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S.C. Supreme Court

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM SUMTER COUNTY
Court of Common Pleas

Honorable Michael Nettles, Circuit Court Judge

Case No. 08-CP-43-00905
Appellate Case No. 2013-001968

BOBBY WAYNE STONE.....Petitioner,

v.

STATE OF SOUTH CAROLINA.....Respondent.

APPENDIX
VOLUME III OF XV

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INDEX

INDEX	i
RECORD ON APPEAL (First Trial 1997)	1
January 28, 1997 (Prepared by Kathleen M. Simmons)	5
Gary Metts (Cross by Littlejohn)	6
Peggy Kubala (Direct by Kolb)	7
Kevin Kubala (Direct by Kolb)	12
Fred Kubala (Direct by Kolb)	14
State's Exhibit #75 (Photo) entered into evidence	22
State's Exhibit #76 (Photo) entered into evidence	22
Leanna Crookshanks (Direct by Kolb)	26
Teresa Kubala (Direct by Kolb)	38
State's Exhibit #77 (Photo) entered into evidence	44
State's Exhibit #78 (Photo) entered into evidence	44
State's Exhibit #79 (Photo) entered into evidence	44
State's Exhibit #80 (Photo) entered into evidence	44
State's Exhibit #81 (Photo) entered into evidence	44
State's Exhibit #82 (Photo) entered into evidence	44
State's Exhibit #83 (Photo) entered into evidence	44
Dr. Harold Morgan (Direct by Littlejohn)	58
Dr. Harold Morgan (Cross by Kolb)	67
Dr. Harold Morgan (Redirect by Littlejohn)	71
Bernice Perry (Direct by Babb)	83
Bernice Perry (Cross by Kolb)	95
Bernice Perry (Redirect by Babb)	96
Tammy Windham (Direct by Babb)	97
Tammy Windham (Cross by Kolb)	101
Melinda Parrott (Direct by Babb)	102
Melinda Parrott (Cross by Kolb)	110
Michelle Lynch (Direct by Babb)	114
Mary Wilson (Direct by Babb)	116
Mary Wilson (Cross by Kolb)	119
Diane Renea Conner (Direct by Babb)	119
Diane Renea Conner (Cross by Kolb)	121
Teanne Oehler (Direct by Littlejohn)	122
Teanne Oehler (Cross by Kolb)	155
Jerry Hyatt (Direct by Littlejohn)	165
Defendant's Exhibit #8 (Checklist) entered into evidence	167
Defendant's Exhibit #9 (Checklist) entered into evidence	167
Defendant's Exhibit #10 (Checklist) entered into evidence	167
Defendant's Exhibit #11 (Checklist) entered into evidence	167
Defendant's Exhibit #12 (Copy of Two Photos) entered into evidence	170
Jerry Hyatt (Cross by Kolb)	171

Denise Lewis (Direct by Kolb)	184
Dr. John Dunlap (Direct by Kolb)	191
Charge of the Court	245
Verdict of the Jury	265
Sentence of the Court	269
January 20, 21 and 22, 1997 (Prepared by Virginia Roland)	272
General Jury Qualification	284
Preliminary Remarks	326
Case Qualification	334
Court's Exhibit #1 (Jury Information) marked for identification	369
Court's Exhibit #2 (Letter from Player) marked for identification	369
Court's Exhibit #3 (Juror Sheet) marked for identification	375
Ora Bowers (Questioning by the Court)	376
Ora Bowers (Questioning by Kolb)	383
Ora Bowers (Questioning by Littlejohn)	388
Vona H. Graham (Questioning by the Court)	395
Vona H. Graham (Questioning by Littlejohn)	397
Teresa I. McDaniel (Questioning by the Court)	400
Connie L. Keegan (Questioning by the Court)	404
Connie L. Keegan (Questioning by Kolb)	411
Connie L. Keegan (Questioning by Littlejohn)	413
Jean S. Pieterse (Questioning by the Court)	418
Jean S. Pieterse (Questioning by Kolb)	425
Jean S. Pieterse (Questioning by Babb)	426
Jean S. Pieterse (Questioning by the Court)	428
Cynthia H. Barnhill (Questioning by the Court)	430
Cynthia H. Barnhill (Questioning by Kolb)	431
Cynthia H. Barnhill (Questioning by Littlejohn)	434
Cynthia H. Barnhill (Questioning by the Court)	438
Cynthia H. Barnhill (Questioning by Kolb)	442
Emily W.B. Sweatman (Questioning by the Court)	446
Emily W.B. Sweatman (Questioning by Kolb)	454
Emily W.B. Sweatman (Questioning by Babb)	455
Barbara J. Stewart (Questioning by the Court)	459
Barbara J. Stewart (Questioning by Kolb)	467
Barbara J. Stewart (Questioning by Littlejohn)	473
Barbara J. Stewart (Questioning by the Court)	477
Krystal M. Radcliffe (Questioning by the Court)	480
Krystal M. Radcliffe (Questioning by Hilliard)	485
Krystal M. Radcliffe (Questioning by Babb)	486
Krystal M. Radcliffe (Questioning by the Court)	490
Brandon E. Cromer (Questioning by the Court)	492
Brandon E. Cromer (Questioning by Littlejohn)	494
Ladonna L. Jordan (Questioning by the Court)	497

Ladonna L. Jordan (Questioning by Hilliard)	502
Ladonna L. Jordan (Questioning by Babb)	505
Tamika A. Gardner (Questioning by the Court)	513
Tamika A. Gardner (Questioning by Williams)	520
Tamika A. Gardner (Questioning by Littlejohn)	521
Joyce H. Gann (Questioning by the Court)	525
Joann Walker (Questioning by the Court)	527
Joann Walker (Questioning by Williams)	535
Joann Walker (Questioning by Littlejohn)	537
Joann Walker (Questioning by the Court)	539
Roger Coles (Questioning by the Court)	543
Roger Coles (Questioning by Littlejohn)	547
Roger Coles (Questioning by Williams)	549
Shirley A. Legette (Questioning by the Court)	553
Shirley A. Legette (Questioning by Williams)	561
Shirley A. Legette (Questioning by Littlejohn)	562
Christopher L. Carroll (Questioning by the Court)	565
Christopher L. Carroll (Questioning by Williams)	570
Christopher L. Carroll (Questioning by Littlejohn)	571
Christopher L. Carroll (Questioning by the Court)	572
Walter L. Frank (Questioning by the Court)	575
Walter L. Frank (Questioning by Littlejohn)	578
Roy A. Goss (Questioning by the Court)	581
Roy A. Goss (Questioning by Kolb)	588
Roy A. Goss (Questioning by Babb)	591
Debra R. Semple (Questioning by the Court)	594
Debra R. Semple (Questioning by Kolb)	600
Debra R. Semple (Questioning by Littlejohn)	601
Janette M. Miller (Questioning by the Court)	603
Janette M. Miller (Questioning by Littlejohn)	606
Jeanetta E. Tindall (Questioning by the Court)	608
Jeanetta E. Tindall (Questioning by Littlejohn)	617
Jeanetta E. Tindall (Questioning by Williams)	620
John V. Singletary (Questioning by the Court)	623
John V. Singletary (Questioning by Kolb)	629
John V. Singletary (Questioning by Littlejohn)	630
David C. McConnell (Questioning by the Court)	634
David C. McConnell (Questioning by Littlejohn)	638
Herbert D. McClary (Questioning by the Court)	641
Herbert D. McClary (Questioning by Kolb)	648
Herbert D. McClary (Questioning by Littlejohn)	649
Donna M. Moss (Questioning by the Court)	655
Donna M. Moss (Questioning by Williams)	662
Donna M. Moss (Questioning by Littlejohn)	663
Sean P. O'Rear (Questioning by the Court)	672

Sean P. O'Rear (Questioning by Williams)	684
Sean P. O'Rear (Questioning by Babb)	685
Matthew Brunson (Questioning by the Court)	690
Matthew Brunson (Questioning by Williams)	696
Matthew Brunson (Questioning by Littlejohn)	699
Matthew Brunson (Questioning by the Court)	702
Matthew Brunson (Questioning by Littlejohn)	703
Betty J. Keesee (Questioning by the Court)	707
Betty J. Keesee (Questioning by Williams)	715
Betty J. Keesee (Questioning by Babb)	716
Joseph K. Gallegos (Questioning by the Court)	722
Joseph K. Gallegos (Questioning by Williams)	731
Joseph K. Gallegos (Questioning by Littlejohn)	733
Joseph K. Gallegos (Questioning by the Court)	735
Joseph K. Gallegos (Questioning by Littlejohn)	736
Ingrid V. Brown (Questioning by the Court)	741
Ingrid V. Brown (Questioning by Williams)	743
Ingrid V. Brown (Questioning by the Court)	745
Sadie M. Jenkins (Questioning by the Court)	748
Sadie M. Jenkins (Questioning by Williams)	754
Sadie M. Jenkins (Questioning by Littlejohn)	756
Dan E. Riegle (Questioning by the Court)	758
Dan E. Riegle (Questioning by Williams)	767
Dan E. Riegle (Questioning by Littlejohn)	770
Priscilla Ann Gore (Questioning by the Court)	774
Priscilla Ann Gore (Questioning by Kolb)	781
Priscilla Ann Gore (Questioning by Babb)	783
Cindy W. Jones (Questioning by the Court)	786
Cindy W. Jones (Questioning by Kolb)	793
Cindy W. Jones (Questioning by Babb)	794
Larry L. Roberts (Questioning by the Court)	798
Larry L. Roberts (Questioning by Kolb)	804
Larry L. Roberts (Questioning by Littlejohn)	804
Gene C. Bratcher (Questioning by the Court)	809
Gene C. Bratcher (Questioning by Kolb)	814
Gene C. Bratcher (Questioning by Babb)	816
Alton Cribb, Jr. (Questioning by the Court)	820
Alton Cribb, Jr. (Questioning by Kolb)	829
Alton Cribb, Jr. (Questioning by Littlejohn)	830
Alton Cribb, Jr. (Questioning by the Court)	834
Patrick M. Collins (Questioning by the Court)	838
Patrick M. Collins (Questioning by Williams)	847
Patrick M. Collins (Questioning by Babb)	850
George O. Phillips (Questioning by the Court)	855
George O. Phillips (Questioning by Kolb)	864

George O. Phillips (Questioning by Littlejohn)	867
George O. Phillips (Questioning by the Court)	868
Dan Lee Hurell (Questioning by the Court)	872
Dan Lee Hurell (Questioning by Kolb)	874
Dan Lee Hurell (Questioning by Babb)	879
Karen L. Graham (Questioning by the Court)	881
Karen L. Graham (Questioning by Kolb)	889
Karen L. Graham (Questioning by Littlejohn)	890
Neomie M. Jordan (Questioning by the Court)	893
Neomie M. Jordan (Questioning by Littlejohn)	896
Marlene C. Deacon (Questioning by the Court)	897
Marlene C. Deacon (Questioning by Kolb)	904
Marlene C. Deacon (Questioning by Littlejohn)	906
Amy White Condon (Questioning by the Court)	912
Amy White Condon (Questioning by Kolb)	919
Amy White Condon (Questioning by Babb)	919
Phillip K. Allen (Questioning by the Court)	926
Phillip K. Allen (Questioning by Kolb)	933
Phillip K. Allen (Questioning by Littlejohn)	934
Clydie B. Thompson (Questioning by the Court)	936
Clydie B. Thompson (Questioning by Williams)	944
Clydie B. Thompson (Questioning by Littlejohn)	945
Carolyn L. Montagne (Questioning by the Court)	947
Carolyn L. Montagne (Questioning by Kolb)	958
Carolyn L. Montagne (Questioning by Littlejohn)	961
Carolyn L. Montagne (Questioning by Kolb)	963
Carolyn L. Montagne (Questioning by the Court)	966
Cecil M. McGee (Questioning by the Court)	970
Cecil M. McGee (Questioning by Williams)	978
Cecil M. McGee (Questioning by Babb)	980
Cecil M. McGee (Questioning by the Court)	983
John K. Crotts (Questioning by the Court)	988
Edward R. Goude (Questioning by the Court)	994
Edward R. Goude (Questioning by Williams)	1002
Edward R. Goude (Questioning by Littlejohn)	1003
Eugenia Maybank (Questioning by the Court)	1006
Eugenia Maybank (Questioning by Kolb)	1017
Eugenia Maybank (Questioning by Babb)	1022
James D. Woodard (Questioning by the Court)	1026
James D. Woodard (Questioning by Kolb)	1032
James D. Woodard (Questioning by Babb)	1035
Glenn D. Yarborough (Questioning by the Court)	1038
Glenn D. Yarborough (Questioning by Kolb)	1050
Glenn D. Yarborough (Questioning by Babb)	1053
Glenn D. Yarborough (Questioning by the Court)	1055

Patricia A. Haynes (Questioning by the Court)	1058
Patricia A. Haynes (Questioning by Williams)	1061
Ruby E. Brockington (Questioning by the Court)	1064
Mary Armstrong (Questioning by the Court)	1070
Mary Armstrong (Questioning by Williams)	1078
Mary Armstrong (Questioning by Babb)	1081
Mary Armstrong (Questioning by the Court)	1083
Mary Armstrong (Questioning by Babb)	1084
Mary Armstrong (Questioning by Williams)	1085
Strike Jury	1099
Court's Exhibit #4 (Strike List) marked for identification	1110
Call Roll of Jury Pool	1115
Impanel Jury	1117
January 20-22, 1997 (Prepared by Debra R. Jernigan)	1123
Swearing of the Jury Pool	1125
Roll Call	1128
General Qualification	1142
Opening Remarks	1165
Ora Bowers (Questioning by the Court)	1205
Ora Bowers (Questioning by Kolb)	1213
Ora Bowers (Questioning by Littlejohn)	1218
Vona Graham (Questioning by the Court)	1224
Vona Graham (Questioning by Littlejohn)	1226
Teresa McDaniel (Questioning by the Court)	1229
Connie Keegan (Questioning by the Court)	1232
Connie Keegan (Questioning by Kolb)	1239
Connie Keegan (Questioning by Littlejohn)	1240
Jean Pieterse (Questioning by the Court)	1245
Jean Pieterse (Questioning by Kolb)	1251
Jean Pieterse (Questioning by Babb)	1252
Jean Pieterse (Questioning by the Court)	1254
Cynthia Barnhill (Questioning by the Court)	1256
Cynthia Barnhill (Questioning by Kolb)	1258
Cynthia Barnhill (Questioning by Littlejohn)	1260
Cynthia Barnhill (Questioning by the Court)	1264
Cynthia Barnhill (Questioning by Kolb)	1268
Emily Sweatman (Questioning by the Court)	1272
Emily Sweatman (Questioning by Kolb)	1280
Emily Sweatman (Questioning by Babb)	1281
Barbara Stewart (Questioning by the Court)	1285
Barbara Stewart (Questioning by Kolb)	1292
Barbara Stewart (Questioning by Littlejohn)	1298
Barbara Stewart (Questioning by the Court)	1302
Krystal Radcliffe (Questioning by the Court)	1304

Krystal Radcliffe (Questioning by Hilliard)	1309
Krystal Radcliffe (Questioning by Babb)	1311
Krystal Radcliffe (Questioning by the Court)	1314
Brandon Cromer (Questioning by the Court)	1315
Brandon Cromer (Questioning by Littlejohn)	1317
Ladonna Jordan (Questioning by the Court)	1319
Ladonna Jordan (Questioning by Hilliard)	1325
Ladonna Jordan (Questioning by Babb)	1327
Tamika Gardner (Questioning by the Court)	1330
Tamika Gardner (Questioning by Kolb)	1338
Tamika Gardner (Questioning by Littlejohn)	1339
Joyce Gann (Questioning by the Court)	1342
Joyce Gann (Questioning by Hilliard)	1350
Joyce Gann (Questioning by Babb)	1352
Joyce Gann (Questioning by Hilliard)	1354
Joyce Gann (Questioning by the Court)	1355
Richard Bourne (Questioning by the Court)	1355
Richard Bourne (Questioning by Kolb)	1361
Richard Bourne (Questioning by Littlejohn)	1363
Danny Lucas (Questioning by the Court)	1366
Norman Williamson (Questioning by the Court)	1372
Norman Williamson (Questioning by Hilliard)	1377
Norman Williamson (Questioning by Littlejohn)	1380
Norman Williamson (Questioning by the Court)	1383
Joann Walker (Questioning by the Court)	1386
Joann Walker (Questioning by Hilliard)	1394
Joann Walker (Questioning by Littlejohn)	1396
Joann Walker (Questioning by the Court)	1399
Roger Coles (Questioning by the Court)	1401
Roger Coles (Questioning by Littlejohn)	1406
Roger Coles (Questioning by Hilliard)	1408
Shirley Legette (Questioning by the Court)	1411
Shirley Legette (Questioning by Hilliard)	1419
Shirley Legette (Questioning by Littlejohn)	1420
Christopher Carroll (Questioning by the Court)	1422
Christopher Carroll (Questioning by Hilliard)	1428
Christopher Carroll (Questioning by Littlejohn)	1429
Christopher Carroll (Questioning by the Court)	1430
Walter Frank (Questioning by the Court)	1432
Walter Frank (Questioning by Littlejohn)	1435
Roy Goss (Questioning by the Court)	1438
Roy Goss (Questioning by Hilliard)	1445
Roy Goss (Questioning by Babb)	1449
Debra Semple (Questioning by the Court)	1452
Debra Semple (Questioning by Kolb)	1458

Debra Semple (Questioning by Littlejohn)	1458
Janette Miller (Questioning by the Court)	1461
Janette Miller (Questioning by Littlejohn)	1463
Jeanetta Tindall (Questioning by the Court)	1465
Jeanetta Tindall (Questioning by Littlejohn)	1475
Jeanetta Tindall (Questioning by Kolb)	1477
John W. Singletary (Questioning by the Court)	1479
John W. Singletary (Questioning by Kolb)	1485
John W. Singletary (Questioning by Littlejohn)	1487
David McConnell (Questioning by the Court)	1490
David McConnell (Questioning by Littlejohn)	1494
Herbert McClary (Questioning by the Court)	1497
Herbert McClary (Questioning by Hilliard)	1504
Herbert McClary (Questioning by Littlejohn)	1505
Donna Moss (Questioning by the Court)	1510
Donna Moss (Questioning by Hilliard)	1522
Donna Moss (Questioning by Littlejohn)	1523
Sean O'Rear (Questioning by the Court)	1531
Sean O'Rear (Questioning by Hilliard)	1542
Sean O'Rear (Questioning by Babb)	1544
Matthew Brunson (Questioning by the Court)	1548
Matthew Brunson (Questioning by Hilliard)	1555
Matthew Brunson (Questioning by Littlejohn)	1557
Matthew Brunson (Questioning by the Court)	1560
Matthew Brunson (Questioning by Littlejohn)	1561
Betty Keesee (Questioning by the Court)	1564
Betty Keesee (Questioning by Hilliard)	1573
Betty Keesee (Questioning by Babb)	1574
Joseph Gallegos (Questioning by the Court)	1579
Joseph Gallegos (Questioning by Kolb)	1588
Joseph Gallegos (Questioning by Littlejohn)	1590
Joseph Gallegos (Questioning by the Court)	1592
Joseph Gallegos (Questioning by Littlejohn)	1593
Ingrid Brown (Questioning by the Court)	1598
Ingrid Brown (Questioning by Kolb)	1600
Sadie Jenkins (Questioning by the Court)	1605
Sadie Jenkins (Questioning by Kolb)	1612
Sadie Jenkins (Questioning by Littlejohn)	1613
Dan Riegle (Questioning by the Court)	1616
Dan Riegle (Questioning by Hilliard)	1626
Dan Riegle (Questioning by Littlejohn)	1628
Priscilla Ann Gore (Questioning by the Court)	1631
Priscilla Ann Gore (Questioning by Kolb)	1639
Priscilla Ann Gore (Questioning by Babb)	1640
Cindy Jones (Questioning by the Court)	1643

Cindy Jones (Questioning by Kolb)	1651
Cindy Jones (Questioning by Babb)	1653
Larry Roberts (Questioning by the Court)	1656
Larry Roberts (Questioning by Kolb)	1662
Larry Roberts (Questioning by Littlejohn)	1662
Gene Bratcher (Questioning by the Court)	1666
Gene Bratcher (Questioning by Kolb)	1673
Gene Bratcher (Questioning by Babb)	1674
Alton Cribb, Jr. (Questioning by the Court)	1678
Alton Cribb, Jr. (Questioning by Kolb)	1688
Alton Cribb, Jr. (Questioning by Littlejohn)	1689
Patrick Collins (Questioning by the Court)	1697
Patrick Collins (Questioning by Hilliard)	1706
Patrick Collins (Questioning by Babb)	1709
George Phillips (Questioning by the Court)	1713
George Phillips (Questioning by Kolb)	1721
George Phillips (Questioning by Littlejohn)	1724
Dan Lee Hurell (Questioning by the Court)	1729
Dan Lee Hurell (Questioning by Kolb)	1731
Dan Lee Hurell (Questioning by Littlejohn)	1735
Karen Graham (Questioning by the Court)	1737
Karen Graham (Questioning by Kolb)	1745
Karen Graham (Questioning by Littlejohn)	1746
Neomie Jordan (Questioning by the Court)	1748
Neomie Jordan (Questioning by Littlejohn)	1751
Marlene Deacon (Questioning by the Court)	1752
Marlene Deacon (Questioning by Kolb)	1759
Marlene Deacon (Questioning by Littlejohn)	1761
Amy White Condon (Questioning by the Court)	1765
Amy White Condon (Questioning by Kolb)	1771
Amy White Condon (Questioning by Babb)	1772
Phillip Allen (Questioning by the Court)	1776
Phillip Allen (Questioning by Kolb)	1783
Phillip Allen (Questioning by Littlejohn)	1785
Clydie Thompson (Questioning by the Court)	1786
Clydie Thompson (Questioning by Kolb)	1795
Clydie Thompson (Questioning by Littlejohn)	1796
Carolyn Montagne (Questioning by the Court)	1797
Carolyn Montagne (Questioning by Kolb)	1808
Carolyn Montagne (Questioning by Littlejohn)	1809
Carolyn Montagne (Questioning by Kolb)	1812
Carolyn Montagne (Questioning by the Court)	1814
Cecil McGee (Questioning by the Court)	1819
Cecil McGee (Questioning by Hilliard)	1825
Cecil McGee (Questioning by Babb)	1828

Cecil McGee (Questioning by the Court)	1830
Edward Crotts (Questioning by the Court)	1834
Edward Goude (Questioning by the Court)	1838
Edward Goude (Questioning by Hilliard)	1846
Edward Goude (Questioning by Littlejohn)	1847
Eugenia Maybank (Questioning by the Court)	1850
Eugenia Maybank (Questioning by Kolb)	1857
Eugenia Maybank (Questioning by Babb)	1862
James D. Woodard (Questioning by the Court)	1865
James D. Woodard (Questioning by Kolb)	1871
James D. Woodard (Questioning by Babb)	1876
Glenn D. Yarborough (Questioning by the Court)	1879
Glenn D. Yarborough (Questioning by Kolb)	1891
Glenn D. Yarborough (Questioning by Babb)	1893
Glenn D. Yarborough (Questioning by the Court)	1895
Patricia Haynes (Questioning by the Court)	1898
Patricia Haynes (Questioning by Kolb)	1901
Ruby Brockington (Questioning by the Court)	1903
Mary Armstrong (Questioning by the Court)	1908
Mary Armstrong (Questioning by Williams)	1916
Mary Armstrong (Questioning by Babb)	1919
Mary Armstrong (Questioning by the Court)	1921
Mary Armstrong (Questioning by Babb)	1922
Mary Armstrong (Questioning by Williams)	1923
Jury Strikes	1936
Roll Call of Jury Pool	1950
Jury Impanelled	1952
June 21, 1996 – Transcript of Arraignment	1957
August 20, 1996 – Motions Hearing	1965
Court's Exhibit #1 (Copies of articles) marked for identification	1970
Court's Exhibit #2 (Affidavits) marked for identification	1972
September 26, 1996 – Motions Hearing	2027
Court's Exhibit #1 (Copy of Newspaper Article) marked for identification	2047
Court's Exhibit #2 (Advertisement, Fund Raiser) marked for identification	2047
January 10, 1997 – Hearing Regarding Jury Excuses	2053
Notice of Intent to Seek the Death Penalty	2097
Indictments	2098
Jury Forms	2100
Report of the Trial Judge	2117
Final Brief of Appellant	2129
Brief of Respondent	2171
South Carolina Supreme Court Opinion	2244
RECORD ON APPEAL (Re-sentencing 2005)	2252
General Jury Qualification	2258
Pinky Walker, Juror 228 (Questioning by the Court)	2340

Juror 228 (Questioning by Saleeby)	2346
Juror 228 (Questioning by Littlejohn)	2349
Juror 228 (Questioning by Saleeby)	2350
Juror 228 (Questioning by Littlejohn)	2351
Ms. Hudson, Juror 95 (Questioning by the Court)	2354
Juror 95 (Questioning by Saleeby)	2358
Juror 95 (Questioning by Littlejohn)	2359
Linda Blue, Juror 20 (Questioning by the Court)	2361
Juror 20 (Questioning by Saleeby)	2365
Ronald A. Beard, Juror 13 (Questioning by the Court)	2367
Juror 13 (Questioning by Saleeby)	2374
Juror 13 (Questioning by Littlejohn)	2381
William Montibono, Juror 150 (Questioning by the Court)	2385
Juror 150 (Questioning by Saleeby)	2390
Juror 150 (Questioning by Littlejohn)	2393
Juror 150 (Questioning by Saleeby)	2396
Bonnie Trainer, Juror 219 (Questioning by the Court)	2398
Juror 219 (Questioning by Saleeby)	2403
Juror 219 (Questioning by Littlejohn)	2403
Betty Bolden, Juror 21 (Questioning by the Court)	2414
Juror 21 (Questioning by Saleeby)	2418
Juror 21 (Questioning by Littlejohn)	2418
Vincent Sims, Juror 195 (Questioning by the Court)	2422
Juror 195 (Questioning by Saleeby)	2427
Juror 195 (Questioning by Littlejohn)	2427
Ricky Labruno, Juror 115 (Questioning by the Court)	2432
Juror 115 (Questioning by Saleeby)	2439
Juror 115 (Questioning Littlejohn)	2442
Heather Roland, Juror 188 (Questioning by the Court)	2444
Juror 188 (Questioning by Saleeby)	2449
Cheryl Benjamin, Juror 15 (Questioning by the Court)	2455
Juror 15 (Questioning by Saleeby)	2459
Juror 15 (Questioning by Littlejohn)	2462
Juror 15 (Questioning by Saleeby)	2465
Juror 15 (Questioning by the Court)	2467
Mr. Sumter, Juror 210 (Questioning by the Court)	2470
Juror 210 (Questioning by Saleeby)	2475
Juror 210 (Questioning by Littlejohn)	2476
Mr. Burgess, Juror 31 (Questioning by the Court)	2482
Juror 31 (Questioning by Saleeby)	2486
Juror 31 (Questioning by Littlejohn)	2487
Unidentified, Juror 33 (Questioning by the Court)	2492
Juror 33 (Questioning by Saleeby)	2499
Juror 33 (Questioning by Babb)	2506
Ms. Sooner, Juror 197 (Questioning by the Court)	2511

Ms. Williamson, Juror 242 (Questioning by the Court)	2514
Juror 242 (Questioning by Jackson)	2520
Juror 242 (Questioning by Babb)	2524
Mr. Holstein, Juror 168 (Questioning by the Court)	2528
Juror 168 (Questioning by Saleeby)	2534
Juror 168 (Questioning by Littlejohn)	2537
Mr. Brody, Juror 24 (Questioning by the Court)	2543
Juror 24 (Questioning by Jackson)	2549
Juror 24 (Questioning by Littlejohn)	2552
Ms. Dowe, Juror 56 (Questioning by the Court)	2557
Juror 56 (Questioning by Jackson)	2563
Juror 56 (Questioning by Littlejohn)	2565
Ms. Drake, Juror 57 (Questioning by the Court)	2570
John McCloud, Juror 140 (Questioning by the Court)	2575
Juror 140 (Questioning by Jackson)	2583
Juror 140 (Questioning by Littlejohn)	2586
Mr. Slater, Juror 198 (Questioning by the Court)	2594
Juror 198 (Questioning by Saleeby)	2599
Juror 198 (Questioning by Babb)	2600
Mr. Tomlin, Juror 218 (Questioning by the Court)	2603
Mr. Cochran, Juror 39 (Questioning by the Court)	2606
Ms. Fulwood, Juror 64 (Questioning by the Court)	2609
Ms. Blanchette, Juror 19 (Questioning by the Court)	2613
Juror 19 (Questioning by Saleeby)	2618
Juror 19 (Questioning by Babb)	2620
Mr. Price, Juror 175 (Questioning by the Court)	2624
Juror 175 (Questioning by Jackson)	2630
Juror 175 (Questioning by Littlejohn)	2632
Emerericiana Ulery, Juror 222 (Questioning by the Court)	2642
Juror 222 (Questioning by Jackson)	2648
Juror 222 (Questioning by Littlejohn)	2650
Ms. Weston, Juror 235 (Questioning by the Court)	2656
Ms. Weeks, Juror 233 (Questioning by the Court)	2658
Juror 233 (Questioning by Saleeby)	2664
Juror 233 (Questioning by Babb)	2665
Mr. Brooks, Juror 26 (Questioning by the Court)	2673
Juror 26 (Questioning by Littlejohn)	2677
Nickie Jones, Juror 110 (Questioning by the Court)	2679
Juror 110 (Questioning by Jackson)	2685
Juror 110 (Questioning by Babb)	2689
Rosada Heriot, Juror 88 (Questioning by the Court)	2694
Juror 88 (Questioning by Jackson)	2698
Juror 88 (Questioning by Babb)	2700
Juror 88 (Questioning by the Court)	2704
Ms. Sanders, Juror 189 (Questioning by the Court)	2706

Juror 189 (Questioning by Jackson)	2711
Juror 189 (Questioning by Babb)	2714
Mr. Harsch, Juror 86 (Questioning by the Court)	2718
Juror 86 (Questioning by Jackson)	2723
Juror 86 (Questioning by Babb)	2725
Ms. Smith, Juror 199 (Questioning by the Court)	2734
Juror 199 (Questioning by Jackson)	2742
Juror 199 (Questioning by Littlejohn)	2744
Ms. Myers, Juror 157 (Questioning by the Court)	2749
Juror 157 (Questioning by Jackson)	2754
Juror 157 (Questioning by Babb)	2760
Mr. Rewis, Juror 180 (Questioning by the Court)	2774
Juror 180 (Questioning by Saleeby)	2779
Juror 180 (Questioning by Babb)	2780
Mr. Copeland, Juror 41 (Questioning by the Court)	2785
Juror 41 (Questioning by Jackson)	2794
Juror 41 (Questioning by Babb)	2799
Jury Selection	2830
Case Called	2863
State's Exhibit #84 (Diagram) entered into evidence	2871
State's Exhibit #85 (Diagram) entered into evidence	2871
State's Exhibit #86 (Diagram) entered into evidence	2871
Opening Statements	2884
Tommy Mims (Direct by Saleeby)	2898
Lillie Britt (Direct by Saleeby)	2907
State's Exhibit #63 (copy of indictment) entered into evidence	2910
State's Exhibit #64 (copy of indictment) entered into evidence	2910
State's Exhibit #65 (copy of indictment) entered into evidence	2910
State's Exhibit #66 (copy of indictment) entered into evidence	2910
State's Exhibit #67 (copy of indictment) entered into evidence	2910
State's Exhibit #68 (copy of indictment) entered into evidence	2910
State's Exhibit #69 (copy of indictment) entered into evidence	2910
Sharon Holland (Direct by Saleeby)	2915
Kathy Miles (Direct by Saleeby)	2923
State's Exhibit #4 (911 tape) played for the jury	2930
Kathy Miles (Cross by Littlejohn)	2930
Mary Ruth Williamson (Direct by Saleeby)	2937
State's Exhibit #56 (coat) entered into evidence	2944
State's Exhibit #13 (gun) entered into evidence	2946
State's Exhibit #6 (photo) entered into evidence	2951
State's Exhibit #9 (photo) entered into evidence	2953
State's Exhibit #8 (photo) entered into evidence	2954
State's Exhibit #15 (photo) entered into evidence	2955
State's Exhibit #10 (photo) entered into evidence	2955
State's Exhibit #12 (photo) entered into evidence	2956

Mary Ruth Williamson (Cross by Babb)	2957
Daniel Bethea (Direct by Saleeby)	2974
Daniel Bethea (Cross by Littlejohn)	2980
Ruth Griffith (previous testimony read into the record)	2984
Landrow Taylor (previous testimony read into the record)	3036
John Prince (Direct by Saleeby)	3058
State's Exhibit #13 (shotgun) entered into evidence	3071
State's Exhibit #31 (photo) entered into evidence	3072
State's Exhibit #19 (photo) entered into evidence	3072
John Prince (Cross by Littlejohn)	3074
John Prince (Redirect by Saleeby)	3079
Gene Edward Hobbs, Jr. (Direct by Saleeby)	3081
State's Exhibit #27 (Smith and Weston nine millimeter) entered into evidence	3091
State's Exhibit #26 (rounds) entered into evidence	3091
Gene Edward Hobbs, Jr. (Cross by Littlejohn)	3100
Fred Powell, Jr. (Direct by Saleeby)	3107
State's Exhibit #40 (photo) entered into evidence	3122
Fred Powell, Jr. (Cross by Littlejohn)	3123
Dana Wingate (Direct by Saleeby)	3129
State's Exhibit #60 (knife) entered into evidence	3134
Dana Wingate (Cross by Littlejohn)	3135
Perry Herod (Direct by Saleeby)	3143
State's Exhibit #1 (advisement of rights form) entered into evidence	3150
State's Exhibit #2 (sketch) entered into evidence	3156
State's Exhibit #3 (written statement) entered into evidence	3157
Perry Herod (Cross by Littlejohn)	3170
Dr. Joel Sexton (Direct by Saleeby)	3177
State's Exhibit #18 (portions of lead bullet) entered into evidence	3190
State's Exhibit #17 (22 long rifle bullet) entered into evidence	3190
Dr. Joel Sexton (Cross by Littlejohn)	3195
Raymond Mackessy (Direct by Saleeby)	3197
State's Exhibits #41-46 (photos of beer cans) entered into evidence	3207
State's Exhibits #40-70 (fired 22-caliber cartridge casing) entered into evidence	3207
State's Exhibit #40 (photo) entered into evidence	3207
State's Exhibits #29 and 30 (photos) entered into evidence	3208
State's Exhibit #35 (photo) entered into evidence	3210
State's Exhibits #53 and 54 (22-caliber cartridge casings) entered into evidence	3211
State's Exhibit #31 (photo) entered into evidence	3212
State's Exhibit #20 (photo) entered into evidence	3212
State's Exhibits #21 and 25 (photos) entered into evidence	3213
State's Exhibit #23 (photo) entered into evidence	3214
State's Exhibit #57 (cut portion of screen) entered into evidence	3218
Thomas Darnell (Direct by Saleeby)	3221

Thomas Darnell (Cross by Babb)	3234
Jeffery Hollifield (Direct by Saleeby)	3244
Jeffery Hollifield (Cross by Babb)	3252
John Barron (Direct by Saleeby)	3259
John Barron (Cross by Babb)	3273
Ira Parnell (Direct by Saleeby)	3275
Ira Parnell (Cross by Littlejohn)	3297
Peggy Kubala (Direct by Jackson)	3309
Ferdinand Kubala (Direct by Jackson)	3317
Kevin Kubala (Direct by Jackson)	3329
Teresa Kubala-Hanvey (Direct by Jackson)	3333
Gary Metts (Direct by Saleeby)	3357
State Rests	3368
Court's Exhibit #1 (death certificate of Mary Etta Wilson)	3376
Defense's Case	3391
Teanne Oehler (Direct by Babb)	3391
Teanne Oehler (Cross by Saleeby)	3414
Teanne Oehler (Redirect by Babb)	3430
Melinda Parrott (Direct by Babb)	3431
Melinda Parrott (Cross by Saleeby)	3451
Elizabeth Perry (Direct by Babb)	3457
Defendant's 5-7 (family photos)	3463
Linda Parrott (Direct by Babb)	3466
Mary Jean Wilson (Direct testimony is read into record by Littlejohn)	3469
Mary Jean Wilson (Cross read into the record by Jackson)	3477
Mary Jean Wilson (Continued testimony read by Littlejohn)	3482
Dr. William Alexander Morton, Jr. (Direct by Babb)	3485
Dr. William Alexander Morton, Jr. (Cross by Jackson)	3509
Dr. William Alexander Morton, Jr. (Redirect by Babb)	3520
James Aiken (Direct by Littlejohn)	3522
James Aiken (Cross Examination)	3537
James Aiken (Redirect by Littlejohn)	3542
State's Closing	3561
Defense's Closing	3581
Jury Charges	3599
Verdict	3630
Defense Motion for Directed Verdict	3635
Sentence	3636
Pre-trial Hearing Transcript (November 2, 2004)	3639
Pre-Trial Hearing Transcript (February 11, 2005)	3670
Pre-Trial Hearing Transcript (February 14, 2005)	3889
Dr. William Stavrou (Direct by Jackson)	3890
Dr. William Stavrou (Cross by Littlejohn)	3902
State's Exhibit #1 (letter)	3898
State's Exhibit #2 (letter)	3901

Letter From Court Reporter Regarding Transcription of Jury Selection (December 15, 2006)	3913
Statutory Instructions	3914
Sentence Form (Jury)	3915
Affirmation of Death	3917
Sentence Form (Judge)	3918
Certificate of Appellant	3919
Final Brief of Appellant	3920
Final Brief of Respondent	3937
Certificate of Counsel	3966
South Carolina Supreme Court Opinion	3969
Petition for Rehearing	3972
Order Denying Petition for Rehearing	3976
Initial Application for Post-Conviction Relief	3978
First Amended Application for Post-Conviction Relief	3985
Second Amended Application for Post-Conviction Relief	3995
Third Amended Application for Post-Conviction Relief	4004
Respondent's Return and Motion to Dismiss	4011
Post-Conviction Relief Hearing Transcript (April 23 rd & 24 th , 2012)	4075
Opening Remarks	4081
Dr. James Merikangas (Direct by Blume)	4092
Dr. James Merikangas (Cross by Zelenka)	4121
Dr. James Merikangas (Redirect by Blume)	4149
Dr. Howard Becker (Direct by Blume)	4155
Dr. Howard Becker (Cross by Zelenka)	4187
Dr. Arlene Andrews (Direct by Blume)	4196
Dr. Arlene Andrews (Cross by Zelenka)	4243
Joseph Savitz, III (Direct by Lominack)	4254
Joseph Savitz, III (Cross by Simon)	4257
Wayne Hill (Direct by Blume)	4263
Wayne Hill (Cross by Simon)	4301
Wayne Hill (Redirect by Blume)	4317
Wade Kolp (Direct by Zelenka)	4320
Wade Kolp (Cross by Blume)	4338
Wade Kolp (Redirect by Zelenka)	4346
Peter Skidmore (Direct by Blume)	4347
Peter Skidmore (Cross by Simon)	4350
James Babb (Direct by Lominack)	4353
James Babb (Cross by Simon)	4365
James Babb (Redirect by Lominack)	4402
State's Case	4415
Simon Majors, Jr. (Direct by Simon)	4415
Simon Majors, Jr. (Cross by Lominack)	4421
Cecil Jackson (Direct by Simon)	4425
Cecil Jackson (Cross by Blume)	4429

Ira Parnell (Direct by Simon)	4432
Ira Parnell (Cross by Blume)	4441
Ira Parnell (Redirect by Simon)	4446
Post-Conviction Relief Hearing (August 10, 2012)	4450
James Babb (Direct by Lominack)	4455
James Babb (Cross by Simon)	4458
Cameron Littlejohn (Direct by Simon)	4462
Cameron Littlejohn (Cross by Blume)	4486
Jill Rider (Direct by Blume)	4491
Post-Conviction Relief Exhibits	4506
Applicant's Exhibit #1 (Dr. Shine's Affidavit and Report)	4506
Applicant's Exhibit #2 (Dr. Gur's Affidavit and Report)	4511
Applicant's Exhibit #3 (Dr. Bookstein's Affidavit and Report)	4517
Applicant's Exhibit #10 (Dr. Andrews' Curriculum Vita)	4530
Applicant's Exhibit #11 (Dr. Andrew's Charts, Sociogram)	4536
Applicant's Exhibit #12 (Sanatorium Records- Bobby O. Stone)	4079
Applicant's Exhibit #13 (Sanatorium Records- Maybell Stone)	4611
Applicant's Exhibit #14 (Screen Door Diagram)	4651
Applicant's Exhibit #16 (Dr. Harold Morgan's Records)	4652
Applicant's Exhibit #18 (DEHEC- Turkey Creek Records)	4657
Applicant's Exhibit #25 (Death Certificates)	5099
Applicant's Exhibit #26 (Coroner's Report)	5101
Applicant's Exhibit #27 (TB Records)	5108
Applicant's Exhibit #28 (Jerry Stone's Medical Records)	5119
Applicant's Exhibit #29 (Melinda Stone's Medical Records)	5131
Applicant's Exhibit #30 (Tammy Stone's Medical Records)	5199
Applicant's Exhibit #31 (Bobby Stone's School Records)	6438
Applicant's Exhibit #32 (Melinda Stone's School Records)	6457
Applicant's Exhibit #33 (Tammy Stone's School Records)	6475
Applicant's Exhibit #34 (Bobby O. Stone's School Records)	6493
Applicant's Exhibit #35 (Douglas Edwards' Criminal Records)	6496
Applicant's Exhibit #36 (Jerry Edwards' Criminal Records)	6541
Applicant's Exhibit #37 (Terry Edwards' Criminal Records)	6606
Applicant's Exhibit #38 (Baker Floyd's Criminal Records)	6734
Applicant's Exhibit #39 (Walter Floyd's Criminal Records)	6737
Applicant's Exhibit #40 (Michelle Lynch's Criminal Records)	6818
Applicant's Exhibit #41 (Lovia Miles' Criminal Records)	6854
Applicant's Exhibit #42 (Wesley Miles Criminal Records)	6869
Applicant's Exhibit #43 (Melinda Stone Parrott's Criminal Records)	6911
Applicant's Exhibit #44 (Bobby O. Stone's Criminal Records)	6921
Applicant's Exhibit #45 (Anthony Turner's Criminal Records)	6931
Applicant's Exhibit #46 (Thomas Windham's Criminal Records)	7069
Applicant's Exhibit #47 (Social Security Records)	7090
Applicant's Exhibit #48 (Department of Juvenile Justice Records)	7095
Respondent's Exhibit #1 (James Babb's Time Sheets)	7102

Respondent's Exhibit #2 (James Babb's Notes)	7106
Respondent's Exhibits #3 (James Babb's Notes)	7107
Respondent's Exhibit #4 (Interview with Elizabeth Bernice Perry 9/9/96)	7108
Order Substituting Counsel	7110
Applicant's Post-Hearing Brief	7112
Respondent's Post-Trial Brief	7165
Order Denying Post-Conviction Relief	7259
Applicant's Motion to Alter or Amend Judgment	7291
Respondent's Motion to Alter or Amend Judgment	7302
Transcript of Hearing on Motion to Alter or Amend Judgment	7306
Amended Order Denying Post-Conviction Relief	7339
Notice of Appeal	7371

1984

1 INDICATED UNDER OATH HIS INABILITY TO STAY FOCUSED. I DO
2 NOT FIND -- I THINK THAT IT WOULD IMPAIR HIS ABILITY TO BE
3 A FAIR AND IMPARTIAL JUROR FOR THE STATE AND FOR MR. STONE.
4 FOR THAT REASON I FIND HIM UNQUALIFIED TO SERVE AS A JUROR
5 IN THIS CASE. ANY OBJECTION FROM THE STATE?

6 MR. KOLB: DOESN'T MATTER TO ME SINCE I'M NOT
7 FROM GEORGETOWN. I THINK IT SHOULD BE TRANSFERRED AS
8 OPPOSED TO NOT QUALIFIED.

9 THE COURT: I'LL DEAL WITH THAT. ANY OBJECTION
10 TO MY QUALIFYING AS A JUROR ---

11 MR. KOLB: NO, SIR.

12 THE COURT: --- IN FINDING HIM UNQUALIFIED IN
13 THIS CASE? ANY OBJECTION.

14 MR. LITTLEJOHN: NO, YOUR HONOR.

15 THE COURT: THANK YOU.

16 (THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE
17 JUROR.)

18 THE COURT: ALL RIGHT. MR. CROTTS, WHAT I WILL
19 DO IS THIS: YOU'RE NOT GOING TO HAVE TO PARTICIPATE IN
20 THIS CASE BUT I'M GOING TO ASK THE CLERK -- HOW LONG DO YOU
21 THINK IT'LL TAKE TO CONCLUDE THIS LITIGATION?

22 THE JUROR: COUPLE, THREE WEEKS I WOULD SAY. I
23 ACTUALLY TOLD HER ---

24 THE COURT: SO YOU WOULD BE ABLE TO SERVE THEN
25 AFTER MARCH 31ST?

1985

1 THE JUROR: YES, AFTER ABOUT THE 23RD OF
2 FEBRUARY.

3 THE COURT: ALL RIGHT. MS. MOORE, IF YOU WOULD
4 LOOK AT YOUR DOCKET AND LET'S TRANSFER HIM TO ANY TERM
5 AFTER MARCH 31ST.

6 THE CLERK: APRIL THE 7TH.

7 THE COURT: APRIL 7TH.

8 THE JUROR: THAT WILL BE FINE.

9 THE COURT: ALL RIGHT, SIR. THANK YOU, SIR.
10 GOOD LUCK TO YOU, SIR.

11 THE JUROR: THANK YOU.

12 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
13 JUROR.)

14 THE COURT: ALL RIGHT. LET'S BRING IN MR. GOUDE.

15 EDWARD R. GOUDE, BEING FIRST
16 DULY SWORN, TESTIFIED AS FOLLOWS:

17 EXAMINATION BY THE COURT:

18 Q GOOD MORNING, MR. GOUDE.

19 A GOOD MORNING.

20 Q HOW ARE YOU?

21 A OKAY.

22 Q GOOD. MR. GOUDE, I HAVE SOME QUESTIONS THAT I NEED
23 TO ASK YOU NOW AND THE ANSWERS TO THESE QUESTIONS AS I TOLD
24 YOU MONDAY THERE ARE NO RIGHT OR WRONG ANSWERS. THESE ARE
25 QUESTIONS THAT ARE YOUR PERSONAL FEELINGS ABOUT THINGS,

1986

1 MANY OF THEM. YOU'RE ENTITLED TO THAT, TO THOSE OPINIONS,
2 WHETHER WE ALL AGREE OR DISAGREE. IT DOESN'T MAKE ANY
3 DIFFERENCE BECAUSE THEY'RE YOURS. SO FEEL COMFORTABLE
4 ABOUT THAT. WE WOULD ONLY ASK THAT YOU BE TRUTHFUL IN YOUR
5 RESPONSES. OKAY. WILL YOU DO THAT FOR ME?

6 A YES, SIR.

7 Q ALSO I WOULD ADD THAT IN WHAT WE'RE DOING RIGHT NOW
8 IS VERY EASY IN THIS FORMAT WHERE YOU AND I ARE ARE TALKING
9 TO BE CONVERSATIONAL AND BOTH OF US FROM TIME TO TIME I DO
10 THE SAME THING. I NOD MY HEAD OR I SAY UH-HUH OR HUH-UH.
11 THE LADY SEATED IN FRONT OF YOU IS TAKING DOWN THIS AND IS
12 KEEPING A RECORD. SO IT WILL ASSIST HER IF YOU WILL GIVE A
13 VERBAL RESPONSE TO THEM AND BY THAT I MEAN USE A WORD,
14 PLEASE.

15 A YES, SIR.

16 Q ALSO THE MIKE SYSTEM IS OFF. ONCE I GET ALL THE
17 GROUNDS RULES LAID, WE'LL BE ALL RIGHT. SO WE'RE HAVING TO
18 TALK A LITTLE BIT LOUDER THAN WE NORMALLY WOULD AND SO I
19 WOULD ASK YOU TO PLEASE ANSWER MY QUESTIONS, EVEN THOUGH
20 I'M SITTING AS CLOSE AS I AM TO YOU, SO THAT EVERYONE OUT
21 THERE WILL HEAR YOU AS WELL. DO YOU HAVE ANY PRIOR
22 KNOWLEDGE OF THIS CASE?

23 A NO, SIR.

24 Q ONLY THING YOU KNOW IS WHAT I SHARED WITH YOU HAS
25 BEEN ALLEGED ---

1987

- 1 A YES, SIR.
- 2 Q --- ON MONDAY?
- 3 A YES, SIR.
- 4 Q HAVE YOU READ ANYTHING ABOUT IT OR HEARD ANYTHING
- 5 ABOUT IT SINCE MONDAY?
- 6 A NO, SIR.
- 7 Q DO YOU HAVE ANY OPINIONS ABOUT THIS CASE?
- 8 A NO, SIR.
- 9 Q WOULD YOU HAVE TO HEAR ALL OF THE EVIDENCE BEFORE YOU
- 10 WERE ABLE TO DEVELOP AN OPINION?
- 11 A YES, SIR.
- 12 Q HAVE YOU HAD A CHANCE TO REVIEW THAT SHEET THAT HAD
- 13 THE THREE TYPES OF JURORS?
- 14 A YES, SIR.
- 15 Q WHICH TYPE ARE YOU? WHICH ONE BEST DESCRIBES YOU?
- 16 A THE THIRD TYPE.
- 17 Q THE THIRD TYPE AND THAT'S SOMEONE THAT BASICALLY
- 18 ALONG THE LINES OF WHAT YOU JUST SAID THAT IN ORDER TO MAKE
- 19 A DECISION BETWEEN DEATH PENALTY AND LIFE IMPRISONMENT,
- 20 YOU'D HAVE TO HEAR ALL THE FACTS AND CIRCUMSTANCES ABOUT A
- 21 CERTAIN SITUATION; IS THAT RIGHT?
- 22 A YES, SIR.
- 23 Q BUT YOU WOULD BELIEVE AND DO BELIEVE THAT THERE ARE
- 24 SOME SITUATIONS THAT WOULD WARRANT THE IMPOSITION OF THE
- 25 DEATH PENALTY AND THEN THERE ARE OTHERS THAT WOULD WARRANT

1986

1 LIFE IMPRISONMENT BEING THE APPROPRIATE PUNISHMENT?

2 A YES, SIR.

3 Q AND JUST THE MURDER DOESN'T MAKE THAT DETERMINATION.
4 IT HAS TO DEPEND ON THE FACTS AND CIRCUMSTANCES SURROUNDING
5 THAT CRIME; IS THAT RIGHT?

6 A YES, SIR, DEPENDS ON A LOT OF THINGS.

7 Q A LOT OF THINGS. ALL RIGHT. THAT'S FAIR. YOU
8 UNDERSTAND IN A SITUATION LIKE THIS THAT -- WHEN I SAY LIKE
9 THIS YOU'RE TALKING ABOUT A CRIMINAL ACTION -- THERE ARE
10 CERTAIN PRINCIPLES OF LAW THAT APPLY IN THIS CASE AND ANY
11 CASE OF A CRIMINAL NATURE TRIED IN THIS COUNTRY. ONE OF
12 THOSE IS THE PRESUMPTION OF INNOCENCE. DO YOU UNDERSTAND?

13 A YES, SIR.

14 Q DO YOU HAVE ANY PROBLEM WITH THAT LAW?

15 A NO, SIR.

16 Q YOU UNDERSTAND THAT THAT LAW PLACES THE BURDEN TO
17 PROVE A CASE PLACES IT SQUARELY ON THE STATE; THAT THE
18 PERSON CHARGED WITH THE CRIMINAL OFFENSE THE STATE HAS TO
19 PROVE THAT CASE BEYOND A REASONABLE DOUBT. YOU UNDERSTAND?

20 A YES, SIR, I UNDERSTAND THAT.

21 Q DO YOU HAVE ANY PROBLEM WITH THAT?

22 A NO, SIR.

23 Q THAT WOULD MEAN IN THIS PARTICULAR DISPUTE THE ONLY
24 PARTY THAT HAS ANYTHING TO PROVE AND WILL BE REQUIRED TO
25 SHOW ANYTHING OR ANYONE SHOULD EXPECT ANY PROOF IS THE

1989

1 STATE?

2 A YES, SIR.

3 Q ALSO, AS A PART OF THAT IT MEANS THAT A PERSON
4 CHARGED WITH A CRIMINAL OFFENSE IS NEVER REQUIRED TO PROVE
5 ANYTHING OR DISPROVE ANYTHING. A PERSON CERTAINLY DOES NOT
6 HAVE TO PROVE HIS OR HER INNOCENCE. DO YOU AGREE WITH
7 THAT?

8 A YES, SIR.

9 Q IF YOU WERE SELECTED AS A JUROR IN THIS CASE, WOULD
10 YOU EXPECT MR. STONE WHO IS THE INDIVIDUAL THAT HAS BEEN
11 CHARGED WITH THESE OFFENSES TO PROVE ANYTHING TO YOU?

12 A NO, SIR. I'D EXPECT THE STATE TO PROVE TO ME THAT HE
13 WAS GUILTY.

14 Q OKAY. WOULD YOU HAVE AN OPEN MIND UNTIL YOU'VE HEARD
15 ALL THE EVIDENCE, RECEIVED THE LAW, AND THE COURT
16 INSTRUCTED YOU THEN TO MAKE A DECISION?

17 A YES, SIR.

18 Q YOU WOULD BE ABLE TO DO THAT?

19 A YES, SIR.

20 Q AND YOU WOULD MAKE YOUR DECISION BASED SOLEY ON THE
21 FACTS OF THE CASE; IS THAT CORRECT?

22 A YES, SIR.

23 Q YOU UNDERSTAND THERE IS A TWO-PART PROCEEDING HERE IN
24 THIS TRIAL. THERE WILL BE REALLY TWO TRIALS WITHIN THE
25 TRIAL. THE FIRST PART WILL DEAL WITH THE ISSUE OF WHETHER

1990

1 OR NOT MR. STONE DID COMMIT THESE OFFENSES?

2 A YES, SIR.

3 Q AT THE CONCLUSION OF THAT PORTION OF THIS PROCEEDING
4 ONCE YOU'VE HEARD ALL OF THE EVIDENCE, YOU WILL BE
5 INSTRUCTED TO MAKE A DECISION. IF YOU WERE ON THE JURY AND
6 YOU WERE NOT SATISFIED OR CONVINCED BEYOND A REASONABLE
7 DOUBT THAT MR. STONE DID THESE OFFENSES, DID COMMIT THESE
8 ACTS, WOULD YOU HAVE ANY HESITANCY IN FINDING HIM NOT
9 GUILTY?

10 A NO, SIR, NOT IF THE STATE DIDN'T PROVE THAT HE WAS
11 GUILTY.

12 Q ALL RIGHT. LIKewise IF THE STATE DID MEET ITS
13 BURDEN, PROVE TO YOU, CONVINCED YOU, THAT HE DID THE
14 OFFENSE, WOULD YOU HAVE ANY HESITANCY IN FINDING HIM
15 GUILTY?

16 A NO, SIR.

17 Q IF THE JURY CONCLUDES THAT THE STATE FAILED TO MEET
18 ITS BURDEN AND THEREFORE FINDS THE DEFENDANT NOT GUILTY,
19 THEN OF COURSE THAT WOULD END THIS MATTER BUT ON THE OTHER
20 HAND IF THE JURY FINDS THE STATE DID MEET ITS BURDEN AND
21 FOUND HIM GUILTY OF MURDER, THEN AND ONLY THEN WOULD WE GO
22 INTO THE SECOND PHASE WHICH IS ALSO CALLED THE PENALTY
23 PHASE. YOU UNDERSTAND?

24 A YES, SIR.

25 Q IT'S DURING THAT PHASE THAT YOU WOULD HEAR ADDITIONAL

1991

1 EVIDENCE THAT YOU DIDN'T HEAR ANY OF IT IN THE FIRST PHASE
2 THAT DEALS SOLELY WITH THE ISSUE OF WHICH OF THE
3 PUNISHMENTS WOULD BE MOST APPROPRIATE IN THIS CASE. YOU
4 UNDERSTAND?

5 A YES, SIR.

6 Q WOULD YOU BE ABLE TO KEEP AN OPEN MIND DURING THE
7 SECOND PHASE AND WAIT UNTIL YOU'VE HEARD ALL THE EVIDENCE
8 AND RECEIVED THE LAW BEFORE YOU MADE A DECISION?

9 A YES, SIR.

10 Q SO YOU WOULD NOT BE INFLUENCED BY WHAT HAPPENED IN
11 THE FIRST PHASE IN DETERMINING WHAT THE APPROPRIATE PENALTY
12 WOULD BE?

13 A NO, SIR.

14 Q OTHER THAN THE FACT THAT OBVIOUSLY YOU'RE THERE
15 BECAUSE YOU FOUND HIM GUILTY OF THE OFFENSE OF MURDER?

16 A YES, SIR.

17 Q OKAY. AFTER YOU HAVE HEARD ALL THE EVIDENCE AND I
18 INSTRUCTED YOU AGAIN ON THE LAW PERTAINING TO THAT PHASE,
19 YOU WILL BE ASKED WITH THE OTHER JURORS TO RETIRE AND TO
20 MAKE A DECISION AND CHOOSE THE APPROPRIATE PUNISHMENT. AT
21 THAT TIME WOULD YOU BE ABLE TO CONSIDER BOTH THE DEATH
22 PENALTY AND LIFE IMPRISONMENT?

23 A YES, SIR.

24 Q AND COULD YOU MAKE A DECISION BASED SOLEY ON THE
25 EVIDENCE AND YOUR VIEW OF THE FACTS AND CIRCUMSTANCES?

1992

1 A YES, SIR.

2 Q DECIDE WHICH ONE YOU FELT WAS MOST APPROPRIATE?

3 A YES, SIR.

4 Q YOU UNDERSTAND -- WELL, YOU MAY NOT -- THIS JURY IS
5 GOING TO BE SEQUESTERED DURING THE TRIAL AND THAT MEANS OF
6 COURSE THE STATE IS GOING TO PROVIDE YOU WITH LODGING AND
7 FOOD AND TRANSPORTATION FOR THE DURATION OF THE TRIAL. I
8 REALIZE THAT THAT MAY BE AN IMPOSITION AND I REALIZE IT'S
9 CERTAINLY DISRUPTIVE BUT COULD YOU SET ASIDE THE
10 INCONVENIENCE TO YOU AND NOT LET IT INFLUENCE YOUR ABILITY
11 TO SERVE AS A JUROR ON THIS CASE?

12 A YES, SIR.

13 Q YOU COULD DO THAT?

14 A (NODDED HEAD.)

15 Q DO YOU KNOW OF ANYTHING THAT'S OCCURRED IN YOUR LIFE
16 OR ANY STRONG FEELINGS OR PHILOSOPHIES THAT YOU MAY HAVE OR
17 DEVELOP OVER THE YEARS THAT IN A CASE OF THIS NATURE
18 INVOLVING SOMEONE WHO'S ACCUSED OF KILLING ANOTHER
19 INDIVIDUAL THAT WOULD INFLUENCE YOU OR AFFECT YOUR ABILITY
20 TO BE FAIR AND IMPARTIAL TO THE STATE IN THIS CASE?

21 A NO, SIR.

22 Q HOW ABOUT WITH MR. STONE, THE PERSON ACCUSED OF THIS?

23 A NO, SIR.

24 Q YOU COULD BE FAIR AND IMPARTIAL TO HIM?

25 A YES, SIR.

1 THE COURT: PLEASE ANSWER ANY QUESTIONS THAT THE
2 SOLICITOR MAY HAVE.

4 MR. WILLIAMS: THANK YOUR HONOR.

6 EXAMINATION BY MR. WILLIAMS:

8 | A YES, SIR.

12 | A NO, SIR.

15	A	NO, SIR.

18 | A YES, SIR.

23 A YES, SIR.

06969173 Doc. : 117, 118, 119

1994

1 A YES, SIR.

2 Q YOU BELIEVE YOU COULD WRITE YOUR NAME ON THAT?

3 A YES, SIR.

4 Q DO YOU BELIEVE YOU COULD COME INTO COURT IN FRONT OF
5 THE DEFENDANT AND WHOEVER ELSE IS PRESENT AND ANNOUNCE THAT
6 YOUR VERDICT WAS THAT HE RECEIVE THE DEATH PENALTY?

7 A YES, SIR.

8 MR. WILLIAMS: THANK YOU, SIR.

9 THE COURT: MR. LITTLEJOHN.

10 EXAMINATION BY MR. LITTLEJOHN:

11 Q GOOD MORNING, MR. GOUDE.

12 A GOOD MORNING.

13 Q MR. GOUDE, THE ALTERNATIVE OF THAT IF YOU THOUGHT, IF
14 WE GOT TO THAT POINT IN THIS TRIAL, IF YOU THOUGHT THE
15 APPROPRIATE SENTENCE THAT SHOULD BE METED OUT WOULD BE LIFE
16 IMPRISONMENT, WOULD YOU HAVE ANY PROBLEM RENDERING A
17 VERDICT TO THAT EFFECT?

18 A NO, SIR.

19 Q LET ME ASK YOU A COUPLE OF QUESTIONS ABOUT YOUR
20 ANSWERS TO THE QUESTIONNAIRE IF I MAY. YOU INDICATED THAT
21 YOU WERE PREVIOUSLY IN THE MILITARY?

22 A I SERVED SIX YEARS IN THE NATIONAL GUARD.

23 Q IN THE NATIONAL GUARD. OKAY. ALL RIGHT, SIR. THAT
24 ANSWERS THAT QUESTION. MR. GOUDE, LET ME INFORM YOU, SIR,
25 THAT IN THIS PARTICULAR CASE THE STATE HAS CHARGED

1995

1 MR. STONE, THE DEFENDANT, WITH THE MURDER OF A DEPUTY
2 SHERIFF. GIVEN THE FACT THAT THAT IS THE NATURE OF THE
3 CHARGE AGAINST MR. STONE, WOULD THAT HAVE ANY AFFECT ON
4 YOUR ABILITY?

5 A NO, SIR.

6 Q TO BE A FAIR JUROR?

7 A NO, SIR.

8 Q OKAY. AND FOLLOWING THAT IF WE GOT TO THE SECOND
9 PHASE OF THIS TRIAL, WOULD THE NATURE OF THAT CHARGE HAVE
10 ANY AFFECT ON YOUR ABILITY TO CONSIDER BOTH THE DEATH
11 PENALTY AND A LIFE IMPRISONMENT AS ALTERNATIVES?

12 A NO, SIR.

13 MR. LITTLEJOHN: THANK YOU, SIR.

14 THE COURT: ALL RIGHT. MR. GOUDE, I WOULD ASK
15 YOU, SIR, IF YOU WOULD STEP OUT JUST FOR A SECOND. I'LL BE
16 RIGHT BACK WITH YOU. WON'T TAKE MUCH LONGER, SIR.

17 THE JUROR: THANK YOU, SIR.

18 THE COURT: THANK YOU, SIR. APPRECIATE IT.

19 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
20 JUROR.)

21 THE COURT: SAYS THE STATE?

22 MR. WILLIAMS: QUALIFIED.

23 THE COURT: DEFENDANT?

24 MR. LITTLEJOHN: WE AGREE.

25 THE COURT: I FIND THAT HE IS QUALIFIED.

1996

1 ASK MR. GOUDE TO STEP IN, PLEASE.

2 (THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE
3 JUROR.)

4 THE COURT: THANK YOU, MR. GOUDE. YOU HAVE BEEN
5 QUALIFIED AS A POTENTIAL JUROR IN THIS CASE. WE'RE GOING
6 TO SELECT THE JURY AT FIVE O'CLOCK THIS AFTERNOON SO I'LL
7 NEED YOU TO BE BACK HERE IN THE COURTROOM JUST LIKE YOU DID
8 MONDAY JUST COME BACK IN AND HAVE A SEAT. WE'LL SELECT
9 FROM THE POOL OF JURORS THE 12 INDIVIDUALS AND THE
10 ALTERNATES THAT WILL TRY THIS CASE. SINCE YOU MAY BE ONE
11 OF THE ONES SELECTED, YOU'LL NEED TO BRING WITH YOU WHEN
12 YOU COME SUFFICIENT CLOTHING AND PERSONAL EFFECTS TO TAKE
13 CARE OF YOUR NEEDS FOR ABOUT A WEEK BECAUSE ONCE WE SELECT
14 THE JURY WE'LL GO FROM HERE TO SUMTER.

15 THE JUROR: YES, SIR.

16 THE COURT: OKAY. THIS IS SOME INFORMATION FROM
17 THE CLERK OF COURT. IT'S JUST A LITTLE SHEET THAT HAS SOME
18 INFORMATION ABOUT SEQUESTRATION, TELEPHONE NUMBERS.

19 THE JUROR: ALL RIGHT.

20 THE COURT: UNTIL FIVE O'CLOCK DON'T TALK TO
21 ANYONE ABOUT THIS CASE. DON'T ALLOW ANYBODY TO TALK WITH
22 YOU ABOUT IT OR WATCH ANY NEWS PROGRAMS ABOUT IT OR READ
23 ANY NEWS ARTICLES. SEE YOU AT FIVE. THANK YOU, SIR.

24 / / /

25 / / /

CASE 11-10001 FORM 4 5 (11/15/11) 10001 10001

1997

1 EUGENIA MAYBANK, BEING FIRST
2 DULY SWORN, TESTIFIED AS FOLLOWS:

3 EXAMINATION BY THE COURT:

4 Q GOOD MORNING, MS. MAYBANK.

5 A GOOD MORNING.

6 Q HOW ARE YOU?

7 A FINE.

8 Q GOOD. MS. MAYBANK, I HAVE SOME QUESTIONS THAT I NEED
9 TO ASK YOU. THERE ARE NO RIGHT OR WRONG ANSWERS TO ANY OF
10 THESE QUESTIONS. YOU DON'T NEED TO BE APPREHENSIVE ABOUT
11 IT. THESE ARE QUESTIONS THAT ARE JUST YOUR PERSONAL
12 FEELINGS ABOUT SOME THINGS. YOU'RE ENTITLED TO FEEL THE
13 WAY YOU WANT TO FEEL ABOUT IT. NOBODY'S GOING TO TRY TO
14 CHANGE YOUR MIND EVEN IF EVERYBODY IN THE ROOM DIFFERED.
15 STILL YOU'RE ENTITLED TO THOSE FEELINGS. I WANT YOU TO
16 FEEL -- JUST RELAX AND JUST RESPOND TRUTHFULLY. OKAY?

17 A OKAY.

18 Q DO YOU KNOW ANYTHING ABOUT THIS CASE OTHER THAN WHAT
19 I SHARED WITH YOU THAT WAS ALLEGED TO HAVE OCCURRED?

20 A NO, I DON'T.

21 Q HAVE YOU READ ANYTHING ABOUT IT OR HEARD ANYTHING
22 ABOUT IT SINCE WE MET ON MONDAY?

23 A NO.

24 Q NO ONE'S TALKED WITH YOU ABOUT IT?

25 A NO.

1998

- 1 Q DO YOU HAVE ANY OPINIONS ABOUT THIS CASE?
- 2 A NO, BECAUSE I DON'T KNOW NOTHING ABOUT IT.
- 3 Q ALL RIGHT. WOULD YOU HAVE TO HEAR ALL OF THE FACTS
- 4 BEFORE YOU COULD MAKE A DECISION ABOUT IT?
- 5 A YES.
- 6 Q YOU WOULD BE THAT TYPE OF PERSON; IS THAT RIGHT?
- 7 A YES, SIR.
- 8 Q AND WOULD YOU WAIT UNTIL YOU HEARD ALL OF THE FACTS
- 9 AND THE LAW THAT THE COURT WOULD TELL YOU TO BE APPLIED TO
- 10 THOSE FACTS BEFORE YOU WOULD MAKE A DECISION?
- 11 A YES, I WOULD.
- 12 Q OKAY. HAVE YOU HAD A CHANCE TO READ THAT SHEET OF
- 13 PAPER THAT HAD THE THREE TYPES OF JURORS ON IT?
- 14 A YES, SIR.
- 15 Q WHICH ONE BEST DESCRIBES YOU?
- 16 A IT WOULD BE -- I WOULD SAY THE THIRD ONE.
- 17 Q THE THIRD ONE. AS I UNDERSTAND THAT MEANS THAT
- 18 YOU'RE THE TYPE OF PERSON THAT BELIEVES THAT IF SOMEONE IS
- 19 FOUND GUILTY OF MURDER THAT SOMETIMES THE DEATH PENALTY
- 20 WOULD BE THE APPROPRIATE PUNISHMENT. SOMETIMES LIFE
- 21 IMPRISONMENT MAY BE THE APPROPRIATE PUNISHMENT BUT IT WOULD
- 22 JUST DEPEND ON THE CIRCUMSTANCES OF THE CASE AND BEFORE YOU
- 23 COULD DECIDE YOU'D HAVE TO HEAR ALL OF THE CIRCUMSTANCES?
- 24 A YES.
- 25 Q IS THAT RIGHT?

1999

1 A THAT'S RIGHT.

2 Q OKAY. YOU UNDERSTAND THAT THIS IS A CASE INVOLVING A
3 CRIMINAL MATTER THAT THERE ARE CERTAIN PRINCIPLES OF LAW,
4 CERTAIN LEGAL ISSUES THAT ARE INVOLVED IN THIS CASE AND OF
5 COURSE ANY CASE OF THAT NATURE THAT'S TRIED IN THIS COUNTRY
6 FOR THAT MATTER. ONE OF THEM IS THE PRESUMPTION OF
7 INNOCENCE WHICH I EXPLAINED TO YOU ON MONDAY. DO YOU HAVE
8 ANY PROBLEM WITH THAT PRINCIPLE OF LAW?

9 A NO, I DON'T.

10 Q BASICALLY OF COURSE AS I STATED THAT THAT MEANS THAT
11 SOMEONE WHO IS CHARGED WITH A CRIMINAL OFFENSE IS PRESUMED
12 TO BE INNOCENT UNTIL AND IF THE STATE BRINGS IN ENOUGH
13 EVIDENCE TO SATISFY A JURY BEYOND A REASONABLE DOUBT. YOU
14 UNDERSTAND?

15 A YES, SIR.

16 Q OBVIOUSLY THAT MEANS THAT THE STATE IN THIS DISPUTE
17 IS THE ONLY PARTY THAT HAS ANYTHING PROVE. THE PERSON
18 CHARGED WITH A CRIMINAL OFFENSE IS NEVER REQUIRED TO PROVE
19 ANYTHING, NOT REQUIRED TO PROVE OR DISPROVE ANYTHING. THEY
20 CERTAINLY ARE NEVER REQUIRED TO PROVE THEIR INNOCENCE. DO
21 YOU UNDERSTAND THAT?

22 A YES, I DO.

23 Q WOULD YOU HAVE ANY PROBLEM -- DO YOU HAVE ANY PROBLEM
24 WITH THAT LAW?

25 A NO, I DON'T.

2000

1 Q ALL RIGHT. IF YOU WERE SELECTED AS A JUROR IN THIS
2 CASE, WOULD YOU EXPECT -- MR. STONE I WOULD TELL YOU IS THE
3 INDIVIDUAL WHO'S SEATED OVER THERE. HE'S THE INDIVIDUAL
4 WHO'S CHARGED WITH THESE OFFENSES. WOULD YOU EXPECT HIM TO
5 PROVE ANYTHING TO YOU?

6 A NO.

7 Q OKAY. YOU'D LOOK TO THE STATE TO PROVE ITS CASE?

8 A YES.

9 Q YOU WOULD?

10 A (NODDED HEAD.)

11 Q IF YOU WERE ON THE JURY AND YOU KNOW THAT THERE ARE
12 TWO PARTS TO THIS PROCEEDING. THE SECOND PART CERTAINLY IS
13 SOMEWHAT CONTROLLED BY WHAT THE JURY'S DECISION IS IN THE
14 FIRST ONE BECAUSE THE FIRST ONE YOU'RE GOING TO DEAL WITH
15 WHETHER OR NOT MR. STONE COMMITTED THESE OFFENSES,
16 COMMITTED THESE ACTS, WHETHER OR NOT THE STATE CAN PROVE
17 THAT HE DID BEYOND A REASONABLE DOUBT. YOU UNDERSTAND
18 THAT?

19 A YES, I DO.

20 Q IF YOU WERE ON THIS JURY AND I WOULD INSTRUCT YOU
21 THAT IF YOU FELT -- IF YOU WERE NOT CONVINCED BEYOND A
22 REASONABLE DOUBT THAT THE STATE HAD PROVED ITS CASE THAT
23 MR. STONE DID COMMIT THESE OFFENSES, IT WOULD BE YOUR DUTY
24 TO FIND HIM NOT GUILTY. WOULD YOU HAVE ANY HESITANCY OR
25 ANY PROBLEM FOLLOWING THAT INSTRUCTION?

VOLUME FIVE OF SEVEN

STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM SUMTER COUNTY

R. Markley Dennis, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BOBBY WAYNE STONE,

APPELLANT

RECORD ON APPEAL

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INDEX

TRIAL TRANSCRIPT DATED JANUARY 28, 1997

TESTIMONY IN GUILT PHASE

WITNESSES:

PERRY HEROD	17
JOSEPH GALIMORE	57
DANA WINGATE	78
DR. HAROLD MORGAN	81
KATHY MILES	140
DANIEL BETHEA	172
MARY RUTH MCLEOD	186
RUTH GRIFFITH	220
LANDROW TAYLOR	279
DR. JOEL SEXTON	301
JOHN PRINCE	316
MICHAEL WINSTON	336
EDDIE HOBBS	350
ROBERT RICHARDSON	366
LEROY DENNIS	368
RAYMOND MACKESSY	374
TOM DARNELL	430
PAUL C. LAROSA	461
TOM DARNELL	468
JEFF HOLLIFIELD	472
JOHN BARRON	488
JEREMIAH DAVIS	503
FRED POWELL	512
STACY DRAKEFORD	537
RICHARD HUNTON	546
DAVID MCCLURE	554
DOUG BRANNON	556
BUSTER EDWARDS	569
DANA WINGATE	571
GRAYSON AMICK	578
GARY MARTIN	586
ROBERT JONES	591
JOHN JOHNSON	606
EMILY REINHART	608
PERRY HEROD	626
IRA PARNELL	643

PERRY HEROD	677
JOE GALLIMORE.....	715
MARY G. WILSON.....	743
MICHELLE LYNCH.....	757
TEANNE OEHLER	771
CHARGE.....	868
VERDICT	916
TESTIMONY IN PENALTY PHASE	
WITNESSES:	
PERRY HEROD	947
DEBORAH MATHIS	951
STEVE LANEY	963
TOMMY MIMS	977
GARY METTS.....	995
PEGGY KUBALA	1002
KEVIN KUBALA	1007
FRED KUBALA	1009
LEANNA CROOKSHANKS	1021
TERESA B. KUBALA	1033
DR. HAROLD MORGAN.....	1053
BERNICE PERRY	1078
TAMMY WINDHAM	1092
MELINDA PARROTT	1097
MICHELLE LYNCH.....	1109
MARY WILSON.....	1111
DIANE RENEA CONNOR	1114
TEANNE OEHLER	1117
JERRY HYATT	1160
DENISE LEWIS.....	1179
DR. JOHN DUNLAP	1186
CHARGE.....	1240
VERDICT	1260
SENTENCE.....	1264
JURY VOIR DIRE (JANUARY 20, 21 AND 22, 1997)	1267
JURY VENIRE (JANUARY 20-22, 1997)	2110

PRETRIAL HEARING DATED JUNE 21, 1996.....	2940
PRETRIAL HEARING DATED AUGUST 20, 1996.....	2946
PRETRIAL HEARING DATED SEPTEMBER 26, 1996.....	3005
PRETRIAL HEARING DATED JANUARY 10, 1997.....	3032
NOTICE OF INTENTION TO SEEK THE DEATH PENALTY	3076
INDICTMENT FOR MURDER AND BURGLARY	3077
VERDICT FORM	3079
STATUTORY INSTRUCTIONS.....	3080
JURY'S VERDICT ON PROOF OF AGGRAVATING CIRCUMSTANCES.....	3082
RECOMMENDATION OF DEATH SENTENCE	3084
AFFIRMATION OF DEATH SENTENCE.....	3085
JUROR INFORMATION CARD FOR CLYDIE THOMPSON	3086
JUROR INFORMATION CARD FOR DAN RIEGLE	3090
JUDGE'S FINAL REPORT	3094
CERTIFICATE OF COUNSEL	3107

STATE'S EXHIBITS 6 THROUGH 12 HAVE BEEN DOCKETED WITH THE COURT.

