

VOLUME THREE OF TWELVE

1001-1500

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

JOHN KENNEDY HUGHEY, #5055
Respondent/Petitioner,

V

STATE OF SOUTH CAROLINA,
Petitioner/Respondent,

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S.C. Supreme Court

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5954

**ORDER DENYING RESPONDENT'S MOTION TO ALTER OR AMEND JUDGMENT
PURSUANT TO RULE 59(e)**

5969

1 JUROR BATTLE I DON'T HAVE ANY QUESTIONS
2 ABOUT IT

3 THE COURT DO YOU BELIEVE THAT THERE'S
4 ANY POSSIBILITY WHATSOEVER THAT YOUR RELATIONSHIP
5 WITH THE HARRIS AND JACKSON FAMILY WOULD CAUSE YOU
6 TO RENDER A PARTICULAR DECISION IN THE CASE OR HAVE
7 AN IMPACT UPON THE DECISION THAT YOU WOULD REACH IN
8 THE CASE?

9 JUROR BATTLE NO, SIR

10 THE COURT COULD YOU BASE YOUR DECISION
11 IN THIS CASE SOLELY UPON EVIDENCE THAT IS RECEIVED
12 DURING THE COURSE OF THE TRIAL?

13 JUROR BATTLE YES, SIR

14 THE COURT AND PUT ASIDE THE FACT THAT
15 YOU ARE FRIENDS OF EACH OF THESE FAMILIES INVOLVED
16 IN THIS CASE?

17 JUROR BATTLE YES, SIR

18 THE COURT AND YOU'RE CERTAIN OF THAT
19 FACT?

20 JUROR BATTLE YES, SIR

21 THE COURT YOU HAVE NO QUESTION ABOUT
22 IT?

23 JUROR BATTLE NO, SIR

24 THE COURT WE'RE GOING TO QUALIFY YOU
25 FOR SERVICE IN THE TRIAL OF THIS CASE WE NEED TO

1 GET YOUR PHONE NUMBERS, ANY AND ALL PHONE NUMBERS
2 WHERE YOU CAN BE REACHED WHEN WE NEED TO CALL YOU
3 BACK

4 NOW, THAT WILL BE LIKELY SOMETIME TUESDAY
5 PERHAPS SO YOU CAN CONTINUE WITH YOUR REGULAR
6 SCHEDULE, BUT YOU NEED TO BE IN A POSITION WHERE YOU
7 COULD COME BACK ON FAIRLY SHORT NOTICE IF YOU WERE
8 AT WORK, HOW LONG WOULD IT TAKE YOU TO GET BACK?

9 JUROR BATTLE AT LEAST AN HOUR AND
10 TWENTY MINUTES

11 THE COURT AN HOUR AND TWENTY MINUTES
12 IF WE CALLED, IS THERE SOMEONE WE CAN GET IN TOUCH
13 WITH THAT CAN GET IN TOUCH WITH YOU RIGHT AWAY?

14 JUROR BATTLE YES, SIR

15 THE COURT PLEASE THE CLERK WITH THOSE
16 NUMBERS WHERE YOU CAN BE REACHED, BOTH HOME AND THE
17 WORK AND, ALSO, BEFORE YOU GO, LET ME REMIND YOU
18 THAT YOU ARE STILL NOT TO DISCUSS THIS CASE IN ANY
19 FASHION WITH ANY PERSON YOU'RE NOT TO ALLOW ANYONE
20 TO DISCUSS WITH YOU, YOU'RE NOT TO ALLOW YOURSELF TO
21 OVERHEAR ANY CONVERSATIONS OR DISCUSSIONS AND YOU'RE
22 ALSO NOT TO ALLOW YOURSELF TO BE EXPOSED TO ANY TYPE
23 OF MEDIA COVERAGE THAT RELATES TO THIS CASE WHETHER
24 IT BE TELEVISION, RADIO OR NEWSPAPER WE'LL CALL
25 YOU JUST AS SOON WE CONCLUDE THIS PROCESS AND NEED

1 THE PANEL TO COME BACK FOR SELECTION THANK YOU

2 JUROR BATTLE THANK YOU

3 (JUROR EXITS THE COURTROOM)

4 (JUROR IS QUALIFIED)

5 MR TINSLEY YOUR HONOR, PLEASE NOTE
6 THAT THE DEFENSE TAKES EXCEPTION TO THE
7 QUALIFICATION ON THE BASIS THERE'S A SIGNIFICANT
8 LIKELIHOOD OF BASIS OR PREJUDICE OR LACK OF
9 OBJECTIVITY ON THE PART OF MS BATTLE AND I'M
10 REFERRING YOU TO *SOUTH CAROLINA CODE* 14-7-1020 AND
11 MY EXCEPTION THERE IN ALSO, *STATE VS CASON* WHICH
12 IS --

13 THE COURT THAT'S BIAS, PREJUDICE OR
14 INTEREST OF A JUROR?

15 MR TINSLEY YES AND I KNOW SHE SAID
16 WHAT SHE SAID I HEARD IT WHEN YOU WERE ASKING AND
17 ALL THAT BUT THIS ONE CLEARLY, I THINK, IS JUST
18 TOO CLOSE BECAUSE OF HER ACTUAL PARTICIPATION IN THE
19 BEREAVEMENT

20 THE COURT ALL RIGHT WELL, MR
21 TINSLEY, OF COURSE, I CERTAINLY UNDERSTAND YOUR
22 BASIS FOR ASKING THE JUROR FOUND NOT BE QUALIFIED
23 BUT THE FACT THAT A JUROR HAS SOME RELATIONSHIP WITH
24 A VICTIM OF A CRIME OR HAS SOME RELATIONSHIP WITH
25 THE WITNESS THAT MIGHT BE TESTIFYING IN THE TRIAL OF

1 A CASE OR WHETHER A JUROR HAS SOME RELATIONSHIP WITH
2 A PERSON CHARGED WITH THE COMMISSION OF A CRIMINAL
3 OFFENSE DOES NOT IN AND OF ITSELF MAKE THAT PERSON
4 NOT QUALIFIED TO SIT AS A JUROR IT SIMPLY MEANS
5 THAT THE COURT HAS TO INQUIRE OF THE JUROR AS TO
6 WHETHER OR NOT THAT RELATIONSHIP WOULD RESULT IN ANY
7 BIAS, PREJUDICE OR INTEREST THAT WOULD AFFECT THAT
8 JUROR'S ABILITY TO BE FAIR AND IMPARTIAL AND TO BASE
9 A VERDICT SOLELY UPON THE EVIDENCE RECEIVED DURING
10 THE TRIAL OF THE CASE AND TO PUT ASIDE ANY
11 RELATIONSHIP OR FRIENDSHIP THAT THE JUROR MIGHT HAVE
12 WITH A PARTY OR WITH A WITNESS IN THE CASE

13 IN THIS CASE, I THINK THIS JUROR WAS
14 QUESTIONED AT LENGTH REGARDING HER RELATIONSHIP WITH
15 THE PARTIES, WITH THE DECEDENTS' FAMILIES AS WELL AS
16 WITH THE DEFENDANT AND HIS FAMILY SHE WAS
17 QUESTIONED AT LENGTH WITH REGARD TO ANY POSSIBLE
18 CONFLICT THAT THAT MIGHT CAUSE IN HER ABILITY TO
19 SERVE SHE WAS QUESTIONED AT LENGTH AS TO WHETHER
20 OR NOT THERE WAS ANY POSSIBILITY THAT THOSE
21 RELATIONSHIPS MIGHT INTERFERE WITH HER ABILITY TO
22 FAIRLY CONSIDER THE CASE

23 I'VE HAD THE OPPORTUNITY, AS YOU'VE HAD, TO
24 SIT AND WATCH AND OBSERVE THIS WITNESS I NOTICED
25 CAREFULLY HER DEMEANOR I'VE ALSO HAD THE

1 OPPORTUNITY TO CAREFULLY ASSESS HER CREDIBILITY AND,
2 IN THIS PARTICULAR CASE, BASED UPON THE ANSWERS
3 SHE'S GIVEN, AS WELL AS THOSE ADDITIONAL FACTORS
4 THAT I CONSIDER, I BELIEVE HER ANSWERS TO BE HONEST,
5 I BELIEVE THOSE ANSWERS TO BE REASONABLE BASED UPON
6 HER ASSESSMENT OR HER CIRCUMSTANCES AND,
7 THEREFORE, I BELIEVE NOTWITHSTANDING THE FACT THAT
8 SHE HAS SOME RELATIONSHIP WITH THE PARTIES THAT SHE
9 CAN BE A FAIR AND REASONABLE JUROR AND BASE THE
10 VERDICT SOLELY UPON THE EVIDENCE AND, THEREFORE, I
11 FIND THAT SHE HAS NO BIAS, PREJUDICE OR INTEREST
12 WHICH WOULD PREVENT HER FROM BEING ABLE TO SERVE AS
13 A JUROR

14 I FURTHER FIND THAT, BASED UPON HER ANSWERS,
15 THAT SHE COULD RENDER A VERDICT BASED SOLELY UPON
16 THE EVIDENCE AND THE LAW APPLICABLE AND, THEREFORE,
17 FIND HER TO BE QUALIFIED TO SERVE A JUROR, IF
18 SELECTED

19 MR TINSLEY AND I APPRECIATE YOUR
20 COMMENTS THERE, JUDGE I JUST MAKE THE OBJECTION ON
21 THE BASIS OF ATTAINING FROM THE TIME

22 THE COURT WE'VE GOT MS MORROW, MR
23 BOWIE AND MS DOTSON ASK THEM TO COME IN PLEASE

24 (THE COURT CALLS FRAN MORROW)

25 (JUROR #139 PRESENTED AT 5 35 O'CLOCK P M)

1 EXAMINATION BY THE COURT

2 Q MS MORROW, IF YOU'LL HAVE A SEAT RIGHT HERE,
3 PLEASE, MA'AM

4 A THANKS

5 Q GOOD AFTERNOON OR GOOD EVENING TO YOU

6 A GOOD AFTERNOON

7 Q WE APPRECIATE YOUR REPORTING BACK WE'RE
8 RUNNING A LITTLE BIT BEHIND BUT NOT TOO BAD

9 A OKAY

10 Q THE REASON YOU'VE BEEN BROUGHT BACK, WE'RE
11 GOING TO BE ASKING YOU SOME QUESTIONS INDIVIDUALLY
12 I'LL ASK YOU SOME, THE LAWYERS MAY HAVE SOME
13 ADDITIONAL QUESTIONS SO THERE ARE NO RIGHT OR WRONG
14 ANSWERS WE'RE SIMPLY ASKING YOU THAT YOU PLEASE
15 ANSWER THOSE AS OPENLY AND AS HONESTLY AS YOU CAN SO
16 THAT WE CAN FIND OUT WHAT YOUR VIEWS AND OPINIONS
17 ARE ON CERTAIN SUBJECTS

18 NOW, I HAVE YOUR QUESTIONNAIRE YOU
19 INDICATED IT WAS COMPLETE AND ACCURATE

20 A UM-HMM

21 Q YOU, ALSO, INDICATED YOU HAD RECEIVED MY
22 LETTER WITH YOUR SUMMONS AND IT GAVE YOU CERTAIN
23 INSTRUCTIONS AND THE INSTRUCTIONS WERE NOT TO
24 DISCUSS THE CASE WITH ANYBODY, DON'T ALLOW YOURSELF
25 TO HEAR ANY DISCUSSIONS ABOUT THE CASE AND DON'T

1 ALLOW YOURSELF TO BE EXPOSED TO ANY TYPE OF MEDIA
2 COVERAGE, WHETHER IT BE TELEVISION OR RADIO OR
3 NEWSPAPERS THAT RELATE TO THE CASE HAVE YOU FOLLOW
4 THOSE INSTRUCTIONS?

5 A YES, I HAVE

6 Q HAVE YOU BEEN EXPOSED TO ANY TYPE OF NEWSPAPER
7 ARTICLE OR OTHER MEDIA COVERAGE?

8 A NO, I HAVEN'T

9 Q ANY OTHER DISCUSSION OF THE CASE?

10 A NO, I HAVEN'T

11 Q WHAT ABOUT BEFORE YOU RECEIVED MY LETTER?

12 A REALLY, I DIDN'T EVEN KNOW ANYTHING ABOUT IT

13 Q IS IT FAIR TO SAY THAT IF YOU SAW OR READ
14 ANYTHING ABOUT IT, THAT YOU DO NOT RECALL THE
15 SPECIFICS OF IT?

16 A NO, BECAUSE I DON'T EVEN TAKE THE NEWSPAPER
17 AND THAT'S JUST THE WAY IT IS

18 Q OKAY NOW, IN THIS CASE, AS YOU ARE NOW
19 AWARE, THE DEFENDANT IS CHARGED BY THE STATE WITH
20 THE CRIME OF MURDER AND THE LAW PROVIDES THAT
21 UNDER CERTAIN CIRCUMSTANCES A PERSON WHO IS
22 CONVICTED OR FOUND GUILTY OF MURDER MAY BE SUBJECT
23 TO HAVING THE DEATH PENALTY IMPOSED AS THE
24 PUNISHMENT FOR THAT OFFENSE THAT DOESN'T MEAN THAT
25 IT HAS TO BE OR IS REQUIRED BY THE LAW, IT SIMPLY

1 MEANS THAT A JURY WILL MAKE THAT DECISION

2 WHERE A PERSON HAS BEEN CHARGED WITH A
3 CRIME OF MURDER, IN ORDER FOR THE DEATH SENTENCE TO
4 EVEN BECOME A POSSIBILITY, IT MUST ALSO BE PROVEN
5 BEYOND A REASONABLE DOUBT THAT THERE WAS SOME OTHER
6 AGGRAVATING CIRCUMSTANCE THAT ACCOMPANIED THE
7 COMMISSION OF THAT MURDER BEFORE THAT PERSON COULD
8 BE SUBJECT TO HAVING THE DEATH PENALTY IMPOSED BUT
9 WHERE A PERSON IS FOUND GUILTY OF MURDER AND WHERE
10 SOME AGGRAVATING CIRCUMSTANCE HAS BEEN PROVEN, ALSO
11 BEYOND A REASONABLE DOUBT, THE STATE IS PERMITTED TO
12 ASK THAT THE DEATH PENALTY BE IMPOSED THE JURY
13 MAKES THAT DECISION

14 NOW, IN SUCH A CASE AS THAT, THE CASE OR
15 THE TRIAL OF THE CASE ITSELF IS CONDUCTED IN TWO
16 PHASES OR TWO STAGES THE FIRST PHASE OF THE TRIAL
17 RELATES TO ISSUES OF GUILT AND THE SECOND PHASE OF
18 THE TRIAL, IF YOU GET THERE, RELATES TO ISSUES
19 CONCERNING PUNISHMENT IN THE FIRST PHASE OF THE
20 TRIAL, EVIDENCE WILL BE INTRODUCED BY WAY OF
21 WITNESS'S TESTIMONY AND OTHER TYPES OF EVIDENCE
22 THE JURY WILL BE CALLED UPON TO CONSIDER ALL THAT
23 EVIDENCE AND TO DECIDE WHAT THEY BELIEVE THE FACTS
24 ARE THE COURT WILL PROVIDE THE JURY WITH THE LAW
25 THAT'S APPLICABLE AND THE JURY WILL TAKE THE LAW AND

1 APPLY IT TO THE FACTS AND DECIDE WHAT THE
2 APPROPRIATE VERDICT SHOULD BE

3 BEFORE YOU WOULD PROCEED TO A PENALTY
4 PHASE, THE JURY MUST FIRST FIND THE PERSON TO BE
5 GUILTY BEYOND A REASONABLE DOUBT OF THE CRIME OF
6 MURDER AND SOME ADDITIONAL AGGRAVATING CIRCUMSTANCE
7 BE PRESENT, DO YOU UNDERSTAND?

8 A UM-HMM

9 Q DO YOU UNDERSTAND THAT THE BURDEN IS ALWAYS
10 UPON THE STATE IN BRINGING A CHARGE AGAINST ANOTHER
11 TO PROVE THEIR GUILT BEYOND A REASONABLE DOUBT?

12 A I DO

13 Q AND DO YOU UNDERSTAND THAT THE BURDEN IS NEVER
14 UPON A PERSON WHO IS ACCUSED TO PROVE THAT THEY ARE
15 NOT GUILTY?

16 A I DO

17 Q DO YOU UNDERSTAND THAT A PERSON CHARGED WITH A
18 CRIME IS ALWAYS PRESUMED TO BE INNOCENT?

19 A I DO

20 Q DO YOU ACCEPT THOSE PROPOSITIONS OF LAW?

21 A YES

22 Q IN THE TRIAL OF THE CASE, AS I STATED, THE
23 JURY CAN ONLY FIND THE PERSON GUILTY IF THEY'RE
24 CONVINCED OF THAT FACT BEYOND A REASONABLE DOUBT
25 WOULD YOU BE ABLE AND WILLING TO FAIRLY CONSIDER ALL

1 OF THE EVIDENCE THAT MIGHT BE INTRODUCED DURING THE
2 TRIAL OF THE CASE BEFORE YOU MAKE A DECISION AS TO A
3 PERSON'S GUILT?

4 A YES, I WOULD

5 Q IF YOU'RE CONVINCED THAT THE EVIDENCE SUPPORTS
6 THAT DECISION BEYOND A REASONABLE DOUBT, COULD YOU
7 RETURN A VERDICT OF GUILTY?

8 A YES

9 Q IF YOU HAD SOME REASONABLE DOUBT AS TO WHETHER
10 OR NOT THE EVIDENCE SUPPORTED A VERDICT OF GUILTY,
11 WOULD YOU FIND THAT PERSON NOT GUILTY?

12 A I'M NOT REALLY SURE OF THAT QUESTION

13 Q SOMETIMES I ASK THESE QUESTIONS, I ASK THEM
14 MANY TIMES, AND SOMETIMES THEY'RE A LITTLE BIT
15 DIFFERENT AND SOMETIMES I GET CARRIED AWAY AND I
16 MIGHT NOT STATE IT VERY CLEARLY WHAT I'M GETTING
17 AT IS THIS, IN ORDER FOR A JURY TO FIND SOMEBODY
18 GUILTY, THEY MUST BE CONVICTED OF THAT FACT BEYOND A
19 REASONABLE DOUBT AND WHAT I WANT TO KNOW IS, IF
20 YOU'RE NOT CONVINCED BEYOND A REASONABLE DOUBT THAT
21 A PERSON IS GUILTY, WOULD YOU RETURN A VERDICT OF
22 NOT GUILTY?

23 A NO

24 Q WHAT WOULD YOU DO?

25 A WELL, IT'D HAVE TO BE PROVEN EITHER WAY

1 THAT'S MY THINKING I MIGHT BE WRONG BUT THAT'S THE
2 WAY I THINK

3 Q AND WHAT I'M ASKING YOU, AND I MIGHT NOT HAVE
4 ASKED IT VERY CLEARLY AGAIN BUT WHAT I'M ASKING
5 IS, IF YOU HAD CONSIDERED ALL THE EVIDENCE IN THE
6 CASE AND YOU HAD A REASONABLE DOUBT ABOUT THE
7 PERSON'S GUILT, YOU THOUGHT ABOUT IT AND YOU SAID I
8 GOT A REASONABLE DOUBT ABOUT WHETHER THAT EVIDENCE -
9 -

10 A IS TRUE?

11 Q - - SUPPORTS A VERDICT OF GUILT UNDER THAT
12 CIRCUMSTANCE, WOULD YOU FIND THE PERSON NOT GUILTY?

13 A I SAY, NO

14 Q WHAT WOULD YOU DO?

15 A WELL, --

16 Q WHAT I'M SAYING, IF YOU HAD A REASONABLE DOUBT
17 --

18 A TO NOT BELIEVE

19 Q - - IF YOU HAD A REASONABLE DOUBT AS TO THE
20 EVIDENCE SUPPORTING A VERDICT OF GUILTY, WHAT WOULD
21 YOU DO?

22 A IT WOULD HAVE TO BE PROVEN, I GUESS I REALLY
23 DON'T KNOW

24 Q WELL, LET ME ASK YOU THIS UNDER THE LAW, AND
25 I WOULD INSTRUCT THE JURY THAT THIS IS THE LAW, AND

1 IF INSTRUCTED YOU AS TO SOME LAW AND TOLD YOU THAT
2 YOU HAD TO FOLLOW THAT LAW, WOULD YOU BE WILLING TO
3 DO THAT?

4 A YES, I WOULD

5 Q IS THERE ANY EXCEPTION TO THAT --

6 A NO

7 Q - - THAT YOU COULD THINK OF?

8 A NOT THAT I KNOW OF I MEAN, I WOULD FOLLOW
9 THE LAW, WHAT I WAS TOLD TO DO

10 Q IF YOU TOLD YOU YOU MUST FOLLOW THE LAW AND
11 THIS WAS THE LAW THAT APPLIED, WOULD YOU FOLLOW THAT
12 LAW?

13 A YES, I WOULD

14 Q IF I WOULD INSTRUCT THE JURY THAT YOU MAY
15 NEVER FIND THE PERSON GUILTY OF A CRIME, UNLESS YOU
16 ARE CONVINCED OF THAT FACT BEYOND A REASONABLE
17 DOUBT, AND THE BURDEN IS UPON THE STATE TO PUT FORTH
18 SUFFICIENT EVIDENCE TO ESTABLISH THAT FACT TO YOUR
19 SATISFACTION BEYOND A REASONABLE DOUBT SO UNDER
20 THE LAW, YOU CANNOT FIND A PERSON GUILTY UNLESS YOU
21 ARE CONVINCED THAT HE IS GUILTY BEYOND A REASONABLE
22 DOUBT

23 A I UNDERSTAND

24 Q I WOULD ALSO INSTRUCT YOU THAT IF YOU WERE NOT
25 CONVINCED BEYOND A REASONABLE DOUBT, IF YOU HAD SOME

1 REASONABLE DOUBT AS TO WHETHER OR NOT THE EVIDENCE
2 SUPPORTED A VERDICT OF GUILTY, YOU HAVE TO FIND HIM
3 NOT GUILTY

4 A NOT GUILTY

5 Q COULD YOU FOLLOW THAT LAW?

6 A YES

7 Q AND IF YOU WERE NOT CONVINCED BEYOND A
8 REASONABLE DOUBT THAT THE PERSON WAS GUILTY, WOULD
9 YOU FIND HIM NOT GUILTY?

10 A I DON'T REALLY KNOW HOW TO ANSWER THAT ONE

11 Q LET ME ASK IT IN THE CONVERSE IF YOU WEREN'T
12 CONVINCED THAT A PERSON WAS GUILTY BEYOND A
13 REASONABLE DOUBT, WOULD YOU GO AHEAD AND FIND HIM
14 GUILTY ANYWAY?

15 A NO, I WOULDN'T

16 Q DO YOU UNDERSTAND THAT UNDER THE LAW, IF
17 YOU'RE NOT CONVINCED, YOU MUST FIND HIM NOT GUILTY

18 A RIGHT

19 Q WOULD YOU FOLLOW THAT LAW?

20 A YES

21 Q IF YOU WEREN'T CONVINCED WOULD YOU RETURN A
22 VERDICT OF NOT GUILTY AS YOU ARE REQUIRED TO DO
23 UNDER THE LAW?

24 A YES I GUESS THAT'S THE RIGHT STATEMENT

25 Q MA'AM?

1 A I GUESS THAT WOULD BE RIGHT

2 Q WELL, OF COURSE, I WANT YOU TO UNDERSTAND, I'M
3 NOT TRYING TO PRESSURE YOU AND I'M NOT TRYING TO GET
4 YOU TO SAY ANYTHING

5 A RIGHT

6 Q WHAT I REALLY WANT IS YOUR HONEST OPINION AS
7 TO WHAT YOU THINK AND WHAT YOU WOULD DO UNDER THOSE
8 CIRCUMSTANCES

9 A LIKE I SAID, IT'S HARD, YOU REALLY DON'T KNOW
10 I WOULD GO ALONG --

11 Q I UNDERSTAND IT'S ALWAYS PERHAPS, IN MANY
12 CASES, DIFFICULT TO DECIDE WHETHER OR NOT SOMEONE IS
13 GUILTY OR NOT

14 A TRUE

15 Q I'M JUST SIMPLY TELLING YOU, THOUGH, THAT THIS
16 IS WHAT THE LAW IS AND I JUST SIMPLY WANT TO KNOW IF
17 YOU COULD FOLLOW THAT LAW AND IF YOU COULDN'T
18 FOLLOW THAT LAW, THAT'S FINE, TOO I JUST NEED YOU
19 TO TELL ME THAT BUT AS I STATED AND I WILL STATE
20 IT AGAIN YOU CANNOT FIND A PERSON GUILTY UNLESS
21 YOU'RE CONVINCED THEY'RE GUILTY BEYOND A REASONABLE
22 DOUBT

23 A UM-HMM

24 Q AND THE STATE HAS TO MEET THAT BURDEN OF
25 PROOF THAT'S THEIR BURDEN TO ESTABLISH THAT FACT

1 IF THEY DON'T MEET IT, IF THEY FAIL IN THAT BURDEN,
2 A JUROR IS REQUIRED UNDER THE LAW TO RETURN A
3 VERDICT OF NOT GUILTY, DO YOU UNDERSTAND?

4 A UM-HMM

5 Q COULD YOU DO THAT?

6 A YES, I COULD

7 Q DO YOU UNDERSTAND, ALSO -- LET ME EXPLAIN THIS
8 TO YOU IF A JURY'S GIVEN CHOICES AS TO CRIMES,
9 THAT IS YOU HAVE A GREATER CRIME AND A LESSER CRIME
10 YOU HAVE GRAND LARCENY, LET'S SAY, AND YOU HAVE
11 PETIT LARCENY, THE LESSER CRIME IS INCLUDED IN THE
12 GREATER CRIME, DO YOU UNDERSTAND THAT IF YOU HAVE A
13 REASONABLE DOUBT AS TO THE TWO CRIMES AS TO WHETHER
14 OR NOT THE STATE IS PROVEN THE GREATER OR THE
15 LESSER IF YOU HAVE A REASONABLE DOUBT, YOU HAVE TO
16 RESOLVE THAT DOUBT IN FAVOR OF THE DEFENDANT YOU
17 COULD ONLY FIND HIM GUILTY OF THE LESSER, AND THEN,
18 ONLY IF YOU'RE CONVINCED OF THAT BEYOND A REASONABLE
19 DOUBT COULD YOU FOLLOW THAT PROPOSITION OF LAW,
20 ALSO?

21 A YES, I COULD

22 Q NOW, AS I STATED, IN A TRIAL WHERE A PERSON'S
23 CHARGED WITH THE MURDER AND THE STATE IS SEEKING THE
24 DEATH PENALTY, IT OCCURS IN TWO STAGES THE FIRST
25 STAGE YOU WOULD DECIDE WHETHER OR NOT THE PERSON'S

1 GUILTY AND IF, AND ONLY IF, YOU FOUND THAT PERSON
2 GUILTY OF MURDER WOULD YOU PROCEED TO THE SECOND
3 STAGE OF THE TRIAL AND IN THE SECOND STAGE OF THE
4 TRIAL, THERE WOULD BE OTHER EVIDENCE BROUGHT IN,
5 OTHER EVIDENCE WOULD BE PRESENTED AND THAT
6 EVIDENCE WOULD RELATE TO CIRCUMSTANCES OF
7 AGGRAVATION AND CIRCUMSTANCES OF MITIGATION OR
8 EVIDENCE THAT RELATES TO AGGRAVATION AND MITIGATION
9 AND WHAT I MEAN BY THAT IS SIMPLY THERE WILL BE
10 ADDITIONAL EVIDENCE RECEIVED THAT MIGHT TEND TO
11 SUPPORT THE DEATH PENALTY AS THE APPROPRIATE
12 SENTENCE IN THE CASE THERE WOULD BE OTHER EVIDENCE
13 OFFERED THAT MIGHT TEND TO SUPPORT A LIFE SENTENCE
14 AS BEING THE APPROPRIATE SENTENCE IN THE CASE

15 IF YOU WERE PARTICIPATING IN THAT TRIAL,
16 COULD YOU AND WOULD YOU FAIRLY CONSIDER ALL OF THAT
17 EVIDENCE THAT WOULD BE INTRODUCED BEFORE YOU MADE A
18 DECISION?

19 A YES, I WOULD

20 Q AND IF, AFTER YOU'VE CONSIDERED ALL OF THAT
21 EVIDENCE, THAT WAS RECEIVED DURING THE TRIAL OF THE
22 CASE, AFTER YOU'VE CONSIDERED IT ALL, IF YOU THOUGHT
23 IT WAS APPROPRIATE, COULD YOU SENTENCE A PERSON TO
24 DEATH?

25 A NO, I COULDN'T

1 Q YOU COULD NOT?

2 A NO, I COULDN'T

3 Q COULD YOU SENTENCE A PERSON TO LIFE
4 IMPRISONMENT?

5 A YES

6 Q YOU UNDERSTAND THAT IF YOU WERE PARTICIPATING
7 IN A CASE SUCH AS THAT AND YOU GOT TO THE PENALTY
8 PHASE THAT THAT'S WHAT THE JURY WOULD DO IT WOULD
9 BE THE JURY'S DECISION AS TO WHETHER OR NOT TO
10 IMPOSE A DEATH SENTENCE OR TO IMPOSE A LIFE
11 SENTENCE

12 A UM-HMM

13 Q UNDERSTAND, HOWEVER, YOU WOULD NEVER BE
14 REQUIRED TO IMPOSE A DEATH SENTENCE AND YOU COULD
15 IMPOSE A LIFE SENTENCE NO MATTER WHAT THE
16 CIRCUMSTANCES ARE, AND YOU COULD DO IT FOR SOME
17 REASON OR YOU COULD DO IT FOR NO REASON NOW, IF
18 YOU HAD A CHOICE, AND YOU COULD SENTENCE A PERSON TO
19 DEATH AND YOU COULD SENTENCE A PERSON TO LIFE, WOULD
20 YOU ALWAYS CHOSE ONE OF THOSE OTHER THE OTHER?

21 A IF I HAD A CHOICE?

22 Q YES, MA'AM, AND YOU WOULD

23 A I HAVE TO SAY ONE OR THE OTHER?

24 Q WHAT I'M SAYING IS, WOULD YOU ALWAYS CHOSE ONE
25 OR THE OTHER, IF YOU HAD THAT CHOICE?

1 A UM-HMM

2 Q AND WHAT WOULD YOU CHOSE?

3 A I'D SAY LIFE

4 Q CAN YOU THINK OF ANY CIRCUMSTANCE WHERE YOU
5 WOULD BE WILLING TO SENTENCE A PERSON TO DEATH?

6 A NO

7 Q YOU CANNOT?

8 A HUH-UH

9 THE COURT ANY OTHER QUESTIONS?

10 MR JONES NONE FOR THE STATE

11 MR TINSLEY NO QUESTIONS

12 THE COURT ALL RIGHT MS MORROW, WE
13 APPRECIATE YOU COMING BACK WE'RE GOING TO EXCUSE
14 YOU FROM SERVICE IN THE TRIAL OF THIS CASE SO
15 YOU'LL BE HAPPY TO KNOW THAT YOU WON'T HAVE TO CALL
16 BACK ANYMORE, YOU WON'T HAVE TO COME BACK DOWN HERE
17 AND WE KNOW THAT THIS HAS BEEN AN INCONVENIENCE FOR
18 YOU, BUT WE DO APPRECIATE YOUR WILLINGNESS TO
19 PARTICIPATE, IF YOU WERE CALLED UPON SO YOU ARE
20 EXCUSED NOW AND, AS I SAY, YOU WILL NOT NEED TO COME
21 BACK NOR CALL BACK

22 JUROR MORROW I APPRECIATE IT THANKS

23 THE COURT ANY OBJECTION TO MS MORROW
24 BEING FOUND NOT QUALIFIED?

25 MR JONES NONE FOR THE STATE, YOUR

1 HONOR

2 MR TINSLEY NO, YOUR HONOR

3 (JUROR EXITS THE COURTROOM)

4 (JUROR IS NOT QUALIFIED)

5 THE COURT THE NEXT JUROR'S TWENTY-
6 ONE, I BELIEVE?

7 THE COURT YES, SIR

8 MR TINSLEY WE'VE GOT ANOTHER MR
9 BOWIE

10 THE COURT WILLIAM HEATH BOWIE

11 MR TINSLEY WILLIAM HEATH BOWIE?

12 THE COURT WILLIAM HEATH BOWIE

13 MR TINSLEY I'VE GOT IT AS TWENTY-TWO
14 TWENTY-TWO IS IT, WHICH IS IT?

15 MR COULTER I'VE GOT TWENTY-TWO DOWN

16 MR TINSLEY I HAVE TWENTY-ONE WHAT
17 DOES YOUR HONOR -- DO YOU KNOW, YOUR HONOR?

18 THE COURT I'VE GOT WILLIAM HEATH BOWIE
19 BUT I'VE GOT TWENTY-ONE

20 MR TINSLEY THAT'S WHAT I HAVE

21 THE COURT I MAY HAVE TAKEN IT OFF THE
22 LIST WRONG, LET ME SEE WELL, THAT'S INCORRECT
23 WILLIAM HEATH BOWIE IS NUMBER TWENTY-TWO I
24 HIGHLIGHTED THE WRONG BOWIE WHEN I WENT DOWN THE
25 LIST WILLIAM HEATH BOWIE IS NUMBER TWENTY-TWO

1 LET'S DO THIS, ASK MR BOWIE WHAT HIS MIDDLE INITIAL
2 IS

3 THE CLERK H

4 THE COURT THAT'S WILLIAM H BOWIE
5 YEAH, THAT'S NUMBER TWENTY-TWO, THAT'S WHAT I
6 THOUGHT

7 MR TINSLEY I'LL CHANGE IT

8 MR McCALLUM YOUR HONOR, WHILE WE'RE ON
9 THE SUBJECT, WE HAD MS DOTSON, THE NEXT JUROR, DOWN
10 AS NUMBER THREE WHEN YOU WERE CALLING OUT THE
11 JUROR'S SCHEDULE, BUT SHE'S ACTUALLY NUMBER FIFTY-
12 EIGHT ON THE LIST

13 THE COURT SHE'S NOT JUROR NUMBER THREE,
14 THAT'S FOR CERTAIN

15 MR McCALLUM ALL THREE OF THE DEFENSE
16 COUNSEL HAS WRITTEN THAT DOWN WHEN YOU CALLED THEM
17 OUT WE WANTED TO MAKE SURE WE WERE TALKING ABOUT
18 MS DOTSON AND NOT ABOUT NUMBER THREE, I THINK IT
19 WAS AIKEN

20 THE COURT WELL, SHE MIGHT HAVE BEEN
21 NUMBER THREE IN THE PANEL, ONE, TWO, THREE BUT,
22 NO, SHE'S NOT NUMBER THREE ON THE JURY LIST I
23 MEAN, I DON'T KNOW WHERE YOU THREE GOT NUMBER THREE,
24 I'VE GOT NUMBER FIFTY-EIGHT ON MY LIST YOU TRYING
25 TO PUT THAT OFF ON ME?

1 MR McCALLUM NO, YOUR HONOR, WE'RE JUST
2 TRYING TO MAKE SURE WE GOT THE RIGHT PERSON

3 THE COURT YEAH, SHE WAS NUMBER THREE AT
4 5 15, I CAN TELL YOU I'M SIMPLY HAVING THE CLERK
5 CHECK TO BE SURE WE HAVE THE RIGHT MR BOWIE
6 ACCORDING TO THE RECORDS AND I THINK THE PROBLEM
7 WAS THAT THE MIDDLE INITIAL WAS LEFT OUT, BUT
8 WILLIAM G BOWIE HAD A MEDICAL STATEMENT INDICATING
9 INABILITY TO SERVE OF COURSE, WILLIAM H BOWIE,
10 OBVIOUSLY, APPEARED BECAUSE HE'S BACK TODAY AND HE
11 WOULD NOT HAVE KNOWN TO SHOW UP HAD HE NOT ANSWERED
12 THE ROLL CALL

13 MR TINSLEY AND THAT'S THE
14 QUESTIONNAIRE THAT I DO HAVE

15 THE COURT THAT'S THE ONE I HAVE, ALSO
16 ALL RIGHT GENTLEMEN, WE'VE GOT WILLIAM -- THE TWO
17 BOWIES, WILLIAM G BOWIE, WHICH IS JUROR NUMBER
18 TWENTY-ONE, AND WILLIAM H BOWIE WHICH IS JUROR
19 NUMBER TWENTY-TWO WILLIAM G BOWIE HAS PROVIDED A
20 DOCTOR'S STATEMENT FROM DR THOMAS PRITCHETT OF
21 PIEDMONT CARDIOLOGY ASSOCIATES THAT DOCTOR'S
22 STATEMENT, I BELIEVE YOU HAVE SEEN IT BUT IT
23 INDICATES THAT HE'S A PATIENT, IT STATES WHAT HIS
24 MEDICAL DIFFICULTY IS AND HE IS UNABLE TO SERVE
25 BECAUSE OF HIS MEDICAL CONDITION SO WILLIAM H

1 BOWIE IS THE ONE THAT HAS RESPONDED TO THE JUROR'S
2 SUMMONS AND IS PRESENT HERE

3 MR TINSLEY WE'RE READY

4 THE COURT ASK MR BOWIE TO COME IN MR
5 WILLIAM H BOWIE

6 (THE COURT CALLS WILLIAM H BOWIE)

7 (JUROR #33 PRESENTED AT 6 00 O'CLOCK P M)

8 EXAMINATION BY THE COURT

9 Q YOU ARE WILLIAM HEATH BOWIE?

10 A YES, SIR

11 Q MR BOWIE, YOU'RE HERE FOR THE PURPOSE OF US
12 ASKING YOU SOME ADDITIONAL QUESTIONS THERE ARE NO
13 RIGHT OR WRONG ANSWERS WE SIMPLY NEED TO KNOW YOUR
14 HONEST AND OPEN OPINIONS ABOUT CERTAIN MATTERS THAT
15 YOU'LL BE ASKED ABOUT I'LL HAVE SOME QUESTIONS FOR
16 YOU, THE LAWYERS MAY ASK YOU SOME OTHER QUESTIONS

17 DO YOU REMEMBER HAVING BEEN PLACED UNDER
18 OATH WHEN THE ENTIRE PANEL WAS PRESENT?

19 A YES, SIR

20 Q YOU UNDERSTAND YOU REMAIN UNDER OATH FOR THE
21 PURPOSE OF THESE QUESTIONS, ALSO?

22 A YES, SIR

23 Q NOW, YOU FILLED OUT A QUESTIONNAIRE YOU
24 INDICATED IT WAS ACCURATE

25 A YES, SIR

1 Q YOU, ALSO, INDICATED YOU RECEIVED MY LETTER
2 INSTRUCTING YOU NOT TO DISCUSS THE CASE AND NOT TO
3 LISTEN TO ANY DISCUSSIONS, NOT TO BE EXPOSED TO ANY
4 MEDIA COVERAGE?

5 A YES, SIR

6 Q HAVE YOU FOLLOWED THAT INSTRUCTION?

7 A YES, SIR

8 Q HAVE YOU SEEN ANY NEWSPAPER ARTICLES OR TV
9 REPORTS ABOUT THE CASE?

10 A NO, SIR

11 Q WHAT ABOUT BEFORE YOU RECEIVED MY LETTER?

12 A NO, SIR

13 Q NO?

14 A NO, SIR

15 Q NOW, IN THIS CASE, YOU ARE AWARE, BY NOW, THE
16 DEFENDANT IS CHARGED WITH THE CRIME OF MURDER AND
17 THE LAW PROVIDES THAT UNDER CERTAIN CIRCUMSTANCES, A
18 PERSON WHO IS CONVICTED OR FOUND GUILTY OF MURDER
19 MAY BE SENTENCED TO DEATH PROVIDED THAT THERE'S SOME
20 AGGRAVATING CIRCUMSTANCE AND THE STATUE PROVIDES
21 WHAT THOSE ARE SOME AGGRAVATING CIRCUMSTANCE IN
22 ADDITION TO THE MURDER CONVICTION ITSELF, DO YOU
23 UNDERSTAND THAT?

24 A YES, SIR

25 Q A CASE OF THIS NATURE IS TRIED IN TWO STAGES

1 THE FIRST STAGE DEALS WITH GUILT, THE SECOND STAGE
2 DEALS WITH PUNISHMENT YOU ONLY GO TO PUNISHMENT
3 IF, IN THE GUILT PHASE, THE JURY FINDS A PERSON
4 GUILTY OF MURDER BEYOND A REASONABLE DOUBT, AND SOME
5 AGGRAVATING CIRCUMSTANCE IS ALSO PROVEN BEYOND A
6 REASONABLE DOUBT IT'S ONLY UNDER THOSE
7 CIRCUMSTANCES THAT A JURY MAY EVEN CONSIDER THE
8 DEATH PENALTY AS A FORM OF PUNISHMENT, DO YOU
9 UNDERSTAND THAT?

10 A YES, SIR

11 Q NOW, WHERE A PERSON HAS BEEN FOUND GUILTY OF A
12 CRIME OF MURDER AND WHERE A STATUTORY, AGGRAVATING
13 CIRCUMSTANCE HAS BEEN PROVEN, THEN THERE'S AN
14 ADDITIONAL STEP, THERE'S AN ADDITIONAL HEARING THAT
15 OCCURS AFTER THAT FIRST GUILT PHASE WHERE THE JURY
16 HAS FOUND THE PERSON TO BE GUILTY IN THAT
17 SUBSEQUENT HEARING, THERE'S ADDITIONAL EVIDENCE
18 RECEIVED THERE'S EVIDENCE RECEIVED IN AGGRAVATION
19 AND EVIDENCE RECEIVED IN MITIGATION THAT SIMPLY
20 MEANS THAT THERE'S EVIDENCE RECEIVED THAT MIGHT TEND
21 TO SUPPORT THE DEATH PENALTY AS THE MORE APPROPRIATE
22 PUNISHMENT AND THERE IS EVIDENCE RECEIVED THAT
23 MIGHT TEND TO SUPPORT A LIFE SENTENCE AS BEING THE
24 APPROPRIATE FORM OF PUNISHMENT IN THE CASE

25 NOW, DO YOU UNDERSTAND THAT ANY TIME THE

1 STATE ACCUSES A PERSON OF HAVING COMMITTED SOME
2 CRIMINAL OFFENSE, THAT THE BURDEN IS ALWAYS UPON THE
3 STATE TO ESTABLISH THAT FACT BEYOND A REASONABLE
4 DOUBT TO THE SATISFACTION OF A JURY?

5 A YES, SIR

6 Q DO YOU UNDERSTAND THAT UNDER THE LAW THE
7 BURDEN IS NEVER UPON A PERSON CHARGED WITH A CRIME
8 TO PROVE THAT HE IS NOT GUILTY OR TO PROVE THAT HE
9 IS INNOCENT?

10 A YES, SIR

11 Q DO YOU UNDERSTAND THAT THE LAW PRESUMES ANY
12 PERSON CHARGED WITH A CRIME TO BE INNOCENT OF THAT
13 CRIME?

14 A YES, SIR

15 Q CAN YOU ACCEPT THOSE PROPOSITIONS OF LAW?

16 A YES, SIR

17 Q NOW, IF YOU WERE SELECTED TO SERVE IN A CASE
18 WHERE A PERSON IS CHARGED WITH MURDER, AND IN THAT
19 GUILT PORTION OF THE TRIAL EVIDENCE IS RECEIVED,
20 WOULD YOU BE ABLE AND WILLING TO FAIRLY CONSIDER ALL
21 OF THAT EVIDENCE BEFORE ARRIVING AT YOUR DECISION AS
22 TO WHETHER OR NOT THAT PERSON IS GUILTY?

23 A YES, SIR

24 Q AND IF, AFTER YOU'VE CONSIDERED ALL THE
25 EVIDENCE IN THE CASE, IF YOU BELIEVE THE PERSON HAD

1 BEEN PROVEN GUILTY BEYOND A REASONABLE DOUBT, COULD
2 YOU RETURN A VERDICT OF GUILTY?

3 A YES, SIR

4 Q AND IF YOU HAD A REASONABLE DOUBT ABOUT A
5 PERSON'S GUILTY, WOULD YOU FIND HIM NOT GUILTY?

6 A YES, SIR

7 Q NOW, I WANT YOU TO ASSUME, AND ONLY ASSUME IT
8 FOR THE PURPOSE OF THIS QUESTION, THAT A PERSON HAS
9 BEEN FOUND GUILTY OF A CRIME OF MURDER, AND SOME
10 STATUTORY AGGRAVATING CIRCUMSTANCE HAS ALSO BEEN
11 PROVEN BEYOND A REASONABLE DOUBT THEN WE WOULD GO TO
12 THE PENALTY PHASE OF THE TRIAL IF YOU WERE
13 PARTICIPATING IN THAT PENALTY PHASE, I TOLD YOU THAT
14 THERE WOULD BE ADDITIONAL EVIDENCE RECEIVED, BOTH IN
15 AGGRAVATION AND IN MITIGATION IF YOU WERE
16 PARTICIPATING, WOULD YOU AND COULD YOU FAIRLY
17 CONSIDER ALL OF THAT ADDITIONAL EVIDENCE BEFORE
18 ARRIVING AT YOUR DECISION AS TO THE APPROPRIATE
19 PUNISHMENT?

20 A YES, SIR

21 Q AFTER YOU HAD CONSIDERED ALL THE EVIDENCE IN
22 THE CASE, THE EVIDENCE RELATING TO THE CRIMES
23 THEMSELVES, THE EVIDENCE RELATING TO THE DEFENDANT'S
24 BACKGROUND OR INDIVIDUAL CHARACTERISTICS AND
25 EVIDENCE RELATING TO AGGRAVATION AND MITIGATION,

1 AFTER YOU'D CONSIDERED ALL OF THAT EVIDENCE, WOULD
2 YOU BE ABLE TO SENTENCE A PERSON TO DEATH IF YOU
3 THOUGHT THE EVIDENCE SUPPORTED THAT DECISION?

4 A YES, SIR

5 Q WOULD YOU, ALSO, BE ABLE TO SENTENCE A PERSON
6 TO LIFE IMPRISONMENT IF YOU THOUGHT THAT WAS THE
7 APPROPRIATE PUNISHMENT?

8 A YES, SIR

9 Q WOULD YOU EVER CHOSE ONE OF THOSE FORMS OVER
10 THE OTHER IN EVERY CASE?

11 A NO, SIR

12 Q WOULD IT DEPEND UPON WHAT THE FACTS AND
13 CIRCUMSTANCES WERE?

14 A YES, SIR

15 Q AND WOULD YOU GIVE ALL OF THOSE CIRCUMSTANCES
16 FAIR AND CAREFUL CONSIDERATION?

17 A YES, SIR

18 Q BEFORE ARRIVING AT YOUR DECISION

19 A YES, SIR

20 Q HAVE YOU ALREADY FORMED OR EXPRESSED ANY
21 OPINION AS TO WHAT YOU THINK THE ULTIMATE DECISION
22 SHOULD BE IN THIS CASE?

23 A NO, SIR

24 Q DO YOU KNOW ANY REASON WHY YOU COULD NOT BE A
25 FAIR AND IMPARTIAL JUROR, IF YOU WERE SELECTED TO

1 SERVE?

2 A NO, SIR

3 Q YOU UNDERSTAND IF YOU ARE SELECTED, YOU WOULD
4 BE SEQUESTERED?

5 A YES, SIR

6 Q YOU'D BE STAYING IN A MOTEL, YOU'D BE EATING
7 WITH YOUR FELLOW JURORS, YOU WOULD NOT BE ABLE TO GO
8 HOME AND COME BACK

9 A YES, SIR

10 Q THAT PERIOD OF SEQUESTRATION WOULD LIKELY LAST
11 SEVEN TO TEN DAYS IT WOULD NOT BEGIN TODAY BUT,
12 PERHAPS, EARLY NEXT WEEK IF YOU WERE SELECTED TO
13 SERVE, WOULD THAT SEQUESTRATION IMPOSE ANY
14 UNREASONABLE HARDSHIP OR HEALTH RISK TO YOU OR ANY
15 PERSON DEPENDENT UPON YOU?

16 A NO, SIR

17 Q WOULD YOU BE WILLING TO ACCEPT THAT
18 INCONVENIENCE AND HARDSHIP, IF YOU WERE CALLED UPON
19 TO SERVE?

20 A YES, SIR

21 THE COURT THANK YOU PLEASE ANSWER THE
22 LAWYERS' QUESTIONS

23 EXAMINATION BY MR TINSLEY

24 Q GOOD AFTERNOON, MR BOWIE

25 A GOOD AFTERNOON,

1 Q MR BOWIE, YOU'RE TWENTY YEARS OLD?

2 A YES, SIR

3 Q AND WHAT'S YOUR EDUCATION, SIR?

4 A I HAVE MY G E D

5 Q AND HOW MANY ACTUAL GRADES IN SCHOOL DID YOU
6 ATTEND?

7 A ELEVEN

8 Q AND YOU DON'T KNOW ANYTHING ABOUT THIS, DO
9 YOU?

10 A NO, SIR

11 Q AND YOU DON'T HAVE ANY CONNECTION WITH ANY OF
12 THE PARTIES IN THIS, DO YOU?

13 A NO, SIR

14 Q AND ISN'T IT TRUE, MR BOWIE, THAT YOU WOULD
15 BE CAPABLE OF LISTENING TO THE JUDGE'S INSTRUCTIONS
16 ON THE FACTS AND THE LAW IN THIS CASE APPLY IT
17 ACCORDINGLY?

18 A YES, SIR

19 Q AND IF MY CLIENT, JOHN HUGHEY, WERE CONVICTED
20 OF, LET'S SAY, ALL THE CHARGES, VERY SERIOUS
21 CHARGES, IN DEED, COULD YOU RETURN A LIFE SENTENCE
22 RECOMMENDATION?

23 A YES, SIR

24 Q YOU COULD CONSIDER HIS LITIGATION?

25 A YES, SIR

1 Q DO YOU UNDERSTAND WHAT LITIGATION IS?

2 A NO, SIR

3 Q LITIGATION WOULD BE LIKE REASONS WHY HE ACTED
4 AS HE DID SUCH AS HEAD INJURIES, THAT SORT OF
5 THING, DO YOU UNDERSTAND THE FACT?

6 A YES, SIR

7 Q SO IT'D BE LIKE EXTENUATING CIRCUMSTANCES

8 A YES, SIR

9 Q SO SINCE YOU UNDERSTAND THAT, COULD YOU
10 CONSIDER ALL THAT?

11 A YES, SIR

12 Q DO YOU THINK YOU COULD BE FAIR IN CONSIDERING
13 ALL THAT?

14 A YES

15 Q AND JUST BECAUSE SOMEONE IS CHARGED WITH SAY,
16 MURDER, CAN YOU CONSIDER LESSER INCLUDED OPTIONS IN
17 THE FORM OF A HOMICIDE AND I'LL EXPLAIN IT BETTER,
18 IF YOU DON'T UNDERSTAND

19 A PLEASE DO

20 Q LET'S SAY THE JUDGE GAVE YOU THREE
21 ALTERNATIVES FOR EXAMPLE, GUILTY OF MURDER, GUILTY
22 OF VOLUNTARY -- OR GUILTY OF VOLUNTARY MANSLAUGHTER
23 OR NOT GUILTY COULD YOU CONSIDER, BASED UPON THE
24 EVIDENCE AND THE INSTRUCTIONS THAT YOU RECEIVE FROM
25 THE JUDGE ON THE LAW, COULD YOU CONSIDER ALL THREE?

1 A YES, SIR

2 Q YOU COULD CONSIDER MURDER?

3 A YES, SIR

4 Q YOU COULD CONSIDER MANSLAUGHTER?

5 A YES, SIR

6 Q AND YOU COULD CONSIDER NOT GUILTY?

7 A YES, SIR

8 Q AND FURTHER, MR BOWIE, VERY BRIEFLY, DO YOU
9 LEAN ONE WAY OR THE OTHER IN FAVORING EITHER A LIFE
10 SENTENCE OR THE DEATH PENALTY?

11 A NO, SIR

12 Q SO YOU FIND YOURSELF PRETTY NEUTRAL IN TERMS
13 OF YOUR MIND?

14 A YES

15 Q BUT YOU DO BELIEVE IN THE DEATH PENALTY?

16 A YES, SIR

17 Q AND YOU THINK UNDER CERTAIN CIRCUMSTANCES IT
18 WOULD BE THE APPROPRIATE PUNISHMENT?

19 A YES, SIR

20 Q AND, OF COURSE, YOU REALIZE A DEATH PENALTY IS
21 RESERVED FOR VERY, VERY MOST SERIOUS OFFENSES?

22 A YES, SIR

23 Q AND YOU COULD CONSIDER ALL THE FACTORS IN THE
24 CASE, SUCH AS PRIOR RELATIONSHIP OF THE PARTIES IN
25 ARISING AT YOUR VERDICT, BOTH AS TO GUILT OR

1 INNOCENCE AND AS TO SENTENCE RECOMMENDATION?

2 A YES

3 MR TINSLEY THANKS SO MUCH, MR BOWIE

4 EXAMINATION BY MR JONES

5 Q HELLO, MR BOWIE?

6 A HOW YOU DOING?

7 Q MY NAME'S TOWNES JONES AND I'M YOUR SOLICITOR,
8 THE PROSECUTING ATTORNEY, THE D A THIS IS MICHAEL
9 COULTER, HE'S YOUR CHIEF DEPUTY SOLICITOR

10 A YES, SIR

11 Q HE'LL BE PRESENTING EVIDENCE IN THE CASE AND
12 I'LL BE PRESENTING SOME EVIDENCE BUT HE HAS JUST A
13 COUPLE QUESTIONS HE WANTS TO ASK YOU

14 EXAMINATION BY MR COULTER

15 Q GOOD EVENING, MR BOWIE JUST A COUPLE
16 THINGS FROM WHAT I UNDERSTOOD FROM YOUR ANSWERS BY
17 THE DEFENSE ATTORNEY, YOU SAID THAT YOU BELIEVE IN
18 THE DEATH PENALTY?

19 A YES, SIR

20 Q YOU FELT THAT WAY FOR SOME TIME?

21 A YES, SIR

22 Q YOU'VE GIVEN SOME THOUGHT BEFORE COMING IN
23 HERE TO COURT?

24 A YES, SIR

25 Q AND, OF COURSE, BELIEVING IN THE DEATH PENALTY

1 IS A LITTLE BIT DIFFERENT THAN BEING ABLE TO IMPOSE
2 THE DEATH PENALTY, RIGHT?

3 A YES, SIR

4 Q BUT YOU KNOW THAT, BASED ON THE CIRCUMSTANCES,
5 IF PRESENTED, THAT YOU COULD, IN FACT, RETURN A
6 SENTENCE OF DEATH?

7 A YES

8 Q BUT THAT WOULD DEPEND ON ALL THE
9 CIRCUMSTANCES?

10 A YES, SIR

11 Q ALL EVIDENCE PRESENTED, YOU'D HAVE TO CONSIDER
12 IT ALL?

13 A YES, SIR

14 Q IN REACHING THAT PARTICULAR SENTENCE, RIGHT?

15 A YES, SIR

16 Q NOW, IF YOU, AS A JUROR ALONG WITH YOUR OTHER
17 ELEVEN, DECIDE THAT THE DEATH SENTENCE IS
18 APPROPRIATE, YOU WOULD HAVE TO SIGN YOUR NAME ON A
19 DEATH WARRANT STATING THAT THE PERSON, THE
20 DEFENDANT, BE PUT TO DEATH, COULD YOU DO THAT?

21 A YES, SIR

22 Q YOU COULD SIGN YOUR NAME ON THAT DEATH WARRANT
23 IF IT WAS BAD ENOUGH?

24 A YES, SIR

25 MR COULTER THANK YOU

1 THE COURT MR BOWIE, IF YOU'LL STEP
2 OUTSIDE WITH THE BAILIFF JUST A MINUTE, WE'LL BRING
3 YOU BACK SHORTLY

4 (JUROR DOES AS INSTRUCTED)

5 THE COURT ANY REASON WHY THE
6 JUROR SHOULD NOT BE QUALIFIED?

7 MR JONES NOT FOR THE STATE, YOUR
8 HONOR

9 MR TINSLEY NO, YOUR HONOR

10 THE COURT HE IS SO QUALIFIED BRING
11 HIM IN, PLEASE

12 MR BOWIE, YOU ARE QUALIFIED TO SERVE ON THE
13 PANEL FROM WHICH THE ACTUAL JURORS WILL BE SELECTED
14 THAT SIMPLY MEANS YOU HAVEN'T BEEN SELECTED YET, BUT
15 YOU'LL BE IN THE LARGER POOL FROM WHICH THOSE WHO
16 WILL SERVE WILL BE SELECTED SO WE STILL NEED FOR
17 YOU TO CONTINUE FOLLOWING MY INSTRUCTION YOU'RE
18 NOT TO DISCUSS THE CASE WITH ANYONE, ALLOW NO ONE TO
19 DISCUSS IT WITH YOU DO NOT ALLOW YOURSELF TO BE
20 PUT IN A POSITION WHERE YOU COULD OVERHEAR ANY
21 DISCUSSIONS ABOUT THE CASE, REMOVE YOURSELF SHOULD
22 IT HAPPEN AND DO NOT ALLOW YOURSELF TO BE EXPOSED
23 TO ANY TYPE OF MEDIA COVERAGE, WHETHER IT BE
24 TELEVISION, RADIO OR NEWSPAPERS RELATING TO THIS
25 CASE

1 NOW, WE NEED FOR YOU TO GIVE THE CLERK EACH
2 AND ALL PHONE NUMBERS THAT YOU HAVE WHERE WE CAN
3 REACH YOU, HOME, WORK, WHEREVER, SO THAT WE CAN GET
4 YOU ON SHORT NOTICE WHEN WE NEED YOU TO COME BACK
5 NOW, YOU CAN CONTINUE WITH YOUR REGULAR SCHEDULE, SO
6 LONG AS WE CAN GET A HOLD OF YOU SO YOU DON'T HAVE
7 TO JUST STAY HOME BY THE PHONE, BUT WE NEED TO BE
8 ABLE TO GET A HOLD OF YOU ON SHORT NOTICE SO IF
9 YOU'LL GIVE THE CLERK THOSE NUMBERS WHERE WE CAN GET
10 YOU, THEN WE'LL TRY TO GIVE YOU AS MUCH NOTICE AS WE
11 CAN TO HAVE YOU COME BACK

12 (JUROR EXITS THE COURTROOM)

13 (JUROR IS QUALIFIED)

14 (JUROR #58 PRESENTED AT 6 15 O'CLOCK P M)

15 (THE COURT CALLS JUROR DOTSON)

16 EXAMINATION BY THE COURT

17 Q GOOD EVENING, MS DOTSON

18 A GOOD EVENING

19 Q OF COURSE, YOU'RE BACK HERE FOR THE PURPOSE OF
20 US ASKING YOU SOME ADDITIONAL QUESTIONS, AS I TOLD
21 YOU WE WOULD BE DOING AND I'LL YOU SOME QUESTIONS
22 AND THE LAWYERS MAY ALSO HAVE SOME QUESTIONS TO ASK
23 YOU THERE ARE NO RIGHT OR WRONG ANSWERS, WE WOULD
24 SIMPLY ASK THAT YOU, PLEASE, ANSWER THOSE QUESTIONS
25 AS OPENLY AND AS HONESTLY AS YOU CAN SO THAT WE CAN

1 FIND OUT WHAT YOUR VIEWS AND OPINIONS ARE ON CERTAIN
2 TOPICS THAT WE'LL BE ASKING YOU ABOUT

3 DO YOU REMEMBER WHEN YOU CAME IN WITH YOUR
4 FELLOW JURORS THE ENTIRE PANEL WAS ASKED TO STAND
5 AND YOU WERE PLACED UNDER OATH?

6 A YES

7 Q YOU REMAIN UNDER OATH FOR THE PURPOSE OF THESE
8 QUESTIONS, ALSO NOW, YOU INDICATED YOU HAD
9 COMPLETED THE QUESTIONNAIRE AND THAT IT WAS
10 ACCURATE?

11 A YES

12 Q YOU, ALSO, INDICATED YOU HAD RECEIVED MY
13 LETTER INSTRUCTING YOU NOT TO HAVE ANY DISCUSSIONS
14 ABOUT THE CASE AND NOT TO HAVE ANY -- OR NOT TO
15 ALLOW YOURSELF TO BE EXPOSED TO ANY TYPE OF
16 TELEVISION, RADIO OR NEWSPAPER ARTICLES

17 A YES

18 Q DO YOU RECALL THAT?

19 A YES

20 Q DID YOU COMPLY WITH THAT INSTRUCTION?

21 A YES

22 Q HAVE YOU BEEN EXPOSED TO ANY NEWSPAPER
23 ARTICLES OR TELEVISION COVERAGE?

24 A NOT LATELY

25 Q NOT SINCE THE LETTER?

1 A YES

2 Q HAVE YOU HAD ANY CONVERSATION OR DISCUSSIONS
3 WITH ANYBODY ABOUT THE CASE?

4 A NO

5 Q WHAT ABOUT BEFORE YOU GOT THE LETTER?

6 A YES

7 Q TELL ME WHAT YOU HEARD, SAW OR READ ABOUT
8 BEFORE THE LETTER

9 A LIKE I SAID BEFORE, I WORK WITH TWO OF THE
10 UNCLES OF THE DECEASED

11 Q DO YOU KNOW WHO THEY ARE, THEIR NAMES?

12 A ROBERT JACKSON AND JOE JACKSON

13 Q ROBERT JACKSON AND JOE JACKSON?

14 A YES

15 Q AND WHERE IS THAT?

16 A AT LICKSVILLE (PHONETIC) TECHNOLOGY

17 Q NOW, WHAT DO YOU WANT TO TELL ME ABOUT THAT

18 A JUST THAT, YOU KNOW, WHEN IT HAPPENED, I JUST
19 HEARD IT HAPPENING, THEY WERE TALKING ABOUT THAT,
20 YOU KNOW, THE PEOPLE AT WORK TALKING ABOUT IT

21 Q SO YOU HEARD PEOPLE DISCUSSING THE FACT THAT
22 IT HAD HAPPENED?

23 A YES

24 Q DID YOU HEAR PEOPLE TALKING ABOUT ANY SPECIFIC
25 CIRCUMSTANCES OR DETAILS THAT THEY THOUGHT RELATED

1 TO THE CASE?

2 A LIKE I SAID, ONLY LIKE, YOU KNOW, WHAT HAD
3 HAPPENED AT THE HOUSE AND ALL THAT, STUFF LIKE THAT

4

5 Q WHAT DID YOU HEAR ABOUT?

6 A THAT SOMEONE HAD KILLED THESE TWO COUSINS
7 ONE A YOUNG GIRL AND THE OTHER ONE, AN OLDER LADY

8 Q AND THAT THEY HAD BEEN KILLED?

9 A YES

10 Q DID YOU HEAR ANY OTHER FACTS ABOUT THE CASE
11 THAT MAY OR MAY NOT BE TRUE?

12 A NO

13 Q YOU DID NOT?

14 A JUST THAT

15 Q OKAY AND SO YOU DO KNOW ROBERT AND JOE
16 JACKSON?

17 A YES

18 Q AND ARE YOU STILL EMPLOYED THERE?

19 A YES

20 Q ARE THEY STILL EMPLOYED THERE?

21 A YES

22 Q HAVE YOU DISCUSSED WITH THEM ANYTHING ABOUT
23 THE CASE SINCE YOU GOT MY LETTER?

24 A NO

25 Q WOULD ANYTHING THAT YOU HAVE HEARD ABOUT THE

1 CASE BEFORE NOW, WOULD THAT INTERFERE WITH YOUR
2 ABILITY TO BE FAIR, IF YOU WERE SELECTED?

3 A I THINK I WOULD BE -- SINCE I KNOW JOE AND
4 ROBERT VERY WELL, I DON'T THINK I COULD JUST SAY,
5 YOU KNOW, I COULD BE REALLY FAIR NO, I DON'T THINK
6 I COULD NOT ME KNOWING THEM

7 Q THE FACT THAT YOU KNOW ROBERT JACKSON AND JOE
8 JACKSON, WOULD THAT CAUSE YOU SOME DIFFICULTY IN
9 BEING ABLE TO RENDER A FAIR DECISION, IF YOU WERE
10 SELECTED TO SERVE?

11 A YES, IT COULD

12 Q YOU DON'T THINK YOU COULD PUT THAT
13 RELATIONSHIP ASIDE AND BASE YOUR VERDICT SOLELY FROM
14 THE EVIDENCE?

15 A NO, I DON'T BECAUSE I WORK WITH THEM EVERY DAY
16 AND I COULDN'T FACE THEM

17 Q I WANT YOU TO UNDERSTAND I'M NOT TRYING TO
18 TALK YOU IN OR OUT OF ANYTHING

19 A I UNDERSTAND

20 Q I JUST WANT TO FIND OUT HOW YOU'RE THINKING
21 AND BECAUSE, OBVIOUSLY, IT'S IMPORTANT FOR US TO
22 KNOW WHAT YOUR FEELINGS ABOUT IT ARE AND WE
23 APPRECIATE YOU BEING HONEST ABOUT IT

24 ANY OTHER QUESTIONS YOU'D LIKE TO ASK THE
25 WITNESS?

1 MR TINSLEY NO, YOUR HONOR

2 THE COURT MS DOTSON, IF YOU'LL JUST
3 STEP OUT THAT DOOR FOR ONE SECOND, WE'LL BRING YOU
4 BACK IN

5 (JUROR DOES AS INSTRUCTED)

6 THE COURT ANY REASON WHY THE
7 JUROR SHOULD NOT BE DISQUALIFIED BASED UPON HER
8 STATEMENT THAT SHE COULD NOT RENDER A FAIR DECISION
9 BASED UPON HER FRIENDSHIP AND RELATIONSHIP WITH JOE
10 AND ROBERT JACKSON?

11 MR JONES NO, YOUR HONOR

12 MR TINSLEY NONE

13 THE COURT BRING HER BACK MS DOTSON,
14 WE'RE GOING TO EXCUSE YOU FROM SERVICE IN THE CASE,
15 BUT WE DO APPRECIATE YOUR COMING DOWN HERE THIS WEEK
16 AND PARTICIPATING IF YOU COULD HAVE AND WE
17 APPRECIATE YOUR ANSWERING THOSE QUESTIONS YOU
18 WON'T NEED TO CALL BACK ANYMORE, YOU WON'T NEED TO
19 COME BACK ANYMORE BUT THANKS, AGAIN, FOR YOU
20 PUTTING UP WITH THAT INCONVENIENCE

21 (JUROR EXITS THE COURTROOM)

22 (JUROR IS NOT QUALIFIED)

23 THE COURT ANY MATTERS WE NEED TO
24 ADDRESS BEFORE WE RECESS?

25 MR JONES YOUR HONOR, I WOULD LIKE TO

1 TAKE ADVANTAGE OF THE RECORD AT THIS POINT IN TIME
2 I'D LIKE TO POINT OUT, YOUR HONOR, THAT AT THIS
3 POINT IN TIME, WE'VE QUESTIONED THIRTY-NINE JURORS,
4 ELEVEN HAVE BEEN EXCUSED BECAUSE THEY COULD NOT GIVE
5 THE DEATH PENALTY, SO WE'RE TALKING ABOUT TWENTY-
6 THREE, TWENTY-FOUR PERCENT OF THEM FOUR WERE
7 BIASED TO THE EXTENT THAT THEY COULDN'T BE FAIR IN
8 THEIR VERDICT ONE WOULD ALWAYS GIVE -- WOULD
9 ALWAYS GIVE THE DEATH PENALTY, NEVER CONSIDER LIFE
10 AND, I BELIEVE, ONE YOU DEEMED TO BE INCOMPETENT,
11 MR KLUGH HE COULDN'T QUITE COMMUNICATE WITH US

12 I BRING THAT TO THE COURT'S ATTENTION AND I
13 WOULD LIKE TO, AT THIS POINT IN TIME, SUGGEST TO THE
14 COURT, ALONG WITH CO-COUNSEL, AND I DON'T NEED THAT
15 WE NEED A RECORD FOR THIS, JUST A SUGGESTION THAT
16 I'M MAKING ON THE RECORD IN COURT AS I UNDERSTAND
17 IT, WE START TOMORROW MORNING AT 8 30 AND WE HAVE A
18 TOTAL EIGHT JURORS COMING IN AND THEN AT 2 00, WE
19 HAVE A PANEL WHERE ONE HUNDRED SUMMONS WERE SENT OUT
20 COMING IN AT 2 00 AND ANTICIPATING SOMETIME BETWEEN
21 11 00 AND 2 00 ASSUMING THE EIGHT JURORS THAT WE
22 HAD STARTED AT 8 30 AND CONCLUDE AROUND 11 00 AND,
23 ALSO, ASSUMING THAT WE CONTINUE WITH THE SAME
24 PROGRESS THAT WE'VE HAD IN ASSEMBLING THE JURY
25 PANEL WE'RE NOW UP TO TWENTY-ONE ONLY FIFTEEN OR

1 SIXTEEN OR SEVENTEEN SHY OF BEING ABLE TO GO FORWARD
2 WITH THE SELECTION OF THE JURY PANEL

3 I WAS WONDERING IF THE COURT WOULD BE WILLING
4 AND DEEM IT PRUDENT, IF COUNSEL WOULD HAVE TIME TO
5 PREPARE FOR THIS, TO ENGAGE IN A JACKSON VS DINO
6 HEARING CONCERNING STATEMENTS OF THE DEFENDANT
7 BETWEEN 11 00 AND 2 00 TOMORROW THAT'S ALL I
8 WAS ---

9 MR TINSLEY NO, YOUR HONOR WE, IN
10 FACT, ARE GOING TO MOVE FOR A CONTINUANCE FOR THE
11 NEW PANEL MEMBER EVALUATION TOMORROW WE'LL BE
12 SCRAMBLING AROUND TRYING TO CONTINUE TO EVALUATE
13 THAT PANEL, SO WE'RE NOT IN THE POSITION NOW, UNLESS
14 THE COURT GRANTS OUR MOTION OF CONTINUANCE OF,
15 APPROXIMATELY, THREE DAYS IN WHICH TO CONTINUE OUR
16 EVALUATION, INVESTIGATION AND RESEARCH OF THESE NEW
17 HUNDRED

18 OF COURSE, THE COURT REALIZES FROM DISCUSSIONS
19 IN CHAMBERS THAT I AM OBJECTING TO THE ADDITIONAL
20 PANEL, AND WILL DO SO ON THE RECORD, ADDITIONALLY
21 TOMORROW BUT STATING IT UP FRONT THAT WE WERE
22 OPPOSED TO IT THEN IN A CAPITAL CASE AND WE CONTINUE
23 BECAUSE OF PUBLICITY, ADMONISHMENT AND DISCUSSION IN
24 THIS SMALL TOWN AND, THEREFORE, WE'RE NOT IN THE
25 POSITION TO DO THE JACKSON VS DINO HEARING AND THEN

1 CERTAINLY GO INTO THAT PANEL WE WOULD BE ABLE TO
2 DO THE JACKSON V DINO HEARING TOMORROW MORNING,
3 SHOULD THE COURT GRANT THE FURTHER DELAY FOR JURY
4 EVALUATION

5 MR GARRETT YOUR HONOR, WE WERE TOLD
6 EARLIER, ALSO, YOUR HONOR, THAT THEY HAD INTENDED
7 NOT TO PUT ANY STATEMENTS OF THE DEFENDANT NOW,
8 APPARENTLY, THAT IS A CHANGE IN THEIR POSITION OF
9 COURSE, THAT HAS NOW CHANGED OUR POSITION BECAUSE WE
10 WANTED THE JACKSON VERSUS DINO HEARING DONE EARLIER
11 ON, MUCH EARLIER ON THAT WILL TAKE FURTHER TIME
12 AWAY FROM OUR JURY WE GOT A LITTLE PROBLEM HERE,
13 JUDGE, IN TRYING TO TAKE AND LOOK AT A HUNDRED NEW
14 JURORS IN A CAPITAL CASE FRANKLY, WE'VE BEEN IN
15 COURT EVERY DAY WE HAVEN'T HAD TIME TO LOOK AT ANY
16 OTHER JURORS NOR DO WE HAVE THE STAFF OR THE
17 ABILITY -- I UNDERSTAND THE SOLICITOR'S GOT EVERY
18 LAW ENFORCEMENT OFFICER IN THE COMMUNITY IN FOUR
19 DIFFERENT COUNTIES TO BE ABLE TO SERVE THESE
20 DOCUMENTS AND GET THOSE JURORS HERE, AND GIVE THEM
21 THOSE STATEMENTS WE HAVEN'T RECEIVED ANY -- NOT
22 EVEN THE FIRST DOCUMENT OR QUESTIONNAIRE BACK FROM
23 ANY JUROR THIS IS A CAPITAL CASE, YOUR HONOR
24 WE'RE NOT IN A POSITION TO TRY TO START DOING THIS
25 TYPE OF ANALYSIS ON JURORS WITHOUT THIS INFORMATION

1 AND SOME TIME TO SIT DOWN AND THINK ABOUT IT IN
2 RELATIONSHIP TO THE TOTAL PARAMETERS OF THIS CASE
3 IT'S JUST IMPOSSIBLE SO WE MOVE WITH THAT OPINION
4 MR JONES YOUR HONOR, EXCUSE ME, I TAKE
5 IT BACK FORGET IT

6 THE COURT I'LL ADDRESS ANY -- I'LL HEAR
7 YOU ON ANY REQUEST FOR CONTINUANCE LATER ON SHOULD
8 THAT BECOME NECESSARY OR APPROPRIATE ANY OTHER
9 MATTERS WE NEED TO ADDRESS BEFORE WE RECESS?

10 (THE COURT'S IN RECESS UNTIL 8 30 TOMORROW,
11 THE TME BEING)

12 ***** END OF DAY 7 *****

13 (DAY 8, OCTOBER 20, 1997, 8 55 O'CLOCK A M)

14 THE COURT ARE WE READY TO PROCEED
15 NOW WITH CONTINUED VOIR DIRE OF THE JURY PANEL?

16 MR JONES THE STATE IS, YOUR HONOR

17 THE COURT DO WE HAVE FOUR OUT THERE,
18 MS LOTHBRIDGE, MR GARNER, MR LOMAX AND MS
19 MURPHEY? ASK THEM TO COME IN, PLEASE

20 (THE COURT CALLS MS LOTHBRIDGE)

21 (JUROR #120 PRESENTED AT 8 55 O'CLOCK A M)

22 EXAMINATION BY THE COURT

23 Q GOOD MORNING, MS LOTHBRIDGE

24 A GOOD MORNING I'VE GOT GOOD NEWS FOR YOU I
25 GOT APPROVED TO GET PAID FOR YOUR SERVICE

1 Q OH, GOOD GOOD FOR YOU NOW, OF COURSE, YOU
2 REMEMBER WHY YOU'VE BEEN CALLED BACK THAT IS FOR
3 US TO ASK ADDITIONAL QUESTIONS AND I'LL BE ASKING
4 SOME AND THE LAWYERS MAY HAVE ADDITIONAL QUESTIONS

5 DO YOU RECALL WHEN YOU REPORTED WITH ALL OF
6 YOUR FELLOW JURORS YOU WERE ASKED TO STAND AND WERE
7 PLACED UNDER OATH YOU REMAIN UNDER OATH FOR THE
8 PURPOSE OF THESE QUESTIONS, ALSO

9 NOW, YOU INDICATED EARLIER THAT YOU COMPLETED
10 THE QUESTIONNAIRE AND THAT IT WAS ACCURATE

11 A RIGHT

12 Q YOU ALSO INDICATED YOU HAD RECEIVED MY LETTER
13 GIVING YOU CERTAIN INSTRUCTIONS ABOUT NOT DISCUSSING
14 THE CASE, DON'T ALLOW YOURSELF TO BE EXPOSED TO SUCH
15 DISCUSSIONS AND NOT ALLOWING YOURSELF TO BE EXPOSED
16 TO ANY TYPE OF MEDIA COVERAGE THAT RELATES TO THE
17 CASE HAVE YOU HAD ANY EXPOSURE TO NEWSPAPER
18 ARTICLES OR TELEVISION REPORTS SINCE YOU RECEIVED
19 THE LETTER?

20 A NO, I HAVE NOT

21 Q HAVE YOU HAD ANY CONVERSATIONS OR OVERHEARD
22 ANY CONVERSATIONS ABOUT THE CASE?

23 A NO, I HAVE NOT

24 Q WHAT ABOUT BEFORE YOU RECEIVED THE LETTER?

25 A NO, SIR AS A MATTER THE FACT, THE DATE THAT

1 YOU SAID THIS OCCURRED, I WAS IN THE HOSPITAL FOR
2 TWO WEEKS DUE TO A CAR ACCIDENT SO I HEARD NOTHING
3 ABOUT IT I HAVE NO CLUE WHAT WAS --

4 Q OKAY NOW, AS I INDICATED TO YOU, WE'RE GOING
5 TO BE ASKING YOU SOME QUESTIONS AND THERE ARE NO
6 RIGHT OR WRONG ANSWERS, WE JUST SIMPLY NEED TO FIND
7 OUT YOUR VIEWS AND OPINIONS ON CERTAIN TOPICS SO
8 WE WOULD ASK THAT YOU, PLEASE, OPEN AND HONEST IN
9 RESPONDING TO THE QUESTIONS IF YOU DO NOT
10 UNDERSTAND THE QUESTION OR IT'S NOT ASKED CLEARLY,
11 IF YOU'LL LET ME KNOW, I'LL TRY TO HAVE THAT
12 QUESTION CLARIFIED

13 FIRST OF ALL, DO YOU UNDERSTAND THAT THE
14 FUNCTION OF THE JURY IS TO CONSIDER EVIDENCE THAT
15 MIGHT BE RECEIVED DURING THE COURSE OF A TRIAL,
16 WHETHER IT BE BY TESTIMONY OR SOME OTHER TYPE OF
17 EVIDENCE? AND IN THE COURSE OF THAT TRIAL, THE
18 COURT, AT THE END, WILL GIVE YOU THE LAW THAT'S
19 APPLIED TO THE EVIDENCE THE JURY IS CALLED UPON TO
20 CONSIDER ALL THAT EVIDENCE AND TO DECIDE FACTS AND
21 THEN APPLY THE LAW AND ARRIVE AT SOME DECISION AND
22 ANY DECISION THAT A JURY MAKES IS A UNANIMOUS
23 DECISION

24 IN THIS CASE, THE DEFENDANT IS CHARGED WITH
25 THE CRIME OF MURDER AND UNDER CERTAIN

1 CIRCUMSTANCES, THE LAW PROVIDES THAT A PERSON WHO IS
2 CONVICTED OR FOUND GUILTY OF MURDER MAY BE SUBJECT
3 TO THE DEATH PENALTY THAT IS THE STATE MAY ASK
4 THAT THE DEATH PENALTY BE IMPOSED WHEN THAT PERSON
5 HAS BEEN FOUND GUILTY OF MURDER THE LAW NEVER
6 REQUIRES THAT A DEATH SENTENCE IMPOSED, IT JUST
7 PERMITS IT UNDER CERTAIN CIRCUMSTANCES A JURY
8 ALWAYS MAKES THAT DECISION, DO YOU UNDERSTAND THAT?

9 A YES

10 Q NOW, IN SUCH A CASE, IT'S CONDUCTED IN
11 TWO SEPARATE STAGES THE FIRST STAGE OF THE TRIAL
12 DEALS WITH THE ISSUE OF GUILT, THE SECOND STAGE OF
13 THE TRIAL DEALS WITH THE ISSUE OF PUNISHMENT AND,
14 OF COURSE, WE NEVER GET TO THE SECOND STAGE OF THE
15 TRIAL UNLESS, IN THE FIRST STAGE, A JURY HAS
16 UNANIMOUSLY FOUND A PERSON GUILTY BEYOND A
17 REASONABLE DOUBT OF THE CRIME OF MURDER NOW, IF
18 YOU WERE SELECTED TO SERVE IN SUCH A CASE AND YOU
19 WERE PARTICIPATING IN THE GUILT PHASE OF THAT TRIAL,
20 COULD YOU CONSIDER ALL EVIDENCE THAT MIGHT BE
21 RECEIVED DURING THAT STAGE OF THE TRIAL FAIRLY?

22 A YES

23 Q AND DEPENDING UPON WHAT THAT EVIDENCE WAS, IF
24 IT CONVINCED YOU BEYOND A REASONABLE DOUBT THAT THE
25 DEFENDANT WAS GUILTY, COULD YOU FIND THAT PERSON

1 GUILTY?

2 A YES

3 Q AND, IF AFTER YOU'VE CONSIDERED ALL THE
4 EVIDENCE IN THE CASE, YOU HAD SOME REASONABLE DOUBT
5 AS TO WHETHER OR NOT THAT PERSON HAD BEEN PROVEN
6 GUILTY WOULD YOU RETURN A VERDICT OF NOT GUILTY?

7 A IF THERE WAS REASONABLE DOUBT, YES

8 Q NOW, I WANT YOU TO ASSUME, AND ASSUME IT FOR
9 THIS PURPOSE AND QUESTION ONLY, THAT YOU'VE
10 PARTICIPATED IN THE CASE, YOU AND YOUR FELLOW JURORS
11 IN THE GUILT PHASE OF THAT TRIAL HAVE FOUND THE
12 PERSON TO BE GUILTY OF THE CRIME OF MURDER IN THAT
13 EVENT, WE WOULD PROCEED TO THE SECOND STAGE OF THE
14 TRIAL, THE PUNISHMENT PHASE OF THE TRIAL DURING
15 THAT STAGE OF THE TRIAL, THERE WOULD BE ADDITIONAL
16 EVIDENCE RECEIVED THERE WOULD BE EVIDENCE OFFERED
17 IN AGGRAVATION, THERE WOULD BE EVIDENCE OFFERED IN
18 MITIGATION THAT SIMPLY MEANS THERE WOULD BE
19 EVIDENCE PRESENTED THAT MIGHT TEND TO SUPPORT THE
20 MORE SEVERE PUNISHMENT AS BEING APPROPRIATE, THAT
21 BEING THE DEATH PENALTY AND THERE MIGHT BE
22 EVIDENCE OFFERED WHICH WOULD TEND TO SUPPORT THE
23 LESS SEVERE PUNISHMENT AS BEING MORE APPROPRIATE,
24 THAT BEING LIFE IMPRISONMENT YOU UNDERSTAND THE
25 JURY WOULD MAKE THAT DECISION BASED UPON THE JURY'S

1 CONSIDERATION OF THAT ADDITIONAL EVIDENCE?

2 A YES

3 Q IF YOU WERE PARTICIPATING IN SUCH A TRIAL,
4 WOULD YOU BE ABLE TO AND WOULD YOU BE WILLING TO
5 FAIRLY CONSIDER ALL OF THAT ADDITIONAL EVIDENCE
6 BEFORE YOU ARRIVED AT ANY DECISION IN THE CASE?

7 A YES, DEFINITELY

8 Q AND AFTER YOU HAD CONSIDERED ALL OF THE
9 EVIDENCE IN THE CASE, WOULD YOU BE ABLE TO IMPOSE A
10 SENTENCE OF DEATH IF YOU THOUGHT IT TO BE
11 APPROPRIATE UNDER THE CIRCUMSTANCES?

12 A YES, SIR

13 Q WOULD YOU, ALSO, BE ABLE TO IMPOSE A SENTENCE
14 OF LIFE IMPRISONMENT IF YOU THOUGHT IT WAS
15 APPROPRIATE?

16 A YES, SIR

17 Q UNDERSTANDING THAT THE JURY WOULD ALWAYS HAVE
18 THAT CHOICE, ONE THING I WANT YOU TO UNDERSTAND IS
19 WHILE THE LAW PERMITS UNDER THOSE PARTICULAR
20 CIRCUMSTANCES -- AND I MAY NOT HAVE EXPLAINED THAT
21 TO YOU EVEN THOUGH A PERSON HAS BEEN FOUND GUILTY
22 BY THAT JURY OF THE CRIME OF MURDER, IN THE PENALTY
23 PORTION OF THE TRIAL ADDITIONAL EVIDENCE IS
24 RECEIVED, BUT THE JURY CANNOT EVEN CONSIDER
25 SENTENCING A PERSON TO DEATH UNLESS THERE HAS BEEN

1 AN ADDITIONAL FACT PROVEN BEYOND A REASONABLE DOUBT
2 AND THAT IS SOME AGGRAVATING CIRCUMSTANCE IF NO
3 AGGRAVATING CIRCUMSTANCE IS PROVEN, THE JURY CANNOT
4 EVEN CONSIDER THE DEATH PENALTY, DO YOU UNDERSTAND?

5 A YES

6 Q NOW, UNDERSTANDING THAT YOU WOULD HAVE THOSE
7 TWO OPTIONS, AND YOU WOULD ALWAYS HAVE THOSE, THE
8 LAW NEVER REQUIRES THAT A SENTENCE OF DEATH BE
9 IMPOSED NO MATTER WHAT THE CIRCUMSTANCES ARE, BUT
10 YOU MAY IMPOSE A LIFE SENTENCE FOR ANY REASON OF FOR
11 NO REASON AT ALL IF YOU HAD A CHOICE BETWEEN THE
12 TWO, WOULD YOU ALWAYS CHOSE ONE FORM OF THAT
13 PUNISHMENT OVER ANOTHER?

14 A I DON'T THINK SO I THINK YOU NEED TO LOOK AT
15 THE EVIDENCE FOR EACH PARTICULAR CASE AND DECIDE
16 WHAT IT SHOULD BE

17 Q SO IT WOULD DEPEND UPON THE CIRCUMSTANCES
18 BEFORE YOU COULD - - THAT YOU WOULD CONSIDER BEFORE
19 YOU COULD DECIDE WHICH FORM WOULD BE APPROPRIATE?

20 A EXACTLY

21 Q BUT YOU COULD CONSIDER BOTH AS VIABLE OPTIONS,
22 SO FAR AS PUNISHMENT IS CONCERNED, DEPENDING UPON
23 THOSE FACTS?

24 A YES, SIR

25 Q NOW, UP TO THIS POINT, HAVE YOU ALREADY FORMED

1 OR EXPRESSED ANY OPINION AS TO WHAT YOU THINK THE
2 APPROPRIATE OUTCOME SHOULD BE?

3 A NO, SIR, BECAUSE, LIKE I SAID, I DON'T KNOW
4 ANYTHING ABOUT THE CASE SO I DON'T HAVE AN
5 OPINION

6 Q AND DO YOU KNOW OF ANY REASON WHY YOU COULD
7 NOT BE A FAIR AND IMPARTIAL JUROR IF YOU WERE
8 SELECTED TO SERVE IN THIS CASE?

9 A NO, SIR, I DON'T

10 Q NOW, AS YOU KNOW, YOU WOULD BE SEQUESTERED FOR
11 THE DURATION OF THE TRIAL WOULD THAT
12 SEQUESTRATION, WHICH MIGHT LAST SEVEN TO TEN DAYS,
13 WOULD THAT REQUIREMENT POSE AN UNREASONABLE HARDSHIP
14 OR HEALTH RISK TO YOU?

15 A NOT NOW

16 Q AND WOULD YOU BE WILLING TO ACCEPT ANY
17 INCONVENIENCE THAT MIGHT CAUSE IF YOU WERE CALLED
18 UPON TO SERVE?

19 A NO, SIR

20 THE COURT PLEASE ANSWER THE LAWYERS'
21 QUESTIONS

22 EXAMINATION BY MR TINSLEY

23 Q THANK YOU, YOUR HONOR GOOD MORNING, MS
24 LOTHRIDGE

25 A GOOD MORNING

1 Q MS LOTHBRIDGE, YOU SAID, IT WOULDN'T NOW DID
2 YOU GET IT WORKED OUT AT WORK?

3 A YES, I DID I GOT SPECIAL CIRCUMSTANCES FROM
4 MY DISTRICT MANAGER OVER THE WEEKEND SEE-IN'S HOW
5 I PULLED A DOUBLE SHIFT ON SATURDAY AND WORKED ALL
6 DAY YESTERDAY TOO HE SAID THEY WOULD WORK OUT
7 SOMETHING TO RECEIVE PAY IF I'M CHOSEN

8 Q GOOD SO YOU THINK YOU WOULD BE ABLE TO GET
9 THROUGH THIS FINANCIALLY, ALSO?

10 A I THINK I'D BE FINE, YES

11 Q AND YOU'VE NEVER BEEN INVOLVED WITH ANYTHING
12 LIKE THIS BEFORE, HAVE YOU?

13 A NO, I HAVE NOT

14 Q HAVE YOU EVER SERVED AS A JUROR?

15 A NOT ON ANYTHING OTHER THAN MAGISTRATE'S COURT

16 Q AND YOU MENTIONED THAT YOU WERE IN THE
17 HOSPITAL FOR TWO WEEKS IN AN AUTOMOBILE ACCIDENT, IS
18 THAT RIGHT?

19 A UM-HMM

20 Q DID YOU RETAIN THE SERVICES OF AN ATTORNEY FOR
21 THAT?

22 A NO, I DID NOT IT WAS MY FAULT

23 Q AND HAVE YOU EVER BEEN REPRESENTED BY AN
24 ATTORNEY?

25 A ONLY IN A DIVORCE

1 Q AND IT WAS NONE OF US HERE OR ANYTHING LIKE
2 THAT?

3 A NO

4 Q WHO WAS THAT ATTORNEY?

5 A ACTUALLY, IT WAS MY HUSBAND'S ATTORNEY HE
6 RETAINED ONE AND WE JUST BOTH HAD THEM IT WAS
7 ANDERSON, I CAN'T REMEMBER HIS FIRST NAME THAT'S
8 BEEN SEVERAL, SEVERAL YEARS AGO

9 Q I SEE NOW, MS LOTHBRIDGE, YOU'VE INDICATED
10 THAT YOU COULD LISTEN TO ALL THE EVIDENCE AND NOT
11 ARRIVE AT ANY DECISION UNTIL YOU DID SO, IS THAT
12 CORRECT?

13 A THAT'S RIGHT

14 Q AND IN SO DOING, YOU COULD, ALSO, COULD YOU
15 NOT, ACCEPT THE LAW AS INSTRUCTED BY THE JUDGE?

16 A DEFINITELY

17 Q AND APPLYING THE LAW TO THE FACTS AND OPTIONS
18 THAT HE GAVE YOU, IF YOU HAD THE OPTION OF GUILTY OF
19 MURDER OR GUILTY OF MANSLAUGHTER OR NOT GUILTY,
20 COULD YOU CONSIDER ALL THREE VERDICTS?

21 A DEFINITELY IT'D BE BASED ON THE EVIDENCE

22 Q AND YOU USED TO BE, I BELIEVE, IN ALCOHOL AND
23 DRUG COUNSELING, THAT SORT OF THING?

24 A THAT'S RIGHT

25 Q AND BECAUSE OF THAT, YOU UNDERSTAND THE NATURE

1 OF THE WORD MITIGATION

2 A RIGHT

3 Q IN A CASE LIKE THIS, MITIGATION WOULD BE
4 REASONS, EXTENUATING CIRCUMSTANCES, AND COULD YOU
5 FAIRLY AND OPENLY LISTEN TO THE INDIVIDUAL
6 CHARACTERISTICS OF MY CLIENT, MR HUGHEY, THE EVENTS
7 THAT HAVE HAPPENED TO HIM AND ANY EXTENUATING
8 CIRCUMSTANCES THAT HE MAY OFFER SHOULD WE GET TO
9 PHASE TWO OF THE CASE

10 A SURE

11 Q AND YOU UNDERSTAND THAT WE WOULDN'T GO TO
12 PHASE TWO OF THE CASE IF HE WERE NOT CONVICTED OF
13 MURDER

14 A RIGHT

15 Q SO I HATE TO ASK YOU A PERSONAL QUESTION BUT I
16 ASKED YOU IF YOUR DIVORCE HAD ANYTHING TO DO WITH
17 ANY DOMESTIC VIOLENCE?

18 A NO, SIR

19 Q YOU'VE NEVER BEEN SUBJECT TO ANYTHING LIKE
20 THAT?

21 A NO, SIR MY HUSBAND AND I ARE STILL GOOD
22 FRIENDS

23 Q STILL GOOD FRIENDS

24 A WE'RE JUST NOT LIVING TOGETHER ANYMORE

25 Q I DON'T MEAN --

1 A THAT'S FINE

2 Q -- I'M NOT GOING TO ASK YOU ANYMORE ABOUT

3 THAT A THAT'S FINE I DON'T HAVE A PROBLEM WITH

4 THAT

5 MR TINSLEY AND YOU FEEL THAT YOU COULD

6 KEEP AN OPEN MIND THROUGHOUT THANKS SO MUCH

7 EXAMINATION BY MR TINSLEY

8 Q LET ME ASK HER A COUPLE OTHER THINGS BEFORE

9 YOU BEGIN THAT I FORGOT TO ASK HER ABOUT YOU

10 UNDERSTAND IN A CRIMINAL CASE THAT THE BURDEN IS

11 ALWAYS UPON THE STATE IN BRINGING THE CHARGE TO

12 PROVE A PERSON GUILTY BEYOND A REASONABLE DOUBT?

13 A RIGHT

14 Q YOU UNDERSTAND THE BURDEN IS NOT ON THE

15 DEFENDANT TO PROVE ANYTHING?

16 A RIGHT

17 Q AND HE'S ALWAYS PRESUMED TO BE INNOCENT ANY

18 PERSON'S WHO'S CHARGED WITH A CRIME IS PRESUMED

19 INNOCENT

20 A RIGHT

21 Q IF YOU WEREN'T CONVINCED OF A PERSON'S GUILT

22 BEYOND A REASONABLE DOUBT, COULD YOU RETURN A

23 VERDICT OF NOT GUILTY?

24 A UM-HMM

25 Q AND IF YOU WERE CONVINCED, YOU COULD FIND A

1 PERSON GUILTY?

2 A YES, SIR

3 THE COURT THANK YOU

4 EXAMINATION BY MR JONES

5 Q GOOD MORNING, MS LOTHBRIDGE

6 A GOOD MORNING

7 Q MY NAME IS TOWNES JONES AND I'M YOUR SOLICITOR
8 HERE IN ABBEVILLE COUNTY THIS IS MICHAEL COULTER,
9 HE'S YOUR CHIEF DEPUTY SOLICITOR THE TWO OF US
10 WILL BE CALLING WITNESSES DURING THE COURSE OF THE
11 TRIAL HE'LL BE PRESENTING EVIDENCE, I'LL BE
12 PRESENTING EVIDENCE AND I JUST WANTED TO INTRODUCE
13 YOU TO HIM

14 MS LOTHBRIDGE, WE GOT A COPY OF YOUR
15 QUESTIONNAIRE SO WE KNOW WHEN YOU WERE BORN, WHERE
16 YOU WERE BORN, YOU KNOW, THOSE KIND OF THINGS, THE
17 QUESTIONS THAT YOU FILLED OUT

18 A RIGHT

19 Q AND I HAVE SOME QUESTIONS CONCERNING THIS AND
20 SOME CONCERNING YOUR EDUCATION AND YOUR EMPLOYMENT
21 I NOTICE THAT YOU RECEIVED A DEGREE FROM CLEMSON

22 A NO, I RECEIVED A DEGREE FROM WINTHROP

23 Q WINTHROP

24 A AND I ATTENDED CLEMSON, BUT I DON'T HAVE A
25 DEGREE FROM CLEMSON

1 Q WHAT DID YOU STUDY AT CLEMSON?

2 A EDUCATION

3 Q AND YOUR DEGREE AT WINTHROP WAS?

4 A PSYCHOLOGY

5 Q WERE YOU ATTENDING CLEMSON WHILE YOU WERE
6 WORKING AT ADSAP?

7 A UM-HMM I DIDN'T WORK WITH ADSAP, I WORKED
8 WITH THE SCHOOL INTERVENTION PROGRAM

9 Q SCHOOL INTERVENTION PROGRAM

10 A RIGHT

11 Q IN WHAT CAPACITY?

12 A AS A COORDINATOR OF THAT PROGRAM AND AS A
13 COUNSELOR

14 Q WOULD YOU KIND OF TELL ME HOW LONG YOU WERE
15 WITH GREENVILLE ALCOHOL AND DRUG ABUSE?

16 A FROM AROUND 1985 THROUGH '94, I BELIEVE'S WHEN
17 I LEFT

18 Q SO YOU WORKED WITH DAVID MATTHEWS?

19 A OH, YES

20 Q BARB MAGUIRE?

21 A YES

22 Q AND A LADY WHO FOLLOWED BART WAS -- WORKED
23 WITH THE CORRECTIONAL FACILITY?

24 A DONNA

25 Q DONNA HAGINS

1 A YES

2 Q YOU WORKED WITH ALL THOSE?

3 A RIGHT NOT AS CLOSELY WITH SOME FOLKS BECAUSE
4 OUT IN THE SCHOOL SYSTEM QUITE A BIT OF THE TIME

5 Q AND WHAT WAS BASICALLY YOUR AGENDA, YOUR
6 OBJECTIVE AS THE -- IN THE POSITION THAT YOU WERE
7 IN?

8 A THE POSITION I WAS IN, I WORKED WITH
9 INTERVENTION AND PREVENTION WITH GRADES SEVEN
10 THROUGH TWELVE IN SCHOOL DISTRICTS FIFTY, FIFTY-ONE,
11 FIFTY-TWO AND EDGEFIELD

12 Q AND WHAT TYPE PROGRAMS WOULD YOU -- WOULD YOU
13 HAVE ASSISTANCE WHEN YOU ATTEND THOSE SCHOOLS OR
14 WOULD YOU GO ALONE?

