

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM ABBEVILLE COUNTY
Court of Common Pleas

Alexander S Macauley, Circuit Judge
2000 CP 01 212

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S.C Supreme Court

JOHN KENNEDY HUGHEY, #5055
Respondent/Petitioner,

V

STATE OF SOUTH CAROLINA,
Petitioner/Respondent,

APPENDIX

ALAN WILSON
Attorney General

JOHN W McINTOSH
Chief Deputy Attorney General

DONALD J ZELENKA
Assistant Deputy Attorney General

Office of the Attorney General
P O Box 11549
Columbia, S C 29211
803 734 6305

COUNSEL FOR
PETITIONER/RESPONDENT

E CHARLES GROSE, Jr
Circuit Public Defender
8th Judicial Circuit
Suite 208 Park Plaza
600 Monument Street Box P 133
Greenwood, S C 29646
864 229 9505

TARA M SCHULTZ
8th Circuit Public Defenders Office
Laurens County Courthouse
100 Hillcrest Drive, Suite P
Laurens, S C 29320
864 984 8807

South Carolina Commission on
Indigent Defense Division of Appellate
Defense
P O Box 11589
Columbia, S C 29211-1589

COUNSEL FOR
RESPONDENT/PETITIONER

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1 BUT MY POINT IS, JUDGE, IS A COUPLE
2 THINGS NUMBER ONE, MR McCALLUM HAD A PIECE OF
3 PAPER EARLIER IN HIS MOTION CONCERNING THE WAY THE
4 JURORS WERE SELECTED BY OUR CLERK OF COURT, AN
5 AFFIDAVIT OR SOMETHING YOU SAID YOU'D SHOW ME

6 MR GARRETT THAT WAS MADE A COURT
7 EXHIBIT, YOUR HONOR AND I WOULD NOTE FOR THE
8 RECORD THAT THE DEFENSE WOULD CALL FOR THE TESTIMONY
9 OF OUR CLERK, AS WELL AS THE CLERK OF COUNCIL, IF
10 THE SOLICITOR BELIEVES SUCH TESTIMONY IS NECESSARY
11 I THINK WE'VE ESTABLISHED WHAT THE ACTUAL PROCEDURE
12 THAT WAS USED AND LACK OF NOTICE BUT IF HE WISHES
13 TO CROSS-EXAMINE ON THAT POINT, WE'LL BE HAPPY TO
14 GET OUR PEOPLE IN HERE AND HAVE THEM TESTIFY

15 MR JONES JUDGE, THIS IS COURT'S
16 EXHIBIT 11, TO WHOM IT MAY CONCERN, I HAVE REVIEWED
17 THE MINUTES OF COUNCIL, RESOLUTIONS AND ORDINANCE
18 FROM 1986 TO DATE AND CAN FIND NO INDICATION
19 AUTHORIZING THE USE OF A COMPUTER IN THE JURY
20 SELECTION PROCESS CAROL A CHRISLEY, CLERK TO
21 COUNCIL

22 JUDGE, I WOULD LIKE TO ASK OUR
23 CLERK OF COURT A QUESTION FIRST OF ALL, HOW LONG
24 IS CAROL A CHRISLEY BEEN CLERK OF COUNCIL, DO YOU
25 KNOW, MADAM, CLERK OF COURT?

1 THE CLERK I DO NOT KNOW, SIR
2 SHE'S BEEN HERE A NUMBER OF YEARS

3 MR JONES WELL, IS THIS LETTER,
4 IN FACT, CORRECT AND IS THAT TRUE?

5 THE CLERK I HAVE SOME ADDITIONAL
6 DOCUMENTATION ON THAT ISSUE

7 THE COURT WHY DON'T WE DO THIS
8 IF YOU'D LIKE TO HAVE THE CLERK SWORN AND HAVE HER
9 GIVE HER TESTIMONY ON HOW THE SELECTION PROCESS TOOK
10 PLACE, WHAT METHODS SHE TOOK TO INSURE THE PROPER
11 SELECTI ON OF THE JURY VENIRE

12 MR JONES YES, I WOULD

13 THE COURT DO YOU SOLEMNLY SWEAR
14 THE TESTIMONY YOU'RE ABOUT TO GIVE WILL BE THE
15 TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH, SO
16 HELP YOU, GOD

17 THE CLERK YES, SIR, I DO

18 THE COURT PLEASE BE SEATED

19 (WITNESS PRESENTED AT 6 55 O'CLOCK P M)

20 DIRECT EXAMINATION BY MR JONES

21 Q PLEASE STATE YOUR NAME FOR THE RECORD

22 A NANCY S KING

23 Q MS KING, ARE YOU CURRENTLY EMPLOYED AS THE
24 CLERK OF COURT FOR ABBEVILLE COUNTY?

25 A THAT IS CORRECT

1 Q AND HOW LONG HAVE YOU BEEN OUR CLERK OF
2 COURT HERE IN ABBEVILLE COUNTY?

3 A I WAS ELECTED AND TOOK OFFICE JANUARY 1 OF
4 1985

5 Q 1985

6 A RIGHT

7 Q AND HAVE YOU SERVED CONTINUOUSLY AS THE CLERK
8 OF COURT DURING THAT PERIOD OF TIME?

9 A YES, I HAVE

10 Q I SEE AND AS OUR CLERK OF COURT, AMONG YOUR
11 MANY DUTIES, ARE YOU NOT RESPONSIBLE, ALSO, FOR
12 DRAWING OF MEMBERS FOR VARIOUS JURY PANELS IN
13 ABBEVILLE COUNTY, BE THAT GRAND JURY JUROR PANELS OR
14 PETIT JURY JUROR PANELS?

15 A THAT IS CORRECT

16 Q AND DID YOU HAVE OCCASION AT THE INSTRUCTION
17 OF HIS HONOR TO DRAW A JURY PANEL, A NUMBER OF
18 VENIRE, FOR A CASE OF THE STATE VS JOHN KENNEDY
19 HUGHEY? AND WHEN I REFER TO HIS HONOR, I'M TALKING
20 ABOUT JUDGE DERHAM COLE

21 A YES, SIR, WE DID WE WERE INSTRUCTED AND
22 ORDERED TO DRAW TWO HUNDRED AND TWENTY-FIVE JURORS

23 Q AND DO YOU RECALL, APPROXIMATELY, WHEN YOU
24 RECEIVED THOSE INSTRUCTIONS AND EFFECTED THAT ORDER
25 FROM JUDGE COLE?

1 A THAT WAS SEPTEMBER THE 12TH

2 Q OF 1997?

3 A OF 1997

4 Q AND AT THAT TIME, DID YOU PROCEED TO PREPARE
5 TO MAKE THAT DRAWING?

6 A WE DID

7 Q AND HOW DID YOU MAKE THAT DRAWING?

8 A I WENT TO THE FINANCE OFFICE WHERE THE
9 COMPUTER IS LOCATED TO MAKE ARRANGEMENTS WITH THE
10 COMPUTER OPERATOR TO DRAW THE JURY I GOT THE JURY
11 COMMISSIONERS TOGETHER THIS IS THE OFFICE THAT YOU
12 GO DOWN THE HALL TO THE RIGHT, THE DOOR IS ALWAYS
13 OPEN, PEOPLE ARE IN AND OUT IN THERE, THERE'S THREE
14 PEOPLE IN THERE THAT WORK ALL THE TIME THEN WHEN I
15 MADE THE ARRANGEMENTS WITH HER AND TOLD HER THAT WE
16 NEEDED TO THE DRAW JURY, I GOT THE JURY
17 COMMISSIONERS TOGETHER THIS WAS JUDY SCOTT, THE
18 COUNTY TREASURER, ME AS CLERK OF COURT, AND JASPER
19 DAVIS THE AUDITOR SO WE GOT THE INFORMATION
20 ENTERED INTO THE COMPUTER, DREW AT RANDOM OFF OF
21 THERE, AND ALSO IN THERE WAS THE SECRETARY, THE
22 PAYROLL CLERK, MARY GILLESPIE AND, PROBABLY,
23 OTHERS IN AND OUT AT THE SAME TIME THAT WE WERE
24 DOING THE DRAWING

25 Q SO IT WAS NOT A PROCESS HELD BEHIND A CLOSED

1 DOOR OR IN A PRIVATE MEETING?

2 A NO, SIR AND THE REASON IT'S LOCATED IN
3 THERE IS BECAUSE THAT IS WHERE THE -- WE DID NOT
4 HAVE ROOM IN THE CLERK OF COURT'S OFFICE TO PUT THAT
5 COMPUTER SYSTEM THE COMPUTER AND, ALSO, THE
6 PRINTER, THE PAPER AND EVERYTHING IS LOCATED RIGHT
7 THERE

8 Q AND HAS THE CLERK OF COURT'S OFFICE HERE IN
9 THE ABBEVILLE COUNTY COURTHOUSE BEEN UNDERGOING
10 SUBSTANTIAL RENOVATIONS OVER THE PERIOD OF THE LAST
11 YEAR?

12 A YES, SIR JANUARY OF LAST YEAR, THE COUNTY
13 COUNCIL ELECTED TO PUT THE ELEVATOR INSIDE OUR
14 FIREPROOF WALL, SO WE HAVE HAD ALL OF OUR RECORDS
15 LOCATED ALL OVER THE BUILDING FOR OVER A YEAR AND A
16 HALF

17 Q AND DO YOU EXPECT THAT THAT RENOVATION IS
18 ANYWHERE NEAR COMPLETION?

19 A I SAID THE YEAR 2000

20 Q WELL, LET ME GO AHEAD THEN WITH MY QUESTION
21 CONCERNING THE SELECTION OF THESE JURORS DID YOU,
22 ULTIMATELY, WITH THE HELD AND THE AID OF A COMPUTER,
23 IN THE PRESENCE OF THE JURY COMMISSIONERS HERE AT
24 THE COURTHOUSE AND THE AUDITOR, JASPER DAVIS AND MS
25 SCOTT, THE TREASURER, DID YOU SELECT AND DID YOU, IN

1 FACT, HAVE THE COMPUTER, IN WHATEVER FASHION IT DOES
2 IT, PRESENT YOU WITH TWO HUNDRED NAMES THAT HAD BEEN
3 DRAWN BY THE COMPUTER?

4 A RIGHT WHAT WE DO IS THE DATA THAT HAS TO GO
5 IN THERE AS TO THE DATE, THE TIME, THE DATE WE DREW
6 THEM, ALL THAT INFORMATION IS ENTERED IN THERE THE
7 FIRST INFORMATION THAT COMES OUT ARE THE NUMBER OF
8 THE JURY AND WE HAVE ALL THE COMPUTER PRINTOUTS
9 AND THEN THE NEXT STEP IS YOU DRAW OUT, AND THE
10 COMPUTER PUTS THEM IN ALPHABETICAL ORDER, AND WE
11 DRAW OUT A WORKSHEET SO THAT AT THE CONCLUSION OF
12 COURT, WE CAN WRITE IN THE BLANK SPACE HOW MANY DAYS
13 THEY'RE HERE

14 THEN THE NEXT PROCEDURE WOULD BE TO
15 DRAW OUT THE ATTORNEY'S INFORMATION WHERE IT GIVES
16 THEIR SOCIAL SECURITY, THEIR ADDRESS, AND THEIR DATE
17 OF BIRTH, WHICH IS ALL VITAL INFORMATION TO GO OFF
18 OF

19 AND THEN AFTER THAT PROCESS IS
20 COMPLETED, THEN WE PUT IN THE PINK SLIPS AND THE
21 COMPUTER PRINTS OUT THE INFORMATION TO BE SENT TO
22 THE JUROR

23 Q AND DO YOU RECALL, APPROXIMATELY, WHEN YOU
24 HAD THE PINK SLIPS AVAILABLE TO SEND OUT TO THE
25 JURORS?

1 A I NEEDED TO GET THESE IN THE MAIL SEPTEMBER
2 THE 12TH SO WE GOT THE -- GOT EVERYTHING READY, WE
3 PERSONALLY -- I DID PUT ALL OF THE QUESTIONNAIRES,
4 WE RAN THEM OFF, THE TWO HUNDRED AND TWENTY-FIVE,
5 PUT THOSE TOGETHER, THE PINK SLIP AND THEN I GOT A
6 STAMP FROM THE COUNTY COUNCIL, CAROL CHRISLEY,
7 STAMPED ALL OF THEM AND I TOOK THEM TO THE MAILBOX,
8 POST OFFICE HERE IN ABBEVILLE TO THE WINDOW AND
9 ASKED THE POSTMASTER TO PLEASE MAKE SURE THAT THEY
10 WENT OUT ON THE 2 00 MAIL SO THAT THE JURORS COULD
11 HAVE NOTICE ON THE 12TH

12 Q IN ADDITION TO SENDING OUT THE PINK SLIPS AND
13 THE QUESTIONNAIRE PROVIDED TO YOU BY JUDGE COLE FOR
14 THOSE JURORS, DID YOU RECEIVE THE RETURNS IN YOUR
15 OFFICE WHEN THE JURORS WOULD SEND BACK IN THE
16 QUESTIONNAIRE AND THE RETURNS?

17 A RIGHT, THEY WERE SENT BACK TO US OR EITHER
18 HAND-DELIVERED

19 Q AND DID YOU MAKE THOSE RETURNS AND COPIES OF
20 THOSE QUESTIONNAIRES AVAILABLE TO THE SOLICITOR'S
21 OFFICE AND TO ONE OR BOTH OF THE DEFENSE ATTORNEYS
22 IN THIS CASE?

23 A YES, SIR, WE DID

24 Q HOW DID YOU MAKE THEM AVAILABLE TO THE
25 DEFENSE ATTORNEYS?

1 A AS SOON AS WE GOT IT DRAWN, THE JURY DRAWN,
2 WE IMMEDIATELY HAD A COPY OF FOR YOU, THE
3 SOLICITOR'S OFFICE, AND WE HAD A COPY FOR BILLY
4 GARRETT AND, ALSO, ROBERT TINSLEY AND, I BELIEVE,
5 THEY WERE HAND-DELIVERED BY SOMEONE FROM THE OFFICE
6 IF THEY WERE NOT PERSONALLY THERE I BELIEVE THEY
7 GOT THEIRS ON THE 13TH OF SEPTEMBER

8 Q SOMEONE FROM YOUR OFFICE MADE THEM AVAILABLE
9 TO THE DEFENSE?

10 A RIGHT, AS SOON AS WE DREW THEM, I GOT THEM
11 AVAILABLE FOR THEM

12 Q IN ORDER FOR YOU TO GET THEM TO THEM, DID YOU
13 LET THEM KNOW THAT YOU WERE GOING TO BE DRAWING THE
14 JURY AND THAT YOU WOULD BE GETTING THEM A COPY OF
15 THE LIST?

16 A WE WERE IN CLOSE CONTACT I DID NOT TELL
17 THEM THE EXACT DATE AND TIME BECAUSE I DID NOT KNOW
18 THAT FAR IN ADVANCE IN FACT, JUST A FEW MINUTES
19 BEFORE WE WERE GOING TO BE ABLE TO GET THAT DONE
20 BUT THEY WERE IN CONTACT AS TO WHEN WE WERE WORKING
21 TO TRYING TO GET THAT DRAWN AND I TOLD THEM AS SOON
22 AS WE GOT IT, THEY WOULD HAVE A COPY

23 Q ALL RIGHT AND IN THE OCCASION THAT YOU SENT
24 OUT THE NOTICES TO ONE HUNDRED ADDITIONAL JURORS OR
25 SEVENTY-FIVE AND THEN TWENTY-FIVE, DID YOU FOLLOW

1 THE SAME PROCEDURE YOU JUST DESCRIBED AS YOU DID ON
2 SEPTEMBER 12TH AND SEPTEMBER 13TH OF THIS YEAR?

3 A YES, SIR MY FIRST STEP WAS TO GO TO THE
4 FINANCE OFFICE AND TELL THE FINANCE DIRECTOR THAT WE
5 WERE GOING TO NEED ADDITIONAL JURORS THEN MY NEXT
6 STEP WAS TO GO TO FIND THE OTHER JURY COMMISSIONERS
7 THE JUDGE IN PROBATE WAS ON VACATION SO SHE WAS
8 UNAVAILABLE, THE AUDITOR WAS GONE AND WOULD NOT BE
9 BACK UNTIL, POSSIBLY, LATER IN THE AFTERNOON THEN
10 MY NEXT ONE WOULD BE GO TO THE SHERIFF AND I GOT
11 SHERIFF CHARLES GOODMAN TO COME AND BE THE THIRD
12 JUROR'S COMMISSION SO WE DREW THE ADDITIONAL
13 JURORS

14 Q AND THE ADDITIONAL JURORS, WERE THEY DRAWN AT
15 ONE TIME?

16 A WE DREW SEVENTY-FIVE WE TALKED WITHIN THE
17 COURTROOM -- WE TALKED ABOUT A HUNDRED ADDITIONAL
18 JURORS SO THAT WE COULD HAVE A SUFFICIENT NUMBER TO
19 GO FORWARD WHEN WE FIRST DREW -- WE DREW THE
20 SEVENTY -- THEN WE SAID SEVENTY-FIVE WE LOOKED AT
21 SEVENTY-FIVE AND QUICKLY CALCULATED THAT, POSSIBLY,
22 WITH A RANDOM CHECK THAT MAYBE LIKE TWENTY OR SO
23 THAT WERE OVER SIXTY-FIVE SO THEN WE ELECTED, PER
24 INSTRUCTIONS FROM JUDGE COLE, TO GO AHEAD AND DO THE
25 INITIAL HUNDRED THAT WE TALKED ABOUT IT IN THE VERY

1 BEGINNING TO HAVE A SUFFICIENT NUMBER AND WE
2 FOLLOWED THE SAME PROCEDURE AND THEN WHEN WE --
3 AFTER WE GOT THOSE DONE, THEN WE IMMEDIATELY GOT THE
4 LETTER OF TRANSMITTAL FROM JUDGE COLE, THE ORIGINAL
5 LETTER, THE COPIES OF THE QUESTIONNAIRE AND THE PINK
6 SLIP, FOLDED THEM UP, SEALED THEM IN THE ENVELOPE,
7 GAVE THEM TO THE SHERIFF'S OFFICE SO THAT THEY COULD
8 PERSONALLY DELIVER THEM

9 Q NOW, LET ME ASK YOU AGAIN YOU HAVE BEEN, AS
10 YOU'VE MENTIONED, CONTINUOUSLY SERVING AS THE CLERK
11 OF COURT HERE IN ABBEVILLE COUNTY SINCE '85 SO YOU
12 WERE RE-ELECTED IN '88, '92 --

13 A RIGHT

14 Q -- AND '96, IS THAT CORRECT?

15 A I THINK THAT'S RIGHT

16 Q WHEN YOU FIRST CAME -- WHEN YOU WERE FIRST
17 ELECTED AND TOOK OFFICE IN '85, HOW WERE JURORS
18 DRAWN?

19 A IN '85, JURORS WERE -- NO ONE WAS ELIGIBLE TO
20 SERVE ON JURY EXCEPT BEING REGISTERED TO VOTE SO
21 OUTSIDE THE COURTROOM DOOR IS A LARGE JURY DRUM THAT
22 EVERYBODY'S NAME THAT WAS REGISTERED TO VOTE ARE IN
23 THOSE LITTLE BLACK CAPSULES WE GOT THE JURY
24 COMMISSION TOGETHER IN THE CLERK OF COURT'S OFFICE,
25 WHERE THAT BIG DRUM COULD BE HOUSED WE WOULD TURN

1 AND TURN AND TURN THAT DRUM AND THEN THE JURY
2 COMMISSIONERS WOULD TAKE THOSE OUT, OPEN THEM UP AND
3 WRITE DOWN THE LIST OF ALL THOSE PRESENT, WE'D HAVE
4 THE JURY SUMMONS AND SEND THEM OUT

5 Q DID YOU AT SOME POINT IN TIME CHANGE THE WAY?
6 WHEN DID YOU GO TO BEGIN USING THE COMPUTER TO
7 SELECT YOUR JURY PANEL AS OPPOSED TO THE OLD BY-
8 HAND, PICK-THEM-OUT-OF-THE-DRUM METHOD?

9 A THE SOUTH CAROLINA LEGISLATURE ELECTED TO
10 PASS LAW WHERE THE JURY SERVICE WOULD BE -- LISTS
11 WAS PREPARED FROM EVERYONE THAT WAS REGISTERED TO
12 VOTE, EVERYONE THAT HAD A VALID SOUTH CAROLINA
13 DRIVER'S LICENSE OR IDENTIFICATION FROM THE SOUTH
14 CAROLINA HIGHWAY DEPARTMENT WHEN THAT LAW WAS
15 PASSED, AND IT WAS INCREASED AS TO THE NUMBER OF
16 PEOPLE THAT WOULD BE ELIGIBLE FOR JURY SERVICE, THE
17 JURY DRUM WOULD NOT HOLD THAT MANY CAPSULES

18 AND AT THIS TIME, ABBEVILLE COUNTY DID
19 NOT HAVE A COMPUTER SYSTEM AND HAD BEEN LOOKING AT
20 DIFFERENT SYSTEMS ALL OVER THE STATE WE WENT TO
21 COLLETON COUNTY TO LOOK AT THIS AND THIS WAS FOR THE
22 FINANCES CHILD SUPPORT AND EVERYTHING SO THAT
23 THEY CAME BACK TO GREENWOOD COUNTY MADE AN AGREEMENT
24 -- MADE AN OFFER TO GREENWOOD WHICH GREENWOOD
25 ACCEPTED AND DECIDED TO GO FORWARD WITH BUYING INTO

1 THE BUYING A AS400 WHICH WOULD BE HOUSED IN
2 GREENWOOD COUNTY BECAUSE ABBEVILLE COUNTY DID NOT
3 HAVE A DATA PROCESS OR PLACE TO PUT ANY TYPE OF
4 LARGE EQUIPMENT LIKE THAT BUT THIS WAS SOMETHING
5 THAT WE WERE ABLE TO WORK OUT WITH THEM

6 SO WE WERE ABLE TO DRAW THE JURY BY
7 COMPUTER OFF OF THE AS400 LATER THAT AS400 WAS
8 MOVED TO ABBEVILLE COUNTY DOWNSTAIRS IN THE DATA
9 PROCESS ROOM THERE AGAIN, WE WOULD NOT HAVE ANY
10 ROOM FOR THIS PIECE OF EQUIPMENT THAT ALSO HAD ALL
11 THE ABBEVILLE COUNTY FINANCE AND CHILD SUPPORT AND
12 EVERYTHING ON THERE BUT I KNEW BY LAW THAT ONCE
13 THIS PROCEDURE WAS CHANGED WHERE THE REGISTERED
14 VOTERS AND THE DRIVER'S LICENSE AND THE VALID I D 'S
15 WOULD COME FROM, THEN I WOULD HAVE TO HAVE AUTHORITY
16 TO BE ABLE TO DRAW THESE JURORS BY THE COMPUTER

17 THE FIRST THING I DID WAS TO PREPARE A
18 SCHEDULE, A PLAN, AND IT HAD TO BE SUBMITTED TO THE
19 SUPREME COURT FOR THEIR APPROVAL AND I WAS ABLE TO
20 LOCATE THAT -- IF I MIGHT GIVE PROCEDURE FOR WHAT --

21 Q GO AHEAD

22 THE COURT DO YOU HAVE SOME
23 DOCUMENTS THERE THAT YOU'RE GOING TO BE REFERRING TO
24 IN YOUR TESTIMONY?

25 THE WITNESS YES, SIR

1 THE COURT HAVE THOSE MARKED AND
2 LET MR GARRETT TAKE A LOOK AT IT

3 THE WITNESS IS THERE ANY
4 OBJECTION TO COPIES BEING SUBSTITUTED FOR THOSE
5 ORIGINALS?

6 MR JONES NO, YOUR HONOR IF
7 THESE ARE HER ORIGINAL DOCUMENTS --

8 THE COURT RATHER THAN HAVE THOSE
9 MARKED, LET'S MAKE COPIES
10 (REPORTER MARKS PERTINENT DOCUMENTS AS COURT'S
11 EXHIBIT NUMBERS 16 (LETTER OF TRANSMITTAL TO SOUTH
12 CAROLINA COURT ADMINISTRATION), 17 (LETTER FROM
13 COUNTY COMMISSIONERS), AND 18 (LETTER FROM SOUTH
14 CAROLINA ADMINISTRATION ENCLOSING CERTIFICATION FOR
15 COMPUTERIZATION PROCESS)

16 MR TINSLEY JUDGE, DURING THIS
17 INTER -- IF IT'S OKAY, I HAVE ONE QUESTION ARE MY
18 COPIES OF THE QUESTIONNAIRES OF THE NEW JURORS
19 AVAILABLE TO ME NOW SO I CAN AT LEAST GET READY --
20 IT'S BEEN AN HOUR SINCE THEY TURNED THEM IN I NEED
21 TO AT LEAST GET READY ON THAT

22 THE COURT WELL, OF COURSE, THE
23 CLERK'S BEEN SITTING HERE AND SHE'S NOW TESTIFYING
24 SO HAD TO MAKE COPIES WE MIGHT BE ABLE TO GET
25 SOMEBODY TO MAKE THOSE IN FACT, I'LL HAVE MY LAW

1 CLERK MAKE THOSE FOR YOU

2 MR TINSLEY WE'LL OFFER ALICIA

3 MOLDEN (PHONETIC) TO HELP

4 EXAMINATION BY MR JONES

5 Q MS KING, I'D LIKE TO HAND YOU STATE'S
6 EXHIBIT -- COURT'S EXHIBIT 16, PLEASE AND ASK YOU IF
7 YOU WOULD READ -- FIRST OF ALL, DO YOU RECOGNIZE
8 WHAT THAT IS?

9 A YES, SIR

10 Q WHAT IS IT?

11 A THIS IS A LETTER OF TRANSMITTAL THAT I WROTE
12 TO THE SOUTH CAROLINA COURT ADMINISTRATION

13 Q ALL RIGHT AND WOULD YOU, PLEASE, READ THAT
14 LETTER TO THE RECORD

15 A "SOUTH CAROLINA COURT ADMINISTRATION, POST
16 OFFICE BOX 50447, COLUMBIA, SOUTH CAROLINA 29250
17 ATTENTION LOIS E WERTZ, RE JURY SELECTION
18 ABBEVILLE COUNTY, SOUTH CAROLINA THIS LETTER IS ON
19 MY STATIONARY LETTERHEAD DATED OCTOBER 6, 1989
20 DEAR SIR, I'M ENCLOSING WITH THIS LETTER THE
21 CERTIFICATION JURY COMPUTER ELECTION PROCESS WHICH
22 HAS BEEN SIGNED BY ABBEVILLE COUNTY JURY COMMISSION
23 ON SEPTEMBER THE 7TH, 1989

24 ALSO, I'M ENCLOSING A COMPUTER
25 ASSISTED JURY SELECTION FOR ABBEVILLE COUNTY WHICH

1 IS THE SAME PROPOSAL SUBMITTED BY GREENWOOD COUNTY
2 TO BE CONSIDERED AND APPROVED BY THE SUPREME COURT
3 I HAVE DELAYED RETURNING THE ABOVE FORMS TO YOU
4 UNTIL THE ABBEVILLE COUNTY COUNCIL APPROVED A
5 COMPUTER SYSTEM FOR OUR COUNTY THE COUNTY PASSED
6 BUYING AN IBM COMPUTER IN GOING IN WITH THE SOFTWARE
7 FROM GREENWOOD COUNTY WE ANTICIPATE THIS WILL BE
8 IN USE BY THE END OF THE YEAR IF YOU HAVE ANY
9 QUESTIONS, PLEASE CALL YOURS TRULY, NANCY S KING,
10 ENCLOSURES TWO "

11 Q AND YOU MENTIONED IN THAT LETTER THEN, IN THE
12 SECOND PARAGRAPH, I BELIEVE, RETURNING THE ABOVE
13 FORMS TO YOU UNTIL AFTER THE COUNTY COUNCIL APPROVED
14 A COMPUTER SYSTEM FOR OUR COUNTY, IS THAT CORRECT?

15 A THAT IS CORRECT

16 Q AND THE ABOVE FORMS THAT YOU DELAYED SENDING
17 WERE FORMS INVOLVING THE JURY SELECTION PROCESS?

18 A THAT IS RIGHT FOR APPROVAL BY THE SUPREME
19 COURT

20 Q SO YOU KNEW THAT WHEN YOU STATED IN YOUR
21 LETTER THAT YOU RESERVED SENDING THE FORMS UNTIL
22 THEY APPROVED A COMPUTER SYSTEM FOR THE COUNTY, YOU
23 KNEW THAT THEY WERE GOING TO HAVE TO BE APPROVING OR
24 YOU WERE GOING TO BE APPROVING THE COMPUTER SYSTEM
25 FOR JURY SELECTION

1 A THAT'S RIGHT

2 Q DID ABBEVILLE COUNTY COUNCIL APPROVE OF THE
3 COMPUTER FOR JURY SELECTION?

4 A THEY DID THEY APPROVED THE COMPUTER SYSTEM

5 Q AND WERE YOU PRESENT AT THAT MEETING WHEN
6 THEY DID APPROVE IT?

7 A YES, SIR

8 Q SO YOU WERE INTERESTED IN WHAT COUNTY COUNCIL
9 WAS GOING TO DO, IS THAT CORRECT?

10 A RIGHT

11 Q AND HAD YOU WORKED WITH YOUR COUNTY COUNCIL
12 MEMBERS ABOUT THE NEED FOR GETTING THEIR APPROVAL
13 BEFORE YOU COULD GET THE SUPREME COURT TO VERIFY THE
14 WAY THAT YOU WERE GOING TO BEGIN DRAWING THE JURORS

15 --

16 A YES, SIR

17 Q -- IN 1990 IN THIS COUNTY?

18 A BECAUSE I KNEW THAT THE FORMER METHOD THAT WE
19 HAD THAT WITH A JURY DRUM AND WITH AN INCREASED
20 NUMBER OF JURORS, THAT THAT WOULD NOT SUFFICE OF
21 BEING ABLE TO EVENLY GIVE JURORS A FAIR SHAKE

22 Q IT WOULD HAVE BEEN IMPOSSIBLE FOR YOU TO DRAW

23 A JURY --

24 MR GARRETT OBJECTION, YOUR

25 HONOR HE'S LEADING

1 THE COURT OVERRULED

2 THE WITNESS IT WOULD HAVE BEEN

3 IMPOSSIBLE FOR US TO DRAW OUT OF THE JURY DRUM

4 EXAMINATION BY MR JONES

5 Q LET ME ASK YOU THEN, TELL ME IF YOU RECOGNIZE
6 WHAT THAT COURT EXHIBIT NUMBER 18 FOR IDENTIFICATION
7 PURPOSES

8 A YES, SIR THIS IS A LETTER FROM THE SOUTH
9 CAROLINA COURT ADMINISTRATION, SOUTH CAROLINA
10 SUPREME COURT, COLUMBIA, SOUTH CAROLINA DATED
11 OCTOBER THE 20TH, 1989

12 THE COURT IT'S NOT NECESSARY THAT
13 YOU READ IT YOU CAN TALK ABOUT IT IF YOU NEED TO,
14 BUT I'VE A COPY SO I CAN READ IT

15 EXAMINATION BY MR JONES

16 Q BASICALLY, WHAT'S THE LETTER SAY?

17 A THEY'RE ENCLOSING -- IT SAYS "ENCLOSED IS A
18 CERTIFIED COPY OF CERTIFICATION FOR JURY
19 COMPUTERIZATION PROCESS THE ORIGINAL WILL BE
20 MAINTAINED BY THE SUPREME COURT ANY FUTURE
21 PROPOSED CHANGED TO YOUR ORIGINAL PROPOSAL SHOULD BE
22 SUBMITTED FOR THE COURT'S APPROVAL PRIOR TO ITS
23 IMPLEMENTATION "

24 Q ALL RIGHT AND THEN, IF YOU WOULD, COURT'S
25 EXHIBIT 17, DO YOU RECOGNIZE THAT? c

1 A YES, I DO THIS IS THE CERTIFICATION THAT
2 WAS APPROVED BY THE JURY COMMISSIONERS WHO WERE
3 JASPER DAVIS, COUNTY AUDITOR, ABNER HALL, WHO WAS
4 THE COUNTY TREASURER AT THAT TIME AND THEN CLERK OF
5 COURT, NANCY KING IT'S DATED OCTOBER THE 7TH,
6 1989

7 Q ARE THERE OTHER SIGNATURES ON THAT DOCUMENT?

8 A YES, SIR THE SUPREME COURT HAVE ALL SIGNED
9 APPROVING THIS ON OCTOBER THE 19TH, 1989 AND THIS IS
10 A CERTIFIED, TRUE COPY FROM THE SOUTH CAROLINA
11 SUPREME COURT

12 Q AND WHAT IS THE FIRST PARAGRAPH AT THE TOP OF
13 THE PAGE SAY ON THE DOCUMENT SIGNED BY EACH MEMBER
14 OF THE SOUTH CAROLINA SUPREME COURT?

15 A THIS IS THE CERTIFY THAT THE GOVERNING BODY
16 OF THIS COUNTY HAS APPROVED THE USE OF A COMPUTER BY
17 DRAWING AND SUMMONING JURORS FOR THE COURT OF COMMON
18 PLEAS AND GENERAL SESSION

19 EXAMINATION BY MR JONES THANK
20 YOU, MA'AM I HAVE NO FURTHER QUESTIONS

21 MR GARRETT MAY WE CROSS, YOUR
22 HONOR?

23 THE COURT YES, SIR

24 CROSS-EXAMINATION BY MR GARRETT

25 Q NOW, YOU SENT THIS ON TO THE SUPREME COURT

1 AND YOU SAID YOU WERE GOING TO DELAY UNTIL YOU GOT
2 THE APPROVAL, DO YOU HAVE ANY OTHER CORRESPONDENCE
3 THAT YOU SENT TO THE SUPREME COURT WITH THE OTHER
4 DOCUMENTS, OTHER THAN THESE THREE DOCUMENTS?

5 A I'M SURE THAT THE FORM THAT WE SENT -- I DO
6 NOT HAVE IT RIGHT HERE, BUT I'M SURE THAT THEY HAVE
7 WHAT WAS APPROVED

8 Q YOU DON'T HAVE THE DOCUMENTS IN YOUR FILE FOR
9 PUBLIC INSPECTION AS YOU CERTIFY IN YOUR DOCUMENTS
10 THAT YOU WOULD DO?

11 A I BELIEVE, MR GARRETT, THE CERTIFICATION
12 FORMS THAT IS SIGNED BY THE COMMISSIONER IS THE FORM
13 THAT WAS SENT TO THE SUPREME COURT

14 Q AFTER THE FACT?

15 A NO, SIR THIS WAS SENT DOWN INITIALLY
16 BECAUSE IN MY -- IN THAT FILE THAT I LOCATED,
17 THERE'S A COPY OF THE FIRST PART OF IT DOWN THROUGH
18 JURY COMMISSIONER AND THEN THIS IS THE PART THAT
19 HAS BEEN SENT BACK APPARENTLY, THE SUPREME COURT
20 HAS ADDED THIS TO THE BOTTOM OF THE COPY THAT -- OF
21 A COPY OF WHAT I SENT TO THE SUPREME COURT

22 Q THEY JUST TYPED ON IT SUPREME COURT APPROVAL
23 AND HAD IT SIGNED?

24 A THAT WOULD BE DOWN AT THE BOTTOM

25 Q NOW, LET ME ASK YOU THIS DO YOU HAVE ANY

1 DOCUMENTS OR RESOLUTIONS FROM COUNTY COUNCIL GIVING
2 THE COMMISSIONER'S AUTHORITY AND/OR YOUR AUTHORITY TO
3 JOIN THE JURY COMPUTERIZATION PROCESS?

4 A I WOULD THINK THOSE RECORDS ARE MAINTAINED IN
5 THE COUNTY COUNCIL OFFICE

6 Q SO IF WE EXAMINED THOSE RECORDS AND THERE IS
7 NO SUCH RECORD, CAN YOU HELP US UNDERSTAND WHY
8 THAT'S NOT THE CASE, WHY THERE'S NOT A RECORD WHY
9 COUNTY COUNCIL HAS ADOPTED A RESOLUTION ALLOWING FOR
10 THIS?

11 A I WOULD THINK THAT THE MINUTES OF THE COUNTY
12 COUNCIL MEETING SHOULD REFLECT THAT

13 Q AND IF THEY DON'T?

14 A I DON'T HAVE ANY CONTROL OVER THEIR --

15 Q I UNDERSTAND THAT BUT YOU, ALSO, WITHOUT
16 THAT RESOLUTION, WE CAN'T MEET OUR STATUTE, ARE YOU
17 AWARE OF THAT? IN OTHER WORDS, I UNDERSTAND WHAT
18 YOU WERE DOING YOU THOUGHT WAS CORRECT, BUT IF
19 COUNTY COUNCIL DIDN'T APPROVE THE METHOD

20 A I THINK THAT WOULD BE THE COUNTY COUNCIL
21 SHOULD BEEN AWARE OF THAT AND WITH THE COUNTY
22 ATTORNEY

23 Q CERTAINLY THEY SHOULD HAVE TAKEN CARE OF
24 THAT FOR YOU SO YOU WERE DOING WHAT YOU THOUGHT
25 WAS ABSOLUTELY CORRECT

1 A RIGHT

2 Q YOU'VE ALWAYS DONE THAT

3 A RIGHT

4 Q AND AS THE SOLICITOR SAID THE OTHER DAY, WE
5 HAVE THE UTMOST RESPECT FOR YOU IN YOUR ROLE

6 A THANK YOU

7 Q I'LL SAY THAT FOR THE RECORD BUT LET ME
8 JUST ASK YOU THIS, WITH REGARDS TO THE FIRST JURY
9 PANEL, THE SECOND JURY PANEL AND THIS THIRD JURY
10 PANEL, YOU DID NOT FOLLOW THE OLD WAY OF DOING
11 BUSINESS AS YOU HAD DONE HISTORICALLY UNDER SECTION
12 14-7-1060 WHEREBY YOU USED THAT BIG OLD ROUND THING?

13 A NO, WE DID NOT USE -- THE JURY DRAWING, WE
14 USED THE COMPUTER

15 Q ALL RIGHT AND DID YOU -- YOU DIDN'T DO THIS
16 DRAWING IN THE CLERK'S OFFICE ITSELF I UNDERSTAND
17 THEY'VE GOT YOU ALL THROWN AROUND AND I RESPECT
18 THAT BUT YOU DIDN'T DO THIS DRAWING IN THE CLERK'S
19 OFFICE AS WAS PRESCRIBED BY STATUTE?

20 A NO, IT WAS IN THE COUNTY FINANCE OFFICE

21 Q NOW, YOU AS CLERK OF COURT, IF THAT WAS
22 CONCERN FOR YOU, YOU COULD HAVE TAKEN OVER OR
23 REQUESTED DURING THIS MOVE OR WHATEVER, THAT YOU'D
24 BE ALLOWED TO TAKE OVER THIS PART AND MAKE THAT
25 SECTION OR MAKE THAT PART OF THAT BUILDING PART OF

1 THE CLERK OF COURT'S OFFICE, COULDN'T IT, OR ASKED
2 THEM FOR THAT COULD'VE ASKED MAYBE

3 A YOU CAN ASK THIS WAS IN THE FINANCE --

4 Q I UNDERSTAND BUT CLEARLY, IT WAS NOT DONE
5 IN THE CLERK OF COURT'S OFFICE

6 A IT WAS NOT DONE IN THE CLERK OF COURT'S
7 OFFICE

8 Q AND AS FAR AS GIVING THE TEN DAYS NOTICE OF
9 PLACE, DAY AND HOUR, WAS THAT DONE?

10 A I DID NOT POST THAT TEN DAYS -- I DID NOT
11 HAVE THE INFORMATION TEN DAYS IN ADVANCE

12 Q ON THE ORIGINAL ONE, YOU DID, RIGHT, OR DID
13 YOU? ON THE SEPTEMBER 12TH ONE

14 A I GOT THE QUESTIONNAIRE -- I DID KNOW THE
15 DATE AND TIME THAT I WAS GOING TO BE ABLE TO DO
16 THAT

17 Q SO ON EITHER THAT ONE, THE SECOND ONE OR THE
18 THIRD ONE, DID YOU COMPLY WITH THE POSTING IN A
19 CONSPICUOUS PLACE ON THE COURTHOUSE DOOR OR BY
20 ADVERTISING IN THE COUNTY PAPER, THE COUNTY
21 NEWSPAPER

22 A PROBABLY INFORMATION AND KNOWLEDGE BUT NOT,
23 PHYSICALLY, PUTTING IT ON THE FRONT OF THE
24 COURTHOUSE

25 Q SO IS IT FAIR TO SAY, MADAM CLERK, YOU WERE

1 IN THE MINDSET OF TAKING CARE OF THIS BUSINESS UNDER
2 JURY COMPUTERIZATION PROCESS AND YOU WEREN'T
3 CONCERNED THE OLD STATUTE AND MEETING THE
4 REQUIREMENTS OF THE OTHER STATUTE?

5 A I THINK MY CONCERN WAS GETTING THE
6 INFORMATION

7 -- EVERYTHING DONE, IN THE MAIL AND DELIVERED TO THE
8 ATTORNEYS AND THE STATE AND THE DEFENSE ON TIME

9 Q I UNDERSTAND YOU, ALSO, CERTIFIED THESE
10 PROCEDURES EFFECTIVELY PRESERVE THE RIGHT TO PUBLIC
11 ACCESS THE PROCESS OF SELECTING JURORS AND PROVISION
12 OF NOTICE TO THE PUBLIC OF SELECTION OF JURIES
13 JUST EVEN IN THIS CERTIFICATION, FROM THE OLD LAW,
14 EVEN IN THE WAY YOU WERE DOING BUSINESS OR
15 ATTEMPTING TO DO BUSINESS UNDER THE NEW LAW, YOU
16 STILL AGREED TO DO THAT IN THIS NEW CERTIFICATION,
17 DIDN'T YOU?

18 A RIGHT

19 Q AND IN THIS CASE, THAT DIDN'T OCCUR, DID IT?
20 I MEAN, NOTICE TO THE PUBLIC

21 A I THINK MY INTEREST WAS TRYING TO GET THIS
22 INFORMATION DONE FOR YOU ALL AND I JUST DID NOT CALL
23 AND LET YOU SAY, I'M GETTING READ TO DRAW, GET OVER
24 HERE

25 Q I UNDERSTAND MADAM CLERK AGAIN, I MUST ASK

1 THE QUESTION, THAT PUBLIC NOTICE WAS NOT MADE IN
2 THIS CASE, WAS IT?

3 A NO

4 Q I BEG THE COURT'S INDULGENCE JUST ONE OTHER
5 QUESTION YOU HAD INDICATED THAT A COPY OF THESE
6 PROCEDURES SHALL BE KEPT AVAILABLE FOR PUBLIC
7 INSPECTION IN THE OFFICE OF THE CLERK OF COURT AND
8 ARE THOSE AVAILABLE?

9 A YOU MEAN, THIS CERTIFICATION?

10 Q YES, MA'AM

11 A YES, SIR, IT'S AVAILABLE

12 Q AND WHERE IS IT LOCATED?

13 A IT'S IN THE OFFICE

14 Q AND WHERE AT?

15 A IN THE DESK DRAWER

16 Q IN WHOSE DESK DRAWER?

17 A MINE

18 Q IS THERE ANY TYPE OF NOTICE AROUND IT SAYING
19 THAT THIS DESK DRAWER CONTAINS THE SUBSTANCE OF THE
20 RIGHT COMPUTER PROCESS JURY SELECTION IN ABBEVILLE
21 COUNTY OR ANYTHING LIKE THAT TO LET THE GENERAL
22 PUBLIC WHERE THOSE RIGHTS EXIST?

23 A THERE'S NOT A BIG SIGN THERE, NO, SIR

24 Q I UNDERSTAND AND OTHER THAN YOU KNOWING IT
25 YOURSELF, IS THERE ANY OTHER WAY FOR US AND THE

1 GENERAL PUBLIC TO KNOW WHERE THAT DOCUMENTS LOCATED?

2 A THE OFFICE WOULD KNOW IT WAS THERE

3 Q MA'AM?

4 A THE OFFICE WOULD KNOW --

5 Q ANY OFFICE STAFF WE COULD ASK, MA'AM, AND
6 THEY WOULD KNOW THAT?

7 A RIGHT

8 MR GARRETT THANK YOU I BELIEVE
9 THAT'S ALL I HAVE AT THIS TIME

10 THE COURT MS KING, LET ME ASK
11 YOU DID YOU HAVE ANY CONVERSATIONS LAWYERS FOR THE
12 DEFENDANT AND EXPLAIN TO THEM THAT YOU WOULD BE
13 DRAWING A JURY VENIRE FOR THE CASE OF THE STATE VS
14 JOHN KENNEDY HUGHEY?

15 THE WITNESS YES, SIR THEY KNEW
16 THAT -- I THINK EVERYBODY INVOLVED KNEW THAT I
17 NEEDED THIS TO BE IN THE MAIL AND GIVE THE JURORS
18 PUBLIC NOTICE FILED BY THIRTY DAYS AND I HAD TO HAVE
19 THEM IN THE MAIL ON THE 13TH AND SO THAT'S THE
20 REASON I WAS SO ANXIOUS TO GET -- AND THEY KNEW THE
21 TIME WAS OF ESSENCE

22 THE COURT AT ANY TIME, DID ANYONE
23 ON BEHALF OF MR HUGHEY ASK YOU TO NOTIFY THEM WHEN
24 THE JURY WAS TO BE DRAWN SO THAT THEY COULD BE
25 PRESENT AND PARTICIPATE IF THEY WISH TO?

1 THE WITNESS NO, SIR, BECAUSE IF
2 ANYONE HAD ASKED ME TO PLEASE LET ME KNOW WHEN
3 YOU'RE GOING TO DRAW, WE WANT TO BE PRESENT I
4 WOULD HAVE NOT DONE ANYTHING UNTIL THEY WERE THERE

5 THE COURT DID I UNDERSTAND YOU TO
6 SAY THAT YOU WERE PRESENT AT A MEETING WHEN THE
7 COUNTY COUNCIL APPROVED OF THIS PROCEDURE?

8 THE WITNESS I'M SURE I WAS, YOUR
9 HONOR THIS WAS DONE IN SEPTEMBER OF '89 AND AS I
10 RECALL, I WAS HERE AND PRESENTED THIS TO THEM I
11 WOULD NOT HAVE -- THAT'S THE ONLY WAY, I THINK, I
12 WOULD HAVE HANDLED IT

13 THE COURT AND DID THEY TELL YOU
14 THAT THEY APPROVE OF THAT PROCEDURE?

15 THE WITNESS YES, SIR, I WOULD NOT
16 HAVE GONE FORWARD WITH IT WITHOUT -- OR PUT THAT IN
17 THERE

18 MR JONES YOUR HONOR, I WOULD
19 JUST OBJECT LET THE RECORD SPEAK FOR ITSELF AS TO
20 THE RULES AND RESOLUTIONS OF THE COUNTY COUNCIL I
21 JUST WANT -- IT'S A PUBLIC DOCUMENT, THOSE DOCUMENTS
22 SHOULD SPEAK FOR THEMSELVES I JUST WANT TO
23 ENTERTAIN THAT

24 THE COURT I GUESS THEY'LL SPEAK
25 TO ME IF THEY'RE IN THE RECORD BUT RIGHT NOW, I

1 SEE WHAT I SEE

2 IN ANY EVENT, I'VE ASKED THE
3 QUESTION AND SHE'S ANSWERED IT SO I GUESS I'VE
4 JUST OVERRULED YOUR OBJECTION

5 MR GARRETT YES, SIR

6 THE COURT ANY OTHER QUESTIONS?

7 MR JONES NO, SIR

8 MR GARRETT NONE FOR THE DEFENSE,
9 YOUR HONOR

10 THE COURT THANK YOU, MS KING
11 ANYTHING FURTHER ON THIS POINT?

12 (WITNESS STEPS DOWN AT 7 30 O'CLOCK P M)

13 MR JONES NOT AT THIS POINT FOR
14 THE STATE, YOUR HONOR, IN THE WAY OF TESTIMONY OF
15 EVIDENCE

16 MR McCALLUM YOUR HONOR, WE'D
17 LIKE TO BE ABLE TO SUPPLEMENT THE RECORD WITH THE
18 SEPTEMBER 1989, I BELIEVE THAT'S WHAT MS KING SAID,
19 MINUTES AND RESOLUTIONS OF COUNTY COUNCIL

20 THE COURT ANYTHING FURTHER BEFORE
21 THE RECESS?

22 MR JONES JUDGE, NOT TONIGHT
23 UNLESS YOU TELL ME THAT SOMETIME TOMORROW IF WE
24 REACH A POINT WHERE WE'VE GOT A HALF-HOUR OR SO TO
25 GIVE THE STATE A CHANCE TO RESPOND TO THE MOTION AND

1 ARGUMENT OF DEFENSE COUNSEL THAT THE FIREHOUSE,
2 POLICE STATION IS A COURTHOUSE BECAUSE WE'D LIKE TO
3 PRESENT SOME ARGUMENT TO YOU ABOUT THAT ISSUE

4 THE COURT THAT RELATES TO MR
5 HESSON'S DISQUALIFICATION?

6 MR JONES YES, SIR

7 THE COURT YEAH, WE CAN ADDRESS
8 THAT --

9 MR JONES SOMETIME ON BREAK
10 TOMORROW

11 THE COURT -- IN THE MORNING, IF
12 YOU WISH TO UNLESS YOU'VE JUST GOT SOME LEGAL
13 AUTHORITY YOU WANT TO CITE ME OR SHOW ME AND YOU CAN
14 PROVIDE IT RIGHT NOW

15 MR JONES WE DON'T AND THAT'S WHY
16 WE WANT TO WAIT AND DO IT TOMORROW BUT IF YOU
17 WEREN'T GOING TO LET ME DO IT SOMETIME TOMORROW I'D
18 GO AHEAD AND READ IT TONIGHT

19 THE COURT I'M SATISFIED TO QUIT
20 RIGHT NOW IF Y'ALL WANT TO
21 (THE COURT'S IN RECESS UNTIL 9 00 A M IN THE
22 MORNING)

23 ***** END OF DAY 8 *****

24 (DAY 9, OCTOBER 21, 1997)

25 MR McCALLUM YOUR HONOR

1 THE COURT SIR

2 MR McCALLUM YESTERDAY EVENING WE
3 ASKED BEFORE THE RECORD OPENED FOR THE PURPOSES OF
4 MAKING COURT EXHIBIT THE MINUTES OF COUNCIL MEETING
5 SEPTEMBER OF 1989

6 THE COURT EXCUSE ME, FOR WHEN?

7 MR McCALLUM SEPTEMBER OF 1989
8 WHICH IS WHERE THE -- WHERE MADAM CLERK SUGGESTED
9 THAT THERE MIGHT BE SOME REFERENCE TO COMPUTER-
10 AIDED-JURY SELECTION YOUR HONOR, I HAVE THOSE
11 MINUTES AND WOULD ASK TO MAKE THOSE A COURT EXHIBIT

12 MR COULTER I OBJECT IT'S HEARSAY

13 MR McCALLUM YOUR HONOR, WE'LL BE HAPPY TO
14 CALL MS CHRISLEY UP IN THE CLERK'S OFFICE IF WE
15 NEED TO VERIFY THEM I'LL PROVIDE THE COPY OF THE
16 ORIGINAL --

17 THE COURT WELL, APPARENTLY, WE'LL NEED TO
18 LET ME --

19 MR McCALLUM YEAH, I THINK IT IS AN
20 EXCEPTION UNDER BOTH A PUBLIC DOCUMENT AND A NORMAL
21 BUSINESS RECORD KEPT IN THE EVERYDAY BUSINESS
22 ACCOUNTING OFFICE

23 THE COURT WELL, IT MIGHT BE BUT THEN THE
24 CUSTODIAN'S GOT TO VERIFY THAT FACT

25 MR McCALLUM THAT'D BE FINE

1 THE COURT WE'LL BRING THE WITNESS UP LATER
2 LET ME ASK, THERE WAS SOME EXHIBIT OFFERED, AN
3 AFFIDAVIT OR STATEMENT OF SOME --

4 MR McCALLUM THE STATEMENT OF THE CLERK WHO
5 IS THE CUSTODIAN OF THESE RECORDS

6 THE COURT NOW, I KNOW THAT THERE WAS SOME
7 DOCUMENTS OFFERED -- NOT DOCUMENTS, BUT THERE WAS
8 SOME NEWSPAPER ARTICLES OFFERED I UNDERSTOOD THAT
9 THE NEWSPAPER ARTICLES WERE BEING OFFERED IN
10 EVIDENCE TO ESTABLISH THE FACT THAT THERE HAD BEEN
11 SOME ARTICLE RELATING TO THIS PARTICULAR CASE IN THE
12 NEWSPAPER BUT I AT NO TIME WAS I AWARE THAT THERE
13 WAS A STATEMENT OF MS CHRISLEY, IS IT?

14 MR McCALLUM THAT'S CORRECT, YOUR HONOR

15 THE COURT AT NO TIME WAS THE COURT MADE
16 AWARE THAT A STATEMENT OF MS CHRISLEY WAS TO BE
17 OFFERED INTO EVIDENCE AND THE FIRST I HEARD OF
18 THAT WAS WHEN IT WAS REFERRED TO YOU YESTERDAY
19 EVENING I THINK MR COULTER AT THAT TIME ASKED --
20 OR MR JONES ASKED TO SEE THE STATEMENT I DIDN'T
21 KNOW THAT HAD BEEN OFFERED INTO EVIDENCE

22 MR McCALLUM YOUR HONOR, I DID THAT WHEN WE
23 FIRST MADE THE ARGUMENT YESTERDAY ABOUT THE
24 IMPROPRIETY OF COMPUTER SELECTION OF THE JURY AND
25 I THINK A REVIEW OF THE RECORDS WILL SHOW THAT I

1 OFFERED THAT AS A COURT'S EXHIBIT AND THAT IT WAS
2 ACCEPTED I APOLOGIZE IF THE COURT WAS UNAWARE
3 OF --

4 THE COURT I WAS UNAWARE I THOUGHT WE WERE
5 ADMITTING NEWSPAPER ARTICLES AT THAT TIME

6 MR COULTER APPARENTLY, SOLICITOR JONES HAD
7 SOME IDEA ABOUT IT BECAUSE HE REFERRED TO IT I
8 WOULD HAVE ASKED FOR A COPY OF IT, I WOULD HAVE
9 OBJECTED TO IT IT'S NOT AN AFFIDAVIT AFFIDAVITS
10 AREN'T ADMISSIBLE IN CRIMINAL TRIALS ANYWAY IT'S
11 SIMPLY A LETTER STATING A POSITION AND I WOULD
12 OBJECT TO THAT AS HEARSAY, AS WELL

13 THEY'RE TRYING TO ESTABLISH THE POSITION THAT
14 THIS HAS NEVER BEEN PASSED BY COUNTY COUNCIL, IT'S
15 OMITTED BY THE MINUTES I DON'T THINK THAT'S --
16 REGARDLESS OF WHAT THE MINUTES SAY, THE MINUTES
17 AREN'T VERBATIM STATEMENTS MADE BY COUNTY COUNCIL
18 THROUGHOUT THE COURSE OF BUSINESS THE MINUTES ARE
19 SIMPLY NOTES TAKEN DOWN BY A SECRETARY AND I WOULD
20 OBJECT TO THAT AND WANT THAT PERSON PRESENT IN ORDER
21 TO VERIFY THAT, IN FACT, PARTS OF THOSE COUNTY
22 COUNCIL MEETINGS COULD, IN FACT, HAVE BEEN MISSED
23 AND MS KING WAS, IN FACT, RIGHT THAT SHE HAD BEEN
24 AUTHORIZED BY COUNCIL REGARDLESS OF WHAT THE MINUTES
25 REFLECT SO I WOULD OBJECT AND I WOULD AND I DO

1 OBJECT NOW

2 MR McCALLUM YOUR HONOR, WE'RE IN A
3 SITUATION OF TRYING TO PROVE A NEGATIVE THAT
4 SOMETHING DOESN'T EXHIBIT AND THE ONLY WAY I KNOW
5 TO DO THAT IS THROUGH A THOROUGH SEARCH OF THE
6 RECORDS COUNCIL CAN ONLY ACT THROUGH RESOLUTIONS,
7 ORDINANCES OR SOME SORT OF MEMORANDUM OR VOTES OF
8 THE ACTIONS THAT THEY TAKE OF COURSE, WE'LL BRING
9 MS CHRISLEY UP AND HAVE HER TESTIFY AS TO WHAT
10 VOTES WERE TAKEN

11 THE COURT WELL, IN THAT EVENT, I'LL HOLD ANY
12 RULING IN ADVANCE ON THAT ISSUE UNTIL SUCH TIME AS
13 WE'VE COMPLETED CALLING WHATEVER WITNESSES OR
14 ADMITTING WHAT EVER OTHER EVIDENCE YOU WISH TO ON
15 THAT POINT

16 MR McCALLUM YOUR HONOR, CAN I GET A ROUGH
17 TIME JUST SO I CAN LET HER KNOW I DON'T WANT TO BE
18 IN A POSITION OF HER GOING TO LUNCH AND THE COURT
19 WANTING HER AT THAT POINT IF I COULD LET HER KNOW
20 I CAN GO DOWN AND GET HER RIGHT NOW IF YOU WANT TO
21 DO THAT

22 THE COURT WELL, I PREFER TO -- SINCE WE HAVE
23 THE JURORS COMING BACK ON SCHEDULE, I'D PREFER TO
24 HANDLE THOSE MATTERS WHEN WE DON'T HAVE JURORS
25 COMING SO RIGHT NOW WE'LL SIMPLY JUST HAVE TO TRY

1 TO WORK HER IN AS WE GO THROUGH THIS VOIR DIRE
2 PROCESS

3 MR McCALLUM THANK YOU, YOUR HONOR

4 THE COURT I'LL GIVE YOU PLENTY OF TIME TO
5 HAVE HER AVAILABLE AND WHATEVER TIME IT TAKES IF
6 IT HAS TO BE THIS EVENING, WE CAN DO IT THEN

7 MR McCALLUM THANK YOU, YOUR HONOR

8 THE COURT ANYTHING FURTHER BEFORE WE BEGIN
9 WITH INDIVIDUAL VOIR DIRE?

10 MR COULTER NOT FOR THE STATE, YOUR HONOR

11 MR McCALLUM NO, YOUR HONOR

12 THE COURT THE FIRST TWO -- EXCUSE ME, THE
13 FIRST THREE ARE McKENSIE, CADE AND CHARPING ARE
14 THEY PRESENT? ASK THEM TO COME IN

15 (JUROR #278 PRESENTED AT 9 30 O'CLOCK A M)

16 (THE COURT CALLS JUROR McKENSIE)

17 EXAMINATION BY THE COURT

18 Q GOOD MORNING, MS McKENSIE

19 A GOOD MORNING

20 Q AS YOU KNOW, WE'RE GOING TO BE ASKING YOU SOME
21 QUESTIONS INDIVIDUALLY I'LL HAVE SOME FOR YOU AND
22 THE LAWYERS MAY HAVE SOME ADDITIONAL QUESTIONS FOR
23 YOU THERE ARE NO RIGHT OR WRONG ANSWERS TO THESE
24 QUESTIONS WE JUST SIMPLY NEED TO FIND OUT YOUR
25 VIEWS AND OPINIONS ON CERTAIN TOPICS OR SUBJECTS

1 AND SO I WOULD SIMPLY ASK THAT YOU, PLEASE, ANSWER
2 THE QUESTIONS AS OPENLY AND AS HONESTLY AS YOU CAN
3 IF FOR SOME REASON YOU DO NOT UNDERSTAND A QUESTION
4 OR MY QUESTION OR A LAWYER'S QUESTION IS NOT CLEAR,
5 LET US KNOW WE CAN REPEAT IT FOR YOU OR CLARIFY IT
6 FOR YOU, SHOULD THE NEED BE /

7 NOW, AS YOU WILL RECALL, YOU HAVE BEEN PLACED
8 UNDER OATH, YOU AND YOUR FELLOW JURORS, DO YOU
9 REMEMBER THAT?

10 A YES, SIR

11 Q YOU REMAIN UNDER OATH FOR THE PURPOSE OF THESE
12 QUESTIONS, ALSO YOU HAVE FILLED OUT A
13 QUESTIONNAIRE AND YOU HAD INDICATED EARLIER THAT
14 YOUR QUESTIONNAIRE IS ACCURATE, IS THAT CORRECT?

15 YOU, ALSO, INDICATED THAT YOU HAD RECEIVED MY
16 LETTER AND THE INSTRUCTION, THAT IS NOT DISCUSSING
17 THE CASE OR ALLOWING ANYONE TO DISCUSS IT WITH YOU
18 AND AVOIDING ANY EXPOSURE TO ANY TYPE OF MEDIA
19 COVERAGE OF THIS CASE HAVE YOU FOLLOWED THAT
20 INSTRUCTION?

21 A YES, SIR

22 Q PRIOR TO COMING TO COURT OR RECEIVING MY
23 LETTER, HAD YOU HAD ANY EXPOSURE TO ANY TYPE OF
24 TELEVISION, RADIO OR NEWSPAPER ARTICLE?

25 A NO, SIR

1 Q AND HAD YOU HAD ANY DISCUSSIONS OR
2 CONVERSATIONS ABOUT THE CASE?

3 A NO, SIR

4 Q HAVE YOU HEARD ANYTHING ABOUT THE CASE FROM
5 ANY SOURCE?

6 A NO, SIR

7 Q NOW, A JURY'S FUNCTION IN THE TRIAL OF A
8 CRIMINAL CASE IS TO SIMPLY CONSIDER EVIDENCE,
9 WHETHER IT BE TESTIMONY OF WITNESSES OR THE
10 INTRODUCTION OF SOME OTHER TYPE OF EVIDENCE A JURY
11 IS CALLED UPON TO CONSIDER ALL OF THAT EVIDENCE
12 AND BASED UPON THE JURY'S CONSIDERING EVIDENCE, THEY
13 DECIDE WHAT THE FACTS ARE IN A CASE THE COURT
14 PROVIDES YOU WITH THE LAW THAT YOU WOULD APPLY IN A
15 PARTICULAR CASE AND THE JURY, ONCE THEY DETERMINE
16 THE FACTS, APPLIES THE LAW AND ARRIVES AT A
17 DECISION A FAIR AND JUST VERDICT, BASED UPON THE
18 EVIDENCE AND THE LAW DO YOU UNDERSTAND THAT THAT
19 IS THE JURY'S FUNCTION?

20 A UM-HMM

21 Q DO YOU UNDERSTAND THAT IN A CRIMINAL CASE,
22 WHERE THE STATE BRINGS A CHARGE, A CRIMINAL CHARGE,
23 AGAINST ANOTHER PERSON, THAT THE BURDEN IS ALWAYS
24 UPON THE STATE TO ESTABLISH THAT PERSON'S GUILTY
25 BEYOND A REASONABLE DOUBT BEFORE THE JURY CAN FIND

1 THAT PERSON GUILTY, DO YOU UNDERSTAND THAT?

2 A YES, SIR

3 Q DO YOU, ALSO, UNDERSTAND THAT THE BURDEN IS
4 NEVER UPON THAT PERSON CHARGED TO PROVE THAT THEY
5 ARE NOT GUILTY OR TO PROVE THAT THEY ARE INNOCENT?

6 A YES, SIR

7 Q DO YOU, ALSO, UNDERSTAND THAT ANY PERSON WHO
8 IS CHARGED WITH A CRIME IS PRESUMED TO BE INNOCENT
9 OF THAT CRIME?

10 A YES, SIR

11 Q AND MAY ONLY BE FOUND GUILTY IF THE STATE
12 COMES FORWARD WITH SUFFICIENT EVIDENCE TO ESTABLISH
13 THAT PERSON'S GUILT IN THE MINDS OF THE JURY BEYOND
14 A REASONABLE DOUBT CAN YOU ACCEPT THOSE
15 PROPOSITIONS OF LAW?

16 A YES, SIR

17 Q NOW, IN THIS CASE, AS YOU ARE AWARE, THE STATE
18 HAS CHARGED THE DEFENDANT WITH THE CRIME OF MURDER
19 AND THE LAW PROVIDES THAT UNDER CIRCUMSTANCES, A
20 PERSON WHO HAS BEEN CONVICTED OR FOUND GUILTY BY A
21 JURY OF THE CRIME OF MURDER, MAY BE SUBJECTED TO THE
22 DEATH PENALTY THAT IS UNDER CERTAIN CIRCUMSTANCES
23 THE STATE MAY ASK THAT THE JURY SENTENCE A PERSON TO
24 DEATH, THAT PERSON HAVING BEEN CONVICTED OF MURDER
25 THE LAW ONLY PROVIDES THAT THAT CAN BE DONE

1 IF, IN ADDITION TO THE PERSON BEING FOUND GUILTY OF
2 MURDER, THAT THERE BE SOME OTHER AGGRAVATING
3 CIRCUMSTANCE PROVEN BEYOND A REASONABLE DOUBT IT'S
4 UNDER THAT CIRCUMSTANCE THAT THE JURY MAY CONSIDER
5 SENTENCING A PERSON TO DEATH THAT DOESN'T MEAN
6 THAT THEY ARE REQUIRED TO, IT SIMPLY MEANS THAT THEY
7 ARE PERMITTED TO CONSIDER IF THEY DETERMINE THAT
8 IT'S APPROPRIATE THAT DECISION IS STILL ONE FOR
9 THE JURY, DO YOU UNDERSTAND THAT?

10 A YES, SIR

11 Q NOW, IN A CASE WHERE THE STATE IS SEEKING THE
12 DEATH PENALTY, IT'S CONDUCTED IN TWO SEPARATE
13 STAGES THAT JUST MEANS, BASICALLY, THERE ARE TWO
14 SEPARATE HEARINGS OR TRIALS AND THE FIRST STAGE OF
15 THE TRIAL IS GUILT PHASE OF THE TRIAL THAT'S WHERE
16 THE ISSUE OF GUILT IS DECIDED, EVIDENCE IS RECEIVED
17 DURING THAT PORTION OF THE TRIAL AND THE JURY, IN
18 CONSIDERING ALL OF THAT EVIDENCE AND IN APPLYING THE
19 LAW, WILL DECIDE WHETHER OR NOT THE PERSON CHARGED
20 HAS BEEN PROVEN TO BE GUILTY OF MURDER BEYOND A
21 REASONABLE DOUBT, AND WHETHER OR NOT THERE IS SOME
22 AGGRAVATING CIRCUMSTANCE IN ADDITION TO THAT MURDER
23 DO YOU BELIEVE THAT IF YOU WERE SELECTED AS A
24 JUROR, THAT YOU WOULD BE ABLE TO FAIRLY CONSIDER ALL
25 EVIDENCE THAT WAS INTRODUCED DURING THE TRIAL OF THE

1 CASE?

2 A YES, SIR

3 Q AND IF YOU, AFTER CONSIDERING ALL OF THAT
4 EVIDENCE, WERE CONVINCED BEYOND A REASONABLE DOUBT
5 THAT THE INDIVIDUAL CHARGED WAS PROVEN GUILTY OF
6 MURDER, WOULD YOU BE ABLE TO RETURN A VERDICT OF
7 GUILTY?

8 A I GUESS SO

9 Q WELL, DO YOU BELIEVE THAT YOU COULD NOT FIND A
10 PERSON GUILTY OF MURDER IF THE EVIDENCE SUPPORTED
11 THAT DECISION?

12 A YES, SIR

13 Q YES, SIR, WHAT? YOU COULD OR COULD NOT?

14 A FIND THE VERDICT GUILTY IS WHAT YOU'RE --

15 Q YES, MA'AM IF YOU CONSIDERED ALL OF THE
16 EVIDENCE THAT WOULD BE INTRODUCED AND AFTER YOU
17 CONSIDERED ALL OF THAT EVIDENCE, AND, OF COURSE, I
18 WOULD TELL YOU WHAT THE LAW IS I WOULD EXPLAIN TO
19 YOU WHAT IS MURDER UNDER THE LAW OF THIS STATE AND
20 THEN YOU WOULD BE ASKED TO DECIDE WHAT THE FACTS ARE
21 AND DECIDE WHETHER OR NOT THE FACTS MET THE LEGAL
22 TEST THAT IS, WAS IT MURDER OR NOT AND I'M
23 SIMPLY ASKING WHETHER OR NOT, AFTER YOU CONSIDERED
24 THAT EVIDENCE, IF YOU WERE CONVINCED BEYOND A
25 REASONABLE DOUBT, THAT THE STATE HAD PROVEN THE

1 DEFENDANT GUILTY OF MURDER, COULD YOU RETURN A
2 VERDICT OF GUILTY AS TO MURDER?

3 A YES, SIR

4 Q NOW, YOU UNDERSTAND THAT IF YOU HAVE A
5 REASONABLE DOUBT AS TO WHETHER OR NOT A PERSON HAS
6 BEEN PROVEN TO BE GUILTY OF THE CRIME, THEN YOU MUST
7 RETURN A VERDICT OF NOT GUILTY

8 A YES, SIR

9 Q COULD YOU DO THAT, ALSO, IF YOU WERE NOT
10 CONVINCED BEYOND A REASONABLE DOUBT, COULD YOU
11 RETURN A VERDICT OF NOT GUILTY?

12 A YES, SIR

13 Q NOW, AS I TOLD YOU IN A CASE SUCH AS THIS
14 THAT'S CONDUCTED IN TWO SEPARATE PHASES, AND IF A
15 PERSON IS FOUND GUILTY OF MURDER AND THERE IS SOME
16 OTHER AGGRAVATING CIRCUMSTANCE PROVEN BEYOND A
17 REASONABLE DOUBT, THEN WE WOULD PROCEED TO THE
18 SECOND PHASE OF THE TRIAL, THE PENALTY PHASE OF THE
19 TRIAL THAT'S WHERE THE ISSUE OF PUNISHMENT WOULD
20 BE DECIDED BY THE JURY

21 NOW, DURING THAT SEPARATE TRIAL, WHICH WOULD
22 BE CONDUCTED SHORTLY AFTER THE FIRST, THERE WOULD BE
23 ADDITIONAL EVIDENCE OFFERED THERE WOULD BE
24 EVIDENCE OFFERED IN AGGRAVATION AND EVIDENCE OFFERED
25 IN MITIGATION AND BY THAT, I MEAN, THAT THERE

1 WOULD BE EVIDENCE OFFERED THAT MIGHT TEND TO SUPPORT
2 THE MORE SEVERE PUNISHMENT AS BEING APPROPRIATE
3 THAT BEING THE DEATH PENALTY AND THERE MIGHT BE
4 EVIDENCE OFFERED WHICH MIGHT TEND TO SUPPORT THE
5 LESS SEVERE PUNISHMENT AS BEING MOST APPROPRIATE
6 THAT BEING LIFE IMPRISONMENT

7 NOW, IF YOU WERE PARTICIPATING IN SUCH A TRIAL
8 AND YOU WERE IN THE PENALTY PHASE OF THAT TRIAL,
9 WOULD YOU BE ABLE TO AND WOULD YOU BE WILLING TO
10 FAIRLY CONSIDER ALL OF THAT ADDITIONAL EVIDENCE THAT
11 WOULD BE RECEIVED THAT WOULD BARE ON THE ISSUE OF
12 PUNISHMENT?

13 A YES, SIR

14 Q AND AFTER YOU HAD CONSIDERED ALL OF THAT
15 ADDITIONAL EVIDENCE, AS WELL AS THE CIRCUMSTANCES OF
16 THE CRIMES THEMSELVES, AND THE CIRCUMSTANCES OR
17 INDIVIDUAL CHARACTERISTICS OF THE PERSON CONVICTED,
18 AFTER YOU HAD CONSIDERED ALL OF THAT EVIDENCE, WOULD
19 YOU BE ABLE TO SENTENCE A PERSON TO DEATH IF YOU
20 THOUGHT THAT THAT WAS THE APPROPRIATE DECISION IN
21 THE CASE?

22 A YES, SIR

23 Q WOULD YOU, ALSO, BE ABLE TO SENTENCE A PERSON
24 TO LIFE IMPRISONMENT IF YOU THOUGHT THE EVIDENCE
25 SUPPORTED THAT?

1 A YES, SIR

2 Q OR YOU BELIEVED THAT THAT WAS THE APPROPRIATE
3 DECISION

4 A YES, SIR

5 Q NOW, DO YOU UNDERSTAND THAT THE JURY WOULD
6 ALWAYS HAVE THAT DECISION? YOU WOULD HAVE TWO
7 CHOICES YOU COULD SENTENCE A PERSON TO DEATH UNDER
8 THE CIRCUMSTANCES THAT I'VE INDICATED TO YOU THAT
9 YOU WOULD BE PERMITTED TO, YOU COULD, ALSO, SENTENCE
10 A PERSON TO LIFE AND, AS I'VE SAID, WHILE UNDER
11 CERTAIN CIRCUMSTANCES, YOU'RE PERMITTED TO SENTENCE
12 A PERSON TO DEATH, IF YOU THINK IT APPROPRIATE, DO
13 YOU UNDERSTAND THAT THE LAW NEVER REQUIRES THAT YOU
14 SENTENCE A PERSON TO DEATH, NO MATTER WHAT THE FACTS
15 ARE?

16 A YES, SIR

17 Q IT'S STILL THE JURY'S DECISION DO YOU
18 UNDERSTAND THAT YOU COULD SENTENCE A PERSON TO LIFE
19 IMPRISONMENT FOR ANY REASON OR FOR NO REASON, IF YOU
20 THOUGHT IT TO BE APPROPRIATE?

21 A YES, SIR

22 Q NOW, IF YOU WERE FACED WITH THAT CHOICE, IF
23 YOU HAD THAT DECISION TO MAKE, BASED UPON ALL OF THE
24 EVIDENCE IN THE CASE, AND YOU HAD THE DECISION AND
25 CHOICE AS TO WHETHER YOU WERE TO SENTENCE A PERSON

1 TO DEATH OR TO SENTENCE A PERSON TO LIFE WOULD YOU
2 ALWAYS, IN EVERY CASE, CHOSE ONE OF THOSE OPTIONS
3 OVER THE OTHER?

4 A YES, SIR

5 Q WHAT WOULD YOU SELECT?

6 A WOULD YOU REPEAT THE QUESTION AGAIN?

7 Q ALL RIGHT MY QUESTION IS SIMPLY, IF YOU HAD
8 CONSIDERED ALL THE EVIDENCE IN THE CASE AND YOU HAD
9 A CHOICE BETWEEN SENTENCING A PERSON TO DEATH AND
10 SENTENCING A PERSON TO LIFE, WOULD YOU ALWAYS CHOSE
11 ONE OF THOSE SENTENCING OPTIONS OVER THE OTHER?

12 A YES, SIR I'D, PROBABLY, SENTENCE TO LIFE

13 Q WOULD YOU DO THAT IN EVERY CASE, NO MATTER
14 WHAT THE FACTS OR CIRCUMSTANCES SHOWED?

15 A YES, BECAUSE I DON'T WANT TO RESPONSIBLE FOR
16 ANYBODY BEING PUT TO DEATH

17 Q AND THAT'S WHAT I'M TRYING TO DETERMINE

18 A I DON'T WANT TO BE RESPONSIBLE FOR THAT

19 Q WELL, ARE YOU SAYING THAT YOU COULD NOT
20 SENTENCE A PERSON TO DEATH UNDER ANY CIRCUMSTANCES?

21 A I DON'T BELIEVE I COULD

22 Q NOW, I RECOGNIZE THAT IT WOULD BE A DIFFICULT
23 DECISION FOR YOUR OR HARD DECISION AND NOBODY WOULD
24 TAKE IT LIGHTLY BUT WHAT I'M SIMPLY TRYING TO FIND
25 OUT IS IF THERE IS SOME CIRCUMSTANCE OR PARTICULAR

1 CASE, I'M NOT ASKING YOU WHAT IT IS, BUT IF YOU
2 THINK THERE IS SOME CASE WHERE YOU COULD SENTENCE A
3 PERSON TO DEATH, IF YOU THOUGHT IT WAS THE
4 APPROPRIATE DECISION?

5 A YES, YOU KNOW, BUT I WOULDN'T WANT TO I
6 WOULDN'T WANT TO MAKE THAT DECISION

7 Q WELL, I UNDERSTAND THAT IT MIGHT NOT BE
8 SOMETHING THAT YOU WOULD NECESSARILY WANT TO DO OR
9 THAT YOU WOULD NECESSARILY VOLUNTEER FOR BUT I'M
10 SIMPLY ASKING YOU, IF YOU WERE CALLED UPON TO SERVE,
11 AND YOU HAD CONSIDERED ALL THE EVIDENCE IN THE CASE,
12 AND THAT EVIDENCE, IN YOUR MIND, SUPPORTED A
13 DECISION OF SENTENCING A PERSON TO DEATH, WOULD YOU
14 BE ABLE TO DO THAT OR COULD YOU NOT DO IT?

15 A I DON'T BELIEVE I COULD

16 Q YOU DON'T BELIEVE THAT YOU COULD?

17 A NO, SIR I DON'T BELIEVE I COULD, YOU KNOW,
18 WANT TO DEAL WITH THAT

19 Q NOW, DO YOU UNDERSTAND THAT -- JUST TRY TO
20 ACCEPT THIS JUST FOR THE MOMENT ASSUME THAT YOU'VE
21 PARTICIPATED AND THAT YOUR DECISION WAS THAT MAYBE
22 THAT PERSON SHOULD BE SENTENCED TO DEATH BECAUSE OF
23 THE CRIME ITSELF AND THE CIRCUMSTANCES RELATING TO
24 IT, IF YOU MADE THE DECISION THAT A PERSON SHOULD BE
25 SENTENCED TO DEATH, DO YOU UNDERSTAND THAT YOU WOULD

1 HAVE TO SIGN A FORM INDICATING THAT THAT WAS YOUR
2 DECISION? THAT YOU WERE RECOMMENDING THAT THE
3 PERSON BE SENTENCED TO DIE IF THAT WERE THE CASE,
4 WOULD YOU BE ABLE TO SIGN SUCH A FORM RECOMMENDING
5 THAT A PERSON BE SENTENCED TO DEATH?

6 A NO, SIR, I WOULDN'T WANT TO DO THAT

7 Q WELL, COULD YOU DO THAT?

8 A NO, SIR

9 Q YOU COULD NOT

10 A HUH-UH I DON'T BELIEVE I'D WANT TO I'D
11 RATHER SOMEBODY ELSE DO IT

12 Q WELL, YOU UNDERSTAND THAT IF YOU WERE ON A
13 JURY AND THAT WAS YOUR DECISION, NO ONE ELSE COULD
14 DO IT BUT YOU? THE OTHER JURORS WOULD HAVE TO DO
15 IT, ALSO, BUT YOU WOULD BE ONE OF THOSE JURORS, IF
16 THAT WAS YOUR DECISION, TO SENTENCE SOME PERSON TO
17 DEATH, THAT YOU WOULD HAVE TO SIGN THAT FORM MAKING
18 THAT RECOMMENDATION, YOU'D RECOMMEND THAT TO ME THAT
19 THE PERSON BE SENTENCED TO DEATH BUT YOU
20 UNDERSTAND, I'D HAVE TO FOLLOW YOUR RECOMMENDATION,
21 I DON'T HAVE DISCRETION IN THE MATTER WOULD YOU BE
22 ABLE TO SIGN THAT FORM SENTENCING A PERSON TO DIE?

23 A NO, SIR

24 THE COURT PLEASE ANSWER ANY
25 QUESTIONS THAT THE LAWYERS MAY HAVE FOR YOU

1 EXAMINATION BY MR TINSLEY

2 Q GOOD MORNING, MS MCKENSIE

3 A GOOD MORNING

4 Q WHEN THE JUDGE FIRST ASKED YOU ABOUT THE DEATH
5 PENALTY AND IF YOU COULD RENDER THAT VERDICT, I
6 BELIEVE YOU INDICATED THAT YOU COULD WHEN HE FIRST
7 ASKED YOU

8 A YES, SIR, I KNOW HE DID

9 Q AND I KNOW IT'S A DIFFICULT SITUATION FOR YOU
10 TO DEAL WITH, BUT DO YOU REALIZE THAT THE DECISION
11 WOULD BE YOURS ALONG WITH ELEVEN OTHERS AS PART OF A
12 JURY OF TWELVE? AND IN A CASE WHERE THE TWELVE OF
13 YOU DECIDE THAT THE FACTS OF THE CASE WERE BAD
14 ENOUGH TO WARRANT A DEATH PENALTY, COULD YOU FOLLOW
15 THE INSTRUCTIONS OF THE JUDGE AND, IF YOU SO DEEMED
16 IT APPROPRIATE, VOTE FOR THE DEATH PENALTY?

17 A NO, SIR I WOULDN'T WANT TO VOTE FOR THE
18 DEATH PENALTY

19 Q I KNOW YOU DON'T WANT TO BUT COULD YOU
20 CONSIDER IT?

21 A I GUESS IF I HAD TO, I WOULD

22 Q WELL, YOU DON'T HAVE TO I MEAN, YOU COULD
23 CONSIDER LIFE, ALSO BUT AS A DELIBERATING BODY OF
24 TWELVE, COULD YOU CONSIDER ALL THE AGGRAVATING
25 CIRCUMSTANCES AS OFFERED BY THE STATE OF SOUTH

1 CAROLINA AND ALSO CONSIDER ANY AND ALL MITIGATING
2 CIRCUMSTANCES OFFERED BY THE DEFENDANT COULD YOU
3 CONSIDER THOSE FACTS, DO YOU UNDERSTAND WHAT I MEAN?

4 A NO, WOULD YOU EXPLAIN IT SOME MORE FOR ME?

5 Q I WILL AGGRAVATING CIRCUMSTANCES ARE THE BAD
6 CIRCUMSTANCES, WHY YOU SHOULD GIVE HIM THE DEATH
7 PENALTY ON THE OTHER HAND, THE MITIGATING
8 CIRCUMSTANCES ARE THE GOOD CIRCUMSTANCES ABOUT THE
9 DEFENDANT AND WHY YOU SHOULD NOT GIVE HIM THE DEATH
10 PENALTY, EXTENUATING CIRCUMSTANCES COULD YOU
11 CONSIDER THE AGGRAVATING CIRCUMSTANCES?

12 A YES, SIR

13 Q COULD YOU CONSIDER THE MITIGATING
14 CIRCUMSTANCES?

15 A YES, SIR

16 Q AND IN SO DOING, YOU COULD CONSIDER THE LAW AS
17 GIVEN TO YOU BY THE JUDGE, COULD YOU NOT?

18 A YES, SIR

19 Q NOW, AS SUCH, COULD YOU CONSIDER -- AND
20 NOBODY'S ASKING YOU WHAT YOUR VOTE WOULD BE, IT'S
21 WAY TOO SOON FOR THAT BUT COULD YOU CONSIDER IN
22 ADDITION TO A LIFE SENTENCE, COULD YOU CONSIDER A
23 DEATH SENTENCE?

24 A YES, SIR

25 Q SO YOU COULD CONSIDER IT?

1 A YES, SIR

2 Q SO THE PROBLEM YOU WOULD HAVE IS IT WITH JUST
3 SIGNING YOUR NAME TO THE DEATH WARRANT?

4 A YES, SIR, THAT WOULD BE A PROBLEM

5 Q THAT WOULD BE A PROBLEM?

6 A YES, SIR

7 Q WELL, IF THE OTHER ELEVEN JURORS WERE SIGNING
8 THEIR NAME -- DO YOU UNDERSTAND IT WOULDN'T BE JUST
9 YOU SIGNING YOUR NAME, IT WOULD BE YOU AND THE OTHER
10 ELEVEN REQUIRED UNANIMITY OF ALL TOGETHER THAT THE
11 SAME VOTE WOULD BE REQUIRED NOW, IF THE LIFE
12 SENTENCE WERE THE RECOMMENDATION, YOU WOULDN'T HAVE
13 TO SIGN THAT DEATH WARRANT BUT UNDER THE
14 CIRCUMSTANCES WHERE ALL TWELVE AGREE AND THE OTHER
15 ELEVEN SIGN, COULD YOU SIGN IT IF THAT WERE YOUR
16 VOTE?

17 A YES

18 MR TINSLEY THANKS SO MUCH THAT'S ALL

19 EXAMINATION BY MR JONES

20 Q GOOD MORNING

21 A GOOD MORNING

22 Q MS MCKENSIE, MY NAME'S TOWNES JONES, I'M YOUR
23 SOLICITOR HERE IN ABBEVILLE, THE PROSECUTING
24 ATTORNEY, THE DISTRICT ATTORNEY I REPRESENT THE
25 STATE WHO IS SEEKING THE DEATH PENALTY THIS IS

1 MICHAEL COULTER, HE'S YOUR CHIEF DEPUTY SOLICITOR
2 AND HE'LL BE WORKING WITH ME, WE'LL BE WORKING
3 TOGETHER TO CALL THE WITNESSES AND PUTTING IN THE
4 EVIDENCE IN THE CASE

5 WE'VE BEEN WORKING AT THIS JURY SELECTION
6 PROCESS SINCE SOMETIME EARLY LAST WEEK, AND WE'RE
7 ABOUT TO BRING IT TO A CONCLUSION WE'VE GOT TO
8 BEGIN SELECTING OUR JURORS POSSIBLY TOMORROW
9 MORNING AND WHAT WE'RE DOING IS SEEING IF YOU
10 QUALIFY TO SIT OVER HERE IN THIS JURY AND HEAR
11 EVIDENCE IN THIS CASE AND BEFORE WE CAN SEAT YOU
12 HERE, WE NEED TO KNOW WHETHER OR NOT YOU QUALIFY AS
13 A JUROR, OKAY?

14 A OKAY

15 Q AND WE NEED TO KNOW THAT BECAUSE WE HAVE A
16 RIGHT TO KNOW THAT, THOSE OF US SEEKING THE DEATH
17 PENALTY WE HAVE A RIGHT TO KNOW -- YOU UNDERSTAND
18 THAT WHETHER OR NOT YOU QUALIFY AND IN ORDER TO
19 FIND OUT WHETHER OR NOT YOU QUALIFY, WE HAVE TO KNOW
20 WHETHER OR NOT YOU'RE CAPABLE OF CONSIDERING THE
21 IMPOSITION OF THE DEATH PENALTY ON SOMEBODY DO YOU
22 FOLLOW WHAT I'M SAYING?

23 A YES

24 Q AND WE CAN'T KNOW WHETHER YOU'RE CAPABLE OF
25 THAT UNLESS YOU KNOW YOU CAN

1 A NO

2 Q I MEAN, WE DON'T KNOW UNLESS YOU KNOW SO
3 WHAT WE'RE TRYING TO DO IS FIND OUT IF YOU KNOW,
4 OKAY?

5 A OKAY

6 Q AND YOU DO HAVE TO, YOU KNOW, YOU HAVE TO FIND
7 OUT I DON'T KNOW IF YOU COULD EQUATE IT TO BUNGEE
8 JUMPING OR NOT HAVE YOU EVER BUNGEE JUMPED?

9 A NO, SIR

10 Q YOU EVER THOUGHT ABOUT WHETHER YOU WOULD
11 BUNGEE JUMP?

12 A NO, I DON'T THINK I'D WANT TO

13 Q WOULD YOU DO IT IF YOU GOT UP THERE AND YOU
14 TOLD SOMEBODY YOU WOULD AND YOU GOT UP THERE, WOULD
15 YOU BUNGEE JUMP?

16 A NO, SIR

17 Q YOU WOULDN'T, WOULD YOU?

18 A HUH-UH

19 Q SO YOU KNOW YOU WOULDN'T BUNGEE JUMP

20 A NO, SIR

21 Q YOU KNOW THAT ABOUT YOURSELF YOU CAN TELL ME
22 NOW, HONESTLY, I DON'T CARE WHAT YOU TELL ME, WHAT
23 YOU OFFER ME, WHAT YOU'VE PROMISED ME, I AIN'T
24 GETTING UP ON THE BUNGEE AND JUMPING OFF YOU KNOW
25 THAT ABOUT --

1 A YEAH

2 Q YOU DO

3 A UM-HMM

4 Q ALL RIGHT WELL, IN THE SAME FRAME OF MIND,
5 IF YOU WOULD TRY TO BE JUST AS HONEST WITH ME AND
6 JUST AS HONEST WITH YOURSELF, NOW YOURSELF AS WELL
7 ON THE ISSUE OF WHETHER OR NOT YOU CAN SENTENCE
8 SOMEBODY TO DEATH

9 A NO, SIR, I DON'T WANT --

10 Q MA'AM

11 A NO, SIR, I DON'T WANT TO SEND SOMEBODY TO
12 DEATH

13 Q WELL, I KNOW YOU SAID YOU DON'T WANT TO, OKAY,
14 AND WE'RE RIGHT TO THE POINT WHERE WE'RE GETTING
15 INTO THE TRIAL AND IF YOU CAN'T, THEN THAT'S OKAY,
16 IF YOU CAN'T

17 A I CAN'T

18 Q BUT IF YOU CAN AND YOU KNOW YOU CAN, THEN WE
19 NEED TO KNOW ABOUT IT

20 A NO, SIR, I CAN'T

21 Q MA'AM

22 A I CAN'T

23 Q WELL, WHAT DID YOU JUST SAY A MINUTE AGO?

24 A WELL, WHAT I WAS -- HE WAS ASKING IF I WAS
25 THERE WITH ALL TWELVE PEOPLE

1 Q RIGHT

2 A AND THERE ALL -- I'M GOING ALONG WITH THEIR
3 DECISION, I WOULDN'T BE THE ODD ONE

4 Q I SEE

5 A THAT'S THE ONLY WAY THAT I WILL

6 Q WELL, WHAT IF SEVEN OF THEM THOUGHT THE DEATH
7 PENALTY WAS APPROPRIATE AND YOU WERE SITTING THERE
8 WITH FIVE WHO DIDN'T?

9 A I'D BE GOING WITH THE ONES THAT DIDN'T

10 Q YOU WOULD?

11 A YES, SIR

12 Q WHAT IF TEN OF THEM THOUGHT THE DEATH PENALTY
13 WAS APPROPRIATE AND THERE WAS TWO OF YOU THAT DIDN'T
14 THINK IT WAS?

15 A I'D PROBABLY BE WITH THE TWO

16 Q YOU WOULD?

17 A YES

18 Q WELL, BUT WHAT YOU'RE SAYING IS, IF YOU'RE
19 BACK THERE BY YOURSELF ALL ALONE, ONLY ONE, THEN YOU
20 WOULD

21 --

22 A I WOULD GO ALONG WITH THE REST

23 Q WELL, THAT SUGGESTS TO ME, AND I ASK YOU IF
24 YOU DON'T FIND IT A LITTLE BIT CURIOUS, IN THAT YOU
25 WOULD BE ABLE TO AT THAT POINT IN TIME I MEAN, IS

1 WHAT YOU'RE TELLING ME IS THAT IN SPITE OF THE
2 JUDGE'S INSTRUCTION, AND THE JUDGE WOULD TELL YOU
3 UNDER THE LAW IN THE STATE OF SOUTH CAROLINA, IT CAN
4 BE ONE AGAINST ELEVEN, YOU DON'T HAVE TO COMPROMISE
5 ANY STRONGLY HELD PERSONAL CONVICTION THAT YOU HAVE
6 IN THAT CASE HE'LL TELL YOU, HE'LL TELL ALL OF
7 YOU, YOU, ABSOLUTELY, DO NOT HAVE TO DO IT YOU OWE
8 NOBODY NOTHING, THEY CAN'T FORCE YOU, THEY CAN'T
9 STRONG ARM YOU, THEY CAN'T PRESSURE YOU, DO YOU
10 UNDERSTAND THAT?

11 A YES, SIR

12 Q YOU HAVE THAT RIGHT, YOU UNDERSTAND THAT?

13 A YES

14 Q AND YET YOU'RE TELLING ME IF IT WAS ELEVEN TO
15 ONE, YOU'D STILL GO AHEAD AND VOTE TO IMPOSE THE
16 DEATH PENALTY? IF YOU KNEW YOU HAD NO PRICE

17 A WELL, I MIGHT NOT

18 Q YOU MIGHT NOT? WELL, LET ME ASK IT IN THIS
19 WAY

20 A I JUST WOULDN'T WANT THAT, YOU KNOW, I
21 WOULDN'T WANT -- KNOWING THAT I HAVE MY FEELINGS ON
22 THE DEATH PENALTY, I WOULD BE RESPONSIBLE FOR THAT

23 Q I HEARD YOU SAY THAT EARLIER AND THAT'S
24 EXACTLY WHERE I WAS GOING, THAT'S WHAT I WANTED TO
25 ASK YOU AND PUT IT IN THIS WAY COULD YOU LIVE WITH

1 YOURSELF AFTERWARDS?

2 A I DON'T KNOW IF I COULD OR NOT IT'S A LOT TO
3 THINK ABOUT

4 Q IS THERE ANY WAY YOU CAN THINK ABOUT IT THIS
5 MORNING AND LET US KNOW ONE WAY OR THE OTHER FOR
6 SURE? IS THERE ANYTHING WE CAN DO TO HELP YOU DO
7 THAT SO THAT YOU CAN LET US KNOW FOR SURE ONE WAY OR
8 THE OTHER? WE HATE TO PUT YOU ON THE SPOT, BUT YOU
9 UNDERSTAND, I'VE GOT A JOB TO DO, EVERYBODY'S GOT
10 RIGHTS, EVERYBODY DESERVES A FAIR SHAKE AT THEIR DAY
11 IN COURT AND THE ONLY WAY WE CAN GET A FAIR SHAKE
12 AND HAVE JUSTICE PREVAIL, IS FOR YOU TO, SOMEHOW,
13 COME TO A DECISION THIS MORNING FOR US ABOUT HOW YOU
14 STAND ON THIS ISSUE OF THE DEATH PENALTY CAN YOU
15 DO THAT THIS MORNING OR IS IT GOING TO BE SOMETHING
16 THAT YOU JUST CAN'T DO THIS MORNING?

17 A WHAT YOU'RE ASKING ME IS, AM I FOR THE DEATH
18 PENALTY?

19 Q I'M ASKING YOU -- WELL, IN A WAY

20 A YES OR NO

21 Q THE YES OR NO I WANT IS AN HONEST,
22 INTROSPECTIVE UNDERSTANDING OF YOURSELF I WANT TO
23 ASK YOU IF YOU CAN TELL ME, YES OR NO, SOLICITOR,
24 I'M CAPABLE OF IMPOSING THE DEATH PENALTY AND I'M
25 CAPABLE OF SIGNING MY NAME DOWN WHEN I KNOW THAT

1 THAT SIGNATURE IS GOING TO RESULT IN THE DEATH
2 PENALTY FOR ANOTHER HUMAN BEING THAT'S WHAT I WANT
3 TO KNOW

4 A NO, SIR, I DON'T WANT TO SAY THAT I DON'T
5 WANT TO BE RESPONSIBLE I DON'T WANT TO SERVE AS
6 JUROR, YOU KNOW I DON'T WANT TO BE HELD WITH THAT
7 DECISION

8 Q WELL, WHAT IF THE OTHER ELEVEN DO WHAT IF
9 YOU WERE ON THE JURY AND ELEVEN DID?

10 A I DON'T KNOW

11 Q YOU DON'T KNOW WELL, WHEN YOU'RE ANSWERING
12 OUR QUESTIONS, ARE YOU THINKING IN TERMS OF YOURSELF
13 ALONE, DO YOU FIND COMFORT IN NUMBERS? MOST PEOPLE
14 DO MOST PEOPLE FIND THAT THERE'S SOME COMFORT
15 BUT THE PROBLEM I HAVE NOW IS, ARE YOU TELLING ME
16 THAT IF YOU WERE TO ALLOW THE ELEVEN PEOPLE TO
17 CONVINCE YOU TO DO IT, OKAY, VOTE FOR THE DEATH
18 PENALTY AND THEN SIGN YOUR NAME, MS MCKENSIE ON THE
19 PIECE OF PAPER THEN IN THAT SITUATION, THE DAY
20 AFTER, YOU COULD SLEEP, YOU COULD LIVE WITH
21 YOURSELF, YOU COULD GO ON WITH YOUR LIFE?

22 A I DON'T KNOW

23 Q WELL, IF YOU CAN'T, IF YOU COULDN'T GO ON WITH
24 YOUR LIFE, DON'T YOU NEED TO TELL US NOW?

25 A YES, I DON'T WANT TO DO THAT IT WOULD,

1 PROBABLY, BOTHER ME

2 Q IT'D BOTHER ANYBODY THE QUESTION IS, COULD
3 YOU DO IT OR NOT?

4 A NO, SIR, I COULDN'T DO IT

5 MR JONES THANK YOU, MA'AM I APPRECIATE
6 YOU TRYING TO UNDERSTAND THESE QUESTIONS I REALIZE
7 THEIR VAGUE AND DIFFICULT, ALL RIGHT?

8 JUROR OKAY

9 EXAMINATION BY THE COURT

10 Q MS McKENSIE, I RECOGNIZE THAT YOU HAVE NOT,
11 PERHAPS, HAD AN OPPORTUNITY TO THINK ABOUT THESE
12 THINGS BEFORE AND I KNOW THAT THESE QUESTIONS MIGHT,
13 IN SOME RESPECTS, BE DIFFICULT TO TRY TO EXPLAIN
14 YOUR THOUGHTS AND FEELINGS ABOUT THINGS WHEN YOU
15 HAVEN'T HAD THE OPPORTUNITY TO REFLECT UPON IT
16 BUT, AS YOU KNOW, IT IS IMPORTANT THAT WE KNOW
17 EXACTLY HOW YOU FEEL ABOUT THESE SUBJECTS BECAUSE,
18 NECESSARILY, IF YOU WERE SELECTED TO SERVE AS A
19 JUROR IN THIS CASE, THERE IS A POSSIBILITY THAT
20 THESE ARE THINGS THAT YOU WOULD HAVE TO MAKE A
21 DECISION ON AND IT'S LIKELY THAT YOU WOULD

22 SO LET ME JUST SIMPLY ASK YOU ONE OTHER
23 QUESTION SO THAT I CAN BE CERTAIN THAT I UNDERSTAND
24 HOW YOU FEEL ABOUT THIS TOPIC AND IF YOU NEED TO
25 EXPLAIN IT, I WANT YOU TO AND IF YOU NEED TO TELL US

1 ANYTHING ABOUT IT, I WANT YOU TO DO THAT, ALSO BUT
2 YOU WILL RECALL EARLIER I TOLD YOU THAT WHILE THERE
3 MAY BE SOME CIRCUMSTANCE OR CIRCUMSTANCES WHERE A
4 JURY IS PERMITTED TO CONSIDER SENTENCING A PERSON TO
5 DEATH, THEY ARE NEVER REQUIRED TO, IT DOESN'T
6 MATTER WHAT THE CIRCUMSTANCES ARE THE JURY DOES
7 NOT HAVE TO, UNDER THE LAW, EVER SENTENCE A PERSON
8 TO DEATH THEY ARE JUST PERMITTED TO DO SO UNDER
9 CERTAIN CIRCUMSTANCES AND SO BY THAT, I'M SIMPLY
10 SAYING THAT YOU UNDERSTAND THAT YOU AND YOUR FELLOW
11 JURORS WOULD ALWAYS HAVE A CHOICE, EACH JUROR WOULD
12 HAVE THAT CHOICE AND THAT WOULD BE, EVEN UNDER THE
13 APPROPRIATE CIRCUMSTANCES, YOU COULD SENTENCE A
14 PERSON TO DEATH OR YOU COULD SENTENCE A PERSON TO
15 LIFE YOU WOULD ALWAYS HAVE THAT CHOICE, YOU WOULD
16 NEVER BE REQUIRED TO DO ONE OR THE OTHER

17 NOW, FACED WITH THAT FACT AND UNDERSTANDING
18 THE FACT THAT YOU WOULD ALWAYS HAVE THAT CHOICE, I
19 SIMPLY NEED TO KNOW WHETHER OR NOT YOU WOULD ALWAYS
20 RESOLVE THAT BY CHOOSING LIFE OR WHETHER THERE WOULD
21 BE SOME CIRCUMSTANCE WHERE YOU WOULD BE WILLING TO
22 SENTENCE A PERSON TO DEATH? DO YOU UNDERSTAND MY
23 QUESTION?

24 A YES, SIR

25 Q CAN YOU RESPOND TO IT?

1 A WHAT YOU'RE SAYING IS THAT I WOULD RATHER
2 CHOOSE LIFE, RIGHT?

3 Q WELL, I'M NOT SAYING THAT, NO, MA'AM HERE'S
4 WHAT I'M TRYING TO EXPLAIN TO YOU I DON'T WANT YOU
5 OR ANY JUROR TO THINK THAT IF THE LAW PROVIDES -- I
6 DON'T WANT YOU TO THINK THAT THE LAW SAYS IF THE
7 STATE PROVES MURDER AND IF THE STATE PROVES AN
8 AGGRAVATING CIRCUMSTANCE, THEN YOU'VE GOT TO IMPOSE
9 THE DEATH SENTENCE AGAINST SOMEONE I WANT YOU TO
10 UNDERSTAND THE JURY NEVER HAS TO DO IT IT DOESN'T
11 MATTER WHAT IS PROVEN, IT DOESN'T MATTER WHAT THE
12 FACTS ARE EVEN IF THE FACTS SUPPORT THE SENTENCE
13 IN MOST PEOPLE'S MINDS, THE JURY DOESN'T HAVE TO
14 IMPOSE THE DEATH SENTENCE THE LAW NEVER REQUIRES
15 IT BE DONE NO MATTER WHAT THE CIRCUMSTANCES ARE
16 THE JURY ALWAYS AND WILL ALWAYS HAVE THAT CHOICE
17 THEY WILL STILL ALWAYS BE ABLE TO CHOSE A SENTENCE
18 OF LIFE IMPRISONMENT, IF THEY WANT TO AND YOU CAN
19 GIVE A REASON FOR IT OR GIVE NO REASON FOR IT, IT
20 DOESN'T MATTER YOU CAN DO IT FOR ANY REASON THAT
21 YOU FEEL LIKE OR FOR NO REASON AT ALL

22 NOW, FACED WITH THAT CHOICE, AND UNDERSTANDING
23 THAT YOU WOULD ALWAYS HAVE THE CHOICE, I SIMPLY NEED
24 TO KNOW WHETHER OR NOT YOU WOULD ALWAYS CHOSE LIFE
25 IMPRISONMENT OVER A DEATH SENTENCE OR WHETHER YOU

1 BELIEVE THAT YOU COULD UNDER THE APPROPRIATE
2 CIRCUMSTANCE, SENTENCE SOME PERSON TO DEATH

3 A YES, SIR

4 Q YES, SIR, WHAT?

5 A I GUESS I COULD CHOSE, YOU KNOW, DEATH OVER
6 LIFE

7 Q YOU BELIEVE THERE IS SOME CIRCUMSTANCE WHERE
8 YOU COULD SENTENCE A PERSON TO DEATH?

9 A YES, SOME CIRCUMSTANCES

10 Q AND IF YOU FOUND THAT TO BE THE CASE, COULD
11 YOU SIGN YOUR NAME ON THAT FORM STATING THAT THAT IS
12 WHAT YOU WERE RECOMMENDING THAT THAT PERSON BE
13 SENTENCED TO DEATH?

14 A YES, SIR

15 Q YOU COULD?

16 A YES, SIR

17 THE COURT ANY OTHER QUESTIONS?

18 MR JONES JUST BRIEFLY, YOUR

19 HONOR I'LL DEFER TO THE DEFENSE

20 MR TINSLEY NOT AT THIS TIME

21 EXAMINATION BY MR JONES

22 Q MS McKENSIE, HERE I COME AGAIN I LISTENED
23 TO YOUR LAST TWO ANSWERS TO THE JUDGE, OKAY, TAKE

24 THEM FOR JUST WHAT THEY WERE, HEARTFELT, WELL

25 THOUGHT OUT RESPONSE ON YOUR PART AND WHAT I WANT

1 TO ASK YOU NOW IS, YOU GAVE HIM THAT ANSWER TODAY,
2 WE START THE TRIAL TOMORROW, OKAY, TEN DAYS FROM
3 TOMORROW, NEXT THURSDAY, YOU FEEL THE SAME WAY?