2001

- 1 A NO, I WOULDN'T.
- 2 Q SO IF THE STATE DIDN'T CONVINCE YOU THAT HE WAS
- 3 GUILTY, YOU WOULD FIND HIM NOT GUILTY?
- 4 A WELL, WHEN I HEAR THE WHOLE CASE THEN I WOULD, YOU
- 5 KNOW. . .
- 6 Q PRECISELY. YOU WOULD BASE IT ON ALL OF THE EVIDENCE
- 7 BUT AFTER VIEWING OF ALL THE EVIDENCE AND THE LAW YOU
- 8 WEREN'T SATISFIED THAT THE STATE HAD CONVINCED YOU BEYOND A
- 9 REASONABLE DOUBT THAT HE WAS GUILTY, YOU WOULD FIND HIM NOT
- 10 GUILTY IF YOU WEREN'T SATISFIED AT THE END? I'M NOT
- 11 ASKING ---
- 12 A WELL, IF I WASN'T SATISFIED.
- 13 Q YES.
- 14 A YES.
- 15 Q YOU COULD DO THAT?
- 16 A YES.
- 17 Q ALL RIGHT. ALSO IF IN VIEWING ALL OF THE EVIDENCE --
- 18 THIS IS AFTER YOU'VE HEARD IT ALL AND AFTER YOU'VE HEARD ME
- 19 CHARGE YOU ON THE LAW. PART OF MY CHARGE WOULD ALSO SAY
- 20 THAT IF YOU ARE CONVINCED, THAT IF THE JURY'S SATISFIED,
- 21 THAT THE STATE HAS MET ITS BURDEN OF PROOF AND CONVINCED
- 22 YOU BEYOND A REASONABLE DOUBT OF HIS GUILT THAT HE DID DO
- 23 THESE OFFENSES, THEN YOU WOULD -- IT WOULD BE YOUR DUTY TO
- 24 RETURN A VERDICT OF GUILTY. COULD YOU DO THAT?
- 25 A YES.

2002

1 Q IF THE JURY FINDS MR. STONE NOT GUILTY, IN OTHER
2 WORDS THEY CONCLUDE THAT THE STATE HAS NOT MET ITS BURDEN
3 OF PROOF, NOT CONVINCED YOU BEYOND A REASONABLE DOUBT, THEN
4 OF COURSE THAT WOULD END THIS CASE BUT IF THE JURY AFTER
5 VIEWING ALL THE EVIDENCE IS CONVINCED THAT THE STATE HAS
6 MET ITS BURDEN OF PROOF, IN OTHER WORDS MR. STONE DID THESE
7 OFFENSES AND THEY WERE SATISFIED BEYOND A REASONABLE DOUBT
8 AND FOUND HIM GUILTY OF THE OFFENSE OF MURDER, THEN YOU'D
9 GO INTO THE SECOND PHASE OF THIS TRIAL WHICH IS KNOWN AS
10 THE PENALTY PHASE. YOU UNDERSTAND THAT?

11 A YES, SIR.

12 Q IT'S AT THAT TIME THAT YOU'RE GOING TO HEAR
13 ADDITIONAL INFORMATION. YOU'RE GOING TO GET TO HEAR SOME
14 ADDITIONAL FACTS THAT YOU DIDN'T HEAR IN THE FIRST OR
15 ADDITIONAL TESTIMONY THAT YOU DIDN'T HEAR IN THE FIRST
16 PHASE. YOU UNDERSTAND THAT?

17 A YES, SIR.

18 Q WOULD YOU BE ABLE TO KEEP AN OPEN MIND DURING THAT
19 PHASE?

20 A YES, I WOULD.

21 Q THAT WOULD MEAN THAT YOU WOULD NOT DECIDE THE
22 APPROPRIATE PUNISHMENT UNTIL YOU'VE HEARD ALL OF THOSE
23 FACTS AND CIRCUMSTANCES?

24 A YES.

25 Q AT THE CONCLUSION OF THAT PHASE AFTER YOU'VE HEARD

2003

1 THE TESTIMONY, I'LL GIVE YOU FURTHER INSTRUCTION ON THE LAW
2 AND THEN THE JURY WILL BE ASKED TO GO TO THE JURY ROOM AND
3 DECIDE THE APPROPRIATE PUNISHMENTS. YOU UNDERSTAND THAT?

4 A YES, I DO.

5 Q WOULD YOU BE ABLE TO CONSIDER AND WOULD YOU CONSIDER
6 BOTH POSSIBLE PUNISHMENTS, LIFE IMPRISONMENT AND THE DEATH
7 PENALTY?

8 A NOW, HOW YOU SAY THAT AGAIN?

9 Q WOULD YOU CONSIDER -- YOU'LL HAVE TO PICK BETWEEN THE
10 TWO. YOU'LL HAVE TO DECIDE WHICH ONE AND WOULD YOU BE ABLE
11 TO CONSIDER BOTH OF THEM?

12 A YES.

13 Q AND THEN DECIDE WHICH ONE YOU FELT WAS MOST
14 APPROPRIATE?

15 A YES.

16 Q YOU WOULD BE ABLE TO DO THAT?

17 A YES, I WOULD.

18 Q OKAY. IF YOU'RE SELECTED ON THIS JURY, THIS JURY IS
19 GOING TO BE SEQUESTERED FOR THE TRIAL WHICH MEANS THE STATE
20 WILL PROVIDE YOU WITH LODGING AND TRANSPORTATION AND FOOD
21 FOR THE DURATION OF THE TRIAL. YOU'LL ALL BE KEPT TOGETHER
22 IN A MOTEL THERE IN SUMTER AND I REALIZE THAT THAT MAY BE
23 AN INCONVENIENCE TO YOU AND I UNDERSTAND THAT IT MAY
24 DISRUPT YOUR LIFE FOR A LITTLE WHILE BUT WOULD YOU BE ABLE
25 TO SET THAT ASIDE AND STILL -- AND PERFORM YOUR DUTIES AS A

2004

1 JUROR IN THIS CASE?

2 A YES.

3 Q YOU COULD DO THAT?

4 A YES, I COULD.

5 Q OKAY. DO YOU KNOW OF ANYTHING THAT'S OCCURRED IN
6 YOUR LIFE, ANY STRONG FEELINGS THAT YOU WOULD HAVE, ANY
7 PERSONAL PHILOSOPHIES THAT YOU MAY HAVE THAT IN A CASE LIKE
8 THIS INVOLVING WHERE SOMEONE IS ACCUSED OF TAKING ANOTHER
9 PERSON'S LIFE THAT WOULD IN ANY WAY AFFECT YOUR ABILITY TO
10 BE FAIR AND IMPARTIAL TO THE STATE OR FAIR AND IMPARTIAL
11 WITH MR. STONE?

12 A NO.

13 Q YOU DO NOT?

14 A NO.

15 THE COURT: OKAY. ANSWER ANY QUESTIONS THAT THE
16 SOLICITOR MAY HAVE FOR YOU.

17 SOLICITOR.

18 EXAMINATION BY MR. KOLB:

19 Q MS. MAYBANK, YOU INDICATED YOU HAVE EIGHT CHILDREN
20 BUT YOU DIDN'T GIVE THEIR AGES. WOULD YOU TELL ME HOW OLD
21 YOUR DAUGHTERS ARE FIRST?

22 A FORTY, 35, 33, 29, 23.

23 Q AND HOW ABOUT THE BOYS?

24 A FORTY-TWO, 27, 23.

25 Q THEY ALL LIVE AROUND HERE IN GEORGETOWN?

2005

1 A NO. THE SON HAS A SON LIVE IN WINSTON SALEM, NORTH
2 CAROLINA. I HAVE A DAUGHTER LIVING IN DELAWARE. I HAVE A
3 DAUGHTER LIVE EVANSVILLE, INDIANA. I HAVE A SON LIVE IN
4 CALIFORNIA AND A DAUGHTER LIVE, TWO OF THEM LIVE HERE --
5 THREE OF THEM LIVE HERE, TWO DAUGHTER AND A SON.

6 Q WELL, YOU'VE DONE -- YOU MUST BE REAL PROUD.

7 MS. MAYBANK, YOU INDICATED THAT YOU WERE THE TYPE OF PERSON
8 THAT IF CALLED UPON AS A JUROR THAT YOU COULD DECIDE IN A
9 DEATH PENALTY CASE THAT IN SOME CIRCUMSTANCES THE DEATH
10 PENALTY WAS APPROPRIATE?

11 A BEG YOUR PARDON?

12 Q LET ME START A DIFFERENT WAY. HAVE YOU EVER
13 DISCUSSED THE DEATH PENALTY WITH ANYBODY? TALKED WITH
14 DEATH PENALTY -- ABOUT THE DEATH PENALTY?

15 A NO, I HAVEN'T.

16 Q BUT YOU'VE NEVER LIKE TALKED WITH YOUR FRIENDS OR
17 FAMILY MEMBERS, JUST TALKED ABOUT THE DEATH PENALTY IN
18 GENERAL OR DEATH PENALTY CASES?

19 A NO, I HAVEN'T.

20 Q YOU HAVEN'T EVER TALKED WITH ANYBODY ABOUT THAT GUY
21 OUGHT TO GET THE DEATH PENALTY OR SOME CASE YOU SEE ON T.V.
22 THAT GUY SHOULDN'T GET THE DEATH PENALTY?

23 A NO, I HAVEN'T.

24 Q YOU HAVEN'T EVER DISCUSSED THAT?

25 A NO, I HAVEN'T.

2006

1 Q BUT AS FAR AS -- HAD YOU EVER THOUGHT ABOUT THE DEATH
2 PENALTY BEFORE YOU CAME UP HERE FOR THIS TRIAL AND FOUND
3 OUT IT WAS A DEATH PENALTY TRIAL?

4 A NO, I HAVEN'T.

5 Q YOU HAVEN'T REALLY EVER THOUGHT ABOUT IT IN ALL YOUR
6 YEARS?

7 A NO, I HAVEN'T.

8 Q BUT BEING FACED WITH IT -- THIS IS THE FIRST TIME
9 YOU'VE EVER BEEN A ON JURY FOR A DEATH PENALTY CASE; IS
10 THAT RIGHT?

11 A YES.

12 Q SO YOU'VE THOUGHT ABOUT IT AT LEAST TODAY READING
13 THAT PAPER?

14 A WELL ---

15 Q THE PAPER THE JUDGE GAVE YOU, YOU THOUGHT ABOUT WHAT
16 TYPE OF PERSON YOU WERE?

17 A NO, I HAVEN'T THOUGHT ABOUT IT, YOU KNOW.

18 Q WELL, OKAY. SO YOU DIDN'T THINK ABOUT THAT AS YOU
19 WERE IN THE ROOM OUT THERE BEFORE YOU CAME IN HERE AS WHAT
20 TYPE PERSON YOU WERE AS REGARDS THE DEATH PENALTY CASE?

21 A THE WAY THAT I SEE IT I'M JUST THE PERSON THAT'S FOR
22 THE RIGHT THING.

23 Q OKAY. SO YOU DON'T HAVE ANY STRONG PERSONAL OPINIONS
24 AGAINST THE DEATH PENALTY OR FOR THE DEATH PENALTY?

25 A NO.

2007

1 Q SO THEN IN CERTAIN CIRCUMSTANCES DEPENDING UPON WHAT
2 THE LAW IS AND DEPENDING UPON WHAT THE FACTS OF THE CASE
3 ARE, YOU DO FEEL THAT THE DEATH PENALTY WOULD BE AN
4 APPROPRIATE PUNISHMENT?

5 A WELL, I'D HAVE TO HEAR THE CASE FIRST BEFORE I COULD
6 GIVE THAT DECISION.

7 Q WELL, IF YOU ALWAYS HAVE A CHOICE BETWEEN THE DEATH
8 PENALTY AND LIFE IMPRISONMENT, IF YOU COULD ALWAYS HAVE
9 THAT CHOICE, WOULD YOU ALWAYS CHOOSE TO IMPOSE LIFE
10 IMPRISONMENT?

11 A WELL, I DON'T KNOW ABOUT THAT.

12 Q OKAY. YOU DON'T THINK YOU WOULD ALWAYS CHOOSE LIFE
13 IMPRISONMENT IF YOU HAD THAT CHOICE ONCE YOU HEARD ALL THE
14 FACTS?

15 A I WOULDN'T KNOW WHETHER, YOU KNOW, BUT I GUESS LIFE
16 IMPRISONMENT WOULD BE BETTER THAN DEATH PENALTY.

17 Q ALL RIGHT. BUT ARE THERE SOME CASES WHERE YOU COULD
18 GIVE THE DEATH PENALTY?

19 A YES.

20 Q SO THERE ARE SOME CASES THEN WHERE THE DEATH PENALTY
21 COULD BE BETTER THAN GIVING A PERSON LIFE IMPRISONMENT?

22 A NO. WELL, I HAVEN'T THOUGHT ABOUT THAT EITHER.

23 Q OKAY. SO IN READING THAT FORM BEFORE YOU CAME IN
24 HERE, YOU DIDN'T THINK ABOUT THE POSSIBILITY THAT YOU MIGHT
25 BE ON A JURY AND HAVE TO DECIDE TO GIVE SOMEBODY THE DEATH

2008

1 PENALTY?

2 A YES, I THOUGHT ABOUT IT.

3 Q YOU DID THINK ABOUT THAT?

4 A YES.

5 Q DID YOU THINK THAT YOU COULD DO IT; THAT YOU COULD BE
6 ON A JURY AND ACTUALLY GIVE THE DEATH PENALTY?

7 A WELL, I COULDN'T SAY WHETHER I COULD GIVE IT OR NOT
8 UNLESS I HEAR, YOU KNOW, WHAT IT WAS ABOUT.

9 Q ALL RIGHT. SO BUT GOING -- WE REALIZE THAT YOU
10 COULDN'T MAKE THE DECISION UNTIL YOU HEARD ALL THE FACTS,
11 ALL THE CIRCUMSTANCES, AND THE LAW FROM THE JUDGE BUT DO
12 YOU FEEL LIKE THAT IF THE FACTS WERE BAD ENOUGH AND IF THE
13 LAW APPLIED TO THAT CASE THAT YOU COULD, THAT YOU,
14 YOURSELF, COULD RETURN A DEATH VERDICT?

15 A YES, I THINK I COULD.

16 Q ALL RIGHT. AND IF YOU WERE ON THE JURY AND MADE THAT
17 DECISION, WOULD YOU HAVE ANY PROBLEM SIGNING YOUR NAME TO
18 THAT VERDICT?

19 A NO, I WOULDN'T.

20 Q THAT WAS YOUR SENTENCE?

21 A YES. NO, I WOULDN'T HAVE NONE.

22 Q AND COMING INTO THE COURTROOM AND STANDING UP AND
23 SAYING IN OPEN COURT THAT THAT WAS YOUR SENTENCE?

24 A YES.

25 Q OKAY. YOU WOULDN'T HAVE ANY PROBLEM WITH THAT IF

2009

1 THAT WAS YOUR DECISION?

2 A NO, I WOULDN'T.

3 MR. KOLB: THANK YOU, MA'AM.

4 THE COURT: MR. BABB.

5 MR. BABB: THANK YOU, YOUR HONOR.

6 EXAMINATION BY MR. BABB:

7 Q GOOD MORNING, MA'AM.

8 A GOOD MORNING.

9 Q MS. MAYBANK, LET ME JUST BE SURE I UNDERSTAND YOUR
10 ANSWERS TO THESE QUESTIONS. IS WHAT YOU'RE BASICALLY
11 SAYING IN A NUTSHELL YOU'RE GOING TO SIT THERE AND LISTEN
12 TO ALL THE EVIDENCE, HEAR IT, FOLLOW THE JUDGE'S
13 INSTRUCTIONS, AND DO WHAT'S RIGHT AND RENDER A FAIR
14 VERDICT?

15 A YES, I COULD.

16 Q ONCE YOU DO YOU'RE GOING TO STICK TO YOUR GUNS?

17 A YES.

18 Q IF YOU FELT THAT IT WAS APPROPRIATE AFTER THE ISSUE
19 OF GUILT HAS BEEN DETERMINED SO I'M TALKING ABOUT TWO
20 DIFFERENT PHASES. FIRST THERE IS A QUESTION OF GUILT, THEN
21 THE PENALTY. IF GUILT IS DETERMINED AND YOU'RE IN THE
22 PENALTY PHASE, YOU CAN WEIGH BOTH LIFE AND DEATH, LIFE IN
23 PRISON AND DO WHAT YOU THINK IS RIGHT?

24 A YES.

25 Q UNDER THOSE CIRCUMSTANCES?

2010

1 A YES.

2 Q THANK YOU. JUST A COUPLE OF MORE QUESTIONS,
3 MS. MAYBANK. I THINK IN FILLING OUT YOUR QUESTIONNAIRE,
4 YOU RECALL YOU RECEIVED A QUESTIONNAIRE TO FILL OUT, THERE
5 WAS ONE OVERLOOKED. I DIDN'T SEE AN ANSWER TO IT AND THAT
6 WAS YOU EVER BEEN A WITNESS IN A CRIMINAL CASE?

7 A NO.

8 Q I NOTE, MS. MAYBANK, AND I'M NOT TRYING TO PRY. IT'S
9 JUST SOMETHING THAT WE NEED TO KNOW TO CONSIDER THOSE
10 MATTERS BUT THAT YOU'RE WIDOWED. WHAT WERE THE
11 CIRCUMSTANCES OF YOUR HUSBAND'S DEATH?

12 A BEG YOUR PARDON?

13 Q WHAT WERE THE CIRCUMSTANCES OF YOUR HUSBAND'S DEATH?

14 A HE WAS HURT IN SERVICE. HE WAS A DISABLED VETERAN.

15 Q OKAY. ONE LAST AREA THAT I DO NEED TO COVER WITH
16 YOU. IN THIS CASE THE DEFENDANT IS ACCUSED OF MURDER AND
17 HE IS ACCUSED OF MURDER OF A POLICE OFFICER. DOES THE FACT
18 THAT HE HAS BEEN CHARGED WITH THE MURDER OF A POLICE
19 OFFICER, WOULD THAT IMPACT YOUR ABILITY TO BE FAIR?

20 A NO, IT WOULDN'T.

21 Q OKAY. YOU CAN SET ASIDE AND DETERMINE HIS GUILT THE
22 FACT THAT A POLICE OFFICER MAY HAVE BEEN INVOLVED?

23 A YES, I COULD.

24 Q COULD YOU CONTINUE TO FAIRLY CONSIDER ALL THE
25 EVIDENCE WITH REGARD TO YOUR DECISION IF HE WERE DETERMINED

2011

1 TO BE GUILTY?

2 A YES, I COULD.

3 Q TO IMPOSE A SENTENCE OF DEATH OR A SENTENCE OF LIFE
4 IMPRISONMENT?

5 A YES.

6 MR. BABB: THANK YOU VERY MUCH.

7 THE COURT: ALL RIGHT. THANK YOU VERY MUCH,
8 MS. MAYBANK. I WOULD ASK YOU JUST TO STEP OUT JUST FOR A
9 SECOND, BE RIGHT BACK WITH YOU. OKAY? THANK YOU.

10 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
11 JUROR.)

12 THE COURT: SAYS THE STATE?

13 MR. KOLB: QUALIFIED.

14 THE COURT: SAYS THE DEFENDANT?

15 MR. BABB: WE AGREE.

16 THE COURT: I DO FIND SHE IS QUALIFIED.

17 ASK HER TO STEP IN, PLEASE.

18 (THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE
19 JUROR.)

20 THE COURT: MS. MAYBANK, I UNDERSTAND YOU HAVE A
21 SON THAT MADE A CONTRIBUTION TO THE OLYMPIC GAMES.

22 THE JUROR: YES, SIR.

23 THE COURT: CONGRATULATIONS. I KNOW YOU'RE PROUD
24 OF HIM.

25 THE JUROR: I AM.

2012

1 THE COURT: I'M PROUD OF HIM, TOO, BEING A PART
2 OF THIS COUNTRY.

3 THE COURT: HE'S IN TEXAS? DID HE GO TO TEXAS?

4 THE JUROR: HE WENT TO IOWA CITY BUT NOW HE'S
5 WORKING OUT IN CALIFORNIA AND, YES, HE'S STILL RUNNING.

6 THE COURT: HE'S STILL RUNNING.

7 THE JUROR: HE LIKES IT.

8 THE COURT: WELL, CONGRATULATIONS TO YOU. I KNOW
9 YOU'RE PROUD. YOU HAVE BEEN QUALIFIED AS A JUROR IN THIS
10 MATTER. THAT MEANS THAT YOU ARE PART OF THE POOL THAT
11 WE'RE GOING TO SELECT THIS AFTERNOON THE 12 JURORS FROM
12 THAT POOL. SO YOU'LL NEED TO BE BACK HERE IN THE COURTROOM
13 AT FIVE O'CLOCK.

14 THE JUROR: ALL RIGHT.

15 THE COURT: OKAY. JUST COME BACK OUT IN THE
16 AUDIENCE JUST LIKE YOU DID MONDAY. IT WON'T TAKE VERY
17 LONG. WE'RE GOING TO PICK THE JURORS WHO WILL SERVE,
18 THE 12 AND THE ALTERNATES. IN CASE YOU ARE SELECTED YOU
19 NEED TO BRING WITH YOU WHEN YOU COME CLOTHING AND PERSONAL
20 EFFECTS TO TAKE CARE OF YOUR NEEDS FOR ABOUT A WEEK. OKAY.
21 BECAUSE IF YOU'RE SELECTED WE'RE GOING FROM HERE, ALL OF
22 US, GOING TO SUMTER AND WE'LL START THE TRIAL IN THE
23 MORNING. OKAY?

24 THE JUROR: OKAY.

25 THE COURT: THIS IS SOME INFORMATION THAT

2013

1 MR. PLAYER WHO IS THE CLERK OF COURT HAS PREPARED FOR YOU.
2 HERE IS SOME INFORMATION ABOUT SOME TELEPHONE NUMBERS AND
3 WHATNOT THAT YOU MAY WANT TO GIVE TO SOME FAMILY MEMBER AND
4 BE HELPFUL FOR YOU IN YOUR PACKING AND WHATNOT. UNTIL FIVE
5 O'CLOCK PLEASE DO NOT DISCUSS THIS CASE WITH ANYONE. DON'T
6 ALLOW ANYBODY TO TALK WITH YOU ABOUT IT OR READ ANYTHING
7 ABOUT IT OR WATCH ANY NEWS OR WATCH ANY T.V. PROGRAM ABOUT
8 IT. OKAY. I'LL SEE YOU AT FIVE.

9 THE JUROR: ALL RIGHT.

10 THE COURT: THANK YOU, MS. MAYBANK.

11 JAMES D. WOODARD, BEING FIRST
12 DULY SWORN, TESTIFIED AS FOLLOWS:

13 EXAMINATION BY THE COURT:

14 Q MR. WOODARD, HOW ARE YOU, SIR?

15 A FINE. HOW ARE YOU?

16 Q FINE THANK YOU, SIR. MR. WOODARD, I HAVE SOME
17 QUESTIONS THAT I NEED TO ASK YOU. THESE QUESTIONS DO NOT
18 HAVE ANY RIGHT OR WRONG ANSWER. MANY OF THEM WOULD BE JUST
19 YOUR PERSONAL FEELINGS ABOUT THINGS AND YOU DON'T NEED TO
20 WORRY ABOUT IT. YOU'RE ENTITLED TO YOUR OPINIONS. NO
21 ONE'S GOING TO ATTACK YOU FOR THAT SO I WANT YOU TO FEEL
22 COMFORTABLE WITH THAT. OKAY?

23 A YES, SIR.

24 Q I NEED TO ASK YOU FIRST OF ALL DO YOU HAVE ANY
25 KNOWLEDGE ABOUT THIS INCIDENT THAT. . .

2014

- 1 A NO, SIR.
- 2 Q NONE OTHER THAN WHAT I SHARED WITH YOU ON MONDAY?
- 3 A THAT'S RIGHT.
- 4 Q DO YOU HAVE ANY OPINIONS ABOUT IT AT THIS POINT?
- 5 A NO, NOT REALLY, NO, SIR, I DON'T.
- 6 Q OKAY. WOULD YOU HAVE TO HEAR ALL OF THE EVIDENCE
- 7 BEFORE YOU WERE ABLE TO DEVELOP AN OPINION?
- 8 A YES, I WOULD.
- 9 Q WOULD YOU KEEP AN OPEN MIND UNTIL YOU HEARD ALL OF
- 10 THE EVIDENCE?
- 11 A YES, SIR.
- 12 Q YOU'RE A PERSON THAT WOULD HAVE TO HEAR IT ALL BEFORE
- 13 YOU'D MAKE A DECISION?
- 14 A EXACTLY.
- 15 Q OKAY. DID YOU HAVE A CHANCE TO REVIEW THAT SHEET?
- 16 A YES, SIR.
- 17 Q THAT HAD THE THREE TYPES. WHICH ONE BEST DESCRIBES
- 18 YOU?
- 19 A THREE.
- 20 Q NUMBER THREE?
- 21 A YES, SIR.
- 22 Q AND BY THAT IT MEANS -- ARE YOU TELLING ME THAT THERE
- 23 ARE CIRCUMSTANCES, WHEN A PERSON IS FOUND GUILTY OF MURDER,
- 24 CIRCUMSTANCES IN SOME CASES WOULD WARRANT THE DEATH PENALTY
- 25 BUT IN OTHER CASES IT WOULD WARRANT LIFE IMPRISONMENT?

2015

1 A YES, SIR.

2 Q AND FOR YOU TO MAKE A DECISION WHICH ONE, YOU'D HAVE
3 TO KNOW ALL THE FACTS AND CIRCUMSTANCES?

4 A YES, SIR.

5 Q AND THEN YOU'D MAKE YOUR DECISION?

6 A YES, SIR.

7 Q THIS CASE IS A CASE OF A CRIMINAL NATURE AND INVOLVES
8 A NUMBER OF PRINCIPLES OF LAW. I SHARED WITH YOU ON MONDAY
9 THERE A COUPLE OF THEM. ONE OF THEM WAS THE PRESUMPTION OF
10 INNOCENCE?

11 A RIGHT.

12 Q DO YOU HAVE ANY PROBLEM WITH THAT?

13 A NO, SIR. I FEEL THE SAME WAY.

14 Q OKAY. YOU UNDERSTAND THEN THAT THAT PLACES THE
15 BURDEN ON THE STATE TO PROVE THIS CASE BEYOND A REASONABLE
16 DOUBT?

17 A YES, SIR.

18 Q AND THAT SOMEONE CHARGED WITH A CRIME -- JUST BECAUSE
19 THEY'RE CHARGE DOESN'T MEAN ANYTHING AND THEY ARE NEVER
20 REQUIRED TO PROVE ANYTHING?

21 A TRUE.

22 Q IS THAT YOUR UNDERSTANDING?

23 A YES, SIR.

24 Q IF YOU WERE SELECTED ON A JURY, WOULD YOU EXPECT
25 MR. STONE WHO IS THE PERSON THAT'S ACCUSED OF COMMITTING

2016

1 THESE OFFENSES AND IS SEATED OVER THERE, WOULD YOU EXPECT
2 HIM TO PROVE ANYTHING TO YOU?

3 A NO, SIR. I THINK THE EVIDENCE SHOULD SPEAK FOR
4 ITSELF.

5 Q ALL RIGHT. SO YOU'D LOOK TO THE EVIDENCE INTRODUCED
6 BY THE STATE AND YOU'D EXPECT THE STATE TO PROVE ITS CASE?

7 A YES, SIR.

8 Q AS WE TALK THIS IS A TWO-PART TRIAL, REALLY TWO
9 TRIALS WITHIN A TRIAL. THE FIRST PART WE'RE GOING TO DEAL
10 WITH EVIDENCE OF WHETHER OR NOT MR. STONE COMMITTED THESE
11 OFFENSES. AFTER YOU'VE HEARD THE TESTIMONY AND ALL THE
12 EVIDENCE IS IN, I'LL GIVE YOU AN INSTRUCTION ON THE LAW.
13 THE JURY IS GOING TO DECIDE. IF IN VIEWING THAT EVIDENCE
14 AND CONSIDERING THE LAW YOU WERE NOT CONVINCED BEYOND A
15 REASONABLE DOUBT THAT MR. STONE COMMITTED THESE OFFENSES,
16 WOULD YOU HAVE ANY HESITANCY IN FINDING HIM NOT GUILTY?

17 A NO, I WOULDN'T.

18 Q OKAY. ON THE OTHER HAND IF YOU WERE CONVINCED BEYOND
19 A REASONABLE DOUBT BASED ON THE EVIDENCE AND THE LAW, WOULD
20 YOU HAVE ANY -- THAT HE DID COMMIT THEM -- WOULD YOU HAVE
21 ANY HESITANCY IN FINDING HIM GUILTY?

22 A NO, I WOULDN'T.

23 Q DEPENDING ON THE JURY'S VERDICT, OBVIOUSLY IF THE
24 JURY FINDS HIM NOT GUILTY, THAT THE STATE DIDN'T MEET ITS
25 BURDEN, THEN WE'D CONCLUDE -- THAT WOULD CONCLUDE THE

2017

1 TRIAL. ON THE OTHER HAND IF THE JURY CONCLUDES THE STATE
2 DID MEET ITS BURDEN, THEN WE WOULD GO, AND ONLY THEN WOULD
3 WE GO, INTO THE SECOND PHASE WHICH IS THE PENALTY PHASE
4 BECAUSE YOU WOULD HAVE FOUND HIM GUILTY OF MURDER. DO YOU
5 UNDERSTAND THAT?

6 A YES, SIR.

7 Q AS I UNDERSTAND FROM YOUR ANSWERS EARLIER, YOU WOULD
8 HAVE AN OPEN MIND IN THE FIRST PHASE AND WOULD NOT MAKE A
9 DECISION UNTIL YOU'VE HEARD ALL THE EVIDENCE AND THE LAW?

10 A YES, SIR.

11 Q WOULD YOU HAVE AN OPEN MIND IN THE SECOND PHASE AS TO
12 THE PUNISHMENT?

13 A YES, SIR, I WOULD.

14 Q BECAUSE IT'S IN THE SECOND PHASE, THE PENALTY PHASE,
15 WHEN YOU'RE GOING TO HEAR ADDITIONAL EVIDENCE?

16 A YES, SIR.

17 Q THAT WILL DEAL SOLEY WITH THAT ISSUE OF PUNISHMENT.

18 A YES, SIR.

19 Q YOU'LL HEAR SOME EVIDENCE. THERE MAY BE SOME
20 EVIDENCE OF AGGRAVATING CIRCUMSTANCES, MITIGATING
21 CIRCUMSTANCES, AND THE LIKE. SO AM I TO UNDERSTAND THAT
22 YOUR DECISION AS TO THE APPROPRIATE PUNISHMENT WOULD NOT BE
23 MADE UNTIL THAT HAD CONCLUDED?

24 A CORRECT.

25 Q OKAY. YOU UNDERSTAND THAT AT THE END AFTER I HAVE

2013

1 CHARGED YOU ON THE LAW AT THE CONCLUSION OF THE SECOND
2 PHASE, THE JURY WILL BE ASKED TO RETIRE AND MAKE A DECISION
3 OF THE APPROPRIATE PUNISHMENT?

4 A YES, SIR.

5 Q WOULD YOU BE ABLE TO CONSIDER BOTH THE DEATH PENALTY
6 AND LIFE IMPRISONMENT?

7 A YES, SIR.

8 Q THOSE WOULD BE YOUR OPTIONS?

9 A UH-HUH.

10 Q AND THEN WOULD YOU BE ABLE TO DECIDE WHICH ONE YOU
11 FELT WAS MOST APPROPRIATE BASED ON THE FACTS AND
12 CIRCUMSTANCES OF THIS CASE?

13 A YES, SIR. YES, SIR.

14 Q THIS JURY WILL BE SEQUESTERED AND I KNOW THAT MAY
15 CREATE A PROBLEM FOR YOU IN THE SENSE OF BEING AN
16 INCONVENIENCE AND DISRUPT YOUR LIFESTYLE BUT COULD YOU SET
17 ALL OF THE INCONVENIENCE ASIDE AND NOT LET IT AFFECT YOUR
18 PERFORMANCE AS A JUROR?

19 A YES, IF I HAD TO.

20 Q OKAY. ONE LAST QUESTION. DO YOU KNOW OF ANYTHING IN
21 YOUR LIFE'S EXPERIENCES, ANY PERSONAL PHILOSOPHIES YOU MAY
22 HAVE, ANY STRONG CONVICTIONS YOU MAY HAVE OR STRONG
23 FEELINGS THAT YOU MAY HAVE THAT WOULD IN ANY WAY INFLUENCE
24 OR AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL IN THIS
25 TRIAL AS IT PERTAINS TO EITHER THE STATE OR TO MR. STONE,

2016

1 THE INDIVIDUAL CHARGED WITH THIS OFFENSE?

2 A NO, SIR, I DON'T.

3 THE COURT: OKAY. PLEASE ANSWER ANY QUESTIONS
4 THE SOLICITOR MAY HAVE FOR YOU.

5 MR. SOLICITOR.

6 EXAMINATION BY MR. KOLB:

7 Q MR. WOODARD, YOU INDICATE YOU HAD LIVED IN CLARENDON
8 COUNTY FOR SOME EIGHT YEARS?

9 A YES, SIR.

10 Q YOU WENT TO SCHOOL THERE?

11 A YES, SIR.

12 Q DID YOU ACTUALLY FINISH HIGH SCHOOL IN MANNING?

13 A YES, SIR.

14 Q THEN YOU WENT TO SUMTER TEC ---

15 A YES, SIR.

16 Q --- FOR TWO YEARS AND GOT THE JOB YOU NOW HAVE?

17 A YES. WELL, AFTER I FINISHED COLLEGE IN SUMTER, THEN
18 I TOOK A JOB IN SANTEE AND THEN LATER ONEIDA KNITTING
19 NEEDLES AND THEN MY PRESENT JOB NOW.

20 Q OKAY. AND YOU INDICATED YOU HAVE FAMILY AND CLOSE
21 FRIENDS IN SUMTER. COULD YOU TELL US THE NAME OF YOUR
22 FAMILY MEMBERS?

23 A YES. I HAVE NO FAMILY MEMBERS IN SUMTER. I HAVE
24 CLOSE FRIENDS IN SUMTER VERN NEWMAN. I WENT TO HIGH SCHOOL
25 WITH JOEY TAYLOR WHICH WAS A PROFESSOR IN -- ONE OF MY

2020

1 PROFESSORS IN COLLEGE. TRYING TO THINK.

2 Q YOU HAD INDICATED THAT TIMMY NEWMAN MIGHT BE
3 SOMEBODY ---

4 A YES.

5 Q --- A POTENTIAL WITNESS IN THIS CASE THAT YOU MIGHT
6 KNOW HIM?

7 A YES, I THINK THAT IS -- I MENTIONED VERN NEWMAN. I
8 THINK THAT'S HIS NEPHEW AND I HAVE BEEN ACQUAINTED WITH
9 TIMMY ON A GENERAL BASIS.

10 Q AND VERN NEWMAN WAS A FRIEND OF YOURS GOING TO SCHOOL
11 IN SUMTER?

12 A GOING TO HIGH SCHOOL IN MANNING.

13 Q OKAY. AND YOU THINK HE'S GOT A NEPHEW NAMED TIMMY?

14 A YES, SIR.

15 Q WOULD THAT AFFECT YOUR ABILITY TO BE FAIR ---

16 A NO, SIR.

17 Q --- AT ALL IN THE CASE?

18 A NO, SIR, IT WOULDN'T.

19 Q BEFORE BEING SUMMONED UP HERE FOR JURY DUTY IN THIS
20 CASE, HAD YOU EVER HAD DISCUSSIONS ABOUT THE DEATH PENALTY
21 WITH ANYONE, EVER TALKED ABOUT HOW YOU FELT ABOUT THE DEATH
22 PENALTY?

23 A WELL, YES, THAT'S COME UP IN GENERAL CONVERSATION.
24 YES, SIR, IT HAS.

25 Q HAVE YOU EXPRESSED OPINIONS THAT YOU WERE FOR THE

2021

1 DEATH PENALTY OR AGAINST THE DEATH PENALTY OR FELT STRONGLY
2 EITHER WAY?

3 A I'M FOR THE DEATH PENALTY IN CERTAIN SITUATIONS LIKE
4 IT SPECIFIED IN THIS THIRD TYPE OF JUROR.

5 Q SO EVEN BEFORE YOU CAME UP HERE AND READ THAT FORM,
6 YOU HAD THOUGHT THAT YOU WERE THE TYPE PERSON THAT AGREED
7 WITH THE LAW AND AGREED WITH THE FACT THAT JURIES WOULD
8 HAVE TO HEAR THE WHOLE CASE AND THE LAW AND MAKE A DECISION
9 IN EACH CASE?

10 A YES, SIR. YES, SIR.

11 Q SO IF THE CASE -- IF THE FACTS OF THE CASE ARE BAD
12 ENOUGH, YOU COULD SEE YOURSELF RETURNING A DEATH VERDICT
13 AND WHEN I SAY BAD ENOUGH UNDER THE LAW AND DEPENDING UPON
14 THE FACTS AND CIRCUMSTANCES, YOU COULD SEE YOURSELF
15 RETURNING A DEATH VERDICT WHICH WOULD MEAN SIGNING A FORM
16 ALONG WITH THE JURY AND COMING INTO COURT AND REPORTING
17 THAT VERDICT IN THE PRESENCE OF THE DEFENDANT?

18 A YES, I COULD.

19 Q YOU'D HAVE NO PROBLEM WITH DOING THAT?

20 A NO PROBLEM.

21 Q ALL RIGHT. NOW, BUT YOU WOULD HAVE TO HEAR ALL THE
22 FACTS AND CIRCUMSTANCES BEFORE MAKING THAT DECISION?

23 A YES, SIR. YES, SIR, I WOULD.

24 Q AND NO ONE ALLEGATION WOULD CAUSE YOU TO MAKE UP YOUR
25 MIND IN ADVANCE?

2022

1 A NO, SIR, IT WOULD NOT.

2 Q FOR INSTANCE THIS CASE INVOLVES AN ALLEGATION OF THE
3 MURDER OF A LAW ENFORCEMENT OFFICER. THAT WOULD NOT CAUSE
4 YOU TO MAKE UP YOUR MIND IN ADVANCE AND BE UNABLE TO BE
5 FAIR IN HEARING THE EVIDENCE?

6 A NO, SIR, I DON'T FEEL LIKE IT WOULD.

7 MR. KOLB: THANK YOU.

8 THE COURT: MR. BABB.

9 MR. BABB: THANK YOU, YOUR HONOR.

10 EXAMINATION BY MR. BABB:

11 Q GOOD MORNING.

12 A GOOD MORNING.

13 Q SO YOU JUST HAVE A HANDFUL OF FRIENDS IN SUMTER?

14 A YES. YOU KNOW I WENT TO COLLEGE AND JUST A FEW THAT
15 I REMEMBER.

16 Q IF THE CIRCUMSTANCES WERE SUCH AFTER HEARING THEM
17 THAT YOU FELT A SENTENCE OF LIFE IMPRISONMENT WERE
18 APPROPRIATE, WOULD YOU HAVE ANY PROBLEM?

19 A NO, I WOULDN'T HAVE ANY PROBLEM WITH THAT.

20 Q OKAY. NOW, THE SOLICITOR MENTIONED TO YOU THAT
21 ALLEGATIONS OF A POLICE OFFICER?

22 A UH-HUH.

23 Q BEING MURDERED?

24 A YES, SIR.

25 Q THE DEFENDANT, MR. STONE?

2023

1 A RIGHT.

2 Q IS ACCUSED OF THE MURDER OF A POLICE OFFICER?

3 A RIGHT.

4 Q WOULD THAT IMPAIR YOUR ABILITY TO BE FAIR?

5 A NO. A MURDER IS A MURDER. IT DOESN'T MATTER, YOU
6 KNOW, IN MY OPINION.

7 Q AND I BELIEVE YOU TOLD HIS HONOR THAT YOU AGREED WITH
8 THE PRINCIPLE, THAT YOU SHARED THE PHILOSOPHY OF THE
9 PRINCIPLE THAT THE BURDEN IS ON THE STATE TO PROVE ITS
10 CASE?

11 A EXACTLY.

12 Q THAT A DEFENDANT DOES HAVEN'T TO SAY ANYTHING, DO
13 ANYTHING?

14 A RIGHT.

15 Q HIS LAWYERS DON'T HAVE TO DO ANYTHING?

16 A RIGHT.

17 Q OKAY. AND THE FACT THAT HE IS CHARGED WITH THE
18 MURDER OF A POLICE OFFICER DOES NOT ALTER THAT VIEW OF
19 YOURS?

20 A RIGHT, YES, SIR.

21 Q DOES IT ALTER IN ANY WAY YOUR ABILITY, DOES IT IMPAIR
22 YOUR ABILITY TO FAIRLY CONSIDER BOTH THE DEATH SENTENCE AS
23 WELL AS A LIFE IMPRISONMENT SENTENCE?

24 A EITHER ONE, YES. ALL DEPENDING ON THE CIRCUMSTANCES.

25 MR. BABB: COURT'S INDULGENCE.

2024

1 THE COURT: YES, SIR.

2 MR. BABB: NOTHING FURTHER, YOUR HONOR.

3 THE COURT: VERY WELL.

4 MR. WOODARD, I WOULD ASK, SIR, THAT YOU STEP OUT
5 JUST FOR A SECOND. WE'LL BE RIGHT BACK WITH YOU.

6 THE JUROR: ALL RIGHT.

7 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
8 JUROR.)

9 THE COURT: SAYS THE STATE?

10 MR. KOLB: QUALIFIED, YOUR HONOR.

11 THE COURT: THE DEFENSE?

12 MR. BABB: WE CONCUR.

13 THE COURT: I FIND THAT HE IS QUALIFIED.

14 ASK HIM TO STEP IN, PLEASE.

15 (THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE
16 JUROR.)

17 THE COURT: MR. WOODARD, YOU HAVE BEEN QUALIFIED
18 AS A POTENTIAL JUROR IN THIS CASE. WE'RE GOING TO SELECT
19 THE JURY AT FIVE O'CLOCK THIS AFTERNOON. SO YOU'RE GOING
20 TO NEED TO BE BACK IN THE COURTROOM AT THAT TIME. JUST
21 COME BACK AND TAKE A SEAT OUT IN THE AUDIENCE. SINCE YOU
22 MAY BE SELECTED AS A JUROR, YOU'RE GOING TO NEED TO BRING
23 WITH YOU, IN CASE YOU ARE, SUFFICIENT CLOTHING AND PERSONAL
24 EFFECTS TO TAKE CARE OF YOUR NEEDS FOR ABOUT A WEEK BECAUSE
25 ONCE WE'VE SELECTED THE JURY AND THE ALTERNATES, WE'RE

2025

1 LEAVING HERE AND GOING TO SUMTER.

2 YOU'LL BE SEQUESTERED FROM THAT POINT ON. HERE
3 IS A LITTLE LETTER FROM THE CLERK IN SUMTER GIVING YOU SOME
4 INFORMATION ABOUT SOME TELEPHONE NUMBERS AND WHATNOT MAY BE
5 HELPFUL. UNTIL FIVE O'CLOCK DO NOT DISCUSS THIS CASE WITH
6 ANYONE. CERTAINLY DON'T ALLOW ANYBODY TO TALK WITH YOU
7 ABOUT IT. ALSO, DON'T READ ANYTHING ABOUT IT OR WATCH ANY
8 NEWS ACCOUNTS.

9 THE JUROR: OKAY.

10 THE COURT: SEE YOU AT FIVE. ANY QUESTIONS ON
11 THAT?

12 THE JUROR: WELL, WILL WE HAVE TO DRIVE UP THERE
13 OURSELVES?

14 THE COURT: WE'LL TRANSPORT YOU. ALL RIGHT.
15 TAKE CARE. SEE YOU AT FIVE. THANK YOU.

16 GLENN D. YARBOROUGH, BEING
17 FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

18 EXAMINATION BY THE COURT:

19 Q GOOD MORNING, MR. YARBOROUGH. HOW ARE YOU?

20 A FINE.

21 Q GOOD. I'M GOING TO NEED YOU TO DO ME A FAVOR, SIR.
22 WE'RE SITTING RIGHT NEXT TO EACH OTHER BUT THE MIKES WENT
23 OUT MONDAY AFTERNOON. SO I'M GOING TO NEED FOR YOU TO
24 SPEAK LOUDLY SO THAT THOSE INDIVIDUALS SEATED OUT THERE CAN
25 HEAR YOU. OKAY?

2026

- 1 A I'LL TRY.
- 2 Q YOU HAVE A COLD?
- 3 A NO. JUST. . .
- 4 Q YOU CAN RAISE -- DO YOU EVER GET MAD?
- 5 A SOMETIMES.
- 6 Q WHEN YOU GET MAD DO YOU TALK LOUD?
- 7 A YES.
- 8 Q ALL RIGHT. WELL, GET MAD; TALK LOUD?
- 9 A OKAY.
- 10 Q GET MAD WITH ME NOT ANYBODY ELSE.
- 11 A ALL RIGHT..
- 12 Q BUT DON'T LET THE FACT THAT -- I'M GOING TO TALK
- 13 LOUD. MAYBE THAT'LL REMIND YOU. DON'T THINK I'M ANGRY OR
- 14 ANYTHING BECAUSE I'M NOT. THE QUESTIONS THAT I HAVE FOR
- 15 YOU ARE QUESTIONS THAT REALLY AND TRULY DON'T HAVE ANY
- 16 RIGHT OR WRONG ANSWERS. THEY ARE QUESTIONS THAT DEAL WITH
- 17 YOUR PERSONAL FEELINGS ABOUT THINGS. YOU NEEDN'T WORRY
- 18 ABOUT THE FACT OF WHETHER EVERYBODY AGREES WITH YOU OR
- 19 DISAGREES WITH YOU BECAUSE THEY'RE YOURS AND YOU'RE
- 20 ENTITLED TO THEM. OKAY? SO I WANT YOU TO FEEL COMFORTABLE
- 21 ABOUT THAT. THE ONLY THING THAT WE ASK YOU TO DO IS BE
- 22 TRUTHFUL WITH YOUR RESPONSES. OKAY? WILL YOU DO THAT FOR
- 23 ME?
- 24 A YES, SIR.
- 25 Q ALL RIGHT. DO YOU HAVE ANY PRIOR KNOWLEDGE OF THIS

2027

1 ALLEGED INCIDENT?

2 A NONE WHATSOEVER.

3 Q ONLY THING YOU KNOW IS WHAT I SHARED WITH YOU THAT
4 HAS BEEN ALLEGED IN THIS MATTER?

5 A THAT'S IT.

6 Q BASED ON THAT DO YOU HAVE ANY OPINIONS ABOUT THIS
7 MATTER?

8 A (SHOOK HEAD.)

9 Q NONE?

10 A (SHOOK HEAD.)

11 Q ONE OTHER THING WE NEED TO DO IS TO MAKE SURE, AND
12 I'M SURE YOU WILL, THE LADY THAT'S SEATED IN FRONT OF YOU
13 IS TAKING -- KEEPING A RECORD OF THIS AND TO HELP HER WE
14 NEED TO MAKE SURE YOU USE WORDS IN RESPONDING TO MY
15 QUESTIONS AND ANY OF THE QUESTIONS. OKAY?

16 A OKAY.

17 Q THANK YOU. HAVE YOU HAD A CHANCE TO REVIEW THAT
18 SHEET OF PAPER THAT HAD THE THREE TYPES OF JURORS?

19 A YES, SIR.

20 Q WHICH ONE BEST DESCRIBES YOU?

21 A PROBABLY THE THIRD ONE.

22 Q PROBABLY THE THIRD ONE?

23 A THE LAST ONE.

24 Q THE LAST ONE AND THAT'S ONE THAT SAYS THERE ARE
25 SITUATIONS WHERE YOU BELIEVE THAT THE DEATH PENALTY WOULD

2023

1 BE THE APPROPRIATE PUNISHMENT FOR A MURDER AND THEN THERE
2 ARE SOME THAT YOU BELIEVE THAT LIFE IMPRISONMENT IS AN
3 APPROPRIATE PUNISHMENT FOR MURDER?

4 A YES, SIR.

5 Q BUT WHAT APPLIES IN A GIVEN CASE YOU HAVE TO HEAR ALL
6 OF THE FACTS AND CIRCUMSTANCES FIRST AND IT WOULD DEPEND ON
7 THE FACTS AND CIRCUMSTANCES AS TO WHICH ONE WOULD BE MOST
8 APPROPRIATE?

9 A YES, SIR.

10 Q IS THAT RIGHT?

11 A YES, SIR.

12 Q DO YOU FEEL AT THIS POINT, YOU SAID YOU DON'T HAVE
13 ANY OPINIONS ABOUT THIS MATTER; THAT YOU HAVE AN OPEN MIND
14 ABOUT THIS PARTICULAR MATTER AT THIS POINT?

15 A I'D SAY SO.

16 Q ARE YOU THE TYPE PERSON THAT WOULD HAVE TO HEAR ALL
17 THE FACTS AND CIRCUMSTANCES BEFORE YOU MAKE A DECISION?

18 A YES, MOST DEFINITELY.

19 Q YOU'RE NOT ONE THAT MAKES QUICK JUDGMENTS; YOU WANT
20 TO HEAR IT ALL?

21 A DEPENDS ON WHAT IT IS.

22 Q ALL RIGHT. WELL, I APPRECIATE THAT AND LET ME TELL
23 YOU THAT SOME PEOPLE, YOU KNOW, HAVE A TENDENCY AND I'M
24 PROBABLY -- PROBABLY MINE IS TO JUMP QUICKLY SOMETIMES. I
25 HAVE TO KEEP REMINDING MYSELF, KEEP YOUR MIND -- KEEP AN

2029

1 OPEN MIND BUT ARE YOU ONE THAT TENDS TO WANT TO HEAR IT ALL
2 BEFORE YOU MAKE YOUR DECISION?

3 A MOST OF THE TIME.

4 Q OKAY. IN THIS CASE IF YOU WERE SELECTED AS A JUROR,
5 THAT'S PRECISELY WHAT YOU'LL BE ASKED TO DO. IN FACT
6 YOU'LL TAKE AN OATH TO DO THAT. YOU UNDERSTAND?

7 A YES, SIR.

8 Q YOU UNDERSTAND IF YOU GO TO TRIAL IN THIS MATTER THIS
9 INVOLVES A CRIMINAL -- IF YOU WERE ON THE JURY, THIS WILL
10 BE A MATTER OF A CRIMINAL NATURE. YOU UNDERSTAND THAT?

11 A YES, SIR.

12 Q AND IT'S GOING TO INVOLVE CERTAIN PRINCIPLES OF LAW
13 WHICH APPLY TO THIS CASE AND SOME OF WHICH WOULD APPLY TO
14 EVERY CASE OF A CRIMINAL NATURE IN THIS COUNTRY. YOU
15 UNDERSTAND?

16 A YES, SIR.

17 Q ONE OF THOSE IS THE PRESUMPTION OF INNOCENCE. DO YOU
18 HAVE ANY PROBLEM WITH THAT PRESUMPTION?

19 A NO, SIR.

20 Q DO YOU HAVE ANY PROBLEM WITH THAT PRINCIPLE OF LAW?

21 A NO, SIR.

22 Q YOU UNDERSTAND THAT IT MEANS THAT THE STATE HAS THE
23 BURDEN OF PROVING ITS CASE?

24 A YES, SIR. I THINK EVERYBODY SHOULD HAVE A CHANCE TO
25 PROVE THEMSELVES INNOCENT.

2030

1 Q ALL RIGHT. WELL, I APPRECIATE THAT STATEMENT BECAUSE
2 WHAT YOU'VE SAID IS AND I UNDERSTAND THAT BUT THE UNUSUAL
3 NATURE OF THIS PRESUMPTIONS OF LAW IS THIS: THE
4 PRESUMPTION OF INNOCENCE, THE PRESUMPTION OF INNOCENCE
5 WHICH IS THE LAW, NOT THE PRESUMPTION OF LAW, THIS
6 PRESUMPTION OF INNOCENCE STATES THIS: THAT WHEN SOMEONE IS
7 CHARGED WITH A CRIMINAL OFFENSE IN THIS COUNTRY THAT
8 INDIVIDUAL IS NEVER, EVER REQUIRED TO PROVE HIS OR HER
9 INNOCENCE.

10 IT SAYS THAT THE STATE, THE STATE OR THE
11 GOVERNMENT, THE PERSON THAT BRINGS THIS ACTION, HAS THE
12 SOLE RESPONSIBILITY OF PROVING -- IN FACT THE STATE HAS THE
13 ONLY RESPONSIBILITY. IN THIS MATTER THERE ARE TWO PARTIES,
14 THE STATE AND MR. STONE WHO IS THE DEFENDANT. THE ONLY
15 PARTY IN THIS DISPUTE THAT HAS ANY BURDEN TO PROVE ANYTHING
16 IS THE STATE. DO YOU UNDERSTAND THAT?

17 A YES, SIR.

18 Q OKAY. MR. STONE WHO'S SEATED AT THAT TABLE OVER
19 THERE IS THE PERSON WHO'S ACCUSED OF THESE OFFENSES. UNDER
20 OUR LAW HE DOESN'T HAVE TO PROVE ANYTHING TO YOU. HE
21 DOESN'T HAVE TO DISPROVE ANYTHING AND HE DOESN'T HAVE TO
22 PROVE HIS INNOCENCE. YOU UNDERSTAND?

23 A YES, SIR.

24 Q IN FACT JUST LIKE ANYBODY CHARGED WITH ANY CRIMINAL
25 VIOLATION IN THIS COUNTRY, SHOULD MR. STONE CHOOSE FOR

2031

1 WHATEVER REASON, NOT TO TESTIFY IN THIS MATTER, I WOULD
2 INSTRUCT THE JURY, AS I HAVE DONE BEFORE IN OTHER CASES
3 WHERE AN INDIVIDUAL CHOSE NOT TO TESTIFY, THAT YOU CAN'T
4 USE THAT AGAINST HIM AT ALL. WOULD YOU HAVE ANY PROBLEM
5 FOLLOWING THAT INSTRUCTION?

6 A NO, SIR.

7 Q NONE AT ALL?

8 A I DON'T THINK SO.

9 Q WELL, I APPRECIATE THAT. REMEMBER I SAID THAT WHEN
10 WE STARTED YOU DON'T NEED TO FEEL DEFENSIVE ABOUT ANY OF
11 THIS. I'M JUST ASKING YOU WHETHER YOU WOULD OR YOU
12 WOULDN'T AND LIKE I SAID WHATEVER, IT'S YOUR PHILOSOPHY.
13 IT'S YOUR OPINIONS THAT WE'RE LOOKING FOR. OKAY? YOU
14 UNDERSTAND?

15 A YES, SIR.

16 Q WOULD YOU BE ABLE TO FOLLOW THAT INSTRUCTION?

17 A IF IT WOULD HAVE TO BE, YES, I WOULD.

18 Q WELL, LET ME PUT IT TO YOU IN THIS FASHION. ONE OF
19 THE FIRST ACTS THAT'S GOING TO TAKE PLACE TOMORROW WHEN WE
20 ALL GATHER TOGETHER IS YOU IF YOU'RE ON THIS JURY YOU'RE
21 GOING TO STAND UP IN THAT COURTROOM BEFORE THE STATE,
22 BEFORE MR. STONE, BEFORE THE COURT AND ANY WITNESSES
23 THEREIN AND YOU'RE GOING TO RAISE YOUR RIGHT HAND AND
24 YOU'RE GOING TO TAKE AN OATH THAT YOU'RE GOING TO DECIDE
25 THIS CASE SOLEY ON THE EVIDENCE AND THE LAW AND THAT MEANS

2032

1 THAT YOU'RE GOING TO ACCEPT THE LAW AS I GIVE IT TO YOU
2 EVEN IF YOU DIFFER WITH IT, EVEN IF YOU THINK IT OUGHT TO
3 BE CHANGED. THAT'S YOUR RIGHT TO FEEL THAT WAY BUT WHAT
4 YOU WILL BE PROMISING BOTH THE STATE AND MR. STONE IS THAT
5 YOU WILL FOLLOW THAT OATH. NOW, HAVING SAID THAT WILL YOU
6 BE ABLE TO FOLLOW THAT OATH?

7 A YES, SIR.

8 Q YOU WILL. OKAY. SO THE INSTRUCTION THAT YOU CANNOT
9 USE THAT AGAINST HIM YOU WOULD NOT. YOU WOULD SET ASIDE
10 ANY PERSONAL FEELINGS YOU WOULD HAVE AND FOLLOW THAT
11 INSTRUCTION?

12 A YES, SIR.

13 Q YOU WOULD BE ABLE TO DO THAT?

14 A (NODDED HEAD.)

15 Q YOU UNDERSTAND THAT THIS CASE IS GOING TO INVOLVE TWO
16 PARTS. THE FIRST PART IS YOU'LL HEAR EVIDENCE THAT DEALS
17 ONLY WITH ONE ISSUE AND THAT IS WHETHER OR NOT MR. STONE AS
18 IS THE PERSON WHO COMMITTED THESE OFFENSES. AT THE
19 CONCLUSION OF THAT OF THE EVIDENCE AND RECEIVING THE
20 EVIDENCE, I WILL GIVE YOU INSTRUCTION ON THE LAW AND THE
21 JURY WILL RETIRE AND DELIBERATE AND MAKE A DECISION AND
22 YOUR DECISION WILL BE WHETHER OR NOT THE STATE HAS PROVED
23 TO YOU BEYOND A REASONABLE DOUBT THAT MR. STONE DID IN FACT
24 COMMIT THESE OFFENSES.

25 NOW, THE QUESTION THAT I HAVE TO ASK YOU NOW IS

2033

1 GIVEN THE INSTRUCTION THAT I WILL TELL YOU THAT MR. STONE
2 DOES NOT HAVE TO PROVE HIS INNOCENCE, CAN YOU AND WILL YOU
3 LOOK AT THE EVIDENCE AND THE EVIDENCE WILL CONSIST OF THE
4 TESTIMONY OF THE WITNESSES AND ANY EXHIBITS THAT HAVE BEEN
5 OFFERED THROUGH THE TESTIMONY AND IT'S UPON THAT EVIDENCE
6 AND THAT ALONE THAT YOU MUST MAKE THIS DECISION. OKAY?

7 A (NODDED HEAD.)

8 Q WILL YOU BE ABLE TO IF YOU LOOK AT THE EVIDENCE AND
9 SAY AFTER YOU HAVE VIEWED IT THAT I'M NOT CONVINCED BEYOND
10 A REASONABLE THAT MR. STONE DID THESE ACTS, WOULD YOU BE
11 ABLE TO RETURN A VERDICT OF NOT GUILTY?

12 A IF THE EVIDENCE SHOWED IT, I COULD.

13 Q IF YOU WERE NOT CONVINCED THAT HE DID IT, CONVINCED
14 BEYOND A REASONABLE DOUBT THAT HE DID IT, WOULD YOU BE ABLE
15 TO RETURN A VERDICT OF NOT GUILTY?

16 A YES, SIR.

17 Q ON THE OTHER HAND IF YOU WERE CONVINCED BEYOND A
18 REASONABLE DOUBT THAT HE DID COMMIT THESE OFFENSES, YOU
19 WERE CONVINCED THE STATE HAD MET ITS BURDEN OF PROOF, WOULD
20 YOU BE ABLE TO RETURN A VERDICT OF GUILTY?

21 A YES, SIR.

22 Q YOU UNDERSTAND THAT DEPENDING ON THE JURY'S VERDICT,
23 IF THE JURY CONCLUDES THAT THE STATE HAS FAILED TO MEET ITS
24 BURDEN AND FOUND MR. STONE NOT GUILTY, THEN OF COURSE THAT
25 WOULD CONCLUDE THE MATTER. WE WOULDN'T GO ANY FURTHER BUT

2034

1 IF ON THE OTHER HAND THE JURY CONCLUDES THE STATE HAS MET
2 ITS BURDEN AND IT'S CONVINCED YOU BEYOND A REASONABLE DOUBT
3 THAT MR. STONE DID COMMIT THE OFFENSE OF MURDER, THEN WE
4 WOULD GO INTO THE SECOND PHASE WHICH IS THE PENALTY PHASE.
5 YOU UNDERSTAND?

6 A YES, SIR.

7 Q YOU UNDERSTAND THAT DURING THAT PHASE YOU'RE GOING TO
8 HEAR ADDITIONAL EVIDENCE?

9 A YES, SIR.

10 Q THAT'S GOING TO DEAL SOLEY WITH THIS ISSUE OF
11 PUNISHMENT?

12 A YES, SIR.

13 Q YOU WOULDN'T HAVE HEARD ANY OF IT IN THE FIRST PHASE.
14 IT'S RESERVED UNTIL THE SECOND PHASE BECAUSE WE DON'T EVEN
15 NEED TO GET THERE UNLESS THE STATE HAS MET ITS BURDEN. YOU
16 UNDERSTAND THAT?

17 A YES, SIR.

18 Q NOW, IT'S AT THAT TIME THAT YOU'RE GOING TO HEAR OR
19 MAY HEAR EVIDENCE OF AGGRAVATING CIRCUMSTANCES, MITIGATING
20 CIRCUMSTANCES, AND THE LIKE, YOU UNDERSTAND THAT?

21 A YES, SIR.

22 Q WOULD YOU KEEP AN OPEN MIND DURING THAT STAGE?

23 A I'D TRY MY BEST.

24 Q I APPRECIATE THAT BUT I NEED TO KNOW WHAT YOUR BEST
25 IS GOING TO BE. WOULD YOU HAVE AN OPEN MIND OR WOULD YOU

2035

1 HAVE ALREADY DECIDED THE PUNISHMENT BECAUSE REMEMBER YOU
2 TOLD ME YOU WERE A PERSON AT THE START THAT NEEDED TO HEAR
3 ALL THE FACTS AND CIRCUMSTANCES. WELL, I WOULD TELL YOU IF
4 YOU HEARD SOME OBVIOUSLY SOME OF THE EVIDENCE YOU WOULD
5 CERTAINLY WANT TO CONSIDER THAT BUT INSOFAR AS THE
6 ADDITIONAL EVIDENCE, YOU HAVEN'T HEARD THAT?

7 A HAVE TO HEAR TO EVIDENCE.

8 Q OKAY. ALL RIGHT. SO THAT'S WHEN YOU WILL HEAR THIS
9 ADDITIONAL EVIDENCE. SO WILL YOU KEEP AN OPEN MIND?

10 A YES.

11 Q WOULD YOU WAIT UNTIL YOU HAD HEARD ALL OF THE
12 EVIDENCE BEFORE YOU MAKE A DECISION?

13 A YES.

14 Q YOU UNDERSTAND THAT'S WHAT THAT OATH IS GOING TO MEAN
15 WHEN YOU TAKE THAT OATH TOMORROW THAT YOU'RE GOING TO DO
16 THAT?

17 A YES, SIR.

18 Q ALL RIGHT. NOW, AT THE CONCLUSION OF THE EVIDENCE IN
19 THE SECOND PHASE, I WILL GIVE YOU AN INSTRUCTION ON THE LAW
20 AND AT THAT TIME AND ONLY THEN WILL THE JURY BE ASKED TO
21 MAKE ITS DECISION ABOUT WHAT THE MOST APPROPRIATE
22 PUNISHMENT IS IN THIS CASE. YOU UNDERSTAND?

23 A YES, SIR.

24 Q AT THAT TIME WHEN YOU GO BACK TO YOUR JURY ROOM, WILL
25 YOU BE ABLE TO AND WILL YOU CONSIDER BOTH LIFE IMPRISONMENT

2036

1 AND THE DEATH PENALTY? WILL YOU CONSIDER THEM BOTH?

2 A YES.

3 Q AND MAKE A DECISION WHICH ONE YOU BELIEVE THE FACTS
4 AND CIRCUMSTANCES DICTATE IS THE MOST APPROPRIATE
5 PUNISHMENT?

6 A I THINK I COULD DO THAT.

7 Q OKAY. THIS MATTER YOU WILL BE SEQUESTERED IN THIS
8 CASE WITH THE OTHER JURORS. YOU WILL BE KEPT IN A MOTEL
9 AND PROVIDED WITH LODGING AND TRANSPORTATION AND FOOD FOR
10 THE DURATION OF THE TRIAL. THAT MAY BE AN IMPOSITION TO
11 YOU. I IMAGINE IT WILL BE, MAY BE CERTAINLY DISRUPTIVE OF
12 YOUR LIFESTYLE AND LIFE PLANS BUT COULD YOU SET ALL OF THAT
13 ASIDE AND STAY FOCUSED AS A JUROR AND NOT LET IT INTERFERE
14 WITH YOUR RESPONSIBILITIES?

15 A I WOULD TRY MY BEST.

16 Q I APPRECIATE THAT BUT MY QUESTION IS WILL YOU DO
17 THAT?

18 A IF I HAVE TO, YES.

19 Q IF YOU'RE SELECTED YOU WOULD BE ABLE TO DO THAT?

20 A YES. WHEN DOES IT START?

21 Q START TOMORROW. START TODAY. WE'RE GOING TO START
22 IT TODAY IF YOU'RE SELECTED?

23 A ARE WE GOING TO WORK THE WEEKEND.

24 Q YES, SIR. SUPER BOWL WEEKEND?

25 A YES, SIR.

2037

1 Q OKAY. I UNDERSTAND. WELL, I'LL TELL YOU RIGHT NOW
2 IF THE SUPER BOWL IS WE'LL PROBABLY BREAK THE TESTIMONY SO
3 THAT YOU CAN WATCH THE SUPER BOWL.

4 A THAT IS MY TEAM, GREENBAY.

5 Q ALL RIGHT. WELL, WE'RE ON THE SAME TEAM. SO THAT'S
6 OKAY. WE WON'T GET INTO THAT. WE HAVE TO PULL FOR NEW
7 ENGLAND IF YOU HAVE TO BE ON THE JURY JUST TO KEEP IT
8 INTERESTING. ALL RIGHT. WILL THAT INTERFERE WITH YOUR
9 ABILITY TO SERVE?

10 A NO.

11 THE COURT: OKAY. PLEASE ANSWER ANY QUESTIONS
12 THAT THE SOLICITOR MAY HAVE FOR YOU.

13 EXAMINATION BY MR. KOLB:

14 Q MR. YARBOROUGH, BEFORE YOU WERE SUMMONED FOR THIS
15 JURY SERVICE, HAD YOU EVER TALKED ABOUT THE DEATH PENALTY
16 WITH ANYBODY?

17 A SOMEWHAT I GUESS, NOT EVERYDAY CONVERSATION.

18 Q I UNDERSTAND BUT IN THOSE CONVERSATIONS DID YOU EVER
19 EXPRESS AN OPINION THAT YOU WERE FOR THE DEATH PENALTY OR
20 AGAINST THE DEATH PENALTY OR YOU THOUGHT YOU WERE FOR IT IN
21 SOME CIRCUMSTANCES?

22 A YES.

23 Q WHAT SORT OF OPINION DID YOU HAVE?

24 A DEPENDS ON HOW THE KILLING WAS DONE AND, YOU KNOW
25 THAT'S. . .

2038

1 Q SO YOU HAVE PREVIOUSLY INDICATED THAT YOU AGREED WITH
2 THE LAW THAT WE HAVE THAT THE DEATH PENALTY APPLIES IN SOME
3 CIRCUMSTANCES BUT NOT ALL?

4 A RIGHT.

5 Q AND SO THERE ARE DEPENDENT UPON WHAT THE LAW IS AND
6 WHAT THE FACTS AND CIRCUMSTANCES IN A PARTICULAR ARE YOU
7 CAN SEE YOURSELF BEING ON A JURY THAT WOULD BE ABLE TO
8 RETURN A DEATH VERDICT, DEPENDING UPON IF THE FACTS ARE BAD
9 ENOUGH?

10 A I'VE NEVER BEEN ON ONE BUT IF I HAVE TO I GUESS I
11 COULD.

12 Q OKAY. AND IF YOU WERE -- REACHED THAT POINT THAT YOU
13 WERE ON A JURY THAT DECIDED TO IMPOSE A DEATH SENTENCE,
14 WOULD YOU HAVE ANY PROBLEM SIGNING YOUR NAME ALONG WITH ALL
15 THE OTHER MEMBERS OF THE JURY TO THE VERDICT FORM?

16 A NO, I DON'T THINK I WOULD.

17 Q WOULD YOU HAVE ANY PROBLEM COMING IN THE COURTROOM
18 AND STANDING UP IN PUBLIC IN FRONT OF THE DEFENDANT AND
19 OTHERS AND REPORTING THAT YOU WERE SENTENCING HIM TO DEATH?

20 A I'LL BE NERVOUS. I'VE NEVER DONE IT. IT'S HARD TO
21 SAY.

22 Q I REALIZE IT'S NOT SOMETHING ANYBODY WANTS TO DO BUT
23 IF YOU MADE THAT DECISION WOULD THE LEGAL REQUIREMENTS TO
24 SIGN THE VERDICT AND COME INTO COURT AND REPORT THE VERDICT
25 BE ANYTHING THAT WOULD HINDER YOU FROM BEING ABLE TO CARRY

2039

1 OUT YOUR DUTY IN THE VERDICT THAT YOU HAVE RENDERED?

2 A I DON'T THINK IF I HEARD ALL THE FACTS.

3 Q ALL RIGHT. NOW, YOU JUST MENTIONED AGAIN AND I THINK
4 YOU TOLD THE JUDGE YOU HAD TO HEAR ALL THE FACTS, ALL THE
5 CIRCUMSTANCES AND THE LAW BEFORE YOU COULD DECIDE WHAT
6 PUNISHMENT SHOULD BE?

7 A RIGHT.

8 Q SO IS THERE ANY -- THE MERE ALLEGATION THAT A CERTAIN
9 FACT IS PRESENT IN THE CASE WOULD THAT MERE ALLEGATION
10 CAUSE YOU TO MAKE UP YOUR MIND IN ADVANCE OF WHAT THE
11 PUNISHMENT SHOULD BE?

12 A NO.

13 Q SO LIKE SOMEBODY SAYS THIS INVOLVES THE MURDER OF A
14 YOUNG CHILD OR THIS INVOLVES THE MURDER OF A POLICE
15 OFFICER; THOSE ARE JUST ALLEGATIONS. YOU COULD STILL BE
16 FAIR AND YOU'D HAVE TO HEAR ALL THE FACTS, ALL OF THE
17 CIRCUMSTANCES, AND THE LAW AND THEN DECIDE THE PUNISHMENT
18 ONLY AFTER HEARING ALL THE FACTS AND ALL THE CIRCUMSTANCES?

19 A I'D SAY SO.

20 Q ALL RIGHT. SO YOU WOULD HAVE TO HEAR ALL THE THE
21 FACTS AND CIRCUMSTANCES AND THE LAW BEFORE YOU MADE A
22 DECISION ON WHAT THE PUNISHMENT WOULD BE?

23 A YES, IF I HAVE TO TAKE A OATH I COULD.

24 MR. KOLB: ALL RIGHT, SIR. THANK YOU.

25 THE COURT: MR. BABB.

2040

1 MR. BABB: THANK YOU, YOUR HONOR.

2 THE COURT: YES, SIR.

3 EXAMINATION BY MR. BABB:

4 Q GOOD MORNING, SIR.

5 A GOOD MORNING.

6 Q I NOTED IN GOING OVER YOUR SHEET THAT YOU FILLED OUT,
7 THE QUESTIONNAIRE, THAT YOU HAD SERVED IN THE MILITARY.
8 WOULD YOU TELL US ABOUT THAT?

9 A JUST NATIONAL GUARD. I'M STILL IN IT.

10 Q YOU'RE CURRENTLY IN THE NATIONAL GUARD. DO YOU HAVE
11 ANY -- I BELIEVE YOU SAID NO ONE IN YOUR FAMILY IS INVOLVED
12 IN LAW ENFORCEMENT. DO YOU HAVE ANY FRIENDS THAT ARE IN
13 LAW ENFORCEMENT?

14 A NO.

15 Q PARDON?

16 A NO.

17 Q DO YOU HAVE ANY FRIENDS THAT ARE LAW ENFORCEMENT
18 OFFICERS?

19 A EX. I HAD A FRIEND THAT WAS BUT HE'S NOT ANYMORE.

20 Q OKAY. THE FACT THAT YOU HAD A FRIEND THAT WAS IN
21 THERE AND AS MR. KOLB HAS MENTIONED THIS CASE -- THIS IS A
22 CASE IN WHICH THE DEFENDANT IS ACCUSED OF THE MURDER OF A
23 DEPUTY SHERIFF?

24 A THAT WOULDN'T BOTHER ME.

25 Q DOESN'T AFFECT YOUR ANSWERS AT ALL.

2041

1 A NO. A HUMAN BEING IS A HUMAN BEING THE WAY I LOOK AT
2 IT.

3 Q ALL RIGHT, SIR. DOES IT IMPACT AT ALL UPON YOUR
4 ABILITY TO SET ASIDE YOUR BELIEFS THAT THE DEFENDANT MUST
5 PROVE HIS INNOCENCE?

