER BELIEFS

1 WOULD SUBSTANTIALLY IMPAIR HER ABILITY TO SERVE IN
2 THE CASE SHE HAS INDICATED SHE UNDER NO
3 CIRCUMSTANCES COULD CONSIDER THAT FORM OF PUNISHMENT
4 AS A VIABLE FORM OF PUNISHMENT, AND, THEREFORE, I
5 FIND THAT SHE IS NOT QUALIFIED BRING MS STONE
6 BACK (JUROR RE-ENTERS THE COURTROOM)

7 MS STONE, WE'RE GOING TO EXCUSE YOU
8 FROM SERVICE IN THE TRIAL OF THIS CASE WE DO
9 APPRECIATE THE INCONVENIENCE THAT YOU HAVE SUFFERED
10 UP TO THIS POINT IT WILL NOT BE NECESSARY THAT YOU
11 REPORT BACK NOR CALL BACK ANY FURTHER, BUT I DO WANT
12 TO THANK YOU FOR YOUR WILLINGNESS TO PARTICIPATE IF
13 CALLED UPON

14 (JUROR EXITS COURTROOM)

15 (JUROR IS QUALIFIED)

16 THE COURT ALL RIGHT ASK MS
17 THOMAS, BARBARA THOMAS, TO COME OUT

18 (JUROR #189 PRESENTED AT 4 20 O'CLOCK P M)

19 EXAMINATION BY THE COURT

20 Q GOOD AFTERNOON, MS THOMAS

21 A GOOD AFTERNOON

22 Q WE APPRECIATE YOUR PATIENCE AS YOU KNOW, WE
23 HAVE SOME OTHER QUESTIONS THAT WE'RE GOING TO BE
24 ASKING YOU I'LL ASK YOU SOME, AND THE LAWYERS WILL
25 BE ASKING YOU SOME THERE ARE NO RIGHT OR WRONG

1 ANSWERS WE SIMPLY NEED TO FIND OUT WHAT YOUR VIEWS
2 AND OPINIONS ARE ON CERTAIN SUBJECTS AS YOU ARE
3 AWARE, YOU WERE SWORN WHEN THE ENTIRE JURY PANEL WAS
4 SWORN SO YOU REMAIN UNDER OATH FOR THE PURPOSE OF
5 THESE QUESTIONS, ALSO YOU HAVE FILLED OUT A JUROR
6 QUESTIONNAIRE WHICH YOU INDICATED WAS CORRECT AND
7 DID NOT NEED TO BE CHANGED, AND YOU ALSO INDICATED
8 YOU HAD RECEIVED MY LETTER GIVING YOU INSTRUCTION ON
9 CERTAIN MATTERS, THOSE BEING NOT TO DISCUSS THE CASE
10 AND NOT TO ALLOW YOURSELF TO BE EXPOSED TO ANY TYPE
11 OF MEDIA COVERAGE HAVE YOU FOLLOWED THAT
12 INSTRUCTION?

13 A NO, SIR I HADN'T I DON'T KNOW ANYTHING
14 ABOUT THE CASE I DON'T KNOW ANYTHING

15 Q SO YOU HAVE FOLLOWED --

16 A I HAVE FOLLOWED

17 Q -- THE INSTRUCTION? YOU HAVE NOT BEEN EXPOSED
18 TO ANYTHING?

19 A I HAVE NOT BEEN EXPOSED TO NOTHING

20 Q WHAT ABOUT BEFORE YOU RECEIVED THE LETTER?
21 WERE YOU EXPOSED TO ANY CONVERSATIONS OR MEDIA
22 COVERAGE?

23 A I HAVE NO IDEA NO NO I HAVE NOT I DON'T
24 KNOW ANYTHING ABOUT THE CASE AT ALL IF I READ IT
25 IN THE NEWS PAPER WHEN IT COME OUT, I FORGOT IT

1 Q OKAY SO IF YOU HAD BEEN EXPOSED TO ANYTHING,
2 YOU DON'T HAVE ANY RECOLLECTION OF THAT?

3 A NO, SIR

4 Q OKAY NOW, OBVIOUSLY, THERE'S SOME OTHER
5 QUESTIONS I NEED TO ASK YOU AS I TOLD YOU, THERE
6 ARE NO RIGHT OR WRONG ANSWERS, BUT I DO NEED FOR YOU
7 TO ANSWER AS HONESTLY AND AS OPENLY AS YOU CAN SO
8 THAT WE CAN UNDERSTAND HOW YOU FEEL AND IF FOR
9 SOME REASON I ASK YOU A QUESTION THAT'S NOT CLEAR
10 OR YOU DON'T UNDERSTAND, ASK ME TO REPEAT IT,
11 REPHRASE IT OR TO CLARIFY IT FOR YOU, AND THE SAME
12 WOULD APPLY TO THE LAWYERS IF WHEN THEY ASK YOU
13 QUESTIONS

14 THE FUNCTION OF A JURY IS TO CONSIDER
15 EVIDENCE THAT'S OFFERED, WHETHER IT BE BY TESTIMONY
16 OF WITNESSES OR OTHERWISE, AND IN CONSIDERING THAT
17 EVIDENCE, TO DECIDE WHAT THE FACTS ARE THEN THE
18 JURY IS ASKED TO APPLY LAW THAT THE COURT PROVIDES
19 IN ORDER TO ARRIVE AT A DECISION AND IN THIS
20 PARTICULAR CASE OR IN ANY TYPE OF CRIMINAL CASE, A
21 JURY IS CALLED UPON BASED UPON CONSIDERING THE
22 EVIDENCE AND APPLYING THE LAW TO DETERMINE WHETHER
23 OR NOT A PERSON HAS BEEN PROVEN TO BE GUILTY OF A
24 CRIME THAT IS ALLEGED AGAINST HIM, THAT IS, THAT THE
25 STATE HAS BROUGHT AGAINST THEM IN THIS CASE, AS

1 YOU ARE AWARE, THE DEFENDANT HAS BEEN CHARGED WITH
2 THE CRIME OF MURDER, AND THE STATE IS ALLEGING THAT
3 THAT MURDER WAS ACCOMPANIED BY SOME CIRCUMSTANCE OF
4 AGGRAVATION AND UNDER THE LAW, WHERE A MURDER IS
5 COMMITTED AND IS ACCOMPANIED BY SOME CIRCUMSTANCE OF
6 AGGRAVATION, THE LAW PERMITS THE STATE TO SEEK THE
7 DEATH PENALTY AGAINST THAT INDIVIDUAL THAT IS A
8 DECISION, HOWEVER, THAT A DECISION ALWAYS
9 DETERMINES THE LAW DOES NOT REQUIRE THE IMPOSITION
10 OF A DEATH SENTENCE UNDER ANY CIRCUMSTANCES DO YOU
11 UNDERSTAND THAT?

12 A YES, SIR

13 Q NOW, IF IN THE TRIAL OF A CASE SUCH AS THAT,
14 IF YOU WERE CALLED UPON TO PARTICIPATE, IT WOULD BE
15 CONDUCTED IN TWO SEPARATE STAGES THE FIRST STAGE
16 WOULD BE WHERE THE JURY WOULD DETERMINE WHETHER OR
17 NOT THE PERSON HAS BEEN PROVEN TO BE GUILTY, AND IF
18 THE JURY FINDS THE PERSON GUILTY OF THE CRIME OF
19 MURDER AND CERTAIN AGGRAVATING CIRCUMSTANCES HAVE
20 BEEN ESTABLISHED, WE WOULD PROCEED TO A SECOND
21 STAGE, AND IN THAT STAGE THERE WOULD BE ADDITIONAL
22 EVIDENCE PRESENTED THERE WOULD BE EVIDENCE OF
23 AGGRAVATION THERE WOULD BE EVIDENCE OF MITIGATION
24 IN OTHER WORDS, THERE WOULD BE EVIDENCE PRESENTED
25 THAT MIGHT TEND TO SUPPORT THE MORE SEVERE

1 PUNISHMENT AS AN APPROPRIATE PUNISHMENT, THAT BEING
2 THE DEATH PENALTY, AND THERE WOULD BE EVIDENCE
3 PRESENTED THAT MIGHT SUPPORT A LESS SEVERE
4 PUNISHMENT BEING IMPOSED, THAT BEING A SENTENCE OF
5 LIFE IMPRISONMENT THAT WOULD BE THE CHOICE THAT
6 THE JURY WOULD HAVE THOSE WOULD BE THE ONLY TWO
7 CHOICES LIFE IMPRISONMENT OR THE DEATH PENALTY,
8 BUT THE JURY WOULD ALWAYS HAVE THAT CHOICE

9 NOW, DO YOU UNDERSTAND THAT WHEN THE
10 STATE BRINGS A CHARGE AGAINST A DEFENDANT, THE
11 BURDEN IS ALWAYS UPON THE STATE TO ESTABLISH THOSE
12 ALLEGATIONS, THAT IS, ESTABLISH THE GUILT OF THE
13 DEFENDANT BEYOND A REASONABLE DOUBT BEFORE A JURY
14 CAN FIND THAT PERSON GUILTY OF THAT CRIME?

15 A YES, SIR

16 Q DO YOU UNDERSTAND THAT THE BURDEN IS NEVER
17 UPON THE DEFENDANT OR THE PERSON ACCUSED OF THE
18 CRIME TO PROVE THAT THEY ARE NOT GUILTY OR TO PROVE
19 THAT THEY ARE INNOCENT?

20 A YES, SIR

21 Q IF YOU WERE PARTICIPATING IN THE TRIAL OF THE
22 CASE, IN A GUILT PHASE WHERE THE JURY WAS CALLED
23 UPON TO DETERMINE GUILT, IF THE EVIDENCE IN THE CASE
24 CONVINCED YOU BEYOND A REASONABLE DOUBT THAT THE
25 DEFENDANT WAS GUILTY, COULD YOU RETURN A VERDICT OF

1 GUILTY?

2 A YES, SIR

3 Q IF THE EVIDENCE DID NOT CONVINCE YOU BEYOND A
4 REASONABLE DOUBT THAT THE DEFENDANT WAS GUILTY,
5 COULD YOU FIND THE DEFENDANT NOT GUILTY?

6 A I COULD, YES, SIR

7 Q NOW, AS I'VE STATED, UNDER THE LAW WHERE A
8 PERSON HAS BEEN FOUND GUILTY OF MURDER AND AN
9 AGGRAVATING CIRCUMSTANCE HAS BEEN ESTABLISHED, AND
10 IT WOULD HAVE TO BE BEYOND A REASONABLE DOUBT, THE
11 JURY WOULD MAKE THE DECISION AS TO THE APPROPRIATE
12 SENTENCE AS I INDICATED TO YOU, ADDITIONAL
13 EVIDENCE WOULD BE RECEIVED IN AGGRAVATION AND IN
14 MITIGATION THE JURY WOULD BE CALLED UPON TO
15 CONSIDER ALL THE EVIDENCE RELATING TO THE OFFENSES
16 THEMSELVES AND ALL OF THE EVIDENCE THAT WOULD BE
17 OFFERED RELATING TO AGGRAVATION AND MITIGATION IF
18 YOU WERE PARTICIPATING, WOULD YOU BE ABLE TO FAIRLY
19 CONSIDER ALL OF THAT EVIDENCE BEFORE MAKING SOME
20 DECISION?

21 A YES, SIR

22 Q AND IF YOU WERE INVOLVED IN THE PENALTY PHASE
23 OF A TRIAL, THAT IS, THE PERSON HAD BEEN FOUND
24 GUILTY OF MURDER, AND AN AGGRAVATING CIRCUMSTANCE
25 HAD BEEN PROVEN BEYOND A REASONABLE DOUBT, AND YOU

1 HAD CONSIDERED ALL THE EVIDENCE, BOTH AGGRAVATION
2 AND MITIGATION, IF YOU DETERMINED THAT IT WAS
3 APPROPRIATE UNDER ALL OF THOSE CIRCUMSTANCES, WOULD
4 YOU BE ABLE TO SENTENCE A PERSON TO DEATH?

5 A YES, SIR

6 Q AND IF YOU THOUGHT IT WAS APPROPRIATE UNDER
7 THE CIRCUMSTANCES OF THE CASE BASED UPON THAT
8 EVIDENCE, COULD YOU ALSO CONSIDER SENTENCING A
9 PERSON TO LIFE IMPRISONMENT?

10 A YES, SIR

11 Q WOULD YOUR CHOICE DEPEND UPON THE
12 CIRCUMSTANCES THAT WERE PROVEN IN THE CASE?

13 A YES, SIR

14 Q OR SHOWN BY THE EVIDENCE IN THE CASE?

15 A YES, SIR

16 Q IF YOU HAD A CHOICE, AND, AS I'VE STATED, YOU
17 WOULD HAVE THAT CHOICE YOU WOULD ALWAYS HAVE THE
18 CHOICE NO MATTER WHAT YOU FIND, YOU ARE NEVER
19 REQUIRED TO SENTENCE A PERSON TO DEATH, BUT YOU MAY
20 NOT SENTENCE A PERSON TO DEATH UNLESS THEY HAD BEEN
21 CONVICTED OF MURDER AND AN AGGRAVATING CIRCUMSTANCE
22 HAS BEEN PROVEN BEYOND A REASONABLE DOUBT BUT IN
23 THAT CASE WHERE YOU HAD A CHOICE, WOULD YOU CONSIDER
24 BOTH OF THOSE CHOICES AS REASONABLE AND VIABLE
25 ALTERNATIVES DEPENDING UPON THE EVIDENCE?

1 A YES, SIR I THINK I COULD

2 Q AND IF YOU HAD A CHOICE, AS YOU ALWAYS WOULD,
3 WOULD YOU EVER ALWAYS SELECT ONE OF THOSE OPTIONS
4 OVER THE OTHER?

5 A IF FOUND GUILTY, I WOULD

6 Q OKAY NOW, UNDERSTAND THAT YOU'RE NOT GONNA
7 BE EVEN THINKING ABOUT PUNISHMENT YOU WILL NOT
8 EVEN BE CONSIDERING THE DEATH PENALTY OR LIFE
9 IMPRISONMENT UNLESS THE PERSON HAS BEEN FOUND GUILTY
10 BEYOND A REASONABLE DOUBT OF THE CRIME OF MURDER
11 I'M PUTTING YOU NOW INTO THE PENALTY PHASE, AND I'M
12 SIMPLY ASKING YOU THAT WHERE YOU HAVE THAT CHOICE,
13 AND YOU WOULD, BETWEEN A SENTENCE OF DEATH AND A
14 SENTENCE OF LIFE, WOULD YOU ALWAYS CHOOSE ONE OF
15 THOSE OVER THE OTHER?

16 A YES

17 Q WHAT WOULD YOU SELECT?

18 A WHAT WOULD I SELECT?

19 Q YES, MA'AM

20 A WOULD IT NOT BE WHAT THE CRIME FIT, YOU KNOW?

21 Q WELL, THAT'S WHY I THINK PERHAPS I HAVEN'T
22 STATED MY QUESTION CLEARLY WHAT I'M SAYING IS
23 WOULD YOU ALWAYS SELECT ONE OF THOSE PUNISHMENTS,
24 WHETHER IT BE THE DEATH PENALTY OR LIFE
25 IMPRISONMENT, WOULD YOU ALWAYS SELECT ONE --

1 A YES, SIR

2 Q -- OVER THE OTHER, OR WOULD YOU -- OR WOULD
3 YOUR SELECTION DEPEND UPON THE FACTS OF THE CASE?

4 A IT WOULD DEPEND UPON THE FACTS OF THE CASE

5 Q OKAY NOW, UP TO THIS POINT, HAVE YOU FORMED
6 OR EXPRESSED ANY OPINION AS TO WHAT YOU BELIEVE THE
7 APPROPRIATE DECISION SHOULD BE IN THIS CASE?

8 A NO, SIR

9 Q DO YOU HAVE ANY REASON OR KNOW OF ANY REASON
10 WHY YOU COULD NOT BE A FAIR AND IMPARTIAL JUROR IF
11 YOU WERE SELECTED TO SERVE IN THIS CASE?

12 A NO, SIR

13 Q DO YOU UNDERSTAND, AND I BELIEVE YOU DO, THAT
14 IF YOU WERE SELECTED, YOU WOULD BE SEQUESTERED
15 DURING THE TRIAL OF THE CASE?

16 A YES, SIR

17 Q YOU WOULD BE HOUSED IN A MOTEL FOR A PERIOD OF
18 BETWEEN SEVEN AND TEN DAYS THAT WOULD NOT BEGIN
19 TODAY IT WOULD BEGIN SOME TIME NEXT WEEK SO YOU
20 WOULD HAVE TIME TO MAKE SOME ARRANGEMENTS, BUT YOU
21 WOULD BE SEQUESTERED FOR THAT PERIOD BETWEEN SEVEN
22 AND TEN DAYS IF YOU WERE SELECTED AND YOU WERE
23 SEQUESTERED, WOULD THAT SEQUESTRATION POSE AN
24 UNREASONABLE HARDSHIP OR HEALTH RISK TO YOU?

25 A NO, SIR

1 Q WOULD YOU BE WILLING TO ACCOMMODATE ANY
2 INCONVENIENCE IT MIGHT CAUSE IF CALLED UPON TO
3 SERVE?

4 A YES, SIR

5 THE COURT THANK YOU, MA'AM ANSWER
6 ANY QUESTIONS THE LAWYERS MAY HAVE FOR YOU

7 MR TINSLEY THANK YOU SO MUCH, YOUR
8 HONOR

9 EXAMINATION

10 BY MR TINSLEY

11 Q GOOD AFTERNOON, MS THOMAS

12 A GOOD AFTERNOON

13 Q MS THOMAS, NOW, I BELIEVE YOU TESTIFIED THAT
14 YOU WOULD CONSIDER THE FACTS AND CIRCUMSTANCES OF
15 ANY CASE IN ARRIVING AT YOUR SENTENCE, IS THAT
16 CORRECT

17 A YES, SIR

18 Q I MEAN, YOUR SENTENCE, RIGHT BUT AS TO WHAT
19 IF SOMEONE WHO WERE GUILTY OR NOT GUILTY, WOULD YOU
20 ALSO CONSIDER ALL THE FACTS AND CIRCUMSTANCES IN
21 ARRIVING AT THAT DECISION?

22 A YES, SIR

23 Q AND, AS SUCH, YOU WOULD LISTEN TO THE JUDGE
24 AND FACTS AND THE INSTRUCTIONS ON THE LAW, RIGHT?

25 A YES, SIR

1 Q AND IF THE JUDGE GAVE YOU THE OPTIONS OF
2 GUILTY OF MURDER, GUILTY OF MANSLAUGHTER, OR NOT
3 GUILTY, COULD YOU IN YOUR -- IN YOUR OWN
4 DELIBERATIONS, CONSIDER ALL THREE OF THOSE --

5 A YES, SIR

6 Q -- OPTIONS?

7 A YES, SIR

8 Q YOU COULD EVALUATE THE FACTS AND CONSIDER THE
9 LAW?

10 A YES, SIR

11 Q AND, AS SUCH, YOU'VE INDICATED THAT YOU THINK
12 THE PUNISHMENT SHOULD FIT THE CRIME, IS THAT
13 CORRECT?

14 A YES, SIR

15 Q NOW, ASSUMING FOR A MINUTE THAT MR HUGHEY
16 WERE CONVICTED OF MURDER AND AN AGGRAVATING
17 CIRCUMSTANCE SUCH AS BURGLARY WERE FOUND -- WAS
18 FOUND, WOULD YOU -- WOULD YOU ALWAYS RECOMMEND THE
19 DEATH PENALTY?

20 A NO, SIR

21 Q YOU WOULD CONSIDER ALL OF THE FACTS --

22 A YES, SIR I WOULD

23 Q -- IN ASSOCIATION WITH IT?

24 A YES, SIR

25 Q AND YOU WOULD CONSIDER HIS MITIGATION, WOULD

1 YOU NOT?

2 A YES, SIR

3 Q AND DO YOU UNDERSTAND WHAT I MEAN BY
4 MITIGATION?

5 A EXPLAIN

6 Q EXTENUATING CIRCUMSTANCES? NOW, IF -- IF --
7 AND YOU WOULD LISTEN TO THOSE WITH AN OPEN MIND --

8 A YES, SIR

9 Q -- WOULD YOU NOT?

10 A YES, SIR

11 Q AND ON THE OTHER HAND, IF MR HUGHEY WERE
12 CONVICTED OF TWO MURDERS AND AN AGGRAVATING
13 CIRCUMSTANCE SUCH AS BURGLARY AND OTHER CRIMES,
14 COULD YOU STILL CONSIDER THE MITIGATING
15 CIRCUMSTANCES IN THE CASE?

16 A YES, SIR

17 Q AND SO YOU FEEL THAT YOU COULD MAINTAIN AN
18 OPEN MIND AND HEART IN THE MATTER THROUGHOUT?

19 A YES, SIR

20 Q IS THAT -- THAT'S CORRECT?

21 A YES, SIR

22 MR TINSLEY THANK YOU SO MUCH, MS
23 THOMAS

24 THE COURT MR JONES?

25 MR JONES MS THOMAS, GOOD

1 AFTERNOON MY NAME IS TOWNES JONES I'M YOUR
2 SOLICITOR HERE IN ABBEVILLE COUNTY

3 JUROR YES, SIR

4 MR JONES THIS IS MIKE COULTER
5 HE'S YOUR DEPUTY SOLICITOR WE'LL BOTH BE PUTTING
6 UP EVIDENCE IN THE CASE, CALLING WITNESSES AND
7 PRESENTING EVIDENCE AND THAT SORT OF STUFF HE'S
8 GOT A QUESTION OR TWO FOR YOU

9 JUROR OKAY

10 EXAMINATION

11 BY MR COULTER

12 Q JUST REAL BRIEFLY, MS THOMAS YOU SAID THAT
13 YOU ARE THE TYPE OF JUROR THAT'S GOT TO HEAR ALL OF
14 THE EVIDENCE BEFORE YOU CAN MAKE ANY TYPE OF
15 DECISION

16 A RIGHT, YES

17 Q YOU'VE GOT TO HAVE IT ALL IN FRONT OF YOU?

18 A I WANT IT ALL, YES

19 Q AND IN REGARDS TO THE DEATH PENALTY, IF, IN
20 FACT, I'LL POINT THIS OUT IF, IN FACT, YOU FOUND
21 THE DEATH PENALTY SENTENCE WAS THE PROPER SENTENCE
22 OF PUNISHMENT AFTER HEARING EVERYTHING, YOU, AS A
23 JURY, THE TWELVE OF YOU FOUND THAT, WOULD HAVE TO
24 SIGN YOUR NAMES ON WHAT'S CALLED A DEATH WARRANT
25 RECOMMENDING THAT HE RECEIVE DEATH YOU COULD SIGN

1 YOUR NAME ON THE DEATH WARRANT?

2 A YES, I COULD

3 Q ALL RIGHT IF THE CIRCUMSTANCES WERE BAD
4 ENOUGH?

5 A YES, SIR

6 MR COULTER OKAY THANK YOU, MS
7 THOMAS

8 THE COURT ALL RIGHT YOU MAY STEP
9 DOWN IF YOU'LL STEP OUT THAT DOOR WITH THE
10 BAILIFF, WE'LL BRING YOU BACK IN JUST A MINUTE

11 JUROR ALL RIGHT
12 (JUROR DOES AS INSTRUCTED)

13 THE COURT ANY REASON WHY THE JUROR
14 SHOULD NOT BE QUALIFIED?

15 MR JONES NONE ON THE STATE, YOUR
16 HONOR

17 MR TINSLEY NONE FROM THE DEFENSE,
18 YOUR HONOR

19 THE COURT ALL RIGHT SHE IS
20 QUALIFIED BRING HER IN, PLEASE

21 (JUROR RE-ENTERS THE COURTROOM)

22 THE COURT MS THOMAS, YOU ARE
23 QUALIFIED TO SERVE AS A JUROR IN THIS PANEL FROM
24 WHICH THE JURY WILL ACTUALLY BE SELECTED THAT
25 SIMPLY MEANS THAT YOU WILL BE IN THE LARGER GROUP

1 FROM WHICH THE SMALLER GROUP WILL BE CHOSEN
2 OBVIOUSLY, WE HAVE SOME OTHER JURORS TO INTERVIEW,
3 AND WE'LL CONTINUE WITH THOSE NOW AND TOMORROW SO
4 IT WILL NOT BE UNTIL SOME TIME NEXT WEEK THAT WE
5 WILL NEED YOU TO COME BACK, BUT WE WILL NEED FOR YOU
6 TO GIVE THE CLERK ANY PHONE NUMBERS AND ALL PHONE
7 NUMBERS WHERE WE MAY REACH YOU SO THAT WHEN WE DO
8 NEED FOR YOU TO COME BACK, WE CAN GET IN TOUCH WITH
9 YOU

10 JUROR OKAY

11 JUROR YOU THINK I CAN GO BACK TO
12 WORK MONDAY?

13 THE COURT YES, MA'AM YOU CAN
14 CARRY ON WITH YOUR USUAL ROUTINE THAT WOULD
15 INCLUDE WORK SO LONG AS WE HAVE THAT NUMBER WHERE WE
16 CAN CALL YOU WHEN WE NEED YOU TO, AND YOU'LL HAVE TO
17 LEAVE, OF COURSE

18 JUROR OKAY IT MAY TAKE A WHILE
19 FOR YOU TO GO THROUGH TO ME, BUT SOONER OR LATER YOU
20 WILL OKAY THANK YOU

21 THE COURT LET ME ALSO REMIND YOU OF
22 THE INSTRUCTION GIVEN IN THE LETTER YOU'RE STILL
23 NOT TO DISCUSS THE CASE IN ANY FASHION WITH ANY
24 PERSON

25 JUROR YES, SIR

1 THE COURT AND DO NOT ALLOW YOURSELF
2 TO BE EXPOSED TO ANY MEDIA COVERAGE, TELEVISION,
3 RADIO OR NEWSPAPERS, ABOUT THIS PARTICULAR TRIAL

4 JUROR OKAY

5 THE COURT HAVE A GOOD WEEKEND

6 JUROR THANK YOU SAME TO YOU

7 BYE-BYE

8 (JUROR EXITS COURTROOM)

9 (JUROR IS QUALIFIED)

10 THE COURT MR HESSON IS THE NEXT
11 ONE, ISN'T HE? ALL RIGHT BE AT EASE JUST FOR A
12 SECOND I GOT TO GET MY QUESTIONNAIRE ON MR
13 HESSON

14 ALL RIGHT ASK MR HESSON TO COME
15 OUT, PLEASE

16 (JUROR #95 PRESENTED AT 4 36 O'CLOCK P M)

17 EXAMINATION BY THE COURT

18 Q GOOD AFTERNOON, MR HESSON

19 A GOOD AFTERNOON

20 Q AS YOU KNOW, WE'RE GOING TO BE ASKING YOU SOME
21 ADDITIONAL QUESTIONS PRIOR TO US ENGAGING IN JURY
22 SELECTION THERE ARE NO RIGHT OR WRONG ANSWERS TO
23 THESE QUESTIONS WE JUST SIMPLY NEED TO FIND OUT
24 YOUR VIEWS AND OPINIONS ON CERTAIN TOPICS SO I
25 WOULD SIMPLY ASK THAT YOU PLEASE ANSWER THE

1 QUESTIONS AS OPENLY AND AS HONESTLY AS YOU CAN IF
2 FOR SOME REASON MY QUESTION IS NOT CLEAR OR YOU DO
3 NOT UNDERSTAND WHAT I'M TRYING TO ASK, PLEASE SIMPLY
4 LET ME KNOW I'LL TRY TO CLARIFY IT THE SAME
5 WOULD APPLY TO THE LAWYERS IF YOU DON'T UNDERSTAND
6 SOME QUESTION, SIMPLY ASK THEM TO CLARIFY IT OR TO
7 REPEAT IT IF YOU DON'T UNDERSTAND IT

8 YOU WILL RECALL THAT WHEN YOU FIRST
9 ARRIVED, YOU WERE PLACED UNDER OATH, THE PANEL WAS
10 AND SO YOU REMAIN UNDER OATH FOR THE PURPOSE OF
11 THESE ADDITIONAL QUESTIONS, ALSO YOU INDICATED YOU
12 HAD COMPLETED YOUR QUESTIONNAIRE AND IT WAS CORRECT,
13 AND YOU ALSO INDICATED YOU HAD RECEIVED MY LETTER
14 SETTING FORTH CERTAIN INSTRUCTIONS ABOUT NOT
15 ENGAGING IN CONVERSATIONS ABOUT THE CASE AND NOT
16 ALLOWING YOURSELF TO BE EXPOSED TO ANY MEDIA
17 COVERAGE DID YOU COMPLY WITH THAT INSTRUCTION UPON
18 RECEIVING MY LETTER?

19 A YES, SIR

20 Q AND SO YOU HAVE HAD NO MEDIA EXPOSURE OR
21 CONVERSATIONS OR DISCUSSIONS?

22 A NO

23 Q BUT DID YOU HAVE ANY SUCH PRIOR TO RECEIVING
24 THAT LETTER?

25 A NO UH-HUH (AFFIRMATIVE) NOT FROM THE MEDIA

1 OR NOTHING?

2 Q NOT?

3 A NOT WITH MEDIA OR PEOPLE TALKING ABOUT IT

4 Q OKAY NOW, IN A CRIMINAL CASE, A JURY IS
5 SELECTED THEIR PURPOSE IS TO CONSIDER EVIDENCE,
6 DECIDE FACTS, APPLY THE LAW THAT THE COURT PROVIDES
7 THEM, AND DECIDE WHETHER OR NOT A PERSON HAS BEEN
8 PROVEN TO BE GUILTY OF THE CRIME ALLEGED IN THIS
9 CASE, THE STATE IS ALLEGING THAT THE DEFENDANT
10 COMMITTED THE CRIME OF MURDER THE STATE IS ALSO
11 ALLEGING CERTAIN AGGRAVATING CIRCUMSTANCES
12 ACCOMPANYING THAT MURDER UNDER THE LAW OF THIS
13 STATE, UNDER SOME CIRCUMSTANCES, THE STATE IS
14 PERMITTED TO SEEK THE DEATH PENALTY A CIRCUMSTANCE
15 WHERE IT IS PERMITTED IS WHERE A PERSON HAS BEEN
16 CONVICTED AND AGGRAVATING CIRCUMSTANCE OR
17 CIRCUMSTANCES EXIST AND HAVE BEEN PROVEN BEYOND A
18 REASONABLE DOUBT DO YOU UNDERSTAND THAT IN ANY
19 CRIMINAL TRIAL, THE BURDEN IS ALWAYS UPON THE STATE
20 TO PROVE A PERSON GUILTY BEFORE A JURY CAN FIND HIM
21 GUILTY?

22 A YES, I DO

23 Q YOU UNDERSTAND THAT A JURY MUST BE CONVINCED
24 BEYOND A REASONABLE DOUBT OF THAT FACT BEFORE THEY
25 CAN RETURN A VERDICT OF GUILTY?

1 A YES, I DO

2 Q DO YOU UNDERSTAND THE BURDEN IS NEVER UPON A
3 DEFENDANT OR A PERSON ACCUSED TO PROVE THAT THEY ARE
4 NOT GUILTY OR TO PROVE THAT THEY ARE INNOCENT?

5 A YES, I DO

6 Q DO YOU UNDERSTAND THAT IN THE TRIAL OF A CASE
7 WHERE GUILT IS THE ISSUE, A JURY WOULD BE CALLED
8 UPON TO CONSIDER ALL OF THE EVIDENCE PRESENTED? THE
9 JURY WOULD CONSIDER THAT EVIDENCE, DECIDE THE FACTS,
10 AND APPLY THE LAW AND DECIDE WHETHER OR NOT A PERSON
11 HAS BEEN PROVEN GUILTY IF YOU WERE PARTICIPATING
12 IN SUCH A TRIAL, COULD YOU CAREFULLY AND FAIRLY
13 CONSIDER ALL EVIDENCE THAT WOULD BE OFFERED AS TO
14 THAT ISSUE?

15 A YES, I COULD

16 Q IF YOU WERE CONVINCED BEYOND A REASONABLE
17 DOUBT THAT THE PERSON WAS GUILTY OF THE CRIME, COULD
18 YOU RETURN A VERDICT OF GUILTY?

19 A YES, I COULD

20 Q IF YOU WERE NOT CONVINCED BEYOND A REASONABLE
21 DOUBT, WOULD YOU RETURN A VERDICT OF NOT GUILTY?

22 A YES, I WOULD

23 Q NOW, JUST FOR THE MOMENT, AND ONLY ASSUME IT
24 FOR THIS PURPOSE AND FOR THE PURPOSE OF THIS

1 QUESTION, IF YOU WERE SELECTED AND YOU WERE
2 PARTICIPATING, AND YOU AND YOUR FELLOW JURORS HAD
3 FOUND THE DEFENDANT TO BE GUILTY OF THE CRIME OF
4 MURDER AND YOU HAD FOUND AN AGGRAVATING CIRCUMSTANCE
5 TO EXIST, WE WOULD PROCEED WITH A PENALTY OR
6 SENTENCING PHASE OF THAT TRIAL THE FIRST STAGE IS
7 TO DETERMINE WHETHER OR NOT A PERSON IS GUILTY IF
8 THEY'RE GUILTY AND ONLY IF THEY'RE GUILTY WOULD YOU
9 PROCEED TO THE SECOND STAGE OF THE TRIAL BUT IN
10 THAT SECOND STAGE, THE PENALTY PHASE, ADDITIONAL
11 EVIDENCE WOULD BE RECEIVED EVIDENCE WOULD BE
12 RECEIVED EVIDENCE IN AGGRAVATION, EVIDENCE IN
13 MITIGATION SIMPLY PUT, THERE WOULD BE EVIDENCE
14 PRESENTED THAT MIGHT TEND TO SUPPORT THE MORE SEVERE
15 PUNISHMENT BEING IMPOSED, THAT BEING THE DEATH
16 PENALTY, AND THERE WOULD BE EVIDENCE THAT WOULD BE
17 INTRODUCED THAT MIGHT SUPPORT THE LESS SEVERE
18 PUNISHMENT BEING IMPOSED, THAT BEING LIFE
19 IMPRISONMENT THAT WOULD BE A CHOICE THAT THE JURY
20 WOULD MAKE THE JURY ALWAYS HAS THE CHOICE THE
21 LAW NEVER REQUIRES A DEATH SENTENCE TO BE IMPOSED NO
22 MATTER WHAT THE CIRCUMSTANCES ARE, BUT A DEATH
23 SENTENCE MAY NOT BE IMPOSED UNLESS MURDER HAS BEEN
24 PROVEN AND UNLESS SOME OTHER AGGRAVATING

1 CIRCUMSTANCE HAS BEEN ESTABLISHED ACCOMPANYING THAT
2 MURDER

3 NOW, AS I STATED IN THE SENTENCING
4 PHASE, ADDITIONAL EVIDENCE WOULD BE PRESENTED
5 AGGRAVATING CIRCUMSTANCES, MITIGATING CIRCUMSTANCE
6 WOULD YOU BE ABLE TO FAIRLY CONSIDER ALL OF THAT
7 EVIDENCE BEFORE ARRIVING AT ANY DECISION?

8 A I WOULD THINK SO

9 Q IF AFTER YOU'VE CONSIDERED ALL THE EVIDENCE
10 RELATING TO THE CRIMES THEMSELVES, AFTER YOU'VE
11 CONSIDERED ALL THE EVIDENCE RELATING TO MITIGATION
12 AND AGGRAVATION, IF YOU DETERMINED THAT IT WAS
13 APPROPRIATE, WOULD YOU BE ABLE TO SENTENCE A PERSON
14 TO DEATH?

15 A IF I FELT LIKE THE SITUATION WARRANTED IT,
16 YES, I COULD

17 Q AND COULD YOU ALSO, AFTER CONSIDERING ALL OF
18 THAT EVIDENCE, CONSIDER IMPOSING A LIFE SENTENCE FOR
19 A PERSON WHO HAS BEEN CONVICTED OF MURDER
20 ACCOMPANIED BY SOME AGGRAVATING CIRCUMSTANCE?

21 A YES, SIR

22 Q SO YOU COULD CONSIDER BOTH FORMS OF THE
23 PUNISHMENT AS VIABLE ALTERNATIVES DEPENDING UPON THE
24 FACTS OF THE CASE?

1 A RIGHT UH-HUH (AFFIRMATIVE)

2 Q OKAY UP TO THIS POINT, HAVE YOU FORMED OR
3 EXPRESSED ANY OPINION AS TO WHAT YOU BELIEVE THE
4 APPROPRIATE DECISION SHOULD BE OF THE JURY IN THIS
5 CASE?

6 A NO, I HAVEN'T

7 Q NO?

8 A NO

9 Q DO YOU KNOW OF ANY REASON WHY YOU COULD NOT BE
10 FAIR OR IMPARTIAL IF YOU WERE SELECTED AS A JUROR IN
11 THE TRIAL OF THIS CASE?

12 A NO I DON'T

13 Q YOU UNDERSTAND, OF COURSE, THAT YOU WOULD BE
14 SEQUESTERED DURING THE -- WHILE THE TRIAL IS IN
15 PROGRESS THAT WOULD NOT BEGIN IMMEDIATELY BUT
16 PERHAPS NEXT WEEK SOME TIME YOU WOULD BE
17 SEQUESTERED FOR A PERIOD LIKELY TO BE BETWEEN SEVEN
18 AND TEN DAYS IF YOU WERE SELECTED TO SERVE AS A
19 JUROR, WOULD THAT SEQUESTRATION POSE ANY
20 UNREASONABLE HARDSHIP OR HEALTH RISK TO YOU?

21 A NOT UNREASONABLE, NO

22 Q WOULD YOU BE WILLING TO ACCOMMODATE ANY
23 INCONVENIENCE THAT MIGHT BE CAUSED BY SEQUESTRATION
24 AND SERVE IF CALLED UPON?

1 A I COULD

2 THE COURT ALL RIGHT PLEASE ANSWER
3 ANY QUESTIONS THAT THE LAWYERS MIGHT HAVE FOR YOU

4 EXAMINATION

5 BY MR TINSLEY

6 Q GOOD AFTERNOON, MR HESSON

7 A HEY

8 Q NOW, MR HESSON, WHEN YOU SAID THAT YOU HAD
9 HAD NO DISCUSSIONS IN THIS MATTER, HAVE YOU HEARD
10 OTHERS DISCUSS THIS MATTER?

11 A YES, I HAVE

12 Q AND HAVE YOU HEARD A LOT OF DISCUSSION ON IT?

13 A NO

14 Q OKAY AND ISN'T IT TRUE, MR HESSON, THAT YOU
15 WORK FOR THE CITY OF ABBEVILLE?

16 A CORRECT

17 Q AND Y'ALL -- YOU'RE WITH THE FIRE DEPARTMENT,
18 RIGHT?

19 A RIGHT THAT'S CORRECT

20 Q AND Y'ALLS BUILDING IS NOT NEXT TO THE CITY
21 POLICE, BUT IT'S ATTACHED, IS THAT RIGHT? IT'S ALL
22 THE SAME BUILDING?

23 A THE SAME BUILDING, YES

24 Q OKAY Y'ALL ARE ON ONE SIDE, AND THE CITY

1 POLICE IS ON THE OTHER SIDE, RIGHT?

2 A UH-HUH (AFFIRMATIVE)

3 Q AND THE CITY POLICE IS THE ONE PROSECUTING
4 THIS, ISN'T THAT RIGHT?

5 A I THOUGHT THE STATE WAS

6 Q WELL, IT'S THEIR AGENCY, ISN'T THAT RIGHT?

7 A IT'S IN THE CITY, YES

8 Q IN THE CITY WELL, HOW DO YOU KNOW IT'S IN
9 THE CITY?

10 A BECAUSE I -- IT'S OFF OF RICHARDS STREET

11 Q OKAY ALL RIGHT AND HAVE YOU HEARD ANY
12 POLICE OFFICERS DISCUSSING THIS MATTER?

13 A NOT DISCUSSING IT, NO I HEARD -- DO YOU WANT
14 ME TO TELL YOU WHAT I HEARD?

15 Q YES, SIR

16 A OKAY THAT THEY HEARD A MURDER ON RICHARDS
17 STREET A DOUBLE MURDER ON RICHARDS STREET

18 Q DOUBLE MURDER ON RICHARDS STREET?

19 A RIGHT

20 Q WELL, YOU'VE WORKED FOR THE CITY POLICE, HAVE
21 YOU NOT?

22 A THAT'S CORRECT

23 Q AND WHEN YOU WERE LAST EMPLOYED BY THE
24 ABBEVILLE CITY POLICE?

1 A 1988 WAS THE LAST YEAR THAT I WORKED FOR THEM

2 Q OKAY AND SINCE THEN YOU'VE BEEN IN FIRE

3 WORK, IS THAT RIGHT, MR HESSON?

4 A YES

5 Q AND ISN'T IT TRUE, MR HESSON, THAT THERE'S

6 BEEN SEVERAL CLIENTS OF MINE THAT YOU HAVE

7 PROSECUTED?

8 A I'VE HELPED, YES

9 Q YES, SIR THAT YOU HAVE BEEN THE PROSECUTING

10 AGENCY, NOT THE PROSECUTOR IN THE TERMS OF A

11 SOLICITOR

12 A I WAS JUST A WITNESS

13 Q YEAH, BUT YOU MADE THE CASE?

14 A I BELIEVE THAT SLED MADE THE CASE

15 Q SLED MADE THE CASE?

16 A UH-HUH (AFFIRMATIVE)

17 Q YOU DIDN'T SIGN THE WARRANT?

18 A NO

19 Q AND ISN'T IT TRUE ---

20 A NOT THAT I CAN THINK OF WELL, NOT THAT I CAN

21 THINK OF, NO

22 Q NOT THAT YOU CAN THINK OF?

23 A NO

24 Q BUT THERE'VE BEEN TWO OR THREE CASES THROUGH

1 THE YEARS THAT YOU HAVE BEEN INVOLVED WITH THAT I
2 HAVE, AS PUBLIC DEFENDER, REPRESENTED --

3 A CORRECT

4 Q -- THE CLIENT ON, AND HAD OCCASION TO CROSS
5 EXAMINE YOU BEFORE, I BELIEVE, IS THAT CORRECT?

6 A YES, SIR

7 Q YES, SIR AND, AS SUCH, MR HESSON, YOU
8 OBVIOUSLY ANSWERED THAT YOU'VE BEEN A WITNESS IN
9 TRIALS ON YOUR QUESTIONNAIRE, THAT SORT OF THING,
10 AND ONE TIME I THINK YOU WORKED WITH THE SHERIFF'S
11 DEPARTMENT, IS THAT RIGHT?

12 A NO, SIR

13 Q WELL, IS THAT A RELATIVE OF YOURS?

14 A I WAS THE COUNTY FIRE MARSHALL

15 Q COUNTY FIRE MARSHALL, BUT NOW YOU ARE JUST
16 WITH THE ABBEVILLE CITY FIRE DEPARTMENT?

17 A THAT'S CORRECT YES, SIR

18 Q AND DURING THE YEARS THAT YOU WERE WITH THE
19 ABBEVILLE CITY, DID YOU HAVE OCCASION TO KNOW MY
20 CLIENT, MR HUGHEY?

21 A NO, SIR I DON'T

22 Q YOU DON'T KNOW HIM?

23 A NO, SIR

24 Q OKAY DO YOU KNOW ANY OF THE HARRIS'?

1 A I KNEW LUEVINIA

2 Q YOU DO? THE DECEASED?

3 A RIGHT UH-HUH (AFFIRMATIVE)

4 Q MS LUEVINIA HARRIS? HOW WELL DID YOU KNOW

5 HER?

6 A JUST AN ACQUAINTANCE

7 Q JUST AN ACQUAINTANCE WOULD YOU CONSIDER HER

8 A FRIEND?

9 A NOT NECESSARILY A FRIEND -- A FRIEND I KNEW

10 HER FROM YEARS AGO WHEN I WAS IN THE JEWELRY

11 BUSINESS SHE WOULD COME IN THE JEWELRY STORE QUITE

12 A BIT

13 Q DID SHE PURCHASE JEWELRY FROM YOU?

14 A RIGHT

15 Q AND HOW ABOUT THE JACKSONS?

16 A I WENT TO SCHOOL WITH NEAL

17 Q YOU WENT WITH NEAL?

18 A UH-HUH (AFFIRMATIVE) GRADUATED WITH NEAL

19 Q AND FURTHER, MR HESSON, DO YOU -- DO YOU KNOW

20 HAVE RELATIONSHIPS WITH -- RELATIONS -- WOULD YOU

21 HAVE A FRIENDSHIP OR RELATIONSHIP WITH OFFICER MITCH

22 CHRISTOPHER?

23 A JUST AN ACQUAINTANCE

24 Q OR BARRY NEW?

1 A ACQUAINTANCE

2 Q OKAY WELL, YOU'VE WORKED WITH HIM OVER HERE
3 IN THE COURT SYSTEM BEFORE, HAVE YOU NOT?

4 A YEAH YEAH

5 Q HE WAS THE COURT OFFICER OF THE CITY YOU
6 WERE THE COURT OFFICER FOR THE FIRE IS THAT RIGHT?

7 A I WOULDN'T CALL IT THE COURT OFFICER FOR THE
8 FIRE, BUT I WAS INVOLVED, YES

9 Q WELL, Y'ALL HAD -- Y'ALL DIDN'T HAVE THAT MANY
10 CASES

11 A NO UH-UH (NEGATIVE)

12 Q IT WAS FROM TIME TO TIME, AND, AS SUCH, DO YOU
13 KNOW CHIEF ROBIN BRYANT?

14 A YES I DO

15 Q OKAY AND YOU -- NEAL HENDERSON?

16 A YES, I DO

17 Q AND DO YOU KNOW AGENT -- SLED AGENT EDDIE
18 CLARK?

19 A YES I DO

20 Q AND DO YOU KNOW SOME POSSIBLY SOME OF THE
21 OTHER OFFICERS WHO MAY BE CALLED IN THIS CASE?

22 A NOT FROM THE NAMES THAT THE JUDGE CALLED OUT
23 YESTERDAY, BUT I MAY KNOW THEM BY FACE BUT NOT
24 NAMES

1 Q DID I BASICALLY COVER THE ONES THAT YOU KNOW?

2 A I THINK SO MOST OF THE CITY POLICEMEN I DO
3 KNOW

4 Q OKAY AND YOU'RE FRIENDS WITH VARIOUS OF
5 THESE PEOPLE, IS THAT RIGHT?

6 A THAT'S CORRECT

7 Q OKAY AND YOUR PAYCHECK COMES FROM THE CITY
8 OF ABBEVILLE, OBVIOUSLY, IS THAT RIGHT?

9 A THAT'S CORRECT

10 Q OKAY AND, FINALLY, ARE THE CITY POLICE
11 DEPARTMENT AND THE CITY FIRE DEPARTMENT WITHIN THE
12 WALLS OF THE CITY COURTROOM? ARE THEY IN THE SAME
13 BUILDING?

14 A WHERE THE CITY HOLDS THEIR COURT?

15 Q YES, SIR

16 A THAT'S CORRECT

17 MR TINSLEY THAT'S ALL

18 MR JONES GOOD AFTERNOON, MR
19 HESSON

20 JUROR GOOD AFTERNOON

21 MR JONES I DON'T KNOW IF YOU'VE
22 MET MR COULTER OR NOT, MIKE COULTER HE'S YOUR
23 DEPUTY SOLICITOR HERE IN ABBEVILLE, AND WE
24 APPRECIATE YOUR COMING FORWARD AND PARTICIPATING IN

1 THE PROCESS AND BEING OPEN WITH US LIKE YOU HAVE
2 BEEN

3 THE COURT MR HESSON, IF YOU WOULD,
4 PLEASE STAND OUTSIDE THE DOOR, AND WE'LL BRING YOU
5 BACK IN JUST A FEW MINUTES (JUROR DOES AS
6 INSTRUCTED)

7 THE COURT ANY REASON WHY THE JUROR
8 SHOULD NOT BE QUALIFIED?

9 MR JONES NONE FROM THE STATE, YOUR
10 HONOR

11 MR TINSLEY CITE 14-7-820 OF THE
12 SOUTH CAROLINA CODE THAT SAYS THAT HE'S NOT
13 QUALIFIED SINCE HE WORKS WITHIN THE WALLS WITHIN ANY
14 COURTHOUSE AND THE JURISDICTION AND CLEARLY,
15 CLEARLY, YOUR HONOR, THERE'S ALONG HISTORY HERE BOTH
16 TIES TO THE PROSECUTING AGENCY, I E , THE CITY
17 POLICE WHERE HE WORKED THE CITY OF ABBEVILLE, OF
18 COURSE, WRITES HIS CHECK EVERY PAY PERIOD THE FACT
19 THAT HIS OFFICE AND HIS AREA IS WITHIN THE -- THE
20 WALLS OF THE CITY COURTHOUSE THE FACT THAT 14-7-
21 820 SAYS SPECIFICALLY ANY COURTHOUSE, AND
22 ADDITIONALLY THE FACT THAT HE'S WORKING RIGHT THERE,
23 RIGHT THERE IN THE -- AND ALSO I'D LIKE TO CITE
24 STATE -- STATE VERSUS COOPER WHICH IS 353 S E 2D 441

1 --

2 THE COURT THAT'S THE HIGHWAY
3 PATROLMAN CASE?

4 MR TINSLEY WELL, THEY BASICALLY
5 FOUND HIM TO BE THE EQUIVALENT OF A DEPUTY SHERIFF

6 THE COURT WELL, I KNOW, BUT A
7 FIREMAN'S NOT THE EQUIVALENT OF A DEPUTY SHERIFF, IS
8 HE?

9 MR TINSLEY WELL, NOT REALLY, BUT
10 UNDER THESE CIRCUMSTANCES I CLEARLY THINK HE'S
11 DISQUALIFIED THERE'S TOO MUCH BIAS, TOO MUCH
12 OPPOSITION TO BE IN THE PAST CERTAINLY ARGUE
13 FUNDAMENTAL FAIRNESS, DUE PROCESS, THE EIGHTH AND
14 FOURTEENTH AMENDMENTS, FIFTH, SIXTH SOUTH CAROLINA
15 CONSTITUTION, THAT SORT OF THING, AND IT'S A
16 SITUATION WHERE THERE'S JUST TOO MUCH BIAS CLEARLY
17 IN THIS CASE

18 THE COURT YOU MEAN TOO -- YOU
19 SUSPECT THERE'S TOO MUCH BIAS OR DID HE TESTIFY THAT
20 THERE WAS?

21 MR TINSLEY I THINK WE CAN
22 ESTABLISH THAT THERE IS TOO MUCH BIAS IN THIS CASE
23 AND THAT ALSO THE FACT THAT HE ADMITTED THAT HE
24 HEARD DISCUSSIONS ON IT HE DENIED PARTICIPATING IN

1 THOSE DISCUSSIONS, AND, AS SUCH, HE WOULD BE UNDULY
2 INFLUENCED BY WHAT HE HAS HEARD, AND BASICALLY,
3 CITED THE CODE, THE CASE AND THE POSITION WE HAVE ON
4 THE MATTER, YOUR HONOR

5 THE COURT OKAY SOLICITOR, YOU
6 WISH TO BE HEARD?

7 MR JONES WELL, JUDGE, BRIEFLY
8 YOU KNOW, HE WORKS IN THE FIRE DEPARTMENT, NOT A
9 COURTHOUSE HE WORKS IN A FIRE HOUSE, AND IT JUST
10 SO HAPPENS THAT THE CITY POLICE DEPARTMENT FROM TIME
11 TO TIME HAS A RULE OVER THERE IN THAT GENERAL
12 BUILDING WHERE THEY'LL HAVE A CASE HEARD, BUT HE'S
13 NOT IN THE COURTHOUSE HE'S IN A FIRE DEPARTMENT
14 THAT'S A FIRE DEPARTMENT OVER THERE, AND THERE'S A
15 CITY POLICE DEPARTMENT THERE, TOO BUT THERE'S A
16 ROOM WHERE THEY HAVE COURT CLEARLY, JUDGE, HE
17 ANSWERED YOUR QUESTIONS CONCERNING ANY POTENTIAL
18 BIAS, AND HE HAD INDICATED HE HAD NONE, AND HE HAD
19 NO KNOWLEDGE OF THIS CASE THAT IF HE DID, ANY
20 REMARKS THAT HAD BEEN PASSED ONTO HIM, HE'D PUT THEM
21 ASIDE AND BE FAIR AND IMPARTIAL THERE'S NO NEED, I
22 WOULDN'T THINK, FOR YOU TO ADDRESS HIS DEATH PENALTY
23 QUALIFYING STATUS BECAUSE CLEARLY HE'S QUALIFIED
24 UNDER THE ABILITY TO CONSIDER BOTH LIFE OR DEATH

1 SO BACK TO THE POTENTIAL PREJUDICE,
2 YOU QUESTIONED HIM AND YOU DIDN'T HAVE ANY -- HE
3 DIDN'T EXHIBIT ANY PREJUDICE IN THIS CASE HE SAID
4 THAT HE COULD BE FAIR AND IMPARTIAL AND THAT HE
5 WOULD BE, AND YOU HEARD HIS RESPONSES TO YOU THE
6 FACT THAT SOMEBODY HAS PREVIOUSLY WORKED WITH A LAW
7 ENFORCEMENT AGENCY CLEARLY DOES NOT PREVENT THEM
8 FROM COMING IN AND BEING A CITIZEN AND ACTING IN
9 THAT ROLE OR PARTICIPATING IN OUR JUDICIAL SYSTEM
10 YOU KNOW, THE FACT THAT HE KNEW THESE
11 OFFICERS, HE SAID HE KNEW THEM, AND HE TOLD YOU
12 EXACTLY WHO HE KNEW AND JUDGE, JUST FOR YOUR
13 INTEREST AND FOR MY ARGUMENT, I CONSIDER MYSELF A
14 FRIEND OF MANY ATTORNEYS I HOPE THEY THINK THEY'RE
15 FRIENDS OF MINE, BUT I CAN PUT THAT FRIENDSHIP ASIDE
16 AND PROSECUTE THIS CASE JUST FINE FOR THESE PEOPLE
17 RIGHT HERE AND I HOPE THEY CAN PUT THEIR
18 FRIENDSHIP ASIDE, ANY LAWYERS THAT ARE FRIENDS OF
19 MINE, AND DO THEIR JOB, AND THAT'S BASICALLY WHAT
20 HE'S SAYING "IF YOU WANT ME TO COME IN HERE AND
21 SERVE AS A JUROR AS A CITIZEN OF ABBEVILLE COUNTY
22 AND DO MY PART, IT AIN'T EASY I DON'T WANT TO
23 LEAVE MY FAMILY I AIN'T CHOMPING AT THE BIT TO
24 COME UP HERE AND SPEND A WEEK WITH YOU, BUT IF

1 YOU'RE ASKING ME IF I CAN DO IT FAIRLY AND HONESTLY,
2 YES, SIR I'M UNDER OATH I'M GONNA ANSWER YOUR
3 QUESTION I CAN I'M AN ADULT I'M A RESPONSIBLE
4 CITIZEN, AND I'LL DO WHAT JOB IS ASKED OF ME IN THIS
5 PROCESS " AND THAT'S WHAT HE'S SAYING TO YOU ANY
6 CHARACTERIZATION OF HIM OF ANYTHING OTHER THAN THAT
7 IS NOT SO IT'S NOT FAIR AND NOT RIGHT BY ANYBODY
8 THERE'S NO BASIS FOR IT NOT ONE SCINTILLAE OF ANY
9 EVIDENCE PRESENTED IN AN ARGUMENT THAT HE'S
10 PREJUDICED EXISTS WHERE IS IT?

11 THE COURT ASK MR HESSON TO COME
12 BACK IN

13 (JUROR RE-ENTERS THE COURTROOM)

14 FURTHER EXAMINATION BY THE COURT

15 Q MR HESSON, TAKE A SEAT RIGHT THERE JUST A
16 MOMENT I WANT TO ASK YOU ONE OR TWO OTHER
17 QUESTIONS YOU'VE INDICATED SOME CONNECTION OR
18 FORMER CONNECTION WITH THE CITY POLICE DEPARTMENT
19 YOU'VE INDICATED THE FACT THAT YOU'RE A FIREMAN NOW
20 YOU'RE IN CLOSE PROXIMITY TO THE CITY POLICE
21 DEPARTMENT, AND YOU'VE ALSO INDICATED, PURSUANT TO
22 QUESTIONS, THAT YOU HAVE SOME RELATIONSHIP, WHETHER
23 IT BE PROFESSIONAL OR PERSONAL, WITH -- WITH SOME OF
24 THE POTENTIAL WITNESSES IN THE CASE WHAT I WANT TO

1 KNOW FROM YOU IS WOULD ANY OF THOSE RELATIONSHIPS
2 OR ANY OF THOSE CONNECTIONS INTERFERE IN ANY WAY
3 WITH YOUR ABILITY TO BE FAIR AND IMPARTIAL IF YOU
4 WERE SELECTED IN THE TRIAL OF THIS CASE?

5 A NO IT WOULDN'T

6 Q COULD YOU PUT ASIDE ANY OF THOSE RELATIONSHIPS
7 AND CONNECTIONS AND BASE A VERDICT SOLELY UPON THE
8 EVIDENCE RECEIVED DURING THE COURSE OF THE TRIAL AND
9 THE LAW THAT I WOULD PROVIDE THE JURY IN THAT EVENT?

10 A YES I COULD

11 THE COURT OKAY WE'RE GOING TO
12 QUALIFY YOU FOR SERVICE IN THE TRIAL OF THIS CASE
13 THAT SIMPLY MEANS YOU'RE IN -- YOU'RE IN THE POOL
14 FROM WHICH THE ACTUAL JURY WILL BE SELECTED SO
15 BEFORE YOU LEAVE, I'M GOING TO ASK YOU PLEASE TO
16 GIVE THE CLERK ALL PHONE NUMBERS WHERE YOU CAN BE
17 REACHED AT ANY TIME WE'RE GOING TO TRY TO GIVE YOU
18 AS MUCH NOTICE AS YOU CAN I DON'T ANTICIPATE IT
19 WILL BE BEFORE PERHAPS TUESDAY OF NEXT WEEK

20 JUROR OKAY

21 THE COURT BUT WHETHER YOU ARE AT
22 WORK OR AT HOME, YOU CAN CARRY ON YOUR ROUTINE
23 SCHEDULE, BUT WE JUST SIMPLY NEED TO KNOW WHERE YOU
24 ARE SO THAT WE CAN CALL YOU WHEN WE NEED TO HAVE YOU

1 COME BACK, OKAY?

2 JUROR ALL RIGHT

3 THE COURT AND REMEMBER THE CAUTION
4 I'VE GIVEN YOU EARLIER YOU'RE STILL NOT TO DISCUSS
5 THE CASE DO NOT ALLOW YOURSELF TO BE PUT IN A
6 POSITION WHERE YOU WOULD OVERHEAR ANY DISCUSSION
7 SHOULD THERE BE ANY, AND DO NOT ALLOW YOURSELF TO BE
8 EXPOSED TO ANY TYPE OF MEDIA COVERAGE THAT RELATES
9 TO THE CASE

10 JUROR YES, SIR

11 THE COURT OKAY THANK YOU YOU
12 MAY GO THANK YOU

13 (JUROR EXITS COURTROOM)

14 (JUROR IS QUALIFIED)

15 THE COURT SURE, HELP YOURSELF

16 MR TINSLEY YOUR HONOR, PLEASE NOTE
17 MY EXCEPTION UNDER ARTICLE FIVE, SECTION 10 AND 18
18 OF THE SOUTH CAROLINA CONSTITUTION AS WELL AS THE
19 UNITED STATES CONSTITUTION, DUE PROCESS, EQUAL
20 PROTECTION CODE SECTION 14-7-820 OF THE SOUTH
21 CAROLINA CODE AND STATE VERSUS COOPER, AND,
22 ADDITIONALLY, THE VERY FACT THAT HE AND I HAVE FACED
23 EACH OTHER ADVERSARIALLY A NUMBER OF TIMES HAS
24 TAINTED THIS JURY TO THE POINT THAT HE CANNOT GIVE

1 MY CLIENT A FAIR TRIAL AND THE SAME -- THEY SHARE A
2 JOINT DISPATCH OVER THERE, BY THE WAY, THAT'S
3 ANOTHER FACTOR THAT MR GARRETT BROUGHT TO MY
4 ATTENTION BUT YOU GOT MY ARGUMENT THANK YOU
5 THE COURT ALL RIGHT, SIR NOTE
6 YOUR EXCEPTION OPEN THE BLINDS WE GOT THREE MORE
7 OUT THERE? ALL RIGHT THEY SHOULD BE WILLIAMS,
8 GILLIAM AND COWART ASK THEM TO COME IN, PLEASE
9 ALL RIGHT THE NEXT JUROR IS MS WILLIAMS ARE WE
10 READY FOR MS WILLIAMS?