4 A YES, SIR

5 Q YOU WON'T THEN SAY, OH, I KNOW I TOLD THE
6 JUDGE I COULD BUT I JUST CAN'T YOU WON'T DO THAT
7 YOUR ANSWER IS ONE THAT YOU KNOW ABOUT YOURSELF, YOU
8 BELIEVED THAT ABOUT YOURSELF, IT'S THE TRUTH ABOUT
9 YOURSELF, IT'S SO TODAY, IT WILL BE SO NEXT WEEK AND
10 THE WEEK AFTER?

11 A YES, SIR

12 MR JONES THANK YOU, MA'AM
13 THE COURT MS MCKENSIE, IF YOU'LL
14 JUST STEP OUTSIDE THE DOOR WITH THE BAILIFF FOR JUST
15 A MOMENT, I'LL BRING YOU BACK
16 (JUROR #278 DOES AS INSTRUCTED)

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

19 MR JONES NO, SIR

20 MR TINSLEY NO, YOUR HONOR

21 THE COURT SHE IS SO QUALIFIED

22 ASK MS MCKENSIE TO COME BACK IN

23 (JUROR #278 RE-ENTERS COURTROOM)

24 THE COURT MS MCKENSIE, YOU ARE
25 QUALIFIED FOR SERVE ON A PANEL FROM WHICH THE ACTUAL

1 JURY WILL BE SELECTED THAT JUST SIMPLY MEANS THAT
2 YOU'VE NOT BEEN SELECTED AS A JUROR BUT YOU MAY BE
3 YOU'LL BE IN THAT NUMBER FROM WHICH WE WILL SELECT
4 THE JURY TO PARTICIPATE IN THIS CASE

5 NOW, BECAUSE OF THAT FACT, I'M GOING
6 TO EXCUSE YOU NOW BECAUSE WE HAVE OTHER JURORS WE
7 NEED TO TALK TO BUT I NEED FOR YOU TO GIVE THE
8 CLERK ANY AND ALL PHONE NUMBERS WHERE YOU CAN BE
9 REACHED BECAUSE IT'S LIKELY WE'LL BE CALLING YOU TO
10 COME BACK IT MIGHT BE SOMETIME TOMORROW SO,
11 PLEASE, THE CLERK YOUR DAYTIME AND EVENING,
12 NIGHTTIME, PHONE NUMBERS SO THAT WE CAN GET IN TOUCH
13 WITH YOU WHEN WE NEED FOR YOU TO COME BACK

14 YOU, ALSO, NEED TO REMEMBER THAT YOU
15 ARE STILL UNDER MY INSTRUCTION NOT TO DISCUSS THE
16 CASE WITH ANYONE AND NOT TO ALLOW ANYONE TO DISCUSS
17 IT WITH YOU AND DO NOT ALLOW YOURSELF TO BE
18 EXPOSED TO ANY TYPE OF MEDIA COVERAGE, WHETHER IT BE
19 TELEVISION, RADIO OR NEWSPAPER ARTICLE, OKAY? SO IF
20 YOU'LL GIVE THE CLERK THOSE NUMBERS, YOU CAN BE
21 EXCUSED AND WE'LL CALL YOU WHEN WE NEED FOR YOU TO
22 COME BACK

23 (JUROR #278 EXITS COURTROOM)

24 (JUROR #278 IS QUALIFIED)

25 (THE COURT CALLS MARGARET CADE)

1 (JUROR #34 PRESENTED AT 10 17 O'CLOCK A M)

2 EXAMINATION BY THE COURT

3 Q MS CADE, IF YOU'LL COME AROUND, PLEASE, AND
4 HAVE A SEAT RIGHT THERE IN THAT CHAIR AS I TOLD
5 YOU YESTERDAY, WE'RE GOING TO BE ASKING YOU SOME
6 ADDITIONAL QUESTIONS I'LL HAVE SOME FOR YOU, THE
7 LAWYERS MAY HAVE SOME ADDITIONAL QUESTIONS YOU
8 HAVE ALREADY BEEN PLACED UNDER OATH WHEN YOU ARRIVED
9 YESTERDAY WITH YOUR FELLOW JURORS, DO YOU RECALL
10 THAT? COULD PLEASE ANSWER OUT LOUD SO THE COURT
11 REPORTER CAN TAKE DOWN YOUR ANSWER

12 A YES

13 Q AND YOU REMAIN UNDER OATH FOR THE PURPOSE OF
14 THESE QUESTIONS, ALSO YOU HAVE FILLED OUT A
15 QUESTIONNAIRE, WAS YOUR QUESTIONNAIRE ACCURATE?

16 A YES

17 Q I, ALSO, INSTRUCTED YOU THAT YOU'RE NOT TO
18 DISCUSS THE CASE WITH ANYONE AND YOU'RE NOT TO ALLOW
19 YOURSELF TO BE EXPOSED TO ANY MEDIA COVERAGE HAVE
20 YOU HAD ANY DISCUSSIONS ABOUT THIS CASE WITH
21 ANYBODY?

22 A SINCE YESTERDAY

23 Q AT ANY TIME?

24 A ONLY WHERE I WORK AT

25 Q AND DID YOU HAVE THOSE DISCUSSIONS OR DID YOU

1 OVERHEAR OTHERS HAVING SOME DISCUSSION?

2 A IT WAS PEOPLE FROM THIS AREA WAS TALKING ABOUT
3 IT

4 Q AND IS THERE ANYTHING THAT YOU HEARD IN THOSE
5 DISCUSSIONS WHICH WOULD PREVENT YOU FROM BEING ABLE
6 TO BE FAIR AND IMPARTIAL, IF YOU WERE SELECTED IN
7 THIS CASE?

8 A I DON'T THINK SO

9 Q HAVE YOU READ ANY NEWSPAPER ARTICLES ABOUT
10 THIS CASE?

11 A ONLY WHAT I'VE SEEN IN *THE PRESS & BANNER*

12 Q THAT'S WHAT I'M ASKING ABOUT WHEN DID YOU
13 SEE THOSE ARTICLES?

14 A I BELIEVE IT WAS LAST WEEK

15 Q LAST WEEK?

16 A I THINK IT WAS LAST -- THERE WAS A STORY IN
17 THE PAPER EITHER LAST WEEK OR WEEK BEFORE LAST, ONE

18 Q AND DO YOU RECALL WHAT THE ARTICLE SAID?

19 A WELL, JUST THAT HE WAS GOING TO BE BROUGHT TO
20 TRIAL FOR THE CRIMES THAT HE HAD DONE

21 Q AND IS THERE ANYTHING THAT WAS CONTAINED IN
22 THAT NEWSPAPER ARTICLE THAT WOULD PREVENT YOU FROM
23 BEING ABLE TO BE FAIR AND IMPARTIAL, IF YOU WERE
24 SELECTED AS A JUROR? I'M REALLY JUST LOOKING FOR A
25 YES OR NO ANSWER I'M NOT REALLY ASKING YOU WHAT

1 YOU READ

2 A NOT EXACTLY, NO

3 Q NOT EXACTLY?

4 A NO

5 Q LET ME ASK THIS HAVE YOU IN ANY WAY ALREADY
6 FORMED OR EXPRESSED SOME OPINION AS TO WHAT YOU
7 THINK SHOULD BE THE OUTCOME OF THIS CASE?

8 A I HAVE

9 Q AND YOU HAVE AN OPINION -- YOU BELIEVE YOU
10 KNOW HOW THE CASE SHOULD COME OUT?

11 A I DO

12 Q IS THERE ANYTHING THAT WOULD ALTER OR CHANGE
13 YOUR OPINION?

14 A I DON'T THINK SO

15 Q IS IT FAIR TO SAY OR AM I CORRECT IN STATING
16 THAT YOU BELIEVE YOU COULD NOT BE FAIR AND
17 IMPARTIAL, IF YOU WERE SITTING AS A JUROR?

18 A I DON'T THINK SO

19 THE COURT ANY QUESTIONS?

20 EXAMINATION BY MR TINSLEY

21 Q SO YOU -- EVEN THOUGH YOU JUST TALKED ABOUT A
22 LITTLE OR HEARD OTHERS TALK ABOUT IT A LITTLE, YOU
23 JUST READ A LITTLE ABOUT, MS CADE, YOU'VE ALREADY
24 MADE UP YOUR MIND?

25 A I HAVE

1 Q AND WHY IS THAT?

2 A I THINK IF YOU TAKE SOMEBODY'S LIFE, YOU
3 SHOULD PAY THE CRIME

4 Q WELL, DO YOU BELIEVE IN THE DEATH PENALTY?

5 A YES, I DO

6 Q BUT YOU -- NO MATTER WHAT, YOU COULDN'T LISTEN
7 WITHOUT BIAS, WITHOUT PREJUDICE BECAUSE YOU'VE
8 ALREADY MADE UP YOUR MIND ON THIS CASE PERIOD NO
9 MATTER WHAT I OFFERED YOU, YOU'VE MADE UP YOUR MIND?

10 A I HAVE

11 MR TINSLEY THAT'S ALL

12 EXAMINATION BY MR JONES

13 Q JUST BRIEFLY MS CADE, MY NAME IS TOWNES
14 JONES, I'M YOUR SOLICITOR, THE PROSECUTOR IN
15 ABBEVILLE COUNTY THIS IS MICHAEL COULTER, HE'S
16 YOUR DEPUTY SOLICITOR HERE IN ABBEVILLE COUNTY IF
17 YOU WERE SELECTED ON THIS JURY, AND I JUST HAVE A
18 QUICK QUESTION ABOUT THAT YOU'RE SAYING THAT YOU
19 DON'T THINK YOU COULD BE A FAIR JUROR?

20 A I DON'T THINK SO

21 Q WHY NOT?

22 A I JUST DON'T THINK THAT I COULD BE FAIR TO
23 SOMEBODY THAT DONE TOOK ANOTHER PERSON'S LIFE

24 Q WELL, YOU DON'T KNOW THAT HE TOOK ANOTHER
25 PERSON'S LIFE, DO YOU?

1 A I DON'T KNOW IT, BUT SOMEBODY TOOK THEIR
2 LIVES

3 Q RIGHT BUT WE DON'T KNOW WHO YOU DON'T KNOW
4 WHO, DO YOU?

5 A I WASN'T PRESENT

6 Q NO, MA'AM, YOU WEREN'T AND YOU HAVEN'T SEEN
7 ANY EVIDENCE FROM THE WITNESS STAND, HAVE YOU?

8 A NO, SIR

9 Q ALL RIGHT SO, IF YOU WERE SELECTED AS A
10 JUROR, AND THE JUDGE SAYS, THE ONLY WAY YOU CAN BE A
11 JUROR IS IF YOU WILL BE FAIR AND OPEN-MINDED AND
12 BASE YOUR VERDICT, NOT ON ANYTHING YOU HEARD BEFORE
13 YOU CAME INTO THIS COURTROOM, BUT ONLY FROM THE
14 TESTIMONY OF WITNESSES AND ANY EVIDENCES INTRODUCED
15 IN THIS COURTROOM THAT I LET GO BEFORE YOU COULD
16 YOU DO THAT? A YES, I COULD DO IT

17 Q SO WHATEVER YOU'VE HEARD ABOUT THIS CASE,
18 WHATEVER YOU'VE READ OR LEARNED, YOU COULD LEAVE
19 THAT OUTSIDE THE COURTROOM AND COME IN HERE AND SAY,
20 JUDGE, I'M GOING TO BE BASE MY VERDICT ONLY ON THE
21 EVIDENCE THAT COMES IN HERE AND THE TESTIMONY THAT
22 COMES IN HERE FROM THESE WITNESSES FROM THAT WITNESS
23 STAND COULD YOU DO THAT?

24 A YES, I COULD DO IT

25 Q YOU COULD DO YOU KNOW YOURSELF THAT WELL?

1 DO YOU KNOW -- FEEL VERY COMFORTABLE IN BEING ABLE
2 TO DO THAT?

3 A YES

4 Q SO ARE YOU TELLING ME THAT WHAT YOU HAVE HEARD
5 ABOUT THIS CASE YOU COULD PUT OUT OF YOUR MIND AND
6 CONCENTRATE ONLY ON THE EVIDENCE THAT'S IN THE
7 COURTROOM IN ATTEMPTING TO BE A FAIR JUROR?

8 A I COULD

9 Q AND NEXT, I ASK YOU IF YOU WOULD WOULD YOU,
10 WILL YOU?

11 A I DON'T KNOW BECAUSE I'VE HEARD A LOT FROM THE
12 OUTSIDE I DON'T KNOW IF I COULD BE FAIR

13 Q WELL, WHETHER OR NOT YOU GET TO PARTICIPATE IN
14 THE PROCESS AND SERVE ON THE JURY DEPENDS ON WHETHER
15 OR NOT YOU WILL OR WOULD PUT IT OUT OF YOUR MIND AND
16 BE FAIR TO HIM AND TO ANYBODY ELSE ON TRIAL AND TO
17 THE STATE, TOO SO IF YOU COULD ANSWER THAT
18 QUESTION FOR US, AS HONESTLY AS YOU CAN, BECAUSE
19 YOU'RE THE ONLY THAT CAN TELL US ABOUT YOU, AREN'T
20 YOU? AREN'T YOU THE ONLY ONE THAT CAN TELL US WHAT
21 YOU CAN DO?

22 A YES

23 Q WELL, THAT'S WHY WE'RE ASKING YOU

24 A I DON'T THINK THAT I COULD DO IT I DON'T
25 THINK I COULD DO IT

1 Q DON'T THINK YOU COULD BE FAIR ABOUT IT?

2 A NO, I COULDN'T BE FAIR

3 Q ALL RIGHT I APPRECIATE YOUR LETTING US KNOW
4 WHAT YOU COULD AND COULDN'T DO

5 THE COURT MS CADE, IF YOU'LL JUST
6 STEP OUTSIDE THE DOOR FOR JUST A MINUTE, I'LL BRING
7 YOU BACK

8 (JUROR #34 DOES AS INSTRUCTED)

9 THE COURT ANY REASON WHY THE JUROR
10 SHOULD NOT BE DISQUALIFIED?

11 MR JONES NONE FOR THE STATE, YOUR
12 HONOR

13 MR TINSLEY NO, YOUR HONOR

14 THE COURT BRING HER BACK, PLEASE
15 (JUROR #34 RE-ENTERS COURTROOM)

16 THE COURT MS CADE, WE'RE GOING TO
17 EXCUSE YOU FROM SERVING IN THE TRIAL OF THIS CASE
18 BUT WE APPRECIATE YOU'RE COMING DOWN I WISH YOU
19 LUCK WITH YOUR GRANDSON AND HIS HOSPITAL STAY YOU
20 WON'T NEED TO COME BACK OR CALL BACK ANY FURTHER
21 THANK YOU, MA'AM

22 (JUROR #34 EXITS COURTROOM)

23 (JUROR #34 IS NOT QUALIFIED)

24 (THE COURT CALLS JUROR CHARPING)

25 (JUROR #237 PRESENTED AT 10 25 O'CLOCK A M)

1 EXAMINATION BY THE COURT

2 Q GOOD MORNING, MS CHARPING

3 A GOOD MORNING

4 Q YOU ARE AWARE THAT WE HAVE BROUGHT YOU BACK TO
5 ASK YOU SOME QUESTIONS INDIVIDUALLY AND I'LL HAVE
6 SOME FOR YOU AND THE LAWYERS MAY HAVE SOME
7 ADDITIONAL QUESTIONS THERE ARE NO RIGHT OR WRONG
8 ANSWERS TO THESE QUESTIONS, WE JUST SIMPLY NEED TO
9 KNOW HOW YOU FEEL ABOUT CERTAIN TOPICS OR SUBJECTS
10 AND SO, PLEASE, ANSWER THE QUESTIONS AS OPENLY AND
11 AS HONESTLY AS YOU CAN AND FEEL FREE TO ASK US TO
12 REPEAT THE QUESTION IF YOU DON'T UNDERSTAND IT OR TO
13 CLARIFY IT IF YOU DON'T THINK IT'S CLEAR ENOUGH FOR
14 YOU TO RESPOND TO

15 NOW, YOU HAVE PREVIOUSLY BEEN SWORN WHEN YOU
16 AND YOUR FELLOW JURORS ARRIVED AND SO YOU REMAIN
17 UNDER OATH FOR THE PURPOSE OF THESE QUESTIONS, ALSO
18 AND YOU INDICATED THAT YOU HAD COMPLETED THE
19 QUESTIONNAIRE AND IT WAS ACCURATE, IS THAT CORRECT?

20 A THAT'S CORRECT

21 Q NOW, I KNOW THAT YOU WERE SUBPOENAED OR
22 SUMMONED LATER, BUT YOU RECEIVED A LETTER IN THERE
23 INDICATING THAT YOU SHOULD NOT DISCUSS THE CASE OR
24 ALLOW YOURSELF TO BE EXPOSED TO ANY TYPE OF MEDIA
25 COVERAGE THAT RELATES TO THE CASE HAVE YOU HAD ANY

1 DISCUSSIONS OR OVERHEARD ANY CONVERSATIONS OR HAD
2 ANY EXPOSURE TO MEDIA COVERAGE RELATING TO THIS
3 CASE?

4 A BEFORE THE LETTER OR AFTER?

5 Q WELL, BOTH ACTUALLY

6 A BEFORE THE LETTER, AFTER THE EVENT HAPPENED, I
7 HAD THE TV AND NEWSPAPERS, AND MY HUSBAND WORKED
8 HERE IN ABBEVILLE

9 Q NOW, WHEN YOU SAY TV AND NEWSPAPERS, WAS THAT
10 AT OR ABOUT THE TIME THAT THIS OFFENSE IS ALLEGED TO
11 HAVE OCCURRED BACK IN 1995?

12 A YES, SIR

13 Q HAVE YOU SEEN ANY NEWSPAPER ARTICLE OR ANY
14 TELEVISION REPORT SINCE THAT TIME?

15 A NO, SIR

16 Q DO YOU REMEMBER WHAT YOU SAW OR READ ABOUT THE
17 CASE?

18 A YES, SIR

19 Q WOULD ANYTHING THAT YOU'VE SEEN OR READ ABOUT
20 THIS CASE INTERFERE IN ANY WAY WITH YOUR ABILITY TO
21 BE FAIR AND IMPARTIAL, IF YOU WERE SELECTED AS A
22 JUROR?

23 A I THINK SO

24 Q HAVE YOU ALREADY FORMED OR EXPRESSED SOME
25 OPINION AS TO HOW YOU THINK THE OUTCOME SHOULD BE?

1 A YES, SIR

2 Q IS THERE ANYTHING THAT WOULD ALTER YOUR
3 OPINION AT THIS POINT?

4 A I DON'T THINK SO

5 Q YOU UNDERSTAND THAT A JURY'S FUNCTION WHEN
6 CALLED TO SERVE IS TO SIT OVER THERE IN THAT JURY
7 BOX AND YOU LISTEN TO TESTIMONY AND YOU CONSIDER
8 EVIDENCE AND YOU DECIDE, BASED UPON THAT EVIDENCE,
9 FIRST, WHETHER OR NOT A PERSON IS GUILTY OF THE
10 CRIME ALLEGED AGAINST THEM AND UNDER CERTAIN
11 CIRCUMSTANCES, IF A PERSON IS CHARGED WITH MURDER
12 AND FOUND GUILTY THAT OFFENSE, THE JURY MAY ALSO BE
13 CALLED UPON TO CONSIDER THE APPROPRIATE SENTENCE
14 THAT SHOULD BE IMPOSED, WHETHER IT BE A SENTENCE OF
15 DEATH OR A SENTENCE OF LIFE

16 DO YOU BELIEVE THAT BASED UPON WHAT YOU HAVE
17 ALREADY SEEN, HEARD OR READ ABOUT THE CASE, THAT IF
18 YOU WERE SEATED OVER THERE, YOU COULD NOT BE FAIR
19 AND IMPARTIAL AND BASE A VERDICT SOLELY UPON THAT
20 EVIDENCE AS OPPOSED TO ANYTHING YOU'VE HEARD OUTSIDE
21 OF THIS COURTROOM?

22 A I DON'T THINK SO

23 Q YOU DO NOT BELIEVE THAT YOU COULD BE FAIR? I
24 WANT YOU TO UNDERSTAND I'M NOT TRYING TO PRESS YOU
25 ON THE POINT --

1 A RIGHT

2 Q -- I JUST WANT TO BE CERTAIN I UNDERSTAND HOW
3 YOU FEEL ABOUT IT

4 A RIGHT I DON'T THINK SO

5 THE COURT ANY QUESTIONS BY THE
6 DEFENSE?

7 MR TINSLEY NO, YOUR HONOR

8 THE COURT BY THE STATE?

9 EXAMINATION BY MR JONES

10 Q JUST BRIEFLY, YOUR HONOR MS CHARPING, HOW
11 ARE YOU THIS MORNING?

12 A FINE, HOW ARE YOU

13 Q GOOD MY NAME IS TOWNES JONES, I'M YOUR
14 SOLICITOR AND THE PROSECUTOR IN THIS CASE THIS IS
15 MICHAEL COULTER, HE'S YOUR CHIEF DEPUTY SOLICITOR IN
16 ABBEVILLE COUNTY WE WILL BE PRESENTING EVIDENCE
17 YOU UNDERSTAND THAT WE'RE IN THE PROCESS OF TRYING
18 TO GET A JURY AND THAT, YOU KNOW, BASICALLY TWO OR
19 THREE PREMISES THAT WE NEED TO KNOW, AS FAR AS THE
20 JURY'S CONCERNED OF COURSE, THE FIRST IS, WILL YOU
21 BE HONEST AND FAIR, OKAY, CAN YOU BE HONEST AND
22 FAIR AND THE OTHER ONE IS, YOU KNOW, CAN YOU
23 CONSIDER GIVING THE DEATH PENALTY

24 IF YOU WERE TO SIT ON A JURY IN A CASE, ANY
25 CASE, DO YOU BELIEVE THAT YOU ARE THE TYPE OF PERSON

1 WHO COULD CONSIDER THE DEATH PENALTY AS POSSIBLE
2 PUNISHMENT, IF YOU FOUND SOMEBODY GUILTY OF MURDER?

3 A YES, SIR

4 Q YOU DO ALL RIGHT IN THAT REGARD THEN,
5 COULD YOU, ALSO, CONSIDER A LIFE SENTENCE AFTER
6 SOMEONE HAD BEEN FOUND GUILTY OF MURDER?

7 A YES, SIR

8 Q EVEN AFTER YOU KNEW BEYOND A REASONABLE THAT
9 GUILTY VERDICT, YOU COULD CONSIDER LIFE?

10 A YES, SIR

11 Q SO IN THAT SENSE, YOU WOULD WAIT TO SEE WHAT
12 THE EVIDENCE WAS?

13 A RIGHT

14 Q AND DECIDED WHAT THE PROPER PUNISHMENT IS?

15 A YES, SIR

16 Q WELL THEN WHY WOULDN'T YOU WAIT TO SEE WHAT
17 THE EVIDENCE WAS IN DECIDING WHETHER SOMEBODY'S
18 GUILTY OR INNOCENT?

19 A I'VE JUST HEARD A LOT ABOUT THE CASE BEFORE

20 Q BUT YOU DON'T KNOW WHETHER THAT'S TRUE OR NOT,
21 DO YOU?

22 A NO, SIR

23 Q I MEAN, YOU DIDN'T TALK TO ME ABOUT IT, DID
24 YOU?

25 A NO, SIR

1 Q YOU DIDN'T TALK TO THE POLICE DEPARTMENT ABOUT
2 IT, DID YOU?

3 A NO, SIR

4 Q WELL, WOULD IT BE FAIR TO SAY THEN THAT YOU
5 UNDERSTAND THAT WHEN WE HAVE TRIALS, THE JUDGE
6 DECIDES WHAT EVIDENCE IS ADMITTED, WHAT EVIDENCE IS,
7 UNDER THE CONSTITUTION, FAIRLY ADMISSIBLE AND
8 THAT'S ALL THE JURY KNOWS ABOUT THE CASE AND
9 THAT'S THE ONLY THING THE JURY CAN HEAR ABOUT THE
10 CASE IN DECIDING WHAT THE VERDICT IS, DO YOU
11 UNDERSTAND THAT? NOW, THE JUDGE WILL TELL JURORS,
12 YOU KNOW -- DON'T YOU THINK IN A SMALL COMMUNITY
13 LIKE ABBEVILLE THAT, PRETTY MUCH, THERE'S BEEN SOME
14 DISCUSSION IN ALMOST EVERY CORNER OF THE COUNTY
15 ABOUT IT?

16 A YES, SIR

17 Q AND DON'T YOU THINK THAT PEOPLE HAVE TO SAY,
18 WELL, OKAY, I HEARD THAT BUT AS FAR AS GUILT OR
19 INNOCENCE, I'VE GOT TO WAIT TO SEE THE EVIDENCE
20 I'VE GOT TO WAIT AND SEE WHAT THOSE PEOPLE GET ON
21 THAT STAND TELL ME ABOUT WHAT HAPPENED HERE AND BY
22 GOLLY, IF THEY DON'T HAVE ANY EVIDENCE, THEN I AIN'T
23 GOING TO CONVICT HIM YOU FOLLOW WHAT I'M SAYING?

24 A YES, SIR

25 Q IN OTHER WORDS, YOU'RE NOT GOING TO TELL THIS

1 JUDGE THAT IF YOU WERE SELECTED ON THIS JURY, AND WE
2 HAD TWO WITNESSES AND NEITHER ONE OF THEM SAW
3 ANYTHING AND THEN WE RESTED, THAT YOU'D CONVICT HIM

4 A NO, SIR

5 Q I MEAN, IF WE DIDN'T PUT ANY EVIDENCE UP, WHAT
6 WOULD YOU DO AS A JUROR IN THE CASE? IF WE DIDN'T
7 PUT UP EVIDENCE TO SATISFY YOU BEYOND A REASONABLE
8 DOUBT THAT THAT PERSON ON TRIAL WAS CONVICTED AND
9 GUILTY OF THE CRIME, WHAT WOULD YOU DO AS FAR AS A
10 VERDICT WAS CONCERNED?

11 A YOU COULDN'T CONVINCE WITHOUT THE EVIDENCE

12 Q THAT'S RIGHT AND SO YOUR VERDICT WOULD BE,
13 WHAT?

14 A NOT GUILTY

15 Q COULD YOU DO THAT?

16 A WITHOUT EVIDENCE?

17 Q YES, MA'AM

18 A CAN I CONVICT HIM?

19 Q NO, MA'AM WITHOUT EVIDENCE, WHAT WOULD YOU
20 DO, THAT'S WHAT I'M ASKING

21 A I'D HAVE TO FIND HIM NOT GUILTY

22 Q COULD YOU RENDER A VERDICT OF NOT GUILTY?

23 A YES, SIR, WITHOUT EVIDENCE

24 Q WOULD YOU RENDER A VERDICT OF NOT GUILTY
25 WITHOUT EVIDENCE?

1 A YES, SIR

2 Q YOU WOULD YOU'RE CONVINCED OF THAT ABOUT
3 YOURSELF I MEAN, YOU KNOW YOURSELF WELL ENOUGH TO
4 KNOW THAT YOU COULD DO THAT

5 A YES, SIR

6 Q YOU COULD WOULD YOU?

7 A YES, SIR

8 Q I WANT TO TAKE IT ONE STEP FURTHER THEN
9 LET'S SAY THE STATE DID PUT UP EVIDENCE, OKAY? AND
10 PUT UP EVIDENCE POINTING TOWARDS THE GUILT OF THE
11 DEFENDANT, OKAY IN DECIDING WHETHER OR NOT THE
12 DEFENDANT WAS GUILTY, WOULD YOU CONSIDER ONLY THAT
13 EVIDENCE, ONLY THAT EVIDENCE AND NOT ANYTHING ELSE
14 THAT YOU HAD HEARD ABOUT THE CASE? KEEPING IN MIND
15 THE JUDGE HAS INSTRUCTED YOU THAT YOUR VERDICT CAN
16 BE BASED ONLY ON THE EVIDENCE YOU HEAR FROM THE
17 WITNESS STAND

18 A YES, SIR

19 Q YOU WOULD DO THAT?

20 A YES, SIR

21 Q WELL, ARE YOU CAPABLE THEN OF SAYING AND
22 COMING INTO THIS TRIAL AND SAYING, I'VE TRIED TO BE
23 VERY HONEST WITH YOU ALL I'VE TOLD YOU ALL I'VE
24 HEARD SOME THINGS ABOUT THIS CASE, BUT WHEN YOU
25 EXPLAIN TO ME THAT MY VERDICT CAN ONLY BE BASED ON

1 THE EVIDENCE FROM THE WITNESS STAND, I'M CAPABLE OF
2 DOING THAT JOB, IS THAT TRUE OR UNTRUE?

3 A THAT'S TRUE

4 Q AND I'M CAPABLE OF EXCLUDING ALL THIS OTHER
5 STUFF THAT I HEARD, REALLY OUT OF MIND, AND DECIDE,
6 AS A JUROR, THE ONLY VERDICT YOU'RE GOING TO GET OUT
7 OF ME IS ONE BASED ON WHAT I SEE AND HEAR IN THIS
8 COURTROOM?

9 A YES, SIR

10 Q YOU COULD DO THAT?

11 A YES, SIR

12 Q WOULD YOU DO THAT?

13 A YES, SIR

14 Q SO DO YOU THINK YOU COULD BE A FAIR AND
15 IMPARTIAL JUROR IN THIS CASE IN THAT SENSE?

16 A YES, SIR

17 Q I MEAN, WOULD YOU BE FAIR AND OPEN-MINDED IN
18 TRYING TO WORK AS A JUROR IN THE SYSTEM AND ONLY
19 BASING YOUR VERDICT ON THE EVIDENCE THAT COMES INTO
20 THIS COURT?

21 A YES, SIR

22 Q WELL, AM I BEING, IN YOUR MIND, AM I BEING
23 FAIR WITH YOU NOW?

24 A YES, SIR

25 Q HAVE I GIVEN YOU A CHANCE TO THINK ABOUT THE

1 PROCESS?

2 A YES, SIR

3 Q HAVE YOU RETHOUGHT IT?

4 A YES, SIR

5 Q BECAUSE YOU TOLD THE JUDGE EARLIER YOU FELT

6 LIKE YOU JUST KNEW TOO MUCH TO BE FAIR IN A

7 SITUATION LIKE THIS

8 A YOU KNOW, I HAVE HEARD A LOT ABOUT IT

9 Q BUT, COULD YOU PUT THAT OUT OF YOUR MIND AND
10 LISTEN TO THIS CASE BASED ONLY ON THE EVIDENCE
11 THAT'S PRESENTED?

12 A YES, SIR

13 Q YOU FIRM IN THAT REGARD? BECAUSE BASICALLY
14 WHAT YOU'RE TELLING ME AND THE DEFENSE ATTORNEY AND
15 THE JUDGE, JUDGE I'LL BE FAIR, I'LL COME IN HERE AND
16 I'LL KEEP THAT OUT OF MY MIND I CAN DO IT, I WILL
17 DO IT, IT WON'T HINDER ME SUBSTANTIALLY IN MY
18 DELIBERATIONS, IT WON'T HINDER ME AT ALL CAN YOU
19 SAY THAT TO US NOW?

20 A I THINK IT WOULD BE KIND OF THOUGH

21 Q SURE, BECAUSE YOU'VE HEARD IT

22 A YES, SIR

23 Q YOU JUST CAN'T WIPE YOUR MIND CLEAN BUT WHAT
24 I'M SAYING IS, COULD YOU SAY I'M ONLY GOING TO BASE
25 MY VERDICT ON THIS EVIDENCE THAT COMES INTO THE

1 COURTROOM AND NOT ON ANYTHING I'VE HEARD THAT
2 STUFF I'VE HEARD IS NOT EVIDENCE AND I WON'T USE IT
3 IN BASING MY VERDICT CAN YOU SAY THAT?

4 A YES, SIR

5 Q YOU CAN WELL, IF YOU COULD, TELL ME IF YOU
6 WERE SELECTED AS A JUROR, WHAT YOU WOULD BASE YOUR
7 VERDICT ON AS FAR AS THE GUILT OR INNOCENCE OF THE
8 DEFENDANT IN THIS CASE?

9 A THE EVIDENCE THAT WAS SHOWN

10 Q AND WOULD ANY OTHER FACTORS COME INTO
11 CONSIDERATION WHEN YOU WERE TRYING TO DECIDE THE
12 GUILT OR INNOCENCE OF THIS DEFENDANT OVER HERE?
13 WOULD ANYTHING ELSE COME INTO PLAY?

14 A STILL, AFTER WHAT I'VE HEARD, I'VE HEARD, AND
15 I KNOW I'M SUPPOSED TO PUT THAT OUT

16 Q WELL, THE QUESTION IS COULD YOU AND WOULD
17 YOU? AND BE FAIR AND BASE YOUR VERDICT ONLY ON THE
18 EVIDENCE FROM THE WITNESS STAND?

19 A (LONG PAUSE) YES, SIR

20 Q YOU WOULD ARE YOU SAYING THAT BECAUSE YOU
21 CAN OR BECAUSE YOU'RE TRYING TO BE NICE?

22 A I JUST THINK IT WOULD BE DIFFICULT, YOU KNOW
23 LIKE I SAID, I HAVE HEARD A LOT ABOUT IT

24 Q I UNDERSTAND IT'D BE DIFFICULT THE NEXT
25 QUESTION IS, WOULD IT BE SO DIFFICULT THAT YOU

1 COULDN'T OR DIFFICULT THAT YOU COULD?

2 A I'M NOT SURE HOW IF I WOULD BE TOTALLY ABLE TO
3 WIPE IT ALL OUT

4 MR JONES OKAY THANK YOU NOW
5 THE COURT ANY QUESTIONS?

6 EXAMINATION BY MR TINSLEY

7 Q SO YOU WOULD TRY BUT YOU DON'T --

8 A RIGHT

9 Q -- THINK YOU COULD TOTALLY ELIMINATE IT FROM
10 YOUR MIND?

11 A RIGHT

12 Q SO YOU CAN'T INDEED FIRMLY SAY THAT YOU COULD
13 GO IN WITH A CLEAR SLATE, IS THAT RIGHT?

14 A YES, SIR

15 EXAMINATION BY THE COURT

16 Q MS CHARPING, YOU KNOW, OBVIOUSLY THE LAWYERS
17 ASK QUESTIONS AND I'VE ASKED QUESTIONS AND SOMETIMES
18 THEY ASK THEM IN DIFFERENT WAYS AND PHRASE THEM IN A
19 DIFFERENT FASHION AND I RECOGNIZE THAT SOMETIMES
20 YOU'VE NOT THOUGHT ABOUT THIS AND YOU'VE NOT BEEN
21 ASKED THESE QUESTIONS BEFORE BUT, OF COURSE, YOU
22 UNDERSTAND HOW IMPORTANT IT IS THAT YOU TRY TO BE AS
23 HONEST AS YOU CAN ABOUT YOUR ANSWER SO THAT WE'LL
24 UNDERSTAND WHERE YOUR COMING FROM AND IT DOESN'T
25 MATTER TO US WHAT YOUR ANSWERS ARE, SO LONG AS WE

1 JUST KNOW HOW YOU HONESTLY FEEL ABOUT THE CASE AND
2 THAT'S THE REALLY I SIMPLY WANT TO ASK YOU AGAIN
3 DO YOU BELIEVE, BASED UPON WHAT YOU KNOW, WHAT
4 YOU'VE HEARD ABOUT THIS CASE, WHAT YOU'VE READ ABOUT
5 THE CASE, DO YOU BELIEVE THAT YOU COULD BE FAIR, IF
6 YOU WERE SELECTED AS A JUROR?

7 A I DON'T THINK SO

8 THE COURT IF YOU'LL STEP OUTSIDE FOR JUST A
9 MOMENT, I'LL BRING YOU BACK IN A SECOND
10 (JUROR #237 DOES AS INSTRUCTED)

11 THE COURT ANY REASON WHY THE JUROR
12 SHOULD BE FOUND -- OR SHOULD NOT BE DISQUALIFIED?

13 MR JONES NO REASON FOR THE STATE, YOUR
14 HONOR

15 MR TINSLEY NO, YOUR HONOR

16 THE COURT SHE IS DISQUALIFIED
17 (JUROR #237 RE-ENTERS COURTROOM)

18 THE COURT MS CHARPING, WE'RE GOING
19 TO EXCUSE YOU FROM SERVICE IN THE CASE WE DO
20 APPRECIATE YOU COMING DOWN AND BE WILLING TO
21 PARTICIPATE IF CALLED UPON IT WILL NOT BE
22 NECESSARY THAT YOU REPORT BACK ANY FURTHER THANKS
23 AGAIN

24 (JUROR #237 EXITS COURTROOM)

25 (JUROR #237 IS NOT QUALIFIED)

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REPETATIVE TRANSCRIPT COVER PAGES
AND NOT REPRINTED

1 (THE COURT CALLS JUROR McCAULEY)

2 (JUROR #275 PRESENTED AT 10 37 O'CLOCK A M)

3 EXAMINATION BY THE COURT

4 Q GOOD MORNING, MS McCAULEY

5 A GOOD MORNING

6 Q AS YOU KNOW, THE REASON YOU'VE BEEN ASKED TO
7 COME IS WE'VE GOT SOME QUESTIONS THAT WE'RE GOING TO
8 ASK YOU AND I'LL HAVE SOME FOR YOU -- WELL,
9 THE SOLICITOR MIGHT HAVE SOME THE LAWYERS MAY HAVE
10 SOME QUESTIONS FOR YOU, ALSO IT'S IMPORTANT THAT
11 WE GET YOUR OPEN AND HONEST ANSWERS TO THESE
12 QUESTIONS SO IF YOU DON'T UNDERSTAND THE QUESTION,
13 IF IT'S NOT ASKED CLEARLY OR YOU DON'T UNDERSTAND IT
14 FOR ANY REASON, JUST LET ME KNOW AND I'LL TRY TO
15 REPHRASE IT OR CLARIFY IT AS BEST AS I CAN BECAUSE
16 THESE MAY BE SOME QUESTIONS THAT YOU'VE NOT
17 PREVIOUSLY AND IT MAY REQUIRE SOME CLARIFICATION
18 SO FEEL FREE TO ASK ME TO DO SO OR THE LAWYERS,
19 SHOULD THAT BE NECESSARY

20 NOW, YOU'LL REMEMBER THAT YESTERDAY WHEN YOU
21 REPORTED, YOU AND YOUR FELLOW JURORS WERE PLACED
22 UNDER OATH AND YOU REMAIN UNDER OATH FOR THE
23 PURPOSE OF THESE QUESTIONS, ALSO

24 NOW, WE HAVE YOUR QUESTIONNAIRE AND IS
25 EVERYTHING IN THE QUESTIONNAIRE, IS THAT ACCURATE

1 AND ACCURATE?

2 A AS FAR AS I KNOW

3 Q YOU, ALSO, WERE INSTRUCTED BY WAY OF LETTER
4 AND PERHAPS WHEN YOU LEFT, NOT TO DISCUSS THE CASE
5 IN ANY FASHION OR TO ALLOW YOURSELF TO BE EXPOSED TO
6 ANY TYPE OF MEDIA COVERAGE RELATING TO THE CASE

7 A RIGHT

8 Q HAVE YOU HAD ANY SUCH DISCUSSIONS ABOUT THIS
9 CASE?

10 A NOT THE CASE ITSELF

11 Q AND HAVE YOU BEEN EXPOSED TO ANY TYPE OF MEDIA
12 COVERAGE, WHETHER IT BE TELEVISION OR RADIO OR
13 NEWSPAPER?

14 A NO, I HAVEN'T

15 Q AT ANY TIME?

16 A NOT THAT I CAN RECALL

17 Q NOW, A JURY'S FUNCTION IN THE TRIAL OF A CASE
18 IS TO LISTEN TO TESTIMONY FROM WITNESSES THAT
19 TESTIFY FROM THE WITNESS STAND, TO CONSIDER OTHER
20 EVIDENCE THAT MIGHT BE OFFERED IN THE TRIAL OF THE
21 CASE AND BASED UPON THE JURY'S CONSIDERATION OF
22 THAT EVIDENCE, THEY DECIDE WHAT THE FACTS ARE THE
23 JUDGE PROVIDES THE JURY WITH THE LAW THAT THEY APPLY
24 TO THE FACTS BUT THE JURY DECIDES THE FACTS AND IN
25 DECIDING THOSE FACTS AND IN APPLYING THAT LAW, THE

1 JURY MAKES A DECISION THE JURY DECIDES A VERDICT
2 IN A CRIMINAL CASE, THE JURY IS CALLED UPON TO
3 DECIDE WHETHER OR NOT A PERSON HAS BEEN PROVEN TO BE
4 GUILTY OF A CRIME ALLEGED AGAINST THEM BY THE STATE
5 AS YOU ARE AWARE IN THIS CASE, THE DEFENDANT HAS
6 BEEN CHARGED BY THE STATE WITH THE CRIME OF MURDER
7 AND THE LAW PROVIDES THAT UNDER CERTAIN
8 CIRCUMSTANCES WHERE A PERSON IS CONVICTED OR FOUND
9 GUILTY OF MURDER, THAT THE STATE MAY ASK THAT THE
10 DEATH PENALTY BE IMPOSED THE LAW NEVER REQUIRES
11 THAT THE DEATH PENALTY BE IMPOSED BUT UNDER CERTAIN
12 CIRCUMSTANCES THE LAW DOES PERMIT IT BUT THE JURY
13 ALWAYS MAKES THAT DECISION IT'S STILL A JURY
14 DECISION IN THEIR DISCRETION BASED UPON THE EVIDENCE
15 IN THE CASE

16 NOW, IN A CASE SUCH AS THIS, A CAPITAL CASE,
17 IT'S CONDUCTED IN TWO SEPARATE STAGES THE FIRST
18 STAGE OF THE TRIAL ADDRESSES THE ISSUE OF GUILT, AND
19 THE SECOND STAGE OF THE TRIAL ADDRESSES THE ISSUE OF
20 PUNISHMENT OBVIOUSLY, YOU NEVER GET TO THE SECOND
21 STAGES UNLESS IN THE FIRST STAGE OF THE TRIAL A JURY
22 HAS DETERMINED, BEYOND A REASONABLE DOUBT, THE
23 INDIVIDUAL TO BE GUILTY OF MURDER

24 THE LAW PROVIDES, ALSO, THAT BEFORE THE DEATH
25 PENALTY MAY BE CONSIDERED, A JURY MUST, ALSO, FIND

1 BEYOND A REASONABLE DOUBT SOME OTHER AGGRAVATING
2 CIRCUMSTANCE AS SET FORTH BY STATUTE

3 NOW, IF YOU WERE SELECTED TO SERVE IN A TRIAL
4 OF SUCH A CASE, DURING THE GUILT PHASE OF THE TRIAL,
5 WOULD YOU BE ABLE TO FAIRLY CONSIDER ALL EVIDENCE
6 THAT WAS PRESENTED DURING THAT PHASE OF THE TRIAL
7 BEFORE YOU ARRIVED AT YOUR DECISION AS TO WHETHER OR
8 NOT THE PERSON HAD BEEN PROVEN TO BE GUILTY?

9 A YES

10 Q DO YOU UNDERSTAND THAT THE BURDEN IS ALWAYS
11 UPON THE STATE IN BRINGING A CHARGE AGAINST ANOTHER
12 INDIVIDUAL TO PROVE THAT THEY ARE GUILTY BEYOND A
13 REASONABLE DOUBT BEFORE A VERDICT OF GUILTY CAN BE
14 RETURNED?

15 A YES

16 Q DO YOU UNDERSTAND THAT THE BURDEN IS NEVER
17 UPON A DEFENDANT OR A PERSON WHO IS CHARGED WITH A
18 CRIME TO PROVE THAT THEY ARE NOT GUILTY OR TO PROVE
19 THAT THEY ARE INNOCENT?

20 A YES, SIR

21 Q YOU UNDERSTAND A PERSON CHARGED WITH A CRIME
22 MAY NOT EVEN TESTIFY OR PUT FORTH EVIDENCE BECAUSE
23 THE BURDEN IS NOT UPON THEM TO ESTABLISH THEIR
24 INNOCENCE, YOU UNDERSTAND THAT?

25 A YES, SIR

1 Q NOW, DO YOU, ALSO, UNDERSTAND THAT UNDER THE
2 LAW, A PERSON CHARGED WITH A CRIME IS PRESUMED TO BE
3 INNOCENT?

4 A YES

5 Q AND DO YOU ACCEPT EACH OF THOSE PROPOSITIONS
6 OF LAW?

7 A YES, I DO

8 Q NOW, IF YOU WERE SELECTED TO PARTICIPATE IN
9 THE TRIAL OF SUCH A CASE, AFTER YOU HAD CONSIDERED
10 ALL OF THAT EVIDENCE, WOULD YOU BE ABLE TO RETURN A
11 VERDICT OF GUILTY IF THE EVIDENCE CONVINCED YOU OF
12 THAT FACT BEYOND A REASONABLE DOUBT?

13 A I BELIEVE I COULD

14 Q NOW, IF YOU WERE NOT SO CONVINCED OR IF YOU
15 HAD A REASONABLE DOUBT AS TO WHETHER OR NOT THE
16 EVIDENCE SUPPORTED A VERDICT OF GUILTY, WOULD YOU
17 RETURN A VERDICT OF NOT GUILTY?

18 A I BELIEVE I COULD

19 Q NOW, AS I TOLD YOU IN A CASE WHERE A PERSON IS
20 CONVICTED OR FOUND GUILTY OF THE CRIME OF MURDER
21 UNDER CERTAIN CIRCUMSTANCES, THE STATE MAY SEEK THE
22 DEATH PENALTY THE IMPOSITION OF A SENTENCE IS
23 DETERMINED IN A SEPARATE PHASE, IN A PENALTY PHASE
24 OF THE TRIAL THAT'S CONDUCTED SHORTLY AFTER THE
25 FIRST PHASE, THE GUILT PHASE IN THAT PENALTY

1 PHASE, ADDITIONAL EVIDENCE IS RECEIVED THERE MAY
2 BE EVIDENCE OFFERED IN AGGRAVATION OF PUNISHMENT AND
3 EVIDENCE OFFERED IN MITIGATION OF PUNISHMENT AND
4 BY THAT I SIMPLY MEAN THAT THERE MIGHT BE EVIDENCE
5 OFFERED TENDING TO SUPPORT THE MORE SERIOUS
6 PUNISHMENT AS BEING APPROPRIATE, THAT BEING THE
7 DEATH PENALTY THERE MIGHT BE EVIDENCE OFFERED
8 TENDING TO SUPPORT THE LESS SERIOUS PUNISHMENT AS
9 MORE APPROPRIATE, THAT BEING A LIFE SENTENCE IF
10 YOU WERE PARTICIPATING IN SUCH A CASE, WOULD YOU BE
11 ABLE AND WILLING TO CONSIDER ALL OF THAT ADDITIONAL
12 EVIDENCE IN THE AGGRAVATION AND IN MITIGATION BEFORE
13 YOU ARRIVED AT YOUR DECISION AS TO THE APPROPRIATE
14 PUNISHMENT?

15 A I BELIEVE WITH MY RELIGIOUS BELIEFS, I WOULD
16 NOT BE ABLE TO I DO NOT BELIEVE IN CAPITAL
17 PUNISHMENT

18 Q IS IT FAIR TO SAY THEN THAT AFTER YOU HAVE
19 CONSIDERED ALL OF THE EVIDENCE IN THE CASE, NO
20 MATTER WHAT THAT EVIDENCE MIGHT SHOW, THAT THERE IS
21 NO CIRCUMSTANCE WHERE YOU WOULD BE ABLE TO SENTENCE
22 A PERSON TO DEATH?

23 A THAT'S RIGHT

24 Q AND YOU UNDERSTAND THE JURY WOULD ALWAYS HAVE
25 AN OPTION? YOU COULD SENTENCE A PERSON TO LIFE FOR

1 ANY REASON OR FOR NO REASON

2 A UM-HMM

3 Q WOULD YOU ALWAYS SELECT THAT OPTION OVER
4 DEATH?

5 A I WOULD WITH MY RELIGIOUS BELIEFS BIBLICALLY
6 THAT THE LORD IS THE ONE THAT FORGIVES NO MATTER
7 WHAT, I HAVE NO RIGHT TO TAKE ANY ONE'S LIFE AND
8 THAT I WOULD BE PART OF THAT TAKING SOMEONE'S LIFE
9 AND I HAVE NO RIGHT TO DO THAT

10 Q YOU UNDERSTAND THAT NO ONE IS CHALLENGING YOU
11 IN YOUR BELIEF?

12 A RIGHT

13 Q WE SIMPLY NEED TO KNOW WHAT YOUR OPINION IS
14 AND THAT'S THE REASON THAT I ASK THESE QUESTIONS

15 A UM-HMM

16 Q SO IT IS FAIR TO SAY THAT UNDER NO
17 CIRCUMSTANCES WOULD YOU CONSIDER SENTENCING A PERSON
18 TO DEATH?

19 A YES

20 THE COURT ANY QUESTIONS?

21 EXAMINATION BY MR TINSLEY

22 Q GOOD MORNING, MS McCAULEY

23 A GOOD MORNING

24 Q WHAT IS YOUR FAITH, MS McCAULEY?

25 A WE HAVE TO BE PRACTICING OUR FAITH IN A

1 PRESBYTERIAN CHURCH, ASSOCIATE REFORMED

2 PRESBYTERIAN,

3 Q THIS IS A LONG HELD BELIEF OF YOURS THAT TIES
4 IN WITH YOUR CHRISTIANITY?

5 A YES

6 Q AND YOU BELIEVE TURN THE OTHER CHEEK, THAT
7 SORT OF THING?

8 A I BELIEVE IN PUNISHMENT I JUST BELIEVE THAT
9 I MYSELF CANNOT MAKE A VERDICT OF DEATH BECAUSE OF
10 WHAT CHRIST HAS DONE FOR ME I FEEL I HAVE NO RIGHT
11 TO KILL ANYONE ELSE

12 Q BECAUSE CHRIST --

13 A I HAVE NO -- WHAT CHRIST HAS DONE FOR ME AND I
14 HAVE NO RIGHT TO DO THAT FOR ANYONE ELSE -- TO DO
15 THAT TO ANYONE ELSE

16 Q AND NO MATTER HOW BAD YOU MIGHT BE WITH THE
17 CIRCUMSTANCES OF THE PARTICULAR CASE TO BELIEVE, YOU
18 JUST COULD NOT EVEN CONSIDER THE DEATH PENALTY
19 BECAUSE THE ISSUE IS, COULD YOU CONSIDER THE DEATH
20 PENALTY AS A POSSIBLE OPTION

21 A I COULD NOT CONSIDER IT

22 MR TINSLEY THANKS SO MUCH, MS

23 McCAULEY

24 EXAMINATION BY MR JONES

25 Q MS McCAULEY, MY NAME IS TOWNES JONES, I'M

1 YOUR SOLICITOR HERE IN ABBEVILLE COUNTY THIS IS
2 MICHAEL COULTER, HE'S YOUR DEPUTY SOLICITOR YOU
3 EVER HEARD THE EXPRESSION RENDER UNDER CAESAR WHAT
4 IS CAESAR'S AND UNDER CHRIST WHAT IS CHRIST?

5 A THAT'S RIGHT, YES

6 Q BUT YOU DON'T FOLLOW THAT PRINCIPAL WITH THE
7 UNDERSTANDING THAT WE'VE GOT MATTERS WE'VE GOT TO
8 DEAL WITH HERE ON EARTH AND THAT WE'RE THE ONLY ONES
9 RIGHT NOW THAT CAN REALLY GET THEM DONE

10 A I GUESS MY FEELING IS AS A CHRISTIAN, THE
11 SCRIPTURE SAYS THAT I AM IN THE WORLD BUT NOT OF IT
12 AND I HAVE GONE THROUGH THE SCRIPTURES ON THIS AND I
13 FEEL THAT I AM TO LIVE AS CHRIST WOULD LIVE AND IN
14 SEEKING TO BE LIKE HIM, I FEEL THAT I HAVE NO RIGHT
15 TO TAKE ANYONE'S LIFE I DON'T KNOW IF YOU KNOW MY
16 VOLUNTEER SERVICE, I WORK WITH --

17 Q I DO AND I WILL POINT OUT, MA'AM, I'M A
18 ERSKINE GRADUATE OF '75 AND NOT TO INJECT TOO MUCH
19 LEVITY INTO THIS PROCESS, I'VE BEEN CATCHING A LOT
20 OF FLACK FROM THE PUBLIC BECAUSE WE HAVEN'T FOUND
21 ANYBODY FROM DUE WEST YET THAT CAN SIT ON THE JURY
22 AND I'M JUST DOING MY PART TO TRY TO ENCOURAGE ONE
23 BUT I DON'T HAVE ANYMORE QUESTIONS, AND I UNDERSTAND
24 PERFECTLY WHAT YOU DO, OKAY?

25 A OKAY

THE COURT MS McCAULEY, WE APPRECIATE
YOU COMING DOWN AND SUFFERING THE INCONVENIENCE THAT
YOU HAVE UP TO THIS POINT YOU WILL NOT SUFFER ANY
FURTHER BECAUSE WE'RE GOING TO EXCUSE YOU FROM
SERVICE IN THE CASE THANKS AGAIN FOR YOUR
WILLINGNESS TO COME DOWN

MR TINSLEY I'LL CITE MY CROSS-SECTION
OF THE COMMUNITY ARGUMENT, YOUR HONOR, AND I OBJECT
TO HER BEING EXCUSED

THE COURT YOU OBJECT TO HER BEING
EXCUSED?

MR TINSLEY UNDER MY CROSS-SECTION OF
THE COMMUNITY ARGUMENT, YOUR HONOR THE FACT, AS
THE SOLICITOR SAID, WE SEEM TO BE ELIMINATING
EVERYBODY FROM DUE WEST

THE COURT WELL, I KNOW YOU ALL COME TO THAT AND I ALWAYS KEEP FORGETTING TO LOOK AND SEE IF THESE PEOPLE ARE FROM DUE WEST BUT I DID NOT REALIZE THAT SHE WAS, BUT I ACCEPT THAT SHE WAS. I FIND THAT SHE IS NOT QUALIFIED BASED UPON HER INABILITY TO CONSIDER BOTH FORMS OF PUNISHMENT IN THE SENTENCING PHASE WERE SHE TO BE SELECTED

(THE COURT CALLS JUROR PEARSON)

(JUROR #320 PRESENTED AT 10 50 O'CLOCK A M)

EXAMINATION BY THE COURT

1 Q GOOD MORNING, MR PEARSON

2 A GOOD MORNING

3 Q AS YOU KNOW, WE'VE BROUGHT YOU BACK TO ASK YOU
4 SOME ADDITIONAL QUESTIONS I'LL HAVE SOME FOR YOU,
5 THE LAWYERS MAY HAVE SOME ADDITIONAL QUESTIONS
6 THERE ARE NO RIGHT OR WRONG ANSWERS, WE SIMPLY NEED
7 TO KNOW WHAT YOUR VIEWS AND OPINIONS ARE ON
8 PARTICULAR SUBJECTS SO I WILL SIMPLY ASK THAT YOU,
9 PLEASE, ANSWER THE QUESTIONS AS OPENLY AND AS
10 HONESTLY AS YOU CAN AND IF, FOR SOME REASON, YOU
11 DO NOT UNDERSTAND THE QUESTION OR YOU NEED TO HAVE
12 IT CLARIFIED, LET ME KNOW BECAUSE WE NEED TO BE
13 CERTAIN THAT YOU UNDERSTAND IT SO THAT YOU CAN
14 PROPERLY RESPOND TO IT

15 NOW, YOU WERE PLACED UNDER OATH YESTERDAY WITH
16 YOUR FELLOW JURORS, DO YOU RECALL THAT?

17 A YES, SIR

18 Q YOU REMAIN UNDER OATH FOR THE PURPOSE OF THESE
19 QUESTIONS, ALSO YOU FILLED OUT A QUESTIONNAIRE, IS
20 THE QUESTIONNAIRE THAT YOU COMPLETED, ACCURATE?

21 A YES, SIR

22 Q AND I, ALSO, UNSTRUCTURED JURORS NOT TO HAVE
23 ANY DISCUSSIONS OR ALLOW YOURSELF TO BE EXPOSED TO
24 ANY TYPE OF MEDIA COVERAGE RELATING TO THIS
25 PARTICULAR CASE HAVE YOU HAD ANY CONVERSATIONS,

1 DISCUSSIONS OR BEEN EXPOSED TO ANY TYPE OF
2 TELEVISION, RADIO OR NEWSPAPER RELATING TO THE CASE?

3 A RELATING TO THIS CASE?

4 Q YES, SIR

5 A NO, SIR

6 Q SO YOU'VE NOT READ ANY NEWSPAPER ARTICLE ABOUT
7 THIS CASE?

8 A NO, SIR

9 Q AND YOU'VE NOT DISCUSSED IT WITH ANYONE?

10 A NO, SIR

11 Q NOW, IN THIS CASE, THE STATE HAS ACCUSED THE
12 DEFENDANT AND CHARGED HIM WITH MURDER AND UNDER
13 CERTAIN CIRCUMSTANCES, A PERSON WHO HAS BEEN
14 CONVICTED OR FOUND GUILTY BY A JURY OF THE CRIME OF
15 MURDER MAY BE SUBJECTED TO THE DEATH PENALTY THE
16 LAW PROVIDES THE CIRCUMSTANCES WHERE THAT MAY OCCUR
17 THE LAW DOES NOT REQUIRE IT UNDER ANY CIRCUMSTANCES,
18 IT SIMPLY PERMITS IT TO BE DONE IF CERTAIN
19 CIRCUMSTANCES ARE PRESENT

20 NOW, IN A CASE LIKE THAT, THE TRIAL IS
21 CONDUCTED IN TWO SEPARATE STAGES AND THE FIRST
22 STAGE OF THE TRIAL OR THE FIRST HEARING RELATES TO
23 THE ISSUE OF GUILT THE SECOND STAGE THAT WOULD
24 FOLLOW, IF A PERSON IS FOUND GUILTY, WOULD RELATE TO
25 THE ISSUE OF PUNISHMENT TWO SEPARATE HEARINGS,

1 EVIDENCE WOULD BE PRESENTED AT BOTH

2 IN THE FIRST STAGE OF THE TRIAL RELATING TO
3 GUILT, EVIDENCE WOULD BE PRESENTED AND THE JURY
4 WOULD DECIDE BASED UPON THAT EVIDENCE, WHETHER OR
5 NOT THE PERSON CHARGED HAS BEEN PROVEN TO BE GUILTY
6 OF THE CRIME OF MURDER IF THAT PERSON HAS BEEN
7 PROVEN TO BE GUILTY OF THE CRIME OF MURDER AND SOME
8 OTHER AGGRAVATING CIRCUMSTANCE EXISTED IN ADDITION
9 TO THAT, THEN WE WOULD GO TO THE SECOND PHASE OF THE
10 TRIAL WHERE THE JURY WOULD DECIDE THE APPROPRIATE
11 SENTENCE OR PUNISHMENT

12 NOW, IF YOU WERE PARTICIPATING IN SUCH A CASE
13 AND YOU WERE PARTICIPATING DURING THE GUILT PHASE OF
14 THE TRIAL, WOULD YOU BE WILLING AND ABLE TO CONSIDER
15 ALL EVIDENCE THAT WOULD BE OFFERED AT THAT STAGE OF
16 THE TRIAL FAIRLY BEFORE ARRIVING AT A DECISION?

17 A WILL I BE -- CAN YOU CLARIFY A LITTLE MORE?

18 Q IF YOU WERE SITTING OVER THERE IN THE JURY BOX
19 AND EVIDENCE WAS BEING PRESENTED ON WHETHER OR NOT
20 THE PERSON ACCUSED WAS GUILTY, WOULD YOU BE WILLING
21 AND ABLE TO FAIRLY CONSIDER ALL OF THE EVIDENCE
22 OFFERED AS TO THAT ISSUE BEFORE YOU MADE A DECISION?

23 A YES, SIR I THINK YOU SHOULD LOOK AT THE
24 EVIDENCE MORE CAREFUL I UNDERSTAND WHAT WENT ON
25 AND WHAT HAPPENED AND, YOU KNOW, TAKE A LOOK AT IT

1 Q AND AFTER YOU CONSIDERED ALL THAT EVIDENCE AND
2 LOOKED AT IT CAREFULLY, IF YOU WERE CONVINCED BEYOND
3 A REASONABLE DOUBT THAT THE EVIDENCE SUPPORTED A
4 VERDICT OF GUILTY, COULD YOU RETURN A VERDICT OF
5 GUILTY?

6 A I'M NOT SURE

7 Q YOU'RE NOT SURE

8 A I'M NOT SURE WELL, I'D HEAR BOTH PARTIES,
9 YOU KNOW, AND WHAT THEY HAVE TO OFFER, YOU KNOW,
10 FROM THE ATTORNEYS AND LISTEN TO WHAT BOTH ATTORNEYS
11 HAVE TO SAY

12 Q ALL RIGHT WELL, LET ME ASK YOU THIS DO YOU
13 UNDERSTAND THAT IN A CRIMINAL CASE WHERE THE STATE
14 CHARGES SOMEBODY WITH A CRIME, DO YOU UNDERSTAND
15 THAT THE BURDEN IS ON THE STATE TO PROVE THAT A
16 PERSON IS GUILT BEYOND A REASONABLE DOUBT BEFORE
17 THAT PERSON COULD BE FOUND GUILTY BY A JURY?

18 A YES, SIR

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

23 A YES, SIR

24 Q DO YOU UNDERSTAND THAT A DEFENDANT IN A
25 CRIMINAL CASE MAY NOT EVEN TAKE THE WITNESS STAND

1 AND TESTIFY DURING THE TRIAL OF THE CASE?

2 A YEAH, I UNDERSTAND

3 Q YOU UNDERSTAND THAT I WOULD INSTRUCT THE JURY
4 THAT IF THAT HAPPENED, IF THE DEFENDANT DID NOT TAKE
5 THE STAND, YOU WOULD NOT BE ABLE TO CONSIDER THAT IN
6 ANY FASHION WHATSOEVER IN ARRIVING AT YOUR DECISION?

7 A YES, SIR

8 Q COULD YOU FOLLOW THAT INSTRUCTION?

9 A YES, SIR

10 Q YOU UNDERSTAND A DEFENDANT OR A PERSON CHARGED
11 WITH A CRIME IS ALWAYS PRESUMED TO BE INNOCENT?

12 A UNTIL WHAT?

13 Q UNTIL PROVEN BEYOND A REASONABLE DOUBT

14 A YES, SIR

15 Q NOW, IF YOU WERE PARTICIPATING IN A TRIAL AND
16 THE EVIDENCE WAS PRESENTED AND AFTER ALL OF THE
17 EVIDENCE WAS PRESENTED, I ASK YOU AND YOUR FELLOW
18 JURORS TO GO BACK IN THE JURY ROOM AND DECIDE THE
19 CASE IF YOU CONSIDERED ALL THE EVIDENCE AND YOU
20 WERE CONVINCED BEYOND A REASONABLE DOUBT THAT THE
21 DEFENDANT WAS GUILTY, COULD YOU RETURN A VERDICT OF
22 GUILTY?

23 A YES, SIR

24 Q AND IF YOU HAD A REASONABLE DOUBT ABOUT IT,
25 WOULD YOU FIND THE DEFENDANT NOT GUILTY?

1 A YES, SIR

2 Q NOW, AS I TOLD YOU, IF THE JURY FOUND THE
3 DEFENDANT TO BE GUILTY OF THE CRIME OF MURDER AND
4 FOUND SOME AGGRAVATING CIRCUMSTANCE BEYOND A
5 REASONABLE DOUBT, THEN AFTER THAT GUILT PHASE OF THE
6 TRIAL, WE'D GO TO THE PENALTY PHASE OF THE TRIAL

7 A YES, SIR

8 Q AND AT THAT STAGE OF THE TRIAL, THERE WOULD BE
9 MORE EVIDENCE OFFERED THERE WOULD BE EVIDENCE
10 OFFERED WHICH MIGHT TEND TO SHOW WHY THE DEATH
11 PENALTY WAS APPROPRIATE THERE MIGHT BE EVIDENCE
12 OFFERED THAT MIGHT TEND TO SHOW WHY A LIFE SENTENCE
13 WAS MORE APPROPRIATE YOU UNDERSTAND THE JURY WOULD
14 MAKE THAT DECISION?

15 A YES, SIR

16 Q WOULD YOU BE ABLE AND WILLING TO CONSIDER ALL
17 OF THAT ADDITIONAL EVIDENCE ON THE ISSUE OF
18 PUNISHMENT BEFORE YOU MADE YOUR DECISION AS TO WHAT
19 THE APPROPRIATE SENTENCE SHOULD BE?

20 A YEAH, ALL THE EVIDENCE SHOULD BE GIVEN

21 Q AND AFTER YOU'VE CONSIDERED ALL OF THAT
22 EVIDENCE AND YOU THOUGHT IT WAS APPROPRIATE, WOULD
23 YOU BE ABLE TO SENTENCE A PERSON TO DEATH?

24 A AFTER LISTENING TO ALL THE EVIDENCE AND
25 EVERYTHING?

1 Q YES, SIR, AFTER YOU'VE CONSIDERED ALL THE
2 EVIDENCE IN THE CASE

3 A I'M NOT SURE

4 Q COULD YOU SENTENCE A PERSON TO LIFE
5 IMPRISONMENT IF YOU THOUGHT IT WAS APPROPRIATE?

6 A YES, SIR

7 Q YOU COULD NOW, DO YOU UNDERSTAND, AS I
8 INDICATED TO YOU EARLIER, AND I NOW THESE QUESTIONS
9 ARE ALL NEW TO YOU AND SOMETIMES YOU MIGHT HAVE
10 FORGOTTEN WHAT I MENTIONED EARLIER BUT AT THAT
11 STAGE OF THE TRIAL IN THE PENALTY PHASE WHEN THE
12 JURY'S DECIDING WHAT THE APPROPRIATE SENTENCE SHOULD
13 BE, THE LAW PROVIDES THAT UNDER NO CIRCUMSTANCES CAN
14 A JURY SENTENCE A PERSON TO DEATH UNLESS THEY HAVE
15 ALREADY FOUND HIM GUILTY OF MURDER AND SOME
16 ADDITIONAL AGGRAVATING CIRCUMSTANCE HAS BEEN PROVEN
17 BEYOND A REASONABLE DOUBT ACCOMPANYING THAT MURDER
18 SO THAT'S THE ONLY CIRCUMSTANCE WHERE THE JURY CAN
19 EVEN CONSIDER SENTENCING A PERSON TO DEATH BUT DO
20 YOU UNDERSTAND THAT THE LAW DOES NOT REQUIRE THAT
21 YOU DO SO NO MATTER WHAT THE FACTS ARE THE LAW
22 NEVER SAYS YOU HAVE TO DO THAT

23 A YES, SIR

24 Q IN OTHER WORDS, THE JURY ALWAYS HAS THE
25 CHOICE YOU WOULD ALWAYS HAVE THE CHOICE BETWEEN

1 SENTENCING A PERSON TO DEATH AND SENTENCING A PERSON
2 TO LIFE IMPRISONMENT, DO YOU UNDERSTAND?

3 A YES, SIR

4 Q NOW, UNDERSTANDING THAT FACT THAT YOU WOULD
5 ALWAYS HAVE THAT CHOICE, WOULD YOU ALWAYS CHOOSE ONE
6 OF THOSE SENTENCING OPTIONS OVER THE OTHER?

7 A WOULD I CHOOSE ONE OF THEM OVER THE OTHER?

8 Q IN EVERY CASE, WOULD YOU CHOOSE ONE OF THOSE
9 OVER THE OTHER?

10 A IN A CRIMINAL CASE OR JUST IN ANY KIND OF
11 CASE?

12 Q WELL, IT WOULD HAVE TO BE A CRIMINAL CASE
13 BEFORE YOU COULD EVEN CONSIDER IMPOSING THE DEATH
14 PENALTY BECAUSE THAT'S NOT PERMITTED IN A CIVIL
15 CASE THERE'S TWO TYPES OF CASES, CIVIL AND
16 CRIMINAL AND IT'S ONLY IN A CRIMINAL CASE WHERE A
17 PERSON HAS BEEN CONVICTED OF MURDER AND SOME
18 AGGRAVATING CIRCUMSTANCE HAS BEEN PROVEN BEYOND A
19 REASONABLE DOUBT THAT THE JURY CAN EVEN CONSIDER
20 IMPOSING A DEATH SENTENCE, BUT THEY'RE NOT REQUIRED
21 TO UNDER ANY CIRCUMSTANCES AND I'M JUST SIMPLY
22 TRYING TO DETERMINE WHETHER OR NOT IF YOU HAD THAT
23 CHOICE, AND YOU ALWAYS WOULD, WOULD YOU CHOOSE ONE
24 OVER THE OTHER?

25 A YES, SIR

1 Q AND WHAT WOULD YOU CHOOSE?

2 A WHICH ONE WOULD I CHOOSE?

3 Q WHICH ONE WOULD YOU CHOOSE?

4 A I WOULD CHOOSE LIFE

5 Q AND WOULD YOU CHOOSE A SENTENCE OF LIFE

6 IMPRISONMENT IN EVERY CASE WHERE YOU HAD THE CHOICE

7 BETWEEN THE TWO?

8 A NO, BECAUSE EVERY CASE IS DIFFERENT

9 Q THAT'S RIGHT

10 A IN EACH CASE, YOU KNOW, IN A CRIMINAL CASE IS

11 DIFFERENT THERE'S DIFFERENT FACTS AND DIFFERENT

12 THINGS TO LOOK AT IN A CRIMINAL CASE IN EACH CASE

13 Q BY THAT ARE YOU SAYING THAT THERE IS SOME

14 CIRCUMSTANCE OR SOME CASE WHERE YOU WOULD BE WILLING

15 TO SENTENCE A PERSON TO DEATH?

16 A YES, SIR

17 Q NOW, DO YOU UNDERSTAND THAT AFTER YOU'VE

18 CONSIDERED ALL THE EVIDENCE AND IF YOU DECIDED THAT

19 THAT WAS WHAT YOU BELIEVED TO BE APPROPRIATE THAT

20 THAT PERSON SHOULD BE SENTENCED TO DIE FOR THE

21 CRIME, YOU'D HAVE TO SIGN YOUR NAME ON A FORM, IT'S

22 CALLED A RECOMMENDATION FORM, AND WHAT IT SAYS IS

23 THAT YOU RECOMMEND THAT THAT PERSON BE SENTENCED TO

24 DEATH AND YOU RECOMMEND THAT TO ME BUT YOU

25 UNDERSTAND IF YOU RECOMMEND IT, IF HAVE TO DO IT I

1 DON'T GET TO DECIDE IT MYSELF IF THE JURY
2 RECOMMENDS THAT THE PERSON BE SENTENCED TO DEATH,
3 THEN I HAVE TO IMPOSE THAT SENTENCE, DO YOU
4 UNDERSTAND THAT?

5 A YES, SIR

6 Q COULD YOU DO THAT?

7 A YES, SIR

8 Q COULD YOU SIGN THAT FORM?

9 A YES, SIR

10 Q NOW, WITH REGARD TO THIS CASE, HAVE YOU
11 ALREADY FORMED OR EXPRESSED ANY OPINION AS TO HOW
12 YOU THINK THIS CASE SHOULD COME OUT?

13 A NO, SIR

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

17 A I FEEL LIKE I COULD BE FAIR IN THIS CASE
18 THAT, YOU KNOW -- THEN WHEN -- POSE MY OPINION ABOUT
19 IT JUST MAKE SURE JUST LOOKING AT CASE AND ALL THE
20 EVIDENCE MAKE SURE EVERYTHING IS CLEAR AND
21 UNDERSTANDING FROM THE TWO PARTIES

22 Q AND YOU'D BE WILLING TO CONSIDER EVERYTHING
23 THAT WAS PRESENTED BEFORE YOU MADE ANY DECISION
24 WHATSOEVER?

25 A YEAH, I HAVE TO LISTEN TO EVERYTHING

1 Q YOU UNDERSTAND THAT IF YOU WERE SELECTED TO
2 SERVE THAT YOU'RE GOING TO BE SEQUESTERED FOR THE
3 DURATION OF THE TRIAL, DO YOU UNDERSTAND WHAT THAT
4 MEANS?

5 A IF I WAS SELECTED, JUST AWAY FROM MY FAMILY
6 AND ALL THAT

7 Q YOU'D BE IN A MOTEL FOR PROBABLY SEVEN TO TEN
8 DAYS I'M NOT SURE EXACTLY, BUT SOME PERIOD OF
9 TIME WOULD THAT REQUIREMENT IMPOSE ANY
10 UNREASONABLE HARDSHIP OR HEALTH RISK TO YOU OR
11 ANYBODY DEPENDANT UPON YOU?

12 A NO, SIR

13 Q WOULD YOU BE WILLING TO ACCEPT THAT
14 INCONVENIENCE IF YOU WERE SELECTED TO SERVE?

15 A YES, SIR I'M THE ONLY SON AT THE HOUSE, SO
16 THERE'S NOBODY ABLE TO BE WITH MY MOM AND MY FATHER

17 Q SO YOU DON'T HAVE ANY REASON WHY YOU COULDN'T
18 SERVE IF YOU WERE SELECTED?

19 A NO, SIR

20 Q AND YOU'RE FROM DUE WEST?

21 A YES, SIR

22 THE COURT ANSWER ANY QUESTIONS THE
23 LAWYERS MAY HAVE FOR YOU

24 MR TINSLEY THANKS SO MUCH, YOUR HONOR

25 EXAMINATION BY MR TINSLEY

1 Q ARE YOU FROM THE TOWN OF DUE WEST OR OUT IN
2 THE COUNTRY AROUND DUE WEST?

3 A IN THE TOWN JUST RIGHT OUTSIDE THE CITY
4 LIMITS

5 Q AND I NOTICE YOU HESITATED A LITTLE BIT ON
6 YOUR ABILITY TO CONSIDER THE DEATH PENALTY, IS THAT
7 RIGHT?

8 A YES, SIR, A LITTLE BIT

9 Q IS THAT BECAUSE YOU JUST HADN'T THOUGHT ABOUT
10 IT OR --

11 A I WASN'T PUT IN THAT POSITION I HAVEN'T BEEN
12 PUT IN THIS POSITION BEFORE

13 Q I SEE OF COURSE, YOU DID SERVE ON ONE
14 CRIMINAL JURY, DIDN'T YOU?

15 A IT WASN'T A CRIMINAL JURY, IT WAS --

16 Q WHAT WAS IT ABOUT?

17 A WELL, IT WAS ABOUT -- I THINK IT HAPPENED IN
18 '95, IF I'M NOT MISTAKEN IT WAS ABOUT A GUY WITH
19 HIS LICENSE SOMETHING HAVING TO DO WITH HIS
20 DRIVER'S LICENSE AND HE WASN'T SUPPOSED TO BE
21 DRIVING OR SOMETHING AND I THINK THE POLICE
22 OFFICER SAW HIM DRIVING AND THEY HAD --

23 Q EXCUSE ME, GO AHEAD

24 A -- THEY HAD BEEN, YOU KNOW, STAKING HIM OUT
25 AND STUFF

1 Q WAS IT UP IN DUE WEST?

2 A NO, SIR

3 Q DOWN IN MAGISTRATE'S COURT?

4 A YEAH, MAGISTRATE

5 Q OVER AT THE HEALTH DEPARTMENT BUILDING?

6 A YES, SIR

7 Q MR PEARSON ANSWERED THAT SOMEBODY THERE IN

8 HIS OWN -- A POLICE OFFICER IN DUE WEST, IS THAT

9 TRUE OR WHO IS THAT?

10 A NO, MY FATHER USED TO BE A LAW ENFORCEMENT

11 OFFICER A LONG TIME AGO WITH THE TOWN OF DUE WEST

12 HE WORKS FOR THE STATE NOW

13 Q WHAT'S HE DO?

14 A PARK RANGER

15 Q WHAT PARK IS HE IN?

16 A CALHOUN FALLS, SOUTH CAROLINA

17 Q AT THE LAKE RUSSELL?

18 A NO, CALHOUN FALLS

19 Q WHAT'S THE NAME OF THE PARK?

20 A IT'S STATE PARK RECREATION AND TOURISM

21 Q OKAY, I KNOW WHERE YOU'RE TALKING AND YOU

22 ATTEND TWO CHURCHES?

23 A I'M A MEMBER OF MOUNT LEBANON, BUT I ATTEND

24 CHURCH AT ROCKY RIVER OVER IN LEVEL LAND I GO OVER

25 THERE SOMETIMES

1 Q YOU HAVE TO GO OVER THERE?

2 A YES, SIR

3 Q AND I NOTICED YESTERDAY, MR PEARSON, THAT
4 WHEN YOU WERE OUT HERE THAT WHEN THE JUDGE ASKED
5 ABOUT THE MEDIA AND HEARING ABOUT THE CASE, YOU
6 STOOD UP, DID YOU NOT?

7 A ABOUT THIS CASE?

8 Q YES

9 A I STOOD UP -- HE ASKED THE QUESTION BEEN
10 EXPOSED IN THE MEDIA

11 Q RIGHT

12 A HAS BEEN IN THE NEWSPAPER OR WHATEVER HE
13 DIDN'T SAY NOTHING ABOUT THIS PARTICULAR CASE

14 Q OH, SO YOU HAVEN'T HEARD ANYTHING ABOUT THIS
15 PARTICULAR CASE?

16 A NO, SIR

17 Q I SEE I THINK HE MEANT EXPOSURE TO THIS
18 PARTICULAR CASE BUT YOU HEARD IT AS ANY EXPOSURE AT
19 ALL TO THE MEDIA AND, OBVIOUSLY, YOU'VE HAD SOME
20 EXPOSURE DURING YOUR LIFETIME?

21 A YES, SIR

22 Q SURE BUT YOU HAVEN'T HEARD ANYTHING ABOUT
23 THIS CASE?

24 A NO, SIR THIS IS THE FIRST I HEARD ABOUT WHEN
25 THE SHERIFF OFFICER DELIVERED THE LITTLE FORM TO THE

1 HOUSE

2 Q WHEN DID YOU GET THAT?

3 A LATE FRIDAY NIGHT

4 Q HOW DID THAT MAKE YOU FEEL?

5 A WELL, WHEN I SAW HIM COME TO MY HOUSE, I WAS
6 LIKE, OH LORD I KNOW I AIN'T DONE NOTHING BECAUSE
7 I WORK SEVEN DAYS A WEEK, YOU KNOW WHAT I'M SAYING
8 I'VE BEEN IN THE HOUSE ASLEEP OR IN THE BED

9 Q NOW, YOU UNDERSTAND THAT, AS THE JUDGE
10 EXPLAINED, ONE OR TWO PHASES IN THIS CASE AND THE
11 ONLY WAY YOU GET TO THE PENALTY PHASE, THE SECOND
12 PHASE, WOULD BE IF THE DEFENDANT, MR HUGHEY, WERE
13 CONVICTED OF MURDER AND AT LEAST ONE AGGRAVATING
14 CIRCUMSTANCE DO YOU UNDERSTANDING WHAT WE MEAN BY
15 AGGRAVATING? THAT WOULD BE BAD DO YOU UNDERSTAND
16 A BAD CIRCUMSTANCE, FOR INSTANCE?

17 A YES, SIR

18 Q AND DO YOU UNDERSTAND WHAT WE MEAN BY
19 MITIGATING CIRCUMSTANCE?

20 A NO

21 Q THAT WOULD BE THE OPPOSITE THAT WOULD BE
22 LIKE GOOD CIRCUMSTANCE THE HISTORY OF MR HUGHEY
23 THAT MAKES HIM -- WITH HIS INDIVIDUAL
24 CHARACTERISTICS THE INDIVIDUAL THAT HE IS TODAY
25 SO UNDERSTANDING THAT, COULD YOU CONSIDER ANY AND

1 ALL MITIGATING CIRCUMSTANCES THAT MR HUGHEY MIGHT
2 OFFER IN THE SECOND PHASE, IF WE WERE TO GET TO THAT
3 POINT?

4 A YES, SIR

5 Q YOU WOULD BE WILLING TO CONSIDER THAT?

6 A YES, SIR

7 Q AND YOU WOULD KEEP AN OPEN MIND IN ALL MATTERS
8 THROUGHOUT THE CASE?

9 A YES, SIR

10 Q AND, FINALLY, IF THE JUDGE WERE TALKING TO YOU
11 ABOUT COUNT ONE OF THE CASE, MURDER IS COUNT ONE
12 AND HE GAVE YOU THE OPTIONS OF GUILTY OF MURDER OR
13 GUILTY OF VOLUNTARY MANSLAUGHTER, A LESSER CHARGE OF
14 MURDER, OR NOT GUILTY COULD YOU CONSIDER ALL THREE
15 OPTIONS?

16 A COULD I CONSIDER IT?

17 Q YES WOULD YOU BE WILLING TO CONSIDER NOT
18 GUILTY AS A POSSIBLE VERDICT?

19 A YES, SIR

20 Q WOULD YOU BE WILLING TO CONSIDER VOLUNTARY
21 MANSLAUGHTER INSTEAD OF MURDER AS A POSSIBLE
22 VERDICT?

23 A YES, SIR

24 Q SO YOU COULD CONSIDER ALL OF THE VERDICTS?

25 A YES, SIR

1 Q AND YOU DON'T HAVE YOUR MIND MADE UP ONE WAY
2 OR THE OTHER?

3 A NO, SIR

4 Q REGARDLESS OF ANY FACTORS OR PASSION OR
5 EMOTION OR WHATEVER, YOU WILL BE WILLING TO LISTEN
6 TO THE FACTS AND APPLY THE LAW AS GIVEN TO YOU BY
7 THE JUDGE, WILL YOU NOT?

8 A YES, SIR

9 MR TINSLEY THANKS SO MUCH, MR
10 PEARSON

11 EXAMINATION BY MR JONES

12 Q GOOD MORNING, MR PEARSON

13

14 A GOOD MORNING

15 Q MY NAME IS TOWNES JONES AND I'M YOUR SOLICITOR
16 HERE IN ABBEVILLE COUNTY THIS IS MICHAEL COULTER
17 HE'S YOUR CHIEF DEPUTY SOLICITOR AND BOTH OF US WILL
18 BE PRESENTING EVIDENCE IN THIS TRIAL YOU
19 UNDERSTAND IT'S OUR JOB TO CALL WITNESSES TO THE
20 STAND AND ASK THEM WHAT, IF ANYTHING, THEY KNOW
21 ABOUT THIS CASE AND THAT'S THE WAY YOU HEAR THE
22 EVIDENCE YOU SERVED ON THAT JURY, YOU UNDERSTAND
23 THIS PROCESS WHO WAS THE JUDGE IN THAT CASE YOU
24 SERVED ON, DO YOU REMEMBER?

25 A I'M SORRY, I DON'T

1 Q HOW ABOUT THE VERDICT, DO YOU REMEMBER WHAT
2 THE VERDICT WAS?

3 A YES, SIR

4 Q WHAT WAS THE VERDICT?

5 A THE VERDICT WAS NOT GUILTY

6 Q AND YOU MENTIONED EARLIER THAT THEY WERE
7 TRYING TO KIND OF SET HIM UP OR KIND OF SIT BACK AND
8 SEE IF HE DROVE OR WHAT NOT?

9 A THAT'S WHAT IT SEEMED LIKE

10 Q SURE AND DID HE TESTIFY?

11 A YES, SIR THE GUY TESTIFIED

12 Q DID HE HAVE A DRIVER'S LICENSE OR HE WASN'T
13 THE ONE THAT WAS THERE OR WHAT? HOW COME HE WAS NOT
14 GUILTY?

15 A I THINK HIS LICENSE MAY HAVE BEEN SUSPENDED
16 AND I DON'T KNOW IF HE MIGHT HAVE BEEN DRIVING TO
17 WORK OR THAT MIGHT HAVE THINK THAT HE WAS DRIVING
18 THE CAR BECAUSE HIS CAR WAS, YOU KNOW, BEING SEEN
19 AROUND TOWN AND STUFF LIKE THAT AND YOU KNOW WHAT
20 I'M SAYING, THE OFFICER MIGHT HAVE SUSPECTED THAT HE
21 WAS THE ONE DRIVING THE CAR

22 Q BUT THEY DIDN'T ACTUALLY CATCH HIM DRIVING,
23 MAYBE WHOEVER WAS DRIVING JUMPED OUT AND RAN OR
24 SOMETHING?

25 A NO, IT WASN'T LIKE THAT I THINK HE HAD

1 SOMEBODY DRIVING HIS CAR AND HE WAS IN THE CAR, LIKE
2 MAYBE A FRIEND OR SOMEBODY

3 Q AND WAS THAT THE CITY OF ABBEVILLE POLICE
4 DEPARTMENT THAT MADE THAT CASE? DO YOU KNOW WHICH
5 AGENCY MADE IT?

6 A YEAH, IT WAS THE CITY OF ABBEVILLE

7 Q CITY OF ABBEVILLE WHEN YOU ALL WENT BACK AND
8 DELIBERATED, WHEN YOU WENT BACK AFTER YOU HEARD ALL
9 THE EVIDENCE IN THAT CASE YOU SAT, DID ANYBODY WANT
10 TO SAY HE WAS GUILTY OR DID EVERYBODY ALL AT ONCE
11 SAY, NOT GUILTY, NOT GUILTY, NOT GUILTY, NOT GUILTY?

12 MR TINSLEY OBJECTION, YOUR HONOR

13 THE COURT SUSTAINED

14 EXAMINATION BY MR JONES

15 Q ALL RIGHT WELL, LET ME ASK YOU THIS QUESTION
16 THEN DID YOU ENGAGE IN THE DELIBERATION PROCESS IN
17 THAT CASE?

18 A DID I ENGAGE IN IT, NO, SIR

19 Q YOU DIDN'T TALK TO ANYBODY ABOUT WHEN YOU
20 THOUGHT ABOUT IT?

21 A NOT OUTSIDE THE COURTROOM WE ALL WENT, YOU
22 KNOW WHAT I'M SAYING, WE ALL WAS IN A SIDE ROOM AND
23 WE ALL HAD TO LOOK AT SOME EVIDENCE OR WHATEVER AND
24 TALKED ABOUT AND DECIDE AND ANYBODY EXPRESSED
25 THEIR OPINION ABOUT HOW THEY FEEL ABOUT IT HOW

1 THEY FEEL ABOUT, YOU KNOW, THE CASE

2 Q LET ME ASK YOU SOMETHING IF YOU WERE SEATED
3 AS A JUROR ON THIS CASE, YOU MENTIONED TO THE JUDGE
4 THAT YOU WOULD EXPECT YOU'D HAVE TO LISTEN TO WHAT
5 BOTH LAWYERS PUT UP IN THE WAY OF EVIDENCE YOU
6 SAID THAT, DIDN'T YOU?

7 A YES, SIR

8 Q AND THAT YOU WOULD WANT EVERYTHING TO BE
9 PRETTY CLEAR AND UNDERSTOOD, IS THAT CORRECT?

10 A YES, SIR

11 Q BUT IN ORDER FOR THE STATE TO PROVE A MURDER
12 CASE, WOULD YOU REQUIRE THAT AN EYE WITNESS BE
13 PRESENT TO SEE WHAT HAPPENED OR NOT?

14 A FOR THE DEFENDANT OR THE STATE?

15 Q EITHER ONE

16 A YES, SIR

17 Q YOU WOULD REQUIRE THAT AN EYEWITNESS HAVE TO
18 BE THERE TO ACTUALLY SEE WHAT HAPPENED IN ORDER TO
19 FIND HIM GUILTY?

20 A YES

21 Q YOU COULDN'T RELY ON OTHER FORMS OF EVIDENCE?
22 SAY WE GIVE YOU EVIDENCE THAT THE DEFENDANT WAS
23 THERE

24 A YES

25 Q YOU COULD?

1 A YEAH I GUESS IT GOES BOTH WAYS REALLY

2 Q WELL, LET ME ASK YOU THIS THEN YOU MENTIONED

3 TO THE JUDGE THAT YOU COULD RETURN A VERDICT OF

4 DEATH, IF YOU FOUND SOMEBODY GUILTY OF MURDER --

5 YOU FOUND SOMEBODY GUILTY OF MURDER AND AN

6 AGGRAVATING CIRCUMSTANCE, IN OTHER WORDS, A REAL BAD

7 MURDER, YOU'D LISTEN TO ALL THE REASONS AS TO WHY

8 LIFE WOULD BE THE APPROPRIATE SENTENCE AND ALL THE

9 REASONS WHY DEATH WOULD BE AND YOU TOLD THE JUDGE

10 YOU COULD SENTENCE SOMEBODY TO DEATH

11 A YES

12 Q DO YOU KNOW THAT ABOUT YOURSELF?

13 A DO I KNOW THAT?

14 Q YES, SIR DO YOU KNOW THAT ABOUT YOURSELF?

15 A THAT I COULD BE SENTENCED TO DEATH?

16 Q NO, SIR, I'M SORRY LET ME ASK YOU THIS

17 QUESTION I'M ASKING YOU TO TRY TO TELL ME

18 SOMETHING ABOUT YOU, MR PEARSON I WANT TO KNOW

19 SOMETHING ABOUT YOU SOMETHING ABOUT YOU THAT ONLY

20 YOU KNOW SO I'VE GOT TO ASK YOU, DO YOU AGREE THAT

21 YOU ARE THE ONLY PERSON THAT CAN TELL ME WHETHER OR

22 NOT YOU -- YOU CAN SENTENCE SOMEBODY ELSE TO DIE?

23 WHETHER YOU CAN DO IT, WHETHER YOU'RE CAPABLE OF

24 DOING IT, WHETHER YOU ARE CAPABLE OF DOING IT

25 MENTALLY, PHYSICALLY, EMOTIONALLY, OKAY WHETHER

1 YOU HAVE IT IN YOU, OKAY?

2 LET ME USE THIS ANALOGY FOR YOU HAVE YOU
3 EVER THOUGHT ABOUT BUNGEE JUMPING?

4 A I'VE SEEN IT ON TV A COUPLE OF TIMES

5 Q HAVE YOU EVER THOUGHT ABOUT DOING IT YOURSELF?

6 A I THOUGHT ABOUT IT

7 Q WOULD YOU DO IT?

8 A I PROBABLY WOULD

9 Q YOU PROBABLY WOULD DO IT?

10 A BECAUSE I NEVER RIDE ON A ROLLER COASTER
11 BEFORE AND I DONE THAT, YOU KNOW YOU DID TWISTS
12 AND ALL THAT

13 Q RIGHT

14 A AND I'VE DONE THAT

15 Q YOU PROBABLY WOULD DO IT YOU KNOW YOURSELF
16 THAT WELL I NOTICE MOTORCYCLE RIDING YOU DO,
17 RIGHT?

18 A OH, YEAH

19 Q DIRT BIKE?

20 A NO

21 Q STREET BIKE

22 A STREET BIKE

23 Q SO YOU PROBABLY WOULD DO BUNGEE JUMPING WHAT
24 I'M ASKING YOU IS, YOU KNOW THAT ABOUT YOURSELF
25 YOU KNOW YOU'D GET ON A MOTORCYCLE AND RIDE DOWN THE

1 HIGHWAY, RIGHT?

2 A YES, SIR

3 Q AND YOU KNOW IF THE OCCASION EVER PRESENTED
4 ITSELF AND YOU GOT UP THERE AND YOU HAD YOUR FEET
5 TIED AND READY TO JUMP, YOU'D GO AHEAD AND DO IT AND
6 SEE WHAT IT FELT LIKE, RIGHT?

7 A YES, SIR

8 Q NOW, I'M ASKING YOU CAN YOU TELL ME WHETHER
9 OR NOT YOU'D BE ABLE TO SENTENCE SOMEBODY TO DIE?
10 YES OR NO AND I NEED A FIRM ANSWER, AN HONEST
11 ANSWER, A FAIR ANSWER BECAUSE WE DESERVE TO KNOW
12 THAT ABOUT YOU BEFORE WE, YOU KNOW, SEAT THIS JURY

13 A I UNDERSTAND YES, SIR

14 Q YES, SIR, WHAT? I MEAN, YES, SIR, WHAT? YOU
15 CAN OR YOU CAN'T SENTENCE SOMEBODY TO DIE

16 A I CAN'T

17 Q YOU CAN AND IF YOU MADE THAT DECISION THAT
18 IT WAS CORPORAL PUNISHMENT, CAN YOU WRITE YOUR NAME
19 ON A PIECE OF PAPER, MR PEARSON, YOUR NAME,
20 SENTENCING SOMEBODY TO DIE?

21 A YES, SIR

22 Q YOU CAN AND IF IT WAS THE APPROPRIATE THING
23 TO DO, YOU WOULD DO IT?

24 A IF IT WAS THE APPROPRIATE THING TO DO

25 Q SO YOU BELIEVE IN THE DEATH PENALTY AS

1 PUNISHMENT WHEN IT'S APPROPRIATE?

2 A WHEN IT'S APPROPRIATE)

3 Q AND YOU CAN THINK OF CIRCUMSTANCE WHEN IT
4 WOULD BE APPROPRIATE?

5 A CAN I THINK OF ONE?

6 Q UM-HMM

7 THE COURT YOUR ANSWER TO THAT WOULD BE
8 YES OR NO, IF YOU CAN THINK OF CIRCUMSTANCE HE'S
9 NOT ASKING YOU TO DESCRIBE ONE

10 EXAMINATION BY MR JONES

11 Q RIGHT I'M JUST ASKING YOU IF YOU CAN THINK
12 OF ONE YES OR NO, CAN YOU THINK OF A CIRCUMSTANCE
13 WHEN IT WOULD BE APPROPRIATE?

14 A NO, SIR

15 Q YOU CAN'T?

16 A NO

17 Q WELL, IF YOU CAN'T THINK OF A CIRCUMSTANCE
18 WHEN IT WOULD BE APPROPRIATE, WOULDN'T IT BE FAIR TO
19 SAY THAT YOU COULDN'T? THAT YOU COULDN'T GIVE IT
20 I'M JUST ASKING I MEAN, I'M ASKING FOR YOUR
21 ANSWER THAT'S JUST AS HONEST AS YOU CAN BE WITH
22 ME

23 A YES, SIR

24 Q SO YOU WOULDN'T GIVE THE DEATH PENALTY? I
25 MEAN, YOU CAN'T THINK OF A SITUATION AT ALL WHEN YOU

1 WOULD EVER BE A PART OF GIVING THE DEATH PENALTY

2 A NO, SIR

3 Q YOU CAN'T? WELL, LET ME ASK IT ANOTHER WAY
4 WE'VE BEEN ASKING YOU IF YOU COULD PARTICIPATE IN A
5 TRIAL WHERE THE STATE IS SEEKING THE DEATH PENALTY,
6 RIGHT?

7 A YES, SIR

8 Q AND WE'VE BEEN ASKING YOU IF AT THE CONCLUSION
9 OF THE EVIDENCE, YOU FIND THE DEFENDANT GUILTY OF
10 MURDER AND YOU FIND HIM GUILTY OF NOT ONE BUT TWO
11 MURDERS AT THE SAME TIME, TWO PEOPLE KILLED, AND YOU
12 FIND HIM GUILTY OF BURGLARY, BREAKING IN THE HOUSE
13 TO DO IT, AND YOU FIND HIM GUILTY OF LARCENY,
14 STEALING ONE OF THEM'S CAR AFTERWARDS AND TAKING
15 OFF IF YOU FOUND, AND WE ASK YOU IF YOU FOUND
16 SOMEBODY GUILTY IN THAT CASE BEYOND A REASONABLE
17 DOUBT, AND FOUND THE EXISTENCE OF THE AGGRAVATING
18 CIRCUMSTANCE, BURGLARY, AGGRAVATION OF BURGLARY,
19 MURDER AND BURGLARY, MURDER AND LARCENY THEN YOU'D
20 GO TO THE NEXT STAGE ABOUT WHAT THE PUNISHMENT IS
21 AND AT THAT STAGE, WE PUT IN ADDITIONAL EVIDENCE,
22 THE STATE, AS TO WHY THE PROPER PUNISHMENT IS DEATH,
23 WHY THE DEFENDANT OUGHT TO DIE FOR WHAT HE DID, AND
24 THE DEFENSE WOULD COME HERE AND ASK YOU TO SPARE
25 HIM, SPARE HIS LIFE FOR VARIOUS REASONS, YOU KNOW,

1 BECAUSE YOU JUST PITY, BECAUSE YOU JUST DON'T WANT -
2 -

3 MR TINSLEY OBJECTION, YOUR HONOR

4 MR JONES -- WHATEVER REASON, ANY
5 REASON ANY REASON WHATSOEVER

6 THE COURT SUSTAINED

7 EXAMINATION BY MR JONES

8 Q I'LL WITHDRAW THAT QUESTION MY POINT IS, YOU
9 GET TO THAT POINT IN TIME, THAT POINT IN TIME OF THE
10 TRIAL, OKAY, YOU UNDERSTAND?

11 A YES, SIR

12 Q MY QUESTION FOR YOU IS, COULD YOU CONSIDER
13 IMPOSING THE DEATH PENALTY AT THAT POINT IN TIME?

14 A YES, SIR

15 Q YOU COULD?

16 A YES, SIR

17 Q NOW, I ASKED YOU IF YOU COULD CONSIDER IT,
18 COULD YOU DO IT?

19 MR TINSLEY OBJECTION, YOUR HONOR
20 ASKED AND ANSWERED

21 THE COURT I THINK HE'S ANSWERED THAT
22 QUESTION

23 EXAMINATION BY MR JONES

24 Q AND THEN, AFTER YOU'VE CONSIDERED IT AND YOU
25 DECIDED THAT IT WAS THE APPROPRIATE PUNISHMENT,

1 COULD YOU THEN AND WOULD YOU THEN SIGN YOUR NAME ON
2 A FORM SENTENCING THE DEFENDANT TO DIE?

3 A YES, SIR

4 Q YOU WOULD NO DOUBT IN YOUR MIND?

5 A NO DOUBT IN MY MIND

6 Q YOU KNOW THAT ABOUT YOURSELF TODAY?

7 A YES, SIR

8 Q AND A WEEK FROM NOW, YOU'D FEEL THE SAME WAY
9 ABOUT THAT?

10 A YES, SIR

11 Q WHEN THE TRIAL WAS OVER, IS THAT RIGHT?

12 MR TINSLEY OBJECTION, YOUR HONOR,
13 ASKED AND ANSWERED

14 MR JONES NO FURTHER QUESTIONS, JUDGE

15 THE COURT MR PEARSON, IF YOU'LL JUST
16 STEP OUT THE DOOR FOR JUST A MINUTE I'LL BRING YOU
17 BACK

18 (JUROR #320 DOES AS INSTRUCTED)

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

21 MR JONES NON FOR THE STATE, YOUR
22 HONOR

23 MR TINSLEY NO, YOUR HONOR

24 THE COURT HE IS SO QUALIFIED

25 (JUROR #320 RE-ENTERS COURTROOM)

1 THE COURT MR PEARSON, YOU'RE
2 QUALIFIED TO SERVE ON THE PANEL FROM WHICH THE JURY
3 WILL BE SELECTED IN OTHER WORDS, THERE'LL BE A
4 LARGER PANEL, WE'LL SELECT A NUMBER OF THOSE TO,
5 ACTUALLY, PARTICIPATE IN THE CASE SO YOU'VE NOT
6 BEEN SELECTED YET BUT YOU MAY BE AND THAT WILL BE
7 ACCOMPLISHED LATER ONCE WE CONCLUDE TALKING WITH THE
8 OTHER JURORS THAT HAVE BEEN SUMMONED

9 SO I'M GOING TO ASK YOU BEFORE YOU LEAVE
10 IF YOU'LL GIVE THE CLERK ANY PHONE NUMBERS AND ALL
11 PHONE NUMBERS WHERE WE CAN REACH YOU DAY AND NIGHT
12 SO THAT WE CAN GET IN TOUCH WITH YOU WHEN WE NEED TO
13 CALL YOU TO ASK YOU TO COME BACK YOU'RE STILL TO
14 REMEMBER YOU'RE NOT TO DISCUSS THE CASE IN ANY WAY,
15 YOU'RE NOT TO ALLOW YOURSELF TO BE EXPOSED TO ANY
16 TYPE OF TELEVISION OR NEWSPAPER ARTICLES ABOUT THIS
17 CASE AND WE'LL JUST ASK YOU TO, PLEASE, REPORT
18 WHEN THE CLERK CALLS YOU TO COME BACK SO IF YOU'LL
19 GIVE HER THOSE NUMBERS, WE'LL CALL YOU

20 JUROR PEARSON WHAT DO I TELL ME PLACE
21 OF EMPLOYMENT?

22 THE COURT WHERE ARE YOU WORKING RIGHT
23 NOW?

24 JUROR PEARSON PERELLI CABLE

25 THE COURT HOW FAR IS THAT FROM YOUR

1 HOME?

2 JUROR PEARSON FIFTEEN MINUTES

3 THE COURT YOU CAN GO TO WORK BUT YOU
4 SIMPLY NEED TO LET YOUR BOSS KNOW THAT YOU MAY BE
5 GETTING A CALL AND IF YOU DO, YOU'LL HAVE TO LEAVE
6 SO GIVE THE CLERK YOUR WORK NUMBER AND YOUR HOME
7 NUMBER IS THERE GOING TO BE ANY DIFFICULTY IN
8 GETTING YOU IF WE CALL WORK AND SOMEBODY GETTING YOU
9 THE MESSAGE?

10 JUROR PEARSON IF I'M AT MY WORK PLACE?

11 THE COURT RIGHT

12 JUROR PEARSON NO, BECAUSE THE ONLY
13 THING I DO -- A GUARD OUT THERE AT THE PLANT THEY
14 KNOW HOW TO GET IN TOUCH -- I'LL JUST GIVE HER THE
15 NAME OF MY SUPERVISOR AND --

16 THE COURT YEAH, YOU LET YOUR SUPERVISOR
17 KNOW AND BE CERTAIN THEY UNDERSTAND THAT WHEN YOU
18 GET A CALL OR THEY GET A CALL IF YOU'RE AT WORK THAT
19 THEY NEED TO GET IN TOUCH WITH YOU RIGHT AWAY SO YOU
20 CAN COME BACK

21 JUROR PEARSON OKAY

22 THE COURT LEAVE THOSE NUMBERS WITH THE
23 CLERK

24 (JUROR #320 EXITS COURTROOM)

25 (JUROR #320 IS QUALIFIED)

1 (THE COURT CALLS JUROR COVIN)

2 (JUROR #307 PRESENTED AT 11 10 O'CLOCK A M)

3 EXAMINATION BY THE COURT

4 Q GOOD MORNING, MR COVIN AS YOU KNOW, WE'VE
5 BROUGHT YOU BACK TO ASK YOU SOME QUESTIONS THERE
6 ARE NO RIGHT OR WRONG ANSWERS WE JUST SIMPLY NEED
7 FOR YOU TO ANSWER THEM AS BEST AS YOU CAN IF YOU
8 DON'T UNDERSTAND THE QUESTION, ASK ME TO REPEAT IT
9 OR TO CLARIFY IT SO THAT YOU CAN BE CERTAIN YOU
10 UNDERSTAND IT BECAUSE WE DO NEED TO KNOW YOUR VIEWS
11 AND OPINIONS ON CERTAIN SUBJECTS

12 DO YOU RECALL YESTERDAY BEING PLACED UNDER
13 OATH?

14 A YES, SIR

15 Q YOU REMAIN UNDER OATH FOR THE PURPOSE OF THESE
16 QUESTIONS, ALSO YOU FILLED OUT A QUESTIONNAIRE, IS
17 IT ACCURATE?

