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THE STATE OF SOUTH CAROLINA
In The Supreme Court

JUN 12 2014

S.C. 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 VI OF XV

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1 QUALIFIED JUROR IN THIS CASE, AND THAT MEANS NOT
2 NECESSARILY THAT YOU'RE GOING TO SERVE ON THE CASE,
3 BUT YOU ARE ONE OF THE QUALIFIED JURORS. SO IT'S
4 GOING TO BE NECESSARY THAT I HAVE YOU COME BACK
5 TOMORROW. AT THIS TIME WE DON'T KNOW EXACTLY WHAT
6 TIME I'M GOING TO NEED YOU TOMORROW, SO I'M GOING TO
7 ASK IF YOU WILL CALL THE NUMBER THAT YOU HAVE ON
8 THAT BLUE CARD AND IF YOU DON'T HAVE ONE, WE'LL GET
9 ONE FOR YOU. AFTER 6:00 TONIGHT WE WILL HAVE A
10 REPORTING TIME ON THERE FOR YOU TOMORROW. WHEN YOU
11 GO HOME THIS AFTERNOON, PLEASE PACK YOUR CLOTHES AND
12 YOUR PERSONAL BELONGINGS SO WHEN YOU COME BACK TO
13 THE COURTHOUSE TOMORROW, BE PREPARED TO STAY FOR
14 FIVE OR SIX DAYS. AND WE WILL TAKE YOU, OR YOU WILL
15 BE TRANSPORTED FROM HERE TO THE MOTEL OR ELSE YOU'LL
16 DRIVE YOUR VEHICLES TO THE MOTEL. DO NOT BRING YOUR
17 CLOTHES AND THINGS IN THE COURTROOM. JUST LEAVE
18 THEM IN YOUR VEHICLE SO THAT IF YOU ARE SELECTED,
19 YOU WILL BE UNPACKING AT THE HOTEL. IF YOU'RE NOT
20 SELECTED, YOU'LL BE UNPACKING TOMORROW NIGHT AT
21 HOME. SO WHEN YOU COME, YOU'LL HAVE TO BRING
22 WHATEVER YOU NEED TO STAY FOR FIVE OR SIX DAYS.
23 OVER THE EVENING RECESS, DO NOT DISCUSS THE CASE
24 WITH ANYONE. DO NOT ALLOW ANYONE TO DISCUSS IT WITH
25 YOU. DO NOT READ ANY NEWS STORIES OR LISTEN TO ANY

1 RADIO OR TV BROADCAST ABOUT THE CASE. COME BACK
2 TOMORROW RESTED AND REFRESHED AND PREPARED TO SERVE,
3 IF YOU ARE SELECTED TO SERVE, AT WHATEVER TIME YOU
4 TELL YOU TO COME BACK. IF YOU'LL CALL THAT NUMBER
5 AFTER 6:00 TONIGHT, WE'LL HAVE THE REPORTING
6 INSTRUCTIONS FOR TOMORROW. THANK YOU VERY MUCH.

7 **JUROR #210:** OKAY.

8 **THE COURT:** JUROR #31, MR. BURGESS. HAVE A SEAT RIGHT
9 HERE, PLEASE. GOOD AFTERNOON, MR. BURGESS.

10 **JUROR #31:** GOOD AFTERNOON, YOUR HONOR.

11 **THE COURT:** MR. BURGESS, I WANT YOU TO RELAX. I KNOW
12 THAT THIS IS A LITTLE BIT OF AN INTIMIDATING
13 SITUATION. YOU'VE PROBABLY NEVER BEEN IN THIS
14 SITUATION BEFORE, BUT EVERYBODY WILL TREAT YOU WITH
15 RESPECT AND WITH COURTESY, BUT THERE ARE SOME
16 QUESTIONS THAT WE NEED TO ASK YOU TO DETERMINE YOUR
17 QUALIFICATIONS TO SERVE ON THE JURY. I WILL TELL
18 YOU THAT WE ASK OF THESE QUESTIONS NOT TO INVAD
19 YOUR PRIVACY, BUT BECAUSE THEY DO, THERE IS
20 INFORMATION THAT WE NEED TO KNOW TO DETERMINE YOUR
21 QUALIFICATIONS. AND THERE ARE NO RIGHT OR WRONG
22 ANSWERS TO SOME OF THESE QUESTIONS. YOU JUST NEED
23 TO ANSWER THEM HONESTLY AND OPENLY IN THE BEST
24 MANNER THAT YOU CAN.

25 **JUROR #31:** YES, SIR.

1 **THE COURT:** AGREE?

2 **JUROR #31:** YES, SIR.

3 **THE COURT:** ALL RIGHT. AND I WOULD ALSO TELL YOU THAT
4 YOU ARE UNDER OATH FROM THE OATH THAT YOU TOOK
5 YESTERDAY, SO YOUR ANSWERS WILL HAVE TO BE THE
6 TRUTH.

7 **JUROR #31:** YES, SIR.

8 **THE COURT:** OKAY. MR. BURGESS, I WILL TELL YOU THAT THE
9 DEFENDANT IN THIS CASE, MR. BOBBY WAYNE STONE, HAS
10 ALREADY BEEN FOUND GUILTY OF THE CRIME OF MURDER.
11 SO THE ISSUE OF WHETHER HE IS OR IS NOT GUILTY OF
12 THIS CRIME IS NOT GOING TO BE BEFORE THE JURY AND
13 IT'S NOT GOING TO BE A MATTER FOR THE JURY'S
14 CONSIDERATION. THE ONLY QUESTION FOR THE JURY'S
15 CONSIDERATION IS THE PUNISHMENT BEING IMPOSED FOR
16 THIS CRIME. THE STATE WILL PRESENT TESTIMONY AND
17 EVIDENCE TOUCHING ON WHAT WE CALL STATUTORY
18 AGGRAVATED CIRCUMSTANCES AND THE STATE WANTS TO
19 PROVE AT LEAST ONE OF THE STATUTORY AGGRAVATED
20 CIRCUMSTANCES BEYOND A REASONABLE DOUBT. BEFORE THE
21 JURY WILL BE ABLE TO DETERMINE THE VERDICT OF LIFE
22 IMPRISONMENT OR WITH, FOR DEATH BY LETHAL INJECTION
23 OR BY ELECTROCUTION. THOSE ARE THE ONLY TWO FACTORS
24 THAT, I MEAN, THOSE ARE THE ONLY TWO VERDICTS THAT
25 THE JURY WILL BE CONSIDERING, IF THE STATE IS ABLE

1 TO PROVE ONE OF THE STATUTORY AGGRAVATED
2 CIRCUMSTANCES. NOW HAVING SAID THAT, I WOULD ASK
3 YOU, HAVE YOU HAD A CHANCE TO READ THE TYPES OF
4 JURORS FORM THAT WAS GIVEN YOU IN THE JURY ROOM?

5 **JUROR #31:** YES, SIR.

6 **THE COURT:** AND IT IDENTIFIED THREE TYPES OF JURORS, TYPE
7 #1, TYPE #2, AND TYPE #3. WHICH WOULD YOU SAY,
8 WHICH OF THOSE TYPES WOULD MOST CLOSELY OR BEST
9 DESCRIBE YOU?

10 **JUROR #31:** NUMBER THREE.

11 **THE COURT:** NUMBER THREE?

12 **JUROR #31:** YES, SIR.

13 **THE COURT:** ALL RIGHT. SO BY SAYING THAT, WHAT YOU'RE
14 SAYING IS THAT AFTER LISTENING TO THE FACTS AND
15 CIRCUMSTANCES SURROUNDING THIS CASE AND DEPENDING ON
16 THOSE FACTS AND CIRCUMSTANCES, YOU COULD EITHER FIND
17 LIFE IMPRISONMENT, IMPRISONMENT WOULD BE THE CORRECT
18 PUNISHMENT, OR THAT THE FACTS AND CIRCUMSTANCES
19 INCLUDING THE AGGRAVATED CIRCUMSTANCES THAT YOU
20 FOUND THAT SATISFY YOU WARRANTED A PUNISHMENT OF
21 DEATH; IS THAT CORRECT?

22 **JUROR #31:** YES, SIR.

23 **THE COURT:** ALL RIGHT. NOW IF AFTER HEARING ALL OF THE
24 TESTIMONY IN THIS CASE INCLUDING THE STATUTORY
25 AGGRAVATED CIRCUMSTANCES WHICH THE STATE MUST PROVE

1 BEYOND A REASONABLE DOUBT, YOU FOUND THAT LIFE
2 IMPRISONMENT IS THE CORRECT PUNISHMENT AND ALSO
3 CONSIDERING MITIGATING CIRCUMSTANCES, THAT THE
4 DEFENSE OFFERS, YOU WOULD HAVE TO SIGN ALONG WITH
5 YOUR FELLOW JURORS A VERDICT FORM AND PUT YOUR
6 SIGNATURE ON THERE THAT LIFE IMPRISONMENT IS THE
7 CORRECT PUNISHMENT. COULD YOU DO THAT?

8 **JUROR #31:** YES, SIR.

9 **THE COURT:** BY THE SAME TOKEN, AFTER HEARING ALL THE
10 TESTIMONY IN THIS CASE INCLUDING THE STATE'S
11 AGGRAVATED CIRCUMSTANCES AND THE DEFENSE'S MITIGATED
12 CIRCUMSTANCES, YOU FOUND THAT DEATH WAS THE CORRECT
13 PUNISHMENT, YOU WOULD HAVE TO SIGN A FORM THAT WOULD
14 SENTENCE THE DEFENDANT TO DEATH. COULD YOU DO THAT?

15 **JUROR #31:** YES, SIR.

16 **THE COURT:** ALL RIGHT. NOW LET ME JUST CHANGE GEARS WITH
17 YOU FOR JUST A MINUTE, MR. BURGESS. HAVE YOU READ
18 ANYTHING OR SEEN ANY RADIO OR TELEVISION SHOWS
19 REGARDING THIS CASE?

20 **JUROR #31:** NO, SIR.

21 **THE COURT:** AND WOULD YOU BE ABLE TO LISTEN AND APPLY THE
22 LAW AS THIS COURT INSTRUCTS IT TO YOU EVEN IF YOU
23 DON'T AGREE WITH WHAT THE LAW IS?

24 **JUROR #31:** YES, SIR.

25 **THE COURT:** IF I TELL YOU WHAT THE LAW IS, WOULD YOU BE

1 ABLE TO FOLLOW MY INSTRUCTIONS?

2 **JUROR #31:** YES, SIR.

3 **THE COURT:** NOW IF YOU ARE SELECTED AS A JUROR IN THIS
4 CASE, YOU WOULD BE SEQUESTERED, THAT IS, YOU WOULD
5 BE HOUSED IN A MOTEL FOR FIVE TO SIX DAYS OR
6 WHATEVER IT TAKES TO COMPLETE THIS CASE. EXCEPT FOR
7 THE PERSONAL INCONVENIENCE THAT IT WOULD CAUSE YOU,
8 WOULD THAT PRESENT ANY UNDUE HARDSHIP ON YOUR OR
9 MEMBERS OF YOUR FAMILY OR ANYONE THAT YOU ARE A,
10 THAT IS DEPENDANT UPON YOU, WOULD THAT CAUSE ANY
11 UNDUE HARDSHIP TO YOU OR ANY OF THEM?

12 **JUROR #31:** NO, SIR.

13 **THE COURT:** ALL RIGHT. VERY GOOD, MR. BURGESS. THANK
14 YOU VERY MUCH. NOW I'M GOING TO ASK THE LAWYERS TO
15 ASK ANY QUESTIONS THAT THEY WOULD LIKE TO ASK, AND
16 AGAIN, IF YOU'LL JUST GIVE THEM THE SAME COURTESY
17 THAT YOU HAVE GIVEN ME, I WOULD APPRECIATE IT.

18 **JUROR #31:** YES, SIR. MR. SALEEBY.

19 **MR. SALEEBY:** MR. BURGESS, MY NAME IS DUDLEY SALEEBY.
20 I'LL BE TRYING THIS CASE ALONG WITH SOLICITOR
21 JACKSON. WE APPRECIATE YOU COMING AND PARTICIPATING
22 IN THIS PROCESS. DO YOU KNOW OF ANY REASON WHY YOU
23 COULD NOT SIT AND FAIRLY AND IMPARTIALLY DECIDE THE
24 ISSUES IN THIS CASE?

25 **JUROR #31:** NO, SIR.

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1 **MR. SALEEBY:** YOU DON'T HAVE ANY BACKGROUND, ANY
2 INFORMATION FROM ANY OTHER SOURCES THAT YOU WOULD
3 BRING INTO THIS PROCEEDING?

4 **JUROR #31:** NO, SIR.

5 **MR. SALEEBY:** YOU REALIZE AS YOU SIT THERE THAT THE
6 DEFENDANT HAS ALREADY BEEN FOUND GUILTY, SO YOU
7 DON'T, THESE JURORS WILL NOT BE CONCERNED WITH
8 GUILT, JUST THE PUNISHMENT?

9 **JUROR #31:** YES, SIR.

10 **MR. SALEEBY:** DO YOU FEEL THAT YOU'D BE PREPARED AFTER YOU
11 HEARD EVERYTHING TO RECOMMEND WHICHEVER PUNISHMENT
12 YOU THOUGHT WAS RIGHT, EITHER LIFE IMPRISONMENT OR
13 THE DEATH PENALTY?

14 **JUROR #31:** YES, SIR.

15 **MR. SALEEBY:** AND WOULD YOU HAVE ANY PROBLEM IN SIGNING
16 YOUR NAME TO WHAT YOUR DECISION WOULD BE?

17 **JUROR #31:** NO, SIR.

18 **MR. SALEEBY:** THANK YOU, SIR.

19 **THE COURT:** MR. LITTLEJOHN.

20 **MR. LITTLEJOHN:** THANK YOU, YOUR HONOR. GOOD AFTERNOON,
21 MR. BURGESS.

22 **JUROR #31:** GOOD AFTERNOON.

23 **MR. LITTLEJOHN:** MY NAME IS CAM LITTLEJOHN AND I, ALONG
24 WITH JIM BABB, REPRESENT THE DEFENDANT BOBBY WAYNE
25 STONE. I JUST HAVE A VERY FEW QUESTIONS FOR YOU. I

1 NOTICE FROM YOUR JUROR INFORMATION FORM THAT YOU'VE
2 LIVED IN SUMTER COUNTY ALL YOUR LIFE?

3 **JUROR #31:** YES, SIR.

4 **MR. LITTLEJOHN:** MR. BURGESS, HAVE YOU EVER HAD ANY
5 DEALINGS WITH THE SHERIFF'S DEPARTMENT? DO YOU KNOW
6 ANY OF THE DEPUTIES OR ACQUAINTED WITH ANYBODY THAT
7 WORKS AT THE SHERIFF'S DEPARTMENT?

8 **JUROR #31:** THE ONES I KNOW, SIR, HAVE RETIRED.

9 **MR. LITTLEJOHN:** ARE RETIRED? YOU DON'T KNOW ANYBODY
10 THAT'S WORKING THERE NOW?

11 **JUROR #31:** I KNOW A YOUNG LADY. WE GREW UP TOGETHER.
12 SHE'S ON THE POLICE DEPARTMENT.

13 **MR. LITTLEJOHN:** OKAY. AND SHE'S WITH THE POLICE
14 DEPARTMENT OR THE SHERIFF'S DEPARTMENT OR DO YOU
15 KNOW?

16 **JUROR #31:** SHE HAS A BROWN UNIFORM.

17 **MR. LITTLEJOHN:** OKAY. KIND OF LIKE THIS LADY OVER HERE?

18 **THE COURT:** THIS TYPE UNIFORM OR IS IT A WHITE UNIFORM.

19 **JUROR #31:** I DON'T REMEMBER. I HAVEN'T SEEN IT IN
20 AWHILE.

21 **MR. LITTLEJOHN:** OKAY. MR. BURGESS, I TAKE IT BY YOUR
22 ANSWERS TO JUDGE KING'S QUESTIONS AND YOUR SELECTION
23 OF THE JUROR TYPE #3, IS IT SAFE TO SAY THAT YOU
24 DON'T THINK THE DEATH PENALTY OUGHT TO BE
25 AUTOMATICALLY IMPOSED ON SOMEONE THAT'S CONVICTED OF

1 MURDER?

2 JUROR #31: NO, I DON'T.

3 MR. LITTLEJOHN: YOU DON'T THINK SO?

4 JUROR #31: NO, SIR.

5 MR. LITTLEJOHN: YOU THINK A LIFE SENTENCE CAN BE AN
6 ALTERNATIVE IN SOME CASES?

7 JUROR #31: IT DEPENDS ON THE SITUATION, ALL THE
8 EVIDENCE, YES, SIR.

9 MR. LITTLEJOHN: OKAY. YOU'D WANT TO LISTEN TO EVERYTHING
10 BEFORE YOU MADE YOUR MIND UP. THAT'S FAIR ENOUGH.
11 LET ME ASK YOU, MR. BURGESS, IF YOU WERE ON THE JURY
12 AND DURING THE DELIBERATIONS IT BECAME OBVIOUS TO
13 YOU THAT THE MAJORITY OF THE JURY WANTED TO VOTE ONE
14 WAY AND YOU WANTED TO VOTE ANOTHER WAY. DO YOU
15 THINK YOU WOULD EVER JUST CHANGE YOUR VOTE TO GO
16 ALONG WITH THE REST OF THE JURORS? DO YOU THINK
17 YOU'D STICK BY YOUR GUNS IF YOU THOUGHT YOU WERE
18 RIGHT?

19 JUROR #31: WE'D HAVE TO TALK ABOUT IT AND THEY'D HAVE TO
20 CONVINCE ME THAT, TO CHANGE A DIFFERENT WAY.

21 MR. LITTLEJOHN: THEY'D HAVE TO ...

22 JUROR #31: MAYBE I'D MISS SOMETHING, YOU KNOW.

23 MR. LITTLEJOHN: Uh-huh (affirmative response).

24 JUROR #31: AND THEY'D HAVE TO EXPLAIN TO ME.

25 MR. LITTLEJOHN: THEY'D HAVE TO CONVINCE YOU THAT YOU WERE

1 WRONG AND THEY WERE RIGHT?

2 **JUROR #31:** YES, SIR.

3 **MR. LITTLEJOHN:** OKAY. THANK YOU, SIR.

4 **JUROR #31:** YES, SIR.

5 **THE COURT:** ALL RIGHT. THANK YOU, MR. BURGESS. I
6 APPRECIATE YOUR CANTOR AND YOUR WILLINGNESS TO
7 ANSWER EVERYONE'S QUESTIONS VERY TRUTHFUL AND
8 CANDID. IF YOU'LL STEP OUTSIDE JUST WITH MR.
9 HERRING, WE'LL SEND FOR YOU IN JUST A MINUTE. I
10 NEED TO TAKE UP SOME MATTERS WITH THE ATTORNEYS.
11 WHAT SAITH THE STATE, MR. SALEEBY?

12 **MR. SALEEBY:** HE APPEARS TO BE QUALIFIED TO ME, SIR.

13 **MR. LITTLEJOHN:** WE AGREE, YOUR HONOR.

14 **THE COURT:** ALL RIGHT. I FIND THE JUROR QUALIFIED. ASK
15 HIM TO COME BACK IN, PLEASE. ALL RIGHT, MR.
16 BURGESS, YOU HAVE BEEN QUALIFIED, FOUND QUALIFIED AS
17 A JUROR IN THIS CASE. NOW THAT DOES NOT MEAN THAT
18 YOU WILL NECESSARILY SERVE AS JUROR, BUT YOU HAVE
19 BEEN QUALIFIED AND WILL REQUIRE YOU TO COME BACK
20 TOMORROW WHEN WE GET READY TO STRIKE A JURY FOR THIS
21 CASE. I WILL TELL YOU THAT I WANT I WANT YOU TO DO,
22 I DON'T KNOW EXACTLY WHAT TIME WE'RE GOING TO NEED
23 YOU TOMORROW, SO WHAT I'M GOING TO ASK YOU TO DO IS
24 CALL THAT NUMBER THAT YOU GOT ON THAT BLUE CARD
25 AFTER 6:00 TONIGHT. WE WILL HAVE SOME INSTRUCTIONS

1 ON THERE REGARDING WHEN YOU ARE DUE BACK TOMORROW.
2 I'M NOT SURE WHETHER IT WILL BE 11:00 OR 12:00 OR
3 2:00 OR EXACTLY WHEN, BUT I WANT TO TRY TO BRING YOU
4 BACK HERE AS CLOSE TO TIME THAT WE'D BE READY TO
5 START AS I CAN AND NOT KEEP YOU WAITING
6 UNNECESSARILY. WHEN YOU GO HOME TODAY, GO AHEAD AND
7 PACK YOUR CLOTHES AND YOUR PERSONAL THINGS AND
8 ANYTHING THAT YOU WOULD NEED IF YOU ARE SELECTED ON
9 THE JURY BECAUSE YOU WILL BE SEQUESTERED AND
10 REQUIRED TO STAY IN A MOTEL FOR ABOUT FIVE OR SIX
11 DAYS. WHEN YOU BRING THOSE ... WHEN YOU COME BACK
12 TO COURT TOMORROW, BRING THOSE WITH YOU, BUT DON'T
13 BRING THEM INTO COURTHOUSE. LEAVE YOUR SUITCASE IN
14 THE CAR. IF YOUR SELECTED ON THE JURY, THEN YOU'LL
15 BE UNPACKING AT THE HOTEL. IF YOUR NOT SELECTED ON
16 THE JURY, YOU'LL TAKE IT BACK HOME AND UNPACK IT AT
17 HOME TOMORROW NIGHT.

18 **JUROR #31:** OKAY.

19 **THE COURT:** BUT IN THE MEANTIME, DO NOT TALK WITH ANYBODY
20 ABOUT THIS CASE, DO NOT ALLOW ANYONE TO TALK TO YOU
21 ABOUT IT, DO NOT WATCH IT IN THE NEWS SHOWS ON
22 TELEVISION OR READ THE REPORTS IN THE NEWSPAPER, AND
23 COME BACK TOMORROW AT THE APPOINTED TIME PREPARED TO
24 STAY WITH US. IF YOU'LL CALL THAT NUMBER AFTER 6:00
25 TONIGHT AND WE'LL LET YOU KNOW EXACTLY WHAT TIME

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1 YOU'RE SUPPOSED TO COME BACK. THANK YOU, SIR. HAVE
2 A SEAT RIGHT THERE, PLEASE, SIR. THANK YOU, MR.
3 (INAUDIBLE).

4 **JUROR #33:** ALL RIGHT.

5 **THE COURT:** HOW ARE YOU THIS AFTERNOON?

6 **JUROR #33:** ALL RIGHT.

7 **THE COURT:** GOOD. MR. (INAUDIBLE), I WANT YOU TO JUST BE
8 AT EASE. I KNOW THIS IS KIND OF AN INTIMIDATING
9 SITUATION SITTING UP HERE AND ALL THESE LAWYERS AND
10 PEOPLE SITTING THIS BIG COURTROOM, BUT WE NEED TO
11 ASK YOU SOME QUESTIONS TO DETERMINE YOUR
12 QUALIFICATIONS TO SERVE ON THE JURY. I WANT YOU TO
13 BE AT EASE. THE QUESTIONS ARE GOING TO BE ASKED,
14 BUT NOT TO INVAD E YOUR PRIVACY IN ANY WAY, BUT
15 BECAUSE IT'S NECESSARY FOR US TO OBTAIN THIS
16 INFORMATION DUE TO THE NATURE OF THESE PROCEEDINGS.
17 THERE ARE NO RIGHT OR WRONG ANSWERS TO THE QUESTIONS
18 WE'LL BE ASKING YOU. WE'RE SIMPLY ASKING FOR YOUR
19 POINT OF VIEW, SO PLEASE BE OPEN AND HONEST AND
20 ANSWER THE QUESTIONS. SPEAK LOUDLY ENOUGH SO THAT
21 THIS LADY CAN YOU AND EVERYONE HERE CAN HEAR YOU AND
22 WE CAN PROCEED. I WILL ALSO TELL YOU THAT YOU WERE
23 UNDER OATH YESTERDAY WHEN YOU WERE SWORN AS A JUROR
24 AND YOU'RE STILL UNDER OATH, SO OF COURSE YOU WOULD
25 HAVE TO GIVE TRUTHFUL ANSWERS TO THE QUESTIONS, DO

1 YOU UNDERSTAND?

2 **JUROR #33:** YES, SIR.

3 **THE COURT:** HAVE YOU HAD AN OPPORTUNITY TO READ OVER THIS
4 FORM THAT IS ENTITLED, THREE TYPES OF JURORS, TYPE
5 #1, TYPE #2, AND TYPE #3?

6 **JUROR #33:** YES.

7 **THE COURT:** HAVING READ OVER THAT, WHICH ONE OF THE THREE
8 TYPES, TYPE #1, TYPE #2 OR TYPE #3, DO YOU THINK
9 BEST DESCRIBES YOU?

10 **JUROR #33:** TYPE #3.

11 **THE COURT:** TYPE #3?

12 **JUROR #33:** YES.

13 **THE COURT:** ALL RIGHT. WHEN YOU SAY THAT, WHAT YOU'RE
14 SAYING IS THAT I CAN LISTEN TO THE FACTS AND
15 CIRCUMSTANCES SURROUNDING THIS CASE AND DEPENDING ON
16 THE FACTS AND CIRCUMSTANCES, YOU COULD EITHER FIND
17 LIFE IMPRISONMENT OR THAT DEATH IS THE APPROPRIATE
18 PUNISHMENT, IS THAT WHAT YOU'RE SAYING?

19 **JUROR #33:** YES.

20 **THE COURT:** ALL RIGHT. NOW I'M GOING TO GO INTO JUST A
21 LITTLE BIT ABOUT THAT AND TELL YOU IN THIS CASE MR.
22 STONE HAS ALREADY BEEN FOUND GUILTY OF MURDER. THAT
23 QUESTION IS NOT GOING TO BE BEFORE THE JURY. THE
24 ONLY QUESTION THAT IS GOING TO BEFORE THE JURY IS
25 THE PUNISHMENT THAT IS TO BE IMPOSED. THE STATE

1 WILL BE PRESENTING TESTIMONY OF WHAT WE CALL
2 STATUTORY AGGRAVATED CIRCUMSTANCES AND THE STATE
3 WILL HAVE TO PROVE AT LEAST ONE OF THOSE STATUTORY
4 AGGRAVATED CIRCUMSTANCES BEFORE YOU CAN RETURN THE
5 VERDICT FOR EITHER LIFE IMPRISONMENT OR DEATH. THE
6 DEFENSE WOULD ALSO LIKELY PRESENT EXTENUATING OR
7 MITIGATING CIRCUMSTANCES, SOME OF WHICH ARE
8 STATUTORY AND SOME OF WHICH ARE JUST REGULAR
9 MITIGATED CIRCUMSTANCES. MY QUESTION TO YOU IS,
10 THAT IF THE STATE PROVES AT LEAST ONE STATUTORY
11 AGGRAVATED CIRCUMSTANCE TO YOUR SATISFACTION AND
12 BEYOND A REASONABLE DOUBT, COULD YOU SIGN A VERDICT
13 THAT SENTENCES THE DEFENDANT TO LIFE IMPRISONMENT,
14 ALONG WITH THE OTHER 12 JURORS, 11, COULD YOU SIGN
15 SUCH A VERDICT IF THE STATE PROVES WHAT THAT HAVE TO
16 PROVE REGARDING THE FACTS AND CIRCUMSTANCES OF THIS
17 MATTER?

18 **JUROR #33:** YES.

19 **THE COURT:** BY THE SAME TOKEN, IF THE STATE IS ABLE TO
20 PROVE ONE OF THE AGGRAVATED CIRCUMSTANCES BEYOND A
21 REASONABLE DOUBT TO YOUR SATISFACTION, WOULD YOU BE
22 ABLE TO SIGN THE VERDICT, THAT IS, PUT YOUR NAME ON
23 A VERDICT FORM ALONG WITH THE OTHER 11 JURORS, AND
24 HAVING CONSIDERED BOTH THE STATE'S EVIDENCE OF THE
25 STATUTORY AGGRAVATED CIRCUMSTANCES AND THE DEFENSE'S

1 MITIGATING TESTIMONY, WOULD YOU BE ABLE TO SIGN THE
2 VERDICT FORM THAT SENTENCES THE DEFENDANT TO DEATH?

3 JUROR #33: YES.

4 THE COURT: WOULD YOU BE ABLE TO FOLLOW THE INSTRUCTIONS
5 OF THIS COURT, THAT IS, I AM THE JUDGE OF THE LAW
6 AND I WILL GIVE YOU CERTAIN INSTRUCTIONS ON WHAT THE
7 LAW IS, WOULD YOU BE ABLE TO FOLLOW THOSE
8 INSTRUCTIONS EVEN IF YOU DO NOT AGREE WITH THE LAW
9 OR YOU THINK THE LAW OUGHT TO BE SOMETHING
10 DIFFERENT? WOULD YOU BE ABLE TO FOLLOW MY
11 INSTRUCTIONS?

12 JUROR #33: YES, SIR.

13 THE COURT: ALL RIGHT. NOW SWITCHING GEARS ON YOU FOR
14 JUST A MINUTE, MR. (INAUDIBLE). HAVE YOU READ
15 ANYTHING OR HEARD ANYTHING ABOUT THIS CASE OR KNOW
16 ANYTHING ABOUT IT AT ALL?

17 JUROR #33: I READ IT IN THE PAPERS.

18 THE COURT: READ THE PAPER. WHEN DID YOU READ SOMETHING
19 IN THE PAPER ABOUT IT?

20 JUROR #33: SATURDAY OR MONDAY.

21 THE COURT: SATURDAY OR MONDAY? SO FAIRLY RECENTLY?

22 JUROR #33: YES.

23 THE COURT: WHAT DID YOU READ?

24 JUROR #33: I READ ABOUT HIM COMING BACK TO TRIAL
25 (INAUDIBLE) DEATH PENALTY, I MEAN FOUND GUILTY AND

1 STUFF AND WANTED A NEW TRIAL.

2 **THE COURT:** I'M NOT SURE I HEARD THAT. HOW ABOUT COME UP
3 TO THAT MICROPHONE JUST A LITTLE BIT AND SPEAK A
4 LITTLE BIT CLEARER AND TELL US WHAT YOU REMEMBER
5 READING ABOUT.

6 **JUROR #33:** I HEARD THAT HE'D GET LIFE IN PRISON.

7 (INAUDIBLE) COMING BACK TO TRIAL FOR IT, THIS THING
8 HERE COMING UP.

9 **THE COURT:** OKAY. SO WHAT YOU RECALL YOU READ IS THAT HE
10 HAD BEEN FOUND GUILTY AND WAS GOING TO COME BACK
11 BEFORE THIS COURT TO DETERMINE WHAT PUNISHMENT; IS
12 THAT RIGHT?

13 **JUROR #33:** YEAH.

14 **THE COURT:** I'M NOT TRYING TO PUT WORDS IN YOUR MOUTH.
15 IS THAT WHAT YOU RECALL?

16 **JUROR #33:** YEAH, YEAH.

17 **THE COURT:** OKAY. ALL RIGHT. NOW WITH THE FACT THAT YOU
18 HAVE READ SOMETHING IN THE NEWSPAPER ABOUT THIS
19 CASE, WOULD THAT IN ANYWAY INFLUENCE YOU AS TO WHAT
20 YOUR DECISION OUGHT TO BE HERE IF YOU ARE SELECTED
21 AS A JUROR?

22 **JUROR #33:** IT PROBABLY WOULD INFLUENCE ME.

23 **THE COURT:** I'M SORRY. SAY THAT AGAIN.

24 **JUROR #33:** IT PROBABLY WOULD INFLUENCE ME.

25 **THE COURT:** IT WOULD PROBABLY INFLUENCE YOU?

1 JUROR #33: YEAH.

2 THE COURT: WITH THAT BEING THE CASE LET ME ASK YOU THIS
3 QUESTION. DO YOU HAVE AN OPINION ABOUT THE
4 PUNISHMENT THAT SHOULD BE INFLICTED IN THIS CASE
5 WITHOUT HAVING HEARD THE TESTIMONY?

6 JUROR #33: I DON'T GOT NO OPINION RIGHT NOW.

7 THE COURT: YOU DON'T HAVE ANY OPINION RIGHT NOW?

8 JUROR #33: NO.

9 THE COURT: OKAY. ALL RIGHT. WOULD YOU BE ABLE TO
10 LISTEN TO THE TESTIMONY IN THIS CASE AND PUT ASIDE
11 ANYTHING THAT YOU HAVE READ IN THE NEWSPAPER AND
12 DECIDE THIS CASE BASED UPON WHAT YOU HEAR IN THE
13 COURTROOM AND NOT ON THE BASIS OF ANYTHING YOU MAY
14 HAVE READ OR HEARD; COULD YOU DO THAT?

15 JUROR #33: NO, I DOUBT IT.

16 THE COURT: YOU DOUBT IT? OKAY. ALL RIGHT. WHY DO YOU
17 THINK WHAT YOU'VE READ OR HEARD WOULD INFLUENCE YOU?

18 JUROR #33: BECAUSE THE WAY ...

19 THE COURT: SPEAK UP. I'M SORRY.

20 JUROR #33: IT PROBABLY ONLY A LITTLE BIT IN THIS CASE.

21 THE COURT: I CAN'T QUITE UNDERSTAND YOU, AND I'M NOT
22 SURE THAT THE COURT REPORTER ...

23 JUROR #33: IT PROBABLY WILL ONLY A LITTLE BIT WHILE I
24 STAY IN THE COURTROOM (INAUDIBLE) WHAT HAPPENS AND
25 STUFF FIRST, PROBABLY WOULD INFLUENCE MY DECISION,

1 YES, SIR.

2 **THE COURT:** SO ARE YOU TELLING ME THAT YOU ALREADY HAVE
3 AN OPINION ABOUT WHAT THE VERDICT SHOULD BE IN THIS
4 CASE?

5 **JUROR #33:** I AIN'T GOT AN OPINION ON IT, NOT NOW.

6 **THE COURT:** NOT NOW?

7 **JUROR #33:** NO.

8 **THE COURT:** WHY DO YOU FEEL THAT THE NEWSPAPER WOULD
9 AFFECT YOUR OPINION OR WHAT YOU'VE READ WOULD AFFECT
10 YOUR OPINION OR DO YOU FEEL IT WOULD? DO YOU FEEL
11 YOU COULD PUT THAT ASIDE AND DECIDE THE CASE BASED
12 UPON WHAT YOU HEAR IN THE COURTROOM REGARDLESS OF
13 WHAT YOU'VE READ? COULD YOU DO THAT?

14 **JUROR #33:** I PROBABLY COULD DO THAT. I PROBABLY COULD
15 DO THAT.

16 **THE COURT:** PROBABLY COULD DO THAT?

17
18 **JUROR #33:** PROBABLY COULD DO THAT.

19 **THE COURT:** OKAY. NOW LET ME ASK YOU ONE OR TWO OTHER
20 QUESTIONS. IF YOU ARE SELECTED AS A JUROR IN THIS
21 CASE, YOU WILL BE REQUIRED TO STAY IN A HOTEL FOR
22 ABOUT FIVE DAYS WHILE THIS CASE IS GOING ON. EXCEPT
23 FOR THE PERSONAL INCONVENIENCE THAT THAT WOULD CAUSE
24 YOU, WOULD IT CAUSE AN UNDUE HARDSHIP TO YOU OR ANY
25 MEMBER OF YOUR FAMILY OR ANYBODY FOR WHOM YOU HAVE

1 THE DUTY TO CARE, IF YOU HAD TO STAY AT A HOTEL AND
2 BE SEQUESTERED FOR ABOUT FIVE OR SIX DAYS? WOULD
3 THAT CAUSE YOU ANY UNDUE HARDSHIP?

4 JUROR #33: NO.

5 THE COURT: ALL RIGHT. MR. SALEEBY OR MR. JACKSON. I
6 APPRECIATE YOUR CANDOR. I'M GOING TO ASK MR.
7 SALEEBY AND MR. JACKSON AND MR. BABB'S TO MAKE ANY
8 INQUIRY OF YOU IF THEY WOULD LIKE.

9 MR. SALEEBY: MR. (INAUDIBLE), MY NAME IS DUDLEY SALEEBY.
10 I'LL BE WORKING WITH SOLICITOR JACKSON PRESENTING
11 THIS CASE. PLEASE CONTINUE TO DO AS HAVE BEEN AND
12 JUST TELL US WHAT'S ON YOUR MIND. THAT'S ALL WE'RE
13 TRYING TO FIND OUT. THERE AREN'T ANY WRONG OR RIGHT
14 ANSWERS HERE. WE JUST NEED TO KNOW WHAT YOU KNOW
15 AND WHAT YOU FEEL LIKE YOU CAN DO, OKAY?

16 JUROR #33: YES, SIR.

17 MR. SALEEBY: YOU WORKING AT FLORENCE CONCRETE?

18 JUROR #33: YES, SIR.

19 MR. SALEEBY: YOU WORKING IN FLORENCE?

20 JUROR #33: NO, I'M WORKING IN SUMTER.

21 MR. SALEEBY: IN SUMTER.

22 JUROR #33: YEAH.

23 MR. SALEEBY: OKAY. AND IS YOUR SUPERVISOR HERE, FROM
24 SUMTER OR FROM FLORENCE?

25 JUROR #33: FROM SUMTER.

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1 MR. SALEEBY: ALL RIGHT. YOU LIVE ON BOULEVARD?

2 JUROR #33: YES, SIR.

3 MR. SALEEBY: HOW LONG HAVE YOU LIVED ON BOULEVARD?

4 JUROR #33: ABOUT 15 YEARS.

5 MR. SALEEBY: ALL RIGHT. DO YOU LIVE CLOSE TO BELK STREET
6 WHERE THE BOYS AND GIRLS CLUB IS?

7 JUROR #33: ABOUT SIX MILES FROM THERE.

8 MR. SALEEBY: SO YOU LIVE FURTHER OUT IN THE COUNTRY?

9 JUROR #33: YEAH.

10 MR. SALEEBY: ALL RIGHT. SO YOU LIVE, WHAT, SIX MILES OUT
11 OF TOWN?

12 JUROR #33: YEAH, SIX OR SEVEN MILES.

13 MR. SALEEBY: ALL RIGHT. SIX OR SEVEN MILES OUT OF TOWN.
14 WERE YOU, BY THE PAPER OR ANY OTHER MEANS, WHEN THIS
15 CRIME OCCURRED BACK IN 1996, DID YOU GET ANY
16 INFORMATION THEN FROM THE PAPER OR ANYWHERE ELSE?

17 JUROR #33: YEAH, I GUESS I MIGHT FROM THE PAPER.

18 MR. SALEEBY: ALL RIGHT.

19 JUROR #33: AND I PASSED BY WHEN IT HAPPENED AND STUFF.
20 THEY HAD THE BOULEVARD, HAD IT BLOCKED OFF AND
21 STUFF. PASSED BY THE ROAD.

22 MR. SALEEBY: WAS THAT ON THE DAY IT HAPPENED?

23 JUROR #33: YEAH.

24 MR. SALEEBY: YOU WERE GOING HOME OR COMING BACK INTO
25 TOWN?

1 JUROR #33: GOING HOME.

2 MR. SALEEBY: GOING HOME IN THE EVENING?

3 JUROR #33: YEAH.

4 MR. SALEEBY: AND THE ROAD, THEY WERE BLOCKING OFF AROUND
5 BOULEVARD?

6 JUROR #33: YEAH.

7 MR. SALEEBY: OKAY. DID THAT GET YOU A LITTLE BIT
8 INTERESTED IN WHAT MIGHT BE GOING ON?

9 JUROR #33: YEAH.

10 MR. SALEEBY: ALL RIGHT. DID YOU, DID YOU FOLLOW WHAT
11 HAPPENED AFTER THAT IN THE PAPER?

12 JUROR #33: YEAH.

13 MR. SALEEBY: ALL RIGHT. DID YOU READ THE ACCOUNTS OF
14 WHAT THE PAPER SAID HAPPENED? NOT WHAT HAPPENED,
15 BUT WHAT THE PAPER SAID HAPPENED?

16 JUROR #33: YEAH. I READ ABOUT THAT, YEAH.

17 MR. SALEEBY: DO YOU REMEMBER ANY OF THE FACTS, OR NOT THE
18 FACTS, BUT THE INFORMATION THAT WAS REPORTED AS
19 FACT?

20 JUROR #33: NO, SIR. I DON'T REMEMBER NONE OF THAT.

21 MR. SALEEBY: ALL RIGHT. DID YOU FOLLOW, IF THERE WAS A
22 PRIOR TRIAL, DID YOU FOLLOW THAT IN THE PAPER?

23 JUROR #33: PROBABLY SOME OF IT, BUT NOT ALL.

24 MR. SALEEBY: ALL RIGHT. DID YOU RECALL WHAT THE RESULT
25 OF THAT TRIAL WAS?

1 JUROR #33: NO, I NEVER ... I DIDN'T FOLLOW THAT PART.

2 MR. SALEEBY: ALL RIGHT. YOU DON'T KNOW WHETHER THERE WAS
3 A DETERMINATION OF GUILT OR NOT GUILTY?

4 JUROR #33: YEAH.

5 MR. SALEEBY: YOU DID OR DID NOT?

6 JUROR #33: I DID NOT.

7 MR. SALEEBY: ALL RIGHT. WERE YOU AWARE AS TO WHETHER OR
8 NOT THERE WAS A PUNISHMENT DISCUSSED IN THE PAPER?

9 JUROR #33: NO, SIR.

10 MR. SALEEBY: ALL RIGHT. WELL, IF I COULD ASK, WITH THAT
11 INFORMATION YOU TOLD THE JUDGE THAT YOU THOUGHT THAT
12 WHAT YOU KNEW FROM BEFORE MIGHT INFLUENCE YOU; IS
13 THAT RIGHT?

14 JUROR #33: YEAH.

15 MR. SALEEBY: AND WHAT INFORMATION DO YOU HAVE, DO YOU
16 THINK YOU'RE HAVING A HARD TIME, MIGHT HAVE A HARD
17 TIME GETTING OUT THE BACK OF YOUR MIND?

18 JUROR #33: BECAUSE ...

19 MR. SALEEBY: TAKE YOUR TIME.

20 JUROR #33: A HARD TIME ABOUT THE DEATH PENALTY AND
21 STUFF.

22 MR. SALEEBY: ALL RIGHT. GO AHEAD AND TELL ME WHAT YOU'RE
23 TALKING ABOUT THERE, A HARD TIME ABOUT THE DEATH
24 PENALTY. WHAT YOU MEAN?

25 JUROR #33: WELL, (INAUDIBLE) SO HARD, BUT WE KIND OF

1 (INAUDIBLE) LIFE IN PRISON OR DEATH PENALTY, WHICH
 2 ONE. I BELIEVE THAT EVERY (INAUDIBLE) IS WORTH THE
 3 DEATH PENALTY, I BELIEVE I COULD DO IT. SAY WHETHER
 4 LIFE IN PRISON OR DEATH. ON ACCOUNT THE JUDGE WOULD
 5 (INAUDIBLE).

6 **MR. SALEEBY:** ALL RIGHT. IS THAT BASED ON HOW YOU FEEL
 7 TODAY OR IS THAT BASED ON INFORMATION YOU GOT BEFORE
 8 NOW?

9 **JUROR #33:** PROBABLY INFORMATION I GET BEFORE.

10 **MR. SALEEBY:** ALL RIGHT. AND WE JUST NEED TO KNOW WHAT
 11 THAT INFORMATION WAS. WAS IT ABOUT THIS CASE OR WAS
 12 IT JUST ABOUT THE DEATH PENALTY IN GENERAL?

13 **JUROR #33:** IT WAS ABOUT THIS CASE.

14 **MR. SALEEBY:** OKAY. AND WHAT INFORMATION DID YOU GET AND
 15 WHERE DID YOU GET IT FROM?

16 **JUROR #33:** FROM THE PAPER.

17 **MR. SALEEBY:** FROM THE PAPER?

18 **JUROR #33:** YEAH.

19 **MR. SALEEBY:** ALL RIGHT. AND DO YOU RECALL WHAT IT WAS IN
 20 THE PAPER THAT STUCK IN YOUR MIND?

21 **JUROR #33:** HOW HE SHOOT THE COP AND STUFF.

22 **MR. SALEEBY:** YOU, YOU RECALL THE DETAILS OF HOW THE
 23 DEPUTY WAS SHOT?

24 **JUROR #33:** WELL, I BELIEVE ONE OF THEM WAS SHOT IN THE
 25 EAR, I BELIEVE.

1 MR. SALEEBY: SHOT IN THE EAR?

2 JUROR #33: YEAH.

3 MR. SALEEBY: AND WHEN YOU READ THAT, DID THAT CAUSE YOU
4 TO HAVE A REACTION OR CAUSE YOU TO THINK THIS IS THE
5 WAY I FEEL OR THAT IS THE WAY I FEEL?

6 JUROR #33: WELL, IT DID GIVE ME A LITTLE REACTION THE
7 WAY I FEEL AND STUFF.

8 MR. SALEEBY: AND WHAT WAS THAT REACTION?

9 JUROR #33: WHAT REACTION WAS THAT, IT HAPPENED
10 (INAUDIBLE) IT SHOULD HAVE BEEN THE DEATH PENALTY ON
11 THAT THERE.

12 MR. SALEEBY: YOU THOUGHT IF HE SHOT THE MAN IN THE EAR
13 THAT SHOULD BE THE DEATH PENALTY?

14 JUROR #33: NO. IT'S LIKE HOW HE DID IT. HOW HE SHOT
15 THE MAN AND STUFF. I DON'T THINK I'M MIXED UP ON
16 IT, BUT I DIDN'T SEE HOW HE SHOT HIM AND STUFF. I
17 THINK THEY SHOULD HAVE GAVE THE DEATH PENALTY FOR
18 THAT.

19 MR. SALEEBY: YOU THOUGHT IT SHOULD HAVE BEEN THE DEATH
20 PENALTY WHAT?

21 JUROR #33: I STARTED TO SAY, FOR THE DEATH PENALTY.

22 MR. SALEEBY: ALL RIGHT. WAS THAT YOUR IMPRESSION ...

23 JUROR #33: RIGHT, RIGHT THERE.

24 MR. SALEEBY: ... WHEN IT HAPPENED?

25 JUROR #33: YEAH.

1 **MR. SALEEBY:** AND IS THAT STILL THE WAY YOU FEEL?

2 **JUROR #33:** NO, NOT NOW. IT KIND OF WEIGHED ON ME. I
3 (INAUDIBLE) FEELING THAT OR NOT.

4 **MR. SALEEBY:** BASED ON WHAT YOU'VE TOLD US, THIS IS WHAT
5 WE'RE TRYING TO FIND OUT.

6 **JUROR #33:** YEAH.

7 **MR. SALEEBY:** WE'RE NOT ASKING YOU WHAT YOU WOULD DO IF AS
8 YOU'RE SITTING HERE. WE'RE TRYING TO FIND OUT IF
9 THIS INFORMATION YOU RECEIVED IS SO MUCH A PART OF
10 YOU THAT IT WOULD MAKE IT VERY DIFFICULT FOR YOU TO
11 SIT HERE AND MAKE A FAIR DECISION. THAT'S WHAT
12 WE'RE ASKING.

13 **JUROR #33:** I BELIEVE I COULD MAKE A FAIR DECISION.

14 **MR. SALEEBY:** YOU COULD TOTALLY PUT OUT OF YOUR MIND ALL
15 THIS OTHER STUFF YOU'RE TALKING ABOUT?

16 **JUROR #33:** YEAH.

17 **MR. SALEEBY:** EVEN THOUGH YOU THOUGHT BACK THEN HE SHOULD
18 GET THE DEATH PENALTY?

19 **JUROR #33:** YEAH.

20 **MR. SALEEBY:** YOU DON'T THINK THAT WAY NOW?

21 **JUROR #33:** NO, I DON'T THINK THAT WAY NOW, BUT IF THEY
22 HAD THE EVIDENCE TO PROVE, I'LL GO WHICH WAY I THINK
23 IS RIGHT.

24 **MR. SALEEBY:** WHATEVER PUNISHMENT YOU WANTED TO SEE?

25 **JUROR #33:** WHICH I THINK IS RIGHT.

1 MR. SALEEBY: ALL RIGHT.

2 JUROR #33: LIFE IN PRISON OR THE DEATH PENALTY.

3 MR. SALEEBY: IF YOU GOT INFORMATION IN THIS TRIAL THAT
4 WAS DIFFERENT THAN YOU RECALL FROM BEFORE, HOW WOULD
5 YOU DEAL WITH THAT?

6 JUROR #33: WELL, I'M GOING TO GET ALL THE EVIDENCE
7 FIRST.

8 MR. SALEEBY: WOULD YOU RELY ON WHAT YOU'VE HEARD BEFORE
9 AS WELL AS WHAT YOU'VE HEARD HERE?

10 JUROR #33: NO, I WOULD RELY ON ALL THE EVIDENCE.

11 MR. SALEEBY: IS THERE ANY OTHER FACTS THAT YOU RECALL
12 FROM FOLLOWING THE CASE BACK IN PAPER BACK THEN?

13 JUROR #33: NO, SIR.

14 MR. SALEEBY: JUST A MOMENT IF YOU DON'T MIND. THANK YOU
15 VERY MUCH. WE APPRECIATE IT, MR. (INAUDIBLE).

16 THE COURT: MR. LITTLEJOHN, MR. BABB.

17 MR. BABB: GOOD AFTERNOON, MR. (INAUDIBLE), HOW ARE YOU?

18 JUROR #33: ALL RIGHT.

19 MR. BABB: MY NAME IS JIM BABB. I AM REPRESENTING MR.
20 STONE IN THIS CASE. NOW, I NEED TO ASK YOU A FEW
21 QUESTIONS AS WELL, IF YOU DON'T MIND.

22 JUROR #33: ALL RIGHT.

23 MR. BABB: SO JUST BEAR WITH ME, ALL RIGHT?

24 JUROR #33: ALL RIGHT.

25 MR. BABB: YOU'RE A LABOROR FOR FLORENCE CONCRETE?

1 JUROR #33: YEAH.

2 MR. BABB: NOW A LABORER, THAT MEANS YOU'RE PART OF A
3 CREW, AS I UNDERSTAND HOW ...

4 JUROR #33: YEAH.

5 MR. BABB: AND SO YOU GO OUT THERE AND THEY HAVE ONE OR
6 TWO PEOPLE THAT ARE IN CHARGE?

7 JUROR #33: YEAH.

8 MR. BABB: AND YOU DO WHAT THEY TELL YOU TO DO?

9 JUROR #33: YES, SIR.

10 MR. BABB: SO BASICALLY YOU'RE A FOLLOWER AND NOT A
11 LEADER; IS THAT CORRECT?

12 JUROR #33: YEAH.

13 MR. BABB: OKAY. NOW, IF WE GET INTO THIS CASE AND
14 THERE'S EVIDENCE THAT ... THIS IS A MURDER OF
15 COURSE, AS YOU KNOW.

16 JUROR #33: YEAH.

17 MR. BABB: MR. STONE'S BEEN CONVICTED OF THAT.

18 JUROR #33: YEAH.

19 MR. BABB: OKAY. NOW IF THE EVIDENCE SHOWS THAT THE
20 VICTIM WAS A POLICE OFFICER THAT WAS, THAT WAS
21 MURDERED, IF HE WAS SHOT IN THE EAR, DOES THAT MEAN
22 YOU AUTOMATICALLY THINK THAT IT SHOULD BE THE DEATH
23 PENALTY?

24 JUROR #33: NOT AUTOMATIC, NO.

25 MR. BABB: OKAY.

1 **JUROR #33:** I'VE GOT TO HEAR THE EVIDENCE FIRST.

2 **MR. BABB:** THAT'S WHAT YOU THOUGHT WHEN YOU READ THE
3 PAPER?

4 **JUROR #33:** YEAH.

5 **MR. BABB:** ALL RIGHT. AND ARE YOU ABLE TO PUT THAT
6 TOTALLY OUT OF YOUR MIND?

7 **JUROR #33:** YES, SIR.

8 **MR. BABB:** YOU ARE?

9 **JUROR #33:** YES, SIR.

10 **MR. BABB:** OKAY. WHAT HAPPENS IF YOU'RE ON THE JURY,
11 YOU'RE SELECTED TO BE ON THE JURY, AND 11 JURORS
12 HAVE SIGNED SAYING DEATH, LOOK AT YOU, BUT YOU'VE
13 DECIDED THAT'S NOT THE RIGHT THING TO DO? ARE YOU
14 GOING TO SIGN WITH THAT 11?

15 **JUROR #33:** NO. I'M (INAUDIBLE) ALL THE EVIDENCE DOWN TO
16 MAKE MY DECISION AND I'M GOING TO LISTEN TO WHAT MY
17 DECISION, NOT THEIRS.

18 **MR. BABB:** OKAY. AND YOU FEEL YOU CAN STICK TO YOUR
19 CONVICTIONS, TO YOUR DECISIONS?

20 **JUROR #33:** YEAH.

21 **MR. BABB:** ALL RIGHT, SIR. THE COURT'S INDULGENCE?

22 **THE COURT:** YES, SIR.

23 **MR. BABB:** MR. (INAUDIBLE), I KNOW YOU WERE ASKED ABOUT
24 THIS BEFORE. LET ME ASK ONE MORE TIME. THE FACT
25 THAT THIS HAPPENED ON BOULEVARD, RIGHT OFF BOULEVARD

1 ROAD ...

2 JUROR #33: YEAH.

3 MR. BABB: ... DOES THAT GIVE YOU ANY CAUSE IN YOUR
4 ABILITY TO BE FAIR?

5 JUROR #33: NO, I DON'T HAVE NO PROBLEM WITH THAT.

6 MR. BABB: THE FACT THAT YOU WERE THERE THAT NIGHT?

7 JUROR #33: NO.

8 MR. BABB: ALL RIGHT, SIR. DO YOU THINK THAT LIFE IN
9 PRISON IS A SUBSTANTIAL PENALTY?

10 JUROR #33: IF IT'S A SUBSTANTIAL PENALTY, YEAH.

11 MR. BABB: AND WHAT DO YOU MEAN BY SUBSTANTIAL?

12 JUROR #33: IF THE EVIDENCE CALLS FOR IT, I CAN VOTE LIFE
13 IN PRISON, IF THEY SAY SOMETHING ELSE. I VOTE FOR
14 THE DEATH PENALTY, WHAT THE EVIDENCE SAYS.

15 MR. BABB: DO YOU CONSIDER LIFE IN PRISON A HEAVY PENALTY,
16 SEVERE PENALTY?

17 JUROR #33: YEAH, I THINK IT'S SEVERE.

18 MR. BABB: IN MAKING A DECISION, SHOULD YOU BE CALLED UPON
19 TO DO SO, BETWEEN LIFE OR DEATH WOULD YOU FAIRLY
20 CONSIDER MITIGATING CIRCUMSTANCES INCLUDING THE
21 DEFENDANT'S BACKGROUND, HISTORY, THINGS ABOUT THEM
22 THAT ARE UNIQUE?

23 JUROR #33: YEAH, I LISTEN TO ALL THE EVIDENCE BEFORE I
24 MAKE MY DECISION.

25 MR. BABB: OKAY. ALL RIGHT, SIR. NO FURTHER QUESTIONS,

1 YOUR HONOR.

2 **THE COURT:** ALL RIGHT. THANK YOU, MR. (INAUDIBLE). IF
3 YOU'LL STEP OUT, PLEASE. MR. SALEEBY.

4 **MR. SALEEBY:** YOU HONOR, IF IT PLEASES THE COURT. ALL THE
5 JURORS WE'VE LISTENED TO, AND THIS IS 33, THIS
6 PERSON PROBABLY CONCERNS ME THE MOST BECAUSE IF I'M
7 SITTING IN YOUR SEAT, I CAN'T TELL WHERE HE'S COMING
8 FROM. HE HAS, HE HAS COVERED THE WATERFRONT. HE
9 HAS SAID THE RIGHT WORDS AT CERTAIN TIMES AND THEN
10 HE SAID, HE TOLD ME, HE VOLUNTEERED TO ME THAT HE
11 KNEW SOME FACTS ABOUT BEING SHOT IN THE EAR AND
12 HAVING BEEN BY THERE, THAT HE DIDN'T GIVE TO YOU.
13 SAID HE MADE HIS MIND UP ABOUT THE DEATH PENALTY AND
14 THEN CHANGED IT. I HAVE NO IDEA WHAT HE WAS DOING.
15 I DON'T HAVE HIS AGENDA HERE. BECAUSE I HAVE SUCH
16 UNCERTAINTY ABOUT HIM, I THINK HE'S UNQUALIFIED.

17 **THE COURT:** MR. BABB.

18 **MR. BABB:** WE AGREE, YOUR HONOR.

19 **THE COURT:** ALL RIGHT. I (INAUDIBLE) I THINK HE'S ALSO
20 UNQUALIFIED AND FURTHER WE WILL NOT QUALIFY HIM AS A
21 JUROR IN THIS CASE. ASK MR. (INAUDIBLE) TO COME IN
22 HERE, PLEASE. ALL RIGHT, MR. (INAUDIBLE). THANK
23 YOU FOR YOUR CANDOR AND YOUR WILLINGNESS TO ANSWER
24 THE QUESTIONS POSED TO YOU BY THE COURT AND BY THE
25 ATTORNEYS IN THIS CASE, HOWEVER, THE COURT HAS FOUND

1 THAT YOU ARE NOT QUALIFIED TO SERVE AS A JUROR IN
2 THIS CASE, SO I AM GOING TO EXCUSE YOU. THIS IS NOT
3 FOR PERSONAL REASONS. IT'S JUST THE MATTERS IN
4 REGARDS TO PARTICULAR INSTANCES IN THIS CASE. SO
5 YOU ARE EXCUSED AND YOU DO NOT COME BACK. THANK YOU
6 VERY MUCH FOR COMING. JUROR #197, MS. SOONER. ALL
7 RIGHT. GOOD AFTERNOON, MR. SENECA. I APOLOGIZE FOR
8 KEEPING YOU WAITING IN THE JURY ROOM. DON'T BE
9 INTIMIDATED BY THIS SETTING. I KNOW IT CAN BE
10 PRETTY INTIMIDATING WITH SOMEBODY SITTING UP HERE
11 WITH A BLACK ROBE TALKING TO YOU AND ALL THE OTHER
12 FOLKS HERE IN THE COURTROOM, BUT WE DO NEED TO ASK
13 YOU SOME QUESTIONS TO ASSIST IN DETERMINING WHETHER
14 YOU QUALIFY TO SERVE AS A JUROR IN THIS CASE. AND
15 FIRST OF ALL, I WANT TO TELL YOU THAT YESTERDAY OR
16 WHENEVER THE EARLIER (INAUDIBLE) STILL UNDER OATH,
17 SO ANY ANSWERS THAT YOU WOULD GIVE IS SWORN
18 TESTIMONY.

19 **JUROR #197:** OKAY.

20 **THE COURT:** I WOULD ALSO TELL YOU THAT IN THIS CASE MR.
21 BOBBY WAYNE STONE WHO IS SEATED OVER HERE AT COUNSEL
22 TABLE HAS ALREADY BEEN FOUND GUILTY OF MURDER, SO
23 THE ISSUE OF WHETHER HE IS OR IS NOT GUILTY IS NOT
24 GOING TO BE AN ISSUE FOR THE JURY TO DETERMINE. THE
25 ONLY ISSUE THE JURY TO DETERMINE IS THE QUESTION OF

1 WHAT THE PUNISHMENT HE SHOULD RECEIVE. IF THE STATE
2 IS ... THE STATE WILL PRESENT TO YOU CERTAIN
3 TESTIMONY CONCERNING AGGRAVATED CIRCUMSTANCES,
4 STATUTORY AGGRAVATED CIRCUMSTANCES. AND IF THE
5 STATE PROVES TO YOUR SATISFACTION STATUTORY
6 AGGRAVATED CIRCUMSTANCES BEYOND A REASONABLE DOUBT,
7 THEN IT WOULD BE UP TO THE JURY TO DETERMINE WHETHER
8 THE PUNISHMENT SHOULD BE LIFE OR WHETHER THE
9 PUNISHMENT SHOULD BE DEATH BY EITHER LETHAL
10 INJECTION OR BY ELECTROCUTION. SO THOSE ARE THE
11 ISSUES THAT WILL BE PRESENTED TO THE JURY IN THIS
12 CASE. NOW HAVING SAID THAT, I WANT TO ASK YOU IF
13 YOU'VE HAD A CHANCE TO READ THE JUROR INFORMATION
14 FORM THAT WAS FURNISHED TO YOU BACK IN THE JURY ROOM
15 WITH TYPE #1, TYPE #2, AND TYPE #3 JURORS.

16 **JUROR #197:** YES.

17 **THE COURT:** ALL RIGHT. NOW THE NEXT QUESTION I'M GOING
18 TO HAVE TO ASK YOU IS ... SPEAK UP A LITTLE BIT.
19 SPEAK UP INTO THE MICROPHONE BECAUSE I HAVE TO HEAR
20 YOU, THIS LADY HAS TO HEAR YOU, AND EVERYONE IN THE
21 COURTROOM HAS TO HEAR YOU. SO YOU HAVE READ THAT.
22 WHICH ONE OF THOSE THREE TYPE OF JURORS DO YOU THINK
23 BEST DESCRIBES YOU?

24 **JUROR #197:** I WOULD SAY I'M TYPE #1.

25 **THE COURT:** TYPE #1? ALL RIGHT. SO YOU IDENTIFY

1 YOURSELF AS BEING A TYPE #1 JUROR OR WHAT YOU WERE
2 SAYING IS THAT YOU FEEL LIKE THAT IN EVERY CASE
3 WHERE A MURDER HAS BEEN COMMITTED, THAT THE DEATH
4 PENALTY IS THE APPROPRIATE PUNISHMENT; IS THAT
5 CORRECT?

6 **JUROR #197:** YES, IT IS.

7 **THE COURT:** ALL RIGHT. AND IS THAT WITHOUT REGARD TO
8 WHATEVER CIRCUMSTANCES MIGHT BE SURROUNDING IT
9 WHETHER THERE ARE AGGRAVATED CIRCUMSTANCES PROVEN BY
10 THE STATE OR WHETHER THERE ARE MITIGATING
11 CIRCUMSTANCES THAT THE DEFENSE ASKS YOU TO LOOK AT?
12 DO YOU FEEL LIKE THAT YOU COULD NOT ACTIVELY LOOK AT
13 THOSE AGGRAVATED AND MITIGATED CIRCUMSTANCES AND
14 FIND A VERDICT BASED UPON THAT EVIDENCE, BUT WOULD
15 BE PRONE TO DECIDE THAT THE ONLY APPROPRIATE
16 PUNISHMENT IS DEATH?

17 **JUROR #197:** Uh-huh (affirmative response).

18 **THE COURT:** ANY FURTHER QUESTIONS OF THIS ...

19 **MR. SALEEBY:** NO, SIR.

20 **MR. BABB:** NONE FROM DEFENSE ATTORNEYS, YOUR HONOR.

21 **THE COURT:** ALL RIGHT. THAT BEING THE CASE, MS. SOONER,
22 I THINK THAT YOU WOULD NOT BE QUALIFIED TO SERVE AS
23 A JUROR IN THIS CASE, SO I AM GOING TO EXCUSE YOU.
24 THANK YOU VERY MUCH FOR COMING. ANY DISAGREEMENT
25 WITH THAT, MR. SALEEBY?

1 **MR. SALEEBY:** NO, SIR.

2 **THE COURT:** MR. LITTLEJOHN?

3 **MR. LITTLEJOHN:** NO, YOUR HONOR.

4 **THE COURT:** ALL RIGHT. ALL RIGHT, COUNSEL, THAT

5 COMPLETES PANEL EIGHT. I AM NOW READY TO GO FORWARD
6 WITH PANEL NINE. THINK WE SHOULD ALL BE ABLE TO
7 TAKE A BREAK IN THE MIDDLE OF THIS SOME TIME OR
8 ANOTHER, BUT WE ARE GOING TO GO FORWARD WITH JUROR
9 #242, MS. WILLIAMSON. ALL RIGHT. GOOD AFTERNOON,
10 MS. WILLIAMS. I WANT YOU TO JUST RELAX AND BE AT
11 EASE. I KNOW THAT'S A LITTLE BIT HARD IN THIS
12 SETTING. IT MIGHT BE A LITTLE BIT INTIMIDATING TO
13 BE IN THIS SETTING WITH ALL THESE PEOPLES AND
14 SOMEBODY IN A BLACK ROBE AND ALL THESE OTHER FOLKS
15 HERE, BUT I WANT YOU TO JUST BE AT EASE. WE DO HAVE
16 TO ASK YOU SOME QUESTIONS TO DETERMINE YOUR
17 QUALIFICATION TO SERVE ON THE JURY. I WOULD REMIND
18 YOU THAT YESTERDAY YOU WERE PUT UNDER OATH WHEN WE
19 ASKED YOU CERTAIN QUESTIONS ABOUT THE GENERAL
20 QUALIFICATIONS, AND NOW WE'RE GOING TO TALK ABOUT
21 THIS CASE SPECIFICALLY, BUT YOU'RE STILL UNDER OATH
22 AND SO YOUR ANSWERS MUST BE TRUTHFUL. DO YOU
23 UNDERSTAND THAT?

24 **JUROR #242:** YES.

25 **THE COURT:** NOW, WE ARE GOING TO ASK YOU QUESTIONS THAT

1 ARE NOT INTENDED TO INVADE YOUR PRIVACY, BUT ARE
2 INTENDED TO DETERMINE HOW YOU FEEL ABOUT CERTAIN
3 MATTERS. WE JUST WANT YOU TO BE OPEN AND HONEST
4 ABOUT IT SO THAT WE CAN MAKE A DETERMINATION WITH
5 REGARDS TO YOUR QUALIFICATION. HAVE YOU HAD ...
6 FIRST OF ALL, LET ME TELL YOU, IN THIS CASE, MR.
7 BOBBY WAYNE STONE HAS ALREADY BEEN FOUND GUILTY OF
8 MURDER, SO THE QUESTION IS WHETHER HE IS OR IS NOT
9 GUILTY IS NOT A QUESTION THAT THE JURY IS GOING TO
10 HAVE TO DETERMINE. THE ONLY QUESTION THE JURY IS
11 GOING TO HAVE TO DETERMINE IS WHAT PUNISHMENT SHOULD
12 BE IMPOSED. IF YOU FIND THAT THE STATE HAS PROVEN
13 AGGRAVATED CIRCUMSTANCES OR ONE, AT LEAST ONE
14 AGGRAVATED CIRCUMSTANCE IN THIS CASE, AND THEY MUST
15 PROVE THAT BEYOND A REASONABLE DOUBT, THEN THE JURY
16 WILL DECIDE WHETHER MR. STONE SHOULD BE GIVEN LIFE
17 IN PRISON OR WHETHER HE SHOULD BE, HIS PUNISHMENT
18 SHOULD BE DEATH. YOU UNDERSTAND THAT THOSE ARE THE
19 ISSUES THAT THE JURY WILL HAVE TO CONSIDER?

20 JUROR #242: YES, SIR.

21 THE COURT: ALL RIGHT. AND IN THAT (INAUDIBLE), HAVE YOU
22 HAD A CHANCE TO REVIEW THE THREE TYPES OF JUROR
23 FORMS THAT I FURNISHED YOU BACK IN THE JURY ROOM?

24 JUROR #242: YES, SIR.

25 THE COURT: AND OF THOSE THREE TYPES OF JURORS, TYPE #1,

1 TYPE #2, AND TYPE #3, WHICH ONE OF THOSE THREE DO
2 YOU THINK BEST DESCRIBES YOU?

3 **JUROR #242:** THREE.

4 **THE COURT:** WHEN YOU SAY THAT TYPE #3 DESCRIBES YOU, WHAT
5 YOU'RE SAYING IS, THAT AFTER LISTENING TO ALL THE
6 CIRCUMSTANCES SURROUNDING THIS CASE, DEPENDING ON
7 THOSE FACTS AND CIRCUMSTANCES, YOU COULD EITHER FIND
8 LIFE IMPRISONMENT OR YOU COULD FIND DEATH; IS THAT
9 CORRECT?

10 **JUROR #242:** YES.

11 **THE COURT:** NOW, LET'S TALK A LITTLE BIT ABOUT AGGRAVATED
12 CIRCUMSTANCES. THE STATE WILL BE PRESENTING
13 TESTIMONY TO YOU, WHAT WE CALL STATUTORY AGGRAVATED
14 CIRCUMSTANCES, AND WHAT THOSE ARE, ARE INSTANCES OR
15 DETAILS THAT SURROUND THE ACTUAL CRIME THAT WORSEN
16 OR MAKE THE ENORMITY OF THE CRIME OF MURDER WORSE
17 AND ADDS TO THE INJURY OF THE CRIME OF MURDER. THE
18 STATUTORY AGGRAVATED CIRCUMSTANCES, THE STATE MUST
19 PROVE AT LEAST ONE STATUTORY AGGRAVATED CIRCUMSTANCE
20 BEYOND A REASONABLE DOUBT. THERE ARE ALSO
21 MITIGATING CIRCUMSTANCES. THERE'S STATUTORY AND
22 JUST MITIGATING CIRCUMSTANCES, AND THOSE ARE EXACTLY
23 THE OPPOSITE. THEY ARE FACTS AND DETAILS WHICH OUR
24 LEGISLATURE HAS DECLARED REDUCES THE SEVERITY OF THE
25 DEFENSE OF MURDER, AND MAYBE CONSIDER AS EXTENUATING

1 OR REDUCE THE DEGREE OF RESPONSIBILITY. THOSE
2 MATTERS WILL ALSO BE BEFORE YOU. NOW I WILL ASK YOU
3 THAT IF YOU ARE SELECTED TO SERVE AS A JUROR IN THIS
4 CASE, DEPENDING UPON THE FACTS AND CIRCUMSTANCES,
5 INCLUDING THE CONSIDERATION OF THE AGGRAVATED AND
6 MITIGATED CIRCUMSTANCES, AS I WILL INSTRUCT YOU, YOU
7 WILL BE REQUIRED TO SIGN A VERDICT FORM FOR LIFE IN
8 PRISON, ALONG WITH THE OTHER 11 JURORS, YOU WILL BE
9 REQUIRED TO SIGN THIS FORM. WOULD YOU BE ABLE TO DO
10 THAT?

11 **JUROR #242:** YES, SIR.

12 **THE COURT:** AGAIN, DEPENDING ON THE FACTS AND
13 CIRCUMSTANCES IN THIS CASE, DEPENDING ON WHETHER THE
14 STATE HAS PROVEN THE AGGRAVATED CIRCUMSTANCES AND
15 THERE ARE MITIGATING CIRCUMSTANCES THAT YOU THINK
16 OUGHT TO BE CONSIDERED, YOU MAY HAVE TO SIGN A FORM
17 THAT WOULD REQUIRE ME TO SENTENCE THE DEFENDANT TO
18 DEATH BECAUSE THAT WOULD BE THE JURY'S FINDING.
19 WOULD YOU BE ABLE TO SIGN THAT FORM ALONG WITH YOUR
20 FELLOW JURORS IN THAT SITUATION?

21 **JUROR #242:** YES. I THINK I MIGHT, YES.

22 **THE COURT:** ALL RIGHT. NOW, THAT'S NOT WHAT I WANT YOU
23 TO DO. I WANT YOU TO THINK ABOUT IT AND I WANT YOU
24 TO BE HONEST WITH US.

25 **JUROR #242:** YES.

1 **THE COURT:** SO WHAT YOU'RE TELLING ME IF I UNDERSTAND YOU
2 IS THAT ... AND I KNOW ... WE'RE NOT ASKING YOU WHAT
3 YOU WOULD DO BECAUSE YOU HAVEN'T HEARD THE EVIDENCE
4 IN THIS CASE AND YOU DON'T KNOW WHAT IT IS. WE'RE
5 JUST ASKING WHAT YOU'D BE ABLE TO DO IF THE FACTS
6 AND CIRCUMSTANCES JUSTIFIED IT. WHAT I'M TELLING
7 YOU IS, IF YOU AND YOUR FELLOW 11 JURORS FOUND THAT
8 THE PROOF IN THIS CASE CONVINCED YOU OF THE
9 AGGRAVATED AND MITIGATED CIRCUMSTANCES BEYOND A
10 REASONABLE ... IT WOULD BE AGGRAVATED CIRCUMSTANCES
11 BEYOND A REASONABLE DOUBT, AND CONSIDERING THOSE
12 ALONG WITH ANY MITIGATING CIRCUMSTANCES, YOU THOUGHT
13 THAT DEATH WAS THE APPROPRIATE PUNISHMENT, COULD YOU
14 SIGN THE FORM ALONG WITH THE OTHER 11 JURORS THAT
15 THIS DEFENDANT BE SENTENCED TO DEATH?

16 **JUROR #242:** YES, I COULD.

17 **THE COURT:** ALL RIGHT. NOW I'M GOING TO SWITCH GEARS ON
18 YOU JUST A LITTLE BIT. HAVE YOU HEARD ANYTHING OR
19 READ ANYTHING, SEEN ANYTHING IN THE MEDIA EITHER THE
20 NEWSPAPER OR TELEVISION ABOUT THIS CASE?

21 **JUROR #242:** NOT SINCE IT FIRST BEGAN.

22 **THE COURT:** SO EIGHT YEARS AGO OR SO.

23 **JUROR #242:** YEAH. I REALLY DIDN'T FOLLOWUP ON IT SINCE
24 THEN.

25 **THE COURT:** ALL RIGHT. WHAT DID YOU READ AT THAT TIME?

1 JUROR #242: (INAUDIBLE) SHOT. I DIDN'T READ TOO MUCH
2 INTO IT.

3 THE COURT: YOU UNDERSTAND THAT MR. STONE HAS ALREADY
4 BEEN CONVICTED OF THE MURDER OF DEPUTY KUBALA AND
5 THAT'S NOT GOING TO BE AN ISSUE FOR Y'ALL TO
6 DETERMINE? YOU UNDERSTAND THAT?

7 JUROR #242: YES.

8 THE COURT: OKAY. NOW IS THERE ANYTHING THAT YOU HAVE
9 READ OR HEARD IN THE WAY OF MEDIA THAT WOULD
10 INFLUENCE WHAT YOUR DECISION WOULD BE IN REGARDS TO
11 THE PUNISHMENT AS I HAVE DESCRIBED THEM TO YOU
12 TODAY?

13 JUROR #242: NO, SIR.

14 THE COURT: WOULD YOU BE ABLE TO PUT ASIDE ANYTHING THAT
15 YOU'VE HEARD OR READ, FOLLOWING THE DIRECTIONS OF
16 THE COURT AND, INSTRUCTIONS OF THE COURT, AND DECIDE
17 THIS CASE BASED ON THE EVIDENCE THAT YOU HEAR IN
18 THIS COURT?

19 JUROR #242: YES, SIR.

20 THE COURT: WOULD YOU DO THAT?

21 JUROR #242: YES, SIR.

22 THE COURT: ALL RIGHT. NOW ONE MORE THING. IF YOU ARE
23 SELECTED AS A JUROR IN THIS CASE, IT WILL REQUIRE
24 THAT YOU BE SEQUESTERED OR HOUSED IN A MOTEL FOR
25 FIVE TO SIX DAYS. OTHER THAN PERSONAL INCONVENIENCE

1 THAT THAT WOULD CAUSE YOU, WOULD THAT WORK ANY
2 SUBSTANTIAL HARDSHIP EITHER ON YOUR OR ANY MEMBER OF
3 YOUR FAMILY OR ANYONE WHO IS DEPENDANT UPON YOU?

4 **JUROR #242:** NO, SIR.

5 **THE COURT:** ALL RIGHT. THANK YOU VERY MUCH FOR YOUR
6 CANDOR, MADAM JUROR. AND WE WILL NOW LET YOU ANSWER
7 ANY QUESTIONS THAT THE OTHER LAWYERS MIGHT HAVE.

8 MR. JACKSON?

9 **MR. JACKSON:** THANK YOU, YOUR HONOR. GOOD AFTERNOON, MS.
10 WILLIAMS.

11 **JUROR #242:** GOOD AFTERNOON.

12 **MR. JACKSON:** MS. WILLIAMS, MY NAME IS KELLY JACKSON. I'M
13 THE SOLICITOR HERE IN THE 3RD CIRCUIT. THIS CASE IS
14 THE RESPONSIBILITY OF MY OFFICE AND MYSELF AND MR.
15 DUDLEY SALEEBY, WHO IS HERE AT THE STATE'S TABLE,
16 WILL BE PRESENTING THIS CASE. WE NEED TO ASK YOU
17 JUST A FEW QUESTIONS, NOTHING PERSONAL. JUST RELAX
18 AND WE NEED TO GO OVER JUST A FEW THINGS WITH YOU.
19 YOU HAD FILLED OUT THE QUESTIONNAIRE THAT THE CLERK
20 OF COURT SENT YOU ...

21 **JUROR #242:** YES, SIR.

22 **MR. JACKSON:** ... AND IT NOTED ON THERE SOMEONE WHO WAS
23 RELATED TO YOU THAT WAS CHARGED WITH FORGERY, IS IT
24 (INAUDIBLE).

25 **JUROR #242:** (INAUDIBLE).

HEARING

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1 MR. JACKSON: OKAY. BEAUTIFUL. COULD YOU TELL US A
2 LITTLE BIT ABOUT THAT?

3 JUROR #242: WELL, SHE STARTED WRITING CHECKS, HER
4 COUSIN'S CHECKS, WRITING OUT THE CHECKS AND SIGNING
5 A SIGNATURE TO IT, AND SHE WROTE OUT THE CHECKS TO
6 HERSELF.

7 MR. JACKSON: OKAY. BUT THE COUSIN? THAT'S NOT YOUR
8 CHECKS?

9 JUROR #242: NO, SIR.

10 MR. JACKSON: ANOTHER COUSIN? OKAY. BACK IN '96, WOULD
11 YOU HAVE BEEN LIVING ON THE BOULEVARD ROAD ...

12 JUROR #242: YES.

13 MR. JACKSON: ... IN '96?

14 JUROR #242: YES, SIR.

15 MR. JACKSON: WHAT ADDRESS ON BOULEVARD ROAD?

16 JUROR #242: 741.

17 MR. JACKSON: 741. DO YOU REMEMBER ANYTHING ABOUT THIS
18 PARTICULAR INCIDENT FROM BACK IN '96 OR '97?

19 JUROR #242: (INAUDIBLE) PERSON?

20 MR. JACKSON: YES, MA'AM.

21 JUROR #242: WELL, I CALLED THE POLICE ON MY HUSBAND A
22 COUPLE OF TIMES.

23 MR. JACKSON: OKAY. THAT WOULDN'T HAVE ANYTHING TO DO
24 WITH THIS THOUGH?

25 JUROR #242: BUT OTHER THAN THAT, NO.

1 **MR. JACKSON:** OKAY. YOU NOW LIVE ON RIDGEWAY STREET, 431
2 RIDGEWAY STREET?

3 **JUROR #242:** YES, SIR.

4 **MR. JACKSON:** AND RIGHT AROUND THE CORNER FROM YOU IS
5 TAYLOR?

6 **JUROR #242:** I DON'T KNOW. I DON'T KNOW THE OTHER
7 STREET'S NAMES.

8 **MR. JACKSON:** BUT THE RIDGEWAY THAT YOU LIVE ON IS RIGHT
9 OFF OF BOULEVARD?

10 **JUROR #242:** YES.

11 **MR. JACKSON:** MS. WILLIAMS, IT WOULD BE THE RESPONSIBILITY
12 OF MY OFFICE TO PRESENT YOU WHAT WE CALL AGGRAVATED
13 CIRCUMSTANCES.

14 **JUROR #242:** OKAY.

15 **MR. JACKSON:** MR. BOBBY WAYNE STONE HAS ALREADY BEEN
16 CONVICTED OF MURDER AT ANOTHER TIME, ANOTHER PLACE,
17 AND WE WILL BE PRESENTING STUFF, TO POSSIBLY TO YOU
18 AND OTHER JURORS, THAT WE CALL AGGRAVATED
19 CIRCUMSTANCES. AND IF WE PROVE THEM TO YOU BEYOND A
20 REASONABLE DOUBT, THERE MAY BE AN OPPORTUNITY FOR
21 YOU TO RENDER A PUNISHMENT OR RECOMMEND A PUNISHMENT
22 OF DEATH TO MR. BOBBY WAYNE STONE. AND THERE ALSO
23 MAY BE AN OPPORTUNITY FOR YOU TO HEAR MITIGATING
24 CIRCUMSTANCES AND FOR YOU TO RECOMMEND A SENTENCE OF
25 LIFE TO MR. BOBBY WAYNE STONE. REGARDLESS OF WHICH

1 PUNISHMENT IS RECOMMENDED, COULD YOU SIGN YOUR NAME
2 TO A FORM IF YOUR OPINION WAS THAT HE RECEIVE LIFE
3 IN THE PENITENTIARY FOR THIS MURDER? COULD YOU SIGN
4 YOUR NAME TO THAT FORM?

5 **JUROR #242:** YES.

6 **MR. JACKSON:** AND ON THE FLIP SIDE OF THAT COIN, IF YOU
7 SHOULD DECIDE THAT WE HAD PROVEN AGGRAVATING
8 CIRCUMSTANCES BEYOND A REASONABLE DOUBT, THEN YOU
9 WOULD ALSO BE REQUIRED TO SIGN A FORM IF THAT IS
10 WHAT YOU HAVE DECIDED, AND PUT YOUR NAME ON WHAT
11 OTHERWISE WOULD BE A DEATH WARRANT FOR BOBBY WAYNE
12 STONE.

13 **MR. BABB:** YOUR HONOR, I WANT TO OBJECT. I DON'T THINK
14 THAT'S A PROPER STATEMENT.

15 **THE COURT:** ALL RIGHT. AND WHAT WAS ... I'M NOT SURE
16 WHAT ... ALL RIGHT. REPHRASE YOUR QUESTION, MR.
17 JACKSON.

18 **MR. JACKSON:** YES, SIR. MS. WILLIAMS, IF IT WAS YOUR
19 OPINION THAT THE PROPER PUNISHMENT SHOULD BE DEATH
20 FOR MR. BOBBY WAYNE STONE, EITHER BY ELECTROCUTION
21 OR BY LETHAL INJECTION, COULD YOU ACTUALLY SIGN YOUR
22 NAME TO WHAT OTHERWISE WOULD BE A DEATH WARRANT FOR
23 BOBBY WAYNE STONE?

24 **JUROR #242:** YES, SIR.

25 **MR. JACKSON:** OKAY. THANK YOU FOR ANSWERING MY QUESTIONS.

1 I APPRECIATE YOUR HONESTY.

2 JUROR #242: YOUR WELCOME.

3 THE COURT: MR. BABB.

4 MR. BABB: THANK YOU, YOUR HONOR. GOOD AFTERNOON, MS.
5 WILLIAMS.

6 JUROR #242: GOOD AFTERNOON.

7 MR. BABB: MY NAME IS JAMES BABB. THIS IS CAM LITTLEJOHN,
8 TOGETHER WE WILL BE REPRESENTING MR. STONE. LET ME
9 ASK YOU A COUPLE OF QUESTIONS. I'LL TRY TO KEEP IT
10 BRIEF. NOW YOU LIVE OVER IN AN AREA OF TOWN WHERE
11 THESE CRIMES OCCURRED. AS A MATTER OF FACT, IT'S
12 RIGHT THERE IN YOUR NEIGHBORHOOD. IS THAT GOING TO
13 INFLUENCE YOU IN ANY WAY?

14 JUROR #242: NO.

15 MR. BABB: OKAY. YOU CAN PUT THAT TOTALLY OUT OF YOUR
16 MIND?

17 JUROR #242: TOTALLY OUT.

18 MR. BABB: AND NOT WORRY ABOUT IT AT ALL?

19 JUROR #242: NOT AT ALL.

20 MR. BABB: OKAY. NOW YOU'VE LIVED IN SUMTER MOST OF YOUR
21 LIFE?

22 JUROR #242: I MOVED HERE, IT'S BEEN 26 YEARS.

23 MR. BABB: I THINK 36 YEARS IS HOW LONG YOU SAID YOU'VE
24 LIVED HERE ON THE ... IS THAT APPROXIMATELY CORRECT?

25 JUROR #242: YES.

1 **MR. BABB:** ARE YOU FAMILIAR OR FRIENDS WITH FOLKS IN LAW
2 ENFORCEMENT OR SUMTER COUNTY SHERIFF'S DEPARTMENT OR
3 ANYBODY ...

4 **JUROR #242:** NOT FRIENDS, NO.

5 **MR. BABB:** OKAY. DO YOU KNOW A NUMBER OF PEOPLE THAT WORK
6 AT THE SHERIFF'S DEPARTMENT?

7 **JUROR #242:** NO.

8 **MR. BABB:** OKAY.

9 **JUROR #242:** I REALLY DON'T ANY OF THEM.

10 **MR. BABB:** DO YOU KNOW ANY OF THE FOLKS INVOLVED IN THIS
11 CASE AT ALL?

12 **JUROR #242:** NO.

13 **MR. BABB:** OKAY. NOW MS. WILLIAMS, AS YOU KNOW, YOU MAY
14 BE CALLED UPON TO HAVE TO MAKE A DECISION, POSSIBLY
15 BETWEEN DECIDING ABOUT A SENTENCE OF DEATH OR A
16 SENTENCE OF LIFE IN PRISON. DO YOU CONSIDER LIFE IN
17 PRISON TO BE A SUBSTANTIAL PENALTY?

18 **JUROR #242:** YES.

19 **MR. BABB:** OKAY. WOULD YOU BE ABLE TO CONSIDER MITIGATING
20 CIRCUMSTANCES IN MAKING UP THAT DECISION? AND BY
21 MITIGATING CIRCUMSTANCES I MEAN SOME THAT THE JUDGE
22 MAY CHARGE YOU AS BEING STATUTORY CIRCUMSTANCES,
23 OTHER MAY HAVE NOTHING TO DO WITH THE OFFENSE, BUT A
24 LOT TO DO WITH THE INDIVIDUAL, MR. STONE, ABOUT HIS
25 BACKGROUND OR HIS PERSONALITY OR HIS EXPERIENCES,

1 THOSE TYPES OF THINGS THAT MAKE HIM A UNIQUE PERSON?

2 **JUROR #242:** YES.

3 **MR. BABB:** YOU COULD CONSIDER THOSE FULLY?

4 **JUROR #242:** YES.

5 **MR. BABB:** AND FAIRLY TO HIM?

6 **JUROR #242:** YES.

7 **MR. BABB:** AND TO THE STATE?

8 **JUROR #242:** YES.

9 **MR. BABB:** OKAY. NOW, IF YOU ARE SELECTED ON THE JURY AND
10 YOU'RE IN THE JURY AND YOU'VE REACHED YOUR DECISION
11 AND MOST EVERYONE ELSE IS GOING THE OTHER WAY, ARE
12 YOU GOING TO FOLLOW THEM?

13 **JUROR #242:** I'M GOING TO STICK WITH MY DECISION.

14 **MR. BABB:** YOU'LL HOLD TO YOUR CONVICTION?

15 **JUROR #242:** I WILL HOLD TO MY CONVICTION.

16 **MR. BABB:** OKAY. AND YOU'LL COMMAND THAT THEY RESPECT
17 YOUR OPINION?

18 **JUROR #242:** YES.

19 **MR. BABB:** AND YOU WOULD RESPECT THEIRS?

20 **JUROR #242:** I WOULD RESPECT THEIRS.

21 **MR. BABB:** OKAY. THE COURT'S INDULGENCE.

22 **THE COURT:** ALL RIGHT.

23 **MR. BABB:** NOTHING FURTHER, YOUR HONOR.

24 **THE COURT:** ALL RIGHT. MS. WILLIAMS, THANK YOU VERY MUCH
25 FOR YOUR CANDOR AND WILLINGNESS TO ANSWER THE

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1 QUESTIONS AND IF YOU WILL STEP OUT FOR JUST A
2 MOMENT, I NEED TO TAKE UP A FEW MATTERS WITH THE
3 LAWYERS. I'LL SEND FOR YOU SHORTLY.

4 **JUROR #242:** OKAY.

5 **THE COURT:** MR. SALEEBY?

6 **MR. SALEEBY:** QUALIFIED, YOUR HONOR.

7 **THE COURT:** MR. BABB?

8 **MR. BABB:** QUALIFIED, YOUR HONOR.

9 **THE COURT:** ALL RIGHT. I CONCUR THAT SHE IS QUALIFIED.

10 IF YOU'LL HAVE HER COME BACK, PLEASE. ALL RIGHT,
11 MS. WILLIAMS, YOU HAVE BEEN FOUND TO BE A QUALIFIED
12 JUROR IN THIS CASE. THAT'S DOES NOT NECESSARILY
13 MEAN THAT YOU'RE GOING TO SERVE ON THE CASE, BUT YOU
14 HAVE BEEN FOUND TO BE A QUALIFIED JUROR, AND I'M
15 GOING TO ASK YOU TO COME BACK SOMETIME TOMORROW.
16 I'M NOT SURE EXACTLY WHEN TOMORROW I'LL BE ASKING
17 YOU TO COME BACK. A LOT DEPENDS ON SOME OTHER
18 THINGS THAT WE'VE GOT TO DO. BUT I AM GOING TO
19 EXCUSE YOU AND ASK YOU TO CALL THAT NUMBER THAT YOU
20 HAVE ON THE BLUE CARD AFTER 6:00 TONIGHT. THERE
21 WILL BE INSTRUCTIONS ON THERE AS TO WHAT TIME WE
22 WANT YOU TO REPORT TOMORROW. I WILL TELL YOU THAT
23 WHEN YOU GO HOME TODAY, YOU NEED TO PACK YOUR
24 CLOTHES AND PERSONAL BELONGINGS AND BE PREPARED, AND
25 BRING THOSE WITH YOU AT WHATEVER TIME YOU'RE

1 SUPPOSED TO REPORT TOMORROW. DO NOT BRING THEM IN
2 THE COURTHOUSE, BUT LEAVE THEM IN YOUR CAR, AND THEN
3 IF YOU ARE SELECTED AS A JUROR THEN YOU WILL BE
4 UNPACKING AT THE HOTEL. IF YOU'RE NOT, THEN YOU
5 WILL BE TAKING THEM BACK HOME AND UNPACKING THEM AT
6 HOME, BUT YOU DO NEED TO BRING THOSE THINGS WITH YOU
7 AND BE PREPARED TO STAY WITH US (INAUDIBLE). I WILL
8 ALSO TELL YOU, DURING THE RECESS, DO NOT DISCUSS THE
9 CASE WITH ANYONE. DO NOT ALLOW ANYONE TO DISCUSS IT
10 WITH YOU. DO NOT LOOK AT ANY TELEVISION REPORTS OR
11 READ ANY NEWSPAPERS OR ANYTHING ABOUT THIS CASE OVER
12 THE RECESS BECAUSE YOU'VE GOT TO DECIDE THE CASE
13 BASED UPON WHAT YOU HEAR IN THIS COURTROOM. WITH
14 THAT, I'M GOING TO EXCUSE YOU AND ASK YOU TO CALL
15 THAT NUMBER AFTER 6:00 TONIGHT.

16 **JUROR #242:** ALL RIGHT.

17 **THE COURT:** THANK YOU VERY MUCH.

18 **JUROR #242:** I UNDERSTAND.

19 **THE COURT:** JUROR 168. ALL RIGHT. MR. HOLSTEIN, THANK
20 YOU VERY MUCH. I APPRECIATE YOUR PATIENCE. WE ARE
21 MOVING FORWARD ON THIS AND I NEED TO TELL YOU THAT
22 WE NOW NEED TO ASK YOU SOME QUESTIONS TO DETERMINE
23 YOUR QUALIFICATIONS TO SERVE ON THIS JURY. PLEASE
24 DON'T BE INTIMIDATED BY THIS SETTING, JUST RELAX. I
25 REALIZE THAT IT'S NOT OFTEN THAT YOU'RE PLACED IN

1 THIS SITUATION AND IT MAY BE A LITTLE BIT
2 INTIMIDATING, BUT WE ARE GOING TO ASK YOU SOME
3 QUESTIONS AND WILL TREAT YOU WITH COURTESY, SO IF
4 YOU WOULD, JUST ANSWER OUR QUESTIONS. I ALSO WILL
5 TELL YOU THAT THERE ARE NO RIGHT OR WRONG ANSWERS TO
6 SOME OF THESE QUESTIONS. THEY ARE JUST QUESTIONS
7 THAT ARE DESIGNED TO DETERMINE YOUR FEELINGS AND
8 YOUR VIEWS ON CERTAIN THINGS. SO ALL WE WANT YOU TO
9 DO IS TO ANSWER THEM AS HONESTLY AND OPENLY AS YOU
10 CAN. I WOULD ALSO TELL YOU THAT YESTERDAY WE PUT
11 YOU UNDER OATH, SO YOU'RE STILL UNDER OATH WITH
12 REGARDS TO THE QUESTIONS THAT WE WILL ASK YOU AND
13 YOU WILL BE REQUIRED TO PRESENT THIS TESTIMONY UNDER
14 OATH. HAVING SAID THAT, I WILL TELL YOU ALSO THAT
15 THIS IS THE CASE, THE STATE VERSUS BOBBY WAYNE
16 STONE. MR. STONE HAS ALREADY BEEN FOUND GUILTY OF
17 THE MURDER OF DEPUTY KUBALA. THAT ISSUE IS NOT
18 GOING TO BE SOMETHING FOR THE JURY TO CONSIDER. THE
19 ONLY ISSUE FOR THE JURY TO CONSIDER CONCERNS THE
20 QUESTION OF WHAT PUNISHMENT YOU WILL IMPOSE UPON MR.
21 STONE. THE STATE WILL PRESENT EVIDENCE, CERTAIN
22 AGGRAVATING ... WHAT ARE CALLED STATUTORY
23 AGGRAVATING CIRCUMSTANCES AND THEY MUST PROVE AT
24 LEAST ONE OF THESE BEYOND A REASONABLE DOUBT. AND
25 IF THEY DO SO, THEN THE JURORS WILL BE CALLED UPON

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HEARING

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1 TO DECIDE WHETHER MR. STONE SHOULD BE SENTENCED TO
2 LIFE IN PRISON OR WHETHER HE SHOULD BE GIVEN THE
3 DEATH PENALTY. THAT IS THE ISSUE THAT IS GOING TO
4 BEFORE THE COURT. NOW HAVING SAID THAT, I WILL ASK
5 YOU, HAVE YOU HAD A CHANCE TO READ THE TYPES OF
6 JUROR FORMS THAT WERE GIVEN TO YOU IN THE JUROR
7 ROOM?

8 **JUROR #168:** YES, I DID.

9 **THE COURT:** AND HAVING READ THAT AND UNDERSTANDING THAT,
10 HOW WOULD YOU SAY, WHICH TYPE WOULD YOU SAY BEST
11 DESCRIBES YOU; TYPE #1, TYPE #2, OR TYPE #3?

12 **JUROR #168:** TYPE #3.

13 **THE COURT:** TYPE #3. ALL RIGHT. BY SAYING THAT, YOU'RE
14 SAYING AS I UNDERSTAND IT, THAT AFTER LISTENING TO
15 THE FACTS AND CIRCUMSTANCES SURROUNDING THIS CASE
16 AND DEPENDING ON THOSE FACTS AND CIRCUMSTANCES, YOU
17 COULD EITHER FIND LIFE IMPRISONMENT OR YOU COULD
18 FIND THE PUNISHMENT BY DEATH WAS APPROPRIATE; IS
19 THAT RIGHT?

20 **JUROR #168:** YES, SIR.

21 **THE COURT:** NOW AS I TOLD YOU, THE STATE WILL BE REQUIRED
22 TO PROVE AT LEAST ONE AGGRAVATING CIRCUMSTANCE. OUR
23 LEGISLATURE HAS DECLARED THAT AGGRAVATING
24 CIRCUMSTANCES ARE DETAILS OR OCCURRENCES THAT MAKE A
25 CRIME WORKS. THAT IS THEY AGGRAVATE THE OFFENSE OF

1 MURDER. THEY INCREASE THE ENORMITY OR ADD TO THE
2 INJURY OF THE CRIME OF MURDER. BY THE SAME TOKEN,
3 THE LEGISLATURE HAS ALSO DECLARED THAT CERTAIN
4 THINGS ARE MITIGATING CIRCUMSTANCES AND THAT'S
5 EXACTLY THE OPPOSITE. THESE ARE FACTS AND
6 INCIDENCES AND DETAILS THAT OUR LEGISLATURE HAS
7 DECLARED TO REDUCE THE SEVERITY OF THE OFFENSE OF
8 MURDER AND MAYBE CONSIDERED AN INSTITUTING OR
9 REDUCES THE DEGREE OF RESPONSIBILITY OR
10 ACCOUNTABILITY. IF YOU ARE SELECTED AS A JUROR IN
11 THIS CASE, DEPENDING UPON THE FACTS AND
12 CIRCUMSTANCES INCLUDING THE CONSIDERATION OF
13 AGGRAVATING AND MITIGATING CIRCUMSTANCES, YOU MAY BE
14 REQUIRED, YOU WILL BE REQUIRED TO FOLLOW THE
15 INSTRUCTIONS OF THE COURT AND YOU WILL BE REQUIRED
16 TO SIGN THE VERDICT FORM ALONG WITH YOUR OTHER 11
17 JURORS THAT DEPENDING ON YOUR VIEW OF THE FACTS AND
18 YOUR FINDINGS, WOULD REQUIRE THAT THE DEFENDANT
19 SERVE LIFE IN PRISON. DO YOU UNDERSTAND THAT THAT
20 MIGHT BE YOUR VERDICT?

21 JUROR #168: YES, SIR.

22 THE COURT: COULD YOU SIGN SUCH A FORM IF THAT WERE YOUR
23 VERDICT?

24 JUROR #168: IF IT WAS, YES, SIR.

25 THE COURT: OKAY. ALSO, IF AFTER CONSIDERING ALL THE

1 FACTS AND CIRCUMSTANCES IN THIS CASE, INCLUDING
2 AGAIN, THE CONSIDERATION OF AGGRAVATING
3 CIRCUMSTANCES AND THE MITIGATING CIRCUMSTANCES, YOU
4 WOULD BE, IF IT WERE YOUR VIEW THAT THE STATE HAD
5 MET ITS BURDEN OF PROOF AND YOUR VERDICT WAS THAT
6 THE DEFENDANT SHOULD SUFFER DEATH AS PUNISHMENT FOR
7 THIS CRIME, AGAIN, YOU WOULD BE REQUIRED TO SIGN A
8 FORM THAT FINDS THAT HE IS TO BE PUT TO DEATH.
9 COULD YOU SIGN SUCH A FORM IF THAT WERE YOUR VIEW OF
10 THE FACTS AND CIRCUMSTANCES?

11 **JUROR #168:** YES, SIR.

12 **THE COURT:** NOW, MR. HOLSTEIN, HAVE YOU READ ANYTHING OR
13 HEARD ANYTHING OR KNOW ANYTHING AT ALL ABOUT THIS
14 CASE?

15 **JUROR #168:** NOT OTHER THAN WHAT YOU'VE TOLD ME.

16 **THE COURT:** ALL RIGHT. YOU HAVEN'T READ ANY NEWSPAPER
17 REPORTS OR SEEN ANYTHING ON TELEVISION ABOUT IT?

18 **JUROR #168:** NO, SIR.

19 **THE COURT:** OKAY. HAVE YOU FORMED ANY OPINION AT THIS
20 POINT AS TO WHAT YOUR VERDICT IN THIS CASE WOULD BE?

21 **JUROR #168:** WELL, NO MORE THAN WHAT YOU'VE TOLD ME, I
22 GUESS I NEED MORE ...

23 **THE COURT:** I'M NOT ASKING YOU HOW YOU FEEL BECAUSE YOU
24 HAVEN'T HEARD IT AT THIS TIME. WHAT I'M ASKING IS,
25 IN YOUR OWN MIND HAVE YOU FORMED AN OPINION OR DO

1 YOU FEEL LIKE THAT YOU CAN LISTEN TO THE EVIDENCE
2 AND DECIDE BASED ON WHAT YOU HEAR IN THIS COURTROOM?

3 **JUROR #168:** YES, SIR. I CAN.

4 **THE COURT:** YOU THINK YOU CAN DO THAT?

5 **JUROR #168:** YES, SIR.

6 **THE COURT:** ALL RIGHT. NOW, ONE OTHER THING THAT I NEED
7 TO ASK YOU IS, IF YOU ARE SELECTED AS A JUROR IN
8 THIS CASE, YOU WOULD BE REQUIRED TO STAY IN A HOTEL
9 FOR FIVE OR SIX DAYS BEGINNING TOMORROW UNTIL WE
10 HAVE COMPLETED THE TESTIMONY AND THE JURY HAS
11 REACHED A VERDICT IN THIS CASE. OTHER THAN THE
12 PERSONAL INCONVENIENCE TO YOU, WOULD THAT CAUSE ANY
13 UNDUE HARDSHIP ON YOUR OR ANY MEMBER OF YOUR FAMILY
14 THAT IS DEPENDANT UPON YOU?

15 **JUROR #168:** OTHER THAN FINANCIALLY, NO, SIR.

16 **THE COURT:** ALL RIGHT. FINANCIALLY WOULD BE THAT YOU
17 WOULD BE OUT OF WORK, IS THAT WHAT YOU'RE TALKING
18 ABOUT?

19 **JUROR #168:** WELL, I OWN A CONSTRUCTION COMPANY SO I HAVE
20 (INAUDIBLE) MYSELF.

21 **THE COURT:** ALL RIGHT. SO YOU OWN A CONSTRUCTION COMPANY
22 AND WHAT KIND OF CONSTRUCTION DO YOU ALL DO?

23 **JUROR #168:** WE DO FIRE AND WATER RESTORATION, WHICH WE
24 SERVE SEVERAL INSURANCE COMPANIES.

25 **THE COURT:** ALL RIGHT. AND IF YOU'RE NOT THERE, WHAT

1 HAPPENS?

2 **JUROR #168:** WE PRETTY MUCH HAVE TO SHUT DOWN.

3 **THE COURT:** YOU HAVEN'T GOTTEN YOUR EMPLOYEES TRAINED
4 WELL ENOUGH THAT THEY CAN WORK WITHOUT YOU?

5 **JUROR #168:** WELL, I'VE GOT THEM TRAINED IN THE OTHER
6 WAYS.

7 **THE COURT:** OKAY. ALL RIGHT. THANK YOU, MR. HOLSTEIN.
8 ANSWER ANY QUESTIONS THAT MR. SALEEBY OR MR. JACKSON
9 MIGHT HAVE FOR YOU.

10 **MR. SALEEBY:** MR. HOLSTEIN, MY NAME IS DOUGLASS SALEEBY.
11 I'LL BE PROSECUTING THIS CASE ALONG WITH SOLICITOR
12 JACKSON. I GUESS TO FOLLOWUP ON THAT LAST QUESTION
13 YOU HAD THERE. I SEE WHEN YOU DESCRIBED YOUR JOB
14 RESPONSIBILITIES YOU INCLUDED COMPLAINT DEPARTMENT
15 MANAGER. I IMAGINE THE BUCK STOPS AT YOUR DESK; IS
16 THAT CORRECT?

17 **JUROR #168:** YES, SIR. IT DOES.

18 **MR. SALEEBY:** ALL RIGHT. WELL, THANK YOU FOR ALLOWING US
19 TO ASK YOU THESE QUESTIONS. WE KNOW WE SAY WE DON'T
20 MEAN TO PRY, BUT WE DO NEED TO MAKE SURE, THE COURT
21 NEEDS TO MAKE SURE THAT WHEN WE SELECT PEOPLE TO BE
22 POTENTIAL JURORS, THAT THEY'RE, THEY FEEL THAT
23 THEY'RE PREPARED TO MAKE WHATEVER DECISIONS THAT THE
24 COURT REQUIRES THEM TO DO. AND WE WOULD WANT YOU TO
25 KNOW AND I WILL TELL YOU NOW, SOMETIMES I THINK WE

1 GIVE JURORS THE IMPRESSION THAT WE WANT THEM TO TELL
2 US WHAT ARE YOU THINKING ABOUT DOING NOW OR WHAT
3 WOULD YOU DO IF YOU SIT ON THIS CASE, AND THAT'S NOT
4 WHAT WE'RE TRYING TO DO. WE'RE TRYING TO SAY, DO
5 YOU FEEL LIKE YOU DON'T HAVE YOUR MIND MADE UP AND
6 CAN YOU BE FAIR AN IMPARTIAL AND WAIT UNTIL YOU HEAR
7 EVERYTHING. SO THAT'S MY QUESTION TO YOU, DO YOU
8 FEEL AS YOU SIT THERE TODAY THAT YOU DON'T HAVE YOUR
9 MIND MADE UP ABOUT WHAT THE PUNISHMENT SHOULD BE AND
10 THAT YOU COULD WAIT TO HEAR EVERYTHING BEFORE YOU
11 MADE YOUR MIND UP?

12 **JUROR #168:** YES, SIR.

13 **MR. SALEEBY:** ALL RIGHT. AND YOU UNDERSTAND WHY THAT WOULD
14 WE IMPORTANT? WHY IT WOULD BE IMPORTANT TO HAVE
15 PEOPLE ON THE JURY WHO ALREADY HAVEN'T SAID, WELL, I
16 THINK I'M GOING TO DO THIS OR WELL, I THINK I'M
17 GOING TO DO THAT OR I'M ALREADY PREDISPOSED. IT
18 WOULD BE THAT WHAT WE BROUGHT THEN WOULD NOT BE
19 USEFUL BECAUSE THEY WOULD ALREADY BE SAYING, WELL,
20 I'M GOING TO DO THIS OR I'M GOING TO DO THAT. YOU
21 DON'T HAVE ANY OF THAT IN YOUR (INAUDIBLE)?

