

22455

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Carmen T. Mullen, Circuit Court Judge

Case No. 2009GS0702636, 2009GS0702637, 2009GS0702639,
2009GS0702594, 2009GS0702595
Appellate Case No. 2013-002394

RECEIVED

MAR 17 2016

SC Court of Appeals

The State, ... Respondent,

v.

Earnest Stewart Daise, ... Appellant.

RECORD ON APPEAL - VOLUME I

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**RECORD ON APPEAL
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STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)
STATE OF SOUTH CAROLINA)
v.)
EARNEST S. DAISE,)
Defendant)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT NO(S): 2009-GS-07-2636
2009-GS-07-2637
2009-GS-07-2638
2009-GS-07-2639

2013 MAY -6 PM 2:08
CLERK OF COURT
BEAUFORT COUNTY, S.C.

ORDER

Defendant Ernest Daise's motion to suppress all physical evidence obtained from his person and the residence at 43 Poppy Hill Road, Burton, SC (Motion No. 19) came before this Court for a hearing on February 4, 2013. Upon consideration of the evidence presented, the Court denies the Defendant's motion to suppress.

FINDINGS OF FACT

Defendant was developed as a suspect in the shooting of Jeanine Mullen Walt Fredo Davis-Mullen and the Defendant's son with Jeanine Mullen, **John Doe 2**. Defendant was located at 43 Poppy Hill Road at approximately 2:00 am on November 16, 2009. When Defendant exited the residence, officers saw what appeared to be blood stains on his pants.

Defendant was detained and taken to the northern Beaufort County Sheriff's office, and read his Miranda rights. Based on the statements of **John Doe 2** and Rebecca Nation, a neighbor, as well as the blood on Defendant's pants, officers obtained two search warrants - one for Defendant's person and the other for 43 Poppy Hill Road, Burton, SC. Both search warrants were executed on November 16, 2009.

CONCLUSIONS OF LAW

The Magistrate should determine probable cause based on the information that is available at the time the warrant was issued. *State v. Dupree*, 354 S.C. 676 (S.C. Ct. App. 2003). Likewise, when reviewing the validity of the search warrant, the reviewing court should only consider the information that was available at the time of issuance of the warrant. *Id.* The reviewing courts must give great deference to a Magistrate's conclusions as to whether probable cause exists to issue a search warrant. *State v. Martin*, 347 S.C. 522 (S.C. Ct. App. 2001). See also, *State v. Weston*, 329 S.C. 287, 290 (1997).

The evidence contained in the affidavit of a search warrant does not have to support a conviction or establish guilt beyond a reasonable doubt. *State v. William*, 262 S.C. 186 (1974); See also, *State v. Bellamy*, 336 SC 140 (S.C. 1999) (finding that a magistrate must only make a commonsense decision that there's a fair probability that evidence of a crime will be found). Evidence for a search warrant is sufficient if it is enough to induce in the mind of an issuing officer an honest belief that the facts set forth exist. *William*, 262 S.C. 186.

The evidence put forth in the affidavits of both search warrants included: John Doe 2 Daise's statement that his daddy hurt him, the fact that Defendant is **John Doe 2** father, Rebecca Nation's statement that she observed the Defendant at 20 Player Road around 4:30 pm on the afternoon of the shootings, and that Defendant appeared to have blood stains on his jeans when officers located him several hours after the incident occurred. This evidence presented to the Magistrate at the time the warrant was issued was more than sufficient to support a probable cause finding that additional evidence related to this incident may be located at 43 Poppy Hill Road or on Defendant's person. Therefore, the search warrants for Defendant's person and 43



Poppy Hill Road, Burton, SC were conducted in conformity of the law and did not violate the Defendant's Fourth Amendment rights.

Therefore, in light of the foregoing, IT IS HEREBY ORDERED AND DECREED that Defendant's Motion to Suppress is DENIED.

SO ORDERED this 10 day of May, 2013.



HONORABLE CARMEN T. MULLEN
Circuit Court Judge
Fourteenth Judicial Circuit



Don Zelenka

From: Clifford, Amie <aclifford@cpc.sc.gov>
Sent: Friday, October 30, 2015 10:37 AM
To: Don Zelenka
Subject: FW: Outstanding Daise Motions

Here is the notification of the ruling we received from the Judge's law clerk.

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From: Mullen, Carmen T. Law Clerk (Caroline M. Scrantom) [mailto:CMullenLC@sccourts.org]
Sent: Tuesday, October 08, 2013 9:45 AM
To: Bill S. McGuire; Bill McGuire; 'Sean Thornton' (sthornton29414@gmail.com); Boyd Young; Casey Secor; mmacdougall@akingump.com; Creely, Catherine (ccreely@akingump.com); jfitts@akingump.com; T. Leddy (micah@leddyllaw.com); Clifford, Amie; Henderson, Carra (Carrah@bcgov.net) (Carrah@bcgov.net); Natasha J. Holliday
Cc: Mullen, Carmen T.
Subject: Outstanding Daise Motions

Judge Mullen has ruled on the following outstanding motions:

- 1) The State's Motion to Quash Subpoena, heard Monday, October 7, is granted. While Defense counsel alleges that the State's prosecutorial training materials may tend to show methods of navigating around a *Batson* motion, an *in camera* review failed to show any such abuse. Upon review, the materials do not include any abusive instructions or teaching materials, nor use of improper technique. Additionally, the documents are generally protected as work-product, as they were created and disseminated in a limited fashion with the purpose of assisting the State's preparations for trial. The documents will be sealed and made part of the record available for appellate purposes.
- 2) The Defense's motion in limine to suppress the recording of Frank Mullen's 911 call, pleading 62, is granted. The 911 recording is cumulative. Including the recording of Frank Mullen's 911 call at trial does not add to the State's presentation of evidence. The State plans to introduce testimony and photographs showing that there was no forced entry to the residence at 20 Player Road; the 911 recording offers no additional information to this effect.

Additionally, under Rule 403, the prejudicial effect of the 911 recording's introduction would outweigh any probative value, particularly when there are photographs available that can be used to set the scene. The recording is prejudicial, as it purveys an emotional picture of Frank Mullen's arrival to the scene inside the residence at 20 Player Road, his eventual realization of what has occurred, and includes his crying out to the victims. Finally, the recording's inclusion of a baby's cries is particularly prejudicial.

Due to the emotional nature of the recording, the Defense's motion to suppress is granted, as the recording is cumulative evidence, and as its prejudicial effect outweighs its probative value under Rule 403.

- 3) As to motions 33 and 54, the Defense's motion for disclosure of, and to exclude, evidence of prior wrongs, crimes, or bad acts, Judge Mullen will reserve ruling in full until a proffer is given at the appropriate time or times during trial, and the prior bad act is to be proven by clear and convincing evidence. Additionally, limitations on testimony and photographic evidence can be expected based upon Rule 403.

Evidence of prior episodes of domestic violence is admissible, among other reasons, to show motive, intent, or the identity of the person charged. *State v. Lyle*, 125 S.C. 406, 416, 118 S.E. 803, 807 (1923). "If not the subject of a conviction, a prior bad act must first be established by clear and convincing evidence." *State v. Sweat*, 362 S.C. 117, 127, 606 S.E.2d 508, 514 (2004) (citing *State v. Beck*, 342 S.C. 129, 536 S.E.2d 679, et al).

The State's argument as to motive in this case is attenuated, as nearly a year passed between the altercation resulting in a pending criminal domestic charge and the incident at issue in the trial at hand. Intent, however, is a valid basis for allowing the prior bad act's admissibility. See *State v. Smith*, 337 S.C. 27, 522 S.E.2d 598 (1999); *State v. Beck*, 342 S.C. 129, 536 S.E.2d 679 (2000). In the case at hand, the prior instance of domestic violence goes toward establishing the defendant's intent to kill, and malice therewith. "The State is entitled to the benefit of this evidence in so far as it also subserves the purpose of establishing the element of . . . criminal intent." *State v. Lyle, supra*.

In addition to the above 404(b) analysis, under Rule 401, evidence of prior incidents of domestic violence is relevant to the case at hand, as prior bouts of domestic violence "support a logical relevance between the prior act and the crime for which the defendant is accused." *State v. King*, 334 S.C. 504, 512, 514 S.E.2d 578, 582 (1999); See *State v. Clasby*, 385 S.C. 148, 682 S.E.2d 892 (2009); *State v. Wallace*, 384 S.C. 428, 683 S.E.2d 275 (2009).

In line with case law stretching from 1908 to 2010, testimony as to prior incidents of domestic violence will be allowed, so long as the testimony is limited in the amount of details conveyed. See *State v. Clinkscales*, 231 S.C. 650; 99 S.E.2d 663 (1957). In summation, testimony that there was a physical altercation between the Defendant and Victim will be allowed, should it be established by clear and convincing evidence.

Under Rule 403, Judge Mullen will reserve a ruling as to the prejudicial effect of the domestic violence-related photographs and testimony of Mullen's son outweighing any probative value until the stage of introduction at trial.

Caroline M. Scrantom
Law Clerk to the Honorable Carmen T. Mullen

M055 869, M055 870,
M055 872, M055 850,
M055 851

DEATH PENALTY CASE

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF GENERAL SESSIONS
FOURTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,

Plaintiff,

v.

EARNEST S. DAISE,

Defendant.

Ind. No.s: 2009-GS-07-2636, 2637, ~~2638~~,
2639, 2009-GS-07-2594, 2009-GS-07-2595

**ORDER DENYING DEFENDANT'S RULE 29(a), SCRCrimP
MOTION FOR NEW TRIAL**

2013 NOV -6 AM 11:54
JENNIFER JOSEPH-AU
BEAUFORT COUNTY, S.C.
CLERK OF COURT

Defendant Earnest S. Daise, by and through his counsel, William S. McGuire, and Micah Leddy, timely submitted his Motion for New Trial on October 30, 2013 seeking relief from the Defendant's conviction of Murder on October 17, 2013 and from the jury's recommendation of a Life Without the Possibility of Parole sentence on October 23, 2013, entered by the Beaufort County Clerk of Court, pursuant to Rule 29(a) of the South Carolina Rules of Criminal Procedure.

In his motion, the Defendant asserts several grounds for a new trial and for a new sentencing proceeding. After careful consideration of the able argument and filings of Counsel and review of the record, the Court finds that the conviction and recommendation of a Life Without the Possibility of Parole entered are supported by the record. Moreover, the Court is unable to discover any material fact or principle of law that either has been overlooked or disregarded and further finds no error of law or fact not appropriately considered. Accordingly, the Plaintiff's Motion, pursuant to Rule 29(a), SCRCrimP¹, is DENIED.

¹ The Court, in its discretion, has determined this Motion on the filings, without oral argument, pursuant to Rule 29(a), SCRCrimP.

IT IS SO ORDERED.

Dated this 4 day of Nov., 2013.

A handwritten signature in black ink, consisting of a large, stylized 'C' followed by a loop and a horizontal stroke.

The Honorable Carmen Mullen
Circuit Court Judge

STATE OF SOUTH CAROLINA
14TH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT
COURT OF GENERAL SESSIONS

CASE NO'S. 2009-GS-07-02636, 2009-GS-07-02637
2009-GS-07-02638, 2009-GS-07-02639

STATE OF SOUTH CAROLINA

PLAINTIFF

VERSUS

SEPTEMBER 26, 2013

PARTIAL TRANSCRIPT OF HEARING
TESTIMONY OF DANNY TINNEL, EMS,
AND SHAYNA ORSEN, EMS
BEAUFORT, SOUTH CAROLINA

EARNEST S. DAISE

DEFENDANT

B E F O R E:

HON. CARMEN T. MULLEN, JUDGE

WANDA H. ROWE, CVR-M
OFFICIAL COURT REPORTER

A P P E A R A N C E S

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1 BEGIN PARTIAL TRANSCRIPT
2 OF HEARING 11:02 A.M.
3 BY THE COURT:
4 THE COURT: Good morning.. Please be seated.
5 MR. MCGUIRE: Good morning, your Honor.
6 THE COURT: All right. Good morning.
7 MR. STONE: Good morning, Judge.
8 THE COURT: I see you all have been subpoenaed. Or
9 just interested? Subpoenaed. Okay. All right.
10 MR. STONE: These are the two EMS technicians. The
11 issue before you is the case that I handed up, and I
12 believe, from our analysis right now, that's the only
13 motion that we actually have to cover today.
14 THE COURT: Okay.
15 MR. STONE: So we're ready at this point.
16 THE COURT: I appreciate it. Okay. All right.
17 Let's go ahead and call your first witness.
18 MR. STONE: The State calls Danny Tinnel.
19 THE COURT: Come on up, sir.
20 MADAM CLERK: Would you place your left hand on the
21 Bible and raise your right hand for me, please, sir. Do
22 you solemnly swear to truthfully answer all questions
23 asked of you by this Court, so help you God?
24 MR. TINNEL: Yes.
25 MADAM CLERK: Please be seated, state your name,

1 and spell it for the court reporter, please, sir.

2 MR. TINNEL: My name is Danny, D/a/n/n/y,
3 T/i/n/n/e/l.

4 DANNY TINNEL

5 DIRECT EXAMINATION, BY MR. STONE:

6 Q. Mr. Tinnel, what do you do, sir?

7 A I'm a paramedic for Beaufort County EMS.

8 Q All right. And what kind of training have you --
9 what exactly is a paramedic? I know there are some
10 levels of paramedics and things like that. What exactly
11 -- what level are you?

12 A There's a basic EMT level, there's an intermediate
13 level, and there's a paramedic level. In South
14 Carolina, that's the highest level for Emergency Medical
15 Services, and that's what I have.

16 Q And you work for Beaufort County. Is that correct?

17 A That is correct.

18 Q And in your capacity for Beaufort County as a
19 paramedic, what do you do? What's your job entail?

20 A At this point or at the point of the accident?

21 Q Let me go back and be more exact about it.

22 November the 15th, 2009, what was your job then?

23 A My job at that time was I was a paramedic on an
24 ambulance, so I responded to emergency calls as they
25 were dispatched to us.

1 Q And the point of an ambulance, obviously, you've
2 got some type of medical training, but you also have
3 some kind of medical need; do you not?

4 A That's correct. Someone's called for a service,
5 and so, we've responded out to them for that need.

6 Q Okay. November the 15th in particular, could you
7 tell us about that response to 20 Player Road.

8 A Hold on one second. Let me pull out a note that I
9 have.

10 Q Is that your run sheet?

11 A Yes, sir.

12 Q What is a run sheet? Just so the record --

13 A A run sheet is at the end of the call, if we do a
14 report that notates what happened during the time that
15 we were called to the -- whatever the incident happened
16 to be.

17 Q Okay. And these run sheets, are these the medical
18 sheets, basically, to tell you --

19 A Yes. It's the medical report that is sent in to
20 the Department of Health Environmental Control, and it
21 regulates emergency medical services.

22 Q Okay. Great. Now, you are -- you're working in
23 the back of the ambulance on November the 15th. Is that
24 right?

25 A Yes, sir. That is correct.

1 Q All right. And in your capacity from that
2 standpoint, what is your job? What are you specifically
3 supposed to be doing?

4 A I'm specifically working on patient care.

5 Q Okay.

6 A We have a -- on this particular incident, we
7 responded to a call for a -- for a hemorrhage or an
8 assault. And when we came out there, that's when we
9 started working with the patient that we had.

10 Q Okay. The patient in particular we're interested
11 in, obviously, is **John Doe 2**. Did you work on
12 anybody other than **John Doe 2**?

13 A No.

14 Q **John Doe 2** only.

15 A. He was the only patient that I had contact with.

16 Q Okay. Tell me what -- tell me, what was your first
17 interaction with **John Doe 2**?

18 A My first interaction was when he was brought to me
19 in the back of the ambulance. He was placed into our
20 care. And that was -- that's where I first saw him.

21 Q And who placed him in your care?

22 A Shayna Orsen. She had brought him from the house
23 to the ambulance.

24 Q All right. Ms. Orsen, she works with you, as well?

25 A That's correct. She was my partner at that time.

1 Q Okay. What was her -- so, partner. What was her
2 status? Was she also a paramedic?

3 A Yes, she also was a paramedic. That's correct.

4 Q She rode in the ambulance with you?

5 A Yes, she did.

6 Q Great. She provides -- so, she goes and gets the
7 child and brings the child to the ambulance. Is that
8 correct?

9 A That is correct.

10 Q Do you ever leave the ambulance, or you -- do you
11 stay in the ambulance?

12 A No. Once we drove to the scene, I went directly to
13 the back of the ambulance. We had been getting reports
14 as we were responding out there that it was some kind of
15 shooting involved. So, we knew that we either had
16 multiple patients or possibility of critical patients.

17 So, what I did as I got to the scene is got in the
18 back of the ambulance and what I call kind of prep it
19 for a bad patient. Get I.V.s set up and everything.
20 And we were going to -- we knew we had a pediatric
21 patient. So, they're small, so they're portable. So,
22 we were just going to bring them straight to the
23 ambulance, so we could go ahead and get transported.

24 Q All right. Tell me about your I.V. setup. What's
25 in the I.V.?

1 A What we usually have -- we have two different type.
2 We have lactated ringers and we have normal saline. In
3 this case, we used normal saline. And it's just about
4 what is -- salt water is more or less what it is. It's
5 a nine percent saline solution.

6 Q Okay. So there's no -- there's no chemical -- I'm
7 sure there's chemical. But there's no medical, no type
8 of medicine or anything like that.

9 A No. It's used every day on every single patient.
10 There is no medical purpose, other than having a access
11 line and having something to keep somebody from going
12 into shock. Just a filler, more or less.

13 Q Just giving fluids.

14 A That's correct, just give some fluids.

15 Q All right. When Shayna Orsen brings you the child,
16 you're still in the ambulance. What do you do at this
17 point?

18 A We go ahead and get him loaded up into the
19 ambulance, and we make a quick assessment. We remove
20 all the clothing and all off of there, so we can
21 visually see where he has any injuries. And we start
22 treating the injuries that we find. And a supervisor
23 comes to the scene; gets in the front of the truck; and
24 we just said, let's go ahead and start heading to the
25 hospital.

1 Q All right. So, of the people in the car, you've
2 got someone that's driving the ambulance.
3 A That's correct.
4 Q And who was that?
5 A That was Joe Schafer. He was the shift supervisor
6 that day.
7 Q All right. And then, you're in the ambulance.
8 A I'm in the back of the ambulance with Shayna Orsen.
9 Q Okay. Anybody else?
10 A No, sir.
11 Q Great. Did you have -- did you talk to **John Doe 2**
12 while you were bringing him in?
13 A Yes, we talked to him. We tried to keep him
14 alert, tried to keep him awake, by communicating with
15 him, and we --
16 Q Let me stop you there, if I can. Is that something
17 you do on a regular basis?
18 A Well, we do that with just about every patient.
19 And when we were assessing this patient, we found that
20 he had some kind of chest wound. We also found
21 something on his head, where we thought he might have a
22 head wound, also. So, we didn't know what his mental
23 functions would be. So, we just wanted to keep trying
24 to keep a status check on that as we progressed through
25 the transport. And also, we were just going to go ahead

1 and -- and treat him medically.

2 Q Gotcha. So, this is something as far as you're not
3 -- you're talking to him, but you're also assessing at
4 the same time, I guess.

5 A Exactly. Yes, sir.

6 Q All right. In your conversation with **John Doe 2** ,
7 does he tell you anything? First of all, what kind of
8 questions are you asking him? What are you talking to
9 him about?

10 A We usually just ask the -- the same thing: person,
11 place, time, and event. Try to get an idea of -- of
12 what's your name? And I believe he had told me, if I
13 look though here, I think he said his name was Dub or
14 Doug. Doug.

15 Q Okay.

16 A And I didn't -- I -- I said, *That's fine*, cause I
17 had no idea what his name was.

18 Q Right.

19 A He was just brought to us.

20 Q Right.

21 A And then, we usually find out, you know, what's
22 happened, what occurred, how did this happen. You know,
23 just general who, what, where, when, why questions.

24 Q Okay. And the purpose behind you gathering this
25 information, again, is for what reason?

1 A To be able to try to find if he has any other
2 injuries, and to find out what kind of injuries he
3 sustained. If -- if you've fallen on a sharp object,
4 that's one thing, if you happen to just have a
5 laceration. But if you've got stuck with a nine-inch
6 butcher knife, then, you're liable to have a lot more
7 different problems. So, the -- the more information we
8 can get, on to what -- what caused the injury, the
9 better we can have an idea of what to -- how to treat
10 it. And we can also radio ahead and let the hospitals
11 know what kind of preparation they'll need.

12 Q And is that something that you do on a regular
13 basis? In other words, not just gathering the
14 information, do you then turn that information over? Do
15 you pass that on?

16 A Oh, yes. That -- that is definitely correct. We
17 do --

18 Q And who do you pass it on to?

19 A The physician that takes over the care, and usually
20 the nursing staff that's there at the hospital that's
21 providing care for them.

22 Q And if there's information on an assault, you also
23 -- you also pass that information. Pretty much
24 everything you've gathered, you pass on to the doctor.
25 Is that correct?

1 A Yeah, we pass it on. They also get a copy of the
2 report that we do, and we pass that information on,
3 also.

4 Q Okay. Let me go back and start, make sure I clear
5 this up to begin with. The medical condition that
6 **John Doe 2** was in when he got in the ambulance, what would
7 you -- what could you tell me about that?

8 A The medical condition that we had was, he's a -- he
9 was a critical patient, because, from our understanding
10 that there were people that were shot on the scene, from
11 the first responders that got in there. And he had an
12 injury which is -- could be consistent with a gunshot
13 wound. So, to us, this was a critical patient that had
14 to be immediately transported to the hospital.

15 Q Did you check his vital signs and things like that?
16 Is that also something you do?

17 A Yes, sir.

18 Q Excuse me. What were vital signs, things like
19 that?

20 A At that time, they were normal.

21 Q Okay.

22 A They were within what we call normal limits for
23 that child. But that's why we went ahead and we got
24 I.V. access going, and we kept reassessing the patient
25 as we transported.

1 Q Okay. Did -- was he still bleeding at the time
2 that you were dealing with him?

3 A I believe the -- the -- and I can look through here
4 to be precise, but the head wound, I think, was
5 controlled, self-controlled. The chest wound, we went
6 ahead and put an occlusive bandage on, which, more or
7 less, is like a -- a solid piece of plastic, to be able
8 to keep air from sucking into the chest. If there's a
9 hole in the chest wall, we want to make sure that we
10 secure that, so we don't have air seeping into the chest
11 where it's not supposed to. And we -- we put that kind
12 of a dressing on him.

13 Q Do you take him -- where do you take him?

14 A To Beaufort Memorial Hospital.

15 Q Okay. And in particular, in the emergency room?

16 A Yes, sir.

17 Q Okay. And then, at that point, you turn him over
18 to whom?

19 A I turn him over to the physician in the E.R.,
20 which, I believe, in this case, was -- was Dr. Duff, I
21 think was who the physician was on this one. Yeah,
22 Thomas Duff.

23 Q Okay. And then, at that time, do you give him all
24 the information you have, or do you later on convey
25 that? Or were you --

1 A Yes, sir. We did it all at the same time. As
2 we're transferring the patient over, we're giving a
3 verbal report of everything that -- that has occurred
4 and that is happening and what our findings are. And
5 then, we also back that up with a written report.

6 Q You know, for somebody like me that's never been in
7 the back of an ambulance like this, what kind of
8 situation is this? Is it -- is it -- it seems very fast
9 and chaotic to me, but I don't know if that's the case
10 or not.

11 A It usually is. It's really usually chaotic and --
12 and fast-paced, especially when pediatrics are
13 concerned. Pediatrics always add another level to a
14 call, because (a) it's a pediatric call. Everyone gets
15 a little bit more excited when you have children
16 involved. And -- and (b) we knew that the others on the
17 scene were in a critical state, or there had been other
18 shots. So, we were really concerned with what was going
19 on inside this person.

20 So, we knew that we couldn't fix it in the field;
21 we had to get him to an emergency room; they're probably
22 going to need a surgeon. So, our big thing is, he looks
23 fine right this second, but that could change in a
24 instant. So, we're trying to touch base with all of our
25 training, and make sure we get the I.V.s and the

1 assessments and everything on going like we're supposed
2 to, so we can recognize if there's any changes, and then
3 be able to transfer him over to the hospital, and give
4 them our field impression of what's going on in the
5 field, because they're not able to see it.

6 Q And you had said that you asked him questions about
7 time and place and things like that.

8 A Yes, sir.

9 Q Did you also ask him who hurt him?

10 A Yes, sir, I did.

11 Q And what was his response?

12 A His response when -- and --

13 Q And was that -- first of all, was that you asking
14 him that, or was -- was --

15 A Yes, I did.

16 Q Okay.

17 A I had asked how it had happened, I believe. Let me
18 look in here. And asked him who hurt him. And he said
19 -- and he stated, *Daddy*. I asked his dad's name, and he
20 wasn't able to -- he wasn't able to tell me, which is --
21 is probably normal. I've got a four-and-a-half-year-old
22 myself right now. So, at two, he probably wouldn't have
23 known my name either, so.

24 MR. STONE: Right. I gotcha. All right. Thank
25 you. Please answer any questions the Defense might

1 have.

2 A Okay.

3 MR. STONE: Thank you.

4 DANNY TINNEL

5 CROSS-EXAMINATION, BY MR. MCGUIRE:

6 Q Good morning, Danny.

7 A Hey there.

8 Q When you -- when you guys first got **John Doe 2**, he
9 was non-responsive, except as to pain, correct?

10 A I'm sorry? I --

11 Q He was listed as non-responsive, except as to pain?

12 A I -- I think it was verbal.

13 Q He was responsive to verbal questions?

14 A That's correct.

15 Q Did you fill out any report? Do you have your
16 reports with you?

17 A Yes, I do.

18 Q Can I take a look.

19 A Okay.

20 Q Just tell the Judge what that phrase means: *non-*
21 *responsive, except as to pain.*

22 A That would mean that, if I had to go up to somebody
23 and shake them, or if I had to pinch them, or do
24 something to make their eyes open up, other than being
25 verbally responsive.

1 THE COURT: Mr. McGuire, did you take his only copy
2 of his run report?

3 A Yes.

4 MR. MCGUIRE: I may have.

5 THE COURT: Okay. Okay. Let's give him another
6 copy of his run report. Okay? If you need -- if you
7 need that. I understand you want to check to see it's
8 the same thing.

9 MR. MCGUIRE: Sure.

10 THE COURT: But let's make sure that he has another
11 copy of his run report. Thank you. I appreciate it,
12 Ms. Orsen.

13 A That's okay. Here you go.

14 THE COURT: Okay.

15 BY MR. MCGUIRE:

16 Q Would you agree that **John Doe 2** had an altered mental
17 status?

18 A I -- I would agree that he had to be verbally
19 challenged at times to respond to us. But I -- when
20 asked questions, he would respond as you would expect a
21 two-year-old to.

22 Q And he was able to answer all your questions?

23 A Most of them. Like I said, I -- when I asked him
24 who his daddy was, he wasn't able to answer that. But
25 most questions that I asked, he was able to answer, or

1 he was able to give me an indication.

2 Q And what were those questions?

3 A Well, when I asked him what happened to him --
4 let's see here -- what I was doing -- I guess it really
5 wasn't questions. It was more statements. I was coming
6 up here, and I was talking about what we would do in the
7 emergency room. I didn't want him to be very excited,
8 because I knew he -- he had been through quite a bit.
9 And he said, *Okay*, he understood...

10 And I said:

11 *This is what the doctors are going*
12 *to do. There's going to be a lot of*
13 *people around you when they get here.*

14 And he would -- he would respond back to where he
15 acknowledged that he understood what I was trying to
16 tell him.

17 Q I'm going to have to have the court reporter mark
18 this as -- I guess we can mark it as Defense 1 for this
19 hearing.

20 DOCUMENT REFERRED TO AS EMS

21 REPORT OF DANNY TINNEL MARKED

22 DEFENDANT'S EXHIBIT NUMBER 1,

23 ADMITTED AS EVIDENCE.

24 Q Danny, I'm going to show you what's been marked as
25 Defense Number 1 for this hearing.

1 A Okay.

2 Q And do you have another copy of that?

3 A Yes, I do. I have one here.

4 Q If you could go ahead and look at your copy.

5 A Okay.

6 Q And I guess about maybe seven lines down, it says:

7 *Patient was responsive to pain only.*

8 *At the time, we did see injury --*

9 A Okay. Yeah, I see that.

10 Q Does that jog your memory a little bit?

11 A Yeah.

12 *The patient was responsive to*

13 *pain only. At the time, we did see*

14 *injury to his left upper and behind*

15 *there. We dressed the area with*

16 *an occlusive wound bandage. It wasn't*

17 *actively bleeding.*

18 Yeah, I understand. I see that.

19 Q Okay. So, he wasn't verbally responsive initially;
20 was he?

21 A No, but while in route to the E.R., the patient did
22 become verbal.

23 Q Sure. And that would be typical, because when you
24 deliver a bolus of fluids, people's blood pressure comes
25 up. They kind of come out of it a little bit, right?

1 A I don't think that was before they got the -- I'll
2 have to look and see. Right. That:

3 We did give him a bolus. While
4 in route to the E.R., he became
5 verbal.

6 So, yes.

7 Q And again, responsive to pain only means that you
8 talk to somebody, and you can't get their attention, you
9 have to actually physically touch them.

10 A Right.

11 Q Either kind of shake them or tap them --

12 A Um-hmm.

13 Q -- or something like that. It doesn't mean that
14 you're actually inflicting pain on somebody.

15 A That's correct.

16 Q It just means physical touch.

17 A That's right. We're just trying to stimulate them.

18 Q And that was the condition **John Doe 2** was in
19 initially.

20 A That's right. According to this, that's correct.
21 And when -- he was responsive to pain only at the time.
22 And then, once we got an I.V. started on him, which he
23 responded to pain, that's was the pain that he responded
24 to. We started an I.V. on him; he screamed and cried.

25 Q Okay. And the identity of who may have shot him

1 doesn't change his medical wounds; does it?

2 A Not that I'm aware of.

3 Q Right. That would have nothing to do with the
4 extent of his injuries or his treatment and care?

5 A No.

6 Q And in fact, when you're asking -- when you have a
7 situation where it looks like foul play might be
8 involved, a child with a deliberate injury or maybe an
9 elderly person, or, really any person where it looks
10 like something wrong could have happened to them, part
11 of your job is to gather a threshold amount of
12 information to turn it over to the E.R. physician.

13 A Right. What we do is -- I mean, it's the same
14 assessment that you would do just about with any -- like
15 I said, the who, what, where, when, and why of the
16 situation.

17 Q Sure. But it's not used for medical treatment.

18 A Yeah, you would definitely use that for medical
19 treatment. The who, what, where, when, and why would
20 determine --

21 Q Oh, sure, sure, sure. To see if somebody is
22 orientated.

23 A Right.

24 Q But again, --

25 A Again, --

1 Q -- the type of bandage you would apply to **John Doe 2**
2 to stop bleeding, that decision's not going to change
3 based on who he says hurt him.

4 A Based on what? I'm sorry?

5 Q Based on who he says hurt him.

6 A No.

7 Q And based on who he said hurt him--wouldn't change
8 the fluids you gave him.

9 A No.

10 Q Or any of the medical decisions you made in that
11 ambulance.

12 A No.

13 Q And the purposes of getting this information from
14 **John Doe 2** is to turn over some information as to
15 causation or what happened, to the E.R. physician.

16 A I'd say the purpose that we were going after was to
17 determine his level of consciousness and to determine
18 his cognitive thought process, especially with the
19 possibility of a gunshot wound to the head.

20 Q Well, now, part of your training includes an
21 obligation. You're trained.

22 A Um-hmm.

23 Q And you have an obligation to try to investigate
24 the cause of some of these wounds, so you can turn over
25 some information to the E.R. physician, correct?

1 A What I'm trained to do is just go ahead and assess
2 them as best we can. During our assessment, if we
3 happen to see something that we -- would strike us as
4 being odd or unusual, we're required to turn that over
5 to a physician. But we don't -- I'm not an
6 investigator, so I wouldn't be investigating.

7 And I think we talked about this before. It's not
8 something that we do. We don't have the skills to be an
9 investigator. All I can do is make an assumpt -- make a
10 assessment. If things are talked about during that
11 assessment or whatever, and it leads us to think that
12 foul play could be a part of it, then we just turn that
13 over to the physicians and let them deal with Social
14 Services or whatever level they deem that necessary.

15 Q Let me ask you this. When you're asking **John Doe 2**
16 who hurt him, --

17 A Um-hmm.

18 Q -- you're in a position of -- you're in the back of
19 the ambulance.

20 A Correct.

21 Q The ambulance is far away from the incident
22 location.

23 A It's between the incident location and the
24 hospital, correct.

25 Q Sure, and that's a couple miles.

1 A I guess. I -- I wasn't looking outside when I
2 asked him the questions, so.
3 Q Okay. But you're not at the incident location.
4 A No.
5 Q And you're not a couple blocks away from the
6 incident location.
7 A I would not think so. I don't know for sure.
8 Q Okay. You're in route to the E.R.
9 A Right.
10 Q And the -- that's the hospital.
11 A Um-hmm.
12 COURT REPORTER: Yes?
13 A Yes, ma'am.
14 THE COURT: Thank you, Wanda.
15 A Sorry.
16 Q And you -- you weren't asking him these questions
17 about who hurt him to try to launch a search for a
18 perpetrator.
19 A No.
20 Q Or to make sure a perpetrator's not lurking around
21 the outside of your ambulance.
22 A No.
23 Q And you didn't get on the radio or tell the driver
24 to get on the radio to tell the police anything about
25 the identity of the perpetrator.

1 A That's correct.

2 Q You kept this information to yourself until you got
3 to the hospital.

4 A That's correct.

5 Q And it wasn't used at any time while you were in
6 route to the hospital to try to help anybody catch the
7 perpetrator.

8 A Not that I'm aware of, no.

9 Q Right. And again, the identity of who inflicted
10 these wounds would have nothing to do with your medical
11 treatment.

12 A Not the who, no, they would not. The how, but not
13 the who.

14 Q Sure. Right. And not to sound too confusing, but
15 the who doesn't really effect the how in this case.

16 A I guess not.

17 Q Can you think of any reason?

18 A I mean, I -- I don't exactly know what you're
19 trying to say.

20 Q Well, a gunshot wound's going to be the same, no
21 matter who did it.

22 A Right. If we know that it's a gunshot wound.
23 That's -- that was the whole premise behind asking the
24 questions, is to find out if they knew what happened,
25 who, how it happened, who did it. That would make a

1 difference.

2 Q How?

3 A Well, if he did it to himself, then it would be
4 self-inflicted. It would probably have a very short
5 range of travel, and we would know that he didn't shoot
6 himself with a stray something from a -- a shotgun blast
7 or something. Or I -- but if it was done by somebody
8 else, then -- then we need to know more information on
9 it.

10 Q Like what?

11 A What kind of gun it was; what kind of weapon it
12 was. Was it a gun? Was it, you know -- there's all
13 kinds of things. Because you're trying to figure out,
14 when you're in a medical setting, and you're in the back
15 of an ambulance, and you have somebody that has an
16 injury, we're trying to figure out -- all we see is a
17 little hole, and we need to know where that little
18 hole's going.

19 So, the questions that we're asking are -- and
20 we're asking this to a two-year-old -- are trying to get
21 some kind of idea of what happened here; how did this
22 happen; and who did this. The who helps -- helps give
23 us some reference point of, you know, if he said I
24 slipped on a -- on the floor and stuck my -- and I fell
25 on a nail, then I can understand, well, we have a small

1 little problem to deal with. But if somebody shot him,
2 that would make a big difference.

3 Q Okay. Well, let's --

4 A The who -- the who shot him, I guess, would not
5 make any difference. The actually who shot him would
6 not.. The he was shot would make a difference. I think
7 we're just dealing with word play here.

8 Q Well, I can see where, if it was self-inflicted,
9 that might be relevant.

10 A Right.

11 Q But once you salvage it's not self-inflicted, and
12 it's just some other person, the exact identity doesn't
13 really matter.

14 A Doesn't -- doesn't matter to me.

15 Q Right. At all, with regard to medical treatment.

16 A No.

17 Q Okay. Were you able to get a response from
18 **John Doe 2** as to what kind of gun it was?

19 A No.

20 Q Pistol? Rifle?

21 A He wasn't able to -- I don't even think that
22 specific question was asked. I don't have any
23 documentation where I asked him that.

24 Q Did you ask is the gun still there?

25 A No. I don't have anything where that was done.

1 Q So, with regard to the shooting, you didn't really
2 ask a lot of questions about --

3 A No. Absolutely not.

4 Q -- the kind of gun.

5 A Hmm-um.

6 Q The location of the gun?

7 A No.

8 Q Who owned the gun?

9 A No.

10 Q Where it came from?

11 A No.

12 MR. MCGUIRE: Okay. If I could have just a
13 second.

14 THE COURT: Sure.

15 BY MR. MCGUIRE:

16 Q When you asked **John Doe 2** -- you asked him who his
17 daddy was, right? What was his dad's name.

18 A Yeah. I think that's right. I asked him his dad's
19 name, and he couldn't answer.

20 Q When you say he couldn't answer, is he just silent,
21 looking at you?

22 A I don't think he knew the answer. You know, *Who's*
23 *daddy*. He goes, *Daddy*. I mean, he didn't --

24 Q I mean, did he say daddy again? Did he say I don't
25 know.

1 A I don't have that specific -- I wasn't -- like I
2 said, there was a lot going on in the back of that
3 ambulance. So, I don't know specifically how the exact
4 verbiage went syllable by syllable.

5 Q Okay. So, you could have said who's your daddy or
6 what's your daddy's name; he could have just been
7 silent, looking at you.

8 A Could have. I mean, I -- I don't know. I mean, I
9 don't have any way of telling you that.

10 Q You have no recollection of that.

11 A Hmm-um.

12 COURT REPORTER: Is that no?

13 THE COURT: Is that a no, for the record?

14 A No.

15 THE COURT: Thank you.

16 A I'm sorry.

17 THE COURT: That's all right.

18 MR. MCGUIRE: I think that's all I have. Thank
19 you, sir.

20 BY THE COURT:

21 MR. STONE: Nothing else, Your Honor.

22 THE COURT: You may step down. We're going to
23 take a real short break, if you don't mind. I believe
24 you're going to call Ms. Orsen back there.

25 MR. STONE: I'm not. I'm not going to call any

1 further witnesses. I think we've covered all the issues
2 for this particular hearing and on this particular --
3 the scope of this case.

4 MR. MCGUIRE: I'll call Orsen.

5 MR. STONE: That's fine. Welcome to it.

6 THE COURT: Okay.

7 MR. STONE: I'm a little suspect on this, however,
8 your Honor. I think we outlined the issues yesterday.
9 I think the Defense knows this. I think this is a
10 deposition. And I think the purpose behind the Defense
11 calling these witnesses is to get information out that
12 doesn't have a whole lot to do with what the issue
13 before the Court is.

14 THE COURT: Well, --

15 MR. STONE: I'm not going to perpetuate it by
16 calling him, but if he wants to call him, he can, but.

17 THE COURT: Okay. Do you have the *Michigan* case?
18 Have you read this case?

19 MR. STONE: I have.

20 MR. MCGUIRE: No.

21 THE COURT: Okay.

22 MR. STONE: *Michigan versus Bryant*?

23 THE COURT: Yes.

24 MR. STONE: Yes, ma'am.

25 THE COURT: Just making sure. The idea is whether

1 or not this is testimony or non-testimonial information.

2 MR. STONE: That's correct.

3 THE COURT: Okay. I just want to make sure we're
4 all clear on that. Okay. All right. We'll take a
5 quick break.

6 OFF THE RECORD 11:31 A.M.

7 BACK ON THE RECORD 11:37 A.M.

8 BY THE COURT:

9 THE COURT: All right. You're going to call the
10 next witness?

11 MR. MCGUIRE: Yes, ma'am.

12 THE COURT: Okay.

13 MR. MCGUIRE: The Defense calls Shayna Orsen.

14 THE COURT: Ms. Orsen, come on forward. And I know
15 you gave away your copy of -- is it the same run sheet?

16 MS. ORSEN: Yes, ma'am.

17 THE COURT: Do you need it back?

18 MS. ORSEN: I would -- I would like.

19 THE COURT: Someone hand it over. Thank you.

20 MADAM CLERK: Would you place your left hand on the
21 Bible and raise your right hand for me, please. Do you
22 solemnly swear to truthfully answer all the questions
23 asked of you by this Court, so help you God?

24 MS. ORSEN: Yes.

25 MADAM CLERK: Please be seated. State your name,

1 and spell it for the court reporter, please.

2 MS. ORSEN: My name is Shayna Orsen, S/h/a/y/n/a,
3 O/r/s/e/n.

4 SHAYNA ORSEN

5 DIRECT EXAMINATION, BY MR. MCGUIRE:

-6 Q Good morning, Ms. Orsen.

7 A Hi.

-8 Q You were also in the back of the ambulance with
9 Danny.

10 A Yes, sir.

11 Q And worked on **John Doe 2** .

12 A Yes, sir.

13 Q And I think he actually was doing most of the
14 talking to **John Doe 2** , and you were doing most of the
15 medical treatment.

16 A Yes, sir.

17 Q You were getting the bandage on the chest -- the
18 torso wound.

19 A Yes, sir.

20 Q And that was your main focus.

21 A At that time, yes.

22 Q But you could hear a little bit of what's going on.

23 THE COURT: Is that a yes, for the record?

24 A Yes. I picked up a little bit of it as I was doing
25 what I needed to do, so, yes.

1 Q Okay. And just like Danny had to do, answer yes or
2 no, so she can say yes or no. Okay?

3 One of the questions you heard Danny asked was
4 something to the effect of who had done this to

5 **John Doe 2.**

6 A Yes.

7 Q Okay. Of course, you didn't know his name was
8 **John Doe 2** at the time.

9 A No.

10 Q And what was **John Doe 2** -- you know him now to be
11 **John Doe 2**.

12 A Yes.

13 Q What was his response to Danny's question?

14 A About?

15 Q Who hurt him.

16 A He mumbled something that was similar to *Daddy*.

17 Q Okay. And would you say that -- you heard the
18 testimony about **John Doe 2** was responsive only to pain.

19 A Initially, yes.

20 Q Okay. And you were the one that first got
21 **John Doe 2**, with regard to you and Danny. You were the
22 first -- when you were on the scene, you're the one who
23 scooped **John Doe 2** up from the trailer and got him to the
24 ambulance.

25 A Yes.

1 Q Okay. And at that time, -- initially, he was
2 initially responsive only to pain.

3 A Yes.

4 Q And again, just for the record, that's, you have to
5 physically touch him or shake him to get his attention.

6 A Yes.

7 Q That he won't respond just to a verbal question.

8 A Yes.

9 Q Okay. But he became a little bit more responsive
10 as the ambulance ride progressed.

11 A Yes.

12 Q That was after a bolus of fluids.

13 A Yes.

14 Q Okay. And that's when you heard some pieces of
15 Danny talking to **John Doe 2** .

16 A Yes.

17 Q And in response to the question, *Who hurt you*, he
18 mumbled something like *Daddy*.

19 A Yes.

20 Q Okay. And then, Danny also asked the child what
21 his name was.

22 A Yes.

23 Q And what did you hear?

24 A It sounded like he said Doug.

25 Q Doug? D/o/u/g?

1 A Yes.

2 Q And was -- and Danny continued to ask more

3 questions.

4 A Yes.

5 Q And were you able to hear those questions?

6 A After the question of *who did this to you*, and the

7 child's answer, I focused on treatment. Danny continued

8 to do his end of the deal, and I continued with my end,

9 the treatment.

10 Q So, you tuned out a little bit more on what they

11 were --

12 A Yes.

13 Q -- the questions and whether there are answers or

14 not.

15 A Yes.

16 Q If I ask you, do you specifically remember **John Doe 2**

17 giving any more verbal answers, what would your answer

18 be?

19 A I can't recall.

20 Q Okay. He may have not been able to answer; he may

21 not have answered; you just don't know.

22 A I don't know.

23 Q Okay.

24 A I -- I wasn't paying attention to that at that

25 point.

1 Q Okay. Fair enough. With regard to some of these
2 questions, like, *Who hurt you, what's your name,*
3 sometimes the answers don't matter, but just the ability
4 of the person communicating tells you something about
5 their physical condition.

6 A Yes.

7 Q For instance, if I was a paramedic, and I asked
8 somebody are you okay, they might say, I'm okay. I know
9 that's not true, but just them talking is important to
10 me.

11 A Yes.

12 Q I'm not trusting their medical judgment, with
13 regard to their injuries; I'm not trusting that they
14 are, in fact, okay; but I needed just to hear something
15 from them.

16 A Right.

17 Q And sometimes when you ask people questions like,
18 you know, who did this or what's your name, it's the --
19 the importance of the information is they're able to
20 look at you and speak.

21 A Yes.

22 Q And some of these answers were taken in that
23 context.

24 A Yes.

25 MR. MCGUIRE: That's all I have. Thank you.

1 SHAYNA ORSEN

2 CROSS-EXAMINATION BY MR. STONE:

3 Q Just very briefly, you were in here, obviously,
4 earlier when we talked to Danny Tinnel, right?

5 A Yes, sir.

6 Q That's correct? And he -- and he was describing
7 the situation as is you guys are talking to **John Doe 2**,
8 trying to gather information; you were assessing him for
9 medical purposes, basically. Is that correct?

10 A Yes.

11 Q And this is something that you do on a regular
12 basis with pretty much all your patients, but in
13 particular, pediatric patients. Is that right?

14 A Yes, sir.

15 Q I'm assuming from that, and perhaps I should not
16 have assumed that, but the purpose behind you asking
17 these questions is not for use as testimony later on at
18 trial; is it?

19 A No, sir.

20 Q Okay. This is just the assessment that you are
21 making, and a part of your, really, dealing with this
22 ongoing emergency.

23 A Yes.

24 Q Now, when you got to the scene, you get to -- you
25 actually are the one to go inside. You go inside and

1 get **John Doe 2** . Is that correct?

2 A Yes.

3 Q Where is that?

4 A Right inside the -- the front door of the trailer.

5 Q Okay. Who do you get **John Doe 2** from?

6 A From Paramedic Sampson.

7 Q Okay. And Sampson was the one -- he was the first

8 one on the scene, or one of the earlier ones on the

9 scene, --

10 A Yes, sir.

11 Q -- and you were dealing with him when you got

12 there?

13 A Yes, sir.

14 Q And that's in that front room?

15 A Yes, sir.

16 Q Okay. At that point, you're able to get him. And

17 then, you are the one that takes him back out to the

18 ambulance. Is that correct?

19 A Yes, sir.

20 Q And I say *him*, but I'm talking about **John Doe 2** .

21 A Yes, sir.

22 Q And at that point in time, you and Tinnel are all

23 in the ambulance, and everything transpires with you on

24 the way to the hospital. Is that correct?

25 A Yes, sir.

1 Q Okay. The condition of **John Doe 2** when you go and
2 you get him out of the house, what condition is he in?
3 A He was unresponsive to any stimuli.
4 Q Okay. And from the standpoint of physically, what
5 are you observing physically on him?
6 A I physically observed, as we were disrobing him
7 inside the house, was he had a what appeared to be an
8 entry wound to the right, about fifth, mid-axillary
9 space.
10 Q All right. You're pointing to what I would call
11 your right rib cage.
12 A Yes.
13 Q Is that correct? Okay. All right.
14 A And then, once we saw that that was there, and we
15 didn't find anything else major, I figured easier to
16 just go ahead and pick him up and carry him out to the
17 ambulance.
18 Q And you began the treatment once you actually get
19 him in the ambulance.
20 A Yes, sir.
21 MR. STONE: Okay. Thank you, your Honor.
22 BY THE COURT:
23 THE COURT: Follow-up?
24 MR. MCGUIRE: No. No, ma'am.
25 THE COURT: Any objection to these two --

1 MR. MCGUIRE: No objection.

2 THE COURT: Thank you. You all are excused. Thank

3 you. Anything else on this issue?

4 MR. STONE: Nothing from the State, your Honor.

5 THE COURT: Okay. Brief argument?

6 MR. MCGUIRE: Sure.

7 THE COURT: That's what I said, brief. You said

8 short, right? Not sure? Or short?

9 MR. MCGUIRE: I said sure, but it'll be short.

10 THE COURT: Okay. All right. Whenever you're

11 ready.

12 ARGUMENT ON BEHALF OF

13 DEFENSE BY MR. MCGUIRE:

14 MR. MCGUIRE: You know, Judge, I was looking for,

15 you know, case law that would support our position last

16 night, and we have the unique issue of the 28-month-old,

17 who is in a -- sort of an emergency-type situation. I

18 can't find -- I just really can't find anything that

19 would be, really, sort of on point to support our

20 position. And I think the, you know, the basics of

21 *Crawford* are out there. Is it testimony? Is it not?

22 You know, you have to take into the account the 28-

23 month-old age, I think, because, obviously, most

24 *Crawford* situations involve somebody, an adult, --

25 THE COURT: Right.

1 MR. MCGUIRE: -- giving some sort of statement to
2 get somebody in trouble or arrested. And then,
3 they're --

4 THE COURT: You're not going to have an opportunity
5 to cross-exam. And you're, you know, inherently, with
6 the adult, and --

7 MR. MCGUIRE: Sure.

8 THE COURT: -- you don't have that with a 28-month-
9 old.

10 MR. MCGUIRE: Right. And I was trying to find some
11 support that we could -- we could try to lend *Crawford* a
12 little bit stronger to our situation. I was unable -- I
13 was unsuccessful. But the Court's aware of the *Crawford*
14 issues, so, I would just -- I'll just rest on that.

15 THE COURT: I'll also just put on the record, just
16 very briefly, too, I know at issue in this case,
17 obviously, **John Doe 2** is your client's son.

18 MR. MCGUIRE: Yes.

19 THE COURT: And again, there are issues in this
20 case about whether or not your client would want to have
21 to have his son testify in the trial of this case, and I
22 know there have been some issues as to that point. Does
23 that affect your position or what, in fact, that you do
24 need to do, as far as from his portion of this case?

25 MR. MCGUIRE: My position is, you know, for the

1 record, --

2 THE COURT: Right.

3 MR. MCGUIRE: -- I'm -- I will object to any -- to
4 the statements coming in --

5 THE COURT: Right.

6 MR. MCGUIRE: -- pursuant to *Crawford*.

7 THE COURT: Okay. All right. Solicitor.

8 ARGUMENT ON BEHALF OF THE

9 STATE BY MR. STONE:

10 MR. STONE: Yes, ma'am. The determination before
11 you, then, is, under the *Crawford* -- under the *Crawford*
12 case, really is highlighted, I think, very well in
13 *Michigan versus Bryant*. It is an objective standard,
14 which I think is also very relevant, because I didn't --
15 quite frankly, the first five or six times I read this,
16 I didn't even pick that up. But what that means is that
17 you look at individual factors and how a reasonable
18 person would perceive those, and what you would then
19 make the determination about whether or not the purpose
20 behind asking these questions was for testimony at
21 trial, making it testimonial or for some other reason.

22 And in the case of *Michigan versus Bryant*, the
23 primary purpose was to meet an ongoing emergency.
24 You've got a police officer, which I think is relevant
25 in itself, in *Michigan versus Bryant*, asking a bleeding

1 person who did this, where did it happen, when did it
2 happen.. And that was deemed to be non-testimonial.

3 And I think if you look at the factors in *Michigan*
4 *versus Bryant* -- and I'll be very brief about this, but
5 I do want to cover this. If you look at the factors to
6 determine either testimonial versus non-testimonial,
7 number one, formality. If it's a formal setting, if
8 it's a police station, then, that's testimonial, much
9 more so than in this case, in the back of a chaotic,
10 very fast-moving ambulance.

11 Is there an ongoing emergency? I think it's clear,
12 not only from the testimony today, but your Honor, we
13 had a lot of testimony yesterday concerning when the
14 shooter was arrested and various things like this,
15 clearly, it's an ongoing emergency. The emergency
16 certainly hasn't ended by the time EMS gets the child
17 out of the house while the child is still bleeding.

18 Whether or not there is -- what type of weapon is
19 involved, it actually ended up being an issue, too, in
20 *Michigan versus Bryant*. They compared that to an
21 earlier Supreme Court decision, where they said a fist
22 at play was not nearly as threatening, and it wasn't
23 that ongoing emergency as a gun, which is what you have
24 in this case.

25 And I think probably what the Defense is now, at

1 this point, conceded is, there's also an issue as to
2 what condition the victim was in. And when the victim
3 is answering these questions, is the victim thinking I
4 am giving testimony to be used at trial? And not even
5 considering the fact that we're dealing with somebody --
6 a child between two, two-and-a-half to three years old,
7 you still have somebody in a very severe medical
8 condition.

9 And I will tell you, I did not put this up. I
10 would have had to call doctors from not only the
11 emergency room, but also the Medical University of South
12 Carolina. The child was taken to Beaufort Memorial
13 Hospital. Was then taken to Charleston, at MUSC. He
14 was operated on. Obviously, it was a very critical
15 condition, and we didn't get into that. I don't believe
16 that's at issue. That, in itself, also goes to the fact
17 of determining not just what the purpose behind the
18 interrogator was, as *Michigan versus Bryant* said, but
19 also, the person answering the question. And in this
20 case, you have somebody who is severely injured
21 answering the question. And as *Michigan versus Bryant*
22 says, I think this is on Page 15:

23 *There may be situations in which*
24 *the victim is so severely injured that*
25 *the response has no purpose whatsoever,*

1 other than reflection.

2 And I think that's exactly what you have in this
3 case.

4 Thank you.

5 BY THE COURT:

6 THE COURT: All right. Well, I would agree with
7 Mr. McGuire. I don't think that what Crawford is
8 projecting is at issue here. It's a 28-month-old.
9 Additionally, I think it was non-testimonial. I think
10 the paramedics were doing what they needed to do in an
11 emergency situation, and continuing. And certainly, as
12 they said, it wasn't to elicit testimony for a later
13 prosecution or a trial, it was simply to treat this boy.

14 And again, I think there were still issues at the
15 time, but they weren't quite sure what they were dealing
16 with. I think I heard something about the head injury,
17 but I'm not so sure if there really was one now that I
18 heard the testimony, partially; that they were working
19 with competing things, so.

20 Anyway, respectfully, I do think, again, it's non-
21 testimonial, and I'm going to let it in. What else do
22 we have to do, you all?

23 MR. STONE: I believe we've covered everything
24 else. I know there were some issues that the Defense
25 had that they said was for later on, but I don't think

1 later on was today. It was something for later on.

2 I have these exhibits here, and I -- no reason --
3 you're welcome to stay, but I mean, at some point, --

4 THE COURT: No, thank you.

5 MR. STONE: -- I'm just going to let them go over
6 them just to determine if we have any objection on that,
7 which I think we could probably address later, as well.

8 THE COURT: Just give me one second, you all. I
9 also want to talk just a little bit about some
10 deadlines. Not deadlines, but just when we can expect
11 some things, so we know what we're doing.

12 Okay. Just a couple of topics, and these are just
13 very random. And I just want your all's thoughts and
14 just kind of put them out there. To begin with,
15 Solicitor Stone, you and Mr. Thornton, I am going to
16 leave it to you to speak with the victims' family, in
17 regards to -- one of the motions we had yesterday was no
18 undue emotional outburst. It had been suggested by our
19 sheriff, and I thought it was a good suggestion,
20 although, we just don't have the space here to do
21 something like a closed-circuit type of, you know, T.V.,
22 so, if someone felt like they were going to be
23 emotional, we wouldn't have that as a problem.

24 I can tell you that with space here in this
25 courthouse, you know, we are always fighting to have an

STATE OF SOUTH CAROLINA
14TH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT
COURT OF GENERAL SESSIONS
CASE NO'S. 2009-GS-07-02594, 2009-GS-07-02595
2009-GS-07-02636, 2009-GS-07-02637, 2009-GS-07-02639

STATE OF SOUTH CAROLINA

PLAINTIFF

VERSUS

MONDAY, OCTOBER 7, 2013

TRANSCRIPT OF PRETRIAL HEARING

BEAUFORT, SOUTH CAROLINA

EARNEST S. DAISE

DEFENDANT

B E F O R E:

HON. CARMEN T. MULLEN, JUDGE

WANDA H. ROWE, CVR-M
OFFICIAL COURT REPORTER

1 THE COURT: Oh, okay.

2 MR. MCGUIRE: I had to have the court date on the
3 subpoena to have some sort of court date, some kind of
4 final date.

5 THE COURT: All right.

6 MOTION TO QUASH SUBPOENA

7 BY MS. CLIFFORD:

8 MS. CLIFFORD: Thank you, your Honor. And I don't
9 -- don't want to make it sound -- just to clarify, we're
10 not here just to be here. Obviously, in a criminal
11 case, you can't use a subpoena *dúces tecum* except to
12 have somebody come to court with documents being sought.

13 We filed -- we served on -- on all parties, and we
14 sent your law clerk a copy of our motion to quash on
15 Friday. We filed the original this morning and gave
16 filed copies to the Defense and to the Prosecution, as
17 well as -- as your law clerk this morning.

18 The Defense is -- is seeking -- and if I may, I do
19 want to read the body of the -- the subpoena:

20 *All documents regarding jury*
21 *selection, including but not limited*
22 *to training documents, training agendas,*
23 *manuals, policy statements, or*
24 *-- excuse me --*
25 *advisements, correspondence with current*

1 or former prosecutors and circuit court
2 judges.

3 It's a very wide-open -- part of what we do at the
4 prosecution commission is training for prosecutors, and
5 that -- and that's a large part of my -- my job
6 responsibilities there.

7 I talked to Mr. McGuire. The subpoena is not
8 limited in scope in any way. It seeks materials that we
9 have put together, some of which we have prepared
10 internally, a lot of which other people have prepared, a
11 lot of which is copyrighted by other people, but we've
12 used by permission. So, there are proprietary interests
13 in the materials, both from the prosecution standpoint,
14 as well as the individual authors.

15 But our primary reason for the motion to quash is
16 relevancy. Under South Carolina law, the statutes, the
17 constitution, the court rules, and the case law, while a
18 defendant is entitled to subpoena witnesses to court,
19 and, by analogy, I would argue evidence, it has to be
20 material and relevant. In this case, according to the
21 emails that I was given by Mr. McGuire sent, he states a
22 relevancy is because they establish as a matter of fact
23 that the 14th Circuit Solicitor's Office uses their
24 peremptory strikes in a racially discriminatory manner.
25 And so, they -- for some reason, that's their reason for

1 thinking that this information is -- is relevant.

2 We would argue that it's not relevant. It might
3 be, arguably, if this were a post-conviction relief
4 matter or collateral attack upon a conviction, and there
5 had already been a finding that the Solicitors had used
6 their jury strikes improperly, but there hasn't been.
7 We're not fact witnesses to any facts in this case
8 giving rise to the criminal charges.

9 I will say, although our computer search revealed
10 no emails relating to prosecutors or judges seeking
11 advice from us, and us responding to that about jury
12 service, we have had email correspondence related to
13 training, training materials, and proposed legislation
14 dealing with jury selection. But our position is that
15 our emails between the solicitors and their staff and
16 our office would be considered attorney work product,
17 if, in fact, they have been asking us for advice. So,
18 we think that's protected by privilege, as well.

19 Your Honor, I will tell you, we have responded
20 previously to a FOYA request by another prosecutor --
21 excuse me -- another defense lawyer in a collateral
22 attack case. It was much more limited in scope. We did
23 that. This took a substantial amount of time, not only
24 by myself, but also Mark Rapoport, another attorney in
25 my office. We actually have another attorney back in

1 the office now, finishing up, because one of the
2 requests was agendas. So, we're having to pull agendas,
3 and it's not that -- it sounds like it would be easy to
4 pull this stuff together; it's really not that easy.
5 It's taken a substantial amount of time, consumed a good
6 bit of our resources. The papers that we have right now
7 total over 1,020 pages.

8 We would ask, based upon the existing state law in
9 this case, that you quash the subpoena on the grounds
10 that it's irrelevant and infringes upon attorney work
11 product; and also that it violates other interests in
12 the materials being sought.

13 THE COURT: Mr. McGuire.

14 MR. MCGUIRE: Thank you, your Honor. I'll address
15 relevance first. Of course, your Honor received
16 testimony from an expert witness, Jeffrey Martin, from
17 Atlanta, who is a statistician. And he testified that,
18 statistically, black folks were being struck at a
19 statistically significantly higher rate than white folks
20 in this county. And it's not -- we didn't go do the
21 whole circuit; it was just Beaufort County.

22 And a look at the materials, the raw numbers,
23 indicates, just me looking at it and doing simple math,
24 that a black male was -- had a chance of being struck at
25 a rate of, I think, four-and-a-half times that of a

1 white male. Those are, in my view, shockingly high
2 numbers, and I'm not saying -- I think Mr. Duffy Stone
3 indicated that, in his argument, if you thought he was
4 racist, then, go ahead and take his peremptory strikes.
5 That's sort of a fundamental misunderstanding of the
6 issue.

7 The issue is, is race just a factor? I'm not
8 saying anybody hates black people or is racist. What
9 I'm saying is, I mean, they might have -- he might, in
10 his mind, or his prosecutors might have in mind, that
11 black folks have very endearing characteristics. They
12 are more empathetic to, maybe, a defendant. Maybe they
13 hide the -- hold the State to the reasonable doubt
14 burden maybe a little bit more than a white person. I
15 don't know what they think. All I know is that the --
16 the rate that they're striking black people, there's no
17 way to explain it, based on, well, it's just random;
18 it's just by chance. Race is a factor in this county.

19 Now, we're about to start picking a jury in a
20 couple days. We're going in on the heels of that
21 testimony, and I'm asking for the training materials
22 regarding jury selection for prosecutors. And now we
23 have a motion to quash to keep that material hidden.
24 I'm not sure that's the record the State wants to make
25 it, but I think it is relevant. And the reason I'm

1 asking for agendas -- I mean, I'll tell you that there
2 was a FOYA request by -- the lawyer that Ms. Clifford
3 mentioned is Ms. Betsy Franklin-Best, a criminal defense
4 lawyer in Columbia. I respect her a lot. She got
5 essentially the same materials I'm asking for, for
6 \$350.00. The only thing that's broader in my subpoena
7 was correspondence to prosecutors and judges and
8 agendas. So, I can't imagine that's a huge deal. And
9 I'm asking for agendas, because, based on my own
10 anecdotal experience --

11 THE COURT: What type -- and I apologize. What
12 type of agendas are you all talking about?

13 MR. MCGUIRE: Training. The CLEs, trainings.

14 THE COURT: The agenda for a CLE.

15 MR. MCGUIRE: Right.

16 THE COURT: Okay. Okay.

17 MR. MCGUIRE: Right. So, --

18 THE COURT: The pamphlet.

19 MR. MCGUIRE: Right. Because I've been told by two
20 lawyers doing capital work that they've reviewed these
21 materials, and they could be -- you could take them --
22 you could take the view that it looks like some of these
23 materials are a handbook on how to get around *Batson*.

24 Now, I haven't seen the materials. That's why I
25 have put a subpoena on them. And the Court might ask

1 why I didn't I just do a FOYA; they've produced already
2 once by a FOYA. But for me, to frame this as a
3 constitutional issue for my client, I have to do it
4 pursuant to the *Sixth Amendment* compulsory subpoena
5 process, so, it's an appellate issue in the case if it's
6 denied.

7 I think at the very least, the materials need to be
8 produced; at the very least an in-camera review by your
9 Honor to determine what might be relevant, what should
10 be under seal, but have them at least sealed for, if, --
11 you know, if there's -- if there's a conviction and
12 sentence in this case, it's obviously going to go to
13 PCR, and it's obviously going to be subject to civil
14 discovery. And I've already raised the issue, so, you
15 know it's going to be done. It's really just talking
16 about timing. So, it has to be done. It has to be
17 produced some time, whether we're able to use it in
18 arguing, if the -- if the State engages in striking,
19 using their peremptory strikes in this case, and we want
20 to scrutinize them, we do want to put the Court on
21 notice that the training materials are out there that
22 deal with facts and issues. My understanding --

23 THE COURT: You can do it contemporaneously, so you
24 can have a better chance at winning your *Batson* motion,
25 versus having to deal with it, you're saying, on the

1 back end.

2 MR. MCGUIRE: Sure. And what we'll do is, we'll --
3 we'll incorporate, by reference, the expert testimony
4 from Jeffrey Martin. And we want to put in the record
5 the training materials, if they're -- if they support my
6 position that -- I mean, my understanding is there's
7 sort of like a list of these are reasons you can give a
8 judge if you strike somebody. And they don't even have
9 to be plausible; they just have to be pretextual. But
10 these are --

11 THE COURT: But that's the law. I mean.

12 MR. MCGUIRE: Sure, it is. Sure. But, and the
13 reason I'm asking for the -- the training agendas is,
14 sometimes the title will give, you know, sometimes the
15 title of the -- the presentation at an agenda tells you
16 a little bit more about what it is.

17 For instance, my understanding is that Judge Ned
18 Miller gave a presentation at the Solicitor's conference
19 entitled *Stacking the Deck* in giving gang testimony or
20 gang evidence in a criminal case. The *Stacking the Deck*
21 title, I was a little disappointed to hear that that was
22 in there, but, you know, I don't know what kind of title
23 a *Batson* or jury selection training hour might have,
24 but, you know, I want to know how they're being
25 presented.

1 THE COURT: Yes. Ms. Clifford.

2 MS. CLIFFORD: Judge, first I would like to
3 respond, but I do want to address the Judge Miller
4 thing, cause I -- I don't want to have anything hanging
5 out there that puts him in a bad light. He -- he was a
6 co-presenter on a gang presentation that was given that
7 title by the 13th Judicial Circuit, Katrina Salisbury,
8 who was the primary speaker. I will tell you, as an
9 officer of the Court, that Judge Miller did nothing but
10 talk about the law. I -- Ms. Miller [sic] tried to push
11 him into, you know, saying that evidence should come in
12 or could come in, and he wouldn't go that far. So, in
13 no way was he trying to present anything in a way that
14 was slanted towards one party or the other. He was very
15 neutral in his presentation.

16 Your Honor, if I -- if I may. This would be like
17 the solicitors in this case subpoenaing records from the
18 office, the Commission on Indigent Defense, of all the
19 public defender training related to the trial of capital
20 cases, just because at some future point Mr. McGuire and
21 his co-counsel may be found ineffective. So, they want
22 to have the training materials here to make sure that
23 they're doing what they should be doing. He's right.
24 We do do trainings, and we do create materials for those
25 trainings that tell the prosecutors what the law is, so

1 they don't violate *Batson*. So, they know what is a --
2 has been held by the courts to be a race-neutral reason
3 for exercising appropriate challenges, because after
4 all, that's the purpose of training.

5 I will also tell you, I did not think this was
6 covered, and quite honestly, it would have taken much
7 more time than we had. We do, also, do a newsletter,
8 not so much now, with case summaries. And it's purely
9 -- it's not slanted toward the prosecution. It's just
10 summaries of the Appellate Court decisions from the
11 South Carolina Court of Appeals and Supreme Court, and
12 the U.S. --

13 THE COURT: On criminal cases.

14 MS. CLIFFORD: -- and the U.S. Supreme Court. And
15 we don't keep those in a topical index, we've kept them
16 chronologically for the last several years, that we have
17 pieces of them in topical. But there are cases dealing
18 with jury selection. But that's -- we don't necessarily
19 consider that, even though it's educational, it's purely
20 just a recitation. If he wants that, that'll be
21 probably be over a thousand more pages, would take
22 longer to get those.

23 THE COURT: What I don't understand is this. Ms.
24 Clifford, it sounds to me like much of what we're
25 talking about, which would be your summaries, would be

1 your training manuals and your agendas. Those are all
2 public record anyway, I mean, for the most part. I'm
3 assuming you could go -- and correct me if I'm wrong.
4 Can you not go to the website for the solicitor's
5 conference and -- I don't know if that's something that
6 you have to have -- do you have to access to it?

7 MS. CLIFFORD: Yes. Yes. We -- we limit access.
8 For example, this year, the materials from the
9 solicitor's conference were put in my personal dropbox,
10 and people were sent the link to it to get the
11 materials.

12 THE COURT: Okay.

13 MS. CLIFFORD: So, no, we don't -- we don't put
14 things on our website. Things are not generally
15 available. And I would like to point out, Mr. McGuire
16 just said that his subpoena was no broader than the FOYA
17 request. I'm sorry. Let me pull it. The FOYA request
18 is this, and I sent this to him:

19 *Specifically, I request all*
20 *information in your custody, care, or*
21 *control that in any way relates to the*
22 *training and/or educating solicitors*
23 *how to educate [sic] their discretion and*
24 *judgment in striking jurors in criminal*
25 *cases -- how to exercise your discretion*

1 and judgment in striking jurors in
2 criminal cases.

3 This request includes any and all
4 training and educational materials provided
5 to the 9th Circuit Solicitor's Office, and
6 any materials included in the Prosecutor's
7 Deskbook, or created for and included in
8 the Prosecutor's Boot Camp Program.

9 It's much nearer both in scope in terms of type of
10 materials sought, the -- the subject matter of them, and
11 a particular office.

12 Now, we gave them -- we responded a little bit
13 broader, because, quite honestly, that was the first
14 time I had responded to a FOYA request, so I wanted to
15 make sure we didn't violate the law. And FOYA is very
16 different than, you know, the subpoena authority in --
17 in a court of general sessions.

18 Our concern is, here, quite honestly, is it takes a
19 lot of time to create this materials. There's no
20 secret. We don't teach prosecutors, necessarily,
21 strategy; how to identify the best juror for your case.
22 And I -- I don't mind if your Honor wants to review
23 these in chambers to make a determination whether or not
24 they're actually relevant and material, because that's
25 the -- that's the standard.

1 And I would like to bring the Court's attention to
2 the fact that I -- I did find two cases that -- after I
3 filed this motion. One is the *State versus Bo Thompson*,
4 and I have copies for the Court and opposing counsel.
5 It's a capital case from 1982. It's been overrule by
6 *State versus Torrence*, but only for proposition of in
7 favorem vitae review. But in that case, the Defense had
8 subpoenaed the director of the Department of
9 Corrections, a subpoena duces tecum, to bring the
10 electric chair with him to the court, for the sentencing
11 phase. In the trial, Judge quashed that subpoena. The
12 Supreme Court upheld it, and said it's not relevant; the
13 jury has nothing to do with sentencing, so, or -- or the
14 decision on what type of tool is used for the death
15 sentence, so it's irrelevant. The judges properly
16 quashed that subpoena.