15 A SOMETIMES ALONE, SOMETIMES ANOTHER COUNSELOR
16 WOULD GO WITH ME DEPENDING ON WHAT WE WERE GOING TO
17 DO THAT DAY

18 Q AND, AGAIN, WAS YOUR AGENDA OR YOUR GOAL TO
19 KIND OF EDUCATE KIDS ABOUT THE DANGERS OF ALCOHOL
20 AND DRUGS, IS THAT --

21 A EDUCATION AND, ALSO, IF THE STUDENT HAD
22 ALREADY BEGUN USING, YOU KNOW, ASSESSING THE LEVEL
23 OF THEIR USE AND REFERRING THEM TO THE APPROPRIATE
24 TREATMENT

25 Q SO YOU WOULD ACTUALLY ENGAGE IN ONE ON ONE

1 COUNSELING AT THE SCHOOLS IF ANYONE CAME FORWARD AND
2 ADMITTED THAT THEY HAD A USE OR THAT SORT OF THING?

3 A THAT'S CORRECT ALSO, GROUP COUNSELING AND
4 FAMILY COUNSELING

5 Q AND WERE YOU IN THE ACTUAL POSITION FOR THOSE
6 TEN OR ELEVEN YEARS FROM '85 TO --

7 A I BEGAN AS A PART-TIME GROUP LEADER I JUST
8 DID THE STRUCTURED -- WHAT THEY CALLED THE STRUCTURE
9 GROUP, IT WAS AN EDUCATION-TYPE GROUP I DID THAT
10 FOR SEVERAL YEARS AND, I BELIEVE, IT WAS -- I'M
11 TRYING TO REMEMBER THE YEAR THAT I STARTED FULL-
12 TIME I WANT TO SAY '87 OR '88, FROM THEN ON, YES

13 Q DID YOU DEVELOP ANY -- YOU KNOW, AS WE WORK,
14 WE'VE GOT OUR JOB TO DO, YOU UNDERSTAND THAT?

15 A RIGHT

16 Q BUT WE ALSO CAN'T HELP BUT SOMEWHAT GET
17 INVOLVED IN IT AND THINK ABOUT WHAT WE'RE DOING AND
18 WHAT THEY'RE DOING THE PEOPLE YOU WORK --

19 A RIGHT

20 Q DID YOU COME TO ANY CONCLUSIONS ABOUT WHAT
21 CAUSES YOUNG PEOPLE, FOURTEEN, FIFTEEN, SIXTEEN
22 YEARS OF AGE, TO CHOSE TO SMOKE OR TO USE DRUGS OR
23 TO DRINK ALCOHOL?

24 A THERE'S VARIOUS THINGS IT DEPENDS ON THE
25 INDIVIDUAL

1 Q BUT YOU NEVER FOUND THE COMMON DENOMINATOR
2 RUNNING THROUGH THE INDIVIDUALS THAT SEEMED TO KIND
3 OF GET HOOKED ON DRUGS OR ALCOHOL?

4 A NO, NOT REALLY EVERY INDIVIDUAL HAS THEIR
5 OWN PROBLEMS, THEIR OWN REASONS, THEIR OWN THINGS
6 GOING ON WITH THEM THAT MAKES THEM DECIDE THE CHOICE
7 THAT THEY MAKE

8 Q WHAT WERE THE KINDS OF THINGS THAT YOU WOULD
9 WANT TO ENCOURAGE THEM TO DO TO STOP USING DRUGS AND
10 ALCOHOL?

11 A THAT WAS MORE IN THE TREATMENT PHASE I WAS
12 MORE IN THE INTERVENTION AND PREVENTION PHASE I
13 ENCOURAGED THEM TO SEEK TREATMENT IF THAT WAS WHAT
14 WAS NEEDED, TO FIND OTHER OUTLETS FOR WHATEVER THEY
15 NEEDED THE DRUG TO RELIEVE THEMSELVES FROM, WHETHER
16 IT WAS SOME KIN OF PEER PRESSURE THING OR IF IT WAS
17 SOME KIND OF PROBLEM GOING ON AT HOME, IF IT WAS,
18 YOU KNOW, JUST WHATEVER WAS GOING ON I HAD TO LOOK
19 AT THE INDIVIDUAL CASE AND DECIDE WHAT NEEDED TO BE
20 DONE

21 Q COULD YOU PINPOINT -- AND I DON'T KNOW IF I
22 COULD ANSWER THIS QUESTION IF YOU ASKED ME THE SAME
23 QUESTION BUT COULD YOU PINPOINT WHAT CAUSED YOU TO
24 ENTER THIS FIELD OF EDUCATIONAL CHOICE, PSYCHOLOGY
25 AND THEN TO GO INTO THE AREA THAT YOU DID?

1 A WELL, THE AREA, -- WELL, PSYCHOLOGY WAS JUST
2 INTERESTING, IT CAUGHT MY INTEREST I ALSO HAVE A -
3 - ALMOST A MAJOR IN BIOLOGY AND SOCIAL SCIENCES AND
4 I'VE GOT A DOUBLE MINOR THAT ALMOST TURNED OUT TO A
5 DOUBLE MAJOR IT WAS JUST ONE OF THE AREAS THAT WAS
6 VERY INTERESTING TO ME AT THE TIME THAT I WAS
7 ATTENDING COLLEGE AS FAR AS THE JOB THAT I CHOSE?

8 Q UM-HMM

9 A WHEN I ANSWERED MY ADD FOR JIM COTTA, I HAD NO
10 CLUE WHAT THE JOB INVOLVED I SENT MY RESUME IN AND
11 THEN DID RESEARCH ON THE PLACE TO DECIDE WHAT IT
12 WAS IT JUST KIND OF BECAME ONE OF THOSE THINGS

13 Q GOOD AND, APPARENTLY, YOU ENJOYED IT?

14 A I ENJOYED IT FOR SEVERAL YEARS

15 Q BUT YOU LEFT

16 A I LEFT I FELT BURN OUT I FELT I HAD DONE
17 ALL I COULD DO FOR THAT POSITION AND I WANTED
18 SOMETHING A LITTLE LESS STRESSFUL FOR AWHILE SO I
19 WENT INTO RETAIL MANAGEMENT

20 Q AND THEN WE CALL YOU UP HERE

21 A YEAH, THEN YOU CALLED ME UP HERE

22 Q OKAY WELL, ONE OF THE THINGS ABOUT UP HERE -
23 - YOU TOLD THE JUDGE THAT YOU KIND OF GOT YOUR WORK
24 SITUATION STRAIGHTENED OUT

25 A RIGHT

1 Q ARE THEY GOING TO MAKE A DIFFERENCE NOW AND
2 THEY'RE GOING TO COMPENSATE YOU FOR YOUR TIME AWAY
3 FROM WORK?

4 A THEY ARE THEY CERTAINLY ARE

5 Q THAT'S GOOD BECAUSE IF YOU'RE SELECTED, I
6 ANTICIPATE, AS THE JUDGE HAS INDICATED, WE WILL WORK
7 THROUGH NEXT WEEKEND

8 A THAT WON'T BE A PROBLEM

9 Q ON YOUR QUESTIONNAIRE, YOU MENTIONED YOU ARE
10 NOT AN ACTIVE MEMBER OF TURKEY CREEK BAPTIST CHURCH?

11 A NO

12 Q BUT YOU GREW UP IN THAT CHURCH?

13 A YES, I DID

14 Q AND YOU LIVE OVER ON TURKEY CREEK NOW, RIGHT?

15 A WELL, YEAH I'M IN THE PROCESS OF MOVING BUT,
16 YES, THAT'S WHERE I LIVE NOW

17 Q BUT YOU'RE MOVING TO GREENVILLE FOR WORK

18 A RIGHT THAT'S WHY I'M NOT REALLY VERY ACTIVE
19 IN A CHURCH BECAUSE I'VE BEEN UP THERE MOST WEEKENDS
20 WORKING

21 Q I WOULD LIKE TO RETURN TO YOUR AREA OF WORK
22 THAT YOU DID FOR SO LONG AND I WILL ASK YOU IF YOU
23 BELIEVE THAT -- AND THIS IS -- I DON'T KNOW IF THIS
24 HAS ANYTHING TO DO WITH YOUR WORK, BUT I'M ASKING
25 YOU THE QUESTION BECAUSE I WOULD ASSUME ANYONE THAT

1 ENGAGED IN YOUR WORK AS LONG AS YOU DID WOULD
2 PROBABLY HAVE A BETTER VIEW OF PEOPLE THAT USE
3 ALCOHOL AND DRUGS DID YOU ENGAGE IN SOME
4 COUNSELING AT ALL?

5 A YES

6 Q I THOUGHT YOU SAID THAT EARLIER TO WHAT
7 EXTENT DID YOU ENGAGE IN COUNSELING?

8 A I DID SOME, LIKE I SAID, STRUCTURED GROUP
9 COUNSELING I, ALSO, DID INDIVIDUAL COUNSELING WITH
10 STUDENTS AND I DID A CO-ED FAMILY GROUP WITH
11 ANOTHER COUNSELOR AND DID SOME SMALL FAMILY GROUPS
12 TOO

13 Q DO YOU HAVE AN OPINION ABOUT WHETHER OR NOT
14 WHO CHOOSES TO CONSUME ALCOHOL OR CONSUME DRUGS
15 SHOULD BE HELD RESPONSIBLE FOR THEIR ACTIONS?

16 A TO WHAT EXTENT DO YOU MEAN? THAT'S A WIDE-
17 OPEN QUESTION

18 Q ALL RIGHT, I'LL TRY TO BE MORE SPECIFIC WITH
19 IT LET'S SAY SOMEONE WHO VOLUNTARILY DRINKS TO
20 EXCESS OR USES DRUGS TO EXCESS AND THEN ACTS IN
21 VARIOUS WAYS AND DOES VARIOUS THINGS, PARTICIPATES
22 IN VARIOUS ACTIVITIES AFTER USING T DRUGS
23 VOLUNTARILY OR USING THE ALCOHOL VOLUNTARILY TO
24 EXCESS, IN YOUR OPINION, SHOULD THAT PERSON BE HELD
25 ACCOUNTABLE FOR ANY ACTIONS THAT THEY WOULD MAKE AND

1 DO IN THEIR ACTIONS?

2 A YES

3 Q YOU DO BELIEVE THAT NOW, WHAT -- ALONG THAT
4 LINE, IF SOMEONE HAS A PARTICULARLY SENSITIVE SKIN,
5 IF YOU WILL SOME PEOPLE REFER TO IT AS THIN SKIN
6 IN OTHER WORDS, IF SOMEONE IS MORE EMOTIONAL
7 INVOLVED THAN OTHERS ON AVERAGE, DO YOU BELIEVE THAT
8 THOSE PEOPLE SHOULD BE HELD TO THE SAME STANDARD OF
9 RESPONSIBILITY FOR THEIR ACTIONS AS OTHER PEOPLE?

10 A I THINK I KNOW WHAT YOU'RE SAYING

11 Q WELL, LET ME TRY TO BE MORE SPECIFIC

12 A DO YOU MEAN THAT SOMEONE HAS MAYBE -- GO AHEAD
13 AND EXPLAIN IT

14 Q WELL, YOU GO AHEAD AND ASK AND MAYBE I CAN BE
15 MORE SPECIFIC

16 THE COURT I THINK YOU NEED TO ASK THE
17 QUESTION

18 Q ALL RIGHT IF SOMEONE IS -- WELL, FIRST OF
19 ALL, IF SOMEONE IS HOT TEMPERED - -

20 A OKAY, THAT'S WHAT I WAS THINKING OF

21 Q SHOULD WE HOLD THEM ACCOUNTABLE FOR THEIR
22 ACTIONS AS WE WOULD THE REST OF THE EVEN-TEMPERED
23 POPULATION?

24 A WE STILL HAVE TO BE RESPONSIBLE FOR WHAT WE
25 DO WHETHER WE LIKE IT OR NOT

1 Q AND IF SOMEONE IS BORDERLINE INTELLECTUALLY,
2 SAY THEY'RE LOW ON T I Q SCALE, SOME OF THESE FOLKS
3 HAVE ONE HUNDRED FIFTY I Q , SOME PEOPLE HAVE ONE
4 HUNDRED TWENTY, A LOT OF US IN THE HUNDRED RANGE,
5 AND THEN YOU GOT, YOU KNOW, SOME DOWN AROUND THE
6 NINETY OR EIGHTY RANGE DO YOU THINK THAT AN I Q ,
7 THAT DOES NOT REACH THE LEVEL OF RETARDATION BUT
8 NEVERTHELESS A LOW I Q , THAT THOSE PEOPLE SHOULD
9 NOT BE HELD ACCOUNTABLE AND RESPONSIBLE FOR THEIR
10 ACTIONS AS THE REST OF THE POPULATION?

11 A YES, IT'S PROBABLY THE PERSON KNOWS WHAT THE
12 DIFFERENCE BETWEEN RIGHT AND WRONG I THINK THEY
13 SHOULD IF THEY'RE NOT -- IF THEY'RE TO BE RETARDED,
14 THEN THEY SHOULD BE HELD ACCOUNTABLE FOR THEIR
15 ACTIONS

16 Q AND YOU BELIEVE THAT FIRMLY?

17 A UM-HMM

18 Q ALL RIGHT NOW, WITH REGARD TO THOSE ACTION,
19 YOU ANSWERED THE JUDGE'S QUESTIONS ABOUT THE DEATH
20 PENALTY YOU BELIEVE IN THE DEATH PENALTY?

21 A YES, I DO

22 Q AND YOU BELIEVE THAT IF YOU FOUND CRIME HAD
23 BEEN COMMITTED BEYOND A REASONABLE DOUBT, AND IF AN
24 AGGRAVATED CIRCUMSTANCE EXISTED IN THAT CRIME, YOU
25 WOULD CONSIDER BOTH LIFE AND DEATH BEFORE YOU

1 PUNISHED?

2 A YES

3 Q BUT IF YOU FOUND WAS THE APPROPRIATE SENTENCE,
4 YOU COULD IMPOSE IT?

5 A YES, SIR

6 Q AND YOU WOULD IMPOSE IT?

7 A YES, SIR

8 Q AND YOU COULD WRITE YOUR NAME ON A PIECE OF
9 PAPER, MS LOTHBRIDGE, IMPOSING THAT?

10 A YES, SIR

11 MR JONES THANK YOU VERY MUCH FOR BEING
12 PATIENT WITH US TODAY I APPRECIATE THAT
13 EXAMINATION BY MR TINSLEY

14 Q JUST A COUPLE FOLLOW-UP QUESTIONS SOLICITOR
15 ASKED YOU ABOUT THE ALCOHOL AND DRUG COMMISSION AND
16 ALL DID YOU HAVE OCCASION DURING THAT PERIOD TO
17 ASSOCIATE AT ALL WITH MY CO-COUNSEL, MR BILLY
18 GARRETT THEN?

19 A ONLY AT THE BOARD DINNER, I BELIEVE --

20 Q HE WAS ON THE BOARD, WASN'T HE?

21 A -- THAT WE HAVE ABOUT ONCE A YEAR I REMEMBER
22 SEEING BILLY AT THAT TIME

23 Q AND YOU REMEMBER HIM BEING ON THE BOARD?

24 A YES, SIR

25 Q AND A FACTOR IN SOMEONE'S LOW I Q AS A

1 MITIGATION CIRCUMSTANCE, COULD YOU ALSO BE ABLE TO
2 CONSIDER AN ABUSIVE CHILDHOOD, WOULD THAT IMPACT
3 YOUR DECISION AS TO THE DEGREE OF IMPAIRMENT THAT AN
4 INDIVIDUAL MAY HAVE?

5 A AS FAR AS DEGREE OF IMPAIRMENT WHAT --

6 Q AS A MITIGATING CIRCUMSTANCE

7 A IT COULD BE CONSIDERED, BUT THE PERSON WOULD
8 STILL BE RESPONSIBLE FOR THEIR ACTIONS

9 Q WOULD YOU BE WILLING TO FURTHER CONSIDER
10 ADDITIONAL -- AS ADDITIONAL MITIGATING CIRCUMSTANCE,
11 HEAD INJURIES SUFFERED BY THE INDIVIDUAL?

12 A LIKE I SAID, ALL EVIDENCE WOULD BE CONSIDERED

13 Q SO YOU WOULD BE WILLING TO CONSIDER ANY AND
14 ALL MITIGATION THAT WAS OFFERED?

15 A YES, SIR

16 MR TINSLEY THANK YOU SO MUCH

17 THE COURT MS LOTHRIE, IF YOU'LL JUST
18 STEP OUT THE DOOR WITH THE BAILIFF, I'LL BRING YOU
19 BACK IN JUST A MINUTE

20 (JUROR DOES AS INSTRUCTED)

21 THE COURT

22 ANY REASON WHY THE JUROR SHOULD NOT BE
23 FOUND QUALIFIED?

24 MR JONES NONE FOR THE STATE, YOUR
25 HONOR

1 MR TINSLEY NO, YOUR HONOR

2 THE COURT SHE IS SO QUALIFIED BRING

3 HER IN HERE

4 (JUROR RE-ENTERS COURTROOM)

5 THE COURT MS LOTHRIE, YOU ARE
6 QUALIFIED TO SERVE IN THE PANEL FROM WHICH THE JURY
7 WILL ACTUALLY BE SELECTED SO THAT SIMPLY MEANS YOU
8 HAVEN'T BEEN SELECTED YET, BUT YOU DO HAVE THAT
9 POTENTIAL SO IT IS GOING TO BE NECESSARY THAT YOU
10 COME BACK AT A LATER TIME WE NEED FOR YOU TO GIVE
11 THE CLERK ANY AND ALL PHONE NUMBERS WHERE YOU CAN BE
12 REACHED WE ANTICIPATE SOMETIME, HOPEFULLY, EARLY
13 THIS WEEK WE'LL BE CALLING YOU BACK TO COME BACK FOR
14 THAT SELECTION SO IF YOU'LL GIVE HER NUMBERS WHERE
15 WE CAN LOCATE YOU ON SHORT NOTICE, WE'LL CALL YOU
16 WHEN IT'S NECESSARY FOR YOU TO COME BACK

17 MS LOTHRIE, BEFORE YOU GO, LET ME
18 REMIND YOU OF THE INSTRUCTION YOU PREVIOUSLY HAVE
19 BEEN GIVEN AND THAT IS, YOU'RE STILL NOT TO
20 DISCUSS THE CASE IN ANY FASHION WHATSOEVER, AND DO
21 NOT ALLOW YOURSELF TO BE EXPOSED TO ANY TYPE OF
22 MEDIA COVERAGE

23 JUROR LOTHRIE I WON'T EVEN WATCH THE
24 NEWS

25 THE COURT THANK YOU WE'LL CALL YOU AS

1 SOON AS WE ARE READY TO HAVE YOU COME BACK

2 (JUROR #120 EXITS COURTROOM)

3 (JUROR #120 IS QUALIFIED)

4 (THE COURT CALLS BOBBY GARNER)

5 (JUROR #74 PRESENTED AT 9 35 O'CLOCK A M)

6 EXAMINATION BY THE COURT

7 Q GOOD MORNING, MR GARNER

8 A GOOD MORNING

9 Q AS YOU'RE AWARE, WE HAVE CALLED YOU BACK FOR
10 THE PURPOSE OF ASKING SOME ADDITIONAL QUESTIONS
11 INDIVIDUALLY OF YOU I WILL ASK YOU SOME, THE
12 LAWYERS MAY HAVE SOME ADDITIONAL QUESTIONS THERE
13 ARE NO RIGHT OR WRONG ANSWERS, WE SIMPLY NEED TO
14 KNOW WHAT YOUR HONEST OPINIONS AND VIEWS ON A
15 PARTICULAR SUBJECT WE WOULD SIMPLY ASK THAT YOU
16 ANSWER THE QUESTIONS AS BEST YOU CAN IF YOU DON'T
17 UNDERSTAND THE QUESTION OR IT'S NOT CLEAR, PLEASE
18 ASK ME TO CLARIFY IT WE MAY BE DISCUSSING THINGS
19 THAT YOU'VE NOT BEEN ASKED ABOUT BEFORE AND YOU MAY
20 NEED A CLARIFICATION OF THE QUESTION SO FEEL FREE
21 TO DO SO SHOULD THAT BE NECESSARY

22 YOU WILL RECALL WHEN YOU AND YOUR FELLOW
23 JURORS REPORTED TOGETHER ON FRIDAY, THAT YOU WERE
24 ASKED TO STAND AND YOU WERE PLACED UNDER OATH?

25 A YES, SIR

1 Q YOU REMAIN UNDER OATH FOR THE PURPOSE OF THESE
2 QUESTIONS, ALSO I HAVE YOUR QUESTIONNAIRE YOU
3 INDICATED EARLIER THAT IT WAS ACCURATE

4 A AS FAR AS I CAN REMEMBER I WAS HALF ASLEEP
5 WHEN I FILLED THAT THING OUT

6 Q YOU NEED TO LOOK AT IT AND LET ME KNOW IF
7 THERE'S ANYTHING THAT'S INCORRECT OR ANYTHING THAT
8 NEEDS TO BE ADDED TO IT

9 A WELL, MY SCHOOLING, I AIN'T GOT THAT WROTE
10 DOWN

11 Q SIR?

12 A MY SCHOOLING, I DIDN'T WRITE ANYTHING

13 Q ALL RIGHT WHAT IS IT? JUST TELL US WHAT IT
14 IS

15 A WELL, I HAVE ELEVENTH GRADE AT DIXIE HIGH AND
16 THEN I WENT TO PIEDMONT TECHNICAL COLLEGE AND
17 GRADUATED ON A G E D THAT WAS IN '74

18 Q ALL RIGHT ANY OTHER SCHOOLS THAT YOU'VE
19 ATTENDED?

20 A I ATTENDED GREENWOOD AND ABBEVILLE COUNTY
21 SCHOOLS, ELEMENTARY AND -- WELL, I DID ONE IN
22 GEORGIA BUT DON'T ASK WHAT COUNTY I CAN'T
23 REMEMBER THAT WAS WHEN I FIRST STARTED SCHOOL

24 I DON'T KNOW ABOUT THIS ONE RIGHT HERE IF IT
25 PERTAINS TO ME OR NOT HAVE YOU OR ANY MEMBER OF

1 YOUR FAMILY EVER BEEN VICTIM OF A CRIME? I DON'T
2 KNOW IF THAT PERTAINS TO ME OR NOT BECAUSE I HAD A
3 NIECE THAT WAS KILLED A COUPLE OF YEARS AGO SHE
4 LIVED IN NEWBERRY COUNTY I DON'T KNOW IF THAT
5 PERTAINS TO ME OR NOT

6 Q SURE YOU HAD A NIECE WHO WAS KILLED?

7 A YES, SIR

8 Q AND WAS THAT RESULT OF AN ACCIDENT OR AN
9 INDIVIDUAL COMMITTING SOME ACT?

10 A INDIVIDUAL COMMITTING

11 Q AND WAS THAT PERSON CHARGED WITH A CRIME?

12 A YES, SIR

13 Q AND WAS THAT PERSON CONVICTED?

14 A HE'S CONVICTED AND SERVING ONE HUNDRED YEARS

15 Q SERVING WHAT?

16 A ONE HUNDRED YEARS NUMBER TWENTY-THREE ON
17 SUICIDE I DIDN'T PUT THAT DOWN, BUT MY UNCLE
18 COMMITTED SUICIDE ABOUT THREE YEARS AGO

19 Q YOUR UNCLE DID?

20 A YES, SIR

21 Q WHICH SIDE OF YOUR FAMILY WAS THAT?

22 A MY MOTHER'S

23 Q IT WAS YOUR MOTHER'S BROTHER?

24 A MY MOTHER'S BROTHER

25 Q ALL RIGHT

1 A I DIDN'T PUT DOWN NOTHING FOR HOBBIES I
2 ABOUT GOT AWAY FROM ALL MY HOBBIES NOW

3 Q SIR?

4 A I ABOUT GOT AWAY FROM ALL MY HOBBIES NOW

5 Q YOU QUIT YOUR HOBBIES?

6 A YES, SIR I FOOLED WITH MODEL AIRPLANES AND
7 STUFF LIKE THAT AT ONE TIME, RADIO-CONTROLLED FOR
8 AS I KNOW, ALL OF IT'S CORRECT I DID HAVE
9 SOMETHING TO COME UP THIS WEEKEND MY MOTHER WAS
10 COMMITTED TO A HOSPITAL SHE HAS FLUID ON HER LUNGS
11 AND ON HER HEART AND THEY'RE SUPPOSED TO BE RUNNING
12 TESTS TODAY ON HER

13 Q AND ARE YOU RESPONSIBLE FOR LOOKING AFTER YOUR
14 MOTHER?

15 A NO, SIR, I'M NOT NO, LOOKING AFTER HER, MY
16 SISTER'S GOING TO TAKE HER DOWN, BUT I JUST WANTED
17 TO BRING THAT UP

18 Q BUT YOUR MOTHER HAS BEEN ADMITTED TO THE
19 HOSPITAL?

20 A YES, SIR

21 Q AND YOU'RE NOT SURE RIGHT NOW WHAT THE PROBLEM
22 ACTUALLY IS?

23 A NO, MORE THAN THE DOCTOR SAID SHE HAD FLUID
24 BUILT UP ON HER LUNGS AND ON HER HEART

25 Q AND ARE YOU AWARE OR DO YOU KNOW OR HAS YOUR

1 DOCTOR INDICATED HOW SERIOUS THE CONDITION MIGHT BE?

2 A NO, SIR, HE HASN'T

3 Q WOULD THAT CIRCUMSTANCE POSE A HARDSHIP UPON
4 YOU IF YOU WERE CALLED UPON TO SERVE AND YOU WERE
5 REQUIRED TO BE SEQUESTERED?

6 A I DO NOT KNOW ABOUT THAT

7 Q I GUESS WHAT I'M REALLY TRYING TO ASK IS,
8 WOULD CONCERN FOR YOUR MOTHER INTERFERE WITH YOUR
9 ABILITY TO CONCENTRATE IN THE DUTIES THAT YOU WOULD
10 BE CALLED UPON TO PERFORM, IF YOU WERE SELECTED AS A
11 JUROR?

12 A I DON'T THINK SO NO MORE THAN, YOU KNOW, I'D
13 BE WONDERING HOW SHE FEELS, AND HOW SHE IS AND ALL

14 Q IF WHAT NOW?

15 A I BE WONDERING MORE ABOUT HOW SHE FEELS AND
16 STUFF LIKE THAT

17 Q THAT'S WHAT I'M ASKING

18 A THAT'S ALL I'D BE MORE CONCERNED WITH WOULD BE
19 WORRIED ABOUT HER

20 Q SURE AND WOULD THAT CONCERN OR THAT WORRY
21 INTERFERE WITH YOUR ABILITY TO KEEP YOUR MIND HERE
22 AND CONCENTRATE ON WHAT YOU WERE CALLED UPON TO DO?

23 A I DON'T BELIEVE SO

24 Q YOU DON'T BELIEVE IT WOULD?

25 A I DON'T THINK SO

1 Q ANYTHING ELSE THAT NEEDS TO BE ADDED TO YOUR
2 QUESTIONNAIRE?

3 A NOT THAT I KNOW OF

4 Q YOU REMEMBER, ALSO, RECEIVING MY INSTRUCTION
5 ABOUT NOT ALLOWING YOURSELF TO BE EXPOSED TO ANY
6 MEDIA COVERAGE THAT RELATES TO THE CASE AND NOT TO
7 HAVE ANY DISCUSSIONS ABOUT THE CASE?

8 A YES, SIR

9 Q HAVE YOU COMPLIED WITH THAT INSTRUCTION?

10 A I'VE TRIED TO COMPLY THE BEST I COULD

11 Q AND WHEN YOU SAY YOU'VE DONE IT THE BEST THAT
12 YOU CAN, HAVE YOU HAD SOME EXPOSURE TO MEDIA
13 COVERAGE?

14 A NO MEDIA, NOTHING LIKE THAT NO MORE THAN
15 JUST HAVING TO TALK WITH MY BOSS MANAGER ABOUT --

16 Q ABOUT HAVING TO SERVE?

17 A POSSIBLY HAVING TO SERVE

18 Q HAVE YOU TALKED TO ANYBODY ABOUT THE FACTS OR
19 CIRCUMSTANCES THAT MIGHT RELATE TO THIS CASE?

20 A NO, SIR

21 Q WHAT ABOUT BEFORE YOU RECEIVED MY LETTER DID
22 YOU HAVE ANY SUCH DISCUSSION OR ANY EXPOSURE TO
23 MEDIA COVERAGE?

24 A IF ANY TO MEDIA COVERAGE, I PROBABLY READ IT
25 AND LAID IT ASIDE DIDN'T PAY IT NO ATTENTION

1 Q IS IT FAIR TO SAY THAT IF YOU READ SOMETHING
2 ABOUT IT, YOU DON'T RECALL WHAT IT WAS?

3 A I DON'T RECALL IT

4 Q DO YOU UNDERSTAND THAT THE FUNCTION OF A JURY
5 PARTICIPATING IN A CASE IS TO LISTEN TO TESTIMONY
6 AND TO CONSIDER EVIDENCE, AND BASED UPON THE JURY'S
7 CONSIDERATION OF THAT EVIDENCE, TO DECIDE FACTS?
8 AND THEN YOU'LL BE ASKED TO APPLY THE LAW THAT THE
9 COURT WILL PROVIDE YOU AT THE END OF THE CASE
10 YOU'LL GO BACK AND DELIBERATE, YOU'LL CONSIDER ALL
11 THE EVIDENCE, YOU'LL DECIDE THE FACTS, YOU'LL APPLY
12 THE LAW AND YOU'LL MAKE A DECISION YOU AND YOUR
13 FELLOW JURORS WILL DECIDE THE CASE DO YOU
14 UNDERSTAND THAT IN A CASE WHERE A PERSON IS CHARGED
15 WITH A CRIME THAT THE BURDEN IS ALWAYS UPON THE
16 STATE TO PROVE THAT PERSON'S GUILT BEYOND A
17 REASONABLE DOUBT BEFORE THE JURY CAN FIND THAT
18 PERSON GUILTY?

19 A YES, SIR

20 Q DO YOU UNDERSTAND THAT THE BURDEN IS NEVER
21 UPON A PERSON CHARGED WITH A CRIME TO PROVE THAT HE
22 IS NOT GUILTY OR TO PROVE THAT HE IS INNOCENT?

23 A REPEAT THAT ONE MORE TIME

24 Q DO YOU UNDERSTAND THAT THE BURDEN IS NOT UPON
25 THE DEFENDANT TO ESTABLISH THAT HE IS NOT GUILTY OF

1 THE CRIME?

2 A YES, SIR

3 Q DO YOU UNDERSTAND THAT ANY TIME A PERSON IS
4 CHARGED WITH A CRIME UNDER THE LAW, THEY ARE
5 PRESUMED TO BE INNOCENT?

6 A YES, SIR

7 Q AND MAY NOT BE FOUND GUILTY UNLESS EVIDENCE IS
8 PRESENTED WHICH SUPPORTS THAT CONCLUSION IN YOUR
9 MIND BEYOND A REASONABLE DOUBT?

10 A YES, SIR

11 Q DO YOU ACCEPT THOSE PROPOSITIONS OF LAW?

12 A YES, SIR

13 Q NOW, IN THIS CASE, AS YOU ARE AWARE, THE
14 DEFENDANT IS CHARGED WITH THE CRIME OF MURDER AND
15 UNDER CERTAIN CIRCUMSTANCES, THE LAW PROVIDES THAT
16 THE STATE MAY SEEK THE DEATH PENALTY AGAINST THAT
17 INDIVIDUAL IF THAT PERSON IS FOUND GUILTY BEYOND A
18 REASONABLE DOUBT OF THE CRIME OF MURDER AND IF
19 SOME ADDITIONAL STATUTORY, AGGRAVATING CIRCUMSTANCE
20 IS PROVEN BEYOND A REASONABLE DOUBT IT'S THEN AND
21 ONLY THEN THAT THE STATE MAY SEEK THE DEATH PENALTY
22 AND THEN, AND ONLY THEN, THAT A JURY MAY EVEN
23 CONSIDER IMPOSING A DEATH SENTENCE BUT YOU
24 UNDERSTAND THAT'S STILL THE JURY'S DECISION?

25 A YES, SIR

1 Q NOW, IN A CASE LIKE THAT, IT'S CONDUCTED IN
2 TWO STAGES THE FIRST STAGE DEALS WITH THE ISSUE OF
3 GUILT, AND IF THE JURY FINDS A PERSON GUILTY OF
4 MURDER BEYOND A REASONABLE DOUBT, SHORTLY THEREAFTER
5 YOU HAVE THE SECOND STAGE OF A TRIAL CALLED THE
6 PUNISHMENT PHASE OR PENALTY PHASE AND IT'S DURING
7 THAT PHASE OF THE TRIAL THAT ADDITIONAL EVIDENCE IS
8 RECEIVED AND THE JURY, UPON ITS CONCLUSION,
9 DELIBERATES AGAIN AND DECIDES WHAT PUNISHMENT SHOULD
10 BE IMPOSED, DO YOU UNDERSTAND THAT?

11 A YES, SIR

12 Q IF YOU WERE CALLED UPON TO PARTICIPATE IN SUCH
13 A TRIAL IN THE GUILT PORTION OF THAT TRIAL, THE
14 GUILT PHASE, WOULD YOU BE ABLE AND WOULD YOU BE
15 WILLING TO FAIRLY CONSIDER ALL EVIDENCE THAT WOULD
16 BE INTRODUCED AT THAT STAGE OF THE TRIAL?

17 A I BELIEVE SO

18 Q AND BASED UPON YOUR CONSIDERATION OF THAT
19 EVIDENCE AND DELIBERATIONS WITH YOUR FELLOW JURORS,
20 IF YOU WERE CONVINCED BEYOND A REASONABLE DOUBT THAT
21 THE EVIDENCE SUPPORTED THE VERDICT OF GUILTY, COULD
22 YOU FIND THAT PERSON GUILTY?

23 A I BELIEVE SO

24 Q IF YOU, AFTER YOU'VE CONSIDERED ALL THE
25 EVIDENCE, IF YOU HAD A REASONABLE DOUBT AS TO

1 WHETHER OR NOT THAT PERSON WAS GUILTY, WOULD YOU
2 RETURN A VERDICT OF NOT GUILTY?

3 A REPEAT THAT

4 Q IF AFTER YOU CONSIDERED ALL THE EVIDENCE, IF
5 YOU HAD A REASONABLE DOUBT, IN OTHER WORDS, YOU WERE
6 NOT CONVINCED BEYOND A REASONABLE DOUBT, BUT YOU HAD
7 SOME REASONABLE DOUBT AS TO WHETHER OR NOT THAT
8 EVIDENCE DID SUPPORT THAT VERDICT OF GUILTY, WOULD
9 YOU FIND THE PERSON NOT GUILTY?

10 A IF IT WAS POINTING TO WHERE -- I COULD NOT SEE
11 A POINT TO WHERE IT COULD BE GUILTY, I WOULD GO THE
12 OTHER WAY

13 Q AND FOUND IT NOT GUILTY?

14 A RIGHT

15 Q AND YOU UNDERSTAND, AS I INDICATED TO YOU
16 EARLIER, THE BURDEN IS ON THE STATE TO PUT FORTH
17 SUFFICIENT EVIDENCE TO ESTABLISH HIS GUILT BEYOND A
18 REASONABLE DOUBT I'M SIMPLY ASKING YOU IF YOU
19 WEREN'T CONVINCED BEYOND A REASONABLE DOUBT, WOULD
20 YOU FIND HIM NOT GUILTY?

21 A IF I WASN'T CONVINCED I'D HAVE TO BE
22 CONVINCED BEFORE I'D SAY HE WAS GUILTY

23 Q AND IF YOU WEREN'T CONVINCED, WOULD YOU RETURN
24 A VERDICT OF NOT GUILTY?

25 A IT WOULD BE HARD FOR ME TO DO IT

1 Q IT WOULD BE HARD FOR YOU TO FIND A PERSON NOT
2 GUILTY?

3 A IF I WASN'T CONVINCED OF IT, IT WOULD BE HARD
4 FOR ME TO DO IT

5 Q I UNDERSTAND -- IF YOU WERE CONVINCED --

6 A IF I WAS CONVINCED --

7 Q -- A PERSON WAS GUILTY BEYOND A REASONABLE
8 DOUBT, YOU'VE INDICATED YOU WOULD FIND THAT PERSON
9 GUILTY

10 A RIGHT BUT IF I WASN'T, I WON'T

11 Q IF YOU WERE NOT CONVINCED, YOU WOULD FIND HIM
12 NOT GUILTY?

13 A IF I WAS NOT CONVINCED OF IT, I'D HAVE TO BE
14 CONVINCED OF IT BEFORE I WOULD SAY GUILTY

15 Q YOU UNDERSTAND THE JURY CAN REACH TWO VERDICTS
16 IN THE GUILTY PHASE, GUILTY OR NOT GUILTY?

17 A YES, SIR

18 Q IF YOU WERE NOT CONVINCED OF HIS GUILT, WOULD
19 YOU FIND HIM NOT GUILTY?

20 A IF I WASN'T CONVINCED, I WOULD SAY SO

21 Q NOW, I WANT YOU TO ASSUME AND ONLY ASSUME IT
22 FOR THE PURPOSE OF THIS QUESTION, THAT YOU HAVE
23 PARTICIPATED AND YOU'VE BEEN INVOLVED IN THE GUILT
24 PHASE OF THE TRIAL AND YOU AND YOUR FELLOW JURORS
25 HAVE FOUND A PERSON TO BE GUILTY OF MURDER BEYOND A

1 REASONABLE DOUBT AS I'VE SAID, IN THAT EVENT AND
2 ONLY IN THAT EVENT, WE WOULD PROCEED TO THE
3 PUNISHMENT PORTION OF THE TRIAL NOW, DURING THAT
4 PHASE OF THE TRIAL, THERE WOULD BE ADDITIONAL
5 EVIDENCE RECEIVED THERE MIGHT BE EVIDENCE OFFERED
6 IN AGGRAVATION, THERE MIGHT BE EVIDENCE OFFERED IN
7 MITIGATION WHAT I MEAN BY THAT IS THERE MAY BE
8 EVIDENCE OFFERED WHICH MIGHT TEND TO SUPPORT THE
9 MORE SEVERE PUNISHMENT AS BEING APPROPRIATE, THAT
10 BEING THE DEATH PENALTY THERE MIGHT BE EVIDENCE
11 OFFERED THAT MIGHT SUPPORT THE LESS SEVERE
12 PUNISHMENT AS BEING MORE APPROPRIATE, THAT BEING
13 LIFE IMPRISONMENT DO YOU UNDERSTAND THAT THE JURY
14 WOULD MAKE THAT DECISION, ALSO?

15 A YES, SIR

16 Q DO YOU UNDERSTAND THAT THE JURY WOULD ALWAYS
17 HAVE THAT CHOICE?

18 A YES, SIR

19 Q DO YOU UNDERSTAND THE CHOICE WOULD BE ONE OF
20 TWO?

21 A ONE OF TWO

22 Q A SENTENCE OF DEATH OR A SENTENCE OF LIFE, YOU
23 UNDERSTAND THAT?

24 A RIGHT.

25 Q NOW, UNDER THE LAW, AS I'VE STATED, A JURY CAN

1 ONLY CONSIDER IMPOSING A DEATH SENTENCE IF THEY HAVE
2 FOUND AN AGGRAVATING CIRCUMSTANCE BEYOND A
3 REASONABLE DOUBT IN ADDITION TO THE PERSON HAVING
4 BEEN CONVICTED OF THE CRIME OF MURDER, YOU
5 UNDERSTAND?

6 A RIGHT

7 Q NOW, WHILE YOU MAY CONSIDER IT UNDER THOSE
8 CIRCUMSTANCES, DO YOU UNDERSTAND THAT THE LAW NEVER
9 REQUIRES THAT THE DEATH SENTENCE BE IMPOSED, NO
10 MATTER WHAT THE CIRCUMSTANCES ARE?

11 A THE LAW DOES NOT REQUIRE IT?

12 Q THAT'S CORRECT DO YOU UNDERSTAND THAT THE
13 LAW DOES NOT REQUIRE IT?

14 A YES, SIR

15 Q DO YOU UNDERSTAND THAT YOU COULD IMPOSE A LIFE
16 SENTENCE FOR A PERSON CONVICTED OF MURDER WITH AN
17 AGGRAVATING CIRCUMSTANCE AND YOU COULD DO THAT FOR
18 SOME REASON OR FOR NO REASON AT ALL?

19 A YES, SIR

20 Q YOU'D HAVE THAT CHOICE NOW, IF YOU WERE
21 PARTICIPATING AND YOU WERE IN THE PENALTY PHASE OF
22 THAT TRIAL AND ALL OF THAT ADDITIONAL EVIDENCE WAS
23 RECEIVED, COULD YOU AND WOULD YOU BE WILLING TO
24 CONSIDER ALL OF THAT ADDITIONAL EVIDENCE BEFORE YOU
25 ARRIVED AT ANY DECISION?

1 A YES, SIR

2 Q AND AFTER YOU HAD CONSIDERED ALL OF THE
3 EVIDENCE RELATING TO THE CIRCUMSTANCES OF THE CRIME,
4 THE EVIDENCE OF AGGRAVATION, MITIGATION,
5 CIRCUMSTANCES RELATING TO THE PERSON WHO'D BEEN
6 FOUND GUILTY, AFTER CONSIDERING ALL OF THAT
7 EVIDENCE, DEPENDING UPON WHAT IT WAS, COULD YOU
8 IMPOSE A SENTENCE OF DEATH AGAINST AN INDIVIDUAL?

9 A THAT WOULD BE HARD FOR ME TO SAY BECAUSE I
10 NEVER REALLY HAVE HAD TO FACE THAT POINT

11 Q SURE WOULD YOU BE ABLE TO IMPOSE A SENTENCE
12 OF LIFE IF YOU THOUGHT THE CIRCUMSTANCES WARRANTED
13 THAT DECISION?

14 A YES, SIR

15 Q NOW, YOU UNDERSTAND THAT YOU'D ALWAYS HAVE
16 THAT CHOICE? AS I INDICATED TO YOU, YOU'RE NEVER
17 REQUIRED TO IMPOSE A DEATH SENTENCE, NO MATTER WHAT
18 THE CIRCUMSTANCES ARE?

19 A YES

20 Q YOU'D ALWAYS HAVE A CHOICE TO IMPOSE A DEATH
21 SENTENCE OR A LIFE SENTENCE, AND THE CHOICE WOULD BE
22 YOURS FACED WITH THAT CHOICE, KNOWING THAT YOU DID
23 HAVE THE CHOICE, WOULD YOU ALWAYS CHOSE ONE OF THOSE
24 OPTIONS OVER THE OTHER?

25 A YES, SIR

1 Q WHAT OPTION WOULD YOU CHOSE?

2 A PROBABLY LIFE

3 Q AND WOULD YOU CHOSE A LIFE SENTENCE OVER A
4 DEATH SENTENCE IN EVERY CASE?

5 A I PROBABLY WOULD BECAUSE I'VE NEVER REALLY
6 BEEN FACED WITH THE POINT TO WHERE I'D HAVE TO SAY
7 DEATH TO ANYBODY

8 Q AND, OF COURSE, WE RECOGNIZE FULLY THAT ANY
9 DECISION THAT YOU'D HAVE TO MAKE IN THAT RESPECT
10 WOULD BE ONE THAT YOU WOULD HAVE TO CAREFULLY
11 CONSIDER -- IT, OBVIOUSLY, WOULD BE AN IMPORTANT
12 DECISION OF COURSE, WE'RE NOT TRYING TO FIND OUT
13 WHAT YOU WOULD DO IN A PARTICULAR CASE BECAUSE,
14 NATURALLY, THAT WOULD DEPEND UPON THE FACTS OF THAT
15 CASE WHAT I'M SIMPLY TRYING TO FIND OUT IS WHETHER
16 OR NOT YOU COULD, IN ANY CASE, NO MATTER WHAT THE
17 CIRCUMSTANCES, RETURN A SENTENCE OF DEATH AGAINST
18 SOME PERSON?

19 A IT WOULD BE HARD FOR ME TO DO IT

20 Q OF COURSE, IT MAY BE DIFFICULT MY QUESTION
21 IS SIMPLY NOT WHETHER IT WOULD BE DIFFICULT BUT
22 WHETHER YOU COULD, IN FACT, DO IT UNDER ANY
23 CIRCUMSTANCES?

24 A I WOULD GIVE IT A TRY BUT, LIKE I SAY, I'VE
25 NEVER BEEN FACED WITH THAT POINT

1 Q I WANT YOU TO UNDERSTAND, NOBODY WILL SAY,
2 WE'LL YOU'VE GOT TO DO THIS, IF YOU CAN, YOU'VE GOT
3 TO DO IT THE POINT IS, AND WHAT I'M TRYING TO FIND
4 OUT IS, IF YOU BELIEVE, IN YOUR MIND, YOU CAN DO IT
5 IF THE CIRCUMSTANCES WARRANTED IT

6 A I WOULD GIVE IT A GOOD HARD TRY I'D TRY IS
7 ALL I CAN SAY ON THAT

8 Q WELL, DO YOU MEAN THAT YOU'D TRY TO DO IT OR
9 YOU'D TRY TO CONSIDER IT?

10 A I WOULD CONSIDER IT

11 Q DO YOU THINK THAT YOU COULD FAIRLY CONSIDER IT
12 AS AN OPTION IN A CASE?

13 A YES, SIR

14 Q YOU DO?

15 A YES, SIR

16 Q AND DO YOU BELIEVE THAT YOU COULD IMPOSE A
17 DEATH SENTENCE IF YOU THOUGHT THE CIRCUMSTANCES WERE
18 APPROPRIATE FOR IT?

19 A I'D CONSIDER IT REAL HARD

20 Q DO YOU THINK THERE IS SOME CIRCUMSTANCE WHERE
21 YOU COULD DO IT?

22 A IT'D HAVE TO BE PRETTY BAD

23 Q BUT YOU COULD CONSIDER IT YOU COULD DO IT IF
24 YOU THAT THE CIRCUMSTANCES WARRANTED THAT FACT?

25 A IT WOULD HAVE TO BE PRETTY BAD

1 Q AGAIN, LET ME ASK YOU UNDERSTAND THAT YOU'D
2 STILL ALWAYS HAVE THAT CHOICE, YOU'D BE ABLE TO
3 CONSIDER BOTH OPTIONS?

4 A YES, SIR

5 Q UP TO THIS POINT, HAVE YOU ALREADY FORMED OR
6 EXPRESSED ANY OPINION AS TO WHAT YOU THINK THE
7 APPROPRIATE OUTCOME SHOULD BE IN THIS CASE?

8 A NO, SIR

9 Q DO YOU KNOW OF ANY REASON WHY YOU COULD NOT BE
10 A FAIR AND IMPARTIAL JUROR IF YOU WERE SELECTED TO
11 SERVE IN THIS CASE?

12 A NO, SIR

13 Q DO YOU UNDERSTAND THAT YOU WOULD BE
14 SEQUESTERED IF YOU SELECTED TO SERVE? THAT
15 SEQUESTRATION WOULD LAST, PERHAPS, SEVEN TO TEN
16 DAYS, DO YOU UNDERSTAND WHAT I MEAN BY THAT?

17 A YES, SIR

18 Q WOULD THAT SEQUESTRATION REQUIREMENT POSE ANY
19 UNREASONABLE HARDSHIP OR HEALTH RISK TO YOU?

20 A NOT ON MY BUT ON THE COMPANY I WORK FOR

21 Q ON THE COMPANY?

22 A YES, SIR

23 Q BUT THEY UNDERSTAND THAT YOU MAY BE SELECTED
24 TO SERVE IN THE CASE?

25 A YES, SIR, THEY UNDERSTAND THAT THEY

1 UNDERSTAND THAT

2 Q OKAY AND SO YOU COULD DO THAT, IF CALLED
3 UPON?

4 A YES, SIR

5 THE COURT PLEASE ANSWER THE LAWYERS'
6 QUESTIONS

7 EXAMINATION BY MR TINSLEY

8 Q GOOD MORNING, MR GARNER

9 A YES, SIR

10 Q MR GARNER, YOU WORK FOR GREENWOOD MILLS, IS
11 THAT RIGHT?

12 A YES, SIR

13 Q WHICH PLANT DO YOU WORK IN?

14 A MATTHEWS

15 Q AND WHAT DEPARTMENT DO YOU WORK IN?

16 A CARDING, THIRD FLOOR

17 Q THIRD FLOOR, CARDING?

18 A RIGHT

19 Q IN THE CARD ROOM?

20 A YES, SIR

21 Q WHAT'S YOUR POSITION, WHAT DO YOU DO?

22 A I DON'T KNOW IF YOU KNOW MUCH ABOUT A MILL,
23 BUT I'M CALLED A CARD TECHNICIAN WHICH IS AN OLD
24 CARD GRINDER I'M THE SET UP MAN

25 Q HOW LONG HAVE YOU WORKED FOR GREENWOOD MILLS?

1 A THIRTY-THREE YEARS

2 Q HOW LONG HAVE YOU BEEN IN THAT DEPARTMENT?

3 A THIRTY-THREE YEARS LET ME TAKE THAT BACK A
4 LITTLE BIT OFFICIALLY, BEEN THIRTY-THREE YEARS BUT
5 I SERVED TWO YEARS IN THE MILITARY SERVICE THAT
6 DID NOT COUNT AGAINST ME

7 Q I SEE WERE YOU IN VIETNAM?

8 A NO, SIR

9 Q WHAT BRANCH OF THE SERVICE WERE YOU IN?

10 A ARMY

11 Q AND SINCE YOU WEREN'T IN VIETNAM, YOU WERE ON
12 ACTIVE DUTY BUT YOU WEREN'T ON THE FRONT SO-TO-
13 SPEAK?

14 A NO, SIR I WAS ON - - I WAS STATIONED IN
15 KOREA

16 Q AND WHAT DID YOU DO IN THE --

17 A COOK

18 Q YOU WERE A COOK?

19 A YES, SIR

20 Q AND WERE YOU BORN IN GREENWOOD COUNTY?

21 A BORN IN ANDERSON COUNTY

22 Q ANDERSON COUNTY?

23 A YES, SIR

24 Q AND YOU LIVE ON STEVENSON ROAD, IS THAT RIGHT?

25 A YES, SIR

1 Q IS THAT STEVENSON CROSSROAD OR NEAR THERE?

2 A WHEN I FIRST MOVED OVER HERE, THEY TOLD ME
3 STEVENSON CROSSROAD THEY PUT A SIGN UP THAT SAYS
4 STEVENSON ROAD, SO THAT'S WHAT I PUT ON THE RECORD,
5 STEVENSON ROAD

6 Q BUT IT'S THE SAME ROAD?

7 A SAME ROAD AS FAR AS I KNOW

8 Q YES, YES AND WHEN YOUR NIECE WAS KILLED, WAS
9 SHE KILLED BY A MAN?

10 A YES, SIR

11 Q WAS IT HER HUSBAND OR FRIEND OR --

12 A BOYFRIEND

13 Q BOYFRIEND AND YOU SAID THAT HE'S IN PRISON
14 NOW, IS THAT RIGHT?

15 A MY UNDERSTANDING HE IS IN PRISON WHEN I TALK
16 TO MY SISTER-IN-LAW THE LAST TIME, SHE SAID THEY
17 GAVE HIM ONE HUNDRED YEARS

18 Q A HUNDRED YEARS YOU DIDN'T GO TO THE TRIAL
19 OR ANYTHING?

20 A NO, SIR, I DIDN'T THEY DIDN'T EVEN LET US
21 KNOW WHEN THE TRIAL WAS

22 Q THEY DIDN'T LET YOU KNOW WHEN THE TRIAL WAS
23 AND DO YOU KNOW WHO PROSECUTED THE CASE?

24 A NO, SIR, I DON'T

25 Q YOU DON'T KNOW ANYTHING ABOUT THAT?

1 A NO, SIR

2 Q SO YOU DON'T HAVE ANY KNOWLEDGE OF THE ACTUAL
3 PROCEEDINGS OVER THAT?

4 A NO, SIR

5 Q NOW, YOU PROBABLY BECAME PRETTY ANGRY WITH
6 THAT INDIVIDUAL AND YOU WERE PRETTY UPSET ABOUT
7 THAT, IS THAT RIGHT?

8 A IN A WAY

9 Q IN A WAY?

10 A YES, SIR

11 Q YOU STATED THAT YOU CAN CONSIDER THE DEATH
12 PENALTY, IF THAT'S AN OPTION IN THE CASE?

13 A YES, SIR

14 Q BUT YOU UNDERSTAND THAT YOU WOULD HAVE AT
15 LEAST TWO OPTIONS AND THAT WOULD BE AT THE VERY END,
16 DO YOU UNDERSTAND THAT?

17 A YES, SIR

18 Q AND YOU UNDERSTAND, OF COURSE, THAT YOU COULD
19 VERY WELL RECOMMEND A LIFE SENTENCE?

20 A YES, SIR

21 Q NOW, FURTHER IN THE FIRST STAGE, YOU MIGHT
22 HAVE OTHER OPTIONS IN OTHER WORDS, JUDGE MAY GIVE
23 YOU THE OPTIONS OF GUILTY OF -- LET'S TAKE FOR COUNT
24 ONE COUNT ONE, YOU MIGHT HAVE THE OPTION OF GUILTY
25 OF MURDER, GUILTY OF VOLUNTARY MANSLAUGHTER OR NOT

1 GUILTY COULD YOU CONSIDER ALL THREE VERDICTS FOR
2 MY CLIENT?

3 A YES, SIR

4 Q YOU COULD RETURN A VERDICT OF NOT GUILTY OR
5 GUILTY OF MANSLAUGHTER IF THE EVIDENCE SO CALLED FOR
6 IT, COULD YOU NOT?

7 A YES, SIR

8 Q AND FURTHER, MR GARNER, YOU DON'T FEEL THE
9 SITUATION OF YOUR NIECE WILL AFFECT YOU IN THIS
10 TRIAL, DO YOU?

11 A NO, SIR

12 Q OKAY, GOOD AND IF WE DID GET TO THE FINAL
13 STAGE, COULD YOU CONSIDER ANY AND ALL REASONS,
14 EXTENUATING CIRCUMSTANCES, MITIGATION AS IT RELATES
15 TO MY CLIENT, MR HUGHEY, AND TO WHY HE FOUND
16 HIMSELF IN THAT POSITION? COULD YOU CONSIDER ALL
17 THAT?

18 A I BELIEVE I COULD

19 Q AND YOU UNDERSTAND WHAT I MEAN BY MITIGATION?

20 A NOT REALLY

21 Q WELL, IT WOULD BE THINGS THAT HAD HAPPENED TO
22 HIM PERSONAL, INDIVIDUAL CHARACTERISTICS OF MR
23 HUGHEY IN HIS LIFE DO YOU UNDERSTAND IT A LITTLE
24 BETTER NOW, MAYBE?

25 A YES, SIR

1 Q AND AS SUCH, YOU WOULD BE ABLE TO FACTOR THAT
2 IN AND ANY OTHER EVIDENCE THAT WAS PRESENTED, IS
3 THAT CORRECT, SIR?

4 A YES, SIR

5 MR TINSLEY THANKS SO MUCH, MR GARNER
6 EXAMINATION BY MR JONES

7 Q MR GARNER, GOOD MORNING

8 A GOOD MORNING

9 Q MY NAME IS TOWNES JONES AND I'M YOUR
10 SOLICITOR, THE PROSECUTOR, THE DISTRICT ATTORNEY IN
11 THIS CASE

12 A YES, SIR

13 Q THIS IS MICHAEL COULTER, HE'S YOUR DEPUTY
14 SOLICITOR BOTH OF US WILL BE CALLING WITNESSES AND
15 PRESENTING EVIDENCE DURING THE COURSE OF THIS TRIAL
16 I JUST HAVE A FEW QUESTIONS FOR YOU THIS MORNING

17 FIRST OF ALL, I'D LIKE TO TELL YOU THAT WE GOT
18 YOUR QUESTIONNAIRE THAT YOU FILLED OUT A COPY OF
19 IT THAT YOU SENT TO THE JUDGE I APPRECIATE YOU
20 TAKING THE TIME TO DO THAT WHAT I WANT TO ASK YOU
21 IS ABOUT YOUR NIECE I KNOW THAT'S A TOUGH THING
22 FOR YOU TO HAVE TO TALK ABOUT, BUT DO YOU MIND IF I
23 ASK YOU SOME QUESTIONS ABOUT IT

24 A GO AHEAD

25 Q I APPRECIATE YOU LETTING ME DO THAT IT'S NOT

1 BECAUSE I WANT TO PRY, YOU UNDERSTAND THAT, DON'T
2 YOU?

3 A YES, SIR

4 Q I'VE GOT A JOB TO DO IN THIS COURTROOM

5 A I KNOW THAT

6 Q ALL RIGHT HOW LONG AGO DID IT HAPPEN?

7 A A COUPLE YEARS AGO, I BELIEVE

8 Q AND YOU SAY A BOYFRIEND MURDERED HER?

9 A YES, SIR

10 Q HOW DID HE MURDER HER?

11 A WITH AN AX

12 Q AND THAT'S YOUR SISTER'S DAUGHTER?

13 A NO, SIR

14 Q I'M SORRY

15 A MY WIFE'S SISTER'S DAUGHTER

16 Q YOUR WIFE'S SISTER'S DAUGHTER HOW OLD WAS
17 SHE?

18 A TWENTY-SEVEN SHE'S TWENTY-SEVEN NOW IF
19 SHE'D BEEN LIVING, SHE'D BEEN TWENTY-SEVEN HER AND
20 MY DAUGHTER ARE THE SAME AGE THEY WERE BOTH BORN
21 IN THE SAME YEAR, THE SAME MONTH, A FEW DAYS APART

22 Q DID SHE HAVE ANY CHILDREN?

23 A NO, SIR

24 Q HAD SHE EVER BEEN MARRIED?

25 A NO, SIR

1 Q WAS SHE WORKING AT THE TIME?

2 A YES, SIR

3 Q WHERE WAS SHE WORKING?

4 A AT A CONVENIENCE STORE IN NEWBERRY

5 Q DID THEY EVER TELL YOU WHY HE MURDERED HER?

6 A FOR MONEY FROM WHAT I UNDERSTOOD YOU KNOW,
7 SHE HAD THE PAYROLL, SHE HAD TO TURN IT IN THAT DAY
8 AT THE DROP BOX, SHE HAD TO TURN IN HE PICKED HER
9 UP AND CARRIED HER -- SUPPOSED TO BE TO DROP IT OFF
10 BUT THEY WENT BY THE HOUSE AND THAT'S WHERE IT
11 HAPPENED AT

12 Q MR TINSLEY ASKED YOU IF IT MADE YOU UPSET OR
13 ANGRY WHEN IT HAPPENED?

14 A IT DID

15 Q I WANT TO YOU ASK YOU IF YOU CAN TELL ME
16 EXACTLY WHAT YOUR FEELINGS WERE WHEN YOU SAY, IN
17 AWAY, IF YOU COULD DESCRIBE TO ME HOW YOU FELT ABOUT
18 IT?

19 A WELL, SHE'S JUST ABOUT LIKE A DAUGHTER TO ME
20 IN AWAY BECAUSE SHE STAYED AT MY HOUSE A LITTLE BIT,
21 WE WENT DOWN TO SEE THEM A LITTLE BIT LIKE I SAID,
22 SHE WAS THE SAME AGE MY DAUGHTER WAS AND ALL MY
23 NIECES, THEY ALWAYS LOOKED UP TO ME, ALL OF THEM
24 WALK UP THAT DOOR RIGHT NOW, WHEN THEY CAME IN, THEY
25 WOULD HAVE TO COME OVER AND HUG ME, ASK ME HOW I WAS

1 DOING, HAVE SOMETHING TO DO WITH ME THEY THOUGHT
2 ABOUT AS MUCH OF ME AS I THOUGHT OF THEM

3 Q I UNDERSTAND THAT AND WHAT I'D LIKE TO KNOW
4 IS HOW DID YOU FEEL TOWARDS THE MAN THAT MURDERED
5 HER?

6 A I REALLY DIDN'T HAVE GOOD FEELINGS I FELT HE
7 NEEDED TO BE PUNISHED

8 Q AND WHAT TYPE PUNISHMENT DID YOU THINK WAS THE
9 BEST PUNISHMENT FOR HIM?

10 A I FELT HE SHOULD GO TO COURT -- THROUGH THE
11 COURT SYSTEM TO BE PUNISHED RIGHT AWAY

12 Q DID YOU FEEL THAT THAT PUNISHMENT SHOULD BE
13 LEFT UP TO A JUDGE OR A JURY?

14 A UP TO EITHER ONE

15 Q EITHER ONE?

16 A YES, SIR

17 Q DID YOU HAVE A FEELING AS TO WHAT YOU HOPED
18 THE JURY OR THE JUDGE WOULD DO WHEN IT CAME DOWN TO
19 WHETHER HE WOULD GET THE DEATH PENALTY OR LIFE?

20 A I WAS IN BETWEEN BOTH DECISIONS

21 Q WHAT ABOUT YOUR WIFE'S SISTER, DO YOU KNOW
22 WHAT HER FEELINGS WERE?

23 A YES, SIR

24 Q WHAT WERE HER FEELINGS?

25 A SHE WANTED THE DEATH PENALTY

1 Q WHAT ABOUT YOUR WIFE, WHAT WERE HER FEELINGS?

2 A SHE WAS ABOUT THE SAME WAY I WAS SHE FELT
3 THAT HE SHOULD GET FAIR JUDGMENT

4 Q SO YOUR WIFE COULDN'T SAY SHE WANTED THE DEATH
5 PENALTY?

6 A SHE COULDN'T SAY SHE NEVER WOULD SAY AT
7 LEAST SHE NEVER WOULD SAY TO ME

8 Q HOW ABOUT YOUR DAUGHTER, WHAT DID SHE WANT?

9 A MY DAUGHTER NEVER HAS SAID ANYTHING

10 Q YOU REALIZE THAT WE'RE ABOUT TO START THIS
11 TRIAL WITH JURORS AND WE'RE ASKING JURORS TO TELL
12 US, AS WE'RE ASKING YOU, WHETHER YOU WOULD FAIRLY
13 CONSIDER IMPOSING THE SENTENCE OF DEATH ON ANOTHER
14 HUMAN BEING?

15 A YES, SIR

16 Q AND I'M GOING TO ASK YOU THAT RIGHT NOW IF YOU
17 CAN TELL ME IN YOUR MIND AND IN YOUR HEART THAT
18 COULD FAIRLY CONSIDER IMPOSING THE DEATH SENTENCE ON
19 ANOTHER HUMAN BEING?

20 A I WOULD

21 Q AND COULD YOU DO THAT?

22 A I BELIEVE I COULD BUT IT WOULD BE KIND OF HARD
23 IN A WAY, LIKE I SAY I WOULD GIVE IT GOOD
24 CONSIDERATION

25 Q COULD YOU TELL ME WHAT WOULD BE THE HARDEST

1 THING ABOUT IT?

2 A IT WOULD BE LIKE ME LOOKING AT YOU AND SAYING,
3 DIE

4 Q UM-HMM WELL, IF I'M CHARGED WITH BREAKING
5 INTO A LADY'S HOUSE, BURGLARY, BUSTING IN THE DOOR,
6 ALL RIGHT, AND BREAKING INTO HER HOUSE --

7 MR TINSLEY OBJECTION, YOUR HONOR

8 EXAMINATION BY MR JONES

9 Q -- AND YOU FIND ME GUILTY --

10 THE COURT OVERRULED

11 EXAMINATION BY MR JONES

12 Q -- YOU FIND ME GUILTY OF BURGLARY AND I'M
13 CHARGED WITH MURDER OF HER AND HER NIECE WHILE IN
14 THAT HOME, AND YOU FIND ME GUILTY OF THAT AND I'M
15 CHARGED WITH STEALING A CAR FROM HER NIECE AFTER
16 YOU FOUND ME GUILTY OF MURDERING BOTH OF THEM AND
17 LEAVING IN THAT CAR AND YOU FIND ME GUILTY OF DOING
18 EACH ONE OF THOSE CRIMES AND COMMITTING THOSE
19 CRIMES, COULD YOU AND WOULD YOU OPPOSE THE DEATH
20 SENTENCE?

21 MR TINSLEY OBJECTION

22 THE COURT SUSTAINED

23 EXAMINATION BY MR JONES

24 Q COULD YOU AND WOULD YOU IMPOSE THE DEATH
25 PENALTY ON ANYBODY CHARGED AND CONVICTED OF --

1 MR TINSLEY OBJECTION, YOUR HONOR
2 THE COURT SUSTAINED YOU CAN ASK HIM
3 IF HE COULD YOU CAN'T ASK HIM WHAT HE WOULD DO, HE
4 DOESN'T KNOW WE DON'T KNOW WHAT THE CIRCUMSTANCES
5 ARE

6 EXAMINATION BY MR JONES

7 Q ALL RIGHT, YOUR HONOR

8 A ALL I SAID IS I COULD CONSIDER IT

9 Q YOU COULD CONSIDER IT YOU HAVE A CHOICE
10 BETWEEN IMPOSING THE DEATH SENTENCE -- I'M JUST
11 TALKING ABOUT ANY MURDER CASE WHERE AN AGGRAVATED
12 CIRCUMSTANCE IS FOUND YOU UNDERSTAND YOU HAVE TO
13 HAVE MURDER, AND YOU HAVE TO HAVE AN AGGRAVATED
14 CIRCUMSTANCE BEFORE YOU CAN EVEN CONSIDER THE DEATH
15 PENALTY, ALL RIGHT? DO YOU UNDERSTAND THAT? YOU'VE
16 GOT TO HAVE A MURDER PLUS SOME OTHER AGGRAVATING
17 CIRCUMSTANCE YOU AS JURY FOUND BEYOND A REASONABLE
18 DOUBT THERE'S GOT TO BE SOME OTHER STATUTORY
19 AGGRAVATING CIRCUMSTANCE, DO YOU UNDERSTAND THAT?

20 A OKAY

21 Q IF YOU FIND THAT TO EXIST AND ON A JURY, YOU
22 CAN CONSIDER A LIFE IN PRISON OR DEATH THOSE ARE
23 THE TWO YOU CAN CONSIDER AND I WANT TO ASK YOU,
24 WOULD YOU ALWAYS CONSIDER ONE OF THOSE MORE STRONGLY
25 THAN YOU WOULD CONSIDER THE OTHER?

1 A LIKE I SAID, I CONSIDER BOTH OF THEM BEFORE I
2 SAY ONE OF THEM I HAVE TO HAVE THE EVIDENCE TO SAY
3 THIS OR THAT

4 Q AFTER CONSIDERING BOTH OF THEM, WOULD YOU
5 ALWAYS CHOSE ONE OR THE OTHER MORE OFTEN?

6 A I'D ONLY CHOSE ONE THAT'S NECESSARY TO BE
7 CHOSEN

8 Q THE ONE THAT'S NECESSARY TO BE CHOSEN?

9 A RIGHT IN OTHER WORDS, IF IT COMES DOWN TO
10 SAY THIS ONE RIGHT HERE HAS TO BE DONE, IT'S IN THE
11 POOL TO BE DONE, THEN I MIGHT BE ABLE TO DO IT
12 IT'S SORT OF LIKE MY JOB I GOT A MACHINE RIGHT
13 HERE AND I GOT A MACHINE RIGHT HERE I'VE GOT TO
14 CONSIDER WHAT THIS MACHINE NEEDS TO BE DONE TO IT TO
15 MAKE THIS ONE RUN THE SAME AS THIS ONE BUT YET NOT
16 THE SAME I'VE GOT TO FIGURE OUT WHICH ONE'S GOT TO
17 BE DONE FIRST AND THAT'S WHAT I GO ON

18 Q ALL RIGHT JUST ONE MINUTE NOW, MR GARNER,
19 ON YOUR QUESTIONNAIRE, OF COURSE, YOU TOLD US ABOUT
20 YOUR UNCLE THAT COMMITTED SUICIDE

21 A YES, SIR

22 Q SO THAT FACT WOULD THEN MAKE YOU MORE AWARE
23 THAT IF SOMEBODY WANTS TO KILL THEM SELF, THEY CAN
24 PROBABLY DO IT, CAN'T THEY?

25 A YES, SIR THIS MAN DID NOT BELIEVE IN

1 SUICIDE

2 Q SIR?

3 A THAT MAN DID NOT BELIEVE IN SUICIDE

4 Q YES, SIR

5 A HE PUT DOWN SUICIDE

6 Q RIGHT

7 A BUT YET HE KILLED HIMSELF

8 Q EXACTLY WHICH WOULD CAUSE YOU TO UNDERSTAND
9 AND BELIEVE THAT IF SOMEBODY WANTS TO KILL THEM
10 SELF, THEY CAN DO IT? IF THEY WANT TO MAKE IT LOOK
11 LIKE MAYBE THEY WANT TO KILL THEM SELF --

12 A THEY COULD DO IT

13 Q RIGHT BUT IF THEY REALLY WANT THEMSELVES
14 DEAD, THEY CAN DO IT, CAN'T THEY?

15 A RIGHT

16 Q AND ALONG THAT LINE, YOU ALSO MENTIONED THAT
17 YOU HAD SOME DEPRESSION IN YOUR FAMILY? I COULDN'T
18 QUITE READ YOUR WRITING, I APOLOGIZE

19 A YES, SIR

20 Q WHAT DOES THAT SAY RIGHT DOWN HERE

21 A OKAY, RIGHT HERE?

22 Q UM-HMM

23 A MY GRANDMOTHER, SHE HAD DEPRESSION AND
24 EMOTIONAL PROBLEM IN OTHER WORDS -- I DON'T KNOW
25 IF YOU KNOW ANY MEMBERS OF MY FAMILY THEY LIVE IN

1 ABBEVILLE COUNTY THERE'S KENNETH WOOD WHO LIVES IN
2 DUE WEST IF YOU LOOKED IN HIS HEAD RIGHT NOW, YOU
3 COULD SEE SCARS ON HIS HEAD I THINK HE --

4 Q WHAT ARE THE SCARS --

5 A HIS BROTHER LIVES IN GREENWOOD, HIS NAME IS
6 ALVIN, BOTH OF THEM WAS LAYING ON THE FLOOR IN A
7 PANIC WHEN THEIR MOTHER WENT INTO DEPRESSION AT THAT
8 POINT AND SHE TOOK A HAMMER AND HIT BOTH OF THEM
9 IN THE HEAD, TRYING TO HIT BOTH OF THEM BUT THEY
10 WERE NOT KILLED, THEY'RE STILL LIVING THEY HAVE
11 PROBLEMS WITH THIS -- THAT HAPPENED TO THEM EARLIER
12 AND THEY HAD BAD EMOTIONAL PROBLEMS TOWARD THEIR
13 MOTHER KENNETH NEVER HAD REALLY GOT OVER HIS AS
14 FAR AS HIS MOTHER HITTING HIM HE NEVER REALLY DID
15 FORGIVE HER FULLY ON THAT PART AND THE WAY HE WAS
16 RAISED UP HIS SISTER TOOK BOTH OF THEM IN AND
17 RAISED BOTH OF THEM AND WE ALL LIVE PRETTY CLOSE
18 TOGETHER, CLOSE FAMILY

19 MY MOTHER, SHE HAS BEEN IN AND OUT OF -- DOWN
20 IN COLUMBIA DOWN AT THE STATE HOSPITAL SHE'S BEEN
21 IN GREENVILLE A FEW TIMES FOR DEEP DEPRESSION,
22 EMOTIONAL PROBLEMS, BUT SHE'S NEVER VIOLENT LIKE HER
23 MOTHER THAT'S ABOUT IT

24 Q I APPRECIATE YOU SHARING THAT, TELLING ME
25 THAT AND I APOLOGIZE TO HAVE TO GO INTO SUCH

1 DEPTH, BUT YOU UNDERSTAND THE SERIOUS NATURE OF WHAT
2 WE'RE DOING?

3 A YES, SIR

4 Q AND WE HAVE TO FIND OUT AS MUCH AS WE CAN

5 A YES, SIR

6 MR JONES THANK YOU VERY MUCH

7 THE COURT MR GARNER, IF YOU'LL JUST
8 STEP OUTSIDE THAT DOOR FOR A MINUTE, WE'LL BRING YOU
9 RIGHT BACK

10 (JUROR #74 EXITS COURTROOM)

11 THE COURT ANY REASON WHY THE JUROR
12 SHOULD NOT BE FOUND QUALIFIED?

13 MR JONES NO, SIR

14 MR TINSLEY NO, YOUR HONOR

15 THE COURT HE IS SO QUALIFIED ASK MR
16 GARNER TO COME IN

17 (JUROR #74 RE-ENTERS COURTROOM)

18 THE COURT MR GARNER YOU ARE QUALIFIED
19 TO SERVE ON THE PANEL FROM WHICH THE JURY WILL
20 ACTUALLY BE SELECTED THAT JUST SIMPLY MEANS YOU'VE
21 NOT BEEN SELECTED YET, BUT YOU'RE GOING TO BE IN
22 THAT LARGER GROUP FROM WHICH THOSE JURORS THAT WILL
23 BE SELECTED WILL COME FROM SO IT'S IMPORTANT WE
24 HAVE ANY ALL PHONE NUMBERS WHERE WE CAN GET IN TOUCH
25 WITH YOU WHEN WE NEED FOR YOU TO COME BACK FOR THAT

1 FURTHER JURY SELECTION SO I WOULD ASK THAT YOU
2 GIVE THE CLERK THOSE NUMBERS BEFORE YOU LEAVE WE
3 NEED TO BE ABLE TO GET IN TOUCH WITH YOU ON SHORT
4 NOTICE SO YOU CAN CARRY ON YOUR REGULAR SCHEDULE
5 BUT WE NEED A NUMBER WHERE WE CAN LOCATE YOU TO ASK
6 YOU TO COME BACK WHEN THAT TIME COMES

7 LET ME, ALSO, REMIND YOU THAT YOU ARE TO
8 CONTINUE FOLLOWING MY INSTRUCTION NOT TO DISCUSS THE
9 CASE WITH ANYONE, NOT TO ALLOW ANYONE TO DISCUSS IT
10 WITH YOU AND NOT TO ALLOW YOURSELF TO BE EXPOSED TO
11 ANY NEWSPAPER ARTICLES OR TELEVISION OR RADIO
12 COVERAGE ABOUT THE CASE, OKAY?

13 JUROR GARNER YES, SIR

14 (JUROR #74 EXITS COURTROOM)

15 (JUROR #74 IS QUALIFIED)

16 (THE COURT CALLS LOMAX)

17 (JUROR #117 PRESENTED AT 10 08 O'CLOCK A M)

18 EXAMINATION BY THE COURT

19 Q MR LOMAX, OF COURSE, THE REASON YOU'RE BACK
20 HERE, WE'RE GOING TO BE ASKING YOU SOME ADDITIONAL
21 QUESTIONS INDIVIDUALLY, AND I'LL HAVE SOME FOR YOU
22 AND THE LAWYERS MAY HAVE SOME OTHER QUESTIONS
23 THERE ARE NO RIGHT OR WRONG ANSWERS TO THESE
24 QUESTIONS, WE SIMPLY NEED TO KNOW WHAT YOUR VIEWS
25 AND OPINIONS ARE ON CERTAIN SUBJECTS, SO PLEASE

1 ANSWER THE QUESTIONS AS OPENLY AND AS HONESTLY AS
2 YOU CAN IF FOR SOME REASON, YOU DO NOT UNDERSTAND
3 THE QUESTION OR IT'S NOT ASKED CLEARLY, PLEASE LET
4 ME KNOW, WE'LL TRY TO HAVE IT CLARIFIED FOR YOU
5 BECAUSE IT'S IMPORTANT THAT WE DO KNOW WHAT YOUR
6 VIEWS AND OPINIONS ARE ON THESE SUBJECTS AND THAT'S
7 THE REASON THE QUESTIONS ARE ASKED

8 NOW, DO YOU REMEMBER WHEN YOU REPORTED WITH
9 YOUR FELLOW JURORS THE ENTIRE PANEL WAS ASKED TO
10 STAND AND YOU WERE PLACED UNDER OATH?

11 A YES, SIR

12 Q YOU STILL REMAIN UNDER OATH FOR THE PURPOSE O
13 THESE QUESTIONS, ALSO YOU INDICATED EARLIER YOU
14 HAD COMPLETED THE QUESTIONNAIRE AND THAT IT WAS
15 ACCURATE, IS THAT CORRECT?

16 A YES, SIR

17 Q YOU, ALSO, INDICATED YOU HAD RECEIVED MY
18 LETTER GIVING YOU CERTAIN INSTRUCTIONS NOT TO
19 DISCUSS THE CASE OR ALLOW YOURSELF TO BE EXPOSED TO
20 ANY TYPE OF NEWSPAPER, RADIO OR TV ARTICLES ABOUT
21 THIS CASE HAVE YOU FOLLOWED THAT INSTRUCTION?

22 A YES, SIR

23 Q WHAT ABOUT BEFORE YOU RECEIVED THE LETTER,
24 WERE YOU EXPOSED TO ANY SUCH?

25 A NO, SIR

1 Q NOW, YOU UNDERSTAND THAT IT'S THE JURY'S
2 FUNCTION TO LISTEN TO EVIDENCE AND DECIDE FACTS AND
3 THEN APPLY THE LAW THAT THE COURT WILL GIVE YOU IN
4 ORDER TO ARRIVE AT A DECISION IN THE CASE?

5 A YES, SIR

6 Q DO YOU UNDERSTAND THAT WHEN A PERSON IS
7 CHARGED WITH A CRIME BY THE STATE THAT THE BURDEN IS
8 ALWAYS UPON THE STATE TO ESTABLISH THAT PERSON'S
9 GUILT BEYOND A REASONABLE DOUBT BEFORE THAT PERSON
10 COULD BE FOUND GUILTY?

11 A YES, SIR

12 Q DO YOU UNDERSTAND THAT THE BURDEN IS NEVER
13 UPON A PERSON CHARGED WITH A CRIME TO PROVE THAT
14 THEY DID NOT COMMIT THAT CRIME?

15 A YES, SIR

16 Q DO YOU UNDERSTAND THAT WHEN A PERSON IS
17 CHARGED WITH A CRIME THE LAW PRESUMES THAT THEY ARE
18 INNOCENT OF THAT CRIME?

19 A YES, SIR

20 Q AND MAY ONLY BE FOUND GUILTY IF THE STATE
21 PROVES THEIR GUILT BEYOND A REASONABLE DOUBT?

22 A YES, SIR

23 Q DO YOU ACCEPT THOSE PROPOSITIONS OF LAW?

24 A YES

25 Q NOW, IN A CASE WHERE A PERSON IS CHARGED WITH

1 A CRIME OF MURDER, THE LAW PROVIDES THAT UNDER
2 CERTAIN CIRCUMSTANCES, IF THAT PERSON IS CONVICTED,
3 FOUND GUILTY OF THE CRIME OF MURDER, THAT THE STATE
4 IS PERMITTED TO SEEK THE DEATH PENALTY AGAINST THAT
5 INDIVIDUAL THAT DOESN'T MEAN THAT IT AUTOMATICALLY
6 IS, IT SIMPLY MEANS THAT THEY ARE PERMITTED TO ASK
7 THAT IT BE IMPOSED BUT THE JURY STILL MAKES THAT
8 DECISION, YOU UNDERSTAND THAT?

9 A YES

10 Q AND SO A JURY WOULD BE SELECTED, AND THE
11 PURPOSE OF THE JURY SELECTION WOULD BE TO DECIDE
12 WHETHER OR NOT THE PERSON IS GUILTY OF MURDER AND,
13 IF SO, WOULD DECIDE WHAT THE APPROPRIATE PUNISHMENT
14 SHOULD BE THAT WOULD BE DONE IN A SEPARATE HEARING
15 FOR THAT PURPOSE, YOU UNDERSTAND THAT?

16 A YES, SIR

17 Q THE TRIAL IS CONDUCTED IN TWO STAGES THE
18 FIRST PHASE RELATES TO GUILT, THE SECOND PHASE
19 RELATES TO PUNISHMENT YOU ONLY GET TO PUNISHMENT
20 IF THE JURY FINDS A PERSON GUILTY OF MURDER IN THE
21 FIRST STAGE, YOU UNDERSTAND THAT?

22 A YES, SIR

23 Q NOW, IF YOU WERE PARTICIPATING IN SUCH A TRIAL
24 AND THE ISSUE IS WHETHER OR NOT A PERSON IS GUILTY,
25 WOULD YOU BE ABLE TO FAIRLY CONSIDER ALL THE

1 EVIDENCE THAT WOULD BE OFFERED DURING THAT PORTION
2 OF THE TRIAL?

3 A YES, SIR

4 Q DEPENDING UPON WHAT THAT EVIDENCE WAS, IF YOU
5 BELIEVED THAT THAT EVIDENCE SUPPORTED A VERDICT OF
6 GUILTY BEYOND A REASONABLE DOUBT, COULD YOU RETURN
7 SUCH A VERDICT?

8 A YES, SIR

9 Q IF YOU HAD SOME REASONABLE DOUBT AS TO WHETHER
10 OR NOT THAT EVIDENCE SUPPORTED A VERDICT OF GUILTY,
11 WOULD YOU RETURN A VERDICT OF NOT GUILTY?

12 A NO, SIR

13 Q NOW, I WANT YOU TO ASSUME AND ASSUME IT ONLY
14 FOR THE PURPOSES OF THIS QUESTION THAT YOU WERE
15 PARTICIPATING IN SUCH A CASE AND THAT YOU AND YOUR
16 FELLOW JURORS HAVE FOUND A PERSON TO BE GUILTY OF A
17 CRIME OF MURDER BEYOND A REASONABLE DOUBT AS I
18 TOLD YOU IN THAT EVENT, SHORTLY THEREAFTER, WE WOULD
19 CONDUCT ANOTHER HEARING AND THAT HEARING WOULD BE
20 CALLED THE PENALTY PHASE OF THE TRIAL

21 DURING THAT PHASE OF THE TRIAL, THERE
22 WOULD BE ADDITIONAL EVIDENCE RECEIVED THERE WOULD
23 BE EVIDENCE OFFERED IN AGGRAVATION, THERE WOULD BE
24 EVIDENCE OFFERED IN MITIGATION AND BY THOSE TWO
25 TERMS, I SIMPLY MEAN THAT THERE WOULD BE EVIDENCE

1 OFFERED WHICH MIGHT TEND TO SUPPORT THE MORE SEVERE
2 PUNISHMENT AS BEING APPROPRIATE, THAT BEING THE
3 DEATH PENALTY AND THERE MIGHT BE EVIDENCE OFFERED
4 TENDING TO SUPPORT THE LESS SEVERE PUNISHMENT AS
5 BEING MORE APPROPRIATE, THAT BEING LIFE IN PRISON

6 UNDER NO CIRCUMSTANCES MAY A JURY
7 CONSIDER IMPOSING A SENTENCE OF DEATH UNLESS, IN
8 ADDITION TO HAVING FOUND THE DEFENDANT GUILTY OF
9 MURDER, THE JURY FINDS SOME OTHER AGGRAVATING
10 CIRCUMSTANCE BEYOND A REASONABLE DOUBT IN ADDITION
11 TO THAT FINDING OF GUILTY OF MURDER, DO YOU
12 UNDERSTAND THAT?

13 A UM-HMM

14 Q NOW, IF YOU WERE PARTICIPATING IN THE PENALTY
15 PORTION OF A TRIAL AND ALL THAT ADDITIONAL EVIDENCE
16 WAS RECEIVED, BOTH IN AGGRAVATION AND IN MITIGATION,
17 WOULD YOU BE WILLING AND ABLE TO CONSIDER ALL OF
18 THAT EVIDENCE FAIRLY BEFORE ARRIVING AT ANY
19 DECISION?

20 A YES, SIR

21 Q AND AFTER YOU HAD CONSIDERED ALL THE EVIDENCE
22 IN THE CASE, IF YOU THOUGHT THE CIRCUMSTANCES WERE
23 APPROPRIATE, WOULD YOU BE WILLING TO SENTENCE A
24 PERSON TO DEATH?

25 A YES, SIR

1 Q WOULD YOU ALSO BE WILLING TO SENTENCE A PERSON
2 TO LIFE IMPRISONMENT?

3 A YES, I WOULD

4 Q WOULD THAT DECISION BE DEPENDENT UPON WHAT
5 THOSE CIRCUMSTANCES WERE?

6 A YES, IT WOULD

7 Q DO YOU UNDERSTAND THAT THE JURY IS NEVER
8 REQUIRED, NO MATTER WHAT THE CIRCUMSTANCES ARE, TO
9 IMPOSE A SENTENCE OF DEATH?

10 A YES

11 Q AND THE JURY MAY IMPOSE A SENTENCE OF LIFE FOR
12 ANY REASON OR FOR NO REASON AT ALL, DO YOU
13 UNDERSTAND THAT?

14 A YES

15 Q NOW, IF YOU WERE FACED WITH THAT CHOICE IN
16 SUCH A CASE AND YOU ALWAYS HAD THE CHOICE BETWEEN A
17 SENTENCE OF DEATH AND A SENTENCE OF LIFE, WOULD YOU
18 CHOSE ONE OF THOSE OPTIONS OVER THE OTHER IN EVERY
19 CASE?

20 A YES, SIR

21 Q WHAT WOULD YOU CHOSE?

22 A LIFE IN PRISON

23 Q AND WOULD YOU ALWAYS CHOSE LIFE IMPRISONMENT
24 NO MATTER WHAT THE CIRCUMSTANCES OF THE CASE WERE?

25 A NO, SIR

1 Q WOULD IT DEPEND UPON WHAT THE FACTS WERE IN
2 THE CASE?

3 A

4 Q SO ARE YOU SAYING THAT YOU COULD CONSIDER BOTH
5 FORMS OF PUNISHMENT AS BEING APPROPRIATE DEPENDING
6 UPON WHAT THE CIRCUMSTANCES WERE?

7 A YES, SIR

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

11 A NO, SIR

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

15 A NO, SIR

16 Q DO YOU UNDERSTAND THAT, IF YOU WERE SELECTED
17 AS A JUROR, IT WOULD BE NECESSARY THAT YOU BE
18 SEQUESTERED?

19 A YES, SIR

20 Q DO YOU UNDERSTAND WHAT I MEAN BY THAT?

21 A YES

22 Q THAT PERIOD OF SEQUESTRATION WOULD LAST LIKELY
23 FOR SEVEN TO TEN DAYS WOULD THAT REQUIREMENT POSE
24 ANY UNREASONABLE HARDSHIP OR HEALTH RISK TO YOU, IF
25 YOU WERE SELECTED?

1 A NO, SIR

2 Q WOULD YOU BE WILLING TO ACCOMMODATE ANY
3 INCONVENIENCE THAT THAT MIGHT CAUSE TO SERVE, IF YOU
4 WERE ASKED TO SERVE? YOU WOULD NOT BE WILLING TO
5 ACCOMMODATE --

6 A YES, I WOULD

7 Q YOU WOULD ACCEPT THAT INCONVENIENCE AND SERVE,
8 IF YOU WERE SELECTED?

9 A YES, SIR

10 THE COURT THANK YOU PLEASE ANSWER ANY
11 QUESTIONS THE LAWYERS MAY HAVE FOR YOU

12 EXAMINATION BY MR TINSLEY

13 Q THANKS SO MUCH, YOUR HONOR GOOD MORNING, MR
14 LOMAX?

15 A GOOD MORNING

16 Q MR LOMAX, I SEE FROM YOUR QUESTIONNAIRE, YOU
17 LIVE ON JOHNSON CREEK ROAD

18 A YES, SIR

19 Q EXACTLY WHERE IS THAT?

20 A IT'S A LITTLE HARD -- IT'S OFF 28

21 Q OFF 28 TOWARDS ANDERSON?

22 A ANDERSON, YES, SIR

23 Q NOT McCORMICK BUT TOWARDS ANDERSON?

24 A YES, SIR

25 Q ABOUT HOW FAR FROM THE COURTHOUSE WOULD IT BE?

1 I MEAN, DO YOU LIVE ON CHEROKEE?

2 A YES, SIR

3 Q ABOUT HOW MANY MILES?

4 A ABOUT TWENTY

5 Q ABOUT TWENTY MILES, SO IT'S A GOOD WAYS UP THE
6 ROAD YOU LIVE UP CLOSE TO THE ANDERSON COUNTY
7 LINE?

8 A YES, SIR

9 Q SO YOU LIVE OVER MORE TOWARDS ANTREVILLE?

10 A YES, SIR

11 Q AND MR LOMAX, YOU TO SCHOOL OVER IN -- DUE
12 WEST, DID YOU NOT?

13 A YES, SIR

14 Q DID YOU GROW UP IN DUE WEST AREA?

15 A NO, SIR

16 Q JOHNSON CREEK ROAD AREA?

17 A YES, SIR

18 Q NOW, THE JUDGE HAS ASKED YOU ABOUT YOUR
19 ABILITY TO LISTEN TO ALL THE EVIDENCE AND THAT SORT
20 OF THING IF WE DID GO TO PHASE TWO, WHICH WOULD
21 ONLY BE IF MY CLIENT, MR HUGHEY, WERE CONVICTED OF
22 MURDER IN AN AGGRAVATED CIRCUMSTANCE, COULD YOU
23 FAIRLY CONSIDER, IN ADDITION TO THE AGGRAVATED
24 CIRCUMSTANCE, COULD YOU CONSIDER ANY MITIGATING
25 CIRCUMSTANCES? OR DO YOU NEED FOR ME TO EXPLAIN

1 WHAT MITIGATING CIRCUMSTANCES WOULD BE?

2 A YES, SIR

3 Q MITIGATION CIRCUMSTANCES WOULD BE THE KIND OF
4 CIRCUMSTANCES THAT WOULD BE EXTENUATING
5 CIRCUMSTANCES YOU'VE HEARD THAT TERM, HAVEN'T YOU?

6 A YES

7 Q THE REASONS WHY MR HUGHEY SHOULD NOT BE PUT
8 TO DEATH BUT SHOULD BE GIVEN A LIFE SENTENCE, THE
9 EXPLANATIONS THAT HE WOULD GIVE, THE THINGS THAT
10 HAPPENED TO HIM IN HIS LIFE THAT MADE HIM THE
11 INDIVIDUAL THAT HE IS DOES THAT CLARIFY IT
12 SOMEWHAT?

13 A YES, SIR

14 Q COULD YOU FAIRLY CONSIDER ANY AND ALL
15 MITIGATION CIRCUMSTANCES OFFERED AT THAT TIME?

16 A YES, SIR

17 Q AND, FURTHER, BACK INTO THE GUILT OR INNOCENCE
18 PHASE OF THE CASE, LET'S TAKE COUNT ONE, FOR
19 INSTANCE IF THE JUDGE GAVE YOU THE OPTION ON COUNT
20 ONE OF FINDING MR HUGHEY, ONE, GUILTY OF MURDER,
21 TWO, GUILTY OF VOLUNTARY -- OR TWO, GUILTY OF
22 VOLUNTARY MANSLAUGHTER, OR THREE NOT GUILTY, FOR
23 INSTANCE, COULD YOU CONSIDER ALL THREE VERDICTS?

24 A YES, SIR

25 Q AND COULD YOU FOLLOW THE LAW IN SO DOING, AS

1 GIVEN BY THE JUDGE?

2 A YES, SIR

3 Q AND COULD YOU APPLY THAT LAW, AS YOU
4 UNDERSTOOD IT, TO THE FACTS OF THE CASE?

5 A YES, SIR

6 Q AND IN SO DOING, MR LOMAX, YOU COULD APPLY
7 WHAT THE JUDGE MENTIONED, THE PRESUMPTION OF
8 INNOCENCE AND BURDEN OF PROOF AND REASONABLE DOUBT
9 THROUGHOUT THE PROCEEDINGS, IS THAT CORRECT?

10 A THAT'S CORRECT

11 Q AND, FINALLY, MR LOMAX, DO YOU KNOW ANY OF
12 THE PARTIES INVOLVED IN THIS CASE?

13 A NO, SIR

14 Q YOU DON'T KNOW THE HARRIS'S?

15 A NO, SIR

16 Q YOU DON'T KNOW ANY OF THE JACKSONS?

17 A NO, SIR

18 Q AND YOU DON'T HAVE ANY RELATIONSHIP WITH ANY
19 OF THE HUGHEY'S?

20 A NOT THAT I KNOW OF

21 Q AND THAT APPLIES TO ALL PARTIES, YOU DON'T SEE
22 ANYBODY IN THE COURTROOM INVOLVED THAT YOU NOW
23 PERSONALLY OR HAVE ANY RELATIONSHIP?

24 A NO, SIR

25 MR TINSLEY THANK YOU SO MUCH, MR

1 LOMAX

2 EXAMINATION BY MR JONES

3 Q GOOD MORNING, MR LOMAX

4 A GOOD MORNING

5 Q MY NAME IS TOWNES JONES, I'M YOUR SOLICITOR,
6 DISTRICT ATTORNEY, PROSECUTOR IN THE CASE THIS IS
7 MICHAEL COULTER, HE'S YOUR CHIEF DEPUTY, PROSECUTOR
8 IN THE CASE WE'LL BOTH BE CALLING WITNESSES AND
9 PRESENTING EVIDENCE WHEN THE TRIAL STARTS I
10 LISTENED TO YOUR QUESTIONS -- I MEAN, YOUR ANSWERS
11 TO THE QUESTIONS THAT THE JUDGE ASKED YOU AND I ALSO
12 HAVE A COPY THAT YOU SENT BACK IN

13 WHEN YOU ANSWERED THE QUESTION OF THE
14 JUDGE, AND YOU UNDERSTAND, WE'RE TRYING TO GET A
15 JURY IN THIS CASE THAT'S FAIR AND IMPARTIAL, DOESN'T
16 BRING ANY KNOWLEDGE OF THE CASE WITH THEM THAT WOULD
17 CAUSE THEM NOT TO LISTEN TO ALL THE EVIDENCE AND
18 THEN THE JUDGE ASKED YOU ABOUT THE DEATH PENALTY AND
19 THE JURY -- THE STATE IN THIS CASE IS SEEKING THE
20 DEATH PENALTY WE'RE PUTTING UP EVIDENCE TO SHOW
21 THAT CRIMES WERE COMMITTED AND MURDER, BURGLARY,
22 AUTO THEFT AND SEEKING THE DEATH PENALTY AND I
23 LISTENED TO YOU WHEN THE JUDGE ASKED YOU IF, YOU
24 KNOW, YOU COULD CONSIDER IT AND YOU SAID, YES, YOU
25 WOULD CONSIDER BOTH DEATH AND LIFE, IF YOU GOT TO

1 THAT POINT I THOUGHT YOU SAID THAT YOU HAD THAT
2 CHOICE, AFTER CONSIDERING IT, YOU HAD A CHOICE, YOU
3 WOULD ALWAYS CHOSE LIFE, IS THAT WHAT YOU SAID?

4 A UM-HMM

5 Q AND IS THAT THE WAY YOU FEEL?

6 A TO A CERTAIN DEGREE

7 Q TO WHAT DEGREE?

8 A IT DEPENDS ON WHAT THE PERSON, IF THEY'RE
9 ACTUALLY -- IF THEY ARE PROVEN GUILTY, IF THEY DID
10 THE CRIMES

11 Q OKAY, TELL ME AGAIN

12 A IF IT'S PROVEN WHAT THE PERSON DID AND IF THEY
13 DID THE CRIME

14 Q IF THEY DID THE CRIME, THEN WHAT?

15 A I FEEL LIKE THEY SHOULD BE PUT TO DEATH
16 DEPENDING ON MY SITUATION IF I KNEW THE PERSON
17 PERSONALLY BUT ME NOT KNOWING THE PERSON I WOULD
18 SAY I DON'T WANT THEM TO GET THE DEATH PENALTY

19 Q PARDON?

20 A I WOULDN'T GIVE THE DEATH PENALTY BECAUSE I
21 DON'T KNOW THE PERSON

22 Q SO YOU WOULDN'T GIVE THE DEATH PENALTY?

23 A NO, SIR

24 Q THE ONLY SITUATION THAT YOU WOULD IMPOSE THE
25 DEATH PENALTY IN WOULD BE IF YOU KNEW THE PERSON?

1 A YES, SIR

2 Q AND WHAT PERSON WOULD THAT BE? I MEAN, IF YOU
3 KNEW THE PERSON THAT COMMITTED THE MURDER OR THE
4 PERSON THAT WAS MURDERED?