22 **JUROR #168:** NO, SIR.

23 **MR. SALEEBY:** ALL RIGHT, SIR. I THINK YOU WERE ASKED, BUT
24 I'LL ASK YOUR ANSWER. YOU DON'T HAVE ANY
25 INFORMATION FROM THE COMMUNITY, FROM LAW

1 ENFORCEMENT, OR FROM MEDIA ABOUT THE FACTS OF THIS
2 CASE?

3 JUROR #168: NO, SIR. I DON'T.

4 MR. SALEEBY: ALL RIGHT, SIR. DO YOU RECALL WHEN IT
5 ORIGINALLY HAPPENED OR DID YOU HAPPEN TO FOLLOW IT
6 IN THE PAPER IN ANY WAY?

7 JUROR #168: NOT THAT I CAN RECALL.

8 MR. SALEEBY: ALL RIGHT. I TAKE IT THAT RUNNING YOUR
9 BUSINESS IS PRETTY, AND RUNNING YOUR FAMILY,
10 OCCUPIES ABOUT ALL THE TIME YOU'VE GOT?

11 JUROR #168: YES, SIR. IT DOES.

12 MR. SALEEBY: ALL RIGHT, SIR. THANK YOU SO MUCH. I
13 APPRECIATE ... OH, LET ME ASK YOU ONE OTHER
14 QUESTION. I'M SORRY. I APOLOGIZE FOR THIS. YOU
15 DID ASK, INDICATE ON YOUR QUESTIONNAIRE THAT AN
16 INDIVIDUAL BY THE NAME OF MICHAEL HOLSTEIN HAD SOME
17 INVOLVEMENT WITH THE LAW.

18 JUROR #168: YES, SIR.

19 MR. SALEEBY: WHAT RELATIONSHIP IS MICHAEL TO YOU?

20 JUROR #168: HE'S MY YOUNGER BROTHER.

21 MR. SALEEBY: ALL RIGHT. WITH THAT INVOLVEMENT IN ANY WAY
22 HAVE A BEARING ON HOW YOU EXECUTED YOUR DUTIES UP
23 HERE?

24 JUROR #168: I WOULD HOPE NOT. I WOULD TELL YOU, I CAN'T
25 ANSWER YES OR NO.

1 **MR. SALEEBY:** ALL RIGHT. YOU'RE NOT AWARE ... ARE YOU
2 AWARE OF ANY HARD FEELINGS AGAINST THE POLICE AGENCY
3 OR FOR A POLICE AGENCY AS A RESULT OF THIS THING?

4 **JUROR #168:** NO, SIR.

5 **MR. SALEEBY:** ALL RIGHT. DO YOU RECALL WHAT AGENCY WAS
6 INVOLVED?

7 **JUROR #168:** I DO NOT.

8 **MR. SALEEBY:** ALL RIGHT. AND I APOLOGIZE FOR ASKING, BUT
9 WE NEED TO. THANK YOU.

10 **THE COURT:** MR. LITTLEJOHN.

11 **MR. LITTLEJOHN:** GOOD AFTERNOON, MR. HOLSTEIN. MY NAME IS
12 CAM LITTLEJOHN AND I ALONG WITH JIM BABB REPRESENT
13 THE DEFENDANT, BOBBY WAYNE STONE. MR. HOLSTEIN, I
14 BELIEVE EARLIER YOU INDICATED YOU HAD NOT HEARD
15 ANYTHING ABOUT THIS CASE?

16 **JUROR #168:** NO, SIR.

17 **MR. LITTLEJOHN:** NOT READ ANYTHING, SEEN ANYTHING ON TV?

18 **JUROR #168:** NO.

19 **MR. LITTLEJOHN:** OKAY. I NOTICE IN YOUR JUROR INFORMATION
20 FORM THAT YOU'VE GOT SEVEN KIDS?

21 **JUROR #168:** YES, SIR.

22 **MR. LITTLEJOHN:** AND YOU GOT FIVE KIDS BETWEEN 12 AND 19
23 OR 21 YEARS OLD?

24 **JUROR #168:** YES, SIR.

25 **MR. LITTLEJOHN:** MOST OF THOSE LIVE AT HOME?

1 **JUROR #168:** FIVE OF THEM.

2 **MR. LITTLEJOHN:** I GUESS SEQUESTRATION ON A JURY WOULD BE
3 KIND OF LIKE A VACATION FOR YOU?

4 **JUROR #168:** YEAH.

5 **MR. LITTLEJOHN:** OKAY. LET ME ASK YOU, MR. HOLSTEIN, IT
6 INDICATES HERE YOU'VE LIVED IN SUMTER COUNTY MOST OF
7 YOUR LIFE?

8 **JUROR #168:** YES, SIR.

9 **MR. LITTLEJOHN:** DURING THAT 42 YEARS THAT YOU'VE BEEN
10 HERE, HAVE YOU HAD ANY DEALINGS WITH THE SUMTER
11 COUNTY SHERIFF'S DEPARTMENT?

12 **JUROR #168:** OH WHICH SIDE? GOOD SIDE OR BAD SIDE?

13 **MR. LITTLEJOHN:** IT DEPENDS ON YOUR POINT OF VIEW. EITHER
14 SIDE.

15 **JUROR #168:** NO, SIR. I HAVEN'T.

16 **MR. LITTLEJOHN:** OKAY. YOU DON'T KNOW ANY OF THE DEPUTIES
17 OR ANYBODY THAT WORKS AT THE SHERIFF'S DEPARTMENT?

18 **JUROR #168:** I KNOW QUITE A FEW OF THEM.

19 **MR. LITTLEJOHN:** OKAY. ARE THEY CLOSE FRIENDS OR JUST ...

20 **JUROR #168:** WELL, SURE. MY KIDS PLAY BALL AND SOME OF
21 THEIR KIDS PLAY BALL AND ALL OF OUR COACHES SEND
22 THEIR KIDS.

23 **MR. LITTLEJOHN:** WHO ARE SOME OF THE DEPUTIES YOU KNOW, IF
24 I MIGHT ASK?

25 **JUROR #168:** BY NAME, I COULDN'T TELL YOU HONESTLY BY

1 NAME. JUST BY FACE.

2 **MR. LITTLEJOHN:** OKAY. MR. HOLSTEIN, I TAKE IT BY YOUR
3 ANSWERS TO JUDGE KING'S QUESTIONS AND YOUR
4 DESIGNATION OF YOURSELF AS A #3 JUROR IN THAT
5 PARTICULAR CATEGORY, THAT YOU DON'T BELIEVE THAT THE
6 DEATH PENALTY SHOULD BE THE AUTOMATED PENALTY IF
7 SOMEONE IS CONVICTED OF MURDER?

8 **JUROR #168:** WELL, I CAN'T SAY. I DON'T KNOW WHAT THE
9 CIRCUMSTANCES ARE.

10 **MR. LITTLEJOHN:** OKAY. THEN IT WOULDN'T BE AN AUTOMATIC
11 PENALTY FOR YOU?

12 **JUROR #168:** NO, SIR.

13 **MR. LITTLEJOHN:** YOU'D HAVE TO LISTEN TO THE CIRCUMSTANCES
14 AND THE FACTS, HEAR THE LAW THAT THE JUDGE GIVES YOU
15 BEFORE YOU MAKE YOUR MIND UP?

16 **JUROR #168:** YES, SIR. I WOULD.

17 **MR. LITTLEJOHN:** OKAY. DO YOU THINK UNDER SOME
18 CIRCUMSTANCES A LIFE SENTENCE WOULD BE APPROPRIATE
19 FOR SOMEONE WHO'S GUILTY OF MURDER?

20 **JUROR #168:** WELL, IT'S JUST ACCORDING TO WHAT THE
21 CIRCUMSTANCES ARE.

22 **MR. LITTLEJOHN:** OKAY. I MEAN, IS THAT SOMETHING THAT YOU
23 WOULD CONSIDER?

24 **JUROR #168:** IF THE CIRCUMSTANCES THEN WOULD TO LEAD TO
25 THAT I WOULD.

1 **MR. LITTLEJOHN:** OKAY. DO YOU THINK A LIFE SENTENCE IS A
2 SUBSTANTIAL SENTENCE OR A HEAVY SENTENCE?

3 **JUROR #168:** IT'S ACCORDING TO WHAT THE CRIME IS.

4 **MR. LITTLEJOHN:** OKAY. BUT I MEAN, JUST THE FACT THAT
5 SOMEONE IS SENTENCED TO LIFE IMPRISONMENT, DOES THAT
6 STRIKE YOU AS BEING A SUBSTANTIAL SENTENCE?

7 **JUROR #168:** EXPLAIN TO ME WHAT LIFE IS.

8 **MR. LITTLEJOHN:** I'LL ASK THE JUDGE TO DO THAT.

9 **THE COURT:** LIFE (INAUDIBLE) AND YOU SHOULD JUST TAKE
10 THAT AS THE ORDINARY OPINION AS FAR AS THE PURPOSES
11 OF THIS QUESTION. JUST ASSUME THAT LIFE MEANS LIFE.
12 OKAY?

13 **JUROR #168:** I'M SORRY. ASK THE QUESTION AGAIN.

14 **MR. LITTLEJOHN:** OKAY. MY QUESTION IS, DO YOU THINK THAT
15 A LIFE SENTENCE, LIFE MEANING LIFE, IS A SUBSTANTIAL
16 SENTENCE?

17 **JUROR #168:** I GUESS SO.

18 **MR. LITTLEJOHN:** OKAY. MR. HOLSTEIN, DURING THIS
19 PROCEEDING THERE WILL BE EVIDENCE PRESENTED OF WHAT
20 WE CALL MITIGATING CIRCUMSTANCES OR EVIDENCE THAT
21 TENDS TO LESSEN OR MAKE LESS SEVERE THE CRIME OF
22 MURDER. THIS MIGHT BE EVIDENCE THAT CONCERNS THE
23 DEFENDANT'S BACKGROUND OR HIS FAMILY OR HIS HISTORY.
24 DO YOU THINK YOU'D HAVE ANY PROBLEM LISTENING TO
25 THAT KIND OF EVIDENCE AND FACTORING THAT INTO YOUR

1 DECISION?

2 **JUROR #168:** NO, SIR.

3 **MR. LITTLEJOHN:** OKAY. WOULD YOU BE AMENABLE TO LISTENING
4 TO THAT AND CONSIDERING IT?

5 **JUROR #168:** YES, SIR.

6 **MR. LITTLEJOHN:** OKAY. MR. HOLSTEIN, IF YOU WERE ON THIS
7 JURY AND DURING THE COURSE OF DELIBERATIONS YOU
8 FOUND THAT THE MAJORITY OF THE JURY WANTED TO VOTE
9 ON WAY AND YOU THOUGHT A VOTE THE ANOTHER WAS THE
10 CORRECT DISPOSITION OF THIS CASE, WOULD YOU EVER
11 CONSIDER CHANGING YOUR VOTE JUST TO GO ALONG WITH
12 THE MAJORITY?

13 **JUROR #168:** NO, SIR.

14 **MR. LITTLEJOHN:** OKAY. IF YOU THOUGHT YOU WERE RIGHT
15 YOU'D STICK BY YOUR GUNS

16 **JUROR #168:** YES, SIR.

17 **MR. LITTLEJOHN:** OKAY. YOUR HONOR, I BELIEVE THAT'S ALL I
18 HAVE. THANK YOU, MR. HOLSTEIN.

19 **THE COURT:** MR. HOLSTEIN, IF YOU WOULD STEP OUTSIDE FOR
20 JUST A MOMENT AND I WILL (INAUDIBLE). MR. SALEEBY,
21 WHAT SAITH THE STATE?

22 **MR. SALEEBY:** HE'S QUALIFIED, SIR.

23 **MR. LITTLEJOHN:** WE AGREE, YOUR HONOR..

24 **THE COURT:** ALL RIGHT. I FIND THE JUROR QUALIFIED. ASK
25 HIM TO COME BACK, PLEASE. THANK YOU VERY MUCH, MR.

1 HOLSTEIN, FOR YOUR CANDOR AND YOUR ANSWERS TO THE
2 COURT AND YOU HAVE BEEN FOUND TO BE A QUALIFIED
3 JUROR IN THIS CASE, WHICH MEANS YOU ARE ELIGIBLE TO
4 SERVE. IT DOES NOT NECESSARILY MEAN THAT YOU WILL
5 BE ON THE JURY, BUT IT MEANS YOU ARE ELIGIBLE TO
6 SERVE AND I'M GOING TO ASK YOU TO COME BACK
7 TOMORROW. I DON'T KNOW AT THIS TIME EXACTLY WHAT
8 TIME WE WILL ASK YOU TO COME BACK, BUT WILL TELL YOU
9 THAT AFTER 6:00 TONIGHT THERE WILL BE A MESSAGE ON
10 THE ANSWERING MACHINE THAT WILL DESIGNATE WHAT TIME
11 YOU ARE TO COME BACK TOMORROW, AND IT'S GOING TO BE
12 SOMETIME AROUND MIDDAY, BUT WILL TRY TO AVOID
13 KEEPING YOU WAITING AT ALL IF WE CAN AVOID IT,
14 KEEPING YOU WAITING. I WILL TELL YOU THOUGHT WHAT
15 YOU'RE GOING TO NEED TO DO IS PACK SOME CLOTHES AND
16 PERSONAL BELONGINGS AND BRING THEM WITH YOU WHEN YOU
17 COME TOMORROW. DO NOT BRING THEM IN THE COURTHOUSE.
18 KEEP THEM IN YOUR CAR. AND IF YOU'RE SELECTED ON
19 THE JURY YOU WILL BE SEQUESTERED AT THE MOTEL AND
20 YOU'LL BE UNPACKING AT THE MOTEL. IF YOU'RE NOT
21 SELECTED ON THE JURY, YOU WILL BE UNPACKING AT HOME
22 TOMORROW NIGHT. SO WITH THAT, I'M GOING TO ASK YOU
23 TO CALL THAT NUMBER ON THAT BLUE CARD AFTER 6:00
24 TONIGHT AND COME BACK AT THE RECORDED TIME. OVER
25 THE EVENING RECESS, DO NOT DISCUSS THE CASE WITH

1 ANYONE. DO NOT ALLOW ANYONE TO DISCUSS THE CASE
2 WITH YOU. DON'T WATCH ANY TELEVISION STORIES ABOUT
3 THE CASE AND DON'T READ ANY NEWSPAPER ARTICLES ABOUT
4 IT, AND WE WILL SEE YOU SOMETIME TOMORROW. THANK
5 YOU AND I'LL SEE YOU TOMORROW. ALL RIGHT. LET'S
6 TAKE TEN MINUTES AND BE READY TO START BACK ABOUT
7 4:30. (INAUDIBLE) PANELS THAT HAVE COME IN TODAY,
8 NO MATTER WHAT TIME WE HAVE TO RUN TO TONIGHT TO
9 FINISH THOSE PANELS, BECAUSE I WANT TO HEAR FROM ALL
10 OF THOSE PANELS, AND WE'LL SEE IF WHETHER WE NEED TO
11 HEAR FROM SOME IN THE MORNING. SO LET'S TAKE TEN
12 MINUTES AND BE READY TO START BACK AT 4:30, 4:35.

13 (OFF THE RECORD.)

14 **THE COURT:** ALL RIGHT. WE'RE BACK ON THE RECORD WITH
15 REGARDS TO THE MATTER OF THE STATE VERSUS BOBBY
16 WAYNE STONE. LET THE RECORD REFLECT THAT MR.
17 SALEEBY IS ... OR THAT MR. JACKSON IS PRESENT ON
18 BEHALF OF THE STATE. THE DEFENDANT IS PRESENT WITH
19 HIS ATTORNEYS AND WE ARE NOW READY TO PROCEED WITH
20 QUALIFICATIONS. THE NEXT JUROR IS #24, MR. BRODE.
21 GOOD AFTERNOON, MR. BRODY.

22 **JUROR #24:** HOW ARE YOU, SIR.

23 **THE COURT:** FINE, FINE. I'M SORRY TO HAVE KEPT YOU
24 WAITING.

25 **JUROR #24:** NO PROBLEM, SIR.

1 **THE COURT:** (INAUDIBLE) SCHEDULE, BUT I'M DOING THE BEST
2 I CAN.

3 **JUROR #24:** I UNDERSTAND.

4 **THE COURT:** FIRST OF ALL, I WANT TO TELL YOU THAT
5 YESTERDAY WHEN YOU WERE SWORN (INAUDIBLE)
6 QUALIFICATIONS, GENERAL QUALIFICATIONS, YOU WERE PUT
7 UNDER OATH AND SO YOU'RE STILL SWORN IN THESE
8 PROCEEDINGS. YOU UNDERSTAND THAT?

9 **JUROR #24:** YES.

10 **THE COURT:** NOW MR. BRODE, I WANT YOU TO BE AT EASE AND
11 JUST RELAX. I KNOW YOU HAVE PROBABLY, IT'S AN
12 UNUSUAL SETTING FOR YOU. WE LAWYERS SOMETIME FORGET
13 HOW INTIMIDATING A COURTROOM CAN BE, BUT WE NEED TO
14 ASK YOU SOME QUESTIONS, NOT TO INVADE YOUR PRIVACY,
15 BUT JUST TO DETERMINE HOW YOU FEEL ABOUT CERTAIN
16 MATTERS BECAUSE OF THE NATURE OF THESE PROCEEDINGS.
17 THERE'S NO RIGHT OR WRONG ANSWER TO THESE QUESTIONS
18 WE'RE GOING TO ASK YOU. JUST WANT TO SEE YOUR POINT
19 OF VIEW, SO JUST BE HONEST AND OPEN AND ANSWERING
20 THE QUESTIONS AS TRUTHFULLY AS YOU CAN. AND SPEAK
21 LOUDLY ENOUGH FOR THIS LADY TO TAKE IT DOWN AND FOR
22 THE LAWYERS TO HEAR YOU BECAUSE WE'VE ALL GOT TO
23 HEAR WHAT YOU'VE GOT TO SAY. HAVE YOU HAD AN
24 OPPORTUNITY TO LOOK AT THE JUROR SHEET THAT YOU WERE
25 GIVEN BACK IN THE JUROR ROOM, THE THREE TYPES OF

1 JURORS?

2 JUROR #24: YES, SIR.

3 THE COURT: ALL RIGHT. BASED ON THAT, TYPE #1, TYPE #2,
4 TYPE #3; WHICH TYPE WOULD BEST DESCRIBE YOU?

5 JUROR #24: THE JUROR TYPE #3.

6 THE COURT: TYPE #3. ALL RIGHT, SIR. LET ME TELL YOU
7 THIS. IN THIS CASE, THE DEFENDANT, MR. STONE, HAS
8 ALREADY BEEN FOUND GUILTY OF MURDER. SO THAT
9 QUESTION IS NOT GOING TO BE BEFORE THIS JURY. THE
10 ONLY QUESTION THAT THE JURY IS GOING TO HAVE TO
11 DECIDE HAS TO DO WITH THE PUNISHMENT TO BE
12 (INAUDIBLE) MR. STONE. THE STATE WILL BE PRESENTING
13 EVIDENCE OF CERTAIN STATUTORY AGGRAVATED
14 CIRCUMSTANCES, AND IF THEY PROVE STATUTORY
15 AGGRAVATING CIRCUMSTANCES BY, BEYOND A REASONABLE
16 DOUBT, THEN THE JURY WILL BE ASKED TO FIND A VERDICT
17 OF EITHER LIFE IMPRISONMENT OR DEATH EITHER BY
18 ELECTROCUTION OR LETHAL INJECTION. DO YOU
19 UNDERSTAND THOSE ISSUES THAT WILL BE BEFORE YOU?

20 JUROR #24: YES, SIR.

21 THE COURT: SO WHEN YOU DESCRIBED YOURSELF AS A TYPE #3
22 JUROR, WHAT YOU'RE SAYING IN EFFECT, AND I WANT TO
23 MAKE SURE THAT I UNDERSTAND, IS YOU'RE SAYING THAT
24 AFTER LISTENING TO THE FACTS AND CIRCUMSTANCES
25 SURROUNDING THIS CASE AND DEPENDING ON THOSE FACTS

1 AND CIRCUMSTANCES, YOU COULD EITHER FIND LIFE
2 IMPRISONMENT OR YOU COULD FIND FOR THE FACTS
3 ACCORDING THE PUNISHMENT OF DEATH; IS THAT CORRECT?

4 **JUROR #24:** YES, SIR.

5 **THE COURT:** NOW IN THIS STATE, OUR LEGISLATURE HAS PASSED
6 CERTAIN STATUTORY AGGRAVATING CIRCUMSTANCES AND
7 THOSE ARE WHAT THE STATE WILL BE REQUIRED TO PROVE
8 TO YOU BEYOND A REASONABLE DOUBT OR EVEN JUST ONE OF
9 THOSE, AND AGGRAVATING CIRCUMSTANCES AND THE FACTS,
10 INCIDENCES, AND DETAILS THAT THE GENERAL ASSEMBLY
11 HAS DECLARED AGGRAVATE OR MAKE WORSE THE OFFENSE OF
12 MURDER. IN OTHER WORDS, IT INCREASES THE ENORMITY
13 OR ADDS TO THE INJURY OF THE CRIME OF MURDER. IN
14 ADDITION TO THAT, THERE WILL BE STATUTORY MITIGATING
15 CIRCUMSTANCES THAT YOU WILL BE ASKED TO CONSIDER IN
16 THIS CASE, AND OTHER MITIGATING CIRCUMSTANCES.
17 MITIGATING CIRCUMSTANCES IS JUST THE OPPOSITE OF
18 AGGRAVATING CIRCUMSTANCES. THEY ARE FACTS OR
19 DETAILS WHICH OUR GENERAL ASSEMBLY, OUR STATUTORY
20 ONES, ARE THE ONES WHICH OUR GENERAL ASSEMBLY HAS
21 DECLARED TO REDUCE THE SEVERITY OF THE OFFENSE OR
22 MAYBE EXTENUATION OR MITIGATION OF THE
23 RESPONSIBILITY. THERE MIGHT BE NON-STATUTORY
24 AGGRAVATING CIRCUMSTANCES. AND THAT'S WHAT YOU'LL
25 BE CONSIDERING AS A JUROR IN THIS CASE. HAVING SAID

1 THAT, MY NEXT QUESTION WILL BE, WOULD YOU BE ABLE TO
2 FOLLOW THE COURT'S INSTRUCTIONS ON THE LAW WITH
3 REGARD TO STATUTORY AGGRAVATED CIRCUMSTANCES AND
4 MITIGATING AGGRAVATED CIRCUMSTANCES AND FOLLOW THE
5 INSTRUCTIONS AND THE LAW AS GIVEN TO YOU BY THE
6 COURT?

7 **JUROR #24:** YES, SIR. I THINK SO.

8 **THE COURT:** AND WOULD YOU BE ABLE TO DO THAT REGARDLESS
9 OF WHETHER YOU AGREE WITH THE LAW, TO BE ABLE TO
10 ACCEPT THE INSTRUCTIONS THAT I GIVE TO YOU?

11 **JUROR #24:** YES, SIR.

12 **THE COURT:** NOW, IF YOU WERE TO FIND AND THE EVIDENCE
13 SATISFIES YOU AS A JUROR, THAT THE STATE HAS PROVEN
14 THE STATUTORY AGGRAVATED CIRCUMSTANCES BEYOND A
15 REASONABLE DOUBT, YOU WILL BE ASKED TO SIGN A
16 VERDICT FORM DEPENDING ON YOUR VIEW OF THE
17 CIRCUMSTANCES OF AGGRAVATING AND MITIGATING, YOU MAY
18 BE ASKED TO SIGN A VERDICT FORM THAT SENTENCES THE
19 DEFENDANT TO LIFE IN PRISON. WOULD YOU BE ABLE TO
20 SIGN THAT FORM?

21 **JUROR #24:** YES, SIR.

22 **THE COURT:** ALSO, DEPENDING ON YOUR VIEW OF THE STATUTORY
23 AGGRAVATING CIRCUMSTANCES AND WHETHER THE STATE HAS
24 PROVED IT ALONG WITH ANY MITIGATING CIRCUMSTANCES
25 WHICH THE DEFENSE (INAUDIBLE) CONSIDER, YOU MAY BE

1 ASKED TO SIGN A FORM, ALONG WITH THE OTHER 11
2 MEMBERS OF THE JURY IN THE CASE, THAT SENTENCES THE
3 DEFENDANT TO DEATH. COULD YOU DO THAT IF THE
4 (INAUDIBLE) WARRANTS?

5 **JUROR #24:** YES, SIR.

6 **THE COURT:** ALL RIGHT. LET ME ASK YOU THEN, MR. BRODE,
7 CHANGE GEARS ON YOU FOR JUST A MINUTE. HAVE YOU
8 HEARD ANYTHING, READ ANYTHING, OR SEEN ANYTHING IN
9 THE NEWSPAPER OR ON TELEVISION ABOUT THIS CASE?

10 **JUROR #24:** THE TELEVISION AND JUST WHAT YOU TOLD US IN
11 THE COURTROOM THAT THE CASE WAS GOING TO BE RETRIED
12 BECAUSE THE JURY DIDN'T (INAUDIBLE) THE DEATH
13 PENALTY OR GIVE HIM THE LIFE SENTENCE. THAT'S ALL I
14 KNOW ABOUT THE CASE.

15 **THE COURT:** ALL RIGHT. IS THAT WHAT YOU BASICALLY ...
16 WHAT YOU'RE TELLING NOW, BASED UPON WHAT I SAID OR
17 BASED UPON WHAT YOU'VE HEARD OR READ?

18 **JUROR #24:** BOTH.

19 **THE COURT:** BOTH?

20 **JUROR #24:** YES. I HEARD IT IN THE MEDIA AND THEN WHAT
21 YOU SAID IN THE COURTROOM YESTERDAY, PRIOR TO COMING
22 IN THE COURTROOM.

23 **THE COURT:** ALL RIGHT. WOULD WHAT YOU'VE HEARD ABOUT
24 THIS CASE PREVENT YOU FROM LOOKING AT THE MATTER
25 BASED UPON THE EVIDENCE THAT WAS PREVENTED AND MAKE

1 A DECISION BASED UPON EVIDENCE IN THE CASE AND PUT
2 THOSE MATTERS OUT OF YOUR MIND? ANYTHING THAT YOU
3 MAY HAVE HEARD ABOUT THIS CASE BEFOREHAND, WOULD YOU
4 BE ABLE TO DO THAT, PUT THAT BEHIND YOU AND DECIDE
5 THE CASE BASED UPON WHAT YOU HEAR IN THE COURTROOM?

6 **JUROR #24:** YES, SIR.

7 **THE COURT:** NOW, IF YOU ARE SELECTED AS JUROR IN THIS
8 CASE, YOU MAY, OR YOU WILL BE SEQUESTERED, WHICH
9 MEANS THAT YOU WILL BE HOUSED IN A MOTEL FOR FIVE TO
10 SIX DAYS OR UNTIL THIS MATTER IS CONCLUDED. EXCEPT
11 FOR THE PERSONAL INCONVENIENCE TO YOU, WOULD THE
12 FACT THAT YOU WOULD BE SEQUESTERED CAUSE ANY SERIOUS
13 HARDSHIP TO YOU OR TO A MEMBER OF YOUR FAMILY OR
14 ANYONE THAT IS DEPENDANT UPON YOU?

15 **JUROR #24:** NO, SIR.

16 **THE COURT:** ALL RIGHT. THAT'S ABOUT ALL THE QUESTIONS I
17 HAVE FOR YOU, MR. BRODE. THANK YOU VERY MUCH. IF
18 YOU'LL ANSWER MR. JACKSON, IF HE HAS ANY QUESTIONS,
19 AND THEN THE DEFENSE WILL HAVE THE RIGHT TO ASK YOU
20 SOME QUESTIONS.

21 **MR. JACKSON:** THANK YOU, YOUR HONOR. MR. BRODE, IS THAT
22 CORRECT?

23 **JUROR #24:** BRODE.

24 **MR. JACKSON:** BRODE.

25 **JUROR #24:** BUT I GET BRODE ALL THE TIME.

1 **THE COURT:** I'M SORRY.

2 **JUROR #24:** THAT'S OKAY.

3 **MR. JACKSON:** MR. BRODE, MY NAME IS KELLY JACKSON. I'M A
4 SOLICITOR HERE IN SUMTER COUNTY. THIS IS MR. DUDLEY
5 SALEEBY SITTING AT THE STATE'S TABLE WITH ME. HE
6 AND I TOGETHER ARE GOING TO PRESENT THIS CASE
7 POSSIBLY TO YOU OR OTHER JURORS. I WANT YOU TO
8 RELAX AND JUST ANSWER A FEW QUESTIONS FOR ME. WE
9 DON'T MEAN TO PRY IN YOUR LIFE OR CHANGE YOUR MIND
10 ABOUT ANYTHING, WE JUST NEED TO ASK YOU A FEW
11 QUESTIONS. YOU HAD SENT THE QUESTIONNAIRE THAT THE
12 CLERK OF COURT MAILED TO YOU, YOU HAD SENT IT BACK
13 FILLED OUT. WE APPRECIATE THAT. YOU PUT ON THE
14 QUESTIONNAIRE, UNITED STATES AIR FORCE. YOU MADE IT
15 TO THE RANK OF E-7.

16 **JUROR #24:** YES, SIR.

17 **MR. JACKSON:** HOW LONG WERE YOU IN THE AIR FORCE, MR.
18 BRODE?

19 **JUROR #24:** ALMOST 23 YEARS.

20 **MR. JACKSON:** RETIRED THEN?

21 **JUROR #24:** RETIRED AND WENT IN THE (INAUDIBLE).

22 **MR. JACKSON:** OKAY. DID YOU TAKE A TOUR AT SHAW AIR FORCE
23 BASE?

24 **JUROR #24:** YES, SIR. THAT'S WHERE I RETURNED FROM.

25 **MR. JACKSON:** IS THAT HOW YOU ENDED UP AT SUMTER?

1 JUROR #24: YES, SIR.

2 MR. JACKSON: MAYBE YOU CAN HELP US KEEP SHAW.

3 JUROR #24: I HOPE SO.

4 MR. JACKSON: UNDERSTAND MR. BRODE, IN THIS PARTICULAR
5 CASE, BOBBY WAYNE STONE HAS ALREADY BEEN FOUND
6 GUILTY OF MURDER. SO WE'RE NOT ... THAT'S NOT TO BE
7 A PART OF A DECISION ANY JUROR WILL MAKE IN THIS
8 PARTICULAR CASE. BUT WE'RE ABOUT PUNISHMENT. AND I
9 BELIEVE IF I UNDERSTOOD YOUR ANSWERS TO THE JUDGE,
10 YOU HAVE HEARD SOME MEDIA INFORMATION ABOUT THIS
11 CASE BEFORE YOU CAME IN?

12 JUROR #24: YES, SIR.

13 MR. JACKSON: BUT ANYTHING THAT YOU HEARD, YOU CAN PUT
14 ASIDE AND LISTEN TO ANYTHING THAT THE STATE MAY
15 PRESENT OR ANYTHING THAT'S PRESENTED AT ALL DURING
16 THIS CASE AND MAKE YOUR MIND UP OF WHAT YOU HEAR IN
17 THE COURTROOM?

18 JUROR #24: YES, SIR. BECAUSE I NEVER HEARD NO DETAILS
19 ABOUT THE CASE. ALL I HEARD WAS THAT WHY THIS CASE
20 WAS BEING BROUGHT BACK TO COURT.

21 MR. JACKSON: OKAY.

22 JUROR #24: THAT'S ALL I HEARD. THE NEWS, RIGHT BEFORE
23 WE CAME INTO THE COURTROOM.

24 MR. JACKSON: WERE YOU LIVING IN SUMTER BACK IN '97?

25 JUROR #24: I'VE GOT HERE ... SINCE '95.

1 **MR. JACKSON:** '95. OKAY. DO YOU FEEL LIKE IF THE
2 EVIDENCE HAS PRESENTED AND THE LAW, WHICH THE JUDGE
3 GIVES IT TO YOU, DO YOU FEEL LIKE IF YOUR OPINION
4 DEATH WOULD BE THE PROPER PUNISHMENT, THAT YOU COULD
5 SIGN A FORM IN GIVING BOBBY WAYNE STONE THE DEATH
6 PENALTY?

7 **JUROR #24:** YES, SIR. IF THE CASE AND FACTS WARRANTED
8 AND THE LAW.

9 **MR. JACKSON:** AND YOU ALSO FEEL LIKE YOU COULD DO THE SAME
10 THING IF THE PUNISHMENT SHOULD BE LIFE IN THE
11 PENITENTIARY?

12 **JUROR #24:** YES, SIR.

13 **MR. JACKSON:** ALL RIGHT. THANK YOU FOR ANSWERING MY
14 QUESTIONS. I APPRECIATE YOUR HONESTY.

15 **JUROR #24:** YES, SIR.

16 **THE COURT:** MR. LITTLEJOHN.

17 **MR. LITTLEJOHN:** THANK YOU, YOUR HONOR. GOOD AFTERNOON,
18 MR. BRODE. MY NAME IS CAM LITTLEJOHN AND I ALONG
19 WITH JIM BABB REPRESENT BOBBY WAYNE STONE. JUST A
20 FEW QUESTIONS IF I MAY. MR. BRODE, YOU'VE LIVED IN
21 SUMTER COUNTY FOR ABOUT NINE YEARS?

22 **JUROR #24:** YES, SIR.

23 **MR. LITTLEJOHN:** IS THAT RIGHT?

24 **JUROR #24:** YES, SIR.

25 **MR. LITTLEJOHN:** DURING THAT NINE YEARS, HAVE YOU HAD ANY

1 DEALINGS WITH THE SUMTER COUNTY SHERIFF'S
2 DEPARTMENT?

3 JUROR #24: NO, SIR.

4 MR. LITTLEJOHN: KNOW ANY OF THE DEPUTIES?

5 JUROR #24: NO, SIR.

6 MR. LITTLEJOHN: OKAY. I TAKE IT FROM YOUR ANSWERS TO
7 JUDGE KING'S QUESTIONS AND THE FACT THAT YOU
8 SELECTED #3 AS THE TYPE OF JUROR THAT BEST DESCRIBES
9 YOU, I TAKE IT THAT YOU DON'T BELIEVE THAT THE DEATH
10 PENALTY SHOULD AUTOMATICALLY BE THE PENALTY FOR
11 SOMEONE CONVICTED OF MURDER?

12 JUROR #24: NO, SIR.

13 MR. LITTLEJOHN: IS THAT RIGHT?

14 JUROR #24: YES, SIR.

15 MR. LITTLEJOHN: WOULD YOU BE WILLING TO CONSIDER A LIFE
16 SENTENCE AS THE PROPER SENTENCE EVEN THOUGH SOMEBODY
17 HAS BEEN CONVICTED OF MURDER?

18 JUROR #24: YES, SIR. IF THE LAW AND FACTS WARRANT THAT.
19 YES, SIR.

20 MR. LITTLEJOHN: OKAY. DO YOU BELIEVE THAT A LIFE
21 SENTENCE IS A SUBSTANTIAL SENTENCE?

22 JUROR #24: YES, SIR.

23 MR. LITTLEJOHN: OKAY. MR. BRODE, DURING THE COURSE OF
24 THESE PROCEEDINGS, THERE'S GOING TO BE PRESENTED
25 EVIDENCE IN WHAT WE CALL MITIGATING EVIDENCE OR

1 MITIGATING CIRCUMSTANCES. THAT EVIDENCE MAY RELATE
2 TO THINGS OTHER THAN WHAT ACTUALLY HAPPENED DURING
3 THE MURDER CASE, BUT THEY MAY RELATE TO THE HISTORY
4 OF THE DEFENDANT, HIS LIFE STORY, HIS FAMILY, HIS
5 BACKGROUND, THOSE SORT OF THINGS. WOULD YOU BE
6 WILLING TO LISTEN TO THAT EVIDENCE AND FACTOR THAT
7 IN AND WEIGH IT VERY CAREFULLY BEFORE YOU MAKE A
8 DECISION?

9 **JUROR #24:** YES, SIR.

10 **MR. LITTLEJOHN:** OKAY. WOULD YOU BE OPEN TO THAT KIND OF
11 EVIDENCE ...

12
13 **JUROR #24:** YES, SIR.

14 **MR. LITTLEJOHN:** ... BEFORE MAKING THE ULTIMATE DECISION?

15 **JUROR #24:** YES, SIR.

16 **MR. LITTLEJOHN:** OKAY. ONE FINAL THING, MR. BRODE, IF
17 DURING THE DELIBERATIONS IT BECAME APPARENT TO YOU
18 THAT A MAJORITY OF THE JURORS WANTED TO VOTE ONE WAY
19 AND YOU FELT THAT THE VOTING THE OTHER WAY WAS THE
20 RIGHT THING TO DO, WOULD YOU EVER CONSIDER CHANGING
21 YOUR VOTE JUST TO GO ALONG WITH THE MAJORITY?

22 **JUROR #24:** NO, SIR. I WOULD STICK TO WHAT I BELIEVE IN.

23 **MR. LITTLEJOHN:** OKAY. THANK YOU, SIR.

24 **THE COURT:** THANK YOU VERY MUCH, MR. BRODE. I APPRECIATE
25 YOUR CANDOR IN ANSWERING MY QUESTIONS AND THE

1 QUESTIONS OF THE LAWYERS. AND IF YOU WOULD STEP OUT
2 IN THE HALL FOR JUST A MINUTE, I HAVE A MATTER I
3 NEED TO TAKE UP WITH THE LAWYERS AND WE WILL BE
4 RIGHT BACK.

5 **JUROR #24:** OKAY.

6 **THE COURT:** MR. JACKSON?

7 **MR. JACKSON:** QUALIFIED, YOUR HONOR.

8 **MR. LITTLEJOHN:** WE AGREE, YOUR HONOR.

9 **THE COURT:** ALL RIGHT. WE FIND MR. BRODE QUALIFIED AS A
10 JUROR IN THIS CASE. BRING HIM BACK, PLEASE, SIR.
11 ALL RIGHT, MR. BRODE, YOU HAVE BEEN FOUND TO BE A
12 QUALIFIED JUROR IN THIS CASE, AND THAT DOES NOT MEAN
13 THAT YOU ARE GOING TO BE SERVING ON THE CASE. IT
14 MEANS YOU'RE QUALIFIED TO SERVE. SO I'M GOING TO
15 EXCUSE YOU NOW AND WHAT I'M GOING TO ...WE'VE GOT TO
16 FINISH UP THE QUALIFICATION PROCESS WHICH IS GOING
17 TO TAKE US THE REST OF THIS AFTERNOON AND SOME OF
18 THE MORNING TOMORROW. SO WHAT I'M GOING TO DO IS
19 ASK THAT YOU COME BACK TOMORROW AT 2:00 AND UNLESS
20 YOU ARE INTERCEPTED BY THE ... WELL, I TELL YOU
21 WHAT. LET'S JUST DO IT THIS WAY SO WE MAKE IT
22 EASIER AND WE DON'T HAVE ANY PROBLEM. (INAUDIBLE)
23 TO COURTROOM NUMBER TWO. ALL THE QUALIFIED JURORS
24 AT 2:00 TOMORROW. SO WHEN YOU LEAVE HERE, I'M GOING
25 TO ASK THAT YOU COME BACK TOMORROW AT 2:00 AND COME

1 INTO THE SMALL COURTROOM DOWN THE HALL WHICH IS
2 COURTROOM NUMBER TWO. THERE IS NOTHING SCHEDULED IN
3 THERE, IS IT?

4 **CLERK:** THE GRAND JURY IS IN THERE IN THE MORNING.

5 **THE COURT:** OKAY.

6 **CLERK:** I DON'T KNOW HOW LONG THEY'LL BE.

7 **THE COURT:** YEAH, I KNOW IT, BUT I DON'T WANT TO TAKE
8 THAT CHANCE. ALL RIGHT. WE'LL JUST MAKE IT THAT WE
9 WILL NOT BE IN THIS COURTROOM AT THE (INAUDIBLE)
10 TIME (INAUDIBLE) COME BACK. WE'LL HAVE TO MAKE
11 OTHER ARRANGEMENTS, BUT AT 2:00, IF YOU'LL COME BACK
12 AND JUST COME RIGHT ON UP HERE AS YOU WOULD NORMALLY
13 COME IN THE COURT, TO THIS SIDE OF THE COURTROOM AS
14 IF YOU ARE (INAUDIBLE) TUESDAY MORNING WHEN YOU CAME
15 UP HERE, AT 2:00 TOMORROW. AND I WILL TELL YOU THAT
16 YOU WILL NEED TO TODAY AND TOMORROW MORNING,
17 SOMETIME, PACK ENOUGH CLOTHING AND ENOUGH PERSONAL
18 ITEMS AND BRING THOSE WITH YOU. DON'T BRING THOSE
19 TO THE COURTROOM OR THE COURTHOUSE. YOU CAN LEAVE
20 THEM IN YOUR CAR. IF YOU ARE SELECTED AS A JUROR,
21 YOU WILL BE UNPACKING AT THE HOTEL. IF YOU'RE NOT
22 SELECTED A JUROR, YOU WILL BE UNPACKING TOMORROW
23 NIGHT AT HOME. THAT WOULD DEPEND ON WHAT THE
24 SELECTION PROCESS REVEALS TOMORROW. SO I'M GOING TO
25 ASK THAT YOU REPORT BACK TO THE COURTROOM TOMORROW

1 AT 2:00. IN THE MEANTIME, DO NOT DISCUSS THE CASE
2 WITH ANYONE. DO NOT ALLOW ANYONE TO DISCUSS IT WITH
3 YOU. DO NOT DISCUSS IT AMONG YOUR FELLOW JURORS WHO
4 ARE TO REPORT BACK UP HERE AND DO NOT WATCH ANY NEWS
5 STORIES OR READ A MAGAZINE, I MEAN TELEVISION
6 REPORTS OR ANYTHING ABOUT THIS MATTER WHILE YOU ARE
7 WAITING IN THE COURTROOM, THE COURTHOUSE. WE WILL
8 SEE YOU TOMORROW AT 2:00. THANK YOU VERY MUCH.
9 ALL RIGHT. JUROR #56, MS. DOWE. MS. DOWE, I'M
10 SORRY TO KEEP YOU WAITING. IT'S KIND OF IMPOSSIBLE
11 TO RUN THIS SITUATION ON A TIGHT TIME SCHEDULE, BUT
12 WE ARE NOW READY TO GO FORWARD. I WANT TO TELL YOU,
13 AND I WANT YOU TO JUST RELAX. I KNOW THIS IS AN
14 UNUSUAL SITUATION FOR YOU. YOU'RE NOT USED TO BEING
15 IN A COURTROOM FULL OF LAWYERS AND SOMEBODY SITTING
16 UP HERE IN A BLACK ROBE, BUT AGAIN, DON'T BE
17 INTIMIDATED. EVERYBODY WILL TREAT YOU FAIRLY AND
18 WITH COURTESY. I WILL TELL YOU THAT WE'RE GOING TO
19 ASK YOU SOME QUESTIONS TO DETERMINE YOUR
20 QUALIFICATIONS TO SERVE ON THE JURY IN THIS CASE.
21 YESTERDAY WHEN YOU WERE HERE, YOU SWORE, YOU TOOK AN
22 OATH. YOU'RE STILL UNDER THAT OATH TO BE TRUTHFUL
23 (INAUDIBLE). I AM GOING TO ASK YOU TO SPEAK UP
24 LOUDLY AND CLEARLY AND SPEAK INTO THE MICROPHONE SO
25 THIS LADY CAN HEAR YOU AND THESE LAWYERS CAN HEAR

1 YOU. THEY NEED TO HEAR YOU AS WELL. THE QUESTIONS
2 THAT WE'RE GOING TO ASK YOU ARE NOT DESIGNED TO
3 INVADE YOUR PRIVACY, BUT THEY ARE QUESTIONS THAT WE
4 NEED TO ASK TO DETERMINE YOUR QUALIFICATIONS. SO
5 ALL WE ASK THAT YOU DO IS TO GIVE HONEST AND OPEN
6 ANSWERS. THERE ARE NO RIGHT OR WRONG ANSWERS TO
7 SOME OF THE QUESTIONS, SO YOU JUST GIVE US YOUR
8 HONEST AND TRUE FEELINGS ON MATTERS, AND THEN WE
9 WILL MOVE FROM THERE. I WOULD ALSO TELL YOU, AS YOU
10 HAVE GATHERED BY NOW, THE CASE THAT IS BEFORE THE
11 COURT IS THE CASE OF THE STATE VERSUS BOBBY WAYNE
12 STONE. MR. STONE IS BEING REPRESENTED BY MR. BABB,
13 AT THE TABLE OVER HERE. MR. STONE HAS ALREADY BEEN
14 FOUND TO BE GUILTY OF MURDER. SO THE ISSUE OF
15 WHETHER HE IS OR IS NOT GUILTY IS NOT GOING TO BE
16 BEFORE THE JURY. THAT MATTER HAS ALREADY BEEN
17 DETERMINED. THE ISSUE THAT IS GOING TO BE BEFORE
18 THE JURY CONCERNS THE PUNISHMENT THAT HE SHOULD GET
19 FOR THIS CRIME. THE STATE WILL BE PRESENTING
20 TESTIMONY OF WHAT WE CALL STATUTORY AGGRAVATING
21 CIRCUMSTANCES AND THE STATE WILL HAVE TO PROVE AT
22 LEAST ONE STATUTORY AGGRAVATING CIRCUMSTANCE BEYOND
23 A REASONABLE DOUBT. IF THEY DO THAT, THEN THE JURY
24 WILL BE CALLED UPON TO DECIDE WHETHER PUNISHMENT OF
25 MR. STONE SHOULD BE LIFE IN PRISON OR WHETHER IT

HEARING

1 SHOULD BE DEATH BY ELECTROCUTION OR LETHAL
2 INJECTION. SO THOSE WILL BE THE ISSUES THAT THE
3 JURY WILL HAVE TO CONSIDER. I JUST WANTED TO MAKE
4 SURE YOU UNDERSTAND WHAT THE ISSUES ARE.

5 **JUROR #56:** YES.

6 **THE COURT:** OKAY. NOW IN THAT CONNECTION, YOU HAVE BEEN
7 GIVEN A JUROR SHEET OR A JUROR FORM OF THREE TYPES
8 OF JURORS. HAVE YOU READ THAT?

9 **JUROR #56:** YES.

10 **THE COURT:** ALL RIGHT. AND HAVING READ THAT AND
11 UNDERSTANDING WHAT TYPE #1 JUROR IS AND TYPE #2 AND
12 TYPE #3 JUROR, WHICH ONE OF THOSE CLASSIFICATIONS DO
13 YOU THINK BEST DESCRIBES YOU?

14 **JUROR #56:** TYPE #3.

15 **THE COURT:** TYPE #3. ALL RIGHT. AND WHEN YOU SAY THAT
16 YOU ARE A TYPE #3 JUROR, YOU'RE SAYING IF ... I
17 UNDERSTAND YOU, BUT I WANT TO MAKE SURE IS, THAT
18 AFTER LISTENING TO THE FACTS AND CIRCUMSTANCES
19 SURROUNDING THIS CASE AND DEPENDING ON THOSE FACTS
20 AND CIRCUMSTANCES, YOU COULD EITHER FIND FOR LIFE
21 IMPRISONMENT OR YOU COULD FIND FOR A PUNISHMENT FOR
22 DEATH IF THAT IS THE, WHAT THE EVIDENCE SHOWS; IS
23 THAT CORRECT?

24 **JUROR #56:** YES, IT IS.

25 **THE COURT:** ALL RIGHT. LET'S TALK A MINUTE JUST ABOUT

THE AGGRAVATING CIRCUMSTANCES AND MITIGATING CIRCUMSTANCES. STATUTORY AGGRAVATING CIRCUMSTANCES ARE FACTS, INCIDENTS, OR DETAILS SURROUNDING THE OCCURRENCE OF THE CRIME THAT OUR GENERAL ASSEMBLY HAS DECLARED AGGRAVATED OR MADE WORSE THE CRIME. IN OTHER WORDS, A MURDER IS INCREASED IN ENORMITY AND ADDS TO THE INJURY OF CRIME OF MURDER IF THE STATE PROVES AT LEAST ONE STATUTORY AGGRAVATING CIRCUMSTANCE. MITIGATING CIRCUMSTANCES ARE EXACTLY THE OPPOSITE. THERE ARE STATUTORY MITIGATING CIRCUMSTANCES THAT LEGISLATURE HAS DECLARED ACTUALLY REDUCES THE SEVERITY OF THE OFFENSE OF MURDER AND MAYBE CONSIDER AS EXTENUATING OR REDUCING THE RESPONSIBILITY. IN ADDITION TO THE STATUTORY AGGRAVATING CIRCUMSTANCES THERE MAYBE EVIDENCE IN THIS CASE OF OTHER MITIGATING CIRCUMSTANCES. THE QUESTION THAT I WOULD HAVE FOR YOU IS THAT AFTER HEARING ALL OF THE EVIDENCE, IF YOU ARE CONVINCED IN YOUR OWN MIND THAT THE STATE HAS PROVEN AT LEAST ONE AGGRAVATING CIRCUMSTANCE BEYOND A REASONABLE DOUBT, YOU WILL BE ASKED TO FILL OUT AND SIGN A FORM THAT EITHER FINDS THE DEFENDANT SHOULD BE PUNISHED BY LIFE IMPRISONMENT OR DEATH. AND FIRST OF ALL, I WILL ASK YOU IN REGARDS TO LIFE IMPRISONMENT FORM, WOULD YOU BE ABLE TO, ALONG WITH THE OTHER 11

1 JURORS, TO SIGN SUCH A FORM THAT THE DEFENDANT
2 SHOULD BE SENTENCED TO LIFE IMPRISONMENT?

3 JUROR #56: YES, SIR.

4 THE COURT: BY THE SAME TOKEN, IF YOU FIND THAT THE
5 FACTS AND CIRCUMSTANCES WARRANTED AND PROOF IS
6 BEFORE YOU, WOULD YOU BE ABLE TO SIGN A VERDICT FORM
7 THAT FINDS THAT THE DEFENDANT, ALONG WITH YOUR OTHER
8 11 JURORS, FINDING THE DEFENDANT SHOULD BE PUNISHED
9 BY DEATH, WOULD YOU BE ABLE TO SIGN THAT AS WELL?

10 JUROR #56: YES, SIR.

11 THE COURT: ALL RIGHT. NOW LET ME SWITCH GEARS WITH YOU
12 FOR JUST A MOMENT. HAVE YOU READ ANYTHING, HEARD
13 ANYTHING OR KNOW ANYTHING AT ALL ABOUT THIS CASE
14 OTHER THAN WHAT HAS BEEN SAID IN THE COURTROOM SINCE
15 YOU'VE BEEN UP HERE FOR JURY DUTY?

16 JUROR #56: I READ ABOUT IT IN THE *ISLAND*.

17 THE COURT: ALL RIGHT. IS THAT RECENTLY OR SOME TIME
18 AGO OR ...

19 JUROR #56: I DON'T REMEMBER WHEN IT WAS. I KNOW I WAS
20 TOLD THERE WAS AN ARTICLE IN THERE BEFORE I CAME TO
21 COURT, BUT I DIDN'T READ THAT PARTICULAR ONE.

22

23 THE COURT: OKAY. WHAT WAS (INAUDIBLE) ABOUT WHAT YOU
24 READ?

25 JUROR #56: THIS GENTLEMAN HAD BEEN FOUND GUILTY,

1 SENTENCED, AND THERE WAS SOME KIND OF PROCEDURE
2 ERROR WITH A JUROR OR INSTRUCTIONS OR SOMETHING IN
3 THE LAW SO IT HAD TO BE REDONE.

4 **THE COURT:** ALL RIGHT.

5 **JUROR #56:** THAT'S ALL I REALLY GOT.

6 **THE COURT:** ALL RIGHT. WOULD ANYTHING THAT YOU HAVE
7 READ PREVENT YOU FROM LOOKING AT THE EVIDENCE AND
8 YOU DECIDE, THAT YOU HEAR IN THIS COURTROOM AND
9 FOLLOW THE INSTRUCTIONS THAT I GIVE YOU AS TO WHAT
10 THE LAW IS? WOULD ANYTHING THAT YOU HAVE READ
11 PREVENT YOU FROM DOING THAT, DECIDING THIS CASE
12 BASED UPON WHAT YOU'VE HEARD IN COURT AND NOT BASED
13 UPON ANYTHING THAT YOU'VE READ?

14 **JUROR #56:** I COULD DO THAT.

15 **THE COURT:** YOU COULD FOLLOW WHAT YOU HEAR IN COURT ...

16 **JUROR #56:** HEAR IN COURT.

17 **THE COURT:** ... AND PUT IT BEHIND YOU?

18 **JUROR #56:** YES, SIR. PUT THE OTHER BEHIND ME.

19 **THE COURT:** AND YOU JUST (INAUDIBLE) YOUR MIND ANYTHING
20 THAT YOU MAY HAVE READ?

21 **JUROR #56:** YES, SIR.

22 **THE COURT:** ALL RIGHT. THANK YOU, MA'AM. ONE FINAL
23 QUESTION. WELL, NOT FINAL QUESTION. DO YOU HAVE
24 ANY OPINION AT THIS POINT OF WHAT YOUR VERDICT
25 SHOULD BE IN THIS CASE?

HEARING

1 JUROR #56: NO, SIR.

2 THE COURT: YOU WOULD WAIT UNTIL YOU HEAR ALL THE
3 EVIDENCE AND THEN MAKE UP YOUR MIND?

4 JUROR #56: YES, SIR.

5 THE COURT: NOW THE FINAL QUESTION. IF YOU ARE SELECTED
6 AS A JUROR IN THIS CASE, IT WOULD REQUIRE THAT YOU
7 BE SEQUESTERED FOR FIVE TO SIX DAYS IN A HOTEL.
8 OTHER THAN PERSONAL INCONVENIENCE THAT WOULD CAUSE
9 YOU, WOULD THAT CAUSE ANY UNDUE HARDSHIP TO YOU OR
10 TO ANY MEMBER OF YOUR FAMILY OR ANYONE ELSE WHO IS
11 DEPENDANT UPON YOU TO BE SEQUESTERED IN A MOTEL
12 UNTIL THIS CASE IS OVER?

13 JUROR #56: NO, SIR.

14 THE COURT: ALL RIGHT. VERY GOOD. THANK YOU VERY MUCH.
15 I'M GOING TO ASK IF YOU'LL ANSWER ANY QUESTIONS THAT
16 MR. JACKSON MIGHT HAVE FOR YOU.

17 MR. JACKSON: THANK YOU, YOUR HONOR. GOOD AFTERNOON, MS.
18 DOWE.

19 JUROR #56: GOOD AFTERNOON.

20 MR. JACKSON: MS. DOWE, MY NAME IS KELLY JACKSON. I'M THE
21 SOLICITOR HERE IN WHAT WE CALL THE THIRD CIRCUIT AND
22 THAT INCLUDES SUMTER COUNTY. IT'S THE
23 RESPONSIBILITY OF MY OFFICE TO BRING THIS CASES TO
24 COURT. AND MR. DUDLEY SALEEBY, WHO IS SITTING HERE
25 AT THE STATE'S TABLE, IS GOING TO BE ASSISTING ME IN

1 THIS TRIAL. WE NEED TO ASK YOU A FEW QUESTIONS.
2 IT'S NOTHING PERSONAL. IT'S JUST PART OF A CASE OF
3 THIS MAGNITUDE, AND IF YOU'D JUST RELAX, IT'LL BE
4 OVER IN JUST A MINUTE.

5 **JUROR #56:** OKAY.

6 **MR. JACKSON:** MR. DOWE, YOU FILLED OUT A QUESTIONNAIRE AND
7 SENT IT IN TO THE CLERK OF COURT, WHICH WE
8 APPRECIATE. AND I NOTE ON THERE THAT YOU LIVED IN
9 FLORENCE, SOUTH CAROLINA FOR AWHILE. WHEN WERE YOU
10 IN FLORENCE?

11 **JUROR #56:** WE JUST MOVED BACK HERE 2003. WE MOVED TO
12 FLORENCE IN 1999 FROM HERE.

13 **MR. JACKSON:** OKAY.

14 **JUROR #56:** WE LIVED THERE FOUR YEARS.

15 **MR. JACKSON:** AND YOU'VE NOT PREVIOUSLY SERVED ON A
16 CRIMINAL HEARING?

17 **JUROR #56:** NEVER BEEN CALLED. THIS IS THE FIRST TIME.

18 **MR. JACKSON:** PLEASE UNDERSTAND, IN THIS CASE, BOBBY WAYNE
19 STONE HAS ALREADY BEEN FOUND GUILTY OF MURDER, SO
20 THAT'S NOT SOMETHING THAT Y'ALL ARE GOING TO DECIDE.
21 Y'ALL WILL BE DECIDING ... WHEN I SAY Y'ALL, IT'S A
22 POSSIBILITY THAT YOU MAY BE ON A JURY, Y'ALL MAY BE
23 DECIDING PUNISHMENT, AND IF I UNDERSTAND, UNDERSTOOD
24 YOUR ANSWERS TO THE JUDGE CORRECTLY, NOTHING THAT
25 YOU'VE HEARD IN THE MEDIA OR THROUGH THE MEDIA OR

1 READ THROUGH THE MEDIA HAS GOTTEN YOU TO A POINT
2 THAT YOU'VE ALREADY FORMED AN OPINION ABOUT THIS
3 CASE?

4 **JUROR #56:** THAT'S CORRECT, SIR.

5 **MR. JACKSON:** AND ANYTHING THAT YOU'VE HEARD OR READ
6 BEFORE, YOU'LL PUT ASIDE AND WAIT UNTIL YOU HEAR ALL
7 THE AGGRAVATING CIRCUMSTANCES AND ANY MITIGATING
8 CIRCUMSTANCES TO GIVE YOUR OPINION?

9 **JUROR #56:** YES.

10 **MR. JACKSON:** THAT'S ALL THE QUESTIONS I HAVE, MS. DOWE.
11 THANK YOU FOR ANSWERING THEM.

12 **THE COURT:** THANK YOU, MS. DOWE. ANSWER ANY QUESTIONS
13 MR. LITTLEJOHN OR MR. BABB MIGHT HAVE FOR YOU. MR.
14 LITTLEJOHN.

15 **MR. LITTLEJOHN:** THANK YOU, YOUR HONOR. GOOD AFTERNOON,
16 MS. DOWE.

17 **JUROR #56:** GOOD AFTERNOON.

18 **MR. LITTLEJOHN:** MS. DOWE, MY NAME IS CAM LITTLEJOHN AND I
19 ALONG WITH JIM BABB REPRESENT BOBBY WAYNE STONE.
20 MS. DOWE, I NOTICED YOU GRADUATE FROM THE UNIVERSITY
21 OF TENNESSEE?

22 **JUROR #56:** CORRECT.

23 **MR. LITTLEJOHN:** WHO ARE YOU GOING TO ROOT FOR TONIGHT?

24 **JUROR #56:** IS TENNESSEE PLAYING TONIGHT?

25 **MR. LITTLEJOHN:** PLAYING CAROLINA.

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1 JUROR #56: OF COURSE I'M GOING TO ROOT FOR TENNESSEE.

2 MR. LITTLEJOHN: ALL RIGHT. WE'LL RESERVE OUR MOTIONS,
3 YOUR HONOR.

4 THE COURT: WE WON'T HOLD THAT AGAINST HER.

5 MR. LITTLEJOHN: MS. DOWE, I NOTICE ... LET ME GET IT
6 STRAIGHT. YOU'VE LIVED IN SUMTER FOR ABOUT A YEAR
7 AND SIX MONTHS OR SO?

8 JUROR #56: WE MOVED BACK IN JULY OF 2003 AND SO IT
9 WOULD BE TWO YEARS THIS JULY.

10 MR. LITTLEJOHN: OKAY.

11 JUROR #56: AND WE LIVED HERE ABOUT SIX MONTHS BETWEEN
12 ... WE MOVED TO SUMTER IN 1998 AND WE MOVED JULY OF
13 1999 TO FLORENCE.

14 MR. LITTLEJOHN: I UNDERSTAND. OKAY. AND YOUR HUSBAND IS
15 A PROFESSOR AT MORRIS COLLEGE?

16 JUROR #56: CORRECT.

17 MR. LITTLEJOHN: WHAT DOES HE TEACH?

18 JUROR #56: HE TEACHES ADVANCED MANAGEMENT UNDERGRADUATE
19 PROGRAM.

20 MR. LITTLEJOHN: OKAY. VERY GOOD. MS. DOWE, DURING THAT
21 TIME THAT YOU'VE LIVED IN SUMTER COUNTY, HAVE YOU
22 HAD ANY DEALINGS WITH THE SUMTER COUNTY SHERIFF'S
23 DEPARTMENT OR ANY OF THEIR DEPUTIES? DO YOU KNOW
24 ANY OF THE PEOPLE THAT WORK THERE?

25 JUROR #56: I HAD CALLED THEM INTO MY HOUSE FOR A

1 PROBLEM BECAUSE SOMEONE HAD TAKEN MONEY FROM ME AND
2 NOT PROVIDED A SERVICE, BUT TO KNOW THEM, NO.

3 MR. LITTLEJOHN: OKAY. SO YOU'RE NOT ACQUAINTED WITH ANY
4 OF THE SHERIFF'S DEPARTMENT PEOPLE?

5 JUROR #56: NO, SIR.

6 MR. LITTLEJOHN: OKAY. MR. DOWE, I TAKE IT FROM YOUR
7 ANSWERS TO JUDGE KING'S QUESTIONS, THAT YOU SAID #3
8 WAS THE TYPE OF JUROR THAT BEST DESCRIBES YOU?

9 JUROR #56: YES, SIR.

10 MR. LITTLEJOHN: OKAY. DO I TAKE IT FROM THAT, THAT YOU
11 DON'T BELIEVE THAT IF SOMEONE WAS CONVICTED OF
12 MURDER THAT THEY SHOULD AUTOMATICALLY GET THE DEATH
13 PENALTY?

14 JUROR #56: THAT'S CORRECT.

15 MR. LITTLEJOHN: WOULD YOU BE WILLING TO LISTEN TO ALL THE
16 EVIDENCE WHETHER IT'S AGGRAVATING CIRCUMSTANCES OR
17 MITIGATING CIRCUMSTANCES BEFORE YOU MAKE YOUR MIND
18 UP?

19 JUROR #56: YES, SIR.

20 MR. LITTLEJOHN: OKAY. IN THAT REGARD, THERE WILL BE
21 EVIDENCE IN THIS CASE OF WHAT WE CALL MITIGATING
22 CIRCUMSTANCES AND THAT WOULD BE EVIDENCE THAT TENDS
23 TO LESSEN THE SEVERITY OF THE MURDER CHARGE IN THIS
24 CASE. THAT EVIDENCE MIGHT INCLUDE THINGS ABOUT THE
25 DEFENDANT, ABOUT HIS LIFE, ABOUT HIS HISTORY, ABOUT

1 HIS FAMILY MEMBERS. ARE THOSE THINGS THAT YOU'D BE
2 WILLING TO CONSIDER AND TAKE INTO ACCOUNT BEFORE
3 MAKING YOUR ULTIMATE DECISION?

4 JUROR #56: YES, SIR.

5 MR. LITTLEJOHN: WOULD THAT BE IMPORTANT TO YOU?

6 JUROR #56: YES, SIR.

7 MR. LITTLEJOHN: OKAY. MS. DOWE, IF YOU WERE ON THE JURY
8 AND YOU DISCOVERED DURING THE DELIBERATIONS THAT SAY
9 A MAJORITY OF THE JURY WANTED TO VOTE ON WAY AND YOU
10 THOUGHT THAT ACTUALLY YOU OUGHT TO VOTE THE OTHER
11 WAY, WOULD YOU EVER CONSIDER CHANGING YOUR VOTE JUST
12 TO GO ALONG WITH THE MAJORITY?

13 JUROR #56: NOT TO JUST GO ALONG, UNLESS THEY HAD
14 REASONS I HADN'T THOUGHT ABOUT, BUT NOT JUST TO BE
15 ONE OF THE CROWD.

16 MR. LITTLEJOHN: NOT JUST TO GET IT OVER WITH?

17 JUROR #56: YES, SIR.

18 MR. LITTLEJOHN: OKAY. IF YOU THOUGHT YOU WERE RIGHT,
19 YOU'D STICK BY YOUR GUNS?

20 JUROR #56: YES, SIR.

21 MR. LITTLEJOHN: UNTIL SOMEBODY CONVINCED YOU OTHERWISE?

22 JUROR #56: YES, SIR.

23 MR. LITTLEJOHN: OKAY. THAT'S ALL I HAVE, YOUR HONOR.
24 THANK YOU, MS. DOWE.

25 THE COURT: THANK YOU, MS. DOWE. LET ME ASK YOU IF YOU

1 WOULD STEP DOWN FOR JUST A MOMENT AND STEP RIGHT OUT
2 IN THE HALL WHILE I TAKE UP SOME MATTERS WITH THE
3 ATTORNEYS AND I'LL SEND FOR YOU IN JUST A MINUTE.

4 **JUROR #56:** OKAY.

5 **THE COURT:** MR. JACKSON.

6 **MR. JACKSON:** QUALIFIED, YOUR HONOR.

7 **THE COURT:** MR. LITTLEJOHN.

8 **MR. LITTLEJOHN:** YOUR HONOR, OTHER THAN THE TENNESSEE
9 THING, WE THINK SHE'S QUALIFIED.

10 **THE COURT:** YOU BETTER WATCH OUT. I WENT TO UT MYSELF,
11 MR. LITTLEJOHN.

12 **MR. LITTLEJOHN:** THAT'S WHY I DIDN'T MOVE TO DISQUALIFY
13 HER. I'M A TECH VOLUNTEER FAN MYSELF, YOUR HONOR.

14 **THE COURT:** I JUST WENT ONE YEAR, BUT I DID GO TO UT.
15 ALL RIGHT.. WE'LL FIND HER AS QUALIFIED. ASK MS.
16 DOWE TO COME BACK IN, PLEASE. ALL RIGHT, MS. DOWE.
17 YOU'VE BEEN FOUND TO BE A QUALIFIED JUROR IN THIS
18 CASE. IT DOES NOT NECESSARILY MEAN THAT YOU WILL
19 SERVE AS A JUROR, BUT IT MEANS YOU HAVE BEEN FOUND
20 TO BE QUALIFIED. I AM GOING TO EXCUSE YOU AT THIS
21 TIME AND ALLOW YOU TO GO HOME, AND I GOING TO ASK
22 YOU TO REPORT BACK TOMORROW. WE ARE GOING TO FINISH
23 THIS PROCESS EITHER THIS AFTERNOON OR IN THE
24 MORNING, AS FAR AS QUALIFYING THE JURY, AND THEN BE
25 READY TO BEGIN THE TRIAL IN THIS CASE TOMORROW. SO

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1 WHAT I'M GOING TO DO IS ASK THAT YOU REPORT BACK TO
2 THIS COURTROOM OUT HERE IN THE MAIN PART OF THE
3 COURTROOM AT 2:00 TOMORROW. AT THAT TIME YOU SHOULD
4 HAVE GOTTEN YOUR LUNCH AND YOU WILL ALSO NEED TO
5 BRING SUFFICIENT CLOTHING AND PERSONAL ITEMS WITH
6 YOU TO STAY UP TO SIX DAYS IN A HOTEL ROOM. IF YOU
7 ARE SELECTED ON THE JURY YOU WILL BE UNPACKING AT
8 THE HOTEL. IF YOU ARE NOT SELECTED, YOU'LL BE
9 UNPACKING TOMORROW NIGHT AT HOME. DO NOT BRING YOUR
10 SUITCASE INTO THE COURTHOUSE WITH YOU. LEAVE IT IN
11 YOUR CAR, AND IF YOU ARE SELECTED YOU WILL BE ABLE
12 TO TAKE IT TO THE MOTEL, TAKE IT OUT OF YOUR CAR AT
13 THAT TIME. I WOULD ALSO TELL YOU OVER THE RECESS
14 AND WHILE YOU ARE AWAY FROM THE COURTHOUSE, DO NOT
15 DISCUSS THE CASE WITH ANYONE AND DO NOT ALLOW ANYONE
16 TO DISCUSS IT WITH YOU. DO NOT READ ANY NEWS
17 REPORTS OR LISTEN TO ANY RADIO BROADCASTS OR
18 TELEVISION BROADCASTS ABOUT THE MATTER. JUST SIMPLY
19 CLEAR YOUR HEAD OF THIS MATTER AND BE PREPARED TO
20 REPORT UP HERE TOMORROW AT 2:00 AND WE WILL GO
21 FORWARD WITH THE JURY SELECTION AT THAT TIME. HAVE A
22 PLEASANT EVENING AND I WILL SEE YOU TOMORROW. JUROR
23 #57, MS. DRAKE. HI, MS. DRAKE. HAVE A SEAT AND
24 MAKE YOURSELF COMFORTABLE AND DON'T BE INTIMIDATED
25 BY THIS CROWD AND THIS BIG ROOM, THIS ROBE, OR

1 ANYTHING ELSE. EVERYBODY HERE IS VERY FRIENDLY AND
2 WILL TREAT YOU VERY FRIENDLY, SO YOU DON'T HAVE
3 ANYTHING TO BE UPSET ABOUT OR INTIMIDATED ABOUT, BUT
4 WE DO NEED TO ASK YOU SOME QUESTIONS TO DETERMINE
5 QUALIFICATIONS TO SERVE ON THE JURY. I WILL TELL
6 YOU FIRST OF ALL THAT YOU YESTERDAY TOOK AN OATH TO
7 TELL THE TRUTH WHENEVER YOU, WE WERE QUALIFYING THE
8 JURY PANEL, AND YOU ARE STILL UNDER OATH, SO YOU
9 WILL BE REQUIRED, OF COURSE, TO ANSWER THESE
10 QUESTIONS UNDER OATH. DO YOU UNDERSTAND THAT?

11 **JUROR #57:** Uh-huh (affirmative response).

12 **THE COURT:** ALL RIGHT. THE NEXT THING I'VE GOT TO TELL
13 YOU WE CAN'T TAKE UH-HUH AND HUH-UH.

14 **JUROR #57:** I MEAN, YES, SIR.

15 **THE COURT:** OKAY. BECAUSE THE COURT REPORTER CAN'T
16 UNDERSTAND THAT. SHE'S GOT TO HAVE A YES OR A NO
17 AND SPEAK LOUDLY AND CLEARLY ENOUGH FOR EVERYBODY
18 IN THE COURTROOM TO HEAR YOU AND SO THIS LADY HERE
19 CAN TAKE IT DOWN. SO IF YOU WOULD SPEAK UP. THE
20 QUESTIONS THAT WE'RE GOING TO ASK YOU ARE SOMEWHAT
21 PERSONAL AND SOME OF THEM ARE QUITE PERSONAL, BUT
22 THEY'RE NOT ASKING YOU IN AN ATTEMPT TO INVADE YOUR
23 PRIVACY, BUT IT IS NECESSARY TO GET THIS INFORMATION
24 BECAUSE OF THE NATURE OF THESE PROCEEDINGS. AND ON
25 SOME OF THE QUESTIONS, THERE IS NO RIGHT OR WRONG

1 ANSWER. WE SIMPLY WHAT TO FIND OUT WHAT YOUR VIEWS
2 ARE, AND SO IF YOU WOULD ANSWER THE QUESTIONS OPENLY
3 AND HONESTLY AND TO THE BEST OF YOUR ABILITY AND NOT
4 WORRY ABOUT WHETHER THEY'RE THE RIGHT OR WRONG
5 ANSWER. ALL RIGHT?

6 **JUROR #57:** YES, SIR.

7 **THE COURT:** OKAY. NOW I WANT TO TELL YOU, MS. DRAKE,
8 THAT YOU MAY HAVE ALREADY BEEN ABLE TO DETERMINE
9 THAT THIS IS THE CASE IN THE MATTER OF THE STATE
10 VERSUS BOBBY WAYNE STONE. MR. STONE HAS ALREADY
11 BEEN FOUND GUILTY OF THE CRIME OF MURDER, SO THE
12 ISSUE OF HIS GUILT OF THIS CRIME IS NOT GOING TO BE
13 BEFORE THE JURY AND IT IS NOT GOING TO BE SOMETHING
14 THAT THE JURY WOULD HAVE TO DETERMINE. THE ONLY
15 THING THAT WILL BE BEFORE THE JURY WILL IMPACT UPON
16 THE PUNISHMENT THAT HE IS TO RECEIVE FOR THIS CRIME.
17 IF YOU FIND, AND THE STATE WILL BE PRESENTING
18 TESTIMONY OF WHAT WE CALL AGGRAVATED CIRCUMSTANCES
19 OR STATUTORY AGGRAVATED CIRCUMSTANCES, AND IF YOU
20 FIND THAT THE STATE PROVES ONE OF THESE BEYOND A
21 REASONABLE DOUBT, THEN YOU WILL CONSIDER THAT ALONG
22 WITH ANY TESTIMONY IN MITIGATION OR ANY EVIDENCE IN
23 MITIGATION IN WHICH THE DEFENDANT PUTS UP TO DECIDE
24 WHETHER OR NOT THE DEFENDANT SHOULD BE FOUND AND
25 GIVEN A LIFE SENTENCE OR WHETHER HE SHOULD BE FOUND

1 AND, BE FOUND BY THE JURY TO HAVE A DEATH SENTENCE
2 AS THE APPROPRIATE PUNISHMENT. YOU UNDERSTAND THOSE
3 ARE THE ISSUES THAT THE JURY WILL HAVE TO DECIDE?

4 JUROR #57: YES, SIR.

5 THE COURT: ALL RIGHT. NOW HAVING TOLD YOU THAT, HAVE
6 YOU HAD A CHANCE TO READ OVER THE THREE TYPES OF
7 JURORS THAT WE HAD THOSE FORMS FOR YOU IN THE JURY
8 ROOM?

9 JUROR #57: YES, SIR.

10 THE COURT: AND HAVING READ AND UNDERSTANDING THOSE,
11 WHICH ONE OF THOSE THREE TYPES, TYPE #1, TYPE #2 OR
12 TYPE #3, WOULD YOU SAY BEST DESCRIBES YOU?

13 JUROR #57: TYPE #2.

14 THE COURT: TYPE #2. ALL RIGHT. IF YOU WANT ME TO ...
15 LET ME MAKE SURE I UNDERSTAND WHAT YOU'RE SAYING BY
16 THAT. TYPE #2 IS THE TYPE OF JUROR THAT WOULD FEEL
17 LIKE THAT UNDER NO CIRCUMSTANCES COULD YOU EVER GIVE
18 THE DEATH PENALTY. THAT YOU WOULD NOT NEED TO HEAR
19 ANY FACTS OR CIRCUMSTANCES AND AGGRAVATION
20 (INAUDIBLE) BECAUSE YOU WOULD HAVE ALREADY MADE UP
21 YOUR MIND AND YOU WOULD FEEL THAT YOU WOULD NOT GIVE
22 THE DEATH PENALTY IN ANY SITUATION; IS THAT WHAT
23 YOU'RE SAYING DESCRIBES YOU?

24 JUROR #57: YES, SIR.

25 THE COURT: NOW YOU UNDERSTAND THAT AGGRAVATING

1 CIRCUMSTANCES ARE THOSE CIRCUMSTANCES WHICH HAVE
2 BEEN DECLARED BY OUR LEGISLATURE TO MAKE THE OFFENSE
3 WORSE OR TO ADD TO THE SEVERITY OF THE OFFENSE OF
4 MURDER AND THE STATE WOULD HAVE TO PROVE THOSE
5 BEYOND A REASONABLE DOUBT, BUT IF THEY DID PROVE
6 THOSE BEYOND A REASONABLE DOUBT, THEY WOULD NORMALLY
7 SUPPORT A VERDICT OF, THE JURY OF FINDING LIFE IN
8 PRISON OR FINDING THE DEATH PENALTY. MITIGATING
9 CIRCUMSTANCES AND THERE ARE STATUTORY MITIGATING
10 CIRCUMSTANCES AND OTHER MITIGATING CIRCUMSTANCES ARE
11 IN FACT THE OPPOSITE. THESE ARE FACTS THAT THE JURY
12 CAN CONSIDER TO REDUCE THE SEVERITY OF THE OFFENSE
13 OF MURDER AND LESSEN THE RESPONSIBILITY. AND I
14 WOULD INSTRUCT YOU ON STATUTORY AGGRAVATING
15 CIRCUMSTANCES AND ALSO THE STATUTORY MITIGATING
16 CIRCUMSTANCES. ARE YOU TELLING US, AND I JUST WANT
17 TO MAKE SURE THAT I UNDERSTAND YOU, ARE YOU TELLING
18 US EVEN IF I INSTRUCT YOU ON THE STATUTORY
19 AGGRAVATING CIRCUMSTANCES THAT YOU WOULD NOT BE ABLE
20 TO FOLLOW THOSE INSTRUCTIONS AND DECIDE A VERDICT OF
21 LIFE IN PRISON OR DEATH ... OR LET'S SAY DEATH
22 BECAUSE YOU SAID YOU WERE A TYPE #2 JUROR. YOU
23 WOULD NOT BE ABLE TO FIND A VERDICT OF DEATH EVEN IF
24 THERE WERE AGGRAVATING CIRCUMSTANCES IN THE CASE; IS
25 THAT WHAT YOU'RE SAYING?

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1 JUROR #57: YES, SIR.

2 THE COURT: ANY QUESTIONS, MR. SALEEBY?

3 MR. SALEEBY: NO QUESTIONS. THANK YOU SO MUCH.

4 THE COURT: ANY QUESTIONS, MR. LITTLEJOHN?

5 MR. LITTLEJOHN: NO QUESTIONS.

6 THE COURT: ALL RIGHT. THANK YOU, MS. DRAKE. IF YOU
7 WOULD STEP DOWN, PLEASE, AND WE WILL SEND FOR YOU IN
8 JUST A MINUTE. MR. SALEEBY, IT APPEARS TO THE COURT
9 BASED UPON HER ANSWERS THAT SHE'S NOT QUALIFIED, DO
10 YOU AGREE?

11 MR. SALEEBY: WE AGREE, SIR.

12 THE COURT: DO YOU AGREE, MR. BABB?

13 MR. BABB: I DO, SIR.

14 THE COURT: ALL RIGHT. BRING HER BACK IN, PLEASE. MS.
15 DRAKE, THANK YOU VERY MUCH, AND I APPRECIATE YOUR
16 WAITING AND I APPRECIATE YOUR HONESTY HERE IN THE
17 COURT. BASED UPON THE INFORMATION THIS COURT HAS,
18 YOU HAVE BEEN FOUND THAT YOU'RE NOT QUALIFIED AS A
19 JUROR IN THIS CASE. THIS IS NOTHING PERSONAL AND IT
20 IS NOTHING (INAUDIBLE). YOU WOULD TO BE QUALIFIED
21 AS A JUROR ON THIS PARTICULAR CASE, SO WE ARE GOING
22 TO EXCUSE YOU. THANK YOU FOR COMING OUT. ALL
23 RIGHT. LET'S GO TO PANEL #10, JUROR #140, MR. JOHN
24 MCCLOUD. GOOD AFTERNOON, MR. MCCLOUD.

25 JUROR #140: GOOD AFTERNOON.

1 **THE COURT:** WE APOLOGIZE FOR KEEPING YOU WAITING
2 (INAUDIBLE) SOMETIMES IT'S IMPOSSIBLE TO DO SO. WE
3 DO NEED TO ASK YOU SOME QUESTIONS TO DETERMINE YOUR
4 QUALIFICATIONS TO SERVE ON THE JURY (INAUDIBLE) AND
5 ON THIS PARTICULAR CASE. I WILL TELL YOU THAT
6 YESTERDAY YOU WERE SWORN TO GIVE TRUTHFUL
7 INFORMATION AND THAT WILL CARRYOVER TO TODAY; DO YOU
8 UNDERSTAND?

9 **JUROR #140:** YES, SIR.

10 **THE COURT:** AND I NEED FOR YOU TO SPEAK UP LOUDLY SO I
11 CAN HEAR YOU AND SO THE COURT REPORTER CAN HEAR YOU
12 AND SO EVERYBODY CAN HEAR YOU. YOU HAD REPORTED TO
13 US YESTERDAY THAT YOU HAVE HAD CERTAIN DEALINGS WITH
14 THE SHERIFF'S DEPARTMENT IN REGARDS TO A GOLF
15 TOURNAMENT; IS THAT CORRECT?

16 **JUROR #140:** YES, SIR.

17 **THE COURT:** TELL US AGAIN WHAT THAT IS.

18 **JUROR #140:** WITH MY POSITION AT THE RADIO STATION WE
19 WORK WITH THE KUBALA GOLF TOURNAMENT. WE PROMOTE
20 THE TOURNAMENT ITSELF. WE ALSO HAVE FUNDRAISERS,
21 PLUS WE WORK FOR THE CRIME STOPPERS TELETHON
22 COMMITTEE, WHICH SOME OF THOSE THINGS ARE SOMEWHAT
23 HAVE TO DO WITH KUBALA ITSELF.

24 **THE COURT:** YOU SAID THE STATION ... WHAT STATION IS
25 THAT?

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1 **JUROR #140:** MILLER COMMUNICATIONS. THE RADIO STATION
2 IS HERE IN SUMTER.

3 **THE COURT:** ALL RIGHT. AND WHAT'S YOUR POSITION THERE?

4 **JUROR #140:** I AM AN ON-AIR PERSONALITY PLUS A PROMOTION
5 DIRECTOR AND PRODUCTION DIRECTOR.

6 **THE COURT:** OKAY. AND WHEN YOU DO THE PROMOTIONS FOR
7 THE GOLF TOURNAMENT FOR SERGEANT KUBALA, WHO DO YOU
8 DEAL WITH IN DOING THOSE PROMOTIONS?

9 **JUROR #140:** MOSTLY MY BOSS IS THE ONE THAT GIVES US THE
10 INFORMATION, HAROLD MILLER, AND HE'S WITH CRIME
11 STOPPERS. HE WAS A SLED AGENT AND HE INFORMS US OF
12 WHAT THE TOURNAMENTS'S ABOUT, GIVES US THE
13 INFORMATION, AND ASKS US TO GET IT ON THE AIR
14 PROMPTLY. WE'VE GOT ENOUGH PSA'S TO COVER ALL THE
15 RADIO STATIONS THAT WE HAVE. WE HAVE A TOTAL OF 11.

16 **THE COURT:** DO YOU HAVE ANY CONTACT WITH LAW ENFORCEMENT
17 OR THE SHERIFF'S OFFICE SPECIFICALLY WITH REGARD TO
18 THE KUBALA GOLF TOURNAMENTS?

19 **JUROR #140:** NO, SIR.

20 **THE COURT:** DO YOU HAVE ANY CONTACT WITH LAW ENFORCEMENT
21 ON A PERSONAL BASIS, EITHER OFFICERS OR ANYONE IN
22 ANY LAW ENFORCEMENT AGENCIES WITH REGARDS TO THE
23 CRIME STOPPERS PROGRAM, PERSONALLY?

24 **JUROR #140:** NOT PERSONALLY, NO, BUT WE WORK WITHIN THE
25 CRIME STOPPERS. LIKE THIS PAST WEEKEND WE WERE

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1 DEALING WITH MOST (INAUDIBLE) DOWN THERE SUNDAY, WE
2 DEALT WITH HIM, BUT NOT PERSONAL, NOT ON A PERSONAL
3 MATTER, NO.

4 **THE COURT:** I MEAN, YOU PERSONALLY DEAL WITH MEMBERS OF
5 LAW ENFORCEMENT ON A ONE-ON-ONE BASIS OR IS THAT,
6 THEY DEAL WITH THE STATION AND YOU GET THE
7 INFORMATION?

8 **JUROR #140:** I TALK TO THEM AND I GET THE INFORMATION
9 SOMETIMES, SOMETIMES THEY DEAL WITH THE STATION AND
10 WE GET THE INFORMATION FROM THEM AND PUT IT ON THE
11 STATION ITSELF.

12 **THE COURT:** ALL RIGHT. DO YOU KNOW ANYTHING ABOUT THIS
13 CASE?

14 **JUROR #140:** UH-HUH (AFFIRMATIVE RESPONSE).

15 **THE COURT:** TELL US WHAT YOU KNOW.

16 **JUROR #140:** I KNOW ABOUT WHEN IT HAPPENED, THE SOMEWHAT
17 CIRCUMSTANCES WITH IT. I KNOW THAT THE OFFICER WAS
18 KILLED I BELIEVE ON THE PORCH. THE, FROM WHAT I
19 UNDERSTAND, THE GUY THAT KILLED HIM WAS INTOXICATED,
20 WAS NOT RIGHT IN HIS MIND, AND THAT'S PRETTY MUCH
21 ALL I KNOW.

22 **THE COURT:** WHAT'S YOUR SOURCE OF INFORMATION?

23 **JUROR #140:** I HAD READ THE NEWSPAPER WHEN THE THING
24 FIRST CAME OUT, AND I'VE HEARD OFF AND ON ABOUT THE
25 CASE.

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1 **THE COURT:** HAVE YOU HEARD OR READ ANYTHING RECENTLY?

2 **JUROR #140:** NO, SIR.

3 **THE COURT:** OKAY. ALL RIGHT. LET ME TELL YOU, MR.

4 MCCLOUD, THAT MR. STONE WHO IS THE DEFENDANT IN THIS
5 CASE HAS ALREADY BEEN FOUND GUILTY OF MURDER, AND SO
6 THE ISSUE OF HIS GUILT OR INNOCENSE IS NOT GOING TO
7 BE BEFORE THIS COURT. THAT QUESTION HAS ALREADY
8 BEEN DECIDED AND WE WON'T BE PROVIDING THE JURY WITH
9 THAT TO DECIDE.

10 OKAY. NOW I WANT TO TELL YOU IS THAT YOU MAY HAVE
11 ALREADY BEEN ABLE TO DETERMINE THAT THIS IS THE CASE
12 IN THE MATTER OF THE STATE VERSUS BOBBY WAYNE STONE.
13 MR. STONE HAS ALREADY BEEN FOUND GUILTY OF THE
14 CRIME OF MURDER, SO THE ISSUE OF HIS GUILT OF THIS
15 CRIME IS NOT GOING TO BE BEFORE THE JURY AND IT IS
16 NOT GOING TO BE SOMETHING THAT THE JURY WOULD HAVE
17 TO DETERMINE. THE ONLY THING THAT WILL BE BEFORE
18 THE JURY WILL IMPACT UPON THE PUNISHMENT THAT HE IS
19 TO RECEIVE FOR THIS CRIME. IF YOU FIND, AND THE
20 STATE WILL BE PRESENTING TESTIMONY OF WHAT WE CALL
21 AGGRAVATED CIRCUMSTANCES OR STATUTORY AGGRAVATED
22 CIRCUMSTANCES, AND IF YOU FIND THAT THE STATE PROVES
23 ONE OF THESE BEYOND A REASONABLE DOUBT, THEN YOU
24 WILL CONSIDER THAT ALONG WITH ANY TESTIMONY IN
25 MITIGATION OR ANY EVIDENCE IN MITIGATION IN WHICH

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1 THE DEFENDANT PUTS UP TO DECIDE WHETHER OR NOT THE
2 DEFENDANT SHOULD BE FOUND AND GIVEN A LIFE SENTENCE
3 OR WHETHER HE SHOULD BE FOUND AND, BE FOUND BY THE
4 JURY TO HAVE A DEATH SENTENCE AS THE APPROPRIATE
5 PUNISHMENT. YOU UNDERSTAND THOSE ARE THE ISSUES
6 THAT THE JURY WILL HAVE TO DECIDE?

7 JUROR #140: YES, SIR.

8 THE COURT: ALL RIGHT. NOW HAVING TOLD YOU THAT,
9 HAVE YOU HAD A CHANCE TO READ OVER THE THREE TYPES OF
10 JURORS THAT WE HAD THOSE FORMS FOR YOU IN THE JURY ROOM?

11 JUROR #140: YES, SIR.

12 THE COURT: AND HAVING READ AND UNDERSTANDING
13 THOSE, WHICH ONE OF THOSE THREE TYPES, TYPE #1, TYPE #2
14 OR TYPE #3, WOULD YOU SAY BEST DESCRIBES YOU?

15 JUROR 140: I WOULD PROBABLY BE TYPE THREE.

16 THE COURT: TYPE THREE. ALL RIGHT. NOW, AND BY
17 THAT YOU ARE SAYING THAT AFTER LISTENING TO THE FACTS AND
18 CIRCUMSTANCES SURROUNDING THE CASE DEPENDING ON THOSE
19 FACTS AND CIRCUMSTANCES YOU CAN EITHER FIND LIFE IN PRISON
20 OR YOU CAN FIND THE APPROPRIATE PUNISHMENT IS DEATH, IS THAT
21 CORRECT?

22 JUROR 140: YES, SIR.

23 THE COURT: DO YOU THINK THAT YOUR AFFILIATION OR
24 CONTACT WITH CRIME STOPPERS OR WITH PROMOTIONAL ITEMS FOR
25 THE KUBALA DEATH PENALTY ... I'M SORRY, GOLF ...

HEARING

1 JUROR 140: GOLF TOURNAMENT?

2 THE COURT: YEAH, GOLF TOURNAMENT ...

3 JUROR 140: YES, SIR.

4 THE COURT: ... WOULD YOU THINK THOSE WOULD
5 PREVENT YOU FROM LOOKING OBJECTIVELY AT THE FACTS IN
6 AGGRAVATION AND THE FACTS IN MITIGATION WOULD PREVENT YOU
7 FROM GIVING A FAIR DECISION TO BOTH THE STATE OF SOUTH
8 CAROLINA AND TO MR. STONE?

9 JUROR 140: I DON'T THINK SO.

10 THE COURT: ALL RIGHT. NOW, AS I'VE DESCRIBED,
11 AGGRAVATED CIRCUMSTANCES ARE CIRCUMSTANCES THAT HAVE
12 BEEN DECLARED BY OUR LEGISLATURE TO MAKE A CRIME WORSE OR
13 MAKE A PENALTY MORE SEVERE OR POSSIBLY AGGRAVATE THE ...
14 THE PUNISHMENT THAT MIGHT BE GIVEN. MITIGATING
15 CIRCUMSTANCES ARE JUST THE OPPOSITE. THEY ARE THINGS THAT
16 OUR LEGISLATURE HAS DECLARED EXTENUATE OR MITIGATE
17 AGAINST OR MAKE THE PUNISHMENT LESS SEVERE. IN THIS CASE
18 THERE WILL BE EVIDENCE OF BOTH. WOULD YOU BE ABLE TO
19 CONSIDER THE AGGRAVATING CIRCUMSTANCES AND THE MITIGATING
20 CIRCUMSTANCES AND DECIDE THE CASE BASED UPON THE EVIDENCE
21 THAT YOU HEAR IN THIS COURTROOM REGARDLESS WHAT YOU KNOW
22 ABOUT THIS MATTER FROM ANYWHERE ELSE?

23 JUROR 140: YES.

24 THE COURT: ALL RIGHT. ALL RIGHT, LET ME SWITCH
25 GEARS WITH YOU FOR JUST A MINUTE. IF YOU ARE SELECTED AS A

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1 JUROR IN THIS CASE, YOU WILL BE REQUIRED TO BE SEQUESTERED.
2 THAT MEANS THAT YOU WILL BE REQUIRED TO STAY IN A MOTEL
3 WITH YOUR FELLOW JURORS FOR SOME FIVE OR SIX DAYS UNTIL IT IS
4 CONCLUDED. EXCEPT FOR THE PERSONAL INCONVENIENCE THAT
5 WOULD CAUSE YOU, WOULD IT BE A SEVERE HARDSHIP ON EITHER
6 YOU OR ANY MEMBER OF YOUR FAMILY OR ANYONE THAT IS
7 DEPENDENT UPON YOU SHOULD YOU BE SEQUESTERED FOR FIVE OR
8 SIX DAYS?

9 JUROR 140: I DON'T THINK SO.

10 THE COURT: FINALLY, LET ME ASK YOU, GOING BACK THE
11 OTHER WAY NOW. I'VE ASKED YOU QUESTIONS ABOUT WHAT YOU
12 COULD AND YOU COULD NOT DO. IF YOU FIND THAT THE STATE HAS
13 PROVEN AGGRAVATED CIRCUMSTANCES BEYOND A REASONABLE
14 DOUBT, YOU ALSO CONSIDER THE MITIGATING ... STATUTORY
15 MITIGATING CIRCUMSTANCES THAT THE STATE OFFERS OR THE
16 DEFENSE OFFERS AND ANY OTHER MITIGATION, THE JURY WILL BE
17 REQUIRED TO DECIDE ON A VERDICT FORM THAT YOU ALONG WITH
18 THE OTHER 11 JURORS WILL ALL HAVE TO SIGN THAT DEPENDING ON
19 YOUR VIEW OF THE EVIDENCE AND THE FACTS AND CIRCUMSTANCES
20 WILL PROVIDE THE APPROPRIATE PUNISHMENT OF LIFE IN PRISON,
21 COULD YOU DO THAT?

22 JUROR 140: YES, SIR.

23 THE COURT: ON THE OTHER HAND, IF YOU FOUND BASED
24 ON THE FACTS AND CIRCUMSTANCES PROVED IN THIS COURTROOM
25 THAT THE APPROPRIATE PUNISHMENT SHOULD BE DEATH, YOU AND

1 ALL OF THE OTHER JURORS WILL HAVE TO SIGN A DOCUMENT OR
2 VERDICT FORM TO THAT EFFECT. WOULD YOU BE ABLE TO SIGN THAT
3 FORM?

4 JUROR 140: YES, SIR.

5 THE COURT: ALL RIGHT, THANK YOU, MR. MCLEOD. I
6 THINK THAT'S ALL THE QUESTIONS I HAVE FOR YOU. MR. JACKSON?

7 MR. JACKSON: THANK YOU, YOUR HONOR. GOOD
8 AFTERNOON, MR. MCLEOD.

9 JUROR 140: HOW YOU DOING SIR?

10 MR. JACKSON: FINE. MR. MCLEOD, MY NAME IS KELLY
11 JACKSON AND I'M THE SOLICITOR HERE IN THE THIRD JUDICIAL
12 CIRCUIT WHICH INCLUDES SUMTER COUNTY. IT'S THE RESPONSIBILITY
13 OF MY OFFICE TO BRING THIS CASE TO COURT. MR. DUDLEY SALEEBY
14 WHO IS SEATED HERE AT THE STATE'S TABLE WILL BE ASSISTING ME
15 IN THIS COURT PROCEEDING. I JUST WANT YOU TO RELAX. WE NEED
16 TO ASK YOU A FEW QUESTIONS JUST LIKE THE JUDGE HAS. WE'RE NOT
17 TRYING TO PRY INTO YOUR PERSONAL LIFE. WE JUST NEED TO ... WE
18 NEED TO KNOW EXACTLY WHERE YOU ARE AND HOW COMFORTABLE
19 YOU ARE WITH THIS SITUATION. FOR MY CLARIFICATION LET ME ASK
20 YOU A LITTLE BIT ABOUT THE CRIME STOPPERS WORK AND MILLER
21 COMMUNICATIONS AND THE GOLF TOURNAMENT. AS FAR AS CRIME
22 STOPPERS IS CONCERNED MILLER COMMUNICATIONS IN
23 CONJUNCTION WITH CRIME STOPPERS, THAT'S JUST THE ANNUAL
24 TELETHON, RIGHT?

25 JUROR 140: YES, SIR. AND WE ALSO AT THE OUTBACK

1 DINNER WE HAD A FEW WEEKS AGO, TOO.

2 MR. JACKSON: RIGHT.

3 JUROR 140: YES, SIR.

4 MR. JACKSON: BUT YOUR CONTACT WITH LAW
5 ENFORCEMENT BECAUSE OF CRIME STOPPERS IS ... IS THAT THE
6 TELETHON WHEN LAW ENFORCEMENT MEMBERS SHOW UP AT THE
7 TELETHON TO TRY TO RAISE MONEY FOR CRIME STOPPERS.

8 JUROR 140: YES, SIR. AND ... AND I DO WANT TO ADD THAT
9 ANY KIND OF EVENT THAT WE HAVE WITH THE SUMTER LAW
10 ENFORCEMENT WE TRY TO GO OUT AND DO THE BEST WE CAN AND AT
11 LEAST IF WE CANNOT BE THERE PERSONALLY WE CAN ACTUALLY DO
12 THE ANNOUNCEMENTS ON THE AIR FOR ANYTHING TO DO WITH
13 SUMTER LAW ENFORCEMENT.

14 MR. JACKSON: OKAY. AND THAT'S SIMPLY BECAUSE
15 YOU'RE A SUPPORTER OF SUMTER LAW ENFORCEMENT. NOT BECAUSE
16 YOU HAVE ANY PREDISPOSED DISPOSITION ON THE KABALA CASE.

17 JUROR 140: YES.

18 MR. JACKSON: OKAY. AS FAR AS AIRING
19 ADVERTISEMENTS FOR THE GOLF TOURNAMENT. THAT DECISION IS
20 MADE ABOVE YOUR PAY GRADE SO TO SPEAK.

21 JUROR 140: YES, SIR.

22 MR. JACKSON: AND YOU DON'T HAVE ANY SPECIFIC
23 DEALINGS WITH ANY OF THE OFFICERS IN CARRYING OUT ANY DUTIES
24 AT MILLER COMMUNICATIONS.

25 JUROR 140: NO, SIR. OUR BOSS JUST TELLS US WE NEED TO

1 HAVE THIS ON THIS PARTICULAR STATION FOR THIS X AMOUNT OF
2 DAYS AND I'D LIKE TO GET AS MUCH COVERAGE AS POSSIBLE WITH IT
3 AND WE TAKE CARE OF IT.

4 MR. JACKSON: JUST LIKE HE WOULD WITH PEPSI COLA,
5 COKE COLA ...

6 JUROR 140: ANYBODY ELSE.

7 MR. JACKSON: ... ANYBODY ELSE.

8 JUROR 140: YES, SIR.

9 MR. JACKSON: OKAY. SO THAT'S JUST A NORMAL
10 FUNCTION OF YOUR WORK.

11 JUROR 140: UH-HUH (AFFIRMATIVE RESPONSE).

12 MR. JACKSON: YOU PERSONALLY HAVE NOT
13 PARTICIPATED IN THE GOLF TOURNAMENTS.

14 JUROR 140: NO, SIR.

15 MR. JACKSON: OR CONTRIBUTED TO THEM?

16 JUROR 140: NO, SIR.

17 MR. JACKSON: OKAY. NOW, THE INFORMATION THAT YOU
18 MAY HAVE EITHER FROM WORKING IN ... IN MILLER
19 COMMUNICATIONS OR READING A NEWSPAPER, ANY INFORMATION
20 YOU MAY HAVE ABOUT THIS CASE, I WANT TO MAKE SURE AT LEAST
21 ME I'M CRYSTAL CLEAR ON THIS, YOU CAN SET THAT ASIDE AND
22 LISTEN TO WHATEVER'S PRESENTED IN THE COURTROOM FROM NOW
23 UNTIL THE DECISION MAY BE MADE IF YOU WERE TO SIT ON THE JURY,
24 YOU WOULD BE ABLE TO SET EVERYTHING ASIDE AND YOUR OPINION
25 WOULD BE BASED ONLY ON WHAT YOU HEAR IN THE COURTROOM, IS

1 THAT CORRECT?

2 JUROR 140: YES, SIR.

3 MR. JACKSON: AND IF YOUR OPINION WAS TO RENDER
4 THE DEATH PENALTY OR TO RECOMMEND THE DEATH PENALTY FOR
5 BOBBY WAYNE STONE YOU COULD DO THAT.

6 JUROR 140: YES, SIR.

7 MR. JACKSON: AND IF YOU SAW FIT THAT IT SHOULD JUST
8 BE LIFE IN THE PENITENTIARY YOU SHOULD ... YOU COULD DO THAT
9 AS WELL.

10 JUROR 140: YES, SIR.

11 MR. JACKSON: ALL RIGHT, SIR. THANK YOU FOR YOUR
12 TIME AND THAN YOU FOR ANSWERING MY QUESTIONS.

13 JUROR 140: NO PROBLEM.

14 THE COURT: MR. LITTLEJOHN.

15 MR. LITTLEJOHN: THANK YOU, YOUR HONOR. GOOD
16 AFTERNOON, MR. MCLEOD.

17 JUROR 140: YES, SIR.

18 MR. LITTLEJOHN: MY NAME IS CAM LITTLEJOHN AND I
19 REPRESENT BOBBY WAYNE STONE ALONG WITH JIM BABB OVER HERE.
20 MR. MCLEOD, LET ME ... LET ME GO RIGHT TO SOMETHING THAT CAME
21 UP IN YOUR DISCUSSION WITH JUDGE KING. YOU SAID THAT BASED
22 ON WHAT YOU HAD READ AND HEARD ABOUT THIS CASE THAT YOU
23 HAD COME TO COURT WITH AN OPINION ALREADY ...

24 JUROR 140: YES, SIR.

25 MR. LITTLEJOHN: ... ABOUT WHAT THE DISPOSITION OF

1 THIS CASE SHOULD BE.

2 JUROR 140: UH-HUH (AFFIRMATIVE RESPONSE).

3 MR. LITTLEJOHN: IS THAT RIGHT?

4 JUROR 140: YES, SIR.

5 MR. LITTLEJOHN: OKAY. AND I'M NOT TRYING TO ARGUE
6 WITH YOU BECAUSE EVERYBODY HAS AN OPINION BASED ON THE
7 INFORMATION THAT'S BEFORE THEM BUT CAN I ASK YOU WHAT YOUR
8 OPINION IS? WHAT OPINION DID YOU BRING WITH YOU?

9 JUROR 140: IN MY OPINION ANY OFFICER THAT GETS
10 KILLED IF THEY'RE PROTECTING US, THAT PERSON SHOULD BE KILLED,
11 SHOULD FACE THE DEATH PENALTY AT LEAST IN FRONT BECAUSE
12 THAT'S ... I MEAN, THAT ... THAT'S MY PERSONAL OPINION.

13 MR. LITTLEJOHN: OKAY. AND YOU THINK THAT ... THAT IS
14 THE CIRCUMSTANCE IF A LAW ENFORCEMENT OFFICER IS KILLED
15 UNDER ANY CIRCUMSTANCE ... IF IT'S A MURDER CASE ...

16 JUROR 140: IF IT'S SOMETHING ... IF IT ... GOING BACK TO
17 WHAT I WAS TELLING THE JUDGE ...

18 MR. LITTLEJOHN: UH-HUH (AFFIRMATIVE RESPONSE).

19 JUROR 140: ... TELLING MR. JACKSON ...

20 MR. LITTLEJOHN: YES, SIR.

21 JUROR 140: ... IF I CAME IN HERE AND WAS GIVEN THE
22 EVIDENCE STRICTLY AS FAR AS WHAT WAS IN THE COURTROOM, IF I
23 COULD JUST PUT EVERYTHING ASIDE I COULD FORM AN OPINION
24 ABOUT IT AND ... AND GO WITH WHAT'S IN THIS COURTROOM AS FAR
25 AS EITHER GIVING A DEATH PENALTY OR LIFE SENTENCE.

1 MR. LITTLEJOHN: OKAY. I NOTICE YOU USED THE WORD IF
2 YOU COULD SET YOUR OPINION ASIDE. WOULD YOU FIND THAT
3 DIFFICULT TO DO?

4 JUROR 140: SOMEWHAT, YEAH.

5 MR. LITTLEJOHN: I MEAN OBVIOUSLY AND I ... I CAN
6 UNDERSTAND YOUR CONCERN WHEN A LAW ENFORCEMENT OFFICER
7 IS KILLED BUT ... I GUESS WHAT YOU'RE SAYING IS ... IS YOU'VE
8 FORMED THIS OPINION THAT THAT WOULD BE ... THAT THE DEATH
9 PENALTY WOULD BE APPROPRIATE WHERE A LAW ENFORCEMENT
10 OFFICER IS KILLED.

11 JUROR 140: YES, SIR.

12 MR. LITTLEJOHN: AND YOU'VE HAD THE OPINION FOR
13 SOME TIME?

14 JUROR 140: YES, SIR.

15 MR. LITTLEJOHN: HAVE YOU DISCUSSED THAT OPINION
16 WITH OTHER PEOPLE?

17 JUROR 140: NOT RECENTLY, NO.

18 MR. LITTLEJOHN: OKAY. BUT AT SOME POINT YOU HAVE?

19 JUROR 140: YES, SIR.

20 MR. LITTLEJOHN: SITTING AROUND TALKING TO YOUR
21 FRIENDS AND THINGS LIKE THAT?

22 JUROR 140: YES, SIR.

23 MR. LITTLEJOHN: OKAY. AND TELL ME, MR. MCLEOD, IS IT
24 SAFE TO SAY THAT IT WOULD BE HARD FOR YOU TO SET THAT ASIDE?

25 JUROR 140: IT ... IT WOULD BE ... IT WOULD BE TOUGH BUT I

1 COULD SET IT ASIDE, YES, SIR.

2 MR. LITTLEJOHN: I MEAN, LIKE I SAY, I'M NOT TRYING TO
3 ARGUE WITH YOU ...

4 JUROR 140: RIGHT.

5 MR. LITTLEJOHN: ... AND IF YOU HAVE A CONVICTION WE
6 JUST WANT TO KNOW ABOUT IT BECAUSE THIS IS A VERY IMPORTANT
7 CASE.