17 The other case I found is a really old one. Sorry,
18 I got so much paper here. It's from the 1800s, and it
19 talks about the fact that defendants for material
20 witnesses don't have to pay to have those witnesses --
21 shouldn't have to pay to have those witnesses come to
22 court because of -- here it is -- *J.R. Little versus*
23 *John Todd and D. Goodman, Drury Hall*. The cite is 3
24 *Rich. 91, 37 SCL 91, 1846 Westlaw 2274*, from 1846. It
25 was because of a statute, a law that existed back then.

1 Obviously, well before funding was available for use by
2 public defenders and appointed counsel in these types of
3 cases. And again, but it limits it to material
4 witnesses. I'm not aware of a case, a court rule, or a
5 statute within the constitution itself that doesn't
6 require some showing of both relevancy and materiality
7 before they can get the materials that they sought.

8 And quite honestly, your Honor, again, we do have
9 sort of a proprietary interest with these materials
10 getting out and being distributed, because they could be
11 used by other people for training purposes, and I mean,
12 that sounds like a very petty reason, but we do have
13 people who spend a lot of time creating these materials
14 that allow us to use them. And again, some of them have
15 been previously copyrighted, but we're allowed to use
16 them. And so, they have some interest in this, as well.

17 And, your Honor, I'm sorry. I did bring, in -- in
18 terms of depending upon your -- your Honor's ruling, I
19 have two different versions of the agendas. One is a
20 redacted version that only -- it has the times for the
21 entire program, but only the title and speaker for the
22 jury-selection-related presentation. The other one has
23 everything. But again, if all they're interested in is
24 jury selection, the redacted would do the trick.

25 THE COURT: Okay. So, do you have -- you talked

1 about 1,020 pages, kind of, as a big number, and I see a
2 short stack that you've got there. If we were to limit
3 all of this to, for the most part, your motion in
4 regards to jury selection and your allegation of Mr.
5 Martin stating that, statistically, Beaufort County, the
6 Solicitor's Office, strikes more black men -- or black
7 jurors, I think it was even on top of that, black men,
8 as well, so, we're just talking about, as far as for in-
9 camera review, having to do with jury selection?

10 MS. CLIFFORD: Well, what I have here, and I -- and
11 I hope I put on the record earlier, we have our traffic
12 resource safety prosecutor is back in Columbia,
13 finishing up the printing of his training agendas.

14 THE COURT: Okay.

15 MS. CLIFFORD: Because a lot of them are older and
16 could not be found easily. So, this is what we would
17 have. If you're only going to look at the redacted
18 version of the agendas, this is the stack that we have
19 for you. And then, it comes to --

20 THE COURT: That is strictly to do with jury
21 selection.

22 MS. CLIFFORD: Yes, train -- yes.

23 THE COURT: Okay.

24 MS. CLIFFORD: And it's -- that's 1,022 pages, just
25 this stack right here. Your Honor, we also, you know,

1 we also have asked to have, you know, the mileage
2 covered for coming here; responding to the subpoena; and
3 then, the time spent. And we have -- and I've got an
4 hourly rate. We calculated Mr. Rapoport's time and cost
5 for the work he did, an hour and a quarter, working on
6 the response on October 1 and 4. And then, my time,
7 three hours, working October 1st, 3rd, and 6th. And
8 then, of course, my -- only my time today. We're not
9 counting Mr. Rapoport's time today. And that's not
10 including any time spent on the motion to quash.

11 THE COURT: Okay.

12 MS. CLIFFORD: Or the research for that. That's
13 just literally responding to this and gathering the
14 information. And if your Honor is inclined to grant --
15 deny the motion to quash, we would ask that you instruct
16 opposing counsel that they are not to further distribute
17 this information and these materials, these documents.
18 They should only be used for purposes in this --

19 THE COURT: Do you have some type of
20 confidentiality order? I'm not so sure -- yes, that's
21 not a problem. Okay. Okay.

22 MR. MCGUIRE: Judge, if I could just respond
23 briefly.

24 THE COURT: Please.

25 MR. MCGUIRE: First off, I'm glad to hear that

1 Judge Ned Miller's name's been somewhat cleared. But
2 you can see how -- I mean, that's -- that's sort of a
3 good-faith basis when I'm being told that there are
4 presentations given by the State and Prosecutor's Office
5 that sound a little unfair. You know, *Stacking the Deck*
6 doesn't sound a very fair-play term to me. And I don't
7 know if some other prosecutor's office, in conjunction
8 with Ms. Clifford's office or not, or would use the
9 materials, did a presentation on avoiding *Batson* or any
10 other issue. So, that's why we're asking, you know.

11 I mean, there are cases, and I'm sure your Honor's
12 familiar with the *Miller-El* case that came out of
13 Houston County, I mean, the city of Houston, Harris
14 County, where there was a handbook in a prosecutor's
15 office about how to strike black people and how to avoid
16 *Batson*. It was, you know, described them as being
17 probably more democratic or more liberal. And then,
18 there was sort of a handbook on how to avoid a *Batson*
19 challenge. You know, that does exist.

20 And you know, I believe that race is still a factor
21 in the death penalty. I see it every day, and I see it
22 in jury selection. And you know, I've worked with
23 lawyers in North Carolina on the *Racial Injustice Act* in
24 North Carolina, where a number of cases, death row
25 inmates' sentences, death sentences, were thrown out

1 because race was a factor. And I think the old
2 *McCleskey/Kemp* case where statistics were shown that the
3 race of a victim, a victim being white and a black
4 defendant, made that man, I think it was 600 percent
5 more likely to face the death penalty. These numbers
6 are shocking.

7 THE COURT: Well, we don't have that in this case.

8 MR. MCGUIRE: Well, what -- what we have is
9 statistics showing, you know, beyond any mathematical
10 doubt, that race is a factor.

11 THE COURT: Part of my concern I have with that,
12 though, Mr. McGuire, is we went through this at length
13 with Mr. Martin. And, you know, there certainly were
14 some fallacies in what some of his computing was,
15 clearly, and some things that were taken into account.
16 And again, that's the whole point of *Batson* is to have
17 that immediate review before the jury is sworn, to make
18 sure that there are race-neutral -- I mean, I can't
19 change the law. There's pre-textual reasons for
20 striking someone that's black, and that is currently the
21 state of the law. And again, the decision has to be
22 that they have to be able to tell me what those reasons
23 are.

24 MR. MCGUIRE: And I don't mean to cut the Court
25 off, but --

1 THE COURT: No.

2 MR. MCGUIRE: -- in my research, I couldn't find
3 where there was a *Batson* challenge for three-and-a-half
4 years.

5 THE COURT: I can tell you that you have bad
6 statistics, because I have heard numerous *Batson* motions
7 here in Beaufort County. So, again --

8 MR. MCGUIRE: But it's the only -- the only thing
9 that we had to rely on was the Clerk indicating that, if
10 there was a *Batson* challenge, that it would produce two
11 sheets; and one would be the first sheet; and then, the
12 second sheet would come second. And there was never a
13 case where we found two sheets.

14 THE COURT: That means it was overturned, though.
15 It doesn't mean that there weren't *Batson* motions that
16 weren't heard.

17 MR. MCGUIRE: You're right.

18 THE COURT: And they gave race neutral reasons, and
19 that jury would stay.

20 MR. MCGUIRE: You're right about that. You are
21 right about that.

22 THE COURT: Again.

23 MR. MCGUIRE: And the other -- the other thing is,
24 and I think, well, I think that *Batson* motions are, just
25 talking to lawyers here, pretty rare. And when I talk

1 to lawyers here, I asked them about their own personal
2 views about, you know, were black folks showing up at
3 the -- at the rate that the demographics would indicate
4 they should. And -- and --

5 THE COURT: Your people testified that they did.

6 MR. MCGUIRE: They do. They do. Absolutely.

7 THE COURT: No question.

8 MR. MCGUIRE: Yeah, well, you're right. And it was
9 odd, because lawyers thought they didn't; but
10 statistically, we actually proved that they did. But
11 when I talk to the lawyers, and -- and it's borne out in
12 those sheets, the sentencing sheet -- the jury strike
13 sheets, that the chances of having more than maybe one
14 or two or three black people even presented, because
15 it's about 20 percent of the population here. So, you
16 could actually have maybe only two, three black people
17 presented in the striking of a jury. And maybe only one
18 strike would be used by the Prosecutor's Office to
19 strike a black person. So, it's incredibly hard to show
20 a pattern with this very small amount of population in
21 individual cases, and that's why we looked at the larger
22 sample of three-and-a-half years.

23 THE COURT: I can tell you, though, my experience,
24 -- and again, for the most part, we run double terms
25 most of month. I am one of the trial judges. I can

1 tell you that I have never tried a case here in Beaufort
2 County with a black defendant that did not have at least
3 two black people sitting on my jury. And I say usually,
4 and it was typically two to three, which, statistically,
5 is about what the population was. You're saying 20
6 percent. It's -- I think your Martin testified, Mr.
7 Martin, that it was at 17 percent. So, I can tell you
8 that I have not seen that. And I, probably better than
9 anyone, would have more experience trying the most cases
10 here, because again, there's a number of solicitors that
11 try cases, a number of public defenders. I'm one of two
12 trial judges that sit here every single week, day in and
13 day out, and I've never -- I've never been concerned.
14 And it's certainly something for me that -- it's a
15 heightened awareness, and certainly, if there are *Batson*
16 motions to be taken up. Again, I remember when we
17 talked about it, I think I recalled to you that the one
18 case that I did not empanel was I had a --

19 MR. MCGUIRE: Oh, the white male.

20 THE COURT: -- white male on a DUI jury, and I
21 ended up having an all-woman jury. Quite frankly, I
22 probably could have upheld for the panel, but I said no,
23 because I didn't think it was appropriate. So, again,
24 that has flat out not been my experience.

25 The other question I have, and I don't know enough

1 about Boot Camp, which I didn't know existed, but
2 apparently it does now, Prosecutor's Boot Camp, and I
3 understand that you all have mandatory CLEs. The
4 lawyers that are trying this case are, obviously, our
5 head solicitor, Duffie Stone, and Sean Thornton. Duffie
6 Stone, excuse me. You all have been around a long time.
7 I don't know how long this commission has been together.
8 Ms. Clifford, I am going to guess that this commission
9 did not train these two lawyers. I mean, and I may be
10 wrong, but as far as specifically as to this case and
11 the relevance of it, I mean, Mr. Thornton came from the
12 defense side of the bar, I know that.

13 Solicitor Stone, you've been doing this a long
14 time. I would be shocked if you were trained by any of
15 these people, you know, or any of the current materials.

16 And forgive me, I know that there was a CLE
17 conference last week. And again, I wasn't at it. The
18 defense attorneys, there was a public defender's
19 conference. One day, I can tell you, Mr. Thornton was
20 before me. And so, I know he was the only Solicitor
21 working that week. So, again, --

22 MR. STONE: I have to correct you there. I was
23 working, as well. I didn't want you to think -- neither
24 -- neither Mr. Thornton nor myself went to the
25 solicitor's conference this year, nor did Carra

1 Henderson, because of this case. I just didn't want you
2 to think Sean was the only one.

3 THE COURT: And again, not to say -- correct me if
4 I'm wrong. I mean, you all have been around a long
5 time. I don't think you were trained by -- Ms.
6 Clifford, who all have you been around and really
7 putting together?

8 MS. CLIFFORD: The Commission has been around since
9 late '80s, early '90s. I was hired -- they created the
10 position of education coordinator back in either 2006,
11 2007. I was hired November 2007, the first person to
12 hold the job. They did do the solicitor's conference
13 with the Solicitor's Association. They occasionally did
14 other trainings when they had grants. The Traffic
15 Safety Resource Prosecutor Grant was there, so they did
16 DUI trainings. They did some CDV trainings, capital
17 litigation.

18 And I will tell you that both of these folks, they
19 probably have not attended most of the monthly trainings
20 we've done, if any. They have attended some of the
21 capital litigation training, some of the solicitor's
22 conferences, but it's much more likely that they will
23 have served as a faculty member, as a speaker for us. I
24 know Mr. Thornton has been at several of the prosecution
25 boot camps that we started in -- since 2009. So, you're

1 -- you're right.

2 THE COURT: Okay.

3 MS. CLIFFORD: They weren't trained by us by these
4 materials. And the farthest back we can find, I think
5 the oldest thing we might have, your Honor -- I'm sorry.
6 Because part of the problem is, obviously, we've moved
7 offices, locations, things were done up. So, we,
8 literally, went through what we could find on the
9 computer. And then, we went and looked at hard copies
10 of old notebooks that we had in our library. And we
11 found 46 sets of training materials specifically dealing
12 with jury selection.

13 Now, I will put on the record, your Honor, I'm not
14 saying that, during an ethics presentation I gave, I
15 didn't talk about jury selection. But in terms of jury-
16 selection-specific training materials, we found 46. And
17 I think they go back to 2003 might have been the oldest;
18 and then, I think it jumped up to 2007. But we searched
19 as best we could through everything that we could find
20 in the office to pull this together, as well as the one
21 -- the one in May. But this one took a lot more time,
22 because the subpoena scope was much broader, and they
23 were looking for more items.

24 THE COURT: Okay. As far as correspondence, you
25 say correspondence between, say, your office and a

1 solicitor's office, or your office and a judge? Again,
2 forgive me, I knew you existed and had a title, but I
3 don't think I would have ever corresponded with you.
4 But other than that, I'm trying to think, you know, the
5 prosecutor sent out a prosecutor's notebook.

6 MS. CLIFFORD: We -- yes.

7 THE COURT: Okay.

8 MS. CLIFFORD: There is a Prosecutor's Deskbook
9 that was created originally by the 15th Judicial
10 Circuit. Once I came to the commission, we took it over
11 in, I think, in 2008, 2009. We've only put out, I
12 think, two versions of it, two editions of it. We're
13 not going to put another update out until the end of
14 this year.

15 We have a boot camp manual that was created to go
16 along with the boot camp program, and again, that
17 started in 2009. No one in our office -- and we talked
18 to -- there's four attorney, Mattison Gamble; Mark
19 Rapoport; David Ross, our executive director; and
20 myself. No one has had any correspondence or
21 communication with a trial judge or an appellate court
22 judge about jury selection. Nobody could recall it; we
23 couldn't find it on the computers.

24 We looked for communication between us and
25 prosecutors, people who have worked in prosecutor's

1 offices about, you know, about jury selection. Could
2 not find anything other than just correspondence about
3 speaking at seminars, getting their materials to us.

4 And then, Mr. Ross had some with some folks about
5 there's been some pending legislation about equal rights
6 and jury strikes, and so, we had some communications
7 about that.

8 THE COURT: And just so I'm clear, you said you
9 have not had any discussions with any of the lawyers in
10 this case in regards to, specifically, Mr. Daise,
11 correct, and about this trial?

12 MS. CLIFFORD: The only -- the only communication I
13 had is, after we got the subpoena, and after I had a
14 couple of conversations, either over the telephone or by
15 email, with Mr. McGuire, I did call Sean Thornton to
16 make sure they knew that we had been served with a
17 subpoena for these materials. And at that point, he
18 made me aware that there had been a motion filed, but
19 denied, dealing with appropriate challenge and racial
20 discrimination. That was the extent of my communication
21 with him, other than, you know, we emailed him a copy.
22 He was copied on that email series last week. And then,
23 this morning, when we came in, he was the only one here,
24 so we were talking to him, not about jury selection in
25 this case, but just in general. So, that's the extent

1 of it.

2 THE COURT: Okay. So, it appears to me that I need
3 to look through this stack, as far as jury selection is
4 concerned, to determine, again, what it is. Am I going
5 to be able to be oriented and understand what it is just
6 by looking at it or not?

7 MS. CLIFFORD: I think you will. The agendas go
8 along with each one of the trainings from which a
9 training -- set of training materials came from.

10 THE COURT: Okay.

11 MS. CLIFFORD: And the first is just excerpts from
12 one of our newsletters, and it wasn't necessary to put
13 the entire thing in to, obviously, save us time and save
14 them money.

15 MR. MCGUIRE: Right.

16 MS. CLIFFORD: We only put the one page in that had
17 dealt with it.

18 THE COURT: Okay. Well, then, let's talk about the
19 time that it took you to come here, and Mr. Rapoport's
20 time, and document pulling. I understand that you said
21 when the FOYA request was done by -- is it Ms. Best, you
22 said before?

23 MR. MCGUIRE: Yes, ma'am.

24 THE COURT: It was roughly about \$350.00. I know
25 Ms. Clifford has said many times already that this has

1 taken a lot more time because the scope was much more
2 greater. And additionally, I don't know if she had to
3 show up in court or someone had to go to court, but --

4 MS. CLIFFORD: No, for the FOYA request, we did
5 not.

6 THE COURT: Okay, you did not.

7 MS. CLIFFORD: They came and picked it up. Yes,
8 your Honor, Mr. Rapoport worked -- and I'm not dealing
9 with the time spent on the motion to quash or research
10 -- spend 1.25 hours.

11 THE COURT: You said that you had three hours in
12 it, I heard.

13 MS. CLIFFORD: I had three before today, yeah.

14 THE COURT: Right, before today.

15 MS. CLIFFORD: And I've got our hourly rate broken
16 down. Do you want me to tell you what that is?

17 THE COURT: Sure.

18 MS. CLIFFORD: Okay. Mr. Rapoport's is \$32.86, and
19 mine is \$50.26. And then, the mileage coming from
20 Columbia to here was 144. So, it'd be 288 round trip.
21 And we left Columbia this morning at 5:45.

22 THE COURT: Okay.

23 MR. MCGUIRE: I'll just put on the record, you guys
24 are getting paid.

25 THE COURT: I've got a lot of lawyers in this room.

1 MS. CLIFFORD: And your Honor, if I could just make
2 one -- we did try to get a state fleet car to, you know,
3 save on mileage costs, but one was not available. So,
4 Mr. Rapoport had to drive his vehicle.

5 THE COURT: Okay. All right. Do you need --
6 anything further we need from Ms. Clifford?

7 MR. MCGUIRE: The only thing that I would want to
8 do it to make sure that the record's clear that the
9 documents that you have are authentic; that she would
10 state, as an officer of the Court, she's a custodian of
11 those records that are kept in the normal course of
12 business activity, and they are, in fact, authentic.
13 And we probably have them, at some point, marked, at
14 least to some extent.

15 THE COURT: Okay.

16 MR. MCGUIRE: So they're -- they're --

17 THE COURT: So, they would be, obviously, if they
18 were marked and they weren't turned over to you, they'd
19 be under seal. And they're stamped across all them, Mr.
20 McGuire.

21 MS. CLIFFORD: Right.

22 THE COURT: It says, you know, response,
23 *Distribution, Reproduction Not Allowed*. We can
24 certainly do it under a consent order, a confidentiality
25 order.

1 MS. CLIFFORD: And I just want to make sure on the
2 record, we do have someone emailing us the TSRP agendas.
3 So, I can bring those up to you. Mr. Thornton had said
4 we can go downstairs and use their computer to print
5 them.

6 THE COURT: Okay. Okay. Okay.

7 MS. CLIFFORD: So, that -- that 1,022 pages is
8 without charge.

9 THE COURT: I guess my concern is, would be for Mr.
10 McGuire, when you're talking about agendas, is that you
11 want to see if there's anyone, either from the 14th
12 Circuit that sat as a panel member or, I guess, possibly
13 me, as a judge, that did anything like the allegation
14 stacking the deck or anything that was maybe --

15 MR. MCGUIRE: The reason I asked for it is --

16 THE COURT: Yes.

17 MR. MCGUIRE: -- first off, you can tell a lot
18 about the tone of the presentation by the title of the
19 agenda. And I think -- and I'm glad that Judge Ned
20 Miller was less involved with the *Stacking of the Deck*
21 presentation than I was previously informed. But you
22 can tell a lot about the tone of the presentation by --
23 by the title, obviously. Plus, if it identifies the --
24 the speaker, I'd want to know that, because there are
25 cases where specific prosecutor offices have been found

1 to engage in *Batson* violations, but I think that would
2 be important if the presentation is being given by
3 somebody who has, in fact, used strikes in a manner to
4 violate *Batson*. That would be important to me.

5 THE COURT: Again, my problem is that I have is
6 extrapolating from that to these lawyers in this case
7 using improper striking methods, you know. And that's,
8 again, I don't know how you make it down to there. I
9 mean, I almost would understand your argument if were
10 talking about, and forgive me for saying this, baby
11 solicitors that have been trained or have been taught
12 some kind of dogma how to strike black jurors. But
13 again, the problem I think we have is that I don't think
14 you have been able -- and which is why I denied your
15 motion after hearing Mr. Martin speak -- to prove that
16 the lawyers striking this jury improperly used their
17 strikes. And again, I just don't know how you get
18 there.

19 MR. MCGUIRE: Well, I -- I can -- I can tell you
20 how I -- I -- I will try to get there, or could get
21 there.

22 THE COURT: Okay.

23 MR. MCGUIRE: One is, we will go ahead and
24 incorporate, by reference, Mr. Martin's testimony, and I
25 -- I agree; it's difficult when you can show, I mean,

1 when a black man is struck at a rate of over four times
2 that of a white man, there's something there. Now, it's
3 -- it is difficult to me to point and have the smoking
4 guns say, well, we used race on this particular person;
5 it is difficult. I mean, that's the whole underpinning
6 of the *McCleskey/Kemp* case from way back when, based on
7 the *Baldus* studies. They -- you know, Justice Powell
8 wrote, from the United States Supreme Court, wrote the
9 majority opinion, --

10 THE COURT: Um-hmm.

11 MR. MCGUIRE: -- which was a 5-4 decision. And he
12 indicated that the defendant would have to show that
13 race was involved in his specific case.

14 THE COURT: Right.

15 MR. MCGUIRE: And -- and I think that is still the
16 law, and it's difficult.

17 THE COURT: Right.

18 MR. MCGUIRE: It's difficult for me to show -- to
19 overcome that burden. There is a civil case pending in
20 front of the United States Supreme Court right now that
21 does deal with statistics, and it's based on housing and
22 lending. And I think you're going to get some new
23 information on that pretty soon. I think they're going
24 to hear the case maybe tomorrow. And so, the statistics
25 are going to be part of what we're doing in this case.

1 And then, secondly, I think that everything that's
2 disseminated to the prosecutors, they're on sort of
3 constructive notice of it. These are materials
4 available to them. They can refer to them. Their staff
5 can use them. And I understand the Court's comments
6 about --

7 THE COURT: Forgive me. The only thing I worry
8 about that is, is that we get their prosecutor's
9 notebooks sent to us and their updates every year. And
10 while you could maybe say on constructive notice, I
11 can't tell you that I've read them all.

12 MR. MCGUIRE: Sure.

13 THE COURT: So, again, you have to -- that's a --

14 MR. MCGUIRE: Right. And that's a problem for me.

15 THE COURT: Yes. Okay.

16 MR. MCGUIRE: I mean. And -- and I understand the
17 Court's comments about baby lawyers and boot camp.
18 However, if you are talking about a pretty -- what I
19 think is a pretty simple issue with facts. I mean, the
20 -- the analysis the Court has to engage in is pretty
21 simple, and I can see somebody going back to, like a
22 boot camp notebook to -- to look at the most recent
23 cases. You know, because the most recent cases deal
24 with the specifics, you know.

25 THE COURT: Right.

1 MR. MCGUIRE: You know, the -- the -- the race-
2 neutral reason. There's a case that came out just the
3 other day. The race-neutral reason was, a particular
4 juror was a warehouse manager, and the defendant -- the
5 Defense lawyer didn't want somebody with that kind of
6 supervisory experience on the jury. He wanted people
7 that were not supervisors or in control of people.

8 THE COURT: Um-hmm.

9 MR. MCGUIRE: And that was -- you know. So, the
10 cases that come out that are updated in, like, boot camp
11 things, --

12 THE COURT: Right.

13 MR. MCGUIRE: -- they aren't really just dealing
14 with the -- the specific facts of -- of a specific
15 facts.

16 THE COURT: Right.

17 MR. MCGUIRE: And so, I can see somebody, even with
18 experience, going back to see what the updates are. So,
19 I -- I -- I don't think that -- you know, because it's
20 not, *do you understand?* It's like the *Fourth Amendment*.
21 You know, the standards are easy. You know, is a search
22 unreasonable; this is what's unreasonable.

23 THE COURT: Right.

24 MR. MCGUIRE: That's the one sentence that we all
25 know, but the law is on the facts and the specifics.

1 And that's where something like a boot camp manual would
2 be updated with the most recent cases. And I can see
3 even me going back to something like that to -- to get
4 updated on the facts of a particular search case or a
5 *Batson* case.

6 THE COURT: But the problem that that leaves is
7 this. So factually driven that, quite frankly, I think
8 you can distinguish just about any case, from the simple
9 fact that criminal law, so much of it is just factually
10 driven. And I think -- I mean, I hear lawyers all the
11 time say, I can distinguish our case and this is how.
12 That's why I think you have a harder time doing that.

13 MR. MCGUIRE: I don't disagree. I don't disagree.
14 That's an issue. But the other thing is, just
15 pragmatically, --

16 THE COURT: Um-hmm.

17 MR. MCGUIRE: And I know Ms. Clifford has stated a
18 number of times that my -- my request is broader, but I
19 really don't believe it is. You know, the -- the
20 request -- I'm not sure if you have a copy of the FOYA
21 request in that email chain.

22 THE COURT: I don't.

23 MR. MCGUIRE: It may have been provided. But you
24 know, it was any and all jury selection materials, you
25 know, used in the -- in teaching prosecutors how to use

1 their discretion in choosing a jury -- or picking --
2 striking a jury. And that's -- that's the only --
3 that's the only thing there is with regard to a jury in
4 selecting a jury, is how to use -- how to use your
5 peremptory strikes and *Batson* issues. There really is
6 nothing else out there. I mean, there are no other
7 substantive law issues with regard to jury selection,
8 other than *Batson*.

9 So, and then, the only other thing I asked for, in
10 addition, was correspondence, judges and prosecutors.
11 And I'm told there is none, so, that's not an issue.
12 And then, asked for agendas. And -- and I would -- I
13 also want the newsletters, the updates.

14 THE COURT: Mr. McGuire, let me ask you, and I know
15 you've done this a lot, and in challenging these
16 motions, it seems to me that it would be very similar to
17 a change of venue motion. You can only make it and it's
18 only appropriate after you can't empanel a jury. And
19 so, why isn't *Batson* somewhat of the same thing? It's
20 once we go ahead and handle this specific case, because
21 we have to show that they were used improperly as to Mr.
22 Daise and this trial, why isn't it something that's just
23 done that contemporaneously?

24 MR. MCGUIRE: Sure, and -- and I actually agree
25 exactly with your Honor's comments there.

1 THE COURT: Okay.

2 MR. MCGUIRE: It's -- but if I found myself in a
3 position trying to make this argument and present this
4 information the moment they struck a black person, you
5 can see how I, you know, I'd have to -- if I wanted to
6 use training materials to buttress my argument that
7 we're provided to this office, --

8 THE COURT: Um-hmm.

9 MR. MCGUIRE: -- I'd have to have them beforehand
10 and have to have read them beforehand. I'd have to be
11 prepared to make the argument. I'm just trying to do
12 everything in advance, so, if it comes up, I'm ready.

13 THE COURT: Mr. McGuire, my question to you is
14 this. If, let's say I deny the motion to quash, if I
15 give you all of this, are you going to be making a
16 motion for a continuance? Because as Ms. Clifford just
17 said, it's 1,020 pages, or roughly, that this would be
18 turned over to you. Is that an issue?

19 MR. MCGUIRE: No. No.

20 THE COURT: Okay. Okay.

21 MS. CLIFFORD: And your Honor, if I -- if I could.

22 THE COURT: Yes.

23 MS. CLIFFORD: Just because he just said he wants
24 the case summaries, we did not pull those, again,
25 because they're not kept -- they're kept

1 chronologically, most recently, so.

2 THE COURT: I don't see how the case summaries
3 would be relevant, frankly.

4 MS. CLIFFORD: Well, I mean, it's just basically us
5 reading the advance sheets and -- and summarizing.

6 THE COURT: Because the cases -- the cases speak
7 for themselves. I mean, they are what they are. I
8 mean, you kept saying the cases summaries out of the
9 South Carolina Bar that they could find significant,
10 whether it's criminal or civil.

11 MS. CLIFFORD: But if your Honor ends up ordering
12 that, then, we would need to -- to get those together
13 for him, and that would be a lot more pages.

14 MR. MCGUIRE: I mean, I guess what I would --

15 THE COURT: Yes.

16 MR. MCGUIRE: You know, to try to narrow the scope
17 and issues here, you know, the -- the summary of a case
18 can have some spin or opinion if -- by whatever author
19 drafts it. I've certainly seen summaries of -- I've
20 seen summaries of court opinions given out by
21 organizations, just say magistrates, and they put their
22 own spin on it. Mothers Against Drunk Driving sometimes
23 does it.

24 THE COURT: Yeah, but we were talking about, again,
25 it's an opinion, and it was written based on a opinion.

1 So again, anything could be written that way. I just,
2 for the most part, I mean, this is just my personal
3 belief, and, you know, I could be completely incorrect.
4 One of the things that I told both -- I told both of you
5 all, when I do this, I don't like it when lawyers give
6 me their summary of a case, because again, just like you
7 said, it's their spin on it. And I'm always asking,
8 *just give me the case.* Quite frankly, it doesn't matter
9 to me what your argument is or what it says; it's what I
10 think it says. And again, I don't rely on, you know,
11 either side. You are on a side for a reason. So,
12 again, Mr. Thornton's been standing for a while there,
13 but do you need to go ahead and speak?

14 MR. THORNTON: Judge, if I could have ten seconds.

15 THE COURT: Sure.

16 MR. THORNTON: I can narrow the issue to one issue.
17 This is work product, and it's strategy, and this is
18 just an attempt by the Office of Indigent Defense to try
19 to backdoor and get somebody else's play book, and
20 that's all it is. They want to -- they want to try to
21 -- to get into the strategy that we use to prosecute
22 cases, and this is their backdoor attempt to do it. It
23 has nothing to do with this case. It has nothing to do
24 with the lawyers on this case. They just want to get
25 whatever they can get off the opposing side's play book.

1 That's what the issue is.

2 MR. MCGUIRE: I would say -- I would say that
3 actually kind of makes my point. I mean, we're talking
4 -- if we're talking about the legal play book and
5 strategy with regard to a constitutional issue of
6 peremptory strikes and whether they're exercised in a
7 racially neutral manner, I don't think strategy should
8 be involved in that.

9 And you know, I'm a little perplexed as to why the
10 -- why Ms. Clifford just didn't come in here and say,
11 I've got materials; they're good; they're accurate; they
12 teach prosecutors the law; I tell them to follow the
13 law; I'm happy to provide them. I don't know why we're
14 not in that position.

15 THE COURT: Actually, I think she has pretty much
16 said that, though. I can tell you that the one thing
17 she has done is, she has come. And it's something that
18 we have a problem with in civil court all the time when
19 people file motions to quash based on work. She's given
20 me the stack. I can't tell you how many times I have to
21 ask the lawyer, well, when are you going to get it to
22 me, so I can look at it and review it. She's done the
23 work. I mean, she's done it, for the most part.

24 MR. MCGUIRE: Sure. But we are here on her motion
25 to quash the entire subpoena.

1 MS. CLIFFORD: And your Honor, I'm sorry to go back
2 and forth, but another issue that comes with the work
3 product for us is that we, for the most part, rely upon
4 lawyers and other speakers who volunteer their time to
5 speak and to prepare materials. And quite honestly, and
6 if Mr. McGuire would just sit back and think for a
7 minute from his perspective, if we have to start giving
8 out the materials that these folks prepare for teaching
9 prosecutors, then, we're going to have a problem. Some
10 people aren't going to want to do that, if they know
11 it's getting out to the defense bar.

12 And sure, there may be some strategy in some of
13 them. I can tell you at least since I've been there, we
14 don't allow people to teach unethically. And when
15 someone speaks and says something that's wrong, we try
16 to correct it. So, you know I -- I -- the -- the work
17 product issue is very important for us, as well as the
18 proprietary interests. And -- and first of all, I don't
19 think there's going to be anything here that can help
20 him one way or the other, I mean, to be perfectly
21 honest.

22 But the issue is broader than that, because if --
23 if he gets it in this case, then, I foresee a future
24 where most of my time is going to be spent pulling
25 together materials for other defense lawyers in other

1 cases. And then, we might as well put everything up on
2 the website. I mean, why bother trying to teach our
3 people, you know, with stuff that we produce just for
4 them?

5 THE COURT: All right. I think we've probably had
6 enough. What I'm going to do is just go through it and
7 decide whether or not it's relevant material. And
8 again, I'll let you all know. If I determine that it's
9 not, we'll put it under seal for, obviously, the record.
10 But other than that, or it could be reproduced. The one
11 thing I can tell you is that it is not Bates stamped in
12 any way. So, my question becomes, if I turn around and
13 ask them to Bate stamp it, that's going to be, yet,
14 another cost to Mr. McGuire. So, how do you want to
15 deal with that?

16 MR. MCGUIRE: I mean, your Honor, I -- I mean, I
17 can certainly draft an order. I mean, whatever you
18 determine to be relevant that we should have, we can
19 make available to Ms. Clifford again. And, I mean, by
20 affidavit, she can say 'these are materials I provided
21 contained, you know, in this binder, or whatever. You
22 don't necessarily have to Bate stamp them. I can
23 provide somebody to do that, if the Court wants that to
24 happen. And whatever you put under seal, we can just
25 draft an order, you know, the entirety of the documents

1 herein contained are filed under seal, and I think
2 that's sufficient.

3 THE COURT: Okay.

4 MS. CLIFFORD: And your Honor, at this moment, I do
5 have a list I printed of the directory that has all the
6 file names. It -- it may help you.

7 THE COURT: I appreciate that. All right.
8 Anything else on this issue? No? All right. Thank you
9 for being here. I appreciate it.

10 MS. CLIFFORD: Thank you.

11 THE COURT: Thank you. We do need to go ahead and
12 mark those as an exhibit. And again, it's going to be
13 right now for in-camera review. So, I'm sorry, in fact,
14 Wanda, let's mark them.

15 DOCUMENTS IDENTIFIED AS JURY
16 SELECTION TRAINING DOCUMENTS
17 AND TRAFFIC SAFETY AGENDAS
18 MARKED COURT'S EXHIBIT NUMBER 1.
19 DEFENSE MOTIONS TO SUPPRESS.
20 ANIMATED 3-D VIDEO C.D.:

21 THE COURT: All right. Mr. McGuire, I think now,
22 we're going to your suppression issues. I understand
23 that there are a few of them that are still out there
24 that we need to take up. Is that correct?

25 MR. MCGUIRE: There is one regarding a 3-D

1 animation.

2 THE COURT: And I had an opportunity this morning
3 to go ahead and take a look at that.

4 MR. MCGUIRE: Okay. And we filed a notice of a
5 motion to suppress. I handed up a copy to your law
6 clerk, and I put a copy here on Sean's table with some
7 cases, and I can be very brief.

8 THE COURT: This is for that 3-D?

9 MR. MCGUIRE: Yes, ma'am.

10 THE COURT: Okay. I've got it right here.

11 MR. MCGUIRE: And the case that I would draw the
12 Court's attention to that I'm primarily going to rely on
13 is the *Collins* case.

14 THE COURT: Um-hmm.

15 MR. MCGUIRE: It's -- I provided a copy to your law
16 clerk and Sean. It's *State versus Collins, 398 South*
17 *Carolina 197*. It's a 2012 opinion from the Court of
18 Appeals, authored by Justice Few, Chief Justice Few, I
19 should say. And --

20 THE COURT: Who was that?

21 MR. MCGUIRE: I'm sorry?

22 THE COURT: Judge Few?

23 MR. MCGUIRE: Chief Justice Few.

24 THE COURT: Judge Few?

25 MR. MCGUIRE: Yes.

1 THE COURT: Yes. Okay.

2 MR. MCGUIRE: A judge. I'm sorry.

3 THE COURT: That's okay. I --

4 MR. MCGUIRE: You're right. Most of my cases
5 are --

6 THE COURT: I know he's running, but I didn't know
7 he was there yet. So, anyway. Okay. Judge Few of the
8 Court of Appeals.

9 MR. MCGUIRE: Yes. I didn't mean to promote him.

10 THE COURT: John D. Few.

11 MR. MCGUIRE: I didn't mean to promote him like
12 that.

13 THE COURT: He probably would appreciate it.

14 MR. MCGUIRE: He probably would. I fear he might
15 be -- try to do that. So, this is by Chief Judge Few,
16 and the *Collins* case involves -- the facts are a young
17 boy is discovered missing. The sheriff's office comes
18 out to the mom's house, look around for him. They find
19 what was a tragic case. They find a young boy in a
20 neighbor's yard. Dogs are on him, and the facts bear
21 out that the dogs actually ate part of the child, and
22 it's -- it's a terribly, terribly tragic case.

23 The State wanted to introduce into evidence
24 photographs taken by the forensic pathologist taken
25 before he did the autopsy, and they said that the

1 probative value went to, really, two things. The main
2 issue was that it was an unprovoked attack, and that the
3 dogs attacked because they were hungry. And they wanted
4 to prove that the dogs were hungry based on the fact
5 that they actually did eat the flesh of the boy. That
6 was really the main issue.

7 And if you look on Page 5 of the opinion, about
8 mid-way down, Judge -- Chief Judge Few quotes:

9 *Photographs calculated to arouse*
10 *the sympathy or prejudice of the jury*
11 *should be excluded if they are not*
12 *necessary to substantiate material facts*
13 *or conditions.*

14 So, the -- the -- the analysis that we have to
15 engage in is, is this necessary? And the answer is
16 going to be no.

17 THE COURT: Just so I understand, the 3-D photo is,
18 in fact, exemplifying the wounds of **John Doe 2**. Is
19 that correct? For the assault and battery with intent
20 to kill.

21 MR. MCGUIRE: My expectation is that the animation
22 will be used in conjunction with the pathologist to, in
23 fact, show the -- the entrance wounds, the travel of the
24 bullet, the damage to the boy's body.

25 THE COURT: Which boy are we talking about?

1 MR. MCGUIRE: **John Doe 2** -- I'm assuming it's
2 **John Doe 2** .
3 THE COURT: Okay. All right. Is that correct?
4 MR. STONE: Yes, ma'am.
5 THE COURT: Okay.
6 MR. MCGUIRE: And -- and you've seen the animation,
7 and we need to make it part of the record, obviously.
8 But, you know, it -- it involves the inside of a body.
9 It shows the human skull exposed at points. The heart
10 almost looks like it's on fire or it's glowing almost at
11 a part, like beating or glowing.
12 COURT REPORTER: The heart?
13 THE COURT: The heart.
14 MR. MCGUIRE: The heart.
15 COURT REPORTER: I'm sorry. Thank you.
16 MR. MCGUIRE: Yeah. I'm sorry. And so, you know,
17 going back to -- going back to the *Collins* case, and --
18 and keeping in mind the analysis that we're applying
19 here is, is it necessary; on Page 6, Chief Judge Few
20 points out the testimony of the pathologist; and if you
21 look at it, it's probably a total of maybe 40 words; and
22 that these words were -- were found to be, by the Court,
23 to be completely conclusive of the issue they were
24 trying to prove, that the boy was, in fact, eaten; that
25 this was not just an attack; it wasn't a mauling; it

1 wasn't some sort of aggressive just bite and go.

2 THE COURT: Based on the pathologist's testimony
3 alone, they could establish that the child -- that the
4 dogs were hungry versus just angry.

5 MR. MCGUIRE: Exactly.

6 THE COURT: Okay.

7 MR. MCGUIRE: And because, what they said was, they
8 had to establish that was flesh was eaten to show that
9 it was an unprovoked attack; that the boy wouldn't have
10 -- that hunger was the motive. So, I mean, when you
11 just look at the pathologist's testimony, he states:

12 *There are extensive dramatic injuries*
13 *consistent with loss of skin, soft tissue,*
14 *in a tearing fashion about the face, ears,*
15 *eyes, the neck, the chest. There was also*
16 *skin and soft tissue with exposure of the*
17 *bones of both shoulders. Essentially, the*
18 *humeral bone in the upper arm, both right*
19 *and left, they were exposed from the shoulder*
20 *to the elbow.*

21 THE COURT: In all fairness, Mr. McGuire, let me
22 just put this out there. This is an evidence issue.
23 And just as you are reading it and as it's described
24 here, it could be described at length, but, you know,
25 they talk about pictures is a thousand words.

1 MR. MCGUIRE: Sure.

2 THE COURT: And I'm going to go ahead, I never
3 assume, but I'm going to take the grand assumption here
4 that it probably was very, very horrific-looking, if
5 we're talking about real photographs of a child having
6 been eaten by a dog.

7 MR. MCGUIRE: I don't disagree with that.

8 THE COURT: And in our case, we're talking about a
9 3-D video that it appears someone has taken some efforts
10 to -- I can tell you, some of the issues that I had when
11 it started were, you know, what was it going to appear
12 like; was the child going to bear any resemblance to
13 **John Doe 2** ; was he going to be light or dark skin; was he,
14 you know, whatever.

15 So again, I appreciate the *Collins* case, but I also
16 know that, you know, like we said, it's -- we always
17 say, you know, what's pornography; you know it when you
18 see it. When it's bad, you know it when you see it.
19 Apparently, Judge Burch didn't think so; he thought it
20 was necessary. But again, I've seen the video now, and
21 the pathologist can testify simultaneously.

22 I guess the question to me is, is there any
23 question that you're not going to agree that this was an
24 assault and battery with intent to kill? I mean --

25 MR. MCGUIRE: That's the other issue discussed in

1 the *Collins* case.

2 THE COURT: Okay.

3 MR. MCGUIRE: That there were matters that were
4 just not even in dispute; and that -- and there were --
5 there are elements of the charges in *Collins* that were
6 not in dispute. So, the State had to limit their
7 argument to just the little bit. And in our case,
8 there's absolutely no dispute that --

9 THE COURT: What the injuries were.

10 MR. MCGUIRE: Right.

11 THE COURT: My understanding is, and correct me if
12 I'm wrong, I believe Mr. Daise, in the discussion he had
13 with the police was, why would I do this to my own
14 child? I mean, I believe that was one of the -- one of
15 the things as to **John Doe 2**, is why would I shoot my own
16 child? Correct?

17 MR. MCGUIRE: He -- he denies it.

18 THE COURT: That's what I mean. And he said -- he
19 goes -- I think it was kind of something along the lines
20 of that's crazy, you know, I wouldn't --

21 MR. MCGUIRE: I mean, the exact words escape me,
22 but he did deny it.

23 THE COURT: Yes. He said why -- it was why would I
24 do that to my own child?

25 MR. MCGUIRE: But again -- but we're not --

1 THE COURT: But again, you don't think it goes to
2 the ultimate issue of that the shooting is what it is.

3 MR. MCGUIRE: Exactly. I mean, our -- our theory
4 of defense is that this incident happened and it's
5 tragic, but Mr. Daise is not responsible for it. I'm
6 not taking issue, any issue, with **John Doe 2** injuries.
7 I-- I know the hospital records speak for themselves.
8 It's a gunshot wound. He was taken by ambulance to
9 Beaufort Hospital. He's stabilized. He gets a blood
10 transfusion. He receives anesthesia. Goes under
11 surgery. He has physical therapy to get back. And --
12 and I've reviewed all of these records, and I don't -- I
13 don't dispute a page, not one page. So, to say that we
14 have to have this -- this -- this exposed skull and this
15 internal organ, because, first off, it's not even
16 consistent with -- let me go back a little bit.

17 Very often, when defense lawyers argue to keep out
18 photographs of bodies, the reasoning comes in is to show
19 the condition of the bodies the way they were left by
20 the killer. **John Doe 2** skull, his skull was never
21 exposed in any way, as far as I can tell. And to have
22 an animation where the skin falls off of his body and
23 you have a skull looking at you, is -- is completely
24 misleading and inaccurate.

25 This depicting, you know, parts of his body were

1 never exposed to -- to -- to anything. I mean, there
2 was -- you know, if this was a picture of -- of -- of
3 **John Doe 2** just before he went to the operating table, and
4 there was a picture of his wound, I'd almost have to
5 concede that comes in. However, this animation, with
6 the -- the -- the, you know, the kind of a horror movie
7 skull looking at you, it's just not -- it's not -- it's
8 not relevant; it's not necessary. Under Chief Judge
9 Few's analysis, you have to look is it necessary? It's
10 not. It's actually inaccurate. There's another case, I
11 think it's *Cantrell* that I handed up, where it's a -- a
12 accident reconstruction animation. And they just said,
13 based on facts, that it's just not accurate with some of
14 the testimony; it shouldn't come in. And to, you know,
15 to have this exposed human skull animation come in when
16 that issue was just never part of this case. And I
17 don't dispute the injuries. I mean, I think it's just
18 -- it's not necessary. The issue that it goes to, I
19 would assume, is serious bodily injury element of
20 assault and battery with intent to kill. I don't
21 dispute at all. There will be a number of hospital
22 records to prove it, as well as, I don't think anybody's
23 going to take a position that a bullet that travels
24 through a child's body is serious bodily injury. All
25 you have to, I mean, ten words from a pathologist

1 establishes the element conclusively for the State. We
2 don't dispute it. To go beyond that is clearly just an
3 effort to -- to -- to engage the -- the jury's passions
4 and prejudices.

5 THE COURT: Yes, sir.

6 MR. STONE: Please the Court, your Honor. I
7 believe I sent you the cases Friday that I rely on. I
8 have copies of them again if you -- primarily, I think
9 what's summed up probably best is the -- is the *Martucci*
10 case, which is a 2008 case.

11 THE COURT: Yes.

12 MR. STONE: And that, I'd say that's just a good
13 summary, just because it includes all of the other cases
14 and kind of law is in this. And it really boils down to
15 three things. Number one:

16 *The State has a right to prove,*
17 and this is -- this is language on Page 6 of that
18 case:

19 *The State has a right to prove*
20 *every element of the crime charged.*

21 What he's charged with, when it comes to **John Doe 2**
22 Daise, is assault and battery with intent to kill.

23 *Admitting photographs which serve to*
24 *corroborate testimony is not an abuse of*
25 *discretion.*

1 That's cited, also, on that same page. And
2 finally:

3 *To corroborate the testimony of*
4 *Dr. Ward.*

5 Which is what this is for.

6 Let me -- let me tell you how confusing this is.
7 First of all, it's not the pathologist that's going to
8 testify. This is Dr. Cina, who is the one who actually
9 dealt with the child at MUSC.

10 THE COURT: Was he the surgeon or the E.R. doctor?

11 MR. STONE: He is -- he is -- they're both surgeons
12 at the time that he gets to MUSC. What happens, and
13 that's very relevant to the purpose behind all of this,
14 I met with Dr. Cina at MUSC, because, quite frankly, I
15 couldn't understand how the -- how the shooting took
16 place.

17 Early, in fact, the medical records at Beaufort
18 Memorial are inconsistent, actually, with the MUSC
19 records. If you look at the -- the medical records from
20 -- from Beaufort Memorial, it shows that there is an
21 entrance wound into the child's stomach -- or -- or
22 chest area, and they can't find the bullet. There's no
23 exit wound, and they can't find the bullet, which I
24 thought was unusual, at the very least. But at the same
25 time, Beaufort Memorial is trying to patch him up;

1 they're trying to take care of him and get him out; but
2 they never found an exit wound. That, to me, led me to
3 be concerned that the fact that maybe this was a
4 shooting in which the child was shot after the bullet
5 missed the mother. And that's kind of why I was
6 thinking that there was something unusual about the fact
7 that there was an entrance wound into his chest; no exit
8 wound; they can't find the bullet. And these are
9 doctors. This is not me just looking at it, these are
10 -- these are the doctor's that the hangup's on. And my
11 concern was that, while -- while the shooting was taking
12 place, the mother was being shot, and an errant bullet
13 ended up shooting the child. There is what appears to
14 be another bullet in her thigh, which is not really
15 consistent with the -- with the shooting pattern.

16 I met with Dr. Cina at MUSC, and what he shows --
17 or what I propose to the Court, is basically an
18 assemblage of what he showed me, because what he was
19 trying to do is explain to me how he figured out what
20 happened. Because what happens is, he took MRIs of the
21 child in various levels of his body and put it together;
22 and then, this was his work. This was his -- in fact,
23 he said:

24 *Look, I can explain this to you much*
25 *better if you let me take this down to my*

1 computer guys down and just put the MRIs
2 together in a model in which you -- I can
3 show you the trajectory.

4 What happened was, this is -- the chest wound is
5 not -- and I'm going through my entire case, which I was
6 trying to avoid -- but this is not an entrance wound;
7 this is an exit wound. And as you can tell by the MRIs
8 and -- and -- and the model that -- that Dr. Cina
9 produces, the shot is actually coming down at basically
10 the same angle as the other two shots, and it comes in
11 and hits the C7 vertebrae; and then, tumbles through the
12 body and exits out. So, that's why they couldn't find
13 the other bullet. The other bullet, I believe, is
14 embedded in the mother's leg, and that's where the --
15 that's -- that's how that happened, giving the
16 trajectory the same as the other two. So, basically
17 you've got three shots at the same angle, doing
18 basically the same thing.

19 The doctors, the -- I don't know if you recall, but
20 the -- the ambulance drivers were talking about how it
21 looked like he had some type of cut on his ear. For
22 months, we thought that that was a graze; that it had
23 actually clipped the ear and gone by.. That's not the
24 case at all. But we -- until we met with MUSC and they
25 went through these photographs, there was just no way to

1 understand that, to the point of actual doctors not even
2 understanding that at -- at Beaufort Memorial Hospital.

3 THE COURT: So, was there one shot on **John Doe 2** or
4 just two?

5 MR. STONE: Yes, ma'am.

6 THE COURT: Just one.

7 MR. MCGUIRE: And that's another thing. That's why
8 it was so confusing for us. And when I went with Dr.
9 Cina, I was like, I don't understand, please, you know.
10 And that's how he showed me. He showed me with that
11 MRI, which, by the way, is not gory. There's no blood.
12 There's no open photography, as in all these autopsy
13 picture cases, which -- which, this is nowhere close to
14 the *Collins* case, obviously. But even the other cases
15 in which courts have routinely let this in, those have
16 been autopsy photographs and things like this. This is
17 colder, more scientific, and much less graphic than
18 anything depicted in any of these other cases in which -
19 - in which the courts have let them in. It's not the
20 sexual abuse, a ten-month-old baby autopsy of sexual
21 abuse and cuts in anus area, which is *State versus*
22 *Jarrell*, which the Court said was proper because it
23 backed up the doctor's testimony.

24 The Courts have --

25 THE COURT: Let me ask you this, Mr. Stone.

1 MR. STONE: Yes, ma'am.

2 THE COURT: This was generated by your doctor?

3 MR. STONE: Yes, ma'am.

4 THE COURT: The video?

5 MR. STONE: Well, let me -- it was -- he took the
6 MRIs; he went down to his -- I -- I wasn't down there
7 with him when he did it, but apparently, they have, at
8 MUSC, a computer system that actually can take the MRIs
9 and put them into a model so they can see better. So,
10 yes, ma'am, it was produced by MUSC.

11 THE COURT: My question was to -- so, I guess I'm
12 asking you was it produced by a firm strictly for
13 litigation?

14 MR. STONE: No, ma'am. It had nothing --

15 THE COURT: Because they do that all the time.

16 MR. STONE: No, ma'am. This was -- this is
17 produced entirely by MUSC.

18 THE COURT: Can you ask, is it possible -- I
19 understand what Mr. McGuire -- I don't have any problem
20 with the video. I don't think it's shocking. I don't
21 think there's any issue. I do understand what he's
22 saying where the one point where it's looking at what
23 now I -- appeared to be the shot moving, you know,
24 through here.

25 MR. STONE: Right.

1 THE COURT: Then, it goes from the skin to the
2 skull. And it almost gives the appearance of kind of --
3 I guess, when I look at it and think of it, it was like,
4 the child's dead, even though the child's not.

5 MR. STONE: I see.

6 THE COURT: Does that make sense? Kind of the way
7 -- is there a way to not have it go -- and that would be
8 from that skin to the skull? And I'm sure there is.

9 MR. STONE: I'm sure there it, too. I don't know,
10 but I'll certainly ask.

11 THE COURT: Okay. Okay.

12 MR. STONE: That's not -- that's not crucial, and
13 that's perfectly fine.

14 THE COURT: And that's the very end.

15 MR. STONE: That's perfectly fine, yes, ma'am. And
16 I think what they can do is, did the -- I don't recall
17 if they put the arrow in after the skull showed or not,
18 so they may have to change it from that standpoint, but
19 I'll be glad to ask. I can't imagine that's a problem.
20 And if it is, I mean, if it's -- if it already shows the
21 angle, but the skin is still there, --

22 THE COURT: That's fine.

23 MR. STONE: -- I'll cut the clip --

24 THE COURT: And that's fine.

25 MR. STONE: And that's fine.

1 THE COURT: And I think that -- I think that's
2 enough, because I don't -- I was looking at it to see
3 whether or not it was showing anything on the inside of
4 the skull. I thought maybe if it was, like, explaining
5 maybe rebound or something off of the skull or off of a
6 bone or something. It didn't appear to do that. So,
7 again, if you could just either cut it there, --

8 MR. STONE: Yes, ma'am.

9 THE COURT: -- or just not do the fade-out to the
10 skull. You know, you talked about, you know, the
11 beating heart, and it looked like fire. I don't have a
12 problem with that. I think it's just -- it is what it
13 is, and there's nothing -- nothing objectionable about
14 that. And again, I quite frankly, I truly believe, and
15 I will tell you this, Mr. McGuire, I don't think it
16 would be reversible error. I think it would be allowed,
17 but I think, out of an abundance of caution, because we
18 do understand that death is different, and we are being
19 very cautious in this case, that, if we do cut out that
20 portion of it before it goes into the skull from the
21 skin at the end of the video, I would feel more
22 comfortable.

23 MR. STONE: Yes, ma'am.

24 THE COURT: But again, I agree. No one can decide
25 this case based on any kind of, you know, passion or

1 anything along those lines. We want them to understand.
2 So, I think that's appropriate. So, to the extent, I am
3 somewhat upholding or granting, your motion.

4 MR. MCGUIRE: And I appreciate that.

5 DEFENSE MOTION RE TIMELINESS OF

6 DISCLOSURE OF ANIMATED 3-D VIDEO C.D.:

7 MR. MCGUIRE: The other issue, and it's not in our
8 written motion, but I would make it here, pursuant to
9 rules in open court, with the court reporter present,
10 and that would be that the timeliness of the disclosure
11 prevents me from adequately preparing to -- to -- to
12 take a look at it. You know, the pathologist that I'm
13 using is in -- in Virginia. I -- I've -- I've gone over
14 the medical records, and there were really no issues. I
15 mean, I didn't -- I don't think there are any issues
16 that are terribly in dispute or complicated with the
17 medical records.

18 But this is going to be a very powerful
19 presentation with the jury, and I've not had the
20 opportunity to -- to schedule any kind of time or review
21 by my pathologist. I mean, we're what, two days away
22 from picking a jury, and we're just now talking about
23 it, and we just got it. And -- and I don't even know if
24 a pathologist is who I might consult with. I might
25 consult with a firm that actually does animations to see

1 if there's something less prejudicial, maybe something
2 that's less graphic.

3 THE COURT: Well, I can tell you, obviously, this
4 case has been going on for some time. We certainly
5 pushed the case off, obviously, based on different
6 people being available, being prepared, when we could
7 accommodate it. I think you've had more than adequate
8 time, certainly, to defend this case. I don't see this
9 as being any different than if the doctor stood up here
10 and was holding a, you know, a body, a skull, or I don't
11 know what you guys call it, but you have some thing that
12 you show in court sometimes, and quite frankly, I --
13 what do you call it? There is a --

14 MR. STONE: I don't know. It's a forensic model.
15 I mean, it's a forensic. It is --

16 THE COURT: That's right. It's a forensic model.

17 MR. STONE: Yes, ma'am.

18 THE COURT: And quite frankly, and I don't know if
19 you intend on using that in this case, but I can tell
20 you that I think that it's more significant. I wouldn't
21 want to see a pint-size or small model they do. And I
22 can tell you, we've seen it in cases where they'll show,
23 you know, enter an injury, and they take this pointer
24 that they basically put through it, and it just -- I
25 think this is much better, and I think it's less

1 objectionable -- or, it's not objectionable at all. I'm
2 comfortable with it. If you're concerned, you need to
3 go take it to your doctor to look to see if it's
4 accurate. But again, I think they're just describing
5 how the shot occurred, because I didn't understand
6 that's what it was, either. I thought there were two
7 shots. So.

8 MR. MCGUIRE: And you know, you know, based on --
9 based on -- based on this issue and trying to get this
10 what I think is kind of a -- a pretty, I think,
11 prejudicial exhibit in front of the jury, you know, we
12 might have to take up the relevance of the pathologist's
13 testimony and how long is it going to be. You know,
14 we're not --

15 THE COURT: It's not a pathologist that's
16 testifying to this. It's a doctor.

17 MR. MCGUIRE: I mean, I'm sorry.

18 THE COURT: It's a surgeon.

19 MR. MCGUIRE: I'm sorry, the surgeon. I mis-spoke.
20 The medical doctor.

21 THE COURT: Right.

22 MR. MCGUIRE: You know, when you -- when you go
23 through the records regarding **John Doe 2**, there's a lot of
24 discussion about did the bullet hit the spinal cord?
25 What does the spinal cord path look like? He had some

1 weakness in an arm and a hand, his left arm and hand.
2 He required a back brace for some time. He had to
3 suspend potty training. When you go through these
4 records in detail, there's a lot of information there.
5 And for them to prove their case in the guilt phase, all
6 they have to show is serious bodily injury. And since
7 now we have this animation, I mean, I am concerned about
8 the stats they would go into, the boy -- this boy's
9 injuries and his recovery, to such an extent that it
10 becomes prejudicial, and is preying on the sympathy and
11 the passion of the jury.

12 THE COURT: Well, I don't know what they're going
13 to say either, but at that point, can we just do a
14 proffer beforehand to determine how far? Again, in
15 seeing you try cases before, Mr. Stone is not anyone
16 that usually goes into unneeded depth. And I believe
17 he's certainly not going to try to do it to elicit any
18 kind of sympathy. It's going to be this is what it is.
19 He does have to prove his case. And again, just because
20 you stipulate to something, doesn't mean that he has to
21 agree to not put it in.

22 And again, I can't tie his hands. He's got to be
23 able to present his case to the extent that the law
24 allows him. To tie his hands -- I can't tie his hands.
25 But of course, that sounds a little expecting the

1 unexpected; doesn't it?

2 So, to that end, I don't find it objectionable.
3 You know, looking at it, I do think it has probative
4 value. I certainly think it's relevant.

5 One of the things I would like to do, Mr. Stone, if
6 we could, is, before you go ahead and redact the end
7 part where the skull comes away, --

8 MR. STONE: Yes, ma'am.

9 THE COURT: -- we need to make that an exhibit
10 to this case, as to what you originally were going to
11 use, --

12 MR. STONE: Yes, ma'am.

13 THE COURT: -- what I have redacted or said that I
14 don't want. So, again, for evidence purposes, they can
15 see what we have done.

16 MR. STONE: Yes, ma'am.

17 THE COURT: So. Okay. All right.

18 DEFENSE MOTION TO SUPPRESS

19 PHOTOGRAPHS:

20 THE COURT: I understand we also have a motion to
21 suppress photos where Mr. Daise is handcuffed.

22 MR. MCGUIRE: There was a stack of photographs.
23 They weren't marked, so I can't refer to them by -- by
24 number. There were a number of photographs. Some of
25 them are photographs of the victim, Jeanine Mullen, when

1 she went in, apparently for -- to make a complaint
2 regarding criminal domestic violence. They're
3 photographs of her face, scratches, cuts, bleeding, that
4 sort of thing.

5 THE COURT: Okay. Well, we talked about those last
6 week. I saw those. That was where -- that was the
7 pending CDV, correct?

8 MR. MCGUIRE: Yes, ma'am.

9 THE COURT: And that was the basis of we all talked
10 about the 404(b) case law on the subject of how far we
11 could go. I still have not ruled on that. I'm just
12 looking at my list from my law clerk, and there's one
13 that says:

14 *Motion to Suppress Photos Where*

15 *Daise is Handcuffed.*

16 MR. MCGUIRE: There's also -- there's also --

17 MR. STONE: I can probably help you with that here,
18 Judge.

19 THE COURT: Please.

20 MR. STONE: I've already -- what I -- I didn't know
21 you could do this, but I think I've taken the handcuffs
22 out. I'll show it to the Defense, and then hand it up
23 to you. But that is the same photograph that we had
24 earlier, but the photographs have been removed.

25 COURT REPORTER: Photographs have been removed?

1 MR. STONE: Excuse me, the handcuffs have been
2 removed.

3 THE COURT: Do you want to take a look?

4 MR. MCGUIRE: I've seen it.

5 THE COURT: You've seen it? Okay. And where was
6 this taken?

7 MR. STONE: It was at a substation for the Beaufort
8 County -- at the Beaufort County Sheriff's Office, but
9 it's not, as you can tell by the photograph, it's not
10 the traditional law enforcement setting. It's a -- it's
11 a house that they use after hours.

12 THE COURT: And you're putting this in for what
13 purpose?

14 MR. STONE: That is how he was dressed when he came
15 out of the house at 43 Play -- 43 Poppy Hill Road, and
16 that is the --

17 THE COURT: You're trying to show the jeans,
18 correct?

19 MR. STONE: Yes, ma'am.

20 THE COURT: That he was wearing.

21 MR. STONE: And those -- that -- yes, ma'am.

22 THE COURT: Okay. Just to prove that the jeans --

23 MR. STONE: That's correct.

24 THE COURT: -- that they actually took them, the
25 cutting, was the ones that he was wearing.

1 MR. STONE: Yes, ma'am.

2 THE COURT: Okay.

3 MR. MCGUIRE: You know, I've offered to stipulate
4 to the chain of custody, and your Honor has heard
5 testimony from Jody Hiers and others indicating that --
6 and Jody Hiers was the officer in charge of the scene
7 when they went to the trailer to do the knock-and-talk.
8 He's the one that spoke to Mr. Daise; patted him down;
9 handcuffed him; had him transported in a squad car with
10 a cage; and was at the Northern Inter -- Northern
11 Investigation Unit.

12 THE COURT: Correct me if I'm wrong, was there GSR
13 found on the pants, or just his hands?

14 MR. MCGUIRE: They didn't test his hands at all,
15 and there are -- there are two --

16 THE COURT: On the jacket. Go ahead.

17 MR. MCGUIRE: No, no, no. There's -- there's zero
18 GSR on the sweatshirt.

19 THE COURT: Okay.

20 MR. MCGUIRE: There's -- well, there's zero GSR on
21 the sweatshirt, on the outside or the pockets, inside
22 pockets. There is -- there's a particle of GSR, kind of
23 on the right groin area. There's a particle -- a single
24 particle on the left. There are about four pieces of
25 lead on the right-hand side in the groin area. And

1 there's about five pieces of lead on the other side.

2 THE COURT: Okay.

3 MR. MCGUIRE: A total of about eleven particles of
4 GSR.

5 THE COURT: Okay.

6 MR. MCGUIRE: Well, actually, that's -- I mis-
7 spoke. There are two particles of GSR proper, which is
8 a combination of barium, lead, and antimony.

9 THE COURT: All three.

10 MR. MCGUIRE: Right.

11 THE COURT: Okay.

12 MR. MCGUIRE: Antimony. There are only two
13 particles that are GSR proper. And then, the other
14 elements are what you would call supporting elements or
15 elements commonly associated with gunshot residue, and
16 those are the lead particles.

17 THE COURT: Okay.

18 MR. MCGUIRE: And we've -- we've offered to
19 stipulate to the chain. And the testimony of Jody Hiers
20 bears out, beyond any doubt, that he was in police
21 custody the moment he came out of his door, and was
22 transported to the interrogation room, where the
23 photograph -- there's no -- aliens would have had to zap
24 the jeans off of him and -- and replace them for there
25 to be an issue. It's not an issue. And I do object to

1 any pictures that have him in this pose where there are
2 -- you can see the metal handcuffs or not. It's just
3 not -- it's absolutely not necessary.

4 THE COURT: Solicitor?

5 MR. STONE: The objection was to the handcuffs. We
6 removed the handcuffs. I don't know what else we can do
7 with this. It shows him in the -- in the jeans that he
8 wore that night. And while I appreciate the stipulation
9 to chain of custody, and once we clarify what they want
10 in return as far as the chain, the chain of custody, we
11 may be able to establish that. But this is not a chain
12 issue. This is an issue of what he was wearing at the
13 time law enforcement got there. That's the only
14 photograph we have of him in the jeans. We have
15 photographs of the jeans, obviously, from the testing
16 and things like that, but it's -- you know, I think,
17 really, it's just a question of us being allowed to try
18 the case. There's nothing prejudicial about this
19 photograph. The only thing that was prejudicial was the
20 handcuffs; we removed those. Thank you.

21 THE COURT: All right.

22 MR. MCGUIRE: And I would just say, your Honor, he
23 still looks to be in the position of custody and
24 restraint, and we never allow those pictures in. We
25 don't allow pictures of people at their bond hearings in

1 jail clothes, even in civilian clothes in cuffs. We
2 just don't allow it, and there's no reason for it, and -
3 - and we would object that it's -- it's not relevant.
4 It's the danger of unfair prejudice, showing him in a
5 pose of restraint and custody. It is more prejudicial
6 than probative, certainly, pursuant to Rule 403.

7 COURT REPORTER: Rule 403?

8 MR. MCGUIRE: '03. 403.

9 THE COURT: 403. All right. Well, respectfully,
10 they did remove the handcuffs. I don't think you can
11 tell that there are in restraints. He's certainly not
12 in a jumpsuit. You don't have to worry about a cinder
13 block wall being behind him. It doesn't look like it is
14 a photo lineup. Quite frankly, I think he looks very
15 unthreatening in the photo, so, which might inure to you
16 and might help you.

17 I don't think there's anything prejudicial about
18 it. I think the Solicitor did go and attempt to make it
19 non-prejudicial, and I can see absolutely nothing wrong
20 with it. I do think at some point I can't tie up his
21 hands in trying the case. I think he needs to be able
22 to show, you know, that he came out in it. And again,
23 as we all know, I have no idea what the jury is going to
24 light on or what they expect or ask for, and sometimes
25 they need it all shown, connected. That's why

1 photographs are important. So, respectfully, I'm going
2 to deny that motion.

3 DEFENSE MOTION RE CELL PHONE

4 EVIDENCE:

5 THE COURT: Do we still need to talk about the cell
6 phone? You weren't going to use any triangulation
7 testimony, correct?

8 MR. THORNTON: We do not, Judge. I've spoken to
9 Mr. McGuire. I've decided it's just not worth it, and
10 there's just no reason to further delay the Court, so we
11 won't put any such testimony up.

12 THE COURT: Very good. Okay.

13 MR. MCGUIRE: And sort of the spirit of fair play,
14 Judge, we might put some in.

15 THE COURT: Okay. Thank you.

16 MR. MCGUIRE: Put everybody on notice of that.

17 THE COURT: All right. What else do you have for
18 motions, Mr. McGuire?

19 MR. MCGUIRE: I think that might be it. There are
20 a couple pending, under advisement, but at this time, I
21 think that's it.

22 THE COURT: Correct me if I'm wrong, what I do have
23 right now under advisement is the 911 call by Mr.
24 Mullen. That was Motion 62. Motions 33 and 54, 404(b),
25 the extent of the prior bad acts. Anything else, in

1 addition to those? Did you all go through and agree on
2 -- yes.

3 DEFENSE MOTION RE PHOTOGRAPHS

4 TAKEN INSIDE HOME AT CRIME SCENE:

5 MR. STONE: I'm so sorry. There is one other thing
6 that he had -- the Defense brought up earlier, and these
7 are in the photographs. And I wanted to just go ahead
8 and clarify, and I'll hand these three photographs up.
9 We have photographs of inside of the -- of the home, as
10 you walk into the room. And what these three pictures
11 show, and I'll try to put them in order, is basically
12 standing in the middle of the room, this corner of the
13 room, this corner of the room, this corner of the room,
14 showing that, as you go into the room, there's no signs
15 of forced entry. There's no signs of anything stolen or
16 broken or anything like that.

17 THE COURT: Mr. McGuire, you've seen those, right?
18 Do you mind, Mr. Stone, just coming around and just
19 laying them right here --

20 MR. STONE: Certainly.

21 THE COURT: -- in the order that they need to be.

22 MR. STONE: Certainly.

23 MR. MCGUIRE: And I think -- I think what he's
24 getting to is, I objected to --

25 THE COURT: Well, I can just come down.

1 MR. STONE: No, no.

2 THE COURT: If that's fine with you all, too.

3 Either way.

4 MR. STONE: No, that's not a problem.

5 THE COURT: Just lay them out so I can see them.

6 MR. STONE: Yes, ma'am. I think you can tell
7 that's the one. And then, that goes into the --

8 COURT REPORTER: I'm sorry. I didn't hear you.

9 MR. STONE: The first photograph is of the inside
10 of the front door.

11 THE COURT: And you're trying to show that there's
12 no forced entry to that?

13 MR. STONE: Yes, ma'am. The second photograph is,
14 literally, the second section of that room, which it
15 shows the television, some stereo equipment, other
16 items, which are as they were found when -- when law
17 enforcement got there, nothing disturbed. And then, the
18 third is just simply the third corner of that room, or
19 the third section of the room. So, altogether, you see
20 everything in that front room as it was found that day.

21 THE COURT: Okay. And is the point for these, or
22 the relevance, is that everything appeared to be order?
23 It doesn't look like --

24 MR. STONE: Yes, ma'am.

25 THE COURT: -- it was either forced entry or a

1 burglary.

2 MR. STONE: Yes, ma'am.

3 THE COURT: Was anything missing from the home?

4 MR. STONE: No, ma'am. Nothing was stolen, nothing
5 was misplaced.

6 THE COURT: Was the house ransacked in any way?

7 MR. STONE: No, ma'am. No, ma'am. And that --
8 that's why that front room -- and also, I would note
9 that that front room does not show -- if you go around
10 the corner of the kitchen is where you would see John Doe 1
11 Mullen as a dead child. And that was the -- I think
12 that -- that -- that the way those photographs are
13 taken, you don't see anything. There's nothing like
14 that. That is simply how that front room looked as you
15 would go in.