6 A I THINK HE SHOULD.

7 Q PARDON?

8 A I THINK HE SHOULD.

9 Q YOU THINK A DEFENDANT SHOULD PROVE HIS INNOCENCE?

10 A (NODDED HEAD.)

11 Q IS THAT SOMETHING THAT'S GOING TO STAY IN YOUR MIND
12 DURING THIS TRIAL?

13 A I'D HAVE TO THINK ABOUT IT. I GUESS I COULD HAVE AN
14 OPEN MIND.

15 THE COURT: NEED FOR YOU TO KEEP YOUR VOICE UP,
16 PLEASE, IF YOU WOULD.

17 THE JUROR: I COULD HAVE AN OPEN MIND.

18 BY MR. BABB:

19 Q WELL, IT IS SOMETHING YOU FEEL VERY STRONGLY ABOUT,
20 ISN'T IT?

21 A KILLING SOMEBODY? KILLING SOMEBODY?

22 Q YES, SIR.

23 A (NODDED HEAD.)

24 Q IS THAT SOMETHING ---

25 A I DON'T THINK ANYBODY SHOULD.

2042

1 Q IS THAT SOMETHING YOU FEEL VERY STRONGLY ABOUT?

2 A I THINK ANYBODY SHOULD FEEL THAT WAY.

3 Q AND YOU FEEL VERY STRONGLY THAT IF SOMEONE IS
4 ARRESTED, BROUGHT INTO COURT THAT THEY NEED TO PROVE THEIR
5 INNOCENCE?

6 A OR GIVE -- BE PROVEN GUILTY, EITHER WAY.

7 Q AND YOU ALWAYS FEEL THAT WAY. IS THAT A CORRECT
8 STATEMENT?

9 A YES, SIR.

10 MR. BABB: THANK YOU, SIR.

11 EXAMINATION BY THE COURT:

12 Q MR. YARBOROUGH, AND AGAIN NO RIGHT OR WRONG ANSWER TO
13 THIS QUESTION. YOU UNDERSTAND WHAT'S -- IN FACT YOU'VE
14 ALREADY STATED BY TAKING AN OATH I THINK IN ANSWERING THE
15 SOLICITOR'S QUESTION THAT YOU TOOK AN OATH YOU COULD DO
16 THAT. WE DISCUSSED THE OPINION AND FEELINGS THAT YOU HAVE
17 ABOUT SOMEONE CHARGED NEEDING TO PROVE THEIR INNOCENCE.

18 A RIGHT.

19 Q AND I APPRECIATE YOUR CANDOR WITH YOUR FEELING ABOUT
20 THAT BUT MY QUESTION TO YOU IS THIS: I WANT TO BE CERTAIN.
21 DO YOU BELIEVE THAT THAT FEELING IS STRONG ENOUGH OR SO
22 STRONG THAT IT WOULD AFFECT YOUR ABILITY TO BE COMPLETELY
23 IMPARTIAL IN THE TRIAL?

24 A I THINK I COULD LISTEN TO THE EVIDENCE.

25 Q WELL, MOST IMPORTANTLY CAN YOU FOLLOW THE LAW THAT

2043

1 SAYS THE DEFENDANT IN ANY CRIMINAL ACTION DOES NOT HAVE TO
2 PROVE ANYTHING, THAT MEANS THAT YOU MUST SET THAT FEELING
3 THAT YOU HAVE TOTALLY ASIDE BECAUSE THAT'S NOT EVIDENCE.
4 YOU UNDERSTAND?

5 A YES, SIR.

6 Q CAN YOU FOLLOW THAT INSTRUCTION?

7 A YES, SIR.

8 Q SIR?

9 A YES, SIR.

10 THE COURT: ANY ADDITIONAL QUESTIONS FROM THE
11 STATE?

12 MR. KOLB: NO, SIR.

13 THE COURT: ANY ADDITIONAL QUESTIONS FROM THE
14 DEFENDANT?

15 MR. BABB: NO, SIR.

16 THE COURT: ALL RIGHT. IF YOU WOULD STEP OUT,
17 MR. YARBOROUGH, I'LL BE WITH YOU IN JUST A MOMENT.

18 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
19 JUROR.)

20 THE COURT: SAYS THE STATE?

21 MR. KOLB: QUALIFIED, YOUR HONOR.

22 THE COURT: THE DEFENDANT?

23 MR. BABB: YOUR HONOR, I RESPECTFULLY PUT HIM IN
24 THE SAME CATEGORY I PUT THE ONE EARLIER. I UNDERSTAND HOW
25 THE COURT'S INCLINED TO RULE.

2044

1 THE COURT: THE THING, MR. BABB, AT THIS POINT I
2 AM GOING TO FIND THAT HE'S QUALIFIED. HE INDICATED THAT HE
3 COULD SET IT ASIDE; HOWEVER, I DON'T CONSIDER THEM BOTH THE
4 SAME. THE OTHER INDIVIDUAL, MUCH MORE MATURE INDIVIDUAL
5 AND GAVE THE APPEARANCE OF BEING A MORE MATURE INDIVIDUAL.
6 THIS INDIVIDUAL IS NOT THE SAME DEGREE OF MATURITY BUT AT
7 THIS POINT I MUST FIND THAT HE IS QUALIFIED AND SO FIND.

8 (THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE
9 JUROR.)

10 THE COURT: ALL RIGHT, SIR. MR. YARBOROUGH, YOU
11 HAVE BEEN QUALIFIED AS A POTENTIAL JUROR IN THIS MATTER.
12 THAT MEANS THAT YOU NEED TO BE BACK HERE AT FIVE O'CLOCK
13 THIS AFTERNOON. AT FIVE WE'RE GOING TO SELECT THE 12
14 INDIVIDUALS AND THE ALTERNATES TO DECIDE THIS CASE. SINCE
15 YOU WON'T KNOW AND NONE OF US WILL KNOW UNTIL THAT OCCURS
16 WHETHER YOU'RE GOING TO BE ON THE JURY, YOU'RE GOING TO
17 NEED TO BRING WITH YOU WHEN YOU COME SUFFICIENT CLOTHING
18 AND PERSONAL EFFECTS TO TAKE CARE OF YOUR NEEDS FOR ABOUT A
19 WEEK. OKAY? SO IF YOU ARE SELECTED BECAUSE WE'RE GOING TO
20 LEAVE FROM HERE AND GO DIRECTLY TO SUMTER AND START THE
21 TRIAL OF THIS CASE TOMORROW.

22 TO ASSIST YOU, GIVE YOU SOME INFORMATION ABOUT
23 THAT, ABOUT BEING SEQUESTERED, MR. PLAYER WHO IS THE CLERK
24 OF COURT IN SUMTER HAS PREPARED THIS LITTLE LETTER THAT
25 GIVES YOU SOME INFORMATION FOR YOUR PURPOSES. I WOULD ASK

2045

1 YOU THAT WHILE YOU'RE OUT UNTIL WE GET BACK TOGETHER AT
2 FIVE O'CLOCK THAT YOU CONTINUE NOT TO DISCUSS THIS CASE
3 WITH ANYONE OR ALLOW ANYBODY TO TALK WITH YOU ABOUT IT.
4 DON'T READ ANYTHING ABOUT IT. DON'T WATCH ANY NEWS
5 PROGRAMS ABOUT IT. OKAY? SEE YOU AT FIVE O'CLOCK. THANK
6 YOU.

7 PATRICIA A. HAYNES, BEING
8 FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

9 EXAMINATION BY THE COURT:

10 Q ALL RIGHT. MS. HAYNES, HOW ARE YOU?

11 A FINE.

12 Q GOOD. I'M GOING TO ASK YOU TO DO ME A FAVOR, PLEASE,
13 MA'AM. THE MIKE SYSTEM IN THIS COURTROOM WENT OUT ON
14 MONDAY SO WE'RE HAVING TO TALK A LITTLE LOUDER THAN WE
15 NORMALLY WOULD. SO IF YOU COULD HELP ME SO EVERYONE CAN
16 HEAR YOU, I NEED FOR YOU TO RAISE YOUR VOICE A LITTLE BIT?

17 A OKAY.

18 Q ALL RIGHT. DO YOU KNOW ANYTHING ABOUT THIS CASE?

19 A NO, I DON'T.

20 Q NOTHING OTHER THAN WHAT I SHARED WITH YOU HAS BEEN
21 ALLEGED?

22 A YES.

23 Q DO YOU HAVE ANY OPINIONS ABOUT IT?

24 A NO.

25 Q LET ME -- BEFORE YOU ANSWER THAT -- LET ME SAY

2046

- 1 SOMETHING TO YOU AND I APPRECIATE THAT. THE QUESTIONS THAT
2 I'M ASKING YOU, THE QUESTIONS THAT THESE LAWYERS MAY ASK
3 YOU, YOU DON'T NEED TO WORRY ABOUT IT BECAUSE YOU KNOW
4 WHAT. THERE IS NO RIGHT OR WRONG ANSWER TO THESE
5 QUESTIONS. THESE ARE QUESTIONS THAT REALLY ARE ASKING YOUR
6 PERSONAL FEELINGS ABOUT THINGS. WHAT YOU THINK ABOUT
7 THINGS AND LET ME SAY SOMETHING TO YOU. YOU'RE ENTITLED TO
8 BELIEVE WHATEVER YOU WANT TO BELIEVE AND NOBODY HERE IS
9 GOING TO CHALLENGE THAT. NOBODY'S GOING TO ATTACK YOUR
10 PERSONAL PHILOSOPHY OR BELIEFS. OKAY?
- 11 A OKAY.
- 12 Q SO HAVING SAID THAT DO YOU HAVE ANY OPINIONS ABOUT
13 THIS CASE AT THIS POINT?
- 14 A NO.
- 15 Q YOU DO NOT?
- 16 A (SHOOK HEAD.)
- 17 Q YOU NEED TO KEEP YOUR VOICE UP PLEASE BECAUSE I KNOW
18 THEY CAN'T HEAR YOU.
- 19 A NO, I REALLY DON'T.
- 20 Q ALL RIGHT. WOULD YOU HAVE TO HEAR ALL THE EVIDENCE
21 BEFORE YOU COULD DEVELOP AN OPINION?
- 22 A YES, SIR.
- 23 Q HAVE YOU HAD A CHANCE TO REVIEW THAT SHEET THAT HAD
24 THE THREE TYPES OF JURORS ON IT?
- 25 A YES.

2047

1 Q WHICH ONE BEST DESCRIBES YOU?

2 A THE FIRST ONE.

3 Q ALL RIGHT. WHEN YOU SAY THE FIRST ONE, DOES THAT
4 MEAN IN EVERY CASE, FIRST ONE IS ONE -- LET ME TELL YOU
5 WHAT -- LET ME RUN OVER THEM WITH YOU JUST A SECOND. THE
6 FIRST ONE WAS THE JUROR WHO WHEN SOMEONE HAS BEEN CONVICTED
7 OF MURDER ALWAYS BELIEVES THAT THE DEATH PENALTY IS THE
8 APPROPRIATE PUNISHMENT. IT DOESN'T HAVE A THING TO DO WITH
9 THE CIRCUMSTANCES OF THE CASE; THAT ONLY THAT IF A PERSON'S
10 EVER CONVICTED OF MURDER, THEN AUTOMATICALLY THE PERSON
11 OUGHT TO BE SENTENCED TO DEATH. THAT'S WHAT THE FIRST ONE
12 IS. THE SECOND ONE SAID THAT IF A PERSON IS CONVICTED OF
13 MURDER, ALWAYS IT DOESN'T MAKE ANY DIFFERENCE ABOUT THE
14 CIRCUMSTANCES, ALWAYS THE PUNISHMENT SHOULD BE LIFE IN
15 PRISON,

16 THE THIRD ONE SAYS, WELL, I BELIEVE THAT SOME
17 CASES THE DEATH PENALTY IS A PROPER PUNISHMENT BUT I
18 BELIEVE IN OTHER CASES LIFE IMPRISONMENT MAY BE THE PROPER
19 PUNISHMENT BUT IT JUST KIND OF DEPENDS ON THE CIRCUMSTANCES
20 OF THE CASE AS TO WHICH ONE WOULD APPLY. NOW, ARE YOU THE
21 ONE WHEN YOU SAID YOU WERE THE FIRST ONE, YOU'RE THE ONE
22 THAT BELIEVES THAT IF SOMEONE IS CONVICTED OF MURDER THEN
23 THE DEATH PENALTY IS THE ONLY PUNISHMENT THAT SHOULD BE
24 GIVEN?

25 A I THINK SO.

2048

1 Q YOU BELIEVE THAT?

2 A YES, SIR.

3 Q AND IT DOESN'T MATTER ABOUT THE CIRCUMSTANCES OF THE
4 CASE?

5 A NO.

6 Q MA'AM?

7 A NO, SIR.

8 Q SO YOU WOULD NOT EVEN -- YOU WOULD NOT CONSIDER THE
9 FACTS AND CIRCUMSTANCES SURROUNDING THE CASE JUST IF THE
10 PERSON WAS CONVICTED OF MURDER, THEN YOUR VOTE WOULD BE
11 THAT HE OUGHT TO BE SENTENCED TO DEATH?

12 A YES, SIR.

13 Q ABSOLUTELY?

14 A YES, SIR.

15 Q AND THERE IS NOTHING THAT WOULD CHANGE THAT ONCE YOU
16 CONVICTED HIM OF MURDER?

17 A THAT'S WHAT I BELIEVE.

18 THE COURT: THAT'S YOUR BELIEF. OKAY.

19 SOLICITOR, QUESTIONS?

20 MR. WILLIAMS: JUST A FEW QUESTIONS.

21 THE COURT: YES, SIR.

22 EXAMINATION BY MR. WILLIAMS:

23 Q IF THE JUDGE INSTRUCTED YOU THAT YOU HAD TO KEEP AN
24 OPEN MIND GOING INTO -- IF YOU WERE SELECTED FOR THE JURY
25 AND YOU FOUND THE DEFENDANT GUILTY IN THE FIRST PHASE OF

2049

1 THE TRIAL WHICH HAS TO DO WITH THE GUILT OR INNOCENCE,
2 GUILT OR INNOCENCE, AND THE JUDGE INSTRUCTED YOU THAT YOU
3 HAD TO KEEP AN OPEN MIND GOING INTO THE SECOND PHASE
4 REGARDING THE PENALTY, THAT IS, WHETHER YOU WOULD GIVE HIM
5 THE DEATH PENALTY OR LIFE IMPRISONMENT, DO YOU THINK YOU
6 COULD DO THAT?

7 A YES.

8 Q YOU THINK YOU COULD KEEP AN OPEN MIND REGARDING THE
9 PENALTY?

10 A (NODDED HEAD.)

11 Q DO YOU THINK IT WOULD BE POSSIBLE FOR YOU TO FIND HIM
12 GUILTY IN PHASE ONE OF MURDER AND STILL AT THE COMPLETION
13 OF PHASE TWO DEPENDING ON THE FACTS AND CIRCUMSTANCES THAT
14 YOU HEARD STILL RULE IN FAVOR OF THE SENTENCE BEING LIFE
15 IMPRISONMENT?

16 MR. LITTLEJOHN: YOUR HONOR, I'M GOING TO HAVE TO
17 OBJECT. I THINK HE'S ASKING FOR THE ULTIMATE.

18 THE COURT: I SUSTAIN THAT OBJECTION.

19 BY MR. WILLIAMS:

20 Q DO YOU THINK IT WOULD BE POSSIBLE FOR YOU TO CONSIDER
21 BOTH THE DEATH PENALTY AND LIFE IMPRISONMENT AS A POSSIBLE
22 VERDICT IF YOU FOUND THE DEFENDANT GUILTY OF MURDER?

23 A NO.

24 Q YOU DON'T THINK YOU'D BE ABLE TO CONSIDER LIFE IN
25 PRISON AS A POSSIBLE VERDICT?

2050

1 A NO.

2 Q IF -- EVEN IF THE JUDGE TOLD YOU THAT THAT WAS THE
3 LAW OF THIS STATE THAT YOU HAD TO CONSIDER THAT AND YOU HAD
4 TO LOOK AT THE FACTS AND CIRCUMSTANCES, YOU DON'T THINK YOU
5 COULD FOLLOW THAT INSTRUCTION FROM THE JUDGE?

6 A WELL, NO. I JUST BELIEVE, I MEAN, IF YOU TAKE A LIFE
7 THEN YOUR LIFE SHOULD BE TAKEN.

8 Q AND THERE IS NO FACTS AND CIRCUMSTANCES YOU COULD
9 HEAR THAT WOULD. . .

10 A NO.

11 MR. WILLIAMS: COURT'S INDULGENCE, YOUR HONOR.

12 (PAUSE)

13 MR. WILLIAMS: NO FURTHER QUESTIONS.

14 THE COURT: ANY QUESTIONS?

15 MR. LITTLEJOHN: NO QUESTIONS, YOUR HONOR.

16 THE COURT: THANK YOU.

17 PLEASE, MA'AM, IF YOU WOULD WILL YOU STEP OUT THE
18 DOOR. WE'LL BE WITH YOU IN JUST A MOMENT, PLEASE.

19 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
20 JUROR.)

21 THE COURT: SHE'S CLEARLY UNQUALIFIED, CLEARLY
22 CANNOT CONSIDER BOTH PUNISHMENTS. ANY OBJECTION FROM THE
23 STATE?

24 MR. WILLIAMS: NO, SIR, YOUR HONOR.

25 THE COURT: ANY OBJECTION FROM THE DEFENDANT?

2051

1 MR. LITTLEJOHN: NO, YOUR HONOR.

2 THE COURT: ALL RIGHT. BRING HER BACK IN AND I
3 WANT TO LET'S CHAT UP HERE.

4 (THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE
5 JUROR.)

6 THE COURT: MS. HAYNES, I'M GOING TO EXCUSE YOU
7 FROM ANY FURTHER PARTICIPATION IN THIS MATTER. WE'RE GOING
8 TO SELECT A JURY THIS AFTERNOON ABOUT FIVE O'CLOCK.
9 PLEASE, UNTIL THE JURY IS SELECTED I WOULD JUST ASK THAT
10 YOU NOT TALK ABOUT IT WITH ANYONE. ONCE WE'VE SELECTED THE
11 JURY IF YOU WANT TO TALK ABOUT THIS CASE IN ANY FASHION,
12 YOU'RE FREE DO SO. OKAY? THANK YOU SO MUCH FOR COMING.
13 APPREICATE IT.

14 (THE FOLLOWIING TAKES PLACE OUTSIDE THE PRESENCE OF
15 THE JUROR.)

16 THE COURT: LET ME SEE Y'ALL JUST A SECOND.

17 (THEREUPON, THERE WAS A BENCH CONFERENCE.)

18 THE COURT: WELL, LET'S GO AHEAD AND FINISH THIS
19 GROUP BEFORE WE --YES, MA'AM. LET'S BRING IN THE NEXT ONE,
20 MS. BROCKINGTON I THINK.

21 RUBY E. BROCKINGTON, BEING
22 FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

23 EXAMINATION BY THE COURT:

24 Q GOOD -- I GUESS IT'S -- WHAT IS IT? ALMOST
25 AFTERNOON, MS. BROCKINGTON, HOW ARE YOU DOING?

2052

1 A FINE. YOU?

2 Q I'M FINE. THANK YOU, MA'AM. I APPRECIATE YOUR
3 PATIENCE IN WAITING. I HAVE SOME QUESTIONS THAT I NEED TO
4 ASK YOU, MA'AM. I WANT TO START OUT BY TELLING YOU AND
5 REMINDING YOU THAT ON MONDAY I TOLD YOU THESE QUESTIONS
6 THEY DIDN'T HAVE ANY RIGHT OR WRONG ANSWERS. OKAY? I ALSO
7 NEED FOR YOU TO DO ME ANOTHER FAVOR. THE MICROPHONE WENT
8 OUT ON MONDAY. THESE FOLKS THAT ARE SEATED OUT THERE, THEY
9 NEED TO HEAR YOUR ANSWERS AND I KNOW YOU'RE SITTING RIGHT
10 HERE AND I CAN HEAR YOU BUT YOU NEED TO RAISE YOUR VOICE
11 LIKE MY VOICE IS RAISED RIGHT NOW?

12 A YES, SIR.

13 Q OKAY.

14 A THANK YOU.

15 Q AND KEEP THAT VOICE RAISED SO THAT EVERYBODY CAN HEAR
16 YOUR ANSWERS TO MY QUESTIONS. THESE QUESTIONS ARE GOING TO
17 BE QUESTIONS THAT ARE REALLY JUST SORT OF ASKING YOU HOW
18 YOU FEEL ABOUT CERTAIN THINGS. AS I STATED THEY'RE YOUR
19 RIGHT. YOU'RE ENTITLED TO FEEL ANY WAY YOU WANT TO FEEL
20 AND YOU'RE NOT GOING TO BE ATTACKED FOR FEELING ONE WAY OR
21 ANOTHER. THAT'S YOUR RIGHT AS AN INDIVIDUAL TO HAVE
22 CERTAIN OPINIONS. OKAY?

23 A OKAY.

24 Q SO HAVING SAID THAT LET ME ASK YOU A QUESTION. DO
25 YOU KNOW ANYTHING ABOUT THIS SITUATION OTHER THAN WHAT I

2053

1 SHARED WITH YOU HAS BEEN ALLEGED ON MONDAY?

2 A NO, SIR.

3 Q HAVE YOU READ ANYTHING ABOUT IT OR HEARD ANYBODY TALK
4 ABOUT IT SINCE MONDAY?

5 A NO, SIR.

6 Q NOW, DO YOU HAVE ANY OPINIONS ABOUT IT AT THIS POINT?

7 A WELL, NOT REALLY.

8 Q NOT REALLY?

9 A NO.

10 Q WOULD YOU HAVE TO HEAR ALL THE EVIDENCE BEFORE YOU
11 COULD MAKE A DECISION OR HAVE AN OPINION ABOUT IT?

12 A NO, I DON'T THINK SO.

13 Q YOU DON'T THINK SO?

14 A NO.

15 Q YOU COULD MAKE AN OPINION BEFORE YOU HEARD ALL OF THE
16 EVIDENCE?

17 A YES, I COULD.

18 Q YOU COULD. HAVE YOU HAD A CHANCE TO READ THAT SHEET
19 THAT HAD THE THREE TYPES OF JURORS?

20 A YES, SIR.

21 Q WHICH ONE OF THEM BEST DESCRIBES YOU?

22 A THE SECOND ONE.

23 Q THE SECOND ONE?

24 A UH-HUH.

25 Q THAT MEANS THAT YOU ARE A PERSON -- LET ME GO OVER

2054

1 THEM FOR YOU; LET'S MAKE SURE THAT WE UNDERSTAND THEM --
2 THE FIRST ONE IS A KIND OF PERSON THAT SAYS WHEN SOMEBODY
3 IS CONVICTED OF MURDER THAT ONCE THEY'RE CONVICTED OF
4 MURDER, THEY MEAN THAT THEY THINK THEY OUGHT TO GET THE
5 DEATH PENALTY EVERY TIME. IS THAT HOW YOU UNDERSTAND THE
6 FIRST ONE TO BE?

7 A YES, SIR.

8 Q THE SECOND ONE SAYS THAT IF A PERSON IS CONVICTED OF
9 MURDER, THAT THEY OUGHT TO GET LIFE IMPRISONMENT EVERY
10 CASE. IT DOESN'T MAKE ANY DIFFERENCE ABOUT HOW BAD IT IS
11 OR WHETHER -- ANY OF THE CIRCUMSTANCES. IT'S ALWAYS LIFE
12 IMPRISONMENT?

13 A YES.

14 Q AND THE THIRD ONE IS SOMEBODY THAT SAYS, WELL,
15 SOMETIMES I THINK IT'S THE DEATH PENALTY. SOMETIMES I
16 THINK IT'S LIFE IMPRISONMENT. IT KIND OF DEPENDS ON THE
17 FACTS AND CIRCUMSTANCES OF THE CASE. IS THAT YOUR
18 UNDERSTANDING OF THOSE THREE?

19 A YES, SIR.

20 Q AND YOU ARE THE NUMBER TWO?

21 A UH-HUH.

22 Q IS THAT RIGHT?

23 A YES.

24 Q AND THAT MEANS THAT IT'S YOUR FEELING THAT IF SOMEONE
25 IS CONVICTED OF MURDER, THEY AUTOMATICALLY IN EVERY CASE

2055

1 YOUR VOTE WOULD BE FOR LIFE IN PRISON?

2 A YES.

3 Q AND IT WOULDN'T MAKE ANY DIFFERENCE TO YOU ANYTHING
4 ABOUT THE FACTS AND CIRCUMSTANCES?

5 A NO.

6 Q DOESN'T MATTER HOW SERIOUS THE CRIME OR SERIOUS THE
7 SITUATION?

8 A NO.

9 Q NOT GOING TO CHANGE YOUR MIND?

10 A NO.

11 Q NOT AT ALL?

12 A NO.

13 Q YOU'LL ALWAYS VOTE FOR LIFE IN PRISON?

14 A YES.

15 Q AND THERE IS NO CIRCUMSTANCE THAT YOU CAN THINK OF
16 THAT COULD BE BROUGHT INTO THE COURTROOM WHERE YOU WOULD
17 EVEN CONSIDER THE DEATH PENALTY?

18 A NO.

19 THE COURT: ANY QUESTIONS FROM THE STATE?

20 MR. KOLE: NO, SIR.

21 THE COURT: ANY QUESTIONS FROM THE DEFENDANT?

22 MR. LITTLEJOHN: NO, YOUR HONOR.

23 THE COURT: IF YOU WOULD, PLEASE, MA'AM, STEP
24 OUT. THE COURT WILL BE WITH YOU IN JUST ONE SECOND.

25 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE

2056

1 JUROR.)

2 THE COURT: I FIND THAT SHE'S CLEARLY UNQUALIFIED
3 BECAUSE OF HER INABILITY TO CONSIDER BOTH POSSIBLE
4 PUNISHMENTS. SHE INDICATED CLEARLY AND UNEQUIVOCALLY THAT
5 SHE WOULD UNDER ALL CIRCUMSTANCES GIVE THE LIFE
6 IMPRISONMENT. WE WENT OVER THE THREE AND SHE UNDERSTANDS
7 ALL THREE OF THEM, INDICATED HER UNDERSTANDING; THEREFORE,
8 I FIND SHE IS UNQUALIFIED. ANY OBJECTION FROM THE STATE?

9 MR. KOLB: NO, SIR.

10 THE COURT: ANY OBJECTION FROM THE DEFENDANT?

11 MR. LITTLEJOHN: NO, YOUR HONOR.

12 THE COURT: AND PLEASE AGAIN IN SPITE OF WHAT WE
13 SAID I ALSO -- PLEASE FEEL FREE IF YOU WISH TO CHALLENGE
14 THAT.

15 MR. LITTLEJOHN: I UNDERSTAND, YOUR HONOR; AND IF
16 THERE WAS ANY EQUIVOCATION, I WOULD OBJECT.

17 THE COURT: THAT'S FINE. THANK YOU, SIR.

18 ALL RIGHT. ASK HER TO COME BACK IN.

19 (THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE
20 JUROR.)

21 THE COURT: MS. BROCKINGTON, I'M GOING TO EXCUSE
22 YOU, MA'AM, FROM HAVING TO PARTICIPATE ANY FURTHER IN THIS
23 PROCEEDING. YOU WILL NOT HAVE TO COME BACK ANYMORE. WE'RE
24 GOING TO SELECT A JURY PROBABLY THIS AFTERNOON ABOUT FIVE
25 O'CLOCK. UNTIL WE PICK THAT JURY I WOULD JUST ASK THAT YOU

2057

1 NOT TALK WITH ANYBODY ABOUT THE PROCEEDING. ONCE THE JURY
2 HAS BEEN SELECTED IF YOU WANT TO TALK ABOUT IT, YOU'RE FREE
3 TO TALK ABOUT IT. OKAY?

4 THE JUROR: ALL RIGHT.

5 THE COURT: THANK YOU SO MUCH. GOOD LUCK TO YOU,
6 MA'AM. ENJOYED BEING WITH YOU.

7 MARY R. ARMSTRONG, BEING
8 FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

9 EXAMINATION BY THE COURT:

10 Q GOOD AFTERNOON, MS. ARMSTRONG.

11 A HELLO.

12 Q HOW ARE YOU?

13 A FINE AND YOU.

14 Q GOOD. FINE. MS. ARMSTRONG, I HAVE SOME QUESTIONS
15 THAT I'M GOING TO ASK YOU NOW. I THINK WHEN YOU HEAR THE
16 QUESTIONS YOU'LL UNDERSTAND AND AGREE WITH ME THAT THERE
17 REALLY AREN'T ANY RIGHT OR WRONG ANSWERS TO THESE QUESTIONS
18 BECAUSE MOST OF THEM ARE ASKING YOU ABOUT YOUR FEELINGS AND
19 OPINIONS ABOUT THINGS.

20 A YES, SIR.

21 Q AND CERTAINLY YOU HAVE A RIGHT HAVE ANY FEELINGS YOU
22 WANT AND ANY OPINION YOU WANT ABOUT ANY OF THESE ISSUES.
23 YOU UNDERSTAND THAT?

24 A YES.

25 Q OKAY. SO I JUST WANT YOU TO RESPOND TRUTHFULLY TO MY

2058

1 QUESTIONS AND ANY QUESTIONS THAT THE LAWYERS MAY HAVE FOR
2 YOU AS WELL. OKAY?

3 A OKAY.

4 Q DO YOU HAVE ANY OPINION OR DO YOU HAVE ANY
5 KNOWLEDGE -- LET ME ASK YOU THAT FIRST -- ANY OTHER
6 KNOWLEDGE ABOUT THIS CASE OTHER THAN WHAT I SHARED WITH YOU
7 HAS BEEN ALLEGED ON MONDAY?

8 A NO, I DON'T.

9 Q DO YOU HAVE ANY FEELINGS ABOUT IT?

10 A NO, I DON'T.

11 Q WOULD YOU HAVE TO HEAR ALL THE EVIDENCE BEFORE YOU
12 COULD DEVELOP AN OPINION ON IT?

13 A NO.

14 Q YOU WOULD NOT?

15 A (SHOOK HEAD.)

16 Q YOU WOULD BE ABLE TO DEVELOP OPINION BEFORE THEN?

17 A IN MY MIND.

18 Q IT WOULDN'T DEPEND ON ALL OF THE EVIDENCE?

19 A NO.

20 Q OKAY. HAVE YOU HAD A CHANCE TO REVIEW THAT SHEET OF
21 PAPER THAT HAD THE THREE TYPES OF JURORS?

22 A YES.

23 Q WHICH ONE OF THEM ARE YOU?

24 A PROBABLY THE THIRD ONE.

25 Q PROBABLY THE THIRD AND THAT MEANS THAT SOMETIMES YOU

1 WOULD BELIEVE THAT DEPENDING ON THE CIRCUMSTANCES THAT THE
2 DEATH PENALTY WOULD BE THE APPROPRIATE PUNISHMENT FOR
3 SOMEONE CONVICTED OF MURDER?

5 Q THAT SOMETIMES WHERE LIFE IMPRISONMENT WOULD BE THE
6 APPROPRIATE PUNISHMENT; IS THAT RIGHT?

8 Q DEPENDING ON THE FACTS AND CIRCUMSTANCES?

10 Q THE THIRD PART OF THAT SAYS THAT IN ORDER FOR YOU TO
11 DETERMINE THAT, YOU'RE GOING TO HAVE TO HEAR ALL OF THE
12 FACTS AND CIRCUMSTANCES. ISN'T THAT WHAT IT SAYS?

14 Q OKAY. WELL, LET ME ASK YOU A QUESTION. ARE YOU
15 GOING TO MAKE A DETERMINATION BEFORE YOU HEAR ALL OF THE
16 FACTS AND CIRCUMSTANCES?

18 Q YOU WOULD NOT?

20 Q SO YOU WOULD FOLLOW THE COURT'S INSTRUCTION IN THAT
21 REGARD?

23 Q OKAY. YOU UNDERSTAND THAT IF YOU'RE SELECTED AS A
24 JUROR ON THIS CASE, YOU'RE GOING TO TAKE AN OATH THAT
25 YOU'RE GOING TO DECIDE THIS CASE BASICALLY ON -- SOLEY ON

2060

1 THE FACTS OR THE EVIDENCE, THE EVIDENCE AND THE LAW AND
2 THAT MEANS THAT THE EVIDENCE IS SIMPLY THIS: THAT'S THE
3 TESTIMONY AND THE EXHIBITS THAT MAY BE OFFERED DURING
4 TESTIMONY; DURING THE TRIAL YOU WON'T LET ANYTHING ELSE
5 AFFECT YOUR DECISION. YOU UNDERSTAND THAT?

6 A YES, SIR, I UNDERSTAND.

7 Q NOW, THAT DOESN'T MEAN YOU WON'T APPLY YOUR GOOD
8 COMMON SENSE AND THAT DOESN'T MEAN YOU'RE NOT GOING TO
9 APPLY YOUR LOGIC AND REASON BUT THAT MEANS THAT YOU'RE NOT
10 GOING TO DECIDE THIS THING ON ANYTHING OTHER THAN THE
11 EVIDENCE AND THE LAW?

12 A OKAY.

13 Q CAN YOU DO THAT?

14 A YES.

15 Q ONE OF THE THINGS THAT YOU WILL BE PROMISING AND HAVE
16 STARTED EVEN TO THE QUESTIONS THAT I ASKED YOU ON MONDAY
17 AND THESE QUESTIONS THAT WE ASK YOU NOW YOU'RE GOING TO BE
18 PROMISING THE STATE AND MR. STONE, WHO IS THE INDIVIDUAL
19 THAT'S CHARGED WITH THIS OFFENSE, YOU'RE GOING TO BE
20 PROMISING THEM THIS: THAT I PROMISE YOU BOTH THAT I WILL
21 BE FAIR; I'M GOING TO BE IMPARTIAL, AND I'M GOING TO KEEP
22 AN OPEN MIND UNTIL I HAVE HEARD ALL THE OF THE FACTS AND
23 UNTIL I HAVE RECEIVED THE LAW FROM THE COURT AND I PROMISE
24 YOU BOTH THAT I'M NOT GOING TO MAKE ANY DECISIONS UNTIL THE
25 COURT TELLS ME TO MAKE THAT DECISION. NOW, WILL YOU BE

2061

1 ABLE TO FOLLOW THAT?

2 A YES, SIR, I WILL.

3 Q YOU'LL KEEP AN OPEN MIND THEN IN BOTH PROCEEDINGS
4 BECAUSE THERE ARE GOING TO BE TWO PARTS. THE FIRST PART
5 YOU'RE GOING TO HEAR EVIDENCE ABOUT MR. STONE ALLEGED TO
6 HAVE COMMITTED SOME OF THESE OFFENSES. YOU UNDERSTAND
7 THAT?

8 A YES.

9 Q AND THEN AT THE END AFTER HEARING ALL THAT EVIDENCE
10 AND I GIVE YOU THE LAW, THE JURY IS GOING TO BE ASKED TO
11 MAKE A DECISION AND YOU'RE GOING TO DECIDE WHETHER THE
12 STATE HAS MET ITS BURDEN OR NOT. YOU UNDERSTAND?

13 A YES.

14 Q DO YOU UNDERSTAND IT'S THE STATE'S RESPONSIBILITY TO
15 PROVE THIS CASE?

16 A YES.

17 Q BECAUSE THEY BRING THIS CASE, IT'S THEIR
18 RESPONSIBILITY. AS I TOLD YOU MONDAY PEOPLE WHO ARE
19 CHARGED WITH CRIMINAL OFFENSES IN THIS COUNTRY, THEY DON'T
20 HAVE TO PROVE ANYTHING, NOT ONE THING. THAT'S WHAT THE LAW
21 IS. NOW, WOULD YOU BE ABLE TO FOLLOW THAT LAW?

22 A YES.

23 Q AND IT MEANS THAT THEY'RE PRESUMED INNOCENT UNTIL AND
24 IF THE STATE PROVES THEM GUILTY AND ONLY THEN. OTHERWISE
25 THEY'RE PRESUMED INNOCENT UNLESS YOU'RE CONVINCED BEYOND A

2062

1 REASONABLE DOUBT THAT THEY DID THE OFFENSES OF WHICH
2 THEY'RE ACCUSED, THEY'RE INNOCENT SOLELY ON THAT
3 PRESUMPTION OF INNOCENCE. YOU UNDERSTAND THAT?

4 A YES, I UNDERSTAND.

5 Q AND IT WOULD BE YOUR DUTY IF YOU WEREN'T CONVINCED AS
6 A JUROR BEYOND A REASONABLE DOUBT TO RETURN A VERDICT OF
7 NOT GUILTY. DO YOU UNDERSTAND THAT?

8 A YES.

9 Q COULD YOU DO THAT?

10 A YES, SIR.

11 Q ALSO IT WOULD BE YOUR DUTY AS A JUROR THAT IF YOU ARE
12 CONVINCED THAT THE STATE HAS MET ITS BURDEN OF PROOF AND
13 CONVINCED YOU BEYOND A REASONABLE DOUBT THAT THE INDIVIDUAL
14 DID THESE OFFENSES, IT WOULD BE YOUR DUTY TO RETURN A
15 VERDICT OF GUILTY. COULD YOU DO THAT?

16 A YES.

17 Q OKAY. NOW, IN THE -- IN THIS PROCEEDING MR. STONE
18 LIKE ANYBODY ELSE THAT'S CHARGED WITH A CRIMINAL OFFENSE
19 DOES HAVEN'T TO PROVE ANYTHING, DOESN'T HAVE TO PUT UP ANY
20 EVIDENCE, DOESN'T HAVE TO -- DOESN'T EVEN HAVE TO TESTIFY
21 AND I WOULD TELL YOU THAT YOU CAN'T USE THAT AGAINST HIM.
22 COULD YOU FOLLOW THAT INSTRUCTION?

23 A YES.

24 Q OKAY. WOULD YOU HAVE ANY PROBLEM WITH THAT?

25 A NO.

2063

1 Q IF THE JURY AFTER THAT FIRST PHASE DECIDES THAT
2 MR. STONE OR THAT THE STATE HAD MET ITS BURDEN OF PROOF AND
3 THAT MR. STONE WAS THE PERSON THAT COMMITTED THESE
4 OFFENSES, WE'D GO INTO THE SECOND PHASE WHICH IS THE
5 PENALTY PHASE WHERE YOU WILL CONSIDER WHAT THE PUNISHMENT
6 SHOULD BE IN THIS CASE. YOU UNDERSTAND THAT?

7 A YES, SIR.

8 Q ALL RIGHT. OF COURSE IF THE JURY CONCLUDES THAT THE
9 STATE DIDN'T MEET ITS BURDEN AND THAT WOULD -- AND
10 THEREFORE FOUND HIM NOT GUILTY, THEN THAT WOULD END THIS
11 PROCEEDING. YOU UNDERSTAND THAT?

12 A YES.

13 Q IF WE GOT INTO THE PENALTY PHASE, YOU WOULD HEAR
14 ADDITIONAL EVIDENCE AT THAT TIME. NOW, YOU HAVE HEARD
15 SOME. YOU WOULD HAVE ALREADY DECIDED OBVIOUSLY AT THAT
16 POINT THAT THE STATE HAD MET ITS BURDEN OF PROOF AND THAT
17 HE WAS GUILTY OF MURDER BUT IN ADDITION TO THAT YOU WOULD
18 ALSO NOW HEAR SOME EVIDENCE THAT MAY BE SOME AGGRAVATING
19 CIRCUMSTANCES, MITIGATING CIRCUMSTANCES, AND THAT TYPE OF
20 EVIDENCE AND I WILL EXPLAIN ALL THAT TO YOU AT THE
21 CONCLUSION BUT THE MOST IMPORTANT THING IS YOU'RE GOING TO
22 HEAR ADDITIONAL EVIDENCE. BY YOUR STATEMENT THAT YOU'RE
23 NUMBER THREE, WOULD YOU BE ABLE TO AND WOULD YOU KEEP AN
24 OPEN MIND AND NOT DECIDE ON THE APPROPRIATE PUNISHMENT
25 UNTIL YOU HAD HEARD ALL OF THE EVIDENCE?

2064

1 A YES, I WILL.

2 Q NOW, AT THE CONCLUSION OF THAT AND AFTER I HAVE
3 INSTRUCTED YOU ON THE LAW, THE JURY WILL BE ASKED TO GO
4 BACK IN THEIR JURY ROOM AND DECIDE WHAT THE APPROPRIATE
5 PUNISHMENT SHOULD BE IN THIS CASE. WOULD YOU AT THAT TIME
6 BE ABLE TO CONSIDER BOTH THE DEATH PENALTY AND LIFE
7 IMPRISONMENT?

8 A YES.

9 Q AND DECIDE WHICH ONE YOU FELT WAS MOST APPROPRIATE?

10 A YES.

11 Q THIS JURY'S GOING TO BE SEQUESTERED. YOU WILL BE
12 KEPT TOGETHER AND THE STATE WILL BE PROVIDING YOU WITH
13 LODGING AND FOOD AND TRANSPORTATION FOR THE TRIAL. I KNOW
14 THAT MAY BE AN IMPOSITION AND MAY BE INCONVENIENT TO YOU
15 BUT COULD YOU SET ASIDE THAT INCONVENIENCE AND NOT LET IT
16 AFFECT YOUR RESPONSIBILITIES AS A JUROR?

17 A I GUESS.

18 Q MA'AM?

19 A YES.

20 Q YOU COULD. YOU WON'T BE ALONE. THERE WILL BE AT
21 LEAST 11 OTHERS AND POSSIBLY A COUPLE MORE SO YOU'LL ALL BE
22 IN IT TOGETHER BUT THE QUESTION IS CAN YOU SET IT ASIDE AND
23 STAY FOCUSED ON YOUR DUTIES AS A JUROR?

24 A I COULD STAY FOCUSED ON MY DUTY.

25 Q AND NOT LET IT INTERFERE WITH THAT?

2065

1 A NO.

2 THE COURT: ANSWER ANY QUESTIONS THAT THE
3 SOLICITOR MAY HAVE FOR YOU.

4 MR. WILLIAMS: THANK YOUR HONOR.

5 THE COURT: YES, SIR.

6 EXAMINATION BY MR. WILLIAMS:

7 Q GOOD AFTERNOON, MS. ARMSTRONG. YOU INDICATED ON YOUR
8 JUROR INFORMATION SHEET THAT YOU HAVE SOME FRIENDS OR
9 FAMILY THAT LIVE IN SUMTER?

10 A YES, I DO HAVE A NEPHEW LIVE THERE.

11 Q WHAT 'S HIS NAME?

12 A JAMES ARMSTRONG.

13 Q YOU KNOW WHERE IN SUMTER HE LIVES?

14 A I THINK HE LIVES ON WEDGEFIELD BUT I HAVEN'T SAW HIM.

15 Q YOU THINK HE LIVES ON WEDGEFIELD?

16 A YES.

17 Q HAVE YOU EVER HAD ANY DISCUSSIONS WITH ANYBODY ABOUT
18 THE DEATH PENALTY?

19 A NO, I DIDN'T.

20 Q YOU'VE NEVER TALKED ABOUT THE DEATH PENALTY WITH
21 ANYONE BEFORE?

22 A NO.

23 Q DO YOU HAVE ANY GENERAL OPINION ON THE DEATH PENALTY?

24 A NO.

25 Q YOU DON'T. HAVE YOU OR ANYONE IN YOUR FAMILY OR

2066

1 CLOSE FRIENDS EVER BEEN THE VICTIM OF A CRIME?

2 A NO.

3 Q HAVE YOU OR ANYONE IN YOUR FAMILY OR CLOSE FRIENDS
4 EVER BEEN CHARGED WITH A CRIME?

5 A NO.

6 Q YOU INDICATED IN RESPONSE TO THE JUDGE'S QUESTION
7 THAT YOU CONSIDER YOURSELF A TYPE THREE JUROR; IS THAT
8 CORRECT?

9 A YES.

10 Q AND YOU UNDERSTAND THAT TO MEAN THAT DEPENDING ON THE
11 FACTS AND CIRCUMSTANCES, YOU COULD RECOMMEND EITHER A
12 VERDICT OF LIFE IN PRISON OR THE DEATH PENALTY. YOU CAN DO
13 EITHER ONE OF THOSE?

14 A YES.

15 Q DO YOU BELIEVE YOU COULD SIGN YOUR NAME ON A DOCUMENT
16 SENTENCING THE DEFENDANT TO THE DEATH PENALTY; DO YOU THINK
17 YOU COULD WRITE YOUR NAME ON THAT DOCUMENT?

18 A IF HE WAS PROVEN GUILTY.

19 Q OKAY. DO YOU THINK YOU COULD COME INTO THE COURTROOM
20 IN FRONT OF THE DEFENDANT AND WHOEVER ELSE IS IN THE
21 COURTROOM AND ANNOUNCE THAT YOUR VERDICT IS THAT HE RECEIVE
22 THE DEATH PENALTY?

23 A IF I COULD DO THAT.

24 Q DO YOU THINK YOU COULD DO THAT?

25 A IF HE IS PROVEN GUILTY.

2067

1 MR. WILLIAMS: COURT'S INDULGENCE FOR A MOMENT,
2 YOUR HONOR.

3 THE COURT: YES, SIR.

4 BY MR. WILLIAMS:

5 Q ONE MORE QUESTION. ON YOUR JUROR INFORMATION SHEET
6 YOU SAID THAT YOU OR A MEMBER OF YOUR IMMEDIATE FAMILY OR A
7 CLOSE PERSONAL FRIEND HAD BEEN CHARGED WITH A CRIME AND IN
8 RESPONSE TO THAT YOU SAID, YES; AND THAT IT WAS DOMESTIC
9 AND DRUG. CAN YOU EXPLAIN THAT.

10 A NO. I HAVE A BROTHER IN JAIL FOR CRACK POSSESSION.

11 Q OKAY. THAT'S YOUR BROTHER?

12 A YES, FRANK ARMSTRONG.

13 Q OKAY. WAS HE CHARGED HERE IN GEORGETOWN DO YOU KNOW?

14 A HE'S IN THE DETENTION CENTER HERE.

15 Q IN GEORGETOWN?

16 A YES.

17 Q DO YOU HAVE ANY OPINION ABOUT HOW HE WAS TREATED BY
18 LAW ENFORCEMENT?

19 A NO. I DO NOT HAVE AN OPINION.

20 Q YOU DON'T HAVE ANY BAD FEELINGS TOWARD LAW
21 ENFORCEMENT AS A RESULT OF THAT CHARGE?

22 A NO.

23 MR. WILLIAMS: THANK YOU.

24 ONE OTHER QUESTION, YOUR HONOR.

25 THE COURT: YES, SIR.

2068

1 BY MR. WILLIAMS:

2 Q YOU SAID SOMETHING ABOUT THE DOMESTIC, ALSO?

3 A OH, THAT'S WHEN HE WAS IN JAIL FOR A DOMESTIC
4 DISPUTE. THEY ASKED WHAT REASON AND THAT'S WHAT HE WAS
5 THERE FOR FIGHTING.

6 Q WHO WAS IN JAIL FOR THAT DOMESTIC?

7 A FRANK.

8 Q IS THAT FRANK, ALSO?

9 A YES, THE SAME BOTHER.

10 MR. WILLIAMS: OKAY. THANK YOU.

11 THE COURT: MR. BABB.

12 EXAMINATION BY MR. BABB:

13 Q GOOD AFTERNOON, MS. ARMSTRONG.

14 A HELLO.

15 Q IN ANSWERING WILLIAMS' QUESTIONS HE ASKED IF YOU
16 WOULD HAVE ANY HESITATION ABOUT FAIRLY CONSIDERING THE
17 DEATH PENALTY AND METE THAT OUT IF YOU FELT THAT WAS
18 APPROPRIATE. YOUR RESPONSE WAS IF HE'S GUILTY?

19 A RIGHT.

20 Q OKAY. DO YOU UNDERSTAND THAT THERE ARE TWO PHASES IN
21 THIS TRIAL AS HIS HONOR HAD MENTIONED TO YOU. FIRST THERE
22 IS A TRIAL TO DETERMINE GUILT OR INNOCENCE. IF A NOT
23 GUILTY VERDICT IS RENDERED, THEN THAT'S THE END OF IT?

24 A RIGHT.

25 Q IF A GUILTY VERDICT IS ENTERED, THEN THERE IS A

2069

1 SECOND TRIAL NOT ABOUT GUILT. IT'S LIKE A MINI-TRIAL. IN
2 THAT SECOND PHASE YOU WOULD HEAR -- YOU MAY HEAR -- VARIOUS
3 TYPES OF EVIDENCE, EVIDENCE IN AGGRAVATION OR EVIDENCE IN
4 MITIGATION. ONLY AFTER HEARING ALL OF THAT AND RECEIVING
5 THE LAW FROM THE JUDGE, DO YOU COME TO THE QUESTION OF
6 WHETHER OR NOT IT SHOULD BE A SENTENCE OF LIFE IN PRISON OR
7 DEATH. CAN YOU CONSIDER BOTH FAIRLY TO BOTH SIDES IF THE
8 VERDICT IS GUILTY OF MURDER?

9 A COULD I CONSIDER BOTH IF IT IS? NO.

10 Q IF SOMEONE'S GUILTY OF MURDER ARE YOU SAYING THAT
11 THEN THEY SHOULD BE PUNISHED BY DEATH?

12 A IF SOMEBODY DO WHAT NOW?

13 Q IF SOMEONE IS FOUND GUILTY OF MURDER, SHOULD THE
14 PUNISHMENT THEN BE DEATH?

15 A NO. I THINK IT SHOULD BE LIFE IMPRISONMENT.

16 Q OKAY. BUT YOU MENTIONED TO THE SOLICITOR'S OFFICE IN
17 RESPONDING TO THEIR QUESTIONS UNDER APPROPRIATE
18 CIRCUMSTANCES YOU COULD IMPOSE THE DEATH PENALTY AND SIGN
19 YOUR NAME TO IT?

20 A IF HE'S FOUND GUILTY BY THE EVIDENCE THAT I HEARS AND
21 DRAWING MY FACTS FROM WHAT THE EVIDENCE THE COURT GIVES.

22 Q OKAY. YOU'RE SAYING YOU HAVE TO HAVE ALL THAT
23 EVIDENCE TO MAKE UP YOUR DECISION?

24 A RIGHT.

25 Q IS THAT WHAT YOU'RE SAYING?

2070

1 A RIGHT, BECAUSE I DON'T KNOW HIM.

2 Q AM I CONFUSING YOU WITH MY QUESTIONS? LET ME JUST
3 MOVE ON TO SOMETHING ELSE. IN THIS CASE THE DEFENDANT IS
4 ACCUSED OF MURDER, IS ACCUSED OF MURDER OF A POLICE
5 OFFICER, A DEPUTY SHERIFF. WILL THAT IMPACT YOUR ABILITY
6 TO BE FAIR TO HIM?

7 A NO.

8 Q WOULD IT IMPACT YOUR ABILITY TO BE FAIR TO THE STATE?

9 A NO.

10 Q OKAY. DO YOU HAVE ANY CLOSE FRIENDS WHO ARE POLICE
11 OFFICERS?

12 A NO.

13 MR. BABB: COURT'S INDULGENCE JUST A MOMENT.

14 THE COURT: YES, SIR.

15 MR. BABB: NOTHING FURTHER, YOUR HONOR.

16 EXAMINATION BY THE COURT:

17 Q MS. ARMSTRONG, LET ME ASK YOU A QUESTION TALKING
18 ABOUT THE THREE TYPES OF JURORS. I WANT TO JUST FOLLOW UP
19 SOMETHING AGAIN. I WANT TO BE CLEAR. I'M NOT CHALLENGING
20 YOUR RESPONSE AT ALL. I THOUGHT I UNDERSTOOD YOU TO SAY
21 THAT IN RESPONSE TO THE TYPE OF JUROR AND ALSO IN RESPONSE
22 TO THE SOLICITOR'S QUESTION THAT THERE WERE CIRCUMSTANCES
23 WHERE YOU WOULD AND COULD IMPOSE THE DEATH PENALTY IF
24 SOMEONE WAS CONVICTED OF MURDER. IS THAT TRUE BUT IT WOULD
25 DEPEND ON THE FACTS?

2071

1 A WITH THE FACTS AND EVERYTHING.

2 Q YES. DEPENDING ON THE FACTS ARE THERE CIRCUMSTANCES
3 WHERE YOU COULD IMPOSE THE DEATH PENALTY?

4 A NO, I DON'T THINK.

5 Q YOU NEED TO ANSWER LOUDLY?

6 A I WOULD RATHER GIVE THEM LIFE IN PRISON.

7 Q ALL RIGHT. WELL, LET ME ASK YOU THIS: I UNDERSTAND
8 THAT WOULD BE WHAT YOU'D RATHER DO BUT COULD YOU CONSIDER
9 BOTH OF THEM?

10 A YES.

11 Q AND COULD YOU IF THE SITUATION -- BASED ON THE FACTS
12 AND CIRCUMSTANCES, COULD YOU IMPOSE THE DEATH PENALTY?

13 A NO.

14 Q UNDER NO CIRCUMSTANCES?

15 A NO, SIR.

16 THE COURT: SOLICITOR, ANY ADDITIONAL QUESTIONS?

17 MR. WILLIAMS: NO, SIR.

18 THE COURT: MR. BABB, ANY ADDITIONAL QUESTIONS?

19 MR. BABB: COURT'S INDULGENCE.

20 EXAMINATION BY MR. BABB:

21 Q MS. ARMSTRONG, IF SOMEONE'S CONVICTED OF MURDER,
22 CONVICTED OF MURDER, NO MATTER HOW HEINOUS, HOW BAD THE
23 CRIME IS, HOW MUCH MALICE, HOW BRUTAL UNDER NO
24 CIRCUMSTANCES COULD YOU IMPOSE THE DEATH PENALTY OR EVEN
25 CONSIDER IT FAIRLY?

2072

- 1 A I'LL CONSIDER IT FAIRLY.
- 2 Q YOU CAN CONSIDER IT FAIRLY?
- 3 A YES.
- 4 Q AND IF THE CIRCUMSTANCES ARE SO HORRIBLE, SO
- 5 SHOCKING, AND SO AGGRAVATING THAT YOU FEEL THAT'S
- 6 WARRANTED, YOU COULD IMPOSE THE DEATH PENALTY COULD YOU
- 7 NOT, BY -- WHEN I SAY IMPOSE NOW I MEAN RETURN A VERDICT
- 8 FOR THE DEATH PENALTY?
- 9 A YES.
- 10 Q YOU COULD SIGN YOUR NAME ON THAT WITH ALL THE OTHER
- 11 JURORS IF THAT'S WHAT YOU HAD TO DO?
- 12 A IF I HAVE TO DO IT, YES.
- 13 MR. BABB: THANK YOU.
- 14 THE COURT: ANY ADDITIONAL QUESTIONS?
- 15 EXAMINATION BY MR. WILLIAMS:
- 16 Q MS. ARMSTRONG.
- 17 A YES.
- 18 Q YOU SAID EARLIER THAT IF YOU HAD TO YOU WOULD
- 19 RECOMMEND A VERDICT OF THE DEATH PENALTY; IS THAT RIGHT?
- 20 A WITH THE OTHER JURY MEN I WOULD.
- 21 Q IF YOU HAD A CHOICE WOULD YOU YOURSELF RECOMMEND A
- 22 VERDICT OF DEATH?
- 23 A I WOULD HAVE TO HEAR THE EVIDENCE FIRST.
- 24 Q OKAY. BUT AFTER HEARING THE EVIDENCE WOULD IT BE
- 25 POSSIBLE FOR YOU TO RECOMMEND A VERDICT OF DEATH?

2073

1 A REPEAT THAT AGAIN.

2 Q AFTER YOU'VE HEARD ALL THE EVIDENCE, WOULD IT BE
3 POSSIBLE FOR YOU, YOURSELF, TO RECOMMEND A VERDICT OF
4 DEATH, TO RECOMMEND THAT THE DEFENDANT GET THE DEATH
5 PENALTY? WOULD IT BE POSSIBLE FOR YOU TO DO THAT?

6 A NO, IT WOULDN'T.

7 Q WOULD NOT?

8 A (SHOOK HEAD.)

9 MR. WILLIAMS: THAT'S ALL, YOUR HONOR.

10 THE COURT: OKAY. ANY ADDITIONAL QUESTIONS?

11 MR. BABB: COURT'S INDULGENCE.

12 (PAUSE)

13 MR. BABB: NOTHING FURTHER, YOUR HONOR.

14 THE COURT: ALL RIGHT. MS. ARMSTRONG, I'M GOING
15 TO ASK YOU TO PLEASE STEP OUTSIDE. WE'LL BE WITH YOU IN
16 JUST A MOMENT. THANK YOU, MA'AM.

17 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
18 JUROR.)

19 THE COURT: WHAT SAYS THE STATE?

20 MR. WILLIAMS: NOT QUALIFIED, YOUR HONOR.

21 THE COURT: SAYS THE DEFENSE?

22 MR. BABB: YOUR HONOR, I'M GOING TO TAKE THE
23 POSITION SHE IS AND LET ME EXPLAIN. I HEARD HER LAST
24 ANSWER AS THE COURT DID BUT THE QUESTION HERE IS CAN YOU
25 CONSIDER FAIRLY AND SHE ANSWERED THAT YES OVER AND OVER

2074

1 AGAIN. THANK YOU, SIR.

2 THE COURT: NO QUESTION SHE FALLS CLEARLY WITHIN
3 THE RECOGNIZED SITUATION DEALT WITH AND THERE ARE A NUMBER
4 OF CASES WHERE IF A PERSON SAYS, YES, I'M MORE INCLINED TO
5 IMPOSE THE DEATH PENALTY BUT I COULD FAIRLY CONSIDER LIFE
6 IMPRISONMENT. THIS IS THE FLIP SIDE OF IT IF I'VE EVER
7 SEEN IT. THERE IS AN EQUIVOCATION HERE, NO QUESTION ABOUT
8 THAT DEPENDING ON WHAT THE QUESTION WAS SHE ANSWERED MINE
9 AND SHE COULD CONSIDER IT, WOULD CONSIDER IT. SHE EVEN
10 SAID SHE COULD SIGN THE DEATH PENALTY IF SHE HAD TO. HER
11 WORDS I THINK IF I HAD TO, IF THE OTHER JURORS WENT ALONG.
12 THEN SHE SAID, NO, I COULDN'T. IN THIS CASE I MUST FIND
13 THAT SHE IS QUALIFIED TO BE CONSISTENT BECAUSE I HAD RULED
14 IN THE OTHER SITUATION. SO I DO FIND HER QUALIFIED.

15 (THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE
16 JUROR.)

17 THE COURT: MS. ARMSTRONG, YOU HAVE BEEN
18 QUALIFIED NOW AS A POTENTIAL JUROR IN THIS CASE. WE'RE
19 GOING TO SELECT A JURY AT FIVE O'CLOCK TODAY. I NEED FOR
20 YOU TO BE BACK IN THIS COURTROOM AT THAT TIME. PLEASE DO
21 NOT TALK WITH ANYBODY ABOUT THIS CASE. UNTIL THEN DON'T
22 ALLOW ANYBODY TO TALK WITH YOU ABOUT IT OR READ ANYTHING
23 ABOUT IT OR WATCH ANY NEWS PROGRAMS ABOUT IT.

24 WHEN YOU COME YOU'RE GOING TO NEED TO BRING WITH
25 YOU SUFFICIENT PERSONAL EFFECTS AND CLOTHING TO TAKE CARE

2075

1 OF ABOUT A WEEK'S NEEDS BECAUSE ONCE THE JURY IS SELECTED
2 WE'RE LEAVING FROM HERE AND GOING TO SUMTER, GOING TO START
3 THE TRIAL IN THE MORNING. IF YOU AREN'T SELECTED OF COURSE
4 YOU WILL BE ALLOWED TO RETURN HOME AND YOU CAN UNPACK YOUR
5 CLOTHES AT THAT TIME. THIS IS SOME INFORMATION FROM THE
6 CLERK OF COURT TO GIVE YOU SOME NUMBERS OF WHERE YOU'RE
7 GOING TO BE AND CERTAIN OTHER INFORMATION THAT MAY BE
8 HELPFUL. BE BACK IN THE COURTROOM PLEASE AT FIVE O'CLOCK
9 THIS AFTERNOON.

10 THE JUROR: ALL RIGHT.

11 THE COURT: OKAY. THANK YOU.

12 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
13 JUROR.)

14 THE COURT: WE'RE GOING TO TAKE A BREAK IN A
15 SECOND.

16 MR. LITTLEJOHN: YOUR HONOR, WE ASK TO TALK TO
17 OUR CLIENT MAYBE UPSTAIRS.

18 THE COURT: ABSOLUTELY. NOT LUNCH YET. WE GOT
19 ANOTHER PANEL.

20 MR. LITTLEJOHN: PARDON ME.

21 THE COURT: WE'VE STILL GOT A PANEL AT 12:20
22 WAITING FOR US.

23 MR. LITTLEJOHN: I'LL SEE IF I CAN ---

24 THE COURT: YES, I'M GOING TO GIVE YOU A CHANCE
25 TO TALK WITH HIM.

2076

1 (THEREUPON, THERE WAS A BRIEF RECESS IN THE TRIAL OF
2 THIS CASE.)

3 THE COURT: FIRST OF ALL LET THE RECORD REFLECT
4 THAT MR. STONE IS PRESENT. WE'VE JUST CONCLUDED A BREAK
5 AND DURING THE BREAK WE HAD A BENCH CONFERENCE TO DISCUSS
6 THE POSSIBILITY OF STOPPING THE QUALIFICATION PROCESS AT
7 THIS POINT AND ACCEPTING OR USING THOSE JURORS THAT HAVE
8 BEEN QUALIFIED. I COUNT 41 IN THE COUNT AND THAT'S MY
9 COUNT. THOSE ARE MY NOTES. WE'LL RUN THROUGH THAT AND
10 LET'S GO THROUGH THAT AT THIS POINT, MAKE SURE THAT WE'RE
11 ALL TOGETHER IF YOU HAVE YOUR LIST.

12 IN PANEL ONE JUROR NUMBER -- IN GROUP ONE
13 NUMBER 17 WAS QUALIFIED AND 93; HOWEVER, 93, MS. KEEGAN,
14 HAS BEEN EXCUSED FOR MEDICAL REASONS. GROUP TWO:
15 NUMBER 145, 177, AND 174 WERE ALL QUALIFIED. GROUP
16 THREE: 153, 90 AND 60 WERE ALL QUALIFIED. GROUP FOUR:
17 NUMBER 16, JUROR NUMBER 196 WAS QUALIFIED. GROUP FIVE:
18 NUMBER 189, JUROR NUMBER 103, NUMBER 31 WERE QUALIFIED.
19 GROUP SIX: JUROR NUMBER 63, 162 WERE QUALIFIED. GROUP
20 SEVEN: JUROR NUMBER 167 AND 110 WERE QUALIFIED. GROUP
21 EIGHT: ALL FOUR JURORS 128, 133, 25, AND 94 WERE
22 QUALIFIED. GROUP NINE: NUMBER 58, 86, AND 157 WERE
23 QUALIFIED. GROUP TEN: NUMBER 62, 88, 158, AND 18 WERE
24 QUALIFIED. GROUP 11: CHECK SOMETHING.

25 (PAUSE)

2077

1 THE COURT: MR. CRIBB WAS UNQUALIFIED SO JUROR
2 NUMBER 43 WAS NOT QUALIFIED. THIRTY-SEVEN, 37 WAS THE ONLY
3 JUROR QUALIFIED IN THAT GROUP. GROUP 12: 65, 47, AND 192
4 WERE QUALIFIED. GROUP 13: NUMBER 3, 181, 122, 113 WERE
5 QUALIFIED. GROUP 14: 64, 109, 199 WERE QUALIFIED.
6 GROUP 15: 200 AND JUROR NUMBER 6 WERE QUALIFIED. IS THAT
7 CONSISTENT WITH THE STATE'S RECORD?

8 MR. KOLB: YES, SIR.

9 THE COURT: IS THAT CONSISTENT WITH THE
10 DEFENDANT'S RECORD?

11 MR. LITTLEJOHN: YES, SIR.

12 THE COURT: I BELIEVE IT'S 40 AND NOT 41 IS THE
13 NUMBER OF JURORS IN THE POOL. ALL RIGHT. AS I UNDERSTAND
14 STOPPING THE QUALIFICATION AT THIS POINT AND THEREFORE NOT
15 EXAMINING THOSE JURORS REMAINING IN GROUPS 16, 17, AND 18
16 IS DONE FULLY WITH THE CONSENT OF THE STATE; IS THAT
17 CORRECT?

18 MR. KOLB: YOUR HONOR, ALL PERSONS HAVE BEEN
19 QUALIFIED UP TO THIS POINT WOULD CONTINUE TO BE QUALIFIED.
20 THERE IS NOT GOING TO BE ANY CHANGE ON THAT, NO
21 RECONSIDERATION ON ANY OF THOSE? I MEAN WHAT CONCERNS ME
22 THERE WAS ONE PERSON THAT THE COURT SAID AT THIS TIME I
23 BELIEVE HE'S QUALIFIED.

24 THE COURT: AT THIS TIME MEANT I THINK HE'S
25 QUALIFIED. THERE IS ANOTHER STAGE WHERE IF NECESSARY I MAY

2078

1 HAVE TO RECONSIDER THAT WOULD BE IS THERE A CHALLENGE FOR
2 CAUSE.

3 MR. KOLB: OKAY. I UNDERSTAND.

4 THE COURT: OKAY.

5 MR. KOLB: YES, SIR.

6 THE COURT: I THINK HE'S QUALIFIED TO BE IN THE
7 DRAW. I SIMPLY AT THAT POINT IF I'M CONFRONTED WITH THAT
8 THAT WAS THE REASON THAT I SAID THAT. THERE IS ANOTHER
9 STAGE WHERE I MUST AGAIN REVISIT SOME OF THESE AND THE SAME
10 WOULD HOLD TRUE WITH THE STATE SINCE SOME OF THE ONES THAT
11 THERE WAS SOME ISSUES MADE AND CERTAINLY I'M NOT SUGGESTING
12 THAT THAT WAS ONE WHERE I HAD SOME RESERVATION. I WANTED
13 TO EXPRESS ON THE RECORD FOR BOTH SIDES MY -- HOW I
14 DISTINGUISH THOSE TWO INDIVIDUALS.

15 MR. KOLB: THAT WOULD BE BATSON CHALLENGES OR FOR
16 CAUSE? IS THAT TWO DIFFERENT THINGS?

17 THE COURT: IF FOR INSTANCE -- AND I DON'T KNOW
18 WHAT'S GOING TO HAPPEN; I MEAN, WE MAY GET THE FIRST 12
19 PERSONS THAT COME OUT OF THE BOX. I DON'T KNOW BUT IF THE
20 DEFENDANT EXHAUSTED THEIR STRIKES AND IF THE DEFENDANT --
21 I'M JUST SAYING IF THE DEFENDANT WERE TO -- BECAUSE THEY
22 MOVED TO HAVE HIM UNQUALIFIED I ASSUME THEY WOULD BE USING
23 THEIR PEREMPTORY CHALLENGE AND IF THEY EXHAUSTED THEN I
24 WOULD ASSUME THAT THE NEXT STEP WOULD BE THAT, YOUR HONOR,
25 WE MOVE TO CHALLENGE HIM FOR CAUSE AND AT THAT TIME I THINK

2079

1 I HAVE TO FACE THAT ISSUE. THAT'S ALL I'M SAYING,
2 MR. SOLICITOR; BUT LET'S DO ME A FAVOR. I DON'T KNOW WHAT
3 I'M GOING TO DO. WE AREN'T THERE YET. WE'LL DEAL WITH
4 THAT BUT TO ANSWER YOUR QUESTION WE'RE NOT GOING TO
5 RE-QUALIFY THESE PERSONS. THEY'RE QUALIFIED. THAT'S DONE.

6 MR. KOLB: IT'S JUST MY CONCERN IN TALKING WITH
7 THE VICTIM AND THE OFFICERS THAT IS -- THESE ARE THE PEOPLE
8 WHO ARE QUALIFIED. THEY'RE THE ONES THAT ARE GOING TO BE
9 CONSIDERED. I JUST WANT TO MAKE SURE THAT IF THAT
10 SITUATION IS GOING TO CHANGE THAT COULD AFFECT OUR
11 DECISION.

12 THE COURT: THAT'S FINE. I'M TELLING YOU NOW
13 THAT I OF COURSE AM NOT GOING TO RULE NOR AM I GOING TO
14 INDICATE HOW I WOULD EVER RULE ON ANY CHALLENGE FOR CAUSE
15 MADE BY EITHER PARTY. IF YOU AND THE VICTIMS WANT TO HAVE
16 MORE PEOPLE IN THE POOL IN CASE SOMEONE MAY BE EXCUSED FOR
17 CAUSE SHOULD YOU EXHAUST YOUR STRIKES, THEN WE NEED TO NOT
18 STOP. WE NEED GO FORWARD. SO IF YOU NEED TO DISCUSS THAT
19 WITH THEM AND HAVE NOT TALKED ABOUT THAT POTENTIAL WITH
20 THEM, THEN PLEASE FEEL FREE TO TAKE JUST A FEW MOMENTS AND
21 DISCUSS IT WITH THEM.

22 MR. KOLB: LET ME DO THAT.

23 THE COURT: SURE.

24 THE SAME IS TRUE FOR THE DEFENDANT AS WELL. I
25 DIDN'T KNOW WHETHER YOU ADDRESSED THAT.

2080

1 (PAUSE)

2 MR. KOLB: THAT'S FINE.

3 THE COURT: ALL RIGHT, SIR. THANK YOU, SIR. I
4 APPRECIATE THAT. SO AM I TO UNDERSTAND THE STATE'S IN
5 AGREEMENT WITH STOPPING THE QUALIFICATION PROCESS AT THIS
6 POINT?

7 MR. KOLB: YES, SIR.

8 THE COURT: IS THE DEFENDANT IN AGREEMENT WITH
9 STOPPING THE PROCESS AT THIS POINT?

10 MR. LITTLEJOHN: YOUR HONOR, YES. WE HAVE
11 DISCUSSED WITH HIM HOW WE PROCEDURALLY CAME TO BE AT THIS
12 POINT AND THE FACT THAT WE WERE ATTEMPTING TO GO THROUGH
13 THE ENTIRE PANEL AND QUALIFY THEM OR DISQUALIFY THEM AND
14 THEN RE-RANDOMLY DRAW THE JURY AND I THINK I HAVE
15 SUFFICIENTLY EXPLAINED TO HIM THAT BY STOPPING AT THIS
16 POINT THERE WOULD BE APPROXIMATELY 12 JURORS WHICH HAVE NOT
17 GONE THROUGH THE QUALIFICATION PROCEDURE THAT WOULD NOT
18 EVEN BE CONSIDERED TO BE RANDOMLY DRAWN FOR HIS JURY POOL
19 AND I THINK MR. STONE UNDERSTANDS THAT AND HE HAS INDICATED
20 TO US THAT HE'S IN AGREEMENT WITH STOPPING NOW AND DRAWING
21 FROM THE 40 JURORS THAT HAVE BEEN QUALIFIED SO FAR.

22 THE COURT: VERY WELL. THANK YOU VERY MUCH.

23 NOW, MR. BABB.

24 MR. BABB: YOUR HONOR, I HAVE TO SAY I WAS WITH
25 MR. LITTLEJOHN WHEN WE WENT THROUGH THAT PROCESS WITH

2081

1 MR. STONE. HE'S ACCURATELY PORTRAYED THAT AND I AGREE THAT
2 MR. STONE UNDERSTANDS THAT.

3 THE COURT: THANK YOU, SIR. ALL RIGHT.

4 THEN WHAT I WOULD ASK YOU TO DO, MS. MOORE, IS
5 THIS: FIRST OF ALL -- WELL, AS SOON AS WE FINISH THIS
6 BEFORE YOU MAKE THE LIST, I WANT TO DEAL WITH THOSE
7 INDIVIDUALS AND LET SOMEBODY START TRYING TO CALL THOSE
8 INDIVIDUALS WHO ARE NOT HERE BUT WHEN WE FINISH THAT I
9 WOULD LIKE FOR YOU TO GO AHEAD AND PUT THOSE 40 NAMES THAT
10 WE'VE JUST MENTIONED INTO THE DRUM, REDRAW THEM ONE AT A
11 TIME PUTTING THEM ON A LIST, PROVIDE THE STATE A COPY OF
12 THE LIST AND DEFENDANT A COPY OF THE LIST. THAT LIST THAT
13 COMES OUT NOW WILL BE THE ORDER THAT THEY WILL BE CALLED.
14 WHEN WE STRIKE IT WILL BE JUST LIKE WE TYPICALLY DO IN A
15 CRIMINAL COURT.

16 FOR INSTANCE THE FIRST PERSON DRAWN AND PLACED ON
17 THAT LIST WILL BE JUROR NUMBER 1. WHEN WE GET TO THE
18 STRIKE ON THE RECORD, I WILL ASK THE SOLICITOR OR MS. MOORE
19 WILL ASK, WHAT SAYS THE STATE AS TO JUROR NUMBER ONE. THE
20 STATE WILL EITHER SAY EXCUSE THE JUROR OR SEAT THE JUROR OR
21 SWEAR THE JUROR OR WHATEVER YOU TYPICALLY SAY. THEN IT
22 WILL PASS TO YOU AND YOU WILL DECIDE AND WE WILL GO THROUGH
23 THAT PROCESS TAKING THEM ONE AT A TIME UNTIL WE HAVE SEATED
24 THE 12 JURORS. IN OTHER WORDS IT WILL BE JUST LIKE THEY
25 WERE BEING CALLED UP AS WE TYPICALLY DO IN A CRIMINAL

2082

1 COURT.

2 SO WE WON'T BE STRIKING -- WE WON'T DO LIKE IN A
3 CIVIL COURT WHERE YOU SAY YOU HAVE TEN STRIKES; YOU STRIKE
4 TEN AND THEN YOU STRIKE FIVE. THAT'S NOT THE WAY WE'RE
5 GOING TO DO IT. YOU'LL HAVE FIVE STRIKES. YOU HAVE TEN
6 BUT WE WILL DO IT ONE AT A TIME. SO ONCE WE GET THOSE 40
7 AND ONCE WE GET THE 12 THE VERY NEXT JUROR WILL BE THE
8 FIRST JUROR TO BE CONSIDERED AS AN ALTERNATE AND THE
9 STRIKES THEN WILL GO ONE AND TWO UNTIL YOU HAVE EXHAUSTED
10 THEM IF NEED BE. IF WE SELECT THAT WE GO TO THE NEXT
11 ALTERNATE.

12 THEY GO ONE AND TWO AND FOR INSTANCE SUPPOSE
13 YOU -- SAY THE STATE SAYS SEAT THE JUROR AND DEFENDANT SAID
14 EXCUSE THE JUROR. NOW THE STRIKES FOR THAT ALTERNATE ARE
15 ONE AND ONE. NEXT JUROR, SEAT THE JUROR, SWEAR THE JUROR.
16 FINE. WE GO BACK TO ALTERNATE TWO. STRIKES ARE NOW AGAIN
17 ONE AND TWO. OKAY. SO THAT EVERYBODY UNDERSTANDS THAT.
18 WE'RE NOT -- IT'S -- WE'RE PICKING THAT NEXT ONE JUST LIKE
19 IT WOULD BE A SEPARATE JUROR. WE WOULD BE TAKING THEM --
20 THEY WOULD BE THE NEXT PERSON BUT THE STRIKES WOULD GO BACK
21 AND WE'D START IT OVER FOR ALTERNATE TWO. IS EVERYBODY
22 CLEAR ON THE PROCESS. STATE?