8 JUROR 140: RIGHT. EXACTLY.

9 MR. LITTLEJOHN: YOU SAY YOU THINK YOU COULD DO IT
10 BUT IT WOULD BE DIFFICULT.

11 JUROR 140: YES, SIR.

12 MR. LITTLEJOHN: OKAY. AND LET ... LET ME ASK YOU ONE
13 OTHER THING. I NOTICED WHEN JUDGE KING WAS ASKING YOU SOME
14 QUESTIONS HE ASKED YOU AT ONE POINT IF YOU THOUGHT GIVEN
15 THE FACTS AND CIRCUMSTANCES YOU COULD BE FAIR AND YOU
16 HESITATED FOR AF EW MOMENTS. WAS IT AGAIN THAT OPINION ...

17 JUROR 140: IT WAS AGAIN ... IT WAS AGAIN MY OPINION
18 ABOUT THAT BUT ... BUT THEN AGAIN, YOU KNOW, IT'S ... IT'S A TOUGH
19 CASE ...

20 MR. LITTLEJOHN: SURE.

21 JUROR 140: ... REGARDLESS AND AGAIN MY OPINION IS --
22 A LITTLE BIT BUT IF I HAD TO DO IT I WOULD BE ABLE TO PUT IT ASIDE
23 AND ... AND LOOK AT EVERYTHING BEFORE I COULD MAKE A FINAL
24 DECISION. BUT AGAIN THAT WAS MY OPINION BEFORE I EVER CAME
25 IN THE COURTROOM.

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1 MR. LITTLEJOHN: OKAY. BUT YOU ... HONESTLY YOU
2 THINK THAT WILL BE HARD FOR YOU TO DO.

3 JUROR 140: IT WOULD BE TOUGH. IT WOULD BE TOUGH.

4 MR. LITTLEJOHN: IF YOU CAN INDULGE ME FOR JUST A
5 MOMENT. THAT'S ALL I HAVE, YOUR HONOR.

6 THE COURT: ALL RIGHT. MR. MCLEOD, IF YOU'LL STEP
7 DOWN FOR JUST A MINUTE. I NEED TO TAKE UP SOME MATTERS OF
8 LAW WITH THE ATTORNEYS AND I'LL BE WITH YOU IN JUST A MINUTE.
9 IF YOU WOULD JUST STEP OUT THERE IN THE HALL FOR JUST A
10 MOMENT. MR. JACKSON?

11 MR. JACKSON: YOUR HONOR, I WOULD PROPOSE TO THE
12 COURT THAT HE IS QUALIFIED. THERE'S SOME CASE LAW I BELIEVE IN
13 THIS PARTICULAR POINT WHICH I THINK WE'RE DISCUSSING PRIOR
14 KNOWLEDGE OF MURDER AND/OR DEATH PENALTY. THERE'S THREE
15 CASES I'D LIKE TO BRING TO THE COURT'S ATTENTION. FIRST THERE'S
16 THE STATE VS. PEEWEE GASKINS WHICH IS CITED AT 326
17 SOUTHEASTERN SECOND 132 WHICH IS 1985 CASE. CITES JURORS WHO
18 KNEW ABOUT DEFENDANT'S PRIOR MURDER CONVICTION AND HAD
19 FORMED OPINIONS THAT HE SHOULD RECEIVE THE DEATH PENALTY
20 ONLY WERE QUALIFIED BECAUSE THEY STATED THAT THEY HAD NO
21 PRECONCEIVED OPINIONS ON THE PRESENT CASE. I BELIEVE THAT HE
22 HAS ESTABLISHED THAT ... THAT HE HAS NO PRECONCEIVED OPINIONS
23 ABOUT WHAT WE MAY DO FOR THE NEXT FOUR OR FIVE DAYS. THE
24 SECOND CASE IS STATE VS. DONALD JONES, 378 SOUTHEASTERN 2ND
25 594. IT'S A 1989 CASE IN RE-SENTENCING TRIAL. THAT WAS A RE-

1 SENTENCING TRIAL. THE TRIAL JUDGE DID NOT ERR IN QUALIFYING A
2 JUROR WHO HAD HEARD ABOUT THE DEFENDANT' ORIGINAL DEATH
3 PENALTY AND WHO AGREED WITH IT AND I BELIEVE HE'S TELLING US
4 THAT HE MAY HAVE AGREED WITH THE FACT THAT SOMEONE WHO
5 SHOT AN OFFICER SHOULD GET THE DEATH PENALTY BUT AGAIN HE
6 SAYS HE CAN PUT THAT ASIDE AND LISTEN TO WHAT WE HAVE TO
7 SAY IN THE COURTROOM BEFORE HE MAKES A DECISION ON WHAT
8 WE'RE DOING HERE THIS WEEK. YOUR HONOR, THE LAST CASE IS
9 STATE VS. RANDY PATTERSON. I DO NOT HAVE THE CITE FOR THAT. I
10 APOLOGIZE TO THE COURT. BUT THE QUOTE IS WE HAVE FOUND NO
11 ERROR IN QUALIFYING JURORS WHO KNEW OF A DEFENDANT'S
12 PREVIOUS CONVICTION AND DEATH SENTENCE WHICH WERE
13 REVERSED ON APPEAL WHEN THEY STATED THEY COULD BE FAIR AND
14 IMPARTIAL. AND I BELIEVE THAT ALTHOUGH HE HAS SAID IT WOULD
15 BE TOUGH TO DO THIS THE ... THE GRAVAMEN OF THIS IS WHETHER OR
16 NOT HE CAN DO IT AND YOUR HONOR, HE HAS SAID HE COULD SET IT
17 ASIDE. I BELIEVE HE'S BEING HONEST WITH US THAT IT WOULD BE
18 TOUGH BUT HE HAS HELD FAST TO THE STATEMENT THAT HE COULD
19 PUT IT ASIDE.

20 THE COURT: THAT IS ... THAT IS 351 SOUTHEASTERN 2ND.

21 MR. JACKSON: 1997 CASE?

22 THE COURT: NO, THIS IS A 1988. CASE. THERE'S A
23 PATTERSON CASE. THANK YOU, MR. JACKSON.

24 MR. JACKSON: YES, SIR.

25 THE COURT: ANYTHING ELSE?

1 MR. JACKSON: THAT'S ALL I HAVE, YOUR HONOR.

2 THE COURT: ALL RIGHT. MR. LITTLEJOHN?

3 MR. LITTLEJOHN: YOUR HONOR, I THINK THE DISTINCTION
4 HERE IS NOT THAT HE KNOWS ABOUT THIS CASE AND WHAT HAPPENS
5 IN THE PREVIOUS PROCEEDING BUT HIS GENERAL OPINION WHICH HE
6 HAS HAD FOR SOME TIME THAT ANY TIME A LAW ENFORCEMENT
7 OFFICER IS KILLED BY SOMEONE THAT THE DEATH PENALTY IS THE
8 ONLY APPROPRIATE SENTENCE. AND IT WASN'T AN OPINION AS TO
9 THIS PARTICULAR CASE BUT IT WAS AN OVERALL OPINION HE HAD AS
10 TO ANY CASE AND HE SAID IT WOULD BE VERY DIFFICULT FOR HIM TO
11 SET THAT ASIDE AND I CERTAINLY DON'T THINK THAT WE WANT A
12 JUROR THAT HAS THAT SORT OF PRECONCEIVED NOTION ABOUT THIS
13 PARTICULAR TYPE OF CASE GOING IN AND ... AND HAVING TO
14 WRESTLE WITH THAT AND I REALIZE THAT THE JUROR WAS IN A
15 SITUATION WHERE HE WAS TRYING TO HONESTLY ANSWER THE
16 QUESTIONS BUT HE WAS HAVING SUCH DIFFICULTY WITH THE
17 QUESTIONS AND WHETHER HE COULD BE FAIR I JUST DON'T ... I JUST
18 THINK HE'S GONNA BE IN A ... IN A PICKLE TRYING TO ... TO SET ASIDE
19 EVERYTHING AFTER HAVING THIS OPINION FOR SOME TIME.

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

21 MR. JACKSON: YOUR HONOR, CAN I CITE ONE ADDITIONAL
22 CASE.

23 THE COURT: YES, SIR.

24 MR. JACKSON: STATE VS. LEROY DRAYTON, 361
25 SOUTHEASTER SECOND 329, A 1987 CASE. IT SAYS JURORS WITH PRIOR

1 KNOWLEDGE OF THE CASE ARE QUALIFIED IF THEY CAN PUT ASIDE
2 PRIOR KNOWLEDGE, FOLLOW THE LAW AS CHARGED AND BASE THE
3 VERDICT ON THE EVIDENCE AT TRIAL AND THAT'S EXACTLY WHAT HE
4 SAID HE COULD DO.

5 THE COURT: WELL, IT IS AND IT ISN'T. HE SAID HE
6 THOUGHT HE COULD PUT IT ASIDE. HE NEVER DID SAY HE COULD PUT
7 IT ASIDE. HE SAID IT WOULD BE TOUGH AND HE THOUGHT HE COULD
8 PUT IT ASIDE. I BELIEVE THAT IS SIGNIFICANT. ALL RIGHT. THANK
9 YOU. LET ME REVIEW SOME OF MY NOTES. ALL RIGHT, COUNSEL, THE
10 TEST TO ESTABLISH QUALIFICATIONS OF JURORS IS WHETHER THE
11 JURORS VIEWS REGARDING THE DEATH PENALTY SUBSTANTIALLY
12 IMPAIRS PERFORMANCE OF HIS DUTIES AS A JUROR IN ACCORDANCE
13 TO THE COURT'S INSTRUCTIONS AND HAVING LOOKED AT THE
14 TESTIMONY OF THIS PROSPECTIVE JUROR OVERALL AND EVERYTHING
15 THAT NEEDS TO BE CONSIDERED BY THE COURT INCLUDING HIS
16 DEMEANOR, HIS ADDRESSING THE QUESTIONS THAT WERE GIVEN HIM
17 AND LOOKING AS HIS TESTIMONY AS REQUIRED BY STATE VS. —
18 PREPARED. IT JUST SEEMS LIKE MAYBE THIS JUROR WOULD HAVE A
19 VERY DIFFICULT TIME FINDING ANYTHING OTHER THAN THE DEATH
20 PENALTY AND I WOULD FIND THAT HE'S NOT QUALIFIED. ALL RIGHT.
21 NUMBER 198, MR. SLATER. OH, YEAH, LET MR. MCLEOD COME BACK.
22 I'M SORRY. MR. MCLEOD, THANK YOU VERY MUCH FOR YOUR
23 CANDOR AND YOUR HONESTY IN ANSWERING THE QUESTIONS TO THE
24 BEST OF YOUR ABILITY. BASED UPON EVERYTHING I DON'T BELIEVE
25 THAT YOU ARE QUALIFIED FOR THIS CASE SO I AM GOING TO EXCUSE

1 YOU AS A JUROR. THANK YOU FOR COMING, WE APPRECIATE YOU
2 BEING HERE.

3 JUROR 140: THANK YOU VERY MUCH.

4 THE COURT: THANK YOU. JUROR NUMBER 198, MR.
5 SLATER. BAILIFF: JUROR NUMBER 198, MR. SLATER.

6 THE COURT: MR. SLATER, GOOD AFTERNOON. I'M SORRY
7 TO KEEP YOU WAITING IN THE JURY ROOM BUT WE HAVE BEEN
8 WORKING ALL AFTERNOON AND IT IS HARD TO MAINTAIN AN
9 ABSOLUTE SCHEDULE. WE DO NEED TO ASK YOU SOME QUESTIONS TO
10 DETERMINE YOUR QUALIFICATIONS TO SERVE ON THE JURY. I WILL
11 TELL THAT THE QUESTIONS THAT ARE GOING TO BE ASKED ARE NOT
12 MEANT TO INVADE YOUR PRIVACY. THEY'RE SIMPLY BECAUSE OF THE
13 NATURE OF THESE PROCEEDINGS QUESTIONS THAT WE NEED TO ASK
14 YOU TO DETERMINE WHAT YOUR OPINIONS OR VIEWS ARE ON
15 CERTAIN MATTERS AND THERE ARE ON RIGHT AND WRONG ANSWERS.
16 WE SIMPLY WANT YOU TO ASK THE QUESTIONS AS TRUTHFULLY AND
17 HONESTLY AS YOU CAN, TO RELAX. I KNOW THIS IS KIND OF A
18 FOREIGN SETTING TO MOST PEOPLE TO BE IN A ROOM LIKE THIS WITH
19 LAWYERS ALL OVER THE PLACE AND ... BUT JUST RELAX AND I
20 ASSURE YOU EVERYONE WILL TREAT YOU COURTEOUSLY AND YOU
21 WILL .. AND I WILL ALSO TELL YOU THAT YESTERDAY WHEN WE
22 QUALIFIED YOU FOR THE JURY YOU WERE FOUND ... YOU WERE
23 PLACED UNDER OATH AT THAT TIME WHEN WE QUALIFIED YOU.
24 YOU'RE STILL UNDER OATH SO ANY ANSWERS THAT YOU GIVE WILL
25 BE GIVEN UNDER OATH. THE MATTER WHICH IS GOING TO BE BEFORE

1 THE COURT IS ... IS THE MATTER OF STATE VS. BOBBY WAYNE STONE. I
2 WILL TELL YOU NOW THAT MR. STONE HAS ALREADY FOUND ... BEEN
3 FOUND BY ... TO BE GUILTY OF THE CRIME OF MURDER. SO THAT IS
4 NOT AN ISSUE THAT IS GOING TO BE BEFORE THE JURY. HIS GUILT OR
5 INNOCENCE IS NOT A MATTER THE JURY IS GOING TO HAVE TO
6 CONSIDER. THAT HAS ALREADY BEEN DECIDED. THE ONLY MATTER
7 THAT IS GOING TO BE BEFORE THE JURY AND THAT YOU'RE GOING TO
8 HAVE TO CONSIDER I WHAT PUNISHMENT SHOULD BE IMPOSED FOR
9 THAT MURDER. AND I WANT TO ALSO TELL YOU THAT THE STATE
10 WILL BE PRESENTING EVIDENCE OF WHAT WE CALL AGGRAVATING
11 CIRCUMSTANCES. NOW THE STATE MUST PROVE AT LEAST ONE
12 AGGRAVATING CIRCUMSTANCE BEYOND A REASONABLE DOUBT
13 BEFORE THE JURY CAN RETURN A VERDICT AGAINST THE DEFENDANT
14 FOR EITHER LIFE IN PRISON OR FOR DEATH. NOW, I'LL TELL YOU A
15 LITTLE BIT MORE ABOUT WHAT AGGRAVATING CIRCUMSTANCES ARE
16 IN A FEW MINUTES BUT IT WILL BE UP TO THE STATE TO PROVE AT
17 LEAST ONE ACT OF AGGRAVATED CIRCUMSTANCE AND THAT MUST
18 BE PROVED TO YOU BEYOND A REASONABLE DOUBT. NOW, HAVING
19 SAID THAT AND HAVING TOLD YOU ABOUT MR. BOBBY WAYNE
20 STONE'S ADJUDICATION ALREADY OF GUILT AND THE ONLY ISSUE
21 BEFORE THE JURY IS GOING TO BE THAT OF PUNISHMENT I DO WANT
22 TO ASK YOU IF YOU'VE HAD A CHANCE TO READ THE TYPES OF JUROR
23 INFORMATION THAT WERE GIVEN TO YOU BACK IN THE JURY ROOM?

24 JUROR 198: YES, SIR.

25 THE COURT: AND BASED UPON THAT, WHAT TYPE ...

HEARING

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1 WHICH ONE OF THOSE TYPES OF JURORS, TYPE ONE, TYPE TWO, OR
2 TYPE THREE DO YOU FEEL BEST DESCRIBES YOU?

3 JUROR 198: TYPE THREE.

4 THE COURT: TYPE THREE? ALL RIGHT. NOW, WHEN YOU
5 SAY THAT YOU ARE A TYPE THREE JUROR LET ME MAKE SURE THAT
6 WE ARE ON THE SAME PAGE. WHAT YOU'RE SAYING IS AFTER
7 LISTENING TO THE FACTS AND CIRCUMSTANCES SURROUNDING THIS
8 CASE AND DEPENDING ON THE FACTS AND CIRCUMSTANCES, BOTH
9 THE AGGRAVATING CIRCUMSTANCES AND THE MITIGATING
10 CIRCUMSTANCES, YOU COULD FIND EITHER LIFE IMPRISONMENT OR IF
11 THE FACTS AND CIRCUMSTANCES JUSTIFY IT AND HAVE BEEN PROVEN
12 TO YOUR SATISFACTION, DEATH BY LETHAL INJECTION OR
13 ELECTROCUTION, IS THAT CORRECT?

14 JUROR 198: YES, SIR.

15 THE COURT: ALL RIGHT. NOW, AGGRAVATING
16 CIRCUMSTANCES ARE FACTS WHICH OUR LEGISLATURE HAS
17 DECLARED MAKE A CRIME OF MURDER MORE SEVERE OR INCREASE
18 THE SEVERITY OR THE ENORMITY OF THE OFFENSE AND MITIGATING
19 CIRCUMSTANCES ARE JUST THE OPPOSITE. THERE ARE CERTAIN
20 THINGS THAT OUR LEGISLATURE HAS SAID MITIGATE OR MAKE THE
21 CRIME OF MURDER LESS SEVERE. THERE BE SOME EVIDENCE IN THIS
22 CASE OF BOTH. THERE WILL ALSO BE SOME EVIDENCE OF NON-
23 STATUTORY MITIGATING CIRCUMSTANCES THAT YOU WILL ALSO BE
24 ASKED TO CONSIDER. AFTER HEARING ALL OF THE EVIDENCE IN THIS
25 CASE IF YOU FIND THAT THE STATE HAS PROVEN AT LEAST ONE ACT

HEARING

1 OF STATUTORY AGGRAVATED CIRCUMSTANCES BEYOND A
2 REASONABLE DOUBT YOU WILL BE ASKED ALONG WITH THE OTHER
3 JURORS, THE 11 JURORS IN THIS CASE TO ACTUALLY SIGN A VERDICT,
4 SIGN YOUR NAME TO A VERDICT THAT FINDS THAT OR MAY BE ASKED
5 TO SIGN A VERDICT THAT FINDS THAT THE DEFENDANT SHOULD BE
6 PUNISHED BY LIFE IN PRISON. WOULD YOU BE ABLE TO SIGN THAT
7 VERDICT?

8 JUROR 198: YES, SIR.

9 THE COURT: YOU MAY BE ASKED AFTER HEARING ALL OF
10 THE FACTS AND CIRCUMSTANCES IN THIS CASE AND ALL THE
11 EVIDENCE HAS BEEN PRESENTED BY THE STATE AND ALSO FROM THE
12 DEFENSE YOU MAY BE ASKED ALONG WITH YOUR 11 FELLOW JURORS
13 TO SIGN A VERDICT THAT FINDS THAT THE DEFENDANT SHOULD BE
14 PUT TO DEATH BY LETHAL INJECTION OR ELECTROCUTION. COULD
15 YOU SIGN THAT VERDICT?

16 JUROR 198: YES, SIR.

17 THE COURT: DEPENDING ON YOUR VIEW OF THE FACTS
18 AND CIRCUMSTANCES?

19 JUROR 198: YES, SIR.

20 THE COURT: ALL RIGHT. NOW, LET ME JUST ASK YOU OR
21 CHANGE GEARS JUST A LITTLE BIT. HAVE YOU HEARD ANYTHING OR
22 READ ANYTHING OR KNOW ANYTHING ABOUT THE FACTS OR
23 CIRCUMSTANCES OF THIS CASE FROM ANY SOURCE WHATSOEVER?

24 JUROR 198: I'VE HEARD SOMETHING.

25 THE COURT: SIR?

1 JUROR 198: I'VE HEAR SOMETHING.

2 THE COURT: ALL RIGHT. WOULD YOU SAY MORE
3 RECENTLY, SIR?

4 JUROR 198: WHAT HAPPENED WHEN THE CASE FIRST
5 HAPPENED.

6 THE COURT: ALL RIGHT. THAT WOULD BE ABOUT EIGHT
7 YEARS AGO OR SO.

8 JUROR 198: YES, SIR.

9 THE COURT: ALL RIGHT. AND WOULD ANYTHING THAT
10 YOU READ SOME EIGHT YEARS AGO PREVENT YOU FROM LISTENING
11 TO THE LAW AS I TELL YOU WHAT THE LAW IS, APPLYING THAT LAW
12 TO THE FACTS AND CIRCUMSTANCES THAT YOU HEAR IN THIS
13 COURTROOM AND RENDERING A VERDICT BASED UPON WHAT YOU
14 HEAR IN THIS COURTROOM?

15 JUROR 198: NO, SIR.

16 THE COURT: NOW, THE OTHER THING THAT I WANTED TO
17 ASK YOU IS THAT IF YOU ARE SELECTED AS A JUROR IN THIS CASE
18 YOU WILL BE REQUIRED TO BE SEQUESTERED, THAT IS TO SPEND TIME
19 IN A MOTEL UNTIL THIS MATTER IS ENDED AND THAT COULD LAST
20 ABOUT FIVE OR SIX DAYS. EXCEPT FOR THE PERSONAL
21 INCONVENIENCE THAT THIS WOULD CAUSE, YOU WOULD IT WORK A
22 SUBSTANTIAL HARDSHIP ON YOU OR ANYBODY THAT IS DEPENDENT
23 UPON YOU IF YOU WERE SEQUESTERED FIVE OR SIX DAYS?

24 JUROR 198: NO, SIR.

25 THE COURT: THANK YOU VERY MUCH, SIR. I BELIEVE

1 THAT IS ALL THE QUESTIONS THAT I HAVE. I'M GONNA ASK MR.
2 SALEEBY IF HE HAS ANY QUESTIONS.

3 MR. SALEEBY: MR. SLATER, MY NAME IS DUDLEY
4 SALEEBY. I'LL BE PROSECUTING THIS CASE ON BEHALF OF THE STATE
5 ALONG WITH SOLICITOR JACKSON. YOU INDICATED TO THE COURT
6 THAT YOU HADN'T HEARD ANYTHING RECENTLY. DO YOU RECALL
7 WHAT YOU HEARD IN THE PAST AND WHAT YOUR SOURCE OF
8 INFORMATION MIGHT HAVE BEEN?

9 JUROR 198: WELL, WHAT I HEARD WAS LIKE I SAID WHEN
10 IT FIRST HAPPENED BACK IN I THINK YOU SAID '96 OR LATER. AND I
11 JUST ... JUST READ WHAT WAS IN THE PAPER IN THAT RESPECT.

12 MR. SALEEBY: DO ANY OF THE FACTS OF THE CASE OR
13 WHAT THE PAPER REPORTED THE FACTS OF THE CASE OR WHAT THE
14 DISPOSITION OF THE CASE MIGHT HAVE BEEN AT THAT TIME, DO ANY
15 OF THOSE DETAILS STICK IN YOUR MIND?

16 JUROR 198: NO, SIR. NO, SIR.

17 MR. SALEEBY: IS THERE ANYTHING YOU WOULD KNOW
18 OFF OF THAT OR FROM ANY OTHER SOURCE THAT WOULD INFLUENCE
19 YOUR ABILITY TO BE FAIR AND IMPARTIAL TODAY?

20 JUROR 198: NO, SIR.

21 MR. SALEEBY: DO YOU FEEL COMFORTABLE THAT YOU
22 COULD LISTEN TO EVERYTHING THE COURT ALLOWS BOTH SIDES TO
23 PRESENT AND THEN MAKE UP YOUR OWN MIND AS TO WHAT THE
24 PROPER PUNISHMENT WOULD BE?

25 JUROR 198: YES, SIR.

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1 MR. SALEEBY: COULD YOU RECOMMEND EITHER LIFE IN
2 PRISON OR THE DEATH PENALTY BASED ON WHAT YOU THOUGHT
3 ABOUT THE CRIME AND THE DEFENDANT AND THE VICTIM?

4 JUROR 198: YES, SIR.

5 MR. SALEEBY: AND COULD YOU SIGN YOUR NAME TO A
6 FORM CERTIFYING THAT TO THE COURT?

7 JUROR 198: YES, SIR.

8 MR. SALEEBY: THANK YOU, SIR, APPRECIATE YOUR TIME.

9 THE COURT: MR. BABB?

10 MR. BABB: GOOD AFTERNOON, MR. SLATER. MY NAME IS
11 JIM BABB. I AND CAM LITTLEJOHN WILL BE REPRESENTING MR. STONE
12 IN THIS MATTER. NOW, YOU INDICATED THAT YOU'RE A TYPE THREE
13 JUROR.

14 JUROR 198: YES, SIR.

15 MR. BABB: SO YOU COME TO US WITH AN OPEN MIND.

16 JUROR 198: YES, SIR.

17 MR. BABB: YOU'RE PREPARED TO LISTEN TO THE FACTS AS
18 THEY'RE STATED BY THE WITNESSES AND THE EVIDENCE?

19 JUROR 198: YES, SIR.

20 MR. BABB: NOW, IF YOU SHOULD BE CALLED ON TO MAKE
21 A DECISION IN THIS CASE, IF YOU'RE ON THE JURY AND THAT WHERE
22 WE GET TO, YOU MAY BE HEARING MITIGATING FACTORS. THOSE
23 COULD BE OTHER THAN JUST THE FACTS OF WHAT HAPPENED IN THE
24 EVENT THAT BROUGHT US HERE. THOSE THINGS MAY INVOLVE
25 THINGS ABOUT THE DEFENDANT'S BACKGROUND, ABOUT HIS FAMILY,

1 ABOUT HIS UPBRINGING THAT HAVE RELEVANCE ON HIM AS A HUMAN
2 BEING AND MAY HAVE INFLUENCED HIS LIFE. CAN YOU CONSIDER
3 THOSE AS MITIGATING CIRCUMSTANCES?

4 JUROR 198: YES, SIR.

5 MR. BABB: OKAY. YOU'RE A LITTLE ... YOU HESITATE.
6 COULD YOU EXPLAIN THAT?

7 JUROR 198: I HAD TO MAKE SURE THAT I UNDERSTOOD
8 WHAT YOU'RE SAYING.

9 MR. BABB: ALL RIGHT.

10 JUROR 198: I JUST WANTED TO MAKE SURE THAT I AM
11 DOING THAT WHICH IS RIGHT.

12 MR. BABB: AND THAT'S ALL THAT WE WANT. I ... I MERELY
13 ASKED FOR THAT EXPLANATION AND I APPRECIATE THAT VERY
14 MUCH. NOW, DO YOU BELIEVE THAT THE LIFE IMPRISONMENT IS A
15 SUBSTANTIAL PENALTY, IS A HEAVY PENALTY?

16 JUROR 198: YES, SIR.

17 MR. BABB: OKAY. BUT YOU DON'T BELIEVE EVERY
18 MURDER SOMEONE'S CONVICTED OF MURDER THAT THEY SHOULD
19 AUTOMATICALLY GET THE DEATH PENALTY?

20 JUROR 198: NO, SIR.

21 MR. BABB: NOW, MR. SLATER, IF YOU WERE ON THE JURY
22 AND YOU'VE HEARD ALL THE EVIDENCE AND YOU'VE FORMED AN
23 OPINION ABOUT WHAT THE OUTCOME SHOULD BE, WHAT'S YOUR
24 VOTE OR YOUR RECOMMENDATION SHOULD BE IN THE CASE AND THE
25 MAJORITY OF THE JURORS FEEL OTHERWISE ARE YOU GONNA

1 CHANGE YOUR VOTE?

2 JUROR 198: NO, SIR.

3 MR. BABB: ARE YOU SAYING THAT YOU WOULD
4 MAINTAIN AND STICK WITH YOUR CONVICTIONS?

5 JUROR 198: YES, SIR.

6 MR. BABB: NOW, YOU'RE GONNA BE LIVING WITH THESE
7 FOLKS FOR A WEEK OR SO IF THAT COMES UP. SO WOULD YOU
8 RESPECT THEIR OPINIONS?

9 JUROR 198: RESPECT, YES, SIR, IF THAT'S THEIR OPINION
10 THAT'S THEIR OPINION.

11 MR. BABB: AND THEIR RIGHT TO DIFFER FROM YOU.

12 JUROR 198: THAT'S CORRECT.

13 MR. BABB: AND WOULD YOU EXPECT THEM TO DO THE
14 SAME FOR YOU?

15 JUROR 198: YES.

16 MR. BABB: COURT'S INDULGENCE.

17 THE COURT: ALL RIGHT, SIR.

18 MR. BABB: I HAVE NOTHING FURTHER.

19 THE COURT: ALL RIGHT. THANK YOU, MR. SLATER. YOU
20 MAY STEP DOWN AND STEP OUTSIDE FOR JUST A MOMENT WHILE I
21 TAKE UP A COUPLE MATTERS WITH THE ATTORNEYS. MR. SALEEBY?

22 MR. SALEEBY: I WOULD THINK HE WAS QUALIFIED.

23 MR. LITTLEJOHN: WE AGREE, YOUR HONOR.

24 THE COURT: ALL RIGHT. I'M GONNA FIND HIM TO BE
25 QUALIFIED. I AGREE. HAVE HIM COME IN. ALL RIGHT, MR. SLATER,

HEARING

1 YOU HAVE BEEN QUALIFIED AS A JUROR IN THIS CASE. THAT DOES
2 NOT NECESSARILY MEAN YOU ARE GOING TO SERVE ON THE CASE
3 BUT YOU HAVE BEEN QUALIFIED AS A JUROR AND I'M GOING TO ASK
4 YOU TO COME BACK TOMORROW. I'M GOING TO EXCUSE YOU NOW
5 AND ASK YOU TO COME BACK TO THE COURTROOM TOMORROW AT
6 2:00. AT THAT TIME WE SHOULD BE READY TO GO FORWARD WITH
7 THE FINAL SELECTION OF THE JURY. I'M GONNA ASK YOU TONIGHT TO
8 PACK UP YOUR CLOTHES AND ANY PERSONAL ITEMS THAT YOU NEED
9 AND BRING ANY MEDICATION OR ANYTHING THAT YOU MIGHT NEED
10 AND BRING THAT WITH YOU WHEN YOU REPORT BACK TOMORROW AT
11 2:00 O'CLOCK BUT DO NOT BRING IT TO THE COURTHOUSE. YOU CAN
12 LEAVE IT IN YOUR CAR. IF YOU ARE SELECTED ON THE JURY YOU'LL
13 BE UNPACKING THAT STUFF OUT OF YOUR CAR AT THE HOTEL. IF
14 YOU'RE NOT SELECTED ON THE JURY, YOU'LL BE UNPACKING IT
15 TOMORROW NIGHT AT HOME. I WILL TELL YOU THAT WHEN YOU
16 COME BACK TOMORROW HAVE HAD YOUR LUNCH AND BRING YOUR
17 CLOTHES AND THINGS WITH YOU. ALSO OVER THE EVENING RECESS
18 DO NOT DISCUSS THE CASE WITH ANYBODY OR ALLOW ANYONE TO
19 DISCUSS IT WITH YOU. DO NOT READ THE NEWSPAPER ACCOUNTS OF
20 THIS CASE AND DO NOT LISTEN TO ANY TELEVISION REPORTS.
21 DIVORCE THIS CASE FROM YOUR MIND UNTIL YOU REPORT BACK TO
22 COURT TOMORROW AND WE WILL GO THROUGH WITH THE SELECTION
23 PROCESS AT THAT TIME. I'M GOING TO EXCUSE YOU AT THIS TIME.
24 BUT WHEN DO COME BACK BE PREPARED TO STAY WITH US FOR A
25 WHILE. THANK YOU VERY MUCH. NUMBER 218, MR. TOMLIN. OKAY,

1 MR. TOMLIN, HOW ABOUT JUST RELAX A LITTLE BIT. I KNOW THIS IS
2 KIND OF AN INTIMIDATING SITUATION TO BE CALLED INTO CAUSE IT'S
3 NOT OFTEN THAT YOU'RE CALLED TO SIT UP HERE AND TESTIFY AND
4 HAVE ALL THESE LAWYERS AND PEOPLE SITTING AROUND. BUT DON'T
5 WORRY ABOUT THAT. YOU'LL BE TREATED WITH COURTESY
6 AND WHILE WE ASK YOU SOME QUESTIONS. YESTERDAY WHEN YOU
7 WERE SWORN OR YESTERDAY WHEN YOU WERE QUALIFIED YOU
8 WERE SWORN TO TELL THE TRUTH AND YOU'RE STILL UNDER THAT
9 OATH. YOU UNDERSTAND THAT?

10 MR. TOMLIN: YES, SIR.

11 THE COURT: OKAY. AND I DO NEED TO ASK YOU SOME
12 QUESTIONS AND THERE ARE QUESTIONS THAT THE LAWYERS ARE
13 GOING TO NEED TO ASK YOU SOME QUESTIONS ABOUT YOUR
14 QUALIFICATIONS TO SERVE ON THE JURY IN THIS CASE. THERE ARE
15 NO RIGHT OR WRONG ANSWERS TO SOME OF THE QUESTIONS. ALL WE
16 WANT YOU TO DO IS GIVE US AN HONEST ANSWER OF HOW YOU FEEL
17 OR HOW YOU VIEW A CERTAIN THING. AND DON'T TRY TO GIVE
18 ANSWERS THAT YOU THINK SOMEBODY WANTS TO HEAR. YOU JUST
19 GIVE US THE ANSWERS THAT YOU HONESTLY FEEL IN YOUR HEART
20 ARE CORRECT. I WILL TELL YOU THAT MR. BOBBY WAYNE STONE HAS
21 ALREADY BEEN ADJUDICATED AS GUILTY OF THE MURDER OF
22 SERGEANT KABALA IN THIS CASE. SO THE QUESTION OF WHETHER HE
23 IS GUILTY OR NOT GUILTY IS NOT A MATTER THAT THIS JURY IS GOING
24 TO DECIDE. THE ONLY ISSUE THAT THIS JURY IS GOING TO DECIDE OR
25 THE ONLY QUESTION THAT'S GOING TO BE BEFORE THIS JURY IS THE

1 QUESTION OF PUNISHMENT, WHAT THE PUNISHMENT SHOULD BE TO
2 THIS DEFENDANT AS A RESULT OF HIS CONVICTION FOR MURDER.
3 HAVING SAID THAT I WOULD ASK IF YOU READ OVER THE TYPES OF
4 JURORS THAT WAS GIVEN TO YOU BACK IN THE JURY ROOM, TYPE
5 ONE, TYPE TWO, TYPE THREE JURORS. HAVE YOU READ THAT OVER?

6 MR. TOMLIN: YES, SIR.

7 THE COURT: WHICH DO YOU THINK BEST DESCRIBES YOU?
8 TYPE ONE, TYPE TWO OR TYPE THREE JUROR?

9 MR. TOMLIN: TYPE TWO.

10 THE COURT: TYPE TWO. ALL RIGHT. NOW, WHEN YOU
11 SAY TYPE TWO YOU ARE AN INDIVIDUAL THEN WHO IF THAT WERE
12 CORRECT THEN YOU'RE THE TYPE JUROR THAT WOULD NEVER IMPOSE
13 THE DEATH PENALTY NO MATTER WHAT THE FACTS AND
14 CIRCUMSTANCES OF THE CASE ARE, IS THAT CORRECT?

15 MR. TOMLIN: YES, SIR.

16 THE COURT: AND THE STATE WOULD BE REQUIRED AND
17 ARE GOING TO BE REQUIRED IN THIS CASE AND I WILL SO INSTRUCT
18 THE JURY THAT THE STATE MUST PROVE WHAT WE CALL STATUTORY
19 AGGRAVATING CIRCUMSTANCES. THAT IS THAT THERE ARE CERTAIN
20 THINGS THAT THE LEGISLATURE HAS DECLARED THAT MAKE THE
21 CRIME WORSE OR MORE SEVERE AND IF THE STATE PROVES ONE OF
22 THOSE STATUTORY AGGRAVATING CIRCUMSTANCES THE JURY
23 WOULD BE JUSTIFIED IN RETURNING A VERDICT OF ... A VERDICT THAT
24 RECOMMENDS THE DEATH PENALTY. ARE YOU TELLING ME THAT
25 YOU WOULD NOT BE ABLE UNDER ANY CIRCUMSTANCES TO FOLLOW

1 THE COURT'S INSTRUCTIONS ON THAT AND TO RENDER A VERDICT OF
2 THE DEATH PENALTY?

3 MR. TOMLIN: NO, SIR.

4 THE COURT: YOU WOULD NOT BE ABLE TO, IS THAT
5 CORRECT?

6 MR. TOMLIN: YES, SIR.

7 THE COURT: THANK YOU. FURTHER QUESTIONS FROM
8 THIS WITNESS, MR. ...

9 MR. JACKSON: NO, SIR.

10 THE COURT: THANK YOU. MR. LITTLEJOHN?

11 MR. LITTLEJOHN: NO, YOUR HONOR.

12 THE COURT: ALL RIGHT. I BELIEVE THAT YOU ARE NOT
13 QUALIFIED TO SERVE ON THE JURY IN THIS CASE, MR. TOMLIN, SO I AM
14 GOING TO EXCUSE YOU. YOU ARE FREE TO GO. THANK YOU FOR
15 COMING.

16 BAILIFF: YOU ARE EXCUSED.

17 THE COURT: ANY OBJECTIONS TO THAT PROCEDURE, MR.

18 ...

19 MR. JACKSON: NO, SIR.

20 MR. LITTLEJOHN: NO, YOUR HONOR.

21 THE COURT: ... FROM THE STATE OR THE DEFENSE?

22 MR. JACKSON: NO, YOUR HONOR.

23 THE COURT: ALL RIGHT. THE NEXT JUROR IS NUMBER 39,
24 MR. COCHRAN.

25 BAILIFF: JUROR NUMBER 39, MR. COCHRAN.

1 THE COURT: EVENING, MR. COCHRAN.

2 JUROR 39: EVENING.

3 THE COURT: SORRY TO KEEP YOU WAITING IN THE JURY
4 ROOM BUT WE HAD A LOT TO DO AND WE HAVE BEEN WORKING HARD
5 AND I DO APOLOGIZE TO YOU AND I KNOW THAT THIS SITUATION IS A
6 LITTLE BIT INTIMIDATING. DON'T BE INTIMIDATED BY THE BIG ROOM
7 AND ALL THESE PEOPLE IN SUITS AND BLACK ROBES. BUT WE DO
8 NEED TO ASK YOU SOME QUESTIONS TO DETERMINE YOUR
9 QUALIFICATIONS TO SERVE ON THE JURY IN THIS CASE. I WILL TELL
10 YOU THAT YESTERDAY WHEN WE WERE GOING THROUGH THE
11 QUALIFICATION PROCESS YOU WERE SWORN AS A JUROR TO TELL THE
12 TRUTH AND I WILL REMIND YOU THAT YOU'RE STILL UNDER OATH. DO
13 YOU UNDERSTAND?

14 JUROR 39: I DO, YOUR HONOR.

15 THE COURT: OKAY. NOW, MR. COCHRAN, WE ARE GOING
16 TO ASK YOU SOME QUESTIONS AND THESE QUESTIONS ARE NOT
17 DESIGNED TO INVADE YOUR PRIVACY BUT THEY ARE QUESTIONS ON
18 WHICH WE NEED THE ANSWER TO BECAUSE OF THE VERY NATURE OF
19 THIS CASE. THERE ARE NO RIGHT OR WRONG ANSWERS TO SOME OF
20 THE QUESTIONS. WE SIMPLY NEED TO KNOW WHAT YOUR VIEWS ARE
21 AND WHAT YOUR FEELING IS IN ORDER TO EVALUATE WHETHER YOU
22 ARE A QUALIFIED JUROR. SO ALL WE ASK IS THAT YOU BE OPEN AND
23 HONEST IN ANSWERING ALL THE QUESTIONS.

24 JUROR 39: OKAY.

25 THE COURT: HAVE YOU HAD AN OPPORTUNITY TO LOOK

HEARING

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1 AT THE JUROR SHEET THAT YOU WERE GIVEN BACK IN THE JURY
2 ROOM?

3 JUROR 39: YES, I DID.

4 THE COURT: THERE ARE THREE TYPES OF JURORS, TYPE
5 ONE, TYPE TWO, AND TYPE THREE. WHICH TYPE OF JUROR DO YOU
6 BELIEVE BEST DESCRIBES YOU?

7 JUROR 39: TYPE TWO.

8 THE COURT: TYPE TWO?

9 JUROR 39: THAT'S CORRECT.

10 THE COURT: ALL RIGHT. TYPE TWO IS THE TYPE OF JUROR
11 THAT WOULD NEVER IMPOSE THE DEATH PENALTY NO MATTER WHAT
12 THE CIRCUMSTANCES OF THE CASE WERE AND IS THAT WHAT YOU
13 FEEL IS YOUR SITUATION?

14 JUROR 39: I DO.

15 THE COURT: ALL RIGHT. NOW, I WILL TELL YOU THAT THE
16 STATE WOULD HAVE TO PROVE BEYOND A REASONABLE DOUBT AT
17 LEAST ONE AGGRAVATING CIRCUMSTANCE. AGGRAVATING
18 CIRCUMSTANCES ARE THOSE CIRCUMSTANCES THAT HAVE BEEN
19 DECLARED BY OUR LEGISLATURE WHICH MAKE A MURDER WORSE OR
20 WHICH AGGRAVATES THE PUNISHMENT FOR WHICH THE CRIME OF
21 MURDER INCREASING THE ENORMITY OR ADDING TO THE INJURY OF
22 THE CRIME OF MURDER. THE STATE WOULD HAVE TO PROVE AT
23 LEAST ONE OF THOSE AGGRAVATING CIRCUMSTANCES. THERE ARE
24 ALSO MITIGATING CIRCUMSTANCES. THEY'RE JUST THE OPPOSITE.
25 STATUTORY MITIGATING CIRCUMSTANCES ARE THOSE FACTS OR

HEARING

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1 DETAILS WHICH OUR GENERAL ASSEMBLY HAS DECLARED REDUCES
2 THE SEVERITY OF THE OFFENSE OF MURDER AND MAY BE
3 CONSIDERED AS EXTENUATING OR REDUCING THE DEGREE OF
4 CULPABILITY OR RESPONSIBILITY. IS IT YOUR TESTIMONY AND IS IT
5 YOUR POSITION THAT NO MATTER WHAT STATUTORY AGGRAVATING
6 CIRCUMSTANCES THAT THE STATE PROVES IN THIS CASE THAT YOU
7 WOULD UNDER NO CIRCUMSTANCES BE ABLE TO RENDER A
8 SENTENCE OF DEATH?

9 JUROR 39: THAT'S CORRECT.

10 THE COURT: ALL RIGHT, ANY QUESTIONS, FURTHER
11 QUESTIONS?

12 MR. SALEEBY: WE HAVE NO QUESTIONS, THANK YOU, SIR.

13 THE COURT: ALL RIGHT. ON BEHALF OF THE DEFENSE?

14 MR. LITTLEJOHN: NO, YOUR HONOR.

15 THE COURT: ALL RIGHT. I WILL FIND THAT MR. COCHRAN
16 IS NOT QUALIFIED TO BE A JUROR IN THIS CASE AND HE WILL BE
17 EXCUSED. THANK YOU, MR. COCRHAN, I APPRECIATE YOU COMING.

18 JUROR 39: THANK YOU. ANY DISAGREEMENT WITH THE
19 EXCUSAL ON BEHALF OF THE STATE?

20 MR. SALEEBY: NO, SIR.

21 THE COURT: FROM THE DEFENSE?

22 MR. LITTLEJOHN: NO, YOUR HONOR.

23 THE COURT: OKAY. JUROR NUMBER 64, MS. FULWOOD.
24 ALL RIGHT, MS. FULWOOD, GOOD AFTERNOON.

25 JUROR 64: SAME TO YOU.

1 THE COURT: I'M SORRY TO KEEP YOU WAITING IN THE
2 JURY ROOM AND FOR THAT I APOLOGIZE. IT'S VERY DIFFICULT TO
3 RUN THINGS ON A TIGHT SCHEDULE. WE NEVER KNOW EXACTLY HOW
4 LONG THINGS ARE GOING TO TAKE.

5 JUROR 64: I UNDERSTAND.

6 THE COURT: DON'T BE INTIMIDATED BY THIS BIG ROOM
7 AND THIS BLACK ROOM AND ALL THESE PEOPLE SITTING AROUND IN
8 THE SEATS. EVERYBODY'S GOING TO TREAT YOU COURTEOUSLY AND
9 FAIRLY AND THERE ARE CERTAIN QUESTIONS THAT WE NEED TO ASK
10 YOU TO DETERMINE YOUR QUALIFICATIONS TO SERVE ON THE JURY
11 IN THIS CASE. WE ASK ONLY THAT YOU GIVE US YOUR HONEST
12 ANSWER AND OPEN ANSWER. THEY ... THE QUESTIONS ARE NOT
13 DESIGNED TO INVADE YOUR PRIVACY BUT THERE ARE MATTERS THAT
14 WE NEED TO KNOW TO DETERMINE YOUR QUALIFICATION. THERE
15 ARE NO RIGHT OR WRONG ANSWERS TO SOME OF THE QUESTIONS.
16 AND WE JUST NEED YOUR HONEST EVALUATION AND YOUR HONEST
17 ANSWER. I WOULD ALSO TELL YOU THAT YESTERDAY WHEN WE
18 WENT THROUGH THE QUALIFICATION PROCESS YOU WERE
19 ADMINISTERED AN OATH AND SWORE TO TELL THE TRUTH AND I WILL
20 TELL YOU NOW THAT OATH STILL APPLIES. YOU UNDERSTAND THAT?

21 JUROR 64: YES, I DO.

22 THE COURT: NOW, MS. FULWOOD, BOBBY WAYNE STONE,
23 THE DEFENDANT IN THIS CASE HAS ALREADY BEEN FOUND TO BE
24 GUILTY OF MURDER. THAT ISSUE IS NOT GOING TO BE BEFORE THE
25 JURY. THAT HAS ALREADY BEEN DECIDED. THE ONLY QUESTION

1 WHICH WILL BE BEFORE THE JURY THAT THE JURY WILL HAVE TO
2 DEAL WITH IS THE PUNISHMENT TO BE ... OR TO BE IMPOSED IN THIS
3 CASE. THAT BEING THE CASE I NEED TO ASK YOU AT THIS POINT HAVE
4 YOU READ THE JUROR INFORMATION SHEET THAT I GAVE ... THAT I
5 HAD IN THE JURY ROOM THAT DESCRIBES THE THREE TYPES OF
6 JURORS?

7 JUROR 64: YES, I DID.

8 THE COURT: AND HAVING READ THAT AND DESCRIBING
9 THE TYPE ONE, TYPE TWO AND TYPE THREE, WHICH OF THOSE THREE
10 TYPES DO YOU THINK BEST DESCRIBES YOU AS A JUROR?

11 JUROR 64: TYPE TWO.

12 THE COURT: TYPE TWO.

13 JUROR 64: UH-HUH (AFFIRMATIVE RESPONSE).

14 THE COURT: SO WHEN YOU SAY THAT TYPE TWO BEST
15 DESCRIBES YOU YOU'RE SAYING THAT YOU ARE THE TYPE OF JUROR
16 WHO WOULD NEVER IMPOSE THE DEATH PENALTY NO MATTER WHAT
17 THE CIRCUMSTANCES OF THE CASE ARE, IS THAT CORRECT?

18 JUROR 64: NO.

19 THE COURT: ALL RIGHT. I WOULD TELL YOU THAT OUR
20 STATUTE THAT OUR LEGISLATURE HAS PROVIDED THAT THERE ARE
21 CERTAIN STATUTORY AGGRAVATING CIRCUMSTANCES. THAT MEANS
22 THAT THE STATE MUST PROVE BEYOND A REASONABLE DOUBT AT
23 LEAST ONE STATUTORY AGGRAVATING CIRCUMSTANCE. AND
24 STATUTORY AGGRAVATING CIRCUMSTANCES ARE CIRCUMSTANCES
25 THAT INCREASE THE ENORMITY OF THE OFFENSE OR ADDS TO THE

1 INJURY OF THE CRIME OF MURDER. THERE ARE ALSO WHAT ARE
2 CALLED STATUTORY MITIGATING CIRCUMSTANCES. THEY'RE
3 EXACTLY THE OPPOSITE. THESE ARE FACTS, INCIDENTS AND DETAILS
4 OF OCCURRENCES THAT THE GENERAL ASSEMBLY HAS DECLARED BY
5 STATUTE REDUCES THE SEVERITY OF THE OFFENSE OF MURDER AND
6 MAY BE CONSIDERED AS EXTENUATING OR REDUCING THE DEGREE OF
7 CULPABILITY OR RESPONSIBILITY. ARE YOU TELLING ME AND I JUST
8 WANT TO MAKE SURE ... I'M NOT CRITICIZING YOU FOR THIS ... I JUST
9 WANT TO KNOW WHAT YOUR FEELINGS ARE. ARE YOU TELLING ME
10 THAT YOU WOULD NOT BE ABLE TO CONSIDER ANY STATUTORY
11 AGGRAVATING CIRCUMSTANCES AND BASED UPON THE FACTS THAT
12 YOU SEE THEM TO BE, BASED UPON WHAT THE STATE PRESENTS OR
13 PROVES BEYOND A REASONABLE DOUBT, UNDER NO CIRCUMSTANCES
14 WOULD YOU BE ABLE TO CONSIDER THOSE MATTERS AND RENDER A
15 VERDICT THAT INCLUDED DEATH. IS THAT CORRECT?

16 JUROR 64: THAT IS CORRECT.

17 THE COURT: ALL RIGHT. MR. JACKSON ...

18 MR. JACKSON: NO QUESTIONS, YOUR HONOR.

19 THE COURT: ALL RIGHT. MR. ...

20 MR. BABB: NO ...

21 THE COURT: ... BABB. ALL RIGHT. I WOULD FIND THAT
22 THIS JUROR IS NOT QUALIFIED FOR THIS PARTICULAR CASE. THANK
23 YOU, MS. FULWOOD FOR YOUR HONESTY. THE FACT THAT YOU ARE
24 NOW NOT QUALIFIED IS IN NO WAY A CRITICISM OF YOU. IT SIMPLY
25 HAS TO DO WITH THE FACTS AND CIRCUMSTANCES OF THIS CASE AND

1 YOU ARE CERTAINLY ENTITLED TO YOUR VIEWS. THANK YOU FOR
2 COMING AND YOU ARE FREE TO GO.

3 JUROR 64: ALL RIGHT. THANK YOU.

4 THE COURT: ANY OBJECTION TO THE EXCUSAL OF THIS
5 JUROR ON BEHALF OF THE STATE?

6 MR. JACKSON: NO, YOUR HONOR.

7 THE COURT: ON BEHALF OF DEFENSE?

8 MR. BABB: NO, YOUR HONOR.

9 THE COURT: ALL RIGHT. ALL RIGHT, GENTLEMEN, LET'S
10 GO TO PANEL NUMBER 11. GOOD EVENING, MS. BLANCHETTE.

11 JUROR 19: GOOD EVENING.

12 THE COURT: I DON'T WANT YOU TO BE INTIMIDATED BY
13 THIS SITUATION. I KNOW WHEN YOU COME INTO A SITUATION, YOU
14 GOT ALL THESE PEOPLE SITTING AROUND IN THE SEATS AND BLACK
15 ROBES AND ALL BUT I WILL JUST TELL YOU THAT WE WANT YOU TO
16 BE AT EASE. I NEED TO ASK YOU SOME QUESTIONS. THE LAWYERS
17 ARE GOING TO NEED TO ASK YOU SOME QUESTIONS TO DETERMINE
18 YOUR QUALIFICATIONS TO SERVE ON THE JURY AND I WILL TELL YOU
19 THAT THERE ARE NO RIGHT OR WRONG ANSWERS TO SOME OF THE
20 QUESTIONS. THEY'RE SIMPLY DESIGNED TO ... THE QUESTIONS ARE
21 BEING ASKED SIMPLY TO DETERMINE HOW YOU FEEL ABOUT CERTAIN
22 SITUATIONS AND WE JUST WANT YOU TO BE OPEN AND HONEST WITH
23 US. YOU ARE CERTAINLY ENTITLED TO THE WAY YOU FEEL. WE
24 SIMPLY WANT TO KNOW THAT THAT IS. I WOULD ALSO TELL YOU
25 THAT YESTERDAY WHEN WE WENT THROUGH THE QUALIFICATION

1 PROCESS YOU WERE PUT UNDER OATH AND I'LL REMIND YOU THAT
2 YOU'RE STILL UNDER OATH AND ANY ANSWERS YOU GIVE ARE STILL
3 SWORN TESTIMONY. DO YOU UNDERSTAND THAT?

4 JUROR 19: I DO.

5 THE COURT: NOW, MS. BLANCHETTE, IN THIS MATTER, MR.
6 BOBBY WAYNE STONE, WHO IS THE DEFENDANT IN THIS CASE WHO IS
7 SEATED OVER NEXT TO MR. BABB HAS ALREADY BEEN FOUND GUILTY
8 OF MURDER. SO THE ISSUE OF WHETHER HE IS GUILTY OR NOT GUILTY
9 IS NOT GOING TO BE BEFORE THE JURY, IT IS NOT GOING TO BE UP FOR
10 THEIR CONSIDERATION. THE ONLY QUESTION THAT THE JURY WILL
11 DEAL WITH IS THE APPROPRIATE PUNISHMENT TO BE IMPOSED ON MR.
12 STONE. HAVING SAID THAT I NEED TO ASK YOU IF YOU'VE HAD THE
13 OPPORTUNITY TO REVIEW THE THREE TYPES OF JURORS IN THIS CASE.
14 TYPE ONE, TYPE TWO, AND TYPE THREE. HAVE YOU HAD A CHANCE
15 TO READ THAT INFORMATION?

16 JUROR 19: YES, I DID.

17 THE COURT: AND BASED ON THE TYPES OF JURORS THAT
18 WERE DESCRIBED IN THAT DOCUMENT AS TYPE ONE, TYPE TWO AND
19 TYPE THREE, WHICH DO YOU THINK MOST CLEARLY REFLECTS THE
20 TYPE OF JUROR THAT YOU SEE YOURSELF AS?

21 JUROR 19: TYPE THREE.

22 THE COURT: TYPE THREE. ALL RIGHT. NOW, WHEN YOU
23 SAY THAT YOU ARE TYPE THREE I WANT TO MAKE SURE THAT I
24 UNDERSTAND WHAT YOU'RE SAYING IS THAT AFTER LISTENING TO
25 THE FACTS AND CIRCUMSTANCES SURROUNDING THIS CASE AND

HEARING

1 DEPENDING ON THOSE FACTS AND CIRCUMSTANCES YOU COULD
2 EITHER FIND FOR LIFE IMPRISONMENT OR YOU COULD FIND IF THE
3 FACTS WARRANTED IT THE PUNISHMENT OF DEATH. IS THAT
4 CORRECT?

5 JUROR 19: YES.

6 THE COURT: NOW, I WANTED TO TELL YOU, MS.
7 BLANCHETTE, THAT IN THIS STATE THERE ARE WHAT ARE CALLED
8 STATUTORY AGGRAVATING CIRCUMSTANCES. THE STATE WILL HAVE
9 TO PROVE AT LEAST ONE STATUTORY AGGRAVATING CIRCUMSTANCE
10 BEYOND A REASONABLE DOUBT AND YOU WILL CONSIDER THAT AND
11 YOU WILL ALSO CONSIDER IF YOU WERE TO SERVE ON THE JURY IN
12 THIS CASE ANY STATUTORY MITIGATING CIRCUMSTANCES IN THIS
13 CASE. NOW, STATUTORY AGGRAVATING CIRCUMSTANCES ARE
14 INCIDENTS OR OCCURRENCES OR DETAILS THAT OUR LEGISLATURE
15 HAS DECLARED MAKE WORSE, THAT IS THEY AGGRAVATE THE
16 OFFENSE OF MURDER. THEY ... WHEN THEY ACCOMPANY A MURDER
17 THEY INCREASE THE ENORMITY OR ADD TO THE INJURY OF THE CRIME
18 OF MURDER. MITIGATING CIRCUMSTANCES ARE JUST THE OPPOSITE.
19 THEY ARE FACTS OR DETAILS THAT THE LEGISLATURE HAS DECLARED
20 REDUCES THE SEVERITY OF THE OFFENSE OF MURDER AND MAY BE
21 CONSIDERED AS EXTENUATING OR REDUCING THE DEGREE OF
22 RESPONSIBILITY. THERE ARE STATUTORY MITIGATING
23 CIRCUMSTANCES AND THEN THERE ARE OTHER MITIGATING
24 CIRCUMSTANCES THAT THE DEFENSE MAY ASK THAT YOU CONSIDER.
25 MY QUESTION TO YOU IS THIS, THAT AFTER CONSIDERING ALL OF THE

1 TESTIMONY IN THIS CASE, IF THE STATE HAS CONVINCED YOU THAT ...
2 HAS PROVEN TO YOU BEYOND A REASONABLE DOUBT OF AT LEAST
3 ONE STATUTORY AGGRAVATING CIRCUMSTANCE YOU MAY BE ASKED
4 OR YOU WILL BE ASKED TO SIGN A VERDICT FORM AND THAT MEANS
5 THAT YOU AND ALL 11 MEMBERS OF THE JURY WOULD HAVE TO SIGN
6 A VERDICT FORM AND THAT VERDICT FORM COULD BE EITHER FOR
7 LIFE IMPRISONMENT OR FOR DEATH BY ELECTROCUTION OR LETHAL
8 INJECTION. AFTER HEARING ALL OF THE EVIDENCE AND BEING
9 SATISFIED THAT THE STATE HAS PROVEN THOSE MATTERS TO YOU
10 BEYOND A REASONABLE DOUBT COULD YOU SIGN A VERDICT FORM
11 THAT PROVIDES FOR EITHER LIFE IMPRISONMENT OR FOR DEATH BY
12 DEATH AS PUNISHMENT FOR THIS CRIME?

13 JUROR 19: YES, SIR.

14 THE COURT: OKAY. ALL RIGHT. LET ME SWITCH
15 GEARS FOR JUST A MINUTE HERE. HAVE YOU HEARD ANYTHING,
16 READ ANYTHING OR KNOW ANYTHING FROM ANY SOURCE
17 WHATSOEVER ABOUT THIS CASE?

18 JUROR 19: ONLY TUESDAY MORNING'S PAPER.

19 THE COURT: TUESDAY MORNING'S PAPER.

20 JUROR 19: TUESDAY MORNING'S PAPER.

21 THE COURT: AND TELL US WHAT YOU LEARNED FROM
22 THAT.

23 JUROR 19: THAT HE WAS CON ... HE WAS CONVICTED AND
24 ... AND HE HAD THE DEATH PENALTY AND A JUROR WAS DISMISSED
25 AND THIS WAS IT BEING RETRIED.

1 THE COURT OKAY. ALL RIGHT. SO ...

2 JUROR 19: I'M NOT SURE I UNDERSTAND WHY THE JUROR
3 WAS DISMISSED.

4 THE COURT: ALL RIGHT. I UNDERSTAND THAT. BUT FOR
5 WHATEVER REASON WHAT YOUR UNDERSTANDING IS THAT HE WAS
6 NOT ONLY FOUND GUILTY BUT IN THE PAST WAS GIVEN THE DEATH
7 SENTENCE AND IS BACK BEFORE THIS COURT NOW TO DETERMINE ...
8 BACK BEFORE THIS JURY TO DETERMINE WHAT IS THE APPROPRIATE
9 PUNISHMENT, IS THAT WHAT YOU UNDERSTAND ...

10 JUROR 19: YES.

11 THE COURT: ... FROM WHAT YOU'VE READ?

12 JUROR 19: YES.

13 THE COURT: ALL RIGHT. WOULD THE FACT THAT HE HAS
14 BEEN GIVEN THE DEATH SENTENCE IN THE PAST INFLUENCE YOU IN
15 ANY WAY IN DECIDING WHETHER HE SHOULD BE GIVEN THE DEATH
16 SENTENCE IN THIS CASE?

17 JUROR 19: I DON'T KNOW. TO ANSWER HONESTLY ...

18 THE COURT: YES, MA'AM, THAT'S WHAT WE WANT.

19 JUROR 19: I DON'T KNOW.

20 THE COURT: WOULD YOU BE ABLE TO PUT THAT FACT
21 ASIDE BASED UPON WHAT YOU HAVE READ AND DECIDE THIS CASE
22 BASED UPON WHAT YOU HEAR IN THIS COURTROOM ...

23 JUROR 19: YES.

24 THE COURT: ... AND BASED UPON THE INSTRUCTIONS
25 THAT I GIVE YOU?

1 JUROR 19: YES.

2 THE COURT: WOULD YOU BE ABLE TO DISABUSE FROM
3 YOUR MIND WHAT YOU HAVE PREVIOUSLY READ ABOUT THIS
4 MATTER?

5 JUROR 19: YES.

6 THE COURT: NOW, ONE OTHER QUESTION, MA'AM, AND
7 THAT IS IF YOU ARE SELECTED AS A JUROR IN THIS CASE YOU WILL BE
8 REQUIRED TO BE SEQUESTERED, THAT IS PUT UP IN A MOTEL FOR FIVE
9 OR SIX DAYS UNTIL THIS MATTER IS CONCLUDED. EXCEPT FOR THE
10 PERSONAL INCONVENIENCE THAT WOULD CAUSE YOU WOULD THIS
11 CAUSE UNDUE HARDSHIP TO YOU OR ANYONE THAT YOU ARE
12 RESPONSIBLE FOR OR WHO IS DEPENDENT UPON YOU TO HAVE TO BE
13 SEQUESTERED OR TO STAY IN A MOTEL FOR FIVE DAYS, FIVE OR SIX
14 DAYS UNTIL THE CASE IS OVER?

15 JUROR 19: NO.

16 THE COURT: OKAY. ALL RIGHT. THANK YOU VERY MUCH.
17 THAT WILL CONCLUDE ALL THE QUESTIONS THAT I HAVE FOR YOU AT
18 THIS TIME. ANSWER ANY QUESTIONS, MS. BLANCHETTE, THAT MR.
19 SALEEBY MIGHT HAVE FOR YOU.

20 MR. SALEEBY: IS IT BLANCHETTE OR BLANCHETTE?

21 JUROR 19: BLANCHETTE.

22 MR. SALEEBY: MS. BLANCHETTE, MY NAME IS DUDLEY
23 SALEEBY. I'LL BE PROSECUTING THIS CASE ALONG WITH SOLICITOR
24 JACKSON. WE APPRECIATE YOUR ... YOUR HANGING WITH US AND
25 ANSWERING THESE QUESTIONS. WE REALIZE THIS IS THE FIRST TIME

HEARING

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1 YOU'VE BEEN THROUGH A PROCEDURE LIKE THIS.

2 JUROR 19: IT IS.

3 MR. SALEEBY: OTHER THAN A NEWSPAPER REPORT
4 WHICH WOULD HARDLY BE THE SAME AS A COURT REPORT YO DONT
5 HAVE ANY INFORMATION ABOUT THIS CASE.

6 JUROR 19: NONE WHATSOEVER.

7 THE COURT: YOU DONT HAVE ANY PROBLEM ACCEPTING
8 THE FACT THAT OUR LAW IN IT'S FAIRNESS WANTS TO MAKE SURE
9 THAT WHEN WE PROCEED WE HAVE JURORS WHO CAN MAKE ALL THE
10 DECISIONS THAT THE LAW REQUIRES? SO FAR AS YOU KNOW YOU
11 COULD MAKE EITHER DECISION, THE DEATH PENALTY AND LIFE
12 IMPRISONMENT JUST DEPENDING ON WHAT YOU HEARD HERE.

13 JUROR 19: RIGHT.

14 MR. SALEEBY: CAN YOU ACCEPT THE FACT THAT
15 REGARDLESS OF WHAT HAPPENED AT A DIFFERENT TIME THAT OUR
16 LAW PROVIDES THIS PROCEDURE SO THAT ALL SIDES CAN GET A FAIR
17 HEARING?

18 JUROR 19: YES.

19 THE COURT: AND COULD YOU DEAL WITH THAT AND
20 REGARDLESS OF WHAT SOME OTHER JUDGE AND SOME OTHER 12
21 PEOPLE DID AT A DIFFERENT POINT IN TIME EVALUATE THE SITUATION
22 AS YOU HEAR IT HERE TODAY WITH THIS JUDGE AND WITH THE
23 WITNESSES YOU WILL HEAR?

24 JUROR 19: ABSOLUTELY.

25 THE COURT: MR. BABB.

1 MR. BABB: GOOD EVENING, MS. BLANCHETTE.

2 JUROR 19: GOOD EVENING.

3 MR. BABB: MY NAME IS JIM BABB.

4

5 JUROR 19: HOW YOU DOING?

6 MR. BABB: FINE. THANK YOU. CAM LITTLEJOHN AND I
7 WILL BE REPRESENTING MR. STONE IN THIS CASE. WHEN HIS HONOR
8 WAS TALKING WITH YOU AND HE ... HE ASKED YOU ABOUT HOW YOUR
9 KNOWLEDGE, THAT THERE'S BEEN A PRIOR CONVICTION AND A PRIOR
10 SENTENCE OF DEATH IN THIS CASE WHICH HAS BEEN OVERTURNED I
11 BELIEVE YOU SAID. YOU HESITATED ...

12 JUROR 19: I DID.

13 MR. BABB: YOU SAID TO ANSWER HONESTLY YOU DON'T
14 KNOW IF YOU COULD SET THAT ASIDE. OKAY. COULD YOU TELL ME
15 WHAT YOU MEANT BY THAT?

16 JUROR 19: UNTIL HE ADDRESSED THE SITUATION WHERE I
17 WOULD HEAR ALL THE EVIDENCE JUST LIKE THE BEGINNING, JUST
18 LIKE THIS NEW TRIAL, IS THIS WHAT WE'RE DISCUSSING?

19 MR. BABB: WELL, I'M NOT HERE TO ANSWER QUESTIONS.

20 JUROR 19: I MEAN ...

21 MR. BABB: I'M HERE TO ASK BUT THIS IS ... AS I BELIEVE
22 HIS HONOR HAS TOLD YOU AND MR. SALEEBY HAS TOLD YOU THIS ...
23 WE'RE EMPANELING OR ATTEMPTING TO EMPANEL A JURY FOR A
24 SENTENCING HEARING.

25 JUROR 19: IT'S A BIG RESPONSIBILITY.

1 MR. BABB: YES, MA'AM. AND THAT'S WHY THE STATE HAS
2 ASKED YOU QUESTIONS, THE DEFENSE HAS ASKED YOU QUESTIONS ...

3 JUROR 19: UH-HUH (AFFIRMATIVE RESPONSE).

4 MR. BABB: ... AND HIS HONOR HAS ASKED YOU
5 QUESTIONS. WE'RE NOT TRYING TO INFLUENCE ...

6 JUROR 19: I UNDERSTAND.

7 MR. BABB: ... YOUR THOUGHTS. WE HATE TO DO THIS BUT
8 WE'RE JUST TRYING TO UNDERSTAND WHERE YOU'RE COMING FROM
9 AND ... AND WHAT IF ANY PRECONCEIVED NOTIONS YOU BRING WITH
10 YOU AND IF YOU DO CAN YOU SET THOSE ASIDE.

11 JUROR 19: YES.

12 MR. BABB: AND YOU HAVE ABSOLUTELY NO DOUBT
13 ABOUT THAT?

14 JUROR 19: I DO.

15 MR. BABB: LET'S TALK ABOUT THAT A LITTLE FURTHER.
16 AS WE GET INTO THIS CASE YOU MAY BE HEARING AGGRAVATING
17 CIRCUMSTANCES AS YOU HEAR AND YOU MAY BE HEARING
18 MITIGATING CIRCUMSTANCES. SOME MAY BE STATUTORY AS THE
19 JUDGE HAS SAID PROVIDED BY THE LEGISLATURE. THERE MAY BE
20 ADDITIONAL ONES. MITIGATING CIRCUMSTANCES COULD BE THINGS
21 THAT WERE CONNECTED TO THE EVENT OR NOT CONNECTED TO THE
22 EVENT. IT COULD BE THINGS PERSONAL TO THE DEFENDANT. IT
23 COULD BE ABOUT HIS BACKGROUND, HIS UPBRINGING, HIS HISTORY.
24 COULD YOU CONSIDER THOSE TYPES OF FACTORS FAIRLY AS
25 MITIGATING FACTORS?

1 JUROR 19: YES.

2 MR. BABB: IF THE MAJORITY OF THE REST OF THE JURY
3 REACHES A DIFFERENT CONCLUSION OR IS HEADING IN A DIFFERENT
4 DIRECTION, ARE YOU GONNA FOLLOW THEM AND SIGN ALONG WITH
5 THEM?

6 JUROR 19: NO.

7 MR. BABB: YOU BELIEVE YOU COULD STICK TO YOUR
8 GUNS?

9 JUROR 19: I DO.

10 MR. BABB: DO YOU KNOW YOU'RE GONNA BE ... IF YOU'RE
11 ON THE JURY, YOU'RE GONNA BE SEQUESTERED, YOU'RE GONNA BE
12 EATING, STAYING IN THE HOTEL WITH THESE FOLKS. THERE'S LIKELY
13 TO DEVELOP FRIENDSHIPS. CAN YOU PRESERVE YOUR VIEWS AND
14 STAND UP FOR WHAT YOU'VE DECIDED IS RIGHT?

15 JUROR 19: I CAN. I CAN. YES.

16 MR. BABB: AND WOULD YOU RESPECT THE VIEWS OF
17 OTHER JURORS IF THEY DISAGREED WITH YOUR VIEW?

18 JUROR 19: YES, I WOULD.

19 MR. BABB: DO YOU BELIEVE THAT LIFE IN PRISON IS A
20 SUBSTANTIAL PENALTY?

21 JUROR 19: YES.

22 MR. BABB: COURT'S INDULGENCE.

23 THE COURT: YES, SIR.

24 MR. BABB: NO MORE QUESTIONS, YOUR HONOR.

25 THE COURT: ALL RIGHT. THANK YOU, MS. BLANCHETTE.

1 IF YOU WILL STEP DOWN FOR JUST A MOMENT. THANK YOU FOR
2 YOUR HONESTY AND YOUR CANDOR IN ANSWERING THESE
3 QUESTIONS. IF YOU'LL STAND OUT THERE IN THE HALL FOR A MINUTE
4 WHILE I DISCUSS SOME MATTERS WITH THE ATTORNEYS. MR.
5 SALEEBY?

6 MR. SALEEBY: QUALIFIED, JUDGE.

7 THE COURT: MR. BABB?

8 MR. BABB: WE AGREE.

9 THE COURT: ALL RIGHT. THE COURT WILL FIND THAT THE
10 JUROR IS QUALIFIED. HAVE MS. BLANCHETTE COME BACK IN. ALL
11 RIGHT, MS. BLANCHETTE, YOU HAVE BEEN FOUND TO BE QUALIFIED
12 AS A JUROR IN THIS CASE. IT DOES NOT MEAN YOU WILL
13 NECESSARILY SERVE BUT IT MEANS THAT YOU ARE QUALIFIED AS A
14 JUROR. WE WILL BE STARTING THE TRIAL IN THIS CASE TOMORROW
15 AFTERNOON. WE STILL HAVE SOME MORE QUALIFICATIONS, SOME
16 MORE JURORS TO COMPLETE BUT I AM GOING TO ALLOW YOU TO GO
17 HOME AND ASK YOU TO COME BACK TOMORROW AT 2:00 O'CLOCK
18 AND COME HERE INTO THE COURTROOM IN THE REGULAR JURY
19 PLACE. I WILL TELL YOU THAT OVER THE EVENING RECESS YOU FIRST
20 OF ALL DON'T DISCUSS THIS CASE WITH ANYONE OR ALLOW ANYONE
21 TO DISCUSS IT WITH YOU AND ALSO DON'T READ ANY NEWS STORIES
22 OR LISTEN TO ANY TELEVISION STORIES ABOUT THE CASE. ALSO
23 WHEN YOU COME BACK TOMORROW AT 2:00 O'CLOCK GO AHEAD GET
24 YOUR LUNCH AND BE PREPARED TO BEGIN HEARING THIS MATTER.
25 BUT MORE IMPORTANTLY THAN THAT YOU WILL NEED TO BRING

1 BACK SUFFICIENT CLOTHES AND PERSONAL BELONGINGS TO STAY IN
2 A MOTEL FOR UP TO FIVE TO SIX DAYS IF YOU ARE SELECTED ON THE
3 JURY. DO NOT BRING YOUR SUITCASE INTO THE COURTROOM. YOU
4 CAN LEAVE IT IN YOUR CAR AND IF YOU ARE SELECTED THEN YOU
5 WILL BE UNLOADING THE SUITCASE IN THE MOTEL AT THE
6 APPROPRIATE TIME. IF YOU'RE NOT SELECTED YOU'LL BE TAKING IT
7 HOME WITH YOU AND UNPACKING IT TOMORROW NIGHT BUT WHEN
8 YOU COME TOMORROW I DO NEED YOU TO BE PREPARED TO STAY
9 WITH US FOR UP TO SIX DAYS AND SO THAT YOU WILL BRING
10 WHATEVER PERSONAL BELONGINGS AND BE BACK IN THE
11 COURTROOM TOMORROW AT 2:00 O'CLOCK AND WE'LL SEE YOU AT
12 THAT TIME.

13 JUROR 19: I'M ALLOWED TO TELL MY HUSBAND THIS,
14 RIGHT?

15 THE COURT: YOU CAN TELL YOU ABSOLUTELY WHERE
16 YOU ARE ...

17 JUROR 19: YES. YEAH.

18 THE COURT: ... WHAT YOU'RE DOING. JUST DON'T TALK TO
19 HIM ABOUT THE CASE.

20 JUROR 19: NO.

21 THE COURT: OTHERWISE HE MIGHT WONDER WHERE YOU
22 ARE. ALL RIGHT. MR. PRICE, JUROR NUMBER 175.

23 BAILIFF: JUROR NUMBER 175.

24 THE COURT: EVENING, MR. PRICE.

25 JUROR 175: EVENING

1 THE COURT: THANK YOU FOR YOUR PATIENCE. I
2 APOLOGIZE FOR KEEPING YOU WAITING. SOMETIMES IT'S VERY HARD
3 TO RUN THINGS ON AN EXACT TIME SCHEDULE AND I KNOW THIS MAY
4 BE A LITTLE BIT INTIMIDATING, COMING INTO THIS BIG ROOM WITH
5 ALL THESE PEOPLE WITH SUITS AND BLACK ROBES BUT IF YOU WILL
6 JUST RELAX WE HAVE SOME QUESTIONS THAT WE NEED TO ASK YOU
7 AND I WILL TELL YOU THAT A LOT OF THESE QUESTIONS HAVE NO
8 RIGHT OR WRONG ANSWERS. WE JUST NEED TO KNOW HOW YOU FEEL
9 ABOUT CERTAIN MATTERS AND WE JUST ASK THAT YOU BE OPEN AND
10 HONEST ABOUT THE WAY THAT YOU FEEL. I WOULD ALSO TELL YOU
11 THAT YESTERDAY WHEN YOU WERE QUALIFIED AS A JUROR YOU
12 WERE PUT UNDER OATH AND I WOULD TELL YOU YOU ARE STILL
13 UNDER OATH SO ANYTHING THAT YOU TELL US TODAY WOULD BE
14 TESTIMONY UNDER OATH. DO YOU UNDERSTAND THAT?

15 JUROR 175: YES, SIR.

16 THE COURT: OKAY. THANK YOU, SIR. MR. PRICE, MR.
17 BOBBY WAYNE STONE HAS ALREADY BEEN FOUND TO BE GUILTY OF
18 THE CRIME OF MURDER OF DEPUTY KABALA. THE QUESTION OF HIS
19 GUILT OR INNOCENCE IS NOT GOING TO BE BEFORE THIS JURY. THE
20 ONLY ISSUE THAT IS GOING TO BE BEFORE THIS JURY HAS TO DO WITH
21 WHAT PUNISHMENT SHOULD BE IMPOSED ON MR. STONE. IT WILL BE
22 UP TO THE STATE TO PRODUCE EVIDENCE OF AT LEAST ONE
23 AGGRAVATING CIRCUMSTANCE AND THAT MUST BE PROVEN TO YOU
24 BEYOND A REASONABLE DOUBT BEFORE THE JURY WOULD BE ABLE
25 TO RETURN A VERDICT OF LIFE IMPRISONMENT OR ... OR THE DEATH

1 PENALTY. SO THAT IS REALLY THE ONLY ISSUE THAT IS GOING TO BE
2 BEFORE THIS JURY WHEN IT COMES TIME FOR THE JURY TO CONSIDER
3 THE ISSUES IN THIS CASE. HAVING SAID THAT I NEED TO ASK YOU IF
4 YOU'VE HAD AN OPPORTUNITY TO REVIEW THE INFORMATION THAT
5 WAS GIVEN TO YOU IN THE JURY ROOM ABOUT THE THREE TYPES OF
6 JURORS?

7 JUROR 175: YES, SIR.

8 THE COURT: AND BASED UPON THAT INFORMATION,
9 WHICH WOULD YOU SAY MOST CLOSELY CHARACTERIZES YOU, TYPE
10 ONE, TYPE TWO OR TYPE THREE?

11 JUROR 175: TYPE THREE.

12 THE COURT: ALL RIGHT. WHEN YOU SAY THAT YOU ARE
13 A TYPE THREE JUROR, I JUST WANT TO MAKE SURE I UNDERSTAND
14 WHAT YOU ARE SAYING IS THAT AFTER LISTENING TO THE FACTS AND
15 CIRCUMSTANCES SURROUNDING THIS CASE, DEPENDING ON THOSE
16 FACTS AND CIRCUMSTANCES, YOU COULD EITHER FIND LIFE
17 IMPRISONMENT OR YOU COULD FIND THAT THE DEFENDANT SHOULD
18 BE PUT TO DEATH. IS THAT CORRECT?

19 JUROR 175: THAT'S CORRECT.

20 THE COURT: NOW, THE STATE WOULD HAVE TO PROVE TO
21 YOU BEYOND A REASONABLE DOUBT AT LEAST ONE AGGRAVATING
22 CIRCUMSTANCE. AGGRAVATING CIRCUMSTANCES ARE THE THINGS
23 OUR LEGISLATURE HAS DECLARED MAKE THE CRIME MORE SEVERE
24 OR INCREASE THE ENORMITY OF THE PUNISHMENT THAT IS
25 AVAILABLE FOR A PARTICULAR CRIME. AND THE STATE WOULD HAVE

HEARING

1 TO PROVE THAT TO YOU AND YOUR FELLOW JURORS BEYOND A
2 REASONABLE DOUBT. IN ADDITION TO THAT, THE DEFENSE MAY
3 PRESENT CERTAIN STATUTORY MITIGATING CIRCUMSTANCES WHICH
4 ARE EXACTLY THE OPPOSITE. THEY ARE THINGS THAT THE DEFENSE
5 WOULD SAY THE LEGISLATURE HAS SAID IF PROVEN WOULD REDUCE
6 THE SEVERITY OF THE OFFENSE AND YOU WOULD REDUCE THE
7 SEVERITY OF THE PUNISHMENT AND IN ADDITION TO THE STATUTORY
8 MITIGATING CIRCUMSTANCES, THERE MAY BE OTHER MITIGATING
9 CIRCUMSTANCES. KNOWING THAT ... KNOWING WHAT THE STATE
10 WOULD HAVE TO PROVE AND WHAT THE DEFENSE WOULD ASK YOU
11 TO CONSIDER, YOU WOULD BE ASKED AS A JUROR TO SIGN ALONG
12 WITH YOUR OTHER 11 JURORS A VERDICT THAT IF THE EVIDENCE
13 SHOWS YOU BEYOND A REASONABLE DOUBT THE STATUTORY
14 AGGRAVATING CIRCUMSTANCES THAT YOU MAY BE ASKED TO SIGN A
15 VERDICT THAT WOULD FIND THE APPROPRIATE PUNISHMENT TO BE
16 LIFE IN PRISON. WOULD YOU BE ABLE TO SIGN THAT VERDICT FORM?

17 JUROR 175: IF THAT'S THE CASE, YES.

18 THE COURT: OKAY. BY THE SAME TOKEN, YOU MAY BE ...
19 DEPENDING ON WHAT THE EVIDENCE SHOWS AS TO THE
20 AGGRAVATING CIRCUMSTANCES AND THE MITIGATING
21 CIRCUMSTANCES, YOU MAY BE ASKED TO SIGN A VERDICT THAT
22 WOULD BE THE JURY'S VERDICT THAT THE APPROPRIATE PUNISHMENT
23 IS DEATH. WOULD YOU BE ABLE TO SIGN YOUR NAME TO A VERDICT
24 FORM THAT SAID THAT?

25 JUROR 175: YES.

1 THE COURT: ALL RIGHT, NOW, MR. PRICE, HAVE YOU
2 READ ANYTHING OR HEARD ANYTHING OR KNOW ANYTHING ABOUT
3 THIS CASE?

4 JUROR 175: WELL, I READ THE ITEM AND STATE
5 EVERYDAY. I READ THE FIRST TWO PARAGRAPHS OF ANY NEWS
6 ARTICLE OR _____ ARTICLE AND THAT'S JUST ABOUT WHAT I
7 KNOW. THAT'S MY PRACTICE. WHETHER IT WAS SCHOOL SPORTS, OR
8 WHETHER IT IS ... WHATEVER THE NEWS IS THAT'S THE WAY I READ.

9 THE COURT: YOU FEEL THE GIST OF IT IS IN THE FIRST
10 TWO PARAGRAPHS.

11 JUROR 175: ABSOLUTELY. THAT'S WHAT I WAS TAUGHT
12 AND THAT'S WHAT I DO. I DO IT ALMOST EVERY TIME.

13 THE COURT: ALL RIGHT. AND HAVE YOU READ PORTIONS
14 OF SOME ARTICLES WITH REGARD TO THIS CASE?

15 JUROR 175: YES, I HAVE.

16 THE COURT: THE ARTICLES THAT YOU'VE READ, WOULD
17 THAT INFLUENCE YOU IN ANY WAY AS TO WHAT YOUR DECISION
18 WOULD BE ON ISSUES IN THIS CASE AS I HAVE OUTLINED THOSE TO
19 YOU?

20 JUROR 175: IT WOULD NOT.

21 THE COURT: WOULD YOU BE ABLE TO DISABUSE FROM
22 YOUR MIND ANYTHING THAT YOU MAY HAVE READ AND DECIDE THIS
23 CASE BASED UPON THE FACTS AND EVIDENCE YOU HEAR IN THIS
24 COURT?

25 JUROR 175: COULD YOU REPEAT THAT BECAUSE ...

1 THE COURT: WOULD YOU BE ABLE TO DISABUSE FROM
2 YOUR MIND ANYTHING THAT YOU MAY HAVE READ ABOUT THIS CASE
3 AND DECIDE THESE MATTERS THAT YOU WILL HAVE TO DECIDE
4 BASED UPON THE EVIDENCE THAT YOU HAVE HEARD IN THIS
5 COURTROOM?

6 JUROR 175: ABSOLUTELY.

7 THE COURT: SWITCHING GEARS FOR JUST A MINUTE. IF
8 YOU ARE QUALIFIED AS A JUROR IN THIS CASE, IT WOULD REQUIRE
9 THAT YOU BE SEQUESTERED OR HOUSED IN A MOTEL FOR FIVE OR SIX
10 DAYS UNTIL THE TESTIMONY IN THIS CASE IS COMPLETED AND UNTIL
11 EVERYTHING IN THIS CASE IS COMPLETED. EXCEPT FOR THE
12 PERSONAL INCONVENIENCE TO YOU, WOULD THAT CAUSE ANY
13 SERIOUS HARDSHIP TO YOU OR ANYBODY THAT IS DEPENDENT UPON
14 YOU?

15 JUROR 175: I ONLY HAVE ONE PROBLEM WITH BEING
16 SEQUESTERED.

17 THE COURT: ALL RIGHT.

18 JUROR 175: I AM A VEGAN VEGETARIAN. I DON'T EAT
19 ANYTHING THAT COMES FROM A ... THAT COMES FROM AN ANIMAL.
20 ALL OF MY FOODS ARE FROM PLANT BASED FOODS. NOTHING TO DO
21 WITH RELIGION. THAT'S JUST MY WAY OF LIFE AND AS LONG AS I CAN
22 GET MY FOOD THAT I EAT I DON'T HAVE NO PROBLEM.

23 THE COURT: ALL RIGHT. SO WHAT YOU WOULD SAY IS
24 THAT YOU DON'T EAT ANY ... ANY ... NO KIND OF MEAT, IS THAT
25 CORRECT?

1 JUROR 175: MEAT, MILK, EGGS, NOTHING FROM AN
2 ANIMAL.

3 THE COURT: NOTHING ...

4 JUROR 175: INCLUDING ...

5 THE COURT: HAVE TO BE GROWN OUT OF THE GROUND.

6 JUROR 175: IT'S GOT TO BE A PLANT.

7 THE COURT: ALL RIGHT. BUT OTHER THAN THAT, IF WE
8 CAN ACCOMMODATE YOUR NEEDS AS FAR AS YOUR DIET IS
9 CONCERNED IT WOULD NOT CAUSE YOU ANY SEVERE HARDSHIP, IS
10 THAT CORRECT?

11 JUROR 175: IT WOULD NOT.

12 THE COURT: ALL RIGHT. THANK YOU, SIR. ALL RIGHT.
13 MR. SALEEBY OR MR. JACKSON, ANSWER ANY QUESTIONS THAT THEY
14 MIGHT HAVE FOR YOU.

15 MR. JACKSON: GOOD EVENING, MR. PRICE.

16 JUROR 175: GOOD EVENING.

17 MR. JACKSON: MR. PRICE, MY NAME IS KELLY JACKSON.
18 I'M THE SOLICITOR HERE IN THE THIRD JUDICIAL CIRCUIT WHICH
19 INCLUDES SUMTER COUNTY AND IT'S THE RESPONSIBILITY OF MY
20 OFFICE TO BRING THESE CASES TO THE COURTROOM. MYSELF AND
21 MR. DUDLEY SALEEBY, WHO IS SEATED HERE AT THE STATE'S TABLE,
22 HE WILL ASSIST ME IN ... IN TRYING THIS CASE INCLUDING THIS
23 PROCEEDING BEFORE POSSIBLY YOU AND OTHER JURORS IN THIS
24 WEEK TO COME. IF YOU'D JUST RELAX A LITTLE BIT, SIR, WE NEED TO
25 ASK JUST A FEW QUESTIONS. IT'S NOTHING PERSONAL. WE NEED TO

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1 GET KIND OF A FEEL FOR WHERE ... WHERE YOU ARE ON THESE
2 SENTENCING PARAMETERS AND THEN I'LL MOVE ON. THE JUDGE HAS
3 INSTRUCTED YOU THAT BOBBY WAYNE STONE HAS ALREADY BEEN
4 FOUND GUILTY OF MURDER SO THAT'S NOTHING SOMETHING THAT WE
5 ARE GOING TO DECIDE. WHAT WE'RE GOING TO DO, THE STATE IS
6 GOING TO PRESENT SOME AGGRAVATING CIRCUMSTANCES AND YOU
7 MAY ALSO HEAR SOME MITIGATING CIRCUMSTANCES THAT MAY
8 LESSEN THE DEGREE OF THE MURDER AND ... AND WHAT WE WANT TO
9 DO IS FIND OUT IF YOU IN YOUR OWN OPINION FROM WHAT YOU HEAR
10 IN THE COURTROOM, THE LAW FROM THE JUDGE TELLS YOU, IF YOU
11 COULD ACTUALLY SIGN YOUR NAME TO A FORM THAT WOULD GIVE
12 BOBBY WAYNE STONE LIFE IN THE PENITENTIARY IF YOU ... IF YOU
13 THOUGHT THAT WAS THE FITTING PUNISHMENT. COULD YOU DO
14 THAT, SIR?

15 JUROR 175: YES, SIR, I COULD.

16 MR. JACKSON: AND ... AND ON THE FLIP SIDE OF THAT
17 COIN IF ... IF YOU DESPITE THE OTHER JURORS THOUGHT THAT THE
18 PROPER PUNISHMENT SHOULD BE ... SHOULD BE DEATH FOR BOBBY
19 WAYNE STONE EITHER BY ELECTROCUTION OR LETHAL INJECTION,
20 COULD YOU ACTUALLY SIGN JOHN PRICE TO A FORM THAT
21 OTHERWISE WOULD ... WOULD BE A DEATH WARRANT ISSUING THE
22 PUNISHMENT OF DEATH TO BOBBY WAYNE STONE?

23 JUROR 175: YES, I COULD.

24 MR. JACKSON: ALL RIGHT, SIR. I APPRECIATE YOUR
25 RESPONSES, MR. PRICE. YOU'VE BEEN RIGHT CANDID WITH ME.

1 THANK YOU, SIR.

2 THE COURT: MR. LITTLEJOHN, MR. BABB, MR. LITTLEJOHN.

3 MR. LITTLEJOHN: THANK YOU, YOUR HONOR. GOOD
4 EVENING, MR. PRICE.

5 JUROR 175: GOOD EVENING.

6 MR. LITTLEJOHN: MY NAME IS CAM LITTLEJOHN AND I
7 ALONG WITH JIM BABB REPRESENT BOBBY WAYNE STONE WHO IS THE
8 DEFENDANT IN THIS CASE. MR. PRICE, LET ME FOLLOW UP A LITTLE
9 BIT ON SOME INFORMATION YOU HAVE IN YOUR ... YOU PUT IN YOUR
10 JUROR INFORMATION FORM. I NOTICE THAT YOU'RE RETIRED FROM
11 AT&T.

12 JUROR 175: YES.

13 MR. LITTLEJOHN: COULD YOU TELL ME A LITTLE BIT
14 ABOUT THE TYPE OF WORK YOU DID WITH AT&T DURING THE I
15 BELIEVE YOU SAID IT WAS SOME 25 YEARS YOU WORKED FOR THEM.

16 JUROR 175: 25 YEARS FOUR MONTHS.

17 MR. LITTLEJOHN: YES, SIR. WHAT KIND OF WORK DID YOU
18 DO WITH THEM? I'M SURE IT WAS DIFFERENT THINGS BUT IF YOU JUST
19 KIND OF GIVE ME A SYNOPSIS.

20 JUROR 175: I WORKED IN A MANUFACTURING
21 ENVIRONMENT AND I WORKED AS A SUPERVISOR OF THE BELTED
22 MACHINE TOOL AND DIE MAINTENANCE.

23 MR. LITTLEJOHN: OKAY.

24 JUROR 175: I SUPERVISED SKILLED, TRAINED EMPLOYEES
25 AND THOSE ... THOSE KIND OF DUTIES.

1 MR. LITTLEJOHN: ALL RIGHT. AND WHERE WAS YOUR
2 WORK WITH A&T ... AT&T? WAS THAT IN SUMTER OR ...

3 JUROR 175: NO, I WORKED IN BALTIMORE, MARYLAND ...

4 MR. LITTLEJOHN: UH-HUH (AFFIRMATIVE RESPONSE).

5 JUROR 175: ... AND THEN I WORKED IN OMAHA, NEBRASKA.

6 MR. LITTLEJOHN: OKAY. THEN YOU CAME BACK HERE TO
7 RETIRE?

8 JUROR 175: I CAME BACK HERE IN 1990 AFTER RETIRING AT
9 AGE 50 FROM AT&T.

10 MR. LITTLEJOHN: BOY, I'D ... I'D LIKE TO DO THAT.

11 JUROR 175: SO I'VE BEEN A RETIREE FROM AT&T FOR 15
12 YEARS.

13 MR. LITTLEJOHN: OKAY. AND LET'S SEE, DID YOU GROW
14 UP IN ... I SEE YOU WERE BORN IN CHESTER.

15 JUROR 175: I GREW UP IN CHESTER, SOUTH CAROLINA,
16 YES.

17 MR. LITTLEJOHN: OKAY AND THEN ...

18 JUROR 175: CHESTER COUNTY.

19 MR. LITTLEJOHN: UH-HUH (AFFIRMATIVE RESPONSE). AND
20 YOU ENDED UP IN SUMTER.

21 JUROR 175: NO. I GREW UP IN CHESTER ... CHESTER
22 COUNTY. I LEFT THERE IN 1958 AND MOVED TO BALTIMORE,
23 MARYLAND.

24 MR. LITTLEJOHN: OKAY.

25 JUROR 175: AND THEN IN 1983 I MOVED TO OMAHA,

1 NEBRASKA. IN 1990 I MOVED TO SUMTER.

2 MR. LITTLEJOHN: I SEE. AND THAT'S WHEN YOU RETIRED.

3 JUROR 175: I RETIRED IN THE SUMMER OF 1989.

4 MR. LITTLEJOHN: OKAY. MR. PRICE, YOU INDICATED THAT
5 YOU ... YOU READ SOMETHING ABOUT THIS CASE IN THE ... IN THE
6 DAILY ITEM.

7 JUROR 175: YES, SIR. I INDICATED THAT BECAUSE I READ
8 THE DAILY ITEM EVERY DAY.

9 MR. LITTLEJOHN: OKAY. YOU READ THE FIRST TWO
10 PARAGRAPHS.

11 JUROR 175: THAT'S THE WAY I READ, YES.

12 MR. LITTLEJOHN: WHAT DO YOU REMEMBER READING
13 ABOUT THIS PARTICULAR CASE? DO YOU RECALL?

14 JUROR 175: I REMEMBER READING RECENTLY THAT ... AND
15 WITH THIS PARTICULAR CASE THAT THE HIGHER COURTS ... THE
16 HIGHER COURTS HAD WHATEVER THEY HAD DONE THAT THE TRIAL
17 WAS GONNA BE DONE AGAIN. AND, YOU KNOW, AFTER THE FIRST
18 TWO PARAGRAPHS I DON'T KNOW EXACTLY WHAT CAME OUT OF
19 THAT BUT IT HAD SOMETHING TO DO WITH THE HIGHER COURT OR A
20 HIGHER JUDGE.

21 MR. LITTLEJOHN: OKAY. AND THE FACT THAT YOU READ
22 THAT, WOULD THAT HAVE ANY INFLUENCE ON YOUR ABILITY TO
23 FAIRLY HEAR THE EVIDENCE HERE?

24 JUROR 175: IT WOULD NOT BECAUSE I DON'T HAVE
25 ENOUGH INFORMATION FOR IT TO ... TO SWAY MY MIND ANY WAY AT

1 ALL.

2 MR. LITTLEJOHN: OKAY. MR. PRICE, SINCE YOU'VE BEEN
3 LIVING IN SUMTER COUNTY HAVE YOU HAD ANY DEALINGS WITH THE
4 SUMTER COUNTY SHERIFF'S DEPARTMENT?

5 JUROR 175: DEALINGS WITH THE SHERIFF'S DEPARTMENT?

6 MR. LITTLEJOHN: YES, SIR.

7 JUROR 175: SUMTER COUNTY SHERIFF'S DEPARTMENT?

8 NO, I HAVE NOT.

9 MR. LITTLEJOHN: DO YOU KNOW ANY OF THE DEPUTIES
10 OR ANYONE WHO WORKS AT THE SHERIFF'S DEPARTMENT?

11 JUROR 175: PERSONALLY?

12 MR. LITTLEJOHN: YES, SIR.

13 JUROR 175: NO.

14 MR. LITTLEJOHN: OKAY. YOU'VE JUST READ ABOUT THEM
15 IN THE NEWSPAPER OR SOMETHING LIKE THAT?

16 JUROR 175: I DIDN'T READ ABOUT ANY OF THE DEPUTIES
17 BUT I DON'T KNOW ANY OF THE DEPUTIES.

18 MR. LITTLEJOHN: OKAY.

19 JUROR 175: I HAD MET ONE PERSONALLY ONE TIME WITH
20 THE LAST NAME RAGIN CAUSE MY WIFE'S MAIDEN NAME IS RAGIN. HE
21 WAS A ... HE WAS A ... AT FIRST HE WAS A CODE ENFORCEMENT AND I
22 WAS ON THE BOARD OF ADJUSTMENT FOR FIVE YEARS ...

23 MR. LITTLEJOHN: UH-HUH (AFFIRMATIVE RESPONSE).

24 JUROR 175: ... AND I MET HIM AND I KIND OF TALKED TO
25 HIM CAUSE I THOUGHT HE WAS RELATED TO MY WIFE WHOSE LAST

1 NAME WAS RAGIN BUT I DON'T KNOW ANYBODY WHO IS A SHERIFF
2 DEPUTY.

3 MR. LITTLEJOHN: ALL RIGHT. I UNDERSTAND.

4 JUROR 175: I UNDERSTAND HE'S A SHERIFF DEPUTY NOW
5 THOUGH. YOU KNOW, I HAVE NO DEALINGS WITH HIM.

6 MR. LITTLEJOHN: OKAY. MR. PRICE, I TAKE IT FROM YOUR
7 ANSWERS TO SOME OF JUDGE KING'S QUESTIONS AND YOUR PICKING
8 THE CHARACTERISTICS IN JUROR NUMBER THREE, THE DESCRIPTION
9 OF JUROR NUMBER THREE THAT YOU DON'T THINK THAT JUST
10 BECAUSE SOMEONE HAS BEEN CONVICTED OF MURDER THAT THEY
11 SHOULD AUTOMATICALLY GET THE DEATH PENALTY. IS THAT A FAIR
12 STATEMENT?

13 JUROR 175: I CAN ANSWER THAT ...

14 MR. LITTLEJOHN: OKAY.

15 JUROR 175: ... IF YOU WANT ME TO.

16 MR. LITTLEJOHN: SURE. I WANT YOU ...

17 JUROR 175: I SHOULD ANSWER IT.

18 MR. LITTLEJOHN: ALL RIGHT, SIR.

19 JUROR 175: BEING AN AFRO-AMERICAN I CAN'T FEEL ANY
20 OTHER WAY BECAUSE, YOU KNOW, I'VE GOT GRANDKIDS. WE RAISED
21 TWO SONS AND A DAUGHTER. AND I'VE ALWAYS HAD A FEAR THAT IF
22 SOMETHING HAPPENED THAT THEY WERE GONNA GET NAILED JUST
23 BECAUSE SOMEBODY SAID THEY HAD EVIDENCE AND SO I FEEL A
24 PERSON ALWAYS NEEDS AN OPPORTUNITY SO THAT THEY CAN BE
25 LOOKED AT FROM EVEN IF THEY'RE GUILTY FROM OTHER

1 CIRCUMSTANCES SURROUNDING THEM.

2 MR. LITTLEJOHN: OKAY.

3 JUROR 175: I'VE GOT GRANDKIDS RIGHT NOW AND I
4 CERTAINLY HOPE THAT WOULD HAPPEN.

5 MR. LITTLEJOHN: ALL RIGHT. I APPRECIATE THAT.

6 JUROR 175: I'M TRYING TO ANSWER YOU THE WAY I FEEL.

7 MR. LITTLEJOHN: I THANK YOU FOR THAT.

8 JUROR 175: CAN'T NOBODY ... CAN'T NOBODY
9 UNDERSTAND HOW THE AFRO-AMERICAN FEEL BUT THEM.

10 MR. LITTLEJOHN: I CAN UNDERSTAND THAT, TOO.

11 JUROR 175: YES, SIR.

12 MR. LITTLEJOHN: SO I GUESS IT WOULD BE SAFE TO SAY
13 THAT YOU WOULD LOOK AT ALL THE EVIDENCE, ALL THE FACTS,
14 YOU'D LISTEN TO THE LAW THAT JUDGE KING GIVES YOU BEFORE
15 YOU'D MAKE UP YOUR MIND.

16 JUROR 175: ABSOLUTELY.

17 MR. LITTLEJOHN: AND THEN YOU WOULD DECIDE
18 WHETHER THE DEATH PENALTY WAS WARRANTED.

19 JUROR 175: ABSOLUTELY.

20 MR. LITTLEJOHN: OR YOU MIGHT DECIDE THAT A LIFE
21 SENTENCE WOULD BE WARRANTED.

22 JUROR 175: ABSOLUTELY.

23 MR. LITTLEJOHN: NOW, MR. PRICE, DO YOU THINK THAT A
24 LIFE SENTENCE IS A SUBSTANTIAL SENTENCE, A HEAVY SENTENCE?

25 JUROR 175: I DON'T KNOW HOW TO ANSWER THAT AND

1 I'LL TELL YOU THE REASON WHY I DON'T KNOW HOW TO ANSWER
2 THAT. I DON'T KNOW WHAT A LIFE SENTENCE MEANS.

3 MR. LITTLEJOHN: OKAY.

4 JUROR 175: BECAUSE IN SOME CASES A LIFE SENTENCE
5 MIGHT MEAN THAT THE PERSON WILL DO 24 YEARS AND GET OUT. I
6 DON'T KNOW. I DON'T UNDERSTAND THAT.

7 MR. LITTLEJOHN: ALL RIGHT.

8 JUROR 175: I'VE NEVER UNDERSTOOD WHAT A LIFE
9 SENTENCE MEANT. BECAUSE SOMETIMES A PERSON GOT TWO LIFE
10 SENTENCE PLUS ... PLUS 50 YEARS. I DON'T KNOW WHAT THAT
11 MEANS.

12 MR. LITTLEJOHN: ALL RIGHT.

13 JUROR 175: I'M TRYING TO ANSWER IT THE WAY THAT ...

14 MR. LITTLEJOHN: I ... I APPRECIATE THAT.

15 JUROR 175: ... THE ONLIEST WAY THAT I UNDERSTAND IT. I
16 DON'T KNOW WHAT ONE LIFE SENTENCE MEANS.

17 MR. LITTLEJOHN: OKAY. W ELL, IF JUDGE KING EXPLAINS
18 TO YOU WHAT A LIFE SENTENCE MEANS IF YOU'RE ON THIS JURY,
19 YOU'D ... I THINK I'M READING YOU CORRECTLY, YOU WOULD TAKE
20 WHAT HE TELLS YOU ...

21 JUROR 175: ABSOLUTELY.

22 MR. LITTLEJOHN: ... AND ...

23 JUROR 175: I CAN'T EXPLAIN WHAT IT MEANS. NOW IF HE
24 SAID LIFE WITHOUT PAROLE I'D KNOW WHAT THAT MEANS, YOU
25 KNOW, THEN I ...

1 MR. LITTLEJOHN: OKAY. SO YOU COULD UNDERSTAND
2 THAT?

3 JUROR 175: YES.

4 MR. LITTLEJOHN: OKAY. IF THAT'S THE CASE, IS THAT A
5 SUBSTANTIAL SENTENCE TO YOU?

6 JUROR 175: ONE WITHOUT PAROLE?

7 MR. LITTLEJOHN: YES, SIR.

8 JUROR 175: I WOULD HAVE TO BE WITH THE WORD
9 SUBSTANTIAL MEANING GREAT BECAUSE THE PERSON GONNA BE IN
10 THERE FOR LIFE.

11 MR. LITTLEJOHN: OKAY.

12 JUROR 175: NOW, IF YOU'RE ASKING ME IF IT'S
13 SUBSTANTIAL DEPENDING ON WHAT THE CRIME IS I WOULD HAVE TO
14 KNOW WHAT THE CRIME IS.

15 MR. LITTLEJOHN: ALL RIGHT. I UNDERSTAND THAT AND I
16 APPRECIATE YOUR CANDOR. AND MR. PRICE, IF YOU WERE ON THIS
17 JURY AND EVIDENCE WAS PRESENTED OF WHAT WE CALL MITIGATING
18 CIRCUMSTANCES, BY THAT I MEAN EVIDENCE THAT WOULD LESSEN
19 THE SEVERITY OF THE MURDER CHARGE, EVIDENCE CONCERNING THE
20 DEFENDANT'S BACKGROUND, HIS LIFE, HIS FAMILY, THOSE SORT OF
21 THINGS, WOULD YOU BE ABLE TO LISTEN TO THAT EVIDENCE AND
22 WEIGH IT AND FACTOR IT INTO YOUR DECISION?

23 JUROR 175: ABSOLUTELY.

24 MR. LITTLEJOHN: OKAY. YOUR HONOR, THOSE ARE ALL
25 THE QUESTIONS I HAVE. THANK YOU VERY MUCH, MR. PRICE.

1 THE COURT: THANK YOU, MR. PRICE, FOR YOUR CANDOR
2 AND YOUR HONEST ANSWERS IN ATTEMPT TO ANSWER THE
3 QUESTIONS FROM BOTH MYSELF AND THE LAWYERS IN THIS CASE. IM
4 GONNA ASK YOU TO STEP OUTSIDE FOR JUST A MINUTE WHILE I TAKE
5 UP SOME MATTERS WITH THE ATTORNEYS. I'LL SEND FOR YOU VERY
6 SHORTLY. MR. JACKSON, MR. SALEEBY?