16 THE COURT: Okay.

17 MR. STONE: And the objection, I believe, is -- is
18 that there's a -- what appears to be a birthday cake.
19 It's actually not a birthday cake; it's a box that there
20 were a number of cupcakes in. John Doe 1, it was his
21 fourth birthday, and I believe that the objection was
22 that would be no -- should be no mention of the day that
23 he was killed being his fourth birthday, and that those
24 -- not only should the photograph be excluded because
25 they show those cupcakes, but also that there's no

1 reference made to that being his fourth birthday.

2 And I'll tell your Honor that the -- we believe,
3 quite frankly, that was sort of the basis for this
4 entire situation. The defendant took the family van.
5 They had one way -- one area of transportation. The
6 defendant took that morning, the family van. They were
7 planning, as a family, to take John Doe 1 to his birthday
8 party that -- late that afternoon. She needed the van
9 back. And during the day, we will show phone calls from
10 her to Earnest Daise. There's also going to be
11 testimony that, Mom wanted the van back. There were --
12 we're trying to get everybody together to go to John Doe 1
13 birthday party. They were all going to that as a
14 family. They're trying to get the van back from Earnest
15 Daise, and that was leading to some level of frustration
16 on her, which was reflected in the phone records, and
17 various other -- again, I'm giving my entire case, but
18 that's -- that's the relevance of -- basically, that the
19 whole day was built around John Doe 1 birthday. And I
20 don't know how to exclude that.

21 THE COURT: Where was the birthday party supposed
22 to be?

23 MR. STONE: They were all going to Applebee's as a
24 family. And I say as a family. It was going to be --
25 it was not Earnest Daise. It was going to be Jeanine,

1 John Doe 1; and then, Frank Mullen was going to perhaps meet
2 later. He -- he had taken two of the boys with him
3 while they were trying to get ready. So, basically, it
4 was the four children, John Doe 2. I'm sorry, I didn't
5 put John Doe 2 in. And then, Jai.M. and Jas.M., they went
6 with Frank Mullen, and they were coming back for the
7 purpose of the birthday party later on. And that was
8 just -- it was a family dinner they were going to.

9 THE COURT: Okay. And your objection?

10 MR. MCGUIRE: Well, your Honor, clearly,
11 information that a four-year-old was shot and killed on
12 his fourth birthday is prejudicial, and invokes the
13 sympathy of the jury, the emotions of the jury.

14 THE COURT: Isn't that also an aggravating factor
15 in this case? I mean, I know there were two deaths, but
16 the death of a child under the age of nine is an
17 aggravating factor. Is it under the age of nine? Is
18 that correct?

19 MR. STONE: Yes, ma'am.

20 THE COURT: It's another potential aggravating
21 factor for the case. Okay. I'm sorry, Mr. McGuire. Go
22 ahead.

23 MR. MCGUIRE: I mean, again, there are a number of
24 ways to prove that the child's four years old and not
25 older than the statutory cutoff, for terms of

1 aggravation. The -- there's -- there's no need -- first
2 of all, there's no need for it. There's no need to talk
3 about a child's birthday, other than to establish his
4 age for the statutory aggravator, and we can get there
5 without saying it's his birthday.

6 You know, the fact that Ms. Mullen might be upset
7 that the van's not coming back in a timely fashion,
8 that's not relevant to my client's mental state. He's -
9 - they have to show malice aforethought. They have to
10 show my client's mens rea. With regard to Ms. Mullen,
11 it's not relevant.

12 And I believe that the case law is clear that they
13 could put some testimony up to say that, perhaps, on
14 this day, the relationship had some discord in it; they
15 were arguing; she was upset; but the details don't come
16 in. And I believe that's what the case law states.

17 You know, aside from any sort of general he had the
18 van and upset about that, maybe that would come in. But
19 there's absolutely no need for this. This is just --
20 this is a way to put together a fact that will pull on
21 the -- the jury's emotions in a way that prejudices of
22 Mr. Daise. And the elements are, did he unlawful -- did
23 he kill somebody unlawfully with malice aforethought.
24 And the birthday cake is not relevant to that. And Ms.
25 Mullen being upset about the van not coming back on

1 **John Doe 1** birthday is not relevant to that. It's the
2 client -- it's the defendant's mens rea and mental state
3 that's at issue, and why she might be upset is not
4 relevant.

5 THE COURT: Mr. McGuire, the concern I have is that
6 you have to be able to, and forgive me, tell the story.
7 You have to be able to explain what occurred. And
8 looking at these photographs, I mean, it's not as if I
9 see balloons and streamers everywhere, which would be
10 typical of a four-year-old's party. I would be
11 concerned about something like that. But we're talking
12 about a box with cupcakes in it, among what appears to
13 be probably a birthday present underneath, possibly.

14 Again, I think the photographs are necessary to
15 show that there's no forced entry, to show that the
16 house was not ransacked or burglarized or some other
17 went in. I don't find this to be prejudicial in any
18 way. And I do think it's probative. I think it does
19 explain. You know, you've also asked me to, of course,
20 to keep out the 911 tape from Frank Mullen. And again,
21 one of the questions was, or concerns was, is that he
22 did say it doesn't appear to be any forced entry. We
23 were talking about that being a point and a question.
24 Quite frankly, and just very important for the record, a
25 lot of these I have not ruled upon because I think we

1 need to look at the totality of the circumstances and
2 look at everything, because we all know the cumulative
3 fact of a testimony can take it over from, I think, from
4 being probative to prejudicial, which is why it's
5 important to look at everything in its total of how it's
6 presented.

7 MR. MCGUIRE: Sure.

8 THE COURT: I can tell you that, looking at these
9 photographs, I don't find anything prejudicial. I don't
10 have a problem with them. They don't, you know, elicit
11 any sympathy. I think he's got to tell the story of
12 what was going on; where they were going; what they were
13 attempting to do; they were going to a party. Again,
14 I'm not going to let them harp on it, it's just part of
15 unfolding. And you have to remember, too, and I
16 sometimes worry about by the time we scrub a case, the
17 jury doesn't know what's going on anymore, and they feel
18 like we're hiding something from them. And again, I
19 think it's their theory of the case, I think they're
20 entitled to present it. So, and again, I don't find it
21 prejudicial the least bit, so it doesn't concern me.
22 So, as far as those three photographs, I am fine with
23 those. I'm going to overrule your objection as to those
24 coming in.

25 DEFENSE MOTION ASKING THAT THE

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STATE NOT BE ALLOWED TO MENTION
VICTIM'S, **John Doe 1** DAVIS-MULLEN
BIRTHDAY:

MR. MCGUIRE: And then, we would also have a motion
alongside that not to mention that fact that it's
John Doe 1 birthday, you know.

THE COURT: Um-hmm.

MR. MCGUIRE: You know, you can maybe get past the
photographs because the birthday cake's not in -- it's
not displayed prominently.

THE COURT: You can't read. It doesn't say Happy
Birthday **John Doe 1** on it.

MR. MCGUIRE: Right.

THE COURT: Just, you can say a cake box.

MR. MCGUIRE: Sure. And with regard to the -- the
no forced entry, I mean, I can tell you, you probably
haven't seen them, there are a number of photographs,
close-ups of the door, the doorknob, the door frame.
You have the testimony of the officers there's nothing
broken. It doesn't look like the lock is jimmied or
broken. You have all that. Proving no forced entry is
a done deal here, beyond any dispute. So, you don't
really need photographs for that, beyond the close-ups
of the door, the door frame. That's what -- that's what
really establishes no forced entry, is the fact that the

1 door is in perfect shape, as is the lock, and that's --
2 that's common sense.

3 And, but what I am objecting to is any potential
4 testimony from say, Frank -- Mr. Frank Mullen, if they
5 have him on the stand saying what's in this box right
6 here, and he breaks down crying, **John Doe 1** cupcakes
7 for his birthday. That's prejudicial. There's no need
8 to do that, and I would object to that type of testimony
9 coming in.

10 THE COURT: Okay. All right. Well, I think, at
11 that point, we're going to have to take that up as it
12 comes. I am hoping that, you know, again, you caution
13 Mr. Mullen and any other witness as to any sympathetic
14 testimony, obviously. It wouldn't be appropriate, and I
15 think you know that. I think you can tell the story of
16 what's happening and what occurred under your theory of
17 the case.

18 MR. MCGUIRE: And your Honor, just so you
19 understand kind of what's out there, --

20 THE COURT: Yes.

21 MR. MCGUIRE: -- there are phone records that
22 establish that Ms. Mullen is calling from the home line.

23 THE COURT: A phone line?

24 MR. MCGUIRE: The land line. The land line.

25 THE COURT: Okay.

1 MR. MCGUIRE: Calling from a land line to Mr.
2 Daise's cell phone. And it's -- there are a number of
3 calls, so it looks like she is sort of trying to get in
4 touch with him. And I mean, they're going to use that
5 to say she's calling for the van. And there is a
6 witness that, apparently, she talks to, Ms. Mullen talks
7 to on the telephone, and she says:

8 *I'm very unhappy with Mr. Daise;*
9 *he's not bringing the van back, and*
10 *we're supposed to go to Applebee's*
11 *for Walt's birthday.*

12 That's what's out there, as far as I know.

13 THE COURT: Okay.

14 MR. MCGUIRE: I mean, that's what's been provided
15 to us.

16 THE COURT: Okay.

17 MR. MCGUIRE: And we would say that the witness
18 would be able to come in and say, yes, I received a
19 phone call from Jeanine Mullen; she was upset at Mr.
20 Daise; he -- she said he had the van and wasn't bringing
21 it home in a timely fashion; and she seemed very upset
22 about that. I wouldn't object to that. I think that --
23 that can come in to show just that there's some strain,
24 some discord, in the relationship at the time. I think
25 that the case law, *Clinkscales*, and the other cases say

1 that that can come in. It's just the details, the --
2 the -- when you start getting into details, and we seem
3 to be stuck on that, and the birthday, the birthday is
4 just thrown in as an inflammatory factor, and it doesn't
5 need to be there.

6 THE COURT: Again, I don't think that I am going to
7 unduly allow them to go on and on and on about it being
8 a birthday, but I think they can tell the story, and
9 tell, you know, what was going on, why they were calling
10 back and forth, why she was calling. So, basically the
11 phone calls are all her calling him? Is that what
12 you're finding?

13 MR. MCGUIRE: That's what the records indicate.

14 THE COURT: That's what the records show. Okay.
15 All right. Well, again, I think you're limited. I
16 think, in telling the story, they can say it's his
17 birthday. And of course, they're not going to go on and
18 on about it in any way to elicit any kind of sympathy.
19 And if they do, you're going to object, and I'm going to
20 sustain it, and we're going to shut them down. And
21 again, it reminds me, just like in any case, I am
22 confident that you are going to keep whoever may be
23 emotionally charged as a result of this case under
24 wraps.

25 You had had a prior motion about people back, you

1 know, in the gallery, you know, reacting to testimony.
2 I'm leaving it to both sides, whether it's Mr. Daise'
3 family or it's the Mullen family, to keep people in
4 check. Again, I can remind you that I've got the birds-
5 eye view here. And so, my law clerk, and so do my
6 bailiffs, and they are very good at shutting people
7 down. And if there is anything whatsoever, from head-
8 bobbing to anything else, or crying, sniffing, tears,
9 anything, they are going to be asked to leave,
10 certainly, because we're just not going to allow that.
11 So, what else do we have, Mr. McGuire?

12 MR. MCGUIRE: I think that's it, your Honor.

13 RE CHAIN OF CUSTODY; EXHIBITS;

14 WITNESS LISTS:

15 THE COURT: Okay. Have you all talked about chains
16 of custody of certain evidence? Have you all gone
17 through that, and can we just put it on the record? Is
18 there anything?

19 MR. MCGUIRE: Just a few. Oh, I'm sorry, I didn't
20 mean to cut you off. The State has -- they want to
21 limit use of juvenile adjudications of one of the
22 victim's sons, I believe.

23 MR. THORNTON: Yeah, which I have right here, your
24 Honor. I've got their copy, along with a protective
25 order that is very, very basic. It just says:

1 It is hereby ordered that the State
2 release **Jas. M.** juvenile records
3 to the Defense, and that these records
4 only be used for the purposes of this trial,
5 after which, they will be destroyed.

6 THE COURT: It might need to be sealed for
7 appellate review. I don't know, you tell me, but.

8 MR. MCGUIRE: I think -- I think that they should
9 be a part of the record and sealed.

10 THE COURT: Yes, I think we have to seal them.

11 MR. THORNTON: All right. I'll -- I'll have Carra
12 change that, Judge, and we'll have it. But I'm going to
13 go ahead, as long as Mr. McGuire will go on the record
14 as agreeing to that, I'll go ahead and turn these over
15 now, and we'll just have your Honor -- I'll just forward
16 that to you as soon as she gets it changed.

17 THE COURT: Thank you.

18 MR. MCGUIRE: Your Honor, I think that's in line
19 with the case law. I mean, the United States Supreme
20 Court case of *Alaska v. Davis* indicates that the privacy
21 interests of juvenile adjudications is trumped by the
22 defendant's need to cross-examine.

23 THE COURT: Sure.

24 MR. MCGUIRE: So, I mean, I think we -- we do get
25 access, but I do think the Court has to balance the

1 privacy needs of the juvenile adjudication.

2 THE COURT: I understand that. I do think it's
3 necessary in this case, certainly based on the testimony
4 of that witness, and I think you're entitled to it, so.

5 MR. THORNTON: Your Honor, the only other thing
6 that I'm aware of, since we're talking about juvenile
7 records, I'm going to hand this over to Mr. McGuire now,
8 is that, obviously, the defendant has a -- a juvenile
9 record, and I don't want to run afoul of any issues with
10 *State versus Riddle*, of not -- them not being on notice
11 that we were going to use his record against him in
12 penalty phase, if we get to that. So, we will be
13 seeking to introduce that, as well. I mean, we got a --
14 we got a copy of it, actually, from the defendant, so, I
15 know that they have it. It was part of the banker's box
16 full of documents we got involved in their response to
17 our Rule 5. But again, I just wanted to go on the
18 record, your Honor, and let them know that. I would
19 think it would be relatively common sense, but out of an
20 abundance of caution, I just wanted to go ahead and put
21 them on notice.

22 THE COURT: As far as the other exhibits, have you
23 all been through them? Let's go ahead and give you
24 these, I'm sorry, give you back these. Have you all
25 gone through and looked at the exhibits and agreed and

1 marked them? Wanda, have you got anything marked?

2 COURT REPORTER: For today?

3 THE COURT: Not for today. For exhibits. Have you
4 put labels on anything?

5 COURT REPORTER: I do not, your Honor.

6 MR. MCGUIRE: We have some photographs that we'll
7 -- I can make available to Mr. Stone. They're not here
8 with me now.

9 THE COURT: Okay.

10 MR. MCGUIRE: I -- I'm having some blown up and put
11 on card stock, the ones that we thought were important.

12 THE COURT: Okay.

13 MR. MCGUIRE: So, they'll be coming down with the
14 rest of the lawyers to pick the jury. So, we'll have
15 them before jury selection.

16 THE COURT: And both sides were to get me -- and I
17 don't know if you all were giving me witness lists. And
18 I believe Caroline asked you, one of the questions that
19 I always have, because I don't know what your witnesses
20 are testifying to specifically, and there is a chance
21 that a juror will say, I know that witness. If there's
22 something that's important where we're actually weighing
23 their credibility, I agree that that's an issue. But if
24 it's someone that's merely custodial or nothing that
25 really matters, I want to -- I need to know that. So, I

1 hope Caroline told you all that.

2 It's not that I'm trying to pry out of what you're
3 getting from that testimony, but I just need to know
4 whether or not it's material. Because oftentimes, like
5 I said, it's typically the State, it's not the Defense,
6 but they'll have a list of 50 people, and you know, one
7 of them will just say, you know, they did, you know,
8 this and this, and it doesn't matter. And as long as
9 the juror can be fair and impartial, they're fine, as
10 long, again, as it doesn't go to something that's, like
11 I said, material in the case. I mean, the idea is,
12 obviously, that we're going to have this witness list
13 back in the room with jurors so they can look at it, so
14 they can come and tell me whether or not they know
15 anybody or they think they know anybody.

16 The other thing is, it's often helpful for me, too,
17 is that, when you have someone with a very common name,
18 you know, John Dixon, you know, they're going to say, is
19 this the John Dixon that lives over, you know, in
20 Burton, or is it the John, you know, and you're going to
21 say, no, this person comes from Columbia, or something
22 along those lines. And so, I'm just going to need that
23 information, or need to know it.

24 MR. MCGUIRE: Sure.

25 THE COURT: So, I just want to make sure that we're

1 prepared, and that everyone is coming with these lists,
2 and we're going to need a few of them, so we can
3 reproduce them is fine. Just get us a copy of it, so we
4 can, you know, move things along.

5 MR. MCGUIRE: Sure. I think I -- I'm not sure if I
6 copied Sean or not. I sent an email in response to that
7 request.

8 THE COURT: Okay.

9 MR. MCGUIRE: And I -- I -- I indicated that we
10 have subpoenas on a number of law enforcement officers,
11 but I didn't put all their names, because I assumed the
12 State's going to give you those guys. And then, -- and
13 then, maybe I assumed wrong, but, again, I certainly can
14 name them all.

15 THE COURT: Are they investigating officers in this
16 case or?

17 MR. MCGUIRE: Yes.

18 THE COURT: Okay.

19 MR. MCGUIRE: Yeah. I mean, they're all -- they're
20 all officers that have already testified or --

21 THE COURT: Beaufort County Sheriff's Officers?

22 MR. MCGUIRE: Yeah, right.

23 THE COURT: Okay. Okay.

24 MR. MCGUIRE: Or maybe SLED people, you know, Ila
25 Simmons, that sort of -- we have subpoenas on a number

1 of people that I would imagine they do, as well, and I
2 didn't list all those people, but I -- I certainly can.
3 But I also indicated that, in addition to those people,
4 we would have -- we would have Robert White, who is an
5 expert witness. We have Jonathon Arden, a pathologist.
6 And I think Casey Secor indicated that he would get you
7 a list of the people that he's going to call in the
8 mitigation phase.

9 THE COURT: Okay. Okay.

10 MR. MCGUIRE: I think that's -- but I'll know and
11 check.

12 THE COURT: You just need to make sure that you
13 just get me one complete list for me, also. Okay?

14 MR. MCGUIRE: Okay. What I -- what I propose to do
15 is, the State's, they have all the law enforcement
16 officers, do their lists first. And then, I'll just
17 check the ones that I also have a subpoena on or
18 something like that.

19 THE COURT: Okay. That'll be fine. We just to,
20 obviously, get the two lists; make sure we're not
21 duplicating anything so people can look at them, you
22 know, back while they're waiting, so we don't have to
23 wait for them to go through and read a list of 50
24 people. Okay. What else?

25 BAILIFF: Judge, can I approach a second?

1 THE COURT: Yes, sir.

2 BAILIFF TALKING WITH THE COURT.

3 THE COURT: It's my understanding, I think Norman
4 is going to be our head bailiff during the trial of this
5 case, and he has stated the Defense counsel wants to,
6 obviously, see the magazines that are back in the jury
7 room. You are welcome to go through them. And Norman
8 suggested, which I thought was a good one was, once you
9 have gone through them, let's just put them under seal
10 until then, to make sure nothing is put in them,
11 inserted before, you know, we end up empaneling a jury
12 and, you know, going forward on Monday, so I think we
13 can. That's fair enough, so.

14 MR. MCGUIRE: Sure.

15 THE COURT: And smart. So.

16 RE SELECTING JURY:

17 MR. MCGUIRE: And Judge, I know there -- there's
18 always a concern about time when picking a capital jury..
19 And I had -- I had moved to take people who identify
20 themselves as a 1 or a 2, basically, a conscientious
21 objector, has deep scruples against the death penalty,
22 and people who are pre-disposed to vote for death
23 penalty, based on the elements of malice aforethought
24 murder. We've gone through our questionnaire, so we --
25 we've got, I think there are -- there are 16 people who

1 identify themselves as conscientious-objector types.

2 THE COURT: Um-hmm.

3 MR. MCGUIRE: And I think there are about 25 who
4 identify as automatic death penalty for murder.

5 THE COURT: Um-hmm.

6 MR. MCGUIRE: And again, I would just --- I would
7 move that we take those and just put them, when you --
8 when you create panels, just put them to the back. It
9 looks like we have enough jurors where we can start with
10 the middle-of-the-road people, and hopefully, we'll have
11 enough before we ever get to people that we have to
12 rehabilitate or spend forever talking to.

13 THE COURT: All right. Did you all do anymore
14 research on your concern about that and --

15 MR. STONE: Here's my concern with this. I don't
16 mind. I think what -- I think the best way to approach
17 that is this. If we could identify which jurors we're
18 talking about that are clearly 1's and clearly 2's, and
19 that's -- I think he was referring to it as
20 conscientious objectors and automatic-death-penalty
21 people, then, I think we can either agree that they are
22 not appropriate for this case, and then, dismiss them;
23 or that there's enough issue with reading their
24 questionnaire that you really can't tell if they're
25 clearly a 1 or clearly a 2, in which we need to put them

1 in the box.

2 I would not, in fact, I think it's a real bad idea
3 to manipulate the jury, and -- and I think that's what
4 you're doing. If -- if we take jurors and say, well,
5 these are concerns; let's move them to the back; I think
6 you're manipulating the randomness of the jury
7 selection, and that concerns me. Personally, it's not
8 going to affect me from that standpoint. I don't want
9 the case to get overturned, though, because it's not
10 really a random jury selection, because we've somehow
11 gotten together and said, well, we don't get to these
12 until later, we'll sort of make a decision on that.

13 If it's so strong that we agree that this is
14 somebody that we shouldn't reach, then, we should just
15 agree to dismiss them, and I think that's the proper way
16 to do it. So, if I can get a list of the ones that we
17 think -- that they think is the Number 2's or Number 1's
18 or whatever, we may be able to agree to getting rid of
19 them. I think that's the better practice. I'm
20 concerned that, if we don't do that, we're affecting the
21 randomness of the jury selection, and I think that might
22 be an appellate issue that I would be concerned about.

23 MR. MCGUIRE: And we're fine. Just anybody who
24 I.D.s themselves as a 1 or 2. You know, 3 being the one
25 that can you consider fairly both penalties, it would

1 depend on the case --

2 COURT REPORTER: I'm sorry. 3 being the one?

3 MR. MCGUIRE: 3 being the juror who describes
4 themselves as being able to --

5 THE COURT: Listen to the evidence.

6 MR. MCGUIRE: -- consider both penalties and listen
7 to all the evidence, and that their decision would
8 depend upon the facts of the case. And 1's and 2's
9 being either never being able to vote for the death
10 penalty, or would always vote for the death penalty in
11 murder cases. And we have no objection to just getting
12 a list out, and if they circled 1, if they circled 2,
13 just get rid of them. We don't have any objection to
14 that. I don't think -- I don't think this is an
15 appellate issue at all. It's on the defendant's
16 request. So, I mean, we're moving to do it, so it's
17 hard to say that we could be somehow prejudiced by our
18 own request. So, I don't think you have any -- any
19 worries regarding appellate issues at all.

20 THE COURT: Well, it sounds to me like the two of
21 you have agreed that we can go ahead and excuse those
22 people that have indicated they are either Type 1 or
23 Type 2 jurors. Is that correct, Mr. Stone?

24 MR. STONE: It is if -- it is if they're -- let me
25 tell you what my experience has been, your Honor, is

1 that, in some cases, they don't understand the question.
2 I think it's a relatively simple way of doing it, but I
3 have still seen them in which they have circled 1 or 2;
4 and then, they clearly respond in their questionnaire to
5 something different.

6 If I could just get a list of what they think, I'll
7 be glad to go through it, and we may be able to agree on
8 almost all of them, if not all of them. But I don't
9 think you can go just by the numbers, because what my
10 experience has been is, quite -- quite surprisingly,
11 I've actually heard jurors get up there and go, no,
12 that's not what I meant at all, and they just read the
13 question wrong.

14 I think you can tell probably more from the
15 questionnaire answers backing it up, and I think your
16 Honor saw that when we were discussing some of those
17 questionnaires back in chambers, how there were quite
18 vivid descriptions of -- of how they would handle a
19 particular case, which gives you a clear indication of
20 what they're -- what they're thinking. But I wouldn't
21 want to just go on 1 and 2 basis on that, because I've,
22 quite frankly, I've seen them just not understand the
23 question. I think you can take that, though, with what
24 they -- how they answered the rest of their
25 questionnaire, and you can see pretty clearly. If I

1 could, again, my only question is, give me the list of
2 the names; I'll look at them; and we can see if we can
3 agree on them.

4 MR. MCGUIRE: You know, I mean, I just want to put
5 on the record, first off, those are his questions.
6 Those are the State's questions. I objected to them. I
7 think they do mislead people. I made a good argument of
8 that, and I find it surprising that now they're saying
9 the questions they provided to the Court, jurors don't
10 understand. I'm a little confused by that. These are
11 their questions, and I find that argument just sort of
12 specious.

13 And secondly, to say -- if someone's going to
14 circle 1, that they could never vote for the death
15 penalty; and then, they have a comment that seems to be
16 different, I mean, I've just never seen that. I've
17 never seen that. What I have seen is people that
18 describe themselves as a 3, where they can consider
19 both; and then, their comments are, hang them high with
20 a rope. And we've seen that in this case. So, I mean,
21 I -- I think if you circle 1, you circle 2, you've got
22 it, and we just -- we leave it at that. These are their
23 questions; this is the information they wanted; they got
24 it. You know, if they -- if there's an attempt to try
25 to empanel a -- a jury that's designed to convict and

1 kill, which is how it's described in the appellate
2 literature in the cases, and they're trying to put
3 somebody on who's leaning so far in favor of the death
4 penalty that I believe they are substantially impaired
5 and are stacking the deck, to use that phrase again, I
6 -- I see that as a chunk of lead on the scales of
7 justice, and you will see a concerted and timely effort
8 on our part to balance that.

9 And what you find is, that's when you start taking
10 up enormous amounts of time in voir dire. If they -- if
11 there's somebody who I believe is substantially impaired
12 and should be a cause challenge, and they're trying very
13 hard to put them on a jury, you're going to see a real
14 effort on this side to balance those scales out, that's
15 what I'm saying. If you circle 1, you circle 2, you go.
16 Let's just agree on that. And if we can't, then, we can
17 -- we're going to be bogged.

18 If we -- if we -- if we have to deal with these
19 people, you're going to see, I mean, substantial efforts
20 on both sides, probably, to make them say the magic
21 words to get them technically qualified for the record.
22 That's gamesmanship. That's strategy. And trying to
23 have an advantage to the jury in a capital case I find
24 offensive, and that it should be based on people who can
25 say that they truly can fairly consider both penalties,

1 evidence of mitigation and aggravation, and comply with
2 the juror oath. And that --

3 THE COURT: Okay, let's do this. Let's do this.
4 You two both go through the list and look at them, and
5 see what you can agree on. If there is anyone that
6 possibly -- let's say they indicate that they are a Type
7 1 or Type 2 juror, but they say somewhere else in the
8 body of their questionnaire, the opposite, let's maybe
9 bring those people in. But I would agree, even if we do
10 that, we can just put them to the back end, and
11 hopefully, we don't have to get to them. I mean, the
12 goal is, obviously, to get a jury that is fair and
13 impartial by Friday, and that is what our hope is.

14 One thing we did do in this case, I think we
15 adequately subpoenaed people. I mean, we have enough
16 people coming, so. So, anyway, that's my I hope. So,
17 anyway, but you two sit down and see what you can,
18 because I'd like to know the ones we can excuse, we'll
19 get on the phone and have them not come. I mean, less
20 people is less people to go through, particularly people
21 who have already expressed opinion one way or the other.
22 I think that's important. Okay.

23 One other thing that we do need to take up, my
24 understanding is that Mr. Dore is here, and he is a
25 client who is a witness, is that correct, in this case,

1 that was subpoenaed?

2 MR. STONE: Yeah. Mr. Dore had, I think, asked if
3 he could speak to you in chambers on that, but I'll let
4 Mr. Dore come up.

5 THE COURT: I'll tell you, I'm not comfortable
6 speaking with him in chambers on a case. Again, he
7 needs to come in here. My understanding is that, you
8 all, it's a witness. I think it needs to be on the
9 record. I can't imagine why it wouldn't.

10 MR. THORNTON: Understood, your Honor. I'll go
11 grab him.

12 THE COURT: Okay. You all, let's go ahead, and
13 we've been going for a little bit, let's go ahead and
14 take five minutes, and bring Mr. Dore up here, and
15 apparently, his client, if he's here, and we'll take
16 that up. Okay.

17 MR. MCGUIRE: Suits me.

18 OFF THE RECORD 11:41 A.M.

19 BACK ON THE RECORD 11:49 A.M.

20 RE WITNESS JAY SIMMONS:

21 BAILIFF: All rise.

22 THE COURT: Go ahead and be seated.

23 MR. THORNTON: Your Honor, if I could.

24 THE COURT: Yes, sir.

25 MR. THORNTON: I'm sorry, I was waiting for the

1 record. After I spoke with Mr. Dore, he's been with his
2 client, I think the matter has been resolved, at least
3 to the State's satisfaction. He indicates his client
4 will be -- will comply with the subpoena that he's under
5 for -- for Monday, this coming Monday, the 14th. And I
6 think everything has been worked out, at least to the
7 State's satisfaction.

8 Obviously, he's one of our witnesses, and part of
9 that may have been mis-communication. I don't think his
10 client particularly wants to be here, but he did
11 indicate he would comply. He did voluntarily show up
12 today. We never served him with a subpoena to come in
13 today. And I'll state for the record it's Jay Simmons.
14 He did not wish to -- I did not give him subpoena for
15 this morning, but he voluntarily showed up at Mr. Dore's
16 request. I've spoke with Mr. Dore, and Mr. Dore assured
17 me his client has indicated he understands what the
18 subpoena means, and that he will comply with it. So,
19 the State is satisfied, if that satisfies the Court.
20 And I just wanted to put that on the record.

21 THE COURT: Mr. McGuire.

22 MR. MCGUIRE: That's what I understand.

23 THE COURT: Okay.

24 MR. THORNTON: Just, again, you know, just trying
25 to make sure all the subpoenas are complied with, and

1 we'll do the same with Mr. McGuire's folks, so.

2 THE COURT: Okay. Where did Mr. Stone go?

3 MR. THORNTON: He is -- he stepped out. He asked
4 me to go ahead and handle the remainder of the meeting.
5 I can go get him if you need him, Judge.

6 RE ARTICLE IN NEWSPAPER:

7 THE COURT: Okay. Just -- I wanted to make sure.
8 My understanding is there was something in the newspaper
9 today. Was it today?

10 MADAM CLERK: Yes.

11 THE COURT: Is that today?

12 MR. THORNTON: I have not read it yet, your Honor,
13 but I do -- I did understand that there was an article
14 either yesterday or today.

15 THE COURT: It's also my understanding, and I could
16 be wrong, but it was brought to my attention that maybe
17 the investigative report on this case was also included.

18 MR. THORNTON: I'm sorry, your Honor, the
19 investigative -- you mean the police report?

20 MR. MCGUIRE: They put it on the website?

21 THE COURT: That was what someone told me. I
22 haven't looked. I have not -- I have been not reading
23 our newspaper.

24 UNIDENTIFIED PERSON: I was looking around -- I was
25 looking around this morning to see if Savannah was

1 covering it, and I didn't see any there, but I did see
2 that it was on the front page of the --

3 THE COURT: Was this yesterday or today's, sir?

4 UNIDENTIFIED PERSON: Beaufort Gazette has it on
5 there right now.

6 THE COURT: Okay.

7 UNIDENTIFIED PERSON: And then, -- were you able to
8 pull that up, your Honor?

9 THE COURT: I've got the -- I've got the article.

10 UNIDENTIFIED PERSON: So.

11 THE COURT: Yes.

12 UNIDENTIFIED PERSON: They've got a big -- they've
13 got, basically, Mr. Daise has his bond setting in a jail
14 jumpsuit, and pretty much the entire case.

15 THE COURT: Thank you.

16 BAILIFF: Judge, it was posted after 9:00 o'clock
17 last night, because I found it this morning, but it was
18 not on there when I -- I checked the paper last night.

19 THE COURT: So, where is the portion of it where
20 the investigative report is in there?

21 MR. MCGUIRE: Judge, I haven't been able to read
22 the whole thing. There are, obviously, a number of
23 problematic issues in the story. One, there's --
24 there's mention of evidence that's been suppressed.

25 THE COURT: What specifically?

1 MR. MCGUIRE: Well, my understanding is that the
2 State's not going to introduce any kind of evidence
3 regarding drugs or bullets found at his trailer.
4 There's a mention of, I think, drugs being found; that
5 he was trafficking crack cocaine and marijuana, after
6 investigators allegedly found drugs while searching his
7 home. It blames the Defense for the delay in trial, as
8 well as, perhaps, the Court in some part.

9 THE COURT: Yes.

10 MR. MCGUIRE: And that statement --

11 THE COURT: Ironically, they didn't put in there
12 that Mr. Stone was going on vacation in August, which
13 was another time we were looking at, but.

14 MR. MCGUIRE: I didn't know that the press was
15 covering this in February. They indicate that:

16 *During pretrial motions in February,*
17 *Stone said he'd been ready to try the case*
18 *for more than a year, but Mullen did not*
19 *set a June trial date because of a Defense*
20 *expert witness was not available then.*

21 THE COURT: Mr. McGuire, I don't know if you know,
22 but the spokesperson for the Solicitor's Office is
23 actually sitting in the courtroom now.

24 MR. MCGUIRE: My understanding for the Court's
25 comments regarding a gag order was that you didn't

1 officially put us under one, but you told all of us not
2 to try the case in the press or make statements to the
3 press, and we -- we've complied. We said that we would
4 never make any extra judicial statements to anybody.
5 And if, -- I mean, I think at this time, it would be
6 proper to indicate -- to ask the Prosecutor's Office if
7 they've had any contact with the press and the extent of
8 it.

9 MR. STONE: Judge, first of all, let me make sure
10 you understand something. This -- this is the first
11 time I'm seeing this, but I'm looking at this. What it
12 says is:

13 *Stone said, during pretrial motions*

14 *in February,*

15 That was the February pretrial hearing that we had
16 in the courtroom, in which I asked for a court date, at
17 which time Mr. McGuire said he wasn't ready because he
18 had a number of other cases. They were reporting that
19 live in the courtroom. That's not a comment that I
20 made, and I haven't talked to them and said anything
21 about that. So, that's, as you can tell, if you read it
22 closely, it says:

23 *During pretrial motions in February.*

24 Those were live motions that they covered. That --
25 that's not me saying that you didn't set the court date,

1 and that's them listening to me say, your Honor, we're
2 ready to go; and we've been ready to go; and we're
3 trying to get a court date; and they ran a story on
4 this. This is a -- this is a --

5 THE COURT: So, though, our continued problem, and
6 you and I have been around and around about this for so
7 many years. I mean, it talks about that it actually --
8 that the trial selection is going to begin on Wednesday,
9 and according to your spokesman, Mr. Brownstein, who's
10 back in the courtroom, who we all know used to work for
11 the *Island Packet*. I mean, again, I want to try this
12 case in the courtroom. Every case deserves to be tried
13 in a courtroom. And I understand the press' need to
14 sell papers, but this makes it that much harder for us
15 to get a jury in a death penalty case.

16 And you under -- I know you understand my
17 frustration. And again, I agree with him, it's not
18 appropriate. We'd all agreed that we weren't going to
19 talk about trafficking in cocaine and marijuana; that
20 they found drugs searching his home. Again, these are
21 facts that would not go before a jury that are now
22 inserted in the press that people are going to read.

23 MR. STONE: And I would suggest to you they
24 probably already read them, because all of those facts
25 came from, I imagine, the original story when he was

1 originally arrested. None of that came from me. That's
2 stuff that, when they cover the cases, when the original
3 arrest, they keep a docket of all of their -- their
4 stories. This is a reporter, Matt McNabb. I don't know
5 how long he's been with the *Packet*, but not very long.
6 And all of those are a combination --

7 THE COURT: He's a brand new, baby reporter. I met
8 him a few weeks ago.

9 MR. STONE: But the point is, is he's compiling
10 stories from -- I can't stop that, Judge. As much as it
11 sounds like, you know, these -- I can't control the
12 press. And this is something that's real easy for the
13 Defense to over with the Prosecutor. No, we didn't.
14 These people who call on a regular basis, when's the
15 case going to start; when's this going to start; we gave
16 them the start date of the case. I will tell you that.
17 I don't know why that would've been -- that's procedure.
18 We gave them nothing of the facts of the case, nothing
19 of anything, other than what they're -- they're pulling
20 these things from old stories, and I can't stop that.
21 These are stories that they had before we even picked up
22 the prosecution of the case.

23 THE COURT: I agree, anything that they can come
24 sit in here and listen to. My problem is this. It'll
25 be interesting to see what ends up putting in the paper

1 the in next two days when no one else from the press is
2 here right now, other than Mr. Brownstein, formerly from
3 the press. So, while I would agree with you at the
4 February hearing when we may have Mr. McNabb or ten
5 people from local papers, what's happened here in this
6 courtroom now, we don't have any press here. So, it
7 will be interesting to see what happens. I just, again,
8 want to make sure, (a) we can pull a jury; we can pull a
9 fair jury, --

10 MR. STONE: Right.

11 THE COURT: -- and that this is not an issue in
12 this case.

13 MR. STONE: I agree with you, your Honor, but it's
14 not fair to assess that to the State. I mean, I -- I
15 can't tell you enough that we don't control the press.
16 They -- the only thing we did was give them the trial
17 date, and I did that, and I think that's probably proper
18 and probably a good idea. The reason they're not here
19 is because we gave them the trial date. So, I -- I
20 don't know what else we can do about that. And all the
21 stuff, and the facts or everything they put in that
22 story came from stories that they wrote prior to our
23 involvement. So, anyway.

24 MR. MCGUIRE: Judge, I --

25 THE COURT: What I find interesting -- I'm sorry,

1 Mr. McGuire. Go ahead.

2 DEFENSE RENEWED MOTION TO CHANGE

3 VENUE AND TO CALL STATE'S PRESS

4 SPOKESPERSON:

5 MR. MCGUIRE: We would go ahead -- we would renew
6 our -- our motion to change venue, you know, based on
7 this. And I'd move -- I'd -- I'd -- I'd request that I
8 be allowed to call the Solicitor's press spokesperson
9 concerning the extent of the communication with the
10 press. I mean, this is bad information that's out
11 there. And coincidentally, it's all about, you know,
12 it's all bad for our client, and it's all good about how
13 the Prosecutor's been ready to try the case, and it's
14 the Court's fault and my fault that we haven't done it
15 yet. I mean, I find it odd that the contact with the
16 press seems to have is with his office, and it comes out
17 like the story that their office would have written
18 about how they're ready. It's positive for them; it's
19 bad for us. We've had no contact with the press, and I'd
20 move that I be able to call the spokesperson now to
21 determine that extent of contact.

22 MR. STONE: If I may make a point. The
23 questionnaire that I asked to put out was a very generic
24 questionnaire. Didn't even reference who the defendant
25 was or anything like that. And I don't know if you

1 recall, but we went back into chambers, and we discussed
2 a number of the people who responded to the
3 questionnaire, and the response that a number of them
4 gave were I've researched this and come up with I can't
5 be fair and impartial.

6 What the Defense put in the questionnaire invited
7 them to get on the Internet and research this, which
8 takes two seconds going through -- going through Google.
9 So, to be able to come in now and say, oh, my goodness,
10 there's information out there that they've just seen,
11 that's not true. They gave it to them in the
12 questionnaire, and basically, gave them enough facts of
13 the case so that they could go and look it up
14 themselves, and jurors did. And that's going to happen
15 every time you put a questionnaire out there, that is --
16 that is that basic. Those three questions which I've
17 been blamed for creating were three questions that came
18 from the Supreme Court. Those are -- those are cases
19 that have been written up by trial judges.

20 THE COURT: We aren't talking about -- we aren't
21 talking the types of jurors. We're not talking about
22 that. We're beyond that. I understand your argument.
23 It gives them and allows them to know and do research.
24 I can tell you, going through those questionnaires, I
25 haven't gone through all of them, but I -- there may be

1 a few where someone said they actually did some
2 independent some research, but I didn't see very many of
3 them. And yes, some of them did see when the case
4 originally happened, it was reported on, and you're
5 right.

6 MR. STONE: Right.

7 THE COURT: There's nothing we can do to stop that.
8 But what I can do here and now is stop anyone who is
9 working on this case or works for the Solicitor's Office
10 not reporting on this case. I am going to guess that
11 Mr. McNabb, who is a very nice, young man, new reporter,
12 will probably be here for the trial of the case, and I
13 can't stop him from reporting. But I can stop, again,
14 from you all from making any comments in regards to the
15 case, or anyone who's employed by you. Same thing with
16 the Defense.

17 MR. MCGUIRE: We complied perfectly.

18 THE COURT: I understand that. No one's casting
19 aspersions.

20 MR. MCGUIRE: Yes, ma'am. But, I mean, I do -- I
21 do think that -- I -- I do think that the person who's
22 talking to the press and whatever, we know that a press
23 spokesperson from the Prosecutor's Office has spoken to
24 the press in some regard, because they're quoted as
25 having contact with them and reporting on a trial date.

1 I -- I want to call that person under oath to determine
2 exactly what the extent of the conversation was. And if
3 their, you know, if their position is we just told a
4 trial date and that's it, they should be happy to have
5 them get up there and say that.

6 THE COURT: Let me just put this out there. The
7 drug charges, that could be -- is that not public
8 record?

9 MR. STONE: It is public.

10 THE COURT: I mean, can you not pull that up on --

11 MR. STONE: They have to. They --

12 THE COURT: -- on mugshot.com or whatever else you
13 want? Isn't that just the listings charges when
14 someone's brought in?

15 MR. STONE: And I think that came from when he was
16 originally arrested. I don't recall when that was, but
17 I think that's where that came from.

18 THE COURT: Okay. Well, they found drugs while
19 searching his home. Someone had to give that kind of
20 information.

21 MR. STONE: I don't think so. I think you can get
22 that probably from any type of -- I don't -- I don't
23 recall what the Sheriff's Office sent out as their press
24 release when he was arrested. I don't recall if that
25 was a part, I -- I really don't, but that's where that

1 came from. That came from some documents that's already
2 out there, whether that's on the arrest warrant, which
3 would have been, obviously, public, or the incident
4 report. And I'm not sure what section of the incident
5 report the Sheriff's Office makes public.

6 THE COURT: All right. Well, from here on out,
7 again, --

8 MR. STONE: Yes, ma'am.

9 THE COURT: -- no one from the Defense team, no one
10 from the Solicitor's Office --

11 MR. STONE: Yes, ma'am.

12 THE COURT: -- is going to give any information to
13 the press. If they show up, they show up, and we'll see
14 if we can get a jury. I don't know if we can.

15 MR. MCGUIRE: I take it I'm not allowed to cross-
16 examine Mr. Brownstein?

17 THE COURT: You know what? If we have a problem
18 pulling this jury, then, we will. If I can't get people
19 who, you know, say they can't put it out of their mind,
20 then, we'll cross that when we get to it, but right now
21 we're not going to bother.

22 MR. MCGUIRE: Yes, ma'am.

23 THE COURT: Okay? All right. Thank you. All
24 right. Anything else we need to take up, you all?
25 Again, the reason why we're meeting today is, I really

STATE OF SOUTH CAROLINA
14TH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT
COURT OF GENERAL SESSIONS
CASE NO'S. 2009-GS-07-02594, 2009-GS-07-02595
2009-GS-07-02636, 2009-GS-07-02637 & 2099-GS-07-02639

STATE OF SOUTH CAROLINA

PLAINTIFF

VERSUS

OCTOBER 8, 2013 THROUGH OCTOBER 23, 2013

TRANSCRIPT OF TRIAL

BEAUFORT, SOUTH CAROLINA

EARNEST S. DAISE

DEFENDANT

B E F O R E:

HON. CARMEN T. MULLEN, JUDGE; AND A JURY.

WANDA H. ROWE, CVR-M
OFFICIAL COURT REPORTER

State v Earnest Stewart Daise

1 BEGIN DAY ONE, TUESDAY, ???

2 OCTOBER 8, 2013, 10:06 A.M.

3 BY THE COURT:

4 BAILIFF: All rise. Court is now in session, the
5 Honorable Carmen Mullen presiding.

6 THE COURT: Good morning. I understand we have a
7 baby, and I don't know what else.

8 All right. Well, my understanding is, those five
9 jurors that we asked to come back now are here. My hope
10 is just to take each one of them up. I am going to do
11 it individually. One of them had asked to do it in
12 private, based on a health condition or something. So,
13 again, I'll explain to them, obviously, that you all are
14 entitled to hear and know, and that I apologize for it
15 having to be on the record. But again, we'll go ahead
16 and take it up. You all good to go, just to start with
17 that? Is that fine?

18 MR. MCGUIRE: Sure.

19 THE COURT: I mean, is that okay? I just figured
20 let's take care of these people.

21 MR. STONE: Sure.

22 THE COURT: Basically what I'll do is, I'll just go
23 through and question them about their hardship. I'm
24 going to ask them then to excuse themselves; and then,
25 we will discuss if you object, don't object, for the

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1 record, and we'll go from there. Okay?

2 MR. STONE: That's fine. Do we have any
3 questionnaires filled out by any of these particular
4 jurors?

5 LAW CLERK CAROLINE SCRANTOM: Ms. Sundling, Darcey
6 Sundling, I believe, did fill out a questionnaire, but
7 that's all.

8 THE COURT: Okay.

9 MR. STONE: Okay. All right. All right. Could we
10 get a copy of that at some point, or is she the first
11 one up?

12 THE COURT: Diane has copies of those. I don't
13 have copies of them, so.

14 MR. STONE: Okay.

15 THE COURT: Well, And that begs a good question,
16 Solicitor. If you don't have copies of all those before
17 tomorrow, you might want to get them, those copies.

18 MR. STONE: We've been getting them on a regular
19 basis. I just don't have any on these five.

20 THE COURT: Okay. Well, then, you need to get Ms.
21 Sundlings, if you would, from Diane. Do you mind?
22 Okay.

23 Let's go ahead, if you don't mind, and we'll start
24 with Dalba Fernandez. She says English is not her first
25 language. She is from Honduras. She's a house cleaner.

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1 There was nothing in here, other than she just says
2 English is not her first language, and she's concerned
3 about understanding of the English language. So, let's
4 go ahead and bring in Dalba Fernandez, please.

5 BAILIFF: Okay. Where do you want them at?

6 THE COURT: I'm just going to -- actually, we'll
7 just bring her in. I don't want them to feel like
8 they're on trial, but if you don't mind, I'm thinking
9 maybe just -- maybe just bring the podium up a little
10 bit, if maybe that would be okay.

11 BAILIFF: Bring the podium up?

12 THE COURT: Yeah, I think -- I think -- I don't
13 want them to feel awkward, but again.

14 INDIVIDUAL VOIR DIRE, JUROR NUMBER 226:

15 BAILIFF: No problem. Your Honor, Ms. Fernandez.

16 THE COURT: Thank you. Come on in, Ms. Fernandez.
17 All right.

18 BAILIFF: Right this way, please, ma'am.

19 BAILIFF: If you will, ma'am just stand right here
20 behind this.

21 THE COURT: All right. Good morning, Ms.
22 Fernandez.

23 JUROR NUMBER 226: Good morning.

24 THE COURT: Ma'am, you have been selected as a
25 juror, as you know, or potential juror, in the trial of

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1 this case. And it's my understanding you have concerns
2 because English is not your first language. Is that
3 correct?

4 JUROR NUMBER 226: Yes.

5 THE COURT: All right, ma'am. Well, before I ask
6 you certain questions, I'm going to have to swear you
7 in, all right? Or, I'm going to have Lasandra swear you
8 in. So, if you don't mind, ma'am, just raise your right
9 hand. You want to bring her over, Lasandra? Come on
10 forward, ma'am. Thank you.

11 MADAM CLERK: Do you solemnly swear to tell the
12 truth, so help you God?

13 JUROR NUMBER 226: Yes, ma'am.

14 THE COURT: Thank you. Thank you, ma'am. Ms.
15 Fernandez, what do you do for a living?

16 JUROR NUMBER 226: I clean house.

17 THE COURT: You clean houses?

18 JUROR NUMBER 226: Yes.

19 THE COURT: Do you work for a company?

20 JUROR NUMBER 226: No, for myself.

21 THE COURT: You work for yourself.

22 JUROR NUMBER 226: Yes.

23 THE COURT: Do you have other people that work with
24 you?

25 JUROR NUMBER 226: Yes, ma'am.

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1 THE COURT: Okay.

2 JUROR NUMBER 226: Sometime.

3 THE COURT: Sometimes?

4 JUROR NUMBER 226: Yes.

5 THE COURT: Okay. How long have you been in the
6 United States?

7 JUROR NUMBER 226: Eleven years, maybe 20 years.

8 THE COURT: Twenty?

9 JUROR NUMBER 226: Twenty-six.

10 THE COURT: Twenty-six years you've been in the
11 United States?

12 JUROR NUMBER 226: Yes.

13 THE COURT: Okay. How far did you go in school?

14 JUROR NUMBER 226: In a year, sometime three
15 months, but never go because maybe my children, you
16 know, I need that time. Maybe go to the church. I have
17 a lot of work at the church. I service too much in the
18 church. I -- I like the English language because this
19 is the for -- this is the language for here. I don't
20 know.

21 THE COURT: Okay. How many children do you have?

22 JUROR NUMBER 226: Two.

23 THE COURT: How old are they?

24 JUROR NUMBER 226: My daughter I have 24 years old,
25 and my son 20.

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1 THE COURT: Do you have any grandchildren?

2 JUROR NUMBER 226: No.

3 THE COURT: No?

4 JUROR NUMBER 226: No.

5 THE COURT: Do your children live here?

6 JUROR NUMBER 226: Yes. My house.

7 THE COURT: Okay, with you? Okay.

8 JUROR NUMBER 226: With me.

9 THE COURT: In your house.

10 JUROR NUMBER 226: Um-hmm.

11 THE COURT: And are you married?

12 JUROR NUMBER 226: Yes, ma'am.

13 THE COURT: Okay. And is your husband here?

14 JUROR NUMBER 226: Yes, in my house -- now it is
15 from Honduras for time. We are checking our price
16 because we don't have insurance for, you know, for the
17 doctor. He go to Honduras right now for two weeks.

18 THE COURT: He's in Honduras right now?

19 JUROR NUMBER 226: Yes.

20 THE COURT: Okay. Would you like to ask any
21 questions, anyone?

22 MR. STONE: No, ma'am, not the State.

23 THE COURT: Mr. McGuire?

24 MR. MCGUIRE: Yes, ma'am. Your last name again?

25 JUROR NUMBER 226: Hernandez. Fernandez. I have a

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1 grand is my, you know, the single last name.

2 MR. MCGUIRE: Five last names?

3 JUROR NUMBER 226: Fernandez.

4 MR. MCGUIRE: Okay. My name's Bill McGuire. I'm
5 one of the lawyers in the case.

6 JUROR NUMBER 226: Okay.

7 MR. MCGUIRE: And if you were on the jury, you
8 would have the ability to -- you would have the ability
9 to ask people to repeat questions, or speak slower or
10 speak louder.

11 JUROR NUMBER 226: Um-hmm.

12 MR. MCGUIRE: Everybody would be in front of a
13 microphone. Or, if not, they'd talk pretty loud like
14 me. Can you understand me okay?

15 JUROR NUMBER 226: Yes. When the, you know, the
16 people speak fast, it goes, you know, I understand it at
17 the first language here, but for me, it's too difficult
18 to understand a lot of words.

19 MR. MCGUIRE: I see.

20 JUROR NUMBER 226: I -- I'm nervous, yes.

21 MR. MCGUIRE: Oh, there's no reason to be nervous.
22 There's no reason to be nervous, and I'm not speaking
23 too fast for you, am I?

24 JUROR NUMBER 226: Yes, um-hmm. I understand when
25 speak slow.

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1 MR. MCGUIRE: Okay.

2 JUROR NUMBER 226: But so much words I don't know
3 understand communication.

4 MR. MCGUIRE: Okay. I don't think there are any --
5 but you understand most words in the English language?

6 JUROR NUMBER 226: Yes, um-hmm. Yes.

7 MR. MCGUIRE: And I don't think there is any
8 complicated or special words in this trial. I think
9 it's all just going to be kind of normal English
10 language.

11 JUROR NUMBER 226: Okay.

12 MR. MCGUIRE: Would you feel okay if everybody
13 spoke clearly, slowly, and in a microphone?

14 JUROR NUMBER 226: Yes, um-hmm. Yes.

15 MR. MCGUIRE: And as long as everybody didn't speak
16 too fast, you'd be okay?

17 JUROR NUMBER 226: Okay. Okay.

18 MR. MCGUIRE: And if you didn't understand a
19 word --

20 JUROR NUMBER 226: Um-hmm.

21 MR. MCGUIRE: Would you feel comfortable just
22 raising your hand and say, I need that word explained to
23 me?

24 JUROR NUMBER 226: Okay, yes.

25 MR. MCGUIRE: Would that be okay with you?

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1 JUROR NUMBER 226: Yes.

2 MR. MCGUIRE: Okay. Thank you.

3 JUROR NUMBER 226: You're welcome.

4 THE COURT: Ms. Fernandez, where did you go to
5 school?

6 JUROR NUMBER 226: In -- in here, in this country,
7 or?

8 THE COURT: Well, when you were a child, did you go
9 to school in Honduras?

10 JUROR NUMBER 226: Oh, yes. Yes, in Honduras. But
11 here, too, in Florida.

12 THE COURT: In Florida.

13 JUROR NUMBER 226: Because in Florida, I live a lot
14 of years, 16 years. And you know, in Florida, all the
15 people speak Spanish and different countries. And I
16 don't need English in Florida, because everywhere speaks
17 Spanish. When come here in Beaufort, I say, oh, my God,
18 I need the English language for communicate everybody.

19 THE COURT: Okay. So, what type of school did you
20 go to in Florida, and what did you study?

21 JUROR NUMBER 226: I don't -- I don't remember,
22 ma'am. I don't remember, ma'am.

23 THE COURT: Did you go to learn the English
24 language?

25 JUROR NUMBER 226: Yes. Oh, yes. Only --

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1 THE COURT: Is that when you went to school?

2 JUROR NUMBER 226: Yes. Only. Only.

3 THE COURT: Okay. And again, how old were you when
4 you finished school in Honduras?

5 JUROR NUMBER 226: Twenty.

6 THE COURT: You were 20?

7 JUROR NUMBER 226: Yeah.

8 THE COURT: Did you go to university in Honduras?

9 JUROR NUMBER 226: Yes.

10 THE COURT: College?

11 JUROR NUMBER 226: A college, yes, college, um-hmm.

12 THE COURT: Okay.

13 JUROR NUMBER 226: Only 11. Eleven. Eleven. The
14 grade 11.

15 THE COURT: The eleventh grade?

16 JUROR NUMBER 226: Yes.

17 THE COURT: Okay. Okay. Ma'am, you were sent a
18 questionnaire in the mail with a letter from me.

19 JUROR NUMBER 226: Okay.

20 THE COURT: Did you fill it out?

21 JUROR NUMBER 226: Oh, no.

22 THE COURT: Why not?

23 JUROR NUMBER 226: Because I'm waiting for the you
24 send the or letter or send me you can't -- can I come or
25 no. Because last time, he called me again said that the

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1 letter for the jury duty, but I send it. I say I can't
2 speak English. I'll later send another letter, so say,
3 okay, you no come. When my daughter say, you go today;
4 maybe you don't has to do it, then, do the duty; you
5 don't, you know, fill it out, the -- the question. If
6 you say, okay, can I come courthouse today, I bring it
7 tomorrow. I don't know if that's good or not.

8 THE COURT: Lasandra, could I just have a copy of
9 that right there, that questionnaire? It's just right
10 there. It's doesn't matter whose it is. I just need it
11 to look at.

12 Ma'am, what do you do for hobbies or recreation?

13 JUROR NUMBER 226: Don't understand what is that.

14 THE COURT: What do you do in your free time?

15 JUROR NUMBER 226: In my free time? I just stay in
16 the house.

17 THE COURT: Okay.

18 JUROR NUMBER 226: All the time.

19 THE COURT: Okay. Do you watch any news shows on
20 T.V.?

21 JUROR NUMBER 226: Yes. Sometime.

22 THE COURT: Okay. What news shows do you watch?

23 JUROR NUMBER 226: I don't remember what is the
24 name, but I like to see the movies.

25 THE COURT: Movies?

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1 JUROR NUMBER 226: Yes.

2 THE COURT: Okay. Ma'am, in this case, you were
3 sent a letter that basically told you what the
4 allegations were. Do you understand that?

5 JUROR NUMBER 226: Um-hmm.

6 THE COURT: Do you understand that it is alleged in
7 this case that Mr. Daise killed Jeanine Mullen and,
8 also, another child, and shot another child. My
9 question to you is this. There are three possible types
10 of jurors in this case, and I am going to read to you
11 what those types of jurors are. And if you can, tell me
12 which type of juror are you. All right? Do you
13 understand that?

14 JUROR NUMBER 226: No, ma'am.

15 THE COURT: Okay. All right. Mr. Fernandez, I am
16 going to ask you to just step outside for a moment, if
17 you would, and we'll be right back with you, okay?

18 JUROR NUMBER 226: Thank you.

19 THE COURT: Thank you, ma'am. Thank you.

20 BAILIFF: She's clear, your Honor.

21 THE COURT: I appreciate it. All right. What says
22 the Defense?

23 MR. MCGUIRE: Move to keep her.

24 COURT REPORTER: I'm sorry?

25 THE COURT: You move to keep her, he says. What

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1 says the State?

2 MR. THORNTON: Your Honor, we would move that she
3 be struck as not qualified. I can go through the
4 reasons if you would like me to, for the record.

5 THE COURT: You should.

6 MR. THORNTON: She -- first, when she asked how
7 long have you been here, she said eleven years; then,
8 she said 26 years. She did not understand the concept
9 of -- and your Honor asked both college and university,
10 university being a very common phrase in South America
11 and Europe, she didn't even understand that. She said:

12 *Yes, I went to university.*

13 And then, she said:

14 *Only through the eleventh grade.*

15 Well, that's not university. She did not
16 understand the phrase *hobbies or recreation* when you
17 asked her. She did not understand what you were talking
18 about when you said *news shows*, because then she said:

19 *No, I like movies,*

20 after she said:

21 *Yes, I watch the news, but I don't --*

22 *I like movies.*

23 And she clearly didn't -- you didn't even get into
24 what type of juror you'd be, and she didn't even
25 understand that basic question. It would appear, Judge,

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1 that, while she may understand some very basic
2 conversational-type issues, there are going to be --
3 this case, while not overly-scientific, there are --
4 there is going to be scientific testimony. There's GSR
5 testimony. There's blood evidence. There are other
6 concepts. She -- she doesn't even have the basic
7 concept of what hobbies and recreation are. I do not
8 feel that she would be qualified as a juror in this
9 case. She looked very uncomfortable. It was a very
10 strained conversation, even with your Honor trying to
11 break it down as simple as possible. So, we would move
12 for that reason to strike the juror.

13 THE COURT: Okay. All right. Well, respectfully,
14 Mr. McGuire, I have to excuse her. She didn't
15 comprehend what I was asking. Her responses were not
16 appropriate to my questions. Again, this is such a
17 serious case, as we all understand and appreciate, but I
18 cannot have a juror who may be misinterprets a word,
19 doesn't know what the definition of what one is, and I
20 would hate for her to make some kind of erroneous
21 determination based on her not understanding the English
22 language, and therefore, find her not qualified.

23 INDIVIDUAL VOIR DIRE, JUROR NUMBER 38:

24 Let's go ahead and can we bring in the person --
25 we've got someone with a baby out there, correct?

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1 BAILIFF: Yes, we have, your Honor.

2 THE COURT: Okay. Tell her to come on in. I'm not
3 quite sure why we -- go ahead and bring her in. I'm not
4 quite sure why she's here, other than she had a late
5 call-in, is that, Diane?

6 MADAM CLERK: She just had a baby, and she had
7 called and said she was sending a doctor's note. She
8 thought her husband had sent the doctor's note, and she
9 just realized last minute that she hadn't done it.

10 THE COURT: So, you just asked her to come in this
11 morning?

12 MADAM CLERK: She was an add-on.

13 THE COURT: Which person is this, by the way?

14 MADAM CLERK: That would be Number 38, Jennifer
15 Bautista-Gogel.

16 BAILIFF: Judge, you want to hold all these people
17 til the end?

18 THE COURT: Pardon? Actually, I think we're going
19 to -- you can excuse Ms. Fernandez, if you would like.

20 BAILIFF: Your Honor, Ms. Bautista-Gogel.

21 THE COURT: Come on around, ma'am, please.

22 BAILIFF: Stand right here, please, ma'am. If you
23 will, stand right here, please.

24 THE COURT: Thank you. Yes, ma'am. Thank you for
25 coming. My name is Carmen Mullen. I am the judge that

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1 summoned you here for jury service. It is my
2 understanding from my jury panel coordinator that you
3 had attempted to send in some type of letter. You had
4 just had a baby, but for some reason that didn't get
5 done. And so, she asked you to come and be here this
6 morning, and I thank you for that, and I appreciate you
7 being here.

8 JUROR NUMBER 38: Thank you, your Honor.

9 THE COURT: Go ahead and tell me, you have a child,
10 or a newborn?

11 JUROR NUMBER 38: Yes, your Honor, I gave birth on
12 September 15th.

13 THE COURT: Okay.

14 JUROR NUMBER 38: And I have maternity leave from
15 the Navy until November, for six weeks from that date,
16 ma'am.

17 THE COURT: Okay. All right. And you are staying
18 home with that baby. Is that correct?

19 JUROR NUMBER 38: Yes.

20 THE COURT: Okay. And forgive me for pressing
21 anymore, but are you nursing that baby?

22 JUROR NUMBER 38: Yes, your Honor.

23 THE COURT: All right. Thank you. Any questions?

24 MR. STONE: Nothing from the State, your Honor.

25 THE COURT: Any questions? All right. And what

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1 I'm going to ask you to do, ma'am, if you don't mind, if
2 you'll just step out the door, and we will let you know,
3 but I appreciate you coming in. Again, I'm sorry you
4 had to come in. If we'd had a note or known ahead of
5 time, it would have been fine.

6 JUROR NUMBER 38: Yes.

7 THE COURT: But anyway, thank you.

8 JUROR NUMBER 38: I apologize. That was my
9 husband.

10 THE COURT: Thank you, ma'am. Ma'am, can I, also,
11 -- I apologize. Everything you just told me, do you
12 swear or affirm under oath?

13 JUROR NUMBER 38: I swear, yes.

14 THE COURT: Thank you, ma'am.

15 JUROR NUMBER 38: Thank you.

16 THE COURT: Okay.

17 BAILIFF: I started to asked.

18 THE COURT: I appreciate it. Lasandra, you need to
19 do swear or affirm. Okay?

20 MADAM CLERK: Yes, ma'am.

21 THE COURT: Thank you. All right. Any objection
22 from --

23 MR. STONE: No -- no objection to her being
24 excused.

25 THE COURT: Any objections from --

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1 MR. MCGUIRE: No objection.

2 THE COURT: All right. She is excused.

3 BAILIFF: She is excused, Bob.

4 INDIVIDUAL VOIR DIRE, JUROR NUMBER 609:

5 THE COURT: The next person in is Ms. Sundling.

6 This is the one where I have the juror return. Is that
7 correct? A juror questionnaire returned?

8 MADAM CLERK: Yes, Judge.

9 THE COURT: This is a woman, you all, that works
10 for MLS on Hilton Head Multiple Listing Services. She
11 does tech support. Her hardship --

12 MR. MCGUIRE: Judge, I might be able to save you
13 some time.

14 THE COURT: Yes.

15 MR. MCGUIRE: She indicates she's a Number 2, she
16 would never, ever -- well, never vote for the death
17 penalty.

18 THE COURT: Um-hmm.

19 MR. MCGUIRE: And you know, and I've moved to take
20 all the 2's and 1's, and put them in the back or have
21 them excused. If we're going to do that, I would just
22 move we do it with this person, if we're going to do for
23 all the 1's and 2's.

24 MR. STONE: I reviewed your Clerk's list yesterday,
25 which is what I had requested yesterday before I could

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1 actually answer that, and I agree. I think there are 25
2 Type 1's. There are 19, and with this one, I think that
3 would make 20, going off of your Clerk's list, that are
4 Type 2's. And I think the better practice is that we
5 agree to excuse them for cause.

6 THE COURT: All of them?

7 MR. STONE: Yes, ma'am.

8 THE COURT: Okay. You agree to that?

9 MR. MCGUIRE: I agree to that. Yes, ma'am.

10 THE COURT: Okay. Well, then, we'll go ahead and
11 do that. So, we're going to be able to, with that
12 agreement, Diane's going to be able to call all those
13 persons and tell them they don't need to come in.

14 MR. STONE: Yes, ma'am.

15 THE COURT: Okay?

16 MR. MCGUIRE: Yes, ma'am.

17 THE COURT: I appreciate that, you all. Okay.
18 We'll go ahead and tell Ms. Sundling that she is free to
19 go, and thank you for being here.

20 BAILIFF: Ms. Sundling is free to go.

21 INDIVIDUAL VOIR DIRE, JUROR NUMBER 607:

22 THE COURT: Okay. How about Sawyer Strelcheck. Is
23 this a man or a woman?

24 MADAM CLERK: It's a lady.

25 THE COURT: It's a lady. Okay.

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1 BAILIFF: Your Honor, I'll just bring the *Bible*
2 over here.

3 THE COURT: Thank you.

4 BAILIFF: Your Honor, Ms. Strelcheck.

5 THE COURT: Come on in, please.

6 BAILIFF: Just come up here and stand at the
7 lectern, please.

8 THE COURT: Thank you. Ms. Strelcheck, if you
9 don't mind, we're going to go ahead and swear you in
10 just because you're under oath for your responses to me.
11 All right?

12 JUROR NUMBER 607: Okay.

13 THE COURT: Thank you.

14 MADAM CLERK: Do you solemnly swear or affirm that
15 you will answer all questions asked of you by the Court,
16 so help you God?

17 JUROR NUMBER 607: Yes.

18 MADAM CLERK: Thank you.

19 THE COURT: Ms. Strelcheck, good morning.

20 JUROR NUMBER 607: Hi, good morning.

21 THE COURT: My name is Carmen Mullen. I am the
22 judge during the trial of this case, and I'm the one
23 that sent you the summons to be here.

24 JUROR NUMBER 607: Okay.

25 THE COURT: I want to thank you for coming this

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1 morning. My understanding is that you have two children
2 under the age of seven. Is that correct?

3 JUROR NUMBER 607: Yes, ma'am.

4 THE COURT: I need to ask you certain questions to
5 determine whether or not you are exempted from jury
6 service.

7 JUROR NUMBER 607: Sure.

8 THE COURT: That's why we had to call you in. We
9 also did it a day ahead of time to avoid you having to
10 wait with everybody else.

11 JUROR NUMBER 607: Thank you.

12 THE COURT: So, I'm doing my best to accommodate
13 you. How old are your children?

14 JUROR NUMBER 607: Ten months and two-and-a-half.

15 THE COURT: Okay. And do you stay home with those
16 children?

17 JUROR NUMBER 607: Part time, yes.

18 THE COURT: Part time. What do you do, then, when
19 you go to work?

20 JUROR NUMBER 607: Well, I do, do part-time day
21 care. I also work part time, and I only say that
22 because I work for an event all year round that happens
23 in October. So, in October, I have to actually take the
24 girls to work with me.

25 THE COURT: Okay. All right. What event is it

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1 that you do?

2 JUROR NUMBER 607: It's the Hilton Head Island
3 Motoring Festival and Concours d-Elegance.

4 THE COURT: Okay. What do you do for them?

5 JUROR NUMBER 607: I do anything they ask me to do.
6 My event -- or my job kind of builds as the year
7 progresses. And I help with basic sponsorship
8 agreements and marketing or website, or just kind of
9 logistics layouts for the event, and --

10 THE COURT: Okay. And forgive me, I know I've seen
11 it advertised. When is the event this year?

12 JUROR NUMBER 607: It's October 25th through
13 November 3rd.

14 THE COURT: Okay. All right. And just so I
15 understand, were you to have to come to court starting
16 next Monday, through two-weeks' time --

17 JUROR NUMBER 607: Um-hmm.

18 THE COURT: -- and be here from roughly 9:00
19 o'clock in the morning until 6:00 o'clock at night, that
20 would create a hardship for you. Is that correct?

21 JUROR NUMBER 607: Yes. Usually, I would ask my
22 in-laws to watch the girls if I need, like, a doctor's
23 appointment or something, but my mother-in-law just
24 passed away a few months ago, and I don't think my
25 father-in-law is in the right position to watch both of

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1 them.

2 THE COURT: And again, you have a ten-month-old and
3 a two-and-a-half year old? Is that a yes for the
4 record?

5 JUROR NUMBER 607: Yes, yes.

6 THE COURT: Does your husband work?

7 JUROR NUMBER 607: He does.

8 THE COURT: Okay. Does he work normal hours?

9 JUROR NUMBER 607: No, he's director of dining
10 services at USCB, and he also does catering.

11 THE COURT: Okay.

12 JUROR NUMBER 607: So, there's some nights and
13 weekends that he's not home.

14 THE COURT: Okay. Do you have any questions?

15 MR. STONE: I don't have any questions, your Honor.

16 THE COURT: Mr. McGuire?

17 MR. MCGUIRE: No questions.

18 THE COURT: All right, ma'am. If you don't mind
19 stepping out, we will let you know very quickly whether
20 or not we're going to need your services. Thank you so
21 much for coming.

22 JUROR NUMBER 607: Thank you.

23 THE COURT: I appreciate it. All right.

24 BAILIFF: This way, please.

25 THE COURT: What says the Defense?

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1 MR. MCGUIRE: Do we have a questionnaire on her? I
2 mean, we might just be able to excuse her if she's
3 automatic.

4 THE COURT: I mean, she would be excused on
5 automatic exemption, but you know, she obviously only
6 works part time, so, and can take her child. But no,
7 she did not fill out a questionnaire.