5 A BOTH

6 Q SO YOU WOULD HAVE TO KNOW BOTH PARTIES IN
7 ORDER TO CONSIDER GIVING THE DEATH PENALTY?

8 A YES, SIR

9 Q ARE YOU CERTAIN ABOUT THAT?

10 A YES

11 Q WELL, YOU STOPPED AND PAUSED AND THAT'S GOOD
12 IS BECAUSE WHAT WE NEED TO KNOW IS WHAT YOU KNOW
13 ABOUT YOURSELF IN OTHER WORDS, YOU CAN'T BE HONEST
14 WITH US ANSWERING THESE QUESTIONS, UNLESS YOU'VE
15 THOUGHT ABOUT IT AND YOU KNOW YOURSELF

16 A YES, SIR

17 Q YOU KNOW WHO YOU ARE AND WHAT YOU DO AND WHAT
18 YOU CAN'T DO, RIGHT?

19 A YES, SIR

20 Q WELL, MY QUESTION FOR YOU IS, HAVE YOU
21 CONSIDERED THE DEATH PENALTY FOR SOMEBODY THAT YOU
22 DON'T KNOW?

23 A I COULD

24 Q YOU COULD?

25 A YES, SIR

1 Q HOW COULD YOU?

2 A I GUESS IT DEPENDS ON THE EVIDENCE AND MOTIVE

3 Q AND MOTIVE? WHAT DO YOU MEAN BY MOTIVE?

4 A WHATEVER CONSTITUTED THE MURDER

5 Q THAT WOULD BE AN IMPORTANT CONSIDERATION FOR
6 YOU?

7 A NOT REALLY

8 Q WHY NOT?

9 A BECAUSE THEY DID IT, THEY DID IT YOU CAN
10 HAVE A MOTIVE OR YOU CAN'T HAVE A MOTIVE SOME
11 PEOPLE DO IT BECAUSE THEY WANTED TO, SOME PEOPLE
12 THINK ABOUT IT AND THEN THEY DO IT

13 Q AND YOU FEEL LIKE YOU COULD CONSIDER IMPOSING
14 THE DEATH PENALTY OF ANOTHER HUMAN BEING WHEN YOU
15 DON'T HIM AND YOU DON'T KNOW THE PERSON?

16 A YES, SIR

17 Q SERIOUSLY CONSIDER IT AND THEN IF THE FACTS
18 WARRANT IT, YOU COULD TAKE IT ONE FURTHER STEP OR
19 COULD YOU?

20 A YES, SIR

21 Q YOU COULD? WHAT STEP WOULD THAT BE?

22 A WHAT STEP OF PUNISHMENT?

23 Q UH-HUH, AND WHAT PUNISHMENT WOULD YOU
24 CONSIDER?

25 A I CAN'T SAY RIGHT NOW BECAUSE I DON'T KNOW

1 Q IF YOU DECIDE THAT DEATH WAS THE APPROPRIATE
2 PUNISHMENT, COULD YOU SIGN YOUR NAME, MR LOMAX, ON
3 A PIECE OF PAPER ORDERING THE DEFENDANT PUT TO
4 DEATH?

5 A NO, SIR

6 Q YOU COULD NOT SIGN THAT ARE YOU CERTAIN OF
7 THAT?

8 A PRETTY MUCH SO

9 Q WELL, THAT'S PART OF THE PROCESS THAT'S THE
10 REASON I ASKED YOU IF YOU CAN'T SIGN YOUR NAME, WE
11 NEED TO KNOW IT BECAUSE IF YOU CAN'T -- I MEAN, IF
12 YOU CAN'T, THAT'S OKAY THERE'S NO RIGHT OR WRONG
13 ANSWERS, DO YOU UNDERSTAND THAT?

14 A YES, SIR

15 Q ONLY HONEST ANSWERS ONLY HONEST ANSWERS
16 AND THAT IS A MEMORIALIZING ACT THAT IS A, YOU
17 KNOW, THAT GOES DOWN ON RECORDS IN THE ANNALS OF
18 HISTORY, DO YOU UNDERSTAND THAT?

19 MR TINSLEY OBJECTION, YOUR HONOR

20 THE COURT SUSTAINED

21 EXAMINATION BY MR JONES

22 Q WELL, MY QUESTION IS, WHEN YOU TELL ME THAT
23 YOU COULDN'T SIGN YOUR NAME, MR LOMAX, ORDERED AND
24 SENTENCING SOMEBODY TO DEATH YOU PRETTY MUCH KNOW
25 YOURSELF TO KNOW THAT'S THE TRUTH, ISN'T IT?

1 A YES, SIR

2 Q AND YOU PRETTY MUCH KNOW YOURSELF WELL ENOUGH
3 TO KNOW THAT THAT'S NOT A STEP THAT YOU'RE WILLING
4 TO TAKE WHETHER IT'S THE LAW OR NOT THE LAW, DON'T
5 YOU?

6 A YES, SIR

7 Q IN OTHER WORDS, YOU KNOW THAT IT'S AN ACT THAT
8 GOES BEYOND YOUR ABILITY TO DEAL WITH THE MORAL
9 CONSEQUENCES OF SUCH AN ACT, DON'T YOU?

10 A YES, SIR

11 Q IT PUTS YOU IN AN AREA AND A GROUP THAT YOU
12 JUST WILL NOT BE A PART OF IT, DOES IT?

13 A YES, SIR

14 Q AND REGARDLESS OF WHAT THE JUDGE TELLS YOU
15 ABOUT INSTRUCTIONS OR WHAT THE LAWYERS TELL YOU
16 ABOUT AREN'T YOU A DESCENT, LAW-ABIDING CITIZEN THAT
17 COULD FOLLOW THE LAW, YOU KNOW THAT'S ONE THING YOU
18 DON'T HAVE TO DO, LAW OR NO LAW, AND YOU'RE NOT
19 GOING TO DO IT IF YOU'RE ASKED TO, AREN'T YOU?

20 A YES, SIR

21 Q IS THAT TRUE?

22 A IT IS AND IT'S NOT

23 Q ALL RIGHT EXPLAIN TO ME HOW IT IS AND HOW
24 IT'S NOT

25 A I WOULDN'T BECAUSE I DON'T KNOW THE PERSON

1 BUT IF I KNEW THE PERSON, I KNEW THAT HE DID IT, I
2 WAS IN THE FAMILY OR RELATED OR FRIENDS WITH HIM, I
3 COULD

4 Q SO LET ME SEE IF I'M UNDERSTANDING YOU, OKAY?
5 WHAT'S YOUR SAYING IS, IN ORDER FOR YOU TO IMPOSE
6 THE DEATH PENALTY OR SIGN YOUR NAME, YOU'VE GOT TO
7 HAVE THAT EXTRA ADDED INCENTIVE OF BEING PERSONALLY
8 INVOLVED IN THE CASE TO SEE TO IT THAT JUSTICE IS
9 CARRIED OUT WITH THE DEATH PENALTY, IS THAT CORRECT?
10 BUT IF YOU'RE NOT, IF YOU DON'T HAVE THAT EXTRA
11 INCENTIVE, IF YOU DON'T HAVE THAT EDGE, THEN YOU
12 CAN'T PARTICIPATE AND WOULD NOT PARTICIPATE IN THE
13 PROCESS TO THE EXTENT THAT YOU COULD SIGN YOUR NAME
14 AND IMPOSE THE DEATH PENALTY, IS THAT WHAT YOU'RE
15 SAYING, IS THAT RIGHT?

16 A YES

17 Q IS IT?

18 A UM-HMM

19 Q SO YOU'RE SAYING THE ONLY TIME THAT YOU COULD
20 GIVE THE PENALTY IS IF YOU'RE PERSONALLY INVOLVED IN
21 IT?

22 A YES, SIR

23 Q ARE YOU SURE?

24 A YES, SIR

25 Q YOU CERTAIN?

1 A YES, SIR

2 Q YOU'RE FIRM ABOUT THAT?

3 A YES, SIR

4 Q I MEAN, I'M FIXING TO SIT DOWN AND THE JUDGE
5 MIGHT ASK YOU SOME MORE QUESTIONS AND THE OTHER
6 LAWYERS MIGHT ASK YOU SOME MORE QUESTIONS AND I
7 JUST WANT TO KNOW BEFORE I SIT DOWN, ARE YOU GOING
8 TO CHANGE YOUR MIND?

9 A NO, SIR

10 MR TINSLEY OBJECTION, YOUR HONOR

11 THE COURT SUSTAINED

12 MR JONES I HAVE NO FURTHER QUESTIONS,
13 JUDGE

14 EXAMINATION BY MR TINSLEY

15 Q DO YOU UNDERSTAND, MR LOMAX, IT WOULD NOT BE
16 JUST YOUR NAME SIGNED ON THE DEATH WARRANT, IT WOULD
17 BE - - IT REQUIRES YOU TO SIGN AND ALL OTHER ELEVEN
18 JURORS?

19 A YES, SIR

20 Q YOU UNDERSTAND THAT NOW?

21 A YES, SIR

22 Q AND IF THE OTHER ELEVEN AND YOURSELF HAD
23 DECIDED THAT THE DEATH PENALTY WERE APPROPRIATE,
24 COULD YOU THEN SIGN YOUR NAME TO THE DEATH WARRANT?

25 A NO, SIR

1 Q BUT YOU SAID THAT YOU CANNOT GIVE THE DEATH
2 PENALTY EARLIER, RIGHT? ARE YOU JUST SAYING NOW
3 THAT YOU CAN'T SIGN YOUR NAME TO THE WARRANT?
4 A I CAN'T SIGN FOR A DEATH PENALTY, NO, I
5 CANNOT
6 Q BUT YOU CAN GIVE THE DEATH PENALTY?
7 A YES, SIR
8 Q WHAT IS THE DISTINCTION, IN YOUR MIND, MR
9 LOMAX? WHY COULD YOU GIVE IT BUT NOT SIGN A PIECE
10 OF PAPER?
11 A I GUESS BECAUSE IT'S THE - - THE WAY IT'S
12 WRITTEN DOWN
13 Q BUT YOU COULD SPEAK IT BUT YOU COULDN'T WRITE
14 IT?
15 A YES, SIR
16 Q WELL, YOU REALIZE, DO YOU NOT, THAT THE RESULT
17 WOULD BE THE SAME? THE POSITION WOULD BE THE SAME
18 IT'S THE DECISION THAT THE JURY MAKES, DO YOU
19 UNDERSTAND THAT?
20 A YES, SIR
21 Q BUT YOU'RE TELLING ME IN THIS COURT THAT YOU
22 COULD UNDER CERTAIN CIRCUMSTANCES IMPOSE A DEATH
23 SENTENCE, RIGHT?
24 A YES, SIR
25 Q BUT YOU FURTHER STATE THAT YOU DON'T FEEL YOU

1 COULD SIGN YOUR NAME TO THAT?

2 A YES, SIR

3 Q EVEN THOUGH YOU DECIDED IN YOUR MENTAL
4 PROCESSES THAT THE DEATH PENALTY IS APPROPRIATE
5 UNDER CERTAIN CIRCUMSTANCES, CORRECT?

6 A YES, SIR

7 Q IS IT BECAUSE YOU DON'T WANT YOUR SIGNATURE ON
8 THE DEATH WARRANT?

9 A THAT'S IT

10 Q THAT'S IT, SIMPLE AS THAT SO IN YOUR MIND
11 AND IN YOUR DISCUSSIONS AND YOUR DELIBERATIONS WITH
12 OTHER ELEVEN JURORS AND ALL EVIDENCE SIGNED IN FRONT
13 OF YOU THERE NOW, AND YOU HAVE AGREED WITH IT AND
14 YOU ALL HAVE DELIBERATED THIS MATTER, YOU CAN'T TAKE
15 THAT FINAL STEP AND JUST SIGN YOUR NAME?

16 A YES, SIR

17 Q IF THE JUDGE INSTRUCTED YOU ON THE LAW AND
18 THEN HE SAID, FOR INSTANCE, IF YOU HAD FOUND THE
19 CLIENT GUILTY AND FOUND AGGRAVATING CIRCUMSTANCES
20 AND DELIBERATED FOR THE DEATH PENALTY, AND NOW
21 YOU'RE REQUIRED TO SIGN THE DEATH WARRANT, COULD YOU
22 DO IT THEN?

23 A YES, SIR, IF I'M REQUIRED TO

24 Q SO YOU COULD DO IT IF IT'S PART OF THE LAW OF
25 THE DECISION?

1 A YES, SIR

2 Q AND YOU WOULD FOLLOW THE INSTRUCTIONS OF THE
3 JUDGE ON THAT POINT?

4 A YES, SIR

5 Q SO THAT WOULD GET YOU OVER YOUR PROBLEM OF
6 SIGNING THE DEATH WARRANT?

7 A YES, SIR

8 Q BASED UPON THE JUDGE'S INSTRUCTIONS TO YOU ON
9 THE LAW?

10 A YES, SIR

11 Q EVEN THOUGH YOU WOULD BE QUITE RELUCTANT,
12 OBVIOUSLY, TO SIGN THAT PIECE OF PAPER, IS THAT
13 RIGHT?

14 A YES, SIR

15 Q BUT WITH THE JUDGE'S INSTRUCTIONS, WITH THE
16 JUDGE'S INSTRUCTIONS, YOU COULD OVERCOME THAT
17 RELUCTANCE?

18 A YES, SIR

19 MR TINSLEY THANK YOU SO MUCH, MR
20 LOMAX

21 EXAMINATION BY THE COURT

22 Q MR LOMAX, LET ME ASK YOU A COUPLE OTHER
23 THINGS I WANT YOU TO UNDERSTAND THAT WHEN I ASK
24 ADDITIONAL QUESTIONS, I'M NOT TRYING TO PRESSURE YOU
25 ON ANY POINT I JUST NEED TO BE CLEAR AND CERTAIN

1 IN MY MIND THAT I UNDERSTAND WHAT YOUR VIEW OR
2 OPINION IS

3 NOW, EARLIER, IN RESPONSE TO SOME QUESTIONS,
4 YOU HAD INDICATED THAT YOU WOULD BE ABLE TO CONSIDER
5 IMPOSING A DEATH SENTENCE IF YOU KNEW THAT THE
6 PEOPLE, BUT YOU WOULD NOT BE ABLE TO CONSIDER
7 IMPOSING A DEATH SENTENCE IF YOU DID NOT KNOW THE
8 PEOPLE?

9 A YES, SIR

10 Q I NEED FOR YOU TO TELL ME EXACTLY WHAT YOU
11 MEAN BY THAT, BY KNOWING THE PEOPLE

12 A JUST, YOU KNOW, RELATED TO THEM, BEING FRIENDS
13 WITH THEM

14 Q IN OTHER WORDS, IF THE PERSON WHO WAS CHARGED
15 WITH THE CRIME FOR WHICH YOU WERE TO CONSIDER
16 IMPOSING A LIFE SENTENCE OR A DEATH SENTENCE, IF YOU
17 KNEW THAT INDIVIDUAL, IF THAT PERSON WERE A FRIEND
18 OF YOURS OR RELATED TO YOU IN SOME FASHION OR YOU
19 KNEW THAT PERSON PERSONALLY, THEN YOU COULD IMPOSE A
20 DEATH SENTENCE?

21 A YES, SIR

22 Q IF YOU DID NOT KNOW THAT PERSON PERSONALLY,
23 YOU COULD NOT IMPOSE A DEATH SENTENCE?

24 A NO, SIR

25 Q LET ME ASK YOU THIS YOU INDICATED EARLIER

1 THAT MR HUGHEY SEATED OVER HERE WITH HIS LAWYERS,
2 YOU INDICATED THAT YOU DID NOT NOW MR HUGHEY, IS
3 THAT TRUE?

4 A YES, SIR

5 Q YOU DO NOT KNOW HIM?

6 A YES, SIR

7 Q ARE THERE ANY CIRCUMSTANCES THAT YOU CAN THINK
8 OF WHERE YOU COULD SENTENCE MR HUGHEY TO DEATH?

9 A NO, SIR

10 Q NO MATTER WHAT THE CIRCUMSTANCES OF THE CASE
11 AREA?

12 A YES, SIR

13 Q YES, SIR, WHAT?

14 A I COULD

15 Q YOU COULD SENTENCE HIM TO DEATH?

16 A YES, SIR

17 Q WELL, WHAT DID YOU MEAN WHEN YOU SAID YOU
18 COULDN'T SENTENCE HIM TO DEATH IF YOU DIDN'T KNOW
19 HIM AND YOU SAID YOU DID NOT KNOW HIM, WHAT DID YOU
20 MEAN BY THAT?

21 A JUST THAT BEING HERE AND WITH THE CASE BEING
22 BROUGHT AND MY REALLY NOT KNOWING WHAT -- IF HE DID
23 OR IF HE DID I JUST COULDN'T SAY YES OR NO

24 Q WELL, YOU UNDERSTAND BEFORE A JURY -- AND I
25 TRIED TO EXPLAIN THIS EARLIER, PERHAPS I WAS NOT

1 CLEAR ON IT BUT YOU UNDERSTAND BEFORE A JURY WOULD
2 EVER BE ABLE TO DECIDE WHETHER OR NOT SOMEONE SHOULD
3 BE SENTENCED TO DEATH, OBVIOUSLY, THEY HEARD ALL THE
4 CIRCUMSTANCES THAT RELATE TO THE CASE I MEAN, WE
5 DON'T START WITH THE PUNISHMENT FIRST AND THEN HEAR
6 THE CASE OBVIOUSLY, ALL THE EVIDENCE IS GOING TO
7 BE RECEIVED BEFORE A JURY GETS TO THINK ABOUT WHAT A
8 SENTENCE SHOULD BE AND BEFORE YOU COULD EVEN THINK
9 ABOUT A SENTENCE, YOU MUST UNDERSTAND THAT A PERSON
10 MUST BE FOUND GUILTY OF MURDER BEYOND A REASONABLE
11 DOUBT YOU DON'T EVEN THINK ABOUT -- WE'RE NOT
12 GOING TO TALK ABOUT PUNISHMENT IF A PERSON HAS NOT
13 BEEN FOUND GUILTY OF MURDER A PERSON MUST BE FOUND
14 GUILTY OF MURDER BEFORE WE COULD EVEN TALK ABOUT THE
15 DEATH PENALTY AS AN APPROPRIATE PUNISHMENT, YOU
16 UNDERSTAND THAT?

17 A YES, SIR

18 Q SO ACCEPT THE FACT THAT A PERSON HAS BEEN
19 FOUND GUILTY OF MURDER BEFORE YOU THINK ABOUT
20 PUNISHMENT IN ADDITION TO THAT, IN ADDITION TO
21 THAT, THE PERSON BEING FOUND GUILTY OF MURDER, THERE
22 MUST ALSO BE SOME OTHER AGGRAVATING CIRCUMSTANCE
23 PROVED BEYOND A REASONABLE DOUBT, YOU UNDERSTAND
24 THAT?

25 A YES, SIR

1 Q SO THAT'S WHAT WOULD HAVE TO BE ESTABLISHED
2 BEFORE YOU COULD CONSIDER THE DEATH PENALTY AS AN
3 APPROPRIATE PUNISHMENT

4 A YES

5 Q NOW, MY QUESTION IS SIMPLY, IF YOU HAD
6 PARTICIPATED IN THE TRIAL OF THE CASE, YOU HAD FOUND
7 A PERSON GUILTY OF MURDER BEYOND A REASONABLE DOUBT,
8 YOU HAD FOUND SOME AGGRAVATING CIRCUMSTANCE IN
9 ADDITION TO THAT BEYOND A REASONABLE DOUBT, THEN
10 COULD YOU IMPOSE A DEATH SENTENCE AGAINST THAT
11 PERSON IF YOU THOUGHT THE CIRCUMSTANCES SUPPORTED
12 THAT FINDING?

13 A YES, SIR

14 Q YOU COULD NOW, I WANT YOU TO UNDERSTAND THAT
15 THE LAW NEVER, EVER REQUIRES THAT YOU IMPOSE THE
16 DEATH SENTENCE, EVEN IF YOU FOUND A PERSON GUILTY OF
17 MURDER, EVEN IF YOU FIND AN AGGRAVATING CIRCUMSTANCE
18 BEYOND A REASONABLE DOUBT YOU STILL ARE NOT REQUIRED
19 TO SENTENCE A PERSON TO DEATH YOU STILL HAVE THAT
20 CHOICE NO MATTER WHAT THE CIRCUMSTANCES ARE YOU
21 WILL ALWAYS HAVE A CHOICE OF SENTENCING A PERSON TO
22 DEATH OR SENTENCING A PERSON TO LIFE IN PRISON, YOU
23 UNDERSTAND THAT?

24 A YES, SIR

25 Q NOW, KNOWING THAT YOU ALWAYS HAVE THAT CHOICE,

1 WOULD YOU EVER BE ABLE TO SENTENCE A PERSON TO
2 DEATH?

3 A NOT IF I HAD THE CHOICE, I DON'T

4 Q ALL RIGHT WELL, THAT'S WHAT I'M TRYING TO
5 UNDERSTAND YOU UNDERSTAND THAT YOU ALWAYS HAVE A
6 CHOICE THE LAW DOESN'T SAY THAT IF YOU FIND THIS,
7 IF YOU FIND THIS, IF YOU FIND THIS, YOU MUST
8 SENTENCE A PERSON TO DEATH YOU CAN SENTENCE A
9 PERSON TO LIFE IMPRISONMENT FOR ANY REASON OR FOR NO
10 REASON YOU NEVER ARE REQUIRED TO SENTENCE A PERSON
11 TO DEATH YOU ALWAYS HAVE THOSE TWO CHOICES, YOU
12 UNDERSTAND THAT?

13 A YES, SIR

14 Q NOW, UNDERSTANDING THAT YOU WILL ALWAYS HAVE
15 THOSE TWO CHOICES, IT'LL BE UP TO YOU, COULD YOU
16 EVER SENTENCE A PERSON TO DEATH?

17 A NO, SIR

18 Q ARE YOU CERTAIN OF THAT FACT?

19 A YES, SIR IF IT'S MY CHOICE, YES

20 Q IT'S ALWAYS YOUR CHOICE ARE YOU SAYING NO
21 MATTER WHAT THE CIRCUMSTANCES ARE THAT ARE PROVEN BY
22 THE EVIDENCE, IF YOU HAVE A CHOICE BETWEEN
23 SENTENCING A PERSON TO DEATH AND SENTENCING A PERSON
24 TO LIFE, YOU WOULD ALWAYS CHOSE LIFE?

25 A YES, SIR

1 Q YOU WOULD NEVER CHOSE DEATH?

2 A SOMETIME

3 Q SOMETIME YOU COULD WELL, THAT'S WHAT I'M
4 HAVING A HARD TIME UNDERSTANDING SO THERE IS SOME
5 CIRCUMSTANCE WHERE YOU COULD, YOURSELF, SENTENCE A
6 PERSON TO DEATH?

7 A YES, SIR

8 Q OKAY NOW, ACCEPTING THAT, LET ME ASK YOU
9 THIS IF YOU DECIDE, IN YOUR MIND, YOU UNDERSTAND
10 YOU HAVE THAT CHOICE BETWEEN THE TWO, YOU'VE DECIDED
11 THAT A PERSON SHOULD BE SENTENCED TO DEATH AND YOU
12 COULD DO THAT?

13 A YES

14 Q IN ORDER FOR THAT SENTENCE TO BE CARRIED OUT,
15 YOU WOULD HAVE SIGN YOUR NAME ON A FORM, ALL THE
16 JURORS IT HAS TO BE UNANIMOUS ALL THE JURORS
17 HAVE TO SIGN THE FORM BUT YOUR NAME -- YOU WOULD
18 HAVE TO TAKE THE PEN AND SIGN YOUR NAME ON THE FORM
19 THAT FORM WOULD TELL ME THAT YOU RECOMMENDED THAT
20 THAT PERSON BE SENTENCED TO DEATH UNDERSTAND THAT
21 IF YOU RECOMMEND IT, I MUST DO IT I DON'T GET A
22 CHOICE NOW, UNDERSTANDING THAT IF THAT WAS YOUR
23 DECISION AND YOU HAD TO SIGN THE FORM TELLING ME TO
24 SENTENCE THAT PERSON TO DEATH, WOULD YOU SIGN THAT
25 FORM?

1 A IF I HAD TO SIGN IT, I WOULD

2 Q WELL, YOU UNDERSTAND YOU DON'T HAVE TO SIGN IT
3 UNLESS YOU BELIEVE THAT PERSON SHOULD BE SENTENCED
4 TO DEATH, YOU UNDERSTAND THAT?

5 A YES, SIR

6 Q ARE YOU SAYING THAT IF YOU BELIEVED THAT
7 PERSON SHOULD BE SENTENCED TO DEATH, THEN YOU WOULD
8 SIGN THAT FORM?

9 A IF I BELIEVE, I WOULD

10 Q IF YOU BELIEVED THE PERSON SHOULD BE SENTENCED
11 TO DEATH, WOULD YOU SIGN THAT FORM SENTENCING THAT
12 PERSON TO DEATH?

13 A IF I'M REQUIRED TO, YES

14 Q DO YOU UNDERSTAND THAT YOU WOULD ONLY BE
15 REQUIRED TO IF YOU FOUND THAT PERSON SHOULD BE
16 SENTENCED TO DEATH?

17 A YES, SIR

18 Q AND YOU COULD DO THAT?

19 A YES, SIR

20 THE COURT ANY OTHER QUESTIONS?

21 MR TINSLEY NO, YOUR HONOR

22 MR JONES NO OTHER QUESTIONS, YOUR
23 HONOR

24 THE COURT MR LOMAX, IF YOU'LL STEP
25 OUTSIDE FOR JUST A MOMENT, WE'LL BRING YOU BACK

1 SHORTLY

2 (JUROR #117 DOES AS INSTRUCTED)

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

5 MR JONES YOUR HONOR, THE STATE DOES
6 HAVE A REASON YOU KNOW, I CITE *STATE VS LEROY*
7 *DRAPER*, 361 SOUTHEASTERN II 329 1987 SOUTH CAROLINA
8 CASE THE TRIAL JUDGE DID NOT AIR AN EXCUSE TO THE
9 JUROR WHO STATED HE COULD NOT VOTE FOR THE DEATH
10 PENALTY IF HE DID NOT KNOW THE VICTIM HE TALKED TO
11 ME ABOUT THE DEFENDANTS I GOT THE FEELING WHEN I
12 WAS TALKING TO HIM IN THE BEGINNING, UNLESS HE KNEW
13 THE VICTIM, HE WOULD BE UNABLE TO PARTICIPATE --

14 THE COURT HE DID SAY THAT I'LL BRING
15 HIM BACK AND QUESTION HIM ON THAT POINT

16 MR JONES AND IF I COULD GO ON, JUDGE,
17 WITH REGARD TO YOUR QUESTION

18 THE COURT OKAY

19 MR JONES THIS JUROR -- AND I'M SURE
20 YOU HAVE, BECAUSE YOU HAVE WITH EACH JUROR, YOU'VE
21 LISTENED TO THE QUESTIONS CAREFULLY HE IS NOT
22 ACCEPTING HIS OWN PERSONAL RESPONSIBILITY AND WILL
23 AS A JUROR HE CONSISTENTLY REFERS TO, IF I HAVE
24 TO, IF I'M REQUIRED TO AND I KNOW THAT YOU WERE
25 CONCERNED ABOUT THE SEMANTICS THERE INVOLVED,

1 CONCERNED THAT WHEN HE SAID, IF I HAVE TO, YOU KNOW,
2 SOME PEOPLE SAY, IF I GOT A JOB, I GOT TO DO IT IF
3 I HAVE TO -- IF I HAVE TO, IF THE FACTS FORCE ME TO,
4 THEN I CAN

5 WELL, HE'S NOT REFERRING TO THE FACTS, I
6 SUGGEST TO YOU, YOUR HONOR HE'S REFERRING TO THE
7 AUTHORITY OF THE STATE THAT BROUGHT HIM IN HERE
8 HE'S SAYING IF I HAVE TO -- IN OTHER WORDS, IF YOU,
9 JUDGE, TELL ME I'VE GOT TO SIGN MY NAME, I'LL SIGN
10 MY NAME AND I'M AFRAID HE'S A LITTLE BIT CONFUSED,
11 ALTHOUGH YOU ATTEMPTED VERY WELL TO GET HIM TO
12 UNDERSTAND THAT THE ONLY THING -- THE ONLY REASON HE
13 WOULD HAVE TO SIGN HIS NAME IS IF HE CONSCIOUSLY
14 CHOSE TO FIND HIM GUILTY AND THEN CONSCIOUSLY CHOSE
15 TO SIGN IT, YOU KNOW HE'S NOT SAYING IF THE FACTS
16 FORCE ME TO IF I HAVE TO HE'S CONCERNED THAT IF HE
17 HAS TO -- IF THE PROCESS -- IF THE OTHER ELEVEN
18 JURORS FORCE HIM TO OR IF THE JUDGE SAYS SOMETHING
19 IN THE LAW THAT SOMEBODY CAN POINT TO HIM AND SAY WE
20 WANT YOU TO DECIDE HE SHOULD BE PUT TO DEATH, THEN
21 YOU HAVE TO SIGN HERE

22 I THINK THAT HE IS NOT -- HIS RESPONSES
23 ABOUT HIS ABILITY TO SERIOUSLY CONSIDER IMPOSING THE
24 DEATH PENALTY ARE NOT RESPONSES THAT WOULD ATTEND TO
25 AND REFLECT HIS FREEWILL BUT RATHER HIS WILLINGNESS

1 TO ALLOW SOME POSSIBLE IMPOSITION BY THE LAW, THE
2 JUDGE AND THE STATE TO FORCE HIM TO DO IT AND
3 THAT'S NOT THE KIND OF JUROR WE'RE LOOKING FOR
4 WE'RE NOT LOOKING FOR A JUROR, IN THIS PROCESS,
5 THIS DEATH PENALTY QUALIFICATION PROCESS, TO FIND
6 SOMEBODY WHO'S LOOKING TO BE FORCED TO DO IT WE'RE
7 LOOKING FOR SOMEBODY WHO DOESN'T WANT TO BUT IF THEY
8 FIND THAT THE SITUATION IS APPROPRIATE, WILL AND
9 HE'S NOT REFERRING TO AN APPROPRIATE SITUATION
10 HE'S REFERRING TO BEING FORCED INTO SOMETHING THAT
11 HE WOULD NOT DEFIANTLY STAND UP AND ADDRESS THE LAW
12 AND ADDRESS THE FORCING BODY, WHATEVER IT IS, NOT
13 HIS CONSCIOUS, NOT HIS HEART, NOT HIS WILL, NOT EVEN
14 HIS WILL, BUT SOME OTHER OUTSIDE FORCE AND THAT'S
15 NOT WHAT WE'RE LOOKING FOR

16 SO HE IS INNATE AND NOT QUALIFIED
17 THAT'S THE STATE'S POSITION IN ADDITION TO HIS
18 INABILITY TO IMPOSE THE DEATH PENALTY, OUT OF HIS
19 OWN WORDS, AS HONEST AS HE COULD BE, UNLESS HE KNEW
20 THE VICTIM, UNLESS HE HAD SOME CONTACT WITH THE
21 VICTIM

22 SO I WOULD LIKE YOU TO ASK HIM -- MAYBE
23 QUESTION HIM AGAIN ABOUT -- IF YOU SEE THE
24 NECESSITY I THINK, ON HIS FACE, HE'S NOT
25 QUALIFIED

1 THE COURT I UNDERSTAND BRING HIM BACK
2 IN, PLEASE

3 (JUROR #117 RE-ENTERS COURTROOM)

4 EXAMINATION BY THE COURT

5 Q MR LOMAX, IF YOU'LL JUST HAVE A SEAT RIGHT
6 THERE FOR A MOMENT, I NEED TO ASK YOU A COUPLE
7 ADDITIONAL QUESTIONS

8 I ASKED YOU ABOUT THE -- ABOUT WHETHER OR NOT
9 -- YOU INDICATED EARLIER THAT YOU NEEDED TO KNOW THE
10 PARTIES BEFORE YOU COULD MAKE SUCH A DECISION AND
11 I ASKED YOU ABOUT WHETHER YOU KNEW MR HUGHEY BUT I
12 DID NOT INQUIRE ABOUT YOUR KNOWLEDGE OF THE PERSONS
13 WHO ARE ALLEGED TO BE THE VICTIMS IN THIS CASE WHO
14 WERE KILLED AND, I BELIEVE, YOU INDICATED EARLIER
15 THOUGH THAT YOU DID NOT KNOW ANYBODY IN THE JACKSON
16 FAMILY OR ANYBODY IN THE HARRIS FAMILY?

17 A THAT'S CORRECT

18 Q AND WOULD THAT HAVE ANY BEARING, THE FACT THAT
19 YOU DO NOT KNOW ANY OF THOSE PEOPLE, YOU DO NOT KNOW
20 THE TWO PEOPLE WHO HAVE BEEN KILLED? WOULD THAT
21 FACT INTERFERE IN ANY WAY IN YOUR DECISION MAKING
22 PROCESS?

23 A NO, SIR

24 Q IT WOULD NOT?

25 A NO, SIR

1 Q SO YOU COULD CONSIDER ALL THE EVIDENCE FAIRLY
2 AND MAKE A DECISION BASED UPON THAT?

3 A YES, SIR

4 Q NOW, WHILE YOU WERE OUTSIDE JUST A FEW MOMENTS
5 AGO, HAS YOUR OPINION OR YOUR DECISION CHANGED ANY
6 FROM WHAT YOU HAD PREVIOUSLY STATED?

7 A NO, SIR

8 Q SO ARE YOU REPRESENTING TO THE COURT NOW THAT
9 YOU CAN STILL FAIRLY CONSIDER BOTH A SENTENCE OF
10 LIFE IMPRISONMENT OR A SENTENCE OF DEATH DEPENDING
11 UPON THE CIRCUMSTANCES?

12 A YES, SIR

13 Q IF YOU DECIDED THAT THE SENTENCE SHOULD BE
14 DEATH, YOU COULD SIGN THE FORM STATING THAT?

15 A YES, SIR

16 Q IS THERE ANY QUESTION IN YOUR MIND ABOUT YOUR
17 ABILITY OF BEING ABLE TO DO EITHER OF THOSE?

18 A NO, SIR

19 THE COURT STEP OUTSIDE JUST A MOMENT
20 (JUROR #117 DOES AS INSTRUCTED)

21 THE COURT ANYTHING FURTHER ON THE
22 POINT?

23 MR JONES NO, YOUR HONOR

24 MR TINSLEY I'LL CITE THE CASE OF
25 WITHERSPOON VERSUS ILLINOIS, DAVIS VERSUS GEORGIA,

1 ADAMS VERSUS TEXAS AND WEINWRIGHT VS WITT AND THE
2 PROPOSITION THAT THIS JUROR IS CLEARLY QUALIFIED
3 HE MEETS THE STANDARD THAT HE CAN SUBSTANTIALLY
4 UPHOLD HIS PERFORMING HIS DUTIES AS A JUROR IN THIS
5 CASE AND, THEREFORE, HE'S QUALIFIED

6 THE COURT OF COURSE, INITIALLY, WHEN
7 THE JUROR RESPONDED TO CERTAIN QUESTIONS, IT WAS
8 SOMEWHAT UNCLEAR AS TO WHAT HE COULD ACTUALLY DO IF
9 CALLED UPON TO SERVE AS A JUROR IN THIS CASE BUT
10 AFTER FURTHER, AND I MIGHT SAY INTENSIVE QUESTION BY
11 THE COURT, I BELIEVE THAT ALL THOSE QUESTIONS WERE
12 CLEARLY ASKED AND I GOT A CLEAR RESPONSE TOWARDS THE
13 END AND THAT IS THE JUROR HAS INDICATED THAT HE
14 COULD FAIRLY CONSIDER ALL THE EVIDENCE THAT WE WOULD
15 CONSIDER IMPOSING A SENTENCE OF LIFE, HE WOULD
16 CONSIDER IMPOSING A SENTENCE OF DEATH, AND THAT
17 BECAUSE THE LAW REQUIRED HIM TO SIGN THE FORM, IF
18 THAT WERE HIS DECISION, HE WOULD SIGN THE FORM
19 RECOMMENDING A SENTENCE OF DEATH IN A CASE WHERE HE
20 THOUGHT IT APPROPRIATE SO BASED UPON THE RESPONSES
21 TO THOSE QUESTIONS, I FIND THE JUROR TO BE
22 QUALIFIED BRING HIM IN

23 MR LOMAX, YOU WILL BE QUALIFIED AS A
24 JUROR IN THIS CASE THAT DOESN'T MEAN YOU'VE BEEN
25 SELECTED, IT MEANS YOU'RE IN A LARGER POOL FROM

1 WHICH THE ACTUAL JURORS WILL BE SELECTED SO WE
2 NEED FOR YOU TO GIVE US YOUR PHONE NUMBERS, ANY AND
3 ALL NUMBERS, WHERE WE CAN RECEIVE YOU EITHER DURING
4 THE DAY OR IN THE EVENING SO THAT WE CAN ASK YOU TO
5 COME BACK WHEN THAT TIME COMES

6 MR LOMAX, BEFORE YOU GO, LET ME REMIND
7 YOU OF THE INSTRUCTION I'VE GIVEN YOU EARLIER
8 YOU'RE NOT TO DISCUSS THIS CASE, IN ANY FASHION,
9 WITH ANY PERSON YOU'RE NOT TO ALLOW ANYONE TO
10 DISCUSS IT WITH YOU AND YOU'RE NOT TO ALLOW
11 YOURSELF TO BE EXPOSED TO ANY MEDIA COVERAGE,
12 NEWSPAPER ARTICLE, TELEVISION OR OTHERWISE ABOUT THE
13 CASE WE'LL CALL YOU WHEN WE NEED FOR YOU TO COME
14 BACK

15 (JUROR #177 EXITS COURTROOM)

16 (JUROR #177 IS QUALIFIED)

17 (THE COURT CALLS NANCY MURPHEY)

18 (JUROR #144 PRESENTED AT 10 50 O'CLOCK A M)

19 EXAMINATION BY THE COURT

20 Q MS MURPHEY, IF YOU'LL PLEASE COME IN AND HAVE
21 A SEAT RIGHT THERE, PLEASE GOOD MORNING

22 A GOOD MORNING

23 Q OF COURSE, YOU'VE BEEN ASKED TO COME BACK TO
24 RESPOND TO SOME QUESTIONS THAT WE'RE GOING TO BE
25 ASKING YOU, AS WELL AS WE'VE ASKED OTHER JURORS, AND

1 THERE ARE NO RIGHT OR WRONG ANSWERS THE PURPOSE OF
2 ASKING THE QUESTIONS IS TO SIMPLY FIND OUT YOUR
3 VIEWS AND OPINIONS ON CERTAIN SUBJECTS SO WE WOULD
4 SIMPLY ASK THAT YOU RESPOND TO THE QUESTIONS AS
5 OPENLY AND AS HONESTLY AS YOU CAN AND, IF FOR SOME
6 REASON, YOU DON'T UNDERSTAND THE QUESTION OR IF IT'S
7 NOT ASKED CLEARLY, LET ME KNOW, I'LL TRY TO CLARIFY
8 THAT OR THE LAWYERS WILL I'LL ASK YOU SOME
9 QUESTIONS, THE LAWYERS MAY HAVE SOME ADDITIONAL
10 QUESTIONS TO ASK YOU

11 I BELIEVE THAT YOU WERE ONE OF THE JURORS THAT
12 REPORTED LATE?

13 A YES

14 Q AND I DON'T BELIEVE THAT YOU WERE PLACED UNDER
15 OATH PRIOR TO YOU BEING BROUGHT HERE TO -- PRIOR TO
16 YOUR BEING BROUGHT HERE TODAY, IS THAT CORRECT?

17 A YES

18 Q SO WE'RE GOING TO PLACE YOU UNDER OATH NOW
19 BEFORE YOU RESPOND TO THESE QUESTIONS

20 THE CLERK THE STATEMENTS AND RESPONSES
21 YOU SHOULD GIVE TO THE COURT SHOULD BE THE TRUTH,
22 THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH, SO HELP
23 YOU, GOD

24 EXAMINATION BY THE COURT

25 Q NOW, MS MURPHEY YOU HAVE FILLED OUT A

1 QUESTIONNAIRE, YOU'VE INDICATED THAT IT IS ACCURATE?

2 A YES

3 Q YOU, ALSO, INDICATED YOU HAD RECEIVED MY
4 LETTER INSTRUCTING YOU NOT TO DISCUSS THE CASE OR
5 ALLOW YOURSELF TO BE EXPOSED TO ANY TYPE OF MEDIA
6 COVERAGE OF THIS TRIAL OR THIS CASE HAVE YOU
7 FOLLOWED THAT INSTRUCTION?

8 A YES

9 Q AND DID YOU HAVE ANY EXPOSURE TO MEDIA
10 COVERAGE OR ANY DISCUSSIONS ABOUT THE CASE BEFORE
11 YOU RECEIVED THAT LETTER?

12 A NOTHING OTHER THAN JUST THE NORMAL KIND, YOU
13 KNOW, WAS AROUND TOWN

14 Q WELL, THAT'S WHAT I'M GETTING AT WHAT IS THE
15 NORMAL KIND?

16 A WELL, I READ THE NEWSPAPER I KNOW BOTH
17 FAMILIES INVOLVED AND, YOU KNOW, THERE WAS SOME
18 DISCUSSION AMONG FRIENDS ABOUT IT

19 Q ABOUT THE CASE ITSELF AND WHAT --

20 A WELL, YOU KNOW, IN GENERAL, YES NOTHING IN
21 SPECIFIC

22 Q NOW, IS THERE ANYTHING ABOUT THOSE DISCUSSIONS
23 OR ABOUT ANY ARTICLE THAT YOU MAY HAVE READ OR
24 ANYTHING THAT YOU SAW ON TELEVISION THAT WOULD
25 PREVENT YOU FROM BEING ABLE TO BE FAIR AND

1 IMPARTIAL, IF YOU WERE SELECTED AS A JUROR?

2 A I DON'T THINK SO

3 Q YOU HAD JUST INDICATED THAT YOU KNEW THE
4 FAMILIES

5 A RIGHT

6 Q WHICH FAMILIES ARE YOU REFERRING TO?

7 A I KNEW BOTH FAMILIES I WAS THEIR FIRST GRADE
8 TEACHER AND I THINK I TAUGHT BOTH OF -- I TAUGHT ONE
9 OF THE HARRISON BOYS AND I ALSO TAUGHT JOHN HUGHEY

10 Q NOW, THERE ARE ACTUALLY THREE FAMILIES
11 THERE'S A JACKSON, A HARRIS AND HUGHEY

12 A RIGHT

13 Q AT LEAST THAT'S THE WAY I UNDERSTAND IT

14 A RIGHT AND IF I -- I DID NOT KNOW THE JACKSON
15 FAMILY

16 Q BUT YOU DID KNOW SOME OF THE HARRIS FAMILY AND
17 YOU DID KNOW SOME OF THE HUGHEY FAMILY?

18 A I WAS CLOSER TO THE HARRIS FAMILY I THINK I
19 TAUGHT ONE OF THEIR BOYS MS HARRIS CAME AND
20 HELPED ME IN MY CLASSROOM AND WAS A VERY GOOD
21 CLASSROOM MOTHER

22 Q AND WOULD THE FACT OF THAT RELATIONSHIP OR
23 THAT EXPERIENCE INTERFERE IN ANY WAY WITH YOUR
24 ABILITY TO BE FAIR AND IMPARTIAL, IF YOU WERE
25 SELECTED?

1 A I DON'T THINK SO

2 Q WOULD YOU BE WILLING TO PUT THAT ASIDE AND
3 BASE A VERDICT SOLELY UPON EVIDENCE RECEIVED DURING
4 THE COURTS OF THE TRIAL AND NOT TO CONSIDER ANY
5 PRIOR RELATIONSHIP YOU MIGHT HAVE HAD WITH THE
6 HARRIS FAMILY?

7 A YES, SIR

8 Q NOW, WHEN A PERSON'S CHARGED WITH A CRIME, THE
9 FUNCTION OF A JURY IS TO LISTEN TO TESTIMONY, TO
10 CONSIDER EVIDENCE AND TO DECIDE FACTS AT THE
11 CONCLUSION OF THE TRIAL, THE COURT WILL PROVIDE THE
12 JURY WITH THE LAW THAT IS APPLICABLE AND THE JURY
13 GOES BACK IN THE JURY ROOM AND ENGAGES IN
14 DELIBERATIONS YOU DISCUSS THE EVIDENCE, YOU DECIDE
15 THE FACTS, YOU APPLY THE LAW AND THE JURY DECIDES
16 WHETHER OR NOT A PERSON HAS BEEN PROVEN TO BE GUILTY
17 OF THE CRIME RELATED AGAINST HIM, DO YOU UNDERSTAND
18 THAT?

19 A YES, SIR

20 Q DO YOU UNDERSTAND THAT BECAUSE THE STATE
21 BRINGS A CHARGE AGAINST ANOTHER INDIVIDUAL, THAT THE
22 BURDEN IS UPON THE STATE TO ESTABLISH THAT PERSON'S
23 GUILT BEYOND A REASONABLE DOUBT BEFORE A JURY COULD
24 FIND THAT PERSON GUILTY?

25 A YES, I UNDERSTAND THAT

1 Q DO YOU UNDERSTAND THAT THE BURDEN IS NEVER
2 UPON A PERSON ACCUSED OF A CRIME TO PROVE THAT THEY
3 ARE NOT GUILTY OR TO PROVE THAT THEY ARE INNOCENT?

4 A YES

5 Q DO YOU UNDERSTAND THAT A PERSON CHARGED WITH A
6 CRIME IS ALWAYS PRESUMED INNOCENT OF THAT CRIME?

7 A YES, SIR

8 Q AND MAY NOT BE FOUND GUILTY UNLESS THE STATE
9 HAS PUT FORTH SUFFICIENT EVIDENCE TO ESTABLISH THAT
10 GUILT BEYOND A REASONABLE DOUBT

11 A UM-HMM

12 Q NOW, IN THIS CASE, AS YOU ARE AWARE, THE
13 DEFENDANT HAS BEEN CHARGED WITH THE CRIME OF MURDER
14 AND SOME OTHER OFFENSES WITH REGARD TO THE CRIME
15 OF MURDER, THE LAW PROVIDES THAT IF A PERSON IS
16 FOUND GUILTY OF MURDER, A JURY CONVICTS A PERSON OF
17 MURDER, THAT UNDER CERTAIN CIRCUMSTANCES THE STATE
18 IS PERMITTED TO SEEK THE DEATH PENALTY AGAINST THAT
19 INDIVIDUAL THAT DOESN'T MEAN THAT IT'S
20 AUTOMATICALLY IMPOSED, IT MEANS THAT THE JURY MAKES
21 THAT DECISION

22 A UM-HMM

23 Q A TRIAL SUCH AS THAT IS CONDUCTED IN TWO
24 STAGES THE FIRST STAGE RELATES TO GUILT, THE
25 SECOND STAGES RELATES TO PUNISHMENT, IN THE EVENT

1 THAT THE PERSON IS FOUND GUILTY OF MURDER NOW, IF
2 YOU WERE SELECTED TO PARTICIPATE AND YOU WERE
3 PARTICIPATING IN THE GUILT PORTION OF THAT TRIAL,
4 WOULD YOU BE ABLE TO FAIRLY CONSIDER ALL EVIDENCE
5 THAT WOULD BE OFFERED DURING THE TRIAL OF THAT CASE?

6 A I THINK SO

7 Q AND DEPENDING UPON WHAT THAT EVIDENCE WAS, IF
8 YOU WERE CONVINCED THAT THE EVIDENCE SUPPORTED A
9 GUILTY BEYOND A REASONABLE DOUBT, COULD YOU RETURN
10 SUCH A VERDICT?

11 A YES

12 Q IF YOU WERE NOT CONVINCED OR YOU HAD SOME
13 REASONABLE DOUBT AS TO WHETHER OR NOT THE PERSON WAS
14 GUILTY, WOULD YOU RETURN A VERDICT OF NOT GUILTY?

15 A YES, I COULD DO THAT

16 Q NOW, AS I TOLD YOU, IF A PERSON HAS BEEN FOUND
17 GUILTY OF THE CRIME OF MURDER BEYOND A REASONABLE
18 DOUBT, THE STATE IS PERMITTED UNDER CERTAIN
19 CIRCUMSTANCES TO SEEK THE DEATH PENALTY THEY ARE
20 ONLY PERMITTED TO SEEK THE DEATH PENALTY WHERE THERE
21 IS SOME ADDITIONAL AGGRAVATING CIRCUMSTANCE THAT IS
22 PROVEN BEYOND A REASONABLE DOUBT AND WHICH
23 ACCOMPANIES THAT MURDER, DO YOU UNDERSTAND THAT?

24 A YES

25 Q THE STATE HAS THE BURDEN OF PROVING BOTH OF

1 THOSE THE DECISION TO IMPOSE A DEATH SENTENCE OR A
2 LIFE SENTENCE WOULD BE UP TO THE JURY THAT
3 DECISION WOULD TAKE PLACE AFTER AN ADDITIONAL
4 HEARING WERE HELD SHORTLY AFTER THE GUILT PHASE
5 AND IN THAT ADDITIONAL HEARING, THERE WILL BE ADDED
6 EVIDENCE RECEIVED THERE WOULD EVIDENCE OFFERED IN
7 AGGRAVATION, THERE WOULD BE EVIDENCE OFFERED IN
8 MITIGATION AND I SIMPLY MEAN BY THAT, THAT THERE
9 WOULD BE EVIDENCE OFFERED TENDING TO PERHAPS
10 ESTABLISH THAT THE MORE SEVERE PUNISHMENT WAS
11 APPROPRIATE, THE DEATH PENALTY THERE WOULD BE
12 EVIDENCE OFFERED, PERHAPS TENDING TO SUPPORT, THAT
13 THE LESS SEVERE PUNISHMENT WAS MORE APPROPRIATE,
14 THAT BEING A LIFE SENTENCE BUT THE JURY WOULD
15 ALWAYS BE THE ONES TO MAKE THAT DECISION NOW, IF
16 YOU WERE SELECTED FOR THAT PURPOSE, WOULD YOU BE
17 ABLE AND WOULD YOU BE CAPABLE OF FAIRLY CONSIDERING
18 ALL OF THAT ADDITIONAL EVIDENCE IN AGGRAVATION AND
19 IN MITIGATION?

20 A YES

21 Q AND AFTER YOU HAD CONSIDERED ALL THE EVIDENCE
22 IN THE CASE, THE EVIDENCE RELATING TO THE
23 CIRCUMSTANCES OF THE CRIME THEMSELVES, THE EVIDENCE
24 RELATING TO THE INDIVIDUAL CHARACTERISTICS OF THE
25 DEFENDANT, THE EVIDENCE RELATING TO AGGRAVATION AND

1 TO MITIGATION, AFTER YOU'VE CONSIDERED ALL THAT, IF
2 YOU THOUGHT IT WERE APPROPRIATE UNDER THOSE
3 CIRCUMSTANCES, COULD YOU SENTENCE A PERSON TO DEATH?

4 A YES, I COULD

5 Q COULD YOU ALSO, UNDER THOSE CIRCUMSTANCES,
6 AFTER CONSIDERING THE EVIDENCE, SENTENCE A PERSON TO
7 LIFE IMPRISONMENT?

8 A YES

9 Q WOULD YOUR DECISION BE DEPENDENT UPON WHAT THE
10 EVIDENCE WAS THAT WAS RECEIVED IN THE CASE?

11 A ON THE EVIDENCE, YES, SIR

12 Q WOULD YOU EVER AUTOMATICALLY ELECT ONE OF
13 THOSE OPTIONS OVER THE OTHER?

14 A NO, SIR

15 Q YOU UNDERSTAND THAT THE JURY WOULD ALWAYS HAVE
16 THE CHOICE OF SENTENCING A PERSON TO DEATH OR
17 SENTENCING A PERSON TO LIFE THE LAW NEVER REQUIRES
18 THAT A PERSON BE SENTENCED TO DEATH BUT IT DOES
19 STATE THAT THEY MAY ONLY BE SENTENCED TO DEATH UNDER
20 THOSE CIRCUMSTANCES THAT I'VE STATED A PERSON
21 CONVICTED OF MURDER AND AN AGGRAVATING CIRCUMSTANCE
22 HAVING BEEN ESTABLISHED BUT A JURY STILL IS NOT
23 REQUIRED TO IMPOSE THE DEATH SENTENCE AND A JURY
24 COULD IMPOSE A LIFE SENTENCE FOR ANY REASON OR FOR
25 NO REASON, YOU UNDERSTAND THAT?

1 A I UNDERSTAND THAT

2 Q COULD YOU STILL CONSIDER BOTH OF THOSE FORMS
3 OF PUNISHMENT AS BEING APPROPRIATE FORMS OF
4 PUNISHMENT DEPENDING UPON THE FACTS OF THE CASE?

5 A YES

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

9 A NO, SIR I REALLY DON'T KNOW THAT MUCH ABOUT
10 IT

11 Q AND DO YOU KNOW OF ANY REASON WHY YOU COULD
12 NOT BE FAIR AND IMPARTIAL, IF YOU WERE SELECTED AS A
13 JUROR IN THIS CASE?

14 A NO, SIR

15 Q YOU UNDERSTAND THAT YOU WOULD BE SEQUESTERED
16 DURING THE COURSE OF THE TRIAL, IF YOU WERE
17 SELECTED?

18 A YES, SIR

19 Q WOULD THAT SEQUESTRATION POSE ANY UNREASONABLE
20 HARDSHIP OR HEALTH RISK TO YOU OR ANYONE DEPENDENT
21 UPON YOU?

22 A THE ONE PROBLEM I HAVE WITH THAT IS THAT I
23 HAVE A DAUGHTER WHO'S EXPECTING HER FIRST CHILD AND
24 SHE'S HAD A VERY DIFFICULT PREGNANCY AND IF THE
25 BABY STARTED ARRIVING, I WOULD CERTAINLY WANT TO BE

1 THERE, AND I WOULD BE NEEDED THEREAFTER

2 Q CERTAINLY DO YOU EXPECT OR IS THERE A
3 LIKELIHOOD THAT THE CHILD COULD ARRIVE DURING THIS
4 NEXT WEEK OR TWO?

5 A YES, THERE IS A LIKELIHOOD YOU NOW, IT'S ONE
6 OF THOSE THINGS AS I SAID, SHE'S HAD A VERY
7 DIFFICULT PREGNANCY SHE'S BEEN IN LABOR ON TWO
8 TIMES AND THEY THOUGHT SHE MIGHT DELIVER AND SHE HAS
9 NOT OF COURSE, THAT'S JUST SOMETHING I HAVE NO --
10 NOBODY KNOWS ANYTHING ABOUT

11 Q SURE AND WOULD THAT PARTICULAR CIRCUMSTANCE
12 BE OF SUCH CONCERN FOR YOU THAT IT MIGHT IMPAIR YOUR
13 ABILITY TO CONCENTRATE AND ATTEND TO THE DUTIES THAT
14 YOU WOULD BE CALLED UPON TO PERFORM IF YOU WERE A
15 JUROR SELECTED?

16 A VERY DEFINITELY

17 Q WOULD THAT IMPAIR, PERHAPS, YOUR ABILITY TO BE
18 FAIR AND IMPARTIAL OR TO GIVE THE CASE FAIR AND
19 CAREFUL CONSIDERATION?

20 A I WOULD CERTAINLY NOT HAVE MY MIND HERE I
21 WOULD HAVE MY MIND ON WHAT WAS GOING ON WITH THE
22 BIRTH OF A GRANDCHILD AND THEN MY DAUGHTER

23 Q CERTAINLY PLEASE ANSWER --

24 A VERY TRUTHFULLY

25 THE COURT PLEASE ANSWER ANY QUESTIONS

1 THE LAWYERS HAVE FOR YOU

2 EXAMINATION BY MR TINSLEY

3 Q GOOD MORNING, MS MURPHEY

4 A GOOD MORNING

5 Q HOW YOU DOING?

6 A FINE

7 Q BECAUSE OF YOUR DAUGHTER'S SITUATION, YOU
8 DON'T FEEL THAT YOU COULD GIVE THIS JURY SERVICE
9 YOUR HUNDRED PERCENT ATTENTION AT THIS TIME FOR THE
10 NEXT TWO WEEKS?

11 A WELL, IT'S PART OF WHAT -- I DON'T HAVE ANY
12 IDEA SHE MAY NOT HAVE THIS BABY RIGHT AWAY BUT
13 THERE IS A POSSIBILITY SHE COULD

14 Q AND YOU WOULD BE WORRIED ABOUT THAT, IS THAT
15 CORRECT?

16 A RIGHT IF THAT SITUATION OCCURRED, I WOULD,
17 YOU KNOW, FEEL LIKE I HAD TO --

18 Q AND SHE'S ALREADY GONE INTO LABOR TWICE OR
19 FALSE LABOR, WHATEVER YOU CALL IT

20 A RIGHT YEAH, WHATEVER

21 MR TINSLEY NO FURTHER QUESTIONS, YOUR
22 HONOR

23 EXAMINATION BY MR JONES

24 Q HI, MS MURPHEY

25 A GOOD MORNING

1 MR JONES I APPRECIATE YOUR COMING AND
2 BEING PART OF THE PROCESS I DON'T HAVE ANY
3 QUESTIONS FOR YOU

4 THE COURT MS MURPHEY, IF YOU'LL JUST
5 STAND OUTSIDE FOR JUST A MOMENT, I'LL BRING YOU
6 BACK

7 (JUROR #144 DOES AS INSTRUCTED)

8 THE COURT IS THERE ANY OBJECTION TO
9 THE JUROR BEING EXCUSED BASED UPON HER PERSONAL
10 CIRCUMSTANCE FOR THE CHILD?

11 MR JONES NONE FOR THE STATE, YOUR
12 HONOR

13 MR TINSLEY NO, YOUR HONOR

14 THE COURT ALL RIGHT THAT JUROR WILL
15 BE EXCUSED ASK MS MURPHEY TO COME BACK IN
16 (JUROR #144 RE-ENTERS COURTROOM)

17 MS MURPHEY, WE APPRECIATE YOU
18 PARTICIPATING UP TO THIS POINT BECAUSE OF THE
19 NATURE OF YOUR PERSONAL CIRCUMSTANCE WITH YOUR
20 DAUGHTER AND HER CHILD, WE'RE GOING TO EXCUSE YOU
21 FROM SERVICE IN THE CASE SO THAT WILL NOT BE A
22 PROBLEM SO IT WILL NOT BE NECESSARY THAT YOU CALL
23 BACK NOR COME BACK ANY FURTHER, BUT WE DO APPRECIATE
24 YOUR WILLINGNESS TO PARTICIPATE UP TO THIS POINT
25 THANK YOU, MA'AM

1 (JUROR #144 EXITS COURTROOM)

2 (JUROR #144 IS NOT QUALIFIED)

3 (THE COURT CALLS MR CARTER)

4 (JUROR #38 PRESENTED AT 11 04 O'CLOCK A M)

5 EXAMINATION BY THE COURT

6 Q GOOD MORNING, MR CARTER

7 A GOOD MORNING

8 Q YOU WILL RECALL EARLIER WHEN YOU REPORTED WITH
9 YOUR FELLOW JURORS, YOU WERE PLACED UNDER OATH AND
10 YOU REMAIN UNDER OATH FOR THE PURPOSE OF THESE
11 QUESTIONS, ALSO

12 A ALL RIGHT, SIR

13 Q YOU INDICATED THE QUESTIONNAIRE HAD BEEN
14 COMPLETED, IT WAS CORRECT

15 A YES, TO THE BEST OF MY KNOWLEDGE IT IS I
16 CAN'T REMEMBER EVERYTHING I PUT IN THERE AT THAT
17 TIME, IT JUST --

18 Q YOU WANT TO GLANCE OVER IT AND SEE IF THERE'S
19 ANYTHING THAT NEEDS TO BE CHANGED, ADDED OR DELETED
20 IT'S OKAY?

21 A THAT'S FINE, SIR

22 Q YOU, ALSO, INDICATED YOU RECEIVED MY LETTER
23 INDICATING YOU WERE NOT TO DISCUSS THE CASE OR ALLOW
24 YOURSELF TO BE EXPOSED TO ANY MEDIA COVERAGE

25 A YES, SIR

1 Q HAVE YOU COMPLIED WITH THAT REQUEST?

2 A YES

3 Q WHAT ABOUT BEFORE YOU GOT THE LETTER, WERE YOU
4 EXPOSED TO ANY OF THOSE?

5 A ONLY WHEN THIS INCIDENT OCCURRED IT WAS IN
6 *THE PRESS & BANNER*, THAT WAS MY ONLY EXPOSURE,
7 READING *THE PRESS & BANNER*

8 Q IS THERE ANYTHING THAT YOU READ IN *THE PRESS &*
9 *BANNER* ARTICLE THAT WOULD PREVENT YOU FROM BEING
10 ABLE TO BE FAIR AND IMPARTIAL, IF YOU WERE SELECTED
11 TO SERVE IN THIS CASE?

12 A I DON'T THINK SO

13 Q COULD YOU PUT ASIDE ANYTHING THAT YOU MIGHT
14 RECALL FROM THE ARTICLE AND BASE THE VERDICT SOLELY
15 UPON THE EVIDENCE RECEIVED DURING THE TRIAL OF THE
16 CASE, IF YOU WERE SELECTED?

17 A I THINK SO

18 Q IN A CRIMINAL CASE WHERE A PERSON IS CHARGED
19 WITH A CRIME, THE STATE BRINGS THE CHARGE AGAINST
20 THAT INDIVIDUAL THE CAUSE OR THAT FACT OF BURDEN
21 IS ALWAYS UPON THE STATE TO ESTABLISH A PERSON'S
22 GUILT BEYOND A REASONABLE DOUBT BEFORE THAT PERSON
23 CAN BE FOUND GUILTY, DO YOU UNDERSTAND THAT?

24 A YES, SIR

25 Q YOU UNDERSTAND THE BURDEN IS NEVER UPON A

1 DEFENDANT TO PROVE THAT HE IS NOT GUILTY OR TO PROVE
2 THAT HE IS INNOCENT OF THE CHARGE ALLEGED AGAINST
3 HIM?

4 A YES, SIR

5 Q YOU UNDERSTAND THAT UNDER THE LAW AND THE
6 CONSTITUTION, A PERSON IS PRESUMED TO BE INNOCENT OF
7 ANY CRIME THE STATE ALLEGES THEY HAVE COMMITTED?

8 A YES, SIR

9 Q AND MAY ONLY BE FOUND GUILTY IF A JURY
10 DETERMINES THAT THEY ARE GUILTY BEYOND A REASONABLE
11 DOUBT, BASED UPON THE EVIDENCE PRESENTED BY THE
12 STATE

13 A YES, SIR

14 Q NOW, IN THIS CASE, AS YOU ARE AWARE, THE
15 DEFENDANT IS CHARGED WITH A CRIME OF MURDER THE
16 LAW PROVIDES THAT UNDER CERTAIN CIRCUMSTANCES WHERE
17 A PERSON IS CONVICTED OR FOUND GUILTY OF THE CRIME
18 OF MURDER, THE STATE IS PERMITTED TO SEEK THE DEATH
19 PENALTY AGAINST THAT INDIVIDUAL NOT ONLY WOULD A
20 MURDER HAVE TO HAVE BEEN PROVEN BEYOND A REASONABLE
21 DOUBT, BUT THERE WOULD HAVE TO BE SOME OTHER
22 AGGRAVATING CIRCUMSTANCE ESTABLISHED BEYOND A
23 REASONABLE DOUBT BEFORE THE JURY COULD CONSIDER
24 IMPOSING A DEATH SENTENCE

25 IN A CASE SUCH AS THIS, THE TRIAL IS CONDUCTED

1 IN TWO SEPARATE STAGES THE FIRST STAGE RELATES TO
2 THE ISSUE OF GUILT, THE SECOND STAGE RELATES TO THE
3 ISSUE OF PUNISHMENT OBVIOUSLY, YOU DO NOT PROCEED
4 TO THE SECOND STAGE UNLESS, IN THE FIRST STAGE, THE
5 PERSON HAS BEEN FOUND GUILTY OF THE CRIME OF MURDER
6 BEYOND A REASONABLE DOUBT AND SOME AGGRAVATING
7 CIRCUMSTANCE HAS BEEN ESTABLISHED BEYOND A
8 REASONABLE DOUBT IN THAT EVENT, WE WOULD PROCEED
9 TO THE SECOND STAGE OF THE TRIAL WHERE ADDITIONAL
10 EVIDENCE WOULD BE RECEIVED THAT WOULD BE EVIDENCE
11 OFFERED IN AGGRAVATION, EVIDENCE OFFERED IN
12 MITIGATION THAT SIMPLY MEANS THERE WOULD BE
13 EVIDENCE OFFERED TENDING TO SUPPORT THE MORE SEVERE
14 PUNISHMENT AS BEING APPROPRIATE, THAT BEING THE
15 DEATH PENALTY THERE WOULD BE EVIDENCE OFFERED
16 TENDING TO SUPPORT THE LESS SEVERE PUNISHMENT AS
17 BEING MORE APPROPRIATE, THAT BEING THE LIFE
18 SENTENCE

19 IF YOU WERE CALLED UPON TO PARTICIPATE IN
20 SUCH A TRIAL AND YOU WERE PARTICIPATING IN THE GUILT
21 PHASE OF THAT TRIAL, WOULD YOU BE ABLE TO CONSIDER
22 ALL THE EVIDENCE FAIRLY THAT WAS RECEIVED BEFORE
23 ARRIVING AT YOUR DECISION?

24 A YES, SIR, I THINK SO

25 Q WOULD YOU BE ABLE TO APPLY THE LAW THAT THE

1 COURT WOULD PROVIDE IN ARRIVING AT THAT DECISION?

2 A YES, SIR

3 Q IF YOU WERE CONVINCED BEYOND A REASONABLE
4 DOUBT OF THE DEFENDANT'S GUILT, COULD YOU RETURN A
5 VERDICT OF GUILTY?

6 A YES, SIR

7 Q IF YOU HAD SOME REASONABLE DOUBT, WOULD YOU
8 RETURN A VERDICT OF NOT GUILTY?

9 A YES, SIR

10 Q NOW, FOR THE MOMENT, ASSUME THAT THE PERSON'S
11 BEEN FOUND GUILTY OF MURDER, AN AGGRAVATING
12 CIRCUMSTANCE HAS BEEN ESTABLISHED, ADDITIONAL
13 EVIDENCE HAS BEEN RECEIVED IN THE PENALTY PHASE, THE
14 SECOND PHASE OF THE TRIAL WOULD YOU BE ABLE TO
15 FAIRLY CONSIDER ALL THAT ADDITIONAL EVIDENCE BEFORE
16 ARRIVING AT YOUR DECISION AS TO THE APPROPRIATE
17 PUNISHMENT?

18 A YES, SIR, I COULD

19 Q AND DEPENDING UPON WHAT THAT EVIDENCE WAS,
20 AFTER YOU HAD CONSIDERED IT ALL, IF YOU THOUGHT THE
21 CIRCUMSTANCES WARRANTED IT, WOULD YOU BE ABLE TO
22 SENTENCE A PERSON TO DEATH?

23 A I DON'T KNOW THAT I CAN ANSWER THAT RIGHT NOW,
24 SIR BUT I WOULD HAVE TO WAIT AND SEE I'D HAVE A
25 TOUGH TIME ANSWERING THAT QUESTION FOR YOU RIGHT

1 NOW, SIR

2 Q WELL, YOU UNDERSTAND, OF COURSE, IT'S
3 IMPORTANT IF WE CAN KNOW THAT WE DO KNOW WHAT YOUR
4 VIEWS AND OPINIONS ARE AS TO THAT SUBJECT SO THAT WE
5 CAN KNOW WHETHER OR NOT YOU COULD IMPOSE A DEATH
6 SENTENCE OR NOT DEPENDING UPON THE CIRCUMSTANCES
7 OBVIOUSLY, WE COULD NOT WAIT UNTIL THAT TIME COMES
8 BECAUSE YOU WOULD HAVE ALREADY BEEN SELECTED AS A
9 JUROR AND I'M NOT PRESSING YOU ON THE POINT, BUT I
10 DO SIMPLY NEED TO KNOW IF WE CAN KNOW WHETHER OR NOT
11 YOU HAVE THE ABILITY OF IMPOSING A SENTENCE OF DEATH
12 AGAINST AN INDIVIDUAL IF YOU CONSIDER THE EVIDENCE
13 AND YOU BELIEVE THE CIRCUMSTANCES WARRANT THAT
14 DECISION

15 A I THINK THAT IF I WERE SURE BEYOND A SHADOW OF
16 DOUBT, THAT I COULD COME BACK WITH THE NECESSARY
17 VERDICT

18 Q IF YOU WERE SURE OF WHAT BEYOND A SHADOW OF A
19 DOUBT?

20 A THE PERSON WERE GUILTY

21 Q OKAY WELL, THAT'S WHAT I WANT TO GO OVER
22 WITH YOU THEN YOU UNDERSTAND THAT IN A CASE WHERE
23 THE STATE IS SEEKING THE DEATH PENALTY, IT IS
24 CONDUCTED IN TWO SEPARATE STAGES

25 A YES, SIR

1 Q IN THE FIRST STAGE, WE WON'T TALK ABOUT
2 ANYTHING ACCEPT ISSUES RELATING TO GUILT
3 PUNISHMENT IS DOWN THE ROAD AND ONLY -- WE ONLY GO
4 TO A PENALTY PHASE OR PUNISHMENT STAGE IF TWELVE
5 JURORS HAVE UNANIMOUSLY FOUND, BEYOND A REASONABLE
6 DOUBT, THAT THE PERSON COMMITTED THE CRIME OF
7 MURDER AND, IN ADDITION TO THAT, THAT THERE IS
8 SOME AGGRAVATING CIRCUMSTANCE ACCOMPANYING THAT
9 MURDER IT'S ONLY THEN, AFTER THE JURY HAS MADE
10 THAT DECISION, THAT THE PERSON IS GUILTY AND THE
11 AGGRAVATING CIRCUMSTANCE EXIST THAT WE GO TO THE
12 PENALTY PHASE, DO YOU UNDERSTAND THAT?

13 A YES, I UNDERSTAND THAT

14 Q NOW, IT'S IN THE PENALTY PHASE, AFTER THE
15 PERSON HAS BEEN FOUND GUILTY BEYOND A REASONABLE
16 DOUBT AND AFTER AN AGGRAVATING CIRCUMSTANCE HAS BEEN
17 PROVEN BEYOND A REASONABLE DOUBT, THAT ADDITIONAL
18 EVIDENCE IS RECEIVED EVIDENCE TENDING TO SHOW WHY
19 THE DEATH PENALTY IS APPROPRIATE, EVIDENCE TENDING
20 TO SHOW WHY THE LIFE SENTENCE IS MORE APPROPRIATE,
21 YOU UNDERSTAND THAT?

22 A YES, SIR

23 Q NOW, AFTER YOU HAVE CONSIDERED THAT ADDITIONAL
24 EVIDENCE UNDER THOSE CIRCUMSTANCES, DO YOU BELIEVE
25 THAT YOU COULD SENTENCE A PERSON TO DEATH?

1 A YES, SIR, I THINK I COULD UNDER THOSE
2 CIRCUMSTANCES, ONCE I WAS SURE IN MY OWN MIND IN
3 GOING THROUGH THE PROCESS

4 Q SURE AND I RECOGNIZE THAT YOU DON'T KNOW
5 WHAT THE CIRCUMSTANCES ARE AND DON'T KNOW WHAT THE
6 EVIDENCE IS BECAUSE NOTHING HAS BEEN PRESENTED AND
7 WE'RE NOT TRYING TO ASK YOU TO MAKE A DECISION IN
8 THIS CASE WITHOUT BENEFIT OF THAT INFORMATION
9 WE'RE JUST SIMPLY TRYING TO FIND OUT IF, GENERALLY,
10 YOU ARE ABLE, IN YOUR MIND, TO IMPOSE A DEATH
11 SENTENCE OR IMPOSE A LIFE SENTENCE, DEPENDING UPON
12 WHAT THE CIRCUMSTANCES ARE RELATING TO A PARTICULAR
13 CASE AND YOU TELL ME YOU ARE ABLE TO DO THAT?

14 A I WOULD THINK SO, YES

15 Q AND, OF COURSE, ARE YOU ALSO ABLE TO CONSIDER
16 A LIFE IMPRISONMENT SENTENCE, IF YOU THINK THAT'S
17 APPROPRIATE?

18 A YES, SIR

19 Q NOW, DO YOU UNDERSTAND THAT THE JURY ALWAYS
20 HAS THAT OPTION, THE JURY ALWAYS HAS THAT DECISION
21 TO MAKE? YOU ARE NEVER, UNDER CIRCUMSTANCES,
22 REQUIRED TO IMPOSE A DEATH SENTENCE NO MATTER WHAT
23 THE FACTS ARE IN A CASE A JURY MAY IMPOSE A LIFE
24 SENTENCE FOR ANY REASON OR FOR NO REASON SO WHILE
25 YOU MAY NOT IMPOSE A DEATH SENTENCE UNLESS THERE HAS

1 BEEN A CONVICTION OF MURDER AND AN AGGRAVATING
2 CIRCUMSTANCE PROVEN, YOU'RE STILL NOT REQUIRED TO
3 IMPOSE THAT DEATH SENTENCE, YOU UNDERSTAND THAT?

4 A YES, SIR

5 Q DO YOU UNDERSTAND THAT IF YOU DETERMINE IT
6 APPROPRIATE TO IMPOSE A DEATH SENTENCE THAT IT WOULD
7 BE NECESSARY THAT YOU SIGN A FORM INDICATING THAT
8 THAT IS YOUR RECOMMENDATION THAT THE PERSON BE
9 SENTENCED TO DEATH?

10 A YES, SIR

11 Q WOULD YOU BE ABLE TO SIGN THAT FORM, IF THAT
12 WERE YOUR DECISION?

13 A YES, IF THAT WAS MY DECISION, I WOULD

14 Q HAVE YOU ALREADY, UP TO THIS POINT, FORMED OR
15 EXPRESSED ANY OPINION AS TO WHAT YOU MIGHT HAVE
16 ABOUT WHAT THE APPROPRIATE OUTCOME OF THIS CASE
17 SHOULD BE?

18 A NO, SIR

19 Q DO YOU KNOW OF ANY REASON WHY YOU COULD NOT BE
20 FAIR AND IMPARTIAL IF YOU WERE SELECTED AS A JUROR
21 TO PARTICIPATE IN THIS CASE?

22 A NO, SIR

23 Q NOW, AS YOU ARE AWARE, IF YOU WERE SELECTED IT
24 WOULD BE NECESSARY THAT YOU BE SEQUESTERED THAT
25 PERIOD OF TIME IS LIKELY TO BE SEVEN TO TEN DAYS

1 IT WOULD LIKELY BEGIN SOMETIME TOWARDS THE FIRST OR
2 MIDDLE OF THIS WEEK IT WOULD NOT BEGIN
3 IMMEDIATELY IF YOU WERE SELECTED AND THAT
4 SEQUESTRATION REQUIREMENT WERE IMPOSED, WHICH IT
5 WOULD BE, WOULD THAT POSE ANY UNREASONABLE HARDSHIP
6 OR HEALTH RISK TO YOU?

7 A NO HEALTH RISK, COULD POSSIBLY BE SOME
8 HARDSHIP BECAUSE OF EMPLOYMENT

9 Q AND WHAT TYPE OF HARDSHIP COULD YOU SUFFER?

10 A I'M A SECONDARY SCHOOL PRINCIPAL AND I'VE GOT
11 SOME SITUATIONS COMING UP WITH THE BOARD OF
12 TRUSTEES, SOME MEETINGS THAT I NEED TO BE IN
13 ATTENDANCE AT, THAT'S POSSIBLE, AND THEY INVOLVE
14 SOME SCHOOL SITUATIONS

15 Q IS THERE SOMEONE THAT COULD HANDLE THOSE
16 MATTERS IN YOUR ABSENCE OR COULD THAT EVEN BE
17 POSTPONED, DEPENDING UPON WHETHER YOU'RE SELECTED OR
18 NOT?

19 A I DON'T KNOW ABOUT POSTPONEMENT OR WHETHER
20 SOMEONE COULD HANDLE IN MY PLACE OR NOT, THAT WOULD
21 BE UP TO THE SUPERINTENDENT BECAUSE OF THE SITUATION
22 OF THESE INSTANCE I'M REFERRING TO

23 Q WELL, WOULD YOU BE WILLING TO ACCEPT ANY
24 INCONVENIENCE THAT IT MIGHT CAUSE AND SERVE, IF YOU
25 WERE SELECTED TO SERVE?

1 A YES, SIR, IF SELECTED, I WOULD
2 THE COURT THANK YOU PLEASE ANSWER ANY
3 QUESTIONS THE LAWYERS MAY HAVE FOR YOU
4 EXAMINATION BY MR TINSLEY

5 Q GOOD MORNING, MR CARTER

6 A GOOD MORNING, SIR

7 Q I NOTICE ON THE LAST PAGE OF YOUR
8 QUESTIONNAIRE THAT, I BELIEVE YOU SAID, THAT YOU
9 WERE REQUESTING AN ASSIGNMENT TO ANOTHER SESSION OF
10 COURT ON THE MATTER, IS THAT CORRECT?

11 A YES, SIR THAT WAS BASED ON THE SITUATION ON
12 MY JOB -- JOB SITUATION I DON'T MIND SERVING, I
13 HAVE NO PROBLEM SERVING, I THINK THAT'S MY CIVIC
14 DUTY BUT BECAUSE OF THE TIME FRAME OF THIS AND MY
15 EMPLOYMENT --

16 Q IN OTHER WORDS, YOU'RE NOT TRYING TO GET OUT
17 OF SERVICE, YOU'D JUST RATHER TRANSFER YOUR SERVICE?

18 A YES, SIR

19 Q AND I NOTICE YOUR WIFE, FROM THE
20 QUESTIONNAIRE, YOUR WIFE'S RETIRED WHAT KIND OF
21 WORK DID SHE DO?

22 A SHE WORKED IN ERSKINE COLLEGE, ADMISSIONS AND
23 FINANCIAL AIDE FOR TWENTY-SEVEN YEARS

24 Q WHERE I SHE FROM?

25 A SHE'S FROM PENDLETON

1 Q PENDLETON

2 A YES

3 Q AND YOU'RE FROM DILLON, ORIGINALLY, CORRECT?

4 A IN DILLON COUNTY, A LITTLE TOWN CALLED, LATTA

5 Q AND FURTHER, SIR, YOU -- BEAR WITH ME ONE

6 SECOND, SIR YOU ALL HAVE TWO CHILDREN, CORRECT?

7 A THAT'S CORRECT, SIR

8 Q BUT THEY'RE OUT OF THE HOME NOW

9 A THAT'S CORRECT

10 Q MR CARTER, NOW, LET'S ASSUME FOR A MINUTE

11 THAT YOU WERE PICKED ON THE TRIAL JURY FOR THIS

12 CASE AND I NOTICE THAT YOU HAD SOME HESITATION

13 ABOUT YOUR ABILITY TO GIVE THE DEATH PENALTY, IS

14 THAT CORRECT?

15 A I HESITATED I'M NOT SURE ABOUT WHETHER IT'S

16 MY ABILITY TO GIVE A DEATH PENALTY OR NOT ITSELF, IT

17 WAS BEING SURE THAT I KNOW IN MY OWN MIND THAT

18 EVERYTHING IS IN LINE AS TO WHERE IT SHOULD BE WITH

19 THE FACTS AND THINGS OF THAT NATURE AS THE JUDGE,

20 YOU KNOW, IF I'M SURE THAT THE EVIDENCE IS THERE --

21 Q SO YOU DO -- IS IT FAIR TO SAY THAT YOU DO

22 BELIEVE IN THE DEATH PENALTY?

23 A YES, SIR

24 Q HAVE YOU DISCUSSED THIS IN THE PAST AT ALL?

25 A ABOUT TWENTY-FIVE YEARS AGO

1 Q WHY WAS THAT, WHAT OCCASION?

2 A I HAD AN UNCLE WHO WAS KILLED

3 Q HE WAS KILLED, WHEREABOUTS?

4 A DOWN IN MARLBORO COUNTY

5 Q WHAT WERE THE CIRCUMSTANCES OF THAT?

6 A HE WAS AT A SERVICE STATION FILLING HIS CAR
7 FULL OF GAS AND A DRIVE-BY SHOOTER CAME BY -- THERE
8 HAD BEEN SOME ARGUMENTS AT THE STORE PREVIOUSLY AND
9 A DRIVE-BY CAME BY AND HE JUST HAPPENED TO BE IN THE
10 WRONG PLACE AT THE WRONG TIME

11 Q WASN'T EVEN SHOOTING AT HIM?

12 A NO, SIR, THAT'S CORRECT

13 Q HOW DOES THAT MAKE YOU FEEL?

14 A NOT VERY GOOD

15 Q EXCUSE ME, GO AHEAD

16 A ANGRY

17 Q IS THAT WHERE THE DEATH PENALTY CONSIDERATIONS
18 CAME UP?

19 A THERE WAS DISCUSSION AMONG THE FAMILY AT THAT
20 TIME

21 Q WAS THAT IN TERMS OF THE PUNISHMENT OF THE
22 PERPETRATOR?

23 A YES

24 Q THE SHOOTER?

25 A UM-HMM

1 Q WHAT WAS THE OUTCOME OF THAT?

2 A I CAN'T REMEMBER

3 Q YOU DON'T REMEMBER HE GOT CONVICTED DID HE?

4 A HE WAS CONVICTED BUT I DON'T KNOW WHAT
5 HAPPENED BECAUSE I DIDN'T -- I REALLY DIDN'T FOLLOW
6 THE CASE, JUST TRIED TO PUT IT OUT OF MIND ONCE ALL
7 THE FAMILY STUFF WAS TAKEN CARE AND LET THE COURTS
8 DO THEIR THING

9 Q YOU KNOW THAT HE WENT TO PRISON AT THE VERY
10 LEAST?

11 A YES

12 Q BUT YOU DON'T KNOW IF HE WAS EXECUTED OR
13 IMPRISONED AS THE ULTIMATE PUNISHMENT?

14 A I DO NOT

15 Q AND WHEN YOU DISCUSSED THIS MATTER TWENTY-FIVE
16 YEARS AGO, WHAT WAS YOUR POSTURE ON THE DEATH
17 PENALTY, WHAT WAS YOUR OPINION?

18 A AT THAT TIME, I WAS VERY MUCH IN FAVOR OF IT

19 Q AND YOU WERE VERY MUCH IN FAVOR OF IT AT THAT
20 TIME?

21 A YES

22 Q HAVE YOUR OPINIONS CHANGED OVER THE YEARS?

23 A NOT VERY MUCH

24 Q NOT VERY MUCH SO YOU STILL ARE NOW A STRONG
25 SUPPORTER OF THE DEATH PENALTY?

1 A YES, SIR

2 Q NOW, AS SUCH, MR CARTER, WHEN YOU RESPONDED
3 TO THE JUDGE'S QUESTION EARLIER, YOU JUST BASICALLY
4 HAVEN'T THOUGHT ABOUT IT IN TERMS OF THIS CASE, IS
5 THAT RIGHT?

6 A THAT'S CORRECT

7 Q AND TURNING TO THE PUBLICITY, I BELIEVE ALL
8 YOU SAID WAS BACK WHEN IT HAPPENED YOU READ
9 SOMETHING, THAT SORT OF THING

10 A THAT'S CORRECT

11 Q DID YOU HEAR ANY DISCUSSIONS OR HAVE ANY
12 DISCUSSIONS ABOUT IT?

13 A NO, SIR

14 Q DID YOU READ ANYTHING LAST WEEK IN EITHER THE
15 INDEX OR *THE PRESS & BANNER*?

16 A NO, SIR

17 Q AND FURTHER, MR CARTER, I WANT YOU TO FIRST
18 CONSIDER THE JUDGE GAVE YOU AN OPTION ON COUNT ONE,
19 FOR INSTANCE, THAT COUNT BEING MURDER IF THE JUDGE
20 GAVE YOU THE OPTION OF GUILTY OF MURDER OR A LESSER
21 CHARGE, GUILTY OF MANSLAUGHTER, OR THIRD, NOT
22 GUILTY, COULD YOU CONSIDER RETURNING A VERDICT FOR
23 ANY OF THE THREE?

24 A I THINK I COULD SO BASED ON WHAT I HEARD

25 Q BASED ON THE EVIDENCE AND THE LAW?

1 A YES, SIR

2 Q AND YOU WOULD ACCEPT THE LAW AS GIVEN BY THE
3 JUDGE, CORRECT?

4 A YES, SIR, HE SHOULD KNOW

5 Q AND ASSUMING THAT A DEFENDANT WAS CONVICTED BY
6 YOU AND ELEVEN OTHER JURORS OF TWO MURDERS AND A
7 BURGLARY, FOR INSTANCE, AND UNDER THOSE
8 CIRCUMSTANCES WOULD YOU ALWAYS GIVE THE DEATH
9 SENTENCE?

10 A BASED ON WHAT THE JUDGE SAID, I DON'T THINK
11 SO

12 Q COULD YOU CONSIDER A LIFE SENTENCE?

13 A AGAIN, BASED ON WHAT HE INDICATED, I THINK YOU
14 COULD CONSIDER THAT, YES

15 Q SO YOU COULD CONSIDER AGGRAVATING AND
16 MITIGATION CIRCUMSTANCES IN ARRIVING AT YOUR
17 SENTENCE, IS THAT RIGHT?

18 A I THINK SO

19 Q AND NOW, I'M ASKING YOU TO ASSUME THAT YOU
20 FOUND THE INDIVIDUAL GUILTY OF TWO MURDERS, KILLINGS
21 WITH MALICE WITH BOTH OF THEM, WOULD YOU ALWAYS,
22 UNDER THOSE CIRCUMSTANCES, RETURN A VERDICT -- A
23 SENTENCE OF DEATH?

24 A IF HE WERE ASSUMED -- IF HE WERE GUILTY UNDER
25 THOSE CIRCUMSTANCES, YES

1 MR TINSLEY THAT'S ALL

2 EXAMINATION BY MR JONES

3 Q GOOD MORNING, MR CARTER

4 A GOOD MORNING, SIR

5 Q MY NAME'S TOWNES JONES, I'M YOUR SOLICITOR
6 HERE IN ABBEVILLE COUNTY

7 A YES, SIR

8 Q THIS IS MICHAEL COULTER, HE'S YOUR CHIEF
9 DEPUTY SOLICITOR WE'LL BOTH BE PRESENTING EVIDENCE
10 IN THE CASE, CALLING WITNESSES AND THAT SORT OF
11 THING I JUST WANT TO TRY TO CLARIFY AN ISSUE THAT
12 AROSE IN MY MIND IN LISTENING TO YOUR ANSWERS TO THE
13 JUDGE'S QUESTIONS AND THE LAWYER'S QUESTIONS LET'S
14 ASSUME FOR A MINUTE THAT YOU'RE ON THE JURY AND YOU
15 FIND THE DEFENDANT GUILTY OF TWO MURDERS AND A
16 BURGLARY BEYOND A REASONABLE DOUBT, BEYOND A SHADOW
17 OF A DOUBT, HOWEVER YOU WANT TO PUT IT THE JURY
18 DETERMINED HE WAS GUILTY OF THOSE CRIMES YOU
19 UNDERSTAND YOU NEXT GO THROUGH A PUNISHMENT PHASE TO
20 DECIDE WHAT THE PUNISHMENT IS

21 A THAT'S CORRECT

22 Q DO YOU UNDERSTAND THAT AT THAT PHASE, THERE'S
23 TWO CHOICES THERE'S DEATH OR LIFE AND AT THAT
24 POINT IN TIME, THE STATE, REPRESENTED BY MYSELF,
25 WOULD PUT UP EVIDENCE AS TO WHY DEATH IS THE PROPER

1 PUNISHMENT, WHY YOU SHOULD CHOSE DEATH AND THE
2 DEFENSE COULD PUT UP ANY MITIGATING EVIDENCE AS TO
3 WHY LIFE IS THE PROPER PUNISHMENT IN THIS CRIME, WHY
4 YOU SHOULD CHOSE LIFE INSTEAD OF DEATH DO YOU
5 UNDERSTAND THAT'S WHAT TAKES PLACE AT THAT PROCESS?

6 A YES, SIR

7 Q AND AS A JUROR, IF YOU HAVE FOUND THE
8 DEFENDANT GUILTY BEYOND A SHADOW OF A DOUBT OF BOTH
9 MURDERS AND BURGLARY, WOULD YOU BE ABLE TO SIT THERE
10 AND CONSIDER THE EVIDENCE THAT THE DEFENSE PUT UP AS
11 TO WHY A LIFE SENTENCE WOULD BE MORE PROPER IN THIS
12 CASE, IN THIS MURDER, AND WHY THE DEFENDANT DESERVES
13 LIFE ANY EVIDENCE THEY WANT TO PUT UP, WOULD YOU
14 CONSIDER THAT?

15 A YES, I COULD SIT THERE AND LISTEN TO WHAT HE
16 HAD TO SAY

17 Q ALL RIGHT AND COULD THERE BE SOME EVIDENCE,
18 MITIGATING EVIDENCE, THAT WOULD CAUSE YOU TO
19 CONSIDER GIVING A LIFE SENTENCE IN THOSE
20 CIRCUMSTANCES, THINGS THAT YOU KNEW DON'T YOU
21 SUPPOSE THERE COULD BE SOME THINGS -- WE DON'T KNOW
22 WHAT THEY ARE

23 A I WOULD ASSUME SO, YES

24 Q BUT COULD YOU FAIRLY CONSIDER THAT MITIGATING
25 EVIDENCE AND CONSIDER A LIFE SENTENCE AT THAT POINT

1 IN TIME, DEPENDING ON WHAT THAT EVIDENCE IS

2 A I WOULD LIKE TO THINK SO, YES, SIR

3 Q ALL RIGHT WELL, SO WHAT YOU'RE SAYING IS, IS

4 THAT EVEN THOUGH YOU FOUND HIM GUILTY OF THE TWO

5 MURDERS AND THE BURGLARY, THAT YOU WOULDN'T

6 NECESSARILY ALWAYS SENTENCE HIM TO DEATH, YOU WOULD

7 WAIT TO SEE WHAT EVIDENCE THEY HAD IN MITIGATION,

8 WHAT EVIDENCE THEY HAD FOR YOU ALONE AND FOR YOU TO

9 LEARN ABOUT AND FOR YOU TO SEE ABOUT ABOUT HIM TO

10 DECIDE WHETHER OR NOT, IN THIS CASE, A LIFE SENTENCE

11 MIGHT BE MORE APPROPRIATE BASED ON WHATEVER EVIDENCE

12 IN MITIGATION THEY PUT UP

13 A YES, SIR, I THINK SO

14 Q YOU COULD DO IT?

15 A I THINK I COULD, YES, SIR

16 Q WELL, WOULD YOU?

17 A I WOULD DO IT TO THE BEST OF MY ABILITY, YES,

18 SIR

19 Q ALL RIGHT AND SO EVEN AFTER FINDING SOMEBODY

20 GUILTY OF TWO MURDERS AND A BURGLARY BEYOND A SHADOW

21 DOUBT, YOU COULD STILL IMPOSE A LIFE SENTENCE IF YOU

22 THOUGHT THE MITIGATING CIRCUMSTANCES CALLED FOR IT?

23 A YES, SIR, I BELIEVE I COULD

24 MR JONES ALL RIGHT I THANK YOU

25 EXAMINATION BY MR TINSLEY

1 Q AND IF YOU FOUND AGGRAVATING CIRCUMSTANCES,
2 COULD YOU STILL DO SO IN LIGHT OF HAVING FOUND
3 AGGRAVATING CIRCUMSTANCES?

4 A I DON'T THINK I COULD THEN, NO, SIR

5 MR TINSLEY THAT'S ALL

6 EXAMINATION BY THE COURT

7 Q MR CARTER, LET ME JUST BE SURE THAT I
8 UNDERSTAND WHAT YOU'RE THINKING SOMETIMES WE ASK
9 QUESTIONS AND THE QUESTIONS ARE ASKED IN SOMEWHAT
10 DIFFERENT WAY AND IT CAUSES US OR YOU TO GIVE A
11 DIFFERENT RESPONSE OR WHAT MIGHT BE PERCEIVED TO BE
12 A DIFFERENT RESPONSE THAT'S PERFECTLY NATURAL, I
13 DO THE SAME THING

14 WHAT I WANT TO KNOW IS, IN A CASE WHERE MURDER
15 HAS BEEN PROVEN AND WHERE AN AGGRAVATING
16 CIRCUMSTANCE HAS ALSO BEEN ESTABLISHED, WHETHER OR
17 NOT YOU COULD, DEPENDING UPON ALL THE FACTS THAT
18 RELATE TO THAT CASE, CONSIDER BOTH FORMS OF
19 PUNISHMENT AS BEING APPROPRIATE, DEPENDING UPON WHAT
20 THOSE FACTS ARE

21 A I'M NOT REAL SURE THAT I'M FOLLOWING YOU I
22 UNDERSTOOD YOU TO SAY THAT IF THE STATE'S ABLE TO
23 PROVE AGGRAVATING CIRCUMSTANCES AND THE DEATH
24 SENTENCE WOULD BE IN ORDER OR WOULD BE SOMETHING
25 THAT SHOULD BE CONSIDERED AND THAT'S THE WAY THAT

1 I WOULD PROCEED WITH MY OWN TRAIN OF THOUGHT AS TO
2 WHAT THE EVIDENCE SHOWED IF THE DEFENSE SHOWED
3 CIRCUMSTANCES WHERE IT WAS NOT AGGRAVATING, AN
4 AGGRAVATING TYPE OF MURDER, TYPE OF SITUATION, THEN
5 I WOULD GO IN ANOTHER DIRECTION

6 BUT IF THE STATE WERE ABLE TO PROVE THAT THERE
7 WERE CIRCUMSTANCES, THAT DID CREATE AN AGGRAVATION
8 HERE, THEN I THINK I COULD, YOU KNOW, GO WITH THE
9 STATE

10 Q AND THAT'S ALL I --

11 A I ASSUME THAT'S WHAT YOU'RE ASKING

12 Q YEAH, THAT'S WHAT I'M REALLY TRYING TO FIND
13 OUT AND PERHAPS I'M NOT DOING A VERY GOOD JOB OF IT
14 BUT THAT'S WHAT I'M TRYING TO FIND OUT IS WHETHER
15 YOU COULD CONSIDER BOTH FORMS OF PUNISHMENT FAIRLY
16 DEPENDING UPON THE FACTS OF THE INDIVIDUAL CASE

17 A I WOULD HAVE TO SAY I WOULD LIKE TO THINK THAT
18 I COULD, YES, SIR

19 Q AND WHAT I'M REALLY TRYING TO FIND IS WHETHER
20 OR NOT YOU WOULD AUTOMATICALLY CHOSE ONE O THOSE
21 FORMS OF PUNISHMENT OVER THE OTHER IN A PARTICULAR
22 CASE LET ME ASK IT IN THIS FASHION AS I TOLD
23 YOU, IN ORDER FOR YOU TO EVEN CONSIDER -- AND ONE
24 THING I WANT YOU TO UNDERSTAND, IT'S NOT A MATTER OF
25 WHETHER YOU SHOULD CONSIDER, IT'S A MATTER OF

1 WHETHER YOU CAN CONSIDER IT THE JURY WILL DECIDE
2 WHAT THEY SHOULD DO OR WHAT THEY THINK'S
3 APPROPRIATE RIGHT NOW I'M JUST SIMPLY TRYING TO
4 RELATE TO YOU WHEN YOU MAY, NOT WHETHER YOU SHOULD,
5 BUT WHEN YOU MAY CONSIDER IMPOSING A DEATH SENTENCE
6 OR, IN THE ALTERNATIVE, A LIFE SENTENCE

7 NOW, AS I TOLD YOU BEFORE, YOU COULD EVEN
8 CONSIDER SENTENCING A PERSON TO DEATH, IT WOULD BE
9 NECESSARY THAT THE STATE HAS PROVEN THAT PERSON TO
10 BE GUILTY OF MURDER BEYOND A REASONABLE DOUBT THEY
11 WOULD ALSO HAVE TO PROVE SOME OTHER AGGRAVATING
12 CIRCUMSTANCE AND UNDER THE LAW, THERE ARE A NUMBER
13 OF STATUTORY AGGRAVATING CIRCUMSTANCES WHICH MIGHT
14 ALLOW THE STATE TO SEEK THE DEATH PENALTY WHAT I
15 SIMPLY WANT TO KNOW FROM YOU IS, IF YOU CAN ANSWER
16 THIS QUESTION, IF A PERSON HAS BEEN PROVEN TO BE
17 GUILTY OF THE CRIME OF MURDER BEYOND A REASONABLE
18 DOUBT, AND THE PERSON, NOT ONLY THAT, BUT HAS BEEN
19 PROVEN TO HAVE BEEN FOUND GUILTY OF THE CRIME OF
20 MURDER ON TWO SEPARATE COUNTS OF TWO SEPARATE
21 INDIVIDUALS OR THE STATE PROVES THAT A PERSON HAS
22 COMMITTED THE CRIME OF MURDER DURING THE COMMISSION
23 OF THE CRIME OF BURGLARY WHAT I'M ASKING IS, JUST
24 ON THAT FACT ALONE, THE FACT THAT A PERSON WAS
25 CONVICTED OF TWO MURDERS OR A MURDER AND A BURGLARY,

1 UNDER THOSE CIRCUMSTANCES, WOULD YOU ALWAYS IMPOSE
2 THE DEATH PENALTY NO MATTER WHAT THE FACTS ARE OR
3 WOULD YOU CONSIDER BOTH FORMS OF PUNISHMENT AS
4 APPROPRIATE, DEPENDING UPON WHAT ALL OF THE EVIDENCE
5 REVEALED?