7 MR. JACKSON: QUALIFIED.

8 MR. LITTLEJOHN: WE AGREE, YOUR HONOR.

9 THE COURT: ALL RIGHT. I AGREE THAT HE IS QUALIFIED.
10 THE COURT WILL QUALIFY HIM. ASK MR. PRICE TO COME BACK IN,
11 PLEASE. IF YOU'D STAND THERE FOR A MINUTE, MR. PRICE. YOU HAVE
12 BEEN FOUND TO BE A QUALIFIED JUROR IN THIS CASE. THAT DOES
13 NOT MEAN THAT YOU WILL NECESSARILY SERVE AS A JUROR BUT
14 YOU'VE BEEN FOUND QUALIFIED FOR THIS CASE. AND SO I AM GOING
15 TO EXCUSE YOU NOW AND ASK YOU TO COME BACK TOMORROW AT
16 2:00 O'CLOCK. PLEASE COME TO THE COURTROOM AND SIT OUT HERE
17 WITH THE JURY, YOUR FELLOW JURORS WHO ARE ALSO QUALIFIED TO
18 BE HERE AT THE SAME TIME AND THEN WE WILL GO THROUGH THE
19 SELECTION PROCESS. TONIGHT YOU SHOULD PLAN TO BE HERE FOR
20 FIVE TO SIX DAYS SO WHEN YOU COME BACK, BRING YOUR CLOTHING,
21 PACK YOUR CLOTHES AND YOUR PERSONAL BELONGINGS AND LEAVE
22 THOSE IN YOUR CAR. YOU NEED NOT BRING THEM INTO THE
23 COURTROOM. IF YOU ARE SELECTED ON THE JURY, THEN YOU WILL
24 BASICALLY BE UNPACKING AT THE HOTEL. IF YOU'RE NOT, YOU'LL BE
25 TAKING THOSE CLOTHES BACK HOME WITH YOU TOMORROW NIGHT

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1 AND UNPACKING AT HOME. WHEN YOU COME TOMORROW AT 2:00
2 O'CLOCK YOU SHOULD COME AND BE PREPARED TO STAY WITH US
3 FOR FIVE OR SIX DAYS. I WOULD ALSO TELL YOU, OF COURSE, THAT
4 WE ARE NOT GOING TO REQUIRE YOU TO SERVE UNLESS WE CAN
5 ACCOMMODATE YOUR DIETARY BELIEFS. I UNDERSTAND YOU HAVE
6 WHAT YOUR DIET IS REQUIRED AND I THINK WE CAN ACCOMMODATE
7 THAT TO ENSURE THAT YOU WOULD BE ABLE TO GET THE DIET THAT
8 YOU REQUIRED. ALSO DO NOT WHILE YOU ARE AWAY FROM THE
9 COURTHOUSE, DO NOT DISCUSS THE CASE WITH ANYONE. DO NOT
10 ALLOW ANYONE TO DISCUSS IT WITH YOU. DO NOT READ ANY MORE
11 NEWS STORIES ON THIS MATTER OR LISTEN TO ANY TV OR RADIO
12 BROADCAST BUT REPORT BACK TO THE COURTROOM TOMORROW
13 AND HAVE IN YOUR CAR ENOUGH CLOTHES AND PERSONAL
14 BELONGING TO SUSTAIN YOU FOR UP TO SIX DAYS IN THE HOTEL.
15 WE'LL SEE YOU TOMORROW.

16 JUROR 175: 2:00 O'CLOCK?

17 THE COURT: 2:00 O'CLOCK. YES, SIR. ALL RIGHT,
18 COUNSEL, LET'S HEAR FROM MRS. ... I GUESS YOU PRONOUNCE IT
19 ULERY. I'LL ASK AND THEN WE'LL TAKE A LITTLE SHORT BREAK.
20 WE'RE MOVING ALONG AND I DO WANT TO TRY TO FINISH THIS PANEL
21 AND THE OTHER PANEL THAT WAS TO BE HERE AT 6:30. THIS PANEL,
22 THE OTHER PANEL WAS TO BE HERE AT 6:00. I'D LIKE TO FINISH THESE
23 THIS EVENING IF I CAN.

24 BAILIFF: HAVE A SEAT RIGHT DOWN HERE.

25 THE COURT: ALL RIGHT. I KNOW THIS IS A LITTLE BIT

1 INTIMIDATING AND YOU'RE NOT USED TO BEING IN THIS SITUATION
2 WITH THESE PEOPLE WITH BLACK ROBES IN THIS BIG ROOM AND ALL
3 THESE PEOPLE IN THE SEATS BUT JUST RELAX A LITTLE BIT. I JUST
4 WANT TO ASK YOU A FEW THINGS. DON'T WORRY ABOUT ANYTHING
5 AND MAKE YOURSELF COMFORTABLE AND BE AT EASE. NOBODY IS
6 GOING TO JUMP ON YOU. WE JUST SIMPLY WANT TO GET YOUR
7 ANSWERS TO SOME QUESTIONS TO DETERMINE YOUR
8 QUALIFICATIONS TO SERVE ON THE JURY. FIRST OF ALL, SO THAT I
9 WILL KNOW, HOW ABOUT PRONOUNCING YOUR NAME FOR ME AND IF
10 YOU WOULD FIRST PRONOUNCE YOUR FIRST NAME. HOW DO YOU SAY
11 THAT?

12 JUROR 222: EMERERICIANA.

13 THE COURT: ALL RIGHT. AND HOW ABOUT YOUR LAST
14 NAME, PRONOUNCE THAT.

15 JUROR 222: ULERY.

16 THE COURT: ULERY. OKAY. VERY PRETTY. THANK YOU.
17 NOW, MS. ULERY, THE QUESTIONS THEY'RE GOING TO ASK ... THAT
18 WE'RE GOING TO ASK YOU MAY SEEM TO BE INVASIVE OF YOUR
19 PRIVACY BUT WE DON'T MEAN FOR IT TO BE THAT AT ALL. WE JUST
20 NEED TO HAVE THIS INFORMATION TO DETERMINE YOUR
21 QUALIFICATIONS TO SERVE ON THE JURY AND THERE ARE NO RIGHT
22 OR WRONG ANSWERS. SO YOU JUST ANSWER THEM TRUTHFULLY AND
23 HONESTLY AS BEST YOU CAN AND SPEAK UP LOUDLY SO THAT I CAN
24 HEAR YOU, SO THAT THIS LADY CAN HEAR YOU AND EVERYBODY IN
25 THE COURTROOM CAN HEAR YOU AND WE CAN MOVE FROM THERE.

FIRST OF ALL AND I WOULD TELL YOU AS YOU MAY HAVE ALREADY DEDUCED FROM WHAT HAS BEEN SAID IN THIS COURTROOM THAT MR. BOBBY WAYNE STONE HAS ALREADY BEEN FOUND TO BE GUILTY OF THE MURDER OF DEPUTY CHARLES KABALA. SO THE ISSUE OF HIS GUILT IS NOT BEFORE THE COURT SO YOU DO NOT HAVE TO CONCERN YOURSELF THAT IS A MATTER THAT YOU HAVE GOT TO DECIDE. THE ONLY ISSUE THIS JURY WILL BE DEALING WITH IS WHAT PUNISHMENT SHOULD BE IMPOSED UPON MR. STONE. NOW, IN DOING THAT I NEED TO ASK YOU SOME QUESTIONS. HAVE YOU HAD AN OPPORTUNITY TO READ THE INFORMATION THAT I GAVE YOU ON THE THREE TYPES OF JURORS? AND UNDERSTANDING WHAT'S CONTAINED IN THAT SHEET WOULD YOU ... WHICH WOULD YOU SAY BEST CHARACTERIZES YOU, A TYPE ONE, TYPE TWO OR TYPE THREE JUROR? DO YOU WANT ME TO GO OVER THOSE WITH YOU TO DETERMINE ...

JUROR 222: YES.

THE COURT: ALL RIGHT. OKAY. THE TYPE ONE JUROR IS THE TYPE OF JUROR WHO ONCE THE CRIME OF MURDER HAS BEEN PROVEN BY THE STATE AND IT'S ALREADY BEEN PROVEN IN THIS CASE AS THE JURY'S CONSIDERING THE PUNISHMENT FEELS THAT IN EVERY CASE THE DEATH PENALTY IS THE APPROPRIATE PUNISHMENT. THE SECOND TYPE OF JUROR IS THAT TYPE OF JUROR WHO EVEN THOUGH THE GUILT HAS BEEN DETERMINED AS IT HAS BEEN IN THIS CASE WHO UNDER NO CIRCUMSTANCES WOULD EVER GIVE THE DEATH PENALTY. THE THIRD TYPE OF JUROR IS THE ONE THAT EVEN THOUGH THE GUILT OF THE DEFENDANT HAS BEEN DETERMINED THAT JUROR WILL NOT

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1 MAKE UP HIS OR HER MIND IN ADVANCE CONCERNING THE
2 PUNISHMENT BUT WOULD NEED TO HEAR WHAT THE FACTS AND
3 CIRCUMSTANCES ARE IN AGGRAVATION AND IN MITIGATION AND
4 LISTEN TO AND FOLLOW THE LAW THAT THE COURT GIVES YOU AND
5 THEN MAKE UP YOUR MIND REGARDING PUNISHMENT BASED UPON
6 THE LAW AS I INSTRUCT IT TO YOU AND WHAT THE FACTS OF
7 AGGRAVATION OR MITIGATION ARE PROVEN OR SHOWN TO YOU BY
8 THE LAWYERS. SO WITH THAT BEING THE CASE, WHICH OF THE THREE
9 TYPE JURORS DO YOU THINK THAT YOU ARE?

10 JUROR 222: THE THIRD ONE.

11 THE COURT: THE THIRD ONE. ALL RIGHT. THAT BEING
12 THE CASE THEN YOU WOULD SAY THAT YOU'RE THE TYPE JUROR OR
13 WHAT YOU'RE SAYING IS THAT AFTER LISTENING TO THE FACTS AND
14 CIRCUMSTANCES SURROUNDING THE CASE AND DEPENDING ON
15 THOSE FACTS AND CIRCUMSTANCES YOU COULD EITHER FIND FOR
16 LIFE IMPRISONMENT OR YOU COULD FIND FOR DEATH BY LETHAL
17 INJECTION OR ELECTROCUTION DEPENDING ON WHAT THE FACTS
18 WERE, IS THAT CORRECT?

19 JUROR 222: THAT IS CORRECT.

20 THE COURT: ALL RIGHT. NOW, THERE'S CERTAIN THINGS
21 THAT ARE CONSIDERED IN OUR LAW AS AGGRAVATING
22 CIRCUMSTANCES AND THE STATE WOULD HAVE TO PROVE AT LEAST
23 ONE AGGRAVATING CIRCUMSTANCE BEYOND A REASONABLE DOUBT.
24 IF THEY PROVE AT LEAST ONE CIRCUMSTANCE OF AGGRAVATED
25 CIRCUMSTANCE THEN YOU WOULD BE ASKED TO SIGN YOUR VERDICT

1 FORM ALONG WITH THE OTHER JURORS IN THIS CASE AND THE 12 OF
2 YOU SIGN THE VERDICT FORM FOR LIFE IN PRISON WITHOUT THE
3 POSSIBILITY OF PAROLE. COULD YOU DEPENDING ON THE FACTS AND
4 CIRCUMSTANCES SIGN SUCH A VERDICT FORM? DO YOU WANT ME TO
5 SAY THAT AGAIN? OKAY. AFTER YOU HAVE HEARD ALL OF THE
6 TESTIMONY IN THIS CASE INCLUDING WHATEVER AGGRAVATING
7 CIRCUMSTANCES THE STATE PROVES AND ANY MITIGATING MATTERS
8 THAT THE DEFENSE PROVES, YOU'D BE ASKED TO SIGN A VERDICT
9 FORM. THAT VERDICT FORM WOULD EITHER PROVIDE FOR LIFE
10 IMPRISONMENT OR IT WOULD PROVIDE FOR DEATH BUT YOU WOULD
11 HAVE TO SIGN THAT VERDICT FORM AND IF DEPENDING ON THE FACTS
12 AND CIRCUMSTANCES OF THE CASE AND WHAT YOU THINK THE
13 STATE HAS PROVEN MY QUESTION IS WOULD YOU BE ABLE TO SIGN
14 YOUR NAME TO A VERDICT FORM DEPENDING ON YOUR VIEW OF THE
15 PROOF THAT WOULD REQUIRE A PUNISHMENT OF LIFE OR WOULD YOU
16 BE ABLE TO FIND ... AND WOULD YOU BE ABLE TO SIGN A VERDICT
17 FORM IF THE FACTS AND CIRCUMSTANCES WERE SUCH THAT YOU
18 FELT THE AGGRAVATING CIRCUMSTANCES HAD BEEN PROVEN THAT
19 WOULD REQUIRE THAT THE DEFENDANT BE PUT TO DEATH ...

20 JUROR 222: YES.

21 THE COURT: ... WOULD YOU BE ABLE TO DO THAT?

22 JUROR 222: YES.

23 THE COURT: ALL RIGHT. AND AGAIN I'M NOT TRYING TO
24 PRY BUT I JUST WANT TO KNOW A LITTLE BIT ABOUT YOUR
25 BACKGROUND AND A LITTLE INFORMATION. WHERE IS YOUR ...

1 WHERE ARE YOU FROM? WHERE IS YOUR ORIGINAL HOME?

2 JUROR 222: I CAME FROM PHILIPPINES.

3 THE COURT: PHILIPPINES?

4 JUROR 222: YES, SIR.

5 THE COURT: AND HOW LONG HAVE YOU BEEN IN THIS
6 COUNTRY?

7 JUROR 222: I'VE BEEN HERE FOR ABOUT 18 YEARS.

8 THE COURT: AND HOW DID YOU ... HOW DID YOU COME TO
9 THE UNITED STATES?

10 JUROR 222: I MARRIED MY HUSBAND IN THE MILITARY.

11 THE COURT: OKAY. ALL RIGHT. SO DID YOU MEET HIM IN
12 THE PHILIPPINES ...

13 JUROR 222: YES.

14 THE COURT: ... AND CAME BACK WITH HIM, IS THAT
15 CORRECT?

16 JUROR 222: YES, SIR.

17 THE COURT: OKAY. THAT'S FINE. THANK YOU. ALL
18 RIGHT. NOW, HAVE YOU READ ANYTHING OR HEARD ANYTHING
19 ABOUT THIS CASE OTHER THAN ...

20 JUROR 222: NO.

21 THE COURT: ... OTHER THAN WHAT'S BEEN SAID HERE IN
22 COURT?

23 JUROR 222: NO.

24 THE COURT: YOU HAVEN'T READ ANY ...

25 JUROR 222: NO, I DON'T READ.

1 THE COURT: DO YOU HAVE ANY OPINION ABOUT WHAT
2 YOUR VERDICT SHOULD BE IN THIS CASE OR WOULD YOU WAIT UNTIL
3 YOU HAVE HEARD THE TESTIMONY?

4 JUROR 222: I WOULD WAIT TO HEAR THE TESTIMONY.

5 THE COURT: HAVE YOU FORMED ANY OPINION AS TO
6 WHAT YOUR VERDICT SHOULD BE?

7 JUROR 222: NOT YET.

8 THE COURT: NOT YET. OKAY. NOW, I'M GONNA SWITCH
9 GEARS ON YOU FOR JUST A MINUTE. IN THE EVENT THAT YOU ARE
10 QUALIFIED AS A JUROR IN THIS CASE EXCEPT FOR THE PERSONAL
11 INCONVENIENCE YOU WILL BE REQUIRED TO BE SEQUESTERED IN A
12 MOTEL, THAT IS HOUSED IN A MOTEL DURING THE DURATION OF THIS
13 TRIAL WHICH WOULD BE ABOUT FIVE OR SIX DAYS. YOU WILL BE
14 TAKING DINNER WITH YOUR FELLOW JURORS. YOU'LL BE REQUIRED
15 TO STAY TOGETHER. EVERYBODY OF COURSE WOULD HAVE
16 SEPARATE ROOMS IN THE HOTEL BUT YOU WOULD BE REQUIRED TO
17 BE WHAT WE CALL SEQUESTERED FOR ABOUT FIVE OR SIX DAYS.
18 EXCEPT FOR THE PERSONAL INCONVENIENCE TO YOU, WOULD THIS
19 POSE A SERIOUS DANGER TO THE HEALTH OR WELL BEING OF YOUR
20 SELF OR ANYONE WHO IS DEPENDENT ON YOU?

21 JUROR 222: NO, SIR.

22 THE COURT: OKAY. FINE. THANK YOU VERY MUCH. HOW
23 ABOUT ANSWER ANY QUESTIONS THAT MR. JACKSON MIGHT HAVE
24 FOR YOU.
25

1 MR. JACKSON: GOOD EVENING, MA'AM.

2 JUROR 222: GOOD EVENING.

3 MR. JACKSON: MY NAME IS KELLY JACKSON. I'M THE
4 SOLICITOR HERE IN THE THIRD CIRCUIT WHICH INCLUDES SUMTER
5 COUNTY AND MYSELF AND MR. DUDLEY SALEEBY WHO IS SEATED
6 HERE AT THE STATE'S TABLE, WE'RE GONNA PRESENT THIS CASE TO
7 POSSIBLY YOU AND THE OTHER JURORS ON BEHALF OF THE STATE.

8 JUROR 222: YES, SIR.

9 MR. JACKSON: AND THIS IS OUR OPPORTUNITY TO ASK
10 YOU A FEW QUESTIONS. WE'RE NOT TRYING TO PRY INTO YOUR
11 PRIVATE LIFE BUT THERE ARE A FEW THINGS THAT WE NEED TO ASK.
12 YOU MET YOUR HUSBAND IN THE PHILIPPINES, IS THAT RIGHT?

13 JUROR 222: YES.

14 MR. JACKSON: WAS HE IN THE AIR FORCE AT THE TIME?

15 JUROR 222: YES, HE'S IN THE AIR FORCE.

16 MR. JACKSON: DID HE RETIRE FROM THE AIR FORCE?

17 JUROR 222: YES, SIR.

18 MR. JACKSON: WHAT RANK DID HE RETIRE?

19 JUROR 222: HE IS A MASTER SERGEANT.

20 MR. JACKSON: AND WHEN DID HE LAST ... WHEN ... WHEN
21 DID HE RETIRE?

22 JUROR 222: HE JUST RETIRED FIVE YEARS AGO.

23 MR. JACKSON: WAS HE STATIONED AT SHAW WHEN HE
24 RETIRED?

25 JUROR 222: YES, SIR.

1 MR. JACKSON: AND HOW LONG HAVE YOU BEEN AT
2 SHAW?

3 JUROR 222: 13 YEARS.

4 MR. JACKSON: I'M SORRY.

5 JUROR 222: 13 YEARS.

6 MR. JACKSON: 13 YEARS. MR. BOBBY WAYNE STONE HAS
7 ALREADY BEEN FOUND GUILTY OF MURDER SO THE JURY THAT WE
8 PICK WILL NOT HAVE TO DECIDE WHETHER HE'S GUILTY OR INNOCENT
9 OF MURDER. THE JURY THAT WE PICK WILL DECIDE OR WILL
10 RECOMMEND A SENTENCE OF EITHER LIFE IN THE PENITENTIARY OR
11 POSSIBLY DEATH. AND THE STATE'S GOING TO PREVENT SOME
12 AGGRAVATING CIRCUMSTANCES TO THE JURORS AND THE JURORS
13 WILL ALSO HEAR SOME CIRCUMSTANCES OF MITIGATION WHICH ARE
14 INTENDED TO LESSEN THE CRIME OF MURDER THAT'S ... THAT'S BEEN
15 COMMITTED. AND WHAT WE JUST NEED TO KNOW IS WHETHER ...
16 WHETHER YOU IN YOUR HEART WOULD BE ABLE TO GIVE LIFE IN THE
17 PENITENTIARY IF YOU THOUGHT THAT WAS THE RIGHT THING TO DO.

18 JUROR 222: I HAVE TO KNOW WHAT'S THE ... THE REAL
19 HAPPENING FIRST.

20 MR. JACKSON: RIGHT. YEAH AND ... AND WE'LL ... WE'LL
21 PRESENT ALL THAT TO YOU BUT YOU COULD DO THAT?

22 JUROR 222: YES, SIR.

23 MR. JACKSON: AND ... AND ON THE OTHER SIDE OF THE
24 COIN IF ... IF THE AGGRAVATING CIRCUMSTANCE WE PRESENTED
25 WERE BAD ENOUGH AND YOU ... IF YOU FOUND AGGRAVATING

HEARING

201

1 CIRCUMSTANCES BEYOND A REASONABLE DOUBT DO YOU THINK YOU
2 COULD SIGN A PIECE OF PAPER THAT OTHERWISE WOULD BE A DEATH
3 WARRANT FOR BOBBY WAYNE STONE TO HAVE HIM PUT TO DEATH
4 EITHER BY ELECTROCUTION OR BY LETHAL INJECTION?

5 JUROR 222: YES, SIR.

6 MR. JACKSON: YOU COULD SIGN YOUR NAME TO THAT?

7 JUROR 222: I COULD SIGN MY NAME.

8 MR. JACKSON: OKAY. THANK YOU, MA'AM. I APPRECIATE
9 YOUR ANSWERS.

10 THE COURT: MR. BABB OR MR. LITTLEJOHN?

11 MR. LITTLEJOHN: THANK YOU, YOUR HONOR.

12 THE COURT: YES, SIR, MR. LITTLEJOHN.

13 MR. LITTLEJOHN: MS. ULERY, MY NAME IS CAM
14 LITTLEJOHN AND I ALONG WITH JIM BABB REPRESENT MR. STONE.
15 OKAY?

16 JUROR 222: YES, SIR.

17 MR. LITTLEJOHN: MS. ULERY, AS I UNDERSTAND IT YOU
18 MET YOUR HUSBAND WHO WAS IN THE AIR FORCE, YOU MET WHILE
19 YOU WERE IN THE PHILIPPINES?

20 JUROR 222: YES, SIR.

21 MR. LITTLEJOHN: AND THEN YOU CAME TO THIS
22 COUNTRY?

23 JUROR 222: YES, SIR.

24 MR. LITTLEJOHN: HOW LONG HAVE YOU BEEN IN THIS
25 COUNTY?

HEARING

1 JUROR 222: SINCE I WAS ABOUT 36. 18 YEARS.

2 MR. LITTLEJOHN: 18 YEARS? AND THEN YOU BECAME A
3 CITIZEN AFTER YOU CAME HERE?

4 JUROR 222: YES.

5 MR. LITTLEJOHN: OKAY. AND YOU WORK AT SHAW AIR
6 FORCE BASE NOW?

7 JUROR 222: YES. I'VE BEEN THERE FOR 13 YEARS.

8 MR. LITTLEJOHN: OKAY.

9 JUROR 222: OH, I MEAN 11 YEARS. YES.

10 MR. LITTLEJOHN: OKAY. THANK YOU. MS. ULERY, AS I
11 UNDERSTAND FROM YOUR RESPONSES TO JUDGE KING'S QUESTION,
12 YOU THINK THAT YOU FALL IN THAT THIRD CATEGORY OF JUROR?

13 JUROR 222: YES.

14 MR. LITTLEJOHN: OKAY. AND BY THAT I TAKE IT THAT
15 YOU BELIEVE THAT JUST BECAUSE SOMEONE'S BEEN CONVICTED OF
16 MURDER THEY SHOULDN'T AUTOMATICALLY GET THE DEATH
17 PENALTY, IS THAT RIGHT?

18 JUROR 222: YES, SIR.

19 MR. LITTLEJOHN: YOU'D CONSIDER A LIFE SENTENCE AS
20 BEING AN APPROPRIATE CIRCUMSTANCES ONCE YOU HEAR THE
21 EVIDENCE?

22 JUROR 222: YES.

23 MR. LITTLEJOHN: OKAY. AND DO YOU THINK A SENTENCE
24 OF LIFE IN PRISON IS A SUBSTANTIAL SENTENCE? DO YOU THINK
25 THAT'S A HEAVY SENTENCE?

1 JUROR 222: YES.

2 MR. LITTLEJOHN: OKAY. AND THAT'S SOMETHING YOU
3 COULD CONSIDER AFTER HEARING ALL OF THE EVIDENCE?

4 JUROR 222: YES, SIR.

5 MR. LITTLEJOHN: MS. ULERY, WOULD YOU LISTEN TO
6 EVIDENCE CONCERNING CIRCUMSTANCES OF MITIGATION? BY THAT I
7 MEAN EVIDENCE THAT TENDS TO LESSEN OR MAKE LESS SEVERE A
8 MURDER CHARGE?

9 JUROR 222: YES, SIR.

10 MR. LITTLEJOHN: WOULD YOU LISTEN TO EVIDENCE
11 CONCERNING THE DEFENDANT'S BACKGROUND AND HIS FAMILY AND
12 HIS ... HOW HE WAS RAISED, THOSE SORT OF THINGS?

13 JUROR 222: WELL, DEPENDS ON THE FACTS AND WHAT'S ..
14 WHAT'S THE EVIDENCE.

15 MR. LITTLEJOHN: YEAH. WHAT I'M ASKING IS WOULD YOU
16 LISTEN TO THAT KIND OF EVIDENCE BEFORE YOU MADE YOUR MIND
17 UP?

18 JUROR 222: YES, SIR.

19 MR. LITTLEJOHN: OKAY. IF YOU WERE ON THE JURY AND
20 DURING THE DELIBERATIONS IT ... IT LOOKED LIKE THE MAJORITY OF
21 THE PEOPLE ON THE JURY WANTED TO VOTE ONE WAY BUT YOU
22 THOUGHT IT WOULD BE RIGHT TO VOTE THE OTHER WAY...

23 JUROR 222: YES, SIR.

24 MR. LITTLEJOHN: ... WOULD YOU CHANGE YOUR ...
25 CHANGE YOUR VOTE JUST TO GO ALONG WITH THE REST OF THE

1 JURY?

2 JUROR 222: NO.

3 MR. LITTLEJOHN: WOULD YOU STICK ...

4 JUROR 222: NO, I HAVE MY OWN OPINION.

5 MR. LITTLEJOHN: OKAY.

6 JUROR 222: MY OWN OPINION.

7 MR. LITTLEJOHN: AND IF YOU THOUGHT YOU WERE RIGHT
8 WOULD YOU STICK WITH THAT OPINION?

9 JUROR 222: YES, SIR.

10 MR. LITTLEJOHN: OKAY. THANK YOU, MS. ULERY.

11 THE COURT: THANK YOU, MA'AM. THANK YOU FOR YOUR
12 CANDOR AND I'M GONNA ASK THAT YOU STEP OUTSIDE FOR JUST ONE
13 MINUTE WHILE I CAN JUST MEET WITH THE ATTORNEYS. WHAT SAITH
14 THE STATE, MR. JACKSON?

15 MR. JACKSON: YOUR HONOR, SHE'S QUALIFIED.

16 MR. LITTLEJOHN: WE AGREE, YOUR HONOR.

17 THE COURT: ALL RIGHT. ALL RIGHT, ASK MS. ULERY TO
18 COME BACK IN, PLEASE. ALL RIGHT. JUST STAY RIGHT THERE FOR A
19 MINUTE, MS. ULERY. NO NEED TO COME UP. YOU HAVE BEEN FOUND
20 TO BE QUALIFIED AS A JUROR FOR THIS CASE. THAT DOES NOT
21 NECESSARILY MEAN THAT YOU ARE GOING TO BE ACCEPTED OR
22 SERVE AS A JUROR BUT YOU ARE QUALIFIED WHICH MEANS I'M GOING
23 TO HAVE TO ASK YOU TO COME BACK TOMORROW AND I'M GOING TO
24 ASK YOU TO COME BACK TOMORROW AT 2:00 O'CLOCK.

25 JUROR 222: I HAVE TO WORK.

1 THE COURT: WERE YOU SUPPOSED TO WORK TODAY?

2 JUROR 222: TOMORROW. I AM OFF TODAY.

3 THE COURT: I'M SORRY. YOU'RE SUPPOSED TO WORK
4 TOMORROW. WHERE DO YOU WORK?

5 JUROR 222: AT THE GOLF COURSE ON BASE.

6 THE COURT: HAVE YOU EXPLAINED TO THEM THAT YOU
7 HAVE JURY DUTY?

8 JUROR 222: YES.

9 THE COURT: AND WHAT DID THEY TELL YOU?

10 JUROR 222: THEY DIDN'T SAY NOTHING.

11 THE COURT: UNFORTUNATELY YOUR EMPLOYMENT
12 CANNOT INTERFERE WITH YOUR JURY DUTY AND THEY ARE
13 REQUIRED BY LAW AND THE MILITARY SHOULD CERTAINLY
14 RECOGNIZE THIS THAT IF YOU ARE CALLED FOR JURY DUTY YOU
15 HAVE ...

16 JUROR 222: I TELL THEM, SIR.

17 THE COURT: ALL RIGHT. I'M GOING TO ASK MR. HERRING
18 TO GIVE YOU A CERTIFICATE TO SHOW THAT SHE IS SERVING ON THE
19 JURY, MR. HERRING, WHEN SHE LEAVES HERE SO THAT SHE CAN TAKE
20 THAT TO HER EMPLOYER IN THE MORNING TO SHOW THAT SHE'S GOT
21 TO BE HERE TOMORROW FOR JURY DUTY. AND I'M GONNA ALSO TELL
22 YOU THAT TOMORROW AT 2:00 O'CLOCK WE'RE GONNA PICK THE JURY
23 IN THIS CASE AND I DO NOT KNOW WHETHER YOU WILL BE PICKED AS
24 A JUROR IN THIS CASE BUT IF YOU ARE YOU WILL BE REQUIRED TO
25 STAY IN A MOTEL FOR SIX DAYS, FIVE TO SIX DAYS UNTIL THIS

1 MATTER IS CONCLUDED. SO IF YOU COME BACK UP HERE TOMORROW
2 AT 2:00 O'CLOCK I WANT YOU TO PACK ENOUGH CLOTHING AND
3 PERSONAL BELONGINGS AND BRING BACK ... LEAVE THEM IN YOUR
4 CAR. DON'T BRING THEM INTO THE COURTROOM CAUSE IF YOU ARE
5 SELECTED YOU WILL BE UNLOADING YOUR CAR AT THE HOTEL
6 TOMORROW. IF YOU'RE NOT SELECTED YOU'LL BE UNLOADING AND
7 UNPACKING YOUR CLOTHES AT HOME TOMORROW NIGHT. I CAN'T
8 TELL YOU WHAT'S GONNA HAPPEN IN THAT CONNECTION. I WILL ASK
9 THAT YOU NOT READ ANYTHING OR WATCH ANY TELEVISION
10 BROADCASTS OR ANYTHING ABOUT THIS CASE AND PLEASE TO
11 REPORT BACK UP HERE AT 2:00 O'CLOCK TOMORROW. BRING WITH
12 YOU ENOUGH CLOTHING TO STAY WITH US FOR A WHILE AND HE WILL
13 GIVE YOU A DOCUMENT THAT YOU CAN TAKE TO YOUR EMPLOYER TO
14 SHOW THAT YOU ARE SUMMONS TO APPEAR ON THE JURY. THANK
15 YOU VERY MUCH. COUNSEL COME UP JUST A MOMENT AND LET'S SEE
16 WHERE WE ARE. MR. HERRING, COME ON UP. WHAT I'M GONNA ASK
17 YOU TO DO IS WE ARE GOING TO GET TO FINISH THIS PANEL TONIGHT
18 AND WE'RE GONNA DROP BACK AND DO PANEL SEVEN THAT WAS
19 SUPPOSED TO BE HERE AT 6:30. WITH REGARD TO PANEL SIX, THOUGH,
20 IT WILL RUN US LATE IN THE EVENING AND IT MIGHT BE 8:00 O'CLOCK
21 OR LATER BEFORE WE GET TO THEM SO I'M GOING TO LET THEM GO
22 ON AND GO HOME AND ASK THEM TO BE BACK AT 8:30 TOMORROW
23 MORNING.

24 MR. HERRING: YOU MEAN PANEL 12?

25 THE COURT: SIR?

1 MR. HERRING: PANEL 12.

2 THE COURT: PANEL 12. WHAT DID I SAY?

3 MR. HERRING: SIX.

4 THE COURT: SIX. PANEL 12, ASK THEM TO BE BACK AT
5 8:30 TOMORROW MORNING ALONG WITH PANEL 13. WE'LL JUST START
6 WITH PANEL 12 UNTIL WE GET THE REQUISITE NUMBER OF JURORS.
7 BUT WE'LL BE BACK ON SCHEDULE AND WE ARE GOING TO FINISH
8 SEVEN TONIGHT. SO IF YOU WILL BRING THIS 11 IN, JUROR 235 AND GO
9 BACK OUT AND TELL PANEL 12 TO BE BACK IN THE MORNING, PLEASE,
10 AT 8:30.

11 MR. HERRING: YES, SIR. JUROR 235, MS. WESTON.

12 THE COURT: GOOD EVENING, MS. WESTON. I'M SORRY TO
13 HAVE KEPT YOU WAITING IN THE JURY ROOM BUT WE ... SOMETIMES
14 WE CAN'T KEEP THESE THINGS ON AN EXACT SCHEDULE AND HAVE TO
15 DO THE BEST WE CAN. BUT I JUST WANT YOU TO RELAX AND BE AT
16 EASE. I KNOW THIS IS KIND OF INTIMIDATING BEING IN THIS BIG ROOM
17 WITH ALL THE PEOPLE WITH SUITS ON AND ME IN A BLACK ROBE.
18 JUST SIMPLY RELAX AND LET US ASK YOU A FEW QUESTIONS. I
19 WOULD TELL YOU THAT YESTERDAY WHEN WE QUALIFIED YOU FOR
20 THE JURY YOU WERE PUT UNDER OATH AND I WILL TELL YOU THAT
21 OATH STILL APPLIES TO ANYTHING YOU TELL US TODAY AND YOU'RE
22 TESTIFYING UNDER OATH. DO YOU UNDERSTAND THAT?

23 JUROR 235: YES.

24 THE COURT: NOW, MS. WESTON, MR. BOBBY WAYNE
25 STONE HAS ALREADY BEEN FOUND GUILTY OF THE CRIME OF MURDER

1 OF SERGEANT KUBALA. AND SO THE ISSUE OF HIS GUILTY OR
2 INNOCENCE IS NOT GOING TO BE BEFORE THIS JURY. THE ISSUE THAT
3 IS GOING TO BE BEFORE THIS JURY IS REGARDING THE PUNISHMENT
4 MR. STONE SHOULD RECEIVE FOR THIS CRIME. SO HAVING SAID THAT
5 I NEED TO ASK YOU IF YOU'VE HAD AN OPPORTUNITY ... BUT FIRST OF
6 ALL LET ME TELL YOU WE ARE GOING TO ASK YOU SOME QUESTIONS.
7 THESE QUESTIONS ARE NOT DESIGNED TO INVADE YOUR PRIVACY
8 BUT THEY ARE QUESTIONS THAT WE NEED THE ANSWER TO. THERE
9 ARE NO RIGHT OR WRONG ANSWERS TO THESE QUESTIONS BUT WE
10 SIMPLY NEED TO KNOW WHAT YOUR VIEWS ARE ABOUT CERTAIN
11 THINGS SO WE WOULD SIMPLY ASK YOU TO ANSWER THE QUESTIONS
12 AS OPENLY AND HONESTLY AS YOU CAN. AND SO THAT WE CAN SEE
13 WHAT YOUR VIEWS ARE. NOW, YOU WERE GIVEN A SHEET IN THE
14 JURY ROOM DESCRIBING THE THREE TYPES OF JURORS. HAVE YOU
15 HAD A CHANCE TO REVIEW THAT SHEET, THE THREE TYPES OF
16 JURORS?

17 JUROR 235: YES.

18 THE COURT: AND BASED UPON THAT, HOW WOULD YOU
19 CHARACTERIZE YOURSELF? WHICH ONE OF THOSE THREE TYPES,
20 TYPE ONE, TYPE TWO, TYPE THREE WOULD YOU SAY BEST
21 CHARACTERIZES YOU?

22 JUROR 235: NUMBER TWO.

23 THE COURT: NUMBER TWO. THAT BEING THE CASE WHAT
24 YOU'RE TELLING ME IS YOU ARE THE TYPE JUROR THAT FEELS ... AND
25 I'M NOT CRITICIZING YOU FOR THIS, I JUST WANT TO MAKE SURE I

1 UNDERSTAND YOU CORRECTLY ... THAT NO MATTER WHAT THE
2 EVIDENCE IS IN THE CASE THAT UNDER NO CIRCUMSTANCES WOULD
3 YOU EVER BE ABLE TO IMPOSE THE DEATH PENALTY, IS THAT
4 CORRECT?

5 JUROR 235: CORRECT.

6 THE COURT : ALL RIGHT. ANY QUESTIONS, MR. SALEEBY?

7 MR. SALEEBY: NO, SIR.

8 THE COURT: MR. LITTLEJOHN?

9 MR. LITTLEJOHN: NO, YOUR HONOR.

10 THE COURT: ALL RIGHT. MS. WESTON, THANK YOU FOR
11 YOUR HONESTY AND I APPRECIATE YOUR HONESTY AND BEING
12 CANDID WITH US AND I AM GOING TO EXCUSE YOU FROM ANY
13 FURTHER SERVICE IN THIS CASE. I DO THANK YOU FOR COMING AND I
14 APOLOGIZE TO YOU FOR THE TIME THAT YOU'VE HAD TO SPEND UP
15 HERE BUT IT HAS BEEN NECESSARY. YOU ARE EXCUSED AND YOU DO
16 NOT REPORT BACK TO THE COURT. TAKE CARE. ANY OBJECTIONS TO
17 THE DISQUALIFICATION, MR. SALEEBY?

18 MR. SALEEBY: NO, SIR.

19 THE COURT: MR. LITTLEJOHN?

20 MR. LITTLEJOHN: NO, YOUR HONOR.

21 THE COURT: ALL RIGHT. THE NEXT MATTER IS JUROR
22 NUMBER 233, MS. WEEKS.

23 MR. HERRING: JUROR 233, MS. WEEKS.

24 THE COURT: GOOD EVENING, MS. WEEKS. I'M SORRY TO
25 KEEP YOU WAITING IN THE JURY ROOM AND I WANT TO TELL YOU I

1 WANT TO PUT YOU AT EASE. DON'T FEEL INTIMIDATED BY THIS
 2 CROWD. I KNOW THIS IS AN UNUSUAL SITUATION FOR YOU AS YOU'RE
 3 NOT USED TO BEING IN A BIG ROOM OR A ROOM THIS BIG WITH A
 4 BUNCH OF PEOPLE WEARING COATS AND TIES AND SOMEBODY
 5 WEARING A ROBE. BUT DON'T WORRY ABOUT THAT. JUST BE AT
 6 EASE. WE'RE JUST GOING TO TALK WITH YOU A FEW MINUTES ABOUT
 7 CERTAIN MATTERS THAT WOULD HAVE AN IMPACT UPON YOUR
 8 QUALIFICATIONS TO SERVE ON THE JURY IN THIS CASE. AND I WILL
 9 TELL YOU THAT THERE ARE NO RIGHT OR WRONG ANSWERS TO THESE
 10 QUESTIONS. WE JUST NEED TO GET YOUR HONEST FEELING ABOUT
 11 HOW YOU FEEL, WHAT YOUR VIEWS ARE ON CERTAIN ISSUES. THERE
 12 ARE NO RIGHT OR WRONG ANSWERS. AND EVEN THOUGH THE
 13 QUESTIONS MAY SEEM PERSONAL AND THEY MAY SEEM LIKE THEY'RE
 14 INVADING YOUR PRIVACY, THEY'RE NOT DESIGNED FOR THAT AT ALL.
 15 THEY ARE DESIGNED TO GIVE US SOME INFORMATION THAT WE NEED
 16 TO DETERMINE YOUR QUALIFICATIONS. I WOULD ALSO TELL YOU
 17 THAT YESTERDAY WHEN WE WENT THROUGH THE JURY
 18 QUALIFICATION PROCESS YOU WERE PUT UNDER OATH AND ANY
 19 TESTIMONY OR ANSWERS TO QUESTIONS THAT WE ARE GOING TO ASK
 20 YOU TODAY WOULD BE THE EQUIVALENT TO TESTIMONY UNDER
 21 OATH. DO YOU UNDERSTAND THAT?

22 JUROR 233: YES.

23 THE COURT: ALL RIGHT. NOW, LET ME ASK YOU, MS.
 24 WEEKS, HAVE YOU HAD ... WELL, FIRST OF ALL BEFORE I TELL YOU
 25 THAT. MR. BOBBY WAYNE STONE, THE DEFENDANT IN THIS CASE

1 WHO'S SEATED NEXT TO MR. BABB OVER HERE, HAS ALREADY BEEN
2 ADJUDICATED AS HAVING BEEN GUILTY OF MURDER IN THIS CASE. SO
3 THE QUESTION THE JURY IS GOING TO BE ASKED TO DETERMINE IS
4 NOT WHETHER HE IS OR IS NOT GUILTY OF THIS CRIME. HE HAS
5 ALREADY BEEN FOUND TO BE GUILTY OF THIS CRIME. THE ONLY
6 MATTER THAT THIS JURY IS GOING TO HAVE TO CONSIDER IS WHAT
7 PUNISHMENT IS GOING TO BE APPROPRIATE FOR THE CRIME THAT HE
8 HAS BEEN ADJUDICATED GUILTY ON. AND IN THAT CONNECTION I
9 WOULD ASK YOU IF YOU HAVE HAD THE OPPORTUNITY TO READ THE
10 JURY ... JUROR INFORMATION THAT WAS GIVEN TO YOU BACK IN THE
11 JURY ROOM?

12 JUROR 233: YES, SIR.

13 THE COURT: AND IT DESCRIBES THREE TYPES OF JURORS,
14 TYPE ONE, TYPE TWO AND TYPE THREE. WHICH OF THESE THREE
15 TYPES OF JUROR DO YOU THINK BEST DESCRIBES YOU?

16 JUROR 233: TYPE THREE.

17 THE COURT: TYPE THREE? ALL RIGHT. NOW, JUST TO
18 MAKE SURE THAT I UNDERSTAND WHAT YOU ARE SAYING, IS THAT
19 AFTER LISTENING TO THE FACTS AND CIRCUMSTANCES
20 SURROUNDING THIS CASE, DEPENDING ON WHAT THOSE FACTS AND
21 CIRCUMSTANCES YOU COULD EITHER FIND THAT THE APPROPRIATE
22 PUNISHMENT WAS LIFE IMPRISONMENT OR THAT THE FACTS AND
23 CIRCUMSTANCES JUSTIFY YOU FINDING THE APPROPRIATE
24 PUNISHMENT WAS DEATH EITHER BY LETHAL INJECTION OR BY
25 ELECTROCUTION. IS THAT CORRECT?

1 JUROR 233: YES, SIR.

2 THE COURT: ALL RIGHT. NOW, THE STATE WILL BE
3 REQUIRED OR WILL IN THIS CASE PRESENT EVIDENCE OF CERTAIN
4 AGGRAVATING CIRCUMSTANCES SOMETIMES REFERRED TO AS
5 STATUTORY AGGRAVATING CIRCUMSTANCES. THE STATE WILL HAVE
6 TO PROVE AT LEAST ONE OF THESE CIRCUMSTANCES BY ... ONE OF
7 THESE STATUTORY AGGRAVATING CIRCUMSTANCES BY BEYOND A
8 REASONABLE DOUBT. AND IF THEY DO THAT THE JURY WOULD MAKE
9 THE DECISION AS TO WHETHER THE APPROPRIATE PUNISHMENT IS
10 LIFE IN PRISON OR DEATH. THE DEFENDANT WILL ALSO OFFER
11 TESTIMONY OF MITIGATING CIRCUMSTANCES SOME OF WHICH ARE
12 STATUTORY AND SOME WHICH ARE JUST MATTERS THAT THEY
13 CONSIDER MITIGATE OR LESSEN THE PUNISHMENT THAT HE SHOULD
14 BE GIVEN. I NEED TO ASK YOU IF YOU WILL BE ABLE TO CONSIDER
15 ALL THE STATUTORY AGGRAVATING CIRCUMSTANCES AND THE
16 MITIGATING CIRCUMSTANCES PRESENTED BY THE DEFENDANT AND
17 DECIDE BASED UPON THE EVIDENCE THAT CONVINCES YOU THAT THE
18 STATE HAS OR HAS NOT PROVEN THESE CIRCUMSTANCES BEYOND A
19 REASONABLE DOUBT. BASED UPON THAT WOULD YOU BE ABLE TO
20 DECIDE THIS CASE BASED UPON THE EVIDENCE IN THIS COURTROOM
21 AND RENDER A VERDICT OF LIFE IMPRISONMENT IF THAT WHAT YOU
22 FEEL THE EVIDENCE IS?

23 JUROR 233: YES.

24 THE COURT: WOULD YOU ALSO UNDER THOSE SAME
25 CIRCUMSTANCES AFTER HEARING ALL OF THE EVIDENCE IN THIS CASE

1 BOTH FROM THE STATE AND THE DEFENDANT BE ABLE TO RENDER A
2 VERDICT THAT THE APPROPRIATE PUNISHMENT SHOULD BE DEATH IF
3 THAT IS YOUR VIEW OF THE EVIDENCE IN THIS CASE?

4 JUROR 233: YES.

5 THE COURT: ALL RIGHT. NOW, YOU WILL BE ASKED TO
6 SIGN YOUR NAME TO A VERDICT FORM WHICH EVER IT MIGHT BE,
7 WHETHER IT BE LIFE IMPRISONMENT OR DEATH, WOULD YOU BE ABLE
8 TO SIGN THAT FORM IF YOUR VIEW OF THE FACTS AND
9 CIRCUMSTANCES DEEM THAT TO BE THE APPROPRIATE AND RIGHT
10 VERDICT?

11 JUROR 233: YES.

12 THE COURT: ALL RIGHT. MY NEXT QUESTION TO YOU, MS.
13 WEEKS, IS HAVE YOU READ ANYTHING OR HEARD ANYTHING ABOUT
14 THIS CASE?

15 JUROR 233: NO. I SAW RIGHT BEFORE COMING HERE THAT
16 THEY WERE GONNA PICK THE JURY FOR THAT CASE BUT I DIDN'T
17 KNOW WHAT IT WAS AND THEN WE CAME IN.

18 THE COURT: SO IN THE LAST DAY OR TWO OR RIGHT
19 BEFORE YOU REPORTED UP HERE YOU SAW IN THE PAPER ...

20 JUROR 233: NO, I DIDN'T SEE IT IN THE PAPER.

21 THE COURT: OH, WHERE DID YOU HEAR IT?

22 JUROR 233: IT WAS ONE MORNING BEFORE I GOING TO
23 WORK AND THEY SAID THEY WERE PICKING A JURY FOR THAT CASE.

24 THE COURT: WHERE DID YOU HEAR IT?

25 JUROR 233: ON TV.

1 THE COURT: ON TV. OKAY. WOULD THE FACT THAT YOU
2 HEARD THAT THE JURY WAS GOING TO BE PICKED IN THE CASE WHEN
3 YOU DIDN'T KNOW THAT WAS THE CASE, WOULD THAT HAVE ANY
4 IMPACT OR ANY EFFECT ON WHAT YOUR VERDICT SHOULD BE IN THIS
5 CASE?

6 JUROR 233: NO, BECAUSE I JUST GLANCED AT IT GETTING
7 READY FOR WORK.

8 THE COURT: OKAY. ALL RIGHT. WOULD YOU BE ABLE TO
9 PUT THAT ASIDE AND DECIDE THE CASE BASED UPON THE EVIDENCE
10 THAT YOU HEAR IN THIS COURTROOM?

11 JUROR 233: YES.

12 THE COURT: AND WOULD YOU DO THAT?

13 JUROR 233: YES.

14 THE COURT: ALL RIGHT. NOW, LET ME ASK YOU ONE
15 OTHER THING. I'M GONNA SWITCH GEARS ON US FOR JUST A MINUTE.
16 IF YOU ARE SELECTED AS A JUROR IN THIS CASE YOU WOULD BE
17 REQUIRED TO BE SEQUESTERED, THAT MEANS HOUSED IN A MOTEL
18 FOR FIVE OR SIX DAYS UNTIL THE CASE CAN BE RESOLVED AND YOU
19 ARE NOT GOING TO BE ABLE TO GO HOME. EXCEPT FOR THE
20 PERSONAL INCONVENIENCE TO YOU, WOULD THIS CREATE ANY
21 UNDUE OR SEVERE HARDSHIP ON YOU, ON YOUR HEALTH OR THE
22 HEALTH AND WELFARE ON ANYBODY THAT IS RESPONSIBLE TO YOU
23 OR THAT IS DEPENDENT UPON YOU?

24 JUROR 233: NO.

25 THE COURT: ALL RIGHT, MS. WEEKS. I THINK THAT'S ALL

1 THE QUESTIONS THAT I HAVE FOR YOU. I'M GONNA ASK MR. SALEEBY
2 IF HE HAS ANY QUESTIONS AND THEN I'LL GIVE THE DEFENSE
3 LAWYERS AN OPPORTUNITY. THANK YOU FOR YOUR HELP.

4 MR. SALEEBY: MRS. WEEKS, MY NAME IS DUDLEY
5 SALEEBY. I'LL BE ASSISTING SOLICITOR JACKSON IN PROSECUTING
6 THIS CASE. WE APPRECIATE YOUR ANSWERS. LET ME JUST MAKE
7 SURE THAT I UNDERSTAND WHAT YOU TOLD THE JUDGE. DO YOU
8 FEEL AS YOU SIT HERE TODAY ... WE'RE NOT ASKING YOU WHAT YOU
9 WOULD DO AS A MEMBER OF THIS JURY, DO YOU FEEL AT THIS POINT
10 THAT YOU COULD BE FAIR AND IMPARTIAL TO BOTH SIDES?

11 JUROR 233: YES.

12 MR. SALEEBY: DO YOU FEEL THAT YOU COULD LISTEN TO
13 WHAT THE STATE HAS TO PRESENT AND WHAT THE DEFENSE HAS TO
14 PRESENT, WHAT THE JUDGE HAS TO SAY AND THEN AND ONLY THEN
15 MAKE YOUR DECISION?

16 JUROR 233: YES.

17 MR. SALEEBY: COULD YOU IF YOU THOUGHT THE
18 APPROPRIATE PUNISHMENT UNDER THE FACTS OF THE CASE BASED
19 ON THE DEFENDANT AND THE VICTIM WAS LIFE IMPRISONMENT,
20 COULD THAT BE YOUR VERDICT AND COULD YOU SIGN YOUR NAME
21 TO IT?

22 JUROR 233: YES.

23 MR. SALEEBY: IF YOU THOUGHT THAT THE PROPER
24 PUNISHMENT TO FIT THIS DEFENDANT AND THIS CRIME WAS THE
25 DEATH PENALTY COULD THAT BE YOUR VERDICT AND COULD YO

1 SIGN YOUR NAME TO IT?

2 JUROR 233: YES.

3 MR. SALEEBY: THANK YOU.

4 THE COURT: MR. BABB.

5 MR. BABB: GOOD EVENING, MS. WEEKS. MY NAME IS JIM
6 BABB. I ALONG WITH CAM LITTLEJOHN HERE WILL BE REPRESENTING
7 MR. STONE. LET ME ASK YOU A FEW QUESTIONS ABOUT THE
8 QUESTIONNAIRE AND GET YOU TO HELP ME OUT ON SOME OF THOSE
9 THINGS. I ... I NOTICE THAT YOU MARKED YOU HAD PREVIOUSLY
10 SERVED ON A CRIMINAL JURY ...

11 JUROR 233: I TRIED TO CALL BECAUSE I WAS CONFUSED
12 ABOUT WHAT A GRAND JURY AND CRIMINAL JURY WAS BUT I ... I
13 NEVER GOT IN TOUCH WITH ANYBODY SO I DIDN'T KNOW WHAT
14 GRAND JURY WAS WHEN YOU STAND AND TELL IT OR NOT. GO HOME.

15 MR. BABB: WHAT ... WHAT TYPE OF JURY DO YOU THINK
16 YOU SERVED ON? CAUSE I ALSO NOTED THAT YOU HAD CHECKED I
17 BELIEVE HAVE YOU EVER SERVED ON A GRAND JURY AND YOU SAID
18 YES.

19 JUROR 233: YEAH CAUSE I THOUGHT THAT WAS A GRAND
20 JURY.

21 MR. BABB: DID YOU SERVE ON A JURY HERE IN SUMTER?

22 JUROR 233: YES.

23 MR. BABB: OKAY. WAS THAT JUST FOR A WEEK OR TWO
24 WEEKS OR WAS IT A LONGER TERM WHERE YOU WENT ...

25 JUROR 233: IT WAS FOR ABOUT A WEEK.

1 MR. BABB: FOR ABOUT A WEEK. DID YOU COME TO THIS
2 COURTROOM?

3 JUROR 233: YES. I THINK ... YEAH.

4 MR. BABB: OKAY.

5 JUROR 233: IT WAS A WHILE AGO.

6 MR. BABB: IT WAS A WHILE AGO. DO YOU KNOW
7 WHETHER IT WAS FOR A CIVIL CASE OR A CRIMINAL CASE? WERE THE
8 MATTERS ABOUT PEOPLE THAT WERE DEFENDANT AND BEEN
9 ACCUSED OF CRIMES OR WAS IT DISPUTES OVER MONEY OR WHO RAN
10 ...

11 JUROR 233: CRIMINAL CASE.

12 MR. BABB: CRIMINAL CASE. OKAY. DID YOU SERVE ON A
13 JURY?

14 JUROR 233: YES.

15 MR. BABB: OKAY. SO YOU WERE SELECTED. WHAT TYPE
16 OF CASE WAS THAT?

17 JUROR 233: IT'S WHERE THEY WERE TRYING THIS GUY FOR
18 SHAKING HIS BABY.

19 MR. BABB: OKAY.

20 JUROR 233: AND THE BABY DIED.

21 MR. BABB: AND DO YOU RECALL HOW LONG AGO THAT
22 WAS?

23 JUROR 233: I'M NOT SURE HOW LONG IT WAS. IT'S BEEN A
24 WHILE. IT'S BEEN OVER FIVE, SIX YEARS.

25 MR. BABB: OKAY. I THINK THAT TELLS US WHAT TYPE OF

1 JURY THAT YOU SERVED ON. NOW, I NOTE YOU HAVE A BROTHER I
2 BELIEVE WHO IS IN THE MILITARY AND HE'S A MILITARY POLICE?

3 JUROR 233: YES. HE WAS.

4 MR. BABB: HE WAS? IS HE ANY LONGER INVOLVED IN
5 MILITARY LAW ENFORCEMENT?

6 JUROR 233: NO.

7 MR. BABB: OKAY. DO YOU HAVE ANY OTHER RELATIVES
8 OR FAMILY MEMBERS WHO ARE INVOLVED IN LAW ENFORCEMENT?

9 JUROR 233: NO.

10 MR. BABB: ARE YOU CLOSE FRIENDS WITH ANY LAW
11 ENFORCEMENT OFFICERS?

12 JUROR 233: NO.

13 MR. BABB: DO YOU KNOW ANY LAW ENFORCEMENT
14 OFFICERS?

15 JUROR 233: YES.

16 MR. BABB: YOU DO? HERE IN SUMTER?

17 JUROR 233: I JUST KNOW THEM. I WENT TO SCHOOL WITH
18 THEM BUT ...

19 MR. BABB: OKAY. WHO ... AND DO THEY WORK AT THE
20 CITY POLICE DEPARTMENT OR AT SUMTER COUNTY SHERIFF'S OFFICE?

21 JUROR 233: I DON'T KNOW WHICH ONE.

22 MR. BABB: OKAY. WHO ARE THEY?

23 JUROR 233: WELL, I KNEW ANTHONY DENNIS.

24 MR. BABB: OKAY.

25 JUROR 233: AND I KNEW HAMILTON GARDNER. WE WENT

1 TO SCHOOL TOGETHER.

2 MR. BABB: ALL RIGHT.

3 JUROR 233: AND I DON'T KNOW THE OTHER'S NAME. THEY
4 CALLED ... THEY USED TO CALL HIM MONKEY JOE.

5 MR. BABB: MONKEY JOE.

6 JUROR 233: I DON'T KNOW HIS NAME BUT I KNOW HE'S THE
7 POLICE.

8 MR. BABB: I THINK SOME FOLKS AROUND HERE MUST
9 KNOW EXACTLY WHO YOU'RE TALKING ABOUT. ANYONE ELSE THAT
10 COMES TO YOUR MIND?

11 JUROR 233: NO.

12 MR. BABB: NOW, YOU'RE AWARE ARE YOU THAT THIS
13 CASE INVOLVES A VICTIM IN THIS CASE WAS A SUMTER COUNTY
14 SHERIFF'S DEPUTY?

15 JUROR 233: UH-HUH (AFFIRMATIVE RESPONSE).

16 MR. BABB: OKAY. IS THAT GONNA IMPACT YOU IN ANY
17 WAY?

18 JUROR 233: NO.

19 MR. BABB: IT'S NOT GONNA INFLUENCE YOUR DECISION
20 WHATSOEVER?

21 JUROR 233: NO.

22 MR. BABB: EVEN THOUGH YOU KNOW OR ARE FRIENDS
23 WITH THE SHERIFF?

24 JUROR 233: I KNOW HIM. I JUST KNOW HIM.

25 MR. BABB: YOU'VE HAD A ... YOU'VE BEEN A VICTIM OF A

HEARING

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1 CRIME AS WELL. IS THAT CORRECT?

2 JUROR 233: NO.

3 MR. BABB: YOUR HUSBAND ... YOU OR YOUR HUSBAND'S
4 CAR WAS BROKEN INTO IN A PARKING LOT.

5 JUROR 233: OH, YEAH. AT WORK.

6 MR. BABB: DOES THAT INFLUENCE THE WAY THAT YOU
7 VIEW CRIMES?

8 JUROR 233: NO.

9 MR. BABB: THAT'S NOT GONNA IMPACT YOU HERE?

10 JUROR 233: NO.

11 MR. BABB: DO YOU BELIEVE THAT A SENTENCE OF LIFE IN
12 PRISON IS A SUBSTANTIAL PUNISHMENT?

13 JUROR 233: IT DEPENDS ON THE CIRCUMSTANCES.

14 MR. BABB: FOR CONVICTION OF MURDER?

15 JUROR 233: IT STILL ... IT DEPENDS ON ...

16 MR. BABB: NOW, I'M NOT ASKING YOU IF IT'S
17 APPROPRIATE SENTENCE IN THIS CASE BUT DO YOU CONSIDER IF
18 SOMEONE WERE GIVEN LIFE IN PRISON, DO YOU CONSIDER THAT A
19 HEAVY PUNISHMENT, SERIOUS PUNISHMENT, A SUBSTANTIAL
20 PUNISHMENT?

21 JUROR 233: SUBSTANTIAL PUNISHMENT.

22 MR. BABB: AND IN THIS CASE THERE'S A POSSIBILITY
23 THAT YOU MAY BE CALLED UPON AS HIS HONOR HAS BEEN
24 EXPLAINING TO YOU TO MAKE A DECISION OR RECOMMENDATION
25 BETWEEN DEATH AND LIFE IN PRISON. AND IN THAT YOU WILL BE

1 ASKED TO CONSIDER AGGRAVATING CIRCUMSTANCES AS WELL AS
2 MITIGATING CIRCUMSTANCES. SOME OF THOSE MITIGATING
3 CIRCUMSTANCES MAY HAVE TO DO WITH FACTS SURROUNDING THE
4 ACTUAL EVENT. IT MAY HAVE TO DO WITH OTHER FACTORS THAT
5 HAVE NOTHING TO DO WITH THE EVENT BUT SOLELY WITH THE
6 PERSON OF THE DEFENDANT WITH HIS BACKGROUND, HIS HISTORY,
7 HIS PERSONALITY, THINGS OF THAT NATURE. CAN YOU CONSIDER
8 THOSE FACTORS IN MAKING A DECISION AS TO WHETHER LIFE IN
9 PRISON WOULD BE AN APPROPRIATE PENALTY?

10 JUROR 233: YES.

11 MR. BABB: OKAY. YOU LOOK PUZZLED.

12 JUROR 233: YOU'RE ASKING ME WHETHER A PERSON'S
13 BACKGROUND AND THE WAY THEY GREW UP WOULD BE A
14 CIRCUMSTANCE OF WHAT THEY DO?

15 MR. BABB: WHAT I'M ASKING YOU IS IF YOU'RE
16 PRESENTED WITH EVIDENCE THAT SHOWS MITIGATION OR EVIDENCE
17 IN MITIGATION THAT TOUCHES ON AN INDIVIDUAL'S BACKGROUND,
18 HOW THEY GREW UP, THE CONDITIONS THEY GREW UP UNDER OR
19 THINGS THAT MAY HAVE HAPPENED TO THEM AS THEY WERE
20 GROWING UP, CAN YOU CONSIDER THAT IN MITIGATION?

21 JUROR 233: YES.

22 MR. BABB: THE COURT'S INDULGENCE.

23 THE COURT: YES, SIR.

24 MR. BABB: NO FURTHER QUESTIONS.

25 THE COURT: ALL RIGHT. MS. WEEKS, THANK YOU VERY

1 MUCH. I'M GOING TO ASK YOU TO STEP OUTSIDE FOR JUST A MINUTE
2 WHILE I TAKE UP A MATTER WITH THE ATTORNEYS. THANK YOU
3 VERY MUCH. MR. SALEEBY?

4 MR. SALEEBY: SHE WOULD BE QUALIFIED.

5 THE COURT: MR. BABB?

6 MR. BABB: SHE'S QUALIFIED.

7 THE COURT: THANK YOU. THE COURT WOULD FIND HER
8 QUALIFIED. HAVE HER COME BACK IN. ALL RIGHT, MS. WEEKS, YOU
9 HAVE BEEN QUALIFIED AS A JUROR IN THIS CASE. THAT DOES NOT
10 NECESSARILY MEAN THAT YOU WILL BE A JUROR. IT JUST MEANS
11 THAT YOU'VE BEEN QUALIFIED AS A JUROR. I AM GOING TO EXCUSE
12 YOU AT THIS TIME AND ALLOW YOU TO GO HOME FOR THE EVENING
13 AND REQUEST THAT YOU BE BACK HERE IN THE COURTROOM, BACK
14 IN THE JURY PANEL WITH THE REST OF THE JURORS WHO WILL BE ...
15 QUALIFIED JURORS WHO WILL BE REPORTING HERE TOMORROW AT
16 2:00 O'CLOCK. AT THAT TIME ... YOU SHOULD DO THIS TONIGHT OR
17 TOMORROW MORNING ... BUT WHEN YOU COME BACK
18 TOMORROW BRING SOME CLOTHING AND PERSONAL BELONGINGS TO
19 STAY UP TO SIX DAYS IF IT BECOMES NECESSARY IF YOU ARE
20 SELECTED ON THE JURY BECAUSE YOU WILL BE HOUSED IN A HOTEL
21 OR SEQUESTERED. YOU NEED TO BRING ENOUGH CLOTHING AND
22 PERSONAL BELONGINGS WITH YOU ALONG WITH ANY MEDICATIONS
23 THAT YOU MIGHT NEED AND YOU CAN LEAVE YOUR SUITCASE IN THE
24 CAR. YOU DO NOT NEED TO BRING IT IN THE COURTROOM WITH YOU.
25 IF YOU ARE SELECTED ON THE JURY YOU'LL BE UNPACKING THAT

1 SUITCASE OUT AT THE HOTEL TOMORROW EVENING WHEN WE GET
 2 READY TO GO OUT THERE. IF YOU'RE NOT SELECTED ON THE JURY
 3 YOU'LL BE GOING BACK HOME AND UNPACKING THAT SUITCASE AT
 4 HOME TOMORROW NIGHT. BUT YOU ARE QUALIFIED AS A JUROR AND
 5 I'M GOING TO ASK THAT YOU BE BACK IN THE COURTROOM
 6 TOMORROW AT 2:00 O'CLOCK PLEASE. OVER THE EVENING RECESS
 7 AND TOMORROW, DO NOT READ ANY NEWSPAPER ARTICLES OR
 8 ANYTHING TO DO WITH THIS CASE. DO NOT LISTEN TO ANY TV SHOWS
 9 AND DO NOT TALK TO ANYONE ABOUT THE CASE AND DON'T ALLOW
 10 ANYONE TO TALK TO YOU ABOUT THE CASE. YOU CAN TELL ... I MEAN
 11 YOU SHOULD NOT DISCUSS THE CASE. YOU CAN TELL YOUR HUSBAND
 12 THAT YOU'RE GONNA BE ON THE JURY, HE HAS A RIGHT TO KNOW
 13 THAT. OTHERWISE HE MIGHT WONDER ABOUT WHERE YOU ARE. BUT
 14 YOU CAN TELL HIM YOU'RE GOING TO BE ON THE JURY BUT YOU
 15 SHOULD NOT DISCUSS THE CASE WITH HIM BECAUSE YOU'VE GOT TO
 16 DECIDE THIS CASE BASED UPON WHAT YOU HEAR IN THIS
 17 COURTROOM. SO I'M GOING TO EXCUSE YOU NOW AND ASK YOU TO
 18 BE BACK IN THE COURTROOM TOMORROW AT 2:00 O'CLOCK AND
 19 PLEASE BRING WITH YOU YOUR PERSONAL BELONGINGS TO LAST YOU
 20 FIVE TO SIX DAYS BUT YOU CAN LEAVE THOSE IN THE CAR. ALL
 21 RIGHT? WE'LL SEE YOU TOMORROW. THANK YOU. ALL RIGHT. MR.
 22 HERRING, I ASSUME YOU HAVE RELEASED PANEL 12 TO COME BACK IN
 23 THE MORNING. IS THAT CORRECT?

24 MR. HERRING: YES, SIR.

25 THE COURT: ALL RIGHT. THAT'S FINE. LET'S GO BACK

1 THEN, COUNSEL, TO PANEL NUMBER ... THAT'S PANEL NUMBER 12.
2 LET'S GO BACK TO PANEL NUMBER SEVEN MAYBE AND ... WE'RE
3 GONNA GO BACK TO PANEL NUMBER SEVEN AND THE FIRST JUROR ON
4 THAT PANEL IS MR. BROOKS, JUROR 26. HI, MR. BROOKS, THANK YOU
5 VERY MUCH. I APOLOGIZE FOR BRINGING YOU AROUND, KEEPING YOU
6 WAITING IN THE JURY ROOM BACK AND FORTH BUT WE'VE BEEN
7 TRYING TO GET THIS WORK DONE THAT WE HAD TO GET DONE. AND I
8 DO APPRECIATE YOUR PATIENCE IN PUTTING UP WITH US. I'M GONNA
9 TELL YOU THAT WE'RE GONNA ASK YOU SOME QUESTIONS TO
10 DETERMINE YOUR QUALIFICATIONS TO SERVE ON THE JURY. SOME OF
11 THESE QUESTIONS MAY BE QUITE PERSONAL BUT I'M NOT TRYING TO
12 PRY. IT'S JUST INFORMATION THAT WE HAVE TO OBTAIN IN ORDER TO
13 DETERMINE YOUR QUALIFICATIONS AND ALL WE ASK IS THAT YOU BE
14 FRANK WITH US AND GIVE US YOUR FEELINGS. THERE'S NO RIGHT OR
15 WRONG ANSWERS TO THESE QUESTIONS BUT THEY'RE SIMPLY
16 DESIGNED TO KEEP US INFORMED OF WHAT YOUR FEELINGS ARE OR
17 WHAT YOU FEEL ABOUT THIS MATTER. I KNOW THAT IT'S KIND OF
18 INTIMIDATING COMING IN HERE IN THIS BIG ROOM, THESE LAWYERS
19 IN SUITS, THE JUDGE SITTING UP HERE. JUST RELAX AND GIVE US THE
20 ANSWERS AS BEST YOU CAN. I WILL ALSO TELL YOU THAT
21 YESTERDAY WHEN YOU WERE SWORN ... WHEN YOU WERE QUALIFIED
22 YOU WERE SWORN AND THAT OATH STILL APPLIES. SO ANYTHING
23 THAT YOU TELL US TODAY WILL BE UNDER OATH. DO YOU
24 UNDERSTAND THAT?

25 JUROR 26: YES.

1 THE COURT: ALL RIGHT. NOW, I'M GONNA HAVE TO ASK
2 THAT YOU LEAN UP A LITTLE BIT, TALK INTO THAT MICROPHONE, AND
3 SPEAK LOUD AND CLEARLY SO THAT EVERYONE HERE CAN HEAR YOU
4 BECAUSE IT IS IMPORTANT THAT WE HEAR WHAT YOU HAVE TO SAY.
5 IN THIS MATTER THE DEFENDANT IN THIS CASE, MR. BOBBY WAYNE
6 STONE HAS ALREADY BEEN FOUND TO BE GUILTY OF THE OFFENSE OF
7 MURDER. SO THAT ISSUE IS NOT GOING TO BE BEFORE THE JURY.
8 YOU'RE NOT GONNA HAVE TO CONSIDER WHETHER OR NOT MR. STONE
9 IS GUILTY OF THIS OFFENSE. THE ONLY ISSUE THAT THE JURY IS
10 GOING TO HAVE TO CONSIDER IS WHAT PUNISHMENT SHOULD BE
11 IMPOSED. AND I WOULD TELL YOU THAT ... I JUST TELL YOU THE
12 BACKGROUND SO THAT YOU WILL KNOW THAT THE MAIN ISSUE THAT
13 THE JURY IS GOING TO BE DEALING WITH IS WHAT PUNISHMENT
14 SHOULD BE IMPOSED UPON MR. STONE FOR THIS MURDER. I GAVE TO
15 YOU AND YOU HAD AN OPPORTUNITY I ASSUME TO READ BACK IN THE
16 JURY ROOM THE THREE TYPES OF JURORS IN THIS CASE. IS THAT
17 RIGHT?

18 JUROR 26: YES, SIR.

19 THE COURT: AND THESE JURORS DESCRIBED THREE TYPES
20 IS TYPE ONE, TYPE TWO AND TYPE THREE. BASED ON THAT, WHICH
21 ONE OF THESE THREE TYPES BEST DESCRIBES YOU? DO YOU WANT
22 ME TO GO OVER THEM WITH YOU?

23 JUROR 26: I DID READ IT IT WAS PROBABLY A TWO.

24 THE COURT: I UNDERSTAND. AND I CAN UNDERSTAND
25 YOU BEING A LITTLE BIT NERVOUS. MAYBE YOU'D BE BETTER IF I JUST

1 KIND OF BRIEFLY EXPLAIN WHAT EACH TYPE IS AND YOU CAN TELL
2 US WHICH ONE BEST DESCRIBES YOU.

3 JUROR 26: YES, SIR.

4 THE COURT: TYPE ONE IS THE TYPE OF JUROR WHO ONCE
5 THE CRIME OF MURDER HAS BEEN PROVEN BY THE STATE AND IT
6 BECOMES UP TO THE JURY TO CONSIDER THE PUNISHMENT THAT
7 JUROR FEELS LIKE HE IS REQUIRED IN EVERY CASE TO GIVE THE
8 DEATH PENALTY. THE JUROR IN TYPE ONE FEELS LIKE THE DEATH
9 PENALTY IS THE MOST APPROPRIATE PUNISHMENT NO MATTER WHAT
10 THE CIRCUMSTANCES ARE. TYPE TWO IS THE TYPE OF JUROR WHO
11 FEELS THAT UNDER NO CIRCUMSTANCES COULD THAT JUROR GIVE
12 THE DEATH PENALTY AND HE WOULD NOT NEED TO HEAR ANYTHING
13 ABOUT THE CIRCUMSTANCES. HIS MIND IS MADE UP AND HE FEELS
14 THAT THE DEATH PENALTY WOULD NOT BE APPROPRIATE. TYPE
15 THREE IS THE TYPE OF JUROR WHO EVEN THOUGH THE GUILT OF THE
16 DEFENDANT FOR MURDER HAS BEEN DETERMINED WOULD NOT HAVE
17 MADE UP HIS MIND IN ADVANCE CONCERNING WHAT PUNISHMENT
18 AND WOULD WANT TO HEAR THE FACTS AND CIRCUMSTANCES IN
19 AGGRAVATION AND MITIGATION AND WILL WANT TO LISTEN AND
20 FOLLOW THE LAW THAT THE COURT TELLS HIM ABOUT AND DECIDE
21 THE CASE BASED UPON THE EVIDENCE HE HEARS IN THIS COURTROOM
22 AND THE LAW AS INSTRUCTED BY THE COURT. SO AND WOULD MAKE
23 UP HIS OWN MIND AS TO WHETHER THE FACTS PRESENTED WARRANT
24 A VERDICT OF LIFE IMPRISONMENT OR A VERDICT OF THE DEATH
25 PENALTY. THOSE ARE THE THREE TYPES OF JURORS. NOW, WHICH OF

1 THOSE THREE TYPES DO YOU THINK BEST DESCRIBES YOU?

2 JUROR 26: I WAS WONDERING ABOUT THAT TWO, YOU
3 KNOW. I WAS ... IT WAS KIND OF BOTHERING ME AT FIRST, YOU
4 KNOW, BUT ... I'M GONNA GUESS I'D BE ... I'D BE A NUMBER TWO.

5 THE COURT: SPEAK UP A LITTLE BIT. WE CAN'T QUITE
6 HEAR YOU.

7 JUROR 26: I GUESS THAT DEATH BUT I AGREE TO THE, YOU
8 KNOW, PRISON, YOU KNOW, CAUSE THE BIBLE STATED ...

9 THE COURT: WELL, YOU JUST TOO LOW. I'M NOT SURE
10 ANYBODY CAN HEAR YOU. LEAN UP TO THE MICROPHONE IF YOU
11 WOULD. NOW, GO AHEAD. LEAN FORWARD A LITTLE BIT.

12 JUROR 26: A LOT OF PEOPLE DISAGREE WITH ME ABOUT
13 THIS, YOU KNOW, I THINK EVERYBODY SHOULD GO BY THE TEN
14 COMMANDMENTS, THOU SHALL NOT KILL. BUT, YOU KNOW, I
15 UNDERSTAND THE SITUATION, THE FAMILY AND I KNOW HOW THEY
16 FEEL BUT IT'S JUST ME.

17 THE COURT: MY QUESTION TO YOU IS MURDER HAS
18 ALREADY BEEN DECIDED IN THIS CASE. MR. STONE HAS ALREADY
19 BEEN DECIDED THAT HE IS GUILTY OF MURDER. WHAT IS YOUR
20 FEELING AS TO WHAT YOU WOULD BE ABLE TO DO AS FAR AS
21 DECIDING WHAT THE PUNISHMENT TO BE INFLICTED. COULD YOU
22 LISTENED TO THE FACTS AND CIRCUMSTANCES AND DECIDE
23 WHETHER LIFE IS APPROPRIATE OR WHETHER DEATH IS APPROPRIATE
24 OR DO YOU FEEL THAT DEATH IS AUTOMATICALLY APPROPRIATE OR
25 DO YOU FEEL THAT UNDER NO CIRCUMSTANCES COULD YOU IMPOSE

1 DEATH?

2 JUROR 26: THAT'S ... THAT'S THE WAY I FEEL RIGHT NOW.

3 THE COURT: ALL RIGHT. RIGHT NOW YOU SAY YOU FEEL
4 THAT WAY. UNDER NO CIRCUMSTANCES DO YOU FEEL LIKE YOU
5 COULD SIGN A VERDICT THAT IMPOSED DEATH?

6 JUROR 26: THAT'S THE WAY I FEEL RIGHT NOW.

7 THE COURT: ALL RIGHT. MR. SALEEBY, MR. JACKSON, I'LL
8 ALLOW YOU TO EXPLORE THE MATTER FURTHER IF YOU WOULD LIKE
9 TO.

10 MR. JACKSON: NO QUESTIONS, YOUR HONOR. THANK
11 YOU.

12 THE COURT: ALL RIGHT. DEFENSE?

13 MR. LITTLEJOHN: MR. BROOKS, MY NAME IS CAM
14 LITTLEJOHN. I ALONG WITH JIM BABB REPRESENT THE DEFENDANT.
15 JUST BRIEFLY AND I'LL GET RIGHT TO THE POINT. DO YOU FEEL THAT
16 ... THAT YOU'RE DEFINITELY A TYPE TWO JUROR? BY THAT I MEAN
17 ONE THAT WOULD NEVER VOTE TO IMPOSE THE DEATH PENALTY?

18 JUROR 26: THAT'S A ... THAT'S A TOUGH QUESTION. I DON'T
19 KNOW. THAT'S A HARD DECISION FOR ME TO MAKE.

20 MR. LITTLEJOHN: OH, SURE. I WOULD HOPE IT WOULD BE
21 A HARD DECISION FOR ANYBODY TO MAKE. I GUESS WHAT I'M
22 ASKING IF ... IF ... IF YOU WERE PRESENTED EVIDENCE THAT THE
23 DEFENDANT HAD COMMITTED MURDER ...

24 JUROR 26: YES.

25 MR. LITTLEJOHN: ... AND THERE WERE AGGRAVATING

1 CIRCUMSTANCES ... BY THAT I MEAN THERE WERE CIRCUMSTANCES
2 THAT MADE THE MURDER WORSE OR HARSHER. GIVEN THAT COULD
3 YOU EVER CONSIDER IMPOSING THE DEATH PENALTY ALONG WITH
4 THE OTHER MEMBERS OF THE JURY?

5 JUROR 26: I WOULD HAVE TO BE THE SECOND ONE THAT
6 HE TOLD ME A WHILE AGO.

7 MR. LITTLEJOHN: UH-HUH (AFFIRMATIVE RESPONSE).
8 RIGHT. SO YOU ... YOU DON'T THINK THE DEATH PENALTY WOULD BE
9 APPROPRIATE UNDER ANY CIRCUMSTANCES?

10 JUROR 26: THE SECOND ONE ... LET THE COURT DECIDE OR
11 SOMETHING LIKE THAT. IT'S A HARD DECISION. I MEAN, ...

12 MR. LITTLEJOHN: OKAY.

13 JUROR 26: IT'S A HARD DECISION.

14 MR. LITTLEJOHN: ALL RIGHT, SIR. THANK YOU, SIR.

15 THE COURT: LET ME ASK YOU ONE MORE QUESTION. I'M
16 NOT ASKING THAT YOU TELL ME ANYTHING THAT YOU DON'T
17 ACTUALLY FEEL BUT I REALLY WANT TO REPHRASE THE
18 QUESTION THIS WAY. DO YOU FEEL THAT YOUR VIEWS ON THE DEATH
19 PENALTY WOULD PREVENT OR SUBSTANTIALLY IMPAIR YOUR
20 PERFORMANCE AS A JUROR IN THIS CASE?

21 JUROR 26:

22 THE COURT: ALL RIGHT. THANK YOU, SIR. STEP OUT FOR
23 JUST A MOMENT, PLEASE, SIR.

24 JUROR 26: YES, SIR.

25 THE COURT: WHAT SAITH THE STATE?

1 MR. JACKSON: YOUR HONOR, I BELIEVE THE GENTLEMAN
2 IS DISQUALIFIED.

3 THE COURT: ALL RIGHT. WHAT SAITH THE DEFENSE?

4 MR. LITTLEJOHN: YOUR HONOR, RELUCTANTLY WE HAVE
5 TO AGREE BASED ON HIS ANSWERS OR LACK THEREOF.

6 THE COURT: YES, SIR, I THINK AS MUCH AS ANYTHING
7 ELSE HE DID NOT VERY CLEAR IN UNDERSTANDING WHAT FEELINGS
8 HE DESCRIBED. BASED ON THAT I WOULD HAVE TO FIND THAT HIS
9 VIEWS OR LACK OF PREVENT HIM FROM PERFORMING HIS DUTIES AS A
10 JUROR AND I WOULD FIND HIM DISQUALIFIED. ALL RIGHT. ASK HIM
11 TO COME BACK IN, PLEASE. MR. BROOKS, WE, THE COURT HAS
12 DECIDED YOU'RE NOT QUALIFIED AS A JUROR IN THIS CASE. THAT'S
13 NOT A PERSONAL CRITICISM OF YOU IN ANY WAY. IT JUST MEANS
14 THAT BASED UPON YOUR VIEWS AND ALL THAT YOU HAVE THAT YOU
15 ARE NOT QUALIFIED AS A JUROR IN THIS PARTICULAR CASE. BUT I DO
16 APPRECIATE YOU COMING AND I AM GOING TO EXCUSE YOU AND YOU
17 NEED NOT COME BACK ANYMORE. THANK YOU VERY MUCH. YOU
18 ARE EXCUSED. NICKIE JONES, JUROR NUMBER 110.

19 MR. HERRING: JUROR 110, NICKIE JONES.

20 THE COURT: MS. JONES, COME ON UP. THANK YOU. I'M
21 SORRY FOR KEEPING YOU WAITING AND WANT YOU TO SIT DOWN
22 HERE AND RELAX A LITTLE BIT. DON'T FEEL INTIMIDATED. I KNOW
23 THIS IS A BIG ROOM AND IT'S GOT PEOPLE IN SUITS SITTING AROUND
24 HERE AND PICTURES OF PEOPLE IN BLACK ROBES AND ONE SITTING UP
25 HERE WITH A BLACK ROBE BUT DON'T BE INTIMIDATED BY THAT. I

1 WANT YOU JUST TO RELAX. WE DO NEED TO ASK YOU SOME
2 QUESTIONS TO DETERMINE YOUR QUALIFICATIONS TO SERVE ON THE
3 JURY IN THIS CASE. I WILL TELL YOU THAT THERE ARE NO RIGHT AND
4 WRONG ANSWERS TO SOME OF THE QUESTIONS. WE JUST NEED TO
5 KNOW EXACTLY HOW YOU FEEL. I WANT YOU TO BE HONEST AND
6 OPEN WITH US AND TELL US HOW YOU FEEL ABOUT CERTAIN
7 MATTERS. I WILL ALSO TELL YOU THAT YESTERDAY WHEN YOU WERE
8 SWORN ... WHEN YOU APPEARED AND WERE DOING YOUR INITIAL
9 QUALIFICATION YOU WERE PUT UNDER OATH, SWORN, AND THAT
10 OATH STILL APPLIES SO ANYTHING YOU TELL US TODAY WOULD BE
11 SWORN TESTIMONY. DO YOU UNDERSTAND THAT? SHE NODDED. THE
12 NEXT THING I'M GOING TO ASK YOU TO DO IS THIS LADY DOWN HERE
13 CAN'T TAKE A HEAD SHAKE. I CAN SEE AND THE OTHER PEOPLE CAN
14 SEE IT BUT WE'VE GOT TO HAVE ANSWERS OUT LOUD AND YOU'RE
15 GONNA HAVE TO SPEAK UP LOUDLY ENOUGH AND CLEARLY ENOUGH
16 AND EVERYONE CAN HEAR YOU. THAT IS THE LAWYERS OUT HERE,
17 ME AND IF NECESSARY YOU CAN GET UP CLOSER TO THAT
18 MICROPHONE SO THAT YOU CAN BE HEARD. SO WE DO NEED TO ASK
19 YOU THESE QUESTIONS AND WE APPRECIATE IF YOU WOULD GIVE US
20 YOUR ANSWERS. I WILL TELL YOU NOW IN MENTIONING CASE THAT
21 THE GUILT OR INNOCENCE OF MR. BOBBY WAYNE STONE WHO IS THE
22 DEFENDANT IN THIS CASE WHO IS SEATED BY MR. BABB OVER, THE
23 GENTLEMAN IN THE WHITE SHIRT, HAS ALREADY BEEN ADJUDICATED
24 GUILTY OF MURDER. THE QUESTION OF WHETHER HE IS GUILTY OF
25 THE MURDER OF THE DEPUTY IN THIS CASE, SERGEANT KUBALA, IS

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1 NOT AN ISSUE AND THAT'S NOT THE MATTER THAT THE JURY WILL
2 HAVE TO DETERMINE. THE ONLY MATTER THAT WILL BE BEFORE THE
3 JURY WILL BE FOR THE JURY'S CONSIDERATION IS WHAT ... WHAT
4 PUNISHMENT SHOULD BE IMPOSED FOR THIS MURDER. SO KNOWING
5 THAT AND I'M GONNA GIVE YOU THAT IN LITTLE BIT OF DETAIL IN
6 JUST A MINUTE BUT I WANT TO ASK YOU HAVE YOU HAD THE
7 OPPORTUNITY TO READ THE JUROR INFORMATION SHEET THAT I GAVE
8 YOU AND YOU HAD IN THE JURY ROOM ABOUT THE THREE TYPES OF
9 JURORS. HAVE YOU READ THAT?

10 JUROR 110: YES, I READ THAT.

11 THE COURT: ALL RIGHT. AND OF THE TYPE ONE, TYPE
12 TWO OR TYPE THREE JURORS, WHICH ONE OF THE TYPE JURORS
13 WOULD YOU SAY BEST CHARACTERIZES YOU OR HOW YOU SEE YOUR
14 SELF?

15 JUROR 110: TYPE ONE.

16 THE COURT: TYPE ONE?

17 JUROR 110: YES.

18 THE COURT: ALL RIGHT. AND THE TYPE ONE JUROR IS
19 THE PERSON ... JUST GOING TO MAKE SURE THAT WE HAVE A CLEAR
20 UNDERSTANDING OF THIS ... A TYPE ONE JUROR IS ONE WHO FEELS
21 THAT WHEN A MURDER IS COMMITTED THAT IT DOES NOT MATTER
22 WHAT AGGRAVATING OR MITIGATION CIRCUMSTANCES THERE MIGHT
23 BE THAT PERSON FEELS AUTOMATICALLY THAT THE DEATH PENALTY
24 IS THE APPROPRIATE PUNISHMENT.

25 JUROR 110: I MEANT TYPE THREE.

1 THE COURT: TYPE THREE. OKAY. YOU DIDN'T MEAN TYPE
2 ONE.

3 JUROR 110: YES, SIR. I'M SORRY. YEAH, I MEANT TYPE
4 THREE.

5 THE COURT: ALL RIGHT. THANK YOU. THAT'S WHAT WE
6 WANTED TO KNOW. THANK YOU FOR CORRECTING US. ALL RIGHT.
7 TYPE THREE THEN. LET'S SEE IF I AM UNDERSTANDING WHAT YOU'RE
8 SAYING AND THAT IS THAT YOU FEEL THAT YOU COULD LISTEN TO
9 ALL THE TESTIMONY IN THE CASE, THE FACTS AND CIRCUMSTANCES
10 SURROUNDING THE CASE INCLUDING THE AGGRAVATING
11 CIRCUMSTANCES IN THE CASE AND ANY MITIGATING
12 CIRCUMSTANCES THAT MIGHT BE PRESENTED BY THE DEFENSE AND
13 BASED UPON THOSE FACTS THAT ARE PRESENTED IN THE
14 COURTROOM THAT YOU WOULD BE ABLE TO FOLLOW THE LAW AS
15 INSTRUCTED BY ME AND RETURN A VERDICT EITHER FOR LIFE
16 IMPRISONMENT OR DEATH BY LETHAL INJECTION OR ELECTROCUTION
17 DEPENDING ON WHAT YOU FOUND THE FACTS TO BE. IS THAT
18 CORRECT?

19 JUROR 110: YES.

20 THE COURT: OKAY. NOW, THAT BEING THE CASE, LET ME
21 EXPLAIN OR TALK TO YOU A LITTLE BIT ABOUT AGGRAVATING
22 CIRCUMSTANCES AND MITIGATING CIRCUMSTANCES. AGGRAVATING
23 CIRCUMSTANCES ARE ... STATUTORY AGGRAVATING CIRCUMSTANCES
24 ARE FACTS, INCIDENTS OR DETAILS THAT OUR GENERAL ASSEMBLY
25 HAS DECLARED WOULD MAKE WORSE, THAT IS AGGRAVATE THE

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1 OFFENSE OF MURDER, WOULD INCREASE THE ENORMITY OR ADD TO
2 THE INJURY OF THE CRIME OF MURDER. IN THIS CASE THE STATE WILL
3 BE REQUIRED TO PROVE TO YOU BEYOND A REASONABLE DOUBT AND
4 TO ALL THE MEMBERS OF THE JURY AT LEAST ONE AGGRAVATING
5 CIRCUMSTANCE BEFORE YOU COULD CONSIDER THE PUNISHMENT OF
6 EITHER LIFE IMPRISONMENT OR DEATH. ON THE OTHER HAND,
7 MITIGATING CIRCUMSTANCES ARE EXACTLY THE OPPOSITE. THEY
8 ARE FACTS OR DETAILS THAT THE LEGISLATURE ... THE STATUTORY
9 MITIGATING CIRCUMSTANCES ARE FACTS OR DETAILS THAT THE
10 LEGISLATURE HAS DECLARED REDUCE THE SEVERITY OF THE
11 OFFENSE OF MURDER AND MAY BE CONSIDERED AS EXTENUATING OR
12 REDUCING THE DEGREE OF RESPONSIBILITY. IN ADDITION TO
13 STATUTORY MITIGATING CIRCUMSTANCES THERE MAY ALSO BE
14 OTHER MITIGATING CIRCUMSTANCES THAT THE DEFENSE ASKS YOU
15 TO CONSIDER. IS IT A CORRECT STATEMENT OF YOUR VIEW THAT YOU
16 COULD CONSIDER THE STATUTORY AGGRAVATING CIRCUMSTANCES
17 AND THE MITIGATING CIRCUMSTANCES AND DEPENDING ON
18 WHETHER THE STATE PROVED THOSE TO YOUR SATISFACTION
19 BEYOND A REASONABLE DOUBT THAT YOU WOULD BE ABLE TO TAKE
20 THOSE FACTORS AND MAKE A DECISION AS TO WHETHER THE
21 DEFENDANT SHOULD BE SENTENCED TO LIFE IN PRISON OR WHETHER
22 HE SHOULD BE PUT TO DEATH? IS THAT WHAT YOU WOULD BE ABLE
23 TO DO?

24 JUROR 110: YES.

25 THE COURT: OKAY. NOW, IF YOU WERE TO DECIDE THAT

1 THESE AGGRAVATING CIRCUMSTANCES OR ONE OR THEM HAD BEEN
2 PROVED AND YOU FELT IN YOUR MIND THAT APPROPRIATE
3 PUNISHMENT WAS LIFE IMPRISONMENT YOU WOULD BE REQUIRED TO
4 SIGN A VERDICT FORM, PUT YOUR NAME ON THAT FORM ALONG WITH
5 11 OTHER JURORS THAT THAT WAS THE APPROPRIATE PUNISHMENT.
6 WOULD YOU BE ABLE TO DO THAT?

7 JUROR 110: YES.

8 THE COURT: ON THE OTHER HAND, IF YOU FELT LIKE
9 THAT THE ... AFTER HEARING ALL OF THE FACTS AND
10 CIRCUMSTANCES OF AGGRAVATION AND IN MITIGATION IF YOU FELT
11 LIKE THE APPROPRIATE PUNISHMENT WAS DEATH YOU WOULD BE
12 REQUIRED TO SIGN THE VERDICT FORM THAT WOULD IMPOSE THE
13 DEATH SENTENCE ON THIS DEFENDANT. WOULD YOU BE ABLE TO
14 SIGN SUCH A FORM?

15 JUROR 110: YES.

16 THE COURT: NOW, HAVE YOU HEARD ANYTHING OR DO
17 YOU KNOW ANYTHING ABOUT THIS CASE?

18 JUROR 110: NO.

19 THE COURT: HAVE YOU FORMED ANY OPINION AS TO
20 WHAT YOUR VERDICT SHOULD BE IN THIS CASE?

21 JUROR 110: NO.

22 THE COURT: ONE OTHER THING. I'M GONNA SWITCH
23 GEARS ON AN ADMINISTRATIVE MATTER FOR JUST A MINUTE. IF YOU
24 ARE SELECTED AS A JUROR IN THIS CASE AND RIGHT NOW WE'RE JUST
25 TRYING TO DETERMINE YOUR QUALIFICATIONS AND NOT

1 NECESSARILY THAT YOU WOULD SERVE AS A JUROR BUT IF YOU ARE
2 SELECTED AS A JUROR YOU WILL BE SEQUESTERED OR HOUSED WITH
3 ALL THE OTHER JURORS IN THIS CASE IN A MOTEL FOR SIX ... FIVE TO
4 SIX DAYS UNTIL THIS CASE IS OVER. OTHER THAN THE PERSONAL
5 INCONVENIENCE THAT THAT WOULD BE TO YOU WOULD IT CAUSE
6 ANY UNDUE HARDSHIP TO YOU OR TO YOUR HEALTH OR TO THE
7 HEALTH AND WELFARE OF ANYBODY WHO IS DEPENDENT UPON YOU?

8 JUROR 110: NO.

9 THE COURT: ALL RIGHT. THANK YOU VERY MUCH FOR
10 YOU CANDOR IN THIS MATTER, MS. JONES. AND NOW I'M GOING TO
11 ALLOW MR. JACKSON TO ASK YOU THE QUESTIONS THAT HE WOULD
12 LIKE TO ASK YOU.

13 MR. JACKSON: GOOD EVENING, MS. JONES.

14 THE COURT: HELLO.

15 MR. JACKSON: MS. JONES, MY NAME IS KELLY JACKSON.
16 I'M THE SOLICITOR HERE IN SUMTER COUNTY. IT'S MY
17 RESPONSIBILITY AND THE RESPONSIBILITY OF MY OFFICE TO BRING
18 THESE CASES TO THE COURTROOM WHICH IS WHAT WE'RE DOING.
19 THIS IS MR. DUDLEY SALEEBY. HE'S SEATED HERE AT THE STATE'S
20 TABLE. HE AND I ARE GOING TO TRY THIS CASE TOGETHER AND
21 PRESENT THE EVIDENCE AND THE TESTIMONY POSSIBLY TO YOU AND
22 THE OTHER JURORS AS THIS WEEK COMES AROUND. IF YOU'LL JUST
23 RELAX A LITTLE BIT. IN A CASE OF THIS MAGNITUDE WE GET THE
24 OPPORTUNITY TO ASK A FEW QUESTIONS. I'M NOT TRYING TO
25 CHANGE YOUR OPINION ABOUT ANYTHING I JUST WANT TO ASK YOU

1 A LITTLE BIT ABOUT SOME OF THE INFORMATION YOU SENT IN. DO
2 YOU RECALL SENDING IN THE QUESTIONNAIRE TO THE CLERK'S
3 OFFICE?

4 JUROR 110: YES.

5 MR. JACKSON: OKAY. YOU NOTED ON THERE QUESTION
6 21, IN RESPONSE TO QUESTION 21 WHICH WAS WHETHER OR NOT YOU
7 OR A MEMBER OF YOUR FAMILY HAD BEEN PROSECUTED FOR
8 ANYTHING THAT YOU HAD A BROTHER THAT WAS PROSECUTED FOR
9 MANSLAUGHTER.

10 JUROR 110: YES.

11 MR. JACKSON: WAS THAT HERE IN SUMTER COUNTY?

12 JUROR 110: YES.

13 MR. JACKSON: IT WAS? MS. JONES, CAN YOU TELL ME YOUR
14 BROTHER'S NAME?

15 JUROR 110: RONNIE JONES.

16 MR. JACKSON: RONNIE JONES. DO YOU RECALL WHEN THAT
17 WAS?

18 JUROR 110: I REALLY CANT. I DONT REMEMBER. IT
19 PROBABLY WAS '95. I'M NOT SURE.

20 MR. JACKSON: OKAY. AND WAS HE CONVICTED?

21 JUROR 110: Y ES.

22 MR. JACKSON: OKAY. DO YOU REMEMBER WHICH AGENCY
23 MADE THE CASE, IF IT WOULD BE THE SUMTER POLICE DEPARTMENT OR
24 THE SUMTER COUNTY SHERIFF'S DEPARTMENT OR MAYBE SOME OTHER
25 AGENCY?

1 JUROR 110: IT WAS THE SUMTER POLICE DEPARTMENT.

2 MR. JACKSON: SUMTER POLICE DEPARTMENT? DO YOU
3 REMEMBER THE SENTENCE THAT YOUR BROTHER GOT?

4 JUROR 110: 12 YEARS.

5 MR. JACKSON: OKAY. IS HE STILL INCARCERATED OR HAS HE
6 GOTTEN OUT?

7 JUROR 110: HE'S STILL IN.

8 MR. JACKSON: OKAY. LET ME ASK YOU THIS AND AGAIN
9 WE'RE NOT PRYING WE JUST ... WE REALLY NEED TO KNOW. AND I CAN
10 UNDERSTAND YOUR ANSWER EITHER WAY. WOULD ... WOULD THE FACT
11 THAT YOUR BROTHER WAS PROSECUTED FOR SOMETHING AS SERIOUS
12 AS MANSLAUGHTER AND THIS QUITE FRANKLY IS A MURDER CASE,
13 ALBEIT MR. STONE HAS ALREADY BEEN FOUND GUILTY OF MURDER, YOU
14 ALL AREN'T DECIDING WHETHER HE'S GUILTY OR INNOCENT OF MURDER.
15 YOU'RE JUST DISCUSSING THE PENALTY AT THIS POINT. BUT, THE FACT
16 THAT YOU HAVE SOMEONE SO CLOSE TO YOU GO THROUGH A SIMILAR
17 EVENT, DOES THAT ANY WAY BOTHER YOU OR ... OR HAVE ANY BEARING
18 ON HOW YOU WILL MAKE UP YOUR MIND IN THIS CASE?

19 JUROR 110: NO.

20 MR. JACKSON: OKAY. AND YOU WOULDN'T HOLD ANY OF
21 THAT AGAINST LAW ENFORCEMENT ...

22 JUROR 110: NO.

23 MR. JACKSON: ... OR THE SOLICITOR'S OFFICE FOR TAKING
24 PART IN THAT.

25 JUROR 110: NO.

1 MR. JACKSON: OKAY. ALSO YOU MENTIONED YOU HAVE
2 SOME FAMILY MEMBERS THAT ARE WORKING WITH LAW ENFORCEMENT.

3 JUROR 110: YES.

4 MR. JACKSON: WHO ARE YOUR COUSINS WHO THAT ARE
5 WITH THE POLICE DEPARTMENT?

6 JUROR 110: THE CITY IS ROBIN DAVIS AND WITH THE
7 COUNTY IT'S FRED JONES.

8 MR. JACKSON: I'M SORRY, WITH THE COUNTY?

9 JUROR 110: FRED JONES.

10 MR. JACKSON: AND MS. JONES, WOULD YOU BE ABLE TO
11 TAKE THE EVIDENCE THAT YOU ... YOU HEAR IN THE COURT TODAY OR
12 IN COURT AS THE CASE GOES THROUGH AND APPLY THE LAW AS THE
13 JUDGE GIVES IT TO YOU AND IF IT WERE YOUR OPINION THAT THE
14 PROPER SENTENCE TO BE RECOMMENDED WOULD BE LIFE, COULD YOU
15 SIGN A FORM, PUT YOUR NAME ON A FORM THAT RECOMMENDED LIFE
16 FOR MR. STONE?

17 JUROR 110: YES.

18 MR. JACKSON: AND THE FLIP SIDE OF THAT COIN, COULD
19 YOU ACTUALLY PUT YOUR NAME ON WHAT OTHERWISE WOULD BE A
20 DEATH WARRANT, SIGN YOUR NAME THAT BOBBY WAYNE STONE
21 SHOULD RECEIVE THE DEATH PENALTY EITHER BY ELECTROCUTION OR
22 LETHAL INJECTION?

23 JUROR 110: YES.

24 MR. JACKSON: ALL RIGHT. THANK YOU. JUST A MINUTE,
25 PLEASE. MS. JONES, THANK YOU VERY MUCH FOR GIVING ME YOUR

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1 ATTENTION. I APPRECIATE YOUR ANSWERS.

2 THE COURT: MR. BABB.

3 MR. BABB: MS. JONES, I'M JIM BABB. I AND CAM LITTLEJOHN
4 RIGHT HERE WILL BE REPRESENTING MR. STONE DURING THESE
5 PROCEEDINGS. LET ME ASK YOU A COUPLE OF QUESTIONS AS WELL
6 ABOUT THE QUESTIONNAIRE THAT YOU RETURNED IN. I UNDERSTAND
7 YOU'VE BEEN THE VICTIM OF AN ARMED ROBBERY YOURSELF, IS THAT
8 RIGHT?

9 JUROR 110: YES.

10 MR. BABB: AND WAS THAT IN BINGO OR WAS THAT WHEN
11 YOU WERE ...

12 JUROR 110: I WAS WORKING VIDEO POKER.

13 MR. BABB: VIDEO POKER. DID THAT LEAVE YOU WITH ANY
14 PARTICULAR FEELINGS WITH LAW ENFORCEMENT, HOW THEY HANDLED
15 IT?

16 JUROR 110: NO.

17 MR. BABB: OKAY. WOULD THAT HAVE ANY BEARING ON
18 WHAT YOU'RE GONNA ... OF ANY DECISIONS YOU MAY BE CALLED UPON
19 HERE TO MAKE?

20 JUROR 110: NO.

21 MR. BABB: AND YOU HAVE SOME FAMILY YOU TOLD US
22 THAT WORKED WITH THE POLICE DEPARTMENT.

23 JUROR 110: YES.

24 MR. BABB: NOW, YOU'RE AWARE THAT IN THIS CASE THE
25 VICTIM THAT WAS KILLED WAS A SUMTER COUNTY SHERIFF'S OFFICER.

1 JUROR 110: NO.

2 MR. BABB: YOU DIDN'T KNOW THAT.

3 JUROR 110: NO.

4 MR. BABB: OKAY. DOES THE FACT THAT YOU HAVE FAMILY
5 WHO ARE EMPLOYED IN LAW ENFORCEMENT AND THAT THIS CASE
6 INVOLVES A MEMBER OF LAW ENFORCEMENT, WOULD THAT HAVE AN
7 IMPACT ON YOUR FEELINGS AND YOUR THINKING?

8 JUROR 110: NO.

9 MR. BABB: OKAY. DID I UNDERSTAND CORRECTLY YOU
10 ALSO HAD A NUMBER OF FRIENDS WITH LAW ENFORCEMENT?

11 JUROR 110: YES.

12 MR. BABB: COULD YOU TELL ME ABOUT THAT?

13 JUROR 110: WELL, I WORK BINGO AND LAW ENFORCEMENT
14 ARE THERE WITH US AND WE BECOME FRIENDS AS WE WORK TOGETHER.

15 MR. BABB: YOU'RE A FLOOR RUNNER SO YOU'RE HANDLING
16 CASH.

17 JUROR 110: YES.

18 MR. BABB: SO THEY'RE THERE TO PROTECT YOU.

19 JUROR 110: YES.

20 MR. BABB: AND YOU'VE BECOME FRIENDS WITH THEM THAT
21 WAY?

22 JUROR 110: YES.

23 MR. BABB: ANY OTHER SOCIAL FRIENDSHIPS OR IS IT JUST
24 PURELY BUSINESS?

25 JUROR 110: IT'S BUSINESS.

1 MR. BABB: DO YOU THINK THAT THE PENALTY OF LIFE
2 IMPRISONMENT IS A SEVERE PENALTY, A SUBSTANTIAL PENALTY, A
3 HEAVY PENALTY?

4 JUROR 110: YES, I GUESS.

5 MR. BABB: YOU GUESS?

6 JUROR 110: YEAH. YEAH. I GUESS IT'S A HEAVY SENTENCE
7 LOCKED AWAY FROM YOUR FAMILY.

8 MR. BABB: OKAY. IF IT IS ... IF IT IS AND YOU'RE
9 CONSIDERING A SITUATION INVOLVING MURDER, IS LIFE IMPRISONMENT
10 SUFFICIENTLY SUBSTANTIAL PENALTY?

11 JUROR 110: YES.

12 MR. BABB: NOW AND IF YOU'RE CALLED UPON TO MAKE
13 THAT DECISION YOU'D ALSO BE CALLED UPON TO CONSIDER
14 AGGRAVATING CIRCUMSTANCES AND MITIGATING CIRCUMSTANCES.
15 MITIGATING CIRCUMSTANCES MAY INVOLVE FACTS DEALING WITH THE
16 CASE. IT MAY INVOLVE FACTS THAT HAVE NOTHING TO DO WITH THE
17 CASE BUT HAVE TO DO WITH THE DEFENDANT, MR. STONE, WITH HIS
18 BACKGROUND, WITH HIS HISTORY, THINGS THAT HAVE HAPPENED IN HIS
19 LIFE. CAN YOU, WOULD YOU CONSIDER EVIDENCE RELATING TO THAT
20 IN MITIGATION?

21 JUROR 110: YES. YOU MEAN THE EVIDENCE RELATING TO
22 THE CASE?

23 MR. BABB: IF EVIDENCE IS PRESENTED IN MITIGATION
24 ABOUT HIS BACKGROUND, THINGS THAT HAVE HAPPENED TO HIM IN HIS
25 LIFE, THINGS HE HAS BEEN EXPOSED TO, WOULD YOU CONSIDER THAT?

1. JUROR 110: YES.

2 MR. BABB: YOU WOULD CONSIDER IT FAIRLY TO HIM AS
3 MITIGATING EVIDENCE.

4 JUROR 110: YES.

5 MR. BABB: OKAY. IF YOU'RE SERVING ON THE JURY, YOU'RE
6 CALLED UPON TO MAKE THESE DECISIONS AND YOU'VE LISTENED TO THE
7 EVIDENCE AND ARRIVED AS A TYPE THREE JUROR LISTENED TO IT ALL
8 AND THEN ARRIVE AT A DECISION BUT THE REST OF THE JURY HAS A
9 DIFFERENT VIEW POINT, WILL YOU SWITCH YOUR DECISION TO BE WITH
10 THE MAJORITY?

11 JUROR 110: NO.

12 MR. BABB: WOULD YOU MAINTAIN YOUR CONVICTIONS?

13 JUROR 110: YES.

14 MR. BABB: AND YOU COULD DO THAT AFTER SPENDING A
15 WEEK OR SO WITH THESE FOLKS?

16 JUROR 110: YES. THAT'S WHAT I DO.

17 MR. BABB: WOULD YOU EXPECT THEM TO RESPECT YOUR
18 VIEW POINT AND YOUR DECISION AS A JUROR?

19 JUROR 110: YES.

20 MR. BABB: WOULD YOU RESPECT THEIR VIEW POINTS?

21 JUROR 110: YES.

22 MR. BABB: THANK YOU. NOTHING FURTHER, YOUR HONOR.

23 THE COURT: ALL RIGHT. THANK YOU, MS. JONES. I'M GONNA
24 ASK YOU TO STEP DOWN AND STEP OUTSIDE FOR JUST A MINUTE WHILE
25 I TAKE UP A MATTER WITH THE ATTORNEYS IN THIS CASE AND I'LL BE

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1 RIGHT WITH YOU IN JUST A VERY SHORT TIME. MR. JACKSON?