8 MR. MCGUIRE: Well, I don't have any questions. I
9 don't have any argument.

10 THE COURT: Okay. You don't have a position?

11 MR. MCGUIRE: No position.

12 THE COURT: No position.

13 MR. STONE: She's probably qualified under
14 exemption status, the way that she described it as a
15 part-time -- part-time worker, taking the kids to
16 school, I mean, with her when she goes. And then,
17 apparently, in October she can't do that. So, your
18 Honor, I think -- I don't have any objection to her
19 being excused. I think that's what --

20 THE COURT: Okay. I think I can excuse her, based
21 on (a) that she is a part-time, stay-at-home mom. She
22 does have very young children. I think she,
23 appropriately, under the exemption, can claim it. Also,
24 you know, certainly on a hardship because of her job,
25 again, is at the end of the month of October, and I

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1 think it would qualify it, as well. We're going to
2 excuse her based on her claiming the exemption.

3 INDIVIDUAL VOIR DIRE, JUROR NUMBER 538:

4 THE COURT: Let's go ahead and get Ms. Rogers.

5 BAILIFF: All right, your Honor.

6 THE COURT: Is this the one that wanted to be
7 somewhat private?

8 MADAM CLERK: Yes.

9 THE COURT: Okay.

10 MADAM CLERK: And she has someone with her. She
11 brought someone with her.

12 THE COURT: She does have someone with her. Okay.

13 MADAM CLERK: I don't know if it's Mr. Rogers or
14 not, but there's a gentleman with her.

15 THE COURT: Can I have Ms. Rogers' information?
16 Come on in.

17 BAILIFF: Your Honor, Ms. Rogers.

18 BAILIFF: Come this way, ma'am.

19 THE COURT: Very good. Come on in. Come on in,
20 Ms. Rogers. Good morning.

21 JUROR NUMBER 538: Good morning.

22 THE COURT: It's very good to see you, ma'am.

23 BAILIFF: Stand right here, please.

24 THE COURT: Thank you. Ms. Rogers, my name is
25 Carmen Mullen. I am the judge that summoned you here

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1 for jury duty for tomorrow, ma'am. There are a number
2 of questions I need to ask you, but before I do that,
3 ma'am, I'm going to go ahead and have them swear you in.
4 All right?

5 JUROR NUMBER 538: (Nodded head.)

6 THE COURT: Will you place your left hand on the
7 Bible and raise your right hand? Very good.

8 MADAM CLERK: Do you solemnly swear or affirm that
9 you shall answer all the questions asked of you by this
10 Court, so help you God?

11 JUROR NUMBER 538: Yes.

12 MADAM CLERK: Thank you.

13 THE COURT: Thank you. Ms. Rogers, who is here
14 with you today?

15 JUROR NUMBER 538: Freddie.

16 THE COURT: Freddie?

17 JUROR NUMBER 538: Fred.

18 THE COURT: Is Freddie related to you or a friend
19 of yours?

20 JUROR NUMBER 538: He's a -- a co-worker.

21 THE COURT: He's a co-worker. Where do you work
22 at, ma'am?

23 JUROR NUMBER 538: Me?

24 THE COURT: Yes, ma'am. Where do you work at?

25 JUROR NUMBER 538: On the -- on the air station, at

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1 the mess hall.

2 THE COURT: At the mess hall.

3 JUROR NUMBER 538: Yes.

4 THE COURT: Okay. At the mess hall at the air
5 station?

6 JUROR NUMBER 538: Yes.

7 THE COURT: All right, ma'am. And what do you do
8 at the mess hall?

9 JUROR NUMBER 538: I do -- I do a salad bar,
10 working on the line, and mop tables, and sweep and mop.

11 THE COURT: Okay. How long have you worked there,
12 ma'am?

13 JUROR NUMBER 538: Ten years.

14 THE COURT: Very good, ma'am. How far did you go
15 in school?

16 JUROR NUMBER 538: I stopped in fourth grade.

17 THE COURT: You stopped in fourth grade?

18 JUROR NUMBER 538: Yes.

19 THE COURT: Why did you stop going to school?

20 JUROR NUMBER 538: Yeah, cause -- cause um, cause I
21 was sick a lot. I was sick.

22 THE COURT: You were sick. Okay.

23 JUROR NUMBER 538: And I couldn't go back.

24 THE COURT: Okay. And you couldn't go back.

25 JUROR NUMBER 538: No.

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1 THE COURT: I understand that you did have some
2 type of problem or illness.

3 JUROR NUMBER 538: Yes.

4 THE COURT: What is your illness, ma'am?

5 JUROR NUMBER 538: Eczema.

6 THE COURT: Eczema? Is that -- okay. All right.

7 Ma'am, are you married?

8 JUROR NUMBER 538: No.

9 THE COURT: Do you have any children?

10 JUROR NUMBER 538: One son.

11 THE COURT: How old is your son?

12 JUROR NUMBER 538: Thirty -- he's thirty -- 38
13 years old.

14 THE COURT: All right. Do you have any
15 grandchildren?

16 JUROR NUMBER 538: No.

17 THE COURT: Ma'am, who do you live with?

18 JUROR NUMBER 538: I live by myself.

19 THE COURT: Where do you live?

20 JUROR NUMBER 538: In Mayfield, Apartment 215.

21 THE COURT: All right. And how long have you lived
22 there?

23 JUROR NUMBER 538: Oh, about, I'd say 21 years.

24 THE COURT: All right. Do you pay your own bills?

25 JUROR NUMBER 538: Yes.

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1 THE COURT: How do you do that? Do you write
2 checks or?

3 JUROR NUMBER 538: I write my checks, yes.

4 THE COURT: Okay. You write checks?

5 JUROR NUMBER 538: Yes.

6 THE COURT: All right. And in your job, you get a
7 paycheck. Is that correct?

8 JUROR NUMBER 538: Yes.

9 THE COURT: Do you get it -- does it go directly to
10 your bank account, or do they actually give you a check?

11 JUROR NUMBER 538: Go right to the -- deposit to
12 the bank.

13 THE COURT: Okay. And then, from there, you pay
14 your bills by writing out checks. Is that correct?

15 JUROR NUMBER 538: Yes.

16 THE COURT: All right. It's my understanding that
17 she is serviced by the Beaufort County Disabilities and
18 Special Needs Department. Do you get a Social Security
19 check, ma'am?

20 JUROR NUMBER 538: No, I get SSI.

21 THE COURT: You get SSI. Okay, you get an SSI
22 check. How much do you get a month on your SSI check?

23 JUROR NUMBER 538: 321.

24 THE COURT: A month?

25 JUROR NUMBER 538: Yes.

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1 THE COURT: Okay. And is that based on -- what is
2 the reason for you getting an SSI check? Is it --

3 JUROR NUMBER 538: I guess disability, I think.

4 THE COURT: Okay. All right, ma'am. Is your
5 mother still living?

6 JUROR NUMBER 538: No.

7 THE COURT: Your father?

8 JUROR NUMBER 538: No.

9 THE COURT: All right. And how old are you?

10 JUROR NUMBER 537: Seventy-three.

11 THE COURT: Were you born and raised in Beaufort?

12 JUROR NUMBER 538: Yes.

13 THE COURT: Very good. Where in Beaufort were you
14 born and raised?

15 JUROR NUMBER 538: Right here on -- on Green
16 Street.

17 THE COURT: Very good. Where did you attend
18 school?

19 JUROR NUMBER 538: At Robert Smalls.

20 THE COURT: All right. All right. Let's go ahead
21 and ask any questions that you all would like. Mr.
22 McGuire, I'd suggest possibly asking -- she has not
23 filled out a questionnaire, so asking what type of juror
24 she would be.

25 MR. MCGUIRE: Sure.

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1 THE COURT: If you don't mind.

2 MR. MCGUIRE: Good morning, ma'am.

3 JUROR NUMBER 538: Good morning.

4 MR. MCGUIRE: My name is Bill. I'm Bill McGuire.
5 I'm one of the lawyers in the case.

6 JUROR NUMBER 538: Um-hmm.

7 MR. MCGUIRE: One of the questions that I need to
8 ask you is that, this is a capital case where the death
9 penalty could be one of the potential punishments. And
10 there are, you know, a couple of different types of
11 people who have beliefs about the death penalty. And
12 one person is the kind of person who, because they
13 haven't heard any evidence yet, they still have an open
14 mind.

15 JUROR NUMBER 538: Um-hmm.

16 MR. MCGUIRE: And they can consider both
17 punishments, both life without parole and the death
18 penalty. Is that the kind of person you are, that you'd
19 have to wait and see the evidence, and it would kind of
20 depend? Life -- life penalty or the death penalty?

21 JUROR NUMBER 538: Uh, this is my first time, you
22 know.

23 MR. MCGUIRE: Sure. Sure.

24 JUROR NUMBER 538: Yeah.

25 MR. MCGUIRE: Well, there are some people that

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1 would always vote for the death penalty all the time.

2 JUROR NUMBER 538: Yeah.

3 MR. MCGUIRE: Kind of an eye for an eye. Are you
4 that kind of person?

5 JUROR NUMBER 538: No.

6 MR. MCGUIRE: Okay. And there -- then, there are
7 some --

8 PERSON IDENTIFIED AS FRED: Do you understand the
9 question?

10 JUROR NUMBER 538: Yeah, I understand.

11 PERSON IDENTIFIED AS FRED: You understand?

12 JUROR NUMBER 538: Yeah.

13 MR. MCGUIRE: Okay. And there are -- and there are
14 -- there are some people who would just never vote for
15 the death penalty, and they would not be able to follow
16 the Court's instructions and fairly consider both
17 punishments.

18 JUROR NUMBER 538: No.

19 MR. MCGUIRE: Are you the kind of person who would
20 never, ever consider the death penalty?

21 JUROR NUMBER 538: No.

22 MR. MCGUIRE: Okay. So, you could consider both
23 the death penalty and the life penalty.

24 JUROR NUMBER 538: Yes.

25 MR. MCGUIRE: Okay. And it would just sort of

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1 depend on the case.

2 JUROR NUMBER 538: Yes.

3 MR. MCGUIRE: Okay. And if you were a juror, you'd
4 have a seat over there, and you'd just have to listen to
5 people testify. Would you be comfortable doing that?

6 JUROR NUMBER 538: Yes.

7 MR. MCGUIRE: And you'd pay attention?

8 JUROR NUMBER 538: Yes.

9 MR. MCGUIRE: And if you didn't hear something, or
10 didn't understand something, could you raise your hand
11 and say I need to have that explained to me?

12 JUROR NUMBER 538: Okay.

13 MR. MCGUIRE: That would that be okay?

14 JUROR NUMBER 538: That would be fine.

15 MR. MCGUIRE: Okay. And if you didn't hear
16 somebody because they were talking to fast or slow,
17 could you raise your hand and say whoa, slow down?

18 JUROR NUMBER 538: Um-hmm.

19 MR. MCGUIRE: Okay. And you feel comfortable doing
20 that?

21 JUROR NUMBER 538: Yes.

22 MR. MCGUIRE: Thank you, ma'am.

23 THE COURT: Solicitor?

24 MR. THORNTON: May I, your Honor?

25 THE COURT: Please.

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1 MR. THORNTON: Hi, ma'am. My name is Sean
2 Thornton. I'm one of the other lawyers, so.

3 JUROR NUMBER 538: Yes.

4 MR. THORNTON: Do you remember getting in the mail
5 a questionnaire with a lot of questions on it from the
6 Court?

7 JUROR NUMBER 538: No.

8 MR. THORNTON: You didn't get any kind of
9 questionnaire?

10 JUROR NUMBER 538: Well, I got a letter, but I
11 can't see. I can't read it by myself.

12 MR. THORNTON: You're not able to read?

13 JUROR NUMBER 538: No, I can't read, so I have to
14 have somebody to read it for me.

15 MR. THORNTON: Okay. So, you -- and I know some of
16 these questions may be difficult, and I'm sorry about
17 that.

18 JUROR NUMBER 538: Um-hmm.

19 MR. THORNTON: So, you cannot read or write in
20 English?

21 JUROR NUMBER 538: I can write my name and stuff,
22 not --

23 MR. THORNTON: But nothing else?

24 JUROR NUMBER 538: No.

25 MR. THORNTON: And you can't read?

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1 JUROR NUMBER 538: No.

2 MR. THORNTON: Okay. Your Honor, Court's
3 indulgence one moment.

4 Thank you, your Honor, I've got nothing else.
5 Thank you, ma'am.

6 JUROR NUMBER 538: All right.

7 THE COURT: Sit tight for just a moment. Could I
8 see the attorneys up here.

9 OFF-THE-RECORD BENCH CONFERENCE.

10 PRESENT: THE COURT, MR. STONE,
11 MR. THORNTON, MR. MCGUIRE, MR.
12 LEDDY.

13 END BENCH CONFERENCE.

14 THE COURT: Ms. Rogers, how old are you?

15 JUROR NUMBER 538: Seventy-three.

16 THE COURT: Very good. Ma'am, there is an
17 exemption that is allowed to you, if you choose to use
18 it, which means that, if you are older than 65, you are
19 not required to serve on jury duty. So, you may be
20 excused if you would like to be excused, or you also may
21 serve if you'd like to serve.

22 JUROR NUMBER 538: Um-hmm.

23 THE COURT: What would you prefer to do?

24 JUROR NUMBER 538: I would like to serve.

25 THE COURT: You would like to serve. Very good.

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1 Ms. Rogers, what I am going to ask you to do is, I'm
2 going to give you a juror questionnaire. I want you to
3 read it, and I want you to fill it out as best you can,
4 without any help or assistance from Freddie or anyone
5 else, all right? And then, I'm going to take it back
6 up; and then, we'll talk some more. Okay?

7 So, if you don't mind, I've got an extra copy, but
8 I'm going to go ahead and give her this pen, and you
9 just fill out whatever you can. Okay, Ms. Rogers? All
10 right? And if we could give her someplace, Al, to do
11 that?

12 BAILIFF: Yes, ma'am, right through the hall.

13 THE COURT: If you could do that. And again, this
14 is without any help. Without any help.

15 BAILIFF: I understand.

16 THE COURT: No one reading it, nothing.

17 BAILIFF: I understand, your Honor.

18 THE COURT: Okay.

19 BAILIFF: This way, dear.

20 All right, your Honor.

21 THE COURT: We'll go ahead, and I'll go ahead and
22 make copies of this. You all take a look at it. I
23 think we have a little bit of time. It is a
24 psychological report that was done back in 1984. It
25 gives her I.Q. scores during that time period. Make a

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1 copy for us -- or, I mean, a copy for the record, for
2 the State, and the Defense.

3 That's everybody. Correct me if I'm wrong.

4 BAILIFF: Yes, ma'am.

5 THE COURT: That's everybody this morning? Okay.

6 Diane, you're going to release all the people that
7 have signed Type 1 and Type 2 jurors on those. Is that
8 correct?

9 MADAM CLERK: Yes, Judge.

10 BY THE COURT:

11 THE COURT: Just for the record, you all, I just
12 want to go through tomorrow what we anticipate as the
13 process, and I am looking for suggestions if you have a
14 better way to do it. We just want to make it go as
15 smoothly as possible.

16 MR. MCGUIRE: Sure.

17 THE COURT: Just for some quick housekeeping
18 details, this room can typically fit, as far as out
19 there in the panel, about 200 people. We could put a
20 few people in the jury box. We could put some chairs in
21 here. What I hope to do based on now that we've
22 released roughly 45 or 50 people, and these four this
23 morning, so, roughly 50 people, brings our number down
24 that we're looking at to about 250 right now that we
25 expect to show up tomorrow. I actually think that I

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1 could stick chairs in here to be able to do the roll
2 call process with everyone hear.

3 The thought is, then, we do roll call. We just
4 divide them up in groups of three, again; and then, we
5 bring them in; and then, we go ahead and qualify, and
6 apparently, we're going to do it three times. We'll go
7 ahead and qualify the jury panel.

8 My intent on that qualification, and again, I'm
9 looking for suggestions, and certainly any objections,
10 let me know right now. It's just, you know, your
11 typical qualifications for jury, you know, typical
12 exemptions for anyone who didn't put it in. And then, I
13 would like to take up any hardship disqualifications
14 that people before did not verbalize. And at that
15 point, I hate to say this, a test ground, but I almost
16 think at the first point, when we talk about that first
17 panel, and like I said, it'll be roughly, I'm guessing,
18 you know, eighty-ish people, I think, at that point, I
19 am going to take up publicity disqualifications and also
20 tell them the allegations, obviously. And if they have
21 any further issues from coming in and learning. And
22 really, at that point, just come up with publicity and
23 hardship.

24 I just want to be very careful not to taint the
25 panel. If there is, on that first panel, if the

1 publicity question creates what I consider to be a
2 problem, what I fear is that what's going to happen is,
3 has anyone read anything, heard anything, seen anything,
4 and everyone's going to put their hand up. At that
5 point, I can't ask them questions, because I don't want
6 them to taint the rest of the panel, you know, at that
7 portion of it. If it's a good number of people, we're
8 just going to have to chalk it up; get everybody's
9 number; and then, we're going to have to ask that
10 question when we bring them in individually. If it's
11 not that many, I'll just pull them up, you know,
12 individually.

13 My question to you is this, Mr. McGuire. I can
14 tell you that, typically, I would ask if anyone's heard
15 anything, read anything, seen anything about this case;
16 and that would be the first question. And then, once
17 they told me where and when, I would ask them whether or
18 not they could put that aside and decide this case based
19 on the evidence presented here in the trial,
20 understanding that that is not factual in any way, and
21 would not be appropriate for their consideration.

22 Again, I'm concerned, because all of that would
23 have to be done away from the rest of the panel. Does
24 that make sense? Do you have a suggestion? That is the
25 only question that I am looking at. It's one of those

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1 things that it's going to invite comment. You tell me.

2 MR. MCGUIRE: Yeah, I think that, especially given
3 the front-page news article that we had this week, I
4 think if you ask anybody have they seen, read, heard
5 anything about the case from any source, go ahead and
6 I.D. them. And then, I would just get all their juror
7 numbers. And at some point, bring them all back in a
8 panel, and we do a side bar as to exactly what they
9 heard. And it's a little bit more than what -- what
10 information you have it's --

11 THE COURT: It's where did you get it and what did
12 you hear.

13 MR. MCGUIRE: And which -- yeah. And what were
14 your general thoughts about the case now that you've
15 heard that information, and just a very open-ended
16 question, and see what they say.

17 THE COURT: Yes.. Okay.

18 MR. MCGUIRE: Because I think the -- the standard
19 question in a non-capital case of can you set aside and
20 decide the case we have, it kind of invites really only
21 one answer.

22 THE COURT: Right.

23 MR. MCGUIRE: I think, in this case, that just a
24 very open-ended question from your Honor of, well, just
25 tell me what you think you know about the case from what

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1 you've heard. That's it.

2 THE COURT: Okay. Let me ask you, when you say,
3 obviously, when they do the publicity question, they'll,
4 you know, say, we take their numbers, we put them in a
5 separate panel, do you suggest, then, that we bring that
6 whole group back together as a panel and do it as a
7 group, or do we just do it when we do the individual for
8 each one of them? Do you see what I'm saying?

9 MR. MCGUIRE: Yeah. I wouldn't -- I wouldn't put
10 them in a four- or five-member panel.

11 THE COURT: That's what I asked.

12 MR. MCGUIRE: Because you could lose them pretty
13 quickly.

14 THE COURT: Okay. So, we should just do what we
15 think as a group?

16 MR. MCGUIRE: Yes, ma'am.

17 THE COURT: And don't worry, Mr. Stone. I'm going
18 to ask your opinion, as well. So, you think we should
19 put them as a separate group? What I don't want to
20 happen is, if we have one whole group that is here, I
21 still can't have them -- let's say there's 40 people,
22 they've read the article. I can't have them testifying
23 in front of the other 39 people. It would have to be
24 individually.

25 MR. MCGUIRE: Sure. And we could put them in the

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1 jury assembly room. We could -- we could actually have
2 them here; and then, we could kind of do it quietly side
3 bar. I don't think that's as good, but if you had
4 another room to put everybody, and just go through them
5 as fast as you can. I mean, I think you're going to
6 have a lot of hands go up.

7 THE COURT: I think you are -- I think we are, too.
8 And that way, we need to take care of those people.

9 MR. MCGUIRE: Yes, ma'am.

10 THE COURT: Before we even break them up in panels,
11 is that what you're saying?

12 MR. MCGUIRE: I would agree with that.

13 THE COURT: Clearly. Okay. Solicitor, what's your
14 suggestion?

15 MR. STONE: Thank you, your Honor. I would just
16 tell you what I have seen before, and I don't think I've
17 been involved in a death penalty case, either as a
18 prosecutor or a defense attorney, that didn't get some
19 publicity, and the question's going to come up. What
20 I've seen that seems to be pretty effective is just
21 taking -- just getting their number, know who they are,
22 go ahead and put in the random panels. They're going to
23 be in here individually anyway, and that just becomes
24 one of the questions that we ask when they get
25 qualified. That -- that is -- it's not only the

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1 simplest process, it -- it lends itself to continuously
2 moving. You don't have to worry about, if there's 40 or
3 50 of them, having to stack them in a group. They just
4 come in, in their standard panel of four. They're
5 individual by themselves, anyway. There's no way that
6 can pollute the rest of the crowd, and you don't have
7 any logistics issues. They're just coming in, and that
8 just becomes one of their questions.

9 And you can ask the questions as the Court just
10 having noted, I understand that you indicated that you
11 had heard something about this case; what is it; however
12 you want to handle it. But then, you're handling them
13 on an individual basis anyway, which is what you would
14 be doing if you had 40 or 50 of them. And if they
15 qualify, then, we are moving on, you've already
16 qualified one of 36. That's what I've seen before, and
17 that's what I would suggest doing now.

18 MR. MCGUIRE: You know, we've -- we've always
19 suggested that we do the publicity beforehand as one
20 issue with everybody, and that's -- that's the way we've
21 done it in the last couple of cases. I mean, I can tell
22 you, back in Georgia, we've had some experience where
23 you don't do it; and then, you get a panel of five, four
24 people; and then, you realize all four or five are
25 struck within seconds, and you're sitting around for an

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1 hour. And you don't have that happen.

2 THE COURT: I understand that the utility to it
3 would be is that, if we could quickly find out whether
4 or not they're biased by news reports, you can get rid
5 of them. But on the other hand, you're ending up
6 individually questioning them twice, if they are --
7 don't have a problem with it; and then, they have to
8 come back in as a panel, as well.

9 I can tell you, and I've been reading quite a lot
10 on transfers, and Judge Cooper, in that case, asked it
11 just like you said. Who's -- wrote the numbers down,
12 who's seen, heard anything about this, and just asked
13 them when they came in individually.

14 MR. MCGUIRE: I mean, I don't really have a strong
15 position one way or the other.

16 THE COURT: Okay.

17 MR. MCGUIRE: I'm just -- if the Court -- if the
18 Court's focused on time --

19 THE COURT: Right.

20 MR. MCGUIRE: -- and being efficient, I would hate
21 to have a panel of four or five people, and we kick out
22 three or four right in the couple of seconds, based on
23 publicity; and then, we feel like we're not making good
24 use of time.

25 THE COURT: Okay.

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1 MR. MCGUIRE: Now, it does take substantial time to
2 do everybody at once, because you might be talking to
3 people that you never--even get to. So, you are -- you
4 are expending some energy that might be unnecessary; but
5 then, you don't have to deal with it on the panels.

6 THE COURT: Okay.

7 MR. MCGUIRE: It's six of one, half dozen of the
8 other.

9 THE COURT: Let me do this. Let me make that
10 determination once I see how many people raise their
11 hand.

12 MR. MCGUIRE: That's probably wise.

13 THE COURT: I think that would be the easiest way.
14 And like I said, if it's a great, great number of
15 people, we probably will just do it individually. And
16 if it's not, I'll take it up and we'll take care of it
17 fast. Yeah?

18 MR. MCGUIRE: And the only thing I would ask is, --

19 THE COURT: Sure.

20 MR. MCGUIRE: -- if we do put them on panels, --

21 THE COURT: Um-hmm.

22 MR. MCGUIRE: -- that then, the publicity questions
23 be left to the lawyers.

24 THE COURT: Okay.

25 MR. MCGUIRE: If that would be okay.

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1 THE COURT: And again, that was the other question
2 that I had, too. In going through and looking at what
3 some of the voir dire, I can tell you, in the past, by
4 judges, it's been a little bit more judge-driven than by
5 lawyer-driven, as opposed to the more recent years.
6 Would you agree with that or?

7 MR. STONE: Say that again, I apologize. I
8 didn't --

9 THE COURT: In looking at various cases in South
10 Carolina, and looking at voir dire as an issue and
11 what's going on, and I don't know there's a trend,
12 obviously, to allow more lawyer voir dire, particularly
13 in capital cases, in any cases, quite frankly, it seems
14 to be more that I'm seeing in the more recent capital
15 cases that have been tried here that it has been more
16 lawyer-driven, versus possibly in the past a good bit
17 has been judge-driven. I know we talked about it. If
18 you were to go through when we were talking about panels
19 of four or five people on an hour, and typically, if you
20 look at the timing of it, the judge is talking about 20
21 minutes of that hour, and the lawyers are talking the
22 rest of them. We can go ahead and put on the record
23 right now, I can take judicial notice of myself that I'm
24 a talker. I don't want to take up your time. So, I
25 want to give you all as much leeway as you possible can.

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1 I think I am going to leave it to you to the point that
2 we are not either stacking or that we are not trying to
3 rehabilitate people. I certainly don't want that to
4 happen. And again, I'm going to allow you all to drive
5 it to the point where you're doing exactly that. Either
6 you're, you know, trying to, you know, rehabilitate
7 people or bring them back and, you know, direct them. I
8 think you should be able to try your case. I think you
9 should be able to see the jurors, you know, that are
10 qualified to serve. So, I would agree with you that I
11 am going to leave that somewhat to you. But again, I
12 need you to be careful about how you phrase your
13 question. I don't want it where it's an automatic
14 disqualification, so.

15 MR. MCGUIRE: Oh, no. We believe in open-ended
16 questions on issues of, like, publicity, for instance.

17 THE COURT: Okay.

18 MR. MCGUIRE: We just ask them what have you heard,
19 what do you know, what do you think about that.

20 THE COURT: Okay. Is there any specific questions
21 that you all feel more comfortable with me asking? I
22 plan on bringing them in individually. Then, I'm just
23 going to remind them that they're under oath; that they
24 were sworn before; and turn it over to you all, I mean,
25 for the most part, unless there is something you want me

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1 to ask them or tell them.

2 MR. MCGUIRE: And the only thing that we ever ask
3 Judge, is to say, this is the time when the lawyers can
4 ask you some questions; and then, just go.

5 THE COURT: Okay. Okay.

6 MR. MCGUIRE: I mean, I think they -- they pay
7 attention to the Court and, but really, they just kind
8 of look at you, just want to kind of please you and say,
9 yes, I understand all that if it's all legal stuff.

10 THE COURT: Right.

11 MR. MCGUIRE: I'm -- I just -- I'm not sure of the
12 utility of it.

13 THE COURT: Well, I can tell you, though, I really,
14 what I plan to do is just, again, remind them that
15 they're under oath; you know, make sure that they
16 understand or that they looked over the witness list; do
17 they know anyone; do they know any of the parties,
18 either the Mullen's or Mr. Daise's family. And I'm just
19 going to say I'm going to turn it over to the lawyers
20 and ask you the questions; this is their opportunity.
21 We'll just go from there. Okay? Is that fine with you
22 all?

23 MR. MCGUIRE: I think that will be fine.

24 THE COURT: Any objection from the Defense? Any
25 objection from the State?

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1 MR. STONE: No, ma'am.

2 THE COURT: Okay. My question to you is, do I need
3 to ask a catch-all at the very end, is there any reason
4 that you cannot be fair and impartial? Do I kind of
5 need to do that at the end or? Because what you -- and
6 the only reason why I say that, Mr. McGuire, you all,
7 again, I'm looking for your all's guidance. I mean,
8 typically, when I'm going to print out my normal voir
9 dire, I would ask the standard questions, which would be
10 can you be fair and impartial; are you aware of any bias
11 or prejudice? If I'm not doing to voir dire, I'm not
12 asking. So, I want to make sure we have covered our
13 bases.

14 MR. MCGUIRE: Yeah, I think that would be a good
15 idea, just if there's -- because we're going to be just
16 focused on death penalty views.

17 THE COURT: Right. Okay.

18 MR. MCGUIRE: And they're -- you know, we don't
19 concern ourselves with collateral issues. And I think
20 it would be fair just to say thank you for answering all
21 of our questions.

22 THE COURT: Um-hmm.

23 MR. MCGUIRE: I'm just going to ask you one
24 question; is there anything that we need to know; is
25 there anything that would prevent you from being able to

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1 be a qualified juror or sit on this case? I think
2 that's fine.

3 THE COURT: Okay. And then, also, too, I mean, I
4 will instruct them that they are not to speak. I saw in
5 some of the transcripts, we excuse them out, we have a
6 discussion. If they are -- or they are invited to be a
7 juror, we bring them back in and at that point say, you
8 know, you have been qualified as a juror in this case;
9 we need for you to come back a certain, you know, time;
10 we want to thank you; and we also need to instruct you
11 that you are not to discuss this case with anyone; and
12 go through my normal litany.

13 MR. MCGUIRE: Sure.

14 THE COURT: Is that the process?

15 MR. MCGUIRE: Yes, ma'am.

16 MR. STONE: Yes, ma'am.

17 THE COURT: Okay. All right. I just hope
18 everything goes smoothly.

19 BAILIFF: I think she's completed the form.

20 THE COURT: She has? Okay, do you mind making a
21 copy of it and giving it to the attorneys what she has
22 filled out?

23 BAILIFF: Okay.

24 THE COURT: You don't have to do it. We can give
25 it to -- Lasandra, can you --

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1 MADAM CLERK: Yes, ma'am.

2 BAILIFF: Do you want her back in here or?

3 THE COURT: All right. No, she can sit out there
4 and wait. I need to look at the questionnaire first.

5 MR. LEDDY: Your Honor?

6 THE COURT: Yes, sir?

7 MR. LEDDY: One issue we -- we wanted to take up
8 was, we noticed in Juror 572, in her questionnaire --
9 and I apologize that I don't have it printed, because I
10 don't have a printer with me, but --

11 THE COURT: I'm sorry.

12 MADAM CLERK: 572?

13 MR. LEDDY: 572.

14 THE COURT: I don't have copies of them in front of
15 me. My law clerk does. I apologize.

16 MR. LEDDY: Well, she has basically indicated that
17 she's a member of the victims' family, and that she
18 would automatically vote death penalty.

19 THE COURT: Okay.

20 MR. LEDDY: And she seemed somewhat outspoken about
21 it, I think it may be a good idea just to --

22 THE COURT: Not have her here at all?

23 MR. LEDDY: Not have her here at all.

24 THE COURT: Okay.

25 MR. LEWIS: She may taint the jury pool altogether.

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1 Her name is Summer Singleton, S/o/m/m --

2 THE COURT: I see that. She said she was very
3 close. All right. Have you looked at it? I'm going to
4 let you look at it.

5 MR. THORNTON: Your Honor, I'm sorry, I haven't,
6 because I wasn't put on any notice that we were going to
7 start randomly picking jurors out to discuss.

8 THE COURT: Well, I think if we can take care of it
9 ahead of time, while we do have a little bit of free
10 time, I appreciate that. Yeah. Who is keeping this
11 list? Diane, you are keeping this list that you are
12 excusing, correct?

13 MADAM CLERK: Yes, ma'am.

14 THE COURT: Okay.

15 MR. THORNTON: The State has no objection, Judge.

16 THE COURT: Okay. May I ask you all one other
17 question, which, I was a bit surprised. I was under the
18 understanding we should be referring to people just by
19 their juror number versus their name, but I've noticed
20 in all these transcripts they are calling people by
21 name. Does anyone have a position on that? And I don't
22 know if it's just because it's South Carolina but.

23 MR. MCGUIRE: I mean, I can tell you that I had a
24 case where I specifically requested that we refer to
25 people by number, because we had issues of outside

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1 threats of violence, and we wanted everybody to be
2 comfortable.

3 THE COURT: Right.

4 MR. MCGUIRE: And feel anonymous.

5 THE COURT: Yes.

6 MR. MCGUIRE: I think that's always the better
7 course. I don't know why we wouldn't do it in every
8 case.

9 THE COURT: Right.

10 MR. MCGUIRE: But we specifically have requested in
11 the past and it was granted.

12 THE COURT: Solicitor?

13 MR. STONE: I've never done it by number. I've
14 always referred to them by name, and I've always heard
15 the judge do the same thing. I don't know of any death
16 threats in this particular case, or any reason that we
17 would change that.

18 THE COURT: Okay. All right. Solicitor, you've
19 had an opportunity now to look at that juror. Any
20 objection? I mean, this is Juror Number 572. She says
21 she knows the victims' family.

22 MR. THORNTON: I'm sorry, Judge. Yes, ma'am. I
23 got up earlier and said the State had no objection. I
24 apologize.

25 THE COURT: I apologize.

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1 MR. THORNTON: I'm sorry, Judge. I thought you
2 were asking me about the one we had in here. No, ma'am,
3 the State has no objection. She clearly, even though
4 she didn't circle or whatever, she's clearly, you know,
5 one of the types that we would have excused anyway. So,
6 I think that -- I think it's perfectly fine.

7 THE COURT: And she knows the family.

8 MR. THORNTON: And she knows the family. So, I
9 don't have -- the State has no objection to her being
10 excused ahead of time.

11 THE COURT: Great. We'll excuse Number 572, as
12 well. Also, I have an email from Juror Number 687, if
13 you don't mind me reading it for you all. It was a
14 followup from a phone conversation, a man by the name of
15 Mr. Wood, James Wood. He says:

16 *I'm writing to follow up our*
17 *telephone conversation a few minutes ago.*

18 It was addressed to Ms. Cade. He, apparently,
19 called in. It says:

20 *I am Juror Number 687. Although the*
21 *jury summons and questionnaire of the trial*
22 *that is to commence jury duty on October 9*
23 *was apparently mailed in August, I did not*
24 *open it until last week. By way of*
25 *explanation, we have been in the process*

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1 of moving from our villa at 253 South Sea
2 Pines Drive, to a home at 18 Clairton
3 Lane, in Hilton Head. We get most of our
4 mail at the Sea Pines Drive address,
5 but only periodically, they were treating
6 it.

7 The summons was part of a pile of
8 mail that we took with us when traveling
9 to Holly, Pennsylvania, last Tuesday.
10 I opened it on Thursday. Given the
11 October 9 date and the fact that a response
12 was obviously overdue, I completed the
13 questionnaire and sent it via U.S. Postal
14 Mail Service.

15 I'm sorry.
16 U.S. Postal Service Express Mail on Friday.
17 It is supposed to arrive at your office
18 today.

19 I respectfully request to be excused
20 from jury duty for the pending trial. We
21 drove to Pennsylvania on a long-planned
22 trip to see our daughter and grandchildren.
23 We did not intend to return to South
24 Carolina until Tuesday of next week.
25 It would be extremely difficult for me

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1 to return to South Carolina in time for
2 jury selection on Wednesday. It would be
3 a financial hardship to schedule a flight
4 at this time, given the late date of
5 booking that flight.

6 I also note that this is a capital
7 murder case. I have long-held religious
8 and philosophical objections to the death
9 penalty being administered under any
10 circumstances. This stems back to my
11 education, and a professor who was a
12 strong proponent of the death penalty.
13 I worked on at least one case in which
14 he was involved.

15 As I have held these beliefs now
16 for 40 years, they will not change.

17 I apologize for not responding to
18 the summons and questionnaire earlier.
19 It truly was a function of transition
20 from one residence to another. I am
21 most willing to serve as a juror in
22 any case that would not involve potential
23 administration of the death penalty.

24 Thank you for your consideration.

25 So, I think this is clearly a Type 1 or 2 juror,

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1 and it would be appropriate, as we've excused all the
2 others, that he be excused. As well as a hardship.
3 He's not even in the state.

4 MR. THORNTON: No objection.

5 MR. MCGUIRE: No objection.

6 THE COURT: All right, without objection. That's
7 Number 687. Okay. You all, have you looked at the
8 questionnaire from Ms. Rogers.

9 MR. THORNTON: No, ma'am, we haven't gotten a copy.

10 THE COURT: Oh, they haven't gotten a copy. Sorry.

11 MR. THORNTON: That's the one I thought you were
12 referring to earlier, Judge, when I got up and looked
13 dumfounded. We haven't looked at that.

14 THE COURT: I got it. This one's pretty short.
15 She filled out her name.

16 MR. STONE: Pardon me?

17 THE COURT: She filled out her name.

18 MR. STONE: That's it?

19 THE COURT: I think maybe her address, too. Did
20 you also receive, after the copy, what was an I.Q.
21 report from back in '84, an exam?

22 MR. THORNTON: Yes, your Honor. The State's
23 reviewed it.

24 THE COURT: Mr. McGuire, you did you that, as well?

25 MR. MCGUIRE: Yes, ma'am.

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1 BAILIFF: Judge, May I approach a second?

2 THE COURT: Please.

3 OFF-THE-RECORD DISCUSSION, THE

4 COURT AND BAILIFF.

5 THE COURT: The bailiffs were asking me, Solicitor
6 and Mr. McGuire, they're concerned about, you know,
7 oftentimes jurors bring books in with them, so, when
8 there's down time. Is that going to be a problem in any
9 way? Obviously, they can't bring cell phones or
10 computers, but again, is there objection from the State?

11 MR. STONE: None from the State, your Honor.

12 THE COURT: From the Defense?

13 MR. MCGUIRE: No, your Honor.

14 THE COURT: Okay.

15 BAILIFF: What about Kindles?

16 THE COURT: What about Kindles?

17 MR. STONE: Same thing. I think that's the same
18 thing.

19 THE COURT: I'm embarrassed to ask, but can you
20 download information on a Kindle?

21 MR. STONE: You can?

22 BAILIFF: You can?

23 MR. THORNTON: Yes.

24 THE COURT: Yes, you can.

25 MR. THORNTON: Sorry, your Honor, for jumping up.

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1 I apologize to the Solicitor. I've got a Kindle, and
2 it's wireless. It depends on which one they have, but
3 all Kindles even have wireless, and you have free
4 Internet here, and there are some Kindles that you can
5 actually download, like, you can -- I can surf the
6 Internet on my Kindle. Not all of them have that
7 capability, but some do. So, I would just point that
8 out for the Court's information.

9 THE COURT: And Caroline's telling me you can also
10 download newspapers and magazines.

11 BAILIFF: So, just print. Only print books and,
12 obviously, if we were to see a book that looked like
13 it was about something that shouldn't, you know, we
14 would --

15 THE COURT: Mr. McGuire, do you all have a
16 position?

17 MR. MCGUIRE: I mean, I think we'd all agree that
18 we don't want anybody to have any ability to surf the --

19 THE COURT: The Net.

20 MR. MCGUIRE: Right.

21 BAILIFF: Only regular print books, and if we see
22 somebody has a book that looks like maybe is
23 inappropriate, we'll -- we'll bring it to your all's
24 attention.

25 THE COURT: Okay.

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1 MR. MCGUIRE: I can supply them with some
2 literature.

3 THE COURT: Okay. Diane, did everybody get copies
4 of this questionnaire?

5 MADAM CLERK: Yes, Judge.

6 THE COURT: I appreciate it.

7 You all, as far as jury summons and notices, when
8 we sent out our 700 original summons, a number of them
9 were returned. I know we've documented all of them that
10 were returned. Additionally, I asked that, if they
11 could not serve them, the Sheriff's Deputies go out and
12 attempt to serve them.

13 One of my concerns that we do have sometimes here
14 is that, while people will physically live at an
15 address, they won't have a mail receptacle, because they
16 could live in a trailer or along those lines. So, I
17 asked them to go physically to serve them if they could.
18 What they have done is come back, and if they were
19 unable to locate the person or find the person, or if
20 the person was deceased, they just did an affidavit of
21 non-service, so we've got that clarified here. If they
22 were able to serve them, they did an affidavit of
23 service, and I expect to see them tomorrow.

24 We did that, as I hoped that we weren't going to be
25 doing as much rounding up tomorrow that we did ahead of

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1 time, was our hope. We wanted as many people here as
2 possible, responding to the summons. So, I don't know
3 if any of you all want to look at these or have a
4 concern with any of these, but I think it's probably
5 safe as -- do you want to make them a part of the
6 record? What do you want to do with them?

7 MR. MCGUIRE: Well, I'm satisfied with the attempts
8 to serve. If you want to just have the Clerk swear in
9 an affidavit.

10 THE COURT: Okay.

11 MR. MCGUIRE: Or state something on the record,
12 I'm fine with that.

13 MR. STONE: Same. That's fine, your Honor.

14 THE COURT: Okay. Ms. Cade, we'll go ahead and do
15 that. I will tell you that Diane Cade has worked
16 tirelessly with Jerri Roseneau, our Clerk of Court, to
17 make this case go smoothly, to get the summons out. I
18 will go ahead and say they have been fantastic, and they
19 were on me to get them out and get them out early, and
20 again, we appreciate it, and they worked so hard. Let's
21 go ahead and just put Diane under oath.

22 MADAM CLERK: Do you want me to go on the stand, or
23 just --

24 THE COURT: No, we can put you on oath right here.

25 MADAM CLERK LASANDRA YOUNG: Do you solemnly swear

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1 or affirm that you shall answer all questions asked of
2 you by this Court, so help you God?

3 MADAM CLERK: I do.

4 THE COURT: All right. Ms. Cade, can you just tell
5 us for the record what exactly is in that binder, and
6 what was originally sent to these people. They were
7 returned; and then, whatever efforts were made to serve
8 these people.

9 MADAM CLERK: Yes. In the binder are the summons'
10 that came back in the mail, such as *Return to Sender,*
11 *Not Deliverable as Forwarded; Unable to Forward.* We
12 then gave all those to the Deputy Sheriff's Department.
13 They attempted service. Some did get served. These
14 were the ones that came back with proof of service that
15 they were not able to locate anyone by that name at that
16 residence.

17 THE COURT: Okay. Thank you. Okay. Any questions
18 further of Ms. Cade?

19 MR. STONE: Nothing from the State, your Honor.

20 MR. MCGUIRE: Nothing from the Defense.

21 THE COURT: Okay. And I'm sorry. Okay. You all,
22 have you had a chance to look at Ms. Rogers'
23 questionnaire?

24 MR. THORNTON: State has, your Honor.

25 MR. MCGUIRE: Yes, your Honor.

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1 THE COURT: Well, it appears, just for the record,
2 that she has written her name in cursive under birth
3 date. And then, under birth place has put:

4 *25 Johnny, and Beaufort.*

5 Doesn't list a ZIP code. Put a phone number under:

6 *How long have you lived in Beaufort?*

7 And for her home phone number, appears to be a
8 Social Security Number, at least the length of numbers
9 of a Social Security number with no dashes.. State's
10 position?

11 MR. THORNTON: Your Honor, and I'll just, for
12 record purposes, if the Court will give me just a
13 minute, I'll go through the rest of it.

14 THE COURT: Certainly.

15 MR. THORNTON: She also checked *do you own a home*
16 both yes and no. She re-did the -- kind of the same
17 thing the Court just went through a couple of pages
18 back.

19 The other thing, your Honor, I will tell you is
20 that, when looking at her psychological report, she's
21 got a scaled I.Q. of 57. She would not be qualified to
22 have the death penalty sought against her because of her
23 mental condition. I think the State's position is it's
24 inappropriate to ask her to sit in judgment on someone
25 else.

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1 Also, your Honor, as the Court is aware, it's, I
2 believe, sixth grade or its equivalent. If you look at
3 her at this -- at this --

4 THE COURT: It says she -- basically, on her
5 reading and verbal she said --

6 MR. THORNTON: 1.7.

7 THE COURT: -- first and second grade.

8 MR. THORNTON: Yes, ma'am.

9 THE COURT: And maybe third grade on one of them.

10 MR. THORNTON: And it also says she was socially
11 promoted to the third grade. So, she did not even make
12 it academically through the third grade.

13 And finally, your Honor, the last think I would
14 point out is, one of the things on the page, forgive me,
15 your Honor, I believe it's the third page, it says she
16 is not able to consistently weigh consequences of
17 actions before making decisions. That goes to the very
18 heart of sitting as a death penalty juror. The State's
19 position is she is not qualified, your Honor.

20 THE COURT: Mr. McGuire?

21 MR. MCGUIRE: We don't have a position, Judge.

22 THE COURT: Okay. All right. I find that she's
23 not qualified, based on not only her filling out the
24 questionnaire based on that report back in 1984, and as
25 well as observing her here in the courtroom.

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1 Additionally, she would qualify for an exemption.

2 But I would agree that I don't think it would be
3 appropriate. This is too serious a case. So, we'll go
4 ahead and excuse her with our thanks.

5 BAILIFF: Thank you, your Honor.

6 THE COURT: Thank you. I want to go ahead and make
7 sure that we keep that record, her I.Q. record, as an
8 exhibit, as well as the juror questionnaire that she
9 filled out. Okay?

10 BAILIFF: The gentleman said that was your Court's
11 copy. He did not need it back.

12 THE COURT: Okay. Very good. I've given that to
13 you.

14 THE COURT: I apologize. That's the Court's copy.
15 That's mine.

16 BAILIFF: Yes, ma'am. He did not want it back.

17 THE COURT: Okay.

18 ITEM IDENTIFIED AS QUESTIONNAIRE

19 OF JUROR NUMBER 538, MARKED

20 COURT'S EXHIBIT NUMBER 1-A.

21 ITEM IDENTIFIED AS PSYCHOLOGICAL

22 REPORT OF JUROR NUMBER 538, MARKED

23 COURT'S EXHIBIT NUMBER 2-A.

24 THE COURT: What else, you all? What else do we
25 need to take up? And let me talk about what time we're

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1 going to run from. My only concern right now is, I
2 don't know how long it's going to take us to qualify
3 three separate panels; and then, at what point I'm going
4 to tell them they need to start coming back. The
5 anticipation is, once we put them in panels of five, I
6 guess we're going to probably, after lunch on Wednesday,
7 is that usually -- and how late are we going to run?
8 How many panels are we going to bring in?

9 MR. MCGUIRE: I mean, we'll -- we'll work as hard
10 as the Court wants to.

11 THE COURT: Okay.

12 MR. MCGUIRE: I mean, I just throw my two cents in
13 there, and just say that I've seen -- I've seen
14 consistently everybody's a little bit optimistic about
15 how soon we'll be starting.

16 THE COURT: Um-hmm.

17 MR. MCGUIRE: And I've seen -- I've seen panels,
18 like, panels of four or five asked to come back at 1:30
19 or 2:00 o'clock, and you're still doing publicity and
20 hardship.

21 THE COURT: Okay.

22 MR. MCGUIRE: And because you get to a lunch break,
23 and you don't want all these people sitting around, so
24 you let, you know, you have to have 30 of them come back
25 after lunch to go through that. And I would -- I would

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1 have a phone number for them to call and just --

2 THE COURT: Okay.

3 MR. MCGUIRE: -- play it safe. Because you don't
4 want people -- you don't want people showing up waiting;
5 and then, still have 25 people to deal with, with
6 publicity or whatever.

7 THE COURT: Okay.

8 MR. MCGUIRE: I would just tell them you might come
9 back today; here's the number; call it at 12:00 o'clock,
10 1:00 o'clock, and 2:00 o'clock, and 3:00 o'clock, and
11 we'll see. And at 3:00 o'clock, you might --

12 THE COURT: They're going to be all on separate
13 panels, so I don't see how that works. Because if
14 they're coming back, they're coming back as panels of
15 five. So, again, at that point, we assign them a panel,
16 you're Panel Number 1, Panel Number 2, I guess what I
17 would worry about is how we're putting that message on
18 there, and that's a long message.

19 MR. MCGUIRE: Oh, it would sound like, at this
20 time, Panel A is scheduled for 2:00 o'clock; Panel B is
21 scheduled for 3:15 --

22 THE COURT: Okay.

23 MR. MCGUIRE: -- or 3:00 or whatever you want.

24 THE COURT: Okay.

25 MR. MCGUIRE: And Panel C is scheduled at this time

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1 for 4:00 o'clock.

2 THE COURT: Okay.

3 MR. MCGUIRE: Whatever it is. However, please call
4 back within the hour to confirm; and it might change;
5 Panel A is now scheduled for 3:00 o'clock.

6 THE COURT: And the other thing we need to take
7 into account, too, is that if someone's coming from
8 Hilton Head or Saint Helena, it takes an hour to get
9 here.

10 MR. MCGUIRE: Wow.

11 THE COURT: So, it's a good bit of time, as well.
12 So, an hour ahead of time doesn't help. They're going
13 to need more time. So.

14 MR. MCGUIRE: I mean, I leave that to your
15 discretion.

16 THE COURT: Okay. All right. Also, it's my
17 understanding, do you have another motion outstanding,
18 Mr. McGuire?

19 MR. MCGUIRE: Judge, you know, based in large part
20 on the newspaper article that appeared, the front page
21 newspaper article that appeared this week where the
22 Prosecutor's press officer was quoted, and the
23 information regarding trafficking and drug charges was
24 mentioned, we are contemplating moving for joinder of
25 the charges, where the drug charges would be tried with

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1 the murder charges this week, or starting on the 14th.
2 As your Honor is -- is aware, factually, when Mr.
3 Daise is -- they do a knock and talk. They get Mr.
4 Daise from his trailer. They take him to the
5 interrogation room, which is right down here. And they
6 get a warrant, probable cause, a search warrant, based
7 on probable cause, that we've already had pretrial
8 hearings about, to go to his trailer and search it.
9 It's the exact same -- it's the exact same chain of
10 custody. It's the exact same witnesses. It's the same
11 search warrant. We would just incorporate our prior
12 arguments, with regard to the suppression motion
13 regarding the warrant to incorporate the drugs, but.
14 So, it's all the same.

15 THE COURT: Okay.

16 MR. MCGUIRE: There's no -- there's nothing to be
17 done. The only thing that would be extra would be a
18 chemist to say it's actually crack cocaine and
19 marijuana. And if we -- and what I'm saying is, this is
20 not a final decision on our part. We're contemplate it
21 more.

22 THE COURT: Okay.

23 MR. MCGUIRE: But if we do request it, we would not
24 require a chemist, and we would stipulate the
25 authenticity of the purity of the drugs, that they are,

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1 in fact, crack cocaine and marijuana.

2 THE COURT: Okay.

3 MR. MCGUIRE: We would not require a chain of
4 custody or a chemist. So, essentially, it's the exact
5 same witnesses for all of the evidence.

6 THE COURT: Okay.

7 COURT REPORTER: All of the evidence?

8 MR. MCGUIRE: For all the evidence.

9 THE COURT: All the other evidence.

10 MR. MCGUIRE: All the other evidence.

11 THE COURT: The only thing that I would anticipate
12 being different is, is that I do think your voir dire
13 for the jury, you would need to ask some question in
14 regards to drugs. You know, whether or not people have
15 a, you know, -- some people are strange about it.

16 MR. MCGUIRE: I think, yeah, I think the only
17 questions that we'd have to ask are, if somebody was
18 charged with drugs, do you have any feelings about that;
19 do you have any close family members who are either had
20 problems with drugs or anything like that, that you
21 would have some kind of personal feeling about it. I
22 think it would add maybe just one question to voir dire.

23 THE COURT: Okay. At what point are you going to
24 make a determination, because, of course, the State
25 needs to know? And again, it would be Monday, really,

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1 you could address that. Because, in addition to voir
2 dire. But once we're there, I think we're there.

3 MR. MCGUIRE: I mean, I think the fair way to deal
4 with it is, is for them to just go ahead and plan on
5 that's what we're going to do unless we say no; and
6 then, it's a non-issue for them. It's -- they can go
7 ahead and get ready now. It's the same -- it's all the
8 same witnesses. There's nothing to do. I would just
9 say for them to plan on it; and then, if we just say,
10 no, that's not what we're going to do, it just
11 alleviates a fact for them.

12 THE COURT: Mr. Thornton?

13 MR. THORNTON: Your Honor, with all due respect to
14 Mr. McGuire, he seems to be really knowledgeable about
15 how we prosecute our case, and he's not. It is a
16 ridiculous statement to stand up and say that, in the
17 death penalty case, the last minute joinder or non-
18 joinder of other charges requires maybe one voir dire
19 issue and that's all. And while we certainly appreciate
20 he's willing to stipulate as to not having a chemist, he
21 doesn't get to try our case for us. And as the Court
22 has already gone through the case law, we are entitled
23 to put up the witnesses that we need to put up to prove
24 our case, regardless of his stipulation.

25 It is incredibly stunning to me that he would stand

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1 up and make an argument the week before we start a death
2 penalty case, the day before we start jury selection,
3 and tell the Court he is contemplating joinder of
4 offenses; that he has already made a motion, which we
5 didn't oppose and have never intended on having all the
6 cases run together. And then, but he's not even going
7 to do that today and say, well, it shouldn't matter to
8 the State; they should plan on it.

9 We haven't planned on it. We haven't started doing
10 it. He made a motion that, granted, we didn't hear it
11 until recently, but the motion was outstanding that he
12 opposed any joinder, and that's how we've planned this
13 case.

14 I will be speaking with the Solicitor this
15 afternoon. We're going to try to get together and see
16 what our position is going to be. Again, we didn't hear
17 about it 'til this morning, but I think it is -- it is a
18 very specious argument at best to stand up and say that,
19 in a death penalty case, whether we join other offenses
20 or not is a non-issue. I think that -- I think that is
21 -- is a -- a pretty ridiculous argument to make.

22 So, as soon as they have decided what they're
23 contemplations are, we sure would appreciate knowing so
24 I need to know if I'm objecting to something or not,
25 preferably, you know, before, you know, we actually

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1 select a jury in the death penalty case.

2 THE COURT: All right. Mr. McGuire, are you just
3 going to let me know at the point?

4 MR. MCGUIRE: Sure. And just to respond briefly,
5 you know, the reason we have to consider it is because
6 of that newspaper article. And let's -- let's be real
7 clear here, the newspaper doesn't know generally when
8 trials are called. They need somebody to tell them. I
9 didn't tell them. Somebody did. The Prosecutor's
10 employee's quoted in the article. That triggered that
11 article. It triggered it right before jury selection.
12 It mentions the trafficking charges. And I have to look
13 out for Mr. Daise. And if they're victimized a little
14 bit, so be it. I don't care. It's their fault, and
15 they just need to live with that. I've got to do what I
16 think is best for Mr. Daise, and if that's it, then,
17 that's what we're going to do.

18 You know, let's get the chemist here. It's SLED,
19 it's two hours away, two-and-a-half hours away, and it
20 is all the same evidence.

21 THE COURT: So, are you making the motion or not,
22 or do you still need time to determine whether or not
23 you want to go forward with it?

24 MR. MCGUIRE: Well, you know, it's -- I need a
25 little bit more time.

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1 THE COURT: Okay. Well, this is what we're going
2 to do. Someone needs to make a decision. As soon as I
3 know, you can either object to it, we'll go from there,
4 and I'll rule on it. It'll be that simple. Okay?

5 MR. THORNTON: Thank you, your Honor.

6 THE COURT: Also, I'm going to need a list from
7 both sides. I do not know everyone's name that you
8 intend on bringing to trial. I just want to make sure
9 that I know exactly who it is so I refer to everyone
10 properly.

11 MR. MCGUIRE: Sure.

12 THE COURT: I think I know, unless you're bringing
13 anyone else besides Ms. Henderson, I'm aware of, you
14 know.

15 MR. STONE: That's it, your Honor.

16 THE COURT: Thank you.

17 MR. STONE: Yes, ma'am.

18 THE COURT: Okay?

19 MR. STONE: Yes, ma'am.

20 THE COURT: And I appreciate it. Okay. And if you
21 don't mind also letting me know if they are lawyers,
22 paralegal, whoever's sitting there, I just want to know
23 who they are and what they're doing.

24 MR. MCGUIRE: Sure.

25 THE COURT: Okay?

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1 MR. MCGUIRE: We can do that.

2 THE COURT: I appreciate it. All right. Anything
3 else? Okay. You all, I mean, -- I'm sorry.

4 MR. LEDDY: As far as who are the Number 1's and
5 Number 2's, Mr. Thornton and I are going to get together
6 after this hearing and compare our lists; and then,
7 we'll provide those to Ms. Scrantom by emails.

8 THE COURT: You did it, as well, right? No, you're
9 not doing the witness list. No, they're talking about
10 the jurors' list.

11 LAW CLERK SCRANTOM: Oh.

12 MR. LEDDY: The jurors who are Number 1, Number
13 2's.

14 THE COURT: Right.

15 MR. LEDDY: And I just want to make sure we all
16 agree on which numbers they are.

17 THE COURT: Agree. And that's fine. And witness
18 lists, you all are working on them?

19 MR. STONE: Yes, ma'am. Yes, ma'am.

20 THE COURT: When am I going to get them?

21 MR. THORNTON: You'll have them by the end of the
22 day, Judge. I'm actually working on it right now.
23 We're trying to get it organized, and with the Court's
24 instructions, doing it a little bit differently than we
25 normally do, as to the materiality or whether they're

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1 just a chain or whether --

2 THE COURT: And those lists, again, the materiality
3 portion of it is not for their eyes.

4 MR. THORNTON: Yes, ma'am.

5 THE COURT: It's for my eyes.

6 MR. THORNTON: I understand.

7 THE COURT: So, you're going to have two separate
8 lists. I don't care if you handwrite next to it, I just
9 want to know whether or not they're exempt.

10 MR. THORNTON: Yes, ma'am.

11 THE COURT: Okay. So, again, we do need to have a
12 separate list that will go to the jury.

13 MR. THORNTON: We're doing two, Judge.

14 THE COURT: Got it.

15 MR. MCGUIRE: And Judge, what I'll -- this is just
16 for the Court, is my understanding. And what we'd
17 actually request is that we number our witness list, and
18 we just give it to the jury; and then, they can just say
19 I know Number 7.

20 THE COURT: That's fine.

21 MR. MCGUIRE: Is that okay?

22 THE COURT: Okay. The only thing that I, and we
23 talked about, you know, a better idea is to identify the
24 people by number versus name. The only little worry I
25 have about that is that, oftentimes, when we have this

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1 many jurors, people will get the wrong number, and we
2 will get confused. I want to make sure we're all on the
3 same page, so you all know who you're objecting to, not
4 objecting to. You know, I'll try to keep it to a
5 minimum so they don't feel like they're being singled
6 out with their names, but again, I want to make sure
7 we're all on the same page, and that we're, you know,
8 getting rid of the same people and being able to answer
9 the questions as to the same people.

10 What I don't want to happen is you're saying Number
11 7, and somebody goes, wait a minute, is that, you know,
12 Lieutenant so-and-so, because I think there's going to
13 be a little bit of that, but I think you'll know.

14 MR. MCGUIRE: Sure. Yes, ma'am.

15 THE COURT: Okay. All right. Anything else?

16 MR. STONE: No, ma'am, not from the State.

17 THE COURT: I'm sorry. It's my understanding
18 they're working on space for you all, and is that
19 getting resolved?

20 MR. MCGUIRE: Thank you.

21 BAILIFF: No, ma'am, not that I know of.

22 THE COURT: No, not that we know of.

23 BAILIFF: It may have been, but I haven't been
24 told.

25 MR. MCGUIRE: Our only request is that, starting

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1 Monday morning, if we could have the jury assembly room.

2 COURT REPORTER: If we could have the jury, what?

3 MR. MCGUIRE: Assembly room.

4 THE COURT: Okay.

5 BAILIFF: I have been told that's off the
6 possibility list.

7 MR. MCGUIRE: Oh, shoot.

8 BAILIFF: But they are working on it.

9 THE COURT: Mr. McGuire, I will tell you what the
10 issue is. We need to have big enough rooms to be able
11 to stick these panels, because that's our of concern.

12 MR. MCGUIRE: Um-hmm.

13 THE COURT: But we shouldn't have that problem
14 starting Monday.

15 MR. MCGUIRE: Right.

16 THE COURT: I understand you prefer the jury
17 assembly room, and what I explained to them, it's only
18 my guess, is that it's a little more private, you could
19 shut the door. Whereas, again, being stuck in a jury
20 room -- or, I'm sorry, being stuck in a trial room,
21 people kind of more coming and going, and I get that.

22 MR. MCGUIRE: Right.

23 THE COURT: And I'm assuming that's what your
24 problem is.

25 MR. MCGUIRE: That's exactly it.

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1 THE COURT: So, anyway, we are trying to work it
2 out to see if we can't keep the witnesses in a jury
3 room, which also allows us to, if there's more people
4 coming and going, that's more people with eyes and ears
5 to be watching, if they're conversing, what they're
6 doing. But again, it's also the bigger chance, too,
7 that people are coming and going, and can speak with
8 them. Obviously, we're going to have a bailiff there
9 with them. We're just trying to find out logistics-
10 wise, I saw Jerri pop in the back here; we're going to
11 talk to her again. But you'll know something for sure
12 on Monday. By the end of Friday, we'll have you set.

13 MR. MCGUIRE: Thank you.

14 THE COURT: So you have somewhere you can go.

15 BAILIFF: She wasn't here yesterday evening.
16 That's why it was not settled yesterday evening.

17 THE COURT: Okay. All right. Okay. Anything
18 else?

19 MR. MCGUIRE: Not at this time, I don't believe.

20 THE COURT: What time are you all going to be here
21 tomorrow morning? What time should we have everyone in
22 here?

23 MR. STONE: We're here whatever time you tell us,
24 Judge.

25 THE COURT: 9:00 o'clock?

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1 MR. MCGUIRE: Sure.

2 MR. STONE: Sure.

3 THE COURT: Jury's coming in at 10:00, roll call
4 will start at 10:00. We're going to try to get rolling
5 as quickly as possible, if that's fine with you all.

6 MR. MCGUIRE: Sure.

7 THE COURT: And that way, if there's any last-
8 minute issues we need to take up, the joinder issue, we
9 can do that.

10 MR. MCGUIRE: Sure.

11 THE COURT: Let me ask you one other thing. If,
12 for some reason, we are unable to get a jury pulled by
13 Friday afternoon, is it the State and Defense's
14 preference that we come back on Saturday and keep going,
15 so we can start on Monday, to keep everything in line,
16 because you all have called witnesses, and you have
17 gotten plane flights; or would you prefer to give them a
18 break over the weekend, and finish the jury selection on
19 Monday?

20 MR. MCGUIRE: I would actually prefer to come back
21 on Monday if possible, because I think I overestimated a
22 little bit how long it would take the State to try their
23 guilt phase. So, all of my plans were based on my
24 people being here around the 17th, and it sounds like
25 I'm good even if we start Tuesday morning.

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1 THE COURT: Okay.

2 MR. MCGUIRE: I mean, it sounds like the State's
3 case, we've narrowed the issues, and it sounds like it's
4 fairly straightforward. So, that would be my
5 preference, and that would help me with my expert.

6 THE COURT: And that's what I was concerned about,
7 because you talked about flying people in. Go ahead.

8 MR. THORNTON: Your Honor, if we could have one
9 moment.

10 THE COURT: Sure.

11 MR. STONE: Your Honor, we'll leave that to you.
12 Here's the situation. I hope that we're able to get the
13 jury Wednesday, Thursday, and Friday, and won't have
14 that situation. I don't have any objection, really, to
15 starting back Monday. We just have flights coming in,
16 and are trying to coordinate witnesses. And so, I don't
17 know how much change that makes of everything, and
18 that's -- that's kind of what we were discussing
19 earlier, so.

20 THE COURT: I guess we're going to have to make
21 that decision when we get to it.

22 MR. STONE: I think so.

23 THE COURT: Again, correct me if I'm wrong, and
24 again, I need help from you all, I think we've done a
25 good job at the front end getting rid of people that

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1 would be time consuming and not qualified anyway, that
2 I'm hopeful that the three days will be adequate. You
3 know, in all candor, we're starting Wednesday because we
4 believed we had other things going on in the courthouse,
5 and had I known we didn't, we would've started
6 yesterday. And so, again, and so, I'm just hopeful that
7 we can get through it. And I hope we've done enough at
8 the front end that, again, it's narrowed it as far as,
9 you know, people and taking up issues. And, quite
10 frankly, the questionnaire was very detailed. I mean,
11 we really -- there's a lot of things that were taken
12 care of for you all normally would have been asked, you
13 know, in voir dire. So, I think we're in good shape.
14 Anyone correct me if I am very wrong.

15 MR. STONE: No, I agree. I agree, your Honor.

16 MR. MCGUIRE: Yeah, I think we're doing pretty
17 good.

18 THE COURT: Okay. All right.

19 MR. STONE: Thank you, your Honor.

20 THE COURT: Okay. Thank you all.

21 MR. MCGUIRE: Thank you, Judge.

22 THE COURT: Tomorrow morning, 9:00 a.m.

23 MR. MCGUIRE: Yes, ma'am.

24 THE COURT: Thank you. You all going to have --
25 Grayson, 9:00 a.m., everything's good?

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1 MR. GRAYSON: Yes, ma'am.

2 THE COURT: Okay. Thank you.

3 END DAY ONE, TUESDAY,

4 OCTOBER 8, 2013, 11:31 A.M.

5 BEGIN DAY TWO, WEDNESDAY,

6 OCTOBER 9, 2013, 10:53 A.M.

7 BY THE COURT:

8 BAILIFF: All rise. Court's now in session. The
9 Honorable Carmen Mullen presiding.

10 THE COURT: Thank you all. Please be seated.
11 Well, good morning, ladies and gentlemen.

12 JURORS: Good morning.

13 THE COURT: It is a pleasure to see you all. My
14 name is Carmen Mullen. I am the Chief Administrative
15 Judge here in Beaufort County, as well as Jasper County.

16 Ladies and gentlemen, I want to thank you for your
17 patience this morning. We did have some issues with the
18 Ladies Island Bridge, which is why we're a bit delayed.
19 So, again, thank you.

20 Ladies and gentlemen, you have been summoned to
21 serve here in Beaufort County during a General Sessions
22 term of court. And as you all know from the
23 questionnaire that was sent to you, the case before the
24 Court is a capital trial that begins this Monday, on
25 October 14, ladies and gentlemen, and is expected to

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1 last two weeks.

2 Ladies and gentlemen, I want to first inform you
3 that, in this case, there will be no sequestration
4 required. Therefore, if you are chosen as a juror in
5 this case, you will go home to your families every
6 night, and I want you to know and understand that from
7 the outset, ladies and gentlemen.

8 Ladies and gentlemen, what we're going to do over
9 the next three days is select a jury for that case, and
10 again, I want to ask you for your continued patience and
11 understanding during this jury selection process. I
12 want you to know that there will be down time. Please
13 understand that everyone in the courtroom is working
14 hard to be able to go ahead and choose this jury, ladies
15 and gentlemen.

16 I want you to understand and want to impress upon
17 you the importance of your jury service. Ladies and
18 gentlemen, without jurors willing to serve, we simply
19 cannot do the Court's business, and we can't do justice.

20 Ladies and gentlemen, I want to explain, also, to
21 you that jury selection is a statutorily mandated
22 process. There are a number of things that we are
23 required to do here in the courtroom to go ahead and
24 qualify you all as potential jurors in this case.

25 Ladies and gentlemen, what I intend on doing at the

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1 beginning right now is what we call roll call. You're
2 simply going to stand, and as Jerri, I believe, our
3 Clerk of Court, explained to you, you are to answer a
4 number of questions and respond to them.

5 Ladies and gentlemen, I have to remind you, we are
6 a Court of record. Everything anyone says here in this
7 courtroom is taken down. So, if I ask you to speak up
8 or ask you to approach, please, ladies and gentlemen, do
9 so. Again, I don't want to offend anybody, but again, I
10 need to ask you to speak up.

11 Also, ladies and gentlemen, during this
12 qualification process, if, for some reason, while you're
13 speaking, I cut you off or I ask you to stop, again,
14 don't be offended, I just don't want anything to affect
15 the process. And if I am concerned about something that
16 you might say, I may ask you to approach me, so we can
17 have a relatively private conversation. All right,
18 ladies and gentlemen?

19 So, to that end, we are going to work very hard to
20 pull this jury in this case, ladies and gentlemen. But
21 before we begin the entire process, have we sworn the
22 jury in?

23 MADAM CLERK: No, ma'am.

24 THE COURT: All right.

25 THE COURT: Sure. Do you need the printer for the

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1 roll call process? You do. All right, ladies and
2 gentlemen, of course, there are more difficulties and
3 technical difficulties at this time. But I will tell
4 you this, Ms. Lasandra can go ahead and swear you in as
5 potential jurors in this case. So, I'm going to ask
6 you, ladies and gentlemen, if you will all please stand,
7 raise your right hand to accept the jurors' oath.

8 JURORS SWORN, BY MADAM CLERK:

9 MADAM CLERK: Do you solemnly swear or affirm to
10 truthfully answer all questions asked of you by this
11 Court, so help you God? Please answer by saying I do;
12 and then, you may be seated.

13 RESPONSES BY JURORS.

14 BY THE COURT:

15 THE COURT: And I see all the jurors have accepted
16 the oath and have taken a seat.

17 Ladies and gentlemen, as I was sitting back in my
18 chambers, I am sure our Clerk of Court, Jerri Roseneau,
19 has greeted you and introduced you to various persons in
20 the courtroom.

21 MADAM CLERK: With the exception of Jamie. She
22 wasn't in here.

23 THE COURT: With the exception of Jamie and
24 Caroline. Ladies and gentlemen, the young woman here to
25 my right is Caroline Scrantom. She is my law clerk.

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1 She is a lawyer, and she is, in effect, my lawyer. If
2 you are chosen as a juror in this case, you are going to
3 see her throughout the course of the trial coming and
4 going, ladies and gentlemen. Again, she assists me in
5 doing my job.

6 Additionally, I'm sure you've been introduced to
7 our bailiffs in the courtroom. Ladies and gentlemen,
8 their sole job is to take care of you, the jury. Again,
9 they will do whatever is necessary to accommodate you.
10 Again, you are the most important people in this room.
11 We understand that not a person here can do their job
12 without you all being here. So, I see I've got Al in
13 the very back. Wave and say hello. He is our head
14 bailiff. I've got Jody, as well. Who else? Norman was
15 in and out.

16 Also, ladies and gentlemen, from the Clerk of
17 Court's Office, I have Jamie, who takes care of much of
18 our other business that goes along, so she'll be here
19 assisting, as well. We have Bob, ladies and gentlemen,
20 and again, I think I have a couple more bailiffs running
21 around. But I want to tell you, again, if you need
22 anything in regards to your service, please let us know.

23 Additionally, ladies and gentlemen, I need all of
24 you in the same room when I ask various questions in
25 regards to jury service. If someone needs a very quick

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1 break, just wait. Just catch my eye, and I will go
2 ahead and let you go. But again, I need every one of
3 you here while these questions are being asked. All
4 right? How are we doing?