23 MR. KOLB: YES, SIR. JUDGE, CAN WE GET THAT LIST
24 BEFORE THE BREAK FOR LUNCH?

25 THE COURT: I'M GOING TO GIVE YOU THAT LIST AS

2083

1 SOON AS IT'S ACCOMPLISHED AND THEN YOU CAN TAKE IT DO
2 WHATEVER YOU WISH BECAUSE WE'VE GOT UNTIL FIVE O'CLOCK
3 BEFORE THAT JURY'S COMING. NOW, WE CAN STRIKE IT. I WOULD
4 ANTICIPATE IF YOU WOULD LIKE TO GO AHEAD AND LET'S GO
5 THROUGH THE STRIKES PROCESS BECAUSE THEY DON'T HAVE TO BE
6 HERE TO ACCOMPLISH THAT. SO THAT -- AND WE WILL HAVE DONE
7 THE MOTIONS IF THERE BE ANY SO THAT WHEN THOSE JURORS
8 ARRIVE WE SIMPLY CALL OUT THE NUMBERS AND HAVE THEM COME
9 FORWARD. THAT WOULD BE WHAT I WOULD LIKE TO DO IF THAT'S
10 AGREEABLE WITH EVERYONE.

11 MR. KOLB: STRIKE ABOUT 2:30 MAYBE?

12 THE COURT: WELL, WHENEVER Y'ALL TELL ME YOU'RE
13 READY, I'LL BE AVAILABLE. I'LL BE HERE. THAT'S NOT A
14 PROBLEM. NOW, ANY OBJECTION FROM THE STATE AS TO THE
15 PROCESS THE COURT HAS JUST OUTLINED?

16 MR. KOLB: NO, SIR.

17 THE COURT: ANY OBJECTION FROM THE DEFENDANT AS
18 TO THE PROCESS, THE SELECTION?

19 MR. LITTLEJOHN: YOUR HONOR, I'VE EXPLAINED IT
20 AGAIN TO MR. STONE. HE UNDERSTANDS THE PROCEDURE AND WE
21 CONSENT TO IT.

22 THE COURT: VERY WELL. THANK YOU VERY MUCH. IF
23 YOU WOULD BRING THOSE FOUR DEAR PEOPLE THAT HAVE BEEN
24 SITTING BACK THERE COOPED UP IN THERE, BRING THEM OUT,
25 PLEASE.

2084

1 MR. BABB: JUDGE, I BELIEVE THEY'RE GOING TO BE
2 HAPPY.

3 THE COURT: I THINK THERE PROBABLY WILL BE MIXED
4 FEELINGS BUT I BET THE BOTTOM LINE THEY WILL BE HAPPY.

5 (THEREUPON, THERE WAS A BRIEF RECESS IN THE TRIAL OF
6 THIS CASE.)

7 THE COURT: FIRST OF ALL DO YOU OBJECT TO THE
8 CLERK -- ANY OBJECTION TO THE CLERK DRAWING FROM THE DRUM
9 THE PLASTIC CONTAINERS WHICH ARE SEALED CONTAINING THE
10 NAMES OF THE JURORS. ANY OBJECTION FROM THE STATE?

11 MR. KOLB: NONE BY THE STATE, YOUR HONOR.

12 THE COURT: ANY FROM THE DEFENDANT?

13 MR. LITTLEJOHN: LET ME EXPLAIN IT TO THE
14 DEFENDANT.

15 (ATTORNEY AND CLIENT CONFER.)

16 MR. LITTLEJOHN: YOUR HONOR, WE HAVE NO PROBLEM
17 WITH THAT PROCEDURE. I'VE EXPLAINED IT TO MR. STONE.

18 THE COURT: ALL RIGHT. SECONDLY MS. MOORE IS
19 PREPARED TO DRAW THEM NOW. DO YOU -- AND I'LL LEAVE IT TO
20 YOU -- DO YOU WANT HER TO CALL THEM OUT ONE BY ONE ON THE
21 RECORD OR DO YOU -- ARE YOU WILLING TO JUST ACCEPT THE LIST
22 ONCE SHE HAS PREPARED IT?

23 MR. KOLB: WE'RE WILLING TO ACCEPT THE LIST ONCE
24 SHE HAS PREPARED IT.

25 THE COURT: ALL RIGHT.

2085

1 MR. LITTLEJOHN: THAT'S FINE WITH US, ALSO.

2 THE COURT: VERY WELL. THEN I'LL LEAVE IT TO
3 YOU. IF YOU WISH TO BE PRESENT YOU MAY. ONCE THE LIST HAS
4 BEEN PREPARED, MS. MOORE, IF YOU WOULD HAND THEM EACH A
5 COPY. THANK YOU VERY MUCH. WE'LL BE AT EASE WHILE SHE
6 DRAWS THE NEW LIST.

7 MR. KOLB: JUDGE, FOR PLANNING PURPOSES BE BACK
8 IN SESSION ABOUT 2:30?

9 THE COURT: I'LL TELL YOU THIS: PLEASE FEEL FREE
10 TO TAKE IT. I'M GOING TO GO GET A BITE TO EAT PROBABLY AND
11 THEN I'M COMING BACK HERE AND I'M GOING TO BE WORKING IN
12 THE OFFICE. YOU CALL ME WHEN YOU'RE READY. WHENEVER
13 YOU'RE READY I'LL BE READY TO GO THROUGH THE STRIKES. SO
14 YOU JUST TAKE AS LONG AS YOU NEED TO DO IT. I'D ASK THAT
15 WE DO IT BEFORE FIVE O'CLOCK. THAT'S THE ONLY THING.
16 OTHER THAN THAT ---

17 MR. KOLB: IT'S JUST GOING TO TAKE A FEW MINUTES
18 TO GET THE LIST, RIGHT? BY THE TIME WE GET THE LIST AND GO
19 OVER IT AND ALL, I'M JUST MAYBE -- SO ONCE WE FINISH SO I
20 CAN TELL EVERYBODY TO BE BACK AT THE ACTUAL TIME.

21 THE COURT: WHATEVER TIME YOU WANT. I'M GOING TO
22 BE HERE. YOU PICK THE TIME.

23 MR. KOLB: I WAS THINKING SAY THREE.

24 THE COURT: I'LL BE HERE. WHATEVER, I'M NOT
25 GOING ANYWHERE. I'M GOING TO BE RIGHT BACK THERE. I'LL BE

2086

1 WORKING. Y'ALL JUST COME GET ME WHEN YOU NEED ME. THANK
2 Y'ALL VERY MUCH. WE'LL BE AT EASE.

3 (THEREUPON, THERE WAS A BRIEF RECESS IN THE TRIAL OF
4 THIS CASE.)

5 THE COURT: ALL RIGHT. LET THE RECORD REFLECT
6 THE DEFENDANT IS PRESENT. DURING THE BREAK -- I HAVE A
7 COPY. THE STATE BEEN PROVIDED WITH A COPY OF THE NEW
8 JURORS?

9 MR. KOLB: YES, SIR.

10 THE COURT: AND WE HAVE THEM NUMBERED
11 CONSECUTIVELY ONE THROUGH 40; IS THAT CORRECT,
12 MR. SOLICITOR?

13 MR. KOLB: YES, SIR.

14 THE COURT: ALL RIGHT. HAS MR. STONE BEEN
15 PROVIDED A COPY OF THE JURORS?

16 MR. LITTLEJOHN: HE HAS, YOUR HONOR.

17 THE COURT: AND HAS HE NUMBERED THEM LIKEWISE
18 CONSECUTIVELY ONE THROUGH 40?

19 MR. LITTLEJOHN: YES, HE HAS.

20 THE COURT: VERY WELL. IS THE STATE READY TO
21 STRIKE?

22 MR. KOLB: YES, SIR.

23 THE COURT: IS THE DEFENDANT READY TO STRIKE?

24 MR. LITTLEJOHN: YES, YOUR HONOR.

25 THE COURT: VERY WELL. MS. MOORE, IF YOU WOULD

2087

1 PROCEED WITH THE JURY STRIKE. THE STATE WILL STRIKE FIRST
2 STARTING WITH THE NUMBER ONE JUROR.

3 THE CLERK: NUMBER ONE, CLYDIE THOMPSON.

4 THE COURT: YOU DON'T NEED TO CALL THE NAME.
5 JUST CALL THE NUMBER, PLEASE.

6 THE CLERK: ALL RIGHT. NUMBER ONE. WHAT SAYS
7 THE STATE?

8 MR. KOLB: PRESENT THE JUROR.

9 THE CLERK: WHAT SAYS THE DEFENSE?

10 MR. LITTLEJOHN: SEAT THE JUROR.

11 THE CLERK: NUMBER TWO, WHAT SAYS THE STATE?

12 MR. KOLB: EXCUSE THE JUROR.

13 THE CLERK: NUMBER THREE. WHAT SAYS THE STATE?

14 MR. KOLB: PRESENT THE JUROR.

15 THE CLERK: WHAT SAYS THE DEFENSE?

16 MR. LITTLEJOHN: EXCUSE THIS JUROR, PLEASE.

17 THE CLERK: NUMBER FOUR. WHAT SAYS THE STATE?

18 MR. KOLB: PRESENT THE JUROR.

19 THE CLERK: WHAT SAYS THE DEFENSE?

20 MR. LITTLEJOHN: YOUR HONOR, WE WOULD LIKE TO
21 RENEW OUR MOTION TO DISQUALIFY THIS JUROR FOR CAUSE.

22 THE COURT: DENIED.

23 MR. LITTLEJOHN: EXCUSE THE JUROR.

24 THE CLERK: NUMBER FIVE. WHAT SAYS THE DEFENSE?

25 MR. KOLB: PRESENT THE JUROR.

2088

1 THE CLERK: THE STATE, EXCUSE ME. WHAT SAYS THE
2 DEFENSE?

3 MR. LITTLEJOHN: SEAT THE JUROR.

4 THE CLERK: NUMBER SIX. WHAT SAYS THE STATE?

5 MR. KOLB: PRESENT THE JUROR.

6 THE CLERK: WHAT SAYS THE DEFENSE?

7 MR. LITTLEJOHN: SEAT THE JUROR.

8 THE CLERK: NUMBER SEVEN. WHAT SAYS THE STATE?

9 MR. KOLB: PRESENT THE JUROR.

10 THE DEFENDANT: WHAT SAYS THE DEFENSE?

11 MR. LITTLEJOHN: PLEASE EXCUSE THIS JUROR.

12 THE CLERK: NUMBER EIGHT. WHAT SAYS THE STATE?

13 MR. KOLB: PRESENT THE JUROR.

14 THE CLERK: WHAT SAYS THE DEFENSE?

15 MR. LITTLEJOHN: EXCUSE THIS JUROR.

16 THE CLERK: NUMBER NINE. WHAT SAYS THE STATE?

17 MR. KOLB: PRESENT THE JUROR.

18 THE CLERK: WHAT SAYS THE DEFENSE?

19 MR. LITTLEJOHN: SEAT THE JUROR.

20 THE CLERK: NUMBER 10. WHAT SAYS THE STATE?

21 MR. KOLB: EXCUSE THE JUROR.

22 THE CLERK: NUMBER 11. WHAT SAYS THE STATE?

23 MR. KOLB: PRESENT THE JUROR.

24 THE CLERK: WHAT SAYS THE DEFENSE?

25 MR. LITTLEJOHN: SEAT THE JUROR, PLEASE.

2089

1 THE CLERK: NUMBER 12. WHAT SAYS THE STATE?
2 MR. KOLB: PRESENT THE JUROR.
3 THE CLERK: WHAT SAYS THE DEFENSE?
4 MR. LITTLEJOHN: SEAT THE JUROR.
5 THE CLERK: NUMBER 13. WHAT SAYS THE STATE?
6 MR. KOLB: PRESENT THE JUROR.
7 THE CLERK: WHAT SAYS THE DEFENSE?
8 MR. LITTLEJOHN: PLEASE EXCUSE THIS JUROR.
9 THE CLERK: NUMBER 14. WHAT SAYS THE STATE?
10 MR. KOLB: EXCUSE THE JUROR.
11 THE CLERK: NUMBER 15. WHAT SAYS THE STATE?
12 MR. KOLB: PRESENT THE JUROR.
13 THE CLERK: WHAT SAYS THE DEFENSE?
14 MR. LITTLEJOHN: SEAT THE JUROR.
15 THE CLERK: NUMBER 16. WHAT SAYS THE STATE?
16 MR. KOLB: PRESENT THE JUROR.
17 THE CLERK: WHAT SAYS THE DEFENSE?
18 MR. LITTLEJOHN: PLEASE EXCUSE THIS JUROR.
19 THE CLERK: NUMBER 17. WHAT SAYS THE STATE?
20 MR. KOLB: EXCUSE THE JUROR.
21 THE CLERK: NUMBER 18. WHAT SAYS THE STATE?
22 MR. KOLB: PRESENT THE JUROR.
23 THE CLERK: WHAT SAYS THE DEFENSE?
24 MR. LITTLEJOHN: EXCUSE THIS JUROR.
25 THE CLERK: NUMBER 19. WHAT SAYS THE STATE?

2090

1 MR. KOLB: PRESENT THE JUROR.

2 THE CLERK: WHAT SAYS THE DEFENSE?

3 MR. LITTLEJOHN: SEAT THE JUROR.

4 THE CLERK: NUMBER 20. WHAT SAYS THE STATE?

5 MR. KOLB: PRESENT THE JUROR.

6 THE CLERK: WHAT SAYS THE DEFENSE?

7 MR. LITTLEJOHN: EXCUSE THIS JUROR, PLEASE.

8 THE CLERK: NUMBER 21. WHAT SAYS THE STATE?

9 MR. KOLB: PRESENT THE JUROR.

10 THE CLERK: WHAT SAYS THE DEFENSE?

11 MR. LITTLEJOHN: YOUR HONOR, IN REGARD TO THE
12 JUROR NUMBER 21 ON THE NEW LIST, WE WOULD LIKE TO RENEW OUR
13 MOTION TO EXCUSE THIS JUROR FOR CAUSE.

14 THE COURT: VERY WELL. I WOULD AGAIN DENY THE
15 MOTION AS IT PERTAINS TO THE JUROR.

16 MR. LITTLEJOHN: PLEASE EXCUSE THIS JUROR.

17 THE CLERK: NUMBER 22. WHAT SAYS THE STATE?

18 MR. KOLB: PRESENT THE JUROR.

19 THE CLERK: WHAT SAYS THE DEFENSE?

20 MR. LITTLEJOHN: SEAT THE JUROR.

21 THE CLERK: 23. WHAT SAYS THE STATE?

22 MR. KOLB: PRESENT THE JUROR.

23 THE CLERK: WHAT SAYS THE DEFENSE.

24 MR. BABB: COURT'S INDULGENCE JUST A MOMENT.

25 THE COURT: YES, SIR.

2091

1 (PAUSE)

2 MR. LITTLEJOHN: NUMBER 23.

3 THE CLERK: 23.

4 MR. LITTLEJOHN: SEAT THE JUROR, PLEASE.

5 THE CLERK: 24. WHAT SAYS THE STATE?

6 MR. KOLB: EXCUSE THE JUROR.

7 THE CLERK: 25. WHAT SAYS THE STATE?

8 MR. KOLB: PRESENT THE JUROR.

9 THE CLERK: WHAT SAYS THE DEFENSE?

10 MR. LITTLEJOHN: SEAT THE JUROR.

11 THE CLERK: 26. WHAT SAYS THE STATE?

12 MR. KOLB: PRESENT THE JUROR.

13 THE CLERK: WHAT SAYS THE DEFENSE?

14 MR. LITTLEJOHN: INDULGE ME JUST A MOMENT.

15 THE COURT: YES, SIR.

16 (PASUE)

17 MR. LITTLEJOHN: NUMBER 26. PLEASE SEAT THE
18 JUROR.

19 THE CLERK: NUMBER 27. STATE?

20 MR. KOLB: THIS FOR THE ALTERNATE?

21 THE COURT: NO, SIR. WE STILL HAVE ONE MORE.

22 UNLESS I MISSED ONE. WAIT A MINUTE. I DID.

23 THE CLERK: THIS IS IT.

24 THE COURT: HOLD ON JUST ONE SECOND BEFORE WE GO
25 ANY FURTHER. LET'S GO BACK AND CHECK. I THINK THAT WAS

2092

1 THE 12TH JUROR.

2 THE CLERK: RIGHT.

3] THE COURT: IS THAT WHAT YOU HAVE?

4 THE CLERK: YES, SIR.

5 THE COURT: ALL RIGHT. I DO. THIS IS THE
6 ALTERNATE. THE STRIKES WILL BE ONE AND TWO, THE FIRST
7 ALTERNATE.

8 THE CLERK: NUMBER 27. WHAT SAYS THE STATE?

9 MR. KOLB: PRESENT THE JUROR.

10 THE CLERK: WHAT SAYS THE DEFENDANT?

11 MR. LITTLEJOHN: PLEASE EXCUSE THIS JUROR.

12 THE CLERK: NUMBER 28. WHAT SAYS THE STATE?

13 MR. KOLB: PRESENT THE JUROR.

14 THE CLERK: WHAT SAYS THE DEFENSE?

15 MR. LITTLEJOHN: PRESENT THE JUROR.

16 THE COURT: ALTERNATE NUMBER ONE.

17 THE CLERK: OKAY. THE SECOND ONE, NUMBER 29.

18 WHAT SAYS THE STATE?

19 MR. KOLB: JUST A MOMENT, YOUR HONOR.

20 THE COURT: YES, SIR.

21 (PAUSE)

22 THE COURT: LET'S NOTE SOMETHING JUST ONE SECOND.
23 YOU HAVE DOWN PATRICIA. I THINK IT'S PATRICK.

24 MR. KOLB: YES, SIR, WE REALIZE THAT.

25 THE COURT: WANT TO BE SURE.

2093

1 THE CLERK: IT'S PATRICK OR PATRICIA?

2 THE COURT: PATRICK, YES.

3 THE CLERK: OKAY.

4 THE COURT: EXCUSE ME FOR INTERRUPTING,

5 MR. SOLICITOR.

6 MR. KOLB: HAVE JUST A MOMENT.

7 THE COURT: YES, SIR. TAKE YOUR TIME.

8 MR. KOLB: IT'S EASIER TO PLAN YOUR STRATEGY ON

9 THE FIRST PART. THIS PART IS A LITTLE BIT.

10 THE COURT: TAKE YOUR TIME. NO RUSH.

11 (PAUSE)

12 MR. KOLB: ON NUMBER 29, EXCUSE THE JUROR,

13 PLEASE.

14 THE COURT: VERY WELL. THE STATE STRIKES ONE

15 TIME.

16 THE CLERK: NUMBER 30. WHAT SAYS THE STATE?

17 MR. KOLB: PRESENT THE JUROR.

18 THE CLERK: WHAT SAYS THE DEFENSE?

19 MR. LITTLEJOHN: EXCUSE THE JUROR.

20 THE CLERK: NUMBER 31. WHAT SAYS THE STATE?

21 MR. KOLB: PRESENT THE JUROR.

22 THE CLERK: WHAT SAYS THE DEFENSE?

23 MR. LITTLEJOHN: EXCUSE THE JUROR.

24 THE CLERK: NUMBER 32. WHAT SAYS THE STATE?

25 MR. KOLB: PRESENT THE JUROR.

2094

1 THE CLERK: WHAT SAYS THE DEFENSE?

2 MR. LITTLEJOHN: PRESENT THE JUROR.

3 THE COURT: THAT WOULD BE ALTERNATE NUMBER TWO.

4 ALL RIGHT. GENTLEMEN, LET'S GO BACK AND CHECK.

5 LET ME GO THROUGH MY LIST TO BE SURE. I'M GOING TO CALL
6 THE NUMBERS AS NUMBER ONE, NUMBER FIVE, SIX,

7 NINE, 11, 12, 15, 19, 22, 23, 25, 26. THOSE ARE YOUR
8 JURORS, THE FIRST 12. ALTERNATE NUMBER ONE IS 28.

9 ALTERNATE NUMBER TWO IS 32; IS THAT CORRECT BY THE STATE?

10 MR. KOLB: JUDGE, WE'RE GOING TO GO AHEAD AND
11 SEAT A THIRD ALTERNATE SINCE WE'VE GOT ENOUGH JURORS? I
12 JUST HATE TO HAVE A PROBLEM AND NOT HAVE THEM. WE GOT THEM
13 ALREADY.

14 THE COURT: MY CONCERN IS THIS, MR. SOLICITOR.
15 WE WERE TALKING ABOUT PUTTING A THIRD PERSON THROUGH THIS
16 TO SIT NOW.

17 MR. KOLB: JUST SEEMS LIKE MIGHTY CHEAP INSURANCE
18 AGAINST A PROBLEM IF WE RUN OUT OF ALTERNATE JURORS. I'D
19 MOVE THAT WE GO AHEAD AND HAVE A THIRD ALTERNATE SINCE WE
20 GOT THEM QUALIFIED.

21 THE COURT: ALL RIGHT. THEN PICK THE THIRD
22 ALTERNATE.

23 THE CLERK: NUMBER 33. WHAT SAYS THE STATE?

24 MR. KOLB: EXCUSE THE JUROR.

25 THE CLERK: NUMBER 34. WHAT SAYS THE STATE?

2095

1 MR. KOLB: PRESENT THE JUROR.

2 THE CLERK: WHAT SAYS THE DEFENSE?

3 MR. LITTLEJOHN: INDULGE ME JUST A MOMENT, YOUR
4 HONOR.

5 THE COURT: YES, SIR.

6 MR. LITTLEJOHN: DIDN'T REALIZE WE WERE GOING
7 THIS FAR.

8 THE COURT: ME EITHER. FEEL LIKE STAR TREK.

9 (PAUSE)

10 THE COURT: YOU'RE READY?

11 MR. LITTLEJOHN: YES, YOUR HONOR, AS TO JUROR 34
12 PLEASE SEAT THE JUROR.

13 THE COURT: SEAT THE JUROR. WILL BE ALTERNATE
14 NUMBER THREE.

15 ALL RIGHT. ANY MOTIONS ON BEHALF OF THE STATE
16 REGARDING THE JURY SELECTION?

17 MR. KOLB: JUST A MOMENT PLEASE, YOUR HONOR.

18 THE COURT: ABSOLUTELY.

19 (PAUSE)

20 MR. KOLB: JUDGE, WE WOULD HAVE A BATSON MOTION.
21 I'LL TELL THE COURT THAT IF THE DEFENSE DOES NOT HAVE A
22 BATSON MOTION, WE'LL WITHDRAW OUR OURS.

23 THE COURT: I LOVE THAT. WELL, LET ME -- YOU MAY
24 WANT TO RETHINK IT BECAUSE IF YOU MAKE IT I'M GOING TO HEAR
25 THE BATSON MOTION. THINK ABOUT IT BECAUSE I GRANTED ONE IN

2096

1 COLUMBIA -- AND I KNOW YOU HAVE THOUGHT ABOUT IT -- AND IT
2 WASN'T A VERY GOOD REDRAW. SO WHATEVER YOU WANT TO DO. IF
3 YOU'VE GOT A BATSON MOTION, I'LL BE HAPPY TO HEAR IT. IF
4 YOU WANT TO SAY NONE, THEN RETHINK IT PASS AND I'LL DO
5 THAT.

6 (PAUSE)

7 MR. KOLB: YOUR HONOR, WE CAN'T DO IT THE WAY I
8 WANT TO DO IT BECAUSE IF THEY DO -- I JUST FELT LIKE IF ONE
9 SIDE'S GOT TO EXPLAIN IT, I'D LIKE TO HAVE BOTH SIDES.

10 THE COURT: WELL, I MAY REVISIT THAT BUT RIGHT
11 NOW ---

12 MR. KOLB: MY FEELING WE'RE SATISFIED WITH THE
13 JURY AS THEY ARE NOW.

14 THE COURT: THANK YOU VERY MUCH.

15 MR. KOLB: AND WOULD NOT MAKE A BATSON MOTION.

16 THE COURT: VERY WELL.

17 ANY MOTIONS ON BEHALF OF THE DEFENSE?

18 MR. LITTLEJOHN: IF YOU WOULD INDULGE US JUST A
19 MOMENT, YOUR HONOR?

20 (PAUSE)

21 THE COURT: Y'ALL NEED A RECESS?

22 MR. LITTLEJOHN: IF YOU COULD GIVE US JUST A
23 SECOND.

24 THE COURT: OKAY.

25 (PAUSE)

2097

1 MR. LITTLEJOHN: YOUR HONOR, WE HAVE NO MOTION.

2 THE COURT: OKAY. THERE BEING NO MOTIONS THOSE
3 WILL BE THE JURORS AND WE WILL CALL THEM -- I GUESS MY PLAN
4 IS WE WOULD NEED TO CALL -- WHAT I WOULD LIKE -- BEFORE WE
5 CALL THEM IF WE CALL ALL OF THOSE NAMES AND THEN JUST
6 CALL -- I MEAN CALL THEM ALL MAKE SURE.

7 THE CLERK: CALL AND SEE IF THEY'RE ALL HERE?

8 THE COURT: YES, MA'AM. THEN WE WILL CALL THOSE
9 PERSONS FORWARD. I'LL EXCUSE THE OTHERS AND WE'LL DEPART.
10 OKAY. NOW, LET'S TAKE CARE. . .

11 MR. KOLB: JUDGE, COUPLE THINGS ABOUT THE JURY
12 SELECTION IF I COULD. WILL THE RECORD REFLECT THE DEFENSE
13 ONLY TOOK NINE OF THEIR AVAILABLE TEN STRIKES?

14 THE COURT: THAT IS CORRECT. YOU HAVE THE
15 STRIKES. THE STRIKES THAT ARE KEPT BY THE CLERK WILL NOW
16 BECOME A PART OF THE RECORD AND I GUESS WE OUGHT TO MAKE
17 THAT COURT'S EXHIBIT. THAT WILL BE COURT'S EXHIBIT NO. 4,
18 STRIKES, THE CLERK'S STRIKE LIST. I HAVE THAT THE STATE
19 EXHAUSTED THEIR FIVE. THE DEFENSE USED NINE OF THEIR TEN.

20 (THEREUPON, THE STRIKE LIST WAS MARKED COURT'S EXHIBIT
21 NO. 4 AND MADE A PART OF THE RECORD.)

22 MR. KOLB: YOUR HONOR, ONE FINAL THING. I HAD A
23 SIMILAR SITUATION AND I HATE TO MENTION ANOTHER JUDGE BUT
24 JUST HAVING BEEN TOLD SOMETHING FRANKLY I HAVE NOT SEEN THE
25 LAW THAT SAYS IT BUT IN A PREVIOUS SELECTION OF THE JURY

2098

1 VERY SIMILAR TO THIS, THAT JUDGE WAS OF THE OPINION THAT
2 THE LAW REQUIRED THE ACTUAL SELECTION OF THE JURY TO BE
3 DONE IN THE PRESENCE OF THE DEFENDANT AND ALL OF THE
4 JURORS; AND THEREFORE, WE WERE REQUIRED TO REENACT IN THE
5 PRESENCE OF THE ENTIRE JURY PANEL WHAT WE JUST DID AND I
6 JUST WANT TO MENTION THAT.

7 I CAN'T CITE THE COURT THE REQUIREMENT FOR THAT
8 BUT HAVING BEEN TOLD BY A CIRCUIT JUDGE THAT WE HAD TO DO
9 THAT I HATE NOT TO DO IT WITHOUT SOME SORT OF WAIVER ON THE
10 RECORD. AS I UNDERSTAND THE COURT'S JUST PLANNING ON
11 CALLING THE 12 AND THREE ALTERNATES UP AND NOT ACTUALLY
12 GOING THROUGH WHAT WE'VE JUST DONE IN THE PRESENCE OF THE
13 JURY. I JUST DON'T WANT THAT TO BE A DEFECT THAT I AT
14 LEAST HAD SOME IDEA MIGHT BE A PROBLEM.

15 THE COURT: WELL, I'LL BE HAPPY TO CHECK THAT. I
16 ASSURE YOU I'VE NEVER READ THAT CASE NOR HAVE I SEEN IT BUT
17 THAT DOESN'T MEAN THAT IT DOES NOT EXIST. THERE IS NOTHING
18 IN ANY OF THE NOTEBOOKS THAT I HAVE HAD OR OBTAINED AS FAR
19 BACK AS JOHN HAMILTON SMITH THAT SUGGESTS THAT BUT BEING
20 THE LAW AND KNOWING THAT THINGS HAVE A TENDENCY OF HIDING
21 IN LITTLE NOOKS AND CRANNIES, I'LL BE HAPPY TO DO THAT. IF
22 IT IS WE'LL GO THROUGH THAT. IF NOT WE'LL DO IT THE WAY
23 IT'S CONTEMPLATED.

24 MR. KOLB: I WAS THINKING IF THERE IS SUCH A
25 REQUIREMENT, CERTAINLY IT COULD BE KNOWINGLY AND

1 INTENTIONALLY WAIVED.

2 THE COURT: OH, I UNDERSTAND THAT.

3 MR. KOLB: THAT'S WHY ---

4 THE COURT: IF IT IS WE'LL CHECK IT AND WE'LL
5 DISCUSS IT. YOU BE THINKING ABOUT WHETHER YOU WANT TO
6 REENACT IT BUT I'M GOING TO CHECK IT AND SEE IF IT HAS TO
7 BE DONE. OKAY. ANYTHING ELSE FROM THE STATE?

8 MR. KOLB: NO, SIR.

9 THE COURT: ANYTHING FROM THE DEFENDANT BEFORE WE
10 RECESS?

11 MR. LITTLEJOHN: NOT AT THIS TIME, YOUR HONOR.

12 THE COURT: ALL RIGHT. LET ME GET -- BEFORE WE
13 TAKE OUR RECESS IF WE COULD GET THE S.L.E.D. AGENTS THAT
14 ARE GOING TO BE IN CHARGE OF THE JURY.

15 (PAUSE)

16 THE COURT: ALL RIGHT. THESE ARE THE INDIVIDUALS
17 WHO WILL BE ASSISTING YOU; IS THAT CORRECT?

18 AN AGENT: YES, SIR.

19 THE COURT: VERY WELL. CLERK, WOULD YOU PLEASE
20 ADMINISTER THE OATH TO THEM?

21 THE CLERK: OKAY. PLEASE RAISE YOUR RIGHT HAND.
22 DO YOU SOLEMNLY SWEAR THAT YOU WILL KEEP THE JURORS SWORN
23 IN THIS CASE AND TAKE THEM TO SOME CONVENIENT PLACE OF
24 SEQUESTRATION; THAT YOU WILL SUFFER NO PERSON TO SPEAK WITH
25 THEM NOR ANY OF THEM, NEITHER SPEAK WITH THEM YOURSELF NOR

2100

1 SUFFER THEM TO SPEAK WITH ANY PERSON AND RETURN THEM TO
2 THEIR JURY ROOM AT SUCH TIME AND KEEP THEM THERE UNTIL
3 FURTHER DIRECTED FROM THIS COURT SO HELP YOU GOD?

4 (NO NEGATIVE RESONSE.)

5 THE COURT: THANK YOU. AND I BELIEVE WE HAVE
6 SOME BUS DRIVERS THAT WILL BE ASSISTING OR A BUS DRIVER?

7 AN AGENT: WE HAVE A BUS DRIVER WHO'S GOING TO
8 HAVE TO DRIVE THEM BACK TO SUMTER TONIGHT.

9 THE COURT: OKAY.

10 AN AGENT: AND THEN WE WILL NOT BE USING HIM
11 AFTER THAT.

12 THE COURT: VERY WELL. WHEN HE ARRIVES LET ME
13 KNOW AND WE'LL ADMINISTER THE OATH TO THAT ONE AS WELL.
14 IS HE ALSO WITH S.L.E.D. OR IS HE ---

15 AN AGENT: NO, SIR. HE'S WITH THE PEE DEE
16 TRANSPORTATION AUTHORITY?

17 A MAN: R.T.A.

18 THE COURT: ANY OBJECTION TO THAT INDIVIDUAL
19 DRIVING THE BUS?

20 MR. LITTLEJOHN: NO, YOUR HONOR.

21 THE COURT: ANY FROM THE STATE?

22 MR. KOLB: NO, SIR.

23 THE COURT: ALL RIGHT. NOTHING FURTHER. WE'LL
24 BE AT EASE.

25 (THEREUPON, THE TRIAL OF THIS CASE WAS RECESSED

2101

1 UNTIL 5:00 P.M.)

2 THE COURT: YOU DIDN'T HAPPEN TO FIND A CASE. I
3 COULD NOT FIND IT. WE TOOK OUR RECESS. WE WERE DOING SOME
4 WORK CONCERNING THE SELECTION PROCESS. DOES DEFENDANT
5 RAISE ANY OBJECTION TO THE MANNER IN WHICH WE'VE ALREADY
6 GONE THROUGH THE SELECTION?

7 MR. LITTLEJOHN: NO, YOUR HONOR.

8 THE COURT: VERY WELL. ARE YOU CONTENT NOW WITH
9 THE PROCEDURE THAT WE'VE OUTLINED AND THAT IS TO SIMPLY
10 CALL FOR THOSE INDIVIDUALS TO COME FORWARD?

11 MR. LITTLEJOHN: YES, YOUR HONOR. WE HAVE NO
12 PROBLEM WITH THAT.

13 MR. KOLB: YES, SIR.

14 THE COURT: VERY WELL. THANK YOU VERY MUCH.
15 LADIES AND GENTLEMEN, IN JUST A SECOND WE'RE -- I'M GOING
16 TO ASK YOUR CLERK OF COURT TO CALL THE ROLL OF THOSE JURORS
17 WHO HAVE BEEN SELECTED FOR THE POOL BUT BEFORE WE DO THAT I
18 WANT TO PERSONALLY THANK YOU FOR YOUR PATIENCE, FOR YOUR
19 TENACITY IN SOME RESPECTS AND FOR YOUR BEING VERY
20 COOPERATIVE THROUGHOUT THIS PROCESS. THANK YOU SO MUCH.

21 AS I TOLD YOU, EACH ONE OF YOU, WE'RE NOW GOING
22 TO GO THROUGH AND WE HAVE GONE THROUGH THE PROCESS AND
23 SELECTED THE 12 JURORS AND THREE ALTERNATES AND JUST AFTER
24 WE CALL THE ROLL WE WILL CALL THOSE INDIVIDUALS TO COME
25 FORWARD. THAT MEANS 15 OF YOU WILL ACCOMPANY US AND WE'LL

2102

1 AS I STATED HEAD TO SUMTER. THE BALANCE OF YOU WILL HAVE
2 SOME UNPACKING TO DO AND I HOPE THE FACT THAT YOU ARE
3 UNPACKING WILL MAKE YOU FEEL OKAY AND, THOSE OF YOU THAT
4 ARE GOING WITH US, I TRULY LOOK FORWARD TO WORKING WITH YOU
5 AND WE'LL TALK TOMORROW WHEN WE REACH SUMTER.

6 IF YOU WOULD, PLEASE, NOW WOULD YOU CALL THE ROLL
7 OF THE JURORS?

8 THE CLERK: AS I CALL YOUR NAME PLEASE STAND
9 CLYDIE THOMPSON. (WHITE FEMALE)

10 THE CLERK: MATTHEW BRUNSON. (BLACK MALE)

11 THE COURT: YOU MAY BE SEATED.

12 THE CLERK: MATTHEW BRUNSON. (BLACK MALE)

13 THE COURT: ALL RIGHT. WE'LL RECALL HIM.

14 THE CLERK: BARBARA STEWART. (BLACK FEMALE)

15 GLENN YARBOROUGH. (WHITE MALE)

16 EMILY SWEATMAN. (WHITE FEMALE)

17 PRISCILLA GORE. (BLACK FEMALE)

18 THE COURT: YOU MAY BE SEATED.

19 THE CLERK: AMY WHITE CONDON. (WHITE FEMALE)

20 BETTY KEESEE. (WHITE FEMALE)

21 DAN RIEGLE. (WHITE MALE)

22 JOANN WALKER. (BLACK FEMALE)

23 SHIRLEY LEGETTE. (BLACK FEMALE)

24 PHILLIP ALLEN. (BLACK MALE)

25 JEAN PIETERSE. (WHITE FEMALE)

2103

1 LADONNA JORDAN. (WHITE FEMALE)
2 JAMES WOODARD. (WHITE MALE)
3 LARRY ROBERTS. (WHITE MALE)
4 MARY ARMSTRONG. (BLACK FEMALE)
5 CAROLYN MONTAGNE. (WHITE FEMALE)
6 DONNA MOSS. (WHITE FEMALE)
7 DEBRA SEMPLE. (WHITE FEMALE)
8 CECIL MCGEE. (WHITE MALE)
9 CHRISTOPHER CARROLL. (WHITE MALE)
10 NORMAN WILLIAMSON. (WHITE MALE)
11 EUGENIA MAYBANK. (BLACK FEMALE)
12 TAMIKA GARDNER. (BLACK FEMALE)
13 RICHARD BOURNE. (WHITE MALE)
14 MARLENE DEACON. (WHITE FEMALE)
15 KAREN GRAHAM. (WHITE FEMALE)
16 PATRICK COLLINS. (WHITE MALE)
17 HERBERT MCCLARY. (WHITE MALE)
18 KRYSTAL RADCLIFFE. (WHITE FEMALE)
19 JOHN SINGLETARY. (WHITE MALE)
20 EDWARD GOUDE. (WHITE MALE)
21 CINDY JONES. (WHITE FEMALE)
22 GENE BRATCHER. (WHITE MALE)
23 JOSEPH GALLEGOS. (WHITE MALE)
24 SADIE JENKINS. (BLACK FEMALE)
25 ORA BOWERS. (WHITE FEMALE)

1 ROY GOSS. (BLACK MALE)

3 THE COURT: WHO ARE YOU MISSING?

5 THE COURT: MR. BRUNSON.

7 THE COURT: AND BARBARA STEWART.

11 THE COURT: LET'S WAIT JUST A FEW MINUTES AND
12 SEE.

15 THE COURT: MADAM CLERK, IF YOU WOULD GO AHEAD
16 NOW AND CALL THOSE JURORS THAT HAVE BEEN SELECTED TO SERVE
17 JURY IN THIS CASE.

20 THE CLERK: CLYDIE THOMPSON.

22 PRISCILLA ANN GORE.

24 | SHIRLEY LEGETTE.

2105

1 JAMES WOODARD.

2 DONNA MOSS.

3 CHRISTOPHER CARROLL.

4 NORMAN WILLIAMSON.

5 TAMIKA GARDNER.

6 RICHARD BOURNE.

7 AND THE ALTERNATES ARE KAREN GRAHAM.

8 JOHN SINGLETARY.

9 AND CINDY JONES.

10 THE COURT: THOSE OF YOU THAT HAVE NOT BEEN
11 SELECTED, THAT WILL NOW CONCLUDE YOUR RESPONSIBILITIES FOR
12 THIS WEEK. YOU ARE NOW FREE TO LEAVE. ALSO THE
13 RESTRICTIONS THAT I HAVE BEEN PLACING ON YOU CONCERNING
14 DISCUSSING THIS MATTER HAVE NOW REMOVED AS THEY PERTAIN TO
15 YOU. YOU HAVE EARNED YOUR THREE-YEAR EXEMPTION. IF YOU
16 CHOOSE TO CLAIM IT IN THE FUTURE IF I HAPPEN TO BE COMING
17 THROUGH, I'LL SAY HELLO AND GOOD BYE AND I WOULDN'T BLAME
18 YOU BUT IF YOU HAPPEN TO WANT TO STAY WITH ME, I'LL LOOK
19 FORWARD TO WORKING WITH YOU. I WISH YOU ALL WELL AND THANK
20 YOU AGAIN FOR YOUR PARTICIPATION IN THIS PROCESS AS WELL.

21 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
22 JURY POOL.)

23 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, IF
24 I COULD HAVE YOUR ATTENTION. THANK YOU FOR YOUR
25 PARTICIPATION AT THIS POINT. YOU NOW HAVE BEEN SELECTED TO

2106

1 HELP US RESOLVE THIS MATTER. TOMORROW MORNING WHEN WE
2 START I'LL HAVE SOME REMARKS FOR YOU AT THAT TIME BUT RIGHT
3 NOW I'M GOING TO STOP WITH THAT AND JUST TELL YOU BETWEEN
4 NOW -- WE -- THE AGENTS ARE HERE. I THINK THE PLAN IS TO
5 HAVE -- IS TO HAVE SUPPER HERE BEFORE WE LEAVE; IS THAT
6 CORRECT?

7 AN AGENT: YES, SIR.

8 THE COURT: AND THEN YOU WILL BE TAKEN TO SUMTER
9 AND I'LL LOOK FORWARD TO SEEING YOU ALL THERE. I'M ON THE
10 WAY, TOO; AND I THINK WE'RE PROBABLY STAYING AT THE SAME
11 PLACE. SO HAVE A NICE SUPPER.

12 AN AGENT: JUDGE, WE GOT THE BUS DRIVER.

13 THE COURT: OH, YES, THE BUS DRIVER. WOULD YOU
14 BRING -- WOULD YOU COME FORWARD, PLEASE, SIR.

15 WOULD YOU ADMINISTER THE OATH TO THE BUS DRIVER?
16 THIS WOULD BE JUST AS IT PERTAINS TO TRANSPORTING.

17 IF YOU COULD RAISE YOUR RIGHT HAND, PLEASE.

18 THE CLERK: DO YOU SOLEMNLY SWEAR THAT YOU WILL
19 KEEP THE JURORS SWORN IN THIS CASE AND TAKE THEM TO SOME
20 CONVENIENT PLACE OF SEQUESTRATION; THAT YOU WILL SUFFER NO
21 PERSON TO SPEAK WITH THEM NEITHER SPEAK WITH THEM YOURSELF
22 NOR SUFFER THEM TO SPEAK TO ANY OTHER PERSON AND RETURN
23 THEM TO THE COURTHOUSE OR TO SEQUESTRATION AND KEEP THEM
24 THERE UNTIL FURTHER DIRECTED OF THIS COURT SO HELP YOU GOD.

25 THE DRIVER: SO HELP ME GOD.

2107

1 THE COURT: THANK YOU, SIR. LOOK FORWARD TO
2 WORKING WITH YOU AS WELL.

3 LADIES AND GENTLEMEN, THANK YOU.

4 GENTLEMEN, PLEASE JUST ONE SECOND.

5 (THEREUPON, THERE WAS A BENCH CONFERENCE WITHIN THE
6 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE JURY.)

7 THE COURT: LADIES AND GENTLEMEN, ALSO WE'VE MADE
8 ARRANGEMENTS THAT IF ANY OF YOU WANT TO MAKE A QUICK CALL
9 HOME TO LET SOMEONE KNOW THAT YOU WILL BE GOING TO SUMTER
10 TONIGHT, THAT WILL BE ALLOWED AND WILL BE PERMITTED AND AS
11 I UNDERSTAND THE STATE HAS NO OBJECTION TO THAT; IS THAT
12 CORRECT?

13 MR. KOLB: NO OBJECTION.

14 THE COURT: AND MR. STONE HAS NO OBJECTION?

15 MR. LITTLEJOHN: NO OBJECTION, YOUR HONOR.

16 THE COURT: THANK YOU VERY MUCH.

17 SOMEONE WILL OF COURSE HAVE TO BE PRESENT WHILE
18 YOU'RE MAKING THAT CALL. YOU UNDERSTAND THAT AND I THANK
19 YOU FOR ALLOWING THAT SOMEWHAT OF AN IMPOSITION BUT AFTER
20 THAT WE'LL GET YOUR STUFF TOGETHER AND HAVE A SAFE TRIP AND
21 I'LL LOOK FORWARD TO SEEING YOU IN THE MORNING. THE PLAN
22 WILL BE TO START AT 9:30 IN THE MORNING AND WE'LL TALK
23 ABOUT SCHEDULING THEREAFTER. HAVE A GOOD EVENING. YOU ARE
24 FREE TO RETIRE. I GUESS WE'LL GO OUT THIS WAY.

25 AN AGENT: JUDGE, I'M GOING TO TAKE THEM DOWN

2108

1 HERE TO THE LAW LIBRARY.

2 THE COURT: ALL RIGHT.

3 AN AGENT: FIGURE OUT HOW TO GET THEIR CLOTHES
4 AND EVERYTHING ELSE.

5 THE COURT: THAT WILL BE FINE.

6 AN AGENT: Y'ALL FOLLOW ME.

7 THE COURT: THANK YOU.

8 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
9 JURY.)

10 THE COURT: ALL RIGHT. ANY OBJECTION TO THE
11 PROCESS AT THIS POINT FROM THE STATE?

12 MR. KOLB: NO, SIR.

13 THE COURT: ANY OBJECTIONS TO THE PROCESS TO THIS
14 POINT FROM THE DEFENSE?

15 MR. LITTLEJOHN: NO, YOUR HONOR.

16 THE COURT: VERY WELL. THANK YOU. YOU ALL HAVE
17 A SAFE DRIVE AS WELL. I'LL SEE YOU ALL. I'LL PLAN TO BE
18 THERE AT 8:30 IN THE MORNING AND WE CAN DISCUSS THESE OTHER
19 MATTERS. THANK YOU. WE'LL BE ADJOURNED IN THIS MATTER AT
20 THIS TIME.

21 - - - - -END OF REQUESTED TRANSCRIPT OF RECORD- - - - -
22
23
24
25

2109

CERTIFICATE

I, THE UNDERSIGNED VIRGINIA ROLAND, OFFICIAL COURT
REPORTER FOR THE THIRD JUDICIAL CIRCUIT OF THE STATE OF
SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A
TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE
PROCEEDINGS HAD AND THE EVIDENCE INTRODUCED IN THE TRIAL OF
THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE CRIMINAL
COURT FOR SUMTER COUNTY, SOUTH CAROLINA, ON THE 20TH, 21ST,
AND 22ND DAYS OF 1997.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL
NOR INTEREST TO ANY PARTY HERETO.

JANUARY 28, 2001



COURT REPORTER

1 STATE OF SOUTH CAROLINA) IN THE COURT OF
2) GENERAL SESSIONS
3 COUNTY OF SUMTER)
4
5 THE STATE,) Transcript of
6) Proceedings
7)
8) Georgetown,
9 vs.) South Carolina
10) 96-GS-43-968
11 BOBBY WAYNE STONE,)
12 Defendant.) January 20-22, 1997

13
14 *Volume I*

15
16 BEFORE THE HONORABLE R. MARKLEY DENNIS,
17 JR., Judge; and a jury.

18
19
20 DEBRA R. JERNIGAN, RPR, CPE
21 13TH JUDICIAL CIRCUIT
22 GREENVILLE, SOUTH CAROLINA
23
24
25

1 A P P E A R A N C E S:

2
3 WADE S. KOLB, JR., Solicitor

4 VERNIE L. WILLIAMS, Assistant Solicitor

5 On Behalf of the State

6
7 JAMES H. BABB, Esq.

8 CAMERON B. LITTLEJOHN, JR., Esq.

9 On Behalf of the Defendant

1 THE COURT: Good morning. I realize and
2 I recognize that certainly a lot of people here
3 that have a holiday and maybe some of you do,
4 too. And I want to start up by apologizing to
5 you for bringing you here on your holiday. I
6 also want to start out by recognizing I think it
7 is appropriate because we are working today that
8 we do acknowledge and recognize this holiday, it
9 is a very significant day. Significant in our
10 history and it is appropriate that we recognize an
11 individual that has contributed to this country as
12 much as that individual did in his lifetime. So
13 I would ask that we start this proceeding first by
14 just rising all of us and after we finish this I'm
15 accomplishing twofold because then I need to
16 administer an oath to you. But before I do that,
17 I would like for each of us to stand and have a
18 moment of silence and recognition of the
19 individual whose life we celebrate today, please.

20 Amen.

21 Now, ladies and gentlemen, those of you
22 who are on the jury please remain standing. If
23 you would please raise your right hand where you
24 stand. Repeat after me. I do solemnly swear or
25 affirm, that the questions that I answer here

1 today will be the truth, I will not mislead the
2 Court in answering any question, and will answer
3 each to the best of my ability. Thank you, you
4 may be seated.

5 The first item of business that we have to
6 do and maybe some of you have served before, "it
7 will be somewhat lengthy because there are so many
8 of you. But it is very important the initial
9 question we need to find out some basic
10 information from you. Ms. Moore, your clerk,
11 is going to call the roll of the jurors and I
12 would ask, please, that you respond to those
13 questions giving that information which she seeks.
14 Once she has gone through the roll call, then I
15 will ask you certain questions as well, but first
16 group of questions will deal with your
17 qualifications to serve and the second group of
18 questions, of course, will deal with further
19 qualifications, your exemption to be if you wish
20 to claim it. I don't know -- I hate to do that
21 generally I don't have any problem with children
22 being here but we can't have that going on.

23 MR. BAILIFF: She is on the jury and didn't
24 have a babysitter.

25 THE COURT: Well, that will take care of

1 if she wants to come forward at this point I will
2 be happy to take that up right now. Ma'am, do you
3 know what your juror number is?

4 THE JUROR: 159.

5 THE COURT: Ms. Rogers, you are number
6 159. I will ask you a couple of questions.

7 This is your child?

8 THE JUROR: Yes.

9 THE COURT: Thank you, ma'am, you are
10 free to leave.

11 MR. BAILIFF: We have one juror that came
12 in late.

13 THE COURT: All right, ma'am. If you
14 would just raise your right hand, please. You
15 don't have to repeat after me, you solemnly swear
16 or affirm all of the responses to the Court's
17 questions today and any other question will be the
18 truth and nothing but the truth, so help you?

19 THE JUROR: I do.

20 THE COURT: And will you in all of your
21 responses seek and endeavor to answer the question
22 truthfully and fully?

23 THE JUROR: I will.

24 THE COURT: Thank you, please have a
25 seat. We have another one coming up I see some

1 others. All right each of you please raise your
2 right hand. If you will each of the jurors that
3 just came in, you solemnly swear or affirm that
4 your responses to the Court's questions today will
5 be the truth and nothing but the truth and that
6 each of you will answer the questions fully and to
7 the best of your ability? If you say I do and I
8 will.

9 THE JUROR: I do. I will.

10 THE COURT: Thank you, please be seated.
11 We will call the roll, Ms. Moore, you may proceed
12 with calling the roll of the jurors.

13 THE CLERK: Number 1, Mary Lois
14 Abruntilla, please stand and give us your
15 information. The number of miles.

16 THE JUROR: Around 7 or 8.

17 THE CLERK: Where do you work?

18 THE JUROR: Substitute.

19 THE CLERK: Your husband?

20 THE JUROR: He works for International
21 Packing.

22 THE CLERK: Okay thank you.

23 THE COURT: Those that are coming in
24 let's separate those -- well, wait a minute.
25 Hold them separately at this point because this

1 information is not -- just let them sit separately
2 in the box area if we can clear a row where we can
3 seat those individuals that are arriving late I
4 can have them all stand. That way we won't have
5 to stop each time.

6 THE CLERK: Number 2, they moved to
7 Georgia. Number 3, Phillip K. Allen. Give us
8 your information, please.

9 THE JUROR: I work Eagle. (Can't
10 understand tape).

11 THE CLERK: Thank you. Number 4 Blonda.
12 F. Alston. (No response).

13 Number 5, Carroll B. Armstrong.

14 THE JUROR: I live 25 miles from here,
15 I'm in insurance sales, and my wife is in
16 insurance sales.

17 THE CLERK: Number 6, Mary R. Armstrong.

18 THE JUROR: I live 60 miles from here
19 (can't make out tape).

20 THE CLERK: Number 7, Cynthia H.
21 Barnhill.

22 THE JUROR: Four miles I'm a housewife.

23 THE CLERK: Number 8, Charles W.
24 Barrineau, Jr.

25 THE JUROR: Approximately six miles I

1 work at Eagle (can't make out tape).

2 THE CLERK: Number 9 was excused with a
3 handicap son, she does not work.

4 Number 10 is deceased.

5 Number 11, Rhonda R. Beckmon.

6 THE JUROR: I live 23 miles, housewife
7 my husband is a truck driver.

8 THE CLERK: Number 12 was transferred,
9 she is a student.

10 Number 13 is over 65 and does not wish to
11 come.

12 Number 14, Randall L. Bethea.

13 THE JUROR: (Can't make out tape).
14 Unemployed, single.

15 THE CLERK: Number 15, Danny R. Bone.
16 The sheriff was unable to locate.

17 Number 16, Richard Bourne.

18 THE JUROR: I live 17 miles from here,
19 mechanic.

20 THE CLERK: Number 17, Ora T. Bowers.

21 THE JUROR: Housewife.

22 THE COURT: I'm sorry I didn't hear you.

23 THE JUROR: I'm a housewife, I live 22
24 miles. My husband is disabled.

25 THE CLERK: What did he do before he

1 became disabled?

2 THE JUROR: He was a mill worker.

3 THE CLERK: Number 18, Gene C.

4 Bratcher.

5 THE JUROR: Live 18 miles from here, I'm
6 a slow machine mechanic, and my wife is a sewing
7 machine operator.

8 THE CLERK: Number 19, Ruby E.
9 Brockington.

10 THE JUROR: (Can't make out tape).

11 THE CLERK: What do you do? Not employed.

12 THE JUROR: No.

13 THE CLERK: Number 20 was transferred,
14 she is a student.

15 Number 21 lives in Texas.

16 Number 22 was excused.

17 Number 23, Ingrid V. Brown.

18 THE JUROR: I'm 18 miles from here (can't
19 make out tape).

20 THE CLERK: Number 24, Torrie D. Brown.

21 THE JUROR: I live 22 miles from here,
22 I'm unemployed. Single.

23 THE CLERK: Number 25, Matthew Brunson.

24 THE JUROR: I live approximately 22 miles
25 from here, my wife (can't make out tape).

1 THE CLERK: Number 26, unable to locate.
2 Number 27 over 65 and does not wish to
3 serve.

4 28 over 65 and does not wish to serve.

5 29 is stationed in Puerto Rico.

6 30, Karen Carr.

7 THE JUROR: I live 25 miles from here,
8 single (can't make out tape).

9 THE CLERK: Number 31 Christopher L.
10 Carroll.

11 THE JUROR: I live 7 miles away, I work
12 at Georgetown Towns, assistant production
13 manager.

14 THE CLERK: Number 32 sheriff was unable
15 to locate and the same on 33.

16 34 Charlie W. Coleman, sheriff was unable
17 to get any response at that address.

18 35 Roger D. Coles.

19 THE JUROR: Live 30 miles from here,
20 unemployed.

21 THE CLERK: Number 36 Tracy L.
22 Collington.

23 THE JUROR: I live 14 miles from here,
24 housewife and my husband is self-employed.

25 THE CLERK: Number 37, Patrick M.

1 Collins.

2 THE JUROR: I live 5 miles away from
3 here, I'm a technologist, currently unemployed,
4 (can't make out tape).

5 THE CLERK: Number 38 Wyatt B. Cook.

6 THE JUROR: I live half a mile from here,
7 retired, my wife is retired.

8 THE CLERK: Number 39 was excused.

9 Number 40 moved to Charleston.

10 Number 41 had a doctor's excuse.

11 Number 42 sheriff was unable to locate.

12 43 Alton Cribb, Jr.

13 THE JUROR: I live 3 and a half miles
14 from here, I'm a route salesman and my wife stays
15 home.

16 THE CLERK: Number 44, Brandon E.
17 Cromer.

18 THE JUROR: 12 miles, ex-baseball
19 player.

20 THE CLERK: 45, John K. Crotts.

21 THE JUROR: I live 25 miles from here,
22 insurance broker and I'm married.

23 THE CLERK: Number 46, Hazel L.
24 Cuttino. Sheriff was unable to get a response at
25 that address.

1 Number 47, Marlene C. Deacon.

2 THE JUROR: 24 miles, housewife and my
3 husband is a banker.

4 THE CLERK: 48 is over 65 does not wish
5 to serve.

6 49 sheriff was unable to locate.

7 Number 50 works in the auditor's office.

8 Number 51 Shama W. Evans.

9 THE JUROR: 8 miles, unemployed,
10 single.

11 THE CLERK: Number 52 sheriff was unable
12 to locate.

13 Number 53 Dan Flowers. Dan Flowers.

14 Number 54 was transferred.

15 Number 55 sheriff was unable to locate.

16 56 Clifton Ford.

17 THE JUROR: Work for International Food
18 Company, live about a mile from here, single.

19 THE CLERK: 57 Walter L. Frank.

20 THE JUROR: 17 miles, I'm a physician.

21 THE CLERK: 58 Joseph K. Gallegos.

22 THE JUROR: 45 miles, unemployed,
23 single.

24 THE CLERK: 59 Joyce H. Gann.

25 THE JUROR: 25 miles, waitress in the

1 process of a divorce.

2 THE CLERK: 60, Tamika A. Gardner.

3 THE JUROR: I live less than a mile from
4 here, I'm unemployed and single.

5 THE CLERK: Number 61 moved out of the
6 state.

7 62 Priscilla Ann Gore.

8 THE JUROR: (Can't make out tape).

9 THE CLERK: 63, Roy A. Goss.

10 THE JUROR: Live 30 miles from here
11 (can't make out tape).

12 THE CLERK: 64 Edward R. Goude.

13 THE JUROR: Live 1 mile, commercial
14 truck driver, single.

15 THE CLERK: 65, Karen L. Graham.

16 THE JUROR: I live about five miles from
17 here, I'm a receptionist.

18 THE CLERK: Number 66, Sylvia F.
19 Graham.

20 THE JUROR: I live about 5 miles from
21 here, I am a clerk for the Georgetown (can't make
22 out tape) department, my husband works as a
23 cutter for textiles.

24 THE CLERK: Number 67 Vona H. Graham.

25 THE JUROR: 18 miles (can't make out

1 tape) my husband is a welder.

2 THE CLERK: 68 is over 65, did not wish
3 to serve.

4 69 Patricia A. Greene.

5 THE JUROR: I live about 15 miles, my
6 husband is unemployed (can't make out tape).

7 THE CLERK: Thank you. Number 70 is
8 over 65 and did not wish to serve.

9 71 moved out of the county.

10 72 sheriff was unable to locate.

11 73 Patricia A. Haynes.

12 THE JUROR: I live about four blocks from
13 here, cashier (can't make out tape).

14 THE CLERK: 74 Sam Heyward.

15 THE JUROR: I live 8 miles from here, I
16 work at BGRC Systems and my wife works for job
17 service.

18 THE CLERK: 75 Livian E. Hodge.

19 THE JUROR: I live about 7 miles, I'm
20 unemployed (can't make out tape).

21 THE CLERK: 76 Edward K. Holmes.

22 THE JUROR: I live 20 miles away I'm a
23 welder (can't make out tape).

24 THE CLERK: Number 77 Marjorie H.
25 Holmes.

1 THE JUROR: I live about a tenth of a
2 mile from here, I'm a housewife my husband is
3 self-employed as a fisherman.

4 THE CLERK: Number 78 Shannon M. Holmes.

5 THE JUROR: I live about 20 miles from
6 here (can't make out tape) and single.

7 THE CLERK: 79 was transferred.

8 Number 80 Dan Lee Hurrell.

9 THE JUROR: About 18 miles (can't make
10 out tape).

11 THE CLERK: Number 81 was over 65 and did
12 not wish to serve.

13 Number 82 Michael H. Irwin.

14 THE JUROR: 12 miles store owner, wife
15 works at same store.

16 THE CLERK: Number 83 was over 65 and did
17 not wish to serve.

18 84 Barbara J. Jayroe. I think that is
19 one that I got an excuse five o'clock on Friday
20 she has cerebral palsy.

21 THE COURT: That's correct.

22 THE CLERK: 85 is excused her husband
23 passed away last week.

24 86 Sadie M. Jenkins.

25 THE JUROR: 4 miles, I work part-time go

1 157 Dan E. Riegle.

2 THE JUROR: I'm a residential building
3 contractor, I live four miles from here my wife
4 is an attorney.

5 THE CLERK: 158 Larry L. Roberts.

6 THE JUROR: I live approximately 25
7 miles, works for Georgetown Steel.

8 THE CLERK: 159 was excused, she had
9 small children.

10 160 is over 65.

11 161, sheriff was unable to locate.

12 162 Debra R. Semple.

13 THE JUROR: Thirteen miles, associate
14 (can't make out tape) single.

15 THE CLERK: 163 is over 65.

16 164 over 65.

17 165 is handicapped and was excused.

18 166 Nell G. Simmons.

19 THE JUROR: I live 25 miles from here, I
20 take care of my sick mother and my husband is
21 deceased.

22 THE CLERK: 167 John V. Singletary.

23 THE JUROR: Ma'am, my initial is W. I
24 live three miles from here, I work at Handlers
25 mini-mart, also retired military. My wife is a

1 busdriver.

2 THE CLERK: 168 Curtis D. Smith.

3 THE JUROR: Six miles, retired manager,
4 my wife is surgical technician.

5 THE CLERK: 169 is not a citizen, was
6 excused.

7 170 Myron H. Smith.

8 THE JUROR: I live approximately 3 miles
9 from here, I'm a machinist and single.

10 THE CLERK: 171 Ronald D. Smith.

11 172 the sheriff was unable to locate.

12 173 Amy F. Spagnuolo.

13 THE JUROR: I live 15 miles from the
14 courthouse. Occupation is (can't make out tape).

15 THE CLERK: 174 Barbara J. Stewart.

16 THE JUROR: I live 22 miles from here
17 (can't make out tape) I'm single.

18 THE CLERK: 175 is over 65.

19 176 sheriff was unable to locate.

20 177 Emily Sweatman.

21 THE JUROR: Three miles, I'm a housewife.

22 THE CLERK: 178 and 179 was over 65.

23 180 Cynthia Dennis Thomas.

24 THE JUROR: (Can't make out tape).

25 THE CLERK: 181 Clydie B. Thompson.

1 THE JUROR: I live five miles from here
2 (can't make out tape).

3 THE CLERK: 182 lives in Horry county.
4 183 is deceased.
5 184 Jeannetta E. Tindall.

6 THE JUROR: I live approximately 30 miles
7 (can't make out tape).

8 THE CLERK: 185 unable to locate.
9 186 unable to locate.
10 187 Debra P. Tyson.

11 THE JUROR: I live 7 miles from the
12 courthouse. I'm laboratory supervisor, my husband
13 is self-employed.

14 THE CLERK: 188 moved to Florida.
15 189 JoAnn Walker.

16 THE JUROR: Four miles, I work at
17 Superior.

18 THE CLERK: 190 unable to locate.
19 191 left the county.
20 192 Amy White Condon.

21 THE CLERK: I live 15 miles from here, I
22 teach, my husband is a student.

23 THE CLERK: 193 unable to locate.
24 194 was excused.
25 195 unable to locate.

1 196 Norman D. Williamson.

2 THE JUROR: 15 miles, machine operator,
3 wife retired school teacher.

4 THE CLERK: 197 sheriff was unable to
5 locate.

6 198 Misty A. Withers.

7 THE JUROR: I live approximately 12
8 miles, I'm special education teacher (can't make
9 out tape).

10 THE CLERK: 199 James D. Woodard.

11 THE JUROR: I live nine miles from here,
12 I work at International (can't make out tape).

13 THE CLERK: 200 Glen D. Yarbrough.

14 THE JUROR: I live 2 miles, I work for
15 (can't make out tape).

16 THE CLERK: Is there anyone who is
17 present whose name I did not call? Please stand
18 and give me your name. What is your mileage?

19 THE JUROR: 18. I think I was one of the
20 ones that was excused.

21 THE CLERK: Number 28 your mileage?

22 THE JUROR: 16.

23 THE CLERK: You wish to stay with us?

24 THE JUROR: If you need me.

25 THE CLERK: Have a seat.

1 THE COURT: I will have a question for
2 you, I will explain it.

3 THE COURT: 98 is excused.

4 THE JUROR: I think you excused me, too.
5 Number 9.

6 THE COURT: Yes, you are excused. Are
7 there any jurors who came in late who did not take
8 the oath that I administered to the panel? You
9 need to stand. Please raise your right hand.
10 Do each of you solemnly swear or affirm that you
11 -- the answers that you give to the courts
12 questions and any questions here today will be the
13 truth and nothing but the truth, so help you God.
14 Just say I do. And will each one of you endeavor
15 to respond to the questions I ask of you today
16 truthfully and give a complete answer to all the
17 questions, if so, say I will. Thank you,
18 please be seated.

19 Now, ladies and gentlemen, there are
20 some questions that I need to ask you now that
21 deal with your qualifications to serve as jurors
22 for this Court. If any of these questions apply
23 to you it is imperative that you share that
24 information with the Court. If you have any
25 question whatsoever about whether or not the

1 question does apply, I would ask that you share
2 it with me or let me make that determination.

3 The first question, first of all, let me
4 do something and I apologize, how rude, my mother
5 taught me better. My name is Markley Dennis,
6 Jr., I'm a circuit Court judge from neighboring
7 county Berkeley county, my resident circuit is
8 the 9th circuit and I have been assigned this week
9 and next week to conduct a term of General
10 Sessions Court. You have been selected as a
11 juror to participate in a matter and to assist in
12 helping us to resolve this criminal dispute. I
13 apologize for not doing that earlier this morning.
14 I appreciate the fact that you are here and now
15 these group of questions that I am going to ask
16 you please respond if they apply to you.

17 First of all, is there any member of the
18 jury panel who does not have a valid driver's
19 license, a Highway Department identification card
20 or a voter registration certificate, you don't
21 have to have all three of them, you just to have
22 the one. You don't even have to have it in your
23 immediate possession. Any juror who does not
24 have one of those please stand. You do not have
25 one? You have one but you can't use it?

1 THE JUROR: Been taken away from me.

2 THE COURT: All right. That doesn't
3 disqualify you. Yes.

4 THE JUROR: I don't have one either.

5 THE COURT: You don't have either.

6 THE JUROR: No.

7 THE COURT: You had a driver's license.

8 You never had a driver's license? You have a
9 voters registration. You have a Highway
10 Department identification card. What is your
11 name?

12 THE JUROR: Torrie Brown.

13 THE COURT: Is your social security
14 number 251-37-5510?

15 THE JUROR: Yes, sir.

16 THE COURT: You have never had any of
17 those items?

18 THE JUROR: No.

19 THE COURT: And you don't vote. Excuse
20 you from participation juror number 24. Anyone
21 else?

22 THE JUROR: I don't have a driver's
23 license.

24 THE COURT: You have voter registration
25 certificate.

1 THE COURT: Ma'am, I'm sorry.

2 THE JUROR: I signed up. You have
3 registered to vote.

4 THE JUROR: Yes, sir.

5 THE COURT: You have Highway Department
6 identification card?

7 THE JUROR: No, sir.

8 THE COURT: You just have to have one of
9 them.

10 Is there any member of the jury panel who
11 has not reached his or her 18th birthday, if so,
12 please stand. Thank you, there are none.

13 Any member of the jury panel who is a
14 Clerk of Court, a deputy Clerk of Court, a
15 constable, a sheriff, a probate judge, a county
16 commissioner, Magistrate or other Court officer,
17 county officer or any person employed within the
18 walls of any courthouse, if so, please stand.
19 Thank you, there are none.

20 Any member of the jury panel hold a law
21 enforcement commission that is with or without
22 pay? That is sheriff, game warden? In other
23 words, you have the power to arrest someone, if
24 so, please stand. Thank you there are none.

25 The next question, ladies and gentlemen,

2133

1 if it applies to you is a question that I ask as
2 the last question, the lady that has asked to
3 speak to the Court it is at that time you will
4 need to come forward too, ma'am, you will need
5 to come forward and share this information with
6 me. Is there any member of the jury panel who
7 has been convicted in a Court of record, that is
8 either State Court or Federal Court for a crime
9 that had or carried or punishment more than one
10 year and not had your civil rights restored by
11 pardon or amnesty? You would not have had to have
12 been sentenced to one year, but the crime for
13 which you were convicted carried a possible
14 punishment of more than one year. If you have
15 ever been on probation, you probably need to come
16 forward and discuss it at that time.

17 Next question is there any member of the
18 jury panel unable to read, write, speak at this
19 point you may just be seated if that question
20 applies to you you don't have to share it with me
21 at this point. I will remind you you can come
22 forward and discuss it with me then.

23 The next question, any member unable to
24 read, write, speak or understand the English
25 language? If so, please stand. Thank you,

1 there are none.

2 Any member of the jury panel incapable of
3 reason by mental or physical infirmity render
4 effective jury service for this term, if so
5 please stand. Yes, you have a situation? All
6 right. Why don't you bring that forward at the
7 last question and I will be happy to discuss it
8 with you then.

9 Yes, ma'am, your situation.

10 THE JUROR: I have a bad back.

11 THE COURT: I will discuss it with you if
12 you want to come forward at the last question I
13 will remind you about that.

14 Yes.

15 THE JUROR: I have diabetes.

16 THE COURT: I will talk about that with
17 you. Diabetes typically will not excuse you but
18 I will talk about it with you at that time.

19 Does any member of the jury panel have
20 less than a 6th grade education or its equivalent
21 if so, please stand. Thank you -- yes, sir.

22 THE JUROR: I do.

23 THE COURT: Have you worked -- your name?

24 THE JUROR: Andrew.

25 THE COURT: Have you worked outside of

1 the home?

2 THE JUROR: Yes.

3 THE COURT: What kind of work have you
4 done?

5 THE JUROR: Construction work.

6 THE COURT: Construction work. All of
7 your life?

8 THE JUROR: I work (can't make out tape).

9 THE COURT: Have you held several
10 different jobs? Are you married?

11 THE JUROR: Yes.

12 THE COURT: Do you have children?

13 THE JUROR: Yes.

14 THE COURT: Have you raised those
15 children?

16 THE JUROR: Yes.

17 THE COURT: I find you have the equivalent
18 of 6th grade education. Anyone else? Probably a
19 lot more than that.

20 Any member of the jury panel who is not
21 now a resident of Georgetown county, if so,
22 please stand.

23 Yes, sir.

24 THE JUROR: I live in (can't make out
25 tape) outside of Union.

1 THE COURT: What is your name?

2 THE JUROR: Joey Lambert.

3 THE COURT: Do you know what your number
4 is.

5 THE JUROR: 99.

6 THE COURT: Mr. Lambert you presently
7 live in Williamsburg county?

8 THE JUROR: Yes.

9 THE COURT: That is your home?

10 THE JUROR: Yes.

11 THE COURT: That is where you are going
12 if I let you go?

13 THE JUROR: Yes.

14 THE COURT: That is where you will spend
15 the night?

16 THE JUROR: Yes, sir.

17 THE COURT: All right. I will excuse
18 you, Williamsburg will pick you up if you are no
19 longer eligible to serve on juries out of
20 Georgetown counties. Thank you very much for
21 coming.

22 Yes, ma'am.

23 THE JUROR: I live in Horry county.

24 THE COURT: You live there now?

25 THE JUROR: Yes, sir.

1 THE COURT: That is your home?

2 THE JUROR: Yes, sir.

3 THE COURT: When did you move there?

4 THE JUROR: Last November.

5 THE COURT: Okay. That is where you
6 will return tonight? What is your name?

7 THE JUROR: Karen Carr.

8 THE COURT: Number 30. Yes, sir.

9 THE JUROR: I live in North Carolina.

10 THE COURT: You live in Greensboro. You
11 permanently moved to Greensboro?

12 THE JUROR: I moved to Greensboro in
13 August of last year.

14 THE COURT: August of last year?

15 THE JUROR: If you let me go I will go
16 back to my house.

17 THE COURT: All right your home is still
18 in Georgetown county?

19 THE JUROR: Yes.

20 THE COURT: That is where you maintain
21 your residence?

22 THE JUROR: When I am here.

23 THE COURT: I understand you get your mail
24 and everything in Georgetown county?

25 THE JUROR: I get mail in Georgetown.

1 THE COURT: You come back here when you
2 can?

3 THE JUROR: Every weekend almost.

4 THE COURT: You are like I am for the
5 first six months I live in Beaufort county. I
6 come home on Friday night, I go on Sunday, I
7 understand your situation, but guess what we are
8 both residents of where our home is. Thank you,
9 sir.

10 Anyone else? Thank you. There are none.

11 Is there a member of the jury panel who is
12 not now a citizen of the United States, if so,
13 please stand. Thank you, there are none.

14 Now, those are your qualifying questions.
15 You are qualified. The next questions don't have
16 a thing to do with your qualifications, but rather
17 your right to serve. In other words, these
18 questions if they apply to you this group of
19 questions provide you with an exemption, it is
20 personal. You may claim that exemption if you
21 wish or you may stay with us. We will be
22 delighted to have you serve if you choose to
23 serve. The first one is you have heard this
24 morning a number of people who claim their
25 exemption. Is there any member of the jury panel

1 who has reached his or her 65th birthday and
2 wishes to claim your exemption and be excused? If
3 you wish to stay with us we are delighted to have
4 you but if you wish to be excused it is your right
5 so to. Does that apply to anyone?

6 THE JUROR: May I be excused, sir?

7 THE COURT: You wish to be excused? Your
8 name again?

9 THE JUROR: Jewel Cannon.

10 THE COURT: Ms. Cannon, you are over 65?

11 THE JUROR: Yes.

12 THE COURT: Very well, it is your
13 privilege and your right you may be excused thank
14 you for coming, enjoyed having you this morning.
15 Anyone else? Ma'am, you are over 65?

16 THE JUROR: Yes, I'm over 70.

17 THE COURT: You are Ms. Casper?

18 THE JUROR: Yes.

19 THE COURT: All right, Ms. Casper, your
20 juror number is 92, thank you very much for coming
21 you are free to leave. Anyone else? Thank you.

22 Any member of the jury panel who is an
23 officer or employee of the State Department of
24 Corrections and wishes to claim his exemption, if
25 so please stand. I didn't hear any but are there

1 any? Thank you, there are none.

2 Next question is there any member of the
3 jury panel who has the sole care, custody and
4 control of a minor child under the age of 7 years,
5 you do not work outside of the home and you have
6 not been able to make suitable arrangements for
7 the care of that child to allow you to serve on
8 the jury. That applies to you, please stand.

9 You have custody of them?

10 THE JUROR: They come to my house.

11 THE JUROR: You have legal custody of
12 them by Court order?

13 THE JUROR: No, sir.

14 THE COURT: That would not apply to you,
15 ma'am. Yes, ma'am.

16 THE JUROR: My situation is I just
17 started working at night, I take care of kids in
18 the morning.

19 THE COURT: Take care of someone elses?

20 THE JUROR: Mine.

21 THE COURT: You work at night?

22 THE JUROR: Yes.

23 THE COURT: And no one is home to care
24 for them during the day?

25 THE JUROR: I stay home during the day.

1 THE COURT: How old are they?

2 THE JUROR: Ten months, five years and
3 the other two are going to school but (can't make
4 out tape).

5 THE COURT: All right your name?

6 THE JUROR: Terry Richard.

7 THE CLERK: Number 155, you are excused.
8 Yes, ma'am.

9 THE JUROR: I stay home, I am a college
10 student.

11 THE COURT: You are presently in school?

12 THE JUROR: Yes, full-time.

13 THE COURT: What school do you attend? You
14 will be continuing through the balance of this
15 quarter I guess until summer?

16 THE JUROR: Yes, sir.

17 THE COURT: Very well, your juror
18 number?

19 THE JUROR: Number 78.

20 THE COURT: Transfer Ms. Holmes to a
21 summer term that way you can serve during the
22 summer. You are out of school during the summer?