2 MR. JACKSON: QUALIFIED, YOUR HONOR.

3 THE COURT: MR. BABB?

4 MR. BABB: WE AGREE, YOUR HONOR.

5 THE COURT: ALL RIGHT. I'LL FIND THE JUROR IS QUALIFIED.
6 THE JUROR IS QUALIFIED. HAVE HER COME BACK IN, PLEASE. ALL RIGHT,
7 MS. JONES, YOU HAVE BEEN FOUND TO BE A QUALIFIED JUROR IN THIS
8 CASE. THIS DOES NOT NECESSARILY MEAN THAT YOU WILL SERVE AS A
9 JUROR IN THIS CASE. THIS MEANS THAT YOU'VE BEEN QUALIFIED. THAT
10 BEING THE CASE I'M GONNA ASK THAT YOU COME BACK TOMORROW
11 HERE TO THIS COURTROOM AT 2:00 O'CLOCK, JUST COME OUT HERE IN
12 THE JURY POOL WITH THE REST OF THE QUALIFIED JURORS WILL ALSO
13 BE HERE AT THE SAME TIME. WHEN YOU COME BACK TOMORROW YOU
14 SHOULD ... WHEN YOU GO HOME TONIGHT OR TOMORROW MORNING YOU
15 SHOULD GO IN AND PACK YOUR CLOTHES AND YOUR PERSONAL
16 BELONGINGS AND BRING YOUR SUITCASE WITH YOU. YOU DO NOT NEED
17 TO BRING IT IN THE COURTROOM, YOU CAN LEAVE IT IN THE CAR AND IF
18 YOU ARE SELECTED AS A JUROR IN THIS CASE YOU WILL BE
19 SEQUESTERED UNTIL THE CASE IS OVER AT A MOTEL IN WHICH CASE
20 YOU'LL BE UNPACKING YOUR SUITCASE TOMORROW NIGHT IN A MOTEL.
21 IF YOU ARE NOT SELECTED AS A JUROR YOU WILL BE UNPACKING YOUR
22 SUITCASE TOMORROW NIGHT AT YOUR HOME. BUT WE WILL KNOW
23 THAT TOMORROW, WE WILL PICK A JURY TOMORROW BEGINNING AT 2:00
24 O'CLOCK. I AM GOING TO ASK YOU OF COURSE TO HAVE YOUR LUNCH
25 AND BRING YOUR PERSONAL BELONGINGS AND BE BACK HERE AT 2:00

1 O'CLOCK AND READY TO SERVE INTO THE AFTERNOON, TOMORROW
2 AFTERNOON BEFORE WE BREAK. I'M ALSO GOING TO TELL YOU THAT
3 YOU SHOULD NOT DISCUSS THIS CASE WITH ANYONE OR ALLOW
4 ANYONE TO DISCUSS IT WITH YOU. DO NOT READ ANY NEWSPAPER OR
5 TELEVISION BROADCAST MEDIA REGARDING THIS CASE AND SIMPLY
6 DIVORCE IT FROM YOUR MIND AND BE PREPARED TO COME TOMORROW
7 FOR THE JURY SELECTION BEGINNING AT 2:00 O'CLOCK. SO WE'LL SEE
8 YOU AT THAT TIME. HAVE A PLEASANT EVEN AND I'LL SEE YOU
9 TOMORROW. JUROR NUMBER 88, ROSADA HERIOT. MS. HERIOT.

10 MR HERRING: YES, SIR.

11 THE COURT: HELLO, MS. HERIOT.

12 JUROR 88: HELLO.

13 THE COURT: I APOLOGIZE TO YOU FOR KEEPING YOU SO
14 LATE. I ALSO APOLOGIZE TO YOU FOR JERKING YOU AROUND. THE
15 PANEL THAT WE SENT YOU HOME AND BROUGHT YOU BACK. WE'VE
16 BEEN TRYING TO TAKE CARE OF JURY QUALIFICATION QUESTIONS AND
17 WE APPRECIATE YOUR PATIENCE WITH US AND BEARING WITH US. WE
18 ARE GOING TO ASK YOU SEVERAL QUESTIONS. THE COURT'S GOING TO
19 ASK YOU SOME, BOTH OF THE LAWYERS ARE GOING TO ASK YOU SOME
20 QUESTIONS THAT HAVE TO DO WITH YOUR QUALIFICATIONS TO SERVE.
21 SOME OF THEM MAY SEEM PERSONAL, SOME OF THEM ARE PERSONAL.
22 BUT I'LL ASSURE YOU WE ARE NOT TRYING TO INVADE YOUR PRIVACY
23 BUT BECAUSE OF THE NATURE OF THIS CASE WE SIMPLY NEED TO KNOW
24 THIS INFORMATION. I WOULD ALSO TELL YOU THERE ARE NO RIGHT OR
25 WRONG ANSWERS TO SOME OF THESE QUESTIONS BUT I SIMPLY NEED TO

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1 KNOW WHAT YOUR FEELING IS AND YOUR SITUATION IS AS FAR AS HOW
2 YOU FEEL ABOUT THE QUESTIONS THAT ARE GOING TO BE ASKED.
3 HAVING SAID THAT I WILL TELL YOU THAT THE GUILT OR INNOCENCE OF
4 THE DEFENDANT IN THIS CASE, BOBBY WAYNE STONE, HAS ALREADY
5 BEEN DECIDED. IT HAS ALREADY BEEN DECIDED THAT MR. STONE IS
6 GUILTY OF MURDER OF THE DEPUTY KUBALA IN THIS CASE. SO THAT
7 QUESTION IS NOT GOING TO BE BEFORE THE JURY FOR THEIR
8 DETERMINATION. THE ONLY QUESTION, THE ONLY ISSUE THAT IS GOING
9 TO BE BEFORE THE JURY IS WHAT PUNISHMENT SHOULD BE INFLICTED
10 AND THAT IS WHAT YOU WILL HAVE TO CONSIDER IF YOU ARE SELECTED
11 AS A JUROR IN THIS CASE. THAT BEING THE CASE I'M GOING TO ASK YOU
12 ... FIRST OF ALL I'M GOING TO TELL YOU OF COURSE THAT YESTERDAY
13 YOU WERE ... WHEN YOU CAME HERE TO QUALIFY YOU WERE SWORN
14 AND YOU'RE STILL UNDER OATH SO ANY TESTIMONY YOU GIVE US IS
15 SWORN TESTIMONY. YOU UNDERSTAND THAT?

16 JUROR 88: YES.

17 THE COURT: OKAY. NOW, HAVING SAID THAT HAVE YOU
18 HAD A CHANCE TO READ THE THREE TYPES OF JURORS THAT WE
19 FURNISHED YOU IN THE JURY ROOM?

20 JUROR 88: YES.

21 THE COURT: AND BASED UPON THAT THERE BEING TYPE ONE
22 JUROR, TYPE TWO JUROR AND TYPE THREE JUROR, WHICH CATEGORY
23 WOULD YOU SAY THAT YOU FALL IN OR BEST CHARACTERIZES YOU AS
24 A JUROR?

25 JUROR 88: THREE.

1 THE COURT: TYPE THREE. ALL RIGHT. JUST TO MAKE SURE
2 THAT I UNDERSTAND WHAT YOU'RE SAYING AS A TYPE THREE JUROR
3 WOULD CONFIRM THAT, YOU ARE SAYING THAT YOU ARE THE TYPE
4 JUROR WHO WOULD LISTEN TO ALL OF THE TESTIMONY IN
5 AGGRAVATION OF THE OFFENSE AND ALL OF THE TESTIMONY IN
6 MITIGATION OF THE OFFENSE AND AFTER LISTENING TO ALL OF THAT
7 YOU WOULD DECIDE WHICH IS THE ... AFTER HEARING THAT IN THE
8 COURTROOM AND KNOWING THAT THE STATE HAS THE BURDEN OF
9 PROVING AN AGGRAVATING CIRCUMSTANCE BEYOND A REASONABLE
10 DOUBT THAT YOU WOULD LISTEN TO ALL OF THAT AND DECIDE WHAT
11 YOU THOUGHT WAS THE APPROPRIATE OR RIGHT PUNISHMENT IN THIS
12 CASE, IS THAT CORRECT?

13 JUROR 88: YES.

14 THE COURT: AND THAT YOU WOULD AFTER HEARING THE
15 AGGRAVATING AND MITIGATING CIRCUMSTANCES IN THIS CASE, IF YOU
16 FELT IT WAS THE CORRECT PUNISHMENT WOULD YOU BE ABLE TO
17 RETURN A VERDICT OF LIFE IN PRISON?

18 JUROR 88: YES.

19 THE COURT: AND YOU WOULD ALSO AGAIN DEPENDING ON
20 YOUR VIEW OF THE CIRCUMSTANCES IN THE CASE AND WHAT HAS BEEN
21 PROVEN HERE IN THE COURT WOULD BE ABLE TO RETURN A VERDICT OF
22 DEATH IF THAT WERE APPROPRIATE BASED UPON THE AGGRAVATION
23 AND THE MITIGATING CIRCUMSTANCES THAT YOU HEARD HERE IN
24 COURT, IS THAT CORRECT?

25 JUROR 88: YES.

1 THE COURT: ALL RIGHT. NOW, AS I TOLD YOU, THE STATE
2 WILL HAVE THE BURDEN OF PROVING AT LEAST ONE AGGRAVATING
3 CIRCUMSTANCES. AGGRAVATING CIRCUMSTANCES ARE MATTERS THAT
4 HAVE BEEN DECLARED BY OUR LEGISLATURE TO MAKE A MURDER
5 MORE SEVERE OR INCREASE THE PUNISHMENT FOR THAT CONVICTION.
6 MITIGATING CIRCUMSTANCES ARE JUST THE OPPOSITE. THERE'S ...
7 THERE ARE STATUTORY MITIGATING CIRCUMSTANCES THAT OUR
8 LEGISLATURE SAYS THE JURY MAY CONSIDER IN REDUCING THE
9 SEVERITY OF THE PUNISHMENT AND THERE ARE ALSO OTHER
10 MITIGATING CIRCUMSTANCES THAT MAY BE PRESENTED. IF YOU HEAR
11 ALL OF THE AGGRAVATING CIRCUMSTANCES AND THE STATE PROVES AT
12 LEAST ONE BY ... BEYOND A REASONABLE DOUBT AND YOU ALSO HEAR
13 THE MITIGATING BOTH STATUTORY AND OTHERWISE CIRCUMSTANCES
14 AND ARE AT THE POSITION WHERE YOU WILL NEED TO FIND VERDICT IN
15 THIS CASE YOU WILL BE REQUIRED TO SIGN A VERDICT ALONG WITH THE
16 OTHER 11 JURORS IN THIS CASE IF YOU'RE SERVING ON THE JURY THAT
17 YOU DO FEEL IS RIGHT AND IT IS YOUR VERDICT TO SIGN A VERDICT
18 THAT COULD REQUIRE LIFE IMPRISONMENT. WOULD YOU BE ABLE TO
19 SIGN SUCH A VERDICT?

20 JUROR 88: YES, I WOULD.

21 THE COURT: ALSO BASED ON THE CIRCUMSTANCES AS YOU
22 FEEL THEM AFTER HAVING HEARD ALL OF THE EVIDENCE IN THIS CASE
23 AND YOU THOUGHT IT WAS THE RIGHT THING TO DO WOULD YOU BE
24 ABLE TO SIGN A VERDICT THAT WOULD IMPOSE THE DEATH PENALTY ON
25 THE DEFENDANT?

1 JUROR 88: YES.

2 THE COURT: ALL RIGHT. LET ME SWITCH GEARS FOR YOU
3 JUST A MOMENT, PLEASE, MS. HERIOT. AND ASK YOU IF YOU'VE READ
4 ANYTHING OR HEARD ANYTHING OR KNOW ANYTHING ABOUT THIS
5 CASE?

6 JUROR 88: NO.

7 THE COURT: ALL RIGHT. AND FINALLY LET ME ASK YOU AND
8 TELL YOU THAT IF YOU ARE SELECTED AS A JUROR IN THIS CASE YOU
9 WOULD BE SEQUESTERED. THAT MEANS THAT YOU WILL BE HOUSED IN
10 A MOTEL FOR UP TO SIX DAYS PENDING THE END OF THIS CASE. I KNOW
11 IT WOULD BE A PERSONAL INCONVENIENCE BUT OTHER THAN THAT
12 WOULD IT CAUSE A SERIOUS HARDSHIP IN YOUR, TO YOUR HEALTH OR
13 TO THE HEALTH AND WELFARE OF ANYONE WHO IS DEPENDENT UPON
14 YOU TO BE HOUSED AND SEQUESTERED FOR FIVE TO SIX DAYS IN THIS
15 CASE?

16 JUROR 88: NO.

17 THE COURT: ALL RIGHT. THANK YOU, MA'AM. I BELIEVE
18 THAT IS ALL THE QUESTIONS I HAVE FOR YOU. I'M GOING TO ASK MR.
19 SALEEBY OR MR. JACKSON IF THEY HAVE ANY QUESTIONS FOR YOU AND
20 IF YOU WOULD COOPERATE WITH THEM AND ANSWER ANY QUESTIONS
21 THAT THEY MIGHT HAVE.

22 MR. JACKSON: GOOD EVENING, MS. HERIOT. MS. HERIOT, MY
23 NAME IS KELLY JACKSON. I'M THE SOLICITOR HERE IN THE THIRD
24 JUDICIAL CIRCUIT WHICH INCLUDES SUMTER COUNTY AND IT'S MY
25 RESPONSIBILITY AND THE RESPONSIBILITY OF MY OFFICE TO BRING

THESE CASES TO THE COURTROOM. MR. DUDLEY SALEEBY WHO IS SITTING HERE AT THE STATE'S TABLE WITH ME, HE AND I ARE GOING TO TRY THIS CASE TOGETHER. AND WE DON'T MEAN ANY HARM TODAY. WE'RE NOT TRYING TO PRY INTO YOUR PERSONAL LIFE. WE JUST NEED TO ASK YOU A FEW QUESTIONS. THIS IS A CASE OF RATHER A LARGE MAGNITUDE AND WE NEED TO MAKE SURE THAT EVERYBODY IS CAPABLE OF PERFORMING THEIR DUTY WHEN THEIR TIME COMES. YOU MAY BE A JUROR IN THIS CASE AND WE JUST NEED TO ASK YOU A FEW QUESTIONS. MR. STONE, BOBBY WAYNE STONE, HAS ALREADY BEEN FOUND GUILTY OF MURDER SO WE'RE NOT PASSING JUDGEMENT ON WHETHER HE IS GUILTY OR INNOCENT OF MURDER. HE'S ALREADY BEEN CONVICTED OF THAT. WHAT WE ARE JUDGING HERE IS WHETHER TO RECOMMEND TO THE COURT A SENTENCE OF LIFE IN THE PENITENTIARY OR DEATH AND THAT DEATH WOULD EITHER BE BY ELECTROCUTION OR BY LETHAL INJECTION. THE STATE WHICH IS ... IS MYSELF AND MR. SALEEBY WOULD PRESENT AGGRAVATING CIRCUMSTANCES TO SHOW JUST HOW BAD OF A MURDER IT WAS AND IF WE COULD PROVE THOSE BEYOND A REASONABLE DOUBT WOULD YOU BE ABLE TO EXERCISE YOUR JUDGEMENT IN THIS AREA AND SIGN A FORM WHICH OTHERWISE WOULD BE A DEATH WARRANT SENTENCING MR. BOBBY WAYNE STONE TO DEATH?

JUROR 88: YES.

MR. JACKSON: AND IF YOU ... IF ... IF IN YOUR OPINION THE PROPER PUNISHMENT SHOULD BE LIFE COULD YOU ALSO SIGN A FORM THAT WOULD SENTENCE HIM TO LIFE?

1 JUROR 88: YES.

2 MR. JACKSON: MS. HERIOT, THAT'S ALL I HAVE. I
3 APPRECIATE YOU ANSWERING MY QUESTIONS. JUST A MOMENT, YOUR
4 HONOR, WE MAY HAVE ANOTHER.

5 THE COURT: WAIT JUST ONE MINUTE.

6 MR. JACKSON: THAT'S ALL I HAVE, YOUR HONOR. THANK
7 YOU.

8 THE COURT: ALL RIGHT. MR. BABB. ANSWER ANY
9 QUESTIONS THAT MR. BABB MIGHT HAVE, MS. HERIOT.

10 MR. BABB: MS. HERIOT, AM I PRONOUNCING YOUR NAME
11 CORRECTLY?

12 MS. HERIOT: YES.

13 MR. BABB: I'M JIM BABB. I'M CO-COUNSEL WITH CAM
14 LITTLEJOHN. WE'LL BE REPRESENTING MR. STONE DURING THE COURSE
15 OF THESE HEARINGS. LET ME ASK YOU JUST A FEW QUESTIONS IF I MAY
16 NOW, NEITHER NOR MR. LITTLEJOHN ARE PERRY MASON OR MATLOCK
17 EITHER ONE. YOU'RE NOT GONNA HOLD THAT AGAINST US. I SEE YOUR
18 FANS OF THEIRS. IS THAT A NO?

19 MS. HERIOT: YES, I UNDERSTAND.

20 MR. BABB: BUT YOU DON'T EXPECT US TO LIVE UP TO THAT
21 KIND OF PERFORMANCE.

22 MS. HERIOT: OH, NO, I DON'T.

23 MR. BABB: AND I CAN TELL YOU IF WE TRIED WITH THIS
24 JUDGE WE'D ... WE'D PROBABLY BE IN A LITTLE BIT OF HOT WATER WITH
25 THEM.

1 MS. HERIOT: OKAY.

2 THE COURT: EVERYBODY IN THE COURTROOM ARE
3 CONSUMMATE PROFESSIONALS.

4 MR. BABB: THANK YOU, YOUR HONOR. MS. HERIOT, DO YOU
5 CONSIDER ... WOULD YOU BE ABLE TO CONSIDER LIFE IMPRISONMENT AS
6 A SUBSTANTIAL PENALTY, SUBSTANTIAL PUNISHMENT?

7 JUROR 88: YES, I WOULD.

8 MR. BABB: YOU MAY BE CALLED UPON IN THIS CASE TO BE
9 MAKING DECISIONS OF THAT MAGNITUDE BETWEEN DEATH OR LIFE AND
10 IF YOU ARE THEN YOU WILL ALSO BE HEARING EVIDENCE PRESENTED BY
11 THE DEFENSE IN MITIGATION OF A DEATH SENTENCE. MITIGATION IS
12 CERTAIN STATUTORY FACTORS AS THE JUDGE HAS MENTIONED AND
13 THEN THERE ARE OTHERS. SOME MITIGATING FACTORS MAY HAVE TO
14 DO WITH THE EVENTS OF THE CRIME ITSELF AND THEN OTHERS MAY
15 HAVE TO DO WITH THE DEFENDANT AND THEIR BACKGROUND AND HOW
16 THEY BROUGHT UP AND THEIR EXPERIENCES IN LIFE AND THINGS THAT
17 HAVE GONE ON WITH THEM. CAN YOU FULLY AND FAIRLY CONSIDER
18 SUCH EVIDENCE IN MITIGATION FOR THE DEFENDANT?

19 JUROR 88: YES.

20 MR. BABB: OKAY. AND I ASSUME YOU COULD AS WELL
21 CONSIDER AGGRAVATING CIRCUMSTANCES ON BEHALF OF THE STATE.
22 AND THAT'S A YES?

23 JUROR 88: YES.

24 MR. BABB: I'M SORRY BUT SHE CAN'T TAKE IT DOWN ...

25 JUROR 88: YES.

1 MR. BABB: ... UNLESS SHE ... I COULD SEE ... I'M SORRY, YOUR
2 HONOR. I COULD SEE YOU SHAKING YOUR HEAD BUT SHE'S GOT TO BE
3 ABLE TO PUT SOMETHING DOWN. COURT'S INDULGENCE?

4 THE COURT ALL RIGHT.

5 MR. BABB: NOTHING FURTHER.

6 THE COURT: ALL RIGHT. THANK YOU VERY MUCH, MS.
7 HERIOT. I'M GONNA ASK YOU TO STEP DOWN FOR JUST A MOMENT AND
8 STEP OUT IN THE HALL WHILE I TAKE UP SOME MATTERS WITH THE
9 ATTORNEYS AND WE'LL BE BACK WITH YOU IN JUST A VERY FEW
10 MINUTES. MR. JACKSON? MR. SALEEBY?

11 MR. SALEEBY: YOUR HONOR, JUST ... JUST ONE THING AND
12 I DON'T KNOW WHETHER THE COURT WOULD LIKE TO QUESTION ABOUT
13 THIS OR NOT ... I WAS A BIT RESERVED AND DID NOT DO IT, I DON'T KNOW
14 THAT IT WAS MY PLACE TO BUT SHE'S ... SHE'S PUT ON THE
15 QUESTIONNAIRE THAT SHE'S A JEHOVAH WITNESS AND ... AND IN MY
16 EXPERIENCE IN QUALIFYING JURORS AS LONG AS I'VE BEEN DOING THIS
17 JEHOVAH WITNESSES HAS NOT EVER BEEN ABLE TO SIT IN JUDGEMENT
18 OF OTHERS NOR HAVE THEY BEEN ABLE TO SWEAR. THEY'VE ALL
19 CHOSEN TO AFFIRM ...

20 THE COURT: I ... I UNDERSTAND ...

21 MR. SALEEBY: AND I DON'T KNOW ... I DIDN'T WANT TO ASK
22 THOSE QUESTIONS BECAUSE I KNOW ... I KNOW RELIGION IS A TOUCHY
23 AREA ...

24 THE COURT: LET ME ASK ...

25 MR. SALEEBY: PERHAPS YOU SHOULD, YOUR HONOR.

1 THE COURT: ... LET ME ASK THE DEFENSE, DO YOU HAVE ANY
2 OBJECTION TO THE COURT BRINGING HER BACK IN AND JUST ASKING
3 HER ONE QUESTION AND THAT IS WHETHER SHE HAS ANY RELIGIOUS
4 BELIEFS THAT WOULD PREVENT HER FROM RENDERING A VERDICT IN
5 THIS CASE? ANY OBJECTION TO ASKING THAT QUESTION?

6 MR. LITTLEJOHN: YOUR HONOR, THAT'S A MATTER ... I THINK
7 IT'S IN THE COURT'S DISCRETION. WE REALLY CAN'T OBJECT TO THE
8 QUESTION. IT SHOULD HAVE BEEN ASKED ...

9 THE COURT: IT PROBABLY SHOULD HAVE. MOST OF THE
10 TIME ... I'VE ASKED HER IF SHE, YOU KNOW, COULD RENDER A FAIR AND
11 IMPARTIAL VERDICT BUT I THINK JUST ... I WOULD HATE TO GET
12 SOMEBODY ON THE JURY WHO WILL TIE UP THE JURY JUST SIMPLY
13 BECAUSE THEY COULDN'T DECIDE EITHER WAY.

14 MR. LITTLEJOHN: WELL, WE HAVEN'T BEEN ASKING THAT
15 QUESTION OF CATHOLICS THOUGH BUT THAT'S QUITE DEFINITIVE.

16 THE COURT: WELL, THAT'S TRUE.

17 MR. LITTLEJOHN: WE'RE NOT ASKING BAPTISTS OR ANY
18 OTHER RELIGIOUS GROUP.

19 THE COURT: ALL RIGHT. I'M STILL GOING TO ASK THE
20 QUESTION. I ... I WANT TO KNOW THAT ANSWER. I THINK THAT IN
21 DECIDING IF SHE CAN BE FAIR AND IMPARTIAL AND PERFORM HER
22 DUTIES I DO NEED TO ASK THAT QUESTION. SO I'M GONNA ASK HER TO
23 COME BACK IN, PLEASE.

24 MR. HERRING: MS. HERIOT, COME BACK IN A MINUTE,
25 PLEASE, MA'AM.

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1 THE COURT: YOU CAN STAND RIGHT THERE. I JUST HAVE
2 ONE OTHER QUESTION AND THEN I'M GONNA ASK YOU TO STEP BACK
3 OUTSIDE. DO YOU HAVE ANY RELIGIOUS BELIEFS THAT WOULD PREVENT
4 YOU FROM RENDERING A VERDICT ALONG THE LINES THAT WE HAVE
5 ALREADY TALKED ABOUT REGARDING THE PUNISHMENT IN THIS CASE?

6 JUROR 88: I AM A JEHOVAH WITNESS.

7 THE COURT: YES, MA'AM. MY QUESTION IS WOULD THAT
8 PREVENT YOU FROM ...

9 JUROR 88: FROM MAKING THE RIGHT DECISION.

10 THE COURT: RIGHT. WOULD YOU BE ABLE TO MAKE A
11 DECISION BASED UPON WHAT WE TALK ABOUT IN THIS CASE, THAT IS
12 THE APPROPRIATE PUNISHMENT AFTER HEARING THE EVIDENCE?

13 JUROR 88: YES.

14 THE COURT: OKAY. THANK YOU VERY MUCH. ALL RIGHT,
15 WHAT SAY YOU, MR. JACKSON?

16 MR. JACKSON: YOUR HONOR, I BELIEVE SHE'S QUALIFIED. I
17 APPRECIATE THE COURT'S INDULGENCE.

18 THE COURT: ALL RIGHT. MR. BABB?

19 MR. BABB: WE AGREE, YOUR HONOR.

20 THE COURT: ALL RIGHT. THE COURT WILL FIND HER
21 QUALIFIED. ASK HER TO COME BACK, PLEASE. ALL RIGHT, MS. HERIOT,
22 YOU HAVE BEEN FOUND TO BE A QUALIFIED JUROR IN THIS CASE. NOW
23 THAT DOES NOT NECESSARILY MEAN THAT YOU ARE GOING TO SERVE
24 AS A JUROR BUT YOU HAVE BEEN FOUND TO BE A QUALIFIED JUROR SO
25 I'M GOING TO ASK YOU TO BE BACK HERE IN THE COURTROOM

1 TOMORROW AT 2:00. WE'RE GOING TO FINISH THIS QUALIFICATION
2 PROCESS THIS EVENING AND TOMORROW MORNING AND BE READY TO
3 START TOMORROW AFTERNOON ON THE CASE. AND SO I'M GOING TO
4 EXCUSE YOU NOW AND ASK YOU TO COME BACK AND ASK YOU TO BE
5 BACK IN THE COURTROOM TOMORROW AT 2:00 O'CLOCK. TONIGHT YOU
6 WILL NEED TO PACK A SUITCASE AND BE PREPARED TO PACK AND TO
7 BRING WITH YOU WHATEVER PERSONAL BELONGINGS AND CLOTHING
8 AND MEDICATION AND ANYTHING THAT YOU WOULD NEED FOR UP TO
9 ONE WEEK, SIX DAYS SAY, I DON'T THINK IT WILL LAST BEYOND THAT
10 AND YOU DON'T NEED TO BRING THAT SUITCASE INTO THE COURTHOUSE
11 WITH YOU. YOU CAN LEAVE IT IN YOUR CAR. IF YOU ARE SELECTED AS
12 A JUROR YOU WILL BE ABLE TO TAKE IT OUT AND UNPACK IT AT THE
13 MOTEL. IF YOU ARE NOT SELECTED AS A JUROR YOU CAN TAKE IT BACK
14 HOME AND UNPACK IT AT HOME TOMORROW NIGHT. SO WHAT I'M GOING
15 TO ASK YOU IS TO COME TOMORROW PREPARED TO STAY UP TO SIX
16 DAYS. GET YOUR LUNCH BEFORE YOU COME CAUSE WE'LL BE STARTING
17 RIGHT INTO THE TRIAL OF THIS MATTER AND YOU NEED TO HAVE LUNCH
18 BEFORE YOU COME. ALSO DO NOT TALK TO ANYONE ABOUT THIS CASE.
19 DO NOT DISCUSS IT WITH ANYONE. YOU CAN TELL YOUR FAMILY OR
20 YOUR FRIENDS THAT YOU'RE SERVING ON THE JURY BUT YOU CAN'T
21 TELL THEM ANYTHING ABOUT THE CASE. DO NOT ALLOW ANYONE TO
22 TALK TO YOU ABOUT THE CASE AND DO NOT READ ANY NEWS STORIES
23 OR WATCH ANY TELEVISION REGARDING THIS MATTER. DIVORCE
24 YOURSELF FROM ANY THOUGHTS ABOUT THIS CASE UNTIL TOMORROW
25 AT 2:00 O'CLOCK AND WE'LL SEE YOU AT THAT TIME. THANK YOU.

1 THE COURT: MS. SANDERS.

2 MR. HERRING: MS. SANDERS, HAVE A SEAT RIGHT HERE.

3 THE COURT: GOOD EVENING, MS. SANDERS AND I APOLOGIZE
4 TO YOU FOR KEEPING YOU HERE SO LATE. I ALSO APOLOGIZE FOR
5 JERKING YOU AROUND AND ASKING YOU TO GO HOME AND COME BACK.
6 SOMETIMES SCHEDULING THESE MATTERS IS QUITE DIFFICULT AND I
7 APOLOGIZE FOR THAT. I ALSO KNOW THAT YOU MAY BE A LITTLE
8 INTIMIDATED BY THIS SETTING. YOU'VE PROBABLY NEVER BEEN IN THIS
9 SITUATION BEFORE WITH ALL THESE PEOPLE IN SUITS AND TWO PEOPLE
10 LOOKING DOWN WITH ROBES ON FROM PICTURES BUT JUST RELAX AND
11 DON'T WORRY ABOUT THAT. WE JUST NEED TO ASK YOU SOME
12 QUESTIONS ABOUT CERTAIN FEELINGS AND BELIEFS YOU MIGHT HAVE
13 IN ORDER TO DETERMINE YOUR QUALIFICATIONS TO SERVE ON THE
14 JURY. THERE ARE NO RIGHT OR WRONG ANSWERS TO SOME OF THESE
15 QUESTIONS AND I JUST WANT YOU TO GIVE THE ANSWER THAT YOU
16 HONESTLY FEEL AND BE OPEN WITH THE COURT. I WILL ALSO TELL YOU
17 THAT YOU WERE PUT UNDER OATH WHEN YOU WERE QUALIFIED AS A
18 JUROR AND THAT OATH STILL APPLIES SO ANYTHING YOU TELL US WILL
19 BE SWORN TESTIMONY. OKAY? HAVING SAID THAT I WILL TELL YOU
20 THAT THE CASE AGAINST MR. BOBBY WAYNE STONE ... THAT IS THIS THE
21 CASE AGAINST MR. BOBBY WAYNE STONE AND HE HAS ALREADY
22 ADJUDICATED TO BE GUILTY OF MURDER OF SERGEANT KUBALA. SO
23 THE QUESTION OF GUILT OR INNOCENCE OF MURDER IS NOT THE
24 MATTER THAT THE JURY IS GOING TO HAVE TO CONSIDER. THE ONLY
25 QUESTION THAT THE JURY IS GOING TO HAVE TO CONSIDER HAS TO DO

1 WITH THE PUNISHMENT WHICH IS TO BE IMPOSED UPON HIM. NOW,
2 HAVING SAID THAT, I WOULD TELL YOU THAT YOU HAD IN THE JURY
3 ROOM THREE TYPES OF JURORS THAT ... THAT WE REFER TO AS TYPE
4 ONE, TYPE TWO, TYPE THREE. HAVE YOU HAD A CHANCE TO REVIEW
5 THAT?

6 JUROR 189: YES.

7 THE COURT: AND WHICH ONE OF THOSE TYPES DO YOU
8 THINK THAT MOST CLOSELY RESEMBLES THE CHARACTERISTICS, YOUR
9 CHARACTERISTICS AS A JUROR, TYPE ONE, TYPE TWO OR TYPE THREE?

10 JUROR 189: TYPE THREE.

11 THE COURT: TYPE THREE. JUST TO MAKE SURE THAT I
12 UNDERSTAND WHAT YOU'RE SAYING WHEN YOU ... WHEN YOU SAY THAT
13 ARE YOU SAYING THAT AFTER LISTENING TO THE FACTS AND
14 CIRCUMSTANCES SURROUNDING THIS CASE DEPENDING ON THOSE
15 FACTS AND CIRCUMSTANCES YOU COULD EITHER FIND FOR LIFE
16 IMPRISONMENT OR YOU COULD FIND THAT THE FACTS WARRANTED A
17 PUNISHMENT OF DEATH, IS THAT CORRECT?

18 JUROR 189: RIGHT.

19 THE COURT: ALL RIGHT. NOW, I WILL TELL YOU THAT THE
20 STATE WILL HAVE TO PROVE BEYOND A REASONABLE DOUBT A
21 STATUTORY AGGRAVATING CIRCUMSTANCE. STATUTORY
22 AGGRAVATING CIRCUMSTANCES ARE FACTS THAT AND DETAILS
23 THAT OUR LEGISLATURE HAS DETERMINED MAKE A CASE MORE SEVERE,
24 THE CASE OF MURDER MORE SEVERE OR THE PUNISHMENT MORE ...
25 MORE SEVERE THAN IN OTHER TYPES OF MURDER CASES AND THE STATE

1 WOULD HAVE TO PROVE AT LEAST ONE AGGRAVATING CIRCUMSTANCE
2 BEYOND A REASONABLE DOUBT. WILL YOU THEN ... YOU AND THE
3 OTHER JURORS WOULD THEN CONSIDER WHETHER YOU SHOULD IMPOSE
4 LIFE IMPRISONMENT OR DEATH. ALSO YOU MAY CONSIDER WHAT ARE
5 CALLED STATUTORY MITIGATING CIRCUMSTANCES WHICH ARE THINGS
6 THE DEFENSE MIGHT PRESENT THAT WOULD INDICATE THAT THE
7 SENTENCE SHOULD BE LESS SEVERE AND THEN THERE ARE ALSO OTHER
8 OR NON-STATUTORY MITIGATING CIRCUMSTANCES AND I WOULD
9 INSTRUCT YOU ON THE LAW REGARDING THOSE BOTH AGGRAVATING
10 AND MITIGATING CIRCUMSTANCES AT A LATER TIME BUT MY QUESTION
11 IS WOULD YOU BE ABLE TO FOLLOW THE COURT'S INSTRUCTIONS AND
12 FIND IF IT IS ... IF THE FACTS ARE PROVEN TO YOU BEYOND A
13 REASONABLE DOUBT AN AGGRAVATING CIRCUMSTANCE OR WOULD
14 YOU BE ABLE TO CONSIDER THE MITIGATING CIRCUMSTANCES IN
15 DETERMINING YOUR VERDICT IN THIS CASE?

16 JUROR 189: YES.

17 THE COURT: AND IF YOU WERE TO FIND BEYOND A
18 REASONABLE DOUBT AN AGGRAVATING CIRCUMSTANCE YOU WOULD
19 BE ASK TO SIGN A VERDICT FORM, YOU AND ALL 11 OTHER JURORS, ALL
20 12 OF YOU WOULD BE REQUIRED TO SIGN A VERDICT FORM THAT FINDS
21 THAT THE APPROPRIATE PUNISHMENT ... IF YOU FIND THAT IS WHAT
22 YOUR DECISION IS IS LIFE IN PRISON WOULD YOU BE ABLE TO SIGN THAT
23 VERDICT FORM?

24 JUROR 189: YES.

25 THE COURT: THE OTHER SIDE OF THAT OF COURSE IS IF THE

1 FACTS AND CIRCUMSTANCES WARRANT AND IF YOU FEEL THAT IT HAS
2 BEEN PROVEN TO YOU BEYOND A REASONABLE DOUBT OF AN
3 AGGRAVATING CIRCUMSTANCE AND CONSIDERED THE MITIGATING
4 CIRCUMSTANCES YOU WOULD BE ASKED TO SIGN A VERDICT FORM THAT
5 WOULD IMPOSE THE DEATH PENALTY ON MR. STONE. WOULD YOU BE
6 ABLE TO SUBSCRIBE YOUR NAME TO THAT FORM ALONG WITH THE
7 OTHER JURORS IF YOU FOUND THE FACTS AND CIRCUMSTANCES
8 WARRANTED IT?

9 JUROR 189: YES.

10 THE COURT: ALL RIGHT. THAT BEING THE CASE, MS.
11 SANDERS, LET ME ASK YOU, DO YOU KNOW ANYTHING ABOUT THIS CASE
12 OR HAVE YOU READ ANYTHING IT OR HEARD ANYTHING ABOUT IT IN
13 THE NEWS MEDIA?

14 JUROR 189: I READ ABOUT IT.

15 THE COURT: ALL RIGHT. WHEN DID YOU READ ABOUT IT
16 AND WHAT DID YOU READ?

17 JUROR 189: WHAT THEY HAD AN ARTICLE IN SUNDAY'S
18 PAPER. AND I READ ABOUT THAT.

19 THE COURT: AND WHAT DID YOU READ ABOUT IT? WHAT ...
20 WHAT DID ... WHAT DID YOU GET OUT OF THAT ARTICLE?

21 JUROR 189: BASICALLY NOTHING.

22 THE COURT: IS THERE ANYTHING THAT WAS IN THAT
23 ARTICLE THAT WOULD INFLUENCE YOU OR AFFECT YOUR ABILITY TO
24 MAKE A DECISION IN THIS CASE BASED UPON WHAT YOU HEAR IN THIS
25 COURTROOM?

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1 JUROR 189: NO.

2 THE COURT: WOULD YOU BE ABLE TO DIVORCE FROM YOUR
3 MIND ANYTHING THAT YOU MAY HAVE HEARD ABOUT THIS CASE IN THE
4 PAST AND DECIDE THIS CASE BASED ON THE EVIDENCE THAT YOU HEAR
5 IN THIS COURT?

6 JUROR 189: YES.

7 THE COURT: WOULD YOU DO THAT?

8 JUROR 189: YES.

9 THE COURT: AND DO YOU HAVE ANY OPINION AT THIS POINT
10 IN TIME AS TO WHAT YOUR VERDICT IN THIS CASE SHOULD BE?

11 JUROR 189: NO, I DON'T.

12 THE COURT: ALL RIGHT. NOW, I'M GOING TO SWITCH GEARS
13 FOR JUST A MOMENT AND ASK YOU TO OR TELL YOU THAT IF YOU ARE
14 SELECTED AS A JUROR IN THIS CASE AND RIGHT NOW WE'RE JUST TO
15 TRYING IF YOU'RE QUALIFIED TO BE A JUROR BUT IF YOU ARE SELECTED
16 AS A JUROR IN THIS CASE YOU WILL BE SEQUESTERED. THAT MEANS
17 YOU WILL BE HOUSED IN A MOTEL FOR FIVE TO SIX DAYS UNTIL THIS
18 MATTER IS THROUGH AND CONCLUDED. OTHER THAN PERSONAL
19 INCONVENIENCE TO YOU AND I KNOW IT WOULD BE INCONVENIENT. BUT
20 OTHER THAN A PERSONAL INCONVENIENCE WOULD IT WORK A SEVERE
21 HARDSHIP ON YOU OR ANYONE THAT IS DEPENDENT UPON YOU TO BE
22 SEQUESTERED?

23 JUROR 189: NO.

24 THE COURT: IT WILL NOT?

25 JUROR 189: NO.

1 THE COURT: ALL RIGHT. MS. SANDERS, I THINK THAT IS ALL
2 THE QUESTIONS THAT I HAVE OF YOU. I'M GOING TO ASK THAT YOU
3 ANSWER ANY QUESTIONS THAT MR. JACKSON MIGHT HAVE FOR YOU.

4 MR. JACKSON: GOOD EVENING, MS. SANDERS.

5 JUROR 189: GOOD EVENING.

6 MR. JACKSON: MS. SANDERS, MY NAME IS KELLY JACKSON.
7 I'M THE SOLICITOR HERE IN SUMTER COUNTY. MYSELF AND MR.
8 DUDLEY SALEEBY ARE GONNA PRESENT THIS CASE POSSIBLY TO YOU
9 AND THE OTHER JURORS. WE JUST NEED TO ASK YOU A FEW QUESTIONS.
10 THIS IS A CASE OF GREAT MAGNITUDE AND WE WANT TO TALK TO YOU
11 A LITTLE BIT IN PERSON THIS AFTERNOON. YOU FILLED OUT A
12 QUESTIONNAIRE AND SENT IT INTO THE CLERK'S OFFICE.

13 JUROR 189: YES, I DID.

14 MR. JACKSON: LET ME ASK YOU ABOUT A COUPLE OF
15 RESPONSES ON THERE. YOU NOTED THAT YOUR SON HAD A I BELIEVE A
16 DRUG DISTRIBUTION.

17 JUROR 189: YES, HE DID.

18 MR. JACKSON: WAS THAT PROSECUTED HERE IN SUMTER?

19 JUROR 189: YES.

20 MR. JACKSON: DO YOU KNOW IF IT WAS THE SUMTER
21 COUNTY SHERIFF'S DEPARTMENT OR THE SUMTER POLICE DEPARTMENT?

22 JUROR 189: IT WAS THE SUMTER POLICE DEPARTMENT.

23 MR. JACKSON: SUMTER POLICE DEPARTMENT. AND WHAT
24 ... WHAT IS YOUR SON'S NAME, PLEASE, MA'AM?

25 JUROR 189: LAMAR SANDERS.

1 MR. JACKSON: DO YOU REMEMBER WHEN THAT WAS?

2 JUROR 189: IT WAS PROBABLY ABOUT '90, MAYBE '98, '97.

3 2000. I'M NOT SURE.

4 MR. JACKSON: DID HE HAVE TO GO TO JAIL?

5 JUROR 189: YES, HE DID.

6 MR. JACKSON: AND HE'S BACK OUT NOW?

7 JUROR 189: HE'S BACK IN NOW.

8 MR. JACKSON: HE'S BACK IN. OKAY.

9 JUROR 189: HE'S BACK IN FOR TRAFFIC VIOLATIONS.

10 MR. JACKSON: OKAY. THE ... DID I ... WE JUST ... WE HAVE TO
11 ASK THIS. I DON'T ... DON'T BE UPSET WITH ME BUT THE FACT THAT HE
12 WAS ... THAT HE WAS PROSECUTED BY THE SOLICITOR'S OFFICER HERE
13 IN SUMTER WHICH IS MY OFFICE NOW, WOULD NOT HAVE BEEN BACK
14 THEN, AND THAT LOCAL LAW ENFORCEMENT BROUGHT THAT CASE,
15 DOES THAT IN ANY WAY HAVE A BEARING ON WHAT YOUR DECISION
16 WOULD BE IN THE COURTROOM HERE THIS WEEK?

17 JUROR 189: NO. BECAUSE HE DID WRONG.

18 MR. JACKSON: OKAY.

19 JUROR 189: I MEAN I DIDN'T GO TO JAIL. HE DID.

20 MR. JACKSON: VERY GOOD.

21 THE COURT: AND WHAT HIS MAMA DID TO HIM WAS
22 PROBABLY WORSE THEN WHAT THE LAW DID TO HIM.

23 JUROR 189: I AIN'T GONNA SAY NOTHING.

24 MR. JACKSON: THE ... ANOTHER QUESTION ON THERE WAS
25 ABOUT SHOWS OR TV STATIONS OR RADIO STATIONS THAT ...

1 JUROR 189: YES.

2 MR. JACKSON: ... THAT YOU LISTEN TO AND INOTE ON THERE
3 THAT YOU HAD CSI AND COLD CASE FILES.

4 JUROR 189: CSI, COLD CASE FILES.

5 MR. JACKSON: I JUST DIDN'T WANT TO GET YOUR HOPES UP
6 THAT THIS WAS GONNA BE AN ENTERTAINING CSI FOR THE NEXT FIVE
7 OR SIX DAYS. DO YOU ... THE CASE THAT WE'VE GOT, MS. SANDERS, IS
8 INVOLVING BOBBY WAYNE STONE AS THE JUDGE TOLD YOU, HAS
9 ALREADY BEEN CONVICTED OF MURDER AND ... AND THE ISSUE MAY
10 VERY WELL BE WILL A JURY RECOMMEND LIFE SENTENCE FOR HIM OR
11 A DEATH SENTENCE FOR HIM. IF I UNDERSTOOD YOU CORRECTLY YOU
12 ANSWERED THE JUDGE BY SAYING IF IN YOUR OPINION LIFE WAS THE
13 APPROPRIATE SENTENCE YOU COULD RECOMMEND LIFE.

14 JUROR 189: YES.

15 MR. JACKSON: AND THEN HE ASKED YOU ABOUT THE DEATH
16 PENALTY. IT'S KIND OF EASY TO TALK ABOUT THESE THINGS BUT ONCE
17 YOU THINK IT THROUGH IT MAY BE A LITTLE HARDER AND THINK
18 THROUGH FOR ME IF YOU THOUGHT THE RIGHT DECISION FOR
19 PUNISHMENT WOULD BE TO RECOMMEND DEATH COULD YOU ACTUALLY
20 BEAR DOWN AND SIGN YOUR NAME TO A SHEET OF PAPER WITH THE
21 OTHER JURORS THAT WOULD RECOMMEND BOBBY WAYNE STONE BE
22 PUT TO DEATH? IN OTHER WORDS, SIGN A DEATH WARRANT FOR HIM.

23 JUROR 189: YES.

24 MR. JACKSON: OKAY. I APPRECIATE YOUR HONESTY AND
25 YOUR CANDIDNESS AND I THANK YOU VERY MUCH.

1 THE COURT: MR. BABB.

2 MR. BABB: GOOD EVENING, MS. SANDERS.

3 JUROR 189: GOOD EVENING.

4 MR. BABB: I'M JIM BABB. AND I ALONG WITH CAM
5 LITTLEJOHN HERE WILL BE REPRESENTING MR. STONE IN THIS MATTER.
6 NOW, YOU'VE STATED TO THE JUDGE THAT YOU BELIEVE YOU'RE A TYPE
7 THREE JUROR. IS THAT CORRECT?

8 JUROR 189: YES.

9 MR. BABB: ALL RIGHT. AND SO YOU DON'T FEEL THAT IF
10 SOMEONE IS SIMPLY CONVICTED OF MURDER THEN IT SHOULD BE
11 AUTOMATIC THAT THEY HAVE THE DEATH PENALTY.

12 JUROR 189: NO, I DON'T.

13 MR. BABB: SO YOU'RE SAYING THAT YOU WILL LISTEN TO
14 THE FACTS AND CIRCUMSTANCES AND FAIRLY DETERMINE BASED ON
15 THE LAW. NOW, IF YOU'RE CALLED UPON TO DO SO THEN YOU WOULD
16 BE HEARING FACTORS AND CIRCUMSTANCES IN MITIGATION AS WELL AS
17 IN AGGRAVATION. IN MITIGATION THERE MAY BE SOME STATUTORY
18 CIRCUMSTANCES AND THEN OTHER CIRCUMSTANCES. SOME MAY DEAL
19 WITH THE FACTS OF THE EVENT. OTHERS MAY DEAL SOLELY AND
20 SIMPLY WITH THE UNIQUENESS OF THE DEFENDANT. NOW WHEN I SAY
21 UNIQUENESS WE'RE TALKING ABOUT BACKGROUND, HISTORY, THINGS
22 OF A PERSONAL ... PERSONAL NATURE TO THAT INDIVIDUAL. WOULD
23 YOU BE ABLE TO FAIRLY CONSIDER BACKGROUND AND HISTORY AND
24 WHAT'S HAPPENED IN HIS LIFE IN MAKING A DECISION AS TO WHETHER
25 IT WOULD BE APPROPRIATE TO SENTENCE HIM TO EITHER DEATH OR TO

1 LIFE IMPRISONMENT?

2 JUROR 189: YES.

3 MR. BABB: AND YOU COULD FAIRLY CONSIDER THOSE
4 MATTERS IN CONNECTION WITH LIFE IMPRISONMENT.

5 JUROR 189: YES.

6 MR. BABB: DO YOU CONSIDER LIFE IMPRISONMENT A
7 SUBSTANTIAL PENALTY?

8 JUROR 189: YES, I DO. BECAUSE IF THEY GOT LIFE WITHOUT
9 NO POSSIBILITY OF PAROLE THEN THAT'S LIFE.

10 MR. BABB: AND ... AND YOU THINK THAT COULD BE AN
11 APPROPRIATE PUNISHMENT FOR MURDER?

12 JUROR 189: YEAH. WELL, THAT ALL DEPENDS ON THE
13 CIRCUMSTANCES.

14 MR. BABB: I UNDERSTAND. I UNDERSTAND. AND THAT'S ...
15 THAT'S ... WE'RE JUST TRYING TO BE HERE TO ASSURE THAT THAT'S ...
16 THAT'S THE WAY YOU FEEL. NOW, I BELIEVE YOU ALSO MENTIONED
17 THAT SOME MEMBERS OF YOUR FAMILY WERE RESERVE OFFICERS OR
18 AUXILIARY POLICE, SOMETHING ... SOMETHING LIKE THAT.

19 JUROR 189: MY COUSIN'S HUSBAND ...

20 MR. BABB: YOUR COUSIN'S HUSBAND.

21 JUROR 189: ... WAS A DEPUTY SHERIFF. HE WAS. HE RETIRED
22 MAYBE ABOUT 2000, '99.

23 MR. BABB: OKAY. WAS THAT HERE IN SUMTER?

24 JUROR 189: YES, IT WAS..

25 MR. BABB: AND WHO WAS HE?

1 JUROR 189: ELISHA GARLAND.

2 MR. BABB: OKAY. NOW, THE FACT THAT ELISHA WAS A
3 SHERIFF'S DEPUTY AND THAT THIS CASE, THE VICTIM IN THIS CASE WAS
4 A SHERIFF'S DEPUTY, IS THAT GONNA HAVE ANY PARTICULAR BEARING
5 ON YOUR ABILITY TO BE FAIR?

6 JUROR 189: NO.

7 MR. BABB: OKAY. SO, MS. SANDERS, YOU'RE TELLING ME
8 YOU CAN BE COMPLETELY FAIR TO THE STATE AND TO MY CLIENT.

9 JUROR 189: YES, I AM.

10 MR. BABB: NOW, LET'S SUPPOSE YOU'RE ON THE JURY AND
11 YOU'VE HEARD ALL THE FACTS AND THE EVIDENCE AND YOU'RE BACK
12 IN THE JURY ROOM DECIDING THE CASE AND YOU'VE REACHED A
13 CONCLUSION IN YOUR MIND AND MOST OF THE OTHER JURORS HAVE
14 REACHED A DIFFERENT CONCLUSION ARE YOU GONNA SWITCH AND GO
15 LONG WITH THOSE OTHER JURORS?

16 JUROR 189: NO. THAT'S WHY ... CAUSE THEY TELL ME IN MY
17 FAMILY I BE STUBBORN. ONCE MY MIND IS MADE UP YOU CAN'T CHANGE
18 IT.

19 MR. BABB: ALL RIGHT. THANK YOU, NO FURTHER
20 QUESTIONS.

21 THE COURT: THANK YOU, MS. SANDERS. I'M GONNA ASK
22 YOU IF YOU'LL STEP OUTSIDE FOR JUST A MINUTE. I HAVE TO TAKE UP
23 SOME MATTERS WITH THE LAWYERS. WHAT SAITH THE STATE?

24 MR. JACKSON: YOUR HONOR, I BELIEVE SHE'S QUALIFIED.

25 THE COURT: MR. BABB?

1 MR. BABB: WE AGREE, YOUR HONOR.

2 THE COURT: ALL RIGHT. THE JUROR WILL BE QUALIFIED.
3 ASK HER TO COME BACK IN, PLEASE. ALL RIGHT, MS. SANDERS, THANK
4 YOU VERY MUCH AND THANK YOU FOR YOUR CANDOR AND WE
5 APOLOGIZE FOR KEEPING YOU HEAR LATE. I ALSO APOLOGIZE FOR
6 JERKING YOU AROUND MAKING YOU GO BACK AND FORTH. YOU HAVE
7 BEEN QUALIFIED AS A JUROR IN THIS CASE. NOW THAT DOES NOT MEAN
8 THAT YOU WILL NECESSARILY BE ACCEPTED OR SERVE AS A JUROR BUT
9 YOU'VE BEEN QUALIFIED AS ONE OF THE JURY PANEL. SO I'M GOING TO
10 EXCUSE YOU NOW AND ASK YOU TO BE BACK IN THE COURTROOM OUT
11 HERE WITH YOUR FELLOW JURORS TOMORROW AT 2:00 O'CLOCK. WE'RE
12 GONNA FINISH THIS QUALIFICATION PROCESS EITHER TONIGHT OR
13 TOMORROW MORNING AND THEN WE'LL BE READY TO GO WITH THIS
14 CASE TOMORROW. YOU NEED TO BE PREPARED WHEN YOU COME BACK
15 ... TONIGHT YOU NEED TO PACK YOUR BAGS AND YOUR PERSONAL
16 BELONGINGS AND ANY MEDICATIONS THAT YOU NEED AND COME BACK
17 TOMORROW PREPARED TO STAY WITH US FIVE OR SIX DAYS. DO NOT
18 BRING YOUR SUITCASE INTO THE COURTHOUSE WITH YOU BUT LEAVE IT
19 IN YOUR CAR. IF YOU ARE SELECTED AS A JUROR YOU WILL BE
20 UNPACKING IN A MOTEL TOMORROW NIGHT WHEN YOU GO OUT THERE
21 OR WHEN THE JURY GOES OUT THERE. IF YOU ARE NOT SELECTED
22 YOU'LL BE UNPACKING IT AT HOME TOMORROW NIGHT WHEN YOU GO
23 BACK HOME. BUT I DO NEED YOU PREPARED TO STAY FOR FIVE OR SIX
24 DAYS AND BRING EVERYTHING THAT YOU NEED OR BRING EVERYTHING
25 AND JUST LEAVE IT IN YOUR CAR AND COME BACK IN HERE TOMORROW

1 AT 2:00 O'CLOCK. OVER THE EVENING RECESS DO NOT DISCUSS THIS
2 CASE WITH ANYONE. DO NOT ALLOW ANYONE TO DISCUSS IT WITH YOU.
3 DO NOT READ ANY NEWSPAPER ARTICLES OR WATCH TELEVISION OR
4 ANY BROADCAST MEDIA ABOUT THIS CASE. YOU'VE GOT TO DECIDE THE
5 CASE BASED UPON WHAT YOU HEAR IN THIS COURTROOM AND NOT
6 BASED ON WHAT ANYONE ELSE MIGHT SAY OR THAT YOU MIGHT HEAR.
7 BUT I AM GOING TO EXCUSE YOU AND ASK YOU TO PLEASE BE BACK
8 TOMORROW AT 2:00 O'CLOCK AND TO BE PREPARED TO STAY WITH US A
9 WHILE. THANK YOU VERY MUCH. ALL RIGHT, COUNSEL, THE LAST
10 MATTER OR THE LAST JUROR FOR TODAY IS JUROR NUMBER 86.

11 MR. HERRING: HAVE A SEAT HERE, PLEASE, SIR.

12 THE COURT: ALL RIGHT. FIRST OF ALL I APOLOGIZE TO YOU
13 AND LET ME MAKE SURE THAT I KNOW HOW TO PRONOUNCE YOUR
14 NAME. HOW ABOUT PRONOUNCE YOUR LAST NAME FOR ME.

15 JUROR 86: HARSCH.

16 THE COURT: HARSCH, H-A-R-S-C-H, IS THAT CORRECT?

17 JUROR 86: YES.

18 THE COURT: ALL RIGHT, MR. HARSCH, I WANT TO APOLOGIZE
19 TO YOU FOR KEEPING YOU WAITING IN THE JURY ROOM AND JERKING
20 YOU AROUND AND TELLING YOU TO GO AND COME BACK. THAT'S WHY
21 I'M GOING TO KEEP YOU SO WE CAN FINISH WITH THIS PANEL TONIGHT.
22 AND I DO APPRECIATE YOUR INDULGENCE. WE'RE GOING TO BE ASKING
23 YOU SOME QUESTIONS TO DETERMINE YOUR QUALIFICATIONS TO SERVE
24 ON THE IN THIS CASE. SOME OF THE QUESTIONS ARE QUITE PERSONAL.
25 WE'RE NOT TRYING TO PRY INTO YOUR AFFAIRS OR INVADE YOUR

1 PRIVACY BUT THERE ARE SOME QUESTIONS THAT WE NEED ANSWERS TO
2 TO DETERMINE YOUR QUALIFICATIONS. THERE ARE NO RIGHT OR WRONG
3 ANSWERS TO SOME OF THE QUESTIONS. THEY'RE SIMPLY DESIGNED TO
4 DETERMINE HOW YOU FEEL ABOUT CERTAIN MATTERS SO WE JUST
5 WANT YOU TO BE HONEST AND OPEN WITH US SO THAT WE CAN MAKE
6 THOSE DETERMINATIONS. I'LL ALSO TELL YOU THAT WHEN YOU CAME
7 YESTERDAY YOU WERE SWORN TO TELL THE TRUTH AS WE WENT
8 THROUGH THE GENERAL QUALIFICATIONS AND THAT SAME OATH
9 APPLIES NOW SO ANYTHING THAT YOU TELL US WILL BE TESTIMONY
10 UNDER OATH. DO YOU UNDERSTAND THAT?

11 JUROR 86: YES, SIR.

12 THE COURT: OKAY. NOW, AS YOU MAY HAVE ALREADY
13 BEEN TOLD OR MAY HAVE ALREADY GOTTEN FROM WHAT I HAVE SAID
14 TO YOU IN COURT, THE DEFENDANT IN THIS CASE, MR. BOBBY WAYNE
15 STONE, HAS ALREADY BEEN FOUND TO BE GUILTY OF MURDER OF
16 DEPUTY KUBALA. THE QUESTION OF HIS GUILT OR INNOCENCE IS NOT
17 THE MATTER THAT THE JURY IS GOING TO HAVE TO DETERMINE. THE
18 JURY ... THE ONLY MATTER THAT IS GOING TO BE BEFORE THE JURY HAS
19 TO DO WITH WHAT PUNISHMENT SHOULD BE IMPOSED UPON MR. STONE
20 FOR THIS MURDER. AND IN THAT CONNECTION WE HAVE ASKED YOU ...
21 YOU WERE GIVEN IN THE JURY ROOM A SHEET THAT INDICATED THERE
22 WERE THREE TYPES OF JURORS, TYPE ONE, TYPE TWO AND TYPE THREE.
23 HAVE YOU REVIEWED THAT OR HAVE YOU READ THAT SHEET?

24 JUROR 86: YES, SIR.

25 THE COURT: AND WHICH OF THOSE THREE TYPES OF JURORS

1 WOULD YOU BEST SAY CHARACTERIZES YOU IF YOU WERE DESCRIBING
2 YOURSELF, TYPE ONE JUROR, TYPE TWO OR TYPE THREE?

3 JUROR 86: PROBABLY A TYPE THREE.

4 THE COURT: TYPE THREE. ALL RIGHT. IF I UNDERSTAND
5 WHAT YOU'RE SAYING AND I WANT TO MAKE SURE THAT I DO
6 UNDERSTAND YOU CORRECTLY, THE TYPE THREE JUROR IS ... YOU'RE
7 SAYING THAT AFTER LISTENING TO THE FACTS AND CIRCUMSTANCES
8 SURROUNDING THIS CASE AND DEPENDING ON THOSE FACTS AND
9 CIRCUMSTANCES YOU COULD EITHER FIND THAT THE DEFENDANT
10 SHOULD SUFFER A PUNISHMENT OF LIFE IN PRISON OR AFTER HEARING
11 THE TESTIMONY YOU THOUGHT IT WAS JUSTIFIED THAT YOU COULD
12 FIND THAT HE SHOULD SUFFER THE PUNISHMENT OF DEATH EITHER BY
13 LETHAL INJECTION OR ELECTROCUTION, IS THAT CORRECT?

14 JUROR 86: YES, SIR.

15 THE COURT: ALL RIGHT. NOW, IN AGGRAVATION I NEED
16 TO TELL YOU THAT THE STATE WILL BE PROVING TO YOU WHAT WE
17 CALL STATUTORY OR PRESENTING EVIDENCE ... I CAN'T SAY PROVE
18 BECAUSE I HAVEN'T HEARD IT EITHER. THEY WILL BE PRESENTING
19 EVIDENCE TO YOU OF WHAT WE CALL STATUTORY MITIGATING OR
20 STATUTORY AGGRAVATING CIRCUMSTANCES. THESE ARE
21 CIRCUMSTANCES THAT HAVE BEEN DECIDED BY OUR LEGISLATURE
22 TO INCREASE THE SEVERITY OF THE CRIME OF MURDER. THE STATE
23 WOULD HAVE TO PROVE BEYOND A REASONABLE DOUBT AT LEAST
24 ONE STATUTORY AGGRAVATING CIRCUMSTANCE BEFORE THE JURY
25 WILL DECIDE WHETHER THE APPROPRIATE PUNISHMENT IS LIFE IN

1 PRISON OR DEATH. THE DEFENSE WILL HAVE THE RIGHT TO PRESENT
2 WHAT ARE CALLED STATUTORY MITIGATING CIRCUMSTANCES WHICH
3 ARE CIRCUMSTANCES WHICH REDUCE THE SEVERITY OF THE OFFENSE
4 AND THERE ARE ALSO OTHER MITIGATING CIRCUMSTANCES THAT
5 ARE NOT STATUTORY PROVIDED FOR AND MY QUESTION TO YOU IS
6 CAN YOU AFTER HEARING ALL OF THE TESTIMONY IF YOU CONCLUDE
7 THAT THE STATE HAS PROVEN BEYOND A REASONABLE DOUBT AT
8 LEAST ONE STATUTORY AGGRAVATING CIRCUMSTANCE AND AFTER
9 HEARING ALL OF THE MITIGATION ON BEHALF OF THE DEFENSE AND
10 WEIGHING ALL OF THAT MATTER ... ALL OF THOSE MATTERS, AFTER
11 HEARING ALL OF THAT, WOULD YOU BE ABLE TO MAKE A DECISION AS
12 TO WHETHER THE DEFENDANT IS ... THE APPROPRIATE PUNISHMENT IS
13 LIFE IMPRISONMENT OR DEATH, WOULD YOU BE ABLE TO MAKE THAT
14 DECISION AFTER HEARING THAT TESTIMONY?

15 JUROR 86: YES.

16 THE COURT: NOW, IF YOU ARE ... AGAIN, IF YOU FIND
17 BASED UPON THE TESTIMONY THAT THE STATE HAS PROVED THE
18 AGGRAVATING CIRCUMSTANCES AND YOU THINK THAT IS THE
19 APPROPRIATE PUNISHMENT YOU WOULD BE REQUIRED TO SIGN A
20 VERDICT FORM ALONG WITH THE OTHER 11 MEMBERS OF THE JURY ...
21 ALL 12 OF YOU HAVE TO SIGN THIS ... SAYING THAT LIFE
22 IMPRISONMENT IS THE APPROPRIATE PUNISHMENT, COULD YOU SIGN
23 THAT VERDICT FORM?

24 JUROR 86: YES.

25 THE COURT: AND ON THE OTHER SIDE OF IT, IF YOU

1 FOUND THAT AFTER HEARING ALL OF THE TESTIMONY IN
2 AGGRAVATION AND ALL OF THE TESTIMONY IN MITIGATION THAT
3 LIFE WAS THE ... I MEAN THAT DEATH WAS THE APPROPRIATE
4 PUNISHMENT, YOU WOULD ALSO HAVE TO SIGN A VERDICT FORM
5 ALONG WITH THE OTHER ... ALL THE MEMBERS OF THE JURY AND SIGN
6 YOUR NAME TO A DOCUMENT THAT WOULD PROVIDE THAT DEATH IS
7 THE APPROPRIATE PUNISHMENT. COULD YOU DO THAT?

8 JUROR 86: YES, SIR.

9 THE COURT: ALL RIGHT. NOW, LET ME ASK YOU THIS
10 QUESTION BEFORE WE GO ANY FURTHER. HAVE YOU HEARD
11 ANYTHING OR READ ANYTHING ABOUT THIS CASE?

12 JUROR 86: NO, SIR.

13 THE COURT: HAVE YOU FORMED ANY OPINION THAT
14 WOULD INTERFERE WITH YOUR DUTIES AND PREVENT YOU FROM
15 SERVING AS A JUROR IN THIS CASE ON THE TERMS THAT I HAVE
16 OUTLINED FOR YOU?

17 JUROR 86: NO.

18 THE COURT: AND ON AN ADMINISTRATIVE MATTER, IF
19 YOU ARE SELECTED AS A JUROR ... RIGHT NOW WE'RE JUST TALKING
20 ABOUT QUALIFICATION ... BUT IF YOU ARE SELECTED AS A JUROR IN
21 THIS CASE YOU WOULD BE SEQUESTERED. THAT MEANS THAT YOU
22 WOULD BE HOUSED IN A MOTEL FOR UP TO SIX DAYS UNTIL THE CASE
23 IS OVER. ASIDE FROM THE PERSONAL INCONVENIENCE AND I KNOW IT
24 WOULD BE INCONVENIENT, ASIDE FROM THE PERSONAL
25 INCONVENIENCE WOULD IT WORK ANY SEVERE HARDSHIP ON YOU OR

1 ANYBODY THAT IS DEPENDENT ON YOU TO BE SEQUESTERED FOR UP
2 TO SIX DAYS?

3 JUROR 86: NO, I DON'T HAVE ANYBODY DEPENDENT ON
4 ME BUT I DO ... I'M ACTIVE MILITARY AND I WORK IN A JOB THAT'S 24
5 HOUR OPERATIONS. SO IT WOULD BE A HARDSHIP ON MY WORK
6 PLACE.

7 THE COURT: ALL RIGHT. I UNDERSTAND THAT. OF
8 COURSE THE MILITARY ALSO APPRECIATES OF COURSE JURY DUTY
9 BUT IN THAT CONNECTION LET ME ASK YOU WHAT THE CHANCES ARE
10 IS THERE ... IS THERE A POSSIBILITY IN THE JOB THAT YOU HAVE IN
11 THE MILITARY YOUR BEING ACTIVATED ... WELL, YOU'RE ON ACTIVE
12 DUTY ... I GUESS OF BEING CALLED UP OR SHIPPED OUT OR ANYTHING
13 THAT WOULD INTERFERE WITH THOSE DUTIES? IS THERE ANY
14 CHANCE ...

15 JUROR 86: NO, YOUR HONOR.

16 THE COURT: THERE'S NO CHANCE OF THAT? WHAT IS
17 YOUR JOB IN THE MILITARY?

18 JUROR 86: WEATHER FORECASTER.

19 THE COURT: WEATHER FORECASTER. OKAY. ALL RIGHT.
20 GOOD. THANK YOU VERY MUCH. I THINK THAT'S ALL OF THE QUESTIONS
21 THAT I HAVE FOR YOU. ANSWER ANY QUESTIONS THAT MR. JACKSON
22 MAY HAVE FOR YOU.

23 MR. JACKSON: GOOD EVENING, MR. HARSCH.

24 JUROR 86: GOOD EVENING.

25 MR. JACKSON: MY NAME IS KELLY JACKSON. I'M THE

1 PROSECUTOR HERE IN SUMTER. THIS IS MR. DUDLEY SALEEBY. HE AND
2 I ARE GONNA PRESENT THIS CASE AND I JUST NEED TO ASK YOU A
3 COUPLE QUESTIONS. HOW LONG HAVE YOU BEEN IN THE AIR FORCE, SIR?

4 JUROR 86: NINE AND A HALF YEARS.

5 MR. JACKSON: NINE AND A HALF?

6 JUROR 86: YES, SIR.

7 MR. JACKSON: YOU GOT SHIPPED TO SHAW AIR FORCE BASE
8 WHEN?

9 JUROR 86: EXCUSE ME?

10 MR. JACKSON: WHEN DID YOU GET SENT TO SHAW AIR
11 FORCE BASE?

12 JUROR 86: IN JUNE OF 2004.

13 MR. JACKSON: 2000 AND ...

14 JUROR 86: FOUR.

15 MR. JACKSON: I NOTE IN THE QUESTION ... QUESTIONNAIRE
16 WHERE IT TALKED ABOUT PRIMARY SOURCES OF NEWS, TV, MAGAZINES,
17 NEWSPAPERS, AND OTHER ... DO YOU EVEN SUBSCRIBE TO THE ITEM
18 NEWSPAPER?

19 JUROR 86: NO, I DO NOT.

20 MR. JACKSON: OKAY. SO SINCE YOU'VE JUST BEEN HERE
21 ABOUT SEVEN MONTHS AND THE ITEM IS A LOCAL PAPER IS THERE
22 ANYTHING THAT YOU KNOW ABOUT THIS CASE THAT YOU BRING FROM
23 OUTSIDE?

24 JUROR 86: NO.

25 MR. JACKSON: OKAY. AND UNDER THE PROPER

1 CIRCUMSTANCES, MR. HARSCH, DO YOU FEEL LIKE YOU COULD
2 RECOMMEND TO THE COURT A SENTENCE OF LIFE IF THAT WAS THE
3 APPROPRIATE THING TO DO?

4 JUROR 86: YES.

5 MR. JACKSON: AND IF UNDER THE CIRCUMSTANCES YOU
6 THOUGHT IT WAS MORE APPROPRIATE TO RECOMMEND A DEATH
7 PENALTY, WHICH MEANS YOU WOULD SIGN A FORM RECOMMENDING
8 THAT BOBBY WAYNE STONE RECEIVE THE DEATH PENALTY, COULD YOU
9 DO THAT?

10 JUROR 86: YES.

11 MR. JACKSON: THAT'S ALL I HAVE FOR YOU. THANK YOU
12 VERY MUCH.

13 THE COURT: ALL RIGHT. MR. BABB.

14 MR. BABB: GOOD EVENING, MR. HARSCH.

15 JUROR 86: GOOD EVENING.

16 MR. BABB: I'M JIM BABB AND I ALONG WITH CAM
17 LITTLEJOHN WILL BE REPRESENTING MR. STONE IN THIS MATTER. I JUST
18 NEED TO ASK YOU A FEW QUESTIONS ALONG THE LINES THAT HIS HONOR
19 ASKED. IF YOU WERE CALLED UPON TO SERVE ON THIS JURY, DO YOU
20 BELIEVE THAT A SENTENCE OF LIFE IMPRISONMENT IS A SUBSTANTIAL
21 PENALTY FOR MURDER?

22 JUROR 86: FIRST DEGREE OR SECOND DEGREE, WHICH ...

23 THE COURT: ALL RIGHT. YOU ... OUR ... AS THE JUDGE
24 INVOLVED IN THIS CASE I WILL CHARGE YOU AND INSTRUCT YOU ON THE
25 LAW. YOU'RE NOT TO CONCERN YOURSELF WITH THE DEGREES OR

1 ANYTHING OF THAT NATURE AT THIS TIME. MY QUESTION WOULD BE
2 WOULD YOU BE ABLE TO FOLLOW MY INSTRUCTIONS ON THE LAW AND
3 DECIDE THE CASE ... DECIDE THE FACTS BASED UPON THE LAW AS I GIVE
4 IT TO YOU, WOULD YOU BE ABLE TO FOLLOW THE INSTRUCTIONS?

5 JUROR 86: YES, SIR.

6 THE COURT: ALL RIGHT. THEN I'LL ALLOW MR. BABB TO ASK
7 HIS QUESTION TO YOU AND YOU CAN GIVE A GENERAL ANSWER.

8 MR. BABB: RIGHT. AND IT'S NOT A TRICK QUESTION AND
9 THERE AREN'T ANY WRONG ANSWERS. THAT'S NOW WHAT WE'RE
10 TRYING TO DO HERE AT ALL. MR. STONE HAS BEEN CONVICTED OF
11 MURDER. OKAY. IF YOU'RE ON THE JURY YOU MAY BE CALLED UPON TO
12 HAVE TO MAKE A DECISION BETWEEN DEATH OR LIFE IMPRISONMENT.
13 I'M SIMPLY ASKING DO YOU FEEL THAT LIFE IMPRISONMENT IS A
14 SUBSTANTIAL PENALTY? IS IT A HEAVY PENALTY? A HARSH PENALTY?

15 JUROR 86: YES.

16 MR. BABB: IN OTHER WORDS, IT'S NOT SOMETHING THAT
17 YOU THINK IS A SLAP ON THE WRIST.

18 JUROR 86: NO.

19 MR. BABB: I ALSO NOTED THAT YOU'RE CURRENTLY ACTIVE
20 DUTY MILITARY.

21 JUROR 86: YES, I AM.

22 MR. BABB: AND AT ONE POINT YOU WERE MARRIED.

23 JUROR 86: YES.

24 MR. BABB: YOUR WIFE WAS ACTIVE DUTY MILITARY?

25 JUROR 86: NO, SHE JOINED THE ARMY AFTER WE GOT

1 DIVORCED.

2 MR. BABB: OKAY. SHE WAS AN MP?

3 JUROR 86: YES.

4 MR. BABB: ALL RIGHT. ANYONE ELSE YOU'VE BEEN
5 RELATED TO AN MP OTHER THAN YOUR EX-WIFE?

6 JUROR 86: NO.

7 MR. BABB: AND I'M NOT TRYING TO PRY OR TO REALLY TO
8 BE HUMOROUS BUT THE FACT THAT SHE WAS AN MP AND I DON'T KNOW
9 HOW YOU ALL LEFT THINGS, DOES THAT INFLUENCE YOUR VIEW OF
10 POLICE OFFICERS AT ALL?

11 JUROR 86: CAN YOU REPEAT THE QUESTION?

12 MR. BABB: THE FACT THAT YOUR EX-WIFE IS A POLICE
13 OFFICE, MILITARY POLICE OFFICER ...

14 JUROR 86: RIGHT.

15 MR. BABB: OKAY. WE'RE NOW IN A CASE DEALING WITH A
16 CASE WHERE IF YOU WERE ON THE JURY MR. KUBALA, WHO'S THE
17 VICTIM OF THE CRIME, WAS A SUMTER COUNTY SHERIFF'S DEPUTY.
18 OKAY. YOU HAVE A FORMER FAMILY MEMBER WHO'S A POLICE OFFICER.
19 IS THAT FACT THAT YOU COME FROM A FAMILY OR YOU WERE MARRIED
20 TO A MILITARY POLICE OFFICER, WHAT IF ANY IMPACT DOES THAT HAVE
21 IN THIS CASE? CAN YOU SET THAT ASIDE? DO YOU FEEL STRONGLY ...
22 MORE STRONGLY BECAUSE YOUR WIFE WAS A POLICE OFFICER?

23 JUROR 86: WELL, SHE'S ALSO THE MOTHER OF MY SON SO I
24 ... I FEEL PRETTY STRONGLY.

25 MR. BABB: OKAY. ALL RIGHT. SO THE FACT THAT THE

1 MOTHER OF YOUR SON IS A POLICE OFFICER WOULD HAVE AN IMPACT
2 ON HOW YOU WEIGH THE FACTS OF THIS CASE?

3 JUROR 86: COULD POSSIBLY.

4 MR. BABB: ALL RIGHT. YOU'RE CONCERNED ABOUT HER
5 IN HER LINE OF DUTY AND THE POSSIBILITY OF HER BEING HARMED?

6 JUROR 86: YES.

7 MR. BABB: SO THE FACT THAT SHE ... THE MOTHER OF
8 YOUR CHILD IS A ... INVOLVED IN LAW ENFORCEMENT MAKES YOU
9 MORE SENSITIVE WOULD YOU SAY ...

10 JUROR 86: YES.

11 MR. BABB: ... TO THE SECURITY AND SAFETY ...

12 JUROR 86: YES.

13 MR. BABB: ... OF LAW ENFORCEMENT. SO IS IT FAIR TO
14 SAY THEN THAT BECAUSE OF THAT IT WOULD BE DIFFICULT FOR YOU
15 TO JUDGE MR. STONE BECAUSE OF YOUR FAMILY CONNECTIONS,
16 BECAUSE OF THE MEMORY THAT YOU'RE BRINGING, THE FEELINGS
17 THAT YOU HAVE FOR YOUR EX-WIFE AND YOUR SON?

18 JUROR 86: IT WOULD BE DIFFICULT BUT I THINK I COULD
19 SET IT ASIDE.

20 MR. BABB: YOU THINK ... YOU THINK YOU COULD. BUT
21 YOU AREN'T SURE.

22 JUROR 86: NO.

23 MR. BABB: COURT'S INDULGENCE. NO FURTHER
24 QUESTIONS, YOUR HONOR.

25 THE COURT: ALL RIGHT, SIR. LET ME ASK YOU, IF YOU

1 WOULD, MR. HARSCH, ... EXCUSE ME IF DIDN'T PRONOUNCE IT RIGHT,
2 MR. HARSCH, IF YOU WOULD STEP OUTSIDE FOR JUST A MOMENT FOR
3 ME TO TAKE UP CERTAIN MATTERS WITH THE ATTORNEYS IN THE
4 CASE. I'LL BE WITH YOU IN JUST A MINUTE. MR. JACKSON?

5 MR. JACKSON: YOUR HONOR, I THINK HE'S QUALIFIED.

6 THE COURT: ALL RIGHT. MR. BABB?

7 MR. BABB: YOUR HONOR, WE DO NOT BELIEVE HE'S
8 QUALIFIED.

9 THE COURT: ALL RIGHT. I'LL HEAR FROM YOU.

10 MR. BABB: HE HAS STATED THAT HE WOULD BRING THE
11 FACT THAT THE MOTHER OF HIS CHILD, HIS EX-WIFE, IS A POLICE
12 OFFICER MAKES HIM MORE SENSITIVE TO THE SAFETY AND SECURITY
13 OF POLICE OFFICERS. THAT IT MAY HAVE AN IMPACT ON HOW HE
14 WOULD BE JUDGING MR. STONE. HE SAID HE BELIEVES HE COULD SET
15 IT ASIDE BUT THAT'S AS FAR AS HE'S GONE. BELIEF WOULDN'T BE
16 SUFFICIENT.

17 THE COURT: ALL RIGHT. I APPRECIATE YOUR POSITION
18 BUT I DISAGREE. HE DID INDICATE THAT HE WOULD BE WILLING TO
19 LISTEN TO THE EVIDENCE IN THIS CASE. EVERYBODY HAS CERTAIN
20 THINGS THEY BRING IN TO IT BUT HE SAID HE WOULD LISTEN TO THE
21 EVIDENCE AND DECIDE THE CASE BASED ON THE EVIDENCE AND AS A
22 TYPE THREE JUROR AND IN MY VIEW HIS ... HIS STATEMENTS TO THE
23 COURT ... LET ME JUST FIND MY ... OF COURSE WHAT WE'RE LOOKING
24 FOR HERE IS THE SPECIFIC CIRCUMSTANCES OF THE CRIME, THE
25 CHARACTERISTICS OF THE OFFENDER IN DETERMINING THAT'S WHAT

1 WE'LL HEAR ON DIRECT ON THE SENTENCING PHASE AND THE
2 QUESTION IS WHETHER THE EVENT WOULD SUBSTANTIALLY IMPAIR
3 THE PERFORMANCE OF HIS DUTIES. I DO NOT BELIEVE BASED ON ALL
4 THE TESTIMONY, THE ANSWERS TO THE QUESTIONS THAT IT WOULD
5 SUBSTANTIALLY IMPAIR HIS DUTIES AS A JUROR AND I WILL
6 OVERRULE YOUR MOTION AND I WILL QUALIFY HIM, MR. BABB.

7 MR. BABB: THANK YOU, YOUR HONOR. I WOULD ASK
8 THAT THE OBJECTION IS NOTED AND PRESERVED ON THE RECORD.

9 THE COURT: ALL RIGHT. COUNSELORS, THANK YOU VERY
10 MUCH AND THANK YOU FOR ALL OF YOUR HARD WORK TODAY.

11 MR. BABB: JUDGE, YOU'VE STILL GOT A JUROR OUT
12 THERE.

13 THE COURT: OKAY. I GUESS I BETTER SEE HIM. MR.
14 HARSCH, YOU HAVE BEEN QUALIFIED AS A JUROR IN THIS CASE. NOW,
15 THAT DOES NOT MEAN THAT YOU WILL BE SELECTED JUST THAT
16 YOU'RE QUALIFIED. I'M GOING TO ASK THAT YOU REPORT BACK
17 TOMORROW AT 12:00 O'CLOCK. COME TO THE COURTROOM OUT HERE
18 WITH THE REST ... 2:00 O'CLOCK, I'M SORRY, 2:00 O'CLOCK ... WITH THE
19 JURY PANEL OUT HERE AT 2:00 O'CLOCK TOMORROW. AND IN THE
20 TIME TONIGHT YOU NEED TO PACK UP AND BRING WITH YOU ENOUGH
21 CLOTHING AND PERSONAL BELONGINGS TO STAY WITH US FIVE TO SIX
22 DAYS IF WE NEED YOU AND YOU ARE SELECTED AS A JUROR. YOU DO
23 NOT NEED TO BRING THOSE MATTERS INTO THE COURTROOM WITH
24 YOU BUT LEAVE THEM IN YOUR CAR AND IF YOU ARE SELECTED AS A
25 JUROR THEN YOU WILL BE UNPACKING THEM IN THE MOTEL ROOM

1 TOMORROW NIGHT. IF YOU ARE NOT SELECTED AS A JUROR YOU'LL
2 BE UNPACKING THEM AT HOME TOMORROW NIGHT. WE'LL TAKE
3 CARE OF THAT TOMORROW AT 2:00 O'CLOCK. OVER THE EVENING
4 RECESS DO NOT DISCUSS THE CASE WITH ANYONE. DO NOT ALLOW
5 ANYONE TO DISCUSS IT WITH YOU. DO NOT READ ANY NEWSPAPER
6 ARTICLES ABOUT IT AND DO NOT LISTEN TO ANY TELEVISION
7 REPORTS. DIVORCE THIS CASE FROM YOUR MIND ALTOGETHER AND
8 REPORT BACK TOMORROW AT 2:00 O'CLOCK HAVING HAD LUNCH AND
9 READY TO WORK TOMORROW AFTERNOON THAT IS IF YOU ARE
10 SELECTED AS A JUROR. THANK YOU. I'LL SEE YOU TOMORROW OUT
11 HERE IN THE COURTROOM. THANK YOU. ALL RIGHT. NOW, COUNSEL,
12 ANYTHING BEFORE WE ADJOURN FOR THE DAY?

13 MR. JACKSON: NOTHING FROM THE STATE, YOUR HONOR.

14 MR. BABB: NOTHING FROM THE DEFENSE, YOUR HONOR.

15 THE COURT: ALL RIGHT. WE WILL BE READY TO
16 RECONVENE IN THE MORNING AT 8:30 AT WHICH TIME WE WILL TAKE
17 CARE OF JURY PANEL NUMBER

STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER) COURT OF COMMON PLEAS

STATE OF SOUTH CAROLINA,)
PLAINTIFF,)
v.) TRANSCRIPT OF RECORD
BOBBY WAYNE STONE,) C/A #: 1996-GS-43-0698
DEFENDANT.)

SUMTER COUNTY COURTHOUSE
February 24, 2005 A.M.

TRANSCRIPT OF JURY SELECTION BEGINNING FEBRUARY 24, 2005 IN THE A.M.

BEFORE:

HONORABLE HOWARD P. KING, PRESIDING JUDGE.

APPEARANCES:

Solicitor C. Kelly Jackson, Esquire
Solicitor Dudley Saleeby, Esquire
Attorneys for The State

James H. Babb, Esquire
Cam Littlejohn, Esquire
Attorneys for Defendant Bobby Wayne Stone

TAKEN BY MELISSA R. WINFIELD
CERTIFIED VERBATIM REPORTER

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1 THE COURT: WE'RE GONNA WORK ON THE
2 QUALIFICATIONS OF PANEL 12. WE HAVE MS. SMITH. SHE IS THE NEXT
3 ONE AND MR. REVIS. WE'RE MISSING RIGHT NOW MS. MYERS, MR.
4 COPELAND AND MS. KEITH. MAYBE THEY'LL BE HERE IN THE NEXT
5 FEW MINUTES BUT WE'LL GO AHEAD AND START WITH MS. SMITH,
6 SHE'S THE NEXT ONE THAT WILL BE ON THE LIST ANYHOW. ALL
7 RIGHT. MR. HERRING IF YOU WOULD HAVE MS. SMITH COME ON IN,
8 PLEASE.

9 BAILIFF: JUROR NUMBER 199.

10 THE COURT: GOOD MORNING, MS. SMITH.

11 MS. SMITH: GOOD MORNING.

12 THE COURT: THANK YOU FOR YOUR PROMPTNESS IN
13 BEING HERE THIS MORNING AND I WANT YOU TO RELAX. I KNOW THIS
14 IS A LITTLE BIT INTIMIDATING BEING IN A ROOM WITH ALL THESE
15 PEOPLE IN SUITS AND COATS AND TIES, PICTURES OF JUDGES ON THE
16 WALL AND ALL THAT SORT OF STUFF BUT JUST RELAX, WE NEED TO
17 ASK YOU SOME QUESTIONS TO DETERMINE YOUR QUALIFICATIONS TO
18 SERVE ON THE JURY AND I DO APPRECIATE YOUR BEING HERE SO
19 EARLY AND I ALSO APOLOGIZE FOR JERKING YOU AROUND A LITTLE
20 BIT YESTERDAY. I WILL TELL YOU THAT ON THE FIRST DAY THAT YOU
21 WERE HERE YOU WERE PUT UNDER OATH AND SWORE TO TELL THE
22 TRUTH AND ANYTHING WE ASK YOU NOW OR ANY ANSWERS YOU
23 GIVE US WILL BE SWORN TESTIMONY AS WELL. DO YOU UNDERSTAND
24 THAT?

25 MS. SMITH: YES.

HEARING

1 THE COURT: NOW, THE NEXT THING I NEED TO ASK YOU
2 TO DO IS SPEAK UP LOUD AND CLEAR SO THAT EVERYONE CAN HEAR
3 YOU. I THINK THAT THE MICROPHONE IS ON AND IF YOU TALK INTO
4 THAT MICROPHONE WE'LL BE ABLE TO HEAR YOU. WE ARE GOING TO
5 ASK YOU SOME QUESTIONS NOT TO INVADE YOUR PRIVACY BUT JUST
6 TO DETERMINE CERTAIN INFORMATION THAT WE NEED TO HAVE.
7 THERE ARE NO RIGHT OR WRONG ANSWERS TO THESE QUESTIONS.
8 IT'S JUST DESIGNED TO SEE HOW YOU FEEL ABOUT CERTAIN POINTS SO
9 I WANT YOU TO BE JUST AS HONEST AND OPEN WITH US AS YOU
10 POSSIBLY CAN AND I WILL ASK YOU SOME QUESTIONS AND THEN THE
11 LAWYERS WILL DO SO AS WELL AND JUST ... NOBODY'S GONNA JUMP
12 ON YOU OR HARM YOU OR BE UGLY TO YOU. IF YOU WILL JUST RELAX
13 AND ANSWER THE QUESTIONS TRUTHFULLY AND HONESTLY.

14 MS. SMITH: OKAY.

15 THE COURT: FIRST OF ALL, HAVE YOU ... WELL, LET ME
16 TELL YOU THAT MR. BOBBY WAYNE STONE WHO IS THE DEFENDANT
17 IN THIS CASE AND IS SEATED OVER NEXT TO MR. BABB HAS ALREADY
18 BEEN FOUND TO BE GUILTY OF THE MURDER OF DEPUTY CHARLES
19 KUBALA. THAT ISSUE IS NOT GOING TO BE ONE THAT THE JURY IS
20 GOING TO PURSUE. THE ONLY THING THAT THE JURY IS GOING TO
21 HAVE TO DEAL WITH HAS TO DO WITH THE PUNISHMENT THAT WILL
22 BE IMPOSED UPON MR. STONE. AND NOW HAVING SAID THAT, I WILL
23 ASK YOU AND NOW THAT YOU KNOW BASICALLY WHAT THIS MATTER
24 IS ABOUT, HAVE YOU HAD A CHANCE TO READ THE TYPES OF JUROR
25 FORM INFORMATION THAT WAS GIVEN TO YOU IN THE JURY ROOM.

1 MS. SMITH: YES.

2 THE COURT: ALL RIGHT. OF TYPE ONE, TYPE TWO, TYPE
3 THREE, WHICH OF THOSE TYPES DO YOU THINK BEST DESCRIBES YOU?

4 MS. SMITH: I WOULD SAY TWO.

5 THE COURT: NUMBER TWO. ALL RIGHT. AND LET ME SEE
6 IF I UNDERSTAND WHAT YOU'RE SAYING, BE SURE THAT WE ARE ON
7 THE SAME PAGE. WHAT YOU'RE SAYING IS THAT YOU ARE THE TYPE
8 JUROR WHO WOULD NEVER IMPOSE THE DEATH PENALTY NO MATTER
9 WHAT THE CIRCUMSTANCES OF THE CASE ARE.

10 MS. SMITH: OKAY, NO, TYPE THREE.

11 THE COURT: TYPE THREE. OKAY. ALL RIGHT. SO LET'S
12 RUN OVER THEM AGAIN JUST TO MAKE SURE WE'RE ALL UNDER ...
13 THAT WE'RE TALKING ABOUT THE SAME THING. TYPE ONE IS THE
14 JUROR WHO ONCE THE CRIME OF MURDER HAS BEEN PROVEN BY THE
15 STATE THE JUROR THINKS THAT IN EVERY SITUATION THE DEATH
16 PENALTY IS INAPPROPRIATE. NO MATTER WHAT THE
17 CIRCUMSTANCES ARE THE DEATH PENALTY IS INAPPROPRIATE
18 PUNISHMENT. THAT'S TYPE ONE. TYPE TWO IS THAT NO MATTER
19 WHAT THE CIRCUMSTANCES ARE THE JUROR IN THAT CASE WOULD
20 NOT NEED TO HEAR THE FACTS AND CIRCUMSTANCES AND
21 AGGRAVATION AND MITIGATION AND WOULD NEVER GO AGAINST
22 THE DEATH PENALTY. TYPE THREE IS THE TYPE OF JUROR WHO
23 WOULD NOT HAVE HIS OR HER MIND MADE UP IN ADVANCE
24 REGARDING THE PUNISHMENT. THAT JUROR WOULD NEED TO HEAR
25 WHAT THE FACTS AND CIRCUMSTANCES AND AGGRAVATION WERE

HEARING

1 AND WOULD WANT TO LISTEN AND FOLLOW ... FOLLOW THE LAW
2 THAT THE COURT GIVES TO THEM, THE JUDGE GIVES TO THEM AND
3 THEN MAKE A DECISION BASED UPON THE FACTS AND
4 CIRCUMSTANCES REGARDING MITIGATION AND AGGRAVATION THAT
5 ARE PRESENTED IN THE COURT. AND IF THE FACTS WARRANTED ...
6 WARRANTED IT, THAT JUROR COULD BRING IN A VERDICT OF LIFE IN
7 PUNISHMENT, THAT JUROR COULD ALSO BRING IN A VERDICT OF
8 DEATH IF THE FACTS WARRANTED IT. SO HAVING HEARD THAT
9 AGAIN, YOU THINK YOU'RE TYPE THREE?

10 MS. SMITH: I AM THREE.

11 THE COURT: ALL RIGHT. NOW, THE STATE WILL PRESENT
12 AND HAVE TO PROVE TO YOU WHAT WE CALL STATUTORY
13 AGGRAVATING CIRCUMSTANCES. THAT MEANS THEY WILL HAVE TO
14 PROVE THAT THERE IS AT LEAST ONE AGGRAVATING CIRCUMSTANCE
15 IN THIS CASE BEFORE YOU WILL CONSIDER WHAT PUNISHMENT OR
16 THE JURY WILL CONSIDER WHAT PUNISHMENT TO IMPOSE.
17 AGGRAVATING CIRCUMSTANCES ARE FACTS OR DETAILS OR
18 OCCURRENCES THAT OUR LEGISLATURE HAS DECLARED MAKE IT
19 WORSE. THAT IS THEY AGGRAVATE THE OFFENSE OF MURDER AND
20 INCREASE THE ENORMITY OR ADD TO THE INJURY OF THE CRIME OF
21 MURDER. ALSO IN THIS CASE YOU WILL HEAR STATUTORY
22 MITIGATING CIRCUMSTANCES AND OTHER MITIGATING
23 CIRCUMSTANCES. STATUTORY MITIGATING CIRCUMSTANCES ARE
24 EXACTLY THE OPPOSITE OR ALL MITIGATING CIRCUMSTANCES ARE
25 EXACTLY THE OPPOSITE. THEY ARE FACTS OR DETAILS WHICH

1 REDUCE THE SEVERITY OF THE OFFENSE OF MURDER AND MAY BE
2 CONSIDERED AS OR REDUCING THE DEGREE OF RESPONSIBILITY.
3 AFTER YOU HEAR THE EVIDENCE IN THIS CASE, IF YOU ARE
4 CONVINCED THAT THE STATE HAS PROVED AT LEAST ONE ACT OF
5 AGGRAVATED CIRCUMSTANCE AND YOU THINK THAT THE
6 APPROPRIATE PUNISHMENT IN THIS CASE WOULD BE LIFE
7 IMPRISONMENT AFTER HEARING ALL THE AGGRAVATING
8 CIRCUMSTANCES AND ALL THE MITIGATING CIRCUMSTANCES, YOU
9 WOULD BE REQUIRED TO SIGN YOUR NAME TO A VERDICT FORM THAT
10 IMPOSES EITHER LIFE IMPRISONMENT OR DEATH AND YOU'D HAVE TO
11 SIGN YOUR NAME ALONG WITH THE OTHER JURORS IN THIS MATTER.
12 IN THAT SITUATION, DEPENDING UPON YOUR VIEW OF THE FACTS
13 COULD YOU SIGN A FORM ... SIGN YOUR NAME TO THE FORM THAT
14 IMPOSES LIFE IMPRISONMENT UPON THE DEFENDANT?

15 MS. SMITH: YES.

16 THE COURT: UNDER THE SAME CIRCUMSTANCES COULD
17 YOU AFTER HEARING ALL OF THE FACTS AND CIRCUMSTANCES
18 INCLUDING THE CONSIDERATIONS OF AGGRAVATING AND
19 MITIGATING CIRCUMSTANCES AND THE LAW AS I INSTRUCT IT TO
20 YOU, COULD YOU SIGN A FORM WHICH WOULD REQUIRE THAT THE
21 PUNISHMENT OF THE DEFENDANT BE DEATH BY ELECTROCUTION OR
22 BY LETHAL INJECTION?

23 MS. SMITH: NO.

24 THE COURT: YOU COULD NOT?

25 MS. SMITH: NO.

HEARING

1 THE COURT: ALL RIGHT. LET'S EXPLORE THAT A LITTLE
2 BIT MORE BECAUSE YOU HAVE INDICATED THAT YOU WERE TYPE
3 THREE AND COULD LISTEN TO ALL THE TESTIMONY BUT YOU DON'T
4 THINK THAT YOU COULD SIGN OR RETURN A VERDICT THAT WOULD
5 REQUIRE THE DEFENDANT BE PUT TO DEATH? AFTER HEARING ...

6 MS. SMITH: WELL, MAYBE I CAN ...

7 THE COURT: PARDON ME?

8 MS. SMITH: MAYBE AFTER HEARING ...

9 THE COURT: AFTER HEARING. OKAY. ALL RIGHT. WELL
10 THAT'S THE QUESTION. THE QUESTION IS WHETHER YOU COULD
11 AFTER HEARING ALL OF THE TESTIMONY IN THIS CASE INCLUDING ALL
12 THE FACTS THAT THE STATE WANTS TO PRESENT IN AGGRAVATION
13 AND ANYTHING THE DEFENSE PRESENTS IN MITIGATION IF IN YOUR
14 MIND YOU FELT THAT IT WAS THE RIGHT THING TO DO AND WOULD ...
15 AND WAS THE RIGHT VERDICT TO RENDER, COULD YOU VOTE IN
16 FAVOR OF A SENTENCE OF DEATH IF ... IF AFTER HEARING ALL THE
17 EVIDENCE?

18 MS. SMITH: YES.

19 THE COURT: AND YOU WOULD BE REQUIRED TO SIGN A
20 FORM ALONG WITH THE OTHER 11 MEMBERS OF THE JURY THAT THIS
21 IS YOUR VERDICT. WOULD YOU BE ABLE TO SIGN THAT?

22 MS. SMITH: YES.

23 THE COURT: ALL RIGHT. NOW, MS. SMITH, HAVE YOU
24 HEARD ANYTHING OR READ ANYTHING AT ALL ABOUT THIS CASE?

25 MS. SMITH: NO.

1 THE COURT: HAVE YOU FORMED ANY OPINION AS TO
2 WHAT YOUR VERDICT IN THIS CASE SHOULD BE?

3 MS. SMITH: NO.

4 THE COURT: SWITCHING GEARS FOR JUST A MINUTE, IF
5 YOU ARE SELECTED AS A JUROR IN THIS CASE YOU WILL BE
6 SEQUESTERED IN A MOTEL FOR FIVE OR SIX DAYS DEPENDING ON
7 HOW LONG THIS CASE WILL TAKE, EXCEPT FOR THE PERSONAL
8 INCONVENIENCE THAT THAT WILL CAUSE YOU, WOULD IT PUT ANY
9 UNDUE HARDSHIP ON YOU OR ANYONE THAT IS DEPENDENT UPON
10 YOU FOR YOU TO BE SEQUESTERED IN A HOTEL FOR FIVE OR SIX
11 DAYS?

12 MS. SMITH: MY KIDS.

13 THE COURT: YOUR KIDS? HOW MANY CHILDREN DO YOU
14 HAVE?

15 MS. SMITH: THREE.

16 THE COURT: AND HOW OLD ARE THEY?

17 MS. SMITH: FOUR, TWO AND FOUR MONTHS.

18 THE COURT: OKAY. WHO ... I'VE PROBABLY GOT THIS
19 INFORMATION ON THE FORM THAT YOU SENT BACK BUT INSTEAD OF
20 JUST PULLING IT OUT LET ME ASK YOU. DO YOU WORK?

21 MS. SMITH: NO.

22 THE COURT: ALL RIGHT. DO YOU NORMALLY STAY HOME
23 WITH YOUR CHILDREN?

24 MS. SMITH: YES.

25 THE COURT: EVERY DAY?

HEARING

10

1 MS. SMITH: YES.

2 THE COURT: WHO ... YES?

3 MS. SMITH: YES.

4 THE COURT: WHOSE BEEN KEEPING THEM WHILE YOU'VE
5 BEEN HERE?

6 MS. SMITH: THEIR FATHER.

7 THE COURT: THE FATHER? WOULD HE BE ABLE TO KEEP
8 THEM IF YOU WERE PICKED AS A JUROR AND IN THIS CASE OR DOES
9 HE HAVE TO WORK SOMETIME AND YOU KEEP THEM WHEN HE'S NOT
10 THERE? WHAT'S HIS SITUATION?

11 MS. SMITH: YEAH, HE WORKS.

12 THE COURT: WHEN DOES HE WORK?

13 MS. SMITH: WELL, HE ... HE WORKS EVERY DAY BUT HE'S
14 BEEN SICK SO HE'S BEEN KEEPING THEM WHILE I'M COMING.

15 THE COURT: OKAY. HOW LONG ... WHEN DOES HE EXPECT
16 TO GO BACK TO WORK?

17 MS. SMITH: MONDAY.

18 THE COURT: MONDAY. OKAY. DO YOU RECALL ME
19 ASKING THE QUESTION THE FIRST DAY THAT YOU WERE HERE ABOUT
20 WHETHER ANYBODY HAD CHILDREN UNDER SEVEN AND WOULD ...
21 AND WANTED TO BE EXCUSED FOR IT?

22 MS. SMITH: YES.

23 THE COURT: YOU DIDN'T INDICATE THAT YOU WANTED TO
24 BE EXCUSED AT THAT TIME.

25 MS. SMITH: NO.

HEARING

11

1 THE COURT: WHY IS THAT?

2 MS. SMITH: WELL, I ... MY GRANDMAMA, SHE CAN WATCH
3 THEM.

4 THE COURT: SHE CAN WATCH THEM?

5 MS. SMITH: YES.

6 THE COURT: SO WHAT YOU'RE TELLING ME THAT IF YOU
7 ARE SELECTED AS A JUROR IN THIS CASE AND YOU ARE SEQUESTERED
8 EITHER THE CHILDREN'S FATHER OR YOUR GRANDMOTHER WOULD BE
9 ABLE TO WATCH AFTER THE CHILDREN IF NECESSARY?

10 MS. SMITH: YES.

11 THE COURT: OKAY. GOOD THANK YOU, MA'AM. ALL
12 RIGHT, ANSWER ANY QUESTIONS THAT MR. JACKSON OR MR. SALEEBY
13 MIGHT HAVE FOR YOU.

14 MR. JACKSON: GOOD MORNING, MS. SMITH.

15 MS. SMITH: GOOD MORNING.

16 MR. JACKSON: MS. SMITH, MY NAME IS KELLY JACKSON.
17 I'M THE SOLICITOR HERE IN SUMTER COUNTY. THIS IS MR. DUDLEY
18 SALEEBY. HE AND I ARE GOING TO BE PRESENTING THIS CASE. I JUST
19 NEED TO ASK YOU A FEW QUESTIONS. I WANT YOU TO RELAX. THIS IS
20 A BIG CASE AND WE GET THE OPPORTUNITY TO TALK WITH YOU
21 BRIEFLY TO FIND OUT A LITTLE BIT ABOUT YOU. LET ME ASK YOU
22 FIRST ABOUT YOUR CHILDREN SITUATION BECAUSE AS THE JUDGE
23 HAS TOLD YOU IF YOU'RE ON THE JURY YOU WILL BE SPENDING THE
24 NIGHT AT THE HOTEL AWAY FROM THEM FOR FIVE TO SIX DAYS. CAN
25 THAT BE HANDLED?

1 MS. SMITH: YES.

2 MR. JACKSON: OKAY. OKAY. WHEN THE JUDGE ASKED
3 YOU ABOUT WHETHER YOU WERE A TYPE TWO OR TYPE THREE
4 JUROR, YOU ORIGINALLY SAID YOU TYPE TWO JUROR WHICH IS
5 SOMEONE THAT COULD NOT GIVE THE DEATH PENALTY AND THEN
6 LATER WHEN THE JUDGE ASKED YOU AND ... YOU SAID YOU DIDN'T
7 THINK YOU COULD GIVE THE DEATH PENALTY. WE'RE NOT TRYING TO
8 CHANGE YOUR OPINION OR ... OR ENTICE YOU TO GIVE AN ANSWER
9 ONE WAY OR THE OTHER, WE JUST REALLY NEED TO KNOW IN YOUR
10 HEART HOW YOU FEEL ABOUT THAT?

11 MS. SMITH: IT'S TYPE THREE.

12 MR. JACKSON: MA'AM?

13 MS. SMITH: TYPE THREE.

14 MR. JACKSON: OKAY. SO IF WE PRESENTED WHAT'S
15 CALLED AGGRAVATING CIRCUMSTANCES THEN YOU ALSO HEARD
16 MITIGATING CIRCUMSTANCES, YOU COULD WEIGH THAT OUT AND IN
17 YOUR HEART IF YOU THOUGHT THAT PUTTING BOBBY WAYNE STONE
18 TO DEATH WAS THE RIGHT THING TO DO YOU COULD SIGN YOUR
19 NAME TO A SHEET OF PAPER THAT OTHERWISE WOULD BE A DEATH
20 WARRANT FOR BOBBY WAYNE STONE?

21 MS. SMITH: YES.

22 MR. JACKSON: OKAY. AND ON THE SAME ... SAME TOKEN
23 YOU COULD ... YOU COULD LISTEN TO EVERYTHING THAT WAS SAID
24 AND POSSIBLY GIVE HIM A SENTENCE WITH LIFE WITHOUT PAROLE?

25 MS. SMITH: YES.

1 MR. JACKSON: HAVE YOU HEARD ANYTHING ABOUT THIS
2 CASE, MS. SMITH?

3 MS. SMITH: NO.

4 MR. JACKSON: NOT READ ANYTHING IN THE PAPER?

5 MS. SMITH: NO.

6 MR. JACKSON: SO THERE'S NOTHING THAT YOU HAVE
7 THAT YOU BRING INTO THE COURTROOM THAT YOU KNOW OF ABOUT
8 THIS CASE?

9 MS. SMITH: NO.

10 MR. JACKSON: OKAY. AND YOU COULD GIVE BOTH SIDES
11 A FAIR ... FAIR AND HONEST LOOK?

12 MS. SMITH: YES.

13 MR. JACKSON: ALL RIGHT. THANK YOU, MA'AM, FOR
14 YOUR ANSWERS. I APPRECIATE IT.

15 THE COURT: MR. LITTLEJOHN?

16 MR. LITTLEJOHN: THANK YOU, YOUR HONOR. GOOD
17 MORNING, MS. SMITH.

18 MS. SMITH: GOOD MORNING.

19 MR. LITTLEJOHN: MS. SMITH, MY NAME IS CAM
20 LITTLEJOHN AND I ALONG WITH JIM BABB REPRESENT BOBBY WAYNE
21 STONE. I HAVE JUST A FEW QUESTIONS I'D LIKE TO ASK YOU. FIRST
22 OFF, DO YOU EVER HAVE ANY DEALINGS WITH THE SUMTER COUNTY
23 SHERIFF DEPARTMENT?