5 MADAM CLERK: She's going down to make copies of
6 them.

7 THE COURT: Very good. All right. Ladies and
8 gentlemen, what there is now is a completed roll of
9 those of you that are, in fact, here. Again, we will
10 take roll call at that point; I will ask you a number of
11 questions in regards to your qualifications to serve; I
12 will then take up any potential exemptions; and then,
13 ladies and gentlemen, we will go ahead and discuss any
14 hardships for service here.

15 Everyone all right? Very good. No one needs a
16 break. All right. Well, ladies and gentlemen, again,
17 just bear with us. We will go ahead and get this taken
18 care of. What we might do, ladies and gentlemen, since
19 we do have a bit of time, is, you can see there are a
20 number of people here in the courtroom prepared to try
21 this first case. If you all would, why don't we go
22 ahead and introduce the persons in the courtroom trying
23 this case, and certainly, introduce your client. We're
24 going to start with you, Mr. Stone.

25 MR. STONE: Thank you, your Honor. My name's

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1 Duffie Stone. I am the Solicitor for the 14th Circuit,
2 which exists in Beaufort, Hampton, Allendale, Jasper,
3 and Colleton Counties. With me is my Deputy Solicitor,
4 Sean Thornton; and another assistant, Carra Henderson.
5 Thank you, your Honor.

6 THE COURT: Thank you. Mr. McGuire.

7 MR. MCGUIRE: Thank you, your Honor. My name's
8 Bill McGuire. I'm a lawyer from Columbia. I work for
9 the State of South Carolina. I'm in charge of some of
10 these lawyers here. Micah Leddy, who's in private
11 practice, he has a law firm in Columbia. Mr. Casey
12 Secor, he works for me. Mr. Boyd Young, he works for
13 me. This is my client, Mr. Earnest Daise. And I'm
14 going to let Mr. Mark MacDougall introduce his lawyers.

15 MR. MACDOUGALL: Morning. My name is Mark
16 MacDougall. I'm with a law firm in Washington, D.C.,
17 called Akin, Gump, Strauss, also in Virginia. With me
18 is two -- our two other attorneys, Katie Creely and
19 Jessica Fitts.

20 THE COURT: Thank you. I appreciate it. Are we
21 ready to go?

22 MADAM CLERK: We're just waiting for Jamie.

23 THE COURT: Okay. All right. Very good. Ladies
24 and gentlemen, you were sent questionnaires out to your
25 home. I want to make sure from the bailiffs -- Al.

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1 BAILIFF: Ma'am?

2 THE COURT: Anyone that did not sent a
3 questionnaire back in, have they been able to fill one
4 out and have been provided one this morning?

5 BAILIFF: They were provided one, your Honor, and
6 they have filled them out, to the best of my knowledge.

7 THE COURT: Do we have any juror out there who has
8 not filled out a juror questionnaire? Very good. I
9 appreciate it, you all. Again, the lawyers, and
10 certainly, the Court, is interested in your responses on
11 these questionnaires, and I want to thank you for
12 filling them out and letting us know that vital
13 information.

14 Ladies and gentlemen, since we do have some time,
15 and I will fill it, and I am a talker, and I'll go ahead
16 and admit that right up front. Ladies and gentlemen,
17 the process we're going to follow for jury selection is
18 a little bit different than the normal process. What we
19 are going to do, as I told you, is qualify you as a
20 panel, handle any exemptions or any hardships. And
21 then, what we're going to do is, if you have been
22 qualified, we are going to bring you back in panels of
23 five persons where what is going to happen is you're
24 going to come into the courtroom by yourself, with the
25 attorneys and myself present, and we're going to ask you

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1 Additionally, ladies and gentlemen, I will tell you
2 that anyone that was served a summons to be here that
3 does not show up today will get a visit from the
4 sheriff's deputies to come in. Of course, I understand
5 jury service is compulsory, but I appreciate your
6 willingness to come and be here, ladies and gentlemen.
7 So, again, I want to thank you.

8 So, at this time, I think we're ready for roll
9 call. Is that correct?

10 MADAM CLERK: Yes, we are.

11 THE COURT: All right. Very good. All right.

12 ROLL CALL, BY MADAM CLERK:

13 MADAM CLERK: Juror Number 1, David Adams.

14 THE COURT: Mr. Adams, simply stand.

15 JUROR NUMBER 1: I'm David Adams. I work for Net
16 Solutions. They're computing network consultants. And
17 we service an area northeast of Charleston, north to
18 Rock Hill, west of Atlanta, and south to Savannah. I am
19 not married, and I traveled 22 miles today.

20 MADAM CLERK: Twenty-two miles?

21 THE COURT: Thank you. Mr. Adams, I appreciate it,
22 and thank you for your loud voice. If everyone would
23 follow suit, that would be wonderful. Thank you.

24 MADAM CLERK: Juror Number 2, Dana Aiken.

25 JUROR NUMBER 2: I'm Dana Aiken. I am a nursing

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1 student, and I also serve at Ladies Island Dockside. My
2 husband works at the Beaufort County Detention Center,
3 and I drove ten miles today.

4 MADAM CLERK: Ten miles?

5 JUROR NUMBER 2: Um-hmm.

6 MADAM CLERK: Thank you. Juror Number 12, Kirk
7 Amerson.

8 JUROR NUMBER 12: I'm Kirk Amerson. I'm an
9 electrician with Henderson Electric on the air station.
10 I'm single, and ten miles.

11 MADAM CLERK: Two miles? Thank you.

12 JUROR NUMBER 12: Ten.

13 MADAM CLERK: I'm sorry?

14 JUROR NUMBER 12: Ten.

15 MADAM CLERK: Ten?

16 THE COURT: Thank you, sir.

17 MADAM CLERK: Juror Number 19, Eddie Mae Armstrong.

18 JUROR NUMBER 19: Yes, my name is Eddie Mae
19 Armstrong. I am currently unemployed. Spouse
20 unemployed. And I drove from Saint Helena Island.

21 MADAM CLERK: From Saint Helena?

22 JUROR NUMBER 19: Yes, ma'am.

23 MADAM CLERK: Okay. We'll look that mileage up for
24 you.

25 JUROR NUMBER 19: Okay. Thank you.

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1 MADAM CLERK: Juror Number 26, Theresa Ayise.

2 JUROR NUMBER 26: My name is Theresa Ayise. I'm a
3 full-time student at TCL, and I work over at Bluffton at
4 Terrace.

5 MADAM CLERK: I'm sorry, can you --

6 JUROR NUMBER 26: Theresa Ayise, full time student
7 at TCL. I work at Terrace in Bluffton. I'm divorced,
8 and I traveled about ten miles.

9 MADAM CLERK: Ten miles? Thank you. Juror Number
10 30, Mackenzie Ball.

11 JUROR NUMBER 30: I'm Mackenzie Ball. I'm a
12 dishwasher at --

13 MADAM CLERK: I'm sorry. You'll have to speak up.

14 JUROR NUMBER 30: I'm a dishwasher at Golden
15 Corral. I'm single.

16 MADAM CLERK: Are you single?

17 JUROR NUMBER 30: Yes, ma'am.

18 MADAM CLERK: And what was your mileage?

19 JUROR NUMBER 30: I don't know. I came from
20 Yemassee.

21 MADAM CLERK: From Yemassee? Okay. We'll look it
22 up for you.

23 THE COURT: Thank you, sir. Juror Number 32,
24 Barbara Banus.

25 JUROR NUMBER 32: It's actually Barbara Banus, if

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1 it matters.

2 MADAM CLERK: Okay.

3 JUROR NUMBER 32: I'm a retired pediatric
4 occupational therapist, and I worked at Laurel Bay
5 Schools and Department of Defense schools. I traveled
6 seven miles.

7 MADAM CLERK: Seven miles?

8 JUROR NUMBER 32: Um-hmm.

9 MADAM CLERK: Juror Number 37, Jacquelyn Bauner.

10 JUROR NUMBER 37: Bauner, yes. Jacquelyn Bauner.
11 I'm a retired speech therapist. I also taught special
12 education in Indiana. My husband -- well, I also work
13 for Literacy Volunteers for three years here in the
14 Lowcountry. And my husband retired as an executive vice
15 president of Dial Corporation.

16 MADAM CLERK: And your mileage?

17 JUROR NUMBER 37: And my mileage is 26.

18 MADAM CLERK: Twenty-six. Thank you, ma'am.

19 THE COURT: Thank you.

20 MADAM CLERK: Juror Number 46, Esther Bennett.

21 JUROR NUMBER 46: I'm Esther Bennett. I'm known as
22 Jeannie Bennett. I am a bookkeeper for a company called
23 Manna, Incorporated, of the Lowcountry. My husband is
24 self-employed. He an ARB administrator for Rose Hill
25 Plantation, Berkeley Hall, and is co-owner of Pentel

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1 Creek Golf Course. And I travel -- traveled 27 miles.

2 MADAM CLERK: Twenty-seven?

3 JUROR NUMBER 46: Yes.

4 THE COURT: Thank you.

5 MADAM CLERK: Juror Number 47, Charles Bentley.

6 THE COURT: He's been excused.

7 MADAM CLERK: Okay.

8 THE COURT: Go ahead.

9 MADAM CLERK: Juror Number 54, Marcelle Bitner.

10 JUROR NUMBER 54: My name is Marcelle Bitner. I'm
11 a special education coordinator for at-risk youth. My
12 company is Ombudsman Educational Services. And I am
13 separated and going through a divorced, and I live at
14 Okatie.

15 MADAM CLERK: On Hilton Head?

16 JUROR NUMBER 46: Um-hmm.

17 MADAM CLERK: Thank you.

18 JUROR NUMBER 46: No, not Hilton Head. It's
19 Okatie. Before --

20 MADAM CLERK: I'm sorry. Oh, Okatie?

21 JUROR NUMBER 46: Um-hmm.

22 MADAM CLERK: Thank you.

23 MADAM CLERK: Juror Number 55, Danah Blackshear.

24 JUROR NUMBER 55: My name is Danah Blackshear. I
25 am divorced. I work at Heritage Medical. I'm a medical

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1 assistant. I work at Cyprus. I'm a certified nursing
2 assistant. And I am in school right now, and in
3 administration, and I traveled 33 miles.

4 MADAM CLERK: How far?

5 JUROR NUMBER 55: Thirty-three.

6 THE COURT: Thank you, ma'am.

7 MADAM CLERK: Juror Number 61, Paul Boes.

8 JUROR NUMBER 61: Paul Boes. I'm a financial
9 advisor with Merrill Lynch on Hilton Head Island, and I
10 traveled 47 miles.

11 MADAM CLERK: Forty-seven?

12 JUROR NUMBER 61: Yeah.

13 MADAM CLERK: Juror Number 62, Scott Bollinger.

14 JUROR NUMBER 62: My name is Scott Bollinger. I'm
15 an electrician with Simoneaux Electric. And my wife is
16 -- works for Shelter Cove Dental. And I traveled 40
17 miles.

18 MADAM CLERK: How far?

19 JUROR NUMBER 62: Forty.

20 MADAM CLERK: Forty? Juror Number 64, Lindsay
21 Bowerman.

22 JUROR NUMBER 64: I'm Lindsay Bowerman. I am a
23 middle school science and math teacher, and I'm the
24 lower school math coordinator, as well, at my school.
25 It's a Christian school in Bluffton called Cross

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1 Schools. I am not married, and I traveled from Hilton
2 Head today.

3 MADAM CLERK: Juror Number 65, Derbiana Bowers.

4 JUROR NUMBER 65: Yes, I'm Derbi Bowers. I'm
5 retired. I was a legal assistant. My husband's
6 retired. He was a commodity broker and a real estate
7 agent. And I traveled 12 miles.

8 MADAM CLERK: Twelve miles?

9 JUROR NUMBER 65: Yes.

10 MADAM CLERK: And what type of attorneys, what type
11 of law did they practice?

12 JUROR NUMBER 65: I guess general. It was real
13 estate and litigation.

14 MADAM CLERK: Okay. Thank you. Juror Number 69,
15 Virginia Bradley.

16 JUROR NUMBER 69: I'm Virginia Bradley. I'm
17 single. I work at Bilo Grocery on Seaside Road, and I
18 came from Saint Helena.

19 MADAM CLERK: Saint Helena.

20 JUROR NUMBER 69: Um-hmm.

21 MADAM CLERK: Juror Number 70, Kawani Bradshaw.

22 JUROR NUMBER 70: I'm Kawani Bradshaw. I work for
23 Vista Landscaping, and I traveled 20 miles.

24 MADAM CLERK: Twenty?

25 JUROR NUMBER 70: Yes.

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1 MADAM CLERK: And you're single?

2 JUROR NUMBER 70: Yes.

3 MADAM CLERK: Thank you. Juror Number 72, Larry
4 Brantley.

5 JUROR NUMBER 72: I'm Larry Brantley, electrician
6 for Blue Wave Electric in town. My wife has a small
7 business, Cookies by Charlotte.

8 MADAM CLERK: I'm sorry. I can't hear you.

9 JUROR NUMBER 72: And --

10 THE COURT: I apologize, sir. Your wife has a
11 what?

12 JUROR NUMBER 72: A cookie business, Cookies by
13 Charlotte. And my mileage is 12 miles.

14 THE COURT: How far?

15 JUROR NUMBER 72: Twelve.

16 MADAM CLERK: Twelve?

17 THE COURT: Thank you.

18 MADAM CLERK: Juror Number 79, Marsha Browan --
19 Browder.

20 JUROR NUMBER 79: I'm Marsha Browder. I teach
21 fourth grade at Beaufort Elementary. My husband works
22 on Hilton Head. He's an environmental planner for the
23 town. And I traveled five miles.

24 MADAM CLERK: Thank you.

25 THE COURT: We're skipping over Number 80. He's

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1 been excused.

2 MADAM CLERK: Okay. Juror Number 83, Randy Brown.

3 JUROR NUMBER 83: I'm Randy Brown. I work for
4 Brown Maintenance on Saint Helena, and I traveled 12
5 miles.

6 MADAM CLERK: Twelve miles?

7 JUROR NUMBER 83: Yes.

8 THE COURT: Thank you, sir.

9 MADAM CLERK: Juror Number 86, Joe Brian.

10 JUROR NUMBER 86: Yes. I'm Joe Brian. I'm a
11 mechanic, single, and I traveled 21 miles.

12 MADAM CLERK: How far?

13 THE COURT: Twenty-one.

14 MADAM CLERK: Thank you.

15 THE COURT: Thank you, Mr. Brian.

16 MADAM CLERK: Sir, you said you were a mechanic?

17 You said you were a mechanic?

18 JUROR NUMBER 86: Yes, ma'am.

19 MADAM CLERK: Where are you employed as a mechanic?

20 JUROR NUMBER 86: I'm self-employed.

21 MADAM CLERK: Self-employed. Okay, thank you.

22 THE COURT: Thank you, sir.

23 MADAM CLERK: Juror Number 96, Leander Cannick.

24 JUROR NUMBER 96: I am Leander Cannick. I'm a
25 retired educator. My wife also is. I traveled 35 miles

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1 from Hilton Head.

2 MADAM CLERK: Did you say 35?

3 THE COURT: Thirty-five, yes. Thank you, sir.

4 MADAM CLERK: Juror Number 98, Olivia Carbajal.

5 JUROR NUMBER 98: My name is Olivia Carbajal. I
6 work as a bookkeeper for South Coast Commercial. My
7 husband is a distribution manager for B.P. Packaging,
8 and I traveled coming from Bluffton.

9 THE COURT: Ma'am, I apologize, and I will tell
10 you, I understand the acoustics are difficult. My court
11 reporter can't hear you this time. So, if you would,
12 just --

13 JUROR NUMBER 98: Okay.

14 THE COURT: As loud as you can.

15 JUROR NUMBER 98: My name is Olivia Carbajal. I'm
16 a bookkeeper for South Coast Commercial. My husband is
17 a distribution manager for B.P. Packaging, and I
18 traveled coming from Bluffton.

19 MADAM CLERK: From Bluffton.

20 THE COURT: Thank you.

21 MADAM CLERK: Juror Number 103, James Carson.

22 JUROR NUMBER 103: Hello, I'm James Carson. I'm a
23 starving carpenter, and I came from Bluffton.

24 MADAM CLERK: And are you married or single, sir?

25 JUROR NUMBER 103: I am now divorced.

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1 MADAM CLERK: Thank you, sir. Juror Number 105,
2 Jessica Caruso.

3 JUROR NUMBER 105: I'm Jessica Caruso. I'm a
4 waitress at Palmetto Dunes Resort on Hilton Head Island.
5 I'm currently single, and traveled 22 miles today.

6 MADAM CLERK: And how far?

7 JUROR NUMBER 105: Twenty-two miles.

8 MADAM CLERK: Thank you. Juror Number 109,
9 Virginia Cassidy.

10 JUROR NUMBER 109: I am Virginia Cassidy. I work
11 for Powers Watson, which is a local human resources
12 consulting firm. And my husband is not employed. And I
13 came 25 miles.

14 MADAM CLERK: How far?

15 THE COURT: Twenty-five.

16 MADAM CLERK: Twenty-five.

17 THE COURT: Thank you.

18 MADAM CLERK: Juror Number 115, Matthew Cherne.

19 JUROR NUMBER 115: It's Matthew Cherne. I work for
20 Harris Teeter. I'm an assistant customer service
21 manager there, currently single, and I came from
22 Bluffton.

23 MADAM CLERK: From Bluffton? Thank you, sir.

24 Juror Number 116, Theresa Chisolm.

25 JUROR NUMBER 116: My name is Theresa Chisolm. I'm

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1 employed at M.R. in Hilton Head, and I traveled 35
2 miles.

3 MADAM CLERK: Thirty-five?

4 JUROR NUMBER 116: Um-hmm.

5 MADAM CLERK: And you're single?

6 JUROR NUMBER 116: Yes, ma'am.

7 MADAM CLERK: Thank you. Juror Number 117, Natalia
8 Chmielowski.

9 JUROR NUMBER 117: Chmielowski. I am -- I'm
10 married. I work for Publix on the south end of Hilton
11 Head in customer service center, and I came here from
12 Hilton Head.

13 MADAM CLERK: From where?

14 JUROR NUMBER 117: Hilton Head.

15 MADAM CLERK: Hilton Head.

16 JUROR NUMBER 117: Um-hmm.

17 MADAM CLERK: Juror Number 124, Thomas Clark.

18 JUROR NUMBER 124: My name is Thomas Clark. I work
19 for Cable Deckers, which is a contracting company that
20 does telephone work for CenturyLink. I'm single, and
21 two miles.

22 MADAM CLERK: Two miles? Thank you, sir. Juror
23 Number 126, Robert Clarkson.

24 JUROR NUMBER 126: Robert Clarkson. I'm a real
25 estate broker. I own the Alliance Group Realty on

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1 Hilton Head Island. My wife is a director at the
2 Bluffton School of Dance, and I traveled 25 miles.

3 MADAM CLERK: Twenty-five. Thank you, sir. Juror
4 Number 135, Janet Coleman.

5 JUROR NUMBER 135: I'm Janet Coleman. I'm self-
6 employed accountant serving small business and
7 individuals. I am not married, and I traveled 42 miles.

8 MADAM CLERK: Juror Number 142, James Cook.

9 JUROR NUMBER 142: James Cook, self-employed. I
10 own a family laundry center here in Beaufort. Currently
11 separated. Spouse also owns the family laundry center.
12 And I've traveled maybe 12 miles.

13 MADAM CLERK: Twelve miles? Thank you, sir. Juror
14 Number 143, Kyrstin Cook.

15 JUROR NUMBER 143: I'm Kyrstin Cook. I'm currently
16 unemployed. My husband does air traffic control for the
17 Marine Corps, and I traveled about 26 miles.

18 MADAM CLERK: Thank you. Juror Number 153, Brian
19 Cox.

20 JUROR NUMBER 153: I'm Brian Cox. I'm the
21 assistant manager of Palmetto State Outreach. My wife
22 works at Paralegal Services, and I traveled five miles.

23 MADAM CLERK: Five miles?

24 JUROR NUMBER 153: Yes.

25 MADAM CLERK: Juror Number 155, Anna Craig.

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1 JUROR NUMBER 155: Hi, I'm Anna Craig. I work for
2 a software developer, for Oracle Corporation. My
3 husband works in the air path modification business, and
4 he is a subcontractor for the Customs and Border Patrol
5 and DEA.

6 MADAM CLERK: And your mileage?

7 JUROR NUMBER 155: From Hilton Head.

8 MADAM CLERK: From Hilton Head. Thank you. Juror
9 Number 157, Wallace Cronin.

10 JUROR NUMBER 157: I'm Wallace Cronin. I'm a
11 registered nurse at Hilton Head Hospital. My husband is
12 an accountant with a PSC on Hilton Head, and I drove 26
13 miles.

14 MADAM CLERK: Twenty-six?

15 JUROR NUMBER 157: Um-hmm.

16 MADAM CLERK: Thank you. Juror Number 164, Sean
17 Custer.

18 JUROR NUMBER 164: Hello, I'm Sean Custer. I'm
19 owner and operator of Southern Siding and Awning Company
20 in Bluffton. I'm also head volleyball coach at John
21 Paul II Catholic School. My wife is a full-time nursing
22 student at TCL, and works at BMH, Beaufort Memorial
23 Hospital.

24 MADAM CLERK: Thank you. And your mileage?

25 JUROR NUMBER 164: Thirty miles.

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1 MADAM CLERK: Thirty? Juror Number 166, Jeanette
2 Cuthbert.

3 JUROR NUMBER 166: My name is Jeanette Cuthbert,
4 and work a cashier at the Walmart. I'm a widow, and 15
5 miles.

6 MADAM CLERK: Fifteen. Thank you, ma'am. Juror
7 Number 167, David Cyr.

8 JUROR NUMBER 167: I'm David Cyr. I work product
9 controls in I.T. for a small German firm in Savannah. I
10 also do I.T. consulting on the side. My wife's the
11 bookkeeper, administrator, at a small parochial school
12 in Bluffton. And I traveled 21 miles.

13 MADAM CLERK: Thank you.

14 THE COURT: Sir, what parochial school is she at?

15 JUROR NUMBER 167: Saint Gregory the Great.

16 THE COURT: Thank you. Thank you, sir.

17 MADAM CLERK: Juror Number 177, Gregg Davis.

18 JUROR NUMBER 177: Good morning. I'm Gregg Davis.
19 I work for Verizon as an account manager. My wife's a
20 retired school teacher, presently serving as a long-term
21 sub at Robert Smalls Middle School, and 27 miles.

22 MADAM CLERK: Twenty-seven. Thank you, sir. Juror
23 Number 181, Lucas Delano.

24 JUROR NUMBER 181: I'm Lucas Delano.

25 MADAM CLERK: Delano.

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1 JUROR NUMBER 181: I'm an I.T. consultant for a
2 small business on Hilton Head Island, and my wife is
3 director of client services for a small business that's
4 a marketing company on Hilton Head, also. I drove 41
5 miles.

6 MADAM CLERK: How far?

7 JUROR NUMBER 181: Forty-one.

8 MADAM CLERK: Forty-one. Thank you. Juror Number
9 182, Demesvar Delva.

10 JUROR NUMBER 182: Yes, I'm Demesvar Delva. I work
11 with Beaufort Housing Authority as maintenance foreman
12 and supervisor.

13 THE COURT: Hold on a second. Sir, I apologize.
14 We're having a hard time over here hearing. I don't
15 think it's you. I think it's us. But if you don't mind
16 speaking a little louder.

17 JUROR NUMBER 182: Oh. I said my name is Demesvar
18 Delva. I work with Beaufort Housing Authority, and I
19 also supervise a maintenance foreman there. And my wife
20 work as -- as a salesmens, and I drove nine miles.

21 THE COURT: Thank you, sir.

22 MADAM CLERK: Juror Number 188, Cathy Dinkins.

23 JUROR NUMBER 188: I'm Cathy Dinkins. I'm a
24 retired school teacher. My husband is a developer in
25 Beaufort and Jasper Counties, and 2.3 miles.

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1 MADAM CLERK: Juror Number 195, Betsy Doughtie.

2 JUROR NUMBER 195: I am Betsy Doughtie, and I am
3 the director of a private social service agency on
4 Hilton Head called The Keep Well Prospect. I'm a widow,
5 and I drove 45 miles.

6 MADAM CLERK: Juror Number 197, Christina Downing.

7 JUROR NUMBER 197: Good morning. My name is
8 Christina Downing. I work at Destination Vacation. I'm
9 a reservationist, just only about two years. I worked
10 at S.C. Lumber Company for about 23 years as a credit
11 manager. My husband is a general contractor, self-
12 employed, and I drove about 24 miles.

13 MADAM CLERK: Twenty-four?

14 JUROR NUMBER 197: Yes.

15 MADAM CLERK: Thank you. Juror Number 202, Sheila
16 Durham.

17 JUROR NUMBER 202: My name is Sheila Durham. I'm a
18 surgical assistant for Dr. Simmons Hane at Port Royal
19 Oral Surgery. I'm not married, and I drove eight miles.

20 MADAM CLERK: Thank you. Juror Number 209, Megan
21 Elliott.

22 JUROR NUMBER 209: I am Megan Elliott. I work for
23 the Access Network, which is a non-profit agency dealing
24 with the needy and homelessness. I do branch
25 administration and office administration, support staff

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1 for the managers. My husband is unemployed. I came
2 from Hilton Head.

3 MADAM CLERK: Thank you.

4 MR. STONE: I'm sorry, what was the non-profit?

5 MADAM CLERK: It's Access Network. Am I correct?

6 JUROR NUMBER 209: Yes.

7 THE COURT: Access Network.

8 MR. STONE: Thank you.

9 MADAM CLERK: Number 210, Tamara Ellis.

10 JUROR NUMBER 210: I am currently unemployed. My
11 husband's in construction, and I drove from Okatie.

12 THE COURT: Thank you.

13 MADAM CLERK: How far? I'm sorry? What was your
14 mileage?

15 JUROR NUMBER 210: Okatie.

16 THE COURT: Okatie.

17 MADAM CLERK: Oh. Juror Number 215, Jacob Evans.

18 JUROR NUMBER 215: Jacob Evans. I work at a pet
19 shop on the Island, and I drove about 20 miles.

20 MADAM CLERK: Twenty?

21 JUROR NUMBER 215: Yeah.

22 MADAM CLERK: And you're single?

23 JUROR NUMBER 215: Yeah.

24 MADAM CLERK: Thank you. Juror Number 218, Donald
25 Fanning.

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1 JUROR NUMBER 218: Good morning. I'm Donald
2 Fanning. I'm single. I practice general dentistry at
3 1264 Ribaut Road, and I drove about four miles.

4 MADAM CLERK: Thank you, sir. Juror Number 233,
5 David Fleming.

6 JUROR NUMBER 233: Good morning. I'm David
7 Fleming. I'm owner/operator of a charter fishing
8 service on Hilton Head. My wife is a membership
9 director for the Sea Pines Country Club, and I traveled
10 from Hilton Head.

11 MADAM CLERK: From Hilton Head?

12 JUROR NUMBER 233: Yes.

13 MADAM CLERK: Thank you.

14 THE COURT: Thank you, sir.

15 MADAM CLERK: Juror Number 235, Melissa Fleury.

16 JUROR NUMBER 235: I'm Melissa Fleury. I'm a self-
17 employed interior designer. I work in Bluffton, Hilton
18 Head, and Savannah. My husband is the Director of Food
19 and Beverage for Palmetto Dunes on Hilton Head. And I
20 drove 21 miles.

21 MADAM CLERK: Thank you.

22 THE COURT: We're skipping 244. She's been
23 excused.

24 MADAM CLERK: Juror Number 246, Carey Freeland.

25 JUROR NUMBER 246: I'm Carey Freeland. I'm a

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1 clinical nurse manager, and nurse specialist for the CCU
2 and ICU at Saint Joseph's in Savannah, and I drove from
3 my home in Bluffton. I'm married, and my husband's
4 unemployed.

5 THE COURT: Thank you.

6 MADAM CLERK: Juror Number 256, Diana Garnier.

7 JUROR NUMBER 256: I'm Diana Garnier. I drove 44
8 miles from Hilton Head. I work as a server at the Crazy
9 Crab in Harbor Town. My husband works as a director of
10 sales for Time Share Source, a timeshare re-sell
11 company.

12 THE COURT: Thank you.

13 MADAM CLERK: Juror Number 257, Jed Garofalo.

14 JUROR NUMBER 257: My name's Jed Garofalo. I work
15 for an audio/video store and restaurant servicer. My
16 wife is a dental assistant, and I want to say about 25
17 miles, from Bluffton.

18 MADAM CLERK: Thank you, sir. Juror Number 260,
19 Kimberly Gilleland.

20 JUROR NUMBER 260: My name's Kim Gilleland. I'm a
21 manager of Palmetto Dunes Resort. My husband owns
22 Gilleland Properties and Gilleland's Fresh Seafood and
23 Oyster Bar. I drove 37 miles.

24 MADAM CLERK: Thirty-seven? Thank you. Juror
25 Number 262, Ann Glick.

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1 JUROR NUMBER 262: I'm Elizabeth Glick. I go by my
2 middle name, and I'm the administrative assistant at
3 public Hilton Head Preparatory School. My husband is
4 self-employed. He has a computer business. And I drove
5 35 miles.

6 THE COURT: Thank you.

7 MADAM CLERK: Forty-five?

8 JUROR NUMBER 262: Thirty-five.

9 MADAM CLERK: Thirty-five. Thank you.

10 THE COURT: Thank you.

11 MADAM CLERK: Juror Number 269, Kelly Gray.

12 JUROR NUMBER 269: I'm Kelly Gray. I am not
13 employed. My husband is a local business owner and in
14 real estate, and I traveled eight miles.

15 THE COURT: Thank you.

16 MADAM CLERK: Juror Number 272, Richard Greene.

17 JUROR NUMBER 272: My name is Richard Greene,
18 assistant golf professional at Belfair, single, and
19 drove from Bluffton.

20 MADAM CLERK: Juror Number 277, Gary Grindrod.

21 JUROR NUMBER 277: Yeah, my name is Gary Grindrod.
22 I'm retired CEO of Zeon Chemicals in Louisville,
23 Kentucky, and my wife's a retired high school chemistry
24 teacher, and I drove 26 miles.

25 MADAM CLERK: Twenty-six?

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1 THE COURT: Thank you, sir.

2 MADAM CLERK: Juror Number 279, Jeremy Grisham.

3 JUROR NUMBER 279: My name is Jeremy Grisham.

4 Medically retired from the Marine Corp. I'm not
5 married, and I drove eight miles.

6 MADAM CLERK: Eight miles? Juror Number 283, Ruth
7 Groh.

8 JUROR NUMBER 283: Ruth Groh, unemployed. My
9 husband is self-employed, sales and marketing, and I
10 came from Hilton Head.

11 THE COURT: Thank you.

12 MADAM CLERK: Juror Number 284, William Grundahl.

13 JUROR NUMBER 284: My name is William H. Grundahl,
14 Jr. I'm self-employed, and I'm in construction, and
15 divorced, and I traveled 13 miles.

16 MADAM CLERK: Thirteen?

17 JUROR NUMBER 284: Thirteen.

18 MADAM CLERK: Thank you. Juror Number 298, James
19 Harrelson.

20 JUROR NUMBER 298: I'm James Harrelson, better
21 known as Jamie. I'm self-employed at Dukes Barbeque in
22 Beaufort. My wife is self-employed at a used car dealer
23 in Beaufort. And I drove ten miles.

24 MADAM CLERK: Ten?

25 JUROR NUMBER 298: Ten.

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1 MADAM CLERK: Thank you, sir. Juror Number 301,
2 Lynda Hawley.

3 JUROR NUMBER 301: I'm Lynda Hawley. I'm a retired
4 pharmaceutical rep. My husband is a retired medical
5 sales manager for an automotive company, and I drove
6 from Hilton Head.

7 MADAM CLERK: Hilton Head?

8 THE COURT: Thank you, ma'am.

9 MADAM CLERK: Juror Number 303, Davane Haynes.

10 JUROR NUMBER 303: I'm Davane Haynes,
11 owner/operator of G.W. Tech out of Savannah, Georgia.
12 Single. I mean separated. I'm separated. I drove off
13 of Saint Helena.

14 MADAM CLERK: From where, sir?

15 JUROR NUMBER 303: Saint Helena.

16 THE COURT: Saint Helena. Saint Helena. Thank
17 you, sir.

18 MADAM CLERK: Juror Number 305, Carolyn Heidleberg.

19 JUROR NUMBER 305: I'm Carolyn Heidleberg. I'm a
20 stay-at-home mom. My husband is a sergeant in the
21 Marine Corp, and I came from Laurel Bay.

22 MADAM CLERK: Laurel Bay? Thank you. Juror Number
23 308, Stephen Herron.

24 JUROR NUMBER 308: Yeah, I'm Stephen Herron,
25 property manager on Hilton Head Island. My wife is

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1 formerly with Emeritus. And 30 miles.

2 MADAM CLERK: Thirty?

3 JUROR NUMBER 308: Um-hmm.

4 MADAM CLERK: Thank you. Juror Number 309, Sabine
5 Hershberger.

6 JUROR NUMBER 309: My name is Sabine Hershberger.
7 I'm employed at Beaufort Memorial Hospital. I'm a
8 registered nurse in the Intensive Care Unit. My husband
9 is an I.T. director of Lowcountry Medical Group, and I
10 drove three miles.

11 MADAM CLERK: Three? Thank you, ma'am. Juror
12 Number 317, Veronica Hollingsworth.

13 JUROR NUMBER 317: Veronica Hollingsworth,
14 unemployed, formerly at Beaufort Gazette as a carrier,
15 and I drove seven miles.

16 MADAM CLERK: Thank you.

17 THE COURT: Thank you.

18 MADAM CLERK: Juror Number 318, Dietra Holmes.

19 JUROR NUMBER 318: Good morning. Dietra Holmes, in
20 Beaufort County School District, teacher at Robert
21 Smalls Middle School, special education students. I
22 drove 12 miles, and I'm single.

23 MADAM CLERK: Thank you, ma'am. Juror Number 319,
24 Michael Holmes.

25 JUROR NUMBER 319: Yes, my name is Michael Holmes.

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1 I work at Bilo, department manager. My wife works at a
2 school, drove eight miles.

3 MADAM CLERK: Eight miles. Thank you, sir. Juror
4 Number 321, Trevor Holmes.

5 JUROR NUMBER 321: I'm Trevor Holmes. I work at
6 the Harbin Building in Beaufort. I stay here in
7 Beaufort, and I'm single.

8 MADAM CLERK: What was your mileage, sir?

9 JUROR NUMBER 321: I stay here in Beaufort.

10 MADAM CLERK: Beaufort.

11 THE COURT: From Beaufort.

12 MADAM CLERK: Oh, Beaufort. Okay, thank you, sir.

13 THE COURT: Thank you.

14 MADAM CLERK: Juror Number 323, Anthony Horton.

15 JUROR NUMBER 323: My name's Anthony Horton,
16 retired from the Bluffton Township Fire District. My
17 wife is an office manager for Amedisys, home care in
18 Bluffton, and I drove 26 miles.

19 THE COURT: Twenty-six. Thank you, sir.

20 MADAM CLERK: Juror Number 324, Karen Howard.

21 JUROR NUMBER 324: Karen Howard, self-employed
22 artist, single, 44 miles.

23 MADAM CLERK: Thank you, ma'am. Juror Number 326,
24 Patricia Howerton.

25 JUROR NUMBER 326: Patricia Howerton. I go by my

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1 middle name, Ann. Self-employed manicurist at Salon
2 5200, on Hilton Head. I'm not married, and drove from
3 Hilton Head.

4 MADAM CLERK: From Hilton Head?

5 JUROR NUMBER 326: Um-hmm.

6 MADAM CLERK: Thank you.

7 THE COURT: Thank you.

8 MADAM CLERK: Juror Number 337, G. Hudson Ingram.

9 JUROR NUMBER 337: Good morning. I'm a self-
10 employed real estate appraiser. My wife is an ARB
11 administrator at Port Royal Plantation, and I drove 25
12 miles.

13 MADAM CLERK: Juror Number 339, Geoffrey Jackson.

14 JUROR NUMBER 339: It's Geoffrey Jackson. I work
15 for the Publix on South Bend in Hilton Head, and I'm
16 single, and I got here -- drove 40 miles.

17 MADAM CLERK: Forty?

18 JUROR NUMBER 339: (Nodded head)

19 MADAM CLERK: Thank you.

20 THE COURT: Thank you, sir.

21 MADAM CLERK: Juror Number 342, Deloris Jenkins.

22 JUROR NUMBER 342: Deloris Jenkins. I work at
23 Berkeley Manor, as a dietary aide, single, and I drive
24 20 miles.

25 MADAM CLERK: Twenty? Thank you. Juror Number

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1 345, Ben Johnson.

2 JUROR NUMBER 345: Excuse me. I am Ben Johnson.
3 I'm a property manager at Shell Point Apartments, in
4 Port Royal. My wife is an instructional coach at Saint
5 Helena Elementary, and I drove nine miles.

6 MADAM CLERK: Thank you, sir.

7 THE COURT: Thank you, sir.

8 MADAM CLERK: Juror Number 348, Sam Johnson.

9 JUROR NUMBER 348: My name is Sam Johnson. I'm
10 from Saint Helena Island, and I'm single.

11 THE COURT: And your occupation, sir?

12 JUROR NUMBER 348: Heating and air.

13 MADAM CLERK: Thank you, sir. Juror Number 351,
14 James Jones.

15 JUROR NUMBER 351: James Jones, retired from the
16 United States Navy. My wife is a Navy nurse stationed
17 at Naval Hospital Beaufort, and I drove 11 miles.

18 MADAM CLERK: Thank you. Juror Number 352, Jeffrey
19 Jones.

20 JUROR NUMBER 352: Good morning. My name is Jeff
21 Jones. I'm a financial advisor with Wells Fargo
22 Advisors on Hilton Head Island. My wife is a children's
23 coordinator at Saint Andrew by the Sea United Methodist
24 Church. I drove from Bluffton.

25 MADAM CLERK: Juror Number 365, Michael Kelley.

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1 JUROR NUMBER 365: My name's Mike Kelley. I'm an
2 emergency disaster management student at American
3 Military University. Contract instructor and board
4 member of the International Association of Emergency
5 Managers. Drove seven miles, and my fiancée is a
-6 parent, teacher and coach at Beaufort High, and doctoral
7 student at Capella.

8 MADAM CLERK: Thank you, sir. Juror Number 374,
9 Timothy, is it Kloc?

10 JUROR NUMBER 374: Yes, ma'am. Timothy Kloc. I'm
11 the baker manager at Publix Supermarkets on Hilton Head.
12 My wife is a self-employed hair dresser in Bluffton, and
13 I drove 24 miles.

14 MADAM CLERK: Thank you.

15 THE COURT: Thank you.

16 MADAM CLERK: Juror Number 383, Marian Lane.

17 JUROR NUMBER 383: I'm Marian Lane. I do
18 bookkeeping for my family's property rental business,
19 and I drove nine miles.

20 MADAM CLERK: Thank you. And you're single?

21 JUROR NUMBER 383: Yes.

22 MADAM CLERK: Thank you. Juror Number 384, Michael
23 Langehans.

24 JUROR NUMBER 384: Michael Langehans. I'm a
25 general dentist. I practice in Bluffton. My wife is a

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1 stay-at-home mom, and I drove 27 miles.

2 THE COURT: Thank you.

3 MADAM CLERK: Juror Number 389, Andrea Lemire.

4 JUROR NUMBER 389: I'm Andrea Lemire. I'm employed
5 by several small businesses on Hilton Head and Bluffton
6 as an accountant. My husband is a personal trainer and
7 manager for a fitness center in a private golf club
8 community in Bluffton, and I drove 27 miles.

9 MADAM CLERK: Thank you.

10 THE COURT: What private golf club community is he
11 in?

12 JUROR NUMBER 389: Berkeley Hall, Belfair and m8
13 4100 Hampton Lake.

14 THE COURT: Thank you. And Hampton Lake is the
15 last one, I apologize, before I cut her off.

16 MADAM CLERK: Juror Number 395, Robert Lipthratt.

17 JUROR NUMBER 395: Robert Lipthratt. I'm self-
18 employed technician, Bluffton, single.

19 MADAM CLERK: Juror Number 397, Latonya Logan.

20 JUROR NUMBER 397: Good morning. I'm Latonya
21 Logan. I'm a CNA at Belfair Gardens, an Assisted Living
22 Community in Bluffton. I'm separated, and I traveled
23 from Ladies Island.

24 MADAM CLERK: Ladies Island?

25 JUROR NUMBER 397: (Nodded head.)

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1 MADAM CLERK: Thank you.

2 THE COURT: Thank you.

3 MADAM CLERK: Juror Number 408, Robert Maroudas.

4 JUROR NUMBER 408: I'm Robert Maroudas. I'm a part
5 owner of Red Fish Restaurant on Hilton Head Island, and
6 my wife works with me there, and I drove from Hilton
7 Head.

8 MADAM CLERK: Hilton Head?

9 JUROR NUMBER 408: Yes, ma'am.

10 MADAM CLERK: Thank you, sir. Juror Number 411,
11 Richard Marshall.

12 JUROR NUMBER 411: I am Richard Marshall. I run
13 Beaufort Business Center locally, and I drove 25 miles.

14 MADAM CLERK: Twenty-five?

15 JUROR NUMBER 411: Yes.

16 MADAM CLERK: Thank you, sir. Juror Number 417,
17 Luke Mathews.

18 JUROR NUMBER 417: I'm Luke Mathews. I'm currently
19 unemployed, and I'm single, and I drove from Hilton
20 Head, 45 miles.

21 MADAM CLERK: Forty-five?

22 JUROR NUMBER 417: Yes, ma'am.

23 MADAM CLERK: Juror Number 433, Thomas McKenna.

24 JUROR NUMBER 433: I'm Thomas McKenna. I'm a
25 carpenter on Hilton Head Island. My wife runs Dolphin

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1 and Nature Tours on the island. I drove 47 miles.

2 MADAM CLERK: Twenty-seven?

3 JUROR NUMBER 433: Forty-seven.

4 MADAM CLERK: Oh, 47. Thank you, sir.

5 THE COURT: 435 has been excused, Diane.

6 MADAM CLERK: Thank you, Judge. Juror Number 444,
7 Harvey Middleton.

8 JUROR NUMBER 444: Yes, I'm Harvey Middleton,
9 disabled. My wife works on Fripp Island as a cook.
10 Twelve miles.

11 MADAM CLERK: Thank you, sir. Juror Number 449,
12 Cynthia Mills.

13 JUROR NUMBER 449: My name is Cynthia Mills. I'm a
14 banking center manager for Bank of Walterboro in
15 Ridgeland, South Carolina. I'm a widow, and I drove 12
16 miles.

17 THE COURT: Thank you.

18 MADAM CLERK: Juror Number 457, Kelly Moranelli.

19 JUROR NUMBER 457: I'm Kelly Moranelli. I am a
20 self-employed registered cosmetologist, and sole
21 proprietor of Kelly's Cut and Curl in Shell Point. My
22 husband is a butler and a caretaker of Clarendon
23 Plantation in Grays Hill, and I traveled here today from
24 Grays Hill.

25 MADAM CLERK: I'm sorry?

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1 JUROR NUMBER 457: I traveled here today from Grays
2 Hill.

3 MADAM CLERK: Oh, Grays Hill. Thank you very much.
4 Juror Number 459, Stephanie Morgan.

5 JUROR NUMBER 459: I'm Stephanie Morgan. I'm
6 unemployed and I'm single, and I'm 21 miles.

7 MADAM CLERK: Twenty-one?

8 JUROR NUMBER 459: Um-hmm.

9 MADAM CLERK: Thank you. Juror Number 463, Elmer
10 Mullins.

11 JUROR NUMBER 463: I'm Elmer Mullins. I go by my
12 middle name, Benning. I'm manager for Tidal Books here
13 on Boundary Street. My wife's a stay-at-home mom.
14 Previously, she was the court stenographer for the State
15 of South Carolina in the 14th Circuit.

16 MADAM CLERK: And what was your mileage, sir?

17 JUROR NUMBER 463: Oh, I'm sorry. Twenty-five
18 miles.

19 MADAM CLERK: Twenty-five. Thank you, sir. Juror
20 Number 468, Samuel Myers.

21 JUROR NUMBER 468: Samuel Myers, transport at
22 Beaufort Memorial Hospital, about four miles.

23 MADAM CLERK: And you're single, sir?

24 JUROR NUMBER 468: No, my wife owns a thrift shop.

25 MADAM CLERK: Okay. Thank you. Juror Number 469,

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1 Frank Nappi.

2 JUROR NUMBER 469: Good morning. Frank Nappi. I'm
3 retired, happily retired, formerly a Nationwide
4 Insurance agent, and also an educator. My wife's a
5 retired middle school teacher. I traveled 25 miles.

6 MADAM CLERK: Thank you, sir. Juror Number 470,
7 James Nasuti.

8 JUROR NUMBER 470: Hello. I go by Jim. I'm a
9 senior engineering technician with Palmetto Electric Co-
10 op, on Hilton Head Island. My wife is a loan operations
11 manager at Atlantic Community Bank in Bluffton, and
12 Google said 39.8, but my car says 40 miles.

13 MADAM CLERK: Okay. Juror Number 471, Juan
14 Navarro.

15 JUROR NUMBER 471: My name's Juan Navarro. I do
16 carpentry for Brunson Construction. I came from Hilton
17 Head, and I'm single.

18 MADAM CLERK: Thank you, sir. Juror Number 472,
19 Carlos Negrón.

20 JUROR NUMBER 472: Good morning. My name is Carlos
21 Negrón. I'm a professional flooring technician. My
22 wife is a legal aide with a bankruptcy lawyer downtown.
23 She's also with me. And I drove seven miles.

24 MADAM CLERK: Seven miles?

25 JUROR NUMBER 472: Yes, ma'am.

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1 MADAM CLERK: And his wife, Christine Negron.

2 JUROR NUMBER 473: Yes, ma'am. Christine Negron.

3 I work for attorney Philip Fairbanks. He's primarily a
4 bankruptcy attorney. My husband, as he just said, works
5 for a flooring technician, and I drove seven miles.

6 MADAM CLERK: Thank you. You need to buy a lottery
7 ticket. Juror Number 479, Sharon Nix.

8 JUROR NUMBER 479: Good morning. My name is Sharon
9 Nix. I'm a manager of housekeeping on Hilton Head, and
10 I come from there, and I drove about five miles.

11 MADAM CLERK: And you're single, ma'am?

12 JUROR NUMBER 479: Single, yes.

13 MADAM CLERK: Thank you. Juror Number 482, Beverly
14 O'Brien.

15 JUROR NUMBER 482: Hi, I'm Beverly O'Brien. I'm
16 retired. I worked as a health care coordinator and
17 application manager for Johnson & Johnson. My husband
18 was I.T. manager at Johnson & Johnson, and I drove 37
19 miles.

20 MADAM CLERK: Thank you. Juror Number 487, Susan
21 Olmstead.

22 JUROR NUMBER 487: I'm Susan Olmstead, real estate
23 paralegal with Attorney Going firm. Husband is a
24 retired building contractor, in Hilton Head.

25 MADAM CLERK: And your mileage is?

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1 JUROR NUMBER 487: It's about 22, I think.

2 MADAM CLERK: Twenty-two? Thank you. Juror Number
-3 498, John Peloquin.

4 THE COURT: I apologize. I'm sorry. That juror's
5 been excused.

6 MADAM CLERK: Thank you. Juror Number 506, Anthony
7 Pinckney.

8 JUROR NUMBER 506: Yes, Anthony Pinckney. I'm
9 disabled, retired from South Carolina Department of
10 Corrections. My wife is a home health nurse
11 practitioner. I drove ten miles.

12 MADAM CLERK: Ten miles?

13 JUROR NUMBER 506: Yes.

14 MADAM CLERK: Thank you, sir. Juror Number 507,
15 India Pinckney.

16 JUROR NUMBER 507: Good morning. My name is India
17 Pinckney. I work at Trident Villa Rentals where I'm a
18 certified real estate cashier. I'm single, and I drove
19 26 miles.

20 MADAM CLERK: Thank you, ma'am. Juror Number 509,
21 Kristen Piontek Clark.

22 JUROR NUMBER 509: Hi. I'm Kristen Piontek Clark.
23 I'm a nurse at Coastal Carolina Surgery Department,
24 divorced, and drove 26 miles.

25 MADAM CLERK: Twenty-six?

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1 JUROR NUMBER 509: Um-hmm.

2 MADAM CLERK: Thank you. Juror Number 513, Callie
3 Polk.

4 JUROR NUMBER 513: My name's Callie, single. I
5 work for Marriott Grand Ocean Timeshare property as a
6 front desk associate, and I drove from Hilton Head.

7 MADAM CLERK: How far?

8 JUROR NUMBER 513: Hilton -- from Hilton Head.

9 MADAM CLERK: Hilton Head. Okay. Thank you. Our
10 next juror is Juror Number 169, Ericka Polson.

11 JUROR NUMBER 169: I'm Ericka Polson. I'm employed
12 at Seabrook Golf Hotel. I'm married. My husband is in
13 Jamaica, anyways, but I drove 26 miles.

14 MADAM CLERK: How far?

15 JUROR NUMBER 169: Twenty-six.

16 MADAM CLERK: Twenty-six. Thank you. Juror Number
17 520, Patricia Radnoff.

18 JUROR NUMBER 520: Patricia Radnoff. I'm an office
19 manager for Beaufort Academy of Dance. My husband is
20 the manager at Kroger, Inc., in Bluffton, South
21 Carolina, and I drove four miles.

22 MADAM CLERK: Four miles. Thank you. Juror Number
23 525, Xavier Reid.

24 JUROR NUMBER 525: Yes, Xavier Reid. TCL student,
25 single, and one mile.

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1 MADAM CLERK: Twelve?

2 MADAM CLERK: One.

3 JUROR NUMBER 525: One.

4 MADAM CLERK: Oh, one mile. Thank you, sir. Juror
5 Number 526, Thomas Reilley.

6 JUROR NUMBER 526: I'm Thomas Reilley, and I own
7 and operate a bar on Hilton Head called Reilley's, and I
8 drove 39 miles.

9 MADAM CLERK: How far?

10 JUROR NUMBER 526: Thirty-nine.

11 MADAM CLERK: Thirty-nine?

12 JUROR NUMBER 526: Yes.

13 MADAM CLERK: And you're single?

14 JUROR NUMBER 526: Single, yes.

15 MADAM CLERK: Thank you. Juror Number 527,
16 Bethany, is it Reynders?

17 JUROR NUMBER 527: It's Bethany Reynders.

18 MADAM CLERK: Reynders.

19 JUROR NUMBER 527: And I'm the assistant clubhouse
20 manager for Moss Creek Country Club. I'm not married,
21 and I'm came 46 miles.

22 MADAM CLERK: Thank you. Juror Number 530, Rosaura
23 Robertson.

24 JUROR NUMBER 530: Good morning. Rosaura
25 Robertson. I am a sales representative and stock

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1 manager. My husband is a project analyst over on Parris
2 Island, and I drove six miles.

3 MADAM CLERK: Six. Thank you, ma'am. Juror Number
4 536, Joanne Rodriguez.

5 JUROR NUMBER 536: I'm Joanne Rodriguez, proud
6 retiree from the Federal Government, Department of the
7 Army. I was a management analyst. My husband is an
8 equipment specialist with the Department of the Army,
9 and I drove 24 miles.

10 MADAM CLERK: Twenty-four?

11 JUROR NUMBER 536: Um-hmm.

12 MADAM CLERK: Thank you.

13 THE COURT: Thank you.

14 MADAM CLERK: Juror Number 537, Pamela Rodriguez.

15 JUROR NUMBER 537: Pamela Rodriguez, Supervisor at
16 Sam's Club in Hilton Head. My husband is an executive
17 chef at Tavern 46 of Bluffton, and I travel 26 miles.

18 MADAM CLERK: Twenty-seven. Thank you. Juror
19 Number 540, Nancy Rosen.

20 JUROR NUMBER 540: Good morning. Nancy Rosen. I'm
21 the human resource manager for a company called Right at
22 Home, which is in-home, non-medical home health agency.
23 I'm also a notary for the state of South Carolina and
24 the state of Georgia. My husband's the vice president
25 of technology for DBH Global, on Hilton Head Island, and

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1 I drove 25 miles.

2 MADAM CLERK: Thank you.

3 THE COURT: Thank you.

4 MADAM CLERK: Juror Number 541, Adam Rosica.

5 JUROR NUMBER 541: I'm Adam Rosica. I work for
6 Lowcountry Backyard Restaurant in Hilton Head. I drove
7 42 miles, and I'm single.

8 MADAM CLERK: Thank you, sir. Juror Number 547,
9 Bryan Sailors.

10 JUROR NUMBER 547: I work for UPS. I drove two
11 miles, and my wife is unemployed.

12 MADAM CLERK: Juror Number 548, Ashley Sampson.

13 JUROR NUMBER 548: Hi, I'm Ashley Sampson. I'm a
14 host/assistant to the manager at Sake House II, in
15 Bluffton, and I came from Bluffton.

16 MADAM CLERK: And you're single?

17 JUROR NUMBER 548: Yeah, single.

18 MADAM CLERK: Thank you. Juror Number 549, Verna
19 Sanders.

20 JUROR NUMBER 549: Yes, I'm Verna Sanders. I'm a
21 manager at Walmart here in Beaufort. My husband is
22 employed by Parris Island as a stockroom clerk, and I
23 traveled eight miles.

24 MADAM CLERK: Thank you. Juror Number 560, Zachary
25 Schrantz.

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1 JUROR NUMBER 560: My name is Zachary Schrantz. I
2 work at Exxon Number 4 on Parris on Gateway. I'm not
3 married, and five miles.

4 MADAM CLERK: Juror Number 566, Yolanda Shaw.

5 JUROR NUMBER 566: Yolanda Shaw. We work with
6 military kids, and I came from Yemassee, but I came
7 straight from work to here, and I'm single.

8 MADAM CLERK: From Yemassee?

9 JUROR NUMBER 566: From Yemassee, but I came from
10 work from Parris Island.

11 MADAM CLERK: Okay. Thank you. Juror Number 567,
12 Moraima Sherman.

13 JUROR NUMBER 567: Moraima Sherman. I'm a stay-at-
14 home mom, and my husband's district manager at Parris
15 Island, and I drove 24 miles.

16 MADAM CLERK: How far?

17 JUROR NUMBER 567: Twenty-four.

18 MADAM CLERK: Twenty-four?

19 JUROR NUMBER 567: Yes.

20 THE COURT: Twenty-four.

21 MADAM CLERK: Thank you. Juror Number 568,
22 Christopher Short.

23 JUROR NUMBER 568: My name is Chris Short. I work
24 for Hilton Head Regional Habitat for Humanity. I'm a
25 general manager for the Habitat Resale Store. My wife

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1 is a stay-at-home mom, and I drove 25 miles.

2 MADAM CLERK: And how far?

3 THE COURT: Twenty-five.

4 JUROR NUMBER 568: Twenty-five miles.

5 MADAM CLERK: Twenty-five. Thank you, sir. Juror
6 Number 569, Nancy Sigmund.

7 JUROR NUMBER 569: Hi. I'm a retired New York
8 school administrator. My husband is a retired sous
9 chef, and I travel 38 miles.

10 MADAM CLERK: Thank you. Juror Number 570, Gladys
11 Simmons.

12 JUROR NUMBER 570: Good morning. I'm Gladys
13 Simmons. I go by Renee. I'm a registered nurse at New
14 Generations Home Health, and I drove 27 miles.

15 MADAM CLERK: And you're single?

16 JUROR NUMBER 570: And I am single, yes.

17 MADAM CLERK: And 27. Thank you. Juror Number
18 571, Paul Singleton.

19 JUROR NUMBER 571: Hi, my name is Paul Singleton.
20 I'm divorced. I retired from the United States Army,
21 South Carolina State, and I'm currently a full-time
22 student at TCL, and I drove from Saint Helena.

23 MADAM CLERK: Seven miles?

24 JUROR NUMBER 571: I guess so.

25 MADAM CLERK: From Saint Helena?

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1 JUROR NUMBER 571: Saint Helena.

2 MADAM CLERK: Okay. Thank you, sir.

3 THE COURT: Thank you, sir.

4 MADAM CLERK: Juror Number 577, Pamela Slawson.

5 JUROR NUMBER 577: I'm Pamela Slawson. I'm an
6 accountant from Saint Francis Catholic Church on Hilton
7 Head. My husband is CFO for the Greenery, and I
8 traveled 38 miles.

9 MADAM CLERK: Juror Number 578, Joseph Smalls.

10 JUROR NUMBER 578: My name is Robert Joseph Smalls,
11 also a chaplain. I was retired. I retired from Great
12 Hall Home Center. My spouse is also retired from
13 nursing, and I traveled approximately 16 miles.

14 MADAM CLERK: Sixteen? Thank you, sir.

15 THE COURT: Thank you, sir.

16 MADAM CLERK: Juror Number 590, Joseph Soldono.

17 JUROR NUMBER 590: I'm Joseph Soldono. I'm a
18 technician for Carolina Termite Pest Control. I'm not
19 married, and I came from Hilton Head.

20 MADAM CLERK: From Hilton Head?

21 JUROR NUMBER 590: Yes.

22 MADAM CLERK: Thank you, sir. Juror Number 599,
23 Frank Stelzer.

24 JUROR NUMBER 599: Stelzer.

25 MADAM CLERK: Stelzer.

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1 JUROR NUMBER 599: I'm a self-employed residential
2 builder. My wife is a teacher at May River Montessori,
3 and I came 27 miles.

4 MADAM CLERK: Twenty-seven. Thank you, sir. Juror
5 Number 600, Andrea Stewart.

6 JUROR NUMBER 600: Andrea Stewart, materials
7 handler at Parris Island. I'm divorced, and I drove
8 eight miles.

9 MADAM CLERK: Thank you. Juror Number 608, Danny
10 Stroud.

11 JUROR NUMBER 608: Danny Stroud. I'm maintenance
12 director at Bloom, Sun City Community Association,
13 Bluffton, Assisted Living and Care Facility. Also, a
14 part owner in Lowcountry Housing with my son. My wife
15 is a real estate agent at D.L. Horton. And I drove
16 three miles.

17 MADAM CLERK: Three?

18 THE COURT: Three.

19 JUROR NUMBER 608: Three.

20 MADAM CLERK: Thank you, sir. Juror Number 610,
21 Charles Surber.

22 JUROR NUMBER 610: My name is Charles Surber. I'm
23 a retired graphic arts craftsman. My wife works for
24 Bank of America, and I traveled 24 miles.

25 MADAM CLERK: Twenty-four?

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1 JUROR NUMBER 610: Yes.

2 MADAM CLERK: Thank you, sir. Juror Number 613,
3 Michael Sweet.

4 JUROR NUMBER 613: Good morning. I'm Michael
5 Sweet. I'm single. I'm a property and casualty
6 insurance agent at the Bay South Insurance Agency here
7 in Beaufort, and I drove eight miles.

8 MADAM CLERK: Eight miles. Thank you. Juror
9 Number 635, Mary Ellen Tshupp.

10 JUROR NUMBER 635: I'm Mary Ellen Tshupp. I am
11 working toward mayor of Callawassie Island. My husband
12 is retired. He was with IAG Financial Services as a
13 project manager, and I traveled 27 miles.

14 MADAM CLERK: Twenty-seven?

15 JUROR NUMBER 635: Um-hmm.

16 MADAM CLERK: Thank you. Juror Number 637,
17 Chrystie Turner.

18 JUROR NUMBER 637: Hello, my name is Chrystie
19 Turner. I'm the Director of Allocations and Community
20 Engagement for the United Way of the Lowcountry, and my
21 husband is a home inspector for Termite Home
22 Inspections, and I traveled eight miles.

23 MADAM CLERK: Thank you. Juror Number 638, Barbara
24 Unangst.

25 JUROR NUMBER 638: My name is Barbara Unangst. I'm

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1 a retired secretary, and I traveled from Bluffton.

2 MADAM CLERK: From Bluffton. And are you married
3 or single?

4 JUROR NUMBER 638: I'm widowed.

5 MADAM CLERK: Widowed. Thank you, ma'am.

6 THE COURT: Thank you, ma'am.

7 MADAM CLERK: Juror Number 639, Jacqueline
8 Underhill.

9 JUROR NUMBER 639: Hi. I'm Jacqueline Underhill.
10 I'm an administrative assistant for the First
11 Presbyterian Day School on Hilton Head. My husband is
12 the bus driver for Emeritus on Hilton Head, and I came
13 from Bluffton.

14 MADAM CLERK: Juror Number 645, Raymond
15 Villalpando.

16 JUROR NUMBER 645: Good morning. Athletic field
17 manager for Sea Creek Crest in Bluffton, single.
18 Sixteen miles.

19 MADAM CLERK: Ten?

20 JUROR NUMBER 645: Sixteen.

21 MADAM CLERK: Sixteen? Thank you. Juror Number
22 652, Stephen Walker.

23 JUROR NUMBER 652: I am Stephen Walker. I'm not
24 married. I'm employed at the Savannah Golf Club as an
25 assistant superintendent, and I drove from Bluffton.

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1 MADAM CLERK: From Bluffton.

2 JUROR NUMBER 652: Yes.

3 MADAM CLERK: Juror Number 654, Stephen Wallace.

4 JUROR NUMBER 654: Stephen Wallace, realtor. My
5 spouse is a credit and collection manager, and my
6 mileage was 27.

7 MADAM CLERK: Twenty-seven. Juror Number 655,
8 Keith Walston.

9 JUROR NUMBER 655: I'm Keith Walston. I am a
10 licensed U.S. Coast Guard captain. I am presently Chief
11 Executive Officer of the Walston Group, Inc. We own and
12 operate Vagabond Cruise, the Island's largest sight-
13 seeing excursion cruise company, as well as the
14 Connections Company, which provides internships program
15 for college students. My wife is my bookkeeper, and I
16 drove here from Hilton Head.

17 MADAM CLERK: From where?

18 THE COURT: Hilton Head.

19 JUROR NUMBER 655: Hilton Head.

20 MADAM CLERK: Hilton Head. Thank you, sir. Juror
21 Number 659, Olga Washington.

22 JUROR NUMBER 659: I'm Olga Washington. I --
23 housekeeping. I work for the Spear family on Hilton
24 Head, and I'm divorced, and I come from Bluffton.

25 MADAM CLERK: From Bluffton?

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1 JUROR NUMBER 659: Bluffton.

2 MADAM CLERK: Thank you, ma'am. Juror Number 660,
3 Sheila Watford.

4 JUROR NUMBER 660: Sheila Watford, self-employed
5 delivery services. And I'm not married, and I drove 38
6 miles.

7 MADAM CLERK: Thank you. Juror Number 664, Deborah
8 Weddington.

9 JUROR NUMBER 664: Good morning. My name is
10 Deborah Weddington. I am a school library media
11 specialist at Whale Branch Elementary. My husband is
12 retired and disabled. He was a police officer in Erie,
13 Pennsylvania, and I drove a mile and a half.

14 MADAM CLERK: Thank you, ma'am. Juror Number 669,
15 Henry White.

16 JUROR NUMBER 669: Good morning, ma'am. My name is
17 Mr. Henry White. I worked -- I'm retired. I worked at
18 Marstown (phonetic spell) Memorial Hospital in New
19 Jersey as an O.R. manager. Divorced, 20 miles.

20 MADAM CLERK: Twenty?

21 JUROR NUMBER 669: Yes, ma'am.

22 MADAM CLERK: Thank you, sir. Juror Number 683,
23 Gwendolyn Winston.

24 JUROR NUMBER 683: Gwendolyn Winston. I work in
25 Bluffton. I'm not married. And I drove 26 miles.

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1 MADAM CLERK: Twenty-six?

2 JUROR NUMBER 683: Yes.

3 MADAM CLERK: Thank you. Juror Number 690, Mary
4 Woods.

5 JUROR NUMBER 690: I'm Mary Woods. I'm an educator
6 at Laurel Bay Schools. My husband is the assistant
7 chief of Port Royal Police Department, and I traveled
8 eight miles.

9 MADAM CLERK: Eight miles. Juror Number 693,
10 George Wright.

11 JUROR NUMBER 693: I work in Beaufort County
12 Information System as a programmer. Spouse works at a
13 veterinary clinic on Ladies Island, and seven miles.

14 MADAM CLERK: Seven?

15 JUROR NUMBER 693: Yes, ma'am.

16 MADAM CLERK: Thank you, sir. Juror Number 695,
17 Patricia Youmans.

18 JUROR NUMBER 695: Good morning. I'm Patricia
19 Youmans. I go by Pat. I'm a retired pediatric nurse
20 practitioner. My husband was a Navy fighter pilot, and
21 he retired from United Airlines as a 747 captain.

22 MADAM CLERK: And your mileage, ma'am?

23 JUROR NUMBER 695: 6.9 miles.

24 MADAM CLERK: Thank you.

25 THE COURT: Thank you.

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1 MADAM CLERK: Juror Number 697, Marion Young.

2 JUROR NUMBER 697: My name is Marion Young, and I'm
3 a technician at Walmart on Hilton Head, and my wife's a
4 department manager for Walmart on Hilton Head. And
5 about 16 miles.

6 MADAM CLERK: How far? Sixteen?

7 JUROR NUMBER 697: Yes.

8 MADAM CLERK: Thank you, sir. And Juror Number
9 698, William Young.

10 JUROR NUMBER 698: I'm Will Young. I manage my
11 properties in Minnesota and South Carolina. I drove 37
12 miles, and I'm a widow.

13 MADAM CLERK: And you said 37?

14 JUROR NUMBER 698: Yes, ma'am.

15 MADAM CLERK: Thank you, sir. Is there anyone's
16 name that I did not call? If so, would you please
17 stand? Yes, sir. What is your juror number, please?

18 JUROR NUMBER 134: Juror Number 134.

19 THE COURT: Okay. Give us a moment, sir. We're
20 going to locate it. All right? Thank you.

21 JUROR NUMBER 134: Sure.

22 THE COURT: Thank you.

23 MADAM CLERK: And is that for Amada Colella?

24 JUROR NUMBER 134: It is, yes.

25 MADAM CLERK: Juror Number 134. Yes, Mr. Colella?

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1 JUROR NUMBER 134: I work for Bank of America. I'm
2 a market manager for Beaufort County and parts of
3 Charleston. My wife is administrative assistant at
4 Hilton Head Health, and I traveled from Bluffton.

5 MADAM CLERK: Bluffton. Thank you, sir.

6 THE COURT: Thank you, sir.

7 MADAM CLERK: Yes, sir. Your Juror Number, please?

8 JUROR NUMBER 614: 614.

9 MADAM CLERK: Your name, sir?

10 JUROR NUMBER 614: Zachary Takacs.

11 THE COURT: Thank you, sir.

12 MADAM CLERK: Yes, Mr. Takacs?

13 JUROR NUMBER 614: I'm single. I work at
14 Giuseppe's Pizza and Pasta as a cook, and I drove 40
15 miles.

16 MADAM CLERK: Forty?

17 JUROR NUMBER 614: Yes, ma'am.

18 MADAM CLERK: Thank you, sir. Yes, ma'am. Your
19 juror number? The lady in the red, your juror number,
20 please?

21 JUROR NUMBER 686: 686, Donna D. Wood.

22 MADAM CLERK: Juror Number 686. Yes, Ms. Wood?

23 JUROR NUMBER 686: My name is Donna Wood. I work
24 for State of South Carolina Park Service. I'm employed
25 by Hunting Island State Park. I drove 12 miles, and I'm

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1 single.

2 MADAM CLERK: Twelve miles.

3 JUROR NUMBER 686: (Nodded head.)

4 MADAM CLERK: Thank you, ma'am.

5 THE COURT: Thank you.

6 MADAM CLERK: Yes, ma'am. Your juror number,

7 please?

8 JUROR NUMBER 419: 419.

9 MADAM CLERK: Is that for Diane Matie?

10 JUROR NUMBER 419: Yes, ma'am.

11 MADAM CLERK: Yes, ma'am.

12 JUROR NUMBER 419: Diane Matie. I work for Coastal

13 Sales in merchandising as retail manager. I work out of

14 Beaufort, Bluffton, Hilton Head, and Savannah. My

15 husband works at Gulf Stream as a hydraulic installer,

16 and I drove four miles.

17 MADAM CLERK: And how far?

18 JUROR NUMBER 419: Four.

19 MADAM CLERK: Four?

20 JUROR NUMBER 419: (Nodded head.)

21 MADAM CLERK: Four. Thank you. All right. Is

22 there anyone else's name that I did not call?

23 BY THE COURT:

24 THE COURT: All right. Thank you, ladies and

25 gentlemen. As I told you, this is a process. The first

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1 is we have done now roll call. Obviously, it's taken
2 some time. We have a good number of people here.

3 Ladies and gentlemen, now I need to go through the
4 qualifications and exemptions for jury service. Does
5 anyone need a break? I know we've got -- very good.
6 All right. Ladies and gentlemen, we are going to go
7 ahead and take a very, very brief break. I'm going to
8 ask you that, if you do not need to refresh yourselves,
9 keep your seats, if you can.

10 Ladies and gentlemen, those of you go ahead and
11 come on back. I'm hoping that we can be done in about
12 ten minutes or so.

13 Ladies and gentlemen, I need to caution you. I
14 know you know very little about the case that is before
15 us this week, but it would be inappropriate for you to
16 discuss it with each other or anyone else. So, with
17 that said, ladies and gentlemen, please, we'll see you
18 back in ten minutes.

19 OFF THE RECORD 11:59 A.M.

20 BACK ON THE RECORD 12:08 P.M.

21 VOIR DIRE, BY THE COURT:

22 BAILIFF: All rise.

23 THE COURT: Thank you all. Please be seated.

24 Please be seated, ladies and gentlemen. Thank you.

25 Ladies and gentlemen, at this time, we're going to

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1 go ahead and do a head count. I always say this, only
2 when you're in school and you're on a bus is there a
3 head count done. That, and during jury duty. So,
4 please bear with us, and we will be with you shortly to
5 make sure everyone is back.