6 A I WOULD LIKE TO THINK THAT I WOULD LOOK AT ALL
7 THE EVIDENCE BEFORE INDICATING WHICH DIRECTION I'D
8 GO

9 Q OKAY WELL, LET ME ASK YOU THIS THEN MORE
10 DIRECTLY IF A PERSON WERE CONVICTED OF TWO COUNTS
11 OF MURDER, THAT IS TWO MURDERS IN THE SAME COURSE OF
12 -- IN THE COURSE OF THE SAME CONDUCT OR SERIES OF
13 CONDUCT, IF THE PERSON WERE FOUND GUILTY OF TWO
14 MURDERS BEYOND A REASONABLE DOUBT, WOULD YOU
15 AUTOMATICALLY THEN FIND THE DEATH SENTENCE IS
16 APPROPRIATE OR WOULD YOU STILL BE ABLE TO CONSIDER
17 ALL THAT OTHER EVIDENCE IN AGGRAVATING AND
18 MITIGATION BEFORE ARRIVING AT THAT DECISION?

19 A I THINK BEFORE I WOULD MAKE DECISION OR TRY TO
20 COME TO A DECISION, I'D WANT TO HEAR EVERYTHING THAT
21 EVERYONE HAD TO SAY I DON'T KNOW THAT -- I THINK
22 WE HAVE PRECONCEIVED IDEAS ABOUT CERTAIN THINGS
23 BUT WHEN YOU'RE TALKING ABOUT SOMEONE'S LIFE, YOU
24 WANT TO KNOW EVERYTHING POSSIBLE BEFORE YOU MAKE
25 DECISIONS OR EVEN THINK ABOUT MAKING DECISIONS

1 Q AND IF A PERSON WERE CONVICTED OF TWO COUNTS
2 OF MURDER AND CONVICTED OF THE CRIME OF BURGLARY IN
3 THE SAME SERIES OF CONDUCT, COULD YOU STILL CONSIDER
4 ALL THE EVIDENCE AND IMPOSE A SENTENCE OF LIFE
5 IMPRISONMENT UNDER THOSE CIRCUMSTANCES, IF YOU
6 THOUGHT THE EVIDENCE WARRANTED THAT CONCLUSION?

7 A YES, SIR, I THINK I COULD IF THE EVIDENCE
8 WARRANTED THAT, AGAIN -- I KNOW I'M NOT ANSWERING
9 YOUR QUESTIONS WITH A DEFINITE YES OR NOT BUT I'M
10 THE TYPE OF PERSON THAT I'VE GOT TO SIT AND LISTEN
11 IN THE SITUATIONS I DEAL WITH EACH DAY, I'VE GOT TO
12 SEE WHAT'S GOING ON WITH BOTH SIDES BEFORE I CAN
13 COME TO ANY TYPE OF JUDGMENT, SO THAT'S BASICALLY
14 WHAT I'M TRYING TO SAY HEAR THIS MORNING THAT MY
15 RECOMMENDATION, MY DECISIONS, MY VOTES WOULD BE
16 DEPENDANT UPON WHAT I HEAR HERE AND I COULD GO
17 EITHER WAY DEPENDING UPON WHAT I DO HEAR

18 Q AND THAT'S WHAT I'M ASKING AND THE ONLY
19 CONCERN THAT I HAD WAS WHEN MR TINSLEY ASKED YOU
20 ABOUT A PERSON BEING CONVICTED OF TWO COUNTS OF
21 MURDER, WOULD YOU IMPOSE THE DEATH SENTENCE AND I
22 DON'T REMEMBER EXACTLY WHAT YOUR RESPONSE WAS, BUT
23 THERE WAS SOME INDICATION THAT YOU MIGHT GO AHEAD
24 AND IMPOSE A DEATH SENTENCE UNDER THAT CIRCUMSTANCE,
25 NOTWITHSTANDING WHAT THE EVIDENCE MIGHT HAVE

1 REVEALED OR WHAT YOU MIGHT CONSIDER AND THAT'S ALL
2 I'M TRYING TO FIND OUT IS IF YOU WOULD HAVE A
3 TENDENCY TO AUTOMATICALLY SELECT ONE FORM OF
4 PUNISHMENT OVER THE OTHER, SIMPLY BASED UPON WHAT
5 THAT PERSON IS CONVICTED OF, AND NOT TAKING INTO
6 ACCOUNT ALL OF THE CIRCUMSTANCES THAT WOULD RELATE
7 TO THE CRIMES AND THE INDIVIDUAL HIMSELF

8 A I WOULD LIKE TO THINK, AGAIN, THAT I WOULD
9 LISTEN AT ALL THE EVIDENCE AND MAKE A DECISION BASED
10 ON THAT

11 Q WELL, IS THERE ANY QUESTION IN YOUR MIND THAT
12 YOU COULD DO THAT AND WOULD BE WILLING TO DO THAT?

13 A I THINK I COULD DO IT I THINK AT THIS POINT,
14 I COULD YOU'RE TALKING ABOUT HAVING CONTROL OVER
15 SOMEONE'S LIFE, REGARDLESS OF WHAT HAPPENED
16 PREVIOUSLY THAT'S A TOUGH DECISION

17 Q WELL, IS IT FAIR TO SAY THAT YOU WOULD
18 CONSIDER ALL OF THE EVIDENCE, THE CIRCUMSTANCES
19 RELATING TO THE CRIMES, THE CIRCUMSTANCES RELATING
20 TO THE DEFENDANT AND ANY INDIVIDUAL CHARACTERISTICS,
21 CIRCUMSTANCES OFFERED IN AGGRAVATION AND IN
22 MITIGATION AND YOU WOULD CONSIDER ALL OF THOSE
23 FACTORS AND ALL OF THAT EVIDENCE BEFORE YOU COULD
24 MAKE A DECISION AS TO THE APPROPRIATE FORM OF
25 PUNISHMENT?

1 A YES, SIR

2 Q IS IT FAIR TO SAY THAT YOU WOULD NOT
3 AUTOMATICALLY IMPOSE A DEATH SENTENCE JUST BECAUSE A
4 PERSON HAD BEEN CONVICTED OF TWO COUNTS OF MURDER OR
5 MURDER AND BURGLARY?

6 A YES, SIR

7 Q YOU WOULD NOT AUTOMATICALLY SENTENCE A PERSON
8 TO DEATH?

9 A NO, SIR AT THIS TIME, I DON'T THINK I WOULD

10 Q AND YOU WOULD BE WILLING TO CONSIDER ALL THE
11 EVIDENCE BEFORE MAKING THAT DECISION?

12 A YES, SIR

13 THE COURT ANY OTHER QUESTIONS?

14 EXAMINATION BY MR TINSLEY

15 Q YOU KEEP SAYING I THINK I WOULD

16 A I SAY THAT BECAUSE IT APPEARS TO ME THAT I'M
17 BEING ASKED CAN I TELL SOMEONE, YOU KNOW, DEATH OR
18 NO DEATH AND I DON'T KNOW THAT I CAN DO THAT UNTIL
19 I'VE SET DOWN OVER HERE OR WHEREVER AND HAD SOMEONE
20 TO PRESENT SOME EVIDENCE TO ME I'M NOT TRYING TO
21 JUMP THE GUN ON YOU, BUT THAT'S JUST ME AS A PERSON

22 Q NOBODY'S ASKING YOU TO GIVE YOUR DECISION NOW
23 OR ANYTHING LIKE THAT

24 A THAT'S WHY I KEEP -- YOU ASK THE QUESTIONS AND
25 I KEEP ANSWERING THE QUESTIONS IN THAT MANNER

1 Q THANK YOU AND WOULD YOU REQUIRE A DEFENDANT
2 TO PROVE HIS MITIGATION CIRCUMSTANCES BEYOND THIS
3 SHADOW OF A DOUBT WE'VE BEEN TALKING ABOUT

4 MR JONES OBJECTION, YOUR HONOR WOULD
5 YOU LIKE ME TO EXPLAIN?

6 THE COURT WELL, THAT WHAT HIS
7 TERMINOLOGY ACTUALLY, YOU UNDERSTAND, AS I
8 INDICATED TO YOU EARLIER, THE BURDEN OF PROOF IN A
9 CASE IS UPON THE STATE AND IT'S BEYOND A REASONABLE
10 DOUBT?

11 JUROR CARTER YES, SIR

12 EXAMINATION BY MR TINSLEY

13 Q I'LL CHANGE IT TO REASONABLE DOUBT, BEYOND A
14 REASONABLE DOUBT

15 MR JONES OBJECTION HE'S ASKING THIS
16 JUROR TO IMPOSE WHAT IS NOT THE LAW ON THE DEFENSE
17 AND YOU EXPLAINED TO HIM WHAT THE LAW IS THEY
18 DON'T GIVE HIM AN OPPORTUNITY TO -- HE'S ASKING HIM
19 IF HE WOULD IMPOSE THE DEFENSE TO PROVE SOMETHING
20 BEYOND A REASONABLE DOUBT THAT'S NOT THE LAW

21 THE COURT LET ME HEAR THE QUESTION

22 EXAMINATION BY MR TINSLEY

23 Q THE QUESTION IS, WOULD YOU REQUIRE A DEFENDANT
24 TO PROVE HIS MITIGATING CIRCUMSTANCES BEYOND A
25 REASONABLE DOUBT?

1 MR JONES THAT'S NOT THE LAW, YOUR
2 HONOR HE' CAN'T --

3 THE COURT I UNDERSTAND HE'S ASKING IF
4 HE WOULD REQUIRE IT BEFORE HE WOULD MAKE A DECISION
5 OVERRULE THE OBJECTION

6 JUROR CARTER YES, SIR

7 EXAMINATION BY MR TINSLEY

8 Q AND IN A CASE WHERE AN INDIVIDUAL WERE
9 CONVICTED OF TWO MURDERS, WOULD YOU -- AND AN
10 AGGRAVATING CIRCUMSTANCE WAS FOUND AND YOU WOULD
11 REQUIRE THE DEFENDANT PROVE HIS MITIGATING
12 CIRCUMSTANCES BEYOND A REASONABLE DOUBT, WOULD YOU
13 BE MOST LIKELY TO RENDER A SENTENCE OF DEATH?

14 A I DON'T KNOW IT SEEMS TO ME YOU ASKED ME TWO
15 QUESTIONS IN ONE THERE YOU MADE A STATEMENT HE'D
16 BEEN FOUND GUILTY IN AGGRAVATED CIRCUMSTANCES AND
17 THEN YOU COME BACK WITH TRYING TO SAY THAT THERE
18 WERE OTHER CIRCUMSTANCES

19 Q NO, I SAID YOU WERE -- YOU WERE LISTENING TO
20 HIS MITIGATION AND, AS SUCH, WOULD YOU, IN THOSE
21 CIRCUMSTANCES, WOULD YOU RETURN A VERDICT OF DEATH,
22 A SENTENCE OF DEATH? IF YOU DON'T UNDERSTAND IT,
23 I'LL ASK IT AGAIN

24 A I THINK I WOULD RETURN A VERDICT, YES

25 Q OF DEATH?

1 A YES, SIR

2 MR TINSLEY THANKS SO MUCH, MR CARTER

3 EXAMINATION BY THE COURT

4 Q I DON'T WANT TO PRESS YOU AT ALL, AND I JUST
5 WANT TO BE CERTAIN THAT I UNDERSTAND WHERE WE ARE
6 MR TINSLEY ASKED YOU ABOUT THE DEFENDANT PROVING
7 SOMETHING BEYOND A REASONABLE DOUBT YOU UNDERSTAND
8 THAT THE LAW IN THIS STATE IS THAT THE STATE HAS
9 BURDEN OF PROVING A PERSON'S GUILT, THE STATE HAS
10 THE BURDEN OF PROVING AGGRAVATING CIRCUMSTANCES
11 BEYOND A REASONABLE DOUBT BEFORE YOU COULD EVEN
12 CONSIDER IMPOSING A DEATH SENTENCE YOU UNDERSTAND
13 THAT THERE IS NO BURDEN WHATSOEVER UPON THE
14 DEFENDANT TO PROVE ANYTHING, YOU UNDERSTAND THAT?

15 A YES, SIR

16 Q YOU UNDERSTAND THAT THE JURY MAY CONSIDER
17 MITIGATING EVIDENCE AND MITIGATING CIRCUMSTANCES,
18 THE DEFENDANT DOES NOT HAVE TO PROVE THOSE BEYOND A
19 REASONABLE DOUBT, DO YOU UNDERSTAND THAT?

20 A YES, SIR

21 Q WHETHER OR NOT THE DEFENDANT PROVED THOSE
22 BEYOND A REASONABLE DOUBT, WOULD YOU STILL BE
23 WILLING TO CONSIDER THAT EVIDENCE BEFORE ARRIVING AT
24 YOUR DECISION?

25 A YES, SIR, I WOULD

1 Q ARE YOU SAYING THAT YOU WOULD NOT CONSIDER THE
2 EVIDENCE, UNLESS IT WAS PROVEN BEYOND A REASONABLE
3 DOUBT?

4 A IT WOULD HAVE TO BE -- IN MY OWN MIND, IT
5 WOULD HAVE TO BE PROVEN BEYOND A REASONABLE DOUBT,
6 YES

7 Q WELL, WHAT I'M SAYING IS, I UNDERSTAND THAT
8 YOU'RE TRYING TO ASSESS SOME RATING TO EVIDENCE IN
9 YOUR MIND BEFORE PERHAPS IT WOULD HAVE BENEFIT TO
10 YOU BUT WHAT I'M SAYING IS, WOULD BE WILLING TO
11 CONSIDER ALL OF THAT EVIDENCE AND NOT IMPOSE ANY
12 STANDARD OF PROOF ON THE DEFENDANT?

13 A YES, SIR, I'D LISTEN TO THE EVIDENCE AND MAKE
14 DECISION BASED ON WHAT I HEARD AND WHAT I BELIEVE TO
15 BE THE FACTS OF THE CASE

16 Q WHAT I'M SAYING IS, I UNDERSTAND THAT RIGHT
17 NOW, YOU DON'T KNOW WHAT THE EVIDENCE, YOU DON'T
18 KNOW WHAT ANYBODY MIGHT PRESENT, YOU DON'T KNOW WHAT
19 EVIDENCE OF AGGRAVATION MIGHT BE ADMITTED, YOU DON'T
20 KNOW WHAT EVIDENCE OF MITIGATION MIGHT BE ADMITTED
21 SO NOBODY'S ASKING YOU NOW TO WEIGH THAT EVIDENCE OR
22 GIVE IT ANY KIND OF CREDIBILITY OR NO CREDIBILITY
23 NOBODY'S ASKING YOU TO ASSESS A SCALE TO IT AND
24 DECIDE HOW IMPORTANT IT IS TO YOU BUT IT IS
25 IMPORTANT THAT WE UNDERSTAND THAT YOU ARE WILLING TO

1 CONSIDER ALL THAT EVIDENCE AND DEPENDING UPON THE
2 WEIGHT THAT YOU ATTACH TO IT, ARRIVE AT A DECISION
3 AS TO THE APPROPRIATE DECISION OR APPROPRIATE FORM
4 OF PUNISHMENT THAT SHOULD BE IMPOSED

5 A I UNDERSTAND THAT, YES, SIR AND I THINK I
6 CAN DO THAT I DON'T THINK THAT I HAVE A PROBLEM
7 WITH THAT ONCE I HEARD ALL THE EVIDENCE WHAT I'M
8 HEARING HERE BITS AND PIECES, WOULD YOU DO THIS IF
9 THIS OCCURRED, AND I CAN'T -- AGAIN, I CAN'T
10 TRUTHFULLY -- I MEAN, I'M TRUTHFULLY ANSWERING THE
11 QUESTIONS, BUT I CAN'T SAY WHAT I WOULD OR WOULD NOT
12 DO

13 Q I UNDERSTAND THAT BECAUSE YOU DON'T KNOW ABOUT
14 THE CASE

15 A EXACTLY AND THAT'S THE WAY I'M TRYING TO
16 RESPOND TO THESE QUESTIONS

17 Q SURE IS IT SIMPLY FAIR TO SAY THAT YOU WOULD
18 BE WILLING TO CONSIDER ALL EVIDENCE THAT WOULD BE
19 OFFERED?

20 A YES

21 Q AND YOU WOULD CONSIDER IT ALL CAREFULLY BEFORE
22 YOU WOULD ARRIVE AT ANY DECISION IN THE CASE?

23 A YES, SIR

24 Q IS IT FAIR TO SAY THAT YOU UNDERSTAND THE
25 BURDEN OF PROOF IS UPON THE STATE, IT'S NOT UPON THE

1 DEFENDANT?

2 A THAT'S CORRECT

3 Q UNDERSTANDING THAT, WOULD YOU BE WILLING TO
4 CONSIDER ANY MITIGATING EVIDENCE OFFERED BY THE
5 DEFENDANT?

6 A YES, I WOULD

7 Q WOULD YOU CONSIDER IT CAREFULLY BEFORE YOU
8 ARRIVED AT YOUR DECISION AS TO THE APPROPRIATE FORM
9 OF PUNISHMENT THAT SHOULD BE IMPOSED?

10 A YES, SIR

11 Q AND DEPENDING UPON WHAT IT WAS, COULD YOU
12 CONSIDER BOTH FORMS OF THAT PUNISHMENT?

13 A YES, SIR

14 Q BEING THE DEATH PENALTY OR LIFE IMPRISONMENT?

15 A YES

16 THE COURT ANYTHING FURTHER?

17 MR JONES NOTHING FOR THE STATE, YOUR
18 HONOR

19 MR TINSLEY NO, YOUR HONOR

20 THE COURT LET ME ASK YOU IF YOU'LL JUST
21 STAND OUTSIDE THE DOOR FOR ONE MOMENT I'LL BRING
22 YOU BACK SHORTLY

23 (JUROR #38 DOES AS INSTRUCTED)

24 THE COURT ANY REASON WHY THE JUROR
25 SHOULD NOT BE FOUND QUALIFIED?

1 MR JONES NONE FOR THE STATE, YOUR
2 HONOR

3 MR TINSLEY YES, YOUR HONOR CLEARLY
4 HE CAN'T APPLY THE PROPER STANDARDS IN THE
5 MITIGATION PHASE HE'S GOING TO REQUIRE THE
6 DEFENDANT TO PROVE MITIGATION BEYOND A REASONABLE
7 DOUBT, WHICH IS NOT THE LAW FURTHER, HE'S NOT
8 QUALIFIED UNDER *MOORMAN VS ILLINOIS* 112 SUPREME
9 COURT 282 22 IN THE SENSE THAT HE CLEARLY IS PRO-
10 DEATH ALSO, UNDER *WITHERSPOON VS ILLINOIS*,
11 BASICALLY HE'S TESTIFIED THAT HE WOULD BE AUTOMATIC
12 DEATH PENALTY TYPE JUROR AND UNDER THE WITT CASE
13 IN *WEINWRIGHT VS WITT*, HE CLEARLY -- HIS
14 INCLINATIONS WOULD CLEARLY PREVENT AND SUBSTANTIALLY
15 IMPAIR HIS ABILITY TO PERFORM HIS DUTIES THAT'S
16 IT, YOUR HONOR

17 THE COURT WELL, BASED UPON THE
18 TESTIMONY GIVEN BY THE JUROR, I FIND THAT HE IS
19 QUALIFIED OBVIOUSLY, JUROR'S QUALIFICATIONS
20 CANNOT BE BASED UPON THE ANSWER TO ONE QUESTION OR
21 EVEN SOME NUMBER OF QUESTIONS TO WHETHER OR NOT A
22 JUROR IS QUALIFIED UNDER THE LAW MUST BE BASED UPON
23 THE ANSWERS TO ALL THE QUESTIONS TAKEN IN THE
24 CONTEXT OF THE ENTIRE VOIR DIRE, BOTH BY THE COURT
25 AND BY THE LAWYERS

1 MOST JURORS WHEN THEY COME IN HERE AND
2 THEY'RE ASKED QUESTIONS ABOUT LEGAL DEFINITIONS AND
3 LEGAL STANDARDS, THEY, OBVIOUSLY, DON'T HAVE THE
4 SAME FAMILIARITY WITH THOSE AS WE MIGHT AND,
5 THEREFORE, SOMETIMES THEY MISUNDERSTAND WHAT IS
6 MEANT BY THAT I SIMPLY THINK IN THIS CASE IT
7 APPEARS TO ME, FROM THE QUESTIONS I'VE ASKED, THAT
8 THE JUROR MISUNDERSTOOD THE QUESTION REGARDING ANY
9 BURDEN OF PROOF BY THE DEFENDANT REGARDING
10 MITIGATING EVIDENCE THAT HE THOUGHT THAT I HAD
11 STATED, AS HE INDICATED TO YOU, THAT THE JUDGE SAID
12 THIS OR THE JUDGE SAID THAT HE MISUNDERSTOOD
13 THINKING THAT WHEN ONE SIDE TENDS TO OFFER SOMETHING
14 OR PROVE SOMETHING, IT MUST BE ESTABLISHED BEYOND A
15 REASONABLE DOUBT I'VE INSTRUCTED HIM THAT THAT IS
16 NOT THE CASE AND BASED UPON THAT NOT BEING THE
17 STANDARD OF PROOF COULD HE STILL CONSIDER ALL THE
18 EVIDENCE FAIRLY BEFORE ARRIVING AT ANY DECISION AND
19 HE INDICATED THAT HE COULD

20 I FIND NO BIAS, PREJUDICE OR INTEREST
21 THAT THE WITNESS HAS THAT WOULD PREVENT HIM FROM
22 BEING ABLE TO SERVE AS A FAIR AND IMPARTIAL JUROR
23 HE HAS INDICATED HE COULD CONSIDER, UNDER THE
24 CIRCUMSTANCES OF ANY GIVEN CASE, BOTH FORMS OF
25 PUNISHMENT -- EXCUSE ME, BOTH FORMS OF VERDICTS AS

1 TO GUILT AND BOTH FORMS OF PUNISHMENT IN THE PENALTY
2 PHASE OF THE TRIAL AND, THEREFORE, FIND NO REASON
3 WHY HE SHOULD NOT BE QUALIFIED

4 MR TINSLEY PLEASE NOT MY EXCEPTION,
5 YOUR HONOR

6 THE COURT ASK MR CARTER TO COME IN
7 MR CARTER, YOU ARE QUALIFIED TO SERVE AS A JUROR IN
8 THIS CASE IT DOESN'T MEAN YOU'VE BEEN SELECTED, IT
9 SIMPLY MEANS THAT YOU WILL BE IN THAT LARGER POOL
10 FROM WHICH THE ACTUAL JURORS WILL BE SELECTED THAT
11 WILL SERVE IN THE CASE SO WE NEED TO GET ANY AND
12 ALL PHONE NUMBERS WHERE WE CAN LOCATE YOU ON SHORT
13 NOTICE SO THAT YOU CAN COME BACK AT A FUTURE TIME IN
14 ORDER TO PARTICIPATE IN THAT SELECTION PROCESS

15 MR CARTER, LET ME, ALSO, REMIND YOU TO
16 CONTINUE WITH MY INSTRUCTION THAT IS YOU'RE NOT TO
17 DISCUSS THE CASE, IN ANY FASHION, WITH ANY PERSON
18 YOU'RE, ALSO, NOT TO ALLOW YOURSELF TO BE EXPOSED TO
19 ANY TYPE OF MEDIA COVERAGE THAT RELATES TO THE CASE
20 WE'LL CALL YOU JUST AS SOON AS WE GET CONCLUDED IN
21 THIS PROCESS

22 (JUROR #38 EXITS COURTROOM)

23 (JUROR #38 IS QUALIFIED)

24 (OFF THE RECORD)

25 (THE COURT CALLS MR FREESE)

1 (JUROR #68 PRESENTED AT 12 00 NOON O'CLOCK A M)

2 EXAMINATION BY THE COURT

3 Q GOOD MORNING, MR FREESE WE'RE RUNNING A
4 LITTLE BIT BEHIND SO WE APOLOGIZE FOR THAT DELAY
5 YOU WILL RECALL WHEN YOU REPORTED WITH YOUR FELLOW
6 JURORS YOU WERE PLACED UNDER OATH AND YOU REMAIN
7 UNDER OATH FOR THE PURPOSE OF THESE PROCEEDINGS,
8 ALSO, AND THESE QUESTIONS

9 I HAVE A COPY OF YOUR QUESTIONNAIRE YOU
10 INDICATED THAT IT WAS COMPLETE AND THAT IT WAS
11 ACCURATE, IS THAT CORRECT?

12 A TO THE BEST OF MY ABILITY, YES, SIR

13 Q AND YOU, ALSO, RECALL INDICATING YOU HAD
14 RECEIVED MY INSTRUCTION ABOUT NOT DISCUSSING THE
15 CASE AND READING ANY NEWSPAPER ARTICLES OR LOOKING
16 AT ANYTHING ON TELEVISION?

17 A YES, SIR

18 Q HAVE YOU COMPLIED WITH THAT REQUEST?

19 A YES, SIR

20 Q WERE YOU EXPOSED TO ANYTHING LIKE THAT PRIOR
21 TO GETTING THE LETTER?

22 A NOTHING OTHER THAN WHAT WOULD HAVE APPEARED IN
23 THE PAPER A COUPLE YEARS AGO

24 Q DO YOU RECALL WHAT YOU MIGHT HAVE READ IN THE
25 PAPER, IF YOU DID?

1 A NO, SIR

2 Q NOW, THIS IS A CRIMINAL CASE YOU UNDERSTAND
3 WHEN A PERSON'S CHARGED WITH A CRIME THAT THE BURDEN
4 IS ALWAYS UPON THE STATE BECAUSE THEY BRING THE
5 ALLEGATION OR CHARGE TO PROVE THE PERSON GUILTY
6 BEYOND A REASONABLE DOUBT BEFORE THAT PERSON COULD
7 BE FOUND GUILTY?

8 A YES, SIR

9 Q YOU UNDERSTAND THAT THE BURDEN IS NEVER UPON A
10 PERSON CHARGED WITH A CRIME TO PROVE THAT THEY ARE
11 NOT GUILTY OR TO PROVE THAT THEY ARE INNOCENT?

12 A YES, SIR

13 Q YOU UNDERSTAND THAT A PERSON CHARGED WITH A
14 CRIME MAY NOT EVEN OFFER ANY EVIDENCE IN A CASE
15 BECAUSE THE BURDEN IS THE STATE TO ESTABLISH THEIR
16 GUILTY BEYOND A REASONABLE DOUBT

17 A YES, SIR

18 Q DO YOU UNDERSTAND A PERSON IS ALWAYS PRESUMED
19 INNOCENT UNLESS THE STATE MEETS THAT BURDEN OF
20 PROOF?

21 A YES, SIR

22 Q DO YOU ACCEPT THOSE PROPOSITIONS OF LAW?

23 A YES, SIR

24 Q NOW, IN THIS CASE, THE DEFENDANT IS CHARGED
25 WITH THE CRIME OF MURDER AND UNDER THE LAW OF THIS

1 STATE, UNDER SOME CIRCUMSTANCES, THE STATE IS
2 PERMITTED TO SEEK THE DEATH PENALTY AGAINST A PERSON
3 WHO HAS BEEN CONVICTED OR FOUND GUILTY OF A CRIME OF
4 MURDER THOSE CIRCUMSTANCES ARE SET FORTH IN A
5 STATUTE THAT PROVIDES THAT WHERE A PERSON IS
6 CONVICTED OF A CRIME OF MURDER AND SOME ADDITIONAL
7 STATUTORY AGGRAVATING CIRCUMSTANCE IS PROVEN BEYOND
8 A REASONABLE DOUBT, THEN THE STATE IS PERMITTED TO
9 SEEK THE DEATH PENALTY, BUT THE JURY STILL MAKES
10 THAT DECISION THE JURY IS NEVER REQUIRED TO IMPOSE
11 THAT SENTENCE, NO MATTER WHAT THE FACTS ARE, DO YOU
12 UNDERSTAND THAT?

13 A YES, SIR

14 Q NOW, BECAUSE -- THERE ARE TWO DIFFERENT
15 ISSUES THERE'S AN ISSUE OF GUILT AND AN ISSUE OF
16 PUNISHMENT THOSE HEARINGS TO DECIDE THOSE MATTERS
17 ARE CONDUCTED SEPARATELY THE TRIAL IS A BIFURCATED
18 PROCESS, THE ISSUE OF GUILT IS DETERMINED FIRST AND
19 IF A PERSON IS FOUND GUILTY BEYOND A REASONABLE
20 DOUBT OF MURDER, AND AN AGGRAVATING CIRCUMSTANCE
21 HAS, ALSO, BEEN PROVEN BEYOND A REASONABLE DOUBT, WE
22 WOULD PROCEED TO A SUBSEQUENT HEARING CONDUCTED
23 SHORTLY AFTER THE FIRST WHERE ISSUES RELATING TO
24 PUNISHMENT WOULD BE ADDRESSED AND ADDITIONAL
25 EVIDENCE WOULD BE RECEIVED

1 NOW, IF YOU WERE SELECTED TO SERVE IN THE
2 TRIAL OF THE CASE AND YOU WERE INVOLVED IN THE GUILT
3 PHASE OF THAT TRIAL, EVIDENCE WOULD BE PRESENTED
4 RELATING TO THAT ISSUE IF YOU WERE CONVINCED
5 BEYOND A REASONABLE DOUBT THAT THE EVIDENCE
6 SUPPORTED A VERDICT OF GUILTY, COULD YOU RETURN A
7 VERDICT OF GUILTY?

8 A YES, SIR

9 Q IF YOU HAD SOME REASONABLE DOUBT AS TO WHETHER
10 OR NOT THE DEFENDANT HAD BEEN PROVEN TO BE GUILTY,
11 WOULD YOU RETURN A VERDICT OF NOT GUILTY?

12 A REASONABLE DOUBT?

13 Q IF YOU HAD A REASONABLE DOUBT, YES

14 A I COULD, YES

15 Q NOW, I WANT YOU TO ASSUME FOR THE PURPOSE OF
16 THIS QUESTION AND ASSUME IT FOR THIS QUESTION ONLY,
17 THAT YOU ARE PARTICIPATING IN THE TRIAL OF THE
18 CASE, THAT YOU AND YOUR FELLOW JURORS HAVE LISTENED
19 TO THE EVIDENCE IN A CASE AND YOU HAVE DETERMINED
20 THAT THE EVIDENCE SUPPORTS A VERDICT OF GUILTY
21 BEYOND A REASONABLE DOUBT AND YOU HAVE FOUND A
22 PERSON TO BE GUILTY OF MURDER BEYOND A REASONABLE
23 DOUBT

24 ASSUME, ALSO, THAT YOU FIND SOME AGGRAVATING
25 CIRCUMSTANCES TO HAVE BEEN ESTABLISHED BEYOND A

1 REASONABLE DOUBT IN THAT EVENT, WE WOULD PROCEED
2 TO THE PENALTY PORTION OR PENALTY PHASE OF THAT
3 TRIAL, IT'S DURING THAT SECOND PHASE, THE PENALTY
4 PHASE, THAT ADDITIONAL EVIDENCE WOULD BE RECEIVED
5 THERE WOULD BE EVIDENCE OFFERED IN AGGRAVATION OF
6 PUNISHMENT, THERE WOULD BE EVIDENCE OFFERED IN
7 MITIGATION OF PUNISHMENT THAT SIMPLY MEANS THERE
8 WOULD BE EVIDENCE OFFERED WHICH MIGHT TEND TO
9 SUPPORT THE MORE SEVERE PUNISHMENT AS THE
10 APPROPRIATE PENALTY, THAT BEING THE DEATH PENALTY
11 AND THEN THERE MIGHT BE EVIDENCE OFFERED TENDING TO
12 SUPPORT THE LESS SEVERE PUNISHMENT AS BEING MORE
13 APPROPRIATE, THAT BEING THE SENTENCE OF LIFE
14 IMPRISONMENT DO YOU UNDERSTAND HOW THAT WORKS, THE
15 TWO SEPARATE HEARINGS?

16 A YES, SIR

17 Q NOW, IN THAT SECOND HEARING, AS I INDICATED TO
18 YOU, ADDITIONAL EVIDENCE WOULD BE RECEIVED WOULD
19 YOU BE ABLE AND WILLING TO CONSIDER ALL OF THAT
20 ADDITIONAL EVIDENCE IN AGGRAVATION AND IN MITIGATION
21 BEFORE YOU MADE A DECISION AS TO THE APPROPRIATE
22 SENTENCE?

23 A YES, SIR

24 Q DEPENDING UPON WHAT ALL THAT EVIDENCE WAS,
25 AFTER YOU HAD CONSIDERED IT ALL, IF YOU DETERMINED

1 THAT IT WAS APPROPRIATE UNDER THOSE CIRCUMSTANCES,
2 COULD YOU SENTENCE A PERSON TO DEATH?

3 A I BELIEVE I COULD, YES, SIR

4 Q COULD YOU, ALSO, SENTENCE A PERSON TO LIFE
5 IMPRISONMENT?

6 A YES, SIR

7 Q WOULD THE DECISION DEPEND UPON THE
8 CIRCUMSTANCES?

9 A YES, SIR

10 Q DO YOU UNDERSTAND THAT THE JURY WILL ALWAYS
11 HAVE A CHOICE IN THE MATTER?

12 A YES, SIR

13 Q DO YOU UNDERSTAND THAT WHILE THE LAW PERMITS
14 THE STATE TO SEEK THE DEATH PENALTY, UNDER THOSE
15 CIRCUMSTANCES AS I HAVE DESCRIBED, THAT THE LAW
16 NEVER REQUIRES THAT A DEATH SENTENCE BE IMPOSED,
17 EVEN IF MURDER IS PROVEN, EVEN IF AN AGGRAVATING
18 CIRCUMSTANCES IS PROVEN THE JURY STILL HAS THE
19 CHOICE TO IMPOSE IT OR NOT, DO YOU UNDERSTAND THAT?

20 A YES, SIR

21 Q SO WHILE ONLY, UNDER CERTAIN CIRCUMSTANCES,
22 CAN THE STATE SEEK IT, THE JURY IS NEVER UNDER ANY
23 CIRCUMSTANCES REQUIRED TO IMPOSE THE DEATH SENTENCE
24 AND YOU MAY IMPOSE A LIFE SENTENCE FOR ANY REASON OR
25 FOR NO REASON, DO YOU UNDERSTAND THAT?

1 A YES, SIR

2 Q GIVING THE FACT THAT YOU WOULD ALWAYS HAVE
3 THAT CHOICE, WOULD YOU CHOSE ONE OF THOSE OPTIONS
4 OVER THE OTHER IN EVERY CASE?

5 A NO, SIR IT WOULD HAVE TO BE BASED ON THE
6 SITUATION

7 Q IT WOULD DEPEND UPON THE FACTS AND
8 CIRCUMSTANCES?

9 A YES, SIR

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

13 A NO, SIR

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

16 A NO, SIR

17 Q YOU WERE INFORMED EARLIER THAT IT WOULD BE
18 NECESSARY THAT YOU BE SEQUESTERED IF YOU WERE
19 SELECTED AS A JUROR AND YOU INDICATED THAT, I
20 BELIEVE, AS I RECALL, THAT WHILE THAT MAY POSE SOME
21 INCONVENIENCE OR HARDSHIP THAT YOU WOULD BE WILLING
22 TO ACCEPT THAT HARDSHIP AND INCONVENIENCE IF YOU
23 WERE ACTUALLY SELECTED TO SERVICE IS THAT STILL
24 YOUR OPINION?

25 A YES, SIR

1 Q AND YOU WOULD BE WILLING TO SERVE IF CALLED
2 UPON?

3 A YES, SIR

4 Q DO YOU KNOW OF REASON WHY YOU SHOULD NOT SERVE
5 IF SELECTED?

6 A NO, SIR

7 THE COURT PLEASE ANSWER ANY QUESTIONS
8 THE LAWYERS MAY HAVE FOR YOU
9 EXAMINATION BY MR TINSLEY

10 Q GOOD AFTERNOON, MR FREESE

11 A GOOD AFTERNOON

12 Q MR FREESE, THE OTHER DAY DURING QUESTIONING,
13 I BELIEVED YOU MENTIONED A WORK CONFLICT AND WE
14 DISCUSSED THAT IN SOME MORE DETAIL AT THAT TIME, IS
15 THAT CORRECT?

16 A YES, SIR

17 Q BUT YOU THINK NOW YOU'LL BE ABLE TO OVERCOME
18 THAT?

19 A I DIDN'T THINK I HAD A CHOICE I'M TRYING TO
20 MAKE ARRANGEMENTS, YES

21 Q I SEE AND, ALSO, I BELIEVE YOU STOOD ON THE
22 ISSUE OF MEDIA AND OTHER EXPOSURE IN THE CASE BUT I
23 BELIEVE THE JUDGE ASKED YOU ABOUT THAT JUST A MINUTE
24 AGO, IS THAT CORRECT? DID YOU STAND ON THAT ISSUE?

25 A I'M NOT SURE WHAT YOU MEAN

1 Q WHEN YOU ARE HERE AND THE JUDGE ASKED IF
2 ANYBODY HAD READ ANYTHING OR HEARD ANYTHING, I
3 BELIEVE YOU STOOD

4 A YES, SIR

5 Q I MAY BE MISTAKEN

6 A I DID STAND, YES

7 Q SO I JUST WANT TO ASK YOU A LITTLE BIT ABOUT
8 THAT WHAT WAS THE NATURE OF THAT AGAIN?

9 A THE INDICATION THAT I MADE, I BELIEVE, WAS
10 THAT MY DAUGHTER ATTENDED HIGH SCHOOL -- WAS IN THE
11 SAME CLASS WITH ONE OF THE VICTIMS

12 Q AND THAT WAS A JACKSON -- A MS JACKSON?

13 A YES, SIR

14 Q AND DO YOU KNOW THE JACKSONS?

15 A NO, SIR

16 Q DID YOUR DAUGHTER TALK ABOUT IT?

17 A NO, NOT TO ANY EXTENT, NO

18 Q NOT TO ANY EXTENT BUT SHE MENTIONED WITH YOU?

19 A YES, SIR

20 Q AND DO YOU FEEL THAT THAT IN ANY WAY WOULD
21 AFFECT YOUR DECISION MAKING SKILLS IN THIS CASE?

22 A NO, SIR

23 Q AND, FURTHER, WHAT ABOUT THE HARRIS FAMILY, DO
24 YOU KNOW THEM?

25 A NO, SIR

1 Q AND THE HUGHEY FAMILY, DO YOU KNOW THEM?

2 A NO, SIR

3 Q YOU LIVE OVER ON GREENVILLE STREET, IS THAT
4 CORRECT?

5 A THAT'S CORRECT

6 Q AND, I BELIEVE, THE INCIDENT LOCATION IS VERY
7 CLOSE TO YOUR HOME, IS THAT CORRECT?

8 A THAT'S CORRECT

9 Q AND, I BELIEVE, THAT YOU MENTIONED THAT THE
10 OTHER DAY?

11 A YES, SIR

12 Q I THINK YOU USED THE TERM TWO BLOCKS, I
13 BELIEVE IT WAS

14 A RIGHT

15 Q IS THAT ABOUT RIGHT?

16 A YES, SIR

17 Q AND WOULD THAT IN ANY WAY AFFECT YOUR ABILITY
18 TO REMAIN OBJECTIVE THROUGHOUT THE COURSE OF THESE
19 PROCEEDINGS?

20 A NO, SIR

21 Q AND IF THE JUDGE GAVE YOU, FOR INSTANCE ON
22 COUNT ONE OF THE INDICTMENT, THE OPTION BETWEEN
23 GUILTY OF MURDER OR GUILTY OF VOLUNTARY MANSLAUGHTER
24 OR NOT GUILTY, COULD YOU CONSIDER AND EVALUATE ALL
25 THREE VERDICTS IN YOUR DELIBERATIONS?

1 A YES, SIR

2 Q AND WOULD YOU BE ABLE TO BASE YOUR VERDICT
3 UPON THE FACTS AND EVIDENCE AND THE LAW AS GIVEN TO
4 YOU BY THE JUDGE?

5 A YES, SIR

6 Q AND ASSUMING THAT ONE WERE CONVICTED OF TWO
7 MURDERS AND A BURGLARY, AGGRAVATED CIRCUMSTANCES,
8 THAT SORT OF THING, WOULD YOU STILL BE ABLE TO
9 SENTENCE THE INDIVIDUAL TO A LIFE SENTENCE OR
10 CONSIDER A LIFE SENTENCE?

11 A IT WOULD CERTAINLY BE CONSIDERED, YES

12 Q YOU WOULD STILL CONSIDER A LIFE SENTENCE?

13 A YES, SIR

14 Q SO YOU WOULD KEEP AN OPEN MIND THROUGHOUT THE
15 PROCEEDINGS?

16 A YES, SIR

17 Q WOULD YOU AS A MATTER OF PERSONAL OPINION IN A
18 CASE, WOULD YOU FAVOR, AND I'M NOT ASKING THE SAME
19 QUESTION THE JUDGE DID ABOUT ALL THINGS, WOULD YOU
20 FAVOR A DEATH SENTENCE OR A LIFE SENTENCE, ONE OVER
21 THE OTHER, IN A CASE SUCH AS THAT?

22 A NO, SIR

23 Q SO YOU WOULD REMAIN NEUTRAL ON THAT ISSUE,
24 TOO?

25 A YES, SIR

1 Q AND YOU WOULD HAVE TO HEAR ALL THE
2 CIRCUMSTANCES, IS THAT CORRECT?

3 A YES, SIR

4 Q AND THE JUDGE MENTIONED THE FINDING OF AN
5 AGGRAVATING CIRCUMSTANCE, WOULD YOU, ALSO, KEEP AN
6 OPEN MIND AND LISTEN TO ANY MITIGATING CIRCUMSTANCES
7 OFFERED BY A DEFENDANT IN SUCH A CASE?

8 A YES, SIR

9 Q AND YOU UNDERSTAND WHAT I MEAN BY MITIGATING
10 CIRCUMSTANCES, DO YOU NOT?

11 A I THINK SO, YES

12 Q WOULD IT BE FAIR TO SAY THAT MITIGATING
13 CIRCUMSTANCES WOULD BE GOOD ASPECTS ABOUT THE
14 DEFENDANT, PROBLEMS THE DEFENDANT HAD, HIS WHOLE
15 BACKGROUND WHICH WOULD MAKE THAT INDIVIDUAL ROUGH,
16 SO TO SPEAK?

17 A YES, SIR

18 Q AND YOU UNDERSTOOD IT IN THOSE TERMS AND YOU
19 WOULD BE ABLE TO CONSIDER THAT INDIVIDUAL AND HIS
20 MITIGATING CIRCUMSTANCES THROUGHOUT THE PROCEEDINGS,
21 IS THAT CORRECT?

22 A YES, SIR

23 Q AND YOU WOULD INDEED FACTOR THAT INTO YOUR
24 RECOMMENDED SENTENCE, WOULD YOU NOT?

25 A YES, SIR

1 MR TINSLEY THANKS SO MUCH, MR FREESE
2 EXAMINATION BY MR JONES

3 Q WELL, IT'S NOW THE AFTERNOON, MR FREESE AND I
4 EXTEND TO YOU MY GOOD AFTERNOON MY NAME IS TOWNES
5 JONES AND I'M YOUR SOLICITOR, PROSECUTOR IN THIS
6 CASE THIS IS MICHAEL COULTER, HE'S YOUR CHIEF
7 DEPUTY SOLICITOR AND HE'LL BE PUTTING A LOT OF THE
8 EVIDENCE IN FOR THE WITNESSES AND THAT SORT OF THING
9 WHEN WE START THE TRIAL I'D LIKE TO TELL YOU THAT
10 WE UNDERSTAND INCONVENIENCE THAT THIS SERVICE IS AND
11 HOPE YOU UNDERSTAND THAT WE APPRECIATE YOUR
12 WILLINGNESS TO COME FORWARD AND PARTICIPATE IN THIS
13 PROCESS

14 A YES, SIR

15 MR JONES I DON'T HAVE ANY QUESTIONS
16 FOR YOU

17 THE COURT MR FREESE, IF YOU'LL STAND
18 DOWN AND STEP OUT THE DOOR FOR JUST A MINUTE, WE'LL
19 BRING YOU RIGHT BACK

20 (JUROR #68 DOES AS INSTRUCTED)

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

23 MR JONES NONE FOR THE STATE, YOUR
24 HONOR

25 MR TINSLEY NO, YOUR HONOR

1 THE COURT HE IS SO QUALIFIED

2 MR FREESE, YOU ARE QUALIFIED TO SERVE ON
3 THE PANEL FROM WHICH THE ACTUAL JURORS WILL BE
4 SELECTED THAT DOESN'T MEAN THAT YOU ARE SERVING,
5 IT JUST SIMPLY MEANS THAT YOU HAVE THE POTENTIAL OF
6 BEING SELECTED WE ARE GOING TO EXCUSE YOU AT THIS
7 TIME BEFORE YOU GO, I NEED FOR YOU TO GIVE THE
8 CLERK ANY AND ALL PHONE NUMBERS WHERE YOU CAN BE
9 REACHED SO THAT WHEN WE NEED TO CALL YOU ON SHORT
10 NOTICE, YOU WILL BE ABLE TO COME BACK FOR THE
11 PURPOSE OF THAT JURY SELECTION

12 I, ALSO, REMIND YOU THAT YOU ARE TO
13 CONTINUE FOLLOWING PRECAUTIONARY INSTRUCTIONS THAT I
14 HAD GIVEN YOU EARLIER NOT TO DISCUSS THIS CASE WITH
15 ANYONE, NOT TO PUT YOURSELF IN A POSITION TO
16 OVERHEAR ANY CONVERSATIONS OR DISCUSSIONS, AND NOT
17 TO ALLOW YOURSELF TO BE EXPOSED TO ANY TYPE OF MEDIA
18 COVERAGE RELATING TO THE CASE

19 IF YOU'LL GIVE THE CLERK THOSE PHONE
20 NUMBERS, THEN WE'LL LET YOU BE EXCUSED AND WE'LL
21 CALL YOU WHEN WE NEED YOU TO COME BACK THANK YOU

22 JUROR FREESE DO YOU HAVE ANY IDEA WHAT
23 TIME FRAME WE'RE TALKING ABOUT?

24 THE COURT WELL, YOU CAN GO -- FOLLOW
25 YOUR REGULAR SCHEDULE, GO TO WORK AND THAT SORT OF

1 THING I'M HOPING THAT PERHAPS SOMETIME TOMORROW,
2 IT MIGHT BE WEDNESDAY I REALLY CAN'T GUESS FOR
3 CERTAIN BUT TOMORROW OR WEDNESDAY LIKELY YOU'LL BE
4 CALLED BUT IF WE CAN GET YOU AT WORK OR AT HOME,
5 THAT'S FINE SO LONG AS YOU CAN GET HERE WITHIN A
6 REASONABLE PERIOD OF TIME

7 (JUROR #68 EXITS COURTROOM)

8 (JUROR #68 IS QUALIFIED)

9 (THE COURT CALLS MS CANFIELD)

10 (JUROR #181 PRESENTED AT 12 19 O'CLOCK P M)

11 EXAMINATION BY THE COURT

12 Q MS CANFIELD, IF YOU'LL HAVE A SEAT RIGHT
13 THERE, PLEASE, MA'AM MS CANFIELD, DO YOU RECALL
14 FRIDAY WHEN YOU AND YOUR FELLOW JURORS STOOD AND
15 WERE PLACED UNDER OATH?

16 A YES

17 Q YOU REMAIN UNDER OATH FOR THE PURPOSE OF THESE
18 QUESTIONS, ALSO AS I TOLD YOU, WE'RE GOING TO BE
19 ASKING YOU SOME QUESTIONS YOUR ANSWER CANNOT BE
20 RIGHT OR WRONG WE JUST SIMPLY NEED YOU TO ANSWER
21 THE QUESTIONS AS BEST AS YOU CAN SO THAT WE CAN
22 UNDERSTAND WHAT YOUR VIEWS AND OPINIONS ARE AS THEY
23 RELATE TO THE PARTICULAR QUESTIONS THAT WE ARE
24 ASKING YOU TO RESPOND TO

25 IN A CASE WHERE A PERSON IS CHARGED WITH A --

1 LET ME ASK YOU ABOUT INSTRUCTIONS YOU INDICATED
2 THAT YOU HAD RECEIVED MY LETTER INSTRUCTING YOU NOT
3 TO DISCUSS THE CASE OR HAVE ANY EXPOSURE TO MEDIA
4 COVERAGE

5 A RIGHT

6 Q HAVE YOU COMPLIED WITH THAT INSTRUCTION?

7 A YES

8 Q AND HAVE YOU HAD ANY EXPOSURE TO ANY NEWSPAPER
9 ARTICLE OR TV REPORT?

10 A JUST WHEN IT FIRST STARTED, YOU KNOW, I HEARD
11 PEOPLE TALKING THAT IT HAPPENED AND THAT WAS ABOUT
12 IT

13 Q ALL THAT OCCURRED PRIOR TO YOUR RECEIVING MY
14 LETTER?

15 A RIGHT

16 Q IS THERE ANYTHING THAT YOU HEARD IN THOSE
17 CONVERSATIONS, IF YOU RECALL IT OR ANYTHING THAT YOU
18 MIGHT HAVE SEEN IN THE MEDIA, IF YOU RECALL IT, THAT
19 WOULD PREVENT YOU FROM BEING ABLE TO BE FAIR AND
20 IMPARTIAL IF YOU WERE SELECTED TO PARTICIPATE IN
21 THIS CASE?

22 A NO

23 Q COULD YOU PUT IT ASIDE AND BASE YOUR DECISIONS
24 SOLELY UPON THE EVIDENCE RECEIVED HERE DURING THE
25 TRIAL OF THE CASE?

1 A YES

2 Q IS EVERYTHING IN YOUR QUESTIONNAIRE CORRECT,
3 IS THERE ANYTHING THAT NEEDS TO BE CHANGED OR ADDED?

4 A NO

5 Q NOW, WHEN A PERSON IS CHARGED WITH A CRIME, AS
6 IN THIS CASE, THE STATE HAS ALLEGED THAT THE
7 DEFENDANT COMMITTED A CRIME OF MURDER ANY TIME THE
8 STATE ALLEGES A CRIME AGAINST AN INDIVIDUAL, THE
9 BURDEN IS ON THE STATE TO ESTABLISH THEIR GUILT
10 BEYOND A REASONABLE DOUBT BEFORE THEY CAN BE FOUND
11 GUILTY THE JURY MAKES THAT DECISION THE BURDEN
12 IS NEVER UPON THE DEFENDANT CHARGED WITH A CRIME TO
13 PROVE THAT THEY ARE NOT GUILTY OR TO PROVE THAT
14 THEY'RE INNOCENT THE BURDEN'S ON THE STATE AND,
15 IN FACT, WHEN A PERSON IS CHARGED WITH A CRIME,
16 THEY'RE PRESUMED TO BE INNOCENT UNLESS THE STATE
17 SATISFIES THE JURY BEYOND A REASONABLE DOUBT THAT
18 THE PERSON IS GUILTY OF THAT CRIME DO YOU
19 UNDERSTAND THAT PROPOSITION OF LAW?

20 A YES

21 Q DO YOU AGREE WITH IT?

22 A YES

23 Q IN THIS CASE, THE DEFENDANT IS CHARGED WITH
24 MURDER THE LAW PROVIDES UNDER CERTAIN
25 CIRCUMSTANCES, IF A PERSON IS FOUND GUILTY OF THE

1 CRIME OF MURDER BEYOND A REASONABLE DOUBT AND IF
2 SOME AGGRAVATING CIRCUMSTANCE ACCOMPANYING THAT
3 MURDER IS PROVEN BEYOND A REASONABLE DOUBT, THE
4 STATE IS PERMITTED TO SEEK THE DEATH PENALTY THAT
5 DOESN'T MEAN THAT IT IS IMPOSED, IT MEANS THE MAY
6 SEEK IT, THE JURY MAKES THAT DECISION

7 NOW, A CASE WHERE THE STATE SEEKS THE DEATH
8 PENALTY IS CONDUCTED IN TWO SEPARATE STAGES THE
9 FIRST STAGE RELATES TO THE ISSUE OF GUILTY, THE
10 SECOND STAGE RELATES TO THE ISSUE OF PUNISHMENT
11 YOU NEVER GO TO THE PENALTY PHASE, UNLESS IN THE
12 GUILT PHASE, THE JURY FINDS A PERSON GUILTY OF
13 MURDER BEYOND A REASONABLE DOUBT AND SOME STATUTORY
14 AGGRAVATING CIRCUMSTANCE HAS BEEN PROVEN BEYOND A
15 REASONABLE DOUBT, DO YOU UNDERSTAND THAT?

16 A YES

17 Q NOW, IF YOU WERE PARTICIPATING IN SUCH A CASE,
18 COULD YOU CONSIDER ALL OF THE EVIDENCE THAT WOULD BE
19 RECEIVED DURING THE TRIAL OF THE CASE FAIRLY?

20 A YES

21 Q IF THAT EVIDENCE CONVINCED YOU BEYOND A
22 REASONABLE DOUBT THAT THE PERSON WAS GUILTY, COULD
23 YOU FIND THAT PERSON GUILTY?

24 A YES

25 Q IF YOU HAD SOME REASONABLE DOUBT AS TO WHETHER

1 OR NOT IT PROVED THAT PERSON GUILTY, WOULD YOU FIND
2 THAT 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 HAVE BEEN
6 PARTICIPATING, YOU AND YOUR FELLOW JURORS HAVE FOUND
7 THE PERSON GUILTY OF MURDER BEYOND A REASONABLE
8 DOUBT YOU FIND NO STATUTORY AGGRAVATING
9 CIRCUMSTANCE BEYOND A REASONABLE DOUBT IN THAT
10 EVENT, WE WOULD GO TO THE SECOND PHASE OF THE TRIAL,
11 THE PENALTY PHASE

12 DURING THAT STAGE OF THE TRIAL, THERE WOULD BE
13 ADDITIONAL EVIDENCE RECEIVED THAT EVIDENCE WOULD
14 RELATE TO AGGRAVATING EVIDENCE AND MITIGATION
15 EVIDENCE OR FACTS THAT MIGHT AGGRAVATE THE
16 PUNISHMENT OR FACTS THAT MITIGATE THE PUNISHMENT
17 THAT SIMPLY MEANS THAT EVIDENCE WILL BE PRESENTED
18 THAT MIGHT TEND TO SUPPORT THE MORE SEVERE
19 PUNISHMENT AS BEING APPROPRIATE, THE DEATH PENALTY
20 OR EVIDENCE AND EVIDENCE THAT MIGHT TEND TO SUPPORT
21 THE LESS SEVERE PUNISHMENT BEING IMPOSED, THAT BEING
22 LIFE IMPRISONMENT IF YOU WERE CALLED UPON TO
23 PARTICIPATE, WOULD YOU BE WILLING AND ABLE TO
24 CAREFULLY CONSIDER ALL EVIDENCE AS IT RELATES TO
25 BOTH AGGRAVATION AND MITIGATION?

1 A YES

2 Q AND BEFORE YOU MADE UP YOUR MIND AND YOUR
3 DECISION AS TO THE APPROPRIATE PUNISHMENT, WOULD YOU
4 BE WILLING TO CONSIDER ALL OF THE EVIDENCE IN THE
5 CASE, BOTH THAT RELATES TO THE CRIMES THEMSELVES
6 THAT RELATES TO THE DEFENDANT HIMSELF, THAT RELATES
7 TO AGGRAVATING AND MITIGATING FACTORS?

8 A YES

9 Q AFTER YOU HAD CONSIDERED ALL THAT EVIDENCE,
10 WOULD YOU BE ABLE TO SENTENCE A PERSON TO DEATH IF
11 YOU THOUGHT IT WAS APPROPRIATE?

12 A YES

13 Q WOULD YOU BE ABLE TO SENTENCE A PERSON TO LIFE
14 IMPRISONMENT IF YOU THOUGHT THAT TO BE APPROPRIATE?

15 A YES

16 Q DO YOU UNDERSTAND THAT YOU WOULD ALWAYS HAVE
17 THAT CHOICE?

18 A YES

19 Q DO YOU UNDERSTAND THE JURY MAKES THE DECISION
20 AS TO WHETHER OR NOT A DEATH SENTENCE OR A LIFE
21 SENTENCE IS MORE APPROPRIATE UNDER THE
22 CIRCUMSTANCES?

23 A YES

24 Q DO YOU UNDERSTAND THAT EVEN IF YOU'RE
25 CONVINCED THE DEFENDANT IS GUILTY OF MURDER BEYOND A

1 REASONABLE DOUBT AND EVEN IF YOU'RE CONVINCED AN
2 AGGRAVATING CIRCUMSTANCE HAS BEEN PROVEN BEYOND A
3 REASONABLE DOUBT AND, THEREFORE, THE STATE HAS THE
4 RIGHT TO SEEK THE DEATH PENALTY, DO YOU UNDERSTAND
5 THAT EVEN UNDER THOSE CIRCUMSTANCES, THE LAW NEVER
6 REQUIRES THAT YOU SENTENCE A PERSON TO DEATH?

7 A YES

8 Q YOU UNDERSTAND YOU ALWAYS HAVE THAT CHOICE?

9 A YES

10 Q AND YOU COULD SENTENCE A PERSON TO LIFE FOR
11 SOME REASON OR FOR NO REASON NOW, IF YOU HAD THAT
12 CHOICE, WOULD YOU ALWAYS CHOSE ONE OF THOSE OPTIONS
13 OVER THE OTHER?

14 A I DON'T UNDERSTAND WHAT YOU'RE SAYING

15 Q WELL, AFTER YOU HAD CONSIDERED ALL OF THE
16 EVIDENCE AND YOU HAD FOUND A PERSON TO BE GUILTY OF
17 MURDER AND YOU HAD FOUND THE PERSON -- FOUND SOME
18 AGGRAVATING CIRCUMSTANCE ACCOMPANYING THAT MURDER
19 AND AFTER YOU HAD CONSIDERED THE EVIDENCE IN
20 AGGRAVATION AND IN MITIGATION, WOULD YOU CHOSE ONE
21 OF THOSE OPTIONS OVER THE OTHER IN EVERY CASE?

22 A PROBABLY

23 Q WHAT WOULD YOU SELECT?

24 A PROBABLY LIFE

25 Q YOU UNDERSTAND THAT YOU WOULD ALWAYS HAVE THAT

1 CHOICE?

2 A YES

3 Q YOU COULD ALWAYS CHOSE LIFE FOR NO REASON, DO
4 YOU UNDERSTAND THAT?

5 A YES

6 Q CAN YOU THINK OF A SITUATION WHERE YOU WOULD
7 BE WILLING TO SENTENCE A PERSON TO DEATH?

8 A I'D HAVE TO HEAR IT ALL

9 Q WELL, THAT'S ALL I'M ASKING

10 A I'D HAVE TO HEAR IT ALL I DON'T KNOW I'D
11 HAVE TO HEAR IT ALL

12 Q SO DEPENDING UPON WHAT THE CIRCUMSTANCES ARE,
13 YOU COULD CONSIDER AND YOU WOULD BE ABLE TO SENTENCE
14 A PERSON TO DEATH IF YOU THOUGHT THE CIRCUMSTANCES
15 WARRANTED THAT DECISION?

16 A IF IT WARRANTED IT, YES

17 Q NOW, DO YOU UNDERSTAND THAT IF YOU MADE THAT
18 DECISION, YOU AND YOUR FELLOW JURORS WOULD DECIDE
19 THE ISSUE OF PUNISHMENT AND IF YOU DECIDED THAT
20 THE PERSON SHOULD BE SENTENCED TO DEATH, YOU
21 UNDERSTAND THAT YOU WOULD HAVE TO SIGN YOUR NAME ON
22 A FORM INDICATING THAT THAT WAS YOUR DECISION AND
23 YOUR RECOMMENDATION?

24 A YES

25 Q WOULD YOU BE ABLE TO SIGN YOUR NAME ON THAT

1 FORM?

2 A YES

3 Q UP TO THIS POINT, HAVE YOU FORMED OR EXPRESSED
4 ANY OPINION AS TO WHAT YOU THINK THE ULTIMATE
5 DECISION SHOULD BE IN THIS CASE?

6 A NO

7 Q DO YOU HAVE ANY REASON WHY YOU COULD NOT BE A
8 FAIR AND IMPARTIAL JUROR IF YOU WERE SELECTED TO
9 SERVE?

10 A NO

11 Q YOU UNDERSTAND IF YOU ARE SELECTED, YOU WOULD
12 BE SEQUESTERED FOR THE DURATION OF THE TRIAL?

13 A YES

14 Q YOU UNDERSTAND WHAT THAT MEANS?

15 A YES

16 Q WOULD THAT POSE ANY REASONABLE HARDSHIP OR
17 HEALTH RISK TO YOU IF THAT WAS REQUIRED, AND IT
18 WOULD BE?

19 A NO

20 Q WOULD YOU BE WILLING TO ACCEPT ANY
21 INCONVENIENCE THAT MIGHT CAUSE AND SERVE IF ASKED
22 TO?

23 A YES

24 THE COURT THANK YOU, MA'AM PLEASE
25 ANSWER ANY QUESTIONS THE LAWYERS HAVE FOR YOU

1 EXAMINATION BY MR TINSLEY

2 Q THANK YOU SO MUCH, YOUR HONOR GOOD
3 AFTERNOON, MS CANFIELD MS CANFIELD, WHERE IS
4 DAVIS ROAD LOCATED?

5 A ARE YOU FAMILIAR WITH HIGHWAY 201, THE LEVEL
6 LAND HIGHWAY?

7 Q YES, I AM

8 A IT TURNS OFF OF THAT

9 Q I SEE SO YOU LIVE OUT IN THE COUNTRY A GOODS
10 WAY FROM HERE?

11 A RIGHT

12 Q ABOUT HOW MANY MILES?

13 A EIGHT MILES

14 Q EIGHT MILES?

15 A UM-HMM

16 Q YOU WERE BORN IN ABBEVILLE, RIGHT?

17 A YES

18 Q BASICALLY, I THINK, LIVED HERE, OTHER THAN A
19 TIME IN MCCORMICK COUNTY, ALL YOUR LIFE?

20 A YES

21 Q AND MS HOLLY -- I MEAN, MS CANFIELD, YOU
22 WERE A HOLLY

23 A RIGHT

24 Q MS CANFIELD, YOU ARE A MEMBER OF, IF I'M NOT
25 MISTAKEN, I B E W ?

1 A RIGHT

2 Q WHAT EXACTLY IS THAT?

3 A IT'S OUR LOCAL UNION, INTERNATIONAL
4 BROTHERHOOD OF ELECTRICAL WORKERS

5 Q AND YOU ATTEND CHURCH AT FRIENDSHIP BAPTIST,
6 IS THAT RIGHT?

7 A WELL, I'M A MEMBER, I HAVEN'T ATTENDED THERE
8 IN AWHILE, BUT I AM A MEMBER THERE

9 Q WHERE HAVE YOU BEEN ATTENDING?

10 A RECENTLY, NOWHERE WE HAVE A DAIRY AND WE
11 MILK ON SUNDAYS SO THAT IS HARD

12 Q I SEE SO IT'S BECAUSE YOU'VE BEEN GETTING UP
13 WITH THE FARM --

14 A THE COWS

15 Q -- WORK IN THE MORNING ON SUNDAY AND ALL
16 NOW, FURTHER YOU STATED IN THERE THAT YOU HAD BEEN
17 IN A WITNESS IN A CRIMINAL TRIAL, IS THAT CORRECT?

18 A NO, CIVIL

19 Q CIVIL, OKAY

20 A I DON'T THINK I PUT CRIMINAL IT WAS A
21 LAWSUIT

22 Q I THINK IT'S JUST A MATTER OF CHECKING THE
23 WRONG ONE ON 15, QUESTION 15 I THINK YOU CHECKED
24 OUT BY CRIMINAL MATTER AND PERHAPS YOU MEANT TO
25 CHECK BY CIVIL

1 A IT SHOULD HAVE BEEN CIVIL I'M SORRY

2 Q OKAY WHAT WAS THAT ABOUT?

3 A IT WAS A LAWSUIT THERE HAD BEEN AN ACCIDENT,
4 AN AUTOMOBILE ACCIDENT, AND, YOU KNOW, ONE WAS SUING
5 THE OTHER IS WHAT IT AMOUNTED TO

6 Q AND NONE OF US LAWYERS WERE INVOLVED IN THAT
7 CASE, WERE THEY?

8 A NO THIS IS IN McCORMICK

9 Q AND TURN ON TO QUESTION 21, PLEASE, MS
10 CANFIELD

11 A UM-HMM

12 Q YOU STATED THAT YOUR DAUGHTER'S EX-HUSBAND HIT
13 HER ON SEVERAL OCCASIONS

14 A UM-HMM

15 Q IS THAT WHY SHE DIVORCED HIM?

16 A YES

17 Q AND YOU HAVEN'T PERSONALLY EXPERIENCED
18 ANYTHING LIKE THAT?

19 A NO

20 Q IT WAS JUST THROUGH YOUR DAUGHTER AND HOW
21 DID THAT MAKE YOU FEEL?

22 A I DIDN'T LIKE IT

23 Q BUT IT WOULDN'T AFFECT YOU IN ANY WAY IN THIS
24 CASE, WOULD IT?

25 A NO, THAT WAS HER, YOU KNOW

1 Q AND YOU COULD CONSIDER ANY DOMESTIC EVIDENCE
2 THAT CAME INTO THE CASE, COULD YOU NOT?

3 A YES

4 Q AND DID YOUR DAUGHTER AND HER EX-HUSBAND HAVE
5 ANY CHILDREN TOGETHER?

6 A THEY HAD TWO

7 Q THEY HAD TWO HAS SHE REMARRIED?

8 A SHE'S REMARRIED

9 Q GOT ANY MORE KIDS?

10 A ONE MORE

11 Q ONE MORE SO REGARDLESS OF THE FACT THAT HE
12 HIT HER, HE WAS -- HE IS THE FATHER OF TWO OF YOUR
13 GRANDCHILDREN, IS THAT CORRECT?

14 A THAT'S RIGHT

15 Q AND YOU, ALSO, STATED THAT YOU HAD A FORMER
16 SISTER-IN-LAW WHO SWALLOWED SOME PILLS BUT NOT AS
17 MANY AS SHE SAID, IS THAT RIGHT?

18 A YES

19 Q WHAT WAS THAT ALL ABOUT? WAS SHE FEIGNING
20 SUICIDE, THAT SORT OF THING?

21 A I THINK IT WAS AN ATTENTION GETTER SHE AND
22 HER HUSBAND WERE HAVING PROBLEMS AND I THINK SHE DID
23 THIS TO SORT OF GET ATTENTION REALLY

24 Q AND THEY GOT DIVORCED LATER ON?

25 A THEY DID

1 Q WAS HER HUSBAND YOUR BROTHER OR YOUR --

2 A IT WAS MY EX-HUSBAND'S BROTHER

3 Q YOUR EX-HUSBAND'S BROTHER, OKAY AND YOU ALSO
4 SAID THAT THEY -- YOU HAD AN AUNT WHO WAS MENTALLY
5 ILL

6 A RIGHT

7 Q AND I HATE TO ASK YOU PERSONAL QUESTIONS, BUT
8 THIS IS A SERIOUS MATTER, I NEED TO

9 A I UNDERSTAND

10 Q IS SHE STILL ALIVE?

11 A YES

12 Q IS SHE DOING OKAY NOW?

13 A SHE DOESN'T LIVE AT HOME SHE'S IN A MANAGED
14 CARE FACILITY SHE'S NOT CAPABLE OF LIVING ALONE

15 Q AND WHAT WAS THE NATURE OF HER ILLNESS?

16 A SHE HAD A MENTAL BREAKDOWN

17 Q I SEE AND ONE OF YOUR HOBBIES IS SHOOTING,
18 IS THAT CORRECT?

19 A RIGHT

20 Q AND YOU LIKE TO FISH AND, IN FACT, YOU'RE A
21 MEMBER OF A PLACE -- CLOSED SHOOTING CLUB, IS THAT
22 RIGHT?

23 A RIGHT

24 Q DO YOU EVER HUNT?

25 A WE COON HUNT

1 Q YOU COON HUNT

2 A YEAH

3 Q SO YOU WEAR THAT HAT WITH A LIGHT AND ALL
4 THAT?

5 A NO, I CARRY A FLASHLIGHT

6 Q DO YOU ALL HAVE COON DOGS?

7 A UM-HMM

8 Q OUT IN THE COUNTRY, YOU ALL DO THAT UP NEAR
9 WHERE YOU LIVE?

10 A YES

11 Q AND YOU ENJOY THAT?

12 A YEAH

13 Q SO YOU KNOW HOW TO HANDLE A RIFLE, IS THAT
14 RIGHT?

15 A RIFLE, SHOTGUN

16 Q AND, IN THIS CASE, MS CANFIELD, SHOULD THE
17 JUDGE OFFER YOU INFORMATION AS TO WHAT THE LAW IS,
18 WOULD YOU BE ABLE TO FOLLOW THAT AS HE INSTRUCTED
19 YOU?

20 A YES

21 Q AND, FURTHER, WOULD YOU BE ABLE TO CONSIDER
22 ALL THE EVIDENCE IN ARRIVING AT YOUR VERDICT?

23 A YES

24 Q AND IN SO DOING, MS CANFIELD, SHOULD THE
25 JUDGE, FOR INSTANCE, GIVE YOU SEVERAL OPTIONS ON ANY

1 COUNT OF THE INDICTMENT, SUCH AS COUNT ONE, COULD
2 YOU CONSIDER ALL THOSE OPTIONS?

3 A YES

4 Q FOR EXAMPLE, IF ON COUNT ONE HE SAID YOUR
5 OPTIONS FOR FINDING AN INDIVIDUAL GUILTY OF MURDER,
6 NOT GUILTY OF MURDER OR GUILTY OF VOLUNTARY
7 MANSLAUGHTER COULD YOU APPLY THE LAW AND FACTS AND
8 CONSIDER EACH AND EVERY ONE OF THOSE OPTIONS?

9 A YES

10 Q AND, ADDITIONALLY, YOU MENTIONED THAT YOU
11 COULD CONSIDER ANY MITIGATION IN THE CASE, IS THAT
12 RIGHT?

13 A RIGHT

14 Q DO YOU UNDERSTAND WHAT WE MEAN BY MITIGATION
15 IN THIS CASE OR IN A CASE?

16 A I THINK SO

17 Q CAN YOU EXPLAIN TO ME WHAT YOU WOULD CONSIDER
18 IT TO BE?

19 A I'D SAY THE CIRCUMSTANCES

20 Q CIRCUMSTANCES AND, ALSO, WOULD IT BE FAIR TO
21 SAY THAT YOU WOULD CONSIDER ALL THE CIRCUMSTANCES AS
22 THEY RELATE TO MR HUGHEY?

23 A YES

24 Q YOU WOULD BE ABLE TO CONSIDER HIS PAST AND THE
25 THINGS THAT HAD HAPPENED TO HIM THAT MAKE HIM THE

1 INDIVIDUAL THAT HE IS TODAY, IS THAT CORRECT?

2 A YES

3 MR TINSLEY THANK YOU SO MUCH, MS
4 CANFIELD

5 EXAMINATION BY MR JONES

6 Q HELLO, MS CANFIELD MY NAME IS TOWNES JONES,
7 I'M YOUR SOLICITOR, THE PROSECUTOR IN THIS CASE
8 THIS IS MICHAEL COULTER, HE'S YOUR DEPUTY SOLICITOR
9 HERE IN ABBEVILLE COUNTY WE'LL BE PUTTING UP THE
10 WITNESSES, CALLING TO THE WITNESS STAND AND ASKING
11 THE QUESTIONS, THEY'LL BE ANSWERING THEM THEREBY
12 CONSTITUTING EVIDENCE FOR YOU, AS A JUROR, TO
13 CONSIDER IN THIS CASE AND I JUST HAVE A COUPLE OF
14 QUESTIONS FOR YOU

15 WE GOT YOUR QUESTIONNAIRE AND WE LOOKED AT IT
16 HERE I REALLY DON'T HAVE ANY QUESTIONS ABOUT YOUR
17 QUESTIONNAIRE THAT I CAN THINK OF I JUST WANT TO
18 ASK YOU A LITTLE BIT ABOUT YOUR SERVICES AS A JUROR
19 YOU MENTIONED TO THE JUDGE THAT IF YOU WERE PICKED
20 AS A JUROR, AND YOU REALIZE HOW CLOSE WE ARE TO THAT
21 PROCESS RIGHT NOW?

22 A YES

23 Q VERY CLOSE AND WE JUST NEED, YOU KNOW, YOU
24 TO BE AS HONEST WITH US AS YOU CAN I'M NOT
25 SUGGESTING THAT YOU HAVEN'T BEEN, I'M JUST SAYING

1 TELL US WHAT YOU REALLY KNOW ABOUT YOURSELF, WHAT
2 YOU'RE CAPABLE OF AND WHAT YOU'RE NOT CAPABLE OF
3 IF YOU WERE TO SIT ON THE JURY AND YOU ALL
4 FOUND HIM GUILTY BEYOND A REASONABLE DOUBT OF
5 MURDER, TWO PEOPLE, TWO MURDERS AND A BURGLARY, AND
6 THEN YOU FOUND HIM GUILTY, GUILTY, GUILTY, GUILTY,
7 THE JURY DECIDED, ALL TWELVE OF YOU AGREE THAT WAS A
8 VERDICT YOU'D COME BACK WITH THAT VERDICT AND TELL
9 THE JUDGE, DO YOU UNDERSTAND THAT?

10 A RIGHT

11 Q AND THE JUDGE WOULD SAY, OKAY, GO BACK, WE'RE
12 GOING TO HAVE A SECOND PHASE OF THE TRIAL THE
13 STATE IS GOING TO PUT UP EVIDENCE, SHOW YOU SOME
14 EVIDENCE AS TO WHY THE PROPER PUNISHMENT SHOULD BE
15 DEATH AND THE DEFENSE IS GOING TO PUT IN SOME
16 EVIDENCE, PUT UP WHAT THEY CAN, AND ASK YOU NOT TO
17 IMPOSE THE DEATH PENALTY, DO YOU UNDERSTAND THAT?

18 A I UNDERSTAND

19 Q MY QUESTION TO YOU IS, AT THAT POINT IN TIME,
20 COULD YOU REALLY, HONESTLY, CONSIDER IMPOSING THE
21 DEATH PENALTY?

22 A IF IT WAS NECESSARY, YES

23 Q WELL, YOU'RE SAYING, NECESSARY DO YOU MEAN
24 BY THAT IF IT WAS THE TYPE OF CRIME THAT DESERVED
25 IT?

1 A YES

2 Q IS THAT WHAT YOU MEAN?

3 A YEAH AND ALL THE CIRCUMSTANCES POINT TO

4 THAT

5 Q UM-HMM THE CIRCUMSTANCES POINT TO IT

6 A RIGHT

7 Q I THINK I UNDERSTAND WHAT YOU'RE SAYING ABOUT

8 THE CIRCUMSTANCES BUT THE REAL QUESTION THAT I

9 HAVE FOR YOU IS NOT SO MUCH ABOUT THE CIRCUMSTANCES

10 BUT WHETHER YOU CAN ENVISION YOURSELF BEING PART OF

11 THE PROCESS OF IMPOSING THE DEATH PENALTY ON ANOTHER

12 HUMAN BEING?

13 A I COULD IT WOULD BE HARD, BUT I THINK I

14 COULD

15 Q YOU COULD

16 A IT WOULD BE HARD

17 Q AND YOU COULD WRITE YOUR NAME DOWN ON A PIECE

18 OF PAPER?

19 A IT WOULD BE HARD

20 Q AND THAT'S FINE I UNDERSTAND I WANT YOU TO

21 KNOW, I HOPE YOU UNDERSTAND THAT I UNDERSTAND

22 A YEAH

23 Q YOU DON'T THINK THAT KIND OF THING, RIGHT?

24 A NO, YOU DON'T THAT'S WHY I SAID IT WOULD BE

25 HARD

1 Q VERY DEFINITELY BUT YOU WOULDN'T WANT TO
2 TELL US THAT YOU COULD IN SPITE OF HOW DIFFICULT IT
3 WOULD BE IF YOU DEEP DOWN INSIDE YOU REALLY CAN'T

4 A THAT'S RIGHT

5 Q SO YOU KNOW DEEP DOWN INSIDE YOU CAN?

6 A YES

7 MR JONES THANK YOU

8 THE COURT MS CANFIELD, IF YOU'LL STEP
9 OUTSIDE JUST A MINUTE, I'LL BRING YOU RIGHT BACK
10 (JUROR #180 DOES AS INSTRUCTED)

11 THE COURT ANY REASON WHY THE JUROR
12 SHOULD BE QUALIFIED?

13 MR JONES NONE FOR THE STATE, YOUR
14 HONOR

15 MR TINSLEY NO, YOUR HONOR

16 THE COURT SHE IS SO QUALIFIED MS
17 CANFIELD, YOU ARE QUALIFIED TO SERVE ON THE PANEL OF
18 JURORS FROM WHICH THE ACTUAL JURY WILL BE SELECTED
19 THAT SIMPLY MEANS YOU HAVE NOT BEEN SELECTED YET BUT
20 YOU HAVE THAT POTENTIAL THAT WILL BE DONE SHORTLY
21 ONCE WE CONCLUDE INTERVIEWING SOME OTHER JURORS THAT
22 WE HAVE, JUST AS WE DID YOU

23 I'M GOING TO ASK YOU BEFORE YOU LEAVE IF
24 YOU WILL GIVE THE CLERK ANY AND ALL PHONE NUMBERS
25 WHERE YOU CAN BE REACHED SO THAT WHEN WE NEED TO

1 CALL YOU TO COME BACK, YOU'LL BE ABLE TO DO SO ON
2 SHORT NOTICE YOU'RE TO CONTINUE FOLLOWING MY
3 INSTRUCTION, DO NOT DISCUSS THE CASE WITH ANYONE,
4 DON'T DISCUSS THESE QUESTIONS WITH ANYONE, DO NOT
5 ALLOW YOURSELF TO BE EXPOSED TO ANY TYPE OF
6 NEWSPAPER ARTICLE, TELEVISION OR RADIO REGARDING THE
7 CASE AND AS SOON AS WE CONCLUDE WITH THIS
8 INDIVIDUAL QUESTIONING OF OTHER JURORS, WE WILL CALL
9 YOU TO COME BACK FOR POTENTIAL JURY SELECTION I
10 ANTICIPATE THAT MAY BE SOMETIME TOMORROW, IT MIGHT
11 BE WEDNESDAY I'M NOT REALLY CERTAIN BUT I DO
12 NEED TO HAVE YOU WHERE WE CAN REACH YOU

13 YOU DON'T NEED TO SIT AT HOME BY THE
14 PHONE YOU CAN CARRY OUT YOUR REGULAR ROUTINE SO
15 LONG AS WE WILL BE ABLE TO GET IN TOUCH WITH YOU
16 WHEREVER YOU MAY BE SO IF YOU'LL GIVE THE CLERK
17 THOSE PHONE NUMBERS, YOU'RE EXCUSED

18 (JUROR #180 EXITS COURTROOM)

19 (JUROR #180 IS QUALIFIED)

REMAINDER OF THIS PAGE IS BLANK
TRANSCRIPT CONTINUED IN VOLUME

PAGES 1221-1238

REPETATIVE TRANSCRIPT COVER PAGES
AND ERROR IN COURT REPORTER NUMBERING

AND NOT REPRINTED

1 (DAY 7, OCTOBER 20, 1997, CONTINUES)

2 (THE COURT CALLS MS SIMMONS)

3 (JUROR #180 PRESENTED AT 12 41 O'CLOCK P M)

4 EXAMINATION BY THE COURT

5 Q GOOD AFTERNOON, MS SIMMONS AS YOU KNOW,
6 YOU'RE HERE FOR US TO ASK YOU ADDITIONAL QUESTIONS
7 THERE ARE NO RIGHT OR WRONG ANSWERS, WE SIMPLY NEED
8 TO KNOW YOUR VIEWS AND OPINIONS ON CERTAIN SUBJECTS
9 I WILL ASK THAT YOU ANSWER THE QUESTIONS AS OPENLY
10 AND AS HONESTLY AS YOU CAN SO THAT WE CAN BE CERTAIN
11 THAT WE KNOW HOW YOU FEEL ABOUT THESE MATTERS

12 DO YOU RECALL WHEN YOU ARRIVED WITH YOUR
13 FELLOW JURORS, THE ENTIRE PANEL WAS ASKED TO STAND
14 AND YOU WERE PLACED UNDER OATH?

15 A UM-HMM

16 Q YOU REMAIN UNDER OATH FOR THE PURPOSE OF THESE
17 QUESTIONS, ALSO YOU INDICATED YOU COMPLETED THE
18 QUESTIONNAIRE AND IT WAS CORRECT, IS THAT RIGHT?

19 A YES

20 Q YOU, ALSO, INDICATED YOU RECEIVED MY LETTER
21 INSTRUCTING YOU NOT TO DISCUSS THE CASE OR HAVE ANY
22 EXPOSURE TO MEDIA COVERAGE HAVE YOU FOLLOWED THAT
23 INSTRUCTION?

24 A YES, SIR

25 Q DID YOU HAVE ANY CONTACT, DISCUSSIONS OR MEDIA

1 EXPOSURE PRIOR TO RECEIVING THAT LETTER?

2 A NO

3 Q NOT THAT YOU RECALL?

4 A NO

5 Q AND YOU'VE HAD NONE SINCE YOU RECEIVED THE
6 LETTER?

7 A NO

8 Q DO YOU UNDERSTAND THAT THE FUNCTION OF A JURY
9 IN A CRIMINAL CASE IS TO LISTEN TO TESTIMONY, TO
10 CONSIDER EVIDENCE TO DECIDE WHETHER OR NOT THAT
11 EVIDENCE PROVES THAT PERSON GUILTY OF THE CRIME
12 CHARGED?

13 A YES

14 Q YOU UNDERSTAND THE STATE BRINGS A CHARGE AND
15 THE STATE HAS BROUGHT A CHARGE AGAINST THE DEFENDANT
16 IN THIS CASE?

17 A YES

18 Q HE'S ACCUSED OF HAVING COMMITTED THE CRIME OF
19 MURDER

20 A YES

21 Q DO YOU UNDERSTAND THAT WHEN THE STATE BRINGS A
22 CHARGE, THE BURDEN IS ON THEM TO PROVE A PERSON'S
23 GUILT BEYOND A REASONABLE DOUBT BEFORE THAT PERSON
24 CAN BE FOUND GUILTY?

25 A YES

1 Q DO YOU UNDERSTAND THAT THE BURDEN IS NEVER
2 UPON THE PERSON WHO IS ACCUSED TO PROVE THAT THEY
3 ARE NOT GUILTY OR TO PROVE THAT THEY ARE INNOCENT?

4 A THAT'S RIGHT

5 Q DO YOU UNDERSTAND THE DEFENDANT IS PRESUMED TO
6 BE INNOCENT OF ANY CRIME THE STATE CLAIMS THAT HE
7 COMMITTED? DO YOU UNDERSTAND THAT?

8 A YES

9 Q YOU UNDERSTAND THE DEFENDANT IN A CRIMINAL
10 TRIAL DOES NOT EVEN NEED TO TESTIFY AND TAKE THE
11 WITNESS STAND BECAUSE HE DOESN'T HAVE TO PROVE
12 ANYTHING, THE STATE HAS THE BURDEN OF PROVING HE IS
13 GUILTY, DO YOU UNDERSTAND THAT?

14 A UM-HMM

15 Q YOU ACCEPT THOSE PROPOSITIONS OF LAW?

16 A YES

17 Q NOW, IN A TRIAL OR IN A CASE WHERE THE STATE
18 ACCUSES A PERSON OF HAVING COMMITTED THE CRIME OF
19 MURDER, THE LAW PROVIDES THAT IF A PERSON IS
20 CONVICTED, THAT IS A JURY FINDS THE PERSON GUILTY OF
21 THE CRIME OF MURDER BEYOND A REASONABLE DOUBT

22 A UM-HMM

23 Q AND IF THE STATE PROVES THERE IS SOME OTHER
24 AGGRAVATING CIRCUMSTANCE ACCOMPANYING THAT MURDER,
25 THEN THE STATE HAS A RIGHT TO SEEK, THAT IS TO ASK,

1 THAT THE DEATH PENALTY BE IMPOSED AGAINST THAT
2 INDIVIDUAL YOU UNDERSTAND THAT'S A DECISION THAT
3 THE JURY MAKES, THE STATE MAY PERMIT -- I MEAN, THE
4 LAW MAY PERMIT IT, THE STATE MAY ASK FOR IT, BUT THE
5 JURY MAKES THE DECISION DO YOU UNDERSTAND THAT?

6 A UM-HMM

7 Q NOW, IN A TRIAL SUCH AS THAT WHERE THE STATE
8 IS SEEKING THE DEATH PENALTY FOR A PERSON ALLEGED TO
9 HAVE COMMITTED THE CRIME OF MURDER, THE TRIAL IS
10 CONDUCTED IN TWO STAGES THE FIRST PART OF THE
11 TRIAL RELATES TO THE ISSUE OF GUILT THE SECOND
12 PART OF THE TRIAL RELATES TO THE ISSUE OF
13 PUNISHMENT AND, OF COURSE, WE NEVER GET TO THE
14 SECOND STAGE OF THE TRIAL UNLESS, IN THE FIRST
15 STAGE, THE PERSON HAS BEEN PROVEN TO BE GUILTY OF
16 MURDER BEYOND A REASONABLE DOUBT AND AN AGGRAVATING
17 CIRCUMSTANCE BE PROVEN BEYOND A REASONABLE DOUBT, DO
18 YOU UNDERSTAND THAT?

19 A UM-HMM

20 Q NOW, IF YOU WERE PARTICIPATING IN SUCH A
21 TRIAL, AND YOU WERE CALLED UPON TO DECIDE WHETHER OR
22 NOT A PERSON WAS GUILTY OR NOT, WOULD YOU BE ABLE TO
23 FAIRLY CONSIDER ALL THE EVIDENCE RELATING TO THAT
24 ISSUE OFFERED DURING THE TRIAL OF THE CASE?

25 A I THINK SO

1 Q AND DEPENDING UPON WHAT THAT EVIDENCE WAS, IF
2 YOU BELIEVED, AND YOU WERE CONVINCED BEYOND A
3 REASONABLE DOUBT THAT THAT PERSON WAS GUILTY, COULD
4 YOU RETURN A VERDICT OF GUILTY?

5 A I THINK SO

6 Q ALSO, IF YOU CONSIDERED ALL THAT EVIDENCE
7 CAREFULLY AND FAIRLY AND YOU HAD A REASONABLE DOUBT,
8 WOULD YOU RESOLVE THAT DOUBT IN THE DEFENDANT'S
9 FAVOR AND RETURN A VERDICT OF NOT GUILTY?

10 A I THINK SO

11 Q NOW, I WANT YOU TO ASSUME FOR THE PURPOSE OF
12 THIS QUESTION AND ASSUME IT FOR THE PURPOSE OF THIS
13 QUESTION ONLY THAT YOU HAVE PARTICIPATED IN THE
14 CASE, AND YOU AND YOUR FELLOW JURORS HAVE REACHED A
15 UNANIMOUS DECISION AND YOU HAVE FOUND THE PERSON TO
16 BE GUILTY OF THE CRIME OF MURDER BEYOND A REASONABLE
17 DOUBT, AND YOU HAD ALSO FOUND SOME OTHER AGGRAVATING
18 CIRCUMSTANCE ESTABLISHED BEYOND A REASONABLE DOUBT
19 IN THAT EVENT, WE WOULD PROCEED TO THE PENALTY
20 PORTION OR PENALTY PHASE OF THAT TRIAL, DO YOU
21 UNDERSTAND THAT?

22 A UM-HMM

23 Q NOW, THAT'S A HEARING THAT'S CONDUCTED AFTER
24 THE FIRST AND IN THAT SECOND HEARING THERE IS
25 ADDITIONAL EVIDENCE RECEIVED THERE'S EVIDENCE

1 RECEIVED IN AGGRAVATION, THERE'S EVIDENCE RECEIVED
2 IN MITIGATION AND BY THOSE TERMS, I SIMPLY MEAN
3 THAT THERE MAY BE EVIDENCE PRESENTED WHICH TENDS TO
4 SUPPORT THE MORE SEVERE PUNISHMENT AS BEING
5 APPROPRIATE, THAT BEING THE DEATH PENALTY AND
6 THERE MAY BE EVIDENCE OFFERED WHICH TENDS TO SUPPORT
7 THE LESS SEVERE PUNISHMENT AS BEING MORE
8 APPROPRIATE, THAT BE A SENTENCE OF LIFE
9 IMPRISONMENT

10 NOW, IF YOU WERE PARTICIPATING IN THAT STAGE
11 OF THE TRIAL, WOULD YOU BE ABLE AND WOULD YOU BE
12 WILLING TO CAREFULLY CONSIDER ALL OF THAT ADDITIONAL
13 EVIDENCE, BOTH IN AGGRAVATION AND IN MITIGATION
14 BEFORE ARRIVING AT ANY DECISION AS TO PUNISHMENT?

15 A I COULDN'T SAY

16 Q WELL, I KNOW THAT YOU HESITATE ARE YOU
17 HESITATING BECAUSE YOU'RE NOT SURE OF YOUR ANSWER OR
18 DO YOU HESITATE BECAUSE YOU DON'T UNDERSTAND MY
19 QUESTION?

20 A I'M NOT SURE OF MY ANSWER

21 Q YOU'RE NOT SURE OF YOUR ANSWER WELL, WHAT
22 I'M REALLY ASKING IS, YOU KNOW, THERE'S GOING TO BE
23 OTHER EVIDENCE PRESENTED AND SOME EVIDENCE MIGHT
24 SAY, WELL, THIS IS WHY THE DEATH PENALTY SHOULD BE
25 IMPOSED OTHER EVIDENCE MAY BE PRESENTED AND IT MAY

1 SAY, WELL, THIS IS WHY IT SHOULD NOT BE, THIS IS WHY
2 YOU SHOULD CONSIDER A LIFE SENTENCE AND WHAT I
3 REALLY WANT TO KNOW RIGHT NOW IS WHETHER OR NOT YOU
4 COULD CONSIDER ALL THAT EVIDENCE, YOU WOULD CONSIDER
5 IT ALL BEFORE YOU WOULD MAKE A DECISION

6 A YES, I COULD CONSIDER THAT

7 Q YOU COULD DO THAT?

8 A UM-HMM

9 Q NOW, AFTER YOU HAVE CONSIDERED ALL OF THAT
10 EVIDENCE, YOU'VE CONSIDERED THE EVIDENCE RELATED TO
11 THE CIRCUMSTANCES SURROUNDING THE CRIMES THEMSELVES,
12 YOU'VE CONSIDERED THE EVIDENCE RELATING TO THE
13 INDIVIDUAL CHARACTERISTICS OF THE DEFENDANT AND HIS
14 CIRCUMSTANCES, AND YOU'VE CONSIDERED IN AGGRAVATION,
15 AND YOU'VE CONSIDERED ALL EVIDENCE IN MITIGATION
16 AFTER YOU HAVE TAKEN INTO CONSIDERATION ALL THAT
17 EVIDENCE AND CAREFULLY THOUGHT ABOUT IT, WOULD YOU
18 BE ABLE TO SENTENCE A PERSON TO DEATH IF YOU THOUGHT
19 THE CIRCUMSTANCES WARRANTED THAT DECISION?

20 A I DON'T THINK SO

21 Q YOU DON'T THINK SO

22 A NO

23 Q WOULD YOU BE ABLE TO SENTENCE A PERSON TO LIFE
24 IMPRISONMENT IF YOU THOUGHT THAT WAS APPROPRIATE?

25 A (NOD YES)

1 Q YOU COULD?

2 A YEAH

3 Q WELL, DO YOU UNDERSTAND THAT IF YOU'RE IN THE
4 PENALTY PHASE OF THE TRIAL THAT YOU'RE GOING TO HAVE
5 TWO CHOICES TO MAKE AND YOU CAN SENTENCE A PERSON TO
6 DEATH IF YOU THINK IT APPROPRIATE, YOU CAN SENTENCE
7 A PERSON TO LIFE IF YOU THINK IT APPROPRIATE COULD
8 YOU CONSIDER BOTH OF THOSE FORMS OF PUNISHMENT AS
9 APPROPRIATE IF YOU THOUGHT THE CIRCUMSTANCES
10 SUPPORTED THAT DECISION?

11 A I COULD CONSIDER THEM BOTH I DON'T KNOW IF I
12 COULD DO THE DEATH PENALTY

13 Q NOW, WHEN I SAY COULD YOU CONSIDER THEM BOTH,
14 I DON'T REALLY MEAN COULD YOU JUST THINK ABOUT IT
15 I MEAN, WOULD YOU BE WILLING TO IMPOSE IT IF YOU
16 THOUGHT, WELL, I THINK THAT'S THE RIGHT DECISION
17 I'M GOING TO SENTENCE THAT PERSON TO DEATH

18 A NO

19 Q YOU DON'T BELIEVE YOU COULD DO IT?

20 A NO

21 Q DO YOU UNDERSTAND THAT UNDER THE LAW, A JURY
22 IS NEVER REQUIRED TO IMPOSE A DEATH SENTENCE NO
23 MATTER WHAT THE FACTS ARE? IN OTHER WORDS, YOU
24 COULD IMPOSE -- WHILE YOU MIGHT BE ABLE TO IMPOSE A
25 DEATH SENTENCE, THE LAW NEVER SAYS YOU HAVE TO, IT

1 DOESN'T MATTER WHAT THE FACTS ARE YOU CAN IMPOSE A
2 LIFE SENTENCE FOR ANY REASON OR FOR NO REASON, DO
3 YOU UNDERSTAND?

4 A UM-HMM

5 Q NOW, IF YOU HAD THAT CHOICE, YOU COULD IMPOSE
6 A DEATH SENTENCE OR YOU COULD IMPOSE A LIFE
7 SENTENCE, WOULD YOU ALWAYS CHOSE ONE OF THOSE OVER
8 THE OTHER IN EVERY CASE?

9 A PROBABLY

10 Q WHAT WOULD YOU SELECT?

11 A PROBABLY LIFE

12 Q PROBABLY LIFE?

13 A MORE THAN LIKELY

14 Q WELL, CAN YOU THINK OF A CIRCUMSTANCE WHERE
15 YOU WOULD BE WILLING TO SENTENCE A PERSON TO DIE?

16 A NO

17 Q YOU CAN'T THINK OF A CIRCUMSTANCE NO MATTER
18 WHAT THE EVIDENCE MIGHT REVEAL?

19 A NO

20 Q WOULD YOU ALWAYS CHOSE A LIFE SENTENCE IF YOU
21 WERE GIVEN THAT CHOICE, AND YOU WOULD BE?

22 A YES

23 Q WOULD YOU SAY THAT IN EVERY CASE YOU WOULD
24 SELECT A LIFE SENTENCE, NO MATTER WHAT THE FACTS
25 ARE?

1 A YES

2 Q NOW, YOU UNDERSTAND THAT IN THE EVENT THAT YOU
3 WERE PARTICIPATING IN THE EVENT, YOU THOUGHT, WELL,
4 I THINK A DEATH SENTENCE MIGHT BE APPROPRIATE IN
5 THIS CASE OR I THINK IT IS APPROPRIATE, YOU
6 UNDERSTAND IN ORDER FOR THAT TO BE CARRIED OUT,
7 YOU'D HAVE TO SIGN YOUR NAME ON A FORM SAYING,
8 THAT'S WHAT I THINK, I RECOMMEND THAT PERSON BE
9 SENTENCED TO DIE COULD YOU EVER SIGN YOUR NAME TO
10 SUCH A FORM?

11 A NO

12 Q YOU COULD NOT UNDER ANY CIRCUMSTANCES?

13 A NO

14 THE COURT ANSWER ANY QUESTIONS

15 THE LAWYERS MAY HAVE FOR YOU

16 EXAMINATION BY MR TINSLEY

17 Q GOOD AFTERNOON, MS SIMMONS MS SIMMONS,
18 UNDERSTAND THAT THE DEATH SENTENCE IN A CAPITAL CASE
19 IS NOT PLEASANT DUTY BUT YOU ARE A GOOD CITIZEN AND
20 YOU VOTE AND THAT SORT OF THING, DON'T YOU?

21 A YES, SIR

22 Q AND YOU TELL THE JUDGE THAT YOU CAN FOLLOW
23 THE LAW AND YOU COULD LISTEN TO THE EVIDENCE AND
24 THAT SORT OF THING, IS THAT CORRECT?

25 A YES, SIR

- 1 Q AND YOU'RE A NATIVE OF ABBEVILLE, RIGHT?
- 2 A THAT'S CORRECT
- 3 Q YOU'RE A PART OF THIS COMMUNITY, IS THAT
- 4 RIGHT?
- 5 A UM-HMM
- 6 Q NOW, AS SUCH, COULD YOU IMAGINE A CRIME THAT
- 7 WAS SO BAD THAT MAYBE YOU COULD CONSIDER IMPOSING A
- 8 DEATH SENTENCE IN SUCH A CASE, IS THAT A
- 9 POSSIBILITY?
- 10 A NO
- 11 Q IT'S JUST NOT A POSSIBILITY?
- 12 A NO
- 13 Q IS THAT BASED UPON YOUR BELIEFS AND FAITHS OR
- 14 WHAT?
- 15 A IT'S MY BELIEF
- 16 Q SO YOU DON'T BELIEVE IN THE DEATH PENALTY?
- 17 A NO
- 18 Q WELL, NOW, YOU REALIZE YOU'D BE IN A JURY
- 19 WITH ELEVEN OTHER PEOPLE, IS THAT CORRECT?
- 20 A UM-HMM
- 21 Q AND THE LAW BASICALLY FAVORS A LIFE SENTENCE
- 22 THROUGH THE SENSE THAT YOU DON'T HAVE TO GIVE ANY
- 23 REASON TO GIVE A LIFE SENTENCE
- 24 A UM-HMM
- 25 Q WELL, AS SUCH, WOULD YOU BE WILING TO LISTEN

1 TO THE AGGRAVATING CIRCUMSTANCES IN THE CASE WITH AN
2 OPEN MIND?

3 A YES, SIR, I WOULD

4 Q AND AFTER LISTENING TO THAT AND LET'S SAY
5 THAT YOU AND YOUR FELLOW JURORS ARRIVED AT A
6 DECISION OF GUILTY OF TWO MURDERS AND SOME OTHER
7 AGGRAVATING CIRCUMSTANCES, ET CETERA, ET CETERA AND
8 DEEMED IT TO BE APPROPRIATE, COULD YOU POSSIBLY
9 UNDER THOSE CIRCUMSTANCES, CONSIDER A DEATH
10 SENTENCE?