24 MS. SMITH: NO.

25 MR. LITTLEJOHN: DO YOU KNOW ANY OF THE DEPUTIES

HEARING

1 OR ANYBODY THAT WORKS AT THE SHERIFF'S DEPARTMENT?

2 MS. SMITH: HAMPTON ... I DON'T KNOW HIS FIRST NAME.

3 MR. LITTLEJOHN: DEPUTY HAMPTON?

4 MS. SMITH: YES.

5 MR. LITTLEJOHN: HOW DO YOU KNOW HIM?

6 MS. SMITH: CHURCH.

7 MR. LITTLEJOHN: OKAY. THE REASON I ASK YOU THAT IS
8 DURING THE COURSE OF THIS TRIAL THERE ARE GOING TO BE A
9 NUMBER OF DEPUTIES AND ... AND OTHERS ASSOCIATED WITH THE
10 SUMTER COUNTY SHERIFF'S DEPARTMENT THAT ARE GONNA TESTIFY
11 AND I JUST WANT TO MAKE SURE THAT THERE WASN'T ANYTHING
12 ABOUT THAT THAT WOULD AFFECT YOUR ABILITY TO BE FAIR AND
13 IMPARTIAL. WOULD THE FACT THAT YOU KNOW DEPUTY HAMPTON,
14 WOULD THAT INFLUENCE YOUR ABILITY TO ... TO WEIGH THE
15 TESTIMONY?

16 MS. SMITH: NO.

17 MR. LITTLEJOHN: OKAY. I DIDN'T THINK SO. MS. SMITH, I
18 TAKE IT FROM YOUR ANSWERS TO JUDGE KING'S QUESTIONS AND
19 YOUR DESCRIPTION OF YOURSELF AS A TYPE THREE JUROR THAT YOU
20 DON'T BELIEVE THAT JUST BECAUSE SOMEONE'S BEEN CONVICTED OF
21 MURDER THAT THEY SHOULD AUTOMATICALLY GET THE DEATH
22 PENALTY. IS THAT A FAIR STATEMENT?

23 MS. SMITH: THAT'S A FAIR STATEMENT.

24 MR. LITTLEJOHN: OKAY. AND I TAKE IT ALSO THAT YOU
25 WOULD BE WILLING TO CONSIDER AFTER LISTENING TO ALL THE

1 FACTS AND CIRCUMSTANCES YOU WOULD CONSIDER A LIFE
2 SENTENCE AS BEING APPROPRIATE, AFTER YOU'VE HEARD
3 EVERYTHING.

4 MS. SMITH: YES.

5 MR. LITTLEJOHN: DO YOU THINK A LIFE SENTENCE IS A
6 SUBSTANTIAL SENTENCE? A HEAVY SENTENCE?

7 MS. SMITH: DEPENDING ON THE CRIME.

8 MR. LITTLEJOHN: DEPENDING ON THE CRIME? BUT JUST
9 THE FACT THAT SOMEONE'S SENTENCED TO LIFE IN PRISON, I MEAN,
10 DO YOU THINK THAT'S A SUBSTANTIAL SENTENCE IN AND OF ITSELF?

11 MS. SMITH: NO.

12 MR. LITTLEJOHN: YOU DON'T? OKAY. MS. SMITH, DURING
13 THE COURSE OF THIS PROCEEDING H ERE'S GONNA BE PRESENTED
14 WHAT WE CALL EVIDENCE IN MITIGATION AND BY THAT I MEAN
15 EVIDENCE THAT TENDS TO LESSEN OR MAKE LESS SEVERE THE CRIME
16 OF MURDER. THIS EVIDENCE WILL PROBABLY PERTAIN TO THE LIFE
17 OF BOBBY WAYNE STONE AND HIS FAMILY, HIS BACKGROUND, HIS
18 HISTORY, THOSE SORT OF THINGS. WOULD YOU BE WILLING TO
19 LISTEN TO THAT EVIDENCE?

20 MS. SMITH: YES.

21 MR. LITTLEJOHN: AND FACTOR THAT INTO YOUR
22 ULTIMATE DECISION?

23 MS. SMITH: YES.

24 MR. LITTLEJOHN: OKAY. MS SMITH, JUST ONE FINAL
25 THING, IF YOU WERE ON THE JURY AND YOU FOUND DURING THE

1 DELIBERATIONS THAT A MAJORITY OF THE JURY WANTED TO VOTE
2 ONE WAY AND YOU BELIEVED THAT YOU SHOULD VOTE THE OTHER
3 WAY, YOU THOUGHT THAT WAS THE RIGHT WAY TO DO THINGS,
4 WOULD YOU EVER CONSIDER CHANGING YOUR VOTE JUST TO GO
5 ALONG WITH THE MAJORITY?

6 MS. SMITH: NO.

7 MR. LITTLEJOHN: WOULD YOU STICK BY YOUR GUNS IF
8 YOU THOUGHT YOU WERE RIGHT?

9 MS. SMITH: YES.

10 MR. LITTLEJOHN: WOULD YOU ALSO LISTEN TO THE
11 OTHER JURORS ...

12 MS. SMITH: YES.

13 MR. LITTLEJOHN: ... AND ... AND WEIGH THEIR OPINIONS?

14 MS. SMITH: YES.

15 MR. LITTLEJOHN: OKAY. THANK YOU VERY MUCH, MS.
16 SMITH.

17 THE COURT: ALL RIGHT. THANK YOU, MS. SMITH. IF
18 YOU'LL STEP OUTSIDE JUST A MINUTE I NEED TO TAKE UP SOME
19 MATTERS WITH THE ATTORNEYS AND WE'LL BE WITH YOU IN JUST A
20 MINUTE. WHAT SAY THE STATE?

21 MR. JACKSON: YOUR HONOR, SHE'S QUALIFIED.

22 MS. LITTLEJOHN: WE AGREE, YOUR HONOR.

23 THE COURT: ALL RIGHT. THE JUROR WILL COME BE
24 QUALIFIED. HAVE HER COME BACK IN, PLEASE. ALL RIGHT, MS.
25 SMITH, YOU HAVE BEEN QUALIFIED AS A JUROR IN THIS CASE. THAT

1 DOESN'T MEAN YOU WILL SERVE ON THE CASE. IT MEANS YOU HAVE
2 BEEN QUALIFIED AS ONE OF THE JURORS AND SO I AM GOING TO
3 EXCUSE YOU NOW AND ALLOW YOU TO GO HOME AND COME BACK AT
4 2:00 O'CLOCK THIS AFTERNOON AND BE OUT HERE IN THE
5 COURTROOM AT 2:00 O'CLOCK AT WHICH TIME WE SHOULD BE READY
6 TO SELECT A JURY. WHEN YOU COME BACK YOU SHOULD BRING WITH
7 YOU CLOTHING, PERSONAL BELONGING, MEDICATIONS, ANYTHING
8 THAT YOU WOULD NEED TO STAY IN A HOTEL ROOM FOR FIVE TO SIX
9 DAYS. YOU MAY NOT ... IF YOU'RE SELECTED ON THE JURY YOU WILL
10 BE UNPACKING THOSE THINGS AT THE HOTEL ROOM. IF YOU ARE NOT
11 SELECTED ON THE JURY YOU WILL BE UNPACKING THEM TONIGHT
12 BUT WHEN YOU COME BACK UP HERE AT 2:00 O'CLOCK YOU SHOULD
13 BRING A SUITCASE CONTAINING THOSE ITEMS. BUT YOU DO NOT
14 BRING THEM INTO THE COURTROOM, YOU CAN LEAVE THEM IN YOUR
15 CAR AND THEN IF YOU DO NEED THEM AND YOU ARE SELECTED ON
16 THE JURY THEN YOU WILL BE UNPACKING THEM TONIGHT AT THE
17 HOTEL LATER ON THIS EVENING. I WOULD ALSO TELL YOU THAT
18 WHILE YOU'RE AWAY FROM THE COURTHOUSE THE REST OF THIS
19 MORNING UNTIL 2:00 O'CLOCK, DON'T DISCUSS THIS CASE WITH
20 ANYONE OR ALLOW ANYONE TO DISCUSS IT WITH YOU. DON'T READ
21 ANY NEWSPAPERS OR ANY BROADCAST MEDIA OR ANY OTHER THING
22 TO DO WITH THIS CASE. SIMPLY PUT IT OUT OF YOUR MIND FOR A FEW
23 HOURS AND GO PACK YOUR CLOTHES AND THINGS AND BE BACK IN
24 THE COURTROOM AT 2:00 O'CLOCK. BUT AS I SAID, DON'T BRING YOU
25 SUITCASE BACK WITH YOU AND WE'LL SEE YOU AT 2:00 O'CLOCK THIS

1 AFTERNOON. ALL RIGHT. THANK YOU. ALL RIGHT, MR. MYERS IS
2 NEXT. 157.

3 BAILIFF: JUROR NUMBER 157. MS. MYERS?

4 MS. MYERS: YES.

5 BAILIFF: HAVE A SEAT UP HERE, PLEASE, MA'AM.

6 THE COURT: GOOD MORNING, MS. MYERS.

7 MS. MYERS: GOOD MORNING.

8 THE COURT HAVE A SEAT, RELAX, DON'T BE INTIMIDATED
9 BY THIS SETTING. I KNOW IT CAN BE QUITE INTIMIDATING COMING
10 INTO A BIG ROOM LIKE THIS WHERE YOU'VE GOT ONE PERSON
11 WEARING A BLACK ROBE, PEOPLE IN PICTURES ON THE WALL IN THE
12 BACK IN BLACK ROBES, PEOPLE IN COATS AND TIES. DON'T WORRY
13 ABOUT THAT. WE WANT YOU JUST TO RELAX AND BE AT EASE. WE
14 DO NEED TO ASK YOU SOME QUESTIONS TO DETERMINE YOUR
15 QUALIFICATIONS TO BE A JUROR IN THIS CASE. I'LL ASSURE YOU THAT
16 THERE ARE NO RIGHT OR WRONG ANSWERS. WE SIMPLY ... AND WE'RE
17 NOT ASKING YOU THESE QUESTIONS TO INVADE YOUR PRIVACY BUT
18 THEY'RE SIMPLY QUESTIONS AND MATTERS THAT NEED TO BE
19 INQUIRED INTO BECAUSE OF THE NATURE OF THIS CASE AND ALL WE
20 ASK IS THAT YOU BE OPEN AND HONEST. WE'RE JUST TRYING TO
21 DETERMINE WHAT YOUR FEELINGS ARE ON CERTAIN MATTERS AND
22 NOT TO TRY TO CHANGE YOUR MIND BUT WE JUST WANT AN HONEST
23 ANSWER TO THE QUESTION. I WOULD ALSO TELL YOU THAT WHEN
24 YOU WERE HERE ON MONDAY OR TUESDAY THAT YOU WERE PUT
25 UNDER OATH SO ANY ANSWERS YOU GIVE US TODAY WOULD BE

1 SWORN TESTIMONY UNDER OATH.

2 MS. MYERS: YES, SIR.

3 THE COURT: ALL RIGHT. NOW, AS YOU MAY HAVE
4 ALREADY BEEN DEDUCED IN THIS CASE ... THIS IS THE MATTER ... THIS
5 IS THE CASE OF THE STATE OF SOUTH CAROLINA VS. BOBBY WAYNE
6 STONE. MR. STONE IS THE GENTLEMAN IN THE WHITE SHIRT SITTING
7 NEXT TO MR. BABB. MR. STONE HAS ALREADY BEEN FOUND GUILTY
8 OF THE MURDER OF DEPUTY CHARLES KUBALA SO THAT MATTER IS
9 NOT GOING TO BE BEFORE THE JURY. IT'S NOT GOING TO BE A
10 QUESTION OF DETERMINING THE GUILT OF MR. STONE FOR THAT
11 CRIME. THAT HAS ALREADY BEEN DETERMINED. THE ONLY ISSUE
12 THAT THIS JURY IS GOING TO DEAL WITH HAS TO DO WITH WHAT
13 PUNISHMENT SHOULD BE INFLICTED OR IMPOSED FOR THIS CRIME.
14 NOW, HAVING SAID THAT I WANT TO ASK YOU IF YOU'VE HAD A
15 CHANCE TO READ THE THERE TYPES OF JURORS FORM THAT WE GAVE
16 YOU IN THE JURY ROOM?

17 MS. MYERS: YES, SIR.

18 THE COURT: ALL RIGHT. TYPE ONE, TYPE TWO AND TYPE
19 THREE, OF THOSE THREE TYPES OF JURORS, WHICH ONE DO YOU
20 THINK BEST DESCRIBES YOU?

21 MS. MYERS: TYPE THREE.

22 THE COURT: TYPE THREE. ALL RIGHT. WHAT YOU'RE
23 SAYING IS AND I JUST WANT TO MAKE SURE THAT ... THAT I
24 UNDERSTAND EXACTLY ... AND THAT YOU UNDERSTAND EXACTLY
25 WHAT YOU'RE SAYING IS THAT ... THAT YOU COULD LISTEN TO THE

1 TESTIMONY PRESENTED BY THE STATE INCLUDING ALL THE
2 AGGRAVATED CIRCUMSTANCES AND LISTEN TO THE EVIDENCE
3 PRESENTED BY THE DEFENSE INCLUDING MITIGATING
4 CIRCUMSTANCES AND LISTEN TO THE INSTRUCTIONS ON THE LAW
5 THAT THE COURT GIVES YOU AND THEN ACCORDING TO WHAT YOU
6 VIEW TO BE THE TRUTHFULNESS OF THE FACTS AND THE STATE HAS
7 PROVEN AT LEAST ONE AGGRAVATED CIRCUMSTANCE BEYOND
8 REASONABLE DOUBT THAT YOU WOULD BE ABLE TO WEIGH ALL OF
9 THOSE THINGS AND TO MAKE A DECISION IN FAVOR OF LIFE
10 IMPRISONMENT IF YOU THOUGHT THAT WAS THE APPROPRIATE THING
11 TO DO OR YOU COULD IMPOSE THE DEATH PENALTY IF YOU THOUGHT
12 THAT WAS THE APPROPRIATE THING TO DO. IS THAT CORRECT?

13 MS. MYERS: THAT'S APPROPRIATE, YES.

14 THE COURT: NOW, THE STATE WILL HAVE TO PROVE IN
15 THIS CASE WHAT WE CALL STATUTORY AGGRAVATED
16 CIRCUMSTANCES. AGGRAVATED CIRCUMSTANCES ARE INCIDENTS
17 THAT MAKE ... THAT OUR LEGISLATURE HAS DECLARED MAKE THE
18 CRIME OF MURDER MORE SEVERE OR INCREASE THE PUNISHMENT FOR
19 WHICH CAN BE IMPOSED. THE STATE WILL HAVE TO PROVE AT LEAST
20 ONE AGGRAVATED CIRCUMSTANCE BEYOND A REASONABLE DOUBT.
21 IN ADDITION TO THAT, THERE WILL BE CERTAIN STATUTORY
22 MITIGATING CIRCUMSTANCES THAT WILL BE CONSIDERED BY THE
23 JURY. AND MITIGATING CIRCUMSTANCES ARE JUST THE OPPOSITE.
24 THEY ARE CIRCUMSTANCES THAT REDUCE THE SEVERITY OF THE
25 EVENTS AND MAKE THE CULPABILITY LESS THAN IT WOULD BE

1 OTHERWISE. IF YOU ARE PICKED AS A JURY IN THIS CASE ... AS A
 2 JUROR IN THIS CASE, THE JURY WILL LISTEN TO AND HAVE TO
 3 CONSIDER THE STATUTORY AGGRAVATED CIRCUMSTANCES
 4 PRESENTED BY THE STATE AND WILL HAVE TO DECIDE AT LEAST ONE
 5 STATUTORY AGGRAVATED CIRCUMSTANCE BEYOND A REASONABLE
 6 DOUBT AND THEN OF COURSE YOU WILL LISTEN TO THE MITIGATING
 7 CIRCUMSTANCES OF THE DEFENDANT. IN THAT SITUATION AFTER
 8 HAVING HEARD ALL OF THAT, THE JURY WILL THEN MAKE A DECISION
 9 AND IF YOU DECIDED THAT IT WAS THE APPROPRIATE THING TO DO
 10 AFTER HAVING LISTENED TO ALL OF THE TESTIMONY, THE JURY WILL
 11 BE ASKED TO RETURN A VERDICT OF EITHER LIFE IMPRISONMENT OR
 12 DEATH. IF YOU DECIDE THAT IT'S THE RIGHT THING AND THAT LIFE
 13 IMPRISONMENT WAS THE CORRECT AND APPROPRIATE PUNISHMENT,
 14 WE'D ASK YOU TO SIGN A VERDICT FORM WHICH YOU ALONG WITH
 15 THE OTHER 11 JURORS WILL ALL HAVE TO SIGN SENTENCING MR.
 16 STONE IN LIFE IN PRISON. COULD YOU SIGN THAT FORM?

17 MS. MYERS: IF WE FIND THE SITUATION NECESSARY YES.

18 THE COURT: ALL RIGHT. BY THE SAME TOKEN, IF YOU
 19 LISTEN TO ALL THE TESTIMONY INCLUDING THE AGGRAVATED
 20 CIRCUMSTANCES AND THE MITIGATING CIRCUMSTANCES FROM THE
 21 DEFENSE AND YOU CONCLUDED THAT DEATH BY LETHAL INJECTION
 22 OR ELECTROCUTION WAS THE APPROPRIATE PUNISHMENT, YOU
 23 WOULD ALSO HAVE TO SIGN A DOCUMENT ALONG WITH YOUR OTHER
 24 11 JURORS THAT WOULD DECIDE THAT THE APPROPRIATE
 25 PUNISHMENT FOR MR. STONE WAS DEATH, COULD YOU SIGN THAT

1 FORM ALONG WITH THE OTHER JURORS?

2 MS. MYERS: IF NECESSARY AND APPROPRIATE, YES.

3 THE COURT: AFTER YOU HEAR ALL THE TESTIMONY AND
4 THE LAW FROM THE COURT?

5 MS. MYERS: THAT'S CORRECT.

6 THE COURT: HAVE YOU READ ANYTHING OR HEARD
7 ANYTHING ABOUT THIS CASE THAT MIGHT ...

8 MS. MYERS: WELL, IT'S FUNNY THAT YOU ASK THAT
9 BECAUSE TUESDAY MORNING BEFORE COMING IN I GLANCED AT THE
10 PAPER THAT MY DAUGHTER BROUGHT IN FROM WORK THAT NIGHT
11 AND WHAT CAUGHT MY EYE WSA THE ... THE PICTURE OF THE
12 OFFICERS LEADING THE SUSPECT IN THE PICTURE AND I JUST CAUGHT
13 THE CAPTION OF IT BUT ... AND ... BUT I DIDN'T GET A CHANCE TO
14 READ THE ARTICLE CAUSE I SAID I WAS GONNA READ IT WHEN I GOT
15 BACK AND I DIDN'T GET A CHANCE TO READ THE ARTICLE.

16 THE COURT: WELL THEN WHEN YOU ... WHEN YOU GOT
17 BACK FROM COURT TUESDAY ...

18 MS. MYERS: WHEN I GOT BACK FROM COURT TUESDAY ...

19 THE COURT: ... THEN ON TUESDAY I TOLD YOU NOT TO
20 READ IT ...

21 MS. MYERS: YOU TOLD ME NOT TO READ IT SO I TOLD MY
22 FIVE YEAR OLD GRANDDAUGHTER TO PUT IT IN THE TRASH WHERE I
23 COULDN'T SEE IT.

24 THE COURT: ALL RIGHT. THANK YOU VERY MUCH. LET
25 ME ASK YOU, DO YOU KNOW ANYTHING AT ALL ABOUT THIS CASE?

1 MS. MYERS: NO, I WAS NOT HERE. I WAS NOT LIVING IN
2 SOUTH CAROLINA AT THAT TIME. AND 1996 CAUGHT MY EYE CAUSE
3 LIKE I SAID I DON'T REMEMBER THE CASE.

4 THE COURT: OKAY. AND SO HAVE YOU FORMED ANY
5 OPINION REGARDING WHAT YOUR VERDICT IN THIS CASE SHOULD BE
6 AT ALL?

7 MS. MYERS: NO, I'M CURIOUS.

8 THE COURT: THAT'S WHAT YOU SHOULD BE IS CURIOUS.
9 ALL RIGHT. NOW ONE OTHER QUESTION, MS. MYERS, AND THAT IS IF
10 YOU ARE SELECTED AS A JUROR IN THIS CASE YOU WILL BE
11 SEQUESTERED, THAT IS YOU WILL BE HOUSED IN A MOTEL FOR FIVE
12 OR SIX DAYS BEGINNING TODAY AND UNTIL THIS CASE IS OVER.
13 OTHER THAN THE PERSONAL INCONVENIENCE THAT THAT WOULD
14 CAUSE YOU, WOULD IT CAUSE ANY UNDUE HARDSHIP ON YOUR FOR
15 HEALTH REASONS, FOR ANY OTHER REASONS OR WOULD IT CAUSE
16 ANY UNDUE HARDSHIP ON ANYBODY WHO IS DEPENDENT UPON YOU?

17 MS. MYERS: NO, NO HARDSHIP. MY BABY'S 15 YEARS OLD
18 AND SELF-SUFFICIENT.

19 THE COURT: OKAY. THANK YOU VERY MUCH, MS. MYERS.
20 ANSWER ANY QUESTIONS THAT MR. SALEEBY OR MR. JACKSON MAY
21 HAVE FOR YOU.

22 MR. JACKSON: GOOD MORNING, MS. MYERS.

23 MS. MYERS: GOOD MORNING.

24 MR. JACKSON: MS. MYERS, MY NAME IS KELLY JACKSON.
25 I'M THE SOLICITOR HERE IN SUMTER.

HEARING

24

1 MS. MYERS: YES, SIR.

2 MR. JACKSON: AND IT'S THE RESPONSIBILITY ... IT'S MY
3 RESPONSIBILITY, THE RESPONSIBILITY OF MY OFFICE TO BRING THIS
4 CASE TO COURT. MYSELF AND MR. DUDLEY SALEEBY, WHO IS SITTING
5 HERE AT THE STATE'S TABLE, WE ARE GOING TO BE PRESENTING THIS
6 CASE POSSIBLY TO YOU AND TO THE OTHER JURORS IN THE ... IN THE
7 WEEK TO COME. WE JUST NEED TO ASK YOU A FEW QUESTIONS. AS
8 YOU'VE PICKED UP, THIS IS A CASE OF GREAT MAGNITUDE AND WE'RE
9 NOT TRYING TO PRY INTO YOUR LIFE OR CHANGE YOUR MIND, WE
10 JUST ... WE JUST NEED TO ASK YOU A FEW THINGS. THE ... YOU
11 MENTIONED YOU WEREN'T IN SOUTH CAROLINA AT THE TIME.

12 MS. MYERS: NO, I WASN'T.

13 MR. JACKSON: WHERE ... WHERE WERE YOU AT THE TIME?

14 MS. MYERS: I WAS IN SILVER SPRINGS, MARYLAND.

15 MR. JACKSON: OKAY. WHEN DID YOU GET BACK HOME?

16 MS. MYERS: '98, '97 OR '98.

17 MR. JACKSON: I NOTICED ON THE QUESTIONNAIRE THAT
18 YOU SENT IN THAT JOHN HERIOT AT THE SHERIFF'S DEPARTMENT IS
19 YOUR COUSIN?

20 MS. MYERS: YES, HE IS.

21 MR. JACKSON: IS THERE ANYONE ELSE THAT YOU'RE
22 RELATED TO IN LAW ENFORCEMENT?

23 MS. MYERS: NO.

24 MR. JACKSON: MS. MYERS, BOBBY WAYNE STONE HAS
25 BEEN CONVICTED OF MURDER SO THAT'S NOT WHAT YOU ALL ARE

VOLUME TWO OF FOUR

STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM SUMTER COUNTY

Howard P. King, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BOBBY WAYNE STONE,

APPELLANT

RECORD ON APPEAL

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HEARING

25

1 GOING TO DECIDE. YOU ALL WILL BE DECIDING POSSIBLY THE
2 PUNISHMENT. I JUST WANT TO MAKE SURE I UNDERSTOOD YOUR
3 ANSWERS TO THE JUDGE CORRECTLY. IF ... IF IN YOUR MIND WE
4 PRESENT AGGRAVATING CIRCUMSTANCES THAT MERIT THE DEATH
5 PENALTY, DO YOU FEEL THAT YOU COULD RECOMMEND THAT?

6 MS. MYERS: YES, I COULD RECOMMEND THE DEATH
7 PENALTY.

8 MR. JACKSON: AND YOU COULD GO AS FAR AS SIGNING A
9 PIECE OF PAPER THAT OTHERWISE WOULD BE A DEATH WARRANT
10 THAT WOULD SENTENCE BOBBY WAYNE STONE TO EITHER DEATH BY
11 ELECTROCUTION OR LETHAL INJECTION?

12 MS. MYERS: YES, SIR. THAT'S CORRECT.

13 MR. JACKSON: AND ON THE OTHER SIDE OF THAT COIN,
14 YOU COULD ALSO IF IT MERITED GIVE A SENTENCE OF LIFE IN THE
15 PENITENTIARY?

16 MS. MYERS: YES, SIR.

17 MR. JACKSON: AND THAT'S ALL THAT WE COULD ASK OF
18 YOU. I APPRECIATE YOUR CANDIDNESS AND YOUR HONESTY WHEN
19 YOU ANSWERED MY QUESTIONS. THANK YOU.

20 THE COURT: MR. BABB.

21 MR. BABB: THANK YOU, YOUR HONOR. GOOD MORNING,
22 MRS. MYERS.

23 MS. MYERS: GOOD MORNING.

24 MR. BABB: I'M JIM BABB AND THIS IS CAM LITTLEJOHN,
25 TOGETHER WE WILL BE REPRESENTING MR. STONE ...

1 MS. MYERS: YES, SIR.

2 MR. BABB: ... IN THIS MATTER. NOW YOU TOLD HIS
3 HONOR HERE THAT YOU'RE A TYPE THREE JUROR.

4 MS. MYERS: YES, SIR.

5 MR. BABB: I TAKE THAT TO MEAN THAT YOU'RE NOT IN
6 FAVOR OF DEATH IN EVERY CASE.

7 MS. MYERS: NOT IN EVERY CASE, NO, SIR. IT ALL DEPENDS
8 ON THE HEINOUSNESS OF THE CRIME ...

9 MR. BABB: YES, MA'AM.

10 MS. MYERS: ... AND THE EVIDENCE THAT IS PRESENTED
11 THAT WILL CONVINCE ME THAT THIS PERSON IS GUILTY.

12 MR. BABB: AND YOU WOULD LISTEN TO THE LAW AS THE
13 JUDGE GIVES IT TO YOU, CORRECT?

14 MS. MYERS: THAT'S CORRECT. YES, SIR.

15 MR. BABB: AND YOU WOULD CONSIDER LIFE IN PRISON A
16 SUBSTANTIAL PENALTY?

17 MS. MYERS: IF IT WARRANTS, YES. LIKE I SAID, IT ... TO ME
18 IT ALL DEPENDS UPON THE NATURE OF THE HEINOUSNESS OF IT.

19 MR. BABB: YES, MA'AM. I UNDERSTAND THAT. THANK
20 YOU. LET ME ASK YOU JUST A LITTLE BIT ABOUT YOUR CONNECTIONS
21 TO LAW ENFORCEMENT OR FAMILY RELATIONS THERE. I NOTED IN
22 YOUR ANSWERS YOU LISTED JOHN HERIOT. WHERE IS HE?

23 MS. MYERS: HERE IN SUMTER. HE'S A LIEUTENANT HERE.

24 MR. BABB: OKAY. ON THE SUMTER COUNTY ...

25 MS. MYERS: YES, SIR.

1 MR. BABB: HE'S SUMTER COUNTY'S ...

2 MS. MYERS: THAT'S CORRECT.

3 MR. BABB: ... DEPUTY?

4 MS. MYERS: NO, SIR. I DON'T KNOW.

5 MR. BABB: DOES HE WORK FOR THE CITY OR THE
6 COUNTY?

7 MS. MYERS: OH, THE COUNTY. HE WORKS WITH THE
8 COUNTY.

9 MR. BABB: HE WEARS THE BROWN UNIFORMS OFTEN.

10 MS. MYERS: YES, SIR.

11 MR. BABB: OKAY. AND THEN YOU ALSO HAVE A ... A
12 BROTHER I BELIEVE OR A SISTER, MAYBE MALLIE RICHARDSON.

13 MS. MYERS: BROTHER.

14 MR. BABB: THAT'S A BROTHER.

15 MS. MYERS: YES.

16 MR. BABB: AND WHERE IS HE?

17 MS. MYERS: HE'S HERE IN SUMTER. HE'S A LIEUTENANT
18 WITH WATEREE CORRECTIONAL INSTITUTE.

19 MR. BABB: ALL RIGHT. SO YOU HAVE A FAMILY MEMBER
20 THAT'S A SUMTER COUNTY SHERIFF'S DEPUTY.

21 MS. MYERS: YES.

22 MR. BABB: AND YOU HAVE A BROTHER THAT'S A
23 CORRECTIONAL OFFICER.

24 MS. MYERS: THAT'S CORRECT.

25 MR. BABB: NOW, IN THIS CASE YOU WILL HEAR AND I

HEARING

28

1 BELIEVE THE JUDGE MAY HAVE MENTIONED TO YOU, IT'S A CASE
2 ABOUT A DEATH.

3 MS. MYERS: YES.

4 MR. BABB: AND THE VICTIM WAS A SUMTER COUNTY
5 SHERIFF'S DEPUTY.

6 MS. MYERS: YES.

7 MR. BABB: SERGEANT KUBALA.

8 MS. MYERS: YES, SIR.

9 MR. BABB: NOW, IS THAT GOING TO INFLUENCE ... YOU ...
10 YOUR HAVING THESE FAMILY MEMBERS THAT ARE RELATED TO YOU
11 WORKING IN LAW ENFORCEMENT, IS THAT GONNA HAVE ANY IMPACT
12 ON YOUR DECIDING THIS CASE WHERE THE VICTIM IS A LAW
13 ENFORCEMENT OFFICER?

14 MS. MYERS: YOU KNOW, SIR, I NEVER THOUGHT OF IT
15 FROM THAT ANGLE JUST FROM THE LITTLE BIT THAT, YOU KNOW,
16 THAT I'VE HEARD ABOUT IT.

17 MR. BABB: WELL, THAT'S WHY WE'RE HERE TO ASK THESE
18 QUESTIONS.

19 MS. MYERS: I'VE NEVER CONSIDERED THAT.

20 MR. BABB: YES, MA'AM.

21 MS. MYERS: I DON'T KNOW.

22 MR. BABB: TAKE YOUR TIME.

23 MS. MYERS: I ALWAYS CONSIDER MYSELF TO BE AN OPEN
24 MINDED PERSON AND I WOULD LIKE TO HEAR THE EVIDENCE BEFORE,
25 YOU KNOW, SENTENCING ANYONE TO SOMETHING. I NEED TO KNOW

1 THE FACTS.

2 MR. BABB: OKAY. SO YOU BELIEVE YOU CAN HEAR THE
3 EVIDENCE AND ... AND BE FAIR IN MAKING THAT DECISION ...

4 MS. MYERS: YES.

5 MR. BABB: ... THAT'S THE THRUST OF MY QUESTIONS.

6 MS. MYERS: CAUSE I HAVE A DAUGHTER THAT'S IN THE
7 MILITARY AND MY BROTHER, HE'S MILITARY ...

8 MR. BABB: YES, MA'AM.

9 MS. MYERS: ... AND THEY ... I WAS UPSET ABOUT THE WAR
10 AND ONE OF THE THINGS THAT THEY HAD MENTIONED TO ME WAS
11 SOMETHING THAT THEY DECIDED TO DO, THAT'S THEIR JOB.
12 WHATEVER THE CONSEQUENCES. YOU KNOW, THAT MAYBE I MAYBE
13 TALKING DIFFERENTLY IF I WAS ON THE OTHER END OF THE BENCH,
14 YOU KNOW, BUT I ... I REALLY HADN'T THOUGHT OF IT THAT WAY. I
15 HAVEN'T.

16 MR. BABB: BUT YOU'RE TELLING ME YOU BELIEVE EVEN
17 THOUGH YOU HAVE THOSE FAMILY CONNECTIONS YOUR ... YOUR
18 FAMILY THAT'S CONNECTED TO LAW ENFORCEMENT AND IN THE
19 MILITARY ...

20 MS. MYERS: UH-HUH (AFFIRMATIVE RESPONSE).

21 MR. BABB: ... YOU COULD NOT ALLOW THOSE
22 CONNECTIONS TO INFLUENCE YOUR CONSIDERATION IN THIS CASE.

23 MS. MYERS: THAT'S TRUE. THAT'S ONE OF THE THINGS MY
24 BROTHER'S ALWAYS ... MY BROTHER'S ALWAYS TALKED ABOUT THAT
25 IT'S THEIR JOB . IT'S KIND OF HARD TO ANSWER. I COULD MAKE A

HEARING

30

1 DECISION BASED ON THE EVIDENCE AS IT'S PRESENTED ...

2 MR. BABB: OKAY.

3 MS. MYERS: ... BUT AS FAR AS PUTTING THE EMOTIONS
4 INTO IT I CAN'T ANSWER THAT. I REALLY CAN'T.

5 MR. BABB: WOULD YOU TRY TO NOT ALLOW YOUR
6 EMOTIONS TO IMPACT YOUR DECISION?

7 MS. MYERS: OH, YES. I TRY TO BE SOMEWHAT A
8 PRAGMATIC PERSON.

9 MR. BABB: NOW, IN A CASE LIKE THIS YOU'RE GONNA
10 HEAR THE STATE WILL BE PRESENTING EVIDENCE IN AN ATTEMPT TO
11 PROVE BEYOND A REASONABLE DOUBT TO THE JURY THEIR
12 AGGRAVATING CIRCUMSTANCES. AND LIKEWISE, THE DEFENSE WILL
13 BE PUTTING UP WHAT WE WOULD CALL MITIGATING FACTORS OR
14 MITIGATING CIRCUMSTANCES. MITIGATING CIRCUMSTANCES AT
15 TIMES MAY HAVE SOMETHING TO DO WITH THE ACTUAL EVENT OR
16 THEY MAY HAVE NOTHING TO DO WITH THE EVENT SIMPLY TO DO
17 WITH THE DEFENDANT, THEIR BACKGROUND, THEIR UPBRINGING,
18 THEIR LIFE HISTORY. CAN YOU CONSIDER MITIGATING
19 CIRCUMSTANCES AND CONSIDER THEM FAIRLY TO THE DEFENDANT IN
20 MAKING A DECISION IF YOU'RE ASKED TO DECIDE BETWEEN THE
21 SENTENCE OF DEATH OR THE SENTENCE OF LIFE IN PRISON?

22 MS. MYERS: FROM MY PERSONAL EXPERIENCE
23 SOMETIMES I'VE SEEN SITUATIONS WHERE PEOPLE COME FROM THE
24 BEST OF BACKGROUNDS, THE BEST OF HOME TRAINING AND STILL
25 MAKE WRONG DECISIONS.

HEARING

31

1 MR. BABB: YES, MA'AM.

2 MS. MYERS: SO SOMETIMES BACKGROUND DOESN'T HAVE
3 ANYTHING TO DO WITH WHAT HE DID TODAY OR YESTERDAY. YOU
4 UNDERSTAND WHAT I'M SAYING? PARENTS PUT EVERYTHING INTO
5 RAISING A CHILD THE WAY THEY SEE A GOOD CITIZEN AND THAT
6 CHILD MAKE BAD DECISIONS.

7 MR. BABB: BUT IF OUR LAW PROVIDES THAT MITIGATING
8 CIRCUMSTANCES MAY INCLUDE MATTERS ABOUT A DEFENDANT'S
9 BACKGROUND, WOULD YOU CONSIDER HIS BACKGROUND IN MAKING
10 THE DECISION BETWEEN LIFE AND DEATH?

11 MS. MYERS: IF THE LAW SAYS SO, YES, I WOULD HAVE TO.

12 MR. BABB: BUT IT'S NOT ... YOU DON'T SHARE THAT AS A
13 PERSONAL OPINION.

14 MS. MYERS: NO, I DON'T SHARE THAT AS A PERSONAL
15 OPINION. BUT IF THE LAW STATES THEN ... THE LAW STATES A LOT OF
16 THINGS I DON'T LIKE TO DO BUT I HAVE TO DEAL WITH THEM.

17 MR. BABB: WOULD ... DO YOU THINK BETWEEN YOUR
18 PERSONAL OPINION ON THAT ON A PERSON'S BACKGROUND BEARING
19 NO WEIGHT AS I UNDERSTAND WHAT YOU'RE SAYING, IS THAT
20 CORRECT?

21 MS. MYERS: THAT'S CORRECT.

22 MR. BABB: YOUR PERSONAL OPINION IS THAT AN
23 INDIVIDUAL'S BACKGROUND BEARS NO WEIGHT.

24 MS. MYERS: NOT ALL THE TIME, NO. THERE ARE, YOU
25 KNOW, THERE ARE SITUATIONS BUT BASICALLY NOT ALL THE TIME.

HEARING

32

1 BECAUSE AS I SAID BEFORE I'VE SEEN CHILDREN WHO'VE COME FROM
2 THE BEST BACKGROUNDS, BEST OF HOME TRAINING AND STILL GO
3 OUT THERE AND JUST ...

4 MR. BABB: OH, I THINK WE ... WE ALL HAVE. BUT ...

5 MS. MYERS: BUT IF THE LAW STATES THAT I HAVE TO DO
6 THAT THEN YES, I WILL HAVE TO DO IT THAT WAY.

7 MR. BABB: LET ME ASK IT THIS WAY, WITH THAT FACTOR,
8 YOUR PERSONAL OPINION OR YOUR FAMILY CONNECTIONS OR THE
9 COMBINATION OF THE TWO, WOULD THAT IMPAIR YOUR ABILITY TO
10 DECIDE THE CASE?

11 MS. MYERS: I DON'T SEE THAT IT WOULD, NO. I DIDN'T
12 EVEN THINK ABOUT IT WHEN I COME INTO COURT.

13 MR. BABB: I UNDERSTAND. SO I'M JUST ASKING. THERE IS
14 NO RIGHT OR WRONG ANSWER. YOU'RE ... YOU'RE ... YOU'RE ENTITLED
15 TO YOUR OPINIONS AND YOUR BELIEFS. WE JUST HAVE TO INTRUDE
16 LONG ENOUGH TO ASK SO THAT WE CAN MAKE THE DECISIONS WE
17 HAVE TO MAKE.

18 MS. MYERS: YES, I UNDERSTAND.

19 MR. BABB: SO ALL WE EXPECT YOU TO DO IS BE AS
20 HONEST WITH US AS YOU CAN POSSIBLY BE.

21 MS. MYERS: YES, SIR.

22 MR. BABB: HAVING SAID THAT, WOULD YOUR PERSONAL
23 VIEWS OR YOUR FAMILY CONNECTIONS IMPAIR YOUR ABILITY TO
24 FAIRLY DECIDE THIS CASE?

25 MS. MYERS: NO, SIR, IT WOULD NOT.

HEARING

33

1 MR. BABB: OKAY. NOW, IF YOU REACH A DECISION ... SAY
2 YOU ARE ON THE JURY AND YOU'VE HEARD THE EVIDENCE, YOU'VE
3 HEARD THE LAW FROM HIS HONOR AND YOU'VE REACHED YOUR
4 DECISION, IT'S THE TIME, THE APPROPRIATE TIME TO DO THAT, BUT
5 THE REST OF THE JURY OR MOST OF THE REST OF THE JURY DOESN'T
6 SHARE YOUR OPINION, THEY HAVE A DIFFERENT OPINION ON WHAT
7 THE OUTCOME OF THIS CASE SHOULD BE, ARE YOU GOING TO GO
8 ALONG WITH THE MAJORITY?

9 MS. MYERS: IT WOULD DEPENDS ON THE RATIONALE OF
10 WHY THEY DON'T GO ALONG WITH ME. I MEAN, I WOULD HAVE TO ... I
11 WOULD HAVE TO SEE WHAT THE REASONS FOR NOT AGREEING WITH
12 ME.

13 MR. BABB: OKAY. IF AFTER YOU AND THE OTHER
14 MEMBERS OF THE JURY HAVE DELIBERATED, DISCUSSED THE ISSUE,
15 YOUR ONE VIEW, THE MAJORITY'S OF A DIFFERENT VIEW, ARE YOU
16 GOING TO SWITCH YOUR VOTE AT THAT TIME?

17 MS. MYERS: I DON'T KNOW. I'LL BE HONEST WITH YOU. I
18 REALLY DON'T KNOW.

19 MR. BABB: IS IT FAIR TO SAY THAT THE OPINION OF THE
20 OTHER JURORS OF THE MAJORITY MAY INFLUENCE YOUR DECISION ...

21 MS. MYERS: I HOPE NOT ...
22
23
24
25

HEARING

34

1 MR. BABB: ... SIMPLY BECAUSE ...

2 MS. MYERS: ... BECAUSE I'M A PERSON THAT I FOLLOW MY
3 OWN MIND. I'M NOT EASILY PERSUADED.

4 MR. BABB: WOULD THE FACT THAT THE REST OF THE
5 JURORS WERE OF A DIFFERENT OPINION PERSUADE YOU TO CHANGE
6 YOUR OPINION SO THAT YOU WOULD BE UNANIMOUS?

7 MS. MYERS: YOU'RE STILL ASKING ME THE SAME
8 QUESTION OVER AND OVER AGAIN.

9 MR. BABB: I AM.

10 MS. MYERS: AND I'M NOT GONNA CHANGE MY ANSWER.
11 IT'S HARD TO SAY. AND LIKE I SAID, I'M A PERSON ONCE MY MIND IS
12 MADE UP MY MIND IS MADE UP AND IT'S VERY HARD FOR SOMEBODY
13 TO CHANGE IT. BUT UNTIL THAT SITUATION PRESENTS ITSELF I
14 CANNOT HONESTLY SIT HERE AND TELL YOU THAT I WILL CHANGE MY
15 MIND OR THAT I WILL STAY THE SAME WAY.

16 MR. BABB: OKAY. I'M HEARING YOU. I JUST WANTED TO
17 BE SURE I ... I HEARD IT STRAIGHT. THE COURT'S INDULGENCE FOR
18 JUST A MOMENT. NO OTHER QUESTIONS.

19 THE COURT: ALL RIGHT. MS. MYERS, THANK YOU VERY
20 MUCH FOR YOUR CANDOR AND YOUR HONESTY. IF YOU WOULD STEP
21 OUTSIDE FOR JUST A MOMENT I HAVE A FEW MATTERS I NEED TO
22 TAKE UP WITH THE ATTORNEYS. THANK YOU VERY MUCH. MR.
23 JACKSON?

24 MR. JACKSON: QUALIFIED, YOUR HONOR.

25 THE COURT: MR. BABB?

THIRD JUDICIAL CIRCUIT

(803) 436-2150

HEARING

1 MR. BABB: NOT QUALIFIED, YOUR HONOR.

2 THE COURT: ALL RIGHT. I'LL HEAR FROM YOU.

3 MR. BABB: SHE ... TWO REASONS, PRIMARY REASONS IS
4 THAT SHE DOESN'T KNOW WHETHER OR NOT SHE WOULD CHANGE
5 SIMPLY BECAUSE THE REST OF THE JURORS HAD A DIFFERENT
6 OPINION. SHE'S REFUSED TO ANSWER THAT QUESTION OTHER THAN
7 TO SAY SHE DOESN'T KNOW WHAT SHE WOULD DO UNTIL SHE'S
8 THERE. BASICALLY, ON THE ONE HAND SHE'S STRONG MINDED BUT
9 ON THE OTHER SHE CAN'T ANSWER THAT QUESTION DEFINITELY.
10 SHE DOESN'T KNOW WHETHER THAT WILL IMPAIR HER ABILITY TO BE
11 FAIR OR NOT.

12 THE COURT: SHE DIDN'T SAY THAT. SHE SAID JUST THE
13 OPPOSITE. SHE SAID IT WOULD NOT IMPAIR HER ABILITY TO BE FAIR.

14 MR. BABB: SHE ALSO SAID SHE DOESN'T KNOW WHETHER
15 SHE WOULD STICK WITH HER CONVICTIONS OR ...

16 THE COURT: YES, SHE DID SAY THAT.

17 MR. BABB: ... FOLLOW THE REST OF THE JURY SIMPLY
18 BECAUSE THEY ARE OF A DIFFERENT OPINION.

19 THE COURT: I DID MAKE THE NOTATION WHEN YOU
20 ASKED HER THAT SPECIFIC QUESTION THAT COMES UP IN STATE VS.
21 TITUS AS TO WHETHER IT WOULD IMPAIR HER ABILITY TO ... TO
22 PERFORM HER DUTIES AND HER ANSWER WAS NO, IT WAS NOT.

23 MR. BABB: YES, YOUR HONOR, I UNDERSTAND THAT WAS
24 THE WORDS SHE USED BUT SHE REPEATEDLY AND REPEATEDLY
25 STATED THAT SHE DID NOT KNOW WHAT SHE WOULD DO IN A

HEARING

36

1 SITUATION IF SHE IS IN THE MINORITY OR THE SOLE PERSON LEAVING
2 A POSSIBILITY THAT SHE WOULD THEN SWITCH SIMPLY BECAUSE SHE
3 IS IN THE MINORITY.

4 THE COURT: DO YOU HAVE ANY AUTHORITY AS TO THE
5 FACT IS A DISQUALIFYING STATEMENT?

6 MR. BABB: NO, SIR, I DID NOT KNOW SHE WOULD MAKE
7 THAT STATEMENT BEFORE WE TALKED WITH HER SO I HAVEN'T HAD
8 AN OPPORTUNITY TO RESEARCH THAT.

9 THE COURT: I MEAN THAT'S NOT EXACTLY AN UNUSUAL
10 OCCURRENCE. ALL RIGHT. WHAT'S THE OTHER REASON?

11 MR. BABB: JUST NOT KNOWING AS WELL AS NOT
12 KNOWING HOW ... SHE SAID SHE COULD SIT AND DECIDE ... SHE NEVER
13 EVEN THOUGHT ABOUT THE FACT THAT SHE HAS A BROTHER WHO IS
14 A CORRECTIONAL OFFICER AND A COUSIN WHO IS ACTIVELY ON THE
15 SUMTER COUNTY SHERIFF'S DEPARTMENT.

16 THE COURT: ALL RIGHT. MR. JACKSON, DO YOU WISH TO
17 BE HEARD?

18 MR. JACKSON: YOUR HONOR, I BELIEVE SHE IS QUALIFIED
19 AND I THINK THAT _____ AND SHE SAID THAT IT WOULD
20 NOT. TO ME THAT'S THE STANDARD.

21 THE COURT: ALL RIGHT. I'M GOING TO DENY THE MOTION
22 TO DISQUALIFY HER. I THINK THAT SHE IS QUALIFIED. I WAS VERY
23 IMPRESSED WITH HER HONESTY AND HER TRUTHFULNESS IN
24 ANSWERING THE QUESTIONS AND BEING VERY FRANK WITH COUNSEL.
25 SHE DID SAY THAT THOSE RELATIONSHIPS WOULD NOT PREVENT HER

HEARING

37

1 FROM PERFORMING HER DUTIES. SHE ALSO SAID THAT SHE WOULD
2 LISTEN TO WHAT THE OTHER JURORS SAY AND MY RECOLLECTION IS
3 SHE SAID SHE LIKES TO THINK THAT SHE'S AN INDEPENDENT THINKER
4 AND I THINK THAT SHE EVIDENCED ON THE STAND THAT SHE WAS AN
5 INDEPENDENT THINKER AND EXACTLY WHAT THE TYPE OF
6 INDIVIDUAL WE'RE LOOKING FOR OR BOTH SIDES SHOULD BE LOOKING
7 FOR IN THIS CASE. I DO NOT THINK THAT HER ANSWERS FROM
8 LOOKING AT THE TOTALITY OF THE CIRCUMSTANCES IN OUR MUCH
9 TOO LIMITED TIME AND ALL OF HER ANSWERS IT SEEMS TO ME THAT
10 HER POSITION WOULD NOT PREVENT OR SUBSTANTIALLY IMPAIR THE
11 PERFORMANCE OF HER DUTIES. THE COURT WILL QUALIFY HER AND
12 NOTE ANY OBJECTION OF THE DEFENSE.

13 MR. JACKSON: I THANK YOU.

14 MR. BABB: THANK YOU, SIR.

15 THE COURT: ALL RIGHT. HAVE MS. MYERS COME BACK IN,
16 PLEASE.

17 BAILIFF: MS. MYERS, COME BACK, PLEASE.

18 THE COURT: ALL RIGHT. MS. MYERS, YOU CAN JUST
19 STAND RIGHT THERE FOR A MOMENT. YOU HAVE BEEN QUALIFIED AS
20 A JUROR IN THIS CASE. NOW THAT DOES NOT NECESSARILY MEAN
21 THAT YOU'RE GOING TO SERVE AS A JUROR IN THIS CASE. IT JUST
22 MEANS THAT YOU'VE BEEN QUALIFIED AS A JUROR. I'M GOING TO
23 RELEASE YOU NOW AND ALLOW YOU TO GO HOME AND I'M GOING TO
24 ASK YOU TO BE BACK IN THE COURTROOM AT 2:00 O'CLOCK THIS
25 AFTERNOON AT WHICH TIME WE ARE GOING TO ACTUALLY SELECT

HEARING

38

1 THE JURY IN THIS CASE. WHEN YOU GO HOME, YOU WILL NEED TO
2 PACK A BAG AND BRING BACK CLOTHES, PERSONAL BELONGINGS,
3 MEDICATION, ANYTHING THAT YOU MAY NEED FOR UP TO SIX DAYS
4 IN A HOTEL. DO NOT BRING THOSE THINGS INTO THE COURTROOM
5 WITH YOU BUT LEAVE THEM IN YOUR CAR. IF YOU ARE SELECTED IN
6 THE JURY, LATER ON THIS EVENING YOU WILL UNPACKING THOSE IN
7 THE HOTEL. IF YOU'RE NOT SELECTED, YOU'LL BE PACKING ...
8 UNPACKING THEM AT HOME. WHEN YOU COME BACK AT 2:00 O'CLOCK
9 YOU NEED TO BRING WHAT YOU WOULD NEED TO STAY IN A HOTEL
10 FOR FIVE TO SIX DAYS. ALSO WHILE YOU'RE GONE, DO NOT TALK TO
11 ANYBODY ABOUT THIS CASE OR ALLOW ANYONE TO TALK TO YOU
12 ABOUT IT AND DO NOT READ ANYTHING ABOUT THE CASE IN THE
13 NEWSPAPER OR ANYWHERE ELSE. JUST DISMISS THIS CASE FROM
14 YOUR MIND FOR A FEW HOURS AND PACK YOUR BAG, PUT THAT IN
15 YOUR CAR, AND BE BACK OUT HERE ABOUT 2:00 O'CLOCK TODAY. ALL
16 RIGHT. THANK YOU, YOU MAY GO.

17 MR. JACKSON: YOUR HONOR.

18 THE COURT: YES?

19 MR. JACKSON: BEFORE THE NEXT ONE COMES IN, MR.
20 REWIS, I BELIEVE.

21 THE COURT: YES, SIR.

22 MR. JACKSON: I NOTICE ON HIS THAT HE IS A JEHOVAH'S
23 WITNESS. I FIGURED I BETTER BRING IT UP IN THE BEGINNING THIS
24 TIME.

25 THE COURT: ALL RIGHT. I'LL ASK HIM IF

HEARING

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MR. JACKSON: YES, SIR.

3

THE COURT: ALL RIGHT, BRING THE JUROR 180, REWIS.

4

MR. BABB: YOUR HONOR, EXCUSE ME.

5

THE COURT: YES, SIR?

6

MR. BABB: JUST FOR THE COURT'S _____. YOU HAD
MENTIONED A SITUATION WITH JUROR PRICE.

7

8

THE COURT: YES, SIR.

9

10

MR. BABB: WE HAVE DISCUSSED THAT WITH OUR CLIENT
AND MR. STONE WOULD PREFER TO HAVE MR. PRICE STAY ON THE
PANEL. HE'S BEEN QUALIFIED. I REALIZE THAT MAY IMPOSE SOME
IMPOSITION UPON THE COURT PERSONNEL BUT WE FEEL ...

11

12

13

THE COURT: _____.

14

15

16

17

MR. BABB: ... THAT'S SOMETHING THAT CAN BE DEALT
WITH IN LIGHT OF THE MAGNITUDE OF WHAT WE'RE LOOKING AT
HERE. I MEAN MR. STONE LIKES THAT JUROR AND WOULD LIKE HIM
TO BE ONE THAT IS UP FOR SELECTION.

18

19

20

THE COURT: ALL RIGHT. I UNDERSTAND YOUR POSITION.
I MAY HAVE TO JUST MAKE A DECISION ON IT BASED UPON WHAT THE
CAPABILITIES OF THE COURT ARE. ALL RIGHT.

21

22

23

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25

BAILIFF: JUROR NUMBER 180, MR. REWIS.

THE COURT: GOOD MORNING, MR. REWIS.

MR. REWIS: GOOD MORNING.

THE COURT: DID I PRONOUNCE YOUR NAME RIGHT?

MR. REWIS: REWIS.

1 THE COURT: REWIS? ALL RIGHT. THANK YOU FOR BEING
2 HERE AND THANK YOU FOR YOUR PROMPTNESS AND WE APOLOGIZE
3 FOR KEEPING YOU WAITING SOME. IT IS IMPOSSIBLE TO SET UP AN
4 ACCURATE TIME SCHEDULE ON THESE MATTERS. WE ARE INQUIRING
5 CONCERNING YOUR QUALIFICATIONS TO SERVE ON A JURY IN THE
6 CASE OF THE STATE OF SOUTH CAROLINA VS. BOBBY WAYNE STONE.
7 AND IN THAT CONNECTION WE NEED TO ASK YOU SOME QUESTIONS.
8 THERE ARE NO RIGHT OR WRONG ANSWERS. OUR QUESTIONS ARE
9 JUST DESIGNED TO LEARN HOW YOU FEEL ABOUT CERTAIN MATTERS
10 BUT THEY'RE NOT IN ANY WAY MEANT TO INVADE YOUR PRIVACY. IN
11 FACT THEY ARE JUST QUESTIONS THAT WE HAVE TO ... TO DETERMINE
12 HOW YOU FEEL AND TO DETERMINE YOUR QUALIFICATIONS. I WILL
13 TELL YOU THAT WHEN YOU FIRST CAME IN HERE ON MONDAY YOU
14 TOOK AN OATH TO GIVE US TRUTHFUL ANSWERS AND YOU'RE STILL
15 UNDER OATH, THAT ANYTHING YOU SAY WILL BE TESTIMONY UNDER
16 OATH. DO YOU UNDERSTAND THAT?

17 MR. REWIS: YES, SIR.

18 THE COURT: NOW, JUST A COUPLE OF THINGS BEFORE WE
19 START AND GET TO THE QUESTIONING PART OF IT, MR. REWIS, THE
20 QUESTION OF GUILT OR INNOCENCE OF MR. BOBBY WAYNE STONE IS
21 NOT A MATTER FOR THE JURY AT THIS POINT. HE HAS ALREADY
22 FOUND TO BE ... BEEN FOUND TO BE GUILTY OF THE CRIME OF
23 MURDER OF DEPUTY CHARLES KUBALA. THE ONLY THING THAT
24 WE'RE EMPANELING A JURY FOR IS TO CONSIDER THE PUNISHMENT
25 THAT WILL BE IMPOSED FOR THIS CRIME OF MURDER. SO THAT'S THE

1 ONLY ISSUE THAT THE JURY IS GOING TO HAVE TO DEAL WITH. IN
2 THAT CONNECTION, HAVE YOU HAD A CHANCE TO REVIEW THE THREE
3 TYPES OF JURORS, TYPE ONE, TYPE TWO, AND TYPE THREE?

4 MR. REWIS: YES, SIR, I HAVE.

5 THE COURT: AND HOW WOULD YOU CLASSIFY YOURSELF
6 WITHIN THOSE THREE TYPES OF JURORS, AS A ONE, TWO, OR THREE?

7 MR. REWIS: AS A TYPE THREE.

8 THE COURT: TYPE THREE. ALL RIGHT. SO WHAT YOU'RE
9 SAYING AS I UNDERSTAND IT, MR. REWIS, IS THAT AFTER LISTENING
10 TO ALL OF THE FACTS AND CIRCUMSTANCES SURROUNDING THIS
11 CASE INCLUDING ANY AGGRAVATING CIRCUMSTANCES THAT THE
12 STATE PRESENTS AND ANY MITIGATING CIRCUMSTANCES THAT THE
13 DEFENSE PRESENTS THAT YOU COULD LISTEN TO ALL THOSE THAT
14 YOU COULD FIND THE FACTS AND CIRCUMSTANCES WARRANT THE
15 PUNISHMENT OF DEATH, IS THAT CORRECT?

16 MR. REWIS: ALL RIGHT, SIR.

17 THE COURT: NOW, THE STATE WILL HAVE TO
18 PROVE BEYOND A REASONABLE DOUBT AT LEAST ONE STATUTORY
19 AGGRAVATING CIRCUMSTANCE. AGGRAVATING CIRCUMSTANCES
20 ARE THOSE INSTANCES OR OCCURRENCES OR DETAILS THAT OUR
21 GENERAL ASSEMBLY HAS DECLARED OR DECREED OR PASSED AND
22 SAID THAT INCREASES THE SEVERITY OR THE ENORMITY OF THE
23 MURDER CONVICTION AND ADDS TO THE INJURY OF THE CRIME OF
24 MURDER. THE DEFENSE WILL ALSO PRESENT CERTAIN STATUTORY
25 MITIGATING CIRCUMSTANCES AND THEY'RE JUST THE OPPOSITE.

HEARING

42

1 THOSE ARE THE THINGS, FACTS AND DETAILS THAT OUR GENERAL
2 ASSEMBLY HAS DECLARED REDUCES THE SEVERITY OF THE OFFENSE
3 OF MURDER AND MY BE CONSIDERED EXTENUATING OR REDUCING
4 THE CULPABILITY OR RESPONSIBILITY. IN ADDITION TO THE
5 STATUTORY MITIGATING CIRCUMSTANCES THERE MAY ALSO BE
6 OTHER MITIGATING CIRCUMSTANCES THE DEFENSE WILL ASK YOU TO
7 CONSIDER. THE QUESTION THAT I HAVE FOR YOU IS AFTER HEARING
8 ALL OF THE FACTS OF THIS CASE, IF THE STATE PRODUCES EVIDENCE
9 THAT CONVINCES YOU OR ONE ... AT LEAST ONE STATUTORY
10 MITIGATING CIRCUMSTANCE AND AFTER CONSIDERING ALL THE
11 OTHER EVIDENCE IN THIS CASE AND THE INSTRUCTIONS ON THE LAW
12 BY THE COURT, COULD YOU SIGN THE VERDICT FORM THAT
13 SENTENCES THE DEFENDANT TO LIFE IN PRISON?

14 MR. REWIS : YES, SIR.

15 THE COURT: AND BY THE SAME TOKEN IF AFTER HEARING
16 ALL THE TESTIMONY INCLUDING AT LEAST ONE STATUTORY
17 AGGRAVATING CIRCUMSTANCE THAT MUST BE PROVED BY THE
18 STATE BEYOND A REASONABLE DOUBT YOU MAY BE ASKED TO SIGN
19 ALONG WITH YOUR OTHER 11 JURORS A VERDICT FORM THAT WOULD
20 SENTENCE THE DEFENDANT TO DEATH. COULD YOU SIGN SUCH A
21 FORM AS THAT?

22 MR. REWIS: YES, SIR.

23 THE COURT: ALL RIGHT. NOW, LET ME ASK YOU, MR.
24 REWIS, DO YOU HAVE ANY RELIGIOUS OR MORAL OR OTHER REASONS
25 THAT WOULD PREVENT YOU FROM SERVING AS A JUROR KNOWING

HEARING

43

1 THOSE ARE THE TWO ISSUES THAT YOU'RE GOING TO HAVE TO FACE,
2 THOSE ARE THE ... NOT JUST TWO ISSUES BUT THOSE ARE THE ISSUES
3 THAT YOU WILL BE ASKED TO DECIDE IN THIS CASE?

4 MR. REWIS: NO, SIR.

5 THE COURT: HAVE YOU READ ANYTHING OR HEARD
6 ANYTHING ABOUT THIS CASE?

7 MR. REWIS: NO, SIR, I HAVEN'T ... WELL, WHEN I GOT THE
8 PAPER THIS MORNING I THREW IT STRAIGHT IN THE TRASH.

9 THE COURT: ALL RIGHT. SO YOU SAW SOMETHING ON THE
10 FRONT PAGE OF THE PAPER BUT YOU DID NOT ...

11 MR. REWIS: I THREW THE WHOLE PAPER IN THE TRASH.

12 THE COURT: ALL RIGHT. THAT'S EXACTLY WHAT YOU
13 WERE SUPPOSED TO DO. THANK YOU FOR DOING THAT. HAVE YOU
14 FORMED ANY OPINION AS TO WHAT YOUR VERDICT SHOULD BE IN
15 THIS CASE?

16 MR. REWIS: NO, SIR.

17 THE COURT: OKAY. AND THE LAST THING THAT I NEED TO
18 ASK YOU IS IF YOU ARE SELECTED AS A JUROR IN THIS CASE YOU WILL
19 BE REQUIRED TO BE SEQUESTERED AND THAT IS HOUSED IN A HOTEL
20 OR A MOTEL FOR UP TO SIX DAYS, FIVE TO SIX DAYS, UNTIL THE
21 TESTIMONY IN THIS CASE IS ... UNTIL THE CASE IS OVER AND YOU
22 HAVE COMPLETED YOUR DUTIES AS A JUROR. WOULD THIS CAUSE
23 ANY UNDUE HARDSHIP TO YOURSELF OR ANYBODY THAT IS
24 DEPENDENT UPON YOU?

25 MR. REWIS: NO, SIR. WELL, I'M ALREADY HALFWAY

HEARING

44

1 PACKED CAUSE I FIGURED I MIGHT AS WELL GET READY.

2 THE COURT: ALL RIGHT. OKAY. ALL RIGHT. THANK YOU
3 VERY MUCH, MR. RUIZ. I APPRECIATE YOUR ANSWERS AND ANSWER
4 ANY QUESTIONS WHICH MR. JACKSON OR MR. SALEEBY MIGHT HAVE
5 FOR YOU.

6 MR. SALEEBY: MR. RUIZ, MY NAME IS DUDLEY SALEEBY.
7 SOLICITOR KELLY JACKSON AND I WILL BE PRESENTING THIS CASE ON
8 BEHALF OF THE STATE. WE APPRECIATE YOU TOLERATING THESE
9 QUESTIONS. WE'RE NOT TRYING TO INTRUDE, WE JUST NEED TO MAKE
10 INQUIRIES TO MAKE SURE THE JURORS THAT WE'RE TALKING WITH
11 WHO WILL DECIDE THIS CASE DON'T HAVE ANY INFORMATION OR
12 DON'T HAVE ANY PREVIOUS POSITION THAT WOULD KEEP EITHER SIDE
13 FROM GETTING A FAIR TRIAL AND I ASSUME FROM YOUR ANSWERS
14 YOU DON'T HAVE ANY.

15 MR. REWIS: NO.

16 MR. SALEEBY: YOU COULD LISTEN TO THE JUDGE'S
17 INFORMATION ABOUT THE LAW AND WHAT BOTH SIDES SAID AND IF
18 YOU WERE SATISFIED THE PROPER THING WAS LIFE IMPRISONMENT
19 YOU COULD IMPOSE THAT WITHOUT A PROBLEM?

20 MR. REWIS: THAT IS CORRECT.

21 MR. SALEEBY: AND SIGN YOUR NAME TO A FORM STATING
22 THIS IS MY OPINION?

23 MR. REWIS: THAT IS CORRECT.

24 MR. SALEEBY: THIS IS MY DECISION.

25 MR. REWIS: THAT IS CORRECT.

1 MR. SALEEBY: IF YOU THOUGHT THE FACTS AND THE
2 CIRCUMSTANCES SURROUNDING HOW THIS CRIME WAS COMMITTED,
3 WHO WAS KILLED AND INFORMATION ABOUT THE DEFENDANT
4 PERSUADED YOU THAT THE PROPER PUNISHMENT WAS THE DEATH
5 PENALTY, YOU COULD IMPOSE THAT AND SIGN YOUR NAME TO A
6 FORM MAKING THAT SENTENCE?

7 MR. REWIS: THAT IS CORRECT.

8 MR. SALEEBY: ALL RIGHT, SIR. THOSE ARE ALL THE
9 QUESTIONS THAT I HAVE. THANK YOU SO MUCH.

10 MR. REWIS: THANK YOU.

11 THE COURT: MR. BABB.

12 MR. BABB: THANK YOU, YOUR HONOR. GOOD MORNING,
13 MR. REWIS.

14 MR. REWIS: GOOD MORNING.

15 MR. BABB: MY NAME IS JIM BABB. I'LL BE ASSISTING
16 CAMERON LITTLEJOHN IN DEFENDING MR. STONE IN THIS CASE. AND
17 YOU'VE STATED YOU'RE A TYPE THREE JUROR.

18 MR. REWIS: YES, SIR.

19 MR. BABB: SO AS I UNDERSTAND THAT YOU DON'T FEEL
20 THAT DEATH IS AUTOMATIC IF THERE IS A CONVICTION ON THE
21 CHARGE OF MURDER.

22 MR. REWIS: THAT IS CORRECT.

23 MR. BABB: YOU'RE WILLING TO LISTEN TO AGGRAVATING
24 CIRCUMSTANCES, MITIGATING CIRCUMSTANCES AND MAKE UP YOUR
25 OWN MIND?

HEARING

1 MR. REWIS: THAT IS CORRECT.

2 MR. BABB: NOW, IF YOU WERE SEATED AS A JUROR IN
3 THIS CASE YOU WILL BE HEARING EVIDENCE FROM A NUMBER OF
4 PEOPLE INCLUDING SUMTER COUNTY SHERIFF'S OFFICERS. DO YOU
5 HAVE ANY RELATIONSHIPS WITH ANY DEPUTIES HERE IN SUMTER
6 COUNTY?

7 MR. REWIS: NO, I DON'T. FACT THIS MORNING I WAS AT
8 CHICK-FIL-A AND TWO DEPUTIES CAME IN AND SAT TWO TABLES
9 BEHIND ME AND THEY STARTED TALKING AND I IMMEDIATELY GOT
10 UP AND LEFT.

11 MR. BABB: ALL RIGHT, SIR. SO YOU ... YOU TAKE THIS
12 VERY SERIOUSLY.

13 MR. REWIS: OH, YES, SIR.

14 MR. BABB: AND IF YOU'RE CALLED UPON TO BE DECIDING
15 THIS YOU WOULD HEAR FROM THE DEFENSE WHAT IS KNOWN AS
16 MITIGATING EVIDENCE. THAT MAYBE EVIDENCE THAT RELATES TO
17 THE EVENTS SURROUNDING THE CRIME OR IT MAY BE SIMPLY
18 MATTERS THAT RELATE SOLELY TO THE DEFENDANT, HIS
19 BACKGROUND, HIS UPBRINGING, THINGS ABOUT HIS LIFE THAT
20 WOULD BE PRESENTED IN MITIGATION. CAN YOU FAIRLY CONSIDER
21 AS MITIGATING CIRCUMSTANCES EVIDENCES PUT UP REGARDING HIS
22 BACKGROUND, HIS LIFE, ABOUT HIM AS A UNIQUE HUMAN BEING?

23 MR. REWIS: YES.

24 MR. BABB: YOU HESITATED FOR A SECOND. ARE YOU
25 JUST THINKING OR IS THERE ...

THIRD JUDICIAL CIRCUIT

(803) 436-2150

HEARING

1 MR. REWIS: I WAS THINKING AS, YOU KNOW, A CASE IN
2 THE WHOLE WHAT I WOULD _____ ...

3 MR. BABB: RIGHT.

4 MR. REWIS: ... THE CASE AS A WHOLE.

5 MR. BABB: YES, SIR. I'M JUST ...

6 MR. REWIS: ... ONE CERTAIN CIRCUMSTANCE WITHIN THE
7 WHOLE CASE.

8 MR. BABB: ALL RIGHT. THE REASON I ASK THAT IS SOME
9 TIMES INDIVIDUALS HAVE STRONG FEELINGS THAT ONE'S
10 BACKGROUNDS AS NO BEARING ON WHAT SHOULD HAPPEN. I'M
11 ASKING SIMPLY COULD YOU CONSIDER THAT?

12 MR. REWIS: OH, THAT WOULD HAVE TO BE ONE OF THE
13 _____.

14 MR. BABB: NOW, IN THE CASE IF YOU WERE ON THE JURY
15 AND YOU WERE CALLED UPON TO DECIDE BETWEEN LIFE AND DEATH
16 AND AFTER YOU HEARD THE LAW FROM HIS HONOR, AFTER HEARING
17 ALL THE FACTS AND CIRCUMSTANCE THAT ARE PRESENTED, COULD
18 YOU THEN AT THAT POINT HAVING REACHED YOUR CONCLUSION IF
19 MEMBERS ... OTHER MEMBER, SAY A MAJORITY OF THE JURY
20 DISAGREED WITH YOU WOULD YOU CHANGE YOUR VIEWS SO THAT
21 YOU WOULD BE IN THE MAJORITY?

22 MR. REWIS: NO. IT WOULD TAKE A LOT OF CONVINCING
23 FROM MY FELLOW JURORS TO DO THAT. BECAUSE WHATEVER MY
24 DECISION IS AFTER I'VE HEARD ALL THE EVIDENCE I'D LIKE TO STAND
25 WITH THAT ... THAT'S MY DECISION ON THE CASE BECAUSE I'VE HEARD

HEARING

1 THE EVIDENCE, ALL THE EVIDENCE IN THE CASE AND THIS IS WHAT I
2 BELIEVE THAT SHOULD HAPPEN AND _____ AND I'M NOT
3 GONNA LET ONE OTHER JUROR PERSUADE ME BECAUSE OF THE WAY
4 THEY FEEL. MY DECISION IS MY DECISION BECAUSE I HEARD THE
5 EVIDENCE MYSELF.

6 MR. BABB: SO IF I UNDERSTAND YOU CORRECTLY, YOU
7 ARE SAYING YOU WILL LISTEN TO THE OTHER JURORS BUT YOU'RE
8 GONNA DECIDE IT YOURSELF.

9 MR. REWIS: THAT'S CORRECT.

10 MR. BABB: AND IF YOU DISAGREE YOU DISAGREE.

11 MR. REWIS: THAT'S RIGHT. _____ MONTH
12 DECIDING THIS CASE THEN THAT'S WHAT IT MEANS.

13 MR. BABB: OKAY. SO YOU ARE VERY CAPABLE OF
14 STANDING BY YOUR CONVICTIONS?

15 MR. REWIS: OH, YEAH, I CAN STAND MY GROUND. MY
16 WIFE WILL TELL YOU I'M STUBBORN.

17 MR. BABB: OKAY.

18 MR. REWIS: I'LL STAND MY GROUND.

19 MR. BABB: THE COURT'S INDULGENCE?

20 THE COURT: YES.

21 MR. BABB: NO OTHER QUESTIONS.

22 THE COURT: ALL RIGHT. THANK YOU, MR. REWIS, IF YOU
23 WOULD STEP OUTSIDE FOR JUST A MINUTE. WE'LL BE BACK WITH YOU
24 VERY SHORTLY.

25 MR. REWIS: THANK YOU.

HEARING

1 THE COURT: MR. SALEEBY?

2 MR. SALEEBY: HE'S QUALIFIED, SIR.

3 THE COURT: MR. BABB?

4 MR. BABB: WE AGREE, YOUR HONOR.

5 THE COURT: ALL RIGHT. THE JUROR IS QUALIFIED.

6 BAILIFF: MR. REWIS.

7 THE COURT: ALL RIGHT, MR. REWIS, YOU HAVE BEEN
8 QUALIFIED AS A JUROR IN THIS CASE AND WE'RE GONNA GET INTO
9 THE TESTIMONY AND START THE TRIAL OF THIS CASE AT 2:00 O'CLOCK
10 THIS AFTERNOON. SO I AM GOING TO RELEASE YOU NOW AND ALLOW
11 YOU TO GO HOME. YOU SAID YOU HAVE YOUR BAG HALF PACKED.
12 YOU MIGHT AS WELL FINISH PACKING BECAUSE WHEN WE COME
13 BACK I WANT YOU TO BRING YOUR CLOTHING AND PERSONAL
14 BELONGINGS THAT YOU WOULD NEED FOR FIVE TO SIX DAYS IN A
15 MOTEL. DO NOT BRING YOUR SUITCASE INTO THE COURTROOM WITH
16 YOU, JUST LEAVE IT IN THE CAR AND IF YOU ARE SELECTED ON THE
17 JURY LATER ON THIS AFTERNOON YOU WILL BE TAKING IT OUT AT
18 THE MOTEL. IF YOU'RE NOT SELECTED FOR THE JURY, YOU'LL BE
19 UNPACKING IT TONIGHT WHEN YOU GET HOME. SO BRING YOUR
20 SUITCASE OF PERSONAL BELONGINGS IN THE CAR AND THEN REPORT
21 BACK TO THE COURTROOM OUT HERE, JUST WHERE THE JURY PANEL
22 AT 2:00 O'CLOCK. IN THE MEANTIME, DON'T READ ANYTHING ABOUT
23 THIS CASE, DON'T LISTEN TO ANY RADIO OR TELEVISION REPORTS
24 ABOUT IT AND DON'T TALK WITH ANYONE ABOUT IT OR ALLOW
25 ANYONE TO TALK WITH YOU ABOUT IT AND JUST FORGET ABOUT IT

HEARING

50

1 FOR THE NEXT FEW HOURS AND REPORT BACK THIS AFTERNOON AT
2 2:00 O'CLOCK _____ WITH ANY MATTERS THAT YOU WILL NEED FOR
3 FIVE OR SIX DAYS. THANK YOU, SIR.

4 MR. REWIS: THANK YOU.

5 THE COURT: COUNSELORS, THAT'S 35. I'M GONNA
6 QUALIFY ONE MORE JUROR BECAUSE I'LL HAVE TO MAKE A DECISION
7 ABOUT WHAT I'M GONNA DO ABOUT ... WHAT THE APPROPRIATE
8 THING TO DO REGARDING THE GENTLEMAN WHO HAS DIETARY
9 PROBLEMS THAT ... AND WHETHER WE CAN ... CAN ACCEPT HIM ON
10 THE JURY. I THINK HE IS THE ONLY ONE THAT ... THAT HAS ANY
11 PROBLEMS. WE DISCUSSED EARLIER THERE IS A GENTLEMAN WHO IS
12 IN A WHEELCHAIR BUT AN INQUIRY WITH HIM ON THE RECORD
13 REVEALED THAT THAT IS NOT A PROBLEM, THAT HE CAN USE A
14 REGULAR HOTEL ROOM AND DOES NOT HAVE TO HAVE SPECIAL ROOM
15 SO HE CAN BE SEQUESTERED WITH THE REMAINDER OF THE JURORS.
16 THAT'S NO PROBLEM. THE ONLY QUESTION IS WHETHER OR NOT WE
17 CAN ACCOMMODATE MR. PRICE AND I WILL MAKE A DECISION ON
18 THAT. THAT BEING THE CASE THEN, WE WILL CALL THE NEXT
19 INDIVIDUAL ON PANEL NUMBER 12 AND THAT IS MR. COPELAND,
20 JUROR NUMBER 41.

21 BAILIFF: JUROR NUMBER 41, MR. COPELAND.

22 THE COURT: GOOD MORNING, MR. COPELAND. THANK
23 YOU FOR BEING HERE AND THANK YOU FOR YOUR PATIENCE.

24 MR. _____: YOUR HONOR, _____.

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THE COURT: IS THAT WHAT THAT IS?

MR. _____: YES, SIR.

THE COURT: SEEMS A _____ WARM IN HERE. DO YOU
KNOW IF THERE'S ANYTHING THAT NEEDS TO BE ... OKAY?

MR. _____: _____.

THE COURT: WELL, WE'LL WAIT A FEW MINUTES AND SEE
WHERE WE STAND. AGAIN, MR. COPELAND, LET ME APOLOGIZE FOR
JERKING YOU AROUND A LITTLE BIT AND KEEPING YOU WAITING BUT
WE ARE TRYING TO GET THE JURY QUALIFICATIONS TAKEN CARE OF
AND WE'VE BEEN WORKING AT IT STEADILY FOR TWO DAYS AND I DO
APOLOGIZE FOR ANY INCONVENIENCE THAT THIS HAS CAUSED YOU.
WE STILL NEED TO ASK YOU SOME QUESTIONS TO DETERMINE YOUR
QUALIFICATIONS TO SERVE ON A JURY THIS WEEK. LET ME TELL YOU
THAT THE QUESTIONS THAT WE'RE HAVING TO ASK, THEY'RE NOT ...
THEY ARE ... SOME OF THEM ARE PERSONAL BUT THEY'RE NOT
DESIGNED TO INVADE YOUR PRIVACY. THEY'RE SIMPLY MATTERS
THAT WE NEED TO INQUIRE INTO TO DETERMINE YOUR
QUALIFICATIONS AND THERE ARE NO RIGHT OR WRONG ANSWERS TO
THESE QUESTIONS. THEY'RE SIMPLY DESIGNED TO TELL YOU ... TO
TELL US HOW YOU FEEL ABOUT CERTAIN MATTERS AND WHAT YOUR
POINT OF VIEW IS. I WOULD ALSO TELL YOU THAT YEST ... TWO DAYS
AGO I GUESS NOW, TUESDAY, WHEN YOU FIRST CAME HERE YOU
TOOK AN OATH TO TELL THE TRUTH AND YOU ARE STILL UNDER THAT
OATH AND ANY ANSWERS YOU GIVE US TODAY WOULD BE SWORN
TESTIMONY. DO YOU UNDERSTAND THAT?

HEARING

1 MR. COPELAND: YES, SIR.

2 THE COURT: NOW, IN THIS CASE, MR. COPELAND, MR.
3 BOBBY WAYNE STONE WHO'S THE GENTLEMAN IN THE WHITE SHIRT
4 SEATED OVER WITH NEXT TO MR. BABB HAS ALREADY BEEN FOUND
5 TO BE GUILTY OF THE CRIME OF MURDER OF DEPUTY CHARLES
6 KUBALA. SO THAT ISSUE OF WHETHER HE IS OR IS NOT GUILTY IS NOT
7 GOING TO BE BEFORE THE JURY. THAT HAS ALREADY BEEN DECIDED.
8 THE ONLY ISSUE THAT THE JURY WILL DEAL WITH IS THE
9 PUNISHMENT TO BE IMPOSED FOR ... FOR THIS MURDER AND IN THAT
10 CONNECTION I NEED TO ASK YOU IF YOU'VE BEEN OVER THE SHEET
11 THAT I GAVE YOU AND WAS IN THE JURY ROOM DESCRIBING THE
12 THREE TYPES OF JURORS. HAVE YOU READ THAT?

13 MR. COPELAND: YES, SIR.

14 THE COURT: ALL RIGHT. AND HAVING READ THAT, WHICH
15 ONE OF THE THREE TYPES WOULD YOU THINK BEST DESCRIBES YOU,
16 TYPE ONE, TYPE TWO OR TYPE THREE?

17 MR. COPELAND: I WOULD SAY TYPE THREE.

18 THE COURT: TYPE THREE? ALL RIGHT. SO WHAT YOU ARE
19 SAYING IS THAT ... NOW I JUST WANT TO MAKE SURE THAT I
20 UNDERSTAND YOU CORRECTLY ... THAT AFTER LISTENING TO THE
21 FACTS AND CIRCUMSTANCES SURROUNDING THIS CASE AND
22 _____ ABOUT THOSE FACTS AND CIRCUMSTANCES AND
23 DEPENDING ON WHETHER THE STATE HAS PROVEN THE AGGRAVATED
24 CIRCUMSTANCES THAT THEY PRESENTED BEYOND A REASONABLE
25 DOUBT AND ALSO LISTENING TO ANY EXTENUATING OR MITIGATING

1 CIRCUMSTANCES THAT THE STATE MIGHT REVIEW THAT YOU COULD
2 EITHER FIND LIFE IMPRISONMENT OR YOU COULD FIND IF THE FACTS
3 JUSTIFY IT A PUNISHMENT OF DEATH, IS THAT CORRECT?

4 MR. COPELAND: NO, SIR.

5 THE COURT: THAT'S NOT CORRECT?

6 MR. COPELAND: NO, SIR.

7 THE COURT: ALL RIGHT. LET ME GO OVER THE THREE
8 TYPES AGAIN. ALL RIGHT. TYPE ... TYPE ONE IS THE TYPE JUROR THAT
9 ONCE A CRIME HAS BEEN COMMITTED, ONCE THE CRIME OF MURDER
10 HAS BEEN COMMITTED AND THE JURY IS CONSIDERING THE
11 PUNISHMENT, THAT JUROR FEELS THAT HE OR SHE IS REQUIRED TO
12 GIVE THE DEATH PENALTY IN EVERY CASE. HE FEELS THAT ONCE A
13 MURDER HAS BEEN COMMITTED DEATH PENALTY IS THE MOST
14 APPROPRIATE PUNISHMENT. THAT'S THE TYPE ONE. TYPE TWO IS ONE
15 WHO EVEN THOUGH THE GUILT OF THE DEFENDANT HAS BEEN
16 DETERMINED AS IT HAS BEEN IN THIS CASE THAT ... THAT THE
17 DEFENDANT IS GUILTY OF MURDER, THE TYPE TWO JUROR IS ONE
18 THAT UNDER NO CIRCUMSTANCES WOULD EVER GIVE THE DEATH
19 PENALTY. THAT JUROR WOULD NOT NEED TO HEAR THE FACTS AND
20 CIRCUMSTANCES AND IN AGGRAVATION AND MITIGATION AND
21 WOULD NOT NEED TO HEAR THE LAW FROM THE COURT BECAUSE
22 THAT JUROR WILL HAVE ALREADY DECIDED AND MADE UP HIS OR
23 HER MIND THAT EITHER HE OR SHE COULD NOT GIVE THE DEATH
24 PENALTY IN ANY CASE. AND THEN TYPE THREE IS ONE THAT EVEN
25 THOUGH AGAIN THE ... ONCE THE GUILT OF THE DEFENDANT HAS

1 BEEN DECIDED AS IT HAS BEEN IN THIS CASE THAT JUROR WOULD NOT
2 HAVE HIS OR HER MIND MADE UP IN ADVANCE AND WOULD NEED TO
3 HEAR ALL THE FACTS AND CIRCUMSTANCES IN AGGRAVATION AND
4 MITIGATION AND WOULD LISTEN TO AND FOLLOW THE LAW THE
5 COURT GIVES THEM BEFORE HE WOULD MAKE A DECISION
6 REGARDING PUNISHMENT AND THAT IF THE FACTS WARRANTED IT
7 COULD RETURN A VERDICT OF LIFE IN PRISON OR DEATH. SO
8 SUMMARIZING, TYPE ONE IS ONE THAT THINKS THE DEATH PENALTY
9 IS APPROPRIATE IN EVERY CASE. TYPE TWO IS THE TYPE WHO WOULD
10 NEVER BE ABLE TO IMPOSE THE DEATH PENALTY. TYPE THREE IS THE
11 ONE WHO WOULD LISTEN TO ALL OF THE FACTS AND CIRCUMSTANCES
12 ... ALL RIGHT. SO YOU ARE A TYPE THREE.

13 MR. COPELAND: YES, SIR.

14 THE COURT: SO THAT ... LET'S MAKE SURE NOW. YOU
15 SEEM TO HAVE MISUNDERSTOOD SO LET'S ASK AGAIN JUST TO MAKE
16 SURE SO THERE WILL BE NO MISUNDERSTANDING. SO WHAT YOU'RE
17 SAYING IS THAT AFTER LISTENING TO THE FACTS AND
18 CIRCUMSTANCES SURROUNDING THE CASE, AND TAKING ON BOTH
19 SIDES AND CIRCUMSTANCES, YOU COULD EITHER FIND LIFE IN PUNISH
20 ... IN PRISON OR DEATH IF THE FACTS SO WARRANT IT. IS THAT
21 CORRECT?

22 MR. COPELAND: YES, SIR.

23 THE COURT: MR. HERRING, SEE WHAT YOU CAN DO
24 ABOUT THAT. ALL RIGHT. NOW, THE STATE WILL BE ATTEMPTING TO
25 PROVE AND MUST PROVE BEYOND A REASONABLE DOUBT AT LEAST

1 ONE AGGRAVATING CIRCUMSTANCE. AGGRAVATING
2 CIRCUMSTANCES ARE DETAILS OR FACTS OR OCCURRENCES THAT
3 HAPPEN IN CONNECTION WITH THE COMMISSION OF THE CRIME
4 WHICH MAKE THE CRIME MORE SEVERE OR MAKE THE PUNISHMENT
5 FOR THE CRIME MORE SEVERE, INCREASE THE ENORMITY OF THE
6 CRIME. THE STATE WILL BE REQUIRED TO PROVE AT LEAST ONE
7 AGGRAVATED CIRCUMSTANCE BEYOND A REASONABLE DOUBT AND
8 THAT'S SO THE JURY WILL THEN ... IF THEY PROVE THAT THE JURY
9 WILL THEN CONSIDER THE PUNISHMENT. THE DEFENSE WILL ALSO
10 HAVE THE RIGHT AND WILL PRESENT CERTAIN STATUTORY
11 MITIGATING CIRCUMSTANCES. NOW, THOSE ARE FACTS OR
12 CIRCUMSTANCES WHICH LESSEN OR MAKE LESS SEVERE THE CRIMES
13 OF MURDER AND THERE ARE CERTAIN ONES THAT OUR LEGISLATURE
14 HAS SAID THE JURY SHOULD CONSIDER AND I WOULD INSTRUCT YOU
15 ON THOSE AS PART OF THE LAW IN THIS CASE. AND THEN THERE ARE
16 OTHERS THAT ARE NOT LEGAL MITIGATING CIRCUMSTANCES BUT ARE
17 MITIGATING CIRCUMSTANCES THAT YOU CAN CONSIDER. THEY ARE
18 LEGAL MITIGATING CIRCUMSTANCES AND NOT STATUTORY
19 MITIGATING CIRCUMSTANCES. BUT THERE ARE MITIGATING
20 CIRCUMSTANCES THAT YOU COULD CONSIDER. SO WHAT YOU WILL
21 BE DOING IN THIS CASE IS BE CONSIDERING THE AGGRAVATING
22 CIRCUMSTANCES PRESENTED BY THE STATE, THE MITIGATING
23 CIRCUMSTANCES PRESENTED BY THE DEFENSE AND THEN MAKE A
24 DECISION BASED UPON ALL OF THOSE FACTS. WOULD YOU BE ABLE
25 TO DO THAT?

HEARING

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1 MR. COPELAND: YES, SIR.

2 THE COURT: AND ASSUMING THAT YOU FOUND THAT THE
3 STATE HAS PROVEN AGGRAVATING CIRCUMSTANCES AND AFTER
4 WEIGHING ALL THE EVIDENCE OF THIS CASE FROM BOTH SIDES, THE
5 STATE AND THE DEFENSE, IF YOU FELT THAT THE APPROPRIATE
6 PUNISHMENT WAS LIFE IN PRISON AND YOU WOULD BE ASKED TO
7 SIGN A VERDICT FORM, SIGN YOUR NAME ALONG WITH THE OTHER 11
8 MEMBERS OF THE JURY TO A VERDICT FORM THAT SAYS THE
9 DEFENDANT IS SUBJECT TO LIFE IN PRISON, COULD YOU SIGN YOUR
10 NAME TO THAT FORM?

11 MR. COPELAND: YES, SIR.

12 THE COURT: ON THE OTHER HAND, IF YOU THOUGHT THE
13 FACTS WARRANTED IT AFTER HEARING THE AGGRAVATING
14 CIRCUMSTANCES FROM THE STATE AND THE MITIGATING
15 CIRCUMSTANCES FROM THE DEFENSE, AND IN YOUR MIND YOU
16 THOUGHT IT WAS THE RIGHT PUNISHMENT TO BE IMPOSED, YOU AND
17 THE OTHER 11 MEMBERS OF THE JURY WOULD ALL HAVE TO AGREE
18 AND WOULD BE REQUIRED TO SIGN THE FORM THAT SAYS THE
19 APPROPRIATE PUNISHMENT IS DEATH. COULD YOU SIGN THAT FORM
20 IN THE APPROPRIATE CASE ... I MEAN UNDER THE APPROPRIATE
21 CIRCUMSTANCES?

22 MR. COPELAND: YES, SIR.

23 THE COURT: ALL RIGHT, SIR. ALL RIGHT, MR. COPELAND,
24 LET ME ASK YOU THIS, HAVE YOU HEARD ANYTHING ... DO YOU KNOW
25 ANYTHING ABOUT THIS CASE?

HEARING

1 MR. COPELAND: YEARS AGO I DID.

2 THE COURT: ALL RIGHT, YEARS AGO. HOW LONG AGO?

3 MR. COPELAND: ABOUT THREE ... THREE YEARS.

4 THE COURT: OKAY. WHAT DID YOU HEAR?

5 MR. COPELAND: POLICE OFFICER GOT KILLED ON THE
6 BOULEVARD ROAD. SINCE I STAY ON THE BOULEVARD ROAD NOT TOO
7 FAR FROM THERE.

8 THE COURT: ALL RIGHT. WHEN IT HAPPENED WERE YOU
9 IN THE AREA? WERE YOU ... HAVE YOU HAD ANY FIRST HAND
10 KNOWLEDGE OF IT?

11 MR. COPELAND: I LIVE NOT TOO FAR FROM THE STORE.

12 THE COURT: OKAY. HOW DID YOU HEAR WHAT YOU
13 HEARD? JUST BY TALK IN THE COMMUNITY?

14 MR. COPELAND: FRIENDS. YEAH, IN THE COMMUNITY.

15 THE COURT: OKAY. AND THAT WAS THAT A POLICE
16 OFFICER HAD BEEN KILLED, IS THAT RIGHT?

17 MR. COPELAND: YES, SIR.

18 THE COURT: HOW ABOUT AFTER THAT, HAVE YOU HEARD
19 ANYTHING ABOUT THE CASE, ABOUT THE INDIVIDUAL
20 BEING ARRESTED FOR IT OR THE COURT
21 ABOUT THAT?

22 MR. COPELAND: I KNOW
23 ARRESTED I DON'T KNOW SINCE THE COURT

24 THE COURT: YOU KNOW
25 IT.

23
24
25
X

HEARING

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1 MR. COPELAND: YEAH, THAT'S ALL.

2 THE COURT: YOU KNOW WHAT HAPPENED TO HIM IN
3 COURT? DO YOU KNOW WHAT THE DECISION WAS OR IF HE'S BEEN TO
4 COURT?

5 MR. COPELAND: NO, SIR.

6 THE COURT: ALL RIGHT. I TOLD YOU MR. BOBBY WAYNE
7 STONE HAS TO BEEN TO COURT AND HE'S ALREADY CONVICTED OF
8 MURDER. THAT'S MR. STONE IN THE WHITE SHIRT SITTING OVER BY
9 MR. BABB. BUT YOU'RE TELLING ME PRIOR TO ME TELLING YOU THAT
10 TODAY YOU DID NOT KNOW THAT HE'D BEEN CONVICTED OF MURDER.
11 ...

12 MR. COPELAND: NO. NO, SIR.

13 THE COURT: ALL RIGHT. NOW, HOW ABOUT ANY NEWS
14 ARTICLES OR TELEVISION REPORTS OR ANYTHING LIKE THAT IN THE
15 LAST THREE MONTHS, HAVE YOU SEEN OR READ ANYTHING ABOUT
16 THIS CASE AT ALL?

17 MR. COPELAND: NO, SIR.

18 THE COURT: ALL RIGHT. AND FINALLY ... NOT FINALLY
19 BUT HAVE YOU FORMED AFTER KNOWING WHAT THE ISSUES ARE
20 GOING TO BE IN THIS CASE AND WHAT THE JURY IS GOING TO BE
21 ASKED TO DO, HAVE YOU FORMED ANY OPINION AS TO WHAT YOUR
22 VERDICT SHOULD BE IN THIS CASE AT THIS TIME?

MR. COPELAND: _____.

THE COURT: AND FINALLY, MR. COPELAND, I WILL TELL
YOU THAT IF YOU ARE SELECTED AS A JUROR IN THIS CASE YOU WILL

1 BE SEQUESTERED. THAT MEANS THAT YOU WILL BE HOUSED ALONG
2 WITH YOUR FELLOW JURORS IN A HOTEL FOR FIVE TO SIX DAYS UNTIL
3 THIS MATTER IS CONCLUDED STARTING TODAY. OTHER THAN THE
4 PERSONAL INCONVENIENCE THAT WOULD CAUSE YOU WOULD THAT
5 CAUSE ANY UNDUE HARDSHIP TO YOU OR ANY MEMBER OF YOUR
6 FAMILY THAT IS DEPENDANT UPON YOU TO BE AWAY FROM THEM
7 AND HOUSED IN A HOTEL FOR THE NEXT FIVE DAYS?

8 MR. COPELAND: NO, SIR.

9 THE COURT: ALL RIGHT. THANK YOU, MR. COPELAND. I
10 APPRECIATE YOUR CANDID COMMENTS AND NOW THE LAWYERS ARE
11 GONNA WANT TO ASK YOU SOME QUESTIONS. MR. JACKSON WILL ASK
12 YOU FIRST. MR. JACKSON.

13 MR. JACKSON: THANK YOU, YOUR HONOR. GOOD
14 MORNING, MR. COPELAND.

15 MR. COPELAND: HOW YOU DOING?

16 MR. JACKSON: I'M DOING FINE. MY NAME IS KELLY
17 JACKSON AND I'M THE SOLICITOR HERE IN SUMTER COUNTY. IT'S MY
18 RESPONSIBILITY AND THE RESPONSIBILITY OF MY OFFICE TO BRING
19 THESE CASES TO COURT WHICH IS WHAT WE'RE DOING. THIS IS MR.
20 DUDLEY SALEEBY. HE'S SEATED AT THE STATE'S TABLE WITH ME AND
21 HE AND I WILL BE PRESENTING THIS CASE POSSIBLY TO YOU OR TO
22 THE OTHER JURORS. LET ME ASK YOU A FEW QUESTIONS AND PLEASE
23 UNDERSTAND WE'RE NOT TRYING TO PRY INTO YOUR LIFE OR
24 INFLUENCE YOU OR ... OR CHANGE YOUR MIND. WE JUST NEED TO
25 UNDERSTAND A FEW THINGS ABOUT YOU. YOU MENTIONED THAT

HEARING

1 YOU LIVED ON THE BOULEVARD ROAD.

2 MR. COPELAND: I STILL DO.

3 MR. JACKSON: YOU STILL DO.

4 MR. COPELAND: YES, SIR.

5 MR. JACKSON: WERE YOU LIVING THERE IN '96 OR '97?

6 MR. COPELAND: YES. YES, SIR.

7 MR. JACKSON: ALL RIGHT. DID YOU ... MR. BOBBY WAYNE
8 STONE LIVED OFF THE BOULEVARD ROAD AS WELL. DID YOU ... DID
9 YOU KNOW HIM OR ANY OF HIS FAMILY?

10 MR. COPELAND: NO, I JUST HEARD OF HIM.

11 MR. JACKSON: OKAY. YOU KNOW WHERE THE ... WHERE
12 THE BOYS AND GIRLS CLUB IS?

13 MR. COPELAND: YES, SIR.

14 MR. JACKSON: WHEN ... WHEN THE JUDGE WAS ASKING
15 YOU ABOUT WHICH TYPE JUROR THAT YOU FIT INTO HE WAS
16 EXPLAINING THE DEFINITION OF A JUROR NUMBER THREE. WHEN HE
17 ... WHEN HE GOT INTO THE DEFINITION YOU PAUSED AND SLOWED HIM
18 DOWN AND SAID MAYBE YOU WERE NOT A NUMBER THREE AND
19 THAT'S WHEN HE WAS TALKING ABOUT THE DEATH PENALTY. CAN
20 YOU TELL US WHY ... WHY YOU PROMPTED HIM THAT THAT WOULD
21 NOT BE YOU?

22 MR. COPELAND: CAUSE I ... JUST FROM MY POINT OF VIEW
23 THERE'S ALWAYS TWO SIDES TO THE STORY.

24 MR. JACKSON: YES, SIR.

25 MR. COPELAND: THAT'S WHAT, YOU KNOW, AIN'T NOBODY

THIRD JUDICIAL CIRCUIT

(803) 436-2150

HEARING

1 PROVEN INNOCENT UNTIL PROVE GUILT.

2 MR. JACKSON: OKAY.

3 MR. COPELAND: THAT'S WHAT I SAID.

4 MR. JACKSON: OKAY. YOU UNDERSTAND MR. STONE'S
5 ALREADY BEEN PROVEN GUILTY. HE'S ALREADY BEEN ...

6 MR. COPELAND: OH, OKAY.

7 MR. JACKSON: HE'S ALREADY BEEN ... HE'S ALREADY
8 GUILTY OF MURDER. SO THIS PROCEEDING WILL NOT BE ABOUT
9 WHETHER OR NOT HE'S GUILTY ... GUILTY OR INNOCENT OF MURDER.
10 H E'S BEEN FOUND GUILTY OF MURDER. THIS PROCEEDING WILL BE
11 ABOUT WHETHER ... WHETHER YOU THINK IT'S PROPER TO
12 RECOMMEND A SENTENCE OF LIFE FOR HIM IN THE PENITENTIARY OR
13 WHETHER YOU THINK IT'S APPROPRIATE TO RECOMMEND A DEATH
14 SENTENCE FOR HIM. THAT'S WHAT THIS PROCEEDING IS ALL ABOUT.
15 YOU FOLLOW ME ON THAT?

16 MR. COPELAND: YES, SIR.

17 MR. JACKSON: ALL RIGHT. WHAT WE NEED TO KNOW
18 THEN IS IF YOU HEAR EVERYTHING FROM THE STATE WHICH WE CALL
19 AGGRAVATING CIRCUMSTANCES AND YOU ALSO HEAR MITIGATING
20 CIRCUMSTANCES, THINGS THAT MAY LESSEN THE MURDER THAT WAS
21 COMMITTED HERE, DO YOU THINK THAT IF IT WAS APPROPRIATE YOU
22 COULD RECOMMEND A LIFE SENTENCE FOR BOBBY WAYNE STONE?

23 MR. COPELAND: HARD TO SAY. THAT'S HARD TO SAY. IT'S
24 HARD TO SAY. TO BE HONEST IT'S HARD TO SAY.

25 MR. JACKSON: OKAY. IF YOU THOUGHT IT WAS

HEARING

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1 APPROPRIATE COULD YOU ACTUALLY SIGN YOUR NAME TO WHAT
2 OTHERWISE WOULD BE A DEATH WARRANT SENTENCING BOBBY
3 WAYNE STONE TO DEATH EITHER BY ELECTROCUTION OR BY LETHAL
4 INJECTION, WOULD YOU SIGN ... SIGN MR. HARRY COPELAND, III ON A
5 PIECE OF PAPER PUTTING HIM TO DEATH?

6 MR. COPELAND: OKAY, FIRST OF ALL, THIS IS MY FIRST
7 TIME IN COURT.

8 MR. JACKSON: OH, AND I ...

9 MR. COPELAND: AND I'M NERVOUS.

10 MR. JACKSON: I UNDERSTAND.

11 MR. COPELAND: TELL YOU THE TRUTH ...

12 MR. JACKSON: HEY, DON'T LET ME ... DON'T LET ME MAKE
13 YOU NERVOUS.

14 MR. COPELAND: IT'S JUST ...

15 THE COURT: RELAX, MR. COPELAND. YOU'RE NOT ON
16 TRIAL.

17 MR. JACKSON: NOT AT ALL.

18 THE COURT: AND I JUST WANT TO TELL YOU THERE'S NO
19 RIGHT OR WRONG ANSWERS. ALL WE WANT TO KNOW IS HOW YOU
20 FEEL. YOU JUST BE HONEST AND TELL US HOW YOU FEEL. THERE'S NO
21 RIGHT OR WRONG ANSWERS. NOBODY'S TRYING TO GET YOUR TO
22 CHANGE YOUR MIND. NOBODY'S TRYING TO PUT WORDS IN YOUR
23 MOUTH. YOU JUST ... JUST TELL US HOW YOU FEEL ABOUT IT. THAT'S
24 WHAT MR. JACKSON IS ASKING YOU AND THAT'S WHAT WE ALL WANT
25 TO KNOW. JUST RELAX AND DON'T WORRY ABOUT WHAT YOUR

HEARING

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1 ANSWERS ARE. AS I SAY THERE ARE NO RIGHT OR WRONG ANSWERS.
2 WE JUST WANT TO ... ALL RIGHT, MR. JACKSON, ASK HIM AGAIN.

3 MR. JACKSON: ALL RIGHT, SIR. DO YOU ... DO YOU THINK
4 THAT ... THAT ONCE YOU'VE HEARD EVERYTHING THAT IF YOU
5 THOUGHT IT WAS APPROPRIATE YOU COULD SIGN YOUR NAME TO
6 WHAT OTHERWISE WOULD BE A DEATH WARRANT FOR BOBBY
7 WAYNE STONE. YOU COULD SIGN MR. HARRY COPELAND, III ON A
8 FORM THAT RECOMMENDS THAT BOBBY WAYNE STONE BE PUT TO
9 DEATH EITHER BY ELECTROCUTION OR BY LETHAL INJECTION?

10 MR. COPELAND: YES, SIR.

11 MR. JACKSON: YOU COULD DO THAT. ON THE OTHER SIDE,
12 IF YOU THOUGHT IT WAS APPROPRIATE FOR HIM TO GET A LIFE
13 SENTENCE, COULD YOU DO THAT?

14 MR. COPELAND: YES, SIR.

15 MR. JACKSON: THAT DOESN'T GIVE YOU ANY PROBLEM OR
16 ANY RESERVATION EITHER WAY?

17 MR. COPELAND: NO, SIR.

18 MR. JACKSON: OKAY. ANYTHING THAT YOU MAY HAVE
19 HEARD ABOUT THE CASE BEFORE YOU CAME INTO COURT THIS WEEK,
20 CAN YOU PUT THAT ASIDE AND JUST LISTEN TO EVERYTHING'S THAT
21 PRESENTED THIS WEEK ...

22 MR. COPELAND: YES.

23 MR. JACKSON: ... AND THEN MAKE A FAIR DECISION FOR
24 BOTH SIDES?

25 MR. COPELAND: YES, I CAN.

HEARING

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1 MR. JACKSON: THANK YOU, MR. COPELAND, FOR
2 ANSWERING MY QUESTIONS. I APPRECIATE YOUR HONESTY.

3 THE COURT: ALL RIGHT. MR. BABB? WAIT A MINUTE. MR.
4 BABB NEEDS TO ASK YOU SOME. DON'T LEAVE YET. I KNOW YOU'RE
5 ANXIOUS TO GET OUT BUT DON'T LEAVE YET.

6 MR. BABB: GOOD MORNING, MR. COPELAND.

7 MR. COPELAND: HOW YOU DOING?

8 MR. BABB: I'M JIM BABB. I'LL BE ASSISTING CAMERON
9 LITTLEJOHN HERE IN DEFENDING MR. STONE IN THIS CASE. I'M NOT
10 GONNA ASK YOU ANY TRICK QUESTIONS, JUST RELAX. YOU'VE NOTED
11 A LITTLE ... A LITTLE HESITANCY IN ANSWERING SOME OF THE
12 QUESTIONS, IS THAT BECAUSE IT'S A ... YOU UNDERSTAND IT'S A
13 DIFFICULT DECISION YOU'D BE CALLED UPON TO MAKE?

14 MR. COPELAND: YES, SIR.

15 THE COURT: ANSWER OUT LOUD.

16 MR. BABB: THIS LADY HAS TO TAKE EVERYTHING YOU
17 SAY DOWN ...

18 MR. COPELAND: YES, SIR.

19 THE COURT: THAT'S GOOD.

20 MR. BABB: I KNOW YOU'RE NOT USED TO COURT BUT IT'S
21 IMPORTANT THAT SHE RECORD THESE PROCEEDINGS. NOW, YO LIVED
22 OVER ON BOULEVARD ROAD.

23 MR. COPELAND: YES, I DO.

24 MR. BABB: AND I BELIEVE YOU SAID YOU HAD HEARD OF
25 BOBBY WAYNE STONE. WHAT DID YOU MEAN BY YOU HAD HEARD OF

HEARING

1 HIM? CAN YOU TELL ME HOW YOU HEARD OF HIM?

2 MR. COPELAND: I HEARD A GUY ... A GUY WHO KILLED A
3 COP ON BOULEVARD ROAD.

4 MR. BABB: OKAY.

5 MR. COPELAND: YEARS AGO.

6 MR. BABB: SO YOU HAD JUST HEARD HE WAS A
7 DEFENDANT IN THAT CASE.

8 MR. COPELAND: I —

9 MR. BABB: YOU HADN'T HEARD OF HIM BECAUSE HE
10 LIVED IN YOUR NEIGHBORHOOD PER SE. OKAY. I WAS ...

11 THE COURT: ...

12 MR. COPELAND: NO.

13 MR. BABB: I WAS JUST TRYING TO GET THE
14 CIRCUMSTANCES OF HOW YOU HAD HEARD OF HIM BUT IT WAS IN
15 CONNECTION WITH THIS CASE.