6 That's all right, Al. Al, are we missing anyone?

7 BAILIFF: May I approach, your Honor?

8 THE COURT: Yes, sir.

9 OFF-THE-RECORD BENCH CONFERENCE,

10 THE COURT AND BAILIFF.

11 END BENCH CONFERENCE.

12 CONTINUE VOIR DIRE, BY THE COURT:

13 THE COURT: Ladies and gentlemen, at this time, I
14 have a number of questions that I need to ask you
15 regarding your qualification to serve as jurors here in
16 this case. Ladies and gentlemen, state law requires
17 that I ask these questions. And I will just tell you
18 that, frankly, some of them are a bit personal. I don't
19 want anyone to suffer any embarrassment here. If there
20 is a question you must respond to, but you don't feel
21 comfortable announcing in front of all your fellow
22 jurors, ladies and gentlemen, you may do one of two
23 things. You may stand, give me your name and number,
24 like you would normally, and ask to approach. You and I
25 will have a conversation in relative private, because I

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1 will be over here. It is required to be on the record,
2 and the attorneys trying this case are entitled to hear
3 that response.

4 Ladies and gentlemen, also, at the very end of my
5 questioning, I'm going to ask a catch-all question. It
6 says:

7 *For any reason whatsoever, please*
8 *come speak to me in regards to your jury*
9 *service.*

10 All right? So, again, either one of those two
11 things you are free to do, ladies and gentlemen.

12 But at this time, we will go ahead and ask the
13 qualification questions. Again, ladies and gentlemen,
14 if you need to respond, stand. When called upon, give
15 me your name and juror number, and then respond to the
16 question. All right?

17 Is any member of the jury panel not a citizen of
18 the United States? If so, please stand.

19 Is any member of the jury panel not a resident and
20 citizen of Beaufort County? If so, please stand.

21 Ladies and gentlemen, is any member of the jury
22 panel unable to read, write, speak or understand the
23 English language? If so, please stand. Ma'am, your
24 name and juror number?

25 JUROR NUMBER 659: Olga Washington.

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1 THE COURT: Yes?

2 JUROR NUMBER 659: 659. I can state and read
3 English, but I don't know how to write.

4 THE COURT: You don't know how to write.

5 JUROR NUMBER 659: Yes.

6 THE COURT: All right. Ma'am, were you able to
7 fill out the questionnaire?

8 JUROR NUMBER 659: Yes. My boss helped me, but
9 then --

10 THE COURT: You were able to with your boss's
11 help.

12 JUROR NUMBER 659: Yes.

13 THE COURT: So, have you understood everything that
14 I've said here since we've been here in the courtroom?

15 JUROR NUMBER 659: Yes.

16 THE COURT: All right, ma'am, you can go ahead and
17 take a seat. I appreciate it. Thank you. Do you have
18 her number, Diane?

19 MADAM CLERK: Yes, ma'am.

20 MADAM CLERK: 659, I believe. 659.

21 THE COURT: It's Ms. Washington. Is that correct?

22 JUROR NUMBER 659: Yes.

23 MADAM CLERK: Is English your first or second
24 language?

25 JUROR NUMBER 659: Second language.

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1 MADAM CLERK: What is your first language?

2 JUROR NUMBER 659: Spanish.

3 THE COURT: Thank you, ma'am. Ladies and
4 gentlemen, --

5 BAILIFF: Your Honor, one more standing, Judge.

6 THE COURT: Oh, I apologize. Yes, sir?

7 JUROR NUMBER 697: Marion Young, 697.

8 THE COURT: Yes, sir.

9 JUROR NUMBER 697: I understand everything else,
10 but I can't read.

11 THE COURT: Okay. All right, sir. How far did you
12 go in school?

13 JUROR NUMBER 697: Tenth grade.

14 THE COURT: Tenth grade? All right. Sir, have you
15 worked a job?

16 JUROR NUMBER 697: Yes.

17 THE COURT: Okay, sir. And tell me again your age.

18 JUROR NUMBER 697: Fifty-seven.

19 THE COURT: Fifty-seven? Very well, sir. Thank
20 you. You may be seated.

21 Ladies and gentlemen, does any member of the jury
22 panel have less than a sixth grade education or its
23 equivalent? And ladies and gentlemen, if you have
24 raised a family, paid your bills, held a job, I think
25 you have more than a sixth grade education. But I want

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1 to make absolutely sure you feel comfortable sitting as
2 a juror during the trial of this case. Ladies and
3 gentlemen, if you are concerned about this question, if
4 you would like to stand and approach in a very quick
5 conversation, I can determine whether or not you can sit
6 here on jury service. Does anyone want to respond to
7 this question at this time? If so, please stand. Yes,
8 ma'am?

9 JUROR NUMBER 567: I'm Moraima Sherman, 567.

10 THE COURT: Ma'am, come on, approach right here for
11 me, and the attorneys are invited to come up.

12 ON-THE-RECORD BENCH CONFERENCE,

13 OUT OF HEARING OF JURORS:

14 JUROR NUMBER 567: It's a pleasure to meet you.

15 THE COURT: Thank you. Okay. I apologize.

16 JUROR NUMBER 567: I'm sorry.

17 THE COURT: No worries. It just has to be
18 recorded.

19 JUROR NUMBER 567: It's just understand. But just
20 can't understand.

21 THE COURT: That can understand some?

22 JUROR NUMBER 567: I can understand most of them,
23 but I don't know what's going to be on -- going on here.

24 THE COURT: Okay.

25 JUROR NUMBER 567: And I don't know, maybe, you

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1 know, I'm want to be involved with what it means. Okay?

2 THE COURT: Okay. What is your first language?

3 JUROR NUMBER 567: It's Spanish.

4 THE COURT: It is Spanish. And how long have you
5 been here?

6 JUROR NUMBER 567: About 15 years.

7 THE COURT: What do you do?

8 JUROR NUMBER 567: I had worked as economist [sic]
9 in the school.

10 THE COURT: Okay.

11 JUROR NUMBER 567: But I'm a stay-at-home mom now.

12 THE COURT: Now you're a stay-at-home mother.

13 Okay. How old are your children?

14 JUROR NUMBER 567: I have one that's 13 and one's
15 eight.

16 THE COURT: All right. So, you've heard everything
17 we've asked.

18 JUROR NUMBER 567: Oh, yeah, yeah.

19 THE COURT: Okay. What I want you to do is this.

20 I'm not concerned about you.

21 JUROR NUMBER 567: Okay.

22 THE COURT: I think you are able to understand and
23 converse just fine.

24 JUROR NUMBER 567: Okay.

25 THE COURT: I want, at the end of this process, if

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1 there is any question I ask, or, if there's any question
2 the lawyers ask, that you don't understand, --

3 JUROR NUMBER 567: Okay.

4 THE COURT: -- you let me know.

5 JUROR NUMBER 567: I will.

6 THE COURT: All right?

7 JUROR NUMBER 567: I will.

8 THE COURT: I appreciate it. Thank you.

9 JUROR NUMBER 567: Thank you very much.

10 THE COURT: Thank you. Okay. Okay. Thank you.

11 END BENCH CONFERENCE.

12 BY THE COURT:

13 THE COURT: Ladies and gentlemen of the jury panel,
14 has any member of the jury panel been convicted by
15 guilty plea or trial in a state or federal court of
16 record of a crime punishable by imprisonment for more
17 than one year, and your civil rights have not been
18 restored by pardon or amnesty?

19 Ladies and gentlemen, this does not mean you had to
20 have received a year in prison. It simply means that
21 you pled guilty or were convicted of a charge that
22 carried a possible sentence of more than a year. And
23 ladies and gentlemen, if you do have something in your
24 past that you may think could possibly fall into this
25 category, if you'd just come and approach me, and you

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1 tell me what it is, I can tell you whether or not it
2 disqualifies you. But at this time, for anyone else who
3 would like to stand. Sir, your name and juror number,
4 of course?

5 JUROR NUMBER 103: James Carson, 103.

6 THE COURT: Come on around, Mr. Carson.

7 ON-THE-RECORD BENCH CONFERENCE,

8 OUT OF HEARING OF JURORS:

9 JUROR NUMBER 103: Hello, your Honor.

10 THE COURT: Mr. Carson, how are you?

11 JUROR NUMBER 103: I'm fine, thank you.

12 THE COURT: Pleasure. You're going to have to come
13 close to me. I'm sorry. I apologize.

14 JUROR NUMBER 103: Okay. That's okay.

15 THE COURT: But she's going to take down everything
16 you have to say.

17 JUROR NUMBER 103: Well, I'm a fourth class
18 sections of a narcotics racketeering charge in the state
19 of Illinois for 20 years.

20 THE COURT: Okay. You did 20 years?

21 JUROR NUMBER 103: Um-hmm.

22 THE COURT: Okay.

23 JUROR NUMBER 103: And besides, I also got surgery.
24 I don't know how I'm going to sit.

25 THE COURT: Okay. You're not feeling well?

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1 JUROR NUMBER 103: Well, I just can't sit for a
2 long period of time.

3 THE COURT: Okay. Okay.

4 JUROR NUMBER 103: You know, it's the knee and all
5 that good stuff, so.

6 THE COURT: I understand. All right, Mr. Carson,
7 what I'm going to do is, I'm going to excuse you back to
8 your seat for just a moment and converse with the
9 lawyers, and I'll let you know. Okay?

10 JUROR NUMBER 103: Um-hmm. Okay. Okay. Thank
11 you.

12 THE COURT: All right.

13 END BENCH CONFERENCE.

14 ON-THE-RECORD BENCH CONFERENCE,

15 OUT OF HEARING OF ALL JURORS:

16 THE COURT: Okay. Any reason why we didn't get him
17 on our list before?

18 MR. STONE: Sometimes it didn't come up.

19 THE COURT: Okay. Any objection?

20 MR. MCGUIRE: There's nothing I can do. I like him
21 as a character.

22 THE COURT: Well, of course you do. I do, too.
23 Okay.

24 MR. STONE: We have another one.

25 THE COURT: We're going to excuse him. Okay?

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1 MR. STONE: We have another one.

2 END BENCH CONFERENCE.

3 THE COURT: All right. Mr. Carson, we're going to
4 go ahead and excuse you, sir. Thank you.

5 JUROR NUMBER 103: Okay.

6 BAILIFF: Your Honor, Juror Number 374, Mr. Kloc.

7 THE COURT: Come on, Mr. Kloc.

8 ON-THE-RECORD BENCH CONFERENCE,

9 OUT OF HEARING OF JURORS:

10 THE COURT: Pleasure to meet you, sir, and I'd
11 shake your hand, but you've got only one.

12 JUROR NUMBER 374: That's no problem. Not a
13 problem. A DUI. I don't know if that qualifies.

14 THE COURT: Okay. That does not qualify.

15 JUROR NUMBER 374: Okay. I wasn't sure.

16 THE COURT: But I appreciate that. Can you tell me
17 how long ago it was.

18 JUROR NUMBER 374: Three. Three or four years ago.

19 THE COURT: Okay. All right. I appreciate that.
20 Okay.

21 JUROR NUMBER 103: And I brought this up.

22 THE COURT: Well, that's okay. Why don't you just,
23 while you're here, why don't you tell me about it.

24 JUROR NUMBER 374: Well, I'm going to therapy. And
25 I had knee surgery and a staph infection.

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1 THE COURT: Okay. When did you have the knee
2 surgery?

3 JUROR NUMBER 374: June.

4 THE COURT: In June? Okay. Where are you doing
5 the physical therapy?

6 JUROR NUMBER 374: Drayer.

7 THE COURT: Okay. That's the one on -- the one in
8 Bluffton?

9 JUROR NUMBER 374: Yes.

10 THE COURT: Okay. Okay. You doing okay?

11 JUROR NUMBER 374: Yeah, just a little sore, but.

12 THE COURT: You all right?

13 JUROR NUMBER 374: Okay?

14 THE COURT: Okay. Thank you, sir.

15 JUROR NUMBER 374: Um-hmm.

16 THE COURT: I appreciate it. Mr. Kloc is going to
17 stay with us.

18 JUROR NUMBER 374: Okay.

19 ITEM IDENTIFIED AS LETTER DATED
20 9-18-13 REGARDING JUROR NUMBER 374
21 MARKED COURT'S EXHIBIT NUMBER 1.

22 END BENCH CONFERENCE.

23 MR. THORNTON: Your Honor?

24 THE COURT: Yes, sir?

25 MR. THORNTON: I'm sorry. I didn't mean to

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1 interrupt, but this came to my attention.

2 THE COURT: What is this?

3 MR. THORNTON: I've got three total.

4 THE COURT: All right. Who is this?

5 MR. THORNTON: Kawani Bradshaw.

6 THE COURT: That's who's coming up?

7 MR. THORNTON: I'm not sure.

8 THE COURT: I just have to read this.

9 MR. THORNTON: Yes, ma'am.

10 THE COURT: Okay. Come up, sir.

11 BAILIFF: Juror 124, Mr. Clark, your Honor.

12 ON-THE-RECORD BENCH CONFERENCE,

13 OUT OF HEARING OF JURORS:

14 THE COURT: All right. Mr. Clark, it's nice to
15 meet you, sir.

16 JUROR NUMBER 124: Yes, ma'am.

17 THE COURT: Thank you.

18 JUROR NUMBER 124: I have a DUI. Does that cover
19 it? No, I was getting ready to say I had two.

20 THE COURT: That's all right. Sir, that doesn't
21 carry up to a year, so we'd love to have you stay.

22 JUROR NUMBER 124: Okay.

23 THE COURT: All right? Thank you, sir. He is not
24 excused.

25 END BENCH CONFERENCE.

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1 BAILIFF: Your Honor, Juror Number 284, Mr.
2 Grundahl.

3 ON-THE-RECORD BENCH CONFERENCE,
4 OUT OF HEARING OF JURORS:

5 THE COURT: How are you, sir? A pleasure.

6 JUROR NUMBER 284: Your Honor, I was in the Navy
7 for being AWOL.

8 THE COURT: Okay.

9 JUROR NUMBER 284: And I received six months while
10 I was in the Navy, but I spent three motions in the
11 brig.

12 THE COURT: Okay.

13 JUROR NUMBER 284: So, I got that deal.

14 THE COURT: Okay. I don't think that would --

15 JUROR NUMBER 284: That was 40 years ago, but.

16 THE COURT: Forty. I understand.

17 JUROR NUMBER 284: I just wanted to make sure.

18 THE COURT: I understand that. All right, Mr.
19 Gundahl, we'll keep you. Thank you, though.

20 END BENCH CONFERENCE.

21 THE COURT: Number 284 is going to stay with us.

22 ON-THE-RECORD BENCH CONFERENCE,

23 OUT OF HEARING OF ALL JURORS:

24 COURT REPORTER: All I got was AWOL.

25 THE COURT: He received six months' sentence when

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1 he was in the Navy 40 years ago for being AWOL, and
2 spending three months in the brig before he was
3 released.

4 MR. THORNTON: It didn't give a possible punishment
5 on the sheet, so.

6 THE COURT: Okay.

7 END BENCH CONFERENCE.

8 THE COURT: Ladies and gentlemen, is there any
9 member of the jury panel who is unable because of
10 physical or mental infirmities to render efficient jury
11 service?

12 Ladies and gentlemen, let me explain to you how
13 court runs, so you'll know whether or not this could
14 possibly apply to you. Ladies and gentlemen, we are
15 going to start, if you are chosen as a juror in this
16 case, typically around 9:00, 9:30, maybe 10:00 in the
17 morning. We will run until our morning break, which is
18 usually about an hour, hour and a half or so, and we
19 will take our morning break. You'll be sent back to
20 your jury room. You'll receive Coke, coffee, nabs,
21 whatever you need to keep going, ladies and gentlemen.

22 We typically run until about lunchtime, where
23 either you are going to be free to go out and grab a
24 bite to eat and come back, or we're going to provide
25 lunch. We usually take roughly about an hour break for

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1 lunch, ladies and gentlemen. You will then come back,
2 and we will again take another afternoon break, and we
3 will typically run -- and again, ladies and gentlemen, I
4 have to say typically, because we could run and stop
5 early some days; we could go a little later some days.
6 I will tell you that I do it based on what my jurors'
7 availability is. So, typically, what I will say to our
8 foreperson is, tell me if anyone has any engagements
9 tonight. If someone needs to be somewhere at 6:00
10 o'clock or where they need to be, and I will make sure
11 they do get there. All right?

12 Ladies and gentlemen, this question is for those
13 jurors who simply cannot sit for an hour at a time in
14 that jury box. If so, please stand, ladies and
15 gentlemen.

16 BAILIFF: Three standing, Judge.

17 THE COURT: All right. Sir, I'm going to start
18 with you in the very back. If you would, give me your
19 name and juror number. And if you would like to
20 approach, you are welcome to, or, if you feel
21 comfortable where you are, you can stay where you are,
22 whichever you prefer.

23 JUROR NUMBER 506: It's Anthony Pinckney, 506.

24 THE COURT: Yes, sir.

25 JUROR NUMBER 506: Yes, I was hurt. Worked

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1 Department of Corrections. Disability retirement
2 because of my knee, and I have a letter from my doctor.
3 I can't sit for more than 30 minutes.

4 THE COURT: Okay. Come on up, sir, if you would.
5 I'd like to see the letter. The attorneys are welcome
6 to come on up.

7 ON-THE-RECORD BENCH CONFERENCE,

8 OUT OF HEARING OF JURORS:

9 THE COURT: Come on up. Nice to meet you, sir.

10 JUROR NUMBER 506: Nice to meet you.

11 THE COURT: Pleasure. Come on up, if you don't
12 mind, a little closer. I've got to put you on the
13 record. Okay? Let me see what you got for me. Okay.
14 So, you've got a problem with your knee.

15 JUROR NUMBER 506: Yes.

16 THE COURT: You said you can't sit for 30 minutes.

17 JUROR NUMBER 506: Yes. Yeah, I need a
18 replacement, and I haven't done it yet. But more than
19 15 or 30 minutes. When I retired about eight months
20 ago, that's one of the reason I had to retire, because
21 no more than 30 minutes I can sit.

22 THE COURT: Okay. Let me ask you this. You worked
23 for the Department of Corrections here in South
24 Carolina?

25 JUROR NUMBER 506: Yes.

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1 THE COURT: Where were you last?

2 JUROR NUMBER 506: Ridgeland.

3 THE COURT: You were at Ridgeland Correctional.

4 Okay. Do you all have any questions or any concerns?

5 No?

6 MR. MCGUIRE: (Shook head.)

7 MR. THORNTON: None, your Honor.

8 THE COURT: All right. Sir, why don't you go take
9 a seat very quickly, and let me speak with the lawyers
10 and I'll be with you. Okay?

11 JUROR NUMBER 506: Okay.

12 THE COURT: Thank you.

13 END BENCH CONFERENCE.

14 ON-THE-RECORD BENCH CONFERENCE,

15 OUT OF HEARING OF ALL JURORS:

16 THE COURT: It's kind of a generic letter. Anyone
17 have any objections to excusing him?

18 MR. THORNTON: (Shook head.)

19 MR. STONE: (Shook head.)

20 THE COURT: Okay.

21 MR. THORNTON: I don't, Judge, -- or the State
22 doesn't.

23 MR. MCGUIRE: Let me see.

24 THE COURT: Okay. Sit tight.

25 MR. MCGUIRE: Your Honor, the number again?

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1 THE COURT: What number is he? I apologize.

2 COURT REPORTER: 506.

3 MR. MCGUIRE: 506?

4 COURT REPORTER: Yes.

5 MR. MCGUIRE: 506.

6 MR. MCGUIRE: We don't have any objection, your
7 Honor.

8 THE COURT: Okay. We're going to go ahead and
9 excuse him. All right.

10 ITEM IDENTIFIED AS LETTER DATED
11 10-7-13 REGARDING JUROR NUMBER 506
12 MARKED COURT'S EXHIBIT NUMBER 2.

13 END BENCH CONFERENCE.

14 THE COURT: Mr. Derrick [sic], you are excused,
15 sir. Thank you. Come on up, sir.

16 BAILIFF: Your Honor, Juror 257, Mr. Garofalo.
17 Thank you, sir.

18 ON-THE-RECORD BENCH CONFERENCE,

19 OUT OF HEARING OF JURORS:

20 THE COURT: How are you?

21 JUROR NUMBER 257: Good. How are you?

22 THE COURT: Good. Thank you, sir.

23 JUROR NUMBER 257: If I'd seen this before, I have
24 -- which, I would have brought a note from my doctor.

25 THE COURT: Doctor's note.

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1 JUROR NUMBER 257: But I just got the mailer last
2 Friday when I got home from work.

3 THE COURT: Um-hmm.

4 JUROR NUMBER 257: Which, that's, you know, and I
5 called, and nobody returned my call here.

6 THE COURT: Um-hmm.

7 JUROR NUMBER 257: Which, I have --

8 THE COURT: So, what is your issue? Tell me what
9 your issue is.

10 JUROR NUMBER 257: I have joint pain, arthritis.

11 THE COURT: Okay.

12 JUROR NUMBER 257: And I can't focus on things,
13 because I spend half the day thinking, you know, just
14 trying to focus.

15 THE COURT: Okay. What do you have joint pain as a
16 result of?

17 JUROR NUMBER 257: Just -- I have psoriasis,
18 which --

19 THE COURT: Okay.

20 JUROR NUMBER 257: -- causes -- it's antibodies
21 attacking themselves, which causes arthritis.

22 THE COURT: Okay. Okay. Who is your treating
23 doctor for that?

24 JUROR NUMBER 257: I -- my physician's Affordable
25 Health Care.

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1 THE COURT: Um-hmm.

2 JUROR NUMBER 257: It's where I work, I was on the
3 Humira before, but that's \$1,600.00 a month, and since I
4 have a pre-existing conditions, and our employer changed
5 our policy, and I can't afford, you know.

6 THE COURT: Okay. Okay. So, you're telling me
7 that you don't think you can focus on the case because
8 you're going to be concerned about your joint pain and
9 arthritis?

10 JUROR NUMBER 257: I have trouble sitting too long
11 just because I'm trying to suppress the pain and move
12 around.

13 THE COURT: Okay. But you do work a number of
14 jobs, correct? Or a job.

15 JUROR NUMBER 257: I do, but I'm -- I'm never
16 confined to a spot.

17 THE COURT: Okay. All right. Do you all have any
18 questions?

19 MR. MCGUIRE: No, ma'am.

20 THE COURT: Okay. Mr. Garofalo, give us just a
21 moment. Let me speak with the attorneys, and you can go
22 take a seat back where you were.

23 JUROR 257: Of course, if you do need a medical, I
24 can --

25 THE COURT: Okay. Yeah, that's okay. Thank you.

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1 END BENCH CONFERENCE.

2 ON-THE-RECORD BENCH CONFERENCE,

3 OUT OF HEARING OF ALL JURORS.

4 THE COURT: We need it ahead of time. That was for
5 the last one. Okay. What do you all want to do? I
6 mean, he's telling me he cannot serve, and obviously, he
7 can get a note, clearly.

8 MR. MCGUIRE: And he says he can't -- he can't
9 focus.

10 THE COURT: Yeah.

11 MR. MCGUIRE: Because of his pain? Is it in one
12 spot?

13 THE COURT: No, he says he has joint pain all over.
14 He's got -- he's got psoriasis, yeah.

15 MR. MCGUIRE: He can't stay in one spot.

16 THE COURT: He just -- yeah.

17 MR. MCGUIRE: It's going to be a long trial with a
18 lot of complicated information. I'll let him go.

19 THE COURT: I just think we need to let him go. No
20 objection?

21 MR. STONE: That's fine. Yes, ma'am.

22 THE COURT: All right. He was Number 257. Am I
23 correct on that?

24 MADAM CLERK: Yes, your Honor.

25 THE COURT: 257. All right.

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1 END BENCH CONFERENCE.

2 THE COURT: Sir, you are free to leave. Thank you.
3 Number 257 has been excused.

4 BAILIFF: Your Honor, Number 384, Mr. Langehans.

5 ON-THE-RECORD BENCH CONFERENCE,

6 OUT OF HEARING OF JURORS:

7 THE COURT: A dentist. How are you?

8 JUROR NUMBER 384: Michael Langehans. How are you?

9 THE COURT: Pleasure.

10 JUROR NUMBER 384: I spent a week in the hospital
11 in August with acute diverticulitis.

12 THE COURT: Okay.

13 JUROR NUMBER 384: And it's been just now calmed
14 down enough. I'm supposed to have a C.T. scan Friday.

15 THE COURT: Okay.

16 JUROR NUMBER 384: And I'm scheduled to have
17 surgery in the next two weeks at some point to resolve
18 that problem.

19 THE COURT: Okay. How are you feeling now?
20 Because I can certainly cover you to make sure you get
21 your C.T. on Friday. And if you stay, sometime in the
22 next two weeks.

23 JUROR NUMBER 384: Well, you know, I'm not feeling
24 great. I mean, I feel all right.

25 THE COURT: Are you working as a dentist? I mean,

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1 are you working on people?

2 JUROR NUMBER 384: I went and saw one patient this
3 morning, and I've got the rest of the day off.

4 THE COURT: Okay.

5 JUROR NUMBER 384: And because I've got a partner
6 that works and covers the practice for me.

7 THE COURT: Okay. Okay.

8 JUROR NUMBER 384: But, you know, it's one of those
9 things where sometimes you feel good and sometimes you
10 don't.

11 THE COURT: Um-hmm.

12 JUROR NUMBER 384: And you know, like I said, it
13 was a week in the hospital, and I've been on antibiotics
14 since then, and supposed to have all this stuff done to
15 correct this problem so I don't have to worry about it
16 anymore.

17 THE COURT: Okay. Okay. Give me just one moment,
18 if you don't mind.

19 JUROR NUMBER 384: Sure.

20 THE COURT: I'm going to speak with the lawyers.
21 Okay?

22 ON-THE-RECORD BENCH CONFERENCE,

23 OUT OF HEARING OF ALL JURORS.

24 MR. MCGUIRE: Kind of like the last guy.

25 THE COURT: It's pain. Um-hmm. It's painful,

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1 clearly, and he's got it, so I say we go.

2 MR. MCGUIRE: Yeah, I don't -- yeah, I don't have
3 an objection.

4 THE COURT: All right. Okay.

5 END BENCH CONFERENCE.

6 THE COURT: Number 384 is excused. You are
7 excused, sir. Thank you. Go ahead and just make that a
8 part of the record.

9 ITEM IDENTIFIED AS LETTER DATED
10 10-7-13 REGARDING JUROR NUMBER 384
11 MARKED COURT'S EXHIBIT NUMBER 3.

12 BAILIFF: Your Honor, Juror Number 279, Mr.
13 Grisham.

14 ON-THE-RECORD BENCH CONFERENCE,

15 OUT OF HEARING OF JURORS:

16 THE COURT: Mr. Grisham, pleasure to meet you, sir.

17 JUROR NUMBER 279: I've had six -- six, seven
18 spinal surgeries. I've got a morphine pump.

19 THE COURT: Okay.

20 JUROR NUMBER 279: And I don't know if I --

21 THE COURT: You feeling okay?

22 JUROR NUMBER 279: -- if some --

23 THE COURT: Okay. But you permanently have a
24 morphine pump?

25 JUROR NUMBER 279: Yes, ma'am. Thought I'd bring

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1 that to your attention.

2 THE COURT: Yeah. What kind of dosage? Yeah.
3 What kind of dosage do you use?

4 JUROR NUMBER 279: And I also have Exalgo, which is
5 orally.

6 THE COURT: Okay.

7 JUROR NUMBER 279: So, it's a lot.

8 THE COURT: Okay. All right. Have you taken
9 anything today? For pain.

10 JUROR NUMBER 279: Yes.

11 THE COURT: Okay. All right. We're going to go
12 ahead and excuse you from jury service, but I appreciate
13 you being here.

14 END BENCH CONFERENCE.

15 THE COURT: Number 279 is excused. Thank you, sir.

16 BAILIFF: Your Honor, Juror -- I'm sorry, sir.
17 Your Honor, 578, Mr. Smalls.

18 ON-THE-RECORD BENCH CONFERENCE,

19 OUT OF HEARING OF JURORS:

20 THE COURT: Come on up, Mr. Smalls. Such a
21 pleasure to meet you, sir.

22 JUROR NUMBER 578: You, too. I may have a question
23 to ask that I have to ask. I don't mind serving.

24 THE COURT: Yes, sir.

25 JUROR NUMBER 578: But the only problem I have is,

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1 like, if they sit too long, I got to go to the bathroom.

2 THE COURT: Right.

3 JUROR NUMBER 578: They said while ago that I would
4 be --

5 THE COURT: I don't want you worried. If you do
6 get sat on this jury, all you have to do is wave at me.
7 I'm going to be watching the whole time, or you're going
8 to have a bailiff, if you get chosen on this jury that
9 sits right there, and all you have to do is catch his
10 eye, and his whole job is to watch you, as well, and we
11 can take a break. Restroom breaks are not a problem.
12 We take them every how often.

13 JUROR NUMBER 578: Yes, ma'am.

14 THE COURT: You know, we're fine. I can cover you
15 on that, and don't you worry about it. I've got you
16 taken care of. Again, give me your number again, sir.

17 JUROR NUMBER 578: Number 578..

18 THE COURT: Number 578. Thank you, Mr. Smalls.

19 END BENCH CONFERENCE.

20 THE COURT: Mr. Smalls is going to stay with us,
21 Number 578.

22 BAILIFF: Your Honor, Juror Number 169, Ms. Polson.

23 THE COURT: Caroline, will you bring -- Caroline,
24 will you bring me what's on the Bench up there? Thank
25 you.

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1 BAILIFF: Your Honor, her number and name may not
2 correspond.

3 ON-THE-RECORD BENCH CONFERENCE,
4 OUT OF HEARING OF JURORS:
5 REPORTER'S NOTE: JUROR NUMBER 169
6 IS LISTED AS ERICKA D. POLSON ON
7 JUROR LIST; JUROR NUMBER 170 IS
8 LISTED AS KATHLEEN DALEY ON JUROR LIST.

9 THE COURT: What is your number, ma'am? Number
10 169, Ms. Daley [sic]. It's nice to meet you.

11 JUROR NUMBER 169: Nice meeting you.

12 THE COURT: You had a name change, right?

13 JUROR NUMBER 169: Yes.

14 THE COURT: Yes. All right.

15 JUROR NUMBER 169: I work at night, and it's so
16 hard for me to keep my eyes open.

17 THE COURT: Okay. Did you work last night?

18 JUROR NUMBER 169: Yeah. I drove over here.

19 THE COURT: All right. Where do you work, again?

20 JUROR NUMBER 169: Seabrook.

21 THE COURT: That's right. You do the home health,
22 right?

23 JUROR NUMBER 169: Yeah.

24 THE COURT: Okay. All right. Let me ask you this.
25 If you do stay here and stay with us, are you able to

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1 get off at night to be able to get some sleep?

2 JUROR NUMBER 169: No, because they go right
3 through the night.

4 THE COURT: Okay.

5 JUROR NUMBER 169: And then I can't the next
6 morning.

7 THE COURT: Do you actually work at Seabrook?

8 JUROR NUMBER 169: Yeah.

9 THE COURT: You do?

10 JUROR NUMBER 169: They have they own --

11 THE COURT: Right.

12 JUROR NUMBER 169: They private owned. And I have
13 the assisted, the --

14 THE COURT: What part do you do? Do you do the
15 private homes or the assisted?

16 JUROR NUMBER 169: I go in the private homes.

17 THE COURT: You go in the private homes.

18 JUROR NUMBER 169: Yeah.

19 THE COURT: Okay. And do you work for one
20 particular family or?

21 JUROR NUMBER 169: One person.

22 THE COURT: Okay. And you are there nights.

23 JUROR NUMBER 169: Yeah.

24 THE COURT: And is it every night, or five nights a
25 week, or what is your schedule?

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1 JUROR NUMBER 169: Four nights.

2 THE COURT: Four nights. Okay. Is it typically
3 Monday through Thursday or?

4 JUROR NUMBER 169: Yeah.

5 THE COURT: Monday through Thursday, is that what
6 you do?

7 JUROR NUMBER 169: Yeah, that's my time. Like, I'm
8 doing Friday night this week, too.

9 THE COURT: Okay. Okay. So, again, so, you can't
10 take that time off? I mean, I'm assuming Seabrook could
11 find someone to fill your spot, if necessary.

12 JUROR NUMBER 169: They could, but is the problem
13 is, when I'm here, my eyes cannot stay open.

14 THE COURT: Okay.

15 JUROR NUMBER 169: I can't --

16 THE COURT: Okay. Okay. So, you plan on -- you
17 have to go back to that family tonight?

18 JUROR NUMBER 169: Yes.

19 THE COURT: Okay. All right. Ms. Daley. Let me
20 speak with the lawyers for just moment, if you would,
21 and sit with us until I let you know something. Okay?

22 JUROR NUMBER 169: Okay.

23 THE COURT: I appreciate it. Thank you.

24 END BENCH CONFERENCE.

25 ON-THE-RECORD BENCH CONFERENCE,

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1 OUT OF HEARING OF ALL JURORS.

2 THE COURT: Obviously, she works at assisted
3 living, and quite frankly, Seabrook should be able to
4 have someone else cover her. She's tired now.

5 MR. MACDOUGALL: Night jobs will be a problem for a
6 number of jurors.

7 COURT REPORTER: I'm sorry?

8 MR. MACDOUGALL: I said night jobs will be problem
9 for a number of jurors.

10 THE COURT: Exactly.

11 MR. MACDOUGALL: It's going to self-identify.

12 THE COURT: Yeah. Any objection just letting her
13 go? Just, again, I know it's hard but.

14 MR. MCGUIRE: I'd actually move to keep her.

15 THE COURT: Okay. Okay.

16 COURT REPORTER: I'm sorry. I'm not hearing you.

17 MR. MCGUIRE: I would actually ask that we keep
18 her.

19 THE COURT: Okay.

20 MR. MCGUIRE: Just based on the fact, like, other
21 people are going to miss work in the daytime because
22 they have daytime jobs.

23 THE COURT: Right.

24 MR. MCGUIRE: It's no different.

25 THE COURT: Right. And literally, they should have

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1 someone be able to cover them, quite frankly, for what
2 she does. Okay, let me keep her for now, and we'll see.
3 She's going to come back up on a hardship for financial,
4 too, I'm sure. So. Okay. All right.

5 END BENCH CONFERENCE.

6 THE COURT: Ms. Daley, I need you to stay with us,
7 ma'am. I'm sorry. I lost you. I'm not sure where you
8 went.

9 JUROR NUMBER 169: I'm right here.

10 THE COURT: Oh, thank you. Ma'am, just stay with
11 us for a bit. Okay? I appreciate that. Thank you.

12 Okay.. Okay. Perfect. Yeah, I already excused
13 him, so we're good to go.

14 Is Kawani Bradshaw here?

15 JUROR NUMBER 70: Yes.

16 THE COURT: Come on up, sir. Let me speak with you
17 just very quickly, if you would.

18 ON-THE-RECORD BENCH CONFERENCE,

19 OUT OF HEARING OF JURORS:

20 THE COURT: Mr. Bradshaw, it's a pleasure to meet
21 you. Thank you. Come on up for a second. What is your
22 Social Security Number?

23 JUROR NUMBER 70: 251-57-0935.

24 THE COURT: Okay. And what was your date of birth?

25 JUROR NUMBER 70: 2/25/84.

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1 THE COURT: Okay. Let me ask you, this may not be
2 you. Were you convicted, looks like, five years
3 suspended, it looks like for possession of cocaine,
4 first offense, and marijuana? Not you? Not you?

5 JUROR NUMBER 70: No, ma'am. Not me. I had one,
6 but it wasn't no conviction.

7 COURT REPORTER: I'm sorry. I'm not hearing him.

8 THE COURT: He got a PTI for it.

9 COURT REPORTER: Okay.

10 THE COURT: He got PTI. He got PTI for it.

11 JUROR NUMBER 70: Cause I ain't never went to
12 prison.

13 THE COURT: Right. But do you remember, let me ask
14 you, when you were on probation, did you remember
15 receiving a five-year sentence, suspended to three
16 years' probation? Does that sound right or not?

17 JUROR NUMBER 70: No.

18 THE COURT: No, not you?

19 JUROR NUMBER 70: Only thing I ever remember it was
20 called was doing PTI.

21 THE COURT: That's all you did?

22 JUROR NUMBER 70: And I -- and I -- yeah, and I
23 passed that.

24 THE COURT: And you -- and it was discharged, and
25 you were done?

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1 JUROR NUMBER 70: Yes.

2 THE COURT: And you did your PTI and that's it?

3 JUROR NUMBER 70: Yeah.

4 THE COURT: Okay. Do you have any family members
5 with close names that maybe would have convictions
6 similar to yours for robbery or anything?

7 JUROR NUMBER 70: No.

8 THE COURT: No? Okay. Were you charged with any
9 misdemeanors, like things like petty larceny or anything
10 like that?

11 JUROR NUMBER 70: Yes.

12 THE COURT: You were charged with some
13 misdemeanors. Okay. Okay. Specifically, I've got that
14 you were charged back in 2004, and it was for
15 distribution. And it looks like what you ended up
16 pleading to was possession with intent to distribute
17 cocaine, first offense, which carries a mandatory
18 minimum -- I'm sorry, carries a sentence of up to five
19 years. And it appears here that they say your
20 conviction was five years, suspended upon three years'
21 probation. You don't recall that being you at all?

22 JUROR NUMBER 70: No. Only thing I did was PTI.

23 THE COURT: You did PTI. Okay. What I'm going to
24 ask you to do is this, Mr. Bradshaw. I want you to sit
25 with me. Number 70 is going to stick with me, and I

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1 want you all to go run your PTI records and see on this
2 2004 conviction, and I'll give this back to you all.
3 And let me know if he did PTI for that conviction.
4 Okay? So, just stick with me, and answer all the
5 questions. Okay?

6 JUROR NUMBER 70: All right.

7 THE COURT: Thank you.

8 END BENCH CONFERENCE.

9 THE COURT: All right. Is Mr. Holmes here, Michael
10 Holmes? Come on up, Mr. Holmes.

11 ON-THE-RECORD BENCH CONFERENCE,

12 OUT OF HEARING OF JURORS:

13 THE COURT: Pleasure, sir. Nice to meet you. All
14 right. What is your Social Security Number, sir?

15 JUROR NUMBER 319: 258-02-1993.

16 THE COURT: Not even close. What's your date of
17 birth?

18 JUROR 319: 1/1/59.

19 THE COURT: Oh, goodness. Not even close. I don't
20 have the right person, but it's a pleasure having you
21 here. And thank you. Very good. Stick with us. Okay?

22 END BENCH CONFERENCE.

23 THE COURT: Number 319 is going to sit with us.
24 Thank you, sir. Thank you.

25 ON-THE-RECORD BENCH CONFERENCE,

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1 OUT OF HEARING OF ALL JURORS.

2 THE COURT: You all take a look at this. You might
3 be able to help me better than anyone. It's Glynn
4 County, entering an automobile to commit a theft, *First*
5 *Offender Act*. I just don't see disposition. *First*
6 *Offender Act*, do you know what that is in Georgia?

7 MR. MCGUIRE: Yeah, it's kind of like -- it's sort
8 of like a --

9 MR. MACDOUGALL: A traffic ticket.

10 THE COURT: Is it PTI?

11 MR. MCGUIRE: Yeah, it's -- it's like an
12 adjudication that's -- you-stay-out-of-trouble-and-it-
13 goes-away-type thing.

14 THE COURT: Okay. So, it wouldn't be a
15 disqualification?

16 MR. MCGUIRE: Hum-um.

17 THE COURT: Okay. Okay. Here, I'm seeing here on
18 this one it says probation for three years. Is that
19 kind of what you may be saying it is?

20 MR. MCGUIRE: He's -- if he's under the *First*
21 *Offender Act*, --

22 MR. THORNTON: He shouldn't have been on probation
23 for three years, which he was, which is why I circled
24 this. It's also listed as a felony.

25 MR. MCGUIRE: We can talk to him.

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1 THE COURT: Okay.

2 END BENCH CONFERENCE.

3 THE COURT: May I please have Number 395? Mr., is
4 it, I apologize, Lipthratt? Is Mr. Lipthratt here?
5 Thank you, sir.

6 ON-THE-RECORD BENCH CONFERENCE,

7 OUT OF HEARING OF JURORS:

8 THE COURT: Sir, pleasure to meet you. Come on up.
9 All right. We'll have a little discussion. I am going
10 to guess -- your date of birth? Your date of birth?

11 JUROR NUMBER 395: 12/29/65.

12 THE COURT: All right. And this appears to be you.
13 Give me your Social.

14 JUROR NUMBER 395: 254-82-4834.

15 THE COURT: All right. They say that, in Glynn
16 County, you were charged way back. Let me ask you, what
17 did you do? Did you do some type of diversionary
18 program, or were you put on probation, or do you --
19 what'd you do? And what the sentence was.

20 JUROR NUMBER 395: Like, how long ago was that?

21 THE COURT: That was like 30 years ago.

22 JUROR NUMBER 395: Oh, I think that was -- I was
23 like, 17.

24 THE COURT: Okay.

25 JUROR NUMBER 395: I was with a guy that broke into

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1 a vehicle, entering.

2 THE COURT: Okay. Okay. Okay.

3 JUROR NUMBER 395: He was a minor, and I was the
4 oldest. So, I got --

5 THE COURT: Okay. Do you remember, it looks like
6 you were under what -- is there a diversionary program?
7 It's called *First Offender Act*? But I'm also seeing
8 right here that it says you got probation for three
9 years. Do you remember getting probation for three
10 years?

11 JUROR NUMBER 395: That's what I got.

12 THE COURT: That's what you got. So, you were on
13 probation.

14 JUROR NUMBER 395: Yeah.

15 THE COURT: Okay.

16 JUROR NUMBER 395: Yes, ma'am.

17 THE COURT: And it was a felony conviction?

18 JUROR NUMBER 395: Yeah, but they said it wouldn't
19 go against me because that's the first time.

20 THE COURT: Okay. Let me ask you. I mean, are you
21 able to vote?

22 JUROR NUMBER 395: I've never voted.

23 THE COURT: You've never voted? Okay. So, that
24 was my only concern. Okay. Mr. Lipthratt, I apologize,
25 but I'm going to have to excuse you from jury service,

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1 but I thank you for being here.

2 JUROR NUMBER 395: Okay.

3 THE COURT: It was a pleasure to meet you.

4 JUROR NUMBER 395: Okay.

5 THE COURT: They're going to take you back to the
6 bailiff. They're going to take your badge over there.
7 Okay?

8 JUROR NUMBER 395: Thank you.

9 THE COURT: I'm going to go ahead and excuse you.
10 Go ahead and give it to him.

11 END BENCH CONFERENCE.

12 THE COURT: Number 395 is excused. Okay? All
13 right. I think that's it. Okay?

14 BAILIFF: Can I approach, your Honor?

15 THE COURT: Please.

16 OFF-THE-RECORD BENCH CONFERENCE,

17 THE COURT AND BAILIFF.

18 END BENCH CONFERENCE.

19 THE COURT: Ladies and gentlemen, is there any
20 manner -- member of the jury panel -- excuse me -- that
21 is a clerk, deputy clerk of Court, constable, sheriff,
22 or other commissioned law enforcement officer, probate
23 judge, county commissioner, magistrate, or other county
24 officer, or employed within the walls of the courthouse?
25 If so, please stand.

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1 Ladies and gentlemen, is there any member of the
2 jury panel who has previously served on jury duty up
3 here in circuit court, not magistrate's court or a
4 federal court or city court, during the last calendar
5 year? If so, please stand.

6 BAILIFF: Your Honor, one is standing.

7 THE COURT: Yes, sir?

8 JUROR NUMBER 167: I'm not one hundred percent
9 certain of the date, but it was back in October, I
10 remember I went through the same jury process. I was
11 not selected to be on a jury, but I don't remember the
12 exact date.

13 THE COURT: Sir, give me your number again.

14 JUROR NUMBER 167: It's 167, David Cyr, C/y/r.

15 THE COURT: Mr. Cyr, if you'll take a seat, we will
16 look you up. Okay?

17 JUROR NUMBER 167: I'm not trying to get out of it.

18 THE COURT: I appreciate that, sir. Thank you very
19 much. Sit tight with us. All right? It was last
20 October.

21 JUROR NUMBER 167: October or November. I'm not a
22 hundred percent sure.

23 THE COURT: Okay. Thank you, sir.

24 Ladies and gentlemen, has any member of the jury
25 panel served as a member of the Beaufort County Grand

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1 Juror -- jury, excuse me -- during the past several
2 years? If so, please stand.

3 All right, sir. You did, in fact, serve. You may
4 be excused. Thank you.

5 REPORTER'S NOTE: JUROR NUMBER
6 167 WAS EXCUSED BY THE COURT.

7 THE COURT: Ladies and gentlemen, that completes
8 the qualifications for jury duty service. Now, it may
9 be that you are qualified to serve, ladies and
10 gentlemen, but our state statute provides for certain
11 exemptions to jury service, which you may claim, if you
12 choose to. However, you're not required to, ladies and
13 gentlemen. If one of these exemptions applies to you,
14 and you are inclined to stay with us, I would certainly
15 encourage you to do so. All right?

16 Ladies and gentlemen, those of you who are 65 years
17 of age or older may be exempted from jury service. If
18 you are 65 years of age or older, ladies and gentlemen,
19 you represent a great pool of talents for us, and we
20 encourage you to stay. But, of course, if you do not
21 wish to stay with us, I will honor this exemption.
22 Ma'am, your name and Juror Number?

23 JUROR NUMBER 301: Lynda Hawley, Juror Number 301.

24 THE COURT: Ms. Hawley, forgive me. I have to ask
25 you how old you are.

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1 JUROR NUMBER 301: Seventy.

2 THE COURT: All right, Ms. Hawley. And would you
3 like to be excused from jury service?

4 JUROR NUMBER 301: Yes, please..

5 THE COURT: You are excused, Ms. Hawley. Thank
6 you. Anyone else?

7 Ladies and gentlemen, another exemption concerns
8 prior jury service. No person is required to serve as a
9 juror more often than once every three calendar years.
10 Therefore, if any member of the jury panel has served on
11 jury duty during the last three calendar years, you may
12 be exempt from jury service this week, if you choose to
13 be exempted. Do I have anyone that has served during
14 the last three years who does not wish to serve with me?
15 If so, please stand. Ma'am, your name and Juror Number.

16 JUROR NUMBER 309: Sabina Hershberger, Juror Number
17 309.

18 THE COURT: Ms. Hershberger, do you remember when
19 you served?

20 JUROR NUMBER 309: Last year, ma'am.

21 THE COURT: Up here?

22 JUROR NUMBER 309: Yes, ma'am.

23 THE COURT: What time last year?

24 JUROR NUMBER 309: I believe it was in June.

25 THE COURT: In June of last year.

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1 JUROR NUMBER 309: April or June.

2 THE COURT: Pardon?

3 JUROR NUMBER 309: April or June.

4 THE COURT: April or June of last year. Ms.
5 Hershberger, give me your number again.

6 JUROR NUMBER 309: 309.

7 THE COURT: Ma'am, if you will sit tight, we just
8 have to check our records, ma'am, but we'll be right
9 back with you.

10 Okay? Sir, your name and Juror Number.

11 JUROR NUMBER 348: Sam Johnson, 346 -- 8.

12 THE COURT: And when do you think you served, Mr.
13 Johnson?

14 JUROR NUMBER 348: I served two years in a row,
15 about the last three or four. Three years, something
16 like that.

17 THE COURT: In the last -- you believe it was in
18 the last three years, Mr. Johnson?

19 JUROR NUMBER 348: Two years in a row I served.

20 THE COURT: Three years in a row you served.

21 JUROR NUMBER 348: Two. Two years.

22 THE COURT: Two years in a row, up here in Circuit
23 Court?

24 JUROR NUMBER 348: In Grand Jury.

25 THE COURT: During the Grand Jury.

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1 JUROR NUMBER 348: Yes.

2 THE COURT: All right, sir. So, you've been
3 serving on our Grand Jury?

4 JUROR NUMBER 348: Yes.

5 THE COURT: All right, sir. Can we go ahead and
6 check that?

7 MADAM CLERK: Yes, Judge.

8 THE COURT: Okay. Mr. Johnson, sit tight. That
9 would be an exemption you may claim, sir, so we'll go
10 ahead and check that. Sir, your name and Juror Number?

11 JUROR NUMBER 599: Frank Stelzer, 599.

12 THE COURT: Yes, sir?

13 JUROR NUMBER 599: Last year, I don't know,
14 somewhere up in June, and I was pushed back 'til
15 December.

16 THE COURT: You served here in December?

17 JUROR NUMBER 599: Well, everyone was told to
18 leave, because it was under construction. And then, I
19 was told that I wouldn't have to come back for the next
20 three years.

21 THE COURT: Okay. All right, sir. You're Number
22 599. Is that correct?

23 JUROR NUMBER 599: 599, correct.

24 THE COURT: We'll go ahead and check those, as
25 well, Diane.

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1 MADAM CLERK: Yes, ma'am. Juror Number 309 did
2 serve jury duty February 29th of 2012.

3 THE COURT: 2012. All right, ma'am, you are
4 excused, Ms. Hershberger.

5 JUROR NUMBER 309: Thank you.

6 THE COURT: Thank you for being here. Have you had
7 a chance to check on Mr. Johnson with the Grand Jury?
8 Ladies and gentlemen, sit tight.

9 BAILIFF: One more standing, your Honor.

10 THE COURT: I'll get to her. Thank you. Sit
11 tight. Diane's trying to do a few things at once.
12 She's just double checking your -- verifying your
13 service. Ma'am, give me your name and Juror Number.

14 JUROR NUMBER 479: 479, Sharon Nix.

15 THE COURT: And ma'am, when did you serve, do you
16 believe?

17 JUROR NUMBER 479: It may have been two years ago.
18 I've served so many times, I've lost count.

19 THE COURT: And your last name, is it Bates? I'm
20 sorry?

21 JUROR NUMBER 479: Nix.

22 THE COURT: Nix. Thank you. Okay. Thank you.
23 Sit tight, ma'am, and we're going to check. All right?
24 I appreciate it. Anyone else?

25 Ladies and gentlemen, again, as Mr. Johnson did,

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1 has anyone served as a member of the Beaufort County
2 Grand Jury during the last several years? If so, you
3 may be exempt from jury service. Do I have anyone else,
4 in addition to Mr. Johnson, who has served as a Grand
5 Juror for us?

6 Ladies and gentlemen, the next exemption deals with
7 those of you that have very small children, and I
8 respectfully ask that you listen carefully to this
9 question. It has four parts, all of which must apply
10 for you to be able to claim this exemption.

11 Ladies and gentlemen, you may be exempted from jury
12 service if you have a small child or small children
13 under the age of seven, for which you have the legal
14 custody of that child or children, and that you have the
15 principle care, custody, and control of that child or
16 children, and lastly, you are unable to make adequate
17 arrangements for the care of that child or children
18 while you're performing jury duty.

19 Ladies and gentlemen, this is for people who are
20 stay-at-home parents, or possibly a husband and wife who
21 work opposite shifts, to make sure someone is always at
22 home to care for your children.

23 Ladies and gentlemen, if you go to work and take
24 your child to a day care center, or they go to school,
25 it is presumed that you can come and serve on jury duty,

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1 just as if you were going to work. Ladies and
2 gentlemen, is there anyone that needs to be exempted
3 based on this question? If so, please stand.

4 All right, ma'am. I'm going to start with you, in
5 the polka-dot scarf. Give me your name and juror
6 number.

7 JUROR NUMBER 459: Stephanie Morgan, 459.

8 THE COURT: How old are your children, ma'am?

9 JUROR NUMBER 459: I've got a daughter. She two.

10 THE COURT: Pardon?

11 JUROR NUMBER 459: I've got a daughter. She is
12 two.

13 THE COURT: Okay. Do you stay at home with her?

14 JUROR NUMBER 459: (Nodded head.)

15 THE COURT: Yes? Is that a yes, for the record?

16 JUROR NUMBER 459: Yes.

17 THE COURT: Ma'am, do you have anyone to care for
18 her?

19 JUROR NUMBER 459: No.

20 THE COURT: Do you work outside of the home?

21 JUROR NUMBER 459: No.

22 THE COURT: Do you wish to be exempted from jury
23 service?

24 JUROR NUMBER 459: Yes.

25 THE COURT: Who is with your daughter now?

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1 JUROR NUMBER 459: My mama.

2 THE COURT: Your mother cannot keep her?

3 JUROR NUMBER 459: She be sick off and on.

4 THE COURT: All right, ma'am. Now, are you asking
5 to be exempted from jury service?

6 JUROR NUMBER 459: Yes, ma'am.

7 THE COURT: All right, ma'am, you are excused.
8 Thank you. And again, your number is 459. Is that
9 correct?

10 JUROR NUMBER 459: Yes.

11 THE COURT: Thank you, ma'am. All right. We're
12 going to go to you.

13 JUROR NUMBER 305: Carolyn Heidleberg, 305.

14 THE COURT: Ms. Heidleberg, how old are your
15 children?

16 JUROR NUMBER 305: I have a son, he's four.

17 THE COURT: Okay. And do you work outside the
18 home?

19 JUROR NUMBER 305: No.

20 THE COURT: Do you have anyone to care for your
21 child while you're here?

22 JUROR NUMBER 305: No.

23 THE COURT: Who is taking care of your child right
24 now?

25 JUROR NUMBER 305: Can I approach?

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1 THE COURT: Certainly. The lawyers are invited to
2 come up. Come on up.

3 ON-THE-RECORD BENCH CONFERENCE,
4 OUT OF HEARING OF JURORS:

5 THE COURT: How are you?

6 JUROR NUMBER 305: I'm all right.

7 THE COURT: It's nice to meet you.

8 JUROR NUMBER 305: Thank you.

9 THE COURT: You have a four-year-old?

10 JUROR NUMBER 305: He is currently in school, but
11 it's -- it's a grade before pre-K. He has autism.

12 THE COURT: Okay.

13 JUROR NUMBER 305: And so, he doesn't always go to
14 school every day.

15 THE COURT: Okay.

16 JUROR NUMBER 305: Depending on what kind of day
17 we're having.

18 THE COURT: Okay. I understand. Okay. Is he in
19 school today?

20 JUROR NUMBER 305: Yeah.

21 THE COURT: Okay.

22 JUROR NUMBER 305: And this is just his diagnosis.

23 THE COURT: Where does he go to school?

24 JUROR NUMBER 305: Gaylord, on Laurel Bay.

25 THE COURT: Very good. Okay. All right. So, you

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1 need to be home. Is that correct?

2 JUROR NUMBER 305: I really do. I have no other --

3 THE COURT: You have no other coverage for him.

4 JUROR NUMBER 305: My husband's in the Marine Corp.

5 THE COURT: Okay.

6 JUROR NUMBER 305: And my family's all in Florida,
7 so, it's just us.

8 THE COURT: All right. Okay. It's just you.

9 Okay. All right. I'm going to go ahead and excuse you
10 from jury duty, but I appreciate you being here.

11 JUROR NUMBER 305: Okay.

12 THE COURT: Thank you.

13 JUROR NUMBER 305: Thank you.

14 END BENCH CONFERENCE.

15 THE COURT: Number 305 is excused. Okay. Yes,
16 ma'am, in the blue shirt, what's your name and jury
17 number please?

18 JUROR NUMBER 235: Melissa Fleury, 235.

19 THE COURT: Yes, Ms. Fleury.

20 JUROR NUMBER 235: I have a five-year-old son and
21 an 18-month-old son. The five-year-old's in
22 kindergarten, and the 18-month is in day care, but the
23 five-year-old gets off of the school bus at 3:45, and I
24 didn't know if we would be done by that time. I'm the
25 only one who's able to pick him up.

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1 THE COURT: Okay. You have no other coverage
2 whatsoever?

3 JUROR NUMBER 235: My husband works on Hilton Head,
4 doesn't come 'til late.

5 THE COURT: No other family member? Is that
6 correct?

7 JUROR NUMBER 235: No. My husband doesn't -- also
8 works. No.

9 THE COURT: Okay. So, you have no one to cover for
10 you? Are you there every day to pick your up your son
11 from the bus?

12 JUROR NUMBER 235: Yes, ma'am.

13 THE COURT: All right, ma'am. I'm going to go
14 ahead and excuse you from the trial of this case. I
15 appreciate it. Thank you.

16 Yes, ma'am, your name and Juror Number?

17 JUROR NUMBER 389: Andrea Lemire, 389.

18 THE COURT: Yes, ma'am.

19 JUROR NUMBER 389: I have a six-year-old and a
20 nine-year-old. They're both in school until 2:45 in
21 Bluffton.

22 THE COURT: Do you have anyone that can pick them
23 up if you get put on this jury?

24 JUROR NUMBER 389: My husband works until either
25 5:00 or 6:00 every day, and I don't have any other

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1 people here.

2 THE COURT: Do you work a job in the morning or?

3 JUROR NUMBER 389: I do. I work when they're at
4 school. I work from home, and then, I also work on
5 Hilton Head and Bluffton.

6 THE COURT: Okay. But you are home every day to
7 pick these children up?

8 JUROR NUMBER 389: Yes.

9 THE COURT: Okay. All right, ma'am. I'm going to
10 go ahead and excuse you, as well. I appreciate you
11 being here.

12 Ma'am, give me your name and Juror Number.

13 JUROR NUMBER 116: Theresa Chisolm, 116.

14 THE COURT: Yes, ma'am.

15 JUROR NUMBER 116: I have a 12-year old and two-
16 year-old.

17 THE COURT: Where do you live?

18 JUROR NUMBER 116: I live with my grandparents, and
19 they're like 87 and 86. Right now, my grandmother has
20 my two-year-old, but I just started my job, and I go in
21 at 3:00. That's the time my 12-year-old gets home, so
22 she can watch the two-year-old. So, it would be so much
23 on my grandmother.

24 THE COURT: Okay. On your grandmother.

25 JUROR NUMBER 116: Um-hmm.

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1 THE COURT: Okay. And you just started a job
2 where?

3 JUROR NUMBER 116: At Enmark on Hilton Head.

4 THE COURT: So, you leave the two-year-old with the
5 grandmother; and then, when the 12-year-old comes home,
6 the 12-year-old helps the grandmother. Is that correct?

7 JUROR NUMBER 116: Yes, ma'am.

8 THE COURT: Okay. And what kind of hours do you
9 work at Enmark?

10 JUROR NUMBER 166: 3:00 to 11:00.

11 THE COURT: All right, ma'am. I'm going to go
12 ahead and excuse you. Thank you for being here. All
13 right.

14 Ladies and gentlemen, the next exemption involves
15 those of you who may be attending school at this time,
16 or working in some capacity with a school. Now, if this
17 exemption applies to you, and you wish to be exempted,
18 what I can do is transfer your jury service to a term of
19 court that doesn't conflict with your school
20 responsibilities.

21 Therefore, ladies and gentlemen, is there any
22 member of the jury panel who's a full-time student,
23 school teacher, school crossing guard, school bus
24 driver, or who serves in any other school-related
25 function who is unable to serve on jury duty here this

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1 week, as a result of your school involvement? If so,
2 please stand.

3 All right. We're going to start with you, sir.
4 Your name and Juror Number?

5 JUROR NUMBER 571: 571, Paul Singleton.

6 THE COURT: Yes, sir. And I remember you telling
7 me that you're a full-time student at TCL. Is that
8 correct?

9 JUROR NUMBER 571: Yes, ma'am.

10 THE COURT: What are you studying, sir?

11 JUROR NUMBER 571: Two semesters in accounting, and
12 two computer programming classes.

13 THE COURT: And you are a full-time, enrolled
14 student. Is that correct?

15 JUROR NUMBER 571: Yes, ma'am.

16 THE COURT: What day are your classes?

17 JUROR NUMBER 571: Monday and Thursday.

18 THE COURT: Monday and Thursday. Sir, would you be
19 able to keep up with your course work if you were to
20 have to move and not attend class?

21 JUROR NUMBER 571: Accounting? No.

22 THE COURT: Fair enough answer. Let me ask you,
23 what have you missed so far today? Anything? It's
24 Wednesday, so we should be okay, correct?

25 JUROR NUMBER 571: I didn't miss anything.

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1 THE COURT: Very good. I'm very glad. Sir, do you
2 want me to transfer your jury service?

3 JUROR NUMBER 571: Yes, ma'am.

4 THE COURT: All right. I will transfer you, sir.
5 Thank you for being here.

6 JUROR NUMBER 571: Thank you.

7 THE COURT: Thank you. Just give him during the
8 summer. Let's just worry about that later. Okay. No,
9 it's okay, Norman. We'll take care of that later.

10 BAILIFF: All right? All right.

11 THE COURT: We'll just put it during the summer,
12 and we'll take care of it. Okay? Sir, your name and
13 Juror Number?

14 JUROR NUMBER 365: Michael Kelley, 365.

15 THE COURT: Mr. Kelley. Give me one moment, sir.
16 All right, sir. Do you work at a school?

17 JUROR NUMBER 365: No, ma'am. I'm a full-time
18 student at the American Military University, studying
19 emergency disaster management.

20 THE COURT: Okay. Where is that at?

21 JUROR NUMBER 365: It's based out of Charleston.
22 It's an online program, but it involves travel for
23 certain courses, as well, ma'am.

24 THE COURT: Are you able to stay with us for the
25 next two weeks?

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1 JUROR NUMBER 365: I'm actually supposed to go out
2 to a class in Reno end of this month, your Honor.

3 THE COURT: Okay. At the end of this month, we
4 will be done by the end of this month.

5 JUROR NUMBER 365: 24 of October?

6 THE COURT: The 24th of October. Well, I believe
7 we'll be done by, at the very latest, the 25th, on this
8 case. Is there a possibility that you can arrange to go
9 a day late, if necessary?

10 JUROR NUMBER 365: I'd have to check with my
11 professors, your Honor.

12 THE COURT: Okay. Sir, other than that, when you
13 do your online courses, are they required that they are
14 interactive in any way, or can you watch them later?

15 JUROR NUMBER 365: I can do them at different times
16 of the evening, your Honor.

17 THE COURT: Okay. If necessary. And roughly how
18 many hours do you have to spend, as far as with course
19 work or doing course work?

20 JUROR NUMBER 365: I'm in my senior year, so it
21 varies. I'm working on a Capstone project at the
22 moment.

23 THE COURT: Okay. All right. Mr. Kelley, I want
24 you to sit tight, if you would, and I will take it up.
25 Okay?

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1 JUROR NUMBER 365: Yes, your Honor.

2 THE COURT: All right. Yes, ma'am. Your name and
3 Juror Number?

4 JUROR NUMBER 566: Yolanda Shaw, 566. I'm a school
5 bus driver.

6 THE COURT: 566?

7 JUROR NUMBER 566: Yes, ma'am.

8 THE COURT: All right. And who do you drive for?

9 JUROR NUMBER 566: Taylor Morris.

10 THE COURT: For who?

11 JUROR NUMBER 566: Taylor Morris, carrying military
12 kids.

13 THE COURT: Okay. Every morning and afternoon?

14 JUROR NUMBER 566: Yes, ma'am.

15 THE COURT: Who took the kids this morning, or were
16 you able to do that and get here?

17 JUROR NUMBER 566: I was able to do that and get
18 here.

19 THE COURT: All right, ma'am. Do you have anyone
20 to cover for you?

21 JUROR NUMBER 566: In the afternoon, but not in the
22 morning.

23 THE COURT: All right, ma'am. Sit tight. All
24 right? Yes, ma'am. Your name and Juror Number?

25 JUROR NUMBER 2: Dana Aiken, Juror Number 2.

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1 THE COURT: All right, Ms. Aiken.

2 JUROR NUMBER 2: I'm a full-time nursing student at
3 TCL.

4 THE COURT: Okay. How many days a week do you go
5 to class?

6 JUROR NUMBER 2: Tuesday through Friday. And on
7 Thursday and Friday, I have clinical day.

8 THE COURT: Okay. All right. And what year are
9 you in your --

10 JUROR NUMBER 2: First semester.

11 THE COURT: All right, ma'am. I'm going to go
12 ahead and excuse you. Thank you. Okay. Sir.

13 JUROR NUMBER 164: I'm Sean Custer, 164.

14 THE COURT: Yes.

15 JUROR NUMBER 164: I'm a volleyball coach for John
16 Paul II Catholic School.

17 THE COURT: Yes.

18 JUROR NUMBER 164: We have practice starting --
19 practice and games starting at 3:00 o'clock, Monday
20 through Thursday, this weekend, all of next week, and I
21 transfer to another season.

22 THE COURT: Do you have an assistant coach, by any
23 chance?

24 JUROR NUMBER 164: I do not. We're a brand new
25 school. We have only 59 kids.

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1 THE COURT: Okay. All right, sir. I appreciate
2 that. I am going to go ahead and transfer you. Thank
3 you. All right. Yes, ma'am?

4 JUROR NUMBER 262: Ms. Glick, 262.

5 THE COURT: Yes, ma'am.

6 JUROR NUMBER 262: I'm assistant to the head of
7 Lower School of Hilton Head Prep, and I work 7:45 to
8 4:00, four days a week, until 2:00 p.m., on Friday. It
9 would be more convenient to be transferred to the
10 summer.

11 THE COURT: Okay. Ma'am, do you mind if I keep
12 you?

13 JUROR NUMBER 262: Sure.

14 THE COURT: And I appreciate that, obviously. If I
15 can assist you, I will. But at this point, I need to
16 make sure I have enough jurors.

17 JUROR NUMBER 262: Okay.

18 THE COURT: All right. But thank you very much.
19 All right, ma'am.

20 JUROR NUMBER 79: Marsha Browder.

21 THE COURT: Yes.

22 JUROR NUMBER 70: Juror Number 79, and I teach
23 fourth grade over at Beaufort. Two weeks is a long time
24 to be away, and I could -- I would be willing to serve
25 in the summer.

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1 THE COURT: All right, ma'am. We certainly -- I
2 know it's difficult somewhat to get substitute teachers.
3 Is it possible?

4 JUROR NUMBER 79: It is, yes. It's just a long
5 time to be away from them.

6 THE COURT: I understand. You teach the fourth
7 grade?

8 JUROR NUMBER 79: Fourth grade.

9 THE COURT: All right.

10 JUROR NUMBER 79: All subjects.

11 THE COURT: All subjects. I was going to ask.
12 Okay, all subjects. All right. Ma'am, sit tight with
13 me, if you mind, and if I can help you, I will, okay?

14 JUROR NUMBER 79: Okay.

15 THE COURT: Thank you. All right. Yes, ma'am,
16 your name and Juror Number.

17 JUROR NUMBER 26: Theresa Ayise, Juror Number 26.

18 THE COURT: Yes, ma'am.

19 JUROR NUMBER 26: Full-time student at TCI.

20 THE COURT: Okay. Ma'am, what days do you take
21 classes?

22 JUROR NUMBER 26: Mondays through Thursdays.

23 THE COURT: What are you studying?

24 JUROR NUMBER 26: General business.

25 THE COURT: General business. What year are you

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1 in?

2 JUROR NUMBER 26: This is my second semester.

3 THE COURT: All right, ma'am. And do you want to
4 be transferred?

5 JUROR NUMBER 26: Yes.

6 THE COURT: All right, ma'am. I'll go ahead and
7 excuse you. Thank you. Sir?

8 JUROR NUMBER 525: Xavier Reid, 525.

9 THE COURT: 525?

10 JUROR NUMBER 525: Yes, ma'am.

11 THE COURT: Thank you, sir.

12 JUROR NUMBER 525: I'm a full-time student at TCL.

13 THE COURT: What are you studying?

14 JUROR NUMBER 525: Computer science.

15 THE COURT: Sir, when are your classes?

16 JUROR NUMBER 525: Monday, Tuesday, and Thursday.

17 THE COURT: All right. Are they during the
18 daytime?

19 JUROR NUMBER 525: Yes, ma'am.

20 THE COURT: Okay. And you're a full-time student?

21 JUROR NUMBER 525: Yes.

22 THE COURT: And would you like to be transferred?

23 JUROR NUMBER 525: Yes, ma'am.

24 THE COURT: All right. I will go ahead and
25 transfer you, sir. Thank you. Anyone else? Can I

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1 speak with the attorneys just briefly.

2 ON-THE-RECORD BENCH CONFERENCE,

3 OUT OF HEARING OF ALL JURORS.

4 THE COURT: The guy doing the online classes. Is
5 there any objection to him being excused?

6 MR. MCGUIRE: Not from us.

7 THE COURT: Any objection?

8 MR. STONE: (Shook head.)

9 THE COURT: Okay. So, I'm going to excuse him.
10 Number 566 is the bus driver. She says she's the one
11 that she can get coverage in the afternoon, but not in
12 the morning. The bus driver, 566.

13 COURT REPORTER: Judge, I can't hear.

14 THE COURT: Yes, ma'am, and you can't hear me. I'm
15 sorry.

16 THE COURT: All right. And you all, again, I'm
17 just doing this now, because they're going to come up
18 again. Okay?

19 MR. MCGUIRE: Sure.

20 THE COURT: Okay. Any objection?

21 MR. MCGUIRE: No, we don't have an objection to the

22 --

23 THE COURT: Okay. Same thing with the school bus
24 driver. Okay. Number 262, the administrative assistant
25 for Hilton Head.

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1 MR. MCGUIRE: Same thing.

2 MR. STONE: I know her real well, anyway, so.

3 THE COURT: You know her real well. We're going to
4 -- 262, then, yeah.

5 MR. STONE: Neither one now?

6 THE COURT: Okay. Okay. Number 79, Browder, the
7 fourth grade teacher, the fourth grade teacher, Ms.
8 Browder, who just stood up.

9 MR. STONE: Right.

10 THE COURT: And said it was -- and she can get a
11 sub, but she said it was --

12 COURT REPORTER: I'm not hearing. I know --

13 THE COURT: I'm sorry. And I'll go over it with
14 you. I apologize. I apologize.

15 COURT REPORTER: Okay. That's all right.

16 MR. STONE: She said it was going to be too long
17 for her.

18 THE COURT: Too long for her was the case, with the
19 kids. Yeah, with the kids. I mean, it's an exemption
20 she can claim if she wants to.

21 MR. STONE: Sure.

22 THE COURT: I just -- she seems very amenable, like
23 we could actually get her to stay if we needed her. You
24 all tell me what you want to do.

25 MR. STONE: I'd like to see us keep her. It's not,

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1 I don't think -- I'd like to see us keep her.

2 MR. LEDDY: Yeah, yeah.

3 THE COURT: You're okay with that. You're okay
4 with that. Okay. So, we will excuse her, as well.

5 Okay. And 525 I already excused, correct? Okay.
6 I just want to make sure. Is that okay?

7 All right, you all, the next question is going to
8 be the hardship question, and I originally had not
9 intended on doing all of these with this many people,
10 but it seems to have worked, and I do think it's saved
11 time. My question to you is this. It's 1:00 o'clock.
12 Do you want to break for lunch, let them come back; and
13 then, we'll deal with hardship and publicity. Is that
14 best, do you think?