23 THE JUROR: Yes.

24 THE COURT: Very well we will transfer
25 you.. Yes, ma'am.

1 THE JUROR: I have a 16-year-old disabled
2 child.

3 THE COURT: I will talk with you about
4 that at the last question.

5 Yes, ma'am.

6 THE JUROR: I wrote in the information
7 sheet I was -- they are keeping my child.

8 THE COURT: You made suitable
9 arrangements?

10 THE JUROR: Yes.

11 THE COURT: Thank you very much. Yes,
12 ma'am.

13 THE JUROR: I have (can't make out tape)
14 don't have it here.

15 THE COURT: Do you work outside the home?

16 THE JUROR: No.

17 THE COURT: What is your name?

18 THE JUROR: Rhonda Beckmon.

19 THE COURT: Do you know what your number
20 is?

21 THE JUROR: No.

22 THE COURT: Eleven. I will excuse you
23 from participation.

24 Yes, ma'am. I have a five year old I
25 don't have any care for. I'm a student.

1 THE COURT: You are a student also?

2 THE JUROR: Yes.

3 THE COURT: You are presently involved in
4 school?

5 THE JUROR: Yes.

6 THE COURT: What is your number?

7 THE JUROR: 173.

8 THE COURT: You will be out during the
9 summer?

10 THE JUROR: No, I'm going year round.

11 THE COURT: Very well I will excuse you.
12 Anyone else? Thank you, there are none.

13 The next question applies to some of those
14 who have already answered as being students. Is
15 there any member of the jury panel who is a
16 student either high school or institution of
17 higher learning and that would include technical
18 college whose service as jurors would conflict
19 with your activities as a student? If that applies
20 to any other jurors, please stand. Yes, ma'am.

21 THE JUROR: I'm a student.

22 THE COURT: When do you go to class?

23 THE JUROR: Nine to two.

24 THE COURT: Everyday?

25 THE JUROR: Yes.

1 THE COURT: Are you out in the summer?

2 THE JUROR: Yes.

3 THE COURT: What is your name?

4 THE JUROR: Vickie Lewis.

5 THE COURT: Do you know what your number
6 is?

7 THE JUROR: 105.

8 THE COURT: I will transfer you to the
9 summer. Thank you very much. You are free to
10 leave. Are there others? Yes, sir.

11 THE JUROR: My wife is in the hospital,
12 took her to the hospital this morning.

13 THE COURT: I will take that type of
14 thing, that is the last question. If you will
15 hold onto that I will be back with you on that.
16 Any others who are students? Thank you there are
17 none.

18 Any member of the jury panel previously
19 served in a Circuit Court, that would be a Court
20 of common pleas which is also known as civil Court
21 or a Court of general sessions which is also known
22 as Criminal Court within the last three calendar
23 years, if so, please stand.

24 THE JUROR: I served in Charleston
25 county.

2145

1 THE COURT: You served in Charleston
2 county?

3 THE JUROR: Yes. I was I guess general
4 sessions I was never on the jury I went through
5 selection each time.

6 THE COURT: When was it that you served?

7 THE JUROR: Approximately 2 years ago.

8 THE COURT: You wish me to verify that?
9 You wish me to call the clerk to verify that? You
10 wish to claim your exemption?

11 THE JUROR: I didn't serve on the jury.

12 THE COURT: I understand that but that
13 would still -- it is your exemption that would
14 qualify you for the exemption if you want to claim
15 it. If you want to stay with us we are delighted
16 to have you.

17 THE JUROR: Yes, I have put in for
18 another teacher for the students.

19 THE COURT: Very well, you are excused.
20 198.

21 Yes, sir.

22 THE JUROR: I served approximately 3
23 years ago.

24 THE COURT: You say approximately 3 years
25 ago?

1 THE JUROR: I still want to serve,
2 though.

3 THE COURT: What is your name? According
4 to our records it was 10-26-92 that is beyond the
5 time. Thank you, sir. Yes. What is your
6 name?

7 THE JUROR: Edward K. Holmes.

8 THE COURT: Mr. Holmes, according to our
9 record you served May 23, 1994. You wish to
10 stay or you wish to be excused?

11 THE JUROR: Excused.

12 THE COURT: Very well, thank you very
13 much for coming, you are free to leave.

14 Yes, ma'am. I will come back over here
15 then I will be back. Ma'am over here on this.

16 THE JUROR: I served last year.

17 THE COURT: In common pleas what is your
18 name?

19 THE JUROR: Barbara Ann Mitchum.

20 THE COURT: Where did you serve?

21 THE JUROR: Here.

22 THE COURT: This Court?

23 THE JUROR: Yes.

24 THE COURT: They don't have any notation.
25 We will check on that, you are not showing up as

1 having served in this Court. Are you sure it was
2 not Magistrate Court.

3 THE JUROR: No, it was here.

4 THE COURT: I understand here but it could
5 have been another Court. All right we will check
6 on that. Yes, ma'am.

7 THE JUROR: Debra Tyson.

8 THE COURT: That is correct May 31,
9 1994. Do you wish to be excused?

10 THE JUROR: Yes.

11 THE COURT: You are free to leave.

12 THE JUROR: Served in this Court, need
13 to clarify as part of this panel was not selected.

14 THE COURT: Doesn't matter if you were on
15 the venire.

16 THE JUROR: I'm assuming in the last 12
17 to 18 months.

18 THE COURT: What is your name?

19 THE JUROR: Carroll Armstrong.

20 THE COURT: October of 1994, you wish to
21 be excused?

22 THE JUROR: Yes, sir.

23 THE COURT: Thank you very much, you are
24 free to leave. Yes, sir.

25 THE JUROR: John Crotts, similar

1 situation.

2 THE COURT: It was February of '91.

3 THE JUROR: Oh-oh.

4 THE COURT: Appreciate it, delighted to
5 have you, sir. Yes, ma'am.

6 THE JUROR: I served in '83 or '84.

7 THE COURT: If it exceeds three years it
8 does not provide you with the exemption. Thank
9 you, ma'am. Keep coming. Yes, ma'am.

10 THE JUROR: I served.

11 THE COURT: What is your name?

12 THE JUROR: Ms. Moore.

13 THE COURT: Do not have a date showing
14 when you served. Are you sure it wasn't
15 Magistrate Court? Thank you ma'am that would not
16 make you eligible for that.

17 Yes, sir.

18 THE JUROR: Does this include Magistrate
19 Court?

20 THE COURT: No. Yes, ma'am.

21 THE JUROR: I served in '94.

22 THE COURT: No date shown. Are you sure
23 it wasn't Magistrate Court? I will have to check
24 on that at this point don't have any record you
25 served.

1 THE JUROR: Juror 125, I believe it was
2 in '94.

3 THE COURT: It was March of '94 but you
4 would be eligible. Did you wish to claim your
5 excuse?

6 THE JUROR: Did I understand you to say
7 this is two weeks or one week?

8 THE COURT: Reality might as well answer
9 your question it will not exceed two weeks. It
10 will probably be less than two weeks. Do you wish
11 to claim your exemption?

12 THE JUROR: Yes, sir.

13 THE COURT: Very well, thank you so much,
14 sir, thank you for coming.

15 Are there others? Thank you. There
16 appear to be none.

17 Does any juror know of any reason why he
18 or she is not qualified to serve as a juror in
19 this Court? If so, please stand. Thank you,
20 there are none. You are not qualified?

21 THE JUROR: Is this the last question?

22 THE COURT: No, ma'am. Just hang on.
23 We are getting close.

24 All right. Ladies and gentlemen, the
25 last question. We realize and recognize that

1 sometimes there are situations in everyone's life
2 that it is just very impractical to serve and you
3 just can't serve a term. I want to tell you now
4 before you come that it is going to be my practice
5 to be very strict in transfers. In other words,
6 I am probably not going to transfer you,
7 certainly won't excuse you, I will just transfer
8 you to another time.

9 I am going to be strict in transfers so it
10 will only be exceptional circumstances, but I
11 will be happy to hear those at this time. Also I
12 remind you the question if you have ever been
13 convicted, state or federal, have punishment of
14 a crime punishment more than one year you need to
15 come forward and share that with me at this time,
16 as well. I will take it individually up here.

17 All right. Thank you very much, ladies
18 and gentlemen. Ladies and gentlemen, let me
19 start by telling you that I do find that you are
20 qualified and I appreciate the fact that you are
21 here. Jury service is something that in this
22 country is quite unique. Unique in the sense
23 that we are the only country in the world that has
24 a jury system like we do. Been around for some
25 time. It works well. Extremely well. And one

1 of the reasons it works as well as it does is
2 because it relies on people just like you.

3 People that are making sacrifices, giving up
4 significant freedom to come and serve your state,
5 county, your country in the fashion that you do.

6 It really is something that I hope that
7 each one of you before you came that you are proud
8 of the fact that you were selected. That you are
9 proud of the fact that this system exists. And I
10 hope that when you complete your service you will
11 be proud of what you have done for your commitment
12 to this county and to this state. I assure you
13 there is nothing that I can do without you. I
14 assure you that you are important. There is no
15 way to rank importance, there are people in this
16 courtroom that you see, everyone that you see here
17 is important to this system. I don't think
18 looking around the room, I don't know of anyone
19 who is more important than anyone else. We are
20 important because each of us have a duty and each
21 of us have a responsibility in the process known
22 as a jury trial and you are a part of that. And
23 just suffice it to say just like the chain is as
24 strong as its weakest link, so is our jury trial
25 system. If you do your job, I do mine,

2152

1 everyone here does theirs, it works very, very
2 well.

3 So what do I ask you to do? I have already
4 asked you to do a lot by being here today. I
5 have already asked you to do a lot, some of you by
6 telling you that you would have to stay with us.
7 And I realize that that probably is not something
8 you particularly wanted to hear but I thank you
9 for your willingness to be here and your
10 commitment to this process.

11 I will have some more questions to ask you
12 but before I do I want to give you some brief
13 remarks and an overview, if you will, slight
14 overview of what you are going to be involved in.
15 Ladies and gentlemen, your service as prospective
16 jurors this week is different than ordinary jury
17 service. It is different in this sense. There
18 will be only one case tried this week. If you
19 aren't selected in the process you will be
20 excused. You will have fulfilled your
21 responsibility and some as you saw leaving this
22 morning earned their three exemptions, you will
23 have earned a three year exemption. For those of
24 you who have served before but three years has
25 passed, you will pick up another exemption that

1 you may claim if you choose to at a later day.

2 We will begin the selection process in
3 just a few moments, probably longer than a few
4 moments, I don't want to mislead you, a little
5 while. But let me give you a brief description
6 of your duties and responsibilities as jurors.
7 Some of you know this, some of you have served.
8 Some of you may not have served. As jurors it is
9 your responsibility to determine the facts of the
10 case. In fact, it is your sole responsibility.
11 It is also your responsibility to apply the law to
12 the facts as you determine those facts to be. My
13 job is to be the judge of the law and part of that
14 is to give you the law which you would apply to
15 the facts and to conduct the trial, preside over
16 the trial. And I will discuss that in more
17 detail once we have selected the jury.

18 I have nothing, you may hear this said
19 more than once because it bears repeating. I
20 don't have anything to do with the facts, that is
21 your sole responsibility. Nothing that I do can
22 be an indication or should you consider an
23 indication of how I feel about the facts of this
24 case because that is not my responsibility, that
25 is yours. You will decide the facts from the

1 testimony, only the testimony, and let me repeat
2 that. You will decide the facts from the
3 testimony. Now, what does that mean? Well it
4 means you will hear the witnesses testify and you
5 will also receive exhibits or may receive exhibits
6 during the testimony. At the conclusion of the
7 trial you will then consider the testimony of the
8 witness, oral testimony and exhibits that have
9 been introduced and determine the facts. Each of
10 you when you take the oath to sit as a juror in
11 this particular case will have promised both sides
12 that you will honor by it, that you will not
13 decide this case on anything else but the
14 testimony of the facts in the case and the law as
15 I give it to you.

16 It is your responsibility, ladies and
17 gentlemen, to determine this and I want to assure
18 you of something in that regard. No one here,
19 no attorney for either side asks you to do
20 anything or will ask you to do anything but to
21 seek the truth and to speak the truth. That is
22 what this proceeding is about. It is for you to
23 determine the truth or the true facts of this
24 controversy.

25 I know this is easy to say because I know

1 human nature, but don't be apprehensive. I know
2 some of you probably are and that is
3 understandable. But I want to assure you of
4 something. Each one of you is very qualified to
5 serve as a juror in this case. Because each one
6 of you brings to this Court something that is very
7 important to this process. Something that you
8 will be asked to use if you are selected on the
9 jury. Something that both sides will expect you
10 to use, that is your common sense, your sense of
11 logic, your sense of reason, your good judgment.
12 Those same attributes are the same qualities that
13 you have used everyday and will use in making
14 important decisions. That is why our system is
15 so unique, that is why our system is so good
16 because it takes your collective judgment, your
17 collective view on the facts and it breaks it down
18 and puts it into one decision and that is what you
19 will be asked to do. So please do not be
20 apprehensive.

21 Don't worry about the facts and think for
22 one minute that maybe a professional juror would
23 be better. Not so. There are countries that
24 use that and it doesn't work as well as ours.
25 No, we would rather have and our system works

1 well because you bring and you come from different
2 walks of life and you can together decide a case.
3 So don't worry about the fact that you may not,
4 may think that I may not understand a term, that
5 is why you have 12. That is why 12 of you,
6 because together you can talk about it, together
7 you can discuss it. I assure you you will be
8 provided the information that you need to make
9 your decision.

10 This system has been working well for a
11 number of years as I had stated and probably the
12 reason is is because it relies on your judgment
13 and common sense.

14 Now, the principles of law that you will
15 be called upon there will be a number and at the
16 end of the trial I will give you what is known as
17 the charge, I will give you the law that you are
18 to apply. One thing I would remind you, I will
19 remind the jury once it is selected, it is very
20 important as a juror that you accept this, our
21 country is quite unique. In fact as I was
22 walking out the door this morning with this being
23 the day when we will inaugurate our next
24 president, a statement was made and I hadn't
25 really thought about it but it is quite unique.

1 While we are keeping the same person, it is a
2 shift of power, if you will, there is a change
3 that will occur today. Many countries do that
4 through force. Many countries do that through
5 military might or some other manner. We don't.
6 We do it by voting, those of us, those who are
7 not necessarily in the majority, we accept and we
8 move or if you were in the majority we look
9 forward to that and welcome those that were in the
10 minority and say let's work together. That is
11 the uniqueness of this country.

12 In that regard you have a right as an
13 individual to say I don't like a law. I think a
14 law ought to be changed. You have a right to
15 seek to change that law and to do everything
16 within the bounds of the law to accomplish this.
17 As a juror you do during this trial set that aside
18 because by your oath you say I will accept the law
19 as you give it to me and apply that law to the
20 facts as I determine those facts to be regardless
21 of whether I like the law or whether I agree with
22 it. That is a part of your commitment as a
23 juror.

24 Certain principles will be here let me
25 talk to you about a couple. The first is that

1 all defendants, any one charged with criminal
2 offense in United States and certainly in South
3 Carolina is presumed to be innocent and this
4 presumption of innocence remains unless and until
5 the State has presented enough evidence to
6 convince you as a juror of guilt beyond a
7 reasonable doubt. Every defendant is presumed to
8 be innocent and is entitled to this presumption
9 and is never required to prove his or her
10 innocence. To the contrary it is the state's
11 responsibility to meet its burden of proof which
12 is beyond a reasonable doubt. I will discuss
13 that particular issue with you a little more once
14 we have selected the jury.

15 The next is Constitutional principle that
16 no one charged with criminal offense is ever
17 required to testify or to take the stand. If
18 they choose not to that is their right and you as
19 a juror may not under any circumstances infer
20 anything from that or even consider that
21 whatsoever.

22 Now, I share those with you because if
23 you feel as a juror that you cannot follow those
24 instructions then you need to share that with the
25 Court now. Does anyone wish to share anything

1 with the Court now at this point? Thank you very
2 much, ladies and gentlemen, there are none.

3 Ladies and gentlemen, this case that we
4 are calling or seeking -- to which we seek your
5 assistance -- Ms. Poston, Lena Poston,
6 according to the clerk you served on a jury
7 October 18, 1994. That would be within the
8 three years, you are excused. Thank you very
9 much.

10 The matter, ladies and gentlemen, that
11 you will be assisting the Court is captioned
12 96-GS-43-698. This is a case that arises in
13 Sumter county. It will be tried in Sumter
14 county, will explain that to you a little bit
15 more as we go along. The caption is the State
16 versus Bobby Wayne Stone. Mr. Stone, if you
17 would please stand and face the jury and standing
18 now with Mr. Stone will be his attorneys Mr.
19 Littlejohn and Mr. Babb and I would ask you
20 gentlemen each to identify not Mr. Stone but each
21 of the attorneys to identify themselves and any
22 members of your law firm, please.

23 MR. LITTLEJOHN: Ladies and gentlemen,
24 my name is Cam Littlejohn, I practice in
25 Columbia, South Carolina and I'm sole

1 practitioner.

2 MR. BABB: My name is James Babb, I
3 practice in Sumter, South Carolina and I too am a
4 sole practitioner.

5 THE COURT: Thank you, gentlemen, you
6 may be seated. Is there any member of the jury
7 panel who is related by blood or marriage, that
8 is any connection in relationship, cousin, it
9 doesn't make any difference to Mr. Stone, Mr.
10 Babb or Mr. Littlejohn, if so, please stand.
11 Thank you, there are none.

12 Is there any member of the jury panel who
13 presently has or who has had business dealings
14 with any of those individuals who are social
15 acquaintances with any of those individuals or
16 even casual acquaintances, if so, please stand.
17 Thank you, there are none.

18 The State is represented by the solicitor
19 Mr. Kolb, if you will please stand and identify
20 yourself and any assistants that you have.

21 MR. KOLB: My name is Wade Kolb, I serve
22 as solicitor for the third judicial circuit in
23 Sumter and Leesburg counties. And assisting me
24 is Vernie Williams, who is assistant solicitor and
25 Barbara Jean Wiley is victim advocate. Also John

1 Hilliard, here in Georgetown will be assisting us
2 in jury selection, assistant solicitor with the
3 15th circuit Solicitor's office.

4 THE COURT: Thank you, Mr. Kolb. Any
5 member of the jury panel related by blood or
6 marriage to any of those individuals, have any
7 business dealings with them, casually acquainted,
8 social acquaintances, any connection at all, if
9 so, please stand. Thank you, there appear to
10 be none. The following, ladies and gentlemen,
11 are individuals who may be, they may not be, but
12 they may be testifying in this dispute. I am
13 going to ask you a question and you don't need to
14 stand until I have read them all, but if any of
15 you are related by blood or marriage to any of
16 these individuals, if any of you have any
17 connection with them whatsoever, social
18 acquaintances, business dealings, cautiously
19 acquainted, any connections at all, then you
20 need to stand and share that information with the
21 court. There are a number so bear with me and I
22 will try to do it slowly, but make a note, if
23 you would.

24 Now, let me say something before I read
25 all of these names. The fact that I read their

1 name doesn't necessarily mean they are going to
2 testify, okay. So if you happen to be selected
3 as a juror you happen to remember a name and that
4 person didn't appear, you are not to put any
5 weight on that. Not to draw any inference from
6 that whatsoever. The reason I share this is
7 because if it becomes necessary for that
8 individual to testify about a particular matter,
9 then we need to know similar questions and similar
10 responses to the questions I just asked you
11 concerning the other individuals to whom you have
12 been introduced this morning.

13 Please forgive me, the names if you will
14 help me in pronunciation if I mispronounce any.
15 Jeffrey Hollifield; Tony Eigner; Thomas Darnell;
16 Paul C. LaRosa, III; Emily B. Reinhart; Joe
17 Powell; Lieutenant Ira B. Parnell, Jr.; Gary L
18 Martin; Lieutenant Perry Herod; John H. Johnson;
19 Lieutenant Hoss Horton; Captain Paul Gasque; C. W.
20 Reese; Lieutenant Freddie Powell; Stacy Drakeford;
21 Richard Hunton; Lieutenant George Booth; Susie
22 Wilson; John Barron; Sharon Walker; Jeremiah
23 Davis; David Collins; James Patrick Jackson;
24 Lieutenant Louis McAlhaney; Grayson D. Amick,
25 Ph.D.; Lieutenant Buster Edwards; Lieutenant Jerry

1 Hamby; John Tanner; Frank O'Neal; David McClure;
2 Jim Lowder. Any of those individuals, if so,
3 please stand. Thank you, there are none.

4 Also captain Robert W. Richardson;
5 Raymond A. Mackessy, III; John Prince; Mike
6 Winston; Dana Wingate; Tony Horton; James Turner;
7 Sergeant Mike Morris; Wesley J. Gardner; Sergeant
8 John Herriott; Gary Metts; Lieutenant Richard H.
9 Nelson, Jr.; Eric McFarland; J. E. Slaten; Thomas
10 R. Mims; Sergeant Terry Proctor; Eddie Hobbs;
11 Captain Steve Alsbrooks. Those individuals are
12 connected with the Sumter County Sheriff's Office.
13 Any of those individuals, please stand. Thank
14 you, there are none.

15 Sergeant Ken Nesbitt; Sergeant Douglas W.
16 Brannon, both of whom work with the Sumter city
17 police department. Any connection, if so,
18 please stand. There are none.

19 Two EMS individuals, Leroy Dennis, IV and
20 Junior Davis. Anyone, please stand. There are
21 none. Dispatchers work for Sumter or city or
22 both?

23 MR. KOLB: Joint on payroll with the
24 city.

25 THE COURT: Those individuals may be paid

1 by Sumter, but work really for both departments,
2 they are dispatchers, Jackie McLeod; Darold
3 Graham; Cathy Miles; Glen Skinner. Any
4 individual connected with them? Thank you, there
5 are none.

6 Also, Ruth Griffith; Landrow Taylor;
7 Bobby McDuffie; Mary Ruth McLeod; Sammy Ray
8 Therrell; Wesley "Gene" Miles; Douglas also known
9 as "Poochie" Edwards; David Roderick Brown;
10 Geraldine Yarborough; Henry A. Yarborough; Arthur
11 Donald Morris; Clint Ford; Robert Jones, Jr.; Carl
12 Simpon, III; Leeanna Crookshank; Donovan Lee;
13 Daniel M. Bethey; Debbie Mathis; M. Kenneth
14 Fosefield, M. D.; Sandy Cooper, M. D. Brenda
15 Holmes; Maura Hills; Melinda Stone Parrott; Debra
16 Lynn McCall; Joel S. Sexton, M. D.; K. J. Garvin,
17 M. D.; Tammy Morris; Steve Laney; Lamar Atkins;
18 Evon Barfield; April Barfield; J. C. Dunlap, M.
19 D.; Mike DeGuglielmo; Daniel Simon; Joe Gallimore;
20 Sharon Gass; Teresa Kubala; Charles Kubala, Jr.;
21 Alexandra Kubala; Fred Kubala; Peggi Kubala; Vicky
22 Setzer; Geri Holler; Patti Coker; John Kubala;
23 Kevin Kubala; Amy Kubala; Tami Kubala. Any of
24 those individuals, if so, please stand. Thank
25 you, there are none.

1 In addition the next group, Janice
2 Bernice Howard; Joyce Evelyn McClellan; Wallace D.
3 Stone; Luther Stone; Elizabeth Bernice Perry;
4 William Floyd; Julia Hannah Floyd Turner;
5 Geraldine Floyd Yarborough; Walter Floyd; Melinda
6 Stone Parrot; Jerry Allen Stone; Tammy Elizabeth
7 Stone Windham; Sylvia Haseldon; Wanda Haseldon;
8 Jeanie Haseldon; Leatha Howard; Willis Stone;
9 Edith Howard; Louise Baxley; Wesley Eugene Miles;
10 Lovia Diane Miles; Michelle Laverne Bailey Lynch;
11 Jamie Law; Sherri Blackmon; Jerry Hyatt; Brenda
12 Disher-Hyatt; Glen Harrell; Reverend Harrell;
13 Bobby Driggers; Liza Anderson; Barbara Anderson;
14 Tommy Newman; Timmy Newman; Rebecca Holland;
15 Johnny Jackson; Jan Berry. Any of those
16 individuals, if so please stand. Thank you, there
17 are none.

18 The last group, Mary G. Wilson; Junior
19 Davis; Dr. Harold Morgan; Tee Anne Oehler; Scott
20 Parker; Tommy Davis or Don Girudt. Any one?

21 THE JUROR: Your Honor.

22 THE COURT: Yes.

23 THE JUROR: Timmy Newman.

24 THE COURT: Yes, sir.

25 THE JUROR: I know of him, if that is

1 the same guy I know of him from Sumter. I went
2 to school with his daddy, I am not sure.

3 THE COURT: What is your name?

4 THE JUROR: James Woodard.

5 THE COURT: Mr. Woodard, if it is the
6 same person and you happen to be on the jury,
7 would that influence you in this matter, at all?

8 THE JUROR: No, sir, I don't think so.

9 THE COURT: Well, if that person were to
10 testify, could you and would you consider the
11 testimony of that individual the same as you would
12 any other witness?

13 THE JUROR: Yes, sir, I would.

14 THE COURT: And your decision on the
15 facts would not be influenced and your decision
16 would be fair to the State and to Mr. Stone; is
17 that right?

18 THE JUROR: Yes, sir.

19 THE COURT: All right thank you you may
20 be seated. Yes, sir.

21 THE JUROR: Tee Anne Oehler was a
22 neighbor of mine when I lived in Horry county.

23 THE COURT: Was a neighbor. How long
24 ago was that?

25 THE JUROR: About a year and a half.

1 THE COURT: What is your name?

2 THE JUROR: Dan Riegler.

3 THE COURT: Riegler. Mr. Riegler, the
4 fact she was a neighbor of yours if she were to
5 testify in this matter would that influence you at
6 all? Would you be able and would you consider her
7 testimony the same as you would any other witness?
8 Thank you, sir, you may be seated. Anyone
9 else? Thank you there appears to be none.

10 Ladies and gentlemen, this matter
11 involves basically three offenses all arising out
12 of an incident what I will share with you now I
13 want you to understand is alleged. It is not a
14 fact. There is the facts, of course, will come
15 forth in the testimony when you begin to hear
16 evidence. But I will ask you this so you can
17 respond to certain questions that I need to ask
18 you about this particular incident. It is
19 alleged that on February 26th, 1996, Mr. Stone
20 entered the dwelling of Ruth Griffith without
21 consent with intent to commit a crime and he was
22 armed with deadly weapons at the time. And in
23 that process for which he is charged with burglary
24 in the first degree, during that process it is
25 alleged that he killed an individual by the name

1 of Charles Kubala, by means of shooting him with
2 a deadly weapon. That he had during the
3 commission of this violent crime a weapon and he
4 is charged with that offense, as well. That is
5 alleged. Those aren't facts.

6 I ask you that because I need to ask you
7 this. Has anybody heard anything about such an
8 alleged incident? Read anything about it? Have any
9 prior knowledge at all, if so, please stand.
10 All right I want to let you come forward if you
11 would, please, at this time. If you have heard
12 anything, read anything, please come forward.

13 Does any member of the jury panel know of
14 any reason why he or she could not give the State
15 of South Carolina or Mr. Stone a fair and
16 impartial trial in this matter, if so, please
17 stand. Thank you, there are none.

18 All right, ladies and gentlemen, have
19 your attention, share some more remarks with you.
20 This is a case, ladies and gentlemen, in which
21 the State is seeking the death penalty. From you
22 or from your number we will select either 14 or 15
23 jurors, 12 of whom will constitute the actual
24 trial jury and we will either have 2 or 3
25 alternates.

1 This proceeding unlike a lot of trials
2 will be two proceedings. There will be two
3 trials within the trial. The first proceeding is
4 known as the guilt or innocence phase and it is
5 during that time that you will hear testimony, we
6 will go through a trial, we will have opening
7 statements, you will hear evidence, we will have
8 closing arguments, and I will give you
9 instruction on the law. And you will then at the
10 conclusion of that will retire and will deliberate
11 and make a determination on really two issues,
12 guilty or not guilty based on your view of the
13 evidence and your application of the law.

14 If you come back or you reach your
15 decision that the State has not met its burden of
16 proof and proved to you beyond a reasonable doubt
17 the defendant was guilty, then your verdict of
18 course would be under the law not guilty and that
19 would conclude this matter. If on the other hand
20 it be your verdict that the State had met its
21 burden of proof and satisfy you beyond a
22 reasonable doubt of the defendant's guilt, then
23 we would move into the second phase which is known
24 as the penalty phase. At that phase you will
25 have another trial, separate proceeding. Have

1 opening statements and you will have to hear
2 evidence. It is during that time that you will
3 make a determination of the appropriate punishment
4 in this circumstance, it is at that stage where
5 you will decide either life imprisonment or the
6 death penalty.

7 In this second proceeding the attorneys
8 are given an opportunity to bring forth evidence
9 of the defendant's background, character, age,
10 family situation, intelligence, et cetera. The
11 purpose of this second proceeding is to give the
12 jury as much information as is possible so that
13 you can know more about that person that you are
14 about to sentence other than what may have been
15 brought out during the trial in the guilt --
16 during the guilt phase.

17 The attorneys from the State will be
18 trying to convince you to recommend a death
19 penalty and the attorneys for the defendant will
20 be trying to convince you to recommend life
21 imprisonment. Although I use the word
22 recommendation, you should understand that
23 whatever you recommend will be the sentence that
24 will be given to the defendant if you get to that
25 point.

1 I therefore instruct you, ladies and
2 gentlemen, from this point on you will not
3 discuss anything in connection with this case with
4 anyone other than the Court. So you may not
5 confer with each other and you certainly may not
6 allow anyone to confer with you or discuss this
7 matter in your presence at all. If you should be
8 in the company of someone -- we are going to break
9 in a few moments, in just a few moments. I will
10 discuss with you the proceeding, we will draw a
11 list of names from the jurors remaining and we
12 will group you in groups of four and you will be
13 given a time when you need to come back to the
14 Court. I will discuss with you in just a minute
15 what will happen. When you leave you may not
16 talk about this case and you may not allow anybody
17 to talk about this case with you so please if that
18 occurs advise the person you are on the jury and
19 advise them to stop and also report that to the
20 Court immediately upon your return.

21 In addition, you should not read any
22 newspaper accounts of this case nor can you watch
23 any news programs on television or listen to them
24 on the radio. Now, I do not anticipate that you
25 will hear any today, but we will discuss that for

1 those of you who are selected on a panel that may
2 be required to report tomorrow, you will be
3 required and asked and I will administer an oath
4 that you will follow that specific instruction at
5 the appropriate point in this proceeding.

6 After we have selected the panels each of
7 you will be brought back into the courtroom at a
8 given time. We will probably as I stated have
9 panels of four and it will probably take about an
10 hour to go through the process. Obviously, if
11 you are the fourth one on the list then you will
12 be here about an hour. If you are the first one
13 you will be the first one in. After those
14 questions you will be released and you will be
15 allowed to return home until we -- and we will
16 give you a time to report, at which time we will
17 again assemble and at that time we will select the
18 12 and the two or three alternates to decide this
19 case.

20 It is very important, ladies and
21 gentlemen, that you follow the Court's
22 instruction throughout this proceeding. It is
23 imperative that you do so. Now, when you come
24 back you will be given a sheet of paper and on
25 that paper will have three types of jurors. I

1 will give you time to read it and then I will ask
2 you certain questions about that and other
3 questions, as well. I want to assure you don't
4 leave here and be apprehensive, there are no
5 right or wrong answers to any of these questions.
6 As I told you from the start, there will be no
7 right or wrong answers, and these questions we
8 ask you to be truthful in your responses.

9 After I complete the process the attorneys
10 may have some questions that they wish to ask, as
11 well. There are no right or wrong answers to
12 those questions, listen to the questions and
13 answer them to the best of your ability.

14 Now, having said that I know that
15 probably some of you are quite disturbed and I can
16 understand that. But I want to assure you of
17 something again you are very qualified to serve.
18 Do not concern yourself with whether or not you
19 qualify, don't worry about it, we will discuss
20 those with you. If you have any specific
21 concerns, share them with us when we have an
22 opportunity to talk with you individually.
23 Please feel free to do so. Please feel free to
24 be open with your responses.

25 I would now ask that the clerk go ahead,

1 how many jurors do we have? I will ask to select
2 now and pull the 70 names. We will place the
3 names then in groups of four and that process will
4 take about 30 minutes or so, we will give you it
5 appears now it is about five after 12:00 let's
6 plan on being back at 12:30. You are free to
7 walk around and stretch. You have already drawn
8 them all? You are ready? How long will it take you
9 to list them? About thirty minutes. We will be
10 at ease for about 30 minutes. Please ladies and
11 gentlemen, when you are out remember the
12 instruction of the Court, you are not to talk
13 about this case among yourselves and you are
14 certainly not to talk or allow anybody to talk
15 with you about it. Please do not read anything
16 or try to discover anything, be back at 12:30 we
17 will go forward at that time. Thank you we are
18 at ease.

19 (Whereupon, a short recess was held.)

20 THE COURT: All right, ladies and
21 gentlemen, we have now drawn all the jurors and
22 placed you in groups. As I stated earlier this
23 morning we are going to start the first group and
24 I will read the names of those individuals in just
25 a moment when everybody has a copy but we are

1 going to ask that you come back at 2:30 and please
2 when your name is called keep up with your group
3 and your time. You will be called, let's do 1,
4 2, 3. So this first group that we call will be
5 group 1 to be followed by group 2. See how
6 likeable we are? We are positive the first four
7 groups today. Group five will start in the
8 morning and we will continue and we will get to a
9 point where tomorrow we will run out of the next
10 group and start the next day. But we will
11 enlighten you in just one second as to which group
12 you may be in.

13 Everyone has a list let's refer to the
14 first page, the first group juror number 17 Ms.
15 Bowers, Ora Bowers, stand as I call your name.
16 Vona Graham, number 67; number 112, Teresa
17 McDaniel, 93; Connie Keegan. All right you are
18 in group one. You will need to report and you
19 will come -- where you want, is there a room back
20 here? The jury room number one if you will just
21 come back to the back hall someone will either be
22 here or back there will show you where to come at
23 2:30. At 2:30. You do not need to go now. At
24 2:30 be in there and we will start, we will start
25 in the order in which I just read the names and we

1 will go through the questioning at that time.
2 Until that time please remember do not discuss
3 this case with anyone. You are free to leave at
4 this point.

5 Let me be sure we will have someone posted
6 at that door to make sure they come around and you
7 take care of that. Rather than have them walk
8 through to see where their room is at this time.

9 The next group you will need to be here at
10 3:40 p.m., group 2. Juror number 145 Jean S.
11 Pieterse; number 7, Cynthia Barnhill; number 177
12 Emily W. B. Sweatman; and 174 Barbara J. Stewart.
13 You are free until 3:40 this afternoon. You will
14 need to report back, you will not come into the
15 courtroom you will just come in downstairs and
16 come up to the upstairs they will direct you,
17 someone will be there and direct you to the jury
18 room, okay. Thank you I will see you at 3:40.
19 Again, do not allow anyone to talk to you about
20 this case or talk about it in your presence.

21 Group three, the following individuals
22 will need to report at 4:50. 153 Krystal
23 Radcliffe; 44 Brandon Cromer; 90, LaDonna L.
24 Jordan; 60, Tamika A. Gardner. You will need to
25 report at 4:50, again just come from downstairs,

1 come up and come to the second floor someone will
2 direct you to the jury room. You are free to
3 leave, you are group three, be back at 4:50 this
4 afternoon. Please do not allow anybody to talk
5 to you about this case or talk about it in your
6 presence.

7 Group four you will need to be here at six
8 p.m. The following individuals, juror 59 Joyce
9 H Gann; 16, Richard Bourne; 107 Danny Lucas; 196
10 Norman Williamson. You are in group four, you
11 need to report again back here upstairs do not
12 come in the courtroom at six o'clock this
13 afternoon, group four. Thank you you are free
14 to leave.

15 The next group, group five, you have a
16 little bit of time, is there any problem with
17 starting at nine? This is group number five, your
18 report time is 9:00 o'clock in the morning, 189,
19 JoAnn Walker; 35 Roger Coles; 103 Shirley Legette;
20 31, Christopher L. Carroll. All right your
21 report time you are group five is nine o'clock
22 tomorrow morning. Please do not read anything
23 about this, do not watch any television programs
24 about this, do not allow anyone to talk with you
25 about this case whatsoever. If you come back,

1 come back tomorrow you can enter the door here on
2 the outside, come upstairs and someone will
3 direct you to the jury room. Have a good evening
4 you are free to leave. Nine o'clock in the
5 morning.

6 Group six your report time is 10:05
7 tomorrow, love these little odd numbers, they
8 are 57 Walter L. Frank; 63 Roy A. Goss; 162 Debra
9 Semple; 118 Janette Miller. You are group six.
10 You will report at 10:05 tomorrow, again you will
11 come upstairs and someone will direct you at that
12 time. Please do not discuss this case with
13 anyone, do not read anything about it, do not
14 watch any news accounts about this, look forward
15 to seeing you tomorrow at 10:05 you are free to
16 leave.

17 Group seven, 11:15, the following
18 individuals will be group seven, Jeannetta
19 Tindall; John V. Singletary, excuse me 167,
20 John W., please excuse me, John W. Singletary;
21 juror 111 David C. McConnell; 110 Herbert D.
22 McClary. You are in group seven. You will need
23 to report tomorrow upstairs to the jury room at
24 11:15. That is tomorrow morning at 11:15.
25 Please you are free to leave but do not discuss

1 this case with anyone, do not allow anybody to
2 talk with you or talk about it in your presence.
3 Do not watch any news accounts about it or read
4 anything. Thank you, you are free to leave.

5 Next group is group number eight. 12:20,
6 number 128, Donna M. Moss; 133 Sean P. O'Rear; 25
7 Matthew Brunson; 94 Betty J. Keese. You are
8 group number eight. Your report time is 12:20
9 tomorrow. Come upstairs, someone will direct
10 you to the jury room. While you are out, do not
11 discuss the case with anyone, do not allow anyone
12 to talk with you about it or read anything about
13 it or watch any news accounts. You are free to
14 leave, thank you very much.

15 Group nine, at 2:30 p.m. tomorrow the
16 following individuals: 58 Joseph K. Gallegos;
17 23, Ingrid V. Brown; 86, Sadie M. Jenkins; 157
18 Dan Riegle. You are in group nine your report
19 time is 2:30 tomorrow afternoon. Come upstairs,
20 do not discuss this case with anyone, do not
21 allow anybody to talk with you about it, do not
22 read anything about it or watch any news accounts.
23 I look forward to seeing you tomorrow at 2:30,
24 group nine.

25 Group ten, 3:35 p.m., the following

1 individuals: Number 262 Priscilla Ann Gore; 88
2 Cindy W. Jones; 158, Larry L. Roberts; 18,
3 Gene C. Bratcher. Your report time is 3:35
4 tomorrow. You are group ten, you will need to
5 report upstairs, come directly to the jury room
6 you are free now to leave. Do not watch
7 anything, do not read anything about it, of
8 course do not allow anybody to talk with you about
9 it or for you to discuss the matter with anyone.
10 You are excused see you tomorrow at 3:35, group
11 ten.

12 Group number 11, you will report at 4:45
13 tomorrow afternoon. The following individuals:
14 43, Alton Cribb, Jr.; 37 Patrick M. Collins; 144
15 George O. Phillips; number 80, Dan Lee Hurell.
16 You will report tomorrow at 4:45, you will come
17 upstairs to the jury room. You are in group 11,
18 do not discuss the case with anyone, do not watch
19 any news accounts, do not read anything and
20 certainly don't allow anybody to talk about it in
21 your presence or talk to you directly, you are
22 free to leave thank you very much that is group
23 11.

24 The last group for tomorrow group number
25 12, your report time is at 5:50 the following

1 individuals: Juror 65, Karen L. Graham; 91,
2 Neomie M. Jordan; 47 Marlene C. Deacon; 192 Amy
3 White Condon. Your report time is 5:50 tomorrow
4 you are group 12 you will come upstairs directly
5 to the jury room and certainly until that time do
6 not read anything about it, do not watch any news
7 accounts about this matter, do not allow anyone
8 to talk with you or talk about it in your
9 presence. Thank you, you are free to leave.
10 See you tomorrow group 12 at 5:50.

11 The next group is group 13. Group 13 I
12 am going to give you a time but you should call
13 the clerk's office tomorrow after 2:00 o'clock to
14 make sure that is still your time and maybe we can
15 give them telephone numbers if we need to, if you
16 have a question here or these are the numbers.
17 In fact I tell you what you probably ought to do I
18 said two, call after, you don't have a number
19 after six. I would call here between four and
20 five here tomorrow.

21 Group 13 nine o'clock Wednesday the 22nd,
22 the following individuals. Number 69, Patricia
23 A. Greene; number 66 Sylvia F. Graham; 74 Sam
24 Heyward; number 1, Mary Lois Abruntilla. The
25 numbers -- I thought I missed. Oops, you may

1 take your seat. You are in a group, you will be
2 together. Now we will all soon be on the same
3 page.

4 Group 13, the statement about calling you
5 don't need to call you need to come, you are
6 group 13, the following individuals, you will
7 start Wednesday the 22nd at nine o'clock. Number
8 3, Phillip K. Allen; number 181, Clydie B.
9 Thompson; 122, Carolyn L. Montagne; 113 Cecil M.
10 McGee. You are group 13. Your report time is
11 Wednesday at nine o'clock. You will come
12 directly upstairs, come to the jury room, be
13 there at nine o'clock. Until then do not read
14 anything about this, do not discuss this matter
15 with anyone, do not allow anyone to talk with you
16 or talk about it in your presence. You have an
17 extra day so very imperative that you follow these
18 instructions. Thank you very much you are free
19 to leave until 9:00 o'clock on Wednesday, that is
20 group 13.

21 The next group is group 14, 10:05 a.m. on
22 1-22-97 which is Wednesday. Number 45, John K.
23 Crofts; 64 Edward R. Goude; 109 Eugenia Maybank;
24 199 James D. Woodard. Your report time is 10:05
25 on Wednesday, come directly to the jury room at

1 that time. Until then please do not discuss this
2 case with anyone, do not allow anyone to talk
3 with you, read any news accounts or watch any
4 news programs, you are free to leave, thank you
5 very much.

6 Group 15, 11:15 on Wednesday, January
7 22nd. Number 200, Glenn D. Yarborough; 73
8 Patricia A. Haynes; 19 Ruby E. Brockington; 6 Mary
9 R. Armstrong. Your report time is 11:15 a.m.
10 Wednesday, report upstairs, do not discuss this
11 case with anyone, do not allow anyone to talk
12 with you about it or watch any news programs about
13 it or read any news accounts. I will see you on
14 Wednesday at 11:15, report directly to the jury
15 room. Thank you.

16 Group 16, your report time will be 12:20
17 p.m. on Wednesday. Group 16 the following:
18 Juror number 8, Charles W. Barrineau, Jr.; 180
19 Cynthia Dennis Thomas; 168 Curtis D Smith; and 36,
20 Tracy L. Collington. You are group 16 your
21 report time is 12:20 on Wednesday, come directly
22 to the jury room. Until that time do not read
23 anything about this case, discuss this case with
24 anyone, allow anyone to talk with you about it or
25 talk about it in your presence. I will see you

1 Wednesday afternoon at 12:20 p.m.

2 All right the next two groups first group
3 is 17 you probably should call Wednesday morning
4 to check about your time to see if there is any
5 need to move your time, okay. So this next one
6 will be group 17, your schedule time is 2:45 on
7 Wednesday afternoon, the following individuals:
8 Number 69 Patricia A. Greene; number 66 Sylvia F.
9 Graham; 74 Sam Hayward; 1, Mary Lois Abruntilla.
10 You are group 17, you need to call Wednesday
11 morning to check to make sure there is no change
12 in your time. If they tell you there is no
13 change then you need to report to this jury room
14 upstairs at 2:45 p.m. until that time do not talk
15 with anyone about it, do not allow anybody to
16 talk with you about it and certainly don't watch
17 any news programs or watch any news accounts.
18 The clerk's numbers are if you have something to
19 write they are also I guess in the phonebook they
20 are 527-6315 or 6338. 527-6315 or 6338. Thank
21 you you are free to leave.

22 And the last group, group 18, if I
23 didn't call your name we will talk with you
24 afterwards. 77 Marjorie H. Holmes; 170 Myron H.
25 Smith; 135 Vicky O. Page. You are group 18.

1 Your report time at this time is 3:45. You need
2 to call that number especially. Make sure before
3 you come at that point, call in the morning and I
4 would call right up until lunch time to make sure
5 there are no changes. If no one tells you
6 anything that you need to change then you need to
7 be there at 3:45. Please group 18 do not discuss
8 this case with anyone, do not allow anyone to
9 talk with you about it or talk about it in your
10 presence and certainly do not watch any news
11 programs about it or read any news accounts about
12 this case. Those numbers again are 527-6315 or
13 6314. How about 6338?

14 THE CLERK: You gave that one.

15 THE COURT: Is that your undisclosed
16 number?

17 THE CLERK: No.

18 THE COURT: Has it just been disclosed?

19 THE CLERK: No.

20 THE COURT: Thank you, you are free to
21 leave at this time.

22 Is anyone seated who thinks they are a
23 juror in this case and their name was not called,
24 you need to come forward, sir.

25 All right we will be at ease until 2:30.

1 Now, let me state this before you leave. Any
2 objection to the Court's remarks in qualifying the
3 jury from the State?

4 MR. KOLB: No, sir.

5 THE COURT: From the defendant?

6 MR. BABB: No, Your Honor.

7 THE COURT: Gentlemen, I discussed
8 before we came back on I would like to make Court
9 exhibit number 1 would be the listing that is
10 drawn, that is the computer printout and any
11 responses if they received collectively will
12 become Court's exhibit number 1. I also believe
13 that you have been shown a letter that was
14 prepared by Ms. Player to be handed to the jurors
15 who are qualified, it is just an instructional
16 letter that tells, gives them certain
17 information, I think it would be helpful, do you
18 have any objection to that letter, solicitor?

19 MR. KOLB: No, sir.

20 THE COURT: Any objection from Mr. Stone?

21 MR. LITTLEJOHN: None, Your Honor.

22 THE COURT: Very well a copy of that
23 letter will become court's exhibit number 2.

24 Now, any other matters we need to discuss
25 on the record from the State, solicitor?

1 MR. KOLB: No, sir.

2 THE COURT: Any from Mr. Stone?

3 MR. LITTLEJOHN: Not at this time, Your
4 Honor.

5 THE COURT: Thank you, very much, we
6 will be at ease.

7 (Whereupon, a lunch recess was held.)

8 THE COURT: Let the record reflect Mr.
9 Stone is present, good afternoon, Mr. Stone.
10 We are ready to proceed first let me report to you
11 all parties attorneys that the juror number 130
12 the information was as stated, he has been
13 charged no disposition is shown. His response
14 was correct, he was present in the courtroom, we
15 will discuss how we will receive the offer at this
16 point unless I hear otherwise I will assume you
17 will want to withdraw at the time we prepare to
18 strike it. If you wish at some point in the
19 proceeding, solicitor what is your position, do
20 you want to redraw?

21 MR. KOLB: Your Honor, what I would like
22 to have determined is make that determination now
23 so that it is not once we go through this process
24 and we know who is coming I don't think they ought
25 to have the option at that point I think we ought

1 to decide that up front. It seems like instead
2 of redrawing is to either leave him in the
3 position he is in now which is in line I don't
4 have a problem with that or if we have got 73
5 people on the list just draw a number between 1
6 and 73 and that is where he goes. If he had been
7 in there he would have been somewhere in that
8 list.

9 THE COURT: We don't know how it will
10 kick the whole panel. You just don't know where
11 he would have fallen. I don't have any problem
12 with doing it one or two ways. We will not do it
13 and reschedule, I can tell you that. From the
14 standpoint of whether it has to be done now or
15 later, at this point it really doesn't affect the
16 way you all want to proceed because you will
17 proceed with qualifying every one of them so it
18 really doesn't make any difference.

19 MR. KOLB: Ultimately if he is not
20 qualified it seems to me there is another problem
21 staying in the order we have now. If he is
22 ultimately found qualified, the only question is
23 where he should go in the order.

24 THE COURT: Mr. Solicitor, with all due
25 respect, sir, he is qualified at this point.

1 Now, what happens to him during this process he
2 comes in and says that he happens to be juror
3 number 1 or 2 that would be a different ballgame.
4 I don't think it would affect whether or not the
5 order that it all comes in would affect. What is
6 position of the defendant?

7 MR. LITTLEJOHN: After discussing it
8 briefly with Mr. Stone, I think we would be
9 compelled to ask the Court to redraw the jurors
10 after they have been qualified.

11 THE COURT: Very well, we will withdraw
12 after we have gone through we will redraw then we
13 will strike from that list. So it won't be
14 anymore discussion, you all understand?

15 Okay.

16 MR. KOLB: Judge, all that does is
17 require us to go through every juror.

18 THE COURT: That's correct. So what? You
19 told me all along that you insisted we go through
20 every juror, so we will go through every juror.

21 MR. KOLB: What I was thinking was you
22 got 70 now, you have to qualify all 70.

23 THE COURT: I understand what that means.
24 I am very well aware of what it means. We are
25 going to do it that fashion. I am not going to

1 run a risk of some problem coming in in some
2 review that this would change the order of
3 everything, there are a lot of things that we
4 have to do. I don't know that we would under
5 this if they didn't exhaust all of their strikes
6 it would make absolutely happy, nothing to do
7 with anything. But if they do then we got a
8 problem. So rather than to deal with that I want
9 to go ahead and say it and strategy, that cuts
10 both ways. It cuts for the State but it also
11 cuts for them, too, because they now have to
12 suddenly redo it. Let it be known we will have
13 no long time delays, we will redraw it and we will
14 strike. All right. Okay.

15 The next one is Ms. Keegan. I had
16 received -- now she happens to be in the clerk's
17 panel, the last juror, just simply appears to be
18 a staff personnel that says she should be
19 temporarily excused due to medical reasons but we
20 will have a chance to explore that with her. I
21 just received this excuse from her I will allow
22 you to examine her relative to that.

23 Okay. And insofar as timing is
24 concerned, we will strike this jury at probably
25 five or five thirty on Wednesday is my view of it

1 it looks like we will complete that panel sometime
2 around 4:00, 4:30 I am just going to start telling
3 them to be back here at 5:00 o'clock on Wednesday
4 afternoon, we will pick them at that time and at
5 that point they will go to Sumter and we will deal
6 with whatever we need to deal with, we will
7 reconvene on Thursday.

8 All right. Let's bring the first one in,
9 please, Ms. Bowers. Wait just one second.
10 Anything further from the State?

11 MR. KOLB: No, sir.

12 THE COURT: Anything further from Mr.
13 Stone?

14 MR. LITTLEJOHN: Your Honor, in regards
15 to the form which the Court has provided us
16 indicating the three, was the Court going to
17 provide this form to the jurors in advance?

18 THE COURT: They have already had it.

19 MR. LITTLEJOHN: Okay.

20 THE COURT: You have not given it to
21 them?

22 THE CLERK: You wanted me to give it to
23 them?

24 THE COURT: Yes, ma'am. Go ahead and
25 give them a copy.

1 MR. LITTLEJOHN: I was going to point out
2 one typo unfortunately second paragraph first
3 line.

4 THE COURT: What is the typo?

5 MR. LITTLEJOHN: It says, "The second
6 type of jury is one who, although the guilt of
7 the defendant has been determined," I don't know
8 if that would cause any confusion.

9 THE COURT: Any objection as to the form
10 from the State?

11 MR. KOLB: No, sir.

12 THE COURT: Any objection from Mr. Stone?

13 MR. LITTLEJOHN: No, sir.

14 THE COURT: All right. I have made that
15 change and we will make that notation on there in
16 pen. I will now make this court's exhibit number
17 3, copy of the juror form.

18 Ms. Bowers, place your left hand on that
19 Bible, please.

20 Ora Bowers, having been first duly
21 sworn, testified as follows:

22 EXAMINATION BY THE COURT:

23 Q. Good afternoon, Ms. Bowers. Ms. Bowers, I
24 have some questions that I will need to ask you
25 and as I have stated earlier today, the answers

1 -- there really aren't any right or wrong answers
2 to these questions, okay. You have been given a
3 sheet of paper which has three types of jurors,
4 have you had a chance to review that?

5 A. Yes, I have read some of it I can't read it
6 all.

7 Q. Well, type one is basically summarizes the
8 juror that believes when certain facts exist,
9 someone was killed it would always be the death
10 penalty would be your choice of punishment if you
11 happen to be on that jury.

12 A. That is not me.

13 Q. That is not you?

14 A. No.

15 Q. Type two on that list is somebody if they are
16 dealing with somebody being killed, the
17 punishment they could never, ever bring back a
18 verdict of punishment other than life in prison,
19 is that you?

20 A. Tell me that again.

21 Q. Let me tell you type two is one that would
22 always say that life imprisonment would be the
23 appropriate punishment.

24 Type three is a juror that says I can't
25 make a decision because I have to hear all the

1 facts before I can make a decision on the
2 appropriate punishment. It would depend on the
3 facts of the case as to what punishment would be
4 appropriate?

5 A. That would be me.

6 Q. That would be you?

7 A. Yes.

8 Q. You would be type three then; is that right?

9 A. Yes.

10 Q. That would mean as I understand it that some
11 cases where the facts are sufficient, if the
12 Court gave you instruction that you could find,
13 would find that maybe a death penalty would be the
14 appropriate. And there are some cases that you
15 think life imprisonment would be appropriate, but
16 you would wait until you heard it all?

17 A. All the evidence.

18 Q. All right. Now, you haven't heard anything
19 about this particular matter, have you?

20 A. No, sir.

21 Q. Nothing than what I shared with you today?

22 A. Other than in the courtroom.

23 Q. So you haven't formed any opinions then?

24 A. No, sir.

25 Q. The fact that Mr. Stone is charged with this,

1 the fact that he is sitting there at the table,
2 someone is charged with this, does that make you
3 feel one way or the other?

4 A. No, sir.

5 Q. You understand because I shared with you the
6 law this morning that any person including Mr.
7 Stone just because they are charged with a crime
8 they are entitled to the presumption of innocence,
9 you understand?

10 A. Yes, sir, I do.

11 Q. You understand the burden is on the State of
12 South Carolina to prove their case?

13 A. Yes, sir.

14 Q. That Mr. Stone doesn't have to prove
15 anything, you understand that?

16 A. Yes, sir.

17 Q. So if you were a juror, would you expect Mr.
18 Stone to prove anything?

19 A. No, not really.

20 Q. You would look to the State to prove his
21 case?

22 A. That's right.

23 Q. Is that correct?

24 A. Yes.

25 Q. Do you know of anything that has happened in

1 your life, any strong feelings that you would
2 have that may influence you in anyway in
3 considering this case in being fair to the State
4 and being fair to Mr. Stone?

5 A. No, sir.

6 Q. There is nothing?

7 A. No, sir.

8 Q. So then you don't know of any reason why you
9 couldn't give Mr. Stone and the State a fair and
10 impartial trial?

11 A. I would try.

12 Q. Can you and would you follow all the Court's
13 instructions in this matter?

14 A. Yes, sir.

15 Q. And that would include the instructions on
16 the presumption of innocence, reasonable doubt,
17 there may be instructions, further instructions
18 in a second phase of this trial of aggravating
19 circumstance and mitigating circumstance and all
20 of that will be defined for you at that time.

21 Would you have any problem following those
22 instructions?

23 A. No, sir.

24 Q. You understand this proceeding is like I
25 shared with you this morning it is like two trials

1 in one. The first one you will deal with one
2 issue only and that will be whether or not the
3 State presents enough evidence to satisfy you
4 beyond a reasonable doubt as to the guilt. You
5 will make a determination, the jury will make a
6 determination, do you understand that?

7 A. Yes, sir.

8 Q. You would receive an instruction and would
9 you follow that instruction?

10 A. Yes, sir.

11 Q. If the jury were to say that the State failed
12 to meet its burden then that would be the end of
13 the case as I stated, but if the jury found that
14 he was guilty we move into the next phase, that
15 is called the penalty phase, do you understand
16 that?

17 A. Yes, sir.

18 Q. It is at that phase that you would hear
19 additional evidence, evidence you hadn't heard
20 before, do you understand?

21 A. Yes, sir.

22 Q. Would you keep an open mind in both phases?

23 A. Yes, sir.

24 Q. You understand that the evidence in the
25 second phase would be different in many respects

1 than that you heard in the first?

2 A. Yes, sir.

3 Q. Would you have any opinions about Mr. Stone
4 or be influenced of what happened in the first
5 phase?

6 A. I don't think I would.

7 Q. So you would keep an open mind and listen to
8 all of the evidence?

9 A. Yes, sir.

10 Q. And then you would follow the Court's
11 instructions?

12 A. Yes, sir.

13 Q. And then you would make a decision as to the
14 appropriate punishment, do you understand that?

15 A. Yes, sir.

16 Q. Would you wait until you had heard all of the
17 evidence before you made a decision in either
18 phase?

19 A. I would wait.

20 Q. And would you wait until you heard the law
21 before you made a decision?

22 A. Yes, sir.

23 Q. Part of this proceeding would be that this
24 jury will be sequestered, do you know what that
25 means?

1 A. Yes.

2 Q. You will be kept at the State's expense at a
3 hotel. In fact, this trial will be held and
4 conducted in Sumter and you will be taken, they
5 will take care in providing your meals and
6 providing you a place, transportation, do you
7 understand that?

8 A. Yes.

9 Q. The fact you may be sequestered, would that
10 influence you in anyway?

11 A. Sir?

12 Q. Would that influence you, cause you to not
13 be able to listen to all of the evidence?

14 A. No, sir.

15 Q. It would not affect you?

16 A. No, sir.

17 Q. Now, you understand the fact that I have
18 asked you these questions today, I'm required by
19 law to ask certain questions, do you understand
20 that?

21 A. Yes, sir.

22 Q. You are not to infer anything about the guilt
23 of Mr. Stone from my discussions, do you
24 understand that?

25 A. Yes, sir.

1 Q. So you would not, if you were selected on a
2 jury?

3 A. That's right.

4 Q. Thank you. Please answer any questions that
5 the State may have, solicitor.

6 EXAMINATION BY MR. KOLB:

7 Q. Ms. Bowers, you indicated that you were a
8 juror in a criminal case previously?

9 A. Yes, sir.

10 Q. When was that?

11 A. It wasn't a criminal case, it was -- it
12 was up here back in '90 something, I can't
13 remember the date.

14 Q. I notice later on you said that a member of
15 your family was charged with the crime being
16 assault and battery of high and aggravated nature
17 and also a member of your family was a victim of a
18 crime, is that the same case?

19 A. Yes, sir.

20 Q. Could you tell us a little bit about that?

21 A. Now, I wasn't a witness in that, it was my
22 family.

23 Q. Could you tell us what happened in that case?

24 A. The one that was the case for he went into
25 this house and got into a fight.

1 Q. Both of them were related to you?

2 A. No, sir only one of them.

3 Q. Who was that that was related to you?

4 A. My son.

5 Q. Your son. Was he charged or was he the
6 victim?

7 A. He was charged.

8 Q. So he was charged for going somewhere and
9 beating somebody?

10 A. Yes.

11 Q. What was the result of that?

12 A. (Can't make out tape).

13 Q. This was in Georgetown?

14 A. No, sir.

15 Q. He was charged in what county?

16 A. In Georgetown, yes, sir.

17 Q. He spent nine months in jail, was that before
18 the trial or after the trial?

19 A. After the trial.

20 Q. So he was convicted of assault and battery
21 high and aggravated nature?

22 A. Yes, sir.

23 Q. And got nine months in jail?

24 A. Yes, sir.

25 Q. You also indicated a member of your family

1 was a victim of a crime, what case was that?

2 A. A member of my family a victim of a crime?

3 That was my brother-in-law. He is just my
4 brother-in-law, I don't even know anything about
5 this.

6 Q. Your brother-in-law was also a victim of
7 aggravated assault?

8 A. No, sir.

9 Q. What was he the victim of?

10 A. (Can't make out tape).

11 Q. Was he a victim?

12 A. Yes, sir.

13 Q. Was he the victim or was he charged with
14 that?

15 A. He was charged.

16 Q. So your brother-in-law was charged with child
17 molesting? What county was that in?

18 A. Clarendon county.

19 Q. Clarendon county?

20 A. Yes, sir.

21 Q. What was his name?

22 A. Frank Hathaway.

23 Q. What was the result of that?

24 A. He is still in prison, I guess.

25 Q. He was convicted and still in prison?

1 A. Yes, sir.

2 Q. Now, has any member of your family been a
3 victim of a crime?

4 A. No, sir.

5 Q. In the two cases that you just were asked
6 about the one with your son and the one with your
7 daughter-in-law, did the law enforcement
8 authorities treat your family members right in
9 those cases?

10 A. Well, see, one I didn't know much about.
11 Just from what I read in the paper and saw talking
12 with him.

13 Q. That was the one with your brother-in-law?

14 A. Yes, sir.

15 Q. The one with your son, did you feel like
16 local law enforcement authorities here in
17 Georgetown treated you, your son and your family
18 right and fairly in that case?

19 A. Yes, sir because he had broken the law.

20 Q. What is your son's name?

21 A. Billy Joe Moon.

22 Q. Billy Joe what?

23 A. Moon.

24 Q. And you have a sister in Sumter?

25 A. Yes, sir.

2204

1 Q. What is her name?

2 A. Trisha Wright.

3 Q. Patricia Wright?

4 A. Yes, sir.

5 Q. From what you know about the case in
6 Clarendon county with your brother-in-law Frank
7 Hathaway, was he treated properly by law
8 enforcement and the Solicitor's office there?

9 A. I couldn't say because I don't really know.

10 Q. Did members of your family tell you he got a
11 bad deal or raw deal?

12 A. No, his wife said he got what was coming to
13 him.

14 Q. So all of this you told the judge earlier you
15 had no strong feelings about law enforcement or
16 criminal justice system?

17 A. No, sir.

18 Q. That would affect your verdict in this case?

19 A. No, sir.

20 Q. Ms. Bowers, from what I understand from your
21 answers to the Judge's questions is that you can
22 return a verdict that will be a recommendation for
23 death penalty?

24 A. With all the information.

25 Q. Upon the facts and circumstances you could

1 come to death. You understand in that case you
2 would be required, all 12 jurors have to sign
3 their name on the verdict which in effect is the
4 death warrant and you could do that, sign your
5 name to it?

6 A. Yes, I could. I have never done it but I
7 could.

8 MR. KOLB: Thank you, ma'am.

9 THE COURT: Mr. Littlejohn.

10 EXAM BY MR. LITTLEJOHN:

11 Q. Ms. Bowers, on the other hand, could you also
12 render a verdict or make a recommendation, is a
13 binding recommendation to the Court that someone
14 receive a life imprisonment sentence?

15 A. Sir?

16 Q. If they were convicted of murder?

17 A. If I was on a jury?

18 Q. Right.

19 A. Yes, sir, either one.

20 Q. Could you do that based upon the
21 circumstances and evidence before you?

22 A. Yes, sir.

23 Q. And would you do that realizing that the
24 State would have to prove those aggravating
25 things?

1 A. Yes, sir, if it was proven.

2 Q. Ms. Bowers, let me ask you a little bit
3 about your background, if I may, please, ma'am.
4 You indicated your husband is retired?

5 A. Yes, sir.

6 Q. What sort of work did he do before his
7 retirement?

8 A. He did mill work for different places, he
9 worked power plant, he worked in Charleston and
10 different places they did mill work, fixing
11 machines and things.

12 Q. Did you ever work outside of the home?

13 A. Yes, sir, I did. I worked in a nursing
14 home.

15 Q. Okay.

16 A. I worked different jobs like. I used to
17 work down at the paper mill and janitorial
18 service.

19 Q. Ms. Bowers, let me ask you a little bit
20 further about some of the things that the judge
21 was talking to you about. Do you understand that
22 every person that is charged with a crime, no
23 matter what that crime is has a right to an
24 impartial jury to determine whether they are
25 guilty or innocent?

1 A. Yes, sir.

2 Q. Let me ask you if the fact that in this case
3 Mr. Stone is accused of the murder of a police
4 officer, would that have any bearing on your
5 ability to weigh the evidence fairly?

6 MR. KOLB: Your Honor, I object to him
7 asking her what she would do under specific facts.

8 THE COURT: I sustain the objection.

9 EXAM BY MR. LITTLEJOHN:

10 Q. Let me rephrase the question. Ms. Bowers,
11 are you acquainted with any police officers?

12 A. Yes, sir.

13 Q. Who are you acquainted with?

14 A. I got friends that is in law service and
15 sheriff, not the sheriff now but the sheriff he
16 was a pretty good close friend of mine.

17 Q. Okay. Who was that?

18 A. Lord have mercy I done forgot his name I am
19 so nervous.

20 Q. You have known other police officers?

21 A. Yes, I know police officer in Georgetown.
22 I know them when I meet them, I know the face and
23 all.

24 Q. Would the fact you are acquainted with these
25 police officers, would that have anything to do

1 with influencing your ability to be a fair and
2 impartial juror in this case?

3 A. No, sir.

4 Q. Ms. Bowers, would you have any sort of
5 tendency to believe a witness who is a police
6 officer over a witness who is not a police
7 officer?

8 MR. KOLB: Your Honor, I object.

9 THE COURT: Sustain the objection,
10 improper question.

11 EXAM BY MR. LITTLEJOHN:

12 Q. Ms. Bowers, before you got here today, did
13 you know that you were going to be on a jury panel
14 that may consider a death penalty case?

15 A. No, sir, I didn't.

16 Q. You didn't have any idea?

17 A. No, sir, I didn't.

18 Q. Did you talk to anybody about being on this
19 jury panel before you got here?

20 A. The lady I gave my paper to.

21 Q. Ms. Bowers, do you think you would be able
22 to judge this case solely on the evidence before
23 you and not allow the fear of any later criticism
24 affect your verdict?

25 A. No, sir, depending on the evidence.

1 Q. If you were firmly convinced that the
2 evidence was one way could you hold firm to that?

3 A. Sir?

4 Q. If you were firmly convinced that the
5 evidence was one way, could you hold firm to that
6 opinion?

7 A. Yes.

8 Q. Okay. One last thing, Ms. Bowers, were the
9 defendant not to take the stand in this case and
10 testify, would that have any effect on your
11 opinion as to his guilt or innocence?

12 A. No, sir.

13 Q. Not at all?

14 A. No, sir.

15 Q. Okay.

16 MR. LITTLEJOHN: Thank you very much.

17 THE COURT: Ms. Bowers I will ask you,
18 please, ma'am, if you would, please ma'am step
19 right outside the door we will be with you in just
20 a moment. Thank you so much. Says the State?

21 MR. KOLB: Qualified.

22 THE COURT: Says Mr. Stone?

23 MR. LITTLEJOHN: Your Honor, we believe
24 she is qualified.

25 THE COURT: Very well.

1 MR. LITTLEJOHN: Maybe I didn't properly
2 phrase that question and the Court sustained the
3 objection, but I think given the circumstances of
4 this case that somehow I ought to be able to
5 inquire of the jurors the fact that the defendant
6 is accused of killing a police officer. If that
7 would have some influence.

8 THE COURT: You can couch it by
9 instructions or mitigating circumstances and
10 aggravating circumstances in the fashion that that
11 is that may be an aggravating circumstance, but
12 not asking her what she would do if the person is
13 convicted of that. Not specifically if you want
14 to ask her how would she follow instruction,
15 would she have any problem following it, you can
16 phrase that if you wish but I will not allow you
17 to ask a specific question on the facts and
18 determination. Thank you. All right let's
19 bring her in, please.

20 Thank you, Ms. Bowers, you don't have to
21 come back up stay right there. I will let you go
22 home at this time. You will need to come back
23 probably let's just say, you need to come back
24 Wednesday afternoon at 5:00 o'clock.

25 THE JUROR: Five?

1 THE COURT: Yes, ma'am. You need to
2 come back at this courtroom at this time. When
3 you come you need to bring with you enough
4 clothing to take of your needs for about a week.

5 THE JUROR: All right.

6 THE COURT: Now you will be in a group of
7 people from which we will select the 12
8 individuals, so it is very important now that you
9 don't read anything about this case, no one may
10 talk with you about this case, and you may not
11 discuss this case with anyone. So be back
12 Wednesday, we look forward to seeing you at five
13 o'clock.

14 All right let's bring in the next one,
15 please, ma'am, Ms. Graham, Vona Graham.

16 VONA GRAHAM, having been first duly
17 sworn, testified as follows:

18 EXAM BY THE COURT:

19 Q. Good afternoon, ma'am. The questions that
20 I am about to ask you and the lawyers will be
21 asking you I remind you what I said this morning,
22 there aren't any right or wrong answers to these
23 questions, all we ask is that you be truthful in
24 your responses, okay. You have had a chance to
25 review that sheet; is that correct?

1 A. Yes, I have.

2 Q. Of the three types of jurors on that form,
3 which one are you?

4 A. Number two.

5 Q. Number two. And by number two am I to
6 understand that if you were considering in a case
7 involving murder of someone alleged of murder of
8 someone and the jury is selecting punishment, if
9 you were on that jury you could never under any
10 circumstances vote for anything but life in
11 prison?

12 A. (Can't make out tape).

13 Q. You need to answer that question. In other
14 words, juror number 2 says to me and my
15 interpretation of that says it doesn't matter what
16 the circumstances are, I am going to always vote
17 for life in prison. And it doesn't make any
18 difference what the Court instructs that is going
19 to be my choice and my vote when it comes to the
20 criminal and that would be yours?

21 A. Yes, it would.

22 Q. There is absolutely no circumstances that you
23 could even think that would cause you to change
24 your mind?

25 A. No.

1 Q. Well even if it is you would start with the
2 premise the person should always receive life
3 imprisonment?

4 A. Without parole, yes. I just can't imagine
5 having that much control over a person.

6 Q. And you could not do that?

7 A. I don't have that in me.

8 THE COURT: Any questions from the State?

9 MR. KOLB: No.

10 THE COURT: Any questions from the
11 defendant?

12 EXAM BY MR. LITTLEJOHN:

13 Q. Ms. Graham, just a couple of questions here.
14 You of course haven't heard any of the evidence in
15 this case or any of His Honor's instructions or
16 anything, been exposed to anything having to do
17 with this case?

18 A. No.

19 Q. If you were selected on the jury and you
20 heard the evidence in the case and you heard His
21 Honor's instructions to you as to how you were to
22 consider the evidence and apply the law, do you
23 think you could follow his instructions and apply
24 the law to the facts as you found them? Would you
25 be able to do that?

1 A. As long as it is not taking a life I can't
2 see killing someone.

3 Q. What if he told you there are certain
4 statutory aggravating circumstances under which a
5 jury could consider and determine to render a
6 death penalty, could you follow his instructions
7 or are your beliefs such that you could not follow
8 his instructions?

9 A. (Can't make out tape).

10 Q. Just one final thing, Ms. Graham. If you
11 were selected on a jury and were given the
12 situation where you had to consider a death
13 penalty versus a life penalty and His Honor
14 instructed you that you could find certain
15 statutory aggravating circumstances existed,
16 could you make that determination that certain
17 aggravation circumstances existed based upon the
18 facts in the case?

19 A. I could send if someone was guilty I could
20 sentence a person, I could sentence to life.
21 But I could not sentence someone to death.

22 MR. LITTLEJOHN: All right thank you.

23 THE COURT: Any additional questions from
24 the State? Ms. Graham, I will ask you to step
25 down, go right out that door I will be with you in

1 just a minute. What says the State?

2 MR. KOLB: We believe she is not
3 qualified, Your Honor.

4 THE COURT: What says the defendant?

5 MR. LITTLEJOHN: Your Honor, her answers
6 are so ambiguous I don't think we can concede that
7 she was --

8 THE COURT: Well, the case law concede
9 it for you because clearly, clearly your attempt
10 to rephrase the question in a fashion that I don't
11 fault you for, she falls clearly within the case
12 where it says just because counsel rephrased the
13 question didn't change this lady by her own
14 answers state she could not consider both
15 penalties and therefore under the law she is not
16 qualified. All right let's bring her in.

17 Ms. Graham, I am going to excuse you from
18 further participation in this matter. You will
19 not have to come back. I would ask you at this
20 point, however, until we have selected the
21 jurors that you not discuss this case with anyone
22 or allow anyone to talk with you about it. Once
23 a jury has been selected, you are free to talk
24 about it at that time.

25 All right, bring out Ms. McDaniel.

1 TERESA MCDANIEL, having been
2 first duly sworn, testified as follows:

3 EXAM BY THE COURT:

4 Q. Good afternoon.

5 A. Good afternoon.

6 Q. I will remind you earlier today I said that
7 there won't be any right or wrong answers to these
8 questions and that is still true. There are no
9 right or wrong answers for any of these questions
10 and I will ask you some and some of the attorneys
11 will ask you and all we ask is that you respond
12 truthfully.

13 A. Yes, sir.

14 Q. You have had an opportunity to review that
15 sheet which we handed you?

16 A. Yes, sir.

17 Q. Of the three type of jurors on that sheet,
18 which are you?

19 A. The second one.

20 Q. The second one?

21 A. Yes, sir.

22 Q. How do you interpret the second one, what
23 would that mean to you?

24 A. The second juror to me could not render a
25 death penalty in a case where it has been proven

1 guilt, where the defendant has been found guilty.

2 Q. Are you telling me then that it really
3 wouldn't, it wouldn't depend on the circumstances
4 of the case, the circumstances would not matter;
5 is that correct?

6 A. I have never been put in a position you know
7 to have to face circumstances but at this point I
8 would have to say no, that no circumstances would
9 not matter to me.

10 Q. I will instruct you on the law in both
11 phases. In both phases, you understand that?

12 A. Yes, sir.

13 Q. One of the instructions would be in the
14 penalty phase if you got to that point would be
15 that you may do or consider the mitigating
16 circumstances and you may consider any aggravating
17 circumstances. And it would then be up to the
18 jury to make a determination. And you would be
19 asked and instructed that you must consider both
20 the penalty, the death penalty and life in
21 prison. Could you as a juror, I know you say
22 you have never been asked, but could you as a
23 juror follow my instructions and if the facts and
24 circumstances were such, could you return a
25 verdict which would impose the death penalty?

1 A. No, sir.

2 Q. Under no circumstances?

3 A. No, sir.

4 Q. Your personal beliefs would interfere with
5 that process?

6 A. Yes, sir. I have personal reasons why I
7 believe that way.

8 THE COURT: Any questions from the State?

9 MR. KOLB: No, sir.

10 THE COURT: Questions from the defendant?

11 MR. LITTLEJOHN: No questions, Your
12 Honor.

13 THE COURT: Very well. I will ask
14 please, Ms. McDaniel, if you will step out that
15 door for just a moment.

16 What says the State?

17 MR. KOLB: Not qualified.

18 THE COURT: The defendant?

19 MR. LITTLEJOHN: Your Honor, allow me to
20 ask the questions (can't make out tape).

21 THE COURT: She is clearly not qualified.
22 I observed her not only the question but her
23 responses, she just said she could not. I find
24 she is not qualified.

25 Ms. McDaniel, I will excuse you from

1 further participation in the proceeding. I will
2 ask that you -- you do not have to return, but
3 until the jury is actually selected, do not
4 discuss this case with anyone or allow anyone to
5 talk with you about it until after we have
6 selected the jury.