18 A YES, SIR

19 Q HAVE YOU BEEN EXPOSED TO ANY TYPE OF MEDIA
20 COVERAGE RELATING TO THIS CASE?

21 A NO

22 Q AT ANY TIME?

23 A WELL, I HEARD ON TV AND STUFF

24 Q THAT'S WHAT I'M ASKING

25 A YES, ON TV

1 Q AND DO YOU RECALL THE LAST THING YOU SAW ON
2 TELEVISION OR WHEN IT WAS?

3 A I SEEN THE NEWS AND IT SHOWED WHAT HAPPENED
4 AND STUFF, THAT'S ALL

5 Q HOW LONG AGO?

6 A THAT WAS ABOUT TWO YEARS, WHEN IT HAPPENED

7 Q HAVE YOU NOT SEEN ANYTHING SINCE THEN?

8 A NO

9 Q HAVE YOU READ ANY NEWSPAPER ARTICLE?

10 A NO

11 Q HAVE YOU HAD ANY CONVERSATIONS OR DISCUSSIONS
12 ABOUT THE CASE?

13 A NO

14 Q WITH ANYONE?

15 A NO

16 Q HAVE YOU OVERHEARD ANY?

17 A NO

18 Q NOW, IN THIS CASE THE DEFENDANT IS CHARGED
19 WITH MURDER IN A CRIMINAL TRIAL WHERE A PERSON IS
20 CHARGED WITH SUCH AN OFFENSE, THE JURY DECIDES
21 WHETHER OR NOT THE PERSON'S GUILTY AND UNDER
22 CERTAIN CIRCUMSTANCES THE JURY DECIDES WHETHER OR
23 NOT -- EXCUSE ME, AND IF THE JURY FINDS A PERSON
24 GUILTY, THE JURY DECIDES WHAT PUNISHMENT OUGHT TO BE
25 IMPOSED NOW, DO YOU UNDERSTAND THAT IN THIS CASE,

1 THE STATE HAS CHARGED THE DEFENDANT WITH THE CRIME
2 OF MURDER?

3 A YES

4 Q DO YOU UNDERSTAND THAT THE BURDEN IS ON THE
5 STATE TO PROVE THAT FACT BEYOND A REASONABLE DOUBT?

6 A YES

7 Q DO YOU UNDERSTAND THE BURDEN IS NOT UPON THE
8 DEFENDANT TO PROVE THAT HE IS NOT GUILTY OR TO PROVE
9 THAT HE IS INNOCENT?

10 A YES

11 Q DO YOU UNDERSTAND THAT HE IS PRESUMED TO BE
12 INNOCENT?

13 A YES

14 Q DO YOU UNDERSTAND WHAT THAT MEANS?

15 A YES

16 Q DO YOU UNDERSTANDING THAT THE LAW PROVIDES
17 THAT UNDER CERTAIN CIRCUMSTANCES, IF A PERSON IS
18 CONVICTED, FOUND GUILTY OF THE CRIME OF MURDER, THEN
19 THE STATE MAY SEEK THE DEATH PENALTY IF SOME
20 AGGRAVATING CIRCUMSTANCES IS ALSO PROVEN IN ADDITION
21 TO THE MURDER BEYOND A REASONABLE DOUBT

22 A YES, I KNOW

23 Q YOU UNDERSTAND THAT A JURY NEVER -- A JURY IS
24 SELECTED FOR THAT PURPOSE? THEY MAKE THE DECISION

25 A YES

1 Q DO YOU UNDERSTAND THAT A JURY IS NEVER
2 REQUIRED TO IMPOSE A DEATH SENTENCE?

3 A YES

4 Q THE LAW JUST PROVIDES THAT THEY MAY UNDER
5 CERTAIN CIRCUMSTANCES, DO YOU AGREE?

6 A YES

7 Q NOW, IF YOU WERE SELECTED TO SERVE IN A CASE
8 AND YOU WERE CALLED UPON TO DECIDE WHETHER OR NOT A
9 PERSON WAS GUILTY, WOULD YOU BE WILLING AND ABLE TO
10 CONSIDER ALL OF THE EVIDENCE OFFERED IN THAT TRIAL
11 ON THAT POINT?

12 A YES

13 Q AFTER YOU HAD CONSIDERED ALL OF THAT EVIDENCE,
14 IF YOU WERE CONVINCED THAT THE EVIDENCE SUPPORTED A
15 VERDICT OF GUILTY BEYOND A REASONABLE DOUBT, WOULD
16 YOU BE WILLING TO FIND A PERSON GUILTY?

17 A YES

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

20 A YES

21 Q NOW, LET'S ASSUME, JUST FOR THE PURPOSE OF
22 THIS QUESTION, THAT YOU HAVE PARTICIPATED AND YOU
23 AND YOUR FELLOW JURORS HAVE FOUND A PERSON TO BE
24 GUILTY OF THE CRIME OF MURDER BEYOND A REASONABLE
25 DOUBT AND YOU HAVE, ALSO, FOUND SOME AGGRAVATING

1 CIRCUMSTANCES BEYOND A REASONABLE DOUBT IN THAT
2 EVENT, YOU UNDERSTAND WE WOULD GO TO A SEPARATE
3 HEARING FOR THE PURPOSE OF THE JURY DETERMINING THE
4 APPROPRIATE SENTENCE?

5 A YES

6 Q AT THAT HEARING, THERE WOULD BE MORE EVIDENCE
7 PRESENTED EVIDENCE WOULD BE PRESENTED IN
8 AGGRAVATION, THAT IS EVIDENCE TENDING TO PERHAPS
9 SHOW WHY THE DEATH PENALTY IS APPROPRIATE AND
10 THERE WOULD, ALSO, BE EVIDENCE OFFERED IN
11 MITIGATION THAT IS EVIDENCE THAT MIGHT TEND TO
12 SHOW WHY THE DEATH SENTENCE IS NOT APPROPRIATE, BUT
13 A LIFE SENTENCE IS MORE APPROPRIATE, DO YOU
14 UNDERSTAND THAT?

15 A YES

16 Q WOULD YOU BE WILLING AND ABLE TO CONSIDER ALL
17 OF THAT ADDITIONAL EVIDENCE RELATING TO AGGRAVATION
18 AND MITIGATION BEFORE ARRIVING AT YOUR DECISION AS
19 TO THE PROPER SENTENCE?

20 A YES

21 Q IF, AFTER YOU HAD CONSIDERED ALL OF THAT
22 EVIDENCE, IF YOU BELIEVED IT WAS APPROPRIATE, WOULD
23 YOU BE ABLE TO SENTENCE A PERSON TO DEATH?

24 A I DON'T BELIEVED IN CAPITAL PUNISHMENT

25 Q YOU DO NOT BELIEVE IN CAPITAL PUNISHMENT?

1 A NO

2 Q ARE YOU OPPOSED TO IT IN EVERY CIRCUMSTANCE?

3 A NO, I AIN'T OPPOSED TO IT, I JUST DON'T

4 BELIEVE IT I DON'T BELIEVE IN TAKING A LIFE

5 Q DO YOU UNDERSTAND WHAT I MEAN BY OPPOSED TO

6 IT, THAT MEANS AGAINST IT? ARE YOU AGAINST CAPITAL

7 PUNISHMENT?

8 A YES, I'M AGAINST CAPITAL PUNISHMENT

9 Q DO YOU BELIEVE THAT THERE IS ANY CASE OR ANY

10 CIRCUMSTANCE WHERE A PERSON SHOULD BE SENTENCED TO

11 DEATH?

12 A YES, I BELIEVE THAT

13 Q YOU BELIEVE THERE ARE SUCH CASES?

14 A SUCH CASES, YEAH

15 Q IF YOU WERE PARTICIPATING AS A JUROR IN SUCH A

16 CASE, WOULD YOU YOURSELF BE ABLE TO SENTENCE A

17 PERSON TO DEATH?

18 A NO, I THINK I COULDN'T I THINK I COULDN'T DO

19 THAT

20 Q YOU DON'T BELIEVE THAT YOU COULD?

21 A NO

22 Q DO YOU UNDERSTAND THAT IF YOU WERE

23 PARTICIPATING IN A CASE AND YOU CONSIDERED ALL THE

24 EVIDENCE AND IT WAS ONE OF THOSE CASES WHERE YOU

25 BELIEVED THAT CAPITAL PUNISHMENT MIGHT BE

1 APPROPRIATE, THAT IN ORDER FOR THAT TO BE CARRIED
2 OUT, YOU WOULD HAVE TO SIGN A FORM --

3 A SIGN, YEAH

4 Q YOU'D HAVE TO SAY, I RECOMMEND THAT PERSON BE
5 SENTENCED TO DEATH

6 A YOU'RE TALKING ABOUT ALL THE EVIDENCE THAT
7 PROVES THAT HE DID IT AND STUFF?

8 Q WELL, UNDERSTAND THAT BEFORE YOU COULD EVEN
9 GET TO THE PART WHERE YOU WOULD BE DECIDING WHETHER
10 HE OUGHT TO BE SENTENCED TO DEATH OR SENTENCED TO
11 LIFE, BEFORE THAT, YOU WOULD HAVE HAD TO HAVE
12 ALREADY FOUND HIM TO BE GUILTY OF MURDER BUT THEN
13 YOU WOULD, ALSO, CONSIDER OTHER EVIDENCE AND YOU'D,
14 ALSO, HAVE TO FIND THAT HE -- THAT THERE WAS SOME
15 AGGRAVATING CIRCUMSTANCE IN ADDITION TO THE CRIME OF
16 MURDER BEFORE YOU COULD EVEN THINK ABOUT IMPOSING A
17 DEATH SENTENCE, DO YOU UNDERSTAND THAT?

18 A YES, I UNDERSTAND THAT

19 Q NOW, MY QUESTION TO YOU IS, YOU'VE INDICATED
20 THAT YOU ARE, GENERALLY, OPPOSED TO CAPITAL
21 PUNISHMENT

22 A YEAH

23 Q BUT YOU'VE, ALSO, INDICATED THAT YOU HAVE,
24 PERHAPS, CONSIDERED SOME CASE WHERE YOU THOUGHT THAT
25 MAYBE THAT WAS THE RIGHT SENTENCE

1 A YES

2 Q NOW, MY QUESTION TO YOU IS, COULD YOU
3 PARTICIPATE IN SUCH A TRIAL AND COULD YOU, DEPENDING
4 UPON THE FACTS OF THE CASE, YOURSELF, SENTENCE A
5 PERSON TO DEATH?

6 A YES, I CAN

7 Q YOU CAN?

8 A YEAH

9 Q SO YOU BELIEVE THERE IS SOME CIRCUMSTANCE
10 WHERE YOU COULD SENTENCE A PERSON TO DEATH?

11 A YES

12 Q DO YOU UNDERSTAND THAT IF YOU ARRIVE AT THAT
13 CONCLUSION OR THAT DECISION, THAT YOU WOULD, ALSO,
14 HAVE TO SIGN A FORM RECOMMENDING THAT THAT PERSON BE
15 SENTENCED TO DEATH?

16 A YES, I UNDERSTAND

17 Q DO YOU UNDERSTAND THAT WHEN YOU SIGN THAT
18 FORM, YOU GIVE THAT FORM TO ME, THAT I MUST IMPOSE
19 THE SENTENCE OF DEATH AS YOU RECOMMEND

20 A YES

21 Q COULD YOU SIGN THAT FORM?

22 A I COULD

23 Q COULD YOU RECOMMEND THAT A PERSON BE SENTENCED
24 TO DEATH?

25 A YES, I COULD

1 Q DO YOU HAVE AN OPINION ABOUT THIS CASE AND HOW
2 IT SHOULD COME OUT?

3 A WELL, I KNOW BOTH OF THE PARTIES

4 Q HOW WELL -- I BELIEVE YOU INDICATED YOU KNEW
5 THE -- YOU WERE A NEIGHBOR OF THE HARRIS'S AND THE
6 HUGHEY'S

7 A YES

8 Q WOULD THE FACT THAT YOU KNOW THE HARRIS'S OR
9 THE HUGHEY'S OR BOTH, OR THE FACT THAT YOU ARE
10 NEIGHBORS, WOULD THAT ASSOCIATION OR THAT
11 RELATIONSHIP, THAT FACT, WOULD THAT INTERFERE IN ANY
12 WAY WITH YOUR ABILITY TO BE FAIR IF YOU WERE
13 SELECTED TO SERVE IN THIS CASE?

14 A NO

15 Q YOU COULD PUT THAT ASIDE AND BASE THE VERDICT
16 SOLELY FROM THE EVIDENCE?

17 A YEAH I JUST WANT TO LET YOU KNOW I KNOW BOTH
18 THEM

19 Q CERTAINLY DO YOU KNOW OF ANY REASON WHY YOU
20 COULD NOT SERVE AND BE A FAIR AND IMPARTIAL JUROR?

21 A NO

22 Q DO YOU UNDERSTAND THAT IF YOU WERE SELECTED,
23 YOU WOULD BE SEQUESTERED?

24 A YES

25 Q DO YOU KNOW WHAT THAT MEANS?

1 A YEAH

2 Q SIR?

3 A YEAH

4 Q SEQUESTERED

5 A UM-HMM

6 Q YOU'D BE PUT IN A MOTEL UNTIL THE CASE IS

7 OVER

8 A YEAH

9 Q IT MIGHT LAST SEVEN TO TEN DAYS WOULD THAT

10 REQUIREMENT IMPOSE ANY UNREASONABLE HARDSHIP OR

11 HEALTH RISK TO YOU OR ANYONE DEPENDANT UPON YOU?

12 A NO

13 Q WOULD YOU BE WILLING TO ACCEPT THAT

14 INCONVENIENCE IF YOU WERE SELECTED?

15 A YES

16 THE COURT PLEASE ANSWER ANY QUESTIONS

17 THE LAWYERS MAY HAVE FOR YOU

18 EXAMINATION BY MR TINSLEY

19 Q JUST A FEW, MR COVIN DID YOU KNOW ANY OF

20 THE JACKSONS?

21 A YES

22 Q SHEKA JACKSON?

23 A YES

24 Q WOULD THAT AFFECT YOUR ABILITY TO BE FAIR AND

25 IMPARTIAL IN THIS CASE?

1 A NO

2 Q AND SO, BASICALLY, YOU KNOW THEM ALL ABOUT THE
3 SAME?

4 A YEAH, ABOUT THE SAME

5 Q AND I THINK YOU, ALSO, STATED YOU LIVED OVER
6 THERE

7 A YEAH, I LIVE ON THE SAME NEIGHBORHOOD

8 Q SAME NEIGHBORHOOD

9 A YEAH PLAYGROUND AT

10 Q BUT YOU COULD KEEP AN OPEN MIND IN THIS CASE?

11 A YES

12 Q AND YOU STATED THAT YOU CAN GIVE A DEATH
13 PENALTY AND YOU CAN SIGN THE WARRANT, IF THE CASE
14 CALLS FOR IT?

15 A YES

16 Q COULD YOU, ALSO, GIVE A LIFE SENTENCE?

17 A YES

18 Q AND YOU REALIZE IF YOU HAD TO SIGN THE
19 DOCUMENT THE JUDGE WAS REFERRING TO IN DELIBERATING
20 THE CASE, YOU WOULD BE ONE OF TWELVE JURORS, IS THAT
21 RIGHT?

22 A THAT'S RIGHT

23 Q AND YOU WOULD BE WILLING TO LISTEN TO ANY
24 AGGRAVATION THE STATE OFFERED, THE BAD EVIDENCE,
25 WOULDN'T YOU?

1 A YES

2 Q AND YOU'D BE WILLING TO LISTEN TO ANY
3 MITIGATING EVIDENCE THAT MR HUGHEY OFFERED, THE
4 GOOD EVIDENCE FROM HIS POINT OF VIEW?

5 A YES

6 Q AND, AS SUCH, WELL BEFORE THAT EVEN, YOU
7 REALIZE YOU WOULDN'T GET TO THE SECOND PHASE, THE
8 SENTENCING PHASE, UNLESS AND UNTIL MR HUGHEY WERE
9 CONVICTED OF MURDER, DO YOU REALIZE THAT?

10 A YES

11 Q IN OTHER WORDS, IF HE WERE CONVICTED OF
12 SOMETHING LIKE MANSLAUGHTER AND ALL, WE'D NEVER GET
13 TO THAT PHASE AND MY QUESTION IS, IF THE JUDGE
14 GAVE YOU SAY ON COUNT ONE, THREE OPTIONS GUILTY OF
15 MURDER OR GUILTY OF MANSLAUGHTER OR NOT GUILTY,
16 WOULD YOU BE WILLING TO CONSIDER ALL THREE OPTIONS?

17 A YES

18 MR TINSLEY THAT'S ALL THANK YOU
19 THE COURT ANSWER THE SOLICITOR'S
20 QUESTIONS

21 EXAMINATION BY MR JONES

22 Q THANK YOU, YOUR HONOR MY NAME IS TOWNES
23 JONES, I'M YOUR SOLICITOR HERE IN ABBEVILLE COUNTY
24 THIS IS MICHAEL COULTER, HE'S YOUR CHIEF DEPUTY
25 SOLICITOR HERE IN ABBEVILLE COUNTY WE'LL BOTH BE

1 PRESENTING SOME EVIDENCE IN THE CASE HE'S GOT SOME
2 QUESTIONS HE WANTS TO ASK YOU, ALL RIGHT?

3 BY MR COULTER

4 Q JUST A COUPLE REAL QUICK, BRIEF QUESTIONS FOR
5 YOU IN REGARDS TO SOME OF THE THINGS YOU SAID TO THE
6 JUDGE WHEN YOU ANSWERED SOME OF HIS QUESTIONS, I
7 THINK YOU SAID AT ONE POINT THAT YOU DON'T BELIEVE
8 IN CAPITAL PUNISHMENT

9 A YES, BUT IF I HAVE TO DO IT -- I DON'T BELIEVE
10 IN IT MYSELF, I DON'T BELIEVE IN IT

11 Q YOU DON'T BELIEVE IN IT

12 A NO BUT IF I HAD TO DO IT, IF THE EVIDENCE
13 PROVES THAT -- MY JOB AS A JUROR TO SIGN, YOU KNOW

14 Q WELL, OF COURSE, YOU RECOGNIZE YOU DON'T HAVE
15 TO DO ANYTHING

16 A NO

17 Q YOU'RE GOING TO HAVE THE CHOICE YOU AS A
18 JUROR WILL HAVE THE CHOICE AS TO WHETHER OR NOT LIFE
19 OR DEATH IS THE APPROPRIATE SENTENCE IT'S A LITTLE
20 CONFUSING TO ME WHEN YOU SAY YOU DON'T BELIEVE IN
21 CAPITAL PUNISHMENT THAT YOU SAY YOU COULD ACTUALLY
22 CONSIDER DEATH ARE YOU SURE THAT YOU COULD
23 CONSIDER DEATH?

24 A YEAH, I COULD DO IT

25 Q AND THAT WOULD BE BASED ON --

1 A THE EVIDENCE

2 Q -- ALL THE EVIDENCE?

3 A YEAH

4 Q SO EVEN THOUGH YOU DON'T, GENERALLY, BELIEVE
5 IN THE DEATH PENALTY, YOU COULD RETURN A VERDICT OF
6 DEATH -- SENTENCE OF DEATH?

7 A YEAH, UM-HMM

8 Q BUT THAT'S BASED ON EVERYTHING YOU'VE SEEN
9 BEFORE?

10 A THAT'S RIGHT

11 Q YOU'VE GOT TO HAVE EVERYTHING IN FRONT OF YOU
12 AND THE DEFENSE ATTORNEY MENTIONED A COUPLE OF
13 DIFFERENT VERDICTS, MURDER, VOLUNTARY MANSLAUGHTER,
14 NOT GUILTY, YOU'D CONSIDERED ALL THAT?

15 A UM-HMM

16 Q AND IF YOU GOT TO THE POINT WHERE YOU AS A
17 JURY FOUND THE DEFENDANT GUILTY OF MURDER AND
18 ANOTHER COUNT OF MURDER AND A COUNT BURGLARY AND A
19 COUNT OF GRAND LARCENY OF A MOTOR VEHICLE, YOU COULD
20 CONSIDER IMPOSING THE DEATH PENALTY AFTER HEARING
21 AND HAVING FOUND HIM GUILTY OF ALL THOSE THINGS,
22 AFTER YOU HEARD ALL THE EVIDENCE IN THE CASE

23 A YES

24 Q THAT'S SOMETHING YOU COULD DO?

25 A YES

1 Q AND YOU SAY THAT TODAY?

2 A YES

3 Q AND, OF COURSE, AGAIN, THERE'S NO RIGHT OR
4 WRONG ANSWER, BUT, OF COURSE, IF YOU WERE TO THINK
5 ABOUT IT A LITTLE BIT MORE AND DECIDE WELL, THAT'S
6 NOT QUITE TRUE, OF COURSE, THAT WOULDN'T BE FAIR TO
7 EVERYBODY HERE

8 A NO

9 Q AND YOU SAY THAT'S GOING TO REMAIN YOUR
10 OPINION?

11 A YES

12 Q THAT YOU COULD, IN FACT, CONSIDER IMPOSING THE
13 DEATH PENALTY AND YOU COULD?

14 A YES

15 Q ALL RIGHT AND THEN, FURTHER, YOU COULD GO
16 AHEAD AND SIGN YOUR NAME, IF YOU FELT IT WAS
17 APPROPRIATE, ON THE DEATH WARRANT --

18 A THAT'S RIGHT

19 Q -- SENTENCING ANOTHER HUMAN BEING TO DIE

20 A YES

21 Q AND YOU COULD LIVE WITH YOURSELF AFTER THAT?

22 A YES, I COULD

23 Q IF THE CIRCUMSTANCES WERE BAD ENOUGH?

24 A THAT'S RIGHT

25 MR COULTER THANK YOU

1 EXAMINATION BY THE COURT

2 Q MR COVIN, LET ME ASK ONE THING I HAD SOME
3 QUESTION WHEN YOU SAY YOU COULD DO IT IF YOU HAD TO

4 A YES, IF THE EVIDENCE IS ALL THERE

5 Q DO YOU UNDERSTAND, AS I INDICATED TO YOU
6 EARLIER AND PERHAPS I DIDN'T, YOU UNDERSTAND THAT
7 THE LAW DOES NOT EVER REQUIRE THAT YOU IMPOSE THE
8 DEATH SENTENCE

9 A OKAY

10 Q IN OTHER WORDS, YOU WILL ALWAYS HAVE A CHOICE
11 OF IMPOSING A LIFE SENTENCE EVEN WHERE THE LAW
12 ALLOWS YOU TO IMPOSE A DEATH SENTENCE YOU
13 UNDERSTAND THAT?

14 A I UNDERSTAND THAT

15 Q WELL, NOW, IF YOU ALWAYS HAD THAT CHOICE,
16 WHICH YOU WOULD, WOULD YOU ALWAYS CHOOSE ONE OF
17 THOSE OVER THE OTHER?

18 A NO, I'D SEE WHAT THE EVIDENCE -- WHAT'S ON THE
19 TABLE FIRST AND THEN I'D MAKE A CHOICE THEN

20 Q SO YOU COULD CONSIDER THEM BOTH?

21 A YES

22 Q IF YOU THOUGHT IT APPROPRIATE, YOU COULD
23 SENTENCE THEM TO DEATH, EVEN THOUGH YOU DIDN'T HAVE
24 TO

25 A THAT'S RIGHT

1 Q AND IF YOU THOUGHT IT APPROPRIATE, YOU COULD
2 SENTENCE THEM TO LIFE?

3 A THAT'S RIGHT

4 Q LET ME ASK YOU TO STEP OUTSIDE THE DOOR FOR
5 JUST A MINUTE

6 (JUROR #307 DOES AS INSTRUCTED)

7 THE COURT ANY OBJECTION TO THE
8 WITNESS BEING QUALIFIED -- OR THE JUROR?

9 MR JONES NONE FOR THE STATE, YOUR
10 HONOR

11 MR TINSLEY NO, YOUR HONOR

12 THE COURT HE IS SO QUALIFIED, BRING HIM
13 BACK

14 (JUROR #307 RE-ENTERS COURTROOM)

15 THE COURT MR COVIN, YOU'VE BEEN
16 QUALIFIED AS A JUROR TO SERVE ON THE PANEL FROM
17 WHICH THE JURY WILL BE SELECTED IN OTHER WORDS,
18 YOU'VE NOT BEEN SELECTED YET, BUT YOU MAY BE WE'LL
19 BE DOING THAT LATER ON, PERHAPS TOMORROW SO BEFORE
20 YOU LEAVE, I NEED FOR YOU TO GIVE THE CLERK ANY AND
21 ALL PHONE NUMBERS WHERE YOU CAN BE REACHED BECAUSE
22 WE'LL BE CALLING YOU TO COME BACK FOR THAT POTENTIAL
23 JURY SELECTION

24 YOU'RE, ALSO, TO REMEMBER YOU'RE STILL
25 NOT TO DISCUSS THE CASE IN ANY FASHION WITH ANY

1 PERSON AND YOU'RE NOT TO ALLOW YOURSELF TO BE
2 EXPOSED TO ANY TELEVISION, RADIO OR NEWSPAPER
3 ARTICLES ABOUT THE CASE, OKAY?

4 JUROR COVIN YES, SIR

5 THE COURT NOW, PLEASE GIVE THE CLERK
6 THOSE NUMBERS WHERE YOU CAN BE REACHED WE'LL NEED
7 DAYTIME AND NIGHTTIME NUMBERS

8 (JUROR #307 EXITS COURTROOM)

9 (JUROR #307 IS QUALIFIED)

10 (OFF THE RECORD)

11 THE COURT I UNDERSTAND THAT WE HAVE TWO
12 JURORS THAT WERE SUPPOSED TO HAVE REPORTED YESTERDAY
13 THAT DID NOT REPORT, BUT THEY'RE HERE TODAY, IS THAT
14 RIGHT?

15 THE CLERK YES

16 THE COURT WE JUST HAVE ONE, I THOUGHT
17 WE HAD TWO WE HAVE TWO COULD YOU GIVE US YOUR
18 NAME, PLEASE

19 JUROR SONJI HILL

20 THE COURT I'M SORRY

21 JUROR SONJI HILL

22 THE COURT AND?

23 JUROR CALVIN HILL

24 THE COURT BOTH HILLS, OKAY AND DID
25 YOU ALL NOT GET THIS NOTICE UNTIL YESTERDAY?

1 JUROR I HAD A DEPOSITION THIS MORNING
2 MY ATTORNEY WHEN I CALLED SAID WE COULDN'T
3 RESCHEDULE

4 THE COURT YOU TOLD THE CLERK?

5 JUROR I DIDN'T TALK TO MS KING,
6 BUT I TALKED TO THEM DOWNSTAIRS

7 THE COURT AND MR HILL?

8 JUROR I DIDN'T RECEIVE ANY NOTICE AS
9 YET

10 THE COURT HOW DID YOU KNOW TO APPEAR?

11 JUROR MY STEPMOTHER KNOWS JAMES
12 COPELAND AND HE TOLD HER THAT HE SAW MY NAME WHERE I
13 WAS SUPPOSED TO BE HERE MY WIFE CALLED DOWN HERE
14 AND THEY SAID, YES, MY NAME WAS ON THE LIST I
15 FIGURED I BETTER COME DOWN HERE AND CHECK IT OUT

16 THE COURT SO YOU HAVE NOT RECEIVED YOUR
17 SUMMONS?

18 JUROR NO

19 THE COURT WHERE WOULD BE IT BE?

20 THE CLERK MARION SAID HE THOUGHT HE SAW
21 IT, BUT I DON'T HAVE IT IN MY STACK

22 MR COPELAND I KNEW YESTERDAY HE DIDN'T
23 ANSWER ROLL CALL, SO I ---

24 THE COURT I UNDERSTAND LET ME ASK
25 YOU, IS THERE ANY DIFFICULTY IN EACH OF YOU

1 REPORTING BACK AT 2 00 THIS AFTERNOON? RIGHT NOW,
2 WE'RE IN THE MIDDLE OF INTERVIEWING SOME JURORS THAT
3 HAVE APPEARED ON A SCHEDULE SO IF WOULDN'T BE ANY
4 INCONVENIENCE FOR YOU TWO, I WOULD ASK THAT YOU
5 JUST, PLEASE, COME BACK AT 2 00, OKAY? THANK YOU
6 WE APPRECIATE YOUR PATIENCE

7 THE COURT MR TINSLEY?

8 MR TINSLEY I JUST HAD THE ORDER
9 ROWSEY, BROWN AND SOUTHERLAND, TWO EIGHT-FIVE, THREE
10 ZERO FIVE, THREE TWENTY-FOUR

11 THE COURT ACTUALLY, THE ORDER RIGHT NOW
12 DOESN'T MAKE ANY DIFFERENCE BECAUSE MR SOUTHERLAND
13 IS BEING TAKEN OUT OF ORDER ANYWAY HE'S, ACTUALLY,
14 THE LAST JUROR THAT WAS DRAWN, BUT WE PUT HIM IN
15 THIS SLOT BECAUSE THERE WAS ANOTHER JUROR WHO HAD
16 MOVED SO --

17 MR TINSLEY I REMEMBER NOW

18 THE COURT -- ACTUALLY, THIS ORDER'S NOT
19 GOING TO MAKE ANY DIFFERENCE

20 MR TINSLEY I REMEMBER NOW, YES

21 (THE COURT CALLS JUROR SOUTHERLAND)

22 (JUROR #324 PRESENTED AT 12 00 O'CLOCK NOON)

23 EXAMINATION BY THE COURT

24 Q GOOD MORNING, MR SOUTHERLAND

25 A GOOD MORNING, SIR

1 Q AS YOU KNOW, WE ASKED YOU TO COME BACK TO
2 RESPOND TO SOME ADDITIONAL QUESTIONS THAT WE'LL BE
3 ASKING OF YOU I'LL HAVE SOME, THE LAWYERS MAY HAVE
4 ADDITIONAL ONES

5 YOU HAVE PREVIOUSLY BEEN SWORN YESTERDAY WHEN
6 YOU WERE ASKED TO STAND AND BE SWORN WITH YOUR
7 FELLOW JURORS AND SO YOU REMAIN UNDER OATH FOR THE
8 PURPOSE OF THESE QUESTIONS, ALSO

9 YOU HAVE COMPLETED A QUESTIONNAIRE, IS THAT
10 QUESTIONNAIRE ACCURATE?

11 A YES, SIR

12 Q AND I HAD INDICATED IN MY LETTER NOT TO ALLOW
13 YOURSELF TO BE EXPOSED TO ANY MEDIA COVERAGE OR HAVE
14 ANY DISCUSSIONS OR CONVERSATIONS ABOUT THE CASE
15 HAVE YOU HAD ANY SUCH DISCUSSIONS, CONVERSATIONS OR
16 MEDIA EXPOSURE?

17 A NO, SIR, NONE

18 Q AT ANY TIME?

19 A NOT SINCE YESTERDAY

20 Q WHAT ABOUT PRIOR TO YESTERDAY?

21 A WELL, I WAS HEARING IT ON THE RADIO AND TV AND
22 I'VE HEARD A LOT OF PEOPLE TALKING ABOUT AND I
23 WAS, ACTUALLY, IN TOWN WHEN THEY CAUGHT THE BOY AND
24 I WAS IN SOME CONVERSATIONS AT THAT TIME, BUT I
25 DON'T REMEMBER EXACTLY WHAT IT WAS BUT I JUST

1 REMEMBER THE CASE

2 Q DID THE EXPOSURE THAT YOU HAD TO TELEVISION,
3 RADIO OR NEWSPAPER, HAS THAT OCCURRED RECENTLY OR
4 DID THAT OCCUR AT OR ABOUT THE TIME THAT THE
5 INCIDENT IS ALLEGED TO HAVE OCCURRED?

6 A ABOUT THE TIME IT HAPPENED

7 Q HAVE YOU HEARD OR READ ANYTHING ABOUT IT
8 RECENTLY?

9 A NO, SIR HADN'T BEEN A THING IN ANDERSON
10 INDEPENDENT ABOUT IT

11 Q AND THAT'S THE PAPER YOU TAKE?

12 A THAT'S THE PAPER I GET

13 Q NOW, IN THIS CASE, THE DEFENDANT IS CHARGED
14 WITH THE CRIME OF MURDER AND THE LAW PROVES THAT
15 UNDER CERTAIN CIRCUMSTANCES IF A PERSON IS CONVICTED
16 OR FOUND GUILTY OF MURDER, THE STATE UNDER THOSE
17 CIRCUMSTANCES MAY SEEK TO HAVE THE DEATH PENALTY
18 IMPOSED AND THOSE CIRCUMSTANCES ARE WHERE AN
19 ADDITIONAL AGGRAVATING CIRCUMSTANCE HAS BEEN PROVEN
20 IN ADDITION TO THE PERSON BEING FOUND GUILTY OF
21 MURDER, DO YOU UNDERSTAND THAT?

22 A YES

23 Q DO YOU UNDERSTAND THAT THE BURDEN IS ALWAYS
24 UPON THE STATE IN ACCUSING SOMEONE OF HAVING
25 COMMITTED A CRIME TO PROVE THAT THAT PERSON IS

1 GUILTY BEFORE A JURY COULD RETURN SUCH A VERDICT?

2 A YES, SIR

3 Q AND THE JURY MUST BE CONVINCED OF THAT BEYOND
4 A REASONABLE DOUBT, DO YOU UNDERSTAND THAT?

5 A YES

6 Q DO YOU UNDERSTAND THE BURDEN IS NEVER UPON A
7 PERSON CHARGED OR ACCUSED TO PROVE THAT THEY ARE NOT
8 GUILTY OR TO PROVE THAT THEY ARE INNOCENT?

9 A SAY THAT AGAIN, SIR

10 Q DO YOU UNDERSTAND THAT THE BURDEN IS NEVER
11 UPON THE DEFENDANT OR THE PERSON ACCUSED TO PROVE
12 THAT THEY DID NOT COMMIT THE CRIME?

13 A YES, I'VE HEARD THAT

14 Q YOU UNDERSTAND THEY ARE PRESUMED TO BE
15 INNOCENT?

16 A INNOCENT UNTIL PROVEN GUILTY

17 Q DO YOU ACCEPT THAT PROPOSITION OF LAW?

18 A YES

19 Q NOW, IN THE TRIAL OF A CASE WHERE A PERSON IS
20 CHARGED WITH A CRIME, AS I STATED, THE BURDEN IS ON
21 THE STATE TO PROVE THEIR GUILT AND IT'S NOT UPON
22 THEM TO PROVE THEIR INNOCENCE A JURY WOULD BE
23 CALLED UPON TO CONSIDER EVIDENCE RELATING TO THAT
24 ISSUE IF YOU PARTICIPATED IN SUCH A CASE, WOULD
25 YOU BE WILLING AND ABLE TO CAREFULLY CONSIDER ALL OF

1 THAT EVIDENCE BEFORE ARRIVING AT A DECISION?

2 A PROBABLY SO

3 Q WELL, CAN YOU THINK OF A CIRCUMSTANCE WHERE
4 YOU WOULD NOT BE WILLING TO CONSIDER THE EVIDENCE
5 BEFORE YOU DECIDED THE CASE?

6 A NO IF I SEE ANYTHING WROTE DOWN, I CAN
7 REMEMBER IT BUT IF I JUST HEAR THINGS, A LOT OF
8 TIME, MY MIND -- I CAN'T KEEP IT IN MY MIND I
9 CAN'T REMEMBER VERY LONG JUST THINGS I HEAR BUT IF
10 I SEE IT WROTE DOWN, JUST LIKE YOU WAS NAMING OFF
11 THAT LIST YESTERDAY, WHEN YOU GOT THROUGH WITH THAT
12 LIST, I COULDN'T REMEMBER NOBODY DOWN THAT LIST

13 Q WELL, DO YOU UNDERSTAND THAT IF YOU'RE
14 SELECTED TO SERVE IN THE TRIAL OF A CASE THAT
15 EVIDENCE WILL BE RECEIVED OVER A COURSE OF, PERHAPS,
16 SEVERAL DAYS?

17 A YES, SIR

18 Q AND WITNESSES WILL BE SEATED IN THE CHAIR JUST
19 AS YOU ARE AND THEY WILL TESTIFY ABOUT FACTS WITHIN
20 THEIR KNOWLEDGE AND THERE MAY BE A NUMBER OF
21 WITNESSES, MORE THAN ONE, THERE MAY BE AS MANY AS A
22 DOZEN OR PERHAPS EVEN MORE IF THE TRIAL LASTED
23 SEVERAL DAYS AND THERE WERE SEVERAL WITNESSES THAT
24 TESTIFIED, ARE YOU SAYING THAT IT'S NOT LIKELY THAT
25 YOU WOULD BE ABLE TO REMEMBER MUCH OF WHAT HAD BEEN

1 RECEIVED DURING THE TRIAL OF THE CASE?

2 A I DON'T KNOW WHAT CAUSES ME TO BE THAT WAY BUT
3 I'VE BEEN THAT WAY FOR SEVERAL YEARS IF I SEE
4 ANYTHING WROTE DOWN, I CAN'T REMEMBER IT BUT IF I
5 JUST HEAR IT, A LOT OF TIMES -- OVER A PERIOD OF
6 TIME, YOU HEAR A LOT OF THINGS, IT SKIPS MY MIND I
7 MEAN, IT'S SOMETHING PHYSICAL, I DON'T KNOW WHAT IT
8 IS

9 Q DO YOU MEAN THAT IF YOU WRITE IT DOWN, THEN
10 YOU CAN REMEMBER IT BUT IF IT'S NOT WRITTEN --

11 A YEAH, IF I SEE SOMETHING WROTE DOWN AND
12 READING IT, I CAN REMEMBER IT BUT IF I JUST HEAR
13 IT, IT JUST DON'T STICK IN MY MIND

14 Q FOR INSTANCE, WHEN I ASKED QUESTIONS YESTERDAY
15 OF THE JURY PANEL, WHICH INCLUDED YOU, DO YOU
16 REMEMBER THOSE QUESTIONS THAT I ASKED OR ANY OF
17 THEM?

18 A I KNEW A LOT OF THEM BECAUSE I HAD ALREADY
19 READ THEM I READ A LOT OF THE QUESTIONS ON THEM
20 FORMS I FILLED OUT

21 Q WELL, DO YOU BELIEVE THAT YOUR DIFFICULTY THAT
22 YOU ARE NOW EXPLAINING WOULD IMPAIR YOUR ABILITY TO
23 SERVE AS A JUROR IN THIS CASE, IF YOU WERE SELECTED?

24 A IF I'D THOUGHT ABOUT IT, I'D MENTIONED IT TO
25 YOU YESTERDAY EARLIER, BUT IT DIDN'T DAWN ON ME

1 UNTIL YOU WAS READING OFF THOSE WITNESSES AND WHERE
2 THEY WAS FROM AND EVERYTHING AND IT COME TO ME
3 THEN, I SAID, I'LL NEVER BE ABLE TO KEEP IN MIND THE
4 STUFF THAT COMES FROM A TRIAL

5 Q SO YOU DO NOT BELIEVE THAT YOU WOULD BE ABLE
6 TO REMEMBER THE TESTIMONY OF WITNESSES FROM THE
7 START TO THE FINISH?

8 A RIGHT THAT'S THE TRUTH I DON'T THINK I
9 COULD

10 THE COURT LET ME JUST ASK, IF YOU WILL,
11 TO STEP OUTSIDE THE DOOR FOR A MOMENT I'LL BRING
12 YOU RIGHT BACK

13 (JUROR #324 DOES AS INSTRUCTED)

14 THE COURT ANY OBJECTION TO THIS
15 JUROR BEING EXCUSED?

16 MR JONES NO, YOUR HONOR

17 MR TINSLEY NO, YOUR HONOR

18 THE COURT ALL RIGHT, HE'S EXCUSED

19 (JUROR #324 RE-ENTERS COURTROOM)

20 THE COURT MR SOUTHERLAND, WE'RE
21 GOING TO EXCUSE YOU FROM SERVICE IN THE TRIAL OF
22 THIS CASE, BUT WE APPRECIATE YOUR REPORTING AND
23 COMING BACK TO --

24 JUROR SOUTHERLAND I'M SORRY I DIDN'T
25 TELL YOU ABOUT THAT YESTERDAY, BUT LIKE I SAY, I

1 DIDN'T THINK ABOUT IT UNTIL YOU WERE READING OFF
2 THOSE NAMES OF THOSE WITNESSES AND I COULDN'T
3 REMEMBER -- ALL I CAN REMEMBER IS DICK BROOKS AND
4 SOMETHING ABOUT ANOTHER BUSINESS, FIRST CITIZEN,
5 BECAUSE I BANK AT FIRST CITIZEN THEM THE ONLY TWO
6 THINGS I REMEMBER ABOUT THAT WHOLE LIST YESTERDAY
7 EVENING AFTER I GOT OUT OF HERE

8 THE COURT ALL RIGHT WELL, WE
9 APPRECIATE YOU COMING DOWN THANK YOU YOU MAY BE
10 EXCUSED

11 JUROR SOUTHERLAND THANK YOU, SIR THIS
12 IS THE FIRST TIME IN SIXTY-TWO YEARS I EVER BEEN
13 CALLED FOR JURY DUTY

14 (JUROR #324 EXITS COURTROOM)

15 (JUROR #324 IS NOT QUALIFIED)

16 (THE COURT CALLS JUROR ROUSEY)

17 (JUROR #285 PRESENTED AT 12 08 O'CLOCK P M)

18 EXAMINATION BY THE COURT

19 Q YOU ARE MS ROUSEY?

20 A YES, SIR

21 Q GOOD AFTERNOON, MS ROUSEY, HOW YOU DOING?

22 A FINE, AND YOU?

23 Q I'M DOING FINE, THANK YOU YOU KNOW THAT

24 YOU'VE BEEN CALLED BACK TO ANSWER INDIVIDUAL

25 QUESTIONS THAT I'LL BE ASKING YOU, THE LAWYERS MAY

1 HAVE SOME, ALSO

2 YESTERDAY, YOU AND YOUR FELLOW JURORS WERE
3 PLACED UNDER OATH, DO YOU RECALL THAT?

4 A YES

5 Q AND, OF COURSE, YOU REMAIN UNDER OATH FOR THE
6 PURPOSE OF THESE QUESTIONS, ALSO THERE ARE NO
7 RIGHT OR WRONG ANSWERS, WE SIMPLY NEED TO KNOW YOUR
8 VIEWS AND OPINIONS ON CERTAIN SUBJECTS SO WE JUST
9 SIMPLY ASK THAT YOU ANSWER THE QUESTIONS AS HONESTLY
10 AND AS OPENLY AS YOU CAN AND SHOULD MY QUESTION
11 NOT BE CLEAR OR YOU MISUNDERSTAND IT, PLEASE ASK ME
12 TO REPEAT IT THE SAME WOULD APPLY TO THE LAWYERS,
13 BECAUSE IT'S IMPORTANT YOU UNDERSTAND THE QUESTION
14 SO THAT WE CAN GET YOUR COMPLETE AND HONEST ANSWER

15 NOW, YOU INDICATED THAT YOU HAD FILLED OUT THE
16 QUESTIONNAIRE, IS IT ACCURATE?

17 A WHAT DO YOU MEAN?

18 Q WELL, IS IT TRUE AND CORRECT?

19 A YES

20 Q IS THERE ANYTHING THAT NEEDS TO BE CHANGED OR
21 ALTERED OR AMENDED?

22 A NO

23 Q I, ALSO, ASK WHETHER OR NOT YOU HAVE HAD ANY
24 DISCUSSIONS OR CONVERSATIONS ABOUT THIS CASE OR HAD
25 ANY EXPOSURE TO ANY TYPE OF MEDIA COVERAGE? HAVE

1 YOU HAD ANY?

2 A JUST ON THE RADIO, YOU KNOW, AND TV WHEN IT
3 HAPPENED

4 Q AT OR ABOUT THE TIME IT IS ALLEGED TO HAVE
5 OCCURRED?

6 A UM-HMM

7 Q HAVE YOU SEEN OR HEARD OR READ ANYTHING ABOUT
8 THIS CASE RECENTLY?

9 A HUH-UH

10 Q NOW, IN THIS CASE, THE DEFENDANT HAS BEEN
11 CHARGED BY THE STATE WITH THE CRIME OF MURDER AND
12 THE LAW PROVIDES THAT UNDER CERTAIN CIRCUMSTANCES,
13 IF A PERSON IS CONVICTED OR FOUND GUILTY OF MURDER,
14 THEN THE STATE MAY SEEK THE DEATH PENALTY IF CERTAIN
15 OTHER CIRCUMSTANCES ARE PRESENT IN ADDITION TO
16 HAVING BEEN FOUND GUILTY OF MURDER, THERE WOULD,
17 ALSO, HAVE TO BE SOME OTHER AGGRAVATING CIRCUMSTANCE
18 ESTABLISHED BEYOND A REASONABLE DOUBT BEFORE A JURY
19 COULD EVEN CONSIDER IMPOSING A DEATH SENTENCE

20 NOW, IN SUCH A CASE IT WOULD BE CONDUCTED IN
21 TWO SEPARATE PHASES THE FIRST PART OF THE TRIAL
22 WOULD RELATE TO THE ISSUE OF GUILTY, AND THE SECOND
23 PART OF THE TRIAL WOULD RELATE TO THE ISSUE OF
24 PUNISHMENT OF COURSE, YOU WOULD NEVER GET TO THE
25 SECOND PART OF THE TRIAL UNLESS, IN THE FIRST PART

1 OF THE TRIAL, A PERSON HAD BEEN FOUND GUILTY OF A
2 JURY OF MURDER AND SOME OTHER AGGRAVATING
3 CIRCUMSTANCE WAS, ALSO, PROVEN BEYOND A REASONABLE
4 DOUBT, DO YOU UNDERSTAND THAT CONCEPT?

5 A UM-HMM

6 Q DO YOU UNDERSTAND THAT THE BURDEN IS ON THE
7 STATE BECAUSE THEY HAVE BROUGHT THE CHARGE TO PROVE
8 THE DEFENDANT GUILTY BEYOND A REASONABLE DOUBT
9 BEFORE A JURY COULD FIND A PERSON GUILTY?

10 A YES

11 Q I DO NEED FOR YOU TO ANSWER OUT LOUD, BECAUSE
12 THIS COURT REPORTER, THIS LADY SEATED OVER HERE,
13 SHE'S TAKEN DOWN EVERYTHING THAT IS SAID IN THE
14 COURTROOM AND, OF COURSE, IT'S DIFFICULT TO
15 REFLECT A SHAKE OR A NOD IN THE RECORD AND IT'S
16 ALSO ON TAPE SO WE NEED FOR YOU TO ANSWER OUT LOUD,
17 THAT'S WHY THAT MICROPHONE IS THERE, OKAY?

18 NOW, YOU UNDERSTAND THAT THE BURDEN IS ON THE
19 STATE TO PROVE A PERSON GUILTY BEFORE THEY COULD BE
20 FOUND GUILTY?

21 A I REALLY DON'T KNOW

22 Q LET ME TELL YOU THEN THE LAW IS, IT IS THE
23 LAW, I WILL TELL YOU IT IS, THAT BEFORE A PERSON CAN
24 BE FOUND GUILTY OF A CRIME, THE BURDEN IS ON THE
25 STATE TO PROVE THAT FACT BEYOND A REASONABLE DOUBT

1 ALL TWELVE JURORS MUST BE CONVINCED A PERSON IS
2 GUILTY BEYOND A REASONABLE DOUBT BEFORE THAT CAN BE
3 THEIR DECISION, DO YOU UNDERSTAND THAT?

4 A YES, SIR

5 Q DO YOU UNDERSTAND THAT WHEN A PERSON IS
6 CHARGED WITH A CRIME, THAT THERE IS NO
7 RESPONSIBILITY OR BURDEN ON THEM TO PROVE THAT THEY
8 ARE NOT GUILTY OR TO PROVE THAT THEY ARE INNOCENT?

9 A SAY THAT AGAIN

10 Q DO YOU UNDERSTAND THAT WHERE A PERSON IS
11 ACCUSED OF HAVING COMMITTED SOME CRIME, THAT IT IS
12 NOT THEIR BURDEN, IT IS NOT THEIR RESPONSIBILITY TO
13 PROVE THAT THEY ARE INNOCENT?

14 A I REALLY DON'T KNOW

15 Q WELL, DO YOU UNDERSTAND THAT THAT IS THE LAW
16 AS I HAVE JUST STATED?

17 A YES

18 Q CAN YOU ACCEPT THAT FACT?

19 A YES, SIR

20 Q DID YOU KNOW THAT THE LAW PRESUMES A PERSON TO
21 BE INNOCENT, HAVE YOU EVER HEARD OF THAT, THAT A
22 PERSON IS PRESUMED INNOCENT UNTIL PROVEN GUILTY?

23 A YES, SIR

24 Q DO YOU UNDERSTAND THAT THAT IS THE LAW?

25 A YES, SIR

1 Q DO YOU ACCEPT THAT?

2 A YES, SIR

3 Q NOW, IF THERE WERE A TRIAL CONDUCTED IN A
4 CRIMINAL CASE, A PERSON IS CHARGED WITH MURDER, THE
5 STATE IS SEEKING THE DEATH PENALTY AS I INDICATED,
6 IT OCCURS IN TWO PARTS NOW, IF YOU WERE
7 PARTICIPATING AND WE WERE IN THE PART OF THE TRIAL
8 WHERE THE JURY WAS TO DECIDE WHETHER OR NOT A PERSON
9 IS GUILTY, WOULD YOU BE WILLING AND ABLE TO CONSIDER
10 ALL OF THE EVIDENCE THAT WOULD BE RECEIVED DURING
11 THAT TRIAL BEFORE YOU MADE ANY DECISION ABOUT THE
12 CASE?

13 A YES, SIR

14 Q AND IF YOU WERE CONVINCED BEYOND A REASONABLE
15 DOUBT THAT THE PERSON HAD BEEN PROVEN TO BE GUILTY,
16 COULD FIND THAT PERSON GUILTY?

17 A YES, SIR

18 Q IF YOU HAD A REASONABLE DOUBT, YOU WERE NOT
19 CONVINCED BEYOND A REASONABLE DOUBT, WOULD YOU FIND
20 THAT PERSON NOT GUILTY?

21 A NO, SIR

22 Q WHAT WOULD YOU DO?

23 A I MISUNDERSTOOD YOU

24 Q WELL, MY QUESTION IS, IF YOU CONSIDERED ALL
25 THE EVIDENCE -- YOU'VE SAID IF YOU WERE CONVINCED

1 BEYOND A REASONABLE DOUBT, THEN YOU COULD FIND THEM
2 GUILTY

3 A YES

4 Q NOW, WHAT I'M ASKING YOU, WHAT WOULD YOU DO IF
5 YOU WEREN'T CONVINCED BEYOND A REASONABLE DOUBT OF
6 THEIR GUILT?

7 A NOT GUILTY

8 Q THAT'S WHAT I'M ASKING SO YOU COULD RETURN A
9 VERDICT OF NOT GUILTY?

10 A YES, SIR

11 Q NOW, I WANT YOU TO ASSUME AND ASSUME IT ONLY
12 BECAUSE I'M ASKING THIS QUESTION AND FOR NO OTHER
13 REASON ASSUME THAT YOU ARE PARTICIPATING, ASSUME
14 THAT YOU WERE SELECTED, ASSUME THAT YOU LISTENED TO
15 THE EVIDENCE PRESENTED AND YOU AND YOUR FELLOW
16 JURORS, THERE WOULD BE TWELVE, YOU AND YOUR FELLOW
17 JURORS DECIDED THAT A PERSON WAS GUILTY OF MURDER
18 BEYOND A REASONABLE DOUBT AND YOU RETURNED THAT
19 VERDICT

20 A YES, SIR

21 Q ASSUME, ALSO, THAT YOU, IN ADDITION TO THAT,
22 FOUND AN AGGRAVATING CIRCUMSTANCE EXISTED BEYOND A
23 REASONABLE DOUBT IN ADDITION TO THE MURDER IN THAT
24 EVENT AND ONLY IN THAT EVENT, WE WOULD GO TO THE
25 SECOND PART OF THE TRIAL AND THAT WOULD BE THE

1 PENALTY PHASE OF THE TRIAL WHERE THE PUNISHMENT
2 WOULD BE DECIDED, DO YOU UNDERSTAND THAT?

3 A NOW, DURING THAT TRIAL OR THAT PART OF THE
4 TRIAL, THERE WILL BE MORE EVIDENCE RECEIVED SOME
5 EVIDENCE MIGHT BE OFFERED TENDING TO SHOW WHY THE
6 DEATH PENALTY WAS APPROPRIATE SOME EVIDENCE MIGHT
7 BE OFFERED TENDING TO SHOW WHY IT WAS NOT
8 APPROPRIATE AND A LIFE SENTENCE SHOULD BE THE
9 APPROPRIATE PUNISHMENT IF YOU WERE PARTICIPATING,
10 WOULD YOU BE WILLING AND ABLE TO CONSIDER ALL OF
11 THAT ADDITIONAL EVIDENCE BEFORE YOU MADE ANY
12 DECISION AS TO THE PROPER SENTENCE?

13 A YES, SIR

14 Q NOW, AFTER YOU HAD CONSIDERED ALL OF THE
15 EVIDENCE IN THE CASE, EVERYTHING THAT HAD BEEN
16 INTRODUCED AND TESTIFIED TO AFTER YOU CONSIDERED IT
17 ALL, IF YOU THOUGHT IT WAS APPROPRIATE BASED UPON
18 THAT EVIDENCE TO SENTENCE A PERSON TO DIE, COULD YOU
19 SENTENCE A PERSON TO DEATH?

20 A I DON'T THINK SO

21 Q COULD YOU SENTENCE A PERSON TO LIFE
22 IMPRISONMENT IF YOU THOUGHT THE EVIDENCE SUPPORTED
23 THAT DECISION?

24 A YES, SIR

25 Q NOW, UNDERSTAND THAT THE LAW PERMITS THE STATE

1 TO SEEK THE DEATH PENALTY UNDER THOSE CIRCUMSTANCES
2 THAT I HAVE DESCRIBED BUT DO YOU UNDERSTAND, AND I
3 TELL YOU THIS IS THE LAW, THE LAW NEVER REQUIRES A
4 JURY TO SENTENCE SOMEONE TO DEATH, NO MATTER WHAT
5 CIRCUMSTANCES ARE PROVEN THE JURY WOULD ALWAYS
6 HAVE THE CHOICE YOU COULD SENTENCE A PERSON TO
7 LIFE IMPRISONMENT NO MATTER WHAT THE CIRCUMSTANCES
8 FOR ANY REASON OR FOR NO REASON NOW, IF YOU WERE
9 FACED WITH THAT CHOICE, SENTENCING A PERSON TO DEATH
10 OR SENTENCING A PERSON TO LIFE, WOULD YOU ALWAYS
11 CHOSE ONE OF THOSE OVER THE OTHER?

12 A I DON'T UNDERSTAND WHAT YOU MEAN

13 Q WELL, I'M SAYING THAT IF YOU PARTICIPATE IN
14 THE CASE AND YOU'VE CONSIDERED ALL THE EVIDENCE, AND
15 THE JURY IS ASKED TO DECIDE, YOU KNOW, WE SEND YOU
16 BACK, YOU GO BACK IN THE JURY ROOM, YOU AND YOUR
17 FELLOW JURORS TALK ABOUT THE CASE, YOU TALK ABOUT
18 THE EVIDENCE, AND YOU'VE GOT TO DECIDE SHOULD THIS
19 PERSON BE SENTENCED TO DEATH FOR THIS CRIME OR
20 SHOULD THIS PERSON BE SENTENCED TO LIFE FOR THIS
21 CRIME I'M ASKING YOU, AND YOU HAD THE CHOICE, IT'S
22 YOUR CHOICE, WOULD YOU ALWAYS CHOOSE ONE OVER THE
23 OTHER?

24 A I'D CHOOSE LIFE

25 Q YOU WOULD?

1 A UM-HMM

2 Q CAN YOU THINK OF ANY CIRCUMSTANCE WHERE YOU

3 WOULD BE WILLING, YOURSELF, TO SENTENCE A PERSON TO

4 DEATH?

5 A HUH-UH, NO, SIR

6 Q WOULD YOU ALWAYS CHOOSE THE LIFE SENTENCE

7 OPTION, IF YOU HAD THE CHOICE?

8 A YES, SIR

9 Q AND, OF COURSE, AS I STATED, YOU WOULD HAVE

10 THAT CHOICE

11 A YES

12 Q THE LAW REQUIRES, AND THIS IS ALL THAT THE LAW

13 DOES REQUIRE, IF YOU DECIDE THAT A PERSON SHOULD BE

14 SENTENCED TO DEATH, YOU HAVE TO SIGN A FORM STATING

15 THAT FACT, ALL JURORS WOULD BUT YOU WOULD HAVE TO

16 WRITE YOUR NAME ON THE FORM AND SAY, I RECOMMEND

17 THIS PERSON BE SENTENCED TO DEATH CAN YOU ENVISION

18 ANY CIRCUMSTANCE WHERE YOU WOULD BE ABLE TO SIGN

19 THAT FORM?

20 A NO, SIR

21 Q CAN YOU ENVISION ANY CIRCUMSTANCE WHERE YOU

22 WOULD SENTENCE SOMEONE TO DEATH?

23 A NO, SIR

24 THE COURT PLEASE ANSWER ANY QUESTIONS

25 THE LAWYERS MAY HAVE FOR YOU

1 EXAMINATION BY MR TINSLEY

2 Q GOOD AFTERNOON, MS ROUSEY MRS ROUSEY, I'M
3 THE PUBLIC DEFENDER HERE AND I REPRESENT MR HUGHEY
4 AND YOU'RE TELLING US THAT YOU'RE JUST AGAINST
5 CAPITAL PUNISHMENT, IS THAT RIGHT?

6 A YOU MEAN DEATH?

7 Q DEATH, YES THE DEATH PENALTY

8 A YES, SIR

9 Q AND YOU CAN'T -- I COULDN'T SHOW YOU ANY
10 CIRCUMSTANCES THAT WOULD CHANGE YOUR MIND, IS THAT
11 RIGHT?

12 A NO, SIR

13 Q AND YOU'RE VERY FIRM ON THIS EVEN THOUGH
14 YOU'RE A GOOD LAW ABIDING CITIZEN, RIGHT?

15 A YES, SIR

16 Q AND YOU WOULD FOLLOW THE LAW TO THE BEST OF
17 YOUR ABILITY AS THE JUDGE WOULD INSTRUCT YOU,
18 CORRECT?

19 A YES, SIR

20 Q AND YOU'D DO EVERYTHING THAT YOU COULD BUT ARE
21 YOU SAYING THAT REGARDLESS OF THAT, YOU WOULD -- AND
22 REGARDLESS HOW BAD THE CIRCUMSTANCES ARE, YOU'D
23 ALWAYS VOTE LIFE?

24 A YES, SIR

25 Q EVEN IF THE CASE WERE BAD AND HE POINTED OUT

1 AGGRAVATING CIRCUMSTANCES AND YOU ALL FOUND
2 AGGRAVATING CIRCUMSTANCES, YOU COULDN'T CONSIDER THE
3 DEATH PENALTY?

4 A WELL, AFTER I HEARD EVERYTHING --

5 Q YOU MIGHT COULD?

6 A I MIGHT COULD

7 Q YOU MIGHT COULD BUT IS IT THAT YOU JUST
8 DON'T THINK YOU COULD?

9 A IT'S HARD TO SAY

10 Q HARD TO SAY BUT WOULD YOU HAVE TROUBLE
11 SIGNING YOUR NAME TO THAT DEATH WARRANT?

12 A I IMAGINE I WOULD

13 Q YOU WOULD AND SO IF YOU HAD THAT CHOICE THE
14 JUDGE WAS ASKING YOU ABOUT, ONE WAY OR THE OTHER,
15 YOU SAID YOU WOULD ALWAYS OPT FOR LIFE, BUT IS IT
16 POSSIBLE THAT THERE MIGHT BE SOME CIRCUMSTANCES
17 WHERE YOU MIGHT CONSIDER THE DEATH PENALTY?

18 A THERE COULD BE

19 Q COULD BE, OKAY AND, OF COURSE, YOU'D
20 CONSIDER AGGRAVATION THE STATE OFFERED, THAT WOULD
21 BE THE BAD THINGS IN THE CASE, RIGHT?

22 A YES, SIR

23 Q AND YOU COULD CONSIDER MITIGATION THE
24 DEFENDANT OFFERED, IS THAT RIGHT?

25 A NOW, WHAT?

1 Q MITIGATION THE GOOD THINGS ABOUT HIM, THE
2 INDIVIDUAL CHARACTERISTICS AND THE REASON HE FINDS
3 HIMSELF IN THIS SITUATION, COULD YOU CONSIDER ALL
4 THAT? A PROBABLY

5 Q PROBABLY, OKAY AND ARE YOU JUST TELLING US
6 THAT YOU'D MORE THAN LIKELY ALWAYS CONSIDER LIFE AS
7 THE PUNISHMENT, THE PROPER PUNISHMENT, IN A CASE?

8 A WELL, AFTER I HEAR EVERYTHING, IT MIGHT BE
9 DIFFERENT

10 Q IT MIGHT BE DIFFERENT

11 A IT MIGHT BE DIFFERENT

12 Q IT MIGHT BE DIFFERENT YOU COULD CONSIDER
13 EVIDENCE OF MURDER VERSUS MANSLAUGHTER, COULDN'T YOU
14 AS THE LAW WAS INSTRUCTED TO YOU BY THE JUDGE, COULD
15 YOU NOT?

16 A YES, SIR

17 Q AND YOU WOULD CONSIDER MANSLAUGHTER AS A
18 POSSIBLE VERDICT, ALSO, COULD YOU NOT, IF THE JUDGE
19 GAVE YOU THAT OPTION?

20 A NOW, WHAT?

21 Q MANSLAUGHTER, THE LESSER CHARGE OF MURDER

22 A YES, SIR

23 Q YOU WOULD, POSSIBLY, VOTE NOT GUILTY OF MURDER
24 BUT GUILTY OF MANSLAUGHTER, IS THAT RIGHT?

25 A PROBABLY

1 Q AND, AS SUCH, YOU'RE TELLING US NOW THAT YOU'D
2 HAVE TO BE -- EVEN THOUGH YOU'RE, BASICALLY, AGAINST
3 THE DEATH PENALTY, YOU STILL CAN'T CLOSE THE DOOR ON
4 IT UNTIL YOU HEARD EVERYTHING, IS THAT RIGHT?

5 A YES, SIR

6 MR TINSLEY THANK YOU SO MUCH, MS
7 ROUSEY

8 EXAMINATION BY MR JONES

9 Q GOOD AFTERNOON, MS ROUSEY MY NAME IS TOWNES
10 JONES AND I'M YOUR SOLICITOR, THE PROSECUTOR HERE IN
11 ABBEVILLE THIS IS MICHAEL COULTER, HE'S YOUR CHIEF
12 DEPUTY SOLICITOR TO THE PROSECUTOR WE'LL BOTH BE
13 CALLING THE WITNESSES TO THE STAND INTRODUCING
14 EVIDENCE IN THIS CASE WE'VE GOT A COPY OF YOUR
15 QUESTIONNAIRE THAT YOU SENT BACK INTO THE JUDGE TO
16 LOOK OVER TO SEE IF WE HAD ANY QUESTIONS ABOUT IT
17 AND I HAVE A FEW QUESTIONS FOR YOU, BUT I MAINLY
18 WANT TO TALK TO YOU ABOUT SOME THINGS THAT IF I ASK
19 YOU A QUESTION AND YOU DON'T UNDERSTAND WHAT I'M
20 ASKING, PLEASE TELL ME AND I'LL TRY TO MAKE IT MORE
21 CLEAR FOR YOU, ALL RIGHT

22 A OKAY

23 Q DO YOU THINK YOU COULD SIT AS A JUROR IN THIS
24 CASE AND BE FAIR TO BOTH SIDES?

25 A NO, SIR

1 Q YOU DON'T?

2 A NO

3 Q WHY DON'T YOU THINK YOU COULD SIT AS A JUROR
4 IN THIS CASE AND BE FAIR TO BOTH SIDES?

5 A BECAUSE I WORK WITH THE GIRL -- ONE OF THE
6 LADIES THAT GOT KILLED, I WORK WITH HER DAUGHTER

7 Q WELL, YOU MENTIONED THAT YESTERDAY BECAUSE
8 OF THAT, YOU DON'T KNOW ANY OF THE FACTS IN THIS
9 CASE, DO YOU?

10 A NO, SIR

11 Q NOW, BY NOT KNOWING ANY OF THE FACTS, THE ONLY
12 WAY A JUROR CAN FIND OUT THE FACTS -- A JUROR,
13 SOMEBODY THAT SITS IN THIS BOX HERE, IS TO LISTEN TO
14 THEM FROM THE WITNESS STAND, DO YOU AGREE WITH THAT?

15

16 A YES

17 Q AND YOU KNOW THAT WHEN JURORS COME IN AND SIT
18 AND LISTEN TO FACTS, THE JUDGE TELLS THEM HE SAYS,
19 YOU CAN'T BASE YOUR VERDICT ON ANYTHING BUT WHAT YOU
20 HEAR FROM THE WITNESS STAND AND THE TESTIMONY THAT
21 COMES IN THAT WAY, DO YOU UNDERSTAND?

22 A YES

23 Q ALL RIGHT COULD YOU DO THAT OR NOT?

24 A YES, SIR

25 Q YOU COULD SO NOW YOU'RE TELLING ME THAT YOU

1 COULD TAKE THAT PERSONAL RELATIONSHIP THAT YOU'VE
2 GOT WITH THE VICTIM'S SISTER, AND LEAVE IT OUTSIDE
3 THE COURTROOM AND COME IN HERE AND DO YOUR JOB AS A
4 JUROR IN TRYING TO DECIDE WHAT THE TRUTH IS ABOUT
5 THE EVIDENCE IN THIS CASE?

6 A SEE I JUST SEE HER AT WORK

7 Q RIGHT

8 A AND WE TALK AND SPEAK EVERY ONCE A MONTH
9 THAT BE IT

10 Q THAT'S IT SO MY QUESTION TO YOU IS, CAN YOU
11 LEAVE THAT OUTSIDE THE COURTROOM AND COME IN THE
12 COURTROOM TO WORK AS A JUROR ON THIS CASE AND LISTEN
13 TO THE EVIDENCE AND BASE YOUR VERDICT ONLY ON THE
14 EVIDENCE THAT COMES IN FROM THE WITNESS STAND?

15 A YES, SIR

16 Q AND BE FAIR AND DO IT?

17 A YES, SIR

18 Q YOU CAN?

19 A I'LL TRY MY BEST

20 Q OKAY, THAT'S ALL WE ASK THAT'S FAIR ENOUGH
21 BUT YOU THINK YOU CAN TRY YOUR BEST AND DO IT?

22 A YES

23 Q WELL THEN, HAVING DISCUSSED AND TALKED ABOUT
24 THAT, I WANT TO ASK YOU ABOUT SERVING AS A JUROR
25 WHEN YOU COME IN AND YOU SIT DOWN OVER HERE, THERE'S

1 TWELVE PEOPLE SITTING IN THIS PLACE RIGHT HERE AND
2 THEY LISTEN TO THE WITNESSES, WATCHING THEM, LOOKING
3 AT THEM, YOU UNDERSTAND THAT?

4 A YES

5 Q AND ME AND MR COULTER HERE, WE'RE ASKING
6 QUESTIONS, YOU UNDERSTAND THAT?

7 A YES

8 Q AND WE ASK THEM TO TELL THE JURY WHAT THEY
9 KNOW ABOUT THE CASE, OKAY, AND YOU ALL LISTEN TO IT
10 AND AFTER ALL THE QUESTIONS HAVE BEEN ASKED AND ALL
11 THE ANSWERS HAVE BEEN GIVEN, THE JUDGE SAYS, ALL
12 RIGHT, LADIES AND GENTLEMEN OF THE JURY, THE
13 EVIDENCE IS IN, THAT'S IT, THAT'S ALL OF IT, KIT AND
14 CABOODLE, BOOM, THAT'S IT YOU ALL GO BACK THERE
15 AND MADE A DECISION ABOUT WHETHER HE'S GUILTY OR
16 NOT NOW, THE JUDGE WILL CHARGE YOU ON THE LAW AND
17 HE'LL TELL YOU A LOT OF THINGS ABOUT THE LAW OF
18 SOUTH CAROLINA BUT, BASICALLY, ONCE ALL THE
19 EVIDENCE IS IN, IT'S UP TO YOU ALL TO DECIDE, OKAY?
20 AND YOU ALL CAN GO BACK THERE AND TALK ABOUT THE
21 EVIDENCE, DO YOU UNDERSTAND THAT?

22 A YES

23 Q AND WHEN YOU GO BACK THERE AND TALK ABOUT AND
24 YOU COME BACK YOU SAY ONE OF, HE'S EITHER GUILTY OR
25 HE'S NOT GUILTY, OKAY?

1 A THAT'S RIGHT

2 Q NOW, IF YOU ALL GO BACK IN THERE AND TALK
3 ABOUT ALL THE EVIDENCE THAT YOU HEARD, AND THE
4 VERDICT IS GUILTY OF MURDER OF ONE LADY, GUILTY OF
5 MURDER OF ANOTHER LADY, GUILTY OF BURGLARY, BREAKING
6 IN THE LADY'S HOUSE, GUILTY OF STEALING THE CAR,
7 GUILTY OF THE TWO MURDERS AND AN AGGRAVATING
8 CIRCUMSTANCE IS FOUND YOU SAY, WE FIND HIM GUILTY
9 OF MURDER, JUDGE, AND WE FIND THE EXISTENCE OF AN
10 AGGRAVATING CIRCUMSTANCE MAKING THIS MURDER
11 ESPECIALLY BAD, 'OKAY'?

12 THEN THE JUDGE IS GOING TO SAY, OKAY
13 FOLKS, LADIES AND GENTLEMEN OF THE JURY, YOU FOUND
14 HIM GUILTY, NOW YOU'VE GOT TO DECIDE WHAT THE
15 PUNISHMENT IS IT'S YOUR ALL'S JOB, THE SAME TWELVE
16 PEOPLE, WILL HAVE TO DECIDE WHAT THE PUNISHMENT IS
17 AND THE CHOICE IS EITHER, IMPOSITION OF THE DEATH
18 PENALTY OR SPARE IS LIFE, LIFE IMPRISONMENT AND
19 THE JUDGE WILL SAY, NOW, YOU'RE GOING TO HEAR SOME
20 MORE EVIDENCE FROM THE PROSECUTOR, THE SOLICITOR
21 ABOUT WHY THEY THINK YOU ALL CAN IMPOSE THE DEATH
22 PENALTY AND YOU'RE GOING TO HEAR SOME EVIDENCE
23 ABOUT SOME OTHER FOLKS AS TO WHY THEY THINK YOU
24 OUGHT TO SPARE HIS LIFE

25 ANY MY QUESTION IS, AFTER YOU FOUND HIM GUILTY

1 AND YOU'RE ON THE JURY CONSIDERING THE SECOND PHASE
2 AND EVERYBODY GOES BACK IN AND YOU TALK ABOUT IT,
3 COULD YOU CONSIDER AND COULD YOU IMPOSE THE
4 IMPOSITION OF THE DEATH PENALTY, IF YOU FELT LIKE
5 THE CASE WARRANTED IT?

6 A THAT'S HARD TO SAY UNTIL I HEAR EVERYTHING

7 Q RIGHT, I UNDERSTAND THAT AND I'M NOT GOING
8 TO ASK YOU -- BUT IF YOU HEARD EVERYTHING, IF YOU
9 HEARD EVERYTHING AND IF YOU WERE CONVINCED OF THE
10 DEFENDANT'S GUILT AND IF YOU WERE CONVINCED OF THE
11 AGGRAVATION, AND IF YOU WERE CONVINCED IT WAS THE
12 KIND OF CRIME WHERE THE DEATH PENALTY WAS DESERVING,
13 THEN COULD YOU?

14 A PROBABLY

15 Q OKAY AGAIN, NOW, I'M NOT GOING TO ASK YOU TO
16 DO ANYTHING UNTIL YOU HEAR THE CASE, YOU UNDERSTAND
17 THAT?

18 A YES

19 Q WE DON'T DO THAT, YOU UNDERSTAND THAT? BUT
20 WHAT I AM GOING TO HAVE TO ASK YOU IS TO BE FAIR
21 WITH ME AND EVERYBODY ELSE IN HERE, TO THE BEST OF
22 YOUR ABILITY, YOU CAN'T ANSWER MY QUESTIONS HONESTLY
23 UNTIL YOU NOW YOURSELF HONESTLY, RIGHT?

24 A YES

25 Q ALL RIGHT THE SIMPLE QUESTION IS, CAN YOU

1 THINK OF -- CAN YOU SEE YOURSELF, UNDER THE RIGHT
2 CIRCUMSTANCES, IF YOU KNOW THE CASE HAS BEEN PROVEN,
3 SENTENCE SOMEBODY TO DEATH?

4 A THAT'S HARD TO SAY

5 Q WELL, NOW, YOU SEE IF YOU SAY, NO I CAN'T, ALL
6 RIGHT, THEN YOU CAN'T BE A PART OF THE JURY SYSTEM
7 BECAUSE THE JURY HAS TO BE ABLE TO CONSIDER IT AND
8 SAY THEY COULD IF THE CIRCUMSTANCES WERE
9 APPROPRIATE

10 A YES

11 Q AND IF YOU SAY, YES I CAN OR I COULD CONSIDER
12 IT, THEN YOU CAN BE A PART OF THE PROCESS BUT IF
13 YOU SAY, I DON'T KNOW WHETHER I COULD OR NOT, THEN
14 WE DON'T QUITE KNOW WHERE YOU FIT IN THE PROCESS
15 HERE SO WE NEED TO TRY TO GET YOU TO THINK ABOUT
16 IT AND TRY TO ASSESS YOURSELF, YOU AS A PERSON YOU
17 NEED TO SAY, DOROTHY, AM I CAPABLE OF THAT, COULD I
18 DO THAT OR NOT? IT'S A TOUGH QUESTION, I UNDERSTAND
19 THAT IT'S A TOUGH QUESTION

20 BUT WHAT I'M SUGGESTING TO YOU HERE AND I'M
21 GOING TO ASK YOU, DON'T YOU THINK THAT MOST PEOPLE
22 SAY, I CAN'T DO IT, I CAN'T HAVE ANYTHING TO DO WITH
23 THE DEATH PENALTY, I'M NOT GOING TO DO IT, I'M JUST
24 NOT GOING TO DO IT, I JUST CAN'T DO IT AND SOME
25 PEOPLE SAY, I DON'T KNOW, IT'S A TOUGH THING, IT'D

1 BE AWFUL HARD, BUT I GUESS I COULD YEAH, I COULD,
2 YEAH, I COULD OR SOME PEOPLE SAY, YEAH, I CAN DO
3 IT, I BELIEVE IN THE DEATH PENALTY YOU KNOW
4 ANYBODY THAT SAYS EYE FOR AN EYE, TOOTH FOR A TOOTH?

5 A YEAH

6 Q BUT YOU'RE NOT THAT KIND OF PERSON, ARE YOU OR
7 ARE YOU?

8 A IT WOULD BE HARD, I TELL YOU

9 Q BUT COULD YOU DO IT? I MEAN, IF YOU CAN'T,
10 DON'T TELL ME YOU COULD BUT IF YOU CAN, TELL ME
11 YOU CAN

12 A I DON'T THINK I COULD

13 Q YOU DON'T DON'T THINK --

14 A I COULDN'T WRITE MY NAME DOWN ON THERE, PUT TO
15 DEATH

16 Q YOU COULDN'T?

17 A HUH-UH

18 MR JONES THANK YOU

19 EXAMINATION BY MR TINSLEY

20 Q AND YOU WORK WITH ONE OF THE --

21 A THE DAUGHTER OF ONE -- YES

22 A ALL RIGHT

23 EXAMINATION BY THE COURT

24 Q MS ROUSEY, LET ME JUST SAY, WE'RE NOT GOING
25 TO QUESTION YOU ANY MORE I JUST WANT TO ASK YOU SO

1 I'LL BE CERTAIN THAT I UNDERSTAND YOU'RE TELL ME
2 THAT YOU REALLY, IN YOUR HEART, WOULD NOT BE ABLE TO
3 SENTENCE A PERSON TO DIE UNDER ANY CIRCUMSTANCES?

4 A I DON'T BELIEVE SO

5 Q ARE YOU PRETTY SURE THAT YOU COULD NOT OR DO
6 YOU NOT KNOW?

7 A LIKE I SAID, IT WOULD BE HARD

8 Q WELL, OF COURSE, IT WOULD BE HARD IT WOULD
9 BE UNUSUAL THAT IF SOMETHING LIKE THAT WERE EASY FOR
10 ANYBODY

11 A YES

12 Q OF COURSE THE QUESTION IS NOT WHETHER IT WOULD
13 BE HARD, OBVIOUSLY, IT WOULD TAKE A LOT OF THOUGHT
14 AND CONSIDERATION BUT THE QUESTION IS REALLY
15 WHETHER OR NOT, EVEN AFTER THINKING ABOUT IT AND
16 CONSIDERING IT, COULD YOU REALLY DO IT?

17 A LIKE I SAID, I DON'T KNOW

18 Q LET ME GO PAST THAT FOR A MOMENT YOU
19 INDICATED, I THINK, WHEN I QUESTIONED YOU AND, ALSO,
20 WHEN THE SOLICITOR DID YOU SAID, IT'D BE HARD FOR
21 YOU TO DECIDE THAT BUT EVEN IF YOU DID DECIDE THAT
22 THE DEATH PENALTY WAS APPROPRIATE, YOU SAID YOU
23 COULDN'T, UNDER ANY CIRCUMSTANCES, SIGN YOUR NAME ON
24 THE FORM STATING THAT, IS THAT TRUE OR FALSE?

25 A SAY THAT AGAIN?

1 Q I THOUGHT EARLIER AND I BELIEVE THE QUESTION
2 THAT MR JONES ASKED YOU, YOU STATED THAT YOU WOULD
3 NOT BE ABLE TO SIGN YOUR NAME ON THAT FORM SAYING I
4 SENTENCE THAT PERSON TO DEATH OR I RECOMMEND IT, IS
5 THAT TRUE, YOU COULD NOT SIGN THE FORM OR YOU COULD
6 SIGN THE FORM?

7 A I DON'T THINK I COULD

8 Q WELL, YOU UNDERSTAND UNDER THE LAW, YOU'RE NOT
9 REQUIRED TO SENTENCE SOMEBODY TO DEATH, DO YOU
10 UNDERSTAND THAT THAT YOU DON'T HAVE TO SENTENCE
11 SOMEBODY TO DEATH?

12 A YES, SIR SEE, I DON'T KNOW NOTHING ABOUT THE
13 LAW

14 Q YOU SEE, THAT'S EXACTLY WHY I'M TRYING TO
15 EXPLAIN IT TO YOU AND THAT'S WHY I TELL YOU THAT,
16 I'M ASKING YOU, THE LAW SAYS -- LET ME DO IT THIS
17 WAY THE LAW SAYS THAT YOU DO NOT HAVE TO SENTENCE
18 SOMEONE TO DEATH UNDER ANY CIRCUMSTANCE, NO MATTER
19 WHAT THE FACTS ARE, YOU DON'T HAVE TO DO IT THE
20 LAW NEVER SAYS THAT IF YOU FIND THIS AND IF YOU FIND
21 THIS AND IF YOU FIND THIS, THEN YOU'VE GOT TO
22 SENTENCE THEM TO DEATH THE LAW SIMPLY SAYS IF YOU
23 FIND CERTAIN THINGS, YOU ARE PERMITTED TO SENTENCE
24 SOMEONE TO DEATH IT NEVER MAKES YOU DO IT, DO YOU
25 UNDERSTAND THAT?

1 A YES

2 Q YOU ALWAYS HAVE THE CHOICE, YOU UNDERSTAND?

3 A YES

4 Q WELL, IF YOU ALWAYS HAD THAT CHOICE, WOULD YOU
5 EVER SENTENCE SOMEBODY TO DIE?

6 A I WOULDN'T WANT TO

7 Q MS ROUSEY, I APPRECIATE THAT FACT I'M NOT
8 SURE THAT ANYBODY WOULD WANT TO DO IT I MEAN,
9 NOBODY VOLUNTEERS TO DO THAT SORT OF THING IT'S
10 KIND OF LIKE GOING OFF TO WAR, PERHAPS A LOT OF
11 PEOPLE DON'T VOLUNTEER FOR IT, BUT WHEN THEY'RE
12 ASKED TO DO IT AND THEY NEED TO PARTICIPATE BECAUSE
13 THEY NEED SOLDIERS THEY SAY, OKAY, I'LL GO I'LL DO
14 MY DUTY, I'LL DO MY JOB AS BEST THAT I CAN

15 AND IN THIS CASE, WHAT I'M SAYING IS, I
16 RECOGNIZE THAT YOU MIGHT NOT BE A PERSON TO SAY,
17 WELL, YEAH, I WANT TO VOLUNTEER, I WANT TO SENTENCE
18 SOMEBODY TO DEATH, THAT'S WHAT I'VE BEEN LOOKING
19 FORWARD TO, AND THAT'S NOT THE ISSUE IN THIS CASE
20 THE QUESTION IS WHETHER OR NOT, AND ALL I WANT TO
21 KNOW IS YOUR HONEST OPINION, IT DOESN'T MATTER TO ME
22 WHAT YOU THINK ABOUT IT, I JUST WANT TO KNOW WHAT
23 YOU DO THINK ABOUT IT AND I'M SIMPLY ASKING THAT
24 IF YOU ALWAYS HAVE THE CHOICE YOU HAD TWO OPTIONS,
25 YOU COULD SENTENCE A PERSON TO DEATH, YOU COULD

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

3 A I DON'T THINK SO

4 Q WELL, WHEN YOU SAY, I DON'T THINK SO DOES THAT
5 MEAN, NO, OR DOES THAT MEAN I COULD UNDER SOME
6 CIRCUMSTANCES?

7 A WELL, I GUESS I COULD UNDER SOME
8 CIRCUMSTANCES QIF, UNDER THOSE CIRCUMSTANCES, YOU
9 THOUGHT IT WAS APPROPRIATE, YOU UNDERSTAND, AS I'VE
10 SAID, THE LAW DOESN'T MAKE YOU DO IT, YOU'VE GOT TO
11 DECIDE THAT IT'S THE RIGHT THING, DO YOU UNDERSTAND?

12 A YES

13 Q AND IF YOU DECIDED THAT YOU THOUGHT THAT
14 PERSON SHOULD BE SENTENCED TO DIE, WOULD YOU SIGN
15 YOUR NAME ON THAT FORM STATING THAT YOU RECOMMEND
16 THAT THAT PERSON BE SENTENCED TO DEATH?

17 A NO

18 Q YOU WOULD NOT SIGN THE FORM?

19 A HUH-UH

20 Q AND ARE YOU CERTAIN OF THAT?

21 A NOT REALLY

22 Q WELL, WHY DID YOU SAY NO, IF YOU'RE NOT
23 CERTAIN, WHY WOULD YOU SAY, NO?

24 A BECAUSE I'M CONFUSED

25 Q IS THERE SOME WAY THAT I CAN HELP YOU OUT OF

1 THIS CONFUSION? I MEAN, DO YOU NEED ME TO EXPLAIN
2 ANYTHING ELSE TO YOU?

3 A NO, SIR

4 Q LET ME SIMPLY TRY TO DO THIS ARE YOU
5 CONFUSED ABOUT THE FACTS THAT THE JURY ALWAYS MAKES
6 THE DECISION ON WHETHER SOMEBODY IS SENTENCED TO
7 DEATH OR SENTENCE TO LIFE?

8 A THE JURY?

9 Q YES, MA'AM, THE JURY

10 A YES, SIR

11 Q DO YOU UNDERSTAND THAT? I MEAN, CAN YOU
12 ACCEPT THAT, IS THERE ANY CONFUSION ABOUT THAT?

13 A YOU MEAN THE TWELVE THAT SITS OVER HERE?

14 Q YES, MA'AM THOSE TWELVE JURORS THAT SIT IN
15 THAT JURY BOX THAT LISTEN TO ALL EVIDENCE, THEY SIT
16 RIGHT OVER THERE THOSE TWELVE PEOPLE, THEY DECIDE
17 IF SOMEONE IS GUILTY AND THEY DECIDE IF SOMEONE
18 SHOULD BE SENTENCED TO DEATH OR SENTENCED TO LIFE
19 THE JUDGE DOESN'T DO IT, THE JURY DOES

20 A YES, SIR, I UNDERSTAND THAT

21 Q YOU'RE NOT CONFUSED ABOUT THAT?

22 A NO

23 Q NOW, IF YOU'RE ONE OF THOSE TWELVE PEOPLE,
24 YOU'RE ONE OF THEM, YOU SIT OVER THERE, YOU'RE ONE
25 OF THE TWELVE JURORS, YOU GO MAKE THE DECISION CAN

1 YOU EVER SEE YOURSELF SENTENCING A PERSON TO DEATH?

2 A IF EVERYTHING COMES DOWN AND SHOWS THAT HE IS
3 GUILTY

4 Q NOW, MS ROUSEY, YOU UNDERSTAND THAT YOU WOULD
5 NOT CONSIDER A PUNISHMENT AT ALL IF A PERSON IS NOT
6 GUILTY?

7 A I MEAN, GUILTY

8 Q THAT'S WHAT I SAID YOU WOULDN'T BE
9 CONSIDERING ANY PUNISHMENT -- WE DON'T PUNISH PEOPLE
10 WHO ARE NOT GUILTY, YOU UNDERSTAND THAT?

11 A YES, SIR

12 Q SO YOU WOULDN'T BE CONSIDERING THE PUNISHMENT
13 AT ALL, UNLESS YOU HAD ALREADY FOUND THAT PERSON TO
14 BE GUILTY OF MURDER, DO YOU UNDERSTAND?

15 A YES, SIR

16 Q ARE YOU SURE?

17 A NOT REALLY

18 Q NOT REALLY

19 THE COURT IF YOU WILL JUST STEP DOWN
20 FOR JUST A MOMENT LET ME ASK YOU TO STEP OUTSIDE
21 THE DOOR THERE

22 MR JONES CAN I ASK ONE QUESTION?

23 THE COURT OKAY

24 EXAMINATION BY MR JONES

25 Q MS ROUSEY, LET ME ASK YOU THIS I JUST WANT

1 TO SEE -- YOU MENTIONED YOU WERE CONFUSED AND I JUST
2 WANT TO ASK YOU IF YOU UNDERSTOOD THIS YOU
3 UNDERSTAND THAT IF THE DEFENDANT IS FOUND GUILTY,
4 THEN YOU GO TO THE SECOND PHASE WHERE THE JURY HAS
5 TO DECIDE WHAT THE PUNISHMENT IS, DO YOU UNDERSTAND
6 THAT?

7 A YES, SIR

8 Q AND THE JURY HAS TO ALL BE UNANIMOUS IN THEIR
9 VERDICT EITHER ALL TWELVE SAY HE SHOULD DIE OR ALL
10 TWELVE SAY HE SHOULD LIVE OR IF IT'S HUNG JURY, IF
11 THEY CAN'T REACH A DECISION, HE LIVES YOU FOLLOW
12 WHAT I'M SAYING?

13 A YES

14 Q BUT IF ALL TWELVE SAY THE PUNISHMENT SHOULD BE
15 DEATH, OKAY, AND YOU SAID YOU COULD CONSIDER,
16 DEPENDING ON THE CIRCUMSTANCES AND EVERYTHING ELSE,
17 THE DEATH PENALTY, IS THAT TRUE?

18 A YES, SIR

19 Q AND YOU COULD PARTICIPATE IN THAT PROCESS?

20 A YES, SIR

21 Q ALL RIGHT DO YOU UNDERSTAND THAT ALL TWELVE
22 RECOMMEND DEATH AND ALL TWELVE HAVE TO SIGN THIS
23 PIECE OF PAPER, ALL TWELVE JUST SIGN THEIR NAME
24 RECOMMENDING IT

25 A YES

1 Q YOU'D BE ONE OF THE TWELVE SIGNING IT, YOU
2 UNDERSTAND THAT?

3 A YES, SIR

4 Q COULD YOU SIGN THE PAPER ALONG WITH THE OTHER
5 ELEVEN?

6 A YES, SIR

7 Q YOU COULD?

8 A OKAY

9 THE COURT THANK YOU, MS ROUSEY IF
10 YOU'LL JUST STEP OUTSIDE FOR JUST A MOMENT
11 (JUROR #285 DOES AS INSTRUCTED)

12 THE COURT I APPRECIATE YOU CLEARING
13 THAT UP FOR ME WHAT SAY THE STATE?

14 MR JONES THE STATE SAYS SHE'S
15 QUALIFIED

16 MR TINSLEY THE DEFENSE SAYS SHE'S
17 QUALIFIED

18 THE COURT ALL RIGHT, SHE IS SO
19 QUALIFIED ASK MS ROUSEY TO COME IN
20 (JUROR #285 RE-ENTERS COURTROOM)

21 MS ROUSEY, YOU HAVE FOUND TO BE
22 QUALIFIED TO SERVE AS A JUROR IN THE TRIAL OF THIS
23 CASE NOW, THAT DOESN'T MEAN THAT YOU ARE SERVING
24 AS A JUROR YET, IT SIMPLY MEANS THAT YOU'RE
25 QUALIFIED IN THE LARGER PANEL FROM WHICH THE JURY

1 WILL, ACTUALLY, BE SELECTED SO BEFORE YOU LEAVE,
2 WE'RE GOING TO ASK THAT YOU, PLEASE, GIVE THE CLERK
3 ANY AND ALL PHONE NUMBERS WHERE YOU CAN BE REACHED
4 BETWEEN NOW AND WHEN WE NEED FOR YOU TO COME BACK
5 YOU CAN STILL GO TO WORK OR FOLLOW YOUR REGULAR
6 SCHEDULE, BUT WE NEED TO HAVE THOSE NUMBERS AND BE
7 CERTAIN THAT THERE'S SOMEONE WHO CAN GET IN TOUCH
8 WITH YOU SO THAT WE CAN HAVE YOU COME BACK ON SHORT
9 NOTICE WHEN WE CALL, OKAY?

10 JUROR ROUSEY OKAY

11 THE COURT NOW, REMEMBER YOU'RE NOT TO
12 DISCUSS THIS CASE IN ANY FASHION WITH ANYBODY AND
13 YOU'RE, ALSO, NOT TO WATCH ANY TELEVISION OR READ
14 ANY NEWSPAPER ARTICLES THAT RELATES TO THIS CASE

15 JUROR ROUSEY YES, SIR

16 THE COURT SO IF YOU'LL, PLEASE, GIVE
17 THOSE NUMBERS TO THE CLERK, WE'LL CALL YOU WHEN WE
18 NEED FOR YOU TO COME BACK

19 (JUROR #285 EXITS COURTROOM)

20 (JUROR #285 IS QUALIFIED)

21 (THE COURT CALLS JUROR CARLOS BROWN)

22 (JUROR #305 PRESENTED AT 12 41 O'CLOCK P M)

23 EXAMINATION BY THE COURT

24 Q GOOD AFTERNOON, MR BROWN

25 A GOOD AFTERNOON

1 Q AS YOU KNOW, WE'VE ASKED YOU TO COME BACK
2 BECAUSE WE'RE GOING TO BE ASKING YOU SOME ADDITIONAL
3 QUESTIONS, AND I'LL HAVE SOME FOR YOU, THE LAWYERS
4 MAY HAVE SOME FOR YOU AND THERE ARE NO RIGHT OR
5 WRONG ANSWERS, WE JUST SIMPLY NEED TO KNOW HOW YOU
6 FEEL ABOUT CERTAIN TOPICS OR SUBJECTS, AND SO WE'RE
7 GOING TO ASK YOU SOME QUESTIONS ABOUT THOSE AND IF
8 THERE'S ANY REASON WHY YOU DON'T UNDERSTAND A
9 QUESTION OR IT'S NOT CLEAR, PLEASE ASK ME TO EXPLAIN
10 IT, REPHRASE IT OR ASK IT IN A DIFFERENT FASHION
11 BECAUSE IT IS IMPORTANT FOR US TO KNOW YOUR HONEST
12 AND COMPLETE ANSWER TO THESE QUESTIONS, OKAY

13 NOW, DO YOU RECALL BEING SWORN YESTERDAY WHEN
14 YOU AND YOUR FELLOW JURORS WERE PLACED UNDER OATH?

15 A YES, SIR

16 Q YOU REMAIN UNDER OATH FOR THESE QUESTIONS,
17 ALSO

18 A YES, SIR

19 Q AND THIS LADY OVER HERE IN FRONT OF YOU IS THE
20 COURT REPORTER AND SHE'S TAKING DOWN EVERYTHING
21 THAT'S SAID, SO I'M GOING TO NEED FOR YOU TO RESPOND
22 OUT LOUD, YOU KNOW, IN THE MICROPHONE WHEN ANY
23 QUESTION IS ASKED

24 YOU COMPLETED THE QUESTIONNAIRE, WAS IT
25 ACCURATE, IS IT ACCURATE?

- 1 A YES, SIR
- 2 Q AND HAVE YOU BEEN EXPOSED TO ANY MEDIA
- 3 COVERAGE OR CONVERSATIONS OR DISCUSSIONS ABOUT THIS
- 4 CASE?
- 5 A NO, SIR
- 6 Q HAVE YOU SEEN ANY NEWSPAPER ARTICLE OR
- 7 TELEVISION REPORT AT ANY TIME?
- 8 A WHEN IT FIRST HAPPENED, I DID
- 9 Q WHEN IT FIRST HAPPENED?
- 10 A YES, SIR
- 11 Q A COUPLE OF YEARS AGO?
- 12 A YES, SIR
- 13 Q HAVE YOU SEEN ANYTHING SINCE THAT TIME,
- 14 ANYTHING RECENTLY?
- 15 A NO, SIR
- 16 Q NOW, DO YOU UNDERSTAND WHAT A JURY'S FUNCTION
- 17 IS WHEN THEY'RE CALLED TO SERVE IN A CRIMINAL CASE?
- 18 A YES, SIR
- 19 Q DO YOU UNDERSTAND WHAT THEY DO?
- 20 A YES, SIR
- 21 Q TWELVE ARE PICKED AND THEY SIT OVER THERE IN
- 22 THE JURY BOX AND THEY LISTEN TO EVIDENCE AND THEY
- 23 LISTEN TO EVIDENCE AND A JURY DECIDES WHETHER OR NOT
- 24 A PERSON IS GUILTY AND IN A CAPITAL CASE, A JURY
- 25 NOT ONLY DECIDES IF A PERSON IS GUILTY, BUT IF A

1 PERSON IS FOUND GUILTY OF MURDER, THE JURY, ALSO,
2 DECIDES WHAT PUNISHMENT SHOULD BE IMPOSED, DO YOU
3 UNDERSTAND THAT?

4 A YES, SIR

5 Q NOW, YOU UNDERSTAND THAT THE STATE HAS CHARGED
6 THIS DEFENDANT WITH A CRIME, THE CRIME OF MURDER?

7 A YES, SIR

8 Q DO YOU UNDERSTAND THAT THE STATE HAS - -
9 THEREFORE, ALSO HAS THE BURDEN THE BURDEN OF PROVING
10 HIM TO BE GUILTY BEYOND A REASONABLE DOUBT BEFORE A
11 JURY CAN FIND HIM GUILTY?

12 A YES, SIR

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

16 A YES, SIR

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

19 A YES, SIR

20 Q YOU UNDERSTAND THEY DON'T HAVE TO - - THE
21 DEFENDANT DOESN'T HAVE TO TESTIFY OR OFFER EVIDENCE
22 BECAUSE HE DOESN'T HAVE TO PROVE ANYTHING

23 A YES, SIR

24 Q NOW, IF YOU WERE PARTICIPATING IN THE TRIAL OF
25 A CRIMINAL CASE, WOULD YOU BE ABLE TO, FAIRLY,

1 CONSIDER ALL OF THE EVIDENCE THAT WOULD BE
2 INTRODUCED DURING THAT TRIAL BEFORE YOU ARRIVED AT A
3 DECISION?

4 A I HOPE I COULD, YES, SIR

5 Q WOULD YOU BE WILLING TO DO THAT?

6 A YES, SIR

7 Q NOW, AFTER YOU HAD CONSIDERED ALL OF THE
8 EVIDENCE, IF YOU WERE CONVINCED BEYOND A REASONABLE
9 DOUBT THAT SOMEONE WAS GUILTY, COULD YOU FIND THAT
10 PERSON GUILTY?

11 A YES, SIR

12 Q AND IF YOU HAD SOME REASONABLE DOUBT ABOUT IT,
13 WOULD YOU FIND HIM NOT GUILTY?

14 A YES, SIR

15 Q NOW, LET'S ASSUME FOR THE MOMENT THAT YOU HAVE
16 PARTICIPATED IN SUCH A CASE AND THAT YOU HAVE FOUND
17 A PERSON TO BE GUILTY OF MURDER BEYOND A REASONABLE
18 DOUBT, THE LAW PROVIDES THAT IF, IN ADDITION TO
19 THAT, THE JURY FINDS AN AGGRAVATING CIRCUMSTANCE
20 EXISTS, IN ADDITION TO THE CONVICTION FOR MURDER,
21 SOMETHING ELSE AND YOU FIND, OR THE JURY FINDS, AN
22 AGGRAVATING CIRCUMSTANCE BEYOND A REASONABLE DOUBT
23 THEN THE JURY GETS TO DECIDE WHAT THE SENTENCE
24 SHOULD BE, THE PUNISHMENT THEY'VE GOT TWO CHOICES
25 THEY CAN SENTENCE A PERSON TO DEATH, THEY CAN

1 SENTENCE TO LIFE IMPRISONMENT

2 DO YOU UNDERSTAND THAT THAT DECISION WOULD BE
3 MADE AFTER ANOTHER HEARING WAS HELD, SHORTLY AFTER
4 THE GUILT PHASE AND THERE WOULD BE MORE EVIDENCE
5 RECEIVED, AND THERE MIGHT BE EVIDENCE BEING OFFERED
6 TO SHOW WHY THE DEATH PENALTY IS APPROPRIATE, AND
7 THERE MIGHT BE EVIDENCE OFFERED TO SHOW WHY IT'S NOT
8 APPROPRIATE, WHY A LIFE SENTENCE SHOULD BE IMPOSED
9 WOULD YOU BE WILLING AND ABLE TO CONSIDER ALL OF
10 THAT ADDITIONAL EVIDENCE BEFORE YOU DECIDED WHAT THE
11 SENTENCE SHOULD BE?

12 A YES, SIR

13 Q AND AFTER YOU HAD CONSIDERED ALL OF THAT
14 EVIDENCE, EVERYTHING THAT HAD BEEN INTRODUCED IN THE
15 TRIAL OF CASE, AFTER YOU'VE CONSIDERED IT ALL
16 CAREFULLY, IF YOU THOUGHT IT WAS APPROPRIATE, COULD
17 YOU SENTENCE A PERSON TO DEATH?

18 A YES, SIR

19 Q COULD YOU, ALSO, SENTENCE A PERSON TO LIFE
20 IMPRISONMENT?

21 A YES, SIR

22 Q WOULD YOUR DECISION DEPEND UPON THE FACTS OF
23 THE CASE?

24 A YES, SIR

25 Q IF YOU DECIDED THAT A PERSON SHOULD BE

1 SENTENCED TO DEATH, DO YOU UNDERSTAND THAT YOU WOULD
2 HAVE TO SIGN A FORM, SIGN YOUR NAME ON A FORM,
3 STATING THAT RECOMMENDATION THAT YOU RECOMMENDED
4 THAT PERSON BE SENTENCED TO DEATH?

5 A I DIDN'T KNOW THAT, BUT - - I DIDN'T KNOW
6 THAT ARE YOU ASKING ME, DO I KNOW THAT?

7 Q WELL, DID YOU KNOW - -

8 A NO, SIR, I DIDN'T

9 Q COULD YOU DO THAT IF YOU ARRIVED AT THAT
10 DECISION?

11 A YES, SIR

12 Q YOU COULD SIGN YOUR NAME?

13 A YES, SIR

14 Q NOW, HAVE YOU ALREADY FORMED OR EXPRESSED ANY
15 OPINION AS TO WHAT YOU THINK THE ULTIMATE DECISION
16 SHOULD BE IN THIS CASE?

17 A NO, SIR

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

20 A I DON'T SEE WHY NOT

21 Q NOW, AS I INDICATED TO YOU YESTERDAY, IT WOULD
22 BE NECESSARY THAT YOU BE SEQUESTERED FOR PROBABLY
23 SEVEN TO TEN DAYS THAT MIGHT BEGIN TOMORROW
24 SOMETIME IF THAT WAS REQUIRED AND IT WOULD BE,
25 WOULD THAT POSE ANY UNREASONABLE HARDSHIP OR HEALTH

1 RISK TO YOU?

2 A WELL, WE DISCUSSED WHAT I TALKED TO YOU ABOUT
3 YESTERDAY

4 Q DID YOU MAKE ANY DETERMINATION AS TO WHETHER
5 YOUR GIRLFRIEND COULD GET HER PARENTS TO LOOK AFTER
6 THAT CHILD?

7 A IT'S STILL UP IN THE AIR SHE COULDN'T FIND -
8 - LIKE I SAID, SHE WORKS SEVEN DAYS

9 Q WELL, DO YOU UNDERSTAND THAT UNDER SOME
10 CIRCUMSTANCES THE COURT CAN EXCUSE A PERSON WHERE
11 THEY HAVE A CHILD OR CHILDREN LESS THAN SEVEN, BUT
12 THAT CHILD HAS TO BE YOURS AND YOU HAVE TO HAVE
13 CUSTODY OF IT AND IF IT SOMEONE ELSE'S, THEN, OF
14 COURSE, THEY HAVE RESPONSIBILITY FOR FINDING SOMEONE
15 TO CARE FOR THAT CHILD

16 A I UNDERSTAND, YES, SIR

17 Q DO YOU HAVE ANY OTHER REASON WHY YOU COULD NOT
18 SERVE, IF YOU WERE SELECTED?

19 A NO, I DON'T THINK SO

20 THE COURT PLEASE ANSWER THE LAWYER'S
21 QUESTIONS

22 EXAMINATION BY MR TINSLEY

23 Q THANKS SO MUCH, YOUR HONOR GOOD AFTERNOON,
24 MR BROWN

25 A GOOD AFTERNOON

1 Q SO YOU WOULDN'T HAVE A PROBLEM WITH WORK SO
2 MUCH, IT WOULD BE WITH THAT BABY, RIGHT?
3 A BOTH
4 Q BOTH?
5 A YES, SIR
6 Q WOULD YOUR JOB UNDERSTAND?
7 A I'M NOT SURE I HAVEN'T ASKED THEM
8 Q IF YOU WENT BACK THIS EVENING AND TOLD THEM,
9 DO YOU THINK THEY WOULD?
10 A I'M NOT SURE
11 Q WELL, WE DON'T WANT TO GET YOU FIRED OR
12 ANYTHING LIKE THAT DO YOU GET ALONG PRETTY GOOD
13 WITH THEM?
14 A YES, SIR
15 Q AND MR BROWN, YOU MENTIONED THAT YOU HAD
16 HEARD SOMETHING ABOUT THE CASE IN THE PAST, IS THAT
17 RIGHT?
18 A YES, SIR
19 Q THAT WAS MOSTLY LIKE -- WAS THAT NEWS OR WAS
20 IT PEOPLE TALKING?
21 A TV, NEWSPAPER
22 Q HOW ABOUT PEOPLE TALKING?
23 A YEAH, A LITTLE BIT
24 Q AND WHAT WAS THAT ABOUT?
25 A JUST WHERE IT HAPPENED AND THAT WAS IT

1 PEOPLE COMING UP TO ME AND ASKING HAVE I HEARD,
2 STUFF LIKE THAT

3 Q YOU DON'T KNOW ANY FACTS OR ANYTHING, DO YOU,
4 ABOUT THE CASE?

5 A NO, SIR, JUST WHAT I SAW ON TV AND NEWSPAPER

6 Q JUST WHAT YOU SAW ON TV COULD YOU PUT ALL
7 THAT OUT OF YOUR MIND AND PROCEED TO LISTEN TO THE
8 EVIDENCE AND KEEP AN OPEN MIND ABOUT THE CASE AS WE
9 PROCEEDED THROUGH THE TRIAL?