11 A NO, SIR

12 Q SO YOU CAN'T ENVISION ANY CIRCUMSTANCES
13 WHEREBY YOU WERE --

14 A NO, SIR

15 MR TINSLEY THANK YOU SO MUCH,
16 MS SIMMONS

17 EXAMINATION BY MR JONES

18 Q MS SIMMONS, I APPRECIATE YOU BEING SO
19 PATIENT WITH US I DON'T HAVE ANY QUESTIONS FOR
20 YOU

21 THE COURT MS SIMMONS, WE'RE
22 GOING TO EXCUSE YOU FROM ANY FURTHER PARTICIPATION
23 SO YOU WON'T HAVE TO COME BACK AND YOU WON'T HAVE TO
24 CALL BACK, YOU DON'T NEED TO COME BACK DOWN ANYMORE
25 FOR THE PURPOSE OF THIS PARTICULAR CASE WE DO

1 APPRECIATE YOUR WILLINGNESS TO PARTICIPATE UP TO
2 THIS POINT, WE APPRECIATE YOU COMING DOWN WHEN ASKED
3 TO YOU ARE NOW EXCUSED AND, AS I'VE STATED, YOU
4 WILL NOT NEED TO CALLBACK ANY FURTHER THANKS,
5 AGAIN, FOR YOUR ASSISTANCE

6 MS SIMMONS THANK YOU

7 (JUROR #180 EXITS COURTROOM)

8 (JUROR #180 IS QUALIFIED)

9 MR TINSLEY YOUR HONOR, I WOULD
10 OBJECT TO HER BEING DISQUALIFIED ON THE BASIS OF
11 WITT CASE 105 SUPREME COURT 856 IT'S A SITUATION
12 WHERE WE'RE HAVE SO MANY DISMISSED ON THAT BASIS,
13 WE'RE BEING DENIED CROSS-SECTION OF THE COMMUNITY
14 JOINING THE JURY AND I FEEL THAT WE'RE IN A
15 SITUATION HERE NOW WHERE AUTOMATICALLY DISMISSING
16 FOLKS WHO CANNOT GIVE THE DEATH PENALTY IS
17 PREJUDICING MY CLIENT'S RIGHTS TO HAVE A JURY CROSS-
18 SECTION

19 THE COURT LET ME JUST SIMPLY ASK MAYBE I
20 MISUNDERSTAND THE WITT CASE AND THE WITHERSPOON CASE
21 BUT YOU HAVE QUOTED OR CITED WITT AS THE PROPOSITION
22 FOR NOT -- DISQUALIFYING THIS JUROR AS I
23 UNDERSTAND IN THE WITT CASE, I BELIEVE, THAT WHEN A
24 JUROR WAS DISQUALIFIED, THE BASIS OF AFFIRMING THAT
25 DECISION WAS BASED UPON THE FACT THAT THE JUROR --

1 THE JUROR'S VIEWS ON CAPITAL PUNISHMENT EITHER
2 PREVENTED OR SUBSTANTIALLY IMPAIRED THAT JUROR FROM
3 BEING ABLE TO CARRY OUT THEIR DUTIES AS A JUROR

4 AND, OF COURSE, UNDER WITHERSPOON,
5 IT SPECIFICALLY PROVIDES THAT A JUROR IS RIGHTLY
6 DISQUALIFIED IF THEY CLEARLY STATE THAT THEY CANNOT
7 IMPOSE THE DEATH PENALTY UNDER ANY CIRCUMSTANCES
8 AND MY INTERPRETATION, AND I DON'T THINK IT REQUIRES
9 A STRETCH TO INTERPRET IT MY INTERPRETATION OF
10 THAT JUROR'S RESPONSES WAS THAT SHE WOULD NOT
11 CONSIDER SENTENCING A PERSON TO DEATH UNDER ANY
12 CIRCUMSTANCE DO YOU AGREE THAT THAT WAS HER
13 STATEMENT?

14 MR TINSLEY YES, SIR

15 THE COURT I THINK UNDER THOSE
16 CIRCUMSTANCES SHE WAS PROPERLY DISQUALIFIED UNDER
17 WITT AND WITHERSPOON AND, PERHAPS, A NUMBER OF OTHER
18 CASES

19 (THE COURT CALLS MR WILLIAM J JONES)

20 (JUROR #108 PRESENTED AT 12 56 O'CLOCK P M)

21 EXAMINATION BY THE COURT

22 Q GOOD AFTERNOON, MR JONES I HAVE YOUR
23 QUESTIONNAIRE YOU INDICATED EARLIER THAT YOU HAD
24 COMPLETED IT AND IT WAS CORRECT, IS THAT FAIR?

25 A YES

1 Q YOU, ALSO, INDICATED YOU HAD RECEIVED MY
2 INSTRUCTION ABOUT DISCUSSING THE CASE OR BEING
3 EXPOSED TO ANY MEDIA COVERAGE

4 A YES

5 Q HAVE YOU COMPLIED WITH THAT INSTRUCTION?

6 A YES

7 Q YOU WERE PREVIOUSLY SWORN, WERE YOU NOT, WHEN
8 YOU REPORTED WITH YOUR FELLOW JURORS?

9 A YES

10 Q YOU REMAIN UNDER OATH FOR THE PURPOSE OF
11 THESE QUESTIONS, ALSO WE'RE GOING TO ASK YOU SOME
12 QUESTIONS, THERE ARE NO RIGHT OR WRONG ANSWERS WE
13 JUST SIMPLY NEED TO KNOW WHAT YOUR VIEWS AND
14 OPINIONS ARE ON CERTAIN TOPICS SO, PLEASE, ANSWER
15 THE QUESTIONS AS OPENLY AND AS HONESTLY AS YOU CAN
16 IF YOU DON'T UNDERSTAND THE QUESTION, ASK ME TO
17 REPEAT IT OR CLARIFY IT THE SAME WOULD APPLY TO
18 THE LAWYERS THEY MAY ASK YOU SOME ADDITIONAL
19 QUESTIONS

20 IN THE TRIAL OF A CASE WHERE A PERSON IS
21 CHARGED WITH A CRIME AND THE STATE ALLEGES THAT THEY
22 HAVE COMMITTED SOME CRIME DO YOU UNDERSTAND THAT
23 THE BURDEN IS ON THE STATE BECAUSE THEY BROUGHT THE
24 CHARGE TO PROVE THAT PERSON GUILTY BEYOND A
25 REASONABLE DOUBT BEFORE THAT PERSON CAN BE FOUND

1 GUILTY?

2 A YES, SIR

3 Q DO YOU UNDERSTAND THAT THE BURDEN IS NEVER
4 UPON A DEFENDANT TO PROVE THAT HE IS NOT GUILTY OR
5 TO PROVE THAT HE IS INNOCENT?

6 A YES, SIR

7 Q DO YOU UNDERSTAND THAT A PERSON CHARGED WITH
8 A CRIME IS ALWAYS PRESUMED INNOCENT?

9 A YES, SIR

10 Q AND CAN ONLY BE CONVICTED IF THE STATE PUTS
11 FORTH ENOUGH EVIDENCE TO CONVINCE A JURY BEYOND A
12 REASONABLE DOUBT THAT THAT PERSON IS GUILTY?

13 A YES, SIR

14 Q IN THIS CASE, THE DEFENDANT IS CHARGED WITH
15 THE CRIME OF MURDER AND THE LAW PROVIDES THAT
16 UNDER CERTAIN CIRCUMSTANCES A PERSON WHO IS FOUND
17 GUILTY OF MURDER, CONVICTED OF MURDER, MAY BE
18 SUBJECT TO HAVING THE DEATH PENALTY IMPOSED AGAINST
19 HIM THE LAW PROVIDES WHAT THOSE CIRCUMSTANCES ARE
20 ESSENTIALLY, IT PROVIDES THAT A PERSON MUST BE
21 CONVICTED OF MURDER BEYOND A REASONABLE DOUBT AND
22 SOME OTHER ADDITIONAL AGGRAVATING CIRCUMSTANCE MUST
23 BE ESTABLISHED BEYOND A REASONABLE DOUBT THEN THE
24 STATE MAY SEEK THE DEATH PENALTY BUT IT'S NOT
25 REQUIRED THAT IT BE IMPOSED, THE JURY MAKES THAT

1 DECISION, DO YOU UNDERSTAND THAT?

2 A YES, SIR

3 Q IF YOU WERE CALLED UPON TO PARTICIPATE IN
4 SUCH A CASE, THE TRIAL WOULD BE CONDUCTED IN TWO
5 STAGES THE FIRST PART OF THE TRIAL WOULD BE
6 LIMITED TO THE ISSUE OF GUILT AND IF THE PERSON
7 WAS FOUND GUILTY BEYOND A REASONABLE DOUBT OF MURDER
8 WITH AN AGGRAVATING CIRCUMSTANCE, WE WOULD PROCEED
9 TO THE SECOND STAGE OF THE TRIAL, IT'S A SEPARATE
10 HEARING CALLED THE PENALTY PHASE ADDITIONAL
11 EVIDENCE WOULD BE RECEIVED

12 NOW, IF YOU ARE A JUROR SELECTED FOR THAT
13 PURPOSE, COULD YOU LISTEN CAREFULLY TO ALL EVIDENCE
14 THAT WOULD BE RECEIVED THAT RELATED TO THE ISSUE OF
15 WHETHER OR NOT THE PERSON WAS GUILTY?

16 A YES, SIR

17 Q AND AFTER YOU CONSIDERED ALL OF THAT
18 EVIDENCE, IF YOU WERE CONVINCED BEYOND A REASONABLE
19 DOUBT THAT THE PERSON WERE GUILTY, WOULD YOU RETURN
20 THAT VERDICT?

21 A YES

22 Q WOULD YOU FIND HIM GUILTY?

23 A IF THE EVIDENCE SHOWS IT THAT WAY, YES

24 Q IF THE EVIDENCE PRESENTED CONVINCED YOU
25 BEYOND A REASONABLE DOUBT THAT THAT PERSON WAS

1 GUILTY, WOULD YOU FIND THAT PERSON GUILTY?

2 A YES

3 Q IF YOU HAD A REASONABLE DOUBT, YOU WERE NOT
4 CONVINCED BEYOND A REASONABLE DOUBT THAT THE PERSON
5 WAS GUILTY, WOULD YOU FIND HIM NOT GUILTY?

6 A I'D HAVE TO BE SURE -- I WAS SURE THAT HE'S
7 GUILTY

8 Q THAT'S WHAT I'M SAYING

9 A YES, SIR

10 Q AND IF YOU WERE NOT CONVINCED BEYOND A
11 REASONABLE DOUBT, WOULD YOU RETURN OF A VERDICT OF
12 NOT GUILTY?

13 A NO

14 Q WHAT WOULD YOU DO IF YOU WERE NOT CONVINCED?

15 A I GUESS I'D SAY I COULDN'T COME TO A
16 DECISION

17 Q OKAY YOU UNDERSTAND THAT I WOULD INSTRUCT
18 YOU THAT IT IS THE LAW THAT WHERE A JURY HAS A
19 REASONABLE DOUBT AS TO THE GUILT OF A PERSON ACCUSED
20 OF A CRIME, THEY ALWAYS HAVE TO RESOLVE THAT DOUBT
21 IN FAVOR OF THE DEFENDANT IF THEY ARE NOT
22 CONVINCED BEYOND A REASONABLE DOUBT OF HIS GUILT,
23 THEY MUST FIND HIM NOT GUILTY, DO YOU UNDERSTAND
24 THAT?

25 A YES, SIR

1 Q I WOULD INSTRUCT YOU OF THAT IF YOU WERE
2 PARTICIPATING AS A JUROR WOULD YOU FOLLOW THAT
3 INSTRUCTION?

4 A YES, SIR

5 Q WOULD YOU FIND THE PERSON NOT GUILTY IF YOU
6 WERE NOT CONVINCED OF THAT GUILT BEYOND A REASONABLE
7 DOUBT BASED UPON THAT INSTRUCTION?

8 A NO

9 Q WHAT WOULD YOU DO?

10 A IF I WEREN'T COMPLETELY SURE, I MEAN, BEYOND
11 A REASONABLE DOUBT, I'D HAVE TO BE WITHOUT A
12 REASONABLE DOUBT BEFORE I WOULD VOTE, YOU KNOW, ON
13 IT

14 Q BEFORE YOU VOTE GUILTY?

15 A YES, SIR

16 Q SURE NOW, WHAT I'M SAYING IS, DO YOU
17 UNDERSTAND THAT IF YOU ARE NOT CONVINCED BEYOND A
18 REASONABLE DOUBT, IF YOU ARE NOT -- IF IT HAS NOT
19 BEEN PROVEN TO YOUR SATISFACTION BEYOND A REASONABLE
20 DOUBT THAT A PERSON IS GUILTY, UNDER THE LAW, YOU
21 MUST FIND THAT PERSON NOT GUILTY, DO YOU UNDERSTAND?

22 A YEAH, I UNDERSTAND THAT

23 Q WOULD YOU BE WILLING TO FOLLOW THAT
24 INSTRUCTION AND DO THAT, IF THAT WERE THE CASE?

25 A YES

1 Q NOW, LET'S ASSUME FOR THE MOMENT, AND ONLY
2 ASSUME IT FOR THE PURPOSE OF THIS QUESTION, THAT YOU
3 WERE PARTICIPATING IN THE CASE AND YOU AND YOUR
4 FELLOW JURORS HAD DELIBERATED AND YOU HAD DECIDED
5 THAT A PERSON WAS GUILTY OF MURDER BEYOND A
6 REASONABLE DOUBT AND THAT ANOTHER ADDITIONAL
7 AGGRAVATING CIRCUMSTANCE HAD BEEN PROVEN BEYOND A
8 REASONABLE DOUBT, THEN WE GO TO THE SECOND STAGE OF
9 THE TRIAL, WE GO TO THE PENALTY PORTION AND THE JURY
10 WILL DECIDE THE PUNISHMENT THE JURY WILL HAVE TWO
11 OPTIONS, TWO CHOICES A SENTENCE OF DEATH OR A
12 SENTENCE OF LIFE, DO YOU UNDERSTAND?

13 A YES

14 Q NOW, IN THAT SENTENCING HEARING, THERE WILL
15 BE ADDITIONAL EVIDENCE RECEIVED THERE WILL BE
16 EVIDENCE OFFERED IN AGGRAVATION AND EVIDENCE OFFERED
17 IN MITIGATION AND BY THAT I SIMPLY MEAN THAT THERE
18 WILL BE EVIDENCE PRESENTED WHICH MIGHT TEND TO SHOW
19 WHY THE DEATH PENALTY IS APPROPRIATE THERE MAY BE
20 EVIDENCE OFFERED WHICH MIGHT TEND TO SHOW WHY LIFE
21 IMPRISONMENT IS MORE APPROPRIATE, DO YOU UNDERSTAND?

22 A YES

23 Q WOULD YOU BE WILLING AND ABLE TO CONSIDER ALL
24 THAT ADDITIONAL EVIDENCE, BOTH AGGRAVATING EVIDENCE
25 AND MITIGATING EVIDENCE, BEFORE YOU MADE UP YOUR

1 DECISION AS TO WHAT YOU THOUGHT THE PROPER SENTENCE
2 SHOULD BE?

3 A YES

4 Q AFTER YOU CONSIDERED ALL THAT EVIDENCE, IF
5 YOU THOUGHT IT WAS APPROPRIATE, COULD YOU SENTENCE A
6 PERSON TO DEATH?

7 A IF IT WAS APPROPRIATE, YES

8 Q COULD YOU, ALSO, SENTENCE A PERSON TO LIFE?

9 A IF THAT'S THE WAY IT WAS APPROPRIATE I
10 THOUGHT THAT'S THE WAY IT SHOULD BE DONE, YES

11 Q AND WOULD YOUR DECISION AS TO WHETHER IT'S A
12 SENTENCE OF DEATH OR A SENTENCE OF LIFE DEPEND ON
13 THE FACTS AND CIRCUMSTANCES?

14 A FACTS

15 Q HAVE YOU ALREADY FORMED OR EXPRESSED ANY
16 OPINIONS AS TO WHAT YOU THINK THE APPROPRIATE
17 SENTENCE SHOULD BE IN THIS CASE?

18 A NO, SIR

19 Q DO YOU KNOW OF ANY REASON WHY YOU COULD NOT
20 BE A FAIR AND IMPARTIAL JUROR, IF YOU WERE SELECTED
21 TO SERVE?

22 A NO, SIR I DON'T KNOW NO REASON

23 Q YOU UNDERSTAND THAT IF YOU WERE SELECTED, YOU
24 WOULD BE SEQUESTERED FOR THE DURATION OF THE TRIAL?

25 A YES

1 Q WOULD THAT POSE ANY UNREASONABLE HARDSHIP OR
2 HEALTH RISK TO YOU?

3 A NO

4 Q WOULD YOU BE WILLING TO ACCEPT THE
5 INCONVENIENCE CAUSED BY SEQUESTRATION AND SERVE IF
6 ASKED TO?

7 A I'D SERVE IF ASKED

8 THE COURT THANK YOU PLEASE
9 ANSWER ANY QUESTIONS THE LAWYERS MAY HAVE FOR YOU
10 EXAMINATION BY MR TINSLEY

11 Q GOOD AFTERNOON, MR JONES MR JONES, HAVE
12 YOU HEARD ANYTHING ABOUT THIS CASE?

13 A NO, SIR

14 Q AND YOU LIVE DOWN TOWARDS CITY SPRINGS?

15 A YES

16 Q AND HAVE YOU READ ANYTHING ABOUT THE CASE?

17 A NO, SIR

18 Q SO YOU DON'T KNOW ANYTHING ABOUT THE CASE?

19 A I DIDN'T EVEN KNOW THE CASE EXISTED TILL I
20 GOT IT FROM THE JUDGE

21 Q AND YOU DON'T HAVE ANY FRIENDSHIP,
22 RELATIONSHIP WITH ANY OF THE PARTIES INVOLVED?

23 A NO, SIR

24 Q AND YOU DON'T HAVE ANY RELATIONSHIP, KIN OR
25 OTHERWISE, WITH SOLICITOR JONES I NOTICE YOUR LAST

1 NAME'S JONES

2 A NO, SIR

3 Q YOU DON'T KNOW HIM, DO YOU?

4 A NO

5 Q AND, MR JONES, COULD YOU CONSIDER THE LAW AS
6 INSTRUCTED BY THE JUDGE IN THIS CASE, AS YOU WERE
7 INSTRUCTED BY THE JUDGE ON THE LAW?

8 A YES

9 Q AND YOU COULD LISTEN TO THE EVIDENCE AND FORM
10 CONCLUSIONS FROM THAT, CAN'T YOU?

11 A YES

12 Q AND WOULD YOU BE WILLING TO WAIT UNTIL YOU
13 HEARD EVERYTHING BEFORE YOU DISCUSSED ANYTHING ABOUT
14 IT OR MADE ANY CONCLUSIONS?

15 A IT HAS TO BE THE WAY I'D WANT TO DO IT

16 Q AND IF THE JUDGE GAVE YOU THE OPTION ON
17 VARIOUS COUNTS OF THE INDICTMENT SUCH AS ON COUNT
18 ONE, COULD YOU CONSIDER ALL OPTIONS GIVEN TO YOU?

19 A I WOULD CONSIDER ALL THE OPTIONS

20 Q LET'S SAY THAT UNDER COUNT ONE OF MURDER, YOU
21 WERE GIVEN THE FOLLOWING CHOICES GUILTY OF MURDER,
22 NOT GUILTY, OR GUILTY OF VOLUNTARY MANSLAUGHTER,
23 COULD YOU CONSIDER ALL THREE VERDICTS -- POSSIBLE
24 VERDICTS?

25 A YES

1 Q AND YOU'D BE WILLING TO CONSIDER THE
2 MITIGATING FACTORS YOU SPOKE ABOUT A MINUTE AGO,
3 RIGHT?

4 A YES

5 Q DO YOU UNDERSTAND WHAT I MEAN BY MITIGATING
6 FACTORS?

7 A THINGS THAT MAKE THE TRIAL

8 Q AND IT WOULD RELATE TO MR HUGHEY IN TERMS OF
9 WHAT'S HAPPENED TO HIM IN HIS LIFE, WHAT BRINGS HIM
10 TO BE THE INDIVIDUAL THAT HE IS TODAY, IS THAT
11 RIGHT?

12 A YES

13 Q AND YOU'D BE WILLING TO CONSIDER ANY AND ALL
14 THAT, WOULD YOU NOT?

15 A I WOULD CONSIDER THE WHOLE TRIAL

16 Q AND YOU WOULDN'T HOLD MR HUGHEY TO HAVING TO
17 PROVE ANYTHING, WOULD YOU?

18 A I'D JUST GO BY THE FACTS IN THE TRIAL

19 Q THE REASON I ASK THAT IS, UNDERSTAND THAT THE
20 DEFENDANT HAS NO BURDEN OF PROOF IN A CASE, YOU
21 REALIZE THAT

22 A I UNDERSTAND THAT

23 Q PRESUMED INNOCENT

24 A THAT'S RIGHT

25 Q AND AS TO ANY MITIGATING CIRCUMSTANCES, HE

1 WOULD -- YOU WOULD BE WILING TO FACTOR THOSE IN IF
2 YOU GOT TO PHASE TWO OF THE CASE IN ARRIVING AT YOUR
3 SENTENCING VERDICT, IS THAT CORRECT?

4 A THAT'S CORRECT

5 Q AND I NOTICE YOU HAVE A DAUGHTER BY THE NAME
6 OF REBECCA WILSON, IS THAT CORRECT?

7 A YES

8 Q AND WHY IS HER LAST NAME WILSON INSTEAD OF
9 JONES?

10 A I GUESS BECAUSE SHE'S MARRIED

11 Q SHE'S MARRIED, OKAY AS SUCH, SHE'S MARRIED
12 TO WHAT YOUNG MAN?

13 A BRYAN WILSON HE'S KIN TO THE WILSONS THAT
14 RUNS THE GROCERY STORE UP ON THE SQUARE

15 Q KIN TO THE WILSONS THAT RUN THE GROCERY STORE
16 ON THE SQUARE BUT YOU WOULD BE WILLING TO,
17 REGARDLESS OF -- I'M JUST GETTING SOME BACKGROUND
18 YOU'D BE WILLING TO SIT AS A JUROR IN THIS CASE WITH
19 AN OPEN MIND THROUGHOUT, IS THAT CORRECT?

20 A THAT'S THE ONLY WAY I COULD DO IT

21 MR TINSLEY THANK YOU SO MUCH

22 EXAMINATION BY MR JONES

23 Q HELLO, MR JONES

24 A HOW YOU DOING?

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

1 SOLICITOR AND PROSECUTING ATTORNEY THIS IS MICHAEL
2 COULTER, HE'S YOUR DEPUTY SOLICITOR HERE IN
3 ABBEVILLE THE TWO OF US WILL BE CALLING WITNESSES
4 AND PRESENTING EVIDENCE IN THE CASE

5 LET ME ASK YOU THIS, MR JONES WE GOT YOUR
6 QUESTIONNAIRE AND LOOKED OVER IT AND READ IT YOU
7 UNDERSTAND WHAT MY ROLE IS IN THE CASE?

8 A SIR?

9 Q DO YOU UNDERSTAND WHAT MY JOB IS?

10 A YES, SIR

11 Q THEN DO YOU UNDERSTAND THAT IT'S THE JUROR'S
12 JOB WOULD BE TO RETURN A VERDICT THAT SPEAKS THE
13 TRUTH?

14 A THAT'S CORRECT

15 Q AND IF YOU SAT ON THIS JURY, YOU'D BE FAIR TO
16 EVERYBODY, WOULDN'T YOU?

17 A YES, SIR

18 Q AND IF THE JURY'S VOTE WAS GUILTY OF MURDER,
19 GUILTY OF TWO MURDERS, GUILTY OF BURGLARY BEYOND A
20 REASONABLE DOUBT, CAME BACK AND TOLD THE JUDGE,
21 GUILTY THE JURY -- DO YOU UNDERSTAND THEN THE
22 JUDGE WILL SAY, OKAY, NOW WE GO TO PART TWO PART
23 TWO IS WHERE YOU FOLKS DECIDE WHAT THE PUNISHMENT
24 IS

25 A YES, SIR

1 Q JUDGE IS GOING TO SAY YOU'VE GOT TWO CHOICES
2 YOU CAN PUT HIM TO DEATH OR SPARE HIM AND GIVE HIM
3 LIFE

4 A YES

5 Q THE JUDGE IS GOING TO SAY WE GOT SOME
6 EVIDENCE, THE SOLICITOR'S GOT SOME THINGS HE WANTS
7 TO SHOW YOU, SOME THINGS HE WANTS TO TELL YOU, SOME
8 EVIDENCE AS TO WHY YOU OUGHT TO PUT HIM TO DEATH
9 AND THE DEFENSE, THEY GOT SOME THINGS THEY WANT TO
10 ASK YOU DO YOU UNDERSTAND?

11 A YES, SIR

12 Q MY QUESTION TO YOU IS, WOULD YOU BE ABLE TO
13 PUT HIM TO DEATH IF THE CIRCUMSTANCES WARRANT IT?

14 A THE FACTS WARRANT, YES

15 Q YOU KNOW THAT ABOUT YOURSELF?

16 A YES

17 Q YOU KNOW YOU'RE CAPABLE OF THAT?

18 A YES, SIR

19 Q AND IF YOU MADE THAT DECISION, YOU'D HAVE TO
20 SIGN YOUR NAME, WILLIAM J JONES IMPOSING THE DEATH
21 SENTENCE ON ANOTHER INDIVIDUAL

22 A YES

23 Q YOU COULD DO THAT?

24 A YES

25 Q YOU COULD DO THAT

1 A THAT WARRANT, YES

2 MR JONES THANK YOU, SIR

3 THE COURT MR JONES, IF YOU'LL
4 STAND OUTSIDE JUST A MINUTE, I'LL BRING YOU RIGHT
5 BACK

6 (JUROR #108 DOES AS REQUESTED)

7 THE COURT ANY OBJECTION TO THE
8 JUROR BEING FOUND QUALIFIED?

9 MR JONES NONE FOR THE STATE,
10 YOUR HONOR

11 MR TINSLEY NO, YOUR HONOR

12 THE COURT HE IS SO QUALIFIED
13 BRING HIM IN

14 MR JONES, YOU ARE QUALIFIED TO
15 SERVE ON THE PANEL FROM WHICH THE JURY WILL BE
16 SELECTED THAT DOESN'T MEAN YOU HAVE BEEN, IT MEANS
17 YOU MAY BE SO WE NEED PHONE NUMBERS WHERE WE CAN
18 REACH YOU NIGHT AND DAY TO CALL YOU TO COME BACK FOR
19 THAT POTENTIAL JURY SELECTION PLEASE GIVE THE
20 CLERK THOSE NUMBERS BEFORE YOU LEAVE ALSO REMEMBER
21 THAT YOU'RE STILL UNDER MY INSTRUCTION NOT TO
22 DISCUSS THE CASE, DO NOT ALLOW YOURSELF TO BE
23 EXPOSED TO ANY MEDIA COVERAGE AND DON'T TALK ABOUT
24 THE CASE WITH ANY PERSON OR ALLOW ANYONE TO DISCUSS
25 IT WITH YOU

1 YOU MAY BE EXCUSED WE'LL CALL YOU
2 TO COME BACK SO BE CERTAIN YOU'RE AVAILABLE THANK
3 YOU

4 (JUROR #108 EXITS COURTROOM)

5 (JUROR #108 IS QUALIFIED)

6 THE COURT GENTLEMEN, THAT APPEARS
7 TO HAVE EXHAUSTED THE PANEL OF THE ORIGINAL VENIRE
8 THAT WAS SUMMONED FOR POTENTIAL JURY SERVICE, AFTER
9 THOSE JURORS WHO WERE EXCUSED FOR HARDSHIP,
10 STATUTORY REASONS, EXEMPTIONS HAVE BEEN REMOVED
11 THOSE THAT WERE REMAINING HAVE BEEN INDIVIDUALLY
12 VOIR DIRED AND THERE APPEARS TO HAVE BEEN FORTY-
13 EIGHT, DOES EVERYONE AGREE WITH THAT COUNT?

14 MR JONES THE STATE AGREES WITH
15 FORTY-EIGHT, YOUR HONOR

16 MR TINSLEY THAT'S CORRECT, YOUR
17 HONOR

18 THE COURT OF THAT FORTY-EIGHT,
19 AND EACH HAVE BEEN INDIVIDUALLY VOIR DIRED, IT
20 APPEARS, ACCORDING TO MY COUNT, THAT WE HAVE TWENTY-
21 EIGHT JURORS WHO HAVE BEEN QUALIFIED TO SERVE
22 WE'VE HAD EIGHTEEN WHO WERE FOUND NOT QUALIFIED

23 MR TINSLEY TWENTY IS MY COUNT,
24 YOUR HONOR

25 THE COURT WELL, TWO OF THE TWENTY

1 THAT WERE NOT QUALIFIED, TWO WERE ACTUALLY EXCUSED
2 FOR SOME REASON THEY WERE NOT DISQUALIFIED, THEY
3 WERE EXCUSED FOR -- I KNOW THAT ONE HAD A CHILD
4 UNDER SEVEN

5 MR TINSLEY RIGHT

6 THE COURT AND ONE, MS MURPHEY,
7 BECAUSE HER DAUGHTER WAS HAVING DIFFICULTY WITH A
8 PREGNANCY AND SO THOSE TWO JURORS WERE EXCUSED
9 THE REMAINING EIGHTEEN WERE FOUND NOT QUALIFIED FOR
10 REASONS STATED ON THE RECORD SO THAT LEAVES US
11 WITH TWENTY-EIGHT JURORS WHO HAVE BEEN QUALIFIED TO
12 SERVE WHICH DOES NOT APPEAR TO BE -- THERE'S A
13 LIKELIHOOD THAT THAT MAY NOT BE A SUFFICIENT NUMBER
14 FROM WHICH TO SELECT THE JURY, INCLUDING ANY
15 ALTERNATES THAT WILL BE NECESSARY

16 AS YOU ARE AWARE, I HAD PREVIOUSLY ORDERED
17 THE CLERK OF COURT TO SUMMON AN ADDITIONAL VENIRE OF
18 ONE-HUNDRED JURORS AND THAT HAS BEEN ACCOMPLISHED
19 DO EACH OF YOU HAVE THAT LIST?

20 MR JONES THE STATE HAS IT, YOUR
21 HONOR

22 MR TINSLEY THE DEFENSE HAS IT,
23 YOUR HONOR

24 THE COURT THAT ADDITIONAL VENIRE
25 IS TO REPORT AT 2 00 O'CLOCK THIS AFTERNOON AND I

1 PROPOSE AT THAT TIME TO BEGIN AGAIN WITH
2 QUALIFICATION AND VOIR DIRE COLLECTIVELY AND
3 INDIVIDUAL VOIR DIRE DEPENDING UPON THE TIME WE HAVE
4 LEFT IN THE DAY IS THERE ANY OBJECTION TO THAT
5 PROCEDURE?

6 MR TINSLEY YES, YOUR HONOR WE
7 OBJECT TO CALLING IN OF AN ADDITIONAL PANEL IN A
8 CAPITAL CASE BASED UPON THE FACT THAT THEY'VE BEEN
9 OUT IN THE COMMUNITY, THERE'S BEEN A LOT OF
10 DISCUSSION ON THE CASE IN THE LAST WEEK, A LOT OF
11 NEWSPAPER ARTICLES WE HAVE NOT, ALSO, THOROUGHLY
12 HAVE NOT HAD TIME TO PREPARE FOR THIS LIST HAVING,
13 OF COURSE, BEEN FULLY PREPARED FOR THE OTHER LIST
14 WHICH WE'VE JUST FINISHED WE, ALSO, WHEN REQUESTED
15 WE -- FOR A NUMBER IN THE ORIGINAL GROUP WE CITED A
16 LARGER NUMBER OF THEM WAS ULTIMATELY REQUESTED
17 ANTICIPATING THAT IN THIS SMALL COMMUNITY THERE MAY
18 BE SOME PROBLEMS WITH CONFLICTS, PUBLICITY
19 INTERTWINED, THAT SORT OF THING AND BASED UPON
20 THAT -- OF COURSE WE, AT THIS TIME, WE RESERVE ALL
21 OF OUR OBJECTIONS TO THE QUALIFICATION PROCESS WITH
22 THE FIRST PANEL, BUT WE FURTHER, AT THIS POINT,
23 CONTINUE OUR OBJECTION TO THE SECOND PANEL JURY
24 POOL

25 WE, ALSO, WANT TO POINT OUT ON THE

1 ORIGINAL QUALIFIED TWENTY-EIGHT, WE HAVE A PROBLEM
2 WITH NUMBER FIFTY-NINE, MR DRAFT, NUMBER NINETY-
3 FIVE, MR HESSON AND SOME ISSUES AROSE THERE AND,
4 ALSO, THE OTHERS THAT WE SPOKE ABOUT OF COURSE, WE
5 DISCUSSED FIFTY-FIVE SEDC MAN AND WE RENEW ALL THOSE
6 MOTIONS IN PARTICULARLY WE'VE GOT A CASE ON POINT AS
7 TO NUMBER NINETY-FIVE

8 MR McCALLUM YOUR HONOR, I WOULD
9 PASS UP THE STATE V REED 293 SOUTH CAROLINA 515
10 THAT'S 362 SOUTHEASTERN SECOND 13 YOUR HONOR, IT
11 APPEARS IN THAT CASE, WHILE IT IS INDICATIVE THAT
12 THEY REMANDED AND REVERSED THAT CASE ON THE GROUNDS
13 THE COURT SAY OUR DECISION ON THE OTHER GROUND MAKES
14 IT UNNECESSARY FOR US TO DECIDE THE QUESTIONS RAISED
15 BY THE APPELLATE'S REMAINING EXCEPTIONS HOWEVER,
16 BECAUSE OF THE GREAT PUBLIC INTEREST IN AN EFFICIENT
17 DISPOSITION OF CAPITAL CASES, WE WISH TO COMMENT ON
18 THE FOLLOWING ISSUES WHICH MAY ARISE DURING RE-
19 TRIAL SOUTH CAROLINA CODE ANNOTATED SECTION 14-7-
20 820 SUPPLEMENT 1986 MAKES ANY PERSON EMPLOYED WITHIN
21 THE WALLS OF A COURTHOUSE INELIGIBLE AS A JURYPAN IN
22 A CIVIL OR CRIMINAL CASE ONCE A TRIAL JUDGE
23 DETERMINES A POTENTIAL JUROR IS EMPLOYED IN ANY
24 CAPACITY WITHIN A COURTHOUSE, HE MUST DISQUALIFY
25 THAT PERSON FROM JURY SERVICE

1 IT GOES ON TO SAY, WHILE A TRIAL JUDGE
2 IS GIVEN A LOT OF DISCRETION IN DECIDING WHETHER A
3 JUROR IS QUALIFIED OR NOT, IT CITES STATE V
4 PLEMMONS, EXTREME CAUTION SHOULD BE EXERCISED IN
5 CAPITAL CASES TO INSURE THE DEFENDANT WILL BE TRIED
6 BY A FAIR AND IMPARTIAL JURY

7 THE COURT THIS ARGUMENT WAS
8 RELATED TO WHICH JUROR?

9 MR McCALLUM THE FIREMAN, YOUR
10 HONOR THE FIRE STATION --

11 THE COURT I UNDERSTAND THAT, BUT
12 WHICH ONE IS THAT?

13 MR TINSLEY NINETY-FIVE

14 THE COURT NINETY-FIVE, HESSON,
15 OKAY

16 MR TINSLEY AND, YOUR HONOR, WE
17 PASS THAT CASE UP FOR YOUR REVIEW

18 MR COULTER I ASSUME THEY HAVE A
19 COPY FOR US, JUDGE

20 MR TINSLEY I CAN CERTAINLY GET
21 ONE FOR YOU

22 MR COULTER CAN I HAVE IT NOW?

23 MR McCALLUM NO, WE DON'T HAVE IT
24 NOW

25 MR COULTER JUDGE, I'D LIKE TO BE

1 ABLE TO REVIEW THAT IF WE'RE GOING TO ARGUE THIS
2 PARTICULAR --

3 THE COURT YEAH, I'M GOING TO
4 ALLOW YOU THE OPPORTUNITY TO MAKE AN ARGUMENT, IF
5 YOU 'D LIKE I'M JUST TRYING TO HEAR NOW -- I ASKED
6 IF THERE WAS ANY DIFFICULTY OR OBJECTIONS TO THIS
7 PROCEEDINGS AND NOW I'M JUST HEARING FROM THEM ON
8 THEIR OBJECTION I'M GOING TO ALLOW YOU TO RESPOND
9 AND TIME TO RESPOND

10 MR TINSLEY YOUR HONOR,
11 ADDITIONALLY --

12 THE COURT YOU SHOULD BE FAMILIAR
13 WITH THE REED CASE

14 MR JONES YES, SIR, I TRIED THE
15 REED CASE RIGHT HERE AND ENJOYED EVERY MINUTE OF IT
16 JUST LIKE I AM NOW

17 MR GARRETT YOUR HONOR, AT THIS
18 TIME, ALSO, THE DEFENDANT WOULD MOVE TO QUASH THE
19 ENTIRE JURY VENIRE, BOTH THE ORIGINAL TWO HUNDRED
20 AND TWENTY FIVE, AS WELL AS THIS ADDITIONAL ONE
21 HUNDRED

22 YOUR HONOR, OUR BASIS FOR THAT IS SOUTH
23 CAROLINA CODE ANNOTATED SECTION 14-7-140, THE MOST
24 RECENT AMENDMENT BEING 1988 EFFECTIVE FEBRUARY 2ND
25 AND, ALSO, 14-7-280, THE MOST RECENT AMENDMENT BEING

1 EFFECTIVE MARCH 10, 1986 THERE'S AS WELL A THIRD
2 CODE SECTION, YOUR HONOR, 14-7-220 WHICH WAS
3 AMENDED, ALSO, MARCH 10, 1986 CODE SECTION 220
4 PROVIDES THAT THE DRAWINGS FOR A JURY VENIRE MUST BE
5 MADE OPENLY AND PUBLICLY IN THE OFFICE OF CLERK OF
6 COURT OF COMMON PLEAS AND THE JURY COMMISSIONER
7 SHALL GIVE TEN DAYS NOTICE OF THE PLACE, DAY AND
8 HOUR OF EACH OF THE DRAWINGS BY POSTING A
9 CONSPICUOUS PLACE IN THE COURTHOUSE FLOOR OR BY
10 ADVERTISEMENT IN A COUNTY NEWSPAPER

11 YOUR HONOR, I'VE CHECKED WITH OUR CLERK
12 OF COURT HERE, SUCH A NOTICE WAS NOT POSTED AND SUCH
13 A PUBLICATION WAS NOT MADE ADDITIONALLY, THE JURY
14 WAS DRAWN NOT IN THE OFFICE OF THE CLERK OF COURT,
15 IT'S MY UNDERSTANDING, BUT IN THE DATA PROCESSING
16 AREA OF THE COURTHOUSE, BOTH OF WHICH ARE IN
17 VIOLATION OF THE STATUTE

18 ADDITIONALLY, YOUR HONOR, 14-7-140,
19 WHICH PROVIDES FOR THE USE OF A COMPUTER IN THE
20 DRAWING OF A JURY PANEL TO BE QUALIFIED SAYS IN LIEU
21 OF THE MANNER REQUIRED BY THIS CHAPTER, WHICH IS THE
22 OLD MANNER OF USING A BIN WITH CAPSULES AND ROTATING
23 AND HAVING EITHER A CHILD UNDER THE AGE OF TEN OR A
24 BLIND PERSON SELECT POTENTIAL JURORS IT SAYS IN
25 LIEU OF THAT MANNER, THE JURY COMMISSIONERS OF THE

1 COUNTY WHEN DRAWING AND SUMMONING JURORS FOR COURT
2 OF COMMON PLEAS OF GENERAL SESSIONS OR GRAND JURY
3 MAY, AT THE DISCRETION OF THE GOVERNING BODY OF THE
4 COUNTY, UTILIZE A COMPUTER FOR THIS PURPOSE IN THE
5 MATTER OF THE SUPREME COURT BY ORDER DIRECT

6 YOUR HONOR, WE HAVE CHECKED WITH THE
7 COUNTY ATTORNEY, WITH THE CLERK OF COURT, ALSO WITH
8 THE COUNTY COUNCIL, AND I HAVE HERE, AND I WOULD
9 SUBMIT IT FOR COURT EXHIBIT, SHE'S AVAILABLE TO
10 TESTIFY, IF THE SOLICITOR BELIEVES IT'S NECESSARY, A
11 LETTER FROM CAROL A CHRISLEY, CLERK TO COUNCIL
12 SHE STATES I'VE REVIEWED THE MINUTES OF COUNCIL,
13 RESOLUTIONS AND ORDINANCES FROM 1986 TO DATE CAN
14 FIND NO INDICATION AUTHORIZING THE USE OF COMPUTER
15 IN JURY SELECTION PROCESS YOUR HONOR, WE WOULD ASK
16 TO MAKE THIS A COURT EXHIBIT, IF WE COULD

17 IN ADDITION, YOUR HONOR, I THINK ALL OF
18 US HAVE COPIES AND I'LL GRAB THOSE IN A MINUTE BUT
19 WE'D ALSO LIKE TO MAKE COURT EXHIBITS THE NEWSPAPER
20 ARTICLES, TWO OF WHICH HAVE APPEARED IN *THE INDEX*
21 *JOURNAL* THIS WEEK SINCE THIS CASE HAS BEEN CALLED
22 ALSO, A COPY OF THE ABBEVILLE ARTICLE WHICH APPEARED
23 SINCE THIS CASE HAS BEEN CALLED I DON'T THINK
24 THAT'S BEEN DONE

25 THE COURT THAT HAS NOT BEEN DONE

1 THROUGH --

2 MR GARRETT THOSE HAVE NOT BEEN
3 MADE -- HAVE NOT BEEN MADE EXHIBITS TO THE COURT AND
4 I THINK WE'VE ARGUED AND TALKED ABOUT THEM
5 REPEATEDLY

6 THE COURT HAVE THEY EVER BEEN
7 REQUESTED TO BE MADE EXHIBITS?

8 MR GARRETT NO, YOUR HONOR THE
9 DEFENSE IS SO REQUESTING AND I'LL GET THOSE FOR YOU
10 THE COURT ON WHAT MOTION IS THAT
11 EVIDENCE OFFERED?

12 MR GARRETT IT GOES TO THE SECOND
13 ONE HUNDRED THAT'S BEEN DRAWN, YOUR HONOR WE
14 BELIEVE THAT THEY MAY HAVE BEEN IMPROPERLY TAINTED
15 BY THAT PUBLICITY, AS WELL AS THE GENERAL
16 CONVERSATION IN THE COMMUNITY SINCE THIS CASE HAS
17 BEEN CALLED

18 THE COURT OF COURSE YOU
19 UNDERSTAND, THAT IS THE PURPOSE OF VOIR DIRE?

20 MR GARRETT I APPRECIATE THAT,
21 YOUR HONOR BUT WE FEEL THE CASE IS, IN A SMALL
22 COMMUNITY LIKE THIS -- ONE SECOND, PLEASE

23 YOUR HONOR, WE BELIEVE THAT HAS
24 TAINTED THE COMMUNITY ENTIRELY ESPECIALLY IN LIGHT
25 OF THE COMMENTS THAT WERE ALLEGED TO HAVE BEEN MADE

1 BY THE SOLICITOR, WHICH HE HAS DENIED ON AT LEAST
2 ONE OCCASION MAKING, THAT THERE SEEMED TO BE SOME
3 PROBLEM GETTING DEATH-QUALIFIED JURORS

4 YOUR HONOR, I WILL DIRECT YOUR
5 ATTENTION TO 14-7-280 THAT PROVIDES THAT ONCE A
6 CIRCUIT JUDGE, UPON A COMPLAINT MADE TO HIM, THAT AN
7 IRREGULARITY HAS OCCURRED AND THE DRAWING OF THE
8 JURY FOR ANY COURT WITHIN HIS CIRCUIT OR THAT ANY
9 ACT HAS BEEN DONE WHEREBY THE VALIDITY OF ANY JURY
10 DRAWN OR TO BE DRAWN MAY BE QUESTIONED THE CIRCUIT
11 JUDGE MAY ISSUE HIS ORDER TO THE JURY COMMISSIONERS
12 FOR EACH COUNTY TO WHICH COURT IS TO BE HELD AT
13 LEAST FIVE DAYS BEFORE THE SITTING THEREOF AND
14 PROCEED TO DRAW JURORS FOR THE TERM OR TAKE
15 MEASURES, IF IT BE NECESSARY, TO CORRECT THE ERROR

16 I THINK WE CLEARLY HAVE TWO
17 STATUTORY IRREGULARITIES HERE, YOUR HONOR WE WOULD
18 REQUEST A CONTINUANCE TO PROVIDE FOR A NEW PANEL TO
19 BE DRAWN IN THE FIVE DAYS THAT IT PROVIDES FOR
20 AND, YOUR HONOR, I WOULD POINT OUT TO THE COURT --
21 IT'S AN OLDER CASE, IT'S A 1902 CASE, OF STATE V
22 TURNER AND, I APOLOGIZE, I DON'T HAVE A FULL COPY OF
23 THAT TEXT I CAN GIVE YOU WHAT THE HEAD NOTE SAYS
24 AND THAT IS THE DRAWING IN THE OFFICE OF THE COUNTY
25 COMMISSIONER WITH DOORS CLOSED AND NOTICED POSTED

1 THAT NO ONE WILL BE ADMITTED IS A ILLEGAL AND
2 RENDERS A CONVICTION BY A JURY SO DRAWN INVALID
3 AND I THINK THAT STANDS FOR THE PROPOSITION, YOUR
4 HONOR, THAT IF WE GO FORWARD WITH THESE
5 IRREGULARITIES PRESENT, THAT ANY VERDICT RENDERED
6 WOULD BE INVALID, IF IT WAS AGAINST THE DEFENDANT,
7 YOUR HONOR

8 ADDITIONALLY, YOUR HONOR, THESE
9 SAME STATUTORY PROBLEMS ARE PRESENT IN THE SECOND
10 ONE HUNDRED JURORS THAT YOU'RE PROPOSING TO BEGIN
11 VOIR DIRE ON THIS AFTERNOON YOUR HONOR, WE WOULD
12 RESERVE THE RIGHT TO MAKE ANY ADDITIONAL MOTIONS
13 WITH REGARD TO THIS SECOND PANEL THAT SHOULD COME UP
14 AS WE GO THROUGH THAT PROCESS

15 THE COURT WELL, SINCE THESE
16 MOTIONS HAVE JUST BEEN MADE, THERE'S NOT BEEN -- NO
17 WRITTEN MOTIONS HAVE BEEN FILED AND I'VE HAD SOME
18 DIFFICULTY IN GETTING ANY MOTIONS FOR THE COURT TO
19 ENTERTAIN, EXCEPT BY MY CONTINUING TO REQUEST THEM,
20 I'M GOING TO ALLOW THE STATE A SUFFICIENT
21 OPPORTUNITY TO CONSIDER THE MATTERS SO THAT THEY CAN
22 RESPOND IF THEY WISH TO AND THEN I'LL ADDRESS THOSE
23 MATTERS ONCE I'VE HEARD FROM THE STATE

24 BUT I UNDERSTAND THAT THIS JURY HAS
25 BEEN DRAWN FOR SOME TIME THERE'S BEEN NO PREVIOUS

1 OBJECTION TO THE PANEL BEING SELECTED OR THE MANNER
2 IN WHICH IT WAS SELECTED AND I DO WANT THE RECORD
3 TO REFLECT THAT ON SEVERAL OCCASIONS I HAD REQUESTED
4 ANY MOTION TO BE FILED BE FILED SO THAT THOSE
5 MOTIONS COULD BE ADDRESSED PRE-TRIAL SO THAT WE
6 WOULD NOT BE IN THE MIDDLE OF THIS CASE HAVING TO
7 ADDRESS MOTIONS THAT COULD HAVE BEEN MADE PRIOR TO
8 NOW

9 SO SINCE THAT HAS NOT BEEN DONE,
10 I'M GOING TO ALLOW THE STATE A SUFFICIENT
11 OPPORTUNITY TO PREPARE THEIR ARGUMENT IN RESPONSE
12 AND THEN I'LL ADDRESS THOSE AT THE PROPER TIME

13 MR GARRETT JUDGE, MAY WE PUT ONE
14 OTHER THING ON THE RECORD?

15 THE COURT SURE

16 MR GARRETT THIS CAME TO OUR
17 KNOWLEDGE WHEN WE SET DOWN AND STARTED EXAMINING THE
18 PROPRIETY OF THE SECOND JURY TIME WISE, WE JUST
19 MADE THESE REVELATIONS THIS MORNING WHILE WE WERE IN
20 PROCESS OF VOIR DIRING THESE JURORS AS TO WHEN THIS
21 WAS ACTUALLY STATED WAS THE FIRST TIME IT WAS
22 BROUGHT TO OUR ATTENTION AND WE BROUGHT IT TO THE
23 COURT'S ATTENTION, AND WE FEEL LIKE APPROPRIATELY,
24 AS SOON AS IT WAS MADE KNOWN TO US THAT THESE
25 IRREGULARITIES EXISTED

1 YESTERDAY, YOUR HONOR, WE INDICATED, OF
2 COURSE, OUR DIRE CONCERNS ABOUT TIME -- NECESSARY
3 TIME TO STUDY THESE JURORS INDEPENDENT OF THE JURORS
4 ON VOIR DIRE TO LOOK AT THESE JURORS, THESE OTHER
5 ONE HUNDRED, YOUR HONOR AND IT WAS AT THAT TIME
6 THIS METHOD OR THESE PROBLEMS OR IRREGULARITIES
7 Arose TO OUR ATTENTION

8 THE COURT WELL, WE'LL TAKE A
9 SHORT RECESS AND ALLOW THE STATE AN OPPORTUNITY TO
10 PREPARE ANY ARGUMENT OR RESPONSE, UNLESS YOU'RE
11 PREPARED TO RESPOND NOW

12 MR JONES YOUR HONOR, FROM THE
13 STANDPOINT OF PROPOSITION, WE WOULD NEED SOME TIME
14 TO -- I PRETTY MUCH KNOW WHAT MY POSITION IS GOING
15 TO BE TO YOU I DON'T KNOW THAT I'LL BE ABLE TO
16 FIND ANY LAW THAT OVERRIDES THE STATUTORY PROVISIONS
17 THAT HAVE BEEN PRESENTED TO YOU I WOULD LIKE TO
18 RESEARCH THE CASE THAT WAS HANDED UP, IF IN FACT IT
19 WAS THE REED CASE, I'D JUST LIKE TO -- THERE WERE A
20 COUPLE OF OTHER CASES CITED IN THERE, I'D LIKE TO
21 LOOK AT THAT

22 BUT, JUDGE, FOR YOUR CONSIDERATION TELL
23 YOU NOW, ON THE ISSUE OF THE MATTER IN WHICH THE
24 JURY WAS SELECTED, BASICALLY THE ARGUMENT IS IS THAT
25 THE -- OUR CLERK OF COURT HERE IN ABBEVILLE HAS

1 VIOLATED A TECHNICAL PROCEDURE, AS I UNDERSTAND IT,
2 IN THE MANNER IN WHICH THE JURY WAS SUPPOSED TO BE
3 SELECTED THAT IS, IT'S SUPPOSED TO GIVE PUBLIC
4 NOTICE, IT'S SUPPOSED TO DO IT IN A PUBLIC PLACE AND
5 THAT SORT OF THING YOU KNOW, JUDGE, I THINK THE
6 ISSUE WILL ULTIMATELY BE ONE OF DISCRETION FOR YOU
7 AND YOU'LL HAVE TO EXERCISE YOUR DISCRETION AS TO
8 WHETHER OR NOT, IF THERE WAS A TECHNICAL VIOLATION
9 THAT TOOK PLACE, IF THERE WAS, AND I'M NOT TOO SURE
10 THERE WAS BECAUSE I HAVEN'T, AGAIN, LOOKED AT IT
11 ENOUGH

12 BUT THE BOTTOM LINE IS, WAS IT ONE THAT
13 WAS DONE THAT RESULTED IN SOME PREJUDICE TO THE
14 DEFENSE CAN THEY SHOW YOU ANY PREJUDICE WHATSOEVER
15 THAT THEY HAVE INCURRED DUE TO THE PROCESS THAT OUR
16 CLERK USED YOU KNOW, I DIDN'T EVEN HEAR FROM THEM
17 WHEN SHE WAS SELECTING THE JURY NORMALLY MOST
18 DEFENSE ATTORNEYS WILL CALL AND SAY, WE HAVE A RIGHT
19 TO BE PRESENT WHEN THIS JURY IS SELECTED WE WANT
20 TO GO OVER THERE AND SIT DOWN WITH THE CLERK TO MAKE
21 SURE SHE'S NOT CHEATING OR WHATEVER REASON THEY WANT
22 TO GO AND LOOK OR JUST TO BE CONFIDENT IN THEIR
23 EFFORT TO INSURE TO PROTECT THE RIGHTS OF THEIR
24 CLIENT BUT THEY INDICATE THAT THEY WANT TO DO
25 THAT AND I ASSUME IT WASN'T BECAUSE THEY WERE TOO

1 BUSY BECAUSE THIS IS THE ONLY CASE THEY'VE BEEN
2 WORKING ON FOR THE LAST THIRTY DAYS AND IT WASN'T
3 BECAUSE THEY'RE NOT COMPETENT BECAUSE THEY ARE,
4 THEY'RE VERY COMPETENT THEY'RE THE BEST CRIMINAL
5 DEFENSE LAWYERS WE'VE GOT IN THE COUNTY

6 SO I WOULD ASSUME THAT THE REASON THEY
7 DIDN'T COME IS BECAUSE THEY KNOW THAT OUR CLERK IS
8 THE MOST HONEST, CAREFULLY, STUDIOUS, PROTECTIVE
9 PERSON OF DOING THINGS THE WAY THEY SHOULD BE IN THE
10 RIGHT WAY THAT THERE IS AND THEY TRUST HER
11 IMPLICITLY NOT TO DO ANYTHING WRONG AND NOT TO DO
12 ANYTHING IN SELECTING THIS JURY THAT WOULD PREJUDICE
13 THEIR CLIENT OR PREJUDICE ANYBODY ELSE'S RIGHT TO
14 SERVE AS A JUROR IN THIS CASE SO I ASK YOU TO
15 THINK ABOUT THAT WHEN YOU'RE THINKING ABOUT WHAT IS
16 A PROPER REMEDY AND WHAT IS RIGHT AND FAIR IN OUR
17 PROCESS HERE AND I SUGGEST TO YOU THAT IF YOU LOOK
18 AT WHAT SHE DID, AND YOU ANALYZE WHAT SHE DID,
19 YOU'RE GOING TO FIND THAT WHAT SHE DID IS WHAT SHE
20 FELT WAS THE RIGHT THING TO DO, THE HONEST THING TO
21 DO AND THE PROPER THING TO DO IN FOLLOWING THE LAW
22 AS SHE UNDERSTANDS IT, AS SHE KNOWS IT IN HOW TO GO
23 ABOUT DOING IT

24 SO, AGAIN, I'M GOING TO RETURN MY
25 BASIC ARGUMENT TO YOU IS GOING TO BE, IT'S WITHIN

1 YOUR DISCRETION AND NO PREJUDICE WILL BE SHOWN, WE
2 CAN GO FORWARD WITH THIS CASE AS IT IS IN SPITE OF A
3 TECHNICAL VIOLATION AND I WOULD SUGGEST TO YOU
4 NOW, AND HOPEFULLY WE'LL BE ABLE TO FIND SOME
5 SUPPORT IN THE MEANTIME, IF YOU'LL GIVE ME A HALF
6 HOUR TO -- I WOULD ASK BEFORE I GO ON TO ALLOW THIS
7 TO TAKE PLACE FROM MY BEING ABLE TO RESPOND TO THIS
8 THAT WE START BACK AT WHATEVER TIME YOU SO DEEM,
9 WE'VE GOT A PANEL COMING IN AT 2 00, AND WE BEGIN TO
10 WORK -- CONDUCT OUR WORK WITH THEM WHEN WE COME
11 BACK ALLOW ME SOME CONVENIENT TIME IN THAT PROCESS
12 TO THEN COME BACK IN AND ARGUE WHAT I'M SUGGESTING
13 IS, GIVE ME UNTIL 3 30 OR 4 00 THIS AFTERNOON TO
14 RESPOND TO THE ARGUMENT, THE MOTION THAT WAS MADE AT
15 1 15 TODAY GIVE ME TWO HOURS, GIVE ME TILL 3 30 TO
16 DO SOME RESEARCH ON THIS BEFORE I HAVE TO RESPOND TO
17 THE ARGUMENT -- TO THE MOTION

18 THE COURT ALL RIGHT COURT'S IN
19 RECESS UNTIL 2 00 O'CLOCK

20 (OFF THE RECORD)

21 THE COURT GOOD AFTERNOON, LADIES
22 AND GENTLEMEN OF THE JURY PANEL AS THE BAILIFF
23 INDICATED TO YOU, MY NAME IS DERHAM COLE I'M A
24 RESIDENT CIRCUIT JUDGE IN THE SEVENTH JUDICIAL
25 CIRCUIT CAN EVERYBODY HEAR ME IN THE BACK? IF YOU

1 CAN'T HEAR, RAISE YOUR HAND, PLEASE I AM HERE THIS
2 WEEK FOR THE PURPOSE -- A SPECIAL PURPOSE AND THAT
3 IS FOR THE TRIAL A PARTICULAR CASE AND THAT IS THE
4 CASE FOR WHICH YOU HAVE BEEN SUMMONED TO,
5 POTENTIALLY, SERVE AS JURORS IN

6 WE APOLOGIZE FOR YOU NOT HAVING ANY MORE
7 NOTICE THAN YOU ACTUALLY HAD BUT THAT SIMPLY COULD
8 NOT BE HELPED WHEN WE QUALIFIED THE PREVIOUS
9 PANEL, THERE WERE NOT A SUFFICIENT NUMBER OF JURORS
10 FOR US TO PROCEED WITH JURY SELECTION AND,
11 THEREFORE, IT WAS NECESSARY TO SUMMON ADDITIONAL
12 JURORS, AND YOU ARE THOSE, FOR THE PURPOSE OF
13 ASSISTING US IN THE TRIAL OF THIS PARTICULAR CASE OR
14 TO, POTENTIALLY, ASSIST US IN THE TRIAL OF THIS
15 PARTICULAR CASE

16 NOW, THE CASE THAT HAS BEEN CALLED THAT
17 MAY REQUIRE SOME OF YOUR PARTICIPATION IS THE CASE
18 OF THE STATE VS JOHN KENNEDY HUGHEY DID EVERY
19 JUROR RECEIVE WITH YOUR SUMMONS A LETTER FROM ME
20 INDICATING TO YOU THE NAME OR TITLE OF THE CASE? IF
21 ANY PERSON DID NOT RECEIVE THAT LETTER, LET ME ASK
22 THAT YOU, PLEASE, RAISE YOUR HAND LET THE RECORD
23 REFLECT THAT NO JUROR HAS RAISED THEIR HAND
24 (NO RESPONSE FROM JURORS)

25 DID EACH JUROR ALSO RECEIVE IN YOUR --

1 THE COURT YOU'RE TOO OLD BE ONE'
2 WELL, ACTUALLY, THERE'S NO SUCH AS BEING TOO OLD
3 NOW, YOU MIGHT HAVE AN EXEMPTION OR SOME REASON THAT
4 YOU CAN'T BE REQUIRED TO SERVE BUT YOU'RE, ACTUALLY,
5 NOT TOO OLD YOU CAN BE TOO YOUNG BUT YOU CAN'T BE
6 TOO OLD

7 JUROR I'M UNDER THE CARE OF A
8 DOCTOR

9 THE COURT I'M GOING TO ADDRESS
10 ALL THOSE MATTERS WITH YOU ALL IF YOU ALL WILL LET
11 ME GET TO THAT POINT IS THERE ANY OTHER JUROR WHO
12 HAS NOT COMPLETED THE QUESTIONNAIRE, THAT WAS MY
13 QUESTION HAS EVER JUROR BROUGHT THE COMPLETED
14 QUESTIONNAIRE BACK WITH YOU TO THE COURTHOUSE? ALL
15 RIGHT

16 JUROR I WAS NOT ABLE TO BRING
17 MINE

18 THE COURT YES, MA'AM

19 JUROR IF I COULD COME FORWARD AND
20 TELL SOMEONE WHY

21 THE COURT I'LL DISCUSS THAT WITH
22 YOU SHORTLY AND WHO ELSE DID NOT HAVE ONE? DID
23 SOMEBODY ELSE NOT HAVE THE QUESTIONNAIRE? OKAY OF
24 COURSE, YOU'VE BEEN CALLED FOR THE PURPOSE OF
25 SERVING OR POTENTIALLY SERVING AS JURORS

1 WITH YOUR JUROR SUMMONS A JUROR QUESTIONNAIRE TO BE
2 FILLED OUT AND COMPLETED? DID ANY JUROR NOT RECEIVE
3 THAT QUESTIONNAIRE, IF SO, RAISE YOUR HAND HAS
4 EVERY JUROR HAD AN OPPORTUNITY TO COMPLETE THAT
5 QUESTIONNAIRE? IF NOT, RAISE YOUR HAND ALL RIGHT,
6 YOU HAVE NOT YET COMPLETED THE QUESTIONNAIRE?

7 JUROR I'M TOO OLD
8 THE COURT YOU'RE TOO OLD TO
9 COMPLETE IT?

10 JUROR I'M TOO OLD I'M PASSED
11 65

12 THE COURT ALL RIGHT, SIR I'LL
13 ADDRESS THAT SHORTLY, THANK YOU BUT YOUR NAME,
14 PLEASE, SIR?

15 JUROR WILLIAM CROMER
16 THE COURT CROMER ALL RIGHT,
17 THANK YOU, SIR ANY OTHER JUROR WHO HAS NOT
18 COMPLETED THE QUESTIONNAIRE? YES, SIR

19 JUROR I DID NOT I'M 75 YEARS
20 OLD AND MY WIFE IS BLIND

21 THE COURT ALL RIGHT, SIR I'M
22 GOING TO GET TO ALL THOSE PARTICULAR CIRCUMSTANCES
23 THE JURORS MAY HAVE YES, MA'AM

24 JUROR I'M 85 I'M TOO OLD TO BE
25 UP HERE

1 UNDERSTAND WE HAVE ALREADY QUALIFIED ONE PANEL AND
2 WE HAVE THOSE AVAILABLE IT WILL REQUIRE ADDITIONAL
3 JURORS, THAT IS WHY YOU HAVE BEEN SUMMONED TO
4 PARTICIPATE I WILL BE ASKING YOU A NUMBER OF
5 QUESTIONS IN ORDER TO DETERMINE YOUR QUALIFICATIONS
6 TO SERVE AS A JUROR AT THAT TIME, I WILL ALSO BE
7 ADDRESSING ANY DISQUALIFICATIONS, ANY STATUTORY
8 EXEMPTIONS OR ANY HARDSHIPS THAT MIGHT BE IMPOSED
9 SO, PLEASE, SIMPLY BE PATIENT WITH ME AND I'LL TRY
10 TO ADDRESS EACH ONE OF YOU, SHOULD THAT BE NECESSARY
11 AND WE WILL ADDRESS ALL OF THOSE ISSUES AT SOME
12 POINT TODAY

13 FIRST OF ALL, WHAT WE NEED TO DO IS
14 TO SIMPLY CALL THE ROLL OF THE JURY PANEL SO THAT WE
15 WILL KNOW WHO HAS RESPONDED TO THE CALL FOR JURY
16 SERVICE YOUR CLERK OF COURT, NANCY KING, IS GOING
17 TO BE CALLING THE ROLL OF THE PANEL WE WOULD ASK
18 THAT YOU, PLEASE STAND STAND UP SO THAT WE CAN SEE
19 WHO YOU ARE AND THE FACT THAT YOU HAVE REPORTED
20 ONCE YOU HAVE STOOD FOR JUST A COUPLE, THREE
21 SECONDS, YOU MAY TAKE YOUR SEAT, THE NEXT NAME WILL
22 BE CALLED SO, PLEASE, LISTEN UP AS YOUR NAMES ARE
23 CALLED, STAND IN RESPONSE SO THAT WE CAN FIND OUT
24 WHO IS PRESENT MS KING WILL BE CALLING YOUR
25 NAMES

1 THE CLERK AS I CALL YOUR NAME, AS
2 INSTRUCTED BY JUDGE COLE, I'M GOING TO ASK YOU TO,
3 PLEASE, STAND AND IF YOU DO NOT MIND, IF YOU
4 WOULD, ALSO, REPEAT YOUR NAME BACK TO THE COURT
5 THE FIRST TWO NAMES THAT I'M GOING TO CALL ARE FROM
6 THE JURY POOL THAT WE HAD OUT OF TWO HUNDRED AND
7 TWENTY WHO WERE UNABLE TO REPORT LAST WEEK BUT ARE
8 HERE TODAY

9 JUROR NUMBER NINETEEN GLORIA BOWIE

10 JUROR GLORIA BOWIE

11 THE CLERK NUMBER THIRTY-FOUR

12 MARGARET H CADE

13 JUROR MARGARET CADE

14 THE CLERK THANK YOU, MS CADE I

15 GUESS BEFORE I CALL THOSE JURORS, I NEED ALL OF YOU
16 TO STAND AND RAISE YOUR RIGHT HAND SO I CAN SWEAR
17 THE ENTIRE JURY PANEL IF YOU'LL, PLEASE, STAND
18 RAISE YOUR RIGHT HAND

19 DO YOU JURORS HEREBY SOLEMNLY SWEAR
20 THAT THE STATEMENTS AND RESPONSES TO THE QUESTIONS
21 ASKED BY THE COURT SHALL BE THE TRUTH, THE WHOLE
22 TRUTH AND NOTHING BUT THE TRUTH, SO HELP YOU, GOD
23 INDICATE BY STATING I WILL THANK YOU, YOU MAY BE
24 SEATED

25 JUROR NUMBER TWO TWENTY-SIX, TONYA

1 ADAMS UNABLE TO LOCATE
2 NUMBER TWO HUNDRED TWENTY-SEVEN,
3 AUDREY BANISTER
4 JUROR AUDREY BANISTER
5 THE CLERK NUMBER TWO HUNDRED
6 TWENTY-EIGHT WILLIE BELTON
7 JUROR WILLIE BELTON
8 THE CLERK NUMBER TWO HUNDRED
9 TWENTY-NINE, CHARLES W BOWIE, JR
10 JUROR CHARLES BOWIE
11 THE CLERK NUMBER TWO HUNDRED
12 THIRTY, MARY A BRAWLEY, DECEASED
13 NUMBER TWO HUNDRED THIRTY-ONE,
14 ELIZABETH A BROOME
15 JUROR ELIZABETH BROOME
16 THE CLERK DID HEAR SOME RESPONSE
17 FOR MARY BRAWLEY? NUMBER TWO HUNDRED THIRTY-TWO,
18 BESSIE D BRUCE
19 JUROR BESSIE D BRUCE
20 THE CLERK NUMBER TWO HUNDRED
21 THIRTY-THREE, KIMFSHIREA BRYSON MS BRYSON
22 TWO HUNDRED THIRTY-FOUR, RICHARD E
23 BURTON
24 JUROR RICHARD BURTON
25 THE CLERK NUMBER TWO HUNDRED

1 THIRTY-FIVE, HAZEL W CAMPBELL
2 JUROR HAZEL CAMPBELL
3 THE CLERK NUMBER TWO HUNDRED
4 THIRTY-SIX, KIMBERLY A CAPE IS A RESIDENT OF
5 GREENWOOD COUNTY
6 NUMBER TWO HUNDRED THIRTY-SEVEN
7 CANDICE J CHARPING
8 JUROR CANDICE CHARPING
9 THE CLERK NUMBER TWO HUNDRED
10 THIRTY-EIGHT SHANDAL B CLARDY
11 JUROR SHANDAL CLARDY
12 THE CLERK TWO HUNDRED THIRTY-
13 NINE, HOWARD P COURSEY, JR IS DECEASED
14 TWO HUNDRED FORTY, JOSEPH M
15 CRESWELL
16 JUROR JOE CRESWELL
17 THE CLERK TWO HUNDRED FORTY-ONE,
18 WILLIAM H CROMER
19 JUROR WILLIAM CROMER
20 THE CLERK TWO HUNDRED FORTY-TWO,
21 DORIS CUDD
22 JUROR DORIS CUDD
23 THE CLERK TWO HUNDRED FORTY-
24 THREE, JASON H CUMMINGS, DECEASED
25 TWO HUNDRED FORTY-FOUR, PETER EBERT

1 UNABLE TO LOCATE
2 TWO HUNDRED FORTY-FIVE, WILLIE T
3 EDMONDS DECEASED
4 TWO HUNDRED FORTY-SIX, WILLIAM M
5 ELLIS IS A RESIDENT OF MARBELTON, GEORGIA
6 TWO HUNDRED FORTY-SEVEN, JOHN C
7 FISHER A RESIDENT OF GREENWOOD COUNTY
8 TWO HUNDRED FORTY-EIGHT, HANNA W
9 FLEMING
10 JUROR HANNAH FLEMING
11 THE CLERK TWO HUNDRED FORTY-NINE,
12 JAMES L FREEMAN
13 JUROR JAMES FREEMAN
14 THE CLERK TWO HUNDRED FIFTY,
15 SANQUENETTA D FREEMAN
16 JUROR SANQUENETTA FREEMAN
17 THE CLERK TWO HUNDRED FIFTY-ONE,
18 SARAH P FREEMAN
19 JUROR SARAH FREEMAN
20 THE CLERK TWO HUNDRED FIFTY-TWO,
21 JIMMY D GAINEY, SR
22 JUROR JIMMY GAINEY
23 THE CLERK TWO HUNDRED FIFTY-
24 THREE, FLORENCE K GIBSON, UNABLE TO LOCATE
25 TWO HUNDRED FIFTY-FOUR, AMANDA

1 HARPER, DECEASED
2 TWO HUNDRED FIFTY-FIVE, GEORGE R
3 HERNDON, DECEASED
4 TWO HUNDRED FIFTY-SIX, DANIEL L
5 HERSHBERGER IS A RESIDENT OF GEORGIA
6 TWO HUNDRED FIFTY-SEVEN, CALVIN L
7 HILL
8 TWO HUNDRED FIFTY-EIGHT, CATHERINE
9 HILL
10 JUROR CATHERINE HILL
11 THE CLERK TWO HUNDRED FIFTY-NINE,
12 SONJI E HILL
13 THE CLERK TWO HUNDRED SIXTY,
14 SHERRELL HOLBACK ASHE
15 JUROR SHERRELL HOLBACK ASHE
16 THE CLERK TWO HUNDRED SIXTY-ONE,
17 H G HOLLINGSWORTH, JR
18 TWO HUNDRED SIXTY-TWO, WENDY B
19 HUGHES
20 JUROR WENDY HUGHES
21 THE CLERK TWO HUNDRED SIXTY-
22 THREE, BEULAH C HUNTER
23 TWO HUNDRED SIXTY-FOUR, ADAM H
24 JOHNSON MOVED TO FLORIDA
25 TWO HUNDRED SIXTY-FIVE, FRANCES A

1 JONES
2 TWO HUNDRED SIXTY-SIX, EULA M
3 KENNEDY
4 JUROR EULA KENNEDY
5 THE CLERK TWO HUNDRED SIXTY-
6 SEVEN, HAROLD LANE IS HANDICAPPED
7 NUMBER TWO HUNDRED SIXTY-EIGHT,
8 JAMES R LEE, JR
9 TWO HUNDRED SIXTY-NINE, HOLLY
10 LESESNE LIVES IN ANDERSON COUNTY
11 TWO SEVENTY, MAMIE LONDON
12 JUROR MAMIE LONDON
13 THE CLERK TWO HUNDRED SEVENTY-
14 ONE, FRANCES E MARTIN
15 TWO HUNDRED SEVENTY-TWO, JAMES D
16 MARKS UNABLE TO LOCATE
17 TWO HUNDRED SEVENTY-THREE, MARLO A
18 MARTIN
19 JUROR MARLO A MARTIN
20 THE CLERK TWO HUNDRED SEVENTY-
21 FOUR, GRACE McCARTHY
22 JUROR GRACE McCARTHY
23 THE CLERK NUMBER TWO SEVENTY-
24 FIVE, SUSAN W McCAULEY
25 JUROR SUSAN McCAULEY

1 THE CLERK TWO HUNDRED SEVENTY
2 SIX, JERRY A McDILL UNABLE TO LOCATE
3 TWO HUNDRED SEVENTY-SEVEN, MARY J
4 McDUFFEY
5 JUROR MARY J McDUFFEY
6 THE CLERK TWO HUNDRED SEVENTY-
7 EIGHT, SHIRLEY J McKINSEY
8 JUROR SHIRLEY McKINSEY
9 THE CLERK TWO HUNDRED SEVENTY-
10 NINE, EVELYN R MORTON
11 JUROR SHOULD BE EVELYN R
12 JACKSON
13 THE CLERK OKAY, WE'LL MAKE THAT
14 CHANGE
15 TWO HUNDRED EIGHTY, CLARENCE J
16 MOSLEY UNABLE TO LOCATE
17 TWO HUNDRED EIGHTY-ONE, MAVIS C
18 MOSS
19 JUROR MAVIS MOSS
20 THE CLERK TWO HUNDRED EIGHTY-TWO,
21 LUCIOUS C PARNELL, JR
22 JUROR LUCIOUS PARNELL
23 THE CLERK TWO HUNDRED EIGHTY-
24 THREE, MICHAEL RAPLEY IS OUT OF TOWN BUT HE GOT HIS
25 SUMMONS AND HE'LL BACK ON OCTOBER THE 22ND

1 TWO HUNDRED EIGHTY-FOUR, RUBY S
2 REYNOLDS LIVES IN GREENWOOD COUNTY

3 TWO HUNDRED EIGHTY-FIVE, DOROTHY J
4 ROUSEY

5 JUROR DOROTHY ROUSEY

6 THE CLERK TWO HUNDRED EIGHTY-SIX,
7 JAMES M STOCKHOLM -- I MEAN, JAMES SIMPSON, EXCUSE
8 ME

9 JUROR JAMES M SIMPSON

10 THE CLERK TWO HUNDRED EIGHTY-
11 SEVEN, WILBORN L SMITH IS DECEASED

12 TWO HUNDRED EIGHTY-EIGHT, GENAICE
13 M STEWART

14 JUROR THAT'S GENAICE STEWART

15 THE CLERK TWO HUNDRED EIGHTY-
16 NINE, DIANNE H STOLTZFUS

17 JUROR DIANE STOLTZFUS

18 THE CLERK TWO HUNDRED NINETY,
19 JAMES A TILLMAN IS NOT A RESIDENT OF ABBEVILLE
20 COUNTY

21 TWO HUNDRED NINETY-ONE, TOMMY
22 TURMAN

23 JUROR TOMMY TURMAN

24 THE CLERK TWO HUNDRED NINETY-TWO,
25 MARIE ULDRICK IS BEDRIDDEN

1 NUMBER TWO HUNDRED NINETY-THREE,
2 CALVIN E WASHINGTON

3 JUROR CALVIN WASHINGTON

4 THE CLERK TWO HUNDRED NINETY-
5 FOUR, HARRY WATERS IS DECEASED

6 TWO HUNDRED NINETY-FIVE, JAMES B
7 WHITE

8 JUROR JAMES WHITE

9 THE CLERK TWO HUNDRED NINETY-SIX,
10 MARION D WHITE

11 JUROR MARION WHITE

12 THE CLERK TWO HUNDRED NINETY-
13 SEVEN, WILLIAM H WIDENER, UNABLE TO LOCATE

14 TWO HUNDRED NINETY-EIGHT, KERRY P
15 WILSON IS A RESIDENT OF COLUMBIA

16 TWO HUNDRED NINETY-NINE, JAMES W
17 WIX UNABLE TO LOCATE

18 NUMBER THREE HUNDRED KEVIN O
19 WRIGHT A RESIDENT OF ANDERSON

20 IS THERE ANY JUROR PRESENT WHOSE
21 NAME I DID NOT CALL?

22 MR TINSLEY MAY WE APPROACH?

23 (COUNSEL APPROACH THE BENCH)

24 THE COURT OKAY WAIT JUST A
25 MINUTE, MS KING ALL RIGHT, MS KING, YOU MAY

1 CONTINUE

2 THE CLERK NUMBER THREE HUNDRED

3 AND ONE, ELMER L ALLEN

4 JUROR ELMER L ALLEN

5 THE CLERK NUMBER THREE HUNDRED

6 AND TWO, MAE E BELTON MOR IS DECEASED

7 NUMBER THREE HUNDRED AND THREE,

8 HEYWARD J BLACK, JR MR BLACK? HAYWARD J BLACK,

9 JR , IS THAT RIGHT?

10 JUROR HAYWARD J BLACK

11 THE CLERK IT'S NOT JUNIOR?

12 JUROR YEAH, IT IS JUNIOR

13 THE CLERK NUMBER THREE AND FOUR,

14 WILLIAM C BLACKBURN, JR

15 NUMBER THREE HUNDRED AND FIVE,

16 CARLOS D BROWN

17 JUROR CARLOS BROWN

18 THE CLERK NUMBER THREE HUNDRED

19 AND SIX, WAYNE D BROWN

20 THREE HUNDRED AND SEVEN, CHAUNCEY

21 COVIN

22 JUROR CHAUNCEY COVIN

23 THE CLERK THREE HUNDRED AND

24 EIGHT, DERWARD B COY

25 JUROR DERWARD COY

1 THE CLERK THREE HUNDRED AND NINE
2 BOBBY S CUTTER
3 JUROR BOBBY CUTTER
4 THE CLERK THREE HUNDRED AND TEN,
5 GARY L ELLIS
6 JUROR GARY ELLIS
7 THE CLERK THREE HUNDRED AND
8 ELEVEN, ERNEST C FERRELL UNABLE TO LOCATE
9 NUMBER THREE HUNDRED AND TWELVE,
10 MARK D GOLDMAN A RESIDENT OF GREENVILLE COUNTY
11 NUMBER THREE HUNDRED THIRTEEN, LULA
12 J GRAY
13 JUROR LULA J GRAY
14 THE CLERK THREE HUNDRED FOURTEEN,
15 MEGAN B HAYES IS A RESIDENT OF CHARLESTON
16 THREE HUNDRED FIFTEEN, LAVINIA S
17 HODGE
18 JUROR LAVINIA S HODGE
19 THE CLERK THREE HUNDRED SIXTEEN,
20 BETTY J HORTON
21 JUROR BETTY J HORTON
22 THE CLERK THREE HUNDRED
23 SEVENTEEN, CHRISTOPHER L MACK
24 JUROR CHRIS MACK
25 THE CLERK THREE HUNDRED EIGHTEEN,

1 PHYLLIS H McCORD
2 JUROR PHYLLIS H McCORD
3 THE CLERK THREE HUNDRED NINETEEN,
4 LINDA J PAYNE
5 JUROR SHOULD BE LINDA PAYNE
6 McELRATH
7 THE CLERK THREE HUNDRED TWENTY,
8 TYRONNE C PEARSON
9 JUROR TYRONNE PEARSON
10 THE CLERK NUMBER THREE HUNDRED
11 TWENTY-ONE, ERNEST L PHILBECK, I BELIEVE, IS
12 HOSPITALIZED
13 THREE HUNDRED TWENTY-TWO, JENNIFER
14 N PIERCE
15 JUROR JENNIFER PIERCE
16 THE CLERK THREE HUNDRED THIRTY-
17 THREE -- TWENTY-THREE, SARAH R PRICE
18 JUROR SARAH PRICE
19 THE CLERK THREE HUNDRED TWENTY-
20 FOUR, THOMAS A SOUTHERLAND
21 JUROR THOMAS SOUTHERLAND
22 THE CLERK THREE HUNDRED TWENTY-
23 FIVE, JOHN C STROUD
24 JUROR JOHN STROUD
25 THE CLERK THANK YOU NOW, ARE

1 THERE ANY JURORS' NAMES THAT I MAY HAVE OMITTED?

2 THANK YOU

3 THE COURT LADIES AND GENTLEMEN,
4 AS I INDICATED TO YOU, THERE ARE A NUMBER OF
5 QUESTIONS THAT I'LL BE ASKING YOU AND THE PURPOSE IS
6 TO SIMPLY FIND OUT WHETHER OR NOT YOU ARE QUALIFIED
7 UNDER THE LAW TO SERVE AS A JUROR HERE IN THE TRIAL
8 OF THIS CASE THIS WEEK SO SHOULD ANY JUROR NEED TO
9 RESPOND TO ANY QUESTION THAT I ASK, PLEASE STAND
10 I'LL ADDRESS THOSE MATTERS WITH YOU INDIVIDUALLY,
11 SHOULD THAT BE NECESSARY

12 FIRST OF ALL, WERE EACH OF YOU
13 JURORS SUMMONED BY YOUR CORRECT AND PROPER NAME?
14 HAS ANY JUROR'S NAME BEEN BY REASON OF A MARRIAGE OR
15 DIVORCE OR OTHERWISE AND IT WAS NOT CORRECTLY
16 REFLECTED ON YOUR JUROR SUMMONS? IF SO, PLEASE
17 STAND
18 (JURORS STAND)

19 TELL ME, IF YOU WILL PLEASE, YOUR
20 NAME AND YOUR NAME, IF YOU RECALL IT OR THE NAME
21 THAT WAS CALLED OUT WHEN YOU RESPONDED

22 JUROR MY NUMBER IS TWO HUNDRED
23 THIRTY-EIGHT AND IT SHOULD BE SHANDAL B BOGGS

24 THE COURT IT SHOULD BE?

25 JUROR SHANDAL B BOGGS, B-O-G-G-

1 S

2 THE COURT OKAY, THANK YOU, MA'AM

3 YES, MA'AM?

4 JUROR TWO SEVENTY-NINE, EVELYN R

5 JACKSON

6 THE COURT AND YOU WERE SUMMONED

7 AS A MORTON?

8 JUROR YES, SIR

9 THE COURT YOU'RE NOW A JACKSON?

10 JUROR YES, SIR

11 THE COURT THANK YOU, MA'AM YES,

12 MA'AM?

13 JUROR NUMBER THREE NINETEEN, MY

14 SUMMONS READ LINDA PAYNE, IT SHOULD BE LINDA PAYNE

15 McELRATH

16 THE COURT IT SHOULD BE McELRATH

17 OKAY, THANK YOU, MA'AM ANYONE ELSE WHOSE NAME WAS

18 NOT CORRECTLY REFLECTED ON THE JUROR SUMMONS?

19 IS THERE ANY MEMBER OF JURY PANEL

20 WHO IS NOT NOW A CITIZEN AND RESIDENT OF THE UNITED

21 STATES AS WELL AS A CITIZEN AND RESIDENT OF

22 ABBEVILLE COUNTY, SOUTH CAROLINA? IF YOU ARE NOT

23 NOW EACH OF THOSE, I WOULD ASK THAT YOU, PLEASE,

24 STAND

25 (NO RESPONSE)

1 IS THERE ANY MEMBER OF THE JURY
2 PANEL WHO IS UNABLE TO READ, WRITE, UNDERSTAND OR
3 SPEAK THE ENGLISH LANGUAGE IF YOU ARE UNABLE TO DO
4 ANY ONE OR MORE OF THOSE THINGS, I WOULD ASK THAT
5 YOU, PLEASE, STAND
6 (NO RESPONSE)

7 IS THERE ANY MEMBER OF THE JURY
8 PANEL WHO HAS LESS THAN A SIXTH GRADE EDUCATION OR
9 ITS EQUIVALENT? LESS THAN A SIXTH GRADE EDUCATION
10 OR ITS EQUIVALENT IF SO, PLEASE STAND
11 (NO RESPONSE)

12 IS THERE ANY MEMBER OF THE JURY
13 PANEL WHO IS INCAPABLE BY REASON OF A MENTAL OF
14 PHYSICAL INFIRMITY FROM BEING ABLE TO RENDER
15 EFFICIENT JURY SERVICE DOES ANY JUROR SUFFER FROM
16 A MENTAL OR PHYSICAL DISABILITY WHICH PREVENTS YOU
17 FROM BEING ABLE TO SERVE AS A JUROR IF SO, PLEASE
18 STAND
19 (JURORS STAND)

20 JUROR I HAVE A NOTE FROM MY
21 PHYSICIAN

22 THE COURT PLEASE, I JUST NEED FOR
23 YOU TO STAND RIGHT THIS MOMENT AND I WANT TO GET
24 YOUR NAMES IF YOU'LL GIVE ME YOUR NAME, PLEASE,
25 MA'AM

1 JUROR SARAH R PRICE

2 THE COURT MS PRICE, DO YOU

3 RECALL WHAT YOUR NUMBER WAS?

4 JUROR THREE TWENTY-THREE

5 THE COURT THREE TWENTY-THREE?

6 JUROR YES

7 THE COURT AND YOU HAVE A

8 STATEMENT FROM YOUR PHYSICIAN?

9 JUROR YES

10 THE COURT IF YOU'LL JUST HAVE A

11 SEAT PLEASE, MA'AM

12 YES, SIR, YOUR NAME, PLEASE?

13 JUROR CHRIS MACK

14 THE COURT WAIT A MINUTE LET ME

15 ASK EVERYONE WHO HAS A MENTAL OR PHYSICAL DISABILITY

16 THAT YOU WISH TO ADDRESS TO THE COURT TO, PLEASE,

17 STAND AT ONE TIME NOW, IS EVERYONE STANDING WHO

18 HAS A PHYSICAL OR MENTAL DISABILITY THAT YOU WOULD

19 LIKE FOR ME TO ADDRESS?

20 NOW, I'M GOING TO NEED YOUR NAME

21 AND YOUR JUROR NUMBER, IF YOU RECALL IT YES,

22 MA'AM

23 JUROR HAZEL W CAMPBELL

24 THE COURT YOU'RE NUMBER TWO

25 THIRTY FIVE?

1 JUROR YES

2 THE COURT MS CAMPBELL, DO YOU
3 HAVE A DOCTOR'S STATEMENT?

4 JUROR I DON'T HAVE IT, BUT I CAN
5 PICK IT UP, IF I NEED IT

6 THE COURT IF YOU'LL JUST HAVE A
7 SEAT, PLEASE, MA'AM YES, SIR

8 JUROR JAMES B WHITE

9 THE COURT WHITE, DO YOU RECALL
10 YOUR NUMBER?

11 JUROR TWO NINETY-FIVE I HAVE A
12 HEARING PROBLEM

13 THE COURT ALL RIGHT, SIR IF
14 YOU'LL HAVE A SEAT YES, MA'AM

15 JUROR HANNAH W FLEMING TWO
16 FORTY-EIGHT

17 THE COURT DO YOU HAVE A DOCTOR'S
18 STATEMENT?

19 JUROR YES, I DO

20 THE COURT THANK YOU PLEASE BE
21 SEATED YES, SIR

22 JUROR I HAVE A HEARING PROBLEM
23 NUMBER ZERO TWO FOUR ZERO

24 THE COURT TWO FORTY?

25 JUROR YES

1 THE COURT ALL RIGHT, SIR, PLEASE
2 BE SEATED YES, MA'AM

3 JUROR BESSIE BRUCE, ZERO TWO
4 THREE TWO

5 THE COURT TWO THREE TWO DO YOU
6 HAVE A DOCTOR'S STATEMENT?

7 JUROR NO, I DIDN'T HAVE TIME TO
8 GET IT

9 THE COURT OKAY, BUT YOU COULD GET
10 ONE?

11 JUROR YES, SIR

12 THE COURT PLEASE BE SEATED YES,
13 SIR

14 JUROR MY NUMBER'S THREE ZERO
15 EIGHT I HAVE A HEARING PROBLEM AND A HEART PROBLEM
16 AND I'M UNDER THE SUPERVISION OF THE V A HOSPITAL
17 OF AUGUSTA, GEORGIA

18 THE COURT DO YOU HAVE A DOCTOR'S
19 STATEMENT WITH YOU?

20 JUROR NO

21 THE COURT THANK YOU, PLEASE BE
22 SEATED YES, MA'AM

23 JUROR I'M NUMBER TWO SEVENTY-
24 FOUR I HAVE A KIDNEY DISABILITY

25 THE COURT THANK YOU, MA'AM,

1 PLEASE BE SEATED

2 JUROR I'M NUMBER THREE SEVENTEEN

3 THE COURT THREE SEVENTEEN?

4 JUROR YES AND I'M UNDER

5 DOCTOR'S CARE

6 THE COURT DO YOU HAVE A DOCTOR'S

7 STATEMENT?

8 JUROR NO

9 THE COURT COULD YOU GET ONE?

10 JUROR YES, I COULD

11 THE COURT PLEASE BE SEATED YES,

12 MA'AM

13 JUROR TWO SIXTY-THREE

14 THE COURT TWO SIXTY-THREE, YES,

15 MA'AM OKAY

16 JUROR I HAVE A BACK PROBLEM

17 THE COURT DO YOU HAVE A DOCTOR'S

18 STATEMENT?

19 JUROR NOT YET

20 THE COURT CAN YOU GET ONE?

21 JUROR YES, SIR

22 THE COURT THANK YOU PLEASE BE

23 SEATED YES, SIR

24 JUROR ELMER R ALLEN, THREE ZERO

25 ONE I'VE GOT DIABETES AND HIGH BLOOD PRESSURE

1 THE COURT DO YOU HAVE A DOCTOR'S
2 STATEMENT?

3 JUROR NO, SIR, BUT I COULD GET
4 ONE AS QUICK AS YOU WANT IT

5 THE COURT ALL RIGHT, SIR THANK
6 YOU, PLEASE BE SEATED ANYONE ELSE HAVE A MENTAL OR
7 PHYSICAL DISABILITY WHICH PREVENTS YOU FROM BEING
8 ABLE TO SERVE AS A JUROR IF SO, PLEASE STAND
9 (NO RESPONSE)

10 NOW, THE NEXT QUESTION HAS ANY
11 MEMBER OF THE JURY PANEL EVER BEEN CONVICTED OF A
12 CRIMINAL OFFENSE FOR WHICH THE MAXIMUM PUNISHMENT
13 WAS GREATER THAN ONE YEAR AND YOUR CIVIL RIGHTS HAVE
14 NOT BEEN RESTORED BY WAY OF AMNESTY OR PARDON OR
15 OTHERWISE THAT DOESN'T MEAN THAT YOU ACTUALLY WENT
16 TO JAIL FOR OVER A YEAR, BUT IF YOU WERE CONVICTED
17 OF A CRIME WHERE YOU COULD HAVE RECEIVED MORE THAN
18 ONE YEAR AND YOUR CIVIL RIGHTS HAVE NOT BEEN
19 RESTORED, I'LL ASK THAT YOU PLEASE STAND YOU MAY
20 HAVE BEEN PLACED ON PROBATION OR A FINE IMPOSED IF
21 ANYONE NEEDS TO RESPOND TO THAT QUESTION, PLEASE
22 STAND YOUR NAME, PLEASE

23 (JUROR STANDS)

24 JUROR NUMBER TWO SEVENTY-SEVEN
25 MARY J McDUFFIE

1 THE COURT NUMBER TWO SEVENTY-
2 SEVEN?

3 JUROR YES

4 THE COURT THANK YOU, MA'AM YOU
5 MAY BE SEATED IS THERE ANY MEMBER OF THE JURY
6 PANEL WHO IS A CLERK OR A DEPUTY CLERK OF COURT, A
7 STATE CONSTABLE, A SHERIFF OR DEPUTY SHERIFF OR
8 STATE TROOPER, A PROBATE JUDGE, A COUNTY
9 COMMISSIONER, A MAGISTRATE OR ANY OTHER COUNTY
10 OFFICER OR ANY OTHER PERSON WHO IS EMPLOYED WITHIN
11 THE WALLS OF THE COURTHOUSE IF YOU FIT INTO ANY
12 ONE OR MORE OF THOSE CATEGORIES, I WOULD ASK THAT
13 YOU PLEASE STAND

14 (JUROR STANDS)

15 JUROR IN THE COURTHOUSE?

16 THE COURT YES, MA'AM

17 JUROR I WORK FOR GREENWOOD COUNTY
18 COURTHOUSE

19 THE COURT YOU WORK --

20 JUROR GREENWOOD COUNTY
21 COURTHOUSE

22 THE COURT IN GREENWOOD COUNTY?

23 JUROR UM-HMM

24 THE COURT I'LL BE RIGHT WITH YOU
25 ON THAT SHORTLY WHAT WAS YOUR NUMBER?

1 JUROR I DON'T KNOW MY NUMBER

2 THE COURT WHAT WAS YOUR NAME?

3 JUROR WENDY HUGHES

4 THE COURT HUGHES, NUMBER TWO

5 SIXTY-TWO ALL RIGHT, IS THERE ANY MEMBER OF THE

6 JURY PANEL WHO HAS SERVED AS A JUROR HERE IN THE

7 CIRCUIT COURT DURING ONE OF THE LAST THREE CALENDAR

8 YEARS THIS YEAR IS INCLUDED AS ONE OF THOSE YEARS

9 SERVED IN '95, '96 OR '97 ANY JUROR SERVE IN THE

10 CIRCUIT COURT DURING ONE OF THOSE THREE YEARS IF

11 SO, PLEASE STAND

12 (JUROR STANDS)

13 JUROR I'M NOT SURE HOW LONG IT'S

14 BEEN

15 THE COURT YOUR NAME, PLEASE,

16 MA'AM

17 JUROR PHYLLIS McCORD

18 THE COURT McCORD

19 JUROR McCORD

20 THE COURT DO YOU RECALL YOUR

21 NUMBER?

22 JUROR THREE EIGHTEEN

23 THE COURT THREE EIGHTEEN DID

24 YOU SERVE IN THE CRIMINAL COURT OR THE CIVIL COURT?

25 GENERAL SESSIONS OR COMMON PLEAS? WAS IT IN THIS

1 COURT ROOM?

2 JUROR YES

3 THE COURT DID YOU SERVE ON ANY
4 CASE?

5 JUROR IT WAS ASSAULT AND BATTERY,
6 I BELIEVE, AND THEN HE PLEAD GUILTY AFTER THAT, I
7 WAS CHOSEN TO BE ON THE JURY

8 THE COURT THAT WOULD BE GENERAL
9 SESSIONS COURT AND YOU'RE NOT CERTAIN WHAT YEAR
10 THAT WAS?

11 JUROR NO

12 THE COURT WE'LL CHECK THAT FOR
13 YOU, PLEASE HAVE A SEAT YES, MA'AM

14 JUROR I DID TOO, BUT I'M NOT SURE
15 IF IT WAS THREE OR FOUR YEARS AGO

16 THE COURT YOUR NAME, PLEASE,
17 MA'AM

18 JUROR BESSIE BRUCE

19 THE COURT BRUCE, YOUR NUMBER, TWO
20 THIRTY-TWO

21 JUROR TWO THIRTY-TWO

22 THE COURT YES, MA'AM

23 JUROR I WAS HERE FOR CIVIL COURT
24 AND IT WAS EITHER LATE '95 OR EARLY '96 I'M NOT
25 SURE WHEN IT WAS

1 THE COURT YOUR NAME, PLEASE?

2 JUROR MAVIS MOSS

3 THE COURT MOSS?

4 JUROR AND MY NUMBER'S TWO EIGHTY-
5 ONE

6 THE COURT ALL RIGHT YES, MA'AM

7 JUROR I WAS HERE ABOUT THREE

8 YEARS AGO, I'M NOT SURE OF THE TIME BUT I THINK IT
9 WAS ABOUT THREE YEARS AGO

10 THE COURT YOUR NAME, PLEASE?

11 JUROR WENDY HUGHES

12 THE COURT DO YOU RECALL YOUR
13 NUMBER?

14 JUROR I DON'T KNOW MY NUMBER

15 THE COURT THANK YOU, MA'AM NOW,
16 THE GENERAL ASSEMBLY HAS PROVIDED FOR CERTAIN
17 EXEMPTIONS FROM JURY SERVICE IF AN EXEMPTION
18 APPLIES TO YOU, IT DOES NOT IN ANY WAY DISQUALIFY
19 YOU FROM SERVING AS A JUROR IT SIMPLY ALLOWS YOU
20 THAT OPTION OR CHOICE AS TO WHETHER OR NOT YOU WILL
21 SERVE YOU SIMPLY CANNOT BE REQUIRED TO SERVE IF AN
22 EXEMPTION APPLIES TO YOU, BUT YOU MAY SERVE IF YOU
23 WISH TO AND, OF COURSE, YOU UNDERSTAND THAT JURY
24 SERVICE IS A CIVIC OBLIGATION IT'S IMPORTANT THAT
25 WE HAVE PEOPLE LIKE YOU TO ASSIST US IN THE MATTERS

1 THAT REQUIRE A JURY'S ATTENTION AND, THEREFORE, WE
2 WOULD REQUEST SINCERELY THAT YOU PARTICIPATE AS A
3 JUROR, EVEN THOUGH SOME EXEMPTION MAY APPLY TO YOU,
4 IF YOU CAN DO SO, AND IT WOULD NOT POSE TOO MUCH OF
5 A HARDSHIP OR INCONVENIENCE FOR YOU

6 THESE ARE THE FOLLOWING EXEMPTIONS
7 FROM JURY SERVICE IF YOU ARE AT LEAST SIXTY-FIVE
8 YEARS OF AGE OR OLDER, YOU CANNOT BE REQUIRED TO
9 SERVE AS A JUROR BUT YOU ARE NOT IN ANY WAY
10 DISQUALIFIED WE WOULD BE HAPPY TO HAVE YOU STAY
11 AND SERVE, EVEN THOUGH YOU ARE SIXTY-FIVE YEARS OF
12 AGE OR OLDER IS THERE ANY MEMBER OF THIS JURY
13 PANEL WHO IS SIXTY-FIVE YEARS OF AGE OR OLDER AND
14 YOU DO NOT WISH TO SERVE AS A JUROR? IF SO, PLEASE
15 STAND

16 (JURORS STAND)

17 THE COURT NONE OF YOU WISH TO
18 SERVE? LET ME START OVER HERE TO MY LEFT

19 JUROR I HAVE HUSBAND WHO IS SICK
20 TO LOOK AFTER HE HAS A HEART PROBLEMS

21 THE COURT ARE YOU AT LEAST SIXTY-
22 FIVE YEARS OF AGE OR OLDER?

23 JUROR YES

24 THE COURT AND YOUR NAME, PLEASE?

25 JUROR EULA KENNEDY

1 THE COURT KENNEDY?
2 JUROR UM-HMM
3 THE COURT DO YOU RECALL YOUR
4 NUMBER?
5 JUROR TWO SIXTY-SIX
6 THE COURT TWO SIXTY-SIX THANK
7 YOU, PLEASE BE SEATED MS PRICE?
8 JUROR THREE TWENTY THREE I'M
9 SEVENTY-FIVE AND I HAVE THE DOCTOR'S NOTICE
10 THE COURT OKAY, PLEASE BE SEATED,
11 THANK YOU MS CAMPBELL?
12 JUROR MINE'S NUMBER TWO THIRTY-
13 FIVE AND I'M UNDER DOCTOR'S CARE AND I, ALSO, HAVE A
14 PROBLEM KIDNEY
15 THE COURT THANK YOU, MA'AM
16 PLEASE BE SEATED
17 JUROR NUMBER TWO NINETY-FIVE AND
18 I HAVE A HEARING PROBLEM SO I'D RATHER NOT
19 THE COURT BUT YOU'RE OVER SIXTY-
20 FIVE?
21 JUROR YES
22 THE COURT THANK YOU, PLEASE BE
23 SEATED YES, SIR? MR CROMER?
24 JUROR YES, SIR TWO FORTY-ONE
25 THE COURT TWO FORTY-ONE ALL

1 RIGHT, THANK YOU, PLEASE BE SEATED YES, SIR

2 JUROR I HAVE A HEARING PROBLEM
3 AND I'M SEVENTY-TWO YEARS OLD MY HEARING PROBLEM
4 IS THE REASON I CAN'T HEAR TOO WELL

5 THE COURT AND YOUR NUMBER?

6 JUROR TWO FORTY

7 THE COURT THANK YOU, SIR YES,
8 MA'AM

9 JUROR TWO FORTY-TWO, DORIS CUDD
10 I HAVE THREE DIFFERENT HEART AILMENTS AND I'M OVER
11 SIXTY-FIVE

12 THE COURT ALL RIGHT THANK YOU,
13 MA'AM PLEASE BE SEATED YES

14 JUROR THREE HUNDRED EIGHT
15 SEVENTY-SIX YEARS OLD, I'M LEGALLY BLIND AND WE'RE
16 GETTING READY TO MOVE TO INDIANA AT ANY TIME NOW

17 THE COURT THANK YOU, SIR, PLEASE
18 BE SEATED YES, MA'AM

19 JUROR TWO SIXTY-FOUR I THINK
20 I'M QUITE TOO OLD TO BE A JUROR, I'M EIGHTY-FIVE

21 THE COURT WELL -- AND YOU'RE MS
22 McCARTHY?

23 JUROR AND I HAVE A KIDNEY
24 PROBLEM

25 THE COURT YOU'RE MS McCARTHY?

1 JUROR YES

2 THE COURT MS MCCARTHY, I DON'T
3 THINK YOU'RE TOO OLD, BUT I'M GOING TO LEAVE THAT UP
4 TO YOU TO DECIDE, OKAY?

5 JUROR I'VE DECIDED

6 (LAUGHTER)

7 THE COURT I KIND OF EXPECTED THAT
8 THAT'S WHAT YOU WERE GOING TO TELL ME IF YOU'LL
9 JUST BE SEATED, WE'LL LET YOU BE EXCUSED SHORTLY
10 IF YOU'LL BE SEATED FOR JUST A MOMENT, WE'LL EXCUSE
11 YOU SHORTLY YES, SIR

12 JUROR I'M THREE HUNDRED ONE,
13 ELMER L ALLEN AND I'VE GOT DIABETES AND HIGH BLOOD
14 PRESSURE

15 THE COURT AND YOU'RE SIXTY-FIVE
16 AND OVER?

17 JUROR I'M NEAR SEVENTY

18 THE COURT THANK YOU, SIR YOU
19 MAY BE SEATED

20 ALL RIGHT, NOW, THE NEXT EXEMPTION
21 WHICH ALLOWS YOU TO BE EXCUSED, BUT DOES NOT REQUIRE
22 IT, IS IF YOU HAVE THE CARE AND CUSTODY OF A CHILD
23 OR CHILDREN LESS THAN SEVEN YEARS OF AGE AND YOU
24 ASSERT TO THE COURT THAT YOU HAVE NO ADEQUATE MEANS
25 FOR THAT CHILD OR CHILDREN TO BE CARED FOR OTHER

1 THAN BY YOU BEING PRESENT TO FULFILL THAT
2 RESPONSIBILITY DOES ANY JUROR HAVE A CHILD OR
3 CHILDREN LESS THAN SEVEN YEARS OF AGE FOR WHICH YOU
4 HAVE NO ADEQUATE MEANS FOR THEIR CARE TO BE -- FOR
5 THEM TO BE LOOKED AFTER, OTHER THAN BY YOU BEING
6 PRESENT TO FULFILL THAT RESPONSIBILITY IF SO,
7 PLEASE STAND YOUR NAME?