15 MR. MCGUIRE: It would be best.

16 MR. STONE: Yes.

17 THE COURT: You okay with that? Okay. You okay
18 with that? All right. That's what we're going to do,
19 then. And then, I don't know what time we're going to
20 have to start the first panel, but we'll just do
21 whatever we have to do. Okay?

22 MR. MCGUIRE: What was the decision on 79? Is she
23 going to stay or?

24 THE COURT: 79, we -- you excused her. Yeah, he's
25 fine with that.

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1 MR. MCGUIRE: He was of a mind to keep her. It was
2 very possible. I mean, she said that she could get
3 somebody.

4 COURT REPORTER: Sorry, I'm not hearing everybody.

5 THE COURT: I apologize. And I'll go ahead and put
6 it down on the record.

7 THE COURT: Okay. All right. I appreciate that.
8 I'm going to go ahead and put it on the record anyway.
9 Okay. Thank you, you all. Okay.

10 END BENCH CONFERENCE.

11 THE COURT: Ladies and gentlemen, for those of you
12 that just responded that you are either working in some
13 capacity at the school or are a full-time student, I'm
14 going to go ahead and excuse Number 365, my gentleman
15 over here. I can excuse Number 566, my bus driver, and
16 I can excuse Number 262. Thank you all for being here.
17 Ms. Browder, I apologize. I need to keep you. Okay? I
18 appreciate that, ma'am, very much.

19 MADAM CLERK SPEAKING WITH THE
20 COURT OFF THE RECORD.

21 THE COURT: All right. And Ms. Cade has gone and
22 found those of you who served on previous juries here or
23 served on jury duty.

24 MADAM CLERK: Juror Number 348, Mr. Sam Johnson.
25 He served on 12/17/2009, which, I guess, would have been

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1 Grand Jury.

2 THE COURT: It is. And sir, that would have been
3 within the last five years; Mr. Johnson. If you would
4 like to claim that exemption, you are welcome to. We
5 would love to have you stay, if you are inclined to.

6 JUROR NUMBER 348: I don't want to be here.

7 THE COURT: All right, Mr. Johnson. I'm going to
8 go ahead and excuse you. Thank you, sir. I appreciate
9 it.

10 MADAM CLERK: And the next juror would be Juror
11 Number 599, Frank Stelzer. He served on September 17,
12 of 2012.

13 THE COURT: 2012. Where is that juror? I
14 apologize.

15 JUROR NUMBER 599: Right here, your Honor.

16 THE COURT: Sir, you have earned your exemption if
17 you would like to exercise it. Would you like me to
18 excuse you?

19 JUROR NUMBER 599: Please.

20 THE COURT: All right, sir. I will excuse you.
21 Thank you.

22 MADAM CLERK: And I think the next juror I have,
23 479, Sharon Nix. She served on July 28th of 2010.

24 THE COURT: Ms. Nix, ma'am, you served back with us
25 on July 28th of 2010, so you have just missed the

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1 cutoff, ma'am. So, welcome, and I appreciate your
2 staying with us. All right?

3 Ladies and gentlemen, based on the time right now,
4 it's a few minutes after 1:00 o'clock. I tell every
5 jury panel on, it's typically Monday mornings, but
6 whatever morning it is, ladies and gentlemen, these are
7 the hardest days to get a jury pulled, get you
8 qualified. There's a lot of we call it hurry up and
9 wait.

10 Ladies and gentlemen, based on the time, I do want
11 you all to go grab a bite to eat. I am going to have to
12 ask you to come back. There are further questions I
13 need to ask you. After that, ladies and gentlemen, we
14 will be sending you home. A certain number of you, we
15 will keep for the remainder of the end of the day, to
16 start our individual questioning. I just tell you this,
17 ladies and gentlemen, so you can anticipate your
18 schedule for the remainder of the day, I think you can
19 plan on staying with me, ladies and gentlemen, for the
20 most part, just to let you know that.

21 Ladies and gentlemen, when I do send you out to go
22 to lunch, I need to caution you again. I know you know
23 very little about this case, but I have to tell you that
24 you are not to speak with anyone regarding this case,
25 and that includes each other or any family members or

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1 friends. You are not to read, watch, go on the Internet
2 and Google anything potentially about this case. Again,
3 it wouldn't be appropriate for you to do so. Please
4 understand, ladies and gentlemen, that is an order from
5 the Court. It would be highly inappropriate for you to
6 do so. All right?

7 Ladies and gentlemen, by the clock back there, it's
8 a little bit after 1:00. I am going to ask that you be
9 back in here, in the jury room, at ten after 2:00, where
10 we're going ahead and resume and get going, ladies and
11 gentlemen, again, on finishing up pulling this jury.
12 All right? Thank you.

13 BAILIFF: Ladies and gentlemen, I will need your
14 badges on the way out, please.

15 JURORS LEAVE COURTROOM 1:08 P.M.

16 BAILIFF: Your Honor?

17 THE COURT: Yes, sir, come on up.

18 BAILIFF: Do you need the attorneys?

19 THE COURT: Can I have -- give me a moment. Micah,
20 come here.

21 ON-THE-RECORD BENCH CONFERENCE,

22 OUT OF HEARING OF JURORS:

23 JUROR NUMBER 284: I have a --

24 THE COURT: Hold on. You have to wait for a
25 second. The attorneys are entitled to hear whatever you

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1 have to say. I apologize. If you don't mind. Okay?
2 are the attorneys there yet?

3 JUROR NUMBER 284: My daughter was married to
4 Timothy Wick, my son-in-law, and he murdered a lady
5 about five years ago, and I just want -- I don't know if
6 that would be relevant to the case or not.

7 THE COURT: Okay. So, tell me again. Your --

8 JUROR NUMBER 284: My son-in-law.

9 THE COURT: Okay.

10 JUROR NUMBER 284: They were going through a
11 separation and divorce.

12 THE COURT: Right now. Okay.

13 JUROR NUMBER 284: Well, he ended up murdering a
14 lady, Dennis' wife, five years ago.

15 THE COURT: Okay.

16 JUROR NUMBER 284: He beat her and everything, and
17 carried her in the car, and he got convicted.

18 THE COURT: Okay.

19 JUROR NUMBER 284: My daughter went to the case,
20 but I didn't.

21 THE COURT: Okay. All right...

22 JUROR NUMBER 284: And I just wanted to --

23 THE COURT: Okay. Well, you understand the nature
24 of this case and what the allegations are, based on the
25 questionnaire. What I need to know is whether or not

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1 you can be fair and impartial in the trial of this case,
2 based on that experience before. Again, you have to be
3 able to determine this case from everything you hear in
4 the courtroom, not by any other personal or emotional,
5 or any other information.

6 BAILIFF: Order, please.

7 THE COURT: Can you do that? Can you do that?

8 JUROR NUMBER 284: Yeah.

9 THE COURT: Are you comfortable?

10 JUROR NUMBER 284: I -- I feel comfortable, yeah.

11 THE COURT: Okay. Are you sure?

12 JUROR NUMBER 284: I'm pretty sure, I mean.

13 THE COURT: All right. Okay. I can't do -- it
14 can't be a pretty sure. I've got to be -- I've got to
15 know. You feel you're all right?

16 JUROR NUMBER 284: I don't know. I'm not really
17 sure. I do know, you know, an eye for an eye, a tooth
18 for a tooth, you know. Justice should be served, but
19 you've got to hear the consequences and everything
20 besides. I don't think that would have a bearing on it.

21 THE COURT: Okay. Let's do this. Let me look at
22 your number. I'm going to ask that you come back after
23 lunch with me. I don't want you to discuss that with
24 anyone else. You know, I've ordered that you all don't
25 discuss the case. I also don't want you to talk about

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1 that specific incidence with your son-on-law with anyone
2 else, and I want you to come back and let me have the
3 opportunity to speak with the lawyers. Okay?

4 JUROR NUMBER 284: Good. Because I've got a
5 granddaughter involved in this.

6 THE COURT: You have a granddaughter. Okay. Okay.

7 JUROR NUMBER 284: She's 12 years old now. So, I
8 mean, we had to explain things to her when she got
9 older, but.

10 THE COURT: Okay. All right. Well, let's go ahead
11 -- you go to lunch, sir, and come on back in an hour,
12 and I'll take it up. Okay?

13 JUROR NUMBER 284: Okay.

14 THE COURT: All right. I appreciate that.

15 END BENCH CONFERENCE.

16 THE COURT: You all stay tight.

17 BAILIFF: You want this lady now?

18 THE COURT: Yeah. Give me one moment, yeah, if you
19 would. All right.

20 BAILIFF: Again, ladies and gentlemen, the court
21 reporter's trying to record what's being said. She
22 can't hear two conversations.

23 ON-THE-RECORD BENCH CONFERENCE,

24 OUT OF HEARING OF ALL JURORS.

25 THE COURT: Does anyone have a position on him?

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1 MR. MCGUIRE: I would be inclined to let him go.

2 MR. STONE: I'm not sure what he said, quite
3 frankly. I was --

4 THE COURT: I think he said -- my problem is, is he
5 was a bit questioning on whether or not it would affect
6 him.

7 MR. STONE: Right.

8 THE COURT: Quite frankly..

9 MR. MCGUIRE: He looked pretty upset.

10 THE COURT: Well, he felt compelled to come up and
11 tell me, when it wasn't even a response to a question.

12 MR. MCGUIRE: Right.

13 THE COURT: It's just that something he needed to
14 respond to it. So, again, quite frankly, this could cut
15 both ways. It could cut against you, and it could cut
16 against the Defense, either way, so.

17 MR. STONE: Yeah. Well, it depends on if he likes
18 his son-in-law or not. I prosecuted his son-in-law. It
19 was Timothy Wick.

20 THE COURT: Okay.

21 MR. STONE: That was -- that was who he was saying,
22 yes.

23 THE COURT: Okay.

24 MR. STONE: That was the death penalty case we
25 tried 2007.

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1 THE COURT: Okay. Okay. I mean, obviously, just
2 out of an abundance, I'd just --

3 MR. STONE: Sure.

4 THE COURT: I think it's too close to home, but any
5 objection?

6 MR. STONE: That's fine. No, ma'am.

7 THE COURT: Any objection?

8 MR. MCGUIRE: No, ma'am.

9 THE COURT: All right. We'll go ahead and excuse
10 him. All right.

11 And this is the woman who, I understood, she had
12 difficulty writing, but that was it. Is there anything
13 that you think requires, other than not being able to
14 sign the verdict form? Do you see any other issues?

15 MR. MCGUIRE: No, ma'am.

16 THE COURT: I don't see any other issues.

17 MR. MACDOUGALL: It's not a white collar case.

18 THE COURT: Okay. Exactly. I just want to make
19 sure you're comfortable with it, everybody's comfortable
20 with it. I mean, as long as she can sign her name,
21 that's all we need. Okay.

22 END BENCH CONFERENCE.

23 Ma'am, come on up, if you would, please.

24 BAILIFF: Ms. Washington.

25 ON-THE-RECORD BENCH CONFERENCE,

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1 OUT OF HEARING OF JURORS:

2 THE COURT: Hi, Ms. Washington. It's so nice to
3 meet you.

4 JUROR NUMBER 659: Nice to meet you.

5 THE COURT: Thank you. I just wanted to bring you
6 up, just in response to what you had stated earlier,
7 that you had some difficulty writing, and that you had
8 some help from your employer answering your
9 questionnaire. As long -- the questions that you
10 answered, though, they were from your and in your
11 opinion. Is that correct?

12 JUROR NUMBER 659: Yes.

13 THE COURT: It wasn't your employer's or anyone
14 else's. Is that correct?

15 JUROR NUMBER 659: No.

16 THE COURT: All right. Well, I can tell you, in
17 this case, I am not concerned about you having to write
18 anything. The only thing you would be required to do
19 is, at the end of the case, be able to sign your name.
20 And as long as I'm sure that is not a concern or a
21 problem, we would love to keep you. I think you
22 certainly, obviously, can more than converse, and you
23 certainly have understood everything, and it sounds like
24 your reading is really good, as well. So, I would like
25 you to stay, if at all possible.

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1 JUROR NUMBER 659: Yeah, but I'm -- I'm afraid I'm
2 not going to be able to understand everything, so I'm
3 just scared.

4 THE COURT: Okay. Okay. Have you understood
5 everything I've asked?

6 JUROR NUMBER 659: Yes.

7 THE COURT: Has there been anything that's been
8 confusing to you at all?

9 JUROR NUMBER 659: No, but I'm just scared. If I
10 don't understand it, I'm worse.

11 THE COURT: Okay.

12 JUROR NUMBER 659: Because my English is not really
13 be fully --

14 THE COURT: Tell me what you do again.

15 JUROR NUMBER 659: I'm a housekeeping.

16 THE COURT: Okay. And tell me where you work.

17 JUROR NUMBER 659: I'm working Sea Pines in Hilton
18 Head.

19 THE COURT: Okay. Sea Pines? Where in Sea Pines?

20 JUROR NUMBER 659: 26 on Hill Crane.

21 THE COURT: Okay. So, you work for a family?

22 JUROR NUMBER 659: Yes.

23 THE COURT: Is that correct?

24 JUROR NUMBER 659: What family is it?

25 JUROR NUMBER 659: Spear.

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1 THE COURT: Spear family. Okay. And you work
2 there regularly?
3 JUROR NUMBER 659: Every day, yes.
4 THE COURT: Every day.
5 JUROR NUMBER 659: Yes.
6 THE COURT: Okay. Do you help take care of any of
7 the children or?
8 JUROR NUMBER 659: Yes..
9 THE COURT: You do? So, you kind of do it all.
10 JUROR NUMBER 659: Yeah, I do it all.
11 THE COURT: Okay. You do it all. Okay.
12 JUROR NUMBER 659: Yes.
13 THE COURT: Okay. Do you kind of manage the
14 household, as well, for them?
15 JUROR NUMBER 659: Yes.
16 THE COURT: Okay. And that house, it's a Mr. and
17 Mrs. Spears, I'm going to assume?
18 JUROR NUMBER 659: Yes, both of them.
19 THE COURT: Okay. Do they work or?
20 JUROR NUMBER 659: No, they no work.
21 THE COURT: Okay. What about the children?
22 JUROR NUMBER 659: They're in the school, yes.
23 THE COURT: Okay.
24 JUROR NUMBER 659: And I have a son. He's nine
25 years old, and I have a niece who I take care.

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1 THE COURT: Okay.

2 JUROR NUMBER 659: And she's 12, and I pick them up
3 from the school and --

4 THE COURT: At what time?

5 JUROR NUMBER 659: 3:15.

6 THE COURT: That would be every day?

7 JUROR NUMBER 659: Yeah, and Friday.

8 THE COURT: Do you have anyone else to cover them,
9 if you're here?

10 JUROR NUMBER 659: My boss said he will help me.

11 THE COURT: Okay.

12 JUROR NUMBER 659: But I'm afraid that -- I don't
13 know if I will be understand everything.

14 THE COURT: Okay. Let me do this. I want you to
15 go to lunch and come back, if you would, and let me
16 speak with the attorney for a bit, and we can make a
17 decision. Okay?

18 JUROR NUMBER 659: Okay.

19 THE COURT: I appreciate it. Thank you very much.
20 Okay.

21 MR. MACDOUGALL: We would object to her being
22 excused, your Honor.

23 THE COURT: Okay. She understands everything, and
24 her boss says, you know, they'll help her, you know, as
25 far as the children. And I think she speaks very well.

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1 So, unless you all have an objection and want her
2 excused.

3 MR. STONE: That's fine.

4 THE COURT: Okay. We'll keep her, then. Thank
5 you. All right. You all, get some lunch. I apologize.
6 I know we're going to go on and on, but thank you.
7 Okay.

8 OFF THE RECORD 1:18 P.M.

9 BACK ON THE RECORD 1:18 P.M.

10 BY THE COURT:

11 THE COURT: Mr. Thornton and Mr. McGuire, I just
12 wanted to be clear. Once we get everyone qualified, we
13 take care of publicity and hardship, at that point,
14 we're putting those names, however many there are, let's
15 say we have a hundred, those names are then put in the
16 computer. That's the random selection. They will be
17 then be grouped Number 1 through 5, that they will
18 return at whatever time, and that's where the random
19 selection comes from, correct? I just want to make sure
20 we're on the same page. Is that --

21 MR. MCGUIRE: That's my understanding.

22 THE COURT: That's my understanding. I mean, and
23 that's --

24 MR. THORNTON: Yes, ma'am. I mean, the first five
25 people would be the first random, not necessarily Juror

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1 1, 2, 3, 4.

2 THE COURT: No, no, no, no, no.

3 MR. THORNTON: But the random -- well, you need to
4 do -- otherwise, we'll have to qualify the whole panel,
5 then bring them back and random.

6 THE COURT: Exactly. Exactly. So, I just wanted
7 to make sure we're good. Okay. Thank you. Okay. Have
8 a nice lunch, you all.

9 OFF THE RECORD 1:19 P.M.

10 ON THE RECORD 2:28 P.M.

11 CONTINUE VOIR DIRE, BY THE COURT:

12 BAILIFF: All rise.

13 THE COURT: Thank you all. Please be seated.
14 Welcome back, ladies and gentlemen. I trust that you
15 all had a good lunch, and that you found something
16 nearby.

17 Ladies and gentlemen, we're going to continue the
18 qualification process at this time. Ladies and
19 gentlemen, I have gone through the qualifications. I
20 have gone through for the exemptions to jury service.
21 It may be that you are qualified to serve and no
22 exemption applies to you. However, you have a
23 particular hardship that would make it impossible for
24 you to serve on jury duty over the next two weeks.

25 Ladies and gentlemen, please understand,

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1 inconvenience is not enough. I understand that every
2 one of you has somewhere else you need to be, and other
3 things you need or could be today, and we certainly
4 appreciate that. But I also want you to understand that
5 a trial by a jury of your peers is the cornerstone of
6 our justice system, and it is vitally important. And
7 ladies and gentlemen, again, I encourage you, if
8 possible at all to arrange your schedule so you can stay
9 with me.

10 As I told you, we are going to typically run from
11 9:00, 9:30, or 10:00 in the morning, through the
12 afternoon. And again, I defer to my juries. If you
13 have an engagement, somewhere you have to be, a specific
14 date or time, and you need to be there, I just need to
15 know about it. I can accommodate some jurors to some
16 extent, certainly.

17 Ladies and gentlemen, additionally, we do not want
18 to tire you out here. We understand that it's difficult
19 to sit in jury service. You're going to be listening to
20 a lot of evidence, and again, this is a very important
21 case, ladies and gentlemen. I want to make sure that,
22 if you are here, you are focused. All right?

23 Ladies and gentlemen, this is the time that, if you
24 need to speak with me regarding jury service, if you
25 absolutely have a conflict that is unavoidable, or, if

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1 there is something that maybe you have a concern about
2 that I can put you at ease or help you or accommodate
3 you in some way, I need to do it. All right?

4 So, ladies and gentlemen, if that person is you,
5 or, if you heard an earlier question during
6 qualifications or exemptions, and you didn't feel
7 comfortable standing up and announcing it in front of
8 your fellow jurors, now is the time to approach me.
9 Because after this, ladies and gentlemen, you will be
10 qualified as potential jurors in the trial of this case.
11 All right?

12 So, ladies and gentlemen, if you do want to speak
13 to me regarding any hardships or any concerns you have,
14 again, now's the time. I'm going to ask that you go
15 make a line over here. What's going to happen is, Bob
16 is going to announce your name and your Juror Number.
17 And ladies and gentlemen, I need you to bear with me.
18 It's going to take a bit of time.

19 BAILIFF: . Do it as quickly and as quietly as you
20 can, please.

21 THE COURT: Bob, what I'm going to do is, before
22 you even start announcing their name, their number, give
23 us a moment. We need to pull their paperwork before
24 they approach. All right?

25 BAILIFF: All right, your Honor.

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1 THE COURT: And can I talk to the attorneys just
2 right here for a quick moment before we start.

3 -ON-THE-RECORD BENCH CONFERENCE,

4 OUT OF HEARING OF JURORS:

5 THE COURT: How do we want to do this? Do we want
6 to just find out what each person's hardship is, and
7 find out where they all are; and then, after that, we're
8 going to excuse them. Or do you just want to take them
9 up as they come?

10 MR. MCGUIRE: We're going to be here for a long
11 time.

12 THE COURT: I know. Unless you have a better way
13 to do this. And I can tell you right now, the only
14 thing we're going to be able to do is who has what, take
15 down the number, and like you said, put it in the back
16 of the file. Hopefully, we won't get -- that's what I'm
17 hoping, because, again -- so, and that's my question to
18 you all. Do you want to -- what I'm afraid of is, I
19 don't want to dismiss someone who's similarly situated,
20 you know.

21 MR. STONE: That's right.

22 THE COURT: And again, that's my concern.

23 COURT REPORTER: I'm not hearing you, Judge.

24 THE COURT: I'm sorry. I will tell you what we're
25 going to do for the record once -- and I apologize, you

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1 all.

2 COURT REPORTER: Yeah, that's okay. I know.

3 THE COURT: So, is that fine with you all? We'll
4 just take good, copious notes. We'll say what the
5 problem is, and we'll go from there. Is that -- so.

6 MR. MCGUIRE: I think -- I think you might want to
7 consider giving the rest of the people that are sitting
8 down right now --

9 THE COURT: That's what I'm thinking, yeah, a
10 break.

11 MR. MCGUIRE: Throw them out the door.

12 THE COURT: Yeah, that's what I think so, too.

13 MR. MCGUIRE: Yes.

14 THE COURT: Although, I wanted to ask them the
15 publicity questions. So, can we send them home, or just
16 give them a break?

17 MR. STONE: The only other thing I can think of is
18 if you can get the numbers of those that had a hardship,
19 go ahead and put them in their rotation; and then, just
20 ask them when they come in, individually.

21 THE COURT: What are you saying?

22 MR. STONE: Which is what -- how I think you ought
23 to do the media question.

24 THE COURT: Just wait?

25 MR. STONE: I think putting the media question, you

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1 can ask them if they've heard something, but we've got
2 the standard questions you'll have asked. You know, if
3 they say I heard something, write him down, move on, and
4 then put him in --

5 THE COURT: I don't think I need to do that,
6 because we can ask them every time if they're -- as
7 well. I mean, we're going to have to look at the list
8 anyway, but I think we can go with the hardships and
9 everything.

10 MR. MCGUIRE: I think -- I think you have to do the
11 hardships today.

12 THE COURT: I think I do, too. So, I think I've
13 got to take it up.

14 MR. MCGUIRE: I mean, we've got, I don't know,
15 what, 40 people? And we take two minutes per, that's 80
16 minutes.

17 THE COURT: Um-hmm.

18 MR. MCGUIRE: So, it's almost an hour and a half.

19 THE COURT: Yeah.

20 MR. MCGUIRE: And you've got to do them today.

21 THE COURT: I know.

22 MR. MCGUIRE: That's --

23 THE COURT: Well, we're going to do them, so let's
24 just go. Okay. Let's just go. All right. I need a
25 pad from someone. You all -- or I guess you're going to

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1 stay up here. No, I need a real pad. Thank you.

2 END BENCH CONFERENCE.

3 BAILIFF: Ladies and gentlemen, as the Judge said,
4 I want you to remember that that lady is trying to take
5 down the conversation. The noise you make makes it
6 impossible for her to do her job. Please, refrain from
7 talking. Thank you.

8 THE COURT: Thank you, Al. Ladies and gentlemen,
9 before we do begin this process, as I told you, my court
10 reporter has to take down everything everyone says.
11 This is her microphone, this is her backup. She is
12 recording everything in her mask, but I am going to ask
13 that, when you come up, stand right next to me, right
14 next to the microphone. I apologize if we invade your
15 personal space a little bit, but I want to be able to
16 get you on the record, and not have announced to
17 everybody else what your concern is. All right?

18 So, let's go ahead and start. Give me his name and
19 Juror Number, Bob.

20 BAILIFF: Mr. Rosica, Number 541, your Honor.
21 Thank you.

22 ON-THE-RECORD BENCH CONFERENCE,

23 OUT OF HEARING OF JURORS:

24 JUROR NUMBER 541:

25 THE COURT: Okay. Thank you. How are you? It's

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1 nice to meet you.

2 JUROR NUMBER 541: I'm doing well. How are you? I
3 work at a small restaurant on the Island, Lowcountry
4 Back Yard.

5 THE COURT: Um-hmm.

6 JUROR NUMBER 541: I -- there's like four servers
7 on all time.

8 THE COURT: Um-hmm.

9 JUROR NUMBER 541: I'm missing the day. I already
10 called her; I told her I won't be there. But I work all
11 week, and if I'm off two weeks, my job, she's going to
12 pull somebody up, I'm going to lose my shifts. I work
13 and support myself.

14 THE COURT: Okay. Well, let me ask you this. If I
15 can speak with your boss to make sure that it is okay
16 and you don't lose your job, do you think they'll be
17 able to put you back in regular rotation when you come
18 back?

19 JUROR NUMBER 541: I -- I -- if you could speak to
20 my boss and that was a definite, --

21 THE COURT: Okay.

22 JUROR NUMBER 541: -- I'd appreciate it, but --

23 THE COURT: Okay. I can speak to your boss, and I
24 will go ahead and tell you that I have met him.

25 JUROR NUMBER 541: Do you?

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1 THE COURT: It was a couple -- yeah, couple weeks
2 ago, as a matter of fact.

3 JUROR NUMBER 541: Okay.

4 THE COURT: And I want to make sure that,
5 financially, I understand that that's your support --

6 JUROR NUMBER 541: Okay.

7 THE COURT: -- and you're going to be okay for, you
8 know, two weeks, if you end up having to serve on jury
9 duty.

10 JUROR NUMBER 541: I mean, I -- I live with my
11 roommates. I support myself. I pay all my bills.

12 THE COURT: Okay.

13 JUROR NUMBER 541: So, I mean, I, obviously, have
14 money saved, but --

15 THE COURT: Okay.

16 JUROR NUMBER 541: -- two weeks is going to hurt.

17 THE COURT: I understand that. Okay. Are you
18 comfortable if I go ahead and talk to Dave?

19 JUROR NUMBER 541: Oh, I'm -- I'm comfortable.

20 THE COURT: Is that okay with you?

21 JUROR NUMBER 541: Yeah, absolutely.

22 THE COURT: Okay. And when we leave today, if
23 that's all right, I'm going to speak with the lawyers,
24 as well, but you might want to remind him that I was
25 there with another woman by the name of Valerie Keeting,

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1 who you all are going to do some catering for, a friend
2 of mine, for a very large party. So, anyway that's how
3 I know him.

4 JUROR NUMBER 541: Um-hmm.

5 THE COURT: But let me take -- let me have an
6 opportunity to speak with the lawyers; and then, we'll
7 see what we can do. It's 541.

8 JUROR NUMBER 541: Yes, ma'am.

9 THE COURT: Okay. All right. I appreciate it.

10 JUROR NUMBER 541: Yes, ma'am. Thank you.

11 THE COURT: Thank you. I really appreciate it.

12 Okay.

13 INDIVIDUAL VOIR DIRE, JUROR NUMBER 540

14 BAILIFF: Your Honor, Ms. Rosen, 540. Thank you.

15 THE COURT: Nice to meet you.

16 JUROR NUMBER 540: Nice to meet you.

17 THE COURT: Pleasure.

18 JUROR NUMBER 540: My employer sent me with this
19 letter. I'm the human resource person.

20 THE COURT: Um-hmm.

21 JUROR NUMBER 540: We have four people in the
22 office. I'm the person who runs the payroll.

23 THE COURT: Um-hmm.

24 JUROR NUMBER 540: There's 200 caregivers. I was
25 the backup to the payroll person until the payroll

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1 person left without notice two weeks ago.

2 THE COURT: Um-hmm.

3 JUROR NUMBER 540: So, now, I'm the only person.

4 THE COURT: Um-hmm.

5 JUROR NUMBER 540: Now, that's his concern.

6 THE COURT: How often do you run payroll?

7 JUROR NUMBER 540: Every two weeks. I ran it
8 yesterday.

9 THE COURT: Okay.

10 JUROR NUMBER 540: I would have to do it two weeks
11 from yesterday.

12 THE COURT: Okay. So, that, we can work around, if
13 you're concerned about that.

14 JUROR NUMBER 540: Okay. Now, my concern is
15 different.

16 THE COURT: Okay.

17 JUROR NUMBER 540: My concern is I'm on a medicine
18 where I need to be -- have access to the restroom.

19 THE COURT: I can take care of that.

20 JUROR NUMBER 540: Okay.

21 THE COURT: No worries, if that's all right with
22 you.

23 JUROR NUMBER 540: That's all right with me, then.

24 THE COURT: Absolutely. I will tell you, if you
25 get chosen on this jury, two things.

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1 JUROR NUMBER 540: Okay.

2 THE COURT: I'm always going to be watching you,
3 because, again, you are the important people, the people
4 that sit in the jury, to me. Secondly, you're going to
5 have a bailiff that will be sitting right here, and he
6 is watching you.

7 JUROR NUMBER 540: Okay.

8 THE COURT: The only thing you have to do is flag
9 him down.

10 JUROR NUMBER 540: Okay. Okay. That makes me feel
11 better.

12 THE COURT: And we will take a restroom break.
13 Okay?

14 JUROR NUMBER 540: Cause sometimes I don't have any
15 warning.

16 THE COURT: And that's okay.

17 JUROR NUMBER 540: Okay.

18 THE COURT: You just -- literally, like this, I can
19 stop on a dime. It's not a big deal.

20 JUROR NUMBER 540: Okay.

21 THE COURT: It's very easy.

22 JUROR NUMBER 540: Then, my concern is fine.

23 THE COURT: Are you okay?

24 JUROR NUMBER 540: Yes. Okay.

25 THE COURT: Okay. And tell me if there is a

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1 certain time that you need to go. I don't know how long
2 it takes you to run your --

3 JUROR NUMBER 540: Oh, it takes an entire day.

4 THE COURT: Okay.

5 JUROR NUMBER 540: Yesterday, it took from 9:00
6 a.m. to 5:00 p.m.

7 THE COURT: Okay. We will figure it out somehow.

8 JUROR NUMBER 540: Okay.

9 THE COURT: I mean, is it possible that you can do
10 it on a Saturday or Sunday, or does that --

11 JUROR NUMBER 540: I can't, because the -- the two
12 backup payroll systems, ADP --

13 THE COURT: Um-hmm.

14 JUROR NUMBER 540: -- and my company's website that
15 support me on the phone are only 9:00 to 5:00 work days.

16 THE COURT: Normal, yeah.

17 JUROR NUMBER 540: Yes, because I offered to do it
18 at night --

19 THE COURT: Okay.

20 JUROR NUMBER 540: -- but neither of them are open
21 to -- to do what I need to do in the portion of the
22 payroll at that time.

23 THE COURT: Oh. Okay. Okay. All right. So, you
24 need to do it two weeks from yesterday.

25 JUROR NUMBER 540: Yesterday.

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1 THE COURT: Okay.

2 JUROR NUMBER 540: Um-hmm.

3 THE COURT: Okay.

4 JUROR NUMBER 540: It's every other Tuesday.

5 THE COURT: So, it's every other Tuesday.

6 JUROR NUMBER 540: Um-hmm.

7 THE COURT: Okay. Would it be something that would
8 be possible -- I know you said it takes during the day.
9 I understand you need support and help, --

10 JUROR NUMBER 540: Um-hmm.

11 THE COURT: -- that, if you maybe started at, say,
12 noon, and were able to do it, would that be possible?
13 Because you'll still have tech support or whatever you
14 need between noon and 5:00?

15 JUROR NUMBER 540: It's not enough.

16 THE COURT: Do you see what I'm saying?

17 JUROR NUMBER 540: I do. That's fine for one of
18 the support system. There's two support systems.

19 THE COURT: Okay.

20 JUROR NUMBER 540: One takes the first portion of
21 the day. That's my corporate headquarters.

22 THE COURT: Okay.

23 JUROR NUMBER 540: And then, the second half of the
24 day is the ADP. So, there are two different -- and they
25 both close at 5:00, ultimately.

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1 THE COURT: Okay. And there's no one that can do
2 payroll for you?

3 JUROR NUMBER 540: No.

4 THE COURT: Okay.

5 JUROR NUMBER 540: Not since this other person quit
6 two weeks ago.

7 THE COURT: And Mr. Fulton doesn't know how to do
8 it? I understand.

9 JUROR NUMBER 540: That's why he hired me.

10 THE COURT: I understand. Okay. I'm going to ask
11 you to stay with us, Ms. Rosen.

12 JUROR NUMBER 540: Okay.

13 THE COURT: And again, if I can come up with
14 something, I will.

15 JUROR NUMBER 540: Okay.

16 THE COURT: But I would appreciate it if you would
17 stay with us. Okay?

18 JUROR NUMBER 540: That's fine.

19 THE COURT: All right. Thank you.

20 Give me one moment, Bob. Oh, thank you. I'm
21 sorry.

22 JUROR NUMBER 540: Okay.

23 END BENCH CONFERENCE.

24 THE COURT: I wasn't supposed to give that to you.
25 I apologize. Okay. All right.

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1 BAILIFF: Your Honor, Juror 614, Mr. Takacs. Thank
2 you, sir.

3 ON-THE-RECORD BENCH CONFERENCE,
4 OUT OF HEARING OF JURORS:

5 THE COURT: Nice to meet you, sir.

6 JUROR NUMBER 614: Nice to meet you, your Honor.

7 THE COURT: Thank you.

8 JUROR NUMBER 614: Yes, I was just worried about my
9 financial situation, with having to take two weeks off
10 work.

11 THE COURT: Okay.

12 JUROR NUMBER 614: I recently just moved back home
13 with my mother, because my father died, and I'm helping
14 out her with the bills.

15 THE COURT: Okay.

16 JUROR NUMBER 614: And taking two weeks off would
17 give me a zero dollar paycheck would really put me in
18 the hole.

19 THE COURT: Okay.

20 JUROR NUMBER 614: And if I was able to get to work
21 by 5:00, I could work with you.

22 THE COURT: Okay. Okay. So, if I can get you out
23 of here.

24 JUROR NUMBER 614: By 5:00 o'clock, yeah.

25 THE COURT: What restaurant do you work at again?

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1 JUROR NUMBER 614: Giuseppe's Pizza & Pasta.

2 THE COURT: Are you in Bluffton or Hilton Head or
3 Sea Pines?

4 JUROR NUMBER 614: Hilton Head.

5 THE COURT: You're on the Hilton Head, Shelter
6 Cove?

7 JUROR NUMBER 614: Yes, ma'am, Shelter Cove.

8 THE COURT: Okay. I apologize. I spelled your
9 name wrong.

10 JUROR NUMBER 614: Oh, no problem.

11 THE COURT: So, you're working -- you say you're a
12 cook, so you're four or five days a week. How many days
13 a week you working?

14 JUROR NUMBER 614: Yes, ma'am, four or five.

15 THE COURT: Are you during the week or are you
16 weekend?

17 JUROR NUMBER 614: It shifts from week to week.
18 Mornings and nights, I work.

19 THE COURT: Let me ask you, if you do get chosen on
20 this jury, and if you are able to know that by Friday,
21 could you work maybe not this upcoming week's schedule,
22 but could you maybe work your schedule so possibly you
23 could get shifted to the weekend, versus any week
24 nights?

25 JUROR NUMBER 614: Yes, ma'am.

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1 THE COURT: You could do that?

2 JUROR NUMBER 614: Yes, ma'am.

3 THE COURT: Okay. Needs to be at work at 5:00,
4 Giuseppe's at Shelter Cove. All right. I'm going to
5 let you know what I can do.

6 JUROR NUMBER 614: Thank you very much.

7 THE COURT: Okay. I appreciate it. Thank you.
8 Okay. All right. Yes, sir.

9 END BENCH CONFERENCE.

10 BAILIFF: Your Honor, Juror 635, Ms. Tschupp.
11 Thank you, ma'am.

12 ON-THE-RECORD BENCH CONFERENCE,

13 OUT OF HEARING OF JURORS:

14 THE COURT: Okay. All right. How are you?

15 JUROR NUMBER 635: Hey there. Fine. Pleasure to
16 meet you.

17 THE COURT: Thank you.

18 JUROR NUMBER 635: Two weeks from Tuesday, I'm
19 leaving for London.

20 THE COURT: Okay.

21 JUROR NUMBER 635: On the 29th.

22 THE COURT: I'll have you out of here. I will have
23 you out of here. You don't need to worry about that.
24 Okay?

25 JUROR NUMBER 635: Okay.

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1 THE COURT: I understand that.

2 JUROR NUMBER 635: I just wanted to say.

3 THE COURT: Business or pleasure?

4 JUROR NUMBER 635: Pleasure. I have a daughter
5 over there, so.

6 THE COURT: Oh, great. Well, give me a second.
7 Let me just get your name down, but I appreciate it.

8 JUROR NUMBER 635: That's all right. It's
9 T/s/c/h/u/p/p/.

10 THE COURT: U/p/p?

11 JUROR NUMBER 635: Yes. The 29th.

12 THE COURT: Okay. So, you leave the 29th.

13 JUROR NUMBER 635: Yeah.

14 THE COURT: Okay. All right. Okay.

15 JUROR NUMBER 635: Thank you.

16 THE COURT: Thank you. Okay. So, she's okay.

17 Okay. Thank you.

18 BAILIFF: Your Honor, Juror Number 83, Mr. Randy
19 Brown.

20 ON-THE-RECORD BENCH CONFERENCE,

21 OUT OF HEARING OF JURORS:

22 THE COURT: Mr. Brown, so nice to meet you, sir.

23 JUROR NUMBER 83: Yeah. I don't think I should
24 serve on jury because, you know, he's kin to the family
25 and stuff out there, and they raised up together and

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1 stuff like that.

2 THE COURT: Who's he we're talking about?

3 JUROR NUMBER 83: The guy. He's Daise.

4 THE COURT: Mr. Daise?

5 JUROR NUMBER 83: Yes, Daise.

6 THE COURT: You say you were raised with him?

7 THE COURT: Raised up with the family, the sisters
8 and brothers, we were raised up together and stuff like
9 that.

10 THE COURT: Do you live near him?

11 JUROR NUMBER 83: Yeah, we live in the same area.
12 I see his family every day.

13 THE COURT: Okay. Do you have any independent
14 knowledge about this case? Have people talked to you
15 about it around?

16 JUROR NUMBER 83: Oh, no. I mean, you know, I did
17 not around it, but I mean, I think -- I don't think I
18 should serve, but, really, the mother's family, I'm kin
19 to them someways, too.

20 THE COURT: Okay.

21 JUROR NUMBER 83: So, I mean, I think I shouldn't
22 -- I don't think I --

23 THE COURT: Okay. Just -- all right. What you
24 told me on your questionnaire is that you have seen Mr.
25 Daise before. Is that correct?

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1 JUROR NUMBER 83: Oh, yeah, we know -- I know him,
2 yeah.

3 THE COURT: That you've seen him. You know him.

4 JUROR NUMBER 83: Yes, ma'am.

5 THE COURT: Hold on, okay, for a second. And that
6 your sister-in-law is Jeanine Mullen's cousin? Is that
7 correct?

8 JUROR NUMBER 83: Yes, yes, yes.

9 THE COURT: Okay. So, you don't feel comfortable
10 sitting on this case --

11 JUROR NUMBER 83: No, no.

12 THE COURT: -- because you know both him and Ms.
13 Mullen. Is that correct?

14 JUROR NUMBER 83: Yeah, I know both him. Yes, I
15 do. Yes. Right. Yes. Yes.

16 THE COURT: Okay. Okay. All right.

17 JUROR NUMBER 83: I just feel uncomfortable.

18 THE COURT: Okay. You just feel uncomfortable.

19 JUROR NUMBER 83: Yeah.

20 THE COURT: You can't sit on this case.

21 JUROR NUMBER 83: Yeah, yeah, I couldn't.

22 THE COURT: Are you willing to serve any other time
23 on a different case?

24 JUROR NUMBER 83: Maybe another case or something
25 like that, but not this one.

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1 THE COURT: Okay.

2 JUROR NUMBER 83: Maybe another case sometime.

3 THE COURT: You just don't think you can be fair
4 and impartial?

5 JUROR NUMBER 83: No, I don't think I could, no.

6 THE COURT: All right. Well, I'm going to excuse
7 you, then, Mr. Brown.

8 JUROR NUMBER 83: Okay. Thank you so much.

9 MR. MCGUIRE: Actually, Judge, may I ask him a
10 couple of questions?

11 THE COURT: Sure. Mr. Brown. Mr. Brown, come
12 here, before him. Go ahead.

13 MR. MCGUIRE: So, Mr. Brown, when you say in the
14 questionnaire that you had seen Mr. Daise before, what
15 does that mean?

16 JUROR NUMBER 83: Oh, I (Inaudible.)

17 COURT REPORTER: I'm sorry. I'm just not getting
18 it.

19 THE COURT: Okay, that you know him? I'm sorry, we
20 have to do it here. Okay.

21 MR. MCGUIRE: I mean, like, when you say see, do
22 you, like, see socially, like you all have dinner at
23 your house or you would do stuff together?

24 JUROR NUMBER 83: Oh, we'd be on the street. We be
25 out on the street, say, you know, hey, how you doing,

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1 and keep going, like that, you know, yeah. Otherwise, I
2 don't know him like that.

3 MR. MCGUIRE: And how -- how do you know him? How
4 did you meet or how did you know each other?

5 JUROR NUMBER 83: Oh,, through his family. Sisters
6 and brother went to school together and stuff like that.
7 His mother and all went to school together. So, I've
8 known him and the boys coming up.

9 MR. MCGUIRE: And would you say that you're close
10 friends with Mr. Daise or any of his family?

11 JUROR NUMBER 83: Well, his sisters and brother,
12 yes, his -- his uncle and his mother, we, of course,
13 friends with them, yes.

14 MR. MCGUIRE: Okay. And you don't -- if the Judge
15 told you that, if you were on the jury, that the law
16 would require you to consider all the evidence and
17 mitigation, all the evidence of aggravation, and truly
18 consider both death penalty and life penalty, could you
19 do that?

20 JUROR NUMBER 83: No, man, I can't. I couldn't do
21 that.

22 THE COURT: Okay. Plus, we don't need to be going
23 there.

24 MR. MCGUIRE: All right.

25 THE COURT: Also, your sister-in-law is the cousin

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1 of Ms. Mullen, the deceased, correct?

2 JUROR NUMBER 83: Yeah. Right. Yeah, yeah. Yes.

3 THE COURT: Okay. All right. I'm going to go
4 ahead and excuse you, Mr. Brown. Thank you.

5 JUROR NUMBER 83: Thank you so much.

6 THE COURT: Okay.

7 MR. SECOR: Your Honor, the next one is a relative
8 of the victim, as well.

9 THE COURT: Okay. Thank you. Thank you. Thank
10 you.

11 END BENCH CONFERENCE.

12 THE COURT: All right? Go ahead.

13 BAILIFF: Your Honor, Juror 342, Ms. Jenkins.
14 Thank you, ma'am.

15 ON-THE-RECORD BENCH CONFERENCE,

16 OUT OF HEARING OF JURORS:

17 THE COURT: How are you?

18 JUROR NUMBER 342: I'm fine. How are you?

19 THE COURT: It's so nice to meet you, Ms. Jenkins.

20 JUROR NUMBER 342: It's nice to meet you.

21 THE COURT: All right.

22 JUROR NUMBER 342: Only one thing. I'm not close
23 to the family, but I've known the family a long time and
24 I went to school.

25 THE COURT: Which family?

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1 JUROR NUMBER 342: Mullen.

2 THE COURT: All right.

3 JUROR NUMBER 342: Mullen family.

4 THE COURT: The Mullen family. Okay. Okay.

5 JUROR NUMBER 342: And I know her husband.

6 THE COURT: Okay.

7 JUROR NUMBER 342: And I don't feel that I would
8 be --

9 THE COURT: Fair and impartial?

10 JUROR NUMBER 342: Yeah, um-hmm.

11 THE COURT: Are you sure?

12 JUROR NUMBER 342: Yeah, I'm sure.

13 THE COURT: You can't?

14 JUROR NUMBER 342: No.

15 THE COURT: You can't hear all the facts and the
16 evidence in this case and make a decision?

17 JUROR NUMBER 342: I live kind of close in between
18 there when it happened.

19 THE COURT: How close? How close did you live?

20 JUROR NUMBER 342: About two-and-a-half miles.

21 THE COURT: Okay, about two-and-a-half miles.

22 JUROR NUMBER 342: Um-hmm.

23 THE COURT: Okay. So, do you know Mr. Daise?

24 JUROR NUMBER 342: Yes. Know Mr. Daise? No, I
25 don't.

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1 THE COURT: Did you know Jeanine Mullen?
2 JUROR NUMBER 342: Yes.
3 THE COURT: Okay. All right. -Okay.
4 MR. MCGUIRE: Same as the last one, I guess.
5 THE COURT: Yeah. I'm going to go ahead and excuse
6 you Ms. Jenkins.
7 JUROR NUMBER 342: Okay.
8 THE COURT: But I appreciate you being here. Okay?
9 JUROR NUMBER 342: Okay. Okay. And thank you.
10 THE COURT: Thank you.
11 END BENCH CONFERENCE.
12 THE COURT: All right. Ms. Jenkins is excused.
13 All right.
14 BAILIFF: Your Honor, Juror Number 64, Ms.
15 Bowerman. Thank you, ma'am.
16 ON-THE-RECORD BENCH CONFERENCE,
17 OUT OF HEARING OF JURORS:
18 THE COURT: How are you?
19 JUROR NUMBER 64: Good. How are you?
20 THE COURT: Pleasure to meet you.
21 JUROR NUMBER 64: Nice to meet you.
22 THE COURT: Come on up.
23 JUROR NUMBER 64: I had already taken, at the
24 beginning of September, I had taken the 17th and the
25 18th off from work. The -- that Wednesday evening, I

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1 have family flying in from Connecticut, and they are
2 going to be here Thursday, Friday, Saturday, and Sunday.
3 And then, they'll be flying back to Connecticut.

4 THE COURT: Okay.

5 JUROR NUMBER 64: And some of them I haven't seen
6 for two years.

7 THE COURT: Okay. Okay. What relation are they to
8 you?

9 JUROR NUMBER 64: My aunt, my uncle, and my
10 grandmother.

11 THE COURT: Okay.

12 JUROR NUMBER 64: And then, we have a bunch of
13 family -- family friends flying in, as well. My sister
14 is getting married on the 19th.

15 THE COURT: Here?

16 JUROR NUMBER 64: Yeah, and I'm the maid of honor.

17 THE COURT: Okay.

18 JUROR NUMBER 64: And Friday, I'm supposed to be
19 setting up the wedding site, because it's at a horse
20 farm. So, we can't bring in cater -- yeah. We can't
21 bring in big trucks.

22 THE COURT: Okay. Oh, got it.

23 JUROR NUMBER 64: So.

24 THE COURT: Okay. Okay. All right. Sit tight and
25 let me see. Okay?

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1 JUROR NUMBER 64: Okay. Great. Thank you.

2 THE COURT: Yeah. Thank you. Okay.

3 END BENCH CONFERENCE.

4 ON-THE-RECORD BENCH CONFERENCE,

5 OUT OF HEARING OF ALL JURORS.

6 THE COURT: Anyone have any objection to my
7 excusing her? It's her sister's wedding, and that's a
8 hard one, you all. For her to miss all that is a lot to
9 be asking.

10 MR. MCGUIRE: At the very least, I'd reserve your
11 decision, based on what's going to happen later on,
12 though.

13 THE COURT: I know. Okay. Okay. Okay.

14 END BENCH CONFERENCE.

15 BAILIFF: Your Honor, Juror 697, Mr. Marion Young.
16 Thank you, sir.

17 ON-THE-RECORD BENCH CONFERENCE,

18 OUT OF HEARING OF JURORS:

19 THE COURT: Come on up, Mr. Young. Pleasure to
20 meet you, sir.

21 JUROR NUMBER 697: Pleasure to meet you, too.

22 THE COURT: Okay. Yes, sir.

23 JUROR NUMBER 697: Okay. Your Honor, I'm familiar
24 with the incident that happened down there. I did a
25 couple of cruises with their grandmother.

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1 THE COURT: With whose grandmother?

2 JUROR NUMBER 697: The young lady that got killed
3 down there.

4 THE COURT: Mrs. Mullen's grandmother.

5 JUROR NUMBER 697: Yes.

6 THE COURT: Okay.

7 JUROR NUMBER 697: And I also wanted to throw out
8 that Lieutenant Grant that works in this facility, --

9 THE COURT: Um-hmm.

10 JUROR NUMBER 697: -- that's my niece.

11 THE COURT: Okay.

12 JUROR NUMBER 697: And I'd also like to say that,
13 if this court go into two weeks, that me and the wife
14 had done planned a trip out of the country.

15 THE COURT: When are you leaving?

16 THE COURT: The 24th.

17 THE COURT: Okay. And there was a question that we
18 had sent to you all, asking that you provide us with
19 travel itineraries or flight plans if you were leaving
20 the country.

21 JUROR NUMBER 697: Um-hmm.

22 THE COURT: Do you have those?

23 JUROR NUMBER 697: No, I don't have it right with
24 me.

25 THE COURT: Okay. Where are you going?

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1 JUROR NUMBER 697: Jamaica.

2 THE COURT: Okay. Well then, I would assume you
3 would have a plane ticket, correct?

4 JUROR NUMBER 697: We just hadn't got all the
5 information yet, because we ain't leaving 'til the 24th.

6 THE COURT: Okay.

7 JUROR NUMBER 697: And then, we was going through
8 other people to get all the stuff straightened out
9 before we leave.

10 THE COURT: What do you mean other people to get
11 straightened out?

12 JUROR NUMBER 697: You know -- you know, like you
13 plan a trip, --

14 THE COURT: Um-hmm.

15 JUROR NUMBER 697: -- and you've got other
16 organization planning, you know, planning the trip, you
17 know, like, we just pay the money.

18 THE COURT: You're using a travel agent or
19 something along those lines.

20 JUROR NUMBER 697: Yes.

21 THE COURT: And you can get that information from
22 them. They should be able to get that for you. Okay.
23 So, you're saying that you -- when you say you've done a
24 couple of cruise with Jeanine Mullen's grandmother, --

25 JUROR NUMBER 697: Yes, ma'am.

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1 THE COURT: -- what type of cruise are we talking
2 about?

3 JUROR NUMBER 697: Cruise Ship Carnival.

4 THE COURT: Okay. You take cruises with them.

5 JUROR NUMBER 697: Yes.

6 THE COURT: Okay. So, is it just Mrs. Mullen, the
7 grandmother, or is it also the grandfather, as well?

8 JUROR NUMBER 697: No, just her.

9 THE COURT: Just her.

10 JUROR NUMBER 697: Um-hmm.

11 THE COURT: Okay. All right. So, what type of
12 relationship do you have with her? Is it social? What
13 is it?

14 JUROR NUMBER 697: We just -- we just friends,
15 that's all.

16 THE COURT: You're friends. Okay.

17 JUROR NUMBER 697: That's it.

18 THE COURT: Okay. Do you all attend the same
19 church or do you live in the area?

20 JUROR NUMBER 697: No, we really don't.

21 THE COURT: Okay.

22 JUROR NUMBER 697: I'm just, you know, just telling
23 you all what's -- what's going on.

24 THE COURT: Okay. Okay. All right. And I
25 apologize. I'm going to have to pry just a little bit

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1 further. When you say you all would go on cruises or do
2 things, is it just the two of you, or is it as a group?

3 JUROR NUMBER 697: No, a group.

4 THE COURT: A group.

5 JUROR NUMBER 697: Just as a group.

6 THE COURT: Okay. Who are the other people and
7 what type of group?

8 JUROR NUMBER 697: I don't even know all these
9 people name. Me and my wife and -- are you familiar
10 with Rivers Transport?

11 THE COURT: Um-hmm.

12 JUROR NUMBER 697: I travel with them.

13 THE COURT: Okay. Okay. So, through your work,
14 you're saying, somewhat. Or no?

15 JUROR NUMBER 697: It's -- it's not through work.
16 It's through Rivers Transport.

17 THE COURT: Okay. Sir, on your questionnaire, you
18 indicated that you didn't know anyone in the family.

19 JUROR NUMBER 697: Well, I thought I didn't.

20 THE COURT: Well, you said you didn't know anyone
21 in the family. Okay. So, -- so, you're friends with
22 Jeanine Mullen's grand -- well, mother, who is the
23 grandmother.

24 JUROR NUMBER 697: Um-hmm.

25 THE COURT: How often would you see her? Just when

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1 you go on cruises?

2 JUROR NUMBER 697: Just when I go on cruises.

3 That's it.

4 THE COURT: And how often do you go on cruises?

5 JUROR NUMBER 697: About once a year.

6 THE COURT: Once a year. Okay. Do you all have
7 any further questions? Do you all?

8 MR. STONE: No.

9 MR. MCGUIRE: I don't think we have any questions.

10 THE COURT: Okay.

11 MR. MCGUIRE: I don't think this is as close as a
12 relationship.

13 THE COURT: Yeah. Yeah., Okay. Okay. All right.
14 I am going to ask, sir, that you stay with me. Okay?

15 JUROR NUMBER 697: Um-hmm.

16 THE COURT: And we can take it up again. We're
17 going to do more further questioning, and we can discuss
18 this again. All right? And we'll see if it rises to
19 that level. Okay?

20 JUROR NUMBER 697: Okay.

21 THE COURT: But I appreciate you letting us know.
22 Thank you.

23 JUROR NUMBER 697: All right.

24 END BENCH CONFERENCE.

25 THE COURT: Number 697 is going to stay with us.

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1 BAILIFF: This way, sir.

2 THE COURT: Okay. All right. Thank you, Jamie.

3 BAILIFF: Your Honor, Juror 98, Ms. Carbajal.

4 THE COURT: You know, I also said -- what about the
5 people that are all sitting here, if I should just give
6 them break?

7 MR. STONE: You can if you want to. We don't have
8 any objection if you want to.

9 THE COURT: Okay.

10 ON-THE-RECORD BENCH CONFERENCE,

11 OUT OF HEARING OF JURORS:

12 THE COURT: Hi. How are you?

13 JUROR NUMBER 98: Good. I'm Olivia Carbajal, and
14 this is a bad two weeks. I'm the only bookkeeper in my
15 office.

16 THE COURT: Okay.

17 JUROR NUMBER 98: And we're closing on several
18 properties, and I'm doing a merger, and I don't have any
19 backup.

20 THE COURT: Okay.

21 JUROR NUMBER 98: So, if I can serve another time,
22 it would be great, but if I can get out of this, this
23 time.

24 THE COURT: Who do you work for?

25 JUROR NUMBER 98: South Coast Commercial.

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1 THE COURT: South Coast Commercial.

2 JUROR NUMBER 98: Um-hmm.

3 THE COURT: The bank or?

4 JUROR NUMBER 98: Hum-um. They're a property
5 management company.

6 THE COURT: Property management. Who owns that?

7 JUROR NUMBER 98: Johnny Morgan.

8 THE COURT: Okay. And you have no other support
9 staff?

10 JUROR NUMBER 98: He just hired somebody, but he
11 doesn't start for another two weeks. And then, he's
12 only part-time.

13 THE COURT: Okay. What I'm going to do is this. I
14 need you to sit tight with me. I understand it's
15 difficult, but again, for work, they can't do anything
16 to you if I have to have you.

17 JUROR NUMBER 98: Right, but then, that means I go
18 in after hours to work and --

19 THE COURT: Pardon?

20 JUROR NUMBER 98: And that means I have to go in
21 after hours to work, and that's going to stress me out.

22 THE COURT: Okay. Well, again, let me see what I
23 can do. And but, again, I'm going to ask that you stay
24 with us for right now. Okay?

25 JUROR NUMBER 98: Okay.

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1 THE COURT: Okay. Thank you. Okay. What was her
2 number?

3 MR. STONE: Number 98.

4 THE COURT: Hold on a second. South Coast
5 Commercial. All right. Let me go ahead and tell them.

6 END BENCH CONFERENCE.

7 THE COURT: Ladies and gentlemen, for those of you
8 that are out here, right here, I know you are sitting
9 here passive. What I am going to do is, if you would
10 like, ladies and gentlemen, you are free. And Al is
11 going to look at me like, I can't believe you're doing
12 that, but I don't want to make you all sit here. If you
13 don't need to speak with me in regards to hardship, you
14 are free to go refresh yourself. If you really need to
15 step out of the building for some fresh air, you are
16 free to. Please just don't go too far. Al will have to
17 track you down. We don't want to have to have him do
18 that right now.

19 So, ladies and gentlemen, if you would, just,
20 roughly, give me about 20 minutes or so. I'm hopeful --
21 it might be a little longer than that, but I don't want
22 to keep you all here, just sitting here. So, go about
23 your business, and then come on back in when you feel
24 comfortable.

25 Okay. And if you all would, just try to keep it

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1 down so we can continue. Thank you. Come on.

2 BAILIFF: Your Honor, Juror 143, Ms. Krystin Cook.

3 Thank you.

4 ON-THE-RECORD BENCH CONFERENCE,

5 OUT OF HEARING OF JURORS:

6 THE COURT: How are you?

7 JUROR NUMBER 143: I'm good. How are you?

8 THE COURT: Nice to meet you.

9 JUROR NUMBER 143: Nice to meet you. Okay.

10 THE COURT: You're good.

11 JUROR NUMBER 143: I was just worried, I don't have
12 a driver's license, so I would have to rely solely on my
13 husband.

14 THE COURT: I can have somebody carry you to and
15 from here.

16 JUROR NUMBER 143: Oh. Okay. That's --

17 THE COURT: Is that okay with you?

18 JUROR NUMBER 143: Yeah.

19 THE COURT: Where do you live?

20 JUROR NUMBER 143: Bluffton.

21 THE COURT: Not a problem.

22 JUROR NUMBER 143: Okay.

23 THE COURT: I can make sure you can come and go.

24 JUROR NUMBER 143: Okay.

25 THE COURT: I can make sure you can come and go.

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1 Not a problem. We'll make sure you get taken.

2 JUROR NUMBER 143: I just wanted to make sure. I
3 just couldn't afford it to come back and forth, that's
4 why.

5 THE COURT: I understand. Absolutely.

6 JUROR NUMBER 143: Okay. Well, then, I'm good. I
7 can go.

8 THE COURT: We're good to go, then. Thank you.

9 END BENCH CONFERENCE.

10 THE COURT: Number 143 is going to stay with us.
11 Go ahead.

12 BAILIFF: Your Honor, Juror Number 397, Ms. Logan.

13 THE COURT: Thank you.

14 BAILIFF: Thank you, Ms. Logan.

15 ON-THE-RECORD BENCH CONFERENCE,

16 OUT OF HEARING OF JURORS:

17 THE COURT: How are you?

18 JUROR NUMBER 397: Fine.

19 THE COURT: It's nice to meet you.

20 JUROR NUMBER 397: Nice to meet you, too.

21 THE COURT: Come on up.

22 JUROR NUMBER 397: My belief, I don't believe that
23 we should judge anyone, or you know, do a punishment. I
24 mean, I feel like that's up to God. And also, I have
25 five children from the ages of five to six, that two of

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1 my children have after-school activities.

2 THE COURT: Um-hmm.

3 JUROR NUMBER 397: And I don't have anyone to pick
4 them up or anything.

5 THE COURT: Um-hmm.

6 JUROR NUMBER 397: So.

7 THE COURT: Okay. Okay. So, you pick up your
8 children at what time?

9 JUROR NUMBER 397: My son, between 4:00 and 4:30.

10 THE COURT: Okay.

11 JUROR NUMBER 397: At Battery Creek High.

12 THE COURT: Okay.

13 JUROR NUMBER 397: And my daughter between 4:00 and
14 5:00.

15 THE COURT: Okay. And you attend God's House of
16 Prayer for All People.

17 JUROR NUMBER 397: Yes, ma'am.

18 THE COURT: Is their affiliation as far as a
19 specific type of religion or?

20 JUROR NUMBER 397: It's non-denominational.

21 THE COURT: It's non-denominational.

22 JUROR NUMBER 397: But we don't believe in judging
23 or, you know, we don't believe that we should have the
24 control of what would happen with someone's life.

25 THE COURT: Okay. So, my question would be is, in

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1 this case, if you were to hear all of the evidence and
2 make a determination, you are not comfortable judging
3 whether or not someone is innocent --

4 JUROR NUMBER 397: Guilty.

5 THE COURT: -- or innocent of a crime?

6 JUROR NUMBER 397: No, ma'am, I'm not.

7 THE COURT: Okay. Okay. All right, ma'am. I'm
8 going to go ahead and excuse you, but thank you for
9 being here.

10 JUROR NUMBER 397: Okay.

11 END BENCH CONFERENCE.

12 THE COURT: Thank you. Number 397 is excused.
13 Okay. There we go.

14 BAILIFF: Your Honor, 509, Ms. Piontek Clark.
15 Thank you, ma'am.

16 ON-THE-RECORD BENCH CONFERENCE,

17 OUT OF HEARING OF JURORS:

18 THE COURT: How are you? So nice to meet you.

19 JUROR NUMBER 509: How are you?

20 THE COURT: Good.

21 JUROR NUMBER 509: My concern was, I'm 32 weeks
22 pregnant.

23 THE COURT: Okay.

24 JUROR NUMBER 509: And I was diagnosed with
25 gestational diabetes.

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1 THE COURT: Okay.

2 JUROR NUMBER 509: I'm having weekly fetal
3 monitoring and blood work --

4 THE COURT: Right. Okay.

5 JUROR NUMBER 509: -- on Wednesdays.

6 THE COURT: Okay.

7 JUROR NUMBER 509: So, that's --

8 THE COURT: Is it local or where do you go?

9 JUROR NUMBER 509: In Bluffton.

10 THE COURT: You go in Bluffton. Okay.

11 JUROR NUMBER 509: I just don't want to get sick.

12 THE COURT: And I don't want to pry, but who -- do
13 you mind telling me who your doctor is?

14 JUROR NUMBER 509: Dr. Price.

15 THE COURT: Okay. And the reason why I simply ask
16 that is because I can certainly work around that, and
17 maybe help you get whatever you need at a particular
18 time that would work. Other than that, do you feel okay
19 and are you comfortable to stay?

20 JUROR NUMBER 509: It's just I get sick.

21 THE COURT: As long as I can -- are you nauseous?

22 JUROR NUMBER 509: Nauseated every so often.

23 THE COURT: You are. Okay.

24 JUROR NUMBER 509: I mean, it just happens. It's
25 just been these last couple weeks --

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1 THE COURT: Okay. Okay.

2 JUROR NUMBER 509: -- when I got diagnosed --

3 THE COURT: Okay.

4 JUROR NUMBER 509: -- and my sugar was high. And
5 I've been trying to keep that under control.

6 THE COURT: Okay. Are you being put on bed rest or
7 anything else?

8 JUROR NUMBER 509: That's -- not yet.

9 THE COURT: Okay.

10 MR. MCGUIRE: I hate to interrupt, but we might be
11 able to save you some time.

12 THE COURT: Good.

13 MR. MCGUIRE: Based on some other information in
14 her questionnaire, --

15 THE COURT: Okay.

16 MR. MCGUIRE: -- pursuant to our agreement to
17 excuse her, --

18 THE COURT: Perfect.

19 MR. MCGUIRE: -- I think she can be excused.

20 THE COURT: All right. We'll go ahead and excuse
21 you. Thank you. I appreciate it.

22 THE COURT: Number 509 is excused. And jump in,
23 you all.

24 MR. THORNTON: Let's just double check. I'm not
25 sure, but I think she's a Type 1.

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1 THE COURT: Oh. Did we miss it?

2 MR. MCGUIRE: She may have filled it out today.

3 THE COURT: Oh. Okay.

4 MR. MCGUIRE: We have a couple of them filled out
5 today.

6 THE COURT: Okay.

7 MR. MCGUIRE: We just haven't been able to catch
8 up.

9 THE COURT: Yeah. Okay.

10 MR. THORNTON: Yeah, she would be --

11 THE COURT: Okay. Thank you. Okay.

12 END BENCH CONFERENCE.

13 THE COURT: Okay.

14 BAILIFF: Number 55, Ms. Blackshear, your Honor.

15 THE COURT: Thank you.

16 ON-THE-RECORD BENCH CONFERENCE,

17 OUT OF HEARING OF JURORS:

18 THE COURT: How are you?

19 JUROR NUMBER 55: I'm fine.

20 THE COURT: So nice to meet you.

21 JUROR NUMBER 55: You, too.

22 THE COURT: Thank you. All right.

23 JUROR NUMBER 55: I don't want to be juror in this,
24 because I knew the victim. I actually attended wake
25 services. And my mom got killed in this county, and my

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1 family ain't get no justice out of it, so I don't have
2 no rights being a jury here. And I did put that in
3 there, but I did --

4 THE COURT: I appreciate that.

5 JUROR NUMBER 55: I knew -- I knew the victim
6 really well.

7 THE COURT: Okay. All right. I'm going to go
8 ahead and excuse you from the trial of the case. But I
9 appreciate you being here.

10 JUROR NUMBER 55: Thank you.

11 THE COURT: And thank you for your candor. All
12 right?

13 JUROR NUMBER 55: Okay.

14 THE COURT: Thank you. You are excused.

15 END BENCH CONFERENCE.

16 THE COURT: Number 55 is excused.

17 BAILIFF: Your Honor, 613, Mr. Sweet.

18 THE COURT: Okay.

19 BAILIFF: Thank you, sir.

20 ON-THE-RECORD BENCH CONFERENCE,

21 OUT OF HEARING OF JURORS:

22 THE COURT: How are you, sir?

23 JUROR NUMBER 613: I'm doing fine.

24 THE COURT: Nice to meet you.

25 JUROR NUMBER 613: I'm sorry to be difficult, but I

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1 own Bay South Insurance Agency. We're a small agency,
2 and I'm the only licensed agent that's currently there.

3 THE COURT: Um-hmm.

4 JUROR NUMBER 613: So, my absence, you know, based
5 on South Carolina guidelines, would prohibit us from
6 conducting business.

7 THE COURT: Okay.

8 JUROR NUMBER 613: Because it does require that a
9 licensed agent be present.

10 THE COURT: Okay. Okay. I am going to go ahead
11 and excuse you from the trial, but I appreciate it.

12 JUROR NUMBER 613: Okay. Okay.

13 THE COURT: And it sounds to me like we can't even
14 transfer you, because you may probably continue to have
15 the same problem, unless you get another licensed agent.

16 JUROR NUMBER 613: That's just it. We're in
17 between unemployment right now, and I'm working on
18 training some people.

19 THE COURT: Okay.

20 JUROR NUMBER 613: So, hopefully, if it runs up
21 again, we'll have somebody that can -- can work for me
22 while I'm away.

23 THE COURT: Very good.

24 JUROR NUMBER 613: I appreciate it.

25 THE COURT: Well, we'll look for you again. Thank

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1 you, sir.

2 JUROR NUMBER 613: Thank you so much.

3 THE COURT: Thank you, sir. I appreciate it.

4 THE COURT: He's excused. He is Type 1.

5 MR. MCGUIRE: Yeah.

6 END BENCH CONFERENCE.

7 BAILIFF: Juror Number 1, Mr. Adams.

8 THE COURT: Thank you.

9 ON-THE-RECORD BENCH CONFERENCE,

10 OUT OF HEARING OF JURORS:

11 THE COURT: Pleasure, sir.

12 JUROR NUMBER 1: Good to meet you. Thank you.

13 THE COURT: You, too. Very much. All right. So,
14 what can I do for you?

15 JUROR NUMBER 1: I'd like to speak to you about
16 several things. I was honored to serve my civic duty on
17 the 30th of last month as a juror for magistrate court.
18 I was actually in court. However, it was several days
19 after my return from Boston for a wedding, my
20 girlfriend's daughter got married, so this is a matter
21 of timing. I'm a small business owner. I'm responsible
22 for the daily operations from that for businesses around
23 South Carolina, --

24 THE COURT: Okay.

25 JUROR NUMBER 1: -- which represents about 250

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1 people, individuals.

2 THE COURT: Okay.

3 JUROR NUMBER 1: All of my employees are 1099, and
4 they're not able to conduct daily business, as I have to
5 be there for it.

6 THE COURT: Okay. Okay. All right.

7 JUROR NUMBER 1: And with that schedule, we
8 schedule events --

9 THE COURT: Right.

10 JUROR NUMBER 1: -- to happen, starting after I
11 return.

12 THE COURT: Okay.

13 JUROR NUMBER 1: It's my fault. I thought the
14 summons was a repeat of the summons for --

15 THE COURT: Oh, for Magistrate's court.

16 JUROR NUMBER 1: So, I thought it was a different
17 summons.

18 THE COURT: Okay.

19 JUROR NUMBER 1: And now it's --

20 THE COURT: Okay. Okay.

21 JUROR NUMBER 1: And that's my fault. I'm sorry.

22 THE COURT: Okay. All right. What I'm going to
23 ask you to do is this, if you're all right. I
24 understand your hardship and I appreciate it. I have to
25 have enough people that are willing and able to try this

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1 case. I want you to sit tight with me, and if I can
2 accommodate you, I'm going to accommodate you. Okay?

3 JUROR NUMBER 1: I thank you so much.

4 THE COURT: And I know you need it, but again, I
5 have to take everyone up, and I'm weighing, again, with
6 everyone else. And I apologize that I have to do that,
7 as well. I understand your situation, certainly, and
8 again, I will do what I can.

9 JUROR NUMBER 1: I'm sorry, you didn't get a chance
10 to review my questionnaire any longer than you did.

11 THE COURT: That's okay. No, that's okay. I
12 looked at most of it. That's all right. You also are
13 acquaintances with the deceased. Okay. All right. So,
14 how did you know Ms. Mullen?

15 JUROR NUMBER 1: No, no, not Ms. Mullen. I think
16 I'm relatives of Mr. Daise.

17 THE COURT: Okay. Okay. You said that that's how
18 you worked with Natalie something and her husband. And
19 you also indicated, though, that you are an acquaintance
20 of Ms. Mullen.

21 JUROR NUMBER 1: Through other educators.

22 THE COURT: Through other -- okay. Okay. Because
23 -- okay.

24 JUROR NUMBER 1: I do not -- I do not know Ms.
25 Mullen, no.

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1 THE COURT: You did not know her personally?