7 Okay bring the next one in.

8 CONNIE KEEGAN, having been first duly
9 sworn, testified as follows:

10 EXAM BY THE COURT:

11 Q. You are Ms. Keegan?

12 A. Yes.

13 Q. Good afternoon.

14 A. Good afternoon.

15 Q. I have received the note from Walter Mall
16 Medical Center at this point I need to ask you
17 some further questions. Have you had a chance to
18 review that sheet that I gave you that deals with
19 three types of jurors?

20 A. Yes.

21 Q. And of those three, which one would best
22 describe you?

23 A. Probably number 2.

24 Q. Why do you say that?

25 A. I have never been in a situation where my

1 family or (can't make out tape) other than (can't
2 make out tape). I just don't know if I could
3 make that decision.

4 Q. All right. Well, I understand that. But I
5 need, I guess I need to ask a little further
6 because obviously you haven't, you stated you
7 have never served on that, but the question is
8 this: Your responsibility as a juror as much as
9 I said really along the lines of what we talked
10 about this morning, make such factual
11 determinations and apply the law to those facts.
12 You indicated this morning that you felt you could
13 do that; is that correct?

14 A. Yes.

15 Q. In this trial you would be dealing with two
16 phases, one would be the first phase as I
17 discussed would be the guilt phase where we would
18 hear evidence concerning whether or not Mr. Stone
19 was guilty alleged at this point, and of course
20 the burden is on the State to prove that guilt
21 beyond a reasonable doubt. If the jury were to
22 conclude that he was not, the State failed to
23 meet its burden then of course that would end the
24 proceeding. If on the other hand the jury
25 concluded that the State had met its burden,

1 satisfied the jury beyond a reasonable doubt we
2 would go to the second phase which is penalty
3 phase, do you understand?

4 A. Yes.

5 Q. At that phase you would hear additional
6 evidence and you would hear evidence that could be
7 classified as mitigating circumstances and
8 aggravating circumstances. You will receive an
9 instruction at the conclusion of that phase as to
10 both. Am I understanding you that if you were a
11 juror and were sitting in this case, take an oath
12 to decide the facts, apply the law to those facts
13 that you could not in any circumstance consider
14 the death penalty?

15 A. No.

16 Q. You couldn't. You would determine that
17 based upon the facts? You may not want to do it
18 but you could, you would follow your oath, and
19 follow the Court's instructions?

20 A. I would.

21 Q. Am I also to understand that you would not
22 start any trial be it the guilt phase or the
23 penalty phase of any predetermination? In other
24 words, you wouldn't have your mind set one way or
25 the other? Would you make, would you have a

1 tendency or would you make any decisions until you
2 have heard all of the evidence and received the
3 law?

4 A. No.

5 Q. You would not. You would keep an open mind?

6 A. Yes.

7 Q. In this case, the facts as I told you this
8 morning one who is charged with a criminal offense
9 is presumed innocent, you don't have any problem
10 with that principle of law?

11 A. No.

12 Q. The fact Mr. Stone is seated at that table
13 over there, does that mean anything to you?

14 A. No.

15 Q. Other than the fact that he is charged? As I
16 told you the burden is upon the State to prove
17 guilt beyond a reasonable doubt. Do you
18 understand and would you look to the State to
19 prove its case?

20 A. Yes.

21 Q. Am I to understand then you wouldn't expect
22 Mr. Stone to prove anything?

23 A. (Can't make out tape).

24 Q. You understand in this proceeding, the only
25 person that -- and I would repeat this instruction

1 -- only the State has the burden, the defendant
2 doesn't have to prove anything and certainly
3 doesn't have to prove his innocence, would you
4 have any trouble following that instruction?

5 A. No.

6 Q. So if the defendant chose for instance not to
7 testify, as I told you you cannot use that
8 against him, would you consider that against him
9 in anyway whatsoever?

10 A. No.

11 Q. I tell you that would be his Constitutional
12 right, do you understand? And you would follow
13 that instruction. Am I to understand also based
14 on what you have shared with me that if you went
15 through the guilt phase, because there are two
16 phases and say the jury had concluded the State
17 had met its burden and established beyond a
18 reasonable doubt that the defendant was guilty,
19 because if you found he was not guilty that would
20 end the trial. But if you found the State had
21 met its burden of proof we would move into the
22 penalty phase and at that phase you would hear
23 evidence, totally a new trial within this trial,
24 do you understand?

25 A. Yes.

1 Q. Would you have an open mind at the start of
2 that case and you would consider the decisions
3 based solely on the evidence that you heard?

4 A. Yes.

5 Q. You would not make any decision until you
6 have heard all the evidence and received the law?
7 You say you don't believe you would or not? Then
8 at the conclusion of that you would be instructed
9 to go and consider and make a determination as to
10 the appropriate punishment in this case. And am
11 I to understand now after we have talked that you
12 could consider both life in prison and the death
13 penalty and you make the decision as to which one
14 you feel the facts support?

15 A. Based on the evidence.

16 Q. And you would?

17 A. Yes.

18 Q. You would be fair in that application and
19 comply with the law and your decision would be the
20 one that under the law would be fair and
21 impartially rendered, fair to the State and to
22 Mr. Stone?

23 A. Yes.

24 Q. Do you know of anything in your background,
25 strong feelings you may have, anything that has

1 occurred in your life that would influence you in
2 this type of case, that would in anyway affect
3 your ability to be fair in considering the
4 evidence that the State may offer?

5 A. No.

6 Q. So you do not have any predetermination or
7 predispositions one way or the other?

8 A. Not that I know about.

9 Q. You don't know anything about it or you
10 wouldn't make any decisions until you heard the
11 facts?

12 A. Yes.

13 Q. In this case, this case as I mentioned will
14 be tried in Sumter. You will be if you are
15 selected will be part of a jury; therefore, we
16 sequester you, you will be kept at the State's
17 expense, you will be fed together and you will be
18 taken care of and transported. I know that is
19 not the most convenient thing in the world, it
20 would certainly interrupt your normal life. But
21 if you were selected, could you set aside that
22 inconvenience and focus on the facts and not let
23 it influence you in your decision?

24 A. There are a lot of things going on right now
25 in my personal life. I would do it if I were

1 selected, but I wouldn't like to do it.

2 Q. I understand and I appreciate that. I
3 understand. I understand that you would not like
4 it but you could do it, you could put that aside?

5 A. I would have to.

6 Q. Please answer any questions -- before I
7 turn it over, as I recall you didn't read
8 anything about this, you haven't heard anything
9 about this and no one has talked to you about it?

10 A. No, sir.

11 THE COURT: Thank you, Mr. Solicitor.

12 EXAM BY MR. KOLB:

13 Q. Ms. Keegan, I believe initially when you said
14 that you could not give a death sentence and then
15 the judge asked you about considering a death
16 sentence and you said you could consider one, is
17 there a difference there in your mind?

18 A. Reading it on a piece of paper is not the
19 same thing as hearing it from the judge. I
20 believe I would be fair in my decision based on
21 the facts.

22 Q. All right. So I thought perhaps you
23 misunderstood the questions, but you are saying
24 that you could and depending upon the facts and
25 circumstances presented and the law that was given

1 to you by the judge, you could return a death
2 sentence, sign your name to that verdict, that
3 is something that you could do?

4 A. Yes.

5 Q. You realize that if that is the decision of
6 the jury of all 12 members that each one has to
7 sign their name on the verdict which become the
8 death warrant in the case?

9 THE COURT: You did respond to that one
10 that the lady seated in front of you is taking it
11 down we want to be certain of your responses,
12 what you are doing is very normal in conversation,
13 I do the same thing but we need to make sure you
14 answer verbally so the question before that you
15 nodded in the affirmative that was a yes?

16 THE WITNESS: That's a yes.

17 THE COURT: Excuse me Mr. Solicitor.

18 EXAM BY MR. KOLB:

19 Q. You answered yes to the question that you
20 could sign it if that was your decision?

21 A. Yes.

22 THE COURT: Mr. Littlejohn, any
23 questions?

24 EXAM BY MR. LITTLEJOHN:

25 Q. Good afternoon, Ms. Keegan, just have a few

1 questions for you. Do you have any friends or
2 relatives who are police officers?

3 A. No, I don't.

4 Q. So you don't know any police officers?

5 A. No.

6 Q. Let me ask you, in this case, the defendant
7 is charged with a murder of a police officer.

8 Would the fact he is charged with that affect your
9 ability to follow His Honor's instructions and
10 fairly weigh the evidence in this case?

11 A. No.

12 Q. Did you know that this was a potential death
13 penalty case when you reported for duty today as a
14 juror?

15 A. Yes.

16 Q. You had heard that?

17 A. Yes.

18 Q. Did you discuss that with anybody?

19 A. No. No, I called because I had asked to be
20 excused. They told me I could not be excused
21 because it was a murder case, they would have to
22 excuse me, the judge.

23 Q. So that is the only conversation. Let me
24 ask you a couple of other questions. Ms. Keegan,
25 if in this case the defendant chose not to take

1 the stand and testify on his own behalf, would
2 that effect your opinion as to his guilt or
3 innocence?

4 A. No.

5 Q. Would you follow His Honor's instructions
6 that it is up to the State to prove his guilt
7 beyond a reasonable doubt?

8 A. I would.

9 Q. Just a couple of things on your
10 questionnaire. I notice that your husband was in
11 the Navy?

12 A. Yes.

13 Q. And I believe you indicated that he worked
14 for US Customs at one time?

15 A. He was a printer, bond printer, in the last
16 tour he was stationed in Japan, he worked for
17 Customs.

18 Q. As a printer?

19 A. He wasn't a printer then he was a Customs
20 Agent.

21 Q. Customs Agent. Enforcing the US Customs
22 law?

23 A. Enforcing the -- (can't make out tape).

24 Q. Okay. Ma'am, one other thing, I notice
25 you put down one of the groups you donate your

1 money or time to is MADD. We are all familiar
2 with the work that MADD does, would your
3 involvement with MADD have anything to do with
4 your ability to be fair to both the State and the
5 defense in this case?

6 A. Our school takes it (can't make out tape).
7 I don't think it would influence, no.

8 Q. That would be so even if there was testimony
9 concerning witnesses or people involved in the
10 case having drunk alcoholic beverages, would that
11 affect your ability to be a fair juror?

12 A. No.

13 Q. Thank you.

14 THE COURT: If you would step down and
15 step outside, please.

16 I will share this with you, she leaned
17 over, did you look at that paper from the doctor I
18 told her yes I did. What says the State?

19 MR. KOLB: I believe she is qualified,
20 Your Honor.

21 THE COURT: Defendant.

22 MR. LITTLEJOHN: We concur.

23 THE COURT: Bring her back. You have
24 been qualified. Let me tell you (can't make out
25 tape). That doesn't mean I understand (can't

1 make out tape) but things change, you have to have
2 surgery or something else in your life, be some
3 complication (can't make out tape). At this
4 point it means that you have been selected as one
5 from this we will select a panel. We are going
6 to do that on Wednesday afternoon. If nothing
7 changes in this situation you need to come
8 Wednesday afternoon. You need to bring with you
9 sufficient clothing to take care of your needs for
10 a week as a juror. Report back like you did
11 today we will all be gathered in the courtroom at
12 5:00 clock.

13 Now, until then I must review, please do
14 not read this, discuss this matter with anyone,
15 certainly don't allow anyone to discuss this
16 matter with you. Thank you. Look forward to
17 seeing you on Wednesday.

18 Let's take five minutes and stretch before
19 we take the next group.

20 (Whereupon, a short recess was held.)

21 THE COURT: State ready?

22 MR. KOLB: Yes, sir.

23 THE COURT: Defense ready?

24 MR. LITTLEJOHN: Yes, sir.

25 THE COURT: Okay panel number 2, Jean

1 Pieterse.

2 JEAN PIETERSE, having been first duly
3 sworn, testified as follows:

4 EXAM BY THE COURT:

5 Q. State your full name for us.

6 A. Jean Pieterse.

7 Q. Ms. Pieterse, you have been given a sheet of
8 paper that has on there three types of jurors,
9 have you had a chance to review that?

10 A. Yes, sir.

11 Q. Which of those three types, which one best
12 describes you?

13 A. The third one.

14 Q. The third one. All right. You had
15 indicated earlier today I believe that you did not
16 have any prior knowledge of this particular
17 incident; is that correct?

18 A. Yes, sir.

19 Q. Now, you have since we broke you haven't
20 heard anything about this case or read anything or
21 no one has talked to you about it?

22 A. No.

23 Q. You understand and I have explained to you
24 certain principles of law, one of which is that
25 when someone is charged with the criminal

1 violation in this State, no one and Mr. Stone is
2 included in that just because they are charged
3 with that violation that doesn't mean anything,
4 certainly they have the cloak of innocence, you
5 understand that?

6 A. Yes.

7 Q. You have any problems with that principle of
8 law?

9 A. No, sir.

10 Q. The fact that Mr. Stone is seated at that
11 table over there, does that mean anything to you
12 other than the fact he is charged with this
13 offense?

14 A. No, sir.

15 Q. Do you feel strongly for or against either
16 the State or Mr. Stone in this matter?

17 A. I don't have an opinion.

18 Q. You haven't heard the facts; is that right?

19 A. Yes, sir.

20 Q. Would you have to hear all of the facts and
21 receive the law before you develop any opinions in
22 this case?

23 A. Yes, I would.

24 Q. So you would not be a juror that ever decided
25 any issue until you have heard all the facts,

1 received the law and then were instructed by the
2 Court to begin your deliberations; is that true?

3 A. Yes, sir.

4 Q. Now, in this case you understand the burden
5 is upon the State to prove its case beyond a
6 reasonable doubt, do you understand that?

7 A. Yes, sir.

8 Q. You understand that the State would be the
9 only party that has any burden in this proceeding,
10 do you understand?

11 A. Yes, sir.

12 Q. Another principle of law that I discussed
13 with you is that one charged with criminal offense
14 it doesn't have to prove anything and they
15 certainly don't have to prove their innocence, do
16 you understand?

17 A. Right.

18 Q. If you were selected as a juror in this case,
19 would you expect Mr. Stone to show anything to you
20 or prove anything to you?

21 A. No, sir. I guess you said that is the
22 State's responsibility.

23 Q. And you would not have any problem following
24 that instruction; is that correct?

25 A. That's correct.

1 Q. You understand in this proceeding you would
2 have basically two trials within a trial. The
3 first phase you would deal with one issue and that
4 will be whether or not Mr. Stone is guilty or not
5 guilty of this offense, do you understand?

6 A. Yes, sir.

7 Q. In that you will hear evidence and you will
8 receive instructions from the Court, the jury
9 will retire and begin deliberations and you will
10 decide whether the State has met its burden or
11 not. If you are on that jury you return a
12 verdict of not guilty, of course that would be
13 the end of the case, do you understand that?

14 A. Yes, sir.

15 Q. If on the other hand you are on the jury and
16 the jury viewed the evidence and considered the
17 evidence and decided that the State had met its
18 burden beyond a reasonable doubt you would move
19 into a second phase, do you understand?

20 A. Yes.

21 Q. That would be the penalty phase. Do you
22 understand that that is sort of a separate
23 proceeding all together?

24 A. Yes, sir.

25 Q. And in that proceeding you would hear

1 evidence you have not heard before?

2 A. Yes, sir.

3 Q. If you were on the jury, would you have an
4 open mind during that proceeding?

5 A. I would try to.

6 Q. Well, I appreciate that. And I guess my
7 question is and I know we are talking about human
8 nature when we say that and there are certain
9 things that you would have to -- certainly have to
10 deal with and I guess my question to you is, do
11 you think you would be able to manage those and
12 keep an open mind?

13 A. Yes.

14 Q. You could do that. Could you listen to all
15 of the evidence and make a determination then in
16 accordance with the Court's instruction; is that
17 correct?

18 A. Yes.

19 Q. It is that time at the conclusion of that
20 whether the jury will be asked to consider the
21 appropriate punishment and they will consider,
22 make a determination between life in prison or the
23 death penalty, do you understand that?

24 A. Yes, sir.

25 Q. You have admitted you are a juror type number

1 3; is that correct?

2 A. Yes, sir.

3 Q. Which means that in some cases depending upon
4 the facts and circumstances you could vote and
5 find that it definitely was appropriate; is that
6 correct?

7 A. Yes, sir.

8 Q. You also state that there are cases that you
9 could find and would determine and vote that life
10 sentence. And you don't have any predisposition
11 one way or the other, it depends on the facts in
12 the case; is that right?

13 A. Yes, sir.

14 Q. Now, do you know of anything in your
15 background, any strong feelings you have, any
16 experiences you have had in your life, of course
17 friends that would influence you in anyway from
18 not being able or prevent you or affect your
19 ability to consider all the evidence and be fair
20 to the State and to Mr. Stone?

21 A. No, sir.

22 Q. Nothing, there would be nothing. So you
23 don't know of any bias or prejudice you have for
24 the State or someone may be charged with criminal
25 offense like this?

1 A. I have never had an experience like this.

2 Q. Okay. Fine. The fact in this case as we
3 stated this morning this case will be tried in
4 Sumter and as a result you will be with the other
5 jurors, you will be sequestered and that means you
6 will, they will provide you a place to stay and
7 they provide you food and lodging, what not,
8 transportation. And while I understand that that
9 might not be something that you would necessarily
10 be excited about doing, it would be an
11 imposition, could you set aside those feelings
12 and listen to the facts of this case and make a
13 determination on the true facts and apply the law?

14 A. (Can't make out tape) yes. I realize it is
15 my duty to do that if chosen.

16 Q. So you could set that aside and not be
17 influenced?

18 A. Yes, sir.

19 Q. As I understand you don't have any opinions
20 one way or the other in this case concerning this
21 defendant?

22 A. No, sir.

23 THE COURT: Please answer any questions
24 the State may have.

25 EXAM BY MR. KOLB:

1 Q. Mr. Pieterse, has anyone in your family,
2 close friend ever been charged with a crime?

3 A. Not that I'm aware of.

4 Q. Anyone in your family or close personal
5 friend ever been convicted of a crime?

6 A. I don't think so.

7 Q. You answered the Judge's question that
8 depending upon the facts, circumstances and the
9 law that is presented to you that you could return
10 a death penalty?

11 A. Yes, sir.

12 Q. And in that case if the jury all 12 of you
13 agree on a death sentence each would have to sign
14 a verdict form, would you have any problem
15 signing your name to the verdict form along with
16 all the other 12 jurors?

17 A. It would be very hard but to sign it, yes.

18 MR. KOLB: Nothing further.

19 EXAM BY MR. BABB:

20 Q. Ms. Pieterse, you mentioned it would be very
21 hard if you decided death but you could. After
22 you have considered everything you are of a
23 different opinion than everyone else, could you
24 maintain permanence in your conviction?

25 A. Well, yeah.

1 Q. Had you heard anything about this case before
2 coming here today?

3 A. No.

4 Q. You didn't know it would be a death penalty
5 case?

6 A. No.

7 Q. The fact that a defendant in a case may not
8 take the stand, would that influence your view of
9 that defendant in anyway?

10 A. I don't know. (Can't make out tape).

11 Q. Do you believe a defendant must prove their
12 innocence?

13 A. No, sir.

14 Q. Do you have any close personal friends -- I
15 believe you have mentioned no one in your family
16 was a member of law enforcement, do you have any
17 close personal friends that are maybe in law?

18 A. No, sir.

19 Q. What sort of criminal case did you sit on as
20 a juror before?

21 A. I was in a DUI case.

22 Q. That was a trial?

23 A. I was on the jury.

24 Q. The fact that in this case the defendant has
25 been accused of murder of a police officer, does

1 that impact your feelings toward the defendant at
2 all in anyway?

3 A. I feel it is a very serious crime.

4 Q. Can you be fair to him knowing he is charged
5 with a serious crime?

6 A. (Can't make out tape) yes.

7 Q. And even though he is charged with that
8 serious crime, if the State fails to meet its
9 responsibility you would not find him guilty?

10 A. (Can't make out tape).

11 Q. Thank you.

12 EXAM BY THE COURT:

13 Q. Let me verify something with respect to one
14 of the questions about whether or not the
15 defendant would testify. If the defendant chose,
16 as I told you this morning, if the defendant chose
17 not to testify I would instruct the jury you may
18 not consider that in any way, shape or form. You
19 may not consider it at all. It is a right that
20 Mr. Stone or anyone has for that matter, do you
21 understand?

22 A. Yes.

23 Q. Would you have any problem following that
24 instruction?

25 A. No, sir.

1 THE COURT: Any additional questions from
2 the State?

3 MR. KOLB: No, sir.

4 THE COURT: Any additional questions Mr.
5 Babb?

6 MR. BABB: No, sir.

7 THE COURT: Step out that door we will be
8 with you in just a moment. Thank you so much.

9 What says the State?

10 MR. KOLB: She is qualified.

11 THE COURT: What says the defendant?

12 MR. BABB: Qualified.

13 THE COURT: Very well, bring her in,
14 please. Ms. Pieterse, this is a little sheet to
15 give you some information you might find helpful.
16 You have qualified as a potential juror in this
17 matter. That means you will be a part of the
18 panel that will be selected for the final jury on
19 Wednesday at five o'clock. You need to be back
20 in this courtroom, just come back like we did
21 this morning at five o'clock on Wednesday and
22 hopefully not take much of your time. If you are
23 selected, however, you will leave from here and
24 will be taken to Sumter. So you need to bring
25 with you some clothing to take care of a week's

1 need. Until then do not discuss this case with
2 anyone, don't allow anyone to talk to you about
3 it. Thank you very much, you are free to leave.

4 MR. KOLB: May we approach the bench,
5 Your Honor?

6 THE COURT: Yes, sir.
7 (Whereupon, a bench conference was held off the
8 record.)

9 THE COURT: Let's have the next one which
10 I believe is Ms. Barnhill.

11 CYNTHIA BARNHILL, having been first
12 duly sworn, testified as follows:

13 EXAM BY THE COURT:

14 Q. Ms. Barnhill, I remind you again this
15 morning I told you there are no right or wrong
16 answers to any of the Court's questions nor will
17 there be as to any of the attorneys questions,
18 all they ask is that you be truthful to your
19 responses.

20 A. Yes.

21 Q. You have had an opportunity to review the
22 sheet that has the three types of jurors?

23 A. Yes, sir.

24 Q. Of those three, which one best describes
25 you?

1 A. The first one.

2 Q. The first one. Am I to understand by that
3 that you believe whenever someone commits a
4 murder, the appropriate punishment then is the
5 death sentence?

6 A. Yes, sir.

7 Q. Absolutely?

8 A. Absolute.

9 Q. There are no circumstances in which you could
10 impose life in prison?

11 A. No, sir.

12 Q. None whatsoever?

13 A. No, sir.

14 Q. Any questions from the State?

15 MR. KOLB: Yes, Your Honor.

16 EXAM BY MR. KOLB:

17 Q. Ms. Barnhill, do you understand under the
18 law that there are mitigating circumstances that
19 could be presented?

20 A. Yes, sir.

21 Q. Do you have an idea what type things that
22 would be? The type things that would be mitigating
23 circumstances?

24 A. No, sir.

25 Q. Mental capacity of the defendant, the age of

1 the defendant, lack of prior criminal record,
2 they acted under domination of some other person,
3 those types of things, are you saying that you
4 could not consider those type factors in deciding
5 an appropriate punishment?

6 A. I guess it would really depend upon
7 circumstances set by the trial, but I really feel
8 like if you commit murder then the death sentence
9 is it. I guess it would depend on the
10 circumstance itself I would have to listen to it.

11 Q. Well, did you read on to the third type
12 person there?

13 A. The third type, yes, sir.

14 Q. Isn't that what the third type says they
15 would have to hear all the facts and circumstances
16 and what the law was before they made a decision
17 on the punishment?

18 A. I would have to look again I don't remember
19 word for word what the third one says.

20 THE COURT: Look at it if you would,
21 please, ma'am, take a moment and look at it.

22 THE WITNESS: Yes, sir.

23 EXAM BY MR. KOLB:

24 Q. And that type person there is nothing wrong
25 with being generally in favor of the death

1 sentence, but that type person doesn't have their
2 mind made up before the trial; is that -- would
3 that be the way you understood that?

4 A. Right.

5 Q. The third type person might be generally in
6 favor of the death penalty, they don't have their
7 mind made up of what sentence they would give in
8 every case, they would have to hear all the
9 facts, all the circumstances in the case and then
10 hear what the law was before they would decide
11 what the proper punishment would be?

12 A. Yes, sir.

13 Q. Now, how do you come into those two things
14 then? Are you type one that would always be death
15 regardless of the circumstances or are you the
16 type three that would have to listen to everything
17 before you could decide it?

18 A. I guess it would be type three then I would
19 have to hear the circumstances. As far as in
20 favor of it, yes.

21 Q. You in general would favor the death penalty?

22 A. Yes, sir.

23 Q. And that is what you thought we were asking
24 whether you were for the death penalty or not?

25 A. Right.

1 Q. See this is not a vote, political election
2 whether you are for the confederate flag, or for
3 welfare, death penalty, this is deciding whether
4 you can be a juror who will listen with an open
5 mind to all the facts, all the circumstances and
6 the law that His Honor will charge you before you
7 makeup your mind. Do you think you could do
8 that? That you could listen to everything?

9 A. Yes, sir.

10 Q. You understand there is nothing wrong with
11 being generally in favor of the death penalty?

12 A. Right.

13 MR. KOLB: Thank you.

14 THE COURT: Mr. Littlejohn, Mr. Babb.
15 EXAM BY MR. LITTLEJOHN:

16 Q. Ms. Barnhill, Solicitor Kolb asked you if
17 you understood the three options that were given
18 you, and I believe you read all three before you
19 came into the courtroom, did you not?

20 A. Yes.

21 Q. Did you understand what number three
22 described?

23 A. Well, yes, sir.

24 Q. You understood when you selected number one
25 what number three described?

2248

1 A. Yes, I did.

2 Q. And in response to what Judge Dennis asked
3 you, I believe you said that under no
4 circumstances you could not go for a death penalty
5 if somebody was convicted of a premeditated
6 murder; is that right?

7 A. Right.

8 Q. And is it not safe to say, Ms. Barnhill,
9 that your strong beliefs as to the death penalty
10 be an appropriate punishment, would that not have
11 some bearing on your ability to follow the
12 instructions that the judge gives you? Would that
13 not impair your ability to decide which verdict
14 was correct?

15 A. I don't know if it would or not to be honest
16 with you. I mean, yes, I guess I will just
17 have to listen to everything before I could give
18 an honest.

19 Q. I guess what I am saying, I'm not being
20 critical or anything, you are saying your strong
21 beliefs, would that not give you a problem in
22 determining whether the mitigating factors were
23 proven and whether you ought to consider
24 mitigating factors?

25 A. I don't think it would.

1 Q. You don't think it would?

2 A. No, sir.

3 Q. Ms. Barnhill, let me ask you a couple of
4 questions about the information you provided on
5 your questionnaire. You were asked whether any
6 member of your family had ever worked for any law
7 enforcement agency?

8 A. Yes, sir.

9 Q. And I believe you put Charleston, South
10 Carolina, State Trooper?

11 A. My brother-in-law.

12 Q. That was your brother-in-law. Is he still a
13 State Trooper?

14 A. Yes, sir.

15 Q. Do you have other friends or acquaintances
16 who are police officers?

17 A. Acquaintances, yes, sir.

18 Q. Who are they, what departments are they
19 with?

20 A. I know Reynolds (can't make out tape).

21 Q. Let me ask you this, Ms. Barnhill, in this
22 case the defendant is accused of the murder of a
23 police officer. Would that fact coupled with
24 your beliefs about the death penalty interfere
25 with your ability to give him a fair trial,

1 follow the Judge's instructions?

2 A. Yeah, it could.

3 Q. It could, okay. Ms. Barnhill, another
4 answer you gave on your questionnaire I believe it
5 came up during the Judge's general questions to
6 the whole panel, you indicated that your sister
7 was a murder victim in July of last year?

8 A. Yes, sir, she was.

9 Q. That was in Conway?

10 A. Yes, sir.

11 Q. Has anyone been charged in that offense?

12 A. No, sir, not yet.

13 Q. I realize that is a very difficult situation
14 for you. Would the fact that that had occurred
15 to you and your family, would that have bearing
16 on your ability to render impartial verdict in
17 this case?

18 A. No, sir. What happened to her has nothing
19 to do with -- I have learned in the last six
20 months to separate my (can't make out tape).

21 Q. Uh-huh (affirmative response). I mean if
22 you got back in the jury room with the other 11
23 jurors and you had to decide on the facts of this
24 case, would that not be something that would
25 weigh on you, that would influence your thinking?

2251

1 A. As to my sister?

2 Q. Yes, ma'am.

3 A. No, sir, it is two different.

4 Q. Two different things?

5 A. Right.

6 Q. You wouldn't give it any thought if you were
7 a juror in this case?

8 A. That I can honestly say I don't know. Until
9 put there -- I can't say (can't make out tape)
10 her case is unsolved.

11 Q. I understand.

12 MR. LITTLEJOHN: No further questions,
13 Your Honor.

14 EXAM BY THE COURT:

15 Q. I have a few, Ms. Barnhill. Let me ask you
16 this question, I think after the solicitor asked
17 you some questions you felt now that you would be
18 more like three than one; is that right?

19 A. Yes, sir.

20 Q. Let me ask you this question based upon your
21 strong feelings about that, would you be a person
22 that when you started would you start with the
23 premise the position be that if they find, if
24 they prove, if the State proves guilty of murder
25 that my inclination is death penalty first, or

1 would you have to hear it all before you reached
2 the decision?

3 A. I would have to hear it all. (Can't make
4 out tape).

5 Q. Well, the full question to this like I said
6 there is no right or wrong answers it is whether
7 you can set those aside and be fair to the State
8 and be fair to Mr. Stone, and that means fairly
9 and impartially consider all of the evidence,
10 could you do that or would they (can't make out
11 tape)?

12 A. Are you saying can I keep it out? I think it
13 would be there.

14 Q. I understand it would be there, but could
15 you put it not saying this, being able to set it
16 aside and not be influenced one way or the other,
17 would it influence you in anyway?

18 A. Not until after everything is said, no.

19 Q. So it would not affect your impartiality?

20 A. No.

21 Q. What about feelings, the strong feelings
22 about police officers and the fact that someone is
23 charged with the murder of a police officer,
24 would that influence you? Would you be more
25 inclined to hold one person in one situation as

1 another?

2 A. No not just because he is a police officer.

3 Q. Okay thank you. You understand that the
4 State has the burden of proving this matter?

5 A. Yes, sir.

6 Q. You understand that one charged with an
7 offense, Mr. Stone included, would not be
8 required to prove anything and they certainly
9 aren't required to prove their innocence, do you
10 understand that?

11 A. Yes, sir.

12 Q. Do you have any problem with that principle
13 of law?

14 A. No, sir.

15 Q. Would you have any problem applying it and
16 following that instruction?

17 A. Going to say ---

18 Q. Requiring the State to prove its case?

19 A. Right.

20 Q. As I understand what you are saying, you
21 understand there are two separate proceedings,
22 one to determine guilt where you hear all the
23 evidence whether or not the defendant is guilty
24 and then the verdict is such to return a verdict
25 of guilty then it may be necessary to go into the

1 second phase, do you understand that?

2 A. Yes, sir.

3 Q. And at that time depending on the jury's
4 verdict would determine whether or not the
5 appropriate punishment, do you understand that?

6 A. Yes, sir.

7 Q. Am I understanding you now that you would go
8 into that second phase with an open mind, you
9 would not be influenced by the fact because you
10 would have found the defendant guilty of murder in
11 that stage, do you understand that?

12 A. Yes, sir.

13 Q. You would not be influenced by that decision?

14 A. I can't say that I would not be. If he was
15 found, if the State proved beyond a shadow of a
16 doubt that he was guilty.

17 Q. That he was guilty, would you have an open
18 mind when you started the second phase to
19 determine the penalty?

20 A. I guess it would depend on what they said, if
21 it was beyond a shadow of a doubt that he was
22 guilty I would say it would be hard to go vote
23 with an open mind.

24 Q. Am I to understand that is the second trial
25 within this trial, we will start anew, you will

1 hear new evidence. At that stage you will be
2 able to listen and hear that evidence with an open
3 mind?

4 A. I don't know. I will be honest with you I
5 don't know, it would depend on what I heard in
6 the first one.

7 THE COURT: Any additional questions from
8 the State?

9 EXAM BY MR. KOLB:

10 Q. Ms. Barnhill, do you understand that in the
11 second phase if we got that far that you would not
12 -- you would be entitled to consider everything
13 you have heard in the first phase, there would be
14 additional evidence and when you went into hear
15 the additional evidence you wouldn't have to
16 disregard what you already knew, but you would
17 listen to the additional evidence on top of what
18 you already knew from the first phase, you would
19 listen to that additional evidence with an open
20 mind and only decide the punishment after you
21 heard all the evidence at the end of the second
22 phase. Do you see what we are talking about?

23 A. I see what you are talking about, but like I
24 said I don't know if I could go in open minded at
25 the end of the first phase even though you said

2256

1 the phase was for punishment.

2 Q. Do you understand you don't even get to a
3 second phase ---

4 A. Right.

5 Q. --- unless someone is convicted of murder?

6 A. Right.

7 Q. Okay. So you don't have to disregard they
8 have been convicted of murder, I don't know if you
9 understand that.

10 A. Yes, I understand that.

11 Q. You don't even get there unless that happens?

12 A. Right.

13 Q. But then when you go into decide between two
14 punishments, would that punishment be based
15 solely upon the evidence that was heard and
16 presented to you in the penalty phase of the
17 trial?

18 A. Just in the second part.

19 Q. You wouldn't even get there unless someone
20 was not convicted of murder?

21 A. Right. You can only get there if he is
22 guilty.

23 Q. Right. You are saying, what would your
24 decision be in penalty phase, you would be saying
25 you have to decide whether he is guilty or not.

1 If you don't find him guilty you are not in the
2 second phase so you don't have to put that aside,
3 that is a foregone, it wouldn't even happen
4 unless the person was found guilty in the first
5 phase. The question is after they have been
6 found guilty, can you go into the second phase
7 and listen to the evidence with an open mind to
8 decide between the punishments that are available
9 to you?

10 A. No, sir.

11 THE COURT: Any additional questions?

12 MR. LITTLEJOHN: No, Your Honor.

13 THE COURT: All right. Ms. Barnhill, I
14 would ask you to please step down and step out
15 there we will be with you in just a moment.

16 What says the State?

17 MR. KOLB: Judge, I would like to get a
18 case for the Court. I realize the inclination at
19 this time would find her not qualified. I
20 believe there is a case that says just because
21 they obviously prefer.

22 THE COURT: James Waynewright, I don't
23 think so. That is the case that they have cited
24 every time. Doesn't have anything to do about
25 prefer, what the key to my determination it

1 doesn't have anything to do with her preference.
2 My determination is whether or not her beliefs
3 substantially impair or prevent, I don't think
4 they prevent her but I believe that clearly that
5 coupled with her friends police, that coupled
6 with her responses to those questions, her
7 ability to consider both has been substantially
8 impaired, that is the standard not the fact that
9 she has a feeling death penalty is more
10 appropriate. That wouldn't disqualify her in my
11 opinion. What concerns me is her ability, I
12 think her ability is substantially impaired.
13 That is the standard I am applying, Mr. Solicitor.
14 But if you wish to suggest she is qualified, that
15 is fine, that is perfectly all right. What says
16 the defendant?

17 MR. LITTLEJOHN: We move to disqualify
18 her, Your Honor.

19 THE COURT: I think she is disqualified,
20 not because of her beliefs on capital punishment
21 prevent her, but I feel she has been honest in
22 trying to do that and she is basically saying,
23 and I would find further that it would be
24 substantially impaired by the answers given to a
25 number of questions and I would so find. I find

1 she is not qualified, bring her in, please.

2 I want to thank you very much. You will
3 be excused from further participation. Probably
4 going to select a jury Wednesday. Until that
5 time I would ask that you not talk with anyone
6 about this case or allow anyone to talk with you.
7 Once we have selected the jury you will be free to
8 discuss it with anyone you wish. Thank you very
9 much, you are free to leave at this time.

10 Bring in the next one, please, sir.

11 EMILY SWEATMAN, having been first
12 duly sworn, testified as follows:

13 EXAM BY THE COURT:

14 Q. Good afternoon, Ms. Sweatman, how are you?

15 A. Fine.

16 Q. Good.

17 A. May I say something?

18 Q. Sure.

19 A. (Can't make out tape).

20 Q. Okay. All right who is it you know? John
21 Hilliard? You know his wife?

22 A. Yes.

23 Q. You do not know John but you know his wife?

24 A. Yes.

25 Q. Well let me ask you this, Ms. Sweatman,

1 would the fact you know his wife, the fact that
2 Mr. Hilliard is participating in this proceeding,
3 my understanding will not accompany us to Sumter,
4 but he is participating in this proceeding, would
5 that influence you at all?

6 A. No.

7 Q. Would it -- so it would not affect your
8 ability to give both the State of South Carolina
9 and Mr. Stone a fair and impartial trial?

10 A. Yes, sir.

11 Q. All right thank you very much for sharing
12 that. Now, you understand as I stated this
13 morning that in this the questions I am about to
14 ask you do not have any right or wrong answers.
15 The only thing I ask that you be truthful with
16 your responses and likewise the questions that the
17 attorneys may ask you will not have any right or
18 wrong answers either. Again we just ask that you
19 truthfully respond to the questions. Have you
20 had an opportunity to review that sheet which I
21 handed you?

22 A. Yes, sir.

23 Q. And of the three types of jurors, which one
24 best describes you?

25 A. Number three.

1 Q. The third one. Now you heard me earlier
2 today and I believe you stated that you did not
3 have any prior knowledge of this particular
4 incident; is that right?

5 A. None what so ever.

6 Q. So the only thing you know is what little bit
7 I shared with you today; is that correct?

8 A. Yes, sir.

9 Q. Have you formed any opinions in this matter?

10 A. No, sir.

11 Q. Would you be a person that would have to hear
12 all of the evidence and receive the law before you
13 made any decisions or formed any opinions in this
14 case?

15 A. Yes, sir.

16 Q. You heard me also state earlier that an
17 individual, any individual who is charged with
18 commission of a criminal offense and Mr. Stone
19 would be included, is never required to prove
20 their innocence, that is known as presumption of
21 innocence, you understand?

22 A. Yes, sir.

23 Q. You have any problem with that?

24 A. No, sir.

25 Q. I also would tell you and I can clearly tell

1 you that the State has the burden of proving its
2 case, do you understand that?

3 A. Yes, sir.

4 Q. They are the only party that has any burden
5 in this. So if you were selected as a juror you
6 would look to the State to prove its case; is that
7 correct?

8 A. Yes, sir.

9 Q. You would not expect Mr. Stone to prove
10 anything?

11 A. No, sir.

12 Q. You understand as I stated that Mr. Stone, as
13 any defendant, anyone charged with criminal
14 offense doesn't even have to testify if he doesn't
15 want to, do you understand that?

16 A. Yes, sir.

17 Q. I would instruct you that you can't use that
18 against him, would you have any problem following
19 that instruction?

20 A. No, sir.

21 Q. So you wouldn't hold that against him?

22 A. No.

23 Q. Now, you know of anything in your
24 background, your personal experiences, in the
25 community, any strong philosophies that you may

1 have that would in anyway impair or affect your
2 ability to give the State of South Carolina and
3 Mr. Stone a fair and impartial trial in this
4 matter?

5 A. (Can't make out tape).

6 Q. That would interfere with your looking at the
7 evidence, seeing the evidence, impartially
8 preparing to make decisions in accordance with the
9 law as I instruct you?

10 A. The mike.

11 Q. It is gone?

12 A. It is gone.

13 Q. I'm sorry. I would ask that you raise your
14 voice please Ms. Sweatman I know you sit right
15 here and I can hear you please raise your voice I
16 would appreciate it, thank you.

17 Now, you understand that as I indicated
18 today there is basically a trial, two trials
19 within a trial in this proceeding, do you
20 understand that?

21 A. Yes, sir.

22 Q. The first phase will deal with the issue of
23 guilt, whether the defendant is guilty or not
24 guilty, do you understand?

25 A. Yes, sir.

1 Q. Now, if the jury considers the evidence and
2 should find Mr. Stone not guilty of course that
3 would end this matter, you understand that?

4 A. Yes, sir.

5 Q. But if the jury should return a verdict of
6 guilty then it may result in certain situations
7 that you are going forward, do you understand
8 that with the second phase?

9 A. Yes, sir.

10 Q. You would find him guilty of murder, do you
11 understand that?

12 A. Yes, sir.

13 Q. Now, in the second phase you will hear
14 additional evidence, do you understand that?

15 A. Yes, sir.

16 Q. That you didn't hear at first, do you
17 understand that?

18 A. Yes, sir.

19 Q. Would you keep an open mind in the second
20 phase, would you be able to do that?

21 A. Yes, sir.

22 Q. And you would hear, you would wait until you
23 heard all the evidence, it is at that stage that
24 the jury would hear evidence about aggravated
25 circumstances and possibly mitigating

1 circumstances and possibly other evidence, do you
2 understand?

3 A. Yes.

4 Q. Would you wait to make your decision, wait
5 until you have heard all the evidence and received
6 the law before you decided?

7 A. Yes, sir.

8 Q. To make a decision?

9 A. Yes, sir.

10 Q. You understand it is that second phase where
11 the jury would decide the appropriate punishment?

12 A. Yes, sir.

13 Q. As I understand you said you are type three?

14 A. Yes, sir.

15 Q. Which means that you as a juror would
16 consider and could consider both life in prison
17 and the death penalty?

18 A. Yes, sir.

19 Q. And you would wait until you heard all the
20 facts and circumstances until you have made a
21 decision as to which one was most appropriate; is
22 that right?

23 A. Yes, sir.

24 Q. And your decision on that depends upon the
25 facts and circumstances in a given case, is that

1 right?

2 A. Right.

3 Q. You have not formed any opinions either in
4 any aspect of this proceeding?

5 A. No.

6 Q. You would wait until you heard the facts?

7 A. Yes, sir.

8 Q. As a juror, you would be sequestered with
9 the other jurors in this case, do you understand
10 that?

11 A. Yes, sir.

12 Q. That means we will transport you to Sumter
13 and you will be -- the State will provide you
14 lodging, will provide you food and transportation
15 for the duration of the trial, do you understand
16 that?

17 A. Yes, sir.

18 Q. I realize that is not something that
19 everybody would get excited about, but my
20 question to you is could you set aside the
21 inconvenience that that may cause you and be able
22 to focus on the evidence of this trial?

23 A. Yes, sir.

24 Q. And would not affect your ability to give the
25 State and Mr. Stone a fair and impartial

1 determination?

2 A. No, sir.

3 THE COURT: Please answer any questions
4 the State may have.

5 EXAM BY MR. KOLB:

6 Q. Ms. Sweatman, is any member of your family,
7 a close friend ever been charged with a crime?

8 A. You mean member of my family?

9 Q. Or close friend ever been charged with a
10 crime?

11 A. No, sir.

12 Q. And ever been any member of your family or
13 close friend been a victim of a crime?

14 A. Yes, sir.

15 Q. On your questionnaire you indicated that same
16 question with number 30 you have no. There is
17 someone in your family that is a victim?

18 A. Yes, sir, this has been like four years ago.

19 Q. Would you tell me a little bit about that?

20 A. My sister-in-law was kidnapped, raped, shot
21 in the head and left for dead. This happened
22 about in Lakeview, South Carolina, I say it must
23 have been about 4 or 5 years ago.

24 Q. Lakeview, that is Dillon County?

25 A. I don't know, sir.

1 Q. Okay. Was that crime ever solved?

2 A. Yes, sir.

3 Q. Do you know what the result of it was?

4 A. Yes, sir.

5 Q. What was that?

6 A. He was the last man in South Carolina to be
7 executed at that time.

8 Q. Now, let me ask you about -- the judge
9 indicated or questioned you and you answered that
10 if you were on a jury and the jury decided between
11 the two possible punishments in the penalty phase
12 of a death penalty trial, if you decided for the
13 death penalty, you would be able to sign the
14 verdict form along with all 12 other jurors, sign
15 your name which would then become the death
16 warrant in the case.

17 A. You mean if I ---

18 Q. If you decided that?

19 A. Yes, sir.

20 Q. You could sign your name?

21 A. Yes, sir.

22 MR. KOLB: All right. Thank you, ma'am.

23 THE COURT: Mr. Babb, Mr. Littlejohn.

24 EXAM BY MR. BABB:

25 Q. Ms. Sweatman, in looking over the

1 information I notice you are a widow?

2 A. Yes.

3 Q. Did your husband die of natural causes?

4 A. He died of cancer.

5 Q. Had you heard and I believe you told the
6 judge something anything at all about this case
7 before coming here today?

8 A. No.

9 Q. You didn't know it would be a death penalty
10 case?

11 A. No, sir.

12 Q. In a trial where a defendant should not take
13 the stand or not testify would that make you more
14 likely to convict or less likely, would it
15 influence you at all?

16 A. It wouldn't influence me at all, sir.

17 Q. Do you believe the defendant has any burden
18 of proving his innocence?

19 A. The defendant?

20 Q. Uh-huh (affirmative response)?

21 A. No, sir. He is innocent until proven
22 guilty.

23 Q. The fact that this case involves the alleged
24 murder of a police officer, does that affect your
25 feelings toward the defendant in any manner?

1 A. No, sir.

2 Q. Now, you have two sons I believe who have
3 been involved in law enforcement to one degree or
4 another?

5 A. Yes, sir, my son still is but he is in
6 Germany.

7 Q. Do you have close friends or any other
8 relatives other than your son who are involved in
9 law enforcement?

10 A. No, sir.

11 Q. The fact that they are involved in law
12 enforcement and the fact that it is a murder of --
13 an alleged murder of a law enforcement officer,
14 that wouldn't enter into your son's occupation?

15 A. No, sir.

16 Q. Is there any other information about -- I
17 realize you have filled out this questionnaire
18 that the Court sent to you some time back and we
19 had some confusion and didn't know about the fact
20 that your sister-in-law had been the victim.

21 A. I didn't think about it because I wasn't
22 thinking, they were divorced at the time.

23 Q. I understand we all make mistakes every day,
24 is there anything else on here that you later
25 realize that maybe you should have had a different

1 answer to?

2 A. No.

3 MR. BABB: Nothing further, Your Honor.

4 THE COURT: Additional questions from the
5 State? You may step down, please.

6 What says the State?

7 MR. KOLB: Qualified, Your Honor.

8 THE COURT: What says the defendant?

9 MR. BABB: Qualified, Your Honor.

10 THE COURT: I agree she is qualified,
11 bring her back in.

12 Ms. Sweatman, I hand you this piece of
13 paper with some information on it. You have been
14 qualified as a potential juror in the case. We
15 will select this jury on Wednesday afternoon at
16 five o'clock, you will need to return at that
17 time. I ask that you do just like this morning
18 take your seat out there at five o'clock. When
19 you come you need to bring with you clothing to
20 take care of your needs for a week because if you
21 are selected you will be with us until that time.
22 Until then I ask that you please do not discuss
23 this case with anyone, don't allow anyone to talk
24 with you, watch any news accounts or read any
25 news accounts. See you at five o'clock, thank

1 you.

2 Next one, please, sir.

3 BARBARA STEWART, having been
4 first duly sworn, testified as follows:

5 EXAM BY THE COURT:

6 Q. Good afternoon, Ms. Stewart. How are you?

7 A. Fine, and you, sir?

8 Q. Fine, thank you. Earlier today I mentioned
9 to you that there really aren't any right or wrong
10 answers to these questions. Either mine or the
11 questions the attorneys may have for you I just
12 ask that you respond truthfully to the questions
13 if you will, please.

14 Have you had an opportunity to read that
15 sheet that had the three types of jurors?

16 A. Yes, sir.

17 Q. Which one best describes you?

18 A. The first one.

19 Q. The first one?

20 A. Yes, sir.

21 Q. By that am I to understand that you believe
22 when someone is convicted of murder that the only
23 punishment would be capital punishment or death
24 penalty?

25 A. Yes, sir.

1 Q. It wouldn't depend on the facts?

2 A. Yes, sir.

3 Q. You think it would?

4 A. Yes, sir.

5 Q. So when you say you are the first one, you
6 mean you believe in some circumstances the death
7 penalty may be appropriate?

8 A. Yes, sir.

9 Q. Would you also believe that in some
10 circumstances it would be inappropriate and life
11 in prison would be a better sentence?

12 A. Yes, sir.

13 Q. Are you a person that would have to hear the
14 facts, hear all the facts before you could decide
15 as to which one would be the case?

16 A. Yes, sir.

17 Q. So you wouldn't automatically feel just
18 because someone was convicted of murder that they
19 should automatically have the death penalty,
20 would you have to hear all the facts?

21 A. Yes, sir.

22 Q. But you could consider both of them?

23 A. Yes, sir.

24 Q. And if the facts were such in your mind that
25 warranted you could impose the death penalty; but

1 likewise if you felt the facts were not you could
2 impose or vote for life in prison?

3 A. Yes, sir.

4 Q. Now, you understand that anybody charged
5 with criminal offense, Mr. Stone included, is
6 never required to prove anything, do you
7 understand that? The people just because they are
8 charged with criminal violation doesn't mean
9 anything other than the fact they are charged with
10 violation, it is called presumption of innocence?

11 A. They are innocent until it can be proved.

12 Q. That is good because that is exactly what the
13 law says. The law says a person is charged with
14 criminal violation is presumed innocent until and
15 unless the State proves them guilty beyond a
16 reasonable doubt?

17 A. Yes, sir.

18 Q. Do you understand that Mr. Stone who is
19 charged with these offenses under our law is not
20 required to prove anything to you including his
21 innocence, do you understand that?

22 A. Yes, sir.

23 Q. If you were selected on a jury, would you
24 expect Mr. Stone then to prove anything to you at
25 all?

1 A. Yes, sir.

2 Q. You would. What would you expect him to
3 prove?

4 A. Evidence or something.

5 Q. Now, what I would tell you if you were a
6 juror, I would tell you and the Court would
7 instruct you that it is the State's responsibility
8 to prove this case. I would instruct you that
9 the defendant doesn't have to prove anything.
10 Would you have any problem following that
11 instruction?

12 A. No, sir.

13 Q. I would tell you that the State -- that the
14 defendant doesn't have to prove his innocence,
15 would you have any problems with that?

16 A. No, sir.

17 Q. So you wouldn't expect him to prove his
18 innocence to you? In other words, what I am
19 saying is that the only person under my
20 instruction that has anything to prove in this
21 proceeding is the State of South Carolina, do you
22 understand that because the State has to prove the
23 guilt of this defendant beyond a reasonable doubt,
24 do you understand that?

25 A. Yeah.

1 Q. And you wouldn't look to anybody but the
2 State to prove this case, would you?

3 A. Yes.

4 Q. You would?

5 A. Yes.

6 Q. That is the only person you would look at?
7 You wouldn't expect Mr. Stone?

8 A. Yeah, Mr. Stone.

9 Q. You would expect him to prove it. I would
10 tell you he doesn't have to prove anything under
11 our law. Would you have any problem following
12 that instruction?

13 A. No, sir.

14 Q. So would you expect if I told you he didn't
15 have to prove anything would you then look to Mr.
16 Stone to prove anything?

17 A. No, sir.

18 Q. You would follow my instruction?

19 A. Yes, sir.

20 Q. You understand that I would also tell you
21 that if Mr. Stone for whatever reason chose not to
22 testify in this matter you couldn't use that
23 against him, I tell you that do you understand
24 that?

25 A. Yes, sir.

1 Q. Would you have any problem following that
2 instruction?

3 A. No, sir.

4 Q. So you wouldn't hold it against him?

5 A. No, sir.

6 Q. Not at all; is that right?

7 A. No.

8 Q. You have to tell us?

9 A. (Can't make out tape).

10 Q. Sure?

11 A. I could never.

12 Q. I understand that is why I am asking because
13 I appreciate your honesty and the manner in which
14 you are answering these questions if you don't
15 understand just say I don't understand.

16 A. (Can't make out tape).

17 Q. Okay. In other words, the State has to
18 prove this case first.

19 A. Okay.

20 Q. I guess my question is would you if you were
21 a juror would you listen to my instructions and
22 would you follow my instructions?

23 A. Yes, sir, I would.

24 Q. And if I told you that the defendant didn't
25 have to testify and you can't use that against

1 him, would you follow that instruction?

2 A. Yes, sir.

3 Q. Absolutely. Do you know anything that has
4 happened in your life, anything that has occurred
5 in your background either strong feelings you may
6 have that would in anyway affect your ability to
7 listen to this evidence and make decisions and
8 your decisions be fair to the State and be fair to
9 Mr. Stone?

10 A. No, sir.

11 Q. You don't know of anything that has occurred
12 in your life that would prevent you from doing
13 that?

14 A. No, sir.

15 Q. As I understand you don't have any opinions
16 about what the verdict should be in this case?

17 A. No.

18 Q. You haven't heard it yet?

19 A. That's right.

20 Q. Would you wait before you made any decisions
21 until you have heard all the evidence and received
22 the law?

23 A. Yes, sir.

24 Q. Basically is it my understanding now that you
25 would have to hear the evidence in this case and

1 all the evidence before you made any decisions
2 about what type of punishment would be
3 appropriate?

4 A. Yes, sir.

5 Q. You know you wouldn't get to that stage
6 unless the State proves Mr. Stone is guilty beyond
7 a reasonable doubt, do you understand that?

8 A. Yes, sir.

9 Q. It is at that second phase that you hear some
10 additional evidence, it is from all the evidence
11 then that you would make that decision as to what
12 the appropriate punishment would be, do you
13 understand?

14 A. Yes, sir.

15 Q. Would you wait until you heard it all?

16 A. Yes, sir.

17 THE COURT: Answer any questions the
18 State may have, please.

19 EXAM BY MR. KOLB:

20 Q. Ms. Stewart, a couple of questions you
21 didn't answer on the questionnaire, let me ask you
22 about those now, ma'am. Have you ever served as
23 a juror in a criminal case before?

24 A. I served one year, years ago.

25 Q. And you said you have served on grand jury,

1 were on the grand jury for a year?

2 A. No. Can I say something?

3 Q. Yes.

4 A. I work 16 hours a day and I just went home
5 hurried it up and sent it back in.

6 Q. Did you actually come up to Court and serve
7 on a jury?

8 A. Uh-huh (affirmative response).

9 Q. That was some 16 years ago?

10 A. 16 years ago.

11 Q. You said you served some years ago on a jury?

12 A. Yeah, I think it was.

13 Q. Did you actually get on a jury and decide a
14 verdict?

15 A. Yes, I did.

16 Q. Could you tell us about that case?

17 A. Robbery, burglary.

18 Q. Burglary and robbery?

19 A. Yes, sir.

20 Q. What ended up being the result of that?

21 A. Finding him guilty.

22 Q. That is here in Georgetown?

23 A. Yes, sir.

24 Q. Now, have you ever been a juror in a civil
25 case?

1 A. No.

2 Q. Okay. And you have not been on the grand
3 jury? The grand jury meets in a different room
4 this is with police officers?

5 A. No, sir.

6 Q. You were not on that. Have you or a member
7 of your immediate family or a close personal
8 friend ever been charged with any crime?

9 A. Close friend, yeah.

10 Q. You had a close friend that was charged with
11 something?

12 A. Yeah.

13 Q. Would you tell us about that?

14 A. Oh, years ago.

15 Q. What was that?

16 A. (Can't make out tape).

17 Q. So he was a victim of a crime?

18 A. (Can't make out tape).

19 Q. What's that?

20 A. He is dead.

21 Q. At this time I was asking if any close friend
22 or member of your family ever been charged, means
23 arrested for a crime?

24 A. No.

25 Q. So the answer to that is no?

1 A. No.

2 Q. But did you have a close friend that was
3 murdered?

4 A. Yeah.

5 Q. And what relation did he have with you?

6 A. A close friend just like a son to me.

7 Q. Did that case get solved?

8 A. Yes, sir.

9 Q. Did they arrest somebody?

10 A. No, he is still walking around.

11 Q. They found out who did it?

12 A. Yes, sir.

13 Q. Did they ever charge him?

14 A. No, sir.

15 Q. Never charged him even though they found out
16 who it was?

17 A. Yes, sir.

18 Q. Do you understand why that was?

19 A. No, sir, I still don't.

20 Q. Well, my next question was going to be do
21 you feel like law enforcement treated you and your
22 friend or family and friends of that victim, do
23 you feel like you were treated right, that law
24 enforcement did right in that case?

25 A. No.

1 Q. And that was here in Georgetown?

2 A. Yes, sir.

3 Q. What law enforcement agency was responsible
4 for that case?

5 A. Sir, that was a long time ago.

6 Q. Where did the murder occur?

7 A. Over at Joanna.

8 Q. That is out in the county not in the city
9 limits? Do you think they found out who did it but
10 they never charged him?

11 A. No he came to Court (can't make out tape).

12 Q. Would you tell us your friend's name?

13 A. The dead one?

14 Q. Yes, ma'am.

15 A. Ernest Hicks.

16 Q. Ernest Dixon?

17 A. Ernest Hicks.

18 Q. Now, Ms. Stewart, would you let the fact
19 basically that that case was not handled properly,
20 would you let the fact that that case not having
21 been handled properly, have anything to do or
22 influence your decision in handling this case?

23 A. No, sir.

24 Q. And the guy who did, who killed Ernest Dixon
25 -- excuse me Ernest Hicks, did he come to Court?

1 A. Yes, sir.

2 Q. So he did come to Court?

3 A. Yes, sir.

4 Q. What happened to him in court?

5 A. I don't know I was working somewhere.

6 Q. But the next thing you knew he was out on the
7 street?

8 A. Yes, sir.

9 Q. So he got found not guilty or got probation
10 or something?

11 A. Yes, sir.

12 Q. What was the defendant's name, the one that
13 should have been charged with killing Ernest
14 Hicks?

15 A. Jimmy Rogers.

16 Q. Jimmy Rogers?

17 A. Yes, sir.

18 Q. Do you know where he lives?

19 A. (Can't make out tape).

20 Q. You indicated to the judge that if you were
21 on a jury that in a death penalty trial in
22 deciding punishment and you and the other members
23 of the jury decided that the death penalty was the
24 appropriate punishment that you could return a
25 verdict for the death penalty?

1. A. Yes, sir.

2 Q. And in that case, could you sign your name
3 to a form sentencing that person to the death
4 penalty?

5 A. If I find him guilty I could.

6 MR. KOLB: All right thank you.

7 THE COURT: Mr. Littlejohn.

8 EXAM BY MR. LITTLEJOHN:

9 Q. Ms. Stewart?

10 A. Yes, sir.

11 Q. When you were given the three types of jurors
12 on that piece of paper in front of you, obviously
13 when you came in you had selected the description
14 of a juror for yourself being one that feels that
15 the death penalty should be given in each and
16 every case and I am reading from paragraph number
17 1?

18 A. Yeah.

19 Q. Is that an opinion that you held for some
20 time?

21 A. No.

22 Q. You have not -- is that something that you
23 have just thought of?

24 A. Sir, I never been in a murder trial before
25 in my life. But the way I see it if somebody up

1 here should be punished for it.

2 Q. Do you think they should be punished
3 appropriately for it?

4 A. Yes especially if you murder somebody.

5 Q. And do you think that if somebody murders
6 somebody that the appropriate punishment is the
7 death penalty?

8 A. Yes, sir.

9 Q. And is that regardless of the circumstances
10 or the instructions that the Court gives you, you
11 still feel that the death penalty should be
12 warranted?

13 A. No.

14 Q. I guess what you are telling me you feel so
15 strongly about it that even though you are
16 presented with evidence which might tend to go
17 toward a life sentence or if you were instructed
18 on the law that might tend to make you want to
19 consider a life sentence your views on death
20 penalty would override that, is that what you are
21 telling us?

22 A. Sir, the way I feel, if somebody commit a
23 crime, if they kill someone, they should have a
24 law to stop all this killing.

25 Q. And do you think that feeling would interfere

1 with your ability to hear the evidence and hear
2 the law and arrive at a verdict?

3 A. No.

4 Q. You don't think it would?

5 A. No, sir.

6 Q. Let me just ask a few more questions in that
7 regard, Ms. Stewart, would the death penalty be
8 something that would be like in the back of your
9 head that you were considering whether a person
10 should be given the death penalty or life in
11 prison? Is there something that you would be
12 thinking about regardless of the circumstances?

13 A. (Can't make out tape) I think so.

14 Q. Do you think that would interfere with your
15 ability to consider a life sentence?

16 A. I don't think so.

17 Q. You don't think so. Ms. Stewart, do you
18 have any friends or acquaintances or relatives
19 that are police officers?

20 A. Yes, sir.

21 Q. You do? Who is that if you would tell me?

22 A. My friends?

23 Q. Yes.

24 A. I know the sheriff.

25 Q. Sheriff of Georgetown county?

1 A. Yes.

2 Q. How about other law enforcement officers?

3 A. (Can't make out tape).

4 Q. Is that about it?

5 A. (Can't make out tape).

6 Q. In this case the defendant over here is
7 charged with the murder of a police officer.
8 Would that fact or the fact that you have friends
9 that are in law enforcement prevent you from
10 considering His Honor's instructions and
11 considering the evidence in the case and arriving
12 at an impartial verdict, would that interfere
13 with that?

14 A. No.

15 Q. Ms. Stewart, you indicated early on as His
16 Honor was questioning you that you had some belief
17 that the defendant perhaps should have to prove
18 something in this case. Do you feel like he has
19 to prove something?

20 A. Of what he did, I don't know (can't make out
21 tape).

22 Q. Okay. Well, could you follow the Judge's
23 -- if the judge told you you were only to consider
24 what the State proved against him, could you
25 follow those instructions or would you still

1 expect him to prove something to you?

2 A. Follow the judge.

3 Q. You would follow the judge.

4 MR. LITTLEJOHN: I believe that is all I
5 have, if you will give me just a moment. No
6 further questions.

7 EXAM BY THE COURT:

8 Q. Let me be sure those experiences that you
9 discussed involving your friend and the feelings
10 about law enforcement involved in that, that
11 would not influence you at all in this case; is
12 that correct? That is separate and you can keep it
13 separate?

14 A. Yes, sir.

15 Q. The fact you served on a jury in the past you
16 understand this would be a separate case?

17 A. Yes, sir.

18 Q. You wouldn't let that experience influence
19 you at all either?

20 A. No, sir.

21 Q. Very well. You understand that I am
22 required by law to ask you these questions?

23 A. Yes, sir.

24 Q. You aren't to infer anything about Mr.

25 Stone's guilt because I have asked you certain

1 questions, do you understand?

2 A. Yes, sir.

3 Q. Thank you. Please step down if you will
4 step right out that door we will be with you in
5 just a moment.

6 Says the State?

7 MR. KOLB: Qualified.

8 THE COURT: Says the defendant?

9 MR. LITTLEJOHN: Your Honor, we move
10 that she be disqualified. We think her answers
11 to questions were ambiguous if not contradictory
12 in every important question that was asked to her.
13 She came in here and said number one and she
14 suddenly became a number three and we think her
15 answers are inconsistent and he should be
16 disqualified.

17 THE COURT: Very well. I find Ms.
18 Stewart an individual who apparently has high
19 school education, she is an individual that
20 several times said she was not familiar with these
21 proceedings, technical aspects of these
22 proceedings. Find when discussing it with her
23 the one thing that came across possibly was that
24 she would follow the instructions of the Court.
25 She would apply the law to the facts as she

1 determined those facts to be. She over and over
2 indicated she had not predetermined or made any
3 prejudgments in this matter. The fact she may be
4 inclined for the death penalty she indicated she
5 could consider both, would consider both based on
6 the facts, although she did equivocate, I do
7 find that she is qualified and would not impair
8 her ability to be a qualified juror.

9 Ms. Stewart, let me hand you this letter
10 that has additional instructions. You have been
11 selected as a capable juror in this matter,
12 meaning that you are part of the group that we
13 will select 12 jurors from that group on Wednesday
14 afternoon at five o'clock. Please until then do
15 not discuss this with anyone or allow anyone to
16 talk with you and certainly don't read any
17 newspaper reports about it.

18 When you come Wednesday you may be
19 selected, you may not, you need to bring
20 sufficient clothing to take care of your needs for
21 a week. Thank you very much. See you Wednesday
22 afternoon at five.

23 Are you ready to keep on? Are you okay?

24 KRYSTAL RADCLIFFE, having been first
25 duly sworn, testified as follows:

1 EXAM BY THE COURT:

2 Q. Good afternoon, Ms. Radcliffe, how are you?

3 A. Well, I've got a headache.

4 Q. Today I mentioned to you earlier there really
5 are no right or wrong answers to these questions
6 you are going to answer, all we ask is that you
7 be truthful in your responses, okay?

8 A. Okay.

9 Q. Since we last met have you read anything or
10 talked to anybody about it?

11 A. No, sir.

12 Q. Has anyone talked to you about it?

13 A. No, sir.

14 Q. You have any prior knowledge of this case?

15 A. No.

16 Q. Other than what was shared today?

17 A. No, sir.

18 Q. Have you formed any opinions about them?

19 A. No.

20 Q. Have you had a chance to review that sheet
21 that has the three types of jurors?

22 A. Yes, sir.

23 Q. Of the three indicated on that sheet, which
24 one best describes you?

25 A. The third one.

1 Q. The third one. That means am I to
2 understand that sometimes that given certain
3 circumstances you could find that death penalty
4 was appropriate and sometimes depending on the
5 circumstances life in prison would be appropriate?

6 A. Yes, sir.

7 Q. But it would depend on the case?

8 A. Yes, sir.

9 Q. You understand as I told you today that the
10 person charged with criminal offense, that would
11 include Mr. Stone, is never required to prove
12 their innocence, do you understand that?

13 A. Yes, sir.

14 Q. That is called presumption of innocence, do
15 you have any problem with that principle of law?

16 A. No, sir.

17 Q. Would you have any problem with applying that
18 if you were a juror in this case?

19 A. I don't think so.

20 Q. Well, you say you don't think so. Do you
21 think anyone who is charged with criminal offense
22 has to prove anything?

23 A. Not really themselves, no.

24 Q. The evidence of course is something that you
25 would consider. I am not asking you to tell me

1 how you would rule on certain evidence I'm just
2 asking you whether or not you would have any
3 problem following the Court's instruction the fact
4 that the defendant in this case Mr. Stone is not
5 required to prove anything to you and certainly
6 not required to prove his innocence, would you
7 have any problem following that?

8 A. No.

9 Q. In fact, if Mr. Stone should not testify in
10 this matter for whatever reason, I would instruct
11 you that you could not use that against him at
12 all, you got any problems following that?

13 A. No.

14 Q. So if you were on the jury and say Mr. Stone
15 did not testify you would not consider it against
16 him in anyway?

17 A. No.

18 Q. I would further instruct you that it is the
19 State's responsibility to prove its case beyond a
20 reasonable doubt, do you understand that?

21 A. Yes, sir.

22 Q. Would you therefore look to the State to
23 prove its case?

24 A. Yes, I would.

25 Q. You would not expect Mr. Stone to prove

1 anything?

2 A. No.

3 Q. Under those instructions; is that right?

4 A. That's right.

5 Q. Okay. Now, you understand that this case
6 involves basically a trial within a trial or two
7 trials really within a trial. The first phase
8 will be over the sole issue of the guilt of Mr.
9 Stone or whether he is guilty or not guilty, do
10 you understand?

11 A. Yes.

12 Q. And based upon the jury's verdict whether or
13 not we would continue would depend on the jury's
14 verdict that would be whether or not we went into
15 a second phase, a penalty phase, do you
16 understand that?

17 A. Yes, sir.

18 Q. In the second phase you would hear additional
19 evidence that you didn't hear in the first phase,
20 mitigating circumstances, aggravating
21 circumstances, do you understand?

22 A. Uh-huh (affirmative response).

23 Q. Would you keep an open mind in that second
24 phase?

25 A. Probably.

1 Q. Would you make a decision on the appropriate
2 penalty in anyway before you had heard all the
3 evidence and received the law?

4 A. I would wait until I heard it all.

5 Q. You would wait until you heard it all. And
6 at that time it is my understanding from what you
7 told me about your type, you could then go back
8 with the other jurors and consider both death
9 penalty and life in prison and make a decision
10 which one you felt or the other was appropriate
11 based on the evidence?

12 A. I could.

13 Q. You could. You know of anything in your
14 background that would affect your ability in
15 anyway, be it your experiences in life, be it
16 some strong personal philosophies you may have or
17 anything that would affect your ability to be fair
18 to the State, to be fair to Mr. Stone?

19 A. I could be fair.

20 Q. And would you be fair?

21 A. Yes.

22 THE COURT: All right answer any
23 questions the State may have.

24 EXAM BY MR. HILLIARD:

25 Q. Ms. Radcliffe, my name is John Hilliard, we

1 are going to ask you a few more questions. Is
2 your headache getting worse or is it about the
3 same?

4 A. It is about the same.

5 Q. In answering the Judge's questions ---

6 MR. LITTLEJOHN: Your Honor, may we
7 approach the bench just a moment?

8 (Whereupon, a bench conference was held off the
9 record.)

10 THE COURT: You may continue.

11 EXAM BY MR. HILLIARD:

12 Q. When you were answering the Judge's questions
13 earlier you indicated that you would give
14 consideration to what it was that you heard and
15 follow the instructions of the judge in giving
16 consideration to the evidence and at the
17 conclusions of both parts if we got through the
18 second part that you could give consideration to
19 both choices as to the punishment; is that
20 correct?

21 A. Yes, sir.

22 Q. So basically what you are telling us all is
23 that in the event the solicitor were to prove to
24 you facts bad enough that you could sign your name
25 to a paper, which would give the death penalty to

1 the person who sits in the courtroom charged with
2 the crime; is that true?

3 A. Yes.

4 Q. You don't have any questions about that or
5 qualms about that?

6 A. No.

7 Q. Thank you, ma'am.

8 THE COURT: Mr. Babb.

9 EXAM BY MR. BABB:

10 Q. I believe I understood you correctly, you
11 told His Honor that you had not heard anything
12 about this case before coming here today. Does
13 the fact that it has been termed a death penalty
14 case, is the fact that the State is seeking the
15 defendant's death, does that make you more likely
16 to have one opinion or another as to his guilt?

17 A. Something like that bothers me (can't make
18 out tape).

19 Q. It bothers you?

20 A. Of course.

21 Q. Does it make you think that he may be more
22 likely to have committed the crime that they are
23 seeking his death for?

24 A. (Can't make out tape).

25 Q. When the judge was talking to you you

1 hesitated a bit when he was talking about the
2 burden of proof and what the defendant must prove
3 and you said maybe not the defendant but the
4 evidence and that was in context of his proving
5 his innocence. If the State had presented
6 evidence that tends to establish proof but it
7 falls short beyond the reasonable doubt or if it
8 is only circumstantial evidence, doesn't exclude
9 every other reasonable hypothesis and the
10 defendant puts up no evidence, would you still
11 find him innocent?

12 A. (Can't make out tape).

13 Q. I'm sorry, I didn't hear you.

14 A. Evidence will show the case the State proves
15 is strong enough I felt he was guilty.

16 Q. If tending towards guilt but it fell short of
17 beyond a reasonable doubt or in the case of
18 circumstantial evidence and excluding every other
19 reasonable hypothesis and the defendant puts up no
20 evidence whatsoever, does not take the stand,
21 puts up nothing, could you acquit him?

22 MR. KOLB: Your Honor I'm not sure I
23 understand.

24 THE COURT: I will ask the juror if she
25 understands. Do you understand his questions?

1 THE WITNESS: Sort of.

2 THE COURT: Why don't you add that if I
3 instruct them if I give her an instruction to that
4 effect could she follow that instruction. You
5 couched it in such a fashion that it really and
6 truly needs to be added, clarified.

7 MR. BABB: Thank you, Your Honor.

8 EXAM BY MR. BABB:

9 Q. If the State presents evidence and the judge
10 has given you the law, told you to consider that
11 evidence, if in your view of the evidence the
12 State has presented falls short establishing guilt
13 beyond a reasonable doubt and the defendant has
14 put up no evidence, has not taken the stand,
15 nothing has been presented on his behalf, with
16 the Judge's instructions, would you acquit that
17 defendant or would you find him or must you find
18 him guilty?

19 A. (Can't make out tape).

20 Q. Even though no evidence is put up?

21 A. Yes.

22 Q. Do you have -- I believe you answered you had
23 no family members that were members of law
24 enforcement. Any close personal friends or
25 acquaintances?

1 A. No.

2 Q. And you work at a Revco is that right, it is
3 like a drug store?

4 A. Yes.

5 Q. Have you or any of your close friends in that
6 Revco ever been a victim of a crime or robbery or
7 anything of that nature?

8 A. No.

9 Q. It doesn't have to be at Revco, are you
10 aware of anyone who has been?

11 A. No.

12 MR. BABB: Nothing further, Your Honor.

13 EXAM BY THE COURT:

14 Q. Of course if you were selected as a juror,
15 the jury will be sequestered to stay, provide
16 housing and transportation for you while we go
17 through the trial. I realize it may be an
18 inconvenience, would that influence or affect
19 your ability to be fair and impartial in this
20 matter?

21 A. No, sir.

22 Q. You could set aside anything and focus on the
23 trial?

24 A. Yes.

25 THE COURT: Any additional questions?

1 MR. LITTLEJOHN: No, sir.

2 MR. BABB: No, sir.

3 THE COURT: You may step out, please.
4 The State.

5 MR. LITTLEJOHN: Qualified.

6 THE COURT: Defense?

7 MR. BABB: Qualified.

8 THE COURT: I will give you another piece
9 of paper it has some further instructions. You
10 have been qualified as potential juror in this
11 matter, that means that you are part of a pool
12 and from that pool we will select the 12 jurors
13 and alternates to try this case. That will take
14 place on Wednesday afternoon at five o'clock. I
15 will need for you to be back in this courtroom
16 then at 5:00 o'clock on Wednesday afternoon.

17 Please during that time do not discuss
18 this matter with anyone, do not allow anyone to
19 talk with you or read any news accounts about the
20 matter or watch any news programs. Okay I look
21 forward to seeing you Wednesday. I hope your
22 head feels better.

23 Mr. Cromer.

24 BRANDON CROMER, having been first
25 duly sworn, testified as follows:

1. EXAM BY THE COURT:

2 Q. Mr. Cromer, good afternoon.

3 A. Good afternoon.

4 Q. You heard me earlier today state that there
5 really are no right or wrong answers in this
6 matter so far as the questions I am about to ask
7 you and insofar as any of the questions that the
8 attorneys may be asking you in this matter. What
9 is important is that you respond truthfully to
10 these questions and that you respond completely to
11 those questions, okay?

12 A. Okay.

13 Q. Do you have any prior knowledge of this
14 matter?

15 A. Not that I know of.

16 Q. You know, you recall anything other than
17 what I shared with you earlier today?

18 A. No, sir.

19 Q. So you haven't formed any opinions about this
20 matter one way or the other?

21 A. No, sir.

22 Q. You had a chance to read that sheet that has
23 the three types of jurors?

24 A. Yes, sir.

25 Q. Which one best describes you?

1 A. The second.

2 Q. The second?

3 A. Yes, sir.

4 Q. When you say the second, what does that
5 mean?

6 A. That I don't believe in the death penalty.

7 Q. Under any circumstances?

8 A. No, sir.

9 Q. So am I to understand that if you were on a
10 jury and that jury concluded that a person had
11 been found guilty of a crime of murder, there is
12 no circumstance under which you would consider
13 imposing the death penalty?