8 (JUROR STANDS)

9 JUROR TWO SEVENTY-THREE, I'M
10 MARLO MARTIN

11 THE COURT TWO SEVENTY-THREE

12 JUROR I HAVE A SET OF TWINS THAT
13 I HAVE NOBODY TO TAKE CARE OF

14 THE COURT AND WHAT ARE THEIR
15 AGES?

16 JUROR THEY'RE TWO

17 THE COURT TWO YEARS OLD? AND
18 YOU'RE AT HOME EACH DAY LOOKING AFTER THAT -- THOSE
19 CHILDREN

20 JUROR I WORK BUT THEY'RE IN DAY
21 CARE WHEN I'M WORKING I TAKE THEM TO DAY CARE AND
22 PICK THEM UP

23 THE COURT BUT THEY'RE IN YOUR
24 CARE AT NIGHT?

25 JUROR YES

1 THE COURT WE NEED YOU TO SIGN AN
2 AFFIDAVIT TO THAT EFFECT WE'LL BE WITH YOU SHORTLY
3 ON THAT THANK YOU

4 STATE LAW ALSO PROVIDES THAT ANY
5 FULL-TIME STUDENT PRESENTLY ENROLLED IN A COLLEGE OR
6 OTHER EDUCATIONAL INSTITUTION MAY HAVE YOUR SERVICE
7 EXCUSED OR TRANSFERRED IS THERE ANYBODY ON THE
8 JURY PANEL WHO'S A FULL-TIME STUDENT WHOSE EDUCATION
9 WOULD BE INTERRUPTED BECAUSE OF YOUR JURY SERVICE
10 YOUR NAME, PLEASE?

11 (JUROR STANDS)

12 JUROR SHERRELL HOLBACK
13 THE COURT HOLBACK? AND DO YOU
14 RECALL YOUR NUMBER?

15 JUROR I DON'T KNOW
16 THE COURT TWO SIX ZERO AND MS
17 HOLBACK, WHERE ARE YOU NOW A STUDENT?

18 JUROR I GO TO PIEDMONT TECH
19 THE COURT AND WHAT IS YOUR
20 SCHEDULE THERE?

21 JUROR EIGHT TO TWELVE EVERY DAY,
22 AND EIGHT TO ONE ON THURSDAY

23 THE COURT AND THAT'S EACH DAY?

24 JUROR UM-HMM

25 THE COURT THAT'S PIEDMONT TECH?

1 JUROR UM-HMM

2 THE COURT THANK YOU, PLEASE BE
3 SEATED AND MS HUGHES?

4 JUROR I'M NOT A FULL-TIME STUDENT
5 BUT I'M ENROLLED IN A COURSE THAT STARTS WEDNESDAY
6 BETWEEN NOW AND NOVEMBER THAT WILL REQUIRE ME ALL
7 DAY IN COLUMBIA FOR FIVE DAYS

8 THE COURT AND WHAT IS THAT COURSE
9 RELATED TO?

10 JUROR MY JOB GOVERNMENTAL
11 ACCOUNTING

12 THE COURT AND ARE YOU REQUIRED TO
13 TAKE THAT COURSE IN ORDER TO CONTINUE WITH YOUR
14 EMPLOYMENT?

15 JUROR NO, SIR, BUT IT'S ALREADY
16 BEEN PAID FOR BY THE COUNTY

17 THE COURT AND IT BEGINS
18 WEDNESDAY?

19 JUROR WEDNESDAY, UM-HMM

20 THE COURT THANK YOU, MA'AM
21 PLEASE BE SEATED

22 NOW, STATE LAW, ALSO, PROVIDES THAT
23 ANY JUROR MAY HAVE THEIR JURY SERVICE EXCUSED FOR
24 GOOD AND SUFFICIENT CAUSE BEING SHOWN TO THE COURT
25 AND WHAT THAT SIMPLY MEANS IS, IF YOU HAVE SOME

1 PARTICULAR REASON OR CIRCUMSTANCE THAT POSES AN
2 UNREASONABLE HARDSHIP OR INCONVENIENCE UPON YOU,
3 THEN I CAN CONSIDER THAT CIRCUMSTANCE AND HAVE YOU
4 EXCUSED, IF IT MEETS THE GOOD AND SUFFICIENT TEST
5 UNDERSTAND THAT JURY SERVICE IS IMPORTANT WE CAN'T
6 CONDUCT A BUSINESS OF THE COURT IF WE DON'T HAVE
7 PERSONS, JUST LIKE YOU, CHOSEN FROM A CROSS SECTION
8 OF THE COMMUNITY TO PARTICIPATE AND TO ASSIST US IN
9 THE MATTERS THAT ARE BROUGHT BEFORE THE COURT

10 SO I WOULD ASK THAT YOU, PLEASE,
11 CONSIDER SERVING EVEN THOUGH IT MAY POSE SOME
12 INCONVENIENCE FOR YOU IT'S EXTREMELY IMPORTANT
13 THAT YOU DO SO HOWEVER, IF YOU DO HAVE SOME
14 CIRCUMSTANCE OR PROBLEM THAT YOU WOULD LIKE FOR ME
15 TO CONSIDER IN HAVING YOUR SERVICE EXCUSED, IF IT
16 MEETS THE GOOD AND SUFFICIENT TEST, THEN I CAN
17 CONSIDER THOSE CIRCUMSTANCES AND, PERHAPS, HAVE YOU
18 EXCUSED FROM JURY SERVICE IS THERE ANY MEMBER OF
19 THE JURY PANEL WHO HAS SUCH A REASON THAT YOU WOULD
20 LIKE FOR ME TO CONSIDER IN HAVING YOUR JURY SERVICE
21 EXCUSED I WOULD ASK, IF YOU WOULD, TO PLEASE STAND
22 AT THIS TIME SHOULD YOU HAVE SUCH A REASON
23 (JURORS STAND)

24 THE COURT IS EVERYONE STANDING THAT
25 NEEDS TO ADDRESS SUCH A REASON TO ME I'M SIMPLY

1 START ON THE FRONT ROW TO MY LEFT, I'LL GO ACROSS
2 AND WORK BACK I NEED EACH OF YOUR JUROR NUMBERS
3 AND I'LL MAKE A LIST OF THOSE AND WE'LL INQUIRE AS
4 THOSE REASONS LATER YES, MA'AM

5 JUROR TWO THIRTY-ONE I AM THE
6 ONLY UTILITY CLERK FOR THE TOWN OF --

7 THE COURT I'M GOING TO ADDRESS
8 THAT WITH YOU PRIVATELY I JUST NEED TO KNOW RIGHT
9 NOW YOUR JUROR NUMBER

10 JUROR OKAY, TWO THIRTY-ONE,
11 ELIZABETH BROOME

12 THE COURT AND MS PRICE, YOU'RE
13 TWO?

14 JUROR THREE TWENTY-THREE

15 THE COURT THREE TWENTY-THREE

16 ALL RIGHT, THANK YOU, MA'AM MS CAMPBELL

17 JUROR TWO THIRTY-FIVE

18 THE COURT TWO THIRTY-FIVE

19 JUROR THREE EIGHTEEN

20 THE COURT THREE EIGHTEEN YOU

21 MAY BE SEATED NEXT ROW

22 JUROR TWO THIRTY-TWO

23 THE COURT TWO THIRTY-TWO NEXT

24 JUROR THREE TWENTY-FIVE

25 THE COURT THREE TWENTY-FIVE

1 NEXT

2 JUROR THREE TEN

3 THE COURT THREE TEN NEXT

4 JUROR TWO FORTY-EIGHT

5 THE COURT TWO FORTY-EIGHT NEXT

6 JUROR TWO FORTY-TWO

7 THE COURT TWO FORTY-TWO NEXT

8 JUROR TWO TWENTY-NINE

9 THE COURT TWO TWENTY-NINE NEXT

10 JUROR TWO TWENTY-NINE

11 THE COURT TWO TWENTY-NINE NEXT

12 JUROR TWO EIGHTY-SIX

13 THE COURT NEXT

14 JUROR THREE TWENTY-TWO

15 THE COURT NEXT

16 JUROR TWO NINETY-SIX

17 THE COURT TWO NINETY-SIX

18 JUROR TWO SEVENTY-FOUR

19 JUROR THREE ZERO EIGHT

20 THE COURT WE'LL LET YOU GO IN A

21 MINUTE, MS MCCARTHY NEXT ROW

22 JUROR TWO EIGHT-NINE

23 JUROR TWO FIFTY-EIGHT

24 JUROR THREE ZERO FIVE

25 THE COURT THREE ZERO FIVE?

1	JUROR	YES, SIR
2	THE COURT	YES, MA'AM
3	JUROR	TWO EIGHT-ONE
4	THE COURT	YES, MA'AM
5	JUROR	THREE FIFTEEN
6	JUROR	TWO SEVENTY
7	THE COURT	TWO SEVENTY?
8	JUROR	UM-HMM
9	JUROR	TWO SIX EIGHT
10	THE COURT	THANK YOU
11	JUROR	THREE SIXTEEN
12	THE COURT	THANK YOU
13	JUROR	THREE NINETEEN
14	JUROR	THREE SIXTEEN
15	THE COURT	THREE FIFTY-TWO?
16	JUROR	THREE SIXTEEN
17	THE COURT	THANK YOU
18	JUROR	TWO SEVENTY-NINE
19	JUROR	TWO SIX THREE
20	THE COURT	YES, SIR
21	JUROR	TWO EIGHTY-TWO
22	THE COURT	YES, SIR
23	JUROR	TWO FIFTY-TWO
24	JUROR	NINETEEN
25	THE COURT	NUMBER NINETEEN, OKAY

1 JUROR TWO FIFTY
2 THE COURT TWO FIFTY?
3 JUROR THREE
4 THE COURT THREE?
5 JUROR THREE
6 THE COURT ANYONE ELSE? THE JUROR
7 WHO INDICATED YOUR NUMBER WAS THREE, YOUR NAME,
8 PLEASE?
9 JUROR MARTHA CADE
10 THE COURT CADE YOU'RE NUMBER
11 THIRTY-FOUR, MS CADE
12 GOOD AFTERNOON, YOUR NAME, PLEASE,
13 MA'AM
14 JUROR KIM BRYSON
15 THE COURT BRYSON?
16 JUROR UM-HMM
17 THE COURT MS BRYSON, IF YOU'LL
18 JUST HAVE A SEAT RIGHT OVER THERE WITH YOUR CHILD
19 MS BRYSON, IS THAT YOUR CHILD WITH YOU?
20 JUROR YES
21 THE COURT HOW OLD IS YOUR CHILD?
22 JUROR THREE
23 THE COURT DO YOU HAVE ANY MEANS
24 FOR YOUR CHILD TO BE ADEQUATELY CARED FOR, OTHER
25 THAN YOU BEING AT HOME LOOKING AFTER THAT CHILD? DO

1 YOU HAVE ANYBODY ELSE WHO COULD LOOK AFTER YOUR
2 CHILD, IF YOU SERVED AS A JUROR?

3 JUROR HUH-UH

4 THE COURT OKAY, THANK YOU LET
5 ME SEE THE SOLICITOR AND THE DEFENSE JUST A MOMENT,
6 PLEASE

7 (COUNSEL APPROACH THE BENCH)

8 THE COURT ALL RIGHT SO FAR AS
9 THE JURORS WHO ARE AT LEAST SIXTY-FIVE YEARS OF AGE
10 OR OLDER WHO HAVE STOOD AND GIVEN ME YOUR NAMES AND
11 YOUR NUMBERS I BELIEVE THERE ARE TEN LET ME SEE
12 THOSE JURORS WHO ARE AT LEAST SIXTY-FIVE YEARS OF
13 AGE OR OLDER WHO WISH TO BE EXCUSED FROM JURY
14 SERVICE THAT'S TEN JUROR NUMBER TWO SIXTY-SIX,
15 YOU ARE EXCUSED THANK YOU MA'AM JUROR NUMBER
16 THREE TWENTY-THREE, YOU ARE, ALSO, EXCUSED THANK
17 YOU, MA'AM JUROR NUMBER TWO THIRTY-FIVE, MS
18 CAMPBELL, YOU'RE ALSO EXCUSED THANK YOU, MA'AM
19 YOU MAY LEAVE, IF YOU LIKE JUROR NUMBER TWO
20 NINETY-FIVE YOU ARE ALSO EXCUSED THANK YOU
21 JUROR NUMBER TWO FORTY-ONE, YOU ARE ALSO EXCUSED
22 THANK YOU JUROR NUMBER TWO FOUR ZERO, YOU ARE ALSO
23 EXCUSED THANK YOU TWO FORTY-TWO, YOU MAY BE
24 EXCUSED THANK YOU JUROR THREE ZERO EIGHT, YOU
25 MAY BE EXCUSED THANK YOU JUROR NUMBER TWO

1 SEVENTY-FOUR, MS MCCARTHY, THAT'S YOU YOU'RE
2 EXCUSED THANK YOU, MA'AM I HOPE YOU'LL COME BACK
3 TO SEE US JUROR NUMBER THREE ZERO ONE, YOU ARE
4 ALSO EXCUSED THANK YOU ARE THERE ANY JURORS
5 SIXTY-FIVE YEARS OF AGE OR OLDER THAT I OVERLOOKED?
6 HOW MANY JURORS WERE THERE WITH A
7 CHILD OR CHILDREN LESS THAN SEVEN, BESIDES MS
8 BRYSON? YOU WERE TWO SEVENTY-THREE AND YOUR NAME
9 WAS?

10 JUROR MARLOW MARTIN ALL RIGHT
11 LET ME HAVE YOU AND MS BRYSON COME DOWN, PLEASE
12 THE COURT MS ASH AND MS HUGHES,
13 WERE THOSE THE ONLY TWO STUDENTS WHOSE CLASS OR
14 COURSE OF STUDY WOULD BE INTERRUPTED BY VIRTUE OF
15 JURY SERVICE? WOULD YOU ALL, PLEASE, STAND
16 (JURORS STAND)

17 THE COURT DO EACH OF YOU STILL WISH
18 TO BE EXCUSED BASED UPON YOUR EDUCATIONAL REQUIRE-
19 MENTS?

20 JUROR YES, SIR

21 THE COURT EACH OF YOU ARE
22 EXCUSED THANK YOU MS HUGHES AND MS ASHE
23 NOW, I'M GOING TO HAVE TO ASK THE PATIENCE,
24 COOPERATION AND UNDERSTANDING OF THOSE OF YOU WHO
25 ARE LEFT IN ORDER FOR ME TO ACCOMPLISH THE BALANCE

1 OF THIS INQUIRY AS I'VE INDICATED TO YOU, I HAVE
2 TAKEN DOWN YOUR JUROR NUMBERS FOR THOSE OF YOU WHO
3 HAVE SOME REASON THAT YOU WOULD LIKE FOR ME TO
4 CONSIDER IN HAVING YOUR JUROR SERVICE EXCUSED I'M
5 GOING TO HAVE TO DISCUSS THAT WITH YOU INDIVIDUALLY
6 WE WILL BE DOING THAT IN A ROOM OVER HERE TO MY
7 RIGHT IT WILL TAKE SOME TIME I SIMPLY ASK YOUR
8 PATIENCE AND UNDERSTANDING WHY I ACCOMPLISH THAT
9 TASK WHICH IS TO TALK WITH EACH OF YOU,
10 INDIVIDUALLY WE'LL BE GOING IN THE ORDER OF WHICH
11 I RECEIVED YOUR NAMES AND YOUR JUROR NUMBERS I'LL
12 ASK THE JURY PANEL TO SIMPLY REMAIN HERE WHILE I
13 CONDUCT THAT INQUIRY ONCE I HAVE CONCLUDED WITH
14 THAT, THEN WE'LL COME BACK TO CONCLUDE WITH THE
15 BALANCE OF THE QUALIFICATIONS THANK YOU FOR YOUR
16 PATIENCE

17 (THE FOLLOWING VOIR DIRE WAS HELD IN THE JURY ROOM,
18 ANNEXED TO THE COURTROOM IN THE PRESENCE OF THE
19 COURT REPORTER, JUDGE COLE, HIS LAW CLERK, ALAN
20 LAZENBY, ALONG WITH MESSRS JONES AND COULTER,
21 TINSLEY, GARRETT, McCALLUM, AND THE DEFENDANT, JOHN
22 KENNEDY HUGHEY MARION JOHNSON WAS THE ATTENDING
23 BAILIFF)

24 THE COURT YEAH WHO'S #248?
25 (JUROR #248 ENTERS)

1 THE COURT YEAH JUST HAVE A SEAT
2 RIGHT THERE, PLEASE MA'AM

3 THE COURT MS FLEMING

4 THE COURT MS FLEMING?

5 JUROR YES

6 THE COURT YOU INDICATED IN RESPONSE
7 TO MY QUESTION THAT YOU HAD A DOCTOR'S STATEMENT?

8 JUROR YES, SIR

9 THE COURT CAN I SEE YOUR DOCTOR'S
10 STATEMENT?

11 (JUROR #248 PRODUCES DOCUMENTS)

12 THE COURT NOW, THIS -- THIS
13 STATEMENT INDICATES THAT YOU HAVE SOME PARTICULAR
14 TYPE OF DISEASE AND THAT YOU ARE BEING TREATED WITH
15 MEDICATION WOULD THAT IN SOME WAY PREVENT YOU FROM
16 BEING ABLE TO SERVE?

17 JUROR WELL, BECAUSE OF THE CROHN'S
18 DISEASE WHICH IS A CHRONIC INFLAMMATION OF THE
19 INTESTINAL TRACT, EVEN THOUGH I AM ON MEDICATION FOR
20 IT, IT IS AN INCURABLE DISEASE AND I HAVE A LOT OF
21 PROBLEMS WITH DIARRHEA, HAVING TO GO TO THE
22 BATHROOM, AND WHEN I HAVE TO GO I CAN'T WAIT --

23 THE COURT OKAY

24 JUROR -- A LONG TIME

25 THE COURT AND THAT'S SOMETHING THAT

1 YOU WOULD NOT BE ABLE TO CONTROL OR TO ---

2 JUROR RIGHT

3 THE COURT IF YOU WERE SEATED AS A
4 JUROR?

5 JUROR RIGHT, AND I ALSO HAVE A
6 PROBLEM, YOU KNOW, WITH CERTAIN FOODS, TOO, YOU
7 KNOW IF I WERE TO BE SEQUESTERED, YOU KNOW, AND
8 HAVE TO EAT WHATEVER THEY PROVIDED, YOU KNOW, I
9 CAN'T EAT CERTAIN FOODS

10 THE COURT WELL, DO YOU UNDERSTAND
11 THAT WHATEVER YOUR REQUIREMENTS WERE SO FAR AS FOOD
12 IS CONCERNED WE WOULD ACCOMMODATE? THAT WOULD NOT
13 BE A PROBLEM

14 JUROR YEAH, BUT --

15 THE COURT WHATEVER YOU -- WE COULD
16 GET

17 JUROR -- THE OTHER WOULD BE, I
18 MEAN, FAR AS ---

19 THE COURT IS THAT SOMETHING THAT'S
20 A REGULAR DIFFICULTY FOR YOU? I MEAN, IT'S ---

21 JUROR YEAH WELL, LIKE I -- I'VE
22 BEEN ON SEVERAL DIFFERENT MEDICATIONS FOR IT, AND
23 IT'S -- BUT I AM HAVING PROBLEMS WITH IT AT THE
24 PRESENT TIME, AND IT, YOU KNOW, I HAVE GOOD DAYS AND
25 BAD DAYS AND YOU JUST NEVER KNOW WHEN IT'S GOING,

1 YOU KNOW, WHEN YOU'RE GOING TO HAVE A BAD DAY AND,
2 LIKE I SAY, WHEN YOU DO YOU JUST CAN'T, YOU KNOW,
3 YOU CAN'T WAIT TO GO TO THE BATHROOM

4 THE COURT I UNDERSTAND I
5 UNDERSTAND THAT OKAY IF YOU DON'T MIND, IF
6 YOU'LL JUST STAND OUTSIDE THE DOOR FOR JUST A
7 MINUTE, I'LL BRING YOU BACK

8 JUROR ALL RIGHT
9 (JUROR #248 EXITS)

10 MR GARRETT I HAD A PERSONAL INJURY
11 CLIENT WITH THAT KIND OF STUFF THEY GET DIARRHEA,
12 AND THEY GOT TO GO -- BOOM I HAD A CONFERENCE
13 BEFORE, AND HE'D GET UP AND GO RUNNING

14 THE COURT ANY OBJECTION TO THE
15 JUROR BEING EXCUSED?

16 MR JONES NONE

17 MR TINSLEY NO

18 THE COURT OKAY ASK HER TO COME
19 BACK MS FLEMING, WE'RE GOING TO EXCUSE YOU FROM
20 SERVICE IN THE CASE, BUT WE DO APPRECIATE YOUR
21 RESPONDING TO THE SUMMONS ON SHORT NOTICE

22 JUROR ALL RIGHT DO YOU NEED TO
23 KEEP THIS OR ---

24 THE COURT YEAH WE'LL KEEP THAT

25 JUROR ALL RIGHT

1 THE COURT THANK YOU, MA'AM
2 JUROR THANK YOU
3 (JUROR #248 RE-ENTERS)
4 (JUROR #248 IS EXCUSED)
5 (JUROR #248 EXITS)
6 THE COURT OKAY
7 CLERK NUMBER #232, MS BRUCE
8 THE COURT #232, BRUCE
9 (JUROR #232 ENTERS)
10 THE COURT HELLO, MS BRUCE IF
11 YOU'LL JUST HAVE A SEAT RIGHT THERE YOU INDICATED
12 IN RESPONSE TO MY QUESTION THAT YOU HAD A PHYSICAL
13 DISABILITY WHICH WOULD PREVENT YOU FROM SERVING AS A
14 JUROR WHAT IS THE NATURE, IF YOU DON'T MIND MY
15 ASKING
16 JUROR MY SHOULDERS AND MY STOMACH,
17 THEY'VE BEEN RUNNING TESTS TO TRY TO FIND OUT WHAT
18 IT IS SO, I DON'T KNOW
19 THE COURT ARE YOU ---
20 JUROR I HURT ALL THE TIME
21 THE COURT OKAY ARE YOU STILL
22 PRESENTLY UNDERGOING TESTS TO DETERMINE THE CAUSE OF
23 YOUR PROBLEM?
24 JUROR WELL, HE JUST GOT THROUGH
25 RUNNING ANOTHER ONE TWO WEEKS AGO

1 THE COURT OKAY IF YOU WERE -- IF
2 YOU WERE SELECTED TO SERVE IN THIS CASE, IT WOULD BE
3 NECESSARY THAT YOU BE SEQUESTERED FOR A PERIOD OF
4 SEVEN TO TEN DAYS DO YOU BELIEVE THAT YOUR MEDICAL
5 CONDITION WOULD PROHIBIT YOU FROM BEING ABLE TO
6 SERVE IN THAT CAPACITY?

7 JUROR WELL, I HAVE ENOUGH PROBLEMS
8 AT HOME AT NIGHT, YOU KNOW I'D HATE TO BE AWAY
9 FROM ---

10 THE COURT WITH YOUR PHYSICAL
11 CONDITION? AND DOES IT REQUIRE REGULAR ATTENTION BY
12 YOUR PHYSICIAN?

13 JUROR NO UH-UH (NEGATIVE) I
14 JUST HAVE TO TAKE MEDICINE AND -- BUT, SEE, THEY --
15 I DON'T SLEEP GOOD AT ALL, YOU KNOW MY SHOULDERS
16 HURT ALL THE TIME

17 THE COURT AND THE MEDICATION
18 DOESN'T RELIEVE THE DIFFICULTY?

19 JUROR WELL, HE GAVE ME SOME PAIN
20 PILLS, BUT I JUST TAKE ASPIRIN THEY MADE ME SICK
21 SO ---

22 THE COURT WELL, WOULD THAT CAUSE
23 YOU OR PROHIBIT YOU FROM BEING ABLE TO CONCENTRATE
24 OR TO FOCUS ATTENTION ON THE TASK AT HAND, OR IN
25 WHAT WAY WOULD IT INTERFERE WITH YOUR ABILITY TO

1 SERVE?

2 JUROR I DON'T KNOW JUST BEING
3 AWAY FROM HOME, I GUESS YOU KNOW, YOU'RE MISERABLE
4 ENOUGH THERE, AND YOU DON'T WANT TO BE SOMEPLACE
5 ELSE

6 THE COURT WELL, I UNDERSTAND THAT
7 OF COURSE, NOBODY REALLY WANTS TO BE AWAY FROM HOME
8 IF THEY CAN HELP IT, I GUESS SOME PEOPLE MIGHT
9 PERHAPS, BUT NEVERTHELESS, IF -- DO YOU BELIEVE THAT
10 YOU COULD ACCOMMODATE ANY DISCOMFORT OR ANY
11 INCONVENIENCE THAT SERVING MIGHT CAUSE IF YOU WERE
12 CALLED UPON TO SERVE AS A JUROR?

13 JUROR TO BE AWAY FOR TEN OR FIFTEEN
14 DAYS?

15 THE COURT WELL, PROBABLY SEVEN TO
16 TEN --

17 JUROR SEVEN TO TEN

18 THE COURT -- WOULD BE MORE LIKELY

19 JUROR WHATEVER

20 THE COURT WELL, DOES YOUR DOCTOR --
21 IF YOU TALKED WITH YOUR DOCTOR, DO YOU THINK THAT HE
22 WOULD SAY THAT IT WOULD BE INJURIOUS TO YOUR HEALTH?

23 JUROR I HAVEN'T TALKED TO HIM I
24 JUST RECEIVED THAT FRIDAY NIGHT

25 THE COURT OKAY I UNDERSTAND I

1 KNOW IT'S SHORT NOTICE, AND I APOLOGIZE FOR THAT
2 IT JUST COULDN'T BE HELPED DO YOU BELIEVE THAT
3 YOUR DOCTOR WOULD -- OF COURSE, YOU KNOW BETTER THAN
4 YOUR DOCTOR WOULD BECAUSE YOU'RE THE ONE THAT FEELS
5 THAT WAY, BUT DO YOU BELIEVE THAT IT WOULD BE
6 INJURIOUS TO YOU? IT WOULD CAUSE YOU FURTHER ---

7 JUROR WELL, NO IT WOULDN'T INJURE
8 ME, NO

9 THE COURT WELL, I MEAN, DO YOU
10 THINK IT WOULD CAUSE FURTHER HEALTH PROBLEMS IF YOU
11 WERE REQUIRED TO STAY?

12 JUROR NO IT WOULDN'T CAUSE
13 FURTHER HEALTH PROBLEMS

14 THE COURT WELL, WOULD YOU BE
15 WILLING TO ACCEPT THE INCONVENIENCE OR DISCOMFORT OF
16 JURY SERVICE IF YOU WERE CALLED UPON TO DO SO?

17 JUROR YES IF I HAVE TO

18 THE COURT WELL, IT'S NOT
19 NECESSARILY THAT YOU HAVE TO OF COURSE, WE WANT
20 YOU TO STAY AND SERVE IF YOU CAN

21 JUROR YEAH

22 THE COURT BUT I'M SIMPLY -- YOU
23 KNOW BETTER THAN I DO HOW -- WHAT AN IMPACT IT WOULD
24 HAVE ON YOU, AND IF YOU BELIEVE THAT YOU COULD
25 ACCEPT THE DISCOMFORT OR INCONVENIENCE, THEN WE

1 WOULD ASK THAT YOU STAY IF YOU'D BE WILLING TO DO
2 SO
3 JUROR WELL, I WILL I'D RATHER
4 NOT, BUT I WILL
5 THE COURT OKAY WELL, THANK YOU
6 WE APPRECIATE YOU ACCEPTING THAT RESPONSIBILITY IF
7 YOU'LL JUST GO BACK OUTSIDE, WE'LL BE BACK THERE
8 WITH YOU SHORTLY
9 JUROR OKAY
10 THE COURT THANK YOU, MA'AM
11 (JUROR EXITS)
12 THE COURT OKAY ASK HER TO COME
13 RIGHT BACK
14 (JUROR RE-ENTERS)
15 MR McCALLUM ALSO PRIOR JURY
16 SERVICE
17 MR TINSLEY THE LAST THREE YEARS
18 AND THE FIRST ONE
19 THE COURT OH, THEY'RE SUPPOSED TO
20 BE CHECKING ON THE THREE YEARS
21 MR GARRETT I GUESS THE MENTAL OR
22 PHYSICAL ILLNESS OVERLAPPED WITH THAT OTHER
23 THE COURT PROBABLY MS BRUCE, I
24 HATE TO KEEP BOTHERING YOU, BUT I NOTICED -- IT WAS
25 BROUGHT TO MY ATTENTION THAT YOU ALSO ANSWERED THE

1 QUESTION THAT YOU HAD SOME GOOD AND SUFFICIENT
2 REASON THAT YOU WOULD LIKE TO TELL ME ABOUT THAT
3 WOULD ---

4 JUROR NO THAT WAS IT
5 THE COURT THAT WAS IT? THAT'S WHAT
6 I THOUGHT PERHAPS THAT'S WHAT IT WAS NOW, LET ME
7 SAY, ALSO, YOU INDICATED THAT YOU MAY HAVE SERVED AS
8 A JUROR IN THE LAST THREE YEARS?

9 JUROR WELL, I DID, BUT I'M NOT
10 SURE THREE OR FOUR YEARS AGO, A FEW YEARS AGO
11 THE COURT OKAY THE CLERK IS GOING
12 TO CHECK ON THAT, AND IF IT WAS WITHIN THREE YEARS,
13 I CANNOT REQUIRE THAT YOU SERVE

14 JUROR I BELIEVE IT'S BEEN A LITTLE
15 LONGER IT MAY NOT HAVE I DON'T REMEMBER I GOT
16 TOO OLD TO KEEP UP WITH THE YEARS ANYMORE

17 THE COURT OKAY WELL, LET ME ASK
18 YOU, IF YOU WILL, JUST HAVE A SEAT BACK OUT THERE,
19 AND WE'LL HAVE YOU STAY AND UNLESS THERE'S
20 SOMETHING ELSE THAT COMES UP, WE'LL TALK WITH YOU
21 ABOUT IT

22 (JUROR EXITS)

23 THE COURT #317, WHO'S THAT?

24 CLERK MACK

25 (JUROR ENTERS)

1 THE COURT OKAY YOU'RE MR MACK?
2 JUROR YES HOW YOU DOING?
3 THE COURT I'M DOING GOOD HOW ARE
4 YOU DOING?
5 JUROR I'M DOING FINE
6 THE COURT YOU INDICATED IN RESPONSE
7 TO A QUESTION ABOUT A PHYSICAL DISABILITY, A
8 PHYSICAL AND MENTAL DISABILITY?
9 JUROR YES I'M TAKING MEDICINE FOR
10 DEPRESSION AND ANXIETY
11 THE COURT UH-HUH (AFFIRMATIVE)
12 JUROR ON PAXIL AND SUPRAXIN
13 (PHONETIC) I'M TAKING NOW I'M UNDER DOCTOR'S CARE
14 THE COURT AND WHO'S YOUR DOCTOR?
15 JUROR DOCTOR BAMASHMUS IN ANDERSON
16 THE COURT IN ANDERSON? WHAT TYPE
17 OF DOCTOR IS HE?
18 JUROR HE'S A MENTAL HEALTH, LIKE
19 MENTAL HEALTH
20 THE COURT IS HE A PSYCHIATRIST OR
21 PSYCHOLOGIST?
22 JUROR A PSYCHIATRIST
23 THE COURT A PSYCHIATRIST?
24 JUROR YEAH
25 THE COURT HOW OFTEN DO YOU SEE HIM?

1 JUROR LIKE EVERY -- ONCE A MONTH OR
2 ONCE EVERY TWO MONTHS

3 THE COURT OKAY, AND IN BETWEEN
4 TIMES YOU'RE TAKING MEDICATION?

5 JUROR YES

6 THE COURT AND THAT MEDICATION IS
7 FOR A DEPRESSION OF SORTS?

8 JUROR YES

9 THE COURT DOES YOUR MEDICAL
10 CONDITION, WOULD IT PREVENT YOU FROM BEING ABLE TO
11 SERVE AS A JUROR?

12 JUROR I MEAN, IT'S, I MEAN, IT'S NO
13 -- THE ONLY THING I HAVE TO DO IS LIKE TAKE MY
14 MEDICINE AND STUFF I MEAN, I COULD BE A JUROR OR
15 WHATEVER

16 THE COURT OKAY, AND AS LONG AS YOU
17 TOOK YOUR MEDICATION --

18 JUROR I'LL BE ALL RIGHT

19 THE COURT -- WOULD YOU BE ABLE TO
20 FOCUS AT THE TASK AT HAND IF YOU WERE SERVING AS A
21 JUROR?

22 JUROR YES

23 THE COURT IT WOULDN'T CAUSE YOU ANY
24 OTHER DIFFICULTY?

25 JUROR NO, SIR

1 THE COURT WOULD YOU BE WILLING TO
2 SERVE IF YOU WERE CALLED UPON TO SERVE?

3 JUROR YES, SIR

4 THE COURT IF YOU WERE SELECTED, IT
5 WOULD BE NECESSARY THAT YOU BE SEQUESTERED FOR A
6 PERIOD OF TIME THAT MEANS YOU'D BE IN A MOTEL FOR
7 PROBABLY SEVEN TO TEN DAYS, AND YOU'D BE STAYING
8 THERE WITH YOUR FELLOW JURORS YOU'D EAT WITH YOUR
9 FELLOW JURORS WOULD THAT REQUIREMENT IMPAIR YOUR
10 PHYSICAL HEALTH IN ANY WAY?

11 JUROR NO, SIR, NOT THAT I KNOW OF
12 THE COURT WOULD YOU BE WILLING TO
13 ACCEPT THAT INCONVENIENCE IF YOU WERE ASKED TO
14 SERVE?

15 JUROR YES, SIR

16 THE COURT OKAY IF YOU WILL, JUST
17 HAVE SEAT BACK OUTSIDE, AND WE'LL BE BACK WITH YOU
18 SHORTLY DON'T TALK TO ANYBODY ABOUT THE QUESTIONS
19 YOU'VE BEEN ASKED, OKAY?

20 JUROR OKAY

21 (JUROR EXITS)

22 THE COURT THANK YOU #263, HUNTER

23 (JUROR ENTERS)

24 THE COURT MS HUNTER

25 (JUROR ENTERS)

1 THE COURT GOOD AFTERNOON ARE YOU
2 MS HUNTER?

3 JUROR YES

4 THE COURT MS HUNTER, YOU INDICATED
5 YOU HAD SOME PHYSICAL PROBLEM I TAKE IT HAS
6 SOMETHING TO DO WITH YOUR BACK?

7 JUROR YES

8 THE COURT I'M SORRY ARE YOU
9 PRESENTLY BEING TREATED BY A DOCTOR?

10 JUROR YEAH

11 THE COURT WHO'S YOUR DOCTOR?

12 JUROR DOCTOR CARAWAN FROM WESTERN
13 CAROLINA IN GREENWOOD

14 THE COURT OKAY DO YOU NEED TO
15 STAND UP? I MEAN, YOU DON'T HAVE TO SIT DOWN IF YOU
16 DON'T WANT TO

17 JUROR THANK YOU

18 THE COURT OH, YEAH, I WANT YOU TO
19 BE COMFORTABLE DOES SITTING DOWN CAUSE YOU ALOT OF
20 PROBLEMS?

21 JUROR YES, SIR

22 THE COURT YOU'RE NOT ABLE TO DO IT
23 FOR ANY APPRECIABLE LENGTH OF TIME?

24 JUROR NO NOT FOR A LONG TIME
25 BETWEEN JUST SITTING HERE

1 THE COURT DOES YOUR SITTING DOWN
2 JUST FOR THAT FIVE OR TEN SECONDS CAUSE ALOT OF
3 PROBLEM FOR YOU?

4 JUROR UH-HUH (AFFIRMATIVE)

5 THE COURT YOU WOULDN'T BE ABLE TO
6 SIT DOWN --

7 JUROR NOT FOR LONG

8 THE COURT -- FOR ANY EXTENDED
9 PERIOD OF TIME? AND WHAT IS REALLY THE NATURE OF
10 YOUR PROBLEM?

11 JUROR I -- WELL, I HAVE A -- WELL,
12 IT'S A OLD AND A NEW INJURY I WAS HURT IN A WRECK
13 A FEW YEARS BACK AND CRACKED MY PELVIS, AND NOW I
14 HAVE A BULGING DISC THAT'S WHAT'S REALLY ---

15 THE COURT AND WHO'S TREATING YOU
16 FOR THAT?

17 JUROR DR CARAWAN IN WESTERN
18 CAROLINA

19 THE COURT DR COWAN?

20 JUROR CARAWAN

21 THE COURT CARAWAN

22 JUROR IN GREENWOOD, WESTERN
23 CAROLINA

24 THE COURT WESTERN CAROLINA, OKAY
25 AND HAVE YOU HAD ANY SUCCESS IN RELIEVING ANY OF THE

1 PAIN?

2 JUROR HE SAID HE CAN'T FIX IT, BUT
3 HE RELIEVES IT, THE SWELLING

4 THE COURT OKAY ALL RIGHT WELL,
5 I'M SORRY I HOPE YOU DO WELL WITH IT LET ME ASK
6 YOU, IF YOU WILL, JUST TO STEP OUTSIDE FOR JUST A
7 MOMENT, AND WE'LL BE LETTING YOU GO SHORTLY

8 JUROR ALL RIGHT

9 (JUROR EXITS)

10 THE COURT THANK YOU, MA'AM WELL,
11 THE JUROR OBVIOUSLY IS IN SOME PAIN, OR SHE PROJECTS
12 A PRETTY GOOD IMPRESSION OF IT DO YOU HAVE ANY
13 OBJECTION TO HER BEING EXCUSED?

14 MR JONES THE STATE'S NONE

15 MR TINSLEY NO, YOUR HONOR

16 THE COURT OKAY ASK MS HUNTER TO
17 COME BACK IN

18 (JUROR RE-ENTERS)

19 (JUROR EXCUSED)

20 (JUROR EXITS)

21 THE COURT MS HUNTER, WE'RE GOING TO
22 EXCUSE YOU FROM SERVING, BUT WE APPRECIATE YOU
23 COMING DOWN ON SHORT NOTICE, AND I HOPE THEY GET
24 YOUR BACK STRAIGHTENED OUT

25 JUROR THANK YOU

1 THE COURT THANK YOU A LOT
2 (JUROR EXITS)
3 (JUROR EXCUSED)
4 THE COURT IS THAT ALL OF THEM?
5 BAILIFF JUDGE, JUROR #288
6 APPROACHED ME WHEN I WENT OUT THE DOOR AND SAID SHE
7 WANTED TO BE PUT ON THE LIST TO TALK WITH YOU
8 THE COURT OKAY I'LL PUT HER DOWN
9 PUT HER AT THE END OKAY THAT'S ALL THE MENTAL OR
10 PHYSICAL INFIRMITIES?
11 MR GARRETT YEAH WE HAVE THE
12 CONVICTIONS NEXT
13 THE COURT YEAH JUROR NUMBER #277,
14 McDUFFIE
15 MR GARRETT I DON'T HAVE MY RECORDS
16 WITH ME
17 MR JONES IF ANYBODY ELSE STARTS
18 COMING FORWARD SAYING THEY WANT ON, I'M GOING TO ASK
19 YOU TO LET MARION MAKE SOME DRILL LIKE NOISES THERE
20 AT THE DOOR, AND THEY'LL THINK THERE MIGHT BE SOME
21 KIND OF TORTUROUS ACTIVITY GOING ON BACK HERE
22 THE COURT WELL, WE'LL SEND THE ONES
23 OUT AND PUT THEM IN THE BOX COME IN AND HAVE A
24 SEAT IF YOU'D LIKE TO
25 (JUROR ENTERS)

1 JUROR THANK YOU
2 THE COURT YOUR NAME WAS WHAT?
3 JUROR MARY JANE McDUFFIE
4 THE COURT McDUFFIE? MS McDUFFIE,
5 YOU INDICATED YOU'VE BEEN CONVICTED OF SOME CRIME?
6 JUROR THEY GOT ME ON PROBATION
7 THE COURT YOU'RE ON PROBATION? AND
8 WHAT'S THAT FOR?
9 JUROR ASSAULT AND BATTERY OF A HIGH
10 AND AGGRAVATED NATURE
11 THE COURT AND WHEN WERE YOU FOUND
12 GUILTY?
13 JUROR I THINK IT WAS THIS YEAR
14 THE COURT THIS YEAR?
15 JUROR OR THE LATTER PART OF LAST
16 YEAR
17 THE COURT WAS IT IN THIS COURTROOM?
18 JUROR YES, IT WAS
19 THE COURT DO YOU REMEMBER WHO THE
20 JUDGE WAS?
21 JUROR NO
22 THE COURT YOU DON'T REMEMBER WHO
23 THE JUDGE WAS THAT SENTENCED -- PUT YOU ON
24 PROBATION?
25 JUROR NO I CAN'T REMEMBER RIGHT

1 NOW

2 THE COURT OKAY WERE YOU CONVICTED
3 OF ANY OTHER CRIMES BEFORE?

4 JUROR YES, I HAVE

5 THE COURT WHAT ELSE HAVE YOU BEEN
6 CONVICTED OF?

7 JUROR SAME THING

8 THE COURT ASSAULT AND BATTERY OF A
9 HIGH AND AGGRAVATED NATURE? HOW MANY TIMES HAVE YOU
10 BEEN CONVICTED OF THAT?

11 JUROR TWO TIMES

12 THE COURT DID YOU GET PROBATION THE
13 FIRST TIME?

14 JUROR YES, SIR

15 THE COURT OKAY, AND YOU'RE
16 PRESENTLY ON PROBATION?

17 JUROR YES, I AM

18 THE COURT ANY OTHER CONVICTION?

19 JUROR D U I

20 THE COURT WHAT OFFENSE?

21 JUROR ONE AND TWO

22 THE COURT ONE AND TWO? ANYTHING
23 ELSE? YOU'RE GOING TO MAKE ME ASK YOU EACH TIME?

24 JUROR (JUROR LAUGHS) THAT'S ALL

25 THE COURT THAT'S ALL?

1 JUROR YES

2 THE COURT TWO ABHAN'S AND TWO
3 D U I 'S' NOTHING ELSE?

4 JUROR I THINK THAT'S IT

5 THE COURT YOU THINK IT IS OR YOU'RE
6 PRETTY SURE?

7 JUROR I'M PRETTY SURE

8 THE COURT OKAY ALL RIGHT LET ME
9 JUST ASK YOU TO STEP OUTSIDE THE DOOR FOR JUST A
10 MINUTE, AND I'LL LET YOU KNOW WHEN YOU CAN BE
11 EXCUSED

12 JUROR OKAY

13 (JUROR EXITS)

14 THE COURT THANK YOU Y'ALL KNOW
15 ABOUT HER?

16 MR JONES MARION, YOU KNOW ABOUT
17 HER?

18 MR TINSLEY YES SHE STAYED IN
19 CORRECTIONS

20 THE COURT WE'VE GOT THE PROBATION
21 OFFICERS RIGHT OVER HERE IN FACT, THEY MAY BE IN
22 HERE ARE THEY?

23 BAILIFF THEY'RE RIGHT NEXT DOOR
24 HERE, YES, SIR

25 MR COULTER I DON'T HAVE MY RECORDS

1 WITH ME, JUDGE, BUT I PROVIDED THE DEFENSE WITH ALL
2 THE CRIMINAL HISTORIES AS WELL

3 MR GARRETT WE HAVEN'T HAD AN
4 OPPORTUNITY TO ---

5 THE COURT YOU DIDN'T SEE THESE YET?
6 YOU HAVE NOT BEEN THROUGH THESE YET? BRING HER BACK
7 IN HERE DID MR TINSLEY -- DID HE REPRESENT YOU?
8 WAS HE YOUR LAWYER?

9 MR COULTER MR TINSLEY REPRESENTED
10 HIM

11 MR TINSLEY I REPRESENTED HIM?

12 THE COURT BRING HIM BACK IN HERE

13 MR McCALLUM BELIEVE IT OR NOT,
14 JUDGE, I THINK WE MAY HAVE REPRESENTED THAT JUROR
15 BEFORE

16 (JUROR RE-ENTERS)

17 THE COURT DID MR TINSLEY, WAS HE
18 YOUR LAWYER?

19 JUROR I THINK SO

20 THE COURT HE GOT YOU THAT
21 PROBATION?

22 JUROR YES, SIR

23 THE COURT OKAY WHO'S YOUR
24 PROBATION AGENT? WHO DO YOU REPORT TO?

25 JUROR JEAN SANDERS

1 THE COURT WHO?
2 JUROR MS SANDERS
3 THE COURT SANDERS? OKAY ALL
4 RIGHT THAT WOULD DISQUALIFY YOU FROM SERVICE SO
5 YOU CAN BE EXCUSED, OKAY? THANK YOU
6 JUROR I NEED TO SEE HER NOW
7 THE COURT OKAY YOU'RE GOING TO
8 SEE YOUR PROBATION AGENT?
9 JUROR YES, SIR
10 THE COURT GOOD
11 (JUROR EXITS)
12 (JUROR EXCUSED)
13 THE COURT GOOD OLD TINSLEY
14 MR GARRETT THE SOLICITOR WILL WORK
15 WITH US ONCE IN A WHILE, JUDGE
16 THE COURT HUH?
17 MR McCALLUM THE SOLICITOR WILL
18 WORK WITH US ONCE IN A WHILE
19 THE COURT I KNOW IT THAT WAS
20 PROBABLY TINSLEY'S SILVER TONGUE THAT GOT THAT
21 OKAY
22 CLERK #231
23 THE COURT LET THE -- LET ME PUT
24 THIS ON THE RECORD WE HAD TEN JURORS WHO WERE AT
25 LEAST SIXTY-FIVE YEARS OF AGE OR OLDER DOES THE

1 DEFENSE HAVE ANY QUESTION ABOUT THEIR EXEMPTION?

2 MR GARRETT NO, YOUR HONOR

3 THE COURT AND NO OBJECTION TO THEM
4 BEING EXCUSED?

5 MR GARRETT NONE, YOUR HONOR

6 THE COURT ALL RIGHT WE ALSO HAD
7 TWO JURORS, NUMBER #273 AND #233, WHO SIGNED AN
8 AFFIDAVIT OF CHILD OR CHILDREN LESS THAN SEVEN ANY
9 OBJECTION TO THEIR BEING EXCUSED?

10 MR GARRETT NO, YOUR HONOR

11 THE COURT WE HAD TWO STUDENTS, #260
12 AND #262, MS HUGHES AND MS ASH I UNDERSTOOD
13 THERE WAS NO OBJECTION TO THOSE TWO JURORS BEING
14 EXCUSED?

15 MR GARRETT CORRECT, SIR

16 THE COURT ALL RIGHT THE NEXT
17 ONE'S #231 THAT'S MS ---

18 MR JONES BROOME

19 THE COURT MS BROOME, #231

20 (JUROR ENTERS)

21 THE COURT MS BROOME? YES, PLEASE
22 HAVE A SEAT RIGHT THERE THANK YOU YOU INDICATED
23 WHEN I ASKED THE JURY PANEL IF YOU HAD SOME REASON
24 WHY YOU THOUGHT YOU WOULD NOT BE ABLE TO SERVE AS A
25 JUROR THAT YOU WANTED TO ADDRESS TO ME?

1 JUROR I WOULD JUST LIKE TO SAY THAT
2 I AM THE UTILITY CLERK FOR THE TOWN OF CALHOUN
3 FALLS I AM THE ONLY PERSON THAT CAN BILL, POST,
4 AND PUT THE READINGS IN THE COMPUTER, AND THIS IS
5 OUR BUSY TIME OF THE MONTH THAT'S ALL I WOULD LIKE
6 FOR YOU TO CONSIDER THERE IS NO OTHER PERSON IN
7 THE OFFICE OTHER THAN THE CLERK TREASURER, AND SHE
8 WAS ALREADY SCHEDULED TO BE OFF PART OF THIS WEEK
9 THE COURT WELL, IF YOU WERE
10 SELECTED, COULD SHE COME BACK IN AND DO THAT WORK?
11 JUROR SHE ALREADY HAS HER PLANS TO
12 BE OUT OF TOWN, BUT ---
13 THE COURT OKAY IF YOU -- IF YOU
14 WERE REQUIRED TO STAY OR IF YOU WERE SELECTED TO
15 SERVE, WOULD THAT -- IS THIS WORK THAT COULD BE -- I
16 MEAN, IT MIGHT BE DONE LATER? IT MIGHT BE DONE PAST
17 TIME?
18 JUROR WE WORK ON A TIME FRAME THE
19 BILLS HAVE TO BE DONE RIGHT NOW I HAVE JUST
20 ENTERED READINGS FROM THE MIDDLE OF THE MONTH INTO
21 THE COMPUTER, ISSUED A LIST FOR REREADS THEY HAVE
22 TO GO IN THE COMPUTER, AND THEIR BILLS HAVE TO BE
23 OUT BY THE 28TH THEY HAVE TO -- THE PRINTING AND
24 WHATEVER -- THEY HAVE TO BE READY FOR THE POST
25 OFFICE BY THE 28TH

1 THE COURT OKAY, AND WHAT HAPPENS IF
2 THEY'RE NOT?

3 JUROR THE TOWN OF CALHOUN FALLS
4 HURTS FINANCIALLY

5 THE COURT WELL, I MEAN, DOES THAT
6 MEAN THEY NEVER GET THEIR MONEY?

7 JUROR THAT MEANS THEY NEVER GET
8 THEIR MONEY

9 THE COURT REALLY?

10 JUROR NO, REALLY AND TRULY, THAT'S
11 -- IT IS FOR THE WATER, AND THAT'S THE ONLY THING
12 THAT WE HAVE REVENUE COMING IN FOR AT THE PRESENT
13 TIME

14 THE COURT WELL, BUT WHAT I MEAN IS
15 THAT DOESN'T MEAN THAT IT STILL DOESN'T HAVE TO BE
16 PAID, DOES IT?

17 JUROR OH, IT STILL HAS TO BE PAID

18 THE COURT THAT'S WHAT I MEANT I
19 MEAN, IF IT WERE A WEEK LATE OR SOMETHING, WOULD
20 THAT ---

21 JUROR IT REALLY UPSETS PEOPLE,
22 ESPECIALLY THE PEOPLE ON FIXED INCOMES THAT GET
23 THEIR CHECKS THE FIRST OF THE MONTH THEY PAY WHEN
24 THEIR CHECKS COME IN THERE ARE OTHER PEOPLE WHO
25 ARE, WHEN THEY GET PAID, THEY COME IN AND PAY

1 THE COURT AND SO THERE'S NO OTHER
2 PERSON THAT COULD PERFORM THAT TASK?

3 JUROR THE ONLY OTHER PERSON THAT
4 CAN ACCEPT MONEY, THAT IS BONDED TO ACCEPT MONEY, IS
5 THE CLERK TREASURER

6 THE COURT AND SHE'S GOING TO BE --

7 JUROR SHE'S GOING TO BE OUT OF
8 TOWN

9 THE COURT -- OUT OKAY

10 JUROR IF WE HAD KNOWN A LITTLE BIT
11 EARLIER, WE COULD HAVE PLANNED BUT ---

12 THE COURT I UNDERSTAND OKAY LET
13 ME ASK YOU, IF YOU WILL, JUST TO STEP OUTSIDE FOR
14 JUST A MOMENT, AND I'LL BRING YOU BACK IN

15 JUROR SURE

16 (JUROR EXITS)

17 THE COURT WHAT SAY THE STATE?

18 MR JONES NO OBJECTION WELL,
19 JUDGE, AH, WE'LL LET HER GO WE DON'T OBJECT

20 THE COURT WHAT SAY THE DEFENSE?

21 MR GARRETT NO PROBLEM LETTING HER
22 GO, YOUR HONOR

23 THE COURT NO OBJECTION TO HER BEING
24 EXCUSED? OKAY MS BROOME, YOU CAN BE EXCUSED

25 JUROR THANK YOU

1 THE COURT THANK YOU FOR COMING BE
2 SURE YOU COLLECT ALL THE WATER MONEY ON TIME
3 JUROR I WILL THANK YOU
4 (JUROR EXITS)
5 (JUROR EXCUSED)
6 THE COURT ALL RIGHT #323, WHO'S
7 THAT?
8 CLERK PRICE
9 THE COURT #323, MS PRICE? WAS SHE
10 EXCUSED ON AGE? SHE WAS EXCUSED ON THAT SHE'S
11 EXCUSED
12 MR JONES #318, MS McCORD
13 THE COURT #235, THAT'S AGE?
14 CLERK YES
15 THE COURT #318 IS WHO?
16 CLERK McCORD
17 THE COURT McCORD, #318
18 (JUROR ENTERS)
19 THE COURT GOOD AFTERNOON, MS
20 McCORD
21 JUROR HOW ARE YOU?
22 THE COURT I'M DOING FINE HOW ARE
23 YOU?
24 JUROR I'M TIRED
25 THE COURT WELL, I UNDERSTAND YOU

1 INDICATED YOU HAD SOME REASON THAT YOU'D LIKE TO
2 TALK WITH ME ABOUT IN ORDER TO TRY TO BE EXCUSED?

3 JUROR YES, SIR

4 THE COURT WHAT WAS THAT REASON?

5 JUROR MY SISTERS AND I ARE TAKING
6 TURNS TAKING CARE OF MY FATHER HE JUST GOT OUT OF
7 THE HOSPITAL HE HAD TWO HEART ATTACKS AND
8 PNEUMONIA

9 THE COURT UH-HUH (AFFIRMATIVE)

10 JUROR AND WE ARE STAYING AT NIGHT
11 WITH THEM TO HELP WITH THEM

12 THE COURT OKAY

13 JUROR PLUS MY FATHER-IN-LAW IS ILL,
14 CRITICALLY ILL, TOO, SO

15 THE COURT RIGHT NOW, HOW OLD IS
16 YOUR FATHER?

17 JUROR EIGHTY-TWO

18 THE COURT AND HOW ABOUT YOUR
19 FATHER-IN-LAW?

20 JUROR EIGHTY-THREE

21 THE COURT AND DO YOU HELP WITH HIS
22 CARE, ALSO?

23 JUROR WELL, I -- MY TURN WILL COME
24 UP, BUT IT HASN'T YET WE'RE SPLITTING IT UP

25 THE COURT ALL RIGHT NOW, WITH

1 YOUR FATHER ---

2 JUROR UH-HUH (AFFIRMATIVE)

3 THE COURT WHO'S CARING FOR YOUR
4 FATHER?

5 JUROR MY MOTHER AND A HOME HEALTH
6 NURSE COMING DURING THE DAY THEY'RE GOING START
7 THIS WEEK, AND SHE'S NOT ABLE TO CHECK ON HIM DURING
8 THE NIGHT, SO MY SISTER AND ANOTHER SISTER IS DOING
9 THAT, JUST PUTTING UP THREE NIGHTS

10 THE COURT OKAY LET ME ASK YOU
11 THIS IF YOU WERE SELECTED TO PARTICIPATE IN THIS
12 CASE, IT'S LIKELY YOU WOULD BE SEQUESTERED FOR SOME
13 PERIOD OF BETWEEN SEVEN AND TEN DAYS DO YOU THINK
14 YOUR OTHER TWO SISTERS COULD PERFORM YOUR, YOUR
15 CHORE OF LOOKING AFTER YOUR FATHER ON THOSE DAYS,
16 FOR THAT PERIOD OF TIME?

17 JUROR I DON'T KNOW I CAN ASK AND
18 MAKE SURE IF THEY COULD

19 THE COURT OH, SURE, YEAH, AND I
20 HOPE THAT YOU WOULD IF YOU CAN ---

21 JUROR THEY BOTH WORK, AND I DON'T
22 WORK THAT'S THE ---

23 THE COURT I UNDERSTAND THAT, AND
24 THAT'S THE REASON I SAY -- WHAT I'M ASKING YOU IS
25 IF YOU CAN MAKE THE ARRANGEMENTS, AND IT'S IMPORTANT

1 THAT YOU MAKE AN EFFORT TO DO SO, BUT WE CERTAINLY
2 UNDERSTAND IF IT'S NOT POSSIBLE AND IT JUST DOESN'T
3 WORK, THAT -- THEN WE CAN CERTAINLY CONSIDER THAT IN
4 MAKING THAT DECISION BUT I WOULD ASK, IF YOU
5 WOULD, TO SEE IF YOU CAN MAKE THOSE ARRANGEMENTS OR
6 IF YOUR SISTERS COULD MAKE THOSE ARRANGEMENTS TO
7 CARE FOR HIM ON THOSE THREE NIGHTS THAT YOU WOULD IN
8 THE EVENT THAT THEY FALL WITHIN THIS PERIOD OF TIME
9 JUROR OKAY WHEN WOULD YOU NEED TO
10 KNOW THIS?
11 THE COURT WELL, HOW SOON COULD YOU
12 FIND THAT OUT?
13 JUROR WELL, I COULD MAKE SOME
14 CALLS
15 THE COURT OKAY
16 JUROR I CAN CALL
17 THE COURT SO YOU COULD DO THAT FROM
18 HERE?
19 JUROR PROBABLY
20 THE COURT OKAY LET'S -- LET'S --
21 LET MS MCCORD -- IF YOU'D ASK MS KING TO TAKE HER
22 DOWN TO THE CLERK'S OFFICE AND LET HER USE THE PHONE
23 DOWN THERE AND SEE WHAT YOU CAN DO ABOUT THOSE
24 ARRANGEMENTS, OKAY?
25 THE COURT OKAY THANK YOU

1 JUROR THANK YOU, MA'AM

2 (JUROR EXITS)

3 (JUROR NOT EXCUSED)

4 THE COURT #325?

5 CLERK IT'S STROUD

6 THE COURT #325 IS STROUD?

7 BAILIFF WHAT NUMBER JUROR?

8 THE COURT #325, STROUD

9 (JUROR ENTERS)

10 THE COURT MR STROUD, IF YOU'LL
11 HAVE A SEAT RIGHT THERE, PLEASE SIR AH, YOU
12 INDICATED YOU HAD SOME REASON YOU'D LIKE ME TO
13 CONSIDER IN HAVING YOUR SERVICE EXCUSED?

14 JUROR AH, YES, SIR RIGHT NOW I'M
15 CURRENTLY ON ACTIVE DUTY IN THE COAST GUARD

16 THE COURT UH-HUH (AFFIRMATIVE)

17 JUROR AND MY DUTY STATION IS AT KEY
18 WEST, FLORIDA THE ONLY REASON I'M NOT DOWN THERE
19 IS BECAUSE I'VE BEEN DIAGNOSED WITH CORONARY ARTERY
20 DISEASE --

21 THE COURT UH-HUH (AFFIRMATIVE)

22 JUROR -- AND I GO TO FORT GORDON
23 FOR TREATMENT AND SEE A DOCTOR AND I'VE GOT TO GO
24 THIS WEEK AND GET SOME LAB WORK DONE AND GET A NEW
25 I D CARD, AND I'M RIGHT IN THE MIDDLE OF HAVING A

1 MEDICAL BOARD AT ANY TIME -- COME MEDICAL
2 RETIREMENT

3 THE COURT UH-HUH (AFFIRMATIVE)

4 JUROR SO I'M JUST -- I'M WAITING ON
5 THAT AS A MATTER OF FACT, I WAS ON THE PHONE WITH
6 THEM TODAY IN MIAMI SO I'VE BEEN WAITING THEY'VE
7 SENT ME HOME TO GO TO THE DOCTOR IN AUGUSTA FOR
8 TREATMENT OR WHATNOT AND GET MY DIAGNOSIS SO THEY'LL
9 GIVE ME A MEDICAL RETIREMENT SO I'M WAITING ON
10 THAT ANY DAY NOW

11 THE COURT AND YOU'VE ALREADY --
12 YOU'RE ALREADY SCHEDULED TO GO TO FORT GORDON FOR A
13 MEDICAL EVALUATION?

14 JUROR WELL, I'VE ALREADY BEEN FOR
15 THAT I'VE GONE DOWN THERE FOR SEVERAL DIFFERENT
16 TESTS, AND NOW IT'S TIME -- THEY RUN BLOOD WORK ON
17 ME LIKE EVERY THREE MONTHS SO I'M SUPPOSED TO GO
18 AND GET THAT DONE

19 THE COURT THAT'S WHEN YOU'RE
20 SUPPOSED TO GO BACK FOR ADDITIONAL --

21 JUROR YES

22 THE COURT -- MEDICAL TREATMENT OR
23 TESTS? AND WHEN IS THAT?

24 JUROR THIS WEEK, NEXT WEEK, BEFORE
25 THE END OF THIS MONTH, AND I HAVE TO -- MY I D --

1 THEY GIVE ME AN I D CARD THAT LASTS EVERY SIX
2 MONTHS --

3 THE COURT UH-HUH (AFFIRMATIVE)

4 JUROR -- AND IT'S EXPIRING THE END
5 OF THIS MONTH SO I HAVE TO GET MINE AND MY WIFE'S
6 I D CARD, AND AT THE SAME TIME I GET MY BLOOD WORK
7 DONE THEY DO BLOOD WORK ON ME EVERY THREE MONTHS
8 AND LIKE I SAY, THE ONLY REASON I'M NOT IN KEY WEST
9 NOW IS BECAUSE I'M NOT FIT FOR FULL DUTY THEY
10 COULDN'T PUT ME ON A SHIP

11 THE COURT SO WHERE HAVE YOU BEEN,
12 HERE IN ABBEVILLE?

13 JUROR YES

14 THE COURT ALL RIGHT IF YOU'LL
15 STEP OUTSIDE FOR JUST A MINUTE, I'LL BRING YOU BACK

16 JUROR ALL RIGHT

17 THE COURT WHAT SAY THE STATE?

18 MR JONES I THINK THE FACT THAT HE
19 WON'T GO DOWN TO KEY WEST IS SUFFICIENT REASON TO
20 EXCUSE HIM

21 THE COURT THAT HE WHAT?

22 MR TINSLEY THAT HE WON'T GO DOWN
23 TO KEY WEST

24 THE COURT YOU MEAN THAT HE DIDN'T
25 GO WHEN HE GOT A SUMMONS?

1 JUROR WHEN HE HAD A CHANCE
2 THE COURT WHAT ABOUT THE DEFENSE?
3 MR TINSLEY I DON'T HAVE A PROBLEM
4 WITH IT
5 THE COURT NO OBJECTION TO HIM BEING
6 EXCUSED? THAT'S #325?
7 CLERK YES
8 THE COURT OKAY BRING HIM IN
9 (JUROR RE-ENTERS)
10 THE COURT OKAY WE'RE GOING TO
11 EXCUSE YOU FROM SERVING IN THE CASE THANK YOU FOR
12 COMING GOOD LUCK TO YOU
13 JUROR ALL RIGHT THANKS A LOT
14 (JUROR EXCUSED)
15 (JUROR EXITS)
16 CLERK #310, MR ELLIS
17 THE COURT ELLIS? ELLIS, #310 MR
18 ELLIS, IF YOU'LL HAVE A SEAT RIGHT THERE AT THE
19 MIKE YOU INDICATED THAT YOU HAD A REASON THAT
20 YOU'D LIKE FOR ME TO CONSIDER HAVING YOUR SERVICE
21 EXCUSED?
22 JUROR YES, SIR I'VE BEEN AN
23 ACTIVE MEMBER OF THE YOUTH OF ABBEVILLE FOR THE LAST
24 SEVENTEEN YEARS RIGHT NOW I'M IN THE MIDDLE OF
25 COACHING A FOOTBALL TEAM I GOT A NINE, TEN YEAR

1 OLD TEAM, AND I HAVEN'T HAD, WITH THIS NOTICE, TIME
2 TO GET SOMEBODY LINED UP TO TAKE OVER

3 THE COURT UH-HUH (AFFIRMATIVE)
4 JUROR AND THAT'S THE BIGGEST THING
5 THE COURT WELL, DO YOU HAVE ANY
6 ASSISTANCE THAT CAN HELP YOU WITH THAT OR SOMEBODY
7 YOU CAN CALL TO TAKE CARE OF THAT?

8 JUROR YEAH, BUT I HAVEN'T BEEN ABLE
9 TO GET IN TOUCH WITH THEM YET

10 THE COURT OKAY IF YOU HAD UNTIL
11 TOMORROW ---

12 JUROR SURE SEE, WE PLAY TONIGHT
13 AT STARTING AT SIX, AND I CAN HAVE ALL THE PARENTS
14 THERE AND EVERYBODY THERE SO I CAN GET, TRY AND GET
15 SOMETHING LINED UP BY THEN

16 THE COURT OKAY SO YOU CAN MAKE
17 ARRANGEMENTS THEN, AND YOU'LL BE ABLE TO SERVE?

18 JUROR I WOULD THINK SO, YES

19 THE COURT OKAY WELL, I WANT YOU
20 TO STAY FOR THE TIME BEING, BUT WE'LL LET YOU MAKE
21 THOSE ARRANGEMENTS, OKAY?

22 JUROR WELL, CAN I LEAVE AT SIX?

23 THE COURT WELL, I'VE GOT SOME OTHER
24 QUESTIONS TO ASK YOU AND, I MEAN, THE ENTIRE PANEL,
25 AND THERE'S A GOOD CHANCE WE'LL BE THROUGH BY THEN

1 I'LL JUST HAVE TO SEE HOW IT GOES

2 JUROR OKAY

3 THE COURT OKAY?

4 JUROR ALL RIGHT THANK YOU, SIR

5 (JUROR EXITS)

6 (JUROR NOT EXCUSED)

7 THE COURT #248

8 MR COULTER NO MEDICAL -- SHE'S

9 EXCUSED FOR MEDICAL REASONS

10 THE COURT #248?

11 MR COULTER YES, SIR

12 THE COURT WHO IS THAT?

13 CLERK FLEMING

14 THE COURT OKAY

15 CLERK #229, BOWIE

16 THE COURT WHO'S #243? #229, BOWIE

17 WHO'S #243?

18 MR COULTER THAT WAS CUDD, EXCUSED

19 FOR AGE

20 THE COURT AGE? I HADN'T HEARD OF

21 ANY OF THIS BEFORE

22 (JUROR ENTERS)

23 THE COURT THIS IS BOWIE HERE? MR

24 BOWIE, HOW ARE YOU DOING? IF YOU'LL HAVE A SEAT

25 RIGHT THERE

1 JUROR I'M DOING FINE
2 THE COURT YOU INDICATED YOU HAD
3 SOME REASON YOU'D LIKE FOR ME TO CONSIDER HAVING
4 YOUR JURY SERVICE EXCUSED?
5 JUROR YES THE INCIDENT THAT WAS
6 REPORTED IN THE PAPER LAST WEEK ABOUT HIS MOTHER
7 BEING KILLED? THAT WAS MY BROTHER
8 THE COURT YOUR BROTHER WAS THE --
9 JUROR DRUNK MAN
10 THE COURT -- INDIVIDUAL DRIVING THE
11 VEHICLE --
12 JUROR VEHICLE, YES, SIR
13 THE COURT -- THAT RESULTED IN THE
14 DEATH OF --
15 JUROR OF HIS MOTHER
16 THE COURT -- MR HUGHEY'S MOTHER?
17 OKAY, AND THAT WOULD CAUSE YOU SOME CONCERN ABOUT
18 BEING --
19 JUROR YES, SIR, IT WOULD
20 THE COURT -- ABLE TO PARTICIPATE IN
21 THIS CASE?
22 JUROR YES, SIR
23 THE COURT OKAY IF YOU'LL JUST
24 HAVE
25 A -- IF YOU'D STAND OUTSIDE JUST A MINUTE --

1 JUROR ALL RIGHT

2 THE COURT -- I'LL BE RIGHT BACK

3 WITH YOU

4 (JUROR EXITS)

5 THE COURT ANY OBJECTION TO HIM

6 BEING EXCUSED?

7 MR JONES WELL, JUDGE, NOT ONLY NO

8 OBJECTION, BUT I THINK THE LESS SAID ABOUT IT THE

9 BETTER TO AVOID ANY DECOMPENSATION

10 THE COURT SURE

11 MR TINSLEY JUDGE, WE ---

12 MR GARRETT I HAVE NO OBJECTION TO

13 HIS BEING EXCUSED

14 MR JONES I HAVE NO OBJECTION

15 THE COURT WELL, THAT'S WHERE I AM

16 MR TINSLEY NO OBJECTION

17 THE COURT OKAY TELL HIM HE'S

18 EXCUSED THANK YOU

19 (JUROR EXCUSED)

20 THE COURT #286 IS WHO?

21 MR COULTER SIMPSON

22 THE COURT #286, SIMPSON

23 CLERK MISTER

24 (JUROR ENTERS)

25 THE COURT SIMPSON, MR SIMPSON?

1 JUROR YES, SIR

2 THE COURT HOW DO YOU DO? IF YOU'D
3 HAVE A SEAT RIGHT THERE, PLEASE, SIR YOU INDICATED
4 YOU HAD SOME REASON YOU'D LIKE FOR ME TO CONSIDER
5 HAVING YOUR SERVICE EXCUSED?

6 JUROR YES, SIR

7 THE COURT WHAT WAS THAT?

8 JUROR WELL, I KNOW THE INDIVIDUAL
9 PERSON

10 THE COURT WHAT INDIVIDUAL?

11 JUROR THE INDIVIDUAL ON TRIAL

12 THE COURT MR HUGHEY?

13 JUROR YES, SIR

14 THE COURT OKAY

15 JUROR AND I WORKED WITH HIM ON
16 ABBEVILLE COUNTY FARM, AND I DON'T FEEL LIKE I COULD
17 RUN NO UNBIASED OPINION

18 THE COURT OKAY DO YOU ALREADY
19 BELIEVE THAT YOU HAVE SOME OPINION AS TO WHAT SHOULD
20 OCCUR IN THE CASE BASED UPON YOUR FRIENDSHIP OR YOUR
21 RELATIONSHIP WITH THE DEFENDANT?

22 JUROR YES, SIR

23 THE COURT OKAY, AND DO YOU BELIEVE
24 THAT THAT OPINION COULD BE ALTERED IN ANY WAY BY
25 CONSIDERING THE EVIDENCE IN THE CASE?

1 JUROR I DON'T THINK SO

2 THE COURT OKAY IF YOU'LL JUST
3 STAND OUTSIDE JUST A MOMENT, I'LL BE RIGHT WITH YOU

4

5 (JUROR EXITS)

6 THE COURT ANY OBJECTION TO THE
7 JUROR BEING EXCUSED BASED UPON BIAS?

8 MR JONES NONE FOR THE STATE, YOUR
9 HONOR

10 MR TINSLEY NONE, YOUR HONOR

11 THE COURT MR SIMPSON, YOU'RE
12 EXCUSED THANK YOU FOR COMING

13 (JUROR RE-ENTERS)

14 (JUROR EXCUSED)

15 THE COURT PIERCE, #322

16 (JUROR ENTERS)

17 THE COURT COME IN ARE YOU MS
18 PIERCE?

19 JUROR I AM

20 THE COURT MS PIERCE, YOU INDICATED
21 YOU HAD SOME REASON YOU WANTED ME TO CONSIDER HAVING
22 YOU EXCUSED?

23 JUROR WELL, I AM A PART-TIME
24 STUDENT, AND I ONLY ATTEND LIKE LANDER IN GREENWOOD
25 LIKE SIX HOURS A WEEK WHICH IS -- WELL, SIX HOURS

1 EACH DAY IT'S ON TUESDAYS AND THURSDAYS

2 THE COURT OKAY, BUT YOU GO TO CLASS

3 EACH DAY TUESDAY, THURSDAY?

4 JUROR JUST TUESDAY AND THURSDAY

5 THE COURT FOR SIX HOURS?

6 JUROR YES

7 THE COURT THREE HOURS A DAY OR SIX

8 HOURS A DAY?

9 JUROR JUST SIX HOURS THREE --

10 THEY ARE CREDIT HOURS, SO A TOTAL OF TWO CLASSES

11 THAT ARE THREE HOURS EACH A TOTAL OF CREDIT HOURS,

12 NOT THAT I STAY IN THE CLASS THREE HOURS EACH DAY

13 THE COURT WELL, I MEANT -- OKAY

14 BUT YOU ARE -- AND YOU'VE ALREADY BEGUN THE CLASSES?

15 JUROR I HAVE

16 THE COURT AND WHEN DID YOU START?

17 JUROR I STARTED IN AUGUST

18 THE COURT IN AUGUST?

19 JUROR UH-HUH (AFFIRMATIVE), IN LATE

20 AUGUST

21 THE COURT AND THEY FINISH IN

22 DECEMBER?

23 JUROR UH-HUH (AFFIRMATIVE), THAT'S

24 CORRECT

25 THE COURT AND IF YOU -- IF YOU WERE

1 SERVING ON THIS JURY AND YOU WERE SEQUESTERED AND
2 MISSED YOUR CLASSES, WOULD YOU HAVE TO START OVER IN
3 JANUARY?

4 JUROR NO, I WOULDN'T AS LONG AS I'M
5 ABLE TO GET WITH MY PROFESSORS AND, YOU KNOW, KEEP
6 UP WITH CLASSES BECAUSE I DO HAVE A SYLLABUS SO,
7 YOU KNOW ---

8 THE COURT OKAY WELL, LET ME ASK
9 YOU THIS YOU UNDERSTAND THAT IF YOU WERE SELECTED,
10 YOU WOULD BE SEQUESTERED FOR SOME PERIOD OF TIME
11 LIKELY TO BE BETWEEN SEVEN AND TEN DAYS?

12 JUROR UH-HUH (AFFIRMATIVE)

13 THE COURT WE MIGHT START AS EARLY
14 AS WEDNESDAY AND THEN THEY'D RUN A WEEK OR TEN DAYS
15 IF YOU, I MEAN, THAT'S AN ESTIMATE IF YOU WERE
16 SELECTED TO SERVE IN THE CASE, COULD YOU MAKE UP
17 YOUR SCHOOLING?

18 JUROR YES I'M SURE I COULD GET
19 WITH MY PROFESSORS AND, YOU KNOW, THEY WOULD TAKE
20 THAT INTO CONSIDERATION

21 THE COURT OKAY SO YOU DON'T
22 BELIEVE THAT IT WOULD POSE ANY UNREASONABLE HARDSHIP
23 IF YOU WERE TO SERVE IN THE CASE?

24 JUROR I DON'T

25 THE COURT ARE YOU WILLING TO

1 ACCOMMODATE THAT INCONVENIENCE IF YOU'RE CALLED
2 UPON?

3 JUROR I AM

4 THE COURT DO YOU HAVE ANY OTHER
5 REASON THAT YOU KNOW OF WHY YOU COULD NOT SERVE?

6 JUROR NO, THAT'S IT

7 THE COURT OKAY LET ME ASK YOU TO
8 STAY WITH US THEN, AND I'LL BE BACK OUT THERE
9 SHORTLY

10 JUROR ALL RIGHT THANK YOU

11 (JUROR NOT EXCUSED)

12 THE COURT DON'T TALK WITH ANYONE
13 ABOUT THE QUESTIONS YOU'RE BEING ASKED

14 (JUROR EXITS)

15 THE COURT THAT'S #322, PIERCE, AND
16 THEN McCORD WHAT WAS HER NUMBER, #318?

17 MR JONES #318

18 (JUROR ENTERS)

19 THE COURT ALL RIGHT YOU'RE MS
20 McCORD, AND YOU HAVE HAD A CHANCE TO TALK WITH YOUR
21 SISTERS ABOUT YOUR PERSONAL PROBLEMS?

22 JUROR UH-HUH (AFFIRMATIVE) THEY
23 SAID IT WOULD PUT A HARDSHIP ON THEM IF I COULD NOT
24 TRY TO HELP THEM OUT AS BEST AS I COULD IF I HAD TO

25 THE COURT WELL, LET ME ASK YOU

1 THIS I KNOW IT MAY BE A HARDSHIP BECAUSE THEY'D BE
2 TAKING YOUR PLACE FOR THOSE DAYS --

3 JUROR YES

4 THE COURT -- BUT COULD THEY DO IT,
5 OR WOULD IT MEAN THAT SOMEBODY DEPENDANT UPON THEM
6 WOULD BE DEPRIVED?

7 JUROR SOMEBODY FOR THEM WOULD BE
8 PROBABLY I DON'T --

9 THE COURT YOU DON'T KNOW? OKAY
10 ALL RIGHT LET ME AS YOU ---

11 JUROR OH, NO I -- I BELIEVE I'M
12 NOT UNDERSTANDING YOUR QUESTION

13 THE COURT WELL, WHAT I'M ASKING YOU
14 IS THEY SAY -- I MEAN, NATURALLY, YOU KNOW,
15 SOMETIMES WHEN YOU HAVE TO DO MORE THAN WHAT YOU
16 WERE GOING TO DO, YOU MIGHT SAY, "OH, NO, I DON'T
17 WANT YOU TO DO THAT THAT PUTS A HARDSHIP ON ME IF
18 YOU DON'T HELP ME " BUT WHAT I WANT YOU TO TELL ME
19 IS WHETHER OR NOT YOU BELIEVE THAT IT WOULD PUT SUCH
20 A HARDSHIP THAT THEY COULD NOT DO IT IN YOUR
21 ABSENCE? IN OTHER WORDS, IF THEY'VE GOT TO, YOU
22 KNOW, QUIT THEIR JOB OR --

23 JUROR NO

24 THE COURT -- THEY'VE GOT TO -- OR
25 THEIR FAMILY IS GOING TO BE LEFT WITH NOBODY TO CARE

1 FOR THEM?

2 JUROR I BELIEVE IT WOULD HINDER
3 THEM, BUT, YOU KNOW, I'LL DO THE BEST I CAN DO

4 THE COURT OKAY LET ME ASK YOU TO
5 STEP OUTSIDE FOR JUST A MINUTE, AND I'LL BRING YOU
6 BACK

7 JUROR OKAY

8 (JUROR EXITS)

9 THE COURT WHAT SAY THE STATE?

10 MR JONES NO OBJECTION TO HER BEING
11 EXCUSED, JUDGE

12 THE COURT WHAT ABOUT THE DEFENSE?

13 MR TINSLEY NO OBJECTION, JUDGE

14 THE COURT ALL RIGHT #318 IS
15 EXCUSED MS McCORD, WE'RE GOING TO EXCUSE YOU FROM
16 SERVICE WE APPRECIATE YOUR COMING BACK

17 JUROR THANK YOU

18 THE COURT THANK YOU

19 JUROR I REALLY WOULD BE GLAD TO DO
20 IT ANY OTHER TIME

21 THE COURT OKAY THANK YOU

22 JUROR THANK YOU

23 (JUROR EXITS)

24 (JUROR EXCUSED)

25 BAILIFF #296, MR WHITE

1 THE COURT WHITE?

2 BAILIFF WHITE

3 THE COURT #296 I KNOW #274 IS

4 BASED ON AGE THAT'S McCARTHY

5 REPORTER SHE DID HAVE JEANS ON

6 THE COURT SHE'S OUT IN THE GARDEN

7 RIGHT NOW

8 (JUROR ENTERS)

9 THE COURT ARE YOU MR WHITE?

10 JUROR YES, SIR

11 THE COURT MR WHITE, YOU INDICATED

12 YOU HAD SOME REASON THAT YOU WOULD LIKE ME TO

13 CONSIDER HAVING YOUR SERVICES EXCUSED?

14 JUROR YES, SIR

15 THE COURT WHAT WAS THAT REASON?

16 JUROR WELL, I WASN'T GOING TO STAND

17 UP AT FIRST, BUT I WORK WITH THE CITY OF CALHOUN

18 FALLS, AND I'VE BEEN WORKING WITH THEM FOR ABOUT

19 FIVE WEEKS EVER SINCE I'VE BEEN WORKING WITH THEM,

20 THAT'S ALL THEY'VE BEEN TALKING ABOUT

21 THE COURT OKAY

22 JUROR AND THE GUY ---

23 THE COURT LET ME JUST ASK YOU THIS

24 WITHOUT GOING TOO FAR INTO IT IF BASED UPON

25 ANYTHING THAT YOU'VE HEARD ABOUT THE CASE, BECAUSE

1 OF THOSE CONVERSATIONS, WOULD IT INTERFERE WITH YOUR
2 ABILITY TO BE FAIR IN THE CASE?

3 JUROR I BELIEVE IT WOULD
4 THE COURT COULD YOU PUT THOSE
5 CONVERSATIONS ASIDE AND BASE A VERDICT OR A DECISION
6 SOLELY UPON THE EVIDENCE PRESENTED?

7 JUROR NOT FROM WHAT I'VE HEARD I
8 DON'T THINK I COULD
9 THE COURT IT WOULD INFLUENCE YOUR
10 DECISION?

11 JUROR IN MY MIND, MY MIND'S ALREADY
12 MADE UP I MEAN, IT'S JUST ---

13 THE COURT SO YOU'VE ALREADY FORMED
14 AN OPINION AS TO WHAT YOU THINK THE ULTIMATE
15 DECISION SHOULD BE?

16 JUROR YES
17 THE COURT DO YOU BELIEVE THAT YOUR
18 OPINION COULD BE ALTERED BY THE EVIDENCE?

19 JUROR I DON'T THINK SO

20 THE COURT OKAY

21 JUROR NOT IN THIS CASE

22 THE COURT OKAY LET ME ASK YOU TO
23 JUST STAND OUTSIDE LET ME ASK YOU NOT TO DISCUSS
24 ANYTHING ABOUT IT WITH ANY PERSON IF YOU'LL STAND
25 OUTSIDE FOR JUST A MOMENT I'LL BE RIGHT WITH YOU

1 ANY OBJECTION TO THE JUROR BEING EXCUSED?

2 (JUROR EXITS)

3 MR JONES NONE FROM THE STATE, YOUR
4 HONOR

5 MR TINSLEY NO, YOUR HONOR

6 THE COURT DO YOU WISH TO ASK HIM
7 ANY QUESTIONS ABOUT WHAT HE'S INDICATED, MR
8 TINSLEY?

9 MR TINSLEY NO, SIR, YOUR HONOR

10 THE COURT OKAY THAT'S #296

11 MR TINSLEY MR GARRETT MAY WANT TO
12 ASK HIM A QUESTION

13 (JUROR RE-ENTERS)

14 THE COURT OKAY THIS IS MR
15 GARRETT HE'S GOING TO ASK YOU A QUESTION?

16 MR GARRETT I UNDERSTAND THAT YOU
17 HAD HEARD SOME CONVERSATIONS OVER IN CALHOUN FALLS
18 DID YOU WORK OVER THERE?

19 JUROR YES

20 MR GARRETT AND I'M ASSUMING THIS
21 IS WITH YOUR CO-WORKERS?

22 JUROR YES ONE OF THEM HAD BEEN ON
23 THE FARM OUT THERE

24 MR GARRETT ONE HAD BEEN ON THE
25 FARM WITH MR HUGHEY?

1 JUROR SUPPOSEDLY, YES

2 MR GARRETT DO YOU KNOW WHICH ONE

3 THAT WAS?

4 JUROR I REALLY WOULDN'T WANT TO

5 TELL YOU THAT, BUT ---

6 MR GARRETT WELL, UNDERSTAND THAT

7 IF STATEMENTS ARE BEING MADE IN THE PUBLIC IN

8 GENERAL, IT'S SOMETHING WE ALL WANT TO KNOW IN CASE

9 IT HAS INFLUENCED ANYBODY ELSE WE JUST WANT TO

10 KNOW IN GENERAL THIS IS A WORKER THERE AT THE ---

11 JUROR HE DON'T -- NO HE DOES NOT

12 WORK THERE HE WAS AN INMATE

13 MR GARRETT HE WAS AN INMATE?

14 JUROR YES

15 MR GARRETT AND SO HE DIDN'T WORK

16 WITH YOU THERE?

17 JUROR NO HE WORKS WITH ME NOW AT

18 CALHOUN FALLS IN MAINTENANCE

19 MR GARRETT HOW EMPLOYEES ARE IN

20 THE MAINTENANCE DEPARTMENT?

21 JUROR ON OUR CREW IT'S PROBABLY

22 ABOUT EIGHT OR NINE

23 MR GARRETT ABOUT EIGHT OR NINE?

24 JUROR YEAH I HADN'T BEEN THERE

25 BUT JUST FIVE WEEKS

1 MR GARRETT ALL RIGHT, AND IT'S
2 REGULAR TO DISCUSS A MEMBER OF THAT CREW?

3 JUROR NO, HE JUST, YOU KNOW, THEY
4 FOUND OUT LAST WEEK THAT THE CASE WAS COMING UP, AND
5 HE STARTED, YOU KNOW, TELLING ME THAT HE WAS AROUND
6 THE GUY UP THERE THE THINGS HE TOLD ME, I'M JUST
7 GOING TO BE HONEST WITH YOU IN MY OPINION HE'S
8 GUILTY I MEAN, I HATE TO SAY THAT, BUT THAT'S JUST
9 MY OPINION

10 MR GARRETT THANK YOU THAT'S ALL
11 THE COURT OKAY

12 MR JONES JUDGE, I HAVE A QUESTION
13 FOR HIM

14 THE COURT OKAY

15 JUROR YES, SIR

16 MR JONES NOW, SOMEBODY TALKED TO
17 YOU?

18 JUROR JUST PERSONAL CONVERSATION

19 MR JONES RIGHT ABOUT WHAT ---

20 JUROR BEFORE I GOT THIS (INDICATING
21 PAPER IN HAND)

22 MR JONES -- ABOUT WHAT THIS
23 DEFENDANT HAD TOLD HIM? ABOUT WHAT THIS DEFENDANT
24 HAD SAID?

25 JUROR WELL, HE JUST TOLD ME, YOU

1 KNOW, DIFFERENT THINGS

2 MR JONES SOME THINGS THAT ---

3 JUROR I DON'T -- I DON'T WANT TO
4 GET IN IT, MAINLY

5 MR JONES WELL, I UNDERSTAND THAT,
6 AND I'M NOT GOING TO DRAW YOU IN, OKAY? I'M NOT
7 GOING TO DRAW YOU IN IT I JUST WANT TO KNOW IF THE
8 PERSON YOU TALKED WITH INDICATED TO YOU 'THAT THE
9 DEFENDANT HAD GIVEN HIM INFORMATION ABOUT THE CRIME?

10 JUROR NO HE NEVER ACTUALLY TALKED
11 TO THE GUY HE DIDN'T, BUT HE ---

12 MR JONES HE SAID HE'D BEEN AROUND
13 HIM?

14 JUROR YEAH HE SAID HE STAYED THE
15 HELL AWAY FROM HIM EXCUSE MY LANGUAGE

16 MR JONES OKAY, BUT HE HAD RUN INTO
17 HIM ON THE FARM?

18 JUROR YES, SIR

19 MR JONES AND THIS INDIVIDUAL WORKS
20 NOW WITH THE C P W IN CALHOUN FALLS?

21 JUROR YES

22 MR JONES THE PERSON YOU WERE
23 TALKING TO?

24 JUROR YES, SIR

25 MR JONES HOW LONG HAS HE BEEN

1 WORKING THERE?

2 JUROR I REALLY DON'T KNOW

3 MR JONES WHAT'S HIS RACE?

4 JUROR WHITE

5 MR JONES AND HIS AGE?

6 JUROR HE'S PROBABLY FORTY-FIVE,

7 FORTY-FOUR

8 MR JONES AND HE HAD BEEN ON THE

9 COUNTY FARM?

10 JUROR SEVERAL TIMES

11 MR JONES OKAY THAT'S ALL I NEED

12 THE COURT OKAY YOU'RE EXCUSED

13 THANK YOU

14 JUROR THANK YOU

15 THE COURT DO NOT DISCUSS IT WITH

16 ANYONE, PLEASE

17 (JUROR EXITS)

18 (JUROR EXCUSED)

19 THE COURT #308 IS WHO?

20 CLERK #308'S ALREADY BEEN EXCUSED

21 FOR AGE

22 THE COURT WAIT A MINUTE #289?

23 CLERK #289 IS STOLTZFUS?

24 THE COURT STOLTZFUS? I WANT YOU TO

25 GET THAT RIGHT, TOO

1 (JUROR ENTERS)

2 THE COURT GOOD AFTERNOON IF
3 YOU'LL HAVE A SEAT, PLEASE YOU'RE MS STOLTZFUS?

4 JUROR RIGHT

5 THE COURT DID I GET IT CLOSE?

6 JUROR CLOSE, STOLTZFUS

7 THE COURT STOLTZFUS

8 JUROR THAT'S WHAT YOU SAID, RIGHT?

9 THE COURT YES

10 JUROR OKAY

11 THE COURT WELL, WHAT DO YOU SAY?

12 JUROR STOLTZFUS

13 THE COURT STOLTZFUS OKAY YOU
14 INDICATED YOU HAD SOME REASON WHY YOU WOULD LIKE TO
15 BE EXCUSED FROM SERVICE?

16 JUROR SURE

17 THE COURT AND WHAT WAS THAT REASON?

18 JUROR FOR RELIGIOUS BELIEFS I'M
19 CONSCIENTIOUSLY OPPOSED TO SERVING

20 THE COURT AS A JUROR?

21 JUROR RIGHT

22 THE COURT WOULD YOUR RELIGIOUS
23 BELIEF INTERFERE WITH YOUR ABILITY TO FAIRLY
24 CONSIDER EVIDENCE IN THE CASE AND RENDER A DECISION?

25 JUROR YES, SIR

1 THE COURT WOULD YOU BE ABLE TO FIND
2 THE PERSON GUILTY OR NOT GUILTY DEPENDING UPON THE
3 FACTS OF THE CASE?

4 JUROR NO, SIR

5 THE COURT WOULD YOU REFUSE TO
6 RETURN A VERDICT BASED UPON YOUR RELIGIOUS
7 OBJECTIONS?

8 JUROR YES, SIR

9 THE COURT YOU COULD NOT BE FAIR IN
10 A CASE AND RENDER A DECISION BASED UPON THE EVIDENCE
11 PRESENTED?

12 JUROR I CAN'T JUDGE

13 THE COURT YOU CANNOT JUDGE A
14 PERSON?

15 JUROR NO, SIR

16 THE COURT AND WHAT RELIGION ARE YOU
17 A MEMBER OF?

18 JUROR MENNONITE CHURCH

19 THE COURT AND IS THAT A MENNONITE
20 DOCTRINE THAT YOU'RE NOT TO JUDGE OTHER PERSONS?

21 JUROR YES, SIR

22 THE COURT WHAT DO YOU, JUST OUT OF
23 CURIOSITY, WHAT DO YOU DO ABOUT CHILDREN? LIKE IF A
24 CHILD DOES SOMETHING THAT YOU BELIEVE IS RIGHT OR
25 WRONG, DO YOU JUDGE A CHILD AND PUNISH THAT CHILD

1 FOR DOING BADLY AND REWARD THE CHILD FOR DOING GOOD
2 THINGS?

3 JUROR YES, SIR

4 THE COURT DO YOU CONSIDER THAT A
5 FORM OF JUDGMENT?

6 JUROR I NEVER CONSIDERED IT THAT
7 WAY, NO

8 THE COURT ALL RIGHT NOW THAT YOU
9 HAVE CONSIDERED IT, WHAT DO YOU THINK ABOUT IT? IS
10 THAT NOT JUDGING SOMEONE BASED UPON THEIR CONDUCT?