11 MR JONES THE STATE'S READY, YOUR
12 HONOR

13 THE COURT BRING HER IN, PLEASE
14 SUSAN WILLIAMS (JUROR #217 PRESENTED AT 5 00
15 O'CLOCK P M)

16 EXAMINATION BY THE COURT

17 Q GOOD AFTERNOON, MS WILLIAMS AS YOU WILL
18 RECALL, WE WERE GOING TO ASK YOU SOME ADDITIONAL
19 QUESTIONS PRIOR TO PROCEEDING WITH JURY SELECTION
20 THE QUESTIONS THAT WILL BE ASKED OF YOU, THERE ARE
21 NO RIGHT OR WRONG ANSWERS WE SIMPLY NEED TO KNOW
22 YOUR VIEWS AND OPINIONS ON CERTAIN TOPICS SO WE
23 WOULD SIMPLY ASK THAT YOU PLEASE ANSWER THE
24 QUESTIONS AS OPENLY AND AS HONESTLY AS YOU CAN

1 SHOULD A QUESTION NOT BE CLEAR OR YOU DON'T
2 UNDERSTAND WHAT I'M ASKING OR WHAT ONE OF THE
3 LAWYERS IS ASKING, IF YOU'LL SIMPLY PLEASE ASK US TO
4 REPEAT IT OR TO REPHRASE IT OR TO CLARIFY IT, WE
5 WILL DO THAT FOR YOU BECAUSE IT'S IMPORTANT THAT
6 WE -- THAT YOU UNDERSTAND THE QUESTION AND THAT WE
7 GET THE APPROPRIATE RESPONSE OF YOUR TRUE OPINION OR
8 VIEW ON CERTAIN THINGS

9 NOW, YOU WILL RECALL WHEN YOU ARRIVED
10 WITH YOUR FELLOW JURORS, THE ENTIRE PANEL WAS SWORN
11 AND PLACED UNDER OATH

12 A YES, SIR

13 Q THAT OATH REMAINS YOU ARE STILL UNDER OATH
14 FOR THE PURPOSE OF THESE QUESTIONS BEING ASKED,
15 ALSO NOW, YOU PREVIOUSLY INDICATED THAT YOUR
16 QUESTIONNAIRE WAS ACCURATE --

17 A YES, SIR

18 Q -- AND CORRECT AND NOTHING NEEDED TO BE
19 CHANGED YOU ALSO INDICATED YOU HAD RECEIVED MY
20 LETTER INCLUDING AN INSTRUCTION NOT TO DISCUSS THE
21 CASE WITH ANYONE, NOT TO ALLOW ANYONE TO DISCUSS IT
22 WITH YOU, AVOID ANY CONTACT OR DISCUSSIONS ABOUT THE
23 CASE AND NOT TO ALLOW YOURSELF TO BE EXPOSED TO ANY
24 MEDIA COVERAGE RELATING TO THIS PARTICULAR CASE

1 HAVE YOU COMPLIED WITH THE INSTRUCTION?

2 A YES, SIR I HAVE

3 Q SINCE YOU RECEIVED THE LETTER?

4 A YES, SIR

5 Q WHAT ABOUT PRIOR TO RECEIVING THE LETTER?

6 WERE YOU EXPOSED TO ANY SIMILAR CONTACT --

7 A NO, SIR

8 Q -- DISCUSSIONS, OR MEDIA COVERAGE?

9 A NOT TO MY KNOWLEDGE, NO, SIR

10 Q OKAY IF YOU WERE EXPOSED TO IT, IS IT FAIR

11 TO SAY YOU HAVE NO RECOLLECTION OF IT?

12 A YES, SIR YES, SIR

13 Q OKAY NOW, IN THIS CASE OR IN ANY CRIMINAL
14 CASE WHERE THE STATE BRINGS A CHARGE AGAINST A
15 DEFENDANT, THE BURDEN IS ALWAYS UPON THE STATE TO
16 ESTABLISH A PERSON'S GUILT BEYOND A REASONABLE DOUBT
17 BEFORE A JURY MAY FIND THAT PERSON GUILTY DO YOU
18 UNDERSTAND THAT?

19 A YES, SIR

20 Q YOU UNDERSTAND THE BURDEN IS NEVER UPON A
21 PERSON CHARGED WITH A CRIME TO PROVE THAT THEY ARE
22 NOT GUILTY OR TO PROVE THAT THEY ARE INNOCENT?

23 A YES, SIR I UNDERSTAND THAT

24 Q NOW, THE LAW PROVIDES UNDER CIRCUMSTANCES

1 WHERE A PERSON HAS BEEN FOUND GUILTY, CONVICTED BY A
2 JURY, OF MURDER, THAT UNDER CERTAIN CIRCUMSTANCES,
3 THE STATE IS PERMITTED TO SEEK THE DEATH PENALTY
4 THAT DECISION IS STILL LEFT TO A JURY TO MAKE THE
5 LAW NEVER REQUIRES THAT A DEATH SENTENCE BE IMPOSED
6 IT SIMPLY SETS FORTH THE CIRCUMSTANCES WHERE IT
7 MIGHT BE PERMITTED

8 IN THIS CASE, THE DEFENDANT IS
9 CHARGED WITH MURDER THE STATE FURTHER ALLEGES THAT
10 THE MURDER WAS ACCOMPANIED BY SOME CIRCUMSTANCE OF
11 AGGRAVATION UNDER THE LAW, THE STATE IS PERMITTED
12 TO SEEK THE DEATH PENALTY IF THAT MURDER IS PROVEN
13 AND IF THAT AGGRAVATING CIRCUMSTANCE IS ESTABLISHED
14 AND EACH BEYOND A REASONABLE DOUBT

15 IF YOU WERE SELECTED TO SERVE IN THE
16 TRIAL OF THIS CASE, THE TRIAL WOULD PROCEED IN TWO
17 STAGES THE FIRST PHASE OR STAGE OF THE TRIAL WOULD
18 BE CONCERNED WITH GUILT THE SECOND STAGE OF THE
19 TRIAL WOULD BE CONCERNED WITH PUNISHMENT IN THE
20 FIRST STAGE OF THE TRIAL, EVIDENCE WOULD BE
21 PRESENTED AFTER ALL OF THE EVIDENCE HAD BEEN
22 RECEIVED, I WOULD INSTRUCT YOU ON THE LAW THAT'S
23 APPLICABLE THE JURY WOULD DECIDE, BASED UPON THE
24 EVIDENCE AND THE LAW, WHETHER OR NOT THE DEFENDANT

1 HAS BEEN PROVEN TO BE GUILTY OF THE CRIME OF MURDER
2 BEYOND A REASONABLE DOUBT IF THE JURY MAKES THAT
3 FINDING, YOU FIND THE PERSON GUILTY BEYOND A
4 REASONABLE DOUBT OF THE CRIME OF MURDER, AND IF SOME
5 AGGRAVATING CIRCUMSTANCE IS ESTABLISHED BEYOND A
6 REASONABLE DOUBT, THE JURY WOULD BE ABLE TO CONSIDER
7 THE APPROPRIATE PUNISHMENT THAT SHOULD BE HANDED
8 DOWN IN THAT CASE THAT WOULD TAKE PLACE IN A
9 SEPARATE AND SUBSEQUENT PROCEEDING ANOTHER HEARING
10 WOULD BE CONDUCTED FOR THAT PURPOSE SHORTLY AFTER
11 THE FIRST, THE GUILT PHASE, AND IN THAT PENALTY
12 PHASE, ADDITIONAL EVIDENCE WOULD BE RECEIVED THERE
13 WOULD BE EVIDENCE OFFERED IN AGGRAVATION THERE
14 WOULD BE EVIDENCE OFFERED IN MITIGATION SIMPLY
15 PUT, THERE WOULD BE EVIDENCE OFFERED TENDING TO SHOW
16 THAT THE MORE SERIOUS PUNISHMENT SHOULD BE IMPOSED,
17 THAT BEING THE DEATH PENALTY EVIDENCE WOULD BE
18 OFFERED TENDING TO SUPPORT THAT A LESS SERIOUS
19 PUNISHMENT SHOULD BE IMPOSED, THAT BEING LIFE
20 IMPRISONMENT THE JURY WOULD ONLY HAVE TWO CHOICES,
21 BUT IT WOULD BE THE JURY'S CHOICE THOSE TWO
22 CHOICES WOULD BE A SENTENCE OF DEATH OR A SENTENCE
23 OF LIFE

24 NOW, IF YOU WERE PARTICIPATING IN

1 THAT TRIAL AND YOU WERE IN THE PENALTY PHASE OF THAT
2 TRIAL, WOULD YOU BE ABLE TO FAIRLY CONSIDER ALL OF
3 THAT ADDITIONAL EVIDENCE THAT WOULD BE ADMITTED BOTH
4 IN AGGRAVATION AND IN MITIGATION?

5 A YES, SIR I WOULD

6 Q AND AFTER YOU HAD CONSIDERED ALL THE EVIDENCE
7 THAT RELATES NOT ONLY TO THE OFFENSES BUT THAT
8 RELATES TO ADDITIONAL EVIDENCE OF AGGRAVATION AND
9 MITIGATION, AFTER YOU CONSIDERED ALL OF THAT
10 EVIDENCE, WOULD YOU BE ABLE TO SENTENCE A PERSON TO
11 DEATH IF YOU BELIEVED THAT THE CIRCUMSTANCES
12 WARRANTED THAT FINDING?

13 A YES, SIR I WOULD

14 Q WOULD YOU ALSO EVEN UNDER THE SAME
15 CIRCUMSTANCES BE ABLE TO CONSIDER IMPOSING A
16 SENTENCE OF LIFE IMPRISONMENT IF YOU THOUGHT THAT TO
17 BE THE APPROPRIATE PUNISHMENT?

18 A YES, SIR

19 Q IS IT FAIR TO SAY THAT YOU CAN FAIRLY CONSIDER
20 BOTH FORMS OF PUNISHMENT DEPENDING UPON THE FACTS OF
21 THE CASE?

22 A YES, SIR

23 Q UNDERSTAND THAT A JURY HAS THE CHOICE, AS I'VE
24 STATED THE CHOICES ARE TWO UNDERSTAND THAT THE

1 LAW NEVER REQUIRES THAT A DEATH SENTENCE BE IMPOSED
2 NO MATTER WHAT THE CIRCUMSTANCES ARE A JURY MAY
3 IMPOSE A LIFE SENTENCE FOR SOME REASON OR FOR NO
4 REASON A JURY MAY NOT IMPOSE A DEATH SENTENCE, AS
5 I'VE STATED, UNLESS THE MURDER HAS BEEN PROVEN
6 BEYOND A REASONABLE DOUBT AND SOME AGGRAVATING
7 CIRCUMSTANCE HAS BEEN PROVEN BEYOND A REASONABLE
8 DOUBT BUT THE JURY MAY IMPOSE A LIFE SENTENCE FOR
9 WHATEVER REASON THEY WISH TO OR, AS I'VE STATED, FOR
10 NO REASON AT ALL FACED WITH THE FACT THAT YOU HAVE
11 A CHOICE AND WILL ALWAYS HAVE THAT CHOICE, WOULD YOU
12 ALWAYS SELECT ONE FORM OF PUNISHMENT OVER ANOTHER,
13 OR WOULD IT DEPEND UPON WHAT THE FACTS ARE BEFORE
14 YOU COULD MAKE THAT DECISION?

15 A IT WOULD DEPEND ON THE FACTS

16 Q SO YOU COULD CONSIDER EITHER?

17 A YES, SIR

18 Q AND BOTH?

19 A YES, SIR

20 Q DEPENDING UPON THE CIRCUMSTANCES OF THE CASE?

21 A YES, SIR

22 Q HAVE YOU UP TO THIS POINT FORMED OR EXPRESSED
23 ANY OPINION AS TO WHAT YOU BELIEVE THE APPROPRIATE
24 DECISION SHOULD BE IN THIS CASE?

1 A NO, SIR I HAVE NOT

2 Q DO YOU KNOW OF ANY REASON WHY YOU COULD NOT BE
3 A FAIR AND IMPARTIAL JUROR IF YOU WERE SELECTED TO
4 SERVE IN THE TRIAL OF THIS CASE?

5 A NO, SIR

6 Q AS YOU ARE AWARE, YOU WOULD BE SEQUESTERED
7 DURING THE TIME THAT THE TRIAL IS IN PROGRESS THAT
8 WOULD NOT BEGIN IMMEDIATELY BUT WOULD BEGIN PERHAPS
9 SOME TIME NEXT WEEK WE ANTICIPATE THE TIME FOR
10 SEQUESTRATION WOULD BE SEVEN TO TEN DAYS IF YOU
11 WERE SELECTED, AND IF YOU WERE SEQUESTERED FOR THAT
12 PERIOD OF TIME, WOULD THAT SEQUESTRATION POSE ANY
13 UNREASONABLE HARDSHIP OR HEALTH RISK TO YOU?

14 A NO, SIR

15 Q OR ANYONE THAT'S DEPENDENT UPON YOU?

16 A NO, SIR

17 Q WOULD YOU BE WILLING TO ACCEPT AND ACCOMMODATE
18 ANY INCONVENIENCE AND HARDSHIP THAT SEQUESTRATION
19 MIGHT CAUSE IF YOU WERE CALLED UPON TO SERVE?

20 A YES, SIR

21 THE COURT ALL RIGHT PLEASE ANSWER
22 THE QUESTIONS THAT THE LAWYERS MAY HAVE FOR YOU

23 JUROR OKAY

24 EXAMINATION BY MR TINSLEY

- 1 Q GOOD AFTERNOON, MS WILLIAMS
- 2 A GOOD AFTERNOON
- 3 Q MS WILLIAMS, I SEE THAT YOU WORK UP AT
- 4 PATRICK HARRIS PSYCHIATRIC HOSPITAL
- 5 A YES, SIR
- 6 Q IS THAT CORRECT?
- 7 A YES, SIR
- 8 Q AND, AS SUCH, DO YOU -- HOW LONG HAVE YOU BEEN
- 9 THERE?
- 10 A TWELVE YEARS
- 11 Q YOU'VE WORKED UP THERE FOR TWELVE YEARS?
- 12 A YES, SIR
- 13 Q EXCUSE ME ONE MINUTE YOU HAPPEN TO KNOW JOHN
- 14 KENNEDY HUGHEY?
- 15 A NO, SIR I DO NOT
- 16 Q DO YOU REMEMBER A PATIENT UP THERE BY THE NAME
- 17 OF JOHN HUGHEY OR JOHN SMITH BY ANY CHANCE?
- 18 A NO, SIR
- 19 Q OKAY NOW, YOU TESTIFIED THAT YOU COULD GIVE
- 20 EITHER LIFE OR DEATH, IS THAT CORRECT?
- 21 A YES, SIR
- 22 Q AND YOU WOULD GIVE WHAT YOU DEEMED TO BE
- 23 APPROPRIATE ON ALL THE CIRCUMSTANCES, IS THAT RIGHT?
- 24 A THAT'S RIGHT

1 Q WELL, NOW, THE JUDGE WAS JUST ASKING YOU
2 HYPOTHETICAL QUESTIONS, NOW YOU UNDERSTAND THAT,
3 CORRECT?

4 A RIGHT

5 Q NOW, MY HYPOTHETICAL QUESTION, IF THE --
6 INDEED YOU WERE IN THE MATTER OF DELIBERATIONS, AND
7 IF THERE WERE A KILLING, BUT THE KILLING WERE DONE,
8 SAY, IN THE HEAT OF PASSION, THE JUDGE GAVE YOU THE
9 OPTION OF MANSLAUGHTER IF YOU WERE CONVINCED BY
10 THE EVIDENCE, COULD YOU FIND THE DEFENDANT GUILTY OF
11 THE LESSER CHARGE OF MANSLAUGHTER?

12 A YES, SIR

13 Q SO YOU WOULD APPLY THE LAW AS GIVEN BY THE
14 JUDGE TO THE FACTS AS PRESENTED FROM THE STAND?

15 A YES, SIR

16 Q OKAY AND, AS SUCH, TURNING TO YOUR --
17 ASSUMING THAT, ON THE OTHER HAND, THAT MR HUGHEY
18 WERE CONVICTED OF TWO MURDERS AND AGGRAVATING
19 CIRCUMSTANCES AND THAT SORT OF THING, COULD YOU
20 STILL CONSIDER A LIFE SENTENCE?

21 A YES, SIR, BASED ON THE EVIDENCE

22 Q EXCUSE ME I DIDN'T MEAN TO CUT YOU OFF

23 A BASED ON THE EVIDENCE, I COULD DO THAT

24 Q THANK YOU ADDITIONALLY, NOW, YOU WENT TO

1 CLEMSON UNIVERSITY, RIGHT?

2 A YES, SIR

3 Q DID YOU GRADUATE?

4 A YES, SIR

5 Q AND YOUR DEGREE IS IN?

6 A PARKS RECREATION AND TOURISM MANAGEMENT

7 Q OKAY AND EVEN THOUGH YOUR LINE OF WORK'S A
8 LITTLE BIT DIFFERENT, IT RELATES BECAUSE OF THE
9 PHYSICAL ACTIVITIES THAT YOU HAVE AT PATRICK HARRIS,
10 BUT YOU ALSO, I ASSUME, LEARN TO DEAL WITH SOME
11 FOLKS WHO ARE HAVING SOME MENTAL PROBLEMS?

12 A YES, SIR

13 Q AND, AS SUCH, YOU UNDERSTAND CLEARLY THE WORD
14 MITIGATION?

15 A YES, SIR

16 Q AND, OF COURSE, AGGRAVATION?

17 A YES, SIR

18 Q AND YOU AS A JUROR WOULD BE WILLING TO
19 CONSIDER ANY AND ALL MITIGATION OFFERED BY MR
20 HUGHEY IN HIS DEFENSE, WOULD YOU NOT?

21 A YES, SIR

22 Q AND YOU COULD KEEP AN OPEN MIND AS TO THE
23 MATTER?

24 A YES, SIR

1 Q AND YOU BEING FROM UP AROUND HONEA PATH IS
2 PROBABLY -- THAT'S WHY YOU HAVEN'T HEARD ANYTHING
3 ABOUT THE CASE, THAT SORT OF THING YOU DON'T LIVE
4 IN ABBEVILLE CITY?

5 A NO, SIR I DO NOT

6 Q HOW MANY MILES DO YOU LIVE?

7 A IT'S -- IT'S A LITTLE OVER TWENTY TO HONEA
8 PATH

9 Q CLOSE TO THE ANDERSON COUNTY LINE?

10 A YES YES, SIR I'M JUST BARELY IN ABBEVILLE
11 COUNTY

12 Q AND YOU -- AND YOU IN YOUR LINE OF WORK HAVE
13 OBSERVED AND UNDERSTOOD PROBLEMS THAT PEOPLE MAY
14 HAVE, IS THAT CORRECT?

15 A YES, SIR

16 MR TINSLEY THAT'S ALL I HAVE

17 THE COURT SOLICITOR?

18 MR JONES THANK YOU, YOUR HONOR

19 EXAMINATION BY MR JONES

20 Q MS WILLIAMS, MY NAME IS TOWNES JONES I'M
21 YOUR SOLICITOR HERE IN ABBEVILLE COUNTY I ALSO
22 WORK IN LAURENS COUNTY AS WELL AS GREENWOOD AND
23 NEWBERRY WE WORK IN FOUR COUNTIES AS A CIRCUIT, A
24 JUDICIAL CIRCUIT THIS IS MIKE COULTER HE'S YOUR

1 DEPUTY SOLICITOR FOR THE CIRCUIT, AS WELL I HAVE
2 SOME QUESTIONS WE HAVE THE QUESTIONNAIRE THAT YOU
3 FILLED OUT WE'VE GOT COPIES OF IT YOU MAILED INTO
4 HER, AND WE LOOKED OVER IT TO TRY TO GET SOME
5 BACKGROUND INFORMATION ABOUT YOU YOU UNDERSTAND
6 THAT, DON'T YOU?

7 A YES, SIR

8 Q AND ESSENTIALLY, WHAT WE'RE TRYING TO
9 DETERMINE IS WHETHER OR NOT, NUMBER ONE, YOU KNOW SO
10 MUCH ABOUT THE CASE THAT YOU COULDN'T BE FAIR AND
11 IMPARTIAL YOU UNDERSTAND THAT?

12 A YES, SIR

13 Q AND THEN THE OTHER THING WE WANT TO KNOW IS
14 WHETHER OR NOT YOU WOULD BE ABLE TO CONSIDER, IF YOU
15 DETERMINED THE CRIME IS PROVED AND THE VERDICT IS
16 MURDER, AND YOU FIND THE EXISTENCE OF AN AGGRAVATING
17 CIRCUMSTANCE, WHETHER OR NOT YOU COULD CONSIDER BOTH
18 PUNISHMENTS IN THE PUNISHMENT PHASE --

19 A UH-HUH (AFFIRMATIVE)

20 Q -- IMPOSITION OF DEATH AND LIFE, AND YOU TOLD
21 THE JUDGE THAT YOU COULD --

22 A YES, SIR

23 Q -- CONSIDER BOTH OF THOSE AND WHAT I WANT TO
24 ASK YOU ABOUT RIGHT NOW IS WHEN WE'RE TALKING ABOUT

1 CONSIDERING -- HAD YOU GIVEN IT SOME THOUGHT WHEN
2 THE JUDGE SENT YOU YOUR QUESTIONNAIRE? DID YOU THEN
3 BEGIN TO THINK ABOUT YOURSELF AS A PERSON, AS A
4 HUMAN BEING, AND KNOWING THAT YOU'D BE CALLED IN AND
5 ASKED QUESTIONS ABOUT A MURDER CASE WHERE THE DEATH
6 PENALTY WAS GOING TO BE SOUGHT? DID YOU BEGIN TO
7 EXAMINE YOURSELF AND WHAT YOU WERE CAPABLE OF AND
8 WHAT YOU WEREN'T CAPABLE OF AS A PERSON WHEN IT
9 COMES TO THE DEATH PENALTY?

10 A YES, SIR

11 Q AND SO WHEN THAT PROCESS BEGAN, I GUESS THAT
12 WAS ABOUT A MONTH AGO OR SO?

13 A UH-HUH (AFFIRMATIVE)

14 Q AND YOU'VE GIVEN SOME THOUGHT?

15 A YES, SIR

16 Q AND SO WHEN THE JUDGE ASKED YOU THE QUESTION,
17 YOU HAD THOUGHT ABOUT IT, AND YOU HAD COME TO THE
18 DECISION IN AN ATTEMPT TO ACTUALIZE YOURSELF AS A
19 JUROR I MEAN, YOU'RE HERE NOW

20 A UH-HUH (AFFIRMATIVE)

21 Q BUT YOU REALIZE YOU'VE GONE THROUGH CERTAIN
22 STAGES AND NOW WE'RE GETTING CLOSE TO SELECTING A
23 JURY --

24 A RIGHT

1 Q -- AND THE JURY SITS HERE, AND YOU'VE
2 ACTUALIZED THE PROCESS NOT WITH ANY FACTS YOU
3 DON'T KNOW WHAT THE FACTS ARE, BUT ASSUMING THE
4 FACTS RESULT IN A GUILTY VERDICT OF MURDER, AND
5 ASSUMING THE JURY OF TWELVE JURORS FIND AN
6 AGGRAVATING CIRCUMSTANCE TO EXIST, AND THE STATE
7 ALLEGES THAT BURGLARY MIGHT BE ONE IN THIS INSTANCE
8 AND THAT THE FINDING OF TWO MURDERS TOOK PLACE MIGHT
9 BE ANOTHER AGGRAVATING CIRCUMSTANCE YOU UNDERSTAND
10 THAT?

11 A YES, SIR

12 Q IF THOSE ARE FOUND AND PROVED AND A JURY
13 DECIDES THEY ARE FOUND, THEN YOU GET INTO THE
14 SENTENCING PHASE

15 A YES, SIR

16 Q AND THAT'S WHEN I'M ASKING YOU NOW HAVE YOU
17 ACTUALIZED YOUR ROLE THEIR IN DETERMINING WHETHER
18 YOU COULD AND WOULD UNDER THE APPROPRIATE
19 CIRCUMSTANCES SENTENCE SOMEONE TO DEATH?

20 A YES, SIR

21 Q AND THAT IS?

22 A THAT I COULD DO THAT IF IT WAS NECESSARY

23 Q ALL RIGHT NOW, I NOTICED ON YOUR
24 QUESTIONNAIRE, AND I WANT TO TURN TO IT NOW YOU

1 HAVE A COPY OF ONE?

2 A NO, SIR

3 Q OKAY I JUST -- I DON'T KNOW THAT YOU NEED A
4 COPY I WANTED -- I JUST WANTED TO ASK YOU BRIEFLY
5 ABOUT YOUR WORK AT THE -- AT THE HOSPITAL, PATRICK

6 B HARRIS PSYCHIATRIC HOSPITAL

7 A YES, SIR

8 Q YOU ASSIST IN THE PHYSICAL ACTIVITIES, IS THAT
9 CORRECT?

10 A THAT'S CORRECT

11 Q WHICH IS ESSENTIALLY, I SUPPOSE, PRETTY
12 REWARDING WORK BOTH FOR YOU AND FOR THE CLIENTS OF
13 THE HOSPITAL

14 A YES, SIR ACTUALLY, I DO MORE ADMINISTRATIVE
15 WORK NOW THAN ACTUAL CLIENT CONTACT

16 Q OKAY AND WHEN YOU LISTED THAT YOU HAD WORKED
17 FOR A COUPLE OF WEEKS AS A CAMP SERTOMA FOR THE
18 MENTALLY RETARDED --

19 A YES, SIR

20 Q -- TO WHAT EXTENT IS YOUR WORK NOW INVOLVING
21 PEOPLE THAT ARE CLASSIFIED AS MENTALLY RETARDED?

22 A VERY LIMITED THOSE PATIENTS AREN'T TYPICALLY
23 DEEMED APPROPRIATE FOR OUR FACILITY, AND WE DON'T
24 KEEP THEM VERY LONG WE MAINLY DEAL WITH THE

1 MENTALLY ILL AND THE ADDICTIONS AND GERIATRIC AND
2 ADOLESCENT POPULATION

3 Q ALL RIGHT AND AS FAR AS THE MENTALLY
4 RETARDED IS CONCERNED, HOW LONG AGO WAS IT THAT YOU
5 WORKED AT THAT CAMP?

6 A IT WAS ABOUT TWELVE YEARS AGO IT WAS BEFORE
7 I ACTUALLY BEGAN TO WORK

8 Q OKAY AND YOU WERE ASKED A MOMENT AGO IF YOU
9 UNDERSTOOD THE TERM MITIGATION

10 A YES, SIR

11 Q DO YOU UNDERSTAND THAT TERM MITIGATION TO MEAN
12 ANY -- ANY -- ANY FACT OR ANY EVIDENCE OR ANY
13 SITUATION THAT MIGHT TEND TO LESSEN THE NATURE OF A
14 CRIME AND GIVE RISE TO A REASON FOR WANTING TO BE
15 LESS HARSH IN THE WAY OF PUNISHMENT TO SOMEONE
16 BECAUSE OF THAT?

17 A I UNDERSTAND IT TO INCLUDE ALL THE FACTS, NOT
18 NECESSARY THE LESSER OF THE FACTS, BUT EVERYTHING
19 THAT COULD BE CONSIDERED

20 Q ALL RIGHT AND ALONG THOSE LINES, I ASK YOU
21 IF A MITIGATING FACTOR SUCH AS BORDERLINE MENTAL
22 RETARDATION WERE PRESENTED TO YOU ON BEHALF OF
23 SOMEONE WHO HAD BEEN CONVICTED OF A CRIME OF MURDER,
24 WOULD YOU ASSOCIATION WITH THE MENTALLY RETARDED AND

1 YOUR ASSOCIATION WITH THE MENTALLY ILL CAUSE YOU TO
2 HAVE A SPOT IN YOUR HEART OR A PLACE IN YOUR BEING
3 THAT WOULD GIVE YOU A REASON TO BE MORE PRONE AND TO
4 GIVE IT MORE CONSIDERABLE WEIGHT THAN, SAY, OTHER
5 PEOPLE MIGHT?

6 A NO, SIR I WOULD -- BECAUSE NOT MENTAL
7 RETARDATION ITSELF DOESN'T NECESSARILY MEAN THAT THE
8 PERSON DOESN'T KNOW WHAT THEY ARE DOING, AND THERE
9 ARE A LOT OF RESPONSIBLE PERSONS WHO ARE MENTALLY
10 RETARDED WHO CAN MANAGE THEMSELVES

11 Q AND SHOULD BE HELD ACCOUNTABLE FOR WHAT THEY
12 DO?

13 A YES, SIR

14 MR JONES EXCUSE ME ONE MOMENT,
15 PLEASE MA'AM I HAVE NO FURTHER QUESTIONS

16 THE COURT MS WILLIAMS, IF YOU'LL
17 STEP DOWN WITH THE BAILIFF THERE OUTSIDE THE DOOR,
18 I'LL BRING YOU BACK IN JUST A MINUTE (JUROR DOES
19 AS INSTRUCTED) ANY REASON WHY THE JUROR SHOULD NOT
20 BE QUALIFIED?

21 MR JONES NOT ON THE PART OF THE
22 STATE, YOUR HONOR

23 MR TINSLEY NO, YOUR HONOR

24 THE COURT SHE IS SO QUALIFIED

1 (JUROR ENTERS THE COURTROOM) MS WILLIAMS, YOU
2 HAVE BEEN QUALIFIED TO POTENTIALLY SERVE AS A JUROR
3 IN THIS CASE YOU ARE A PART OF A LARGER POOL FROM
4 WHICH THE ACTUAL JURORS WILL BE SELECTED WE ARE
5 NOT PRESENTLY IN A POSITION TO BEGIN WITH THE
6 SELECTION PROCESS BUT ANTICIPATE THAT THAT WILL BE
7 SOME TIME NEXT WEEK SO YOU CAN CONTINUE WITH YOUR
8 REGULAR ROUTINE AND SCHEDULE, BUT WE SIMPLY NEED FOR
9 YOU TO GIVE TO THE CLERK ANY AND ALL PHONE NUMBERS
10 WHERE YOU CAN BE REACHED SO THAT WHEN WE NEED FOR
11 YOU TO COME BACK FOR POTENTIAL JURY SELECTION, WE
12 CAN REACH YOU ON FAIRLY SHORT NOTICE I UNDERSTAND
13 IF YOU'RE AT WORK, IT'LL TAKE YOU SOME TIME TO GET
14 HERE, BUT WE JUST SIMPLY NEED TO BE ABLE TO GET A
15 HOLD OF YOU SO THAT WE CAN GET YOU ALL BACK HERE
16 WHEN THE TIME COMES SO IF YOU'LL PLEASE GIVE THE
17 CLERK THOSE NUMBERS WHERE YOU CAN BE REACHED BEFORE
18 YOU LEAVE, THEN WE'LL BE ABLE TO FIND YOU

19 JUROR OKAY MY HOME NUMBER IS 369-
20 0475 MY WORK NUMBER IS 231-2750 AND I CAN GIVE
21 YOU THE NUMBER OF A FRIEND 682-7043

22 THE COURT ALL RIGHT, MS WILLIAMS
23 REMEMBER MY CAUTION YOU'RE STILL NOT TO DISCUSS
24 THE CASE DO NOT PUT YOURSELF IN A POSITION WHERE

1 YOU COULD OVERHEAR ANY DISCUSSIONS JUST SIMPLY
2 AVOID THAT TYPE OF CONTACT OR DISCUSSIONS, AND ALSO
3 AVOID ANY MEDIA EXPOSURE RELATING TO THE CASE, AND
4 THAT WILL CONTINUE THROUGHOUT YOU MAY BE EXCUSED
5 WE WILL CALL YOU WHEN WE NEED FOR YOU TO COME BACK
6 THANK YOU FOR YOUR PATIENCE (JUROR LEAVES THE
7 COURTROOM)

8 THE COURT MS GILLIAM?

9 (JUROR #77 ENTERS THE COURTROOM)

10 EXAMINATION

11 BY THE COURT

12 Q GOOD EVENING, MS GILLIAM

13 A GOOD EVENING

14 Q AS YOU KNOW, WE ARE INVOLVED IN ASKING JURORS
15 ADDITIONAL QUESTIONS BEFORE WE BEGIN WITH JURY
16 SELECTION THE QUESTIONS THAT WILL BE ASKED OF YOU
17 ARE NOT INTENDED TO PRY INTO YOUR PERSONAL AFFAIRS,
18 BUT THERE ARE SOME QUESTIONS THAT WE NEED TO ASK
19 SIMPLY TO FIND OUT WHAT YOUR VIEWS AND OPINIONS ARE
20 AS TO CERTAIN TOPICS THERE ARE NO RIGHT OR WRONG
21 ANSWERS WE SIMPLY NEED TO KNOW HOW YOU FEEL ABOUT
22 PARTICULAR THINGS

23 YOU WILL RECALL WHEN YOU FIRST
24 ARRIVED, THE ENTIRE JURY PANEL WAS SWORN YOU WERE

1 PLACED UNDER OATH THAT OATH CONTINUES YOU ARE
2 STILL UNDER OATH AS YOU ANSWER THE QUESTIONS THAT
3 WILL BE ASKED OF YOU NOW YOU HAVE COMPLETED THE
4 QUESTIONNAIRE WHICH YOU HAVE INDICATED WAS ACCURATE,
5 AND YOU ALSO INDICATED YOU HAD RECEIVED MY LETTER
6 WHICH YOU UNDERSTOOD INSTRUCTED YOU NOT TO DISCUSS
7 THE CASE OR ALLOW ANY CONTACT REGARDING THE CASE OR
8 TO HAVE ANY EXPOSURE TO MEDIA COVERAGE DID YOU
9 COMPLY WITH THAT INSTRUCTION?

10 A YES, I DID, BUT THERE'S ONE THING I GUESS I
11 SHOULD HAVE TOLD YOU YESTERDAY I USED TO -- I WAS
12 WORKING WITH GEORGE WHEN THIS HAPPENED I'VE
13 RETIRED SINCE THEN SO I DIDN'T -- I DIDN'T --
14 YESTERDAY I DIDN'T KNOW WHETHER TO SAY ANYTHING OR
15 NOT, BUT I WAS WORKING WITH HIM AT THE TIME OF THE -
16 --

17 Q YOU WORKED WITH GEORGE HARRIS --

18 A UH-HUH (AFFIRMATIVE)

19 Q -- AT THE TIME --

20 A AT THE TIME

21 Q -- THAT THIS INCIDENT IS ALLEGED TO HAVE TAKEN
22 PLACE?

23 A YEAH, AND, YOU KNOW, THERE WAS, YOU KNOW --

24 YOU HEAR LOT OF TALK, YOU KNOW, WHERE I WAS WORKING

1 SO ---

2 Q AND SO YOU HAVE HEARD SOMETHING ABOUT THE
3 CASE?

4 A YEAH, BACK WHEN IT HAPPENED

5 Q AND THAT OCCURRED BEFORE YOU RECEIVED MY
6 LETTER?

7 A YES, SIR

8 Q DID YOU HAVE ANY MEDIA EXPOSURE BEFORE YOU
9 RECEIVED MY LETTER THAT YOU RECALL?

10 A WELL, I PROBABLY READ ABOUT IT IN THE PAPER,
11 YOU KNOW, WHEN IT FIRST HAPPENED I HAVEN'T READ
12 ANYTHING RECENTLY

13 Q OKAY WOULD THE FACT THAT YOU WORKED WITH MR
14 HARRIS OR THE FACT THAT YOU MAY HAVE HEARD SOME TALK
15 THAT MIGHT RELATE TO THE CASE, WOULD EITHER OF THOSE
16 EXPERIENCES INTERFERE IN ANY WAY WITH YOUR ABILITY
17 TO BE FAIR AND IMPARTIAL IF YOU WERE SELECTED AS A
18 JUROR?

19 A I DON'T KNOW I HAVE BEEN THINKING ABOUT THAT
20 EVER SINCE I LEFT YESTERDAY I -- I IMAGINE IT
21 WOULD I DON'T, YOU KNOW, BECAUSE, LIKE I SAY I
22 WORKED WITH HIM AND I KNEW HER AND ALL THAT, YOU
23 KNOW, WHEN IT HAPPENED, AND, YOU KNOW, IT MAYBE
24 WOULD I CAN'T, YOU KNOW, REALLY SAY FOR SURE

1 Q I UNDERSTAND THAT YOU DON'T KNOW FOR SURE
2 WHAT I'M REALLY TRYING TO DETERMINE IS WHETHER OR
3 NOT YOU THINK THERE IS A SIGNIFICANT LIKELIHOOD THAT
4 IT MAY IMPAIR YOUR ABILITY TO RENDER A FAIR DECISION
5 BECAUSE OF THAT EXPERIENCE OR THAT RELATIONSHIP

6 A WELL, IT MAY I WOULD SAY IT MAY

7 Q YOU BELIEVE THAT IT MIGHT?

8 A UH-HUH (AFFIRMATIVE)

9 THE COURT ALL RIGHT LET ME ASK
10 YOU, IF YOU WOULD, TO JUST STAND OUTSIDE THE DOOR
11 THERE WITH THE BAILIFF, AND I'LL BRING YOU BACK IN
12 JUST A MINUTE

13 JUROR OKAY (JUROR DOES AS
14 INSTRUCTED)

15 THE COURT ANY REASON WHY THE JUROR
16 SHOULD BE FOUND TO BE QUALIFIED BASED UPON THE
17 ANSWERS TO THOSE QUESTIONS?

18 MR JONES THERE IS NOT ON THE
19 STATE'S BEHALF, YOUR HONOR

20 MR TINSLEY NO, YOUR HONOR

21 THE COURT NO OBJECTION TO HER BEING
22 EXCUSED?

23 MR JONES NONE BY THE STATE

24 MR TINSLEY NONE, YOUR HONOR

1 THE COURT ALL RIGHT ASK MS
2 GILLIAM TO COME BACK IN (JUROR ENTERS THE
3 COURTROOM) MS GILLIAM, BASED UPON YOUR PREVIOUS
4 CONTACT OR EXPERIENCE WITH MR HARRIS AND YOUR
5 HAVING HEARD SOMETHING ABOUT THE CASE, AND BASED
6 UPON YOUR INDICATING THAT THAT WOULD LIKELY IMPAIR
7 YOUR ABILITY TO BE FAIR IN THE CASE, AND, OF COURSE,
8 WE UNDERSTAND WHY THAT'S THE REASON WE ASK THOSE
9 QUESTIONS WE'RE SIMPLY GOING TO EXCUSE YOU SO IT
10 WILL NOT BE NECESSARY THAT YOU PARTICIPATE ANY
11 FURTHER IT WILL NOT BE NECESSARY THAT YOU CALL
12 BACK ANY MORE OR THAT YOU COME BACK WE DO
13 SINCERELY APPRECIATE YOUR WILLINGNESS TO PARTICIPATE
14 UP TO THIS POINT

15 JUROR WELL, SIR, I DIDN'T ANYTHING
16 YESTERDAY, BUT, YOU KNOW, I JUST DIDN'T REALLY KNOW
17 SINCE I HAD RETIRED SINCE THEN BUT I THOUGHT I,
18 YOU KNOW, TO BE FAIR TO EVERYBODY, I SHOULD MENTION
19 IT

20 THE COURT YES, MA'AM, AND YOU DID
21 THE RIGHT THING

22 JUROR OKAY

23 THE COURT WE APPRECIATE THAT
24 THANK YOU

1 JUROR ALL RIGHT THANK YOU

2 (JUROR #77 LEAVES THE COURTROOM)

3 THE COURT ALL RIGHT ASK MS

4 COWART TO COME IN

5 (JUROR #48 ENTERS THE COURTROOM)

6 EXAMINATION

7 BY THE COURT

8 Q GOOD EVENING, MS COWART

9 A GOOD EVENING

10 Q WE APPRECIATE YOUR PATIENCE YOU UNDERSTAND

11 THAT WE HAVE BROUGHT YOU BACK FOR THE PURPOSE OF

12 ASKING YOU SOME ADDITIONAL QUESTIONS INDIVIDUALLY

13 A OKAY

14 Q THE QUESTIONS ARE DESIGNED SIMPLY TO FIND OUT

15 YOUR VIEWS AND OPINIONS ON CERTAIN SUBJECTS THERE

16 IS NO RIGHT OR WRONG ANSWER WE JUST SIMPLY NEED TO

17 KNOW HOW YOU FEEL ABOUT CERTAIN THINGS

18 A OKAY

19 Q AND SO WE WOULD SIMPLY ASK THAT YOU PLEASE

20 ANSWER THOSE QUESTIONS AS OPENLY AND AS HONESTLY AS

21 YOU CAN YOU UNDERSTAND WHEN YOU ORIGINALLY

22 REPORTED, I BELIEVE, ON FRIDAY, THE ENTIRE JURY

23 PANEL WAS SWORN?

24 A UH-HUH (AFFIRMATIVE)

1 Q AND SO YOU DO REMAIN UNDER OATH FOR THE
2 PURPOSE OF THESE QUESTIONS, ALSO YOU INDICATED AT
3 THAT TIME THAT YOU HAD COMPLETED THE QUESTIONNAIRE
4 AND THAT IT WAS ACCURATE YOU ALSO INDICATED YOU
5 HAD RECEIVED MY LETTER AND UNDERSTOOD THE
6 INSTRUCTIONS

7 A YES, SIR

8 Q HAVE YOU HAD ANY MEDIA EXPOSURE OR CONTACT OR
9 OVERHEARD ANY DISCUSSIONS ABOUT THE CASE SINCE YOU
10 RECEIVED MY LETTER?

11 A NO, SIR I HADN'T

12 Q WHAT ABOUT BEFORE YOU RECEIVED THE LETTER?

13 A NO, SIR

14 Q OKAY NOW, DO YOU UNDERSTAND THAT IN A
15 CRIMINAL CASE, THE FUNCTION OF A JURY IS TO DECIDE
16 WHETHER OR NOT A PERSON IS GUILTY OF A CRIME THAT'S
17 ALLEGED AGAINST THEM, AND THEY DO THAT BY THE JURY
18 CONSIDERING EVIDENCE THAT'S ADMITTED DURING THE
19 TRIAL OF THE CASE AND THEN APPLYING THE LAW THAT THE
20 COURT PROVIDES THE JURY AT THE CONCLUSION OF THE
21 TRIAL AND A JURY'S FUNCTION IS TO FAIRLY CONSIDER
22 THE EVIDENCE, APPLY THE LAW, AND ARRIVE AT A
23 DECISION THAT THE JURY BELIEVES IS FAIR AND JUST
24 UNDER THE CIRCUMSTANCES NOW, ANY TIME A PERSON IS

1 CHARGED WITH A CRIMINAL OFFENSE, YOU UNDERSTAND THEY
2 ARE PRESUMED TO BE INNOCENT?

3 A YES, SIR

4 Q YOU UNDERSTAND THE BURDEN IS ALWAYS UPON THE
5 STATE IN BRINGING THE CHARGE TO ESTABLISH A PERSON'S
6 GUILT BEYOND A REASONABLE DOUBT BEFORE A PERSON CAN
7 BE FOUND GUILTY?

8 A YES, SIR

9 Q DO YOU UNDERSTAND THAT THE BURDEN IS NEVER ON
10 A DEFENDANT TO PROVE THAT HE IS NOT GUILTY OR TO
11 PROVE THAT HE IS INNOCENT?

12 A YES, SIR

13 Q NOW, UNDER CERTAIN CIRCUMSTANCES, THE LAW IN
14 SOUTH CAROLINA PROVIDES THAT A PERSON MAY BE
15 SENTENCED TO DEATH WHERE THEY ARE CONVICTED OF THE
16 CRIME OF MURDER AND SOME AGGRAVATING CIRCUMSTANCE IS
17 ALSO PROVEN BEYOND A REASONABLE DOUBT

18 A YES, SIR

19 Q THAT SIMPLY MEANS THAT UNDER THOSE
20 CIRCUMSTANCE, THE STATE MAY SEEK THE DEATH PENALTY,
21 BUT THE DECISION IS ALWAYS FOR A JURY TO MAKE, AND
22 THE LAW NEVER REQUIRES THAT A DEATH PENALTY BE
23 IMPOSED IT SIMPLY PROVIDES THAT A JURY MAY
24 CONSIDER IT DEPENDING UPON THEIR VIEW OF THE CASE SO

1 LONG AS CERTAIN CIRCUMSTANCES HAVE BEEN PROVEN

2 NOW, IN THE TRIAL OF A CRIMINAL CASE
3 OF THIS NATURE, IT WOULD OCCUR IN TWO STAGES THERE
4 WOULD FIRST BE A GUILT PHASE WHERE THE EVIDENCE
5 WOULD BE PRESENTED AND THE JURY WOULD DECIDE IF THE
6 PERSON IS GUILTY, AND IF THE JURY, AND ONLY IF THE
7 JURY, FINDS THE PERSON GUILTY OF MURDER WOULD WE
8 PROCEED TO ANY SUBSEQUENT SENTENCING OR PENALTY
9 PHASE BEFORE THE JURY COULD EVEN CONSIDER IMPOSING
10 A SENTENCE OF DEATH, IT WOULD BE NECESSARY, AS I
11 HAVE STATE, THAT IN ADDITION TO THE PERSON HAVING
12 BEEN FOUND GUILTY OF MURDER, THAT THERE BE AN
13 AGGRAVATING CIRCUMSTANCE PROVEN BEYOND A REASONABLE
14 DOUBT NOW, IF YOU WERE CALLED UPON TO SERVE AS A
15 JUROR AND YOU WERE SITTING DURING THE GUILT PHASE OF
16 A TRIAL, WOULD YOU BE WILLING TO FAIRLY CONSIDER ALL
17 OF THE EVIDENCE THAT MIGHT BE PRESENTED DURING THE
18 TRIAL OF THAT PHASE?

19 A YES, SIR

20 Q AND DEPENDING UPON THAT EVIDENCE, IF YOU WERE
21 CONVINCED THAT THE DEFENDANT'S GUILT HAD BEEN PROVEN
22 BEYOND A REASONABLE DOUBT, COULD YOU FIND HIM
23 GUILTY?

24 A YES, SIR

1 Q IF YOU WERE NOT CONVINCED THAT THE EVIDENCE
2 ESTABLISHED HIS GUILT BEYOND A REASONABLE DOUBT,
3 WOULD YOU FIND HIM NOT GUILTY?

4 A YES, SIR

5 Q NOW, I WANT YOU TO ASSUME, AND ASSUME IT ONLY
6 FOR THE PURPOSE OF THE QUESTION THAT I'M ABOUT TO
7 ASK, BUT ASSUME THAT YOU'VE BEEN PARTICIPATING IN
8 THE TRIAL OF THE CASE YOU AND YOUR FELLOW JURORS
9 HAVE FOUND THE DEFENDANT TO BE GUILTY OF THE CRIME
10 OF MURDER, AND SOME AGGRAVATING CIRCUMSTANCE HAS
11 BEEN ESTABLISHED IN THAT EVENT, THE JURY, AS I
12 HAVE STATED, WOULD BE ABLE TO CONSIDER WHAT IS THE
13 APPROPRIATE FORM OF PUNISHMENT TO BE IMPOSED
14 DEPENDING UPON THE CIRCUMSTANCES

15 DURING THAT SENTENCING PHASE OR THAT
16 SENTENCING HEARING, ADDITIONAL EVIDENCE WOULD BE
17 RECEIVED THERE WOULD BE EVIDENCE RECEIVED IN
18 AGGRAVATION THERE WOULD BE EVIDENCE RECEIVED IN
19 MITIGATION WHAT I MEAN BY THAT IS THAT EVIDENCE
20 WOULD BE RECEIVED THAT MIGHT TEND TO SUPPORT THE
21 MORE SERIOUS PUNISHMENT, THE DEATH PENALTY, BE
22 IMPOSED EVIDENCE WOULD BE RECEIVED THAT MIGHT TEND
23 TO SUPPORT THE LESSER PUNISHMENT OR A LIFE
24 IMPRISONMENT SENTENCE SHOULD BE IMPOSED, BUT THE

1 JURY, YOU UNDERSTAND, WOULD ALWAYS HAVE THAT
2 DISCRETION THEY WOULD ALWAYS HAVE THAT DECISION
3 THEY WOULD HAVE THE CHOICE THEY WOULD HAVE TWO
4 IT WOULD EITHER BE A SENTENCE OF DEATH OR A SENTENCE
5 OF LIFE AS I'VE INDICATED, THE JURY WOULD NEVER BE
6 REQUIRED TO IMPOSE A LIFE SENTENCE, BUT YOU COULD
7 ONLY -- EXCUSE ME THE JURY WOULD NEVER BE REQUIRED
8 TO IMPOSE A SENTENCE OF DEATH, BUT THEY WOULD ONLY
9 BE ALLOWED TO SENTENCE A PERSON TO DEATH WHERE THEY
10 WERE FOUND GUILTY OF MURDER, OF COURSE, AND WHERE AN
11 AGGRAVATING CIRCUMSTANCE HAD BEEN PROVEN BEYOND A
12 REASONABLE DOUBT

13 NOW, IF YOU WERE PARTICIPATING IN
14 THAT TRIAL AND ADDITIONAL EVIDENCE WAS RECEIVED IN
15 AGGRAVATION AND IN MITIGATION, AND YOU CONSIDERED
16 ALL OF THE CIRCUMSTANCES OF THE CRIME AND THAT
17 ADDITIONAL EVIDENCE, DEPENDING UPON WHAT THAT
18 EVIDENCE WAS, OF COURSE, WOULD YOU BE ABLE TO
19 SENTENCE A PERSON TO DEATH IF YOU THOUGHT THAT TO BE
20 APPROPRIATE UNDER THE CIRCUMSTANCES?

21 A NO, SIR, NOT REALLY

22 Q WELL, WHEN YOU SAY NOT REALLY, ARE YOU SAYING
23 YOU COULD NOT DO IT UNDER ANY CIRCUMSTANCE?

24 A YEAH, I COULD

1 Q ALL RIGHT WELL, AS I SAY, YOU UNDERSTAND
2 THAT IS A CHOICE THAT THE JURY HAS YOU'RE NEVER
3 REQUIRED TO YOU ALWAYS HAVE THE CHOICE YOU CAN
4 ONLY IMPOSE A DEATH SENTENCE, AS I'VE STATED, IF
5 THOSE CIRCUMSTANCES ARE MET, BUT YOU MAY IMPOSE A
6 LIFE SENTENCE FOR ANY REASON OR FOR NO REASON AT
7 ALL THAT IS A DECISION THAT THE JURY MAKES IF
8 YOU WERE GIVEN THAT CHOICE AND YOU HAD THAT DECISION
9 TO MAKE, AND YOU WERE GIVEN THOSE OPTIONS, EITHER A
10 LIFE SENTENCE OR A DEATH SENTENCE, WOULD YOU ALWAYS
11 SELECT ONE OF THOSE OPTIONS OVER THE OTHER?

12 A YES

13 Q WHAT WOULD YOU SELECT?

14 A PROBABLY LIFE

15 Q IF YOU HAD THE CHOICE, WOULD YOU ALWAYS ELECT
16 TO GIVE A PERSON A LIFE SENTENCE AS OPPOSED TO A
17 DEATH SENTENCE?

18 A NO, SIR

19 Q IS THERE SOME CIRCUMSTANCE, DEPENDING UPON
20 WHAT THE FACTS ARE, IS THERE SOME CIRCUMSTANCE WHERE
21 YOU YOURSELF COULD RECOMMEND THAT A PERSON BE
22 SENTENCED TO DEATH?

23 A YES, SIR

24 Q DO YOU UNDERSTAND THAT IF YOU MADE THAT

1 DETERMINATION, AND IF YOU DECIDED THAT THE DEATH
2 SENTENCE WAS AN APPROPRIATE SENTENCE, DO YOU
3 UNDERSTAND THAT THE LAW WOULD REQUIRE, IF YOU
4 DECIDED THAT THE DEATH SENTENCE SHOULD BE IMPOSED,
5 THE LAW WOULD REQUIRE THAT YOU SIGN YOUR NAME TO A
6 FORM INDICATING THAT YOU HAVE MADE THAT
7 RECOMMENDATION? AND, OF COURSE, YOU UNDERSTAND THAT
8 THAT RECOMMENDATION MUST BE FOLLOWED BY THE COURT --

9 A YES, SIR

10 Q IF THE JURY RECOMMENDS IT?

11 A YES, SIR

12 Q OKAY AND SO YOU -- COULD YOU SIGN YOUR NAME
13 TO A FORM RECOMMENDING THAT THAT PERSON BE SENTENCED
14 TO DEATH?

15 A YES, SIR

16 Q UP TO THIS POINT, HAVE YOU ALREADY FORMED OR
17 EXPRESSED ANY OPINION THAT YOU MIGHT HAVE AS TO THE
18 APPROPRIATE DECISION THAT SHOULD BE RENDERED IN THIS
19 CASE?

20 A NO, SIR

21 Q DO YOU KNOW OF ANY REASON WHY YOU COULD NOT BE
22 A FAIR AND IMPARTIAL JUROR IF YOU WERE SELECTED?

23 A NO, SIR

24 Q YOU UNDERSTAND THAT IF YOU WERE SELECTED, YOU

1 WOULD BE SEQUESTERED FOR A PERIOD OF TIME UNTIL THE
2 CASE WAS CONCLUDED THAT WOULD NOT BEGIN
3 IMMEDIATELY BUT MAY BEGIN SOME TIME NEXT WEEK ONCE
4 WE HAVE FINISHED OUR QUESTIONING OF THE JURORS WE
5 ANTICIPATE THE TIME THAT YOU WOULD BE SEQUESTERED
6 WOULD BE SEVEN TO TEN DAYS WOULD THAT
7 SEQUESTRATION, THAT REQUIREMENT, WOULD THAT IMPOSE
8 AN UNREASONABLE HARDSHIP OR HEALTH RISK TO YOU OR
9 ANYONE WHO'S DEPENDENT UPON YOU?

10 A NO, SIR

11 Q WOULD YOU BE WILLING TO ACCOMMODATE AND ACCEPT
12 ANY INCONVENIENCE THAT THAT MIGHT CAUSE IF YOU WERE
13 CALLED UPON TO SERVE?

14 A YES, SIR

15 THE COURT ALL RIGHT PLEASE ANSWER
16 THE QUESTIONS THE LAWYERS MAY HAVE FOR YOU

17 EXAMINATION

18 BY MR TINSLEY

19 Q GOOD EVENING, MS COWART

20 A GOOD EVENING

21 Q MS COWART, SO YOU ARE TELLING US HERE TODAY
22 THAT YOU COULD -- YOU COULD SIT BACK AND LISTEN TO
23 THE CIRCUMSTANCES OF A CASE AND THEN MAKE YOUR
24 DECISION, IS THAT RIGHT?

1 A YES, SIR

2 Q AND THAT AS SUCH, YOU COULD ALSO SIT BACK AND
3 LISTEN TO ALL THE EVIDENCE, AND YOU COULD FIND MY
4 CLIENT GUILTY OR NOT GUILTY, COULDN'T YOU?

5 A YES, SIR

6 Q AND IF THE FACTS AND THE LAW AS PRESENTED BY
7 THE JUDGE WERE PRESENTED IN SUCH A WAY THAT YOU WERE
8 OF THE OPINION THAT HE WAS GUILTY OF A LESSER CHARGE
9 THAN MURDER SUCH AS MANSLAUGHTER, YOU COULD ALSO
10 FIND HIM GUILTY OF THAT CHARGE, IS THAT RIGHT?

11 A YES, SIR

12 MR TINSLEY OKAY THANK YOU SO
13 MUCH

14 EXAMINATION

15 BY MR JONES

16 Q HELLO, MS COWART MY NAME'S TOWNES JONES
17 I'M YOUR SOLICITOR HERE IN ABBEVILLE THIS IS MIKE
18 COULTER HE'S YOUR DEPUTY SOLICITOR WE'LL BOTH BE
19 PRESENTING EVIDENCE IN THE CASE I HAD SOME
20 QUESTIONS I WANTED TO ASK YOU FIRST OF ALL, I WANT
21 TO TELL YOU THAT WE GOT YOUR QUESTIONNAIRE THAT YOU
22 FILLED OUT AND SENT BACK INTO THE JUDGE

23 A YES, SIR

24 Q WE ALL HAD THEM MAKE -- THEY MADE COPIES OF US

1 TO LOOK OVER IT SO WE COULD KNOW A LITTLE BIT ABOUT
2 YOU BEFORE YOU GOT OUT HERE

3 A OKAY

4 Q IT'S JUST IN AN EFFORT TO LEARN SOME THINGS
5 ABOUT YOU, AND, OF COURSE, ONE OF THE THINGS THAT I
6 GUESS YOU STARTED DOING WHEN YOU GOT THE
7 QUESTIONNAIRE WAS -- DID IT PRETTY MUCH INDICATE TO
8 YOU THAT YOU MIGHT BE CALLED AS A JUROR IN A MURDER
9 CASE?

10 A YES, SIR

11 Q AND THAT THE DEATH PENALTY WAS BEING SOUGHT?

12 A YES, SIR

13 Q SO WHEN YOU GOT IT, DID YOU THINK ANYTHING AT
14 ALL ABOUT HOW YOU FELT ABOUT THE DEATH PENALTY AT
15 THAT POINT IN TIME?

16 A NO I SURE DIDN'T

17 Q DIDN'T REALLY THINK ABOUT THE DEATH PENALTY?

18 A NO

19 Q SO THE FIRST TIME YOU THOUGHT ABOUT THE DEATH
20 PENALTY WAS IN HERE TODAY, OR HAVE YOU THOUGHT ABOUT
21 IT BEFORE TODAY?