10 A I COULD TRY, YES, SIR

11 Q YOU COULD TRY?

12 A YES, SIR

13 Q DO YOU MEAN YOU'VE GOT AN OPINION ON IT?

14 A NO, SIR BUT LIKE I SAY, I SAW IT ON TV, I'D
15 DO MY BEST NOT TO THINK ABOUT IT ANYMORE

16 Q YOU DON'T, AT THIS POINT, THINK MR HUGHEY'S
17 GUILTY, DO YOU?

18 A NO, SIR

19 Q AND YOU'D BE WILLING TO LISTEN TO ALL EVIDENCE
20 OFFERED BY MR HUGHEY IN TERMS OF MITIGATION, AND BY
21 THAT, I MEAN THE GOOD PARTS ABOUT MR HUGHEY AND THE
22 THINGS THAT HAVE HAPPENED TO HIM THAT MAKE UP THE
23 INDIVIDUAL CHARACTERISTICS OF MR HUGHEY AT THIS
24 TIME, WOULD YOU NOT?

25 A YES, SIR

1 Q AND YOU'D KEEP AN OPEN MIND ON THAT, WOULDN'T
2 YOU?

3 A YES, SIR

4 Q IN FACT, YOU WOULDN'T GO TO THE SECOND PHASE
5 OF THE TRIAL, DO YOU UNDERSTAND THAT, UNTIL AND
6 UNLESS YOU HAVE CONVICTED MR HUGHEY OF A MURDER
7 WITH AN AGGRAVATING CIRCUMSTANCE, DO YOU UNDERSTAND
8 THAT?

9 A YES, SIR

10 Q IN FACT, LET'S SAY IF HE WERE CONVICTED OF
11 MANSLAUGHTER INSTEAD OF MURDER, DO YOU UNDERSTAND IT
12 WOULDN'T GO TO THAT PHASE, THE SECOND PHASE, DO YOU
13 UNDERSTAND THAT?

14 A YES, SIR

15 Q AND IF THE JUDGE GAVE YOU THE LAW OF THE CASE
16 AND -- LET'S TAKE COUNT ONE, FOR INSTANCE LET'S
17 SAY IF HE GAVE THE OPTIONS OF MURDER, GUILTY OF
18 MURDER OR GUILTY OF MANSLAUGHTER OR NOT GUILTY,
19 COULD YOU CONSIDER ALL THREE VERDICTS?

20 A YES, SIR

21 Q BASED ON FACTS AND THE EVIDENCE AND THE LAW,
22 IS THAT RIGHT?

23 A YES, SIR

24 MR TINSLEY THANKS SO MUCH, MR BROWN

25 EXAMINATION BY MR JONES

1 Q MR BROWN

2 A SIR

3 Q MY NAME'S TOWNES JONES, I'M YOUR SOLICITOR FOR
4 ABBEVILLE COUNTY, THE PROSECUTING ATTORNEY THIS IS
5 MICHAEL COULTER, HE'S YOUR DEPUTY SOLICITOR, AND
6 BOTH OF US WE'LL BE CALLING WITNESSES TO THE STAND
7 AND ASKING QUESTIONS DURING THE COURSE OF THE TRIAL

8

9 WE'VE GOT THE QUESTIONNAIRE THAT HAS YOUR
10 INFORMATION ON IT, THE JUDGE GAVE US A COPY OF IT TO
11 LOOK OVER IT AND GET AS MUCH INFORMATION ABOUT YOU
12 AS WE COULD BUT THE MAIN THING THAT I WANT TO KNOW
13 ABOUT YOU IS A COUPLE THINGS THAT ONLY YOU CAN
14 ANSWER FOR ME

15 YOU JUST THE OLD THE LAWYER THERE THAT YOU
16 FEEL LIKE YOU COULD BE FAIR AND IMPARTIAL YOU DO
17 FEEL THAT WAY?

18 A YES, SIR

19 Q DO YOU KNOW THIS DEFENDANT MR HUGHEY?

20 A NO, SIR

21 Q EVER MET HIM?

22 A NO, SIR

23 Q KNOW ANY OF HIS FAMILY?

24 A NO, SIR

25 Q I WANT TO ASK YOU A LITTLE BIT THEN ABOUT YOUR

1 FEELINGS ON THE DEATH PENALTY HOW DO YOU FEEL
2 ABOUT THE DEATH PENALTY?

3 A IF A PERSON'S GUILTY OF THE CRIME, I FEEL, NOT
4 A HUNDRED PERCENT, BUT NINETY PERCENT FOR IT IF
5 HE'S FOUND GUILTY OF IT

6 Q I GOT YOU HE'S FIRST GOT TO BE FOUND GUILTY
7 AND THEN YOU, NINE TIMES OUT OF TEN, YOU MIGHT BE
8 INCLINED TO GO FOR IT, DEPENDING ON THE
9 CIRCUMSTANCES OF THE CASE AND ALL THAT, IS THAT
10 RIGHT?

11 A YES, SIR

12 Q NOW, A COUPLE QUESTIONS ABOUT YOUR FORM THAT I
13 HAD YOU MENTIONED THAT THERE'S BEEN A DISORDERLY
14 CONDUCT CHARGE WAS THAT AGAINST YOU OR SOME OTHER
15 FAMILY MEMBER

16 A FAMILY MEMBER

17 Q DO YOU MIND TELLING ME WHO?

18 A MY COUSIN

19 Q YOUR COUSIN?

20 A YES, SIR

21 Q WAS HE FOUND NOT GUILTY OR GUILTY OR DID HE
22 PLEAD OR DO YOU KNOW?

23 A I DON'T KNOW HE HAD TO PAY A FINE ON IT

24 Q WHO BROUGHT THAT CHARGE AGAINST HIM?

25 A IT WAS IN ANDERSON COUNTY

1 Q ANDERSON COUNTY?

2 A YES, SIR

3 Q SO OTHER THAN THAT, THAT'S ABOUT THE ONLY TIME
4 YOU KNOW OF ANY SITUATION WHERE THERE'S BEEN SOME
5 LEGAL PROCESS INVOLVED OR IS THERE SOMETHING ELSE
6 YOU CAN TELL ME ABOUT?

7 A THAT'S ABOUT ALL I CAN REMEMBER

8 Q WELL, LET ME ASK YOU, WHEN THEY WERE TALKING
9 ABOUT YOU BEING FAIR IN THIS TRIAL AND I ASKED YOU
10 THAT, TOO YOU CAN BE FAIR TO BOTH SIDES, CAN'T
11 YOU? YOU CAN BE FAIR TO THE DEFENDANT

12 A YES, SIR

13 Q AND YOU CAN BE FAIR TO THE VICTIMS

14 MR TINSLEY OBJECTION, YOUR HONOR

15 THE COURT LET'S REFER TO THE HARRIS AND
16 JACKSON SO HE'LL KNOW YOU'LL YOU'RE TALKING ABOUT
17 EXAMINATION BY MR JONES

18 Q CAN YOU BE FAIR TO MR MIKE HARRIS?

19 A YES, SIR

20 Q CAN YOU BE FAIR TO MS DORIS JACKSON?

21 A YES, SIR

22 MR TINSLEY OBJECTION, YOUR HONOR

23 THE COURT OVERRULED

24 EXAMINATION BY MR JONES

25 Q CAN YOU BE FAIR TO MR ANTHONY HARRIS AND MR

1 MARCUS HARRIS?

2 A YES, SIR

3 MR JONES I HAVE NO FURTHER QUESTIONS
4 THE COURT IF YOU WILL JUST STEP OUTSIDE
5 FOR JUST A MOMENT, I'LL BRING YOU RIGHT BACK, MR
6 BROWN

7 (JUROR #305 DOES AS INSTRUCTED)

8 THE COURT ANY OBJECTION TO THE
9 JUROR BEING QUALIFIED?

10 MR JONES NONE FOR THE STATE, YOUR
11 HONOR

12 MR TINSLEY YOUR HONOR, MY OBJECTION IS
13 THE VICTIMS, IN MY OPINION, ARE THE DECEASED IN THIS
14 CASE

15 THE COURT YEAH, I UNDERSTOOD WHAT YOUR
16 OBJECTION WAS AND IN ANTICIPATING THAT WAS IT,
17 THAT'S THE REASON I ASKED THE SOLICITOR TO REFER TO
18 THE FAMILY BY THEIR NAME, AS OPPOSED TO BEING THE
19 VICTIM AND THAT'S THE REASON I ASKED HIM TO REFER
20 TO THEM AS THE HARRIS'S AND THE JACKSON'S

21 MR TINSLEY AND THEY ARE THE SURVIVORS
22 AND I THINK THAT WAS AN UNFAIR CHARACTERIZATION BY
23 THE SOLICITOR TO CREATE UNDO SYMPATHY FOR THEM ON
24 THE PART THIS JUROR AND UP AND UNTIL THAT POINT, I
25 FELT HE WAS CLEARLY QUALIFIED, BUT BECAUSE OF THAT

1 CHARACTERIZATION, I MOVE FOR HIS LACK OF
2 QUALIFICATION AT THIS TIME

3 THE COURT ASK MR BROWN TO COME BACK
4 IN

5 (JUROR #305 RE-ENTERS COURTROOM)

6 EXAMINATION BY THE COURT

7 Q MR BROWN, LET ME JUST ASK YOU ONE OTHER
8 THING IS THERE ANYTHING THAT YOU'VE BEEN ASKED
9 ABOUT OR ANYTHING THAT YOU KNOW ABOUT THE CASE OR
10 ANYTHING THAT HAS OCCURRED UP TO THIS POINT RIGHT
11 NOW THAT WOULD PREVENT YOU FROM BEING ABLE TO BE
12 FAIR AND IMPARTIAL, IF YOU WERE SELECTED AS A JUROR?

13 A WELL, ONE THING YESTERDAY YOU ASKED SOME
14 QUESTION ABOUT DO YOU HAVE ANY TIES WITH EITHER
15 SIDE

16 Q RIGHT

17 A WELL, MARCUS BEEN PLAYING SPORTS AND SUCH
18 THINGS AS THAT I DIDN'T KNOW THAT WAS THE SAME
19 RELATIONSHIP WHAT YOU WAS ASKING ABOUT YESTERDAY BUT
20 I DID I KNEW HIM FROM PLAYING SPORTS AND JUST
21 COMING TO ABBEVILLE

22 Q YOU KNOW MARCUS HARRIS?

23 A YES, SIR

24 Q AND YOU'VE PLAYED SPORTS WITH HIM?

25 A YES, SIR

1 Q WOULD YOUR RELATIONSHIP WITH HIM PREVENT YOU
2 FROM BEING ABLE TO BE FAIR?

3 A I'D TRY TO BE FAIR YES, SIR, I'D BE FAIR

4 Q WELL, I'M NOT ASKING YOU IF YOU WOULD TRY OF
5 COURSE, NATURALLY, I WOULD EXPECT WE WOULD ALWAYS
6 TRY TO BE FAIR, EVERYONE I JUST SIMPLY WANT TO
7 KNOW IF YOU BELIEVE THAT YOU COULD BE UNDER THOSE
8 CIRCUMSTANCES KNOWING MR HARRIS, IF YOU COULD BE
9 FAIR IN THE CASE AND BE FAIR TO MR HUGHEY?

10 A YES, SIR

11 Q YOU DON'T KNOW OF ANY REASON WHY YOU COULD NOT
12 PUT THAT RELATIONSHIP ASIDE AND BASE A VERDICT ON
13 THE EVIDENCE?

14 A YES, SIR

15 Q YES, SIR, YOU COULD? WOULD THAT RELATIONSHIP
16 INTERFERE WITH YOUR ABILITY TO BE FAIR?

17 A NO, SIR, I'D TRY TO BE AS FAIR AS I COULD,
18 SIR

19 Q WELL, ARE YOU CERTAIN THAT YOU COULD BE,
20 UNDERSTANDING THAT RELATIONSHIP?

21 A YES, SIR

22 THE COURT MR BROWN, WE'RE GOING TO
23 QUALIFY YOU FOR SERVICE IN THE TRIAL OF THE CASE
24 IT DOESN'T MEAN YOU'VE BEEN SELECTED, IT MEANS THAT
25 YOU MAY POTENTIALLY BE SELECTED YOU'RE IN A LARGER

1 POOL FROM WHICH THE ACTUAL JURORS WILL BE SELECTED
2 YOU NEED TO GIVE THE CLERK ANY AND ALL PHONE NUMBERS
3 WHERE YOU CAN BE REACHED DAY AND NIGHT WE'LL CALL
4 YOU TO COME BACK, IT MAY BE AS EARLY AS TOMORROW
5 AFTERNOON BUT WE MAY BE CALLING YOU AT ANY POINT
6 BETWEEN NOW AND SOMETIME LATER IN THE WEEK TO ASK
7 YOU TO COME BACK SO, PLEASE, GIVE HER THOSE
8 NUMBERS

9 YOU'RE STILL TO REMEMBER NOT TO DISCUSS
10 THE CASE AND DON'T ALLOW YOURSELF TO BE EXPOSED TO
11 MEDIA COVERAGE REGARDING THE TRIAL

12 (JUROR #305 EXITS COURTROOM)

13 (JUROR #305 IS QUALIFIED)

14 MR TINSLEY PLEASE NOTE MY EXCEPTION ON
15 THE QUALIFICATION OF MR BROWN WITH ALL DUE RESPECT,
16 YOUR HONOR

17 THE COURT ALL RIGHT THE JUROR IS
18 QUALIFIED NOTWITHSTANDING THE DEFENSE'S OBJECTION
19 AND THE BASES OF THE OBJECTION WAS THE SOLICITOR'S
20 REFERENCE TO THE JACKSONS AND HARRIS'S BEING
21 REFERRED TO AS THE VICTIMS'

22 MR TINSLEY YES

23 THE COURT LET ME MAKE YOU AWARE THAT
24 THE CLERK HAS HANDED ME A FAX RECEIVED FROM HAROLD
25 CAMPBELL, WHO'S THE PERSONNEL DIRECTOR AND

1 ADMINISTRATIVE ASSISTANT OF THE ABBEVILLE COUNTY
2 SCHOOL DISTRICT AND IT SEEMS THAT THEY ARE AWARE,
3 PERHAPS SOME LOBBYIST FOR THE EDUCATION DEPARTMENT
4 HAS MADE THEM AWARE THAT THERE WAS A LAW THAT
5 APPEARS TO HAVE BEEN PAST AND APPROVED ON MAY THE
6 21ST OF 1997 I DON'T HAVE THAT ACTUALLY BUT IT
7 APPEARS THAT IT HAS BEEN APPROVED, I'M NOT CERTAIN
8 THAT IT HAS WE'LL HAVE TO MAKE THAT DETERMINATION
9 BUT IT PROVIDES THAT A SCHOOL EMPLOYEE SELECTED FOR
10 JURY SERVICE DURING A SCHOOL TERM MUST BE EXEMPT IF
11 THEY REQUEST TO BE EXEMPT AND FOR THE PURPOSE OF
12 THIS SECTION, AN EMPLOYEE IS A PERSON EMPLOYED AS A
13 TEACHER OR A CERTIFIED PERSONNEL AT THE BUILDING
14 LEVEL, I'M NOT CERTAIN WHAT THAT MEANS, OR A BUS
15 DRIVER BY A SCHOOL OR SCHOOL SYSTEM OR SCHOOL
16 DISTRICT

17 SO IT APPEARS THAT WE HAVE TWO JURORS IN
18 THAT CATEGORY THOSE BEING MS McCLAIN, JUROR
19 NUMBER ONE TWENTY NINE, AND MR CARTER, JUROR NUMBER
20 THIRTY-EIGHT SO IT'S -- ASSUMING THAT LAW HAS BEEN
21 APPROVED BY THE GOVERNOR, I ANTICIPATE THAT BOTH MR
22 CARTER AND MS McCLAIN WILL BE EXERCISING THAT
23 EXEMPTION I'LL MAKE THAT DETERMINATION WHEN THEY
24 COME BACK BUT KEEP THAT IN MIND SO FAR AS
25 CONTINGENT JURY SELECTION GOES

1 MR JONES JUDGE, WOULD YOU CONSIDER
2 THOSE TWO BACK THIS AFTERNOON FOR THAT DETERMINATION
3 OR WOULD YOU RATHER WAIT AND DO THAT TOMORROW
4 MORNING?

5 THE COURT WELL, WE CAN IF THAT WILL BE
6 BENEFICIAL TO YOU?

7 MR JONES IT WOULD TO ME AND I'LL TELL
8 YOU WHY ASSUMING, YOU KNOW, I HAVE HOPES THAT WE
9 MIGHT BE ABLE TO SELECT A JURY IN THE MORNING IT
10 WOULD GIVE ME A BETTER UNDERSTANDING THAT IN THE
11 EVENT THAT ONE OF THEM DIDN'T EXERCISE THE OPTION
12 WHERE I'D BE GOING AS FAR AS STRIKES WERE CONCERNED
13 OVER THE EVENING HOUR

14 AND, SECONDLY, I'M GOING TO ASK THE JUDGE
15 TO RECONSIDER YOUR POSITION WITH REGARD TO THREE
16 ALTERNATES AND CONSIDER GOING FORWARD WITH TWO,
17 DEPENDING ON THE TYPE OF PROGRESS THAT WE MAKE THIS
18 AFTERNOON WOULD IMPACT THAT REQUEST, ALSO

19 THIRDLY, I POINT OUT, JUST FOR THE
20 COURT'S IDENTIFICATION IN THE EVENT YOU DIDN'T
21 RECOGNIZE IT CARLOS BROWN IS, ALSO, FROM DUE WEST
22 AND ANOTHER QUALIFIED JUROR

23 MR TINSLEY WELL, ACTUALLY, THE
24 ORIGINAL BASIS WAS THE FOLKS WHO WERE AT ERSKINE
25 COLLEGE

1 THE COURT I DON'T REMEMBER THAT BEING -
2 -

3 MR TINSLEY IT WAS THE ORIGINAL, JUDGE
4 BUT THE WAY I REMEMBER THAT STATUTE I'VE HANDED YOU
5 AND YOU'LL NEED SOME TIME TO FIND OUT THE EFFECTS
6 I DO RECALL SOMETHING ON IT BUT THE WAY I RECALL IT,
7 THEY CAN ELECT TO TRANSFER TO THE SUMMER

8 THE COURT SURE, IT JUST SIMPLY MEANS
9 THAT THEY HAVE TO -- THEY'RE NOT EXCUSED FROM
10 SERVICE, THEY MAY SELECT THAT THEY AMY BE EXEMPT
11 DURING THE SCHOOL TERM BUT THEY WERE TRANSFERRED TO
12 A TIME THAT DOES NOT INTERFERE WITH THEIR DUTIES AT
13 SCHOOL PERHAPS SOME OTHER PROFESSIONAL PEOPLE WILL
14 BE LOBBYING THE LEGISLATURE TO HAVE ADDITIONAL
15 EXEMPTIONS PASSED, BASED UPON THE LEGISLATURE'S
16 WILLINGNESS TO EXEMPT SCHOOL PERSONNEL

17 LET ME ASK THE CLERK, IF YOU WILL, TO
18 PLEASE CALL MR CARTER AND MS McCLAIN AND ASK THEM
19 IF THEY CAN REPORT THIS AFTERNOON AT 4 00

20 THE COURT'S IN RECESS UNTIL 2 00, IF
21 THERE'S NO OTHER BUSINESS TO BE ADDRESSED

22 (OFF THE RECORD)

23 THE COURT YOU'VE GOT McELRATH, BELTON
24 AND LEE IN THERE? ARE MR AND MS HILL, ARE THEY
25 OUT THERE?

1 MR JOHNSON MS HILL IS, I KNOW, YES,
2 SIR

3 THE COURT ASK THEM TO COME IN JUST A
4 MINUTE, PLEASE LET ME ASK, DID -- HAVE EACH OF YOU
5 RECEIVED YOUR QUESTIONNAIRE? HAVE YOU FILLED IT
6 OUT? WOULD YOU LEAVE THOSE HERE WITH THE CLERK,
7 PLEASE

8 LET ME JUST ASK YOU, GO AHEAD FINISH
9 COMPLETING IT AND LEAVE IT HERE BEFORE YOU GO AND
10 I WANT YOU TO DO IT OUTSIDE THE COURTROOM IF
11 YOU'LL JUST GIVE THAT TO ONE OF THOSE DEPUTIES BACK
12 THERE, THEN THEY'LL GIVE IT TO ME
13 (JUROR #305 DOES AS INSTRUCTED)

14 THE COURT HERE'S WHAT I WANT YOU
15 ALL TO DO WE'RE SCHEDULING JURORS IN TIME SLOTS
16 AND I THOUGHT MAYBE WE CAN WORK YOU IN, BUT IT DOES
17 NOT APPEAR THAT WE CAN IS THERE ANY REASON WHY
18 EITHER ONE OF YOU CANNOT COME BACK IN THE MORNING AT
19 10 00? AT 10 00 IN THE MORNING

20 IF YOU'LL BE BACK AT 10 00 IN THE
21 MORNING, WE'LL BE ABLE TO GET TO YOU BUT BEFORE
22 YOU LEAVE, MR HILL, IF YOU'LL COMPLETE THAT
23 QUESTIONNAIRE AND GIVE IT TO ONE OF THE FOLKS AT THE
24 BACK DOOR

25 ARE WE READY FOR MS McELRATH?

1 MR COULTER THE STATE IS, YOUR HONOR

2 MR TINSLEY YES, YOUR HONOR

3 (THE COURT CALLS JUROR McELRATH)

4 (JUROR PRESENTED AT 2 20 O'CLOCK P M)

5 EXAMINATION BY THE COURT

6 Q GOOD AFTERNOON, MS McELRATH YOU ARE AWARE
7 THAT WE HAVE ASKED YOU TO COME BACK FOR THE PURPOSE
8 OF ASKING YOU SOME ADDITIONAL QUESTIONS
9 INDIVIDUALLY I'LL ASK YOU SOME, THE LAWYERS MAY
10 HAVE SOME OTHER QUESTIONS TO ASK OF YOU

11 YOU WILL RECALL YESTERDAY THAT YOU AND YOUR
12 FELLOW JURORS WERE PLACED UNDER OATH AND SO YOU
13 REMAIN UNDER OATH FOR THE PURPOSE OF THESE
14 QUESTIONS, ALSO

15 YOU HAVE FILLED OUT YOUR QUESTIONNAIRE, IS IT
16 ACCURATE?

17 A YES, SIR

18 Q AND YOU WILL RECALL THAT YOU WERE INSTRUCTED
19 NOT TO DISCUSS THIS CASE IN ANY FASHION WITH ANY
20 PERSON AND YOU WERE NOT TO ALLOW YOURSELF TO BE
21 EXPOSED TO ANY TYPE OF MEDIA COVERAGE RELATING TO
22 THE CASE

23 A YES

24 Q HAVE YOU HEARD ANYTHING ABOUT THE CASE OR BEEN
25 EXPOSED TO ANY MEDIA COVERAGE?

1 A NO, SIR

2 Q ANY NEWSPAPER ARTICLES OR ANYTHING ELSE?

3 A NOT SINCE YESTERDAY

4 Q WELL, I MEAN, AT ANY TIME HAVE YOU

5 A YES WHEN THIS OCCURRED, IT WAS ON THE NEWS

6 AND IN THE NEWSPAPER AND AT THE TIME THAT THIS

7 OCCURRED, MS HARRIS WAS A PATIENT OF THE DOCTOR

8 THAT I WORKED WITH, DR BRUCE JOHNSTON WAS HER

9 PHYSICIAN SO I KNEW WHO SHE WAS AND WHAT THE PAPER

10 HAD WRITTEN ABOUT IT AND THE NEWS, CHANNEL FOUR

11 Q AND WHEN YOU REFER TO THAT MEDIA EXPOSURE, IS

12 THAT SOMETHING THAT YOU SAW, READ OR HEARD AT OR

13 ABOUT THE TIME THAT THIS INCIDENT IS ALLEGED TO HAVE

14 OCCURRED?

15 A YES, SIR

16 Q HAVE YOU SEEN HEARD OR READ ANYTHING ABOUT IT

17 SINCE THAT TIME?

18 A NO, SIR

19 Q NOTHING RECENT?

20 A NO, SIR

21 Q WOULD ANYTHING THAT YOU PREVIOUSLY SAW, HEARD

22 OR READ ABOUT THE CASE, WOULD IT INTERFERE WITH YOUR

23 ABILITY TO BE FAIR AND IMPARTIAL, IF YOU WERE

24 SELECTED?

25 A I DON'T THINK SO

1 Q WELL, COULD YOU PUT ASIDE - - YOU UNDERSTAND
2 THAT THE FUNCTION OF THE JURY IS TO SIT OVER HERE
3 AND TO CONSIDER EVIDENCE THAT'S INTRODUCED DURING
4 THE TRIAL OF THE CASE AND TO BASE A DECISION SOLELY
5 ON THAT EVIDENCE IF THAT EVIDENCE SUPPORTS A
6 VERDICT OF GUILTY, TO RETURN A VERDICT OF GUILTY
7 IF IT DOES NOT SUPPORT IT OR YOU HAVE SOME
8 REASONABLE DOUBT ABOUT IT, THEN, OF COURSE, YOU'RE
9 INSTRUCTED TO FIND THE PERSON NOT GUILTY
10 IF YOU WERE SELECTED TO SERVE AS A JUROR IN A
11 CASE, COULD YOU PUT ASIDE ANY PREVIOUS EXPOSURE THAT
12 YOU'VE HAD BY WAY OF MEDIA COVERAGE ABOUT THE CASE
13 AND BASE YOUR DECISION SOLELY UPON THAT EVIDENCE
14 THAT IS RECEIVED DURING THE TRIAL OF THE CASE?
15 A YES, SIR
16 Q NOW, YOU INDICATED THAT YOU KNEW MS HARRIS,
17 THAT'S LUEVINIA HARRIS?
18 A UM-HMM
19 Q BECAUSE OF YOUR EMPLOYMENT WITH A DOCTOR, DR
20 JOHNSTON?
21 A RIGHT
22 Q WOULD THAT EXPERIENCE OR THAT PREVIOUS
23 RELATIONSHIP, WOULD THAT INTERFERE IN ANY WAY WITH
24 YOUR ABILITY TO BE FAIR AND IMPARTIAL?
25 A NO, SIR

1 Q NOW, IN A TRIAL OR IN A CASE WHERE A PERSON IS
2 CHARGED WITH A CRIME, DO YOU UNDERSTAND THAT THE
3 BURDEN IS ON THE STATE, BECAUSE THEY BRING THE
4 CHARGE, TO PROVE THAT PERSON GUILTY BEYOND A
5 REASONABLE DOUBT BEFORE THE PERSON CAN BE FOUND
6 GUILTY?

7 A YES, SIR

8 Q DO YOU UNDERSTAND THAT THE BURDEN IS NEVER
9 UPON THE DEFENDANT OR PERSON CHARGED TO PROVE THAT
10 HE IS NOT GUILTY OR TO PROVE THAT HE'S INNOCENT?

11 A UM-HMM

12 Q DO YOU UNDERSTAND THAT THE LAW REQUIRES THAT
13 YOU PRESUME THE DEFENDANT TO BE INNOCENT?

14 A UM-HMM

15 Q AND THAT A PERSON CHARGED MAY ONLY BE FOUND
16 GUILTY IF THE STATE HAS COME FORWARD WITH SUFFICIENT
17 EVIDENCE TO ESTABLISH THAT PERSON'S GUILT IN THE
18 MINDS OF A JURY BEYOND A REASONABLE DOUBT?

19 A YES, SIR

20 Q DO YOU AGREE WITH THOSE PROPOSITIONS OF LAW?

21 A YES, SIR

22 Q AND YOU CAN ACCEPT THEM? NOW, IN THIS CASE,
23 AS YOU ARE AWARE, THE DEFENDANT IS CHARGED WITH THE
24 CRIME OF MURDER AND THE LAW PROVIDES THAT UNDER
25 CERTAIN CIRCUMSTANCES WHERE A PERSON IS FOUND GUILTY

1 OF THE CRIME OF MURDER AND, IF AN ADDITIONAL
2 AGGRAVATING CIRCUMSTANCE IS, ALSO, PROVEN BEYOND A
3 REASONABLE DOUBT, THEN THE JURY MAY DECIDE WHAT
4 PUNISHMENT SHOULD BE IMPOSED AND, UNDER THOSE
5 CIRCUMSTANCES, THE JURY MAY IMPOSE A SENTENCE OF
6 DEATH OR MAY IMPOSE A SENTENCE OF LIFE, DEPENDING
7 UPON THEIR VIEW OF THE CIRCUMSTANCES AND EVIDENCE

8 NOW, A CASE WHERE A PERSON IS CHARGED WITH
9 MURDER AND WHERE THE STATE SEEKS THE DEATH PENALTY
10 IS CONDUCTED IN TWO SEPARATE STAGES THE FIRST
11 STAGE RELATES TO THE ISSUE OF GUILTY, THE SECOND
12 STAGES RELATES TO THE ISSUE OF PUNISHMENT AND, OF
13 COURSE, YOU NEVER GO TO THE SECOND STAGE, BEING THE
14 PUNISHMENT STAGE, UNLESS A JURY HAS ALREADY, IN THE
15 GUILT PHASE, FOUND A PERSON GUILTY OF MURDER BEYOND
16 A REASONABLE DOUBT, DO YOU UNDERSTAND THAT CONCEPT?

17 A UM-HMM, YES, SIR

18 Q NOW, IF YOU WERE PARTICIPATING IN A TRIAL OF
19 SUCH A CASE AND YOU WERE IN THE GUILT PHASE, WOULD
20 YOU BE WILLING AND ABLE TO CONSIDER ALL THE EVIDENCE
21 OFFERED THAT RELATES TO THAT ISSUE BEFORE YOU MADE
22 ANY DECISION?

23 A YES, SIR

24 Q AND IF THAT EVIDENCE CONVINCED YOU BEYOND A
25 REASONABLE DOUBT THAT THAT PERSON WAS GUILTY, COULD

1 YOU FIND THAT PERSON GUILTY?

2 A IF THE EVIDENCE SHOWED IT

3 Q AND IF YOU WERE NOT CONVINCED OR IF YOU HAD
4 SOME REASONABLE DOUBT AS TO WHETHER OR NOT IT
5 SUPPORTED SUCH A VERDICT, WOULD YOU FIND THAT PERSON
6 NOT GUILTY?

7 A YES, SIR

8 Q NOW, I WANT YOU TO ASSUME FOR THE MOMENT AND
9 ONLY FOR THE PURPOSE OF THIS QUESTION, THAT YOU
10 PARTICIPATED AND YOU AND YOUR FELLOW JURORS HAVE
11 CONSIDERED THE EVIDENCE IN THE GUILT PHASE AND YOU
12 AND YOUR FELLOW JURORS HAVE RETURNED A VERDICT OF
13 GUILTY AS TO MURDER IN THAT EVENT, WE WOULD
14 PROCEED TO THE SECOND STAGE OF THE TRIAL BEFORE
15 YOU COULD FIND OR IMPOSE A SENTENCE OF DEATH, IT
16 WOULD BE NECESSARY THAT YOU BE CONVINCED BEYOND A
17 REASONABLE DOUBT THAT THERE, ALSO, EXISTED SOME
18 AGGRAVATING CIRCUMSTANCE, IN ADDITION TO THE
19 CONVICTION FOR MURDER, DO YOU UNDERSTAND THAT?

20 A YES, SIR

21 Q NOW, WHEN WE GOT TO THAT STAGE OF THE TRIAL,
22 THE PENALTY PHASE AND IF YOU WERE PARTICIPATING,
23 THERE WOULD ALSO BE ADDITIONAL EVIDENCE FOR YOU TO
24 CONSIDER THERE WOULD BE EVIDENCE OFFERED IN
25 AGGRAVATION AND EVIDENCE OFFERED IN MITIGATION AND

1 BY THAT I SIMPLY MEAN THAT THERE WOULD BE EVIDENCE
2 OFFERED THAT MIGHT TEND TO SHOW WHY THE DEATH
3 PENALTY WAS THE APPROPRIATE PUNISHMENT IN THAT CASE
4 AND THERE MIGHT BE EVIDENCE OFFERED TENDING TO SHOW
5 WHY THE DEATH PENALTY WAS NOT APPROPRIATE OR WHY A
6 LIFE SENTENCE WAS MORE APPROPRIATE IN THE CASE DO
7 YOU UNDERSTAND THAT THE JURY WOULD ALWAYS HAVE THAT
8 DECISION TO MAKE?

9 A YES, SIR

10 Q THE JURY WOULD HAVE A CHOICE, ONE OR THE
11 OTHER THE JURY WOULD MAKE THAT DECISION NOW, IF
12 YOU WERE PARTICIPATING, WOULD YOU BE WILLING AND
13 ABLE TO CONSIDER ALL ADDITIONAL EVIDENCE RELATING TO
14 AGGRAVATION AND MITIGATION BEFORE YOU ARRIVED AT
15 YOUR DECISION AS TO WHAT THE SENTENCE SHOULD BE?

16 A YES, SIR

17 Q AFTER YOU HAD CONSIDERED ALL THE EVIDENCE IN
18 THE CASE, IF YOU THOUGHT THE CIRCUMSTANCES WARRANTED
19 THAT DECISION, COULD YOU SENTENCE A PERSON TO DEATH?

20 A IT WOULD BE HARD FOR ME TO DO THAT, YOUR
21 HONOR, BECAUSE I TOOK AN OATH AS A NURSE TO PRESERVE
22 LIFE I COULDN'T -- I DON'T THINK I COULD IMPOSE
23 THE DEATH PENALTY BECAUSE, TO ME, IT WOULD BE THE
24 EXACT OPPOSITE OF WHAT OATH I TOOK WHEN I FINISHED
25 NURSING SCHOOL

1 Q WOULD YOU BE ABLE TO IMPOSE A SENTENCE OF LIFE
2 IMPRISONMENT, IF YOU THOUGHT IT WAS APPROPRIATE?

3 A YES, SIR

4 Q NOW, BASED UPON YOUR INDICATING THAT YOU HAD
5 SOME RESERVATION ABOUT IMPOSING A SENTENCE OF DEATH
6 IN ANY CASE, LET ME EXPLAIN TO YOU A COUPLE OF OTHER
7 THINGS YOU UNDERSTAND, AS I INDICATED, THE JURY
8 WOULD BE THE ONE THAT'S TO MAKE THE DECISION THE
9 LAW NEVER, EVER REQUIRES THAT A JURY SENTENCE A
10 PERSON TO DEATH IN OTHER WORDS, THE LAW DOESN'T
11 SAY IF THIS AND THIS AND THAT IS PROVEN, THEN YOU
12 MUST SENTENCE A PERSON TO DEATH YOU UNDERSTAND
13 THAT'S STILL ALWAYS THE JURY'S DECISION, IT'S IN
14 THEIR DISCRETION

15 A YES, SIR

16 Q WHILE THE LAW DOES SET THE CIRCUMSTANCES WHEN
17 YOU MAY CONSIDER IMPOSING A DEATH SENTENCE, THE LAW,
18 UNDER NO CIRCUMSTANCES, REQUIRES IT AND YOU COULD
19 IMPOSE A LIFE SENTENCE FOR ANY REASON OR FOR NO
20 REASON AND NO MATTER WHAT THE CIRCUMSTANCES ARE THAT
21 RELATE TO THE CASE, DO YOU UNDERSTAND THAT?

22 A UM-HMM, YES, SIR

23 Q NOW, UNDERSTANDING THAT YOU WOULD ALWAYS HAVE
24 THAT OPTION, YOU WOULD ALWAYS HAVE THAT CHOICE TO
25 IMPOSE ONE OR THE OTHER, WOULD YOU ALWAYS ELECT ONE

1 OF THOSE OPTIONS OVER THE OTHER?

2 A YES, SIR, I'D HAVE TO

3 Q AND WHAT WOULD YOU SELECT?

4 A I WOULD HAVE TO CHOSE THE LIFE IMPRISONMENT

5 Q AND CAN YOU THINK OF ANY CIRCUMSTANCE WHERE
6 YOU YOURSELF WOULD BE WILLING TO SENTENCE A PERSON
7 TO DEATH?

8 A NO, SIR NOT BEING ABLE TO -- I'M A NURSE AND
9 THAT'S WHAT I DO

10 Q I WANT YOU TO UNDERSTAND WHEN I ASK THESE
11 QUESTIONS AND THE FACT THAT I ASK ADDITIONAL
12 QUESTIONS, I'M NOT AT ALL CHALLENGING YOU ON WHAT
13 YOUR VIEWS ARE, I JUST NEED TO BE CERTAIN THAT I
14 UNDERSTAND WHAT YOUR VIEW IS BECAUSE THAT'S THE
15 PURPOSE OF THESE QUESTIONS SO THAT WE CAN MAKE THAT
16 DETERMINATION

17 SO IS IT FAIR TO SAY, THAT BASED UPON THE
18 VIEWS THAT YOU HAVE AND OPINIONS THAT YOU HAVE,
19 BASED UPON WHATEVER CONSIDERATIONS YOU HAVE TAKEN
20 INTO ACCOUNT, THAT YOU CAN THINK OF NO CIRCUMSTANCE
21 WHERE YOU WOULD BE WILLING TO SENTENCE A PERSON TO
22 DEATH?

23 A THAT'S CORRECT

24 THE COURT ANSWER ANY QUESTIONS THAT THE
25 LAWYERS MAY HAVE FOR YOU

1 EXAMINATION BY MR TINSLEY

2 Q GOOD AFTERNOON, MS MCEL RATH

3 A HELLO

4 Q MS MCEL RATH, IS THAT OPINION THAT YOU SHARED
5 WITH US TODAY, IS THAT OPINION BASED UPON YOUR
6 NURSES' OATH OR IS THAT YOUR --

7 A THAT'S BASED ON WHAT I DO FOR A LIVING I
8 MEAN, I TOOK AN OATH TO PRESERVE LIFE AND THAT'S
9 WHAT I TRY TO DO AT COST

10 Q I UNDERSTAND I TOOK AN OATH, TOO, AS AN
11 ATTORNEY AND PUBLIC DEFENDER AND THE PARTY IN THIS
12 CASE, SO I'M SYMPATHETIC TO THAT BUT IF IT WEREN'T
13 FOR THAT OATH, JUST THROW THAT OUT FOR JUST A
14 MINUTE LET'S SAY YOU WEREN'T A NURSE, LET'S SAY
15 THAT YOU WERE NOT A NURSE, WOULD YOU STILL FEEL THE
16 SAME WAY?

17 A I DON'T KNOW

18 Q SO YOU DON'T KNOW IS IT FAIR TO SAY THAT YOU
19 MIGHT COULD GIVE THE DEATH PENALTY OR CONSIDER THE
20 DEATH PENALTY AS APPROPRIATE PUNISHMENT, IF YOU WERE
21 NOT A NURSE?

22 A I MIGHT COULD CONSIDER IT

23 Q YOU MIGHT COULD CONSIDER IT IF YOU WEREN'T A
24 NURSE

25 A IF I WEREN'T A NURSE

1 Q BUT SINCE YOU'RE A NURSE, YOU JUST CAN'T
2 CONSIDER IT?

3 A NO, SIR, I JUST CAN'T

4 Q BUT YOU MIGHT COULD -- BUT YOU ARE A NURSE

5 A I AM A NURSE AND, YOU KNOW, I WOULD HAVE TO
6 LOOK AT THE EVIDENCE, BOTH SIDES, PROS AND CONS, AND
7 -- BEFORE I WOULD DECIDE, YOU KNOW, THE PUNISHMENT
8 GUILT OR INNOCENCE AND WHAT EVIDENCE SHOWED ME BUT
9 IT'S HARD FOR ME -- I THINK IT WOULD BE REAL HARD
10 FOR ME TO SAY THAT THIS PERSON SHOULD DIE FOR THIS
11 PARTICULAR CRIME OR PARTICULAR ACTION THAT THEY DID
12 WHEN I GO TO WORK FIVE DAYS A WEEK AND I'M THERE
13 TWELVE HOURS A DAY AND I STRIVE ALL TWELVE OF THOSE
14 HOURS TO PRESERVE LIFE AND QUALITY OF LIFE

15 Q I SEE BUT ONCE AGAIN, THAT IS DOMINATED BY
16 YOUR PROFESSION

17 A YES, SIR

18 Q BUT IT'S NOT NECESSARILY A RELIGIOUS BELIEF, A
19 PERSONAL BELIEF, THAT YOU HAVE?

20 A IT'S NOT RELIGIOUS BELIEF

21 Q PERSONALLY, DO YOU BELIEVE IN THE DEATH
22 PENALTY OR NOT?

23 A NO, SIR, I DON'T

24 Q SO YOU DON'T BELIEVE IN IT PERSONALLY?

25 A NO, SIR

1 Q SO IT GOES BEYOND THE FACT THAT YOU'RE A
2 NURSE, BUT YOU, ALSO, SAID YOU COULD CONSIDER ALL
3 THE FACTS AND CIRCUMSTANCES AND THEN DECIDE ON AN
4 APPROPRIATE PUNISHMENT, I BELIEVE

5 A YES, SIR AND I CAN THINK OF ONE INSTANCE
6 WHERE I MIGHT COULD CONSIDER IT, AND ONLY ONE

7 Q YOU CAN THINK OF ONE INCIDENT --

8 A WHERE I WOULD EVEN CONSIDER IT

9 Q -- WHERE YOU WOULD CONSIDER IT

10 A YES, SIR

11 Q BUT YOU WOULD CONSIDER THE DEATH PENALTY IN
12 THAT ONE INCIDENT?

13 A ONLY IN ONE

14 Q NOW, IF YOU WERE ON THIS JURY, WOULD YOU BE
15 ABLE TO LISTEN TO ALL THE EVIDENCE AND ARRIVE AT A
16 VERDICT BASED UPON THE EVIDENCE AND THE LAW AS
17 SHARED WITH YOU BY THE JUDGE?

18 A YES, SIR

19 Q AND IT'D BE, FOR INSTANCE, ON COUNT ONE OF THE
20 INDICTMENT HE SAID, YOUR CHOICES ARE GUILTY OF
21 MURDER OR GUILTY OF MANSLAUGHTER OR NOT GUILTY YOU
22 COULD CONSIDER ALL THREE?

23 A YES, SIR, BASED ON THE EVIDENCE

24 Q DO YOU HAVE ANY RELATIONSHIP WITH ANYONE IN
25 THIS CASE, THE HUGHEY'S, THE JACKSONS, THE HARRIS'S,

1 OTHER THAN YOUR KNOWLEDGE OF MS HARRIS AS A PATIENT
2 OF YOU AND DR JOHNSTON'S IN THE PAST?

3 A OTHER THAN WHAT I SPOKE WITH YOU ALL YESTERDAY
4 ABOUT BUT I DON'T KNOW ANY OF THE INDIVIDUALS
5 PERSONALLY OTHER THAN MS HARRIS, OR DID

6 MR TINSLEY THANKS SO MUCH

7 BY MR COULTER

8 Q GOOD AFTERNOON, MS McELRATH MY NAME IS MIKE
9 COULTER, I'M YOUR DEPUTY SOLICITOR HERE IN
10 ABBEVILLE YOU SAID, AS I UNDERSTAND IT, YOU DO
11 HAVE A PERSONAL BELIEF ABOUT THE DEATH PENALTY

12 A ONE

13 Q ONE PERSONAL BELIEF

14 A YES, SIR

15 Q WHAT'S THAT?

16 A I FEEL LIKE THE ONLY THAT I COULD EVEN
17 CONSIDER THAT WOULD BE IF IT WAS CHILD ABUSE ON A
18 SMALL CHILD I CAN'T UNDERSTAND THAT THAT GOES
19 BEYOND ANYTHING I CAN UNDERSTAND

20 Q BUT YOU STILL DON'T BELIEVE IN THE DEATH
21 PENALTY?

22 A NO, SIR, I DON'T

23 Q AND BASED ON THE OATH THAT YOU TOOK AS A NURSE
24 TO PRESERVE LIFE, YOU COULDN'T ACT IN A WAY TO
25 SENTENCE SOMEONE TO DIE?

1 A I DON'T THINK I COULD, NO, SIR

2 Q AND I SUPPOSE THAT'S BECAUSE, CORRECT ME IF
3 I'M WRONG, BECAUSE EVER LIFE IS PRECIOUS REGARDLESS
4 OF WHAT AGGRAVATING CIRCUMSTANCES THERE WOULD BE?

5 A YES, SIR

6 Q SO NOT ONLY COULD YOU NOT CONSIDER THE DEATH
7 PENALTY, AS I UNDERSTAND IT, THAT IF YOU WERE
8 SITTING ON A JURY AND THE JURY DECIDED TO SENTENCE
9 SOMEONE TO DEATH, YOU WOULDN'T BE ABLE TO SIGN YOUR
10 NAME PUTTING ANOTHER HUMAN BEING TO DEATH

11 A I DON'T THINK I COULD

12 Q YOU DON'T YOU COULD?

13 A I CAN'T

14 Q YOU CAN'T?

15 A I JUST CAN'T

16 Q YOU COULDN'T SIGN YOUR NAME ON A DEATH WARRANT
17 TAKING ANOTHER PERSON'S LIFE?

18 A NO, SIR

19 MR COULTER THANK YOU

20 THE COURT MS McELRATH, IF YOU'LL STEP
21 OUT THAT DOOR WITH THE BAILIFF FOR JUST A MOMENT,
22 THEY'LL BRING YOU BACK IN

23 MR JONES YOUR HONOR, I DID HAVE ONE
24 FOLLOW-UP

25 THE COURT EXCUSE ME, GO AHEAD

1 EXAMINATION BY MR TINSLEY

2 Q BUT THERE IS THE ONE CIRCUMSTANCE WHEREBY YOU
3 COULD CONSIDER THE DEATH PENALTY, RIGHT?

4 A I JUST DON'T UNDERSTAND, MR TINSLEY, HOW
5 ANYBODY COULD DO SOMETHING TO A SMALL CHILD I
6 MEAN, IT WOULD BE HARD -- I DON'T UNDERSTAND THAT
7 THERE'S A LOT OF THINGS THAT I DON'T UNDERSTAND THE
8 REASONS -- YOU KNOW WHAT I'M SAYING

9 Q I UNDERSTAND THAT ONE LAST QUESTION EVEN
10 AS A NURSE UNDER THAT ONE CIRCUMSTANCE COULD YOU
11 CONSIDER THE DEATH PENALTY AT THAT TIME?

12 A IT'D BE HARD IT'D BE REAL HARD IT WOULD GO
13 AGAINST WHAT I DO AND I LIKE WHAT I DO I JUST
14 DON'T KNOW IF I COULD OR NOT I'M NOT FOR THE DEATH
15 PENALTY AND THAT'S THE ONLY CIRCUMSTANCE THAT I
16 WOULD EVEN GIVE THAT I MIGHT COULD CONSIDER IT BUT
17 I REALLY JUST DON'T BELIEVE IN THAT

18 Q BUT YOU COULD CONSIDER IN THAT ONE
19 CIRCUMSTANCE?

20 A I DON'T KNOW

21 MR TINSLEY THANKS SO MUCH

22 EXAMINATION BY THE COURT

23 Q MS McELRATH, LET ME JUST ASK YOU THIS BEFORE
24 YOU STAND UP YOU INDICATED THAT YOU MIGHT OR
25 PERHAPS YOU COULD CONSIDER IMPOSING A DEATH SENTENCE

1 IF A YOUNG CHILD WERE MURDERED PUTTING THAT ASIDE,
2 WHAT IF A SITUATION WHERE WE'RE NOT TALKING ABOUT A
3 YOUNG CHILD BUT WE'RE TALKING ABOUT ADULTS IF A
4 PERSON WERE CONVICTED OF MURDER IN THE DEATH OF TWO
5 ADULTS AND THAT -- LET ME FINISH THE QUESTION AND
6 THEN I'LL LET YOU ANSWER BUT IF THE PERSON WERE
7 CONVICTED OF MURDER IN THE CASE OF TWO SEPARATE
8 ADULTS AND THE PERSON WERE CONVICTED OF MURDERING
9 EACH OF THOSE AND THAT EACH OF THOSE MURDERS, ALSO,
10 OCCURRED DURING THE COMMISSION OF A BURGLARY AND YOU
11 HAD FOUND A PERSON GUILTY OF MURDER, OF MURDER, OF
12 BURGLARY, CAN YOU ENVISION ANY CIRCUMSTANCES EVEN IN
13 THAT SITUATION WHERE YOU WOULD BE ABLE TO SENTENCE A
14 PERSON TO DEATH?

15 A I DON'T THINK I CAN I JUST DON'T BELIEVE IN
16 THE DEATH PENALTY

17 Q AND SO YOU COULD NOT IMPOSE THE DEATH PENALTY
18 IN THAT CASE THEN?

19 A HUH-UH

20 THE COURT IF YOU'LL STAND OUTSIDE FOR
21 JUST A MOMENT, I'LL BRING YOU RIGHT BACK
22 (JUROR DOES AS INSTRUCTED)

23 THE COURT ANY REASON WHY THE JUROR
24 SHOULD NOT BE FOUND DISQUALIFIED?

25 MR COULTER NOT FOR THE STATE, YOUR

1 HONOR

2 MR TINSLEY MY CROSS-SECTION ARGUMENT
3 IS THE ONLY REASON

4 THE COURT I FIND, BASED UPON THE
5 TESTIMONY OF THE JUROR THAT HER VIEWS ON CAPITAL
6 PUNISHMENT WOULD PREVENT OR AT LEAST SUBSTANTIALLY
7 IMPAIR THE PERFORMANCE OF HER DUTIES AS A JUROR,
8 SHOULD SHE BE SELECTED IN THIS CASE SHE HAS, ALSO,
9 INDICATED THERE IS ONLY CIRCUMSTANCE, WHICH IS NOT A
10 CIRCUMSTANCE INVOLVED IN THIS PARTICULAR CASE, WHERE
11 SHE WOULD EVEN BE WILLING TO CONSIDER IMPOSING THE
12 DEATH SENTENCE SHE HAS, ALSO, INDICATED THAT SHE,
13 UNDER NO CIRCUMSTANCES, WOULD BE ABLE TO SIGN HER
14 NAME TO A RECOMMENDATION OF SENTENCING A PERSON TO
15 DEATH AND, THEREFORE, I FURTHER FIND THAT SHE SHOULD
16 BE DISQUALIFIED PURSUANT TO THE WITHERSPOON
17 STANDARD, IN ADDITION TO THE WITT STANDARD
18 (JUROR RE-ENTERS COURTROOM)

19 THE COURT MS McELRATH, WE'RE GOING
20 TO EXCUSE FROM SERVICE THE IN THE CASE, BUT WE DO
21 APPRECIATE YOU COMING DOWN THE PARTICIPATE, IF
22 CALLED UPON IT WILL NOT BE NECESSARY THAT YOU
23 REPORT BACK ANY FURTHER THANK YOU

24 (JUROR RE-ENTERS COURTROOM)

25 (JUROR IS NOT QUALIFIED)

1 (THE COURT CALLS JUROR BELTON)

2 (JUROR #228 PRESENTED AT 2 41 O'CLOCK P M)

3 EXAMINATION BY THE COURT

4 Q GOOD AFTERNOON, MS BELTON

5 A GOOD AFTERNOON

6 Q YOU WILL RECALL THAT WE ASKED YOU TO COME BACK
7 FOR THE PURPOSE OF US ASKING YOU SOME ADDITIONAL
8 QUESTIONS I'LL BE ASKING YOU SOME, THE LAWYERS FOR
9 EACH SIDE MAY HAVE SOME ADDITIONAL QUESTIONS FOR
10 YOU THERE ARE NO RIGHT OR WRONG ANSWERS, WE JUST
11 SIMPLY NEED TO KNOW YOUR VIEWS AND OPINIONS ON
12 CERTAIN THINGS AND SO WE'LL BE ASKING YOU QUESTIONS
13 ABOUT THOSE SUBJECTS

14 YESTERDAY, WHEN YOU REPORTED FOR JURY SERVICE,
15 DO YOU RECALL BEING SWORN, YOU AND YOUR FELLOW
16 JURORS, BEING PLACED UNDER OATH?

17 A YES

18 Q YOU REMAIN UNDER OATH FOR THE PURPOSE OF THESE
19 QUESTIONS, ALSO YOU FILLED OUT A JUROR
20 QUESTIONNAIRE? AYES

21 Q IS IT ACCURATE?

22 A YES, IT IS

23 Q IS THERE ANYTHING YOU NEED TO CHANGE OR ADD TO
24 IT?

25 A NO, I DON'T THINK SO

1 Q HAVE YOU HAD ANY TYPE OF DISCUSSIONS OR
2 CONVERSATIONS OR EXPOSURE TO ANY TYPE OF MEDIA
3 COVERAGE RELATING TO THIS PARTICULAR CASE?

4 A ON TELEVISION WHEN THIS HAPPENED

5 Q YOU SAW SOMETHING ON TELEVISION?

6 A YES

7 Q WAS THAT AT OR ABOUT THE TIME THAT THIS
8 INCIDENT IS ALLEGED TO HAVE OCCURRED?

9 A YES

10 Q HAVE YOU SEEN ANYTHING ON TELEVISION SINCE
11 THAT TIME?

12 A NO, I HAVEN'T

13 Q WHAT ABOUT NEWSPAPER ARTICLES?

14 A NOT SINCE THIS HAPPENED

15 Q NOW SINCE THIS WAS TO HAVE OCCURRED?

16 A YES

17 Q NOTHING RECENT?

18 A NO

19 Q HAVE YOU HAD ANY DISCUSSIONS OR CONVERSATIONS
20 ABOUT THE CASE AT ALL WITH ANYONE?

21 A NO, I HAVEN'T

22 Q DO YOU KNOW ANY OF THE PERSONS INVOLVED IN THE
23 CASE, EITHER THE HARRIS FAMILY, JACKSON FAMILY OR
24 HUGHEY FAMILY?

25 A YES

1 Q AND WHAT CONNECTION DO YOU HAVE WITH WHICH
2 FAMILY?

3 A I DON'T KNOW HIS NAME BUT I KNOW A GUY THAT'S,
4 YOU KNOW, MARRIED TO MY COUSIN I DON'T WHAT HIS
5 NAME WAS WHAT YOUR NAME?

6 Q ANTHONY HARRIS?

7 A YEAH, ANTHONY I THEN -- I KNOW NEAL JACKSON
8 AND NEAL'S BROTHER BECAUSE WE WORKED TOGETHER ABOUT
9 FIFTEEN OR TWENTY YEARS

10 Q AND WOULD THE FACT THAT YOU KNOW SOME OF THE
11 JACKSON FAMILY AND THE HARRIS FAMILY, WOULD THAT, IN
12 ANY WAY, CAUSE YOU TO BE UNFAIR OR IMPARTIAL OR
13 WOULD IT PREVENT YOU FROM BEING ABLE TO BE FAIR?

14 A I DON'T THINK SO

15 Q DO YOU KNOW MR HUGHEY OR ANYBODY IN HIS
16 FAMILY?

17 A YES, I WORK WITH TWO OF HIS SISTERS NOW

18 Q YOU WORK --

19 A RUBY WHITE AND TONY WILSON

20 Q AND WOULD THAT CONNECTION INTERFERE IN YOUR
21 ABILITY TO BE FAIR, IF YOU WERE SELECTED?

22 A NO

23 Q IT WOULD NOT?

24 A NO

25 Q NOW, IN THIS CASE, THE DEFENDANT IS CHARGED

1 WITH MURDER AND THE LAW PROVIDES THAT UNDER
2 CERTAIN CIRCUMSTANCES WHERE A PERSON IS FOUND GUILTY
3 OF MURDER, THAT A JURY MAY DECIDE WHETHER OR NOT
4 THAT PERSON SHOULD BE SENTENCED TO DEATH OR WHETHER
5 THAT PERSON SHOULD BE SENTENCED TO LIFE
6 IMPRISONMENT, DO YOU UNDERSTAND THAT?

7 A UM-HMM

8 Q NOW, IN A TRIAL SUCH AS THAT, IT'S CONDUCTED
9 IN TWO SEPARATE PARTS THE FIRST PART DEALS WITH
10 THE ISSUE OF GUILT AND IF A JURY FINDS THE PERSON
11 GUILTY, THE SECOND PART DEALS WITH THE ISSUE OF
12 PUNISHMENT DO YOU UNDERSTAND THAT THE STATE HAS
13 CHARGED THIS DEFENDANT WITH MURDER?

14 A YES

15 Q DO YOU UNDERSTAND THAT WHEN THE STATE CHARGES
16 SOMEONE WITH A CRIME THAT THE BURDEN IS ON THE STATE
17 TO PROVE THAT PERSON'S GUILTY BEYOND A REASONABLE
18 DOUBT BEFORE THAT PERSON CAN BE FOUND GUILTY?

19 A YES

20 Q DO YOU UNDERSTAND THAT THE BURDEN IS NEVER
21 UPON A PERSON ACCUSED OF A CRIME TO PROVE THAT THEY
22 ARE NOT GUILTY?

23 A SAY THAT AGAIN

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

1 A UM-HMM

2 Q DO YOU UNDERSTAND THAT ANY PERSON CHARGED WITH
3 A CRIME IS PRESUMED TO BE INNOCENT?

4 A YES

5 Q DO YOU AGREE WITH THOSE PROPOSITIONS OF LAW?

6 A I'M NOT SURE

7 Q YOU'RE NOT SURE IF YOU AGREE?

8 A NO

9 Q DO YOU THINK YOU MIGHT DISAGREE WITH IT?

10 A I'M NOT SURE I'VE NEVER BEEN ON A JURY LIKE
11 THIS BEFORE

12 Q I UNDERSTAND

13 A SO I'M NOT SURE

14 Q WELL, WHAT I'M REALLY ASKING IS, I GUESS, YOU
15 UNDERSTAND THE LAW PROVIDES THAT EVERY PERSON WHO'S
16 CHARGED WITH A CRIME IS PRESUMED TO BE INNOCENT AND
17 THEY REMAIN INNOCENT UNLESS A JURY CONSIDERS THE
18 EVIDENCE AND FINDS THEM GUILTY?

19 A YES

20 Q DO YOU AGREE WITH THAT OR DISAGREE WITH THAT?

21 A I AGREE WITH IT

22 Q AND YOU CAN ACCEPT THAT AS THE LAW?

23 A YES

24 Q NOW, AS I TOLD YOU, IN A CASE SUCH AS THIS
25 WHERE THE STATE IS SEEKING THE DEATH PENALTY, THERE

1 ARE ONLY CERTAIN CIRCUMSTANCES WHERE THE STATE CAN
2 DO THAT AND IN ORDER FOR THEM TO BE ABLE TO, FIRST
3 THE PERSON MUST BE FOUND GUILTY OF MURDER AND, ALSO,
4 IN ADDITION TO THAT, THERE MUST BE SOME AGGRAVATING
5 CIRCUMSTANCE THAT ACCOMPANIES THAT MURDER, DO YOU
6 UNDERSTAND THAT?

7 A YES

8 Q NOW, IF YOU WERE PARTICIPATING IN SUCH A CASE
9 AND WE WERE IN THE GUILT PHASE OF THE TRIAL WHERE
10 THE JURY DECIDES WHETHER OR NOT A PERSON IS GUILTY,
11 WOULD YOU BE ABLE TO AND BE WILLING TO FAIRLY
12 CONSIDER ALL THE EVIDENCE THAT WOULD BE INTRODUCED
13 DURING THAT PHASE OF THE TRIAL AND CONSIDER ALL OF
14 THAT EVIDENCE CAREFULLY BEFORE YOU ARRIVED AT ANY
15 DECISION?

16 A YES

17 Q AND IF, AFTER YOU'VE CONSIDERED ALL THE
18 EVIDENCE CAREFULLY, IF YOU BELIEVED THAT THE
19 DEFENDANT HAD BEEN PROVEN GUILTY BEYOND A REASONABLE
20 DOUBT, COULD YOU FIND THAT PERSON GUILTY?

21 A NO

22 Q AND CAN YOU EXPLAIN WHY YOU COULD NOT

23 A SAY THAT AGAIN REPEAT THAT AGAIN

24 Q MY QUESTION IS -- YOU TOLD ME THAT YOU COULD
25 AND WOULD BE WILLING TO CONSIDER ALL OF THE

1 EVIDENCE NOW, AFTER YOU CONSIDERED IT, IF YOU
2 THOUGHT, BASED ON THAT EVIDENCE, THAT THE PERSON HAD
3 BEEN PROVEN TO BE GUILTY, COULD YOU FIND HIM GUILTY?

4 A YES

5 Q AND IF YOU WEREN'T CONVINCED OF THAT OR IF YOU
6 HAD A REASONABLE DOUBT ABOUT IT, COULD YOU FIND HIM
7 NOT GUILTY?

8 A NO, I WOULDN'T

9 Q WHAT WOULD YOU DO?

10 A I WOULD SAY HE'S NOT GUILTY

11 Q THAT'S WHAT I'M ASKING IF YOU WEREN'T
12 CONVINCED THAT HE WAS GUILTY OR YOU HAD A REASONABLE
13 DOUBT ABOUT IT, WOULD YOU FIND HIM NOT GUILTY?

14 A NO

15 Q WHAT WOULD YOU DO?

16 A I GUESS I'D HAVE TO TALK WITH THE OTHER JURORS
17 AND STUFF AND SEE WHAT EVERYBODY ELSE'S OPINION ON
18 IT, I GUESS

19 Q LET EXPLAIN THIS TO YOU YOU UNDERSTAND THAT
20 THE JURY'S FUNCTION IS TO DECIDE THE FACTS BASED ON
21 THE EVIDENCE

22 A UM-HMM

23 Q MY FUNCTION IS TO PROVIDE YOU WITH THE LAW
24 THAT YOU WILL APPLY TO THE FACTS

25 A YES

1 Q WOULD YOU BE WILLING TO ACCEPT THE LAW AS I
2 GIVE IT TO YOU AS BEING THE LAW THAT IS APPLICABLE
3 AND SIMPLY APPLY IT TO THE FACTS AS YOU DETERMINE
4 THE FACTS TO BE?

5 A YES

6 Q DO YOU UNDERSTAND, AND I'LL TELL YOU, THAT I
7 WOULD INSTRUCT YOU AND I WILL CHARGE THE JURY THAT
8 YOU CANNOT FIND A PERSON GUILTY IF YOU HAVE A
9 REASONABLE DOUBT ABOUT HIS GUILT IF YOU HAVE A
10 REASONABLE DOUBT ABOUT HIS GUILT, YOU ARE REQUIRED
11 TO FIND HIM NOT GUILTY

12 A YES

13 Q CAN YOU ACCEPT THAT?

14 A YES

15 Q WOULD YOU FOLLOW THAT INSTRUCTION?

16 A I WOULD

17 Q NOW, I WANT YOU TO ASSUME AND ONLY ASSUME IT
18 FOR THE PURPOSE OF THIS QUESTION, THAT YOU ARE
19 PARTICIPATING, YOU WERE SELECTED, YOU AND YOUR
20 FELLOW JURORS CONSIDERED THE EVIDENCE IN THE GUILT
21 PHASE YOU AND YOUR FELLOW JURORS HAVE A FOUND A
22 PERSON GUILTY OF MURDER BEYOND A REASONABLE DOUBT,
23 YOU AND YOUR FELLOW JURORS, ALSO, HAVE FOUND THERE
24 IS AN ADDITIONAL AGGRAVATING CIRCUMSTANCE THAT
25 ACCOMPANIES THAT MURDER IN THAT EVENT, AS I'VE

1 STATED, DO YOU UNDERSTAND THAT WE WOULD GO TO THE
2 SECOND PART OF THAT TRIAL WHERE YOU WOULD DECIDE THE
3 PUNISHMENT?

4 A YES

5 Q IN THE SECOND PART OF THAT TRIAL THERE WOULD
6 BE MORE EVIDENCE RECEIVED THERE WOULD BE EVIDENCE
7 OFFERED, SOME LIKELY TENDING TO SHOW WHY THE DEATH
8 PENALTY IS APPROPRIATE OTHER EVIDENCE WILL BE
9 OFFERED TENDING TO SHOW WHY IT WAS NOT APPROPRIATE
10 OR WHY A LIFE SENTENCE WAS MORE APPROPRIATE WOULD
11 YOU BE WILLING AND ABLE TO CONSIDER ALL OF THAT
12 ADDITIONAL EVIDENCE BEFORE YOU DECIDED ON WHAT THE
13 APPROPRIATE SENTENCE SHOULD BE?

14 A YES

15 Q AND AFTER YOU HAVE CONSIDERED ALL OF THAT
16 ADDITIONAL EVIDENCE, IF YOU DECIDED IT WAS
17 APPROPRIATE, WOULD YOU BE WILLING TO SENTENCE A
18 PERSON TO DEATH?

19 A YES

20 Q AND WOULD YOU, ALSO, BE WILLING TO CONSIDER
21 SENTENCING A PERSON TO LIFE IMPRISONMENT?

22 A YEAH, I GUESS SO YES

23 Q YOU UNDERSTAND THE JURY WOULD ALWAYS HAVE THAT
24 CHOICE?

25 A I KNOW, YES

- 1 Q YOU COULD NEVER BE -- IT DOESN'T MATTER WHAT
2 THE CIRCUMSTANCES ARE OR HOW BAD THEY ARE IF THE
3 JURY DOES NOT WANT TO SENTENCE A PERSON TO DEATH,
4 THE LAW DOES NOT REQUIRE THAT THEY DO SO, DO YOU
5 UNDERSTAND THAT?
- 6 A YES
- 7 Q AND YOU COULD SENTENCE A PERSON TO LIFE FOR
8 ANY REASON OR FOR NO REASON NOW, IF YOU WERE FACED
9 WITH THAT CHOICE IN SUCH A CASE AND YOU HAD THAT
10 DECISION TO MAKE AND IT WAS ALWAYS YOUR DECISION --
- 11 A UH-HUH
- 12 Q -- YOU COULD PICK ONE OR THE OTHER, WOULD YOU
13 ALWAYS PICK ONE OVER THE OTHER?
- 14 A YES
- 15 Q WHAT WOULD YOU PICK?
- 16 A I WOULD HAVE TO SENTENCE HIM I DON'T KNOW
- 17 Q MA'AM?
- 18 A I'D HAVE TO SENTENCE HIM, I GUESS
- 19 Q DID YOU UNDERSTAND MY QUESTION?
- 20 A REPEAT THAT LAST PART, AGAIN
- 21 Q WHAT I'M SAYING IS, YOU UNDERSTAND THAT A JURY
22 IS ALWAYS GOING TO HAVE THE OPTION TO EITHER IMPOSE
23 A DEATH SENTENCE OR IMPOSE A LIFE SENTENCE?
- 24 A UM-HMM
- 25 Q YOU'RE NEVER REQUIRED TO IMPOSE A DEATH

1 SENTENCE, YOU ALWAYS HAVE AN OPTION YOU CAN IMPOSE
2 A DEATH SENTENCE IF YOU THINK IT APPROPRIATE, YOU
3 CAN IMPOSE A LIFE SENTENCE FOR ANY REASON NOW, IF
4 YOU ALWAYS HAD THAT CHOICE, WHICH YOU WOULD, WOULD
5 YOU SELECT ONE OF THOSE OPTIONS OVER THE OTHER IN
6 EVERY CASE?

7 A YES

8 Q WHAT WOULD YOU SELECT?

9 A DEATH

10 Q YOU WOULD SELECT THE DEATH PENALTY IN EVERY
11 CASE?

12 A NOT IN EVERY CASE, ACCORDING TO WHAT CASE IT
13 IS

14 Q SO IS IT FAIR TO SAY THAT IT WOULD DEPEND ON
15 WHAT THE CIRCUMSTANCE WERE BEFORE YOU COULD MAKE
16 THAT DECISION?

17 A YES

18 Q BUT YOU WOULD BE WILLING TO DO EITHER
19 DEPENDING UPON THOSE FACTS?

20 A YES, SIR

21 Q HAVE YOU ALREADY FORMED OR EXPRESSED ANY
22 OPINION THAT YOU MIGHT HAVE ABOUT THIS CASE OR HOW
23 IT SHOULD COME OUT?

24 A NO, I HAVEN'T

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

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

3 A NO, I HAVE NO REASON

4 Q YOU UNDERSTAND THAT YOU WOULD BE SEQUESTERED
5 DURING THE TRIAL OF THE CASE, IF YOU WERE SELECTED,
6 DO YOU UNDERSTAND WHAT THAT MEANS?

7 A YES

8 Q WOULD THAT REQUIREMENT POSE ANY UNREASONABLE
9 HARDSHIP OR HEALTH RISK TO YOU?

10 A NO

11 Q WOULD YOU BE WILLING TO ACCEPT THAT
12 INCONVENIENCE, IF YOU WERE SELECTED TO SERVE?

13 A YES

14 Q YOU UNDERSTAND THAT SEQUESTRATION MEANS YOU'LL
15 STAY AT A MOTEL WITH YOUR FELLOW JURORS, AND IT
16 WOULD LIKELY BE SEVEN TO TEN DAYS

17 A YES

18 Q AND YOU COULD DO THAT?

19 A YES

20 THE COURT PLEASE ANSWER THE LAWYER'S
21 QUESTIONS

22 EXAMINATION BY MR TINSLEY

23 Q GOOD AFTERNOON, MS BELTON

24 A GOOD AFTERNOON

25 Q MS BELTON, I NOTICED THE OTHER DAY OR

1 YESTERDAY THAT YOU STOOD UP DURING TWO PHASES OF THE
2 JUDGE'S QUESTIONS I BELIEVE ONE OF THEM HAD TO DO
3 WITH THE MEDIA OR PUBLICITY OR HEARING THINGS ABOUT
4 THE CASE, IS THAT RIGHT?

5 A YES

6 Q HAVE YOU HEARD PEOPLE TALK ABOUT THE CASE?

7 A LATELY?

8 Q YES

9 A NO, I HAVEN'T

10 Q HAVE YOU TALKED ABOUT IT WITH ANYONE?

11 A NO

12 Q HOW ABOUT NEAL JACKSON?

13 A I HAVEN'T SEEN HIM

14 Q WHEN WAS THE LAST TIME YOU SAW NEAL JACKSON OR
15 HIS BROTHER?

16 A IT'S BEEN A LONG WHILE

17 Q YOU DON'T WORK WITH THEM ANYMORE?

18 A NO, HUH-UH

19 Q HOW ABOUT MR HARRIS WHOSE MARRIED TO YOUR
20 COUSIN, IS THAT RIGHT?

21 A YES

22 Q WHAT KIN COUSIN IS HE MARRIED TO?

23 A A THIRD COUSIN

24 Q HE'S MARRIED TO YOUR THIRD COUSIN?

25 A YES

1 Q BUT YOU HAVEN'T TALKED WITH THEM ABOUT IT,
2 RIGHT?

3 A NO, I HAVEN'T SEEN HER

4 Q YOU HAVEN'T TALKED WITH ANY HARRIS'S OR
5 JACKSONS ABOUT IT?

6 A NO, I HAVEN'T

7 Q BUT NOW YOU WORK WITH A COUPLE OF JOHN
8 HUGHEY'S SISTER, IS THAT RIGHT?

9 A YES, TWO F THEM

10 Q TONY AND --

11 A RUBY

12 Q -- RUBY HAVE YOU TALKED WITH EITHER ONE OF
13 THEM ABOUT THE CASE?

14 A NO, I HAVEN'T SEEN THEM SINCE LAST WEEK

15 Q SINCE LAST WEEK BEFORE LAST WEEK, DID YOU
16 TALK WITH ANYBODY ABOUT IT?

17 A NO

18 Q ANY OF THESE RELATED PEOPLE

19 A NO

20 Q ARE YOU SO CLOSELY RELATED TO ANY OF THESE
21 PARTIES THAT IT MIGHT AFFECT YOUR JUDGMENT IN THIS
22 CASE?

23 A I DON'T THINK SO

24 Q YOU DON'T THINK SO?

25 A NO

1 Q HAVE YOU, IN ANY WAY, MADE UP YOUR MIND ABOUT
2 THE GUILT OR INNOCENCE OF MR HUGHEY?

3 A NO

4 Q AND YOU HAVEN'T THOUGHT ABOUT WHAT WOULD BE
5 THE APPROPRIATE PUNISHMENT THEN, RIGHT?

6 A NOT REALLY

7 Q WHAT DO YOU MEAN ABOUT, NOT REALLY?

8 A I REALLY HAVEN'T DISCUSSED NOTHING ABOUT IT
9 BECAUSE --

10 Q WELL, I'M TALKING ABOUT ANY OTHER MATTER NOW

11 A NO

12 Q I'M NOT TALKING ABOUT DISCUSSING NOW, I'VE
13 CHANGED A LITTLE BIT ON YOU WHAT I'M TALKING ABOUT
14 IN YOUR MIND, YOU HADN'T DECIDED WHAT WOULD BE THE
15 RIGHT PUNISHMENT, RIGHT?

16 A NO, I HAVEN'T

17 Q CLEARLY YOU COULDN'T HAVE SINCE YOU HAVEN'T
18 THOUGHT ABOUT ANY GUILT OR INNOCENCE, CORRECT?

19 A THAT'S RIGHT

20 Q AND, ALSO, YOU'VE STATED THAT YOU COULD LISTEN
21 TO THE LAW AND THE FACTS AND BASE EVERYTHING ON
22 THAT, IS THAT RIGHT?

23 A YES

24 Q I WAS A LITTLE CONCERNED ABOUT WHEN THE JUDGE
25 WAS ASKING IF YOU COULD FIND, FINE SOMEONE NOT

1 GUILTY I DON'T KNOW IF YOU WERE JUST CONFUSED OR
2 YOU SAID THAT YOU COULDN'T I BELIEVE YOU SAID YOU
3 COULDN'T, BUT IT MAY HAVE JUST BEEN CONFUSING CAN
4 YOU CLEAR THAT UP NOW?

5 A SAY WHAT NOW?

6 Q YOU SAID YOU COULD CONVICT SOMEBODY IF YOU
7 WERE CONVINCED THAT THEY WERE GUILTY BEYOND A
8 REASONABLE DOUBT THEN THE JUDGE ASKED YOU IF YOU
9 COULD FIND SOMEBODY NOT GUILTY IF YOU WEREN'T SO
10 CONVINCED, AND YOU SAID, NO, YOU COULDN'T AND I
11 WAS CONCERNED ABOUT THAT AND I WAS WONDERING IF YOU
12 COULD EXPLAIN THAT FOR ME

13 A WELL, I HAVE TO HAVE A GOOD REASON TO CONVICT
14 SOMEBODY TO A MURDER I HAVE TO KNOW MORE

15 Q WHAT ABOUT FINDING SOMEBODY NOT GUILTY

16 A WELL, STILL I HAVE TO, YOU KNOW --

17 Q WOULD YOU REQUIRE SOMEBODY PROVE THEY WEREN'T
18 GUILTY?

19 A YEAH, IT'D HAVE TO BE PROVEN, YOU KNOW

20 Q IF THEY WEREN'T GUILTY

21 A BEFORE I COULD, YOU KNOW, SAY THEY WERE GUILTY
22 OR NOT GUILTY

23 Q YOU UNDERSTAND THAT NOW IF YOU HAVE NO BURDEN
24 OF PROOF IN THIS MATTER NOR DOES ANY OTHER CRIMINAL
25 DEFENDANT BUT ARE YOU TELLING ME THAT YOU WOULD

1 REQUIRE THE DEFENDANT TO PROVE THAT HE'S NOT GUILTY?

2 A YEAH, I'D HAVE TO FIND OUT IF HE WAS NOT
3 GUILTY BEFORE I COULD SAY THAT HE WAS NOT GUILTY

4 Q I'M TALKING NOT GUILTY NOW WOULD YOU REQUIRE
5 MR HUGHEY TO PROVE HIS INNOCENCE?

6 A I COULDN'T PROVE HIM INNOCENT NOW

7 Q RIGHT WHY CAN'T YOU PROVE HIM INNOCENT NOW?

8 A BECAUSE HE NEVER BEEN TRIED

9 Q YEAH, BUT DON'T YOU UNDERSTAND THAT HE'S
10 PRESUMED INNOCENT NOW?

11 A YEAH, HE'S PRESUMED INNOCENT NOW

12 Q RIGHT NOW, DO YOU AGREE WITH THAT, DO YOU
13 THINK THAT'S FAIR?

14 A YEAH, I THINK THAT'S FAIR

15 Q NOW, MR HUGHEY HAS NO BURDEN OF PROOF, HE
16 DOESN'T HAVE TO PROVE ANYTHING HE MAY OR MAY NOT
17 TAKE THE STAND IF HE DIDN'T, YOU COULDN'T HOLD
18 THAT AGAINST HIM, DO YOU UNDERSTAND THAT?

19 A YES

20 Q IN SUCH A CASE, WOULD YOU REQUIRE MR HUGHEY
21 OR ANY OTHER DEFENDANT TO PROVE HIMSELF INNOCENT?

22 A YES

23 Q YOU WOULD

24 A YES

25 Q NOW, GOING ON, IF THE JUDGE -- IF THERE WERE A

1 KILLING INVOLVED AND THE JUDGE GAVE YOU AN OPTION OF
2 GUILTY OF MURDER OR GUILTY OF VOLUNTARY
3 MANSLAUGHTER, COULD YOU CONSIDER BOTH VERDICTS?
4 A COULD I CONSIDER BOTH VERDICTS?
5 Q COULD YOU CONSIDER HIM GUILTY OF MANSLAUGHTER
6 OR GUILTY OR MURDER?
7 A GUILTY OF MURDER
8 Q IS THAT THE ONLY ONE YOU COULD CONSIDER?
9 A OR MANSLAUGHTER GUILTY OF MURDER OR
10 MANSLAUGHTER
11 Q COULD YOU CONSIDER MANSLAUGHTER?
12 A YES
13 Q COULD YOU CONSIDER NOT GUILTY?
14 A I GUESS SO
15 Q YOU COULD YOU UNDERSTAND, NOW, MS BELTON
16 THAT NO DEFENDANT HAS THE BURDEN OF PROOF BUT YOU
17 STILL FEEL THAT HE WOULD HAVE TO PROVE HIMSELF
18 INNOCENT, IS THAT RIGHT?
19 A YES
20 Q UNDERSTAND HE HAS NO BURDEN OF PROOF, NO DUTY
21 TO PROVE ANYTHING YOU WOULD WANT HIM TO SHOW, BY
22 THE WAY OF THE EVIDENCE, THAT HE WAS NOT GUILTY?
23 A YES
24 Q AND THE FINAL AREA THAT I'M GOING TO ASK YOU
25 ABOUT IS THE AREA OF YOUR OPINION ON ALWAYS GIVING

1 THE DEATH PENALTY YOU STATED AND THE JUDGE ASKED
2 YOU SOME MORE QUESTIONS AND I THINK YOU TRIED TO
3 CLEAR IT UP BUT IN A CASE IF AN INDIVIDUAL WERE
4 CONVICTED OF TWO MURDERS AND AGGRAVATING
5 CIRCUMSTANCES, WOULD YOU RECOMMEND THE DEATH
6 SENTENCE?

7 A YES

8 Q IN EACH CASE?

9 A YES

10 Q EACH AND EVERY TIME?

11 A YES

12 MR TINSLEY THANK YOU SO MUCH, MS
13 BELTON

14 THE COURT WAIT JUST A MINUTE THE
15 SOLICITOR WANTS TO ASK YOU SOME QUESTIONS
16 BY MR COULTER

17 Q GOOD AFTERNOON, MS BELTON

18 A GOOD AFTERNOON

19 Q MY NAME IS MIKE COULTER AND I'M YOUR DEPUTY
20 SOLICITOR HERE IN ABBEVILLE FROM WHEN YOU WERE
21 TALKING TO THE JUDGE, YOU HAD TOLD HIM, I BELIEVE,
22 THAT YOU WOULD BE ABLE TO FOLLOW THE LAW AS HE
23 INSTRUCTED YOU, CORRECT?

24 A YES

25 Q YOU WOULD DO AND CONSIDER ALL OF THE EVIDENCE

1 IN THE CASE IF THE JUDGE INSTRUCTED YOU THAT'S WHAT
2 YOU NEEDED TO DO?

3 A YES

4 Q AND BEFORE YOU CAME TO ANY DECISIONS IN THE
5 CASE, WHETHER IT BE THE GUILT PHASE WHERE YOU FIND
6 HIM GUILTY OR NOT GUILTY, OR THE PENALTY PHASE WHERE
7 YOU'D EITHER SENTENCE HIM TO LIFE OR DEATH IF THE
8 JUDGE INSTRUCTED YOU TO CONSIDER ALL OF THE
9 CIRCUMSTANCES PRESENTED HERE IN COURT FROM THAT
10 STAND, WOULD YOU DO THAT?

11 A YES

12 Q AND IF YOU WERE INSTRUCTED -- IF YOU GOT TO
13 THE POINT OF THE PENALTY PHASE WHERE YOU AS THE JURY
14 FOUND THE DEFENDANT GUILTY OF TWO COUNTS OF MURDER,
15 BURGLARY AND GRAND LARCENY OF A MOTOR VEHICLE, IF
16 YOU WERE INSTRUCTED THAT YOU HAD TO CONSIDER
17 EVERYTHING, NOT ONLY AGGRAVATING CIRCUMSTANCES BUT
18 MITIGATING CIRCUMSTANCES, THINGS THAT WOULD TEND TO
19 SHOW WHY YOU MIGHT WANT TO GIVE THE DEFENDANT LIFE,
20 WOULD YOU CONSIDER ALL THAT BEFORE YOU MADE A FINAL
21 DECISION?

22 A YES

23 Q SO YOU WOULD HAVE TO TAKE EVERYTHING INTO
24 ACCOUNT BEFORE YOU EITHER FOUND DEATH OR BROUGHT
25 BACK A LIFE SENTENCE YOU'RE WORKING WITH THE

1 DEFENDANT'S SISTERS NOW?

2 A YES

3 Q YOU WORK WITH THEM EVERY DAY?

4 A WELL, WE'RE ON DIFFERENT SHIFTS BUT SOMETIMES
5 THEY COME IN EARLY ON ANOTHER SHIFT, IF THEY'RE
6 WORKING

7 Q MS BELTON, DO YOU DO ANYTHING WITH THEM
8 OUTSIDE OF WORK?

9 A NO

10 Q WOULD THE FACT THAT YOU WORK WITH THEM
11 EVERYDAY, WOULD THAT MAKE IT DIFFICULT FOR YOU TO
12 SIT HERE AS A JUROR ON A CASE INVOLVING THEIR
13 BROTHER?

14 A NO

15 Q THAT WOULDN'T HAVE ANY AFFECT ON YOU AS TO THE
16 DECISION AS TO LIFE OR DEATH, IF IT GOT TO THAT
17 POINT?

18 A NO

19 Q BECAUSE YOU'D WANT TO BASE IT ON ALL THE
20 EVIDENCE PRESENTED

21 A YES

22 Q AND YOU DID SAY THAT YOU'D HAVE TO LISTEN TO
23 ALL THE CIRCUMSTANCE IN THE CASE BEFORE YOU DECIDED
24 LIFE OR DEATH?

25 A YES

1 Q AND WOULD YOU ALWAYS RETURN ONE VERDICT OVER
2 ANOTHER, WOULD YOU ALWAYS RETURN LIFE OR DEATH, ONE
3 OF THOSE TWO?

4 A EITHER ONE

5 Q ONE --

6 A LIFE OR DEATH, EITHER ONE OF THEM

7 Q ONE OF THEM BASED ON WHAT'S PRESENTED TO YOU?

8 A YES

9 MR COULTER THANK YOU

10 EXAMINATION BY THE COURT

11 Q MS BELTON, LET ME JUST ASK YOU A COUPLE
12 THINGS I KNOW THAT THESE QUESTIONS THAT ARE BEING
13 ASKED OF YOU, YOU, PERHAPS, HAVE NOT EVER
14 CONSIDERED THEM BEFORE AND YOU'VE NEVER BEEN
15 DISCUSSING THESE TOPICS BEFORE BUT I JUST NEED TO
16 BE CERTAIN THAT I UNDERSTAND WHAT YOU FEEL ABOUT
17 THINGS AND HOW YOU'RE THINKING ABOUT IT

18 MR TINSLEY ASKED YOU, AND I DON'T REMEMBER
19 EXACTLY THE QUESTION, BUT SOMETHING ABOUT IF YOU
20 CONVICTED A PERSON OF MURDER, WOULD YOU ALWAYS
21 SENTENCE THAT PERSON TO DEATH AND I'M NOT CERTAIN
22 OF WHAT YOUR RESPONSE WAS, WHAT WAS YOUR ANSWER TO
23 THAT QUESTION?

24 A IF I DO WHAT NOW?

25 Q I BELIEVE MR TINSLEY, BASICALLY, ASKED YOU IF

1 YOU HAD FOUND THE PERSON GUILTY OF MURDER AND YOU
2 WERE SERVING AS A JUROR, IF YOU FOUND A PERSON AND
3 THERE WAS SOME OTHER AGGRAVATING CIRCUMSTANCE THAT
4 EXISTED, ALSO, WOULD YOU ALWAYS SENTENCE A PERSON TO
5 DEATH UNDER THOSE CIRCUMSTANCES?

6 A YES

7 Q WHAT WAS YOUR ANSWER TO THAT?

8 A I SAID, YES, DIDN'T I?

9 Q THAT'S WHAT I'M ASKING, IS YOUR ANSWER, YES?

10 A YES

11 Q SO IF YOU WERE A JUROR AND IF YOU FOUND A
12 PERSON GUILTY OF MURDER AND YOU ALSO FOUND SOME
13 OTHER AGGRAVATING CIRCUMSTANCE, ARE YOU SAYING YOU
14 WOULD ALWAYS SENTENCE THAT PERSON TO DEATH?

15 A NO, NOT ALWAYS ACCORDING TO WHAT IT WAS

16 Q THAT'S WHAT I'M ASKING

17 A ACCORDING TO WHAT IT IS

18 Q ACCORDING TO WHAT?

19 A ACCORDING TO WHAT IT IS, I WOULDN'T ALWAYS
20 SENTENCE TO DEATH

21 Q ACCORDING TO THE CIRCUMSTANCES?

22 A YES

23 Q WOULD IT DEPEND ON WHAT THE FACTS WERE?

24 A YES

25 Q AND WOULD YOU BE ABLE TO CONSIDER BOTH A LIFE

1 SENTENCE AND A DEATH SENTENCE IF YOU FOUND SOMEONE
2 GUILTY OF MURDER AND THERE WAS SOME OTHER
3 AGGRAVATING CIRCUMSTANCE?

4 A YES, I COULD

5 Q NOW, DO YOU UNDERSTAND THAT IF YOU SENTENCED A
6 PERSON TO DEATH, YOU'D HAVE TO SIGN YOUR NAME ON A
7 FORM INDICATING THAT?

8 A I DIDN'T KNOW THAT

9 Q AS I SAID, THE LAW DOES NOT REQUIRE THAT YOU
10 SENTENCE A PERSON TO DEATH UNDER ANY CIRCUMSTANCES,
11 DO YOU UNDERSTAND THAT, ARE WE CLEAR ON THAT?

12 A YES

13 Q THE LAW NEVER REQUIRES YOU TO SENTENCE A
14 PERSON TO DEATH

15 A UM-HMM

16 Q BUT THE LAW DOES REQUIRE IF YOU MAKE THAT
17 DECISION, IF YOU DECIDE THAT THE PERSON SHOULD BE
18 SENTENCED TO DEATH, THEN YOU HAVE TO SIGN YOUR NAME
19 ON A FORM STATING THAT YOU RECOMMEND THAT THAT
20 PERSON BE SENTENCED TO DEATH, DO YOU UNDERSTAND
21 THAT?

22 A I UNDERSTAND

23 Q YOU SIGN YOUR NAME COULD YOU DO THAT?

24 A I'D SAY, NO, BECAUSE I --

25 Q YOU SAY YOU COULDN'T?

1 A I DON'T THINK SO

2 Q WELL, CAN YOU THINK OF ANY CIRCUMSTANCE WHERE
3 YOU WOULD BE WILLING TO MAKE THE DECISION TO
4 SENTENCE A PERSON TO DEATH AND THEN SIGN YOUR NAME
5 ON THE FORM?

6 A I DIDN'T KNOW I HAD TO SIGN MY NAME ON A FORM
7 SO I'LL SAY, NO --

8 Q YOU DIDN'T KNOW THAT THAT WOULD BE REQUIRED?

9 A NO, I DIDN'T

10 Q AND YOU UNDERSTAND THAT IT IS ONLY REQUIRED IF
11 YOU DECIDE THE PERSON SHOULD BE SENTENCED TO DEATH
12 AND, OF COURSE, YOU'D HAVE TO MAKE THAT DECISION
13 BEFORE YOU SIGN IF YOU KNEW THAT YOU HAD TO SIGN
14 THE FORM, WOULD YOU SENTENCE A PERSON TO DEATH OR
15 WOULD YOU SENTENCE THAT PERSON TO LIFE IMPRISONMENT?

16 A PROBABLY, LIFE IN PRISON

17 Q YOU THINK YOU'D SENTENCE THEM TO LIFE?

18 A YES, SIR I THINK I SENTENCED THEM -- I'D SAY
19 LIFE IN PRISON

20 Q SO IF YOU HAD TO SIGN THE FORM, YOU WOULD NOT
21 SENTENCE A PERSON TO DEATH?

22 A NO, I'D SAY LIFE

23 THE COURT ANSWER ANY OTHER QUESTIONS
24 THE LAWYERS MAY HAVE

25 EXAMINATION BY MR TINSLEY

1 Q SO MS BELTON, ON THE DOUBLE MURDER
2 CONVICTION, YOU WOULD ALWAYS GIVE THE DEATH PENALTY,
3 IS THAT CORRECT?

4 A YES

5 Q BUT YOU COULDN'T SIGN YOUR NAME TO THE
6 DOCUMENT, NO MATTER WHAT?

7 A NOT A DEATH -- NO

8 MR TINSLEY THAT'S ALL

9 BY MR COULTER

10 Q JUST A QUESTION, IF WE COULD IF YOU'RE
11 SITTING WITH A JURY, ELEVEN OTHER PEOPLE, AND YOU AS
12 THE ELEVEN -- OR TWELVE MEMBER JURY DECIDE THAT
13 DEATH WAS THE APPROPRIATE SENTENCE, BASED ON ALL THE
14 CIRCUMSTANCES, AND NOW YOU GET TO THE POINT WHERE
15 YOU ACTUALLY GO DOWN AND YOU SIGN THE DEATH WARRANT
16 WITH ELEVEN OTHER PEOPLE THAT HAS DECIDED WITH YOU
17 THAT HE -- THAT PERSON SHOULD RECEIVE THE DEATH
18 SENTENCE SIGNS IT COULD YOU, AS A MEMBER OF THAT
19 JURY, SIGN THAT DEATH WARRANT?

20 A NO

21 Q YOU COULD NOT?

22 A NO

23 MR COULTER THANK YOU

24 THE COURT MS BELTON, IF YOU'LL JUST
25 STAND OUTSIDE THE DOOR FOR JUST A MINUTE, WE'LL LET

1 YOU GO SHORTLY

2 (JUROR #228 DOES AS INSTRUCTED)

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

5 MR COULTER NOT FOR THE STATE

6 MR TINSLEY NO, YOUR HONOR

7 THE COURT SHE IS DISQUALIFIED

8 (JUROR #228 RE-ENTERS COURTROOM)

9 THE COURT MS BELTON, WE'RE GONG TO
10 EXCUSE YOU FROM ANY FURTHER SERVICE IN THE CASE
11 YOU CAN LEAVE NOW AND YOU WON'T NEED TO COME BACK
12 BUT WE APPRECIATE YOU COMING DOWN TO THIS POINT
13 THANK YOU

14 (JUROR #228 EXITS COURTROOM)

15 (JUROR #228 IS NOT QUALIFIED)

1 (THE COURT CALLS JUROR LEE)

2 (JUROR #268 PRESENTED AT 3 10 O'CLOCK P M)

3 EXAMINATION BY THE COURT

4 Q GOOD AFTERNOON, MR LEE

5 A HOW YOU DOING

6 Q DOING GOOD THANK YOU AS YOU KNOW, WE'VE
7 BROUGHT YOU BACK TO ASK YOU SOME ADDITIONAL
8 QUESTIONS AND I'LL HAVE SOME QUESTIONS FOR YOU AND
9 THE LAWYERS MAY HAVE SOME OTHER QUESTIONS FOR YOU
10 THERE ARE NO RIGHT OR WRONG ANSWERS, WE'LL JUST

1 SIMPLY TRYING TO FIND OUT HOW YOU FEEL ABOUT CERTAIN
2 THINGS SO WE WOULD ASK THAT YOU, PLEASE, ANSWER
3 THE QUESTIONS AS OPENLY AND AS HONESTLY AS YOU CAN
4 SO THAT WE CAN KNOW YOUR FEELINGS AND, IF FOR SOME
5 REASON, YOU DO NOT UNDERSTAND THE QUESTION OR I DO
6 NOT ASK IT CLEARLY, PLEASE LET ME KNOW AND I OR THE
7 LAWYERS WILL CLARIFY IT FOR YOU

8 NOW, YOU WERE PREVIOUSLY SWORN YESTERDAY, DO
9 YOU RECALL THAT, WHEN YOU WERE PLACED UNDER OATH?

10 A YES, SIR

11 Q AND SO YOU REMAIN UNDER OATH FOR THE PURPOSE
12 OF THESE QUESTIONS, ALSO AND YOU HAVE COMPLETED A
13 QUESTIONNAIRE, IS THAT QUESTIONNAIRE ACCURATE?

14 A YES

15 Q AND HAVE YOU HAD ANY DISCUSSIONS OR
16 CONVERSATIONS ABOUT THIS PARTICULAR CASE WITH ANY
17 PERSON AT ANY TIME?

18 A WHEN IT FIRST HAPPENED

19 Q WHEN IT FIRST HAPPENED SOME YEARS AGO, I
20 MEAN, SOME MONTHS OR A COUPLE YEARS AGO?

21 A RIGHT

22 Q AND HAVE YOU HAD ANY DISCUSSIONS ABOUT THE
23 CASE SINCE THAT TIME?

24 A NO, SIR

25 Q HAVE YOU BEEN EXPOSED TO ANY TYPE OF MEDIA

1 COVERAGE, WHETHER IT BE TELEVISION OR RADIO OR
2 NEWSPAPER?

3 A I HEARD SOMETHING RIGHT AFTER IT HAPPENED

4 Q RIGHT AFTER IT HAPPENED?

5 A YES, TELEVISION AND NEWSPAPER

6 Q AND HAVE YOU SEEN OR HEARD OR READ ANYTHING
7 ABOUT IT RECENTLY?

8 A NO, I HAVEN'T

9 Q IS THERE ANYTHING THAT YOU SAW, HEARD OR READ
10 ABOUT THE CASE IN THE MEDIA THAT WOULD PREVENT YOU
11 FROM BEING ABLE TO BE FAIR AND IMPARTIAL, IF YOU
12 WERE SELECTED AS A JUROR?

13 A NO, I DON'T THINK SO

14 Q IN THIS CASE THE DEFENDANT IS CHARGED WITH
15 MURDER, THE STATE HAS ACCUSED HIM OF THAT DO YOU
16 UNDERSTAND THAT WHEN THE STATE ACCUSES A PERSON OF
17 MURDER THAT THE BURDEN IS UPON THEM TO PROVE THAT
18 HE'S GUILTY BEYOND A REASONABLE DOUBT?

19 A YES

20 Q DO YOU UNDERSTAND THAT A DEFENDANT OR A PERSON
21 CHARGED WITH A CRIME NEVER HAS TO PROVE THAT THEY
22 ARE NOT GUILTY OR NEVER HAS TO PROVE THAT THEY'RE
23 INNOCENT, DO YOU UNDERSTAND THAT?

24 A YES, SIR

25 Q DO YOU, ALSO, UNDERSTAND THAT THE LAW REQUIRES

1 THAT A PERSON CHARGED WITH A CRIME BE PRESUMED
2 INNOCENT?

3 A YES, SIR

4 Q DO YOU ACCEPT THAT PROPOSITION OF LAW? DO YOU
5 AGREE WITH IT?

6 A YES, SIR

7 Q NOW, IN A CASE WHERE A PERSON IS CHARGE WITH
8 MURDER AND WHERE THE STATE IS ASKING THE DEATH
9 PENALTY BE IMPOSED, UNDER CERTAIN CIRCUMSTANCES THE
10 LAW PROVIDES THAT THE DEATH PENALTY MAY BE IMPOSED
11 IF A PERSON IS CONVICTED OF MURDER, THAT IS FOUND
12 GUILTY OF MURDER, AND ADDITIONALLY, THAT THERE IS
13 SOME OTHER AGGRAVATING CIRCUMSTANCE THAT ACCOMPANIES
14 THAT MURDER, DO YOU UNDERSTAND?

15 A YES, SIR

16 Q WHEN YOU HAVE A CASE SUCH AS THAT, A TRIAL
17 ABOUT THAT CASE IS CONDUCTED IN TWO SEPARATE PARTS
18 THE FIRST PART DEALS WITH THE ISSUE OF GUILT AND THE
19 SECOND PART DEALS WITH THE ISSUE OF PUNISHMENT, DO
20 YOU FOLLOW ME?

21 A YES, SIR, I FOLLOW YOU

22 Q IN THE FIRST PHASE OF THAT TRIAL, THERE WILL
23 BE EVIDENCE PRESENTED AND THE JURY WILL BE ASKED TO
24 DECIDE WHETHER OR NOT THE PERSON IS GUILTY OF THE
25 CRIME CHARGED THE JURY WILL DECIDE THE FACTS BASED

1 UPON CONSIDERATION OF THE EVIDENCE AND THE JURY WILL
2 ACCEPT THE LAW THAT I GIVE YOU IN ORDER TO APPLY IT
3 TO THE FACTS BEFORE YOU ARRIVE AT YOUR DECISION, DO
4 YOU UNDERSTAND THAT?

5 A YES, SIR

6 Q NOW, IF YOU WERE SERVING AS A JUROR, WOULD YOU
7 BE WILLING AND ABLE TO CONSIDER ALL EVIDENCE THAT
8 WAS INTRODUCED BEFORE YOU MADE A DECISION?

9 A YES, I WOULD

10 Q AND IF THAT EVIDENCE, IN YOUR MIND, CONVINCED
11 YOU THAT THE PERSON WAS GUILTY BEYOND A REASONABLE
12 DOUBT, COULD YOU FIND THE PERSON GUILTY OF A CRIME?

13 A STATE THE LAST PART, PLEASE

14 Q IF, AFTER YOU'VE CONSIDERED ALL THE EVIDENCE,
15 IF, IN YOUR MIND, YOU WERE CONVINCED BEYOND A
16 REASONABLE DOUBT THAT THAT PERSON HAD COMMITTED THAT
17 CRIME, WOULD YOU FIND THAT PERSON GUILTY?

18 A YES

19 Q AND IF YOU HAD SOME REASONABLE DOUBT ABOUT IT,
20 WOULD YOU FIND THAT PERSON NOT GUILTY?

21 A SURE, IF I FOUND SOME REASONABLE DOUBT HE
22 DIDN'T DO IT

23 Q NOW, IF YOU WERE PARTICIPATING IN THE CASE, I
24 WANT YOU TO ASSUME FOR A MOMENT AND ONLY ASSUME IT
25 FOR THE PURPOSE OF THIS QUESTION THAT YOU AND YOUR

1 FELLOW JURORS HAVE CONSIDERED THE EVIDENCE AND YOU
2 HAVE FOUND A PERSON GUILTY OF MURDER, AND YOU HAVE,
3 ALSO, FOUND SOME OTHER AGGRAVATING CIRCUMSTANCE IN
4 ADDITION TO THE MURDER, WE WOULD TO GO THE SECOND
5 PART OF THAT TRIAL AND THAT'S WHERE THE ISSUE OF
6 PUNISHMENT WOULD BE ADDRESSED DURING THAT PART OF
7 THE TRIAL, THERE WOULD BE MORE EVIDENCE RECEIVED
8 THERE WOULD EVIDENCE THAT MIGHT TEND TO SHOW WHY THE
9 DEATH PENALTY WAS APPROPRIATE, THERE MIGHT BE
10 EVIDENCE OFFERED SHOWING WHY THE DEATH PENALTY WAS
11 NOT APPROPRIATE OR WHY A SENTENCE OF LIFE
12 IMPRISONMENT WAS MORE APPROPRIATE WOULD YOU BE
13 WILLING AND ABLE TO CONSIDER ALL OF THAT ADDITIONAL
14 EVIDENCE BEFORE YOU MADE ANY DECISION REGARDING THE
15 PUNISHMENT?

16 A YES, SIR

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

21 A I DON'T KNOW ABOUT THAT, JUDGE

22 Q I RECOGNIZE THAT YOU MIGHT NOT HAVE EVER
23 THOUGHT ABOUT THAT YOU MIGHT NOT HAVE EVER BEEN
24 ASKED THAT QUESTION I RECOGNIZE THAT THE ANSWER TO
25 THAT QUESTION MIGHT BE SOMETHING DIFFICULT TO

1 DETERMINE BUT YOU UNDERSTAND THAT BECAUSE OF THE
2 NATURE OF THIS CASE, IT'S IMPORTANT WE UNDERSTAND
3 HOW YOU FEEL ABOUT THAT SUBJECT AND, OF COURSE,
4 THAT'S THE REASON WE ASK THESE QUESTIONS LET ME
5 ASK YOU THIS AFTER YOU'D CONSIDERED ALL THE
6 EVIDENCE, IF YOU FOUND IT TO BE APPROPRIATE, WOULD
7 YOU BE ABLE TO SENTENCE A PERSON TO LIFE
8 IMPRISONMENT?

9 A YES, I COULD

10 Q NOW, DO YOU UNDERSTAND, AND I'M TELLING YOU
11 THAT THIS IS THE LAW IN A CASE WHERE THE STATE
12 SEEKS THE DEATH PENALTY, THAT THE LAW PROVIDES THAT
13 THERE ARE CERTAIN CIRCUMSTANCES WHERE THE STATE IS
14 ALLOWED TO ASK THAT THE DEATH PENALTY BE IMPOSED
15 BUT DO YOU UNDERSTAND THAT THE JURY, UNDER NO
16 CIRCUMSTANCES, IS EVER REQUIRED TO SENTENCE A PERSON
17 TO DEATH

18 IN OTHER WORDS, IF A PERSON IS CONVICTED OF A
19 CRIME OF MURDER AND AN AGGRAVATING CIRCUMSTANCE IS,
20 ALSO, PROVEN BEYOND A REASONABLE DOUBT, THEN THE
21 JURY MAY CONSIDER SENTENCING A PERSON TO DEATH AND
22 IF THEY DEEM IT APPROPRIATE, THEY MAY SENTENCE THAT
23 PERSON TO DEATH BUT THEY ARE NOT REQUIRED TO DO IT
24 UNDER ANY CIRCUMSTANCES, NO MATTER HOW THE FACTS
25 ARE, NO MATTER HOW BAD THEY MAY BE, THE JURY IS NOT

1 REQUIRED BY THE LAW TO SENTENCE A PERSON TO DEATH,
2 DO YOU UNDERSTAND THAT?

3 A YES, SIR

4 Q AND YOU COULD SENTENCE A PERSON TO LIFE
5 IMPRISONMENT FOR ANY REASON OR FOR NO REASON AT ALL
6 AND WHAT I WANT TO ASK YOU BECAUSE YOU'VE HAD SOME
7 RESERVATION ABOUT WHETHER OR NOT YOU COULD IMPOSE A
8 DEATH SENTENCE I WANT TO ASK YOU THAT IF YOU HAD A
9 CHOICE BETWEEN THE TWO, AND YOU ALWAYS WOULD, IF YOU
10 HAD TO CHOOSE BETWEEN SENTENCING A PERSON TO DEATH
11 AND SENTENCING A PERSON TO LIFE IMPRISONMENT, WOULD
12 YOU ALWAYS CHOOSE ONE OF THOSE OPTIONS OVER THE
13 OTHER?