2 JUROR NUMBER 1: No, no, no, no.

3 THE COURT: Okay. Okay. So, you worked with --
4 how, is -- is it Natalie and her husband? What's the
5 last name?

6 JUROR NUMBER 1: Daise. Natalie Daise.

7 THE COURT: Daise, I apologize. Okay. And that is
8 Mr. Daise's sister?

9 JUROR NUMBER 1: I don't think they're sisters and
10 brother.

11 THE COURT: Okay.

12 JUROR NUMBER 1: I suspect that they're related,
13 here in Beaufort.

14 THE COURT: In some way, shape, or form.

15 JUROR NUMBER 1: Right.

16 THE COURT: And I'm going to tell you, I don't know
17 the answer to that, so let me do this. If you don't
18 mind, let me speak with the attorneys. Is there
19 anything else on your questionnaire that I need to look
20 at? I will tell you, typically, when we go through
21 these, I go through them thoroughly when we talk to you
22 individually, so I have not come through this yet.

23 JUROR NUMBER 1: I understand.

24 THE COURT: And I would at that point. But is
25 there anything else on here that you need to tell me

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1 that you think affects your ability to serve?

2 JUROR NUMBER 1: My father is a Baptist minister.

3 THE COURT: Okay.

4 JUROR NUMBER 1: And academically, I think I'm
5 probably weigh --

6 THE COURT: Right.

7 JUROR NUMBER 1: -- the justice, the burden
8 definitely. But being on the jury and having to say,
9 there might pose some problems for me.

10 THE COURT: Okay. Let me tell you what I want you
11 to do, if you don't mind. I want you to stay with us.
12 I think I'm going to have to have you come back.
13 We're going to have to talk to you just a little bit
14 further, and we're going to have to, obviously, talk
15 about that, what you would and would not be able to do,
16 and whether or not you could sit on a jury in this case.
17 But I think it's something that needs to be a longer
18 conversation than right this moment with all these
19 people, if you don't mind.

20 JUROR NUMBER 1: I understand.

21 THE COURT: Is that all right with you?

22 JUROR NUMBER 1: Certainly.

23 THE COURT: And we'll be back with you, but I'm
24 going to ask right now that you stay with us. Okay?

25 JUROR NUMBER 1: All right.

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1 THE COURT: Thank you. I appreciate it, sir.

2 JUROR NUMBER 1: Thank you.

3 END BENCH CONFERENCE.

4 ON-THE-RECORD BENCH CONFERENCE,

5 OUT OF HEARING OF ALL JURORS:

6 THE COURT: Okay. Is he any relation or not?

7 MR. MCGUIRE: No.

8 THE COURT: Okay. Okay. Thank you. Okay.

9 END BENCH CONFERENCE.

10 THE COURT: Yes, sir?

11 BAILIFF: Your Honor, 659, Ms. Washington.

12 ON-THE-RECORD BENCH CONFERENCE,

13 OUT OF HEARING OF JURORS:

14 THE COURT: Okay. Hey, Ms. Washington. Good to
15 see you again, ma'am. All right.

16 JUROR NUMBER 659: I was realizing that I'm the one
17 who drive my son to school every day. We live in
18 Bluffton, and he's sent to his school.

19 THE COURT: Um-hmm.

20 JUROR NUMBER 659: I also have my niece with me,
21 and he's not able to ride the bus, because we didn't pay
22 for the bus.

23 THE COURT: Okay.

24 JUROR NUMBER 659: So, I can -- my boss travel all
25 the time.

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1 THE COURT: Okay.

2 JUROR NUMBER 659: Actually, my -- my -- his wife's
3 leaving next week, and she's not going to be there for
4 one week, and I can't -- I can't leave my son with them,
5 and my niece.

6 THE COURT: You can't leave your son and your niece
7 with them.

8 JUROR NUMBER 659: No. No. It's just -- it's too
9 much on him, two weeks.

10 THE COURT: Okay.

11 JUROR NUMBER 659: And I -- I'm not prepare. I
12 mean, --

13 THE COURT: Okay.

14 JUROR NUMBER 659: You can bring me for next year.

15 THE COURT: Okay. What I'm going to do it this.
16 I'm going to ask that you stay with us for right now,
17 and let me see what I can do. If I can accommodate you,
18 I will. But at this time, I need to be able to have
19 enough jurors to pull. So, I'm going to ask you to stay
20 with us. And if I can excuse you, I will, but I will
21 let you know a little later in time. Okay? Thank you.

22 ON-THE-RECORD BENCH CONFERENCE,

23 OUT OF HEARING OF JURORS.

24 THE COURT: Do you all have any position on this?
25 She looks like she's ready to cry.

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1 MR. MCGUIRE: We'll just leave it to you.

2 THE COURT: Okay. All right. We're going to go
3 ahead and just excuse her and be done with it. Okay.
4 Okay.

5 COURT REPORTER: Is it -- is it --

6 THE COURT: 659. That's Ms. Washington.

7 COURT REPORTER: I really can't hear everybody.
8 Okay?

9 THE COURT: I'm sorry.

10 COURT REPORTER: So, I mean, --

11 MADAM CLERK: 659.

12 COURT REPORTER: Okay.

13 THE COURT: All right. Okay.

14 COURT REPORTER: So, I just want to --

15 THE COURT: Where did Ms. Washington go?

16 BAILIFF: She went out in the hall, Judge.

17 THE COURT: That's fine. That's fine. All right.

18 END BENCH CONFERENCE.

19 THE COURT: Go ahead and -- Bob.

20 BAILIFF: Your Honor, Juror Number 473, Ms. Negron.

21 ON-THE-RECORD BENCH CONFERENCE,

22 OUT OF HEARING OF JURORS:

23 THE COURT: How are you? Pleasure. Thank you.

24 Come on close to me. I'm sorry.

25 JUROR NUMBER 473: Our son has been and is still

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1 friends with Earnest Daise. They started going to
2 school together in seventh grade, all the way through
3 high school. He spent many weekends at my house with my
4 family and many holidays and things like that.

5 BAILIFF: Remember, we're still in order.

6 JUROR NUMBER 473: I'm just concerned that I
7 wouldn't be able to -- neither one of us would be able
8 to sit and -- and be partial, and give a -- an honest
9 opinion on the case.

10 THE COURT: Okay. And you simply do not feel
11 comfortable.

12 JUROR NUMBER 473: No.

13 THE COURT: Okay.

14 JUROR NUMBER 473: Because when I look at them, I
15 see that -- that little boy, you know.

16 THE COURT: I understand.

17 JUROR NUMBER 473: So.

18 THE COURT: Okay. All right. Well, I appreciate
19 it. I will excuse you. Thank you.

20 JUROR NUMBER 473: Thank you.

21 END BENCH CONFERENCE.

22 THE COURT: Okay.

23 BAILIFF: Your Honor Number 472, Mr. Negron.

24 THE COURT: Okay.

25 BAILIFF: Thank you, sir.

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1 ON-THE-RECORD BENCH CONFERENCE,

2 OUT OF HEARING OF JURORS:

3 THE COURT: Okay.

4 JUROR NUMBER 472: Good afternoon, your Honor.

5 THE COURT: Yes, sir.

6 JUROR NUMBER 472: I go with the same story she
7 does.

8 THE COURT: All right.

9 JUROR NUMBER 472: I've known him since he was
10 little there.

11 THE COURT: I understand.

12 JUROR NUMBER 472: And I just can't be impartial.

13 THE COURT: I understand, sir. Thank you. I
14 appreciate it. You're excused. Thank you.

15 JUROR NUMBER 472: Thank you.

16 END BENCH CONFERENCE.

17 BAILIFF: Your Honor, Number 86, Mr. Bryan. Thank
18 you.

19 ON-THE-RECORD BENCH CONFERENCE,

20 OUT OF HEARING OF JURORS:

21 THE COURT: How are you, Mr. Bryan? Come on up.

22 JUROR NUMBER 86: Yes.

23 THE COURT: Yes, sir.

24 JUROR NUMBER 86: Um-hmm. I don't know how. I
25 know the family, the Frank family.

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1 THE COURT: You know whose family?

2 JUROR NUMBER 86: Frank Mullen.

3 THE COURT: Okay.

4 JUROR NUMBER 86: And I've known all the family.
5 So, I just, you know, and I just don't believe that, I
6 mean, I know they got to be justice. Justice got to be
7 done, but I just, you know, I just -- it's hard for me
8 to have to get into that, you know?

9 THE COURT: Okay.

10 JUROR NUMBER 86: And I just --

11 THE COURT: Okay. So, how close do you know Frank
12 Mullen?

13 JUROR NUMBER 86: I know Frank since '72.

14 THE COURT: All right. Well, would you socialize
15 or?

16 JUROR NUMBER 86: Well, we work on the same job --
17 different job together.

18 THE COURT: Okay. You work with him.

19 JUROR NUMBER 86: Yes, ma'am.

20 THE COURT: Okay. Okay. Okay. And you don't want
21 to sit on this case?

22 JUROR NUMBER 86: I really don't.

23 THE COURT: Okay. You just can't be fair and
24 impartial?

25 JUROR NUMBER 86: I just can't.

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1 THE COURT: Okay. I see on your questionnaire that
2 you wrote on here that you don't believe in the death
3 penalty.

4 JUROR NUMBER 86: Right. Yes, ma'am.

5 THE COURT: Are you telling me that you can't sit
6 and listen to the evidence in this case; and then, sit
7 and listen to all the circumstances in the case, and
8 make a decision based on what you hear?

9 JUROR NUMBER 86: Yeah, well, I understand that,
10 too. But I wouldn't want to, if I don't have to. Yes,
11 ma'am.

12 THE COURT: Okay. All right.

13 MR. MCGUIRE: He's Type 1.

14 MR. STONE: I don't believe he's a Type 1.

15 THE COURT: He didn't -- he didn't -- he just said
16 -- I think we need to go ahead and excuse him. It cuts
17 both ways. Quite frankly, he is close to Frank
18 Mullen. I really think that it's a problem. So, give
19 me a sec. What's your number again, sir? I apologize.

20 JUROR NUMBER 86: 86.

21 THE COURT: Okay. I'm going to go -- what?

22 MR. MCGUIRE: We'd actually ask --

23 THE COURT: Him come back?

24 MR. MCGUIRE: -- he be in the sit-tight category.

25 THE COURT: Okay. Mr. Bryan, let me do this.

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1 JUROR NUMBER 86: Um-hmm.

2 THE COURT: What we're going to do is, we're going
3 to bring you all back and ask more in-depth questions,
4 and just kind of find out a little more.

5 JUROR NUMBER 86: Okay.

6 THE COURT: I think we need a little bit more
7 information. I certainly appreciate the situation
8 you're in.

9 JUROR NUMBER 86: Okay.

10 THE COURT: I appreciate that you know the
11 deceased's father and that you've worked with him, --

12 JUROR NUMBER 86: Yes.

13 THE COURT: -- and that, you know, also, you have
14 certain views on the death penalty, and we appreciate
15 that. And we just need an opportunity to talk to you a
16 little more about that, if that's all right with you.

17 JUROR NUMBER 86: Okay.

18 THE COURT: Okay. So, I'm going to ask you to stay
19 with us. Okay?

20 JUROR NUMBER 86: Okay.

21 THE COURT: Thank you. I appreciate it, Mr. Bryan.

22 END BENCH CONFERENCE.

23 THE COURT: Okay. All right.

24 BAILIFF: Your Honor, 233, Mr. Fleming. Thank you,
25 sir.

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1 ON-THE-RECORD BENCH CONFERENCE,

2 OUT OF HEARING OF JURORS:

3 THE COURT: How are you, sir?

4 JUROR NUMBER 233: I'm fine, your Honor.

5 THE COURT: It's nice to meet you.

6 JUROR NUMBER 233: Nice to meet you.

7 THE COURT: Come on up.

8 JUROR NUMBER 233: I apologize for being in line,
9 but my job, I'm a seasonal -- my job is very seasonal.

10 THE COURT: Um-hmm.

11 JUROR NUMBER 233: And it starts the first of
12 March.

13 THE COURT: Okay.

14 JUROR NUMBER 233: And really runs through the end
15 of October.

16 THE COURT: Okay.

17 JUROR NUMBER 233: And with the exception of the
18 Christmas week and a few days around Thanksgiving, that
19 is my opportunity to make my annual income.

20 THE COURT: Okay.

21 JUROR NUMBER 233: And I'm very, very busy in
22 October. And if this was November, December, January,
23 or February, I mean, I'm happy to do my civic duty. I'm
24 happy to do it, if you could allow me to do this now.
25 But I've got just a limited, another few weeks to

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1 squirrel away my nuts.

2 THE COURT: Okay.

3 JUROR NUMBER 233: Then, I would --

4 THE COURT: All right. Let me -- yeah.

5 JUROR NUMBER 233: -- be of service.

6 THE COURT: Mr. Fleming, I have a number of people
7 that have financial hardships that I appreciate and
8 understand work-wise, and I think you fall into that
9 category. Additionally, I appreciate that you are more
10 of a seasonal worker, so this is really that much more
11 important for you, because you don't have 52 weeks out
12 of the year. So, if you don't mind staying with me,
13 just until I make sure I have enough people, then, there
14 is an opportunity that I may be able to let you go. But
15 again, right now, I have got to keep you, because I have
16 to treat you all the same.

17 JUROR NUMBER 233: I understand.

18 THE COURT: Do you understand?

19 JUROR NUMBER 233: I understand.

20 THE COURT: But I appreciate it. And let me see,
21 I'm going to do the best I can for you. Okay?

22 JUROR NUMBER 233: Thank you, your Honor.

23 THE COURT: Absolutely. Okay. Okay, let me see
24 what number that is again, 233. Okay.

25 END BENCH CONFERENCE.

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1 BAILIFF: 578, Mr. Smalls.
2 ON-THE-RECORD BENCH CONFERENCE,
3 OUT OF HEARING OF JURORS:
4 THE COURT: How are you, Mr. Smalls?
5 JUROR NUMBER 578: I'm doing great.
6 THE COURT: Good to see you again, sir. Thank you.
7 JUROR NUMBER 578: Quick question I want to ask
8 you.
9 THE COURT: Of course.
10 JUROR NUMBER 578: It would be a comfort to me, --
11 THE COURT: Or course. --
12 JUROR NUMBER 578: -- because I got it on my
13 application. I know him.
14 THE COURT: You know him.
15 JUROR NUMBER 578: Father of the deceased.
16 THE COURT: Okay. Mr. Mullen.
17 JUROR NUMBER 578: Mr. Mullen..
18 THE COURT: Okay.
19 JUROR NUMBER 578: He's a friend of mine. I know
20 him.
21 THE COURT: How close of a friend were you?
22 JUROR NUMBER 578: Well, see, when I -- when I used
23 to work the Marine Corp, he used to do stucco with me,
24 and he used to come in and make up stuff.
25 THE COURT: Okay.

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1 JUROR NUMBER 578: And so, we would began to know
2 one another well and acquainted with one another well.

3 THE COURT: Okay.

4 JUROR NUMBER 578: That's how I get to know him.

5 THE COURT: Okay.

6 JUROR NUMBER 578: Yeah.

7 THE COURT: Okay.

8 JUROR NUMBER 578: And it's another question I want
9 to ask is this capital punishment, if it's improper for
10 me to ask that question?

11 THE COURT: Pardon?

12 JUROR NUMBER 578: You know, is this is a death
13 penalty?

14 THE COURT: Right. That is appropriate, and I see
15 that you circled that you were a Type 2 juror, and I
16 certainly understand that.

17 JUROR NUMBER 578: It's my belief and --

18 THE COURT: Right. Okay, sir. I'm going to go
19 ahead and excuse you from the trial of the case, but I
20 appreciate it.

21 JUROR NUMBER 578: see, I -- I'm not trying to get
22 away from it, you know. You understand?

23 THE COURT: I understand that. I understand that.

24 JUROR NUMBER 578: Yeah. Yeah.

25 THE COURT: Okay. We'll go ahead, and thank you.

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1 JUROR NUMBER 578: Okay. Thank you, ma'am.

2 THE COURT: Okay. You're excused. Thank you.

3 JUROR NUMBER 578: Okay. Thank you, ma'am.

4 THE COURT: I just want to go ahead and put on the
5 record that he had circled he was a Type 2, and to treat
6 everyone the same, we're going to --

7 MR. MCGUIRE: Sure.

8 THE COURT: Okay.

9 END BENCH CONFERENCE.

10 THE COURT: Yes, sir.

11 BAILIFF: Your Honor, 308, Mr. Herron.

12 ON-THE-RECORD BENCH CONFERENCE,

13 OUT OF HEARING OF JURORS:

14 THE COURT: How are you, sir?

15 JUROR NUMBER 308: Fine.

16 THE COURT: Pleasure.

17 JUROR NUMBER 308: My problem is, is that my wife
18 is disabled, and she was disabled from a brain tumor,
19 and it, consequently, affected her memory, as well as
20 some of the motor functions.

21 THE COURT: Okay.

22 JUROR NUMBER 308: With that in mind, you know, so,
23 I'm her primary caregiver, basically.

24 THE COURT: Okay. Okay.

25 JUROR NUMBER 308: Complicating the whole issue is

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1 that she was just recently diagnosed with breast cancer.

2 THE COURT: Okay.

3 JUROR NUMBER 308: Had the -- had the -- we had the
4 surgery.

5 THE COURT: Um-hmm.

6 JUROR NUMBER 308: We just finished the radiation,
7 and we're lined up with more tests, MRIs. And
8 basically, I need to be with her. I'm in contact with
9 her pretty regularly throughout the whole day.

10 THE COURT: Okay.

11 JUROR NUMBER 308: You know, I make her food. I
12 make sure she has everything she needs.

13 THE COURT:

14 JUROR NUMBER 308: And I need to be at the doctor's
15 appointments when they set them up, which she's got a
16 couple of them coming up.

17 THE COURT: Okay. Okay. Where do you work?

18 JUROR NUMBER 308: I'm in Bluffton.

19 THE COURT: Okay.

20 JUROR NUMBER 308: My biggest concern is being out
21 of contact and being this distance away.

22 THE COURT: Let me ask you this. If you weren't
23 worried about being able to contact her and, you know,
24 speak with her, and I understand that you can't bring a
25 cell phone in here, but If I could get access to phones,

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1 and that you could check on her during the day; and that
2 also, she had the ability to call up here if there was
3 any emergency whatsoever, and I could get you
4 immediately, which I can certainly do, would that make
5 you feel more comfortable and able?

6 JUROR NUMBER 308: It would. The only thing that
7 concerns me is that we've got a -- an MRI and a -- a
8 another breast exam --

9 THE COURT: Okay.

10 JUROR NUMBER 308: -- set up for within the next
11 two weeks.

12 THE COURT: Do you know when they're scheduled?

13 JUROR NUMBER 308: And they have -- well, we just
14 met with the radiologist Friday, so they haven't given
15 it to me yet.

16 THE COURT: Okay. Okay.

17 MR. MCQUIRE: (Shook head.)

18 THE COURT: You're fine?

19 MR. MCGUIRE: (Shook head.)

20 THE COURT: Okay. All right. We're going to go
21 ahead and excuse you, but I appreciate it. Go home and
22 take care of your wife.

23 JUROR NUMBER 308: Thank you.

24 THE COURT: And I wish her the best of luck.

25 JUROR NUMBER 308: Thank you so much.

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1 THE COURT: Thank you. Okay. Number 308 is
2 excused. Okay.

3 END BENCH CONFERENCE.

4 BAILIFF: 548, Ms. Sampson, your Honor.

5 ON-THE-RECORD BENCH CONFERENCE,

6 OUT OF HEARING OF JURORS:

7 THE COURT: How are you?

8 JUROR NUMBER 548: I'm fine.

9 THE COURT: Nice to meet you.

10 JUROR NUMBER 548: Nice to meet you, too.

11 THE COURT: Come on up.

12 JUROR NUMBER 548: I have a few conflicting things.
13 The first issue is that I have no license, so my sister
14 had to take me today. But all my family works during
15 the day.

16 THE COURT: I can take care of that. If you need a
17 ride to the courthouse, we'll can take care of that.

18 JUROR NUMBER 548: Also, my grandmother, who I was
19 supposed to visit this weekend, is really, really sick,
20 deathly sick.

21 THE COURT: Okay.

22 JUROR NUMBER 548: I was supposed to go to North
23 Carolina, which I have it paid for, trip and everything.

24 THE COURT: Flight or?

25 JUROR NUMBER 548: No, we're driving, but we have,

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1 like, hotels, like, if you need the hotel information.

2 THE COURT: Right. Okay.

3 JUROR NUMBER 548: Or if you need to contact
4 somebody, there's a gentleman you can call, this guy
5 Mark Lee. He works for ESPN, and he can validate.

6 THE COURT: Okay. I would just need verification
7 from you.

8 JUROR NUMBER 548: Okay. Also, I work, like I
9 said, at Sake House.

10 THE COURT: Um-hmm.

11 JUROR NUMBER 548: And we're down some servers
12 right now.

13 THE COURT: Okay.

14 JUROR NUMBER 548: So, the manager and I are both
15 basically running it.

16 THE COURT: Um-hmm.

17 JUROR NUMBER 548: And I have a mandatory amount of
18 days I have to work, which I've never taken off the
19 whole entire time I've worked there.

20 THE COURT: Um-hmm.

21 JUROR NUMBER 548: So, in order for me to take off,
22 it would -- it would, like, it would mess up the
23 restaurant.

24 THE COURT: Um-hmm. Okay.

25 JUROR NUMBER 548: If that makes sense.

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1 THE COURT: It does. It does. Okay.

2 JUROR NUMBER 548: So, it's just --

3 THE COURT: Okay. Okay. When do you plan to go
4 see your grandmother? When were you all leaving?

5 JUROR NUMBER 548: We were going to leave tomorrow
6 night.

7 THE COURT: Okay.

8 JUROR NUMBER 548: Or maybe next weekend.

9 THE COURT: Or next weekend? Okay.

10 JUROR NUMBER 548: But I definitely was not
11 planning on being here since before I got the jury duty,
12 for tomorrow night until Monday morning. Also, my house
13 burned down, so the address you have there --

14 THE COURT: Um-hmm. Is not a proper address.

15 JUROR NUMBER 548: Hum-um.

16 THE COURT: Okay.

17 JUROR NUMBER 548: That was on August 7.

18 THE COURT: Okay. That was 141 Oaksdale. Okay.

19 JUROR NUMBER 548: No, the 2 -- the 220, that's the
20 address that I put down for mailing.

21 THE COURT: I apologize. Got it. Okay. I
22 apologize. Okay. Who lives at 141 Oaksdale? Do you?

23 JUROR NUMBER 548: My parents.

24 THE COURT: Your parents. Okay. How old are you?

25 JUROR NUMBER 548: Twenty.

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1 THE COURT: Okay. All right. Let me -- give me
2 just a moment. Sit tight with us. I might be able to
3 take care of you. I just need to see what I can work
4 out. If you do end up having to sit, we will work with
5 you as far as being able to get to your grandmother's
6 and do what you need to do. And I don't want you to
7 worry about transportation in the least bit. We can
8 take care of that. Okay?

9 JUROR NUMBER 548: Yes, ma'am.

10 THE COURT: All right. Thank you.

11 JUROR NUMBER 548: Thank you.

12 THE COURT: I appreciate it.

13 END BENCH CONFERENCE.

14 ON-THE-RECORD BENCH CONFERENCE,

15 OUT OF HEARING OF ALL JURORS.

16 THE COURT: All right. Come here. And that was a
17 litany of excuses. We have a litany of excuses, down to
18 the house burning down. So, what do you want to do? I
19 mean, that's pretty much like the last one that had so
20 many excuses, that, if they don't want to serve that
21 badly. Her boss --

22 MR. MCGUIRE: Yeah, I mean, she's middle of the
23 road.

24 THE COURT: Um-hmm.

25 MR. MCGUIRE: I mean, she's not for us, she's not

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1 for them.

2 THE COURT: I know.

3 MR. STONE: I don't care if she's excused. She
4 could come up with another excuse if you give her a few
5 more minutes.

6 THE COURT: Exactly.

7 MR. MCGUIRE: I mean, my guess is she's probably
8 renting the house that burned and in college right now,
9 and I'd say if it wasn't a huge setback for me, I'd keep
10 her around. I mean, she's going to -- she'll probably
11 be on the jury if you actually end up talking to her. I
12 mean, she's middle of the road, based on her
13 questionnaire.

14 MR. MACDOUGALL: I think I just -- I distinguish
15 her from the last gentleman who had a very sick wife.

16 THE COURT: Um-hmm.

17 MR. MACDOUGALL: This is just somebody that doesn't
18 want to be on the jury, and it's --

19 THE COURT: Right. No, I'm talking about the
20 gentleman that was a few back that we went ahead and
21 excused. It wasn't the man whose wife was sick and
22 disabled I'm talking about. It was a couple back that
23 we had, where there was just more and more and more, and
24 they just kept giving and trying so hard to get off,
25 that one.

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1 MR. MCGUIRE: Oh, Ms. Washington?

2 THE COURT: Yeah.. Yeah. So.

3 MR. MCGUIRE: And she was -- Ms. Washington was
4 also kind of, like, tearful, and said she was not
5 prepared, and it was all about kids.

6 THE COURT: Right.. Okay.

7 MR. MCGUIRE: I'd say this is distinguishable.

8 THE COURT: Okay. All right.

9 COURT REPORTER: What did you say?

10 THE COURT: All right. Well, -- it's
11 distinguishable.

12 MR. MCGUIRE: It's distinguishable.

13 THE COURT: He says it's distinguishable. We're
14 going to sit tight. We'll keep her, and we'll bring her
15 back and speak with her. Okay? Okay. Thank you.

16 END BENCH CONFERENCE.

17 THE COURT: Bob?

18 BAILIFF: Your Honor, 487, Ms. Olmstead.

19 ON-THE-RECORD BENCH CONFERENCE,

20 OUT OF HEARING OF JURORS:

21 THE COURT: I'm sorry. Give me a moment, if you
22 don't mind, Ms. Olmstead.

23 JUROR NUMBER 487: That's okay.

24 THE COURT: How are you?

25 JUROR NUMBER 487: Good, your Honor. Thank you.

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1 THE COURT: Okay. Yes?
2 JUROR NUMBER 487: Good to see you.
3 THE COURT: You work with Bob Going.
4 JUROR NUMBER 487: Yes, I do. Yes, I do.
5 THE COURT: Yes.
6 JUROR NUMBER 4887: I got a phone call. My brother
7 has been at MUSC. He has pancreatitis, and had surgery.
8 THE COURT: Okay.
9 JUROR NUMBER 487: And because he's indigent,
10 they're not -- he's not going to skilled nursing care.
11 THE COURT: Okay.
12 JUROR NUMBER 487: They're bringing -- my dad went
13 to get him today.
14 THE COURT: Okay.
15 JUROR NUMBER 487: So, he's coming to live with me.
16 THE COURT: Okay.
17 JUROR NUMBER 487: And he's got feeding tubes, I.V.
18 tubes, wound care.
19 THE COURT: Ms. Olmstead, let me ask you, when is
20 he -- when is he coming? When are they bringing him?
21 JUROR NUMBER 487: Today.
22 THE COURT: Okay.
23 JUROR NUMBER 487: So, he's coming today.
24 THE COURT: And where does your father live?
25 JUROR NUMBER 487: My dad lives in -- on Hilton

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1 Head.

2 THE COURT: He lives on Hilton Head?

3 JUROR NUMBER 487: In Palmetto Dunes.

4 THE COURT: Okay.

5 JUROR NUMBER 487: But they're 82 and 86, and they
6 call me all day long. They can babysit him, but they
7 can't do the medications. They can't know how to do the
8 I.V.s, and they don't --

9 THE COURT: Okay. Are you a former nurse?

10 JUROR NUMBER 487: Huh?

11 THE COURT: Are you a former nurse or?

12 JUROR NUMBER 487: No. No. But they -- the Home
13 Health came --

14 THE COURT: Okay.

15 JUROR NUMBER 487: -- and taught us how to do all
16 the stuff.

17 THE COURT: Okay. Okay.

18 JUROR NUMBER 487: But at their age, they can't do
19 it. I can do it, but I -- I would just go to work late
20 and do it at noon; and then, come home at dinnertime and
21 do things.

22 THE COURT: Okay. Ms. Olmstead, let me do this.
23 Let me -- and you have no one else that lives with you?
24 Is that correct?

25 JUROR NUMBER 487: My husband can help a little

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1 bit, yes.

2 THE COURT: Okay.

3 JUROR NUMBER 487: But he's -- he's older than I
4 am.

5 THE COURT: Okay.

6 JUROR NUMBER 487: He's 69, and he's okay with
7 medicine, but he's not great, but he's okay.

8 THE COURT: Okay. All right. Let me do this. I'm
9 going to ask that you stay with us for now.

10 JUROR NUMBER 487: Um-hmm.

11 THE COURT: And if I can accommodate you, I will.

12 JUROR NUMBER 487: Okay.

13 THE COURT: But let me speak with the lawyers.
14 Okay?

15 JUROR NUMBER 487: Well, that -- that's fine.

16 THE COURT: Okay? Okay.

17 JUROR NUMBER 487: If we can work something out, I
18 can --

19 THE COURT: Okay. All right. I appreciate that.

20 JUROR NUMBER 487: -- so I can take phone calls.

21 THE COURT: Well, that I can take care of. No
22 problem. If you can take -- yeah.

23 JUROR NUMBER 487: Maybe, that type of thing, so.

24 END BENCH CONFERENCE.

25 ON-THE-RECORD BENCH CONFERENCE,

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1 OUT OF HEARING OF ALL JURORS:

2 THE COURT: Okay. Anything else you need to ask
3 her?

4 MR. MCGUIRE: Nothing from us.

5 THE COURT: Nothing? Okay. Okay. All right.
6 Come here for a second, you all.

7 ON-THE-RECORD BENCH CONFERENCE,

8 OUT OF HEARING OF JURORS.

9 THE COURT: This lady, she sent a letter from her
10 boss, who I know. She's an administrative assistant. I
11 will say as an aside, that I tell everybody from someone
12 else that I know also works there, I'm told, she's crazy
13 as a Bess bug, and from what I consider to be not a
14 medical professional, but someone who's a reliable
15 source who knows her a lot, that she talks to herself.
16 And so, I give you that information for what it's worth.
17 I'm not going to excuse her, but you all have to make
18 the decision. I will bring her back. I can't make that
19 decision. So, I just want -- I'm giving that for your
20 edification, because I don't know if any of you all
21 would have that information, but I wanted to lay it out
22 there.

23 MR. MACDOUGALL: That's good information.

24 THE COURT: Okay. Just to tell you. That's why I
25 give it to everybody. Okay? So, I'm going to ask her

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1 to come back. Okay? All right, thank you. Okay.

2 END BENCH CONFERENCE.

3 THE COURT: Number 608.

4 BAILIFF: 608, Mr. Stroud, your Honor.

5 ON-THE-RECORD BENCH CONFERENCE,

6 OUT OF HEARING OF JURORS:

7 THE COURT: Come on up, Mr. Stroud. How are you,
8 sir?

9 JUROR NUMBER 608: Pretty good.

10 THE COURT: Pleasure.

11 JUROR NUMBER 608: My reasons are two-fold.

12 THE COURT: Yes, sir.

13 JUROR NUMBER 608: My wife just started working,
14 and I'm working, so I can't be out two weeks.

15 THE COURT: Okay.

16 JUROR NUMBER 608: I mean, I wouldn't mind a couple
17 days, --

18 THE COURT: Got it.

19 JUROR NUMBER 608: -- but I can't do two weeks.

20 And I'm impartial. You've got a bunch of high-priced
21 lawyers over there trying to save him. For all we know,
22 the mom and daddy mortgaged their house to save him.
23 But I just, you know, I feel like he's guilty.

24 THE COURT: Okay. And it sounds to me like you've
25 already formed an opinion, which is what you've said

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1 here.

2 JUROR NUMBER 608: Well, I saw something on the
3 news, but I didn't really form an opinion then.

4 THE COURT: Okay.

5 JUROR NUMBER 608: But then, looking, yeah, um-hmm,
6 yeah.

7 THE COURT: All right, sir. I will go ahead and
8 excuse you from the trial.

9 JUROR NUMBER 608: Okay.

10 THE COURT: Thank you.

11 JUROR NUMBER 608: Thank you.

12 END BENCH CONFERENCE.

13 THE COURT: All right. Come on, Bob.

14 BAILIFF: 135, Ms. Coleman, your Honor.

15 ON-THE-RECORD BENCH CONFERENCE,

16 OUT OF HEARING OF JURORS:

17 THE COURT: How are you?

18 JUROR NUMBER 135: Good afternoon, your Honor.

19 THE COURT: So nice to meet you. Pleasure. Thank
20 you. What can I do for you?

21 JUROR NUMBER 135: Well, as I introduced myself, I
22 explained that I'm a self-employed accountant.

23 THE COURT: Um-hmm.

24 JUROR NUMBER 135: I'm a single operator. I have
25 no staff.

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1 THE COURT: Okay.

2 JUROR NUMBER 135: I have no substitute. And
3 Tuesday is our last tax deadline of the year. I have
4 clients that I need to be available for Friday, Monday,
5 and Tuesday, in particular. I think it would pose a
6 hardship for them. I think it might cause eventual
7 devastation for my business, as well.

8 MR. MCGUIRE: I think there's some additional
9 information on the 1, 2, 3 question.

10 THE COURT: Got it. That would take care of it,
11 anyway. Okay.

12 MR. THORNTON: Yes, ma'am.

13 THE COURT: It is. All right. Well, I appreciate
14 it.

15 MR. MCGUIRE: There you go.

16 THE COURT: Yeah, there you go. You are excused.
17 Thank you.

18 END BENCH CONFERENCE.

19 THE COURT: Bob?

20 BAILIFF: 62, Mr. Bollinger. Thank you, sir.

21 ON-THE-RECORD BENCH CONFERENCE,

22 OUT OF HEARING OF JURORS:

23 THE COURT: How are you? Nice to meet you.

24 JUROR NUMBER 62: Hi.

25 THE COURT: Thank you.

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1 JUROR NUMBER 62: Nice to meet you. I'm currently
2 the electrical foreman over at the Lone Cove Clubhouse.

3 COURT REPORTER: I'm sorry. I can't hear you.

4 THE COURT: You're currently the electrical foreman
5 at the --

6 JUROR NUMBER 62: Electrical foreman at the
7 electrical -- or, Lone Cove Clubhouse on the Island.

8 THE COURT: Okay.

9 JUROR NUMBER 62: And I have six employees that
10 need my supervision throughout the duration of this
11 project.

12 THE COURT: Okay. What are you all doing at the
13 clubhouse right now? I don't even know. I haven't been
14 in there.

15 JUROR NUMBER 62: It's -- it was a new addition
16 that was added on.

17 THE COURT: Okay.

18 JUROR NUMBER 62: It's about 14,000 square feet,
19 and they're in the final stages, and --

20 THE COURT: Okay. Okay.

21 JUROR NUMBER 62: They really need my direction to
22 finish on time.

23 THE COURT: Okay. Let me tell you, I appreciate
24 that.

25 JUROR NUMBER 62: Plus, my bonus, too.

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1 THE COURT: And if I can accommodate you, I will.
2 But I can tell you, as of right now, I have a lot of
3 people- similarly situated.

4 JUROR NUMBER 62: Um-hmm.

5 THE COURT: I need to hang onto you.

6 JUROR NUMBER 62: Okay.

7 THE COURT: And we'll ask you some more questions
8 further. Again, if I can accommodate you, I will. If I
9 need you, I'm going to have to call on you.

10 JUROR NUMBER 62: Okay.

11 THE COURT: I just want to make sure you understand
12 that, but I appreciate that, certainly.

13 JUROR NUMBER 62: Okay.

14 THE COURT: And we'll do what we can. Okay?

15 JUROR NUMBER 62: I appreciate that.

16 THE COURT: Thank you. Okay.

17 JUROR NUMBER 62: I appreciate it. Thanks.

18 THE COURT: Okay. Thank you. Okay. Will you go
19 ahead and -- I'm just going to keep this, actually, if
20 you don't mind.

21 END BENCH CONFERENCE.

22 THE COURT: Thank you, Bob. Whenever you're ready.

23 BAILIFF: Your Honor, Number 69, Ms. Bradley.

24 THE COURT: Okay.

25 BAILIFF: Thank you, ma'am.

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1 THE COURT: And that line is getting shorter.
2 ON-THE-RECORD BENCH CONFERENCE,
3 OUT OF HEARING OF JURORS:
4 THE COURT: Good to see you, ma'am. How are you?
5 JUROR NUMBER 69: I'm good. I have to go get my
6 baby off the bus. I've got a Down's Syndrome one. I
7 don't feel comfortable standing in front of --
8 THE COURT: That's all right. How old is your
9 child?
10 JUROR NUMBER 69: She's six.
11 THE COURT: She's six? Where does she go to
12 school?
13 JUROR NUMBER 69: At Saint Helena.
14 THE COURT: At Saint Helena. All right. What time
15 does she get home off from the bus?
16 JUROR NUMBER 69: Her bus come at 4:00.
17 THE COURT: Oh. Okay. So, do you need to get home
18 today? Do you have anyone picking her up today?
19 JUROR NUMBER 69: No, my mom only get them on
20 Fridays when she off.
21 THE COURT: Okay, but you didn't arrange for anyone
22 to go pick her up today?
23 JUROR NUMBER 69: Huh-uh, because I didn't know.
24 THE COURT: All right. And you pick her up every
25 day off the bus. Is that correct?

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1 JUROR NUMBER 69: Um-hmm. Yes, ma'am.

2 THE COURT: And you don't have -- your mama can't
3 cover her the rest of the week if I let you go now?

4 JUROR NUMBER 69: My mama don't get off 'til 7:00.

5 THE COURT: Okay. Your mom doesn't get off

6 JUROR NUMBER 69: Um-hmm.

7 THE COURT: So, you have no one else that can grab
8 that child?

9 JUROR NUMBER 69: No, ma'am.

10 THE COURT: All right, ma'am, I'm going to go ahead
11 and excuse you, but I appreciate you being here. Okay?

12 JUROR NUMBER 69: Thank you.

13 THE COURT: Thank you.

14 END BENCH CONFERENCE.

15 BAILIFF: 181, Mr. Delano.

16 ON-THE-RECORD BENCH CONFERENCE,

17 OUT OF HEARING OF JURORS:

18 THE COURT: How are you?

19 JUROR NUMBER 181: Hi, how are you?

20 THE COURT: Nice to meet you, sir.

21 JUROR NUMBER 181: Nice to meet you.

22 THE COURT: Thank you, sir.

23 JUROR NUMBER 181: I've got a couple of things.

24 THE COURT: Okay.

25 JUROR NUMBER 181: First, I'm not sure if I know a

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1 family member of the defendant. His last name's Daise?

2 THE COURT: Right.

3 JUROR NUMBER 181: I play basketball with a guy
4 named Eddie Daise. He's African-American, Hilton Head.

5 THE COURT: Don't think it's -- no relation. No
6 relation.

7 JUROR NUMBER 181: I figured I might as well bring
8 it up. Okay?

9 THE COURT: Okay. Thank you. Second, I promised
10 my wife I would bring it up. She's pregnant. She's
11 five months in.

12 THE COURT: Okay.

13 JUROR NUMBER 181: It's her first child. It's a
14 boy.

15 THE COURT: Aww.

16 JUROR NUMBER 181: And she's already been admitted
17 to the hospital once for complications --

18 THE COURT: Okay.

19 JUROR NUMBER 181: -- with a cyst on her ovary.

20 THE COURT: Okay.

21 JUROR NUMBER 181: Just -- she would have more
22 peace of mind if I was available. Obviously, I'd like
23 to be there.

24 THE COURT: Let me tell you this, and if this is
25 all right with you, you tell your wife that we all

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1 understand and appreciate it.

2 JUROR NUMBER 181: Um-hmm.

3 THE COURT: And I can say, and Wanda can say, that
4 we've personally been there.

5 JUROR NUMBER 181: Um-hmm.

6 THE COURT: So, this is what we're going to do. I
7 know you won't have a phone here, --

8 JUROR NUMBER 181: Um-hmm.

9 THE COURT: -- but what I will do is, I will give
10 your wife a direct line into my office --

11 JUROR NUMBER 181: Okay.

12 THE COURT: -- if you get sat as a juror.

13 JUROR NUMBER 181: Okay.

14 THE COURT: And that just means that they will be
15 on top of me, because my phone always gets answered.

16 JUROR NUMBER 181: Okay.

17 THE COURT: Just like my when my husband calls.
18 And I will get you, and if you need to go anywhere,
19 hospital, whatever, I promise you, we'll get you there,
20 and probably with a personal escort, quite quickly.

21 JUROR NUMBER 181: That's terrific.

22 THE COURT: Is that all right with you?

23 JUROR NUMBER 181: Perfectly fine.

24 THE COURT: Are you sure?

25 JUROR NUMBER 181: Absolutely.

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1 THE COURT: Okay. Tell her I don't want her to
2 worry in the least bit. Okay?

3 JUROR NUMBER 181: Okay. Thank you very much.

4 THE COURT: Congratulations. Absolutely. Thank
5 you for staying with us.

6 END BENCH CONFERENCE.

7 THE COURT: Okay. Okay..

8 BAILIFF: 246, Ms. Freeland.

9 ON-THE-RECORD BENCH CONFERENCE,

10 OUT OF HEARING OF JURORS:

11 THE COURT: How are you? Pleasure.

12 JUROR NUMBER 246: Good to see you.

13 THE COURT: You, too.

14 JUROR NUMBER 246: I am a clinical nurse specialist
15 and a manager of about a hundred employees.

16 THE COURT: This is at Hilton Head?

17 JUROR NUMBER 246: At Saint Joseph's, yes, ma'am.

18 THE COURT: Saint Joseph's. I apologize. Okay.

19 JUROR NUMBER 246: I certainly can find another
20 manager to cover, although I never had to for two weeks.

21 THE COURT: Okay.

22 JUROR NUMBER 246: But I am supposed to be leading
23 a team that is got training that starts Wednesday,
24 Thursday, and Friday of next week, so I wanted to bring
25 that up.

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1 THE COURT: Okay.

2 JUROR NUMBER 246: It's -- we are changing over for
3 a meaningful use at the hospital, and the new medi-tech
4 is coming in to train us on Wednesday, Thursday, and
5 Friday. And then, I'm supposed to lead the team, and
6 we're supposed to develop it over the next -- 'til
7 September 1st of 2014. On every Wednesday, I am going
8 to be involved in that, and I'm supposed to lead the
9 team, so that's a problem.

10 THE COURT: Okay. Let me do this. If it's okay
11 with you, I really need to keep you, and I apologize.
12 You know, you obviously work for someone that there are
13 other people that are available, and I've been treating
14 everyone the same, as far as work hardships are
15 concerned. What we're going to do is, I'm going to
16 bring you back to do further questioning. And if we are
17 able to release you, we will, of course, take this into
18 account, and I appreciate that, and I understand that,
19 and the attorneys do, too. But right now, I need you to
20 stay with us, if you're okay with that.

21 JUROR NUMBER 246: Okay.

22 THE COURT: Is that okay?

23 JUROR NUMBER 246: Um-hmm.

24 THE COURT: And again, thank you, and I've got it,
25 and we'll be talking to you more about it. Okay?

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1 JUROR NUMBER 246: Okay. Thank you.

2 THE COURT: Oh, I'm sorry. Thank you. Okay.

3 END BENCH CONFERENCE.

4 THE COURT: You okay, Wanda?

5 COURT REPORTER: Yes.

6 THE COURT: Okay.

7 BAILIFF: Your Honor, 664, Ms. Weddington.

8 ON-THE-RECORD BENCH CONFERENCE,

9 OUT OF HEARING OF JURORS:

10 THE COURT: Come on.

11 BAILIFF: Thank you, ma'am.

12 JUROR NUMBER 664: Thank you.

13 THE COURT: How are you?

14 JUROR NUMBER 664: Pleasure to meet you, your
15 Honor. So good to meet you.

16 THE COURT: Pleasure. You, too. Thank you, Ms.
17 Weddington.

18 JUROR NUMBER 664: Prior to the summons, I knew
19 nothing about the case, and I feel like I'm very
20 impartial, but I have to be honest and tell you that I'm
21 at Whale Branch Elementary.

22 THE COURT: Okay.

23 JUROR NUMBER 664: And I'm the media specialist.
24 Mrs. Mullen is the secretary at James Davis, which is
25 about five miles away.

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1 THE COURT: Okay.

2 JUROR NUMBER 664: They house our pre-K.

3 THE COURT: Okay.

4 JUROR NUMBER 664: And I know that the grandson
5 was at Whale Branch at one time, even though I was not
6 aware --

7 THE COURT: Okay.

8 JUROR NUMBER 664: -- of the relationship at the
9 time. But I just wanted to be honest with you.

10 THE COURT: I appreciate that, and I can tell you
11 we are going to have a question that is going to be
12 coming up when we personally talk to you, but I will go
13 ahead and start it right now.

14 JUROR NUMBER 664: Okay.

15 THE COURT: I understand that there has been media
16 coverage in this case, certainly, through the paper or
17 the news, and we all understand that.

18 JUROR NUMBER 664: Um-hmm.

19 THE COURT: What I need to know is that you can set
20 aside anything you may have read, seen, or heard, and
21 decide this case based on the facts as presented here in
22 the courtroom. Because as you and I know, stories will
23 be airing.

24 JUROR NUMBER 664: Yes.

25 THE COURT: And as you clearly understand that, and

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1 that you can't rely, and certainly should not.

2 JUROR NUMBER 664: Okay.

3 THE COURT: But you're going to have everything you
4 need to decide the case right here in this courtroom.

5 JUROR NUMBER 664: Yes, ma'am.

6 THE COURT: Do you understand that?

7 JUROR NUMBER 664: Yes, I do. Even the article
8 that was written the other day, I did not read it.

9 THE COURT: Okay.

10 JUROR NUMBER 664: I just felt like I needed to
11 remain impartial.

12 THE COURT: Well, I appreciate that. Thank you
13 very much.

14 JUROR NUMBER 664: I wanted to be honest.

15 THE COURT: Thank you. And I appreciate the
16 candor, and we'll see you coming back.

17 JUROR NUMBER 664: Thank you so much.

18 THE COURT: Thank you.

19 MR. MCGUIRE: Actually, Judge --

20 THE COURT: Yes.

21 MR. MCGUIRE: -- do you mind if I ask a question
22 just in relationship, because that's something we --

23 THE COURT: Certainly. Certainly.

24 MR. MCGUIRE: And so, you would know Ms. Roberta
25 Mullen?

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1 JUROR NUMBER 664: We knew each other
2 professionally.

3 COURT REPORTER: I'm sorry.

4 THE COURT: I'm sorry.

5 COURT REPORTER: So, you know who?

6 MR. MCGUIRE: You know Ms. Roberta Mullen.

7 JUROR NUMBER 664: She's been at a couple of our
8 staff meetings, and I've had to call over and request
9 books before, but it's all professional.

10 MR. MCGUIRE: Sure.

11 JUROR NUMBER 664: I mean, --

12 MR. MCGUIRE: But you've actually spoken to her?

13 JUROR NUMBER 664: I've actually spoken to her.

14 MR. MCGUIRE: I see.

15 THE COURT: Have you had her to your home or
16 anything like this?

17 JUROR NUMBER 664: No. She actually, though, did
18 call my office and state that I was on the list because
19 you had the wrong address.

20 THE COURT: Okay.

21 JUROR NUMBER 664: And she advised me to call the
22 Clerk of Court.

23 THE COURT: Okay. So, she saw your name on the
24 juror list.

25 JUROR NUMBER 664: Yes.

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1 THE COURT: Okay.

2 JUROR NUMBER 664: Just wanted to be honest about
3 that.

4 THE COURT: Okay.

5 JUROR NUMBER 664: Although, we don't have any
6 relationship.

7 THE COURT: Okay. Okay. All right. I appreciate
8 that. If you will give us a moment.

9 JUROR NUMBER 664: Okay.

10 THE COURT: Okay?

11 JUROR NUMBER 644: Thank you so much.

12 END BENCH CONFERENCE.

13 ON-THE-RECORD BENCH CONFERENCE,

14 OUT OF HEARING OF ALL JURORS:

15 MR. MCGUIRE: We're going to ask that she be
16 allowed to go.

17 THE COURT: Yeah. Okay. Well, we're going to go
18 ahead and excuse her. It's Number 664.

19 END BENCH CONFERENCE.

20 BAILIFF: Number 570, Ms. Simmons.

21 ON-THE-RECORD BENCH CONFERENCE,

22 OUT OF HEARING OF JURORS:

23 THE COURT: How are you?

24 JUROR NUMBER 570: I am doing very, very well.

25 THE COURT: Pleasure to meet you.

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1 JUROR NUMBER 570: Honor to meet you, too.

2 THE COURT: You, too.

3 JUROR NUMBER 570: Number one, I would love to stay
4 here and do my part, but my only problem is that I work
5 for New Generations.

6 THE COURT: Um-hmm.

7 JUROR NUMBER 570: And they did send a nurse to
8 cover my patient for today and tomorrow.

9 THE COURT: Okay.

10 JUROR NUMBER 570: But they will not cover -- they
11 will not send a nurse to cover me if it's two weeks.

12 THE COURT: Okay.

13 JUROR NUMBER 570: And so, --

14 THE COURT: Do you just sit for one specific person
15 or?

16 JUROR NUMBER 570: Yeah, I sit for a quadriplegic
17 from 7:30 'til 12:30.

18 THE COURT: Okay.

19 JUROR NUMBER 570: And they are not going to pay me
20 to be on jury duty or anything like that.

21 THE COURT: Okay. Okay.

22 JUROR NUMBER 570: And so.

23 THE COURT: Okay. Is there a reason why -- New
24 Generations, is that a company that actually has a
25 number --

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1 JUROR NUMBER 570: It's a home health --

2 THE COURT: Is there a number of caregivers that
3 work there?

4 JUROR NUMBER 570: Yeah, there is, and there's PRN
5 nurses.

6 THE COURT: Is there any reason why they can't send
7 someone else?

8 JUROR NUMBER 570: And the nurse that they sent
9 that was there yesterday is questionable. I don't know
10 if I want her there.

11 THE COURT: Right.

12 JUROR NUMBER 570: But that's my -- that's my only
13 concern.

14 THE COURT: That's your only concern. Okay.

15 JUROR NUMBER 570: You know?

16 THE COURT: Well, let me ask you this. Would it
17 also -- because if you don't work, you don't get paid?

18 JUROR NUMBER 570: That's -- yeah, um-hmm.

19 THE COURT: That would create a financial hardship
20 for you, as well?

21 JUROR NUMBER 570: Yeah, um-hmm. Um-hmm.

22 THE COURT: Okay.

23 JUROR NUMBER 570: Because I'm just my sole
24 support.

25 THE COURT: Your sole, okay. Okay.

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1 JUROR NUMBER 570: But I would love to. I would
2 love to stay here. But.

3 THE COURT: Well, let me do this, Ms. Simmons. If
4 you don't mind, I have other people who are similarly
5 situated, and I'm trying to do my best for them to see
6 what I can do. But as of right now, I need to keep you
7 with me.

8 JUROR NUMBER 570: Okay.

9 THE COURT: And I certainly understand your
10 situation, and if I can assist you, I will.

11 JUROR NUMBER 570: Thank you.

12 THE COURT: But as of right now, I need to make
13 sure I have enough jurors --

14 JUROR NUMBER 570: Okay.

15 THE COURT: -- to go ahead and take care of this
16 case. Do you mind just staying with us?

17 JUROR NUMBER 570: Sure.

18 THE COURT: And again, if there's any issue with
19 your employer, I certainly can talk to them or help you
20 with them.

21 JUROR NUMBER 570: Okay.

22 THE COURT: I appreciate it. So, just stay with us
23 for right now.

24 JUROR NUMBER 570: Okay. Thank you very much.

25 THE COURT: Okay. Thank you. I appreciate it.

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1 Okay.

2 END BENCH CONFERENCE.

3 BAILIFF: Your Honor, 218, Dr. Fanning.

4 ON-THE-RECORD BENCH CONFERENCE,

5 OUT OF HEARING OF JURORS:

6 THE COURT: Another dentist.

7 JUROR NUMBER 218: Yeah.

8 THE COURT: How are you, sir?

9 JUROR NUMBER 218: Fine. Thank you.

10 THE COURT: What can I do for you?

11 JUROR NUMBER 218: I just wanted to state my
12 position that I'm -- I'm a sole practitioner in a
13 general dental practice, --

14 THE COURT: Um-hmm.

15 JUROR NUMBER 218: -- and don't have any, you know,
16 relief for my practice, so.

17 THE COURT: Okay. I can tell you that I have many
18 people that are similarly situated; that they don't have
19 coverage; their business will have to close or shut
20 down; which is what it sounds like the situation you are
21 in while we're here. What I am going to do is this.
22 I'm going to have you, if you will, sit tight with us.
23 Let me see if I need you. If I don't need you, I can
24 accommodate your request. If not, I can tell you as of
25 right now, I do not know.

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1 JUROR NUMBER 218: Okay.

2 THE COURT: To be honest with you.

3 JUROR NUMBER 218: All right.

4 THE COURT: So, again, sit tight. If, again, I can
5 help you, I will. Okay?

6 JUROR NUMBER 218: All right. Thank you.

7 THE COURT: All right. Thank you, Dr. Fanning.

8 JUROR NUMBER 218: Um-hmm.

9 END BENCH CONFERENCE.

10 BAILIFF: Your Honor, 61, Mr. Boes. Thank you,
11 sir.

12 ON-THE-RECORD BENCH CONFERENCE,

13 OUT OF HEARING OF JURORS:

14 THE COURT: Mr. Boes, I'm going to be able to go
15 ahead and excuse you from the trial in this case, but I
16 appreciate it. Okay?

17 JUROR NUMBER 61: Thank you.

18 THE COURT: Thank you, sir.

19 END BENCH CONFERENCE.

20 THE COURT: Number 61 is excused.

21 BAILIFF: 669, Mr. White, your Honor.

22 ON-THE-RECORD BENCH CONFERENCE,

23 OUT OF HEARING OF JURORS:

24 THE COURT: Okay. Can I have Mr. White. Is that
25 Mr. White? Okay. Thank you. How are you, sir?

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1 JUROR NUMBER 669: How are you, ma'am?

2 THE COURT: Pleasure.

3 JUROR NUMBER 669: How are you? Okay.

4 THE COURT: Thank you.

5 JUROR NUMBER 669: I will be very brief.

6 THE COURT: Yes, sir.

7 JUROR NUMBER 669: I think women are the most
8 beautiful creature on Earth. I love children, and I
9 hate guns. I despise guns. That's as brief as I can
10 put it.

11 THE COURT: Okay. You're telling me you just can't
12 sit and be fair and impartial in the trial of this case?

13 JUROR NUMBER 669: I'm not saying to that point,
14 but I just let you know how I feel.

15 THE COURT: Okay. Do you feel like you are able to
16 sit in judgment on this case?

17 JUROR NUMBER 669: Probably.

18 THE COURT: You do, because you do indicate that
19 you're what we call a Type 3 juror, which means you
20 would listen to all the evidence.

21 JUROR NUMBER 669: Yes, ma'am.

22 THE COURT: Weigh it, and that means that, if you
23 would, listen to everything fairly during the guilt
24 phase or innocence phase; and that, if we did get to a
25 penalty phase, that you could sometimes consider life

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1 and sometimes consider death, if you thought it was
2 appropriate, based on the circumstances. Is that a fair
3 statement?

4 JUROR NUMBER 669: Yes, it is.

5 THE COURT: That is a fair statement. All right.
6 And you, again, would not be impartial, one way or the
7 other. Is that correct?

8 JUROR NUMBER 669: No ma'am.

9 THE COURT: Okay. All right. It's not correct?

10 JUROR NUMBER 669: I just expressed to you how I
11 feel about, but I don't know the evidence.

12 THE COURT: And I appreciate that.

13 JUROR NUMBER 669: You know the what, the where,
14 the when, or any of that.

15 THE COURT: Right. And no one knows that yet, of
16 course. But I want to make sure that you could fairly
17 sit and hear the case and decide it, based on what you
18 hear in the Court.

19 JUROR NUMBER 669: Yes, your Honor, I can.

20 THE COURT: Are you comfortable doing that?

21 JUROR NUMBER 669: Yes, I can.

22 THE COURT: All right. Mr. White, I'm going to ask
23 you to stay with us. Okay?

24 JUROR NUMBER 669: Yes, ma'am.

25 THE COURT: Thank you, sir.

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1 JUROR NUMBER 669: Thank you for your time &
2 patience.

3 THE COURT: Thank you. Thank you, sir.

4 END BENCH CONFERENCE.

5 THE COURT: Okay.

6 BAILIFF: Your Honor, 272, Mr. Greene.

7 ON-THE-RECORD BENCH CONFERENCE,

8 OUT OF HEARING OF JURORS:

9 THE COURT: Thank you. Mr. Greene, so nice to meet
10 you, sir.

11 JUROR NUMBER 272: Nice to meet you.

12 THE COURT: Come on up.

13 JUROR NUMBER 272: I feel, just, like, the judging,
14 things like that, you know, if you already feel like
15 there's a little synopsis that you're not sure, like, if
16 you put aside everything, especially the facts --

17 THE COURT: Um-hmm.

18 JUROR NUMBER 272: -- and then there comes this
19 part and question.

20 THE COURT: And that's fine. And absolutely, I'm
21 glad you came up. In this case, obviously, there's two
22 parts to this trial. Obviously, Mr. Daise is charged
23 with murder, and the first phase in the case is just
24 going to be the decision of the jury to decide whether
25 or not he is innocent or guilty. If it was a guilty

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1 verdict, then, we would go to what's called the
2 sentencing phase, where you would listen to information
3 and mitigation circumstances. And your job—would be,
4 what you have to do is be able to either vote for life
5 or vote for death, based on what you hear during that
6 sentencing phase. And the evidence that's placed before
7 you, you have to be able to consider both sides.

8 JUROR NUMBER 272: Right.

9 THE COURT: And once you're heard the facts and
10 circumstances, be able to, you know, speak about your
11 feelings and render a judgment. And no one would expect
12 you right now to have any feelings one way or the other,
13 because you know nothing about this case. So, I just
14 want to make sure you feel comfortable that you can make
15 that kind of decision. But again, you have to be able
16 to know you can be fair and impartial to both the State
17 and the Defense in this case.

18 JUROR NUMBER 272: If it involves the right to be
19 sentencing another, like predisposed. Are you asking
20 me --

21 COURT REPORTER: I'm sorry. I can't hear you.

22 JUROR NUMBER 272: Predisposition.

23 THE COURT: Right, predisposed. Well, I can tell
24 you that you indicated in your questionnaire that you
25 are what's called a Type 3 juror; that you could listen

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1 to all the evidence and make a decision based on all the
2 evidence, and hearing all the facts, all the
3 circumstances, all of the mitigation. I'm inclined to
4 have you come back.

5 JUROR NUMBER 272: Okay.

6 THE COURT: And we're going to talk to you further.
7 The lawyers are going to have an opportunity to ask you
8 questions, just you, --

9 JUROR NUMBER 272: Okay.

10 THE COURT: -- about your feelings about the death
11 penalty. And that way, we'll have a better
12 conversation, we'll all have a better idea --

13 JUROR NUMBER 272: Okay.

14 THE COURT: -- of what you feel comfortable with.
15 I mean, if you tell me that you are always one way or
16 the other, then, we need to talk about that, and have a
17 concern about that. But I think we need an opportunity
18 to talk with you. Is that all right with you?

19 JUROR NUMBER 272: Yeah. There's only one other
20 part.

21 THE COURT: Yeah.

22 JUROR NUMBER 272: Obviously, with jobs, things
23 like that, pretty much I'm paycheck to paycheck.

24 THE COURT: Okay. What do you do again, Mr.
25 Greene?

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1 JUROR NUMBER 272: I'm a golf professional.

2 THE COURT: Okay.

3 JUROR NUMBER 272: So, this is the busiest time of
4 year.

5 THE COURT: Okay. Okay. Are you married?

6 JUROR NUMBER 272: No.

7 THE COURT: No? Okay. Let me do this. I have a
8 lot of people similarly situated. I understand that it
9 is golf season right now. I want you to stay with us.

10 JUROR NUMBER 272: Okay.

11 THE COURT: I want you to come back and talk with
12 us further. I want you to bring up again that you are
13 concerned --

14 JUROR NUMBER 272: Okay.

15 THE COURT: -- about living paycheck to paycheck.
16 And we'll also talk to you some more about this case and
17 the death penalty. And then, we'll see what we can do.
18 Okay?

19 JUROR NUMBER 272: All right.

20 THE COURT: But I appreciate it. Thank you.

21 JUROR NUMBER 272: Thank you.

22 THE COURT: All right.

23 END BENCH CONFERENCE.

24 BAILIFF: 408, Mr. Maroudas, your Honor.

25 ON-THE-RECORD BENCH CONFERENCE,

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1 OUT OF HEARING OF JURORS:

2 THE COURT: Nice to meet you.

3 JUROR NUMBER 408: It's very nice to meet you.

4 THE COURT: Pleasure. What can I do for you?

5 MR. THORNTON: What number was that?

6 JUROR NUMBER 408: I'm --

7 THE COURT: This is Number 408.

8 MR. THORNTON: Thank you, ma'am.

9 THE COURT: Yes.

10 JUROR NUMBER 408: I'm currently under contract to
11 buy a commercial piece of real estate in Bluffton.

12 THE COURT: Okay.

13 JUROR NUMBER 408: That makes two problems. First
14 of all, we're right in the middle of the due diligence
15 process.

16 THE COURT: Um-hmm.

17 JUROR NUMBER 408: I feel if I miss two weeks of
18 the due diligence process, I will not be able to make an
19 educated decision on whether to buy the property or not.

20 THE COURT: Okay.

21 JUROR NUMBER 408: The other thing it does to me,
22 which is more important to you guys, is I don't -- if
23 I'm here, I worry about my mind being someplace else,
24 worrying about what else is going on during that period.

25 THE COURT: Okay. Okay. Don't you also -- you're

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1 at Red Fish, correct?

2 JUROR NUMBER 408: Um-hmm.

3 THE COURT: One of the owners of Red Fish?

4 JUROR NUMBER 408: Yes, ma'am.

5 THE COURT: Okay.

6 JUROR NUMBER 408: Which has its own
7 responsibilities.

8 THE COURT: I understand that, too. Okay. Do you
9 have someone working with you doing the due diligence on
10 the place you're going to buy?

11 JUROR NUMBER 408: I do have a partner, but you
12 know, --

13 THE COURT: Okay.

14 JUROR NUMBER 408: -- it's, you know, unless you're
15 doing it yourself, it's not getting done.

16 THE COURT: I understand. Forgive me. You don't
17 have to disclose it, but who is your partner on that?

18 JUROR NUMBER 408: Rick Peterson.

19 THE COURT: Okay. Okay. All right. And I ask
20 that just so I know, because I think I know many of the
21 people that work with your group.

22 JUROR NUMBER 408: Um-hmm.

23 THE COURT: So. Okay. Let me tell you, I
24 understand and appreciate this is a bad time. What I'm
25 going to ask you to do is this. I want you to stay with

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1 me for right now.

2 JUROR NUMBER 408: Okay.

3 THE COURT: We're going to have you come back, and
4 we're going to ask you further questions. If I can
5 excuse you, I will. I just need to know that I have
6 enough people here --

7 JUROR NUMBER 408: Okay.

8 THE COURT: -- to be able to make the case go
9 forward.

10 JUROR NUMBER 408: Okay.

11 THE COURT: And I just want you to understand that.

12 JUROR NUMBER 408: Appreciate your time.

13 THE COURT: So, I will do my best to do that.
14 Absolutely. Thank you, sir.

15 JUROR NUMBER 408: Thank you very much. I
16 appreciate it.

17 THE COURT: I appreciate it. Okay. Okay.

18 END BENCH CONFERENCE.

19 BAILIFF: Number 479, Ms. Nix, your Honor.

20 ON-THE-RECORD BENCH CONFERENCE,

21 OUT OF HEARING OF JURORS:

22 THE COURT: Hi. You're my person that missed
23 service by a month.

24 JUROR NUMBER 479: Yes.

25 THE COURT: Okay. Yes, ma'am.

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1 JUROR NUMBER 479: What it is, I know some of the
2 members of the victims' family.

3 THE COURT: Okay. Who do you know?

4 JUROR NUMBER 479: I know some of the aunts.

5 THE COURT: Okay. Can you name them for me?

6 JUROR NUMBER 479: I only know them by nickname. I
7 know they're --

8 THE COURT: That's fine.

9 JUROR NUMBER 479: Because I --

10 THE COURT: Tell me what their nicknames are.

11 JUROR NUMBER 479: Cookie.

12 THE COURT: Okay.

13 JUROR NUMBER 479: One of the aunt's name is
14 Gloria. I think they're great aunts, really.

15 THE COURT: Okay. And when you say you know them,
16 are you friends with them or social acquaintance?

17 JUROR NUMBER 479: Friends. Friends.

18 THE COURT: Okay. And when you say *friends*, is it
19 just someone you wave to and say hello, or do you go to
20 supper with them, or have them over to your home?

21 JUROR NUMBER 479: I just wave at them if I see
22 them in the street, and a couple of them I went to
23 school with.

24 THE COURT: Okay.

25 JUROR NUMBER 479: Cookie, I went to school with

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1 her.

2 THE COURT: Okay.. How long has it been since
3 you've seen those women?

4 JUROR NUMBER 479: Well, actually, I ride the bus
5 with Cookie, because we go to public transit on Hilton
6 Head together.

7 THE COURT: Okay. So, you talk to her almost every
8 day?

9 JUROR NUMBER 479: Yeah, and one of her aunts, I
10 see every time I go to Walmart.

11 THE COURT: Okay. Okay.

12 JUROR NUMBER 479: And I also may be, somewhere
13 down the lane, related to the defendant.

14 THE COURT: You think you might be related.

15 THE COURT: I'm not sure. My mother says we are.

16 THE COURT: Really?

17 JUROR NUMBER 479: Yeah.

18 THE COURT: Okay. Okay. All right. And I see
19 you've already put in that you already formed a verdict
20 in this case.

21 JUROR NUMBER 479: Yeah. Yeah.

22 THE COURT: What is the basis of that opinion?

23 JUROR NUMBER 479: Just about me knowing everybody
24 that's involved, all the family members and stuff.

25 THE COURT: Okay.

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1 JUROR NUMBER 479: I mean, I, of course, I wasn't
2 actually there, so, you know, but in my mind, I have.

3 THE COURT: Okay. You don't think you can set that
4 aside and listen to this case?

5 JUROR NUMBER 479: No, ma'am.

6 THE COURT: All right, Ms. Nix. I am going to go
7 ahead and excuse you.

8 JUROR NUMBER 479: Okay.

9 THE COURT: All right. Thank you.

10 END BENCH CONFERENCE. Yes, sir.

11 BAILIFF: Number 269, Ms. Gray, your Honor.

12 ON-THE-RECORD BENCH CONFERENCE,

13 OUT OF HEARING OF JURORS:

14 THE COURT: Okay. How are you?

15 JUROR NUMBER 269: I'm good. How are you?

16 THE COURT: Pleasure. Thank you.

17 JUROR NUMBER 269: I've been sitting here
18 listening. I -- I could not, would not, and will not
19 sentence anyone. I do not believe in the death penalty.
20 I could sit here for 40 years and listen to the
21 evidence, --

22 THE COURT: Um-hmm.

23 JUROR NUMBER 269: -- but I just -- I couldn't.

24 THE COURT: Okay.

25 JUROR NUMBER 269: I indicated I couldn't. I said

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1 I may be able to --

2 THE COURT: Okay. Yeah.

3 JUROR NUMBER 269: -- I might believe in my heart
4 that we should, but I could not be able to check a mark
5 that said -- it just goes against --

6 THE COURT: Okay. And that would be the question
7 that I would have to ask you is, in the end, you know.
8 Obviously, there is a -- there is two parts to this
9 trial. There is the guilt and innocence phase. And
10 then, there's the sentencing phase. And you would be
11 required to, if the jury all unanimously agreed, to sign
12 your name.

13 JUROR NUMBER 269: I can't.

14 THE COURT: You cannot do that? Okay.

15 JUROR NUMBER 269: I tried to sit here and think if
16 I could, you know, but there's just no --

17 THE COURT: Okay.

18 JUROR NUMBER 269: -- no matter what I heard that I
19 would be able.

20 THE COURT: You couldn't just consider it, even if
21 I ordered you that this is the law and you have to
22 accept and follow it.

23 JUROR NUMBER 269: I know, but -- but I can't in my
24 heart. It's just I cannot. It's just --

25 THE COURT: Okay.

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1 JUROR NUMBER 269: I've discussed it with my
2 husband. You know, it's just not something -- no matter
3 how -- it's not for me to decide death.

4 THE COURT: Okay.

5 JUROR NUMBER 269: I just can't.

6 THE COURT: Okay. All right.

7 JUROR NUMBER 269: I'm very sorry.

8 THE COURT: I'm going to go ahead and excuse you,
9 Ms. Gray. I appreciate that.

10 JUROR NUMBER 269: It would be at least not fair to
11 those --

12 THE COURT: No, no, no. You're fine. I appreciate
13 it.

14 JUROR NUMBER 269: I'm sorry.

15 THE COURT: Thank you.

16 END BENCH CONFERENCE.

17 THE COURT: Yes, sir.

18 BAILIFF: 433, Mr. McKenna.

19 ON-THE-RECORD BENCH CONFERENCE,

20 OUT OF HEARING OF JURORS:

21 THE COURT: How are you?

22 JUROR NUMBER 433: Pleased to meet you.

23 THE COURT: Pleasure, sir.

24 JUROR NUMBER 433: I have a question.

25 THE COURT: Yes.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

RECEIVED

Carmen T. Mullen, Circuit Court Judge

MAR 17 2016

Case No. 2009GS0702636, 2009GS0702637, 2009GS0702639,
2009GS0702594, 2009GS0702595
Appellate Case No. 2013-002394

SC Court of Appeals

The State, ... Respondent,

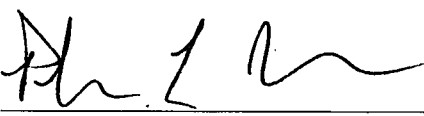
v.

Earnest Stewart Daise, ... Appellant.

CERTIFICATE OF COUNSEL

The undersigned certifies that the Record on Appeal contains all material
proposed to be included by any of the parties and not any other material.

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January 6, 2016

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

SC Court of Appeals
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APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

MAR 17 2016

Carmen T. Mullen, Circuit Court Judge

SC Court of Appeals

Case No. 2009GS0702636, 2009GS0702637, 2009GS0702639,
2009GS0702594, 2009GS0702595
Appellate Case No. 2013-002394

The State, ... Respondent,

v.

Earnest Stewart Daise, ... Appellant.

PROOF OF SERVICE

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Appellant, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

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Record on Appeal

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January 6, 2015