22 A WELL, I GOT TO THINKING ABOUT IT YESTERDAY
23 (JUROR LAUGHS)

24 Q OKAY HERE OR AT HOME OR BOTH?

1 A WELL, BOTH

2 Q AND WHEN YOU GOT TO THINKING ABOUT IT, I GUESS
3 YOU WERE THINKING ABOUT WHETHER OR NOT YOU COULD DO
4 IT?

5 A YES, SIR

6 Q IF THE SITUATION WAS RIGHT?

7 A YES, SIR

8 Q DID YOU COME TO A DECISION YESTERDAY?

9 A NO, NOT YET (JUROR LAUGHS)

10 Q YOU DIDN'T?

11 A I'M STILL, YOU KNOW, WONDERING, YOU KNOW,
12 WONDERING IF, YOU KNOW, ABOUT IT AND TRYING TO GET
13 MY HEAD STRAIGHT

14 Q YES, MA'AM WELL, SO YOU REALLY HADN'T MADE
15 THE DECISION YET?

16 A NO, SIR

17 Q OKAY WELL, SEE, WE'RE GETTING CLOSER TO
18 DRAWING THE JURY YOU'VE MADE, YOU KNOW, WE STARTED
19 MONDAY AND THEN YESTERDAY, AND A LOT OF PEOPLE HAVE
20 GONE ON

21 A OH, YEAH

22 Q YOU'RE STILL HERE

23 A UH-HUH (AFFIRMATIVE)

24 Q RIGHT?

1 A YES, SIR

2 Q AND YOU'RE RIGHT THERE, AND THE JURY'S GONNA
3 SIT RIGHT HERE SO THE NEXT STEP FOR YOU WOULD BE
4 FROM THERE TO HERE IN THE JURY

5 A YES, SIR

6 Q AND IF YOU'RE ON THE JURY, THEN YOU'LL BE
7 HEARING THE CASE

8 A OH, YES

9 Q AND IF YOU'RE HEARING THE CASE, THEN IF YOU
10 DECIDE THAT HE'S GUILTY OF THE MURDER, THE NEXT STEP
11 HAPPENS BOOM' THERE YOU ARE

12 A YES, SIR

13 Q LIFE OR DEATH, AND THE ANSWER TO THE QUESTION
14 THAT WE ASKED YOU COULD YOU IMPOSE THE DEATH
15 SENTENCE, YOU KNOW, IT NEEDS TO BE HONEST, AND IT
16 NEEDS TO BE TRUE

17 A YES, SIR

18 Q AND FOR IT TO BE HONEST AND FOR IT TO BE TRUE,
19 YOU HAVE TO KNOW YOURSELF, RIGHT?

20 A OH, YEAH

21 Q YOU HAVE TO KNOW WHETHER YOU COULD DO IT OR
22 NOT

23 A THAT'S TRUE

24 Q AND YOU JUST TOLD ME A MINUTE AGO YOU DIDN'T

1 KNOW WHETHER YOU COULD DO IT OR NOT, RIGHT? YOU'RE
2 STILL THINKING ABOUT IT?

3 A (JUROR LAUGHS) YES

4 Q IS THAT RIGHT?

5 A UH-HUH (AFFIRMATIVE)

6 Q WELL, DO YOU THINK IF I GAVE YOU A FEW MINUTES
7 TO THINK ABOUT IT THAT WOULD BE ENOUGH TIME FOR YOU
8 TO DECIDE, OR DO YOU THINK YOU KNOW NOW OR ---

9 A WELL, IF ALL THE EVIDENCE IS IN FRONT, YOU
10 KNOW, I COULD -- I COULD, YOU KNOW, GO THAT WAY

11 Q OKAY WELL, SO YOU WOULD CONSIDER THE DEATH
12 PENALTY?

13 A YES

14 Q AND AS THE JUDGE ASKED YOU, YOU COULD SEE
15 YOURSELF WRITING YOUR NAME?

16 A YES, SIR

17 Q OKAY YOU MENTIONED IN THIS THAT YOU -- YOUR
18 HUSBAND WORKS AT MAYFAIR MILLS?

19 A YES, SIR

20 Q AND HOW OLD IS HE?

21 A THIRTY-EIGHT

22 Q THIRTY-EIGHT? AND Y'ALL HAVE THE TWO
23 CHILDREN?

24 A YES, SIR

1 Q A BOY AND A GIRL?

2 A UH-HUH (AFFIRMATIVE)

3 Q YOUR SON'S IN SCHOOL STILL?

4 A YES, SIR

5 Q AND I BELIEVE HE'S SIXTEEN?

6 A YES, SIR

7 Q YOUR DAUGHTER'S NINETEEN?

8 A YES, SIR

9 Q DOES YOUR HUSBAND HUNT?

10 A SOMETIMES NOT VERY MUCH

11 Q WELL, WHEN HE HUNTS SOMETIMES, WHAT DOES HE

12 LIKE TO HUNT?

13 A DEER

14 Q HE HUNTS DEER?

15 A UH-HUH (AFFIRMATIVE)

16 Q AND DO YOU KNOW WHAT HE SHOOTS THE DEER WITH

17 OR WHAT HE KILLS THE DEER WITH OR WHAT HE HUNTS THE

18 DEER WITH?

19 A A WINCHESTER THIRTY-THIRTY, I THINK (JUROR

20 LAUGHS)

21 Q OKAY THAT'S FINE AND DOES YOUR SON GO WITH

22 HIM?

23 A EVERY NOW AND THEN NOT VERY OFTEN

24 Q DOES HE HAVE HIS OWN GUN OR DOES HE ---

1 A YES, SIR

2 Q SO THEY BOTH HAVE THEM?

3 A YES, SIR

4 Q THIRTY/NAUGHT TO HUNT THE DEER WITH?

5 A THIRTY-THIRTY

6 Q THIRTY-THIRTY? HAVE YOU EVER BEEN WITH THEM?

7 A NO, SIR (JUROR LAUGHS)

8 Q DO THEY -- DO YOU LIKE DEER MEAT?

9 A SOMETIMES

10 Q AND THAT'S PART OF HUNTING THE DEER

11 A OH, YEAH

12 Q TO BRING THAT DEER MEAT HOME

13 A YES, SIR

14 Q AND I BELIEVE YOUR DAUGHTER, IS SHE -- IS SHE

15 OUT OF SCHOOL NOW?

16 A YES, SIR SHE'S MARRIED

17 Q SHE'S MARRIED?

18 A UH-HUH (AFFIRMATIVE)

19 Q AND DOES SHE WORK?

20 A NO, SIR

21 Q DOES SHE HAVE ANY CHILDREN?

22 A NO, SIR

23 Q EXCUSE ME ONE MOMENT, PLEASE, JUST -- AND AT

24 THE BOTTOM -- I HAD FORGOTTEN ABOUT THIS I MEANT

1 TO ASK YOU ABOUT THIS BECAUSE -- YOUR YARD WORK DO
2 YOU ENJOY THAT?

3 A OH, YES

4 Q AND YOU MENTIONED TAKING CARE OF YOUR ANIMALS?

5 A YES, SIR

6 Q WHAT ANIMALS DO YOU CARE FOR?

7 A I GOT RABBITS AND I GOT GOATS

8 Q RABBITS AND GOATS?

9 A YES, SIR (JUROR LAUGHS)

10 Q OKAY AND YOU RAISE THEM?

11 A YES, SIR

12 Q DO YOU SELL THEM?

13 A YES, SIR

14 Q OKAY AND DO YOU SELL YOUR RABBITS?

15 A NO, SIR

16 Q YOU DON'T SELL YOUR RABBITS?

17 A NO (JUROR LAUGHS)

18 Q OKAY BUT YOU DO YOUR GOATS?

19 A OH, YEAH

20 MR JONES THANK YOU, MA'AM I

21 APPRECIATE YOUR ANSWERS

22 THE COURT MS COWART, IF YOU'LL

23 STANDING OUTSIDE WITH THE BAILIFF JUST A MINUTE,

24 I'LL BRING YOU BACK SHORTLY

1 JUROR ALL RIGHT (JUROR DOES AS
2 INSTRUCTED)

3 THE COURT ANY REASON WHY THE JUROR
4 SHOULD NOT BE QUALIFIED?

5 MR JONES NONE ON THE PART OF THE
6 STATE, YOUR HONOR

7 MR TINSLEY NO, YOUR HONOR

8 THE COURT SHE IS SO QUALIFIED
9 (JUROR ENTERS THE COURTROOM)

10 THE COURT MS COWART, YOU HAVE BEEN
11 QUALIFIED TO SERVE IN THE JURY POOL FROM WHICH THE
12 JURY WILL ACTUALLY BE SELECTED SO, IN OTHER WORDS,
13 YOU HAVEN'T BEEN SELECTED, BUT YOU MAY BE SO
14 BEFORE YOU LEAVE, WE NEED FOR YOU TO GIVE THE CLERK
15 ANY AND ALL PHONE NUMBERS WHERE YOU CAN BE REACHED
16 BECAUSE SOME TIME NEXT WEEK WE'LL BE CALLING YOU TO
17 COME BACK

18 JUROR OKAY

19 THE COURT AND SO YOU CAN CONTINUE
20 WITH YOUR REGULAR SCHEDULE OF GOING TO WORK AND
21 GOING TO THE GROCERY STORE AND GOING HOME AND THINGS
22 OF THAT NATURE, BUT WE -- WE NEED TO BE ABLE TO GET
23 A HOLD OF YOU ON SHORT NOTICE SO THAT'S WHY WE
24 NEED ANY AND ALL PHONE NUMBERS WHERE YOU CAN BE

1 REACHED AND, YOU KNOW, IF YOU HAVE A -- A FRIEND
2 OR RELATIVE THAT'S CLOSE BY AND YOU HAPPEN NOT TO BE
3 AT HOME, AND WE CAN CALL THEM IF YOU'RE NOT AT HOME
4 SO THAT THEY CAN GET IN TOUCH WITH YOU, THAT'S WHAT
5 WE NEED AND THEN WE'LL CALL YOU WHEN YOU COME --
6 WHEN TO COME BACK, AND I NEED TO REMIND YOU THAT YOU
7 STILL MUST COMPLY WITH MY INSTRUCTION YOU'RE NOT
8 TO DISCUSS THE CASE WITH ANYBODY, NOT EVEN AT HOME
9 WITH YOUR RELATIVES, AND YOU CAN'T ALLOW YOURSELF TO
10 BE EXPOSED TO ANY T V , RADIO OR NEWSPAPERS ABOUT
11 THE TRIAL, OKAY?

12 JUROR ALL RIGHT

13 THE COURT SO WITH THAT, IF YOU'LL
14 GIVE THE CLERK ALL YOUR NUMBERS, THEN YOU CAN BE
15 EXCUSED

16 JUROR MY HOME PHONE NUMBER IS 379-
17 2038 AND I'VE GOT AN ANSWERING MACHINE THERE AND
18 MY HOME -- MY WORK PHONE IS 352-6121 THAT'S ABOUT
19 IT

20 (JUROR EXITS COURTROOM)

21 (JUROR IS QUALIFIED)

22 THE COURT WE GOT ANYBODY WAITING
23 BACK THERE ON US? ONE OF THEM? WHICH ONE?

24 MR JONES JUDGE, IN THE MEANTIME,

1 JUST IN CASE YOU WERE GETTING A LITTLE IMPATIENT
2 JUST NOW, I WANT YOU TO KNOW ---

3 THE COURT OKAY SIR?

4 MR JONES MR GARRETT WANTED ME TO
5 ASK EVEN MORE QUESTIONS THAN I ASKED

6 MR GARRETT TELL HIM WHICH ONE

7 MR JONES HE WANTED TO KNOW WHO HER
8 FAVORITE RACE CAR DRIVER WAS

9 THE COURT IT WASN'T ON HER T-SHIRT?

10 MR JONES UH-UH (NEGATIVE), AND IT
11 WASN'T IN HER QUESTIONNAIRE?

12 MR GARRETT IT WASN'T ON HER T-
13 SHIRT?

14 THE COURT I DON'T KNOW THAT'S WHY
15 I ASKED YOU

16 MR GARRETT THE WINSTON RACING --
17 IT'S EITHER DALE EARNHARDT OR RUSTY WALLACE

18 MR JONES RIGHT RIGHT

19 THE COURT ALL RIGHT ASK MS CLARK
20 TO COME IN SHE'S THE NEXT ONE ON THE LIST

21 (JUROR #43 PRESENTED AT 5 46 O'CLOCK P M)

22 EXAMINATION BY THE COURT

23 Q MS CLARK, IF YOU'LL JUST COME DOWN AND HAVE A
24 SEAT RIGHT OVER HERE IN THIS CHAIR, PLEASE MS

1 CLARK, THANK YOU FOR REPORTING BACK YOU KNOW WHY
2 YOU'RE BACK

3 A YES, SIR

4 Q WE'RE GONNA BE ASKING YOU SOME ADDITIONAL
5 QUESTIONS I'LL HAVE SOME FOR YOU THE LAWYERS MAY
6 HAVE SOME FOR YOU THE PURPOSE OF THE QUESTIONS IS
7 TO SIMPLY FIND OUT HOW YOU FEEL ABOUT CERTAIN
8 THINGS, AND THERE ARE NO RIGHT OR WRONG ANSWERS WE
9 JUST SIMPLY NEED TO KNOW YOUR VIEWS AND OPINIONS ON
10 CERTAIN TOPICS SO PLEASE ANSWER THE QUESTIONS AS
11 OPENLY AND AS HONESTLY AS YOU CAN, AND IF FOR SOME
12 REASON MY QUESTION IS NOT CLEAR OR YOU DON'T
13 UNDERSTAND IT, LET ME KNOW I'LL REPHRASE IT OR ASK
14 IT AGAIN THE SAME WOULD APPLY WITH THE LAWYERS
15 WHEN YOU CAME BACK AND THE ENTIRE
16 POOL CAME IN, Y'ALL WERE -- YOU STOOD AND YOU WERE
17 SWORN

18 A YES, SIR

19 Q DO YOU RECALL THAT? YOU'RE STILL UNDER OATH
20 FOR THE PURPOSE OF THESE QUESTIONS, ALSO

21 A OKAY

22 Q NOW, YOU FILLED OUT YOUR QUESTIONNAIRE AND YOU
23 INDICATED IT WAS ACCURATE, IS THAT TRUE?

24 A YES, SIR

1 Q YOU ALSO RECEIVED MY LETTER WITH THE
2 INSTRUCTION NOT TO DISCUSS THE CASE, NOT TO ALLOW
3 ANY CONTACT ABOUT THE CASE, NOT TO HAVE ANY EXPOSURE
4 TO MEDIA COVERAGE, T V , RADIO OR NEWSPAPER

5 A YES, SIR

6 Q HAVE YOU COMPLIED WITH THAT REQUEST?

7 A YES, SIR

8 Q WHAT ABOUT PRIOR TO RECEIVING MY LETTER?
9 WEREN'T

10 -- DID YOU HEAR ANYTHING ABOUT THE CASE OR NOTICE
11 ANYTHING IN THE MEDIA?

12 A I WAS THINKING ABOUT THAT LAST NIGHT I MOVED
13 DOWN HERE IN '95 SO I PROBABLY HEARD SOMETHING, BUT
14 NOTHING THAT I REALLY WOULD HAVE PAID ATTENTION TO,
15 THAT I NOTICED

16 Q OKAY EXCUSE ME IS IT FAIR TO SAY THAT IF
17 YOU HEARD OR SAW ANYTHING, YOU DON'T RECALL IT?

18 A YES, SIR

19 Q OKAY IN A CRIMINAL CASE SUCH AS THIS IS,
20 WHEN THE STATE BRINGS A CHARGE AGAINST ANOTHER
21 PERSON, THE BURDEN IS ALWAYS ON THE STATE TO PROVE
22 THAT THEY'RE GUILTY

23 A UH-HUH (AFFIRMATIVE)

24 Q THE BURDEN IS NEVER UPON A DEFENDANT OR A

1 PERSON ACCUSED OF A CRIME TO PROVE THAT THEY ARE NOT
2 GUILTY IN FACT, UNDER THE LAW, THEY ARE PRESUMED
3 TO BE INNOCENT

4 A YES, SIR

5 Q SO THE BURDEN'S ALWAYS UPON THE STATE TO
6 ESTABLISH THEIR GUILT BEYOND A REASONABLE DOUBT
7 BEFORE A JURY COULD FIND THEM GUILTY, AND IF A JURY
8 HAS A REASONABLE DOUBT, THEY HAVE TO RESOLVE THAT IN
9 -- IN THE DEFENDANT'S FAVOR AND RETURN A VERDICT OF
10 NOT GUILTY

11 NOW, THERE ARE CERTAIN CIRCUMSTANCES
12 UNDER THE LAW WHERE A PERSON WHO HAS BEEN FOUND
13 GUILTY OF THE CRIME OF MURDER MAY BE SUBJECT TO
14 BEING SENTENCED TO DEATH THAT SIMPLY MEANS THAT
15 THE STATE IS PERMITTED UNDER CERTAIN CIRCUMSTANCES
16 TO SEEK THE DEATH PENALTY AGAINST AN INDIVIDUAL WHO
17 HAS BEEN CONVICTED OR FOUND GUILTY OF THE CRIME OF
18 MURDER IN ORDER FOR THE PERSON TO BE SUBJECT TO
19 THE DEATH PENALTY, IT WOULD BE NECESSARY THAT SOME
20 AGGRAVATING CIRCUMSTANCE BE PROVEN BEYOND A
21 REASONABLE DOUBT THAT ACCOMPANIED THAT MURDER BEFORE
22 SUCH A SENTENCE COULD BE IMPOSED, BUT THE SENTENCE
23 WOULD ALWAYS BE WITHIN THE DISCRETION OF THE JURY
24 THE JURY WOULD MAKE THE DETERMINATION OF CHOICE AS

1 TO WHICH IS APPROPRIATE UNDER THE CIRCUMSTANCES OF
2 THE CASE

3 IN A CASE SUCH AS THIS, IT OCCURS IN
4 TWO STAGES THE FIRST STAGES RELATES TO GUILT THE
5 SECOND STAGE RELATES TO PUNISHMENT IN THE FIRST
6 PHASE OF THE TRIAL, EVIDENCE IS PRESENTED THE JURY
7 WOULD CONSIDER THAT EVIDENCE IN DECIDING WHETHER OR
8 NOT THE PERSON HAS BEEN PROVEN TO BE GUILTY OF THE
9 CRIME OF MURDER IF THE JURY FINDS THE DEFENDANT TO
10 BE GUILTY OF THE CRIME OF MURDER, THEN WE WOULD
11 PROCEED TO A SECOND PHASE WHICH WOULD BE THE
12 SENTENCING PHASE OR PUNISHMENT PHASE, AND DURING
13 THAT PHASE, THERE WOULD BE ADDITIONAL EVIDENCE
14 RECEIVED THERE WOULD BE EVIDENCE OFFERED IN
15 AGGRAVATION THERE WOULD BE EVIDENCE OFFERED IN
16 MITIGATION BY THAT, I SIMPLY MEAN THAT THERE WOULD
17 BE EVIDENCE PRESENTED WHICH MIGHT TEND TO SUPPORT
18 THE MORE ENHANCED OR SERIOUS PUNISHMENT BEING
19 IMPOSED, BEING THE DEATH PENALTY, AND THERE MIGHT BE
20 EVIDENCE INTRODUCED WHICH MIGHT SUPPORT THE LESS
21 SEVERE PUNISHMENT BEING IMPOSED, THAT BEING LIFE
22 IMPRISONMENT AS I'VE STATED, THAT'S THE JURY'S
23 DECISION THE JURY HAS THAT DISCRETION THE JURY
24 WILL DECIDE WHAT FORM OF PUNISHMENT IS APPROPRIATE

1 DEPENDING UPON THE CIRCUMSTANCES OF THE CASE A
2 JURY MAY NEVER SENTENCE A PERSON TO DEATH UNLESS
3 THEY FIND AT LEAST ONE AGGRAVATING CIRCUMSTANCE TO
4 HAVE BEEN PROVEN BEYOND A REASONABLE DOUBT IN
5 ADDITION TO THE PERSON BEING FOUND GUILTY OF THE
6 CRIME OF MURDER

7 NOW, A JURY MAY FIND A LIFE SENTENCE
8 TO BE APPROPRIATE, NO MATTER WHAT THE CIRCUMSTANCES
9 ARE A JURY MAY HAVE A REASON FOR IMPOSING A LIFE
10 SENTENCE OR NO REASON THAT'S SIMPLY THEIR CHOICE
11 THEY DO HAVE THE CHOICE THEY MAY IMPOSE A LIFE
12 SENTENCE FOR ANY REASON OR NO REASON, BUT THEY MAY
13 ONLY IMPOSE A DEATH SENTENCE IF THE PERSON IS SHOWN
14 TO HAVE BEEN CONVICTED OF MURDER AND THERE WAS SOME
15 ACCOMPANYING AGGRAVATING CIRCUMSTANCE NOW, IF YOU
16 WERE CALLED UPON TO SERVE AND YOU WERE IN THE GUILT
17 PHASE OF THE TRIAL AND THE EVIDENCE WAS BEING
18 PRESENTED AS TO THE ISSUE OF GUILT, YOU UNDERSTAND
19 YOU COULD NOT FIND A VERDICT OF GUILTY UNLESS YOU
20 WERE CONVINCED OF THAT FACT BEYOND A REASONABLE
21 DOUBT?

22 A YES, SIR

23 Q IF YOU WERE SO CONVINCED, WOULD YOU BE ABLE TO
24 RETURN A VERDICT OF GUILTY?

1 A YES, SIR

2 Q IF YOU WERE NOT SO CONVINCED, WOULD YOU RETURN
3 A VERDICT OF NOT GUILTY?

4 A YES, SIR

5 Q NOW, LET'S ASSUME, AND ONLY ASSUME FOR THE
6 PURPOSE OF THIS QUESTION, THAT YOU HAVE
7 PARTICIPATED YOU AND YOUR FELLOW JURORS HAVE
8 DETERMINED THE DEFENDANT TO BE GUILTY OF THE CRIME
9 OF MURDER BEYOND A REASONABLE DOUBT, AND WE NOW
10 PROCEED TO THE SECOND PHASE OR SECOND STAGE, THE
11 PENALTY PHASE, PUNISHMENT PHASE ADDITIONAL
12 EVIDENCE IS RECEIVED AGGRAVATING EVIDENCE,
13 MITIGATING EVIDENCE THE JURY IS THEN ASKED TO GO
14 BACK AND TO CONSIDER ALL OF THAT EVIDENCE WOULD
15 YOU BE ABLE TO FAIRLY CONSIDER ALL OF THAT EVIDENCE
16 BEFORE YOU WOULD ARRIVE AT YOUR DECISION?

17 A YES, SIR

18 Q AND DEPENDING UPON WHAT THAT EVIDENCE WAS AND,
19 OF COURSE, WE KNOW THAT YOU DON'T KNOW WHAT IT MIGHT
20 BE I DON'T KNOW WHAT IT MIGHT BE BUT DEPENDING
21 UPON WHAT IT WAS, AFTER YOU HAVE FAIRLY CONSIDERED
22 IT ALL, WOULD YOU BE ABLE TO SENTENCE A PERSON TO
23 DEATH IF YOU THOUGHT THE CIRCUMSTANCES WARRANTED
24 THAT DECISION?

- 1 A NO, SIR
- 2 Q CAN YOU ENVISION ANY CIRCUMSTANCE WHERE A
- 3 PERSON CONVICTED OF MURDER SHOULD BE SENTENCED TO
- 4 DEATH?
- 5 A NO, SIR
- 6 Q OR WHERE YOU COULD IMPOSE THAT SENTENCE?
- 7 A NO, SIR
- 8 Q OKAY YOU UNDERSTAND, AS I'VE STATED, YOU
- 9 WOULD ALWAYS HAVE A CHOICE
- 10 A YES, SIR
- 11 Q ALL RIGHT YOU COULD MAKE THE DECISION YOU
- 12 COULD DO IT FOR SOME REASON OR FOR NO REASON AT ALL
- 13 SO FAR AS A LIFE SENTENCE IS CONCERNED
- 14 A UH-HUH (AFFIRMATIVE)
- 15 Q FACED WITH THAT CHOICE, AND YOU WOULD HAVE IT,
- 16 WOULD YOU ALWAYS CHOOSE ONE OF THOSE OPTIONS OVER
- 17 THE OTHER?
- 18 A YES
- 19 Q WHAT WOULD YOU SELECT?
- 20 A IT WOULD BE THE LIFE SENTENCE
- 21 Q AND YOU WOULD ALWAYS CHOOSE THAT NO MATTER THE
- 22 CIRCUMSTANCES THAT MIGHT RELATE TO THE CRIME?
- 23 A RIGHT
- 24 THE COURT OKAY ANY QUESTIONS BY

1 THE DEFENDANT?

2 EXAMINATION BY MR TINSLEY

3 Q YOU CAN'T -- MS CLARK, GOOD EVENING

4 A HI

5 Q YOU CAN'T ENVISION ANY CIRCUMSTANCES WHERE
6 YOUR OPINION THERE MIGHT CHANGE, IS THAT CORRECT?

7 A NO, SIR

8 Q AND YOU ARE FIRMLY OF THAT OPINION?

9 A YES, SIR

10 Q AND THAT'S BASED ON YOUR PERSON BELIEFS, FAITH

11 --

12 A YES

13 Q -- HISTORY?

14 A PERSONAL BELIEF, FAITH I COULDN'T DO IT

15 I'M SORRY

16 MR TINSLEY THANK YOU SO MUCH, MS

17 CLARK

18 THE COURT ANY QUESTIONS BY THE

19 STATE?

20 MR JONES NO, MA'AM THANK YOU FOR

21 BEING SO PATIENT WITH US

22 THE COURT MS CLARK, WE'RE GOING TO

23 EXCUSE YOU FROM SERVICE IN THE TRIAL OF THIS CASE,

24 BUT WE DO SINCERELY APPRECIATE YOU COMING DOWN HERE

1 --

2 JUROR OKAY

3 THE COURT -- TO POTENTIALLY BE
4 SELECTED AS A JUROR IT WILL NOT BE NECESSARY THAT
5 YOU COME BACK NOR WILL IT BE NECESSARY THAT YOU CALL
6 BACK ANYMORE, AND WE APPRECIATE YOU ACCEPTING THAT
7 INCONVENIENCE UP TO THIS POINT, AND IT WILL NOT BE
8 NECESSARY THAT YOU PARTICIPATE FURTHER THANK
9 AGAIN

10 MR TINSLEY YOUR HONOR, PLEASE NOTE
11 MY -- I'M SORRY I THOUGHT YOU WERE READY

12 THE COURT JUST A MINUTE ANY
13 OBJECTION TO THE JUROR BEING DISQUALIFIED?

14 MR TINSLEY PLEASE NOTE MY CROSS
15 SECTION COMMUNITY ONGOING OBJECTIONS THANK YOU SO
16 MUCH

17 (JUROR EXITS COURTROOM)

18 (JUROR IS NOT QUALIFIED)

19 THE COURT CROSS SECTION? OKAY
20 BRING THE OTHER TWO JURORS IN, PLEASE ALL RIGHT
21 THE NEXT JUROR APPEARS TO BE MS HAYNES ARE WE
22 READY FOR MS HAYNES?

23 MR JONES STATE BEGS THE COURT'S
24 INDULGENCE JUST A MINUTE ALL RIGHT ASK MS

1 HAYNES TO COME IN, PLEASE

2 BAILIFF WHO?

3 THE COURT MS HAYNES

4 (JUROR #92 PRESENTED AT 5 58 O'CLOCK P M)

5 EXAMINATION BY THE COURT

6 Q MS HAYNES, IF YOU'LL JUST HAVE A SEAT RIGHT
7 THERE, PLEASE MA'AM

8 A OKAY

9 Q MS HAYNES, AS YOU'RE AWARE, WE ASKED YOU TO
10 COME BACK TO ASK INDIVIDUAL QUESTIONS OF JURORS
11 BEFORE WE BEGIN WITH JURY SELECTION AND, OF COURSE,
12 THERE ARE NO RIGHT OR WRONG ANSWERS WE ARE SIMPLY
13 ASKING THESE QUESTIONS TO FIND OUT YOUR VIEWS AND
14 OPINIONS ON CERTAIN TOPICS SO WE WOULD ASK THAT
15 WHATEVER ANSWERS THAT YOU GIVE THAT THEY SIMPLY BE
16 AS OPEN AND HONEST AS POSSIBLE, AND IF FOR SOME
17 REASON YOU -- YOU DO NOT UNDERSTAND MY QUESTION OR I
18 DO NOT ASK IT CLEARLY, PLEASE ASK ME TO REPEAT IT OR
19 CLARIFY IT, AND I WILL DO SO THE SAME WOULD APPLY
20 TO THE LAWYERS WHEN THEY ASK YOU SOME QUESTIONS

21 YOU WILL RECALL WHEN YOU AND YOUR
22 FELLOW JURORS REPORTED ON FRIDAY THAT YOU WERE ASKED
23 TO STAND AND YOU WERE PLACED UNDER OATH, AND YOU
24 REMAIN UNDER OATH FOR THE PURPOSE OF THESE

1 QUESTIONS, ALSO YOU INDICATED THAT YOU HAD
2 RETURNED THE QUESTIONNAIRE, THAT IT WAS ACCURATE AND
3 CORRECT, AND YOU ALSO INDICATED YOU UNDERSTOOD MY
4 INSTRUCTION CONTAINED IN THE LETTER REQUESTING THAT
5 YOU NOT BE ENGAGE IN ANY DISCUSSIONS, ALLOW NO
6 CONTACT, AND HAVE NO EXPOSURE TO MEDIA COVERAGE
7 RELATING TO THIS PARTICULAR CASE HAVE YOU COMPLIED
8 WITH THAT INSTRUCTION?

9 A YES, SIR

10 Q NOW, PRIOR TO RECEIVING THE LETTER, DID YOU
11 HAVE ANY MEDIA EXPOSURE OR OVERHEAR ANY CONTACT OR
12 HAVE ANY DISCUSSIONS ABOUT -- EXCUSE ME OVERHEAR
13 ANY CONVERSATIONS OR HAVE ANY DISCUSSIONS ABOUT THE
14 CASE?

15 A NO, SIR

16 Q ALL RIGHT NOW, IN A CRIMINAL CASE WHEN THE
17 STATE BRINGS A CHARGE AGAINST A DEFENDANT, DO YOU
18 UNDERSTAND THE BURDEN IS ALWAYS UPON THE STATE TO
19 ESTABLISH THEIR GUILT BEYOND A REASONABLE DOUBT
20 BEFORE THE PERSON CAN BE FOUND GUILTY?

21 A YES I DO

22 Q YOU UNDERSTAND THE BURDEN IS NEVER UPON A
23 PERSON ACCUSED TO PROVE THAT THEY ARE NOT GUILTY OR
24 TO PROVE THAT THEY ARE INNOCENT?

1 A YES I DO

2 Q YOU UNDERSTAND A PERSON CHARGED WITH A CRIME
3 IS ALWAYS PRESUMED TO BE INNOCENT OF THAT CRIME?

4 A YES, SIR

5 Q UNDER THE LAW OF THIS STATE, THERE ARE CERTAIN
6 CIRCUMSTANCES WHERE A PERSON MAY BE SUBJECT TO THE
7 DEATH PENALTY IF THEY ARE CONVICTED OF A CRIME OF
8 MURDER AND IF THERE IS SOME AGGRAVATING CIRCUMSTANCE
9 PROVEN BEYOND A REASONABLE DOUBT THEN, AND ONLY
10 THEN, MAY THE STATE SEEK THE IMPOSITION OF THE DEATH
11 PENALTY THE FACT THAT THE STATE IS PERMITTED TO
12 SEEK THE DEATH PENALTY DOES NOT MEAN THAT IT IS
13 REQUIRED TO BE IMPOSED THAT IS A DECISION THAT A
14 JURY WILL MAKE BASED UPON THE CIRCUMSTANCES OF THE
15 CASE AND ALL OF THE EVIDENCE RECEIVED DURING THAT
16 TRIAL DO YOU UNDERSTAND THAT FACT?

17 A YES, SIR

18 Q IN THAT TYPE OF CASE, IT IS HANDLED IN TWO
19 SEPARATE STAGES THE FIRST PHASE OR FIRST STAGE
20 RELATES TO THE ISSUE OF GUILT IF A PERSON IS FOUND
21 GUILTY OF MURDER, THE SECOND STAGE RELATES TO THE
22 ISSUE OF PUNISHMENT IT'S A SEPARATE PROCEEDING
23 IT'S A SEPARATE HEARING WHERE ADDITIONAL EVIDENCE IS
24 PRESENTED NOW, IF YOU WERE SELECTED TO SERVE IN

1 THE TRIAL OF A CASE WHERE A PERSON IS CHARGED WITH
2 THE CRIME OF MURDER AND WITH ANY OTHER ADDITIONAL
3 CRIMES, COULD YOU FAIRLY CONSIDER ALL OF THE
4 EVIDENCE RECEIVED DURING THE TRIAL OF THAT CASE
5 BEFORE MAKING A DECISION?

6 A YES, SIR

7 Q IF YOU WERE CONVINCED BEYOND A REASONABLE
8 DOUBT THAT THE PERSON HAD BEEN PROVEN GUILTY, COULD
9 YOU RETURN A VERDICT OF GUILTY?

10 A YES, SIR

11 Q IF YOU WERE NOT CONVINCED BEYOND A REASONABLE
12 DOUBT THAT THE PERSON WAS GUILTY, WOULD YOU RETURN A
13 VERDICT OF NOT GUILTY?

14 A YES, SIR

15 Q NOW, ASSUME FOR THE MOMENT, AND ONLY FOR THE
16 PURPOSE OF THIS QUESTION, THAT YOU HAVE BEEN
17 SELECTED YOU HAVE PARTICIPATED IN THE TRIAL OF THE
18 CASE, THAT YOU HAVE CONSIDERED EVIDENCE IN THE GUILT
19 PHASE, AND YOU AND YOUR FELLOW JURORS HAVE RETURNED
20 A VERDICT OF GUILTY AS TO MURDER ASSUME ALSO,
21 THEN, THAT YOU'VE PROCEEDED TO THE SENTENCING PHASE,
22 AND DURING THAT PHASE, YOU HAVE BEEN CONVINCED
23 BEYOND A REASONABLE DOUBT THAT A -- AN AGGRAVATING
24 CIRCUMSTANCE HAS BEEN PROVEN YOU UNDERSTAND DURING

1 THAT PHASE OF THE TRIAL, AS I'VE STATED, THERE WILL
2 BE ADDITIONAL EVIDENCE RECEIVED, BOTH IN AGGRAVATION
3 AND IN MITIGATION THERE WILL BE EVIDENCE PRESENTED
4 WHICH MIGHT TEND TO SUPPORT THE MORE SEVERE
5 PUNISHMENT BEING IMPOSED, THAT BEING THE DEATH
6 PENALTY, AND THERE MAY BE EVIDENCE PRESENTED WHICH
7 MIGHT SUPPORT THE LESS SEVERE PUNISHMENT BEING
8 IMPOSED, THAT IS, LIFE IMPRISONMENT DO YOU
9 UNDERSTAND THAT THAT IS A CHOICE THAT THE JURY WOULD
10 HAVE, ASSUMING YOU WERE ENGAGED IN THE PENALTY PHASE
11 OF THE TRIAL?

12 A YES, SIR

13 Q DO YOU UNDERSTAND THAT YOU WOULD ALWAYS HAVE
14 THOSE TWO CHOICES, BUT YOU WOULD ONLY HAVE TO, AND
15 THAT WOULD BE TO SENTENCE THE PERSON TO DEATH OR TO
16 SENTENCE THE PERSON TO LIFE IMPRISONMENT?
17 UNDERSTAND THAT A JURY IS NEVER REQUIRED TO SENTENCE
18 A PERSON TO DEATH NO MATTER WHAT CIRCUMSTANCES HAVE
19 BEEN ESTABLISHED, BUT THE LAW WILL NOT ALLOW A
20 PERSON TO BE SENTENCED TO DEATH UNLESS THEY ARE
21 CONVICTED OF THE CRIME OF MURDER AND SOME
22 AGGRAVATING CIRCUMSTANCE HAS BEEN ALSO PROVEN BEYOND
23 A REASONABLE DOUBT DO YOU UNDERSTAND THAT FACT?

24 A YES, SIR

1 Q IF YOU WERE PARTICIPATING IN THE SENTENCING
2 PHASE OF SUCH A TRIAL, WOULD YOU BE ABLE TO FAIRLY
3 CONSIDER ALL OF THAT ADDITIONAL EVIDENCE OF
4 AGGRAVATION AND MITIGATION BEFORE ARRIVING AT YOUR
5 DECISION?

6 A YES, SIR

7 Q AND AFTER YOU HAD CONSIDERED ALL THE
8 CIRCUMSTANCES OF THE CRIME OR CRIMES ITSELF OR
9 THEMSELVES AS WELL AS ALL OF THE ADDITIONAL
10 AGGRAVATION AND MITIGATION EVIDENCE, WOULD YOU BE
11 ABLE TO IMPOSE A SENTENCE OF DEATH AGAINST A PERSON
12 IF YOU DETERMINED THAT THE CIRCUMSTANCES WARRANTED
13 THAT DECISION?

14 A NO, SIR

15 Q WOULD YOU BE ABLE TO IMPOSE A SENTENCE OF LIFE
16 IF YOU BELIEVED THE CIRCUMSTANCES WARRANTED THAT
17 DECISION?

18 A YES, SIR

19 Q AS I'VE STATED, THE JURY WOULD ALWAYS HAVE AN
20 OPTION YOU COULD IMPOSE A SENTENCE OF LIFE
21 IMPRISONMENT FOR SOME REASON OR FOR NO REASON YOU
22 COULD DO IT FOR WHATEVER REASON THAT YOU WISHED, OR
23 IF YOU HAD NO REASON SIMPLY DO IT IMPOSE A LIFE
24 SENTENCE, FACED WITH THAT CHOICE I WANT TO ASK YOU

1 IF YOU WERE FACED WITH THAT CHOICE, AND YOU HAD TO
2 DECIDE WHETHER YOU WERE GOING TO IMPOSE A SENTENCE
3 OF DEATH OR A SENTENCE OF LIFE IMPRISONMENT, WOULD
4 YOU ALWAYS IN EVERY CASE OPT FOR ONE OF THOSE
5 CHOICES OVER THE OTHER?

6 A I BELIEVE NINE TIMES OUT OF TEN, DEFINITELY I
7 WOULD I DON'T THINK I COULD SENTENCE ANYONE TO
8 DEATH

9 Q OKAY AND, OF COURSE, I RECOGNIZE PERFECTLY
10 THAT THIS IS SOMETHING THAT PERHAPS YOU HAVE NOT
11 GIVEN A GREAT DEAL OF THOUGHT TO

12 A NO

13 Q AND SOMETIMES IT'S DIFFICULT TO ANSWER
14 QUESTIONS ON THE SPUR OF THE MOMENT WHEN THEY'RE
15 ASKED OF YOU, AND I CAN CERTAINLY APPRECIATE THAT
16 FACT AND I UNDERSTAND FULLY THAT ANY DECISION THAT
17 YOU MIGHT MAKE IN THAT REGARD OBVIOUSLY WOULD BE A
18 DIFFICULT DECISION AND WOULD REQUIRE A LOT OF
19 THOUGHT TO IT I'M SIMPLY TRYING TO DETERMINE,
20 BASED UPON THESE QUESTIONS, AS TO WHETHER OR NOT YOU
21 COULD DO IT UNDER ANY CIRCUMSTANCES, THAT IS, IMPOSE
22 ---

23 A I HAVE THOUGHT ABOUT IT, YOU KNOW, SINCE --
24 SINCE I GOT THE LETTER KNOWING THAT IT WAS A TRIAL

1 CONCERNING MURDER I MAY FEEL LIKE IF MY HUSBAND OR
2 SON, SOMETHING MIGHT HAVE HAPPENED TO THEM, THEN I
3 MYSELF MAY GET ANGRY ENOUGH, BUT I -- I DON'T THINK
4 I COULD UNDER ANY CIRCUMSTANCE PUT SOMEONE TO DEATH

5 Q YOU UNDERSTAND THAT -- AND I'M NOT TRYING TO
6 BE COMICAL, BUT YOU UNDERSTAND THAT IF SOMETHING
7 HAPPENED LIKE THAT TO YOUR SON OR YOUR HUSBAND, YOU
8 WOULD NOT BE ABLE TO PARTICIPATE IN THE TRIAL OF
9 THAT CASE?

10 A YES, SIR

11 Q SO PUTTING THAT ASIDE, IS THERE ANY OTHER
12 CIRCUMSTANCE THAT YOU CAN THINK OF WHERE YOU WOULD
13 BE ABLE TO IMPOSE A SENTENCE OF DEATH AGAINST A
14 PERSON WHO HAS BEEN CONVICTED OF MURDER AND SOME
15 AGGRAVATING CIRCUMSTANCE WAS PRESENT?

16 A NO, SIR I DO NOT THINK SO

17 Q OKAY NOW, GIVEN THE FACT, AS I HAVE STATED,
18 THAT YOU WOULD HAVE A CHOICE

19 A UH-HUH (AFFIRMATIVE)

20 Q YOU COULD SENTENCE SOMEONE TO DEATH IF THE
21 CIRCUMSTANCES WARRANTED IT, OR YOU COULD SENTENCE A
22 PERSON TO LIFE FOR ANY REASON OR NO REASON AT ALL
23 GIVEN THE FACT THAT YOU WOULD HAVE THAT CHOICE
24 ALWAYS, WOULD YOU ALWAYS CHOOSE ONE FORM OF

1 PUNISHMENT OVER THE OTHER?

2 A YES, SIR

3 Q WHAT FORM OF PUNISHMENT WOULD YOU CHOOSE?

4 A LIFE IN PRISON

5 THE COURT OKAY ANSWER ANY
6 QUESTIONS THE LAWYERS MAY HAVE FOR YOU, PLEASE
7 MA'AM

8 JUROR YES, SIR

9 EXAMINATION

10 BY MR TINSLEY

11 Q BRIEFLY, MS HAYNES GOOD EVENING

12 A GOOD EVENING

13 Q MS HAYNES, YOU ALSO STATED THAT YOU COULD
14 CONSIDER AGGRAVATING CIRCUMSTANCES, IS THAT CORRECT?

15 A UH-HUH (AFFIRMATIVE)

16 Q AND YOU ALSO TESTIFIED THAT -- THAT YOU COULD
17 NOT GIVE THE DEATH PENALTY NINE OUT OF TEN TIMES, I
18 BELIEVE YOU SAID?

19 A UH-HUH (AFFIRMATIVE)

20 Q WELL, WHAT ABOUT THAT OTHER ONE OUT OF TEN
21 TIMES? DO YOU THINK THAT, YOU KNOW, CONSIDERING
22 MAYBE I THINK YOU MENTIONED YOUR HUSBAND OR SON AND
23 COULD POSSIBLY PUT YOURSELF IN SOMEONE ELSE'S
24 POSITION WOULD THAT BE THAT ONE OUT OF TEN TIMES

1 THAT YOU MIGHT COULD GIVE THE DEATH PENALTY?

2 A I JUST REALLY CANNOT CONCEIVE ME DOING THAT,
3 SENTENCING SOMEONE TO DEATH IT'S JUST TOTALLY
4 AGAINST ANYTHING I BELIEVE

5 Q IS THAT BECAUSE OF A LONG HELD BELIEF OR
6 RELIGION OR ---

7 A YES, SIR YES, SIR IT IS

8 Q OR A COMBINATION OF THINGS?

9 A COMBINATION OF BOTH

10 Q LIFE EXPERIENCES? CHRISTIANITY? WHAT -- ARE
11 YOU A CHURCH-GOER?

12 A YES, SIR I AM

13 Q WHAT CHURCH

14 A UPPER LONG CANE PRESBYTERIAN CHURCH HERE IN
15 ABBEVILLE

16 Q DO THEY TALK ABOUT IT A LOT OVER THERE OR LIFE
17 OR DEATH, FORGIVENESS OR ---

18 A WE DO WE DISCUSS OUR VIEWS WE HAVE A VERY
19 OPEN SUNDAY SCHOOL CLASS THAT I'M A MEMBER OF, AND
20 WE DO DISCUSS THOSE ISSUES

21 Q AND THESE ARE THE KIND OF ISSUES THAT POP UP?

22 A SOMETIMES NOT -- I HAVE TO ADMIT I'M IN
23 THE MINORITY SOMETIMES BUT -- WITH THAT ISSUE, BUT
24 THAT IS MY BELIEF THAT I COULD NOT DO THAT

1 Q BUT -- SO THE ONLY TIME WOULD BE WITH YOUR OWN
2 ACTIONS INVOLVING YOUR OWN LOVED ONES

3 A I THINK SO I DON'T KNOW, AND I DON'T -- I
4 DON'T KNOW THAT THAT WOULD -- THAT I WOULD DO THAT
5 EVEN WITH THEM

6 Q EVEN THEN? SO YOU WOULD EVEN BE DEBATING ON
7 THAT?

8 A LIFE'S TOO PRECIOUS

9 Q WELL, LET'S SAY THAT MY CLIENT WERE CONVICTED
10 OF TWO MURDERS AND SEVERAL AGGRAVATING CIRCUMSTANCE,
11 THEN COULD YOU PLACE YOURSELF IN THE SURVIVOR'S
12 SHOES AND LOOK AT THEIR LOSS AND POSSIBLY CONSIDER
13 THE DEATH PENALTY AT THAT POINT?

14 A I THINK IF I PUT MYSELF IN THEIR SHOES, I
15 MEAN, I WOULD CERTAINLY BE REMORSEFUL FOR THE
16 FAMILY, BUT I, YOU KNOW, I STILL DON'T THINK I COULD
17 SENTENCE SOMEONE TO DEATH

18 MR TINSLEY THANK YOU SO MUCH

19 JUROR YOU'RE WELCOME

20 THE COURT SOLICITOR?

21 MR JONES MS HAYNES, I DON'T HAVE
22 ANY QUESTIONS FOR YOU I APPRECIATE YOUR PATIENCE
23 WITH US --

24 JUROR YES, SIR

1 MR JONES -- THIS WEEK VERY MUCH
2 AND --

3 JUROR YOU'RE WELCOME

4 MR JONES -- THAT'S ALL, JUDGE

5 THE COURT MS HAYNES, IF YOU'LL

6 STEP OUTSIDE WITH THE BAILIFF FOR JUST A MINUTE,

7 I'LL BRING YOU BACK SHORTLY

8 (JUROR DOES AS INSTRUCTED)

9 THE COURT ANY REASON WHY THE JUROR
10 SHOULD BE FOUND QUALIFIED?

11 MR JONES NONE FROM THE STATE, YOUR
12 HONOR

13 MR TINSLEY YOUR HONOR, I HATE TO
14 LOSE ALL MY GOOD DUE WEST ERSKINE PEOPLE, AND UNDER
15 MY CROSS SECTION OF THE COMMUNITY ARGUMENT, I THINK
16 SHE SHOULD BE QUALIFIED

17 THE COURT HAVE ALL THE ERSKINE
18 PEOPLE BEEN DISQUALIFIED UP TO THIS POINT?

19 MR TINSLEY IT SEEMS THAT WAY IT
20 SEEMS THAT THE SOLICITOR'S ALMA MATER HAS BEEN
21 DISQUALIFIED ACROSS THE BOARD THANK YOU,
22 SOLICITOR

23 THE COURT ALL RIGHT I FIND, BASED
24 UPON THE ANSWERS GIVEN BY THE WITNESS, THAT SHE

1 COULD NOT CONSIDER BOTH FORMS OF THE PUNISHMENT
2 SHE INDICATED SHE COULD NOT THINK OF A CIRCUMSTANCE
3 WHERE SHE WOULD BE ABLE TO CONSIDER IMPOSING A DEATH
4 SENTENCE, AND, THEREFORE, I FIND THAT SHE IS NOT
5 QUALIFIED BRING HER BACK

6 (JUROR RE-ENTERS THE COURTROOM)

7 THE COURT MS HAYNES, WE'RE GOING
8 TO EXCUSE YOU FROM SERVICE IN THE TRIAL OF THIS
9 CASE, BUT WE DO SINCERELY APPRECIATE YOUR
10 PARTICIPATION UP TO THIS POINT AND THE INCONVENIENCE
11 THAT YOU HAVE SUFFERED UP TILL NOW IT WILL NOT BE
12 NECESSARY THAT YOU CALL BACK NOR REPORT ANY FURTHER,
13 BUT THANKS AGAIN FOR YOUR WILLINGNESS TO SERVE

14 JUROR THANK YOU

15 (JUROR EXITS COURTROOM)

16 (JUROR IS NOT QUALIFIED)

17 THE COURT ALL RIGHT ASK MS
18 LANGLEY TO COME OUT, PLEASE

19 (JUROR #115 PRESENTED AT 6 12 O'CLOCK P M)

20 Q GOOD EVENING

21 A GOOD EVENING

22 Q WE APPRECIATE YOUR COMING BACK YOU KNOW WHY
23 YOU'RE HERE WE'RE GONNA BE ASKING YOU SOME
24 ADDITIONAL QUESTIONS, AND THE -- THERE ARE NO RIGHT

1 OR WRONG ANSWERS TO THESE QUESTIONS WE SIMPLY NEED
2 TO FIND OUT YOUR VIEWS AND OPINIONS ON CERTAIN
3 TOPICS, AND SO I WILL BE ASKING YOU QUESTIONS THE
4 LAWYERS MAY ALSO HAVE SOME ADDITIONAL QUESTIONS FOR
5 YOU

6 YOU WILL RECALL THAT WHEN YOU REPORTED WITH
7 YOUR FELLOW JURORS, YOU ALL STOOD AND YOU WERE
8 PLACED UNDER OATH --

9 A YES, SIR

10 Q -- AND YOU REMAIN UNDER OATH FOR THE PURPOSE
11 OF THESE QUESTIONS, ALSO YOU HAVE COMPLETED A
12 QUESTIONNAIRE YOU INDICATED IT WAS ACCURATE

13 A YES, SIR

14 Q YOU'VE ALSO INDICATED YOU RECEIVED AND
15 UNDERSTOOD MY INSTRUCTION NOT TO DISCUSS THE CASE,
16 ALLOW NO ONE TO DISCUSS IT WITH YOU, ALLOW NO
17 CONTACT REGARDING THE CASE, AND NOT TO BE EXPOSED TO
18 ANY MEDIA COVERAGE RELATING TO THE CASE HAVE YOU
19 COMPLIED WITH THAT INSTRUCTION?

20 A YES, SIR

21 Q WHAT ABOUT BEFORE YOU RECEIVED THE LETTER?
22 DID YOU HAVE ANY SUCH CONTACT, DISCUSSION OR MEDIA
23 EXPOSURE?

24 A NO, BECAUSE I HAD FORGOTTEN ABOUT IT REALLY

1 IT HAD NOT BEEN TALKED THE CASE HAD NOT

2 Q ALL RIGHT NOW, LET ME ASK THIS WHEN YOU
3 SAY YOU'VE FORGOTTEN ABOUT IT, THAT SORT OF
4 INDICATES THAT AT SOME TIME YOU KNEW ABOUT IT?

5 A YES, WHEN IT HAPPENED

6 Q OKAY SO YOU DID HEAR SOMETHING ABOUT IT AT
7 OR ABOUT IT IS ALLEGED TO HAVE OCCURRED?

8 A OH, YES, SIR

9 Q AND FROM WHAT SOURCE DID YOU HEAR SOMETHING
10 ABOUT IT?

11 A I CANNOT SAY

12 Q YOU DON'T REMEMBER?

13 A I DO NOT REMEMBER

14 Q YOU JUST HAVE A RECOLLECTION --

15 A I DO

16 Q -- THAT YOU HEARD ABOUT IT --

17 A YES, SIR

18 Q -- BUT YOU DON'T KNOW FROM WHAT SOURCE --

19 A YES, SIR

20 Q -- AND YOU DON'T RECALL WHAT YOU MAY HAVE
21 HEARD?

22 A NO I DO NOT

23 Q OKAY

24 A I'M SORRY

1 Q THAT'S OKAY THAT'S WHAT WE WANT TO KNOW
2 THAT'S EXACTLY WHAT WE'RE TRYING TO FIND OUT NOW,
3 IN A CRIMINAL CASE, A JURY'S FUNCTION IS TO CONSIDER
4 EVIDENCE, WHETHER IT BE TESTIMONY FROM WITNESSES OR
5 THE INTRODUCTION OF ANY OTHER TYPE OF EVIDENCE, AND
6 A JURY IS CALLED UPON ORDINARILY IN A CRIMINAL CASE
7 TO DECIDE A PERSON'S GUILTY, THAT IS, WHETHER OR NOT
8 THE EVIDENCE SUPPORTS THAT PERSON BEING FOUND GUILTY
9 OF THE CRIME ALLEGED

10 NOW, IN THIS CASE, THE DEFENDANT IS CHARGED
11 WITH THE CRIME OF MURDER, AND UNDER THE LAW OF THIS
12 STATE, UNDER CERTAIN CIRCUMSTANCES, A PERSON WHO IS
13 CONVICTED OR FOUND GUILTY OF THE CRIME OF MURDER MAY
14 BE SUBJECTED TO BEING SENTENCED TO DEATH DEPENDING
15 UPON CERTAIN CIRCUMSTANCES THE LAW PROVIDES THAT
16 WHERE A PERSON IS CONVICTED OF THE CRIME OF MURDER
17 BEYOND A REASONABLE DOUBT AND AN AGGRAVATING
18 CIRCUMSTANCE HAS ALSO BEEN PROVEN BEYOND A
19 REASONABLE DOUBT, THEN THE STATE MAY SEEK THE DEATH
20 PENALTY, AND IF THOSE ARE PROVEN, A JURY MAY
21 CONSIDER IMPOSING A DEATH SENTENCE BUT IT IS STILL
22 A JURY'S DECISION YOU ARE NEVER, EVER REQUIRED TO
23 IMPOSE A DEATH SENTENCE NO MATTER WHAT THE
24 CIRCUMSTANCES MAY BE YOU MAY ALWAYS IMPOSE A LIFE

1 SENTENCE IF A JURY DETERMINES THAT TO BE APPROPRIATE
2 UNDER THE FACTS OF THE CASE (JUDGE COUGHS)
3 EXCUSE ME

4 SO IN A CASE OF THIS NATURE, IT OCCURS IN TWO
5 STEPS, STAGES OR PHASES THE FIRST STAGE RELATES TO
6 GUILT THE SECOND STAGE RELATES TO PUNISHMENT IN
7 THE FIRST STAGE, EVIDENCE IS RECEIVED AND A JURY IS
8 ASKED TO CONSIDER THAT EVIDENCE AND APPLY THE LAW
9 THAT I WILL PROVIDE THEM AT THE END OF THAT TRIAL,
10 AND A JURY IS ASKED TO ARRIVE AT A DECISION WHETHER
11 OR NOT THE PERSON HAS BEEN PROVEN GUILTY OF THE
12 CRIME OR CRIMES ALLEGED IN THE INDICTMENT DO YOU
13 UNDERSTAND THAT BEFORE A JURY CAN FIND A PERSON
14 GUILTY OF A CRIMINAL OFFENSE, THAT THE JURY MUST BE
15 CONVINCED OF THAT FACT BEYOND A REASONABLE DOUBT?

16 A YES, SIR

17 Q IF YOU WERE CONVINCED OF A PERSON'S GUILT
18 BEYOND A REASONABLE DOUBT, COULD YOU RETURN SUCH A
19 VERDICT OF GUILTY?

20 A YES, SIR

21 Q DO YOU UNDERSTAND THAT THE BURDEN IS NEVER
22 UPON A DEFENDANT OR A PERSON ACCUSED OF A CRIME TO
23 PROVE THAT THEY ARE NOT GUILTY OR TO PROVE THAT THEY
24 ARE INNOCENT?

1 A I DIDN'T UNDERSTAND WHAT NOW? EXCUSE ME

2 Q DO YOU UNDERSTAND THAT A PERSON WHO IS CHARGED
3 WITH A CRIME NEVER HAS A BURDEN OF PROVING HIS
4 INNOCENCE OR PROVING THAT HE IS NOT GUILTY?

5 A NO I DON'T GUESS SO

6 Q OKAY WELL, DO YOU UNDERSTAND THAT A PERSON
7 WHO IS CHARGED WITH A CRIME IS ALWAYS PRESUMED TO BE
8 INNOCENT?

9 A YES, SIR

10 Q AND THE ONLY WAY A PERSON CAN BE FOUND GUILTY
11 IS THAT THE EVIDENCE PROVED --

12 A PROVES THEY'RE GUILTY

13 Q -- THAT THEY'RE GUILTY BEYOND A REASONABLE
14 DOUBT?

15 A YES, SIR

16 Q YOU UNDERSTAND THE BURDEN IS ON THE STATE TO
17 ESTABLISH THAT?

18 A YES, SIR

19 Q THE BURDEN IS NOT UPON A DEFENDANT TO
20 ESTABLISH --

21 A YES, SIR

22 Q -- THAT HE'S NOT GUILTY OF A CRIME?

23 A YES, SIR

24 Q 'CAUSE A DEFENDANT MAY NOT TESTIFY IN THE

1 TRIAL OF THE CASE HE MAY NOT OFFER ANY EVIDENCE
2 THE STATE HAS THE BURDEN BECAUSE THEY'VE BROUGHT THE
3 ALLEGATION YOU UNDERSTAND THAT?

4 A YES, SIR

5 Q IF YOU WERE PARTICIPATING IN A CASE, YOU'VE
6 INDICATED YOU COULD RETURN A VERDICT OF GUILTY IF
7 YOU WERE CONVINCED BEYOND A REASONABLE DOUBT OF THAT
8 FACT IF YOU WERE SO CONVINCED, WOULD YOU RETURN A
9 VERDICT OF NOT GUILTY?

10 A YES, SIR

11 Q NOW, I WANT YOU TO ASSUME, AND ONLY ASSUME IT
12 FOR THE PURPOSE OF THIS QUESTION ASSUME THAT YOU
13 HAVE PARTICIPATED IN SUCH A TRIAL ASSUME THAT YOU
14 AND YOUR FELLOW JURORS HAVE FOUND A DEFENDANT GUILTY
15 OF THE CRIME OF MURDER BEYOND A REASONABLE IN THAT
16 EVENT, WE WOULD PROCEED TO THE SECOND STAGE, THE
17 PUNISHMENT OR PENALTY PHASE OF THAT TRIAL IT'S
18 DURING THAT STAGE OF THE TRIAL THAT ADDITIONAL
19 EVIDENCE WOULD BE RECEIVED EVIDENCE RELATING TO
20 AGGRAVATION, EVIDENCE RELATING TO MITIGATION THAT
21 SIMPLY MEANS THAT THERE WOULD BE EVIDENCE OFFERED
22 TENDING TO SUPPORT THE MORE SEVERE PUNISHMENT BEING
23 IMPOSED, BEING THE DEATH PENALTY, AND THERE WOULD BE
24 EVIDENCE OFFERED TENDING TO SUPPORT THE LESS SEVERE

1 PUNISHMENT BEING IMPOSED, THAT BEING LIFE
2 IMPRISONMENT DO YOU UNDERSTAND THAT THE JURY WOULD
3 ALWAYS HAVE THAT CHOICE OF IMPOSING THE DEATH
4 SENTENCE OR A LIFE SENTENCE DEPENDING UPON THE
5 CIRCUMSTANCES PROVEN?

6 A YES, SIR

7 Q IF YOU WERE PARTICIPATING IN THAT PUNISHMENT
8 PORTION OF THAT TRIAL, WOULD YOU BE ABLE TO FAIRLY
9 CONSIDER ALL EVIDENCE RECEIVED BOTH IN AGGRAVATION
10 AND IN MITIGATION?

11 A YES, SIR

12 Q IF, AFTER YOU HAD CONSIDERED ALL THE EVIDENCE
13 RELATING TO THE CRIMES THEMSELVES AND ALL THE
14 EVIDENCE RELATING TO AGGRAVATION AND MITIGATION,
15 WOULD YOU BE ABLE TO IMPOSE A SENTENCE OF DEATH
16 AGAINST A PERSON IF YOU BELIEVED THE CIRCUMSTANCES
17 WARRANTED THAT DECISION?

18 A YES, SIR

19 Q WOULD YOU BE ABLE TO IMPOSE A LIFE SENTENCE IF
20 YOU THOUGHT THAT TO BE THE MORE APPROPRIATE
21 SENTENCE?

22 A YES, SIR

23 Q AS I'VE STATED, YOU UNDERSTAND THE JURY WOULD
24 ALWAYS HAVE THAT CHOICE?

1 A YES, SIR

2 Q YOU COULD NEVER SENTENCE A PERSON TO DEATH
3 UNLESS THE PERSON HAD BEEN PROVEN TO BE GUILTY OF
4 THE CRIME OF MURDER BEYOND A REASONABLE DOUBT AND
5 SOME AGGRAVATING CIRCUMSTANCE HAD ALSO BEEN PROVEN
6 BEYOND A REASONABLE DOUBT BUT YOU UNDERSTAND THAT
7 EVEN UNDER THOSE CIRCUMSTANCES, THE LAW WOULD NOT
8 REQUIRE THAT YOU DO SO?

9 A YES, SIR

10 Q THE LAW WOULD PERMIT IT IT WOULD NEVER
11 REQUIRE IT DO YOU UNDERSTAND THAT YOU COULD IMPOSE
12 A SENTENCE OF LIFE FOR WHATEVER REASON OR FOR NO
13 REASON?

14 A YES, SIR

15 Q NOW, LET ME ASK YOU IF YOU WERE
16 PARTICIPATING AND YOU HAD THAT CHOICE OR THAT
17 OPTION, AND I UNDERSTAND IT DEPENDS ON THE FACTS OF
18 THE CASE, BUT I'M JUST SAYING WHERE ALL OF THE
19 EVIDENCE HAD BEEN RECEIVED AND YOU HAD CAREFULLY
20 CONSIDERED ALL THAT EVIDENCE, AND YOU HAD A CHOICE
21 BETWEEN ONE OR THE OTHER, WOULD YOU ALWAYS ELECT ONE
22 FORM OF PUNISHMENT OVER ANOTHER?

23 A IT WOULD DEPEND ON THE EVIDENCE

24 Q OKAY THAT'S WHAT I'M GETTING AT WOULD IT

1 DEPEND UPON THE CIRCUMSTANCES BEFORE YOU COULD
2 DECIDE WHICH WOULD BE THE APPROPRIATE?

3 A YES, SIR

4 Q COULD YOU FAIRLY CONSIDER BOTH FORMS OF
5 PUNISHMENT AS A VIABLE FORM OF PUNISHMENT DEPENDING
6 UPON THE FACTS THAT WERE ESTABLISHED IN THE CASE?

7 A YES, SIR

8 Q HAVE YOU UP TO THIS POINT FORMED OR EXPRESSED
9 ANY OPINION AS TO WHAT YOU BELIEVE THE ULTIMATE
10 DECISION SHOULD BE IN THIS CASE?

11 A NO, SIR, BECAUSE I DO NOT REMEMBER ANYTHING
12 ABOUT THE CASE

13 Q OKAY AND DO YOU KNOW OF ANY REASON WHY YOU
14 COULD NOT BE FAIR AND IMPARTIAL IF YOU WERE SELECTED
15 TO PARTICIPATE IN THIS CASE?

16 A NO, SIR

17 Q NOW, YOU UNDERSTAND, AS I PREVIOUSLY INDICATED
18 AND THE LETTER INDICATED THAT IF YOU WERE SELECTED
19 TO SERVE, YOU WOULD BE SEQUESTERED DURING THE TRIAL
20 THAT WOULD NOT BEING IMMEDIATELY BUT MAY BEGIN SOME
21 TIME NEXT WEEK AFTER WE HAVE CONCLUDED WITH THIS
22 PROCESS THE SEQUESTRATION TIME WOULD BE LIKELY
23 SEVEN TO TEN DAYS IF YOU WERE SEQUESTERED AND
24 BEING SELECTED, WOULD THAT POSE AN UNREASONABLE

1 HARDSHIP OR HEALTH RISK TO YOU?

2 A NO, SIR I JUST -- THE DOCTOR I WORK FOR
3 NEEDS ME (JUROR LAUGHS)

4 Q WE PERFECTLY UNDERSTAND THAT, AND HOPEFULLY
5 EVERYBODY IS NEEDED BY SOMEBODY BUT YOU UNDERSTAND
6 THAT IT'S IMPORTANT THAT YOU BE -- THAT YOU SERVE IF
7 YOU'RE ABLE TO SERVE --

8 A YES, SIR THAT WOULD BE NO PROBLEM

9 Q AND IT DOESN'T POSE A RISK OR A HARDSHIP?

10 A NO, SIR

11 Q WOULD YOU BE WILLING TO ACCOMMODATE ANY
12 INCONVENIENCE THAT IT MIGHT CAUSE BY SEQUESTRATION
13 IF YOU WERE CALLED UPON TO SERVE?