14 A I'D SAY I WOULD

15 Q WHAT WOULD YOU CHOOSE?

16 A LIFE IN PRISON

17 Q CAN YOU THINK OF ANY CIRCUMSTANCE WHERE YOU
18 WOULD BE ABLE TO SENTENCE A PERSON TO DEATH, IF YOU
19 COULD ALWAYS SENTENCE THAT PERSON TO LIFE
20 IMPRISONMENT?

21 A RUN THAT BY HIM AGAIN, JUDGE

22 Q THE QUESTION IS, CAN YOU THINK OF ANY
23 SITUATION, ANY CASE OR ANY CIRCUMSTANCE, WHERE YOU
24 YOURSELF COULD SENTENCE A PERSON TO DEATH, IF YOU
25 ALWAYS HAD THE CHOICE TO SENTENCE THAT PERSON TO

1 LIFE?

2 A I WOULD SENTENCE HIM TO LIFE IN PRISON RATHER
3 THAN CAPITAL PUNISHMENT

4 Q IS IT FAIR TO SAY THAT YOU CAN THINK OF NO
5 SITUATION WHERE YOU WOULD BE ABLE TO SENTENCE A
6 PERSON TO DEATH?

7 A I DON'T THINK SO, JUDGE

8 Q AND IF YOU HAD THE CHOICE BETWEEN SENTENCING A
9 PERSON TO DEATH AND SENTENCING A PERSON TO LIFE,
10 WOULD YOU ALWAYS CHOOSE THE LIFE SENTENCE OPTION?

11 A RIGHT

12 THE COURT ANSWER ANY QUESTIONS THAT
13 THESE LAWYERS MIGHT HAVE FOR YOU

14 EXAMINATION BY MR TINSLEY

15 Q JUST A COUPLE, MR LEE HOW YOU DOING THIS
16 AFTERNOON?

17 A ALL RIGHT, HOW YOU DOING?

18 Q GOOD YOU HEALTH IS BAD, I KNOW YOU FEELING
19 OKAY THOUGH?

20 A YES, I'M DOING ALL RIGHT

21 Q MR LEE, I REPRESENT MR HUGHEY AND I WAS JUST
22 WONDERING IF YOU COULD CONSIDER THE DEATH PENALTY IN
23 ANY CASE WHERE YOU HAD LIFE AS AN OPTION?

24 A I DON'T THINK I COULD

25 Q YOU DON'T THINK YOU COULD AND IF I GAVE YOU

1 A BUNCH OF EXAMPLES ABOUT CASES, BAD CASES AND ALL,
2 WOULD THAT CHANGE YOUR MIND?

3 A I DON'T THINK SO

4 Q NOTHING I CAN ASK YOU AT THIS POINT WOULD --
5 YOU DON'T THINK WOULD CHANGE YOUR MIND?

6 A I DOUBT IT

7 Q BUT YOU, BASICALLY, ARE AGAINST THE DEATH
8 PENALTY?

9 A I AM

10 MR TINSLEY THANKS SO, MR LEE

11 EXAMINATION BY MR JONES

12 Q MR LEE, I'M YOUR SOLICITOR, TOWNES JONES AND
13 I DON'T HAVE ANY QUESTIONS FOR YOU

14 THE COURT MR LEE, IF YOU'LL STEP
15 OUTSIDE JUST A MINUTE WE'LL LET YOU GO SHORTLY
16 (JUROR #268 DOES AS INSTRUCTED)

17 THE COURT ANY REASON WHY HE SHOULD
18 NOT BE DISQUALIFIED?

19 MR JONES NO, FOR THE STATE, YOUR
20 HONOR

21 MR TINSLEY WE NEED HIM AS A CROSS-
22 SECTION OF THE COMMUNITY, YOUR HONOR, PROFILE

23 THE COURT THE ANTI-DEATH PENALTY CROSS-
24 SECTION?

25 MR TINSLEY YES, SIR

1 THE COURT I FIND PURSUANT TO
2 WITHERSPOON AND WITT, HE IS NOT QUALIFIED BRING
3 HIM IN, PLEASE

4 (JUROR #268 RE-ENTERS COURTROOM)

5 MR LEE, WE'RE GOING TO EXCUSE YOU FROM
6 SERVING IN THE CASE BUT WE DO APPRECIATE YOU COMING
7 DOWN HERE THE RESPOND TO OUR QUESTIONS YOU WON'T
8 NEED TO COME BACK OR CALL BACK ANY FURTHER THANKS,
9 AGAIN, FOR YOUR HELP

10 JUROR LEE ALL RIGHT THANK YOU, JUDGE

11 (JUROR #268 EXITS COURTROOM)

12 (JUROR #268 IS NOT QUALIFIED)

13 THE COURT WE SHOULD HAVE BOGGS, BLACK
14 AND PIERCE IN THE BACK

15 (THE COURT CALLS MS BOGGS)

16 (JUROR #238 PRESENTED AT 3 26 O'CLOCK P M)

17 EXAMINATION BY THE COURT

18 Q GOOD AFTERNOON, MS BOGGS

19 A GOOD AFTERNOON

20 Q MS BOGGS, YOU KNOW WE'VE ASKED YOU TO COME
21 BACK TO ASK YOU SOME ADDITIONAL QUESTIONS ABOUT
22 VARIOUS MATTERS THAT MIGHT RELATE TO THIS CASE AND
23 THERE ARE NO RIGHT OR WRONG ANSWERS, WE JUST SIMPLY
24 NEED TO KNOW HOW YOU FEEL ABOUT CERTAIN THINGS WE
25 WOULD ASK THAT YOU, PLEASE, ANSWER THE QUESTIONS AS

1 OPENLY AND AS HONESTLY AS YOU CAN IF YOU DON'T
2 UNDERSTAND MY QUESTION OR I DON'T ASK IT CLEARLY, I
3 WOULD SIMPLY ASK THAT YOU ASK ME TO REPEAT IT OR
4 CLARIFY IT AND I WILL DO SO AND THE SAME WOULD
5 APPLY TO THE LAWYERS WHEN THEY ASK YOU SOME
6 QUESTIONS

7 A ALL RIGHT

8 Q NOW, YESTERDAY WHEN YOU REPORTED, YOU AND YOUR
9 FELLOW JURORS WERE ASKED TO STAND, YOU WERE PLACED
10 UNDER OATH AND SO YOU REMAIN UNDER OATH FOR THE
11 PURPOSE OF THESE QUESTIONS, ALSO

12 I HAVE A COPY OF YOUR QUESTIONNAIRE IS THE
13 QUESTIONNAIRE THAT YOU'VE COMPLETED ACCURATE?

14 A YES, SIR

15 Q HAVE YOU HAD ANY DISCUSSIONS OR CONVERSATIONS
16 OR OVERHEARD ANY DISCUSSIONS OR CONVERSATIONS THAT
17 RELATED TO THIS CASE AT ANY TIME?

18 A NO, SIR

19 Q HAVE YOU BEEN EXPOSED TO ANY TYPE OF
20 TELEVISION, RADIO OR NEWSPAPER ARTICLE RELATING TO
21 THIS CASE AT ANY TIME?

22 A YES, SIR

23 Q DO YOU RECALL WHEN THAT WAS?

24 A I WOULD SAY THE DAY THAT THEY FOUND -- THE
25 MURDER HAPPENED, THE DAY THAT IT HAPPENED I HEARD IT

1 ON THE NEWS AND I READ IT IN THE NEWSPAPER

2 Q NOW, ALL OF THIS IS ALLEGED TO HAVE OCCURRED
3 BACK IN DECEMBER OF 1995, IS THAT WHEN YOU'RE
4 REFERRING?

5 A YES, SIR

6 Q HAVE YOU SEEN, HEARD OR READ ANYTHING ABOUT IT
7 SINCE THAT TIME?

8 A NO, SIR, NOTHING BUT IN THE PAPER THAT HIS
9 TRIAL WAS COMING UP

10 Q AND YOU READ THAT SOMETIME RECENTLY?

11 A YES

12 Q THAT WAS BEFORE TWO WEEKS AGO, I GUESS?

13 A I GUESS THAT'D BE THE TIME

14 Q YOU JUST READ THAT IT WAS COMING TO TRIAL?

15 A YES

16 Q DID YOU READ ANYTHING ABOUT THE FACTS OR THE
17 CIRCUMSTANCES THAT MIGHT RELATE TO THE CASE?

18 A NO

19 Q IS THERE ANYTHING THAT YOU'VE SEEN IN A
20 TELEVISION ITEM OR A NEWSPAPER ARTICLE THAT WOULD
21 PREVENT YOU FROM BEING ABLE TO BE FAIR, IF YOU WERE
22 SELECTED?

23 A NO, SIR

24 Q DO YOU KNOW ANYONE IN THE JACKSON, HARRIS OR
25 HUGHEY FAMILIES?

1 A NO, SIR

2 Q NOW, IN THIS CASE, AS YOU HAVE BEEN TOLD, THE
3 DEFENDANT IS CHARGED WITH THE CRIME OF MURDER AND
4 I'M GOING TO TELL YOU SOME THINGS ABOUT THE LAW IF
5 YOU DON'T UNDERSTAND THAT, PLEASE LET ME KNOW I'M
6 TRYING TO FIND OUT IF YOU UNDERSTAND THAT IS THE LAW
7 AND IF YOU ACCEPT IT AND WOULD FOLLOW THOSE
8 INSTRUCTIONS

9 A OKAY,

10 Q A PERSON WHO IS CHARGED WITH A CRIME IS ALWAYS
11 PRESUMED TO BE INNOCENT A PERSON CHARGED WITH A
12 CRIME IS NEVER REQUIRED TO PROVE THAT THEY'RE
13 INNOCENT OR NOT GUILTY THE STATE, BECAUSE THEY
14 BRING THE CHARGE AGAINST ANOTHER, IS ALWAYS REQUIRED
15 TO PROVE THAT PERSON GUILTY BEYOND A REASONABLE
16 DOUBT BEFORE A JURY CAN MAKE SUCH A FINDING DO YOU
17 THAT LAW AND AGREE WITH IT?

18 A YES, SIR

19 Q NOW, UNDER SOME CIRCUMSTANCES, IF A PERSON IS
20 CONVICTED OF A CRIME OF MURDER AND THERE IS SOME
21 AGGRAVATING CIRCUMSTANCE ALSO PROVEN BEYOND A
22 REASONABLE DOUBT, THE LAW PERMITS THE STATE TO ASK A
23 JURY TO IMPOSE THE DEATH SENTENCE AGAINST THAT
24 INDIVIDUAL THE LAW DOESN'T REQUIRE IT, THE LAW
25 ALLOWS IT

1 NOW, IN A CASE SUCH AS THAT, IT WOULD BE
2 CONDUCTED IN TWO SEPARATE PARTS THE FIRST PART
3 WOULD RELATE TO THE ISSUE OF GUILT, THE SECOND PART,
4 IF WE GOT TO IT, WOULD RELATE TO THE ISSUE OF
5 PUNISHMENT IN ORDER TO GET TO THE PENALTY PHASE OR
6 THE PUNISHMENT PHASE, FIRST OF ALL, A JURY WOULD
7 HAVE HAD TO FIND A PERSON GUILTY OF MURDER BEYOND A
8 REASONABLE DOUBT AND, IN ADDITION TO THAT, SOME
9 OTHER AGGRAVATING CIRCUMSTANCE EXISTING BEYOND A
10 REASONABLE DOUBT, DO YOU UNDERSTAND THAT?

11 A UM-HMM

12 Q IF YOU WERE PARTICIPATING IN SUCH A TRIAL AND
13 YOU WERE PARTICIPATING IN THE GUILT PHASE OF TRIAL,
14 WOULD YOU BE WILLING AND ABLE TO CONSIDER ALL
15 EVIDENCE THAT WOULD BE INTRODUCED THAT RELATES TO
16 THAT ISSUE?

17 A YES, SIR

18 Q BEFORE YOU MADE A DECISION?

19 A YES, SIR

20 Q AND, AFTER YOU CONSIDERED ALL THAT EVIDENCE,
21 IF, IN YOUR MIND, YOU WERE CONVINCED BEYOND A
22 REASONABLE DOUBT THAT THE PERSON WAS GUILTY OF THE
23 CRIME, COULD YOU FIND THAT PERSON GUILTY?

24 A YES, SIR

25 Q AND IF YOU HAD SOME REASONABLE DOUBT, WOULD

1 YOU FIND THAT PERSON NOT GUILTY?

2 A YES, SIR

3 Q NOW, LET'S ASSUME FOR THE MOMENT, AND JUST FOR
4 THE PURPOSE OF THIS QUESTION, THAT YOU'VE
5 PARTICIPATED AND YOU AND YOUR FELLOW JURORS HAVE
6 FOUND THE PERSON TO BE GUILTY OF THE CRIME OF MURDER
7 BEYOND A REASONABLE DOUBT AND YOU, ALSO, HAD FOUND
8 THAT THERE IS SOME OTHER AGGRAVATING CIRCUMSTANCE
9 THAT EXISTS IN THAT EVENT, WE WOULD PROCEED TO THE
10 PUNISHMENT PORTION OF THE TRIAL OR PUNISHMENT PHASE
11 AND DURING THAT PHASE OF THE TRIAL, THERE WOULD BE
12 ADDITIONAL EVIDENCE RECEIVED AND THAT EVIDENCE
13 WOULD RELATE BOTH TO AGGRAVATION AND TO MITIGATION
14 AND BY THAT I JUST SIMPLY MEAN THAT THERE MIGHT BE
15 EVIDENCE OFFERED THAT WOULD TEND TO SHOW WHY THE
16 DEATH PENALTY WAS APPROPRIATE IN THE CASE AND
17 THERE WOULD BE EVIDENCE OFFERED TENDING TO SHOW WHY
18 THE DEATH PENALTY WAS NOT APPROPRIATE OR WHY A LIFE
19 SENTENCE WAS MORE APPROPRIATE DO YOU UNDERSTAND
20 THAT THAT WOULD BE THE JURY'S DECISION TO DECIDE
21 WHAT IS THE APPROPRIATE FORM OF PUNISHMENT TO BE
22 IMPOSED? YOU COULD SENTENCE A PERSON TO DEATH OR
23 SENTENCE A PERSON TO LIFE IMPRISONMENT WOULD YOU
24 BE WILLING AND ABLE TO CONSIDER ALL OF THAT
25 ADDITIONAL EVIDENCE DURING THE PENALTY PHASE OF THE

1 TRIAL, BEFORE YOU ARRIVED AT YOUR DECISION AS TO
2 PUNISHMENT?

3 A FIRST I WOULD HAVE TO LISTEN TO ALL OF THE
4 EVIDENCE BEFORE I CAME TO THAT CONCLUSION

5 Q EXACTLY, THAT'S WHAT I'M ASKING AND YOU COULD
6 DO THAT?

7 A YES, SIR

8 Q AND AFTER YOU HAD CONSIDERED ALL OF THAT
9 EVIDENCE AND ALL THE CIRCUMSTANCES THAT RELATE TO
10 THE CASE, IF, IN YOUR MIND, YOU THOUGHT IT WAS THE
11 APPROPRIATE SENTENCE, COULD YOU SENTENCE A PERSON TO
12 DEATH?

13 A YES, SIR

14 Q AND IF YOU THOUGHT IT WAS THE APPROPRIATE
15 SENTENCE, COULD YOU SENTENCE A PERSON TO LIFE
16 IMPRISONMENT?

17 A YES, SIR

18 Q WOULD YOUR DECISION DEPEND UPON THE FACTS AND
19 CIRCUMSTANCES THAT ARE SHOWN TO HAVE EXISTED IN THE
20 CASE?

21 A YES

22 Q WOULD YOU EVER JUST SIMPLY CHOOSE ONE OVER THE
23 OTHER BECAUSE YOU PREFER ONE OVER THE OTHER?

24 A NO, SIR, ONLY BY THE EVIDENCE

25 Q IT WOULD DEPEND UPON THE FACTS?

1 A YES

2 Q NOW, DO YOU UNDERSTAND THAT IF YOU DECIDED IN
3 YOUR MIND THAT THE DEATH PENALTY WAS THE APPROPRIATE
4 FORM OF PUNISHMENT, THAT IN ORDER FOR THAT TO BE
5 CARRIED OUT, IT WOULD BE NECESSARY THAT YOU SIGN A
6 FORM A RECOMMENDATION FORM, STATING THAT THAT WAS
7 WHAT YOU RECOMMENDED BE DONE THAT THAT PERSON BE
8 SENTENCED TO DEATH WOULD YOU BE ABLE TO SIGN SUCH
9 A FORM?

10 A YES, SIR

11 Q NOW, HAVE YOU UP TO THIS POINT, ALREADY FORMED
12 OR EXPRESSED ANY OPINION AS TO WHAT YOU THINK THE
13 ULTIMATE DECISION SHOULD BE IN THIS CASE?

14 A AFTER READING -- WELL, I FEEL THAT I HAVE AN
15 IDEA BUT UNTIL I PERSONALLY HEAR THE EVIDENCE
16 MYSELF, THEN I CAN'T GO BY WHAT I'M THINKING BECAUSE
17 I'M JUST HEARING WHAT THE NEWSPAPER AND THE TV
18 PEOPLE ARE SAYING AND I HAVEN'T REALLY HEARD HIS
19 SIDE OF THE STORY

20 Q AND DO YOU UNDERSTAND THAT -- OR WOULD YOU BE
21 WILLING TO PUT ASIDE ANYTHING THAT YOU MIGHT HAVE
22 READ IN THE PAPER OR SEEN ON TELEVISION AND NOT
23 CONSIDER IT WHEN YOU'RE CALLED UPON TO MAKE A
24 DECISION?

25 A YES, SIR

1 Q WOULD YOU BASE YOUR DECISION SOLELY UPON THE
2 EVIDENCE THAT WAS RECEIVED DURING THE COURSE OF THE
3 TRIAL?

4 A YES, SIR

5 Q NOW, YOU'VE INDICATED THAT YOU WOULD LIKE TO
6 HEAR HIS SIDE, WERE YOU REFERRING TO MR HUGHEY?

7 A HIS SIDE AND THE PLAINTIFF'S SIDE

8 Q SO YOU WOULD LIKE TO HEAR FROM BOTH SIDES?

9 A YES, SIR

10 Q DO YOU UNDERSTAND, AS I INDICATED EARLIER,
11 THAT IN A CRIMINAL CASE, THAT THE BURDEN IS NOT ON
12 THE DEFENDANT TO PROVE ANYTHING AND THE DEFENDANT
13 MAY NOT EVEN TESTIFY OR OFFER ANY EVIDENCE, DO YOU
14 UNDERSTAND THAT?

15 A YES

16 Q NOW, YOU UNDERSTAND THAT I WOULD INSTRUCT YOU,
17 IF THAT OCCURRED, I WOULD INSTRUCT THE JURY THAT YOU
18 COULD NOT CONSIDER THE FAILURE OF THE DEFENDANT TO
19 TESTIFY AGAINST HIM YOU CAN'T CONSIDER IT IN ANY
20 FASHION IN ARRIVING AT YOUR DECISION IN THE CASE
21 YOU HAVE TO BASE YOUR DECISION ON THE EVIDENCE
22 THAT'S RECEIVED AND WHAT IS NOT RECEIVED OF
23 COURSE, IF THERE'S A LACK OF EVIDENCE ON THE POINT
24 THAT WOULD TEND TO ESTABLISH GUILT AND IT'S NOT
25 THERE, THEREFORE, YOU HAVE A REASONABLE DOUBT, YOU

1 WOULD BE ABLE TO CONSIDER THAT IN RETURNING A
2 VERDICT OF NOT GUILTY

3 BUT DO YOU UNDERSTAND THAT IF THE DEFENDANT
4 ELECTED NOT TO TESTIFY, YOU COULDN'T CONSIDER THAT
5 AGAINST HIM OR HOLD THAT AGAINST HIM OR CONSIDER IT
6 WHEN YOU HAD TO ARRIVE AT YOUR DECISION CAN YOU
7 ACCEPT THAT INSTRUCTION AND FOLLOW IT?

8 A YES, SIR

9 Q WOULD YOU BE WILLING TO CONSIDER ANY EVIDENCE
10 THAT MIGHT BE INTRODUCED DURING THE TRIAL OF THE
11 CASE BEFORE YOU MADE THAT DECISION OF WHETHER OR NOT
12 HE WAS GUILTY?

13 A I WOULD HAVE TO HEAR AND SEE THE EVIDENCE
14 BEFORE I -- THAT'S IN THE TRIAL BEFORE MAKING MY
15 DECISION I WOULD HAVE TO HEAR AND SEE IT BEFORE --
16 I COULDN'T JUST GO BY LIKE HEARSAY I WANT TO HEAR
17 HIM IN COURT BEFORE I COULD MAKE THAT DECISION

18 Q AND LIKE I SAY, WHEN YOU SAY HEAR HIM, THAT'S
19 WHY I WANT TO ASK YOU A COUPLE QUESTIONS ABOUT THAT
20 IF THE DEFENDANT CHOSE NOT TO TESTIFY, WHICH HE HAS
21 A RIGHT TO DO, AND I TOLD YOU THAT YOU COULD NOT
22 CONSIDER THAT FACT, WOULD YOU BE ABLE TO PUT THAT
23 FACT ASIDE AND NOT CONSIDER IT IN ARRIVING AT YOUR
24 DECISION?

25 A NO, NOT NECESSARY I MEAN, I COULD STILL

1 ARRIVE AT MY DECISION WITHOUT HIM TESTIFYING AS LONG
2 AS THE EVIDENCE, YOU KNOW, ADDS UP, I GUESS, NOT
3 FROM HIM, MAYBE FROM WHAT HIS LAWYERS --

4 Q THAT'S WHAT I'M ASKING PERHAPS MY QUESTION
5 WASN'T CLEAR WHAT I ASKED WAS, IF HE DID NOT
6 TESTIFY, WOULD YOU BE WILLING NOT TO CONSIDER THAT
7 FACT AND BASE YOUR VERDICT SOLELY UPON THE EVIDENCE
8 THAT WAS RECEIVED?

9 A YES, SIR, I'M SORRY

10 Q AND YOU WOULD NOT HOLD THAT AGAINST HIM, THE
11 FACT THAT HE DID NOT TESTIFY?

12 A NO, SIR

13 Q AND YOU'VE INDICATED YOU HAVE NOT FORMED ANY
14 OPINION?

15 A NO, SIR

16 Q DO YOU KNOW OF ANY REASON WHY YOU COULD NOT BE
17 FAIR AND IMPARTIAL?

18 A NO, SIR

19 Q YOU UNDERSTAND THAT IF YOU'RE SELECTED, YOU
20 WOULD BE SEQUESTERED?

21 A YES, SIR

22 Q YOU UNDERSTAND WHAT THAT MEANS, STAYING IN A
23 MOTEL?

24 A UM-HMM

25 Q PROBABLY BE SEVEN TO TEN DAYS, PERHAPS WOULD

1 YOU BE WILLING TO ACCEPT ANY INCONVENIENCE THAT THAT
2 MIGHT CAUSE IN ORDER TO SERVE IF CALLED UPON?

3 A YES, SIR

4 THE COURT PLEASE ANSWER ANY QUESTIONS
5 THE LAWYERS MAY HAVE FOR YOU

6 EXAMINATION BY MR TINSLEY

7 Q THANK YOU SO MUCH, YOUR HONOR GOOD
8 AFTERNOON, MS BOGGS

9 A GOOD AFTERNOON

10 Q AND MS BOGGS, YOU LIVE UP IN THE DONALDS
11 AREA?

12 A YES, SIR

13 Q AND YOU DO, I NOTICE YOU DO HAVE A YOUNG
14 CHILD, JUSTIN'S SEVEN, IS HE NOT?

15 A YES, SIR

16 Q WELL, I GUESS FROM WHAT YOU JUST TOLD THE
17 JUDGE, YOUR HUSBAND WOULD TAKE CARE OF HIM

18 A AND MY MOTHER

19 Q AND YOUR MOTHER, OKAY, GOOD SHE LIVES UP
20 THERE, TOO?

21 A YES, SIR

22 Q SO YOU WERE BORN IN DONALDS, YOU WERE BORN IN
23 GREENWOOD HOSPITAL?

24 A RIGHT, AND I LIVED IN DUE WEST UNTIL ABOUT
25 THREE YEARS AGO AND I MARRIED AND MOVED TO DONALDS

1 Q SO YOU'RE FROM DONALDS - DUE WEST AREA?

2 A EXACTLY

3 Q AND YOU WORK OVER AT THE RUG BARN?

4 A NO, PROFESSIONAL TILE MILL

5 Q YOU USED TO WORK FOR THE RUG BARN, I'M SORRY
6 PROFESSIONAL TILE MILL HERE IN ABBEVILLE, RIGHT

7 A YES, SIR

8 Q AND YOU HAVE YOUR -- YOU ARE WELL EDUCATED
9 HAVING ATTENDED SPARTANBURG METHODIST, CORRECT?

10 A YES, SIR

11 Q YOU TRANSFERRED TO PIEDMONT TECH?

12 A YES, SIR

13 Q WHY DID YOU DO THAT?

14 A BECAUSE I GOT PREGNANT AND HAD A BABY AND
15 DIDN'T WANT TO GO BACK TO SCHOOL AND LEAVE HIM

16 Q AND IS MR BOGGS THE BABY'S FATHER?

17 A YES, HE IS

18 Q DID YOU ALL GO ON AND GET MARRIED OR WERE YOU
19 ALREADY MARRIED?

20 A NO, WE GOT MARRIED IN '94

21 Q MARRIED IN '94 SO YOUR ALL'S RELATIONSHIP
22 HAS STOOD THE TEST OF TIME

23 A YES

24 Q GOOD YOU'RE ACTIVE IN MT LEBANON?

25 A YES, SIR

1 Q AND YOU HAVE HOW MANY BROTHERS AND SISTERS,
2 YOU SAID?

3 A MY MOMMA HAD FIVE KIDS AND --

4 Q WHERE DID YOU FALL IN THERE?

5 A I WAS THE BABY I'M THE BABY

6 Q YOU'RE THE BABY?

7 A YES, SIR

8 Q GOOD IN A CASE WHERE THE JUDGE GAVE YOU THE
9 OPTION OF CONSIDER A NUMBER OF OPTIONS, YOU WOULD
10 ACCEPT HIS INSTRUCTIONS AS THE LAW, WOULD YOU NOT?

11 A YES, SIR

12 Q AND YOU UNDERSTAND THAT YOU WOULD BE ONE OF
13 THE FINDERS OF FACTS AS A MEMBER OF THE JURY,
14 CORRECT?

15 A YES, SIR

16 Q AND AS SUCH, WHEN YOU BEGAN YOUR DELIBERATION,
17 SHOULD THE JUDGE GIVE YOU SEVERAL CHOICES ON A COUNT
18 OF AN INDICTMENT, REGARDLESS OF HOW HEINOUS IT WERE
19 OR HOW GORY, BLOODY, WHATEVER IT WERE, YOU WOULD BE
20 WILLING TO CONSIDER ALL CHOICES, WOULD YOU NOT?

21 A YES, SIR

22 Q AND, FOR INSTANCE, ON COUNT ONE, IF YOU WERE
23 GIVEN THE CHOICE YOU MIGHT FIND HIM GUILTY OF MURDER
24 OR GUILTY OF MANSLAUGHTER OR NOT GUILTY, COULD YOU
25 FAIRLY CONSIDER ALL THREE CHOICES?

1 A YES, SIR

2 Q AND YOU WOULD BE WILLING TO APPLY THE LAW AS
3 IT RELATED?

4 A YES, SIR

5 Q AND, AS SUCH, I'M A LITTLE CONCERNED ABOUT THE
6 FACT THAT YOU WERE JUST NOW CALLED INTO THIS -- AS A
7 JUROR, RIGHT?

8 A UM-HMM

9 Q WHEN DID YOU GET YOUR NOTICE?

10 A THEY LEFT IT AT MY MOMMA'S SUNDAY

11 Q WHEN DID YOU GET IT, WHEN DID YOU FIND ABOUT
12 IT?

13 A SUNDAY MORNING, I GUESS, ABOUT 10 00 WHEN I
14 WENT TO PICK UP MY LITTLE BOY

15 Q WERE YOU CHURCH OR WHERE WERE YOU?

16 A I CAME FROM HOUSE IN DONALDS TO DUE WEST TO
17 PICK HIM UP

18 Q I SEE AND HE HAD SPENT THE NIGHT WITH YOUR
19 MOTHER

20 A YES

21 Q THEN YOU FIND THAT THERE WAITING ON YOU

22 A UM-HMM

23 Q WELL, MY CONCERN IS THE PERIOD FROM LAST
24 MONDAY ON LAST WEEK, DID YOU READ ANY NEWSPAPER
25 ARTICLES ABOUT THIS CASE?

- 1 A NO
- 2 Q YOU DON'T TAKE *THE INDEX JOURNAL*?
- 3 A NO
- 4 Q OR *THE PRESS & BANNER*?
- 5 A I BUY IT ON WEDNESDAY'S
- 6 Q DID YOU BUY IT LAST WEDNESDAY?
- 7 A I DON'T THINK SO, HUH-UH
- 8 Q SO YOU DIDN'T SEE ANY NEWSPAPER ARTICLES?
- 9 A HUH-UH
- 10 Q WELL, DID ANYBODY APPROACH YOU AND TALK ABOUT
- 11 THE CASE OR ANYTHING LIKE THAT?
- 12 A NO, SIR
- 13 Q SO YOUR EXPOSURE GOES BACK IN TIME -- BACK
- 14 AROUND THE TIME OF THE INCIDENT, IS THAT CORRECT?
- 15 A YES, SIR, AND -- I'M NOT SAYING IT WAS LAST
- 16 WEEK BUT I DID READ IT -- IT MAY NOT HAVE BEEN IN
- 17 LAST WEEK'S *PRESS & BANNER* ABOUT WHEN IT WAS COMING
- 18 TO TRIAL
- 19 Q SO YOU READ THIS IN *THE PRESS & BANNER* QUITE
- 20 POSSIBLY, THE WEEKEND BEFORE LAST WOULD THAT BE A
- 21 FAIR APPROXIMATION OF THE TIME?
- 22 A YES, SIR
- 23 Q IN ANY WAY, DID THAT PREJUDICE YOU AGAINST MY
- 24 CLIENT?
- 25 A NO, SIR

1 Q OR ANYONE ELSE IN THIS CASE?

2 A NO, SIR

3 Q YOU, ALSO, STATED THAT YOU DON'T KNOW THE
4 HARRIS'S AND JACKSONS, RIGHT?

5 A I DON'T

6 Q DO YOU KNOW THE HUGHEY'S?

7 A NO, SIR

8 Q YOU DO NOT KNOW THE HUGHEY'S AND, LET'S SEE,
9 OF COURSE YOU WENT TO SCHOOL -- YOU DIDN'T GO TO
10 LIKE ABBEVILLE HIGH

11 A I WENT TO DIXIE HIGH

12 Q YOU WENT TO DIXIE HIGH SO YOU'RE OVER IN THE
13 DUE WEST, DONALDS AREA, THERE ANYWAY AND DO YOU
14 KNOW -- DID I ASK YOU IF YOU KNOW MARCUS OR ANTHONY
15 HARRIS?

16 A THE HARRIS'S, BUT I DON'T KNOW THEM MARCUS,
17 I DON'T KNOW ANY OF THEM

18 Q YOU DON'T?

19 A NO, SIR

20 Q AND YOU WOULD BE WILLING TO LISTEN THE BOTH
21 SIDES OF THE CASE?

22 A YES, SIR

23 Q AND SHOULD, FOR EXAMPLE ONLY, YOU AND YOUR
24 OTHER JURORS IN THE GUILT OR INNOCENCE PHASE OF THE
25 CASE, FIND MY CLIENT GUILTY OF TWO VOLUNTARY

1 MANSLAUGHTERS, YOU REALIZE THAT WOULD END ON THAT?

2 MR COULTER OBJECTION, YOUR HONOR I

3 DON'T THINK THAT'S POSSIBLE

4 EXAMINATION BY MR TINSLEY

5 Q I'LL WITH DRAW THE QUESTION AND GO ONTO THE
6 NEXT QUESTION SHOULD, ON THE OTHER HAND, YOU AND
7 YOUR FELLOW JURORS FIND MY CLIENT GUILTY OF TWO
8 MURDERS WITH AGGRAVATING CIRCUMSTANCES, DO YOU
9 REALIZE YOU'D GO INTO THE SECOND PHASE OF THE TRIAL?

10 A YES, SIR

11 Q AS SUCH, IF YOU WERE SERVING ON A JURY THAT
12 FOUND SOMEONE GUILTY, AS I JUST OUTLINED TO YOU, TWO
13 MURDERS AGGRAVATING CIRCUMSTANCES, WOULD YOU THEN
14 ALWAYS RETURN A RECOMMENDATION OF THE DEATH PENALTY?

15

16 A WOULD YOU REPEAT THAT AGAIN?

17 Q ASSUME FOR A MINUTE THAT YOU'RE ON THE JURY
18 AND YOU DETERMINE THE DEFENDANT GUILTY OF TWO
19 MURDERS AND SOME ADDITIONAL AGGRAVATING
20 CIRCUMSTANCES, SUCH AS THEFT, BURGLARY THAT SHORT OF
21 THING UNDER THOSE CIRCUMSTANCES, WOULD YOU THEN,
22 ALWAYS, RECOMMEND THE DEATH PENALTY?

23 A NO, SIR

24 Q SO YOU COULD STILL LIFE IMPRISONMENT AS THE
25 PUNISHMENT?

1 A YES, SIR

2 Q AND YOU WOULD BE WILLING, FINALLY MS BOGGS,
3 TO CONSIDER, ALSO, ANY MITIGATING EVIDENCE THAT THE
4 DEFENDANT MAY OFFER EXPLAINING HIS INDIVIDUAL
5 CHARACTERISTICS AND HIS LIFE, ET CETERA?

6 A YES, SIR

7 Q AND WOULD YOU KEEP AN OPEN MIND ON THOSE AND
8 EVALUATE THOSE?

9 A YES, SIR

10 MR TINSLEY THANKS SO MUCH

11 BY MR COULTER

12 Q HI, MS BOGGS MY NAME'S MIKE COULTER, THE
13 DEPUTY SOLICITOR HERE IN ABBEVILLE JUST A COUPLE
14 QUICK QUESTIONS, IF I COULD

15 A OKAY

16 Q IF SOMEONE WERE TO ASK YOU YESTERDAY OR LAST
17 WEEK IF YOU BELIEVED IN THE DEATH PENALTY, WHAT
18 WOULD YOU SAY?

19 A YES, I DO

20 Q YOU DO BELIEVE IN THE DEATH PENALTY?

21 A YES, I DO

22 Q BUT BEFORE -- OF COURSE, IT'S A LITTLE BIT
23 DIFFERENT TO SAY YOU BELIEVE IN IT AND THEN BE ABLE
24 TO ACTUALLY IMPOSE IT, RIGHT?

25 A RIGHT

1 Q BUT YOU'VE THOUGHT ABOUT THE DEATH PENALTY
2 BEFORE COMING IN HERE?

3 A YES, SIR

4 Q AND SITTING HERE, YOU'RE TELLING US, AND YOU
5 KNOW, THAT YOU COULD, IN FACT, IF THE CIRCUMSTANCES
6 WERE RIGHT, IMPOSE THE DEATH PENALTY?

7 A YES, SIR

8 Q AND, OF COURSE, THAT'S BASED ON ALL THE
9 CIRCUMSTANCES?

10 A EXACTLY

11 Q AND MR TINSLEY GAVE YOU A COUPLE OF POTENTIAL
12 VERDICTS YOU CAN REACH BUT, OF COURSE, IF YOU GOT
13 TO THE POINT WHERE YOU FOUND THE DEFENDANT GUILTY OF
14 MURDER, AND ANOTHER COUNT OF MURDER, AND A COUNT OF
15 BURGLARY IN THE FIRST DEGREE, AND A COUNT OF GRAND
16 LARCENY OF A MOTOR VEHICLE, THAT POINT, IF YOU FIND
17 AN AGGRAVATING CIRCUMSTANCE, YOU COULD, IN FACT,
18 CONSIDER GIVING THE DEATH SENTENCE BUT YOU STILL,
19 AS I UNDERSTOOD IN YOUR ANSWERS, WOULD HAVE TO
20 CONSIDER EVERYTHING INCLUDING MITIGATION --

21 A EXACTLY

22 Q -- BEFORE YOU COULD, FINALLY, COME TO A
23 DECISION AS TO DEATH?

24 A EXACTLY

25 Q NOW, YOU, ALSO, -- AND I THINK THE JUDGE MAY

1 HAVE ASKED YOU THIS LET ME ASK YOU AGAIN JUST TO
2 BE SURE IF YOU GOT TO THE POINT THAT YOU AS A
3 JUROR DECIDED THAT THE CIRCUMSTANCES WARRANT THE
4 DEATH PENALTY, YOU COULD SIGN -- YOU WOULD HAVE TO
5 SIGN, IF YOU COULD, I KNOW IT COULD BE CALLED A
6 DEATH WARRANT WHERE YOU AND THE ELEVEN OTHERS OF YOU
7 WOULD SIGN PUTTING THE DEFENDANT TO DEATH, SIGN YOUR
8 NAME

9 A YES, SIR

10 Q AND YOU COULD DO THAT?

11 A YES, SIR

12 Q IF IT WAS BAD ENOUGH?

13 A YES, SIR

14 MR COULTER OKAY, THANK YOU

15 THE COURT IF YOU'LL STEP OUTSIDE THE
16 DOOR FOR JUST A MINUTE, I'LL BRING YOU BACK SHORTLY
17 (JUROR #238 DOES AS INSTRUCTED)

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

20 MR COULTER NOT FOR THE STATE, YOUR
21 HONOR

22 MR TINSLEY NO, YOUR HONOR

23 THE COURT SHE IS SO QUALIFIED BRING
24 HER IN, PLEASE

25 (JUROR #238 RE-ENTERS COURTROOM)

1 THE COURT MS BOGGS, YOU'RE
2 QUALIFIED TO SERVE AS A JUROR IN THE CASE IT
3 DOESN'T MEAN YOU'VE BEEN SELECTED, IT JUST SIMPLY
4 MEANS YOU'LL BE IN THAT LARGER GROUP FROM WHICH THE
5 ACTUAL JURORS WILL BE SELECTED WE ANTICIPATE THAT
6 THAT MIGHT OCCUR SOMETIME TOMORROW SO WE'RE GOING
7 TO EXCUSE YOU AT THIS TIME BUT ASK YOU TO, PLEASE,
8 GIVE THE CLERK ANY AND ALL PHONE NUMBERS WHERE YOU
9 CAN BE REACHED DAY AND NIGHT SO THAT WE CAN GET IN
10 TOUCH WITH YOU ON SHORT NOTICE AND HAVE YOU COME
11 BACK

12 YOU'RE STILL TO CONTINUE NOT DISCUSSING
13 THE CASE WITH ANYONE AND NOT ALLOWING YOURSELF TO BE
14 EXPOSED TO ANY MEDIA COVERAGE THANK YOU IF
15 YOU'LL GIVE THE CLERK THOSE NUMBERS, WE'LL CALL YOU
16 WHEN THE TIME COMES FOR YOU TO COME BACK

17 (JUROR #238 EXITS COURTROOM)

18 (JUROR #238 IS QUALIFIED)

19 (THE COURT CALLS JUROR BLACK)

20 (JUROR #303 PRESENTED AT 3 36 O'CLOCK P M)

21 EXAMINATION BY THE COURT

22 Q YOU ARE HAYWARD BLACK?

23 A YES, SIR

24 Q MR BLACK, YOU'VE BEEN CALLED BACK TO ANSWER
25 SOME QUESTIONS THERE ARE NO RIGHT OR WRONG

1 ANSWERS, WE JUST SIMPLY TO NEED TO KNOW YOUR HONEST
2 OPINIONS ON SOME MATTERS THAT WE'LL BE ASKING YOU
3 QUESTIONS REGARDING SO IF YOU DO NOT UNDERSTAND
4 THE QUESTION, PLEASE ASK ME TO REPEAT IT OR IF IT
5 NEEDS TO BE CLARIFIED, ASK ME TO CLARIFY IT AND I'LL
6 DO SO THE SAME WOULD APPLY TO THE LAWYERS IF THEY
7 ASK YOU SOME QUESTIONS

8 NOW, YESTERDAY WHEN YOU REPORTED YOU AND YOUR
9 FELLOW JURORS WERE ASKED TO STAND AND YOU WERE
10 PLACED UNDER OATH, DO YOU RECALL THAT?

11 A YES, SIR

12 Q YOU REMAIN UNDER OATH FOR THE PURPOSE OF THESE
13 QUESTIONS, ALSO

14 A YES, SIR

15 Q NOW, YOU FILLED OUT A QUESTIONNAIRE, IS THE
16 QUESTIONNAIRE COMPLETE AND ACCURATE?

17 A YES, SIR

18 Q I'VE ASKED YOU NOT TO HAVE ANY DISCUSSIONS
19 ABOUT THE CASE AND NOT TO ALLOW YOURSELF TO BE
20 EXPOSED TO ANY TYPE OF MEDIA COVERAGE RELATING TO
21 THIS CASE HAVE YOU HAD ANY EXPOSURE TO MEDIA
22 COVERAGE?

23 A NO, SIR

24 Q NONE AT ALL?

25 A NONE

1 Q WHAT ABOUT ANY DISCUSSIONS ABOUT THE CASE?

2 A NONE

3 Q NONE AT ALL?

4 A NONE

5 Q IN THIS CASE, THE DEFENDANT IS CHARGED WITH

6 THE CRIME OF MURDER THE LAW PROVIDES THAT WHERE A

7 PERSON IS CONVICTED OF MURDER AND AN AGGRAVATING

8 CIRCUMSTANCES IS, ALSO, PROVEN, THE PERSON MAY BE

9 SENTENCED TO DEATH THAT'S UP FOR A JURY TO

10 DETERMINE THE JURY MAKES THE DECISION, THE LAW

11 PERMITS IT UNDER THOSE CIRCUMSTANCES, THE LAW NEVER

12 REQUIRES IT UNDER ANY CIRCUMSTANCES THE JURY

13 SIMPLY MAKES THAT DECISION BASED UPON CONSIDERING

14 EVIDENCE IN THE CASE, DO YOU UNDERSTAND THAT?

15 A YES, SIR

16 Q NOW, WHERE THE STATE CHARGES A PERSON WITH THE

17 COMMISSION OF A CRIME, THE BURDEN IS UPON THEM, THE

18 STATE, TO ESTABLISH THAT PERSON'S GUILT BEYOND A

19 REASONABLE DOUBT BEFORE THAT PERSON CAN BE FOUND

20 GUILTY, DO YOU UNDERSTAND THAT?

21 A YES, SIR

22 Q THE BURDEN IS NEVER UPON A DEFENDANT TO PROVE

23 THAT HE IS NOT GUILTY OR TO PROVE THAT HE IS

24 INNOCENT IN FACT, EVERY PERSON CHARGED WITH A

25 CRIME IS PRESUMED TO BE INNOCENT AND AS I SAY, THE

1 STATE BEARS THE BURDEN OF PROVING GUILT DO YOU
2 ACCEPT THOSE PROPOSITIONS OF LAW?

3 A YES, SIR

4 Q IN A CASE WHERE THE STATE IS ALLEGING MURDER
5 AND SEEKING THE DEATH PENALTY, A TRIAL INVOLVING
6 THAT IS CONDUCTED IN TWO PARTS THE FIRST PART
7 RELATING TO THE ISSUE OF GUILT, THE SECOND PART
8 RELATING TO THE ISSUE OF PUNISHMENT, DO YOU
9 UNDERSTAND THAT CONCEPT?

10 A YES

11 Q IN THE FIRST PHASE OF THE TRIAL, EVIDENCE WILL
12 BE RECEIVED THE JURY WILL BE ASKED TO CONSIDER
13 THAT EVIDENCE I WILL EXPLAIN THE LAW THAT APPLIES
14 IN THE CASE THE JURY WILL BE ASKED TO DELIBERATE
15 THEY WILL DECIDE THE FACTS, THEY WILL THEN APPLY THE
16 LAW I GIVE THEM AND THEY WILL DECIDE THE VERDICT
17 NOW, IF YOU WERE PARTICIPATING IN SUCH A CASE, WOULD
18 YOU BE WILLING AND ABLE TO CONSIDER ALL EVIDENCE
19 THAT WAS OFFERED DURING THE TRIAL OF THE CASE
20 FAIRLY?

21 A YES, SIR

22 Q WOULD YOU BE ABLE TO RETURN A VERDICT OF
23 GUILTY AS TO A CRIME IF YOU WERE CONVINCED BEYOND A
24 REASONABLE DOUBT THAT THE PERSON HAD COMMITTED THAT
25 CRIME?

1 A YES, SIR

2 Q IF YOU HAD SOME REASONABLE DOUBT AS TO THE
3 PERSON'S GUILT, COULD YOU FIND THAT PERSON NOT
4 GUILTY?

5 A YES, SIR

6 Q I WANT YOU TO ASSUME FOR THE PURPOSE OF THESE
7 QUESTIONS, AND ONLY FOR THE PURPOSE OF THIS
8 QUESTION, THAT YOU'RE PARTICIPATING IN A CASE,
9 YOU'VE BEEN SELECTED, YOU AND YOUR FELLOW JURORS
10 HAVE HEARD THE EVIDENCE IN THE GUILT PHASE, YOU HAVE
11 RETURNED A VERDICT OF GUILTY AS TO MURDER AND YOU,
12 ALSO, HAVE FOUND SOME AGGRAVATING CIRCUMSTANCE
13 BEYOND A REASONABLE DOUBT IN THAT EVENT, AND ONLY
14 IN THAT EVENT, WOULD WE PROCEED TO THE SENTENCING
15 PORTION OF THE TRIAL

16 NOW, DURING THE PENALTY PHASE OF THAT TRIAL,
17 THERE WOULD BE ADDITIONAL EVIDENCE RECEIVED
18 EVIDENCE BOTH IN AGGRAVATION AND EVIDENCE IN
19 MITIGATION AND BY THAT I SIMPLY MEAN THAT THERE
20 WOULD BE EVIDENCE OFFERED WHICH MIGHT TEND TO
21 SUPPORT WHY THE DEATH PENALTY SHOULD BE IMPOSED AND
22 THERE MIGHT BE EVIDENCE OFFERED WHICH MIGHT TEND TO
23 SUPPORT WHY IT SHOULD NOT BE IMPOSED OR WHY A LIFE
24 IMPRISONMENT SENTENCE SHOULD BE IMPOSED WOULD YOU
25 BE WILLING AND ABLE TO CONSIDER ALL OF THAT

1 ADDITIONAL EVIDENCE BEFORE ARRIVING AT ANY DECISION
2 AS TO PUNISHMENT?

3 A YES, SIR

4 Q NOW, AFTER YOU HAVE CONSIDERED ALL THE
5 EVIDENCE IN THE CASE, ALL THE EVIDENCE RELATING TO
6 THE CIRCUMSTANCES OF THE CRIME, EVIDENCE RELATING TO
7 THE INDIVIDUAL CHARACTERISTICS OF THE DEFENDANT AND
8 BACKGROUND, EVIDENCE RELATING TO AGGRAVATION,
9 EVIDENCE RELATING TO MITIGATION AFTER CONSIDERING
10 ALL OF THAT EVIDENCE, IF YOU THOUGHT IT WAS
11 APPROPRIATE UNDER THE CIRCUMSTANCES, COULD YOU
12 SENTENCE A PERSON TO DEATH?

13 A YES, SIR, I BELIEVE

14 Q DID YOU SAY THAT YOU BELIEVE THAT YOU COULD?

15 A YES, SIR

16 Q COULD YOU, ALSO, SENTENCE A PERSON TO LIFE
17 IMPRISONMENT?

18 A YES, SIR

19 Q NOW, AS I INDICATED TO YOU, THE LAW PROVIDES
20 THAT WHERE THE STATE PROVES A PERSON GUILTY OF
21 MURDER BEYOND A REASONABLE DOUBT AND WHERE THE STATE
22 PROVES THAT SOME OTHER AGGRAVATING CIRCUMSTANCE
23 BEYOND A REASONABLE DOUBT, THE STATE MAY ASK A JURY
24 TO IMPOSE THE DEATH SENTENCE DO YOU UNDERSTAND
25 THAT THE LAW, HOWEVER, DOES NOT EVER REQUIRE THAT A

1 JURY IMPOSE A DEATH SENTENCE AGAINST AN INDIVIDUAL?

2 A NO, SIR, I DID NOT KNOW THAT

3 Q AND THAT'S WHY WE'RE HERE THAT'S WHY I
4 EXPLAIN SOME OF THESE THINGS TO YOU BECAUSE
5 SOMETIMES PEOPLE HAVE A MISUNDERSTANDING OR THEY
6 HAVE A MISAPPREHENSION AS TO WHAT THE LAW IS AND,
7 OF COURSE, IN ORDER FOR US TO FIND OUT WHAT YOUR
8 VIEWS ARE, IT'S IMPORTANT THAT YOU UNDERSTAND WHAT
9 THE LAW IS AND THAT'S WHY I ATTEMPT TO EXPLAIN IT TO
10 YOU

11 SO LET ME JUST SAY THAT WHILE THE LAW PERMITS
12 THE STATE TO ASK FOR THE DEATH PENALTY UNDER THE
13 CIRCUMSTANCES THAT I HAVE DESCRIBED, THE LAW, UNDER
14 NO CIRCUMSTANCES REQUIRES A DEATH SENTENCE TO BE
15 IMPOSED THAT SIMPLY MEANS THAT EVEN IF THE STATE
16 PROVES MURDER AND EVEN IN THE STATE PROVES AN
17 AGGRAVATING CIRCUMSTANCE WHICH ALLOWS A JURY TO
18 SENTENCE A PERSON TO DEATH, THE LAW NEVER SAYS THAT
19 YOU MUST DO IT IF YOU FIND THOSE THINGS IT'S
20 ALWAYS, ALWAYS DISCRETIONARY WITH THE JURY AND SO
21 YOU WOULD ALWAYS HAVE THAT CHOICE YOU COULD
22 SENTENCE A PERSON TO DEATH OR YOU COULD SENTENCE A
23 PERSON TO LIFE AND YOU COULD SENTENCE A PERSON TO
24 LIFE FOR SOME REASON OR FOR NO REASON AT ALL YOU
25 WOULD ALWAYS HAVE THAT CHOICE YOU WOULD ALWAYS

1 HAVE THOSE TWO OPTIONS

2 NOW, WHAT I WANT TO ASK YOU IS, IF YOU WERE
3 PARTICIPATING IN SUCH A CASE AND IF YOU HAD THAT
4 CHOICE, IF YOU HAD THAT OPTION TO SENTENCE A PERSON
5 TO DEATH OR TO SENTENCE A PERSON TO LIFE
6 IMPRISONMENT, WOULD YOU ALWAYS ELECT ONE OF THOSE
7 OPTIONS OVER THE OTHER?

8 A YES

9 Q AND WHAT WOULD YOU ELECT?

10 A IT WOULD BE HOW BAD THE CRIME WAS, SOMETHING
11 LIKE THAT

12 Q PERHAPS MY QUESTION'S NOT CLEAR WHAT I'M
13 ASKING YOU IS, YOU UNDERSTAND THAT YOU HAVE A CHOICE
14 IN THE CASE

15 A YES

16 Q IF YOU DETERMINE THAT THE FACTS SUPPORT THE
17 IMPOSITION OF THE DEATH PENALTY, YOU STILL HAVE THE
18 CHOICE TO SENTENCE A PERSON TO DEATH OR SENTENCE A
19 PERSON TO LIFE AND I SIMPLY WANT TO KNOW THAT
20 UNDERSTANDING YOU HAVE A CHOICE, WOULD YOU ALWAYS
21 CHOOSE ONE AS OPPOSED TO THE OTHER?

22 A YES, SIR

23 Q AND WHAT WOULD YOU CHOOSE?

24 A PROBABLY, LIFE

25 Q SO ARE YOU SAYING THAT IF YOU HAD A CHOICE,

1 YOU WOULD ALWAYS CHOOSE LIFE?

2 A THAT'S HARD TO SAY NOW

3 Q LET ME ASK IT IN ANOTHER WAY CAN YOU IMPOSE
4 A SENTENCE OF DEATH AGAINST SOMEONE DEPENDING UPON
5 THE CIRCUMSTANCE?

6 A YES, SIR

7 Q CAN YOU IMPOSE A SENTENCE OF LIFE IF YOU FIND
8 IT WARRANTED?

9 A YES, SIR

10 Q WOULD YOUR DECISION DEPEND UPON THE FACTS OF
11 THE CASE?

12 A YES, SIR

13 Q WOULD YOU AUTOMATICALLY CHOOSE THE LIFE OPTION
14 OR THE DEATH OPTION OR WOULD IT DEPEND ON WHAT THE
15 FACTS ARE?

16 A IT WOULD DEPEND ON WHAT THE FACTS ARE

17 Q NOW, FOR THE MOMENT I WANT YOU TO ASSUME THAT
18 YOU'VE CONSIDERED THE CASE AND YOU'VE BEEN IN THE
19 PENALTY PHASE, ALSO, AND YOU HAVE DECIDED THAT YOU
20 BELIEVE UNDER THE CIRCUMSTANCES OF THAT CASE, THAT
21 IT'S APPROPRIATE TO SENTENCE A PERSON TO DEATH,
22 SENTENCE THAT PERSON TO DEATH IN ORDER FOR THAT TO
23 BE CARRIED OUT, IT WOULD BE NECESSARY FOR YOU TO
24 SIGN A FORM ON THAT FORM YOU WOULD STATE THAT YOU
25 RECOMMEND THAT PERSON BE SENTENCED TO DEATH WOULD

1 YOU BE ABLE TO SIGN SUCH A FORM IMPOSING A DEATH
2 SENTENCE?

3 A YES, SIR

4 Q HAVE YOU ALREADY UP TO THIS POINT FORMED OR
5 EXPRESSED ANY OPINION THAT YOU MIGHT HAVE ABOUT WHAT
6 YOU THINK THE APPROPRIATE DECISION SHOULD BE IN THIS
7 PARTICULAR CASE?

8 A NO, SIR

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

11 A IF THERE WOULD BE ANY NOTE TAKING, WOULD YOU
12 HAVE TO TAKE NOTES DURING THIS?

13 Q NO, SIR, NOT ONLY WOULD YOU HAVE NOT TO HAVE
14 TAKE THEM, BUT IT'S LIKELY YOU WOULD NOT BE
15 PERMITTED TO TAKE NOTES WOULD THAT CAUSE SOME
16 DIFFICULTY?

17 A NO, SIR

18 Q DO YOU MIND MY ASKING WHY YOU ASKED THAT
19 QUESTION?

20 A I'M NOT A REAL GOOD READER OR WRITER

21 Q OKAY NO, YOU WOULD NOT BE PERMITTED TO -- I
22 MEAN, YOU WOULD PROBABLY NOT BE PERMITTED BUT YOU
23 CERTAINLY WOULD NEVER BE REQUIRED TO TAKE NOTES

24 A OKAY

25 Q DO YOU KNOW OF ANY OTHER REASON WHY YOU COULD

1 NOT SERVE, IF CALLED UPON?

2 A NONE

3 Q COULD YOU BE FAIR AND IMPARTIAL, IF SELECTED?

4 A YES, I COULD

5 Q YOU UNDERSTAND YOU WOULD BE SEQUESTERED DURING
6 THE TRIAL DO YOU KNOW WHAT I MEAN BY THAT?

7 A HUH-UH

8 Q THAT MEANS YOU WOULD BE STAYING IN A MOTEL
9 IN OTHER WORDS, THE JURY WOULD STAY IN A MOTEL UNTIL
10 THEY COME TO COURT, YOU'D BE HERE DURING THE DAY,
11 YOU'D EAT MEALS WITH YOUR FELLOW JURORS, YOU'D NOT
12 BE ABLE TO GO BACK HOME

13 A YES

14 Q WOULD THAT POSE ANY UNREASONABLE HARDSHIP OR
15 HEALTH RISK TO YOU OR ANYONE DEPENDANT UPON YOU?

16 A NO, SIR

17 Q AND WOULD YOU BE WILLING TO ACCEPT ANY
18 INCONVENIENCE THAT MIGHT BE CAUSED BY THAT
19 REQUIREMENT?

20 A YES, SIR, I'D SAY SO

21 Q ARE YOU WILLING TO SERVE, IF YOU'RE CALLED
22 UPON?

23 A YEAH, I'M WILLING TO SERVE

24 THE COURT PLEASE ANSWER ANY QUESTIONS
25 THE LAWYERS HAVE FOR YOU

1 EXAMINATION BY MR TINSLEY

2 Q THANKS, YOUR HONOR GOOD AFTERNOON, MR
3 BLACK MR BLACK, YOU'D BE WILLING TO FOLLOW THE
4 JUDGE'S INSTRUCTIONS, IN FACT, IT WOULD INCLUDE --
5 YOU COULDN'T EVEN DISCUSS THE CASE WITH YOUR FELLOW
6 JURORS, COULD YOU FOLLOW THAT?

7 A YES, SIR

8 Q I MEAN, IN OTHER WORDS, YOU COULD ULTIMATELY
9 WHEN YOU GOT BACK IN THE JURY ROOM, BUT YOU COULDN'T
10 IN THE MEANTIME LIKE IF YOU ALL WERE OUT TO EAT,
11 SITTING AROUND IN A HOTEL OR SOMETHING, YOU ALL
12 COULDN'T BE CHATTING ABOUT THE CASE SO YOU COULD
13 RESIST THAT TEMPTATION, COULDN'T YOU?

14 A YES, SIR

15 Q YOU COULD AND YOU'D MISS YOUR WIFE AND THREE
16 KIDS TOO, WOULDN'T YOU?

17 A YES, SIR

18 Q BUT YOU'RE WILLING TO PUT THAT BEHIND YOU AND
19 YOUR NURSERY CAN GO ON, CORRECT?

20 A YES, SIR

21 Q AND MR BLACK, JUST A COUPLE MORE QUESTIONS
22 YOU WOULD BE WILLING -- YOU REALIZE THIS IS,
23 POSSIBLY, A TWO PHASE PROCESS, TWO STAGES THE
24 FIRST WOULD BE GUILT OR INNOCENCE AND THE SECOND
25 WOULD BE, ONLY IF YOU FOUND MY CLIENT GUILTY OF

1 MURDER AND AN AGGRAVATING CIRCUMSTANCES WOULD WE
2 HAVE THE SECOND PHASE, WHICH WOULD BE THE SENTENCING
3 PHASE

4 A UM-HMM

5 Q IN THE FIRST PHASE -- A COUPLE QUESTIONS ABOUT
6 THE FIRST PHASE AND THE SECOND PHASE THEN I'M
7 THROUGH IN THE FIRST PHASE, WOULD YOU BE WILLING
8 TO LISTEN TO THE JUDGE'S INSTRUCTIONS TO YOU ON THE
9 LAW AS HE INSTRUCTED YOU?

10 A YES, SIR

11 Q AND AS SUCH, WOULD YOU BE ABLE TO APPLY THAT
12 LAW TO THE FACTS OF THE CASE?

13 A YES, SIR

14 Q AS SUCH AND FOR EXAMPLE, LET'S SAY THAT HE
15 GAVE YOU ON COUNT ONE OF THE INDICTMENT HE GAVE YOU
16 THROUGH OPTIONS THE FIRST OPTION WOULD BE GUILTY
17 OF MURDER, THE SECOND OPTION MIGHT BE GUILTY OF
18 VOLUNTARY MANSLAUGHTER, THIRD OPTION MIGHT BE NOT
19 GUILTY COULD YOU FAIRLY AND OPENLY CONSIDER ALL
20 THREE OPTIONS AS A POSSIBLE VERDICT IN THE CASE?

21 A YES, SIR

22 Q IN OTHER WORDS, COULD YOU FIND MY CLIENT NOT
23 GUILTY?

24 A YES, SIR

25 Q OR COULD YOU FIND HIM GUILTY OF A LESSER

1 CHARGE THAN MURDER SUCH AS MANSLAUGHTER?

2 A YES, SIR

3 Q IF THE EVIDENCE, ALSO, WARRANTED IN YOUR
4 ESTIMATION?

5 A YES, SIR

6 Q AND FURTHER, IF WE GOT TO THE SENTENCING
7 PHASE, THE SECOND PHASE OF THE CASE, COULD YOU
8 CONSIDER ANY AND ALL MITIGATION OFFERED BY MY
9 CLIENT? AND IF YOU DON'T UNDERSTAND MITIGATION,
10 I'LL EXPLAIN IT DO YOU WANT ME TO?

11 A YES, SIR

12 Q MITIGATION WOULD BE THE GOOD ASPECTS OF MY
13 CLIENT, THE FACTORS, THE THINGS THAT HAVE HAPPENED
14 TO HIM THAT MAKE UP HIS INDIVIDUAL CHARACTERISTICS,
15 HIS HISTORY, HIS LIFE, THAT SORT OF THING, THE
16 REASONS HE'S IN THIS SITUATION WOULD YOU BE ABLE
17 TO FAIRLY CONSIDER AND EVALUATE THOSE MITIGATING
18 FACTORS?

19 A YES, SIR

20 Q YOU LIVE UP THE ROAD IN IVA, RIGHT?

21 A YES, SIR

22 Q IN THE IVA AREA?

23 A YES

24 Q CLOSE TO THE ANDERSON COUNTY LINE?

25 A YEAH

1 Q BUT IN ABBEVILLE COUNTY?

2 A YEAH

3 Q AND AS SUCH, LIVING UP THERE, YOU REALLY DON'T
4 KNOW ANY OF THE PARTIES, THE HARRIS'S, --

5 A NO, SIR

6 Q -- THE JACKSONS, THE HUGHEYS? AND YOU HAVEN'T
7 BEEN EXPOSED TO ANYTHING ON THE CASE, IS THAT RIGHT?

8 A NO, SIR

9 MR TINSLEY THANKS YOU SO MUCH, MR
10 BLACK

11 BY MR COULTER

12 Q GOOD AFTERNOON, MR BLACK

13 A HOW YOU DOING?

14 Q MY NAME IS MIKE COULTER AND I'M A DEPUTY
15 SOLICITOR HERE IN ABBEVILLE AND I JUST HAVE A COUPLE
16 QUESTIONS FOR YOU IF SOMEONE WOULD ASK YOU LAST
17 WEEK IF YOU BELIEVED IN THE DEATH PENALTY, WHAT
18 WOULD YOU SAY?

19 A YES, SIR

20 Q YOU DO I ASK THAT QUESTION BECAUSE, OF
21 COURSE, IT'S A LITTLE DIFFERENT TO BELIEVE IN IT AND
22 THEN ACTUALLY IMPOSE IT

23 A YEAH

24 Q AND WHEN YOU WERE ASKING THE JUDGE'S
25 QUESTIONS, I NOTICED THAT WHEN ASKED IF YOU COULD

1 CONSIDER IMPOSING THE DEATH PENALTY, YOU HESITATE
2 FOR QUITE SOME TIME

3 A YEAH

4 Q BUT EVEN THOUGH YOU HESITATED, YOU RECOGNIZE
5 THAT'S A DIFFICULT CHOICE, BUT YOU'RE TELLING US YOU
6 COULD DO THAT?

7 A YES, SIR

8 Q YOU COULD DO THAT IF THE EVIDENCE WARRANTED?

9 A YES, SIR

10 Q AND I THINK YOU SAID IF THE CRIME WERE SHOWN
11 TO BE BAD ENOUGH, SOMETHING LIKE THAT?

12 A YES, SIR

13 Q AND, OF COURSE, THE DEFENSE ATTORNEY MENTIONED
14 A COUPLE DIFFERENT OPTIONS DURING THE GUILT PHASE
15 AND YOU UNDERSTAND THE PROCESS --

16 A YES

17 Q -- OF THE GUILT PHASE AND THEN IF FOUND -- THE
18 DEFENDANT FOUND GUILTY OF THE VARIOUS CHARGES, YOU'D
19 GO ONTO THE PENALTY PHASE

20 A YES, SIR

21 Q WHEN YOU GOT TO PENALTY PHASE, IF YOU AND A
22 JURY GET TO THAT POINT, FROM THE GUILT PHASE YOU, AS
23 A JUROR, WOULD HAVE HAD TO HAVE FOUND THE DEFENDANT
24 GUILTY OF MURDER, ONE COUNT OF MURDER AND ANOTHER
25 COUNT OF MURDER AND THEN POTENTIALLY, ALSO,

1 BURGLARY IN THE FIRST DEGREE AND GRAND LARCENY OF A
2 MOTOR VEHICLE

3 MR TINSLEY OBJECTION, YOUR HONOR
4 MISSTATEMENT

5 THE COURT REPHRASE IT
6 BY MR COULTER

7 Q ALL RIGHT TO GET TO THE GUILT PHASE, YOU
8 WOULD HAVE HAD TO AT LEAST FOUND THE DEFENDANT
9 GUILTY OF MURDER

10 A YES, SIR

11 Q AND THEN YOU GET INTO THE PENALTY PHASE AND
12 AT THAT POINT, COULD YOU AS A JUROR, IF THE OTHER
13 TWELVE OF YOU HAVE ALREADY AGREED AND FOUND THE
14 DEFENDANT GUILTY OF TWO COUNTS OF MURDER, BURGLAR IN
15 THE FIRST DEGREE AND GRAND LARCENY OF A MOTOR
16 VEHICLE, COULD YOU BOTH, HAVING FOUND ALL THOSE
17 DIFFERENT CRIMES, GUILTY BEYOND A REASONABLE DOUBT
18 AGAINST THE DEFENDANT, STILL CONSIDER ALL OF THE
19 CIRCUMSTANCES INVOLVED FOR RETURNING A VERDICT OF
20 EITHER DEATH OR LIFE?

21 A YES, SIR

22 Q BECAUSE YOU'LL NEED TO SEE EVERYTHING, YOU
23 HAVE TO CONSIDER THE MITIGATION THE DEFENSE ATTORNEY
24 TALKED ABOUT, BEFORE YOU COULD RETURN A SENTENCE?

25 A YES, SIR

1 Q BUT YOU COULD, IN FACT, AT THAT POINT, STILL,
2 ALSO, RETURN A SENTENCE OF DEATH?

3 A YES, SIR

4 Q AND YOU, ALSO, HESITATED WHEN MENTIONING THIS
5 TO THE JUDGE ABOUT SIGNING THE NAME A LITTLE BIT,
6 YOU HESITATED

7 A UM-HMM

8 Q BUT YOU STILL FEEL THAT, IF THE CIRCUMSTANCES
9 WARRANTED, YOU COULD SIGN YOUR NAME ON THE DEATH
10 WARRANT TAKING THE LIFE OF ANOTHER HUMAN BEING?

11 A YES, SIR, I BELIEVE I COULD

12 Q YOU BELIEVE YOU COULD?

13 A YES, SIR

14 Q YOU COULD SIGN YOUR NAME AND THEN GO BACK TO
15 YOUR EVERYDAY LIFE?

16 A YES, SIR

17 Q YOU FEEL YOU KNOW THAT ABOUT YOURSELF?

18 A YES, SIR

19 MR COULTER THANK YOU

20 THE COURT ALL RIGHT, MR BLACK, IF
21 YOU'LL JUST STEP OUTSIDE THAT DOOR FOR JUST A
22 MINUTE, I'LL BRING YOU RIGHT BACK

23 (JUROR #303 DOES AS INSTRUCTED)

24 THE COURT ANY REASON WHY THE JUROR
25 SHOULD NOT BE QUALIFIED?

1 MR COULTER NOT FOR THE STATE, YOUR
2 HONOR

3 MR TINSLEY NO, YOUR HONOR

4 THE COURT HE IS SO QUALIFIED BRING
5 HIM IN, PLEASE

6 (JUROR #303 RE-ENTERS COURTROOM)

7 THE COURT MR BLACK, YOU'VE BEEN
8 QUALIFIED TO SERVE AS A JUROR IT DOESN'T MEAN
9 YOU'VE, ACTUALLY, BEEN SELECTED BUT YOU ARE IN THE
10 LARGER POOL FROM WHICH THE ACTUAL JURORS WILL BE
11 SELECTED SO YOU ARE TO CONTINUE TO PARTICIPATE AND
12 IT'S LIKELY YOU WILL BE ASKED TO COME BACK SOMETIME
13 TOMORROW TO BEGIN WITH JURY SELECTION OF COURSE,
14 I'M NOT CERTAIN AT THIS POINT EXACTLY BUT I NEED
15 FOR YOU TO GIVE THE CLERK ANY AND ALL PHONE NUMBERS
16 WHERE YOU COULD BE REACHED BOTH DAY AND NIGHT SO
17 THAT WE CAN GET IN TOUCH WITH YOU AND HAVE YOU COME
18 BACK JUST AS SOON AS WE REQUIRE YOUR FURTHER
19 PARTICIPATION

20 MR BLACK, BEFORE YOU GO, LET ME REMIND
21 YOU THAT YOU ARE NOT TO HAVE ANY DISCUSSIONS ABOUT
22 THIS CASE WHATSOEVER WITH ANY PERSON AND YOU'RE
23 NOT TO ALLOW YOURSELF TO SEE ANY ITEM ON THE
24 TELEVISION OR READ ANY NEWSPAPER ARTICLE ABOUT IT
25 SO SIMPLY AVOID THAT MEDIA EXPOSURE, OKAY? THANK

1 YOU WE'LL CALL YOU WHEN WE NEED YOU TO COME BACK

2 (JUROR #303 EXITS COURTROOM)

3 (JUROR #303 IS QUALIFIED)

4 (THE COURT CALLS JUROR PIERCE)

5 (JUROR #322 PRESENTED AT 4 23 O'CLOCK P M)

6 EXAMINATION BY THE COURT

7 Q GOOD AFTERNOON, MS PIERCE

8 A HOLIDAY INN

9 Q YOU HAVE BEEN ASKED TO COME BACK TO RESPOND TO
10 SOME ADDITIONAL QUESTIONS I'LL HAVE SOME FOR YOU,
11 THE LAWYERS MAY HAVE SOME OTHERS FOR YOU THERE ARE
12 NO RIGHT OR WRONG ANSWERS TO THESE QUESTIONS, WE
13 JUST SIMPLY NEED TO FIND OUT YOUR HONEST OPINIONS AS
14 TO CERTAIN ITEMS AND SUBJECTS THAT YOU'LL BE ASKED
15 ABOUT SHOULD YOU NOT UNDERSTAND THE QUESTION OR
16 IT'S NOT ASKED CLEARLY FOR YOU TO UNDERSTAND, PLEASE
17 LET ME KNOW, I'LL TRY TO REPHRASE IT OR CLARIFY IT,
18 AS WELL AS THE LAWYERS, SHOULD THAT BE NECESSARY

19 YESTERDAY WHEN YOU REPORTED YOU WERE PLACED
20 UNDER OATH, YOU AND YOUR FELLOW JURORS YOU REMAIN
21 UNDER OATH FOR THE PURPOSE OF THESE QUESTIONS, ALSO
22 YOU FILLED OUT A QUESTIONNAIRE, IS IT ACCURATE?

23 A THAT'S CORRECT, IT IS

24 Q I'VE, ALSO, INSTRUCTED YOU NOT TO DISCUSS THE
25 CASE WITH ANYBODY AND NOT TO ALLOW YOURSELF TO BE

1 EXPOSED TO ANY TYPE OF MEDIA COVERAGE HAVE YOU HAD
2 ANY DISCUSSIONS OR EXPOSURE TO MEDIA BEFORE TODAY?

3 A NO, I HAVE NOT

4 Q AT ANY TIME, HAVE YOU SEEN ANY TELEVISION OR
5 NEWSPAPER ARTICLE ABOUT THE CASE?

6 A BEFOREHAND, I HAVE SEEN A NEWSPAPER ARTICLE

7 Q THAT'S WHAT I'M REFERRING TO BEFORE YOU GOT
8 MY LETTER

9 A NO BEFORE I GOT THE LETTER, YES, ON THIS
10 CASE, YES

11 Q AND DO YOU RECALL ABOUT WHEN THAT WAS?

12 A PROBABLY, WHEN THIS FIRST HAPPENED IT
13 HASN'T BEEN ANYTHING RECENT

14 Q SO THIS CASE ARISES OUT OF AN INCIDENT IN
15 DECEMBER OF 1995

16 A YES, SIR

17 Q IS THAT AT OR ABOUT THE TIME THAT YOU HEARD
18 THE MEDIA RELATING TO THE CASE?

19 A UM-HMM

20 Q YOU'VE NOT SEEN OR READ ANYTHING SINCE THAT
21 TIME?

22 A NO, SIR

23 Q HAVE YOU HAD ANY DISCUSSIONS OR CONVERSATIONS
24 ABOUT THE CASE WITH ANYONE?

25 A NO, SIR

1 Q IS THERE ANYTHING THAT YOU RECALL THAT YOU SAW
2 OR READ FROM MEDIA COVERAGE THAT WOULD PREVENT YOU
3 FROM BEING ABLE TO BE FAIR, IF YOU WERE SELECTED IN
4 THIS CASE?

5 A NO, SIR

6 Q IN THIS CASE THE STATE HAS CHARGED THE
7 DEFENDANT WITH THE CRIME OF MURDER WHEN THE STATE
8 BRINGS A CHARGE AGAINST ANOTHER INDIVIDUAL, THE
9 BURDEN IS ON THEM TO ESTABLISH HIS GUILT BEYOND A
10 REASONABLE DOUBT THE BURDEN IS NOT UPON A PERSON
11 CHARGED TO PROVE THAT THEY ARE NO GUILTY OR TO PROVE
12 THAT THEY ARE INNOCENT, DO YOU UNDERSTAND THAT?

13 A YES

14 Q EVERY PERSON CHARGED WITH A CRIME IS PRESUMED
15 TO BE INNOCENT AND MAY ONLY BE FOUND GUILTY IF THE
16 STATE COMES FORWARD WITH SUFFICIENT EVIDENCE TO
17 ESTABLISH THEIR GUILT BEYOND A REASONABLE DOUBT AND
18 THE JURY DECIDES WHETHER OR NOT THAT BURDEN HAS BEEN
19 MET, DO YOU UNDERSTAND?

20 A YES, SIR

21 Q NOW, IN A CASE WHERE A DEFENDANT IS CHARGED
22 WITH MURDER, IF THE STATE ALLEGES THAT THERE IS SOME
23 OTHER AGGRAVATING CIRCUMSTANCE, IN ADDITION TO THE
24 MURDER ITSELF, THE STATE HAS THE BURDEN OF PROVING
25 NOT ONLY THAT MURDER HAS BEEN COMMITTED BUT THE

1 STATE, ALSO, HAS THE BURDEN OF PROVING THAT SOME
2 OTHER AGGRAVATING CIRCUMSTANCE, ALSO, EXISTS, AND
3 THAT HAS TO BE PROVEN BEYOND A REASONABLE DOUBT,
4 ALSO, DO YOU UNDERSTAND THAT?

5 A I DO

6 Q NOW, UNDER THAT CIRCUMSTANCE, THE LAW PERMITS
7 THE STATE TO ASK FOR THE DEATH PENALTY FOR THAT
8 INDIVIDUAL CONVICTED OF THAT CRIME THE LAW DOES
9 NOT REQUIRE THAT THE DEATH SENTENCE BE IMPOSED, IT
10 DOES PERMIT THE STATE TO ASK FOR IT A JURY
11 SELECTED FOR THAT PURPOSE MAKES THAT DECISION

12 SO WHILE A JURY MAY CONSIDER IMPOSING A DEATH
13 SENTENCE UNDER THE CIRCUMSTANCES AS I HAVE
14 INDICATED, THEY ARE STILL NOT REQUIRED TO, EVEN IF
15 THOSE CIRCUMSTANCES ARE PROVEN, DO YOU UNDERSTAND
16 THAT?

17 A I DO

18 Q AND SO YOU WILL ALWAYS, IF PARTICIPATING IN
19 SUCH A CASE, HAVE A CHOICE BETWEEN A SENTENCE OF
20 DEATH AND A SENTENCE OF LIFE IMPRISONMENT

21 NOW, IF YOU WERE PARTICIPATING IN A CASE LIKE
22 THAT, IT WOULD OCCUR IN TWO PARTS THE FIRST STAGE
23 OF THE TRIAL WOULD RELATE TO GUILT OR THE ISSUE OF
24 GUILT AND THE SECOND STAGE, IF YOU GOT TO IT,
25 WOULD RELATE TO THE ISSUE OF PUNISHMENT AND, OF

1 COURSE, YOU DON'T GET TO THE PUNISHMENT PHASE IF A
2 PERSON HAS NOT BEEN FOUND GUILTY OF MURDER AND SOME
3 AGGRAVATING CIRCUMSTANCE PROVES IT

4 IF YOU WERE SELECTED TO SERVE IN THE CASE,
5 WOULD YOU BE ABLE TO CONSIDER ALL EVIDENCE OFFERED
6 DURING THE GUILT PHASE OF THE TRIAL AND TO CONSIDER
7 IT FAIRLY BEFORE YOU ARRIVED AT ANY DECISION AS TO
8 THAT PERSON'S GUILT?

9 A I WOULD

10 Q IF YOU WERE CONVINCED BEYOND A REASONABLE
11 DOUBT THAT THE EVIDENCE SUPPORTED A VERDICT OF
12 GUILTY, COULD YOU FIND THAT PERSON GUILTY?

13 A I WOULD

14 Q IF YOU HAD SOME REASONABLE DOUBT ABOUT THAT
15 FACT, WOULD YOU FIND THAT PERSON NOT GUILTY?

16 A I WOULD NOT IF I HAD A REASONABLE DOUBT TO
17 FIND THEM GUILTY, I WOULD NOT CONSIDER THEM GUILTY
18 IF I HAD A DOUBT

19 Q WOULD YOU FIND THEM NOT GUILTY UNDER THOSE
20 CIRCUMSTANCES?

21 A I WOULD IF I HAD A REASONABLE DOUBT

22 Q NOW, LET'S ASSUME FOR THE MOMENT AND ONLY
23 ASSUME IT FOR THE PURPOSE OF THIS QUESTION, THAT YOU
24 AND YOUR FELLOW JURORS HAVE PARTICIPATED AND YOU
25 HAVE FOUND A PERSON TO BE GUILTY OF MURDER BEYOND A

1 REASONABLE DOUBT YOU'VE, ALSO, FOUND SOME OTHER
2 AGGRAVATING CIRCUMSTANCE BEYOND A REASONABLE DOUBT,
3 THEREFORE, IT WOULD BE YOUR DECISION TO DECIDE
4 WHETHER TO SENTENCE THAT PERSON TO DEATH OR TO
5 SENTENCE THAT PERSON TO LIFE IMPRISONMENT

6 BEFORE YOU COULD MAKE THAT DECISION, THERE
7 WOULD BE ADDITIONAL EVIDENCE RECEIVED DURING THAT
8 PENALTY PHASE OF THAT TRIAL THERE WOULD BE
9 EVIDENCE OFFERED IN AGGRAVATION, THERE WOULD BE
10 EVIDENCE OFFERED IN MITIGATION AND BY THAT, I
11 SIMPLY MEAN THAT THERE MIGHT BE EVIDENCE OFFERED
12 TENDING TO SHOW WHY THE DEATH PENALTY WAS
13 APPROPRIATE THERE MIGHT BE EVIDENCE OFFERED
14 TENDING TO SHOW WHY IT WAS NO APPROPRIATE OR WHY A
15 LIFE SENTENCE WAS MORE APPROPRIATE WOULD YOU BE
16 ABLE AND WILLING TO CAREFULLY CONSIDER ALL OF THAT
17 ADDITIONAL EVIDENCE BEFORE YOU ARRIVED AT ANY
18 DECISION AS TO PUNISHMENT?

19 A I WOULD

20 Q DEPENDING UPON WHAT THAT EVIDENCE WAS, IN YOUR
21 MIND, IF YOU BELIEVED IT TO BE APPROPRIATE, COULD
22 YOU SENTENCE A PERSON TO DEATH?

23 A I COULD

24 Q COULD YOU, ALSO, SENTENCE A PERSON TO LIFE
25 IMPRISONMENT?

1 A I COULD DEPENDING ON THE EVIDENCE

2 Q AND WOULD YOUR CHOICE DEPEND UPON ALL THE
3 EVIDENCE RECEIVED DURING THE TRIAL?

4 A THAT'S CORRECT

5 Q IF YOU MADE THE DECISION BASED UPON THAT
6 EVIDENCE THAT A DEATH SENTENCE WAS APPROPRIATE, IT
7 WOULD BE NECESSARY UNDER THE LAW THAT YOU SIGN YOUR
8 NAME TO A FORM INDICATING THAT THAT WAS YOUR
9 RECOMMENDATION WOULD YOU BE ABLE TO SIGN SUCH A
10 FORM?

11 A I WOULD

12 Q DO YOU KNOW OF ANY REASON WHY YOU COULD NOT
13 SERVE AS A JUROR, IF SELECTED TO DO SO IN THIS CASE?

14 A I DO NOT

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

18 A NO, BECAUSE I HAVEN'T HEARD ANY EVIDENCE AS
19 FAR AS THE CASE GOES

20 Q DO YOU KNOW ANY OF THE FAMILIES INVOLVED IN
21 THIS CASE, THE HARRIS'S, THE JACKSONS, THE HUGHEY'S?

22 A I DO NOT

23 Q YOU UNDERSTAND THAT IF YOU'RE SELECTED, YOU
24 WOULD BE SEQUESTERED?

25 A I DO

1 Q YOU UNDERSTAND WHAT THAT MEAN'S

2 A YES

3 Q WOULD THAT REQUIREMENT POSE ANY UNREASONABLE
4 HARDSHIP OR HEALTH RISK TO YOU OR ANYONE DEPENDENT
5 UPON YOU?

6 A NO, IT WOULDN'T

7 Q WOULD YOU BE WILLING TO ACCEPT THAT
8 INCONVENIENCE, IF SELECTED TO SERVE?

9 A I WOULD

10 THE COURT THANK YOU PLEASE ANSWER THE
11 LAWYERS' QUESTIONS

12 EXAMINATION BY MR TINSLEY

13 Q GOOD AFTERNOON, MS PIERCE

14 A GOOD AFTERNOON

15 Q I'M PUBLIC DEFENDER TINSLEY AND I REPRESENT
16 MR HUGHEY MS PIERCE, NOW, YOU LIVE OVER IN
17 CALHOUN FALLS, RIGHT?

18 A THAT'S CORRECT

19 Q SO YOU HAVEN'T BEEN IN TOWN TALKING WITH
20 ANYONE ABOUT THE CASE OR ANYTHING LIKE THAT?

21 A NO, HUH-UH

22 Q AND AS SUCH, OVER IN CALHOUN FALLS, YOU
23 HAVEN'T BEEN TALKING WITH THEM OVER THERE, HAVE YOU?

24 A NO, SIR

25 Q HAVE YOU HEARD ANYBODY ELSE TALKING ABOUT IT?

1 A NO, SIR

2 Q NOW, LAST WEEK THERE WAS SOME NEWSPAPER
3 ARTICLES, DID YOU HAPPEN TO READ ANY OF THOSE?

4 A I HAVEN'T READ ANYTHING RECENTLY ON THE CASE

5 Q SO YOUR EXPOSURE GOES BACK IN TIME?

6 A BACK, YES, SIR

7 Q AND YOU, OF COURSE, FILLED THIS QUESTIONNAIRE
8 OUT AND I HATE TO ASK YOU ABOUT THIS, BUT I HAVE TO
9 ASK YOU ABOUT YOU SAID THAT SOMEBODY IN YOUR FAMILY
10 HAD BEEN A VICTIM OF A SEXUAL ASSAULT

11 A THAT'S CORRECT

12 Q HOPEFULLY, IT WASN'T YOU?

13 A ACTUALLY, IT WAS

14 Q IT WAS YOU

15 A YES, SIR

16 Q AND WHEN WAS THAT?

17 A THIS WAS ABOUT 1993, LATE '92, EARLY 1993

18 Q WAS IT IN THIS AREA?

19 A YES, SIR, IT WAS, ACTUALLY, IN CALHOUN FALLS
20 IN ABBEVILLE COUNTY, THAT'S CORRECT

21 Q WAS THE INDIVIDUAL CHARGED WITH THE CRIME OR
22 THE PERPETRATOR?

23 A YES, SIR, HE WAS

24 Q AND WAS HE PROSECUTED BY THE EIGHTH CIRCUIT
25 SOLICITOR'S OFFICE?

1 A I'M NOT SURE I WAS AT SCHOOL AT THE TIME, I
2 DID NOT, YOU KNOW, ATTEND ANY HEARING OR WHATEVER
3 I DO KNOW THAT HE WAS GIVEN PROBATION AS FAR AS
4 THE JAIL TIME, I DO NOT KNOW

5 Q WELL, DO YOU KNOW WHETHER OR NOT I DEFENDED
6 HIM AS PUBLIC DEFENDER?

7 A NO, SIR, I DO NOT

8 Q HOW DID YOU FEEL ABOUT THAT?

9 A ABOUT?

10 Q THE OUTCOME OF IT? I'M NOT GOING TO ASK YOU
11 ABOUT THE EVENT

12 A WELL, I MEAN, I THINK THAT, YOU KNOW, WHOEVER
13 DEFENDED HIM OR WHOEVER THE JURORS MAY HAVE BEEN
14 MADE THE APPROPRIATE DECISION I MEAN, I'M SURE HE
15 WAS PUNISHED IN THE APPROPRIATE WAY

16 Q SO YOU WERE OKAY WITH THAT?

17 A I AM

18 Q AND YOU DON'T' FEEL IN ANY WAY THAT THAT WOULD
19 AFFECT YOUR JURY SERVICE HERE IN THIS CASE?

20 A NO, SIR, IT WOULDN'T

21 Q AND I WOULD ASK YOU WHAT -- DO YOU KNOW THE
22 NAME OF THE FELLOW WHO DID THIS TO YOU?

23 A I DO

24 Q AND I'M NOT GOING TO ASK YOU HIS WHOLE NAME,
25 I'M JUST GOING TO ASK YOU HIS LAST NAME

1 A IT'S GARTRELL

2 Q SCARTRELL?

3 A GARTRELL, G-A-R-T-R-E-L-L

4 Q GARTRELL?

5 A THAT'S CORRECT

6 Q WELL, THAT ALERTS ME TO THE FACT THAT YOUR
7 MOTHER IS JANICE GARTRELL, AM I CORRECT ON THAT?

8 A THAT IS CORRECT

9 Q AND I HATE TO GO INTO ANY EMBARRASSING THINGS,
10 BUT IS HE A RELATIVE OF YOURS?

11 A HE WAS MY STEPFATHER

12 Q HE WAS, OKAY IT, OBVIOUSLY, WAS A TRYING
13 TIME FOR YOU BUT YOU'VE BEEN ABLE TO PUT IT BEHIND
14 YOU

15 A THAT IS CORRECT

16 Q SINCE YOU DIDN'T COME TO COURT, HE, OBVIOUSLY,
17 ENTERED A PLEA

18 A THAT'S TRUE

19 Q SO THERE WAS NO JURY INVOLVED IN THAT CASE?

20 A I'M NOT, ACTUALLY, SURE AND I WASN'T PRESENT

21 Q WOULD YOU CONSIDER IT FAIR TO ME TO SAY THAT
22 THERE REALLY COULDN'T HAVE BEEN WITHOUT YOUR
23 TESTIMONY?

24 A THAT'S TRUE THERE WERE POLICE OFFICERS BUT
25 I'M SURE THAT IS CORRECT

1 Q WELL, ALSO, THERE WAS -- GETTING ON A LITTLE
2 MORE NICER SUBJECT YOU SERVED ON A CIVIL JURY
3 RECENTLY, DID YOU NOT?
4 A I DID
5 Q AND WHAT WAS THAT ALL ABOUT?
6 A TENANT AGREEMENT
7 Q LANDLORD/TENANT?
8 A YEAH, THAT'S CORRECT
9 Q CITY OF CALHOUN FALLS?
10 A IT WAS HERE IN ABBEVILLE
11 Q WAS IT IN BIG COURT HERE OR IN MAGISTRATE'S
12 COURT?
13 A MAGISTRATE COURT
14 Q OVER AT THE OLD HEALTH DEPARTMENT BUILDING?
15 A UM-HMM
16 Q AS SUCH, THAT WAS OKAY WITH YOU, WASN'T IT?
17 A UM-HMM
18 Q DID THE CASE MAKE IT TO THE JURY?
19 A IT DID
20 Q WERE THERE LAWYERS INVOLVED?
21 A THERE WERE
22 Q AND WHO, MAY I ASK, WERE THE LAWYERS INVOLVED?
23 A I'M NOT SURE OF THE NAMES BUT I KNOW IT WASN'T
24 EITHER OF YOU
25 Q WASN'T ANYBODY IN THIS CASE?

1 A NO, SIR

2 Q AND YOU, ALSO, MENTION IN YOUR QUESTIONNAIRE
3 THAT YOU ATTEND CHURCH IN LINCOLN IN GEORGIA?

4 A THAT'S CORRECT

5 Q AND WHAT FAITH ARE YOU?

6 A I AM A BAPTIST

7 Q YOU ARE A BAPTIST?

8 A THAT'S CORRECT

9 Q AND, MS PIERCE, IN THE MATTER AT HAND, IF THE
10 JUDGE INSTRUCTED YOU ON THE LAW, YOU WOULD, OF
11 COURSE, FOLLOW THOSE INSTRUCTIONS, WOULDN'T YOU?

12 A CORRECT

13 Q AND YOU'RE A REGISTERED VOTER, AREN'T YOU?

14 A I AM

15 Q AND YOU HAVE A DRIVER'S LICENSE, ALSO?

16 A I DO

17 Q AND YOU'VE NEVER BEEN IN ANY TROUBLE OR
18 ANYTHING?

19 A I HAVEN'T

20 Q AND YOU CONSIDER YOURSELF AN OBJECTIVE PERSON,
21 DO YOU NOT?

22 A CORRECT

23 Q AND YOU DON'T HAVE ANY BIAS TOWARDS MY CLIENT,
24 MR HUGHEY, WHATSOEVER, DO YOU?

25 A DO NOT

1 Q DON'T EVEN KNOW HIM, DO YOU?

2 A THAT'S CORRECT

3 Q DON'T KNOW ANY OF THE PARTIES?

4 A I DO NOT

5 Q AND, FURTHER, YOU HAVE STATED THAT YOU WOULD
6 BE ABLE TO EVALUATE THE EVIDENCE ON THE BASIS AS
7 PRESENTED IN THE CASE, CORRECT?

8 A CORRECT

9 Q AND IN SO DOING, SHOULD THE JUDGE, FOR
10 EXAMPLE, GIVE YOU THE OPTION ON COUNT ONE, THE
11 CHARGE BEING IN THE INDICTMENT, THE CHARGE BEING IN
12 THAT COUNT MURDER, YOU COULD CONSIDER ANY AND ALL
13 OPTIONS THAT HE DID INDEED GIVE YOU ON THAT COUNT,
14 COULD YOU NOT?

15 A I COULD

16 Q FOR EXAMPLE, HE MAY GIVE YOU THE OPTION OF
17 GUILTY OF MURDER OR GUILTY OF MANSLAUGHTER, A LESSER
18 HOMICIDE, OR NOT GUILTY, COULD YOU CONSIDER ALL
19 THREE?

20 A I COULD

21 Q AND AS SUCH, LET'S ASSUME -- THAT'S IN PHASE
22 ONE, YOU UNDERSTAND?

23 A UM-HMM

24 Q GUILT OR INNOCENCE WHICH WOULD DETERMINE
25 WHETHER OR NOT WE WENT TO PHASE TWO LET'S ASSUME

1 FOR A MINUTE THAT WE HAVE GONE TO PHASE TWO AND
2 WE'RE IN PHASE TWO NOW, AT THAT POINT, MR HUGHEY
3 WOULD HAVE THE OPPORTUNITY TO PRESENT WHAT'S CALLED
4 MITIGATING EVIDENCE, AND I'M SURE YOU UNDERSTAND
5 WHAT THE WORDS, DO YOU NOT?

6 A I DO NOT

7 Q I'LL EXPLAIN VERY BRIEFLY, IF YOU WOULD FOR ME
8 TO

9 A PLEASE

10 Q MITIGATING EVIDENCE WOULD BE EVIDENCE OFFERED
11 BY MR HUGHEY ON HIS GOOD POINTS, ON HIS HISTORY OF
12 LIFE, ON THE THINGS THAT HAVE HAPPENED TO HIM, THE
13 REASONS HE'S IN THE SITUATION HE'S IN NOW,
14 ASSUMING THAT WE'RE AT THAT STAGE AND MR HUGHEY IS
15 OFFERING THOSE KINDS OF MITIGATING EVIDENCE, WOULD
16 YOU BE WILING TO FULLY EVALUATE AND LISTEN TO THAT
17 EVIDENCE OBJECTIVELY?

18 A I WOULD

19 Q EVEN THOUGH YOU HAD FOUND HIM GUILTY OF MURDER
20 PREVIOUSLY?

21 A I WOULD BE ABLE TO

22 Q AND YOU WOULD COMPLETELY MAINTAIN AN OPEN MIND
23 IN DELIBERATING ON THAT?

24 A THAT'S CORRECT

25 MR TINSLEY THANK YOU SO MUCH, MS

1 PIERCE

2 EXAMINATION BY MR JONES

3 Q GOOD AFTERNOON, MS PIERCE

4 A GOOD AFTERNOON

5 Q MY NAME IS TOWNES JONES AND I'M YOUR SOLICITOR
6 HERE IN ABBEVILLE COUNTY THIS IS MICHAEL COULTER
7 AND HE'S YOUR CHIEF DEPUTY SOLICITOR WE'LL BE
8 PRESENTING EVIDENCE IN THE CASE, CALLING WITNESSES
9 AND ASKING THEM QUESTIONS FOR THE JURY'S SAKE SO
10 THE JURY CAN HEAR ABOUT THE TESTIMONY IN THE CASE
11 AND THE EVIDENCE AND THAT SORT OF THING

12 WE GOT A COPY OF YOUR QUESTIONNAIRE, THAT
13 GIVES US A CHANCE TO TRY TO LEARN A LITTLE BIT ABOUT
14 YOU BECAUSE, ULTIMATELY, WE GET A CHANCE TO HAVE
15 SOME INPUT IN THE SELECTION OF THE JURY BUT I
16 WOULD DARE SAY AND AS YOU IF YOU APPRECIATE THIS AND
17 OUR MAIN OBJECTIVE IS TO FIND OUT IF YOU CAN BE
18 HONEST, FAIR AND IMPARTIAL, AND YOU CAN BE

19 A CAN

20 Q AND THEN, OF COURSE, WE WANT TO FIND OUT YOUR
21 VIEWS ON CAPITAL PUNISHMENT BECAUSE THE STATE IS
22 SEEKING THE DEATH PENALTY ON THIS CASE BEFORE I
23 GET TO THAT, AS FAR AS YOUR FAIRNESS IS CONCERNED,
24 YOU WOULD GIVE MR HARRIS A FAIR TRIAL?

25 A I WOULD

1 MR TINSLEY OBJECTION, YOUR HONOR

2 Q YOU'D GIVE BOTH PARTIES A FAIR TRIAL?

3 A I WOULD

4 Q BOTH SIDES?

5 A I WOULD

6 Q FAIR AND IMPARTIAL?

7 A THAT'S CORRECT

8 Q AND MS JACKSON, YOU DON'T KNOW MS DORIS
9 JACKSON, DO YOU?

10 A I DO NOT

11 Q ANOTHER ONE OF THE PARTIES IN THE CASE YOU
12 CAN GIVE HER A FAIR TRIAL, TOO?

13 A I COULD

14 Q AND MR HARRIS'S SONS --

15 MR TINSLEY OBJECTION, YOUR HONOR,
16 ONGOING

17 MR JONES THE OTHER HARRIS'S

18 THE COURT OVERRULED

19 EXAMINATION BY MR JONES

20 Q YOU COULD GIVE THEM A FAIR TRIAL?

21 A I COULD

22 Q AND, ESSENTIALLY, YOU WOULD ONLY JUDGE YOUR
23 VERDICT ON WHAT EVIDENCE CAME IN FROM THE WITNESS
24 STAND, CORRECT?

25 A THAT'S CORRECT

1 Q LET'S ASSUME THAT YOU'RE SITTING AS A JUROR
2 AND YOU LISTEN TO THE EVIDENCE AND THE JURY HEARS
3 ALL THE EVIDENCE IN THE CASE AND THE JUDGE SAYS,
4 THAT'S ALL THE EVIDENCE LADIES AND GENTLEMEN, GO
5 BACK IN THE ROOM AND DECIDE WHAT THE VERDICT IS
6 AND THE TWELVE OF YOU GO BACK AND YOU DISCUSS THE
7 EVIDENCE AND YOU COME TO A VERDICT AND THE VERDICT
8 IS GUILTY OF MURDER, GUILTY OF MURDER AND YOU,
9 ALSO, ADDRESS THE CONCERNS THE JUDGE GAVE YOU ABOUT
10 ANY AGGRAVATION IN THE CASE, AGGRAVATING
11 CIRCUMSTANCE DO YOU UNDERSTAND THAT IN SOUTH
12 CAROLINA IN ORDER FOR THE JURY TO BE ABLE TO
13 CONSIDER PUNISHMENT, CONSIDER WHETHER TO GIVE THE
14 DEATH PENALTY OR NOT, THEY NOT ONLY HAVE TO CONVICT
15 THE DEFENDANT OF MURDER, BUT THEY HAVE TO FIND
16 BEYOND A REASONABLE DOUBT THAT THERE'S AN
17 AGGRAVATING CIRCUMSTANCE, DO YOU UNDERSTAND WHAT AN
18 AGGRAVATING CIRCUMSTANCE IS?

19 A PLEASE EXPLAIN

20 Q ALL RIGHT AN AGGRAVATING CIRCUMSTANCE IS A
21 STATUTORY CIRCUMSTANCE THAT IS THE LEGISLATURE HAS
22 DELINEATED CERTAIN AGGRAVATING CIRCUMSTANCES THAT
23 THE JUDGE CAN TELL YOU IF WE PROVED THEM WITH
24 EVIDENCE THEN YOU CAN FIND THAT THEY EXISTED BY
25 TELLING THE JUDGE THAT WITH YOUR VERDICT AND ONE

1 AGGRAVATING CIRCUMSTANCE IN SOUTH CAROLINA IS THAT
2 DURING THE COMMISSION OF MURDER, A BURGLARY OF
3 SOMEONE'S HOME WAS COMMITTED A BREAKING IN WITH THE
4 INTENT TO COMMIT A CRIME WHILE THEY'RE IN

5 ANOTHER AGGRAVATING CIRCUMSTANCE IN SOUTH
6 CAROLINA MIGHT BE THAT DURING THE COMMISSION OF A
7 MURDER, A LARCENY OR SOME STEALING TAKES PLACE
8 ANOTHER AGGRAVATING CIRCUMSTANCE IN SOUTH CAROLINA
9 MIGHT BE THE COMMISSION OF TWO SEPARATE MURDERS AT
10 ONE TIME, KILLING TWO PEOPLE AT ONCE SO IF THE
11 JURY CONVICTED -- BACK TO THE JURY DELIBERATIONS,
12 AND FOUND A DEFENDANT GUILTY OF MURDER AND THEN THE
13 JURY, ALSO, FOUND AN AGGRAVATING CIRCUMSTANCE AND
14 YOU UNDERSTAND WHAT AN AGGRAVATING CIRCUMSTANCE
15 MIGHT BE?