14 A. No, sir.

15 Q. None whatsoever?

16 A. No, sir.

17 Q. And it wouldn't depend then on the facts of
18 the given case?

19 THE COURT: Solicitor?

20 MR. KOLB: No questions.

21 THE COURT: Questions?

22 EXAM BY MR. LITTLEJOHN:

23 Q. Mr. Cromer, of course you haven't heard any
24 of the testimony or any of the evidence in this
25 case; that's correct, isn't it?

1 A. No, sir.

2 Q. You haven't heard any of the Judge's
3 instructions, that's correct?

4 A. Yes, sir.

5 Q. His instructions to the jury?

6 A. To me?

7 Q. No, no I mean were you selected as a juror
8 in this case, there would be two facets to it,
9 it would be the elements presented and the
10 instructions of the law as the judge gives it to
11 you, right?

12 A. Yes.

13 Q. Are you telling us that no matter how
14 grievous the facts might be in this case or what
15 the law the judge may give you there is no way
16 that you could consider a death penalty under any
17 circumstances whatsoever?

18 A. Yes, sir.

19 Q. How long have you had this commitment against
20 the death penalty?

21 A. I mean it got to the point where I finally
22 realized, I have always been part of a very
23 religious family, that is where I base my opinion
24 on because I just don't believe, you know, that
25 anyone has a right to take somebody else's life so

1 ten years ago, to my knowledge.

2 Q. This was a long held belief?

3 A. Yes.

4 Q. What you are telling us that nothing would
5 change it?

6 A. Nothing.

7 MR. LITTLEJOHN: No further questions.

8 THE COURT: Please step down.

9 MR. LITTLEJOHN: I don't think I can
10 contest it.

11 THE COURT: He is not qualified.

12 Mr. Cromer, you will be excused from this
13 case. I will ask that until the jury has been
14 selected that you not discuss this case.

15 Take the next one.

16 LADONNA JORDAN, having been first
17 duly sworn, testified as follows:

18 EXAM BY THE COURT:

19 Q. Good afternoon, Ms. Jordan, how are you?

20 A. All right.

21 Q. Nervous? I understand. Don't be. Good
22 thing about just what I told you earlier today
23 there are no right or wrong answers to this, it
24 is not like a test, there is no failing grade
25 here, all we ask is that you respond to our

1 questions, okay? And the microphone system in
2 here has malfunctioned this afternoon so I would
3 ask that you please answer loudly so that everyone
4 up here can hear you, if you would?

5 A. Yes, sir.

6 Q. Do you have any prior knowledge of this
7 alleged incident?

8 A. No, sir.

9 Q. So you don't have any opinion one way or the
10 other at this point?

11 A. No, sir.

12 Q. You don't know anything about it other than
13 what I shared with you earlier today; is that
14 right?

15 A. Yes, sir.

16 Q. Have you had an opportunity to review that
17 sheet that has three types of jurors?

18 A. Yes, sir.

19 Q. Which of those three best describe you?

20 A. The last one.

21 Q. The last one, that is type three. And that
22 is the type that says that depending upon the
23 circumstances, the appropriate punishment may be
24 a death sentence, sometimes it may be life in
25 prison; is that right?

1 A. Yes, sir.

2 Q. If you don't have any strong feelings one way
3 or the other it could be based upon the facts and
4 evidence is that right?

5 A. Yes.

6 Q. You have heard me today talk about certain
7 principles of law, one principle of law is one
8 who is charged with a criminal offense in this
9 country, this State, including Mr. Stone is
10 presumed innocent. Do you have any problems with
11 that principle of law?

12 A. No.

13 Q. That means in a nutshell that anyone charged
14 with criminal offense doesn't have to prove
15 anything. The burden is on the State to prove
16 this case beyond a reasonable doubt, the person
17 charged with an offense doesn't have to prove
18 anything and that would include they are not
19 required to prove their innocence, do you
20 understand?

21 A. Yes, sir.

22 Q. Do you have any problem following that
23 principle if you were a juror in this case?

24 A. No.

25 Q. So if you were selected you would look to the

1 State to submit the evidence to meet its burden,
2 correct?

3 A. Yes, sir.

4 Q. You wouldn't expect Mr. Stone to prove one
5 thing whatsoever; is that right?

6 A. Yes, sir.

7 Q. In fact Mr. Stone as I told you, the
8 defendant, Mr. Stone, certainly enjoys his right
9 for whatever reason he chose not to testify, I
10 would instruct the jury they couldn't use that
11 against him, you couldn't use that against Mr.
12 Stone in any fashion, would you have any problem
13 following that principle of law?

14 A. No.

15 Q. In this case, basically you have two trials
16 within the one, the first one we will deal with
17 that issue, the guilt of whether Mr. Stone is
18 guilty or not guilty will start, do you understand
19 that?

20 A. Yes, sir.

21 Q. Based upon the jury's verdict, that would
22 later determine as a result of the verdict only if
23 we go into the second phase?

24 A. Yes, sir.

25 Q. If you find him not guilty of murder then the

1 case is over. If you should find him guilty, we
2 would then hear additional evidence in the second
3 phase, known as the penalty phase. Would you
4 have an open mind going into that second phase?

5 A. Yes, sir.

6 Q. What happened in the first phase wouldn't
7 make you automatically determine the appropriate
8 punishment, you would wait until you heard all
9 the evidence before making a decision?

10 A. Yes, sir.

11 Q. And as I understand you would wait until you
12 heard all the evidence, receive the law and then
13 you could go back and you could consider as a
14 juror both the death penalty and life in prison?

15 A. Yes, sir.

16 Q. And you would consider both?

17 A. Yes, sir.

18 Q. And make a decision which you felt would be
19 the most appropriate?

20 A. Yes, sir.

21 Q. Now, you know of anything in your
22 background, any strong feelings that you may
23 have, personal experiences in your life that
24 would influence you or affect you in anyway hear
25 and listening to this evidence and make you feel

1 one way or the other for or against the State,
2 for or against Mr. Stone?

3 A. No.

4 Q. You do believe that you can sit fairly and
5 consider all the evidence?

6 A. Yes, sir.

7 Q. You understand also that if you are selected
8 on this jury you could be you and other jurors
9 would be sequestered during the trial?

10 A. Yes, sir.

11 Q. We would move you to Sumter, the State would
12 provide you with lodging, food and transportation
13 through the duration of the trial?

14 A. Yes, sir.

15 Q. I realize that may not be something that you
16 would look forward to, something that may be
17 inconvenient for you, but could you set aside
18 those feelings and listen to all the evidence in
19 this case?

20 A. Yes, sir.

21 Q. Would it influence you at all in this trial?

22 A. No, sir.

23 Q. You understand I am required by law to ask
24 you some of these questions. You are not to draw
25 any inference or reach any conclusions as to Mr.

1 Stones's guilt in this matter based on these
2 questions. I would instruct you not to, you
3 understand that?

4 A. Yes, sir.

5 THE COURT: Please answer any questions
6 the State may have.

7 EXAM BY MR. HILLIARD:

8 Q. Good afternoon Ms. Jordan, my name is John
9 Hilliard and I'm participating in these
10 proceedings on behalf of the State of South
11 Carolina. We won't keep you much longer, we
12 recognize it has been an inconvenience already.
13 But just ask you a few questions. When the judge
14 was talking to you about the jury's duties and
15 responsibilities and you indicated to him that you
16 would be able to consider if we got to the penalty
17 phase, both potential penalties that is you could
18 consider whether it was appropriate to give the
19 defendant life in prison or whether it was
20 appropriate to give the defendant the death
21 penalty; is that correct?

22 A. Yes.

23 Q. You could think about both of those and make
24 your decision based upon what it was that you
25 heard. And if the judge instructed you that as a

1 part of your duties and responsibilities if you
2 and the other 11 were deciding for death that it
3 would be your responsibility to write your name on
4 a document that was in effect a death warrant for
5 the defendant in the courtroom, would you be able
6 to do that if the judge instructed you?

7 A. Yes, sir.

8 Q. Would that cause you to hesitate to find a
9 death verdict?

10 A. No, sir.

11 Q. The judge will also instruct you that also as
12 part of your duties and responsibilities that you
13 and the other 11 decide on death you would have to
14 stand up in the jury box and announce to the
15 courtroom that your verdict was death and is
16 death, would that cause you to hesitate to give a
17 death verdict?

18 A. No, sir.

19 Q. So as I understand it what you are saying is
20 you could stand up with the defendant in the
21 courtroom and announce the verdict of death if
22 that were the verdict and that would not cause you
23 to hesitate to reach the verdict; is that correct?

24 A. Yes, sir thank you. Answer any questions
25 the defense lawyers have.

1 THE COURT: Mr. Babb.

2 EXAM BY MR. HILLIARD:

3 Q. Ms. Jordan, I apologize to counsel, ma'am,
4 you indicated that on the document you got from
5 the Court question number 29 there was a
6 shoplifting charge that had been made against some
7 member of your family, who was that? What family
8 member was that?

9 A. Myself.

10 Q. Yourself. What was the result of that? Pay
11 a fine?

12 A. Yes, sir.

13 EXAM BY MR. BABB:

14 Q. Do I understand you correctly that you told
15 the judge you had not heard about this case before
16 today, you didn't know when you were coming here,
17 you didn't know you were getting involved in a
18 jury in a death penalty trial?

19 A. No, sir.

20 Q. Does the fact that the State is seeking a
21 death penalty against a defendant, would that fact
22 alone make you more inclined to find him guilty?

23 A. No, sir.

24 Q. Are you personal friends with any law
25 enforcement officers?

1 A. No, sir.

2 Q. Any acquaintances with any?

3 A. No, sir.

4 Q. On these papers you said no family members
5 were a part of law enforcement; is that correct?

6 A. Yes, sir.

7 Q. The defendant in this case is accused of the
8 murder of a law enforcement officer. Does that
9 make you more inclined one way or the other to
10 believe that he is guilty or should be punished by
11 death?

12 A. No, sir.

13 Q. If a defendant in a trial exercises their
14 right not to testify, can you follow the Judge's
15 instructions and hold the State to proving that he
16 is guilty beyond a reasonable doubt?

17 A. Yes, sir.

18 Q. If a defendant puts up no evidence whatsoever
19 in a trial, the State falls short of proving the
20 defendant guilty beyond a reasonable doubt, can
21 you acquit that defendant?

22 THE COURT: You mean by that finding him
23 not guilty.

24 THE WITNESS: Yes, sir.

25 MR. BABB: Thank you.

1 THE COURT: Any additional questions?

2 MR. BABB: No, sir.

3 THE COURT: If you will step right out we
4 will be with you in just a second.

5 MR. LITTLEJOHN: She is qualified.

6 THE COURT: Mr. Babb.

7 MR. BABB: Qualified.

8 THE COURT: Thank you. Ask her to step
9 in, please.

10 Here is another sheet of paper, this has
11 some additional instructions. You have been
12 selected or are qualified as a potential juror.
13 That means that you are part of the pool and from
14 that pool we will select 12 individuals who are
15 the alternates to try this case. That will occur
16 on Wednesday at five o'clock. You will need to
17 be back then just a few minutes before five
18 o'clock on Wednesday, at that time we will select
19 12, the alternates and we will go to Sumter. So
20 you will need to bring with you clothing to take
21 care of a week's needs in case you are selected.

22 Until then I ask you to not talk about
23 this case with anyone, not to allow anyone to
24 talk to you about it. Certainly don't read any
25 news accounts about it or watch any news programs.

1 I will see you Wednesday afternoon at five.

2 Thank you.

3 Hold off we will take a brief recess.

4 Anything from the State before we take a recess at
5 this point?

6 MR. KOLB: Nothing.

7 THE COURT: Anything from the defendant?

8 MR. LITTLEJOHN: No, sir.

9 (Whereupon a short recess was held.)

10 THE COURT: Are they ready? You ready to
11 proceed?

12 MR. KOLB: Yes, sir.

13 THE COURT: Defendant ready?

14 MR. LITTLEJOHN: Yes, sir.

15 THE COURT: Let's bring the next one,
16 please.

17 TAMIKA GARDNER, having been first
18 duly sworn, testified as follows:

19 EXAM BY THE COURT:

20 Q. Good afternoon, Ms. Gardner, how are you?

21 A. Fine.

22 Q. Appreciate your patience. I have some
23 questions as I indicated to you and then when I
24 finish the attorneys will have some questions for
25 you. There are no right or wrong answers to any

1 of these questions, do you understand?

2 A. Yes.

3 Q. Do you have any prior knowledge of this
4 alleged incident?

5 A. No, sir.

6 Q. You haven't heard anything about it or read
7 anything about it other than what I have told you
8 here today?

9 A. No, sir.

10 Q. That is it?

11 A. Yes, sir.

12 Q. So you haven't formed any opinions then about
13 this case, is that right?

14 A. No, sir.

15 Q. You had a chance to review that list or that
16 sheet that I gave you that had the three types of
17 jurors, which one best describes you?

18 A. The third type.

19 Q. The third type. I will need for you please

20 Ms. Gardner keep the voice up to make sure that

21 these folks out here can hear you, okay. That

22 means that there are some cases where you, if you

23 were a juror based upon the circumstances you

24 could vote for death penalty and some cases where

25 based upon the circumstances you would vote for

1 life in prison; is that right?

2 A. Yes, sir.

3 Q. It further states that in order to make a
4 decision as to which one is appropriate you have
5 to hear all the facts and circumstances; is that
6 right?

7 A. Yes, sir.

8 Q. You understand that anyone charged with a
9 criminal violation in this country has presumption
10 of innocence, enjoys the presumption of innocence
11 that is a principle of law, do you understand?

12 A. Yes, sir.

13 Q. Do you have any qualms with that principle of
14 law?

15 A. No, sir.

16 Q. You understand that that would mean that Mr.
17 Stone is presumed innocent and you have any
18 problem with that?

19 A. No, sir.

20 Q. That presumption of innocence means that the
21 defendant doesn't have to prove anything.

22 Instead the State has to prove, prove its case
23 beyond a reasonable doubt, do you understand
24 that?

25 A. Yes, sir.

1 Q. The fact that Mr. Stone is seated at that
2 table over there, does that make you feel one way
3 or the other about him?

4 A. No, sir.

5 Q. Would you expect Mr. Stone to prove anything
6 to you in this trial?

7 A. No, sir.

8 Q. You understand I would instruct you that a
9 person charged with criminal offense not required
10 to prove anything and that would include he is not
11 required to prove his innocence, do you
12 understand that?

13 A. Yes, sir.

14 Q. Would you have any problem following that
15 instruction in applying that?

16 A. No, sir.

17 Q. If you were on this jury the first phase of
18 this proceeding would be to determine the issue
19 about whether or not Mr. Stone is guilty or not
20 guilty of these offenses, do you understand?

21 A. Yes, sir.

22 Q. You hear evidence and the State would present
23 evidence concerning that?

24 A. Yes, sir.

25 Q. If in that proceeding or any time Mr. Stone

1 decided not to testify, I would instruct you that
2 that would be his right as any person charged with
3 an offense, it is their right to testify or not
4 to testify. If he chose not to testify then you
5 couldn't consider that against him, do you
6 understand that?

7 A. Yes, sir.

8 Q. Would you have any problem following that
9 instruction?

10 A. No, sir.

11 Q. After you heard all the evidence in the first
12 phase I would instruct you on the law, the jury
13 would retire and you make a determination on that
14 guilt, do you understand?

15 A. Yes, sir.

16 Q. If you were on the jury and you found the
17 State had failed to meet its burden of proof then
18 the verdict would be not guilty; is that right?
19 Because I would instruct you if you found the
20 State failed to meet its burden you would be
21 required to do your duty to return a verdict of
22 not guilty, do you understand?

23 A. Yes, sir.

24 Q. Would you have any problem doing that?

25 A. No, sir.

1 Q. If you concluded the State had met its
2 burden? In other words, it satisfied you beyond a
3 reasonable doubt, you vote for guilty and
4 everyone else did, then we go into the second
5 phase if you found him guilty of murder, do you
6 understand that?

7 A. Yes, sir.

8 Q. And in that second phase you would consider,
9 it is at that time that you would consider the
10 appropriate penalty in this case, do you
11 understand that?

12 A. Yes, sir.

13 Q. Am I understanding you by what you have told
14 me about type three to say that you would wait
15 until have you heard all the evidence in that
16 second phase before you made a decision about the
17 appropriate punishment?

18 A. Yes, sir.

19 Q. So the fact that you were part of the jury
20 that found him guilty, would you still have an
21 open mind when you went into the second phase?
22 Would the fact you found him guilty of murder
23 would that mean in your mind he should receive one
24 punishment or another?

25 A. No, sir.

1 Q. Ma'am? You understand it is the second phase
2 where you will hear evidence you hadn't heard
3 before. And it is on that evidence and of course
4 all the evidence that you would make a
5 determination as to what was the appropriate
6 punishment for this crime, do you understand?

7 A. Yes, sir.

8 Q. Now, you seem to hesitate, am I to
9 understand that you would have to hear all the
10 evidence or would you have already determined the
11 punishment after you heard, made a determination
12 as to whether or not he is guilty?

13 A. I would have to hear more evidence.

14 Q. You would make a determination of punishment
15 at the first phase?

16 A. The second.

17 Q. You would have to hear all the evidence
18 before you made that determination; is that right?

19 A. Yes, sir.

20 Q. I will give you further instruction on the
21 law, do you understand that? And you would then
22 go and you would, you and other jurors would talk
23 about that, it is my understanding that you could
24 consider a death penalty and you could also
25 consider life in prison and you would decide which

1 one of those is best suited for the facts of this
2 case; is that right?

3 A. Yes, sir.

4 Q. If you were on the jury?

5 A. Yes, sir.

6 Q. You know of anything that has happened in
7 your background that would affect you in anyway or
8 cause you to be for or against the State or cause
9 you to be for or against Mr. Stone or affect your
10 ability to be fair in any issues you have to
11 decide?

12 A. No, sir.

13 Q. It doesn't stand if you are selected on this
14 jury you are going to be sequestered, that means
15 you will be kept with other jurors, the State
16 will provide you housing, lodging, food,
17 transportation until this trial is over, do you
18 understand that?

19 A. Yes, sir.

20 Q. While that may not be something you look
21 forward to doing, would it affect you in anyway
22 listening to the evidence in this case?

23 A. No, sir.

24 Q. Not at all.

25 THE COURT: All right. Answer any

1 questions the State may have.

2 EXAM BY MR. KOLB:

3 Q. Just a few additional questions for you, Ms.
4 Gardner, I know it has been a long day for you.
5 Have you ever or any member of your family or
6 close friend ever been charged with a crime?

7 A. No.

8 Q. You indicated in response to the Judge's
9 questions you were a type three juror which means
10 that after listening to all the evidence you could
11 render a life sentence or a death penalty; is that
12 correct?

13 A. Yes, sir.

14 Q. If you and the other jurors found the
15 defendant guilty and sentenced him to death
16 penalty, would you be able to sign your name on a
17 document sentencing him to the death penalty?

18 A. Yes, sir.

19 Q. Would you be able to stand in open Court in
20 front of the defendant and whoever else was in the
21 courtroom and say you were sentencing him to a
22 death penalty?

23 A. Yes, sir.

24 MR. KOLB: Nothing further, Your Honor.

25 THE COURT: All right.

1 EXAM BY MR. LITTLEJOHN:

2 Q. Ms. Gardner, just a few more questions, if
3 you will. Do you have any friends or
4 acquaintances that are in law enforcement?

5 A. No, sir.

6 Q. You don't know any police officers?

7 A. Oh, yes.

8 Q. Who do you know?

9 A. What?

10 Q. What police officers do you know?

11 A. (Can't make out tape).

12 Q. I'm sorry couldn't hear you?

13 A. Ray (can't make out tape).

14 Q. Who is he with, is he with the Sheriff's
15 Department or city police?

16 A. I think with the Sheriff's Office.

17 Q. Is he a good friend of yours?

18 A. Grandfather.

19 Q. Grandfather. Any other police officers that
20 you are related to or friends with?

21 A. No, sir.

22 Q. Let me ask you this, Ms. Gardner, in this
23 case the defendant is accused of murder involving
24 a deputy sheriff. Now, would the fact that you
25 are related to a police officer and the fact that

1 he is accused of such crime, would that prevent
2 you from being fair and impartial juror in any
3 manner in this case?

4 A. Yes, sir.

5 Q. Are you sure of that?

6 A. Yes, sir.

7 Q. You understand that Mr. Stone here has
8 absolute Constitutional right to an unbiased jury
9 no matter what he is charged with, do you
10 understand that?

11 A. Yes, sir.

12 Q. Ms. Gardner let me ask you just a couple more
13 questions and I hope we will be through. Would
14 you be able to determine this case solely on the
15 evidence that is presented to you and not be
16 affected by being criticized later for returning
17 your verdict? You think you could do that?

18 A. Yes, sir.

19 Q. Could you put that fear of criticism aside?

20 A. Yes, sir.

21 Q. Let me ask you one final thing, on your
22 questionnaire you were asked about some of your
23 favorite TV shows and movies, I believe you put
24 New York Undercover, is there a particular reason
25 why you like that show over other shows?

1 A. No.

2 Q. Just entertainment?

3 A. Yes, sir.

4 MR. LITTLEJOHN: Thank you, ma'am.

5 THE COURT: If you will step down ma'am
6 we will be with you in just a moment.

7 What says the State?

8 MR. KOLB: Qualified, Your Honor.

9 THE COURT: Defendant.

10 MR. LITTLEJOHN: We concur.

11 THE COURT: Ask her to step back in,
12 please.

13 Ms. Gardner, you have been qualified as
14 potential juror that means you are part of the
15 pool. This letter will tell you about the pool,
16 just some additional information that I find
17 helpful. On Wednesday we will select the 12
18 jurors from this pool, you will need to be back
19 in this courtroom at 5:00 o'clock on Wednesday
20 afternoon. When you come you need to bring
21 sufficient clothing to take care of a week's
22 needs, because we will go straight once the jury
23 is selected, the 12 individuals plus the
24 alternates we will go onto Sumter.

25 Please and until this time do not talk to

1. anyone about this case, do not allow anyone to
2 talk to you about it, do not read any news
3 articles about it or watch any news articles.
4 See you Wednesday afternoon at five o'clock.

5 Has the next group arrived? Are you ready
6 to continue on? Okay.

7 JOYCE GANN, having been first duly
8 sworn, testified as follows:

9 EXAM BY THE COURT:

10 Q. All right, you are Ms. Gann?

11 A. Yes, sir.

12 Q. Ms. Gann, the microphone went out on us so
13 we need for you to really speak loud if you can
14 for us so we can all hear you. You remember
15 earlier today and I stated it we were going to ask
16 you certain questions, there are no right or
17 wrong answers to any of these questions, do you
18 understand that?

19 A. Yes, sir.

20 Q. Just be truthful in your responses. You
21 don't have any prior knowledge of this particular
22 incident, do you?

23 A. No, sir.

24 Q. You haven't heard anything about it or read
25 anything about it; is that correct?

1 A. No, sir.

2 Q. So the only thing that you know is based on
3 basically what I shared with you earlier today?

4 A. Yes.

5 Q. Have you formed any opinions about this
6 matter?

7 A. No.

8 Q. Would you wait until you heard all the
9 evidence before you made any decisions?

10 A. Yes.

11 Q. Have you had a chance to review that sheet
12 that I gave you that has three types of jurors?

13 A. Yes.

14 Q. Which one best describes you?

15 A. Probably the third.

16 Q. Probably the third. That means that there
17 are circumstances that you could vote for the
18 death penalty, there are circumstances that you
19 could vote for life in prison?

20 A. Yes.

21 Q. And it depends on the case, depends on the
22 circumstances it is in each case; is that right?

23 A. Yes, sir.

24 Q. You don't start a case you are not inclined
25 one way or the other it depends on the case,

1 depends upon the facts of that case?

2 A. Right.

3 Q. One of the principles of law that I shared
4 with you earlier today is that principle known as
5 the presumption of innocence and I told you that
6 everybody charged with criminal offense in this
7 country in this State is presumed innocent, do
8 you understand me?

9 A. Yes, sir.

10 Q. Do you have any problems with that principle
11 of law?

12 A. No, sir.

13 Q. That would mean that Mr. Stone who is charged
14 with these criminal offenses is likewise presumed
15 to be innocent, do you agree with that?

16 A. Yes.

17 Q. And that means that a person who is charged
18 does not have to prove anything to you. And I
19 would instruct you that that would mean that they
20 do not have to prove their innocence, would you
21 be able to follow that instruction?

22 A. Yes.

23 Q. That would mean and I would further instruct
24 you that it is the State's responsibility, the
25 State's burden to prove its case beyond a

1 reasonable doubt and I define that for you at the
2 appropriate stage, do you understand that? Would
3 you have any problem then if you were a juror in
4 following that instruction?

5 A. No.

6 Q. So am I to understand then if you were
7 selected as a juror that you would look to the
8 State to prove its case? You would expect the
9 State to prove its case?

10 A. Yes.

11 Q. Would you expect Mr. Stone to prove anything?

12 A. No.

13 Q. Okay. You are hesitating.

14 A. It seems like when you are here on trial you
15 are (can't make out tape).

16 Q. I understand that. What seems like -- I
17 appreciate that assessment. I would instruct you
18 part of the law that I give you basically would be
19 what I just stated, that any person including Mr.
20 Stone charged with criminal offense is presumed
21 innocent and that means that they are never
22 required to prove their innocence. And my
23 question would be, would you be able to follow
24 that instruction?

25 A. Yes.

1 Q. And if the State and let's say for instance,
2 I don't know, let's say Mr. Stone chose not to
3 testify, chose not to say anything, which I
4 would instruct you would be his right as it is the
5 right of any person charged with a criminal
6 offense they are not required to testify and the
7 jury cannot consider that against them, would you
8 have any problem following that instruction?

9 A. No.

10 Q. If in that case I would further instruct you
11 that the State failed to meet its burn, in other
12 words, failed to satisfy you beyond a reasonable
13 doubt, then it would be your duty to return a
14 verdict of not guilty, could you do that?

15 A. Yes.

16 Q. So you would look to the State to prove its
17 case; is that right?

18 A. Yes, sir.

19 Q. If you were in this trial as a juror the
20 first stage would be the guilt, whether or not
21 the person is guilty at that time you would hear
22 evidence that dealt solely with whether or not Mr.
23 Stone committed these offenses that he is accused
24 of committing, do you understand that?

25 A. Yes, sir.

1 Q. After the conclusion of that and receiving
2 that evidence I would instruct you on the law and
3 the jury would retire to deliberate. If you
4 found the State failed to meet its burden of proof
5 then of course then you will return a verdict of
6 not guilty then that would conclude this matter.
7 If on the other hand you found that Mr. Stone was
8 guilty of some of these charges and if you found
9 him guilty of the charge of murder we would go
10 forward with the second phase, you understand
11 that?

12 A. Yes, sir.

13 Q. And in that regard you would hear additional
14 evidence, that would be the evidence that you had
15 not heard in the first phase because the second
16 phase deals with the penalty as to what would be
17 the appropriate punishment, do you understand
18 that?

19 A. Yes, sir.

20 Q. It is at that stage that you would hear
21 evidence concerning any aggravating circumstances
22 or any mitigating circumstances and other evidence
23 of the like. Would you be able to keep an open
24 mind during the second phase if you got to that
25 point and not make any decisions until you have

1 heard all of the evidence?

2 A. If he was found guilty?

3 Q. If he was found guilty of murder it is at the
4 second phase where you begin to hear evidence
5 which the jury is to consider in determining what
6 punishment is appropriate?

7 A. Yes.

8 Q. Yes? You stated that you were type three
9 which I understood you would have to hear all the
10 evidence before you made a decision; is that
11 right? So am I to understand then just because you
12 may have voted as one of the jurors and found him
13 guilty of murder, you would not have already
14 concluded at that stage the appropriate
15 punishment; is that right? You would have to
16 hear the evidence in the second phase first before
17 you decided that issue?

18 A. Right.

19 Q. Would you have any problem being fair and
20 impartial in the second phase?

21 A. No.

22 Q. Is there anything about your background or
23 anything about your life's experience, anything
24 about your personal philosophies that would affect
25 or anyway hinder your ability to be fair and

1 impartial to the State, fair and impartial to Mr.
2 Stone?

3 A. No.

4 Q. Anything about the circumstances of this case
5 that would cause you to feel one way or the other,
6 either for or against the State or for or against
7 Mr. Stone?

8 A. No.

9 Q. You understand if you are selected as a juror
10 in this case you would be sequestered with the
11 other jurors, which means that you would be --
12 the State would provide you with lodging, food,
13 transportation through the duration of the trial,
14 do you understand that?

15 A. Yes.

16 Q. While I understand that may be somewhat
17 inconvenient to you, would you be able to set
18 aside that inconvenience and stay focused on the
19 trial?

20 A. I need to ask, I didn't think about this
21 this morning but on February 4th I have a Court
22 date of my own.

23 Q. Okay. February 4th is a date that I would
24 anticipate this case we will have concluded.

25 A. Okay. I didn't know if it would run into

2337

1. the second week.

2. Q. I certainly -- there is always the
3. possibility, it is my feeling probably this
4. matter will be concluded. If by chance that there
5. is some reason there is we will make the efforts
6. to do something about having that matter
7. rescheduled if need be?

8. A. Okay. It is like my fourth try.

9. Q. Would that affect you in anyway? Would that
10. upcoming matter affect you in anyway?

11. A. No.

12. Q. You could stay focused on the trial?

13. A. No.

14. Q. Not at all?

15. A. No.

16. THE COURT: Please answer any questions
17. the State may have.

18. EXAM BY MR. HILLIARD:

19. Q. Just a couple of additional questions, Ms.
20. Gann. Have you or a family member or a close
21. friend ever been charged with a crime?

22. A. I had a close friend.

23. Q. What was he charged with?

24. A. He was the owner of the Beach Bungee.

25. Q. And what happened?

1 A. He is currently being sued --

2 Q. Has he ever been charged with any criminal
3 offense?

4 A. No.

5 Q. You indicated in response to the Judge's
6 question you are a type three juror which means
7 you can return a death penalty or a verdict for
8 life sentence depending upon the facts and
9 circumstances on the case; is that correct?

10 A. Yes, sir.

11 Q. Would it be possible for you to sign your
12 name to a document sentencing somebody to death?

13 A. Yes.

14 Q. Would it be possible for you to come into
15 this courtroom and stand in front of the defendant
16 and whoever else is in the courtroom and say you
17 have sentenced him to death?

18 A. Yes.

19 Q. Ms. Gann, who are you employed by?

20 A. Billy Player.

21 Q. What is your relationship to Mr. Player's
22 son?

23 A. I just work with him.

24 THE COURT: Mr. Babb.

25

1 EXAM BY MR. BABB:

2 Q. Ms. Gann, I believe you said you had not
3 heard anything about this case today?

4 A. That's right.

5 Q. Before you came in. Does the fact that it
6 is a death penalty case, does that sway your
7 opinion towards the defendant before hearing any
8 evidence?

9 A. No.

10 Q. You feel confident you can follow the Judge's
11 instructions in this trial?

12 A. Yes.

13 Q. Should the defendant not take the stand, you
14 can totally put that out of your mind?

15 A. Yes.

16 Q. Should he not put up any evidence you can
17 follow the Judge's instructions that he doesn't
18 have to and you can't consider that?

19 A. Yes.

20 Q. You can hold the State to its burden as the
21 judge gives you that they must prove each and
22 every element beyond a reasonable doubt?

23 A. Yes.

24 Q. Do you have any friends or personal
25 acquaintances that are involved in law

1 enforcement?

2 A. No.

3 Q. Does -- would the fact or will the fact
4 that this case involves the alleged murder of a
5 deputy sheriff, does that impact your views of
6 the defendant, any preconceived notions about
7 him?

8 A. Can I ask a question real quick?

9 THE COURT: Just respond to the dispatch.

10 MR. HILLIARD: I object to the wording of
11 that question.

12 THE COURT: Let me just ask you a
13 question, if you don't understand the question
14 just ask him to restate it. If you know the
15 answer then you need to answer the question. Do
16 you understand his question? Restate your
17 question.

18 EXAM BY MR. BABB:

19 Q. Does the fact that the defendant has been
20 accused of a murder, the murder of a deputy
21 sheriff is the fact that a deputy sheriff is
22 involved affect your opinion coming into the case
23 or can you follow the Court's instructions and be
24 fair and impartial?

25 A. I would say that affects it.

1 Q. Does it make you feel that he is more likely
2 to be guilty than not?

3 A. Yes.

4 Q. Is that something that is going to stay in
5 the back of your mind throughout these
6 proceedings?

7 A. I remember today when you were in here and
8 you said this was a burglary murder, if this was
9 a deputy on the scene it would matter.

10 THE COURT: You will have to hear all the
11 evidence.

12 THE WITNESS: I would say yes.

13 EXAM BY MR. BABB:

14 Q. If that were the facts it would be difficult
15 for you to be fair to the defendant?

16 A. Yes.

17 MR. BABB: Thank you, Your Honor.

18 THE COURT: Mr. Hilliard, additional
19 questions?

20 MR. HILLIARD: Court's indulgence.

21 THE COURT: Yes, sir, take your time.

22 EXAM BY MR. HILLIARD:

23 Q. Ms. Gann, could you follow the Judge's
24 instructions to be fair and impartial and not make
25 a decision until you heard all the facts and

1 evidence in the case?

2 A. Yes, sir.

3 Q. Nothing further.

4 EXAM BY THE COURT:

5 Q. Ms. Gann, let me ask you a question and I
6 appreciate (PORTION OF TAPE MISSING).

7 RICHARD BOURNE, having been first
8 duly sworn, testified as follows:

9 EXAM BY THE COURT:

10 Q. Good afternoon, Mr. Bourne, how are you?

11 A. Good.

12 Q. Thank you for your patience, I have some
13 questions that I need to ask you. When I am
14 finished the attorneys may have some questions for
15 you as well. I will remind you of our earlier
16 conversation today and earlier discussions there
17 are no right or wrong answers to any of these
18 questions, okay. The only thing we ask is that
19 you be truthful in responding, all right. Have
20 you read anything or heard anything about this
21 case?

22 A. No, sir.

23 Q. So you don't have any prior knowledge about
24 any facts of this case?

25 A. Haven't heard nothing.

1 Q. Have you formed any opinions about this case?

2 A. No, not really.

3 Q. You say not really, have you formed any
4 opinion?

5 A. No.

6 Q. Okay. You had a chance to read that sheet
7 that I gave you, that we gave you?

8 A. Yes, sir.

9 Q. Of the three types of jurors, which one best
10 describes you?

11 A. I would be number 1.

12 Q. Number 1. Do you mean that does number 1
13 mean to you that you favor the death penalty or
14 does that mean that you believe that if somebody
15 is convicted of murder that they should receive
16 the death penalty?

17 A. If they kill somebody else they should get
18 the same thing they get, really.

19 Q. So if you were on a jury and you convicted
20 someone or you voted to find them guilty of
21 murder, you would believe that the next step
22 would be they ought to be sentenced to death
23 automatically?

24 A. Yeah.

25 Q. Wouldn't have anything to do with the facts

1 or circumstances about the case?

2 A. Yeah somewhat it would. I don't know. I
3 would have to see what happened. Hear more about
4 it really.

5 Q. Well, does that mean that in some cases
6 where you would feel that life imprisonment would
7 be something the punishment?

8 A. Once you heard the case it might change.

9 Q. It might change?

10 A. Yeah.

11 Q. Well, would you have, would you personally
12 have a decision based upon once you found somebody
13 guilty it would be your decision that they
14 automatically would be they deserve death penalty
15 or would you have to hear the facts for that case?

16 A. Probably be better to hear the facts.

17 Q. Okay. Would you wait until you heard all
18 the facts before you made a final determination on
19 that?

20 A. Yes, sir.

21 Q. So the fact that you told me you are number
22 one means that you are not opposed to the death
23 penalty and you could vote for death penalty, but
24 in order to decide which case warranted the death
25 penalty you would have to hear all the facts?

1 A. Yes, sir.

2 Q. You understand that anyone in this country
3 who is charged with the crime is presumed to be
4 innocent?

5 A. Yes, sir.

6 Q. You know that that means that that person
7 doesn't have to prove anything, the State has to
8 prove them guilty beyond a reasonable doubt, do
9 you understand that?

10 A. Yes, sir.

11 Q. You further understand that that means that
12 the person charged with criminal offense is not
13 required to prove that they are innocent?

14 A. I guess so.

15 Q. Would you have any problem following that
16 instruction?

17 A. No.

18 Q. So if I instructed you if you were selected
19 on a jury that Mr. Stone is an individual who
20 happens to be charged in this case that he is
21 presumed to be innocent and that he doesn't have
22 to prove one thing to you, instead the State has
23 to prove its case?

24 A. Right.

25 Q. Mr. Stone is not required to prove his

1 innocence, he doesn't even have to testify in
2 this case and you can't, if he chose not to
3 testify you couldn't use that against him, do you
4 understand?

5 A. Yes, sir.

6 Q. Would you have any problem with following
7 that instruction?

8 A. No, sir.

9 Q. So you would look to the State to prove its
10 case?

11 A. Yeah.

12 Q. If you were on the jury and you found Mr.
13 Stone guilty of murder, do you understand that we
14 would go to the second phase, the penalty phase,
15 do you understand that?

16 A. Uh-huh (affirmative response).

17 Q. And it is at that time the jury would hear
18 additional evidence that would deal solely with
19 what punishment would be appropriate, do you
20 understand?

21 A. Yes, sir.

22 Q. Am I understanding you after we talked that
23 you just because you were one of the jurors who
24 found him guilty you wouldn't automatically
25 conclude he got the death penalty; is that right?

1 A. No, once you hear more about it your mind
2 might change.

3 Q. So you would wait until you heard all the
4 evidence and receive the law before you made your
5 decision?

6 A. Yeah.

7 Q. Do you know of anything in your background
8 that would make you feel or have any strong
9 feelings for or against the State, for or against
10 Mr. Stone or anybody charged with a crime?

11 A. No.

12 Q. You feel you could be fair to both the State
13 and Mr. Stone?

14 A. Yes.

15 Q. If you were on this jury do you understand
16 that you would be sequestered with the other
17 jurors, that means we will keep you and the State
18 is going to provide you with a place to stay,
19 feed you and transport you until this trial is
20 over?

21 A. I hadn't ever been in it but I know that now.

22 Q. Would that affect you in anyway?

23 A. No. I believe both of my parents if I
24 served I carry them up and down to hospitals and
25 doctors and stuff like that, I have to make other

1 arrangements, I guess.

2 Q. Could you do that? I mean if you were
3 selected would you be able to set that aside and
4 stay focused on the trial?

5 A. Yes, sir.

6 Q. So that wouldn't affect your ability to
7 listen to the evidence, listen to the law and
8 make a decision?

9 A. No, once it is changed, it is changed.

10 THE COURT: Please answer any questions
11 that the State may have.

12 EXAM BY MR. KOLB:

13 Q. Mr. Bourne, have you or any member of your
14 family ever been or member of your family or close
15 personal friend been charged with a crime?

16 A. I got a brother that well half brother they
17 have charged with burglary, I don't know what all
18 he is charged for but he is in jail.

19 Q. Is that in Georgetown county?

20 A. He went to Court in Georgetown but I think he
21 is in Spartanburg, they have moved him from one
22 place to the other.

23 Q. He is in jail in Spartanburg now?

24 A. Yeah.

25 Q. Do you have any bad feelings about the way he

1 was treated by law enforcement?

2 A. No.

3 Q. What about you or any member of your family
4 or close friend been a victim of a crime?

5 A. No, sir.

6 Q. And will you follow the Court's charge to you
7 on the law in this case?

8 A. Yes, sir.

9 Q. Whatever the judge tells you the law is,
10 that is the law that you will apply?

11 A. Yes, sir.

12 Q. And if the judge tells you that in the
13 penalty phase of the trial the jury is required to
14 consider any evidence presented and that being
15 aggravation evidence or mitigation evidence by the
16 defendant, would you consider that evidence?

17 A. Yes, sir, I guess you have to.

18 Q. Well if the judge charged you to consider
19 that evidence you would consider it and listen to
20 it?

21 A. Yes, sir.

22 Q. So you would as far as the punishment between
23 life in prison and death penalty you would do what
24 the judge told you to do and that is with an open
25 mind consider the evidence before you decide what

1 the punishment was?

2 A. Yes.

3 MR. KOLB: Thank you.

4 THE COURT: Mr. Littlejohn.

5 EXAM BY MR. LITTLEJOHN:

6 Q. Mr. Bourne, just a few questions, please,
7 sir. You indicated to us when you came in that
8 you were of the first type of juror as indicated
9 on that sheet that you have in front of you?

10 A. Yes, sir.

11 Q. Was that just kind of a gut reaction kind of
12 thing?

13 A. Yeah, I guess so.

14 Q. Okay. Because you have never been in this
15 sort of circumstance, have you?

16 A. Yeah.

17 Q. His Honor discussed with you you know the
18 different things that go into being a juror and I
19 think you agreed to be a good juror it is better
20 to hear all the facts before you make a decision?

21 A. Absolutely.

22 Q. Would you agree with that?

23 A. Yes, sir.

24 Q. Let me ask you about one thing you said.

25 You said that you would go into it hear all the

1 facts your mind would probably change. Could we
2 depend on you if you were selected as a jury to go
3 in without a preset mind but to have an open mind
4 and to consider everything before you even made
5 any kind of opinion or verdict or anything of that
6 nature?

7 A. Yes, sir.

8 Q. Would that be a fair thing to do?

9 A. Yes.

10 Q. Mr. Bourne, do you have any friends or
11 acquaintances or relatives that are police
12 officers?

13 A. No.

14 Q. You don't?

15 A. No, sir.

16 Q. Let me ask you this question. Mr. Stone the
17 defendant is accused of murder of a police
18 officer. Would that fact interfere with your
19 being an impartial juror listening to all the
20 evidence and taking the Judge's instructions
21 before arriving at a verdict?

22 A. No, sir.

23 Q. Or arriving at a penalty in this case?

24 A. No.

25 Q. You could do it with an open mind?

1 A. I think so.

2 Q. Okay. One final thing. Mr. Bourne, the
3 Court discussed with you the fact in this case as
4 in any criminal case that the State has the burden
5 of proof and that it is up to them to prove the
6 guilt of the defendant and that he doesn't have to
7 prove anything, he doesn't have to testify or
8 present any evidence. His Honor would instruct
9 you that if you were selected, you could follow
10 that instruction?

11 A. Yes, sir.

12 MR. LITTLEJOHN: Thank you, Mr. Bourne.

13 THE COURT: Any additional questions from
14 the State?

15 MR. KOLB: No, sir.

16 THE COURT: You may step down.

17 What say the State?

18 MR. KOLB: Qualified.

19 THE COURT: What says the defendant?

20 MR. LITTLEJOHN: We concur.

21 THE COURT: Ask him to come back in,
22 please.

23 Mr. Bourne, you have been qualified as
24 potential juror in this case, we are -- let me
25 hand you a sheet of paper with some questions,

1 you may want to read those concerns if you are
2 selected. We are going to select the jury on
3 Wednesday afternoon at five o'clock, you will
4 need to be back in this courtroom just come back
5 out in the audience at five o'clock. From the
6 group we will select a jury. When you come you
7 will need to bring with you enough clothing to
8 take care of you for a week's need in case you are
9 selected.

10 Until that time do not talk with anyone
11 about this case, do not allow anyone to talk with
12 you about this case and don't read any articles
13 about it nor watch any news accounts. Thank you,
14 sir, see you Wednesday at five o'clock.

15 Okay bring in the next one.

16 DANNY LUCAS, having been first duly
17 sworn, testified as follows:

18 EXAM BY THE COURT:

19 Q. Good afternoon, Mr. Lucas, how are you,
20 good evening I guess is better. How are you?

21 A. Fine thank you.

22 Q. Appreciate your patience. Won't keep you
23 much longer, I have some questions that I need to
24 ask you and when I am completed the attorneys may
25 have some questions and I will remind you there

1 STATE OF SOUTH CAROLINA) IN THE COURT OF
2) GENERAL SESSIONS
3 COUNTY OF SUMTER)

4
5 THE STATE,) Transcript of
6) Proceedings
7)
8) Georgetown,
9 vs.) South Carolina
10) 96-GS-43-968

11 BOBBY WAYNE STONE,)
12) Defendant.) January 20-22, 1997

13
14 *Volume II*

15
16 BEFORE THE HONORABLE R. MARKLEY DENNIS,
17 JR., Judge; and a jury.

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19
20 DEBRA R. JERNIGAN, RPR, CPE
21 13TH JUDICIAL CIRCUIT
22 GREENVILLE, SOUTH CAROLINA
23
24
25

A P P E A R A N C E S:

WADE S. KOLB, JR., Solicitor

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On Behalf of the State

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CAMERON B. LITTLEJOHN, JR., Esq.

On Behalf of the Defendant

1 are no right or wrong answers to any of these
2 questions, okay. Just need you to be truthful
3 in your responses. Have you read anything,
4 heard anything or heard anybody talk about
5 anything about this case?

6 A. No.

7 Q. So all you know about this case is what I
8 shared with you earlier?

9 A. Yes.

10 Q. Have you formed any opinions about this case?

11 A. No.

12 Q. None whatsoever?

13 A. No.

14 Q. Have you had an opportunity to read that
15 sheet that I gave you that has the three types of
16 jurors?

17 A. Yes, sir.

18 Q. Which one best describes you?

19 A. The second one.

20 Q. When you say the second one that means that
21 you are a person who could not under any
22 circumstance vote for death penalty? You
23 understand that each case has its own set of
24 circumstances. Am I understanding you to say
25 that you cannot think of any circumstance in which

1 you if you were on the jury that you could write
2 or sign a vote for the death penalty?

3 A. I'm sorry I think I could be (can't make out
4 tape).

5 Q. So you would therefore not be inclined to do
6 that?

7 A. (Can't make out tape).

8 Q. Keep your voice up.

9 A. I don't think I would be inclined to vote for
10 the death penalty.

11 Q. You understand that at the conclusion of the
12 case if you got to that point in the penalty phase
13 that I would give you certain instructions that
14 would be my understanding one of those instruction
15 would be that you should consider the death
16 penalty, you should consider life imprisonment
17 and you as a juror must select which one you
18 believe to be the most appropriate punishment, do
19 you understand that?

20 A. Yes, sir.

21 Q. Am I understanding you to say that you could
22 not if you were a juror consider the death penalty
23 as being one of the possible punishments?

24 A. No.

25 Q. You could not under no circumstances?

1 A. Under no circumstances.

2 Q. All right, sir.

3 THE COURT: Any questions from the State?

4 MR. KOLB: No, sir.

5 THE COURT: Any questions from the
6 defendant?

7 MR. LITTLEJOHN: Would you indulge us
8 just a moment?

9 THE COURT: Take your time.

10 MR. LITTLEJOHN: No questions Your Honor.

11 THE COURT: If you would step down Mr.
12 Lucas, please, step right out that door we will
13 be with you in just a moment.

14 What says the State?

15 MR. KOLB: Not qualified, Your Honor.

16 MR. LITTLEJOHN: We concur.

17 THE COURT: Very well. I agree he is
18 unqualified.

19 Thank you, Mr. Lucas I appreciate it.
20 You will be excused from further participation in
21 this matter. I will ask you we will select a
22 jury probably Wednesday afternoon I would ask that
23 until we select the jury that you not talk about
24 this case with anyone. Once we have selected a
25 jury you are free to talk about it. You will not

1 have to come back.

2 NORMAN WILLIAMSON, having been first
3 duly sworn, testified as follows:

4 EXAM BY THE COURT:

5 Q. Good evening, Mr. Williamson, how are you?

6 A. Tired, but okay.

7 Q. I would appreciate it and I know I am just
8 sitting right next to you but our mike went out
9 this afternoon so if you will keep your voice up
10 so everyone out there can hear you it would help
11 us so much, all right? Do you have any prior
12 knowledge of this alleged incident?

13 A. No, sir.

14 Q. You haven't read anything about it or heard
15 anything about it or heard anybody talk about it?

16 A. Not that I know of.

17 Q. Okay you can't remember. Have you formed
18 any opinions?

19 A. No, sir.

20 Q. Would you wait until you heard all the
21 evidence before you formed an opinion?

22 A. Yes, sir.

23 Q. Would it have to be all the evidence before
24 you did?

25 A. Yes, sir.

1 Q. Have you had an opportunity to review that
2 sheet that I gave you that had three types of
3 jurors?

4 A. Yes, sir.

5 Q. Which one best describes you?

6 A. The third one.

7 Q. The third one. Am I to understand then by
8 that you mean that there are some cases where you
9 would think the appropriate punishment would be
10 the death penalty and there are some cases you
11 believe the appropriate punishment would be life
12 in prison; is that correct?

13 A. Yes, sir.

14 Q. And are you a person that would have to hear
15 all facts and circumstances before you made a
16 decision which one was required in a given case?

17 A. Yes, sir.

18 Q. I told you earlier today that every person
19 charged with a criminal violation in this country
20 is presumed to be innocent. Do you have any
21 problem with that principle of law?

22 A. No, sir.

23 Q. That would mean that of course the State has
24 the burden of proof of proving this case beyond a
25 reasonable doubt, do you understand that?

1 A. Yes.

2 Q. That presumption of innocence would further
3 mean that a person charged with a criminal
4 violation and that would include Mr. Stone is
5 never required to prove anything and certainly not
6 required to prove his innocence, do you
7 understand?

8 A. Yes, sir.

9 Q. You have any problems with that?

10 A. No, sir.

11 Q. So if you were selected as a juror in this
12 case, the fact that Mr. Stone is seated at that
13 table, would that mean anything at all to you?

14 A. No, sir.

15 Q. Would you expect him to prove anything at all
16 to you?

17 A. No, not really.

18 Q. Would you look to the State to prove its
19 case?

20 A. Yes, sir.

21 Q. I would instruct you during the guilt phase
22 and throughout the trial that if you found the
23 State had failed to meet its burden of proof,
24 that it would be your duty as far as the guilt
25 phase is concerned to bring back a verdict of not

1 guilty, would you have any problem doing that?

2 A. No, sir.

3 Q. Likewise, if you felt the State had met its
4 burden of proof and proved to you beyond a
5 reasonable doubt, would you find or vote for
6 guilt?

7 A. Yes, sir.

8 Q. Okay. You understand this is a two part
9 proceeding, first part we will deal with whether
10 or not the defendant is guilty or not guilty of
11 these offenses, you understand that?

12 A. Yes, sir.

13 Q. Based upon the jury's decision in that case
14 will depend upon -- that determines whether we
15 go into the second phase, do you understand that?

16 A. Yes, sir.

17 Q. So if you found him not guilty you wouldn't
18 go any further, do you understand?

19 A. Yes, sir.

20 Q. If the jury concluded he was guilty and
21 guilty of murder then we would have a second phase
22 which would be the penalty phase, do you
23 understand that?

24 A. Yes, sir.

25 Q. It is at that time that you would hear

1 additional evidence that would deal specifically
2 with the punishment, the appropriate punishment,
3 the evidence of mitigation and aggravation, you
4 would hear it in the second phase, do you
5 understand?

6 A. Yes, sir.

7 Q. Would you be able to keep an open mind in
8 both phases?

9 A. Yes, sir.

10 Q. And would you during the second phase be able
11 to have and would you have an open mind as to the
12 punishment that would be appropriate even if you
13 had voted and found him guilty?

14 A. Yes, sir.

15 Q. So you would not decide punishment until you
16 heard all the evidence in that second phase?

17 A. No, sir.

18 Q. And at the conclusion of that I would give
19 you an instruction and part of those instructions
20 would be now it is up to you the jury to consider
21 the evidence and make a determination under the
22 law and decide whether life imprisonment or the
23 death penalty, could you as a juror and would you
24 as a juror consider both of those functions?

25 A. Yes, sir.

1 Q. Do you know of anything in your background,
2 any feelings you may have, strong personal
3 philosophies that you have that would affect you
4 or affect your ability to be fair and impartial to
5 the State in this matter?

6 A. No, sir.

7 Q. How about anything that would affect your
8 ability to be fair and impartial to Mr. Stone?

9 A. No, sir.

10 Q. If you are selected as a juror in this case
11 you will be sequestered with the other jurors and
12 that means, of course, the State would provide
13 you with lodging, food, transportation for the
14 duration of the trial. While that may be
15 something that may be extremely inconvenient,
16 could you set aside that inconvenience and stay
17 focused on the trial if you were selected as a
18 juror?

19 A. Yes, sir.

20 Q. Would you do that?

21 A. Yes, sir.

22 THE COURT: Please answer any questions
23 the State may have.

24 EXAM BY MR. HILLIARD:

25 Q. Mr. Williamson, you have the honor of being

1 the last juror we will talk to today, I suppose.

2 My name is John Hilliard I will be representing
3 the State in having this conversation with you
4 this evening.

5 We got your questionnaire back that you
6 had filled out for the judge and you indicated
7 that your son I believe had been arrested for some
8 type of larceny offense?

9 A. Yes, sir.

10 Q. Could you tell us a little bit about that,
11 please?

12 A. Well, ex-wife had married again and she had
13 separated from her other husband and they turned
14 the house over to somebody else, they were living
15 on her husband's father's farm. He had some
16 stuff in there instead of waiting, they broke in
17 the house and got the stuff out.

18 Q. Sort of self help repossession?

19 A. Yeah. And the people that was already
20 living in the house took a warrant out for him.

21 Q. So that didn't cause you to have any feelings
22 about law enforcement one way or the other?

23 A. Oh, no, sir.

24 Q. When you were talking to the judge about the
25 death penalty and the potential sentences in this

1 case, if you were to be a member of the jury and
2 if the jury were to decide the defendant was
3 guilty and you got into the penalty phase, you
4 indicated to the judge that you would follow his
5 instruction and consider the facts and
6 circumstances in mitigation and in aggravation,
7 things that made it worse and things that made it
8 perhaps not so bad and make a decision based on
9 that information whether to vote for the death
10 penalty or to vote for life in prison, that is
11 what you told the judge; is that correct?

12 A. That's true.

13 Q. And if the judge were to instruct you that if
14 the verdict of the 12 were to be death that you
15 would have to sign your name on a piece of paper
16 as one of the 12 who had to sign for death for the
17 defendant, would that cause you to hesitate to
18 vote for the death penalty?

19 A. No, sir.

20 Q. So what you are telling us is that you would
21 be able to and willing to if the verdict of death
22 you would be able to sign your name on the paper
23 that told the defendant that he got death penalty?

24 A. Yes, sir.

25 Q. If the judge were to further instruct you

1 that as one of the 12 that made that decision if
2 you came to a decision for the death penalty that
3 you had to stand up in open Court with the
4 defendant present and announce that your verdict
5 and the verdict of the jury was death, would that
6 cause you to hesitate to vote for the death
7 penalty?

8 A. No, sir.

9 Q. You would be able to do that, if you felt
10 the fact was bad enough you would be able to vote
11 for death and announce that verdict in Court?

12 A. Yes, sir.

13 MR. HILLIARD: Thank you so much.

14 THE COURT: Mr. Littlejohn.

15 EXAM BY MR. LITTLEJOHN:

16 Q. Good evening; Mr. Williamson. Let me ask
17 you just a few questions and hopefully we will
18 wrap up the evening. You indicated in your
19 questionnaire that you were retired from US Air
20 Force?

21 A. Not retired I just had four years active duty
22 in it.

23 Q. Okay. I must have misunderstood. Where
24 did you serve your active duty?

25 A. Florida, Texas, overseas.

1 Q. It was a number of years ago?

2 A. Yeah.

3 Q. Couple of things about your answers to the
4 Court. Judge Dennis asked you at one point about
5 whether you would expect the defendant to prove
6 anything and I believe your answer was no, not
7 really. If the judge instructed you that the
8 State has the burden of proving its case, proving
9 the guilt of the defendant and the defendant does
10 not have to testify, present evidence, put up
11 any witnesses, could you follow that instruction?

12 A. Now, that wasn't the way I took it.

13 Q. Okay.

14 A. His lawyer but still didn't do it the State
15 has to prove him guilty.

16 Q. Okay.

17 A. The evidence has been taken.

18 Q. All right. So you expect the defendant to
19 do more than just sit there, you expect his
20 lawyers to ask questions, that sort of thing?

21 A. I think it is up on y'all's part to have a
22 defense for him and all, whether he testifies or
23 not.

24 Q. Well, what if he didn't put up anything or
25 we didn't ask any questions or we didn't present a

1 defense. If the judge told you you couldn't hold
2 that against Mr. Stone, could you follow that?

3 A. Hold it against him, but the State they got
4 the evidence and they present it beyond a
5 reasonable doubt that he did it, what else can
6 you say?

7 Q. If His Honor told you you had to return a
8 verdict of guilty under those circumstances I
9 understand what you are saying. I guess my
10 question is this, if the defendant didn't put up
11 anything, didn't testify, didn't present any
12 case and the State failed to prove his guilt
13 beyond a reasonable doubt, could you acquit him,
14 could you find him not guilty?

15 A. Yes, sir.

16 Q. Even though he didn't do anything?

17 A. Yes, sir.

18 Q. In his trial?

19 A. That's right.

20 Q. Okay. You understand that legal principle?

21 A. Yes, sir.

22 Q. Okay I think we are on the same wave length.
23 One final thing, Mr. Williamson, in this case as
24 you have heard the defendant is charged with or
25 accused of murder of a police officer. Would the

1 fact that he is charged with that sort of offense
2 affect your ability to give him a fair trial, to
3 listen to the evidence and listen to His Honor's
4 instructions?

5 A. That would not affect my giving him a fair
6 trial.

7 Q. The fact there was a police officer who is
8 the alleged victim in this case?

9 A. That still because he was accused of it you
10 would still have to look at the evidence and
11 everything.

12 Q. The State would have to prove him guilty
13 beyond a reasonable doubt to your satisfaction?

14 A. Yes, sir.

15 Q. Thank you, sir.

16 MR. HILLIARD: Nothing further.

17 EXAM BY THE COURT:

18 Q. Let me ask you a question, Mr. Williamson,
19 I think I understand you. Let me take this one
20 step further. I would instruct you that the
21 presumption of innocence remains with the
22 defendant throughout the trial and is removed only
23 when and if the State offers enough evidence to
24 satisfy you beyond a reasonable doubt. I don't
25 know that this would but let's just for the sake

1 of discussion suppose that the defendant did not
2 testify, suppose the defendant did not ask not
3 one question, but you looked at the evidence and
4 you were convinced the State did not satisfy you
5 beyond a reasonable doubt, would you vote for not
6 guilty? Because I would instruct you it would be a
7 duty for the jury to return a verdict if the State
8 fails to meet its burden of proof?

9 A. Yes, sir.

10 Q. It wouldn't have a thing to do with how many
11 questions were asked and how many witnesses were
12 called?

13 A. No, it wouldn't.

14 THE COURT: Any additional questions?

15 MR. HILLIARD: No, sir.

16 THE COURT: Any from the defendant?

17 MR. LITTLEJOHN: No, sir.

18 THE COURT: All right, sir, stand down.

19 MR. HILLIARD: He is qualified.

20 MR. LITTLEJOHN: We concur.

21 THE COURT: I agree.

22 Mr. Williamson, you are qualified as
23 potential juror in this trial. I will give you
24 that sheet, it is some additional information
25 which may be helpful if you are selected. We

1 will select the jury Wednesday afternoon at 5:00
2 o'clock, you will need to return to this
3 courtroom at five. Need to come right back out
4 there five o'clock Wednesday afternoon. When you
5 come you need to bring with you sufficient
6 clothing to take care of a week's needs in case
7 you are selected. If you are on the jury we will
8 leave from here and go onto Sumter at that time.
9 Of course if you are not you just have to unpack
10 your clothes when you get home. But bring enough
11 prepared to go.

12 Do not talk with anybody about this case,
13 do not allow anybody to talk with you about it,
14 do not read any newspaper articles about it, do
15 not watch any news shows about it.

16 Anything further from the State?

17 MR. KOLB: Your Honor, I cited a
18 proposition of law earlier I didn't have the case,
19 I have it now I will give a copy of it to defense.

20 THE COURT: Fine. What is the case.

21 MR. KOLB: Just the one about pro death
22 penalty juror.

23 THE COURT: I'm familiar with that. No
24 problem. I'm familiar just because he is in
25 favor of it doesn't exclude him automatically,

1 you are absolutely right. Anything further?

2 MR. KOLB: No, sir.

3 MR. LITTLEJOHN: No, sir.

4 THE COURT: We will be at ease until 9:00
5 o'clock in the morning. Look forward to seeing
6 everybody then.

7 (Whereupon, court was in recess until 9:00 a.m.)

8 THE COURT: Start with the jury
9 questions, anything we need to discuss with the
10 State?

11 MR. KOLB: The additional juror.

12 THE COURT: We will deal with him later
13 on in the day. Anything further from the
14 defendant?

15 MR. LITTLEJOHN: No, sir.

16 THE COURT: All right. I think we are
17 now at group five I believe the first one is Ms.
18 Walker.

19 JOANN WALKER, having been first duly
20 sworn, testified as follows:

21 EXAM BY THE COURT:

22 Q. Good morning.

23 A. Good morning.

24 Q. Good. Did you have an opportunity to read
25 that sheet this morning about the three jurors?

1 A. Yes, I did.

2 Q. Let me ask you a question before we start,
3 do you remember yesterday I told you that I would
4 be asking you some questions and the attorneys may
5 be asking you some questions as well and there
6 aren't really any right or wrong answers to these
7 questions?

8 A. Yes, sir.

9 Q. I want you to relax and we had a problem
10 yesterday with our mike so we will have to make do
11 without it even though you are sitting right here
12 you will have to answer loudly so everyone can
13 hear you out there as well, can do you that for
14 me?

15 A. Yes, sir.

16 Q. You haven't read anything, let me ask you
17 this first before I ask you that question. Do
18 you have any prior knowledge of this alleged
19 incident?

20 A. No I don't.

21 Q. You haven't heard anything about it or read
22 anything about it, don't know anymore than what I
23 told you yesterday?

24 A. No, sir.

25 Q. Did you read anything about it last night or

1 did you hear anything about it last night?

2 A. Nothing.

3 Q. Did anybody talk with you about it since we
4 talked about it yesterday?

5 A. No.

6 Q. And have you talked with anybody else?

7 A. No, sir.

8 Q. Have you formed any opinions about this
9 particular case?

10 A. No, I haven't.

11 Q. What do you need before you can start forming
12 opinions?

13 A. Facts.

14 Q. Facts, okay. Do you understand the facts
15 that you will gain through the testimony of
16 witnesses?

17 A. Yes.

18 Q. And that is the only thing you would form an
19 opinion, that is the only facts that you need to
20 consider in this matter, do you understand?

21 A. Yes, sir.

22 ATTORNEY: Your Honor, may we approach
23 the bench, Your Honor?

24 Whereupon, a bench conference was held off the
25 record.)

1
2 EXAM BY THE COURT:

3 Q. And you understand -- well let me ask, are
4 you a person that generally would have to hear all
5 the facts before you would make a decision?

6 A. Yes.

7 Q. So you wouldn't have any opinions right now
8 just even based on the little bit of fact I told
9 you yesterday?

10 A. Yes.

11 Q. Yesterday I told you that in this country, in
12 this State, anybody who is charged with criminal
13 violation is presumed to be innocent?

14 A. Yes, sir.

15 Q. You understand that principle of law?

16 A. Yes, sir.

17 Q. You have any problem with that principle of
18 law?

19 A. No.

20 Q. And by that that would mean that the State
21 who brings us these charges has the responsibility
22 of proving its case beyond a reasonable doubt, do
23 you understand that?

24 A. Yes, sir.

25 Q. The person who is charged with criminal

1 violation and that would include Mr. Stone is
2 never required to prove anything in this trial,
3 they don't have to prove a thing, and
4 specifically they do not have to prove their
5 innocence, do you understand?

6 A. Yes, sir.

7 Q. Do you have any problem with that?

8 A. No.

9 Q. So in the trial of this case if you were a
10 juror, would you look to the State to prove its
11 case?

12 A. Yes.

13 Q. Would you expect Mr. Stone to prove anything?

14 A. No.

15 Q. He is innocent until the State proves
16 otherwise, that is the way you would look at it?

17 A. Yes.

18 Q. The fact he is sitting at that table over
19 there doesn't mean anything to you?

20 A. No.

21 Q. Other than he is here in the courtroom?

22 A. Yes.

23 Q. Of the three types of jurors, Ms. Walker,
24 which type best describes you?

25 A. The third.

1 Q. The third. Am I to understand by that that
2 number one you don't have any preset punishment
3 for a murder situation; is that right?

4 A. That's right.

5 Q. Okay. And there would be circumstances
6 where you could vote to impose the death penalty
7 and there would be circumstances where you would
8 vote to impose life in prison?

9 A. Yes.

10 Q. But you would have to hear all the facts
11 before you made a decision as to which one; is
12 that right?

13 A. Yes, sir.

14 Q. Now, you understand in this trial that there
15 are, it is a two part trial, sort of two trials
16 within one, the first part you are going to hear
17 evidence about solely the charges and the jury
18 will make a decision after hearing that evidence
19 whether or not the State has met its burden of
20 proof. Of course your verdict will be either
21 guilty or not guilty depending upon your view of
22 the evidence, do you understand that?

23 A. Yes, sir.

24 Q. If the State fails to meet its burden of
25 proof, would you have any problem finding the

1 defendant, Mr. Stone, not guilty?

2 A. No.

3 Q. If the State met its burden of proof in your
4 eyes, satisfied you beyond a reasonable doubt,
5 would you have any hesitancy of finding him
6 guilty?

7 A. No.

8 Q. In the second phase of the trial, you are
9 going to hear additional evidence, evidence that
10 you won't hear in the first part, that deals
11 solely with the issue of punishment, do you
12 understand that?

13 A. Yes.

14 Q. Now, as I understand from your statements
15 earlier today, you would have an open mind going
16 into the first phase; is that right?

17 A. Yes, sir.

18 Q. Okay. Would you also keep an open mind for
19 the second phase?

20 A. Yes.

21 Q. So you wouldn't be influenced at all by what
22 happened in the first phase insofar as the
23 punishment is concerned; is that right?

24 A. Right.

25 Q. You understand that you will consider all

1 obviously at the end, but the evidence that you
2 hear in the second phase is going to deal strictly
3 with the issue of punishment, you understand?

4 A. Yes.

5 Q. You will hear evidence may be mitigating
6 circumstances, aggravating circumstances and
7 malice like that, do you understand that?

8 A. Yes, yes.

9 Q. And am I to understand that you would not
10 make any decision as a result of the first phase,
11 your action on the first phase as to the
12 punishment that would be appropriate in this case;
13 is that right?

14 A. Right.

15 Q. And at the end after you have heard all the
16 evidence, after you have received the charge on
17 the law, you would then retire and you would be
18 able to consider both the death penalty and life
19 imprisonment and determine which one you believe
20 to be the most appropriate?

21 A. Yes.

22 Q. Now, you do understand that for this trial
23 the jury will be sequestered, that means that you
24 all will be living together for a brief period of
25 time, the State will provide you with housing,

1 provide you with food, transportation. And I
2 realize that will be extremely or may be extremely
3 inconvenient to you, I understand that. But if
4 you were selected as a juror, could you set aside
5 that inconvenience and stay focused on this trial?

6 A. Yes.

7 Q. And would you do that?

8 A. Yes.

9 Q. Do you know of anything in your background,
10 anything in your experiences in life, any
11 personal philosophies you may have, strong
12 feelings you may have that would affect your
13 ability to be fair and impartial to the State?

14 A. No.

15 Q. Do you know of any such feelings, personal
16 feelings, experiences in life that would in
17 anyway affect your ability to be fair and
18 impartial to Mr. Stone?

19 A. No.

20 THE COURT: Thank you, please answer any
21 questions the solicitor may have.

22 EXAM BY MR. HILLIARD:

23 Q. Ms. Walker, good morning, just a few more
24 questions for you. Have you or any close friend
25 or family members ever been charged with a crime?

1 A. No.

2 Q. In response to the Judge's questions you
3 indicated that you considered yourself a type 3
4 juror; is that right?

5 A. Yes.

6 Q. Do you understand that to mean that depending
7 upon the facts and circumstances of the case you
8 could sentence someone found guilty to either the
9 death penalty or life imprisonment just depending
10 upon the facts and circumstances?

11 A. That's right.

12 Q. You could sign a document sentencing someone
13 to the death penalty, you believe you could write
14 your name on a document sentencing someone to the
15 death penalty?

16 A. Yes.

17 Q. You said yes?

18 A. Yes.

19 Q. You think you could stand in open Court in
20 front of the defendant and whoever else is in the
21 courtroom and say you were sentencing him to the
22 death penalty?

23 A. It would be hard but I could try.

24 Q. You are not sure about that?

25 A. No.

1 THE COURT: You need to answer loudly, if
2 you can.

3 THE WITNESS: No.

4 EXAM BY MR. HILLIARD:

5 Q. So you may not be able to do that?

6 A. No.

7 Q. You think if the judge instructed you that
8 you had to do that, do you think you could do
9 that?

10 A. If I had to.

11 Q. Do you think if you had to choose between the
12 death penalty and life imprisonment you would
13 always choose life imprisonment?

14 A. Yes.

15 Q. You think you would?

16 A. Yes.

17 MR. HILLIARD: No further questions,
18 Your Honor.

19 THE COURT: Mr. Littlejohn.

20 EXAM BY MR. LITTLEJOHN:

21 Q. Good morning, Ms. Walker. Earlier I think
22 the judge had asked you if you could follow his
23 instructions and be a fair juror in this case and
24 I believe your answer was yes, was it not?

25 A. Yes.

1 Q. As he told you if the jury in this case was
2 to find the defendant guilty of murder there would
3 be a second part of the case, a sentencing part,
4 okay. At that part there would be evidence
5 presented by the State and probably evidence
6 presented by the defense and His Honor would
7 instruct you how you were to consider that
8 evidence if you were on the jury in arriving at a
9 decision of either a death penalty or life in
10 prison, do you understand that?

11 A. Yes.

12 Q. Given his instructions to you and your
13 consideration of the evidence, could you fairly
14 consider both those alternatives, both death
15 penalty and life in prison?

16 A. Yes.

17 Q. Could you impose life in prison if that was
18 appropriate sentence?

19 A. Yes.

20 Q. Could you impose a death penalty if that was
21 the appropriate sentence?

22 A. Yes.

23 Q. And that would be based on His Honor's
24 instructions and evidence presented to you?

25 A. That's true.

1 Q. Ms. Walker, in this case Mr. Stone, the
2 defendant, is charged with murder of a police
3 officer. Would that fact alone prevent you from
4 listening to the evidence fairly and listening to
5 His Honor's instruction in arriving at a fair
6 verdict?

7 A. No.

8 Q. Just the fact the alleged victim in this case
9 was a police officer?

10 A. What now?

11 Q. I say just because the State claims that the
12 victim in this case is a police officer, would
13 that affect your ability to be fair?

14 A. No.

15 Q. Do you realize that the defendant in this
16 case or any case doesn't have to present any
17 evidence to you?

18 A. Yes.

19 Q. Do you understand that the defendant may
20 choose not to testify in this case and if he does
21 you can't hold that against him, you understand
22 that?

23 A. Yes.

24 Q. Okay.

25 MR. LITTLEJOHN: Thank you very much.

1 EXAM BY THE COURT:

2 Q. Ms. Walker let me ask you a question. You
3 indicated earlier that you were type three which
4 meant at times you could impose the death penalty?

5 A. Right.

6 Q. There were times you would impose life in
7 prison?

8 A. Yes.

9 Q. As an individual, that is your philosophy?

10 A. Yes.

11 Q. The question the solicitor asked you you said
12 given between death and life you would always
13 choose life, does that mean regardless of the
14 circumstances or just depends upon the
15 circumstances?

16 A. Depends upon the circumstances.

17 Q. So what you might -- am I to understand
18 what you meant by that answer is if you viewed the
19 facts to be it warranted life you would always
20 choose life?

21 A. No.

22 Q. The circumstances let me ask you this if you
23 felt the circumstances you said there are
24 circumstances that you would consider and would
25 impose the death penalty?

1 A. Right.

2 Q. If you saw those circumstances and then you
3 had and I told you you must choose which form of
4 punishment, would you choose life or would you
5 choose the death penalty?

6 A. The death penalty.

7 Q. So you could impose the death penalty?

8 A. Yes.

9 Q. And you indicated that you may be somewhat
10 hesitant to respond to an instruction, the
11 instruction from the Court the jury would stay and
12 answer you could do that?

13 A. Yes, sir.

14 THE COURT: Any additional questions from
15 the State?

16 MR. HILLIARD: No, sir, Your Honor.

17 THE COURT: Any from the defendant?

18 MR. LITTLEJOHN: No, sir.

19 THE COURT: If you would step down step
20 outside, please.

21 What says the State?

22 MR. HILLIARD: Qualified, Your Honor.

23 MR. LITTLEJOHN: We concur.

24 THE COURT: I do find she is qualified,
25 ask her to step in, please.

1 Ms. Walker you have been qualified as
2 possible juror, you are now potential juror in
3 this matter. We are going to select the jurors
4 on Wednesday afternoon at five o'clock. I will
5 hand you a sheet that has some information on
6 there from the clerk's office which you may find
7 helpful to you of what will happen if you are
8 selected. You will come from this pool we will
9 select the 12 individuals and the alternates so
10 when you come you don't know whether you will be
11 selected you need to go ahead and prepare or bring
12 with you sufficient clothing and personal effects
13 to take care of needs for approximately a week.
14 Come here, come directly back to the courtroom at
15 five o'clock tomorrow.

16 One more other thing, until then do not
17 discuss this case with anyone, do not allow
18 anybody to talk with you about this case or talk
19 about it in your presence, watch any news
20 programs about it or read any news articles.

21 Okay Mr. Coles.

22 ROGER COLES, having been first duly
23 sworn, testified as follows:

24 EXAM BY THE COURT:

25 Q. Good morning, Mr. Coles, how are you?

1. A. Fine.

2. Q. Good. You had a good rest last night?

3. A. Yes.

4. Q. Good. Since we met on yesterday you haven't
5. talked to anybody about this case or nobody has
6. talked to you about it?

7. A. No.

8. Q. Have you read any news accounts about it?

9. A. No.

10. Q. Watched any news programs?

11. A. No.

12. Q. Need for you to be sure that you speak up
13. because the microphone went out on us yesterday, I
14. don't think it will be ready -- fixed until this
15. afternoon so you will have to talk loud like I am
16. talking loud right now, okay?

17. A. Yes, sir.

18. Q. Can you do that for me?

19. A. Yes, sir.

20. Q. The questions I will have for you and the
21. lawyers may have for you remember I told you
22. yesterday there are no right or wrong answers to
23. these questions, so just relax, all we ask you to
24. do is just be truthful in your responses, can you
25. do that for us?

1 A. Yes, sir.

2 Q. Now, you indicated I believe you don't know
3 anything more about this case than I told you on
4 yesterday, do you?

5 A. No, sir.

6 Q. You haven't read anything about it before?

7 A. No, sir.

8 Q. Have you formed any opinions about them?

9 A. Not really.

10 Q. Would you have to hear some evidence before
11 you made any decisions?

12 A. It would help, wouldn't it.

13 Q. If you were a juror, would you base your
14 decisions, would you be able to decide this case
15 solely on the evidence?