14 A YES, SIR

15 THE COURT OKAY PLEASE ANSWER ANY
16 QUESTIONS THE LAWYERS MAY HAVE FOR YOU

17 EXAMINATION BY MR TINSLEY

18 Q GOOD EVENING, MS LANGLEY

19 A GOOD EVENING

20 Q MS LANGLEY, I WAS CONCERNED IN YOUR
21 QUESTIONNAIRE AT THE END WHERE YOU STATED THAT YOU
22 HAD KNOWN THE DECEASED AND SOME OF THEIR FAMILIES AS
23 PATIENTS IN THE LAST TWENTY-SIX YEARS WHO WERE YOU
24 REFERRING TO?

1 A BY NAME, I CANNOT TELL YOU, BUT, YOU KNOW, I
2 KNOW THEM, AND I ALSO KNOW THE DEFENDANTS ALSO WHICH
3 I WAS NOT AWARE OF UNTIL I WAS IN THE COURTROOM
4 Q AND -- AND ---
5 A AND I COULD NOT TELL YOU ANYONE'S NAME
6 Q SO YOU KNOW THE -- YOU KNEW MS HARRIS AND MS
7 JACKSON AND -- AND THEIR FAMILIES, BUT NOT
8 PARTICULARLY BY NAME?
9 A NO, SIR
10 Q BUT YOU TREATED THEM, IS THAT CORRECT?
11 A YES, SIR
12 Q AND THAT'S OVER A TWENTY-SIX YEAR PERIOD?
13 A WELL, I'VE BEEN WORKING IN ABBEVILLE FOR
14 TWENTY-SIX YEARS SO I (JUROR LAUGHS) ---
15 Q AND NOW YOU RECOGNIZE THAT YOU KNOW MR
16 HUGHEY?
17 A I -- I ---
18 Q HOW DO YOU KNOW HIM?
19 A AS A PATIENT, I'M SURE
20 Q SAME WAY?
21 A YES, SIR
22 Q YOU BELIEVE THAT IT'S THE SAME WAY?
23 A YES, SIR
24 Q OKAY

1 A I DO NOT REMEMBER NAMES --

2 Q YOU DON'T ---

3 A -- LOTS OF TIMES WHEN I'M OUT OF THE SETTING
4 AND WITHOUT THE PATIENT'S CHART

5 Q WELL, I ASSUME YOU SEE A GOOD MANY PEOPLE,
6 THOUGH?

7 A YES, SIR

8 Q AND YOU'RE TELLING ME YOU'RE NOT GOOD WITH
9 NAMES, BUT YOU'RE GOOD WITH FACES?

10 A I AM

11 Q LIKE SO MANY OF US MS LANGLEY, I ALSO NOTED
12 ON HERE THAT YOU HAD A NEPHEW WHO HAD SOME -- A
13 SERIOUS MENTAL ILLNESS, IS THAT CORRECT?

14 A I DO HAVE, YES

15 Q AND ALSO A LOT OF PEOPLE IN YOUR PROFESSION?

16 A I -- WE SEE A LOT OF PEOPLE --

17 Q YEAH

18 A -- WITH MENTAL PROBLEMS

19 Q BUT IN YOUR PROFESSIONAL LINE OF WORK?

20 A YES, SIR

21 Q I WANTED TO CLARIFY THAT

22 A YES

23 Q THAT IT'S IN THE LINE OF THE WORK AND,
24 FURTHER, YOU'VE OBSERVED FOLKS WHO EXHIBIT SOME --

1 SOME -- SOME MENTAL PROBLEM, IS THAT RIGHT?

2 A YES, SIR

3 Q AND, AS SUCH, YOU WOULD UNDERSTAND THAT THAT
4 WOULD BE THE KIND OF THING THAT MIGHT BE CONSIDERED
5 A MITIGATING FACTOR OR DO YOU?

6 A I HAVE NOT EVEN THOUGHT ABOUT IT

7 Q OKAY AND CERTAINLY IT HAS WORKED TO THE
8 DETRIMENT OF YOUR PATIENTS OR YOUR NEPHEW THAT SORT
9 OF THING, AND, AS SUCH, MS LANGLEY, IN TALKING WITH
10 MISTER COWART, I MUST ASK YOU IF THERE WAS A TIME
11 POSSIBLY WHEN YOU HAD -- HAD A CONSULTATION WITH
12 McCALLUM OR GARRETT IN GREENWOOD, NOT NECESSARILY A
13 HIRING OF THEM, BUT DO YOU RECALL ANYTHING ABOUT
14 THAT?

15 A YES, SIR

16 Q SO YOU HAVE BEEN THERE?

17 A I HAVE, YES

18 Q YOU HAVE BEEN TO THEIR OFFICE --

19 A YES

20 Q -- AS A POSSIBLE CLIENT, OR EXPLAIN IT TO ME

21 A IN A DIVORCE CASE, YES

22 Q IN A DIVORCE CASE?

23 A YES

24 Q AND I NOTICE, AND I HATE TO BE INSENSITIVE,

1 BUT I NOTICED YOU ARE SEPARATED?

2 A YES, SIR

3 Q AND NOW, YOU WENT BY AND HAD A CONSULTATION
4 WITH THESE FOLKS ABOUT A POSSIBLE DIVORCE CASE?

5 A YES, SIR

6 Q OKAY AND SO, THEREFORE, YOU KNOW THEM, BUT
7 IS IT ALSO TRUE THAT ULTIMATELY YOU DID NOT
8 NECESSARILY RETAIN THEM IN THE MATTER?

9 A THAT'S TRUE

10 Q OKAY NOW, WOULD THAT BIAS YOU IN ANY MANNER
11 THAT YOU COULD THINK OF? YOUR -- AND I MEAN WITH
12 THAT POSSIBLE CONSULTATION, YOUR FRIENDSHIP WITH THE
13 HARRIS', JACKSONS, HUGHEYS, DO YOU FEEL IN LIGHT OF
14 ALL OF THAT, THAT YOU WOULD BE ABLE TO MAINTAIN A --
15 A CLEAR, NOT BIASED, INDEPENDENT APPROACH IN THIS --
16 IN THIS CASE?

17 A YES I COULD

18 Q YOU DO? AND NONE OF THAT WOULD PREJUDICE YOU
19 AGAINST MY CLIENT IN ANY WAY?

20 A NO, SIR

21 Q OKAY AND, AS SUCH, IF THE JUDGE GAVE YOU
22 INSTRUCTIONS ON THE LAW, THE EVIDENCE AND THAT SORT
23 OF THING, YOU COULD FOLLOW THEM, IS THAT CORRECT?

24 A YES, SIR

1 Q AND ALONG THOSE LINES, IF HE GAVE YOU THE
2 FOLLOWING CHOICES GUILTY OF MURDER, GUILTY OF
3 MANSLAUGHTER, OR NOT GUILTY, AND YOU DEEMED THE
4 FACTS APPROPRIATE, COULD YOU CONSIDER A VERDICT OF
5 ANY OF THOSE THREE?

6 A YES, SIR

7 Q EVEN IF THE CASE INVOLVED DEATH OR KILLING,
8 THAT SORT OF THING?

9 A YES, SIR

10 Q IF THE FACTS FIT THE LAW?

11 A YES, SIR

12 Q AND IS THAT THE APPROACH THAT YOU WOULD TAKE
13 IN THIS CASE?

14 A YES IT IS

15 Q AND -- AND YOU WOULD MAINTAIN YOUR
16 INDEPENDENCE AND SO DO IT?

17 A YES, SIR

18 MR TINSLEY THANK YOU SO MUCH

19 EXAMINATION

20 BY MR JONES

21 Q HELLO, MS LANGLEY

22 A HEY

23 Q MY NAME IS TOWNES JONES I'M YOUR SOLICITOR
24 HERE IN ABBEVILLE COUNTY THIS IS MIKE COULTER

1 HE'S YOUR DEPUTY SOLICITOR WE'LL BE PRESENTING THE
2 EVIDENCE IN THE CASE WE GOT YOUR QUESTIONNAIRE
3 WE'VE LOOKED OVER, AND, OF COURSE, WE LISTENED TO
4 THE -- YOUR ANSWERS TO THESE QUESTIONS, BUT I HAVE A
5 FEW MORE QUESTIONS FOR YOU, ALL RIGHT?

6 CONCERNING THE DEATH PENALTY AND, BASICALLY,
7 PUNISHMENT AND THE PUNISHMENT PHASE OF A CASE, THE
8 JUDGE ASKED YOU A QUESTION ABOUT WHETHER OR NOT YOU
9 WOULD, IN DECIDING WHAT THE PUNISHMENT, LEAN TOWARDS
10 ONE AS OPPOSED TO THE OTHER AND WHETHER YOU WOULD
11 CHOOSE ONE AND NOT THE OTHER WHEN YOU'RE LOOKING AT
12 THOSE YOU SAID, "DEPENDING ON THE CIRCUMSTANCES
13 AND THE FACTS " AND WHAT I WANTED TO ASK YOU IS
14 DO YOU KNOW YOURSELF WELL ENOUGH TO KNOW, DEEP DOWN
15 INSIDE, IF YOU FOUND SOMEBODY GUILTY OF MURDER, AND
16 YOU FOUND AN AGGRAVATING CIRCUMSTANCE PRESENT, AND
17 YOU LOOKED AT THE EVIDENCE IN AGREATION YOU LOOKED
18 AT THE EVIDENCE IN MITIGATION, THE REASONS WHY NOT
19 TO GIVE HIM THE DEATH PENALTY, AND THE AGGRAVATING
20 REASONS WHY TO GIVE HIM THE DEATH PENALTY DO YOU
21 KNOW WHICH WAY YOU WOULD LEAN PREFERENTIALLY IF YOU
22 HAD A LEANING?

23 A I DO NOT

24 Q YOU DON'T HAVE A LEANING OR YOU DON'T KNOW?

1 A I DO NOT KNOW WHAT I WOULD DO UNTIL I HEARD
2 THE EVIDENCE

3 Q RIGHT WELL, LET ME ASK YOU THIS QUESTION
4 EVIDENCE ASIDE --

5 A OKAY

6 Q -- WOULD YOU SAY YOU'RE PRO LIFE OR PRO DEATH?

7 A WELL, IN MY PROFESSION I'M PRO LIFE

8 Q UH-HUH (AFFIRMATIVE)

9 A DEFINITELY

10 Q WELL, THEN, IN THE AREA OF LAW, IN THE AREA OF
11 CRIME?

12 A I BELIEVE IN THE DEATH PENALTY

13 Q OKAY

14 A IF APPROPRIATE

15 Q IF APPROPRIATE ALL RIGHT AND YOU KNOW IT -
16 - IT -- IT HAS -- IT HAS BEEN SAID, AND IS PROBABLY
17 SO, THAT A LOT OF PEOPLE, A LOT OF US, A LOT OF
18 PEOPLE WOULD SAY, "I BELIEVE IN THE DEATH PENALTY "
19 BUT WHAT WE'RE TALKING ABOUT NOW IS YOUR ABILITY TO
20 IMPOSE THE DEATH PENALTY

21 A YES, SIR I COULD

22 Q YOU COULD IMPOSE THE DEATH PENALTY?

23 A YES, SIR

24 Q ALL RIGHT AND YOU HAD THOUGHT ABOUT IT

1 BEFORE YOU CAME IN HERE?

2 A THAT'S ALL I THINK ABOUT SINCE I GOT THIS
3 QUESTIONNAIRE (JUROR LAUGHS)

4 Q SINCE YOU GOT THE QUESTIONNAIRE?

5 A YES I'M SORRY

6 Q OKAY THAT'S ALL RIGHT AND, AGAIN, I'M
7 GOING TO ASK YOU SOME QUESTIONS ABOUT THE DEATH
8 PENALTY

9 A OKAY

10 Q AND IT'S VERY UNDERSTANDABLE THAT YOU WOULD
11 THINK ABOUT IT HAD YOU KNOWN BEFORE THEN, BEFORE
12 YOU GOT THE QUESTIONNAIRE, WHETHER OR NOT YOU COULD
13 ---

14 A I'VE NEVER THOUGHT ABOUT BEING ON A JURY

15 Q BUT AFTER YOU GOT THE QUESTIONNAIRE, YOU
16 STARTED THINKING ABOUT IT, AND AT SOME POINT IN TIME
17 YOU MADE A DECISION YOU SAID, AND PARDON ME IF I
18 DON'T PRONOUNCE YOUR FIRST NAME RIGHT

19 A ALDENE

20 Q ALDENE ALDENE LANGLEY I, ALDENE, LANGLEY,
21 I CAN GIVE THE DEATH PENALTY IN THE APPROPRIATE
22 CIRCUMSTANCE WHEN DID YOU COME TO THAT
23 REALIZATION?

24 A I'VE ALWAYS BELIEVED IN THE DEATH PENALTY

1 Q IT'S JUST THAT WHEN YOU'RE PERSONALLY INVOLVED
2 IN IT, IT'S JUST KIND OF RAISING THE STAKES A LITTLE
3 BIT, I SUPPOSE, IS THAT RIGHT?

4 A YES, SIR

5 Q AND SO YOU WOULD WANT YOUR PROOF TO BE BEYOND
6 A REASONABLE DOUBT?

7 A YES, SIR

8 Q AND ONCE WE GET TO THAT LEVEL OF PROOF AND
9 THEN YOU -- YOU COME TO THE AREA OF GUILTY OR NOT
10 GUILTY, IS THAT CORRECT?

11 A YES, SIR

12 Q AND ONCE YOU REACH THE AREA OF GUILTY OF
13 MURDER, THEN YOU GO INTO THE PUNISHMENT PHASE, IS
14 THAT RIGHT?

15 A YES, SIR

16 Q OKAY AND WHAT ARE YOU LOOKING FOR AT THAT
17 POINT IN TIME TO DECIDE WHETHER TO GIVE LIFE OR
18 DEATH?

19 A CIRCUMSTANCES AND WHETHER IT'S PREMEDITATED

20 Q OKAY YES, MA'AM NOW, LET ME ASK YOU ONE
21 OTHER QUESTION THIS DOESN'T HAVE TO DO WITH THE
22 DEATH PENALTY IT JUST HAS TO DO WITH THE LAWYERS
23 OVER HERE

24 A OKAY

1 Q AND -- AND, YOU KNOW, IT'S -- I JUST -- AS
2 MUCH AS YOU CAN KNOW YOURSELF, I GUESS SOMETIMES --
3 MY QUESTIONS IS DID YOU HIRE THEM?

4 A NO

5 Q OKAY DID YOU HIRE ANYBODY?

6 A YES WELL, NO I TOLD THEM ---

7 Q TO HELP YOU WITH THE DIVORCE?

8 A YES

9 Q YOU DID HIRE A LAWYER TO HELP YOU WITH THE
10 DIVORCE?

11 A YES, FOR CONVENIENCE IN ABBEVILLE BECAUSE OF
12 THE LIMITED TIMES THAT I AM OUT OF THE OFFICE

13 Q OKAY AND WHICH LAWYER DID YOU TALK WITH WHEN
14 YOU CONSULTED WITH THE GARRET AND McCALLUM LAW FIRM?

15 A EDWARD

16 Q McCALLUM?

17 A UH-HUH (AFFIRMATIVE)

18 Q ALL RIGHT AND -- AND WAS THAT ONE
19 CONSULTATION?

20 A YES, SIR

21 Q THE OTHER QUESTION THAT I WANTED TO ASK YOU IS
22 ON YOUR QUESTIONNAIRE HE'S TALKED TO YOU ABOUT IT,
23 THAT'S YOUR NEPHEW WITH THE SCHIZOPHRENIA

24 A YES

1 Q MENTAL ILLNESS IS SOMETHING THAT LOTS OF US
2 HAVE TO DEAL WITH IN OUR FAMILIES IN VARIOUS FACETS
3 AND ASPECTS WE -- THIS IS YOUR SISTER'S SON OR ---

4 A IT'S MY SISTER'S CHILD HE WAS A PRE-MED
5 SENIOR LAST SEMESTER AT CLEMSON

6 Q OKAY AND SO HE TAKES MEDICATION AND IS ABLE
7 TO ---

8 A HE DOES HE TAKES ROXANOL

9 Q AND IS ABLE TO CONTROL ---

10 A YES, SIR

11 Q OKAY

12 A AS LONG AS HE TAKES IT IF HE DOESN'T TAKE IT
13 ---

14 Q RIGHT RIGHT DO YOU CONSIDER MENTAL ILLNESS
15 A BASIS AND AN EXCUSE FOR SOMEBODY TO PRETTY MUCH DO
16 WHAT THEY WANT TO DO AND NOT BE HELD RESPONSIBLE?

17 MR TINSLEY OBJECTION, YOUR HONOR

18 THE COURT SUSTAINED YOU CAN

19 REPHRASE IT I THINK I KNOW WHAT YOU'RE TRYING TO
20 GET, BUT I SUSTAIN THE OBJECTION TO THAT QUESTION IN
21 THAT FORM

22 EXAMINATION CONTINUED

23 BY MR JONES

24 Q IS -- WOULD YOU CONSIDER YOUR RELATIONSHIP

1 WITH A PERSON WHO HAS A MENTAL ILLNESS TO BE
2 SOMETHING THAT WOULD CAUSE YOU TO BE MORE SENSITIVE
3 THAN MOST PEOPLE ARE TO THAT TYPE OF CONDITION?

4 A NO, SIR

5 Q WHY NOT?

6 A BECAUSE I HAVE WORKED WITH IT FOR SO LONG, AND
7 YOU HAVE TO BE OBJECTION AND LOOK AT EACH INDIVIDUAL
8 CASE

9 Q SO BASED ON YOUR CONTACT WITH THE PERSON AND
10 BASED ON YOUR CONTACT WITH THE PROFESSION, WOULD YOU
11 CONSIDER YOURSELF SOMEONE WHO WOULD BE MORE
12 SENSITIVE TO PEOPLE'S PROBLEMS AND ILLNESSES, BE
13 THEY MENTAL OR PHYSICAL, THAN MOST PEOPLE?

14 A I WOULD BECAUSE I'M JUST SENSITIVE TO PEOPLE
15 WHO HAVE PROBLEMS

16 Q UH-HUH (AFFIRMATIVE)

17 A WHETHER IT'S PHYSICAL OR MENTAL

18 Q ALL RIGHT WOULD YOU CONSIDER THE EXISTENCE
19 OF A MENTAL ILLNESS THE BASIS FOR NOT GIVING SOMEONE
20 THE DEATH PENALTY?

21 A I WOULD HAVE TO KNOW THE EVALUATION OF THE
22 PERSON

23 Q BY THAT, DO YOU MEAN THE EXTENT OF THE MENTAL
24 ILLNESS?

1 A YES, SIR, AND WHETHER IT WAS PREVALENT PRIOR
2 TO AN ACT OR WHETHER IS IT SOMETHING THAT WAS NOT
3 KNOWN ABOUT AFTER THE ACT

4 Q ALL RIGHT IF IT WAS KNOWN -- IF IT WAS
5 SOMETHING THAT EXISTED BEFORE THE ACT, WOULD THE
6 DEGREE OF ITS EXISTENCE BEAR ON YOUR DECISION ABOUT
7 WHETHER IT WOULD BE A SIGNIFICANT MITIGATING FACTOR
8 TO PREVENT YOU FROM BEING ABLE TO IMPOSE THE DEATH
9 PENALTY?

10 A NO, SIR NO, SIR

11 Q SO THE DEGREE WOULD NOT BE IMPORTANT TO YOU?
12 THE DEGREE OF THE ILLNESS?

13 A YES

14 Q WHETHER IT WAS A SIGNIFICANT ILLNESS OR AN
15 INSIGNIFICANT ILLNESS?

16 A IF IT'S -- THE DEGREE I GUESS

17 Q MA'AM?

18 A THE DEGREE OF THE MENTAL ILLNESS WHETHER IT'S
19 SEVERE OR NOT AS TO WHETHER IT WOULD GIVE THEM THE -
20 - I WOULD PROBABLY BE IN FAVOR OF THE DEATH PENALTY

21 Q IF IT WAS AN INSIGNIFICANT ILLNESS?

22 A YES IN A WAY, YOU KNOW, THAT PART

23 Q WELL, I'M ABOUT -- I'M ABOUT AT THE END, AND I
24 KNOW SOMETIMES OUR QUESTIONS REALLY AREN'T CLEAR

1 ENOUGH TO -- TO ALLOW YOU AN OPPORTUNITY TO ANSWER
2 THEM, AND I APOLOGIZE IF THEY HAVEN'T BEEN BUT MY
3 QUESTION FOR YOU NOW IS YOU BASICALLY TOLD US THAT
4 YOU BELIEVE YOURSELF TO BE SOMEONE WHO, UNDER THE
5 APPROPRIATE CIRCUMSTANCES, COULD IMPOSE THE DEATH
6 PENALTY?

7 A YES, SIR

8 Q AND YOU REALIZE THAT YOU'VE GONE ALONG WITH US
9 DURING THE LAST WEEK, AND HERE YOU ARE IN THIS SEAT,
10 AND NEXT WEEK THE JURORS GO IN THESE SEATS SO
11 YOU'RE PRETTY CLOSE TO BEING ON THE JURY, AND SO
12 YOUR QUESTIONING AND HOW HONEST YOU ARE WITH
13 YOURSELF AND US IS VERY IMPORTANT AT THIS POINT IN
14 TIME BECAUSE IF YOU TELL US THAT NOW YOU COULD DO
15 IT, YOU WOULDN'T WANT TO, A WEEK AND A HALF OR TWO
16 WEEKS FROM NOW, SAY, "OH, GOSH I SHOULDN'T HAVE
17 TOLD THEM THAT I REALLY CAN'T GIVE THE DEATH
18 PENALTY " YOU FOLLOW WHAT I'M SAYING?

19 A YES, SIR I'M BEING AS HONEST AS I CAN BE

20 Q RIGHT BUT YOU AGREE IT WOULDN'T BE FAIR TO
21 TELL US NOW YOU COULD, AND THEN A WEEK AND A HALF --

22 A NO, SIR

23 Q -- LATER SAY, "OH, I SHOULDN'T HAVE TOLD THEM
24 THAT"?

1 A NO, SIR

2 Q RIGHT? SO YOU KNOW NOW? YOU'RE SAYING NOW
3 YOU COULD, AND YOU'LL FEEL THE SAME WAY A WEEK AND A
4 HALF FROM NOW?

5 A YES, SIR

6 Q OKAY AND, IN ADDITION, IF YOU DO, YOU HAVE
7 TO SIGN YOUR NAME ON A PIECE OF PAPER IT'S A DEATH
8 WARRANT, AND YOU HAVE TO SIGN YOUR NAME, ALDENE
9 LANGLEY, SENTENCES SO AND SO TO DEATH YOU -- YOU
10 COULD TAKE THAT STEP, ALSO?

11 A YES, SIR

12 Q THANK YOU, MA'AM MA'AM?

13 A IF IT SEEMED -- IF IT WERE APPROPRIATE, I
14 COULD

15 MR JONES YES, MA'AM OKAY THANK
16 YOU

17 MR TINSLEY JUST TWO QUESTIONS,
18 YOUR HONOR

19 THE COURT OKAY

20 FURTHER EXAMINATION

21 BY MR TINSLEY

22 Q MS LANGLEY?

23 A YES, SIR

24 Q NOW, DID I UNDERSTAND YOU CORRECTLY IN THAT

1 EVERY CASE WHERE A PERSON WERE CONVICTED OF A
2 PREMEDITATED MURDER OR A MURDER WITH MALICE
3 AFORETHOUGHT, YOU WOULD ALWAYS IMPOSE THE DEATH
4 PENALTY, IS THAT CORRECT?

5 A IF THE EVIDENCE PRESENTED WAS STRONG ENOUGH
6 FOR THAT

7 Q SO IF YOU FOUND MALICE AFORETHOUGHT IN THE
8 KILLING BEYOND A REASONABLE DOUBT, WOULD YOU ALWAYS
9 GIVE THE DEATH PENALTY?

10 A I DO NOT KNOW

11 Q YOU DO NOT KNOW WELL, LET ME GIVE YOU A
12 HYPOTHETICAL REAL QUICK

13 A OKAY

14 Q IF MY CLIENT WAS CONVICTED OF TWO KILLINGS
15 WITH MALICE AFORETHOUGHT AND POSSIBLY ADDITIONAL
16 AGGRAVATING CIRCUMSTANCES, WOULD YOU GIVE HIM OR
17 ALWAYS, IN THOSE CIRCUMSTANCES, GIVE THE DEFENDANT,
18 REGARDLESS IF IT WAS MY CLIENT OR ANY OTHER
19 DEFENDANT, THE DEATH PENALTY?

20 A YES

21 MR TINSLEY THAT'S ALL

22 FURTHER EXAMINATION

23 BY THE COURT

24 Q MS LANGLEY, LET ME ASK YOU JUST A COUPLE OF

1 QUESTIONS SO THAT I CAN BE CERTAIN THAT I UNDERSTAND
2 WHAT YOUR VIEW AND OPINION IS YOU UNDERSTAND, OF
3 COURSE, THE DEFENDANT IS CHARGED WITH MURDER IN TWO
4 SEPARATE COUNTS OF THE INDICTMENT AND THAT
5 CONVICTIONS OF MURDER CAN BE CONSIDERED AS AN
6 AGGRAVATING CIRCUMSTANCE FOR WHICH A JURY COULD
7 CONSIDER IMPOSING A DEATH SENTENCE WHERE A PERSON
8 IS CHARGED WITH TWO COUNTS OF MURDER AND IF THE
9 PERSON IS CONVICTED AS TO BOTH, WOULD YOU ALWAYS
10 SENTENCE A PERSON TO DEATH, OR WOULD YOU HAVE TO
11 CONSIDER ALL THE CIRCUMSTANCES RELATING TO THE
12 CRIMES AS WELL AS TO THE EVIDENCE IN AGGRAVATION AND
13 MITIGATION BEFORE MAKING THAT DECISION?

14 A I WOULD HAVE TO HEAR ALL OF THE CIRCUMSTANCES
15 ALL, I MEAN ---

16 Q WELL, THAT'S WHAT I THOUGHT THAT YOUR ANSWER
17 WAS EARLIER

18 A YES, SIR

19 Q I'M JUST SIMPLY -- THE REASON I ASKED IT TO
20 CLARIFY IT, AND I WANT YOU TO UNDERSTAND I'M NOT
21 TRYING TO PRESSURE YOU AT ALL I JUST SIMPLY HAVE
22 TO BE CERTAIN I UNDERSTAND WHAT YOU'RE THINKING, AND
23 I KNOW THAT WHEN MR TINSLEY ASKED YOU IF A PERSON
24 WERE CONVICTED OF -- OF TWO COUNTS OF MURDER AND

1 PERHAPS SOME OTHER AGGRAVATING CIRCUMSTANCE, THAT
2 YOU WOULD ALWAYS IMPOSE THE DEATH PENALTY

3 A I WOULD HAVE TO, I MEAN, HE WAS GIVING IT TO
4 ME WITHOUT ME KNOWING ANYTHING AS HE SAID,
5 HYPOTHETICAL, BUT I WOULD HAVE TO HEAR ALL THE
6 EVIDENCE, LISTEN VERY, VERY CLOSELY, AND THEN MAKE
7 MY DECISION FROM THAT

8 Q WELL, DOES THAT MEAN THAT THERE -- THERE COULD
9 BE A CIRCUMSTANCE OR A SITUATION WHERE A PERSON HAD
10 BEEN FOUND GUILTY OF TWO COUNTS OF MURDER AND EVEN
11 OF SOME ADDITIONAL AGGRAVATING CIRCUMSTANCE, THAT
12 YOU COULD CONSIDER IMPOSING A LIFE SENTENCE,
13 DEPENDING UPON WHAT ALL OF THE CIRCUMSTANCES ARE
14 THAT RELATE TO THE INDIVIDUAL AND TO THE CRIMES
15 THEMSELVES?

16 A YES, SIR

17 Q YOU COULD DO THAT?

18 A I COULD DO THAT

19 Q YOU COULD STILL CONSIDER BOTH FORMS OF THE
20 PUNISHMENT?

21 A YES, SIR

22 Q IS THERE ANY QUESTION OR DOUBT IN YOUR MIND
23 ABOUT YOUR ABILITY TO DO THAT?

24 A NO, SIR

1 THE COURT OKAY BASED UPON THAT,
2 DO YOU WISH TO ASK ANY ADDITIONAL QUESTION, MR
3 TINSLEY?

4 MR TINSLEY NO, YOUR HONOR I HAVE
5 ADDITIONAL QUESTIONS, BUT I WILL HAVE BRIEF POSTURE

6 THE COURT OKAY ANYTHING FURTHER?

7 MR JONES NO, SIR

8 THE COURT OKAY MS LANGLEY, IF
9 YOU WILL, SIMPLY STAND OUTSIDE WITH THE BAILIFF FOR
10 JUST A MINUTE, AND I'LL BRING YOU BACK SHORTLY
11 (JUROR DOES AS INSTRUCTED)

12 THE COURT ANY OBJECTION TO THE
13 JUROR BEING FOUND QUALIFIED?

14 MR JONES NONE FROM THE STATE, YOUR
15 HONOR

16 MR TINSLEY OBJECT ON TWO GROUNDS,
17 YOUR HONOR

18 THE COURT ALL RIGHT

19 MR TINSLEY THE FIRST GROUND IS THE
20 FACT THAT SHE'S KNOWN AND, MUCH FURTHER, KNOWN TO
21 TREAT THE VICTIMS AND THEIR FAMILIES IN THE CASE
22 OVER A PERIOD OF TWENTY-SIX YEARS AND THEREBY, IN
23 OUR OPINION, PREJUDGING HERE BEYOND THE ABILITY TO
24 BE UNBIASED IN THE MATTER AND, TWO ---

1 THE COURT WELL, LET ME ASK YOU THIS
2 ON THAT FIRST POINT DO YOU AGREE THAT YOU ASKED
3 HER --

4 MR TINSLEY I ASKED HER ---

5 THE COURT -- IF THAT WOULD AFFECT
6 HER IMPARTIALITY, AND SHE INDICATED IT WOULD NOT?

7 MR TINSLEY SHE INDICATED IT WOULD
8 NOT

9 THE COURT OKAY

10 MR TINSLEY AND, TWO, YOUR HONOR,
11 THAT UNDER MORGAN VERSUS ILLINOIS AND THE RESPONSE
12 TO SOME OF THE QUESTIONS, SHE INDICATED, IN
13 PARTICULAR AS TO THE HYPOTHETICAL, THAT SHE WOULD
14 ALWAYS GIVE THE DEATH PENALTY

15 THE COURT THE STATE WISH TO BE
16 HEARD?

17 MR JONES NO, SIR

18 THE COURT OKAY BASED UPON THE
19 TESTIMONY GIVEN BY THE JUROR, I FIND THAT SHE IS TO
20 BE QUALIFIED SHE'S INDICATED THAT SHE COULD
21 CONSIDER BOTH FORMS OF THE PUNISHMENT IT WOULD
22 ALWAYS DEPEND UPON THE CIRCUMSTANCES OF THE CASE AND
23 THE INDIVIDUAL IN LIGHT OF ALL THE EVIDENCE
24 PRESENTED BEFORE SHE COULD EVER ARRIVE AT THE

1 APPROPRIATE DECISION AS TO WHETHER OR NOT TO IMPOSE
2 THE DEATH PENALTY, AND, THEREFORE, I FIND THAT SHE
3 HAS NO BIAS, PREJUDICE OR OTHER INTEREST WHICH WOULD
4 PREVENT HER FROM BEING ABLE TO FAIRLY CONSIDER THE
5 CASE SHE'S INDICATED SHE COULD CONSIDER ALL FORMS
6 OF THE VERDICTS WITH REGARD TO THE GUILT PHASE AND
7 COULD CONSIDER BOTH FORMS OF THE VERDICT AS TO THE
8 SENTENCING PHASE, AND, THEREFORE, SHE IS TO BE FOUND
9 QUALIFIED

10 MR McCALLUM YOUR HONOR, IF I MAY
11 SINCE THE ISSUE OF A CONSULTATION WITH MYSELF CAME
12 UP, I WAS WONDERING IF THE COURT MIGHT REASSURE HER
13 THAT I'VE TOLD THE COURT, AND I'M TELLING MY
14 COUNSEL, THAT NONE OF THE COMMUNICATIONS THAT WE HAD
15 DURING THAT CONSULTATION WERE DISCUSSED WITH MY CO-
16 COUNSEL OR THE DEFENDANT IN THIS MATTER ONLY THE
17 FACT THAT I HAD MET HER IN AN OFFICE VISIT?

18 THE COURT I'D BE GLAD TO IF YOU
19 WISH FOR ME TO YOU DON'T HAVE ANY OBJECTION, DO
20 YOU? JUST SO SHE ---

21 MR McCALLUM I JUST DON'T WANT HER
22 TO FEEL THAT I MAY --

23 THE COURT I UNDERSTAND

24 MR McCALLUM -- HAVE REVEALED ANY

1 CONFIDENCES --

2 THE COURT I UNDERSTAND

3 MR McCALLUM -- AND PREJUDICED THIS
4 CLIENT

5 MR JONES WELL, WHAT HE'S TRYING TO
6 DO IS SCHMOOSE UP TO HER THROUGH YOU, BUT THAT'S ALL
7 RIGHT GO AHEAD, JUDGE

8 THE COURT OKAY COME ON IN
9 (JUROR RE-ENTERS THE COURTROOM)

10 THE COURT MS LANGLEY, LET ME
11 JUST SAY ONE THING BEFORE I TALK WITH YOU YOU WERE
12 ASKED SOME QUESTIONS ABOUT ANY CONTACT THAT YOU'D
13 HAD WITH THE LAWYERS REGARDING YOUR OWN PERSON --

14 JUROR YES, SIR

15 THE COURT -- SITUATION I
16 UNDERSTAND THAT THEY WERE REQUIRED TO DIVULGE THE
17 FACT THAT THEY HAD HAD THAT CONTACT WITH YOU IT'S
18 IMPORTANT FOR THOSE TYPES OF THINGS TO BE KNOWN, BUT
19 UNDERSTAND THAT THERE IS NO AND HAS NOT BEEN ANY
20 DISCUSSION NOR WILL THERE ABOUT ANY SPECIFIC --

21 JUROR OH, WELL, THAT'S FINE

22 THE COURT -- CONVERSATIONS OR
23 INFORMATION THAT YOU PROVIDED TO YOUR LAWYER THAT
24 IS PRIVILEGED INFORMATION IT WOULD NOT BE

1 DIVULGED ONLY THE FACT THAT YOU HAD THE CONTACT IS
2 WHAT WE DIVULGE

3 JUROR AND I DID NOT TELL THAT
4 YESTERDAY SINCE I DID NOT RETAIN HIM

5 THE COURT OKAY I UNDERSTAND YOU
6 ARE -- YOU ARE QUALIFIED TO SERVE ON THE PANEL FROM
7 WHICH THE ACTUAL JURORS WILL BE SELECTED WE ARE
8 STILL IN THE PROCESS OF EXAMINING OTHER JURORS SO,
9 OBVIOUSLY, WE CANNOT DO THAT AT THIS TIME, BUT WE DO
10 ANTICIPATE BEING ABLE TO BEGIN WITH JURY SELECTION
11 AT SOME POINT NEXT WEEK WHAT I NEED FOR YOU TO DO
12 BEFORE YOU LEAVE IS TO SIMPLY GIVE THE CLERK ANY AND
13 ALL PHONE NUMBERS WHERE YOU CAN BE REACHED YOU CAN
14 CONTINUE WITH YOUR REGULAR SCHEDULE OF GOING TO WORK
15 AND THINGS THAT YOU DO SO LONG AS WE HAVE A PHONE
16 NUMBER WHERE WE OR SOMEONE CAN GET IN TOUCH WITH YOU
17 SO THAT YOU CAN COME BACK ON SOME REASONABLE DEGREE
18 OF NOTICE

19 JUROR OKAY

20 THE COURT MS LANGLEY, LET ME ALSO
21 REMIND YOU OF THE INSTRUCTION GIVEN PREVIOUSLY
22 YOU'RE STILL NOT TO DISCUSS THE CASE, ALLOW NO ONE
23 TO DISCUSS IT WITH YOU, ALLOW YOURSELF NOT TO BE
24 EXPOSED TO -- OR DO NOT ALLOW YOURSELF TO BE EXPOSED

1 TO ANY TYPE OF MEDIA COVERAGE WE WILL GET IN TOUCH
2 WITH YOU JUST AS SOON AS WE NEED FOR YOU TO COME
3 BACK THANK YOU, MA'AM

4 JUROR THANK YOU

5 ((JUROR EXITS THE COURTROOM))

6 (JUROR IS QUALIFIED)

7 THE COURT ALL RIGHT SO FAR AS THE
8 COUNT IS CONCERNED, AM I CORRECT? DOES EVERYONE
9 HAVE THE SAME COUNT? FOURTEEN SO FAR HAVE BEEN
10 QUALIFIED THIRTEEN HAVE BEEN DISQUALIFIED? ALL
11 RIGHT ANY OTHER MATTERS THAT WE NEED TO ADDRESS
12 BEFORE WE RECESS?

13 MR TINSLEY SUBJECT TO YOUR
14 RESEARCH NUMBER 59, YOUR HONOR THAT ---

15 THE COURT THAT'S MR DRAFT?

16 MR TINSLEY THAT'S CORRECT, YOUR
17 HONOR

18 THE COURT AND ALSO NUMBER FIVE, MR
19 DALY?

20 MR TINSLEY THAT'S CORRECT, SIR
21 OF COURSE, HE HADN'T BEEN AT THIS LEVEL YET

22 THE COURT I UNDERSTAND OKAY ALL
23 RIGHT COURT'S IN RECESS UNTIL TWO P M TOMORROW
24 AFTERNOON

1 ***** END OF DAY 6 *****

2 (DAY SEVEN, SUNDAY, OCTOBER 19, 1998, COURT
3 RECONVENES AT 2 00 O'CLOCK P M)

4 THE COURT ALL RIGHT IS EVERYONE
5 READY TO BEGIN?

6 MR JONES THE STATE IS, YOUR HONOR

7 THE COURT ALL RIGHT DO WE HAVE --
8 DO WE HAVE THREE JURORS OUT THERE?

9 BAILIFF YES, YOUR HONOR

10 THE COURT WE GOT MR MILLS AND MR
11 WILLIAMS AND MR DALY?

12 BAILIFF YES, SIR

13 THE COURT OKAY IF YOU WILL, ASK
14 THEM TO COME IN, PLEASE Y'ALL EXCUSE ME ONE
15 MINUTE I'M GONNA GET SOMETHING ALL RIGHT ASK
16 MR MILLS TO COME IN, PLEASE SIR

17 (JUROR #137 PRESENTED AT 2 24 O'CLOCK P M)

18 EXAMINATION BY THE COURT

19 Q GOOD AFTERNOON, MR MILLS

20 A GOOD AFTERNOON

21 Q AS YOU ARE AWARE, WE'VE ASKED YOU TO COME BACK
22 TO ASK SOME ADDITIONAL QUESTIONS OF JURORS
23 INDIVIDUALLY WE'RE NOT NECESSARILY CONCERNED WITH
24 WHAT YOUR ANSWERS HAPPEN TO BE TO THE QUESTIONS, BUT

1 WE ARE CONCERNED THAT THEY BE OPEN AND HONEST
2 ANSWERS AS BEST THAT YOU CAN IN RESPONDING TO THOSE
3 QUESTIONS I'LL BE ASKING SOME THE LAWYERS FOR
4 EACH SIDE MAY ASK YOU SOME ADDITIONAL QUESTIONS, AND
5 THE PURPOSE OF ASKING THOSE QUESTIONS IS TO SIMPLY
6 FIND OUT YOUR VIEWS AND OPINIONS AS TO CERTAIN
7 TOPICS THAT WE'RE INTERESTED IN

8 NOW, WHEN YOU REPORTED WITH YOUR FELLOW
9 JURORS, THE ENTIRE PANEL WAS PLACED UNDER OATH DO
10 YOU RECALL THAT?

11 A YES, SIR

12 Q AND YOU REMAIN UNDER OATH FOR THE PURPOSE OF
13 THESE QUESTIONS, ALSO YOU INDICATED THAT YOU HAD
14 RETURNED YOUR QUESTIONNAIRE AND THAT IT WAS ACCURATE
15 AND NOTHING NEEDED TO BE CHANGED, IS THAT CORRECT?

16 A YES, SIR

17 Q YOU ALSO INDICATED YOU HAD RECEIVED MY LETTER,
18 AND IN THAT LETTER I HAD SET FORTH CERTAIN
19 INSTRUCTIONS AND THOSE INSTRUCTIONS WERE FOR YOU
20 NOT TO DISCUSS THE CASE IN ANY FASHION WITH ANYONE
21 AND NOT TO ALLOW YOURSELF TO BE EXPOSED TO ANY TYPE
22 OF DISCUSSIONS OR CONTACT AND NOT TO ALLOW YOURSELF
23 TO BE EXPOSED TO ANY TYPE OF MEDIA COVERAGE, WHETHER
24 IT BE TELEVISION, RADIO OR NEWSPAPER DO YOU RECALL

1 THAT INSTRUCTION?

2 A YES, SIR

3 Q AND DID YOU COMPLY WITH THAT INSTRUCTION --

4 A YES, SIR

5 Q -- AFTER RECEIVING MY LETTER?

6 A YES, SIR

7 Q WHAT ABOUT PRIOR TO RECEIVING THE LETTER?

8 WERE YOU EXPOSED TO ANY OF THOSE MATTERS PRIOR TO?

9 A I BELIEVE A COUPLE OF YEARS AGO, ABOUT A YEAR
10 AGO, BUT, I MEAN, THAT'S ALL

11 Q AND WHAT TYPE OF EXPOSURE DID YOU HAVE
12 SOMETIME AGO?

13 A NEWSPAPER AND, YOU KNOW, VERBAL CONTACT

14 Q OKAY AND IS THERE ANYTHING THAT YOU READ IN
15 THE NEWSPAPER THAT YOU RECALL?

16 A NO, NOTHING I CAN USE

17 Q ABOUT THE CASE?

18 A YEAH

19 Q DO YOU RECALL ANYTHING THAT YOU READ ABOUT THE
20 CASE?

21 A NO I DON'T RECALL NOTHING

22 Q OKAY NOW, ANY DISCUSSIONS THAT YOU MIGHT
23 HAVE HAD THAT RELATE TO THE CASE, WOULD ANY OF THOSE
24 DISCUSSIONS OR ANY OF THE ARTICLES THAT MIGHT HAVE

1 BEEN IN THE NEWSPAPER THAT YOU SAW, WOULD THAT
2 INTERFERE IN ANY WAY WITH YOUR ABILITY TO BE FAIR
3 AND IMPARTIAL IF YOU WERE SELECTED TO SERVE IN THE
4 TRIAL OF THIS CASE?

5 A YEAH I THINK SO

6 Q YOU THINK THAT IT MIGHT?

7 A I THINK IT MIGHT

8 Q IN WHAT WAY OR WHAT WOULD INTERFERE WITH YOUR
9 ABILITY TO BE FAIR?

10 A WELL, YOU KNOW, BECAUSE, YOU KNOW, SOME THINGS
11 SAID -- THAT WERE SAID, BUT SOME -- I HAD COME IN
12 CONTACT WITH SOME OF THE PEOPLE, YOU KNOW, THE WHAT-
13 YOU-CALL-IT? THE ACCUSED'S GIRLFRIEND, FRIEND,
14 SOMETHING LIKE THAT, YOU KNOW

15 Q MR HUGHEY'S GIRLFRIEND?

16 A UH-HUH (AFFIRMATIVE) I MEAN, I KNOW HIS
17 SISTER FRIEND -- FRIEND -- FRIEND IS HOW THAT GOES

18 Q A FRIEND OF MR HUGHEY'S SISTER?

19 A UH-HUH (AFFIRMATIVE)

20 Q AND YOU HAVE TALKED TO THAT PERSON ABOUT THE
21 CASE?

22 A YEAH I HADN'T, YOU KNOW, THIS WAS A WHILE
23 BACK

24 Q AND WHAT YOU DISCUSSED, WOULD THAT CAUSE YOU

1 TO BE UNFAIR IN THE CASE?

2 A YEAH IT WOULD BECAUSE I FEEL THAT I -- I
3 DON'T KNOW WHETHER SHE WAS MARRIED TO HIM, BUT I
4 KNOW, YOU KNOW, HER THOUGH HIM, YOU KNOW, AND SO,
5 YOU KNOW, I DON'T KNOW

6 Q AND BASED UPON THAT RELATIONSHIP, COULD --
7 COULD YOU --- WELL, LET ME ASK THIS CONSIDERING
8 THAT RELATIONSHIP, COULD YOU PUT IT ASIDE AND NOT
9 CONSIDER IT IF YOU WERE SELECTED AS A JUROR AND BASE
10 A DECISION SOLELY ON THE EVIDENCE THAT'S RECEIVED
11 DURING THE TRIAL OF THE CASE?

12 A NO I DON'T THINK SO

13 Q YOU COULD NOT?

14 A UH-UH (NEGATIVE)

15 Q HAVE YOU ALREADY FORMED SOME OPINION AS TO
16 WHAT YOU THINK THE APPROPRIATE OUTCOME SHOULD BE?

17 A NO I HADN'T FORMED NO OPINION

18 Q OKAY SO RIGHT NOW YOU DO NOT HAVE AN OPINION
19 AS TO HOW IT SHOULD COME OUT?

20 A NO I DON'T

21 Q WELL, COULD YOU LISTEN TO THE EVIDENCE
22 RECEIVED DURING THE TRIAL OF THE CASE AND BASE A
23 VERDICT SOLELY UPON THAT EVIDENCE?

24 A YEAH I COULD DO THAT

1 Q OKAY WOULD YOU BE INFLUENCED BY ANY
2 RELATIONSHIP THAT YOU MIGHT HAVE WITH ANY ONE ON THE
3 DEFENDANT'S SIDE OR HIS FAMILY?

4 A NO UH-UH (NEGATIVE)

5 Q OKAY NOW, IN THIS CASE, AS YOU MAY BE AWARE,
6 THE DEFENDANT IS CHARGED WITH THE CRIME OF MURDER,
7 AND UNDER CERTAIN CIRCUMSTANCES, WHEN A PERSON IS
8 CHARGED WITH MURDER, THE STATE MAY OR IS PERMITTED
9 TO SEEK THE DEATH PENALTY UNDER SOME CIRCUMSTANCES
10 AND IF THE STATE PROVES THAT A MURDER HAS BEEN
11 COMMITTED AND THAT THERE WAS SOME AGGRAVATING
12 CIRCUMSTANCE IN ADDITION TO THAT MURDER THAT WAS
13 ALSO PROVEN BEYOND A REASONABLE DOUBT, THEN THE
14 STATE WOULD BE PERMITTED TO SEEK THE DEATH PENALTY
15 AGAINST THE DEFENDANT THAT DOESN'T MEAN THAT THE
16 DEATH PENALTY WOULD HAVE TO BE IMPOSED IT SIMPLY
17 MEANS THAT THE JURY WOULD MAKE THAT DECISION, A JURY
18 SELECTED FOR THAT PURPOSE DO YOU UNDERSTAND THAT?

19 A YES I UNDERSTAND THAT

20 Q DO YOU UNDERSTAND THAT ANY TIME A PERSON IS
21 CHARGED WITH A CRIME THAT THEY ARE PRESUMED TO BE
22 INNOCENT?

23 A YES I DO

24 Q AND DO YOU UNDERSTAND THAT THE BURDEN IS

1 ALWAYS UPON THE STATE IN BRINGING THE CHARGE AGAINST
2 THE DEFENDANT --

3 A YES, SIR

4 Q -- TO PROVE THAT HE'S GUILTY BEYOND A
5 REASONABLE DOUBT BEFORE HE COULD BE FOUND GUILTY?

6 A YES I DO

7 Q DO YOU UNDERSTAND THAT THE BURDEN IS NEVER
8 UPON THE DEFENDANT TO PROVE THAT HE IS NOT GUILTY?

9 A YES, SIR I DO

10 Q DO YOU UNDERSTAND THAT IN A CASE SUCH AS THIS
11 WHERE THE STATE DOES SEEK THE DEATH PENALTY, IT
12 OCCURS IN TWO SEPARATE STAGES? THE FIRST STAGE
13 RELATES TO GUILT THE SECOND STAGE RELATES TO
14 PUNISHMENT, AND, OF COURSE, YOU NEVER GET TO THE
15 PUNISHMENT PHASE UNLESS CERTAIN THINGS OCCUR IN THE
16 GUILT PHASE, THAT IS, A PERSON MUST BE FOUND GUILTY
17 BEYOND A REASONABLE DOUBT OF THE CRIME OF MURDER,
18 AND THERE MUST BE SOME AGGRAVATING CIRCUMSTANCE
19 PROVEN IN ADDITION TO THAT BEFORE THE JURY COULD
20 CONSIDER IMPOSING A DEATH SENTENCE DO YOU
21 UNDERSTAND?

22 A YES

23 Q BUT THE FIRST STAGE RELATES SOLELY TO THE
24 ISSUE OF GUILT AND EVIDENCE THAT'S PRESENTED DURING

1 THAT STAGE OF THE TRIAL, AND THE COURT PROVIDES THE
2 LAW FOR THE JURY TO APPLY TO THAT EVIDENCE, AND THE
3 JURY DECIDES WHETHER OR NOT THE DEFENDANT IS PROVEN
4 GUILTY OF THE CRIME OF MURDER DO YOU UNDERSTAND?

5 A YEAH

6 Q NOW, IF YOU WERE SELECTED TO SERVE IN THE
7 TRIAL OF SUCH A CASE, WOULD YOU BE ABLE TO FAIRLY
8 CONSIDER ALL OF THE EVIDENCE THAT WAS RECEIVED
9 DURING THAT PHASE OF THE TRIAL?

10 A YES I WOULD

11 Q AND IF YOU BELIEVED THAT THE EVIDENCE PROVED
12 THE DEFENDANT TO BE GUILTY BEYOND A REASONABLE
13 DOUBT, COULD YOU FIND HIM GUILTY?

14 A YEAH

15 Q IF YOU WERE NOT CONVINCED BEYOND A REASONABLE
16 DOUBT THAT THE DEFENDANT WAS GUILTY, COULD YOU FIND
17 HIM NOT GUILTY? WAS THE QUESTION CLEAR?

18 A NO

19 Q OKAY WHAT I'M SAYING IS IF AFTER YOU'VE
20 CONSIDERED ALL OF THE EVIDENCE, IF YOU WERE NOT
21 CONVINCED BEYOND A REASONABLE DOUBT THAT HE WAS
22 GUILTY OF THE CRIME, WOULD YOU RETURN A VERDICT OF
23 NOT GUILTY?

24 A YES

1 Q ALL RIGHT NOW, LET'S ASSUME FOR THE MOMENT,
2 AND ONLY ASSUME IT FOR THE PURPOSE OF THIS QUESTION,
3 THAT YOU HAVE PARTICIPATED IN THE TRIAL, AND YOU AND
4 YOUR FELLOW JURORS HAVE RETURNED A VERDICT OF GUILTY
5 AS TO MURDER AGAINST THE DEFENDANT THEN WE WOULD
6 PROCEED TO THE SECOND STAGE OF THE TRIAL AND
7 DURING THAT SECOND STAGE OF THE TRIAL, THERE WOULD
8 BE ADDITIONAL EVIDENCE PRESENTED AND THAT EVIDENCE
9 WOULD BE IN AGGRAVATION AND IN MITIGATION, AND THAT
10 SIMPLY MEANS THAT THERE WILL BE EVIDENCE PRESENTED
11 THAT MIGHT TEND TO SUPPORT THE MORE SEVERE
12 PUNISHMENT AS THE APPROPRIATE PUNISHMENT, THAT BEING
13 THE DEATH PENALTY, AND THERE MIGHT BE EVIDENCE
14 PRESENTED THAT MIGHT SUPPORT THE LESS SEVERE
15 PUNISHMENT AS THE APPROPRIATE SENTENCE, THAT BEING A
16 SENTENCE OF LIFE IMPRISONMENT IF YOU WERE
17 PARTICIPATING IN THAT TRIAL, WOULD YOU BE ABLE TO
18 FAIRLY CONSIDER ALL OF THE EVIDENCE THAT WAS OFFERED
19 DURING THE TRIAL INCLUDING THAT EVIDENCE RELATING TO
20 AGGRAVATION AND MITIGATION?

21 A YES

22 Q AND AFTER YOU HAD CONSIDERED ALL THE EVIDENCE
23 AS IT RELATES TO THE CIRCUMSTANCES OF THE CRIME AS
24 WELL AS THAT ADDITIONAL EVIDENCE OF AGGRAVATION AND

1 MITIGATION, COULD YOU RETURN A SENTENCE OR COULD YOU
2 IMPOSE A SENTENCE OF DEATH AGAINST AN INDIVIDUAL
3 AFTER YOU HAD CONSIDERED ALL OF THAT EVIDENCE?

4 A NO

5 Q WOULD YOU BE ABLE TO IMPOSE A LIFE SENTENCE
6 AGAINST SOMEONE AFTER YOU HAD CONSIDERED ALL OF THAT
7 EVIDENCE?

8 A YES

9 Q NOW, YOU'VE INDICATED THAT YOU WOULD NOT BE
10 ABLE TO IMPOSE A SENTENCE OF DEATH?

11 A UH-UH (NEGATIVE) NO

12 Q DO YOU UNDERSTAND THAT THE JURY WOULD ALWAYS
13 HAVE THAT DECISION TO MAKE? YOU WOULD HAVE TWO
14 CHOICES FROM WHICH YOU COULD CHOOSE EITHER THAT
15 WILL BE A SENTENCE OF DEATH OR A SENTENCE OF LIFE
16 NOW, IN ORDER TO SENTENCE SOMEONE TO DEATH, IT WOULD
17 HAVE TO BE PROVEN, THAT IS, THEY WOULD HAVE ALREADY
18 BEEN FOUND GUILTY OF THE CRIME OF MURDER, BUT IN
19 ADDITION TO THAT, IT WOULD HAVE TO BE PROVEN BEYOND
20 A REASONABLE DOUBT THAT THERE WERE SOME OTHER
21 AGGRAVATING CIRCUMSTANCE THAT ACCOMPANIED THAT
22 MURDER DO YOU UNDERSTAND?

23 A YES I DO

24 Q AND IT'S THEN AND ONLY THE THAT THE JURY COULD

1 EVEN CONSIDER IMPOSING A DEATH SENTENCE AFTER THEY
2 CONSIDERED THAT OTHER EVIDENCE THAT I TOLD YOU WOULD
3 BE OFFERED YOU UNDERSTAND THAT THE JURY WOULD
4 NEVER BE REQUIRED TO IMPOSE A DEATH SENTENCE?

5 A YES I DO

6 Q BUT THEY WOULD BE ALLOWED IF THOSE
7 CIRCUMSTANCES THAT I HAVE JUST INDICATED WERE
8 PROVEN, BUT YOU WOULD ALWAYS HAVE THE CHOICE, AND A
9 JURY COULD RETURN A SENTENCE OF LIFE IMPRISONMENT
10 FOR ANY REASON OR FOR NO REASON SO YOU WOULD
11 ALWAYS HAVE THAT OPTION YOU COULD ALWAYS CHOOSE
12 BETWEEN THE TWO NOW, IF YOU WERE PARTICIPATING AND
13 YOU HAD THAT CHOICE, WHICH YOU WOULD, EITHER TO
14 IMPOSE A SENTENCE OF DEATH OR IMPOSE A SENTENCE OF
15 LIFE, WOULD YOU ALWAYS CHOOSE ONE OF THOSE OPTIONS
16 OVER THE OTHER?

17 A OH, YES

18 Q AND WHICH WOULD YOU -- WHICH WOULD YOU ALWAYS
19 CHOOSE?

20 A IT WOULD BE LIFE

21 Q ALL RIGHT AND WOULD YOU DO THAT IN EVERY
22 CASE NO MATTER WHAT THE CIRCUMSTANCES WERE?

23 A YES

24 Q CAN YOU THINK OF ANY CIRCUMSTANCE WHERE YOU

1 WOULD BE WILLING TO SENTENCE A PERSON TO DEATH?

2 A NO

3 Q NO MATTER WHAT THE CIRCUMSTANCES OF THE
4 OFFENSE WERE, YOU COULD NOT AND WOULD NOT SENTENCE A
5 PERSON TO DEATH? SIR?

6 A NO I WOULD NOT

7 THE COURT ALL RIGHT PLEASE ANSWER
8 ANY QUESTIONS THE LAWYERS MAY HAVE FOR YOU

9 EXAMINATION

10 BY MR TINSLEY

11 Q GOOD AFTERNOON, MR MILLS

12 A GOOD AFTERNOON

13 Q MR MILLS, YOU HAVE EXPRESSED SOME STRONG
14 OPINIONS ABOUT THE DEATH PENALTY, IS THAT CORRECT?

15 A YES THAT'S RIGHT

16 Q AND YOU'RE NOT IN FAVOR OF IT, BUT YOU -- YOU
17 ALSO INDICATED YOU'RE WILLING TO TRY TO UNDERSTAND
18 AND FOLLOW ALONG, IS THAT CORRECT?

19 A YES THAT'S RIGHT

20 Q WELL, YOU ANSWERED YOUR JURY QUESTIONNAIRE AND
21 YOU SENT IT IN ON TIME, RIGHT?

22 A RIGHT

23 Q AND YOU TRY TO FOLLOW THE LAWS THAT YOU KNOW
24 ABOUT BASICALLY, DO YOU NOT?

1 A I DO

2 Q AND CLEARLY, NOW, THIS DEATH PENALTY AREA IS
3 NEW FOR YOU, IS -- ISN'T IT?

4 A YES IT IS

5 Q WELL, AND I'M NOT ASKING YOU WHAT YOUR VOTE
6 WOULD BE, BUT IN YOUR DISCRETION THAT YOU CAN FOLLOW
7 THE LAW, IF THE JUDGE SHOULD INSTRUCT YOU TO
8 CONSIDER THE DEATH PENALTY, WOULD YOU BE WILLING TO
9 FOLLOW THAT INSTRUCTION?

10 A REPEAT THE QUESTION FOR ME

11 Q OKAY IF THE JUDGE INSTRUCTED YOU TO CONSIDER
12 THE DEATH PENALTY AS AN ALTERNATIVE FOR PUNISHMENT,
13 COULD YOU SO CONSIDER IT?

14 A NO I WOULD NOT

15 Q AND -- AND DO YOU UNDERSTAND THAT THE LAW
16 NEVER REQUIRES YOU TO VOTE FOR THE DEATH PENALTY?

17 A YES I DO

18 Q THAT IT ONLY GIVES YOU CERTAIN GUIDELINES,
19 NOW, LIKE IMPRISONMENT MAY -- MAY VERY WELL BE A
20 CHOICE, BUT ARE YOU TELLING ME THAT YOU COULD FOLLOW
21 THE LAW BUT YOU CANNOT CONSIDER DEATH AS PUNISHMENT?