16 A I DO

17 Q AND THE JURY CAME BACK AND SAID, JUDGE, WE
18 FIND HIM GUILTY OF MURDER AND WE FOUND AN
19 AGGRAVATING CIRCUMSTANCE THEN THE JUDGE IS GOING
20 TO SAY, ALL RIGHT, LADIES AND GENTLEMEN, WE WILL
21 PROCEED TO THE SECOND PHASE OF THE TRIAL AND THAT
22 PHASE IS WHERE YOU, THE JURY, DECIDE WHAT PUNISHMENT
23 IS PROPER AND THE STATE WILL PUT UP EVIDENCE AS TO
24 WHY WE BELIEVE THE DEATH PENALTY IS PROPER AND THE
25 DEFENSE WILL PUT UP EVIDENCE AS TO WHY THEY BELIEVE

1 LIFE IMPRISONMENT IS PROPER YOU WOULD CONSIDER
2 THAT EVIDENCE?

3 A I WOULD

4 Q AND IF IT APPROPRIATE, YOU WOULD RETURN A
5 VERDICT OF THE DEATH PENALTY?

6 A I WOULD, DEPENDING ON WHAT EVIDENCE WAS GIVEN
7

8 Q BUT YOU KNOW THAT YOU COULD DO THAT --

9 A I DO

10 Q -- IF IT WAS APPROPRIATE?

11 A THAT IS CORRECT, I DO NOW

12 Q SO YOU CAN ENVISION AND THINK OF AN INSTANCE
13 WHEN YOU WOULD GIVE THE DEATH PENALTY?

14 A WELL, I MEAN, I COULD, I COULD BUT, YOU
15 KNOW, I THINK ALL THINGS DESERVE A RIGHT TO BE HEARD
16 AND IT DEPENDS ON THE EVIDENCE BECAUSE -- JUST
17 BECAUSE I CAN ENVISION DOESN'T NECESSARILY MEAN, YOU
18 KNOW, WITHOUT HEARING THE EVIDENCE, THAT I CAN
19 ACTUALLY SAY, OKAY, THIS IS WHAT SHOULD BE DONE
20 BUT WITH HEARING THE PROPER EVIDENCE, I COULD SEE
21 MYSELF GIVING THE DEATH PENALTY, IF NECESSARY

22 Q AND, OF COURSE, PART OF THAT PROCESS IF YOU
23 DECIDED THAT THE DEATH PENALTY WAS APPROPRIATE
24 PUNISHMENT, YOU'D HAVE TO SIGN YOUR NAME AS PART OF
25 THE LAW STATING THAT THAT'S WHAT YOU FELT THE

1 PUNISHMENT WAS

2 A I DO UNDERSTAND THAT

3 Q AND YOU COULD DO THAT?

4 A I COULD

5 Q IF I COULD ASK YOU A MORE GENERAL QUESTION NOW
6 HAVING TALKED TO YOU ABOUT THE SPECIFIC AREAS OF THE
7 JOB OF THE JUROR IF I CAN JUST ASK YOU PERSONALLY,
8 JUST A PERSONAL KIND OF PHILOSOPHICAL QUESTION YOU
9 AND I WERE TALKING, AS WE ARE NOW, AND I SAID, WHAT
10 DO YOU THINK OF THE DEATH PENALTY

11 A I THINK IF YOU DO THE CRIME, I THINK, YOU
12 KNOW, YOU DESERVE IT I MEAN, AS FAR AS MURDER'S
13 CONCERNED, NO ONE ASKS FOR THEIR LIVES TO BE CUT
14 SHORT THAT'S JUST HOW I FEEL I MEAN, I DON'T
15 THINK THAT SOMEONE SHOULD BE ALLOWED TO CARRY ON
16 DAY-TO-DAY ACTIVITIES KNOWING THAT THEY CUT SOMEONE
17 ELSE'S LIVES SHORT

18 Q THANK YOU

19 A YOUR WELCOME

20 THE COURT IF YOU'LL JUST STEP OUTSIDE
21 FOR JUST A MINUTE WE'LL BRING YOU BACK AND LET YOU
22 KNOW WHEN YOU CAN COME BACK

23 (JUROR #322 DOES AS INSTRUCTED)

24 THE COURT ANY REASON WHY THE JUROR
25 SHOULD NOT BE QUALIFIED?

1 MR JONES NOT FOR THE STATE, YOUR
2 HONOR

3 MR TINSLEY I'M FORCED TO OBJECT TO HER
4 QUALIFICATION THE HARRIS'S AND THE JACKSONS, WITH
5 ALL DUE RESPECT, ARE NOT ON TRIAL HERE TODAY AND
6 TO ASK IF SHE CAN GIVE DORIS JACKSON, MACK HARRIS,
7 AND HARRIS'S SON A FAIR TRIAL IS IMPROPER THE
8 PARTIES ARE JOHN KENNEDY HUGHEY AND THE STATE OF
9 SOUTH CAROLINA, AND I WOULD ASK THAT THE SOLICITOR
10 BE LIMITED TO THAT DELINEATION NOW, HE CAN
11 REFERENCE IF THEY KNOW THEM OR THAT SORT OF THING
12 AND IF IT WOULD PREJUDICE THEM IN ANY WAY, BUT THEY
13 ARE NOT ON TRIAL AND THEY ARE NOT PARTIES TO THE
14 TRIAL GRANTED THEY HAVE A VESTED INTEREST AND
15 THEY'RE GOOD PEOPLE AND I APPRECIATE THAT BUT IT'S
16 IMPROPER TO REFER TO GIVING THEM A FAIR TRIAL AND
17 THAT'S THE SECOND ONE ALONG WITH THREE ZERO FIVE AND
18 THREE TWENTY-TWO AND I'M FORCED TO OBJECT TO HER
19 QUALIFICATION ON THAT BASIS

20 THE COURT I FIND, BASED UPON THE
21 TESTIMONY RECEIVED FROM THE JUROR, THAT SHE IS TO BE
22 QUALIFIED AS A JUROR SHE HAS INDICATED HER
23 WILLINGNESS TO CONSIDER ALL THE EVIDENCE IN THE
24 CASE, SHE'S INDICATED HER ABILITY TO CONSIDER ALL
25 FORMS OF THE VERDICT AS TO GUILT AND INNOCENCE,

1 SHE'S ALSO INDICATED HER ABILITY TO CONSIDER BOTH
2 FORMS OF PUNISHMENT AS TO SENTENCE, SHE'S INDICATED
3 SHE'D CONSIDER ALL THE EVIDENCE FAIRLY AND RENDER A
4 VERDICT BASED SOLELY FROM THE EVIDENCE RECEIVED
5 DURING THE COURSE OF THIS TRIAL I FIND NO BIAS,
6 PREJUDICE OR OTHER INTEREST THAT WOULD PREVENT HER
7 FROM SERVING AS A JUROR ASK MS PIERCE TO COME
8 BACK

9 (JUROR #322 RE-ENTERS COURTROOM)

10 THE COURT MS PIERCE, YOU ARE TO BE
11 QUALIFIED TO SERVE AS A JUROR IN THE CASE SHOULD YOU
12 BE SELECTED THAT SIMPLY MEANS YOU'RE IN A LARGER
13 POOL FROM WHICH THE ACTUAL JURORS WILL BE SELECTED
14 SO YOU'VE NOT BEEN SELECTED AS OF YET BUT YOU MAY
15 BE WE ANTICIPATE JURY SELECTION IN THE CASE TO
16 BEGIN, PERHAPS, SOMETIME TOMORROW SO WE NEED TO
17 HAVE ANY AND ALL PHONE NUMBERS WHERE YOU CAN BE
18 REACHED, BOTH DAY AND NIGHT, SO THAT WE CAN GET IN
19 TOUCH WITH YOU WHEN WE NEED TO ASK YOU TO COME BACK
20 SO THAT YOU'LL BE ABLE TO COME BACK ON SHORT NOTICE
21 SO, PLEASE, GIVE THE CLERK THOSE NUMBERS BEFORE YOU
22 LEAVE AND REMEMBER MY CAUTION TO KEEP FOLLOWING
23 THAT INSTRUCTION, DON'T DISCUSS THE CASE, DON'T READ
24 ANY NEWSPAPER ARTICLES, DON'T WATCH ANYTHING ON
25 TELEVISION OR HEAR ANYTHING ON RADIO THAT RELATES TO

1 THE CASE THANK YOU

2 (JUROR #322 EXITS THE COURTROOM)

3 (OFF THE RECORD)

4 (THE COURT CALLS JUROR CARTER)

5 (JUROR #38 PRESENTED)

6 EXAMINATION BY THE COURT

7 Q MR CARTER, IF YOU'LL JUST COME OWN AND STAND
8 RIGHT WHERE THE BAILIFF IS

9 A YES, SIR

10 Q I RECEIVED A FAX AND, I GUESS, FROM SOMEBODY
11 OVER THERE IN YOUR OFFICE INDICATING THAT THEY WERE
12 AWARE OF A STATUTE THAT ALLOWED SCHOOL EMPLOYEES,
13 TEACHERS AND CERTIFIED PERSONNEL TO BE EXEMPT DURING
14 THE SCHOOL TERM IF THE HEY REQUESTED IT

15 A YES, SIR

16 Q AND BASED UPON THAT STATUTE, YOU COULD BE
17 EXEMPT OR HAVE YOUR JURY SERVICE, ACTUALLY,
18 POSTPONED TO SOME TIME THAT WOULD BE INTERFERE WITH
19 THE OPERATION OF THE SCHOOL

20 A YES, SIR

21 Q AND, OF COURSE, YOU UNDERSTAND IT DOESN'T
22 REQUIRE THAT YOU NOT SERVE IT JUST ALLOWS YOU AN
23 EXEMPTION IF YOU TELL ME YOU DON'T WISH TO SERVE
24 DO YOU WISH TO INVOKE THE EXEMPTION OR NOT

25 A YES, SIR

1 Q YOU DO?

2 A YES, SIR

3 THE COURT THEY YOU ARE EXEMPT FROM
4 SERVICE

5 JUROR THANK YOU, SIR

6 (JUROR #38 IS EXCUSED)

7 (THE COURT CALLS JUROR McCLAIN)

8 (JUROR #129 PRESENTED)

9 EXAMINATION BY THE COURT

10 Q MS McCLAIN, IF YOU'LL JUST COME DOWN RIGHT
11 HERE IN FRONT OF MS KING THERE IS A STATUTE WHICH
12 PROVES THAT A SCHOOL EMPLOYEE DURING THE SCHOOL
13 TERM, A TEACHER SUCH AS YOU, MAY BE EXEMPT FROM JURY
14 SERVICE OR HAVE YOUR JURY SERVICE POSTPONED IT
15 DOESN'T REQUIRE THAT YOU NOT SERVE, IT JUST MEANS
16 THAT YOU HAVE AN EXEMPTION YOU CAN CHOOSE NOT TO
17 SERVE IF YOU WISH TO SO LONG AS YOU FIT INTO ONE OF
18 THOSE CATEGORIES YOU BEING A TEACHER, YOU DO FIT
19 INTO THE CATEGORY DO YOU WISH TO BE EXEMPT OR ARE
20 YOU WILLING TO SERVE?

21 A I WISH TO BE EXEMPT

22 THE COURT THEN YOU ARE EXEMPTION
23 THANK YOU, MA'AM

24 MR TINSLEY, DO YOU HAVE ANY QUESTION OR
25 OBJECTION TO THOSE JUROR BEING EXEMPT?

1 MR TINSLEY NO, YOUR HONOR, I THINK
2 THEY CAN TRANSFER

3 THE COURT DOES THE STATE AGREE?

4 MR COULTER YES, YOUR HONOR

5 THE COURT MR BROWN IS HERE I HAVE A
6 LETTER FROM DR TODD INDICATING YOU HAVE SOME
7 MEDICAL DIFFICULTY WHICH MIGHT PREVENT YOU FROM
8 BEING ABLE TO SERVE AS A JUROR?

9 JUROR YES, SIR

10 THE COURT DOES YOUR MEDICAL DIFFICULTY
11 PREVENT YOU FROM BEING ABLE TO SIT FOR ANY EXTENDED
12 PERIOD OF TIME?

13 JUROR YES, SIR

14 THE COURT IT DOES AND YOU'RE
15 PRESENTLY BEING TREATED BY DR TODD FOR A BULGING
16 DISC?

17 JUROR YES, SIR

18 THE COURT AND THAT CAUSES PAIN WHEN YOU
19 SIT FOR EXTENDED PERIODS?

20 JUROR YES, SIR

21 THE COURT SOLICITOR, LET ME SEE YOU AND
22 MR TINSLEY UP HERE SO YOU CAN LOOK AT THIS
23 STATEMENT

24 (COUNSEL APPROACH THE BENCH)

25 THE COURT ALL RIGHT, MR BROWN, YOU ARE

1 EXCUSED THANK YOU FOR COMING DOWN APPRECIATE IT

2 LET THE RECORD REFLECT MR BROWN WAS

3 EXCUSED WITHOUT OBJECTION BASED UPON MEDICAL

4 CONDITION ACCOMPANIED BY A DOCTOR'S STATEMENT

5 ALL RIGHT, NOW, WE'VE GOT MS BOWIE AND

6 MR PARNELL AND MR FREEMAN BACK THERE?

7 (THE COURT CALLS JUROR BOWIE)

8 (JUROR #229 PRESENTED AT O'CLOCK P M)

9 EXAMINATION BY THE COURT

10 Q GOOD AFTERNOON, MS BOWIE WERE YOU ABLE TO

11 GET YOUR DOCTOR'S APPOINTMENT TAKEN CARE OF?

12 A YES, SIR

13 Q GOOD NOW, YOU KNOW YOU'RE BACK FOR THE

14 PURPOSE OF US ASKING YOU SOME QUESTIONS THAT MIGHT

15 RELATE TO YOUR JURY SERVICE, IF CALLED UPON TO

16 SERVE

17 A YES, SIR

18 Q AND, OF COURSE, YOU WERE SWORN YESTERDAY AND

19 YOU REMAIN UNDER OATH FOR THE PURPOSE OF THESE

20 QUESTIONS, ALSO I HAVE YOUR JURY QUESTIONNAIRE

21 AND, OF COURSE, YOU PROVIDED A GOOD BIT OF

22 INFORMATION IN RESPONSE TO THOSE QUESTIONS IS

23 EVERYTHING IN THE QUESTIONNAIRE CORRECT?

24 A YES, SIR

25 Q I ASKED YOU NOT TO HAVE ANY DISCUSSIONS ABOUT

1 THE CASE AND NOT TO ALLOW YOURSELF TO BE EXPOSED TO
2 ANY TYPE OF MEDIA COVERAGE, HAVE YOU COMPLIED WITH
3 THAT REQUEST?

4 A YES, SIR

5 Q DID YOU HAVE ANY EXPOSURE TO T V OR RADIO OR
6 NEWSPAPER ARTICLES AT ANY TIME BEFORE YOU CAME UP
7 HERE FOR JURY SERVICE?

8 A I HEARD ABOUT IT

9 Q AND FROM WHAT SOURCE DID YOU HEAR ABOUT IT?

10 A WELL, A LOT OF MY NEIGHBORS TALKING ABOUT IT,
11 A LOT OF MY FRIENDS TALKING ABOUT IT, ON T V AND
12 EVERYTHING

13 Q IS THERE ANYTHING THAT YOU HEARD FROM TALKING
14 TO YOUR FRIENDS OR ANYTHING THAT YOU SAW ON
15 TELEVISION WHICH WOULD CAUSE YOU TO BE UNFAIR?

16 A WON'T CAUSE ME TO BE UNFAIR

17 Q DO YOU THINK THAT IT MIGHT AFFECT YOUR
18 JUDGMENT IN THE CASE?

19 A YEAH

20 Q YOU DO?

21 A YEAH

22 Q LET ME ASK YOU THIS, HAVE YOU ALREADY MADE UP
23 YOUR MIND AS TO WHAT YOU THINK THE RIGHT DECISION
24 SHOULD BE IN THIS CASE?

25 A YEAH, SORT OF

1 Q HAVE YOU FORMED AN OPINION ABOUT IT?

2 A YEAH

3 Q IS THERE ANYTHING THAT WOULD CHANGE YOUR MIND
4 OR YOUR OPINION THAT YOU HOLD NOW?

5 A SEE MY BELIEF IS -- MY BELIEF -- I DON'T
6 BELIEVE IN KILLING -- GIVING PEOPLE ELECTRIC CHAIRS
7 OR GIVING -- THAT'S GOD'S WORK AND I KNOW THAT HE
8 DONE WRONG BUT I CAN'T --

9 Q YOU COULDN'T DO THAT

10 A HUH-UH

11 Q WELL, LET ME ASK YOU ABOUT THAT SINCE YOU
12 BROUGHT THAT UP YOU UNDERSTAND THAT THAT WOULD BE
13 A CHOICE THAT A JURY COULD MAKE UNDER CERTAIN
14 CIRCUMSTANCES BUT BEFORE YOU WOULD BE CALLED UPON TO
15 MAKE IT, IT WOULD FIRST BE NECESSARY THAT YOU HAVE
16 FOUND A PERSON GUILTY OF MURDER BEYOND A REASONABLE
17 DOUBT AND THAT YOU HAD FOUND SOME OTHER AGGRAVATING
18 CIRCUMSTANCE, DO YOU UNDERSTAND THAT?

19 A UM-HMM

20 Q NOW, IF YOU HAD FOUND THAT, THEN YOU AND YOUR
21 FELLOW JURORS WOULD DECIDE WHAT THE RIGHT PUNISHMENT
22 SHOULD BE AND YOU WOULD HAVE TWO CHOICES, THERE
23 WOULD ONLY BE TWO, AND THAT WOULD BE TO SENTENCE THE
24 PERSON TO DEATH OR TO SENTENCE THE PERSON TO LIFE
25 IMPRISONMENT UNDERSTANDING THAT YOU WOULD BE ABLE

1 TO MAKE THAT DECISION, COULD YOU EVER SENTENCE A
2 PERSON TO DEATH?

3 A NO, I CAN'T MY BELIEF -- THAT'S GOD WORK I
4 --

5 Q WELL, WHEN YOU SAY THAT'S GOD'S WORK, YOU MEAN
6 THAT ONLY GOD SHOULD BE ALLOWED TO TAKE SOMEONE'S
7 LIFE?

8 A YEAH

9 Q AND WOULD YOU BE ABLE TO DO THAT UNDER ANY
10 CIRCUMSTANCES?

11 A I CAN'T DO IT BECAUSE I AIN'T GOD

12 Q AND IF YOU HAD A CHOICE, AND YOU ALWAYS WOULD,
13 WHETHER YOU COULD SENTENCE A PERSON TO DEATH OR
14 SENTENCE A PERSON TO LIFE, WOULD YOU ALWAYS CHOOSE
15 THE LIFE OPTION?

16 A ASK THAT QUESTION AGAIN

17 Q WHAT I'M SAYING IS, IF YOU WERE IN A POSITION
18 WHERE YOU WERE TO DECIDE THE PUNISHMENT FOR A PERSON
19 CONVICTED OF MURDER AND IF YOU COULD SENTENCE THAT
20 PERSON TO DEATH OR YOU COULD SENTENCE THAT PERSON TO
21 LIFE, WOULD YOU ALWAYS CHOOSE THE LIFE OPTION?

22 A YES, THE LIFE

23 Q WOULD YOU EVER CHOOSE THE DEATH SENTENCE?

24 A NO

25 THE COURT ANSWER MR TINSLEY'S

1 QUESTIONS, PLEASE

2 EXAMINATION BY MR TINSLEY

3 Q IF I DESCRIBED A VERY BAD CRIME, MS BOWIE,
4 REAL BAD CIRCUMSTANCES, COULD YOU CONSIDER CHANGING
5 YOUR MIND AND CONSIDER INVOKING THE DEATH PENALTY AS
6 YOUR SENTENCE RECOMMENDATION?

7 A REPEAT THAT AGAIN

8 Q LET SAY, FOR EXAMPLE, THAT I TOLD YOU ABOUT A
9 CRIME THAT WAS REAL BAD AND REAL SERIOUS AND IT'S
10 REAL UGLY CHARACTERISTICS, COULD YOU THEN CONSIDER
11 RECOMMENDING THE DEATH PENALTY IN THE CASE?

12 A DEATH?

13 Q YES

14 A LIKE I SAID, AGAIN, THAT'S GOD'S, YOU KNOW,
15 THAT'S GOD'S

16 Q AND, FINALLY, LET'S SAY THAT THE PERSON WERE
17 CONVICTED OF TWO MURDERS AND A BURGLARY AND
18 AGGRAVATING CIRCUMSTANCES, COULD YOU, UNDER THOSE
19 CIRCUMSTANCES, CONSIDER A DEATH SENTENCE?

20 A I DIDN'T SEE IT

21 Q WELL, I'M NOT TALKING ABOUT WHETHER YOU SAW
22 IT, I'M TALKING ABOUT RECOMMENDING A SENTENCE
23 LET'S ASSUME FOR A MINUTE THAT YOU AND YOUR FELLOW
24 JURORS HAD CONVICTED SOMEONE OF TWO MURDERS AND A
25 BURGLARY AND AGGRAVATING CIRCUMSTANCES, COULD YOU

1 THEN CONSIDER RECOMMENDING A DEATH SENTENCE OVER A
2 LIFE SENTENCE? I'M NOT ASKING YOU WHAT YOUR VOTE
3 WOULD BE, UNDERSTAND THAT I'M ASKING YOU IF YOU
4 COULD CONSIDER THE MORE SEVERE PUNISHMENT OF A DEATH
5 SENTENCE
6 A OR A LIFE SENTENCE
7 Q VERSUS A LIFE SENTENCE
8 A A LIFE SENTENCE
9 Q SO YOU COULD CONSIDER THE LIFE?
10 A UM-HMM
11 Q COULD YOU CONSIDER THE DEATH?
12 A LIFE
13 Q LIFE?
14 A LIFE
15 Q BUT NOT DEATH?
16 A HUH-UH
17 Q I COULDN'T DESCRIBE ANY FACTUAL SITUATION
18 WHEREBY YOU COULD CONSIDER THE DEATH PENALTY, IS
19 THAT CORRECT?
20 A CORRECT
21 Q AND NO MATTER HOW BAD I MADE IT AND HOW BAD
22 THE CIRCUMSTANCES, YOU WOULDN'T CHANGE YOUR OPINION
23 IS THAT BASED ON YOUR FAITH AND BELIEFS?
24 A YEAH
25 Q SO UNDER NO CIRCUMSTANCES WHATSOEVER, COULD

1 YOU CONSIDER A DEATH PENALTY, IS THAT RIGHT?

2 A THAT'S RIGHT

3 MR TINSLEY THANKS SO MUCH

4 THE COURT ANY QUESTIONS, SOLICITOR?

5 MR COULTER NO, YOUR HONOR

6 THE COURT MS BOWIE, WE'RE GOING TO
7 EXCUSE YOU FROM SERVING IN THE TRIAL OF THIS CASE
8 BUT WE APPRECIATE YOU COMING DOWN HERE AFTER BEING
9 EXCUSED YESTERDAY AND I DO WISH YOU LUCK IN YOUR
10 JOB HUNTING THANK YOU FOR COMING

11 MR TINSLEY PLEASE NOTE MY CROSS-
12 SECTION OF THE COMMUNITY ARGUMENT ON THIS BELIEF,
13 YOUR HONOR

14 THE COURT I FIND SHE'S NOT QUALIFIED
15 SHE INDICATED THAT SHE COULD, IN NO CIRCUMSTANCES,
16 CONSIDER A DEATH SENTENCE

17 (THE COURT CALLS JUROR PARNELL)

18 (JUROR #282 PRESENTED AT 5 07 O'CLOCK P M)

19 EXAMINATION BY THE COURT

20 Q GOOD AFTERNOON, MR PARNELL WE'RE SORRY
21 WE'RE RUNNING JUST A LITTLE BIT BEHIND BUT WE
22 APPRECIATE YOUR PATIENCE YOU WERE ASKED TO COME
23 BACK FOR THE PURPOSE OF ANSWERING ADDITIONAL
24 QUESTIONS REGARDING CIRCUMSTANCES THAT MIGHT RELATE
25 TO THIS CASE WE'LL BE ASKING YOU ABOUT YOUR

1 PERSONAL VIEWS AND OPINIONS ON CERTAIN SUBJECTS
2 THERE ARE NO RIGHT OR WRONG ANSWERS, WE JUST SIMPLY
3 NEED TO KNOW YOUR HONEST OPINIONS ON THOSE SUBJECTS
4 AND SO WE WOULD ASK THAT YOU, PLEASE, ANSWER THE
5 QUESTIONS AS BEST AS YOU CAN AND IF YOU HAVE SOME
6 QUESTION ABOUT IT OR IT'S NOT ASKED CLEARLY OR YOU
7 DON'T UNDERSTAND IT, LET ME KNOW, WE'LL TRY TO
8 CLARIFY IT

9 YESTERDAY YOU WERE PLACED UNDER OATH AND SO
10 YOU REMAIN UNDER OATH FOR THE PURPOSE OF THESE
11 QUESTIONS, ALSO YOU FILLED OUT A QUESTIONNAIRE, IS
12 IT ACCURATE?

13 A YES

14 Q HAVE YOU HAD ANY DISCUSSIONS OR CONVERSATIONS
15 ABOUT THIS CASE AT ANY TIME?

16 A NO

17 Q HAVE YOU BEEN EXPOSED TO ANY TYPE OF MEDIA
18 COVERAGE, TELEVISION, RADIO OR NEWSPAPER ARTICLES AT
19 ANY TIME?

20 A NO

21 Q DO YOU KNOW ANYTHING ABOUT THE CASE
22 WHATSOEVER?

23 A NO

24 Q NOW, DO YOU UNDERSTAND THAT IN THIS CASE THE
25 STATE IS CHARGING THE DEFENDANT WITH THE CRIME OF

1 MURDER?

2 A I UNDERSTAND THAT

3 Q STATE LAW PROVIDES THAT UNDER CERTAIN
4 CIRCUMSTANCES A PERSON WHO IS CONVICTED OF THE CRIME
5 OF MURDER MAY BE SENTENCED TO DEATH IF, ACCOMPANYING
6 THAT MURDER, THERE IS SOME AGGRAVATING CIRCUMSTANCES
7 IN ADDITION A JURY WOULD MAKE THAT DECISION NOT
8 ONLY WOULD THEY DECIDE A PERSON'S GUILT, BUT IF THEY
9 FOUND THE PERSON GUILTY, THEY WOULD, ALSO, DECIDE
10 THE PUNISHMENT, DO YOU UNDERSTAND THAT?

11 A I UNDERSTAND THAT

12 Q AND A CASE OF THAT NATURE OR THE TRIAL OF THAT
13 CASE IS CONDUCTED IN TWO SEPARATE PARTS THE FIRST
14 PART RELATING TO THE ISSUE OF GUILT, THE SECOND PART
15 RELATING TO THE ISSUE OF PUNISHMENT

16 IN THE FIRST PHASE OF THE TRIAL, EVIDENCE IS
17 RECEIVED AND THE JURY IS ASKED TO DECIDE WHETHER OR
18 NOT THE PERSON HAS BEEN PROVEN GUILTY BEYOND A
19 REASONABLE DOUBT OR NOT IF YOU WERE PARTICIPATING
20 IN SUCH A CASE, WOULD YOU BE ABLE TO CAREFULLY
21 CONSIDER ALL OF THE EVIDENCE INTRODUCED DURING THAT
22 PHASE OF THE TRIAL BEFORE YOU MADE A DECISION?

23 A I ASSUME SO, YES

24 Q IF THAT EVIDENCE CONVINCED YOU BEYOND A
25 REASONABLE DOUBT THAT A DEFENDANT WAS GUILTY, WOULD

1 YOU RETURN A VERDICT OF GUILTY?

2 A IF I WAS CONVINCED, YES

3 Q AND IF YOU HAD A REASONABLE DOUBT ABOUT IT,

4 WOULD YOU FIND THE DEFENDANT NOT GUILTY?

5 A A PERSONAL REASONABLE DOUBT, YES

6 Q IF YOU HAD A REASONABLE DOUBT, YOU WOULD FIND

7 THE DEFENDANT NOT GUILTY?

8 A THAT'S RIGHT

9 Q YOU UNDERSTAND THAT A DEFENDANT IN A TRIAL HAS

10 NO BURDEN TO PROVE HIS INNOCENCE, THE STATE HAS THE

11 BURDEN OF PROVING HIS GUILT?

12 A I UNDERSTAND THAT

13 Q DO YOU UNDERSTAND A DEFENDANT MAY NOT TESTIFY

14 IN A CASE, HE DOESN'T HAVE TO, HE CAN'T BE REQUIRED

15 TO AND A JURY CANNOT CONSIDER IT IN ANY FASHION IF

16 HE DOES NOT CAN YOU FOLLOW THAT INSTRUCTION?

17 A YES, SIR

18 Q NOW, I WANT YOU TO ASSUME ONLY FOR THE MOMENT

19 THAT YOU ARE PARTICIPATING IN THE CASE YOU AND

20 YOUR FELLOW JURORS HAVE RETURNED A VERDICT OF GUILTY

21 AS TO MURDER AND YOU HAVE, ALSO, FOUND SOME

22 AGGRAVATING CIRCUMSTANCE BEYOND A REASONABLE DOUBT

23 IF THAT WERE THE CASE, WE WOULD GO TO THE SECOND

24 PART OF THE TRIAL, THAT'S THE PENALTY PHASE OF THE

25 TRIAL WHERE THE ISSUE OF PUNISHMENT IS DECIDED

1 EVIDENCE IS RECEIVED, ADDITIONAL EVIDENCE, THAT
2 EVIDENCE MAY RELATE TO AGGRAVATION, IT MAY RELATE TO
3 MITIGATION BY THAT I SIMPLY MEAN THAT THERE MAY BE
4 EVIDENCE OFFERED TENDING TO SHOW WHY THE DEATH
5 PENALTY IS APPROPRIATE, THERE MAY BE EVIDENCE
6 OFFERED TENDING TO SHOW WHY IT IS NOT APPROPRIATE OR
7 WHY A LIFE SENTENCE IS MORE APPROPRIATE

8 NOW, IF YOU WERE CALLED UPON TO SERVE UNDER
9 THOSE CIRCUMSTANCES, WOULD YOU BE WILLING AND ABLE
10 TO CONSIDER ALL OF THAT ADDITIONAL EVIDENCE, AS
11 WELL, BEFORE YOU ARRIVED AT YOUR DECISION AS TO
12 PUNISHMENT?

13 A IF YOU'RE ASKING WOULD I MAKE THE DECISION FOR
14 HIM TO HAVE THE DEATH PENALTY, I DON'T BELIEVE IN
15 THE DEATH PENALTY LET'S MAKE THAT CLEAR UP FRONT
16 YEAH, I COULD SENTENCE HIM TO LIFE IMPRISONMENT

17 Q OF COURSE, MY QUESTION WAS -- AND I'M GOING TO
18 GET TO THAT WHAT YOU JUST STATED I'M JUST SIMPLY
19 ASKING YOU IF YOU WOULD BE WILLING TO LISTEN TO ALL
20 OF THE EVIDENCE BEFORE YOU MADE YOUR DECISION?

21 A YES

22 Q NOW, LET'S ASSUME THAT YOU'VE CONSIDERED ALL
23 THE EVIDENCE

24 A ALL RIGHT

25 Q AND YOU'RE IN THE JURY ROOM AND YOU AND YOUR

1 FELLOW JURORS ARE TRYING TO DECIDE WHAT IS THE
2 APPROPRIATE SENTENCE FOR THIS CASE WHERE A PERSON
3 HAS BEEN CONVICTED OF MURDER AND AN AGGRAVATING --
4 AT LEAST ONE AGGRAVATING CIRCUMSTANCE HAS BEEN
5 PROVEN ARE YOU TELLING ME THAT EVEN THOSE FACTS
6 BEING THE CASE, THAT YOU WOULD NOT CONSIDER
7 SENTENCING A PERSON TO DEATH?

8 A I WOULD NOT CONSIDER IT

9 Q UNDER ANY CIRCUMSTANCES?

10 A UNDER ANY CIRCUMSTANCES

11 Q COULD YOU CONSIDER SENTENCING A PERSON TO LIFE
12 IMPRISONMENT?

13 A YES

14 Q BUT UNDER NO CIRCUMSTANCES, WOULD YOU SENTENCE
15 THAT PERSON TO DEATH?

16 A IT'S NOT BEEN PROVED TO BE A DETERRENT TO
17 CRIME AND I DON'T BELIEVE IN THAT BEING AN END TO A
18 CASE

19 Q PLEASE UNDERSTAND THAT I'M NOT IN ANY WAY NOR
20 WOULD I CHALLENGE ANY OPINION OR VIEW THAT YOU MIGHT
21 HAVE I JUST, OBVIOUSLY, NEED TO KNOW WHAT IT IS
22 BECAUSE IT WOULD BE IMPORTANT FOR YOUR SERVICE IN
23 THIS CASE

24 A THE ANSWER TO THAT WOULD BE NO

25 THE COURT ANY QUESTIONS?

1 EXAMINATION BY MR TINSLEY

2 Q JUST A COUPLE MR PARNELL, HOW YOU THIS
3 AFTERNOON?

4 A JUST FINE

5 Q GOOD AND, MR PARNELL, IF I PAINTED A
6 SCENARIO IS A REAL UGLY CRIME, REAL SERIOUS AND REAL
7 BAD, A LOT OF NEGATIVES IN IT, WOULD THAT CHANGE
8 YOUR OPINION AT ALL?

9 A AS TO WHAT?

10 Q THE DEATH PENALTY

11 A NO

12 Q NOTHING I COULD SAY OR DO AND DESCRIBE WOULD
13 CHANGE YOUR OPINION ON THAT?

14 A NO

15 Q THAT'S A STRONGLY HELD OPINION THAT YOU HAVE -
16 -

17 A IT'S NOT ONE THAT I'VE HAD TO CONSIDER BEFORE
18 JUST OF LATE THAT AND ABORTION WAS TWO THINGS THAT
19 I HAVEN'T HAD TO THINK ABOUT BUT SINCE BEING
20 BROUGHT INTO THIS, I'VE HAD A CHANCE TO THINK ABOUT
21 IT AND I'M AGAINST IT

22 Q IN ALL CIRCUMSTANCES?

23 A SIR?

24 Q IN ALL CIRCUMSTANCES?

25 A IN ALL CIRCUMSTANCES

1 Q IS YOUR FATHER DOING ABOUT THE SAME?

2 A HE HAD A GOOD DAY YESTERDAY

3 Q GOOD

4 A THANK YOU FOR ASKING

5 MR TINSLEY THANK YOU, SIR

6 MR COULTER NO, SIR THANK YOU, MR

7 PARNELL

8 THE COURT MR PARNELL, WE'RE GOING TO

9 EXCUSE YOU FROM SERVICE IN THIS CASE WE DO

10 APPRECIATE YOU COMING DOWN ON SHORT NOTICE AND WE

11 APPRECIATE YOU RESPONDING TO OUR QUESTIONS AND I,

12 LIKE MR TINSLEY AND, OF COURSE, MR COULTER, DO

13 HOPE THAT EVERYTHING GOES WELL WITH YOUR FATHER-IN-

14 LAW THANKS AGAIN FOR COMING, YOU WILL NOT NEED TO

15 REPORT BACK

16 JUROR APPRECIATE IT

17 (JUROR #282 EXITS)

18 MR TINSLEY NOTE MY CROSS-SECTION, YOUR

19 HONOR

20 THE COURT I FOUND THE JUROR NOT

21 QUALIFIED HE WOULD NOT CONSIDER BOTH FORMS OF

22 PUNISHMENT

23 (THE COURT CALLS JUROR FREEMAN)

24 (JUROR #249 PRESENTED AT 5 15 O'CLOCK P M)

25 EXAMINATION BY THE COURT

1 Q GOOD AFTERNOON, YOU'RE MR FREEMAN?

2 A YES

3 Q MR FREEMAN, YOU HAVE BEEN ASKED TO COME BACK
4 AS YOU KNOW, WE'RE GOING TO BE ASKING YOU SOME
5 QUESTIONS, AS I INDICATED TO YOU THAT WE WOULD
6 I'LL HAVE SOME FOR YOU, THE LAWYERS MAY HAVE SOME
7 ADDITIONAL QUESTIONS THERE ARE NO RIGHT OR WRONG
8 ANSWERS, WE JUST SIMPLY NEED TO KNOW YOUR VIEWS AND
9 OPINIONS ON CERTAIN SUBJECTS IF YOU DON'T
10 UNDERSTAND THE QUESTION, ASK ME TO REPEAT IT
11 SOMETIMES I MAY ASK A QUESTION THAT MIGHT BE TOO
12 LONG, IT MIGHT NOT BE CLEAR YOU TELL ME THAT AND
13 I'LL CLARIFY IT FOR YOU, SHOULD THE NEED ARISE

14 YOU REMEMBER YESTERDAY WHEN YOU REPORTED YOU
15 AND YOUR FELLOW JURORS WERE PLACED UNDER OATH SO
16 YOU REMAIN UNDER OATH FOR THE PURPOSES OF THESE
17 QUESTIONS, ALSO

18 YOU INDICATED YOU FILLED OUT YOUR
19 QUESTIONNAIRE, IS IT ACCURATE?

20 A YES

21 Q I ASKED YOU NOT TO DISCUSS THE CASE WITH
22 ANYBODY AND I ASKED YOU NOT TO ALLOW YOURSELF TO BE
23 EXPOSED TO ANY TYPE OF MEDIA COVERAGE RELATING TO
24 CASE HAVE YOU HAD ANY DISCUSSIONS OR CONVERSATIONS
25 WITH ANYONE ABOUT THIS CASE AT ANY TIME?

1 A NO

2 Q HAVE YOU BEEN EXPOSED TO ANY TYPE OF MEDIA
3 COVERAGE, WHETHER TELEVISION, RADIO OR NEWSPAPER
4 ARTICLE ABOUT THIS CASE AT ANY TIME?

5 A JUST WHEN IT FIRST HAPPENED

6 Q THIS INCIDENT IS ALLEGED TO HAVE TAKEN PLACE
7 BACK IN DECEMBER OF 1995 WAS IT AT OR ABOUT THAT
8 TIME THAT YOU HEARD OR SAW ANYTHING ABOUT THE CASE
9 IN THE MEDIA?

10 A YES

11 Q DO YOU RECALL ANYTHING THAT YOU SAW OR READ?

12 A HUH-UH

13 Q IS THERE ANYTHING THAT YOU RECALL FROM THAT
14 EXPOSURE THAT WOULD PREVENT YOU FROM BEING ABLE TO
15 BE FAIR AND IMPARTIAL, IF YOU WERE SELECTED TO
16 SERVE?

17 A NO, SIR

18 Q NOW, IN THIS CASE, THE STATE HAS CHARGED THE
19 DEFENDANT WITH THE CRIME OF MURDER

20 A YES, SIR

21 Q AND, UNDER CERTAIN CIRCUMSTANCES WHERE A
22 PERSON IS FOUND GUILTY OF THAT CRIME, THE STATE
23 UNDER THE LAW IS PERMITTED TO SEEK THE DEATH
24 PENALTY THEY CAN ASK FOR IT, THE LAW DOES NOT
25 REQUIRE THAT IT BE IMPOSED, THE JURY WOULD MAKE THAT

1 DECISION

2 A CASE WHERE A PERSON IS CHARGED WITH MURDER
3 AND THE STATE SEEKS THE DEATH PENALTY IS CONDUCTED
4 IN TWO STAGES, TWO PARTS THE FIRST PART RELATES TO
5 ISSUES OF GUILT, THE SECOND PART RELATES TO THE
6 ISSUE OF PUNISHMENT YOU NEVER PROCEED TO THE
7 SECOND STAGE, UNLESS IN THE FIRST STAGE OF THE
8 TRIAL, THE GUILT PHASE, A PERSON HAS BEEN FOUND
9 GUILTY BEYOND A REASONABLE DOUBT OF MURDER AND THE
10 JURY FURTHER FINDS SOME ADDITIONAL AGGRAVATING
11 CIRCUMSTANCE THAT RELATES TO THAT OFFENSE

12 DO YOU UNDERSTAND THAT THE BURDEN IS ON THE
13 STATE BECAUSE THEY BRING THE CHARGE TO PROVE A
14 DEFENDANT GUILTY BEYOND A REASONABLE DOUBT BEFORE
15 THAT PERSON CAN BE FOUND GUILTY?

16 A YES, SIR

17 Q DO YOU UNDERSTAND THAT THE BURDEN IS NOT UPON
18 A PERSON ACCUSED TO PROVE THAT THEY ARE NOT GUILTY?

19 A YES, SIR

20 Q DO YOU UNDERSTAND ANY PERSON CHARGED WITH A
21 CRIME IS PRESUMED INNOCENT OF THAT CRIME?

22 A YES, SIR

23 Q AND MAY ONLY BE CONVICTED IF A JURY IS
24 CONVINCED OF THAT FACT BEYOND A REASONABLE DOUBT?

25 A YES, SIR

1 Q YOU UNDERSTAND THAT THE ONLY WAY YOU WOULD
2 PROCEED TO A PENALTY PORTION OF A TRIAL WHERE A
3 PERSON'S CHARGED WITH MURDER, IF AND ONLY IF, A
4 PERSON IS CONVICTED, FOUND GUILTY OF MURDER, AND AN
5 ADDITIONAL AGGRAVATING CIRCUMSTANCE IS PROVEN?

6 A YES, SIR

7 Q IF YOU WERE PARTICIPATING IN SUCH A CASE,
8 WOULD YOU BE ABLE TO FAIRLY AND CAREFULLY CONSIDER
9 ALL OF THE EVIDENCE THAT MIGHT BE OFFERED DURING THE
10 TRIAL OF THE CASE IN RELATION TO THE ISSUE OF GUILT?

11 A YES

12 Q AND WOULD YOU CONSIDER ALL THAT EVIDENCE
13 BEFORE YOU MADE A DECISION?

14 A YES

15 Q IF THAT EVIDENCE CONVINCED YOU BEYOND A
16 REASONABLE DOUBT THAT THE DEFENDANT WAS GUILTY,
17 WOULD YOU FIND THAT PERSON GUILTY?

18 A YES

19 Q IF THE EVIDENCE DID NOT SO CONVINCCE YOU OR IF
20 YOU HAD A REASONABLE DOUBT, WOULD YOU FIND THAT
21 PERSON NOT GUILTY?

22 A YES, SIR

23 Q I WANT YOU TO ASSUME JUST FOR THE PURPOSE OF
24 THIS QUESTION THAT YOU HAVE PARTICIPATED IN SUCH A
25 CASE AND THAT YOU AND YOUR FELLOW JURORS HAVE

1 RETURNED A VERDICT OF GUILTY AS TO MURDER AND YOU
2 HAVE FOUND SOME OTHER ADDITIONAL AGGRAVATING
3 CIRCUMSTANCE EXISTS BEYOND A REASONABLE DOUBT, AS
4 WELL AS I TOLD YOU, WE WOULD THEN GO TO THE
5 PENALTY PORTION OF THE TRIAL WHERE PUNISHMENT WOULD
6 BE ADDRESSED

7 A YES

8 Q DURING THAT STAGE OF THE TRIAL, THERE WOULD BE
9 ADDITIONAL EVIDENCE OFFERED THAT EVIDENCE WOULD
10 RELATE TO AGGRAVATION, IT WOULD ALSO RELATE TO
11 MITIGATION THAT SIMPLY MEANS THAT THERE WOULD BE
12 EVIDENCE OFFERED TENDING TO SHOW, PERHAPS, WHY THE
13 DEATH PENALTY IS APPROPRIATE THERE WOULD BE
14 EVIDENCE, ALSO, PRESENTED TENDING TO SHOW WHY THE
15 DEATH PENALTY IS NOT APPROPRIATE OR PERHAPS WHY A
16 LIFE IMPRISONMENT SENTENCE IS MORE APPROPRIATE IF
17 YOU WERE CALLED UPON TO PARTICIPATE, WOULD YOU BE
18 WILLING AND ABLE TO CONSIDER ALL OF THAT ADDITIONAL
19 TESTIMONY BEFORE MAKING ANY DECISION AS TO
20 PUNISHMENT?

21 A YES

22 Q AFTER YOU HAD CONSIDERED ALL OF THAT
23 ADDITIONAL EVIDENCE, IF YOU DEEMED IT TO BE
24 APPROPRIATE, WOULD YOU BE ABLE TO SENTENCE A PERSON
25 TO DEATH?

1 A NO, SIR

2 Q WOULD YOU BE ABLE TO SENTENCE A PERSON TO
3 LIFE?

4 A YES

5 Q YOU UNDERSTAND YOU WOULD ALWAYS HAVE A CHOICE
6 IN THE MATTER?

7 A YES

8 Q CAN YOU THINK OF ANY CASE OR CIRCUMSTANCE
9 WHERE YOU WOULD BE WILLING TO SENTENCE A PERSON TO
10 DEATH?

11 A NO, SIR

12 Q THERE IS NO CIRCUMSTANCE WHERE YOU WOULD?

13 A NO, SIR

14 THE COURT PLEASE ANSWER ANY QUESTIONS

15 THE LAWYERS HAVE FOR YOU

16 EXAMINATION BY MR TINSLEY

17 Q GOOD AFTERNOON, MR FREEMAN

18 A HOLIDAY INN

19 Q MR FREEMAN, YOU STATED YOU COULD NEVER GIVE
20 THE DEATH PENALTY, IS THAT CORRECT?

21 A YES

22 Q WHY IS THAT?

23 A I DON'T BELIEVE IN IT

24 Q YOU DON'T BELIEVE IN IT?

25 A NO, SIR

1 Q YOU DON'T FEEL IT'S RIGHT OR WHAT?

2 A I JUST DON'T FEEL IT'S RIGHT

3 Q AND IF I DESCRIBED TO YOU SOME BAD CRIME OR
4 BAD CIRCUMSTANCES, REAL BAD AND ALL, WOULD THAT
5 CHANGE YOUR OPINION AT ALL?

6 A NO, SIR

7 Q SO NO MATTER WHAT, IF YOU WERE IN THE JURY
8 ROOM, YOU JUST COULDN'T CONSIDER THAT AS AN OPTION,
9 IS THAT CORRECT?

10 A THAT'S RIGHT

11 Q AND THAT'S A FIRMLY HELD BELIEF OF YOURS
12 REGARDLESS OF THE CRIME, THAT'S THE CASE

13 A YES

14 MR TINSLEY THANKS SO MUCH, MR
15 FREEMAN

16 THE COURT SOLICITOR?

17 MR COULTER NO QUESTIONS THANK YOU

18 THE COURT MR FREEMAN, WE'RE GOING TO
19 EXCUSE YOU FROM SERVICE IN THE TRIAL OF THIS CASE
20 I DO APPRECIATE YOU COMING DOWN HERE AND ANSWERING
21 OUR QUESTIONS IT WILL NOT BE NECESSARY THAT YOU
22 REPORT BACK ANY FURTHER THANKS AGAIN FOR YOUR
23 HELP

24 (JUROR #249 IS EXCUSED)

25 MR TINSLEY PLEASE NOTE MY CROSS-

1 SECTION OF THE COMMUNITY, YOUR HONOR

2 THE COURT I FIND THE JUROR NOT TO BE
3 QUALIFIED BASED UPON HIS INABILITY TO CONSIDER BOTH
4 FORMS OF PUNISHMENT

5 (THE COURT CALLS JUROR BANNISTER)

6 (JUROR #227 PRESENTED AT 5 25 O'CLOCK P M)

7 EXAMINATION BY THE COURT

8 Q MR BANNISTER

9 A YES

10 Q YOU MAY JUST COME ON AROUND AND TAKE A SEAT
11 RIGHT HERE, PLEASE MR BANNISTER, AS YOU KNOW,
12 WE'VE ASKED YOU TO COME BACK TO ASK YOU SOME
13 QUESTIONS INDIVIDUALLY OUTSIDE THE PRESENCE OF OTHER
14 JURORS AND THE REASON IS WE SIMPLY NEED TO FIND
15 OUT YOUR VIEWS AND OPINIONS ON CERTAIN SUBJECTS
16 THERE ARE NO RIGHT OR WRONG ANSWERS, WE JUST NEED TO
17 KNOW HOW YOU FEEL ABOUT CERTAIN THINGS AND SO
18 WE'LL BE ASKING THOSE QUESTIONS AND ASK THAT YOU,
19 PLEASE, ANSWER THEM AS OPENLY AND AS HONESTLY AS YOU
20 CAN I'LL ASK YOU SOME QUESTIONS, THE LAWYERS MAY
21 HAVE SOME ADDITIONAL QUESTIONS FOR YOU

22 YOU WERE SWORN YESTERDAY WITH YOUR FELLOW
23 JURORS, YOU WERE PLACED UNDER OATH WHEN YOU
24 REPORTED, DO YOU RECALL THAT?

25 A YES, SIR

1 Q AND YOU REMAIN UNDER OATH FOR THE PURPOSE OF
2 THESE QUESTIONS, ALSO YOU INDICATED THAT YOU HAD
3 FILLED OUT YOUR QUESTIONNAIRE AND I HAVE A COPY OF
4 IT, IS IT ACCURATE?

5 A YES, SIR

6 Q AND I, ALSO, REQUESTED THAT YOU NOT DISCUSS
7 THE CASE WITH ANYBODY AND YOU NOT ALLOW YOURSELF TO
8 BE EXPOSED TO ANY TYPE OF MEDIA COVERAGE HAVE YOU
9 HAD ANY DISCUSSIONS ABOUT THIS CASE AT ANY TIME
10 EITHER BEFORE OR AFTER YOU RECEIVED YOUR SUMMONS?

11 A NO, SIR, I HAVEN'T

12 Q HAVE YOU BEEN EXPOSED TO ANY TYPE OF MEDIA
13 COVERAGE EITHER BEFORE OR AFTER YOU RECEIVED YOUR
14 SUMMONS?

15 A NO, SIR

16 Q NOW, IN THIS CASE, AS YOU WERE AWARE -- OR
17 MADE AWARE YESTERDAY, THE DEFENDANT IS CHARGED WITH
18 THE CRIME OF MURDER AND STATE LAW PROVIDES THAT
19 UNDER CERTAIN CIRCUMSTANCES, A PERSON WHO IS FOUND
20 GUILTY OF THE CRIME OF MURDER BY A JURY, AND WHERE
21 SOME OTHER AGGRAVATING CIRCUMSTANCE IS PROVEN, ALSO,
22 BEYOND A REASONABLE DOUBT, THE STATE MAY ASK THAT
23 THE DEATH PENALTY BE IMPOSED THAT DOESN'T MEAN
24 THAT IT MUST BE IMPOSED, IT JUST SIMPLY MEANS THAT
25 THE STATE IS PERMITTED TO ASK FOR IT, BUT A JURY

1 WILL MAKE THAT DECISION, DO YOU UNDERSTAND THAT?

2 A I DO, SIR

3 Q NOW, IN A CASE SUCH AS THAT, IT IS CONDUCTED
4 IN TWO PHASES OR TWO PARTS THE FIRST PART RELATES
5 TO THE ISSUE OF GUILT IF A PERSON IS FOUND GUILTY
6 OF MURDER AND AN AGGRAVATING CIRCUMSTANCE IS PROVEN
7 THEN WE WILL PROCEED TO THE SECOND PART WHICH WOULD
8 BE THE SENTENCING PHASE WHERE THE ISSUE OF
9 PUNISHMENT WOULD BE DETERMINED BY THE JURY THE
10 JURY WOULD HAVE TWO CHOICES A SENTENCE OF LIFE
11 IMPRISONMENT OR A SENTENCE OF DEATH

12 NOW, IF YOU WERE CALLED UPON TO SERVE IN A
13 TRIAL OF SUCH A CASE, YOU UNDERSTAND THAT IT WOULD
14 OCCUR IN TWO PARTS?

15 A YES, SIR, I UNDERSTAND

16 Q NOW, IN THE FIRST PHASE, THE GUILT PHASE OF
17 THE TRIAL, THERE WOULD BE EVIDENCE OFFERED THAT
18 RELATES TO THAT ISSUE WOULD YOU BE WILLING AND
19 ABLE TO CONSIDER ALL OF THAT EVIDENCE PRESENTED
20 BEFORE ARRIVING AT ANY DECISION AS TO GUILT?

21 A I DEFINITELY WOULD

22 Q AND IF YOU WERE CONVINCED BEYOND A REASONABLE
23 DOUBT THAT THE PERSON CHARGED WITH GUILTY, COULD YOU
24 FIND THAT PERSON GUILTY?

25 A I COULD

1 Q IF YOU HAD A REASONABLE DOUBT AS TO THAT,
2 COULD YOU FIND THAT PERSON NOT GUILTY?

3 A I COULD

4 Q DO YOU UNDERSTAND THAT THE DEFENDANT IN A
5 CRIMINAL TRIAL HAS NO BURDEN TO PROVE THAT HE IS
6 INNOCENT?

7 A I DO

8 Q DO YOU UNDERSTAND THE STATE BEARS THE BURDEN
9 OF PROVING THAT HE'S GUILTY?

10 A I DO

11 Q DO YOU UNDERSTAND THAT A DEFENDANT IN A
12 CRIMINAL TRIAL IS PRESUMED INNOCENT?

13 A YES, SIR

14 Q DO YOU UNDERSTAND THAT A DEFENDANT IN A
15 CRIMINAL TRIAL MAY NOT TESTIFY?

16 A I DO

17 Q DO YOU UNDERSTAND THAT I WOULD INSTRUCT THE
18 JURY THAT IF A DEFENDANT IN A CRIMINAL TRIAL DOES
19 NOT TESTIFY, THE JURY MAY NOT CONSIDER THAT IN ANY
20 WAY OR IN ANY FASHION IN THEIR DECISION COULD YOU
21 ACCEPT THAT INSTRUCTION AND FOLLOW IT?

22 A I COULD

23 Q NOW, I WANT YOU TO ASSUME AND ASSUME IT ONLY
24 FOR THE PURPOSE OF THIS QUESTION THAT YOU AND YOUR
25 FELLOW JURORS HAVE PARTICIPATED IN SUCH A CASE AND

1 YOU AND YOUR FELLOW JURORS HAVE RETURNED A VERDICT
2 OF GUILTY AS TO MURDER AND YOU, ALSO, HAVE FOUND
3 SOME OTHER ADDITIONAL AGGRAVATING CIRCUMSTANCE
4 ACCOMPANYING THAT MURDER THAT MEANS WE WOULD GO TO
5 THE SENTENCING PHASE OF THE TRIAL ADDITIONAL
6 EVIDENCE WOULD BE RECEIVED, THERE WOULD BE EVIDENCE
7 OFFERED IN AGGRAVATION OF PUNISHMENT AND IN
8 MITIGATION OF PUNISHMENT THAT SIMPLY MEANS THAT
9 THERE WOULD BE EVIDENCE OFFERED TENDING TO SHOW,
10 PERHAPS, WHY THE DEATH PENALTY WAS APPROPRIATE,
11 THERE WOULD BE EVIDENCE TENDING TO SHOW WHY THE
12 DEATH PENALTY WAS NOT APPROPRIATE OR WHY A LIFE
13 SENTENCE WOULD BE MORE APPROPRIATE

14 IF YOU WERE PARTICIPATING IN SUCH A CASE,
15 WOULD YOU BE WILLING AND ABLE TO CONSIDER ALL THAT
16 ADDITIONAL TESTIMONY BEFORE ARRIVING AT ANY DECISION
17 AS TO THE PUNISHMENT?

18 A I WOULD

19 Q AND IF, AFTER YOU'VE CONSIDERED ALL THE
20 EVIDENCE PRESENTED HERE DURING THE ENTIRE CASE, IF
21 YOU DEEMED THAT IT WAS APPROPRIATE UNDER THOSE
22 CIRCUMSTANCES, COULD YOU SENTENCE A PERSON TO DEATH?

23 A I COULD

24 Q COULD YOU, ALSO, SENTENCE A PERSON TO LIFE
25 IMPRISONMENT?

1 A I COULD

2 Q EVEN THOUGH YOU FOUND HIM GUILTY OF MURDER AND
3 AN AGGRAVATING CIRCUMSTANCE PRESENT?

4 A YES, SIR

5 Q YOU COULD CONSIDER BOTH FORMS OF PUNISHMENT?

6 A I DO

7 Q WOULD YOUR DECISION SIMPLY DEPEND UPON THE
8 CIRCUMSTANCES AS YOU VIEWED THEM?

9 A IT WOULD

10 Q NOW, HAVE YOU ALREADY TO THIS POINT, FORMED OR
11 EXPRESSED ANY OPINION AS TO WHAT YOU BELIEVE THE
12 PROPER DECISION SHOULD BE IN THIS CASE?

13 A NONE WHATSOEVER

14 Q DO YOU KNOW OF ANY REASON WHY YOU COULD NOT
15 SERVE AS A JUROR AND BE FAIR AND IMPARTIAL, IF
16 CALLED UPON?

17 A NO, SIR

18 Q DO YOU UNDERSTAND THAT IF YOU WERE SELECTED,
19 IT WOULD BE NECESSARY THAT YOU BE SEQUESTERED?

20 A I UNDERSTAND THAT

21 Q DO YOU UNDERSTAND WHAT I MEAN BY THAT?

22 A I DO

23 Q IT WOULD BE FOR ABOUT SEVEN TO TEN DAYS
24 PERHAPS WOULD THAT REQUIREMENT POSE ANY
25 UNREASONABLE HARDSHIP OR HEALTH RISK TO YOU?

1 A IT'D BE AWFUL INCONVENIENT, BUT I COULD HANDLE
2 IT

3 Q WOULD YOU BE WILLING TO ACCEPT THAT
4 INCONVENIENCE AND SERVE, IF CALLED UPON TO DO SO?

5 A I WOULD

6 THE COURT THANK YOU, SIR PLEASE
7 ANSWER ANY QUESTIONS MR TINSLEY OR MR COULTER MAY
8 HAVE FOR YOU

9 EXAMINATION BY MR TINSLEY

10 Q THANK YOU SO MUCH, YOUR HONOR MR BANNISTER,
11 GOOD AFTERNOON MR BANNISTER, YOU STATED YOU
12 HADN'T HEARD ANYTHING ABOUT THIS CASE, RIGHT?

13 A NO, SIR, I HAVEN'T

14 Q HADN'T TALKED WITH ANYBODY ABOUT IT, HAVEN'T
15 OVERHEARD ANYBODY TALKING ABOUT IT?

16 A NONE WHATSOEVER, SIR

17 Q GOOD AND YOU HAVEN'T READ ANY NEWSPAPER
18 ARTICLES ABOUT IT IN THE LAST WEEK OR SO, HAVE YOU?

19 A NO, SIR I DRIVE A TRUCK FOR A LIVING, I STAY
20 ON THE ROAD A LOT

21 Q YOU BEEN ON THE ROAD LAST WEEK?

22 A I WAS LOCAL

23 Q LOCAL? WHERE IS SMITH AND WARNERS OUT OF --
24 IS THAT --

25 A WARE SHOALS, SIR

1 Q BY WEST SHOWS AND HAVE YOU EVER BEEN
2 REPRESENTED BY AN ATTORNEY?

3 A IN A DIVORCE CASE, YES, SIR

4 Q AND WHO WAS YOUR ATTORNEY?

5 A ABBOTT SPARROW

6 Q MR SPARROW, OKAY AND WHO WAS YOUR WIFE'S
7 ATTORNEY?

8 A HE WAS OUT OF ANDERSON

9 Q THAT'S OKAY IF YOU DON'T REMEMBER

10 A I DON'T

11 Q IT WASN'T ANY OF THE ATTORNEYS INVOLVED IN
12 THIS CASE?

13 A NO, SIR

14 Q AND YOU DON'T KNOW ANY OF THE PARTIES IN THIS
15 CASE EITHER, DO YOU, EITHER THE HARRIS'S THE
16 JACKSONS OR THE HUGHEY'S?

17 A I DO NOT

18 Q SO YOU -- BUT YOU MENTIONED YOU DID BELIEVE IN
19 THE DEATH PENALTY, IS THAT RIGHT?

20 A YES, SIR

21 Q BUT YOU DON'T BELIEVE IT APPLIES IN ALL CASES,
22 DO YOU?

23 A BEG YOUR PARDON, SIR?

24 Q YOU DON'T BELIEVE THE DEATH PENALTY APPLIES IN
25 ALL CASES, DO YOU?

1 A NO, SIR NO, SIR

2 Q AM I SPEAKING LOUD ENOUGH?

3 A YES, SIR, I'M SORRY, I JUST DIDN'T HEAR YOU?

4 Q OKAY, I JUST WANT TO BE SURE YOU CAN HEAR ME

5 AND IF YOU DON'T, FEEL FREE TO STOP ME LIKE YOU DID,

6 THAT WOULD BE GOOD OKAY, MR BANNISTER NOW, YOU

7 COULD LISTEN TO THE JUDGE ON THE LAW, AND YOU COULD

8 LISTEN TO THE JUDGE ON INSTRUCTIONS ON THE LAW AND

9 YOU COULD LISTEN TO THE EVIDENCE FROM THE STAND,

10 COULD YOU NOT?

11 A I CAN

12 Q AND YOU'RE HEARING'S OKAY?

13 A YES, IT IS

14 Q SOMETIMES IN BIG COURTROOMS IT GETS HARD TO

15 HEAR, YOU KNOW AND I JUST WANT TO MAKE SURE YOU

16 HEAR EVERYTHING AND YOU WOULD PRESUME AN

17 INDIVIDUAL TO BE INNOCENT, WOULD YOU NOT, AT THE

18 START OF A TRIAL?

19 A OF COURSE, I WOULD

20 Q AND YOU WOULD BE WILLING TO KEEP AN OPEN MIND

21 TILL THE VERY END, CORRECT?

22 A YES, SIR, I WOULD

23 Q AND YOU REALIZE DURING THIS PERIOD OF

24 SEQUESTRATION, YOU'D BE APART FROM YOUR FAMILY BUT

25 WITH THE JURY, CORRECT?

1 A I UNDERSTAND THAT

2 Q BUT YOU COULDN'T TALK ABOUT THE CASE, EVEN
3 WITH THE JURY, UNTIL THE CASE WERE OVER, DO YOU
4 UNDERSTAND THAT? ALL THE EVIDENCE WERE PRESENTED

5 A RIGHT

6 Q I MEAN, LIKE IF YOU ALL WERE EATING TOGETHER
7 AT NIGHT, YOU COULDN'T TALK ABOUT THE CASE YOU
8 REALIZE THAT?

9 A I DO

10 Q NOW, MR BANNISTER, YOU KNOW, THE JUDGE
11 MENTIONED PHASE ONE AND, POSSIBLY, PHASE TWO YOU
12 REALIZE, OF COURSE, YOU WOULDN'T GO INTO PHASE TWO
13 UNLESS AND UNTIL AN INDIVIDUAL WERE CONVICTED OF
14 MURDER AND AN AGGRAVATING CIRCUMSTANCE, DO YOU
15 UNDERSTAND THAT?

16 A I DO

17 Q LET'S TAKE, FOR EXAMPLE, COUNT ONE OF THE
18 INDICTMENT IF THE JUDGE GAVE YOU THE FOLLOWING
19 CHOICES, COULD YOU CONSIDER THEM ALL? ONE, GUILTY
20 OF MURDER OR TWO, GUILTY OF VOLUNTARY MANSLAUGHTER
21 OR THREE, NOT GUILTY, COULD YOU CONSIDER ALL THREE
22 VERDICTS?

23 A I COULD

24 Q AND JUST BECAUSE SOMEONE WERE THE VICTIM OR
25 KILLED IN A HOMICIDE, YOU WOULDN'T NECESSARILY GO

1 WITH MURDER, WOULD YOU?

2 A NO

3 Q IF THE JUDGE INSTRUCTED YOU, GAVE YOU THE
4 OPTION, ALSO, OF MANSLAUGHTER, YOU WOULD CONSIDER
5 THAT FAIRLY?

6 A I WOULD

7 Q AND LET'S ASSUME FURTHER, LET'S GO ON JUST A
8 LITTLE BIT FURTHER AND SAY THAT NOW AN INDIVIDUAL
9 HAS BEEN CONVICTED OF A MURDER AND AN AGGRAVATING
10 CIRCUMSTANCE AND YOU'RE IN THE SECOND PHASE OF THE
11 CASE NOW, AT THAT POINT, THE DEFENDANT WOULD OFFER
12 MITIGATING CIRCUMSTANCES, REASONS THAT MAKE HIM THE
13 INDIVIDUAL THAT HE IS, DO YOU UNDERSTAND THAT?

14 A I DO

15 Q AND EXTENUATING CIRCUMSTANCES SO-TO-SPEAK, THE
16 THINGS THAT HAVE HAPPENED TO HIM IN HIS LIFE, HIS
17 HISTORY, THE GOOD THINGS ABOUT HIM WOULD YOU BE
18 WILLING TO CONSIDER ALL THOSE OFFERED BY THE
19 DEFENDANT? AYES, SIR

20 Q AND YOU COULD KEEP AN OPEN MIND ON THAT?

21 A I COULD

22 Q AND, FINALLY, ASSUMING THAT ONE WERE CONVICTED
23 OF TWO MURDERS AND AN AGGRAVATING CIRCUMSTANCES AND
24 THAT KIND OF SITUATION, COULD YOU STILL LISTEN TO
25 THE MITIGATING CIRCUMSTANCES AND CONSIDER A LIFE

1 SENTENCE OR, UNDER THOSE CIRCUMSTANCES, WOULD YOU
2 ALWAYS GIVE THE DEATH PENALTY?

3 A NO, SIR, I WOULDN'T GIVE THE DEATH PENALTY

4 Q YOU WOULD CONSIDER THE --

5 A I WOULD BE OPEN MINDED ALL THE WAY TO THE END

6 MR TINSLEY THANKS SO MUCH

7 BY MR COULTER

8 Q HI, MR BANNISTER

9 A HOW YOU, SIR?

10 Q MY NAME IS MIKE COULTER, I'M THE DEPUTY
11 SOLICITOR HERE IN ABBEVILLE AND JUST A COUPLE
12 FOLLOW-UP QUESTIONS, IF I COULD

13 A YES, SIR

14 Q THE DEFENSE ATTORNEY HAD TALKED TO YOU ABOUT
15 DIFFERENT POSSIBLE VERDICTS CONSIDERED DURING THE
16 GUILT PHASE WHETHER OR NOT HE'S GUILTY OF ANY CRIME
17 OR NOT, HE MENTIONED A COUPLE THINGS TO YOU BUT IF
18 I UNDERSTAND YOUR ANSWERS TO THE QUESTIONS THE JUDGE
19 GAVE YOU, YOU'RE GOING TO BE THE KIND OF JUROR WHO'S
20 GOING TO FOLLOW THE LAW AS THE JUDGE CHARGES IT?

21 A OF COURSE

22 Q AND, OF COURSE, YOU MAY NOT EVEN HAVE A CHARGE
23 OF VOLUNTARY MANSLAUGHTER IN THIS CASE SO YOU MAY
24 NOT EVEN HAVE TO CONSIDER THAT YOU WOULD JUST HAVE
25 TO CONSIDER THE THINGS THAT THE JUDGE CHARGES YOU

1 WITH, THE DIFFERENT TYPE OF VERDICTS THAT YOU COULD
2 COME UP WITH, COULD ONLY BE MURDER OR NOT GUILTY
3 YOU WOULD JUST CONSIDER WHAT THE JUDGE CHARGES WITH
4 YOU, CORRECT?

5 A YES, SIR

6 Q AND IF YOU GOT TO A POINT DURING THE GUILT
7 PHASE, IF YOU FOUND THE DEFENDANT GUILTY BEYOND A
8 REASONABLE DOUBT OF MURDER, THEN YOU'D GO ONTO THAT
9 SECOND PHASE, THE PENALTY PHASE WHERE YOU CONSIDER
10 ALL THE DIFFERENT EVIDENCE INVOLVED AND IT COULD
11 VERY WELL BE DURING THAT PARTICULAR PHASE YOU, AS A
12 JUROR ON A JURY, COULD FIND THE DEFENDANT GUILTY OF
13 MURDER, ONE COUNT OF MURDER, TWO COUNTS OF MURDER,
14 BURGLARY IN THE FIRST DEGREE AND GRAND LARCENY OF A
15 MOTOR VEHICLE BUT EVEN BEFORE YOU DECIDE ON A
16 SENTENCE, IF I UNDERSTAND YOUR ANSWERS CORRECTLY,
17 YOU WOULD STILL HAVE TO CONSIDER ALL OF THE
18 EVIDENCE, THE MITIGATING CIRCUMSTANCES PRESENTED BY
19 THE DEFENDANT AND THE AGGRAVATING CIRCUMSTANCES
20 PRESENTED BY THE STATE BEFORE YOU COULD DETERMINE
21 WHETHER OR NOT TO RETURN THE SENTENCE OF LIFE OR
22 DEATH, IS THAT RIGHT?

23 A THAT IS RIGHT

24 Q YOU WANT TO HEAR EVERYTHING?

25 A SIR?

1 Q YOU WANT TO HEAR EVERYTHING?

2 A THAT'S ALL -- YES, SIR

3 Q NOW, ONE FURTHER STEP AND I'M NOT SURE IF THIS
4 WAS MENTIONED OR NOT IF YOU, IN FACT, AS A JUROR
5 DETERMINE THAT DEATH IS THE PROPER SENTENCE BASED ON
6 ALL THE EVIDENCE, YOU WOULD HAVE TO SIGN A PIECE OF
7 PAPER IMPOSING THAT SENTENCE ON THE DEFENDANT, PUT
8 YOUR NAME ON THERE

9 A I WOULD

10 Q AND YOU COULD DO THAT?

11 A I CAN

12 Q IF THE CIRCUMSTANCES -- IF THE MURDER'S BAD
13 ENOUGH?

14 A I COULD

15 MR COULTER THANK YOU

16 THE COURT MR BANNISTER, IF YOU'LL JUST
17 STEP OUTSIDE THE DOOR FOR ONE MINUTE, I'LL BRING YOU
18 BACK

19 (JUROR #227 DOES AS INSTRUCTED)

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

22 MR COULTER NOT BY THE STATE, YOUR
23 HONOR

24 MR TINSLEY NO, YOUR HONOR

25 THE COURT HE IS SO QUALIFIED BRING

1 HIM IN MR BANNISTER, YOU ARE QUALIFIED TO SERVE
2 AS A POTENTIAL JUROR IN THIS CASE THAT SIMPLY
3 MEANS YOU'RE IN THAT GROUP OF PERSONS FROM WHICH THE
4 JURY WILL ACTUALLY BE SELECTED SO WE'RE GOING TO
5 EXCUSE YOU RIGHT NOW BUT WE NEED FOR YOU TO GIVE THE
6 CLERK YOUR PHONE NUMBERS, DAY AND NIGHT, WHERE YOU
7 CAN BE REACHED IT'S LIKELY, POSSIBLE, THAT WE WILL
8 CALL YOU AT SOME POINT TO COME BACK TOMORROW,
9 PERHAPS TOMORROW AFTERNOON SO I NEED FOR YOU TO
10 GIVE THE CLERK THOSE NUMBERS WHERE YOU CAN BE
11 REACHED SO THAT WE CAN GET IN TOUCH WITH YOU ON
12 SHORT NOTICE AND THEN WE'LL CALL YOU WHEN TO COME
13 BACK

14 LET ME REMIND YOU THAT YOU'RE NOT TO
15 DISCUSS THE CASE STILL WITH ANYONE AND YOU'RE NOT TO
16 ALLOW YOURSELF TO BE EXPOSED TO ANY MEDIA COVERAGE
17 SO DON'T READ THE NEWSPAPER, WATCH TELEVISION IF IT
18 HAS ANYTHING ABOUT THE CASE IN IT, OKAY?

19 JUROR YES, SIR CAN I GO TO WORK
20 TOMORROW?

21 THE COURT YOU CAN GO TO WORK WHERE
22 WOULD YOU BE? WILL YOU BE WHERE THERE'S A PHONE
23 AVAILABLE SO WE CAN CALL YOU THERE?

24 JUROR MY DISPATCHER, I CALL IN SEVERAL
25 TIMES A DAY AND COULD GET IN TOUCH WITH ME

1 THE COURT JUST BE SURE YOU GIVE US A
2 NUMBER WHERE WE CAN GET YOU AND YOU CAN COME BACK ON
3 SHORT NOTICE

4 (JUROR #227 EXITS)

5 (THE COURT CALLS JUROR TURMAN)

6 (JUROR #291 PRESENTED AT 5 40 O'CLOCK P M)

7 EXAMINATION BY THE COURT

8 Q GOOD AFTERNOON, MR TURMAN

9 A GOOD AFTERNOON

10 Q WE'VE ASKED YOU TO COME BACK, WE'RE GOING TO
11 BE ASKING YOU SOME QUESTIONS AND THERE ARE NO RIGHT
12 OR WRONG ANSWERS WE JUST SIMPLY NEED TO KNOW YOUR
13 VIEWS AND OPINIONS ON CERTAIN SUBJECTS SO, PLEASE,
14 ANSWER THE QUESTIONS AS OPENLY AND AS HONESTLY AS
15 YOU CAN IF YOU DON'T UNDERSTAND THE QUESTION OR
16 YOU NEED ME TO REPHRASE IT OR EXPLAIN IT, ASK ME TO
17 DO SO AND I WILL

18 YOU UNDERSTAND YESTERDAY, YOU AND YOUR FELLOW
19 JURORS WERE PLACED UNDER OATH?

20 A YES

21 Q YOU REMAIN UNDER OATH FOR THE PURPOSE OF THESE
22 QUESTIONS, ALSO I HAVE A COPY OF YOUR
23 QUESTIONNAIRE, IS THE QUESTIONNAIRE YOU FILLED OUT
24 CORRECT?

25 A YES, SIR

- 1 Q ANYTHING NEED TO BE CHANGED?
- 2 A NO, SIR
- 3 Q I'VE ASKED YOU NOT TO DISCUSS THE CASE WITH
- 4 ANYBODY AND I'VE ASKED YOU NOT TO ALLOW YOURSELF TO
- 5 BE EXPOSED TO ANY TYPE OF TELEVISION, RADIO OR
- 6 NEWSPAPER ARTICLE RELATING TO THIS PARTICULAR CASE
- 7 HAVE YOU HAD ANY DISCUSSIONS OR CONVERSATIONS WITH
- 8 ANYONE ABOUT THE CASE AT ANY TIME?
- 9 A NO, SIR
- 10 Q HAVE YOU BEEN EXPOSED TO ANY TYPE OF MEDIA
- 11 COVERAGE ABOUT THE CASE AT ANY TIME?
- 12 A NO, SIR
- 13 Q YOU INDICATED, I BELIEVE YESTERDAY, THAT YOU
- 14 WERE IN THE NATIONAL GUARD WITH ANTHONY HARRIS
- 15 A YES
- 16 Q AND DO YOU UNDERSTAND THAT HE IS A RELATIVE OF
- 17 ONE OF THE PERSONS WHO IS DECEASED IN THIS CASE?
- 18 A YES, SIR
- 19 Q WOULD THAT RELATIONSHIP WITH MR HARRIS
- 20 INTERFERE IN ANY WAY WITH YOUR ABILITY TO BE FAIR IF
- 21 YOU WERE SELECTED AS A JUROR?
- 22 A NO, SIR
- 23 Q IT WOULD NOT?
- 24 A NO, SIR
- 25 Q DO YOU KNOW HIM WELL ENOUGH -- HAVE YOU TALKED

1 TO HIM ABOUT THE CASE AT ALL?

2 A NO, SIR

3 Q AT ANY TIME?

4 A NO, SIR

5 Q NOW, IN THIS CASE, THE DEFENDANT IS CHARGED
6 WITH MURDER THE LAW PROVIDES THAT WHERE A PERSON
7 IS FOUND GUILTY OF MURDER IF, IN ADDITION TO BEING
8 FOUND GUILTY OF MURDER, THERE IS ALSO PROVEN SOME
9 AGGRAVATING CIRCUMSTANCE, THE STATE CAN ASK THAT THE
10 PERSON BE SENTENCED TO DEATH, DID YOU UNDERSTAND
11 THAT?

12 A YES, SIR

13 Q DID YOU KNOW THAT?

14 A NO, SIR

15 Q THE STATE CAN ASK THAT A PERSON BE SENTENCED
16 TO DEATH BUT IT IS NOT REQUIRED BY THE LAW THAT THEY
17 BE SENTENCED TO DEATH, IT JUST SIMPLY MEANS THAT A
18 JURY WILL MAKE THAT DECISION BASED UPON CONSIDERING
19 THE EVIDENCE IN THE CASE NOW, DO YOU UNDERSTAND
20 THAT WHEN THE STATE CHARGES A PERSON WITH A CRIMINAL
21 OFFENSE THEY HAVE THE BURDEN OF PROVING THAT CRIME
22 BEYOND A REASONABLE DOUBT?

23 A YES, SIR

24 Q DO YOU UNDERSTAND THE BURDEN IS NOT UPON A
25 DEFENDANT TO PROVE THAT HE OR SHE IS NOT GUILTY?

1 A YES, SIR

2 Q DO YOU UNDERSTAND THAT A PERSON CHARGED WITH A
3 CRIME IS PRESUMED TO BE INNOCENT?

4 A YES

5 Q DO YOU UNDERSTAND THAT IF A PERSON WHO IS
6 CHARGED WITH A CRIME DECIDES NOT TO TAKE THE WITNESS
7 STAND AND TESTIFY DURING THE TRIAL OF THE CASE, THAT
8 I WOULD INSTRUCT THE JURY THEY MAY NOT CONSIDER THAT
9 FACT IN ANY WAY?

10 A YES, SIR

11 Q WOULD YOU FOLLOW THAT INSTRUCTION?

12 A YES, SIR

13 Q NOW, IF YOU WERE CALLED UPON TO PARTICIPATE,
14 THE CASE WOULD BE TRIED IN TWO SEPARATE STAGES THE
15 FIRST PART OF THE TRIAL WOULD RELATE TO THE ISSUE OF
16 GUILT AND THE SECOND PART WOULD RELATE TO THE ISSUE
17 F PUNISHMENT, IF IT WERE NEEDED IN THE FIRST PHASE
18 OF THE TRIAL, EVIDENCE WOULD BE PRESENTED AND THE
19 JURY WOULD BE ASKED TO DETERMINE WHETHER OR NOT THE
20 PERSON IS GUILTY OF THE CRIME CHARGED IF YOU WERE
21 CALLED UPON TO SERVE AS A JUROR, WOULD YOU BE
22 WILLING AND ABLE TO CAREFULLY CONSIDER ALL OF THE
23 EVIDENCE OFFERED IN THE GUILT PHASE OF THE TRIAL?

24 A YES, SIR

25 Q BEFORE YOU ARRIVED AT A DECISION

1 A YES, SIR

2 Q AND IF YOU WERE CONVINCED BEYOND A REASONABLE
3 DOUBT THAT THE PERSON WAS GUILTY, WOULD YOU FIND
4 THAT PERSON GUILTY?

5 A YES, SIR

6 Q IF YOU WERE NOT SO CONVINCED, WOULD YOU FIND
7 HIM NOT GUILTY?

8 A YES, SIR

9 Q NOW, I WANT YOU TO ASSUME FOR THE PURPOSE OF
10 THIS QUESTION THAT YOU PARTICIPATED AND YOU AND YOUR
11 FELLOW JURORS HAVE FOUND A PERSON GUILTY OF MURDER
12 BEYOND A REASONABLE DOUBT AND YOU HAD, ALSO, FOUND
13 SOME AGGRAVATING CIRCUMSTANCE IN ADDITION TO THAT
14 MURDER IN THAT EVENT, WE WOULD GO TO THE SECOND
15 PART OF THE TRIAL WHERE THE JURY WOULD DECIDE THE
16 PUNISHMENT THE CHOICE WOULD BE TWO, A SENTENCE OR
17 A SENTENCE OF LIFE IMPRISONMENT BEFORE THE JURY
18 COULD MAKE THAT DECISION, THERE WOULD BE ADDITIONAL
19 EVIDENCE OFFERED THERE WOULD BE EVIDENCE OFFERED
20 PERHAPS TENDING TO SHOW WHY THE DEATH PENALTY WAS
21 APPROPRIATE AND THERE WOULD BE EVIDENCE OFFERED
22 TENDING TO SHOW PERHAPS WHY THE DEATH PENALTY WAS
23 NOT APPROPRIATE OR A LIFE SENTENCE WAS MORE
24 APPROPRIATE WOULD YOU BE ABLE AND WILLING TO
25 CAREFULLY CONSIDER ALL OF THAT ADDITIONAL EVIDENCE

1 BEFORE ARRIVING AT ANY DECISION AS IT RELATES TO
2 PUNISHMENT?

3 A YES

4 Q AND, IF AFTER YOU HAD CONSIDERED ALL OF THE
5 EVIDENCE, IF YOU THOUGHT IT TO BE APPROPRIATE, WOULD
6 YOU SENTENCE A PERSON TO DEATH?

7 A NO, SIR

8 Q WOULD YOU BE ABLE TO SENTENCE A PERSON TO LIFE
9 IMPRISONMENT?

10 A YES, SIR

11 Q DO YOU UNDERSTAND THAT WOULD BE A CHOICE THAT
12 YOU AND YOUR FELLOW JURORS WOULD BE ALLOWED TO MAKE?

13 A YES, SIR

14 Q YOU UNDERSTAND THAT YOU WOULD NEVER BE
15 REQUIRED TO IMPOSE A DEATH SENTENCE NO MATTER WHAT
16 THE CIRCUMSTANCES WERE?

17 A YES, SIR

18 Q YOU UNDERSTAND THAT YOU COULD IMPOSE A LIFE
19 SENTENCE FOR ANY REASON OR NO REASON?

20 A YES, SIR

21 Q UNDER THOSE CIRCUMSTANCES, COULD YOU EVER
22 SENTENCE A PERSON TO DIE?

23 A NO, SIR

24 Q WOULD YOU ALWAYS CHOOSE THE LIFE SENTENCE
25 OPTION OVER A DEATH SENTENCE OPTION?

1 A YES, SIR

2 THE COURT ANSWER ANY QUESTIONS THE
3 LAWYERS MAY HAVE FOR YOU

4 EXAMINATION BY MR TINSLEY

5 Q GOOD AFTERNOON, MR TURMAN

6 A GOOD AFTERNOON

7 Q MR TURMAN, I TAKE IT YOU DON'T BELIEVE IN THE
8 DEATH PENALTY, IS THAT CORRECT?

9 A NO, SIR

10 Q AND ARE THERE ANY CIRCUMSTANCES WHERE I COULD
11 TELL YOU ABOUT A REAL BAD CRIME AND REAL SERIOUS
12 SITUATION WHEREBY YOU MIGHT CONSIDER VOTING FOR THE
13 DEATH PENALTY?

14 A NO, SIR

15 MR TINSLEY THANK YOU SO MUCH, MR
16 TURMAN

17 THE COURT SOLICITOR

18 EXAMINATION BY MR JONES

19 Q SO YOU WOULD NEVER VOTE FOR THE DEATH PENALTY
20 IN ANY CIRCUMSTANCE?

21 A NO, SIR

22 MR JONES THANK YOU

23 THE COURT ALL RIGHT, MR TURMAN WE'RE
24 GOING TO EXCUSE YOU FROM SERVICE IN THE TRIAL OF
25 THIS CASE BUT WE APPRECIATE YOU COMING DOWN AND

1 ANSWERING OUR QUESTIONS IT WON'T BE NECESSARY THAT
2 YOU REPORT BACK ANY FURTHER THANKS AGAIN FOR
3 COMING

4 (JUROR #291 IS EXCUSED)

5 (JUROR #291 EXITS)

6 THE COURT ANY REASON WHY THE JUROR
7 SHOULD NOT BE DISQUALIFIED?

8 MR JONES NOT FOR THE STATE, YOUR
9 HONOR

10 MR TINSLEY YES, YOUR HONOR I THINK
11 BY DISQUALIFYING THIS JUROR, MR HUGHEY'S DENIED A
12 CROSS-SECTION OF THE COMMUNITY IN HIS JURY

13 THE COURT BASED UPON THE RESPONSES TO
14 THE QUESTIONS ASKED OF THE JUROR, HE HAS INDICATED
15 CLEARLY THAT HE WOULD NOT, UNDER ANY CIRCUMSTANCES,
16 BE ABLE TO CONSIDER IMPOSING A SENTENCE OF DEATH
17 AND, THEREFORE, I FIND HE SHOULD BE DISQUALIFIED
18 PURSUANT TO WEINWRIGHT VS WITT AND WITHERSPOON

19 (THE COURT CALLS JUROR BRUCE)

20 (JUROR #232 PRESENTED AT 6 00 O'CLOCK P M)

21 EXAMINATION BY THE COURT

22 Q GOOD AFTERNOON, MS BRUCE

23 A GOOD AFTERNOON

24 Q WE APPRECIATE YOU COMING BACK TO ANSWER OUR
25 QUESTIONS AS I INDICATED WE WOULD ASK YOU TO DO

1 YOU UNDERSTAND THAT THESE QUESTIONS WE'RE GOING TO
2 ASK YOU HAVE NO RIGHT OR WRONG ANSWERS WE JUST
3 SIMPLY NEED TO KNOW HOW YOU FEEL ABOUT CERTAIN
4 THINGS SO I WOULD ASK THE YOU, PLEASE, JUST ANSWER
5 THE QUESTIONS AS OPENLY AND AS HONESTLY AS YOU CAN
6 SO THAT WE WILL KNOW HOW YOU FEEL ABOUT THESE
7 SUBJECTS

8 YOU WERE PLACED UNDER OATH YESTERDAY WITH YOUR
9 FELLOW JURORS AND SO YOU REMAIN UNDER OATH FOR THE
10 PURPOSE OF THESE QUESTIONS, ALSO I DO HAVE A COPY
11 OF YOUR JUROR QUESTIONNAIRE THAT YOU'VE COMPLETED
12 IS YOUR QUESTIONNAIRE ACCURATE?

13 A AS ACCURATE AS I CAN GET IT

14 Q I MIGHT NEED YOU TO SPEAK IN THAT MICROPHONE
15 SO THAT EVERYONE CAN HEAR YOU I'VE ASKED YOU NOT
16 TO DISCUSS THE CASE IN ANY FASHION WITH ANYONE AND
17 I'VE ALSO ASKED YOU NOT TO ALLOW YOURSELF TO BE
18 EXPOSED TO ANY TYPE OF TELEVISION, RADIO OR
19 NEWSPAPER ARTICLES ABOUT THE CASE HAVE YOU HAD ANY
20 DISCUSSIONS OR CONVERSATIONS ABOUT THIS CASE, NOT
21 ONLY SINCE YOU RECEIVED MY LETTER BUT BEFORE THAT?

22 A NO, I DON'T EVEN REMEMBER -- THERE'S SO MUCH
23 THAT GOES ON I REALLY DON'T PAY THAT MUCH ABOUT IT
24 I HAVE ENOUGH TO WORRY ABOUT WITHOUT ALL THIS STUFF

25 Q DO YOU RECALL WHETHER OR NOT YOU WERE EVER

1 EXPOSED TO ANY TYPE OF TELEVISION OR RADIO OR
2 NEWSPAPER ARTICLE ABOUT THE CASE?

3 A NO, I DON'T LIKE I SAID, I DON'T REMEMBER
4 IT

5 Q IF YOU WERE, YOU DON'T RECALL?

6 A NO

7 Q IN THIS CASE, AS YOU ARE AWARE, THE DEFENDANT
8 IS CHARGED WITH MURDER THE STATE HAS CHARGED HIM
9 WITH THAT CRIME AND IN ORDER FOR A PERSON TO BE
10 FOUND GUILTY, THE STATE HAS THE BURDEN OF PROVING IT
11 BEYOND A REASONABLE DOUBT BECAUSE THEY HAVE BROUGHT
12 THE ALLEGATION AGAINST SOME OTHER PERSON DO YOU
13 UNDERSTAND THAT THAT IS THE STATE'S BURDEN TO
14 ESTABLISH A PERSON'S GUILT BEYOND A REASONABLE DOUBT
15 BEFORE A JURY CAN FIND ONE GUILTY?

16 A YES

17 Q DO YOU UNDERSTAND THAT THE BURDEN IS NEVER
18 UPON A PERSON CHARGED TO PROVE THAT THEY ARE NOT
19 GUILTY OR TO PROVE THAT THEY ARE INNOCENT?

20 A YES

21 Q DO YOU UNDERSTAND THAT THE CONSTITUTION
22 REQUIRES THAT EVERY PERSON CHARGED WITH A CRIME BE
23 PRESUMED INNOCENT?

24 A YES

25 Q DO YOU UNDERSTAND THAT IN A CASE, SINCE I HAVE

1 TOLD YOU, THE STATE HAS THE BURDEN OF PROOF, THE
2 DEFENDANT DOES NOT HAVE TO PROVE ANYTHING

3 A I KNOW THAT

4 Q THE DEFENDANT MAY NOT TESTIFY THE DEFENDANT
5 MAY NOT OFFER ANY EVIDENCE IF THAT WERE TO OCCUR,
6 I WOULD INSTRUCT THE JURY THAT THEY MAY NOT CONSIDER
7 THAT FACT IN ANY WAY IN THEIR DECISION, DO YOU
8 FOLLOW THAT INSTRUCTION?

9 A DON'T KNOW

10 Q YOU DON'T KNOW?

11 A I MEAN, I WOULD TRY

12 Q WELL, YOU UNDERSTAND THAT IT WOULD BE
13 IMPORTANT THAT YOU WOULD AND YOU WOULD BE REQUIRED
14 TO BUT IF YOU TELL ME THAT YOU COULD NOT, THEN, OF
15 COURSE, I NEED TO KNOW THAT, ALSO

16 A I REALLY DON'T KNOW I COULD TRY

17 Q WELL, LET ME ASK YOU THIS IF A PERSON WHO
18 WAS CHARGED WITH A CRIME DID NOT TESTIFY IN A CASE,
19 WOULD YOU HOLD THAT AGAINST THAT PERSON?

20 A NO

21 Q WOULD YOU CONSIDER THAT AS BEING EVIDENCE OF
22 HIS GUILT IF HE DIDN'T TESTIFY?

23 A NO

24 Q SO YOU WOULD BE WILLING NOT TO CONSIDER IT IF
25 A DEFENDANT DID NOT TESTIFY

1 A YES

2 Q NOW, IN A CASE WHERE A PERSON'S CHARGED WITH
3 MURDER, AS I INDICATED TO YOU, THE LAW PROVIDES THAT
4 A PERSON WHO IS CONVICTED OR FOUND GUILTY OF MURDER
5 MAYBE SUBJECT TO THE DEATH PENALTY IF CERTAIN
6 CIRCUMSTANCES ARE PRESENT FIRST OF ALL, THE PERSON
7 WOULD HAVE TO BE FOUND GUILTY BEYOND A REASONABLE
8 DOUBT OF MURDER BUT, ALSO, THERE WOULD HAVE TO BE
9 SOME OTHER AGGRAVATING CIRCUMSTANCE PROVEN BEYOND A
10 REASONABLE DOUBT IN ADDITION TO THE MURDER AND IN
11 THAT EVENT, THE STATE COULD ASK, AS THEY HAVE IN
12 THIS CASE, THAT THE DEATH PENALTY BE IMPOSED THE
13 LAW DOES NOT REQUIRE THAT THE DEATH PENALTY BE
14 IMPOSED UNDER ANY CIRCUMSTANCES, BUT IT DOES PERMIT
15 THE STATE TO ASK FOR IT UNDER THOSE CIRCUMSTANCES
16 BUT THE JURY MAKES THAT DECISION AND THE JURY ALWAYS
17 HAS THE CHOICE AND THE JURY HAS AN OPTION TO
18 SENTENCE A PERSON TO DEATH OR TO SENTENCE A PERSON
19 TO LIFE IMPRISONMENT YOU WOULD ALWAYS HAVE THAT
20 CHOICE

21 NOW, IF YOU WERE CALLED UPON TO SERVE IN SUCH
22 A TRIAL, IT WOULD BE CONDUCTED IN TWO SEPARATE
23 PARTS THE FIRST PART WOULD RELATE TO THE ISSUE OF
24 GUILT, THE SECOND PART WOULD RELATE TO THE ISSUE OF
25 PUNISHMENT OF COURSE, WE WOULD ONLY GO TO THE

1 PUNISHMENT PHASE IF, IN THE FIRST PHASE, THE GUILT
2 PHASE, A PERSON WERE CONVICTED OF MURDER AND AN
3 AGGRAVATING CIRCUMSTANCE WERE PROVEN, DO YOU
4 UNDERSTAND THAT?

5 NOW, IF YOU WERE PARTICIPATING IN SUCH A TRIAL
6 DURING THE GUILT PHASE WHERE A PERSON WAS TO BE
7 DETERMINED WHETHER OR NOT THEY WERE GUILTY, THERE
8 WOULD BE EVIDENCE OFFERED AS TO THAT ISSUE, THE
9 ISSUE OF GUILT WOULD YOU BE ABLE AND WILLING TO
10 CONSIDER ALL OF THAT EVIDENCE BEFORE YOU ARRIVED AT
11 YOUR DECISION?

12 A YES

13 Q AND IF YOU WERE CONVINCED THAT THAT PERSON WAS
14 GUILT BEYOND A REASONABLE DOUBT WOULD YOU FIND THAT
15 PERSON GUILTY?

16 A YES, SIR

17 Q IF YOU HAD A REASONABLE DOUBT ABOUT IT, WOULD
18 YOU --

19 A NO

20 Q WHAT?

21 A IF I HAD A REASONABLE DOUBT, I WOULDN'T

22 Q YOU WOULDN'T WHAT?

23 A WOULDN'T SAY HE WAS GUILTY

24 Q SO IF YOU HAD A REASONABLE DOUBT, YOU'D FIND
25 HIM NOT GUILTY

1 A RIGHT

2 Q NOW, LET ME ASK YOU THIS AND SEE IF YOU
3 UNDERSTAND THAT IF A PERSON IS FOUND GUILTY OF
4 MURDER AND AN AGGRAVATING CIRCUMSTANCE IS ALSO
5 PROVEN BEYOND A REASONABLE DOUBT, THEN WE PROCEED TO
6 A SECOND STAGE OF THE TRIAL, THAT'S THE PENALTY
7 PHASE WHERE THE ISSUE OF PUNISHMENT IS DECIDED
8 DURING THAT PHASE OF THE TRIAL ADDITIONAL EVIDENCE
9 IS OFFERED EVIDENCE MIGHT BE OFFERED TENDING TO
10 SHOW WHY THE DEATH PENALTY WAS APPROPRIATE IN THE
11 CASE EVIDENCE WOULD BE OFFERED TENDING TO SHOW WHY
12 THE DEATH PENALTY WAS NOT APPROPRIATE OR A LIFE
13 SENTENCE WAS MORE APPROPRIATE DO YOU UNDERSTAND
14 THAT YOU WOULD BE ASKED TO CONSIDER ALL OF THAT
15 ADDITIONAL EVIDENCE, AS WELL, BEFORE YOU ARRIVED AT
16 YOUR DECISION?

17 A YES

18 Q YOU DO UNDERSTAND?

19 A I THINK SO

20 Q WHAT I'M SAYING IS, WE'RE GOING TO ASK, IF YOU
21 ARE SELECTED, THAT YOU CONSIDER ALL OF THAT EVIDENCE
22 BEFORE YOU DECIDE WOULD YOU BE ABLE AND WILLING TO
23 NOT MAKE A DECISION UNTIL ALL THAT EVIDENCE HAS BEEN
24 RECEIVED AND YOU'VE HAD A CHANCE TO CONSIDER IT?

25 A YES

1 Q NOW, AFTER YOU'VE CONSIDERED ALL THE EVIDENCE,
2 LET'S ASSUME THE CASE WAS OVER AND ALL THE EVIDENCE
3 HAD BEEN RECEIVED AND YOU AND YOUR FELLOW JURORS
4 WERE ASKED TO GO BACK INTO THAT JURY ROOM AND DECIDE
5 WHAT PUNISHMENT WAS APPROPRIATE IF, AFTER YOU'VE
6 CONSIDERED ALL THAT EVIDENCE, IF YOU THOUGHT IT WAS
7 APPROPRIATE, WOULD YOU SENTENCE A PERSON TO DEATH?

8 A I DON'T THINK SO

9 Q YOU DON'T THINK SO?

10 A NO

11 Q WOULD YOU BE ABLE TO SENTENCE A PERSON TO LIFE
12 IMPRISONMENT?

13 A YES

14 Q NOW, AS I INDICATED TO YOU EARLIER, THE LAW
15 PERMITS THE DEATH PENALTY TO BE IMPOSED IF A PERSON
16 IS CONVICTED OF MURDER AND SOME OTHER AGGRAVATING
17 CIRCUMSTANCE IS PROVEN DO YOU UNDERSTAND, HOWEVER,
18 THAT THE LAW DOES NOT REQUIRE A JURY TO IMPOSE THAT
19 SENTENCE?

20 A I DIDN'T KNOW THAT

21 Q NOW THAT I HAVE TOLD YOU, CAN YOU ACCEPT THAT?

22 A I DON'T KNOW

23 Q YOU DON'T KNOW? WELL, DO YOU NOT UNDERSTAND
24 MY QUESTION?

25 A YES

1 Q YOU DO?

2 A I THINK I UNDERSTAND IT

3 Q WHAT I'M SAYING IS, THE LAW DOES NOT EVER

4 REQUIRE THAT A JURY GIVE SOMEONE A SENTENCE OF

5 DEATH IT SIMPLY, UNDER CERTAIN CIRCUMSTANCES,

6 PERMITS YOU TO DO THAT YOU WOULD ALWAYS HAVE A

7 CHOICE, YOU COULD ALWAYS SENTENCE A PERSON TO LIFE

8 IMPRISONMENT IF YOU WANTED TO YOU'D NEVER BE

9 REQUIRED TO SENTENCE A PERSON TO DEATH, DO YOU

10 UNDERSTAND?

11 A YES

12 Q WELL, NOW, IF YOU HAD THAT CHOICE, IF YOU

13 ALWAYS HAD THAT CHOICE, YOU COULD ALWAYS SENTENCE A

14 PERSON TO DEATH OR YOU COULD SENTENCE A PERSON TO

15 LIFE FOR ANY REASON OR NO REASON WOULD YOU ALWAYS

16 CHOSE THE LIFE SENTENCE OVER THE DEATH SENTENCE?

17 A I THINK SO

18 Q CAN YOU THINK OF ANY CIRCUMSTANCE WHERE YOU

19 WOULD BE WILLING TO SENTENCE A PERSON TO DIE?

20 A I DON'T KNOW

21 Q I RECOGNIZE THAT PERHAPS YOU'VE NOT HAD MUCH

22 OF AN OPPORTUNITY TO THINK ABOUT THESE SORT OF

23 THINGS AND, PERHAPS, YOU'VE NOT EVEN CONSIDERED YOUR

24 FEELINGS ON THE DEATH PENALTY UP UNTIL YOU WERE

25 SUMMONED TO COME HERE BUT YOU UNDERSTAND BECAUSE

1 OF THE NATURE OF THIS CASE IT'S IMPORTANT THAT WE
2 UNDERSTAND HOW YOU FEEL ABOUT THE DEATH PENALTY AND
3 THESE OTHER MATTERS THAT I'M ASKING YOU ABOUT SO I
4 SIMPLY WANT TO ASK YOU IF YOU COULD THINK ABOUT THAT
5 AND TELL ME WHETHER OR NOT YOU BELIEVE THERE'S SOME
6 CIRCUMSTANCE WHERE YOU, YOURSELF, WOULD BE WILLING
7 TO SENTENCE A PERSON TO DEATH?

8 A NO IT'D BE HARD TO SAY I'M SURE IF
9 SOMETHING HAPPENED TO ONE OF MY KIDS OR SOMETHING,
10 I'D PROBABLY WANT TO DO IT MYSELF BUT I KNOW I
11 COULDN'T

12 Q YOU COULDN'T DO IT EVEN IF SOMETHING HAPPENED
13 TO ONE OF YOUR CHILDREN?

14 A I DON'T THINK I COULD

15 Q OF COURSE, YOU UNDERSTAND IF SOMETHING --

16 A I'M SURE I'D WANT TO

17 Q BUT YOU DON'T BELIEVE YOU COULD, EVEN IF YOU
18 WANTED TO?

19 A I DON'T THINK I COULD

20 Q OF COURSE, YOU UNDERSTAND IF SOMETHING
21 HAPPENED TO ONE OF YOUR CHILDREN OR FAMILY MEMBERS,
22 YOU WOULDN'T BE ALLOWED TO MAKE THAT DECISION

23 A I KNOW THAT

24 Q AND YOU'RE SAYING THAT EVEN KNOW YOU MIGHT
25 WANT IT TO OCCUR, YOU DON'T THINK YOU COULD DO IT

1 EVEN IF YOUR CHILD WERE MURDERED?

2 A INAUDIBLE

3 Q WELL, OF COURSE, THAT'S NOT THE CASE HERE AND
4 YOU WOULDN'T BE PERMITTED TO SERVE ON A CASE WHERE
5 IT WAS THE CASE SO IN A CASE WHERE A PERSON THAT
6 YOU DON'T KNOW IS CHARGED WITH MURDER AND IS FOUND
7 GUILTY OF MURDER AND AN AGGRAVATING CIRCUMSTANCE
8 EXISTS, COULD YOU UNDER ANY CIRCUMSTANCES SENTENCE
9 THAT PERSON TO DEATH?

10 A INAUDIBLE

11 Q YOU DON'T KNOW

12 A I REALLY DON'T KNOW

13 Q LET ME ASK YOU THIS, IF YOU CONSIDERED THE
14 CASE AND, IF UNDER SOME CIRCUMSTANCE, YOU THOUGHT I
15 THINK THE DEATH PENALTY IS APPROPRIATE, I BELIEVE IT
16 WOULD BE APPROPRIATE IN THIS CASE THE LAW WOULD
17 REQUIRE THAT YOU SIGN YOUR NAME ON A FORM AND THAT
18 FORM WOULD RECOMMEND, IT WOULD STATE THAT YOU
19 RECOMMEND THAT THAT PERSON BE SENTENCED TO DEATH,
20 COULD YOU SIGN SUCH A FORM SENTENCING A PERSON TO
21 DEATH?

22 A I CAN'T ANSWER THAT YES OR NO BECAUSE I REALLY
23 DON'T KNOW

24 Q WELL, IS IT FAIR TO SAY THAT YOU REALLY DON'T
25 KNOW WHETHER OR NOT YOU COULD EVER SENTENCE A PERSON

1 TO DEATH OR NOT?

2 A BECAUSE I REALLY DON'T KNOW IF I COULD

3 Q YOU JUST DON'T KNOW? IS THERE ANYTHING I

4 COULD ASK YOU --

5 A I DON'T KNOW

6 Q YOU DON'T KNOW THAT EITHER?

7 A NO

8 THE COURT PLEASE ANSWER ANY QUESTIONS

9 THE LAWYERS MAY HAVE FOR YOU

10 EXAMINATION BY MR TINSLEY

11 Q GOOD EVENING, MS BRUCE MS BRUCE, YOU

12 UNDERSTAND THAT THE LAW NEVER REQUIRES YOU TO IMPOSE

13 THE DEATH PENALTY, DO YOU NOT?

14 A YES

15 Q THE LAW WOULD ONLY GIVE YOU GUIDELINES BY

16 WHICH YOU WOULD, APPROPRIATELY, CONSIDER THE DEATH

17 PENALTY, DO YOU UNDERSTAND THAT?

18 A YES, SIR

19 Q AND IF YOUR DECISION -- YOU KNOW, IF WE GOT TO

20 THIS PHASE TWO OF THE TRIAL WOULD BE AN INDEPENDENT

21 DECISION THAT YOU WOULD MAKE AS PART OF A BODY OF

22 TWELVE, DO YOU UNDERSTAND THAT?

23 A YES, SIR

24 Q AND AS SUCH, THE LAW REQUIRED THAT YOU WEIGH

25 THE VARIOUS FACTORS BOTH AGGRAVATING AND MITIGATION,

1 DO YOU UNDERSTAND WHAT I MEAN BY THAT?

2 A YES, SIR

3 Q THE BAD PARTS OF THE CRIME AND ALL AND THE
4 GOOD PARTS OF THE DEFENDANT AND ALL THE REDEEMING
5 VIRTUES SO-TO-SPEAK AND, CERTAINLY, YOUR VIEWS ON
6 THE DEATH PENALTY WOULD NOT AFFECT YOUR ABILITIES IN
7 THE GUILTY OR NOT GUILTY PART, RIGHT?

8 A I DON'T THINK SO

9 Q SO, SIMILARLY, YOU WOULD TRY TO FOLLOW THE LAW
10 IN THE SENTENCING PHASE OF THE TRIAL, IF WE GOT
11 THERE, IS THAT CORRECT?

12 A YES, SIR

13 Q IF THE JUDGE SAID CONSIDER THE DEATH PENALTY,
14 COULD YOU DO IT?

15 A I GUESS I COULD THINK ABOUT IT BUT I STILL
16 DON'T KNOW IF I COULD DO IT OR NOT

17 Q SO YOU COULD CONSIDER IT JUST LIKE IN PHASE
18 ONE, YOU COULD CONSIDER GUILTY OR NOT GUILTY OR
19 GUILTY OF A LESSER CHARGE FOR INSTANCE, IT MAY BE
20 GUILTY OF MURDER OR GUILTY OF MANSLAUGHTER OR NOT
21 GUILTY, YOU COULD CONSIDER ALL THAT, COULDN'T YOU?

22 A YES, SIR

23 Q AND THEN IN PHASE TWO, THE JUDGE WILL SAY I
24 WANT YOU TO CONSIDER AGGRAVATING CIRCUMSTANCES AND
25 MITIGATING CIRCUMSTANCES, CORRECT, YOU COULD DO

1 THAT?

2 A YES, SIR

3 Q AND SO THEN YOU WOULD FOLLOW RIGHT ON THROUGH,
4 AT THAT POINT, YOU SAY YOU GUESS YOU COULD CONSIDER
5 THE DEATH PENALTY

6 A I COULD THINK ABOUT IT

7 Q YOU COULD THINK ABOUT, COULD CONSIDER IT
8 NOBODY'S ASKING YOU WHAT YOUR VOTE WOULD BE THE
9 QUESTION IS, CAN YOU CONSIDER AS A FORM OF THE
10 PUNISHMENT?

11 A I DON'T KNOW

12 Q YOU DON'T KNOW BUT YOU DID TELL ME THAT YOU
13 COULD DEFINITELY GIVE A LIFE SENTENCE, RIGHT, YOU
14 COULD CONSIDER A LIFE SENTENCE?

15 A YES, I THINK I COULD DO THAT

16 Q IN A REAL BAD CASE -- SAY THAT I PAINED A
17 PORTRAIT OF A REAL SERIOUS, BAD CASE, WITH BAD
18 DETAILS AND ALL, UNDER THOSE CIRCUMSTANCES, COULD
19 YOU CONSIDER A DEATH PENALTY?

20 A I DON'T KNOW

21 Q IS THERE ANYTHING THAT YOU CAN THINK OF OR SAY
22 THAT WOULD HELP YOU TO ANSWER THIS QUESTION?

23 A NOT REALLY

24 MR TINSLEY THAT'S ALL

25 EXAMINATION BY MR JONES

1 Q MS BRUCE, MY NAME'S TOWNES JONES, I'M YOUR
2 SOLICITOR THIS IS MICHAEL COULTER YOUR DEPUTY
3 SOLICITOR WE'RE ABOUT TO DRAW THIS JURY AND START
4 THIS TRIAL

5 A WELL, HURRY UP AND SCARE ME TO DEATH

6 Q I'M GOING TO COME OVER SEE IF, YOU KNOW --
7 TALKING ABOUT HURRYING UP, WE'RE TRYING WE MOVE
8 ALONG, WE'VE BEEN WORKING PRETTY HARD I HOPE YOU
9 UNDERSTAND THAT, WE REALLY HAVE IT'S JUST A
10 PROCESS WHERE WE HAVE TO GET PEOPLE LIKE YOURSELF TO
11 TELL US A LITTLE BIT ABOUT YOURSELF AND, ACTUALLY,
12 PROBABLY MORE THAN WE SHOULD EXPECT IT'S JUST A
13 PROCESS WHERE WE HAVE TO DO IT AND YOU CAN'T TELL
14 ME ABOUT YOU AND UNTIL WHAT?

15 A I DON'T KNOW EVEN KNOW ABOUT ME

16 Q THAT'S WHAT I WAS GETTING TO YOU'VE GOT TO
17 KNOW ABOUT YOURSELF BEFORE YOU CAN TELL ME ABOUT IT
18 IF YOU DON'T KNOW, THERE'S NO WAY I'M GOING TO KNOW
19 AND YOU DON'T KNOW, DO YOU, YOU DON'T KNOW WHETHER
20 YOU COULD GIVE IT OR NOT?