16 A. Yes, sir.

17 Q. You could? You know anything else you might
18 consider other than the evidence?

19 A. No, sir.

20 Q. You understand well let me ask you before I
21 ask you that. Did you have a chance this morning
22 to read that sheet that had three types of jurors?

23 A. Yes, sir.

24 Q. Which one best describes you?

25 A. I think it would be ---

1 Q. The one that says death penalty? Now, that
2 one says?

3 A. Not death penalty.

4 Q. Life in prison?

5 A. Yes, sir.

6 Q. Let me ask you a question, they are all
7 three kind of talk about that let's just chat
8 about it a minute. One of them says that
9 whenever the first one I believe says that
10 whenever the person is found guilty of murder that
11 you would always believe the death penalty would
12 be the appropriate punishment regardless of facts.
13 The second one says when someone is found guilty
14 of murder you would always vote for life
15 imprisonment regardless of the facts and the third
16 one says I think there are sometimes where the
17 death penalty would be proper and I think
18 sometimes where life in prison would be proper it
19 just depends on the facts, now which one of those
20 is you?

21 A. Life in prison.

22 Q. You are life in prison. You mean to tell me
23 there are no set of circumstance you can think of
24 if you were a juror you could sign a statement and
25 says you vote for the death penalty?

1 A. Life in prison.

2 Q. You would go life in prison?

3 A. Yes.

4 Q. You could not consider the death penalty as a
5 possible punishment?

6 A. I don't think I could.

7 Q. You don't think you could, could you?

8 A. No, sir.

9 Q. You could not?

10 A. No, sir.

11 Q. There are no circumstances that you could?

12 A. No.

13 Q. So if you were on a jury and you heard all
14 the facts of the case and then the judge
15 instructed you on the law, when you went back to
16 the jury room you are telling me that you wouldn't
17 even consider the possibility of imposing the
18 death penalty?

19 A. No, sir.

20 THE COURT: Any questions from the State?

21 MR. HILLIARD: No, sir, Your Honor.

22 THE COURT: Any questions from the
23 defendant?

24 MR. LITTLEJOHN: Just briefly, Your
25 Honor.

1 EXAM BY MR. LITTLEJOHN:

2 Q. Good morning, Mr. Coles, I know this is
3 probably a brand new setting and procedure for you
4 to be in and we appreciate you being here. Let
5 me ask you this, sir, if you were chosen on a
6 jury that found a defendant guilty of murder and
7 His Honor instructed you that there were certain
8 aggravating things that made the murder more
9 horrible than a usual murder or more heinous than
10 a usual murder and he told you that under the
11 evidence you could consider whether a death
12 penalty would be appropriate, could you under
13 those circumstances if it was a particular
14 terrible crime consider the death penalty as an
15 alternative sentence?

16 A. I guess I could.

17 Q. I mean you would listen to the evidence,
18 would you not?

19 A. Yes, sir.

20 Q. Consider what His Honor instructed you as to
21 what you were to weigh in making that decision?

22 A. Yes, sir.

23 Q. And being impartial juror could you not
24 consider both life in prison if that was
25 appropriate and the death penalty if that was

1 appropriate, do you think you could do that?

2 A. Yes, sir.

3 Q. And that would be based upon what His Honor
4 would instruct you, right?

5 A. Right.

6 Q. And what you heard from the witness box and
7 whatever evidence was put in?

8 A. Yes, sir.

9 Q. Mr. Coles, in this case Mr. Stone, the
10 defendant, is accused of the murder of a police
11 officer, a deputy sheriff. Would that fact
12 weigh on you in determining what the proper
13 verdict ought to be in this case?

14 A. Yes, it would.

15 Q. It would. How would it weigh on you, what
16 effect would it have on you?

17 A. Prove that he did it I think he would deserve
18 death penalty for it.

19 Q. For that. Now, once you heard all the
20 evidence and the law that His Honor instructed you
21 could you not also consider a life imprisonment
22 sentence if the circumstances warranted?

23 A. Yes, sir.

24 Q. I guess what I am getting at could you go
25 into it with an open mind and consider both

1 possible punishments?

2 A. I guess I could.

3 Q. Just one final thing, Mr. Coles, as His
4 Honor would instruct you if you were selected on
5 this jury, the defendant in this case just like
6 any other criminal case doesn't have to put up any
7 evidence and he may choose not to testify in this
8 case. If that were the fact would you hold that
9 against him if His Honor told you you couldn't
10 hold it against him?

11 A. Yes.

12 Q. You would follow His Honor's instructions?

13 A. Yes, sir.

14 MR. LITTLEJOHN: Thank you, Mr. Coles.

15 THE COURT: You have any following
16 questions based on those questions?

17 MR. HILLIARD: Just a couple.

18 EXAM BY MR. HILLIARD:

19 Q. Good morning, Mr. Coles, how are you doing?
20 Mr. Coles, do you believe you could sign your
21 name to a document sentencing the defendant to the
22 death penalty, could you write your name on a
23 document saying that he was sentenced to death
24 penalty?

25 A. I would sign life in prison.

1 Q. You couldn't sign a document saying you agree
2 he should get the death penalty?

3 A. No.

4 Q. Do you think you could come into Court and
5 stand and say that you were sentencing him to the
6 death penalty if the judge asked you that
7 question?

8 A. Repeat the question again.

9 Q. Could you come in the Court, stand in front
10 of the defendant and who ever was in the courtroom
11 and say given your verdict he should be given the
12 death penalty?

13 A. Yeah, if the jury found.

14 Q. So you could stand and say that you were
15 saying that he should get death penalty?

16 A. - Yes.

17 Q. If given a choice between death penalty and
18 life imprisonment would you always side with life
19 imprisonment, would you always side with life
20 imprisonment?

21 A. Yes, sir.

22 THE COURT: Any further questions?

23 MR. LITTLEJOHN: No further questions.

24 THE COURT: Mr. Coles, if you will step
25

1 down and step out the door we will be with you in
2 just a moment.

3 What says the State?

4 MR. HILLIARD: Judge, I was hoping the
5 Court would question him a little bit more because
6 frankly I question his competence based upon the
7 wide range of answers that he gave.

8 THE COURT: Well, you believe he is
9 unqualified?

10 MR. HILLIARD: Yes.

11 THE COURT: What says the defendant?

12 MR. LITTLEJOHN: We disagree, we think
13 he is qualified.

14 THE COURT: I first of all I am not
15 about, the gentleman told me right off the bat
16 that it was absolutely no circumstance where he
17 would consider it then he said he could vote for
18 it, then he said he couldn't do it, then he said
19 he would hold your client if the State proved that
20 he was guilty of killing a police officer he would
21 automatically believe the death penalty. No way
22 in the world, I appreciate your position, I find
23 him unqualified. Ask him to step back in,
24 please.

25 Mr. Coles, thank you so much for coming

1 this morning. I will excuse you from further
2 participation in this matter. I would ask, we
3 are going to select the jury probably on
4 Wednesday, you will not have to return. The
5 only thing I would ask is that until we have
6 actually selected the jury you not discuss this
7 case with anyone. Thank you so much, good luck
8 to you, sir, have a good day.

9 Bring in Ms. Legette.

10 SHIRLEY LEGETTE, having been first
11 duly sworn, testified as follows:

12 EXAM BY THE COURT:

13 Q. Good morning.

14 A. Good morning.

15 Q. How are you?

16 A. Fine.

17 Q. That's good. Yesterday I shared some
18 information with you that was alleged by this
19 case, do you have any other knowledge about it
20 other than what I shared with you yesterday?

21 A. No, sir.

22 Q. You haven't heard anything about it or read
23 anything about it overnight, have you?

24 A. No, sir.

25 Q. Has anyone talked to you about it?

2396

1 A. No, sir.

2 Q. Have you talked to anyone else?

3 A. No, sir.

4 Q. I have some questions that I need to ask you
5 this morning and I simply remind you that there
6 are no right or wrong answers to any of these
7 questions, all we need for you to do is just
8 answer truthfully, okay?

9 A. Yes, sir.

10 Q. Also we had the problem yesterday that the
11 mike went out on us so we are now having to
12 project our voices this morning, that is why I am
13 talking as loud as I am to you right now. So I
14 will ask that you talk as loud back at me even
15 though we are close to each other so that everyone
16 can hear the question, okay.

17 A. Okay.

18 Q. Have you had a chance to read that sheet of
19 paper that we passed out to the jurors?

20 A. Yes.

21 Q. Which one describes you?

22 A. The third one.

23 Q. The third one. And by that am I to
24 understand that for you there are times depending
25 upon the circumstances if someone is found guilty

1 of murder that you could vote and feel the
2 appropriate punishment would be the death penalty?

3 A. I haven't heard the facts.

4 Q. I understand that, you would have, I'm not
5 asking you to predetermine, I'm saying you would
6 have to have all the facts?

7 A. Yes.

8 Q. But based upon the facts there would be
9 situations where you would believe the death
10 penalty was appropriate punishment?

11 A. Yes.

12 Q. Now you hesitated. Does that mean that you
13 find it difficult, would you find it difficult to
14 do that?

15 A. Yes.

16 Q. But if the circumstances in your opinion you
17 heard them warranted, could you consider that as
18 a possible punishment?

19 A. Yes.

20 Q. Okay. Likewise, if you considered it, the
21 facts, heard all of them and in your opinion the
22 appropriate punishment would be life in prison,
23 could you impose that?

24 A. Yes.

25 Q. And would it depend upon the facts in a given

1 case?

2 A. Yes.

3 Q. But there is no question if you were a juror
4 you could consider both punishments in determining
5 the appropriate punishment?

6 A. Yes.

7 Q. Now, have you formed any opinions about this
8 case?

9 A. No.

10 Q. Would you have to hear the evidence before
11 you formed an opinion?

12 A. Yes.

13 Q. And would you wait if you were a juror until
14 you have heard all the evidence and received the
15 law from the Court before you made any decisions?

16 A. Yes.

17 Q. You would be that type of person?

18 A. Yes.

19 Q. You understand yesterday that I told you that
20 there are several basic principles of law that
21 apply in any criminal case and certainly applies
22 in this one that when someone is charged with a
23 criminal violation in this country or this State
24 they are presumed to be innocent until the State
25 proves them guilty beyond a reasonable doubt, do

1 you understand that?

2 A. Yes.

3 Q. Do you have any problem with that?

4 A. No.

5 Q. A part of that would mean that the person
6 charged with criminal violation they don't have to
7 prove anything. They certainly don't have to
8 prove they are innocent, do you understand that?

9 A. Yes, sir.

10 Q. I would give you that instruction, would you
11 have any problem following that instruction?

12 A. No.

13 Q. So if you were a juror in this case, am I to
14 understand then that you would look to the State
15 to prove its case?

16 A. Yes.

17 Q. Would you expect Mr. Stone to prove anything
18 to you?

19 A. Yes.

20 Q. What?

21 A. What went on.

22 Q. Okay. Now, I will tell you, I appreciate
23 that, but let me give you this instruction and
24 let's come back to that.

25 A. Okay.

1 Q. I would tell you at the close of the case,
2 for instance suppose Mr. Stone didn't take the
3 stand, offered nothing, I would tell you that a
4 person charged with criminal violation, Mr. Stone
5 is included in that, doesn't have to offer any
6 evidence, don't have to prove their innocence,
7 they don't have to testify. And the fact he did
8 not testify you cannot use that against him in any
9 way, shape or form, would you have any problem
10 following that instruction?

11 A. No.

12 Q. All right let me ask you again, given that
13 instruction would you expect Mr. Stone to prove
14 anything?

15 A. No.

16 Q. If your view of the evidence you know there
17 are two parts to this trial, first part you will
18 deal with whether or not Mr. Stone is guilty or
19 not guilty of the offense, if in the first part
20 you looked at the evidence and you believe the
21 State had not met its burden of proof, could you
22 find Mr. Stone not guilty and would you find him
23 not guilty?

24 A. No.

25 Q. You would not if the State had not met its

2404

1 burden of proof? In other words, they failed to
2 satisfy you beyond a reasonable doubt that he was
3 guilty?

4 A. No.

5 Q. You would find him guilty?

6 A. Not.

7 Q. You would find him not guilty. Okay. If
8 the State convinced you beyond a reasonable doubt
9 that he was guilty, would you find him guilty? If
10 you looked at the evidence, you heard all the
11 evidence and you were satisfied the State had
12 satisfied you that he had committed these acts
13 would you find him not guilty?

14 A. I would find him guilty.

15 Q. Find him guilty, okay. You know it is the
16 second phase when the jury would then consider the
17 appropriate punishment, do you understand that?

18 A. Yes.

19 Q. Would you be able to keep an open mind in the
20 second phase?

21 A. Yes.

22 Q. Because you are going to hear additional
23 evidence in that second phase that you hadn't
24 heard in the first phase, do you understand,
25 mitigating circumstances, aggravating

1 circumstances and the like?

2 A. Yes.

3 Q. Would you wait until you have heard all the
4 evidence and received the law before you made a
5 decision as to what punishment you would consider
6 or would you have it already decided based on what
7 is happening first?

8 A. I would wait until I heard.

9 Q. You would wait until you hear all that.
10 When you go back I would instruct you that you,
11 the jury, must now consider the appropriate
12 punishment and you must make the determination as
13 to whether death penalty is most appropriate or
14 life in prison, would you be able to consider
15 both of them?

16 A. Yes.

17 Q. Would you consider both of them?

18 A. Yes.

19 Q. And am I to understand if the circumstances
20 -- you found the circumstances sufficient you
21 could sign a verdict for the death penalty?

22 A. Yes.

23 Q. Likewise if you found the circumstances
24 sufficient and proper you could sign a verdict for
25 life in prison?

1 A. Yes.

2 Q. This jury will be sequestered, do you
3 understand that?

4 A. Yes.

5 Q. And that means that when we pick the jury we
6 are going from here you will be kept with the
7 other jurors, State will provide you with
8 lodging, food, transportation through the
9 duration of the trial. I know that would be
10 inconvenient, would that inconvenience affect
11 your ability to be fair and impartial to both
12 parties?

13 A. No.

14 Q. Could you fairly try this case?

15 A. Yes.

16 THE COURT: Please answer any questions
17 the State may have for you.

18 EXAM BY MR. HILLIARD:

19 Q. Ms. Legette, just a few additional questions
20 for you. Have you or any close friends of yours
21 or family members ever been charged with a crime?

22 A. No, sir.

23 Q. In response to the Judge's question you
24 indicated that you consider yourself a type three
25 juror?

1 A. Yes, sir.

2 Q. You understand that to mean that sometimes
3 you will go for life imprisonment, sometimes you
4 will vote for death penalty depending upon the
5 facts of the case?

6 A. Yes.

7 Q. Do you think you could sign your name to a
8 document which will be sentencing the defendant to
9 the death, do you think you could write your name
10 on that document?

11 A. Yes, sir.

12 Q. Do you think you could come in Court and
13 stand in front of the defendant and whoever else
14 is in the courtroom and say you are sentencing him
15 to death?

16 A. Yes, sir.

17 MR. HILLIARD: No further questions.

18 THE COURT: Mr. Littlejohn.

19 EXAM BY MR. LITTLEJOHN:

20 Q. Ms. Legette, just a couple of questions.
21 If you thought a life imprisonment punishment was
22 appropriate, could you not agree with that,
23 also?

24 A. Yes, sir.

25 Q. Given the facts of the case?

1 A. Yes.

2 Q. Would you be such a juror that you would keep
3 an open mind as to that and wait until you heard
4 all the evidence?

5 A. Yes, sir.

6 Q. And all the Judge's instructions?

7 A. Yes, sir.

8 Q. One final thing, in this case, Mr. Stone,
9 the defendant, is accused by the State of the
10 murder of a police officer, deputy sheriff,
11 would the fact that that is the alleged victim in
12 this case, would that cause any difficulty to you
13 to fairly and impartially consider the evidence?

14 A. No, sir.

15 Q. Would you treat it just like -- would you
16 treat Mr. Stone just like you would any defendant
17 upon which you were sitting as a juror?

18 A. Yes, sir.

19 MR. LITTLEJOHN: Thank you very much.

20 THE COURT: Any additional questions from
21 the State?

22 MR. HILLIARD: No, sir.

23 THE COURT: If you will step down,
24 please, ma'am and go out the door we will be with
25 you in just one second.

2405

1 What says the State?

2 MR. HILLIARD: Qualified, Your Honor.

3 THE COURT: Defendant?

4 MR. LITTLEJOHN: We concur, Your Honor.

5 THE COURT: I do find she is qualified.

6 Ms. Legette, you have been qualified as a
7 potential juror in this case, that means that you
8 will be in the pool, from that pool we will
9 select the 12 individuals and alternates to hear
10 this case. That will occur tomorrow at five
11 o'clock in this courtroom. You will need to come
12 back at that time, have a seat out in the
13 audience. Here is a sheet of paper that has some
14 information that if you are selected you may find
15 helpful. When you come since you won't know
16 whether you are going to be selected you need to
17 bring with you sufficient clothing and personal
18 effects to take care of your needs for about a
19 week. Please until then do not discuss this case
20 with anyone, don't allow anyone to talk to you
21 about it. Don't watch any news programs or read
22 any news accounts. Thank you so much.

23 Christopher Carroll.

24 CHRISTOPHER CARROLL, having been
25 first duly sworn, testified as follows:

2410

1 EXAM BY THE COURT:

2 Q. Good morning, Mr. Carroll.

3 A. Morning.

4 Q. How are you?

5 A. Fine.

6 Q. Good. Yesterday did you indicate that you
7 do not have any prior knowledge of this incident
8 other than what I shared with you, you hadn't
9 heard anything about it?

10 A. No.

11 Q. Since we last met have you talked with
12 anybody about this matter?

13 A. No.

14 Q. Has anyone talked to you about it or talked
15 about it in your presence?

16 A. No.

17 Q. You didn't watch any news accounts or read
18 any newspaper articles?

19 A. No.

20 Q. So as we sit here today do you have any
21 knowledge about it other than what I shared with
22 you yesterday of the alleged facts?

23 A. No.

24 Q. Do you have any opinion about it one way or
25 the other?

1

A. No.

2

Q. Would you have to hear the facts before you
develop an opinion?

3

4

A. Yes.

5

Q. Would you have to hear all the facts before
you make a decision?

6

7

A. Yes.

8

Q. You understand that someone charged with
criminal violation is never required to prove
their innocence, you understand that, that is
called part of presumption of innocence, you have
any problem with that principle of law?

9

10

11

12

13

A. No, sir.

14

15

Q. So the fact that Mr. Stone is seated over
there at that table, does that mean anything to
you at all?

16

17

A. No, sir.

18

19

Q. You have a chance to read that sheet that had
the three types of jurors?

20

A. Yes, sir.

21

Q. Which one best describes you?

22

A. The third one.

23

Q. The third one?

24

A. Yes.

25

Q. You would have to hear everything before you

1 decided punishment?

2 A. Yes.

3 Q. And am I to understand that if you were and
4 you did hear everything that there are
5 circumstances that in your opinion that would
6 warrant the death penalty?

7 A. There are situations.

8 Q. And there are certain situations that would
9 warrant life in prison?

10 A. Yes.

11 Q. You don't have any predetermination as to
12 which one applies to most cases or anything like
13 that it just depends upon the facts?

14 A. Yes.

15 Q. Would you also just like we indicated you
16 were about the facts of this case, would you also
17 be a juror that you would have to hear all the
18 facts and receive the law before you made a
19 decision on the appropriate punishment?

20 A. Yes, sir.

21 Q. And you would not make decisions and just go
22 back there?

23 A. No.

24 Q. You understand that the State has the
25 responsibility in this matter as I indicated

1 yesterday, the State has the burden of proof
2 beyond a reasonable doubt, it is their
3 responsibility to prove this case and of course
4 the case is two trials within a trial. In the
5 first phase you will hear evidence as to whether
6 or not Mr. Stone committed the alleged violation,
7 do you understand? If you were on this jury and
8 after hearing all the evidence you were not
9 convinced beyond a reasonable doubt that the State
10 had met its burden of proof, would you find him
11 not guilty?

12 A. No.

13 Q. Likewise, if you were convinced the State
14 had satisfied you beyond a reasonable doubt could
15 you find him guilty?

16 A. Yes.

17 Q. You understand in the second phase we would
18 go into matters that would deal solely with
19 appropriate punishment, do you understand?

20 A. Yes.

21 Q. You would not have heard any of that in the
22 first. Would you be influenced by anything that
23 happened in the first phase or would you have an
24 open mind when you started considering the
25 punishment?

241-i

1 A. I would wait.

2 Q. You would wait and listen to all the
3 evidence; is that right?

4 A. Yes, sir.

5 Q. After you have heard all the evidence could
6 you consider all of it in making the decision; is
7 that right?

8 A. Yes.

9 Q. When you reach that point and I instructed
10 you to make a determination as to the appropriate
11 punishment, would you be a juror that could
12 consider both the death penalty and life in prison
13 and make a decision between the two?

14 A. Yes, sir.

15 Q. You know of anything that has happened in
16 your life or any strong feelings that you may
17 have, any personal conviction you may have or
18 anything that would affect you, affect your
19 ability to be fair and impartial to the State?

20 A. No.

21 Q. How about to Mr. Stone?

22 A. No.

23 Q. So would you be a person that would have an
24 open mind and not decide it until you have heard
25 all the facts and you could follow the law?

1 A. Yes, sir.

2 THE COURT: Answer any questions the State
3 may have.

4 EXAM BY MR. HILLIARD:

5 Q. Good morning, Mr. Carroll, just a couple of
6 additional questions for you. Have you or any
7 close friends or family members ever been charged
8 with a crime?

9 A. No, sir.

10 Q. In response to the Judge's questions you
11 indicated you consider yourself a type three
12 juror; is that correct?

13 A. Yes, sir.

14 Q. Do you understand that to mean that sometimes
15 you would vote for death penalty and sometimes for
16 life in prison depending upon the facts in the
17 case?

18 A. Yes, sir.

19 Q. Do you believe you could sign your name on a
20 document sentencing the defendant to death?

21 A. If I felt based on the facts I could.

22 Q. Do you think you could come into open Court
23 in front of the defendant and whoever else was in
24 the courtroom and say you would sentence him to
25 the death penalty?

1 A. Yes, sir.

2 MR. HILLIARD: Please answer any
3 questions the defense may have.

4 THE COURT: Mr. Littlejohn.

5 EXAM BY MR. LITTLEJOHN:

6 Q. Mr. Carroll, again if the circumstances
7 warranted, could you vote for life imprisonment
8 sentence if someone was convicted of murder?

9 A. Yes.

10 Q. Let me ask you this, sir, do you have any
11 friends or acquaintances or relatives that are
12 police officers?

13 A. Not in this state.

14 Q. You have friends or acquaintances in another
15 State, West Virginia?

16 A. Yeah.

17 Q. In this case the State has accused Mr. Stone
18 of the murder of a police officer. Now, would
19 the fact that you have friends that are police
20 officers or the fact he is charged with the murder
21 of a police officer, would that affect your
22 ability to fairly consider the evidence and take
23 Your Honor's instructions and render a fair
24 verdict?

25 A. No.

1 Q. It wouldn't have any effect on you?

2 A. No.

3 Q. One final thing, His Honor is going to tell
4 you if you are chosen as a juror he will tell you
5 that the defense does not have to prove anything,
6 he is going to tell you that the defendant does
7 not have to testify if he chooses not to. Would
8 that affect your ability to consider whether the
9 State has proved his guilt beyond a reasonable
10 doubt?

11 A. No.

12 Q. If the judge tells you you are not to
13 consider that, would you not consider it?

14 A. Yes.

15 Q. Okay. Thank you, sir.

16 EXAM BY THE COURT:

17 Q. All right, sir, let me ask you this one
18 question I failed to ask you earlier. If you are
19 selected on this jury you will be sequestered with
20 the other jurors, the State will provide you with
21 housing, with lodging, food and transportation
22 and I know that may be somewhat inconvenient to
23 you, for you, but could you set aside that
24 inconvenience and not be influenced by that in
25 considering the evidence, it wouldn't affect your

1 ability to stay focused on the trial?

2 A. No, sir.

3 THE COURT: Thank you, sir. Step down
4 we will be with you in just a moment.

5 What says the State?

6 MR. HILLIARD: Qualified.

7 THE COURT: What says the defendant?

8 MR. LITTLEJOHN: We concur.

9 THE COURT: I find that he is qualified.

10 Mr. Carroll, you are qualified as a potential
11 juror in this matter. That means that you are
12 part of the pool now from which we will select 12
13 individuals and alternates who will decide this
14 case. I need for you to be back here tomorrow at
15 five o'clock. At that time just come back out
16 into the courtroom at that time we will go through
17 the selection process. Read this information
18 which you may find helpful to prepare you for
19 tomorrow. When you come since you don't know
20 whether or not you will be selected you need to
21 bring with you in case you are personal clothing,
22 personal effects to take care of your needs for
23 about a week. Okay.

24 Do not until we meet back here tomorrow do
25 not talk about this case with anyone, don't allow

2419

1 anyone to talk with you about it or watch any news
2 programs about it or read any news accounts.
3 Okay thank you so much we will see you tomorrow at
4 five o'clock.

5 Let's take about five minutes before we
6 start back.

7 (Whereupon, a short recess was held.)

8 THE COURT: State ready?

9 MR. HILLIARD: Yes, sir, Your Honor.

10 THE COURT: Defendant?

11 MR. LITTLEJOHN: Yes.

12 THE COURT: Okay bring in Dr. Frank.

13 WALTER FRANK, having been first duly
14 sworn, testified as follows:

15 EXAM BY THE COURT:

16 Q. Good morning, Dr. Frank.

17 A. Good morning.

18 Q. How are you this morning?

19 A. Fine.

20 Q. Good. I have some questions I need to ask
21 you and I remind you there are no right or wrong
22 answers to any of these questions we just ask that
23 you respond truthfully, will you do that for us?

24 A. Yes.

25 Q. All right. Yesterday when I announced this

1 case do you have any prior knowledge of this
2 incident?

3 A. The names that you read didn't mean anything
4 to me. I had a suspicion I may have read about
5 this case and I do have a suspicion there are a
6 lot of police officers at the hospital that I used
7 to work at in Chicago, had a police officer got
8 shot. I'm suspicious of the fact.

9 Q. Let me ask you a question. Would your
10 knowledge of what you read, would that influence
11 you in sitting as a juror?

12 A. No.

13 Q. You could set that aside and separate the
14 two?

15 A. Yes, sir.

16 Q. And would you be an individual if you were on
17 the jury that would have to hear all the facts
18 before you made a decision?

19 A. Yes.

20 Q. So you would not make any quick judgments and
21 you would require the completion of the facts and
22 receive the law before you made a decision and
23 reached your verdict?

24 A. Yes.

25 Q. Now, have you had an opportunity to review

1 that sheet pertaining to the jurors?

2 A. Yes.

3 Q. Of those three, which best describes you?

4 A. I have never been a proponent of the death
5 penalty, in regard I have had my friends (can't
6 make out tape) they all argue (can't make out
7 tape) I don't know if I could sit there silent or
8 not.

9 Q. I appreciate that and I appreciate your
10 candor in which you just responded. Let me ask
11 you this. This is why we do this because this is
12 truly your call, in a sense you have to consider
13 you and that is what I am asking because there are
14 no right or wrong answers. If we got to that
15 point in this proceeding if the jury in the first
16 proceeding concluded and found the State had met
17 its burden of proof, found guilty of the
18 offenses, the second portion would deal with
19 appropriate punishment you would hear additional
20 evidence at that time. Then the jury would be
21 instructed on the law and part of my instruction
22 would be that you now must retire and make a
23 determination, consider it and make a choice
24 between the appropriate punishment, one being
25 death and one being life. Am I to understand

1 that your personal philosophy, your personal
2 feelings would impair your ability to consider
3 both?

4 A. I feel much I will. I understand why we have
5 a death penalty and why it is handed down, I just
6 don't think in my situation that it is appropriate
7 for me to make that determination.

8 Q. So you believe that philosophy would impair?

9 A. I can go over reasons why life imprisonment
10 is worse than ten years on death row. I don't
11 believe in it, I just don't believe in it.

12 THE COURT: Any questions from the State?

13 MR. HILLIARD: No.

14 THE COURT: Any questions from the
15 defendant?

16 MR. LITTLEJOHN: Just briefly.

17 EXAM BY MR. LITTLEJOHN:

18 Q. Dr. Frank, of course the only thing you know
19 about this case is what His Honor has told you
20 briefly about the allegations against Mr. Stone?

21 A. Yes, sir.

22 Q. I guess what I need to ask you is if you were
23 chosen as a juror in a murder case and I am not
24 saying this case I am saying this type case, if
25 the circumstances of the case were particularly

1 horrible and His Honor instructed you that you
2 could consider those circumstances, there are
3 other crimes committed, we will say, could you
4 consider the death penalty if the case was an
5 extreme case?

6 A. You know it is hard to say. You know this
7 is the time for me to practice what I always
8 preached and I would be hypocritical if I said
9 that you know I would go back there if this was a
10 particular heinous crime I would say yes this guy
11 of all others deserve death. I have never said
12 that I don't want to be put in that situation.
13 Society doesn't want me, physicians, making life
14 or death decisions. The courts have shown,
15 public opinion has shown that, it is not right.
16 I understand you know actually everything that is
17 going on here. I'm starting to understand
18 exactly what this crime was, but you guys don't
19 want physicians handing down life and death.
20 Everything I have done my whole life, my whole
21 career has been to save life, no matter what when
22 I operate on guys knowing that cops have brought
23 in and shot people you do your best job. Am I
24 talking too much?

25 THE COURT: No, sir.

1 THE WITNESS: Let me give you guys a
2 situation. Let's say that you go through this
3 trial and and he is found guilty and he is given
4 the death penalty and let's say I'm the juror and
5 I hand down the death penalty and he stands up and
6 he punches his chest and falls down on the ground,
7 having a heart attack. Every eye in this
8 courtroom would look at me to hop over the railing
9 and go down and try to save him. If I didn't do
10 it in the back of a lot of people's minds, why
11 didn't he want to do his best to save this guy.
12 It is the same analogy.

13 EXAM BY MR. LITTLEJOHN:

14 Q. That would be quite a quandry, would it not?

15 A. Yes.

16 MR. LITTLEJOHN: Thank you, doctor.

17 THE COURT: Any additional questions?

18 MR. HILLIARD: No.

19 THE COURT: Step down, doctor, I will
20 be right back with you.

21 What says the State?

22 MR. HILLIARD: We danced around it pretty
23 good, I don't think he is qualified.

24 THE COURT: What says the defendant?

25 MR. LITTLEJOHN: Unfortunately we concur.

1 THE COURT: I think he falls clearly
2 within that. I think he was candid in answering,
3 I don't think he would prevent it but I think it
4 would substantially impair his ability to fully
5 consider.

6 Doctor, I am now able to excuse you from
7 further participation in this matter. We are
8 going to select the jury on Wednesday. I will
9 only ask that you do one more thing, you won't
10 have to return, not discuss this matter with
11 anyone until we have selected the jury after that
12 you are free to talk with whom you wish.

13 Mr. Goss.

14 ROY GOSS, having been first duly
15 sworn, testified as follows:

16 EXAM BY THE COURT:

17 Q. Good morning, Mr. Goss.

18 A. Good morning.

19 Q. How are you?

20 A. Good.

21 Q. I have some questions that I need to ask you
22 and want to remind you and assure you there are no
23 right or wrong answers to any of these questions
24 and the same applies to any of the questions that
25 the lawyers may have for you. Do you have any

1 prior knowledge of this matter?

2 A. No, I don't.

3 Q. You don't -- the only thing you know is the
4 little bit I shared with you of what is alleged;
5 is that right?

6 A. Right.

7 Q. Have you talked to anybody about it or read
8 anything about it or heard anything about it since
9 we met yesterday?

10 A. No, sir.

11 Q. Now, have you had an opportunity to review
12 that sheet that explained the three types of
13 jurors?

14 A. Yes.

15 Q. Which one best describes you?

16 A. I am somewhat of a third one.

17 Q. Somewhat of a third one?

18 A. Yeah.

19 Q. I appreciate that. Let me ask you does that
20 mean that you are the type of person that there
21 are some circumstances that you believe would
22 warrant the death penalty and there are some
23 circumstances in a murder that would warrant life
24 in prison?

25 A. To a certain extent.

2427

1 Q. To a certain extent?

2 A. Yes.

3 Q. To what extent?

4 A. I guess I more or less (can't make out tape).

5 Q. You would want to hear it all before you made
6 that determination?

7 A. Yes, sir.

8 Q. But after you have heard it all am I to
9 understand that there are times when you would
10 believe the death penalty was appropriate after
11 you have heard it all?

12 A. At some point I think so.

13 Q. There would be some situations that you would
14 say would warrant the death penalty?

15 A. Yes, sir.

16 Q. There are some situations that you believe
17 life in prison would be appropriate?

18 A. Right.

19 Q. If you were on the jury and after you have
20 heard, after the judge has instructed you that
21 you had to retire to make a determination of which
22 one was appropriate, would you consider both of
23 them?

24 A. Yes.

25 Q. And then you would make your decision between

1 which one you thought was more appropriate?

2 A. Yes.

3 Q. Based on the circumstances?

4 A. Yes.

5 Q. Do you have any opinions about this case as
6 we sit here today?

7 A. No, sir.

8 Q. Would you have to hear all the evidence
9 before you made any decisions?

10 A. Yes, sir.

11 Q. You understand that the burden is on the
12 State to prove its case?

13 A. Right.

14 Q. I told you yesterday about the presumption of
15 innocence, do you have any problems with that
16 principle of law?

17 A. No.

18 Q. Do you understand that what that means is
19 that everyone who is charged with criminal offense
20 of course that includes Mr. Stone who is charged
21 with criminal offense is presumed to be innocent
22 and they don't have a thing to prove at all, do
23 you understand that?

24 A. Yes, sir.

25 Q. One thing that that goes one step further

1 they sure don't have to prove their innocence, do
2 you understand that?

3 A. Yes, sir.

4 Q. Do you have any problem with that?

5 A. No.

6 Q. You were on the jury and hearing this case
7 would you expect Mr. Stone to prove anything to
8 you?

9 A. What you just said.

10 Q. You could follow my instruction?

11 A. Yes, sir.

12 Q. You could also, I don't know, but Mr. Stone
13 for whatever reason chose not to testify in this
14 matter I would instruct you that you couldn't use
15 that against him, could you follow that
16 instruction?

17 A. Yes, sir.

18 Q. Would you follow that instruction?

19 A. Yes, sir.

20 Q. Now, if you were on this jury you would go
21 through the first stage, would deal with whether
22 or not Mr. Stone is guilty or not guilty of the
23 offenses that he is charged, you would hear
24 evidence solely on that issue, do you understand?

25 A. Yes.

1 Q. The jury retires, makes the determination
2 whether the State has proved to you beyond a
3 reasonable doubt that he did these offenses, do
4 you understand?

5 A. Yes, sir.

6 Q. If you looked at the evidence, having heard
7 it all and having received the law, and you
8 believe that the State had not proved to you
9 beyond a reasonable doubt, would you have any
10 hesitancy finding him not guilty?

11 A. No.

12 Q. If on the other hand in your view of the
13 evidence you felt the State had met its burden and
14 convinced you beyond a reasonable doubt that he
15 weren't, would you have any hesitancy finding him
16 guilty?

17 A. No.

18 Q. After that trial based upon the jury's
19 verdict if the jury does find him guilty of murder
20 we will go into the second phase which is the
21 penalty phase, do you understand and it is at
22 that time that you will hear evidence that will
23 deal with the appropriate sentence, do you
24 understand?

25 A. Yes, sir.

1 Q. Would you have an open mind going into that
2 second phase?

3 A. I think I would.

4 Q. You would have to hear all that evidence
5 before you made a decision as to the appropriate
6 punishment?

7 A. Yes, sir.

8 Q. And then receive the law to apply that
9 evidence as to those facts; is that right?

10 A. Yes, sir.

11 Q. You would hear that phase, aggravating
12 circumstances, allege aggravating circumstances,
13 mitigating circumstances and other matters
14 containing to that then you would make a
15 determination that you were a juror based on what
16 we just talked about it is my understanding that
17 you would be able to follow the Court's
18 instruction, you would be able to go back and
19 consider death penalty and life imprisonment and
20 be able to make a decision between the two?

21 A. Yes.

22 Q. If you are selected on this jury you are
23 going to be sequestered and you will be with the
24 other jurors until this trial is over, the State
25 provide your lodging, State would provide you

1 food and transportation. I know that will be
2 something that will not be the most convenient
3 thing if your life, if you are selected could you
4 set aside that inconvenience and stay focused on
5 the trial?

6 A. I guess I would have to.

7 Q. I need you to tell me could you do it or
8 would it interfere with your ability to focus, be
9 able to perform your responsibilities as a juror?

10 A. I could do it.

11 Q. You could do it. Do you know of anything in
12 your background, any personal philosophies you
13 may have, any strong feelings that you have that
14 would in anyway influence or affect your ability
15 to be fair and impartial to the State in this
16 matter?

17 A. No.

18 Q. How about being fair and impartial to Mr.
19 Stone?

20 A. No.

21 THE COURT: Answer any questions the
22 State may have for you.

23 EXAM BY MR. HILLIARD:

24 Q. Mr. Goss, you live in the Appleton
25 community?

1 A. Pleasant Hill.

2 Q. Pleasant Hill. Prior to this case have you
3 ever discussed with anyone your opinion about the
4 death penalty in general?

5 A. Not really been a big issue of mine.

6 Q. I just notice you have a lot of hesitation
7 when the judge asks you about the death penalty.

8 A. Right. I mean I never really considered it
9 that much one way or the other.

10 Q. Your previous growing up in school, your
11 adult life to this point you have never expressed
12 an opinion with friends or associates that you did
13 not believe in the death penalty?

14 A. Not at that point. We have had some
15 conversation never did it suggesting.

16 Q. So you don't have any strong opinions against
17 the death penalty in general?

18 A. Not to a certain extent. Like I said,
19 never had the opportunity to really, you know,
20 be in a situation where I had to do that.

21 Q. If you were on the jury and the facts were
22 proved, person was proven guilty of murder,
23 could you go into the penalty phase and decide
24 between the death penalty and life in prison with
25 an open mind or would your previous feelings

1 interfere with your ability to have an open mind
2 on that issue?

3 A. (Can't make out tape).

4 Q. So you don't think that your previous
5 feelings, your previous discussions with anyone
6 about the death penalty would prevent you from
7 having an open mind and deciding what the
8 punishment should be in a death penalty case?

9 A. Not at this time I don't.

10 Q. Okay. And you feel that you could on a jury
11 fairly consider that and if the facts were bad
12 enough that you could recommend the death
13 sentence?

14 A. I think I could.

15 Q. And you realize that if you can't do it this
16 is the time to say so. I mean, you understand
17 that?

18 A. Yes, sir.

19 Q. And so you feel that you could do it?

20 A. I think I could.

21 Q. Well, would your hesitancy be based upon
22 what the facts and circumstances of the case were
23 and that you have to hear that first or would it
24 be based upon just that you don't want to have to
25 be the one to actually sentence somebody to death,

1 you see that is two different things?

2 A. To be honest with you, it is a little of
3 both. I would definitely have to hear the facts.

4 Q. Okay. So we understand it would have to be
5 what the law provided, it would have to be after
6 you heard all the facts and circumstances, but
7 could you yourself not as a citizen sitting out
8 there, we ought to have the death penalty or we
9 shouldn't, could you yourself be on a jury and
10 return a death verdict?

11 A. I think I could.

12 Q. Now, that involves signing your name on the
13 verdict which becomes the death warrant in the
14 case?

15 A. Right.

16 Q. You coming into the courtroom with the
17 defendant and others present and standing up in
18 the Court to say that is your verdict, the death
19 sentence?

20 A. I still have a choice.

21 Q. Yes, sir. That is the point you always have
22 a choice death penalty and life in prison. Would
23 you always choose life if you were faced with that
24 choice no matter what the circumstances of the
25 case were?

1 A. I could consider that.

2 MR. HILLIARD: Thank you, sir.

3 THE COURT: Mr. Babb.

4 EXAM BY MR. BABB:

5 Q. Good morning, Mr. Goss. Do you think, Mr.
6 Goss, could you be fair to both the defendant and
7 the State in this case?

8 A. Yes, sir.

9 Q. Could you listen to the evidence without
10 making up your mind until the judge has instructed
11 you on the law?

12 A. Yes.

13 Q. Could you follow the Judge's instruction?

14 A. Yes.

15 Q. We have talked about the trial being in two
16 phases, it is what we call a guilt phase to
17 determine whether an individual is guilty of the
18 crime charged or not then the penalty phase,
19 decide what the penalty should be applied if that
20 individual is found guilty. Does the fact that
21 the State is seeking the death penalty would that
22 impact your influence in determining the
23 defendant's guilt or innocence?

24 A. No.

25 Q. Can you separate the two?

1 A. I could.

2 Q. Mr. Goss, do you have any friends or
3 relatives that are police officers?

4 A. I know some, I wouldn't say friend, I know
5 them.

6 Q. Acquaintances?

7 A. I just know them from the neighborhood.

8 Q. In this case the defendant, Mr. Stone, is
9 accused of a murder of a deputy sheriff. Does
10 the fact of that accusation, does that inhibit
11 your ability to be fair to the State and to the
12 defendant?

13 A. No.

14 Q. Would that inhibit your ability to be fair
15 should he be convicted and then you are put in a
16 position of having to consider what sentence
17 should be imposed?

18 A. No.

19 Q. In that second phase you would receive
20 evidence, can you keep an open mind in receiving
21 that evidence, that evidence would be regarding
22 aggravating circumstances or possibly mitigating
23 circumstances, could you be fair in judging
24 those?

25 A. Yes, sir.

1 Q. For both parties?

2 A. Yes.

3 Q. You could keep an open mind?

4 A. Yes, sir.

5 MR. BABB: Thank you, sir.

6 THE COURT: Thank you, sir, if you
7 would step down step out the door we will be with
8 you in just a moment.

9 What says the State?

10 MR. HILLIARD: Qualified, Your Honor.

11 THE COURT: What says the defendant?

12 MR. BABB: Qualified, sir.

13 THE COURT: Ask the juror to step back
14 in, please.

15 Mr. Goss, you have been qualified as a
16 potential juror in this matter. You are now a
17 part of the pool, from that pool we will select
18 the 12 who will actually decide this case that
19 will occur tomorrow at five o'clock. You need to
20 be back in the courtroom tomorrow afternoon at
21 five o'clock. We will give you some information
22 in case you are selected. Since you don't know
23 whether or not you are you need to bring with you
24 in case you are sufficient clothing and personal
25 effects that take care of your needs for about a

1 week so if you are selected you will leave from
2 here and go onto Sumter, all the jurors.

3 See you tomorrow at five o'clock. Until
4 then do not talk about this case, do not allow
5 anyone to talk about it in your presence or talk
6 about it. Do not read any newspaper articles
7 about it, don't watch any news accounts about it.
8 Thank you, sir, see you tomorrow at five.

9 Okay Ms. Semple.

10
11 DEBRA SEMPLE, having been first duly
12 sworn, testified as follows:

13 EXAM BY THE COURT:

14 Q. Would you state your full name?

15 A. Debra R. Semple.

16 Q. Ms. Semple, yesterday we met and talked, do
17 you have any prior knowledge of this alleged
18 incident?

19 A. No, sir.

20 Q. You haven't read anything about this?

21 A. No.

22 Q. So all you know about is the alleged facts I
23 shared with you yesterday?

24 A. Yes.

25 Q. Have you talked with anyone about it or had

1 any discussions with anyone who might talk with
2 you about it since yesterday?

3 A. No, sir.

4 Q. Have you read anything about it or heard any
5 news accounts?

6 A. No, sir.

7 Q. You have an opportunity to review the sheet
8 that has the three types of jurors?

9 A. Yes, sir.

10 Q. Which one best describes you?

11 A. Number 3.

12 Q. That means that there are times when you
13 after you have heard all the facts that you would
14 believe the death penalty was appropriate
15 punishment and there are times when you believe
16 life in prison?

17 A. That's correct.

18 Q. Would you have to hear all the facts before
19 you decided which one was appropriate?

20 A. Yes, sir.

21 Q. Now, as we sit here today do you have any
22 opinions about this case?

23 A. No.

24 Q. Any strong feelings about this case?

25 A. No, sir.

1 Q. Would you be a person that would have to hear
2 all of the evidence and receive the law before you
3 make a decision?

4 A. Yes, sir.

5 Q. As a part of this trial I talk with you about
6 two -- several principles that apply to this,
7 one of those is that everybody charged with a
8 criminal offense in this country or State is
9 presumed to be innocent, do you understand that?

10 A. Yes, sir.

11 Q. You have any problem with that?

12 A. No, sir.

13 Q. As a part of that it means that a person
14 charged with a criminal offense is never required
15 to prove their innocence, do you understand that?

16 A. Yes, sir.

17 Q. Would you have any problem following that
18 instruction?

19 A. No, sir.

20 Q. I would instruct you when we went to trial
21 that the State has the burden of proof and it is
22 their burden to prove their case beyond a
23 reasonable doubt. Would you, if you were on the
24 jury would you look to the State to prove its
25 case?

1 A. Yes, sir.

2 Q. Would you expect Mr. Stone to prove anything?

3 A. No, sir.

4 Q. If you were on the jury in this case, this
5 case will have basically two parts of two trials.
6 The first part will deal with the issue of whether
7 or not Mr. Stone is guilty or not guilty of these
8 offenses, do you understand that?

9 A. Yes, sir.

10 Q. At that time you will hear the evidence that
11 pertains to those issues. At the conclusion of
12 that I will instruct you on the law and the jury
13 will retire. If you were on the jury and you
14 view the evidence and you were not convinced
15 beyond a reasonable doubt that the State proved
16 its case, would you hesitate to find the
17 defendant not guilty?

18 A. No, sir.

19 Q. Likewise, if you were convinced that the
20 State had met its burden beyond a reasonable
21 doubt, would you hesitate finding him guilty?

22 A. No, sir.

23 Q. If the jury should conclude the defendant is
24 guilty of murder, we would go into a second phase
25 which during that phase that you will hear

1 additional evidence, evidence that you hadn't
2 heard from the first phase that pertains to --
3 would be involved in determination and punishment
4 to hear evidence, mitigating circumstance,
5 aggravating circumstances and the like, do you
6 understand that?

7 A. Yes, sir.

8 Q. Would you have an open mind in both phases?

9 A. Yes, sir.

10 Q. Would you be influenced by your decision of
11 guilt in anyway from the first phase if you found
12 him guilty?

13 A. No, sir.

14 Q. So that wouldn't have any influence on what
15 you determined to be an appropriate punishment
16 other than the fact you found him guilty of
17 murder?

18 A. Right.

19 Q. In the second phase would you have to hear
20 all of the evidence and receive the law before you
21 would make a decision as to the appropriate
22 punishment in this case?

23 A. Yes.

24 Q. At that time I would -- part of my
25 instruction to you would be now retire and make a

1 determination as to the appropriate punishment,
2 make a choice between life in prison and the death
3 penalty. Could you do that?

4 A. Yes.

5 Q. And could you consider both of them?

6 A. Yes, sir.

7 Q. As possible punishments?

8 A. Yes, sir.

9 Q. Do you know of anything in your background,
10 any strong feelings you have or personal
11 philosophies you may have, any experiences that
12 would influence or affect in anyway your ability
13 to be fair and impartial to the State in this
14 matter?

15 A. No, sir.

16 Q. How about to the defendant, Mr. Stone?

17 A. No, sir.

18 Q. If you are selected on this jury the jury
19 will be sequestered and that means that you will
20 all be together for the duration of the trial,
21 the State will provide you lodging and
22 transportation. I know that would not be
23 something that you would be excited about doing,
24 but could you set aside the inconveniences, the
25 inconvenience of that and stay focused on your job

1 as juror?

2 A. Yes, sir.

3 Q. That wouldn't affect your ability to serve as
4 a juror on this case?

5 A. No.

6 THE COURT: Thank you, please answer any
7 questions the State may have.

8 EXAM BY MR. KOLB:

9 Q. Mr. Semple, if you were on the jury, do you
10 feel that depending upon the facts and
11 circumstances of the case and the law charged do
12 you feel like you could return a death sentence?

13 A. Yes, sir.

14 Q. And if that were the decision of yourself and
15 the jury, could you sign your name to that
16 verdict form?

17 A. Yes, sir.

18 Q. And come into Court and stand up in Court in
19 front of the defendant or anyone else present and
20 announce to the Court that that is your verdict?

21 A. Yes, sir.

22 MR. KOLB: Thank you.

23 THE COURT: Mr. Littlejohn.

24 EXAM BY MR. LITTLEJOHN:

25 Q. Good morning. Ms. Semple, on the other

2446

1 hand, if you heard all the evidence and the
2 Court's instructions and determined that a life
3 imprisonment sentence was appropriate, could you
4 render that verdict also?

5 A. Yes, sir.

6 Q. Would you wait and listen to all the evidence
7 before making that decision?

8 A. Yes, sir.

9 Q. Let me ask you this, ma'am, do you have any
10 friends, acquaintances, relatives that are police
11 officers?

12 A. No, sir.

13 Q. In this case Mr. Stone, the defendant, is
14 accused by the State of the murder of a deputy
15 sheriff from Sumter county. Would the fact that
16 he is charged with that particular type offense,
17 would that weigh on your ability to be a fair and
18 impartial juror and to listen to all the evidence
19 and consider his guilt or not guilty?

20 A. No, sir.

21 Q. Based on the evidence?

22 A. No, sir.

23 Q. You would keep an open mind?

24 A. Yes, sir.

25 Q. Thank you very much.

1 THE COURT: If you will step down and
2 step out the door I will be with you in just a
3 second. Thank you.

4 What says the State?

5 MR. KOLB: Qualified.

6 MR. LITTLEJOHN: We concur.

7 THE COURT: She is qualified, ask her to
8 step back in, please.

9 Ms. Semple, you have been qualified as
10 potential juror in this matter. Means you are
11 now part of that pool as part of that pool we will
12 select the 12 who will ultimately decide this
13 case. That will happen tomorrow at five o'clock.
14 I need you to come back tomorrow at five o'clock.
15 Here is a sheet that has some information to help
16 you. When you come tomorrow since you don't know
17 whether you will be staying you need to bring
18 sufficient clothing and personal effects that will
19 take care of you for about a week because if you
20 are selected we will leave here for Sumter and
21 start trial on Thursday.

22 I will see you tomorrow at five until then
23 please do not discuss this case with anyone nor
24 allow anyone to talk with you about it or talk
25 about it in your presence. I would ask you again

1 not to watch anything on TV relating to it or read
2 any news accounts. Thank you.

3 Ms. Miller.

4 JANETTE MILLER, having been first
5 duly sworn, testified as follows:

6 EXAM BY THE COURT:

7 Q. Good morning, Ms. Miller, how are you?

8 A. Fine.

9 Q. Good. Ms. Miller, since we met yesterday
10 have you heard anything about this case or read
11 anything about it?

12 A. No.

13 Q. Anybody talk about it in your presence?

14 A. No, sir.

15 Q. Do you have any prior knowledge other than
16 what I shared, those alleged facts I shared with
17 you yesterday?

18 A. No, sir.

19 Q. So have you formed any opinions?

20 A. No, sir.

21 Q. Would you have to hear all the evidence and
22 receive the law before you made a decision?

23 A. Yeah, I would.

24 Q. Are you the type of person that would not
25 make a decision until you have heard all the

1 facts?

2 A. Yes.

3 Q. That is the type of person you are?

4 A. Yes.

5 Q. You had an opportunity to review that sheet
6 that contained the three types of jurors?

7 A. Yes, sir.

8 Q. Which one best describes you?

9 A. Life in prison.

10 Q. Life in prison. That means you believe that
11 anyone is convicted of murder, the formative
12 punishment would be life in prison?

13 A. I just don't feel like I could put anybody in
14 the electric chair.

15 Q. You don't believe you could consider it?

16 A. No, sir.

17 Q. Under any circumstances?

18 A. No, sir.

19 Q. So your decision on that would not be
20 influenced by the severity of the circumstances?

21 A. No, sir.

22 Q. The most severe is life in prison and that
23 would always be the choice.

24 THE COURT: Any questions from the State?

25 MR. KOLB: No questions.

1 THE COURT: Any questions from the
2 defendant?

3 MR. LITTLEJOHN: Thank you, Your Honor.
4 Your Honor, one thing for the record, the Court
5 (can't make out tape) she said electric chair I
6 don't think it makes any difference to it.

7 EXAM BY THE COURT:

8 Q. Let's forget about the method for a moment,
9 would you consider, my understanding you would
10 never consider as appropriate if you were on the
11 jury one of the punishments being the death
12 penalty?

13 A. No, sir.

14 Q. You could never do that under any
15 circumstances?

16 A. No, sir.

17 THE COURT: All right Mr. Littlejohn.

18 EXAM BY MR. LITTLEJOHN:

19 Q. Ms. Miller, just briefly and I understand
20 your opinions and convictions in this matter but
21 let me just ask you this, of course you haven't
22 heard any of the evidence in this case, I am not
23 suggesting that this is such a case, but if you
24 were chosen as a juror in a murder case and you
25 found the defendant guilty of committing that

1 murder and you heard evidence that it was a
2 particularly horrible or heinous circumstance and
3 there were other crimes involved, given that
4 could you ever consider the death penalty as an
5 option?

6 A. I couldn't.

7 Q. Even given a very horrible situation?

8 A. No, sir. I don't feel I would ever rest a
9 day.

10 Q. You would never rest a day?

11 A. No, sir.

12 MR. LITTLEJOHN: Thank you, ma'am.

13 THE COURT: Thank you, ma'am. If you
14 will step down, be with you in a moment step out
15 the door.

16 I find she is not qualified. Any
17 objection from the State?

18 MR. KOLB: No, sir.

19 THE COURT: Any objection from the
20 defendant?

21 MR. LITTLEJOHN: No, Your Honor.

22 THE COURT: Thank you. Ms. Miller,
23 thank you very much I will excuse you from any
24 further participation in this matter. We will
25 select a jury tomorrow at five o'clock. Until we

1 select a jury I would request that you not discuss
2 this case with anyone after we select a jury if
3 you want to talk about it you are free to talk
4 about it. Thank you so much have a good day.
5 Let's take a break if we could.

6 (Whereupon, a short recess was held.)

7 THE COURT: Are you ready?

8 MR. KOLB: Yes, sir.

9 THE COURT: Defense ready?

10 MR. LITTLEJOHN: Yes, sir.

11 THE COURT: Let the record reflect Mr.
12 Stone is present. All right let's bring in Ms.
13 Tindall.

14 JEANETTA TINDALL, having been first
15 duly sworn, testified as follows:

16 EXAM BY THE COURT:

17 Q. Good morning. I promise you no reason to be
18 nervous. What I told you yesterday there are no
19 right or wrong answers, that is still true, there
20 is no reason to be nervous, don't worry. Nobody
21 is going to jump on you, nobody is going to say
22 anything. Only thing we ask you -- you can do
23 that all right. You have had an opportunity to
24 read the sheet of paper that had the three types
25 of jurors?

1 A. Yes, sir.

2 Q. Which one best describes you?

3 A. The second one.

4 Q. The second one?

5 A. Yes, sir.

6 Q. That means what?

7 A. Under no circumstances do I agree with the
8 death penalty.

9 Q. None?

10 A. No, sir.

11 Q. Could you even consider it?

12 A. (Can't make out tape).

13 Q. The philosophy on the death penalty, nobody
14 is going to try to change your philosophy, the
15 question I would ask you is if we went to trial on
16 this matter and if you were on the jury am I
17 understanding you that when and if you got to the
18 point that the jury would be determining the
19 appropriate punishment, you as a juror would
20 never under any circumstances be able to consider
21 imposing the death penalty?

22 A. No I wouldn't say never but like I told you.

23 Q. I understand that you would personally, but
24 you don't agree with it?

25 A. I don't agree with it.

1 Q. Okay. Well let me ask you this. One of
2 the things that jurors have to do all of the time
3 and it is kind of both of them are neat things
4 about this country, we have rights as people in
5 this country that may not even be the law.
6 Nobody will put us in jail or put us in jail about
7 that. We can change those, we can take actions
8 legally to try to change those and sometimes some
9 are successful in that. When you are on a jury
10 you take an oath, you take an oath to decide a
11 case solely on the facts of the case and you take
12 an oath to accept the law as the judge gives it to
13 you and apply that law to the facts. That charge
14 means if you agree with it or not. It is the law
15 in this State, we recognize in certain cases two
16 types of punishment for murder, one would be the
17 death penalty, the other would be life in prison.
18 If you were on the jury, could you accept my
19 instruction and consider both life in prison and
20 the death penalty as an appropriate punishment?

21 A. Yes, sir.

22 Q. You could?

23 A. I think so.

24 Q. In other words, your personal philosophy
25 nobody will be asking you to change your personal

1 philosophy, you understand that. But the
2 question is could you set aside that philosophy,
3 look at the facts of this case, apply the law to
4 the facts and make a decision of what you believe
5 is appropriate under the law?

6 A. Yes, sir.

7 Q. If necessary, it may mean that you as a
8 juror with the other jurors would be signing your
9 name and saying I vote for the death penalty in
10 this case?

11 A. If the evidence is there and it is strong
12 enough.

13 Q. You could do it?

14 A. Yes, sir.

15 Q. I am not asking you whether you would like
16 to?

17 A. No, I wouldn't.

18 Q. I understand that, I don't think any juror
19 who has ever sat on any case, be it this type of
20 case or any necessarily likes doing it. It is a
21 duty.

22 A. I know that. I just don't, like I said my
23 philosophy.

24 Q. I need to find out and only you know the
25 answer to this one.

1 A. I know.

2 Q. Would your personal philosophy affect you in
3 anyway or hinder you from doing what you believe
4 was right after considering all the facts and
5 circumstances, do you believe, after talking
6 with other jurors that you believe the death
7 penalty was appropriate, could you in spite of
8 your philosophy, vote for death penalty and
9 consider it?

10 A. My feelings toward it is that I don't think
11 it is right and I know it is in our law, if the
12 evidence were so heavy and played over I suppose I
13 could do it.

14 Q. I understand. Now, let me ask you this
15 question, you have said it several times and
16 let's move from penalty part to just the trial
17 itself. Are you the type of person that has to
18 hear all of the facts before you can make a
19 decision?

20 A. Yeah, I would want to hear the maximum
21 amount of the facts.

22 Q. You would not make any decision until you
23 heard all the facts that you could possibly hear?

24 A. Until I felt sure.

25 Q. Would you keep an open mind until you were

1 instructed to begin your decision, because you
2 see that is part of the trial, that you would be
3 promising both the State and Mr. Stone that you
4 would keep an open mind and not make any decisions
5 until the Court instructed you to make a decision.
6 Would you do that?

7 A. I would try.

8 Q. As you sit here today you don't know really
9 anything about this case, is that right, ma'am?

10 A. No, sir.

11 Q. Do you have any feelings about Mr. Stone one
12 way or the other just the fact he is sitting at
13 that table, does that mean anything to you?

14 A. No, sir.

15 Q. You heard me yesterday tell you that a person
16 who is charged with criminal violation in this
17 country is entitled to the presumption of
18 innocence and that means that that individual,
19 well it means several things, one of the things
20 it means is that the State has to prove that
21 individual's guilt beyond a reasonable doubt.
22 And it secondly means that that individual doesn't
23 have to prove a thing, they don't have to prove
24 or disprove anything, do you understand?

25 A. Yes, sir.

1 Q. In fact they certainly don't have to prove
2 their innocence, they don't even have to testify
3 if they don't want to. If they choose not to I
4 would instruct the jury they can't use that,
5 could not use it or consider it against you,
6 could you follow that instruction?

7 A. Yes, sir.

8 Q. So if you were on the jury, would you look
9 to the State to prove its case?

10 A. Yes, sir.

11 Q. Would you expect Mr. Stone to prove anything?

12 A. No, sir, like I said it is his right if he
13 decides not to take the stand that is his right.

14 Q. So would you expect him to prove anything?

15 A. No, sir in fact the facts (can't make out
16 tape).

17 Q. The only party who has any burden to put any
18 facts in or prove anything is the State?

19 A. Yes, sir.

20 Q. If in the first phase where you consider
21 whether Mr. Stone is guilty or not guilty of these
22 alleged facts the jury will make a decision, they
23 will consider the evidence and decide whether the
24 State has met its burden. If you find and you
25 felt in your heart after looking at it that the

2459

1 State did not satisfy you beyond a reasonable
2 doubt, would you have any hesitancy in finding
3 him not guilty?

4 A. The State did not prove him guilty I would
5 feel like you said he is innocent until proven
6 guilty.

7 Q. And if you felt in looking at the evidence
8 that the State had met its burden, had convinced
9 you beyond a reasonable doubt, would you find him
10 guilty?

11 A. Yes, sir, I would.

12 Q. If you found him guilty, found him guilty of
13 murder then we would move into the second phase
14 which is the punishment phase and that is the
15 phase when you hear some evidence, some
16 additional evidence that you would not hear in the
17 first part, do you understand that? That would be
18 evidence that would go solely to the punishment,
19 mitigating circumstances, aggravating
20 circumstances, I will explain those terms to you
21 at the appropriate time. Would you keep an open
22 mind when you started that point?

23 A. Yes, sir.

24 Q. And would you listen to all the evidence,
25 would you listen to my instruction on the law and

1 then when I ask you to go back with the other
2 jurors, could you go back in that jury room and
3 consider the appropriate punishment?

4 A. Yes, sir.

5 Q. And could you consider and would you consider
6 both the death penalty and life in prison and make
7 a decision as to which one you felt was warranted?

8 A. Yes, sir.

9 Q. You could follow my instruction in that
10 regard?

11 A. I would follow your instruction, I would
12 try.

13 Q. Are you saying you would try, this is the
14 day, if you have any feeling that you could not
15 because of your philosophy, you need to tell us
16 now.

17 A. I am going to be honest with you, I don't
18 know about the death penalty, I will tell you it
19 is, (can't make out tape) I will be honest with
20 you because you know we have (can't make out tape)
21 it is from the heart not the mind, it goes deeper.

22 Q. But you seem to indicate have you a feeling
23 about doing what you would be called upon to do?

24 A. Yes, sir.

25 Q. Well, would it interfere with your duty as a

1 juror?

2 A. To be honest with you (can't make out tape)
3 it is just the way I feel about it. (Can't make
4 out tape) I think, you know, worrying about, you
5 know -- this is hard. I want to be.

6 Q. I understand that. All right. Please answer
7 any questions that the State may have. Thank
8 you.

9 MR. HILLIARD: We don't have any
10 questions at this time.

11 THE COURT: Very well.
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1 EXAM BY MR. LITTLEJOHN:

2 Q. Ms. Tindall just a few questions. You
3 indicated to the judge that you obviously have
4 strong opinions about the death penalty?

5 A. Yes, sir.

6 Q. But on the other hand I believe you indicated
7 to the judge that you also felt that you had a
8 duty if called upon to be a juror to follow his
9 instructions and to go into the case with an open
10 mind?

11 A. Yes, sir.

12 Q. Given that if you sat on a case I'm speaking
13 hypothetically, if you were chosen on a murder
14 case and it turned out that it was a particularly
15 horrible case or heinous case, could you
16 consider, could you set aside your personal
17 opinions, look at the evidence and follow His
18 Honor's instructions as to those things that you
19 were to consider and render a death penalty if you
20 felt it was appropriate and your fellow jurors
21 thought it was appropriate?

22 A. Like I said (can't make out tape) if I was
23 chosen that happened I would have to pray about it
24 and see if I thought it was appropriate. I feel
25 like punishment should be rendered when a crime

2463

1 has been rendered.

2 Q. So what you are saying with a great deal of
3 reflection and communication that you could follow
4 the instructions of the Court and render a death
5 penalty if that was appropriate?

6 A. I would try.

7 Q. You would try?

8 A. Yes.

9 Q. I understand what you are saying. That is
10 all anybody can ask you to do is try. I am just
11 asking you if you could go into that sort of
12 deliberation and consider both alternatives and
13 based upon both alternatives the death penalty or
14 life in prison render a verdict based upon the
15 evidence and what His Honor tells you the law is,
16 do you think you could do that?

17 A. Just my feelings on the inside I think I
18 could.

19 Q. I understand.

20 A. That is the way I feel about it. If
21 punishment is to be rendered at the time (can't
22 make out tape).

23 Q. Let me ask you this: In this case the State
24 has accused the defendant Mr. Stone of the murder
25 of a police officer. Would the fact that that is

1 the victim as charged in this indictment would
2 that have any bearing on what ultimate decision
3 you might think would be proper?

4 A. Not as far as the office that person holds.

5 Q. Yes, ma'am.

6 A. No man is more important than the other. If
7 a life has been lost because of someone else's
8 carelessness then I think punishment needs to be
9 rendered.

10 MR. LITTLEJOHN: That is all I have,
11 Your Honor.

12 THE COURT: Any additional questions Mr.
13 Kolb?

14 EXAM BY MR. KOLB:

15 Q. Ms. Tindall, you said that you don't feel
16 death penalty is right, you are against the death
17 penalty. Do you believe then there is any
18 situation in which you could vote in favor of the
19 death penalty for this defendant? Do you think
20 there is anyway you could vote for the death
21 penalty?

22 A. I have strong feelings about it. If he took
23 a life and I take a life it is just the way I
24 feel. I feel (can't make out tape) but I don't
25 (can't make out tape).

1 Q. So you don't believe there is anyway you
2 could vote for the death penalty in any situation?

3 A. No, sir.

4 Q. Any additional questions?

5 MR. LITTLEJOHN: No.

6 THE COURT: All right I will ask you to
7 step down, please, ma'am, we will be with you in
8 just a second.

9 What says the State?

10 MR. KOLB: Not qualified, Your Honor.

11 THE COURT: What says the defendant?

12 MR. LITTLEJOHN: Your Honor, I don't
13 think we can agree she is not qualified. Given
14 her answers I think there was some room there for
15 qualification.

16 THE COURT: All right. I have done some
17 reading at first I felt like this juror would fall
18 in the category really the flip side of the case
19 the State provided me yesterday State versus
20 Singleton because it doesn't exclude someone who
21 favors the death penalty, it certainly would not
22 necessarily exclude someone for life in prison.
23 But the problem is that the decisions that I read
24 and I read while you were asking some additional
25 decisions, this one was in the Gray versus

1 Mississippi case where the Reverend was faced with
2 what the Court viewed as moral dilemma.

3 Based on her answers I feel that this
4 juror would try to do what her, what she
5 perceived as her duty but that her religious
6 beliefs would substantially impair her ability to
7 be fair to consider both the death penalty and
8 life imprisonment and that she in fact would be
9 faced with the moral dilemma which she indicated
10 she would have to pray strongly about and for that
11 reason I would not find her qualified.

12 Ms. Tindall I would excuse you from
13 further participation in this matter. I would
14 ask you not to discuss this case with anyone until
15 the jury is selected, that will occur tomorrow at
16 five o'clock. After that you can talk with
17 anyone, good luck to you.

18 All right, Mr. Singletary.

19 JOHN W. SINGLETARY, having been first
20 duly sworn, testified as follows:

21 EXAM BY THE COURT:

22 Q. Good afternoon, Mr. Singletary or good
23 morning, I guess it is still morning, I'm sorry,
24 how are you today?

25 A. Fine.

1 Q. Good. Do you have any prior knowledge of
2 this alleged incident?

3 A. No, sir.

4 Q. Other than what -- the alleged facts I
5 shared with you yesterday?

6 A. No, sir.

7 Q. That is the extent of it? You haven't talked
8 to anyone or heard anything about it since
9 yesterday, have you?

10 A. No, sir.

11 Q. Watched any news accounts or any newspaper
12 articles?

13 A. No, sir.

14 Q. So do you have any opinions about this matter
15 at this point?

16 A. No, sir.

17 Q. None at all. Are you the type of person
18 that would have to hear all the facts before you
19 made a decision?

20 A. Yes, sir.

21 Q. Have you had an opportunity to review that
22 sheet that had the three types of jurors?

23 A. Yes, sir, I did.

24 Q. Which one best describes you?

25 A. The third one, sir.

1 Q. The third one. That means that there are
2 certain offenses which you feel the death penalty
3 would be appropriate punishment, there are
4 circumstances in murder where you believe life in
5 prison would be appropriate?

6 A. Yes, sir.

7 Q. And just because someone is convicted of
8 murder doesn't automatically they should get one
9 or the other, would you have to hear all the
10 facts?

11 A. Yes, sir.

12 Q. And you could consider both of them as being
13 appropriate punishment?

14 A. Yes, sir.

15 Q. You heard me yesterday give some instructions
16 about the law in this case and one of the issues
17 is that of course in every criminal dispute like
18 this is that anyone charged with criminal
19 violation in this country is entitled to
20 presumption of innocence. Do you have any
21 problem with that?

22 A. No, sir.

23 Q. That would mean of course that the State is
24 required to prove its case. They are the only
25 party that has a burden in this case. And that

1 burden is to prove it beyond a reasonable doubt.
2 The defendant or any defendant and Mr. Stone
3 included doesn't have to prove anything, do you
4 understand that?

5 A. Yes, sir.

6 Q. You have any problem with that?

7 A. No, sir.

8 Q. And that would mean that they would not be
9 required to prove their innocence, do you
10 understand that?

11 A. Yes, sir.

12 Q. So if you were on the jury in this case,
13 would you expect Mr. Stone to prove anything to
14 you?

15 A. No, sir.

16 Q. You would look to the State to prove its
17 case?

18 A. Yes, sir.

19 Q. You have heard me tell about the proceeding,
20 it will be two parts, first part will deal with
21 the issue of whether or not Mr. Stone is guilty or
22 not guilty of these alleged offenses, do you
23 understand?

24 A. Yes, sir.

25 Q. At that time you will hear evidence

1 concerning those issues -- that issue only, do
2 you understand that?

3 A. Yes, sir.

4 Q. If you were on the jury you look at the
5 evidence after the State has completed its case
6 and after I give you the instructions and you
7 apply the law to those facts and you felt the
8 State had not met its burden of proof, had not
9 satisfied you beyond a reasonable doubt, would
10 you have any hesitancy in finding Mr. Stone not
11 guilty?

12 A. No, sir.

13 Q. Likewise in your view of the evidence you
14 were convinced beyond a reasonable doubt that the
15 State hadn't met its burden, would you have any
16 hesitancy in finding him guilty?

17 A. No, sir.

18 Q. If the jury should conclude in that first
19 phase Mr. Stone is guilty, guilty of the offense
20 of murder you move into the second phase where you
21 would make a determination as to the appropriate
22 punishment, do you understand that, sir?

23 A. Yes, sir.

24 Q. It is at that phase you will hear additional
25 evidence that will deal with that issue of

1 appropriate punishment, aggravating
2 circumstances, mitigating circumstances and the
3 like. Would you have an open mind in both
4 stages?

5 A. Yes, sir.

6 Q. And after you have found him guilty would you
7 still have an open mind as to that point as to
8 what punishment would be appropriate?

9 A. Yes, sir.

10 Q. You would want to hear all the evidence
11 before you made a decision on the appropriate
12 punishment?

13 A. Most definitely, sir.

14 Q. At the conclusion of the second phase I will
15 give you additional instruction and then the jury
16 will retire to make a determination as to the
17 appropriate punishment. They will have to decide
18 between life imprisonment and the death penalty.
19 If you were on that jury could you consider both
20 of them?

21 A. Yes, sir.

22 Q. And you would make the decision as to what
23 you felt was the most appropriate?

24 A. Yes, sir.

25 Q. All right, sir. Do you know anything sir

1 in your background or any strong feelings you have
2 or personal philosophies that you may have or
3 anything that has happened in your life that would
4 affect your ability to be fair and impartial to
5 the State?

6 A. No, sir.

7 Q. Do you know of anything that would cause you
8 or affect your ability to be fair and impartial to
9 Mr. Stone?

10 A. No, sir.

11 Q. If you were on this jury you will be
12 sequestered with the other jurors until this
13 matter is concluded, that means of course the
14 State will provide you lodging and food and
15 transportation. I realize that may be an
16 inconvenience probably to a large extent, but
17 could you set aside that inconvenience and stay
18 focused on your responsibility as a juror?

19 A. Yes, sir.

20 THE COURT: Thank you, sir, please
21 answer any questions the State may have for you,
22 Mr. Singletary.

23 EXAM BY MR. KOLB:

24 Q. Mr. Singletary, you noted that you had been
25 charged with a DUI, I believe?

1 A. Yes, sir.

2 Q. Told the Court that yesterday and you had it
3 on your juror response form?

4 A. Yes, sir.

5 Q. Do you have any bad feelings against law
6 enforcement as a result of that arrest?

7 A. No, sir.

8 Q. And certainly not against law enforcement in
9 general?

10 A. No, sir.

11 Q. As I understand your answers to questions
12 that if you were on a jury depending upon what the
13 law was that you received from the Court and based
14 upon the facts and circumstances in the case, you
15 could be on the jury and return a death verdict?

16 A. Yes, sir.

17 Q. And that being the decision, could you sign
18 your name to that verdict along with the other
19 jurors knowing that that would be the death
20 sentence in the case?

21 A. Yes, sir.

22 Q. You come in Court and stand up in front of
23 the defendant and anyone else in the courtroom and
24 announce that verdict?

25 A. Yes, sir, I would, it is what is necessary.

1 THE COURT: Mr. Littlejohn.

2 EXAM BY MR. LITTLEJOHN:

3 Q. Thank you, Your Honor. Mr. Singletary, I
4 believe it is John W. Singletary?

5 A. Yes, sir.

6 Q. Don't worry, the Court didn't change your
7 middle name.

8 A. Well, they tried twice yesterday.

9 Q. We got it straightened out. Mr. Singletary,
10 Solicitor Kolb was asking you about your ability
11 to sign a death verdict, let me ask you this,
12 sir, on the other hand if the facts in your view
13 did not warrant that, could you not go along with
14 a life imprisonment verdict?

15 A. Yes, sir, I could.

16 Q. You wouldn't have any problem with that?

17 A. No, sir.

18 Q. Would you think about any sort of criticism
19 that you might receive if you went along with a
20 life imprisonment sentence?

21 A. No, sir.

22 Q. That wouldn't affect you?

23 A. That would be my decision.

24 Q. I understand. Mr. Singletary, do you have
25 any friends or relatives that are police officers?

1 A. I have brother-in-law that is correctional
2 officer at the Georgetown County jail.

3 Q. How long has he been out there?

4 A. Been out there four or five years.

5 Q. In this case the State has accused the
6 defendant Mr. Stone of murdering a deputy sheriff.
7 Would the fact that he is accused of such a charge
8 that of the murder of a deputy sheriff, would
9 that affect your ability to listen to all the
10 evidence and render what you think is a fair
11 verdict, given His Honor's instructions to you?

12 A. No, sir.

13 Q. That wouldn't have any effect on your ability
14 to render a verdict?

15 A. No, sir.

16 Q. Let me ask you a couple of things about
17 yourself, Mr. Singletary. You indicated you
18 were in the military?

19 A. Yes, sir.

20 Q. What branch of the service were you in and
21 how long were you in there?

22 A. I was in the Air Force for 24 and a half
23 years.

24 Q. So you retired from the Air Force?

25 A. Retired.