22 A NO I CANNOT

23 Q UNDER ANY FACTS AND CIRCUMSTANCES?

24 A NO NOT ANY FACTS

1 Q NO MATTER WHAT THE DEFENDANT DID?

2 A NO

3 Q REGARDLESS OF THE NATURE OF THE CRIME?

4 A NO

5 MR TINSLEY OKAY THAT'S ALL

6 THE COURT ANY QUESTIONS?

7 MR JONES NONE, YOUR HONOR

8 THE COURT MR MILLS, IF YOU'LL JUST
9 STEP OUTSIDE THE DOOR FOR JUST A MINUTE, I'LL BE
10 WITH YOU SHORTLY

11 (JUROR DOES AS INSTRUCTED)

12 THE COURT ANY ONE -- ANY ONE KNOW
13 OF ANY REASON WHY THE JUROR SHOULD BE FOUND
14 QUALIFIED?

15 MR JONES THE STATE KNOWS OF NO
16 REASON, YOUR HONOR

17 MR TINSLEY COULD WE CONFER FOR ONE
18 MINUTE?

19 THE COURT OKAY

20 MR TINSLEY YOUR HONOR, WE'RE
21 CONCERNED ON OUR CROSS SECTION OF THE COMMUNITY
22 ARGUMENT THAT THE WORKING MAN -- ALSO CONCERNED
23 ABOUT THE FACT THAT SO FAR SUCH A HIGH PERCENTAGE
24 HAVE BEEN ANTI-DEATH PENALTY I'LL LET ME GARRETT

1 TAKE OVER FOR THAT

2 MR GARRETT YOUR HONOR, IF IT
3 PLEASE THE COURT FOR OUR COURT RECORDS, YOUR
4 HONOR, WE WOULD LIKE TO BRING TO THE COURT'S
5 ATTENTION AGAIN THE ARTICLE THAT THE SOLICITOR MAY
6 HAVE PARTICIPATED IN OR MAY NOT HAVE PARTICIPATED
7 IN APPARENTLY SOME WORDS WERE ASSIGNED TO HIM THAT
8 MAY OR MAY HAVE NOT COME FROM HIM HOWEVER, IT
9 APPEARS THAT IN THAT ARTICLE, THE STATEMENT WAS MADE
10 TO THE JURY OR TO THE GENERAL POPULATION, YOUR
11 HONOR, TO THE AFFECT THAT JURORS -- THEY NEED TO
12 FIND JURORS WHO ARE WILLING TO SAY THAT THEY COULD
13 GIVE THE DEATH PENALTY ALL -- IT WASN'T STATED IN
14 THERE THAT THEY ALSO NEEDED JURORS WHO COULD ONLY
15 GIVE LIFE OR COULD ONLY GIVE DEATH IN OTHER WORDS,
16 IT WASN'T -- IT WASN'T GENERAL IT'S OUR CONCERN,
17 YOUR HONOR, AND, OBVIOUSLY, THESE JURORS ARE ASKED
18 WHETHER OR NOT THERE IS NO NEWSPAPER OR THEY READ
19 ANY NEWSPAPER ARTICLES SINCE THEN

20 HOWEVER, STATISTICALLY IN SOUTH
21 CAROLINA WE'RE FINDING THAT SUCH A HIGH PERCENTAGE
22 OF THESE JURORS, IN OUR ESTIMATION, IN EXCESS OF
23 FORTY PERCENT, ARE SAYING THAT THEY WOULD BE OPPOSED
24 TO THE DEATH PENALTY UNDER ANY CIRCUMSTANCE IT'S

1 OUR FEELING THAT THAT STATEMENT MAY HAVE, IN FACT,
2 TAINTED THIS JURY POOL JUST BECAUSE OF THE
3 DISPROPORTIONATE NUMBER OF PEOPLE WHO ARE NOW SAYING
4 THAT THEY COULD NOT EVEN CONSIDER THE DEATH PENALTY
5 SO IT WOULD BE OUR POSITION, YOUR HONOR, AS THE
6 BASIS OF TRIAL PROSECUTORIAL MISSTATEMENT TO THE
7 PRESS, AND UNFAIR STATEMENT TO THE PRESS, WHETHER
8 IT'S ASSIGNED TO HIM OR HIS STAFF, THAT'S CAUSING
9 OUR INABILITY TO GET A FAIR JURY POOL IN THIS CASE
10 ALSO BECAUSE WE CAN'T GET A FAIR CROSS SECTION OF
11 THE COMMUNITY

12 THE COURT WELL, Y'ALL -- ARE Y'ALL
13 INTIMATING THAT I AM SUPPOSE TO ASSUME THAT THE
14 JUROR DOES NOT ANSWER TRUTHFULLY WHEN I QUESTION
15 THEM ABOUT ANY EXPOSURE TO NEWSPAPER ARTICLES OR
16 MEDIA COVERAGE?

17 MR GARRETT WE'RE NOT ASKING YOU TO
18 ASSUME THAT, YOUR HONOR WE'RE JUST SEEING THAT
19 THIS, IN THIS PARTICULAR CASE -- WE'RE NOT SURE WHY
20 THERE IS SUCH A HIGH PERCENTAGE HERE COMPLETELY
21 DISPROPORTIONATE TO ANYTHING THAT ANYBODY ELSE IN
22 THE STATE HAS EVER SEEN, AND I -- AND I -- WE'RE
23 ASKING FOR THE SPECIFIC RESEARCH ON THIS RIGHT NOW
24 ACROSS THE STATE BECAUSE WE'VE JUST NEVER -- WE'VE

1 JUST NEVER SEEN THAT HIGH OF A PERCENTAGE, AND I
2 DON'T BELIEVE THE SOLICITOR, WHEN HE AND I DISCUSSED
3 THIS MATTER, HE FELT LIKE TWENTY OR THIRTY PERCENT
4 WOULD BE THE NORM, AND THEN HERE WE'RE GETTING IN
5 EXCESS OF FORTY PERCENT IT JUST DOESN'T -- PARDON?

6 MR McCALLUM WE'RE AT FIFTY-FIFTY
7 RIGHT NOW

8 MR GARRETT WELL, IT'S ROUGHLY
9 FIFTY -- WELL, THERE'S TWO -- TWO OF THOSE PEOPLE
10 SAID THAT THEY COULD GIVE DEATH, AND THEY WERE
11 EXCLUDED FOR THAT PURPOSE SO THERE JUST SEEMS TO
12 BE A DISPROPORTIONATE HIGH NUMBER, AND RIGHT NOW
13 THAT'S THE ONLY BASIS THAT WE CAN ASSIGN TO IT AND
14 WE'RE STILL STUDYING THE ISSUE, BUT WE WANTED TO
15 BRING IT TO THE COURT'S ATTENTION JUST AS SOON AS WE
16 STARTED SEEING THIS PHENOMENON

17 THE COURT WELL, WHAT -- WHAT IS
18 YOUR -- WHAT IS THE POINT? WHAT -- YOU MAKING A
19 MOTION OR YOU HAVE SOME SUGGESTION AS TO WHAT WE
20 SHOULD DO ABOUT THAT?

21 MR GARRETT YOUR HONOR, WE'RE
22 STUDYING IT AT THIS POINT, WE JUST FEEL LIKE EVERY
23 TIME SOMEBODY COMES UP, YOUR HONOR, IN
24 DISPROPORTIONATE AMOUNT OF NUMBERS, IT JUST CONCERNS

1 US THAT THERE MAY HAVE BEEN SOME INDIRECT CONTACT
2 WITH THE JURORS, DIRECTLY OR INDIRECTLY, IN SOME
3 FASHION TO TELL THEM TO SAY THEY CAN'T GIVE DEATH
4 AND, AS A RESULT, THEY'RE BEING EXCUSED

5 THE COURT WELL, THEN WE'RE BACK TO
6 WHETHER OR NOT THE JURORS ARE BEING TRUTHFUL OR
7 WHETHER THEY'RE BEING UNTRUTHFUL

8 MR GARRETT I UNDERSTAND, YOUR
9 HONOR

10 THE COURT OKAY

11 MR GARRETT I UNDERSTAND THAT
12 THIS IS A DILEMMA WE'RE STUDYING AS WE GO

13 THE COURT ALL RIGHT BRING MR
14 WILLIAMS IN, PLEASE I MEAN, MR MILLS
15 (JUROR RE-ENTERS THE COURTROOM)

16 MR JONES YOUR HONOR, COULD I ASK
17 THE COURT TO ALLOW ME TO ASK MR MILLS ONE QUESTION?

18 THE COURT ALL RIGHT

19 MR JONES REGARDING ANY ARTICLES HE
20 MAY HAVE READ IN THE NEWSPAPER?

21 THE COURT OKAY I THOUGHT I ASKED
22 HIM THAT, BUT -- HAVE A SEAT RIGHT THERE JUST A
23 MINUTE, MR MILLS MR MILLS, LET ME ASK YOU HAVE
24 YOU READ ANY ARTICLES THAT RELATE TO THIS PARTICULAR

1 CASE OR ANY ARTICLES CONCERNING THE DEATH PENALTY
2 SINCE YOU RECEIVED MY LETTER AND YOUR JUROR SUMMONS?

3 JUROR NO, I HAVEN'T
4 THE COURT YOU HAVE NOT?

5 JUROR NO, SIR I HAVE NOT

6 MR JONES MR MILLS, HAVE YOU READ
7 ANY ARTICLES IN ANY NEWSPAPER THAT QUOTED ME,
8 ANYTHING THAT I'VE SAID? MY NAME --

9 JUROR NO, I HAVEN'T

10 MR JONES -- IS TOWNES JONES, AND
11 I'M YOUR SOLICITOR

12 JUROR I HAVE NOT

13 MR JONES YOU HAVE NOT?

14 JUROR I HAVE NOT

15 MR JONES THANK YOU

16 THE COURT OKAY MR MILLS, WE'RE
17 GONNA EXCUSE YOU FROM SERVICE IN THE CASE, BUT WE DO
18 APPRECIATE YOU COMING BACK FOR POTENTIAL SELECTION
19 YOU MAY BE EXCUSED NOW IT WILL NOT BE NECESSARY
20 THAT YOU CALL BACK OR REPORT BACK ANY FURTHER I
21 WOULD ASK THAT YOU CONTINUE THE INSTRUCTION LIMITED
22 TO THE PORTION OF NOT DISCUSSING IT WITH ANY
23 POTENTIAL JUROR THANK YOU, SIR
24 (JUROR EXITS THE COURTROOM)

1 (JUROR IS NOT QUALIFIED)

2 MR JONES YOUR HONOR, IN RESPONSE
3 TO THE NOTICE GIVEN TO THE COURT CONCERNING THE
4 DEFENSE'S PROBLEMS, TROUBLE, CONCERNS, ETCETERA, I
5 SUGGEST FOR YOUR INFORMATION AND FOR YOUR
6 CONSIDERATION THROUGHOUT THE COURSE OF THE DAY, THAT
7 ONE OPTION THE COURT HAS, OF COURSE, IS TO CALL THE
8 TEN OR ELEVEN JURORS WHO HAVE SAID THEY ARE UNABLE
9 TO CONSIDER GIVING A DEATH PENALTY SENTENCE AND
10 IMPOSING THE DEATH PENALTY, SUBPOENA THEM BACK IN
11 AND ASK THEM TO COME IN AND BRIEFLY ASK THEM IF
12 THEY'VE READ AN ARTICLE ATTRIBUTED TO ANYTHING THAT
13 I HAVE SAID CONCERNING THE DEATH PENALTY

14 THE COURT WELL, I DON'T -- I DON'T
15 PROPOSE DOING THAT I'VE ALREADY ASKED EACH JUROR
16 IF THEY COMPLIED WITH MY INSTRUCTION AND IF THEY
17 READ ANY ARTICLE THAT RELATES TO THIS CASE, AND THEY
18 ALL INDICATED THEY HAD NOT SO I DON'T INTEND TO
19 PRESS THE POINT I'VE ASKED THE QUESTION, AND YOU
20 CAN ASK IT AS MANY TIMES AS YOU WANT TO, BUT I DON'T
21 -- UNLESS I HAVE SOME REASON TO BELIEVE I WOULD GET
22 DIFFERENT ANSWERS, I DON'T PROPOSE TO GO INTO IT
23 ADDITIONALLY

24 MR JONES ALL RIGHT

1 THE COURT ALL RIGHT I FIND THE
2 JUROR, MR MILLS, IS DISQUALIFIED BASED UPON HIS
3 INABILITY TO CONSIDER BOTH FORMS OF THE PUNISHMENT
4 IN THE PENALTY PHASE SHOULD HE BE CALLED UPON TO
5 PARTICIPATE ASK MR WILLIAMS TO COME IN
6 (JUROR #216 PRESENTED AT 2 31 O'CLOCK P M)

7 EXAMINATION BY THE COURT

8 Q MR WILLIAMS, IF YOU'LL HAVE A SEAT RIGHT
9 THERE, PLEASE SIR WE'VE GOT SOME ADDITIONAL
10 QUESTIONS THAT WE'RE GOING TO BE ASKING YOU AS I
11 INDICATED TO YOU EARLIER THAT WE WOULD I'LL BE
12 ASKING SOME QUESTIONS THE LAWYERS FOR EACH SIDE
13 MAY ASK YOU SOME ADDITIONAL QUESTIONS YOU WILL
14 RECALL THAT WHEN YOU AND YOUR FELLOW JURORS FIRST
15 REPORTED THAT YOU WERE ASKED TO STAND AND YOU WERE
16 PLACED UNDER OATH?

17 A YES, SIR

18 Q YOU REMAIN UNDER OATH FOR THE PURPOSE OF
19 RESPONDING TO THESE QUESTIONS, ALSO YOU INDICATED
20 THAT YOU HAD COMPLETED THE QUESTIONNAIRE AND THAT
21 THE QUESTIONNAIRE WAS ACCURATE?

22 A YES, SIR

23 Q YOU ALSO INDICATED THAT YOU HAD RECEIVED MY
24 INSTRUCTION WHICH INSTRUCTED YOU NOT TO DISCUSS THE

1 CASE WITH ANYONE?

2 A YES, SIR

3 Q NOT TO ALLOW YOURSELF TO BE EXPOSED TO ANY
4 CONTACT OR DISCUSSIONS ABOUT THE CASE AND NOT TO
5 ALLOW YOURSELF TO BE EXPOSED TO ANY TYPE OF MEDIA
6 COVERAGE, WHETHER IT BE TELEVISION, RADIO OR
7 NEWSPAPER HAVE YOU HAD ANY SUCH EXPOSURE SINCE YOU
8 RECEIVED MY LETTER?

9 A NO, SIR

10 Q HAVE YOU SEEN, HEARD ABOUT, OR READ ANY
11 NEWSPAPER ARTICLES THAT RELATE TO THIS PARTICULAR
12 CASE?

13 A BACK WHEN IT FIRST HAPPENED

14 Q SO PRIOR TO RECEIVING MY LETTER, YOU HAVE READ
15 SOME ARTICLE?

16 A YEAH BACK WHEN IT HAPPENED, YOU KNOW

17 Q AND DO YOU RECALL WHAT YOU READ IN THAT
18 ARTICLE?

19 A NO, SIR NOT MUCH

20 Q WOULD ANYTHING THAT YOU HAD READ IN THAT
21 ARTICLE, WOULD IT INTERFERE IN ANY WAY WITH YOUR
22 ABILITY TO BE FAIR AND IMPARTIAL IF YOU WERE
23 SELECTED AS A JUROR?

24 A WELL, SIR, I KNOW GEORGE WE USED TO WORK

1 TOGETHER YEARS AGO HE KNEW MY DAD REAL GOOD

2 Q MR HARRIS?

3 A YES, SIR

4 Q AND WOULD THE FACT THAT YOU KNOW MR HARRIS
5 AND HE WORKED WITH YOUR FATHER, WOULD -- WOULD THE
6 FACT OF THAT RELATIONSHIP INTERFERE IN YOUR ABILITY
7 TO BE FAIR AND IMPARTIAL IF YOU WERE SELECTED?

8 A I WAS FIXING TO SAY, I DON'T KNOW I MEAN, I
9 SORT OF BELIEVE IT WOULD BUT ---

10 Q YOU THINK THAT IT WOULD?

11 A YES, SIR IN A WAY I BELIEVE IT WOULD

12 Q COULD YOU PUT THE FACT OF THAT RELATIONSHIP
13 ASIDE AND NOT CONSIDER IT IF YOU WERE CALLED UPON TO
14 BE A JUROR AND BASE A VERDICT SOLELY UPON THE
15 EVIDENCE RECEIVED DURING THE COURSE OF THE TRIAL?

16 A NO, SIR I DON'T THINK I COULD

17 Q YOU DON'T BELIEVE THAT YOU COULD?

18 A BECAUSE I ALWAYS HAVE THOUGHT A LOT OF GEORGE
19 AND ALL I DON'T KNOW

20 Q DO YOU BELIEVE THAT YOU WOULD BE INCLINED TO
21 SUPPORT THE STATE'S POSITION BECAUSE OF THAT
22 RELATIONSHIP?

23 A IT'S HARD TO SAY I NEVER BEEN IN NO POSITION
24 LIKE THAT

1 Q I UNDERSTAND THAT, AND, OF COURSE, IT'S
2 IMPORTANT THAT WE KNOW HOW YOU REALLY FEEL ABOUT IT,
3 AND WE'RE NOT PRESSING YOU ON IT, BUT IT IS
4 IMPORTANT THAT WE KNOW THE ANSWERS TO THESE
5 QUESTIONS AND THAT THEY BE OPEN AND HONEST ANSWERS
6 AS BEST THAT YOU CAN RESPOND TO THEM AND I SIMPLY
7 NEED TO KNOW IF YOU THINK THERE'S A SIGNIFICANT
8 LIKELIHOOD THAT YOUR RELATIONSHIP WITH MR HARRIS
9 WOULD INTERFERE IN YOUR ABILITY TO BE FAIR IF YOU
10 WERE A JUROR?

11 A YES I BELIEVE IT WOULD

12 Q YOU BELIEVE THAT IT WOULD?

13 A YES, SIR, BECAUSE HE'S JUST A GOOD FRIEND OF
14 MINE

15 THE COURT I UNDERSTAND ANY
16 QUESTIONS OF THE WITNESS BY EITHER SIDE?

17 MR TINSLEY NOT FROM THE DEFENSE,
18 YOUR HONOR

19 MR JONES VERY BRIEFLY, YOUR HONOR
20 EXAMINATION BY MR JONES

21 Q MR WILLIAMS, MY NAME IS TOWNES JONES I'M
22 YOUR SOLICITOR HERE IN ABBEVILLE THIS IS MICHAEL
23 COULTER HE'S YOUR DEPUTY SOLICITOR WE'LL BE
24 PRESENTING THE EVIDENCE IN THE CASE THAT WE'RE ABOUT

1 TO GET READY TO TRY

2 A YES, SIR

3 Q AND WE APPRECIATE YOUR RESPONSES TO THE
4 QUESTIONS LIKE THE JUDGE SAID, THERE'S NO RIGHT OR
5 WRONG ANSWER WE JUST NEED TO KNOW HONESTLY, YOU
6 KNOW, HOW YOU FEEL ABOUT IT AND WHAT, IF ANYTHING,
7 YOU KNOW ABOUT IT, AND ONE OF THE THINGS I NEED TO
8 ASK YOU IS, AS THE JUDGE DID, BASICALLY, IN TRYING
9 TO DECIDE WHETHER OR NOT YOU COULD BE FAIR, YOU
10 KNOW, TO BOTH SIDES

11 A YES, SIR

12 Q YOU KNOW, YOU READ -- YOU READ WHAT WAS IN THE
13 PAPER YOU SAID THAT, RIGHT?

14 A YES, SIR BUT THAT WAS, WHAT, TWO YEARS AGO
15 WHEN IT HAPPENED I ---

16 Q RIGHT A LONG TIME BACK?

17 A YEAH

18 Q SO AS FAR AS WHAT HAPPENED, WHEN MACK HARRIS'
19 WIFE WAS KILLED, AND AS FAR AS WHAT HAPPENED WHEN
20 TESHEKA JACKSON WAS KILLED, LUEVINIA HARRIS AND
21 TESHEKA
22 JACKSON --

23 A UH-HUH (AFFIRMATIVE)

24 Q -- YOU DON'T KNOW WHAT HAPPENED OUT THERE, DO

1 YOU?

2 A NO, SIR I SURE DON'T

3 Q I MEAN, DID -- HAS ANYBODY TOLD YOU WHAT
4 HAPPENED OUT THERE?

5 A NO, SIR UH-UH (NEGATIVE)

6 Q SO DO YOU FEEL LIKE YOU HAVE SOME PRECONCEIVED
7 NOTION OF WHAT HAPPENED?

8 A NO, SIR I SURE DON'T

9 Q WELL, DO YOU UNDERSTAND THE CONCEPT OF TWELVE
10 PEOPLE SITTING IN A JURY BOX, LISTENING TO EVIDENCE,
11 WITNESSES, AND EVIDENCE GATHERERS ON A WITNESS
12 STAND?

13 A YEAH

14 Q AND WHAT'S THE PURPOSE OF THAT PROCESS AS YOU
15 UNDERSTAND IT?

16 A TO MAKE IT FAIR FOR EVERYBODY, I GUESS

17 Q ALL RIGHT AND WHAT'S THE JURY'S JOB, AS YOU
18 UNDERSTAND IT, TO TRY TO DO?

19 A COME UP WITH THE RIGHT VERDICT

20 Q THAT'S RIGHT, AND HOW DO THEY COME UP WITH THE
21 RIGHT VERDICT?

22 A LISTEN TO ALL THE EVIDENCE, I GUESS

23 Q EXACTLY

24 A YEAH

1 Q THE EVIDENCE THAT COMES FROM THE WITNESS
2 STAND, CORRECT?

3 A YES, SIR

4 Q NOW, WHAT THE JUDGE IS ASKING YOU IS COULD
5 YOU SIT AND BE FAIR AND OPEN MINDED AND HONEST AS A
6 JUROR CONCERNING THE EVIDENCE AND THE FACTS IN THE
7 CASE?

8 A AND NOT SIT THERE AND KEEP SEEING GEORGE
9 SITTING OVER THERE?

10 Q WELL ---

11 A I DON'T KNOW THAT'S WHAT I'M SAYING I
12 DON'T KNOW HOW I WOULD FEEL I MEAN, TO BE HONEST
13 WITH YOU, I MEAN ---

14 Q UH-HUH (AFFIRMATIVE) THAT'S ALL I'M ASKING
15 YOU TO DO YES, SIR I WANT YOU TO THINK ABOUT IT
16 FOR A MINUTE FROM THE STANDPOINT OF JUST THAT FACT
17 I MEAN, YOU TOLD THE JUDGE AND YOU TOLD ME, YOU TOLD
18 EVERYBODY IN HERE HOW CLOSE YOU ARE TO HIM AND HOW
19 MUCH RESPECT YOU HAVE FOR HIM AND I'M LISTENING TO
20 YOU, AND IF YOU TELL ME YOU CAN'T DO IT, AND THAT'S
21 -- AND THAT'S THE SAY YOU FEEL AND THAT'S THE WAY
22 YOU BELIEVE IT IS, THEN I ACCEPT THAT, SIR

23 A THAT'S JUST IT I DON'T KNOW -- I DON'T KNOW
24 HOW TO DO SITTING ON THAT -- ON THE JURY RIGHT

1 THERE

2 Q RIGHT

3 A SEEING HIM SITTING OVER THERE AND ---

4 Q YES, SIR WELL, LET ME ASK YOU THIS QUESTION
5 DON'T YOU BELIEVE HE WANTS THIS JURY TO BE FAIR AND
6 HONEST?

7 A YES, SIR

8 Q WELL, DON'T YOU BELIEVE THAT'S ALL HE WANTS?

9 A YEAH I BELIEVE SO

10 MR TINSLEY OBJECTION, YOUR HONOR

11 THE COURT SUSTAINED

12 EXAMINATION CONTINUED BY MR JONES

13 Q WELL, THE QUESTION I HAVE FOR YOU IS, SIR DO
14 YOU BELIEVE THAT YOU WOULD BE UNABLE TO FAIR FOR
15 BOTH SIDES?

16 A NO, SIR I DON'T THINK I COULD

17 MR JONES ALL RIGHT NO FURTHER
18 QUESTIONS

19 THE COURT ANY OTHER QUESTIONS?

20 MR TINSLEY NO THANK YOU, YOUR
21 HONOR

22 THE COURT ALL RIGHT, MR WILLIAMS,
23 WE'RE GOING TO EXCUSE YOU FROM SERVICE IN THE TRIAL
24 OF THIS CASE, BUT WE DO APPRECIATE YOUR WILLINGNESS

1 TO COME DOWN AND PARTICIPATE UP TO THIS POINT IT
2 WILL NOT BE NECESSARY THAT YOU REPORT BACK ANY
3 FURTHER OR THAT YOU CALL BACK ANY MORE SO YOU ARE
4 EXCUSED NOW FOR THE BALANCE, AND WE DO SINCERELY
5 APPRECIATE YOUR WILLINGNESS TO COME DOWN IF CALLED
6 UPON MR WILLIAMS, BEFORE WE GO, LET -- LET ME,
7 BEFORE YOU GO, LET ME ASK THAT YOU NOT DISCUSS
8 ANYTHING THAT'S OCCURRED HERE WITH ANY OTHER
9 POTENTIAL JUROR

10 JUROR OKAY

11 THE COURT OKAY? THANK YOU

12 (JUROR EXITS THE COURTROOM)

13 THE COURT ANY OBJECTION TO THE
14 JUROR BEING FOUND NOT QUALIFIED?

15 MR JONES NONE ON THE PART OF THE
16 STATE, YOUR HONOR

17 MR TINSLEY NONE

18 (JUROR IS NOT QUALIFIED)

19 THE COURT ALL RIGHT NOW, THE NEXT
20 JUROR IS MR DALY, AND PRIOR TO HIS COMING IN, LET'S
21 -- WAS HE NOT THE GUARD THAT WORKS IN THE SOUTH
22 CAROLINA DEPARTMENT OF CORRECTIONS? WITH REFERENCE
23 TO 24-3-930 WHICH PROVIDES THAT ALL GUARDS OR
24 KEEPERS AND OTHER OFFICES EMPLOYED IN A PENITENTIARY

1 SHALL BE EXEMPTED FROM SERVING ON A JURY, MY
2 INTERPRETATION AND UNDERSTANDING OF THE LAW IN THAT
3 REGARD IS THAT THAT IS A -- AN EXEMPTION WHICH LIES
4 WITH THE JUROR OR THE WITNESS YOU HAVE SOME OTHER
5 LAW ON IT?

6 MR McCALLUM YOUR HONOR, IT WOULD
7 BE OUR POSITION, IF THE COURT WOULD LOOK AT SECTION
8 14-7-840 IS THE PRIMARY EXEMPTION STATUTE

9 THE COURT IN THE SUPPLEMENT OR THE
10 MAIN BRAIN?

11 MR McCALLUM I BELIEVE IT'S IN THE
12 MAIN IT SHOULD BE IN THE MAIN

13 THE COURT 14-7-840?

14 MR McCALLUM NO, YOUR HONOR IT
15 WILL BE THE MOST RECENT WILL BE IN THE SUPPLEMENT
16 IT'S 1992

17 THE COURT 14-7-840?

18 MR McCALLUM THAT'S CORRECT, YOUR
19 HONOR

20 THE COURT OKAY

21 MR McCALLUM IF YOUR HONOR WOULD
22 TAKE A LOOK AT THE ANNOTATIONS, YOU'LL SEE THAT THE
23 ATTORNEY GENERAL HAS ISSUED NUMEROUS OPINIONS ON
24 ~~PRECISELY THAT ISSUE OF WHETHER IT IS A -- THE~~

1 EXEMPTION CONSTITUTES ONE PERSONAL TO THE JUROR OR
2 WHETHER THE EXEMPTION IS SOMETHING THAT THE COURT
3 SHOULD ENFORCE MANDATORILY AND, YOUR HONOR, I
4 BELIEVE THAT THE LANGUAGE IN 840 AS OPPOSED TO THE
5 LANGUAGE THAT WE'RE TALKING ABOUT WITH PRISON GUARDS
6 DOES SPECIFICALLY PROVIDE THAT THE EXEMPTION IS
7 PERSONAL TO THE JUROR THE ATTORNEY GENERAL HAS
8 ADDRESSED THAT NUMEROUS TIMES IN HIS OPINION, AND I
9 THINK THAT HIS ABSENCE OF ADDRESSING THAT WITH
10 REGARD TO THE STATUTE ON THE PRISON GUARDS MAKES IT
11 CLEAR THAT IS -- AND THE SHALL BE EXEMPT LANGUAGE IN
12 THE PRISON GUARD STATUTE MAKES IT CLEAR THAT THAT'S
13 SOMETHING THE COURT SHOULD ENFORCE AS BEING AN
14 ABSOLUTE EXEMPTION BECAUSE OF THEIR CLOSE
15 ASSOCIATION WITH PRISONS, PEOPLE WHO HAVE BEEN
16 CONVICTED OF CRIMES, HOW THAT MAY INFLUENCE THEIR
17 THOUGHT PATTERN

18 SECONDLY, THEIR CLOSE ASSOCIATION
19 WITH LAW ENFORCEMENT CERTAINLY WOULD HAVE AN
20 INFLUENCE ON THEIR OPINIONS IN GENERAL ABOUT PEOPLE
21 ACCUSED OF CRIME AND I BELIEVE, YOUR HONOR, THAT A
22 PERSON THAT'S INVOLVED IN THAT SORT OF PROFESSION
23 WOULD BE VERY DIFFICULT FOR THEM TO BE FAIR AND
24 ~~OBJECTIVE IN ADDITION TO WHAT THE STATUTE PROVIDES,~~

1 YOUR HONOR

2 THE COURT WELL, LET ME SEE IF I
3 UNDERSTAND YOUR ARGUMENT YOUR ARGUMENT OR YOUR
4 POSITION IS IS THAT THE SUPREME COURT HAS ADDRESSED
5 THE ISSUE AND OTHER CIRCUMSTANCES AND HAS STATED
6 THAT AN EXEMPTION IS A PERSONAL PRIVILEGE OF THE
7 INDIVIDUAL AND IS NOT TO BE EXCLUDED SIMPLY BECAUSE
8 AN EXEMPTION IS AVAILABLE TO THAT JUROR?

9 MR McCALLUM THE ---

10 THE COURT BUT YOU BELIEVE THAT THE
11 ATTORNEY GENERAL SAYS THAT IT -- THAT IT'S
12 MANDATORY?

13 MR McCALLUM NO, YOUR HONOR THE
14 ATTORNEY GENERAL AND THE SUPREME COURT AS WELL AS
15 THE LEGISLATURE IN 840, 14-7-840 --

16 THE COURT RIGHT

17 MR McCALLUM -- HAVE ALL, I
18 BELIEVE, SAID THAT IT IS PERSONAL NONE OF THEM,
19 NOT THE LEGISLATURE, NOT THE COURTS, THAT I HAVE
20 FOUND A CASE, AND NOT THE ATTORNEY GENERAL HAVE SAID
21 THAT THAT IS THE CASE WITH THE EXCEPTION REGARDING
22 PRISON GUARDS AND THE LANGUAGE OF THE EXEMPTION
23 WITH PRISON GUARDS IS DIFFERENT FROM THE LANGUAGE OF
24 ~~THE EXEMPTION FOR PERSONS OVER SIXTY-FIVE, FOR~~

1 EXAMPLE, AS IS SET FORTH IN 840 SO TO
2 -- TO USE THE CASES ON THE OVER SIXTY-FIVE ISSUE OR
3 TO USE THE ATTORNEY GENERAL'S OPINION OR TO USE THE
4 WAY THAT SECTION 840 HAS BEEN INTERPRETED ANALOGOUS
5 -- AS AN ANALOGY AS TO HOW THIS COURT SHOULD
6 INTERPRET THE PRISON GUARD EXEMPTION, I BELIEVE IS
7 INAPPROPRIATE THE REASON FOR THE PRISON GUARD
8 EXEMPTION, THE BASIC REASON BEHIND THAT IS DIFFERENT
9 FROM THE AGE SIXTY-FIVE EXEMPTION
10 THE COURT OKAY
11 MR McCALLUM I, YOU KNOW, IT'S JUST
12 A QUESTION OF WHAT THE LEGISLATIVE INTENT IS, AND IT
13 SEEMS CLEAR THAT NO GUARD SHOULD BE AN APPROPRIATE
14 PERSON TO SIT ON THE JURY
15 THE COURT WELL, IF IT'S NOT
16 APPROPRIATE, I WOULD ASSUME THEY WOULD SAY THEY
17 SHALL BE EXCLUDED FROM SERVING
18 MR McCALLUM I BELIEVE THAT'S WHAT
19 THE STATUTE'S INTENT IS
20 THE COURT OH, OKAY WELL, WHAT'S
21 THE POSITION OF THE STATE?
22 MR JONES YOUR HONOR, OUR POSITION
23 IS CONSISTENT WITH THE PLAIN MEANING WITH WHICH THE
24 COURT IS INCLINED TO GIVE IT, AND THAT IS IF THEY

1 HAD INTENDED TO MEAN THAT HE SHOULD BE EXCUSED, THEY
2 WOULD HAVE STATED SHALL BE EXCUSED JUST AS THEY
3 STATE POLICE OFFICERS SHALL BE EXCUSED, JUST AS THEY
4 STATE EMPLOYEES THAT WORK WITHIN THE WALLS OF THE
5 COURTHOUSE SHALL BE EXCUSED THEY USE THE WORD
6 EXEMPT, AND THE SIMPLE FACT THAT SHALL IS INCLUDED
7 IN THERE, ONLY IS THERE FOR THE -- THE INSTRUCTIONS
8 OF THE COURT THAT THEY SHALL BE ABLE TO EXERCISE
9 THAT EXEMPTION THEY ARE THE ONLY ONE THAT SHALL BE
10 ABLE TO EXERCISE IT, AND THAT IS THE INDIVIDUAL WHO
11 HAS THE STATUS OF BEING A GUARD IN A PENITENTIARY
12 SO OUR POSITION IS, JUDGE, IS THE LAW IS CLEAR THAT
13 THIS IS AN EXEMPTION, AND THE LAW WITHOUT EXEMPTION
14 IS THAT THE INDIVIDUAL WHO HAS THAT STATUS IS THE
15 ONE WHO CAN EXERCISE WHETHER OR NOT THE EXEMPTION IS
16 USED

17 THE COURT ALL RIGHT ANYTHING
18 FURTHER?

19 MR GARRETT YOUR HONOR, I WOULD
20 JUST DIRECT THE COURT'S ATTENTION TO THE WAY HE
21 FILLED OUT HIS QUESTIONNAIRE, SPECIFICALLY ON PAGE
22 THREE QUESTION EIGHTEEN, HAVE YOU OR ANY MEMBER OF
23 YOUR FAMILY EVER WORKED FOR A LAW ENFORCEMENT AGENCY
24 ~~OR A PROSECUTOR'S OFFICE OR AN OFFICER OR OTHERWISE?~~

1 YES, THE DEPARTMENT OF CORRECTIONS IT SEEMS CLEAR
2 THAT HE CONSIDERS HIMSELF TO BE A LAW ENFORCEMENT
3 OFFICER OR A PERSON ASSOCIATED WITH LAW ENFORCEMENT
4 FROM THE WAY THAT HE'S FILLED OUT THE QUESTIONNAIRE
5 WHICH, ONCE AGAIN, WOULD GO TO HIS INAPPROPRIATENESS
6 AS TO BE A FAIR AND IMPARTIAL JUROR

7 THE COURT OKAY ALL RIGHT
8 ANYTHING FURTHER BEFORE MR DALY IS BROUGHT IN?

9 MR JONES NOTHING FROM THE STATE,
10 YOUR HONOR

11 THE COURT ALL RIGHT ASK MR DALY
12 TO COME IN

13 (JUROR #55 PRESENTED AT 2 58 O'CLOCK P M)

14 EXAMINATION BY THE COURT

15 Q MR DALY, IF YOU'D HAVE A SEAT RIGHT THERE,
16 PLEASE, SIR AS WE INDICATED TO YOU EARLIER, WE'RE
17 GOING TO BE ASKING SOME ADDITIONAL QUESTIONS OF YOU
18 BEFORE WE BEGIN WITH JURY SELECTION AND PRIOR TO
19 YOUR BEING ASKED TO COME BACK ON THE DAY THAT YOU
20 AND YOUR FELLOW JURORS REPORTED, YOU WERE ASKED TO
21 STAND AND BE SWORN, AND YOUR ANSWERS TO THESE
22 QUESTIONS, ALSO, WILL BE GIVEN UNDER OATH THAT
23 OATH REMAINS

24 ~~BEFORE WE ASK YOU ANY QUESTIONS, LET ME TELL~~

1 YOU OR LET ME ASK YOU, AGAIN YOU ARE EMPLOYED
2 WITHIN THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS?

3 A YES, SIR

4 Q UNDER THE LAW OF THIS STATE, A GUARD WHO'S
5 EMPLOYED WITHIN THE SOUTH CAROLINA DEPARTMENT OF
6 CORRECTIONS IS EXEMPT FROM JURY SERVICE IF YOU WISH
7 TO BE EXEMPT IN OTHER WORDS, THAT'S SIMPLY A
8 CHOICE THAT YOU HAVE A RIGHT TO MAKE I CANNOT
9 REQUIRE THAT YOU SERVE, BUT IF YOU WISH TO BE
10 EXEMPT, YOU MAY BE EXEMPT

11 A I'LL GO ON

12 Q YOU WISH TO PARTICIPATE?

13 A SURE

14 Q OKAY NOW, I'VE GOT SOME QUESTIONS WE'RE
15 GOING TO ASK YOU, AND AS I TOLD YOU, I'LL ASK YOU
16 SOME THE LAWYERS FOR EACH SIDE, THEY MAY HAVE SOME
17 ADDITIONAL QUESTIONS TO ASK YOU FIRST OF ALL, YOU
18 INDICATED THAT YOU HAD COMPLETED YOUR QUESTIONNAIRE
19 AND THAT IT WAS ACCURATE, AND YOU ALSO INDICATED
20 THAT YOU HAD RECEIVED MY LETTER INSTRUCTING YOU NOT
21 TO HAVE ANY DISCUSSIONS ABOUT THE CASE, NOT TO ALLOW
22 YOURSELF TO HAVE ANY CONTACT REGARDING THE CASE, AND
23 NOT TO ALLOW YOURSELF TO BE EXPOSED TO ANY TYPE OF
24 ~~MEDIA COVERAGE THAT RELATES TO THE CASE. HAVE YOU~~

1 COMPLIED WITH THAT INSTRUCTION?

2 A YES

3 Q HAVE YOU BEEN EXPOSED TO ANY TYPE OF NEWSPAPER
4 ARTICLES, TELEVISION COVERAGE, OR RADIO COVERAGE
5 SINCE THE TIME YOU RECEIVED MY LETTER?

6 A NO

7 Q WERE YOU -- HAVE YOU BEEN PARTICIPATED IN ANY
8 DISCUSSIONS OR OVERHEARD ANY CONVERSATIONS REGARDING
9 THE CASE SINCE YOU RECEIVED MY LETTER?

10 A NO

11 Q PRIOR TO RECEIVING MY LETTER, DID YOU HAVE ANY
12 CONVERSATIONS, DISCUSSIONS OR EXPOSURE TO MEDIA
13 COVERAGE?

14 A NOT AT ALL

15 Q NOW, IN THIS CASE, AS YOU ARE AWARE, THE
16 DEFENDANT IS CHARGED WITH THE CRIME OF MURDER, AND
17 UNDER CERTAIN CIRCUMSTANCES, A PERSON WHO IS CHARGED
18 WITH THE CRIME OF MURDER, IF THEY ARE FOUND GUILTY
19 BEYOND A REASONABLE DOUBT, THE STATE, UNDER SOME
20 CIRCUMSTANCES, IS PERMITTED TO SEEK THE DEATH
21 PENALTY AGAINST THAT INDIVIDUAL IN SUCH A CASE,
22 THE TRIAL IS CONDUCTED IN TWO SEPARATE PHASES THE
23 FIRST PHASE RELATES TO GUILT THE SECOND PHASE
24 ~~RELATES TO PUNISHMENT. IN THE FIRST PHASE OF THE~~

1 TRIAL, EVIDENCE IS RECEIVED, AND THE JURY IS GIVEN
2 THE LAW THAT THEY WILL APPLY TO THE EVIDENCE, AND
3 THE JURY WILL DECIDE WHETHER OR NOT THAT PERSON HAS
4 BEEN PROVEN TO BE GUILTY OF THE CRIME OF MURDER DO
5 YOU UNDERSTAND THAT THE BURDEN IS ALWAYS UPON THE
6 STATE IN BRINGING A CHARGE AGAINST ANOTHER TO
7 ESTABLISH THEIR GUILT BEYOND A REASONABLE DOUBT
8 BEFORE THEY JURY COULD RETURN SUCH A VERDICT?

9 A YES

10 Q DO YOU UNDERSTAND THAT THE BURDEN IS NEVER
11 UPON A DEFENDANT TO PROVE THAT HE IS NOT GUILTY OR
12 TO PROVE THAT HE IS INNOCENT?

13 A NO

14 Q YOU UNDERSTAND THAT EVERY PERSON CHARGED WITH
15 A CRIME IS PRESUMED TO BE INNOCENT OF THAT CRIME?

16 A YES YES, SIR

17 Q AND YOU CAN ACCEPT THAT PROPOSITION OF LAW?

18 A YEAH

19 Q NOW, IF YOU WERE PARTICIPATING IN THE TRIAL OF
20 A CASE WHERE A PERSON WAS CHARGED WITH A CRIMINAL
21 OFFENSE SUCH AS MURDER, WOULD YOU BE ABLE TO FAIRLY
22 CONSIDER ALL OF THE EVIDENCE THAT MIGHT BE
23 INTRODUCED DURING THE TRIAL OF THAT CASE?

24 A I WOULD THINK SO, YES.

1 Q AND BASED UPON YOUR CONSIDERATION OF THAT
2 EVIDENCE, IF YOU WERE CONVINCED THAT THE EVIDENCE
3 ESTABLISHED THE GUILT OF THE DEFENDANT BEYOND A
4 REASONABLE DOUBT, COULD YOU RETURN A VERDICT OF
5 GUILTY?

6 A YES

7 Q IF YOU WERE NOT CONVINCED OR YOU HAD SOME
8 REASONABLE DOUBT AS TO WHETHER OR NOT THE DEFENDANT
9 WAS GUILTY, WOULD YOU RETURN A VERDICT OF NOT
10 GUILTY?

11 A YEAH YES

12 Q NOW, LET'S ASSUME FOR THE MOMENT, AND ONLY
13 ASSUME IT FOR THE PURPOSE OF THESE QUESTIONS, THAT
14 YOU HAVE PARTICIPATED IN A TRIAL, AND YOU AND YOUR
15 FELLOW JURORS HAVE RETURNED A VERDICT OF GUILTY AS
16 TO THE CRIME OF MURDER IN THAT EVENT, WHERE THE
17 STATE SEEKS THE DEATH PENALTY, WE WOULD PROCEED TO A
18 SEPARATE HEARING WHICH WOULD BE CONDUCTED SHORTLY
19 AFTER THAT FIRST, AND IN THAT SECOND HEARING, THERE
20 WOULD BE ADDITIONAL EVIDENCE RECEIVED THAT
21 EVIDENCE WOULD BE IN AGGRAVATION AND IN MITIGATION,
22 AND THAT SIMPLY MEANS THAT THERE WILL BE EVIDENCE
23 OFFERED WHICH MIGHT TEND TO SUPPORT THE MORE SERIOUS
24 PUNISHMENT BEING IMPOSED, THAT BEING THE DEATH

1 PENALTY, AND THERE MIGHT BE EVIDENCE INTRODUCED
2 WHICH MIGHT SUPPORT THE LESS SERIOUS PUNISHMENT
3 BEING IMPOSED, THAT BEING LIFE IMPRISONMENT

4 YOU UNDERSTAND THAT THE JURY WOULD ALWAYS HAVE
5 THAT CHOICE, THAT OPTION THEY WOULD BE TWO THE
6 JURY COULD IMPOSE A SENTENCE OF DEATH UNDER THE
7 PROPER CIRCUMSTANCES OR COULD IMPOSE A SENTENCE OF
8 LIFE IF YOU WERE PARTICIPATING IN THAT TRIAL, AND
9 WE WERE IN THE PENALTY PHASE OF THAT TRIAL, WOULD
10 YOU BE ABLE TO FAIRLY CONSIDER ALL OF THAT EVIDENCE
11 THAT MIGHT BE INTRODUCED, INCLUDING EVIDENCE
12 RELATING TO AGGRAVATION AND OF MITIGATION?

13 A I WOULD THINK SO, YES

14 Q WOULD YOU BE ABLE TO CONSIDER ALL OF THE
15 EVIDENCE THAT RELATES TO THE CIRCUMSTANCES OF THE
16 CRIME AS WELL AS TO THE INDIVIDUAL DEFENDANT?

17 A YES

18 Q BASED UPON YOUR CONSIDERATION OF ALL OF THAT
19 EVIDENCE, IF YOU THOUGHT THE CIRCUMSTANCES WARRANTED
20 IT IN THAT PARTICULAR CASE, WOULD YOU BE ABLE TO
21 SENTENCE A PERSON TO DEATH?

22 A WELL, TO TELL YOU THE TRUTH, YOUR HONOR, I
23 NEVER GAVE MUCH THOUGHT ABOUT THAT I ALWAYS
24 THOUGHT I'D CROSS THAT BRIDGE WHEN I CAME TO IT.

1 BUT IF THAT WAS THE INSTRUCTION? YES

2 Q IF WHAT WAS THE INSTRUCTION?

3 A IF THAT'S, YOU KNOW, THE PROTOCOL, YEAH

4 Q WELL, LET ME EXPLAIN TO YOU UNDER THE LAW,
5 WHILE THERE ARE CERTAIN CIRCUMSTANCES THAT PERMIT
6 THE STATE TO SEEK THE DEATH PENALTY, THE JURY
7 SELECTED FOR THAT PURPOSE IS NEVER UNDER THE LAW
8 REQUIRED TO IMPOSE A DEATH SENTENCE THEY MAY NOT
9 IMPOSE IT UNLESS THE PERSON, OF COURSE, WERE FOUND
10 GUILTY OF MURDER, BUT ALSO UNLESS AND IN ADDITION
11 THAT THERE BE SOME CIRCUMSTANCE OF AGGRAVATION
12 PROVEN BEYOND A REASONABLE DOUBT IT'S ONLY UNDER
13 THAT CIRCUMSTANCE THAT THE JURY WOULD BE PERMITTED
14 TO IMPOSE A SENTENCE OF DEATH THE JURY COULD
15 ALWAYS IMPOSE A SENTENCE OF LIFE FOR SOME REASON OR
16 FOR NO REASON AT ALL THE JURY WOULD ALWAYS HAVE
17 THAT CHOICE THE LAW NEVER REQUIRES THAT A SENTENCE
18 OF DEATH BE IMPOSED UNDER ANY CIRCUMSTANCES YOU
19 UNDERSTAND THAT?

20 A YEAH

21 Q WELL, NOW, IF YOU WERE PARTICIPATING IN THE
22 TRIAL OF THE CASE AND AFTER YOU HAD CONSIDERED ALL
23 OF THE EVIDENCE THAT RELATES TO IT, IF YOU WERE
24 FACED WITH THAT CHOICE AND YOU COULD SENTENCE A

1 PERSON TO DEATH OR YOU COULD SENTENCE A PERSON TO
2 LIFE, WOULD YOU ALWAYS SELECT ONE OF THOSE OPTIONS
3 OVER THE OTHER?

4 A I CAN'T SAY RIGHT NOW I COULD CHOOSE I WOULD
5 HAVE TO, YOU KNOW, WAIT AND SEE WHAT HAPPENS I
6 DON'T KNOW WHAT I WOULD DO RIGHT NOW

7 Q WELL, OF COURSE, I RECOGNIZE, AND SOME OF
8 THESE QUESTIONS ARE DIFFICULT AND YOU MAY NOT HAVE
9 THOUGHT ABOUT THEM BEFORE, AND I RECOGNIZE FULLY
10 THAT YOU'VE NOT HEARD THE EVIDENCE --

11 A RIGHT

12 Q -- AND YOU'VE NOT CONSIDERED ANY EVIDENCE OF
13 AGGRAVATION OR OF MITIGATION, AND SO, OBVIOUSLY, YOU
14 CAN'T RENDER A DECISION OR AN OPINION AS TO WHAT YOU
15 MIGHT DO IN THIS PARTICULAR CASE IF YOU WERE
16 SELECTED BUT WHAT WE ARE SIMPLY TRYING TO
17 DETERMINE IS WHETHER OR NOT YOUR POSITION OR YOUR
18 VIEWS OR YOUR OPINIONS ON THE DEATH PENALTY WOULD
19 PREVENT YOU FROM BEING ABLE TO CONSIDER BOTH FORMS
20 OF PUNISHMENT IF YOU WERE PARTICIPATING IN A CASE
21 WHERE THE STATE WAS SEEKING THE DEATH PENALTY AND
22 THE CIRCUMSTANCES WERE PROVEN THAT WOULD PERMIT THE
23 JURY TO CONSIDER THAT OPTION?

24 A I THINK I COULD CONSIDER IT, YEAH.

1 Q WOULD YOU BE ABLE TO IMPOSE A SENTENCE OF
2 DEATH IF THE CIRCUMSTANCES WARRANTED IT?

3 A I THINK SO, YES

4 Q NOW, YOU UNDERSTAND THAT IF YOU WERE
5 PARTICIPATING IN THE TRIAL OF THAT CASE, AND IF THE
6 JURY MADE THE DETERMINATION THAT THE CIRCUMSTANCES
7 WARRANTED IT, THAT IS, THE IMPOSITION OF A DEATH
8 SENTENCE, DO YOU UNDERSTAND THAT YOU WOULD HAVE TO
9 SIGN YOUR NAME ON A FORM REFLECTING THAT YOU WERE
10 RECOMMENDING THAT THE SENTENCE OF DEATH BE IMPOSED?
11 AND IF YOU SIGN THAT FORM RECOMMENDING THAT THAT
12 SENTENCE OF DEATH IMPOSED, I WOULD HAVE TO CARRY OUT
13 THAT INSTRUCTION?

14 A YEAH

15 Q WOULD YOU BE ABLE TO SIGN THAT FORM?

16 A YEAH

17 Q UP TO THIS POINT, HAVE YOU ALREADY FORMED OR
18 EXPRESSED ANY OPINION THAT YOU MIGHT HAVE AS TO WHAT
19 THE APPROPRIATE DECISION SHOULD BE IN THIS CASE?

20 A I HAVE NONE NO, NOT ---

21 Q DO YOU KNOW OF ANY REASON WHY YOU COULD NOT BE
22 A FAIR AND IMPARTIAL JUROR IF YOU WERE SELECTED TO
23 SERVE IN THIS CASE?

24 A NO. I HAVE NO REASON.

1 Q YOU UNDERSTAND IF YOU WERE SELECTED TO SERVE,
2 IT WOULD BE NECESSARY THAT YOU BE SEQUESTERED FOR
3 SOME PERIOD OF TIME? THAT WOULD PROBABLY BEGIN SOME
4 TIME NEXT WEEK

5 A YES, SIR

6 Q THE PERIOD OF SEQUESTRATION WOULD LIKELY LAST
7 BETWEEN SEVEN AND TEN DAYS IF YOU WERE SELECTED TO
8 SERVE, WOULD THAT SEQUESTRATION POSE ANY
9 UNREASONABLE HARDSHIP OR HEALTH RISK TO YOU?

10 A NOT AT ALL

11 Q WOULD YOU BE WILLING TO ACCOMMODATE ANY
12 INCONVENIENCE THAT MIGHT CAUSE IF YOU WERE CALLED
13 UPON TO SERVE?

14 A NO

15 Q YOU WOULD NOT BE WILLING TO ACCEPT ANY
16 INCONVENIENCE?

17 A OH, YES

18 Q YOU WOULD

19 A YEAH THAT WOULD BE FINE

20 Q DO YOU KNOW ANY -- ANY -- ANY OF THE PERSONS
21 WHO HAVE BEEN LISTED ON THE WITNESS LIST IN THIS
22 CASE?

23 A NONE AT ALL NONE OF THEM

24 Q DO YOU KNOW OR HAVE YOU HEARD OF EITHER OF THE

1 PERSONS -- THE DECEDENTS, THE PERSONS WHO DIED?

2 A NO I DON'T

3 Q OKAY DO YOU KNOW THE DEFENDANT OR ANY MEMBER
4 OF HIS FAMILY?

5 A NO I DON'T

6 THE COURT ALL RIGHT PLEASE ANSWER
7 ANY QUESTIONS THE LAWYERS MAY HAVE FOR YOU

8 EXAMINATION BY MR TINSLEY

9 Q GOOD AFTERNOON, MR DALY

10 A HOW YOU DOING?

11 Q MR DALY, YOU WORK OVER IN McCORMICK PRISON, I
12 GUESS?

13 A YES, SIR

14 Q AND HOW LONG YOU BEEN WITH THEM?

15 A ABOUT SIX YEARS

16 Q ABOUT SIX YEARS? NOW, MR DALY, YOU'VE
17 ANSWERED THE JUDGE THAT YOU COULD CONSIDER A DEATH
18 SENTENCE AND I BELIEVE YOU'VE ALSO ALLUDED TO THE
19 FACT THAT YOU COULD CONSIDER A LIFE SENTENCE, IS
20 THAT RIGHT?

21 A YES, SIR

22 Q AND SO, BASICALLY, YOU MENTIONED THAT YOU'D
23 JUST HAVE TO WAIT AND SEE, I THINK IS THE CASE?

24 A CROSS THAT BRIDGE WHEN I CAME TO IT.

1 Q AND YOU CAN ALSO CONSIDER WHATEVER LAW THE
2 JUDGE GIVES YOU AS TO -- AS RELATES TO THE FACTS OF
3 THE CASE, IS THAT CORRECT?

4 A THAT'S CORRECT

5 Q IN OTHER WORDS, IF THE JUDGE SAID, "I'M GONNA
6 GIVE YOU ON THIS COUNT ONE, I'M GONNA GIVE YOU THESE
7 THREE OPTIONS I'M GONNA GIVE YOU AN OPTION OF
8 GUILTY OF MURDER, NOT GUILTY OF MURDER, OR GUILTY OF
9 MANSLAUGHTER, A LESSER EMBODIMENT OF THE MURDER,
10 LESSER CHARGE THAT MURDER " COULD YOU CONSIDER ALL
11 THREE OPTIONS?

12 A YES

13 Q AND IF SOMEONE KILLED SOMEONE, DO YOU
14 UNDERSTAND THAT ALL HOMICIDES ARE NOT MURDERS?

15 A YES

16 Q AND SOME HOMICIDES ARE JUSTIFIABLE AND SOME
17 HOMICIDES ARE MANSLAUGHTER IN VARIOUS DEGREES AND
18 THAT SORT OF THING?

19 A YES

20 Q AND, AS SUCH, YOU WOULD BE ABLE TO FOLLOW THE
21 LAW ACCORDINGLY?

22 A I WOULD THINK SO

23 Q YOU DO NOT HAVE ANY PREJUDICE DISPOSITION
24 TOWARDS MR. HUCHEY WHATSOEVER?

1 A WHATSOEVER

2 Q AND YOU HAVE SAID A LITTLE ON THE DEATH PENALTY
3 BUT, I BELIEVE, YOUR ANSWER YOU'D CROSS THAT BRIDGE
4 WHEN YOU GOT TO IT SORT OF?

5 A THAT'S RIGHT

6 Q SO YOU HAVEN'T WORKED DEATH ROW OR ANYTHING?

7 A NO, I HAVEN'T

8 Q HAVE YOU BEEN DOWN TO DEATH ROW IN COLUMBIA?

9 A YES, I HAVE

10 Q CCI OR BROAD RIVER?

11 A CCI

12 Q SO THAT WAS A FEW YEARS BACK?

13 A WELL, ACTUALLY, I DIDN'T ACTUALLY GO THERE BUT,
14 YOU KNOW, WE KNEW WHERE IT WAS

15 Q WHEN YOU WERE CCI ORIENTATION?

16 A ORIENTATION

17 Q ORIENTATION, OKAY AND DO YOU UNDERSTAND THAT
18 IN THE STATE OF SOUTH CAROLINA, THESE STATUTORY
19 LIMITATIONS OF AGGRAVATED FACTORS ARE DELINEATED BY
20 THE STATUE, DO YOU UNDERSTAND THAT?

21 A I REALLY DON'T KNOW WHAT YOU'RE TALKING ABOUT

22 Q WELL, LET IN A CASE OF MURDER WHEN THE STATE IS
23 SEEKING THE DEATH PENALTY, THEY HAVE TO ESTABLISH
24 THE ANY AND ALL AGGRAVATED FACTORS BEYOND A

1 REASONABLE DOUBT ACCORDING TO THE STATUE

2 A OKAY

3 Q AND YOU FOLLOW THAT STATUTE?

4 A YES

5 Q AND FURTHER, THE STANDARDS A LITTLE DIFFERENT
6 WITH MITIGATING FACTORS AND THEY'RE NOT LIMITED
7 CAN YOU CONSIDER ANY AND ALL MITIGATING FACTORS IN
8 THE CASE?

9 A YES, IF IT'S REQUIRED, YES

10 Q AND YOU'D PRETTY MUCH OPEN-MINDED ON THIS
11 MATTER?

12 A I WOULD THINK SO, YES

13 MR TINSLEY THANK YOU SO MUCH

14 JUROR DALY YOU'RE WELCOME

15 EXAMINATION BY MR JONES

16 Q GOOD MORNING

17 A GOOD MORNING

18 Q MY NAME IS TOWNES JONES I'M YOUR SOLICITOR
19 AND THE PROSECUTING ATTORNEY HERE IN ABBEVILLE
20 COUNTY THIS IS MICHAEL COULTER YOUR DEPUTY
21 SOLICITOR THE TWO OF US WILL BE PRESENTING
22 EVIDENCE IN THE CASE, CALLING THE WITNESSES,
23 PARTICULARLY INTRODUCE PIECES OF EVIDENCE FOR THE
24 ~~JURY'S BENEFIT IN AN EFFORT TO REACH A DECISION~~

1 ABOUT THE GUILT OR INNOCENCE OF THE DEFENDANT FIRST
2 THAT'S WHAT YOU HAVE TO DECIDE FIRST, YOU UNDERSTAND
3 THAT?

4 A CORRECT

5 Q I HAVE SOME QUESTIONS I WANT TO ASK YOU BOTH
6 ABOUT YOUR QUESTIONNAIRE, WE'VE GOT COPIES OF THAT
7 YOU FILLED THAT OUT

8 A OKAY

9 Q YOU MENTIONED THAT YOU GREW UP IN NEW JERSEY,
10 YOU GREW UP THERE?

11 A YES, SIR

12 Q WENT TO SCHOOL AT -- IS THAT WEST MORRIS
13 CENTRAL?

14 A YEAH

15 Q THAT'S NOT MORRISTOWN, IS IT?

16 A MORRIS COUNTY

17 Q MORRIS COUNTY?

18 A UM-HMM

19 Q AND THEN THE ART INSTITUTE OF PITTSBURGH, WHAT
20 DID YOU STUDY THERE?

21 A PHOTOGRAPHY

22 Q HAVE YOU BEEN IN THIS STATE FOR THE LAST SIX OR
23 SO YEARS OR DID YOU COME --

24 A ~~IT'LL BE TWELVE YEARS THANKSGIVING.~~

1 Q TWELVE YEARS AND WHERE WERE YOU WORKING FOR
2 THE PREVIOUS SIX YEARS BEFORE YOU WENT TO WORK --

3 A SELF-EMPLOYED, LANDSCAPE AND MASON

4 Q YOU MENTIONED THAT YOU'RE -- IS IT YOUR
5 DAUGHTER, CHRISTEN, THAT'S SEVEN?

6 A KYREN (PHONETIC), THAT'S MY SON

7 Q SON

8 A KYREN

9 Q AND CHEROKEE TRAIL, WHAT SCHOOL IS THAT?

10 A ELEMENTARY SCHOOL OVER IN DUE WEST

11 Q BASICALLY, I WANTED TO ASK YOU SOME QUESTIONS
12 ABOUT -- AND PLEASE UNDERSTAND THAT I'M ONLY TRYING
13 TO FIND OUT WHAT YOU KNOW ABOUT YOURSELF AND I KNOW
14 YOU'RE BEING STRAIGHTFORWARD WITH US AND HONEST WITH
15 US, AND THAT'S ALL WE CAN ASK

16 A OKAY

17 Q YOU UNDERSTAND TO BE HONEST WITH US YOU'VE GOT
18 TO BE HONEST WITH YOURSELF TO BE HONEST WITH
19 YOURSELF, YOU'VE REALLY GOT TO KNOW YOURSELF PRETTY
20 GOOD IN OTHER WORDS, CAN I DO THIS OR CAN I DO
21 THAT

22 MR TINSLEY OBJECTION, YOUR HONOR

23 THE COURT WHAT'S THE GROUND FOR

24 OBJECTION?

1 MR TINSLEY NO QUESTION ASKED
2 THE COURT OH OKAY ASK A
3 QUESTION

4 EXAMINATION BY MR JONES

5 Q DO YOU UNDERSTAND THAT THIS PROCESS THE WE HAVE
6 BEEN WORKING IN SINCE MONDAY HAS ELIMINATED A NUMBER
7 OF FOLKS ALONG THE WAY YOU WERE HERE WHEN SOME
8 PEOPLE WERE EXCUSED AND THAT SORT OF THING?

9 A YES, I'VE SEEN

10 Q AND YOU UNDERSTAND THAT THE POSITION YOU'RE IN
11 NOW, IF YOU QUALIFY, WE DISCUSS WITH YOU -- AND THE
12 NEXT STEP IS WHETHER OR NOT YOU'RE SEATED ON THE
13 JURY, DO YOU UNDERSTAND THAT?