11 JUROR YES, SIR

12 THE COURT IN OTHER WORDS, YOU'RE
13 NOT CONDEMNING THE PERSON, BUT YOU ARE JUDGING THAT
14 PERSON YOU'RE SAYING SOMETHING'S RIGHT AND
15 SOMETHING'S WRONG AND, OF COURSE, IN A CASE WHERE
16 YOU'RE CALLED UPON TO DECIDE ON A VERDICT, THAT'S
17 ALL YOU HAVE TO DO IS CONSIDER ALL THE EVIDENCE
18 THAT'S PRESENTED AND DECIDE WHETHER OR NOT THAT
19 EVIDENCE SUPPORTS THAT PERSON -- A FINDING THAT THAT
20 PERSON COMMITTED THAT CRIMINAL OFFENSE OR WHETHER
21 THAT EVIDENCE SUPPORTS OR DOES NOT SUPPORT THE
22 FINDING OF THAT PERSON HAVING COMMITTED THAT
23 CRIMINAL ACT DO YOU BELIEVE YOU COULD DO THAT OR
24 COULD NOT DO THAT BASED UPON YOUR RELIGIOUS
25 UPBRINGING?

1 JUROR WE BELIEVE IN A SEPARATION OF
2 CHURCH AND STATE, AND I BELIEVE GOD HAS CALLED
3 PEOPLE TO JUDGE PEOPLE BUT I FEEL LIKE I'M NOT --
4 THAT IS NOT MY QUALITY, AND I JUST, I JUST COULD NOT
5 PASS JUDGMENT

6 THE COURT OKAY LET ME ASK YOU
7 THIS IN A CASE WHERE -- IN A CASE WHERE THERE WAS
8 A POSSIBILITY OR AN OPTION FOR A JURY TO MAKE A
9 DECISION, ASSUMING THAT YOU HAD PARTICIPATED,
10 ASSUMING THAT SOMEBODY HAS BEEN FOUND GUILTY OF
11 MURDER, AND IF YOU WERE CALLED UPON TO DECIDE THE
12 PUNISHMENT, WHETHER IT BE A SENTENCE OF LIFE
13 IMPRISONMENT OR A SENTENCE OF DEATH, WOULD YOU BE
14 ABLE TO CONSIDER THOSE PUNISHMENT FORMS?

15 JUROR I JUST, I JUST DON'T FEEL
16 LIKE THAT'S MY RESPONSIBILITY I COULDN'T DO IT

17 THE COURT I UNDERSTAND, AND WHAT
18 I'M ASKING YOU IS COULD YOU EVER SENTENCE A PERSON
19 TO DEATH IF YOU CONSIDERED ALL THE FACTS OF THE CASE
20 AND YOU HAD THE OPTION TO DO THAT?

21 JUROR I COULDN'T

22 THE COURT YOU COULD NOT? CAN YOU
23 THINK OF ANY CIRCUMSTANCE WHERE YOU'D BE ABLE TO DO
24 SO?

25 JUROR NO

1 THE COURT OKAY LET ME ASK YOU TO
2 STEP OUTSIDE FOR JUST A MOMENT, AND I'LL LET YOU
3 KNOW WHEN YOU CAN BE EXCUSED

4 (JUROR EXITS)

5 THE COURT ANY OBJECTION TO THE
6 WITNESS BEING EXCUSED?

7 MR JONES NONE FROM THE STATE, YOUR
8 HONOR

9 THE COURT WHAT ABOUT THE DEFENSE OR
10 DO YOU WISH TO ASK ANY QUESTIONS?

11 MR TINSLEY ASK HER A COUPLE OF
12 QUESTIONS, PLEASE, JUDGE

13 THE COURT ON BIAS, PREJUDICE, AND
14 INTEREST?

15 MR TINSLEY YES, SIR

16 THE COURT RELATING TO THE FORMS OF
17 THE PUNISHMENT OR ---

18 MR TINSLEY WELL, YOU'VE ALREADY
19 COVERED THAT BASE

20 THE COURT I DON'T MIND YOU ASKING
21 HER SOME QUESTIONS IF YOU THINK IT WOULD BE HELPFUL
22 TO YOU

23 MR TINSLEY JUST ONE OR TWO IT
24 WON'T TAKE ME BUT A MINUTE

25 THE COURT OKAY ASK HER TO COME

1 BACK, PLEASE

2 (JUROR RE-ENTERS)

3 THE COURT MS STOLTZFUS, IF YOU
4 WOULD, JUST HAVE A SEAT RIGHT THERE MR TINSLEY
5 SITTING BACK THERE, HE'S GOING TO ASK YOU A QUESTION
6 OR TWO IF YOU DON'T MIND

7 MR TINSLEY GOOD AFTERNOON

8 JUROR HI

9 MR TINSLEY DO YOU FEEL THAT YOUR
10 FAITH, YOUR RELIGIOUS FAITH, WOULD JUST COMPLETELY
11 REMOVE YOUR ABILITY TO FIND SOMEBODY GUILTY OR NOT
12 GUILTY OF ANY CRIME?

13 JUROR WE -- I WOULD NOT WANT TO BE
14 A PART OF THE STATE IN ANY WAY I DON'T VOTE I
15 DON'T, I DON'T HAVE ANYTHING TO DO WITH THE
16 GOVERNMENT

17 MR TINSLEY I SEE

18 JUROR I, I'M TOTALLY -- I DON'T
19 JUDGE OTHER PEOPLE THAT DO BECAUSE I BELIEVE THAT
20 THERE ARE, YOU KNOW, THAT PEOPLE THAT HAVE TO DO
21 THIS, BUT I JUST COULDN'T

22 MR TINSLEY AND SO YOU COULDN'T
23 TAKE IT A STEP FURTHER AND CONSIDER A DEATH PENALTY
24 IN ANY CIRCUMSTANCE, COULD YOU?

25 JUROR NO, I COULDN'T I'M NOT

1 SAYING THE STATE -- I MEAN, I BELIEVE THE STATE HAS
2 A RIGHT TO DO THAT, IF THAT'S
3 WHAT ---

4 MR TINSLEY OH, YOU DO? YOU DO
5 BELIEVE THE STATE HAS A RIGHT TO DO THAT?

6 JUROR I BELIEVE THE STATE DOES, BUT
7 I DON'T

8 MR TINSLEY WELL, WHAT IF EVERYBODY
9 FELT THAT WAY?

10 JUROR WELL, IF EVERYBODY FELT THAT
11 WAY WE PROBABLY WOULDN'T HAVE TO HAVE COURT
12 (WITNESS LAUGHS) I WOULD HOPE NOT, SO ---

13 MR TINSLEY THAT'S ALL
14 THE COURT OKAY THANK YOU IF
15 YOU'LL STEP OUTSIDE ONE MORE TIME, I'LL LET YOU GO
16 IN A MINUTE
17 (JUROR EXITS)

18 MR TINSLEY PLEASE SEAT THE JUROR
19 OH, EXCUSE ME, YOUR HONOR, I ---

20 THE COURT YOU CAN GET OUT OF IT IF
21 YOU WANT TO GIVE BACK THE LICENSE THAT WAS GIVEN YOU
22 BY THE STATE

23 MR TINSLEY JUDGE, I'D LOVE TO HAVE
24 HER, AND OBVIOUSLY I KNOW SHE'S GOT STRONG RELIGIOUS
25 BELIEFS

1 THE COURT YOU THINK SHE'S PROBABLY
2 A CROSS SECTION OF THE MENNONITE COMMUNITY?

3 MR TINSLEY YEAH, A CROSS SECTION
4 OF THE COMMUNITY ARGUMENT BASED UPON THE FACT THAT
5 THERE IS A LARGE PERCENTAGE OF MENNONITES IN THIS
6 COUNTY

7 THE COURT UH-HUH (AFFIRMATIVE)
8 OKAY ALL RIGHT WELL, I'M GOING TO EXCUSE HER FOR
9 CAUSE MS STOLTZFUS, YOU MAY BE EXCUSED FROM
10 SERVICE IN THE CASE, AND WE DO APPRECIATE YOU COMING
11 DOWN AND RESPONDING TO THE SUMMONS

12 JUROR SURE I REALLY DO APPRECIATE
13 ALL OF YOU EXCUSING ME YOU'VE BEEN VERY KIND
14 (JUROR EXITS)
15 (JUROR EXCUSED)

16 BAILIFF JUDGE, NUMBER #234 HAS TO
17 PICK UP A CHILD FROM SCHOOL

18 THE COURT WHO'S THAT?

19 BAILIFF NUMBER #234

20 THE COURT NUMBER #234 IS HE ON
21 HERE ANYWHERE? HE'S JUST OUT THERE, HUH?

22 CLERK BURTON?

23 THE COURT HUH?

24 BAILIFF BURTON?

25 CLERK THEY'RE NOT ON THE LIST

1 THEY'RE NOT ON THE LIST, BUT HE SAID HE HAD TO PICK
2 A CHILD UP AT SCHOOL

3 THE COURT WHAT TIME?

4 MR McCALLUM IT'S PROBABLY ALREADY --
5 RIGHT NOW THEY'VE DISMISSED HER

6 MR McCALLUM IT'S FOUR-FIFTEEN

7 THE COURT OKAY ASK HIM IF HE CAN
8 -- WELL, JUST ASK HIM TO COME IN HERE
9 (JUROR ENTERS)

10 THE COURT HOW YOU DOING? COME IN
11 HERE AND HAVE A SEAT ARE YOU MR BURTON?

12 JUROR YES

13 THE COURT MR BURTON, YOU HAD A
14 CHILD EXCUSED SOMEWHERE YOU NEED TO PICK UP?

15 JUROR NO, NO, NOT A CHILD, MY
16 SISTER

17 THE COURT YOUR SISTER?

18 JUROR YEAH

19 THE COURT WELL, WHERE IS SHE?

20 JUROR AT GREENWOOD INDUSTRY

21 THE COURT WHERE?

22 JUROR AT GREENWOOD INDUSTRY

23 THE COURT OH, YOU HAVE TO PICK HER
24 UP AT WORK?

25 JUROR YEAH

1 THE COURT OKAY CAN SHE NOT GET
2 ANOTHER RIDE HOME?

3 JUROR WELL, SEE, SHE'S JUST ON THE
4 WAY -- SHE GETS BACK AND FORTH TO WORK BY ME

5 THE COURT OKAY

6 JUROR AND, SEE, I THOUGHT I WAS
7 JUST GOING TO BRING THIS AND JUST DROP IT OFF AND
8 THAT WAS IT

9 THE COURT HOW LONG WILL IT TAKE YOU
10 TO PICK HER UP AND BRING HER HOME?

11 JUROR WELL, SHE GETS OFF AT FOUR-
12 THIRTY

13 THE COURT WELL, HOW LONG WILL IT
14 TAKE -- WHERE WILL YOU HAVE TO GO TO TAKE HER?

15 JUROR OUT ON OLD GREENWOOD HIGHWAY

16 THE COURT HOW LONG DOES IT TAKE YOU
17 TO PICK HER UP AND TAKE HER HOME? I'M NOT FROM
18 HERE, SO I DON'T KNOW

19 JUROR ABOUT FORTY-FIVE MINUTES TO
20 AN HOUR

21 THE COURT OKAY COULD YOU DO THAT
22 AND BE BACK HERE?

23 JUROR YEAH

24 THE COURT OKAY LET'S DO THAT
25 YOU GO AND YOU PICK UP YOUR SISTER AND TAKE HER HOME

1 AND THEN COME BACK, OKAY?

2 JUROR ALL RIGHT

3 THE COURT YOU'RE MR BURTON?

4 JUROR RIGHT

5 THE COURT #234

6 (JUROR EXITS)

7 (JUROR NOT EXCUSED)

8 BAILIFF THEY TOLD ME A CHILD

9 THE COURT THAT'S OKAY #258 IS

10 WHO?

11 CLERK HILL

12 THE COURT HILL? #258 HILL

13 MR McCALLUM IT'S MS HILL

14 (JUROR ENTERS)

15 THE COURT MS HILL GOOD

16 AFTERNOON, MS HILL IF YOU'LL HAVE A SEAT RIGHT

17 THERE, PLEASE YOU INDICATED YOU HAD A REASON YOU'D

18 LIKE FOR ME TO HEAR ABOUT HAVING YOU EXCUSED?

19 JUROR YES, SIR I HAVE THIS RIGHT

20 LEG PINNED ALL THE WAY -- FROM MY HIP ALL THE WAY

21 DOWN MY KNEE DON'T GIVE, AND I GOT SO MUCH

22 MEDICINE I CAN'T STAY AWAKE I HAVE TO ---

23 THE COURT YOU CAN'T STAY AWAKE?

24 JUROR NO I HAVE ---

25 THE COURT HOW MANY DIFFERENT

1 MEDICINES DO YOU TAKE?

2 JUROR I TAKE FIVE IN THE MORNING,
3 TWO IN THE MID-DAY, AND TWO AT NIGHT

4 THE COURT DO YOU HAVE TO DO A LOT
5 OF RESTING?

6 JUROR UH-HUH (AFFIRMATIVE)

7 THE COURT WHO'S YOUR DOCTOR?

8 JUROR DOCTOR COLT DOCTOR COLT

9 THE COURT COLT?

10 JUROR UH-HUH (AFFIRMATIVE)

11 THE COURT AND THE MEDICATIONS
12 PREVENT YOU FROM STAYING AWAKE?

13 JUROR IT KIND OF, YOU KNOW, KEEP ME
14 KIND OF BLURRED I CAN STAY AWAKE, BUT IT'S HARD,
15 YOU KNOW

16 THE COURT DO YOU HAVE -- WHEN YOU
17 TAKE THAT MEDICATION AND YOU HAVE DIFFICULTY STAYING
18 AWAKE, DOES IT PREVENT YOU FROM BEING ABLE TO
19 CONCENTRATE AND FOCUS ON THINGS WHEN YOU HAVE TO?

20 JUROR NO, NOT REALLY IT JUST MAKE
21 ME JUST KIND OF REAL SLEEPY LIKE I CAN JUST START
22 BEING SLEEPY I MIGHT BE SITTING THERE, AND I'LL
23 JUST BE SO SLEEPY

24 THE COURT WELL, IF YOU'RE SLEEPY---

25 JUROR AND I GOT TO GO TO THE

1 BATHROOM REAL BAD NOW I CAN'T STAY REAL LONG
2 SITTING WITHOUT GOING TO THE BATHROOM I GOT A
3 KIDNEY PROBLEM, TOO

4 THE COURT FOR THE KIDNEY -- DO YOU
5 HAVE A DOCTOR'S STATEMENT ABOUT THAT?

6 JUROR NO I DIDN'T ASK FOR
7 NOTHING I JUST CAME ON BECAUSE IT WAS JUST TIME TO
8 LOOK TO DO SOMETHING, SO I JUST COME ON

9 THE COURT ALL RIGHT LET ME ASK
10 YOU IF YOU WILL TO STAND OUTSIDE FOR JUST A MINUTE,
11 AND I'LL LET YOU KNOW WHEN YOU CAN LEAVE

12 JUROR OKAY CAN I GO TO THE
13 BATHROOM?

14 THE COURT OH, YEAH, DO THAT,
15 PLEASE WHERE IS THE CLOSEST ONE BESIDES IN HERE?
16 OH, RIGHT THERE IF YOU GO RIGHT THERE AND JUST
17 TAKE A LEFT

18 JUROR THANK YOU

19 THE COURT YES, MA'AM

20 (JUROR EXITS)

21 THE COURT WHAT SAY THE STATE?

22 MR JONES NO REASON WHY SHE
23 SHOULDN'T BE EXCUSED, YOUR HONOR

24 MR TINSLEY NO OBJECTION

25 THE COURT ALL RIGHT #258 HILL IS

1 EXCUSED LET ME KNOW WHEN SHE GETS BACK, AND WE'LL
2 EXCUSE HER FOR MEDICAL REASONS #305'S IN THERE?

3 BAILIFF BROWN

4 THE COURT BROWN, #305

5 (JUROR ENTERS)

6 THE COURT YOU'RE MR BROWN?

7 JUROR YES, SIR HOW ARE YOU DOING?

8 THE COURT I'M DOING FINE HOW ARE
9 YOU DOING?

10 JUROR I'M ALL RIGHT

11 THE COURT ALL RIGHT YOU HAD A
12 REASON YOU WANTED ME TO CONSIDER HAVING YOUR
13 SERVICES EXCUSED?

14 JUROR YES, SIR WELL, MY
15 GIRLFRIEND JUST MOVED TO ANDERSON WELL, WE BOTH
16 HAVE, AND YOU HAD SAID ABOUT THE BABY? ME AND HER
17 BEEN TOGETHER FOR TWO YEARS NOW WELL, IN A WAY
18 THE LITTLE BOY'S NOT MINE, ALL RIGHT? BUT I'VE BEEN
19 TAKING CARE OF HIM SINCE HE WAS TWO MONTHS OLD, AND
20 SHE WORKS TWO JOBS, RIGHT? YOU KNOW, MONDAYS AND
21 WEDNESDAYS I HAVE TO KEEP HIM FOR HER TILL TWELVE
22 O'CLOCK WHEN SHE GOT OFF I GET TO WORK LIKE
23 TWELVE-TWENTY THAT'S MONDAYS AND WEDNESDAYS ON
24 WEDNESDAYS, THURSDAYS, AND FRIDAYS, I WORK EIGHT
25 HOURS EACH LIKE MY JOB KIND OF LENIENT WITH ME,

1 BUT SOMETIMES WE DON'T HAVE NO BABYSITTER FOR THE
2 KID I WATCH HIM MOST OF THE TIME, MYSELF AND HER,
3 AND SHE ---

4 THE COURT HOW OLD IS THE CHILD?
5 JUROR HE'S TURNED TWO YESTERDAY?
6 THE COURT TWO?
7 JUROR YES, SIR

8 THE COURT AND IF YOU'RE NOT THERE,
9 WHO'S GOING TO CARE FOR HIM?

10 JUROR WELL, LIKE I SAY, WE JUST
11 MOVED, AND SHE DECIDED TO GET TWO JOBS AND ---

12 THE COURT WELL, LET ME ASK YOU
13 THIS ARE YOU LIVING IN ANDERSON COUNTY NOW?
14 JUROR YEAH I LIVE WITH HER, YES,
15 SIR

16 THE COURT BUT YOU'RE LIVING IN
17 ANDERSON NOW?

18 JUROR WELL, SHE JUST MOVED LIKE A
19 MONTH AGO

20 THE COURT WELL, I UNDERSTAND, BUT
21 THAT'S WHERE YOU LIVE? DO YOU HAVE A RESIDENCE HERE
22 IN ABBEVILLE?

23 JUROR WELL, YES, WITH MY MOM AND
24 DAD

25 THE COURT OKAY HOW LONG HAVE YOU

1 BEEN LIVING IN ANDERSON?

2 JUROR WELL, IT'S LIKE THIS RIGHT
3 HERE MOST OF THE TIME IF SHE HAVE TO GO TO WORK
4 EARLY, RIGHT, I BRING HIM DOWN THE ROAD WITH ME
5 YOU SEE WHAT I'M SAYING?

6 THE COURT AND YOU COME BACK TO
7 ABBEVILLE TO GO TO WORK?

8 JUROR DUE WEST

9 THE COURT DUE WEST?

10 JUROR YES, SIR I WORK IN HONEA
11 PATH

12 THE COURT OKAY

13 JUROR SHE WORKS IN ANDERSON

14 THE COURT ALL RIGHT

15 JUROR BUT MOST OF THE TIME LIKE,
16 BETWEEN LIKE IF SHE HAVE TO BE AT WORK BETWEEN -- I
17 GET OFF AT FOUR I CAN DROP HIM OFF AT HER DAD'S
18 HOUSE OR HER LITTLE BROTHER, BUT HE'S NOT, YOU KNOW,
19 HE SHOULDN'T BE KEEPING HIM AT NIGHT

20 THE COURT HOW OLD IS THE LITTLE
21 BROTHER?

22 JUROR HE'S LIKE THIRTEEN, FOURTEEN

23 THE COURT OH, OKAY

24 JUROR AND SHE COME PICK HIM UP AND
25 FOUR-THIRTY YOU SEE WHAT I'M SAYING? OR VICE

1 VERSA WHEN I GETS OFF

2 THE COURT HOW OFTEN IS IT REQUIRED
3 THAT YOU BE THERE TO LOOK AFTER HIM?

4 JUROR I'M WITH HIM ALL THE TIME,
5 REALLY, MOST OF THE TIME, EVERY DAY

6 THE COURT AND IF YOU'RE NOT THERE,
7 CAN SHE FIND SOMEBODY ELSE TO LOOK AFTER HIM?

8 JUROR MONEY WISE, NO, SIR IT'S
9 DIFFICULT BECAUSE, YOU KNOW, LIKE I SAID, WE JUST
10 GOT A HOUSE AND ALL WE CAN'T TOO MUCH PAY FOR NO
11 BABYSITTER, NOT TO PAY I USUALLY WASN'T DOING IT,
12 BUT SINCE SHE GOT TWO JOBS AND WANTED TO MOVE,
13 THAT'S WHAT I HAD TO DO, YOU KNOW WHAT I MEAN?

14 THE COURT OKAY BUT YOU -- AND YOU
15 MOVED WITH HER TO ANDERSON?

16 JUROR YES, SIR I STAY THERE I
17 DON'T WANT TO PUT IT LIKE THAT, BUT I STAY THERE
18 MOST OF THE TIME, THE MAJORITY OF THE TIME

19 THE COURT WHERE DO YOU GET YOUR
20 MAIL?

21 JUROR SIR?

22 THE COURT WHERE DO YOU GET YOUR
23 MAIL?

24 JUROR MY PARENTS HOME

25 THE COURT AT YOUR MOM AND DAD'S?

1 JUROR YES, SIR

2 THE COURT OKAY LET ME ASK YOU TO
3 STAND OUTSIDE FOR JUST A MOMENT, AND I'LL BRING YOU
4 BACK

5 (JUROR EXITS)

6 THE COURT WHAT SAY THE STATE?

7 MR JONES NO OBJECTION, YOUR HONOR

8 THE COURT WHAT SAY THE DEFENDANT?

9 MR TINSLEY WELL, HE DOESN'T HAVE
10 CUSTODY OF THE CHILD, AND HE'S NOT THE FATHER OF THE
11 CHILD HE LIVES IN ABBEVILLE COUNTY SEEM TO FLOW
12 INTO SIDE ONE OF 5B FOR SOME REASON THIS IS #305
13 BROWN

14 THE COURT OKAY BRING HIM IN YOU
15 WANT TO? OKAY ALL RIGHT

16 (JUROR RE-ENTERS)

17 THE COURT MR BROWN, MR TINSLEY
18 OVER HERE WANTS TO ASK YOU A COUPLE OF QUESTIONS
19 BEFORE WE DECIDE WHETHER OR NOT TO EXCUSE YOU

20 MR TINSLEY GOOD AFTERNOON, MR
21 BROWN MR BROWN, DO YOU CONSIDER THAT CHILD -- YOU
22 SAID HE WASN'T -- YOU AREN'T HIS FATHER

23 JUROR HE'S NOT MINE, NO SIR

24 MR TINSLEY DO YOU CONSIDER HIM
25 LIKE A SON OR ---

1 JUROR WELL, YES, SIR I, YOU KNOW,
2 I'VE TAKEN CARE OF HIM SINCE HE WAS TWO MONTHS

3 MR TINSLEY DO YOU CALL HIM YOUR
4 SON OR ---

5 JUROR WELL, THAT'S KIND OF DRAWING
6 THE -- HE'S -- I TAKE CARE OF HIM, YES SIR

7 MR TINSLEY DO YOU KNOW WHO HIS
8 DADDY IS?

9 JUROR YES, SIR THAT'S WHY I DON'T
10 WANT TO REALLY SAY IT LIKE THAT BECAUSE ---

11 MR TINSLEY SO YOU KNOW HIS DADDY?

12 JUROR I KNOW HIS DAD, BUT THAT'S
13 JUST DIFFERENT

14 MR TINSLEY WELL, YOU LEGALLY HAVE
15 NO OBLIGATION TO TAKE CARE OF THE KID, DO YOU?

16 JUROR TO ME I DO, SIR

17 MR TINSLEY THAT'S MORALLY THAT YOU
18 THINK YOU DO, BUT LEGALLY DO YOU?

19 JUROR NO, SIR, BUT IT'S ROUGH ON
20 HER IT WOULD BE ROUGH ON HER TO FIND SOMEONE TO
21 SEE ABOUT HIM, AND I DON'T ---

22 MR TINSLEY WHERE DOES SHE WORK?

23 JUROR SHE WORKS AT SEW AWAY AND
24 HARDEE'S

25 MR TINSLEY SO SHE'S GOT TWO JOBS,

1 AND HOW MANY JOBS DO YOU GOT?

2 JUROR I HAVE ONE JOB, SIR

3 MR TINSLEY WHAT DO YOU CALL THE
4 CHILD?

5 JUROR SIR

6 MR TINSLEY WHAT YOU CALL HIM BY?

7 JUROR SWANDE

8 MR TINSLEY SWANDE? AND HOW OFTEN
9 DOES HE SEE HIS REAL FATHER? COULD HIS REAL FATHER
10 STEP IN FOR A WEEK OR SOME AND HIM KEEP THE BABY, OR
11 WOULD THAT BE A PROBLEM?

12 JUROR I THINK IT WOULD BE A
13 PROBLEM

14 MR TINSLEY WOULD IT BE A PROBLEM
15 FOR YOU, OR WHO WOULD IT BE A PROBLEM FOR HIM?

16 JUROR I THINK IT WOULD BE A PROBLEM
17 FOR EVERYONE

18 MR TINSLEY WHY IS THAT?

19 JUROR I DON'T THINK HE'LL DO IT

20 MR TINSLEY AND WHERE DOES HER
21 PEOPLE LIVE?

22 JUROR ANDERSON

23 MR TINSLEY SO THEY DO LIVE UP
24 THERE IN ANDERSON?

25 JUROR YES, SIR

1 MR TINSLEY DOES HER MOTHER WORK?

2 JUROR YES, SECOND SHIFT

3 MR TINSLEY SECOND SHIFT? HOW
4 ABOUT HER DADDY?

5 JUROR THEY'RE DIVORCED HER DAD
6 STAYS IN HONEA PATH THE MAMMA STAYS IN ANDERSON

7 MR TINSLEY DOES HE WORK A SHIFT?

8 JUROR YES, SIR THEY WORK FROM
9 LIKE SIX TO SIX OR SEVEN TO SEVEN, SOMETHING LIKE
10 THAT

11 MR TINSLEY THERE'S A LITTLE
12 OVERLAP IN THERE THAT SHE WORKS FOUR TO TWELVE,
13 RIGHT?

14 JUROR YEAH, SOMETHING LIKE THAT

15 MR TINSLEY OKAY SO THERE'S ABOUT
16 A TWO HOUR OVERLAP IN THERE?

17 JUROR YES, SIR

18 MR TINSLEY WHAT ARE YOU DOING FROM
19 FOUR TO SIX?

20 JUROR I USUALLY WATCH HIM FROM FOUR
21 TO SIX SEE, SHE WORKS -- I WORKS FIRST SHE WORKS
22 FIRST AND SECOND

23 MR TINSLEY I SEE

24 JUROR YOU SEE WHAT I'M SAYING?

25 MR TINSLEY OKAY THAT'S ALL I

1 HAVE

2 THE COURT OKAY IF YOU'LL STEP

3 OUTSIDE FOR JUST A MINUTE, WE'LL LET YOU KNOW

4 (JUROR EXITS)

5 MR TINSLEY WE WON'T OBJECT, YOUR

6 HONOR

7 THE COURT WELL, YOU UNDERSTAND, IT

8 WOULD SUIT ME FOR ALL THESE JURORS TO STAY SO I'LL

9 EXCUSE HIM BASED UPON THE HARDSHIP HE'S STATED IF

10 Y'ALL DON'T HAVE AN OBJECTION IF YOU DO, I'M GOING

11 TO REQUIRE HIM TO STAY MR HUGHEY -- I DON'T KNOW

12 IF HE'S SHAKING HIS HEAD AT ME OR WHAT, BUT HE MAY

13 WANT TO TALK TO YOU BACK THERE

14 (MR HUGHEY AND MR TINSLEY HAVE PRIVATE DISCUSSION)

15 MR TINSLEY JUDGE, I HATE TO DO IT

16 TO HIM, BUT WE'RE GOING TO ASK YOU TO KEEP HIM

17 THE COURT ALL RIGHT ASK MR BROWN

18 TO COME IN MR BROWN, WE'RE GOING TO HAVE YOU ASK

19 YOU TO STAY WITH US, AND THAT DOESN'T MEAN THAT

20 YOU'VE BEEN PICKED TO SERVE, BUT IT MEANS THAT YOU

21 MAY BE SELECTED TO SERVE BUT HAVE A NUMBER OF

22 OTHER QUESTIONS THAT WE'RE GOING TO BE ASKING NOT

23 ONLY THE GROUP AS A WHOLE BUT INDIVIDUALLY LIKE WE

24 DO HERE --

25 JUROR YES, SIR

1 THE COURT -- BUT WE'LL BE DOING IT
2 IN THE COURTROOM

3 JUROR YES, SIR

4 THE COURT SO WE'LL DO THAT THIS
5 AFTERNOON, AND YOU MIGHT WANT TO TALK WITH YOUR
6 GIRLFRIEND AND HER PARENTS AND SEE WHAT ARRANGEMENTS
7 THEY CAN MAKE ABOUT KEEPING THE CHILD --

8 JUROR YES, SIR

9 THE COURT -- IN THE EVENT THAT YOU
10 GET PICKED AND YOU HAVE TO STAY WITH US FOR SEVEN TO
11 TEN DAYS, OKAY?

12 JUROR YES, SIR

13 THE COURT SO MAKE THOSE ARRANGE-
14 MENTS WHEN YOU LEAVE TONIGHT, AND, OF COURSE, YOU
15 CAN LET ME KNOW IF IT'S NOT A POSSIBILITY OR
16 ANYTHING WE'LL BE TALKING AGAIN

17 JUROR OKAY

18 THE COURT WE NEED YOU TO GO BACK
19 AND HAVE A SEAT IN THE PANEL RIGHT NOW THANK YOU
20 (JUROR IS EXCUSED)

21 (JUROR IS NOT EXCUSED)

22 CLERK #281, MAVIS MOSS

23 BAILIFF #258, MS HILL, IS SHE
24 EXCUSED?

25 MR McCALLUM SHE'S THE ONE THAT

1 WENT TO THE BATHROOM

2 THE COURT TELL HER SHE'S EXCUSED

3 YEAH Y'ALL DON'T HAVE ANY OBJECTION TO HER BEING

4 EXCUSED? MS HILL

5 MR TINSLEY NO, SIR

6 MR JONES NO, SIR

7 THE COURT TELL HER SHE'S EXCUSED

8 #281, MOSS

9 BAILIFF #281

10 (JUROR ENTERS)

11 THE COURT HELLO, MS MOSS

12 JUROR HELLO, HOW ARE YOU?

13 THE COURT I'M DOING FINE

14 JUROR IS THIS THE CHAIR I TAKE?

15 THE COURT YES, MA'AM THAT'S YOUR

16 CHAIR RIGHT THERE, IF YOU'D LIKE TO SIT IN IT YOU

17 INDICATED THAT YOU HAD A REASON YOU'D LIKE FOR ME TO

18 CONSIDER?

19 JUROR I SURELY DO MY MOTHER AND

20 FATHER -- I HAVE TO TAKE CARE OF THEM MY MOTHER'S

21 AN INVALID

22 THE COURT UH-HUH (AFFIRMATIVE)

23 JUROR SHE HAD A STROKE THE DAY

24 AFTER THANKSGIVING, AND WE HAVE TO DO TWENTY-FOUR

25 HOUR CARE FOR THEM

1 THE COURT WHEN YOU SAY WE, YOU'RE -
2 --

3 JUROR MY SISTER AND MYSELF

4 THE COURT OKAY AND Y'ALL --

5 JUROR AND WE'VE BEEN TOTALLY
6 STRESSED OUT ALREADY WITHOUT HAVING, YOU KNOW, ONE
7 OF US TAKING ---

8 THE COURT -- YOU AND SHE TAKE TURNS
9 LOOKING AFTER YOUR PARENTS?

10 JUROR WE TAKE TURNS

11 THE COURT AND WHAT KIND OF SHIFT DO
12 YOU WORK, BASICALLY?

13 JUROR SEVENTEEN HOURS EACH, AND
14 THEN WE HAVE A LADY THAT COMES IN FOR SEVEN HOURS IN
15 THE AFTERNOON

16 THE COURT OKAY, AND DOES IT REQUIRE
17 CONSTANT PRESENCE BY YOU AND YOUR SISTER TO LOOK
18 AFTER -- IS IT JUST YOUR MOTHER OR YOUR MOTHER AND
19 YOUR FATHER?

20 JUROR MOTHER AND FATHER MY
21 DADDY'S DEAF, AND SO HE CAN'T DO ANYTHING

22 THE COURT THEY BOTH LIVE TOGETHER?

23 JUROR THEY'RE EIGHTY-THREE AND
24 EIGHTY-FIVE, AND WE HAVE TO GO TO THEIR HOME AND
25 TAKE CARE OF THEM

1 THE COURT OKAY, AND WHEN ARE YOU
2 ORDINARILY THERE?

3 JUROR I'M THERE FROM NINE UNTIL TWO
4 EVERY OTHER DAY

5 THE COURT NINE UNTIL TWO? NINE IN
6 THE MORNING UNTIL TWO IN THE ---

7 JUROR NINE IN THE, NINE -- WE HAVE
8 TO STAY AT NIGHT

9 THE COURT ALL NIGHT? NINE AT NIGHT
10 UNTIL TWO THE NEXT AFTERNOON?

11 JUROR YES

12 THE COURT OKAY EVERY OTHER DAY?

13 JUROR RIGHT

14 THE COURT IT'S JUST YOU AND YOUR
15 SISTER TO DO THAT?

16 JUROR RIGHT

17 THE COURT IF YOU WEREN'T THERE FOR
18 A WEEK OR TEN DAYS, WHO WOULD, WHO WOULD TAKE CARE
19 OF
20 YOUR ---

21 JUROR WE DON'T HAVE ANYBODY

22 THE COURT SO YOUR SISTER WOULD HAVE
23 TO DO IT?

24 JUROR MY SISTER WOULD HAVE TO DO IT
25 ALL

1 THE COURT IS SHE ABLE TO DO THAT?

2 JUROR IT WOULD SURE BE A HARDSHIP

3 WE'RE ALREADY STRESSED OUT AS IT IS WE'VE BEEN

4 DOING IT FOR -- IT'S BEEN A TWENTY-FOUR HOUR A DAY

5 THING FOR, WHAT, TEN AND A HALF, ELEVEN WEEKS?

6 THE COURT AND DOES IT REQUIRE

7 CONSTANT ATTENTION BY YOU TO PERFORM CERTAIN ---

8 JUROR WELL, MOTHER CANNOT GET UP

9 SHE DOESN'T HAVE USE OF HER RIGHT HAND HER RIGHT

10 SIDE IS WEAK SHE CAN'T EVEN GET OUT OF A CHAIR

11 SHE CAN'T GET IN THE BED SHE CAN'T GET OUT OF THE

12 BED SHE CAN'T GO TO THE BATHROOM THE ONLY THING

13 SHE CAN DO IS

14 -- WE HAVE TO PUT HER FOOD ON THE FORK SHE CAN PUT

15 IT INTO HER MOUTH, AND THAT'S ALL SHE DOES BY

16 HERSELF

17 THE COURT OKAY SO, BASICALLY, YOU

18 HAVE TO FEED HER YOU HAVE TO TAKE HER TO THE ---

19 JUROR BATHROOM

20 JUROR OKAY THANK YOU

21 THE COURT DON'T LEAVE YET THANK

22 YOU

23 (JUROR EXITS)

24 THE COURT ANY OBJECTION?

25 MR JONES NO, SIR

1 MR TINSLEY NO, YOUR HONOR

2 THE COURT WHAT IS HER NAME?

3 BAILIFF MOSS

4 THE COURT MOSS ASK MS MOSS TO

5 COME IN

6 (JUROR RE-ENTERS)

7 THE COURT MS MOSS, YOU ARE

8 EXCUSED THANK YOU FOR COMING GOOD LUCK TO YOU

9 JUROR WELL, I THANK YOU, AND I

10 APOLOGIZE FOR HAVING TO ASK TO BE EXCUSED

11 THE COURT OH, THAT'S ALL RIGHT WE

12 UNDERSTAND PEOPLE HAVE PERSONAL DIFFICULTIES

13 JUROR OKAY THANK YOU

14 THE COURT THANK YOU, MA'AM

15 (JUROR IS EXCUSED)

16 (JUROR EXITS)

17 THE COURT #315

18 BAILIFF HODGE

19 THE COURT HODGE #315, HODGE

20 (JUROR ENTERS)

21 THE COURT MS HODGE?

22 JUROR YES, SIR

23 THE COURT HOW DO YOU DO? IF YOU'LL

24 HAVE A SEAT RIGHT THERE YOU INDICATED YOU HAD SOME

25 REASON WHY YOU NEEDED TO BE EXCUSED FROM SERVICE?

1 JUROR YES MY HUSBAND'S BEEN GOING
2 THROUGH SOME MEDICAL TESTS

3 THE COURT UH-HUH (AFFIRMATIVE)

4 JUROR AND HE HAS A COLONOSCOPY
5 SCHEDULED, AND HE WILL BE PUT TO SLEEP AND WILL NEED
6 ASSISTANCE DRIVING HOME IN THE CAR THAT'S ONE OF
7 MY REASONS I HAVE -- I'M ON A NEW JOB I'VE BEEN
8 WORKING LESS THAN -- WELL, I'M STILL EMPLOYED AT
9 ERSKINE COLLEGE, BUT IT'S A NEW JOB AT ERSKINE
10 COLLEGE, AND I'VE BEEN EMPLOYED LESS THAN A MONTH ON
11 THIS JOB AND I FEEL LIKE IT WOULD BE A HINDRANCE
12 FOR ME TO LEAVE IT AT THIS PARTICULAR TIME BECAUSE
13 OF THE DURATION OF THE TRIAL

14 THE COURT YOU UNDERSTAND THAT IT
15 MAY ONLY BE BETWEEN SEVEN AND TEN DAYS? DO YOU
16 THINK THAT SOMEONE AT YOUR JOB COULD TAKE CARE OF
17 THOSE DUTIES FOR YOU IN YOUR ABSENCE?

18 JUROR WELL, POSSIBLY THEY COULD
19 IT WILL PROBABLY BE COVERED IF I'M NOT THERE, BUT WE
20 ARE HAVING A BOARD OF COMMISSIONERS -- I'M SORRY --
21 A BOARD OF TRUSTEES MEETING THIS WEEK, AND WE'RE
22 TRYING TO PREPARE FOR THAT, AND I'M ON FALL BREAK
23 NOW, MONDAY AND TUESDAY WEDNESDAY, WHEN I
24 HOPEFULLY GO BACK, WE ARE TO PREPARE THURSDAY FOR
25 THE BOARD MEETING OF TRUSTEES THURSDAY AND FRIDAY

1 THE COURT ALL RIGHT NOW, IT
2 APPEARS, HOWEVER, THAT PERHAPS YOU CAN -- YOUR WORK
3 CAN BE COVERED I UNDERSTAND YOU'VE NOT BEEN THERE
4 LONG, AND IT MAY CAUSE SOME CONCERN FOR YOU, BUT I
5 REALLY, UNLESS YOU TELL ME OTHERWISE, I REALLY CAN'T
6 IMAGINE THAT THEY WOULD NOT UNDERSTAND THAT THAT'S
7 REALLY NOT YOUR DECISION THAT YOU'VE BEEN CALLED FOR
8 --

9 JUROR NO I DON'T THINK THAT WOULD
10 BE A PROBLEM

11 THE COURT -- A CIVIC DUTY, AND I'M
12 SURE THEY WOULD ACCEPT THAT FACT SO I REALLY WANT
13 TO DIRECT MY ATTENTION TO YOUR SITUATION WITH YOUR
14 HUSBAND NOW, HE'S GOING IN FOR TESTS, AND WHEN IS
15 THAT SUPPOSED TO BE?

16 JUROR MONDAY

17 THE COURT NEXT MONDAY?

18 JUROR THIS COMING MONDAY, THE 27TH

19 THE COURT YEAH, AND WHAT IS THAT
20 SITUATION? I MEAN, ARE YOU ANTICIPATING THAT YOU
21 NEED TO BE THERE FOR THAT AND YOUR MIND WILL BE
22 ELSEWHERE IF YOU'RE SERVING AS A, AS A JUROR OR
23 SOMETHING THAT MAY NOT REQUIRE YOUR PRESENCE OR
24 ASSISTANCE?

25 JUROR WELL, I WOULD LIKE TO BE

1 THERE WITH HIM WHEN HE GOES THROUGH THIS, AND THEN
2 THE DOCTOR SAID THAT HE WILL NEED ASSISTANCE DRIVING
3 HOME, AND THERE'S NO ONE ELSE TO TAKE HIM WE HAVE
4 CHILDREN IN SCHOOL WHO DO DRIVE HIS MOTHER IS JUST
5 NOT ABLE TO TAKE CARE OF HIM I MEAN, SHE'S NOT
6 ABLE TO DRIVE HIM AND TO ASSIST HIM

7 THE COURT AND, OF COURSE, I DON'T
8 WANT TO PRY TOO DEEP IN YOUR PERSONAL AFFAIRS, BUT
9 IS IT SOMETHING THAT YOU'RE ANTICIPATING MIGHT BE OF
10 A SERIOUS NATURE, AND THAT'S THE REASON THAT YOU'RE
11 --

12 JUROR WE DON'T ANTICIPATE IT BEING
13 ANYTHING

14 THE COURT ALL RIGHT OKAY LET ME
15 ASK YOU, IF YOU WILL, JUST STEP OUTSIDE FOR JUST A
16 MINUTE, AND I'LL LET YOU KNOW SHORTLY

17 JUROR AND ANOTHER THING I WANT TO
18 SAY, TOO I'M THE CHOIR DIRECTOR AT OUR CHURCH, AND
19 IF I'M NOT THERE THE CHOIR DOESN'T GET TO SING

20 THE COURT WHY, WHY DON'T THEY GET
21 TO SING?

22 JUROR BECAUSE YOU DON'T SING
23 WITHOUT A DIRECTOR, AND SO I FEEL LIKE THE WORSHIP
24 SERVICES COULD BE HINDERED IN SUCH A FASHION

25 THE COURT DO YOU THINK THAT ALL

1 WOULD BE FORGIVEN IF THEY SANG A LITTLE OFF ON ONE
2 SUNDAY?

3 JUROR WELL, THAT HAS NOTHING TO DO
4 IF THEY SING OFF IT'S THE RIGHT TIMING THAT THEY
5 DEPEND ON ME FOR, SIR

6 THE COURT OH, OKAY THANK YOU,
7 MA'AM IF YOU WOULD JUST WAIT RIGHT THERE
8 (JUROR EXITS)

9 THE COURT WHAT SAY THE STATE?
10 MR JONES THERE IS NO OBJECTION
11 FROM ME

12 MR TINSLEY NO OBJECTION, YOUR
13 HONOR

14 THE COURT I'M GOING TO EXCUSE HER
15 UNLESS THERE'S SOME STRONG OBJECTION FROM THE STATE
16 SIMPLY BECAUSE I UNDERSTAND -- I DON'T KNOW WHAT THE
17 OUTCOME IS SHE -- I DIDN'T WANT TO PUSH HER ON THE
18 POINT SHE SAID HER HUSBAND IS HAVING A
19 COLONOSCOPY, AND THEY DON'T ANTICIPATE IT BEING
20 SERIOUS BUT I DON'T KNOW WHAT SHE MEANS EXACTLY BY
21 THAT, AND OBVIOUSLY THEY'RE HOPING FOR THE BEST
22 BUT I CAN CERTAINLY UNDERSTAND HER WANTING TO BE
23 PRESENT FOR SUCH A PROCEDURE IN THE EVENT THAT
24 SOMETHING WERE TO OCCUR THAT MAYBE THEY DON'T
25 ANTICIPATE I UNDERSTAND THAT DEFENSE DOES NOT

1 OBJECT Y'ALL DON'T? OKAY ASK HER TO COME BACK,
2 PLEASE

3 (JUROR RE-ENTERS)

4 THE COURT WE'RE GOING TO EXCUSE YOU
5 FROM SERVING --

6 JUROR YES, SIR

7 THE COURT -- BECAUSE I WANT YOU TO
8 BE WITH YOUR HUSBAND --

9 JUROR THANK YOU

10 THE COURT -- WHEN HE HAS TO GO
11 THROUGH THIS PROCEDURE, AND I'M SATISFIED THAT -- I
12 KNOW YOUR SERVICE IS IMPORTANT AS A CHOIR DIRECTOR,
13 BUT I THINK PERHAPS THE CONGREGATION MIGHT GET SOME
14 SORT OF ENJOYMENT OUT OF HEARING THEM SING OFF KEY
15 IF YOU'RE NOT THERE SO WE WON'T EXCUSE YOU FOR
16 THAT REASON, BUT WE WILL EXCUSE YOU BECAUSE OF YOUR
17 PERSONAL SITUATION, OKAY?

18 JUROR THANK YOU

19 THE COURT THANK YOU, MA'AM

20 (JUROR EXITS)

21 (JUROR IS EXCUSED)

22 THE COURT NOW THAT WAS #315?

23 CLERK YES #270, LUNDEN

24 THE COURT #270, LUNDEN

25 (JUROR ENTERS)

1 THE COURT ARE YOU MS LUNDEN? HOW
2 DO YOU DO? IF YOU'LL HAVE A SEAT RIGHT THERE,
3 PLEASE MA'AM YOU INDICATED YOU HAD SOME REASON
4 YOU'D LIKE FOR ME TO CONSIDER HAVING YOUR SERVICES
5 EXCUSED?

6 JUROR I WAS THE DEFENDANT'S SECOND
7 COUSIN, JOHN HUGHEY

8 THE COURT YOU'RE THE DEFENDANT'S
9 SECOND COUSIN?

10 JUROR UH-HUH (AFFIRMATIVE)

11 THE COURT AND WOULD THAT -- THE
12 FACT THAT YOU ARE RELATED AS A SECOND COUSIN, WOULD
13 THAT INTERFERE WITH YOUR ABILITY TO BE FAIR IN THIS
14 CASE?

15 JUROR WELL, NO, IT WOULDN'T BUT ---

16 THE COURT IT WOULD NOT?

17 JUROR I DIDN'T KNOW -- I WANTED YOU
18 TO KNOW --

19 THE COURT YES, MA'AM

20 JUROR -- THAT WE WAS COUSINS

21 THE COURT TELL ME HOW YOU ARE
22 RELATED HOW DO YOU GET TO BE SECOND COUSINS?

23 JUROR HIS, HIS GRANDMOTHER AND MY
24 DAD WERE SISTERS AND BROTHERS

25 THE COURT OKAY

1 JUROR SO THAT MAKES HIS DAD AND ME
2 FIRST COUSINS, AND I'M SECOND TO ---

3 THE COURT AND ARE YOU CLOSE WITH
4 MR HUGHEY, OR HOW WOULD YOU CHARACTERIZE YOUR
5 PERSONAL RELATIONSHIP, NOT JUST A KINSHIP?

6 JUROR WELL, WE DIDN'T, YOU KNOW, WE
7 WOULD SEE EACH OTHER, SPEAK TO EACH OTHER, BUT, YOU
8 KNOW I HAVE WENT AND VISITED HIS PARENTS WHEN HE
9 WAS THERE, BUT WE WASN'T, YOU KNOW

10 THE COURT DO YOU KNOW ANYTHING
11 ABOUT THIS PARTICULAR CASE?

12 JUROR UH-UH (NEGATIVE)

13 THE COURT AND IF YOU WERE CALLED
14 UPON TO SERVE, WOULD YOUR RELATIONSHIP, EITHER
15 PERSONAL OR KINSHIP, WOULD IT INTERFERE IN YOUR
16 ABILITY TO GIVE THE STATE AND MR HUGHEY A FAIR
17 TRIAL, OR DO YOU THINK YOU MIGHT HAVE A TENDENCY TO
18 SIDE WITH MR HUGHEY?

19 JUROR WELL, I DON'T, I DON'T KNOW
20 I WANT TO BE FAIR ABOUT EVERYTHING I DON'T TAKE
21 SIDES

22 THE COURT OKAY SO YOU BELIEVE YOU
23 COULD CONSIDER ALL OF THE EVIDENCE AND DECIDE THE
24 CASE FAIRLY BASED UPON THAT EVIDENCE?

25 JUROR I COULD BE FAIR I'M NOT, I

1 MEAN, YOU KNOW I'M JUST A FAIR PERSON

2 THE COURT ALL RIGHT WELL, IF

3 YOU'LL JUST HAVE A SEAT BACK OUT THERE IN THE

4 AUDIENCE, THEN, I'LL BE BACK SHORTLY TO ASK SOME

5 MORE QUESTIONS, OKAY?

6 JUROR OKAY

7 (JUROR EXITS)

8 THE COURT THANK YOU, NOW #268 IS

9 WHO?

10 CLERK LEE

11 (JUROR ENTERS)

12 THE COURT MR LEE, IF YOU'LL JUST

13 HAVE A SEAT RIGHT THERE, PLEASE SIR --

14 JUROR YES, SIR

15 THE COURT -- I WANT TO ASK YOU

16 ABOUT YOUR REASON

17 JUROR ALL RIGHT

18 THE COURT YOU INDICATED YOU HAD

19 SOME REASON WHY YOU WOULD LIKE TO BE EXCUSED?

20 JUROR YEAH I'M A DIABETIC, AND I

21 TAKE INSULIN IN THE MORNING, A PILL AT NIGHT AND I

22 HAD ONE OF MY KIDNEYS REMOVED ABOUT SEVEN YEARS AGO,

23 AND I CAN'T HOLD MY WATER AT A LONG PERIOD OF TIME

24 THE COURT OKAY IF, IF YOU WERE,

25 WERE SERVING IN THE CASE, AND IF YOU WERE IN THE

1 COURTROOM DURING COURT, WHICH, OF COURSE, YOU WOULD
2 BE DURING THE TRIAL OF THE CASE, WHAT'S THE LONGEST
3 YOU CAN SIT AT ANY ONE TIME BEFORE YOU NEED TO BE
4 EXCUSED ORDINARILY?

5 JUROR PROBABLY EVERY THIRTY MINUTES
6 OR SOMEWHERE BETWEEN THERE, FORTY-FIVE TO THIRTY
7 MINUTES

8 THE COURT THIRTY TO FORTY-FIVE
9 MINUTES?

10 JUROR YES, SIR

11 THE COURT WOULD YOUR JURY SERVICE
12 POSE ANY OTHER DIFFICULTY FOR YOU OTHER THAN THAT?

13 JUROR NO MORE THAN IF I HAVE TO
14 STAY OFF FROM HOME, I'D HAVE TO HAVE MY MEDICINE
15 WITH ME AND ALL THAT

16 THE COURT OF COURSE, YES, WE WOULD,
17 I MEAN, YOU'D BE ABLE TO TAKE YOUR MEDICATION ON A
18 REGULAR BASIS WHEN YOU'RE SUPPOSED TO YOUR
19 MEDICATION DOESN'T INTERFERE IN ANY WAY WITH YOUR
20 ABILITY TO CONCENTRATE --

21 JUROR NO

22 THE COURT -- OR THINK, DOES IT?

23 JUROR NO UH-UH (NEGATIVE)

24 THE COURT OKAY, AND IF YOU HAD THAT
25 MEDICINE WITH YOU, YOU CAN TAKE IT WHENEVER IT WAS

1 NECESSARY?

2 JUROR RIGHT

3 THE COURT SO THE ONLY DIFFICULTY
4 YOU MIGHT HAVE IS BEING ABLE TO SIT IN THE COURTROOM
5 FOR ANY EXTENDED LENGTH OF TIME WITHOUT HAVING TO GO
6 TO THE BATHROOM?

7 JUROR RIGHT

8 THE COURT OKAY, AND ORDINARILY YOU
9 SAY YOU CAN MAKE IT ABOUT THIRTY TO FORTY-FIVE
10 MINUTES?

11 JUROR YEAH I COULD DO THAT

12 THE COURT ALL RIGHT LET ME ASK YOU
13 JUST TO STEP OUTSIDE FOR JUST ONE MINUTE, AND I'LL
14 LET YOU KNOW IF YOU CAN BE EXCUSED OR NOT
15 (JUROR EXITS)

16 THE COURT WHAT SAY THE STATE?

17 MR JONES JUDGE, I THINK YOU OUGHT
18 TO KEEP HIM ON AND IF HE GETS TO THE POINT OF BEING
19 QUALIFIED, AT THAT JUNCTURE DISCUSS IT WITH HIM
20 ABOUT WHETHER OR NOT -- I THINK IF YOU LET HIM LET
21 YOU KNOW WHEN HE HAD TO BE EXCUSED, IT'D PROBABLY
22 END UP BEING ABOUT EVERY HOUR, HOUR AND A HALF

23 THE COURT THAT'S WHAT I'M THINKING
24 I'M THINKING IT'S PROBABLY GOING -- HE CAN PROBABLY
25 SIT AN HOUR AT A TIME I WOULD IMAGINE HE'S NOT

1 GOING TO BE SITTING THERE DRINKING WATER ALL
2 MORNING SO I DON'T THINK IT'S -- IF IT IS A
3 PROBLEM, WE'RE GOING TO HAVE TO SEE, BUT I'M GOING
4 TO ASK HIM TO STAY

5 MR TINSLEY JUDGE, I WAS JUST
6 THROWING OUT THAT I'M ALSO DIABETIC, AND I'M A
7 LITTLE BIT SENSITIVE BECAUSE OF IT, TOO, AND I'M
8 LUCKY I TAKE TWO PILLS A DAY AND, YOU KNOW, HE
9 DIDN'T SAY ANYTHING ABOUT HIS DIET LIKE THE OTHER
10 FELLOW DID THE OTHER DAY AND THE OTHER FELLOW IS
11 ALSO ON PILLS, AND I CAN TELL YOU IT REALLY CAN
12 AFFECT YOU VERY -- YOUR VISION AND BATHROOM,
13 EVERYTHING LIKE THAT JUST LET THE RECORD NOTE THAT
14 I NEED TO EAT ON A REGULAR BASIS, BUT I AM SENSITIVE
15 TO HIM, AND ASK HIM ABOUT THE DIET, ALSO, IF YOU
16 WOULD

17 THE COURT YOU'RE NOT ASKING TO BE
18 EXCUSED, ARE YOU?

19 MR TINSLEY NO, SIR NO, SIR NO,
20 SIR WELL, I'D LIKE TO ASK HIM ABOUT HIS DIET, IF
21 YOU DON'T MIND

22 THE COURT OKAY SURE

23 MR JONES WELL, JUDGE, I WAS HOPING
24 YOU'D DO THAT

25 (JUROR RE-ENTERS)

1 THE COURT I AM LET ME JUST -- YOU
2 INDICATED THAT YOU WERE A DIABETIC, DO YOU HAVE ANY
3 SPECIAL OR PARTICULAR DIET THAT YOU HAVE TO HAVE?

4 JUROR I GOT A, I THINK IT'S A
5 TWENTY-SEVEN THING -- BUT, ANYWAY, I'M ON A TWENTY-
6 EIGHT HUNDRED, I THINK IT WAS

7 THE COURT I MEAN, DO YOU HAVE TO
8 HAVE ANYTHING SPECIAL TO EAT THAT YOU CAN'T --
9 THAT'S UNUSUAL TO GET?

10 JUROR NO I EAT MOST ANYTHING

11 THE COURT SO YOU EAT MOST ANYTHING?

12 JUROR AS LONG AS IT'S PREPARED

13 THE COURT OKAY

14 JUROR MOST ANYTHING I CAN EAT

15 THE COURT OKAY AS LONG AS IT'S
16 PREPARED? HOW WOULD IT HAVE TO BE PREPARED?

17 JUROR SAY, FOR INSTANCE, CHICKEN, I
18 DON'T -- I NEED BAKED CHICKEN MOST ANY OTHER KIND
19 OF MEAT, YOU KNOW, I DON'T COOK IT IN A LOT OF
20 GREASE OR ANY OF THAT KIND OF STUFF

21 THE COURT OKAY WE CAN ACCOMMODATE
22 THAT THEN YOU'VE GOT YOUR MEDICATION THAT YOU TAKE
23 ON A REGULAR BASIS? YOU'RE TAKING YOUR PILLS, I
24 BELIEVE YOU SAID?

25 JUROR NO I TAKE INSULIN IN THE

1 MORNING --

2 THE COURT OKAY

3 JUROR -- AND A PILL IN THE

4 AFTERNOON

5 THE COURT DO YOU GIVE YOURSELF A
6 SHOT?

7 JUROR YES

8 THE COURT AND YOU DO THAT IN THE
9 MORNING?

10 JUROR RIGHT

11 THE COURT AND THEN YOU TAKE THE
12 PILL IN THE AFTERNOON?

13 JUROR RIGHT

14 THE COURT DO YOU THINK THAT THAT
15 WOULD IN ANY WAY INTERFERE IN YOUR ABILITY TO SERVE
16 AS LONG AS YOU WERE ABLE TO DO THAT?

17 JUROR NO IT AIN'T -- I DON'T HAVE
18 NO PROBLEM WITH THE DIABETIC

19 THE COURT WELL, LET'S ASK YOU TO
20 STAY WITH US THEN, AND IF YOU HAVE SOME DIFFICULTY
21 THAT ARISES, YOU LET US KNOW ABOUT IT, OKAY? THANK
22 YOU, SIR

23 JUROR OKAY

24 (JUROR EXITS)

25 (JUROR IS NOT EXCUSED)

1 THE COURT THAT WAS #268 #313 WAS?
2 CLERK GREY
3 THE COURT GREY, #313
4 (JUROR ENTERS)
5 THE COURT GOOD AFTERNOON MS
6 GREY, IF YOU'LL JUST HAVE A SEAT RIGHT THERE, PLEASE
7 MA'AM
8 JUROR RIGHT HERE?
9 THE COURT YES, MA'AM YOU
10 INDICATED YOU HAD SOME REASON WHY YOU WISH TO BE
11 EXCUSED WOULD YOU TELL ME ABOUT IT
12 JUROR YEAH I'M SICK NOW I HAVE
13 STREP THROAT I CAN'T HARDLY BREATHE, EITHER
14 THE COURT HAVE YOU BEEN TO THE
15 DOCTOR?
16 JUROR YEAH
17 THE COURT AND WHO IS YOUR DOCTOR?
18 JUROR DOCTOR JOHNSON
19 THE COURT OKAY HAS HE BEEN GIVING
20 YOU SOME MEDICATION OR SOMETHING?
21 JUROR UH-HUH (AFFIRMATIVE)
22 THE COURT OKAY, AND HOW LONG HAVE
23 YOU HAD IT?
24 JUROR IT'S GOING INTO THE SECOND
25 WEEK, BUT MY THROAT'S BEEN SORE ON ME, AND I CAN'T

1 STOP COUGHING

2 THE COURT ALL RIGHT LET ME ASK
3 YOU TO STEP OUTSIDE FOR JUST A MINUTE

4 (JUROR EXITS)

5 THE COURT WHAT SAY THE STATE?

6 MR JONES THE STATE THINKS SHE
7 SHOULD BE EXCUSED, YOUR HONOR

8 MR TINSLEY NO OBJECTION, YOUR
9 HONOR

10 THE COURT OKAY I'M SCARED, I
11 DON'T WANT TO INFECT THE WHOLE PANEL YEAH TELL
12 HER SHE'S EXCUSED WE APPRECIATE HER COMING

13 THE COURT #319 IS WHO?

14 CLERK IT'S McELRATH

15 THE COURT McELRATH

16 (JUROR ENTERS)

17 THE COURT COME IN, MS McELRATH
18 YOU HAVE A SEAT RIGHT THERE YOU INDICATED YOU HAD
19 SOME REASON THAT YOU WISH TO BE EXCUSED?

20 JUROR YES, SIR I WAS GOING TO LET
21 YOU DECIDE

22 THE COURT OKAY THAT'S WHAT I'M
23 HERE FOR

24 JUROR MY STEPDAD'S RIGHT OUTSIDE
25 THE DOOR RIGHT OUT THERE HE'S -- WHAT IS HE? I

1 WORKED AT THE COUNTY ---

2 THE COURT MR COPELAND?

3 JUROR UH-HUH (AFFIRMATIVE)

4 THE COURT OKAY

5 JUROR I WORKED AT THE COUNTY JAIL
6 AS A JAILER DISPATCHER

7 THE COURT UH-HUH (AFFIRMATIVE)

8 JUROR AND MY HUSBAND WAS THE CHIEF
9 DEPUTY, AND THE DEFENDANT WAS BROUGHT IN THERE ONE
10 NIGHT AS A JUVENILE, AND I JUST FELT LIKE IT WOULD
11 BE UNFAIR UNDER THOSE CIRCUMSTANCES

12 THE COURT OKAY DO YOU THINK
13 THERE'S ANY POSSIBILITY THAT YOU WOULD BE, YOU COULD
14 BE, OR YOU WOULD BE UNFAIR OR IMPARTIAL?

15 JUROR NO, SIR I DON'T, BUT I JUST
16 DIDN'T WANT ANY PROBLEMS I WANTED THAT BROUGHT
17 OUT

18 THE COURT MR COPELAND IS YOUR
19 STEPFATHER?

20 JUROR UH-HUH (AFFIRMATIVE)

21 THE COURT MY HUSBAND WAS THE CHIEF
22 DEPUTY FOR THE SHERIFF'S DEPARTMENT AT ONE TIME, AND
23 I WAS THE JAILER AND DISPATCHER OVER THERE AT THE
24 COUNTY JAIL

25 THE COURT DO YOU KNOW ANYTHING

1 ABOUT THIS CASE AT ALL?

2 JUROR ABOUT THIS ONE? JUST WHO THE
3 TWO PARTIES ARE AND THE PERSON THAT HE'S ACCUSED OF
4 HURTING LIVES ABOUT TWO MILES FROM ME

5 THE COURT OKAY WOULD THAT
6 INTERFERE IN YOUR ABILITY TO BE FAIR AND IMPARTIAL?

7 JUROR NO, SIR I DON'T THINK SO

8 THE COURT OKAY

9 JUROR I'M ALSO A FULL-TIME NURSE
10 FOR EMERGENCY I DO EMERGENCY RELIEF STAFFING

11 THE COURT UH-HUH (AFFIRMATIVE)

12 WELL, NOW, IF YOU WERE SELECTED TO SERVE, IT WOULD
13 BE NECESSARY THAT YOU BE SEQUESTERED FOR ABOUT SEVEN
14 TO TEN DAYS COULD YOU ACCOMMODATE THAT
15 INCONVENIENCE IF YOU WERE CALLED UPON TO SERVE?

16 JUROR YES, SIR I THINK SO

17 THE COURT OKAY LET ME ASK YOU, IF
18 YOU WOULD, JUST GO BACK AND HAVE A SEAT WITH THE
19 JURY POOL, AND WE'LL BE BACK SHORTLY TO ASK YOU SOME
20 MORE QUESTIONS

21 (JUROR EXITS)

22 THE COURT #277 IS WHO?

23 BAILIFF THE ABHAN DEAL

24 THE COURT HUH?

25 BAILIFF THAT'S ---

1 THE COURT OH, THAT'S THE RECORD?
2 CLERK YEAH THE ABHAN DEAL
3 THE COURT MARION? WHO WAS IT?
4 THAT WAS MS ---
5 BAILIFF McELRATH
6 THE COURT NO, BEFORE THAT
7 BAILIFF GREY?
8 CLERK GREY
9 THE COURT MS GREY, YOU SAID HAD A
10 RECORD, RIGHT?
11 BAILIFF NO, SIR THE ONE THAT JUST
12 LEFT HERE SHE WORKED AT THE JAIL SHE BROUGHT
13 SOME DRUGS INTO AN INMATE THERE SHE WAS CHARGED
14 WITH IT
15 THE COURT THIS ONE RIGHT HERE, MS
16 McELRATH?
17 BAILIFF YES, SIR THAT'S HER
18 THE COURT WAS SHE CONVICTED?
19 BAILIFF YES, SIR
20 THE COURT OF WHAT?
21 BAILIFF I THINK CONTRABAND CHARGE
22 I KNOW IT WAS AN APPEALS
23 THE COURT DO YOU KNOW IF SHE WENT
24 TO COURT? DO YOU KNOW IF SHE WENT TO COURT AND
25 FOUND GUILTY?

1 BAILIFF YES, SIR IT SHOULD HAVE
2 BEEN ON THE RECORD SHEETS THAT WE RAN

3 THE COURT OKAY WELL, WE NEED TO
4 CHECK THAT THAT'S #319 NO, NO THAT WAS #319
5 #316 IS WHO WE GOT NEXT WHO IS THAT? HORTON
6 (JUROR ENTERS)

7 THE COURT GOOD AFTERNOON YOU'RE
8 MS HORTON?

9 JUROR HORTON, UH-HUH (AFFIRMATIVE)

10 THE COURT MS HORTON, IF YOU'D LIKE
11 TO, YOU CAN HAVE A SEAT RIGHT THERE YOU INDICATED
12 YOU HAD SOME REASON YOU'D LIKE FOR ME TO CONSIDER IN
13 HAVING YOUR JURY SERVICE EXCUSED?

14 JUROR YES, SIR I HAVE A SISTER
15 WHO'S AN INVALID, AND I TAKE CARE OF HER

16 THE COURT ARE YOU THE ONLY PERSON
17 TO DO THAT?

18 JUROR I HAVE A SISTER WHO LIVES IN
19 GEORGIA WHO CAN COME MAYBE ONCE, SOMETIMES TWICE A
20 WEEK

21 THE COURT OKAY, BUT SHE'S NOT ABLE
22 TO COME ANY MORE OFTEN THAN THAT?

23 JUROR NOT THE WAY SHE WORKS

24 THE COURT DO YOU LIVE WITH YOUR
25 SISTER?

1 JUROR NO SHE LIVES IN CALHOUN
2 FALLS I DRIVE OVER THERE

3 THE COURT AND HOW MANY HOURS A DAY
4 DO YOU HAVE TO SPEND WITH HER?

5 JUROR WELL, I GO WHEN I GET OFF OF
6 WORK SHE HAS A HOME HEALTH NURSE IN THE MORNINGS
7 AND A NEIGHBOR THAT CHECKS IN ON HER

8 THE COURT AND WHAT TIME DO YOU
9 USUALLY GET THERE?

10 JUROR I GET THERE ABOUT FOUR-
11 THIRTY

12 THE COURT AND WHAT TIME DO YOU
13 LEAVE?

14 JUROR I GO HOME ABOUT EIGHT OR
15 EIGHT-THIRTY, AS SOON AS I CAN GET HER SETTLED

16 THE COURT SO IT'S EVERY EVENING FROM FOUR-
17 THIRTY TO EIGHTY-THIRTY?

18 JUROR IT'S NOT EVERY -- UH-HUH
19 (AFFIRMATIVE)

20 THE COURT OKAY IS THERE ANYBODY
21 ELSE THAT COULD -- DO YOU UNDERSTAND IF YOU WERE
22 PICKED TO SERVE, YOU'D BE SEQUESTERED, BUT IT WOULD
23 ONLY BE FOR A PERIOD OF BETWEEN SEVEN AND TEN DAYS
24 DO YOU THINK THERE'S SOMEBODY ELSE YOU COULD GET TO
25 PERFORM YOUR,

1 YOUR ---

2 JUROR WELL, YEAH, BUT WE'RE HAVING
3 -- YEAH, BUT WE HAD TO BE TRAINED AT THE HOSPITAL TO
4 DO FOR HER

5 THE COURT OKAY, AND WHAT KIND OF
6 CARE IS THAT THAT HAS TO BE DONE?

7 JUROR I DON'T KNOW IF YOU'VE EVER
8 HEARD OF THIS OR NOT, BUT SHE HAD A CYST UP INSIDE
9 OF HER IT TURNED TO GANGRENE, AND THEY HAD TO
10 REMOVE EVERYTHING UP INSIDE OF HER THEREFORE, WE
11 HAVE TO PACK HER WITH PADS THAT'S SOAKED IN SOME
12 KIND OF SALINE SOLUTION

13 THE COURT SO IT'S A SPECIAL MEDICAL
14 TREATMENT, AND NOT JUST ANYBODY CAN PERFORM WITHOUT
15 HAVING BEEN TRAINED IN IT OR HAVING KNOWLEDGE OF IT?
16 AND YOU'RE ONE OF HOW MANY THAT HAS THAT?

17 JUROR TWO, MY SISTER AND ME SHE
18 CAN DO IT

19 THE COURT OKAY, OKAY, AND DO YOU
20 HAVE TO DO THAT EACH TIME THAT YOU ARE WITH HER?

21 JUROR MORNING AND NIGHT

22 THE COURT OKAY ALL RIGHT LET ME
23 ASK YOU, IF YOU WILL, JUST TO STEP OUTSIDE FOR JUST
24 A MOMENT, AND I'LL LET YOU KNOW

25 JUROR ALL RIGHT

1 (JUROR EXITS)

2 THE COURT ANY OBJECTION TO THE LADY
3 BEING EXCUSED?

4 MR JONES NONE

5 THE COURT ANY OBJECTION?

6 MR TINSLEY NO, YOUR HONOR

7 THE COURT ALL RIGHT MS HORTON IS
8 EXCUSED ASK HER TO COME BACK

9 (JUROR RE-ENTERS)

10 THE COURT MS HORTON, WE'RE GOING
11 TO BE EXCUSING YOU, BUT THANK YOU FOR COMING WE
12 APPRECIATE YOUR COMING ON SHORT NOTICE

13 JUROR DO I NEED TO TURN THESE
14 PAPERS IN TO SOMEBODY?

15 THE COURT YOU CAN LEAVE THOSE HERE
16 WILL BE FINE ALL RIGHT THANK YOU, MA'AM

17 JUROR THANK YOU

18 THE COURT GOOD LUCK

19 (JUROR EXITS)

20 (JUROR IS EXCUSED)

21 THE COURT #279?

22 BAILIFF #279, JACKSON

23 THE COURT JACKSON, #279

24 (JUROR ENTERS)

25 THE COURT MS JACKSON, IF YOU'LL

1 HAVE A SEAT RIGHT THERE, PLEASE YOU INDICATED YOU
2 HAD SOME REASON THAT YOU'D LIKE TO BE EXCUSED FROM
3 SERVING?

4 JUROR YES, SIR

5 THE COURT WHAT WAS THAT REASON?

6 JUROR I WAS MARRIED TO ONE OF THE
7 HARRIS MEMBERS FAMILY

8 THE COURT OKAY, AND YOU WERE
9 RELATED BY MARRIAGE TO THE HARRISES OR THE JACKSONS?

10 JUROR JACKSON

11 THE COURT THE JACKSONS?

12 JUROR UH-HUH (AFFIRMATIVE)

13 THE COURT AND HOW -- TELL ME WHAT
14 YOUR CONNECTION IS

15 JUROR MY HUSBAND WAS THEIR FOURTH
16 COUSIN

17 THE COURT YOUR HUSBAND WAS MS
18 JACKSON'S FOURTH COUSIN?

19 JUROR UH-HUH (AFFIRMATIVE)

20 THE COURT AND HOW LONG HAVE YOU
21 BEEN MARRIED?

22 JUROR NINE YEARS

23 THE COURT OKAY DO YOU KNOW ABOUT
24 THIS CASE?

25 JUROR YES, I DO

1 THE COURT WOULD ANYTHING THAT YOU
2 KNOW ABOUT THE CASE OR WOULD THE RELATIONSHIP THAT
3 YOU HAVE WITH THE FAMILY, WOULD IT INTERFERE WITH
4 YOUR ABILITY TO BE FAIR AND IMPARTIAL IF YOU WERE
5 SELECTED?

6 JUROR YES, SIR

7 THE COURT HAVE YOU ALREADY FORMED
8 SOME OPINION AS TO WHAT YOU THINK THE OUTCOME OF
9 THIS CASE SHOULD BE?

10 JUROR YES, SIR

11 THE COURT IS THERE ANY WAY YOUR
12 OPINION COULD BE ALTERED BY CONSIDERING EVIDENCE IN
13 A CASE?

14 JUROR NO, SIR

15 THE COURT YOU BELIEVE YOU KNOW WHAT
16 SHOULD OCCUR?

17 JUROR YES, SIR

18 THE COURT AND YOU DON'T BELIEVE
19 YOUR OPINION COULD BE ALTERED?

20 JUROR NO, SIR

21 THE COURT ARE YOU SAYING THAT YOU
22 COULD NOT BE FAIR IF YOU WERE SELECTED?

23 JUROR RIGHT

24 THE COURT OKAY LET ME ASK YOU, IF
25 YOU WILL, JUST TO STEP OUTSIDE FOR JUST A MINUTE

1 JUROR OKAY

2 THE COURT YOU'RE MS JACKSON?

3 JUROR YES, UH-HUH (AFFIRMATIVE)

4 THE COURT MS JACKSON? OKAY

5 (JUROR EXITS)

6 THE COURT ANY OBJECTION TO THE

7 JUROR BEING EXCUSED BASED ON BIAS?

8 MR JONES NO, YOUR HONOR

9 (JUROR RE-ENTERS)

10 THE COURT OKAY OKAY WE'RE GOING

11 TO EXCUSE YOU WE APPRECIATE YOUR PROVIDING THAT

12 INFORMATION PLEASE DON'T DISCUSS IT WITH ANYBODY,

13 ALL RIGHT?

14 JUROR OKAY THANK YOU

15 (JUROR EXITS)

16 (JUROR IS EXCUSED)

17 THE COURT THANK YOU #263?

18 BAILIFF SHE'S BEEN EXCUSED FOR

19 MEDICAL REASONS

20 THE COURT #282?

21 BAILIFF PARNELL

22 THE COURT PARNELL?

23 BAILIFF PARNELL, #282

24 (JUROR ENTERS)

25 THE COURT MR PARNELL, IF YOU'D

1 JUST HAVE A SEAT RIGHT THERE, PLEASE YOU INDICATED
2 THAT YOU HAD SOME REASON WHY YOU'D LIKE TO BE EXCUSE
3 FROM SERVING?

4 JUROR WELL, FIRST OFF, I THINK THAT
5 I'M INELIGIBLE TO BE ON THIS BECAUSE I WAS ON THE
6 GRAND JURY IN '95 IT WAS BROUGHT UP IN '95 BEFORE
7 THE GRAND JURY

8 MR JONES IT'S A '96 ---

9 THE COURT IT WAS PROBABLY '96

10 JUROR OH, WAS IT '96?

11 THE COURT DID YOUR TERM ON THE
12 GRAND JURY EXPIRE IN DECEMBER OF '95?

13 JUROR YES, SIR

14 THE COURT OKAY THEN THIS
15 INDICTMENT WOULD NOT HAVE BEEN RETURNED UNTIL '96,
16 WAS IT? OKAY DO YOU HAVE -- WELL, WE'LL CHECK ON
17 THAT

18 JUROR BUT, ANYWAY OTHER THAN
19 THAT, I'M IN THE CONSTRUCTION, HOME BUILDING
20 BUSINESS, AND WITH HAVING GOTTEN A SUMMONS ON
21 SATURDAY, YOU'RE NOT REALLY GIVING ME MUCH TIME
22 WHEN DO YOU THINK THAT THE CASE IS GOING TO START?

23 THE COURT WELL, HOPEFULLY SOON IT
24 MAY BE SOME TIME LATE TOMORROW, PERHAPS WEDNESDAY
25 IT WOULD LAST -- WE'RE GUESSING BETWEEN SEVEN AND

1 TEN DAYS IS THE TIME THAT IT WOULD BE NECESSARY FOR
2 THE JURY TO BE SEQUESTERED THESE ARE GUESSES, YOU
3 UNDERSTAND, BUT THAT'S PROBABLY A FAIR ESTIMATE

4 JUROR BUT I HAVE WORK OUT THAT I
5 NEED TO GET COMPLETED, AND YOU'VE NOT GIVEN ME MUCH
6 TIME TO GET ANY CLOSURE ON IT

7 THE COURT WELL, YOU UNDERSTAND WHY
8 YOU HAVE NOT HAD MUCH TIME --

9 JUROR I UNDERSTAND THAT
10 THE COURT -- AND THAT'S THE REASON
11 IT WAS BEYOND ANYONE'S CONTROL IT WAS JUST SIMPLY
12 BECAUSE THERE WEREN'T A SUFFICIENT NUMBER OF JURORS
13 SO TELL ME ABOUT YOUR SITUATION AND WHAT TYPE OF
14 HARDSHIP IT WOULD POSE UPON YOU

15 JUROR WELL, I'VE GOT THREE HOUSES
16 OUT THAT ARE CLOSING, GETTING CLOSE TO BEING
17 FINISHED, AND THAT'S WHEN THE MONEY COMES, AND
18 THAT'S WHEN I PAY MY CREDITORS AND IT'S BECOMING
19 TIME TO DO THAT

20 THE COURT UH-HUH (AFFIRMATIVE)

21 JUROR AND THAT'S PRETTY MUCH IT I
22 DON'T HAVE ANYBODY ELSE I CAN LEAVE TO DO IT I
23 MEAN, IT'S -- I'M IN THE WORKING FORCE, AND I'VE GOT
24 SOME HELP -- NO ONE THAT I COULD LEAVE TO LOOK AFTER
25 IT FOR ME

1 THE COURT AND THE WORK COULD NOT
2 CONTINUE IN YOUR ABSENCE? IS THAT WHAT YOU'RE
3 TELLING ME? YOU'RE TALKING BUILDING AND
4 CONSTRUCTING THE HOUSES?

5 JUROR YEAH, BUILDING BUSINESS
6 THAT'S RIGHT

7 THE COURT AND YOU'VE GOT A CREW OF
8 PEOPLE THAT WORK FOR YOU?

9 JUROR THAT'S RIGHT

10 THE COURT AND YOU HAVE SOMEBODY --
11 ARE YOU THE FOREMAN? DO YOU HAVE SOMEBODY THAT
12 HANDLES THAT IN YOUR ABSENCE?

13 JUROR NO, NOT REALLY I'VE GOT A
14 LEAD MAN, BUT THAT'S PRETTY MUCH IT, AND HE'S NOT
15 MOTIVATED ENOUGH TO KEEP THINGS GOING BY HIMSELF
16 IT'S JUST, YOU KNOW

17 THE COURT IF YOU WERE CHOSEN TO
18 SERVE, AND YOU WERE SEQUESTERED FOR THAT PERIOD OF
19 TIME, WOULD IT CAUSE AN EXTREME FINANCIAL HARDSHIP
20 ON YOU, OR COULD YOU ---

21 JUROR IT WOULD PROBABLY CAUSE ONE
22 FOR MY CREDITORS, YES, SIR

23 THE COURT WELL, WHAT I'M -- AS FAR
24 AS YOUR CREDITORS ARE CONCERNED, I UNDERSTAND THEY
25 WANT TO BE PAID BUT I, YOU KNOW, IF THEY'RE

1 DELAYED SOMEWHAT BECAUSE OF AN UNUSUAL CIRCUMSTANCE
2 WHERE YOU'RE CALLED JUST LIKE IF YOU WERE CALLED
3 TO DUTY IN THE MILITARY, I'M CERTAIN THAT CREDITORS
4 WOULD UNDERSTAND THAT, WELL, YOU KNOW, THAT WAS
5 SOMETHING HE COULDN'T HELP WOULD YOU THINK WOULD
6 BE -- WOULD YOU THINK THAT TO BE A FAIR STATEMENT IF
7 YOU WERE CALLED UPON TO SERVE ON A JURY, DO YOU
8 THINK THEY COULD UNDERSTAND THAT?

9 JUROR PEOPLE ARE NOT AS
10 UNDERSTANDING WITH THE BUILDING TRADE AS YOU MIGHT
11 WOULD THINK I MEAN, THAT'S OBJECTIVE, I WOULD
12 THINK

13 THE COURT OKAY WELL, LET ME ASK
14 YOU IF YOU WERE SELECTED TO SERVE, WOULD YOU BE
15 WILLING TO ACCEPT THAT INCONVENIENCE OR THAT
16 HARDSHIP THAT MIGHT BE CAUSING CONCERN IF YOU'RE
17 CALLED UPON TO SERVE?

18 JUROR WITH ONE STIPULATION MY
19 WIFE'S FATHER IS IN INTENSIVE CARE IF SOMETHING
20 WERE TO HAPPEN THAT HE DIED OR SOMETHING TO THAT
21 EFFECT, YOU WOULD LET ME OUT AND AN ALTERNATE WOULD
22 TAKE MY PLACE?

23 THE COURT WELL, THAT'S WHAT I WANT
24 TO -- LET ME ASK YOU ABOUT THAT WHAT IS THE NATURE
25 OF YOUR FATHER-IN-LAW'S CONDITION?

1 JUROR WELL, HE WENT IN SURGERY, HAD
2 A HEART ATTACK, BEEN IN I C U FOR ABOUT EIGHT
3 WEEKS, ON THE VENTILATOR IT'S A THING THAT HELPS
4 HIM BREATHE, AND HE GOT OUT OF THAT FOR A COUPLE OF
5 DAYS, GOT OFF IT FOR A COUPLE OF DAYS AND HE HAD
6 ANOTHER SETBACK AND ANOTHER SMALL HEART ATTACK, AND
7 HE'S BACK ON THE VENTILATOR NOW AND HE'S IN THE
8 I C U UNIT RIGHT NOW AND, I MEAN, THEY'RE NOT
9 COMMITTING ONE WAY OR ANOTHER, YOU KNOW, AS FAR AS
10 HIS CONDITION IS CONCERNED IT COULD BE ALL RIGHT
11 WE'RE HOPING FOR THE BEST WE'RE HOPING HE'S GOING
12 TO GET ON OUT OF THERE, BUT HE'S EIGHTY-THREE YEARS
13 OLD

14 THE COURT UH-HUH (AFFIRMATIVE)
15 WELL, HAVE THE DOCTORS INDICATED TO YOU OR ANYONE
16 ELSE THAT THERE IS THAT POSSIBILITY THAT HE WOULD
17 NOT MAKE IT THROUGH THIS --

18 JUROR OH, YES

19 THE COURT -- DIFFICULTY? I MEAN,
20 COULD, COULD, COULD THAT BE IMMINENT, OR DEPENDING
21 UPON THE CONDITION?

22 JUROR WELL, THE HEAD NURSE CAME
23 BACK AND TOLD US THE OTHER DAY THAT IF THEY TOOK HIM
24 OFF THE MACHINE, YOU KNOW, THAT THAT WOULD PROBABLY
25 BE THE BEST THING, AND HE COULD JUST GO BE WITH

1 JESUS AND ALL THAT, BUT IT UPSET MY WIFE
2 CONSIDERABLY IN THAT SITUATION, I WOULD LIKE TO BE
3 THERE WITH HER

4 THE COURT I UNDERSTAND IS THAT
5 SOMETHING THAT SHE AND HER, IF SHE HAS BROTHERS AND
6 SISTERS, IS THAT SOMETHING THAT THEY ARE DISCUSSING
7 ABOUT WHETHER OR NOT TO TAKE HIM OFF THE LIFE
8 SUPPORT?

9 JUROR THEY'RE NOT DISCUSSING THAT
10 THE COURT THEY'RE NOT?

11 JUROR NO WE'RE HOPING THAT LIFE
12 SUPPORT IS GOING TO BE SUFFICIENT TO GET HIM OFF OF
13 IT ON HIS OWN

14 THE COURT SO, I MEAN, THE MEDICAL
15 PERSONNEL, THEY HAVEN'T --

16 JUROR THEY'RE NOT GIVING UP HOPE
17 THE COURT -- SUGGESTED THAT THEY,
18 YOU KNOW, THINK ABOUT THAT AS AN OPTION, BUT THEY
19 HAVEN'T ASKED ---

20 JUROR THINK ABOUT IT AS AN OPTION
21 AND ALL THAT, NOT ENCOURAGED THEM TO TAKE HIM OFF

22 THE COURT OH, I UNDERSTAND THAT,
23 BUT THEY'VE TOLD THEM WHAT THEY THOUGHT ABOUT IT?

24 JUROR YES

25 THE COURT ALL RIGHT LET ME ASK

1 YOU, IF YOU WILL, JUST STEP OUTSIDE JUST A MOMENT
2 I'LL BRING YOU RIGHT BACK

3 JUROR OKAY

4 (JUROR EXITS)

5 THE COURT WHAT SAY THE STATE?

6 MR JONES JUDGE, I'D LIKE FOR YOU
7 TO KEEP HIM AND WAIT AND SEE WHAT HAPPENS AS FAR AS
8 WHERE HE LANDS, AND I'D JUST LIKE TO KEEP HIM FOR
9 DUE PROCESS

10 THE COURT OKAY ALL RIGHT MR

11 PARNELL, BRING HIM BACK

12 (JUROR RE-ENTERS)

13 THE COURT MR PARNELL, AT LEAST FOR
14 THE TIME BEING, WE'RE GOING TO ASK YOU TO STAY WITH
15 US WE'VE GOT SOME OTHER QUESTIONS I'LL BE ASKING
16 THE PANEL, AND, OF COURSE, WE'LL DO WHATEVER WE CAN
17 TO ASSIST YOU OR ACCOMMODATE YOU WITH ANY PERSONAL
18 DIFFICULTIES THAT YOU MIGHT HAVE BECAUSE OF YOUR
19 FATHER-IN-LAW

20 JUROR OKAY

21 THE COURT IF YOU'LL JUST HAVE A
22 SEAT BACK OUT THERE, WE'LL BE WITH YOU SHORTLY

23 (JUROR EXITS)

24 THE COURT #252?

25 CLERK GAINNEY, GAINNEY

1 THE COURT OKAY, MR GAINNEY IF YOU
2 WOULD, JUST HAVE A SEAT RIGHT THERE YOU INDICATED
3 YOU HAD SOME REASON YOU'D LIKE FOR ME TO HEAR?

4 JUROR YES, SIR WHENEVER YOU SAID
5 SOMETHING ABOUT EDUCATION, I CAN'T READ AND WRITE
6 THAT GOOD AND ANOTHER IS THAT I JUST, I CAN'T
7 STAND BEING SHUT UP IN A ROOM RIGHT NOW IT'S ABOUT
8 TO KILL ME BEING OUT THERE AND ANOTHER THING IS MY
9 WIFE'S FATHER JUST DIED, AND I SUPPOSED TO BE THERE,
10 WELL, AT THE FUNERAL BY SEVEN

11 THE COURT OKAY

12 JUROR FRIENDS AND FAMILY

13 AND ---

14 THE COURT YOUR WIFE'S FATHER DIED -
15 --

16 JUROR SUNDAY NIGHT -- SATURDAY
17 NIGHT

18 THE COURT OKAY OKAY THE
19 FUNERAL'S TOMORROW?

20 JUROR YEAH, HE'LL BE BURIED
21 TOMORROW AT TWO-THIRTY, AND HIS FRIENDS AND FAMILY
22 TONIGHT AT SEVEN AT THE FUNERAL HOME

23 THE COURT OKAY SO FAR AS YOUR
24 EDUCATION IS CONCERNED, HOW FAR DID YOU GO IN
25 SCHOOL?

1 JUROR WELL, I FINISHED TO NINTH,
2 BUT, SEE, WHEN I WAS IN SCHOOL I JUST GOT PICKED ON
3 I REALLY DIDN'T LEARN A WHOLE LOT, YOU KNOW

4 THE COURT ARE YOU ABLE TO WRITE
5 ANYTHING OTHER THAN YOUR NAME?

6 JUROR OH, I CAN WRITE, YOU KNOW, A
7 LOT OF THINGS, BUT WHAT I'M TALKING ABOUT I JUST
8 CAN'T SPELL AND READ THAT GOOD, YOU KNOW

9 THE COURT OH, OKAY CAN YOU READ
10 THE NEWSPAPER?

11 JUROR YEAH I CAN READ IT, BUT,
12 YOU KNOW, I CAN'T READ IT FAST

13 THE COURT I UNDERSTAND, BUT YOU CAN
14 READ IT?

15 JUROR YES, SIR

16 THE COURT AS LONG AS YOU HAD TIME
17 TO DO SO?

18 JUROR YEAH IF I GOT TIME TO DO
19 SO, YOU KNOW, AND IF IT'S A LONG WORD, I CAN MAKE IT
20 OUT IF I STUDY ON IT

21 THE COURT OKAY ALL RIGHT IF WE
22 GOT YOU PAST THE FUNERAL, I MEAN, IS IT -- ARE YOU
23 AND YOUR WIFE ---

24 JUROR OH, NO, NO IF I CAN GET,
25 YOU KNOW, PAST THE FUNERAL, YOU KNOW, I DON'T HAVE

1 NO PROBLEM WITH IT I MEAN, MY WIFE HELPED ME FILL
2 OUT THESE PAPERS, YOU KNOW, BUT I COULDN'T DO IT

3 THE COURT OKAY

4 JUROR AND LIKE I SAID, THERE'S SOME
5 THINGS ON THERE I JUST COULDN'T ANSWER, YOU KNOW

6 THE COURT OKAY

7 JUROR AND I'M A REAL NERVOUS
8 PERSON, TOO

9 THE COURT OKAY LET ME ASK YOU TO
10 JUST STEP OUTSIDE FOR JUST A MINUTE, AND I'LL BE
11 WITH YOU SHORTLY

12 JUROR OKAY

13 (JUROR EXITS)

14 THE COURT WHAT SAY THE STATE?

15 MR JONES THE STATE RECOMMENDS THAT
16 YOU KEEP HIM AND TRY TO ACCOMMODATE HIS SCHEDULE

17 THE COURT THE FUNERAL IS TOMORROW
18 HE MIGHT BE ABLE TO MAKE THAT

19 MR TINSLEY I DON'T HAVE A PROBLEM
20 WITH HIM STAYING I'M A LITTLE CONCERNED ABOUT HIS
21 CLAUSTROPHOBIA, THOUGH THAT'S THE ONLY THING I'M
22 CONCERNED ABOUT

23 THE COURT WELL, WE CAN INQUIRE UPON
24 THAT FURTHER, IF NECESSARY

25 MR TINSLEY NO OBJECTION

1 WHATEVER YOU THINK, JUDGE

2 THE COURT OKAY ALL RIGHT BRING
3 HIM BACK

4 (JUROR RE-ENTERS)

5 THE COURT WE'RE GOING TO ASK YOU TO
6 STAY WITH US RIGHT NOW, AND WE'VE GOT SOME OTHER
7 QUESTIONS I SHOULD BE THERE SHORTLY, AND IF YOU
8 NEED TO BE AT THE FUNERAL HOME -- YOU NEED TO BE
9 HOME WHEN?

10 JUROR YEAH, WELL, AT LEAST BY SIX
11 I AIN'T -- I GOT TO EAT AND ---

12 THE COURT I UNDERSTAND OKAY WE
13 SHOULD BE ABLE TO DO THAT

14 JUROR OKAY, BUT LIKE I SAY, I DON'T
15 HAVE ANY PROBLEM WITH ANY OF THIS AS FAR AS
16 EVERYTHING ELSE I MEAN, I'M JUST A NERVOUS PERSON
17 AND ALL THIS I'M OKAY WITH EVERYTHING ELSE

18 THE COURT OKAY IF YOU'LL JUST
19 HAVE A SEAT OUT THERE IN THE AUDIENCE, AND I'LL BE
20 RIGHT THERE JUST, I HOPE, IN THE NEXT FIVE OR TEN
21 MINUTES

22 (JUROR EXITS)

23 (JUROR IS NOT EXCUSED)

24 THE COURT NUMBER 19 IS?

25 BAILIFF BOWIE

1 THE COURT WHO?

2 BAILIFF BOWIE IT'S ON THE FIRST

3 LIST

4 (JUROR ENTERS)

5 THE COURT MS BOWIE?

6 JUROR YES, SIR

7 THE COURT YOU INDICATED YOU HAD A
8 REASON YOU'D LIKE TO GIVE ME FOR BEING EXCUSED FROM
9 SERVING?

10 JUROR YES I NEED TO FIND, GET ME
11 A JOB BECAUSE RIGHT NOW MY BILLS AND STUFF BEHIND,
12 AND I'M TAKING CARE OF MY MAMMA SHE DON'T ---

13 THE COURT NOW, TELL ME ABOUT YOUR
14 MOTHER WHAT'S HER PROBLEM?

15 JUROR WELL, SHE ON THAT HEART
16 MACHINE, AND SHE CAN'T HARDLY CATCH HER BREATH AND
17 STUFF LIKE THAT

18 THE COURT SHE'S ON A HEART MACHINE?

19 JUROR UH-HUH (AFFIRMATIVE)

20 THE COURT IS SHE AT HOME OR IN THE
21 HOSPITAL?

22 JUROR SHE AT HOME

23 THE COURT WHAT KIND OF HEART
24 MACHINE IS SHE ONE?

25 JUROR SHE CARRIES ONE MACHINE, HAVE

1 ONE OF THEM BIG MACHINES PINNED TO HER NOSE AND HER
2 MOUTH

3 THE COURT OKAY, AND IS SHE
4 BEDRIDDEN?

5 JUROR UH-UH (NEGATIVE) SHE CAN GO
6 SOMETIMES IF SHE'S CARRY ONE WITH HER

7 THE COURT OKAY HOW BIG IS THE
8 MACHINE? YOU'RE NOT TALKING ABOUT A PACEMAKER?

9 JUROR A MACHINE LIKE THAT, YOU
10 KNOW

11 THE COURT OKAY IT KEEPS HER HEART
12 PUMPING?

13 JUROR YEAH IT KEEP, YOU KNOW, NOT
14 KEEP IT -- WELL, SHE CAN BREATHE, YOU KNOW, ON THE
15 END AND STUFF LIKE THAT, YOU KNOW WHEN SHE NOT ON
16 IT IT HARD FOR HER TO BREATH

17 THE COURT AN OXYGEN TANK YOU'RE
18 TALKING ABOUT?

19 JUROR YEAH, YEAH

20 THE COURT OKAY, AND WHAT DO YOU
21 HAVE TO DO FOR HER?

22 JUROR WELL, I DONE MAKE SURE THAT,
23 YOU KNOW, SHE AIN'T, YOU KNOW -- I COOK FOR HER AND,
24 BUT SHE DON'T LIVE WITH ME I GO OVER TO HER HOUSE
25 AND I COOK ---

1 THE COURT WHO LIVES WITH HER?
2 ANYBODY?

3 JUROR MY BROTHER, AND HE ON FIRST
4 SHIFT I MEAN, GOT TO GET OFF FIRST SHIFT AND WHEN
5 HE AIN'T GET HOME, I BE THERE WITH HER AND STUFF
6 LIKE THAT AND MY SISTER, SHE DON'T, SHE GOT
7 CANCER SO I'M BACK AND FORTH REALLY

8 THE COURT AND YOUR SISTER, YOU'RE
9 HELPING YOUR SISTER, TOO, OR THAT'S THE REASON YOUR
10 SISTER CAN'T HELP YOUR MOTHER?

11 JUROR YEAH WELL, I'M HELPING HER
12 BOTH, YOU KNOW, WE GOT FIVE ME, TWO BROTHERS, AND
13 TWO SISTERS SO ONE OF MY SISTERS, SHE'S SICK, AND
14 BETWEEN ME AND MY OTHER SISTER, WE'S RUNNING BACK TO
15 SEE ABOUT MY MAMMA AND STUFF

16 THE COURT LET ME ASK YOU THIS IF
17 YOU WERE SELECTED TO SERVE, YOU'D BE SEQUESTERED
18 YOU'D BE PUT UP IN A MOTEL FOR SEVEN TO TEN DAYS
19 WOULD THAT CAUSE -- WOULD THAT BE DETRIMENTAL TO
20 YOUR MOTHER'S HEALTH IF YOU WEREN'T THERE TO ASSIST
21 HER, OR WOULD SHE HAVE SOMEONE ELSE THAT SHE COULD
22 DEPEND UPON?