21 A I REALLY DON'T

22 Q BUT IF YOU HAD TO JUST, ABSOLUTELY, MAKE UP
23 YOUR MIND RIGHT NOW, ONE WAY OR THE OTHER, WHERE
24 WOULD YOU VOTE, YES, I COULD GIVE THE DEATH PENALTY,
25 NO, I COULDN'T

1 A I DON'T KNOW

2 Q IF YOU HAD TO MAKE UP YOUR MIND RIGHT NOW

3 A YOU'RE MAKING IT HARD ON SOMEBODY I DON'T
4 KNOW

5 Q I'M SORRY BUT IF YOU HAD TO MAKE UP YOUR
6 MIND RIGHT NOW, WHERE WOULD YOU GO? YOU'RE NOT
7 GOING TO HURT MY FEELINGS EITHER WAY, JUST MAKE UP
8 YOUR MIND

9 A WELL, I'M NOT WORRIED ABOUT YOUR FEELINGS, YOU
10 KNOW

11 Q I UNDERSTAND THAT, TOO

12 A I DON'T KNOW, I REALLY DON'T KNOW

13 Q LET ME ASK YOU THIS HAVE YOU EVER THOUGHT
14 ABOUT BUNGEE JUMPING?

15 A NO

16 Q HUH-UH?

17 A HUH-UH

18 Q YOU AIN'T GOING TO DO THAT?

19 A NO

20 Q I MEAN, YOU NEVER THOUGHT ABOUT IT --

21 A I'VE NEVER EVEN CONSIDER I THOUGHT ABOUT IT,
22 I WOULDN'T DO IT

23 Q I ASK YOU TO THINK ABOUT IT AND YOU SAY, NO,
24 YOU'RE NOT GOING TO DO IT, RIGHT?

25 A THAT'S TRUE

1 Q YOU'RE NOT GOING TO DO IT SO YOU KNOW
2 YOURSELF WELL ENOUGH ABOUT THAT

3 A I KNOW THAT

4 Q LET'S THINK ABOUT THE DEATH PENALTY FOR A
5 MINUTE

6 A WELL, I DON'T KNOW THAT FOR SURE I MEAN, YOU
7 KNOW, I JUST WOULDN'T WANT TO BE RESPONSIBLE FOR
8 SOMEBODY ELSE'S DEATH I'D FEEL RESPONSIBLE FOR IT
9 I'M SURE IF IT WERE TO BE ONE OF MY KIDS, I -- LIKE
10 I SAID, I PROBABLY WANT TO DO IT MYSELF BUT I
11 COULDN'T OF COURSE, I WOULDN'T HAVE TO, I GUESS,
12 THE REST OF THEM WOULD DO IT FOR ME I DON'T KNOW

13 Q SO, BASICALLY, ALL I'M GOING TO BE ABLE TO GET
14 FROM YOU HERE TODAY IS THAT YOU JUST DON'T KNOW

15 A I KNOW I COULD HIM A LIFE SENTENCE PROBABLY
16 BUT I'M NOT SURE ABOUT THE DEATH PENALTY

17 MR JONES OKAY, THANK YOU

18 THE COURT MS BRUCE, IF YOU'LL STEP
19 OUTSIDE THAT DOOR JUST A MINUTE WE'LL BRING YOU
20 BACK

21 (JUROR #232 DOES AS INSTRUCTED)

22 THE COURT ANY REASON WHY THE JURY
23 SHOULD NOT BE DISQUALIFIED?

24 MR JONES NONE FOR THE STATE, YOUR
25 HONOR

1 MR TINSLEY UNDER DAVIS AND, ALSO,
2 FURTHER UNDER VACILLATIONS STANDARD

3 THE COURT WAS THAT A VACILLATING
4 RESPONSE SHE GAVE?

5 MR TINSLEY AND, FURTHER, CROSS-
6 SECTION, THAT'S THE ONLY THING I WOULD ARGUE THAT
7 SHE IS QUALIFIED

8 THE COURT LET ME ASK YOU ABOUT DAVIS SO
9 I'LL BE CERTAIN I KNOW WHAT THAT SAYS WHAT POINT
10 YOU MAKING?

11 MR TINSLEY THE DAVIS CASE IT SAYS THAT
12 MERE VACILLATION, THERE'S NO REASON TO EXCUSE
13 GRANTED THIS IS A LITTLE BIT DIFFERENT THIS IS
14 SORT OF IN THE NEUTRAL AREA HERE WE CAN'T GET HER
15 TO (INAUDIBLE)

16 THE COURT I UNDERSTAND SO HOW DO YOU
17 THINK SHE FEELS ON IT?

18 MR TINSLEY NEUTRAL

19 THE COURT NEUTRAL?

20 MR TINSLEY NEUTRAL, NEUTRALITY

21 THE COURT I FIND BASED UPON THE
22 RESPONSE TO THE QUESTIONS POSED OF THE JUROR THAT
23 HER VIEWS ON CAPITAL PUNISHMENT WOULD SUBSTANTIALLY
24 PREVENT OR SUBSTANTIALLY IMPAIR HER ABILITY TO
25 PERFORM HER DUTIES THAT WOULD BE REQUIRED OF HER AS

1 A JUROR IN THE CASE IT'S READILY APPARENT TO ME
2 THAT IT'S NOT LIKELY SHE WOULD BE ABLE TO CONSIDER
3 IMPOSING A DEATH SENTENCE UNDER ANY CIRCUMSTANCES
4 SHE HAS INDICATED THAT THE ONLY EXPERIENCE THAT SHE
5 COULD THINK OF -- OR NOT THE ONLY EXPERIENCE BUT THE
6 ONLY CIRCUMSTANCE THAT SHE COULD THINK OF WHERE SHE
7 WOULD EVEN WISH THAT THE DEATH PENALTY WOULD BE
8 IMPOSED, WOULD BE IF ONE OF HER CHILDREN WERE KILLED
9 AND SHE SAYS THEN, SHE MIGHT WISH IT, BUT SHE
10 DOESN'T BELIEVE SHE'D EVEN BE ABLE TO DO IT UNDER
11 THOSE CIRCUMSTANCES THAT TELLS ME THAT SHE HAS
12 SOME STRONG CONCERN AND FEELING AND OPPOSITION TO
13 THE DEATH PENALTY AND, THEREFORE, I FIND THAT SHE
14 COULD NOT SUBSTANTIALLY PERFORM HER DUTIES AS A
15 JUROR IN THAT REGARD AND, THEREFORE, SHOULD BE
16 FOUND NOT QUALIFIED UNDER THE STANDARD SET FORTH IN
17 WEINWRIGHT VS WITT

18 MR TINSLEY YOUR HONOR, PLEASE NOTE MY
19 EXCEPTION BUT -- AND I DON'T KNOW THAT THERE IS A
20 CASE ON NEUTRALITY

21 THE COURT I THINK WHAT THE CASES SAY
22 AND I CAN BE CORRECTED IF I AM WRONG, THAT A JUROR
23 HAS TO BE ABLE TO CONSIDER IMPOSING BOTH FORMS OF
24 PUNISHMENT AND NOT JUST CONSIDER IT BUT BE ABLE TO
25 IMPOSE IT IF THEY BELIEVE THE CIRCUMSTANCES

1 WARRANTED IT AND I DON'T BELIEVE THAT SHE HAS
2 GIVEN US ANY INDICATION THAT THERE IS SOME
3 CIRCUMSTANCE WHERE SHE WOULD BE ABLE TO FIND THAT
4 THE CIRCUMSTANCES WARRANTED HER BEING ABLE TO IMPOSE
5 A SENTENCE OF DEATH AND, THEREFORE, I FIND THAT
6 SHE SHOULD NOT BE QUALIFIED ASK MS BRUCE TO COME
7 IN

8 (JUROR #232 RE-ENTERS COURTROOM)

9 THE COURT MS BRUCE, YOU WILL BE
10 PLEASED TO KNOW THAT WE'RE NOT GOING TO BE BOTHERING
11 YOU ANY FURTHER BUT WE DO, SINCERELY, APPRECIATE
12 YOUR WILLINGNESS TO COME DOWN IN RESPONSE TO YOUR
13 SUMMONS WE'RE GOING TO EXCUSE YOU FROM SERVICE IN
14 THE CASE AND YOU WILL NOT NEED TO REPORT BACK BUT
15 THANKS AGAIN FOR YOUR COMING DOWN

16 (JUROR #232 EXITS COURTROOM)

17 (JUROR #232 IS NOT QUALIFIED)

18 IS MR GAINEY, WASHINGTON, MACK AND
19 FREEMAN OUTSIDE?

20 WHICH ONE'S NOT PRESENT? I SEE GAINEY,
21 WASHINGTON

22 MR JOHNSON MACK, GAINEY, WASHINGTON,
23 YES

24 THE COURT WHAT ABOUT FREEMAN? NOT
25 PRESENT YET?

1 MR JOHNSON HAVE NOT SEEN HIM YET

2 (THE COURT CALLS JUROR GAINNEY)

3 (JUROR #252 PRESENTED AT 6 15 O'CLOCK P M)

4 EXAMINATION BY THE COURT

5 Q GOOD AFTERNOON, MR GAINNEY WE APPRECIATE YOU
6 COMING BACK IN RESPONSE TO OUR QUESTIONS DO YOU
7 STILL HAVE ANY DIFFICULTY OR PROBLEMS SO FAR AS YOUR
8 WIFE

9 A I HAD TO LET HER LEAVE THIS AFTERNOON MY
10 FATHER-IN-LAW WAS BURIED AT 4 00 AND GO BACK CRYING
11 HER EYES OUT DRIVING BY HERSELF I JUST DON'T FEEL
12 LIKE IT WAS FAIR

13 Q THAT'S THE REASON I ASKED YOU YESTERDAY

14 A I DIDN'T MAKE IT LAST NIGHT SHE HAD TO LEAVE
15 BY HERSELF BY THE TIME I GOT OUT OF HERE AND GOT
16 TO THE PHONE I DIDN'T TRY TO MAKE IT TO MY MOBILE
17 PHONE TO CALL HER AND LET HER KNOW I WAS ON THE WAY,
18 SHE HAD DONE GONE I TRIED TO GO THERE IN MY VAN
19 AND IT BROKE DOWN ON THE SIDE OF THE ROAD SO I
20 DIDN'T GET TO GO

21 Q I'M SORRY ABOUT THAT SEE THAT'S THE REASON I
22 ASKED IF YOU COULD COME BACK THIS EVENING IF YOU
23 HAD TOLD ME THAT THAT WAS NOT GOING TO SUIT, I WOULD
24 NOT HAVE REQUIRED THAT

25 A SIR, THAT'S THE REASON WHY I TOLD YOU IN THAT

1 ROOM, YOU KNOW, RIGHT NOW WAS JUST A BAD TIME IT'S
2 JUST A BAD TIME AND SHE'S ALL ALONE NOW, YOU KNOW

3 Q I UNDERSTAND THAT AND THAT'S THE REASON I
4 WANT YOU TO BE WITH HER, IF THAT'S WHAT'S NECESSARY
5 THAT'S THE REASON I ASKED YOU YESTERDAY IF YOU
6 THOUGHT YOU COULD COME BACK AND A LATER TIME

7 A I MISUNDERSTOOD YOU I THOUGHT YOU SAID FOR
8 ME TO COME BACK

9 Q LET ME ASK YOU IF YOU WILL IF YOU'LL JUST
10 STAND OUT THAT DOOR JUST ONE MINUTE, I'LL BRING YOU
11 RIGHT BACK

12 (JUROR #252 DOES AS INSTRUCTED)

13 THE COURT ANY OBJECTION TO THE JUROR
14 BEING EXCUSED BASED UPON THAT CIRCUMSTANCE?

15 MR TINSLEY NO, YOUR HONOR

16 THE COURT ASK HIM TO COME IN

17 (JUROR #252 RE-ENTERS COURTROOM)

18 THE COURT MR GAINEY, I WANT TO
19 TELL YOU, I APOLOGIZE FOR MISUNDERSTANDING AND I
20 DID NOT EVER INTEND THAT YOU BE AWAY FROM YOUR WIFE
21 WHEN SHE NEEDED YOU THAT'S THE ONLY REASON I ASK
22 IF THERE WAS SOME OTHER TIME -- SEE, WE WERE GOING
23 TO BE INVOLVED IN THIS FOR SOME PERIOD OF TIME SO
24 THERE MIGHT HAVE BEEN SOME OTHER TIME THAT YOU COULD
25 HAVE COME BACK AND WE CERTAINLY UNDERSTAND IT IF

1 YOU COULD NOT HAVE, IF YOU WOULD HAVE SIMPLY SAID
2 SO, WE WOULD HAVE CONSIDERED THAT FACT SO WHAT I'M
3 SAYING IS, NOW, WE'RE GOING TO EXCUSE YOU AND YOU
4 CAN SIMPLY GO BACK AND BE WITH YOUR WIFE AND I WISH
5 YOU LUCK THANK YOU FOR COMING BACK

6 (JUROR #252 EXITS COURTROOM)

7 (JUROR #252 IS NOT QUALIFIED)

8 (THE COURT CALLS JUROR WASHINGTON)

9 (JUROR #293 PRESENTED AT 6 15 O'CLOCK P M)

10 EXAMINATION BY THE COURT

11 Q THANK YOU FOR COMING BACK AS I INDICATED TO
12 YOU, WE HAVE SOME QUESTIONS WE'RE GOING TO BE ASKING
13 YOU AND THERE ARE NO RIGHT OR WRONG ANSWERS WE
14 JUST SIMPLY NEED TO KNOW YOUR HONEST AND OPEN
15 ANSWERS TO THESE QUESTIONS AND IF YOU HAVE
16 DIFFICULTY UNDERSTANDING MY QUESTION OR IT'S NOT
17 ASKED CLEARLY, PLEASE, ASK ME TO REPEAT IT OR TO
18 CLARIFY IT THE SAME WOULD APPLY TO THE LAWYERS,
19 SHOULD THEY DESIRE TO ASK YOU ANY QUESTIONS

20 NOW, YESTERDAY WHEN YOU REPORTED, YOU AND YOUR
21 FELLOW JURORS WERE PLACED UNDER OATH, DO YOU RECALL
22 THAT?

23 A YES

24 Q AND YOU REMAIN UNDER OATH FOR THE PURPOSE OF
25 THESE QUESTIONS, ALSO NOW, YOU INDICATED YOU HAD

1 COMPLETED YOUR QUESTIONNAIRE, IS THE QUESTIONNAIRE
2 YOU COMPLETED ACCURATE?

3 A YES

4 Q AND IS THERE ANYTHING THAT NEEDS TO BE CHANGED
5 OR ADDED TO?

6 A JUST MY ADDRESS IT WAS DELIVERED TO A
7 DIFFERENT PLACE I HAD TO PICK IT UP FROM MY
8 COUSIN'S HOUSE

9 Q IS YOUR ADDRESS, AS REFLECTED ON THIS
10 QUESTIONNAIRE, CORRECT, 144 GARRETT ROAD?

11 A YEAH, THAT IS

12 Q I HAD REQUESTED THAT YOU NOT HAVE ANY
13 DISCUSSIONS OR CONVERSATIONS ABOUT THE CASE AND
14 ASKED THAT YOU NOT BE EXPOSED TO ANY TYPE OF
15 TELEVISION, RADIO OR NEWSPAPER ARTICLE HAVE YOU
16 HAD ANY CONVERSATIONS OR DISCUSSIONS ABOUT THIS CASE
17 AT ANY TIME, EITHER BEFORE OR AFTER YOU RECEIVED
18 YOUR SUMMONS?

19 A NO

20 Q HAVE YOU SEEN ANYTHING ON TELEVISION, READ
21 ANYTHING IN THE NEWSPAPER OR HEAR ANYTHING ON THE
22 RADIO ABOUT THIS CASE AT ANY TIME?

23 A NO

24 Q NOW, IN THIS CASE, THE DEFENDANT IS CHARGED
25 WITH THE CRIME OF MURDER AND THE LAW PROVIDES

1 THAT, UNDER CERTAIN CIRCUMSTANCES, A PERSON WHO IS
2 FOUND GUILTY BY A JURY OF MURDER, MAY BE SUBJECT TO
3 THE DEATH PENALTY IF THERE IS SOME ADDITIONAL
4 AGGRAVATING CIRCUMSTANCE PROVEN BEYOND A REASONABLE
5 DOUBT IN ADDITION TO THE MURDER ITSELF THE LAW
6 DOES NOT REQUIRE THAT THE DEATH SENTENCE BE IMPOSED
7 BUT IT DOES PERMIT THE STATE TO ASK FOR THAT AND
8 THAT SIMPLY MEANS THAT A JURY SELECTED FOR THAT
9 PURPOSE WOULD MAKE THAT DECISION, THEY WOULD MAKE
10 THAT DETERMINATION

11 NOW, DO YOU UNDERSTAND THAT ANY TYPE A PERSON
12 IS CHARGED WITH A CRIME THAT THEY ARE PRESUMED TO BE
13 INNOCENT?

14 A YES

15 Q DO YOU UNDERSTAND THAT THE LAW PROVIDES THAT
16 THE BURDEN IS ON THE STATE IN BRINGING A CHARGE
17 AGAINST SOMEONE TO PROVE THEIR GUILT BEYOND A
18 REASONABLE DOUBT BEFORE A JURY CAN MAKE A FINDING OF
19 GUILTY?

20 A YES

21 Q DO YOU UNDERSTAND THAT THE BURDEN IS NOT UPON
22 THE DEFENDANT TO PROVE ANYTHING AND MAKE NOT TESTIFY
23 IN A GIVE CASE?

24 A YES

25 Q IF A DEFENDANT IN A CASE DID NOT TESTIFY, I

1 WOULD INSTRUCT THE JURY AND THE LAW IS, THAT THE
2 JURY MAY NOT CONSIDER THAT IN ANY WAY COULD YOU
3 FOLLOW THAT INSTRUCTION?

4 A YEAH

5 Q IF YOU WERE CALLED UPON TO PARTICIPATE IN A
6 TRIAL SUCH AS THIS, IT WOULD OCCUR IN TWO STAGES
7 THE FIRST PORTION OF THE TRIAL WOULD RELATE TO THE
8 ISSUE OF GUILT, THE SECOND PORTION OF THE TRIAL
9 WOULD RELATE TO THE ISSUE OF PUNISHMENT NOW, IF
10 YOU WERE PARTICIPATING IN SUCH A CASE AND EVIDENCE
11 WAS INTRODUCED RELATING TO THE ISSUE OF GUILT, WOULD
12 YOU BE WILLING AND ABLE TO CONSIDER ALL OF THAT
13 EVIDENCE FAIRLY BEFORE YOU ARRIVED AT ANY DECISION
14 AS TO WHETHER OR NOT THE PERSON WAS GUILTY?

15 A YES

16 Q IF YOU WERE CONVINCED BEYOND A REASONABLE
17 DOUBT THAT THE PERSON HAD BEEN PROVEN GUILTY, COULD
18 YOU FIND THAT PERSON GUILTY?

19 A YES

20 Q IF YOU HAD SOME REASONABLE DOUBT AS TO WHETHER
21 THAT PERSON HAD BEEN PROVEN GUILTY, COULD YOU FIND
22 THAT PERSON NOT GUILTY?

23 A COULD YOU REPEAT THAT?

24 Q IF YOU HAD A REASONABLE DOUBT ABOUT A PERSON'S
25 GUILT BASED UPON YOUR CONSIDERATION OF THE EVIDENCE,

1 IF YOU WERE NOT CONVINCED BEYOND A REASONABLE DOUBT
2 THAT THE EVIDENCE PROVED THEM GUILTY, COULD YOU
3 RETURN A VERDICT OF NOT GUILTY?

4 A YES

5 Q NOW, AS I SAID, A TRIAL WHERE THE STATE SEEKS
6 THE DEATH PENALTY OCCURS IN TWO STAGES THE FIRST
7 STAGE RELATES TO THE ISSUE OF GUILT AND I WANT YOU
8 TO ASSUME ONLY FOR THE PURPOSE OF THIS QUESTION THAT
9 YOU HAVE PARTICIPATED IN SUCH A CASE AND THAT YOU
10 AND YOUR FELLOW JURORS HAVE FOUND A PERSON GUILTY OF
11 A CRIME OF MURDER BEYOND A REASONABLE DOUBT
12 FURTHER ASSUME THAT YOU HAVE, ALSO, FOUND SOME OTHER
13 AGGRAVATING CIRCUMSTANCE TO, ALSO, HAVE EXISTED
14 BEYOND A REASONABLE DOUBT IN THAT EVENT, WE WOULD
15 HAVE A SECOND HEARING, AND AT THAT HEARING, THERE
16 WOULD BE ADDITIONAL EVIDENCE OFFERED AND THAT
17 EVIDENCE WOULD RELATE TO THE ISSUE OF WHAT SENTENCE
18 IS APPROPRIATE TO IMPOSE, DO YOU UNDERSTAND THAT
19 CONCEPT?

20 A YES

21 Q WOULD YOU BE WILLING AND ABLE TO FAIRLY
22 CONSIDER ALL OF THAT ADDITIONAL EVIDENCE OF
23 AGGRAVATION AND OF MITIGATION BEFORE YOU MADE YOUR
24 DECISION ON PUNISHMENT?

25 A YES

1 Q THERE WOULD BE EVIDENCE OFFERED THAT MIGHT
2 TEND TO SHOW WHY THE DEATH PENALTY IS APPROPRIATE
3 THERE WOULD BE EVIDENCE TO SHOW WHY THE DEATH
4 PENALTY IS NOT APPROPRIATE OR A LIFE SENTENCE IS
5 MORE APPROPRIATE AFTER YOU HAD CONSIDERED ALL THAT
6 EVIDENCE AND YOU, CAREFULLY, TOOK IT INTO
7 CONSIDERATION, IF YOU THOUGHT IT TO BE APPROPRIATE
8 UNDER THOSE CIRCUMSTANCES, WOULD YOU BE ABLE TO
9 SENTENCE A PERSON TO DEATH?

10 A NO, I DON'T THINK SO BECAUSE I DON'T REALLY
11 BELIEVE IN CAPITAL PUNISHMENT THAT WAY

12 Q YOU DO NOT BELIEVE IN CAPITAL PUNISHMENT?

13 A NO, NOT THAT WAY

14 Q WHAT DO YOU MEAN, NOT THAT WAY?

15 A BECAUSE I DON'T FEEL LIKE, YOU KNOW, ONE COULD
16 KILL AND, YOU KNOW, SOMEBODY ELSE'S LIFE HAS TO BE
17 TAKEN BECAUSE ONE'S DEAD I JUST DON'T SEE THAT AS
18 BEING CAPITAL PUNISHMENT I THINK THAT -- ONE
19 SHOULDN'T DO ONE FOR ANOTHER THAT'S JUST THE WAY I
20 FEEL I KNOW THE LAW IS THE LAW, BUT---

21 Q LET ME EXPLAIN THAT TO YOU YOU ARE PERMITTED
22 TO CONSIDER IMPOSING A DEATH SENTENCE IF THE
23 CIRCUMSTANCE WARRANTED, AND THE LAW ALLOWS YOU TO DO
24 SO BUT DO YOU UNDERSTAND THAT YOU ARE NEVER
25 REQUIRED TO IMPOSE A DEATH SENTENCE, NO MATTER WHAT

1 THE FACTS ARE, DO YOU UNDERSTAND THAT?

2 A UM-HMM

3 Q AND YOU COULD IMPOSE A LIFE SENTENCE FOR ANY
4 REASON OR NO REASON AT ALL WOULD YOU BE ABLE TO
5 IMPOSE A LIFE SENTENCE IF YOU THOUGHT THAT WAS
6 APPROPRIATE?

7 A YES

8 Q NOW, IF YOU HAD THE CHOICE AND YOU ALWAYS
9 WOULD, AS I SAY, IF YOU HAD THE CHOICE BETWEEN A
10 SENTENCE OF DEATH AND A SENTENCE OF LIFE
11 IMPRISONMENT, WOULD YOU ALWAYS SELECT THE LIFE
12 IMPRISONMENT OPTION OVER THE OTHER?

13 A PERHAPS

14 Q YOU SAY, PERHAPS?

15 A YES

16 Q CAN YOU THINK OF ANY CIRCUMSTANCE WHERE YOU,
17 YOURSELF, WOULD BE WILLING TO SENTENCE A PERSON TO
18 DEATH?

19 A NOT ONE

20 Q NOT ONE YOU UNDERSTAND THAT IF THERE WAS
21 SOME CIRCUMSTANCE WHERE YOU BELIEVED IT TO BE
22 APPROPRIATE AND YOU MADE THAT DECISION THAT YOU
23 WOULD HAVE TO SIGN YOUR NAME ON A FORM RECOMMENDING
24 THAT THE DEATH SENTENCE BE CARRIED OUT?

25 A COULD YOU REPEAT THAT QUESTION?

1 A I SAY, IF THERE WAS SOME CIRCUMSTANCE AND YOU
2 DETERMINED THAT THE PERSON SHOULD BE SENTENCED TO
3 DEATH, IT WOULD BE NECESSARY THAT YOU SIGN A FORM
4 STATING THAT THAT WAS YOUR RECOMMENDATION THAT THAT
5 PERSON BE SENTENCED TO DEATH WOULD YOU BE ABLE TO
6 SIGN SUCH A FORM?

7 A IF IT WAS NECESSARY, IS THAT WHAT YOU'RE
8 ASKING ME?

9 Q WELL, WHAT I'M SAYING IS, IF YOU FOUND THAT
10 THE PERSON SHOULD BE SENTENCED TO DEATH, IT WOULD BE
11 REQUIRED OF YOU TO SIGN A FORM STATING THAT YOU
12 RECOMMENDED THAT PERSON BE SENTENCED TO DEATH

13 A THAT WOULD BE BY LAW?

14 Q THAT WOULD BE BY LAW YOU WOULDN'T HAVE TO
15 SENTENCE TO DEATH, BUT IF YOU RECOMMENDED THAT, YOU
16 WOULD HAVE TO SIGN THE FORM COULD YOU DO THAT?

17 A YES

18 Q YOU COULD SIGN THE FORM?

19 A I COULD

20 Q UNDERSTAND THAT YOU HAVE THE CHOICE TO
21 SENTENCE THEM TO LIFE, WOULD YOU EVER SENTENCE A
22 PERSON TO DEATH?

23 A NO

24 Q YOU WOULD NOT?

25 A NO, SIR, I DON'T THINK I COULD SENTENCE

1 ANOTHER PERSON TO DEATH

2 Q YOU SAY YOU COULD NOT, YOU THINK YOU COULD NOT
3 OR WHAT EXACTLY WAS YOUR ANSWER?

4 A I COULD NOT

5 Q YOU COULD NOT?

6 A HUH-UH

7 THE COURT PLEASE ANSWER ANY QUESTIONS

8 THE DEFENSE OR THE STATE MAY HAVE FOR YOU

9 EXAMINATION BY MR TINSLEY

10 Q GOOD EVENING, MR WASHINGTON

11 A GOOD EVENING

12 Q SO ARE YOU TELLING ME THAT YOU COULD JUST SIGN
13 YOUR NAME BECAUSE THE LAW REQUIRED IT, BUT YOU WOULD
14 NEVER VOTE FOR CAPITAL PUNISHMENT?

15 A NO, I WOULD NOT

16 Q THIS SEEMS TO BE A VERY STRONGLY HELD BELIEF
17 OF YOURS

18 A IT IS

19 Q BUT, OBVIOUSLY, YOU'RE LAW ABIDING BECAUSE YOU
20 WOULD SIGN YOUR NAME EVEN THOUGH THAT -- YOU
21 COULDN'T VOTE FOR THE DEATH PENALTY, CORRECT?

22 A CORRECT

23 Q COULD I PAINT A PICTURE OF ANY NEGATIVE
24 SITUATION OR CRIME THAT, YOU KNOW, REAL SERIOUS, ALL
25 THAT KIND OF THING THAT MIGHT CHANGE YOUR MIND?

1 A I DON'T THINK SO

2 Q IT DOESN'T MATTER WHAT I -- AND THIS IS BASED
3 ON WHAT, WHY DO YOU FEEL SO STRONGLY?

4 A BECAUSE I TRULY BELIEVE IN THE LORD AND I JUST
5 DON'T SEE ANYONE BEING ABLE TO TAKE ANYBODY'S LIFE
6 AND DOING -- TAKING ANOTHER PERSON'S LIFE BECAUSE
7 THEY TOOK ONE PERSON'S LIFE, DOES NOT MAKE IT RIGHT
8 THAT'S TWO WRONGS FOR A RIGHT, NO RIGHT THAT'S
9 JUST THE WAY I FEEL

10 Q WHAT IF THEY TOOK TWO PEOPLE'S LIVES?

11 A THAT WOULD BE --

12 Q STILL WOULDN'T MATTER?

13 A WOULDN'T MATTER

14 MR TINSLEY THAT'S ALL

15 MR JONES I DON'T HAVE ANY QUESTIONS,

16 MR WASHINGTON

17 THE COURT MR WASHINGTON, THANK YOU FOR
18 COMING DOWN WE'RE GOING TO EXCUSE YOU FROM ANY
19 FURTHER SERVICE YOU WON'T NEED TO REPORT BACK ANY
20 MORE, BUT WE DO THANK YOU FOR COMING DOWN

21 (JUROR #293 EXITS COURTROOM)

22 (JUROR #293 IS NOT QUALIFIED)

23 (THE COURT CALLS JUROR FREEMAN)

24 (JUROR #249 PRESENTED AT 6 31 O'CLOCK P M)

25 EXAMINATION BY THE COURT

1 Q GOOD AFTERNOON, MS FREEMAN OR GOOD EVENING
2 WE APPRECIATE YOU COMING BACK WE HAVE SOME
3 QUESTIONS TO ASK YOU, AS I INDICATED TO YOU EARLIER
4 THERE ARE NO RIGHT OR WRONG ANSWERS BUT WE JUST NEED
5 TO KNOW YOUR VIEWS AND OPINIONS ON CERTAIN SUBJECTS

6 YESTERDAY WHEN YOU REPORTED, YOU AND YOUR
7 FELLOW JURORS WERE PLACED UNDER OATH AND SO YOU
8 REMAIN UNDER OATH FOR THE PURPOSE OF THESE
9 QUESTIONS, ALSO

10 YOU INDICATED YOU HAD FILLED OUT THE
11 QUESTIONNAIRE, IS IT ACCURATE?

12 A YES, SIR

13 Q I ASKED THAT YOU NOT HAVE ANY DISCUSSIONS OR
14 CONVERSATIONS ABOUT THE CASE OR ALLOW YOURSELF TO BE
15 EXPOSED TO ANY MEDIA COVERAGE, TELEVISION, RADIO,
16 NEWSPAPER HAVE YOU, AT ANY TIME, HAD ANY
17 DISCUSSIONS OR CONVERSATIONS ABOUT THIS CASE?

18 A NO, NOT THAT I KNOW OF

19 Q MA'AM?

20 A NO

21 Q HAVE YOU, AT ANY TIME, BEEN EXPOSED TO ANY
22 TYPE OF MEDIA COVERAGE ABOUT THE CASE?

23 A NOT REALLY NO, YOU KNOW MAYBE AT THE TIME,
24 MAYBE I READ SOMETHING ABOUT IT, BUT I DON'T REALLY
25 REMEMBER, YOU KNOW

1 Q SO IF YOU READ SOMETHING, YOU HAVE NO
2 RECOLLECTION OF IT?

3 A RIGHT

4 Q DO YOU KNOW ANYBODY THAT'S INVOLVED IN THE
5 CASE, EITHER THE LAWYERS OR ANY JACKSON FAMILY
6 MEMBERS, HARRIS MEMBERS OR HUGHEY FAMILY MEMBERS?

7 A THE ONLY THING IS I KNOW JUST WHO HE IS -- IS
8 DONNIE RAY HE USED TO WORK AT THE FILLING STATION
9 SOMETIMES WHERE I BOUGHT GAS, SOMETHING LIKE THAT
10 BUT, YOU KNOW, I DON'T KNOW HIM PERSONALLY

11 Q WOULD THAT CONNECTION INTERFERE IN ANY WAY
12 WITH YOUR ABILITY TO BE FAIR, IF YOU WERE SELECTED?

13 A NO

14 Q NOW, IN THIS CASE, THE DEFENDANT IS CHARGED
15 WITH THE CRIME OF MURDER AND WHEN A PERSON IS
16 CHARGED WITH MURDER, IF THEY ARE FOUND GUILTY OF
17 THAT CRIME AND SOME ADDITIONAL AGGRAVATING
18 CIRCUMSTANCE IS ESTABLISHED BEYOND A REASONABLE
19 DOUBT, THE LAW PROVIDES THAT THE STATE MAY ASK THAT
20 THE PERSON BE SENTENCED TO DEATH NOW, THAT DOESN'T
21 MEAN THAT THEY HAVE TO BE, THE LAW DOESN'T REQUIRE
22 IT, IT SIMPLY SAYS IT MAY BE CONSIDERED, IT'S AN
23 OPTION, BUT A JURY WILL DECIDE THAT

24 NOW, DO YOU UNDERSTAND THAT WHEN A PERSON IS
25 CHARGED WITH A CRIME THAT THEY ARE ALWAYS PRESUMED

1 INNOCENT?

2 A YES

3 Q DO YOU UNDERSTAND THE BURDEN IS NOT UPON A
4 DEFENDANT TO PROVE THAT HE IS NOT GUILTY?

5 A SAY THAT ONE MORE TIME

6 Q DO YOU UNDERSTAND THAT THE BURDEN IS NOT UPON
7 A DEFENDANT TO PROVE THAT HE DID NOT COMMIT A CRIME?

8 A HE HAS TO BE PROVEN BEYOND A REASONABLE DOUBT

9

10 Q YES, YOU UNDERSTAND THE STATE HAS THE BURDEN
11 OF PROVING A PERSON BEYOND A REASONABLE DOUBT BEFORE
12 THEY CAN BE FOUND GUILTY?

13 A YES

14 Q DO YOU UNDERSTAND IN A CRIMINAL CASE, A
15 DEFENDANT, THE PERSON CHARGED, MAY CHOOSE NOT TO
16 TESTIFY AND TAKE THE WITNESS STAND IF THAT
17 OCCURRED, I WOULD NOT INSTRUCT YOU THAT YOU COULD
18 NOT CONSIDER THAT IN ANY WAY IN YOUR DELIBERATIONS
19 OR YOUR CONSIDERATION IN THE ISSUES OF THE CASE
20 COULD YOU FOLLOW THAT INSTRUCTION?

21 A YES, SIR

22 Q NOW, IF YOU WERE PARTICIPATING IN A CAPITAL
23 CASE WHERE A PERSON'S CHARGED WITH MURDER, THE STATE
24 IS ASKING THAT THE DEATH PENALTY BE IMPOSED, THAT
25 TRIAL WOULD BE CONDUCTED IN TWO PHASES THE FIRST

1 PART WOULD RELATE TO THE ISSUE OF GUILT, THE SECOND
2 PART WOULD RELATE TO THE ISSUE OF PUNISHMENT
3 OBVIOUSLY, YOU DO NOT GO TO THE SECOND PART UNLESS,
4 IN THE FIRST PART, A JURY OF TWELVE PEOPLE FIND,
5 BEYOND A REASONABLE DOUBT, THAT THE DEFENDANT IS
6 GUILTY OF THE CRIME OF MURDER AND, IN ADDITION,
7 THERE IS SOME OTHER AGGRAVATING CIRCUMSTANCE PROVEN
8 BEYOND A REASONABLE DOUBT

9 IF YOU WERE PARTICIPATING IN SUCH A CASE,
10 WOULD YOU BE WILLING AND ABLE TO CONSIDER ALL
11 EVIDENCE OFFERED ON THE ISSUE OF GUILT BEFORE
12 ARRIVING AT YOUR DECISION?

13 A YES

14 Q IF YOU WERE CONVINCED BEYOND A REASONABLE
15 DOUBT THAT THE EVIDENCE SUPPORTED A VERDICT OF
16 GUILTY, WOULD YOU FIND THAT PERSON GUILTY?

17 A YES, SIR

18 Q IF YOU WERE NOT CONVINCED BEYOND A REASONABLE
19 DOUBT OR YOU HAD SOME REASONABLE DOUBT ABOUT IT,
20 WOULD YOU RETURN A VERDICT OF NOT GUILTY?

21 A (WITNESS NODS HEAD AFFIRMATIVELY)

22 Q I WANT YOU TO ASSUME FOR THE PURPOSE OF THIS
23 NEXT QUESTION OR TWO, AND ONLY ASSUME IT FOR THIS
24 PURPOSE, THAT YOU HAVE BEEN SELECTED AND YOU'VE
25 PARTICIPATED IN THE TRIAL OF THE CASE, YOU AND YOUR

1 FELLOW JURORS HAVE FOUND A PERSON TO BE GUILTY OF
2 THE CRIME OF MURDER AND YOU HAVE FURTHER FOUND THAT
3 THERE IS, IN ADDITION TO THAT, SOME OTHER
4 AGGRAVATING CIRCUMSTANCE PROVEN BEYOND A REASONABLE
5 DOUBT

6 THEN, AS I HAVE STATED, WE WOULD PROCEED
7 TO THE SECOND PORTION OF THE TRIAL, THE PENALTY
8 PHASE DURING THAT PHASE OF THE TRIAL, THERE WOULD
9 BE ADDITIONAL EVIDENCE RECEIVED EVIDENCE IN
10 AGGRAVATION OF PUNISHMENT, EVIDENCE IN MITIGATION OF
11 PUNISHMENT THAT MEANS THAT THERE MIGHT BE EVIDENCE
12 OFFERED TENDING TO SHOW WHY THE DEATH PENALTY IS
13 APPROPRIATE, THERE MIGHT BE EVIDENCE OFFERED TENDING
14 TO SHOW WHY THE DEATH PENALTY IS NOT APPROPRIATE OR
15 WHY A LIFE SENTENCE IS MORE APPROPRIATE

16 NOW, IF YOU WERE PARTICIPATING IN SUCH A CASE,
17 WOULD YOU BE ABLE TO -- AND WILLING TO FAIRLY
18 CONSIDER ALL OF THAT ADDITIONAL EVIDENCE IN
19 AGGRAVATION AND IN MITIGATION BEFORE YOU MADE ANY
20 DECISION AS TO PUNISHMENT?

21 A YES, SIR

22 Q AND, IF AFTER YOU CONSIDERED ALL THE EVIDENCE
23 RECEIVED IN THE ENTIRE CASE, IF YOU THOUGHT IT
24 APPROPRIATE UNDER THOSE CIRCUMSTANCES, WOULD YOU BE
25 WILLING TO SENTENCE A PERSON TO DEATH?

1 A YES, SIR

2 Q COULD YOU, ALSO, IMPOSE A SENTENCE OF LIFE
3 IMPRISONMENT, IF YOU THOUGHT THAT TO BE APPROPRIATE
4 UNDER THOSE CIRCUMSTANCES?

5 A YES

6 Q IS IT A FAIR STATEMENT THAT YOU WOULD CONSIDER
7 EACH OF THOSE FORMS OF PUNISHMENT AS BEING
8 APPROPRIATE DEPENDING UPON THE FACTS OF THE CASE?

9 A YES

10 Q ARE YOU INCLINED OR PREDISPOSED TO ALWAYS
11 IMPOSE ONE OF THOSE OPTIONS OVER THE OTHER?

12 A NOT UNTIL YOU HEAR IT

13 MR TINSLEY I COULDN'T HEAR, YOUR
14 HONOR

15 EXAMINATION BY THE COURT

16 Q REPEAT YOUR ANSWER

17 A I SAID, YOU KNOW, I'D LIKE TO HEAR TO
18 CIRCUMSTANCES BEFORE, YOU KNOW, WHAT I DECIDED

19 Q SO YOU WOULD HAVE TO HEAR ALL OF THE FACTS IN
20 THE CASE, CONSIDER ALL OF THE CIRCUMSTANCES, BEFORE
21 YOU COULD DECIDE ON THE PROPER PUNISHMENT?

22 A THAT'S RIGHT

23 Q BUT DEPENDING UPON WHAT THE CIRCUMSTANCES
24 WERE, YOU COULD CONSIDER IMPOSING A SENTENCE OF
25 DEATH, AS WELL AS, A SENTENCE OF LIFE?

1 A YES

2 Q HAVE YOU, UP TO THIS POINT, ALREADY FORMED OR
3 EXPRESSED ANY OPINION AS TO WHAT YOU THINK THE
4 ULTIMATE DECISION SHOULD BE?

5 A NO

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

9 A NO

10 Q IT WOULD BE NECESSARY THAT YOU BE SEQUESTERED
11 IF YOU WERE SELECTED, DO YOU UNDERSTAND THAT?

12 A YES

13 Q WOULD THAT SEQUESTRATION REQUIREMENT POSE ANY
14 UNREASONABLE HARDSHIP UPON YOU THAT YOU COULD NOT
15 ACCEPT?

16 A THE ONLY THING THAT WORRIES ME A LITTLE BIT IS
17 I'M A TEACHER AND, YOU KNOW, TO LEAVE MY STUDENTS
18 FOR TEN DAYS, FOURTEEN DAYS, KIND OF WORRIES ME A
19 LITTLE BIT

20 Q UNDER THE LAW, LET ME TELL YOU THAT I CANNOT
21 REQUIRE THAT YOU SERVE AS A JUROR YOU HAVE AN
22 EXEMPTION IF YOU WISH TO INVOKE IT OF COURSE, WE
23 PREFER THAT YOU BE ABLE TO SERVE AND SERVE IF YOU
24 CAN SERVE, BUT I CANNOT REQUIRE YOU, UNDER THE LAW,
25 TO SERVE BASED UPON THE FACT OF YOUR PROFESSION OR

1 OCCUPATION SO I ASK YOU NOW, DO YOU WISH TO BE
2 EXEMPT OR ARE YOU WILLING TO SERVE, IF SELECTED?

3 A I DON'T KNOW IT JUST KIND OF WORRIES ME A
4 LITTLE BIT ABOUT LEAVING MY STUDENTS RIGHT NOW
5 MAYBE I BETTER BE EXEMPT I'VE GOT FIELD TRIPS
6 COMING UP IN THE NEXT TWO WEEKS I'VE GOT TO TAKE
7 MY STUDENTS ON TWO FIELD TRIPS AND GIVE OUT REPORT
8 CARDS IT'S JUST KIND OF A BAD TIME SO IT DOES KIND
9 OF WORRY ME I'VE GOT TWENTY-TWO KIDS DEPENDING ON
10 ME

11 Q DO YOU WISH TO BE EXEMPT?

12 A I BELIEVE SO

13 THE COURT WE'LL EXCUSE YOU THANK YOU
14 (JUROR #249 IS EXCUSED)

15 (THE COURT CALLS JUROR MACK)
16 (JUROR #317 PRESENTED AT 6 35 O'CLOCK P M)

17 EXAMINATION BY THE COURT

18 Q MR MACK, IF YOU'LL HAVE A SEAT RIGHT THERE,
19 PLEASE, SIR, I'VE GOT SOME QUESTIONS I WANT TO ASK
20 YOU AS I TOLD YOU THAT I WOULD AND THE LAWYERS MAY
21 HAVE SOME OTHER QUESTIONS FOR YOU, TOO

22 YESTERDAY, WHEN YOU REPORTED, YOU AND YOUR
23 FELLOW JURORS WERE PLACED UNDER OATH, DO YOU RECALL
24 THAT?

25 A YES, SIR

1 Q YOU, THEREFORE, REMAIN UNDER OATH FOR THE
2 PURPOSE OF THESE QUESTIONS, ALSO

3 A YES, SIR

4 Q AND, OF COURSE, YOU SEE THIS LADY IN FRONT OF
5 YOU, SHE'S TAKING DOWN EVERYTHING THAT'S SAID SO IT
6 IS ALSO, AS I INDICATED, IMPORTANT THAT YOU ANSWER
7 ORALLY WHEN RESPONDING TO A QUESTION

8 YOU HAD A QUESTIONNAIRE THAT YOU COMPLETED, IS
9 IT ACCURATE?

10 A YES, SIR

11 Q I ASKED THAT YOU NOT HAVE ANY DISCUSSIONS OR
12 CONVERSATIONS ABOUT THE CASE AND I ASKED THAT YOU
13 NOT BE EXPOSED TO ANY TELEVISION, RADIO OR NEWSPAPER
14 ARTICLES ABOUT THE CASE HAVE YOU HAD ANY
15 DISCUSSIONS OR CONVERSATIONS ABOUT THIS CASE AT ANY
16 TIME?

17 A NO, SIR

18 Q HAVE YOU BEEN EXPOSED TO ANY TELEVISION, RADIO
19 OR NEWSPAPER ARTICLE ABOUT THIS CASE AT ANY TIME?

20 A NO, SIR

21 Q DO YOU KNOW ANYTHING ABOUT THE CASE,
22 WHATSOEVER?

23 A NO, SIR

24 Q DO YOU KNOW ANY OF THE JACKSON, HARRIS OR
25 HUGHEY FAMILIES?

1 A NO, SIR

2 Q NOW, IN THIS CASE, THE DEFENDANT IS CHARGED
3 WITH A CRIME OF MURDER AND WHEN THE STATE BRINGS A
4 CHARGE AGAINST ANOTHER INDIVIDUAL, THE BURDEN IS ON
5 THEM TO PROVE THAT PERSON GUILTY BEYOND A REASONABLE
6 DOUBT BEFORE THAT PERSON COULD BE FOUND GUILTY, DO
7 YOU UNDERSTAND THAT?

8 A YES, SIR

9 Q DO YOU UNDERSTAND THAT THE BURDEN IS NEVER
10 UPON THE PERSON CHARGED TO PROVE THAT THEY ARE NOT
11 GUILTY?

12 A YES, SIR

13 Q DO YOU UNDERSTAND THAT A PERSON CHARGED WITH A
14 CRIME IS PRESUMED TO BE INNOCENT?

15 A YES, SIR

16 Q DO YOU UNDERSTAND THAT EVEN IN A THE TRIAL OF
17 A CRIMINAL CASE, THE DEFENDANT MAY CHOSE NOT TO TAKE
18 THE WITNESS STAND AND TESTIFY?

19 A YES, SIR

20 Q DO YOU UNDERSTAND THAT IF THAT WERE TO OCCUR
21 IN SUCH A CASE, I WOULD INSTRUCT THE JURY THAT THEY
22 MAY NOT CONSIDER THAT IN ANY FASHION OR IN ANY WAY
23 IN THEIR DECISION?

24 A YES, SIR

25 Q WOULD YOU FOLLOW THAT INSTRUCTION?

1 A YES, SIR

2 Q THE LAW PROVIDES THAT WHERE A PERSON IS
3 CONVICTED OF THE CRIME OF MURDER AND SOME ADDITIONAL
4 AGGRAVATING CIRCUMSTANCE IS PROVEN, ALSO, BEYOND A
5 REASONABLE DOUBT THE STATE MAY ASK THAT THE DEATH
6 PENALTY BE IMPOSE AGAINST THAT INDIVIDUAL IN SUCH
7 A TRIAL, THE CASE WOULD BE CONDUCTED IN TWO SEPARATE
8 PHASES THE FIRST PHASE WOULD RELATE TO THE ISSUE
9 OF GUILT, THE SECOND PHASE WOULD RELATE TO THE ISSUE
10 OF PUNISHMENT

11 IF YOU WERE PARTICIPATING IN SUCH A CASE,
12 WOULD YOU BE WILLING TO FAIRLY CONSIDER ALL OF THE
13 EVIDENCE RECEIVED DURING THE TRIAL OF THE CASE
14 BEFORE YOU DECIDED WHETHER OR NOT THE PERSON WAS
15 GUILTY?

16 A YES, SIR

17 Q IF THE EVIDENCE CONVINCED YOU OF HIS GUILT
18 BEYOND A REASONABLE DOUBT, COULD YOU RETURN A
19 VERDICT OF GUILTY?

20 A YES, SIR

21 Q IF YOU HAD SOME REASONABLE DOUBT, COULD YOU
22 RETURN A VERDICT OF NOT GUILTY?

23 A YES, SIR

24 Q I WANT YOU TO ASSUME AND ONLY ASSUME IT FOR
25 THIS PURPOSE THAT YOU HAVE BEEN -- OR FOR THE

1 PURPOSE OF THIS QUESTION THAT YOU HAVE BEEN
2 PARTICIPATING IN THE CASE AND YOU AND YOUR FELLOW
3 JURORS HAVE RETURNED A VERDICT OF GUILTY AS TO
4 MURDER AGAINST SOMEONE AND THAT YOU HAVE, ALSO, IN
5 ADDITION TO THAT FOUND SOME OTHER AGGRAVATING
6 CIRCUMSTANCE TO EXIST BEYOND A REASONABLE DOUBT AS
7 I STATED, IN THAT EVENT, WE WOULD GO TO THE SECOND
8 PART OF THE TRIAL CALLED THE PENALTY PHASE, DO YOU
9 UNDERSTAND?

10 A YES, SIR

11 Q IT'S DURING THAT PENALTY PHASE OF THE TRIAL
12 THAT ADDITIONAL EVIDENCE WOULD BE OFFERED THE
13 EVIDENCE WOULD RELATE TO AGGRAVATION AND TO
14 MITIGATION THAT MEANS IT WOULD BE EVIDENCE THAT
15 MIGHT TEND TO SHOW WHY THE DEATH PENALTY'S
16 APPROPRIATE EVIDENCE TENDING TO SHOW WHY IT'S NOT
17 APPROPRIATE OR WHY A LIFE SENTENCE IS MORE
18 APPROPRIATE IF YOU WERE PARTICIPATING IN SUCH A
19 CASE, WOULD YOU BE WILLING AND ABLE TO CONSIDER ANY
20 AND ALL OTHER EVIDENCE RECEIVED DURING THAT PART OF
21 THE TRIAL?

22 A YES

23 Q WOULD YOU CONSIDER BOTH EVIDENCE RELATING TO
24 AGGRAVATION AND TO MITIGATION BEFORE ARRIVING AT
25 YOUR DECISION?

1 A YES

2 Q AND AFTER YOU HAD CONSIDERED ALL THAT EVIDENCE
3 AND YOU HAD CONSIDERED IT CAREFULLY, IF YOU THOUGHT
4 IT WAS APPROPRIATE UNDER THE CIRCUMSTANCES, WOULD
5 YOU BE ABLE TO SENTENCE A PERSON TO DEATH?

6 A YES, SIR

7 Q WOULD YOU, ALSO, BE ABLE TO SENTENCE A PERSON
8 TO LIFE IMPRISONMENT?

9 A YES, SIR

10 Q COULD YOU CONSIDER BOTH OF THOSE FORMS OF
11 PUNISHMENT AS BEING APPROPRIATE SENTENCES DEPENDING
12 UPON THE CIRCUMSTANCES?

13 A YES, SIR

14 Q WITH REGARD TO THIS CASE, HAVE YOU ALREADY
15 FORMED OR EXPRESSED ANY OPINION THAT YOU MIGHT HAVE
16 AS TO WHAT THE ULTIMATE SHOULD BE?

17 A NO, SIR

18 Q DO YOU KNOW OF ANY REASON WHY YOU COULD NOT BE
19 A FAIR AND IMPARTIAL JUROR, IF YOU WERE SELECTED TO
20 SERVE?

21 A NO, SIR

22 Q YOU'VE INDICATED EARLIER THAT YOU HAVE TAKEN
23 SOME TYPE OF MEDICATION FOR A DISORDER

24 A YES, SIR

25 Q DOES THAT MEDICATION IN ANY WAY PREVENT YOU

1 FROM BEING ABLE TO CONCENTRATE, COMPREHEND AND
2 UNDERSTAND WHAT IS GOING ON ABOUT YOU?

3 A NO, SIR

4 Q AND WOULD YOU BE ABLE, EVEN UNDER THAT
5 CIRCUMSTANCE, TO SERVE AS A JUROR AND CAREFULLY
6 CONSIDER ALL EVIDENCE RECEIVED DURING THE TRIAL OF
7 THAT CASE?

8 A YES, SIR

9 Q YOU UNDERSTAND THAT IF YOU WERE SELECTED, IT
10 WOULD BE NECESSARY THAT YOU BE SEQUESTERED?

11 A WHAT DOES --

12 Q THAT MEANS YOU WOULD HAVE TO STAY AT A MOTEL
13 FOR THE DURATION OF THE TRIAL AND EAT WITH YOUR
14 FELLOW JURORS

15 A YES, SIR

16 Q ANTICIPATE THAT MIGHT BE SEVEN TO TEN DAYS
17 IT MAY BEGIN AS EARLY AS TOMORROW IF THAT WERE
18 REQUIRED, AND IT WOULD BE, WOULD THAT REQUIREMENT
19 POSE ANY UNREASONABLE HARDSHIP OR HEALTH RISK TO
20 YOU?

21 A NO, SIR

22 Q WOULD YOU BE WILLING TO ACCEPT THAT
23 INCONVENIENCE, IF YOU WERE SELECTED TO SERVE?

24 A YES, SIR

25 THE COURT THANK YOU PLEASE ANSWER ANY

1 QUESTIONS MR TINSLEY OR THE SOLICITOR MAY HAVE FOR
2 YOU

3 EXAMINATION BY MR TINSLEY

4 Q GOOD EVENING, MR MACK MR MACK, YOU LIVE
5 OVER IN THE DONALDS AREA, RIGHT?

6 A YES, SIR

7 Q AND HAVE YOU READ EITHER *THE INDEX JOURNAL* OR
8 *THE PRESS & BANNER* IN THE LAST TEN DAYS?

9 A NO, SIR

10 Q AND SO YOU'RE NOT FAMILIAR WITH ANYTHING ON
11 THIS CASE, RIGHT?

12 A NO, SIR

13 Q YOU HAVEN'T HEARD ANYBODY TALKING ABOUT IT OR
14 ANYTHING LIKE THAT?

15 A NO, SIR

16 Q AND GOING BACK FOR THE LAST TWO YEARS, IS THAT
17 TRUE FOR THEN, TOO, AS FAR AS YOU KNOW?

18 A YES, SIR

19 Q AND YOU'RE NOT WORKING NOW, ARE YOU, MR MACK?

20 A NO, SIR

21 Q IS IT A PANIC DISORDER THAT YOU SUFFER FROM?

22 A YES, IT'S LIKE DEPRESSION AND ANXIETY

23 Q ANXIETY AND DEPRESSION?

24 A YES, SIR

25 Q DOES THAT HAVE ANY -- IS THAT WHY YOU'RE NOT

1 WORKING?

2 A YES, SIR

3 Q IT IS?

4 A YES, SIR

5 Q AND YOU REALIZE THAT A CASE LIKE THIS COULD
6 BECOME VERY STRESSFUL QUITE POSSIBLY YOU WOULD BE
7 A MEMBER OF A JURY OF TWELVE AND DURING SUCH A HIGH
8 LEVEL OF STRESS AS YOU AND YOUR JURORS WERE
9 DEBATING, FIRST OF ALL, GUILTY OR INNOCENT ON A
10 NUMBER OF COUNTS IN AN INDICTMENT WOULD THAT
11 STRESS POSSIBLY CAUSE YOU ANY UNDO DISCOMFORT OR
12 COULD IT POSSIBLY UPSET YOU OR AFFECT YOUR ABILITY
13 TO SERVE?

14 A I'M NOT GOING TO SAY IT WON'T, BUT AS FAR AS I
15 KNOW RIGHT, AS FAR AS THE PRESENT DAY, I DON'T THINK
16 SO

17 Q SO IT WOULDN'T RIGHT NOW, BUT IT COULD
18 POSSIBLY?

19 A I'M NOT SAYING THAT IT WILL OR WON'T I DON'T
20 REALLY KNOW IT MIGHT AND IT MIGHT NOT, I DON'T
21 KNOW

22 Q I SEE I DON'T WANT TO UPSET YOU OR PRESS YOU
23 ON IT BUT IT'S HAPPENED TO YOU BEFORE, RIGHT?

24 A YES

25 Q AND IT'S CREATED A SITUATION WHERE YOU'RE

1 UNABLE TO WORK, IS THAT RIGHT?

2 A YES

3 Q AT THE PRESENT TIME

4 A YES

5 Q AND YOU ARE UNDER THE CARE OF A PSYCHIATRIST?

6 A YES

7 Q AND, AS SUCH, IF THE TRIAL WERE TO LAST FOR
8 SAY TWO WEEKS, COULDN'T GO HOME AND YOU WERE -- YOU
9 COULDN'T SEE YOUR PARENTS AND YOU WERE WITH A JURY
10 OF STRANGERS, COULD THAT AFFECT YOUR DISORDER?

11 A NO, SIR, NOT THAT I KNOW OF

12 Q YOU DON'T THINK THAT WOULD?

13 A NO, SIR

14 Q BUT YOU DO THINK MAY BE THE GIVE AND TAKE AND
15 POSSIBLY DEBATING WITH ELEVEN OTHER INDIVIDUALS IN
16 THE FORM OF A JURY COULD CREATE STRESS FOR YOU? I
17 BELIEVE YOU SAID YOU DON'T KNOW

18 A I DON'T KNOW I DON'T REALLY KNOW IF IT WOULD
19 OR NOT I MEAN, I COULD WALK OUT THIS COURTROOM
20 RIGHT NOW AND SOMETHING MIGHT HAPPEN I DON'T KNOW
21 I COULD AND COULD NOT, I DON'T KNOW

22 Q I HATE TO ASK YOU TOO MANY QUESTIONS ON THIS
23 POINT AND I DON'T MEAN TO EMBARRASS YOU, MR MACK
24 WE'RE JUST, BASICALLY, TRYING TO FIND SOME THINGS
25 OUT BASICALLY, I THINK YOU SAID YESTERDAY THAT YOU

1 WERE ON A DILANTIN, OR AM I WRONG ABOUT THAT?

2 A NO YOU'RE TALKING ABOUT THE MEDICATION THAT
3 I'M ON?

4 Q RIGHT, YES

5 A PAXIL AND ZYPREXA

6 Q COULD YOU, POSSIBLY, SPELL THOSE FOR US?

7 A Z-Y-P-R-E-X-A AND P-A-X-I-L

8 Q OH, PAXIL?

9 A PAXIL, YES

10 Q AND, FURTHER MR MACK, DO YOU UNDERSTAND THE
11 NATURE OF THE WORD MITIGATION?

12 A NO, SIR

13 Q WELL, MITIGATION, BASICALLY, RELATES TO THE
14 MAKE-UP OF AN INDIVIDUAL, THE REASONS WHY HE MAY
15 HAVE ACTED AS HE DID IN A CERTAIN SITUATION, THE
16 GOOD PARTS ABOUT SOMEBODY AND THAT SORT OF THING
17 THE REASON WHY HIS LIFE SHOULD BE SPARED, DO YOU
18 UNDERSTAND THAT?

19 A UM-HMM

20 Q AND WOULD YOU FAIRLY CONSIDER ALL THAT IN THIS
21 CASE?

22 A HOW WOULD I?

23 Q WOULD YOU FAIRLY AND OPENLY CONSIDER ANY AND
24 ALL MITIGATION?

25 A OH, YES

1 Q AND WHILE YOU DON'T ANTICIPATE A PROBLEM OR A
2 PANIC SPELL OR ANXIETY ATTACK, HOW RECENT WAS YOUR
3 MOST RECENT ONE?

4 A I GUESS, LIKE A YEAR AGO

5 Q IT'S BEEN THAT LONG?

6 A YEAH, IT'S BEEN AWHILE

7 Q AND, BELIEVE ME, I'M VERY SYMPATHETIC WITH
8 YOUR SITUATION AND I UNDERSTAND TOTALLY THAT THIS IS
9 SOMETHING THAT'S BEYOND YOUR CONTROL AND I HATE TO
10 ASK YOU THESE PERSONAL QUESTIONS BUT WE'RE GETTING
11 READY TO GO INTO A TRIAL THAT MAY LAST A WEEK OR TWO
12 AND THERE WOULD BE SOME, INDEED, STRESS QUITE
13 READILY INVOLVED IN THE CASE, DO YOU UNDERSTAND
14 THAT?

15 A YES, SIR

16 Q NOW, CAN STRESS, DEBATING, THAT SORT OF THING,
17 TRIGGER YOUR PROBLEMS?

18 A STRESS, YES

19 Q STRESS DOES DO IT?

20 A IT COULD

21 Q IT COULD, AND CAN DO IT WELL, IN YOUR
22 OPINION BASED UPON YOUR CONDITION, WHILE GRANTED
23 THAT YOU'RE A FINE YOUNG MAN, THAT SORT OF THING,
24 WOULD IT AFFECT YOUR ABILITY, COULD IT AFFECT YOUR
25 ABILITY TO SERVE AS A JUROR IN A CASE LIKE THIS?

1 A I MEAN, IT COULD IT ALL DEPENDS ON HOW I'M
2 FEELING OR WHATEVER I MEAN, YOU KNOW, I MEAN IT
3 COULD AND COULDN'T I'M NOT GOING TO SAY THAT IT
4 WON'T BUT --

5 Q IN OTHER WORDS, IT COULD BUT IT MIGHT NOT?

6 A YEAH

7 Q WOULD THAT BE A FAIR WAY TO SAY IT?

8 A YES

9 Q WOULD YOU CONSIDER IT STRESSFUL TO DEBATE WITH
10 A GROUP OF JURORS OVER PHASE ONE, GUILT OR
11 INNOCENCE, AND A NUMBER OF COUNTS IN AN INDICTMENT
12 IF SOME PEOPLE WERE SAYING ONE THING AND OTHERS WERE
13 SAYING ANOTHER, WOULD THAT BE STRESSFUL?

14 A NO

15 Q YOU DON'T THINK THAT WOULD BE TOO STRESSFUL?

16 A NO

17 Q WHAT ABOUT DEBATING LIFE OR DEATH OR SIGNING A
18 DEATH WARRANT FOR SOMEONE IN A CASE LIKE THAT?

19 A I GUESS THAT COULD BE STRESSFUL

20 MR TINSLEY THANKS SO MUCH THAT'S
21 ALL

22 EXAMINATION BY MR JONES

23 Q MR MACK, MY NAME'S TOWNES JONES, I'M YOUR
24 SOLICITOR HERE IN ABBEVILLE THIS IS MIKE COULTER
25 AND HE'S YOUR CHIEF DEPUTY SOLICITOR WE'D BE

1 PRESENTING EVIDENCE IN THE CASE, CALLING WITNESSES
2 TO THE STAND AND ASKING THEM QUESTIONS ABOUT WHAT
3 HAPPENED AND THAT SORT OF THING THAT'S, BASICALLY,
4 OUR JOB YOUR JOB AS A JUROR WOULD BE TO BE FAIR
5 AND IMPARTIAL IN THE CASE, DO YOU UNDERSTAND THAT,
6 DON'T YOU?

7 A YES

8 Q YOU WOULD DO THAT?

9 A YES

10 Q BE FAIR TO ALL THE PARTIES ON BOTH SIDES?

11 A YES

12 Q I JUST HAVE A COUPLE QUESTIONS FOR YOU ABOUT
13 THE OTHER ASPECT OF YOUR JOB THAT IS IF YOU SIT ON
14 A JURY, ANY JURY, AND YOU DETERMINE THAT SOMEBODY IS
15 GUILTY OF MURDER --

16 A YES

17 Q -- AND THEN YOU FIND AN AGGRAVATING
18 CIRCUMSTANCE, YOU KNOW THE NEXT STAGE IS THE JUDGE
19 SAYS, ALL RIGHT, NOW WE'RE GOING TO SEE WHAT THE
20 PUNISHMENT IS AND THE STATE PUTS UP EVIDENCE AS TO
21 WHY THE PROPER PUNISHMENT SHOULD BE THE DEATH
22 PENALTY AND THE DEFENSE PUTS UP EVIDENCE AS TO WHY
23 YOU OUGHT TO RETURN A LIFE SENTENCE VERDICT

24 A YES

25 Q YOU'D GO ONTO TO THAT STAGE AND IF YOU FELT

1 LIKE THE PROPER SENTENCE WERE DEATH, YOU COULD
2 RETURN THAT SENTENCE?

3 A YES

4 Q SIGN YOUR NAME ON A PIECE OF PAPER INDICATING
5 THAT THAT'S YOUR POSITION, THAT'S YOUR VOTE AND
6 THAT'S YOUR SENTENCE?

7 A YES

8 Q MY LAST QUESTION FOR YOU INVOLVES PHILOSOPHY
9 PHILOSOPHICALLY, IF YOU AND I WERE SITTING AROUND
10 TALKING, WE WERE JUST SHOOTING THE BREEZE AND I
11 SAID, HOW YOU FEEL ABOUT THE DEATH PENALTY, WHAT'S
12 YOUR POSITION ON THE DEATH PENALTY, WHAT IS YOUR
13 POSITION ON THE DEATH PENALTY?

14 A I GUESS FOR DIFFERENT PEOPLE IT'S A DIFFERENT
15 THING, YOU KNOW YOU HAVE TO REALLY SIT DOWN AND
16 LISTEN TO THE WHOLE -- I MEAN, EVERYTHING FROM BOTH
17 SIDES AND THEN, IF YOU THINK THAT'S A RIGHT VERDICT,
18 THEN YOU SIGN THE PAPER

19 MR JONES THANK YOU

20 EXAMINATION BY THE COURT

21 Q MR MACK, LET ME JUST ASK YOU THERE'S BEEN
22 SOME DISCUSSIONS ABOUT YOUR PARTICULAR DISORDER DO
23 YOU FEEL IN ANY WAY THAT THAT WOULD IMPAIR YOUR
24 ABILITY TO SERVE IN THIS CASE?

25 A NO, SIR, I DON'T

1 Q YOU'VE NOT HAD ANY DIFFICULTY IN OVER A YEAR?

2 A NO, SIR I MEAN, AS LONG AS I TAKE MY
3 MEDICINE AND STUFF, I'M FINE

4 Q AS LONG AS YOU TAKE THE MEDICATION, WHICH
5 YOU'D BE PERMITTED TO DO AS LONG AS YOU TAKE THE
6 MEDICATION, YOU DO NOT PERCEIVE THAT THERE COULD BE
7 ANY PROBLEM?

8 A NO, SIR

9 THE COURT IF YOU WILL, JUST STAND
10 OUTSIDE THE DOOR FOR A MOMENT I'LL BRING YOU RIGHT
11 BACK

12 (JUROR #317 DOES AS INSTRUCTED)

13 THE COURT ANY REASON WHY THE JUROR
14 SHOULD NOT BE QUALIFIED?

15 MR JONES NONE FOR THE STATE, YOUR
16 HONOR

17 MR TINSLEY I THINK THE FACT THAT HE
18 CAN'T WORK BECAUSE OF THIS DISORDER SPEAKS FOR
19 ITSELF AND, THEREFORE, IF HE'S NOT QUALIFIED TO
20 WORK, HE SPECIFICALLY, SAID SO WHEN I ASKED HIM IF
21 HE'S QUALIFIED TO A HIGH STRESS LEVEL JURY SERVICE
22 IN THIS KIND OF A CASE AND, THEREFORE, WE WOULD
23 OBJECT TO HIS QUALIFICATION

24 THE COURT I ACCEPT THE JUROR'S
25 RESPONSES AS BEING TRUTHFUL AND THERE'S BEEN NO

1 OTHER INDICATION -- I HAVE NO EVIDENCE TO THE
2 CONTRARY THAT HIS CONDITION WOULD PREVENT HIM FROM
3 BEING ABLE TO SERVE, SO I FIND THAT THE JUROR IS
4 QUALIFIED

5 MR TINSLEY PLEASE NOTE MY EXCEPTION
6 AND IT'S, OF COURSE BASED ON, TO SOME DEGREE OF
7 COMPETENCY

8 MR McCALLUM YOUR HONOR, COULD WE HAVE
9 ONE SECOND, PLEASE?

10 MR TINSLEY I THINK I WAS FAMILIAR WITH
11 PAXIL, YOUR HONOR THAT OTHER ONE, WE MAY DO A
12 LITTLE CHECKING ON, SO IF YOU'LL KEEP THAT MATTER
13 OPEN FOR US

14 THE COURT IF YOU WANT TO PRESENT
15 ANYTHING FURTHER ON IT, I'LL BE GLAD TO HEAR FROM
16 YOU

17 ASK MR MACK TO COME IN
18 (JUROR #317 RE-ENTERS COURTROOM)

19 THE COURT MR MACK, WE'RE GOING TO
20 BE ASKING TO COME BACK FOR FURTHER, POTENTIAL, JURY
21 SERVICE SO I'M GOING TO ASK YOU TO, PLEASE, GIVE
22 THE CLERK AND ALL NUMBERS WHERE YOU CAN BE REACHED
23 ON SHORT NOTICE SO THAT WE CAN CALL YOU AND YOU COME
24 RIGHT DOWN AND BRING YOUR THINGS WITH YOU, IF YOU'RE
25 CALLED UPON TO SERVE

1 LET ME REMIND YOU, ALSO, THAT YOU'RE NOT
2 TO DISCUSS THIS CASE WITH ANYBODY AND YOU'RE NOT TO
3 READ ANY NEWSPAPER ARTICLE OR WATCH ANY ITEM ON THE
4 TELEVISION

5 THANK YOU YOU MAY BE EXCUSED WE'LL
6 CALL YOU WHEN WE NEED FOR YOU TO COME BACK

7 (JUROR #317 EXITS COURTROOM)

8 (JUROR #317 IS QUALIFIED)

9 I BELIEVE WE'VE GOT FOUR OTHER JURORS
10 LEFT TO REPORT AT 8 30 IN THE MORNING

11 MR TINSLEY THAT'S RIGHT, THAT'S RIGHT
12 WE'RE TO RESUME AT 10 00

13 THE COURT WELL, THEY'RE COMING AT
14 10 00, THAT'S RIGHT AND THEY'VE NOT BEEN QUALIFIED
15 YET AND, OF COURSE, WE WILL, IF NECESSARY, QUALIFY
16 THOSE, ALSO

17 MR TINSLEY, LET ME ADDRESS THE ISSUE OF
18 THE CONTINUANCE WHICH WAS MADE YESTERDAY EVENING
19 SO FAR AS A CONTINUANCE IS CONCERNED IN ORDER TO
20 ALLOW YOU TIME TO INVESTIGATE THE POTENTIAL JURORS
21 OR QUESTIONNAIRES I'VE CONSIDERED THE FACTS
22 CAREFULLY AS HAVE BEEN PRESENTED PREVIOUSLY AND,
23 OF COURSE, THE DEFENSE HAS HAD BENEFIT OF THE JUROR
24 QUESTIONNAIRES WE'VE BEEN INVOLVED IN THIS PROCESS
25 FOR SOME TIME AND, AS YOU ARE WELL AWARE, I HAVE

1 NOT, IN ANY WAY, ATTEMPTED TO LIMIT THE DEFENSE'S
2 VOIR DIRE EXAMINATION OF EACH OF THE JUROR'S THAT
3 HAVE COME FORTH

4 AND IT APPEARS TO ME THAT THE DEFENSE HAS
5 BEEN ABLE TO RECEIVE ALL OF THE INFORMATION
6 NECESSARY THROUGH THAT QUESTIONING PROCESS, AS WELL
7 AS THE JUROR QUESTIONNAIRE TO ENABLE YOU TO MAKE A
8 FAIR DETERMINATION AS TO WHETHER OR NOT YOU WISH TO
9 ACCEPT OR REJECT SOME JUROR DURING THE ACTUAL
10 SELECTION PROCESS AND, THEREFORE, I'M GOING TO
11 DENY YOUR MOTION FOR A CONTINUANCE

12 MR TINSLEY THANK YOU, YOUR HONOR I
13 APPRECIATE IT NOTE MY OBJECTION

14 AND, I THINK, WE HAD A COUPLE OF ISSUES
15 OUTSTANDING IN ADDITION ON THE MATTER OF A COUPLE OF
16 JURORS FROM THE FIRST POOL THAT WOULD BE NUMBERS
17 FIFTY-NINE AND NINETY-FIVE AND ONE IS FIFTY-NINE IS
18 DRAFT, THE RELATIVE OF WITHIN THE SIXTH DEGREE OF
19 CONSANGUINITY AND NINETY-FIVE IS THE FIREMAN IN THE
20 BUILDING WHICH WE SEE COURT AND, OF COURSE, WE'LL
21 PREFER CONSULTING WITH MR GARRETT WHO IS WORKING
22 OUTSIDE OF THE COURTROOM AT THIS TIME WE'LL BRING
23 UP ANY MOTIONS -- FURTHER MOTIONS WE HAVE IN THE
24 MORNING IF I REMEMBER CORRECTLY, WE STILL HAD
25 THOSE TWO ISSUES UNRULED UPON

1 THE COURT ALL RIGHT WELL, DOES EITHER
2 SIDE WISH TO BE HEARD ANY FURTHER AS TO JUROR DRAFT?

3 MR JONES YOUR HONOR, I WOULD LIKE TO
4 ADDRESS THE COURT IN THIS REGARD AND IF YOU WOULD
5 ALLOW ME, FOR THE PURPOSES OF YOUR ADVOCATION, CALL
6 MS DORIS JACKSON TO THE STAND AND QUESTION HER ONLY
7 ABOUT HER KNOWLEDGE OF ANY RELATIONSHIP THAT SHE HAS
8 TO THAT PERSON

9 THE COURT ALL RIGHT
10 (WITNESS IS PRESENTED AT 7 00 O'CLOCK P M)

11 THE CLERK THE EVIDENCE YOU SHOULD GIVE
12 THE COURT, SHALL BE THE TRUTH, THE WHOLE TRUTH AND
13 NOTHING BUT THE TRUTH, SO HELP YOU, GOD

14 EXAMINATION BY MR JONES

15 Q MS JACKSON, STATE YOUR NAME FOR THE RECORD

16 A DORIS BERNICE JACKSON

17 Q AND YOU ARE THE MOTHER OF SHEKA JACKSON --
18 TESHEKA JACKSON WHO IS THE VICTIM OF THE MURDER FOR
19 WHICH WE'RE ON TRIAL HERE TODAY

20 A RIGHT

21 Q AND YOUR HUSBAND'S NAME IS, WHAT?

22 A NEAL JACKSON

23 Q WERE YOU IN COURT OBSERVING THE VOIR DIRE
24 PROCESS OF THE JURORS YESTERDAY AND THE DAY BEFORE
25 YESTERDAY?

1 A I WAS

2 Q DID YOU SEE A POTENTIAL JUROR BY THE NAME OF
3 ROY DRAFT TAKEN FROM THE SAME WITNESS STAND THAT
4 YOU'RE IN HERE TODAY?

5 A I DID

6 Q AND DID YOU KNOW MR ROY DRAFT?

7 A NO, I DIDN'T

8 Q WAS YOUR HUSBAND HERE WITH YOU WHEN HE WAS ON
9 THE STAND, MR ROY DRAFT, WAS ON THE STAND?

10 A HE WAS

11 Q AND I WANT TO ASK YOU IF AFTER DISCUSSING WITH
12 MR DRAFT'S ASSERTION FROM THE STAND THAT HE THOUGHT
13 HE MIGHT BE RELATED TO THE JACKSONS IN SOME SECOND
14 OR THIRD OR THIRD OR FOURTH DEGREE, YOU WERE ABLE TO
15 DISCUSS THAT WITH YOUR HUSBAND AND RENDER US YOUR
16 POSITION AS TO WHETHER OR NOT MR DRAFT IS RELATED
17 AT ALL TO THE JACKSONS?

18 A MR DRAFT CLAIMED TO BE RELATED ON LUEVINIA'S
19 MOTHER'S SIDE, WHICH WOULD HAVE BEEN MY MOTHER'S
20 SISTER AND, THEREFORE, THAT'S THE SIDE HE WAS
21 CLAIMING TO BE RELATED ON

22 Q LUEVINIA'S MOTHER'S --

23 A LUEVINIA'S MOTHER AND MY MOTHER WERE SISTERS
24 AND THAT MADE US FIRST COUSINS AND I ASKED MY
25 MOTHER ABOUT IT AND SHE HAD NO KNOWLEDGE

1 Q NOW, WHEN YOU SAY, LUEVINIA, YOU'RE TALKING
2 ABOUT LUEVINIA HARRIS

3 A MS HARRIS

4 Q MS HARRIS, IS THAT CORRECT, WHO IS, ALSO, A
5 VICTIM OF THIS CRIME?

6 A RIGHT

7 Q AND, AS FAR AS YOU CAN TESTIFY, DOES ANYONE IN
8 YOUR FAMILY, AS EXTENDED AS YOU CAN GET IT, HAVE ANY
9 KNOWLEDGE OF ANY KINSHIP TO MR ROY DRAFT?

10 A NO

11 MR JONES THANK YOU ANSWER ANY
12 QUESTIONS CONCERNING THAT ISSUE MR TINSLEY HAS FOR
13 YOU

14 EXAMINATION BY MR TINSLEY

15 Q JUST ONE QUESTION, MS JACKSON DID YOU HAVE
16 THE OPPORTUNITY TO LOOK AN EXTENDED FAMILY TREE?

17 A NO, I DID NOT

18 MR TINSLEY THANK YOU SO MUCH

19 THE COURT THANK YOU, MA'AM, YOU MAY
20 STEP DOWN

21 (WITNESS DOES AS INSTRUCTED)

22 THE COURT ANYTHING FURTHER ON THAT
23 POINT?

24 MR TINSLEY YOUR HONOR, I THINK THE
25 JUROR HAS IT IN HIS HEAD AND HE'S TESTIFIED, UNDER

1 OATH, STATED UNDER OATH, AS A JUROR THAT HE IS
2 WITHIN THE SIXTH DEGREE OF CONSANGUINITY, BECAUSE OF
3 THE FACT THAT HE IS EITHER IN THAT POSITION OR OF
4 THAT OPINION, IT'S OUR POSITION THAT HE SHOULD BE
5 DISQUALIFIED AS A MEMBER OF THIS JURY

6 MR JONES JUDGE, OUR RECOLLECTION OF
7 HIS TESTIMONY WAS THAT HE THOUGHT BUT HE WASN'T
8 SURE HE SAID HE DIDN'T KNOW HE SAID HE THOUGHT
9 HE MIGHT BE SO THERE'S BEEN NO REPRESENTATION FROM
10 THE COURT BY THE JUROR THAT HE WAS RELATED TO THAT
11 DEGREE HE SAID SOMETHING OUTSIDE OF SECOND HE
12 DIDN'T KNOW WHETHER IT WAS THIRD OR EIGHTH

13 SECONDLY, HE ALSO SAID, WHATEVER IT WAS,
14 IT WOULDN'T AFFECT HIS ABILITY TO BE FAIR AND
15 IMPARTIAL, EVEN IF THERE WAS SOME RELATIONSHIP, IT
16 WOULDN'T AFFECT HIS ABILITY TO BE IMPARTIAL SO HE
17 SEES IT HIMSELF AS BEING FAR ENOUGH WAY AND I
18 DON'T SEE A NEED TO EXERCISE, QUITE FRANKLY, JUDGE,
19 BASED ON MY DISCUSSIONS WITH THESE FAMILIES, HE'S
20 NOT WITHIN THE SIXTH DEGREE AS THEY UNDERSTAND IT
21 AND WE WOULD FEEL VERY COMFORTABLE GOING FORWARD
22 WITH HIM ON THE PANEL

23 THE COURT IT'S OBVIOUS THE TESTIMONY
24 GIVEN BY THE JUROR IS THAT HE BELIEVES HE TO BE SOME
25 DISTANT RELATIONSHIP TO THE JACKSON FAMILY HE

1 BELIEVED IT COULD HAVE BEEN A THIRD COUSIN OR
2 SOMETHING MORE DISTANT HE WAS NOT SURE BUT IT WAS
3 OBVIOUS FROM HIS TESTIMONY AND NOW THE TESTIMONY OF
4 ADDITIONAL WITNESSES THAT NO ONE IS REALLY SURE
5 WHAT, IF ANY RELATIONSHIP, EXISTS BETWEEN THE JUROR
6 AND THE JACKSON FAMILY BUT WHATEVER IT IS IT'S
7 CERTAINLY NOT CLOSE ENOUGH THAT THEY EVEN KNOW WHAT
8 RELATIONSHIP IS OR IF THEY KNOW ONE ANOTHER

9 AND, IN THIS CASE, AS IN ANY CASE,
10 THERE'S NOT -- THE CRITICAL ISSUE IS NOT NECESSARY
11 WHETHER OR NOT THERE IS SOME DEGREE OF KINSHIP THE
12 COURT MAY ERR ON THE SIDE OF CAUTION WHERE THERE'S A
13 CLOSE CONNECTION OR CLOSE KINSHIP IN THIS CASE, I
14 DO NOT FIND THE KINSHIP OF THE JUROR WITH THE
15 JACKSON FAMILY, IF ONE EXISTS AT ALL, SO CLOSE AS TO
16 REQUIRE THAT THE JUROR BE EXCLUDED FOR CAUSE
17 SPECIFICALLY AND ESPECIALLY SINCE THE JUROR HAS BEEN
18 QUESTIONED FULLY ON HIS UNDERSTANDING OF THE
19 RELATIONSHIP, WHICH HE IS NOT SURE EXISTS, BUT HE'S,
20 ALSO, BEEN QUESTIONED FULLY ON ANY UNFAIRNESS OR ANY
21 IMPARTIALITY THAT ANY POTENTIAL KINSHIP OR ACTUAL
22 KINSHIP MIGHT CAUSE IF HE WERE TO SERVE AS A JUROR
23 IN THE CASE

24 HE'S BEEN QUESTIONED EXTENSIVELY BY THE
25 COURT, BY THE DEFENSE COUNSEL, BY THE STATE

1 REGARDING THE POSSIBILITY THAT THERE COULD EXIST
2 SOME UNFAIRNESS OR SOME IMPARTIALITY BECAUSE OF THAT
3 RELATIONSHIP AND HE HAS INDICATED CLEARLY AND
4 UNEQUIVOCALLY THAT THAT WOULD NOT BE THE CASE THAT
5 HE COULD BE FAIR AND IMPARTIAL AND RENDER A DECISION
6 BASED SOLELY UPON THE EVIDENCE IN THE CASE, HAVING
7 NO FRIENDS TO REWARD AND NO ENEMY TO PUNISH HIM
8 THEREFORE, I DENY THE MOTION BY THE DEFENSE TO
9 EXCLUDE JUROR NUMBER FIFTY-NINE FOR CAUSE

10 MR TINSLEY PLEASE NOTE MY EXCEPTION

REMAINDER OF THIS PAGE IS BLANK
TRANSCRIPT CONTINUED IN VOLUME

VII

PAGES 1925-1926

REPETATIVE TRANSCRIPT COVER PAGES
AND NOT REPRINTED

1 THE COURT ALL RIGHT, SIR WHAT ELSE DO
2 WE NEED TO ADDRESS BEFORE WE RECESS? I KNOW THAT WE
3 STILL HAVE THE ISSUE OF MS CHRISLEY, I BELIEVE, WHO
4 IS GOING TO BE CALLED AS A WITNESS I KNOW MR
5 TINSLEY THAT'S MR McCALLUM'S MOTION

6 MR TINSLEY CHRISLEY IS JUROR NINETY-
7 FIVE

8 THE COURT EXCUSE ME, JUROR NINETY-FIVE
9 WAS MR HESSON I BELIEVE MR HESSON IS A FIREMAN
10 WORKING IN A FIREHOUSE AND THE DEFENDANT'S POSITION
11 WAS THAT SINCE THEY HAD A ROOM WHERE TRAFFIC COURT
12 WAS HELD IN THE POLICE STATION WHICH IS CONNECTED TO
13 THE FIREHOUSE THAT THE FACT THAT MR HESSON IS A
14 FIREMAN AND WORKS IN A FIREHOUSE HE MUST, THEREFORE,
15 WORK IN A COURTHOUSE AND, THEREFORE, HE SHOULD BE
16 EXCLUDED FOR CAUSE OR DISQUALIFIED UNDER THE
17 STATUTE?

18 MR TINSLEY YES, SIR AND THE FACT THAT
19 THEY DISPATCH TOGETHER IT'S ALL IN ONE BUILDING
20 AND IT'S BEYOND JUST TRAFFIC COURT THEY HAVE
21 C D V IN THERE FIRST --

22 THE COURT EXCUSE ME, I MEANT TO SAY
23 CITY RECORDER'S COURT WOULD THAT BE WHAT IT WAS?

24 MR TINSLEY MUNICIPAL COURT

25 THE COURT IS ANYONE FROM THE STATE

1 PREPARED TO ADDRESS THAT ISSUE?

2 MR COULTER YES, YOUR HONOR

3 THE COURT OKAY, MR COULTER

4 MR COULTER I'VE LOOKED THROUGH THE
5 CASE LAW AND SAW NOTHING THAT ADDRESSED ANY FIRE
6 MEMBER HOW COULD BE EXCUSED AS BEING WITHIN THE
7 WALLS OF THE COURTHOUSE, PARTICULARLY IN THIS
8 SITUATION, I DON'T KNOW HOW IT COULD BE STRETCHED TO
9 BE REGARDING THAT THIS PARTICULAR FIREMAN WORKS
10 WITHIN, AS THE STATUTE SAYS, WITHIN THE WALLS OF THE
11 COURTHOUSE HE WORKS WITHIN THE WALLS OF A
12 FIREHOUSE THAT'S IT, A FIRE STATION THERE'S A
13 WALL THAT SEPARATES THE TWO BUILDINGS, THERE ARE TWO
14 BUILDINGS THOUGH THAT ARE CONNECTED, THE FIRE
15 DEPARTMENT AND THE POLICE DEPARTMENT THERE'S A
16 ROOM THAT'S USED FOR COURT HE CERTAINLY DOESN'T
17 WORK WITHIN THE WALLS OF THAT ROOM, HE WORKS WITHIN
18 THE WALLS OF THE FIREHOUSE AND THAT'S THE STATE'S
19 POSITION

20 THE COURT THAT WAS MY UNDERSTANDING
21 THAT HE WAS --

22 MR TINSLEY YOUR HONOR, EXCUSE ME
23 THERE'S ONE BUILDING THERE AND THEY SHARE THE SAME
24 BUILDING AND I KNOW --

25 THE COURT WAIT A MINUTE ARE YOU

1 SAYING THEY SHARE THE BUILDING OR THE BUILDINGS ARE
2 CONNECTED?

3 MR TINSLEY I SAY THEY SHARE ONE
4 BUILDING THE BUILDING'S ARE NOT CONNECTED AND YOUR
5 HONOR'S WELCOME TO LOOK AT IT

6 THE COURT THEY'RE NOT CONNECTED?

7 MR TINSLEY THEY ARE CONNECTED

8 THE COURT THAT'S WHAT I'M SAYING ARE
9 YOU SAYING THEY SHARE ONE BUILDING OR THE TWO ARE
10 CONNECTED?

11 MR TINSLEY I'M SAYING THEY SHARE ONE
12 BUILDING

13 MR COULTER THERE'S A WALL THAT GOES
14 DOWN THE MIDDLE OF THAT BUILDING IT GOES DOWN THE
15 MIDDLE, AS I UNDERSTAND IT THERE'S SOME CONNECTION
16 BETWEEN THE TWO, THERE'S A DOORWAY BUILT BETWEEN
17 THEM BUT THEY DON'T INTERCHANGE THE WORK IN EACH
18 OTHER'S SIDE IT'S TWO SEPARATE PARTS

19 THE COURT WELL, IN ANY EVENT, BASED
20 UPON THE TESTIMONY ALREADY RECEIVED, I DO NOT FIND
21 THAT MR HESSON IS AN EMPLOYEE WITHIN THE WALLS OF
22 THE COURTHOUSE HE IS A FIREMAN EMPLOYED WITHIN THE
23 WALLS OF A FIREHOUSE AND, THEREFORE, I FIND THAT THE
24 DEFENSE MOTION TO EXCLUDE HIM FOR CAUSE SHOULD BE
25 DENIED

1 MR TINSLEY PLEASE NOTE MY EXCEPTION TO
2 THAT ON GROUNDS EARLIER STATED INCLUDING SECTION 14-
3 7-8

4 THE COURT YOU'RE GOING TO HAVE TO TELL
5 ME WHICH SECTION THAT'S REFERRING TO A PERSON
6 EMPLOYED WITHIN THE WALLS OF THE COURTHOUSE?

7 MR TINSLEY YES, YOUR HONOR

8 THE COURT ANYTHING FURTHER?

9 MR JONES JUDGE, I HESITATE TO BRING
10 THIS UP BUT IF YOU WOULD ALLOW ME JUST TO DO SO
11 IT'S A SUGGESTION I HAVE CONCERNING THE PROCESS OF
12 DRAWING THIS JURY MY COUNT NOW HAS US AT HAVING
13 QUALIFIED THIRTY-SIX JURORS

14 THE COURT I THINK THAT'S RIGHT IT
15 APPEARS TO BE

16 MR JONES AT MY COUNT, IF BOTH SIDES
17 EXERCISE THE FULL EXTENT THAT THE RECORD CHALLENGES,
18 THEN YOU WOULD ONLY NEED THIRTY-FIVE JURORS TO HAVE
19 THE TWELVE -- THIRTY-FIVE IN THE POOL TO HAVE TWELVE
20 IN THE BOX AND TWO ALTERNATES THIRTY-FIVE IS THE
21 NUMBER NEEDED I WOULD ASK THE COURT TO CONSIDER
22 GOING FORWARD WITH TWO ALTERNATES IN THIS TRIAL AND
23 BEGINNING THE JURY SELECTION PROCESS AS EARLY IN THE
24 MORNING AS IS REASONABLE WITH THE ONES THAT WE HAVE
25 QUALIFIED AT THIS JUNCTURE

1 OF COURSE, AS I SPEAK, THAT'S WITH EACH
2 SIDE EXERCISING THE FULL EXTENT OF IT'S PREEMPTORY
3 CHALLENGES AND I FULLY EXPECT THAT THE DEFENSE
4 WILL, DURING THE COURSE OF THE SELECTION OF THE
5 PANEL FOR A NUMBER OF REASONS BUT I DON'T KNOW
6 THAT THAT WILL TAKE PLACE DURING THE SELECTION OF
7 ALTERNATES, IT MAY OR MAY NOT IF THE STATE DOESN'T
8 EXERCISE ANY, AND WE MAY NOT IN THAT PROCESS, THEN
9 YOU MIGHT HAVE ENOUGH TO GET THREE ALTERNATES

10 WHAT I'M SUGGESTING, IF YOU COULD LIVE
11 WITH TWO AND PROCEED WITH THIS TRIAL WITH TWO, THE
12 STATE WOULD -- CERTAINLY FEELS LIKE THAT WOULD BE A
13 SUFFICIENT AMOUNT OF CAUTION AND I'M ASKING TO
14 PRESERVE ON ANY FALLINGS OUT THAT MIGHT TAKE PLACE
15 IN ANY JURORS DURING THE COURSE OF SEVEN TO TEN DAY
16 TRIAL AND IT WOULD ALLOW US TO PROCEED FAIRLY AND
17 WITHIN A REASONABLE TIME TOMORROW WITH JURY
18 SELECTION AND THEN CLOSING ARGUMENTS AND CALLING THE
19 WITNESSES

20 I MAKE THIS SUGGESTION FOR A COUPLE OF
21 REASONS ONE, I REALLY DO BELIEVE THAT TWO
22 ALTERNATES WILL BE SUFFICIENT TWO, I FEEL THE
23 SOONER WE GET STARTED THE BETTER AND THE SOONER WE
24 FINISH THREE, I DON'T -- AND I DON'T MEAN TO SOUND
25 FAVORISTIC HERE, BUT I QUESTION WHETHER WE -- IF WE

1 WERE TO INSIST GOING FORWARD WITH THREE, THEN WE
2 WOULD NEED AN ADDITIONAL THREE JURORS BY MY COUNT
3 BEING AT THIRTY-SIX NOW, WE'D NEED THIRTY-NINE IF
4 EVERYBODY EXERCISED ALL THEIR PRIVILEGES --

5 THE COURT EXCUSE ME FOR INTERRUPTING
6 YOU BUT LET ME TELL YOU, I DON'T HAVE ANY
7 OBJECTION TO GOING FORWARD WITH TWO ALTERNATES AS
8 OPPOSED TO THREE, THAT'S NOT A DIFFICULTY BUT I DO
9 HAVE SOME CONCERN, AND IT MAY BE UNFOUNDED BUT WE
10 WON'T KNOW UNTIL AFTER JURY SELECTION TAKES PLACE,
11 AND THAT IS WHETHER OR NOT THE NUMBER THAT WE HAVE
12 QUALIFIED, ASSUMING ALL CAN REPORT BACK WHEN CALLED
13 AND ASSUMING THAT ALL ARE STILL ABLE TO PARTICIPATE
14 AND THERE HAS BEEN NO CHANGE OF CIRCUMSTANCE, THEN I
15 DON'T SEE ANY DIFFICULTY IN BEING ABLE TO SELECT A
16 PANEL OF COURSE, WE ALWAYS HAVE TO TAKE INTO
17 CONSIDERATION ANY POSSIBILITIES THAT MIGHT RESULT
18 AND I SIMPLY DON'T WANT TO HAVE A PANEL COME BACK,
19 THEN WE START JURY SELECTION, WE RUN OUT OF JURORS
20 AND HAVE TO ENGAGE IN ADDITIONAL VOIR DIRE BECAUSE
21 THEN WE'VE GOT A JURY THAT'S BEEN PARTIALLY SELECTED
22 WHO'S GOING TO HAVE TO BE SEQUESTERED UNTIL WE CAN
23 CONCLUDE THAT PROCESS

24 NOW, I REALLY DON'T SEE ANY PARTICULAR
25 DIFFICULTY WITH BEING ABLE TO BEGIN, ACTUALLY, WITH

1 JURY SELECTION BY TOMORROW AFTERNOON AT SOME POINT
2 I MEAN, AFTER LUNCH FOR THAT MATTER OR PERHAPS
3 AROUND 2 00 I THINK, PERHAPS, IT MIGHT BE
4 APPROPRIATE TO SEE IF WE CAN'T GET AT LEAST ANOTHER
5 ONE OR TWO JURORS TO BE AVAILABLE IN THE EVENT THAT
6 THERE IS SOME JUROR THAT'S NOT GOING TO BE ABLE TO
7 SERVE, ALTHOUGH PREVIOUSLY INDICATING THAT THEY
8 COULD

9 MR JONES THANK YOU, JUDGE
10 THE COURT DO YOU SEE THE CONCERN THAT I
11 HAVE?

12 MR JONES I DO AND I AGREE I THINK IT
13 WOULD BE PRUDENT SINCE WE'VE GOT THESE OTHERS COMING
14 IN AT 8 30 AND WE WOULD -- GO AHEAD TO TALK TO THEM
15 TO SEE WHAT WE CAN GET OUT OF THEM

16 THE COURT MR TINSLEY, LET ME ASK YOU
17 IF THERE'S ANY REASON WHY WE COULD NOT BE THROUGH
18 WITH VOIR DIRE AND PLAN TO SCHEDULE JURY SELECTION
19 FOR PERHAPS TOMORROW AFTERNOON AT 2 00 P M

20 MR TINSLEY YOUR HONOR, I'M PRESERVING
21 THE RIGHT TO CONSULT WITH MR GARRETT I DON'T SEE
22 ANY REASON FOR THAT DELAY NOW UNLESS -- OF COURSE,
23 HE'S BEEN WORKING OUTSIDE, AS YOU SUGGESTED IT

24 THE COURT I UNDERSTAND THAT

25 MR TINSLEY UNLESS SOMETHING HAS COME

1 UP THAT I'M NOT AWARE HE'S OUT DOING --

2 THE COURT LET'S JUST DO THIS YOU JUST
3 SIMPLY MAKE THAT INQUIRY AND YOU ALL DISCUSS IT AND
4 I'LL BE HERE WE'LL DISCUSS IT BEFORE WE LEAVE THIS
5 EVENING IS HE PRESENT IN THE COURTHOUSE?

6 MR TINSLEY I THINK HE'S OUT IN THE
7 COMMUNITY

8 THE COURT OKAY HE'S OUT WHERE?

9 MR TINSLEY HE'S OUT, HE'S NOT HERE

10 THE COURT HE'S NOT HERE OR HE IS HERE?

11 MR TINSLEY HE'S NOT IN THE COURTHOUSE

12 THE COURT LET'S JUST DO THIS WE'LL
13 SEE IF YOU CAN LOCATE HIM AND THEN WE'LL DISCUSS IT

14 MR McCALLUM YOUR HONOR, WHILE MR
15 TINSLEY'S DOING THAT WITH REFERENCE TO MR MACK, WE
16 HAVE OBTAINED A CONTRAINDICATION AND INFORMATION
17 SHEET ON THE DRUG ZYPREXA, WHICH I BELIEVE THE
18 GENTLEMEN SAID HE IS ON FOR THE COURT'S BENEFIT, I
19 WOULD LIKE TO PUBLISH A FEW COMMENTS OUT OF THIS
20 SHEET AND MAKE THIS A COURT EXHIBIT

21 THE COURT JUST MAKE IT A COURT'S
22 EXHIBIT AND THEN I'LL READ IT IN IT'S ENTIRE
23 CONTEXT

24 (REPORTERS MARKS PERTINENT DOCUMENT AS COURT'S
25 EXHIBIT #20, CONTRAINDICATION SHEET)

1 MR McCALLUM THANK YOU, YOUR HONOR
2 THE COURT IF YOU'VE GOT SOMETHING YOU
3 WANT TO HIGHLIGHT FOR ME, FEEL FREE TO DO SO BUT
4 I'LL READ THE ENTIRE THING

5 MR McCALLUM I THINK THERE ARE JUST
6 PROBABLY THREE OR FOUR SENTENCES THAT WILL GIVE YOU
7 THE GIST OF IT

8 THE COURT OKAY

9 MR McCALLUM YOUR HONOR, THIS DRUG IS
10 ANTI-PSYCHOTIC AGENT IT'S USED FOR THE MANAGEMENT
11 AND MANIFESTATIONS OF PSYCHOTIC DISORDERS, PRIMARILY
12 SCHIZOPHRENIA, IT APPEARS IT'S INDICATED FOR THE
13 MANAGEMENT AND MANIFESTATIONS OF PSYCHOTIC
14 DISORDERS, THE ANTIPSYCHOTIC EFFICIENCY OF ZYPREXA
15 WAS ESTABLISHED IN TWO SIX-WEEK CONTROLLED TRIALS OF
16 SCHIZOPHRENIC IN-PATIENTS IT'S EFFECTIVENESS OF
17 LONG-TERM USE, THAT IS FOR MORE THAN SIX WEEKS, HAS
18 NOT BEEN SYSTEMATICALLY EVALUATED IN CONTROLLED
19 TRIALS THEREFORE, A PHYSICIAN WHO ELECTS TO
20 ZYPREXA FOR EXTENDED PERIODS SHOULD PERIODICALLY
21 REEVALUATE THE LONG-TERM USEFULNESS OF THE DRUG WITH
22 THE INDIVIDUAL PATIENT

23 IT GOES ON TO SAY, YOUR HONOR, THAT IT
24 HAS POTENTIAL PRECOGNITIVE AND MOTOR IMPAIRMENT
25 SOMNOLENCE WAS A COMMONLY REPORTED ADVERSE EVENT

1 ASSOCIATED WITH OLANZAPINE, WHICH IS THE CHEMICAL
2 NAME FOR THE DRUG TREATMENT OCCURRING AT AN
3 INCIDENT OF TWENTY-SIX PERCENT OF OLANZAPINE
4 PATIENTS COMPARED TO FIFTEEN PERCENT PLACEBO
5 PATIENTS SINCE IT HAS THE POTENTIAL THE IMPAIR
6 JUDGMENT, THINKING OR MOTOR SKILLS, THE PATIENT
7 SHOULD BE CAUTIONED ABOUT OPERATING HAZARDOUS
8 MACHINERY INCLUDING AUTOMOBILES UNTIL THEY ARE
9 REASONABLY CERTAIN THAT THERAPY DOES NOT EFFECT THEM
10 ADVERSELY

11 SO, YOUR HONOR, IT'S OBVIOUSLY A VERY
12 POTENT AND STRONG DRUG AND WE ASK THE COURT TO
13 REVIEW THIS COMPLETELY IF THE COURT DOES NOT SEE
14 FIT TO EXCUSE THAT JUROR ON THAT POINT, WE WOULD
15 LIKE THE OPPORTUNITY TO PRESENT SOME EXPERT
16 TESTIMONY OR AT LEAST CONTACT THIS POTENTIAL JUROR'S
17 DOCTOR AND GET SOME OPINION FROM A DOCTOR AS TO
18 WHETHER HE'S STABLE

19 THE COURT I'LL TRY TO MAKE SOME INQUIRY
20 OR REVIEW THAT AND MAKE SOME DECISION ABOUT THE
21 PROPRIETY OF THIS SERVANT IF WE NEED TO, WE CAN
22 MAKE A FURTHER INQUIRY WITH HIS PHYSICIAN

23 MR TINSLEY I SPOKE WITH MR GARRETT,
24 HE'S WORKING A COUPLE OF MOTIONS EVIDENCING YOUR
25 QUESTIONS IT SHOULDN'T DELAY THE JURY SELECTION

1 HE'S, ALSO, WORKING ON ONE JURY MOTION WHICH
2 SHOULDN'T TAKE LONG THE ANSWER TO YOUR QUESTION
3 IS, NO, I DON'T SEE ANY REASON WHY WE COULDN'T DRAW
4 THE JURY TOMORROW AFTERNOON, SUBJECT TO ALL PRIOR
5 MOTIONS AND THAT SORT OF THING

6 THE COURT THE COURT IS IN RECESS UNTIL
7 8 30 IN THE MORNING AND LET ME SEE THE LAWYERS FOR
8 AN ADMINISTRATIVE MATTER BEFORE WE LEAVE THE
9 COURTHOUSE

10 (COURT IN RECESS UNTIL 8 30 THE NEXT DAY, TIME BEING
11 7 30 O'CLOCK P M)

12 (OFF THE RECORD)

13 ***** END OF DAY 9 *****

14 (DAY 10, OCTOBER 22, 1997, 9 00 O'CLOCK A M)

15 THE COURT WE SHOULD HAVE FOUR JURORS
16 OUTSIDE, MR ELLIS, MR CUTTER, MR BERGMAN, MS
17 LONDON LET THE RECORD REFLECT THAT EVERYONE IS
18 PRESENT, THE DEFENDANT, MR TINSLEY, THE SOLICITOR
19 ASK MR ELLIS TO COME IN

20 (THE COURT CALLS JUROR ELLIS)

21 (JUROR #310 PRESENTED AT 9 30 O'CLOCK A M)

22 EXAMINATION BY THE COURT

23 Q GOOD MORNING, MR ELLIS

24 A GOOD MORNING

25 Q I APOLOGIZE FOR THE DELAY BUT SOMETHING

1 OCCURRED BEYOND MY CONTROL BUT IT IS WITHIN MY
2 CONTROL NOW SO IT WON'T OCCUR ANYMORE IT'S NOT THE
3 FAULT OF ANYONE HERE IN THE COURTROOM

4 AS YOU KNOW, YOU'VE BEEN CALLED BACK TO ANSWER
5 SOME QUESTIONS INDIVIDUALLY AND I'LL ASK YOU SOME,
6 THE LAWYERS MAY HAVE SOME ADDITIONAL QUESTIONS FOR
7 YOU YOU WERE PLACED UNDER OATH WHEN YOU REPORTED
8 WITH YOUR FELLOW JURORS AND SO YOU REMAIN UNDER OATH
9 FOR THE PURPOSE OF THESE QUESTIONS, ALSO YOU
10 INDICATED YOU HAD COMPLETED YOUR QUESTIONNAIRE, IS
11 IT ACCURATE?

12 A YES, SIR

13 Q I ALSO REQUESTED THAT YOU NOT HAVE ANY
14 DISCUSSIONS OR CONVERSATIONS ABOUT THE CASE OR ALLOW
15 YOURSELF TO BE EXPOSED TO ANY MEDIA COVERAGE, HAVE
16 YOU FOLLOW THAT INSTRUCTION?