14 A YES, I UNDERSTAND THAT

15 Q AND THE JUDGE EXPECTS THAT PROCESS TO START
16 SOMETIME TUESDAY OR WEDNESDAY, SOME TIME NEXT WEEK
17 SO WE'RE VERY CLOSE TO HAVING A JURY SEATED, DO YOU
18 UNDERSTAND THAT?

19 A OKAY

20 Q AND WHEN YOU TALK ABOUT YOUR FEELINGS ON THE
21 DEATH PENALTY AND YOU TALK ABOUT WELL, I'LL CROSS
22 THAT BRIDGE WHEN I COME TO IT, DO YOU UNDERSTAND
23 WHEN WE ASK YOU TO COME TODAY AS TO WHETHER OR NOT
24 ~~YOU'RE CAPABLE OF DOING SOMETHING, YOU DON'T KNOW~~

1 THE FACTS, YOU DON'T KNOW THE CASE, YOU UNDERSTAND
2 THAT AND SO CAN'T SAY YES OR NO ON THIS CASE

3 A THAT'S RIGHT

4 Q BUT DO YOU UNDERSTAND THAT IN ORDER TO BE
5 HONEST WITH US AND FAIR TO US, THAT IF YOU TELL US
6 TODAY YOU CAN CONSIDER OPPOSING THE DEATH PENALTY IN
7 THIS CASE AND TEN DAYS FROM NOW, AS A JUROR, YOU
8 CHANGE YOUR MIND AND SAY, I SHOULDN'T HAVE TOLD HIM
9 THAT, I CAN'T DO IT, THAT WOULDN'T BE FAIR TO US,
10 WOULD IT?

11 A NO, IT WOULDN'T

12 Q OR THE ELEVEN JURORS THAT ARE TRYING TO BE
13 HONEST AND FAIR WITH US

14 A CORRECT

15 Q SO WHAT I'M ASKING YOU, IF YOU TELL US YOU CAN
16 IMPOSE A DEATH SENTENCE TODAY, THEN THAT FACT AND
17 THAT STATEMENT WILL REMAIN TRUE TODAY AND TEN DAYS
18 FROM TODAY

19 A CORRECT

20 Q ALL RIGHT SO WHAT I'M ASKING YOU IS, AND
21 THERE'S NO RIGHT OR WRONG ANSWER, IT DOESN'T MATTER,
22 BUT WE JUST NEED TO KNOW WHAT YOU'RE FEELING IS
23 YOU CAN IMPOSE THE DEATH PENALTY ON ANOTHER HUMAN
24 BEING.

1 A YES OR NO ANSWER?

2 Q WELL, SIR, IN AN EFFORT TO -- I WOULD -- NO,
3 SIR, IT DOESN'T HAVE TO BE A YES OR NO YOU CAN
4 EXPLAIN ANYTHING YOU WANT TO HERE TODAY

5 A OVER THE YEARS -- YOU KNOW, IT'S SOMETHING THAT
6 YOU DON'T GO DISCUSSING, IT'S NOT A TOPIC OF
7 CONVERSATION OF MINE -- OVER THE YEARS YOU SEE
8 THINGS THAT HAPPEN THAT SOMETIMES YOU FEEL, YEAH,
9 AND SOMETIMES YOU FEEL, NO AND QUITE FRANKLY, IF
10 YOU CAN DO IT THOSE FEELINGS YOU SAY, YES, YOU CAN
11 DO IT FOR A CERTAIN THING, I WOULD GO WITH THAT,
12 YES

13 Q OKAY, ALL RIGHT THANK YOU FOR YOUR
14 EXPLANATION AND I WANT TO ASK YOU TO TRY TO EXPLAIN
15 SOMETHING ELSE TO ME

16 A SURE

17 Q IF YOU WOULD

18 A OKAY

19 Q THE DEFENSE ATTORNEY -- LAWYER OVER HERE ASKED
20 YOU IF YOU UNDERSTAND ABOUT DIFFERENT TYPES OF
21 HOMICIDES HE ASKED YOU ABOUT MURDER, MANSLAUGHTER,
22 AND ASKED YOU IF YOU UNDERSTOOD THEY'RE DIFFERENT
23 TYPES OF HOMICIDES

24 A ~~WHAT I -- WAS GOING TO MY MIND IS LIKE A CRIME~~

1 OF PASSION, YOU KNOW

2 Q RIGHT AND I WANT TO ASK YOU IS, WHAT COMES TO
3 YOUR MIND WHEN I MENTION THE WORD --

4 MR TINSLEY OBJECTION EXCUSE ME

5 THE COURT LET ME HEAR THE QUESTION

6 EXAMINATION BY MR JONES

7 Q WHAT COMES TO YOUR MIND WHEN I MENTION THE
8 WORD, EXECUTION-STYLE MURDER?

9 MR TINSLEY OBJECTION, YOUR HONOR

10 THE COURT SUSTAINED

11 MR JONES YOUR HONOR, MAY I ARGUE
12 THE POINT BRIEFLY?

13 THE COURT OKAY MR DALY, MAY I
14 ASK YOU STEP OUTSIDE THIS DOOR FOR JUST A MINUTE
15 (JUROR DOES AS INSTRUCTED)

16 MR JONES JUDGE, THE STATE'S
17 POSITION IS HE'S OPENED THE DOOR TO THE STATE TO ASK
18 HIM ABOUT VARIOUS TYPES OF HOMICIDES WHEN HE OPENED
19 THE DOOR INTO THERE'S MURDER, THERE'S MANSLAUGHTER,
20 THERE'S INVOLUNTARY MANSLAUGHTER, THERE'S ALL KINDS
21 OF -- YOU UNDERSTAND THAT NOT EVERY HOMICIDE IS A
22 MURDER AND BY OPENING THE DOOR AS TO WHAT'S A
23 MURDER AND WHAT'S NOT A MURDER, I THINK THAT IN
24 ~~THESE CIRCUMSTANCES WHEN THE JUROR EXPLAINS A CRIME~~

1 OF PASSION IS MURDER, THAT SORT OF THING, I HAVE A
2 RIGHT TO FIND OUT WHAT HIS BELIEF IS CONCERNING
3 VARIOUS TYPES OF MURDERS

4 THE COURT WELL, I DON'T HAVE ANY
5 DIFFICULTY WITH YOU EXAMINING THE WITNESS SO FAR AS
6 THE DIFFERENT TYPES OF HOMICIDES ARE CONCERNED IF
7 YOU'RE GOING TO GO THROUGH THE LEGAL DEFINITION
8 BUT WE'RE NOT GOING TO GET INTO HYPOTHETICAL
9 CIRCUMSTANCES AND HYPOTHETICAL FACTS FOR EACH
10 WITNESS OR EACH JUROR TO FIND OUT WHAT THEY WOULD DO
11 UNDER THIS CIRCUMSTANCE OR THAT CIRCUMSTANCE, OR
12 WHETHER THEY THINK IT'S APPROPRIATE THERE AND NOT
13 APPROPRIATE SOMEWHERE ELSE THERE ARE DEFINITIONS
14 FOR MURDER, THERE ARE DEFINITIONS FOR MANSLAUGHTER,
15 RECKLESS HOMICIDE, INVOLUNTARY MANSLAUGHTER AND THE
16 LIKE, AND IF YOU WANT TO GO THROUGH THAT WITH THEM,
17 IF THAT'LL BE BENEFICIAL, I THINK IT MIGHT BE
18 APPROPRIATE DEPENDING UPON WHAT THE FACTS ARE IN
19 THIS CASE BUT I THINK BOTH OF YOU HAVE CONCEDED
20 THAT THERE MAY BE EVIDENCE IN THE CASE OF VOLUNTARY
21 MANSLAUGHTER BECAUSE IT'S BEEN ASKED ON MORE THAN
22 ONE OCCASION BY BOTH SIDES

23 SO I DON'T HAVE ANY DIFFICULTY WITH
24 ~~JURORS BEING QUESTIONED ON THOSE ASPECTS AND THOSE~~

1 DIFFERENCES SO THAT THEY UNDERSTAND THAT THEY'RE NOT
2 GOING TO BE INVOLVED IN DETERMINING PUNISHMENT
3 UNLESS A PERSON HAS BEEN CONVICTED OF A KILLING
4 ACCOMPANIED BY MALICE BUT SO FAR AS SPECIFIC TYPES
5 OF HYPOTHETICAL FACTS, I DON'T THINK THAT WOULD BE
6 APPROPRIATE TO EXAMINE THE WITNESSES ON

7 MR JONES I'LL WITHDRAW THE
8 QUESTION YOU SUSTAINED THE OBJECTION SO -- I DO
9 HAVE A COUPLE MORE QUESTIONS

10 MR TINSLEY FURTHER, YOUR HONOR,
11 I'VE NEVER HEARD OF A TYPE OF A HOMICIDE CALLED
12 EXECUTION-STYLE KILLING I THINK NOW THIS JUROR IS
13 TAINTED REGARDLESS OF HIS ATTEMPT TO WITHDRAW AT
14 THIS POINT I WOULD MOVE THAT HE BE STRICKEN

15 THE COURT ASK MR DALY TO COME
16 BACK (JUROR RE-ENTERS THE COURTROOM)

17 THE COURT MR DALY, THE SOLICITOR,
18 THE LAST QUESTIONED THAT HE ASKED HE CHARACTERIZED A
19 PARTICULAR TYPE OF HOMICIDE YOU UNDERSTAND THAT
20 CHARACTERIZATION, HE WAS ATTEMPTING TO ASK YOU A
21 HYPOTHETICAL QUESTION, IT DID NOT IN ANY WAY RELATE
22 TO THIS PARTICULAR CASE THESE ARE QUESTIONS BEING
23 ASKED HYPOTHETICALLY TO SIMPLY FIND OUT YOUR VIEWS
24 AND OPINIONS ON CERTAIN SUBJECTS AND SO YOU'RE NOT

1 TO CONSIDER THAT FOR ANY PURPOSE OTHER THAN THE FACT
2 THE QUESTION ASKED YOU'RE NOT GOING TO BE REQUIRED
3 TO RESPOND TO THAT QUESTION BUT HE DOES HAVE SOME
4 ADDITIONAL QUESTIONS THAT HE WOULD LIKE TO ASK OF
5 YOU

6 JUROR OKAY

7 EXAMINATION BY MR JONES

8 Q YOU MENTIONED THAT, AND I WANT TO RETURN TO
9 YOUR QUESTIONNAIRE, IF I COULD, THAT YOU ENJOY GOLF
10 AND RECREATION AND COACHING AND, I BELIEVE, THAT I
11 ALSO SAW THAT YOU ARE -- IN ADDITION TO COACHING YOU
12 WORK WITH ABBEVILLE RECREATION DEPARTMENT AS A
13 COACH, IS THAT ONE IN THE SAME?

14 A YES

15 Q AND WHAT TYPE OF COACH IS THAT?

16 A I COACH BASKETBALL AND LITTLE LEAGUE BASEBALL

17 MR JONES MR DALY, I APPRECIATE
18 YOUR CANDIDNESS AND I THANK YOU THAT'S ALL THE
19 QUESTIONS I HAVE, YOUR HONOR

20 EXAMINATION BY MR TINSLEY

21 Q ONE FOLLOW-UP QUESTION, YOUR HONOR MR DALY,
22 THE SOLICITOR ASKED YOU IF YOU COULD IMPOSE THE
23 DEATH PENALTY IN TEN DAYS YOU REALIZE THAT YOU
24 ~~DON'T HAVE TO LOCK IN ANY DECISION AT THIS POINT,~~

1 DON'T YOU?

2 A YES

3 Q AND YOU'D BE FREE TO IMPOSE A LIFE SENTENCE IF
4 YOU DEEMED THAT THE APPROPRIATE PUNISHMENT?

5 A SURE, OF COURSE

6 MR TINSLEY THANK YOU SO MUCH

7 THE COURT ALL RIGHT, MR DALY, IF
8 YOU WILL JUST STEP DOWN OUTSIDE THE DOOR ONE MORE
9 TIME, I'LL BRING YOU BACK IN JUST A MINUTE ANY
10 OBJECTION TO THE WITNESS BEING FOUND QUALIFIED?

11 MR JONES NONE FOR THE STATE, YOUR
12 HONOR

13 MR TINSLEY YOUR HONOR, I THINK
14 HE'S A GREAT JUROR AND WE'D LOVE TO HAVE HIM,
15 HOWEVER, HE IS TAINTED BEYOND REPAIR AND WE MOVE
16 THAT HE BE EXCLUDED AT THIS POINT BASED UPON THE
17 SOLICITOR'S QUESTION ABOUT EXECUTION-STYLE KILLING

18 THE COURT ALL RIGHT SO YOU'RE
19 SOLE OBJECTION TO THE QUALIFICATION OF THE JUROR IS
20 BASED UPON THE SOLICITOR'S QUESTION?

21 MR TINSLEY AND, ALSO, RE-RAISE
22 THE OBJECTION, ALSO, ISSUE, WE HAD EARLIER

23 THE COURT ASK MR DALY TO COME IN
24 ~~HERE. MR. DALY, YOU'RE GOING TO BE QUALIFIED TO~~

1 SERVE IN THE POOL OF JURORS FROM WHICH THE ACTUAL
2 JURY WILL BE SELECTED SO YOU ARE TO CONTINUE TO
3 INSTRUCTION OR FOLLOWING THE INSTRUCTION THAT I HAD
4 PREVIOUSLY GIVEN YOU YOU MAY NOT DISCUSS THE CASE,
5 DO NOT ALLOW YOURSELF TO BE EXPOSED TO ANY TYPE OF
6 DISCUSSIONS OR CONVERSATIONS ALSO, DO NOT ALLOW
7 YOURSELF TO BE EXPOSED TO ANY TYPE OF MEDIA COVERAGE
8 THAT RELATES TO THIS PARTICULAR CASE YOU'LL BE
9 EXCUSED WE HAVE OTHER JURORS TO QUESTION

10 I WOULD ALSO INSTRUCT YOU THAT YOU
11 ARE NOT TO DISCUSS THE QUESTIONS THAT YOU'VE BEEN
12 ASKED HERE TODAY WITH ANY OTHER PERSON AND IF
13 YOU'LL TALK WITH THE CLERK HERE AND GIVE HER ANY AND
14 ALL NUMBERS WHERE YOU CAN BE REACHED, WE ANTICIPATE
15 CALLING YOU BACK PERHAPS TUESDAY, IT MAY BE LATER
16 THAN LATE YOU CAN CONTINUE YOUR ROUTINE SCHEDULE
17 BUT WE SIMPLY NEED TO BE ABLE TO GET A HOLD OF YOU
18 WHERE YOU CAN COME BACK ON SHORT NOTICE

19 (JUROR EXITS THE COURTROOM)

20 (JUROR IS QUALIFIED)

21 THE COURT ALL RIGHT, DO WE HAVE
22 MR SORROW, JONES AND BRAMLETT OUT THERE? ASK THEM
23 TO COME IN PLEASE WE'RE READY FOR MR SORROW?
24 BRING HIM IN, MR. SORROW.

1 (THE COURT CALLS SPENCER SORROW)

2 (JUROR #185 PRESENTED AT 3 25 O'CLOCK P M)

3 EXAMINATION BY THE COURT

4 Q GOOD AFTERNOON, MR SORROW IF YOU'LL JUST
5 HAVE A SEAT RIGHT THERE, PLEASE

6 AS YOU KNOW, WE'VE CALLED YOU BACK FOR THE
7 PURPOSE OF ASKING SOME ADDITIONAL QUESTIONS I'LL
8 ASK YOU SOME, THE LAWYERS FOR EACH SIDE MAY HAVE
9 SOME ADDITIONAL QUESTIONS TO ASK OF YOU THERE ARE
10 NO RIGHT OR WRONG ANSWERS, WE SIMPLY JUST NEED TO
11 KNOW YOUR VIEWS AND OPINIONS ON CERTAIN SUBJECTS
12 SO IF YOU'LL, PLEASE, JUST ANSWER THE QUESTIONS AS
13 OPENLY AND AS HONESTLY AS YOU CAN SO THAT WE CAN
14 UNDERSTAND WHAT YOUR VIEWS AND OPINIONS ARE

15 YOU WILL RECALL WHEN YOU CAME BACK FRIDAY WITH
16 YOUR FELLOW JURORS, THE ENTIRE PANEL WAS PLACED
17 UNDER OATH, DO YOU RECALL THAT?

18 A Yes

19 Q AND YOU REMAIN UNDER OATH FOR THE PURPOSE OF
20 THESE QUESTIONS, ALSO YOU HAD INDICATED EARLIER
21 YOU COMPLETED THE QUESTIONNAIRE THAT IT IS ACCURATE
22 YOU ALSO INDICATED YOU RECEIVED MY LETTER CONTAINING
23 AN INSTRUCTION NOT TO DISCUSS THE CASE, NOT TO ALLOW
24 ~~YOURSELF TO BE EXPOSED TO ANY DISCUSSIONS ABOUT THE~~

1 CASE AND NOT TO ALLOW YOURSELF TO BE EXPOSED TO ANY
2 TYPE OF MEDIA COVERAGE, TELEVISION, RADIO AND
3 NEWSPAPER HAVE YOU COMPLIED WITH THAT INSTRUCTION?

4 A YES

5 Q HAVE YOU BEEN EXPOSED TO ANY NEWSPAPER ARTICLE?

6 A I READ THE PAPER BUT I SAW THE HEADLINES AND I
7 MOVED TO THE NEXT ARTICLE

8 Q AND WHEN WAS THAT?

9 A THURSDAY, I BELIEVE

10 Q THURSDAY?

11 A YES

12 Q AND YOU SAW THE HEADLINE?

13 A I JUST SAW SOMETHING ABOUT JURY AND I TURNED
14 THE PAGE

15 Q SO DO YOU KNOW ANYTHING ABOUT THE CONTENTS OF
16 THE ARTICLE AT ALL?

17 A NO

18 Q SO AS SOON AS YOU SAW THE WORD, JURY, YOU WENT
19 TO SOMETHING ELSE?

20 A YES

21 Q YOU DID NOT READ ANYTHING CONTAINED IN THE
22 ARTICLE?

23 A NO

24 Q ANY OTHER EXPOSURE TO ANY TYPE OF MEDIA?

1 A NO

2 Q ANY EXPOSURE TO ANY TYPE OF DISCUSSIONS OR
3 CONVERSATIONS?

4 Q NO

5 A WHAT ABOUT PRIOR TO RECEIVING THE LETTER, DID
6 YOU HAVE ANY SUCH EXPOSURE?

7 Q NOT THAT I CAN REMEMBER

8 Q IS IT FAIR TO SAY IF YOU HAD EXPOSURE, YOU
9 DON'T RECALL IT?

10 A I DON'T RECALL IT, NO

11 Q NOW, AS YOU ARE AWARE, JURIES ARE SELECTED FOR
12 THE PURPOSE OF PARTICIPATING IN A TRIAL OF CASES AND
13 RENDERING DECISIONS AND THAT IS THE FUNCTION OF
14 THE JURY TO SIT OVER THERE IN THAT JURY BOX AND TO
15 LISTEN TO TESTIMONY AND CONSIDER OTHER EVIDENCE THAT
16 MIGHT BE INTRODUCED AND THEN IN CONSIDERING THAT
17 EVIDENCE DECIDE THE FACTS AND THEN YOU'RE CALLED
18 UPON TO APPLY LAW THAT THE COURT WILL GIVE YOU IN
19 ORDER FOR THE JURY TO ARRIVE TO ITS DECISION IN A
20 PARTICULAR CASE

21 NOW, IN THIS CASE, AS YOU ARE AWARE, THE
22 DEFENDANT HAS BEEN CHARGED WITH THE CRIME OF MURDER
23 AND THE LAW OF THIS STATE PROVIDES THAT UNDER
24 CERTAIN CIRCUMSTANCES WHERE A PERSON IS CONVICTED,

1 FOUND GUILTY OF THE CRIME OF MURDER, THE STATE IS
2 PERMITTED TO SEEK THE IMPOSITION OF THE DEATH
3 PENALTY AS TO THAT INDIVIDUAL THAT DOESN'T MEAN
4 THAT IT WILL BE IMPOSED, IT SIMPLY MEANS THAT THE
5 JURY WILL MAKE THE DECISION AS TO WHETHER OR NOT
6 THAT IS APPROPRIATE UNDER THOSE CIRCUMSTANCES NOW,
7 IN SUCH A CASE, IT'S CONDUCTED IN TWO SEPARATE
8 STAGES OR PHASES AND THE FIRST PHASE OF THE TRIAL
9 ADDRESSES THE ISSUE OF GUILT, AND THE SECOND PHASE
10 OF THE TRIAL, IF YOU GET TO THAT PHASE, ADDRESSES
11 THE ISSUE OF PUNISHMENT

12 NOW, IN THE FIRST PHASE OF THE TRIAL, THERE
13 WILL BE EVIDENCE RECEIVED AND AFTER ALL THAT
14 EVIDENCE HAS BEEN RECEIVED, I WILL INSTRUCT THE JURY
15 AS TO THE LAW THAT'S APPLICABLE, THE JURY WILL ASK
16 TO -- BE ASKED TO BACK AND DELIBERATE THE CASE AND
17 DECIDE WHETHER OR NOT THE PERSON HAS BEEN PROVEN TO
18 BE GUILTY OF THE CRIME OF MURDER DO YOU UNDERSTAND
19 THAT THE BURDEN IS ALWAYS UPON THE STATE IN BRINGING
20 AN ACCUSATION OR A CHARGE AGAINST ANOTHER INDIVIDUAL
21 TO PROVE THAT THEY ARE GUILTY BEYOND A REASONABLE
22 DOUBT BEFORE SUCH A VERDICT COULD BE RETURNED?

23 A YES

24 Q DO YOU UNDERSTAND THAT THE BURDEN IS NEVER UPON

1 A PERSON CHARGED TO PROVE THAT THEY ARE NOT GUILTY
2 OR TO PROVE THAT THEY ARE INNOCENT?

3 A YES

4 Q IF YOU WERE PARTICIPATING IN THE TRIAL OF A
5 CRIMINAL CASE WHERE A PERSON IS CHARGED WITH A
6 CRIME, IF YOU WERE CONVINCED BY THE EVIDENCE IN THE
7 CASE THAT THE PERSON HAD BEEN PROVEN GUILTY BEYOND A
8 REASONABLE DOUBT, COULD YOU RETURN A VERDICT OF
9 GUILTY?

10 A JUROR SORROW YES

11 Q IF, AFTER YOU CONSIDERED ALL OF THAT EVIDENCE,
12 YOU HAD SOME REASONABLE DOUBT AS TO WHETHER OR NOT
13 THE PERSON HAD BEEN PROVEN GUILTY, WOULD YOU RETURN
14 A VERDICT OF NOT GUILTY?

15 A YES

16 Q NOW, LET'S ASSUME FOR THE PURPOSE OF THIS NEXT
17 QUESTION AND ASSUME IT FOR THIS QUESTION ONLY, THAT
18 YOU HAVE PARTICIPATED IN A TRIAL WHERE A PERSON WAS
19 CHARGED WITH MURDER THAT YOU HAVE FOUND THAT PERSON,
20 YOU AND YOUR FELLOW JURORS, HAVE FOUND THAT PERSON
21 TO BE GUILTY OF THE CRIME OF MURDER BEYOND A
22 REASONABLE DOUBT IN THAT EVENT, THERE WILL BE AN
23 ADDITIONAL STEP, AS I TOLD YOU IF THE STATE
24 PROVES, IN ADDITION TO THE MURDER, IF THE STATE

1 PROVES TO THE SATISFACTION OF THE JURY BEYOND A
2 REASONABLE DOUBT AN ADDITIONAL AGGRAVATING
3 CIRCUMSTANCE THAT ACCOMPANIES THAT MURDER, THE STATE
4 MAY ASK THAT THE JURY IMPOSE THE DEATH SENTENCE
5 THAT BEING THE CASE, THERE WOULD BE AN ADDITIONAL
6 HEARING HELD SHORTLY AFTER THE FIRST, THE GUILT
7 PHASE AND THAT SECOND HEARING IS CALLED THE PENALTY
8 PHASE AND DURING THAT PHASE OF THE TRIAL, THERE
9 WILL BE ADDITIONAL EVIDENCE RECEIVED THERE WILL BE
10 EVIDENCE OFFERED IN AGGRAVATION, THERE WOULD BE
11 EVIDENCE OFFERED IN MITIGATION

12 AND BY THAT, I MEAN, THERE WILL BE ADDITIONAL
13 EVIDENCE OFFERED THAT MIGHT TEND TO SUPPORT THE MORE
14 SEVERE PUNISHMENT AS BEING APPROPRIATE, THAT BEING
15 THE IMPOSITION OF THE DEATH SENTENCE AND THERE
16 WOULD ALSO BE EVIDENCE OFFERED THAT MIGHT SUPPORT OR
17 TEND TO SUPPORT THE LESS SEVERE PUNISHMENT BEING
18 IMPOSED, THAT BEING A SENTENCE OF LIFE IMPRISONMENT
19 DO YOU UNDERSTAND THE CONCEPT OF THE BIFURCATED
20 PROCESS OF THE TWO STAGES OF THE TRIAL?

21 A YES, SIR

22 Q IN THAT SECOND PHASE OF THE TRIAL, THAT
23 ADDITIONAL EVIDENCE BEING RECEIVED, WOULD YOU BE
24 WILLING AND BE ABLE TO FAIRLY CONSIDER ALL THE

1 EVIDENCE BOTH IN AGGRAVATION AND IN MITIGATION
2 BEFORE ARRIVING AT YOUR DECISION?

3 A YES

4 Q BEFORE YOU MADE UP YOUR MIND AS TO THE
5 APPROPRIATE SENTENCE, WOULD YOU CONSIDER ALL OF THE
6 CIRCUMSTANCES THAT RELATE TO THE CRIMES AS WELL AS
7 TO THE INDIVIDUAL DEFENDANT?

8 A YES

9 Q IF, AFTER YOU'VE CONSIDERED ALL OF THAT
10 EVIDENCE, IF YOU DETERMINE THAT IT WAS WARRANTED
11 UNDER THE CIRCUMSTANCES, COULD YOU IMPOSE A SENTENCE
12 OF DEATH AGAINST A PERSON?

13 A YES

14 Q WOULD YOU BE ABLE TO ALSO IMPOSE A SENTENCE OF
15 LIFE IMPRISONMENT IF YOU THOUGHT THAT TO BE
16 APPROPRIATE?

17 A YES

18 Q NOW, I KNOW THAT WHEN I ASK YOU COULD IMPOSE A
19 SENTENCE OF DEATH THERE WAS SOME HESITATION BEFORE
20 YOU ANSWERED AND I RECOGNIZE THAT THESE ARE NOT
21 QUESTIONS PERHAPS THAT YOU'VE BEEN ASKED ABOUT
22 BEFORE OR THAT YOU'VE EVEN THOUGHT ABOUT BEFORE
23 BUT, OF COURSE, IT IS IMPORTANT THAT WE UNDERSTAND
24 HOW YOU FEEL ABOUT IT AND WHAT YOU COULD DO UNDER

1 THE CIRCUMSTANCES, OF COURSE, DEPENDING UPON WHAT
2 THOSE CIRCUMSTANCES ARE

3 YOU UNDERSTAND THAT WHEN A JURY IS CONSIDERING
4 AN APPROPRIATE SENTENCE, THE JURY WOULD ALWAYS HAVE
5 A CHOICE, IT WOULD BE TWO YOU COULD IMPOSE A
6 SENTENCE OF DEATH UNDER THE APPROPRIATE
7 CIRCUMSTANCES, AS I INDICATED A JURY COULD NEVER
8 EVEN CONSIDER OR BE ALLOWED TO IMPOSE A SENTENCE OF
9 DEATH UNLESS THE PERSON, OF COURSE, HAD BEEN
10 CONVICTED OF THE CRIME OF MURDER AND, ALSO, UNLESS
11 THE STATE HAD PROVEN SOME AGGRAVATING CIRCUMSTANCE
12 IN ADDITION BEYOND A REASONABLE DOUBT IT'S ONLY
13 UNDER THOSE CIRCUMSTANCES THAT THE STATE IS
14 PERMITTED TO SEEK THE DEATH PENALTY AND IT'S ONLY
15 UNDER THOSE CIRCUMSTANCES THAT THE JURY IS PERMITTED
16 TO IMPOSE A DEATH SENTENCE

17 SO CONSIDERING THAT FACT, YOU UNDERSTAND YOU
18 WOULD STILL HAVE AN OPTION, YOU WOULD STILL HAVE THE
19 CHOICE, YOU COULD STILL IMPOSE A SENTENCE OF DEATH
20 OR IMPOSE A SENTENCE OF LIFE YOU COULD IMPOSE A
21 SENTENCE OF LIFE FOR ANY REASON OR FOR NO REASON
22 THAT WOULD BE A DECISION THAT YOU AND YOUR FELLOW
23 JURORS WOULD MAKE NOW, IF YOU WERE
24 ~~PARTICIPATING AND YOU WERE FACED WITH THAT DECISION,~~

1 WOULD YOU ALWAYS SELECT ONE OF THOSE OPTIONS OVER
2 THE OTHER?

3 A NO

4 Q AND WOULD IT DEPEND UPON WHAT THE CIRCUMSTANCES
5 WERE AS TO WHAT DECISION YOU WOULD MAKE?

6 A YES

7 Q HAVE YOU ALREADY FORMED OR EXPRESSED ANY
8 OPINION AS TO WHAT YOU THINK THE APPROPRIATE
9 DECISION SHOULD BE IN THIS PARTICULAR CASE?

10 A NO

11 Q DO YOU KNOW OF ANY REASON WHY YOU COULD NOT
12 SERVE AS A JUROR AND BE FAIR AND IMPARTIAL IN
13 ARRIVING AT YOUR DECISION?

14 A NO

15 Q DO YOU UNDERSTAND THAT IF YOU ARE SELECTED AS A
16 JUROR IT WOULD BE NECESSARY THAT YOU BE SEQUESTERED
17 FOR THE DURATION OF THE TRIAL?

18 Q YES

19 A THAT WOULD NOT BEGIN IMMEDIATELY BUT WOULD
20 BEGIN SOMETIME NEXT WEEK ONCE WE HAVE CONCLUDED THIS
21 PROCESS WE ANTICIPATE THAT PERIOD TO BE SOMETIME
22 BETWEEN SEVEN AND TEN DAYS IF YOU WERE SELECTED
23 AND WERE SEQUESTERED, WOULD THAT SEQUESTRATION POSE
24 ~~ANY UNREASONABLE HARDSHIP OR HEALTH RISK TO YOU OR~~

1 ANYONE DEPENDENT UPON YOU?

2 A NO, SIR

3 Q IF YOU WERE SELECTED TO SERVE, WOULD YOU BE
4 WILLING TO ACCOMMODATE AND ACCEPT ANY INCONVENIENCE
5 THAT SERVICE MIGHT CAUSE?

6 A YES

7 Q PLEASE ANSWER ANY QUESTIONS THE LAWYERS MAY
8 HAVE FOR YOU

9 EXAMINATION BY MR TINSLEY

10 Q THANK YOU, YOUR HONOR GOOD AFTERNOON, MR
11 SORROW MR SORROW, YOU MENTIONED IN RESPONDING TO
12 JUDGE'S QUESTION THAT YOU LOOKED OVER A NEWSPAPER
13 ARTICLE HAVE YOU HEARD ANYBODY TALKING ABOUT THIS
14 CASE?

15 A NO, NOT THAT --

16 Q NOT THAT YOU CAN RECALL?

17 A NOT THAT I CAN RECALL

18 Q AND YOU, OBVIOUSLY, ARE A MEMBER OF CITY
19 COUNCIL, IS THAT RIGHT?

20 A YES

21 Q AND AS SUCH, BEING A MEMBER OF CITY COUNCIL, IF
22 THE CHIEF POLICE IS THE AGENCY PROSECUTING THE CASE
23 THROUGH THE SOLICITOR'S OFFICE, WOULD YOU FEEL ANY
24 UNDO PRESSURE TO ALIGN YOURSELF WITH THAT CITY

1 DEPARTMENT?

2 A NO

3 Q DO YOU HAVE ANY RELATIONSHIP WITH THE CITY
4 POLICE DEPARTMENT?

5 A NO

6 Q NOW, AS A MEMBER OF CITY COUNCIL, DO THEY COME
7 -- CHIEF OR ANYBODY COME BEFORE YOU FOR REQUESTS,
8 FOR FUNDS, AND THINGS LIKE THAT?

9 A NORMALLY IT'S HANDLED THROUGH THE CITY MANAGER
10 UNDER THE CITY MANAGER FORM OF GOVERNMENT, CITY
11 COUNCIL DOES NOT HAVE ANYTHING TO DO WITH THE
12 PERSONNEL WE JUST SET POLICY

13 Q SO YOU ALL ARE POLICY MAKERS?

14 A POLICY MAKERS, YES

15 Q AND YOU DON'T HAVE A LOT OF INTERACTION WITH A
16 NUMBER OF INDIVIDUAL OFFICERS ON THE POLICE
17 DEPARTMENT?

18 A NO ONLY TIME THEY BRING ME PAPERS, YOU KNOW,
19 FOR THE NEXT MEETING

20 Q AND YOU HEARD THE LIST OF WITNESSES IN THE
21 CASE, IS THAT RIGHT?

22 A YES

23 Q THE OTHER DAY

24 A YES.

1 Q AND, BASICALLY, YOU DON'T HAVE ANY REAL CLOSE
2 TIES TO ANY OF THOSE WITNESSES, INCLUDING POLICE
3 OFFICERS, THE HARRIS FAMILY, THE JACKSON FAMILY, DO
4 YOU?

5 A NO

6 Q NOR THE HUGHEY FAMILY?

7 A NO

8 Q NOR ANYONE ELSE THAT YOU HEARD MENTIONED THE
9 OTHER DAY?

10 A NO

11 Q AND SO, BASICALLY, YOU WOULD BE WILLING TO
12 LISTEN TO ANY AND ALL FACTS AND EVIDENCE IN THE CASE
13 AS A JUROR?

14 A YES

15 Q BOTH IN THE FIRST PHASE, THE GUILT OR INNOCENCE
16 PHASE, CORRECT?

17 A YES

18 Q AND, AS SUCH, IF THE JUDGE GAVE YOU THE CHOICE
19 SAY OF GUILTY OF MURDER, GUILTY OF MANSLAUGHTER OR
20 NOT GUILTY, BASED UPON EVIDENCE YOU COULD -- AND THE
21 LAWS INSTRUCTED BY THE JUDGE, YOU COULD ARRIVE AT
22 ANY OF THE THREE VERDICTS, IS THAT RIGHT?

23 A I THINK SO, YES

24 Q AND, AS SUCH, THE CONSIDERATION WOULD LEAD YOU,

1 IF YOU GOT TO STAGE TWO, TO CONSIDER ALL STATUTORY
2 AGGRAVATING CIRCUMSTANCES AND MITIGATING
3 CIRCUMSTANCES, IS THAT CORRECT?

4 A YES

5 Q AND YOU WOULD TAKE YOUR JURY SERVICE VERY
6 SERIOUSLY?

7 A YES

8 Q AND YOU UNDERSTAND THAT YOU WOULDN'T HAVE TO
9 GIVE A DEATH SENTENCE, DO YOU NOT?

10 A RIGHT, YES

11 Q YOU WOULD HAVE THE OPTION

12 A YES

13 Q AND ONE LAST QUESTION, MR SORROW WHEN WAS
14 YOUR LAST CITY COUNCIL MEETING? IF YOU DON'T
15 REMEMBER JUST WHERE WAS IT THEN?

16 A WHERE, NEXT DOOR IN THE NEXT ROOM

17 Q NEXT DOOR YOU ALL HAVE THEM IN THE --

18 A OPRY HOUSE

19 Q SO YOU DON'T HAVE THEM AT THE CITY POLICE
20 DEPARTMENT?

21 A NO, SIR

22 MR TINSLEY THANKS SO MUCH, MR
23 SORROW

24 EXAMINATION BY MR. JONES

1 Q GOOD AFTERNOON, MR SORROW I'M TOWNES JONES
2 YOUR SOLICITOR HERE IN ABBEVILLE COUNTY AND THIS IS
3 MICHAEL COULTER, HE'S YOUR CHIEF DEPUTY SOLICITOR,
4 AND HE'S GOT SOME QUESTIONS FOR YOU, JUST A FEW
5 WE'LL BOTH BE PRESENTING EVIDENCE IN THE CASE TO THE
6 JURY

7 EXAMINATION BY MR COULTER

8 Q GOOD AFTERNOON, MR SORROW JUST A COUPLE OF
9 QUESTIONS IF SOMEONE HAD ASKED YOU LAST WEEK IF
10 YOU BELIEVED IN THE DEATH PENALTY OR FAVOR THE DEATH
11 PENALTY, WHAT WOULD YOU HAVE SAID?

12 A YES

13 Q YES? OF COURSE, THAT'S A LOT DIFFERENT SAYING
14 YOU'RE IN FAVOR OF IT THAN BEING ABLE TO IMPOSE IT

15 A RIGHT

16 Q BUT YOU'VE THOUGHT ABOUT IT AND YOU ARE OF THE
17 OPINION THAT YOU COULD DO IT IF THE CIRCUMSTANCES
18 WARRANTED?

19 A YES

20 Q AND YOU HAVE TO HEAR EVERYTHING BEFORE YOU'RE
21 ABLE TO MAKE THAT DECISION?

22 A YES

23 Q YOU HAVE TO HEAR EVERYTHING BEFORE YOU MAKE ANY
24 DECISION IN THIS CASE, RIGHT?

1 A YES

2 Q AND IF YOU FIND THAT THE CIRCUMSTANCES
3 WARRANTED THE DEATH PENALTY AND YOU AS A TWELVE
4 MEMBER JURY FIND THAT THAT WAS A PROPER SENTENCE, I
5 TELL THAT THEN YOU WOULD HAVE TO SIGN YOUR NAME ON
6 WHAT'S CALLED A DEATH WARRANT, SIGN YOUR NAME, FILL
7 IT OUT SAYING THAT THE PROPER SENTENCE IN THIS CASE
8 IS DEATH AND THEN YOU'D SIGN YOUR NAME COULD YOU,
9 IN FACT, SIGN YOUR NAME ON THAT DEATH WARRANT, TAKE
10 THE LIFE OF ANOTHER HUMAN BEING?

11 A I THINK SO

12 Q YOU COULD DO THAT?

13 A I THINK SO

14 Q IF IT WAS BAD ENOUGH

15 A YES

16 MR COULTER THANK YOU

17 THE COURT MR SORROW, IF YOU WILL
18 JUST STAND OUTSIDE THE DOOR WITH THE BAILIFF AND
19 WE'LL BRING YOU BACK IN JUST A MINUTE

20 (JUROR DOES AS INSTRUCTED)

21 ANY REASON WHY THE JUROR SHOULD NOT
22 BE FOUND QUALIFIED?

23 MR JONES NO REASON BY THE STATE,
24 YOUR HONOR.

1 MR TINSLEY YOUR HONOR, I AM
2 CONCERNED ABOUT HIS STATUS AS A MEMBER OF CITY
3 COUNCIL AND HE MAY EXPERIENCE SOME UNDO PRESSURE IN
4 THAT RESPECT BUT I DON'T THINK BY STATUTE THAT
5 WOULD EXCLUDE HIM AND THAT'S MY ONLY RESERVATION
6 IN THE MATTER, YOUR HONOR, THE FACT THAT HE COULD
7 FEEL UNDO PRESSURE BEING A MEMBER OF CITY COUNCIL
8 WITH THE CITY POLICE PROSECUTING THIS CASE AND I
9 WOULD ASK THAT HE BE DISQUALIFIED ON THAT POINT

10 THE COURT ASK MR SORROW TO COME
11 BACK MR SORROW, IF YOU'LL JUST HAVE A SEAT THERE
12 JUST A MINUTE, LET ME ASK YOU ONE ADDITIONAL
13 QUESTION AND WE'LL LET YOU GO WOULD YOUR POSITION
14 AS A CITY COUNCILMEN AND ANY CONNECTION OR
15 RELATIONSHIP YOU MIGHT HAVE WITH CITY POLICE
16 DEPARTMENT INTERFERE IN ANY WAY WITH YOUR ABILITY TO
17 BE FAIR AND IMPARTIAL?

18 JUROR SORROW NO

19 THE COURT WOULD YOU BE PRESSURED
20 OR INFLUENCED IN ANY FASHION BY THAT RELATIONSHIP OR
21 CONNECTION?

22 JUROR SORROW NO

23 THE COURT WE'RE GOING TO QUALIFY
24 ~~YOU FOR THE POOL FROM WHICH THE ACTUAL JURY WILL BE~~

1 SELECTED AND WE HAVE OTHER JURORS THAT WE'RE GOING
2 TO HAVE TO QUESTION BEFORE WE DO THAT SO IT MAY BE A
3 DAY OR TWO BEFORE WE CAN ACTUALLY SELECT THE JURY
4 BUT YOU WILL BE IN THE POOL FROM WHICH IT WILL BE
5 SELECTED YOU MAY CARRY ON WITH YOUR ORDINARY
6 SCHEDULE AND ROUTINE, BUT WE JUST SIMPLY NEED FOR
7 YOU TO GIVE THE CLERK ALL OF YOUR -- ANY AND ALL
8 PHONE NUMBERS WHERE YOU COULD BE REACHED ON SHORT
9 NOTICE WHEN WE NEED TO CALL YOU TO COME BACK
10 AND LET ME, ALSO, REMIND YOU OF THE
11 INSTRUCTIONS YOU'VE PREVIOUSLY BEEN GIVEN BY THE
12 COURT YOU ARE TO CONTINUE TO FOLLOW THOSE, YOU'RE
13 TO HAVE NO DISCUSSIONS, DON'T ALLOW YOURSELF TO BE
14 EXPOSED TO ANY DISCUSSIONS OR CONVERSATIONS ABOUT
15 THE CASE, AND DO NOT ALLOW YOURSELF TO BE EXPOSED TO
16 ANY TYPE OF MEDIA COVERAGE, WHETHER TELEVISION,
17 RADIO OR NEWSPAPER REGARDING THE CASE AND IF
18 YOU'LL GIVE THE CLERK THOSE NUMBERS, WE'LL CALL YOU
19 WHEN YOU NEED TO COME BACK
20 (JUROR EXITS THE COURTROOM)
21 (JUROR IS QUALIFIED)

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PAGES 914-916

REPETATIVE TRANSCRIPT COVER PAGES

AND NOT REPRINTED

1 (CONTINUATION OF DAY SIX, OCTOBER 18, 1997)

2 (THE COURT CALLS JAMES JONES, JR)

3 (JUROR #109 PRESENTED AT 3 37 O'CLOCK P M)

4 EXAMINATION BY THE COURT

5 Q GOOD AFTERNOON JAMES B JONES, JR ?

6 A YES, SIR

7 Q MR JONES, AS YOU KNOW, WE'VE GOT SOME
8 ADDITIONAL QUESTIONS THAT WE'RE GOING TO BE ASKING
9 YOU I'LL HAVE SOME, THE LAWYERS MAY HAVE SOME
10 OTHERS THERE ARE NO RIGHT OR WRONG ANSWERS TO THE
11 QUESTIONS THAT YOU'LL BE ASKED WE SIMPLY NEED TO
12 FIND OUT YOUR VIEWS AND OPINIONS ON CERTAIN SUBJECTS
13 OR TOPICS SO WE WOULD SIMPLY ASK THAT YOU ANSWER THE
14 QUESTIONS AS OPENLY AND AS HONESTLY AS YOU CAN SO
15 THAT WE CAN UNDERSTAND WHAT YOUR OPINIONS ARE
16 RELATIVE TO THOSE SUBJECTS DO YOU RECALL WHEN YOU
17 FIRST REPORTED ON FRIDAY THAT YOU AND YOUR FELLOW
18 JURORS STOOD AND YOU WERE PLACED UNDER OATH?

19 A YES, SIR

20 Q YOU REMAIN UNDER OATH FOR THE PURPOSE OF THESE
21 QUESTIONS, ALSO

22 A YES, SIR

23 Q NOW, YOU INDICATED YOU HAD COMPLETED YOUR
24 QUESTIONNAIRE AND THAT IT WAS CORRECT YOU ALSO
25 INDICATED YOU HAD RECEIVED MY LETTER CONTAINING

1 THOSE INSTRUCTIONS ABOUT HAVING NO DISCUSSIONS OR
2 CONTACT OR MEDIA EXPOSURE REGARDING THE CASE HAVE
3 YOU COMPLIED WITH THAT INSTRUCTION?

4 A YES, I HAVE

5 Q HAVE YOU HAD ANY TYPE OF CONVERSATIONS OR WERE
6 YOU EXPOSED TO ANY TYPE OF DISCUSSIONS REGARDING THE
7 CASE?

8 A NO, SIR

9 Q HAVE YOU SEEN OR READ ANY NEWSPAPER ARTICLE OR
10 TELEVISION ITEM OR RADIO ITEM ABOUT THE CASE SINCE
11 YOU RECEIVED THE LETTER?

12 A NO, SIR

13 Q WHAT ABOUT PRIOR TO RECEIVING THE LETTER?

14 A I KNEW NOTHING I'M A GENERAL CONTRACT AND
15 I'VE BEEN OUT OF TOWN FOR THE LAST -- WORKING OUT OF
16 TOWN FOR THE LAST -- BUILDING A POST OFFICE FOR THE
17 LAST THREE YEARS I DIDN'T -- UNTIL YOU TOLD US
18 WHAT YOU DID UP THERE, I DIDN'T KNOW ANYTHING ABOUT
19 IT

20 Q SO YOU DON'T RECALL ANYTHING ABOUT THE CASE
21 WHATSOEVER?

22 A NO, NOT REALLY

23 Q NOW, IN THIS CASE, AS YOU ARE AWARE, THE
24 DEFENDANT IS CHARGED WITH THE CRIME OF MURDER AND
25 THE LAW PROVIDES THAT UNDER CERTAIN CIRCUMSTANCES

1 WHEN A PERSON IS CONVICTED OR FOUND GUILTY OF THE
2 CRIME OF MURDER, THE STATE IS PERMITTED TO SEEK THE
3 DEATH PENALTY IN THAT CASE AND WHILE THE STATE MAY
4 SEEK IT, IT IS NOT REQUIRED UNDER ANY CIRCUMSTANCES
5 THAT IT BE IMPOSED THAT'S SIMPLY A DECISION THAT A
6 JURY WILL MAKE A JURY SELECTED FOR THAT PURPOSE

7 NOW, IN A CASE SUCH AS THAT WHERE A PERSON IS
8 CHARGED WITH MURDER AND THE STATE IS ALLEGING SOME
9 ADDITIONAL AGGRAVATING CIRCUMSTANCE, THEY ARE
10 PERMITTED TO SEEK THE DEATH PENALTY AND IN SUCH A
11 CASE, IT OCCURS IN TWO SEPARATE PHASES OR STAGES
12 AND THE FIRST PHASE RELATES TO ISSUES OF GUILT AND
13 THE SECOND PHASE RELATES TO ISSUES OF PUNISHMENT
14 AND, OF COURSE, YOU NEVER GET TO THE SECOND STAGE
15 UNLESS IN THE FIRST STAGE THE JURY HAS FOUND THE
16 DEFENDANT TO BE GUILTY BEYOND A REASONABLE DOUBT OF
17 THE CRIME OF MURDER AND, OF COURSE, THERE MUST BE
18 SOME ADDITIONAL AGGRAVATING CIRCUMSTANCE PROVEN
19 BEYOND A REASONABLE DOUBT BEFORE THE JURY COULD EVEN
20 CONSIDER IMPOSING A DEATH SENTENCE

21 NOW, DO YOU UNDERSTAND THAT WHEN THE STATE
22 BRINGS A CHARGE AGAINST AN INDIVIDUAL THAT THE
23 BURDEN IS ALWAYS UPON THE STATE TO ESTABLISH THAT
24 PERSON'S GUILT BEYOND A REASONABLE DOUBT?

25 A YES, SIR

1 Q DO YOU UNDERSTAND THAT THE BURDEN IS NEVER
2 UPON A DEFENDANT OR A PERSON CHARGED TO PROVE THAT
3 THEY ARE NOT GUILTY OR TO PROVE THAT THEY ARE
4 INNOCENT?

5 A YES, I KNOW THAT

6 Q AND YOU UNDERSTAND A PERSON CHARGED WITH A
7 CRIME MAY NOT EVEN TESTIFY, THEY'RE NOT REQUIRED TO

8 A I UNDERSTAND

9 Q A PERSON CHARGED WITH A CRIME IS ALWAYS
10 PRESUMED TO BE INNOCENT OF THAT CRIME, DO YOU
11 UNDERSTAND THAT?

12 A YES, SIR

13 Q NOW, IF YOU WERE SELECTED TO SERVE AS A JUROR
14 IN THE TRIAL OF A CRIMINAL CASE, WOULD YOU BE ABLE
15 TO FAIRLY CONSIDER ALL OF THE EVIDENCE THAT WOULD BE
16 OFFERED RELATING TO ISSUE OF GUILT?

17 A YES, SIR

18 Q IF YOU WERE CONVINCED THAT THAT EVIDENCE
19 SUPPORTED A VERDICT OF GUILTY BEYOND A REASONABLE
20 DOUBT, WOULD YOU RETURN A VERDICT OF GUILTY?

21 A BEYOND A REASONABLE DOUBT, YES, SIR

22 Q AND IF YOU HAD SOME REASONABLE DOUBT AS TO
23 WHETHER OR NOT THE EVIDENCE SUPPORT A VERDICT OF
24 GUILTY, WOULD YOU RETURN A VERDICT OF NOT GUILTY?

25 A YES, SIR

1 Q NOW, LET'S ASSUME FOR THE MOMENT, AND ONLY
2 ASSUME IT FOR THE PURPOSE OF THIS QUESTION LET'S
3 ASSUME THAT YOU ARE PARTICIPATING IN THE TRIAL OF
4 THE CASE WHERE A PERSON'S CHARGED WITH MURDER AND
5 YOU AND YOUR FELLOW JURORS HAVE FOUND THAT PERSON TO
6 BE GUILTY BEYOND A REASONABLE DOUBT OF THAT CRIME
7 THERE WOULD BE A SECOND STAGE OR A SECOND PHASE
8 BEING THE PENALTY PHASE IT'S A SECOND HEARING
9 CONDUCTED SHORTLY AFTER THAT GUILTY PHASE AND IT'S
10 DURING THAT HEARING THAT THERE IS ADDITIONAL
11 EVIDENCE RECEIVED AND THERE IS EVIDENCE OFFERED IN
12 AGGRAVATION AND EVIDENCE OFFERED IN MITIGATION

13 THAT SIMPLY MEANS THAT THERE'S ADDITIONAL
14 EVIDENCE OFFERED THAT MIGHT TEND TO SUPPORT THE MORE
15 SEVERE PUNISHMENT AS BEING APPROPRIATE, THAT BEING
16 THE DEATH PENALTY AND THERE MIGHT BE EVIDENCE
17 OFFERED THAT WOULD TEND TO SUPPORT THE LESS SEVERE
18 PUNISHMENT AS THE APPROPRIATE FORM OF PUNISHMENT,
19 THAT BEING A SENTENCE OF LIFE IMPRISONMENT IF YOU
20 WERE SELECTED TO PARTICIPATE IN SUCH A CASE, WOULD
21 YOU BE ABLE AND WILLING TO CONSIDER ALL OF THAT
22 EVIDENCE, ALL OF THE CIRCUMSTANCES RELATING TO THE
23 CRIME, THE CIRCUMSTANCES RELATING TO THE INDIVIDUAL
24 DEFENDANT, AS WELL AS THAT EVIDENCE RELATING TO
25 AGGRAVATION AND MITIGATION BEFORE YOU ARRIVED AT

1 YOUR DECISION AS TO THE APPROPRIATE PUNISHMENT?

2 A YES, SIR, I'D HAVE TO

3 Q AND AFTER YOU HAD CONSIDERED ALL OF THAT
4 EVIDENCE, IF YOU THOUGHT IT APPROPRIATE UNDER THE
5 CIRCUMSTANCES, COULD YOU SENTENCE A PERSON TO DEATH?

6 A YES, SIR

7 Q IF YOU THOUGHT IT APPROPRIATE UNDER THE
8 CIRCUMSTANCES, COULD YOU ALSO SENTENCE A PERSON TO
9 LIFE IMPRISONMENT?

10 A YES, SIR

11 Q YOU UNDERSTAND THAT THAT WOULD BE THE JURY'S
12 DECISION, THE JURY WOULD ALWAYS HAVE A CHOICE, THE
13 CHOICES WOULD BE TWO, A SENTENCE OF DEATH OR A
14 SENTENCE OF LIFE THE JURY COULD NOT, UNDER ANY
15 CIRCUMSTANCES, IMPOSE A SENTENCE OF DEATH UNLESS
16 THERE WAS THAT ADDITIONAL AGGRAVATING CIRCUMSTANCE
17 PROVEN BEYOND A REASONABLE DOUBT IN ADDITION TO THE
18 CONVICTION OF MURDER

19 BUT YOU UNDERSTAND THAT A JURY COULD IMPOSE A
20 LIFE SENTENCE FOR WHATEVER REASON THEY WISH TO OR
21 FOR NO REASON AT ALL THEY WOULD NEVER BE REQUIRED
22 TO IMPOSE A DEATH SENTENCE, NO MATTER WHAT THE
23 CIRCUMSTANCES WERE, DO YOU UNDERSTAND THAT?

24 A YES

25 Q NOW, IF YOU HAD A CHOICE, IF YOU WERE

1 PARTICIPATING AND YOU ALWAYS HAD THAT CHOICE, WHICH
2 YOU WOULD, WOULD YOU ALWAYS SELECT ONE OF THOSE
3 OPTIONS OVER THE OTHER?

4 A NOT WITHOUT WEIGHING THE WHOLE EVIDENCE AND
5 THEN, AS I SAID JUST NOW, IF I FELT THAT THEY HAD
6 PROVEN THE MAN GUILTY, THEN I WOULD PICK THE GUILTY
7 PLEA AND THE MURDER OR LIFE, AS YOU SAY, WOULD HAVE
8 TO BE THAT OTHER EVIDENCE THAT CAME OUT BUT I
9 THINK I COULD MAKE -- IN MY MIND, I THINK I COULD
10 MAKE THE RIGHT DECISION

11 Q IS IT FAIR TO SAY THAT YOUR DECISION AS TO THE
12 APPROPRIATE FORM OF PUNISHMENT WOULD BE DEPENDENT
13 UPON WHAT THE EVIDENCE SHOWS?

14 A YES, SIR

15 Q HAVE YOU ALREADY FORMED OR EXPRESSED ANY
16 OPINION AS TO WHAT YOU THINK THE APPROPRIATE
17 DECISION SHOULD BE IN THIS CASE?

18 A NO, SIR

19 Q DO YOU KNOW OF ANY REASON WHY YOU COULD NOT BE
20 A FAIR AND IMPARTIAL JUROR IF YOU WERE SELECTED TO
21 SERVE?

22 A NO, SIR

23 Q YOU UNDERSTAND THAT IF YOU WERE SELECTED IT
24 WOULD BE NECESSARY THAT YOU BE SEQUESTERED FOR SOME
25 PERIOD OF TIME?

1 A YES, SIR

2 Q WE ANTICIPATE THAT TO BE SEVEN TO TEN DAYS
3 IT WOULD NOT BEGIN IMMEDIATELY BUT WOULD BEGIN
4 SOMETIME EARLY NEXT WEEK IF YOU WERE SELECTED TO
5 SERVE, WOULD THAT SEQUESTRATION REQUIREMENT POSE ANY
6 UNREASONABLE HARDSHIP OR HEALTH RISK TO YOU?

7 A NO, SIR I OWN MY OWN COMPANY IT WOULD BE A
8 HARDSHIP BUT NOTHING I COULDN'T DEAL WITH

9 Q WOULD YOU BE WILLING TO ACCEPT THE HARDSHIP OR
10 INCONVENIENCE THAT MIGHT BE CAUSED BY SEQUESTRATION
11 IF YOU WERE ASKED TO SERVE?

12 A I WOULD DO SO

13 THE COURT THANK YOU, SIR ANSWER ANY
14 QUESTIONS THE LAWYERS MAY HAVE FOR YOU

15 BY MR GARRETT

16 Q GOOD AFTERNOON, MR JONES

17 A GOOD AFTERNOON

18 Q MR JONES, HOW OLD ARE YOU?

19 A I BECAME 65 THIS YEAR

20 Q YOU ARE 65?

21 A YES, SIR

22 Q WHEN THE JUDGE WAS ASKING YOU THE OTHER DAY IF
23 YOU WERE OVER 65, DID YOU THINK YOU HAD TO BE 66?

24 A NO

25 Q SO YOU REALIZE THAT YOU WERE ONLY 65 BUT YOU

1 DECIDED TO STAY IN THE POOL, IS THAT CORRECT?

2 A THAT'S CORRECT

3 Q OKAY, MR JONES MR JONES, IF YOU KNOW ANY
4 OF THE PARTIES, WOULD THAT AFFECT YOUR ABILITY TO BE
5 FAIR AND IMPARTIAL?

6 A I DIDN'T UNDERSTAND YOUR QUESTION

7 Q IF YOU KNOW OR KNEW ANY OF THE PARTIES
8 INVOLVED, WOULD THAT AFFECT YOUR ABILITY TO BE FAIR
9 AND IMPARTIAL?

10 A NO

11 Q DO YOU KNOW ANY OF THE HARRIS'S?

12 A I DON'T KNOW ANY OF THEM

13 Q DO YOU KNOW ANY OF THE JACKSONS?

14 A SIR?

15 Q ANY JACKSONS, ANY OF THE JACKSONS?

16 A NO

17 Q WHAT ABOUT THE HUGHEY'S?

18 A NO

19 Q DID YOU KNOW A MAN BY THE NAME OF JOHN HUGHEY,
20 MIGHT HAVE WORKED WITH HIM?

21 A NO

22 Q AND HE ALSO WENT BY THE NAME OF JOHN HENRY
23 SMITH

24 A NO

25 Q YOU DIDN'T KNOW JOHN HENRY SMITH? AND SO I

1 TAKE IT YOU DON'T KNOW ANY OF THE PARTIES?

2 A NO

3 Q NOW, IF MY CLIENT, MR HUGHEY, IS CONVICTED OF
4 MURDER AND THAT WAS BEYOND A REASONABLE DOUBT, COULD
5 YOU STILL CONSIDER A LIFE SENTENCE FOR MR HUGHEY?

6 A I COULD CONSIDER IT LIKE I SAY, CONSIDER
7 EITHER ONE

8 Q WOULD YOU LEAN MORE TOWARDS OR THE OTHER?

9 A DEPENDS ON THE FEELING -- IF I FELT THAT THE
10 JUROR OR THE DEFENDANT OR WHATEVER IF HE HAD BEEN
11 PROVEN GUILTY BEYOND A SHADOW OF DOUBT, THEN I WOULD
12 GO FOR THE GUILTY PLEA

13 Q FINE TALK A LITTLE BIT MORE ABOUT THE
14 SENTENCE YOU WOULD RECOMMEND OR VOTE FOR, WOULD IT
15 BE THE DEATH SENTENCE?

16 A I THINK IT WOULD -- THAT WOULD DEPEND ON SOME
17 EXTRA CURRICULAR EVIDENCE THAT MIGHT HAVE COME OUT
18 IN THE CASE TO WHETHER I THOUGHT THAT IT WARRANTED
19 THE DEATH PENALTY

20 Q SO WOULD THAT INCLUDE AN ASSESSMENT OF THE
21 AGGRAVATION IN THE CASE, THE BAD PARTS OF THE CASE?

22 A YES, SIR

23 Q AND YOU WOULD BE -- AND THIS IS MY QUESTION,
24 WOULD YOU BE WILLING TO CONSIDER THE PROBLEMS THAT
25 THE DEFENDANT MIGHT HAVE IN MITIGATION, DO YOU

1 UNDERSTAND MITIGATION?

2 A YES, SIR

3 Q THAT WOULD BE LIKE THE REASONS, THE PROBLEMS,
4 THE WHY HE SHOULDN'T GET THE DEATH PENALTY WOULD
5 YOU BE WILLING TO WEIGH THOSE?