23 JUROR NO, NOT RIGHT NOW, YOU KNOW,
24 AND I'M LOOKING AT THAT, TOO, AND MY MAMMA AND MY
25 BILLS, TOO, YOU KNOW THEY REALLY BEHIND, YOU KNOW

1 THE COURT WELL, DO YOU HAVE SOME
2 PLACE THAT YOU NEED TO GO TO WORK? I MEAN, IS
3 SOMEWHERE THAT'S READY TO HIRE YOU?

4 JUROR YEAH SEE, TOMORROW I
5 SUPPOSED -- I GOT AN APPOINTMENT FOR A DOCTOR -- GOT
6 A DOCTOR CHECKING AND EVERYTHING TO GO TO WORK, AND
7 SEE AND, YOU KNOW, THAT'S TO LET ME GO TO WORK

8 THE COURT OKAY LET ME ASK YOU TO
9 STEP OUTSIDE FOR JUST A MINUTE, AND I'LL BRING YOU
10 BACK

11 (JUROR EXITS)

12 THE COURT WHAT SAY THE STATE?

13 MR JONES NO OBJECTION TO HER BEING
14 EXCUSED

15 THE COURT WHAT SAY THE DEFENSE?

16 MR TINSLEY I'M GOING TO ASK IF
17 SHE'S GOT ANY OTHER RELATIVES THAT COULD KIND OF
18 FILL IN AT HOME AND ---

19 THE COURT I DID THAT SHE SAID NOT
20 RIGHT NOW HER MOTHER'S LIVING WITH HER BROTHER

21 MR TINSLEY RIGHT

22 THE COURT AND SHE'S GOT ANOTHER
23 SISTER WHO'S GOT CANCER AND SAID SHE CAN'T DO IT
24 SHE SAID SHE DIDN'T KNOW ANYBODY ELSE WHO COULD LOOK
25 AFTER HER MOTHER, BUT SHE DOES HAVE A BROTHER WHO'S

1 LIVING WITH HER NOW, I DON'T KNOW WHAT HELP HE
2 MIGHT BE SHE INDICATED THAT HE COULDN'T DO IT, BUT
3 I DON'T KNOW I MEAN, WE CAN ---

4 MR TINSLEY AND SHE, OF COURSE, IT
5 WOULDN'T BE MUCH, BUT SHE'D MAKE A LITTLE BIT IN
6 THIS JURY SERVICE, AND I DIDN'T EVER HEAR HER ANSWER
7 YOUR QUESTION AS TO WHETHER SHE'S GOING TO WORK I
8 THINK SHE SAID SOMETHING ABOUT A ---

9 THE COURT SHE'S GOING TO SEE ABOUT
10 IT SHE'S GOT AN INTERVIEW

11 MR TINSLEY WAS IT AN INTERVIEW OR
12 A DOCTOR'S -- CHECK-UP WAS IT A CHECK-UP, THEN GOT
13 GET HER A JOB OR -- I WAS JUST A LITTLE CONFUSED
14 ABOUT SOME OF HER ANSWERS

15 THE COURT WELL, BRING HER IN
16 (JUROR RE-ENTERS)

17 THE COURT I MAY HAVE MISUNDERSTOOD
18 YOU YOU SAID TOMORROW YOU NEEDED TO GO HAVE A
19 CHECK-UP OR SOMETHING? IS THAT FOR YOUR EMPLOYMENT,
20 I MEAN, TO FILE AN APPLICATION FOR WORK?

21 JUROR YEAH SEE, THE PERSON WHO
22 GETTING ME THE JOB, HE'S SENDING ME TO THE HEALTH --
23 MAKE SURE MY HEALTH ALL RIGHT

24 THE COURT OKAY, AND WHERE ARE YOU
25 SUPPOSED TO GO TOMORROW?

1 JUROR COUNTY HEALTH

2 THE COURT AT WHAT TIME?

3 JUROR TEN-FIFTEEN

4 THE COURT AND IF YOUR HEALTH'S

5 OKAY, YOU'RE GOING TO FILE AN APPLICATION WITH WHAT
6 COMPANY?

7 JUROR HE SAY IT'S A JOB IN
8 GREENWOOD

9 THE COURT WHERE?

10 JUROR I DON'T KNOW WHERE AT RIGHT
11 NOW

12 THE COURT YOU DON'T KNOW ALL THAT?
13 YOU THINK IF YOU SERVED AS A JUROR THAT YOUR BROTHER
14 OR SOMEBODY COULD LOOK AFTER YOUR MOTHER FOR THAT
15 PERIOD OF TIME?

16 THE COURT I CAN SEE

17 JUROR OKAY LET ME ASK YOU TO STAY
18 WITH US RIGHT NOW, AND WE'LL TALK WITH YOU LATER ON
19 ABOUT SOME OTHER MATTERS, OKAY? THANK YOU

20 (JUROR EXITS)

21 (JUROR IS NOT EXCUSED)

22 THE COURT #250 IS WHO?

23 CLERK FREEMAN

24 THE COURT FREEMAN

25 BAILIFF #252?

1 (JUROR #252 ENTERS)

2 THE COURT ARE YOU MS FREEMAN?

3 JUROR YES, SIR

4 THE COURT YOU INDICATED YOU HAD
5 SOME REASON WHY YOU'D LIKE TO BE EXCUSED FROM
6 SERVICE? TELL ME WHAT THAT REASON IS

7 JUROR WELL, TASHIKA JACKSON WAS MY
8 BEST FRIEND

9 THE COURT TASHIKA JACKSON WAS YOUR
10 BEST FRIEND?

11 JUROR YES, SIR

12 THE COURT AND WOULD THAT FACT,
13 BECAUSE OF THAT RELATIONSHIP, WOULD IT PREVENT YOU
14 FROM BEING ABLE TO BE FAIR IN THIS CASE?

15 JUROR YES, SIR

16 THE COURT DO YOU KNOW ABOUT THE
17 CASE?

18 JUROR YES

19 THE COURT AND YOU ALREADY MADE UP
20 YOUR MIND AS TO HOW YOU THINK IT OUGHT TO COME OUT?

21 JUROR I CAN'T SAY THAT

22 THE COURT OKAY WELL, DO YOU HAVE
23 AN OPINION ABOUT HOW YOU THINK IT OUGHT TO COME OUT?

24 JUROR I CAN'T SAY THAT, EITHER

25 THE COURT YOU CAN'T SAY WELL, LET

1 ME JUST ASK YOU THIS? WOULD THE FACT THAT SHE WAS
2 YOUR BEST FRIEND, WOULD IT INTERFERE IN YOUR ABILITY
3 TO BE FAIR IF YOU WERE ACTUALLY PICKED

4 JUROR YES, SIR

5 THE COURT -- TO SERVE AS A JUROR?

6 JUROR I THINK SO

7 THE COURT YOU DO NOT BELIEVE YOU
8 COULD BE FAIR UNDER THE CIRCUMSTANCES?

9 JUROR (WITNESS GIVES NEGATIVE
10 RESPONSE BY A SHAKE OF THE HEAD)

11 THE COURT OKAY LET ME ASK YOU
12 JUST TO STEP OUTSIDE FOR A MOMENT, AND THEN I'LL LET
13 YOU KNOW WHEN YOU CAN BE EXCUSED THANK YOU ANY
14 OBJECTION TO THE JUROR BEING EXCUSED?

15 MR JONES NONE FROM THE STATE

16 MR TINSLEY NO, YOUR HONOR

17 THE COURT OKAY ASK HER TO COME
18 BACK MS FREEMAN, WE'RE GOING TO EXCUSE YOU FROM
19 SERVING PLEASE DON'T DISCUSS THE CASE WITH ANYONE

20 JUROR OKAY

21 THE COURT THANK YOU

22 (JUROR #252 EXITS THE COURTROOM)

23 (JUROR #252 IS EXCUSED)

24 THE COURT #34?

25 BAILIFF IS CADE

1 THE COURT CADE, #34

2 MR TINSLEY JUDGE, JUST CURIOSITY
3 HOW DID WE GET THESE TWO OFF THE FIRST LIST ON THE
4 SECOND LIST?

5 THE COURT THEY DIDN'T REPORT, AND
6 APPARENTLY ONE OR BOTH OF THEM'S NAME HAD CHANGED
7 AND THEY DIDN'T LOCATE THEM, BUT THEY WERE STILL
8 LOOKING FOR THEM SO THEY FOUND THEM AND TOLD THEM
9 TO REPORT

10 MR TINSLEY THAT MAKES SENSE
11 (JUROR #34 ENTERS)

12 THE COURT MS CADE, IF YOU'D JUST
13 HAVE A SEAT RIGHT THERE, PLEASE YOU INDICATED THAT
14 YOU HAD SOME REASON WHY YOU'D LIKE TO BE EXCUSED?

15 JUROR YES, YES MY GRANDSON
16 -- MY DAUGHTER AND I LIVE TOGETHER, AND MY GRANDSON,
17 HE HAD SURGERY, AND HE'S SUPPOSED TO GO BACK IN THE
18 HOSPITAL ON THE 28TH HE'S GOT FIFTEEN PINS IN HIS
19 LEG, AND THEY SUPPOSED TO TAKE THEM OUT AND
20 THEY'RE GOING TO KEEP HIM THERE FOR AT LEAST A WEEK,
21 AND I WANT TO -- SHE GOING TO SPEND TIME WITH HIM,
22 AND I WANT TO SPEND SOME TIME WITH HIM

23 THE COURT OKAY AND WHAT, WHAT --
24 IF YOU WERE THROUGH BY THEN, WOULD THAT CAUSE ANY
25 PROBLEM?

1 JUROR NO, NO

2 THE COURT I MEAN, WHAT ARE YOU --
3 SO RIGHT NOW YOUR DAUGHTER CAN CARE FOR HER CHILD?

4 JUROR WELL, SHE WORK TWELVE HOURS,
5 AND I WORK TWELVE HOURS WHEN SHE'S NOT WORKING,
6 I'M WITH HIM, AND WHEN SHE'S -- I'M WORKING, SHE'S
7 WITH HIM

8 THE COURT HOW OLD IS HE?

9 JUROR HE'S NINE

10 THE COURT AND WHAT, WHAT TWELVE
11 HOURS ARE YOU WORKING?

12 JUROR I WORK THE DAY, AND SHE WORK
13 THE NIGHT, BUT SHE'S GOT FOUR OTHER CHILDREN

14 THE COURT OKAY, AND WHO LOOKS AFTER
15 THEM WHEN SHE'S AT WORK?

16 JUROR THEY IN SCHOOL, BUT HE'S OUT
17 OF SCHOOL, AND I'M TAKING CARE OF HIM NOW, AND WHEN
18 THEY GET OUT OF SCHOOL, I BE THERE SHE GET OFF AT
19 EIGHT, AND I GO IN IN THE MORNINGS AT EIGHT

20 THE COURT IS THERE ANY OTHER PERSON
21 THAT COULD CARE FOR THE CHILD IF YOU WERE SERVING AS
22 A JUROR?

23 JUROR WELL, MY MOTHER, SHE IS
24 THERE SHE'S SIXTY-SEVEN, AND SHE DON'T LIKE TO BE
25 BOTHERED WITH THEM

1 THE COURT SO SHE WOULDN'T DO IT

2 JUROR SHE SAID SHE DONE RAISED
3 HERS, AND SHE DOESN'T WANT TO BE FIDDLING WITH
4 GRANDCHILDREN

5 THE COURT DO YOU HAVE ANYBODY ELSE
6 TO DO IT FOR THAT PERIOD OF TIME?

7 JUROR WELL, MY SISTER, SHE WORKS
8 TWELVE HOURS, ALSO IT JUST THE THREE OF US LIVING
9 TOGETHER

10 THE COURT YOU AND YOUR DAUGHTER AND
11 YOUR GRANDSON?

12 JUROR UH-HUH (AFFIRMATIVE)

13 THE COURT OKAY, AND YOU'RE TELLING
14 ME THAT THERE'S NOBODY TO LOOK AFTER YOUR GRANDSON
15 WHILE ---

16 JUROR WELL, MY MOTHER, SHE IS THERE
17 ALL DAY, BUT SHE DON'T WANT TO BE BOTHERED SHE
18 SAYS SHE'S TOO OLD TO BE TAKING CARE OF THEM

19 THE COURT AND HOW OLD IS SHE?

20 JUROR SHE'S SEVENTY-SIX

21 THE COURT WELL, WHAT KIND OF
22 LOOKING AFTER DOES HE REQUIRE?

23 JUROR HE HAD GOT UP ONCE TRYING TO
24 REACH A JAR OF PEANUTS UP IN THE CABINET, AND HE
25 FELL AND HE LOOSENEED UP ONE OF THE PINS IN HIS LEG

1 AND HE HAD TO GO BACK TO THE HOSPITAL, AND IT DIDN'T
2 FEEL TOO GOOD AND HE'S SUPPOSED TO GO BACK ON THE
3 28TH TO HAVE THEM TAKEN OUT, AND HE'S NOT LOOKING
4 FORWARD TO IT --

5 THE COURT OH, I UNDERSTAND THAT

6 JUROR -- BECAUSE HE SAID ---

7 THE COURT BUT IF YOU WERE -- IF YOU
8 WERE CHOSEN TO SERVE AND YOU HAD TO BE HERE FOR A
9 WEEK OR TEN DAYS, THAT YOU COULDN'T ACCOMMODATE
10 THAT?

11 JUROR I GUESS I COULD

12 THE COURT YOU THINK YOU COULD?

13 JUROR AFTER HE COME OUT OF THE
14 HOSPITAL AND GET -- AFTER HE COME OUT OF THE
15 HOSPITAL I'D WANT TO BE WITH HIM WHEN THEY GO IN
16 THE HOSPITAL SHE'S GOING TO SPEND SOME TIME WITH
17 HIM, AND THEN I'M GOING TO SPEND SOME WITH HIM

18 THE COURT AND HE'S GOING TO BE IN
19 THE HOSPITAL FOR A WEEK?

20 JUROR UH-HUH (AFFIRMATIVE), AT
21 LEAST A WEEK

22 THE COURT AND DO YOU MIND STEPPING
23 OUTSIDE FOR JUST A MINUTE?

24 (JUROR DOES AS INSTRUCTED)

25 MR TINSLEY THE WAY I

1 UNDERSTAND IT, IT'S -- HER MOTHER WOULD BE THERE FOR
2 HIM, AND EVEN THOUGH SHE AND THE MOTHER ALTERNATE
3 WORK SHIFTS MORE OR LESS ---

4 THE COURT THE MOTHER IS SEVENTY-SIX
5 AND SAYS THAT SHE'S RAISED HER CHILDREN SHE AIN'T
6 LOOKING OUT FOR THEM HER OTHER CONCERN IS THAT
7 HE'S GOING IN THE HOSPITAL ON THE 28TH, AND SHE
8 WANTS TO BE THERE WHEN HE GOES IN AND TO STAY WITH
9 HIM WHILE HE'S THERE FOR A WEEK TILL, WHAT DID SHE
10 SAY, ABOUT A WEEK?

11 MR TINSLEY JUDGE, WE'LL CERTAINLY
12 DEFER TO YOUR GOOD JUDGMENT IN THIS CASE

13 THE COURT DO YOU HAVE ANY OBJECTION
14 TO HER BEING EXCUSED, KNOWING THAT THE CIRCUMSTANCES
15 THAT SHE REQUESTED?

16 MR TINSLEY I THINK IT'S A CLOSE
17 QUESTION, BUT I THINK IT MEETS THE THRESHOLD OF, OF
18 A DIRE NEED, HARDSHIP TYPE STANDARDS

19 THE COURT SO YOU HAVE NO OBJECTION?
20 DO YOU WANT TO TALK TO MR HUGHEY ABOUT IT?

21 MR TINSLEY JUDGE, AFTER CONSULTING
22 HERE, I HATE TO DO IT TO HER, BUT WE'RE GOING TO ASK
23 HER TO STAY

24 MR JONES JUDGE, I'D LIKE YOU TO
25 CHECK ONE THING WITH HER WHEN SHE SAID THAT SHE

1 COULD ACCOMMODATE -- WHEN YOU ASKED HER IF SHE COULD
2 BE HERE, WHETHER SHE COULD DO THAT, SHE SAID, "YES,
3 I COULD ' AND I THOUGHT I UNDERSTOOD HER TO SAY
4 AFTER HER GRANDSON GOT OUT OF THE HOSPITAL IS WHEN
5 SHE SAID SHE COULD ACCOMMODATE BEING A JUROR

6 MR TINSLEY THAT'S RIGHT THAT IS
7 TRUE

8 MR JONES AND SHE DOESN'T GO INTO -
9 - HE DOESN'T GO INTO THE HOSPITAL UNTIL THE 28TH

10 THE COURT THE 28TH, THAT'S RIGHT

11 MR JONES SO, FROM WHAT I
12 UNDERSTOOD, SHE COULDN'T ACCOMMODATE IT PRIOR TO HIM
13 GOING TO THE HOSPITAL

14 THE COURT WELL, WHAT I'M SAYING IS,
15 WE'RE GOING TO HAVE INDIVIDUAL VOIR DIRE WE'LL BE
16 ABLE TO ASK HER EVERYTHING WE NEED TO

17 MR JONES OKAY

18 THE COURT OKAY ASK HER TO COME
19 IN WE'RE GOING TO ASK YOU TO STAY WITH US RIGHT
20 NOW FOR THE TIME BEING, AND WE'LL DISCUSS ANY
21 PERSONAL DIFFICULTIES THAT YOU HAVE AT THIS TIME,
22 OKAY? RIGHT NOW JUST GO BACK AND HAVE A SEAT IN THE
23 COURTROOM, AND WE'LL TALK TO YOU AGAIN SHORTLY

24 BAILIFF YOUR HONOR?

25 THE COURT SIR?

1 BAILIFF YOU WANTED 288

2 THE COURT WHICH ONE IS SHE?

3 BAILIFF SHE'S MS STEWART, #288

4 THE COURT STEWART, #288 WHICH ONE
5 IS SHE?

6 BAILIFF CADE THAT'S CADE

7 THE COURT MS CADE, PLEASE DON'T
8 DISCUSS ANYTHING WITH THE OTHER JURORS WHILE YOU'RE
9 OUT THERE

10 (JUROR EXITS ROOM)

11 (JUROR #288 ENTERS ROOM)

12 THE COURT #288? MS STEWART, IF
13 YOU WOULD, PLEASE COME IN AND HAVE A SEAT YOU
14 INDICATED THAT YOU HAD SOME REASON WHY YOU'D LIKE TO
15 BE EXCUSED FROM SERVING AS A JUROR?

16 JUROR UH-HUH (AFFIRMATIVE)

17 THE COURT PLEASE TELL ME ABOUT
18 THAT

19 JUROR IT'S REALLY A FAMILY PROBLEM
20 I'M A DIVORCED MOTHER WITH TWO DAUGHTERS, AND
21 THERE'S REALLY NO WAY OF BEING HERE AFTER FIVE
22 O'CLOCK BECAUSE I ALREADY WORK FROM SEVEN UNTIL FIVE
23 O'CLOCK EVERY DAY

24 THE COURT AND HOW OLD ARE YOUR
25 DAUGHTERS?

1 JUROR THEY'RE SIXTEEN AND FOURTEEN
2 THE COURT SIXTEEN AND FOURTEEN? IS
3 THERE ANYBODY ELSE AVAILABLE TO LOOK AFTER THEM IN
4 THE EVENINGS?

5 JUROR NO I JUST -- I DO NO
6 OVERTIME, AND I'M RESPONSIBLE FOR THE TWO OF THEM

7 THE COURT OKAY, AND YOU'RE THE ONE
8 THAT GETS THEM UP IN THE MORNING?

9 JUROR THAT'S RIGHT

10 THE COURT YOU'RE THE ONE THAT FEEDS
11 THEM AT NIGHT?

12 JUROR YEAH

13 THE COURT AND ATTENDS TO ANY OTHER
14 NEEDS THEY HAVE?

15 JUROR RIGHT, UH-HUH (AFFIRMATIVE)

16 THE COURT IS THERE ANY OTHER ADULT
17 SUPERVISION THAT YOU HAVE AVAILABLE TO HELP YOU WITH
18 THEM IF YOU WERE SELECTED TO SERVE AS A JUROR?

19 JUROR NO LIKE I TOLD YOU, I'M THE
20 ONLY ONE

21 THE COURT ARE THERE ANY OTHER
22 RELATIVES? DO YOU LIVE HERE IN ---

23 JUROR WARE SHOALS

24 THE COURT WARE SHOALS? DO YOU HAVE
25 ANY RELATIVES LIVING CLOSE BY THAT COULD HELP YOU

1 WITH THAT?

2 JUROR WELL, I HAVE A SISTER I
3 WON'T LEAVE THEM AT HOME ALL NIGHT BY THEMSELVES

4 THE COURT NO, NO I MEAN SOMEBODY
5 THAT COULD BE THERE WITH THEM DO THEY HAVE
6 SOMEBODY --

7 JUROR UH-UH (NEGATIVE)

8 THE COURT -- LIKE THAT OR A PLACE
9 THEY COULD STAY FOR A WEEK OR TEN DAYS?

10 JUROR AFRAID NOT I'M FUNNY ABOUT
11 THE GIRLS

12 THE COURT OH, I UNDERSTAND THAT I
13 UNDERSTAND THAT OKAY LET ME ASK YOU JUST TO STEP
14 OUTSIDE --

15 JUROR OKAY

16 THE COURT -- FOR JUST A MOMENT, AND
17 I'LL BE WITH YOU SHORTLY IS THERE ANY OBJECTION TO
18 HER BEING EXCUSED?

19 MR JONES NO, SIR

20 MR TINSLEY NO, YOUR HONOR

21 THE COURT OKAY BRING HER BACK
22 MS STEWART, WE'RE GOING TO EXCUSE YOU BASED UPON
23 YOUR PERSONAL SITUATION --

24 JUROR OKAY

25 THE COURT -- WITH YOUR TWO CHILDREN

1 AND BEING A SINGLE PARENT SO WE APPRECIATE YOU
2 COMING DOWN HERE AND RESPONDING TO THE SUMMONS
3 THANK YOU

4 JUROR THANK YOU

5 THE COURT OKAY I BELIEVE THAT'S
6 ALL OF THEM, IS IT NOT?

7 MR TINSLEY THE ONLY THING I HASD
8 PENDING WAS ---

9 THE COURT THE FOUR JURORS WHO
10 INDICATED THEY MIGHT HAVE SERVED BEFORE

11 MR TINSLEY THAT'S THE ONLY
12 THAT'S IT THAT'S IT THAT'S ALL I HAD

13 THE COURT OKAY ALL RIGHT

14 MR McCALLUM YOU HAD ONE THAT YOU
15 WERE GOING TO CHECK ON

16 THE COURT WELL, NOW, THAT WAS ME
17 (RE-ENTERED COURTROOM AT 5 30 O'CLOCK P M)

18 LADIES AND GENTLEMEN, LET ME THANK
19 THOSE OF YOU WHO HAVE BEEN WAITING WHILE WE
20 DISCUSSED SOME MATTERS WITH OTHERS WE APPRECIATE
21 YOUR PATIENCE AND UNDERSTANDING I DO HAVE NOW SOME
22 ADDITIONAL QUESTIONS TO ASK THE GROUP AS A WHOLE
23 AND I WOULD SIMPLY ASK THAT IF YOU NEED TO RESPOND
24 TO THOSE QUESTIONS, PLEASE STAND AND I'LL ADDRESS
25 THOSE WITH YOU

1 I BELIEVE EVERY JUROR INDICATED
2 THAT YOU HAD RECEIVED THE LETTER AND YOU HAD
3 RECEIVED THE QUESTIONNAIRE ARE THERE ANY JURORS
4 WHO ARE LEFT WHO HAVE NOT COMPLETED THAT
5 QUESTIONNAIRE? HAS EVERYONE NOW RECEIVED THE -- OR
6 EVERYONE HAVE THE QUESTIONNAIRE THAT WAS IN YOUR
7 JUROR PACKET AND HAVE THOSE QUESTIONNAIRES BEEN
8 COMPLETED IS THERE ANY JUROR WHO HAS NOT COMPLETED
9 THE QUESTIONNAIRE

10 LET ME ASK YOU, IF YOU WILL,
11 PLEASE, IF YOU'LL SIMPLY BRING YOUR QUESTIONNAIRES
12 RIGHT THERE AT THE BAR BETWEEN THE DESK WHERE THE
13 LAWYERS ARE SEATED SOMEBODY WILL PICK THOSE UP FOR
14 YOU

15 MS BRUCE, THE RECORDS INDICATE
16 THAT YOU SERVED ON JURY DUTY IN 1992 SO THAT WOULD
17 NOT BE AN EXEMPTION NOW, OKAY? THANK YOU, MA'AM

18 LADIES AND GENTLEMEN, AS I
19 INDICATED TO YOU, I'VE GOT SOME ADDITIONAL QUESTIONS
20 THAT I'LL BE ASKING YOU AS A WHOLE AND IF YOU NEED
21 TO RESPOND TO THE QUESTION, I'M SIMPLY GOING TO ASK
22 THAT YOU PLEASE STAND, GIVE ME YOUR NAME AND YOUR
23 JUROR NUMBER AND THEN YOU CAN TAKE YOUR SEAT AND WE
24 WILL DEAL WITH SOME OF THOSE QUESTIONS AT A LATER
25 TIME

1 NOW, IN THIS CASE, THE CASE FOR
2 WHICH YOU HAVE BEEN SUMMONED TO POTENTIALLY SERVE AS
3 JURORS IS THE CASE OF *THE STATE VERSUS JOHN KENNEDY*
4 *HUGHEY* MR HUGHEY IS SEATED OVER HERE AT THE
5 DEFENSE TABLE WITH HIS LAWYERS MR GARRETT, WHO'S
6 THE FIRST TO YOUR LEFT AND MR TINSLEY, WHO'S THE
7 SECOND TO YOUR LEFT THE STATE IN THIS CASE IS
8 REPRESENTED BY YOUR SOLICITOR TOWNES JONES AND THE
9 DEPUTY SOLICITOR, MIKE COULTER, WHO IS SEATED NEXT
10 TO HIM

11 NOW, IN THIS INDICTMENT, THE
12 DEFENDANT, MR HUGHEY, HAS BEEN CHARGED -- HE'S
13 ACCUSED OF HAVING COMMITTED FOUR SEPARATE AND
14 DISTINCT OFFENSES THE STATE ALLEGES THAT EACH OF
15 THOSE OFFENSES OCCURRED ON OR ABOUT DECEMBER THE 4TH
16 OF 1995 AND THEY ALLEGE THAT EACH OF THESE
17 INCIDENTS AROSE OUT OF ONE PARTICULAR CIRCUMSTANCE
18 OR A COURSE OF CONDUCT THAT IS IN SOME WAY
19 CONNECTED

20 I'M GOING TO READ TO YOU THE BASIC
21 ALLEGATIONS CONTAINED IN THE INDICTMENT THESE ARE
22 THOSE THAT THE STATE IS ALLEGING AGAINST THE
23 DEFENDANT IN COUNT ONE OF THE INDICTMENT, THEY
24 ALLEGE THAT MR HUGHEY DID, ON DECEMBER THE 4TH OF
25 1995, WITH MALICE AFORETHOUGHT KILL ONE TESHEKA

1 LANYRA JACKSON BY SHOOTING MS JACKSON AND THAT SHE
2 DIED AS A PROXIMATE RESULT THEREOF THEY'RE
3 ALLEGING THAT THAT OCCURRED HERE IN THE CITY OF
4 ABBEVILLE

5 COUNT TWO OF THE INDICTMENT ALSO
6 ALLEGES THE OFFENSE OF MURDER THE STATE ALLEGING
7 THAT ON OR ABOUT THE SAME DATE WITH MALICE
8 AFORETHOUGHT, MR HUGHEY KILLED ONE LUEVINIA HARRIS
9 BY SHOOTING MS HARRIS AND THAT SHE DIED AS A RESULT
10 OF THAT GUNSHOT WOUND

11 COUNT THREE OF THE INDICTMENT
12 ALLEGES THE OFFENSE OF BURGLARY THEY ALLEGE ON
13 DECEMBER THE 4TH OF 1995 HE DID WILLFULLY,
14 UNLAWFULLY ENTER THE DWELLING AND WITHOUT CONSENT OF
15 THE OWNER, THE DWELLING OCCUPIED BY MS JACKSON AND
16 MS HARRIS AND AT THE TIME HE ENTERED THAT
17 DWELLING HE DID SO WITH THE INTENT TO COMMIT A CRIME
18 AND WAS ARMED WITH A WEAPON OR CAUSED SOME PHYSICAL
19 INJURY TO A PERSON DURING THE COURSE OF THAT
20 CONDUCT

21 ALSO, IN COUNT FOUR THE INDICTMENT,
22 THEY ALLEGE THAT HE COMMITTED THE OFFENSE OF LARCENY
23 IN TAKING, STEALING AND CARRYING AWAY AN AUTOMOBILE
24 BELONGING TO MS JACKSON

25 NOW, AS TO EACH OF THE CHARGES

1 CONTAINED IN THAT INDICTMENT, THE DEFENDANT HAS
2 ENTERED A PLEA OF NOT GUILTY THAT PLEA OF NOT
3 GUILTY PLACES UPON THE STATE THE BURDEN OF PROVING
4 ALL OF THE ALLEGATIONS SET FORTH IN THE INDICTMENT
5 THE BURDEN OF PROVING ALL OF THE ESSENTIAL ELEMENTS
6 THAT MAKE UP EACH OF THOSE OFFENSES THAT THEY ALLEGE
7 AGAINST THE DEFENDANT AND, THEREFORE, THE BURDEN
8 IS UPON THE STATE TO ESTABLISH THE GUILT OF THE
9 DEFENDANT TO THE SATISFACTION OF A JURY BEYOND A
10 REASONABLE DOUBT BEFORE A VERDICT OF GUILTY COULD BE
11 RETURNED

12 NOW, IN THIS CASE THE STATE IS
13 ALLEGING THE OFFENSE OF MURDER, AS I HAVE INDICATED
14 AND THE STATE IS INTENDING TO SEEK THE DEATH PENALTY
15 IN THIS CASE THERE ARE CERTAIN CIRCUMSTANCES UNDER
16 THE LAW WHERE THE STATE MAY SEEK THE IMPOSITION OF
17 THE DEATH PENALTY WHERE A PERSON HAS BEEN CONVICTED
18 OF THE CRIME OF MURDER AND UNDER THE CIRCUMSTANCES
19 WHERE THERE IS AN ADDITIONAL AGGRAVATING
20 CIRCUMSTANCE PROVEN, THE STATE MAY SEEK THE DEATH
21 PENALTY THAT IS A DECISION, HOWEVER, THAT A JURY
22 WILL MAKE, DEPENDING UPON THAT JURY'S VIEW OF ALL OF
23 THE EVIDENCE THAT WILL BE RECEIVED DURING THE COURSE
24 OF THE TRIAL SO IT IS THE JURY'S DECISION TO
25 DETERMINE WHETHER OR NOT THE GUILT OF THE DEFENDANT

1 HAS BEEN PROVEN, AND IF SO, WHAT THE APPROPRIATE
2 FORM OF PUNISHMENT SHOULD BE

3 NOW, WE WILL BE SELECTING A NUMBER
4 OF JURORS TO PARTICIPATE THERE WILL BE TWELVE
5 ACTUAL JURORS THAT WILL DECIDE THE CASE, THERE WILL,
6 ALSO, BE ALTERNATE JURORS SELECTED TO TAKE THE PLACE
7 OF ONE OF THE ORIGINAL TWELVE IN THE EVENT THAT ONE
8 OF THOSE ORIGINAL TWELVE CANNOT CONTINUE TO SERVE
9 FOR SOME REASON, IF SOME EMERGENCY WOULD ARISE

10 NOW, THE PURPOSE OF THE JURY IS TO
11 BE ABLE TO LISTEN CAREFULLY TO ALL OF THE EVIDENCE
12 PRESENTED AND BASED UPON THE JURY'S CONSIDERATION OF
13 THAT EVIDENCE, TO DECIDE WHETHER OR NOT A PERSON HAS
14 BEEN PROVEN GUILTY AND, IF SO, IN THIS PARTICULAR
15 CASE, TO DECIDE WHAT THE APPROPRIATE SENTENCE OR
16 PUNISHMENT SHOULD BE

17 NOW, WE'RE GOING TO BE ASKING A
18 NUMBER OF QUESTIONS OF YOU COLLECTIVELY AND THE
19 PURPOSE OF ASKING THESE QUESTIONS IS TO SIMPLY
20 DETERMINE WHETHER OR NOT THERE IS SOME BIAS,
21 PREJUDICE OR INTEREST OR SOME REASON WHY YOU SHOULD
22 NOT BE SELECTED TO SERVE IN THE TRIAL OF THIS
23 PARTICULAR CASE AS I INDICATED, AS THESE QUESTIONS
24 ARE ASKED, IF YOU NEED TO RESPOND, I'M GOING TO
25 SIMPLY ASK THAT YOU PLEASE STAND I'M NOT ASKING

1 FOR ANY PARTICULAR STATEMENT AT THIS TIME I SIMPLY
2 NEED FOR YOU TO STAND AND GIVE US YOUR NAME AND YOUR
3 JUROR NUMBER, IF YOU ARE NEEDING TO RESPOND TO THAT
4 QUESTION

5 AFTER I HAVE ASKED THE QUESTIONS OF
6 YOU COLLECTIVELY, WE WILL BE ASKING SOME INDIVIDUAL
7 QUESTIONS OF EACH OF YOU REGARDING CERTAIN MATTERS
8 BEFORE WE BEGIN WITH JURY SELECTION THOSE
9 INDIVIDUAL QUESTIONS WILL BE TAKING PLACE TOMORROW
10 AND IT WILL BE DONE PURSUANT TO A SCHEDULE

11 IN OTHER WORDS, YOU WILL BE ASKED
12 TO COME BACK AT A PARTICULAR HOUR WE WILL TRY TO
13 SCHEDULE ONLY A CERTAIN NUMBER OF YOU PER HOUR SO
14 THAT THERE WILL NOT BE ANY HARDSHIP OR INCONVENIENCE
15 POSED ON THE REST OF YOU BY HAVING TO SIMPLY SIT
16 HERE WHILE WE ACCOMPLISH THAT PROCESS SO ONCE WE
17 CONCLUDE ASKING THESE QUESTIONS OF THE ENTIRE PANEL,
18 WE WILL THEN BE MAKING THAT DRAWING TO SCHEDULE YOU
19 FOR INDIVIDUAL QUESTIONING LATER TOMORROW

20 NOW, FIRST OF ALL, AS I INDICATED
21 TO YOU, THE TWO INDIVIDUALS THAT THE STATE ALLEGES
22 WERE KILLED BY A COURSE OF CONDUCT OF THE DEFENDANT
23 ARE TESHEKA LANYRA JACKSON AND LUEVINIA H HARRIS
24 THEY ALLEGE THIS INCIDENT OR THESE INCIDENTS
25 OCCURRED ON DECEMBER THE 4TH OF 1995 IS THERE ANY

1 MEMBER OF THE JURY PANEL WHO IS RELATED BY BLOOD OR
2 WHO IS CONNECTED BY MARRIAGE OR WHO HAD OR HAD ANY
3 CLOSE, PERSONAL RELATIONSHIP OF ANY TYPE WITH EITHER
4 OF THOSE TWO PERSON IDENTIFIED AS VICTIMS IN THE
5 INDICTMENT, OR ANY MEMBER OF THEIR RESPECTIVE
6 FAMILIES THE JACKSON FAMILY OR THE HARRIS FAMILY
7 AND SOME OF THOSE MEMBERS ARE SEATED HERE AT THE
8 DESK WITH THE PROSECUTOR IS THERE ANY MEMBER OF
9 THE JURY PANEL WHO HAS OR HAD ANY CONNECTION WITH
10 THE JACKSON OR THE HARRIS FAMILY IF SO, PLEASE
11 STAND ANYONE ELSE WHO HAD ANY CONNECTION WITH THE
12 JACKSON OR HARRIS FAMILY?

13 (JURORS STAND)

14 THE COURT PLEASE REMAIN STANDING
15 BECAUSE I NEED TO GET YOUR NAME AND YOUR NUMBER, OF
16 COURSE ANYONE ELSE? ALL RIGHT LET ME START OVER
17 HERE YOUR NAME AND YOUR JUROR NUMBER, PLEASE

18 JUROR TWO EIGHT-FIVE

19 THE COURT YOUR NAME?

20 JUROR DOROTHY ROUSEY

21 THE COURT WHAT IS THE CONNECTION
22 MS ROUSEY?

23 JUROR I WORK WITH ONE OF THE
24 WOMEN THAT GOT KILLED'S, DAUGHTER

25 THE COURT YOU WORKED OR YOU WORK

1 WITH EITHER MS JACKSON OR MS HARRIS'S DAUGHTER?
2 JUROR YES
3 THE COURT AND WHAT'S HER NAME?
4 JUROR PEACHY?
5 THE COURT MA'AM?
6 JUROR PEACHY
7 THE COURT HER LAST NAME WHAT IS
8 HER LAST NAME?
9 JUROR JACKSON
10 THE COURT PEACHY JACKSON OKAY,
11 THANK YOU, MA'AM YOU MAY BE SEATED YES, MA'AM
12 JUROR MY NAME'S WILLIE MAE
13 BELTON I WORKED WITH TESHEKA JACKSON'S FATHER
14 THE COURT JUROR NUMBER TWO
15 TWENTY-EIGHT YOU WORKED WITH LUEVINIA?
16 JUROR NO --
17 THE COURT TESHEKA JACKSON'S
18 FATHER
19 JUROR YES
20 THE COURT AND HIS NAME?
21 JUROR NEAL JACKSON
22 THE COURT AND WHERE IS THAT?
23 WHERE DO YOU WORK WITH HIM?
24 JUROR WE WORK FOR A BIB COMPANY
25 THE COURT ALL RIGHT THANK YOU,

1 BE SEATED YES, SIR

2 JUROR MY NAME'S JOHN COBRIN,

3 THREE ZERO SEVEN THEY'RE A NEIGHBOR OF MINE

4 THE COURT WHO IS A NEIGHBOR OF

5 YOURS?

6 JUROR BOTH PARTIES

7 THE COURT WHICH PARTIES ARE YOU

8 REFERRING TO?

9 JUROR HARRIS AND HUGHEY

10 THE COURT HARRIS'S AND THE

11 HUGHEY'S?

12 JUROR YES

13 THE COURT YOU'RE FAMILIAR WITH

14 BOTH OF THEIR FAMILIES?

15 JUROR UM-HMM

16 THE COURT THANK YOU YOU MAY BE

17 SEATED YES, SIR

18 JUROR TOMMY TURMAN

19 THE COURT TURMAN?

20 JUROR TWO NINETY-ONE

21 THE COURT HOW IS THAT RELATED TO

22 YOU, MR TURMAN?

23 JUROR I WORKED ANTHONY JACKSON

24 THE COURT YOU WORKED WITH ANTHONY

25 JACKSON?

1 JUROR HARRIS

2 THE COURT ANTHONY AND HARRIS AND
3 WHO?

4 JUROR WE'RE IN THE NATIONAL GUARD
5 TOGETHER

6 THE COURT YOU'RE IN THE NATIONAL
7 GUARD TOGETHER THANK YOU, SIR, YOU MAY BE SEATED
8 ANYONE ELSE?

9 IS THERE ANY MEMBER OF THE JURY
10 PANEL WHO IS RELATED BY BLOOD OR CONNECTED BY
11 MARRIAGE OR HAS ANY CLOSE, PERSONAL OR SOCIAL
12 RELATIONSHIP WITH THE DEFENDANT, MR HUGHEY OR ANY
13 MEMBER OF HIS FAMILY IF SO, PLEASE STAND
14 (JUROR STANDS)

15 THE COURT YOUR NAME, PLEASE, SIR?

16 JUROR THREE TEN

17 THE COURT AND WHAT CONNECTION?

18 JUROR I USED TO HAVE JOHN WASH MY
19 TRUCK AND BOATS HE WOULD KEEP IT CLEAN
20 PERIODICALLY

21 THE COURT THANK YOU, SIR YOU
22 MAY BE SEATED YES, MA'AM

23 JUROR LONDON, TWO SEVENTY
24 JOHN HENRY IS MY SECOND COUSIN

25 THE COURT YOUR SECOND COUSIN

1 OKAY, THANK YOU YOU MAY BE SEATED WAS IT MR
2 COVIN WHO, ALSO, KNEW MR HUGHEY? MR COVIN, WAS IT
3 YOU THAT ALSO KNEW MR HUGHEY, IN ADDITION TO THE
4 JACKSON --

5 JUROR YES, SIR I KNOW BOTH
6 PARTIES

7 THE COURT THANK YOU, SIR IS
8 THERE ANY MEMBER OF THE JURY PANEL WHO HAS ANY TYPE
9 OF PERSONAL OR PROFESSIONAL RELATIONSHIP WITH ANY OF
10 THE LAWYERS INVOLVED IN THE CASE THOSE WOULD BE --
11 MR GARRITY'S BEEN INTRODUCED, MR TINSLEY HAS BEEN
12 INTRODUCED, AND MR McCALLUM WHO IS ALSO SEATED AT
13 THE DEFENSE TABLE, SOLICITOR JONES AND DEPUTY
14 SOLICITOR COULTER OR ANY OTHER EMPLOYEE IN THE
15 EIGHTH JUDICIAL CIRCUIT SOLICITOR'S OFFICE IF SO,
16 PLEASE STAND
17 (JURORS STAND)

18 THE COURT YOUR NAME, PLEASE

19 JUROR I'M THREE TWENTY-FOUR
20 TOWNES WAS MY WIFE'S LAWYER WHEN WE GOT A DIVORCE

21 THE COURT TOWNES WAS YOUR WIFE'S
22 LAWYER WHEN SHE GOT A DIVORCE FROM YOU?

23 JUROR NO, SIR

24 THE COURT FROM SOMEONE ELSE?

25 JUROR YES, SIR

1 THE COURT THANK YOU, SIR YES,
2 SIR

3 JUROR GARY DEFENDED --

4 THE COURT I'M SORRY?

5 JUROR GARY DEFENDED MY WIFE IN A
6 DUI CASE

7 THE COURT AND YOUR NAME, AGAI,
8 PLEASE

9 JUROR JIMMY GAINNEY

10 THE COURT GAINNEY THANK YOU,
11 SIR ANYONE ELSE? LET ME ASK IF THERE'S ANY MEMBER
12 OF THE JURY PANEL WHO HAS BEEN EXPOSED TO ANY TYPE
13 OF MEDIA COVERAGE THAT RELATES TO THIS PARTICULAR
14 CASE, WHETHER IT BE RADIO OR TELEVISION OR NEWSPAPER
15 ARTICLES IF YOU'VE BEEN EXPOSED TO ANY TYPE OF
16 MEDIA COVERAGE, I WOULD ASK THAT YOU, PLEASE, STAND
17 (JURORS STAND)

18 JUROR NOW OR --

19 THE COURT AT ANY TIME SIR?

20 JUROR I READ ABOUT IT IN THE
21 PAPER AND ALL

22 THE COURT WELL, THAT'S WHAT I'M
23 ASKING IF YOU'VE HAD ANY TYPE OF EXPOSURE TO
24 MEDIA, WHETHER IT BE TELEVISION, RADIO OR NEWSPAPER,
25 I'M ASKING THAT YOU, PLEASE, STAND

1 JUROR I READ ABOUT IT IN THE
2 PAPER AND I WAS IN TOWN ABOUT THE TIME IT ALL
3 HAPPENED

4 THE COURT THANK YOU, SIR I JUST
5 NEED YOU TO TELL ME THAT YOU HAVE AND YOU CAN TELL
6 ME IF IT'S TELEVISION, RADIO OR NEWSPAPER OR ALL AND
7 THAT'S ALL I NEED TO KNOW YES, SIR GIVE ME YOUR
8 NUMBERS AGAIN WHEN YOU GO AROUND

9 JUROR THREE TEN NEWSPAPER AND
10 TELEVISION

11 THE COURT ALL RIGHT, SIR

12 JUROR NEWSPAPER AND TELEVISION

13 THE COURT NEWSPAPER AND RADIO?

14 JUROR TELEVISION

15 THE COURT YES, MA'AM

16 JUROR TWO TWENTY-EIGHT, NEWSPAPER
17 AND TELEVISION

18 THE COURT YOU'RE TWO TWENTY-
19 EIGHT?

20 JUROR TWO TWENTY-EIGHT

21 THE COURT YES, MA'AM

22 JUROR THREE NINETEEN NEWS AND
23 TV

24 THE COURT YES, SIR

25 JUROR TWO THIRTY-SEVEN,

1 NEWSPAPER

2 THE COURT YES, MA'AM

3 JUROR TWO THIRTY-SEVEN,

4 NEWSPAPER, TV

5 THE COURT THIRTY THIRTY --

6 JUROR SEVEN

7 THE COURT YES, SIR

8 JUROR TWO SIXTEEN NEWS AND

9 TELEVISION

10 THE COURT OKAY, THANK YOU

11 JUROR TWO THREE EIGHT, NEWSPAPER

12 AND TELEVISION

13 THE COURT TWO THIRTY EIGHT?

14 JUROR UM-HMM

15 THE COURT THANK YOU

16 JUROR TWO NINETY THREE

17 THE COURT TWO NINETY THREE?

18 THANK YOU

19 JUROR THREE ZERO NINE, NEWSPAPER

20 THE COURT THANK YOU YES, MA'AM

21 JUROR TWO SEVENTY-FOUR, TV AND

22 NEWSPAPER

23 THE COURT THANK YOU, SIR

24 JUROR NINETEEN, TV

25 THE COURT NINETEEN?

1 JUROR NINETEEN

2 THE COURT ANYONE ELSE WHO'S BEEN

3 EXPOSED TO ANY TYPE OF MEDIA COVERAGE? I'M GOING TO

4 CITE A LIST OF POTENTIAL WITNESSES THIS DOES NOT

5 MEAN THAT ALL THESE WITNESSES WILL BE CALLED IT

6 SIMPLY MEANS THAT THEY HAVE THE POTENTIAL THAT SOME

7 OR ALL MAY BE CALLED AND THE PURPOSE OF ME CALLING

8 OUT THE LIST IS TO SIMPLY FIND OUT WHETHER OR NOT

9 ANY JUROR HAS ANY TYPE OF PERSONAL OR PROFESSIONAL

10 OR KINSHIP TO ANY OF THESE POTENTIAL WITNESSES SO

11 IF YOU DO HAVE SUCH A RELATIONSHIP, STAND AS THE

12 WITNESSES NAME IS CALLED PLEASE REMAIN STANDING

13 UNTIL I COMPLETE THE ENTIRE LIST AND THEN I'LL ASK

14 YOU TO TELL ME WHICH WITNESS THAT YOU HAVE ANY TYPE

15 OF RELATIONSHIP WITH

16 IF THE WITNESS IS PRESENT, PLEASE

17 STAND SO THE JURY CAN SEE WHO YOU ARE MARCUS

18 HARRIS, NEAL HENDERSON, ABBEVILLE PUBLIC -- P D

19 POLICE DEPARTMENT, BERNICE JACKSON, ANGELA

20 PATTERSON, ABBEVILLE POLICE DEPARTMENT, MACK HARRIS,

21 NEAL JACKSON, DR BRETT WOODARD, BARRY NEW,

22 ABBEVILLE P D , DR MARY BETH SHEA, MITCH

23 CHRISTOPHER, ABBEVILLE P D , CHARLETON COXE,

24 ABBEVILLE P D , DAVID BLACK, S L E D , JOHN BLACK,

25 S L E D , LINDA BROOME, FIRST CITIZENS BANK, MICHAEL

1 ADAMS, JIM EMMONS, ANTHONY HARRISON, JEFF
2 STRICKLAND, HALL COUNTY SHERIFF'S DEPARTMENT, DAN
3 DeFREEZE, S L E D , DALE LONG, J N WIMPY, EDDIE
4 REAVES, KEVIN HEAD, ALL THE HALL COUNTY SHERIFF'S
5 DEPARTMENT, DEMI JONES, S L E D , JOHN ORTUNO, EDDIE
6 CLARK, JERRY SLOAN, ALL OF S L E D , ROBIN RUCKER,
7 CHIEF OF ABBEVILLE POLICE DEPARTMENT, NANCY SKRABA
8 AND LAURI JOHNSON FROM S L E D , DR LINWOOD ZOLLER,
9 KEN GROGAN, HALL COUNTY SHERIFF'S DEPARTMENT, DR
10 GEOFF McKEE, BILLY ROBERTS, HALL COUNTY SHERIFF'S
11 DEPARTMENT, NANCY GOFF, NATIONS BANK, KENNY ELLIOT,
12 ALCOHOL, TOBACCO AND FIREARM DIVISION, SUSAN BROOKS,
13 DICK BROOKS MITSUBISHI, DR KATHERINE LEWIS, DR
14 JAMES EVANS, JEFF YOUNGMAN, PAIGE TARR, DONALD C
15 GURNT, JOHN HUGHEY, GLORIA HARRISON, TONY WILSON,
16 CHRIS BURTON, KENNY TUCKER, JAMES BOWIE, DOROTHY
17 HUGHEY, SCOTT HARRISON, DR HAL MORGAN, RUBY WHITE,
18 NANCY RAMIE, BARBARA HUGHEY, ANNIE RUTH WHITE,
19 VIRGINIA CRAWFORD AND JUDY WHITE ANY OTHER
20 WITNESSES FOR EITHER SIDE?

21 MR TINSLEY POSSIBLY, DONNIE
22 WHITE, YOUR HONOR

23 THE COURT AND, POSSIBLY, DONNIE
24 WHITE CHUCK SWEZEY AND BILL JACKSON, ALSO DICK
25 BROOKS MITSUBISHI

1 AS I INDICATED TO YOU -- ARE THERE
2 ANY OTHER QUESTIONS TO BE ASKED BY THE STATE?

3 MR JONES NO, YOUR HONOR
4 THE COURT ANY OTHER QUESTIONS BY
5 THE DEFENSE?

6 MR TINSLEY NO, YOUR HONOR
7 THE COURT ALL RIGHT, LADIES AND
8 GENTLEMEN, THAT IS ALL THE QUESTIONS THAT WE HAVE
9 FOR YOU RIGHT NOW SO FAR AS THE COLLECTIVE
10 QUESTIONING IS CONCERNED AS I INDICATED TO YOU, WE
11 WILL BE ASKING YOU INDIVIDUAL QUESTIONS OR THAT IS
12 ASKING YOU QUESTIONS INDIVIDUALLY ONLY ONE OF YOU
13 JURORS WILL BE IN THE COURTROOM AT A TIME I WILL
14 HAVE QUESTIONS FOR YOU, THE LAWYERS MAY HAVE SOME
15 ADDITIONAL WE'RE GOING TO SCHEDULE YOU TO COME
16 BACK BEGINNING IN THE MORNING TO BEGIN WITH THOSE
17 QUESTIONS WE WILL BEGIN AT 8 30 IN THE MORNING, WE
18 WILL TRY TO SCHEDULE A CERTAIN NUMBER PER HOUR UNTIL
19 WE'VE HAD OPPORTUNITY TO DISCUSS WITH YOU THOSE
20 ITEMS THAT WE NEED TO DISCUSS

21 SO, RIGHT NOW, THE CLERK IS GOING
22 TO TAKE ALL YOUR NAMES AND SHE'S GOING TO DRAW THOSE
23 NAMES OUT AND SHE'S GOING TO PLACE THEM ON A LIST
24 AND THEN WE WILL, IN JUST A FEW MOMENTS, INFORM YOU
25 AS TO WHEN WE ASK THAT YOU COME BACK FOR THAT

1 INDIVIDUAL VOIR DIRE SO, AGAIN, PLEASE BE PATIENT,
2 BE UNDERSTANDING, WE'LL TRY TO ACCOMPLISH THAT JUST
3 AS SOON AS WE CAN

4 MR TINSLEY YOUR HONOR, PLEASE
5 NOTE OUR PRIOR MOTION AND MAY WE APPROACH VERY
6 BRIEFLY?

7 (COUNSEL APPROACH THE BENCH)

8 THE COURT LADIES AND GENTLEMEN,
9 AS I SAY, PLEASE BE PATIENT WITH US WHILE THE CLERK
10 PREPARES THAT LIST IT SHOULD TAKE ONLY A FEW
11 MOMENTS AND THEN WE'LL BE BACK TO GIVE YOU YOUR
12 TIME

13 I HAVE MR GAINNEY THAT HAS A
14 SPECIFIC CIRCUMSTANCE THAT MIGHT CAUSE A PROBLEM
15 MR GAINNEY, CAN YOU COME BACK TOMORROW EVENING AT
16 6 15, IS THAT GOING TO CAUSE A PROBLEM FOR YOU?

17 JUROR NO PROBLEM

18 THE COURT THAT WILL WORK?

19 JUROR YES, SIR AM I GOING TO BE
20 ABLE TO GO TO THE FUNERAL HOME, I WAS SUPPOSED TO
21 HAVE BEEN THERE AT 7 00

22 THE COURT YOU'RE GOING RIGHT NOW

23 JUROR YES

24 THE COURT IF YOU CAN BE BACK AT
25 6 15 TOMORROW, I'M GOING TO EXCUSE YOU RIGHT NOW

1 OKAY? ALL RIGHT, THANK YOU JUST COME BACK AT 6 15
2 TOMORROW EVENING THANK YOU FOR YOUR PATIENCE

3 MR ELLIS, YOU'VE GOT A PROBLEM
4 RIGHT NOW

5 JUROR YES, SIR

6 THE COURT LET'S SEE WHERE YOU ARE
7 ON THE LIST YOU'RE WEDNESDAY MORNING AT 8 30 YOU
8 CAN BE EXCUSED RIGHT NOW, IF YOU LIKE WEDNESDAY
9 MORNING AT 8 30 CONTINUE ABIDING BY THE CAUTION
10 GIVEN IN THE INSTRUCTION IN THE LETTER DON'T
11 DISCUSS THE CASE OR ALLOW YOURSELF TO BE EXPOSED TO
12 MEDIA COVERAGE WHO ELSE HAD A SPECIFIC PROBLEM
13 THAT NEEDED TO BE ADDRESSED? MS BOWIE, YOU HAD AN
14 APPOINTMENT IN THE MORNING?

15 JUROR YEAH, AT 10 15

16 THE COURT AND WHAT TIME COULD YOU
17 BE BACK HERE AFTER THAT?

18 JUROR I DON'T KNOW HOW LONG THEY
19 ARE GOING TO TAKE ME

20 THE COURT DO YOU THINK YOU COULD
21 BE BACK HERE AT 4 15? BY 4 15 TOMORROW AFTERNOON

22 JUROR YES

23 THE COURT ALL RIGHT, IF YOU'LL
24 COME BACK AT 4 15, WE'LL SEE YOU THEN

25 NOW, THESE ARE THE OTHERS

1 BEGINNING IN THE MORNING AT 9 30, BEGINNING AT 9 30
2 IN THE MORNING SHIRLEY MCKENZIE, NUMBER TWO
3 SEVENTY-EIGHT LET ME ASK YOU TO STAND WHEN YOU
4 HEAR YOUR NAME CALLED TWO SEVENTY-EIGHT, SHIRLEY
5 MCKENZIE AT 9 30 IN THE MORNING, MARGARET CADE,
6 NUMBER THIRTY-FOUR, 9 30 IN THE MORNING, CANDACE
7 CHARPING, NUMBER TWO THIRTY-SEVEN, 9 30 IN THE
8 MORNING REMEMBER -- KEEP IN MIND THE INSTRUCTION,
9 DO NOT DISCUSS THE CASE, DO NOT ALLOW YOURSELF TO BE
10 EXPOSED TO ANY TYPE OF MEDIA COVERAGE YOU MAY BE
11 EXCUSED, WE'LL SEE YOU AT 9 30 IN THE MORNING
12 THANK YOU

13 (JURORS DO AS REQUESTED)

14 LET ME TELL ALL OF YOU BEFORE I
15 EXCUSE YOU YOU'RE ALL TO FOLLOW THE INSTRUCTION AS
16 I'VE INDICATED YOU'RE NOT TO DISCUSS THE CASE IN
17 ANY FASHION WITH ANY PERSON, ALLOW NO ONE TO DISCUSS
18 IT WITH YOU AND DO NOT ALLOW YOURSELF TO BE EXPOSED
19 TO ANY MEDIA COVERAGE

20 10 30 IN THE MORNING 10 30 IN THE
21 MORNING, SUSAN MCCAULEY, NUMBER TWO SEVENTY-FIVE,
22 TYRONNE PEARSON, NUMBER THREE TWENTY, CHAUNCEY COVIN
23 NUMBER THREE ZERO SEVEN 10 30 IN THE MORNING, YOU
24 MAY BE EXCUSED

25 (JURORS DO AS REQUESTED)

1 AT 11 45 TOMORROW, DOROTHY ROUSEY,
2 NUMBER TWO EIGHT-FIVE, CARLOS D BROWN, NUMBER THREE
3 ZERO FIVE, AND THOMAS A SUTHERLAND, NUMBER THREE
4 TWENTY-FOUR AT 11 45 TOMORROW EACH OF YOU MAY BE
5 EXCUSED UNTIL THEN
6 (JURORS DO AS REQUESTED)

7 AT 2 00 TOMORROW AFTERNOON, LINDA
8 McELRATH NUMBER THREE NINETEEN, WILLIE BELTON,
9 NUMBER TWO TWENTY-EIGHT, JAMES R LEE, NUMBER TWO
10 SIXTY-EIGHT YOU THREE BE BACK AT 2 00 O'CLOCK
11 TOMORROW AFTERNOON THANK YOU
12 (JURORS DO AS REQUESTED)

13 3 00 CHANDALL BOGGS, HAYWARD BLACK
14 --

15 MR TINSLEY NUMBERS PLEASE, YOUR
16 HONOR

17 THE COURT EXCUSE ME CHANDALL
18 BOGGS NUMBER TWO THIRTY-EIGHT, HAYWARD BLACK, JR ,
19 NUMBER THREE ZERO THREE, AND JENNIFER PIERCE NUMBER
20 THREE TWENTY-TWO EACH OF YOU NEED TO REPORT AT
21 3 00 P M TOMORROW AFTERNOON
22 (JURORS DO AS REQUESTED)

23 4 15 TOMORROW AFTERNOON, LUCIOUS
24 PARNELL NUMBER TWO EIGHTY-TWO, JAMES L FREEMAN,
25 NUMBER TWO FORTY-NINE, AND GLORIA BOWIE IS ALSO AT

1 4 15

2 (JURORS DO AS REQUESTED)

3 5 15 TOMORROW AFTERNOON, AUBREY

4 BANNISTER, TWO TWENTY-SEVEN, TOMMY TURMAN, TWO

5 NINETY-ONE, BESSIE BRUCE, TWO THIRTY-TWO 5 15

6 TOMORROW AFTERNOON, OKAY

7 (JURORS DO AS REQUESTED)

8 6 15 TOMORROW EVENING, CALVIN

9 WASHINGTON, TWO NINETY-THREE, CHRISTOPHER MACK,

10 THREE SEVENTEEN, SARAH P FREEMAN, TWO FIFTY-ONE

11 THAT'S AT 6 15 TOMORROW EVENING

12 (JURORS DO AS REQUESTED)

13 WEDNESDAY MORNING AT 8 30, GARY L

14 ELLIS HE'S GONE NUMBER THREE TEN BOBBY S

15 CUTTER, NUMBER THREE ZERO NINE, RICHARD E BURTON,

16 TWO THIRTY-FOUR, MAMIE L LONDON, TWO SEVEN ZERO

17 BE BACK 8 30 WEDNESDAY MORNING THANK YOU FOR YOUR

18 PATIENCE

19 (JURORS DO AS REQUESTED)

20 THE COURT ANY OTHER MATTERS WE

21 NEED TO ADDRESS BEFORE WE RECESS?

22 MR GARRETT VERY QUICKLY, YOUR

23 HONOR THE COURT MADE SOME CHANGES IN THE ORDER OF

24 QUALIFICATION TO ASSIST ON SCHEDULING

25 THE COURT THAT'S RIGHT

1 MR GARRETT NOT ONLY IN THIS POOL
2 BUT IN THE PRIOR POOL WHEN WE GO TO SEAT JURORS OR
3 IMPANEL JURORS, ARE WE GOING TO USE THE ORDER THEY
4 WERE DRAWN IN?

5 THE COURT THE ORIGINAL ORDER OF
6 DRAWING IS HOW THE JURORS WILL BE SELECTED WE HAVE
7 SIMPLY TRIED TO ACCOMMODATE SOME JURORS PERSONAL
8 SCHEDULE, BUT THEY WILL NOT -- THEIR ORDER OF
9 SELECTION WILL NOT CHANGE

10 MR GARRETT WE JUST WANTED TO BE
11 CLEAR ON THAT, YOUR HONOR

12 MR JONES JUDGE, AS FAR AS THAT
13 POINT IS CONCERNED, I ONLY HAVE ONE JUROR WHO WAS
14 TAKEN OUT OF ORDER IN THE FIRST TWENTY-TWO AM I
15 INCORRECT THERE, THE FIRST TWENTY-TWO SELECTED?

16 THE COURT WELL, I THINK THERE
17 MIGHT HAVE BEEN TWO

18 MR COULTER HESSON AND WHICH ONE?

19 THE COURT HESSON AND LOTHBRIDGE

20 MR COULTER LOTHBRIDGE, YES

21 MR JONES WHERE WAS HESSON BEFORE

22 --

23 THE COURT HESSON WAS -- I THINK
24 HE WAS NEXT TO LAST AND WE MOVED HIM INTO
25 LOTHBRIDGE'S PLACE AND MOVED LOTHBRIDGE TO THE NEXT

1 DAY WHAT WE DID WAS, MS LOTHBRIDGE WAS ORIGINALLY
2 SCHEDULED -- ORIGINALLY DRAWN AS JUROR NUMBER
3 NINETEEN BUT SHE COULD NOT COME ON SATURDAY OR
4 SUNDAY WE MOVED HER VOIR DIRE TO MONDAY MORNING AT
5 8 30 AND MR HESSON WAS ORIGINALLY DRAWN AS JUROR
6 NUMBER FORTY-SEVEN WHICH WOULD HAVE PUT HIM ON
7 MONDAY, WE ALLOWED HIM TO COME BACK ON SATURDAY AT
8 4 00 SO THOSE TWO WERE VOIR DIRED IN A DIFFERENT
9 ORDER THAN THEY WERE DRAWN, BUT I HAVE THE ORDER
10 THAT THEY WERE DRAWN IN MS LOTHBRIDGE WAS NUMBER
11 NINETEEN AND MR HESSON WAS NUMBER FORTY-SEVEN
12 MR JONES ALL RIGHT, SIR SO IN
13 THE --
14 THE COURT DO YOU UNDERSTAND?
15 MR JONES YES, SIR, I DO
16 THE COURT IN OTHER WORDS, THEY
17 WERE QUALIFIED IN A DIFFERENT SLOT THAN THEY WERE
18 SELECTED BUT THEY'LL BE MOVED BACK TO THEIR ORIGINAL
19 POSITION IN ORDER THEY'RE DRAWN
20 MR JONES SO THAT MEANS THAT MR
21 -- I'M JUST ASKING YOU HERE WAS MR HESSON BEFORE
22 WILLIAM JONES OR AFTER WILLIAM JONES? WILLIAM JONES
23 BEING THE LAST PERSON QUALIFIED TODAY, THE LAST
24 PERSON DRAWN HE WAS FORTY-EIGHT, SO HESSON WAS
25 BEFORE HIM FORTY-SEVEN?

1 THE COURT YEAH MR JONES WAS
2 THE LAST PERSON DRAWN, HE WAS FORTY-EIGHT, MR
3 HESSON WAS NUMBER FORTY-SEVEN SO MR JONES WAS
4 QUALIFIED IN THE TWENTY-EIGHT SLOT, SO FAR MR
5 HESSON WAS QUALIFIED IN THE ELEVENTH SLOT BUT HE'S
6 ACTUALLY NUMBER FORTY-SEVEN

7 MR JONES OR NUMBER TWENTY-SEVEN
8 IN QUALIFICATION TERMS?

9 THE COURT WELL, NO, HE WAS
10 QUALIFIED AS THE ELEVENTH JUROR, ELEVENTH QUALIFIED
11 JUROR

12 MR JONES YES, SIR, BUT WHEN WE
13 GO TO DRAWN THE JURY --

14 THE COURT HE'S NUMBER TWENTY-
15 SEVEN, THAT'S RIGHT

16 MR JONES ALL RIGHT, SIR

17 THE COURT IS EVERYBODY CLEAR ON
18 THAT?

19 MR McCALLUM YES, THE DEFENSE IS
20 CLEAR

21 MR TINSLEY AND I DON'T THINK WE,
22 ACTUALLY, CHANGED ANY TODAY, DID WE?

23 THE COURT YEAH, WE DID, WE
24 CHANGED TWO WE ALLOWED MS BOWIE TO -- SHE WAS
25 CHANGED SO SHE COULD GO TO A DOCTOR'S APPOINTMENT

1 MR GAINNEY WAS CHANGED SO THAT HE COULD GO TO A
2 FUNERAL

3 MR TINSLEY OKAY

4 THE COURT SOUTHERLAND WAS MOVED
5 UP TO TAKE ONE OF THOSE PLACES WE HAVE THE
6 ORIGINAL SELECTION LIST AND YOU'LL BE GIVEN A COPY
7 OF IT

8 R JONES YOU ASKED IF THERE WAS ANYTHING ELSE THAT
9 WE MIGHT TAKE UP AT THIS POINT IN TIME AND I'M
10 JUST MENTIONING TO YOU THAT IF YOU FEEL A NEED TO
11 HEAR FROM THE STATE CONCERNING OUR POSITION ON
12 DEFENSE'S MOTION TO QUASH THE VENIRE OF ALL THREE
13 PANELS OF THE JURY IN THIS INSTANCE BASED ON ANY
14 TECHNICAL --

15 THE COURT WELL, I DO WANT TO HEAR
16 YOU ON THAT POINT, IF YOU WISH TO BE HEARD

17 MR JONES ALL RIGHT, SIR, WE DO
18 WE CAN BE HEARD NOW OR IN THE MORNING

19 THE COURT LET'S DO THAT RIGHT
20 NOW

21 MR JONES MR COULTER'S GOING TO
22 ARGUE OUR POSITION

23 MR COULTER YOUR HONOR, I'LL TRY
24 TO ADDRESS, AS I UNDERSTAND IT, THERE WERE THREE
25 OBJECTIONS JUST BEFORE LUNCH THE FIRST ONE WAS

1 THAT SECOND 14-7-220 NOT BEING COMPLIED WITH THAT
2 IS THE TEN DAYS NOTICE AND SO FORTH I BELIEVE THAT
3 WAS THE FIRST ONE THEY PRESENTED AND IN READING
4 THE CASE NOTES FROM THAT SECTION, THE FIRST THING I
5 SEE IS AN ATTORNEY GENERAL'S OPINION AS QUOTED WHICH
6 STATES FAILURE TO GIVE THE STATUTORY TEN DAYS NOTICE
7 PRIOR TO PUBLIC DRAWING OF THE JURY, DOES NOT FAVOR
8 BUT IS A MERE IRREGULARITY AND IT IS IN THE
9 DISCRETION OF THE COURT WHETHER THE VENIRE SHALL BE
10 QUASHED

11 FURTHER IT GOES IN THOSE CASE
12 NOTES, IT TALKS ABOUT A CASE OF STATE VS SMITH
13 WHEREIN IT SAYS STATUTE CAN PRESCRIBE THE TIME AND
14 MANNER OF DRAWING JURORS OR DIRECTORY AND THE VENIRE
15 WILL NOT BE QUASHED FOR MERE IRREGULARITIES
16 LOOKING TOWARDS THAT CASE STATE VS SMITH, IT WAS A
17 1942 CASE, THE SUPREME COURT STATED THAT OUR COURT
18 HAD BEEN LIBERAL IN HOLDING THAT THE PROVISIONS AS
19 TO THE DRAWING AND SUMMONING OF JURORS ARE USUALLY
20 DIRECTORY ONLY AND NOT MANDATORY IRREGULARITIES IN
21 THE LISTING, DRAWING AND SUMMONING OF JURORS MAY
22 OFTEN BE WAIVED AND EVEN IF NOT, ARE NOT OF
23 THEMSELVES ACT SO PREJUDICIALLY TO REQUIRE THE
24 QUASHING OF A VENIRE, THE COURT WILL WARRANT THE
25 COURT IN SETTING ASIDE A JUDGMENT BASED UPON A

1 FINDING OR VERDICT OF THE JURY IRREGULARLY DRAWN
2 STATUTE WOULD PRESCRIBE THE TIMELY MANNER OF DRAWN
3 JURORS OR DIRECTORY AND A VENIRE WOULD NOT BE
4 QUASHED FOR MERE IRREGULARITIES

5 THE DEFENDANT HAS -- IN THIS
6 PARTICULAR CASE, THE SUPREME COURT WENT ON TO SAY
7 THE DEFENDANT HAS NOT SHOWN OR ATTEMPTED TO SHOW
8 THAT IT WAS PREJUDICE THERE IS NO SHOWING THAT THE
9 DRAWING WAS NOT HELD AT THE PROPER TIME AND PLACE
10 AND SO FORTH THAT'S EXACTLY WHAT WE HAVE IN THE
11 PRESENT CASE WE'RE TALKING ABOUT THE FIRST PANEL
12 IN AND THE FAILURE TO FOLLOW THE STATUTORY READING
13 OF 14-7-220 THERE'S BEEN ABSOLUTELY NO SHOWING
14 THAT ANY PREJUDICE HAD BEEN SUFFERED BY THE
15 DEFENDANT IN ANY WAY AND, CERTAINLY, WE WOULD
16 ARGUE THAT AGAIN THIS IS ONLY MERELY DIRECTORY AND
17 IT SHOULD NOT BE QUASHED AND IT WOULD BE WITHIN THE
18 DISCRETION OF THE COURT AS TO WHETHER OR NOT
19 SOMETHING SHOULD BE DONE WITH THOSE JURORS,
20 ACTUALLY, ALREADY QUALIFIED AND WE WOULD PRESENT
21 TO THE COURT FURTHER, AGAIN, THAT THE DEFENDANT HAS
22 NOT BEEN PREJUDICED IN ANY WAY

23 THE COURT ALL RIGHT NEXT POINT
24 MR COULTER GOING ON TO THE
25 CALLING OF ADDITIONAL JURORS WHICH IS, I BELIEVE,

1 WAS THEIR SECOND POINT AND THEY QUOTED SECTION 14
2 -- I BELIEVE SECTION 14-7-300 THEY MAY NOT HAVE,
3 BUT NONETHELESS, 14-7-300, I BELIEVE, IS
4 CONTROLLING THAT PARTICULAR SECTION STATES THAT
5 WHENEVER IT IS NECESSARY TO SUPPLY ANY DEFICIENCY IN
6 THE NUMBER OF GRAND OR PETIT JURORS DULY DRAWN,
7 WHETHER QUALIFIED, CHALLENGED OR OTHERWISE, THE JURY
8 COMMISSIONERS UNDER THE DIRECTION OF THE COURT SHALL
9 DRAW FROM THE JURY BOX THE NUMBER OF JURORS AS THE
10 COURT CONSIDERS NECESSARY TO FILL THE DEFICIENCY I
11 GO ON IN THIS PARTICULAR SECTION TO POINT TO THE
12 COURT THE CASE NOTES WHEREIN IT FURTHER STATES THAT
13 DISCRETION OF THE COURT AS TO THE NUMBERS OF JURORS
14 WHERE THERE ARE A GREATER NUMBER OF JURORS THAN IS
15 PRESCRIBED BY THIS SECTION SHALL BE DRAWN IS LEFT TO
16 THE DISCRETION OF THE COURT MEANING, OF COURSE,
17 THAT IF THE COURT FINDS NECESSITY TO DO TO BRING
18 ADDITIONAL JURORS IS LEFT SOLELY WITHIN THE
19 DISCRETION OF THE COURT

20 THIS CASE -- THIS STATUTE, ALSO,
21 GOES FURTHER TO CITE THE ATTORNEY GENERAL'S OPINION
22 -- I'M SORRY, I'M LOOKING AT A DIFFERENT SECTION I
23 GO ONTO SECTION 14-7-310 WHICH IS VENIRES FOR
24 ADDITIONAL JURORS, WHICH STATES, NOTHING CONTAINED
25 IN THIS ARTICLE PREVENTS THE CLERK OF COURT OR THE

1 COURT OF COMMON PLEAS FROM ISSUING VENIRES FOR
2 ADDITIONAL JURORS IN TERM TIME UPON THE ORDER OF THE
3 COURT WHENEVER IT IS NECESSARY FOR THE CONVENIENT
4 DISPATCH OF ITS BUSINESS, AND ANY CASE VENIRE MUST
5 BE SERVED AND RETURNED AND THE JURY'S REQUIRED TO
6 ATTEND IN THE DAYS THE COURT SHALL DIRECT AND THE
7 PURPOSE OF THIS SECTION THAT'S STATED IN THE CASE
8 NOTES IS THAT IT PREVENTS THE DELAY OF THE BUSINESS
9 OF THE COURT THIS SECTION IS INTENDED TO PREVENT
10 DELAY AND INTERRUPTION OF THE BUSINESS OF THE COURT
11 WHICH WOULD ARISE BUT FOR THE POWERS PROVIDED THE
12 RESIDENT JUDGE AND THE COURT

13 SO THE PURPOSE IS TO ALLOW THE
14 COURT TO CONTINUE WITH THE BUSINESS OF THE COURT
15 CALLING CASES WITHOUT DELAY AND WE WOULD ARGUE THAT
16 THAT'S THE SECTION THAT'S CONTROLLING IN CALLING THE
17 ADDITIONAL JURORS

18 THE COURT ANYTHING FURTHER?

19 MR COULTER NO, SIR

20 THE COURT ANYTHING RESPONSE?

21 MR GARRETT RESPONSE, YES, YOUR
22 HONOR YOUR HONOR, WE WOULD LIKE TO, ALSO, BRING TO
23 THE COURT'S ATTENTION THAT WHEN A COUNTY ALLOWS ITS
24 DEFENDANT MORE RIGHTS THAN DOES THE STATE AND MORE
25 RIGHTS THAN DOES THE FEDERAL GOVERNMENT BUT HE'S

1 ENTITLED TO THOSE HEIGHTENED RIGHTS UNLESS A
2 COUNTY COUNCIL VOTES OTHERWISE, THEN THE DEFENDANT
3 IS ENTITLED TO THE REQUIREMENTS THAT THE JURY BE
4 SELECTED ONLY AFTER PUBLIC NOTICE AS IS PRESCRIBED
5 THE LAW AND THE HISTORIC METHOD OF JURY SELECTION AS
6 A MATTER OF ABBEVILLE COUNTY, STATE OF SOUTH
7 CAROLINA AND FEDERAL PROCEDURE PROCESS LAW WE'RE
8 ENTITLED TO THAT UNDER THE COUNTY LAW OF ABBEVILLE,
9 WE'RE ENTITLED TO IT UNDER SOUTH CAROLINA
10 CONSTITUTION SECTION 14 WHICH CALLS FOR A PUBLIC
11 DRAW WE'RE ENTITLED TO UNDER THE UNITED STATES
12 CONSTITUTION UNDER THE FIFTH, THE FOURTEENTH AND THE
13 SIXTH AMENDMENT WE, ALSO, GO BACK TO THE SOUTH
14 CAROLINA CONSTITUTION AND CITE ARTICLE TWENTY-TWO
15 ADDITIONALLY, IF THE COUNTY OF
16 ABBEVILLE GIVES THE DEFENDANT THESE ADDITIONAL
17 PROTECTIONS AFFORDED HIM BY THE HISTORIC AND COMMON
18 LAW METHOD, TIME APPROVED METHOD OF JURY SELECTION,
19 THEN IT IS INCUMBENT UPON THE COURT THAT THE
20 DEFENDANT BE GIVEN THOSE HEIGHTENED RIGHTS FOR
21 PROTECTION ESPECIALLY IN A CAPITAL CASE AND
22 ESPECIALLY WHERE HIS COUNTY GOVERNMENT HAS DEEMED IT
23 INAPPROPRIATE TO TAKE THOSE HISTORIC AND COMMON LAW
24 AND STATUTORY RIGHTS AWAY FROM HIM IT SHOULD BE
25 NOTED THAT THE ABBEVILLE COUNTY COUNCIL HAS HAD

1 ELEVEN YEARS SINCE THE SOUTH CAROLINA STATUTE
2 ALLOWED FOR THE CHANGE TO THE COMPUTER METHODOLOGY
3 TO CONSIDER THIS ISSUE AND IT HAS KEPT THOSE RIGHTS
4 AND VIOLATED THEM

5 SO WE TAKE POSITION THAT, IN
6 ADDITION TO THE LAW THAT WE CITED EARLIER ON, AS A
7 MATTER OF COUNTY LAW, WE'RE ENTITLED TO THAT SPECIAL
8 PROTECTION

9 GOING ON TO HIS ARGUMENTS ON THE
10 THREE HUNDRED --

11 THE COURT BEFORE YOU DO THAT, LET
12 ME JUST ASK YOU THIS

13 MR GARRETT YES, SIR

14 THE COURT WHAT BENEFIT DO YOU
15 THINK THE DEFENDANT GAINS FROM JURY SELECTION
16 WITHOUT BENEFIT OF THE COMPUTER OR WHAT DISADVANTAGE
17 DOES HE SUFFER BY THE USE OF THE COMPUTER IN
18 RANDOMLY SELECTING THE JURY VENIRE?

19 MR GARRETT PUBLIC NOTICE, YOUR
20 HONOR ALL OF THOSE THINGS THAT HISTORICALLY WERE
21 THE WAY, COMMON LAW WAS THE WAY WE DID THINGS, HAD
22 ALWAYS BEEN THE WAY WE HAD DONE THINGS, IT HAS A
23 HISTORICAL VALUE THIS IS A HISTORICAL COMMUNITY,
24 IT'S A HISTORICAL COUNTY EVERYONE KNOWS THAT
25 WE'D LIKE TO KEEP THINGS LIKE THEY KIND OF WERE IF

1 YOU'RE GOING TO CHANGE THEM, YOU CAN CHANGE THEM
2 OUR SOUTH CAROLINA STATE CONSTITUTION AND OUR SOUTH
3 CAROLINA STATUTE SAYS YOU CAN, BUT IF YOU CAN,
4 YOU'VE GOT TO DO IT RIGHT AND THAT MEANS YOU'VE GOT
5 TO GO BACK TO COUNTY COUNCIL AND SAY, COUNTY
6 COUNCIL, DO YOU WANT TO CHANGE THIS HISTORICAL WAY
7 OF DOING THINGS, AND THEY DIDN'T DO THAT IN THIS
8 CASE THE COUNTY OF ABBEVILLE DECIDED, APPARENTLY,
9 FOR WHATEVER REASON, NOT TO DO THAT NOW, MAYBE
10 THEY'RE DOING IT, AND MAYBE THEY'RE DOING IT
11 WITHOUT THE RIGHT OF LAW TO GO TO THE COMPUTER

12 BUT UNLESS THEY'VE GOT THAT RIGHT
13 TO DO THAT WITH COUNTY COUNCIL AFTER A VOTE, AFTER
14 THE PEOPLE OF ABBEVILLE COUNTY HAVE MADE THAT
15 DECISION IN A PUBLIC FORUM AFTER THE APPROPRIATE
16 MEETINGS AND UNDER THE LAWS OF THEIR COUNTY, THEN
17 THE LAW OF THE COUNTY STILL GOVERNS BECAUSE THAT'S
18 THE WAY THE STATE STATUTE SET IT UP

19 THE COURT SO YOU'RE NOT ALLEGING
20 ANY ADVANTAGE OR DISADVANTAGE FROM ONE METHOD OVER
21 ANOTHER?

22 MR GARRETT OH, YES YES, THE
23 PUBLIC NOTICE, PUTTING IT UP ON THE DOOR, WAS AN OLD
24 AND HISTORIC WAY OF DOING THINGS HAVING THOSE
25 THREE COMMISSIONERS, HAVING THEM COME OUT AND DO THE

1 DRAWING IN A PUBLIC FORUM, YES, SIR, IT IS AND THE
2 COMPUTER, YOU GO INTO A BOX THAT NOBODY UNDERSTANDS
3 ANYBODY CAN MAKE THE COMPUTER DO ANYTHING, YOUR
4 HONOR MY CO-COUNSEL CAN TAKE THAT THING AND COME
5 OUT AND MAKE IT UPSIDE INSTEAD OF RIGHT-SIDE UP, IF
6 HE WANTED TO

7 WE DON'T KNOW WHETHER THAT OCCURRED
8 OR NOT AND THAT'S ONE OF THE REASONS THAT IT IS
9 PUBLIC, ONE OF THE RIGHTS THAT ARE PUBLIC AND,
10 APPARENTLY, THEY'RE USING SOME COMPUTER MODEL THAT
11 HAS NOT BEEN, AT LEAST APPROVED, BY THE COUNTY
12 COUNCIL IN THIS PARTICULAR CASE AND UNLESS IT'S
13 APPROVED BY THE COUNTY COUNCIL, IT'S INVALID

14 THE COURT ALL RIGHT WHAT'S YOUR
15 NEXT POINT

16 MR GARRETT NOW, IF YOU GO BACK
17 TO THREE HUNDRED WHICH HE SAYS -- OR COUNSEL FOR THE
18 STATE SAYS CONTROLS, IT SAYS A JURY DULY DRAWN AND
19 DULY MEANS THAT THEY FOLLOW THE RULES AND
20 REGULATIONS OF LAW IN DRAWING THAT ORIGINAL JURY
21 BEFORE YOU COULD TALK ABOUT GETTING SOME MORE THEY
22 DIDN'T FOLLOW IT IN THE ORIGINAL MUCH LESS IN THIS
23 LAST ONE -- THIS LAST JURY SO THEY'VE NOT FOLLOWED
24 IT IN EITHER THE FIRST OR THE SECOND AND/OR THE
25 THIRD BECAUSE THAT SECTION DRAWS UPON DULY DRAWN

1 YOUR HONOR, THESE ARE SUBSTANTIVE
2 RIGHTS SUBSTANTIVE DUE PROCESS RIGHTS FOR THE
3 DRAWING OF A JURY IT'S UNFORTUNATE THAT THIS HAS
4 BEEN BROUGHT TO OUR ATTENTION AT SUCH A LATE DATE
5 AND I APOLOGIZE, YOUR HONOR, AS A MATTER OF JUDICIAL
6 ECONOMY IT'S AGGRAVATING TO KNOW THAT THIS HAS NOT
7 BEEN ADDRESSED BUT BECAUSE IT HAS NOT BEEN
8 ADDRESSED DOES NOT MEAN THAT WE SHOULD STOP AND RUSH
9 ON TO JUDGMENT IN A CASE WHERE THE LAW SAYS YOU
10 CAN'T DO IT UNLESS YOU DO IT RIGHT NOW THIS IS A
11 CAPITAL CASE AND IF WE WERE TALKING ABOUT, YOU
12 KNOW, A MODERATE CASE MAYBE WE COULD LET THAT SLIDE
13 BUT THIS IS NOT A MODERATE CASE SOMEBODY'S LIFE IS
14 AT STAKE AND WE JUST DON'T INTEND TO GIVE UP RIGHTS
15 WE'RE ENTITLED TO JUST BECAUSE SOMEBODY FAILED TO GO
16 TO COUNTY COUNCIL AND MAKE THEIR ARGUMENT AND GET
17 THE LAW CHANGED SO THEY COULD DO IT THAT WAY

18 WE THINK THAT'S ABSURD THEY HAVE TO
19 FOLLOW THE LAW THE LAW'S HERE FOR ALL US AND
20 THERE'S A SIMPLE WAY TO DO IT AND IF THE STATE
21 SOLICITOR ELEVEN YEARS AGO FOUND IT BE BETTER TO DO
22 IT THAT WAY, THEY COULD HAVE COME BEFORE COUNTY
23 COUNCIL, THEY COULD HAVE TALKED TO THE PEOPLE OF
24 COUNTY COUNCIL, THEY COULD HAVE WENT OUT TO THE
25 PUBLIC, THEY COULD ARGUE THEIR CASE AMONG THE PEOPLE

1 OF ABBEVILLE IF THE PEOPLE OF ABBEVILLE WISHED TO
2 CHANGE IT, THEY COULD CHANGED IT THEY HAVEN'T DONE
3 SO

4 THE COURT ANYTHING FURTHER?

5 MR TINSLEY YOUR HONOR, THE THING
6 THAT CONCERNED ME WAS THE NEWSPAPER ARTICLES THEY'RE
7 JUST OUT FOR THOSE AS, YOU KNOW, YOU LAST MONDAY
8 ADMONISHED THE FIRST THREE AND I'M A LITTLE BIT
9 CONCERNED ABOUT THE SECOND GROUP NOT HAVING BEEN
10 ADMONISHED, NOT HAVING BEEN SERVED UNTIL
11 APPROXIMATELY FRIDAY SO I'D LIKE TO OFFER THESE
12 THREE OR FOUR NEWSPAPER ARTICLES INTO THE RECORD

13 MR GARRETT YOUR HONOR, ALSO AS
14 TO -- YOU WANT TO MARK THESE FIRST, YOUR HONOR?

15 MR COULTER YOUR HONOR, WE WOULD
16 LIKE TO HAVE A COPY OF THOSE BEFORE THEY'RE MARKED
17 INTO EVIDENCE AT ALL IF WE HAVE A BASIS TO BE ABLE
18 TO ARGUE AGAINST THEIR ADMISSION OR ANYTHING
19 OTHERWISE I'D LIKE TO HAVE COPIES OF THESE
20 ARTICLES

21 THE COURT WELL, YOU CAN HAVE
22 COPIES OF THEM, BUT I'M GOING TO ALLOW THEM TO BE
23 ADMITTED

24 MR COULTER YES, SIR

25 MR GARRETT WE HAVE A COPY, YOUR

1 HONOR WE WOULD PROVIDE THE STATE WITH A COPY IF
2 WE HAVE TO GET IT, WE'VE GOT A COPY OF IT
3 (REPORTER MARKS NEWSPAPER ARTICLES AS COURT'S
4 EXHIBIT NUMBERS 13, 14 AND 15)

5 THE COURT WHAT ELSE DO WE NEED TO
6 ADDRESS?

7 MR GARRETT JUST BRIEFLY, YOUR
8 HONOR YOUR HONOR, I JUST WANTED TO CALL THE
9 COURT'S ATTENTION TO THE CASE THAT WAS CITED STATE
10 VS SMITH IS CLEARLY DISTINGUISHABLE AS THAT CASE
11 WAS ONE WHERE IT WAS GIVEN -- WHERE IT WAS ALLOWED
12 TO BE IN PUBLIC IN THE CASES THAT HAVE BEEN CITED
13 UNDER THESE SECTIONS ARE A 1902 CASE, A 1911 CASE, A
14 1921 CASE AND A 1942 CASE AND THOSE ARE LONG BEFORE
15 WE REALLY BEGAN TO UNDERSTAND PROCEDURE DUE PROCESS
16 RIGHTS OF DEFENDANTS TO THE EXTENT THAT WE
17 UNDERSTAND THEM NOW I JUST POINT THAT OUT TO THE
18 COURT THE LAW HAS DEVELOPED SINCE THAT TIME

19 YOUR HONOR, ALSO, YOUR HONOR, WITH
20 REGARDS TO THE COURT'S POSITION IN THE EVENT THE
21 COURT DECIDES TO ALLOW THE SECOND AND THIRD PANELS
22 TO BE UTILIZED IN THIS CASE, YOUR HONOR, WE ARE OF
23 THE OPINION THAT WE SHOULD BE GRANTED ADDITIONAL
24 TIME, THIS IS A CAPITAL CASE, WE WISH TO HAVE
25 ADDITIONAL TIME SLATED FOR US TO BE ABLE TO EXAMINE

1 THE COURT HAS GOTTEN IT CUT DOWN TO TWENTY-NINE
2 PERSONS WHO ARE ON THAT JURY, HOWEVER, WE NEED
3 SUFFICIENT TIME TO EXAMINE BACKGROUNDS OF THOSE
4 JURORS BEFORE WE WOULD BE IN A POSITION TO DO A FAIR
5 AND REASONABLE VOIR DIRE EXAMINATION OF THOSE JURORS
6 TO WHERE WE'D BE IN A POSITION TO UNDERSTAND ENOUGH
7 ABOUT THEM TO BE ABLE TO DO THAT FAIRLY AND
8 EFFECTIVELY IN THE BEST INTEREST OF OUR CLIENTS IN A
9 CASE WHERE THE ULTIMATE PENALTY IS BEING ASSESSED OR
10 ATTEMPTING TO BE ASSESSED AGAINST HIM WE WOULD ASK
11 THE COURT TO GRANT US, AT LEAST, THREE DAYS
12 CONTINUANCE TIME IN ORDER TO ALLOW US TO REVIEW ALL
13 OF THE JURORS AND THEIR BACKGROUNDS IN THE WAY WE
14 NORMALLY AND CUSTOMARILY DO IN THESE TYPES OF CASES
15 AND ALL OTHER CASES, YOUR HONOR, TO BE IN A FAIR
16 POSITION TO DO OUR VOIR DIRE EXAMINATION OF ALL THE
17 JURORS

18 THE COURT ANYTHING FURTHER?

19 MR GARRETT THAT'S ALL, YOUR
20 HONOR

21 THE COURT ALL RIGHT, I'M GOING TO
22 TAKE EACH OF THOSE MATTERS UNDER ADVISEMENT I WILL
23 RULE ON THAT MATTER IN THE MORNING BUT IN THE
24 MEANTIME, LET ME SUGGEST THAT YOU BEGIN RIGHT AWAY
25 CONDUCTING WHATEVER INVESTIGATION THAT YOU NEED TO

1 REGARDING THE VOIR DIRE OF THE JURORS THAT WILL BE
2 COMING BACK TOMORROW FOR THE INDIVIDUAL VOIR DIRE
3 MR GARRETT YOUR HONOR, CAN I
4 JUST POINT OUT TO THE COURT WE'VE BEEN IN COURT
5 NOW SINCE -- AND I WANT TO BRING THIS TO THE COURT'S
6 ATTENTION, BUT I JUST WANT TO MAKE SURE OUR RECORD
7 IS COVERED TO THIS IF WE HAVE BEEN IN COURT, AND I
8 JOTTED THE TIMES DOWN JUST TO MAKE SURE, THAT WE
9 WERE ACTUALLY NOTIFIED THAT THE COURT WAS
10 CONSIDERING TAKING AND ASKING FOR THESE ADDITIONAL
11 JURORS WHILE WE WERE IN CHAMBERS AT THAT TIME, WE
12 NOTED TO THE COURT WE WISH TO OBJECT AND WE WOULD DO
13 THAT AT SUBSEQUENT TIME ON OUR RECORD

14 YOUR HONOR, WE HAVE WORKED UNTIL
15 7 00 P M ON FRIDAY EVENING, THE EVENING THAT WE
16 REALIZED THAT THAT WAS GOING TO BE DONE FROM 8 30
17 TILL 6 45 ON SATURDAY EVENING AND ON SUNDAY UNTIL
18 ALMOST 7 00 P M ON SUNDAY EVENING, WE RETURNED THIS
19 MORNING AT 8 30 AND THROUGH 1 30 AND THEN WE WERE
20 REQUIRED TO RETURN WITHIN THIRTY MINUTES AT 2 00
21 AND SOME OF THE AREAS THAT WE ALWAYS DO OUR
22 EXAMINATION IS IN THE CLERK OF COURTS OFFICE AND,
23 GENERALLY, THOSE OFFICES ARE CLOSED, YOU KNOW,
24 DURING THOSE TIMES IT'S, GENERALLY, OPENED MONDAY
25 THROUGH FRIDAY SO SOME RESEARCHES COULD BE DONE IN

1 THOSE AREAS AND I'D JUST POINT THAT OUT TO THE
2 COURT ONE OF THE DIFFICULTIES, ALSO, IS NOT HAVING
3 ACCESS TO, YOU KNOW, A CLERK OF COURTS OFFICE
4 BECAUSE IT'S CLOSED DURING THOSE NORMAL HOURS AND
5 WE'VE BEEN IN COURT THE ENTIRE TIME

6 THE COURT OF COURSE, I RECOGNIZE
7 THAT THERE ARE THREE OF YOU SITTING THERE AT THE
8 TABLE WHILE WE CONDUCT THE INDIVIDUAL VOIR DIRE AND
9 WHILE I CONDUCT QUALIFICATION OF THE JURY PANEL AND
10 WHILE I INTERVIEW JURORS INDIVIDUALLY REGARDING SOME
11 REASON WHY THEY MIGHT NEED TO BE EXCUSED I
12 RECOGNIZE THAT IF ALL THREE LAWYERS FOR THE
13 DEFENDANT ARE GOING TO SIT IN ON EACH OF THOSE STEPS
14 OF THE CASE, IT'S UNLIKELY THAT ANYONE COULD ENGAGE
15 IN ANY OTHER OF THOSE TYPES OF INVESTIGATIONS OR
16 ACTIVITIES SO I WOULD SIMPLY SUGGEST THAT PERHAPS
17 YOU COORDINATE YOUR TIME SO THAT MAYBE ONE MIGHT BE
18 AVAILABLE TO DO SOME OTHER THINGS RATHER THAN ALL
19 THREE SITTING THROUGH THE JURY QUALIFICATION
20 PROCESS

21 MR GARRETT CAN I JUST ADDRESS
22 THAT, YOUR HONOR

23 THE COURT SURE

24 MR GARRETT IN OUR ORIGINAL
25 CIRCUMSTANCE, EACH OF US HAVE OUR OWN

1 RESPONSIBILITIES IN THE DEFENSE TEAM BASED UPON THE
2 THEORY THAT WE HAD OUR JURY TO WORK FROM THE START
3 EACH OF US HAVE RESPONSIBILITIES IN ALL OF THE
4 ENTIRE PROCESS OF JURY SELECTION AND VOIR DIRE
5 WITH THIS CHANGE, YOUR HONOR, IT'S COMPLETELY
6 CHANGED AND EXCUSE OUR METHOD OF PRESENTATION OF
7 THE DEFENSE IN THIS CASE BUT, ALTHOUGH, WE COULD
8 HAVE ONE OF OUR MEMBERS LEAVE OUR TEAM AT THIS STAGE
9 TO GO DO SOMETHING THAT WAS ALREADY DONE PREVIOUSLY
10 AND WE THOUGHT WE HAD -- WE WERE COMPLETED TO TAKE
11 THAT PERSON AWAY AT THIS JUNCTURE, WOULD BE
12 DISADVANTAGEOUS TO THE DEFENSE AT THIS TIME

13 NOW, WE ALSO DON'T HAVE STAFF, WE
14 ALSO DON'T HAVE THE NECESSARY CAPABILITIES TO GO OUT
15 AND DO SEARCHES PERSONALLY OR INDIVIDUALLY WE HAVE
16 NEITHER THE MONEY FOR THAT, THAT'S NOT BEEN
17 ASSIGNED, WE'VE NOT ASKED FOR THAT BECAUSE WE DID IT
18 ON OUR OWN FOR THE ORIGINAL JURY WE DON'T HAVE THE
19 MONEY OR THE STAFF AS THE SOLICITOR DOES HAVING ALL
20 OF THE LAW ENFORCEMENT AGENTS, ALL OF HIS LAW
21 OFFICERS HE'S IN A TOTAL DIFFERENT POSITION, YOUR
22 HONOR, IN GETTING READY FOR TWENTY-NINE JURORS THAN
23 THE DEFENSE WILL BE SIMPLY BECAUSE HE CAN GO HAVE A
24 MEETING WITH CHIEF RUCKER, OUR GOOD SHERIFF, AND SIT
25 DOWN WITH THOSE GENTLEMEN, BRING THE LAW ENFORCEMENT

1 OFFICERS IN, WHAT DO YOU THINK ABOUT THIS, WHAT DO
2 YOU KNOW ABOUT THIS, WHAT DO YOU THINK ABOUT THIS,
3 WHERE DO THEY WORK, WHAT DO THEY DO THEY CAN GO
4 THROUGH IN JUST A VERY SHORT TIME, THEY WOULD BE
5 ABLE TO PUT TOGETHER A GOOD, GOOD PROTOCOL ON
6 LOOKING AT INDIVIDUAL JURORS TO HAVE SOME KIND OF
7 SYSTEM DOWN FOR THEIR BEING READY FOR THIS IN THE
8 MORNING YOU KNOW, THEY'RE RUSHING FOR THAT, THEY
9 WANT TO BE READY BECAUSE THEY WANT TO HAVE AN
10 ADVANTAGE OVER THE DEFENSE AND THAT'S NOT WHAT THIS
11 IS ABOUT YOU KNOW, WE JUST WANT A FAIR SHAKE AT
12 THIS, YOUR HONOR WE GOT TO HAVE TIME TO DO IT WE
13 CAN'T DO IT JUST OUT OF AIR WE JUST CAN'T DO IT
14 WE'VE GOT TO HAVE SOME HELP, WE'VE GOT TO HAVE SOME
15 TIME IF YOU GIVE US HELP, YOU GIVE US TIME, YOU
16 RULE AGAINST US ON OUR OTHER MOTIONS, WE'LL GET
17 DONE, WE'LL BE READY FOR THIS CASE WE'RE NOT
18 TRYING TO DELAY, YOUR HONOR

19 MR JONES JUDGE, A COUPLE ISSUES
20 NUMBER ONE, IF MR GARRETT ONLY KNEW HOW POOR HIS
21 SOLICITOR'S OFFICE WAS, AND IF HE ONLY KNEW HOW
22 DIFFICULT IT'S BEEN FOR ME TO GET ANYBODY FROM THE
23 ABBEVILLE POLICE DEPARTMENT UP HERE FOR THE LAST
24 WEEK AND A DAY, MUCH LESS THE CHIEF HE'S FLOWN
25 THROUGH FRIDAY EVENING RIGHT QUICK