16 MR. COPELAND: THIS CASE.

17 MR. BABB: NOW, YOU ALSO SAID THAT FOLKS OR THAT
18 YOU BELIEVE FOLKS WERE INNOCENT UNTIL PROVEN GUILTY.

19 MR. COPELAND: YES, SIR.

20 MR. BABB: SO YOU ... DO YOU AGREE THAT WHEN THE
21 STATE IS REQUIRED TO PROVE THINGS BEYOND A REASONABLE
22 DOUBT THAT THAT'S EXACTLY WHAT THEY HAVE TO DO, PROVE TO
23 YOU BEYOND A REASONABLE DOUBT?

24 MR. COPELAND: YES, SIR.

25 MR. BABB: AND ARE YOU CAPABLE OF DOING THAT?

HEARING

1 MR. COPELAND: YES, SIR.

2 MR. BABB: YOU CAN LISTEN TO THE FACTS AND
3 CIRCUMSTANCES IN THE CASE AND ON ... IF YOU'RE CALLED UPON TO
4 DECIDE CERTAIN FACTS BEYOND A REASONABLE DOUBT AND DECIDE
5 THOSE FACTS ON THAT BASIS?

6 MR. COPELAND: YES.

7 MR. BABB: AND BE FAIR TO BOTH SIDES?

8 MR. COPELAND: YES, SIR.

9 MR. BABB: OKAY. NOW, IF IN A CASE LIKE THIS YOU ...
10 YOU MAY ... THERE MAY BE A SITUATION THAT ARISES WHERE YOU'RE
11 CALLED UPON THEN TO ALSO HAVE TO DECIDE ON THE ISSUE OF
12 SENTENCING. AND IF SO, THEN YOUR OPTIONS AT THAT POINT IN TIME
13 IF WE GET TO THAT WOULD BE LIFE IMPRISONMENT OR DEATH. AND I
14 NOTED AGAIN YOU WERE A LITTLE HESITANT ABOUT SAYING YOU
15 COULD SIGN THOSE. AS I PERCEIVED YOUR ... YOUR BODY LANGUAGE
16 AGAIN IT WAS SIMPLY BECAUSE YOU UNDERSTAND THAT'S GONNA BE
17 A WEIGHTY DECISION.

18 MR. COPELAND: YES, SIR.

19 MR. BABB: IS THAT CORRECT?

20 MR. COPELAND: YES, SIR.

21 MR. BABB: BUT IF YOU AND ALL OF THE OTHER 11 JURORS
22 DECIDE THAT DEATH EITHER BY ELECTROCUTION OR BY LETHAL
23 INJECTION IS THE APPROPRIATE PUNISHMENT YOU WOULD SIGN WITH
24 THE REMAINDER OF THE JURY?

25 MR. COPELAND: YES, SIR, I WOULD.

1 MR. BABB: THE SAME IF YOU DECIDE THAT THERE WERE
2 MITIGATING CIRCUMSTANCES AND LIFE WERE THE APPROPRIATE OR
3 IF YOU JUST DECIDED PERIOD LIFE WERE THE APPROPRIATE PENALTY
4 COULD YOU SIGN THAT?

5 MR. COPELAND: YES, SIR.

6 MR. BABB: NOW, IN CONSIDERING AGGRAVATING
7 CIRCUMSTANCES AND MITIGATING CIRCUMSTANCES THE DEFENSE
8 WOULD BE PUTTING UP MITIGATING CIRCUMSTANCES. SOME
9 MITIGATING CIRCUMSTANCES COULD CONCERN THE CRIME ITSELF.
10 SOME MAY NOT HAVE ANYTHING TO DO WITH THE CRIME BUT SIMPLY
11 HAVE TO DO WITH THE DEFENDANT, WITH HIS BACKGROUND, HIS
12 HISTORY, HOW HE WAS RAISED, HIS LIFE EXPERIENCES, ALL THOSE
13 THINGS THAT MAKE EACH OF US INDIVIDUAL AND UNIQUE HUMAN
14 BEINGS. COULD YOU LISTEN AND WOULD YOU LISTEN TO MITIGATING
15 EVIDENCE ABOUT A PERSON'S BACKGROUND AND THEIR HISTORY
16 AND FAIRLY CONSIDER THAT IN MAKING A DECISION AS TO LIFE AND
17 DEATH?

18 MR. COPELAND: YES.

19 MR. BABB: AND YOU COULD DO THE SAME WITH
20 AGGRAVATED CIRCUMSTANCES?

21 MR. COPELAND: YES, SIR.

22 MR. BABB: NOW, MR. COPELAND, ONCE ... IF YOU'RE ON A
23 JURY, ONCE YOU'VE HEARD ALL OF THE EVIDENCE, YOU'VE HEARD
24 THEN THE LAW FROM THE JUDGE, YOU'VE BEEN ASKED TO MAKE
25 DECISIONS AND YOU GO BACK IN THE JUROR ROOM AND YOU DISCUSS

1 IT WITH THE OTHER JURORS AND YOU FIND YOURSELF IN THE
2 SITUATION SUCH THAT YOU'VE MADE UP YOUR MIND BUT A
3 MAJORITY OF THE OTHER JURORS DISAGREE, ARE YOU THEN GONNA
4 SWITCH YOUR VOTE SO THAT WE'D HAVE A UNANIMOUS VERDICT?

5 MR. COPELAND: I'LL STICK WITH MINE.

6 MR. BABB: YOU'RE GONNA STICK WITH YOUR
7 CONVICTIONS?

8 MR. COPELAND: YES, SIR.

9 MR. BABB: YOU'RE NOT GONNA BE SWAYED SIMPLY BY
10 THE FACT THAT MORE OF THE PEOPLE ...

11 MR. COPELAND: ...

12 MR. BABB: YES, SIR.

13 MR. COPELAND: YES, SIR.

14 MR. BABB: THE FACT THAT THE REST OF THE JURY FEELS
15 A DIFFERENT WAY WILL NOT CAUSE YOU TO CHANGE OR SWAY YOUR
16 CONVICTIONS?

17 MR. COPELAND:

18 MR. BABB: AND DO YOU AGREE THAT LIFE IN PRISON IS A
19 SUBSTANTIAL AND HEAVY ... A SEVERE PENALTY?

20 MR. COPELAND: YES, I DO.

21 MR. BABB: THE COURT'S INDULGENCE. NOTHING
22 FURTHER, YOUR HONOR.

23 THE COURT: ALL RIGHT. THANK YOU, SIR. NOW YOU CAN
24 STEP DOWN, MR. COPELAND AND STEP RIGHT OUTSIDE THE DOOR AND
25 WAIT RIGHT THERE FOR A MINUTE AND WE'LL BE WITH YOU VERY

HEARING

1 SHORTLY. THANK YOU VERY MUCH. MR. JACKSON?

2 MR. JACKSON: HE'S QUALIFIED, YOUR HONOR.

3 THE COURT: THE DEFENSE?

4 MR. BABB: HE'S QUALIFIED, YOUR HONOR.

5 THE COURT: ALL RIGHT. ALL RIGHT, ASK MR. COPELAND
6 TO COME BACK IN.

7 BAILIFF: MR. COPELAND.

8 THE COURT: ALL RIGHT, MR. COPELAND, YOU HAVE BEEN
9 QUALIFIED AS A JUROR IN THIS CASE AND I APPRECIATE YOUR
10 CANDOR. NOW, WHAT I WANT TO DO ... YOU'VE BEEN QUALIFIED AS A
11 JUROR. THAT DOES NOT NECESSARILY MEAN THAT YOU'RE GONNA BE
12 CHOSEN AS A JUROR, YOU'RE JUST GOING TO BE ONE OF THE PANEL
13 AND WE'RE GONNA DRAW THAT JURY AT 2:00 O'CLOCK TODAY, THIS
14 JURY AT 2:00 O'CLOCK TODAY. I'M GONNA ALLOW YOU TO GO HOME
15 NOW AND WHAT I WANT YOU TO DO IS PACK YOUR CLOTHES, YOUR
16 PERSONAL BELONGINGS AND ANY MEDICATIONS OR ANYTHING THAT
17 YOU NEED FOR A LONG ENOUGH TIME FOR YOU TO STAY IN A MOTEL
18 FOR FIVE TO SIX DAYS. PUT THAT IN A SUITCASE, LEAVE THE
19 SUITCASE IN YOUR CAR AND REPORT BACK UP TO THE COURTROOM
20 HERE IN THE COURTROOM AT 2:00 O'CLOCK THIS AFTERNOON WITH
21 YOUR FELLOW JURORS. DO NOT BRING YOUR SUITCASE IN WITH YOU.
22 IF YOU ARE SELECTED AS A JUROR YOU WILL BE UNPACKING THAT
23 SUITCASE AT THE HOTEL LATER ON THIS AFTERNOON. IF YOU'RE NOT
24 SELECTED YOU'LL BE UNPACKING THAT SUITCASE TONIGHT, YOU'LL
25 GO BACK HOME CAUSE YOU'RE GONNA BE DISCHARGED AS A JUROR.

HEARING

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1 BETWEEN NOW AND THEN, JUST PUT THIS CASE OUT OF YOUR MIND
2 AND GET YOUR THINGS TOGETHER. DON'T TALK TO ANYBODY ABOUT
3 THE CASE, DON'T ALLOW ANYBODY TO TALK TO YOU ABOUT IT.
4 DON'T READ ANY NEWSPAPER ARTICLES OR ANYTHING, WATCH
5 ANYTHING ON TELEVISION THAT MIGHT RELATE TO THIS CASE. JUST
6 FORGET ABOUT THIS CASE BETWEEN THEN EXCEPT FOR GETTING
7 YOUR THINGS TOGETHER AND REPORT BACK UP HERE AT 2:00
8 O'CLOCK THESE AFTERNOON. ALL THOSE THINGS ... LEAVE YOUR
9 BAGS IN YOUR CAR AND IF YOU NEED THEM YOU'LL BE ABLE TO
10 UNPACK LATER TONIGHT. OKAY? THANK YOU. ALL RIGHT, COUNSEL,
11 ACCORDING TO MY COUNT THAT IS 36 JURORS. WHAT I WOULD LIKE
12 TO DO NOW IS GO OVER THAT LIST AND MAKE SURE THAT WE ALL ARE
13 ON THE SAME PAGE AND THAT WE ALL HAVE THE SAME ONES THAT
14 HAVE BEEN QUALIFIED AND THEN WE CAN COME BACK AND DISCUSS
15 CERTAIN THINGS ABOUT CERTAIN ONES JUST TO MAKE SURE THAT
16 THE RECORD IS COMPLETE. BUT ACCORDING TO MY RECORDS THE
17 FOLLOWING JURORS HAVE BEEN QUALIFIED IN THIS CASE: JUROR
18 NUMBER 13, MR. BEARD; JUROR NUMBER 150, MONTALBANO; JUROR
19 NUMBER 21, MS. BOLDEN; JUROR NUMBER 195, MS. ... MR. SIMS; JUROR
20 NUMBER 206, MS. SPANN; JUROR NUMBER 138, MS. MCLEAN; JUROR
21 NUMBER 137, MS. MCKNIGHT OR MR. MCKNIGHT; JUROR NUMBER 49,
22 MR. DAY; JUROR NUMBER 161, LYNNE NEWMAN; JUROR NUMBER 141,
23 WILLIE MCQUILLA; JUROR NUMBER 73, SHAWN GOLDEN OR SHARON
24 GOLDEN; JUROR NUMBER 123, STEVEN MAPLE; JUROR NUMBER 58,
25 JOSEPH R. EDWARDS; JUROR NUMBER 30, ROBIN BUDD; JUROR

THIRD JUDICIAL CIRCUIT
(803) 436-2150

HEARING

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1 NUMBER 5, VIRGINIA AYERS; JUROR NUMBER 114, KATHLEEN KREIPE;
2 JUROR NUMBER 110, MICKEY JONES; JUROR NUMBER 88, OZETA
3 HERRIOTT; JUROR NUMBER 189, GWENDOLYN SANDERS; JUROR
4 NUMBER 86, BRENT HARSCH; JUROR NUMBER 15, SHYRLE BENJAMIN;
5 JUROR NUMBER 210, JOSH SUMPTER; JUROR NUMBER 31, EUGENE
6 BURGESS; JUROR NUMBER 242, CYNTHIA WILLIAMS; JUROR NUMBER
7 168, ELVIN OSTEEN; JUROR NUMBER 24, JACK BRODE OR BRODE; JUROR
8 NUMBER 56, RANDY DOW; JUROR 198, JAMES SLATER; JUROR NUMBER
9 19, SANDRA BLANCHETTE; JUROR NUMBER 175, JOHN PRICE; JUROR
10 NUMBER 222, MS. ULERY; JUROR NUMBER 235, JUANITA WESTON ... NO,
11 I'M SORRY, SHE WAS NOT QUALIFIED. SKIP 235 ... JUROR 233, ANGELA
12 WEEKS; JUROR NUMBER 199, CARLA SMITH; JUROR NUMBER 157,
13 LUCILLE MYERS; JUROR NUMBER 180, EDWARD REWIS; AND JUROR
14 NUMBER 41, HARRY COPELAND. IS THAT ... DO YOU AGREE WITH THE
15 QUALIFIED ... THE LIST OF QUALIFIED JURORS, MR. JACKSON?

16 MR. JACKSON: WE DO, YOUR HONOR.

17 THE COURT: MR. LITTLEJOHN?

18 MR. LITTLEJOHN: YES, YOUR HONOR.

19 THE COURT: ALL RIGHT. NOW, LET'S GO BACK AND JUST
20 SO THE RECORD WILL ALL BE IN ONE PLACE IN THE TRANSCRIPT SO
21 WE'LL ALL BE ABLE TO FIND IT AND KNOW EXACTLY WHAT THOSE
22 THAT WERE NOT AGREED UPON AS FAR AS BEING KEPT OR
23 DISQUALIFIED BEGINNING FIRST WITH JUROR NUMBER 228, SHE WAS
24 DISQUALIFIED OVER THE DEFENDANT'S OBJECTION AND THAT
25 OBJECTION IS ... IS PRESERVED.

HEARING

1 MR. LITTLEJOHN: THAT IS CORRECT.

2 THE COURT: ALL RIGHT. THE NEXT ONE THAT I HAVE
3 THAT THERE IS ANY ... WAS ANY DISAGREEMENT ON WAS JUROR
4 NUMBER 162, WILLIAM NOCK, AND HE WAS DISQUALIFIED OVER THE
5 STATE'S OBJECTION, MR. JACKSON.

6 MR. JACKSON: THAT'S CORRECT.

7 THE COURT: ALL RIGHT. THE NEXT ONE THAT I HAVE IS
8 JUROR NUMBER 5, MS. AYERS AND SHE WAS QUALIFIED OVER THE
9 STATE'S OBJECTION.

10 MR. JACKSON: YES, SIR.

11 THE COURT: OKAY. THE NEXT ONE THAT I HAVE JUROR
12 NUMBER 140. HE WAS NOT QUALIFIED OVER THE STATE'S OBJECTION.
13 IS THAT WHAT YOU HAVE, MR. JACKSON, 140? YOU FELT HE WAS
14 QUALIFIED AND I RULED THAT HE WAS NOT QUALIFIED. I THINK THAT
15 WAS OVER YOUR OBJECTION.

16 MR. JACKSON: YES, SIR.

17 THE COURT: IS THAT RIGHT?

18 MR. JACKSON: YES, YOUR HONOR.

19 THE COURT: THEN THE NEXT ONE I HAVE IS JUROR
20 NUMBER 157 AND SHE WAS QUALIFIED OVER THE DEFENDANT'S
21 OBJECTION.

22 MR. LITTLEJOHN: YES, YOUR HONOR.

23 THE COURT: OKAY. ALL RIGHT. THAT'S ... AND OTHER
24 THAN THAT, ALL OF THE EITHER DISQUALIFICATIONS OR
25 QUALIFICATIONS WERE AGREED ON BY THE PARTIES EXCEPT FOR

1 THOSE ... THOSE EXCEPTIONS, DO YOU AGREE WITH THAT, MR.
2 JACKSON?

3 MR. JACKSON: YES, SIR, YOUR HONOR, WHICH WOULD
4 INCLUDE I BELIEVE 219, BONNIE TRAYNUM.

5 THE COURT: 219 ...

6 MR. JACKSON: WHO WAS QUALIFIED ...

7 THE COURT: WHAT PANEL WAS SHE ON?

8 MR. JACKSON: THAT WAS ... SHE ... THAT WAS THE
9 SECOND PANEL. SHE WAS THE ONE THAT SAID THAT HAD A PROBLEM
10 SOMETHING WITH THE FAMILY.

11 THE COURT: OH, OKAY.

12 MR. JACKSON: SHE WAS ACTUALLY THE SIXTH ONE THAT
13 WE ...

14 THE COURT: SHE WAS REMOVED ... MR. JACKSON ...

15 MR. JACKSON: SHE WAS EXCUSED.

16 THE COURT: SHE WAS EXCUSED?

17 MR. JACKSON: YEAH, SHE WAS THE ONE THAT CAME IN
18 THAT CAME IN ... THAT SENT IN THE ...

19 THE COURT: SHE'S THE ONE THAT HAS SINCE BEEN
20 EXCUSED.

21 MR. JACKSON: YES, SIR.

22 THE COURT: OKAY.

23 MR. JACKSON: THANK YOU.

24 THE COURT: SHE HAS BEEN EXCUSED BECAUSE SHE WAS
25 QUALIFIED AND THEN SHE THOUGHT SHE HAD ARRANGEMENTS MADE

HEARING

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1 FOR HER MOTHER WHO HAS TERMINAL CANCER AND ... AND WE HAD
2 A LETTER FROM HER SUPPORTED BY THE DOCTORS' STATEMENT THAT
3 SHE HAD — AND BY AGREEMENT SHE WAS EXCUSED. SHE WAS
4 QUALIFIED BUT EXCUSED. THAT IS CORRECT. ALL RIGHT. ANY
5 REASON THEN THAT I SHOULD NOT CALL IN THE REMAINDER OF THE
6 PANEL AND EXCUSE THEM FROM ANY FURTHER SERVICE ON THIS
7 CASE, MR. JACKSON?

8 MR. JACKSON: NOT THAT I'M AWARE OF, YOUR HONOR.

9 THE COURT: ALL RIGHT, MR. LITTLEJOHN?

10 MR. LITTLEJOHN: NO REASON WE'RE AWARE OF.

11 THE COURT: ALL RIGHT. MR. HERRING, WE DO HAVE ...
12 WE'VE GOT ... WE SHOULD HAVE ONE MORE ON PANEL 12 AND PANEL
13 13 AND 14 ARE SUPPOSED TO BE HERE. 15 MAY NOT BE HERE YET. 13
14 AND 14 OUGHT TO BE HERE. BUT IF YOU'LL JUST BRING EVERYBODY
15 THAT'S HERE AND WE'LL FIND OUT WHO'S HERE. COME ON IN. HAVE A
16 SEAT UP THERE IN THE JURY BOX. I WANT TO TALK TO YOU FOR JUST
17 A MOMENT. ALL RIGHT. GOOD MORNING, LADIES AND GENTLEMEN,
18 AND JUST SO I'LL KNOW YOU WERE HERE AND I NEED TO MAKE A
19 NOTE OF THAT, I'M GONNA RUN DOWN THE LIST AND IF YOU'LL JUST
20 ANSWER HERE SO WE'LL KNOW WHO WAS HERE AND WHO REPORTED
21 AND WHO HAS NOT REPORTED. ALBERT KEITH?

22 MR. KELLY: KELLY.

23 THE COURT: YOU'RE HERE? JUST SAY YOU'RE HERE.
24 THAT'S ALL YOU NEED TO SAY. ALL RIGHT. THANK YOU, SIR. CATHY
25 PHILLIPS?

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MS. PHILLIPS: HERE.

THE COURT: HANNAH GRAHAM?

MS. GRAHAM: HERE.

THE COURT: SHARON HUNTER?

MS. HUNTER: HERE.

THE COURT: DENNIS JACKSON?

MR. JACKSON: HERE.

THE COURT: MARY CHINA?

MS. CHINA: HERE.

THE COURT: IS THAT HERE? THANK YOU. MARK CARR?

MR. CARR: HERE.

THE COURT: THANK YOU. ADAM MCFADDEN?

MR. MCFADDEN: HERE.

THE COURT: MELVIN JONES?

MR. JONES: HERE.

THE COURT: TIM TRUETT?

MR. TRUETT: HERE.

THE COURT: MICHAEL PETTIS?

MR. PETTIS: HERE.

THE COURT: ALL RIGHT. ANYBODY'S NAME I HAVE NOT
CALLED?

BAILIFF: YOUR HONOR, WE HAVE ONE ON ... I THINK ON 15.
A LADY JUST CAME IN ON 15. YOUR NAME, PLEASE, MA'AM?

MS. WALTERS: LATOYA WALTERS.

THE COURT: LATOYA WALTERS? ALL RIGHT. MS.

1 WALTERS. ALL RIGHT. SO THAT LEAVES TWO ON 15 THAT HAVE BEEN
2 QUALIFIED AND THREE THAT WERE NOT QUALIFIED WE'LL TALK WITH
3 THEM IN A FEW MINUTES. I JUST WANTED TO FIND OUT. LADIES AND
4 GENTLEMEN, WE HAVE BEEN THROUGH FOR THE LAST TWO DAYS
5 GOING THROUGH THE QUALIFICATION PROCESS FOR THE JURY IN THE
6 CASE THE STATE VS. BOBBY WAYNE STONE. WE HAVE QUALIFIED THE
7 NECESSARY JURORS FOR THAT CASE SO IT'S NOT GOING TO BE
8 NECESSARY TO GO THROUGH ANY FURTHER QUALIFICATION PROCESS
9 WITH YOU AND I'M GOING TO EXCUSE YOU FROM ANY FURTHER
10 SERVICE THIS WEEK. YOU ARE NOT GOING TO NEED TO COME BACK,
11 YOU WILL NOT BE A PART OF THE JURY PANEL. THE JURY PANEL THAT
12 IS QUALIFIED IS GOING TO REPORT BACK HERE AT 2:00 O'CLOCK
13 TODAY AND WE'RE GOING TO BEGIN THE TRIAL IN THIS CASE. BUT I'M
14 GOING TO BE ABLE TO EXCUSE YOU FROM ANY FURTHER SERVICE. I
15 DO WANT TO THANK YOU FOR YOUR WILLINGNESS TO COME AND
16 SERVE ON THE JURY. I KNOW YOU DIDN'T HAVE A LOT OF CHOICE
17 ABOUT BEING HERE AS YOU WERE SUBPOENAED TO APPEAR BUT IT IS
18 IMPORTANT THAT WE HAVE GOOD CITIZENS WHO ARE WILLING TO
19 COME FORWARD AND SERVE WHEN THEY ARE SUBPOENAED TO DO SO
20 AND WE CERTAINLY DO APPRECIATE YOUR COOPERATION WITH US
21 AND KNOW THAT WE HAVE JERKED YOU AROUND A LITTLE BIT
22 ABOUT WHEN TO BE HERE AND WHEN TO COME BACK BUT IT WAS
23 NECESSARY AND WE HAVE ACCOMPLISHED THE QUALIFICATION
24 PROCESS AND YOU WILL NOT SERVE SO YOU WILL BE EXCUSED. NEXT
25 WEEK SOMETIME YOU WILL GET A SMALL CHECK FROM THE CLERK'S

1 OFFICE EVEN THOUGH YOU HAVE NOT ACTUALLY SERVED ON A JURY.
2 YOU WILL BE PAID FOR THE TIME THAT YOU ARE HERE. IT PROBABLY
3 WILL NOT PAY YOU FOR THE AMOUNT OF TIME THAT YOU'VE BEEN
4 HERE. IT DEFINITELY WILL NOT PAY YOU FOR THE INCONVENIENCE OF
5 BEING UP HERE BUT IT IS A SMALL TOKEN OF APPRECIATION ON
6 BEHALF OF THE COUNTY. AND ALSO JUST BY BEING ON THE PANEL
7 THIS WEEK YOU HAVE MET YOUR CITIZENSHIP RESPONSIBILITIES FOR
8 SERVICE IN THE CIRCUIT COURT, THAT IS UP HERE IN THIS
9 COURTROOM EITHER IN THE COURT OF GENERAL SESSIONS OR FOR
10 COMMON PLEAS FOR THE NEXT THREE YEARS. THE FIRST YEAR IF
11 YOU TO GET A SUMMONS WE COULDN'T TAKE YOU EVEN IF YOU
12 WANTED TO SERVE YOU WOULD BE DISQUALIFIED. THE SECOND AND
13 THE THIRD YEARS YOU HAVE AN EXEMPTION WHICH MEANS YOU
14 COULD NOT BE REQUIRED TO SERVE BUT COULD SERVE IF YOU
15 WANTED TO. BUT IT WOULD BE YOUR CALL. BUT AGAIN, THANK YOU
16 FOR YOUR SERVICE AND IF YOU NEED A CERTIFICATE FROM THE
17 CLERK THE BAILIFFS WILL HAVE THOSE IN THE HALL AS YOU LEAVE
18 AND YOU CAN GET THOSE TO TAKE TO YOUR EMPLOYER TO SHOW
19 THAT YOU WERE SERVING ON A JURY THIS WEEK IF YOU NEED THOSE.
20 BUT OTHER THAN THOSE ... OTHER THAN THOSE COMMENTS YOU ARE
21 EXCUSED, YOU'RE FREE TO GO. THANK YOU FOR YOUR WILLINGNESS
22 AND YOUR DECISION TO PARTAKE IN YOUR CITIZENSHIP
23 RESPONSIBILITIES.

24 (JURY PANEL WAS EXCUSED).

25 THE COURT: THOSE THAT DIDN'T SHOW UP THE FIRST

1 DAY, 131, 243 AND 81, THEY WERE TRANSFERRED TO ANOTHER TERM.

2 BAILIFF: YOUR HONOR, THIS IS JUROR 243, MS.

3 WILLIAMSON.

4 THE COURT: MS. WILLIAMSON, WE WERE LOOKING FOR
5 YOU TUESDAY MORNING.

6 MS. WILLIAMSON: YES, SIR.

7 THE COURT: MA'AM?

8 MS. WILLIAMSON: I APOLOGIZE.

9 THE COURT: OKAY. ALL RIGHT. WELL, BECAUSE YOU
10 WERENT' HERE WHAT I'M GONNA DO IS TRANSFER YOU TO ANOTHER
11 TERM OF COURT SOMETIME PROBABLY ABOUT ANOTHER MONTH OUT
12 BUT YOU WILL GET ANOTHER NOTICE FROM THE CLERK OF COURT.
13 OKAY. THANK YOU. ALL RIGHT. ALL RIGHT, A COUPLE OF THINGS I
14 WANT TO MENTION, COUNSEL. ONE IS ON THE JUROR, MR. PRICE,
15 WHAT I WANT TO DO THIS AFTERNOON AT 2:00 O'CLOCK BEFORE WE
16 ACTUALLY BEGIN THE SELECTION PROCESS IS ON THE RECORD,
17 OUTSIDE OF THE PRESENCE OF THE OTHER JURORS ... I'M NOT SURE
18 WHETHER WE'LL DO THAT IF THE SMALL COURTROOM IS OPEN AND
19 THE GRAND JURY IS OUT OF THERE I WANT TO GO ON THE RECORD
20 WITH REGARD TO HIS SITUATION AND FIND OUT WHAT KIND OF
21 HARDSHIP IT IS ... I THINK WE NEED IT ON THE RECORD TO KNOW
22 EXACTLY WHAT HIS SITUATION IS AND WHETHER ... FIND OUT IF IT IS
23 SOMETHING THAT THE COURT CAN ACCOMMODATE AND OR CAN.
24 BUT I DO WANT IT TO BE ON THE RECORD AND IF I FIND IT NECESSARY
25 TO EXCUSE HIM I WANT THE RECORD TO REFLECT CLEARLY WHY

1 THAT IS BEING DONE SO WE WILL DO THAT FIRST THING WHEN HE
2 GETS BACK HERE LATER ON THIS AFTERNOON AND MAKE THAT
3 DETERMINATION. THE OTHER THING THAT I WANT TO ASK COUNSEL
4 AND I WILL LET ... RELY ON MR. SALEEBY AND MR. LITTLEJOHN FOR
5 THIS SITUATION. JUDGE'S BOOK INDICATES THAT THE LAWYERS
6 SHOULD SIGN OFF ON THE EXCUSED JURORS, ACTUALLY SIGN OFF ON
7 THEM BUT IT GIVES NO AUTHORITY FOR THAT. IF YOU ALL ... HAVE
8 YOU EVER HAD TO DO THAT IN THE PAST, MR. SALEEBY?

9 MR. SALEEBY: I'VE NEVER HEARD OF THAT EITHER.

10 THE COURT: OKAY. WELL, LET ME TELL YOU WHAT
11 JUDGE'S BOOK SAYS.

12 MR. SALEEBY: YOUR HONOR, I'D HAVE TO TELL YOU
13 JUDGE -- WAS MY LAW CLERK WHEN I WAS IN THE ATTORNEY
14 GENERAL'S OFFICE SO I TAKE NO RESPONSIBILITY FOR THAT.

15 THE COURT: --

16 MR. SALEEBY: THE ONLY THING THE JUDGE MADE A
17 MISTAKE NUMBER ...

18 THE COURT: MAYBE THAT'S WHY THAT JUDGE LEFT THE
19 BENCH.

20 MR. SALEEBY: I THINK IT WAS CALLED GREATER
21 ADVANCEMENT.

22 THE COURT: I THINK IT WAS, TOO. ANYHOW, WE'LL LOOK
23 AT THAT LATER. THAT'S NOT SOMETHING I CAN FIND RIGHT NOW.
24 BUT HE DOES ... HE DID HAVE IT ... HE JUST MADE THE STATEMENT
25 THAT THE LAWYERS SHOULD SIGN OFF ON THE EXCUSED JURORS BUT

1 HE DOESN'T CITE ANY RULE, ANY AUTHORITY OR ANY STATUTE SO I
2 WANT TO KNOW IF IT'S REQUIRED.

3 MR. SALEEBY: IF YOU'D LIKE US TO I HAVE NO PROBLEM
4 DOING IT.

5 THE COURT: ALL RIGHT. BEFORE WE ADJOURN FOR THE
6 MORNING, IS THERE ANYTHING THAT EITHER SIDE HAS WITH
7 REGARDS TO ANY OF THE EXCUSALS OR CAUSE OR FOR ... IS THERE
8 ANYTHING FROM THE HEARING THAT WE HAD LAST MONDAY THAT
9 THEY KNOW OF THAT HAS NOT BEEN PUT ON THE RECORD THAT THEY
10 NEED TO ... WANT TO PROTECT THE RECORD ON REGARDING JURORS?
11 IF EITHER OF YOU HAVE GOT ANYTHING I WANT TO GIVE YOU THAT
12 OPPORTUNITY NOW. I THINK EVERYTHING IS PRETTY WELL BEEN
13 COVERED ON THE RECORD BUT IS THERE ANYTHING ANYBODY
14 THINKS THEY NEED TO PUT ON THE RECORD CAN DO SO.

15 MR. JACKSON: YOUR HONOR, I'M NOT AWARE OF
16 ANYTHING.

17 MR. LITTLEJOHN: AS REGARD THE JURY, WE'RE NOT
18 AWARE OF ANYTHING.

19 THE COURT: THAT'S WHAT I'M TALKING ABOUT.

20 COUNSEL: WE THINK THE RECORD IS PROTECTED. THANK
21 YOU.

22 THE COURT: ALL RIGHT. THANK YOU, COUNSEL, WE WILL
23 BE IN RECESS ...

24
25 COUNSEL: JUDGE?

1 THE COURT: YES, SIR?

2 COUNSEL: FINALLY GOT THOSE DIAGRAMS BLOWN UP.
3 WE WERE GONNA BRING THEM UP HERE AND LET THEM LOOK AT
4 THEM RIGHT NOW. THAT'S THE ONLY ...

5 THE COURT: BEFORE WE LEAVE THE COURTROOM ...
6 BEFORE WE LEAVE THE COURTROOM TODAY OR BEFORE YOU LEAVE
7 THE COURTROOM TODAY, TAKE THE RECESS UNTIL 2:00 O'CLOCK,
8 LET'S GET THE EXHIBITS UP HERE AND LOOK AT ANY EXHIBITS THAT
9 YOU HAVE NOT SEEN AND ALSO IF THE STATE WOULD GO AHEAD AND
10 GIVE MS. WINFIELD THE EXHIBITS TO BE MARKED SO SHE CAN GO
11 AHEAD AND MARK THEM SO THAT ... AND WHAT I'D LIKE TO HAVE
12 AND I DON'T THINK WE'RE GONNA HAVE THIS ISSUE IN THIS CASE BUT
13 IT'S LESS OF A PROBLEM BECAUSE THE RECORD HAS ALREADY BEEN
14 THERE IF THERE IS NO OBJECTION TO THE EXHIBIT GO AHEAD AND
15 MARK IT AS AN EXHIBIT AND IT'S IN WITHOUT FURTHER
16 AUTHENTICATION. IF THERE'S AN OBJECTION, MARK IT WITH AN ID
17 NUMBER AND THEN IT CAN BE REFERRED TO AS THE ID NUMBER AND
18 YOU'LL GET ... EACH SIDE WILL HAVE THE CHANCE TO PUT THEIR
19 POSITION WITH REGARD TO THE OBJECTION ON THE RECORD AT THE
20 TIME IT IS OFFERED. ANY PROBLEM WITH THAT?

21 MR. SALEEBY: JUDGE, I WOULD RATHER SUGGEST THIS,
22 EXCEPT FOR THESE DIAGRAMS WHICH TO ME ARE EASIER TO USE
23 THAN THIS MAP THEY HAD BEFORE WE DON'T HAVE ANY ADDITIONAL
24 PHOTOGRAPHS OR ANY ADDITIONAL TANGIBLE EVIDENCE. WE WERE
25 GONNA RELY AND USE THE EXHIBIT NUMBERS FROM THE PREVIOUS

1 TRIAL.

2 THE COURT: I DON'T SEE ANY PROBLEM WITH THAT AS
3 LONG AS ...

4 MR. SALEEBY: AND ALL OF IT'S BEEN RULED ON AND ALL
5 OF IT'S ADMISSIBLE BOTH THAT THE STATE PROPOSED AND THAT THE
6 DEFENSE PROPOSED.

7 THE COURT: AS LONG AS THERE'S NO DISAGREEMENT ON
8 THAT. WHAT'S YOU ALL'S POSITION, MR. LITTLEJOHN? ALL THE
9 EXHIBITS ... WHAT HE'S SAYING IS ALL THE EXHIBITS FROM THE
10 PREVIOUS TRIAL.

11 MR. LITTLEJOHN: YOUR HONOR, I'VE GOT NO PROBLEM
12 WITH THAT. I WOULD JUST LIKE FOR THE RECORD IF ... IF THERE WAS
13 AN OBJECTION MADE AND AN EXHIBIT WAS ADMITTED OVER
14 OBJECTION I'D LIKE TO PRESERVE THAT OBJECTION FOR ANY FUTURE
15 PROCEEDINGS. BUT I HAVEN'T GONE BACK THROUGH THE
16 TRANSCRIPT TO NOTE OF WHICH EXHIBIT ...

17 THE COURT: I'VE GOT A SET OF THE TRANSCRIPTS IN MY
18 OFFICE YOU CAN GO THROUGH.

19 MR. LITTLEJOHN: YES, SIR. I DIDN'T LOOK AT IT FROM
20 THAT ... THAT STANDPOINT.

21 THE COURT: I UNDERSTAND. YOU WOULDN'T HAVE ANY
22 PROBLEM WITH THAT, PRESERVING ANY OBJECTION THAT WAS
23 PREVIOUSLY MADE?

24 MR. SALEEBY: OH, ABSOLUTELY NOT. ABSOLUTELY NOT.
25 BUT I MEAN, IT SEEMS TO ME THEY'RE ALREADY IN AND THAT WOULD

1 ... THAT WOULD WORK BOTH WAYS, ANY OBJECTIONS THAT WERE TO
2 THEIR EXHIBITS ARE PRETTY IRRELEVANT NOW BECAUSE THEY'RE
3 ALREADY PART OF THE RECORD.

4 THE COURT: ALL RIGHT. WHAT THE COURT WILL DO THEN
5 IS GET ALL THE EXHIBITS FROM THE PREVIOUS TRIAL USING THE SAME
6 EXHIBIT NUMBERS THAT WERE USED BEFORE, BOTH FROM THE STATE
7 AND THE DEFENSE. THE COURT WILL FURTHER RULE THAT IF THERE
8 WERE ANY EXCEPTIONS ... ANY OBJECTIONS TO ANY OF THOSE
9 EXHIBITS MADE AT THE TIME OF THE INTRODUCTION AT THE
10 PREVIOUS TRIAL, THOSE OBJECTIONS ARE PRESERVED THROUGH THIS
11 TRIAL. THAT COVER IT?

12 MR. LITTLEJOHN: YES, YOUR HONOR.

13 THE COURT: ANYTHING ELSE?

14 MR. LITTLEJOHN: YOUR HONOR, THE ONLY THING I
15 WOULD ADD IF THEY'RE GOING TO TAKE AN EXHIBIT AND SHOW IT TO
16 A WITNESS IF WE COULD JUST HAVE A CHANCE TO LOOK AT IT SO WE
17 WILL KNOW WE'RE ON TRACK WITH THE SAME ... RATHER THAN THEM
18 ASSUMING I KNOW WHAT EXHIBIT STATE'S EXHIBIT 58 IS AND I KNOW
19 WHAT ...

20 THE COURT: SURE. BUT IF ... IF IT'S GOT A NUMBER AND
21 IT'S IN WE WON'T GO THROUGH THE AUTHENTICATION PROCESS BUT
22 JUST SO YOU ... SO YOU'LL KNOW WHAT IT IS.

23 MR. LITTLEJOHN: YES, SIR, IF IT'S EVIDENT WHAT IT IS, IF
24 IT'S THE PISTOL OR THE SHOTGUN OF COURSE I KNOW WHAT THAT IS
25 BUT IF IT'S A PICTURE AND I CAN'T ... I CAN'T SEE IT I JUST ...

1 THE COURT: YOU'VE ...

2 MR. SALEEBY: I'VE GOT ... I'VE GOT SOME DIAGRAMS AND I
3 CAN HAVE THEM UP HERE IN FIVE MINUTES ...

4 THE COURT: ALL RIGHT. I'M GONNA LET THEM STAY AND
5 YOU ALL LOOK AT THEM AND IF THEY SHOULD COME IN HAVE MS.
6 WINFIELD MARK THEM AS WHATEVER THE NUMBER IS AFTER THE
7 LAST EXHIBIT WAS INTRODUCED IN THE LAST TRIAL. MR. JACKSON?

8 MR. JACKSON: NOTHING ELSE, YOUR HONOR.

9 MR. LITTLEJOHN: JUDGE, THE ONLY THING, IS THERE
10 SOMEWHERE WE CAN MEET WITH OUR CLIENT WITH SOME PRIVACY
11 HERE THIS MORNING TO DISCUSS SOME OF THESE JURY MATTERS?

12 COUNSEL: THE ONLY PROBLEM WITH THAT IS WE'VE GOT
13 MATERIALS THAT WE HAVE ...

14 THE COURT: THE FRONT JURY ROOM UP HERE IS
15 AVAILABLE.

16 MR. LITTLEJOHN: THAT'LL BE FINE.

17 THE COURT: ... STILL BE IN SECURITY AND WON'T BE ...
18 MAKE SURE THAT THERE'S NOT ANYTHING IN THERE FROM ANYBODY,
19 ANY PEOPLE WHO ARE IMPORTANT TO THIS CASE AND JUST LET THEM
20 .. LET THEM MEET IN THAT FRONT ROOM UP THERE AND JUST MR.
21 STONE.

22 MR. SALEEBY: IS SECURITY GOING TO BE ALLOWED WITH
23 THEM IN THE ROOM AT ALL? WE'LL JUST STAND AT ONE END AND ...

24 THE COURT: MR. STONE HAS ON THE BRACES? I THINK
25 HE'LL BE ALL RIGHT. HE'S NOT GONNA JUMP OUT THE WINDOW WITH

HEARING

1 THAT BRACE ON SO THAT'S ABOUT THE ONLY THING ... JUST HAVE
2 SOMEBODY OUTSIDE THE DOOR.

3 MR. LITTLEJOHN: THANK YOU.

4 THE COURT: ALL RIGHT. ANYTHING ELSE, COUNSEL? AND
5 I'M AVAILABLE ... OH, I KNOW AT SOME POINT IN TIME THIS MORNING
6 AFTER YOU ALL GET A CHANCE YOU ALL HAVE SEEN WHAT I PROPOSE
7 TO BE THE OPENING REMARKS ABOUT THE CASE TO THE JURY AND I
8 WANT TO KNOW IF THERE ARE ANY OBJECTION TO THAT. AFTER YOU
9 ALL HAVE HAD A CHANCE TO GO OVER IT LET ME KNOW. OKAY?

10 MR. JACKSON: WE'LL DO.

11 MR. LITTLEJOHN: YOUR HONOR, I THINK I'D INDICATED TO
12 YOUR LAW CLERK THAT THERE WERE SOME THINGS IN THERE THAT
13 WE NEEDED ...

14 THE COURT: YES, SIR, THAT'S WHY ... YOU HAD INDICATED
15 THAT AND THAT'S WHY I WANTED TO KNOW ABOUT THOSE FROM
16 YOU. I NEED TO KNOW ABOUT THEM AS SOON AS I CAN SO THAT WE
17 CAN MAKE WHATEVER CHANGES AND RETYPE IT BEFORE WE NEED IT.
18 THANK YOU.

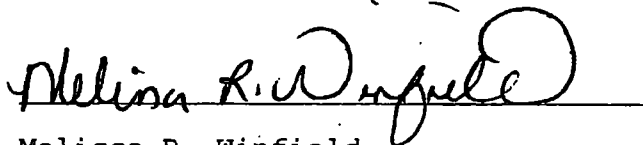
19 (WHEREUPON THERE WAS A PAUSE).
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CERTIFICATE

This is to certify that the jury selection on February 24, 2005 a.m. in State vs. Bobby Wayne Stone, consisting of Eighty-Five (85) pages is a true and correct transcript; said jury selection was reported by the method of Stenomask with Backup.

I further certify that I am not employed by any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 18th day of October, 2006.

A handwritten signature in cursive script, reading "Melissa R. Winfield", is written over a horizontal line.

Melissa R. Winfield
Certified Court Reporter

Notary Public for South Carolina
My Commission Expires: 3-5-2014

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

COURT OF COMMON PLEAS

STATE OF SOUTH CAROLINA,
PLAINTIFF,

TRANSCRIPT OF RECORD
C/A #: 1996-GS-43-0698

v.

BOBBY WAYNE STONE,
DEFENDANT.

SUMTER COUNTY COURTHOUSE
February 24, 2005 P.M.

TRANSCRIPT OF JURY SELECTION BEGINNING FEBRUARY 24, 2005 IN THE P.M.

BEFORE:

HONORABLE HOWARD P. KING, PRESIDING JUDGE.

APPEARANCES:

Solicitor C. Kelly Jackson, Esquire
Solicitor Dudley Saleeby, Esquire
Attorneys for The State

James H. Babb, Esquire
Cam Littlejohn, Esquire
Attorneys for Defendant Bobby Wayne Stone

TAKEN BY MELISSA R. WINFIELD
CERTIFIED VERBATIM REPORTER

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Certificate of Service. 20

1 THE COURT: ALL RIGHT. THANK YOU. PLEASE GIVE ME
2 YOUR ATTENTION. I WANT TO ADDRESS A COUPLE MATTERS WITH
3 REGARD TO THE JURY. FIRST OF ALL WITH REGARD TO MR.
4 MCKNIGHT WHO IS JUROR NUMBER ... JUROR NUMBER 137, NEIL J.
5 MCKNIGHT. THE COURT WAS NOTIFIED EARLIER THIS MORNING THAT
6 MR. MCKNIGHT WAS ILL AND WE ADVISED THAT HE WOULD HAVE TO
7 FURNISH A DOCTOR'S CERTIFICATE TO THE COURT. SOMEONE HAS
8 BROUGHT US A DOCTOR'S CERTIFICATE ON HIS BEHALF. IT IS FROM ...
9 FROM A DOCTOR. IT ADVISES THAT HE IS ILL AND IS TO ... TO BE OFF
10 OF WORK DUTY UNTIL THE 26TH. THIS HAS BEEN GIVEN TO BOTH
11 COUNSEL. I UNDERSTAND MR. MCKNIGHT IS NOW HOME IN BED BUT
12 BASED UPON THIS MEDICAL CERTIFICATION THAT I HAVE FROM THE
13 DOCTOR IT WILL BE NECESSARY THAT WE EXCUSE HIM AND THE
14 COURT IS GOING TO EXCUSE HIM. ANY OBJECTION TO THAT, MR.
15 SALEEBY OR MR. JACKSON?

16 MR. JACKSON: NO OBJECTION, YOUR HONOR.

17 THE COURT: MR. LITTLEJOHN?

18 MR. LITTLEJOHN? NO, YOUR HONOR.

19 THE COURT: MADAME CLERK, HERE ARE THE DOCTOR'S
20 EXCUSES ON THAT IF YOU'LL FILE THAT WITH THE OTHER
21 DOCUMENTS IN THE COURT. THE OTHER MATTER THAT I NEED TO
22 ADDRESS AND PUT ON THE RECORD ... ONE MINUTE. MR. HARSCH,
23 JUROR NUMBER 86, I DO HAVE THE MATTER THAT WAS BROUGHT TO
24 MY ATTENTION FROM THE MILITARY. I AM SORRY BUT I AM NOT
25 GOING TO BE ABLE TO EXCUSE YOU FOR THAT REASON. IT JUST

HEARING

1 SIMPLY COMES TOO LATE. WE HAD TO QUALIFY A SPECIFIC NUMBER
2 OF JURORS. WE'VE DONE THAT AND WE NEED EVERY JUROR THAT IS
3 QUALIFIED AND I REGRET THAT I CANNOT HONOR THAT REQUEST
4 THAT CAME AND YOU'LL JUST HAVE TO SERVE. THANK YOU, SIR. ALL
5 RIGHT, MR. HERRING, IF YOU WOULD CALL THE ROLL OF THE JURY AT
6 THIS TIME.

7 MR. HERRING: OKAY. JUROR NUMBER 13, DONALD BERRY.
8 PLEASE ANSWER IF YOU ARE HERE.

9 THE COURT: PLEASE STAND.

10 MR. HERRING: PLEASE STAND. THANK YOU. JUROR
11 NUMBER 150, WILLIAM MONTALBANO. THANK YOU. JUROR NUMBER
12 21, BETTY BOWMAN.

13 MS. BOWMAN: HERE.

14 MR. HERRING: THANK YOU. JUROR NUMBER 135, VINCENT
15 SIMS.

16 MR. SIMS: HERE.

17 MR. HERRING: THANK YOU. JUROR NUMBER 138, HAZEL
18 MCLEAN.

19 MS. MCLEAN: HERE.

20 MR. HERRING: THANK YOU.

21 THE COURT: DO THE ONE ABOVE THAT, 206.

22 MR. HERRING: WELL, I HAVE IT ON THE BOTTOM.

23 THE COURT: OH, OKAY. GO AHEAD.

24 MR. HERRING: JUROR NUMBER 206, LORETTA SPANN.

25 MS. SPANN: HERE.

THIRD JUDICIAL CIRCUIT

(803) 436-2150

HEARING

567

5

1 MR. HERRING: THANK YOU. JUROR NUMBER 49, JAMES
2 DAY. THANK YOU. JUROR NUMBER 61, LYNN NEWMAN.

3 MS. NEWMAN: HERE.

4 MR. HERRING: THANK YOU. JUROR NUMBER 141, WILLIE
5 MCQUILLA.

6 MS. MCQUILLA: HERE.

7 MR. HERRING: THANK YOU. JUROR NUMBER 73, SHARON
8 GOLDMAN.

9 MS. GOLDMAN: HERE.

10 MR. HERRING: THANK YOU. JUROR NUMBER 225, WALTER
11 VAUGHN ... NO, EXCUSE ME, JUROR NUMBER 123, STEVEN MAPLE.

12 MR. MAPLE: HERE.

13 MR. HERRING: THANK YOU. JUROR NUMBER 58, JOSEPH
14 EDWARDS.

15 MR. EDWARDS: HERE.

16 MR. HERRING: THANK YOU. JUROR NUMBER 30, ROBIN
17 BUD.

18 MR. BUD: HERE.

19 MR. HERRING: THANK YOU. JUROR NUMBER FIVE,
20 VIRGINIA AYERS.

21 MS. AYERS : HERE.

22 MR. HERRING: THANK YOU. JUROR NUMBER 114,
23 KATHERINE FRIPPY.

24 MS. FRIPPY: HERE.

25 MR. HERRING: THANK YOU. NUMBER 110, MICKEY JONES.

HEARING

1 MS. JONES: HERE.

2 MR. HERRING: THANK YOU. JUROR NUMBER 88, JOSETTA
3 HARRIS.

4 MS. HARRIS: HERE.

5 MR. HERRING: THANK YOU. JUROR NUMBER 189,
6 GWENDOLYN SANDERS.

7 MS. SANDERS: HERE.

8 MR. HERRING: THANK YOU. JUROR NUMBER 86, BRETT
9 HARSH.

10 MR. HARSH: HERE.

11 MR. HERRING: THANK YOU. JUROR NUMBER 15, CHERYL
12 BENJAMIN.

13 MS. BENJAMIN: HERE.

14 MR. HERRING: THANK YOU. JUROR NUMBER 210, JOSH
15 SUMPTER.

16 MR. SUMPTER: HERE.

17 MR. HERRING: THANK YOU. JUROR NUMBER 31, EUGENE
18 BURGESS.

19 MR. BURGESS: HERE.

20 MR. HERRING: THANK YOU. JUROR NUMBER 224, CYNTHIA
21 WILLIAMS. 242, EXCUSE ME.

22 MR. WILLIAMS: HERE.

23 MR. HERRING: THANK YOU. JUROR NUMBER 168, ELVIN
24 OSTEEN.

25 MR. OSTEEN: HERE.

THIRD JUDICIAL CIRCUIT

(803) 436-2150

1 MR. HERRING: THANK YOU. JUROR NUMBER 24, JACK
2 BRODY.

3 MR. BRODY: HERE.

4 MR. HERRING: JUROR NUMBER 56, RANDI DOWELL.

5 MS. DOWELL: HERE.

6 MR. HERRING: THANK YOU. JUROR 198, JAMES SLATER.

7 MR. SLATER: HERE.

8 MR. HERRING: THANK YOU. JUROR NUMBER 19, SANDRA
9 BLANCHETTE.

10 MS. BLANCHETTE: HERE.

11 MR. HERRING: THANK YOU. JUROR 175, JOHN PRICE.

12 MR. PRICE: HERE.

13 MR. HERRING: THANK YOU. JUROR NUMBER 222.

14 THE COURT: MS. ULERY.

15 MS. ULERY: HERE.

16 MR. HERRING: MS. ULERY. WE'RE GONNA HAVE TO
17 CHANGE YOUR NAME. THAT'S ALL THERE IS TO IT. JUROR NUMBER
18 233, ANGELA WEEKS.

19 MS. WEEKS: HERE.

20 MR. HERRING: THANK YOU. JUROR NUMBER 199, CARLA
21 SMITH.

22 MS. SMITH: HERE.

23 MR. HERRING: JUROR NUMBER 157, LUCILLE MYERS.

24 MS. MYERS: HERE.

25 MR. HERRING: THANK YOU. JUROR NUMBER 41, HARRY

1 COPELAND.

2 MS. MYERS: HERE.

3 MR. HERRING: THANK YOU. JUROR NUMBER 180, EDWARD
4 REWIS.

5 MR. REWIS: HERE.

6 MR. HERRING: THANK YOU. YOUR HONOR, THEY'RE ALL
7 PRESENT.

8 THE COURT: ALL RIGHT. ALL RIGHT, THANK YOU VERY
9 MUCH, LADIES AND GENTLEMEN. AND THANK YOU FOR YOUR
10 PROMPTNESS AND RESPONSIBILITY IN APPEARING BACK HERE THIS
11 AFTERNOON AND WE ARE NOW READY TO STRIKE THE JURY IN THIS
12 CASE. LET ME TELL YOU A LITTLE BIT ABOUT THE PROCEDURE THAT
13 WILL BE USED. THE NAMES OF ALL THE QUALIFIED ... ALL RIGHT,
14 COME UP, PLEASE.

15 (DISCUSSION HELD OFF THE RECORD).

16 THE COURT: ALL RIGHT. AS I SAY, LADIES AND
17 GENTLEMEN, WE ARE NOW READY TO DRAW THE JURY IN THE CASE
18 AND LET ME EXPLAIN A LITTLE BIT ABOUT THE PROCEDURE THAT
19 WILL BE USED. THE NAMES OF ALL OF YOU AS QUALIFIED JURORS
20 WILL BE PUT IN THIS ROTATING DRUM THAT IS SITTING ON THE
21 CLERK'S OFFICE AND THE DRUM WILL BE ROTATED AND THEN THE
22 NAMES WILL BE DRAWN OUT INDIVIDUALLY ONE BY ONE. WHEN
23 YOUR NAME IS CALLED, PLEASE COME TO THE FRONT OF THE
24 COURTROOM EITHER THROUGH THE DOUBLE SWINGING DOORS IN
25 FRONT OF ME OR THE DOOR OVER HERE, WHICHEVER IS MOST

1 CONVENIENT TO WHERE YOU ARE SITTING AND COME TO THIS RAIL
 2 RIGHT UP HERE, TURN AROUND WITH YOUR BACK TOWARD ME AND
 3 FACE THE BACK OF THE COURTROOM. IF YOU ARE ACCEPTABLE TO
 4 THE STATE THE STATE WILL SO INDICATE BY SAYING PRESENT THE
 5 JUROR AND IF YOU ARE ACCEPTABLE TO THE DEFENSE, THE
 6 DEFENDANT WILL .. THE DEFENSE COUNSEL WILL THEN INDICATE BY
 7 SAYING ACCEPT OR SEAT THE JUROR. YOU WILL THEN HAVE A SEAT
 8 IN THE JURY BOX TO MY LEFT. IF YOU ARE EXCUSED BY EITHER SIDE
 9 THEN YOU WOULD HAVE A SEAT BACK OUT WITH THE REMAINDER OF
 10 THE JURY PANEL. WE WILL DO THIS UNTIL WE HAVE CHOSEN 12
 11 REGULAR JURORS AND THEN WE WILL DRAW TWO ALTERNATE
 12 JURORS AND WE WILL GO THROUGH THAT PROCEDURE UNTIL WE
 13 HAVE DRAWN A TOTAL OF 14 JURORS. SO WE WILL PROCEED WITH
 14 THE SELECTION PROCESS AT THIS TIME. ALL RIGHT, MADAME CLERK,
 15 IF YOU'LL GIVE US A JURY AND CALL THE FIRST NAME, PLEASE.

16 MR. HERRING: JUROR NUMBER 41, HARRY COPELAND.
 17 STAND UP HERE, PLEASE, SIR. ALL RIGHT, THANK YOU, SIR. WHAT
 18 SAITH THE STATE?

19 MR. SALEEBY: PLEASE PRESENT MR. COPELAND.

20 MR. HERRING: WHAT SAITH THE DEFENDANT?

21 MR. LITTLEJOHN: PLEASE SEAT MR. COPELAND.

22 MR. HERRING: MR. COPELAND, PLEASE HAVE A SEAT
 23 OVER HERE IN THE JURY BOX. JUROR NUMBER 110, MICKEY JONES.
 24 WHAT SAITH THE STATE?

25 MR. SALEEBY: PLEASE EXCUSE THIS JUROR FROM THIS

1 TRIAL.

2 MR. HERRING: HAVE A SEAT BACK IN THE JURY PANEL,
3 YOU'VE BEEN EXCUSED FROM THIS TRIAL. JUROR NUMBER 19,
4 SANDRA BLANCHETTE. WHAT SAITH THE STATE?

5 MR. SALEEBY: PLEASE PRESENT MS. BLANCHETTE.

6 MR. HERRING: WHAT SAITH THE DEFENDANT?

7 MR. LITTLEJOHN: PLEASE SEAT MS. BLANCHETTE.

8 MR. HERRING: HAVE A SEAT IN THE JURY BOX, PLEASE,
9 MA'AM. JUROR NUMBER 86, BRETT HARSH. WHAT SAITH THE STATE?

10 MR. SALEEBY: PLEASE PRESENT MR. HARSH.

11 MR. HERRING: WHAT SAITH THE DEFENDANT?

12 MR. LITTLEJOHN: PLEASE EXCUSE MR. HARSH.

13 MR. HERRING: HAVE A SEAT BACK IN THE JURY PANEL,
14 YOU'VE BEEN EXCUSED FROM THIS TRIAL, PLEASE, SIR. JUROR
15 NUMBER 31, EUGENE BURGESS. WHAT SAITH THE STATE?

16 MR. SALEEBY: PLEASE PRESENT MR. BURGESS.

17 MR. HERRING: WHAT SAITH THE DEFENDANT?

18 MR. LITTLEJOHN: PLEASE SEAT MR. BURGESS.

19 MR. HERRING: HAVE A SEAT IN THE JURY BOX, PLEASE,
20 SIR. JUROR NUMBER 199, CARLA SMITH. WHAT SAITH THE STATE?

21 MR. SALEEBY: PLEASE PRESENT MS. SMITH.

22 MR. HERRING: WHAT SAITH THE DEFENDANT?

23 MR. LITTLEJOHN: PLEASE SEAT MS. SMITH.

24 MR. HERRING: HAVE A SEAT IN THE JURY BOX, PLEASE,
25 MA'AM. JUROR NUMBER 123, STEVEN MAPLE. WHAT SAITH THE

STATE?

MR. SALEEBY: PLEASE PRESENT MR. MAPLE.

MR. HERRING: WHAT SAITH THE DEFENDANT?

MR. LITTLEJOHN: PLEASE SEAT MR. MAPLE.

MR. HERRING: HAVE A SEAT IN THE JURY BOX, PLEASE,
SIR. JUROR NUMBER 114, KATHLEEN KREIPE. WHAT SAITH THE STATE?

MR. SALEEBY: PLEASE PRESENT MS. KREIPE.

MR. HERRING: WHAT SAITH THE DEFENDANT?

MR. LITTLEJOHN: PLEASE EXCUSE MS. KREIPE.

MR. HERRING: HAVE A SEAT BACK IN THE JURY PANEL,
YOU'VE BEEN EXCUSED FROM THIS TRIAL. JUROR NUMBER 175, JOHN
PRICE. WHAT SAITH THE STATE?

MR. SALEEBY: PLEASE EXCUSE MR. PRICE.

MR. HERRING: HAVE A SEAT BACK IN THE JURY PANEL,
YOU'VE BEEN EXCUSED FROM THE TRIAL, PLEASE, SIR. JUROR
NUMBER 157, LUCILLE MYERS. WHAT SAITH THE STATE?

MR. SALEEBY: PLEASE PRESENT MS. MYERS.

MR. HERRING: WHAT SAITH THE DEFENDANT?

MR. LITTLEJOHN: PLEASE EXCUSE MS. MYERS.

MR. HERRING: HAVE A SEAT BACK IN THE JURY PANEL,
YOU'VE BEEN EXCUSED FROM THIS TRIAL, PLEASE, MA'AM. JUROR
NUMBER 195, VINCENT SIMS. WHAT SAITH THE STATE?

MR. SALEEBY: PLEASE PRESENT MR. SIMS.

MR. HERRING: WHAT SAITH THE DEFENDANT?

MR. LITTLEJOHN: PLEASE SEAT MR. SIMS.

1 MR. HERRING: HAVE A SEAT IN THE JURY BOX, PLEASE,
2 SIR. JUROR NUMBER 73, SHARON GOLDMAN. WHAT SAITH THE STATE?

3 MR. SALEEBY: PLEASE PRESENT MS. GOLDMAN.

4 MR. HERRING: WHAT SAITH THE DEFENDANT?

5 MR. LITTLEJOHN: PLEASE SEAT MS. GOLDMAN.

6 MR. HERRING: HAVE A SEAT IN THE JURY BOX, PLEASE,
7 MA'AM. JUROR NUMBER 222, MS. ULERY. WHAT SAITH THE STATE?

8 MR. SALEEBY: PLEASE PRESENT MS. ULERY.

9 MR. HERRING: WHAT SAITH THE DEFENDANT?

10 MR. LITTLEJOHN: PLEASE SEAT MS. ULERY.

11 MR. HERRING: HAVE A SEAT IN THE JURY BOX, PLEASE,
12 MA'AM. JUROR NUMBER 138, HAZEL MCLEAN. WHAT SAITH THE
13 STATE?

14 MR. SALEEBY: PLEASE PRESENT MS. MCLEAN.

15 MR. HERRING: WHAT SAITH THE DEFENDANT?

16 MR. LITTLEJOHN: PLEASE SEAT MS. MCLEAN.

17 MR. HERRING: HAVE A SEAT IN THE JURY BOX, PLEASE,
18 MA'AM. JUROR NUMBER 58, JOSEPH EDWARDS. WHAT SAITH THE
19 STATE?

20 MR. SALEEBY: PLEASE PRESENT MR. EDWARDS.

21 MR. HERRING: WHAT SAITH THE DEFENDANT.

22 MR. LITTLEJOHN: PLEASE EXCUSE MR. EDWARDS.

23 MR. HERRING: HAVE A SEAT BACK IN THE JURY PANEL,
24 YOU'VE BEEN EXCUSED FROM THIS TRIAL, PLEASE, SIR. JUROR
25 NUMBER 13, DONALD BERRY. WHAT SAITH THE STATE?

1 MR. SALEEBY: PLEASE EXCUSE MR. BERRY FROM THIS
2 TRIAL.

3 MR. HERRING: HAVE A SEAT BACK IN THE JURY PANEL,
4 YOU'VE BEEN EXCUSED FROM THIS TRIAL. JUROR NUMBER 233,
5 ANGELA WEEKS. WHAT SAITH THE STATE?

6 MR. SALEEBY: PLEASE PRESENT MS. WEEKS.

7 MR. HERRING: WHAT SAITH THE DEFENDANT?

8 MR. LITTLEJOHN: PLEASE EXCUSE MS. WEEKS.

9 MR. HERRING: HAVE A SEAT BACK IN THE JURY PANEL,
10 YOU'VE BEEN EXCUSED FROM THIS TRIAL, PLEASE, MA'AM. JUROR
11 NUMBER 180, EDWARD REWIS. WHAT SAITH THE STATE?

12 MR. SALEEBY: PLEASE PRESENT MR. REWIS.

13 MR. HERRING: WHAT SAITH THE DEFENDANT?

14 MR. LITTLEJOHN: PLEASE EXCUSE MR. REWIS.

15 MR. HERRING: HAVE A SEAT BACK IN THE JURY PANEL,
16 YOU'VE BEEN EXCUSED FROM THIS TRIAL, PLEASE, SIR. JUROR
17 NUMBER 30, ROBIN BUD. WHAT SAITH THE STATE?

18 MR. SALEEBY: PLEASE EXCUSE MR. BUD FROM THIS TRIAL.

19 MR. HERRING: HAVE A SEAT BACK IN THE JURY PANEL,
20 YOU'VE BEEN EXCUSED FROM THIS TRIAL, PLEASE, SIR. JUROR
21 NUMBER 15, CHERYL BENJAMIN! WHAT SAITH THE STATE?

22 MR. SALEEBY: PLEASE PRESENT MS. BENJAMIN.

23 MR. HERRING: WHAT SAITH THE DEFENDANT?

24 MR. LITTLEJOHN: PLEASE SEAT MS. BENJAMIN.

25 MR. HERRING: HAVE A SEAT IN THE JURY BOX, PLEASE,

1 MA'AM. JUROR NUMBER 198, JAMES SLATER. WHAT SAITH THE
2 STATE?

3 MR. SALEEBY: PLEASE PRESENT MR. SLATER.

4 MR. HERRING: WHAT SAITH THE DEFENDANT?

5 MR. LITTLEJOHN: PLEASE SEAT MR. SLATER.

6 MR. HERRING: HAVE A SEAT IN THE JURY BOX, PLEASE,
7 SIR. JUROR NUMBER 210, JOSH SUMPTER. WHAT SAITH THE STATE?

8 MR. SALEEBY: PLEASE PRESENT MR. SUMPTER.

9 MR. HERRING: WHAT SAITH THE DEFENDANT?

10 MR. LITTLEJOHN: PLEASE EXCUSE MR. SUMPTER.

11 MR. HERRING: HAVE A SEAT BACK IN THE JURY PANEL,
12 YOU'VE BEEN EXCUSED FROM THE TRIAL, PLEASE, SIR. JUROR
13 NUMBER FIVE, VIRGINIA AYERS. WHAT SAITH THE STATE?

14 MR. SALEEBY: PLEASE EXCUSE MS. AYERS FROM THIS
15 TRIAL.

16 MR. HERRING: HAVE A SEAT BACK IN THE JURY PANEL,
17 YOU'VE BEEN EXCUSED FROM THIS TRIAL. JUROR NUMBER 49, JAMES
18 DAY. WHAT SAITH THE STATE?

19 MR. SALEEBY: PLEASE PRESENT MR. DAY.

20 MR. HERRING: WHAT SAID THE DEFENDANT?

21 MR. LITTLEJOHN: PLEASE EXCUSE MR. DAY.

22 MR. HERRING: HAVE A SEAT BACK IN THE JURY PANEL,
23 YOU'VE BEEN EXCUSED FROM THE TRIAL, PLEASE, SIR. JUROR
24 NUMBER 141, WILLIE MCQUILLA. WHAT SAITH THE STATE?

25 MR. SALEEBY: PLEASE PRESENT MS. MCQUILLA.

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MR. HERRING: WHAT SAITH THE DEFENDANT?

MR. LITTLEJOHN: PLEASE EXCUSE MS. MCQUILLA.

MR. HERRING: HAVE A SEAT BACK IN THE JURY PANEL,
YOU'VE BEEN EXCUSED FROM THE TRIAL, PLEASE, MA'AM. JUROR
NUMBER 242, CYNTHIA WILLIAMS. WHAT SAITH THE STATE?

MR. SALEEBY: PLEASE PRESENT MS. WILLIAMS.

MR. HERRING: WHAT SAITH THE DEFENDANT?

MR. LITTLEJOHN: PLEASE EXCUSE MS. WILLIAMS.

MR. HERRING: HAVE A SEAT BACK IN THE JURY PANEL,
YOU'VE BEEN EXCUSED FROM THE TRIAL, PLEASE, MA'AM. JUROR
NUMBER 56, RANDY DOWELL. WHAT SAITH THE STATE?

MR. SALEEBY: PLEASE PRESENT MS. DOWELL.

MR. HERRING: WHAT SAITH THE DEFENDANT?

MR. LITTLEJOHN: PLEASE SEAT MS. DOWELL.

MR. HERRING: HAVE A SEAT IN THE JURY PANEL, PLEASE,
MA'AM.

THE COURT: ALTERNATES, PLEASE, COUNSEL, ONE AND
TWO.

MR. HERRING: JUROR NUMBER 150, WILLIAM
MONTALBANO. WHAT SAITH THE STATE?

MR. SALEEBY: PLEASE EXCUSE MR. MONTALBANO.

MR. HERRING: HAVE A SEAT BACK IN THE JURY PANEL,
YOU'VE BEEN EXCUSED FROM THE TRIAL, PLEASE, SIR. JUROR
NUMBER 189, GWENDOLYN SANDERS. WHAT SAITH THE STATE?

MR. SALEEBY: PLEASE PRESENT MS. SANDERS.

1 MR. HERRING: WHAT SAITH THE DEFENDANT.

2 MR. LITTLEJOHN: PLEASE SEAT MS. SANDERS.

3 MR. HERRING: HAVE A SEAT IN THE JURY BOX, PLEASE,
4 MA'AM. JUROR NUMBER 206, LORETTA SPANN. WHAT SAITH THE
5 STATE?

6 MR. SALEEBY: PLEASE EXCUSE MS. SPANN FROM THIS
7 TRIAL.

8 MR. HERRING: HAVE A SEAT BACK IN THE JURY PANEL,
9 YOU'VE BEEN EXCUSED FROM THE TRIAL, PLEASE, MA'AM.

10 THE COURT: COUNSEL.

11 (DISCUSSION HELD OFF THE RECORD).

12 THE COURT: ALL RIGHT, NO PROBLEM. THAT WAS JUROR
13 ... THE PROCEDURE WAS CORRECT. GO AHEAD.

14 MR. HERRING: JUROR NUMBER 88, JOSETTA HEROD. WHAT
15 SAITH THE STATE?

16 MR. SALEEBY: PLEASE PRESENT MS. HEROD.

17 MR. HERRING: WHAT SAITH THE DEFENDANT?

18 MR. LITTLEJOHN: PLEASE SEAT MS. HEROD.

19 MR. HERRING: HAVE A SEAT IN THE JURY BOX, PLEASE,
20 MA'AM.

21 THE COURT: ALL RIGHT. ANYTHING WITH REGARD TO
22 STRIKING THE JURY ON BEHALF OF THE STATE, MR. JACKSON?

23 MR. JACKSON: NOTHING FROM THE STATE, YOUR HONOR.

24 THE COURT: ON BEHALF OF THE DEFENDANT?

25 MR. LITTLEJOHN: WOULD YOU GIVE ME JUST A MOMENT,

1 JUDGE?

2 THE COURT: YES.

3 MR. LITTLEJOHN: NOTHING FROM THE DEFENSE, YOUR
4 HONOR.

5 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN OF THE
6 JURY PANEL THAT HAVE BEEN SELECTED FOR THE TRIAL OF THIS
7 CASE, I HAVE TO TAKE UP CERTAIN MATTERS WITH THE ATTORNEYS
8 AT THIS TIME BEFORE WE ACTUALLY GET INTO THE TRIAL OF THIS
9 MATTER BUT YOU ARE NOW THE JURY IN THIS CASE. AND I'M GONNA
10 SEND YOU TO YOUR JURY ROOM AND LET YOU RELAX JUST A FEW
11 MINUTES WHILE WE TAKE CARE OF SOME ADMINISTRATIVE MATTERS
12 AND THEN WE'LL BE READY TO GET STARTED WITH THE TRIAL OF THIS
13 CASE. I'M GONNA TELL YOU SOMETHING NOW THAT CARRIES ON
14 THROUGHOUT THE TRIAL OF THIS CASE NO MATTER HOW MANY DAYS
15 IT IS, WHEN YOU GO TO YOUR JURY ROOM FOR ANY REASON BETWEEN
16 NOW AND THE TIME THAT YOU ACTUALLY ARE GIVEN THIS CASE TO
17 ARRIVE AT A VERDICT AND I'LL TELL YOU WHEN THAT IS WHEN YOU
18 BEGIN YOUR DELIBERATIONS. YOU ARE NOT TO TALK ABOUT THIS
19 CASE AT ANY TIME AMONG YOURSELVES. ANY DISCUSSION ABOUT
20 THIS CASE AMONG YOURSELVES IN YOUR JURY ROOM, AT DINNER,
21 WHEN YOU REASSEMBLE OR ANY TIME IS PREMATURE AND YOU ARE
22 NOT TO TALK ABOUT THIS CASE UNTIL I TELL YOU IT IS APPROPRIATE
23 TO BEGIN YOUR DELIBERATIONS. SO WHENEVER YOU'RE TOGETHER
24 WHETHER YOU BE AT THE HOTEL OR AT DINNER OR IN THE JURY
25 ROOM YOU CAN TALK ABOUT ANYTHING THAT YOU WANT TO TALK

1 ABOUT BUT DON'T TALK ABOUT THIS CASE. FAMILY, FRIENDS,
 2 SPORTS, WEATHER, ANYTHING AT ALL BUT DON'T TALK ABOUT THIS
 3 CASE UNTIL I TELL YOU IT IS TIME TO BEGIN DELIBERATIONS. THE
 4 SECOND THING THAT I WILL TELL YOU IS THAT I DO NOT HAVE ANY
 5 OBJECTIONS IF YOU BRING YOUR COFFEE OR YOUR SOFT DRINKS OR
 6 YOUR WATER BACK INTO THE COURTROOM WITH YOU. THE CLERK OF
 7 COURT DON'T LIKE FOR ME TO SAY THIS BECAUSE THEY'RE CHARGED
 8 WITH THE MAINTENANCE OF THE COURTROOM AND THEY'RE ALWAYS
 9 WORRIED ABOUT SPILLS AND I DIDN'T LEARN THIS UNTIL ABOUT
 10 SEVEN OR EIGHT YEARS AGO WHEN MY DAUGHTER WAS SERVING ON
 11 A JURY IN GEORGIA WHERE SHE IS AND SHE SAID THE JURY WAS
 12 SITTING OVER THERE, THE LAWYER'S GOT WATER ON THEIR DESK,
 13 THE JUDGE HAS GOT WATER ON HIS DESK AND THE JURY WAS SITTING
 14 OVER THERE PARCHED AS THEY COULD BE AND COULDN'T GET
 15 ANYTHING TO DRINK. SO I DON'T MIND IF YOU BRING YOUR WATER,
 16 YOUR COFFEE OR YOUR SOFT DRINK BACK INTO COURT WHEN YOU
 17 COME BACK IN. ALL RIGHT. WITH THOSE BRIEF ADMONITIONS AT
 18 THIS TIME I'M GOING TO SEND YOU TO YOUR JURY ROOM AND ASK
 19 YOU JUST TO RELAX AND GET TO KNOW EACH OTHER. DON'T TALK
 20 ABOUT THIS CASE AND WE'LL SEND FOR YOU VERY SHORTLY WHEN
 21 WE'RE READY TO PRESENT THE EVIDENCE. PLEASE GO WITH MR.
 22 BRADLEY.

(JURY SENT OUT AT 2:55 P.M.).

24 THE COURT: DOES THE STATE KNOW OF ANY REASON
 25 WHY THE BALANCE OF THE PANEL SHOULD NOT BE EXCUSED?

HEARING

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19

1 MR. JACKSON: HAVE NO REASON, YOUR HONOR AND NO
2 OBJECTION.

3 THE COURT: MR. LITTLEJOHN?

4 MR. LITTLEJOHN: YOUR HONOR, I THINK THEY SHOULD
5 STAY FOR A COUPLE OF WEEKS.

6 THE COURT: COUPLE OF WEEKS?

7 MR. LITTLEJOHN: NO OBJECTION.

8 (JUDGE EXCUSED JURY PANEL AT 3:00 P.M.).
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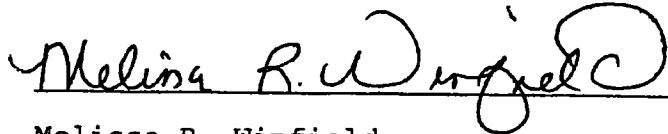
THIRD JUDICIAL CIRCUIT
(803) 436-2150

CERTIFICATE

This is to certify that the jury selection on **February 24, 2005 p.m.** in State vs. Bobby Wayne Stone, consisting of Nineteen (19) pages is a true and correct transcript; said jury selection was reported by the method of Stenomask with Backup.

I further certify that I am not employed by any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 31st day of October, 2006.

A handwritten signature in cursive script, reading "Melissa R. Winfield", followed by a circular flourish.

Melissa R. Winfield
Certified Court Reporter

Notary Public for South Carolina
My Commission Expires: 3-5-2014

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

COURT OF COMMON PLEAS

STATE OF SOUTH CAROLINA,
PLAINTIFF,

TRANSCRIPT OF RECORD
C/A #: 1996-GS-43-0698

▽.

BOBBY WAYNE STONE,
DEFENDANT.

SUMTER COUNTY COURTHOUSE
2/22/05-2/27/05

BEFORE:

HONORABLE HOWARD P. KING, PRESIDING JUDGE.

APPEARANCES:

Solicitor C. Kelly Jackson, Esquire
Solicitor Dudley Saleeby, Esquire
Attorneys for The State

James H. Babb, Esquire
Cam Littlejohn, Esquire
Attorneys for Defendant Bobby Wayne Stone

TAKEN BY MELISSA R. WINFIELD
CERTIFIED VERBATIM REPORTER

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HEARING

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1 **THE BAILIFF:** Order in the court. All rise, please.

2 **THE COURT:** Thank you. I'd like to ask everyone to
3 remain standing for a moment of silence in memory of
4 all of the individuals who were killed in the
5 attacks on 9/11 and also in the war on terror and
6 also to honor all of our military personnel who are
7 guarding the freedom around the world.

8 (Moment of silence)

9 **THE COURT:** Thank you. Please join me in the Pledge of
10 Allegiance to the Flag.

11 (Pledge given)

12 **THE COURT:** Thank you. Please be seated.

13 **THE BAILIFF:** Ladies and gentlemen of the court, it is
14 my pleasure to introduce to you our judge this week.
15 We're glad to have the Honorable Howard P. King as
16 our judge assigned to the Third Circuit Court this
17 week. Judge, good morning, sir.

18 **THE COURT:** Thank you very much, Mr. Herring, and good
19 morning. And good morning, ladies and gentlemen.
20 If you would, give me your attention, please. As
21 the bailiff has indicated, my name is Howard King,
22 and I want to welcome you to this term of general
23 sessions court. I know that we are inconveniencing a
24 lot of you, and for that I do apologize, but your
25 presence is absolutely necessary for these

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1 proceedings this week. I am one of two resident
2 judges of the Third Judicial Circuit of South
3 Carolina. The State of South Carolina is divided
4 into sixteen judicial circuits. The State of South
5 Carolina, as I say, it's divided into sixteen
6 judicial circuits, and Sumter, Lee, Clarendon, and
7 Williamsburg Counties make up the Third Judicial
8 Circuit. There are forty-six circuit court judges
9 in this state. Thirty-three of them are known as
10 resident judges which means that we have to live in
11 the circuit that we represent. I live here in
12 Sumter. It is my home, and I, as I said, am one of
13 two resident judges of the Third Circuit. The other
14 resident judge of the Third Circuit is Thomas W.
15 Cooper, Jr., of Manning. The other thirteen circuit
16 court judges are at-large judges, and that means
17 that they can be elected from anywhere within the
18 state. Those of us that are resident judges have to
19 be elected from our circuit, and the other thirteen
20 could be elected from anywhere within the state, but
21 we are very fortunate in that one of the at-large
22 judges, Judge Clifton Newman, has his office in
23 Kingstree, so we in effect have three circuit court
24 judges in our four-county area. We are called
25 circuit court judges because we ride the circuits.

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1 We go wherever the chief justice tells us to go to
2 hold court. In the nine years that I have been in
3 this position, I have been in about twenty-seven or
4 twenty-eight of the counties of this state, and I
5 would like to visit all forty-six counties before I
6 retire, but I've been assigned to preside over this
7 term of general sessions court for Sumter County,
8 and it's always a pleasure for me to hold court in
9 my home county, and I look forward to serving with
10 you during this term of court. First of all, let me
11 say this is not my courtroom. Sometimes lawyers say
12 to me, Judge, what do you expect in your courtroom.
13 Well, this is not my courtroom, but it's a courtroom
14 assigned to me by the citizens of this state to see
15 that justice is accomplished to all of the parties
16 who are appearing here this week. That will also be
17 your mission and your job to contribute to justice
18 to all of the people who are appearing here this
19 week. To most of you who have been summoned here as
20 jurors, this will be the first time that you've been
21 called to this important service as a juror. This
22 call upon your time does not frequently come and may
23 never be repeated in your lifetime. The judicial
24 system of this state and this court in particular
25 could not function without your presence and without

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1 your willingness to contribute as jurors to the
2 administration of justice. You're being asked to
3 perform one of the highest duties that can be
4 imposed upon any citizen. Winston Churchill once
5 said that next to service to one's country in a time
6 of war, jury service is the highest calling that can
7 be imposed upon a citizen. Under our system of
8 jurisprudence, we say that an individual shall not
9 be deprived of his liberty, not for one day, unless
10 and until twelve jurors of his peers have heard his
11 case and unanimously found him guilty beyond a
12 reasonable doubt. That protects your liberty. With
13 equal importance, it protects mine. Now the court
14 recognizes that each of you have made some
15 sacrifices in leaving your home and businesses to
16 appear here and participate as jurors. I also
17 realize that most of you didn't have much choice
18 about being here this morning as you were subpoenaed
19 to appear. I'm also aware that if any of you were
20 asked a month ago where you wanted to be on this
21 particular Tuesday morning, that this courthouse
22 would not have been very high on your list of
23 priorities. However, it is necessary to maintain
24 our system of justice, which even with its flaws,
25 it's the best in the world that we have citizens who

HEARING

14

1 are willing to perform this important service. Now
2 having said that and thinking as highly as I do of
3 jury service, it is my policy not to excuse a juror.
4 The law does not allow me to excuse a juror on a
5 whim or for a fanciful reason, but only for good
6 cause shown. If a juror has a problem for a
7 particular week, I might transfer, but not excuse,
8 that juror, but generally it is my policy to say to
9 every juror I know that we are inconveniencing you,
10 I know that you would rather not be here, but it's
11 simply the hallmark of good citizenship to be a
12 juror. And in that connection, I want to share with
13 you now a message about how I feel about jury
14 service. This is not original, but I saw it in a
15 newspaper when I first got this job, and I cut it
16 out, and I carry it with me around the circuit, and
17 I share it with jurors all over the state. It's
18 actually in the form of a letter to Dear Abby. This
19 particular individual wrote and said "I have never
20 written to you before. Yesterday I completed jury
21 duty, having served six days. I had the honor to
22 serve on the jury of a murder trial. On a positive
23 note, my fellow jurors and I were treated very well.
24 Every effort was made to keep us comfortable. The
25 judge was fair and impartial. The experience was

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1 interesting and educational, and I was proud to be a
2 part of the American judicial system. On the
3 negative side, I was extremely disappointed and
4 quite disgusted with the attitudes of virtually
5 everyone outside the court. The first day about two
6 hundred potential jurors showed up. I overheard
7 numerous conversations of people scheming to get
8 dismissed. Once the jury was selected, most people
9 asked why I didn't try to get out of it. My boss
10 was upset and worried that things wouldn't get done.
11 My coworkers were upset that they would have to fill
12 in while I was out. All but a few members of my
13 family seemed annoyed and worried about how my jury
14 duty would inconvenience my spouse and my children.
15 All of this when the defendant's future was at
16 stake. I didn't mind the inconvenience because I
17 truly believe it is my duty and honor to serve when
18 called to do so. It troubles me that so many people
19 try to get out of serving on jury duty. I was made
20 to feel almost ashamed that I wanted to serve. If I
21 don't do it, who is left to serve. Being called to
22 jury duty is an honor and a privilege. More
23 Americans should respond to it as such and show
24 respect to those who serve." And I think that that
25 states better than I can state it myself how I feel

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1 about a citizen's responsibility for jury service.
2 Now having said that, I want to tell you that this
3 is not a normal or usual term of general sessions
4 court. There's only one case that will be tried
5 this week, and that is the case of the State v.
6 Bobby Wayne Stone. Because the ultimate penalty for
7 the defendant in this case could be the death
8 penalty, the jury that is selected will be
9 sequestered throughout the trial of this case. That
10 means that once the jury is selected, they will be
11 kept together as a group and required to stay in a
12 hotel throughout the trial of this case which is
13 anticipated to take about six days. I will tell you
14 more about that later on. Some of you in the past
15 weeks may have watched Law and Order or other shows
16 on TV, perhaps observed Court TV, and I will tell
17 you that here in South Carolina and in most states
18 that I am aware of, we simply do not run our courts
19 that way. We require our attorneys to be
20 professional in every respect, and the attorneys in
21 this case are outstanding professionals. We run our
22 court on time and expeditiously. And as I said
23 earlier, while this is not my courtroom but is a
24 courtroom entrusted to me by the citizens of this
25 state, I am in charge. Now once we get the jury

HEARING

17

1 selected and start court, the normal hours for court
2 for the remainder of the week will be from around
3 9:00 in the morning, 9:00 or 9:30 until perhaps
4 5:30, 6:00. It may even be necessary that we run a
5 little bit beyond that, but since the jury that is
6 selected will be sequestered in a hotel and will be
7 transported to and from the courthouse so as to
8 arrive on time, you will not have to worry about the
9 time requirements as all that will be arranged for
10 you. Now the trial of the case begins with the
11 selection of a jury, and that's what we're going to
12 be doing for the next couple of days. I will ask
13 certain questions of the entire jury panel, and then
14 you will be asked specific questions about this
15 particular matter. Both the court, the state, and
16 the defendant are entitled to jurors who approach
17 the case with an open mind. The trial must be as
18 free as humanly possible from bias, prejudice, or
19 sympathy for either side or from any preconceived
20 ideas on the facts of the case or the law of the
21 case. The questions that will be asked are not
22 designed to invade your privacy, but are designed to
23 insure that each side receives a fair and impartial
24 juror. Now the procedure for selecting a jury in
25 this case is going to be quite involved. The

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1 process will take approximately two days, and those
2 of you not selected will be excused. We will select
3 twelve jurors and two alternates. As I indicated,
4 those fourteen jurors will be sequestered and housed
5 at a local hotel. Your food and transportation will
6 be arranged, and we do anticipate that the case will
7 take five to six days, so if you are selected, you
8 plan, you need to plan to be here through the
9 weekend. Now, ladies and gentlemen, I want to
10 introduce to you some of the personnel who are
11 working with us this week and are necessary to the
12 running of the court. You have already met the
13 Clerk of Court, Mr. Jamie Campbell. This is Mr.
14 Campbell right here. He is the elected Clerk of
15 Court, and it is his responsibility and the
16 responsibility of his office to keep all the records
17 that must be kept in connection with this court as
18 well as the civil side of this court which is the
19 Court of Common Pleas, as well as the Family Court.
20 He is ably assisted in the Court of General
21 Sessions. Well, his Chief Deputy Clerk of Court is
22 Donna Griffin. This is Ms. Griffin right here, and
23 then Lilly Britt is the lady seated in between them.
24 She is the Deputy Clerk here in the Court of General
25 Sessions, and will likely be present or one of the

HEARING

19

1 other representatives from his office will be
2 present at all times. The young man to my right is
3 Graham Newman. He is my law clerk. He is a lawyer,
4 and he assists me in my duties of running the court.
5 He will be in the courtroom sometime or maybe back
6 in chambers working on matters that we have to do
7 back there. Scattered throughout the courtroom are
8 the bailiffs. The Chief Bailiff is Mr. Charlie
9 Herring. This is Mr. Herring right here. The other
10 bailiffs are Mr. J. B. Bradley, Mr. Burle Holmes,
11 and David Jones, and they are at the back doors back
12 there. The bailiffs can all be identified by the
13 badges which they wear, and their job is to maintain
14 the order and the decorum in the courtroom and also
15 to insure that any questions the jurors might have
16 are properly attended to, so if you do have any
17 questions or you need to get a message to me, seek
18 out one of the bailiffs. They will find out what it
19 is, and we will try to take care of that. The
20 courtroom security this week is being handled by
21 Sgt. David Scott. This is Sgt. Scott over here.
22 There are also some other deputies that are here in
23 the courtroom that are also assisting in the
24 courtroom security. In South Carolina we call the
25 prosecutor the solicitor. Some states call them the

HEARING

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1 district attorney, or some of them call it, call
2 them the prosecuting attorney, but in South Carolina
3 we call the prosecuting attorney the solicitor. The
4 solicitor's position is an elected position, and it
5 is elected for the entire Circuit, the Third
6 Judicial Circuit. The Third Circuit solicitor is
7 Mr. Kelly Jackson, and this is Mr. Jackson right
8 here.

9 **MR. JACKSON:** Good morning, ladies and gentlemen.

10 **THE COURT:** He has a number of assistant solicitors that
11 help him here in Sumter, but as far as this case is
12 concerned, will be assisted I believe by Mr. Dudley
13 Saleeby, is that correct, Mr. Jackson?

14 **MR. JACKSON:** That's correct, Your Honor. Thank you.

15 **THE COURT:** All right. Also we normally would have the
16 public defenders that are here in the court for a
17 normal term of general sessions court, but the
18 public defenders are not involved in this case, and
19 so they are not here today. Now the court reporter
20 is this lady right down here is Melissa Winfield.
21 It is her job to take down everything that is said
22 in court so that if it becomes necessary for us to
23 have a verbatim record prepared, she can prepare
24 that record. So you may hear her or me from time to
25 time make sure that everyone is speaking loudly

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1 enough so that, that we can be heard and so that she
2 can hear it and get it down or making sure that only
3 one person is speaking at a time so that she can
4 make sure that she gets down everything that has to
5 be said. Now procedurally the next order of
6 business is to call the roll of the jury and to
7 ascertain who is here. Therefore, I will go through
8 thereafter I will go through the general
9 qualification process to determine who is qualified
10 and who has statutory exemptions that they wish to
11 exercise. After that, I will determine if there
12 will be any juror who will be placed under an undue
13 hardship by way of sequestration. I will give you
14 an opportunity to go into that with me, but you need
15 to know that during the trial of this case, the jury
16 will be sequestered for the period of time that I
17 have indicated to you. I will also emphasize that
18 it's going to take a strong showing of undue
19 hardship before I can excuse you. I regret the
20 inconvenience that it will cause some of you, but it
21 is absolutely necessary under our system of justice
22 and jurisprudence that you be here and that you
23 serve this week. Now as I say, I'm going to call on
24 the Clerk. I'm going to ask her to call the roll of
25 the jury. I will ask you to please speak a little

HEARING

22

1 louder than usual. The acoustics in this courtroom
2 are not the best in the world. I have the good
3 fortune of having an amplification system, so you
4 should not be having any trouble hearing me, but you
5 will not have that advantage, and you will need to
6 speak up loudly enough so that everyone here in the
7 courtroom can hear you. I have told many jurors
8 this before that I had heard from my wife so long
9 that I was getting deaf that I finally went to the
10 audiologist, and set in that little booth, and every
11 time I would hear a sound, I would raise my hand,
12 and finally I came out, and she said, well, you just
13 have a very slight hearing problem of hearing high-
14 pitched sounds like women's voices. So now I tell
15 everybody that I have selective hearing and not a
16 hearing problem. So you will need to speak up a
17 little bit louder as we go through this roll call
18 process. Before I do that, and before I do ask the
19 clerk to call the roll well, let's do the roll
20 call, and then we'll come back, and I'll take care
21 of the other matter. All right. Madam Clerk or Mr.
22 Clerk, you may call the roll.

23 (Roll being called)

24 **THE COURT:** All right. Solicitor, will you call the
25 case so that we can tell the jury what we will be

HEARING

23

1 doing at this point.

2 **MR. JACKSON:** I can, Your Honor. May it please the
3 Court. The State calls the case of The State of
4 South Carolina vs. Bobby Wayne Stone. It's
5 indictment '96-GS-43-698. He's indicted for Burglary
6 in the First Degree, Murder and Possession of a
7 Weapon during the commission of a violent crime.

8 **THE COURT:** All right, Sir.

9 (JURY SELECTION - See attachment)

10 **THE BAILIFF:** (Jurors called.) Your Honor, they are all
11 present.

12 **THE COURT:** All right. Thank you very much, ladies and
13 gentlemen and thank you for your promptness and
14 responsibility for appearing back here this
15 afternoon. We are now ready to strike the jury in
16 this case. Let me tell you a little bit about the
17 procedure that will be used. The names of all of
18 the qualified ...

19 (Off the record conversation)

20 **THE COURT:** All right. As I say, ladies and gentlemen,
21 we are now ready to draw the jury in this case, and
22 let me explain to you a little bit about the
23 procedure that will be used. The names of all of
24 you as qualified jurors will be put in this rotating
25 drum that is sitting on the clerk's desk, and the

HEARING

24

1 drum will be rotated, and then the names will be
2 drawn out individually, one-by-one. When your name
3 is called, please come to the front of the
4 courtroom, even through the double swinging doors
5 right here in front of me or the door over here,
6 whichever is convenient to where you are sitting and
7 come to this rail right here. Turn around with your
8 back to me and face the back of the courtroom. If
9 you are acceptable to the State, the State will so
10 indicate, will say present the juror, and if you are
11 acceptable to the defense, the Defendant will then,
12 the defense counsel will then indicate by accept or
13 seat the juror. You would then have a seat in the
14 jury box to my left. If you are excused by either
15 side, then you would have a seat back out with the
16 remainder of the jury panel. We will do this until
17 we have chosen twelve regular jurors, and then we
18 will draw two alternate jurors, and we'll go through
19 that procedure until we have drawn a total of
20 fourteen jurors. So we will proceed with the
21 selection process at this time. All right. Madam
22 Clerk, if you'll give us a jury and call the first
23 name, please.

24 (Jury strike from 2:35 p.m. to 2:55 p.m.)

25 THE COURT: All right. Anything with regards to

HEARING

25

1 striking the jury on behalf of the State, Mr.
2 Jackson?

3 **MR. JACKSON:** Nothing from the State, Your Honor.

4 **THE COURT:** On behalf of the Defendant, Mr. Littlejohn?

5 **MR. LITTLEJOHN:** Could you give me just a moment, Your
6 Honor?

7 **THE COURT:** Yes, sir.

8 **MR. LITTLEJOHN:** Nothing from the Defendant, Your Honor.

9 **THE COURT:** All right. Ladies and gentlemen of the jury
10 panel that have been selected in the trial of this
11 case, I have to take up certain matters with the
12 attorneys at this time before we actually get into
13 the trial of this matter, but you are now the jury
14 in this case. I'm going to send you to your jury
15 room and let you relax for just a minute while we
16 take care of some administrative matters, and then
17 we will be ready to get started with the trial of
18 this case. I'm going to tell you something now that
19 carries on throughout the trial of this case no
20 matter how many days it is. When you go to your
21 jury room for any reason between now and the time
22 that you actually are given this case to arrive at a
23 verdict, and I'll tell you when that is to begin
24 your deliberations, you are not to talk about this
25 case at any time among yourselves. Any discussions

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1 about this case among yourselves in the jury room,
2 at dinner, when you reassemble or at any time is
3 premature, and you are not to talk about this case
4 until I tell you it is appropriate to begin your
5 deliberations. So whenever you're together, whether
6 you be at the hotel or at dinner or in the jury
7 room, you can talk about anything that you want to
8 talk about, but don't talk about this case. Family,
9 friends, sports, weather, anything at all, but don't
10 talk about this case until I tell you it is time to
11 go into deliberation. The second one that I will
12 tell you is that I do not have any objections if you
13 bring coffee or your soft drinks or water back into
14 the courtroom with you. All right. With those
15 brief admonitions, at this time, I'm going to send
16 you to your jury room and ask you just to relax, get
17 to know each other. Don't talk about this case, and
18 we'll send for you very shortly, and we'll begin
19 today. Please go with Mr. Babb. Thank you very
20 much. All right. Does the State know of any reason
21 why the balance of the panel should not be excused?
22 **MR. JACKSON:** Have no reason, Your Honor, no objection.
23 **THE COURT:** All right. Mr. Littlejohn?
24 **MR. LITTLEJOHN:** Your Honor, I think they should stay
25 for a couple weeks. No objection.

HEARING

27

1 **THE COURT:** Okay. Ladies and gentlemen of the jury, you
2 have shared with us this tedious process over the
3 last two and a half or three days, and it has been
4 long and tedious and involved, and I want to thank
5 you for your cooperation and for your willingness to
6 serve. I know that, and I tell jury panels this all
7 the time, I know that it is never convenient to
8 serve on the jury, but it is an important
9 responsibility of citizenship for citizens to serve
10 on a jury when they are called to do so. I also
11 know you had no choice to appearing here as you were
12 subpoenaed to appear, but nonetheless, it is an
13 important responsibility of citizenship, and I
14 certain do appreciate your being here, and I want to
15 thank you on behalf of the county and State for your
16 willingness to serve. I am going to excuse now for
17 any further service on this panel and any further
18 service this week. You will not have to come back.
19 Next week sometime, you will receive a small check
20 from the Clerk's office. It will in no way
21 compensate you for the time that you have been up
22 here and running around as I have made you do by
23 leaving and coming back, but it's a small token of
24 appreciation on behalf of the county for your
25 services this week. I don't think it's going to be

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1 a problem and don't spend it all in one place. I
2 will also tell you that by serving on the panel this
3 week, you have met your citizenship responsibilities
4 for jury service in the Circuit Court. That is up
5 here in this courtroom, either the Court of General
6 Sessions as we've been on this week or the Court of
7 Common Pleas, which is the civil side of this court,
8 for the next three years. The first year, you're
9 disqualified. If you were to get a summons from the
10 Clerk in the next year, we couldn't take you even if
11 you wanted to serve. You would be disqualified for
12 service. The second and third years, you have an
13 exemption, which means you could serve if you wanted
14 to, but you could not be required to serve. So you
15 cannot be required to serve as a juror in Circuit
16 Court more than once every three years. But again,
17 I do appreciate your service and I appreciate your
18 willingness to work with us. You have been a very
19 good group to work with, and I have enjoyed having
20 you here. I hope that you have learned a little
21 something about how at least the procedure, the
22 method the Court of General Sessions follows, and I
23 hope you have found it at least mildly interesting
24 and perhaps somewhat educational. And I would also
25 tell you that the courtroom is always open. I'm

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1 going to excuse you in a few minutes, but you are
2 welcome to stay. You have the right to stay for any
3 part of this trial that you would like to stay for.
4 You have the right to leave and come back while
5 we're trying this case over the next few days. The
6 courtroom is always open. You can come and go as
7 you please. You, of course, have to come through
8 the metal detectors and that sort of thing, but
9 you're welcome to stay, if you would like to stay,
10 but you are free to go and thanks from the county.
11 Thank you very much, you are excused.

12 (Panel excused at 3:00 p.m.)

13 **THE COURT:** All right. Counsel, we are about ready to
14 let the jury in and present your opening statements.
15 Is there anything that the state would like to
16 address before I call the jury in? We're going to
17 come back to the opening remarks in just a few
18 minutes, but is there anything that you have, Mr.
19 Saleeby, or Mr. Jackson?

20 **MR. SALEEBY:** Yes, sir. We showed these diagrams to
21 counsel. They're not to scale. We would like to
22 use them, and we would like to have them go ahead
23 and put into evidence. I'd like to refer to a
24 couple of them during opening.

25 **THE COURT:** Any objection having them admitted into

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1 evidence, Mr. Littlejohn?

2 **MR. LITTLEJOHN:** They're not to scale.

3 **MR. SALEEBY:** I understand that.

4 **MR. LITTLEJOHN:** Thank you.

5 **THE COURT:** Yes, Mr. Littlejohn?

6 **MR. LITTLEJOHN:** Your Honor, we have no objection to the
7 exhibits as long as obviously the jury is told
8 they're not to scale.

9 **THE COURT:** All right. They'll be admitted into
10 evidence as State's Number 84, 85, and 86.

11 **(State's Exhibits Numbers 84, 85, and 86 were introduced**
12 **into evidence.)**

13 **THE COURT:** All right. We talked about this earlier,
14 and make sure we understand that. Mr. Littlejohn
15 and Mr. Saleeby, Exhibits 1 through 83 from the
16 previous trial are admitted into evidence without
17 objection at this time subject to any objections
18 that were made when they were admitted in the first
19 trial, so those objections are preserved. Agreed,
20 Mr. Saleeby?

21 **MR. SALEEBY:** Yes, sir.

22 **THE COURT:** Mr. Littlejohn?

23 **MR. LITTLEJOHN:** Yes, Your Honor, as long as the
24 objections are preserved.

25 **THE COURT:** All right. Mr. Saleeby, anything else from

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1 the state?

2 **MR. SALEEBY:** No, sir. I might even get some out of the
3 back room before you bring the jury back in.

4 **THE COURT:** All right. We can do a couple of things.
5 How about you, Mr. Littlejohn, or Mr. Babb, anything
6 that you need to address?

7 **MR. LITTLEJOHN:** Your Honor, we had discussed this
8 briefly, and I guess I should put this in the form
9 of a Motion in Limine. The issue of Mr. Stone
10 having been convicted of burglary and possession of
11 a firearm, as I understood our earlier discussions,
12 that would not be something that would be put before
13 the jury because of the obvious, obvious weight that
14 the jury could give that, and certainly that's not
15 before the jury because this jury is charged with
16 making a finding of whether the state has proven
17 aggravated circumstances beyond a reasonable doubt.

18 **THE COURT:** This was --- and my ruling is and I don't
19 think there's any disagreement with the ruling is
20 that the fact of the conviction of the previous
21 burglary, possession of a weapon is not before this
22 jury and should not be referred to. Obviously and
23 the fact the conviction of a weapon during the
24 possession of a crime should not be referred to at
25 all because it doesn't enter into the aggravated

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1 circumstances. The state will have the right to
2 prove the facts of the burglary, but not the
3 conviction of the burglary as a part of its case for
4 aggravated circumstances. You understand that, Mr.
5 Jackson

6 **MR. JACKSON:** Yes, sir, Your Honor. The only --- that
7 I've read to make sure we caution that we're all
8 clear on, one, one of the subsections of burglary
9 first that, that allows us to make it burglary first
10 is being armed when you do it. So if he had the
11 pistol in the commission of the burglary, I
12 understand. You follow me?

13 **THE COURT:** Yes, sir. But that's not part of the
14 evidence of the aggravated circumstances.

15 **MR. JACKSON:** No, sir. But the

16 **THE COURT:** The elements of the aggravated circumstance
17 is burglary in any degree.

18 **MR. JACKSON:** Yes, sir.

19 **THE COURT:** You don't have to, you don't have to do with
20 burglary first. It has nothing to do with burglary.

21 **MR. JACKSON:** But I don't, I don't want to be limited to
22 not being able to use the evidence of the weapon in
23 proving the burglary.

24 **THE COURT:** What say you, Mr. Littlejohn?

25 **MR. LITTLEJOHN:** Your Honor, give me just a moment. He

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1 kind of surprised me with that one. I really didn't
2 finish where I was going with it, but I can come
3 back.

4 **THE COURT:** Okay. Come back to it.

5 **MR. LITTLEJOHN:** Your Honor, if the court wants to
6 exclude any evidence concerning the possession of
7 firearms by Mr. Stone, of course we have no
8 objection to that.

9 **THE COURT:** No, sir. That's not what I said.

10 **MR. LITTLEJOHN:** Okay.

11 **THE COURT:** I think and what Mr. Jackson said, and I
12 think is right, that he has the right to prove the
13 burglary as an aggravated circumstance. I think
14 he's got the right to show burglary in the first if
15 that's what the facts show, and one of the things
16 that burglary first or maybe burglary first is the
17 use of a weapon during a burglary. So I think he
18 does have the right to prove a weapon was used
19 during the burglary as part of his case for
20 aggravated circumstances.

21 **MR. LITTLEJOHN:** Reluctantly I would have to agree with
22 that.

23 **THE COURT:** Okay.

24 **MR. LITTLEJOHN:** And I guess my point was this. If it
25 comes a time that I argue to the jury that perhaps

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1 burglary has not been proven as an aggravating
2 circumstance.

3 **THE COURT:** Oh, yes.

4 **MR. LITTLEJOHN:** I didn't want the state to come back
5 and say, well, now you've opened the door, we're
6 going to put the conviction in.

7 **THE COURT:** All right.

8 **MR. LITTLEJOHN:** I just want to make sure we're covered
9 on that.

10 **THE COURT:** That's one of the facts this jury has got to
11 decide is whether the burglary was, was proven, and
12 so you will of course have the right to, to argue
13 that no burglary was committed, and therefore, that
14 aggravated, the proof on that aggravated
15 circumstance.

16 **MR. LITTLEJOHN:** Yes, sir. All right.

17 **THE COURT:** All right.

18 **MR. LITTLEJOHN:** But that

19 **THE COURT:** What about my opening remarks, counsel.

20 Have you all had a chance to look at those?

21 **MR. LITTLEJOHN:** You Honor, If you'd like me to go first
22 while Mr. Jackson's reading it?

23 **THE COURT:** Yes, sir. Go ahead.

24 **MR. LITTLEJOHN:** Your Honor, we have no objection to the
25 opening charge to the jury other than we would

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1 request that the court instruct the jury that a
2 sentence of life imprisonment means life
3 imprisonment without the possibility of parole.

4 **THE COURT:** I thought about that, and, and that is the
5 situation in the statutory aggravated circumstance
6 must be punished by death or by prison for life
7 without the possibility of parole. I think that is
8 appropriate.

9 **MR. LITTLEJOHN:** Yes, sir. Thank you.

10 **THE COURT:** Okay. Do you see any problem with the
11 opening remarks?

12 **MR. JACKSON:** I don't, Your Honor. Thank you.

13 **THE COURT:** All right. Fine. All right. Now, Mr.
14 Jackson I assume you or Mr. Saleeby is going to
15 actually open for the state?

16 **MR. JACKSON:** Mr. Saleeby is going to open for the
17 state, Your Honor.

18 **THE COURT:** He's gone down the hall somewhere?

19 **MR. JACKSON:** Well, as he mentioned, he had to get
20 something out of the back room before we could bring
21 in the jury.

22 **THE COURT:** How about who's going to open for the
23 defense?

24 **MR. LITTLEJOHN:** I will, Your Honor.

25 **THE COURT:** All right. Fine.

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1 **MR. LITTLEJOHN:** Are we at ease for a minute, Your
2 Honor?

3 **THE COURT:** Just a very minute. It seems like --- He
4 stepped out and said he was coming right back.
5 Bring them back out. We're not going to take a
6 break at this time. We'll take a break a little
7 later on.

8 **THE COURT:** What I'm going to do is I'm going to have
9 the bailiff's going to poll the first, and then I'm
10 going to send out. All right. As soon as we get
11 Mr. Jackson, we'll start. All right, counsel.
12 Anything before we bring the jury in? Mr. Jackson?

13 **MR. JACKSON:** Nothing from the state, Your Honor.

14 **THE COURT:** Mr. Littlejohn?

15 **MR. LITTLEJOHN:** Nothing from the defense.