6 A YES, SIR

7 Q AND CONSIDER THOSE FULLY AND WITH AN OPEN
8 MIND? YOU WOULD?

9 A I'VE HAVE TO DO THAT, YES

10 Q SIR, I MEAN, HERE

11 A WHAT I MEAN I SAY, I'VE BEEN THERE, I'VE BEEN
12 29 YEARS IN THE MILITARY AND WE'VE HAD A LOT OF
13 CASES TO WEIGH BOTH WEIGHS AND THE OTHER YES, SIR,
14 WE HAVE TO CONSIDER BOTH SIDES

15 Q ARE YOU IN THE MILITARY CORP, WHAT DO YOU MEAN
16 BY THAT?

17 A I WAS A COMPANY COMMANDER

18 Q OH, YOU WERE A COMPANY COMMANDER SO YOU WERE
19 IN CHARGE OF A NUMBER OF PEOPLE?

20 A YES, SIR

21 Q HOW MANY PEOPLE WERE IN THE UNIT, WAS IT A
22 BATTALION?

23 A WELL, THE COMPANY IN EXCESS OF 200

24 Q AND YOU WERE OVER THE COMPANY?

25 A YES, SIR

1 Q AND I NOTICE YOUR LAST NAME IS JONES, OF
2 COURSE, SO SOLICITOR JONES, YOU'RE NO KIN TO HIM,
3 ARE YOU?

4 A NO, SIR

5 MR TINSLEY THAT'S ALL I HAVE

6 EXAMINATION BY MR JONES

7 Q MR JONES, AS MR TINSLEY POINTED OUT, MY NAME
8 IS TOWNES JONES, I'M YOUR SOLICITOR HERE FOR
9 ABBEVILLE COUNTY THIS IS MICHAEL COULTER, YOUR
10 DEPUTY SOLICITOR, ALSO HE'LL BE PRESENTING
11 EVIDENCE AS WELL AS I IF YOU'RE SELECTED AS A JUROR
12 IN THE CASE I APPRECIATE YOUR COMING, YOUR
13 PATIENCE WITH US, AND YOUR RESPONSES I HAVE NO
14 QUESTIONS FOR YOU

15 THE COURT MR JONES, IF YOU'LL STEP
16 OUTSIDE THE DOOR WITH THE BAILIFF FOR ONE MINUTE,
17 WE'LL BRING YOU RIGHT BACK

18 ANY REASON WHY THE JUROR SHOULD NOT BE
19 FOUND QUALIFIED?

20 MR JONES NOT FOR THE STATE, YOUR
21 HONOR

22 MR TINSLEY NO, YOUR HONOR

23 THE COURT HE IS SO QUALIFIED ASK MR
24 JONES TO COME IN, PLEASE MR JONES, YOU ARE
25 QUALIFIED TO SERVE IN THE JURY POOL FROM WHICH THE

1 ACTUAL JURY WILL BE SELECTED WE HAVE OTHER JURORS
2 WE NEED TO TALK WITH JUST AS WE'VE DONE WITH YOU
3 AND SO WE WON'T BE ABLE TO DRAW A JURY UNTIL THAT
4 HAS ALL BEEN ACCOMPLISHED WE DO ANTICIPATE THAT
5 BEING SOMETIME NEXT WEEK AS I INDICATED TO YOU
6 EARLIER

7 SO IT'S IMPORTANT THAT YOU CONTINUE
8 FOLLOWING THE INSTRUCTION YOU'RE NOT TO DISCUSS
9 THE CASE IN ANY WAY WITH ANY PERSON, YOU'RE NOT TO
10 ALLOW YOURSELF TO BE EXPOSED TO ANY SUCH
11 CONVERSATIONS ABOUT THE CASE, AND YOU'RE ALSO TO
12 CONTINUE NOT ALLOWING YOURSELF TO BE EXPOSED TO ANY
13 TYPE OF MEDIA COVERAGE THAT RELATES TO THIS CASE,
14 SHOULD THERE BE SO

15 WHAT WE NEED FOR YOU TO DO IS TO GIVE THE
16 CLERK ANY AND ALL PHONE NUMBERS WHERE WE CAN REACH
17 YOU WHEN WE NEED TO CALL YOU TO COME BACK AND
18 WE'LL TRY TO GIVE YOU AS MUCH NOTICE AS WE CAN BUT
19 YOU CAN CONTINUE YOUR SCHEDULE I DON'T RECOMMEND
20 THAT YOU LEAVE TOWN, UNLESS YOU'RE GOING A SHORT
21 DISTANCE BUT WE WILL TRY TO GIVE YOU AS MUCH
22 NOTICE AS WE CAN, BUT WE DO NEED THOSE NUMBERS SO
23 THAT WE CAN GET IN TOUCH WITH YOU ON SHORT NOTICE
24 (JUROR EXITS THE COURTROOM)
25 (JUROR IS QUALIFIED)

1 (THE COURT CALLS JUROR BRAMLETT)

2 (JUROR #23 PRESENTED AT 3 51 O'CLOCK P M)

3 EXAMINATION BY THE COURT

4 Q GOOD AFTERNOON, MS BRAMLETT IF YOU'LL HAVE
5 A SEAT RIGHT THERE THANK YOU AS YOU KNOW, YOU'RE
6 BROUGHT BACK FOR THE PURPOSE OF ANSWERING SOME
7 ADDITIONAL QUESTIONS I'LL ASK SOME AND THE LAWYERS
8 FOR EACH SIDE MAY ASK YOU SOME OTHERS THE PURPOSE
9 OF THE QUESTIONS IS TO SIMPLY FIND OUT YOUR VIEWS
10 AND OPINIONS ON CERTAIN SUBJECTS THERE ARE NO
11 RIGHT OR WRONG ANSWERS, WE SIMPLY NEED FOR YOU TO
12 ANSWER THE QUESTIONS AS OPENLY AND AS HONESTLY AS
13 YOU CAN SO THAT WE'LL KNOW WHAT YOUR VIEWS AND
14 OPINIONS ARE ON THOSE TOPICS

15 FIRST OF ALL, LET ME ASK YOU IF YOU
16 RECALL HAVING BEEN SWORN ALONG WITH YOUR FELLOW
17 JURORS WHEN YOU REPORTED FRIDAY?

18 A YES

19 Q DO YOU UNDERSTAND THAT YOU REMAIN UNDER OATH
20 FOR THE PURPOSE OF THESE QUESTIONS, ALSO?

21 A YES, SIR

22 Q YOU INDICATED THAT HAD COMPLETED THE
23 QUESTIONNAIRE AND IT WAS ACCURATE SO FAR AS THE
24 INFORMATION IS CONCERNED

25 A YES, SIR

1 Q YOU, ALSO, INDICATED THAT YOU HAD RECEIVED MY
2 LETTER INSTRUCTING YOU NOT TO HAVE ANY TYPE OF
3 CONVERSATIONS OR DISCUSSIONS, NOT TO ALLOW ANYONE TO
4 DISCUSS WITH YOU AND NOT TO ALLOW YOURSELF TO BE
5 EXPOSED TO ANY TYPE OF MEDIA COVERAGE THAT MIGHT
6 RELATE TO THE CASE, WHETHER IT BE TELEVISION OR
7 RADIO OR NEWSPAPER HAVE YOU COMPLIED WITH THAT
8 INSTRUCTION SINCE YOU RECEIVED MY LETTER?

9 A YES, SIR

10 Q HAVE YOU HAD ANY TYPE OF EXPOSURE OF ANY TYPE
11 THAT RELATES TO THIS CASE?

12 A NO, SIR

13 Q WHETHER IT BE CONVERSATIONS OR MEDIA COVERAGE,
14 NEWSPAPER ARTICLES?

15 A NO, SIR

16 Q WHAT ABOUT BEFORE YOU RECEIVED MY LETTER?

17 A NO, SIR I DON'T READ THE PAPER

18 Q YOU DON'T READ THE PAPER, OKAY WELL, I'LL
19 ASK THAT YOU CONTINUE THAT DURING THE COURSE OF THIS
20 PROCESS SO THAT THERE WON'T BE ANY QUESTION ABOUT
21 YOU BEING EXPOSED TO MEDIA COVERAGE AS YOU KNOW IN
22 THIS CASE, THE DEFENDANT IS CHARGED WITH THE CRIME
23 OF MURDER

24 A YES

25 Q AND THE FUNCTION OF THE JURY IS TO SIT OVER

1 THERE IN THAT JURY BOX AND TO LISTEN TO EVIDENCE,
2 LISTEN TO TESTIMONY, AND CONSIDER ANY OTHER TYPE OF
3 EVIDENCE THAT MIGHT BE INTRODUCED DURING THE TRIAL
4 OF THE CASE AND AT THE END OF THE TRIAL, THE JUDGE
5 WILL PROVIDE YOU WITH LAW THAT YOU APPLY TO THE
6 FACTS AS YOU DETERMINE THE FACTS TO BE FROM THAT
7 EVIDENCE AND IN DOING SO, YOU ARRIVE AT A VERDICT
8 WHICH IS SIMPLY THE JURY'S DECISION

9 NOW, AS I STATED AND AS YOU INDICATED YOU
10 KNEW, THE DEFENDANT IS CHARGED WITH THE CRIME OF
11 MURDER THE STATE ALLEGES THAT HE COMMITTED THAT
12 OFFENSE AND UNDER CERTAIN CIRCUMSTANCES, THE LAW
13 PROVIDES THAT WHERE A PERSON IS FOUND GUILTY OR
14 CONVICTED OF MURDER, THE STATE IS PERMITTED TO SEEK
15 THE IMPOSITION OF THE DEATH PENALTY THAT DOESN'T
16 MEAN THAT IT IS IMPOSED, THAT DOESN'T MEAN THAT IT
17 IS REQUIRED TO BE IMPOSED, THAT SIMPLY MEANS THAT
18 THE STATE IS PERMITTED TO ASK FOR IT A JURY STILL
19 MAKES THAT DECISION

20 NOW, IN A CASE SUCH AS THAT, IT'S CONDUCTED IN
21 TWO SEPARATE STAGES OR PHASES AND THE FIRST PHASE
22 RELATES TO ISSUE OF GUILT AND THE SECOND PHASE, IF
23 YOU GET TO IT, RELATES TO ISSUES OF PUNISHMENT AND
24 IN THE GUILT PHASE, EVIDENCE IS PRESENTED AND THE
25 LAW IS PROVIDED THE JURY, AND THE JURY IS ASKED TO

1 CONSIDER THAT EVIDENCE, DECIDE THE FACT, APPLY THE
2 LAW AND DECIDE WHETHER OR NOT THE PERSON HAS BEEN
3 PROVEN TO BE GUILTY OF THE CRIME OF MURDER NOW, DO
4 YOU UNDERSTAND THAT IN BRINGING SUCH A CHARGE
5 AGAINST A DEFENDANT, THAT THE BURDEN IS ALWAYS UPON
6 THE STATE TO PROVE THAT PERSON'S GUILT BEYOND A
7 REASONABLE DOUBT BEFORE A VERDICT OF GUILTY CAN BE
8 RETURNED?

9 A YES, SIR

10 Q AND DO YOU UNDERSTAND THAT THE BURDEN IS NEVER
11 UPON A PERSON WHO IS CHARGED TO PROVE THAT THEY ARE
12 NOT GUILTY OR TO PROVE THAT THEY ARE INNOCENT?

13 A YES, SIR

14 Q DO YOU UNDERSTAND THAT UNDER THE LAW, A PERSON
15 IS ALWAYS PRESUMED TO BE INNOCENT OF ANY CHARGE
16 ALLEGED AGAINST HIM, DO YOU ACCEPT THOSE
17 PROPOSITIONS OF LAW?

18 A YES, SIR

19 Q CAN YOU FOLLOW THEM?

20 A YES, SIR

21 Q NOW, IF YOU ARE PARTICIPATING IN THE TRIAL OF
22 THE CASE AND YOU WERE ASKED TO DETERMINE WHETHER OR
23 NOT A PERSON HAS BEEN PROVEN TO BE GUILTY, WOULD YOU
24 BE ABLE TO FAIRLY CONSIDER ALL EVIDENCE THAT MIGHT
25 BE INTRODUCED DURING THE TRIAL OF THAT CASE?

1 A YES, SIR

2 Q BASED UPON YOUR VIEW OF THAT EVIDENCE, IF YOU
3 WERE CONVINCED BEYOND A REASONABLE DOUBT THAT THE
4 PERSON WAS GUILTY, COULD YOU RETURN A VERDICT OF
5 GUILTY?

6 A YES, SIR

7 Q AFTER YOU CONSIDERED ALL THAT EVIDENCE, IF YOU
8 HAD SOME REASONABLE DOUBT AS TO WHETHER OR NOT THAT
9 PERSON'S GUILT HAD BEEN PROVEN, WOULD YOU FIND THAT
10 PERSON NOT GUILTY?

11 A YES, SIR

12 Q NOW, LET'S ASSUME FOR THE MOMENT, AND ONLY
13 ASSUME IT FOR THE PURPOSE OF THIS QUESTION LET'S
14 ASSUME THAT YOU'RE SELECTED TO SERVE AND YOU'VE
15 PARTICIPATED IN THE GUILT PHASE AND YOU AND YOUR
16 FELLOW JURORS HAVE FOUND A PERSON GUILTY BEYOND A
17 REASONABLE DOUBT OF THE CRIME OF MURDER DO YOU
18 UNDERSTAND THAT, BEFORE YOU COULD EVEN CONSIDER
19 IMPOSING A SENTENCE OF DEATH, THERE WOULD BE AN
20 ADDITIONAL HEARING CONDUCTED SHORTLY --

21 A YES, SIR

22 Q -- AFTER THAT FIRST, AND YOU UNDERSTAND THAT
23 BEFORE YOU COULD IMPOSE SUCH A SENTENCE, YOU WOULD
24 ALSO HAVE TO FIND, BEYOND A REASONABLE DOUBT, THAT
25 THERE WAS SOME AGGRAVATING CIRCUMSTANCE, IN ADDITION

1 TO THE FACT THAT THE PERSON HAD BEEN FOUND GUILTY OF
2 MURDER --

3 A YES, SIR

4 Q -- BEFORE YOU CAN CONSIDER IMPOSING THE DEATH
5 SENTENCE?

6 A YES, SIR

7 Q YOU UNDERSTAND THAT'S A DECISION THAT THE JURY
8 WOULD ALWAYS HAVE?

9 A YES, SIR

10 Q IT WOULD BE MADE AT A SEPARATE HEARING AT
11 THAT HEARING, THERE WOULD BE ADDITIONAL EVIDENCE
12 OFFERED THERE WILL BE EVIDENCE OFFERED IN
13 AGGRAVATION AND IN MITIGATION AND WHAT I MEAN BY
14 THAT IS THERE WILL BE EVIDENCE OFFERED THAT MIGHT
15 TEND TO SUPPORT THE MORE SERIOUS PUNISHMENT BEING
16 IMPOSED, THAT BEING THE DEATH PENALTY AND THERE
17 MIGHT BE EVIDENCE OFFERED THAT MIGHT TEND TO SUPPORT
18 THE LESS SERIOUS FORM OF PUNISHMENT AS BEING
19 APPROPRIATE, THAT BEING A LIFE SENTENCE BUT THAT'S
20 THE CHOICE THE JURY WOULD HAVE, THOSE TWO, TO
21 SENTENCE A PERSON TO DEATH OR TO SENTENCE A PERSON
22 TO LIFE IN PRISON

23 UNDERSTAND THAT YOU HAVE ALREADY FOUND THE
24 PERSON TO BE GUILTY OF MURDER YOU COULD ONLY
25 IMPOSE A DEATH SENTENCE IF THAT PERSON, IN ADDITION,

1 HAD BEEN FOUND GUILTY OF SOME OTHER AGGRAVATING
2 CIRCUMSTANCE OR SOME OTHER AGGRAVATING CIRCUMSTANCE
3 HAD BEEN PROVEN BY THE EVIDENCE BEYOND A REASONABLE
4 DOUBT IN THAT EVENT, THE JURY COULD CONSIDER
5 IMPOSING A DEATH SENTENCE BUT YOU UNDERSTAND THE
6 JURY IS NEVER REQUIRED TO IMPOSE A DEATH SENTENCE NO
7 MATTER WHAT THE CIRCUMSTANCES ARE?

8 A YES, SIR

9 Q THE JURY MAY IMPOSE A LIFE SENTENCE FOR ANY
10 REASON OR FOR NO REASON, DO YOU UNDERSTAND?

11 A YES, SIR

12 Q NOW, IF YOU WERE PARTICIPATING IN A CASE SUCH
13 AS THAT AND YOU FINISHED THE GUILT PHASE AND YOU
14 WERE IN THE SENTENCING PHASE, WOULD YOU BE ABLE AND
15 WOULD YOU BE WILLING TO FAIRLY CONSIDER ALL OF THAT
16 ADDITIONAL EVIDENCE RELATING TO AGGRAVATING
17 CIRCUMSTANCES AND THE MITIGATING CIRCUMSTANCES?

18 A YES, SIR

19 Q COULD YOU CONSIDER ALL THE EVIDENCE RELATING
20 TO THE CIRCUMSTANCES OF THE CRIME, AS WELL AS THE
21 CIRCUMSTANCES RELATING TO THE DEFENDANT?

22 A YES, SIR

23 Q AND YOU'D BE ABLE TO FAIRLY CONSIDER ALL THAT
24 ADDITIONAL EVIDENCE?

25 A YES, SIR

1 Q AND AFTER YOU HAD CONSIDERED ALL THE EVIDENCE
2 IN THE CASE AND ALL THE CIRCUMSTANCES, IF YOU
3 THOUGHT IT APPROPRIATE, COULD YOU SENTENCE A PERSON
4 TO DEATH?

5 A YES

6 Q IF YOU THOUGHT IT APPROPRIATE UNDER THE
7 CIRCUMSTANCES, COULD YOU SENTENCE A PERSON TO LIFE
8 IMPRISONMENT?

9 A YES

10 Q IF YOU HAD A CHOICE BETWEEN THE TWO, AND YOU
11 ALWAYS WOULD, IF YOU HAD A CHOICE BETWEEN THOSE TWO
12 FORMS OF PUNISHMENT, WOULD YOU ALWAYS SELECT ONE
13 OVER THE OTHER?

14 A NO, SIR

15 Q WOULD IT DEPEND UPON WHAT THE CIRCUMSTANCES
16 ARE?

17 A YES, SIR

18 Q HAVE YOU, UP TO THIS POINT, ALREADY FORMED OR
19 EXPRESSED ANY OPINION AS TO WHAT YOU THINK THE
20 APPROPRIATE DECISION SHOULD BE IN THIS CASE?

21 A NO, SIR

22 Q DO YOU KNOW OF ANY REASON WHATSOEVER WHY YOU
23 COULD NOT BE FAIR AND IMPARTIAL IF YOU WERE SELECTED
24 AS A JUROR?

25 A NO, SIR

1 Q AT THE BEGINNING OF THE CASE I READ THE
2 INDICTMENTS TO YOU I TOLD YOU THE PERSONS THAT ARE
3 ALLEGED TO HAVE BEEN KILLED, I TOLD YOU WHO THE
4 DEFENDANT WAS, AND I LISTED ALL THE WITNESSES, DO
5 YOU KNOW ANY OF THOSE PEOPLE?

6 A NO, SIR I HAVEN'T OVER HERE LONG I DON'T
7 KNOW MANY PEOPLE

8 Q DO YOU KNOW OF ANY REASON WHY YOU COULDN'T
9 SERVE AS A JUROR?

10 A NO, SIR

11 Q NOW, IF YOU WERE SELECTED, IT WOULD BE
12 NECESSARY THAT YOU BE SEQUESTERED, AS I INDICATED TO
13 YOU THAT WOULD NOT BE RIGHT AWAY, PROBABLY BE
14 SOMETIME NEXT WEEK AFTER WE CONCLUDE THESE
15 INTERVIEWS WITH JURORS THAT SEQUESTRATION TIME
16 WOULD LIKELY BE BETWEEN SEVEN AND TEN DAYS IF YOU
17 WERE SELECTED, WOULD THAT SEQUESTRATION POSE ANY
18 UNREASONABLE HARDSHIP OR HEALTH RISK TO YOU?

19 A NO, SIR

20 Q WHATEVER INCONVENIENCE OR HARDSHIP THAT MIGHT
21 BE IMPOSED BY THAT SEQUESTRATION, WOULD YOU BE
22 WILLING TO ACCEPT THAT IF YOU WERE CALLED UPON TO
23 SERVE?

24 A YES, SIR

25 THE COURT THANK YOU, MA'AM ANSWER ANY

1 QUESTIONS THE LAWYERS MAY HAVE FOR YOU

2 EXAMINATION BY MR TINSLEY

3 Q GOOD AFTERNOON, MS BRAMLETT

4 A HI

5 Q MS BRAMLETT, I NOTICE YOU HAVE TWO FAIRLY
6 YOUNG CHILDREN, TWELVE AND FIFTEEN, I BELIEVE

7 A YES, SIR

8 Q WHO WOULD BE KEEPING THOSE KIDS OF YOURS WHEN
9 YOU WERE SEQUESTERED?

10 A MY IN-LAWS AND MY FAMILY

11 Q SO YOU WOULD HAVE TO ARRANGE FOR THAT?

12 A YES, SIR

13 Q WHERE IS, GEOGRAPHICALLY, DIAMOND HILL SHORES?

14 A LAKE SECESSION

15 Q SO IT'S OVER ON LAKE SECESSION?

16 A YES, SIR

17 Q AND, I BELIEVE, YOU SAID YOU HAVEN'T BEEN OUT
18 HERE THAT LONG?

19 A NO, SIR, FIVE YEARS

20 Q FIVE YEARS NOW, IMPORTANT QUESTION

21 CONCERNING ON YOUR QUESTIONNAIRE YOU ANSWERED THAT,
22 IT WAS NOTHING SERIOUS, BUT YOUR EX-HUSBAND HAD YOU
23 INVOLVED IN A SITUATION OF DOMESTIC VIOLENCE, IS
24 THAT CORRECT?

25 A YES, SIR

1 Q DID THAT SITUATION INVOLVE THE POLICE?

2 A NO, SIR

3 Q IT DIDN'T?

4 A NO, SIR

5 Q AND I ALSO NOTICED THAT YOU ARE DIVORCED AND,
6 OF COURSE, EX-HUSBAND MEANS THAT BUT --

7 A WILL BE I NOVEMBER

8 Q WILL BE IN NOVEMBER

9 A YES, SIR

10 Q DID YOU -- AND I HATE TO ASK YOU TOO OFFENSIVE
11 QUESTION, BUT DID THAT DOMESTIC VIOLENCE HAVE
12 ANYTHING TO DO WITH THAT DIVORCE?

13 A NO, SIR

14 Q IT DIDN'T?

15 A NO, SIR

16 Q SO YOU DIDN'T DIVORCE HIM ON ANY OF THOSE TYPE
17 GROUNDS?

18 A NO, SIR

19 Q NOW, IF THIS CASE INVOLVES SOME DOMESTIC
20 ISSUES, COULD YOU PUT THAT BEHIND YOU IN ARRIVING AT
21 YOUR VERDICT?

22 A YES, SIR

23 Q YOU COULD IN ANY RESPECT, I GUESS?

24 A RIGHT, YES, SIR

25 Q SO YOU WOULD BE WILLING TO LISTEN TO THE FACTS

1 OF THE CASE, BOTH THE EVIDENCE PRESENTED BY THE
2 STATE AND ANY DEFENSE MR HUGHEY MAY OFFER, IS THAT
3 CORRECT?

4 A YES, SIR

5 Q REALIZING, OF COURSE, I THINK YOU DO FROM WHAT
6 THE JUDGE SAID, MR HUGHEY MAY OR MAY NOT PUT ANY
7 EVIDENCE UP

8 A RIGHT

9 Q DO YOU UNDERSTAND THAT?

10 A YES, SIR

11 Q AND YOU UNDERSTAND HE HAS A RIGHT TO REMAIN
12 SILENT?

13 A YES, SIR

14 Q YOU UNDERSTAND HE HAS NO BURDEN OF PROOF

15 A RIGHT

16 Q AND YOU UNDERSTAND THAT HE MAY OR MAY NOT TAKE
17 THE STAND AND HE'S NOT REQUIRED TO, DO YOU
18 UNDERSTAND THAT?

19 A YES, SIR

20 Q NOW, ON FURTHER, IF THE JUDGE GAVE YOU THE
21 INSTRUCTIONS ON THE LAW, WHICH HE WOULD DO, COULD
22 YOU FOLLOW THAT LAW AS GIVEN BY THE JUDGE?

23 A YES, SIR

24 Q AND YOU WOULD FOLLOW IT REALIZING THAT THAT'S
25 THE ONLY LAW YOU'RE GOING TO APPLY IN THIS CASE?

1 A YES

2 Q AND THE FACTS FROM THE WITNESS, CORRECT, JUST
3 THE FACTS THAT YOU GET FROM THE WITNESS STAND?

4 A YES, SIR

5 Q AND, FOR INSTANCE, IF THE JUDGE GAVE YOU THE
6 OPTION OF GUILTY OF MURDER OR GUILTY OF A LESSER
7 CHARGE OF MANSLAUGHTER OR NOT GUILTY, COULD YOU
8 CONSIDER ALL THREE VERDICTS?

9 A YES, SIR

10 Q AND YOU WOULD DO SO IN YOUR DELIBERATION?

11 A YES, SIR

12 Q AND SHOULD YOU AND YOUR FELLOW JURORS CONVICT
13 MR HUGHEY AND YOU WERE IN PHASE TWO DETERMINING
14 PUNISHMENT, AND THAT WOULD ONLY BE IF HE WERE
15 CONVICTED OF MURDER

16 A RIGHT

17 Q COULD YOU THEN CONSIDER ANY AND ALL MITIGATING
18 CIRCUMSTANCES OFFERED BY MR HUGHEY?

19 A YES, SIR

20 Q AND YOU UNDERSTAND WHAT I MEAN BY MITIGATION
21 IN THIS CIRCUMSTANCES?

22 A YES, SIR

23 MR TINSLEY OKAY AND I THANK YOU SO
24 MUCH

25 JUROR BRAMLETT THANK YOU

1 EXAMINATION BY MR JONES

2 Q GOOD AFTERNOON, MS BRAMLETT?

3 A HI

4 Q MAY NAME IS TOWNES JONES AND I'M THE
5 SOLICITOR, THE D A , THE PROSECUTOR HERE IN
6 ABBEVILLE COUNTY THIS IS MICHAEL COULTER, HE'S THE
7 CHIEF DEPUTY DISTRICT ATTORNEY, SOLICITOR, AND WE'LL
8 BOTH BE PRESENTING EVIDENCE, CALLING WITNESSES,
9 ASKING QUESTIONS, ATTEMPTING TO INTRODUCE EVIDENCE
10 FOR THE JURY'S BENEFIT I WANTED YOU TO MEET HIM
11 AND I HAVE A FEW QUESTIONS I WANTED TO ASK YOU

12 A OKAY

13 Q I APPRECIATE YOU'RE BEING PATIENT WITH US I
14 ASSUME IT HASN'T BEEN TOO MUCH TO ASK SO FAR

15 A I'M FINE

16 Q YOU ARE CURRENTLY -- AND THIS IS A COPY OF
17 YOUR QUESTIONNAIRE

18 A YES, SIR

19 Q WE GOT COPIES OF IT AND I HAD SOME QUESTIONS
20 THAT I WANTED TO ASK YOU ABOUT YOUR WORK

21 A THAT'S FINE

22 Q YOU MENTIONED THAT YOU ARE A Q S TECHNICIAN
23 AUDITOR, AND I'LL ASK YOU WHAT THAT IS COULD YOU
24 TELL US WHAT THAT IS?

25 A QUALITY SERVICE TECHNICIAN I DO THE

1 DOCUMENTATION AT WORK AND I GO OUT AND AUDIT AND
2 SURE THEY'RE ABIDING BY THEIR PROCEDURES

3 Q SO, BASICALLY, YOU DO SOME BOOKKEEPING AND
4 AUDITING AND THAT SORT OF THING?

5 A YES, SIR

6 Q IS THAT THE DEGREE THAT YOU GOT FROM TRI-TECH?

7 A THAT'S WHAT I'M WORKING ON, YES, SIR

8 Q YOU WENT TO LANIER TECH

9 A IT'S KIND OF SEPARATE

10 Q IS THIS SEPARATE? WELL, WOULD YOU TELL ME
11 WHAT THAT -- I BELIEVE I GOT YOUR EDUCATION YOU WENT
12 TO LANIER TECH AND TO GAINESVILLE TECH AND THEN TRI-
13 COUNTY TECH IS THE TRI-COUNTY TECH HERE OR IN
14 GEORGIA?

15 A IT'S HERE IT'S IN PENDLETON AT LANIER TECH
16 AND GAINESVILLE TECH IT WAS MORE COMPUTER THAT I WAS
17 TAKING COMPUTER PROGRAMMING AND THEN HERE AT
18 TRI-COUNTY, I'M GOING TO TEXTILE MANAGEMENT

19 Q TEXTILE MANAGEMENT --

20 A TEXTILE MANAGEMENT COURSE

21 Q AND, I BELIEVE, IT'S A BACHELOR'S DEGREE THAT
22 YOU'RE WORKING ON?

23 A ASSOCIATE'S DEGREE

24 Q ASSOCIATE'S DEGREE IN THE --

25 A IN MANAGEMENT

1 Q TEXTILE MANAGEMENT?

2 A YES

3 Q GOOD, GOOD OF COURSE, YOU KNOW THAT YOUR
4 EMPLOYER WOULD ALLOW YOU AWAY FROM WORK FOR THE
5 PERIOD OF TIME?

6 A YES

7 Q AND YOU MENTIONED I BELIEVE THE CHILDREN WILL
8 BE ABLE TO NOT ONLY BE THERE BUT YOU'D HAVE OTHER
9 PEOPLE CHECKING ON THEM AND THAT SORT?

10 A YES

11 Q I WAS TRYING -- AND APOLOGIZE, I CAN'T SEE TOO
12 WELL YOUR FIFTEEN YEAR OLD'S NAME IS DEION?

13 A YES

14 Q IS THAT A YOUNG MAN OR A YOUNG LADY?

15 A LADY TWO GIRLS

16 Q TWO GIRLS AND YOUR OTHER DAUGHTER'S NAME IS,
17 IS THAT --

18 A DIEDRA

19 Q DIEDRA, OKAY DIEON AND DIEDRA NOW, YOU
20 MENTIONED YOU BELONG TO THE AMERICAN CANCER SOCIETY

21 A YES, SIR

22 Q AND DO YOU HOLD ANY PARTICULAR OFFICE IN THAT
23 ORGANIZATION?

24 A I'M JUST A COMMUNITY MEMBER

25 Q AND THE MARCH OF DIMES?

1 A YES, SIR

2 Q SAME WERE YOU A BAPTIST BEFORE YOU CAME HERE
3 TO ABBEVILLE AND JOINED THE CHURCH OF IVA?

4 A I'VE ALWAYS BEEN BAPTIST

5 Q AND DID YOU TRANSFER YOUR MEMBERSHIP TO THE
6 IVA CHURCH?

7 A YES, SIR

8 Q I'D LIKE NOW TO RETURN TO SOME QUESTIONS
9 INVOLVING THE PROCESS THAT WE ARE INVOLVED IN AND
10 WHAT WE'RE GOING TO BE DOING I APPRECIATE YOU
11 EDUCATING ME A LITTLE BIT ABOUT WHAT YOU DO

12 A THAT'S FINE

13 Q THE JUDGE MENTIONED, IF WE GO FORWARD, OF
14 COURSE THE JUROR'S JOB, AS YOU UNDERSTAND, IS TO
15 LISTEN TO THE EVIDENCE AND DECIDE WHAT THE TRUTH IS

16 A YES, SIR

17 Q COME TO A TRUTHFUL VERDICT

18 A YES, SIR

19 Q AND IN A CASE LIKE THIS, IF THE JURY DECIDES
20 THAT THE TRUTHFUL VERDICT IS THAT THE DEFENDANT
21 COMMITTED A CRIME OF MEMBER, THE JUDGE WILL INSTRUCT
22 THE JURY THAT THEY WOULD HAVE TO ALSO FIND BEYOND A
23 REASONABLE DOUBT THAT THIS MURDER WAS ACCOMPANIED BY
24 CIRCUMSTANCES OF AGGRAVATION IN ORDER TO GO TO THE
25 NEXT STAGE

1 A RIGHT

2 Q THE JURY DOESN'T HAVE TO FIND AGGRAVATION BUT
3 IF THEY DETERMINE THAT AGGRAVATION EXISTS, THEN YOU
4 GOT TO A SECOND STAGE AND THE SECOND STAGE IS WHEN
5 THE SAME JURY DECIDES WHAT IS PROPER PUNISHMENT

6 A YES, SIR

7 Q AND THE JURY THEN HEARS MORE EVIDENCE THEY
8 HEAR FROM PROSECUTIONS AS TO EVIDENCE OF AGGRAVATION
9 AND ANY OTHER REASONS AS TO WHY THIS JURY SHOULD
10 OPPOSE THE DEATH SENTENCE

11 MR TINSLEY OBJECTION, YOUR HONOR

12 THE COURT OVERRULED

13 EXAMINATION BY MR JONES

14 Q AND THE JURY WILL HEAR EVIDENCE IN MITIGATION
15 FROM THE DEFENDANT AS TO WHY, IN THIS CASE, THE
16 DEFENDANT SHOULD BE SPARED AND NOT BE GIVEN A DEATH
17 PENALTY AND THE JURY HAS TO LISTEN TO ALL THAT
18 EVIDENCE AND DECIDE WHAT THE PROPER PUNISHMENT IS
19 NOW, THE JUDGE MENTIONED THAT TO YOU AND IF THE JURY
20 DECIDES THE PROPER PUNISHMENT IS THE IMPOSITION OF
21 THE DEATH PENALTY, THEN EACH INDIVIDUAL JUROR HAS TO
22 SIGN A PIECE OF PAPER, HAS TO SIGN THEIR INDIVIDUAL
23 NAME IMPOSING THAT DEATH SENTENCE WOULD YOU DO
24 THAT?

25 A YES

1 MR JONES THANK YOU, MA'AM I DON'T
2 HAVE ANY FURTHER QUESTIONS

3 THE COURT MS BRAMLETT, IF YOU'LL STEP
4 OUTSIDE THE DOOR, I'LL BRING YOU BACK IN JUST A
5 MINUTE

6 (JUROR DOES AS INSTRUCTED)

7 THE COURT

8 ANY REASON WHY THE JUROR SHOULD NOT BE
9 QUALIFIED?

10 MR JONES NOT FOR THE STATE, SIR

11 MR TINSLEY YOUR HONOR, MY OBJECTION
12 WAS BASED ON AS SOLICITOR SAID CONSIDER THE
13 CIRCUMSTANCES OF AGGRAVATION AND ANY OTHER REASON
14 WHY THE DEATH PENALTY I THINK THAT'S A
15 MISSTATEMENT OF THE LAW IF IT'S, BASICALLY,
16 LIMITED AND THE STATE IS LIMITED IN THE DEATH
17 PENALTY PHASE BECAUSE THERE'S SOME -- STATUTORY
18 CIRCUMSTANCES

19 THE COURT I THOUGHT HE SAID A REASON
20 WHY I DIDN'T HEAR OR ANY OTHER I'M SORRY, I
21 MISSED THAT

22 MR TINSLEY I DON'T THINK IT HAS ANY
23 EFFECT ON THE ULTIMATE -- ON OUR POSITION AS IT IS
24 GIVEN

25 THE COURT YOU FIND HER QUALIFIED?

1 MR TINSLEY WE FIND HER QUALIFIED

2 MR JONES YOUR HONOR, NOT TO BELABOR

3 THE POINT --

4 THE COURT LET'S DON'T

5 MR JONES -- FOR MY CLARIFICA-

6 TION DO WE NOT ALSO AT THAT POINT IN TIME HAVE THE

7 RIGHT UNDER THE LAW TO OFFER VICTIMS IMPACT

8 TESTIMONY?

9 THE COURT SURE

10 MR JONES IS THAT CONSIDERED EVIDENCE

11 IN AGGRAVATION OR IS IT -- I MEAN, I VIEW IT AS TWO

12 --

13 THE COURT I ASSUME THAT --

14 MR JONES -- AS FAR AS STATUTORY

15 EVIDENCE AND AGGRAVATION AND THEN OTHER VICTIMS

16 IMPACT TESTIMONY THAT'S ALL I WAS REFERRING TO

17 THE COURT WELL, I GUESS, THE -- YOU

18 SAID, OR ANY OTHER REASON WELL, OBVIOUSLY, THEY

19 CAN'T JUST GIVE SOME OTHER REASON IT HAS TO BE

20 WHAT IS ALLOWED UNDER THE LAW WHICH INCLUDE ANY

21 CIRCUMSTANCES OF AGGRAVATION, SIR

22 MR JONES ALL RIGHT

23 THE COURT THAT IS CONSIDERED

24 AGGRAVATING EVIDENCE, I WOULD ASSUME

25 MR JONES VICTIMS IMPACT TESTIMONY?

1 THE COURT YES HOW DO YOU CHARACTERIZE
2 IT?

3 MR JONES I CHARACTERIZE IT AS EVIDENCE
4 AS TO WHY THE DEATH PENALTY IS PROPER, THE FACT THAT
5 THIS VICTIM WAS SAINT-LIKE AND HAD ABSOLUTELY NO
6 REASON TO LOSE HER LIFE AND BE TAKEN AWAY

7 THE COURT WELL, THAT'LL BE EVIDENCE IN
8 AGGRAVATION, WOULDN'T IT? OKAY ASK MS BRAMLETT
9 TO COME IN

10 (JUROR RE-ENTERS THE COURTROOM)

11 THE COURT MS BRAMLETT, YOU ARE
12 TO BE QUALIFIED TO SERVE AS A JUROR IN THE PANEL
13 FROM WHICH THE JURY WILL ACTUALLY BE SELECTED THAT
14 JUST SIMPLY MEANS YOU'RE NOT NECESSARILY A JUROR IN
15 THE CASE AS OF YET WE STILL HAVE OTHER JURORS TO
16 INTERVIEW BUT YOU WILL BE IN THE POOL OF JURORS
17 FROM WHICH THE JURY WILL BE SELECTED BEFORE YOU
18 LEAVE, I NEED FOR YOU TO GIVE THE CLERK ANY AND ALL
19 PHONE NUMBERS THAT YOU HAVE WHERE YOU CAN BE REACHED
20 ON SHORT NOTICE YOU CAN CONTINUE YOUR REGULAR
21 ROUTINE SO LONG AS YOU'RE NOT TOO FAR AWAY AND WE
22 CAN GET YOU BACK HERE WHEN WE NEED TO HAVE YOU HERE
23 TO REPORT

24 JUROR BRAMLETT WHAT'S TOO FAR AWAY?
25 I'M ABOUT AN HOUR IF I GO TO WORK, AN HOUR AND A

1 HALF IS THAT TOO FAR?

2 THE COURT THAT SHOULD BE OKAY SO LONG
3 AS YOU'LL BE ABLE TO LEAVE WHEN YOU'RE CALLED BUT
4 WE NEED THOSE NUMBERS SO YOU CAN LEAVE RIGHT AWAY
5 AND WE ANTICIPATE THAT'LL BE SOMETIME EARLY NEXT
6 WEEK REMEMBER YOU ARE TO STILL CONTINUE
7 FOLLOWING MY INSTRUCTIONS NO CONTACT ABOUT THE
8 CASE, NO CONVERSATIONS, NO DISCUSSIONS, DON'T ALLOW
9 YOURSELF TO BE EXPOSED TO ANY ALSO, DON'T ALLOW
10 YOURSELF TO BE EXPOSED TO ANY TYPE OF MEDIA COVERAGE
11 RELATING TO THE CASE, OKAY PLEASE GIVE THE CLERK
12 THE NUMBERS

13 (JUROR EXITS THE COURTROOM)

14 (JUROR IS QUALIFIED)

15 LET'S TAKE FIVE MINUTES BEFORE WE CONTINUE

16 (OFF THE RECORD)

17 (JUROR #188 PRESENTED AT 4 25 O'CLOCK P M)

18 EXAMINATION BY THE COURT

19 Q GOOD AFTERNOON, MS TALLEY IF YOU'LL JUST
20 HAVE A SEAT RIGHT THERE, WE'LL BE RIGHT WITH YOU

21 MS TALLEY, OF COURSE YOU KNOW YOU'VE BEEN
22 BROUGHT BACK TO BE ASKED SOME ADDITIONAL QUESTIONS
23 BEFORE WE ACTUALLY BEGIN WITH JURY SELECTION WHEN
24 YOU AND YOUR FELLOW JURORS CAME BACK ON FRIDAY, YOU
25 WERE ALL ASKED TO STAND AND THE CLERK PLACED YOU

1 UNDER OATH

2 A YES

3 Q YOU REMAIN UNDER OATH FOR THE PURPOSES OF
4 THESE QUESTIONS, ALSO I HAVE YOUR QUESTIONNAIRE,
5 YOU INDICATED IT WAS ACCURATE

6 A UM-HMM

7 Q AND YOU ALSO INDICATED YOU HAD RECEIVED MY
8 LETTER INSTRUCTING YOU NOT TO DISCUSS THE CASE,
9 DON'T ALLOW YOURSELF TO BE EXPOSED TO ANY TYPE OF
10 CONTACT OR DISCUSSIONS ABOUT THE CASE AND NOT TO
11 ALLOW YOURSELF TO BE EXPOSED TO ANY TYPE OF MEDIA
12 COVERAGE THAT RELATES TO THE CASE, WHETHER IT BE
13 TELEVISION, RADIO OR NEWSPAPER HAVE YOU FOLLOWED
14 THAT INSTRUCTION?

15 A YES, I HAVE

16 Q HAVE YOU HAD ANY TYPE OF EXPOSURE TO NEWSPAPER
17 ARTICLES OR TELEVISION COVERAGE SINCE YOU RECEIVED
18 MY LETTER?

19 A NO, I HAVEN'T

20 Q HAVE YOU HAD ANY CONTACT OR OVERHEARD ANY
21 CONVERSATIONS OR DISCUSSIONS ABOUT THE CASE?

22 A NO, I HAVEN'T

23 Q WHAT ABOUT BEFORE YOU GOT MY LETTER?

24 A NO, BECAUSE SEE I WORK SECOND SHIFT AND I
25 DON'T GET A CHANCE TO WATCH TV OR ANYTHING MUCH

1 Q AND YOU'VE NOT READ ANY NEWSPAPER ARTICLES
2 BEFORE THE LETTER?

3 A NO

4 Q AS I SAID, WE'VE GOT SOME QUESTIONS TO ASK
5 YOU THERE ARE NO RIGHT OR WRONG ANSWERS WE
6 SIMPLY NEED TO ASK THOSE TO FIND OUT YOUR VIEWS AND
7 YOUR OPINIONS ON CERTAIN TOPICS SO I WOULD SIMPLY
8 ASK THAT YOU PLEASE ANSWER THE QUESTIONS AS OPENLY
9 AND AS HONESTLY AS YOU CAN SO THAT WE CAN UNDERSTAND
10 HOW YOU FEEL ABOUT THESE PARTICULAR SUBJECTS

11 NOW, AS YOU KNOW, THE DEFENDANT IN THIS CASE
12 IS CHARGED WITH THE CRIME OF MURDER UNDER CERTAIN
13 CIRCUMSTANCES WHERE A PERSON IS CONVICTED OR FOUND
14 GUILTY OF MURDER, THE STATE IS PERMITTED TO SEEK THE
15 DEATH PENALTY THE CIRCUMSTANCES ARE SET BY STATUTE
16 AS TO WHEN THEY CAN SEEK TO HAVE THE DEATH PENALTY
17 IMPOSED, BUT THAT DECISION WHETHER OR NOT WILL BE IS
18 ALWAYS LEFT TO THE JURY'S DISCRETION

19 AND IN A CASE LIKE THAT, THE CASE IS TRIED IN
20 TWO SEPARATE STAGES OR PHASES THE FIRST PHASE OF
21 THE TRIAL IS WHAT'S CALLED THE GUILT PHASE AND IN
22 THAT PORTION OF THE TRIAL, EVIDENCE IS PRESENTED
23 THAT RELATES TO ISSUES REGARDING WHETHER OR NOT THE
24 DEFENDANT IS GUILTY OF THE CRIME CHARGED AND
25 DURING THAT PHASE OF THE TRIAL THE JURY WILL LISTEN

1 TO TESTIMONY AND CONSIDER ANY OTHER EVIDENCE THAT
2 MIGHT BE OFFERED ON THAT ISSUE AND AFTER ALL THE
3 EVIDENCE HAS BEEN RECEIVED AND THE COURT GIVES THE
4 JURY THE LAW TO APPLY, THE JURY WILL GO BACK AND
5 BEGIN DELIBERATIONS AND THEY'LL DISCUSS THE EVIDENCE
6 AMONG THEMSELVES AND THEY WILL DECIDE WHETHER OR NOT
7 THE DEFENDANT HAS BEEN PROVEN TO BE GUILTY OF THE
8 CRIME DO YOU UNDERSTAND THAT WHEN THE STATE
9 CHARGES SOME OTHER PERSON WITH HAVING COMMITTED A
10 CRIME THAT THE BURDEN IS ON THE STATE TO PROVE THAT
11 PERSON'S GUILT BEYOND A REASONABLE DOUBT?

12 A YES, I UNDERSTAND

13 Q DO YOU UNDERSTAND THAT THE BURDEN IS NEVER
14 UPON THE DEFENDANT OR THE PERSON ACCUSED TO PROVE
15 THAT HE IS NOT GUILTY OR TO PROVE THAT HE IS
16 INNOCENT?

17 A YES, THAT I UNDERSTAND

18 Q YOU UNDERSTAND THAT EVERY PERSON CHARGED WITH
19 A CRIME IS PRESUMED TO BE INNOCENT?

20 A YES

21 Q NOW, IF YOU WERE PARTICIPATING IN THE TRIAL OF
22 SUCH A CASE, AS I SAY, THE FIRST PHASE OF THE TRIAL
23 WOULD BE ADDRESSING ISSUES PERTAINING TO GUILT
24 AND AFTER ALL OF THAT EVIDENCE HAD BEEN RECEIVED AND
25 AFTER THE JURY HAD BEEN INSTRUCTED ON THE LAW AND

1 YOU WERE ASKED TO GO BACK TO RENDER A DECISION,
2 WOULD YOU BE ABLE TO FAIRLY CONSIDER ALL EVIDENCE
3 THAT WAS OFFERED DURING THE TRIAL OF THAT CASE?

4 A YES

5 Q AND IF YOU BELIEVED, BASED UPON YOUR
6 CONSIDERATION OF THAT EVIDENCE, THAT IS YOU WERE
7 CONVINCED BEYOND A REASONABLE DOUBT THAT THE
8 DEFENDANT WAS GUILTY OF THE CRIME, WOULD YOU FIND
9 THAT PERSON GUILTY?

10 A YEAH

11 Q IF YOU HAD SOME REASONABLE DOUBT AS TO WHETHER
12 OR NOT THE EVIDENCE SUPPORTED A VERDICT OF GUILTY,
13 WOULD YOU FIND HIM NOT GUILTY?

14 A YEAH

15 Q LET'S ASSUME, SIMPLY, FOR THE PURPOSES OF THIS
16 QUESTION, THAT YOU ARE PARTICIPATING IN THE TRIAL OF
17 SUCH A CASE AND THAT YOU AND YOUR FELLOW JURORS HAVE
18 CONSIDERED THE EVIDENCE IN THE FIRST PHASE OF THE
19 TRIAL AND YOU FOUND THE DEFENDANT GUILTY OF THE
20 CRIME OF MURDER BEFORE THE JURY COULD CONSIDER ANY
21 PUNISHMENT, WHETHER IT BE THE DEATH PENALTY OR LIFE
22 IMPRISONMENT, THEY WOULD HAVE TO ALSO BE CONVINCED
23 BEYOND A REASONABLE DOUBT THAT THERE WAS SOME OTHER
24 AGGRAVATING CIRCUMSTANCE EXISTING IN ADDITION TO THE
25 MURDER BEFORE YOU COULD EVEN CONSIDER SENTENCING A

1 PERSON TO DEATH

2 BUT THE PHASE OF THE TRIAL WHERE THE JURY
3 WOULD BEGIN TO CONSIDER THAT WOULD BE CALLED THE
4 PENALTY PHASE, IT OCCURS AFTER THE GUILT PHASE
5 DURING THAT PHASE OF THE TRIAL, ADDITIONAL EVIDENCE
6 IS RECEIVED AND THERE MAY BE EVIDENCE OFFERED IN
7 AGGRAVATION AND EVIDENCE OFFERED IN MITIGATION AND
8 THAT SIMPLY MEANS THERE MAY BE EVIDENCE OFFERED
9 WHICH TENDS TO SUPPORT THE MORE HARSH PUNISHMENT AS
10 BEING THE APPROPRIATE SENTENCE, THAT BEING THE DEATH
11 PENALTY AND THERE MAY BE EVIDENCE OFFERED WHICH
12 TENDS TO SUPPORT THE LESS SERIOUS PUNISHMENT AS
13 BEING THE APPROPRIATE SENTENCE, THAT BEING LIFE
14 IMPRISONMENT

15 NOW, DURING THAT PENALTY PHASE WHEN ALL THAT
16 ADDITIONAL EVIDENCE IS OFFERED, THE EVIDENCE OF
17 AGGRAVATION AND THE EVIDENCE OF MITIGATION, WOULD
18 YOU AND COULD YOU FAIRLY CONSIDER ALL THAT
19 ADDITIONAL EVIDENCE BEFORE YOU ARRIVED AT ANY
20 DECISION IN THE CASE?

21 A YES, I COULD

22 Q AND AFTER YOU HAD CONSIDERED OF THE EVIDENCE,
23 THAT IS ALL OF THE EVIDENCE THAT RELATES TO THE
24 CRIMES THEMSELVES, ALL THE EVIDENCE THAT RELATES TO
25 THE CIRCUMSTANCES OR INDIVIDUAL CHARACTERISTICS OF

1 THE DEFENDANT AND ALL THE EVIDENCE THAT RELATES TO
2 AGGRAVATION AND EVIDENCE THAT RELATES TO MITIGATION
3 AFTER YOU'VE CONSIDERED ALL THAT EVIDENCE, IF YOU
4 THOUGHT IT WAS APPROPRIATE UNDER THE CIRCUMSTANCES,
5 WOULD YOU BE ABLE TO SENTENCE A PERSON TO DEATH?

6 A YES

7 Q AND AFTER YOU HAD CONSIDERED ALL THAT
8 EVIDENCE, WOULD YOU ALSO BE ABLE TO CONSIDER
9 SENTENCING A PERSON TO LIFE IMPRISONMENT?

10 A YES, I COULD

11 Q DO YOU UNDERSTAND THAT THE JURY IS THE ONE
12 THAT MAKES THAT DECISION? A JURY CAN NEVER SENTENCE
13 A PERSON TO DEATH UNLESS, OF COURSE, THE PERSON HAS
14 BEEN FOUND GUILTY OF MURDER, BUT ALSO UNLESS THE
15 JURY FINDS SOME AGGRAVATING CIRCUMSTANCE TO EXIST
16 BEYOND A REASONABLE DOUBT IT'S THEN AND ONLY THEN
17 THAT THE JURY COULD CONSIDER IMPOSING THE DEATH
18 SENTENCE, DO YOU UNDERSTAND THAT?

19 A YES, I UNDERSTAND

20 Q THE JURY IS NEVER, HOWEVER, REQUIRED TO IMPOSE
21 THE DEATH SENTENCE NO MATTER WHAT THE CIRCUMSTANCES
22 ARE, DO YOU UNDERSTAND THAT?

23 A YES, SIR, I UNDERSTAND

24 Q THE JURY CAN IMPOSE A SENTENCE OF LIFE FOR ANY
25 REASON OR FOR NO REASON AT ALL JUST THINKING THAT

1 THAT WAS APPROPRIATE NOW, UNDERSTANDING THAT YOU
2 WOULD HAVE THAT DECISION AND YOU WOULD ALWAYS HAVE
3 THAT DECISION, WOULD YOU CHOSE ONE OF THOSE FORMS OF
4 PUNISHMENT OVER THE OTHER IN EVERY CASE?

5 A I DON'T THINK ON EVERY CASE

6 Q COULD YOU IMPOSE EITHER A LIFE SENTENCE OR A
7 DEATH SENTENCE DEPENDING UPON WHAT THE CIRCUMSTANCES
8 WERE RELATING TO THAT CASE?

9 A YEAH

10 Q YOU'D BE ABLE TO CONSIDER ALL OF THOSE
11 CIRCUMSTANCES BEFORE MAKING THAT DECISION?

12 A UM-HMM

13 Q NOW, IN THIS CASE -- YOU SAID UM-HMM, LET ME
14 ASK THAT YOU ANSWER YES OR NO SO THE COURT REPORTER
15 --

16 A YES I MEAN, YES

17 Q NOW, IN THIS PARTICULAR CASE, HAVE YOU ALREADY
18 FORMED OR EXPRESSED ANY OPINION AS TO WHAT YOU
19 BELIEVE THE APPROPRIATE DECISION SHOULD BE?

20 A NO

21 Q AND DO YOU KNOW OF ANY REASON WHY YOU COULD
22 NOT BE A FAIR AND IMPARTIAL JUROR IF YOU WERE
23 SELECTED?

24 A NO

25 Q YOU UNDERSTAND THAT IF YOU WERE SELECTED YOU

1 WOULD BE SEQUESTERED FOR THE DURATION OF THE TRIAL?

2 A I DON'T UNDERSTAND

3 Q WELL, SEQUESTERED MEANS THAT YOU'D BE HOUSED
4 IN A MOTEL AND YOU'D BE EATING -- YOU'D HAVE A
5 SEPARATE ROOM, BUT YOU'D BE EATING AND SLEEPING WITH
6 YOUR FELLOW JURORS IN A MOTEL AND YOU'D BE BROUGHT
7 TO THE COURTHOUSE EACH DAY FOR THE TRIAL AND THEN
8 ONCE THE TRIAL HAD BEEN CONCLUDED FOR THAT DAY,
9 YOU'D BE TAKEN BACK TO THE MOTEL IN OTHER WORDS,
10 YOU WOULDN'T BE ABLE TO GO HOME, YOU WOULDN'T HAVE
11 CONTACT WITH ANY PERSON WITHOUT COURT SUPERVISION

12 A I UNDERSTAND THAT BUT I HAVE ONE PROBLEM WITH
13 THAT

14 Q ALL RIGHT, TELL ME ABOUT THAT

15 A I HAVE TO GET MY KIDS UP IN THE MORNING TO GO
16 TO SCHOOL AND I'M THE ONLY ONE AT HOME THAT CAN GET
17 THEM UP AT THE TIME AND HAVE THEM READY FOR SCHOOL

18 Q HOW OLD ARE YOUR CHILDREN?

19 A FOUR AND SEVEN AND MY SEVEN YEAR OLD IS
20 MENTALLY RETARDED, HE GOES TO WESTWOOD DOWN HERE

21 Q NOW, DO YOU HAVE SOMEBODY THAT CAN LOOK AFTER
22 THEM DURING THE DAY OR AT NIGHT, TOO?

23 A WELL, FOR SECOND SHIFT BUT I DON'T HAVE
24 ANYBODY FOR FIRST BECAUSE ALMOST EVERYBODY I KNOW ON
25 FIRST IS WORKING

1 Q AND SO YOU HAVE TO BE AT HOME DURING THE DAY
2 TO LOOK AFTER YOUR CHILDREN?

3 A YES

4 Q ALL RIGHT WELL, LET ME ASK YOU THIS DO YOU
5 RECALL -- AND I KNOW THAT I ASK A LOT OF QUESTIONS
6 OF THE JURY PANEL BUT ONE OF THE QUESTIONS THAT I
7 ASKED OF THE JURY PANEL WAS WHETHER OR NOT ANY JUROR
8 HAD A CHILD OR CHILDREN LESS THAN SEVEN YEARS OF AGE
9 THAT YOU COULD NOT PROVIDE ADEQUATE CARE FOR IF YOU
10 WERE SERVING AS A JUROR, DO YOU REMEMBER ME ASKING
11 THAT QUESTION?

12 A YES

13 Q AND DID YOU RESPOND TO IT?

14 A NOT THE SECOND TIME THE FIRST TIME IT CAME
15 UP HERE, NOT THE SECOND TIME

16 Q WELL, LET ME ASK YOU ABOUT THAT YOU MAY BE
17 EXEMPTED FROM JURY SERVICE, THAT MEANS YOU DON'T
18 HAVE TO SERVE, IF YOU HAVE A CHILD OR YOU HAVE
19 CHILDREN THAT ARE LESS THAN SEVEN YEARS OF AGE AND
20 YOU DON'T HAVE ADEQUATE MEANS FOR THEM TO BE CARED
21 FOR OTHER THAN BY YOU BEING PRESENT IN OTHER
22 WORDS, YOU CAN'T MAKE OTHER ARRANGEMENTS FOR THEM TO
23 BE CARED FOR OTHER THAN BY YOU TAKING CARE OF THAT
24 RESPONSIBILITY THAT'S AN EXEMPTION IF YOU WISH TO
25 INVOKE IT SO WHAT I'M SAYING IS, THAT'S A DECISION

1 THAT YOU CAN MAKE

2 A YEAH, BECAUSE I DON'T HAVE ANYBODY ON FIRST, I
3 MEAN, THAT COULD TAKE CARE OF THEM

4 Q IN OTHER WORDS, IF YOU WERE SERVING AS A
5 JUROR, YOU DON'T KNOW WHO WOULD LOOK AFTER YOUR
6 CHILDREN?

7 A NO NOT LIKE I SAY IN THE MORNING TIME

8 Q THAT'S WHAT I'M SAYING YOU DON'T HAVE
9 SOMEBODY THAT COULD DO THAT FOR YOU FOR THAT PERIOD
10 OF TIME?

11 A UH-UH (NEGATIVE)

12 Q DO YOU WISH TO BE EXCUSED FROM JURY SERVICE?

13 A YES

14 Q DID YOU FILL OUT OR DID YOU RECEIVE AN
15 AFFIDAVIT TO FILL OUT OR DID YOU NOT FILL ONE OUT?

16 A NO, NO, I DIDN'T FILL ONE OUT

17 Q OKAY LET ME ASK YOU -- YOUR CHILDREN WERE
18 HOW OLD AGAIN?

19 A FOUR AND SEVEN

20 Q LET ME JUST ASK YOU, IF YOU WILL, TO READ THAT
21 AFFIDAVIT AND IF IT'S CORRECT, YOU CAN SIGN IT AND
22 WE WILL EXCUSE YOU FROM SERVICE MS TALLEY, LET ME
23 JUST ASK YOU TO STEP OUT THAT DOOR FOR ONE SECOND
24 AND THEN I'LL BRING YOU RIGHT BACK

25 THE COURT ANY OBJECTION TO THE JUROR

1 BEING EXCUSED BASED UPON STATUTORY EXEMPTION?

2 MR JONES NOT FOR THE STATE, YOUR
3 HONOR

4 MR TINSLEY NO, YOUR HONOR

5 THE COURT ASK HER TO COME BACK MS
6 TALLEY, YOU'RE EXCUSED IT WON'T BE NECESSARY THAT
7 YOU COME BACK NOR COME BACK ANY FURTHER BUT THANKS
8 AGAIN FOR YOUR WILLINGNESS TO PARTICIPATE

9 JUROR TALLEY OKAY

10 (JUROR EXITS THE COURTROOM)

11 (JUROR IS NOT QUALIFIED)

12 THE COURT MR ABERNATHY

13 (JUROR #01 PRESENTED AT 4 40 O'CLOCK P M)

14 EXAMINATION BY THE COURT

15 Q MR ABERNATHY, IF YOU'LL HAVE A SEAT RIGHT
16 THERE, SIR WE APPRECIATE YOUR REPORTING BACK AS
17 YOU KNOW, WE ARE HERE TO ASK YOU SOME ADDITIONAL
18 QUESTIONS I'LL ASK YOU SOME, THE LAWYERS MAY ASK
19 YOU SOME OTHERS THERE ARE NO CORRECT OR WRONG
20 ANSWERS WE SIMPLY NEED TO FIND OUT YOUR VIEWS AND
21 OPINIONS ON CERTAIN SUBJECTS I WOULD SIMPLY ASK
22 THAT WHEN YOU RESPOND TO THE QUESTION, BE AS OPEN
23 AND HONEST AS YOU CAN SO THAT WE WILL KNOW WHAT YOUR
24 VIEWS AND OPINIONS ARE ON THESE TOPICS

25 NOW, DO YOU RECALL WHEN YOU AND YOUR FELLOW

1 JURORS REPORTED ON FRIDAY THAT YOU WERE ASKED TO
2 STAND AND YOU WERE SWORN IN A GROUP?

3 A I DO

4 Q YOU REMAIN UNDER OATH FOR THE PURPOSES OF
5 THESE QUESTIONS, ALSO YOU INDICATED THAT YOU'RE
6 QUESTIONNAIRE WAS ACCURATE AND COMPLETE

7 A CORRECT

8 Q YOU ALSO INDICATED YOU HAD RECEIVED MY LETTER
9 REGARDING INSTRUCTION

10 A RIGHT

11 Q HAVE YOU HAD ANY DISCUSSIONS OR ANY CONTACT
12 ABOUT THE CASE SINCE YOU RECEIVED THE LETTER?

13 A NO

14 Q HAVE YOU BEEN EXPOSED TO ANY TYPE OF MEDIA
15 COVERAGE, WHETHER IT BE TELEVISION, RADIO OR
16 NEWSPAPER ARTICLE?

17 A NO

18 Q WERE YOU EXPOSED TO ANY TYPE OF MEDIA COVERAGE
19 OR DISCUSSIONS ABOUT THE CASE BEFORE YOU RECEIVED MY
20 LETTER?

21 A NO

22 Q MR ABERNATHY, IN THIS CASE, AS YOU ARE AWARE,
23 THE DEFENDANT IS CHARGED WITH A CRIME OF MURDER
24 UNDER CERTAIN CIRCUMSTANCES, THE LAW PERMITS THE
25 STATE TO SEEK THE DEATH PENALTY FOR A PERSON WHO HAS

1 BEEN CONVICTED OR FOUND GUILTY OF THE CRIME OF
2 MURDER, THAT OCCURS OR THE TRIAL OCCURS IN A
3 BIFURCATED PROCESS IT SIMPLY MEANS IT OCCURS IN
4 TWO SEPARATE STAGES

5 THE FIRST STAGE DEALS WITH ISSUES OF GUILT,
6 THE SECOND STAGE DEALS WITH ISSUES OF PUNISHMENT
7 OF COURSE, YOU NEVER GET TO THE SECOND STAGE UNLESS,
8 IN THE FIRST STAGE, A PERSON IS FOUND TO BE GUILTY
9 BEYOND A REASONABLE DOUBT OF THE CRIME OF MURDER
10 AND THERE'S SOME STATUTORY AGGRAVATING CIRCUMSTANCE
11 PROVEN BEYOND A REASONABLE DOUBT AND, OF COURSE,
12 THE JURY WOULD BE INSTRUCTED ON THAT LAW

13 REFERRING TO THE FIRST STAGE OF THE TRIAL,
14 THAT BEING THE GUILT PHASE OF THE TRIAL IF YOU
15 WERE PARTICIPATING IN SUCH A CASE AND EVIDENCE WAS
16 RECEIVED DURING THE COURSE OF THAT TRIAL, THE JURY
17 WOULD BE ASKED TO CONSIDER ALL THAT EVIDENCE AND
18 THEN I WOULD PROVIDE THE LAW TO THE JURY, THEY'D GO
19 BACK IN THE JURY ROOM, THEY'D DISCUSS THE EVIDENCE,
20 DECIDE THE FACTS, APPLY THE LAW AND ARRIVE AT A
21 DECISION THE DECISION WOULD SIMPLY BE WHETHER OR
22 NOT THE EVIDENCE PROVES THE PERSON GUILTY OF THE
23 CRIME BEYOND A REASONABLE DOUBT THAT'S WHAT THE
24 JURY'S CALLED UPON TO DETERMINE IF YOU WERE
25 PARTICIPATING IN SUCH A CASE AS THAT, WOULD YOU BE

1 ABLE TO AND BE WILLING TO FAIRLY CONSIDER ALL OF THE
2 EVIDENCE THAT WOULD BE INTRODUCED DURING THAT PHASE
3 OF THE TRIAL?