17 A YES

18 Q WHAT ABOUT PRIOR TO COMING TO COURT OR
19 RECEIVING THE LETTER, HAD YOU HAD ANY DISCUSSIONS OR
20 EXPOSURE TO MEDIA ABOUT THIS CASE?

21 A NOT TO MEDIA, NO, SIR

22 Q WHAT ABOUT CONVERSATIONS OR DISCUSSIONS?

23 A RIGHT AFTER THE INCIDENT HAPPENED, YES

24 Q IT'S ALLEGED TO HAVE OCCURRED BACK IN DECEMBER
25 OF 1995, ARE YOU TALKING ABOUT AT OR ABOUT THAT

1 TIME?

2 A YES, SIR

3 Q IS THERE ANYTHING THAT OCCURRED DURING THOSE
4 DISCUSSIONS OR CONVERSATION THAT WOULD PREVENT YOU
5 FROM BEING ABLE TO BE FAIR AND IMPARTIAL, IF YOU
6 WERE SELECTED TO SERVE?

7 A NO, SIR

8 Q NOW, AS I SAY, WE'RE GOING TO ASK YOU SOME
9 QUESTIONS, THERE ARE NO RIGHT OR WRONG ANSWERS WE
10 SIMPLY NEED TO KNOW YOUR VIEWS AND OPINIONS ON
11 CERTAIN SUBJECTS SO PLEASE ANSWER THE QUESTIONS
12 OPENLY AND HONESTLY AS BEST THAT YOU CAN IF YOU
13 DON'T UNDERSTAND THE QUESTION, LET ME KNOW, I'LL TRY
14 TO CLARIFY IT OR IF THE QUESTION IS NOT ASKED
15 CLEARLY, LET ME KNOW AND I'LL TRY TO REPHRASE IT

16 IN THIS CASE, THE DEFENDANT HAS BEEN CHARGED
17 WITH THE CRIME OF MURDER AND STATE LAW PROVIDES THAT
18 UNDER CERTAIN CIRCUMSTANCES WHERE A PERSON IS FOUND
19 GUILTY OF MURDER, THE STATE MAY ASK THAT THE DEATH
20 PENALTY BE IMPOSED BUT IT MAY NOT BE DONE UNLESS
21 THERE IS SOME ADDITIONAL AGGRAVATING CIRCUMSTANCE
22 PROVEN BEYOND A REASONABLE DOUBT IN ADDITION TO THE
23 PERSON BEING FOUND GUILTY OF MURDER BEYOND A
24 REASONABLE DOUBT, DO YOU UNDERSTAND THAT?

25 A YES

1 Q IN A CASE SUCH AS THAT, IT OCCURS IN TWO
2 STAGES IT' CONDUCTED IN TWO SEPARATE PHASES THE
3 FIRST PHASE RELATES TO THE ISSUE OF GUILT, THE
4 SECOND PHASE RELATES TO THE ISSUE OF PUNISHMENT
5 AND, OF COURSE, YOU DON'T EVEN GO TO THE PUNISHMENT
6 PHASE, UNLESS IN THE GUILT PHASE, A PERSON IS FOUND
7 GUILTY BEYOND A REASONABLE DOUBT OF THE CRIME OF
8 MURDER AND SOME OTHER AGGRAVATING CIRCUMSTANCE IS
9 FOUND TO HAVE EXISTED BEYOND A REASONABLE DOUBT
10 WE HAVE TO DISCUSS THE ISSUE OF PUNISHMENT
11 SIMPLY SO THAT WE CAN DETERMINE YOUR VIEWS AND
12 OPINIONS ON CERTAIN SUBJECTS INVOLVED IN THAT PHASE
13 DO YOU UNDERSTAND THAT WHEN THE PERSON -- WHEN A
14 PERSON IS CHARGED WITH A CRIMINAL OFFENSE BY THE
15 STATE, THE BURDEN IS ON THE STATE TO ESTABLISH THAT
16 PERSON'S GUILT BEYOND A REASONABLE DOUBT BEFORE THAT
17 PERSON CAN BE FOUND GUILTY?
18 A YES
19 Q DO YOU UNDERSTAND THAT THE BURDEN IS NEVER
20 UPON A PERSON CHARGED WITH A CRIME TO PROVE THAT
21 THEY ARE NO GUILTY OR TO PROVE THAT THEY ARE
22 INNOCENT?
23 A EXPLAIN THAT AGAIN
24 Q DO YOU UNDERSTAND THAT -- WELL, LET ME START
25 OVER DO YOU UNDERSTAND THE BURDEN IS ON THE STATE

1 TO PROVE A PERSON'S GUILT?

2 A YES, SIR

3 Q DO YOU UNDERSTAND THAT THE BURDEN IS NOT ON
4 THE PERSON CHARGED TO PROVE THAT THEY'RE INNOCENT?

5 A YES

6 Q DO YOU UNDERSTAND THAT A PERSON CHARGED WITH A
7 CRIME IS PRESUMED INNOCENT?

8 A YES, SIR

9 Q AND MAY NOT BE FOUND GUILTY UNLESS EVIDENCE IS
10 PRESENTED PROVING THEIR GUILT BEYOND A REASONABLE
11 DOUBT

12 A YES, SIR

13 Q DO YOU UNDERSTAND THAT IN A CRIMINAL TRIAL
14 BECAUSE THE BURDEN IS ON THE STATE, A DEFENDANT MAY
15 NOT EVEN TESTIFY

16 A YES, SIR

17 Q MAY NOT OFFER ANY EVIDENCE

18 A RIGHT

19 Q DO YOU UNDERSTAND THAT IF THAT OCCURS, THAT I
20 WOULD INSTRUCT THE JURY THAT THAT MAY NOT BE
21 CONSIDERED IN ANY WAY AGAINST THE DEFENDANT NOR IN
22 THE JURY'S DECISION AS TO WHETHER OR NOT THAT PERSON
23 HAS BEEN PROVEN GUILTY?

24 A YES, SIR

25 Q COULD YOU FOLLOW THAT INSTRUCTION?

1 A YES, SIR, I UNDERSTAND THAT

2 Q NOW, IF YOU WERE PARTICIPATING IN A CASE SUCH
3 AS THAT, I TOLD YOU IT WOULD OCCUR IN TWO STAGES AND
4 THE FIRST STAGE WOULD RELATE TO GUILT AND EVIDENCE,
5 OF COURSE, WOULD BE PRESENTED ON THAT ISSUE WOULD
6 YOU BE WILLING AND ABLE TO CONSIDER ALL OF THAT
7 EVIDENCE PRESENTED AND NOT RENDER A DECISION UNTIL
8 YOU HAD FAIRLY CONSIDERED ALL OF THAT EVIDENCE?

9 A YES, SIR

10 Q AND AFTER YOU HAD CONSIDERED ALL OF THAT
11 EVIDENCE, IF YOU WERE CONVINCED BEYOND A REASONABLE
12 DOUBT THAT THE PERSON WERE GUILTY, COULD YOU FIND
13 THAT PERSON GUILTY?

14 A YES, SIR

15 Q IF YOU HAD A REASONABLE DOUBT ABOUT IT, COULD
16 YOU FIND THAT PERSON NOT GUILTY?

17 A YES, SIR

18 Q NOW, I WANT YOU TO ASSUME AND ONLY ASSUME IT
19 FOR THE PURPOSE OF THIS QUESTION THAT YOU'VE
20 PARTICIPATED IN SUCH A CASE, THAT YOU AND YOUR
21 FELLOW JURORS HAVE FOUND A PERSON TO BE GUILTY OF
22 MURDER BEYOND A REASONABLE DOUBT AND YOU
23 ADDITIONALLY HAVE FOUND SOME AGGRAVATING
24 CIRCUMSTANCE BEYOND A REASONABLE DOUBT THAT MEANS
25 THAT IN THAT EVENT, WE WOULD PROCEED TO THE SECOND

1 STAGE OF THE TRIAL, THE SENTENCING STAGE, THE JURY
2 WOULD DETERMINE THE APPROPRIATE SENTENCE, DO YOU
3 UNDERSTAND THAT?

4 A RIGHT

5 Q THE STATE WOULD BE ASKING THAT THE DEATH
6 PENALTY BE IMPOSED BUT THE JURY WOULD HAVE THE
7 CHOICE AS TO WHETHER THEY ARE TO SENTENCE A PERSON
8 TO DEATH OR SENTENCE A PERSON TO LIFE IMPRISONMENT
9 THE LAW NEVER REQUIRES, UNDER ANY CIRCUMSTANCES,
10 THAT A PERSON BE SENTENCED TO DEATH IT JUST SIMPLY
11 PERMITS IT UNDER CERTAIN CIRCUMSTANCES BUT THE
12 JURY MAKES THE DECISION, DO YOU UNDERSTAND THAT?

13 A UM-HMM

14 Q NOW, IF WE DID PROCEED TO THAT SECOND STAGE,
15 THERE WOULD ALSO BE ADDITIONAL EVIDENCE OFFERED AND
16 THERE WOULD BE EVIDENCE OFFERED THAT MIGHT TEND TO
17 SHOW WHY THE DEATH PENALTY WAS APPROPRIATE AND THERE
18 WOULD BE EVIDENCE OFFERED WHICH MIGHT TEND TO SHOW
19 WHY IT WAS NOT APPROPRIATE AND A LIFE SENTENCE WAS
20 MORE APPROPRIATE IF THAT WERE TO OCCUR, WOULD YOU
21 BE ABLE TO FAIRLY CONSIDER ALL OF THAT ADDITIONAL
22 EVIDENCE IN AGGRAVATION AND IN MITIGATION BEFORE YOU
23 ARRIVED AT ANY DECISION AS TO PUNISHMENT?

24 A YES, SIR

25 Q AND IF, AFTER YOU HAD CONSIDERED ALL OF THAT

1 EVIDENCE, YOU THOUGHT IT WAS APPROPRIATE, COULD YOU
2 SENTENCE A PERSON THE DEATH?

3 A NO, SIR

4 Q COULD YOU SENTENCE A PERSON TO LIFE?

5 A YES, SIR

6 Q CAN YOU THINK OF ANY CIRCUMSTANCE WHERE YOU
7 WOULD BE ABLE TO SENTENCE A PERSON TO DEATH?

8 A ANY CIRCUMSTANCE?

9 Q YES, SIR I MEAN, CAN YOU ENVISION AND THERE
10 MAY BE A CASE WHERE YOU WOULD BE ABLE TO SENTENCE A
11 PERSON TO DEATH BASED UPON THE CIRCUMSTANCES OF THAT
12 OFFENSE?

13 A I GUESS I THINK I COULD

14 Q SO YOU COULD CONSIDER BOTH A SENTENCE OF DEATH
15 AND A SENTENCE OF LIFE DEPENDING ON THE
16 CIRCUMSTANCES?

17 A YES, SIR

18 Q HAVE YOU ALREADY FORMED OR EXPRESSED ANY
19 OPINION ABOUT HOW THIS CASE SHOULD BE RESOLVED?

20 A NO, SIR

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

24 A NO, SIR

25 Q YOU UNDERSTAND THAT YOU WOULD BE SEQUESTERED

1 FOR SOME PERIOD OF TIME FOR THE DURATION OF THE
2 CASE? IF YOU WERE SEQUESTERED AND THAT WOULD BE A
3 REQUIREMENT, WOULD THAT POSE ANY UNREASONABLE
4 HARDSHIP OR HEALTH RISK TO YOU?

5 A NOT THAT I KNOW OF, NO, SIR

6 Q WOULD YOU BE WILLING TO ACCEPT ANY
7 INCONVENIENCE THAT THAT MIGHT CAUSE IN ORDER TO
8 SERVE IF YOU WERE CALLED UPON?

9 A YES, SIR

10 THE COURT PLEASE ANSWER THE
11 LAWYERS' QUESTIONS

12 EXAMINATION BY MR TINSLEY

13 Q GOOD MORNING, MR ELLIS

14 A GOOD MORNING

15 Q MR ELLIS, YOU STATED THAT YOU CAN LISTEN TO
16 THE EVIDENCE IN THE CASE, CORRECT?

17 A YES, SIR

18 Q AND YOU CAN LISTEN TO THE JUDGE'S INSTRUCTION
19 ON THE LAW, AM I CORRECT?

20 A RIGHT

21 Q AND, LET'S TAKE FOR EXAMPLE IN THE MATTER OF
22 COUNT ONE, WOULD YOU BE ABLE TO LISTEN AND CONSIDER,
23 FOR EXAMPLE, THREE POSSIBLE VERDICTS ON COUNT ONE
24 ONE MIGHT BE GUILTY OF MURDER OR GUILTY OF
25 MANSLAUGHTER OR NOT GUILTY, COULD YOU CONSIDER ALL

1 THREE VERDICTS, BASED ON THE EVIDENCE AND THE LAW AS
2 YOU'VE HEARD IT?

3 A YES, SIR, I COULD CONSIDER IT

4 Q YOU COULD CONSIDER ALL THREE?

5 A YES, SIR

6 Q AND FURTHER, MR ELLIS, CAN YOU -- IF WE DO
7 GET TO STAGE TWO, WHICH WOULD BE THE PENALTY PHASE
8 OF THE TRIAL, YOU STATE THAT YOU COULD LISTEN TO THE
9 REASONS WHY A LIFE SENTENCE WOULD BE MOST
10 APPROPRIATE, IS THAT CORRECT?

11 A YES, SIR

12 Q AND, AS SUCH, WE WOULD BE OFFERING MITIGATING
13 EVIDENCE ON BEHALF OF MR HUGHEY, DO YOU UNDERSTAND
14 WHAT I MEAN BY THAT?

15 A NO, SIR

16 Q BY MITIGATING, I MEAN THE GOOD PARTS OF MR
17 HUGHEY, THE HISTORY OF MR HUGHEY, THINGS THAT HAVE
18 HAPPENED TO HIM THAT MAKE HIM THE INDIVIDUAL HE IS
19 TODAY WOULD YOU BE ABLE TO FAIRLY EVALUATE AND
20 CONSIDER THAT EVIDENCE?

21 A YES, SIR

22 Q AND I BELIEVE YOU SAID THAT THERE ARE CERTAIN
23 CIRCUMSTANCES WHERE YOU CAN CONSIDER A DEATH
24 SENTENCE, IS THAT CORRECT?

25 A CORRECT

1 MR TINSLEY THANK YOU SO MUCH, MR
2 ELLIS, THAT'S ALL

3 THE COURT ANY QUESTIONS?

4 MR JONES YES, SIR, YOUR HONOR,
5 PLEASE

6 EXAMINATION BY MR JONES

7 Q GOOD MORNING, MR ELLIS

8 A GOOD MORNING

9 Q MY NAME'S TOWNES JONES AND I'M YOUR SOLICITOR
10 HERE IN ABBEVILLE COUNTY, THIS IS MICHAEL COULTER,
11 HE'S YOUR CHIEF DEPUTY SOLICITOR BOTH OF US WILL
12 BE PRESENTING EVIDENCE IN THE CASE WE'VE GOT
13 COPIES OF YOUR QUESTIONNAIRE SO WE'VE GOT A LITTLE
14 BIT OF YOUR BACKGROUND THAT YOU SUPPLIED THE COURT
15 WITH AND I'VE LOOKED OVER THAT BUT I ALSO LISTENED
16 TO YOUR -- BACK HERE WHEN YOU TALKED TO THE JUDGE
17 ABOUT YOUR FOOTBALL TEAM AND THAT SORT OF THING

18 A RIGHT

19 Q AND YOU'VE GOT THAT CLEARED UP

20 A YES, SIR

21 Q BUT I ALSO LISTENED TO YOU BEFORE AFTER YOU
22 TOLD THE JUDGE ABOUT THE FOOTBALL TEAM AND THEN WHEN
23 HE ASKED AND TALKED ABOUT THE DEFENDANT WASHING SOME
24 CARS FOR YOU, CLEANING UP SOME CARS FOR YOU, STUFF
25 LIKE THAT

1 A YES, SIR

2 Q NOW, OF COURSE, IN THIS CASE HE'S ON TRIAL AND
3 THE STATE'S SEEKING THE DEATH PENALTY

4 A RIGHT

5 Q AND IN ORDER TO BE A FAIR JUROR FOR BOTH
6 SIDES, WHICH I'M SURE YOU WANT TO BE

7 A THAT'S TRUE

8 Q YOU HAVE TO TELL ME WHETHER OR NOT YOU'D BE
9 ABLE TO HONESTLY AND REASONABLY CONSIDER IMPOSING
10 THE DEATH PENALTY IN THIS CASE

11 A COULD I?

12 Q YES, SIR

13 A I DON'T THINK SO

14 Q BECAUSE OF YOUR RELATIONSHIP WITH THE
15 DEFENDANT YOU DON'T BELIEVE YOU COULD EVEN CONSIDER
16 IMPOSING A DEATH PENALTY IN THIS CASE?

17 A NO, SIR

18 Q NO, SIR, YOU COULD NOT CONSIDER IT OR --

19 A COULD NOT

20 Q YOU COULD NOT CONSIDER IT

21 A NO, SIR

22 Q AND WHY NOT? IS IT BECAUSE OF YOUR
23 RELATIONSHIP WITH HIM?

24 A PARTIALLY, YES I KNOW THE GOOD IN JOHN, TOO
25 I'VE SEEN GOOD IN JOHN

1 Q WELL, THE BOTTOM LINE IS AND MY BASIC QUESTION
2 FOR YOU IS, COULD YOU BE FAIR IN CONSIDERING -- FAIR
3 TO THE STATE AND CONSIDER IMPOSING THE DEATH PENALTY
4 IN THIS CASE?

5 A I DON'T HOW TO ANSWER THAT

6 Q HONESTLY, TO THE BEST OF YOUR KNOWLEDGE IN
7 OTHER WORDS, WE'RE SEEKING THE DEATH PENALTY AND IN
8 ORDER TO BE FAIR, YOU HAVE TO REALISTICALLY,
9 SERIOUSLY CONSIDER IMPOSING THE DEATH PENALTY
10 AGAINST HIM FOR THE CRIMES IF YOU FIND HIM GUILTY OF
11 MURDER AND AN AGGRAVATING CIRCUMSTANCE

12 A I DON'T THINK I COULD

13 Q YOU COULDN'T DO THAT?

14 A NO, SIR

15 Q WELL, WE NEED TO KNOW FOR SURE TO THE BEST
16 OF YOUR ABILITY, THE BEST OF YOUR ABILITY AND I
17 ACCEPT YOUR ANSWER BUT I MAY NOT BE THE LAST ONE TO
18 ASK YOU QUESTIONS

19 A NO, SIR, I COULD NOT

20 EXAMINATION BY THE COURT

21 Q MR ELLIS, I DID NEGLECT TO ASK YOU I DO
22 BELIEVE YOU INDICATED EARLIER THAT YOU DID KNOW THE
23 DEFENDANT, MR HUGHEY?

24 A YES, SIR

25 Q AND BASED UPON YOUR RELATIONSHIP WITH MR

1 HUGHEY, ARE YOU SAYING THAT BECAUSE OF THAT
2 RELATIONSHIP AND THE KNOWLEDGE THAT YOU HAVE OF HIM
3 THAT YOU WOULD NOT BE ABLE, UNDER ANY CIRCUMSTANCES,
4 TO IMPOSE THE DEATH PENALTY IN THIS PARTICULAR CASE?

5 A YOUR HONOR, I DON'T KNOW TO SAY THIS I DON'T
6 KNOW HOW I COULD DO THAT

7 Q WE JUST NEED TO KNOW AND I WANT YOU TO
8 UNDERSTAND THAT I AM IN NO WAY CHALLENGING ANY
9 OPINION THAT YOU HAVE IT'S IMPORTANT FOR US TO
10 KNOW EXACTLY HOW YOU FEEL AND WHAT YOU THINK ABOUT
11 IT AND THAT'S THE ONLY REASON THAT WE ASK THESE
12 QUESTIONS AND THAT'S THE ONLY REASON THAT I WANT
13 TO BE CERTAIN THAT I UNDERSTAND WHAT YOUR POSITION
14 IS SO IF I STATED INCORRECTLY, YOU CORRECT ME AND
15 IF YOU NEED TO EXPLAIN IT, THEN PLEASE DO I JUST
16 SIMPLY NEED TO FIND OUT, AS I INDICATED, SINCE I HAD
17 NEGLECTED TO ASK YOU ABOUT IT, I KNOW THAT YOU DID
18 TELL ME THAT YOU KNEW MR HUGHEY ARE YOU SAYING
19 THAT BECAUSE YOU KNOW HIM, THAT IF YOU WERE A JUROR
20 IN THIS CASE, YOU WOULD NOT, UNDER ANY
21 CIRCUMSTANCES, BE ABLE TO SENTENCE HIM TO DEATH?

22 A NO, SIR, I COULD NOT

23 Q SO YOU ARE SAYING THAT YOU COULD NOT?

24 A COULD NOT

25 Q COULD NOT UNDER ANY CIRCUMSTANCES

1 A NO

2 Q IF YOU'LL STAND OUTSIDE THE DOOR JUST A
3 MINUTE, WE'LL BRING YOU BACK
4 (JUROR #310 EXITS COURTROOM)

5 ANY REASON WHY THE JUROR SHOULD NOT BE
6 DISQUALIFIED?

7 MR JONES NO REASON FOR THE STATE,
8 YOUR HONOR

9 MR TINSLEY YOUR HONOR, I WAS GOING
10 TO MAKE MY CROSS-SECTION OF THE COMMUNITY ARGUMENT,
11 BUT IN LIGHT OF HIS PREVIOUS POSITION IN THIS MATTER
12 AND -- I WOULD SAY THAT HE PROBABLY NOT BE QUALIFIED
13 ON THAT BASIS, NOT SO MUCH -- BECAUSE HE SAID HE
14 COULD GIVE THE DEATH PENALTY IN CERTAIN
15 CIRCUMSTANCES

16 THE COURT THAT'S RIGHT THERE'S NO
17 DOUBT ABOUT IT, HE SAID THAT HE COULD CONSIDER ANY
18 VISION OF CIRCUMSTANCE WHERE HE COULD IMPOSE DEATH
19 SENTENCE BUT I HAD FORGOTTEN OR FAILED TO LOOK AT MY
20 NOTES WHERE HE DID INDICATE EARLIER THAT HE KNEW THE
21 DEFENDANT AND BASED UPON THAT FACT, HE'S SAYING IN
22 THIS CASE, WHICH OF COURSE THIS IS THE CASE WITH MR
23 HUGHEY, THAT BECAUSE HE KNOWS MR HUGHEY, HO
24 RELATIONSHIP WITH HIM WOULD IMPAIR HIS ABILITY TO
25 CONSIDER EACH OF THE FORMS OF PUNISHMENT AND, IN

1 FACT, HAS CLEARLY AND UNEQUIVOCALLY STATED THAT HE
2 WOULD NOT BE ABLE TO SENTENCE MR HUGHEY TO DEATH
3 UNDER ANY CIRCUMSTANCES AND BASED UPON THAT CLEAR
4 STATEMENT, I BELIEVE THAT HE'S NOT QUALIFIED TO
5 SERVE DO YOU DISAGREE WITH ME?

6 MR TINSLEY ON THAT BASIS, I AGREE
7 WITH YOU, YOUR HONOR

8 THE COURT ASK MR ELLIS TO COME
9 BACK

10 (JUROR #310 RE-ENTERS COURTROOM)

11 THE COURT MR ELLIS, WE'RE GOING TO
12 EXCUSE YOU FROM SERVING IN THE CASE, BUT WE
13 APPRECIATE YOU COMING BACK AND ANSWERING OR
14 QUESTIONS IT WON'T BE NECESSARY THAT YOU REPORT
15 BACK ANY FURTHER THANKS AGAIN FOR YOUR HELP

16 (JUROR #310 EXITS COURTROOM)

17 (JUROR #310 IS NOT QUALIFIED)

18 (THE COURT CALLS JUROR CUTTER)

19 (JUROR #309 PRESENTED AT 9 41 O'CLOCK A M)

20 EXAMINATION BY THE COURT

21 Q GOOD MORNING, MR CUTTER

22 A GOOD MORNING

23 Q AS YOU KNOW, WE'VE ASKED YOU TO COME BACK TO
24 ASK YOU SOME QUESTIONS SIMPLY TO GET YOUR VIEWS AND
25 OPINIONS ON CERTAIN SUBJECTS THERE ARE NO RIGHT OR

1 WRONG ANSWERS, WE JUST WOULD SIMPLY ASK THAT YOU
2 PLEASE ANSWER THE QUESTIONS AS OPENLY AND AS
3 HONESTLY AS YOU CAN AND IF YOU DO NOT UNDERSTAND
4 THE QUESTION FOR SOME REASON OR IT'S NOT ASKED
5 CLEARLY, PLEASE ASK ME TO REPEAT IT OR REPHRASE IT
6 AND I WILL AND THE SAME APPLIES OF THE LAWYERS IF
7 THEY CHOSE TO ASK YOU SOME QUESTIONS

8 NOW, YOU WERE PREVIOUSLY SWORN WHEN YOU AND
9 YOUR FELLOW JURORS REPORTED FOR JURY DUTY AND SO
10 YOU REMAIN UNDER OATH FOR THE PURPOSE OF THESE
11 QUESTIONS, ALSO I HAVE A COPY OF YOUR
12 QUESTIONNAIRE AND I SIMPLY ASK YOU NOW IF IT IS AN
13 ACCURATE REFLECTION -- OR THE RESPONSES ARE ACCURATE
14 TO THE QUESTIONS?

15 A THAT'S TRUE

16 Q I ALSO ASK THAT YOU NOT HAVE ANY CONVERSATION
17 OR DISCUSSIONS ABOUT THE CASE OR ALLOW YOURSELF TO
18 BE EXPOSED TO ANY TYPE OF MEDIA COVERAGE RELATING TO
19 TRIAL HAVE YOU HAD ANY SINCE YOU WERE SUMMONED FOR
20 JURY DUTY?

21 A NO, SIR

22 Q DID YOU HAVE ANY DISCUSSIONS OR EXPOSURE PRIOR
23 TO YOUR RECEIVING YOUR SUMMONS FOR JURY SERVICE?

24 A YES, SIR, THE RADIO, TV, NEWSPAPER

25 Q AND HOW RECENT WAS THAT EXPOSURE?

1 A TWO YEARS AGO

2 Q AT OR ABOUT THE TIME THAT THE EVENT IS ALLEGED
3 TO HAVE OCCURRED?

4 A THAT'S TRUE

5 Q AND YOU'VE HEARD, SEEN OR READ NOTHING MORE
6 RECENTLY THAN THAT?

7 A NO, SIR

8 Q NOW, IN A CASE WHERE THE STATE CHARGES A
9 PERSON WITH A CRIMINAL OFFENSE, DO YOU UNDERSTAND
10 THAT THE LAW PROVIDES THE BURDEN IS ON THE STATE TO
11 ESTABLISH ALL THE ELEMENTS OF THE OFFENSE BEYOND A
12 REASONABLE DOUBT BEFORE A PERSON CAN BE FOUND GUILTY
13 OF THAT CRIME?

14 A THAT'S TRUE

15 Q DO YOU UNDERSTAND THAT WHEN A PERSON IS
16 CHARGED WITH A CRIME, THAT THEY ARE NEVER REQUIRED
17 TO PROVE THAT THEY ARE NOT GUILTY?

18 A THAT'S TRUE

19 Q DO YOU UNDERSTAND THAT A PERSON CHARGED WITH A
20 CRIME IS ALWAYS PRESUMED INNOCENT?

21 A THAT'S RIGHT

22 Q AND IN A CRIMINAL CASE A PERSON CHARGED MAY
23 CHOSE NOT TO EVEN TESTIFY OR TO PUT UP ANY EVIDENCE
24 BECAUSE THE BURDEN IS ON THE STATE?

25 A TRUE

1 Q NOW, IF IN A CASE WHERE A DEFENDANT DID NOT
2 TESTIFY, AND I INSTRUCTED YOU THAT YOU COULD NOT
3 CONSIDER THAT IN ANY WAY OR HOLD THAT AGAINST THE
4 DEFENDANT, COULD YOU FOLLOW THAT INSTRUCTION?

5 A I COULD

6 Q IN A CASE LIKE THIS, A DEFENDANT IS CHARGED
7 WITH MURDER THERE ARE CERTAIN CIRCUMSTANCES WHERE
8 THE STATE MAY ASK THAT THE DEATH PENALTY BE IMPOSED
9 THOSE CIRCUMSTANCES ARE SET BY LAW AND IF A PERSON
10 IS FOUND GUILTY, CONVICTED OF THE CRIME OF MURDER,
11 AND SOME ADDITIONAL AGGRAVATING CIRCUMSTANCE IS
12 PROVEN BEYOND A REASONABLE DOUBT THEN THE STATE IS
13 PERMITTED TO ASK THAT THE DEATH PENALTY BE IMPOSED
14 AND A JURY IS PERMITTED TO CONSIDER IMPOSING A DEATH
15 SENTENCE, DO YOU UNDERSTAND THAT THE LAW, HOWEVER,
16 DOES NOT EVER REQUIRE THAT A DEATH SENTENCE BE
17 IMPOSED NO MATTER WHAT THE CIRCUMSTANCES ARE?

18 A YES

19 Q THAT'S A JURY'S DECISION

20 A THAT'S TRUE

21 Q NOW, IN A CASE IF YOU WERE SELECTED AND YOU
22 WERE PARTICIPATING IN ONE SUCH AS THIS, IT WOULD BE
23 CONDUCTED IN TWO SEPARATE STAGES OR PARTS THE
24 FIRST WOULD RELATE TO THE ISSUE OF GUILT AND IF THE
25 JURY FOUND A PERSON GUILTY OF MURDER BEYOND A

1 REASONABLE DOUBT AND ALSO FOUND SOME ADDITIONAL
2 AGGRAVATING CIRCUMSTANCE BEYOND A REASONABLE DOUBT,
3 THEN WE WOULD GO TO THE SECOND PART OF THE TRIAL OR
4 SECOND PHASE WHICH WOULD BE THE PENALTY PHASE OF THE
5 TRIAL WHERE THE ISSUE OF PUNISHMENT WOULD BE
6 DECIDED SO THEY'RE TWO PHASES THE ISSUE OF THE
7 GUILT MUST BE DECIDED FIRST AND IF A PERSON IS FOUND
8 GUILTY, THEN WE MAY PROCEED TO THE SECOND STAGE
9 WHERE THE ISSUE OF PUNISHMENT OF ADDRESSED

10 NOW, IF YOU WERE PARTICIPATING IN SUCH A
11 CASE, WOULD YOU BE WILLING AND ABLE TO FAIRLY
12 CONSIDER ALL OF THE EVIDENCE AS IT RELATES TO THE
13 ISSUE OF GUILT?

14 A YES, SIR

15 Q AND IF YOU WERE CONVINCED BEYOND A REASONABLE
16 DOUBT THAT A PERSON WAS GUILTY, COULD YOU FIND THAT
17 PERSON GUILTY?

18 A YES, SIR

19 Q IF YOU HAD A REASONABLE DOUBT AS TO THAT
20 ISSUE, WOULD YOU FIND THAT PERSON NOT GUILTY?

21 A YES, SIR

22 Q NOW, I WANT YOU TO ASSUME AND ONLY ASSUME IT
23 FOR THE PURPOSE OF THIS QUESTION THAT YOU ARE
24 PARTICIPATING AND YOU AND YOUR FELLOW JURORS HAVE
25 DECIDED THE CASE AND HAVE FOUND THE PERSON GUILTY OF

1 THE CRIME OF MURDER ASSUMING ALSO THAT YOU HAVE,
2 IN ADDITION, FOUND SOME AGGRAVATING CIRCUMSTANCE IN
3 ADDITION TO THE MURDER CONVICTION TO HAVE EXISTED
4 BEYOND A REASONABLE DOUBT, THEREFORE, WE WOULD
5 PROCEED TO THE SENTENCING PORTION OF THAT TRIAL

6 NOW, IN THAT PHASE OF THE TRIAL, THERE WOULD
7 ALSO BE ADDITIONAL EVIDENCE OFFERED EVIDENCE
8 OFFERED IN AGGRAVATING, EVIDENCE OFFERED IN
9 MITIGATION AND BY THAT I MEAN THAT THERE WOULD BE
10 EVIDENCE OFFERED TENDING, PERHAPS, TO SHOW WHY THE
11 DEATH PENALTY WAS APPROPRIATE AND THERE WOULD ALSO
12 BE EVIDENCE OFFERED WHICH MIGHT TEND TO SHOW WHY THE
13 DEATH PENALTY WAS NOT APPROPRIATE OR WHY A LIFE
14 SENTENCE WAS MORE APPROPRIATE NOW, IF YOU WERE
15 PARTICIPATING IN SUCH A TRIAL, WOULD YOU BE ABLE TO
16 CONSIDER ALL OF THAT ADDITIONAL EVIDENCE IN
17 AGGRAVATING AND IN MITIGATION BEFORE YOU ARRIVED AT
18 ANY DECISION AS TO PUNISHMENT?

19 A YES, SIR

20 Q AND AFTER YOU HAD CONSIDERED ALL THAT EVIDENCE
21 CAREFULLY, IF YOU THOUGHT IT APPROPRIATE UNDER THE
22 CIRCUMSTANCES OF THAT CASE, WOULD YOU BE ABLE TO
23 SENTENCE A PERSON TO DEATH?

24 A YES, SIR

25 Q WOULD YOU ALSO BE ABLE TO SENTENCE A PERSON TO

1 LIFE IF YOU THOUGHT IT APPROPRIATE?

2 A YES, SIR

3 Q WOULD YOUR DECISION DEPEND UPON THE FACTS AND
4 CIRCUMSTANCES SHOWN IN THE CASE?

5 A YES AND NO

6 Q PLEASE EXPLAIN

7 A IN THIS CASE, IT WOULD DEPEND ON WHAT I
8 ALREADY KNOW OR WHAT I'VE ALREADY READ MOSTLY

9 Q SO YOU READ SOMETHING I BELIEVE YOU SAID ABOUT
10 TWO YEARS AGO?

11 A YES, SIR

12 Q COULD YOU PUT THAT ASIDE AND RENDER A VERDICT
13 BASED SOLELY UPON THE EVIDENCE IN THIS CASE?

14 A I DOUBT IT

15 Q YOU BELIEVE IT WOULD INTERFERE IN YOUR ABILITY
16 TO SERVE FAIRLY AS A JUROR?

17 A I BELIEVE SO

18 Q YOU UNDERSTAND THAT IT'S NOT UNUSUAL THAT
19 ANYONE IN ANY PARTICULAR COMMUNITY MIGHT BE EXPOSED
20 TO SOME TYPE OF MEDIA COVERAGE ABOUT A CASE

21 A THAT'S TRUE

22 Q AND YOU UNDERSTAND THAT THE FACTS THAT ARE
23 RELATED IN THAT MEDIA COVERAGE MAY BE TRUE OR THEY
24 MAY BE FALSE THE FACTS THAT ARE REPORTED IN A
25 NEWSPAPER ARTICLE OR ON TELEVISION MIGHT BE FACTS

1 THAT ARE, IN FACT, PROVEN AT THE TRIAL OF THE CASE
2 OR THEY MAY BE NOT

3 A YES, SIR

4 Q ARE YOU SAYING THAT YOU COULD NOT PUT ASIDE
5 WHATEVER YOU HAD SEEN OR READ AND RENDER A DECISION
6 BASED SOLELY UPON THE EVIDENCE RECEIVED DURING THE
7 TRIAL OF THIS CASE?

8 A IT WOULD BE HARD TO

9 Q WELL, I UNDERSTAND THAT IT MIGHT BE DIFFICULT
10 COULD YOU DO IT OR DO YOU BELIEVE THAT YOU COULD NOT
11 DO IT?

12 A I REALLY COULDN'T GIVE A -- MAKE A FAIR
13 DECISION

14 Q SO IS IT FAIR TO SAY THAT YOU HAVE ALREADY
15 ARRIVED AT SOME OPINION THAT YOU HAVE AS TO WHAT THE
16 ULTIMATE DECISION SHOULD BE?

17 A YES, SIR

18 Q AND IS YOUR OPINION ABOUT HOW YOU THINK THE
19 CASE SHOULD BE RESOLVED, IS THAT OPINION SOMETHING
20 THAT COULD BE ALTERED?

21 A I DON'T THINK SO

22 Q YOU DO NOT BELIEVE SO?

23 A NO, SIR

24 THE COURT PLEASE ANSWER ANY
25 QUESTIONS EITHER SIDE MAY HAVE FOR YOU

1 MR TINSLEY NO QUESTIONS, YOUR
2 HONOR

3 MR JONES NO QUESTIONS, YOUR HONOR
4 THE COURT IF YOU'LL JUST STEP
5 OUTSIDE THE DOOR JUST A MINUTE, WE'LL EXCUSE YOU
6 (JUROR #309 DOES AS INSTRUCTED)

7 THE COURT DO YOU HAVE ANY REASON
8 WHY THE JUROR SHOULD NOT BE DISQUALIFIED?

9 MR JONES NONE FOR THE STATE, YOUR
10 HONOR

11 MR TINSLEY NO, YOUR HONOR

12 THE COURT ASK MR CUTTER TO COME
13 BACK

14 (JUROR #309 RE-ENTERS COURTROOM)

15 THE COURT MR CUTTER, WE'RE GOING
16 TO EXCUSE YOU FROM SERVING IN THE TRIAL OF THE CASE
17 BUT WE DO APPRECIATE YOU COMING DOWN AND REPORTING
18 FOR JURY SERVICE IT WILL NOT BE NECESSARY THAT YOU
19 REPORT BACK ANY FURTHER THANKS, AGAIN, FOR YOUR
20 HELP

21 (JUROR #309 EXITS COURTROOM)

22 (JUROR #309 IS NOT QUALIFIED)

23 (THE COURT CALLS JUROR BURTON)

24 (JUROR #234 PRESENTED AT 9 50 O'CLOCK A M)

25 EXAMINATION BY THE COURT

1 Q GOOD MORNING, MR BURTON

2 A GOOD MORNING

3 Q WE APPRECIATE YOU REPORTING BACK AS YOU
4 KNOW, WE'RE GOING TO BE ASKING YOU SOME QUESTIONS
5 THERE ARE NO RIGHT OR WRONG ANSWERS, WE JUST SIMPLY
6 NEED TO KNOW WHAT YOUR OPINION IS ON CERTAIN THINGS
7 SO PLEASE ANSWER THE QUESTIONS AS BEST THAT YOU CAN
8 IF YOU DON'T UNDERSTAND THE QUESTION, ASK ME TO
9 REPEAT IT OR CLARIFY IT FOR YOU

10 AS YOU KNOW, YOU HAVE ALREADY BEEN PLACED
11 UNDER OATH WITH YOUR FELLOW JURORS AND YOU REMAIN
12 UNDER OATH FOR THE PURPOSES OF THESE QUESTIONS,
13 ALSO I HAVE A COPY OF YOUR QUESTIONNAIRE THAT YOU
14 FILLED OUT, IS IT ACCURATE?

15 A YES, SIR

16 Q I'VE ASKED YOU NOT TO HAVE DISCUSSIONS ABOUT
17 THIS CASE AND NOT TO ALLOW YOURSELF TO BE EXPOSED TO
18 MEDIA COVERAGE ABOUT THIS CASE, HAVE YOU FOLLOW THAT
19 INSTRUCTION?

20 A YES

21 Q DID YOU HAVE ANY DISCUSSIONS BEFORE YOU
22 RECEIVED THAT LETTER OR ANY EXPOSURE TO MEDIA
23 COVERAGE BEFORE YOU RECEIVED YOUR JURY SUMMONS?

24 A ME AND MY SISTER JUST HAD -- SHE HAD JUST GOT
25 THROUGH READING IT IN THE PAPER RIGHT BEFORE THE

1 SHERIFF BROUGHT THE PAPERS OUT AND WE WERE TALKING
2 ABOUT IT OTHER THAN THAT, THAT WAS IT

3 Q AND DO YOU RECALL WHAT YOU DISCUSSED OR WHAT
4 YOU READ?

5 A SHE WAS JUST SAYING THAT THERE WAS, YOU KNOW,
6 TRIAL SUPPOSED TO START UP AND WHO WAS ON TRIAL

7 Q AND IS THERE ANYTHING THAT YOU READ IN THAT
8 ARTICLE OR ANYTHING THAT YOU DISCUSSED WITH YOUR
9 SISTER THAT WOULD PREVENT YOU FROM BEING ABLE TO BE
10 FAIR IF YOU WERE SELECTED AS A JUROR?

11 A THE ONLY THING THAT I SEE IS THAT I SAID THAT
12 I DIDN'T WANT TO MAKE NO CHOICE IF SOMEBODY HAD TO
13 DIE THAT I HAD TO BE THE ONE TO CHOSE, YOU KNOW, WHO
14 SHOULD DIE AND WHO SHOULDN'T DIE, THAT'S ABOUT IT

15 Q YOU UNDERSTAND THAT THAT WOULD BE A JURY'S
16 DECISION, BUT THE JURY WOULD ONLY BE ABLE TO MAKE A
17 DECISION ABOUT THE PUNISHMENT IF THEY FOUND THE
18 PERSON TO BE GUILTY OF MURDER BEYOND A REASONABLE
19 DOUBT AND IF, IN ADDITION TO THAT, THEY FOUND SOME
20 OTHER AGGRAVATING CIRCUMSTANCE BEYOND A REASONABLE
21 DOUBT, DO YOU UNDERSTAND THAT?

22 A YES

23 Q IT'S ONLY THEN THAT THE LAW EVEN PERMITS THE
24 STATE TO ASK THAT THE DEATH PENALTY BE IMPOSED AND
25 IT'S ONLY THEN THAT A JURY MAY EVEN CONSIDER

1 IMPOSING SUCH A SENTENCE, DO YOU UNDERSTAND THAT?

2 IF YOU WERE CALLED UPON TO SERVE AS A JUROR
3 AND YOU WERE FACED WITH THAT DECISION, WOULD YOU
4 EVER BE ABLE TO SENTENCE A PERSON TO DEATH AFTER
5 CONSIDERING ALL THE EVIDENCE?

6 A I DON'T THINK SO I DON'T THINK I COULD DEAL
7 WITH IT

8 Q IF YOU WOULD, IF YOU DON'T MIND, HOW DO YOU
9 FEEL, WHAT IS YOUR GENERAL FEELING ABOUT THE DEATH
10 PENALTY AS A FORM OF PUNISHMENT?

11 A IT MIGHT BE ALL RIGHT FOR SOME PEOPLE BUT NOT
12 FOR ME

13 Q IT'S NOT FOR YOU? SO IS IT FAIR TO SAY THAT
14 YOU DON'T OBJECT TO, PERHAPS, OTHER PEOPLE MAKING
15 THAT DECISION?

16 A NO, I DON'T OBJECT TO IT

17 Q BUT YOU'RE SAYING THAT YOU COULD NOT IMPOSE A
18 DEATH SENTENCE?

19 A I COULD NOT

20 Q CAN YOU THINK OF ANY CIRCUMSTANCE WHERE YOU
21 WOULD BE WILLING TO SENTENCE A PERSON TO DEATH
22 YOURSELF?

23 A NO

24 Q YOU CAN'T THINK OF ONE?

25 A NO

1 THE COURT ANSWER ANY QUESTIONS THE
2 LAWYERS HAVE FOR YOU

3 EXAMINATION BY MR TINSLEY

4 Q GOOD MORNING, MR BURTON

5 A GOOD MORNING

6 Q I'M ROBERT TINSLEY FROM GREENWOOD, PUBLIC
7 DEFENDER IN GREENWOOD COUNTY ARE YOU DOING OKAY?

8 A YES, SIR

9 Q MR BURTON, SO YOU BELIEVE IN LIFE AND NOT
10 DEATH?

11 A RIGHT

12 Q AND YOU COULD GIVE A LIFE SENTENCE, COULDN'T
13 YOU?

14 A YES IT'S ONLY THEN THAT A JURY MAY EVEN
15 CONSIDER IMPOSING SUCH A SENTENCE, DO YOU UNDERSTAND
16 THAT?

17 IF YOU WERE CALLED UPON TO SERVE AS A JUROR
18 AND YOU WERE FACED WITH THAT DECISION, WOULD YOU
19 EVER BE ABLE TO SENTENCE A PERSON TO DEATH AFTER
20 CONSIDERING ALL THE EVIDENCE?

21 A I DON'T THINK SO I DON'T THINK I COULD DEAL
22 WITH IT

23 Q IF YOU WOULD, IF YOU DON'T MIND, HOW DO YOU
24 FEEL, WHAT IS YOUR GENERAL FEELING ABOUT THE DEATH
25 PENALTY AS A FORM OF PUNISHMENT?

1 A IT MIGHT BE ALL RIGHT FOR SOME PEOPLE BUT NOT
2 FOR ME

3 Q IT'S NOT FOR YOU? SO IS IT FAIR TO SAY THAT
4 YOU DON'T OBJECT TO, PERHAPS, OTHER PEOPLE MAKING
5 THAT DECISION?

6 A NO, I DON'T OBJECT TO IT

7 Q BUT YOU'RE SAYING THAT YOU COULD NOT IMPOSE A
8 DEATH SENTENCE?

9 A I COULD NOT

10 Q CAN YOU THINK OF ANY CIRCUMSTANCE WHERE YOU
11 WOULD BE WILLING TO SENTENCE A PERSON TO DEATH
12 YOURSELF?

13 A NO

14 Q YOU CAN'T THINK OF ONE?

15 A NO

16 THE COURT ANSWER ANY QUESTIONS THE
17 LAWYERS HAVE FOR YOU

18 EXAMINATION BY MR TINSLEY

19 Q GOOD MORNING, MR BUR

20 Q BUT YOU'RE TELLING ME YOU COULDN'T GIVE A
21 DEATH SENTENCE?

22 A NO

23 Q YOU FELT THAT WAY, BASICALLY, FOR A LONG TIME?

24 A I HADN'T REALLY THOUGHT ABOUT IT UNLESS THIS
25 CAME UP

1 Q HOW DID YOU FEEL WHEN YOU GOT THAT SUMMONS
2 AFTER YOU AND YOUR SISTER --

3 A NOT TOO GOOD

4 Q I BET IT SHOCKED YOU, DIDN'T IT?

5 A YES

6 Q IS THAT WHEN YOU STARTED THINKING ABOUT IT AND
7 -- BUT, YOU KNOW, SOME CRIMES ARE REAL SERIOUS AND
8 BAD AND ALL THAT, COULD YOU CONSIDER IT IN THAT
9 SITUATION?

10 A I REALLY COULDN'T SAY

11 Q YOU REALLY COULDN'T SAY SO YOU MIGHT BE ABLE
12 TO CONSIDER IT IN A REAL BAD SITUATION?

13 A I DON'T KNOW

14 Q YOU'RE NOT SURE OR YOU DON'T THINK SO OR WHAT?

15 A I DON'T THINK SO

16 Q YOU DON'T THINK SO EVEN IF I PAINTED A REAL
17 BAD CRIME, TWO DEATHS AND AGGRAVATING CIRCUMSTANCES
18 AND ALL THAT, COULD YOU CONSIDER IT THEN?

19 A YEAH, FOR SOMEBODY ELSE BUT NOT FOR ME

20 Q YOU COULD CONSIDER IT FOR SOMEBODY ELSE BUT
21 YOU COULD NOT CONSIDER GIVING IT YOURSELF?

22 A RIGHT

23 MR TINSLEY THANK YOU SO MUCH

24 EXAMINATION BY MR JONES

25 Q MY NAME'S TOWNES JONES, I'M YOUR SOLICITOR I

1 APPRECIATE YOU BEING PATIENT WITH US THIS WEEK AND
2 TAKING PART IN THIS PROCESS OTHERWISE, THAT'S ALL
3 I HAVE TO SAY BUT I THANK YOU FOR DOING THAT, ALL
4 RIGHT?

5 A ALL RIGHT

6 MR TINSLEY ONE MORE QUESTION, YOUR
7 HONOR

8 EXAMINATION BY MR TINSLEY

9 Q NOW, SO YOU WERE EXPOSED TO NEWSPAPER ARTICLES
10 WITHIN THE LAST TEN DAYS, RIGHT, ON THE CASE?

11 A RIGHT

12 Q AND YOU DIDN'T KNOW YOU WERE GOING TO BE A
13 JUROR UNTIL WHAT DAY?

14 A WELL, WE LOOKED AT -- ME AND MY SISTER WERE
15 TALKING ABOUT IT THAT SATURDAY EVENING AND MAYBE
16 ABOUT FIFTEEN OR TWENTY MINUTES AFTER WE HAD GOT
17 THROUGH DISCUSSING IT, THAT'S WHEN THE SHERIFF
18 BROUGHT THE PAPERS

19 Q SHERIFF?

20 A RIGHT

21 MR TINSLEY THANK YOU SO MUCH, MR
22 BURTON

23 EXAMINATION BY MR JONES

24 Q BUT WHAT YOU READ IN THE PAPER, SIR, HAS NO
25 IMPACT ON WHETHER OR NOT YOU CAN BE FAIR AND

1 IMPARTIAL HERE IN THIS CASE?

2 A NO

3 Q ANY AT ALL?

4 A NO

5 Q NONE WHATSOEVER?

6 A NO

7 Q WHAT YOU'RE TELLING US IS THAT YOU JUST CAN'T
8 PARTICIPATE, AS YOU TOLD THE JUDGE, IN THE DEATH
9 PENALTY PROCESS?

10 A RIGHT

11 Q IS THAT RIGHT?

12 A RIGHT

13 MR JONES THANK YOU

14 THE COURT MR BURTON, IF YOU'LL
15 STAND OUTSIDE FOR JUST A MINUTE, I'LL BRING YOU
16 BACK

17 (JUROR #234 DOES AS INSTRUCTED)

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

20 MR JONES NO REASON FOR THE STATE,
21 YOUR HONOR

22 MR TINSLEY WE FEEL THAT HE SHOULD
23 NOT BE DISQUALIFIED UNDER THE CROSS-SECTION OF THE
24 COMMUNITY ARGUMENT AND FEEL THAT TO CONTINUOUSLY
25 ELIMINATE ALL OF THESE FOLKS WHO ARE AGAINST THE

1 DEATH PENALTY, SUCH VOLUMINOUS NUMBERS, VIOLATES OUR
2 CONSTITUTIONAL RIGHT

3 THE COURT DO YOU AGREE THAT MR
4 BURTON WAS CLEAR THAT HE WOULD NOT CONSIDER THE
5 DEATH PENALTY UNDER ANY CIRCUMSTANCES?

6 MR TINSLEY YES, SIR

7 THE COURT BASED UPON THAT OPINION,
8 I FIND THAT HE'S NOT QUALIFIED

9 MR BURTON, WE'RE GOING TO EXCUSE YOU
10 FROM ANY FURTHER SERVICE SO YOU WON'T NEED TO COME
11 BACK ANYMORE, BUT WE DO APPRECIATE YOU COMING DOWN
12 HERE AS YOU HAVE PREVIOUSLY THANK YOU, SIR

13 (JUROR #234 EXITS COURTROOM)

14 (JUROR #234 IS NOT QUALIFIED)

15 (THE COURT CALLS JUROR LONDON)

16 (JUROR #270 PRESENTED AT 9 55 O'CLOCK A M)

17 EXAMINATION BY THE COURT

18 Q GOOD MORNING, MS LONDON

19 A GOOD MORNING

20 Q AS YOU KNOW, WE'VE ASKED YOU TO COME BACK TO
21 ASK SOME QUESTIONS OF YOU THERE ARE NO RIGHT OR
22 WRONG ANSWERS, WE JUST SIMPLY NEED TO KNOW HOW YOU
23 FEEL ABOUT CERTAIN THINGS SO I WOULD ASK THAT YOU
24 PLEASE ANSWER THE QUESTIONS AS OPENLY AND AS
25 HONESTLY AS YOU CAN IF YOU DO NOT UNDERSTAND SOME

1 QUESTION OR IT'S NOT ASKED CLEARLY, LET ME KNOW AND
2 I'LL TRY TO REPHRASE IT OR CLARIFY IT FOR YOU

3 YOU HAVE PREVIOUSLY FILLED OUT A QUESTIONNAIRE
4 AND I HAVE A COPY OF IT AND WHEN YOU CAME BACK TO
5 REPORT FOR JURY SERVICE, YOU AND YOUR FELLOW JURORS
6 WERE PLACED OATH, DO YOU RECALL THAT?

7 A UM-HMM

8 Q YOU REMAIN UNDER OATH FOR THE PURPOSE OF THESE
9 QUESTIONS, ALSO IS YOUR QUESTIONNAIRE CORRECT?

10 A AS FAR AS I KNOW OF

11 Q YOU ANSWERED ALL THE QUESTIONS AS BEST THAT
12 YOU COULD?

13 A UM-HMM

14 Q I ASKED YOU NOT TO DISCUSS THE CASE WITH
15 ANYBODY AND I ASKED YOU NOT TO ALLOW YOURSELF TO SEE
16 ANYTHING ON THE TELEVISION OR READ ANY NEWSPAPER
17 ARTICLES OR LISTEN TO ANY RADIO ABOUT THE CASE
18 HAVE YOU FOLLOWED THAT INSTRUCTION?

19 A UM-HMM

20 Q DID YOU TALK, HEAR, READ OR SEE ANYTHING ABOUT
21 THIS CASE BEFORE YOU GOT YOUR SUMMONS TO COME DOWN
22 HERE?

23 A YES, I DID

24 Q AND DO YOU RECALL WHAT YOU HAVE BEEN EXPOSED
25 TO?

1 A PAPER

2 Q NEWSPAPER ARTICLE?

3 A YEAH

4 Q IS THAT ALL?

5 A YES, SIR

6 Q HOW LONG AGO WAS THAT?

7 A I GUESS I KEPT UP WITH THE PAPER, YOU KNOW,
8 EVERY TIME IT CAME OUT AND THEN I READ THE PAPER
9 THE OTHER DAY ABOUT IT WAS GOING TO TRIAL

10 Q YOU READ AN ARTICLE RECENTLY?

11 A YES

12 Q WAS THAT -- HOW LONG AGO?

13 A LAST WEEK

14 Q WHAT WAS THE CONTENT OF THE ARTICLE, DO YOU
15 REMEMBER?

16 A IT WAS SOMETHING ABOUT JOHN HENRY WAS GOING TO
17 BE ON TRIAL

18 Q IT SAID THE TRIAL WAS COMING UP?

19 A UM-HMM

20 Q DID IT GIVE ANY OTHER CIRCUMSTANCES THAT YOU
21 KNOW ABOUT THE CASE?

22 A I CAN'T REMEMBER ANY

23 Q NOT THAT YOU REMEMBER?

24 A NO

25 Q IS THERE ANYTHING THAT YOU HAVE SEEN ON THE

1 TELEVISION OR READ IN THE NEWSPAPER THAT WOULD
2 PREVENT YOU FROM BEING ABLE TO BE FAIR?

3 A I DON'T THINK SO I FEEL LIKE I DON'T WANT TO
4 BE IN THE TRIAL

5 Q YOU FEEL LIKE YOU DON'T WANT TO BE?

6 A NO

7 Q NOW, I KNOW THAT YOU TOLD ME, IF I'M NOT
8 MISTAKEN, THAT YOU ARE RELATED TO MR HUGHEY?

9 A RIGHT

10 Q AND BECAUSE OF THE FACT THAT YOU ARE RELATED
11 TO HIM, WOULD THAT PREVENT YOU FROM BEING ABLE TO BE
12 FAIR, IF YOU WERE SELECTED?

13 A I DON'T THINK SO

14 Q YOU THINK YOU COULD BE FAIR?

15 A I FEEL LIKE I WAS CLOSE KIN TO HIM AND I
16 DIDN'T WANT TO BE A JUROR, BUT I CAN BE FAIR TO
17 ANYBODY

18 Q YOU COULD BE FAIR IF YOU WERE PICKED?

19 A YEAH, I COULD BE FAIR WITH ANYBODY

20 Q DO YOU UNDERSTAND THAT MR HUGHEY'S CHARGED
21 WITH MURDER?

22 A YES, I UNDERSTAND THAT

23 Q AND DO YOU UNDERSTAND THAT WHEN A PERSON IS
24 CHARGED WITH MURDER IF THEY'RE FOUND GUILTY, AND
25 ONLY IF THEY'RE FOUND GUILTY BY A JURY BEYOND A

1 REASONABLE DOUBT, THE STATE MAY ASK THAT THAT PERSON
2 BE PUT TO DEATH BUT THEY CAN ONLY DO THAT IF
3 THERE'S SOME OTHER ADDITIONAL AGGRAVATING
4 CIRCUMSTANCE PROVEN BEYOND A REASONABLE DOUBT, DO
5 YOU UNDERSTAND THAT?

6 A YEAH

7 Q SO WHILE THE LAW PERMITS THE STATE TO ASK FOR
8 THE DEATH PENALTY OR TO SEEK IT BEING IMPOSED, THE
9 LAW NEVER REQUIRES THAT A JURY SENTENCE A PERSON TO
10 DEATH NO MATTER WHAT THE CIRCUMSTANCES ARE, DO YOU
11 UNDERSTAND THAT?

12 A YES

13 Q I NEED FOR YOU TO ANSWER OUT LOUD BECAUSE THIS
14 LADY OVER HERE, THE COURT REPORTER, SHE'S TAKEN DOWN
15 YOUR ANSWER AND SHE CAN'T TAKE IT DOWN IF YOU DON'T
16 --

17 A REPEAT THAT

18 Q DO YOU UNDERSTAND THAT UNDER THE LAW, THAT
19 UNDER SOME CIRCUMSTANCES, A PERSON WHO HAS BEEN
20 FOUND GUILTY BY A JURY OF MURDER MAY BE SENTENCED TO
21 DEATH, BUT THEY MAY ONLY BE SENTENCED TO DEATH IF
22 THERE IS SOME ADDITIONAL AGGRAVATING CIRCUMSTANCE
23 PROVEN AND THE JURY DECIDES THAT THE APPROPRIATE
24 SENTENCE IS DEATH, DO YOU UNDERSTAND THAT?

25 A YEAH, I UNDERSTAND THAT

1 Q YOU UNDERSTAND THAT THE TRIAL IN SUCH A CASE
2 WOULD BE CONDUCTED IN TWO SEPARATE PARTS AND THE
3 FIRST PART OF THE TRIAL RELATES TO WHETHER OR NOT
4 THE PERSON IS GUILTY OF MURDER AND IF AND ONLY IF
5 THE JURY FINDS A PERSON GUILTY OF MURDER WOULD YOU
6 EVER GO TO THE SECOND PART OF THE TRIAL WHERE THE
7 JURY WOULD DECIDE PUNISHMENT, DO YOU UNDERSTAND?

8 A YES, I UNDERSTAND THAT

9 Q NOW, IF YOU WERE SELECTED AND YOU WERE
10 PARTICIPATING IN A CASE LIKE THAT, WOULD YOU BE ABLE
11 TO FAIRLY CONSIDER ALL THE EVIDENCE OFFERED IN A
12 CASE BEFORE YOU MADE A DECISION AS TO WHETHER OR NOT
13 A PERSON WAS GUILTY?

14 A YES, I THINK SO

15 Q WOULD YOU BE ABLE TO FAIRLY CONSIDER ANY
16 ADDITIONAL EVIDENCE THAT MIGHT BE OFFERED BEFORE
17 DECIDING WHAT YOU THOUGHT THE APPROPRIATE SENTENCE
18 SHOULD BE IF YOU FOUND A PERSON GUILTY OF MURDER?

19 A WELL, I GUESS SO, AS FAR AS I CAN ANSWER

20 Q AND IF YOU CONSIDERED ALL OF THAT EVIDENCE AND
21 AFTER YOU'D CONSIDERED IT CAREFULLY, IF YOU THOUGHT
22 IT WAS APPROPRIATE, WOULD YOU BE ABLE TO SENTENCE
23 THAT PERSON TO DEATH?

24 A I DON'T KNOW I REALLY DON'T KNOW, YOU KNOW,
25 THAT'S A HARD QUESTION I REALLY DON'T KNOW TO BE

1 FRANK WITH YOU

2 Q YOU INDICATED THAT YOU BELIEVE THAT YOU WOULD
3 HAVE SOME DIFFICULTY IN SERVING IN THE CASE BECAUSE
4 OF YOUR RELATIONSHIP WITH MR HUGHEY?

5 A WELL, I DON'T GUESS I WOULD HAVE ANY PROBLEMS
6 BUT I MIGHT HAVE I FEEL THAT I WOULD LIKE TO BE
7 DISMISSED

8 Q WELL, LET ME JUST ASK YOU THIS AND I'M NOT
9 TRYING TO PRESS YOU OR PUSH YOU BUT LET ME JUST ASK
10 YOU THIS QUESTION IF YOU WERE SERVING IN THIS CASE
11 AND UNDERSTAND THAT YOU HAVE A RELATIONSHIP WITH MR
12 HUGHEY, CAN YOU THINK OF ANY CIRCUMSTANCES WHERE YOU
13 WOULD BE ABLE TO SENTENCE MR HUGHEY TO DEATH?

14 A IT'S HARD TO SAY RIGHT NOW COULD I SENTENCE
15 HIM -- WHAT DO YOU MEAN, WOULD I BE ABLE TO SAY HE
16 WAS GUILTY?

17 Q NO, MA'AM LET ME BACK --

18 A YEAH, GO BACK OVER THAT ONE

19 Q IN A CASE WHERE THE STATE CHARGES A PERSON
20 WITH MURDER AND THE STATE SAYS WELL, WE BELIEVE THE
21 PERSON TO BE GUILTY OF MURDER AND IF HE'S FOUND
22 GUILTY, WE'RE GOING TO ASK THAT JURY TO SENTENCE
23 THAT PERSON TO DEATH, OKAY?

24 A UM-HMM

25 Q NOW, THEY CAN ASK FOR IT BUT THE JURY CAN'T DO

1 IT UNLESS, FIRST, YOU FIND A PERSON HAS BEEN FOUND
2 GUILTY OF MURDER AND YOU ALSO FIND THAT THERE IS
3 SOME OTHER AGGRAVATING CIRCUMSTANCE THAT WAS PROVEN
4 IN ADDITION TO THE MURDER, DO YOU UNDERSTAND THAT?

5 A YES

6 Q NOW, IF YOU WERE PARTICIPATING IN THAT CASE,
7 COULD YOU CONSIDER ALL THE EVIDENCE RECEIVED AND
8 COULD YOU FIND A PERSON GUILTY OF MURDER IF YOU WERE
9 CONVINCED OF THAT FACT BEYOND A REASONABLE DOUBT?

10 A I GUESS I COULD, YOU KNOW

11 Q DO YOU GUESS YOU COULD OR DO YOU KNOW THAT YOU
12 COULD?

13 A IT'S KIND OF HARD FOR ME TO SAY RIGHT NOW
14 BUT IF HE'S GUILTY, HE'S GUILTY

15 Q THAT'S WHAT I'M ASKING ARE YOU SAYING IT
16 WOULD BE -- I'M NOT ASKING YOU WHAT YOUR OPINION IS
17 IN THIS CASE BECAUSE I CAN ONLY ASSUME THAT YOU
18 DON'T ANYTHING ABOUT THE CASE OR THE EVIDENCE

19 A THAT'S RIGHT

20 Q SO YOU ACTUALLY CAN'T GIVE ME AN OPINION ON
21 THIS CASE, BUT I'M ASKING YOU IF IN ANY CASE, IF YOU
22 WERE SERVING AND YOU WERE SITTING OVER THERE AND YOU
23 WERE A JUROR, WOULD YOU BE WILLING TO CONSIDER ALL
24 THE EVIDENCE BEFORE YOU MADE A DECISION?

25 A OH, YES

1 Q NOW, I'M ASKING YOU, IF YOU WERE CONVINCED
2 THAT THE EVIDENCE PROVED A PERSON GUILTY OF MURDER
3 BEYOND A REASONABLE DOUBT WOULD YOU BE WILLING TO
4 SAY THAT PERSON'S GUILTY AND RETURN A VERDICT OF
5 GUILTY?

6 A YES, IF HE'S GUILTY IF HE'S GUILTY, HE'S
7 GUILTY

8 Q AND YOU COULD SAY SO?

9 A I COULD SAY SO, I GUESS, IF I GET --

10 Q NOW, MY QUESTION IS, IF YOU HAD A REASONABLE
11 DOUBT, IF YOU WEREN'T CONVINCED, IF YOU HAD A
12 REASONABLE DOUBT ABOUT IT, COULD YOU FIND A PERSON
13 NOT GUILTY?

14 A NO IF HE WASN'T GUILTY AND I FOUND HE WASN'T
15 GUILTY, I WOULD SAY HE'S NOT GUILTY IF, YOU KNOW,
16 HE'S GUILTY, HE'S GUILTY

17 Q I UNDERSTAND THAT I'M JUST ASKING YOU IF YOU
18 COULD CONSIDER BOTH A VERDICT OF GUILTY AND A
19 VERDICT OF NOT GUILTY DEPENDING ON THE EVIDENCE?

20 A YES

21 Q YOU COULD, OKAY NOW, I WANT YOU TO ASSUME
22 SOMETHING AND ONLY ASSUME IT BECAUSE I'M GOING TO
23 ASK YOU A QUESTION TO FIND OUT YOUR OPINION ON
24 SOMETHING SO LET'S ASSUME THAT YOU HAVE A JUROR,
25 YOU'VE BEEN PICKED AND YOU'RE A JUROR IN A CASE

1 WHERE A PERSON IS CHARGED WITH MURDER AND LET'S
2 ASSUME THAT YOU'VE CONSIDERED ALL THE EVIDENCE THAT
3 WAS PRESENTED AND YOU DECIDED THAT YOU WERE
4 CONVINCED BEYOND A REASONABLE DOUBT THAT THAT PERSON
5 WAS GUILTY OF MURDER AND YOU FOUND THAT PERSON
6 GUILTY, YOU RETURNED A VERDICT OF GUILTY AS TO
7 MURDER AND LET'S ASSUME THAT NOT ONLY DID YOU FIND
8 A PERSON GUILTY OF MURDER, BUT YOU ALSO FOUND THAT
9 THERE WAS SOME OTHER AGGRAVATING CIRCUMSTANCE THAT
10 WAS PROVEN BEYOND A REASONABLE DOUBT ANDY WERE
11 CONVINCED OF THAT, ALSO

12 IF THAT HAPPENED, WE HAVE SOME EVIDENCE
13 PRESENTED THE JURY WOULD COME BACK AND THEY'D
14 LISTEN THE MORE EVIDENCE AND THERE WOULD BE
15 EVIDENCE PRESENTED AS TO WHY THE DEATH PENALTY OUGHT
16 TO BE GIVEN AND THERE MIGHT BE EVIDENCE PRESENTED
17 SHOWING WHY IT SHOULDN'T BE GIVEN, WHY A LIFE
18 SENTENCE SHOULD BE GIVEN WOULD YOU BE ABLE TO
19 CONSIDER ALL THAT ADDITIONAL EVIDENCE BEFORE YOU
20 DECIDED ON A SENTENCE?

21 A YES

22 Q ALL RIGHT AND AFTER YOU CONSIDERED ALL OF
23 THAT ADDITIONAL EVIDENCE, UNDERSTANDING YOUR
24 RELATIONSHIP WITH MR HUGHEY, CAN YOU SEE YOURSELF,
25 WOULD YOU BE WILLING, TO SENTENCE HIM TO DEATH FOR

1 THE CRIME?

2 A NOW, THAT'S THE HARD PART BECAUSE, YOU KNOW
3 THE TEN COMMANDMENTS SAY THAT THOUGH CANNOT KILL AND
4 I, YOU KNOW, IT'S KIND OF HARD FOR ME TO SAY THAT I
5 WOULD BE ABLE TO SAY YES

6 Q WELL, YOU'VE RAISED THE ISSUE OF THE TEN
7 COMMANDMENTS AND YOU TRUST IN THE TEN COMMANDMENTS?

8 A WELL, I DO, YOU KNOW I BELIEVE IN GOD

9 Q CERTAINLY AND YOU'VE INDICATED THAT THE
10 BIBLE SAYS THOUGH SHALL NOT KILL

11 A THAT'S THAT VERSE

12 Q DO YOU BELIEVE THAT?

13 A WELL, I BELIEVE THAT, BUT THERE ARE PEOPLE WHO
14 KILL

15 Q I UNDERSTAND NO, I'M NOT ASKING ABOUT OTHER
16 PEOPLE, I'M ASKING ABOUT YOU DO YOU BELIEVE THAT?

17 A I BELIEVE THAT

18 Q DO YOU BELIEVE THAT IF YOU WERE PARTICIPATING
19 IN A TRIAL WHERE THE STATE WAS SEEKING THE DEATH
20 PENALTY THAT IF YOU SENTENCED A PERSON TO DEATH THAT
21 YOU WOULD BE VIOLATING THAT COMMANDMENT?

22 A I DO

23 Q BASED UPON THAT, WOULD YOU BE ABLE TO SENTENCE
24 ANYONE TO DEATH?

25 A I DON'T, YOU KNOW -- IT'S HARD TO SAY, YOU

1 KNOW, I DON'T THINK I COULD

2 Q WELL, I'M SAYING, IF YOU BELIEVED IN THAT
3 COMMANDMENT, WOULD YOU BE WILLING TO VIOLATE IT?

4 A NO

5 Q SO WOULD YOU BE WILLING TO SENTENCE A PERSON
6 TO DEATH OR NOT?

7 A NO

8 Q YOU WOULDN'T?

9 A I DON'T THINK SO

10 Q CAN YOU SEE A CIRCUMSTANCE COMING UP WHERE YOU
11 COULD SENTENCE MR HUGHEY TO DEATH?

12 A NO

13 Q YOU DON'T?

14 A I DON'T THINK SO

15 Q LET ME ASK YOU THIS IF YOU HAD A CHOICE, AND
16 YOU WOULD, THE JURY ALWAYS HAS A CHOICE IF YOU HAD
17 A CHOICE BETWEEN SENTENCING SOMEBODY TO DEATH AND
18 SENTENCING SOMEBODY TO LIFE IMPRISONMENT, WOULD YOU
19 ALWAYS CHOSE LIFE IMPRISONMENT BECAUSE OF YOUR
20 BELIEF?

21 A YES, I THINK SO

22 Q ARE YOU PRETTY CERTAIN?

23 A I'M PRETTY CERTAIN

24 THE COURT YOU'VE GOT ANY QUESTIONS
25 YOU WANT TO ASK, MR TINSLEY OR MR JONES?

1 EXAMINATION BY MR TINSLEY

2 Q JUST A FEW, YOUR HONOR NOW, MS LONDON, SO
3 YOU BELIEVE THAT IT'S WRONG TO KILL, RIGHT?

4 A YES

5 Q AND SO YOU THINK IT WOULD BE WRONG FOR YOU TO
6 VOTE FOR SOMEBODY'S DEATH, RIGHT?

7 A YES

8 Q WHEREAS, IT WOULD BE WRONG -- YOU ALSO BELIEVE
9 THAT IT WOULD BE WRONG FOR MY CLIENT OR ANY OTHER
10 DEFENDANT TO KILL SOMEONE, IS THAT CORRECT?

11 A THAT'S CORRECT

12 Q WELL, DO YOU FEEL THAT IT'S ALSO WRONG FOR THE
13 STATE TO KILL SOMEONE?

14 A YEAH, I DO I JUST FEEL LIKE IT'S WRONG FOR
15 PEOPLE TO KILL

16 Q EVEN IN THE NAME OF THE STATE?

17 A YES

18 Q SO YOU DON'T BELIEVE IN IT UNDER ANY
19 CIRCUMSTANCES?

20 A NO, NOT REALLY

21 Q AND YOU MENTIONED THAT YOU READ ABOUT THIS
22 CASE IN THE NEWSPAPER THE LAST WEEK OR SO, RIGHT?

23 A UM-HMM

24 Q AND THAT WAS SINCE MONDAY, LAST MONDAY,
25 CORRECT, MONDAY THE 13TH?

1 A YES

2 Q AND YOUR PARENTS WERE BOTH NAMED HUGHEY, TOO,
3 WEREN'T THEY?

4 A RIGHT

5 Q BUT YOU COULD STILL KEEP AN OPEN MIND AS TO
6 GUILT OR INNOCENCE, IS THAT CORRECT?

7 A YES

8 Q WHETHER THE PERSON WERE GUILTY OR INNOCENT
9 REGARDLESS OF HIS NAME WAS HUGHEY OR NOT?

10 A NO, NOT BECAUSE OF THE NAME IS HUGHEY THAT I
11 WOULD BE --

12 Q THAT WOULDN'T EFFECT YOU IS WHAT I'M ASKING
13 YOU

14 A THAT WOULDN'T EFFECT ME, NO BY HIM BEING THE
15 NAME OF HUGHEY, THAT'S NOT EFFECTING --

16 Q BECAUSE YOUR LAST NAME NOW IS LONDON

17 A THAT'S RIGHT IT'S NOT EFFECTING ME

18 Q THAT WOULDN'T EFFECT YOU?

19 A NO, JUST BECAUSE YOU'RE A HUGHEY IT WOULDN'T

20 Q BUT YOU ARE HIS COUSIN, RIGHT?

21 A I'M HIS COUSIN BUT THAT'S, YOU KNOW, I'M HIS
22 COUSIN, THAT'S RIGHT

23 MR TINSLEY THANK YOU SO MUCH, MS
24 LONDON

25 MR JONES JUDGE, WE DON'T HAVE ANY

1 QUESTIONS FOR THIS LADY

2 THE COURT MS LONDON, IF YOU'LL
3 JUST STEP DOWN AND GO OUT THAT DOOR FOR JUST A
4 MOMENT, I'LL BRING YOU BACK IN A SECOND
5 (JUROR #270 DOES AS INSTRUCTED)

6 THE COURT ANY REASON WHY THE JUROR
7 SHOULD NOT BE DISQUALIFIED?

8 MR JONES NO REASON FROM THE STATE,
9 YOUR HONOR

10 MR TINSLEY YOUR HONOR, I DON'T
11 THINK SHE'S QUALIFIED ON THE BASIS OF THE FACT THAT
12 SHE'S MR HUGHEY'S SECOND OR THIRD COUSIN

13 THE COURT YOU SAID YOU DO NOT THINK
14 SHE'S QUALIFIED ON THAT BASIS?

15 MR TINSLEY I DON'T THINK SHE'S
16 QUALIFIED ON THE BASIS

17 THE COURT OH, OKAY

18 MR TINSLEY OF COURSE, THAT GOES
19 BACK TO MY PRIOR ARGUMENT IN RELATION TO THE JUROR
20 DRAFT I DIDN'T THINK YOU'D QUALIFY IT EITHER ON
21 THAT SAME BASIS AND I RE-RAISE THAT OBJECTION AT
22 THIS TIME HOWEVER, I WOULD SAY THAT, IN MY
23 OPINION, SHE'S QUALIFIED REGARDLESS OF HER VIEW OF
24 THE DEATH PENALTY I THINK THAT HER MEDIA EXPOSURE
25 AND HER -- I'LL AGREE THAT SHE'S NOT QUALIFIED, I'M

1 AGREEING ON TWO BASIS ON HER MEDIA EXPOSURE AND HER
2 KINSHIP TO MR HUGHEY

3 THE COURT WHAT ABOUT HER OPPOSITION
4 TO THE DEATH PENALTY

5 MR TINSLEY I DON'T THINK SHE
6 SHOULD BE DISQUALIFIED ON THAT BASIS, YOUR HONOR

7 THE COURT DO YOU AGREE THAT SHE
8 INDICATED UNEQUIVOCALLY THAT SHE WOULD NOT BE ABLE
9 TO IMPOSE THE DEATH PENALTY UNDER ANY CIRCUMSTANCES?

10 MR TINSLEY YES, SIR

11 THE COURT I FIND HER NOT TO BE
12 QUALIFIED ON THAT BASIS ASK HER TO COME IN

13 MS LONDON, WE'RE GOING TO EXCUSE YOU
14 FROM SERVING IN THE CASE BUT WE APPRECIATE YOU
15 COMING DOWN THANK YOU, MA'AM

16 DO WE HAVE CALVIN HILL AND SONJI HILL
17 OUT THERE?

18 BAILIFF NO, SIR

19 THE COURT YOU DON'T?

20 BAILIFF NO ANSWER FROM SONJI HILL,
21 YOUR HONOR

22 (THE COURT CALLS JUROR CALVIN HILL)

23 (JUROR #257 PRESENTED AT 10 27 O'CLOCK A M)

24 THE COURT MR HILL, IF YOU'LL JUST
25 HAVE A SEAT ON THE SECOND ROW RIGHT THERE TO MY

1 RIGHT, I'M GOING TO ASK YOU SOME QUESTIONS

2 EXAMINATION BY THE COURT

3 Q MR HILL, YOU'VE BEEN SUMMONED TO POTENTIALLY
4 SERVE AS A JUROR IN THE TRIAL OF THE CASE OF THE
5 STATE VS JOHN KENNEDY HUGHEY DID YOU RECEIVE MY
6 LETTER ALONG WITH YOUR JUROR SUMMONS?

7 A NO, SIR, I DIDN'T

8 Q DID YOU RECEIVE ON YESTERDAY WHEN YOU REPORTED
9 ALONG WITH THE QUESTIONNAIRE?

10 A YES, SIR, I WAS GIVEN A QUESTIONNAIRE AND A
11 LETTER

12 Q SO YOU HAVE RECEIVED THAT AND YOU UNDERSTAND
13 WHAT CASE YOU'VE BEEN CALLED UPON TO POTENTIALLY
14 SERVE IN?

15 A YES, SIR

16 Q NOW THAT YOU HAVE RECEIVED YOUR SUMMONS, IS
17 YOUR SUMMONS -- DOES IT REFLECT YOUR CORRECT NAME,
18 CALVIN L HILL?

19 A YES, SIR

20 Q I'M GOING TO ASK YOU SOME QUESTIONS RIGHT NOW
21 AND ANSWER IF YOU NEED TO -- OR EXPLAIN IF YOU NEED
22 TO ARE YOU A CITIZEN AND RESIDENT OF THE UNITED
23 STATES AND OF ABBEVILLE COUNTY?

24 A YES, SIR

25 Q ARE YOU ABLE TO READ, WRITE, UNDERSTAND AND

1 SPEAK THE ENGLISH LANGUAGE?

2 A YES, SIR

3 Q DO YOU HAVE AT LEAST A SIXTH-GRADE EDUCATION
4 OR ITS EQUIVALENT?

5 A YES, SIR

6 Q ARE YOU INCAPABLE BECAUSE OF ANY MENTAL OR
7 PHYSICAL DISABILITY FROM BEING ABLE TO SERVE AS A
8 JUROR?

9 A NO, SIR

10 Q HAVE YOU BEEN CONVICTED OF ANY CRIME THAT
11 CARRIES MORE THAN A YEAR?

12 A NO, SIR

13 Q I'M GOING TO ASK YOU IF YOU FIT INTO ANY ONE
14 OF THESE CATEGORIES IF YOU DO, LET ME KNOW A
15 CLERK OR DEPUTY CLERK OF COURT, A STATE CONSTABLE, A
16 SHERIFF OR DEPUTY SHERIFF, PROBATE JUDGE, COUNTY
17 COMMISSIONER, MAGISTRATE OR ANY OTHER COUNTY OFFICER
18 OR OTHER PERSON WHO MIGHT BE EMPLOYED WITHIN THE
19 WALLS OF THE COURTHOUSE

20 A NO, SIR

21 Q HAVE YOU SERVED AS A JUROR IN THE CIRCUIT
22 COURT DURING ONE OF THE LAST THREE CALENDAR YEARS,
23 THIS YEAR BEING ONE OF THEM?

24 A NO, SIR

25 Q THE LAW PROVIDES FOR CERTAIN EXEMPTIONS FROM

1 SERVICE IF YOU'RE AT LEAST SIXTY-FIVE YEARS OF AGE
2 OR OLDER, YOU'RE EXEMPT, DO YOU FIT INTO THAT
3 CATEGORY?

4 A NO, SIR

5 Q DO YOU HAVE A CHILD OR CHILDREN LESS THAN
6 SEVEN YEARS OF AGE?

7 A NO, SIR

8 Q ARE YOU A FULL-TIME STUDENT?

9 A NO, SIR

10 Q UNDER CERTAIN CIRCUMSTANCES A JURY SERVICE MAY
11 BE EXCUSED OR TRANSFERRED IF YOU HAVE GOOD AND
12 SUFFICIENT CAUSE WHY JURY SERVICE WILL POSE AN
13 UNREASONABLE HARDSHIP UPON YOU I CAN CONSIDER THAT
14 FACT AND HAVE YOU EXCUSED IF IT MEETS THE GOOD AND
15 SUFFICIENT TEST, DO YOU HAVE SUCH A REASON?

16 A NO, SIR

17 Q ARE YOU ABLE TO SERVE, IF CALLED UPON?

18 A YES, SIR

19 Q THANK YOU NOW, AS I INDICATED TO YOU, IF YOU
20 ARE SELECTED TO SERVE IT WOULD BE IN THE TRIAL OF
21 THE CASE OF THE STATE VS JOHN KENNEDY HUGHEY IN
22 THIS CASE, MR HUGHEY IS CHARGED WITH THE CRIME OF
23 MURDER THE STATE ALLEGES IN AN INDICTMENT THAT HE
24 HAS COMMITTED FOUR SEPARATE OFFENSES, ALTHOUGH EACH
25 OF THE OFFENSES IS ALLEGED TO HAVE ARISEN OUT OF ONE

1 COURSE OF CONDUCT THAT THE STATE CLAIMS OCCURRED ON
2 DECEMBER THE 4TH OF 1995 IN THE CASE, THEY ALLEGE
3 THAT HE ENTERED A RESIDENCE WITHOUT CONSENT AND WITH
4 INTENT TO COMMIT A CRIME, THAT RESIDENCE BEING
5 OCCUPIED BY TESHEKA JACKSON AND LUEVINIA HARRIS

6 THE STATE FURTHER ALLEGES THAT, DURING THE
7 COURSE OF THAT BURGLARY, MS HARRIS AND MS JACKSON
8 WERE KILLED BY THE DEFENDANT THEY ALLEGED THAT
9 THAT KILLING TOOK PLACE WITH MALICE AFORETHOUGHT,
10 THEREFORE, THE STATE IS ALLEGING THAT HE HAS
11 COMMITTED THE CRIME OF MURDER AS AGAINST EACH OF
12 THOSE INDIVIDUALS THEY ALLEGE THAT HE HAS
13 COMMITTED THE CRIME OF BURGLARY AND THEY FURTHER
14 ALLEGE THAT HE TOOK, STOLE AND CARRIED AWAY AN
15 AUTOMOBILE BELONG TO MS JACKSON WITH THE INTENTION
16 OF PERMANENTLY DEPRIVING THE OWNER OF THAT PROPERTY
17 AND THAT WOULD CONSTITUTE LARCENY

18 NOW, AS TO EACH OF THOSE CHARGES SET FORTH IN
19 THAT INDICTMENT THAT I'VE EXPLAINED TO YOU, MR
20 HUGHEY HAS ENTERED A PLEA OF NOT GUILTY DO YOU
21 UNDERSTAND THAT THAT PLEA OF NOT GUILTY PLACES A
22 UPON THE STATE THE BURDEN OF PROVING ALL THE
23 ALLEGATIONS SET FORTH IN THE INDICTMENT BEYOND A
24 REASONABLE DOUBT?

25 A YES, SIR

1 Q DO YOU UNDERSTAND THAT THE BURDEN IS NOT UPON
2 A DEFENDANT OR A PERSON CHARGED TO PROVE THAT THEY
3 ARE NOT GUILTY OR TO PROVE THAT THEY ARE INNOCENT?

4 A YES, SIR

5 Q IN THIS CASE, AS I'VE INDICATED TO YOU, THE
6 TWO PERSONS WHO ARE ALLEGED TO HAVE BEEN KILLED BY
7 THE DEFENDANT ARE TESHEKA JACKSON AND LUEVINIA
8 HARRIS DO YOU OR DID YOU KNOW EITHER OF THOSE TWO
9 INDIVIDUALS?

10 A NO, SIR

11 Q DO YOU KNOW OF ANY MEMBERS OF EITHER OF THEIR
12 FAMILIES, THE JACKSON OR HARRIS FAMILY?

13 A NO, SIR

14 Q AND THESE ARE SOME MEMBERS OF THAT FAMILY
15 SEATED TO YOUR RIGHT, DO YOU RECOGNIZE ANY OF THEM?

16 A NO, SIR

17 Q AND THE DEFENDANT IN THE CASE IS MR HUGHEY
18 MR HUGHEY IS SEATED OVER HERE IN FRONT OF YOU DO
19 YOU KNOW MR HUGHEY OR ANY MEMBER OF HIS MEMBER?

20 A NO, SIR

21 Q IN THE CASE MR HUGHEY'S REPRESENTED BY MR
22 TINSLEY AS WELL AS BILLY GARRETT FROM GREENWOOD AND
23 THE STATE IS REPRESENTED BY TOWNES JONES, THE
24 SOLICITOR AND MICHAEL COULTER, THE DEPUTY SOLICITOR,
25 DO YOU KNOW ANY OF THESE LAWYERS?

1 A NO, SIR

2 Q HAVE YOU HEARD ANYTHING ABOUT THE FACTS OR
3 CIRCUMSTANCES THAT MIGHT RELATE TO THIS PARTICULAR
4 CASE FROM ANY PERSON OR OTHER SOURCE?

5 A I HEARD WHAT WAS REPORTED ON THE NEWS ABOUT
6 THE TIME THAT IT HAPPENED OTHER THAN THAT, NO,
7 SIR

8 Q YOU HEARD SOMETHING ON THE TELEVISION OR READ
9 SOMETHING IN THE NEWSPAPER AT OR ABOUT THE TIME THE
10 EVENT IS ALLEGED TO HAVE OCCURRED?

11 A YES, SIR

12 Q IS THERE ANYTHING IN THAT TELEVISION REPORT OR
13 NEWSPAPER ARTICLE THAT YOU MIGHT HAVE READ THAT
14 WOULD PREVENT YOU FROM BEING ABLE TO BE FAIR IF YOU
15 WERE SELECTED?

16 A NO, SIR

17 Q DO YOU KNOW ANYTHING ABOUT THE CASE
18 WHATSOEVER, OTHER THAN THAT MEDIA EXPOSURE?

19 A NO, SIR

20 Q NOW, THERE ARE A NUMBER OF WITNESSES THAT
21 MIGHT BE CALLED DURING THE TRIAL OF THE CASE, I'M
22 GOING TO RECITE A LIST OF THOSE WITNESSES AND I WANT
23 YOU TO TELL ME IF YOU KNOW ANY OF THE WITNESSES
24 MARCUS HARRIS, NEAL HENDERSON, BERNICE JACKSON,
25 ANGELA PATTERSON, MACK HARRIS, NEAL JACKSON, DR

1 BRETT WOODARD, BARRY NEW -- LET ME SAY THIS, THE
2 FOLLOWING INDIVIDUALS ARE POLICE OFFICERS WITH THE
3 CITY OF ABBEVILLE BARRY NEW, VINCE CHRISTOPHER,
4 CHARLTON COX, THAT APPEARS TO BE ALL

5 ALSO, THE FOLLOWING PERSONS ARE
6 AGENTS WITH THE SOUTH CAROLINA LAW ENFORCEMENT
7 DIVISION, DAVID BLACK, JOHN BLACK, DAN DEFREEZE,
8 JOHN ORTUNO, EDDIE CLARK, JERRY SLOAN, NANCY
9 SCARBOROUGH, LAURIE JOHNSON

10 THE FOLLOWING INDIVIDUALS ARE MEMBERS
11 OF THE HALL COUNTY SHERIFF'S DEPARTMENT, JEFF
12 STRICKLAND, DALE LONG, J N WIMPY, EDDIE REEVES,
13 KEVIN HEAD, KEN GROGAN OR BILLY ROBERTS

14 THE FOLLOWING ARE MEDICAL PERSONNEL,
15 MARY BETH SHAY, BRETT WOODARD, DR JOHN LEWALLEN,
16 DR KATHERINE LEWIS, DR DENNY JONES, DR JEFF MCKEE
17 AND ADDITIONAL POSSIBLE WITNESSES ARE LINDA BROOME,
18 MICHAEL ADAMS, JIM EVANS, ANTHONY HARRISON, CHIEF
19 ROBIN RUCKER ABBEVILLE P D , NANCY GOFF FROM
20 NATIONSBANK, PENNY ELLIOTT ALCOHOL TOBACCO AND
21 FIREARMS, SUSAN BROOKS FROM DICK BROOKS MITSUBISHI,
22 CHUCK SWEZEY AND BILL JACKSON, ALSO FROM DICK
23 BROOKS MITSUBISHI DR JAMES EVANS, JEFF YOUNGMAN,
24 DR KATINA WRIGHT, PAIGE TARR, DONALD GERNT, JOHN
25 HUGHEY, GLORIA HARRISON, TONY WILSON, CHRIS BURTON,

1 KITTY TUCKER, JAMES BOWIE, DOROTHY HUGHES, SCOTT
2 HARRISON, DR ZOLLER DO YOU RECOGNIZE ANY OF THOSE
3 INDIVIDUALS?

4 A NO, SIR

5 Q IS THERE ANY REASON YOU COULD NOT SERVE AS A
6 JUROR, IF YOU WERE SELECTED TO DO SO?

7 A NO, SIR

8 Q LET ME ASK YOU IF YOU WILL, PLEASE, COME
9 AROUND I'M GOING TO ASK YOU TO TAKE A SEAT RIGHT
10 HERE IN THIS WITNESS CHAIR BEFORE YOU SIT DOWN,
11 LET ME ASK THE CLERK TO PLACE YOU UNDER OATH

12 THE CLERK THE EVIDENCE YOU SHOULD
13 GIVE THE COURT SHOULD BE THE TRUTH, THE WHOLE TRUTH
14 AND NOTHING BUT THE TRUTH, SO HELP YOU, GOD

15 JUROR I DO

16 EXAMINATION BY THE COURT

17 Q THANK YOU, BE SEATED MR HILL, WE'RE GOING
18 TO BE ASKING YOU SOME QUESTIONS ABOUT YOUR VIEWS AND
19 OPINIONS ON CERTAIN SUBJECTS AND THERE ARE NO RIGHT
20 OR WRONG ANSWERS, WE JUST SIMPLY NEED TO KNOW HOW
21 YOU FEEL ABOUT CERTAIN THINGS SO PLEASE ANSWER THE
22 QUESTIONS AS BEST THAT YOU CAN AND IF YOU DON'T
23 UNDERSTAND THE QUESTION, I'LL REPEAT IT AND IF YOU
24 NEED TO CLARIFY IT, PLEASE ASK ME TO DO SO
25 SOMETIMES I MAY ASK A QUESTION THAT GETS TOO LONG OR

1 GETS A LITTLE COMPLICATION, SO FEEL FREE TO STOP ME
2 IF YOU DON'T UNDERSTAND IT AND I'LL TRY TO CLARIFY
3 IT AS BEST THAT I CAN I'LL ASK YOU SOME QUESTIONS,
4 THE LAWYERS ALSO MAY ASK YOU SOME ADDITIONAL
5 QUESTIONS

6 YOU FILLED OUT A QUESTIONNAIRE AND I HAVE A
7 COPY OF IT IS THE INFORMATION IN THE QUESTIONNAIRE
8 ACCURATE?

9 A YES, SIR

10 Q AND YOU HAVE ALREADY INDICATED THAT YOU HAD
11 SOME EXPOSURE TO MEDIA COVERAGE AT OR ABOUT THE TIME
12 OF THE EVENT BUT NONE SINCE, IS THAT CORRECT?

13 A THAT'S RIGHT

14 Q AND YOU KNOW NOTHING OTHER THAN THAT ABOUT THE
15 CASE?

16 A NO, SIR

17 Q AS I JUST TOLD YOU, THE DEFENDANT IS CHARGED
18 WITH MURDER IN THIS CASE AND I TELL YOU THAT UNDER
19 THE LAW WHERE A PERSON IS FOUND GUILTY OF THE CRIME
20 OF MURDER, UNDER CERTAIN CIRCUMSTANCES THE STATE MAY
21 ASK THAT THE DEATH PENALTY BE IMPOSED IT DOESN'T
22 MEAN THAT IT'S REQUIRED TO BE, IT JUST MEANS THEY
23 MAY ASK FOR IT, BUT A JURY WOULD MAKE THAT DECISION,
24 DO YOU UNDERSTAND THAT?

25 A YES, SIR

1 Q NOW, IN ORDER FOR THAT TO OCCUR, A TRIAL WOULD
2 BE HELD AND THAT TRIAL WOULD BE CONDUCTED IN TWO
3 SEPARATE PARTS THE FIRST PART WOULD RELATE TO THE
4 ISSUE OF GUILT AND THE SECOND PART WOULD RELATE TO
5 THE ISSUE OF PUNISHMENT AND, OF COURSE, WE WOULD
6 NEVER GET TO THE PUNISHMENT STAGE, UNLESS IN THE
7 FIRST PART OF THE TRIAL, A DEFENDANT HAD BEEN PROVEN
8 GUILTY OF THE CRIME OF MURDER AND SOME ADDITIONAL
9 AGGRAVATING CIRCUMSTANCE HAD BEEN ALSO PROVEN BEYOND
10 A REASONABLE DOUBT, DO YOU UNDERSTAND THAT?

11 A YES, SIR

12 Q NOW, IF YOU WERE SELECTED TO SERVE IN SUCH A
13 CASE AND YOU WERE PARTICIPATING IN THE GUILT PHASE
14 OF THAT TRIAL, WOULD YOU BE WILLING AND ABLE TO
15 CAREFULLY CONSIDER ALL OF THE EVIDENCE RECEIVED ON
16 THE ISSUE OF GUILT BEFORE ARRIVING AT ANY DECISION?

17 A YES, SIR

18 Q COULD YOU FIND A PERSON GUILTY OF A CRIME IF
19 THAT WERE PROVEN TO YOUR SATISFACTION BEYOND A
20 REASONABLE DOUBT?

21 A YES, SIR

22 Q WOULD YOU FIND A PERSON NOT GUILTY IF YOU WERE
23 NOT CONVINCED BEYOND A REASONABLE DOUBT?

24 A YES, SIR

25 Q DO YOU UNDERSTAND THAT WHEN THE STATE BRINGS A

1 CHARGE AGAINST ANOTHER, THE BURDEN IS ON THE STATE
2 TO PROVE THE GUILT OF THE DEFENDANT BEYOND A
3 REASONABLE DOUBT?

4 A YES, SIR

5 Q DO YOU UNDERSTAND THAT THE BURDEN IS NEVER
6 UPON THE PERSON ACCUSED TO PROVE THAT THEY ARE NOT
7 GUILTY?

8 A YES, SIR

9 Q DO YOU UNDERSTAND THAT A DEFENDANT IN A CRIME
10 TRIAL MAY NOT EVEN TAKE THE WITNESS STAND OR OFFER
11 ANY EVIDENCE?

12 A YES, SIR

13 Q IF THAT WERE TO OCCUR, DO YOU UNDERSTAND THAT
14 I WOULD INSTRUCT THE JURY THAT YOU MAY NOT CONSIDER
15 THAT FACT IN ANY WAY IN YOUR DECISION AS TO WHETHER
16 OR NOT THAT PERSON HAS BEEN FOUND GUILTY?

17 A YES, SIR

18 Q COULD YOU FOLLOW THAT INSTRUCTION?

19 A YES, SIR

20 Q AND BASE A VERDICT SOLELY ON THE EVIDENCE
21 RECEIVED?

22 A YES, SIR

23 Q NOW, I WANT YOU TO ASSUME AND ONLY ASSUME IT
24 FOR THE PURPOSE OF THIS QUESTION THAT YOU'VE BEEN
25 SELECTED, YOU HAVE PARTICIPATED AND YOU AND YOUR

1 FELLOW JURORS HAVE RETURNED A VERDICT OF GUILTY AS
2 TO MURDER AGAINST SOMEONE ALSO ASSUME THAT YOU
3 HAVE IN ADDITION TO THAT FOUND SOME OTHER
4 AGGRAVATING CIRCUMSTANCE ALSO BEYOND A REASONABLE
5 DOUBT AS I STATED, IN THAT EVENT, WE WOULD HAVE A
6 SEPARATE HEARING THE PENALTY PHASE OF THE TRIAL
7 AND IT'S DURING THAT STAGE THAT ADDITIONAL EVIDENCE
8 WOULD BE RECEIVED FOR THE JURY TO CONSIDER IN
9 ARRIVING AT THEIR DECISION IF YOU WERE
10 PARTICIPATING IN SUCH A HEARING, WOULD YOU BE ABLE
11 TO AND WOULD YOU BE WILLING TO FAIRLY CONSIDER ALL
12 THAT ADDITIONAL EVIDENCE RECEIVED BEFORE ARRIVING AT
13 A DECISION?

14 A YES, SIR

15 Q THERE WOULD BE ADDITIONAL EVIDENCE RELATING TO
16 MITIGATION AND AGGRAVATION AND THAT SIMPLY MEANS
17 THAT EVIDENCE WOULD BE OFFERED WHICH MIGHT TEND TO
18 SUPPORT WHY THE DEATH PENALTY WAS APPROPRIATE AND
19 THERE MIGHT BE EVIDENCE OFFERED TENDING TO SHOW WHY
20 THE DEATH PENALTY WAS NOT APPROPRIATE OR WHY A LIFE
21 SENTENCE WAS MORE APPROPRIATE AND YOU'VE INDICATED
22 YOU WOULD CONSIDER ALL OF THAT ADDITIONAL EVIDENCE?

23 A YES, SIR

24 Q NOW, AFTER YOU HAD CONSIDERED ALL OF THAT
25 EVIDENCE, IF YOU THOUGHT IT WAS APPROPRIATE UNDER

1 THE CIRCUMSTANCES OF THAT CASE, COULD YOU SENTENCE A
2 PERSON TO DEATH?

3 A YES, SIR

4 Q COULD YOU ALSO SENTENCE A PERSON TO LIFE?

5 A YES, SIR

6 Q AND WOULD YOUR DECISION DEPEND UPON WHAT THE
7 EVIDENCE WAS AND WHAT THE CIRCUMSTANCES WERE?

8 A YES, SIR

9 Q WOULD YOU NOT MAKE A DECISION UNTIL YOU HAD
10 CONSIDERED ALL THAT EVIDENCE?

11 A YES, SIR

12 Q YOU UNDERSTAND THAT THE JURY WOULD ALWAYS MAKE
13 THE DECISION AS TO THE APPROPRIATE SENTENCE BUT YOU
14 WOULD HAVE A CHOICE, IT WOULD BE A SENTENCE OF DEATH
15 OR A SENTENCE OF LIFE WOULD YOU BE ABLE TO
16 CONSIDER BOTH FORMS OF THAT PUNISHMENT AS BEING
17 APPROPRIATE DEPENDING ON THE FACTS?

18 A YES, SIR

19 Q YOU'D ALSO BE REQUIRED IF, AND ONLY IF, YOU
20 DETERMINED THAT THE PERSON SHOULD BE SENTENCED TO
21 DEATH TO SIGN THE FORM INDICATING THAT WAS YOUR
22 DECISION, COULD YOU SIGN SUCH A FORM?

23 A YES, SIR

24 Q HAVE YOU IN ANY WAY FORMED OR EXPRESSED ANY
25 OPINION AS TO WHAT YOU THINK THE ULTIMATE DECISION

1 SHOULD BE IN THIS CASE, WHETHER IT BE GUILT OR
2 PUNISHMENT?

3 A NO, SIR

4 Q DO YOU HAVE ANY REASON WHY YOU COULD NOT BE
5 FAIR AND IMPARTIAL IF YOU WERE SELECTED AS A JUROR?

6 A NO, SIR

7 Q NOW, IF YOU WERE SELECTED, IT WOULD BE
8 NECESSARY THAT YOU BE SEQUESTERED DURING THE TRIAL,
9 DO YOU UNDERSTAND WHAT I MEAN BY SEQUESTERED?

10 A YES, SIR

11 Q WOULD THAT POSE ANY UNREASONABLE HARDSHIP OR
12 HEALTH RISK TO YOU OR ANYONE DEPENDANT UPON YOU?

13 A NO, SIR

14 Q WOULD YOU BE WILLING TO ACCEPT THAT
15 INCONVENIENCE IF YOU WERE CALLED UPON TO SERVE?

16 A YES, SIR

17 THE COURT ANSWER ANY QUESTIONS THE
18 LAWYERS MAY HAVE FOR YOU

19 EXAMINATION BY MR TINSLEY

20 Q GOOD MORNING, MR HILL, HOW YOU DOING?

21 A FINE

22 Q KIND OF A TOUGH QUESTION TO START THE MORNING
23 OFF WITH, ISN'T IT?

24 A YES, SIR

25 Q ABOUT THAT DEATH PENALTY, ISN'T IT?

1 A YES, SIR

2 Q I NOTICED YOU WERE PRETTY RELUCTANT AND
3 THOUGHTFUL UPON BEING ASKED THAT QUESTION, IS THAT
4 RIGHT?

5 A YES, SIR

6 Q IT'S A VERY SERIOUS QUESTION, DON'T YOU AGREE?

7 A YES, SIR

8 Q IT'S NOT THE KIND OF THING YOU SIT AROUND AND
9 THINK ABOUT ALL THE TIME OR THAT SORT OF THING, IS
10 IT?

11 A NO, SIR

12 Q IN FACT, WHEN DID YOU GET YOUR SUMMONS TO BE
13 HERE -- WELL, YOU NEVER GOT IT, THAT'S RIGHT YOU
14 SAID YESTERDAY THAT MR COPELAND, I BELIEVE, HAD TO
15 LET YOU KNOW TO COME UP HERE, IS THAT RIGHT?

16 A YES, SIR

17 Q YOU NEVER ACTUALLY RECEIVED IT FROM THE LAW
18 ENFORCEMENT OFFICER, DID YOU?

19 A NO, SIR

20 Q BUT YOU THOUGHT IT WAS YOUR CIVIC DUTY TO COME
21 ON UP HERE WHEN YOU HEARD ABOUT, CORRECT?

22 A I JUST DIDN'T WANT TO GET IN ANY TROUBLE

23 Q YOU'RE NOT VOLUNTEERING TO SERVE, BUT YOU'LL
24 DO YOUR CIVIC DUTY, CORRECT?

25 A YES, SIR

1 Q AND YOU'VE INDICATED SOME RELUCTANCE ON THE
2 DEATH PENALTY BUT YOU WOULD BE WILLING TO LISTEN ALL
3 THE FACTS AND EVIDENCE IN THE CASE, WOULD YOU NOT?

4 A YES, SIR

5 Q AND IN DOING SO YOU WOULD FOLLOW THE LAW AS
6 INSTRUCTED BY THE JUDGE, IS THAT CORRECT?

7 A YES, SIR

8 Q AND AS SUCH, IF, FOR EXAMPLE, THE JUDGE GAVE
9 YOU THE OPTIONS OF, ONE COUNT ONE, GUILTY OF MURDER
10 OR GUILTY OF MANSLAUGHTER OR NOT GUILTY, YOU WOULD
11 CONSIDER ALL THREE VERDICTS BASED UPON THE LAW AND
12 THE FACTS, WOULD YOU NOT?

13 A YES, SIR

14 Q AND YOU UNDERSTAND THAT NOBODY'S ASKING YOU
15 WHAT YOUR VOTE WOULD BE ON THE DEATH PENALTY OR
16 ANYTHING ELSE IN FACT, WE WOULD HAVE TO GET TO THE
17 SECOND PHASE OF THE TRIAL BEFORE THAT WOULD EVEN
18 BECOME A VOTE OR AN ISSUE, DO YOU UNDERSTAND THAT?

19 A YES, SIR

20 Q IN SO DOING, YOUR VOTE WOULD BE ONE OF TWELVE,
21 OF COURSE, AND YOU OBVIOUSLY UNDERSTAND THAT, MR
22 HILL

23 A YES, SIR

24 Q A LITTLE BIT OF A QUESTION ABOUT, AND I DON'T
25 MEAN TO PRY, AND YOU JUST FILLED THIS THING OUT