16 **THE COURT:** All right. Bring the jury in, please.

17 **(Jury in at 3:12 p.m.)**

18 **THE BAILIFF:** These seats are the two alternate seats.
19 Your Honor, all the jurors and the alternates are
20 present in the courtroom.

21 **THE COURT:** All right. Thank you very much Mr. Herring.
22 ladies and gentlemen, thank you. We are now ready
23 to begin. We got a few formalities that we need to
24 do, but let me just tell you this, and I meant to
25 tell you before you went out the first time. There

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1 are no seats in the jury box that are reserved
2 except the seats where the two alternates are
3 sitting. The seat down here in the front where this
4 lady is sitting, and the seat, first seat on the
5 second row. Later on in this trial I will name one
6 of the twelve members of the principal jury as the
7 foreperson on this jury. When I do that, the
8 foreperson will sit in the first seat on the front
9 row, so that in effect, three seats are reserved.
10 The seats of the two alternates and the seat for the
11 foreperson when I appoint that foreperson. The rest
12 of the seats are not reserved, and you can sit in
13 any of the seats in the jury box, and it does not
14 matter what order you come and go from the
15 courtroom. I would simply ask that you go all the
16 way down so it wouldn't be a situation of crawling
17 offer one another reserving the two seats of the
18 alternates at all times, and after I appoint the
19 foreperson, the first seat on the front row will be
20 reserved for that person. Then with that, then
21 we're ready to go, and I would like Mr.
22 Herring, if you would get the bailiffs, yourself and
23 the other bailiffs to come forward, please.

24 **MR. HERRING:** Right here?

25 **THE COURT:** Yeah, right in front.

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1 **MR. HERRING:** Mr. Holmes, Mr. Jones.

2 **THE COURT:** All right. To the bailiffs I wish to issue
3 this oath, and I would ask that you please raise
4 your right hand. Do you and each of you swear that
5 you will well and truly perform your duties as
6 bailiffs in maintaining the order and decorum in the
7 courtroom and keeping the jurors together during the
8 course of this trial, that you will allow no one to
9 enter the jury room at any time and that you will
10 allow no one to speak to the jurors without leaving
11 the court. Further that you will not converse with
12 the jurors concerning the facts of this case and
13 will communicate to them only insofar as is
14 necessary to tend to your administrative
15 responsibilities, so help you God? Please respond
16 by saying I will.

17 **ALL BAILIFFS:** I will.

18 **THE COURT:** All right. Thank you very much. And now,
19 Mr. Bailiff, if you all would take care of manning
20 the doors for a few minutes, and I'll ask Mr. Scott
21 and the police officers or the security officers to
22 come forward, please. All right. Thank you, and I
23 would ask if each of you would raise your right
24 hands, please. Do you and each of you swear that
25 you will faithfully perform the duties that provide

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1 the security in the courtroom and that you will
2 communicate with no one regarding the facts of this
3 case or communicate with prospective jurors, jurors
4 or spectators only as is necessary to perform your
5 security responsibilities, so help you God? Please
6 respond by saying I will.

7 **ALL SECURITY:** I will.

8 **THE COURT:** Thank you very much. You may return to your
9 posts. All right. Anything before the jury is
10 sworn, Mr. Jackson?

11 **MR. JACKSON:** Nothing from the state, Your Honor.

12 **THE COURT:** Mr. Littlejohn?

13 **MR. LITTLEJOHN:** Nothing from the defense, Your Honor.

14 **THE COURT:** All right. Mr. Herring, if you will, swear
15 the jury, please.

16 **MR. HERRING:** Ladies and gentlemen of the jury, please
17 stand and raise your right hand.

18 **THE COURT:** Mr. Herring?

19 **MR. HERRING:** Yes, sir.

20 **THE COURT:** Before we do that All right. Go ahead.

21 **MR. HERRING:** Case Number 96-GS-43-698, State of South
22 Carolina v. Bobby Wayne Stone. You shall well and
23 truly try and true deliverance make between the
24 State of South Carolina and Bobby Wayne Stone whom
25 you shall in charge and a true verdict given

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1 according to the evidence, so help you God? Please
2 respond by saying I do.

3 **THE JURY:** I do.

4 **MR. HERRING:** Thank you. You may be seated.

5 **THE COURT:** All right, ladies and gentlemen, thank you
6 very much, and if you would give me your attention
7 just briefly, I want to just give you some
8 preliminary remarks and would tell you this is not a
9 charge on the law, but it is just some preliminary
10 remarks. The defendant, Bobby Wayne Stone, who is
11 the gentleman in the white shirt seated next to Mr.
12 Babb at the table to my right was convicted on
13 January the 28th, 1997, of the offense of murder.
14 Therefore, it becomes necessary for us to hold this
15 additional proceeding that would determine the
16 punishment that the court is to impose upon the
17 defendant. Section 16-3-20 in the code of laws of
18 South Carolina provides in part that upon conviction
19 of a defendant of murder, the court shall conduct a
20 second sentencing proceeding to determine the
21 appropriate sentence. That section also provides
22 that a person who is convicted or pleads guilty of
23 murder, accompanied by a statutory aggravating
24 circumstance that is proved beyond a reasonable
25 doubt must be punished by death or imprisonment for

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1 life without the possibility of parole. So our
2 purpose in conducting the proceeding in which we are
3 now engaged is to determine two things. First,
4 whether the state proved beyond a reasonable doubt
5 that the murder of which the defendant has been
6 convicted was accompanied by the statutory
7 aggravating circumstance, and number two, if that
8 statutory aggravating circumstance has been proven
9 whether the defendant, Bobby Wayne Stone should be
10 sentence by the court to death or life imprisonment.
11 With respect to your particular role in this
12 proceeding, you will be asked to make a finding of
13 fact regarding the first issue, the proof of the
14 statutory aggravating circumstance beyond a
15 reasonable doubt. If you find that such
16 circumstance has been proven, you will then be asked
17 to recommend to the court whether it should sentence
18 the defendant to death or to life imprisonment. Now
19 when I use the word recommend, it is not really a
20 recommendation. Whatever sentence you recommend,
21 the court will impose, so in reality you are making
22 the final decision on the sentence in this court.
23 Now during this sentence proceeding, sentencing
24 proceeding, the state and the defendant will have an
25 opportunity to introduce evidence and aggravation,

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1 extenuation, or mitigation, and both sides will have
2 an opportunity to present arguments for and against
3 the death penalty. Was the murder accompanied by
4 statutory, a statutory aggravating circumstance? If
5 so, should you recommend a sentence on life
6 imprisonment without parole, or should you recommend
7 a sentence of death. Those are the only two issues
8 involved before you. After the last argument has
9 been made to you concerning these issues, the court
10 will give you certain instructions, and you will
11 then retire to determine your findings in this case.
12 Now, ladies and gentlemen, I do not intend that this
13 be a charge on the law to you. It is not that. I
14 will give you detailed instructions on the law at
15 the conclusion of this case, and those instructions
16 will control your deliberations. This brief
17 statement is to give you an overview of the case and
18 the issues that you are, will be required to decide.
19 My final instructions to you at the conclusion of
20 the testimony will be the law that you are to follow
21 in this case. Now the first thing you do in any
22 trial is that the lawyers have the right to make an
23 opening statement to you. An opening statement by
24 the way is not evidence. In fact, none of the
25 statements of the lawyers in this case is evidence.

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1 None of their questions are evidence. None of their
2 objections are evidence. None of their opening
3 statements or arguments are evidence. The evidence
4 in this case will come from this witness stand and
5 from any exhibits which you, which have been
6 introduced into evidence. But the lawyers have the
7 right to address you at this time and to give you
8 their opening statement as to what they think the
9 evidence is going to show. After they have made
10 their opening statements to you, we will then get
11 into the presentation of the testimony, and the
12 state will present their testimony first. So you
13 will first hear by way of opening statement from Mr.
14 Saleeby on behalf of the state, and then from Mr.
15 Littlejohn on behalf of the defendant.

16 **MR. SALEEBY:** May it please the court?

17 **THE COURT:** Yes, sir, Mr. Saleeby.

18 **MR. SALEEBY:** As he sits here today before you, Bobby
19 Wayne Stone is guilty of the murder of Charlie
20 Kubala. Guilty beyond a reasonable doubt of killing
21 a deputy sheriff of Sumter County who was going
22 about his duties, who was protecting the public, who
23 was responding to a burglary that Bobby Wayne Stone
24 was in the commission of committing. You do not
25 have to deal with guilt or innocence. Your decision

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1 only has to do with punishment. You get to make a
2 choice. Charlie Kubala did not get to make a
3 choice. February 1996, almost nine years ago this
4 week. Here in Sumter County off of Boulevard Road,
5 an area I'm sure many of you are familiar with,
6 between the hours of 5:30 and 7:30 is when these
7 events took place. This area is about two and a
8 half miles south of town off of Boulevard Road just
9 out of the county. This murder took place at 817
10 Taylor Street, which is about a third of a mile from
11 the Boy's Club and just to the west of the Boy's
12 Club, 711 Ravenel Street, which would be the home of
13 the defendant at the time Bobby Wayne Stone. That
14 would be the date and the time and the place. Now
15 you're going to find out over the next day or so
16 about the people who were involved. You're going to
17 find out a little bit about Charlie Kubala, about
18 his roots in Sumter. About his family, about how he
19 cared for his job, about his professionalism, about
20 his service to his community beyond that. You're
21 going to hear about more than his confidence, more
22 than his professionalism. You're going to hear
23 about how ... How he did what he loved to do, and
24 how he did it and that was protecting and serving.
25 We call them police officer, but Charlie Kubala was

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1 a peace officer. He demonstrated that. He lived
2 his life that way, and this is what we have. Now
3 Bobby Wayne Stone, you're going to hear about him.
4 You're going to hear a lot of folks come up, members
5 of his family and other folks. You need to give
6 that all your attention. And you will also have
7 here in just a few minutes about Bobby Wayne Stone's
8 prior experience with the law, about his multiple
9 convictions of grand larceny, about his multiple
10 convictions of house breaking and for burglary.
11 About the twenty-year sentence he received in 1987
12 and got out in about five and a half years. On the
13 opportunity the State of South Carolina gave him on
14 parole, straighten up and fly right. And how he
15 didn't take advantage of that opportunity, how he
16 admitted to using drugs, drinking to excess, and
17 arming himself with these weapons that you'll hear a
18 great deal more about. He put this chain of events
19 into place. Earlier that day, the 26th, he started
20 out as I recall, you'll find out, he started out the
21 day with a little joint of marijuana. By 1:00
22 o'clock he'd had a couple six packs of Budweiser.
23 He'd armed himself with these weapons. This is a
24 410 shotgun, it's called a snake charmer, and this
25 target pistol, this 22 target pistol, and he had

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1 positioned himself somewhere in this area beyond
2 where his house was and was drinking beer and firing
3 these weapons. Now around 5:15 or so, he found
4 himself at 817 Taylor Street. That was the
5 residence of Ruth Griffith and her daughter Mary
6 Ruth McLeod. She was McLeod. She's a Williamson
7 now. They lived at that residence. You won't be
8 seeing Ms. Griffith here. She has severe medical
9 problems. She won't be testifying, but fortunately
10 for you and us, she's testified at another date and
11 time under oath, and you will have the benefit of
12 her sworn testimony in the form of a transcript.
13 Now between that and what her daughter will tell
14 you, you will find that when they saw Bobby Wayne
15 Stone in the back yard, it upset them, and so doing
16 what a good daughter would do, Ms. McLeod went to
17 the back door, and she sees Bobby Wayne out in the
18 back yard and says what are you doing, get out of
19 here, you don't belong here, get away from my
20 property. And he goes out of her sight, and she's
21 not satisfied with that. She wants to see where
22 he's gone to, so she follows him back in the woods,
23 and she hears something. When she turns, there's
24 Bobby Wayne. He's taken his jacket off, this
25 jacket, and he's standing there with his 410 in his

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1 arms. It scared her. She and her mom called the
2 Sheriff's Department. About thirty minutes later,
3 right after 6:00 o'clock, after responding to other
4 things, Charlie Kubala arrived. He put them at
5 ease. He checked the area. He got a description.
6 Said let me know if you've got any more problems.
7 And we would hope that that would be the end of it.
8 Now Ms. McLeod had to go take care of her daughter
9 at another location. Even though that was her
10 residence, she had to go somewhere else. Asked her
11 mom to come with her. Ms. Griffith said no, I'm not
12 going to do that. About thirty minutes after
13 Charlie left, which would be about 6:56, and you're
14 going to hear a lot of this on the dispatch tape
15 we're going to play for you, Ms. Griffith and her
16 neighbor, Landrow Taylor, called 911. Her neighbor,
17 Landrow Taylor, is deceased, and that's a shame, but
18 you will have his sworn testimony at another
19 occasion before you. They called up and said that
20 same guy is back with a shotgun, and so the
21 dispatchers, doing their job, called, and they
22 called into a couple of officers, and Sgt. Kubala
23 headed that way. Now as he was doing that, Mr.
24 Taylor and Ms. Griffith hear Bobby Wayne Stone out
25 in the yard. Hear him around the car, and then hear

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1 him enter this back porch through this screen door,
2 and you'll see the slash in the screen door. These
3 items that are cut were cut out by law enforcement,
4 and you'll hear more about them later, but now he's
5 on this screened porch or this back porch, the side
6 porch, through that screen door, knocking on the
7 door that goes inside, beating on it, beating on it
8 so hard trying to get in that a board that is
9 protecting a broken place is broken off, and they
10 are more and more scared, and they call dispatch and
11 say he's breaking in, he's breaking in, and dispatch
12 sends out the word a burglary, a breaking and
13 entering is in progress, and so Sgt. Kubala picks up
14 the pace, and the other officers start responding.
15 Charlie Kubala arrives in the yard and parks to the
16 right front. Landrow Taylor motions to him, but
17 Landrow Taylor doesn't stay to see where it happens,
18 and Sgt. Kubala starts going around the house to
19 find out what's going on. The back porch, this side
20 porch, is not lit. As you will see in the
21 photographs, it's got plywood that comes up to
22 about four feet. You can't see in it unless you
23 walk all the way around to this side, look in
24 through that screen door. As Charlie Kubala is
25 walking around the house, he gets a transmission on

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1 his walkie talkie. You'll see a picture of it, the
2 kind you wear on the side, an audible transmission.
3 Loud enough for anybody to hear, and why that's
4 significant is Charlie Kubala has got, is making
5 noise on his side. They're giving him a
6 transmission, and he's saying hold the calls, I'm a
7 little busy right now. He's moving, he's making
8 noise, he's got a flashlight. Bobby Wayne Stone's
9 in the dark. He's quit beating on the door. He's
10 got a loaded pistol in his hand. He's got a loaded
11 shotgun at his feet. Charlie Kubala doesn't know
12 what's coming. Charlie Kubala moves about to this
13 position. If you see the screen door, it would be
14 approximately where I am now. Something he sees or
15 something he hears because Ms. Taylor or Mr. Taylor
16 and Ms. Griffith hear him say hold, and when he
17 does, Bobby Wayne Stone let him hold it. Shot three
18 times. Squeezed off three rounds. Each squeeze
19 firing a different projectile. No automatic
20 operation. Hits Charlie Kubala in the right ear.
21 Hits him in the neck. Both shot immediately fatal.
22 He drops where he was hit. Never fired his weapon.
23 Never threatened to fire his weapon, and Bobby Wayne
24 Stone doesn't come off the porch and reach down to
25 help Charlie Kubala. No, he runs in the woods.

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1 Sixty seconds later, approximately, John Prince,
2 another deputy sheriff, Charlie's friend, arrives,
3 goes to his friend, reaches down to check his
4 carotid artery, there's no pulse. He hears a sound
5 in the woods. He lifts his flashlight and briefly
6 flicks it to see what it is and hears a shot, and
7 does the safe thing. After an extensive manhunt,
8 Bobby Wayne Stone is found in the woods over close
9 to where his house is. He's got this weapon
10 underneath him. There's a casing in the weapon,
11 meaning he had stopped firing. They take this
12 weapon, and they take the bullets they pick out of
13 Charlie's body, and this weapon, Bobby's weapon,
14 killed Charlie. Please when you're going about your
15 deliberation, as you're thinking about what's
16 happening, and when you ultimately go back there and
17 make that decision, bear in mind that we're all in
18 here because of series of choices that Bobby Wayne
19 Stone made on February the 26th of 1996 including
20 the choice to kill Charlie Kubala. Thank you.

21 **THE COURT:** Mr. Littlejohn?

22 **MR. LITTLEJOHN:** Please the Court?

23 **THE COURT:** Yes, sir.

24 **MR. LITTLEJOHN:** Ladies and gentlemen, good afternoon.

25 I think for about the fourth time, my name is Cam

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1 Littlejohn. I, along with Jim Babb, represent Bobby
2 Wayne Stone who is the defendant on trial here
3 today. I want to reiterate what Judge King said to
4 you, and I want to thank you for your service. I
5 know this is an inconvenience to you. I know it's
6 an inconvenience to your family and your co-workers
7 and your neighbors and people that depend on you,
8 but this is an important, an important case. This
9 is an important case not only for the State of South
10 Carolina but for Bobby Wayne Stone because his fate
11 will be decided by you at the conclusion of this
12 trial. You're going to hear a lot as the evidence
13 comes out in this case. You're going to hear a lot
14 about Charlie Kubala. You're going to hear two main
15 things about Charlie Kubala. You're going to hear
16 about the terrible way that Charlie Kubala died on
17 the night of February 26, 1996. Then you're going
18 to hear some wonderful things about Charlie Kubala.
19 Wonderful things about his life and his service to
20 the people in Sumter County, and I reiterate a lot
21 with what my friend Dudley Saleeby said because
22 Charlie Kubala was a good deputy sheriff. He was a
23 man who was doing his job and doing it properly.
24 And he went out on that call that night to serve the
25 people of Sumter County. There's no question about

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1 that. No mistake about that. No issue about that.
2 He was doing his job as he should have been doing
3 it, and it ended up tragically that he was shot
4 twice and died that night. I wasn't trying to put
5 any kind of blame whatsoever on Charlie Kubala or
6 what he did. I wasn't trying to put a spin on it or
7 exaggerate it or sugar coat it or in any way try and
8 justify his death cause it shouldn't have happened.
9 He was a good and decent man. He didn't deserve to
10 die. I was a prosecutor for twelve years, state and
11 federal court, and tried my first case with Dudley
12 Saleeby over some thirty years ago. Jim Babb, he
13 works with law enforcement officers on a daily basis
14 here in Sumter County, and we appreciate the job
15 that Officer Len Sharp, Sgt. Charlie Kubala, the job
16 they do, the job he did, and it's tragic that
17 Charlie Kubala is not here today, but ladies and
18 gentlemen, there's nothing that anybody in this
19 courtroom or anybody in this world can do to bring
20 back Charlie Kubala, and that's a fact. You can't
21 bring him back to his family and his friends, and
22 that's unfortunate, but what you're called upon to
23 do is deal with the life of Bobby Wayne Stone.
24 You're going to hear about the loss suffered by the
25 Kubala family and his friends, co-workers at the

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1 sheriff's department, and I ask you to listen
2 carefully to those testimonies as they come up cause
3 that's important, but I ask you to listen to all the
4 evidence. Listen and decide if the state has proven
5 what we call aggravating circumstances which Judge
6 King discussed with you, whether they've proven
7 aggravating circumstances in this case because then
8 and only then would you be in a position to
9 recommend to the judge the sentence of death or a
10 sentence of life imprison without parol, and that's
11 what it is, ladies and gentlemen. If you get to
12 that point and he is sentenced to life, it is in
13 prison without the possibility of parol. He never
14 comes out alive. As we go through this, I ask you
15 to remember that there are two sides to every story,
16 and when you took that oath as jurors and you
17 listened to Judge King's instructions, he told you
18 you've got to wait till all the evidence is in.
19 You've got to wait till you hear everything before
20 you make your mind up. That's your job as jurors.
21 There are two sides to every story. You're going to
22 hear the state's side, and then you're going to hear
23 Bobby Wayne Stone's side, and I'll tell you, ladies
24 and gentlemen, it doesn't matter what has happened
25 in this proceeding before. What you're concerned

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1 with is the evidence that comes out in this case in
2 your decision, not some other court, not some other
3 tribune, but your decision, and you all agreed that
4 you would listen to the evidence and make an
5 independent decision regarding it. Now Mr. Saleeby
6 went into great detail about the events of February
7 26th when he walked you through what happened that
8 night, and you're going to hear a lot of evidence
9 about what happened that night. I'm sure they're
10 going to play the 911 tape for you, and there's
11 going to be testimony through transcript of Ms.
12 Griffith. There's going to be numerous law
13 enforcement officers that were on the scene that
14 night who responded after the shooting. There are
15 going to forensic people. There's going to be a
16 pathologist, a doctor who examines to see what the
17 cause of death is. But with all that evidence,
18 ladies and gentlemen, there's going to be only eye
19 witness account, and that's going to be the
20 statement that was taken from Bobby Wayne Stone
21 about what happened that night. That's the only eye
22 witness, and you will have that information. You'll
23 have his statement. Listen to it. There are two
24 sides to this case. You all agree to hear all the
25 evidence and keep an open mind until it's the time

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1 to make your decision, and now we ask you to abide
2 by that oath. Now let me tell you a little bit
3 about what you're going to hear concerning Bobby
4 Wayne Stone. Bobby Wayne Stone grew up in Sumter
5 county. He grew up in a poor family. That's not a
6 defense, but it's something you ought to consider.
7 He grew up in a home that was characterized by
8 alcoholism and violence in his family. That's not a
9 defense, but it's something you should consider. He
10 grew up without two parents helping him develop upon
11 the road of his childhood. That's not a defense,
12 but it's evidence that you should, you should listen
13 to. Bobby Wayne Stone's family had a history of
14 mental illness, and you will hear more about that.
15 We're not proposing that as a defense, but it's
16 evidence that we think is important to you as you
17 make the ultimate decision about Bobby Wayne Stone.
18 Mr. Saleeby alluded to the fact that you're going to
19 hear testimony that Bobby Wayne Stone was drunk when
20 this happened. He'd smoked marijuana. He'd drunk
21 beer all afternoon before this happened. That's not
22 a defense. Legally it's not a defense, and you know
23 he's guilty of murder. He's been found guilty of
24 murder, but it's information that you need to know
25 and consider in determining what should be done

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1 about the future of Bobby Wayne Stone. These are
2 reasons. Reasons I submit to you that the state
3 should not strap Bobby Wayne Stone to the electric
4 chair and pour voltage through him until he'd dead
5 or stick a needle in his arm connected to a syringe
6 full of poison. Ladies and gentlemen, I submit to
7 you that the death of one fellow human being is
8 enough. The death of one human being is too many.

9 **THE COURT:** All right. Thank you, counsel. Mr.
10 Jackson, you may call your first witness.

11 **MR. JACKSON:** We would call Tommy Mims.

12 **THE COURT:** All right. Mr. Mims, come around, please.

13 **THE CLERK:** Raise your right hand and state your name,
14 please.

15 **MR. MIMS:** Thomas R. Mims, Jr.

16 **THE CLERK:** Do you solemnly swear or affirm the
17 testimony you give this court to be the truth, the
18 whole truth, and nothing but the truth so help you
19 God?

20 **MR. MIMS:** I do.

21 **THE CLERK:** Have a seat, please. State your full name
22 and spell your last name, please.

23 **MR. MIMS:** Thomas R. Mims, Jr., M-I-M-S.

24 **MR. THOMAS R. MIMS, JR.,** being duly sworn testifies as
25 follows:

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MR. MIMS - DIRECT EXAMINATION BY MR. SALEEBY:

1 Q: We can still call you Sheriff Mims, can't you?

2 A: Just so you call me.

3 Q: Please tell the members of the jury how long you've
4 lived here in Sumter County and what kind of work
5 you've done here, Sheriff.

6 A: I've lived most of my life in Sumter County. I was
7 born here in Sumter in 1940. My family lived here,
8 and we lived approximately one year in Camden and
9 another year in Lee County. When I was ten years
10 old, we moved back down to my dad's home place down
11 in the Trinity section also known as Shiloh area of
12 Sumter County on a farm there, and I lived there
13 until I got married and moved to Sumter in 1967.

14 Q: What type of work did you do before you went into
15 law enforcement?

16 A: I was farming.

17 Q: And when did you give up farming for law
18 enforcement?

19 A: In 1965, September of 1965.

20 Q: Please tell the members of the jury what your
21 experience in law enforcement has been from '65 over
22 these past forty years.

23 A: Yes, sir. The length of service is somewhere around
24 thirty-four and a half. It has not been continuous
25

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1 in law enforcement. There have been some breaks in
2 it. I started in, as I said, in '65 as a deputy, a
3 patrol officer with Sumter County sheriff's office,
4 and during that time I was promoted to an
5 investigator. I got married in 1967, December of
6 that year, and I left the sheriff's office in 1968
7 for a short period of time. Came back in 1970 and
8 continued to work with the sheriff's office as a
9 narcotics investigator until 1984 when I resigned
10 from the sheriff's office and ran for that office.
11 Was defeated or was not elected. Sheriff Reeves was
12 elected for his second term. Then I went to work
13 with a private industry here in Sumter County. Ran
14 again in 1988, and the good people of the county
15 elected me that year and for four consecutive terms
16 after that I served as the sheriff of Sumter County
17 until I retired in December of 19, December of 2004.

18 Q: And what are you doing with your retirement here?

19 A: Well, a good friend of ask, of mine asked me not too
20 long ago what I was going to do, and I told him I
21 was going back to work. She said, well, did you
22 take any time off for good behavior, and I told her,
23 yeah, I took two weeks off. She said, well, you
24 ain't been very good, have you, so I'm back at work.
25 I'm working with Glascot Company now as their

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1 personnel and safety director.

2 Q: Over the last ten years of your tenure as sheriff,
3 how big was your department? How many people did
4 you have to manage?

5 A: Well, some days it didn't seem like too many, but
6 others it seemed like it was a tremendous load.
7 When I left, the authorized manning was 118 deputies
8 plus the support staff. When I took office in 1989,
9 it would have been somewhere around 75 people.

10 Q: I'd like you to tell us now about Charlie Kubala.
11 When did you first get to know him, and how did you
12 get to know him?

13 A: Well, as I said earlier, I took office in 1989,
14 January of that year, and Kubala was working. He
15 was already a deputy. Sheriff Reeves hired him in
16 1986, and he was already on, on staff when I took
17 office. Of course I got to know him and the other
18 deputies as well, but Charlie was promoted to the
19 rank of Sergeant shortly after I took office. I
20 believe it was in February of '89, and he and I
21 enjoyed a very good relationship with each other.

22 Q: Did he remain in law enforcement continuously from
23 '89 forward, or was there a break?

24 A: There was a break. It was in 1990. He submitted a
25 letter of resignation telling me there was another

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1 job he wanted to take a look at, pursue another
2 career maybe, and he did in June of 1990. In July
3 of 1991 he made contact with the sheriff's office
4 and wanted to know if we would consider hiring him
5 back, which we did with open arms, and law
6 enforcement I guess is like a lot of other
7 professions, it gets in your blood, and it certainly
8 was in his blood. He loved the work, and he wasn't
9 really satisfied what he was doing even though he
10 was still in a profession where he could help
11 people.

12 Q: And what kind of profession was that?

13 A: He, he was working with a company that serviced
14 dialyses machines across the State of South Carolina
15 and maybe even out of the state, I'm not sure, but
16 that's what type work he went into with a, with a
17 friend of his.

18 Q: And he was out of, out of law enforcement sometime
19 in '89 to '91?

20 A: No, sir. It was '90 to '91, approximately one, one
21 year. June of '90 to July of '91.

22 Q: Came back in July of '91. Did he come back as a
23 sergeant or

24 A: No, sir. He kind of had to start over again is the
25 way it kind of works, and but it wasn't long before

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1 he was promoted back to the rank of sergeant again.
2 I believe that was in '94, and that was the rank he
3 held at the time of, of his death.

4 Q: Tell us how the, what it takes to become a sergeant
5 and what the sergeant is required to do with perhaps
6 another officer of lower rank who's not required to
7 do.

8 A: Well, the way the rank structure and the
9 responsibilities are laid out, the lieutenant is, is
10 of a he was assigned to a shift, and the
11 lieutenant has overall responsibility, but the
12 sergeant is the lieutenant's right hand, so to
13 speak, and in the lieutenant's absence, he runs the
14 shifts and does a lot of the paperwork and assumes a
15 lot of the responsibility for overall operation and
16 running of that shift while they're on duty.

17 Q: All right. I'll ask you about his entire stay with
18 you, and then I'll ask you about February the 26th.
19 Was he a sworn, commissioned law enforcement
20 officer?

21 A: Yes, sir.

22 Q: How does one become a sworn, commissioned law
23 enforcement officer?

24 A: Well, every law enforcement officer in the State of
25 South Carolina is required to successfully complete

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1 a course of study and instruction at the South
2 Carolina Criminal Justice Academy in Columbia, and
3 Sgt. Kubala did that in 1986, sometimes in that,
4 that time frame, and was sworn in by Sheriff Reeves.
5 When he left the sheriff's office in 1990 and came
6 back, he was again sworn in by me as a commissioned
7 law enforcement officer.

8 Q: On February the 26th of 1996, was he a sworn,
9 commissioned law enforcement officer, particular was
10 he a deputy with the Sumter County sheriff's
11 department?

12 A: Yes, sir, he was.

13 Q: And as a sergeant, what were his duties on that day?
14 What shift was he on?

15 A: He was assigned to A shift, and they were working
16 the evening shift, as it was called, basically from
17 3:00 p.m. until midnight.

18 Q: How many people would be on that shift?

19 A: At that point in time there were probably six or
20 seven assigned to that shift.

21 Q: And as a shift sergeant, how was he, what type of
22 equipment did he have in terms of vehicle and
23 uniform?

24 A: Well, he was assigned what we would call a patrol
25 vehicle purchased by the county, a marked vehicle

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1 with the insignia and lights, siren, etc., and he
2 was issued the and was wearing the issued uniform
3 and other equipment, sidearm, walkie talkie radio,
4 some type of he probably had a cannister of
5 mace or gas, as we call it. The protective
6 equipment that he had on at that time would have
7 been a vest that basically covered the upper portion
8 of his body front and back.

9 Q: That vest, if you don't mind standing up and just
10 showing us, where it fits and what it covers.

11 A: It would basically come from the waist up across the
12 shoulders and down the back and would strap together
13 in the side. There were some vacant spots maybe in
14 the lower part and under the arms, and of course the
15 neck and head and the lower trunk were exposed.

16 Q: February 26, 1996, and he was sworn, he was
17 commissioned, he was in your employment, and he was
18 equipped as a deputy sheriff?

19 A: Yes, sir.

20 Q: And would responding to calls of intruders breaking
21 and entering, man with a weapon, would that be part
22 of the performance of his duties?

23 A: Yes, sir. Officers are required to respond to every
24 call for service as quickly as they can get there
25 depending on other calls they may be involved in or

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1 other calls pending, and they try to, they, they
2 respond to those calls based upon the type of call
3 it is, and they're placed in a priority as far as
4 the seriousness of the call.

5 Q: Did please tell us where you were and what you
6 did when you received word that he had been shot and
7 killed.

8 A: Yes, sir. I was out of town on other business that,
9 at that particular time, and I was notified that
10 the, of the incident. I immediately packed clothes
11 and returned to Sumter as quickly as possible.

12 Q: And when you got to Sumter, please tell us what you
13 did and where you went.

14 A: As I was well, originally my plans were to go
15 to the scene, and as I entered or neared, getting
16 near Sumter, over the police radio I heard that the
17 suspect had been apprehended, and at that point in
18 time I had made the decision to go straightly to
19 Charlie's home to be with the family.

20 Q: And what did you do there?

21 A: Well, on the way there, this is the first time
22 something like this has ever happened, and as a
23 supervisor of a group of men or women, this is the
24 worst thing that could ever happen to you is to have
25 one of your, your personnel under your supervision,

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1 your responsibility, under your charge to come to,
2 to be killed. The thoughts ran through my
3 excuse me. Thank you. I'll be all right, I hope.
4 Thoughts ran through my mind how was I going to
5 what was I going to tell his wife Teresa. How was I
6 going to, what was I going to tell his daddy and his
7 momma, how would I deal with that. His daddy, Fred
8 Kubala, made it easy for me. Before I could say
9 anything, his words to me were he knew that Charlie
10 died doing what he knew his son loved to do, what he
11 had chosen to do, the profession that he had
12 dedicated himself to. So I say he made it, he made
13 it easy for me as to how I was going to deal with
14 that or what I was going to tell that family. And
15 basically the same thing with his wife Teresa. What
16 do you say as a supervisor of a group of men and one
17 that his lost his life in the line of duty. That's
18 basically what I did, and you know, the memory is
19 still there. It will never go away. Of course
20 every officer that has raised his hand and taken
21 that oath to serve and protect the citizens of this
22 county or any other county or even the United States
23 of America know that's a possibility, but yet
24 they're willing to do it. Sgt. Kubala was willing
25 to do it, and he did it with, with a great honor, a

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1 high degree of professionalism, and he was held in
2 high regard by those he worked with, and I certainly
3 hold him in high regard.

4 **MR. SALEEBY:** Thank you, Sheriff. Please answer any
5 questions counsel has for you.

6 **THE COURT:** Mr. Littlejohn, Mr. Babb?

7 **MR. LITTLEJOHN:** Thank you, Your Honor. We have no
8 questions for Sheriff Mims.

9 **THE COURT:** All right. Sheriff, you may step down.

10 **MR. SALEEBY:** We would call Lillie Britt around.

11 **THE COURT:** All right. Ms. Britt, come around, please.

12 **THE CLERK:** Have a seat please. Raise your right hand.

13 State your name, please.

14 **MS. BRITT:** Lillie Britt.

15 **THE CLERK:** Do you solemnly swear or affirm the
16 testimony you give this court to be the truth, the
17 whole truth, and nothing but the truth so help you
18 God?

19 **MS. BRITT:** I do.

20 **MS. LILLIE BRITT,** being duly sworn testifies as follows:

21 **MS. BRITT - DIRECT EXAMINATION BY MR. SALEEBY:**

22 **THE CLERK:** State your full name and spell your last
23 name, please.

24 **MS. BRITT:** Lillie Britt, B-R-I-T-T.

25 **Q:** Ms. Britt, we all saw you come from that seat over

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1 there and come around and sit in this seat, so I'd
2 like you to tell the members of the jury who you
3 work for.

4 A: I'm a deputy clerk of general sessions for Sumter
5 county Clerk of Courts.

6 Q: And how long have you been doing that?

7 A: About sixteen years.

8 Q: Tell us a little bit about your other, your clerk's
9 duties. You lived in this county. Did you grow up
10 and got family here?

11 A: I live in this county. I have family here. I'm
12 married. Married for thirty years. Like I say, you
13 know, my other duties are just really the official
14 record keepers of the clerk of court's office.

15 Q: That's what I was going to ask you. The clerk does
16 a lot of things. The clerk runs the court. The
17 judge said he's responsible for maintenance of the
18 courtroom, but tell us about the record keeping
19 duties because that's what I need to ask you about.

20 A: Well, the records that we keep, like I said, we are
21 the official record keepers. Once the warrants come
22 in, we create files for all the records that comes
23 in.

24 Q: If someone has been convicted in general sessions
25 court, the court we're in now, of a, of an offense,

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1 are you responsible for maintaining that record?

2 A: Yes, we are.

3 Q: At an earlier point in time, were you requested to
4 see if you could locate any records on Bobby Wayne
5 Stone, date of birth 9/19/65, social security number
6 247-31-1905?

7 A: Yes, sir.

8 Q: And did you locate your official documents?

9 A: Yes, I did.

10 Q: And did you make certified copies that we could use
11 as state's exhibits?

12 A: Yes, I did.

13 Q: All right. I'm going to show you a series of
14 exhibits and by number, and then I will ask you to
15 tell the members of the jury what they indicate.
16 Okay?

17 A: Okay.

18 **THE COURT:** Do you want to see these, Mr. Littlejohn?

19 **MR. LITTLEJOHN:** If it please, Your Honor.

20 **THE COURT:** All right. Mr. Saleeby before the witness
21 testifies to them, give Mr. Littlejohn a copy so he
22 can look them over.

23 **MR. SALEEBY:** Sure. Your Honor, could we approach for
24 just a moment?

25 **THE COURT:** Yes, sir. Come to the side bar, please.

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(Off the record meeting at the bar)

Q: All right. If you don't mind, I'll stand right here, and I'm going to identify these exhibits and ask you if you can tell the members of the jury what we already have. State's Exhibit Number Sixty-three, which is a certified copy of Indictment Number 95456.

A: Uh-huh.

Q: State's Exhibit Sixty-four, which is a certified true copy of Indictment 85457. State's Exhibit Number Sixty-five, certified true copy of Indictment 85458. State's Exhibit Sixty-six, certified true copy of Indictment 85459. State's Exhibit Sixty-seven, certified true copy of Indictment 85460. State's Exhibit Sixty-eight, certified true copy of Indictment 85461. State's Exhibit Number Sixty-nine, certified true copy of Indictment 85462. These are all a part of the certified true copies of your records?

A: Yes, sir.

Q: And these are convictions that Bobby Wayne, of Bobby Wayne Stone?

A: Yes, sir.

Q: And would you tell us, please, what these convictions are for or what the total all these

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1 indictments carry how many what are the total
2 charges on these indictments?

3 A: Breaking into a motor vehicle, four counts, larceny,
4 seven counts, and house breaking, two counts.

5 Q: Four counts breaking in to motor vehicles, seven
6 larceny, two house breakings?

7 A: Yes, sir.

8 Q: All right. And can you tell us what the sentence
9 for all of those together are?

10 A: Youthful offender not to exceed six years.

11 Q: Youthful offender not to exceed six. Now let me
12 show you two additional indictments. Indictment of
13 two additional exhibits. First Exhibit Seventy,
14 which is a certified true copy of Indictment 8743
15 and a copy of State's Exhibit Seventy-one, certified
16 true copy of Indictment 87875. Those are also
17 records produced by your office?

18 A: Yes, sir.

19 Q: Can you tell us what punishment he received on
20 Indictment Number Seventy, 828?

21 A: Fifteen years.

22 Q: And what was he convicted of on Indictment 828?

23 A: Burglary second degree two counts, larceny two
24 counts, grand larceny of a vehicle, and criminal
25 conspiracy.

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1 Q: And for all those together he received fifteen
2 years?

3 A: Yes.

4 Q: All right. Did he at the same time was he sentenced
5 on State's Exhibit Seventy-one, Indictment 87875?

6 A: Yes, sir.

7 Q: And what was his sentence on that?

8 A: He had fifteen years upon service of five years and
9 five years probation.

10 Q: And was that concurrent or consecutive to Exhibit
11 Seventy?

12 A: Well, it came to a total of twenty years and five
13 years probation.

14 Q: So it was consecutive?

15 A: It was consecutive.

16 Q: All right. And would you explain to the members of
17 the jury what the difference is in general sessions
18 talk as to current and consecutive?

19 A: Well, consecutive meaning that even though he got
20 fifteen years on one, he actually got five years on
21 the other which totaled it to twenty years, and then
22 the five years probation.

23 **MR. SALEEBY:** Thank you, Ms. Britt. Please answer any
24 questions counsel has for you.

25 **THE COURT:** Mr. Littlejohn, Mr. Babb?

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1 **MR. LITTLEJOHN:** We have no questions for Ms. Britt.

2 **THE COURT:** All right. Thank you, Ms. Britt. You may
3 step down.

4 **MR. LITTLEJOHN:** Your Honor, we would probably ask that
5 this witness not be excused.

6 **THE COURT:** Wait. That witness is under the court's
7 control, and she will not be excused. Ladies and
8 gentlemen of the jury, I know you haven't been in
9 the courtroom too long, but we have been in since
10 just shortly after 2:00 o'clock, and I think it's
11 appropriate that we take our afternoon break at this
12 time, and so we are going to do that and take a
13 recess of about, I have about twelve after 4:00, and
14 so we'll take about a twelve or thirteen-minute
15 recess and be ready to resume again at about twenty
16 after. I'm going to send you to your jury room,
17 allow you to relax a few minutes and stretch and
18 talk to each other. Don't talk about this case, but
19 talk about anything else that you would like to, and
20 we'll take a brief recess, and we'll be ready to
21 start in about twelve or thirteen minutes. Thank
22 you. Please go with the bailiff.

23 **(Jury out)**

24 **THE COURT:** All right. We'll be at ease, and let's be
25 ready to start back, please, counsel, at 4:25.

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1 (A short break was taken.)

2 **THE BAILIFF:** Order in the court. All rise, please.

3 **THE COURT:** Please be seated. All right. Back on the
4 record. Let the record reflect that we are ready to
5 begin. The State is present and represented by
6 counsel. Mr. Stone is present also with his
7 counsel. Mr. Littlejohn, is there something you
8 would like to bring up?

9 **MR. LITTLEJOHN:** Yes, Your Honor. Your Honor, we have
10 discussed with our client the possibility of making
11 a motion under Rule 615 for sequestration of the
12 witnesses and discussed that with Mr. Stone, and he
13 does not desire to make that motion.

14 **THE COURT:** All right.

15 **MR. LITTLEJOHN:** And I just want to put that on the
16 record.

17 **THE COURT:** Thank you very much. Mr. Stone, what Mr.
18 Littlejohn has told me is that the rules of court
19 provide that counsel can request that the witnesses
20 be sequestered. It's a matter that's in my
21 discretion as to whether I will sequester the
22 witnesses or not, but he's indicated that you have
23 requested that no motion be made to sequester the
24 witnesses, is that correct?

25 **MR. STONE:** Yes, sir.

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1 **THE COURT:** Okay. Thank you, sir. You may be seated..

2 All right. Bring the jury in, please.

3 (Jury in at 4:32 p.m.)

4 **THE CLERK:** Your Honor, all the jurors and the
5 alternates are present in the courtroom.

6 **THE COURT:** All right. Thank you very much, Mr.
7 Herring, and thank you, ladies and gentlemen, and we
8 are now ready to resume. Mr. Saleeby, you may call
9 your next witness.

10 **MR. SALEEBY:** We would call Sharon Holland to the stand.

11 **THE COURT:** All right, Ms. Holland. Come around,
12 please.

13 **THE CLERK:** Place your left hand on the Bible. Raise
14 your right and state your name, please.

15 **MS. HOLLAND:** Sharon A. Holland.

16 **THE CLERK:** Do you solemnly swear or affirm the
17 testimony you give this court to be the truth, the
18 whole truth, and nothing but the truth so help you
19 God?

20 **MS. HOLLAND:** Yes.

21 **THE CLERK:** Have a seat, please, ma'am.

22 **MS. SHARON A. HOLLAND,** being duly sworn testifies as
23 follows:

24 **MS. HOLLAND - DIRECT EXAMINATION BY MR. SALEEBY:**

25 **THE CLERK:** State your full name, and spell your last

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1 name.

2 **MS. HOLLAND:** Sharon A. Holland, HOLLAND.

3 Q: And Ms. Holland, where do you live?

4 A: Here in Sumter county.

5 Q: And how long have you lived in the Sumter area?

6 A: All of my life.

7 Q: Did you go to the Sumter schools?

8 A: Yes, sir. Graduated Sumter High.

9 Q: And who do you work with now?

10 A: South Carolina Department of Probation, Parole, and
11 Pardon Services.

12 Q: Probation, Parole, and Pardon Services. How long
13 have you worked for them?

14 A: Twelve years.

15 Q: What have been your duties and responsibilities
16 working with the Probation, Pardon and Parole
17 Services?

18 A: I was hired in 1993 as a pre-sentence investigator.
19 I took on a case load in August 1st of 1995. I was
20 promoted to the team leader in the year 2000. Well,
21 I'm sorry, in the year 1998, and I became agent-in-
22 charge in 2000 for Lee County.

23 Q: Agent-in-charge over Lee County what year?

24 A: 2000.

25 Q: And what are you duties now in 2005?

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1 A: I am now the agent-in-charge of Sumter County
2 office. I became agent-in-charge here January 17th
3 of 2004.

4 Q: And I supposed agent-in-charge means exactly what it
5 says, that you're responsible for those services
6 here at Sumter County?

7 A: That's correct.

8 Q: Those of us in the court system of course work with
9 you on a regular basis, but we may have many jurors
10 who do not know what your agency does, so would you
11 tell us what your responsibilities are, particular
12 what probation is and what you have to do with
13 probation.

14 A: Okay.

15 Q: What parole is and what you have to do with parole.
16 Let's start with probation first.

17 A: Probation is an alternative to prison. An
18 individual goes to court. Their plea or are found
19 guilty in general sessions court. They are placed
20 on probation, and we supervise that case load. We
21 impose the conditions of supervision. We insure
22 that they follow all the conditions that the court
23 has imposed. We drug test them if, if we still need
24 or if it's a part of one of their conditions. We
25 assist them with employment, and just pretty much

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1 supervise them to make sure they do what they're
2 supposed to do as, as the conditions state and to
3 keep, and to also provide safety for the community.

4 Q: So if someone gets sentenced of jail time and then
5 that is suspended probation, they don't go to jail,
6 they stay out in the community?

7 A: Correct. Yes, sir.

8 Q: And you supervise them?

9 A: Yes.

10 Q: All right. How is that different from parole?

11 A: Parole, they've actually gone to the Department of
12 Corrections and have served a portion of their
13 sentence, and then we supervise them, imposing the
14 same conditions, but they get it on the other end as
15 opposed to doing it as an alternative to going to
16 prison. They've actually done prison time and now
17 being supervised by my department.

18 Q: But they haven't done all of the time? They haven't
19 done ...

20 A: No, sir. They've done, they've done what is called
21 a split sentence where you've done a portion of your
22 sentence, then you're supervised in a community, and
23 any, any part of that split sentence is still held
24 over their head, so if they violate parole, they can
25 go back and serve that, the remaining part of their

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1 sentence.

2 Q: So I'll just make up a number. If I was sentenced
3 to ten years in jail and went to four years in jail
4 and got paroled, I would still be subject to

5 A: The remaining six years.

6 Q: If I messed up on parole?

7 A: Correct.

8 Q: All right. Did you at my request pull a file on
9 Bobby Wayne Stone?

10 A: Yes, sir, I did.

11 Q: Were you personally familiar with Bobby Wayne Stone?

12 A: Yes, sir. I supervised Mr. Stone in 19, from 1985
13 until the time of the incident.

14 Q: From 1985 until this crime occurred in 1996?

15 A: Correct.

16 Q: All right. I will ask you if you will look at your
17 file in terms of 1985. Was that when you first
18 supervised him?

19 A: No, sir. He was sentenced in July of '85. I never
20 see the case until August of '85.

21 Q: So you became his supervising agent about a month
22 later?

23 A: Correct.

24 Q: And Ms. Britt told us what he was convicted of in
25 '85, but if you could, just tell us what your

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1 records indicate.

2 A: He received the YOA which is a youthful offender
3 sentence not to exceed six years for house breaking,
4 breaking into a motor vehicle. There are two
5 counts of breaking into a motor vehicle and house
6 breaking.

7 Q: Those would be all the charges on the indictment,
8 the five or six indictments that Ms. Britt read into
9 the record?

10 A: Right. Yes, sir.

11 Q: And you say that sentence was what kind of sentence?

12 A: A youthful offender sentence. Mr. Stone, according
13 to this document, was nineteen at the time and
14 therefore qualified for a youthful offender
15 sentence.

16 Q: And when you qualify for a youthful offender, what's
17 that mean?

18 A: Just his age and that he was between the ages of
19 nineteen and twenty-four, and he had an, it was just
20 an alternative sentence which was I guess if you
21 look at it, it's a lighter sentence as far as prison
22 time that he could receive. It was YOA not to
23 exceed six years, but they would usually go to a
24 ninety-day boot camp and then be released into the
25 community.

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- 1 Q: And so if you get youthful offender not to exceed
2 six, you can do ninety days?
- 3 A: Correct.
- 4 Q: Did you wind up supervising him again in 1980, 1987?
- 5 A: Oh, he was already on parole, and therefore, when I
6 became his agent, became an agent in 1995, I
7 supervised him, yes.
- 8 Q: All right. So the 1987 conviction, you supervised
9 that?
- 10 A: Right.
- 11 Q: All right. And what was he convicted of then, and
12 how much time was he facing?
- 13 A: He received a, he received sentencing for burglary
14 second, two counts, grand larceny, two counts, and
15 on those charges he had received fifteen years for
16 the burglary and the grand larceny fifteen,
17 suspended to five years, and those sentences were
18 consecutive.
- 19 Q: So he was facing a total of twenty years in jail?
- 20 A: Yes, sir.
- 21 Q: And that was supposed to start in 1987?
- 22 A: Correct.
- 23 Q: What year was he paroled?
- 24 A: He was I'm sorry. He was paroled June 9th of
25 1993.

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1 Q: So that would have been approximately five and a
2 half years later?

3 A: Yes, sir.

4 Q: So he, he was out on parole for fifteen and fifteen
5 suspended to five, is that correct?

6 A: Yes, sir.

7 Q: So if he violated the terms of his parole, what
8 could he be subject to in terms of max amount of
9 jail time?

10 A: Actually thirty years. The violation of parole
11 would vacate the five-year suspended sentence, and
12 he was actually looking at fifteen and fifteen
13 consecutive, his original sentence.

14 Q: If he violated, if he was caught violating is
15 parole?

16 A: Correct.

17 Q: Now I want to ask you if being arrested for another
18 offense, such as housebreaking or burglary, would be
19 a violation of the term of parole?

20 A: Yes, sir, it would.

21 Q: I would ask you if using any controlled substances
22 would be a violation of parole?

23 A: Yes, sir.

24 Q: I would ask you if having in your possession a
25 weapon would be in violation of parole?

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1 A: Yes, sir.

2 Q: So if any of those things were triggered, a weapon,
3 alcohol, drugs, or being caught in the commission of
4 another offense, Mr. Stone could face going back and
5 serving the balance of thirty years?

6 A: Yes, sir.

7 MR. SALEEBY: Thank you, ma'am. Please answer any
8 questions counsel may have.

9 THE COURT: Mr. Littlejohn, Mr. Babb, any questions for
10 the defense.

11 MR. LITTLEJOHN: Just a moment, Your Honor.

12 THE COURT: All right, sir. Yes, sir.

13 MR. LITTLEJOHN: Your Honor, we don't have any questions
14 at this time, but we'd like to perhaps recall this
15 witness.

16 THE COURT: All right, sir. Would there be any
17 objection to her being released to go back to her
18 office and just being on call if you all need her?

19 MR. LITTLEJOHN: No, Your Honor. Certainly, Your Honor.

20 THE COURT: All right. Thank you, Ms. Holland. You are
21 excused. You are still subject to being recalled,
22 so don't get out of pocket, and if we need you,
23 we'll get in touch with you. Thank you very much.

24 MR. SALEEBY: We would call Kathy Miles.

25 THE CLERK: Place your left hand on the Bible. Raise

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1 your right hand and state your name, please.

2 **MS. MILES:** Kathy J. Miles.

3 **THE CLERK:** Do you solemnly swear or affirm the
4 testimony you give this court to be the truth, the
5 whole truth, and nothing but the truth so help you
6 God?

7 **MS. MILES:** I do.

8 **THE CLERK:** Have a seat up here, please, ma'am.

9 **MS. KATHY J. MILES,** being duly sworn testifies as
10 follows:

11 **MS. MILES - DIRECT EXAMINATION BY MR. SALEEBY:**

12 **THE CLERK:** State your full name, and spell your last
13 name.

14 **MS. MILES:** Kathy J. Miles, M-I-L-E-S.

15 Q: Ms. Miles, where do you live?

16 A: I live in Sumter.

17 Q: How long have you lived in Sumter?

18 A: I've lived in Sumter most my, most of my life, about
19 forty-two years.

20 Q: You have family here?

21 A: I do, yes.

22 Q: Who do you work with?

23 A: I work at the Law Enforcement Center with the 911
24 services.

25 Q: How long have you worked at the Law Enforcement

1 Center?

2 A: Over twenty-five years.

3 Q: And most of that twenty-five years has been spent in
4 what section?

5 A: In the 911 area.

6 Q: All right. I want to ask you specifically in 1996
7 and 1997 were you working in that area?

8 A: I was employed as the chief technician or dispatcher
9 at that time.

10 Q: All right. I know that we all think we know from
11 watching television a great deal about police
12 dispatch stuff, but I would like you to take a
13 moment and explain to us how the dispatch operation
14 worked in 1996.

15 A: Okay. In 1996 we received all calls for emergency
16 services along with non-emergency calls for police
17 and fire. We're the primary answering point for
18 EMS, the city police, the county sheriff's office,
19 and fire, the primary answering. All the calls came
20 in to us, and then we would in turn dispatch the
21 calls by prioritizing the calls.

22 Q: All right. I want you to explain, if you would, the
23 difference between your receipt of calls and your
24 initiation of calls. The 911 calls that come into
25 you come in through what type of service?

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1 A: The calls come in by telephone. Requests from
2 citizens by telephone for police or fire services.

3 Q: Whether that's a land line or whether that's a cell
4 phone?

5 A: Oh, absolutely yes.

6 Q: I'm a citizen, and I've got, and I've got a 911
7 problem, I pick up some kind of phone and call you?

8 A: Correct.

9 Q: All right. How do you get that information out to
10 EMS, out to the police, out to fire? Do you use a
11 telephone, or do you use another method?

12 A: As we receive the information, we in turn dispatch
13 it by radio to the officers as they're in their
14 vehicles or to fire services by radio.

15 Q: At that time with the Sumter County sheriff's
16 department, if an officer was in his vehicle, how,
17 what would be used to communicate with that person?

18 A: We would use our what we called then our base
19 station which was a radio that we had in-house there
20 and within the 911 center, and we would use our
21 radio there. We would transmit by pressing one
22 button, and he would receive it audibly in his
23 vehicle or by walkie talkie.

24 Q: All right. If they're in the vehicle, there was a
25 radio turned to your dispatch?

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- 1 A: Correct.
- 2 Q: All right. What if the officer was outside the
- 3 vehicle? Is there a way you could get to him?
- 4 A: If he's outside the vehicle, they had walkie
- 5 talkies, and they would be able to receive the same
- 6 transmissions on, on the walkie talkie that they
- 7 would hear in the car, and that's all transmissions.
- 8 If it was directed to that individual, an officer or
- 9 any of the officers that were out in the vehicles,
- 10 they heard everything.
- 11 Q: All right. At that point in time, the walkie
- 12 talkies that they had, were they ones with ear
- 13 pieces or just ones that relied on a microphone in
- 14 the unit?
- 15 A: I believe well, at that time they were using
- 16 the walkie talkies that were kind of holstered, belt
- 17 holstered.
- 18 Q: And would they be audible at a distance?
- 19 A: Absolutely.
- 20 Q: Now in preparation for these proceedings, did you at
- 21 some time in the past make a cassette tape of your
- 22 master tapes?
- 23 A: We did. We made a cassette tape from the master
- 24 that was recorded.
- 25 Q: All right. Tell the members of the jury a little

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1 bit about the mast tape process so they'll
2 understand what you were using to record this call.

3 A: Okay. We had what we called a Dictaphone that was
4 recording all telephone calls that came in to us, be
5 it emergency or administrative lines, it recorded
6 all those, and at the same time, it could record all
7 of the radio traffic, the radio transmissions that
8 were going on whether it be by the, in the police
9 car or walkie talkies. It recorded everything that
10 was being, transpiring between us and the officers
11 that were out on patrol. Now the recording, it was
12 a reel-to-reel recording, a big, huge reel. You're
13 probably seen them on the shows, the TV shows, but
14 we had duplication even of that. What we call the
15 master was called the master because it was
16 uninterrupted during that twenty-four hours that it
17 was running. Each night at midnight we would change
18 the tape and place on a new one for the next day,
19 but during that time, we had two tapes running at
20 all times. One would be a backup in, in case
21 something did happen, so it was an uninterrupted
22 recording of twenty-four hours of all the telephones
23 and all the radio traffic.

24 Q: And this is for the purpose of preserving a record
25 of what happened?

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1 A: Yes.

2 Q: And at any one time there would be transmissions on
3 any one of a number of different topics happening in
4 different parts of the county?

5 A: Right. And a lot could be going on at one time, but
6 it still was recording everything because somehow it
7 had approximately maybe at least like twenty-four
8 sections on the tape where it could record it all
9 separately so it didn't all sound garbled. I could
10 listen to them individually, each one of those
11 tracks individually.

12 Q: Did you listen to what the tapes you had with I
13 believe the man from SLED and perhaps Mr. Littlejohn
14 and make a cassette of the transmissions that
15 pertained to the events at 817 Taylor?

16 A: Correct. We were all in attendance when the tape
17 was made.

18 Q: All right. And would State's Exhibit Number Four be
19 this tape?

20 A: Okay. That's good. Uh-huh.

21 MR. SALEEBY: Your Honor, what we would propose to do
22 this time is to play the tape and to stop it at
23 certain points and have Ms. Miles tell us who we're
24 listening to and what time it is.

25 THE COURT: Any objection to that procedure, Mr.

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1 Littlejohn?

2 MR. LITTLEJOHN: No, Your Honor.

3 THE COURT: All right. You may proceed.

4 (911 tape played)

5 THE COURT: Any cross examination, Mr. Littlejohn?

6 MR. LITTLEJOHN: Thank you, Your Honor.

7 MS. MILES - CROSS EXAMINATION BY MR. LITTLEJOHN:

8 Q: Good afternoon, Ms. Miles.

9 A: Good afternoon.

10 Q: Ms. Miles, I just have a few questions for you. You
11 described for the jury that at the time this took
12 place, the sheriff's deputies used walkie talkies?

13 A: Yes, they did.

14 Q: Okay. I believe you said they were mounted on the
15 hip and they carried on their shoulder. Do you know
16 specifically what equipment Sgt. Kubala had that
17 night?

18 A: No, I don't.

19 Q: You didn't see him that night?

20 A: No. I know pretty much what was standard issue,
21 but.

22 Q: Okay. But you don't know, you don't know
23 particularly what he had?

24 A: I didn't see him.

25 Q: Okay. Fair enough. Now Ms. Miles, the

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1 conversation, the transmissions from Sgt. Kubala
2 that you identified that they were transmissions
3 from him, you're unable to tell whether those
4 transmissions were broadcast from his car radio or
5 from his walkie talkie, is that not correct?

6 A: Correct. I, I wouldn't know.

7 Q: Okay. So he could have either been in the car when
8 he was speaking on the radio

9 A: He could have.

10 Q: or he could have been outside the car with a
11 walkie talkie?

12 A: Correct.

13 Q: And there's no way to tell?

14 A: No.

15 Q: You don't know whether he was speaking in his car
16 with the windows up. You don't know that, do you?

17 A: I don't know.

18 MR. LITTLEJOHN: Court's indulgence for just one second?

19 THE COURT: Yes, sir.

20 MR. LITTLEJOHN: Those are all the questions I have,
21 Your Honor.

22 THE COURT: Re-direct, Mr. Saleeby?

23 MR. SALEEBY: None, sir.

24 THE COURT: All right. Thank you, Ms. Miles. You may
25 step down. I think this is a good time to stop the

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1 afternoon, Mr. Saleeby. Have you got a witness that
2 you need to get up today that wouldn't be too long?

3 **MR. SALEEBY:** I think she can come back, and I can't
4 guess on her length, Judge.

5 **THE COURT:** Okay. All right. The reason we're going to
6 stop today at 5:30, ladies and gentlemen, is that
7 you are going to need to go to the hotel at this
8 point, and I'm going, I've got my clerk looking for
9 the detail that is going to be responsible for the
10 sequestration, and I'm going to bring them into the
11 courtroom and give them some instructions, and I
12 know that you need to go out and get squared away in
13 your rooms that is already being set up and has been
14 set up, and as soon as you all do that, then the,
15 the detail, the sequestration detail, will take you
16 to dinner. I don't know where dinner is arranged
17 tonight, but it has been arranged by the clerks on
18 this. Let me ask as soon as my clerk is getting the
19 SLED agents at this time. All right, gentlemen. If
20 you all come right around in front of the bench,
21 please, and ladies. Lt. McLeod, you all come right
22 around here. I want to this is the detail that
23 will be in charge of the sequestration of the jury,
24 and I would ask each of you if you would raise your
25 right hand, please. Do you and each of you swear

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1 that you will keep the jurors together and that you
2 will allow no one to communicate with them without
3 leaving the court? You further swear that you will
4 not communicate with the jurors regarding the facts
5 of this case and will communicate and talk with them
6 only with regard to the administrative
7 responsibilities of the sequestration order entered
8 by the court so help you God? Please respond by
9 saying I will.

10 **SLED AGENTS:** I will.

11 **THE COURT:** All right. Thank you very much. All right.
12 You all can go, and I'm going to send the jury your
13 way in just a few minutes. This will be the group
14 of officers that are responsible for the
15 sequestration. If you all will, go ahead, and let
16 me talk with the jury just a minute, and I'll send
17 them out that way.

18 **(SLED agents leave)**

19 **THE COURT:** All right. Ladies and gentlemen, we're
20 going to break at this time, and I'm going to send
21 you with these officers. We have a van and some
22 vehicles that will not be necessary to use today.
23 What they're going to tell you, and we'll let you
24 go, I'll let you go to your jury room, and I'll let
25 Lt. McLeod brief you on exactly how it's going to be

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1 handled tonight, but what we want to do is you can
2 drive your private-owned vehicles if you have your
3 own vehicles out to the hotel. They'll tell you
4 which hotel it is and how to get there if you do not
5 know how to get there, and then there will be an
6 officer at the hotel when you get there. You will
7 then check with them and get your room assignments.
8 These officers will be there at that time. If you
9 do not have your own private-owned vehicles and you
10 wish to ride with one of the officers, they can,
11 that can be arranged as well. Then when you get out
12 there and you get your automobiles unpacked and you
13 get squared away in your rooms, they will allow you
14 to make contact with your family if you want to have
15 someone pick up your vehicles. You can leave it out
16 there at the hotel or someone can pick it up and
17 pick you up when you're finished with your jury
18 responsibilities. Either way. That will be up to
19 you, but these officers know exactly what to tell
20 you and how to handle it, so administratively I'm
21 going to let them handle it from this point, so I'm
22 going to ask you if you'll go to your jury room and
23 let Lt. McLeod, who's the agent in charge, tell you
24 how he wishes to do it, and we'll see you at 9:00
25 o'clock tomorrow morning, and tell Charlie that we

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1 want them back at 9:00 tomorrow.

2 (Jury out at 5:35 p.m.)

3 **THE COURT:** All right. Counsel, before we break and
4 before we recess, I'm going to give just a few
5 minutes to allow the detail to get the jury together
6 and get them out of the building before we actually
7 recess, so let's just stay here for just a few
8 minutes. I want to start with the jury tomorrow
9 morning at 9:00, and I'm going to tell the agents
10 and tell them to have them here at 8:45, and I'm
11 going to ask the defendant to be here at 8:15. We
12 plan to start on the record at 9:00 o'clock
13 tomorrow. The jury will be here about fifteen
14 minutes before that.

15 **MR. SALEEBY:** Yes, sir.

16 **THE COURT:** We are going to recess then until tomorrow
17 morning at 9:00 o'clock, on the record at that time.
18 I am going to ask that the jury be back at 8:45
19 tomorrow morning. Thank you.

20 **MR. SALEEBY:** Thank you.

21 **MR. LITTLEJOHN:** Thank you.

22 (Court recessed)

23 **THE BAILIFF:** Order in the court. All rise, please.

24 **THE COURT:** Thank you. Please be seated.

25 **THE COURT:** Mr. Littlejohn?

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1 **MR. LITTLEJOHN:** Yes, Your Honor.

2 **THE COURT:** This is --- we talked about the jury thing,
3 and it says to sign off on what we did on the 11th.
4 I'd like to get you and Mr. Saleeby and Mr. Jackson
5 to sign it and file it with the court. We can't
6 find any authority for it, but if Judge says we
7 ought to do it, then I think we ought to do it.

8 (Off the record meeting at the bar)

9 **THE COURT:** The State vs. Bobby Wayne Stone, 96-GS-
10 43698, let the record reflect that the State is
11 present and represented by Mr. Saleeby, Mr. Jackson.
12 The defendant, Mr. Stone, is also present. Good
13 morning, Mr. Stone, and his counsel, Mr. Babb and
14 Mr. Littlejohn are also present. Anything before we
15 bring the jury in, Mr. Saleeby, Mr. Jackson?

16 **MR. JACKSON:** Your Honor, we still need to get the
17 evidence in here.

18 **MR. SALEEBY:** Exhibits. We need the exhibits.

19 **THE COURT:** Okay. All right. All right. Ready, Mr.
20 Littlejohn?

21 **MR. LITTLEJOHN:** Yes, Your Honor.

22 **THE COURT:** All right. Bring the jury in, please.

23 (Jury in at 9:15 a.m.)

24 **THE COURT:** Good morning. Have a seat, please.

25 **THE CLERK:** Your Honor, all the jurors and alternates

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1 are present in the courtroom.

2 **THE COURT:** All right. Good morning, everyone, and I
3 hope everyone had a pleasant evening. Again, I know
4 it's never convenient to be away from home, but it
5 is a necessity in this proceeding, and I hope that
6 you found your accommodations satisfactory and that
7 you got some rest and are ready to proceed today,
8 and we are ready to go forward and continue in the
9 testimony of this case. I hope you had a pleasant,
10 pleasant evening as well, a pleasant meal, and that
11 your needs are being met, and if they're not, you
12 just let one of the agents know, and we'll try to
13 take care of anything that you might need, but we
14 are ready to go forward, and we will do so at this
15 time. The State's going to continue with it's case
16 and its presentation of its testimony to you. Mr.
17 Saleeby?

18 **MR. SALEEBY:** Your Honor, we would call Mary Ruth
19 Williamson.

20 **THE COURT:** All right. Ms. Williamson, come around,
21 please.

22 **THE CLERK:** Place your left hand on the Bible. Raise
23 your right hand and state your name, please.

24 **MS. WILLIAMSON:** Mary Ruth Williamson.

25 **THE CLERK:** Do you solemnly swear or affirm the

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1 testimony you give this court to be the truth, the
2 whole truth, and nothing but the truth so help you
3 God?

4 **MS. WILLIAMSON:** I do.

5 **THE CLERK:** Have a seat up here, please, ma'am.

6 **MS. MARY RUTH WILLIAMSON,** being duly sworn testifies as
7 follows:

8 **MS. WILLIAMSON - DIRECT EXAMINATION BY MR. SALEEBY:**

9 **THE CLERK:** State your full name, and spell your last
10 name, please.

11 **MS. WILLIAMSON:** Mary Ruth Williamson, W-I-L-L-I-A-M-S-
12 O-N.

13 **Q:** Ms. Williamson, if you would, just look down this
14 way and speak and speak up so the members of the
15 jury can hear you, and tell us where you live,
16 please.

17 **A:** I live in Sumter, South Carolina.

18 **Q:** How long have you lived in Sumter?

19 **A:** Fifty-two years.

20 **Q:** Do you have family who lives here in Sumter?

21 **A:** Yes, sir, I do.

22 **Q:** And what family would that be?

23 **A:** I have a mother that lives in Sumter and several
24 aunts and uncles.

25 **Q:** And do you work here?

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- 1 A: Yes, sir, I do. Right now I'm out on workman's
2 comp.
- 3 Q: I understand. And that's why you've got that
4 shoulder brace on?
- 5 A: Yes, sir.
- 6 Q: Let me ask you this. In 1996 were you Mary Ruth
7 Williamson or were you Mary Ruth McLeod?
- 8 A: Mary Ruth McLeod.
- 9 Q: All right. And you mentioned your mother. What is
10 her name?
- 11 A: Ruth Griffith.
- 12 Q: And tell me, if you will, please, what your mother's
13 medical condition is so we'll know why she's not
14 here today.
- 15 A: She's in really bad shape. She's had several
16 strokes and heart attacks, and she is on oxygen all
17 the time. She's real weak, can't hardly walk
18 around.
- 19 Q: Thank you. Let me review. Is part of your job
20 taking care of her?
- 21 A: I try my best.
- 22 Q: Let me ask you about one of her neighbors who's also
23 not here, Mr. Landrow Taylor. Did you know Mr.
24 Landrow Taylor?
- 25 A: Yes, sir. He was my mother's neighbor across the

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1 street.

2 Q: Across the street where?

3 A: On Taylor Street.

4 Q: 817 Taylor Street, is that where you lived?

5 A: Yes, sir. With my mother.

6 Q: And in February of '96?

7 A: That's right.

8 Q: All right. And Mr. Taylor was your neighbor then?

9 A: Yes, sir.

10 Q: All right. What's Mr. Taylor's situation now, if
11 you could tell us?

12 A: He's deceased.

13 Q: I will ask you a little bit later to step down and
14 show us 817 Taylor Street, but particularly with
15 your arm, I don't want you getting back up and down,
16 so let me ask you some other questions first. I
17 want to ask you about the afternoon of February 26,
18 1996. If you will, tell the members of the jury
19 were you in fact living at 817 Taylor on that, on
20 that date?

21 A: Yes, sir, I was.

22 Q: Was anybody else living there?

23 A: Just me and my mom.

24 Q: All right. Now you had other family in Sumter at
25 the time?

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- 1 A: Yes, sir.
- 2 Q: And who would that be?
- 3 A: My daughter lived in Sumter.
- 4 Q: And who was she living with in February of '96?
- 5 A: She was living with her father.
- 6 Q: All right. But here in Sumter?
- 7 A: Yes, sir.
- 8 Q: Tell the members of the jury what you did when you
- 9 came home and what your plans were for that evening.
- 10 A: Well, when I got off of work, I went straight home
- 11 because I knew I had to go stay with my daughter at
- 12 her father's house cause he was going out of town,
- 13 and I went in and just kind of messed around in the
- 14 house a little bit, and my mom went to the back
- 15 door. Someone had knocked on the back door, and she
- 16 went to the back door and came running back into the
- 17 living room scared, and I, I said who, who was it,
- 18 Momma, and she said it was Bobby Wayne Stone.
- 19 Q: So as a result, what did you do?
- 20 MR. LITTLEJOHN: Objection, Your Honor.
- 21 THE COURT: All right. What's your objection?
- 22 MR. LITTLEJOHN: Hearsay.
- 23 THE COURT: All right. I think it qualifies as an
- 24 exception. If so, which exception, Mr. Saleeby?
- 25 MR. SALEEBY: Incited evidence.

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1 **THE COURT:** Cited evidence? All right. The objection
2 is overruled. It will be admitted under 803,
3 subparagraph, let me sure, I think it's 1. Two.
4 Objection is overruled. To be admitted under the
5 South Carolina Rules of Evidence 803, subparagraph 2.
6 as incited evidence. All right.

7 Q: All right, Ms. Williamson. Your mother, she went to
8 the back door because there was a knock?

9 A: Uh-huh. Yes, sir.

10 Q: And she came back to the living room and told you
11 that somebody was there and identified that person?

12 A: She said it was Bobby Wayne.

13 Q: Stone?

14 A: Stone. Yes, sir.

15 Q: Had you known Bobby Wayne Stone

16 **MR. LITTLEJOHN:** Your Honor, I renew that objection.

17 **THE COURT:** Yes, sir. So noted.

18 Q: Had you known Bobby Wayne Stone before that?

19 A: No, sir.

20 Q: All right. As a result of her coming and her being
21 excited, where did you go and what did you do?

22 A: I went to the back door, and he was, had already
23 gotten down the steps. He was walking away from the
24 door, from the

25 Q: When you say he, who are you talking about?

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- 1 A: Bobby Wayne Stone.
- 2 Q: All right. So you came face to face with Mr. Stone?
- 3 A: Yes, sir.
- 4 Q: Just tell us in your own words what happened after
- 5 you got to the back door of the house.
- 6 A: I went outside. After I saw he was out there, I
- 7 went outside and asked him what he was doing there,
- 8 and he said nothing. So I told him, I said, well,
- 9 you go on back where you live through the woods, you
- 10 know. We've had trouble before. And he said okay,
- 11 and he started walking toward what my daddy had a
- 12 little barn out there with stuff in it and behind
- 13 it, so I, I said where are you going, and he said
- 14 nowhere. I said this is not the way home. I said
- 15 your way home is through the woods. So he went
- 16 ahead and went through the woods, I thought.
- 17 Q: All right. Let me ask you a question. When you
- 18 were having this conversation, what part of your
- 19 yard were you in?
- 20 A: The back yard. Right
- 21 Q: All right. And how far apart from him were you?
- 22 A: I'd guess about twenty feet.
- 23 Q: Just tell me stop when I'm close enough or far
- 24 enough away.
- 25 A: I would think right there.

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- 1 Q: And that's the distance the two of you were having
- 2 this conversation?
- 3 A: Yes, sir.
- 4 Q: And can you identify Bobby Wayne Stone for the court
- 5 and the jury that is in the courtroom today?
- 6 A: Yes, sir.
- 7 Q: And do you have a hand you can point with?
- 8 A: Yes, sir. He's sitting at the table over there.
- 9 The white shirt.
- 10 Q: Thank you, ma'am. So as you, as you, the two of you
- 11 were standing there having this conversation, do you
- 12 recall how he was dressed?
- 13 A: Yes, sir. He had on a leather jacket, it looked to
- 14 be leather, and a plaid shirt, leather and tan. It
- 15 matched the leather coat, and he had kind of
- 16 reddish-brown hair.
- 17 Q: Did he have anything in his hands at that time?
- 18 A: Yes, sir. Had a beer in his hand.
- 19 Q: Let me show you this coat, which is State's Exhibit
- 20 Number Fifty-six, and ask you if you can identify
- 21 it.
- 22 A: Yes, sir. That's it.
- 23 Q: That's the coat he was wearing on that day?
- 24 A: Yes, sir.
- 25 Q: After you told him to go home, which direction did

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1 he head in?

2 A: He started going towards the woods behind the house,
3 and I said well, I want to make sure he was going on
4 through the woods. I didn't want to go back in the
5 house and him still being there knowing that I had
6 to leave and my mother would be by herself, so I
7 walked out to the edge of the woods to see if he
8 really did go home, and I didn't see him at first,
9 and then I heard a crackling like stepping on a limb
10 or something, and I looked toward that direction,
11 which was to the left, and he was standing there in
12 the woods. Had taken his jacket off, and he was
13 holding a gun across his arms, his two arms, like
14 someone that would be hunting, and just staring back
15 at the house.

16 Q: And when you saw him at this occasion, how far away
17 from you was he?

18 A: About, about as far as you are now.

19 Q: And his jacket was off?

20 A: Yes, sir.

21 Q: And he had a weapon in his hands?

22 A: Yes, sir.

23 Q: Now let me ask you if you're familiar with weapons,
24 in particularly shotguns.

25 A: Yes, sir. My daddy used to do a lot of hunting, and

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1 he had several kinds of shotguns and rifles.

2 Q: This is States's Exhibit Number Thirteen. I'll ask
3 you if you can identify this, Ms. Williamson.

4 A: Yes, sir. That's the gun.

5 Q: And what was it that attracted your attention to it
6 or made it recognizable?

7 A: The barrel, the shining of the barrel and the way
8 the handle was made. I'd never seen one like that
9 before.

10 Q: And he was standing there with his coat off?

11 A: Yes, sir.

12 Q: And how was he holding this?

13 A: He had it turned the other way holding it across his
14 arms like this.

15 Q: Like this?

16 A: Yes, sir.

17 Q: And he was doing what else?

18 A: Just staring through the woods at the house.

19 Q: Did you say anything else to him or he to you?

20 A: He didn't say anything to me, but I told him that
21 he'd better get home, but I used a cuss word, and I
22 told him he'd better get home now where he belonged
23 because I was going to call the police, and I turned
24 around and walked away and went to the house and
25 called the police.

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- 1 Q: Did you in fact call the dispatch here at the
2 Florence, I mean the Sumter sheriff's office?
- 3 A: I called the 911 number.
- 4 Q: And were you in court yesterday?
- 5 A: Yes, sir.
- 6 Q: And did you hear the tape recording?
- 7 A: Yes, sir.
- 8 Q: Were you able to hear it clearly enough to hear your
9 voice on that?
- 10 A: Yes, sir.
- 11 Q: That was you calling about the man with the shotgun?
- 12 A: Yes, sir.
- 13 Q: As a result of your call, did anybody respond?
- 14 A: Yes, sir. Just a few minutes, Mr. Kubala came out,
15 and I told him what had happened and everything, and
16 he and I walked out to the woods, and I showed him
17 where I saw Mr. Stone last, and we checked all out,
18 you know, in the woods and in the little shed my
19 daddy used to keep hay in for our horse, and we
20 didn't see him anywhere, so we assumed that he had
21 went home.
- 22 Q: Had you known Sgt. Kubala before this day?
- 23 A: I had seen him once or twice. His little children
24 went to the nursery where I had worked at one time,
25 and I had seen him come pick them up, but that was

1 the only way I knew him.

2 Q: After Sgt. Kubala checked and cleared the area, did
3 he remain, or did he leave?

4 A: He talked to us for a minute and told us if we had
5 any more trouble, to call him back, and then he
6 left.

7 Q: All right. After he left, did you immediately
8 leave, or did you stay around the house for a while?

9 A: I stayed around the house for a few minutes and got
10 ready to leave and tried to get my mother to come
11 with me because I didn't want to leave her by
12 herself cause she was upset, and she said no, that
13 she would be all right. She'd get one of her
14 friends to come spend the night, so I went. Then I
15 left and went cross town to check on my daughter,
16 and I called my mother.

17 Q: All right. Well, let me ask you. At the time you
18 left, were there any exterior lights on the house,
19 in particular the porch on?

20 A: No, sir. It was still daylight when I left.

21 Q: All right. After you left, where did you go and
22 what did you do?

23 A: I went cross town to my daughter's which she lived
24 off Liberty Street, and I stayed with her for a few
25 minutes, and the time as I got there though, I

1 called Momma to make sure she was okay, and when I
2 called her, then she was really upset because Mr.
3 Kubala had gotten shot, and she told me, you know,
4 that he was shot, he was shot, and so at the
5 beginning, they wouldn't let me come back over
6 there, the police, cause they had kept everybody
7 out, and then whenever she told them I had been
8 there earlier, then they told me to come over there,
9 go over there. So I called my ex-husband from
10 Columbia, and he came back home with my daughter,
11 and I went back to Momma's.

12 Q: And when you went back to your mother's, what did
13 you do?

14 A: They met me down the street, the policeman did, and
15 we went up to the house, and they started asking me
16 some questions about what had happened, and I
17 answered them.

18 Q: Did they ask you any information about Bobby Wayne
19 Stone?

20 A: They asked me had I seen him, you know, earlier in
21 the day, and I told them yeah, and I told them what
22 had happened, you know, about walking out in the
23 yard with him and telling him to leave.

24 Q: Did you identify him by name to the police?

25 A: Yes, sir.

1 Q: Did you describe his physical appearance and his
2 clothing for them?

3 A: Yes, sir.

4 Q: All right. At this time I'm going to, if you will
5 bear with me, show you a few items and show you some
6 photographs. Because they're small photographs,
7 we're going to use this television set to blow them
8 up so the members of the jury will be able to see
9 them.

10 A: Okay.

11 Q: So just bear with us one minute. Let me ask you to
12 step down.

13 **THE COURT:** Before you do that, Ms. Williamson, Mr.
14 Saleeby, I'm going to ask Mr. Herring to give her
15 one of these portable microphones and let her pin it
16 on.

17 **MR. SALEEBY:** Yes, sir.

18 Q: All right. What I'm going to do is you and I are
19 going to try to stand back over here out of the way,
20 and I may have to ask you to go over and make a mark
21 on the diagram, and when you do, please be careful
22 of this cord right here.

23 A: Okay.

24 Q: First thing I'm going to do is ask you to step over
25 here and so you can see the diagram as well, and

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1 I'll have to identify these photographs. The first
2 exhibit will be State's Exhibit Number Six. Okay.
3 That's State's Exhibit Number Six. Can you identify
4 this object we're looking at?

5 A: It's my mom's house.

6 Q: All right. That's 817 Taylor Street?

7 A: Yes, sir.

8 Q: All right.

9 **THE COURT:** See if you can turn the volume on this just
10 a little bit, Mr. Herring.

11 **MR. HERRING:** Yes, sir, Your Honor.

12 **THE COURT:** I don't thi\k it's picking it up very good,
13 and I know the court reporter is having a hard time
14 hearing it. Need a little more volume on it, Mr.
15 Herring.

16 **THE CLERK:** All right.

17 **THE COURT:** Number Seven.

18 **THE CLERK:** Yes, sir.

19 **THE COURT:** All right. Go ahead.

20 Q: All right. I'll ask you. This is State's Exhibit
21 Number Six, and tell the members of the jury what
22 that is.

23 A: That's my mother's house at 817 Taylor Street.

24 Q: All right. And I'll ask you, this is State's
25 Exhibit Number Eighty-five. Would that be a not-to-

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1 scale diagram of your mother's home?

2 A: Yes, sir, it is.

3 Q: All right. I'm going to ask you, if you can use
4 your right hand, just to identify some places for
5 us. This portion that I'm pointing to now, what is
6 that?

7 A: That's the porch, front porch.

8 Q: All right. And this window to the right, what is
9 that?

10 A: That's my mother's bedroom.

11 Q: Okay. We don't have the interior dimensions, but if
12 you could, come and just put porch where the porch
13 would be and put Griffith bedroom for you mom.

14 A: Okay.

15 Q: This is front. All right. And you can just use
16 Griffith BR for the bedroom. All right. Where was
17 your bedroom?

18 A: It's on this corner.

19 Q: All right. There you go. What is this area?

20 A: That's the kitchen.

21 Q: You could put kitchen.

22 **THE COURT:** Even with the microphone, please keep your
23 voice up because she, she's not looking at you.

24 Q: Where is what you call the back door of your house?

25 A: This is the back door right here.

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- 1 Q: All right.
- 2 A: It goes into the kitchen.
- 3 Q: All right. What is this area?
- 4 A: That's a little back porch, a side porch.
- 5 Q: A side porch?
- 6 A: Yes, sir.
- 7 Q: All right.
- 8 A: Which goes into the washroom.
- 9 Q: All right. Let's put washroom right here. And what
- 10 type of door leads from outside into the side porch?
- 11 A: A screen door.
- 12 Q: And what is this part of the house?
- 13 A: This is the living room.
- 14 Q: Okay. Let's put that in there, too. Just anywhere.
- 15 A: Oh, this is my bedroom or another bedroom.
- 16 Q: Okay.
- 17 A: And then this is the living room.
- 18 Q: Fine. Okay. Let's go to State's Exhibit Number
- 19 Nine. Step back over here.
- 20 A: Okay.
- 21 Q: All right. What are we looking at in State's
- 22 Exhibit Number Nine?
- 23 A: We're looking at the left side of the house.
- 24 Q: All right. And, and what I'm pointing to, what is
- 25 that?

- 1 A: That's the front porch.
- 2 Q: All right. And what is this area right here?
- 3 A: That's the side porch.
- 4 Q: All right. And it's open at the top and closed in
- 5 at the bottom?
- 6 A: Yes, sir.
- 7 Q: All right. Stay right there. State's Exhibit
- 8 Number Eight. Can you recognize that?
- 9 A: Yes, sir. That's the back of the house.
- 10 Q: All right. I'll ask you to point this out again.
- 11 What's, what's that?
- 12 A: That's the side porch.
- 13 Q: All right. And what is this area in here?
- 14 A: That's the kitchen.
- 15 Q: Okay. And how many doors did you have from the
- 16 kitchen outside?
- 17 A: One door.
- 18 Q: All right. Is there a screen door and a wooden
- 19 door, or just a screen door?
- 20 A: Screen door and a wooden door.
- 21 Q: All right. How many doors onto the side porch here?
- 22 A: Just the one screen door, and then the wooden door
- 23 that goes into the house.
- 24 Q: Only one door onto that little side porch?
- 25 A: On the outside, yes, sir.

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- 1 Q: This is State's Exhibit Number Fifteen. Do you
2 recognize that, Ms. Williamson?
- 3 A: Yes, sir. That's the door to the washroom side
4 porch.
- 5 Q: Would that be the same door represented here?
- 6 A: Yes, sir.
- 7 Q: All right. I will ask you on that day when you left
8 if this slash or tear or cut was in the door when
9 you left on that day?
- 10 A: No, sir.
- 11 Q: And do you recognize State's Exhibit Fifteen as
12 being the same door that was on your back, on your
13 side porch?
- 14 A: Yes, sir.
- 15 Q: Thank you. Next photo. State's Exhibit Number Ten.
16 Please tell the members of the jury what this is.
- 17 A: This is, this would be the left, the right side of
18 the house.
- 19 Q: All right.
- 20 A: With the back view.
- 21 Q: Okay. And the front window would be to what
22 bedroom?
- 23 A: It would be my mom's bedroom, Ms. Griffith's
24 bedroom.
- 25 Q: All right. And this second window would be to what?

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- 1 A: It's my bedroom.
- 2 Q: All right. And this area right here is what?
- 3 A: The kitchen.
- 4 Q: And where would your mother park her vehicle?
- 5 A: She usually parked it on this side of the house up
- 6 near the front near her bedroom.
- 7 Q: All right. I have one more photograph to show you,
- 8 and that's State's Exhibit Number Twelve. Just look
- 9 at the members of the jury and tell us what we're
- 10 looking at here.
- 11 A: This is my mother's house again, and this is her car
- 12 parked on the right side of the house.
- 13 Q: And the rear window is to whose bedroom?
- 14 A: My bedroom.
- 15 Q: And the front window?
- 16 A: It was my mother's bedroom.
- 17 Q: Okay. Thank you, ma'am. You can be seated back up
- 18 in the witness chair.
- 19 A: Okay.
- 20 **THE COURT:** Thank you, Mr. Herring.
- 21 Q: I'm going to let him move that before I ask you one
- 22 more question. I will try to hold this up or put it
- 23 up again, but in terms of the wood door that lead
- 24 from the side porch into the washroom, did it have
- 25 any glass in it?

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- 1 A: Yes, sir.
- 2 Q: And what was it's condition on February the 26th?
- 3 A: The, it had a board across the bottom two windows
- 4 where they had been broke out before.
- 5 Q: The bottom two panes of the washroom door?
- 6 A: Panes. Yes, sir.
- 7 Q: Had been broken out? And what had you all done to
- 8 cover that up?
- 9 A: My mother had had a board put across it, across on
- 10 the inside of the bottom two panes where they were
- 11 broke out.
- 12 Q: And were these two panes on the same side as the
- 13 handle to the door?
- 14 A: Yes, sir.
- 15 **MR. SALEEBY:** Thank you, ma'am. Please answer any
- 16 questions counsel has for you.
- 17 **THE COURT:** Cross examination, Mr. Babb?
- 18 **MR. BABB:** Yes, sir, Your Honor
- 19 **MS. WILLIAMSON - CROSS EXAMINATION BY MR. BABB:**
- 20 Q: Good morning, Ms. Williamson.
- 21 A: Good morning.
- 22 Q: I'll be asking you a few questions, and if there's
- 23 anything about my question you don't understand,
- 24 please ask me to repeat it or to explain. Your
- 25 answer is important to the jury, to us, and the

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- 1 court, and we want to be sure that you only answer,
2 that you know what you're saying and we all
3 understand it, too. Now you mentioned that there
4 was a board over where some of the panes had been
5 broken out. Could you describe that board to us?
6 Was it really a board, or was it a piece of
7 paneling?
- 8 A: It was a board.
- 9 Q: And how thick was it?
- 10 A: About an inch.
- 11 Q: It was an inch-thick board. All right. What were
12 the dimensions of it?
- 13 A: Probably about twelve by four or twelve by six,
14 something like that.
- 15 Q: When you say twelve, we're talking length of the
16 board or the width?
- 17 A: Probably about twelve inches wide and four inches
18 high or six inches. I'm not exact with the inches,
19 but.
- 20 Q: So we're talking about a piece of board
- 21 A: Yes, sir.
- 22 Q: that would be one inch thick and four to six
23 inches in width and twelve inches in length?
- 24 A: Yes, sir.
- 25 Q: And you're sure it wasn't like a piece of paneling

- 1 or quarter-inch board, anything like that?
- 2 A: No, sir.
- 3 Q: How was it affixed to the door?
- 4 A: I think it was hammered in it. I'm not sure, you
- 5 know, how it was put on there, but I think it was
- 6 hammered in place with nails.
- 7 Q: Hammered by
- 8 A: Like with nails.
- 9 Q: It was hammered by your mom?
- 10 A: I think she had a friend to do it, to put it up
- 11 there.
- 12 Q: Do you think, or do you know?
- 13 A: She had someone else to put it up there. I know she
- 14 didn't.
- 15 Q: All right. Who did she have put it up?
- 16 A: Mr. Raymond Truitt usually does all her repairs and
- 17 stuff for her.
- 18 MR. BABB: Can I see State's Nine?
- 19 MR. SALEEBY: Which one?
- 20 MR. BABB: State's Nine.
- 21 Q: Ms. Williamson, I'll show you what has been marked
- 22 State's Exhibit Nine, and I believe you just
- 23 testified about that, is that correct?
- 24 A: Yes, sir. Yes, sir, I did.
- 25 Q: Now that exhibit also shows an officer?

- 1 A: Yes, sir.
- 2 Q: He's standing on the ground?
- 3 A: Yes, sir.
- 4 Q: And you can see the officer, and you can see the
- 5 side porch.
- 6 A: Yes, sir.
- 7 Q: Is that correct?
- 8 A: Yes, sir.
- 9 Q: The side porch is partially enclosed, correct?
- 10 A: That's right.
- 11 Q: The enclosure comes above the officer's head, does
- 12 it not?
- 13 A: Yes, sir, it does.
- 14 Q: Okay. From ground level now you lived at this
- 15 home, right?
- 16 A: Yes, sir.
- 17 Q: From ground level was it six feet, six and a half
- 18 feet to the top of that enclosure?
- 19 A: It was higher than me, so it must have been about
- 20 six feet.
- 21 Q: Six feet at best?
- 22 A: Or maybe just a little more, yes, sir.
- 23 Q: Okay. Now beside that side porch is also a propane
- 24 tank, I believe?
- 25 A: Yes, sir.

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- 1 Q: A tank of gas, and it's one of the round ones that
2 stands upright?
- 3 A: That's right.
- 4 Q: How tall is that tank?
- 5 A: I think it must be about five foot. Four and a
6 half, five foot.
- 7 Q: So the top of the tank's four and a half or five
8 feet high? Well, then the porch goes several feet
9 above that, does it not? At least two?
- 10 A: Yes, sir.
- 11 Q: And in addition, that porch is elevated. By that I
12 mean the floor is not flat on the ground?
- 13 A: No, sir, it's not.
- 14 Q: And it has what, three steps going up to the porch?
- 15 A: That's right.
- 16 Q: And then there's another step up into the porch, is
17 that correct?
- 18 A: To step up into the porch, That's right.
- 19 Q: And the if you're approaching your mother's
20 home from the rear, from the wooded area, you're
21 approaching from that way, if you didn't live there,
22 when you were looking at that house, the door that's
23 facing you is what you all refer to as the side
24 door.
- 25 A: The screen door. Yes, sir.

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- 1 Q: So the side door faces the back?
- 2 A: That's right.
- 3 Q: So if you were approaching from the back, that would
- 4 be the door that was facing you?
- 5 A: That's right.
- 6 Q: The, the kitchen door, which you all refer to as the
- 7 back door
- 8 A: Yes, sir.
- 9 Q: actually faces to the, I believe we referred to
- 10 it as the left side of the house?
- 11 A: That's right.
- 12 Q: Okay. So if you're approaching from the back, you
- 13 may not even see that door unless you're over to
- 14 another angle, correct?
- 15 A: That's right.
- 16 Q: Because it faces totally to the side?
- 17 A: Yes, sir.
- 18 Q: Now, Ms. Williamson, to the best of your knowledge,
- 19 you're the only person that saw Bobby Stone?
- 20 A: Yes.
- 21 Q: Before the events with the Officer Kubala.
- 22 A: My mother saw him.
- 23 Q: The only person here.
- 24 A: Oh, I'm sorry. Yes, sir.
- 25 Q: In other words, you saw him. The next time you were

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- 1 back over there was when the event occurred?
- 2 A: Yes, sir, that's right.
- 3 Q: And what time, about what time was it when you were
- 4 there when he first
- 5 A: Must have been about 4:30.
- 6 Q: It was 4:30 or 5:00 in February?
- 7 A: Yes, sir.
- 8 Q: 26th, so it was about this time of year. It's about
- 9 that time the sun is getting pretty low, correct?
- 10 A: Yes, sir.
- 11 Q: And that day, how was the weather that day. Wasn't
- 12 it rather a cold day on February 26, 1996?
- 13 A: No, sir. It was well, I mean it wasn't cold,
- 14 cold. It was a sunny, bright day.
- 15 Q: Sunny, bright day. And what was the temperature?
- 16 A: Oh, I don't remember that.
- 17 Q: But what does not cold, cold mean to you?
- 18 A: You could wear short sleeves.
- 19 Q: You could wear short sleeves? Temperature-wise is
- 20 not cold, cold thirty, thirty-five?
- 21 A: Probably about fifty.
- 22 Q: So you think it was about fifty degrees and a sunny,
- 23 bright day?
- 24 A: Yes, sir.
- 25 Q: How low was the sun on the horizon then?

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- 1 A: It was still up in the sky. It wasn't setting or
2 anything.
- 3 Q: All right. How long did this, how long after you
4 saw Mr. Stone did the sun set?
- 5 A: I had left there and went to my daughter's house
6 before it was set. It wasn't set until I came back.
7 It was dark when I came back.
- 8 Q: I understand that, but I'm asking you that day
9 approximately what time the sun set.
- 10 A: Probably about 6:30, 7:00.
- 11 Q: Okay. And what time did you come back to the house?
- 12 A: I think it was around 7:00 or a little bit after
13 because they wouldn't let me come right away.
- 14 Q: It was about 7:00 or a little later. When you
15 arrived there, was the sun still setting?
- 16 A: It was already set. It was dark.
- 17 Q: It was already set. It was dark?
- 18 A: Yes, sir.
- 19 Q: Okay. It wasn't twilight or anything like that?
- 20 A: No, sir.
- 21 Q: So it was dark by 7:00 or just a hair after?
- 22 A: Yes, sir.
- 23 Q: Do you recall whether the moon had risen yet?
- 24 A: Yes, sir, it had.
- 25 Q: It had?

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- 1 A: Uh-huh..
- 2 Q: How high in the sky was the moon?
- 3 A: I mean you could look up and see it. You had to
- 4 look up to see it.
- 5 Q: Now let me ask you. You mentioned that you had some
- 6 other relatives in Sumter at that period of time?
- 7 A: Yes, sir.
- 8 Q: Okay. Was one of those Mary Wilson?
- 9 A: Yes, sir. That was my aunt.
- 10 Q: That was your aunt. That was your father's sister?
- 11 A: That's right.
- 12 Q: She was alive and here in Sumter at the time?
- 13 A: Yes, sir.
- 14 Q: Where is she today?
- 15 A: She's deceased.
- 16 Q: She's deceased? When did she die?
- 17 A: Must have been 2002 or something like that. I'm not
- 18 real sure cause a lot of people I knew has passed
- 19 away in the last three years.
- 20 Q: I understand. It happens to all of us. Do you
- 21 recall her full, proper name?
- 22 A: Mary Etta Griffith.
- 23 Q: Mary Etta?
- 24 A: Griffith.
- 25 Q: Griffith. But she also went by Wilson?

1 A: Yes, sir. She had married, and then the last name
2 was Wilson at that time.

3 Q: Do you happen to recall by any chance what month she
4 died in?

5 A: I want to say

6 Q: Or season?

7 A: Seemed like it was like in May. Somewhere along
8 April or May.

9 Q: All right. Now, Ms. Williamson, I want to ask you a
10 little bit about your confrontation with Mr. Stone.
11 You came out, and you saw him, and you told him to
12 git. Now before then I believe you said you really
13 didn't know him?

14 A: No, sir, I didn't.

15 Q: You didn't call him by name?

16 A: No, sir.

17 Q: You just, you either referred to him you or just
18 said what you had to say?

19 A: Uh-huh.

20 **THE COURT:** Answer aloud, please, ma'am.

21 A: Yes, sir. I just asked him to leave. I didn't call
22 him by name.

23 **THE COURT:** I didn't mean that your answer was
24 incomplete. You can certainly answer questions yes
25 or no, but we need for you to say yes or no and not

1 just nod. That's the only thing I'm talking about.

2 MS. WILLIAMSON: Yes, sir.

3 Q: I'm sorry, Ms. Williamson. I should have caught
4 that. This lady has to take down everything you're
5 saying, so it's important. I realize you're
6 nervous, you don't do this too very often, but I, I
7 need for her to take these things down. Okay?

8 A: Yes, sir.

9 Q: Thank you, ma'am. Now when you told him to leave,
10 you said he was a little bit confused?

11 A: Yes, sir.

12 Q: Initially headed to go the wrong way?

13 A: Yes, sir.

14 Q: All right. But he corrected that when you pointed
15 and told him which way to go, right?

16 A: I walked out near the bar where he was, and that's
17 when I asked him what he was doing, and he said
18 nothing, and I said, well, go on home. So then he
19 turned around and went toward the woods.

20 Q: But he was initially walking the wrong way?

21 A: Yes, sir.

22 Q: Till you corrected him. And he didn't give you an
23 argument?

24 A: No, sir.

25 Q: Did he threaten you in any way?

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1 A: No, sir.

2 Q: Did he point any weapons at you?

3 A: No, sir.

4 Q: He didn't have that shotgun at this time?

5 A: I think he did. I did not see it, the initial gun,
6 but when he walked off from the barn to go toward
7 the woods, there as something sticking out the back
8 of his coat like with a square end on it, and at the
9 time I thought maybe he had taken something from out
10 from under the barn.

11 Q: So you didn't think it was a shotgun at the time?

12 A: I didn't know. No, sir.

13 Q: And you don't know what it was?

14 A: No, sir. I just seen it poking out the back of his
15 coat.

16 Q: You saw something on his coat in the back?

17 A: Uh-huh. Yes, sir.

18 Q: And that's all you can truthfully tell us, is that
19 correct?

20 A: Yes, sir.

21 Q: So any thinking is speculation on your part?

22 A: That's right.

23 Q: He didn't argue with you, did he?

24 A: No, sir.

25 Q: Now have you seen people before that have been

- 1 drinking?
- 2 A: Yes, sir.
- 3 Q: Have you seen people before that have drank too
- 4 much?
- 5 A: Yes, sir.
- 6 Q: Have you seen people before that use drugs or are on
- 7 drugs?
- 8 A: I hadn't been around many people that were. I, I
- 9 can't say for sure what they would look like.
- 10 Q: But alcohol use is something you're familiar with in
- 11 others?
- 12 A: Yes, sir.
- 13 Q: Mr. Stone was drunk that evening, wasn't he?
- 14 A: He looked like he'd had a few to drink. His eyes
- 15 were kind of glassy-looking, and he did have the
- 16 beer can in his hand that day.
- 17 Q: All right. So he had a beer can in his hand, his
- 18 eyes were glassy-looking?
- 19 A: Yes, sir.
- 20 Q: His face was red?
- 21 A: Yes, sir.
- 22 Q: Okay. And I believe his eyes were actually kind of
- 23 glazed out, weren't they?
- 24 A: They were.
- 25 Q: And how about his gait, his walk. Did he walk a

1 straight line?

2 A: No, sir. He was, looked like he might have been a
3 little bit off balance.

4 Q: So he was wobbly?

5 A: A little bit, yes, sir.

6 Q: So he's out there. He's ...

7 A: Yes, sir.

8 Q: He's red-faced?

9 A: Yes, sir.

10 Q: Was he shaven or unshaven?

11 A: He looked kind of like he hadn't shaved.

12 Q: Kind of scruffy looking?

13 A: Yes, sir.

14 Q: Okay. And was his clothes in real neat order and
15 proper, or was he kind of disheveled?

16 A: His clothes were neat.

17 Q: He was wobbly and staggered, is that correct?

18 A: Just a little.

19 Q: But he was wobbly when he was walking, correct?

20 A: Yes, sir.

21 Q: And his eyes were also far out looking, weren't
22 they?

23 A: Yes, sir.

24 Q: Glazed and far out looking?

25 A: Uh-huh.

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1 Q: In addition to being wobbly, he was also stumbling,
2 was he not?

3 A: No, sir. He just was walking kind of like he was
4 light. You know, not stumbling. Not stumbling.

5 Q: He wasn't stumbling?

6 A: No, sir.

7 Q: Do you recall testifying in the previous proceeding
8 in this matter?

9 A: Yes, sir.

10 Q: And do you recall me cross examining you?

11 A: Yes, sir.

12 Q: Do you recall telling me that as he was walking away
13 that he was stumbling, and you said, yes, sir.

14 A: Like wobbling, you know.

15 Q: Do you recall using the word stumbling?

16 A: I may have, yes, sir.

17 **MR. BABB:** Your Honor, may I show the witness a
18 document?

19 **THE COURT:** No, sir. She's admitted it.

20 Q: Are you saying you think you might have or that you
21 did in fact use the term that he was stumbling?

22 A: He did stumble once.

23 Q: You also told us he had a can in his hand.

24 A: Yes, sir.

25 Q: And that was a beer can?

1 A: Yes, sir.

2 MR. BABB: Court's indulgence?

3 THE COURT: Yes, sir.

4 MR. BABB: Your Honor, may I present State's Exhibit
5 Nine to the jury?

6 THE COURT: Yes. Ladies and gentlemen, while Mr. Babb
7 is doing that, let me just tell you this. Anything
8 that is introduced into evidence and has been
9 admitted into evidence can be published to you, and
10 sometimes you may hear the lawyers say can I publish
11 this to the jury. That simply means showing it to
12 the jury, and they can hand it to you and you can
13 pass it around while you are sitting there in the
14 jury box. Do not worry if you do not have
15 sufficient time to look at the exhibit while you're
16 sitting there in the jury box. Anything that was
17 admitted into evidence will go with you to the jury
18 room when you retire to reach a verdict in this case
19 or to deliberate the verdict in this case, and
20 you'll have ample time to look at any exhibit and
21 study it as much as you want to in the jury room.
22 So you have the right to have it passed around to
23 you in the box over there, but you'll also have it
24 in the jury room with you to study for as long as
25 you might like. Re-direct, Mr. Saleeby?

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1 **MS. WILLIAMSON - RE-DIRECT EXAMINATION BY MR. SALEEBY:**

2 Q: I think I failed to ask you how old your mother is
3 not.

4 A: I think she's seventy-one.

5 Q: And so she would have been what, sixty-three in '96,
6 that time frame?

7 A: Yes, sir.

8 **MR. SALEEBY:** Those are all the questions I have for re-
9 direct. I would ask if she could be excused if they
10 have no more.

11 **THE COURT:** Any re-cross?

12 **MR. BABB:** No re-cross, Your Honor. We would like to
13 reserve the right to recall here.

14 **THE COURT:** All right. Ma'am, Ms. Williamson, you are
15 excused at this time, but you are still subject to
16 the call of the court, so it will not necessary
17 it's up to you as to whether you want to stay here,
18 but you need not go out of town or be anywhere until
19 you are released by the court in case you are
20 recalled.

21 **MS. WILLIAMSON:** No, sir.

22 **THE COURT:** Thank you, ma'am. All right. Mr. Saleeby,
23 you may call your next witness.

24 **MR. SALEEBY:** Your Honor, with the permission of the
25 court, I would like to have the bench look at it

further.

THE COURT: Okay. That will be fine.

MR. SALEEBY: I could call the witness to be sworn, but I'd prefer not to ask him any questions.

THE COURT: Wait just a minute. We'll get that exhibit back. All right. Mr. Herring, if you'll get the exhibit. All right. Mr. Saleeby, call your next witness.

MR. SALEEBY: Call Mr. Daniel Bethea.

THE COURT: Mr. Bethea, come around, please.

MR. SALEEBY: Please be sworn, too.

THE CLERK: Place your left hand on the Bible. Raise your right hand and state your name, please.

MR. DANIEL BETHEA: Daniel Bethea.

THE CLERK: Do you solemnly swear or affirm the testimony you give this court will be the truth, the whole truth, and nothing but the truth so help you God?

MR. BETHEA: Yes, I do.

THE CLERK: Have a seat up here, please, sir..

MR. DANIEL BETHEA, being duly sworn testifies as follows:

MR. BETHEA - DIRECT EXAMINATION BY MR. SALEEBY:

THE CLERK: State your full name, and spell your last name.

MR. BETHEA: Daniel Mark Bethea, B-E-T-H-E-A.

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- 1 Q: Mr. Bethea, do you live in the Sumter community?
- 2 A: Yes, sir.
- 3 Q: How long have you lived here?
- 4 A: Thirty-eight years.
- 5 Q: And what kind of work do you do?
- 6 A: I own my own business. I pull mobile homes.
- 7 Q: How long have you been doing that?
- 8 A: About six years.
- 9 Q: All right, sir. Did you or where did you live on
- 10 February 26, 1996?
- 11 A: 435 Ridgeway Street.
- 12 Q: And I assume that you live elsewhere today, is that
- 13 correct?
- 14 A: That's correct.
- 15 Q: All right. Were you familiar with the Griffith
- 16 residence on 817 Taylor?
- 17 A: Correct.
- 18 Q: All right. Did you know Sgt. Kubala?
- 19 A: I did.
- 20 Q: How did you happen to know him?
- 21 A: I worked with his brother, Kevin, at Newman
- 22 Construction, and he would come up there and visit
- 23 with us.
- 24 Q: He Sgt. Kubala?
- 25 A: That's right.

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