4 A I WOULD

5 Q IF, AFTER YOU'VE CONSIDERED ALL THAT EVIDENCE,
6 YOU BELIEVED THAT THE GUILT OF THE DEFENDANT HAD
7 BEEN PROVEN BEYOND A REASONABLE DOUBT, WOULD YOU
8 RETURN A VERDICT OF GUILTY?

9 A I WOULD

10 Q IF YOU HAD SOME REASONABLE DOUBT AS TO WHETHER
11 OR NOT THE DEFENDANT HAD BEEN PROVEN TO BE GUILTY,
12 WOULD YOU RETURN A VERDICT OF NOT GUILTY?

13 A I WOULD

14 Q YOU UNDERSTAND THE BURDEN IS ON THE STATE IN
15 BRINGING THE CHARGE OF ALLEGATIONS AGAINST THE
16 DEFENDANT TO ESTABLISH HIS GUILT BEYOND A REASONABLE
17 DOUBT BEFORE A JURY COULD RETURN SUCH A VERDICT?

18 A I DO

19 Q DO YOU UNDERSTAND THAT THE BURDEN IS NEVER
20 UPON THE PERSON CHARGED TO PROVE THAT THEY ARE NOT
21 GUILTY OR TO PROVE THAT THEY ARE INNOCENT?

22 A I DO

23 Q DO YOU UNDERSTAND THAT EVERY PERSON WHO IS
24 ACCUSED OF A CRIME IS PRESUMED TO BE INNOCENT?

25 A I DO

1 Q CAN YOU FOLLOW EACH OF THOSE PROPOSITIONS OF
2 LAW?

3 A I CAN

4 Q NOW, I WANT YOU TO ASSUME AND ASSUME IT ONLY
5 FOR THE PURPOSES OF THIS QUESTION ASSUME THAT
6 YOU'VE BEEN SELECTED, YOU'RE PARTICIPATING IN THE
7 TRIAL OF THE CASE, STATE ALLEGES THE DEFENDANT
8 COMMITTED THE CRIME OF MURDER, THE JURY'S
9 DELIBERATED THE CASE, YOU AND YOUR FELLOW JURORS
10 HAVE FOUND THE DEFENDANT TO BE GUILTY OF THE CRIME
11 OF MURDER BEYOND A REASONABLE DOUBT AND YOU
12 FURTHER FIND SOME AGGRAVATING CIRCUMSTANCE HAS
13 ACCOMPANIED THAT MURDER AND YOU FOUND THAT BEYOND A
14 REASONABLE DOUBT YOU UNDERSTAND THEN WE WILL
15 PROCEED THE A SECOND HEARING CONDUCTED SHORTLY AFTER
16 THAT WHERE ADDITIONAL EVIDENCE WILL BE RECEIVED
17 THAT'S CALLED THE PENALTY PHASE OF THE TRIAL

18 DURING THAT PENALTY PHASE, THAT ADDITIONAL
19 EVIDENCE MIGHT RELATE TO CIRCUMSTANCES OF
20 AGGRAVATION AND CIRCUMSTANCES OF MITIGATION THAT
21 SIMPLY MEANS THERE MIGHT BE EVIDENCE OFFERED TENDING
22 TO SUPPORT THE MORE SERIOUS PUNISHMENT AS THE
23 APPROPRIATE FORM, THAT BEING THE DEATH PENALTY AND
24 THERE MIGHT BE EVIDENCE OFFERED WHICH WOULD SUPPORT
25 THE LEASE SERIOUS FORM OF PUNISHMENT AS APPROPRIATE,

1 THAT BEING LIFE IMPRISONMENT DO YOU UNDERSTAND
2 THAT THE JURY WOULD ALWAYS HAVE THAT CHOICE AND THAT
3 OPTION TO MAKE AS TO WHETHER IT SHOULD BE A SENTENCE
4 OF DEATH OR SHOULD BE A SENTENCE OF LIFE?

5 A I DO

6 Q DO YOU UNDERSTAND THAT THE LAW DOES NOT PERMIT
7 A JURY TO IMPOSE A SENTENCE OF DEATH UNLESS, OF
8 COURSE, THE JURY HAS FOUND THE DEFENDANT TO BE
9 GUILTY OF THE CRIME OF MURDER BEYOND A REASONABLE
10 DOUBT BUT, ALSO, ONLY IF THAT ADDITIONAL AGGRAVATING
11 CIRCUMSTANCE HAS BEEN PROVEN BEYOND A REASONABLE
12 DOUBT YOU UNDERSTAND THEN THE LAW PERMITS FOR A
13 JURY TO IMPOSE A SENTENCE OF DEATH?

14 A I DO

15 Q DO YOU, ALSO, UNDERSTAND THAT THE LAW NEVER
16 REQUIRES, HOWEVER, THAT THAT SENTENCE BE IMPOSED,
17 THAT THE JURY MAY CHOSE NOT TO IMPOSE A SENTENCE OF
18 DEATH NO MATTER WHAT THE CIRCUMSTANCES ARE IN THE
19 CASE?

20 A I DO

21 Q DO YOU, ALSO, UNDERSTAND THAT THE JURY MAY
22 SENTENCE A PERSON TO LIFE IMPRISONMENT FOR ANY
23 REASON OR FOR NO REASON AT ALL?

24 A I DO

25 Q NOW, IN THAT SECOND STAGE, AS I TOLD YOU,

1 THERE WILL BE ADDITIONAL EVIDENCE RECEIVED,
2 AGGRAVATING CIRCUMSTANCES, MITIGATING CIRCUMSTANCES
3 OR EVIDENCE OF AGGRAVATION, EVIDENCE OF MITIGATION
4 WOULD YOU BE WILLING AND ABLE TO CONSIDER ALL OF
5 THAT ADDITIONAL EVIDENCE BEFORE YOU ARRIVED AT YOUR
6 DECISION AS TO WHAT THE APPROPRIATE PUNISHMENT
7 SHOULD BE?

8 A I WOULD I WOULD HAVE TO, LIKE YOU SAID, MY
9 OPINION IF THAT'S EVERYTHING, YOU KNOW, YOU'RE
10 SAYING, IT WOULD DEPEND ON THE CIRCUMSTANCES
11 ABSOLUTELY

12 Q AFTER YOU HAD CONSIDERED ALL OF THE
13 CIRCUMSTANCES IN THE CASE, ALL OF THE CIRCUMSTANCES
14 RELATING TO THE CRIMES THEMSELVES, ALL THE
15 CIRCUMSTANCES RELATING TO THE DEFENDANT, ANY
16 BACKGROUND, INDIVIDUAL CHARACTERISTICS, ALL THE
17 CIRCUMSTANCES OR EVIDENCE THAT RELATES TO
18 AGGRAVATION AND TO MITIGATION, AFTER YOU'VE
19 CONSIDERED ALL THAT, EVERYTHING THAT HAD BEEN
20 INTRODUCED OR SHOWN TO THE JURY, AFTER YOU'VE
21 CONSIDERED ALL THAT, IF YOU THOUGHT THE
22 CIRCUMSTANCES WARRANTED IT, WOULD YOU BE ABLE TO
23 IMPOSE A SENTENCE OF DEATH AGAINST A PERSON?

24 A I WOULD

25 Q AND IF, AFTER YOU'VE CONSIDERED ALL OF THAT

1 EVIDENCE, YOU THOUGHT THE APPROPRIATE SENTENCE WAS
2 LIFE IMPRISONMENT, WOULD YOU ALSO BE ABLE TO IMPOSE
3 THAT SENTENCE?

4 A I WOULD

5 Q WOULD YOU EVER CHOSE ONE FORM OR THE OTHER
6 OVER ANOTHER IN EVERY CASE?

7 A NO

8 Q WOULD YOUR DECISION AS TO WHETHER A SENTENCE
9 OF LIFE SHOULD BE IMPOSED OR A SENTENCE OF DEATH BE
10 IMPOSED BE DEPENDENT UPON WHAT THE CIRCUMSTANCES ARE
11 IN THAT PARTICULAR CASE?

12 A YES

13 Q HAVE YOU, UP TO THIS POINT, ALREADY FORMED OR
14 EXPRESSED ANY OPINION THAT YOU MIGHT HAVE AS TO WHAT
15 THE APPROPRIATE DECISION OR VERDICT SHOULD BE IN THE
16 CASE?

17 A NO

18 Q DO YOU KNOW OF ANY REASON WHY YOU COULD NOT BE
19 A FAIR AND IMPARTIAL JUROR IF YOU WERE SELECTED?

20 A NO

21 Q BASING A VERDICT SOLELY UPON THE EVIDENCE
22 RECEIVED AND THE LAW THAT THE COURT WOULD PROVIDE?

23 A (JUROR NODS HEAD AFFIRMATIVELY)

24 Q IF YOU WERE SELECTED TO SERVE, IF WOULD BE
25 NECESSARY THAT YOU BE SEQUESTERED FOR SOME PERIOD OF

1 TIME, LIKELY SEVEN TO TEN DAYS, IF YOU WERE
2 SELECTED, WOULD THAT SEQUESTRATION POSE ANY
3 UNREASONABLE HARDSHIP OR HEALTH RISK TO YOU?

4 A PROBABLY NO MORE THAN ANYBODY ELSE AS FAR AS
5 INCONVENIENCE BUT THE ONLY THING -- SINCE I WAS
6 HERE FRIDAY THE ONLY THING, DENTAL, I BROKE A TOOTH
7 FRIDAY NIGHT AND, YOU KNOW, RIGHT NOW, IT DOESN'T
8 BOTHER ME, BUT THAT'S THE ONLY THING I CAN THINK OF
9 RIGHT NOW

10 Q IT'S NOT LIKELY THAT IT WILL BE NECESSARY THAT
11 YOU COME BACK BEFORE TUESDAY IF YOU ARE SELECTED
12 IF YOU HAVE SOME DENTAL PROBLEM, DO YOU THINK YOU
13 COULD HAVE THAT REPAIRED BEFORE THAT TIME?

14 A I PROBABLY COULD

15 Q AND IF YOU WERE SELECTED TO SERVE, WOULD YOU
16 BE WILLING TO ACCEPT OR ACCOMMODATE ANY
17 INCONVENIENCE THE SEQUESTRATION MIGHT IMPOSE?

18 A I WOULD

19 THE COURT THANK YOU, SIR ANSWER ANY
20 QUESTIONS THE LAWYERS MAY HAVE FOR YOU

21 EXAMINATION BY MR TINSLEY

22 Q GOOD AFTERNOON, MR ABERNATHY

23 A GOOD AFTERNOON

24 Q MR ABERNATHY, NOW, YOU UNDERSTAND THE TERM
25 MITIGATION, DON'T YOU?

1 A YES, SIR

2 Q THAT WOULD BE IN ACCORD WITH THE TERM,
3 AGGRAVATION, YOU UNDERSTAND THAT, ALSO?

4 A YES

5 Q NOW, MR ABERNATHY, YOU STATED THAT YOU
6 FOLLOWED THE LAW AS THE JUDGE GIVES THE LAW TO YOU
7 IN THIS CASE, IS THAT CORRECT?

8 A YES

9 Q AND YOU WOULD WITHHOLD MAKING ANY DECISION ON
10 THE FACTS OF THE CASE UNTIL YOU HEARD ALL THE
11 EVIDENCE, IS THAT RIGHT?

12 A THAT'S CORRECT

13 Q AND YOU DON'T KNOW ANY PARTIES INVOLVED IN
14 THIS CASE, DO YOU?

15 A NO, SIR

16 Q DID YOU KNOW MS HARRIS OR ANY OF HER FAMILY?

17 A NO, SIR

18 Q DO YOU KNOW ANY OF THE JACKSONS?

19 A NO, SIR

20 Q HUGHEYS?

21 A NO, SIR

22 Q SO YOU DON'T HAVE ANY RELATIONSHIP WITH ANY OF
23 THE WITNESSES THAT WERE MENTIONED THE OTHER DAY?

24 A NO, SIR

25 Q AND IN FOLLOWING THE LAW AND THE EVIDENCE AS

1 PRESENTED IN THE CASE, YOU COULD CONSIDER WHATEVER
2 ALTERNATIVE VERDICTS THAT THE JUDGE MAY ALLOW YOU TO
3 CONSIDER, IS THAT CORRECT?

4 A YES, SIR

5 Q FOR EXAMPLE, IF THE JUDGE ASKED OR GAVE YOU
6 THE OPTIONS OF -- FOR MY CLIENT, MR HUGHEY, THE
7 OPTIONS OF GUILTY OR MURDER, GUILTY OF MANSLAUGHTER,
8 OR NOT GUILTY, YOU COULD CONSIDER ALL THREE OPTIONS?

9 A I COULD

10 MR TINSLEY THAT'S ALL

11 EXAMINATION BY MR JONES

12 Q GOOD AFTERNOON, MR ABERNATHY

13 A GOOD AFTERNOON

14 Q MY NAME IS TOWNES JONES, I'M YOUR SOLICITOR OR
15 PROSECUTING DISTRICT ATTORNEY HERE IN ABBEVILLE
16 COUNTY AND THIS IS MICHAEL COULTER, HE'S YOUR
17 CHIEF DEPUTY SOLICITOR, PROSECUTOR BOTH OF US
18 WE'LL BE CALLING WITNESSES TO THE STAND AND ASKING
19 QUESTIONS, INTRODUCING EVIDENCE THROUGH THEM DURING
20 THE COURSE OF THE TRIAL I WANTED YOU TO MEET HIM
21 AND I HAVE A FEW QUESTIONS FOR YOU

22 I WANT YOU TO KNOW WE GOT YOUR QUESTIONNAIRE
23 THAT YOU SENT BACK IN TO THE JUDGE HERE

24 A RIGHT

25 Q AND I NOTICED THAT YOU MENTIONED BEFORE YOU

1 STARTED WORKING OVER HERE, YOU WERE IN ATLANTA WITH
2 GENERAL MOTORS?

3 A THAT'S CORRECT

4 Q AND WHAT WAS YOUR JOB THERE?

5 A I WAS ON THE ASSEMBLY LINE

6 Q I THOUGHT THAT'S WHAT -- YOU WERE IN THE
7 ASSEMBLY DIVISION

8 A RIGHT

9 Q AND YOU MENTIONED THAT YOUR WIFE IS NOW WITH
10 SERVICE MERCHANDISE?

11 A THAT'S CORRECT

12 Q AND SHE WAS WITH THE SCHOOL DISTRICT HERE?

13 A THAT'S CORRECT

14 Q AND WHAT DID SHE DO WITH THE SCHOOL DISTRICT?

15 A SHE WAS SUBSTITUTE TEACHER

16 Q AND, I BELIEVE, YOUR OLDEST SON IS BACK OVER
17 IN BARNESVILLE, GEORGIA OR YOU MENTIONED - -

18 A I HAD TWO BY A PREVIOUS MARRIAGE THEY LIVE
19 IN GEORGIA WITH MY EX-WIFE WE HAVE TWO AND WE'RE
20 LIVING BY OURSELVES

21 Q SO YOUR SON, BRIAN, IS OVER IN BARNESVILLE?

22 A RIGHT, UM-HMM

23 Q AND YOUR DAUGHTER, AMY --

24 A IS IN BARNESVILLE

25 Q IS IN BARNESVILLE, TOO, AND SHE'S A SCHOOL

1 TEACHER OVER THERE?

2 A RIGHT

3 Q WHAT DOES BRIAN DO OVER THERE?

4 A BRIAN IS THE OPERATOR OF A LIQUOR STORE

5 Q AND THEN YOU HAVE A SON, RYAN, WHO'S AT WARE

6 SHOALS HIGH?

7 A CORRECT

8 Q AND ANOTHER SON, ANDY?

9 A CORRECT

10 Q YOU MENTIONED THAT YOU SERVED ON A JURY, YOU

11 WERE ONE OF TWELVE ON A SHOPLIFTING CASE?

12 A THAT'S THE ONLY CASE -- WELL, IT'S TWO I

13 THINK THERE'S ONE OTHER ONE I HAD BEEN ON

14 Q DO YOU REMEMBER WHAT THE VERDICT WAS ON THE

15 SHOPLIFTING CASE?

16 A IT WAS A HUNG JURY

17 Q DO YOU REMEMBER WHICH WAY YOU VOTED?

18 A I VOTED -- I CAN'T REMEMBER I VOTED GUILTY

19 Q NOW, YOU SAID THERE WAS ONE OTHER CASE YOU

20 MIGHT HAVE SERVED ON?

21 A THERE WAS ONE I BELIEVE IT WAS A GAME AND

22 FISH VIOLATION

23 Q WAS THAT HERE IN --

24 A NO, IT WAS IN GEORGIA I'VE NEVER BEEN CALLED

25 TO JURY DUTY IN ABBEVILLE

1 Q THIS CASE WASN'T IN ABBEVILLE?

2 A NO, SIR, BOTH OF THOSE WAS IN GEORGIA

3 Q YOU MENTIONED YOU LIKE HUNTING AND FISHING AND
4 WORKING WITH A DOG

5 A THAT'S ABOUT IT

6 Q WHAT KIND OF DOG DO YOU HAVE?

7 A A LABRADOR

8 Q A LAB THAT'S GOOD I APPRECIATE YOUR
9 ANSWERS

10 A ALL RIGHT

11 MR JONES THANK YOU

12 THE COURT MR ABERNATHY, YOU'LL STEP
13 OUTSIDE THE DOOR WITH THE BAILIFF, I'LL BRING YOU
14 BACK IN JUST A MINUTE

15 (JUROR DOES AS INSTRUCTED)

16 ANY REASON WHY THE JUROR SHOULD NOT BE
17 FOUND QUALIFIED?

18 MR JONES NO, FOR THE STATE, YOUR
19 HONOR

20 MR TINSLEY NO, YOUR HONOR

21 THE COURT HE IS SO QUALIFIED MR
22 ABERNATHY, YOU ARE QUALIFIED TO SERVE IN THE POOL
23 FROM WHICH THE ACTUAL JURY WILL BE SELECTED

24 BECAUSE WE DON'T KNOW WHO MIGHT BE SELECTED, I TELL
25 ALL OF YOU THAT WE NEED TO GIVE THE CLERK YOUR PHONE

1 NUMBERS BECAUSE YOU'RE GOING TO HAVE TO COME BACK AT
2 SOME POINT, BUT PROBABLY -- IT MIGHT BE AS EARLY AS
3 TUESDAY, MAYBE SOME LATER, WE'LL HAVE TO SEE BECAUSE
4 WE HAVE ADDITIONAL JURORS TO QUESTION BUT WE NEED
5 TO GET ANY AND ALL NUMBERS WHERE YOU CAN BE LOCATED
6 SO THAT WE CAN CALL YOU AND GET YOU HERE ON SHORT
7 NOTICE, SHOULD THAT BE NECESSARY

8 YOU'RE ALSO TO REMEMBER THAT YOU'RE TO
9 CONTINUING FOLLOWING MY INSTRUCTION NOT TO DISCUSS
10 THE CASE, NOT TO ALLOW YOURSELF TO BE EXPOSED TO ANY
11 TYPE MEDIA COVERAGE RELATING TO THE TRIAL AND DON'T
12 PUT YOURSELF IN A POSITION TO OVERHEAR ANY
13 CONVERSATIONS OR DISCUSSIONS SO IF YOU'LL GIVE THE
14 CLERK THOSE NUMBERS WHERE WE CAN GET YOU BEFORE YOU
15 LEAVE YOU CAN BE EXCUSED UNTIL WE CALL

16 (JUROR EXITS THE COURTROOM)

17 (JUROR IS QUALIFIED)

18 (THE COURT CALLS SOPHIA BATTLE)

19 (JUROR #10 PRESENTED AT 4 56 O'CLOCK P M)

20 EXAMINATION BY THE COURT

21 Q MS BATTLE, AS YOU KNOW YOU ARE HERE FOR THE
22 PURPOSE OF BEING ASKED SOME ADDITIONAL QUESTIONS
23 BEFORE WE BEGIN WITH JURY SELECTION THERE ARE NO
24 RIGHT OR WRONG ANSWERS TO THE QUESTION THAT YOU'RE
25 GOING TO BE ASKED, BUT WE DO SIMPLY NEED TO KNOW

1 YOUR OPEN AND HONEST OPINIONS ABOUT CERTAIN MATTERS
2 THAT YOU'LL BE ASKED ABOUT

3 DO YOU REMEMBER WHEN YOU CAME BACK ON FRIDAY
4 YOU AND YOUR FELLOW JURORS STOOD AND YOU WERE PLACED
5 UNDER OATH?

6 A YES, SIR

7 Q YOU REMAIN UNDER OATH FOR THE PURPOSE OF THESE
8 QUESTIONS, ALSO YOU INDICATED THAT YOU HAD FILLED
9 OUT THE QUESTIONNAIRE, IT WAS ACCURATE

10 A YES, SIR

11 Q YOU, ALSO, INDICATED YOU HAD RECEIVED MY
12 LETTER WHERE I ASKED YOU NOT TO HAVE ANY DISCUSSIONS
13 ABOUT THE CASE, DON'T READ ANY NEWSPAPER ARTICLES,
14 AND DON'T ALLOW YOURSELF TO BE EXPOSED TO ANY
15 CONVERSATIONS OR MEDIA COVERAGE ABOUT THE CASE

16 A YES, SIR

17 Q HAVE YOU FOLLOWED THAT INSTRUCTION?

18 A YES, SIR, I HAVE

19 Q YOU'VE NOT BEEN EXPOSED TO ANY NEWSPAPER
20 ARTICLES OR OTHER MEDIA COVERAGE?

21 A NO, SIR

22 Q AND HAD NO DISCUSSIONS OR BEEN EXPOSED TO ANY?

23 A NO, SIR

24 Q WHAT ABOUT BEFORE YOU GOT MY LETTER?

25 A WELL, WHEN IT HAPPENED WHEN THE INCIDENT

1 HAPPENED, YOU KNOW, IT WAS ON THE NEWS AND
2 NEWSPAPER

3 Q DO YOU RECALL ANYTHING THAT YOU SAW OR READ
4 ABOUT IT AT THAT TIME?

5 A ABOUT WHAT HAPPENING?

6 Q UM-HMM

7 A I RECALL THAT

8 Q DO YOU REMEMBER, SPECIFICALLY, WHAT YOU READ
9 OR SAW?

10 A I REMEMBER ABOUT WHAT HAD HAPPENED WHAT THEY
11 ALLEGED JOHN HAD DONE

12 Q WHAT DO YOU RECALL HAVING HEARD ABOUT IT?

13 A HIM SHOOTING MS HARRIS AND MS JACKSON AND
14 KILLING BOTH OF THEM

15 Q DID YOU HEAR ANY OTHER CIRCUMSTANCES OF THE
16 CASE OR WHAT MIGHT BE THE CIRCUMSTANCES OF THE CASE?

17 A NO, SIR

18 Q DO YOU KNOW THE HARRIS'S OR THE JACKSONS'S?

19 A YES, I DO

20 Q DO YOU KNOW THE HUGHEY'S?

21 A YES, I DO

22 Q AND HOW WELL DO YOU KNOW THOSE FAMILIES?

23 A WELL, I'VE LIVED IN ABBEVILLE ALL MY LIFE SO,
24 YEAH, I KNOW THEM

25 Q AND MS JACKSON AND MS HARRIS, THE ONES THAT

1 ARE DECEASED, HOW WELL DID YOU KNOW THEM?

2 A I KNEW THEM, I MEAN, I WASN'T, YOU KNOW, GOOD
3 FRIENDS WITH THEM BUT, I MEAN, I KNEW THEM

4 Q AND WHAT ABOUT MR HUGHEY, DO YOU, ALSO, KNOW
5 HIM?

6 A YES, I DO

7 Q AND HOW WELL DO YOU KNOW HIM?

8 A HE WASN'T A GOOD FRIEND EITHER, BUT I KNEW
9 HIM

10 Q DO YOU KNOW EACH OF THOSE PERSONS ABOUT THE
11 SAME WAY AND TO THE SAME EXTENT?

12 A YES

13 Q WOULD THOSE RELATIONSHIPS OR THAT CONTACT THAT
14 YOU MIGHT HAVE HAD WITH MS JACKSON OR MS HARRIS OR
15 MR HUGHEY, WOULD THAT INTERFERE IN ANY WAY WITH
16 YOUR ABILITY TO BE FAIR AND IMPARTIAL IF YOU WERE
17 SELECTED AS A JUROR IN THIS CASE?

18 A NO, SIR, IT WOULDN'T

19 Q COULD YOU PUT ASIDE ANY PRIOR EXPERIENCE YOU
20 MIGHT HAVE HAD WITH ANY OF THOSE PERSONS AND NOT
21 CONSIDERED IN ANY WAY IF YOU'RE CALLED UPON TO MAKE
22 A DECISION IN THIS CASE?

23 A I COULD PUT IT ASIDE

24 Q NOW, AS A JUROR IF YOU WERE SELECTED, YOU
25 WOULD BE CALLED UPON TO LISTEN TO TESTIMONY AND TO

1 CONSIDER OTHER EVIDENCE THAT MIGHT BE INTRODUCED
2 DURING THE TRIAL OF THE CASE AND RENDER A DECISION
3 BASED UPON ALL THAT EVIDENCE NOW, IN THIS CASE, AS
4 YOU KNOW, THE DEFENDANT IS CHARGED WITH THE CRIME OF
5 MURDER AND THE LAW PROVIDES THAT, UNDER CERTAIN
6 CIRCUMSTANCES, A PERSON WHO HAS BEEN CONVICTED, THAT
7 IS FOUND GUILTY OF THE CRIME OF MURDER, MAYBE
8 SUBJECTED TO A SENTENCE A DEATH THAT IS THE STATE
9 MAY SEEK THAT THE DEATH PENALTY BE IMPOSED NOW,
10 THAT'S A DECISION THAT A JURY MAKES AND A JURY MAKES
11 THAT BASED UPON THE EVIDENCE RECEIVED DURING THE
12 TRIAL OF THAT CASE

13 BUT A CASE OF THAT NATURE OCCURS -- IS
14 CONDUCTED IN TWO SEPARATE STAGES OR PHASES THE
15 FIRST PHASE RELATES TO ISSUES OF GUILT AND THE
16 SECOND PHASE, IF YOU GET THERE, RELATES TO ISSUES OF
17 PUNISHMENT IN THE FIRST CASE, EVIDENCE -- IN THE
18 FIRST PHASE OF THE TRIAL, EVIDENCE WOULD BE
19 PRESENTED AND THE JURY WOULD BE CALLED UPON TO
20 DECIDE WHETHER OR NOT, UNDER THE LAW, AND I WOULD
21 PROVIDE YOU WITH THE LAW, THE JURY WOULD DECIDE
22 WHETHER OR NOT, UNDER THE LAW AND THE FACTS, AS
23 PRESENTED, OR WHETHER OR NOT THE DEFENDANT HAS BEEN
24 PROVEN TO BE GUILTY OF THE CRIME OF MURDER NOW, IF
25 YOU WERE PARTICIPATING IN A CASE LIKE THAT, WOULD

1 YOU BE ABLE TO FAIRLY CONSIDER ALL OF THE EVIDENCE
2 THAT MIGHT BE INTRODUCED IN THE CASE?

3 A YES, I WOULD

4 Q AND YOU UNDERSTAND THE BURDEN IS ON THE STATE
5 IN BRINGING THE ALLEGATION OR THE BRINGING A CHARGE
6 TO PROVE THAT A PERSON'S GUILTY?

7 A YES, SIR

8 Q YOU UNDERSTAND THE BURDEN IS NOT ON A
9 DEFENDANT OR A PERSON CHARGED TO PROVE THAT THEY ARE
10 NOT GUILTY?

11 A YES

12 Q YOU UNDERSTAND THAT EVERY PERSON WHO'S CHARGED
13 WITH A CRIME IS PRESUMED TO BE INNOCENT?

14 A YES, SIR

15 Q DO YOU ACCEPT AND AGREE WITH THOSE
16 PROPOSITIONS OF LAW?

17 A YES, I DO

18 Q NOW, IF YOU WERE PARTICIPATING IN THAT CASE
19 AND AFTER YOU SEEN AND HEARD ALL THE EVIDENCE, IF
20 YOU BELIEVED THAT THAT EVIDENCE SUPPORTED A VERDICT
21 OF GUILTY BEYOND A REASONABLE DOUBT, WOULD YOU BE
22 ABLE TO FIND THE PERSON GUILTY?

23 A YES, I WOULD

24 Q AND IF YOU HAD SOME REASONABLE DOUBT AFTER YOU
25 CONSIDERED ALL THAT EVIDENCE, IF YOU HAD SOME

1 REASONABLE DOUBT AS TO WHETHER OR NOT THEIR GUILT
2 HAD BEEN PROVEN, COULD YOU FIND A PERSON NOT GUILTY?

3 A YES

4 Q NOW, I WANT YOU TO ASSUME AND ONLY ASSUME IT
5 FOR THE PURPOSE OF THIS QUESTION, THAT YOU ARE
6 PARTICIPATING, YOU'VE BEEN SELECTED AS A JUROR AND
7 YOU HEARD ALL THE EVIDENCE AND IN THE GUILTY
8 PHASE, YOU AND YOUR FELLOW JURORS HAVE DETERMINED
9 THAT THE DEFENDANT WAS PROVEN GUILTY BEYOND A
10 REASONABLE DOUBT OF THE CRIME OF MURDER AND YOU HAVE
11 FOUND HIM TO BE GUILTY ALSO, ASSUME THAT YOU HAVE
12 FOUND SOME AGGRAVATING CIRCUMSTANCE WHICH MUST BE
13 PROVEN BEFORE YOU COULD GO TO THE PENALTY PHASE
14 LET'S JUST ASSUME FOR THE PURPOSE OF THIS QUESTION
15 THAT YOU FOUND THAT THERE WAS AN AGGRAVATING
16 CIRCUMSTANCE

17 THE PENALTY PHASE WILL BE CONDUCTED SHORTLY
18 AFTER YOU HAVE MADE THAT FINDING OF GUILT AND IN
19 THAT PENALTY PHASE THERE WILL BE ADDITIONAL EVIDENCE
20 RECEIVED THERE WILL BE EVIDENCE RELATING TO
21 AGGRAVATION AND EVIDENCE RELATING TO MITIGATION
22 AND THAT SIMPLY MEANS THAT THERE WILL BE EVIDENCE
23 OFFERED THAT MIGHT TEND TO SUPPORT THE MORE SERIOUS
24 PUNISHMENT AS BEING APPROPRIATE THAT BEING THE
25 DEATH PENALTY AND THERE MIGHT BE EVIDENCE OFFERED

1 THAT WOULD SUPPORT THE LESS SERIOUS PUNISHMENT AS
2 BEING THE MORE APPROPRIATE SENTENCE THAT BEING
3 LIFE IMPRISONMENT YOU UNDERSTAND THAT THE JURY
4 WOULD ALWAYS HAVE THAT DECISION, YOU WOULD HAVE THAT
5 CHOICE, IT WOULD BE ONE OF TWO, BUT THE JURY WOULD
6 MAKE THAT DECISION

7 NOW, DO YOU UNDERSTAND THAT UNDER NO
8 CIRCUMSTANCES CAN A JURY IMPOSE A SENTENCE OF DEATH
9 UNLESS THEY'VE ALREADY FOUND THE DEFENDANT TO BE
10 GUILTY OF THE CRIME OF MURDER AND, ADDITIONALLY,
11 THEY HAVE FOUND SOME CIRCUMSTANCE OF AGGRAVATION
12 ACCOMPANYING THAT PARTICULAR MURDER IT'S ONLY THEN
13 THAT THE JURY CAN EVEN CONSIDER IMPOSING A DEATH
14 SENTENCE, YOU UNDERSTAND THAT?

15 A YES, I DO

16 Q DO YOU UNDERSTAND THAT THE LAW, HOWEVER, STILL
17 EVEN THEN DOES NOT REQUIRE THAT IT BE IMPOSED,
18 THAT'S SIMPLY A DECISION THE JURY GETS TO MAKE?

19 A YES

20 Q NOW, IF YOU WERE PARTICIPATING AND YOU HAD
21 BEEN SELECTED AND YOU ARE THEN IN THE PENALTY OF THE
22 TRIAL, WOULD YOU BE ABLE AND WOULD YOU BE WILLING TO
23 CAREFULLY CONSIDER ALL OF THAT ADDITIONAL EVIDENCE
24 RELATING AGGRAVATION AND TO MITIGATION --

25 A YES

1 Q -- BEFORE MAKING SOME DECISION? AND COULD YOU
2 CONSIDER ALL THE CIRCUMSTANCES THAT RELATE TO THE
3 CASE, INCLUDING THE CIRCUMSTANCES RELATING TO THE
4 CRIMES THEMSELVES AND THE CIRCUMSTANCES RELATING TO
5 DEFENDANT AND ANY BACKGROUND OR INDIVIDUAL
6 CHARACTERISTIC BEFORE YOU MADE A DECISION?

7 A YES

8 Q AND AFTER YOU'VE CONSIDERED ALL THAT EVIDENCE,
9 IF YOU THOUGHT IT WAS APPROPRIATE UNDER THE
10 CIRCUMSTANCES, COULD YOU SENTENCE A PERSON TO DEATH?

11 A I FEEL THAT I COULD

12 Q COULD YOU, ALSO, DEPENDING UPON THOSE
13 CIRCUMSTANCES, SENTENCE A PERSON TO LIFE
14 IMPRISONMENT?

15 A YES, SIR

16 Q YOU UNDERSTAND THE JURY IS THE ONE THAT WOULD
17 ALWAYS HAVE THAT CHOICE

18 A YES

19 Q AND YOU COULD MAKE THE CHOICE AND YOU COULD
20 IMPOSE A LIFE SENTENCE FOR ANY REASON OR FOR NO
21 REASON AT ALL, DO YOU UNDERSTAND?

22 A YES, SIR

23 Q NOW, IF YOU HAD THAT CHOICE, IF YOU HAD THOSE
24 TWO OPTIONS, A SENTENCE OF LIFE OR A SENTENCE OF
25 DEATH, WOULD YOU ALWAYS CHOSE ONE OF THOSE OVER THE

1 OTHER?

2 A I THINK IT DEPENDS ON THE CIRCUMSTANCES

3 Q SO YOU WOULD HAVE TO CONSIDER ALL OF THE
4 CIRCUMSTANCES BEFORE YOU COULD MAKE A DECISION?

5 A YES

6 Q BUT IF THE CIRCUMSTANCES WARRANTED IT, YOU
7 COULD SENTENCE A PERSON TO DEATH?

8 A YES, SIR

9 Q YOU COULD SENTENCE A PERSON TO LIFE?

10 A YES, SIR

11 Q NOW, DO YOU UNDERSTAND THAT, AS I TOLD YOU,
12 THE LAW NEVER REQUIRES THAT YOU SENTENCE A PERSON TO
13 DEATH BUT I'LL TELL YOU THAT THE LAW DOES REQUIRE
14 THAT, IF YOU DO, IF YOU MAKE THAT DECISION, YOU HAVE
15 TO SIGN A FORM INDICATING THAT IS YOUR
16 RECOMMENDATION, THAT YOU'RE RECOMMENDING TO THE
17 COURT THAT THE PERSON BE SENTENCED TO DEATH?
18 UNDERSTAND THAT IF YOU RECOMMEND IT, THE COURT HAS
19 TO DO IT

20 A YES

21 Q WOULD YOU BE WILLING TO SIGN THAT FORM
22 RECOMMENDING THAT THAT INDIVIDUAL BE SENTENCED TO
23 DEATH, IF YOU HAD MADE THAT DECISION?

24 A YES, SIR

25 Q HAVE YOU, UP TO THIS POINT, ALREADY FORMED OR

1 EXPRESSED ANY OPINION AS TO WHAT YOU THINK THE
2 APPROPRIATE OUTCOME OF THIS CASE SHOULD BE?

3 A NO, SIR

4 Q DO YOU KNOW OF ANY REASON OF WHY YOU COULD NOT
5 BE A FAIR AND IMPARTIAL JUROR IF YOU WERE SELECTED?

6 A NO, SIR

7 Q NOW, AS YOU WILL RECALL, IF YOU'VE NOT BEEN
8 TOLD BEFORE, IT WAS IN THE LETTER BUT IF YOU ARE
9 SELECTED, IT WOULD REQUIRE THAT YOU BE SEQUESTERED
10 FOR THE DURATION OF THE TRIAL THAT WON'T BEGIN
11 TODAY BUT IT COULD BEGIN EARLY NEXT WEEK IF YOU
12 WERE SELECTED AND YOU HAD TO BE SEQUESTERED, WOULD
13 THAT SEQUESTRATION CAUSE ANY UNREASONABLE HARDSHIP
14 OR POSE ANY HEALTH RISK TO YOU?

15 A NO, SIR

16 Q OR ANYONE DEPENDANT UPON YOU?

17 A NO, SIR

18 Q WOULD YOU BE WILLING TO ACCEPT ANY
19 INCONVENIENCE THAT THAT MIGHT CAUSE AND SERVE IF YOU
20 WERE CALLED UPON TO SERVE?

21 A YES, SIR

22 THE COURT OKAY, THANK YOU PLEASE
23 ANSWER THE LAWYERS' QUESTIONS

24 EXAMINATION BY MR TINSLEY

25 Q GOOD AFTERNOON, MS BATTLE

1 A HI, HOW ARE YOU?

2 Q FINE, THANK YOU MS BATTLE, ARE YOU STILL IN
3 THE GUARD?

4 A YES, SIR, I AM

5 Q AND IN YOUR -- WHAT UNIT ARE YOU IN?

6 A COMPANY 111, SIGNAL BATTALION

7 Q WHERE IS THAT?

8 A HERE IN ABBEVILLE

9 Q WERE ANY OF THE HARRIS'S IN THAT UNIT?

10 A NO, SIR

11 Q YOU HAVEN'T SERVED WITH ANY OF THE HARRIS'S?

12 A ANTHONY, HE WAS IN THERE WITH US

13 Q YOU SERVED WITH ANTHONY HARRIS IN THE NATIONAL
14 GUARD AS SUCH, WERE YOU ALL TOGETHER IN THE GUARD
15 FOR VERY LONG?

16 A I DON'T KNOW HOW MANY YEARS HE SERVED HE
17 WENT IN THE REGULAR ARMY, SO I DON'T KNOW

18 Q BUT YOU ALL WERE IN THE SAME GUARD UNIT AND
19 THAT SORT OF THING?

20 A COMPANY, YES, SIR

21 Q SAME COMPANY?

22 A YES, SIR

23 Q AND AS SUCH, YOU ALL WERE FRIENDS, RIGHT?

24 A YES, SIR

25 Q AND THAT'S MS HARRIS'S SON, RIGHT?

- 1 A YES, SIR
- 2 Q AND WHAT DID YOU DO IN THE GUARD? I MEAN,
3 WHAT PART OF THE COMPANY WERE IN, JUST GENERAL?
- 4 A JUST ---
- 5 Q YOU WEREN'T IN RADIO UNIT OR ---
- 6 A THE UNIT IS A SIGNAL UNIT THAT I WAS IN
- 7 Q SO YOU ALL WERE ALL, BASICALLY, IN THE SAME
8 UNIT AND DID YOU ALL GO TO CAMP TOGETHER, YOU AND
9 MR HARRIS?
- 10 A I DON'T RECALL WE MAY HAVE, I DON'T
11 REMEMBER WE DIDN'T WORK DIRECTLY TOGETHER
- 12 Q BUT YOU ALL WERE FRIENDS, RIGHT?
- 13 A YES, WE ARE
- 14 Q AND YOU WERE FRIENDS WITH MS HARRIS?
- 15 A (WITNESS NODS HEAD AFFIRMATIVELY)
- 16 Q AND YOU'RE FRIENDS WITH MS JACKSON?
- 17 A NOT ---
- 18 Q ACQUAINTANCE WITH MS JACKSON, FRIENDS WITH
19 THE OTHERS?
- 20 A WITH ANTHONY
- 21 Q ANTHONY
- 22 A AND I KNEW HIS MOTHER
- 23 Q HOW ABOUT MR HARRIS?
- 24 A I KNOW HIM
- 25 Q ANY OTHER MEMBERS OF THOSE TWO FAMILIES THAT

1 YOU KNOW AND HAVE FRIENDSHIPS WITH?

2 A OF THE HARRIS FAMILY?

3 Q HARRIS OR JACKSON

4 A I MEAN, I KNEW THEM ALL

5 Q LET'S SKIP TO THE HUGHEY FAMILY FOR A MINUTE
6 YOU KNOW SOME OF THE HUGHEY'S?

7 A I KNEW BARBARA ME AND HER WERE -- LIKE
8 MIDDLE SCHOOL WE WENT TO SCHOOL I KNEW HER A
9 LITTLE, BECAUSE WE WENT TO SCHOOL

10 Q SO YOU WENT TO SCHOOL WITH ONE OF THE
11 HUGHEY'S?

12 A YES, SIR

13 Q AND, OF COURSE, YOU STATED THAT YOU KNOW JOHN

14 A YES, I DO

15 Q AND WHEN YOU HEARD ABOUT THIS, I BELIEVE YOU
16 SAID YOU HEARD WHAT WAS -- THAT YOU HEARD "ALLEGED
17 WHAT JOHN HAD DONE", IS THAT RIGHT?

18 A YES, SIR

19 Q WELL, WHO WAS MAKING THESE ALLEGATIONS, WHO
20 WAS ALLEGING?

21 A IT WAS IN THE NEWSPAPER I DON'T KNOW

22 Q WHAT ABOUT CONVERSATIONS THAT YOU HEARD OR
23 PARTICIPATED IN, WERE ANY OF THOSE RELATED TO THIS
24 CASE?

25 A I HAD TALKED TO ANTHONY BEFORE

1 Q YOU TALKED TO MR HARRIS ABOUT THE CASE?

2 A I MEAN, WELL, I VISITED THE FUNERAL HOME

3 Q YOU VISITED THE FUNERAL HOME AND YOU TALKED TO

4 ANTHONY THERE AND WHAT DID YOU ALL TALK ABOUT?

5 A WE JUST TALKED, JUST SAID, YOU KNOW, ABOUT

6 WHAT -- HOW SHE HAD DIED AND, YOU KNOW

7 Q WAS MR HUGHEY'S NAME MENTIONED?

8 A I DON'T RECALL IF IT WAS OR NOT I DON'T

9 KNOW

10 Q AND WHAT WAS STATED AS TO HOW SHE DIED?

11 A BY HER BEING SHOT

12 Q AND WAS IT ALLEGED THAT SHE WAS SHOT BY MR

13 HUGHEY?

14 A I WOULD GUESS SO SINCE SHE WAS SHOT BY HIM

15 Q ARE YOU ANY KIN TO PAM BATTLE?

16 A SHE'S MY FIRST COUSIN

17 Q SHE'S YOUR FIRST COUSIN AND I KNOW YOU'VE

18 ANSWERED HONESTLY THAT NO ONE IN YOUR FAMILY'S BEEN

19 CHARGED WITH A CRIME

20 A NO

21 Q OF COURSE, NOW, PAM'S BEEN IN A LITTLE

22 TROUBLE, HASN'T SHE?

23 A YEAH, I MEAN --

24 Q FROM TIME TO TIME?

25 A UM-HMM NOTHING VERY SERIOUS THOUGH, I DON'T

1 THINK I DON'T RECALL --

2 Q ARE YOU AWARE OF THE FACT THAT I'VE
3 REPRESENTED HER SEVERAL TIMES?

4 A NO

5 Q ARE YOU AWARE OF THE FACT THAT THE SOLICITOR'S
6 PROSECUTED HER?

7 A NO

8 Q WOULD THAT IN ANY WAY, THE REPRESENTATION,
9 PROSECUTION OF YOUR FIRST COUSIN, WOULD THAT IN ANY
10 WAY AFFECT YOUR OBJECTIVITY IN THIS CASE?

11 A NO, SIR, IT WOULDN'T

12 Q MS BATTLE, LET'S THINK BACK TO DECEMBER OF
13 '95 YOU WENT TO THE FUNERAL HOME WHEN MS HARRIS
14 WAS THERE, RIGHT?

15 A YES

16 Q AND DID YOU PROCEED TO THE BURIAL OR JUST TO
17 THE --

18 A I CAN'T RECALL

19 Q YOU DON'T REMEMBER, THAT'S FINE DO YOU
20 REMEMBER?

21 A I DON'T RECALL IF I WENT OR NOT

22 Q BUT YOU DO RECALL GOING BY THE FUNERAL HOME?

23 A YES, SIR, I DO

24 Q AND DO YOU FEEL THAT TALKING WITH MS HARRIS'S
25 SON AND HIM TELLING YOU WHAT HAPPENED WOULD AFFECT

1 YOUR ABILITY AS A JUROR IN THIS CASE?

2 A NO, SIR

3 Q YOU THINK YOU COULD PUT THAT ASIDE?

4 A YES, SIR

5 Q YOU THINK YOU COULD COMPLETELY ELIMINATE THAT
6 FROM YOUR ROLE AS A JUROR HERE?

7 A YES, SIR

8 Q AND THAT WOULDN'T -- YOUR RELATIONSHIP WITH
9 THE HARRIS FAMILY OR THE HUGHEY FAMILY WOULD NOT PUT
10 YOU UNDER UNDO STRESS AS TO WHICH WAY TO VOTE IN
11 TERMS OF GUILT OR INNOCENCE?

12 A NO, SIR

13 Q AND IF INDEED THE CASE WENT ONTO THE SECOND
14 PHASE OF THE CASE, WOULD IT AFFECT YOUR ABILITY TO
15 IMPARTIALLY VOTE AS TO SENTENCE?

16 A NO, SIR

17 Q AND IF THE JUDGE CHARGED THE JURY WITH THE
18 ISSUE OF -- WITH THE ISSUE OF GUILTY OF MURDER OR
19 GUILTY OF MANSLAUGHTER, A LESSER CHARGE, OR NOT
20 GUILTY, COULD YOU FAIRLY CONSIDER ALL THREE
21 VERDICTS?

22 A YES, SIR

23 Q AND WOULD YOU BE ABLE TO VOTE, PUT PASSION,
24 PREJUDICE AND BIAS ASIDE WHEN YOU DID SO?

25 A YES, SIR

1 Q WHEN YOU SO VOTED

2 A YES, SIR

3 Q EVEN THOUGH YOU WENT TO MS HARRIS'S FUNERAL
4 OR FUNERAL HOME AND AT THE TIME YOU SPOKE WITH HER
5 SON ABOUT THIS VERY MATTER WE'RE HERE TRYING TODAY?
6 NOW, I WANT YOU TO THINK BACK VERY CLEARLY, IF YOU
7 CAN, TO THAT TIME AND TRY TO RECALL EXACTLY WHAT WAS
8 SAID ONE MORE TIME

9 A JUST BY HIM SAYING HOW SHE WAS -- HIS MOTHER
10 WAS KILLED

11 Q WAS HE CRYING?

12 A YES, HE WAS VERY UPSET

13 Q DID YOU CRY?

14 A YES

15 Q SO YOU WERE EMOTIONALLY INVOLVED AT THAT TIME?

16 A YES, BECAUSE, I MEAN, I WAS SEEING HIM AND HIS
17 PAIN

18 Q AND YOU SHARED THAT PAIN?

19 A YES

20 Q WELL, IF THE PAIN YOU SHARED AGAIN AND, FOR
21 INSTANCE, MR HARRIS -- AND I BELIEVE YOU HEARD HIS
22 NAME MENTIONED AS A POSSIBLE WITNESS IN THE CASE

23 A YES, SIR

24 Q WOULD THAT BRING THOSE THOUGHTS FROM DECEMBER
25 OF 1995 TO YOU?

1 A I RECALL IT NOW, I MEAN, BUT I FEEL THAT I
2 COULD BE FAIR REGARDLESS OF WHAT I HEARD OR SAW

3 Q REGARDLESS OF THAT PERSONAL CONTACT?

4 A YES

5 Q AND REGARDLESS OF YOUR EMOTIONAL INVOLVEMENT?

6 A YES, SIR

7 Q REGARDLESS WITH YOUR TIES IN THE CASE?

8 A YES, SIR

9 Q AND DO YOU HAVE ANY ANGER OR RESENTMENT
10 TOWARDS MY CLIENT?

11 A NO, SIR, I DON'T

12 Q YOU DON'T?

13 A NO, SIR

14 Q BUT YOU DO STATE THAT YOU ARE INADVERTENTLY
15 -- AS A FRIEND, INVOLVED WITH SEVERAL PARTIES IN
16 THIS CASE?

17 A COULD YOU SAY THAT AGAIN, PLEASE?

18 Q YOU ARE INVOLVED AS FRIEND WITH A NUMBER OF
19 THE PARTIES IN THIS CASE, TRUE?

20 A YES, SIR

21 MR TINSLEY THAT'S ALL

22 EXAMINATION BY MR JONES

23 Q HELLO, MS BATTLE

24 A HI, HOW ARE YOU?

25 Q I'M FINE, HOPE YOU'RE DOING OKAY MY NAME IS

1 TOWNES JONES AND I'M YOUR SOLICITOR HERE IN
2 ABBEVILLE COUNTY THIS IS MICHAEL COULTER, HE'S
3 YOUR CHIEF DEPUTY SOLICITOR THE TWO OF US WILL
4 PRESENTING EVIDENCE IN THIS CASE WE CALL THE
5 WITNESSES AND ASK THE QUESTIONS AND IF THEY HAVE
6 EVIDENCE INTRODUCED, WE'D INTRODUCE IT THROUGH THEM

7 I JUST WANTED TO ASK YOU A COUPLE OF
8 QUESTIONS WE HAVE A COPY OF YOUR QUESTIONNAIRE
9 HERE

10 A YES

11 Q YOU SENT THAT BACK IN THE JUDGE SENT IT TO
12 YOU AND YOU SENT IT BACK IN AND THEY MADE COPIES
13 AND, BASICALLY, YOU'RE WORKING UP IN THE BMW PLANT
14 NOW?

15 A YES, SIR

16 Q AND YOU DRIVE UP THERE TO WORK?

17 A YES, SIR

18 Q IN CAR PRODUCTION, WHAT CAR -- WHAT KIND OF
19 WORK DO YOU DO UP THERE?

20 A I WORK IN THE BODY SHOP THAT'S WHERE WE FIT
21 THE HOODS AND TRUNK DOORS, QUARTER PANELS TO THE
22 CAR

23 Q DO YOU LIKE IT, IS IT PRETTY NICE WORK?

24 A IT HAS IT'S MOMENTS

25 Q WHAT TYPE CARS DO YOU ALL MAKE?

1 A WE MAKE THE ROADSTERS

2 Q THING BEING?

3 A Z-3

4 Q Z-3 ROADSTER?

5 A YES

6 Q AND YOU MENTIONED ON HERE, ALSO, THAT YOU HAD
7 SERVED ON A JURY BEFORE?

8 A IN MAGISTRATE'S

9 Q IN MAGISTRATE'S COURT, A DUI JURY?

10 A YES

11 Q DO YOU REMEMBER WHAT THE VERDICT WAS IN THAT
12 CASE?

13 A IT WAS A GUILTY I DID TWO, I THINK ONE WAS
14 NOT GUILTY AND ONE WAS GUILTY

15 Q ONE NOT GUILTY, ONE GUILTY

16 A YES

17 Q DID YOU DO THEM BOTH IN THE SAME DAY OR WAS IT
18 SEPARATE TIMES IN YOUR LIFE?

19 A SEPARATE TIMES

20 Q SEPARATE TIMES WERE THEY BOTH MAGISTRATE
21 COURT JURIES?

22 A YES

23 Q DO YOU REMEMBER WHETHER THE PROSECUTING AGENTS
24 ON THE GUILTY VERDICT, DO YOU KNOW WHAT AGENCY THAT
25 WAS? WAS IT THE HIGHWAY PATROL, THE CITY OF

1 ABBEVILLE POLICE, THE SHERIFF'S DEATH PENALTY?

2 A ONE WAS HIGHWAY PATROL AND ONE WAS CITY

3 Q YOU DON'T REMEMBER WHICH ONE WAS THE GUILTY

4 AND WHICH ONE WAS THE NOT GUILTY?

5 A NO, SIR

6 Q ARE YOU CURRENTLY A MEMBER OF WASHINGTON

7 STREET PRESBYTERIAN?

8 A YES, SIR, I AM

9 Q AND HOW LONG HAVE YOU BEEN A MEMBER?

10 A FOR ABOUT FIVE YEARS

11 Q DO YOU PARTICIPATE IN ANY ACTIVITIES AT THE

12 CHURCH?

13 A I'M AN ASSISTANT TREASURER

14 Q ASSISTANT TREASURER?

15 A YES

16 Q YOU, ALSO, MENTIONED THAT YOU GET YOUR

17 INFORMATION FROM TV, RADIO, NEWSPAPER AND MAGAZINES

18 DO YOU RECALL READING AN ARTICLE IN THIS CASE? DO

19 YOU TAKE *THE INDEX JOURNAL*, BY THE WAY?

20 A NO, SIR

21 Q YOU DON'T TAKE *THE INDEX JOURNAL*? HAVE YOU

22 READ *THE INDEX JOURNAL* IN THE LAST WEEK OR TWO?

23 A I READ SUNDAY'S

24 Q SUNDAY'S THIS SUNDAY'S OR LAST?

25 A THIS SUNDAY'S

1 Q TODAY'S?

2 A I BREEZED THROUGH IT BEFORE I CAME UP HERE

3 Q THE INDEX JOURNAL? DO YOU RECALL READING AN
4 ARTICLE IN THE INDEX JOURNAL THAT WOULD EITHER HAVE
5 QUOTED ME OR HAVE INSINUATED THAT I SAID ANYTHING
6 ABOUT THE PROCESS WITH THE CASE?

7 A NO, SIR

8 Q NONE WHATSOEVER?

9 A NO, SIR

10 Q THE JUDGE ASKED YOU ABOUT THE PROCESS AND,
11 I BELIEVE, HE ALSO ASKED YOU, IF YOU WERE SELECTED
12 AS A JUROR TO SIT ON THE JURY AND THEN YOU LISTENED
13 EVIDENCE ABOUT GUILT OR INNOCENT AND IF THE JURY
14 DECIDED THE DEFENDANT'S GUILTY OF MURDER AND THE
15 JURY FINDS AN AGGRAVATING CIRCUMSTANCE EXISTS IN THE
16 MURDER, DO YOU UNDERSTAND? AGGRAVATING
17 CIRCUMSTANCES, DO YOU UNDERSTAND, COULD BE THE
18 COMMISSION OF TWO MURDERS AT ONE TIME?

19 A YES

20 Q OR A BURGLARY COMMITTED DURING THE COMMISSION
21 OF THE MURDER?

22 A YES, SIR

23 Q OR A LARCENY, A THEFT, IS COMMITTED DURING THE
24 COMMISSION OF THE MURDER, DO YOU UNDERSTAND THAT AS
25 AGGRAVATION?

1 A YES, SIR

2 Q AND IF THE JURY FINDS THE CIRCUMSTANCES IN
3 AGGRAVATION, AS WELL AS A GUILTY OF MURDER VERDICT,
4 THEN YOU HAVE TO DECIDE WHAT PUNISHMENT IS PROPER
5 AND THE TWELVE JURORS WILL HEAR FROM THE STATE AND
6 THE VICTIMS ABOUT WHY THE DEATH PENALTY WAS THE
7 PROPER PUNISHMENT

8 A YES, SIR

9 Q AND THEN THE JURY WOULD HEAR FROM THE
10 DEFENDANT AND HIS POSITIONS ABOUT WHY LIFE
11 IMPRISONMENT WAS PROPER AND YOU SAID YOU'D
12 CONSIDER BOTH, IS THAT CORRECT?

13 A DEPENDING ON THE EVIDENCE

14 Q RIGHT, RIGHT AND IF THE JURY DECIDED THAT
15 THE DEATH PENALTY WAS THE PROPER VERDICT, YOU COULD
16 VOTE FOR THE DEATH PENALTY?

17 A YES, SIR

18 Q AND, AS YOU SAID TO THE JUDGE, YOU COULD SIGN
19 YOUR NAME MS BATTLE, SOPHIA BATTLE?

20 A YES

21 Q SOPHIA BATTLE DOES RECOMMEND THIS DEFENDANT
22 DIE?

23 A YES, SIR

24 MR JONES THANK YOU VERY MUCH

25 JUROR BATTLE YOUR WELCOME

1 THE COURT MS BATTLE, IF YOU'LL STEP
2 OUTSIDE WITH THE BAILIFF, I'LL BRING YOU BACK IN
3 JUST A MINUTE

4 (JUROR DOES AS INSTRUCTED)

5 ANY OBJECTION TO THE JUROR BEING QUALIFIED?

6 MR JONES NONE FOR THE STATE, YOUR
7 HONOR

8 MR TINSLEY YOUR HONOR, SHE MAY THINK
9 SHE'S UNBIASED AND UNPREJUDICED IN THIS CASE BUT
10 HAVING ATTENDED THE VERY FUNERAL OR FUNERAL HOME
11 THAT MS HARRIS WAS IN, I THINK CLEARLY -- AND
12 CRYING ASIDE, CLEARLY THAT IS NOT BIASED,
13 UNPREJUDICED OPINION IN THIS CASE AND, THEREFORE,
14 WE -- ALTHOUGH HER ANSWERS WERE GOOD, WE THINK THAT
15 CLEARLY IS PREJUDICED IN THIS MATTER

16 THE COURT ASK THE JUROR TO COME IN,
17 PLEASE MS BATTLE, IF YOU'LL JUST HAVE A SEAT
18 RIGHT THERE ONE MORE TIME I NEGLECTED TO ASK YOU
19 BEFORE YOU LEFT -- OF COURSE, THERE'S BEEN SOME
20 DISCUSSION ABOUT THE RELATIONSHIPS THAT YOU MIGHT
21 HAVE WITH THE JACKSON FAMILY, THE HARRIS FAMILY, AS
22 WELL AS THE HUGHEY FAMILY IS THERE ANY QUESTION IN
23 YOUR MIND OR DO YOU HAVE ANY HESITATION ABOUT YOUR
24 ABILITY TO BE FAIR AND IMPARTIAL IF SELECTED AS A
25 JUROR?